TOWN OF BAY HARBOR ISLANDS

June 9, 2022

REGULAR COUNCIL MEETING 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. 1059, the Town of Bay Harbor Islands Regular Council Meeting will be held as a Hybrid Meeting where a quorum of the Town Council will be physically present at the Town Hall Council Chambers at 9665 Bay Harbor Terrace, Second Floor. 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 Meeting Link: https://us06web.zoom.us/j/82826757237

Meeting ID: 828 2675 7237

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.

The staff, members of the public and the applicants are strongly encouraged to attend virtually but will not be denied access to the physical meeting, consistent with public safety and health considerations.

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 numbers below:

US Toll Free Numbers: 877 853 5247 or 888 788 0099
For higher quality, dial a number based on your current location):
US: 1 312 626 6799 or 1 646 558 8656 or 1 301 715 8592

Meeting ID: 828 2675 7237

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 email to the Office of the Town Clerk at yhamilton@bayharborislands-fl.gov .

CALL TO ORDER:

PLEDGE OF ALLEGIANCE:

ROLL CALL:

SPECIAL PRESENTATION:

1. Ruth K. Broad Student of the Year - Cameron Mann

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.)***

2. **Consideration** and A**pproval** to piggyback off the Broward County P25 System and Services Agreement R1422515R1/P1 with Motorola Solutions, pursuant to Section 2-1(6) of the Town Code, to procure a Radio Communication System in the amount of $124,520 for the Police Department on a 60-month lease term.

3. **Consideration** and **Approval** of agreement with Miami-Dade County School Board for renewal of the Address Verification Program for School Year 22-23 at Ruth K. Broad elementary.

4. **Consideration** and **Approval** of a Resolution authorizing the Town Manager to enter into an Interlocal Agreement with Miami-Dade County for On-Demand Services.

A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF BAY HARBOR ISLANDS, FLORIDA, APPROVING AN INTERLOCAL AGREEMENT WITH MIAMI-DADE COUNTY FOR ON-DEMAND TRANSPORTATION SERVICES; PROVIDING FOR AUTHORIZATION; AND PROVIDING FOR AN EFFECTIVE DATE.

5. **Consideration** and **Approval** of a contract with Beefree, LLC dba "Freebee" for On-Demand services.

6. **Consideration** and **Approval** of Issuance of a Request for Proposals (RFP) to select a Design-Build firm for the 92nd Street Dog Park Extension Project. Enclosed is a copy of the RFP package.

7. **Consideration** and **Approval** of Issuance of a Request for Proposals (RFP) to select a Design-Build firm for the 96th Street New Park and Kayak Launch Project. Enclosed is a copy of the RFP package.

8. **Consideration** and **Approval** of Chen Moore & Associates, Inc. (Continuing Engineering Services Firm for the Town) design fees proposal in the amount of $81,643.25 for design, permitting and construction inspection of a new seawall on 9600 West Bay Harbor Drive, where the new Town Park will be located. Enclosed is a copy of the proposal.

9. **Consideration** and **Approval** of BCC Engineering Inc. Proposals for the total amount of $74,560 to design additional structural improvements required by the Town to the Plans being prepared for the Indian Creek Bridge (875103) and for the West Relief Bridge (875105). Enclosed are copies of the Proposals.

10. **Consideration** and **Approval** of Task Order #1 with ATKINS North America, Inc. for an amount Not-to Exceed (NTE) $500,000 for the Broad Causeway Drawbridge SR-922 Replacement Project.

11. **Consideration** and **approval** to purchase four (4) SOOFA solar-powered, smart city digital, Town-branded sign kiosks. Bay Harbor Islands own the rights to all communication and branding on the sign. No advertising will be permitted. Attached is the General Services Agreement.

STAFF RECOMMENDATION: Approval. **POLL VOTE**

PUBLIC HEARING:

12. Discussion for the purpose of hearing public comments with respect to an application for a variance from Section 23-12(6)(b)(iii); Section 23-12(8); Section 23-12(6)(v) and Section 23-12(6)(a)(x) of the Town Code to construct a boat dock facility. The application for a variance is being requested by the property owner BH Investment, LLC for the property located at 1135 103 Street, Tract F, Bay Harbor Islands, Florida. Enclosed are copies of the variance application and other supporting documents.

13. **Approval or Denial** of a variance request for the property located at 1135 103rd Street. In accordance with Section 2-22 of the Town Code, the Town Council shall determine whether to grant or deny the application for a variance. An affirmative vote of five Council Members is necessary in order to grant the variance request. The decision of the Town Council is final. If the request is granted, the decision of the Town Council shall be recorded in a resolution to be prepared by the Town Attorney. It should be noted that any approval of the Town Council is subject to other requirements of the Town Code, Miami Dade County Code, Florida Building Code, FEMA or any other applicable governing agency.

STAFF RECOMMENDATION: Council's Discretion. **POLL VOTE**

ORDINANCES ON SECOND READING:

14. **Consideration** and **Approval** of an ordinance on second reading to rezone a 20-foot strip of land at 9110 West Bay Harbor Drive from RM-3, Multiple-Family Residential District to RM-1, Multiple-Family District. Enclosed is a copy of the proposed ordinance.

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF BAY HARBOR ISLANDS, FLORIDA, RELATING TO THE REZONING OF A CERTAIN PARCEL OF LAND, AS MORE PARTICULARLY DESCRIBED HEREIN, THE NORTHWESTERLY 20 FEET OF TRACT "A", 9110 WEST BAY HARBOR DRIVE, FROM THE RM-3, MULTIPLE-FAMILY DISTRICT TO THE RM-1, MULTIPLE-FAMILY DISTRICT; AMENDING SECTION 23-2 OF THE TOWN CODE AND THE OFFICIAL ZONING MAP TO REFLECT SAID ZONING; PROVIDING FOR INCORPORATION OF RECITALS; PROVIDING FOR CONFLICT AND REPEALER; PROVIDING FOR SEVERABLITY; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.

STAFF RECOMMENDATION: Council's Discretion. **POLL VOTE**

15. **Consideration** and **Approval** of an ordinance on second reading amending Chapter 13, entitled "Local Business Tax Receipt and Regulations by revising Sections 13-4, 13-7, 13-9, 13-14 through 13-16, and 13-18 of the Town Code to update the Business Tax Receipt issuance process; designating the authority to issue Business Tax Receipts to the Town Manager or her designee. Enclosed is a copy of the proposed ordinance.

AN ORDINANCE OF THE TOWN OF BAY HARBOR ISLANDS, FLORIDA AMENDING CHAPTER 13 OF THE TOWN CODE, ENTITLED "LOCAL BUSINESS TAXES AND REGULATIONS", BY REVISING SECTIONS 13-4, 13-7, 13-9, 13-14 THROUGH 13-16, AND 13-18 TO UPDATE THE BUSINESS TAX RECEIPT ISSUANCE PROCESS; PROVIDING FOR CONFLICT AND REPEALER; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; PROVIDING FOR INCORPORATION OF RECITALS; AND PROVIDING FOR AN EFFECTIVE DATE.

STAFF RECOMMENDATION: Council's Discretion. **POLL VOTE**

16. **Consideration** and **Approval** of an ordinance on second reading amending Chapter 16, Section 16-1(i) of the Town Code for average final compensation to be calculated based on a member's highest annual pay received during the member's last three years prior to retirement.

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF BAY HARBOR ISLANDS, FLORIDA, AMENDING CHAPTER 16, THE TOWN OF BAY HARBOR ISLANDS GENERAL EMPLOYEES' RETIREMENT SYSTEM, AMENDING, ARTICLE I, SECTION 16-1(i), DEFINITIONS AND TERMS, PROVIDING FOR AVERAGE FINAL COMPENSATION TO BE CALCULATED BASED ON A MEMBER'S HIGHEST ANNUAL PAY RECEIVED DURING THE MEMBER'S LAST THREE YEARS PRIOR TO RETIREMENT; PROVIDING FOR INCORPORATION OF RECITALS; PROVIDING FOR CONFLICT AND REPEALER; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

STAFF RECOMMENDATION: Council's Discretion. **POLL VOTE**

ORDINANCES ON FIRST READING:

17. **Consideration** and **Approval** of an ordinance on first reading amending Chapter 5, Section 5 3/4-16 of the Town Code clarifying and amending the authority of the Litigation Committee.

STAFF RECOMMENDATION: Council's Discretion.

18. **Consideration** and **Approval** of an ordinance on first reading amending the Town's Code of Ordinances related to the regulation of exterior balconies, sponsored by Council Member Robert Yaffe.

STAFF RECOMMENDATION: Council's Discretion.

DEFERRED ITEMS:

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

19. **Consideration** and **Approval** of a Parking Trust Payment Agreement with Bay Harbor Islands Property Owner II for payment of a fee to the Town's Parking Trust for a portion of the required parking spaces in lieu of the Developer providing all of the project's required on-site parking spaces, pursuant to Section 23-29.1 of the Town Code; for the proposed "La Baia North" project to be located at 9431, 9461 & 9481 East Bay Harbor Drive. Approval of alternative parking arrangements valet and tandem parking, to satisfy parking requirements per Code, Section 23-30 (f). Approval of conditions for alternative parking arrangements and use of Parking Trust pursuant to revised site plan application. Enclosed is a copy of the proposal setting forth the terms of the agreement and a copy of the related section of the Town Code.

STAFF RECOMMENDATION: Council's Discretion. **POLL VOTE**

20. Consideration and approval of BHI 222: Irrigation and Landscape Maintenance Contract to Brightview Landscape Services for the amount of $323,007.14 per year. Supporting documentation attached.

STAFF RECOMMENDATION: Approval. **POLL VOTE**

21. **Consideration** and **Approval** of a private TDR transaction for the transfer of two (2) TDR dwelling units from 9300 Harbor Terrace Condominium Association, Inc. (9300 Bay Harbor Terrace) to Future Clara BH MFR structure (10281 West Bay Harbor Drive). Enclosed are copies of the application, contract, site plans, and other supporting documents.

STAFF RECOMMENDATION: Council's Discretion.

22. **Consideration** and **Approval** of a private TDR transaction for the transfer of one (1) TDR dwelling unit from Covenant Manor Condominium Association, Inc. (9871-9881 West Bay Harbor Drive) to Future Clara BH MFR (10281 W. Bay Harbor Drive. Enclosed are copies of the application, contract, site plans, and other supporting documents.

STAFF RECOMMENDATION: Council's Discretion.

23. **Consideration** and **Approval** of a TDR transaction for the transfer of two (2) TDR units from the Town-owned "pool" of TDR units to the future Clara BH Multiple-Family Residential project to be located 10281 West Bay Harbor Drive. Enclosed are copies of the application and other supporting documents.

STAFF RECOMMENDATION: Council's Discretion.

DISCUSSION ITEMS:

24. **Discussion** and **Possible Action** regarding appointment of member to the Design Review Board.

25. **Discussion** and **Possible** action regarding renewal of funding for the School Resource Officer at Ruth K. Broad for School Year 22-23.

26. **Consideration** and **Approval** of a Resolution introduced by Vice Mayor Tricoche asking Miami-Dade County Public School System to approve a new public high school to serve northeast Dade municipalities, including the Town of Bay Harbor Islands. Enclosed is a copy of the draft Resolution.

27. **Consideration** and **Possible** action regarding the Town Clerk's position.

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
June 9, 2022

ITEM NUMBER: 1.

ITEM: Ruth K. Broad Student of the Year - Cameron Mann

DESCRIPTION:
Each year a Bay Harbor Island 8th Grade student from Ruth K. Broad School is chosen as "Student of the Year". This year's recipient is Cameron Mann.

RECOMMENDED ACTION:

FINANCIAL ANALYSIS:

BUDGET IMPACT:

Submitted By: Yvonne Hamilton, Acting Town Clerk

ATTACHMENTS
None

AGENDA ITEM REPORT
June 9, 2022

ITEM NUMBER: 2.

ITEM: Consideration and A**pproval** to piggyback off the Broward County P25 System and Services Agreement R1422515R1/P1 with Motorola Solutions, pursuant to Section 2-1(6) of the Town Code, to procure a Radio Communication System in the amount of $124,520 for the Police Department on a 60-month lease term.

DESCRIPTION:
On January 12, 2022, the Bay Harbor Islands Town Council approved agenda item #11 that was submitted by the Bay Harbor Islands Police Department. Agenda item # 11 was the proposal from Motorola Solutions for the Radio Communications System.

Consequently, the finance company (US Bank) terminated the lease agreement. The BHIPD is requesting approval for the Radio Communications System for a new lease agreement which will be executed with Motorola Solutions. The terms and pricing remain the same as the previously approved US Bank lease agreement.

Enclosed are the "piggyback contract" documentation, finance quote, lease agreement document and memorandum provided for further documentation and reference.

RECOMMENDED ACTION:
Approval

FINANCIAL ANALYSIS:
The Adopted Fiscal Year 2022 Budget has $25,000/year appropriations for 5 years, which totals $125,000, for Handheld Radio - Motorola Police Radios in Capital Projects Fund. Since the Motorola Solutions contract is $124,520 for a 5 year lease, there will be no additional Fiscal Impact for the FY 2022 Budget.

BUDGET IMPACT:

Name	Impact Date	Fund(s)	Account(s)	Project #(s)	Amount Budgeted
Motorola Police Radios	01/01/2022	$124,250.00	301.5210.400063.000	N/A	$125,000.00

Submitted By: Analily Perez, Administrative Coordinator
Lindsley Noel

ATTACHMENTS

1.	bayharborapril2022
2.	currenttownharborislands8038g
3.	QUOTE-1595186-5 (3)
4.	Attachment-1976
5.	Updated Memo Radio Communication System

April 25, 2022

TOWN OF BAY HARBOR ISLANDS
9665 Bay Harbor Terrace
Bay Harbor Islands FL 33154

RE: Municipal Lease #25261

Enclosed for your review, please find the **Municipal Lease** documentation in connection with the radio equipment to be leased from Motorola. The interest rate and payment streams outlined in Equipment Lease-Purchase Agreement #25261 are valid for contracts that are executed and returned to Motorola on or before May 15, 2022 After 5/15/22, the Lessor reserves the option to re-quote and re-price the transaction based on current market interest rates.

Please have the documents executed where indicated and forward the documents to the following address:

Motorola Solutions Credit Company LLC
Attn: Bill Stancik / 44th Floor
500 West Monroe
Chicago IL 60661

Should you have any questions, please contact me at 847-538-4531.

Thank You,

MOTOROLA SOLUTIONS CREDIT COMPANY LLC
Bill Stancik

LESSEE FACT SHEET

Please help Motorola Solutions, Inc. provide excellent billing service by providing the following information:

1. Complete Billing Address _____

_____

E-mail Address: _____

Attention: _____

Phone: _____

2. Lessee County Location: _____

3. Federal Tax I.D. Number _____

4. Purchase Order Number to be referenced on invoice (if necessary) or other "descriptions" that may assist in determining the applicable cost center or department: _____

5. Equipment description that you would like to appear on your invoicing:_____

Appropriate Contact for Documentation / System Acceptance Follow-up:

6. Appropriate Contact & Mailing Address _____

_____

_____

_____

Phone: _____

Fax: _____

7. Payment remit to address**:**

Motorola Solutions Credit Company LLC
P.O. Box 71132
Chicago IL 60694-1132

Thank you

EQUIPMENT LEASE-PURCHASE AGREEMENT

Lease Number: 25261

LESSEE:

TOWN OF BAY HARBOR ISLANDS
9665 Bay Harbor Terrace
Bay Harbor Islands FL 33154

LESSOR:

Motorola Solutions, Inc.
500 West Monroe
Chicago IL 60661

Lessor agrees to lease to Lessee and Lessee agrees to lease from Lessor, the equipment and/or software described in Schedule A attached hereto (*"Equipment"*) in accordance with the following terms and conditions of this Equipment Lease-Purchase Agreement (*"Lease"*).

1. TERM. This Lease will become effective upon the execution hereof by Lessor. The Term of this Lease will commence on the Commencement Date specified in Schedule A and unless terminated according to terms hereof or the purchase option, provided in Section 18, is exercised this Lease will continue until the Expiration Date set forth in Schedule B attached hereto (*"Lease Term"*).

2. RENT. Lessee agrees to pay to Lessor or its assignee the Lease Payments (herein so called), including the interest portion, in the amounts specified in Schedule B. The Lease Payments will be payable without notice or demand at the office of the Lessor (or such other place as Lessor or its assignee may from time to time designate in writing), and will commence on the first Lease Payment Date as set forth in Schedule B and thereafter on each of the Lease Payment Dates set forth in Schedule B. Any payments received later than ten (10) days from the due date will bear interest at the highest lawful rate from the due date. Except as specifically provided in Section 5 hereof, the Lease Payments will be absolute and unconditional in all events and will not be subject to any set-off, defense, counterclaim, or recoupment for any reason whatsoever. Lessee reasonably believes that funds can be obtained sufficient to make all Lease Payments during the Lease Term. Lessee will seek funding each year as a part of its budget process. It is Lessee's intent to make Lease Payments for the full Lease Term if funds are legally available therefore and in that regard Lessee represents that the Equipment will be used for one or more authorized governmental or proprietary functions essential to its proper, efficient and economic operation.

Lessee's obligation to make Lease Payments and to pay any other amounts payable under this Lease constitutes a current obligation payable only to the extent permitted by law and exclusively from legally available funds and shall not be construed to be an indebtedness within the meaning of any applicable constitutional or statutory limitation or requirement. Lessee has not pledged and will not pledge its full faith and credit or its taxing power to pay any Lease Payments or any other amounts under this Lease. Neither Lessor nor any Assignee (described below) may compel the levy of any ad valorem taxes by Lessee to pay Lease Payments or any other amounts under this Lease.

3. DELIVERY AND ACCEPTANCE. Lessor will cause the Equipment to be delivered to Lessee at the location specified in Schedule A ("Equipment Location"). Lessee will accept the Equipment as soon as it has been delivered and is operational. Lessee will evidence its acceptance of the Equipment either (a) by executing and delivering to Lessor a Delivery and Acceptance Certificate in the form provided by Lessor; or (b) by executing and delivering the form of acceptance provided for in the Contract (defined below).

Even if Lessee has not executed and delivered to Lessor a Delivery and Acceptance Certificate or other form of acceptance acceptable to Lessor, if Lessor believes the Equipment has been delivered and is operational, Lessor may require Lessee to notify Lessor in writing (within five (5) days of Lessee's receipt of Lessor's request) whether or not Lessee deems the Equipment (i) to have been delivered and (ii) to be operational, and hence be accepted by Lessee. If Lessee fails to so respond in such five (5) day period, Lessee will be deemed to have accepted the Equipment and be deemed to have acknowledged that the Equipment was delivered and is operational as if Lessee had in fact executed and delivered to Lessor a Delivery and Acceptance Certificate or other form acceptable to Lessor.

4. REPRESENTATIONS AND WARRANTIES. Lessor acknowledges that the Equipment leased hereunder is being manufactured and installed by Lessor pursuant to contract (the *"Contract"*) covering the Equipment. Lessee acknowledges that on or prior to the date of acceptance of the Equipment, Lessor intends to sell and assign Lessor's right, title and interest in and to this Agreement and the Equipment to an assignee (*"Assignee"*). LESSEE FURTHER ACKNOWLEDGES THAT EXCEPT AS EXPRESSLY SET FORTH IN THE CONTRACT, LESSOR MAKES NO EXPRESS OR IMPLIED WARRANTIES OF ANY NATURE OR KIND WHATSOEVER, AND AS BETWEEN LESSEE AND THE ASSIGNEE, THE PROPERTY SHALL BE ACCEPTED BY LESSEE "AS IS" AND "WITH ALL FAULTS." LESSEE AGREES TO SETTLE ALL CLAIMS DIRECTLY WITH LESSOR AND WILL NOT ASSERT OR SEEK TO ENFORCE ANY SUCH CLAIMS AGAINST THE ASSIGNEE. NEITHER LESSOR NOR THE ASSIGNEE SHALL BE LIABLE FOR ANY DIRECT, INDIRECT, SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES OF ANY CHARACTER AS A RESULT OF THE LEASE OF THE EQUIPMENT, INCLUDING WITHOUT LIMITATION, LOSS OF PROFITS, PROPERTY DAMAGE OR LOST PRODUCTION WHETHER SUFFERED BY LESSEE OR ANY THIRD PARTY.

Lessor is not responsible for, and shall not be liable to Lessee for damages relating to loss of value of the Equipment for any cause or situation (including, without limitation, governmental actions or regulations or actions of other third parties).

5. NON-APPROPRIATION OF FUNDS. Notwithstanding anything contained in this Lease to the contrary, in the event the funds appropriated by Lessee's governing body or otherwise available by any means whatsoever in any fiscal period of Lessee for Lease Payments or other amounts due under this Lease are insufficient therefor, this Lease shall terminate on the last day of the fiscal period for which appropriations were received without penalty or expense to Lessee of any kind whatsoever, except as to the portions of Lease Payments or other amounts herein agreed upon for which funds shall have been appropriated and budgeted or are otherwise available. The Lessee will immediately notify the Lessor or its Assignee of such occurrence. In the event of such termination, Lessor may request by written notice that Lessee promptly deliver the Equipment to Lessor or its Assignee. In the event that Lessee agrees to deliver the Equipment to Lessor, Lessee hereby agrees to transfer title to and deliver possession of the Equipment in accordance with Section 17.1 of this Lease. In the event that Lessee does not return the Equipment to Lessor, Lessor may proceed by appropriate court action or actions, either at law or in equity, to recover damages.

6. LESSEE CERTIFICATION. Lessee represents, covenants and warrants that: (i) Lessee is a state or a duly constituted political subdivision or agency of the state of the Equipment Location; (ii) the interest portion of the Lease Payments shall be excludable from Lessor's gross income pursuant to Section 103 of the Internal Revenue Code of 1986, as it may be amended from time to time (the *"Code"*); (iii) the execution, delivery and performance by the Lessee of this Lease have been duly authorized by all necessary action on the part of the Lessee; (iv) this Lease constitutes a legal, valid and binding obligation of the Lessee enforceable in accordance with its terms; (v) Lessee will comply with the information reporting requirements of Section 149(e) of the Code, and such compliance shall include but not be limited to the execution of information statements requested by Lessor; (vi) Lessee will not do or cause to be done any act which will cause, or by omission of any act allow, the Lease to be an arbitrage bond within the meaning of Section 148(a) of the Code; (vii) Lessee will not do or cause to be done any act which will cause, or by omission of any act allow, this Lease to be a private activity bond within the meaning of Section 141(a) of the Code; (viii) Lessee will not do or cause to be done any act which will cause, or by omission of any act allow, the interest portion of the Lease Payments to be or become includible in gross income for Federal income taxation purposes under the Code; and (ix) Lessee will be the only entity to own, use and operate the Equipment during the Lease Term.

Lessee represents, covenants and warrants that (i) it will do or cause to be done all things necessary to preserve and keep the Lease in full force and effect, (ii) it has complied with all public bidding requirements where necessary and by due notification presented this Lease for approval and adoption as a valid obligation on its part,

and (iii) it has sufficient appropriations or other funds available to pay all amounts due hereunder for the current fiscal period.

If Lessee breaches the covenant contained in this Section, the interest component of Lease Payments may become includible in gross income of the owner or owners thereof for federal income tax purposes. In such event, notwithstanding anything to the contrary contained in Section 11 of this Agreement, Lessee agrees to pay promptly after any such determination of taxability and on each Lease Payment date thereafter to Lessor an additional amount determined by Lessor to compensate such owner or owners for the loss of such excludibility (including, without limitation, compensation relating to interest expense, penalties or additions to tax), which determination shall be conclusive (absent manifest error). Notwithstanding anything herein to the contrary, any additional amount payable by Lessee pursuant to this Section 6 shall be subject to the limitations set forth in Sections 2 and 5 hereof.

It is Lessor's and Lessee's intention that this Agreement not constitute a "true" lease for federal income tax purposes and, therefore, it is Lessor's and Lessee's intention that Lessee be considered the owner of the Equipment for federal income tax purposes.

7. TITLE TO EQUIPMENT. During the Lease Term, title to the Equipment will vest in Lessee and Lessor will have no security interest therein. Notwithstanding the obligations of Lessee to pay the Lease Payments, this Lease shall not result in the creation of any lien, charge, security interest or other encumbrance upon the Equipment and Lessor shall have no right to involuntarily dispossess Lessee of the use and enjoyment of or title to the Equipment.

8. USE; REPAIRS. Lessee will use the Equipment in a careful manner for the use contemplated by the manufacturer of the Equipment and shall comply with all laws, ordinances, insurance policies, the Contract, any licensing or other agreement, and regulations relating to, and will pay all costs, claims, damages, fees and charges arising out of the possession, use or maintenance of the Equipment. Lessee, at its expense will keep the Equipment in good repair and furnish and/or install all parts, mechanisms, updates, upgrades and devices required therefor.

9. ALTERATIONS. Lessee will not make any alterations, additions or improvements to the Equipment without Lessor's prior written consent unless such alterations, additions or improvements may be readily removed without damage to the Equipment.

10. LOCATION; INSPECTION. The Equipment will not be removed from, [or if the Equipment consists of rolling stock, its permanent base will not be changed from] the Equipment Location without Lessor's prior written consent which will not be unreasonably withheld. Lessor will be entitled to enter upon the Equipment Location or elsewhere during reasonable business hours to inspect the Equipment or observe its use and operation.

11. LIENS AND TAXES. Lessee shall keep the Equipment free and clear of all levies, liens and encumbrances. Lessee shall pay, when due, all charges and taxes (local, state and federal) which may now or hereafter be imposed upon the ownership, licensing, leasing, rental, sale, purchase, possession or use of the Equipment, excluding however, all taxes on or measured by Lessor's income. If Lessee fails to pay said charges and taxes when due, Lessor shall have the right, but shall not be obligated, to pay said charges and taxes. If Lessor pays any charges or taxes, Lessee shall reimburse Lessor therefor within ten days of written demand.

12. RISK OF LOSS: DAMAGE; DESTRUCTION. Lessee assumes all risk of loss or damage to the Equipment from any cause whatsoever, and no such loss of or damage to the Equipment nor defect therein nor unfitness or obsolescence thereof shall relieve Lessee of the obligation to make Lease Payments or to perform any other obligation under this Lease. In the event of damage to any item of Equipment, Lessee will immediately place the same in good repair with the proceeds of any insurance recovery applied to the cost of such repair. If Lessor

determines that any item of Equipment is lost, stolen, destroyed or damaged beyond repair (an "Event of Loss"), Lessee at the option of Lessor will: either (a) replace the same with like equipment in good repair; or (b) on the next Lease Payment date, pay Lessor the sum of: (i) all amounts then owed by Lessee to Lessor under this Lease, including the Lease payment due on such date; and (ii) an amount equal to all remaining Lease Payments to be paid during the Lease Term as set forth in Schedule B.

In the event that Lessee is obligated to make such payment with respect to less than all of the Equipment, Lessor will provide Lessee with the pro rata amount of the Lease Payment and the Balance Payment (as set forth in Schedule B) to be made by Lessee with respect to that part of the Equipment which has suffered the Event of Loss.

13. INSURANCE. Lessee will, at its expense, maintain at all times during the Lease Term, fire and extended coverage, public liability and property damage insurance with respect to the Equipment in such amounts, covering such risks, and with such insurers as shall be satisfactory to Lessor, or, with Lessor's prior written consent, Lessee may self-insure against any or all such risks. All insurance covering loss of or damage to the Equipment shall be carried in an amount no less than the amount of the then applicable Balance Payment with respect to such Equipment. The initial amount of insurance required is set forth in Schedule B. Each insurance policy will name Lessee as an insured and Lessor or its Assignee as an additional insured, and will contain a clause requiring the insurer to give Lessor at least thirty (30) days prior written notice of any alteration in the terms of such policy or the cancellation thereof. The proceeds of any such policies will be payable to Lessee and Lessor or its Assignee as their interests may appear. Upon acceptance of the Equipment and upon each insurance renewal date, Lessee will deliver to Lessor a certificate evidencing such insurance. In the event that Lessee has been permitted to self-insure, Lessee will furnish Lessor with a letter or certificate to such effect. In the event of any loss, damage, injury or accident involving the Equipment, Lessee will promptly provide Lessor with written notice thereof and make available to Lessor all information and documentation relating thereto.

14. INDEMNIFICATION. Lessee shall, to the extent permitted by law, indemnify Lessor against, and hold Lessor harmless from, any and all claims, actions, proceedings, expenses, damages or liabilities, including attorneys' fees and court costs, arising in connection with the Equipment, including, but not limited to, its selection, purchase, delivery, possession, use, operation, rejection, or return and the recovery of claims under insurance policies thereon.

15. ASSIGNMENT. Without Lessor's prior written consent, Lessee will not either (i) assign, transfer, pledge, hypothecate, grant any security interest in or otherwise dispose of this Lease or the Equipment or any interest in this Lease or the Equipment or; (ii) sublet or lend the Equipment or permit it to be used by anyone other than Lessee or Lessee's employees. Lessor may assign its rights, title and interest in and to this Lease, the Equipment and any documents executed with respect to this Lease and/or grant or assign a security interest in this Lease and the Equipment, in whole or in part. Any such assignees shall have all of the rights of Lessor under this Lease. Subject to the foregoing, this Lease inures to the benefit of and is binding upon the heirs, executors, administrators, successors and assigns of the parties hereto.

Lessee covenants and agrees not to assert against the Assignee any claims or defenses by way of abatement, setoff, counterclaim, recoupment or the like which Lessee may have against Lessor. No assignment or reassignment of any Lessor's right, title or interest in this Lease or the Equipment shall be effective unless and until Lessee shall have received a notice of assignment, disclosing the name and address of each such assignee; *provided, however,* that if such assignment is made to a bank or trust company as paying or escrow agent for holders of certificates of participation in the Lease, it shall thereafter be sufficient that a copy of the agency agreement shall have been deposited with Lessee until Lessee shall have been advised that such agency agreement is no longer in effect. During the Lease Term Lessee shall keep a complete and accurate record of all such assignments in form necessary to comply with Section 149(a) of the Code, and the regulations, proposed or existing, from time to time

promulgated thereunder. No further action will be required by Lessor or by Lessee to evidence the assignment, but Lessee will acknowledge such assignments in writing if so requested.

After notice of such assignment, Lessee shall name the Assignee as additional insured and loss payee in any insurance policies obtained or in force. Any Assignee of Lessor may reassign this Lease and its interest in the Equipment and the Lease Payments to any other person who, thereupon, shall be deemed to be Lessor's Assignee hereunder.

16. EVENT OF DEFAULT. The term "Event of Default", as used herein, means the occurrence of any one or more of the following events: (i) Lessee fails to make any Lease Payment (or any other payment) as it becomes due in accordance with the terms of the Lease, and any such failure continues for ten (10) days after the due date thereof; (ii) Lessee fails to perform or observe any other covenant, condition, or agreement to be performed or observed by it hereunder and such failure is not cured within twenty (20) days after written notice thereof by Lessor; (iii) the discovery by Lessor that any statement, representation, or warranty made by Lessee in this Lease or in writing ever delivered by Lessee pursuant hereto or in connection herewith is false, misleading or erroneous in any material respect; (iv) proceedings under any bankruptcy, insolvency, reorganization or similar legislation shall be instituted against or by Lessee, or a receiver or similar officer shall be appointed for Lessee or any of its property, and such proceedings or appointments shall not be vacated, or fully stayed, within twenty (20) days after the institution or occurrence thereof; or (v) an attachment, levy or execution is threatened or levied upon or against the Equipment.

17. REMEDIES. Upon the occurrence of an Event of Default, and as long as such Event of Default is continuing, Lessor may, at its option, exercise any one or more of the following remedies: (i) by written notice to Lessee, declare all amounts then due under the Lease, and all remaining Lease Payments due during the Fiscal Year in effect when the default occurs to be immediately due and payable, whereupon the same shall become immediately due and payable; (ii) request by written notice that Lessee promptly deliver the Equipment to Lessor or its Assignee; and (iii) exercise any other right, remedy or privilege which may be available to it under applicable laws of the state of the Equipment Location or any other applicable law or proceed by appropriate court action to enforce the terms of the Lease or to recover damages for the breach of this Lease or to rescind this Lease as to any or all of the Equipment. If Lessor terminates this Lease and receives possession of the Equipment, Lessor may sell or lease the Equipment or sublease it for the account of Lessee. If the proceeds of such sale, lease or sublease are not sufficient to pay the balance of any Lease Payments or other amounts owed by Lessee under the Lease, Lessor may pursue such other remedies as are available at law or in equity to collect the balance of such Lease Payments or other amounts from Lessee's legally available funds. In addition, Lessee will remain liable for all covenants and indemnities under this Lease and for all legal fees and other costs and expenses, including court costs, incurred by Lessor with respect to the enforcement of any of the remedies listed above or any other remedy available to Lessor.

17.1. RETURN OF THE EQUIPMENT. In the event that Lessee determines to return the Equipment to Lessor or its Assignee pursuant to Section 5 or 17 hereof, Lessee agrees to transfer title to and deliver possession of the Equipment in the condition hereafter required by preparing and appropriately protecting the Equipment for shipment and, at Lessor's option, (i) surrendering the Equipment to Lessor at the Equipment Location specified in Schedule A hereto, or (ii) loading the Equipment on board such carrier as Lessor shall specify and shipping the same, freight collect, to Lessor at the place designated by Lessor. In the event of any such delivery of the Equipment to Lessor, Lessee shall execute and deliver such documents as may reasonably be required to transfer title to and possession of the Equipment to Lessor, free and clear of all liens to which the Equipment has become subject.

Upon such delivery of the Equipment to Lessor, if the Equipment is damaged or otherwise made less suitable for the purposes for which it was manufactured than when delivered to Lessee (reasonable wear and tear excepted), Lessee agrees, at its option, to: (a) repair or restore such Equipment to the same condition in which it

was received by Lessee (reasonable wear and tear excepted) and, at its expense, promptly return such Equipment to Lessor (or to a location identified in a written notice to Lessee) or (b) pay to Lessor the actual cost of such repair, restoration and return.

There is no intent to create under any provision of this Lease a right in Lessor to involuntarily dispossess Lessee of the legal title to or the use of the Equipment. Lessor hereby irrevocably waives any right to specific performance of any covenant of Lessee to transfer legal title to and return possession of the Equipment.

18. PURCHASE OPTION. Upon thirty (30) days prior written notice from Lessee to Lessor, and *provided* that no Event of Default has occurred and is continuing, or no event, which with notice or lapse of time, or both could become an Event of Default, then exists, Lessee will have the right to purchase the Equipment on the Lease Payment Dates set forth in Schedule B by paying to Lessor, on such date, the Lease Payment then due together with the Balance Payment amount set forth opposite such date. Upon satisfaction by Lessee of such purchase conditions, Lessor will transfer any and all of its right, title and interest in the Equipment to Lessee as is, without warranty, express or implied, except that the Equipment is free and clear of any liens created by Lessor.

19. NOTICES. All notices to be given under this Lease shall be made in writing and mailed by certified mail, return receipt requested, to the other party at its address set forth herein or at such address as the party may provide in writing from time to time. Any such notice shall be deemed to have been received five days subsequent to such mailing.

20. SECTION HEADINGS. All section headings contained herein are for the convenience of reference only and are not intended to define or limit the scope of any provision of this Lease.

21. GOVERNING LAW. This Lease shall be construed in accordance with, and governed by the laws of, the state of the Equipment Location.

22. DELIVERY OF RELATED DOCUMENTS. Lessee will execute or provide, as requested by Lessor, such other documents and information as are reasonably necessary with respect to the transaction contemplated by this Lease.

23. ENTIRE AGREEMENT; WAIVER. This Lease, together with Schedule A Equipment Lease-Purchase Agreement, Schedule B, Evidence of Insurance, Statement of Essential Use/Source of Funds, Certificate of Incumbency, Certified Lessee Resolution (if any), Information Return for Tax-Exempt Governmental Obligations and the Delivery and Acceptance Certificate and other attachments hereto, and other documents or instruments executed by Lessee and Lessor in connection herewith, constitutes the entire agreement between the parties with respect to the Lease of the Equipment, and this Lease shall not be modified, amended, altered, or changed except with the written consent of Lessee and Lessor. Any provision of this Lease, 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. To the extent permitted by applicable law, Lessee and Lessor hereby waive any provision of law that prohibits or renders unenforceable any provision of this Lease in any respect.

The waiver by Lessor of any breach by Lessee of any term, covenant or condition hereof shall not operate as a waiver of any subsequent breach thereof.

24. EXECUTION IN COUNTERPARTS. This Lease may be executed in several counterparts, either electronically or manually, all of which shall constitute but one and the same instrument. Lessor reserves the right to request receipt of a manually-executed counterpart from Lessee. Lessor and Lessee agree that the only original counterpart for purposes of perfection by possession shall be the original counterpart manually executed by Lessor and identified as "Original", regardless of whether Lessee's execution or delivery of said counterpart is done manually or electronically.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the _____ day of May, 2022

LESSEE:	**LESSOR:**
TOWN OF BAY HARBOR ISLANDS	**MOTOROLA SOLUTIONS, INC.**
By:_____	By:_____
Name:_____	Name: Uygar Gazioglu
Title: _____	Title: Treasurer

CERTIFICATE OF INCUMBENCY

I, _____ do hereby certify that I am the duly elected or
(Printed Name of Secretary/Clerk)
appointed and acting Secretary or Clerk of TOWN OF BAY HARBOR ISLANDS, an entity duly organized and existing under the laws of the **State of Florida** that I have custody of the records of such entity, and that, as of the date hereof, the individual(s) executing this agreement is/are the duly elected or appointed officer(s) of such entity holding the office(s) below his/her/their respective name(s). I further certify that (i) the signature(s) set forth above his/her/their respective name(s) and title(s) is/are his/her/their true and authentic signature(s) and (ii) such officer(s) have the authority on behalf of such entity to enter into that certain Equipment Lease Purchase Agreement number25261 between TOWN OF BAY HARBOR ISLANDS and Motorola Solutions, Inc. If the initial insurance requirement on Schedule B exceeds $1,000,000, attached as part of the Equipment Lease Purchase Agreement is a Certified Lessee Resolution adopted by the governing body of the entity.

IN WITNESS WHEREOF, I have executed this certificate and affixed the seal of TOWN OF BAY HARBOR ISLANDS
hereto this _____ day of May, 2022.

By: _____ SEAL
(Signature of Secretary/Clerk)

OPINION OF COUNSEL

With respect to that certain Equipment Lease-Purchase Agreement # 25261 by and between Motorola Solutions, Inc. and the Lessee, I am of the opinion that: (i) the Lessee is, within the meaning of Section 103 of the Internal Revenue Code of 1986, a state or a fully constituted political subdivision or agency of the State of the Equipment Location described in Schedule A hereto; (ii) the execution, delivery and performance by the Lessee of the Lease have been duly authorized by all necessary action on the part of the Lessee, (III) the Lease constitutes a legal, valid and binding obligation of the Lessee enforceable in accordance with its terms; and (iv) Lessee has sufficient monies available to make all payments required to be paid under the Lease during the current fiscal year of the Lease, and such monies have been properly budgeted and appropriated for this purpose in accordance with State law. This opinion may be relied upon by the Lessor and any assignee of the Lessor's rights under the Lease.

_____

Attorney for TOWN OF BAY HARBOR ISLANDS

SCHEDULE A
EQUIPMENT LEASE-PURCHASE AGREEMENT

Schedule A 25261
Lease Number:

This Equipment Schedule is hereby attached to and made a part of that certain Equipment Lease-Purchase Agreement Number **25261** ("Lease"), between Lessor and TOWN OF BAY HARBOR ISLANDS, Lessee.

Lessor hereby leases to Lessee under and pursuant to the Lease, and Lessee hereby accepts and leases from Lessor under and pursuant to the Lease, subject to and upon the terms and conditions set forth in the Lease and upon the terms set forth below, the following items of Equipment

QUANTITY	**DESCRIPTION (Manufacturer, Model, and Serial Nos.)**
	Refer to attached Equipment List.
Equipment Location:	

Initial Term: 60 Months **Commencement Date:** **May 15, 2022**
First Payment Due Date: **May 15, 2023**

5 annual payments as outlined in the attached Schedule B, plus Sales/Use Tax of $0.00, payable on the Lease Payment Dates set forth in Schedule B.

TOWN OF BAY HARBOR ISLANDS (Schedule B)

Compound Period: Monthly

Nominal Annual Rate: 3.580%

CASH FLOW DATA

	Event	Date	Amount	Number	Period	End Date
1	Lease	5/15/2022	$ 112,000.00	1		
2	Lease Payment	5/15/2023	$ 24,903.87	5	Annual	5/15/2027

AMORTIZATION SCHEDULE - Normal Amortization, 360 Day Year

	Date	Lease Payment	Interest	Principal	Balance
Lease	5/15/2022				$112,000.00
1	5/15/2023	$ 24,903.87	$ 4,076.03	$ 20,827.84	$ 91,172.16
2	5/15/2024	$ 24,903.87	$ 3,318.04	$ 21,585.83	$ 69,586.33
3	5/15/2025	$ 24,903.87	$ 2,532.47	$ 22,371.40	$ 47,214.93
4	5/15/2026	$ 24,903.87	$ 1,718.30	$ 23,185.57	$ 24,029.36
5	5/15/2027	$ 24,903.87	$ 874.51	$ 24,029.36	$ -
Grand Totals		$ 124,519.35	$ 12,519.35	$112,000.00	

INITIAL INSURANCE REQUIREMENT: $112,000.00

Except as specifically provided in Section five of the Lease hereof, Lessee agrees to pay to Lessor or its assignee the Lease Payments, including the interest portion, in the amounts and dates specified in the above payment schedule.

EVIDENCE OF INSURANCE

Fire, extended coverage, public liability and property damage insurance for all of the Equipment listed on Schedule A number **25261** to that Equipment Lease Purchase Agreement number **25261** will be maintained by TOWN OF BAY HARBOR ISLANDS as stated in the Equipment Lease Purchase Agreement.

This insurance is provided by:

_____
Name of insurance provider

_____
Address of insurance provider

_____
City, State and Zip Code

_____
Phone number of local insurance provider

_____
E-mail address

In accordance with the Equipment Lease Purchase Agreement Number **25261** , _____ _____**,** hereby certifies that following coverage are or will be in full force and effect:

Type	**Amount**	**Effective Date**	**Expiration Date**	**Policy Number**
Fire and Extended Coverage	_____	_____	_____	_____
Property Damage	_____	_____	_____	_____
Public Liability	_____	_____	_____	_____

Certificate shall include the following:
Description: All Equipment listed on Schedule A number 25261 to that Equipment Lease Purchase Agreement number25261. Please include equipment cost equal to the Initial Insurance Requirement on Schedule B to Equipment Lease Purchase Agreement number 25261 and list any deductibles

Certificate Holder:
MOTOROLA SOLUTIONS, INC. and or its assignee as additional insured and loss payee
1303 E. Algonquin Road
Schaumburg, IL 60196

If self insured, contact Motorola representative for template of self insurance letter.

STATEMENT OF ESSENTIAL USE/SOURCE OF FUNDS

To further understand the essential governmental use intended for the equipment together with an understanding of the sources from which payments will be made, please address the following questions by completing this form or by sending a separate letter:

1. What is the specific use of the equipment?

2. Why is the equipment essential to the operation of TOWN OF BAY HARBOR ISLANDS**?**

3. Does the equipment replace existing equipment?

   If so, why is the replacement being made?

4. Is there a specific cost justification for the new equipment?

   If yes, please attach outline of justification.

5. What is the expected source of funds for the payments due under the Lease for the current fiscal year and future fiscal years?

EQUIPMENT LEASE PURCHASE AGREEMENT DELIVERY AND ACCEPTANCE CERTIFICATE

The undersigned Lessee hereby acknowledges receipt of the Equipment described below ("Equipment") and Lessee hereby accepts the Equipment after full inspection thereof as satisfactory for all purposes of lease Schedule A to the Equipment Lease Purchase Agreement executed by Lessee and Lessor.
Equipment Lease Purchase Agreement No.: 25261 Lease Schedule A No. : 25261

EQUIPMENT INFORMATION

QUANTITY	MODEL NUMBER	EQUIPMENT DESCRIPTION
		Equipment referenced in lease Schedule A#25261. See Schedule A for a detailed Equipment List.

LESSEE:

TOWN OF BAY HARBOR ISLANDS

By: _____

Date: _____

CERTIFIED LESSEE RESOLUTION

At a duly called meeting of the Governing Body of the Lessee (as defined in the Lease 25261) held on (Insert Board Approval Date)_____, the following resolution was introduced and adopted.
BE IT RESOLVED by the Governing Board of Lessee as follows:

Determination of Need. The Governing Body of Lessee has determined that a true and very real need exists for the acquisition of the Equipment or other personal property described in the Lease between TOWN OF BAY HARBOR ISLANDS (Lessee) and Motorola Solutions, Inc. (Lessor).

1. Approval and Authorization. The Governing body of Lessee has determined that the Lease, substantially in the form presented to this meeting, is in the best interests of the Lessee for the acquisition of such Equipment or other personal property, and the Governing Board hereby approves the entering into of the Lease by the Lessee and hereby desigates and authorizes the following person(s) referenced in the Lease to execute and deliver the Lease on Lessee's behalf with such changes thereto as such person deems appropriate, and any related documents, including any escrow agreement, necessary to the consummation of the transactions contemplated by the Lease.

2. Adoption of Resolution. The signatures in the Lease from the designated individuals for the Governing Body of the Lessee evidence the adoption by the Governing Body of this Resolution.

Form **8038-G**

(Rev. September 2018)

Department of the Treasury
Internal Revenue Service

Information Return for Tax-Exempt Governmental Bonds

▶ **Under Internal Revenue Code section 149(e)**
▶ **See separate instructions.**
Caution: *If the issue price is under $100,000, use Form 8038-GC.*
▶ **Go to *www.irs.gov/F8038G* for instructions and the latest information.**

OMB No. 1545-0720

Part I Reporting Authority

If **Amended Return**, check here ▶ ☐

1 Issuer's name TOWN OF BAY HARBOR ISLANDS	2 Issuer's employer identification number (EIN)
3a Name of person (other than issuer) with whom the IRS may communicate about this return (see instructions)	3b Telephone number of other person shown on 3a
4 Number and street (or P.O. box if mail is not delivered to street address) Room/suite 9665 Bay Harbor Terrace	5 Report number *(For IRS Use Only)* 3
6 City, town, or post office, state, and ZIP code Bay Harbor Islands FL 33154	7 Date of issue 5/15/22
8 Name of issue Equipment Lease-Purchase Agreement 25261	9 CUSIP number
10a Name and title of officer or other employee of the issuer whom the IRS may call for more information (see instructions)	10b Telephone number of officer or other employee shown on 10a

Part II Type of Issue (enter the issue price). See the instructions and attach schedule.

11	Education	11	
12	Health and hospital	12	
13	Transportation	13	
14	Public safety	14	112,000.00
15	Environment (including sewage bonds)	15	
16	Housing	16	
17	Utilities	17	
18	Other. Describe ▶	18	
19a	If bonds are TANs or RANs, check only box 19a ▶ ☐		
b	If bonds are BANs, check only box 19b ▶ ☐		
20	If bonds are in the form of a lease or installment sale, check box ▶ ☑		

Part III Description of Bonds. Complete for the entire issue for which this form is being filed.

	(a) Final maturity date	(b) Issue price	(c) Stated redemption price at maturity	(d) Weighted average maturity	(e) Yield
21	5/15/27	$ 112,000.00	$ 112,000.00	5 years	3.58 %

Part IV Uses of Proceeds of Bond Issue (including underwriters' discount)

22	Proceeds used for accrued interest			22	
23	Issue price of entire issue (enter amount from line 21, column (b))			23	112,000.00
24	Proceeds used for bond issuance costs (including underwriters' discount)	24			
25	Proceeds used for credit enhancement	25			
26	Proceeds allocated to reasonably required reserve or replacement fund	26			
27	Proceeds used to refund prior tax-exempt bonds. Complete Part V	27			
28	Proceeds used to refund prior taxable bonds. Complete Part V	28			
29	Total (add lines 24 through 28)			29	
30	Nonrefunding proceeds of the issue (subtract line 29 from line 23 and enter amount here)			30	112,000.00

Part V Description of Refunded Bonds. Complete this part only for refunding bonds.

31	Enter the remaining weighted average maturity of the tax-exempt bonds to be refunded ▶	years
32	Enter the remaining weighted average maturity of the taxable bonds to be refunded ▶	years
33	Enter the last date on which the refunded tax-exempt bonds will be called (MM/DD/YYYY) ▶	
34	Enter the date(s) the refunded bonds were issued ▶ (MM/DD/YYYY)	

Part VI Miscellaneous

35	Enter the amount of the state volume cap allocated to the issue under section 141(b)(5)	35		
36a	Enter the amount of gross proceeds invested or to be invested in a guaranteed investment contract (GIC). See instructions	36a		
b	Enter the final maturity date of the GIC ▶ (MM/DD/YYYY)			
c	Enter the name of the GIC provider ▶			
37	Pooled financings: Enter the amount of the proceeds of this issue that are to be used to make loans to other governmental units	37		

38a If this issue is a loan made from the proceeds of another tax-exempt issue, check box ▶ ☐ and enter the following information:

b Enter the date of the master pool bond ▶ (MM/DD/YYYY) _____

c Enter the EIN of the issuer of the master pool bond ▶ _____

d Enter the name of the issuer of the master pool bond ▶ _____

39 If the issuer has designated the issue under section 265(b)(3)(B)(i)(III) (small issuer exception), check box ▶ ☐

40 If the issuer has elected to pay a penalty in lieu of arbitrage rebate, check box ▶ ☐

41a If the issuer has identified a hedge, check here ▶ ☐ and enter the following information:

b Name of hedge provider ▶ _____

c Type of hedge ▶ _____

d Term of hedge ▶ _____

42 If the issuer has superintegrated the hedge, check box ▶ ☐

43 If the issuer has established written procedures to ensure that all nonqualified bonds of this issue are remediated according to the requirements under the Code and Regulations (see instructions), check box ▶ ☐

44 If the issuer has established written procedures to monitor the requirements of section 148, check box ▶ ☐

45a If some portion of the proceeds was used to reimburse expenditures, check here ▶ ☐ and enter the amount of reimbursement ▶ _____

b Enter the date the official intent was adopted ▶ (MM/DD/YYYY)

Signature and Consent

Under penalties of perjury, I declare that I have examined this return and accompanying schedules and statements, and to the best of my knowledge and belief, they are true, correct, and complete. I further declare that I consent to the IRS's disclosure of the issuer's return information, as necessary to process this return, to the person that I have authorized above.

▶ _____ Signature of issuer's authorized representative Date

▶ _____ Type or print name and title

Paid Preparer Use Only

Print/Type preparer's name	Preparer's signature	Date	Check ☐ if self-employed	PTIN

Firm's name ▶	Firm's EIN ▶
Firm's address ▶	Phone no.

MOTOROLA SOLUTIONS







BAY HARBOR ISLAND, TOWN OF

11/05/2021

The design, technical, pricing, and other information ("Information") furnished with this submission is confidential proprietary information of Motorola Solutions, Inc. or the Motorola Solutions entity providing this quote ("Motorola") and is submitted with the restriction that it is to be used for evaluation purposes only. To the fullest extent allowed by applicable law, the Information is not to be disclosed publicly or in any manner to anyone other than those required to evaluate the Information without the express written permission of Motorola.
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Quote Number: QUOTE-1595186

Billing Address:
BAY HARBOR ISLAND, TOWN OF
9665 BAY HARBOR TERRACE
BAY HARBOR ISLANDS FL, 33154

Shipping Address:
BAY HARBOR ISLAND, TOWN OF
9665 BAY HARBOR TERRACE
BAY HARBOR ISLANDS FL, 33154

Customer: BAY HARBOR ISLAND, TOWN OF

Quote Date: 2021-11-05
Expiration Date: 2022-01-01
Contract Name: R1422515R1/P1 - Broward P25

Currency: USD

Quote Created By:
Armando Rojas
arojas@emciwireless.com

Terms and Conditions: none

Line #	Item Number	Description	Quantity	Unit List Price	Ext. List Price	Discount %	Discount $	Unit Sale Price	Ext. Sale Price	APC
	APX™ 6000 Series									
1	H98UCF9PW6BN	APX6000 700/800 MODEL 2.5 PORTABLE.	25	$3,268.00	$81,700.00	27.00%	$882.36	$2,385.64	$59,641.00	0481
1a	QA01648AA	ADD: HW KEY SUPPLEMENTAL DATA.	25	$5.00	$125.00	27.00%	$1.35	$3.65	$91.25	0481
1b	QA05570AA	ALT: LI-ION IMPRES 2 IP68 3400 MAH.	25	$100.00	$2,500.00	27.00%	$27.00	$73.00	$1,825.00	0481
1c	Q361AR	ADD: P25 9600 BAUD TRUNKING.	25	$300.00	$7,500.00	27.00%	$81.00	$219.00	$5,475.00	0481
1d	Q58AL	ADD: 3Y ESSENTIAL SERVICE.	25	$121.00	$3,025.00	0.00%	$0.00	$121.00	$3,025.00	0185
1e	H122BR	ALT: 1/4 WAVE 7/8 STUBBY (NAR6595).	25	$24.00	$600.00	27.00%	$6.48	$17.52	$438.00	0481
1f	QA09006AA	ADD: ADAPTIVE NOISE SUPPRESSION.	25	$150.00	$3,750.00	27.00%	$40.50	$109.50	$2,737.50	0481
1g	Q498AY	ENH: ASTRO 25 OTAR W/ MULTIKEY.	25	$740.00	$18,500.00	27.00%	$199.80	$540.20	$13,505.00	0481
1h	H38BT	ADD: SMARTZONE OPERATION.	25	$1,200.00	$30,000.00	27.00%	$324.00	$876.00	$21,900.00	0481
1i	Q806BM	ADD: ASTRO DIGITAL CAI OPERATION.	25	$515.00	$12,875.00	27.00%	$139.05	$375.95	$9,398.75	0481
1j	QA01771AB	ENH: ENHANCEMENT LEVEL 2.	25	$200.00	$5,000.00	27.00%	$54.00	$146.00	$3,650.00	0481
1k	Q629AK	ENH: AES ENCRYPTION AND ADP.	25	$475.00	$11,875.00	27.00%	$128.25	$346.75	$8,668.75	0481
2	PMNN4486A	BATT IMPRES 2 LIION R IP67 3400T.	25	$163.00	$4,075.00	27.00%	$44.01	$118.99	$2,974.75	0453
3	NNTN8863A	CHARGER, SINGLE-UNIT, IMPRES 2, 3A, 100-240VAC, US/NA PLUG.	25	$157.00	$3,925.00	27.00%	$42.39	$114.61	$2,865.25	0785
4	PMMN4136A	ACCESSORY KIT,XVP830 REMOTE SPEAKER MICROPHONE, NO CHANNEL KNOB.	25	$450.00	$11,250.00	27.00%	$121.50	$328.50	$8,212.50	0372
5	Finance	5yr Financing Cost	1	$12,519.35	$12,519.35	0.00%	$0.00	$12,519.35	$12,519.35	
				MSRP Total	**$209,219.35**			**Broward Contract Total**	**$156,927.10**	
6	Incentive	5yr Financing Credit - Expires 12/20/21	1	-$12,519.35	-$12,519.35	0.00%	$0.00	-$12,519.35	-$12,519.35	
7	Incentive	Trade-in Credit- Expires 12/20/21	25	-$250.00	-$6,250.00	0.00%	$0.00	-$250.00	-$6,250.00	
8	Incentive	AES/OTAR Promo - Expires 12/20/21	25	-$545.51	-$13,637.75	0.00%	$0.00	-$545.51	-$13,637.75	
								Total Incentive Amount	**-$32,407.10**	

MSRP Total	**$209,219.35**
Broward Contract Disc.	**-$52,292.25**
Total Incentive Amount	**-$32,407.10**
Grand Total	**$124,520.00**

BROWARD COUNTY P25 SYSTEM AND SERVICES MASTER AGREEMENT WITH MOTOROLA SOLUTIONS, INC.

This P25 System and Services Master Agreement (the "Agreement") is made and entered into by and between Broward County, a political subdivision of the State of Florida ("County"), and Motorola Solutions, Inc., a Delaware corporation registered to transact business in the State of Florida ("Provider" or "Motorola Solutions").

A. County issued solicitation RFP R1422515R1/P1 to provide a turnkey replacement of various communication subsystems operated by the County's Office of Regional Communications and Technology and integral to the public safety communications of Broward County and its municipalities. The RFP sought a new 700 MHz, P25 Phase II system to replace the County's existing 800 MHz SmartNet System, a new IP-based microwave system to replace the existing Tadiran 6 GHz system and providing backward compatibility for legacy circuits, civil work to support upgrades to new and existing radio sites, and P25 Phase II-compliant subscriber radios and maintenance available for purchase by entities in the Broward County public safety network.

B. County has met the requirements of Section 287.055, Florida Statutes, the Consultants' Competitive Negotiation Act, and County's Design-Build competitive procurement regulations, and has selected Provider and its Subcontractors to perform the services hereunder.

For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

ARTICLE 1. DEFINITIONS

1.1 Authorized Third Party Users. All persons and entities that County authorizes to use the P25 System, which may include employees and contractors of Broward County, Broward Sheriff's Office, Broward School District, municipalities, law enforcement, fire rescue, emergency management, transportation, non-government aid or relief organizations, and federal agencies.

1.2 Board. The Board of County Commissioners of Broward County, Florida.

1.3 Business hours or business day. 7 a.m. to 7 p.m. Eastern Time during weekdays that are not County holidays and on which County has not otherwise declared its offices closed.

1.4 Change Order. A written document ordering a change in the Design Build Price or Design Build Time or a material change in the Design Build Work.

1.5 Contract Administrator. The Director of Office of Regional Communications and Technology or other person as designated in writing by the Director of the Office of Regional Communications and Technology for all or portions of this Agreement and the Services provided hereunder.

1.6 County Consultant. Mission Critical Partners, Inc. or any other entity designated by the Contract Administrator as employed by or under contract to County for the providing of consulting services in connection with the preparation of the Specifications and oversight of the performance of this Agreement.

1.7 DB-Firm. The Subcontractor providing the design-related and civil work required for the Project or as otherwise required under the Facilities and Infrastructure SOW. As of the Effective Date, the DB-Firm is Amec Foster Wheeler.

1.8 DB-Firm's Consultant (Engineer of Record). A registered engineer who is employed by or has contracted with DB-Firm to provide professional services for the design, permitting, and construction related professional services of the Project and who is licensed by the State of Florida to provide said professional services. The DB-Firm Consultant as of the Effective Date is Carrick Contracting Corporation.

1.9 Design Build Contract Documents. Collectively, this Agreement and its exhibits, attachments and forms, the RFP R1422515R1/P1 and Addenda, and Provider's responses thereto (as negotiated and accepted by County); the Specifications; design plans, specifications, and drawings which are to be developed, signed, and sealed by DB-Firm's Consultant; the record of the contract award by the Board of County Commissioners; the Performance Bond and Payment Bond; the Notice(s) to Proceed; the Purchase Order; and all agreed upon contract and design modifications issued after execution of this Agreement.

1.10 Design Build Price. The amount established in the Agreement as the total contract price for the Project, as may be amended by Change Order.

1.11 Design Build Time. The original time between commencement and completion for the Facilities and Infrastructure Work, in accordance with Exhibit A-2 and the Project Schedule set forth in Schedule 10, including any milestone dates, as may be amended by Change Order.

1.12 Design Build Work. The totality of the obligations, including design and construction and other services required by the Design Build Contract Documents, whether completed or partially completed, including all labor, materials, equipment, and services provided or to be provided by DB-Firm or Provider to fulfill the obligations hereunder for the Project.

1.13 Documentation. All manuals, user documentation, specifications, and other related materials pertaining to any portion of the P25 System and other hardware and software that Provider or its Subcontractor customarily furnishes to purchasers of such hardware or software. "Documentation" includes product and software documents that specify technical and performance features and capabilities, and the user, operation and training manuals for the Software (including all physical or electronic media upon which such information is provided).

1.14 Equipment. The hardware and other property being provided to County pursuant to this Agreement, including equipment with which or for which the Software and Documentation is licensed, and including any embedded software and firmware incorporated therein or customarily provided by Provider to purchasers of such equipment.

1.15 Field Order. A written order which orders minor changes or interpretations of the Contract Documents but which does not involve an increase in the Design Build Price or change

in the Design Build Time.

1.16 Final Completion. The date certified by DB-Firm's Consultant, and as finally determined by the Contract Administrator with concurrence by the County Consultant, upon which all conditions and requirements of any permits and regulatory agencies have been satisfied; any documents required by the Design Build Contract Documents have been received by the Contract Administrator; any other documents required to be provided by DB-Firm have been received by County; and the Design Build Work defined herein has been fully completed for the applicable Sites in accordance with the terms and conditions of the Design Build Contract Documents.

1.17 Open Source Software. Open Source Software is software with either freely obtainable source code, license for modification, or permission for free distribution.

1.18 Open Source Software License. The terms or conditions under which the Open Source Software is licensed by its copyright owner.

1.19 P25 System. All of the Software, Equipment, and other property identified in any Statement of Work, inclusive with all Services, being provided to County pursuant to this Agreement. The P25 System is comprised of three component systems: (1) the "Radio System," which constitutes the Software, Equipment and Services as stated in Exhibit A-1; (2) the Project, which constitutes the Design Build Work for the Facilities and Infrastructure system as stated in Exhibit A-2; and (3) the "Microwave System," which constitutes the Software, Equipment and Services as stated in Exhibit A-3.

1.20 Project. The design-build services to design, build, and install the necessary antenna towers, improvements, buildings, and other work as described in SOW A-2 or the Design Build Contract Documents.

1.21 Purchasing Director. The Broward County Director of Purchasing as appointed by the Broward County Administrator.

1.22 Security Vulnerability. A flaw or weakness in system security procedures, design, implementation, or internal controls that could be exercised (accidentally triggered or intentionally exploited) and result in a security breach such that data is compromised, manipulated or stolen or the system damaged.

1.23 Services. All required installation, integration, programming, configuration, customization, and enhancements of the P25 System or any component System thereof, together with necessary and appropriate consulting, training, and project management services, to meet County's ongoing needs in connection with the P25 System, as further specified in the Statements of Work that comprise Exhibit A.

1.24 Sites. The sites included in this Project as identified in Exhibit A-2 and as updated or amended by Change Order.

1.25 Software. All proprietary or third-party software or other intellectual property rights, including the Documentation for same, provided or licensed to County or third party users pursuant to this Agreement, including the computer programs (in machine readable object code form) provided pursuant to this Agreement or listed in Exhibit A and any subsequent updates, upgrades, releases, or enhancements thereto developed by Provider during the term of this

Agreement. "Software" includes software in object code format, and adaptations, translations, de-compilations, disassemblies, emulations, or derivative works of such software, and any modifications and new versions of the software provided pursuant to this Agreement, as well as any embedded software in the Equipment.

1.26 Specifications. The performance criteria developed by County Consultant that specifies the performance-based criteria for the P25 System or Project, including the description of work, standard specifications to be followed, technical requirements, management plans, Project schedule requirements, meetings and documentation requirements, design and survey requirements, provisions for utilities and coordination, permitting, maintenance-of-traffic, geotechnical investigations, environmental considerations, and construction operations, applicable to the Project or P25 System, as expressed in the RFP document, and include all implied requirements necessary to complete the Services and Design Build Work.

1.27 Subcontractor. A firm, partnership, corporation, independent contractor (including 1099 individuals), or combination thereof providing services to County through Provider for all or any portion of the Services or Project or who furnishes skills or materials worked into a special design according to the plans and specifications for such Services, but not those who merely furnish equipment or materials required by the plans and specifications. DB-Firm is included within the definition of Subcontractor.

1.28 Substantial Completion. That date, as certified by DB-Firm's Consultant and as finally determined by the Contract Administrator in its sole discretion, with concurrence from the County Consultant, the Design Build Work, or a portion thereof, is at a level of completion in substantial compliance with the Design Build Contract Documents such that all conditions of permits and regulatory agencies have been satisfied and County or its designee can enjoy use and operate it in all respects for its intended purpose.

1.29 Support and Maintenance Services. The maintenance and support required to maintain optimal performance of the applicable System as described in the Documentation and Exhibit C, as well as the support and maintenance services required for County to achieve and maintain optimal performance of the System.

1.30 Surety. The surety company or individual which is bound by the performance bond and payment bond with and for Provider who is primarily liable, and which surety company or individual is responsible for Provider's satisfactory performance of the Services and other work under the Agreement and for the payment of all debts pertaining thereto in accordance with Section 255.05, Florida Statutes, as applicable and as may be amended from time to time.

ARTICLE 2. EXHIBITS AND SCHEDULES

The following exhibits and schedules are attached hereto and incorporated into this Agreement:

Exhibit A Statements of Work
- **Exhibit A-1 Radio System SOW**
- **Exhibit A-2 Facilities and Infrastructure SOW**
- **Exhibit A-3 Microwave System SOW**

Exhibit A-4 Subscriber Equipment and Subscriber Equipment Maintenance
Exhibit A-5 Optional Services
Exhibit B Payment Schedule
Exhibit C Support and Maintenance Services
Exhibit D Insurance Coverages
Exhibit E Work Authorization Form
Exhibit F Additional Terms and Conditions for Project
Exhibit G Subcontractor Schedule and CBE Letters of Intent

Schedule 1 Software Schedule
Schedule 2 Equipment Schedule
Schedule 3 Training Plans
Schedule 4 Spares
Schedule 5 Interfaces and Alarms
Schedule 6 Quality Control Plan
Schedule 7 Block Diagrams
Schedule 8 Specifications
Schedule 9 Path Calculations and Profiles
Schedule 10 Project Schedule

If there is a conflict or inconsistency between any provision contained in Articles 1 - 14 and any provision contained in any of the Exhibits or Schedules, the provision of Articles 1 - 14 shall prevail and be given effect unless expressly stated to the contrary.

ARTICLE 3. SCOPE OF SERVICES & SOFTWARE LICENSE

3.1 Scope of Services. Provider, either directly or through an authorized Subcontractor, shall complete all Services required in this Agreement inclusive of the Exhibits. Unless stated otherwise in this Agreement, the work required of Provider includes all labor, materials and tasks, whether or not enumerated in the Agreement, that are such an inseparable part of the work expressly stated in the Agreement that exclusion thereof would render Provider's performance impractical, illogical, or unconscionable. The Services required under this Agreement is inclusive of the Services required for all three separate system components: the Radio System, the Project, and the Microwave System. Provider shall be responsible for scheduling and coordinating each of the components, with the approval of the Contract Administrator, to ensure timely, complete, and proper implementation of each of the component Systems as well as the P25 System as a whole.

3.1.1 Radio Services. Provider or its Subcontractor shall perform all work set forth in the Radio Services SOW (Exhibit A-1) for the installation and implementation of the Radio System. Provider shall provide all services as set forth in this Agreement for the Radio System, including all necessary, incidental, and related activities and services required by the Radio SOW.

3.1.2 DB-Firm Services. Provider shall perform, directly or through the DB-Firm or other Subcontractor, all work set forth in the Facilities and Infrastructure SOW (Exhibit A-2) for the design, build, and installation for the Project. For all Services relating to the Project or required pursuant to the Facilities and Infrastructure SOW (Exhibit A-2), Provider and its Subcontractors, including the DB-Firm, shall comply with the Additional Terms and Conditions for Project attached as Exhibit F hereto. Provider shall ensure that its DB-Firm shall provide all services as set forth in this Agreement for the Project, including all necessary, incidental, and related activities and services required by the Facilities and Infrastructure SOW and implicit in the completion of the Project.

3.1.2.1 Structural Integrity. Provider and its DB-Firm shall perform all Design Build Work so as not to harm the structural integrity of any existing structure or infrastructure within the Project or at the Sites, and so as to conform to the standards set forth in Exhibit A-2. Provider shall repair and restore to its original condition any area of damage caused by Provider or its Subcontractor's performance under this Agreement. County or the County Consultant may review the work performed by DB-Firm and to direct DB-Firm to take certain corrective action if, in the opinion of the Contract Administrator or the County Consultant, the structural integrity of any existing structure or infrastructure within the Project or at any Site is or will be harmed.

3.1.2.2 Title of Work. Title to Design Build Work accepted by County under this Agreement shall vest in County. Ownership of the equipment and materials presently existing at the Sites at the time of execution of this Agreement shall remain the property of County, even if it is replaced or its operation made unnecessary by the Design Build Work. Title to the Equipment and risk of loss will pass to County upon written acceptance by County. Title to Software will not pass to County at any time.

3.1.2.3 Drawings and Material Lists. Where applicable, shop drawings, prepared, signed and sealed by the DB-Firm's Consultant, and equipment lists shall be submitted, including manufacturer supplied descriptive and technical literature. Manufacturer supplied descriptive and technical material (catalog cut sheets and performance charts) for new major equipment items shall also be submitted with the drawing package. The submitted shop drawings shall contain complete wiring and piping schematics and routing and any other details required to demonstrate the units are maintainable and will function as required in the complete system.

3.1.2.4 Lands for Work. County shall provide, as may be indicated in the Design Build Contract Documents, the Sites upon which the Design Build Work is to be performed, including rights-of-way and easements for access thereto, and such other lands as are designated by County for the use of Provider or its Subcontractor. Provider or its Subcontractor shall provide, at no expense to County and without liability to County, any additional land and access thereto that may be required for temporary construction facilities, or for storage of materials. Provider shall furnish to County copies of written permission obtained from the owners of such land.

3.1.3 Microwave Services. Provider or its Subcontractor shall perform all work set forth in the Microwave SOW (Exhibit A-3) for the installation and implementation of the Microwave

System. Provider shall provide all services as set forth in this Agreement for the Microwave System, including all necessary, incidental, and related activities and services required by the Microwave SOW.

3.2 Level of Effort. The Statements of Work do not delineate every detail and minor work task required to be performed by the Provider or its Subcontractor to complete the P25 System or its components. If, during the course of the performance of the Services, Provider determines that work should be performed to complete the P25 System or any component thereof, which in Provider's or its Subcontractor's opinion is outside the level of effort originally anticipated, whether or not the Statement of Work identifies the work items, Provider shall notify the Contract Administrator in writing in a timely manner before proceeding with the work. If Provider or its Subcontractor proceeds with said work without notifying the Contract Administrator, said work shall be deemed to be within the original level of effort, whether or not specifically addressed in the Statement of Work. Notice to the Contract Administrator does not constitute authorization or approval by County to perform the work. Performance of work outside the originally anticipated level of effort without prior written County approval is at Provider's sole risk.

3.3 Key Personnel. County's selection of Provider to perform the Services hereunder was based, in part, on the Subcontractors and specific personnel included in Provider's response to the County's solicitation. Provider's Subcontractors as identified in its response to the County's solicitation or as identified in this Agreement (inclusive of the applicable Statements of Work) shall not be changed without the prior written consent of the Contract Administrator. In the event Provider alters its relationship with the DB-Firm or DB-Firm alters its relationship with DB-Firm's Consultant without the prior written consent of the Contract Administrator, such occurrence shall be deemed an event of default and County may, in its discretion, terminate this Agreement in whole or as to any Statement of Work for cause herein. If Provider is granted written consent by the Contract Administrator to change any Subcontractor or the DB-Firm's Consultant, any delay costs associated with such change shall be borne by Provider.

3.4 Support and Maintenance Services. For so long as requested by County, Provider shall provide Support and Maintenance Services for the P25 System at the rates set forth in the Payment Schedule to ensure the proper functioning and optimal performance of the P25 System as set forth in the Documentation pursuant to the terms of Exhibit C. For the first year following Final Acceptance, all Support and Maintenance Services for the P25 System are included at no additional cost. For subsequent years, Support and Maintenance Services for the applicable System shall be invoiced and paid in accordance with the Payment Schedule set forth in Exhibit B. County may elect to suspend, discontinue, or recommence Support and Maintenance Services for the P25 System or for any or all of the component Systems upon thirty (30) days' prior notice, with the applicable fees prorated for the applicable term, without reinstatement or other penalty.

3.5 License. Subject to County's compliance with the license terms of use set forth in this Agreement, Provider grants to County a perpetual, royalty-free, nonexclusive license, with no

geographical limitations, for the number of users set forth in this Agreement (including any applicable Work Authorization), to all Software included in the P25 System, including to any software embedded in or provided with the Equipment, for use solely for governmental or other noncommercial purposes, including on- and off-site access and use of the System by Authorized Third Party Users, including those persons or entities with which County may contract to operate the P25 System or components thereof and the offices of the County constitutional officers.

3.5.1 Authorized Users and Additional Licenses. Unless otherwise stated in Exhibit A (Statement of Work) or Schedule 1, County and any of its employees, agents, suppliers of services, or other Authorized Third Party Users shall have the right to concurrently operate and use the P25 System. If anything less than unlimited, concurrent use is expressly provided under this Agreement and additional licenses are required, County's Purchasing Director is authorized to execute a Work Authorization to purchase additional licenses for the fee specified in the Payment Schedule.

3.5.2 Additional Uses. County may, if required by reason of an emergency, disaster or operational need, or for testing of recovery resources, temporarily use the Software on recovery resources at no additional cost, including recovery resources that may not be owned by County. County may, at no additional cost, copy the Software for backup and archiving purposes for the purposes of support or maintenance by County or others hired by County to provide such support or maintenance. County may, at no additional cost, utilize a hosted environment, including without limitation through a third-party hosting provider, for all otherwise permitted uses of the Software.

3.5.3 Prohibited Uses. Except as otherwise provided for in this Agreement or required under Florida law, County shall not adapt, create derivative works, distribute, lease, lend, reproduce, publish, or license the Software to the general public or to third parties other than Authorized Third Party Users. County shall not modify, reverse engineer, disassemble, or decompile the Software or any portion thereof, except (a) to the extent expressly authorized in Exhibit A, in which event such authorized actions shall be deemed within the license grant of Section 3.5, or (b) to the extent permitted under any applicable open source license. County may not export the Software without complying with all applicable state and federal export laws. County will not transfer the Software to any third party (other than Authorized Third Party Users) without Motorola's prior written consent.

3.5.4 Ownership and Title. Motorola, its licensors, and its suppliers retain all of their proprietary rights in any form in and to the Software and Documentation, including, but not limited to, all rights in patents, patent applications, inventions, copyrights, trademarks, trade secrets, trade names, and other proprietary rights in or relating to the Software and Documentation (including any corrections, bug fixes, enhancements, updates, modifications, adaptations, translations, de-compilations, disassemblies, emulations to or derivative works from the Software or Documentation, whether made by Motorola or another party, or any improvements that result from Motorola's processes or, provision of information services). No rights are granted to County under this Agreement by implication, estoppel or otherwise, except

for those rights which are expressly granted to County in this Agreement. All intellectual property developed, originated, or prepared by Motorola in connection with providing the Software, Equipment, Documentation or related services, remains vested exclusively in Motorola, and County will not have any shared development or other intellectual property rights. The existence of a copyright notice on the Software will not be construed as an admission or presumption of publication of the Software or public disclosure of any trade secrets associated with the Software.

3.6 Updates, Upgrades and Releases. For the duration of this Agreement, Provider shall promptly provide to County, with advance notice and at no additional cost, any and all updates (including error corrections, bug fixes, security updates, and patches), upgrades, or new releases to the Software (as well as any firmware included with the Equipment), including all that Provider has made available to other licensees of all or part of the Software licensed pursuant hereto. All such updates, upgrades, and new releases shall remain the sole property of Provider and shall be deemed to be included within the scope of the license granted under this Agreement.

3.7 Compatibility. For the full term of this Agreement, Provider will ensure the continued compatibility of the Software and P25 System with all major releases, updates, or upgrades of any third party software used by County for access or operation of the P25 System. In the event Provider is not be able to support any third party software update, upgrade or new release that is not backwards compatible with the Software or the P25 System (or any component thereof), Provider shall use all reasonable efforts to resolve such issues and to provide optimal functionality of the Software and P25 System in accordance with this Agreement. If Provider is unable to provide continued optimal functionality of the Software and P25 System in accordance with this Agreement due to any applicable third party software release, update or upgrade, County shall be entitled to terminate the Agreement upon written notice with no further obligation to Provider.

3.8 Software Enhancements or Modifications. If requested by County and agreed to by Provider in an appropriate Work Authorization, Provider shall incorporate certain features and enhancements into the licensed Software. Any such request shall be formalized into a Statement of Work that shall define in detail the services to be performed, the financial terms, and the proposed project staffing and schedule. Any such Statement of Work shall be incorporated into a Work Authorization, to the extent permitted by Section 3.9 below, or otherwise into a proposed amendment to this Agreement.

3.9 Change of Scope Procedures. Provider acknowledges that Contract Administrator has no authority to make changes that would increase, decrease, or otherwise modify the scope of services to be provided under this Agreement, except as expressly provided herein. Contract Administrator may, from time to time, make changes to the Services or Design Build Work, including, but not limited to, the character and quantity of the Services or Design Build Work, as may be considered necessary or desirable in his or her sole discretion to complete fully and acceptably the proposed System or Design Build Work in a satisfactory manner. Provided such changes do not increase the cost to County, such changes may be documented between the Parties by execution of a Field Order or other writing in accordance with this Agreement (with

any decrease in charges to County credited against the next invoice, credited against other purchases with all applicable discounts and pricing incentives applied, or applied as the Parties otherwise agree). Unless otherwise expressly stated herein, any changes that increase cost to County must be documented by joint execution of a Change Order, Work Authorization, or amendment. Change Orders may only be used for the Project; Work Authorizations must be used for additional Services relating to the remainder of the P25 System.

3.9.1 Additional Services, Software or Equipment. To the extent any goods or services under this Agreement, or the quantity thereof, are identified as optional for County or set forth in SOW A-5 (collectively, "Optional Services"), County may select the type, amount, and timing of such goods or services pursuant to a Work Authorization executed by Provider and County pursuant to this Section, and provided that no such selection, when combined with those goods or services required under the Agreement, would result in a payment obligation exceeding the applicable maximum amount stated in Section 5.1. Notwithstanding anything to the contrary in the Agreement, Work Authorizations for Optional Services pursuant to this Section shall be executed on behalf of the County as follows: the Contract Administrator may execute Work Authorizations for which the cumulative total cost to County is less than $30,000.00; the Purchasing Director may execute Work Authorizations for which the cumulative total cost to the County is within the not-to-exceed amounts set forth in Section 5.1 (which amounts are acknowledged to be in excess of Purchasing Director's delegated authority under the Procurement Code, but are expressly authorized by the Board under this Agreement); any other Work Authorizations shall require Board approval. Subsequent to the full execution of any Work Authorization, the Contract Administrator will issue a Notice to Proceed for those authorized Optional Services. Provider shall not commence work on any Work Authorization until after receipt of the applicable Notice to Proceed.

3.9.2 Field Orders. The Contract Administrator shall have the right to approve and issue Field Orders setting forth written interpretations of the intent of the Design Build Contract Documents and ordering minor changes in Work execution, providing the Field Order involves no change in the Design Build Price or Design Build Time.

3.9.3 Change Orders. Changes in the quantity or character of the Design Build Work within the scope of the Project which are not properly the subject of Field Orders, including all changes resulting in changes in the Design Build Price or the Design Build Time, shall be authorized only by Change Orders approved in advance and issued in accordance with the provisions of the Broward County Procurement Code. Provider or DB-Firm shall not start work on any changes requiring an increase in the Design Build Price or the Design Build Time until a Change Order setting forth the adjustments is approved by the County. Upon receipt of a Change Order, Provider or DB-Firm shall promptly proceed with the Design Build Work set forth within the document.

3.9.4 In the event satisfactory adjustment cannot be reached for any item requiring a change in the Design Build Price or Design Build Time, and a Change Order has not been issued, County reserves the right at its sole option to either (a) terminate the Agreement as it applies to

the items in question and make such arrangements as may be deemed necessary to complete the disputed Design Build Work; or (b) submit the matter in dispute to County Administrator as set forth in Section 14.29 hereof. During the pendency of the dispute, and upon receipt of a Change Order approved by County, Provider and DB-Firm shall promptly proceed with the change in the Work involved and advise the Contract Administrator in writing within seven (7) calendar days of Provider's agreement or disagreement with the method, if any, provided in the Change Order for determining the proposed adjustment in the Design Build Price or Design Build Time.

3.9.5 On approval of any change increasing the Design Build Price, Provider shall ensure that the performance bond and payment bond are increased so that each reflects the Design Build Price as increased.

3.9.6 Under circumstances determined necessary by County, Change Orders may be issued unilaterally by County.

3.10 Value of Change Order Work.

3.10.1 The value of any Work covered by a Change Order or of any claim for an increase or decrease in the Design Build Price shall be determined in one of the following ways:

3.10.1.1 Where the Work involved is covered by unit prices contained in the Contract Documents, by application of unit prices to the quantities of items involved, subject to the provisions of Section 3.10.7.

3.10.1.2 By mutual acceptance of a lump sum which Provider and County acknowledge contains a component for overhead and profit.

3.10.1.3 On the basis of the "cost of work," determined as provided in Sections 3.10.2 and 3.10.3, plus a fee for overhead and profit which is determined as provided in Section 3.10.4.

If and to the extent Provider claims that any of the data or calculations included in the calculation of the modification to the Design Build Price (or any other pricing calculation under this Agreement) constitutes a trade secret under Florida law, including Florida Statutes Section 812.081, Provider shall provide the information to County for determination of price in accordance with, but shall also follow the procedures set forth in Section 9.2 as to the trade secret designation of the information.

3.10.2 The term "cost of work" means the sum of all direct costs necessarily incurred and paid by DB-Firm in the proper performance of the Design Build Work described in the Change Order. Except as otherwise may be agreed to in writing by County, such costs shall be in amounts no higher than those prevailing in the locality of the Project, shall include only the following items, and shall not include any of the costs itemized in Section 3.10.3:

3.10.2.1 Payroll costs for employees in the direct employ of DB-Firm in the performance of the Design Build Work described in the Change Order under schedules of job classifications agreed upon by County and DB-Firm. Payroll costs for employees not employed full time on the Design Build Work covered by the Change Order shall be apportioned on the basis of their time spent on the Design Build Work. Payroll costs shall include, but not be limited to, salaries and wages plus the cost of fringe benefits which shall include social security contributions, unemployment, excise and payroll taxes, workers' compensation, health and retirement benefits, bonuses, sick leave, vacation and holiday pay application thereto. Such employees shall include superintendents and foremen at the site. The expenses of performing the Design Build Work after regular working hours, on Sunday or legal holidays, shall be included in the above to the extent authorized by County.

3.10.2.2 Cost of all materials and equipment furnished and incorporated in the Work, including costs of transportation and storage thereof, and manufacturers' field services required in connection therewith. All cash discounts shall accrue to DB-Firm unless County deposits funds with DB-Firm with which to make payments, in which case the cash discounts shall accrue to County. All trade discounts, rebates and refunds, and all returns from sale of surplus materials and equipment shall accrue to County, and DB-Firm shall make provisions so that they may be obtained. Rentals of all construction equipment and machinery and the parts thereof whether rented from DB-Firm or others in accordance with rental agreements approved by County and the costs of transportation, loading, unloading, installation, dismantling and removal thereof, all in accordance with the terms of said agreements. The rental of any such equipment, machinery or parts shall cease when the use thereof is no longer necessary for the Work.

3.10.2.3 Payments made to DB-Firm or other Subcontractors for work performed by Subcontractors. If required by County, DB-Firm shall obtain competitive bids from Subcontractors acceptable to DB-Firm and shall deliver such bids to County who will then determine which bids will be accepted. If the Subcontract provides that the Subcontractor is to be paid on the basis of cost of the work plus a fee, the Subcontractor's cost of the work shall be determined in the same manner as DB-Firm's cost of the work. All Subcontractors shall be subject to the other provisions of the Design Build Contract Documents insofar as applicable.

3.10.2.4 Supplemental costs including the following:

3.10.2.4.1 The proportion of necessary transportation, travel and subsistence expenses of DB-Firm's employees incurred in discharge of duties connected with the Work except for local travel to and from the site of the Design Build Work.

3.10.2.4.2 Cost, including transportation and maintenance, of all materials, supplies, equipment, machinery, appliances, office and temporary facilities

at the site and hand tools not owned by the workers, which are consumed in the performance of the Work, less market value of such items used but not consumed which remains the property of Provider or DB-Firm.

3.10.2.4.3 Sales, use, or similar taxes related to the Design Build Work, and for which DB-Firm is liable, imposed by any governmental authority.

3.10.2.4.4 Deposits lost for causes other than Provider's or DB-Firm's negligence; royalty payments and fees for permits and licenses.

3.10.2.4.5 The cost of utilities, fuel and sanitary facilities at the site.

3.10.2.4.6 Receipted minor expenses such as telegrams, long distance telephone calls, telephone service at the site, expressage and similar petty cash items in connection with the Work.

3.10.2.4.7 Cost of premiums for additional bonds and insurance required because of changes in the Work.

3.10.3 The term "cost of the work" shall not include any of the following:

3.10.3.1 Payroll costs and other compensation of Provider's or DB-Firm's officers, executives, principals (of partnership and sole proprietorships), general managers, engineers, architects, schedulers, estimators, lawyers, auditors, accountants, purchasing and contracting agents, expediters, timekeepers, clerks and other personnel employed by Provider or DB-Firm whether at the site or in its principal or a branch office for general administration of the Design Build Work are considered administrative costs covered by Provider's or DB-Firm's overhead.

3.10.3.2 Expenses of DB-Firm's principal and branch offices other than DB-Firm's office at the site.

3.10.3.3 Any part of DB-Firm's capital expenses, including interest on DB-Firm's capital employed for the Work and charges against DB-Firm for delinquent payments.

3.10.3.4 Cost of premiums for all bonds and for all insurance whether or not Provider or DB-Firm is required by the Design Build Contract Documents to purchase and maintain the same, except for additional bonds and insurance required because of the changes in the Design Build Work.

3.10.3.5 Costs due to the negligence or neglect of Provider or DB-Firm, any other Subcontractors, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable, including but not limited to, the correction of

defective Work, disposal of materials or equipment wrongly supplied and making good any damage to property.

3.10.3.6 Other overhead or general expense costs of any kind.

3.10.4 DB-Firm's fee allowed to DB-Firm for overhead and profit shall be determined as follows:

3.10.4.1 A mutually acceptable fixed fee; or

3.10.4.2 A fee based on the following percentages of the various portions of the cost of the work: For costs incurred under Sections 3.10.2.1 and 3.10.2.2, DB-Firm's fee shall not exceed ten percent (10%); For costs incurred under Section 3.10.2.3, DB-Firm's fee shall not exceed seven and one half percent (7.5%); and if a subcontract is on the basis of cost of the work plus a fee, the maximum allowable to the Subcontractor as a fee for overhead and profit shall not exceed ten percent (10%); and no fee shall be payable on the basis of costs itemized under Section 3.10.2.4 (except Section 3.10.2.4.3) and Section 3.10.3.

3.10.5 The amount of credit to be credited to County for any change which results in a net decrease in cost will be the amount of the actual net decrease. When both additions and credits are involved in any one change, the combined overhead and profit shall be figured on the basis of the net increase, if any; however, neither Provider nor DB-Firm shall be entitled to claim lost profits for any Design Build Work not performed.

3.10.6 Each Change Order must state within the body of the Change Order whether it is based upon unit price, negotiated lump sum, or "cost of the work." Provider will submit in a form acceptable to the Contract Administrator an itemized cost breakdown together with the supporting data. Breakdown shall list the quantities and unit prices for materials, labor, equipment and other items of cost. Whenever a change involves DB-Firm and one or more Subcontractors and the change is an increase in the Design Build Price, overhead and profit percentage for DB-Firm and each Subcontractor shall be itemized separately.

3.10.7 Where the quantity of any item of the Design Build Work that is covered by a unit price is increased or decreased by more than twenty percent (20%) from the quantity of such Design Build Work indicated in the Design Build Contract Documents, an appropriate Change Order shall be issued to adjust the unit price, if warranted.

3.10.8 Whenever a change in the Design Build Work is to be based on mutual acceptance of a lump sum, whether the amount is an addition, credit, or no change-in-cost, Provider shall submit an initial cost estimate acceptable to Contract Administrator.

3.11 Contract Administrator Authority. Unless otherwise expressly stated herein or in the applicable Procurement Code, Code of County Ordinances, or County Code of Administrative

Procedure, the Contract Administrator may act on behalf of County to exercise the authority and powers of County under this Agreement.

ARTICLE 4. TERM, TIME OF PERFORMANCE, ACCEPTANCE AND LIQUIDATED DAMAGES

4.1 Term. The Agreement shall become effective on the date it is fully executed by the parties (the "Effective Date"). The initial term of the Agreement shall be for a period of ten (10) years from the date of Final Acceptance (the "Initial Term").

4.2 Extensions. County shall have the option to renew this Agreement for two (2) additional five-year terms (each an "Extension Term") by sending notice thereof to Provider at least thirty (30) days prior to the expiration of the then-current term. The Purchasing Director is authorized to exercise this renewal option. In the event that unusual or exceptional circumstances, as determined in the sole discretion of the Purchasing Director, render the exercise of an extension not practicable or if no extension is available, and expiration of this Agreement would result in a gap in the provision of services necessary for the ongoing operations of the County, then this Agreement may be extended on the same terms and conditions by the Purchasing Director for period(s) not to exceed six (6) months in the aggregate.

4.3 Fiscal Year. The continuation of this Agreement beyond the end of any County fiscal year shall be subject to both the appropriation and the availability of funds, in accordance with Chapter 129, Florida Statutes.

4.4 Time for Performance. Time is of the essence for all performance required under this Agreement. Prior to the commencement of Services under any Statement of Work, County Contract Administrator will issue a Purchase Order for the "P25 System Initial Purchase Order Amount" per Exhibit B and a Notice to Proceed for the relevant Services (including, to the extent set forth in the applicable Statement of Work, Notices to Proceed for each phase or subpart). Unless otherwise specified in the applicable Notice to Proceed, the applicable work to be performed pursuant to any Notice to Proceed shall commence within ten (10) calendar days of the issuance date of the Notice to Proceed.

4.4.1. Project Schedule. Provider and its Subcontractors shall complete the Services for each System, including the P25 System as a whole, within the time periods specified in the Project Schedule (Schedule 10) for the applicable System, including any modifications thereto approved in writing by the Contract Administrator.

4.4.2. County Responsibilities. The Contract Administrator or County Consultant, as applicable, shall review the itemized deliverables and documents and respond in writing with any comment within the time set forth on the approved Project Schedule. The Contract Administrator or County Consultant shall give prompt written notice to Provider whenever the Contract Administrator observes or otherwise becomes aware of any development that affects the scope or timing of Provider's or DB-Firm's services or any defect in the work of Provider or DB-Firm. The Contract Administrator has the authority to stop the progress of the Services or

Work whenever, in the opinion of the Contract Administrator, such stoppage is necessary to insure proper execution of the Services or Work or in an emergency affecting public safety, life, the integrity of the Services or Work, or adjoining property.

4.4.3. Facilities and Infrastructure Phases. The Project is organized into phases as detailed in Exhibit A-2. All design related documents prepared by DB-Firm should be sufficiently complete and comprehensive that they can be reviewed and approved by the Contract Administrator and County Consultant with an initial submittal and a re-submittal, if necessary. If DB-Firm requires additional review by the Contract Administrator and County Consultant beyond the first re-submittal, County may charge Provider for the invoice cost from County Consultant (if any), which amounts shall be reimbursed to County within thirty (30) days of receipt of billing from County or credited against the next invoice, as elected by County Contract Administrator.

4.4.3.1. Notices to Proceed. Neither Provider nor DB-Firm will commence work on any Site or Phase unless and until County Contract Administrator issues a Notice to Proceed for that particular Site or Phase. Provider and DB-Firm must obtain and notify County of receipt of all required permits as a condition precedent to the issuance of a Notice to Proceed for any physical construction work on any Site. No physical construction work shall commence on the Project site(s) until the issuance of the appropriate Notice to Proceed.

4.4.3.2. Substantial Completion. When Provider and DB-Firm consider that the Work at any Site has reached Substantial Completion, Provider shall notify, in writing, the Contract Administrator that the Site is ready for inspection. The Contract Administrator and County Consultant shall inspect the Work at that Site within thirty (30) calendar days of notice by Provider. When the Contract Administrator and County Consultant, on the basis of such an inspection, determine that the Design Build Work at the Site is substantially complete, the Contract Administrator will then prepare a Certificate of Substantial Completion. The Certificate of Substantial Completion for each Site shall state the responsibilities of County and Provider for security, maintenance, utilities, damage to the work, and insurance. The Contract Administrator shall develop and DB-Firm shall review the list of all Work yet to be completed at that Site (the "Punch List") to satisfy the requirements of the Contract Documents for Final Completion and to make the work conform and acceptable per the terms of this Agreement. The failure to include on the Punch List any items of corrective work does not alter the responsibility of Provider to complete all of the Design Build Work in accordance with the Design Build Contract Documents. The Certificate of Substantial Completion for each Site shall be executed by the Contract Administrator, Provider, DB-Firm, and DB-Firm's Consultant indicating acceptance of the responsibilities assigned to each in the Certificate.

4.5 Preliminary and Final Acceptance of each System.

4.5.1. Preliminary Acceptance of each System. Within thirty (30) days following completion of installation and integration of each System, including the Radio System and the Microwave System, County shall conduct Preliminary Acceptance testing of the applicable System.

4.5.2. Final Acceptance of the P25 System. Within thirty (30) days following Preliminary Acceptance of all of the component System, including the Radio System and the Microwave System, as well as upon the County Contract Administrator's determination that each of the Sites required for the P25 System have achieved at least Substantial Completion, County shall conduct Final Acceptance testing of the P25 System.

4.5.3. Test Criteria. Both Preliminary Acceptance Testing and Final Acceptance Testing shall test the applicable System, with the assistance of its Enterprise Technology Services ("ETS") to the extent applicable under Broward County Administrative Code Section 22.148, to determine whether the System: (i) properly functions with any applicable operating software; (ii) provides the capabilities stated in this Agreement, the Documentation, and the applicable Specifications; and (iii) meets the Acceptance Criteria (if any) stated in the applicable Statement of Work or as otherwise agreed upon by the parties in writing. In the event of a conflict between the Acceptance Criteria and the Documentation, the Acceptance Criteria shall prevail.

4.5.4. Test Procedures. The testing period shall commence on the first business day after Provider informs County in writing that it has completed the Services required to be performed prior to testing and that the applicable System is ready for testing, and shall continue for a period of up to thirty (30) days. Unless otherwise set forth in the applicable Statement of Work, County shall notify Provider in writing of its Preliminary Acceptance, Final Acceptance, or rejection of the System, or any part thereof, within fifteen (15) days after the end of the testing period, as same may be extended or reset. If County rejects the applicable System, or any part thereof, County shall provide notice identifying the criteria for Preliminary Acceptance or Final Acceptance that the System failed to meet. Following such notice, Provider shall have thirty (30) days to (a) modify, repair, or replace the System or any portion thereof, or (b) otherwise respond to County's notice. If Provider modifies, repairs, or replaces the System or portion thereof, the testing period shall re-commence consistent with the procedures set forth above. In the event Provider fails to remedy the reason(s) for County's rejection of the System, or any part thereof, within ninety (90) days after County's initial notice of rejection, County may elect, in writing, to either accept the applicable System as it then exists or to reject the System. If County elects to reject the System, all sums paid by County for the applicable System shall be reimbursed to County by Provider within 15 days after such election is made. If County elects to accept the System as it then exists (partial acceptance), Provider shall continue to use its best efforts to remedy the items identified in the applicable notice of rejection for an additional period of time as approved by Contract Administrator. If, despite such continuing best efforts, Provider fails to remedy the issue(s) identified by County within a reasonable time as determined by County, then County shall be entitled to deduct from future sums due under the Agreement the value of the rejected portion of the System as mutually determined by the parties. If the parties cannot agree upon such value, County shall obtain a quotation from a third party for the price to remedy the items identified in the notice of rejection (or, if remedy is not commercially reasonable, to replace and provide a System that passes Final Acceptance testing) and Provider shall refund that amount to County within 15 days of notice of such rejection.

4.6 Final Completion of the Design Build Work. Upon receipt of written notice from Provider stating that all items on the Punch List have been completed or corrected for every Site, the Contract Administrator and County Consultant shall promptly inspect the Design Build Work. Successful resolution of the Punch List for all Sites is a condition precedent to Final Completion of the Design Build Work.

4.6.1. As to each Site. Upon receipt of written notice from DB-Firm and DB-Firm's Consultant that the Site is ready for final inspection and stating that the requirements of the Contract Documents have been performed, the Contract Administrator and County Consultant shall, within thirty (30) calendar days, make an inspection thereof. If the Contract Administrator, with concurrence from County Consultant, finds the Design Build Work acceptable for that Site, the requisite documents have been submitted, the requirements of the Design Build Contract Documents have been fully satisfied for that Site, and all conditions of the permits and regulatory agencies have been met, a Certificate of Final Completion shall be issued by the Contract Administrator for that Site for execution by Provider, DB-Firm and DB-Firm's Consultant.

4.6.2. As to the last Site. Upon receipt of written notice from DB-Firm and DB-Firm's Consultant that the Design Build Work at the final Site is ready for final inspection and acceptance, stating that the requirements of the Contract Documents have been performed, including successful completion of the Burn-in Period, the Contract Administrator and County Consultant shall, within thirty (30) calendar days, make an inspection thereof. If the Contract Administrator, with concurrence from County Consultant, finds the Design Build Work acceptable, the requisite documents have been submitted, the requirements of the Design Build Contract Documents have been fully satisfied, and all conditions of the permits and regulatory agencies have been met, a Certificate of Final Completion of the Design Build Work and a Final Certificate of Payment shall be issued by the Contract Administrator for execution by Provider, DB-Firm and DB-Firm's Consultant.

4.6.3. Warranties for each Site as required by the Design Build Contract Documents shall commence on the date of Final Completion of the Work (i.e., Final Completion of all Sites).

4.6.4. Before issuance of the Final Certificate for Payment, DB-Firm shall deliver to the Contract Administrator: a complete release of all claims arising out of this Agreement, or receipts in full in lieu thereof; an affidavit certifying that all suppliers and subcontractors have been paid in full and that all other indebtedness connected with the Work has been paid, or a consent of the surety to final payment; the final corrected as-built drawings; and the final bill of materials, if required, and invoice. The final payment package is to include the certification document titled "Final List of Non-Certified Subcontractors and Suppliers" Form, which must be signed and notarized by DB-Firm. A list of all non-certified sub-vendors used must be attached to this certified document.

4.6.5. If, after the Work has been substantially completed, Final Completion of the Work is materially delayed through no fault of Provider or the DB-Firm, and Contract Administrator so certifies, County shall, and without terminating this Agreement, make payment of the balance

due for that portion of the Work fully completed and accepted. Such payment shall be made under the terms and conditions governing final payment, except that it shall not constitute a waiver of claims.

4.6.6. The acceptance of final payment shall constitute a waiver of all claims by DB-Firm, except those previously made in strict accordance with the provisions hereof and identified by DB-Firm as unsettled at the time of the application for final payment.

4.7 Liquidated Damages. Liquidated damages are hereby fixed and agreed upon between the Parties as set below, recognizing the impossibility of precisely ascertaining the amount of damages that will be sustained by County as a consequence of such delay, and both Parties desiring to obviate any question of dispute concerning the amount of said damages and the cost and effect of the failure of Provider to complete each System, the inability to continue to operate and maintain each Site, and the failure to complete the P25 System on time. These amounts are not penalties but liquidated damages to County for its inability to obtain full beneficial use of the P25 System. For purposes of this paragraph, any delays caused by County prior to Final Acceptance or Final Completion shall extend the deadline for the affected System(s) by the same number of days as the delay caused by County. The liquidated damages stated herein are cumulative, unless waived by County Contract Administrator, and shall be continuing until remedied. The total liquidated damages charged to Provider under this Section 4.7 shall not exceed ten percent (10%) of the System Total as set forth on Exhibit B.

4.7.1. Damages for Failure to Achieve Substantial Completion. Upon failure of Provider to achieve Substantial Completion of any Site within the time periods specified in the applicable Project Schedule (plus approved extensions, if any), Provider shall pay to County liquidated damages in the amount of $250 for each calendar day after the time specified in the Project Schedule.

4.7.2. Operation and Maintenance of Sites During Construction. Upon failure of Provider to meet the operating and maintenance criteria set forth in Exhibit A-2 for any Site, Provider shall pay to County liquidated damages in the amount as stated in Exhibit A-2 (if none stated, then the amount of $100) for each occurrence or series of occurrences of operating or maintenance failure.

4.7.3. Damages for Failure to Achieve Milestones or Final Acceptance. If any System fails to achieve the milestones stated below, Provider shall pay to County liquidated damages in the amount of $2,500 for each calendar day by which the date of the achievement of the applicable milestone exceeds the applicable deadline.

4.7.3.1. Completion of FNE installation at all RF Sites: August 30, 2018
4.7.3.2. Commencement of 30 Day Operational Test: November 21, 2018
4.7.3.3. P25 System Final Acceptance: December 31, 2018

4.7.4. Deduction from Amounts Otherwise Due. County is authorized to deduct any liquidated damages due under this Agreement from monies due Provider for Services or other work under this Agreement or as much thereof as County may, in its sole option and discretion, deem just and reasonable.

4.8 Delivery. Provider shall deliver the Software and Equipment for each System within the time stated in the applicable Statement of Work. Transportation cost and risk, and the cost of delivery, assembly and installation, including any applicable taxes and all actions necessary to integrate the Equipment into County's existing system, shall be the responsibility of Provider, except to the extent (if any) expressly provided in the applicable Statement of Work.

4.9 Use of Completed Portions. County shall have the right at its sole option to take possession of and use any completed or partially completed portions of the Project. Such possession and use shall not be deemed an acceptance of any of the Work not completed in accordance with the Design Build Contract Documents. If such possession and use increases the cost of or delays the Work, DB-Firm shall be entitled to reasonable extra compensation or reasonable extension of time or both, as recommended by Consultant and approved by County.

4.9.1. In the event County takes possession of any completed or partially completed portions of the Project, the following shall occur:

4.9.1.1. County shall give notice to DB-Firm in writing at least thirty (30) calendar days prior to County's intended occupancy of a designated area.

4.9.1.2. DB-Firm shall complete to the point of Substantial Completion the designated area and request inspection and issuance of a Certificate of Substantial Completion from DB-Firm and DB-Firm's Consultant.

4.9.1.3. Upon issuance of a Certificate of Substantial Completion by DB-Firm and DB-Firm's Consultant, County will assume full responsibility for maintenance, utilities, subsequent damages of County and public, adjustment of insurance coverages and start of warranty for the occupied area.

4.9.1.4. DB-Firm shall complete all items noted on the Certificate of Substantial Completion within the time specified by DB-Firm's Consultant on the Certificate of Substantial Completion, as soon as possible and request final inspection and final acceptance of the portion of the Work occupied. Upon completion of final inspection and receipt of an application for final payment, DB-Firm's Consultant shall issue a Final Certificate of Payment relative to the occupied area.

4.9.2. If County finds it necessary to occupy or use a portion or portions of the Work prior to Substantial Completion thereof, such occupancy or use shall not commence prior to a time mutually agreed upon by County and DB-Firm and to which the insurance company or companies providing the property insurance have consented by endorsement to the policy or policies. Insurance on the unoccupied or unused portion or portions shall not be canceled or

lapsed on account of such partial occupancy or use. Consent of DB-Firm and of the insurance company or companies to such occupancy or use shall not be unreasonably withheld.

4.10 Notification and Claim of Change of Design Build Time or Design Build Price.

4.10.1. Any claim for a change in the Design Build Time or Design Build Price shall be made by written notice delivered by Provider to the Contract Administrator within five (5) calendar days of the commencement of the event giving rise to the claim or knowledge by Provider or DB-Firm of the claim and the notice shall state the general nature and cause of the claim. Thereafter, within twenty (20) calendar days of the termination of the event giving rise to the claim or knowledge of the claim, written notice of the extent of the claim with supporting information and documentation shall be submitted to the Contract Administrator (hereinafter "Claim Notice"). The Claim Notice shall include Provider's or DB-Firm's written notarized certification that the adjustment claimed is the entire adjustment to which Provider or DB-Firm has reason to believe it is entitled as a result of the occurrence of said event. If the Contract Administrator and Provider cannot resolve a claim for changes in the Design Build Time or Design Build Price as set forth in a proper Claim Notice within twenty (20) calendar days after receipt by the Contract Administrator, then Provider shall submit the claim to County Administrator within five (5) calendar days from the date of impasse in accordance with Section 14.29. **IT IS EXPRESSLY AND SPECIFICALLY AGREED THAT ANY AND ALL CLAIMS FOR CHANGES TO THE DESIGN BUILD TIME OR DESIGN BUILD PRICE SHALL BE WAIVED IF NOT SUBMITTED IN STRICT ACCORDANCE WITH THE REQUIREMENTS OF THIS SECTION.**

4.10.2. The Design Build Time will be extended in an amount equal to time lost on critical Work items due to delays beyond the control of and through no fault or negligence of Provider or DB-Firm if a claim is made therefore as provided in Section 4.10.1. Such delays shall include, but not be limited to, acts or neglect by any separate contractor employed by County, fires, floods, labor disputes, epidemics, abnormal weather conditions, or acts of God.

4.11 No Damages for Delay. No claim for damages or any claim, other than for an extension of time, shall be made or asserted against County by reason of any delays except as provided herein. Provider or DB-Firm shall not be entitled to an increase in the Design Build Price or payment or compensation of any kind from County for direct, indirect, consequential, impact or other costs, expenses or damages, including, but not limited to, costs of acceleration or inefficiency, arising because of delay, disruption, interference or hindrance from any cause whatsoever, whether such delay, disruption, interference or hindrance be reasonable or unreasonable, foreseeable or unforeseeable, or avoidable or unavoidable; provided, however, that this provision shall not preclude recovery of damages by Provider or DB-Firm for actual delays due solely to fraud, bad faith or active interference on the part of County. Otherwise, Provider and DB-Firm shall be entitled only to extensions of the Design Build Time as the sole and exclusive remedy for such resulting delay, in accordance with and to the extent specifically provided above.

4.12 Excusable Delay: Compensable and Non-Compensable.

4.12.1. Excusable Delay: Delay which extends the completion of the Work and which is caused by circumstances beyond the control of Provider or its Subcontractors is Excusable Delay. Provider is entitled to a time extension of the Design Build Time for each day the Work is delayed due to Excusable Delay. Provider shall document its claim for any time extensions as provided in Section 4.10 hereof. Failure of Provider to comply with Section 4.10 as to any particular event of delay shall be deemed conclusively to constitute a waiver, abandonment or relinquishment of any and all claims resulting from that particular event of delay.

4.12.2. Compensable Excusable Delay. Excusable Delay is only compensable when (i) the delay extends the Design Build Time, (ii) is caused by circumstances beyond the control of Provider or its Subcontractors, and (iii) is caused solely by fraud, bad faith, or active interference on the part of County or its agents. In no event shall Provider or DB-Firm be compensated for interim delays which do not extend the Design Build Time. Provider and DB-Firm shall only be entitled to direct costs for Compensable Excusable Delay. Direct costs recoverable by Provider or DB-Firm shall be limited to the actual additional costs allowed pursuant to Section 4.10 herein.

4.12.3. Non-Compensable Excusable Delay. When Excusable Delay is (i) caused by circumstances beyond the control of Provider or its Subcontractors, and is also caused by circumstances beyond the control of County, or (ii) is caused jointly or concurrently by Provider or its subcontractors, suppliers, or vendors and by County, then Provider shall be entitled only to a time extension and no further compensation for the delay.

ARTICLE 5. COMPENSATION

5.1 For the duration of the Agreement, County will pay Provider in accordance with the Payment Schedule (Exhibit B) up to the following maximum amount(s):

Services/Goods	Term	Not-To-Exceed Amount
P25 System Implementation (including Radio System, Microwave System, and Facilities and Infrastructure System)	From Effective Date to Final Acceptance	$30,400,000
Additional Training	Initial Term (10 years)	$200,000
Support and Maintenance Services	Initial Term (10 years)	$11,000,000
Optional renewal terms	First 5 year renewal term Second 5-year renewal term	$7,100,000 (includes $100,000.00 for additional training) $8,300,000 (includes $100,000.00 for additional training)

Services/Goods	Term	Not-To-Exceed Amount
Optional Services	Duration of the Agreement (inclusive of any renewals)	$2,500,000
TOTAL NOT TO EXCEED		**$59,500,000**

Payment shall be made only for work actually performed and completed pursuant to this Agreement or as otherwise set forth in Exhibit B (Payment Schedule), which amount shall be accepted by Provider as full compensation for all such work. Provider acknowledges that the amounts set forth herein are the maximum amounts payable for the respective terms and constitute a limitation upon County's obligation to compensate Provider for its work under this Agreement. These maximum amounts, however, do not constitute a limitation of any sort upon Provider's obligation to perform all items of work required under this Agreement. Unless otherwise expressly stated in this Agreement, Provider shall not be reimbursed for any expenses it incurs under this Agreement.

5.2 Method of Billing and Payment

5.2.1 Invoices. Provider may submit invoices only for goods provided and services completed in accordance with the Payment Schedule set forth in Exhibit B. Unless otherwise indicated in Exhibit B, an original plus one copy of each invoice must be submitted within fifteen (15) days after the end of the month for which payment is sought, except that the final invoice must be submitted no later than sixty (60) days after all services are completed. Provider shall submit with each invoice a Certification of Payments to Subcontractors and Suppliers on the form provided by County, as may be modified in County's reasonable discretion. If applicable, the certification shall be accompanied by a copy of the notification sent to each subcontractor and supplier listed in item 2 of the certification form, explaining the good cause why payment has not been made. Unless otherwise stated in Exhibit B or the applicable Work Authorization, any Optional Services shall be invoiced in accordance with the existing invoicing schedule for any like goods or services provided under this Agreement, including (if applicable) invoiced pro rata for the initial invoice period.

5.2.2 Payments. County shall pay Provider within thirty (30) days of receipt of Provider's proper invoice, as required by the "Broward County Prompt Payment Ordinance" (Broward County Ordinance No. 89-49). Payment shall be made to Provider at the most recent address designated under the "Notices" provision of this Agreement. To be deemed proper, an invoice must comply with all requirements set forth in this Agreement and must be submitted pursuant to any instructions prescribed by the Contract Administrator. County shall have the right to withhold payment of the invoice based on Provider's failure to comply with any term, condition, or requirement of this Agreement. The parties hereto agree that any amounts so withheld shall not be subject to payment of any interest by County.

5.2.3 Unless a shorter period is required under applicable law or under the applicable contract, Provider shall pay its CBE subcontractors and suppliers within fifteen (15) days following

receipt of payment from County and shall pay all other subcontractors and suppliers within thirty (30) days following receipt of payment from County.

5.2.4 County may withhold, in whole or in part, payment to such extent as may be necessary to protect itself from loss on account of:

5.2.4.1 Defective work not remedied;

5.2.4.2 Claims filed or reasonable evidence indicating probable filing of claims by other parties against Provider, DB-Firm or County because of Provider's or DB-Firm's performance;

5.2.4.3 Failure of Provider or DB-Firm to make payments properly to Subcontractors, or for material or labor;

5.2.4.4 Damage to another subcontractor not remedied;

5.2.4.5 Liquidated damages;

5.2.4.6 County Consultant fees for engineering review of subsequent re-submittal of design related documents beyond the first re-submittal; or

5.2.4.7 Failure of Provider or DB-Firm to provide any and all documents required by the Design Build Contract Documents.

When the above grounds are removed, resolved, or settled to the satisfaction of the Contract Administrator, payment shall be made in whole or in part.

5.3 Permits, Licenses and Impact Fees. Provider shall secure and pay for all permits, licenses, and approvals necessary to construct the Project. Except as otherwise provided by the Design Build Contract Documents, all trade permits, sub-permits, and licenses required by federal, state, or local laws, rules and regulations necessary for the prosecution of the Work undertaken by Provider or any Subcontractor pursuant to this Agreement shall be secured and paid for by Provider or the Subcontractor. It is Provider's responsibility to have and maintain appropriate Certificate(s) of Competency, valid for the Work to be performed and valid for the jurisdiction in which the Work is to be performed for all persons working on the Project for whom a Certificate of Competency is required. Impact fees levied by any municipality shall be paid by Provider. Provider shall be reimbursed only for the actual amount of the impact fee levied by the municipality as evidenced by an invoice or other acceptable documentation issued by the municipality. In no event shall reimbursement to Provider in include profit or overhead of any Subcontractor.

5.4 Travel. With respect to travel costs and travel-related expenses, Provider and its Subcontractors shall adhere to Section 112.061, Florida Statutes, except to the extent, if any, that

Exhibit B expressly provides to the contrary. County shall not be liable for any such expenses that have not been approved in advance, in writing, by County.

5.5 Fixed Pricing. Prices set forth in Exhibit B shall remain firm and fixed for the term of the Agreement, including any option terms. However, Provider may offer incentive or volume discounts to County at any time.

5.6 Other Eligible Purchasers. Municipalities, other County agencies, the Broward Sheriff's Office, other special districts within Broward County, or any Authorized Third Party User (collectively, each an "Eligible Purchaser") may purchase Subscriber Equipment or Subscriber Equipment Maintenance as set forth on Exhibit A-4 under the terms of this Agreement (other than Sections 12.4 through 12.8 relating to CBEs) at the pricing set forth on Exhibit A-4, provided that said Eligible Purchaser is solely responsible for all payment and performance with respect to any such purchased Subscriber Equipment or Subscriber Equipment Maintenance. County shall not be responsible for any costs, liabilities, charges, or services relating to Subscriber Equipment or Subscriber Equipment Maintenance that may be elected or purchased by Eligible Purchasers.

ARTICLE 6. WARRANTIES

6.1 Ownership and License Rights. Provider represents and warrants that except as to third-party software licensed under this Agreement, Provider it is the owner of all right, title, and interest in and to the Equipment and other property being sold or provided to County under this Agreement, that it has the right to sell and provide such Equipment and other property to County, and that such sale is free and clear of any lien or interest of any other person or entity. Provider further represents and warrants that it has the right to grant to County the rights and the licenses granted under this Agreement as to the Software (including as to third party software licensed under this Agreement) and System. Provider warrants that it has not knowingly granted rights or licenses to any other person or entity that would restrict rights and licenses granted hereunder, except as may be expressly stated herein.

6.2 System Warranty. Provider represents and warrants to County that for a period of one (1) year from the date of Final Acceptance, the System will perform substantially as described in the Documentation and the Statement of Work (Exhibit A), will be free from defects in workmanship and material, and will have all of the qualities and features and be capable of performing all of the functions described in the Documentation and Statement of Work. This warranty shall not cover any failure of the System resulting from (a) use of the System in other than the manner for which it was intended; or (b) modification of the System by County not authorized by Provider.

6.3 Warranty Regarding Viruses. Provider further represents, warrants, and agrees that the System and any software or firmware provided under this Agreement are free from currently-known viruses or malicious software (at the time the System and any subsequent version thereof is provided to County), and that Provider has and will continue, for the full term of this Agreement, to use commercially reasonable security measures to ensure the integrity of such

software and firmware from data leaks, hackers, denial of service attacks, and other unauthorized intrusions.

6.4 Intellectual Property Warranty. Provider represents and warrants that at the time of entering into this Agreement, no claims that allege that any part of the System or other property provided to County under this Agreement infringes or misappropriates any patent, copyright, mask copyright, or any trade secret or other intellectual or proprietary right of a third party have been adjudicated adversely to Provider, and that Provider is unaware of any such potential or pending claim that is reasonably expected to impact County's ability to use the Software or System provided under this Agreement. Provider also agrees, represents and warrants that the P25 System (and all components thereof) and Services to be provided pursuant to this Agreement will not infringe or misappropriate any patent, copyright, mask copyright or any trade secret or other intellectual or proprietary right of a third party. If any Equipment, Software, or portion of the P25 System is finally adjudged to infringe, or in Provider's opinion is likely to become the subject of such a Claim, Provider shall, at County's option, either: (i) procure for County the right to continue using the applicable portion of the System; (ii) modify or replace the System (in part or in whole) to make it noninfringing; or (iii) refund to County all fees paid for the applicable System and for Services relating to that System under this Agreement. Provider shall have no liability regarding any infringement claim caused by any County modification of the System not authorized by Provider or the Documentation.

6.5 Quality of Performance and Materials. Provider represents and warrants that all services provided under this Agreement will be performed by a person duly qualified and sufficiently experienced to perform such services and, where required, licensed by all appropriate governmental authorities in the applicable area(s). Provider agrees that all services under this Agreement shall be performed in a skillful and respectful manner, and that the quality of all such services shall meet or exceed prevailing industry and professional standards for such services. Provider represents and warrants that all materials, Equipment, and products furnished pursuant to this Agreement shall be of good quality and free from defective or inferior workmanship.

Provider warrants to County that all materials and equipment under this Agreement will be new unless otherwise specified and that all of the Work will be of good quality, free from faults and defects, and in conformance with the applicable requirements under this Agreement. All Work not conforming to these requirements, including substitutions not properly approved and authorized, may be considered defective. If required by the Contract Administrator, Provider shall furnish satisfactory evidence as to the kind and quality of materials and equipment.

Any items found not to be in conformance with the foregoing and with the Documentation or applicable specifications (if any) in this Agreement shall be replaced by Provider at no additional cost to County. If requested by County's Contract Administrator, Provider shall develop and utilize a quality assurance plan approved by County to ensure the appropriate quality of the work and materials provided under this Agreement.

6.6 Remedy for Breach of Warranty. In the event of written notice from County of a breach of warranty, Provider shall, at no charge to County, promptly correct the warranty breach including, when required, by (a) correcting, updating or replacing the Software, Equipment or Services, or (b) repairing the affected Equipment, or (c) providing to County other measures that correct the breach. In addition, upon notice from County of any warranty breach or other error or defect in the P25 System, Provider will immediately provide to County any known reasonable methods of operating the System in a manner that eliminates the adverse effects of the error or defect. If Provider is unable to correct a material breach of this Article within a reasonable period of time not to exceed ten (10) business days, County shall be entitled to cancel the Agreement as to the applicable nonconforming Software, Equipment, or Services, and receive a full refund of all amounts paid to Provider for the nonconforming portion of the System(s) (including any other portion of the applicable System(s) for which functionality is adversely affected by the nonconformance and all amounts paid for Services relating thereto), and Provider shall arrange for the removal and return of the applicable Equipment at Provider's expense. In the event of replacement of any of the Software, Equipment or Services, the replacement Software, Equipment or Services will be warranted as provided above from the date of replacement. The remedies in this Section are in addition to any other rights and remedies County may have under this Agreement or applicable law.

6.7 Additional Rights as to Defective Work. In addition to the foregoing, the Contract Administrator shall have the authority to reject or disapprove Work which it finds to be defective. If required by the Contract Administrator, Provider shall promptly either correct all defective work or remove such defective work and replace it with non-defective work. Provider shall bear all direct, indirect, and consequential costs of such removal or corrections including cost of testing laboratories and personnel. Should Provider fail or refuse to remove or correct any defective work or to make any necessary repairs in accordance with the requirements of the Design Build Contract Documents within the time indicated in writing by the Contract Administrator, County shall have the authority to cause the defective work to be removed or corrected, or make such repairs as may be necessary at Provider's expense. Any expense incurred by County in making such removals, corrections, or repairs, shall be paid for out of any monies due or which may become due to Provider, or may be charged against the Performance Bond. In the event of failure of Provider to make all necessary repairs promptly and fully, County may declare Provider in default.

If, within one (1) year after the date of Final Completion of the each Site, or such longer period of time as may be prescribed by the terms of any applicable special warranty required by the Contract Documents, or by any specific provision of the Design Build Contract Documents, any of the Work is found to be defective or not in accordance with the Design Build Contract Documents, Provider, after receipt of written notice from County, shall promptly correct such defective or nonconforming Work within the time specified by County, without cost to County to do so. Nothing contained herein shall be construed to establish a period of limitation with respect to any other obligation which Provider might have under the Design Build Contract Documents, including, but not limited to, any claim regarding latent defects. Failure to reject any defective

work or material shall not in any way prevent later rejection when such defect is discovered, or obligate County to Final Acceptance.

ARTICLE 7. DELIVERY, DOCUMENTATION AND PERFORMANCE AND PAYMENT BOND

7.1 Software. Unless otherwise stated in Exhibit A, Provider shall, within seven (7) days after the Effective Date, make the Software available to County and, unless the Software is embedded in equipment, deliver to County a master copy of the Software licensed hereunder in object code form, suitable for reproduction in accordance with this Agreement, in electronic files unless otherwise requested by County. All County license keys, usernames, and passwords shall be authenticated by Provider and perform according to Exhibit A (Statement of Work).

7.2 Documentation. Provider shall deliver copies of the Documentation to County concurrently with delivery of the applicable Equipment and Software, and thereafter shall promptly provide any updated Documentation as it becomes available during the term of this Agreement. Provider represents and warrants that the Documentation is sufficiently comprehensive and of sufficient quality to enable a competent user to operate the applicable portions of the System efficiently and in accordance with Exhibit A. County has the right to copy and modify the Documentation as it deems necessary for its own internal use.

7.3 Performance and Payment Bond. Within fifteen (15) calendar days of the Effective Date of this Agreement, Provider shall furnish a Performance and Payment Bond containing all the provisions of the Performance Bond and Payment Bond Forms attached to this Agreement.

7.3.1 Each Bond shall be in the amount of one hundred percent (100%) of the total amount of the Agreement (excluding Optional Services and Support and Maintenance) guaranteeing to County the completion and performance of the Work covered in this Agreement as well as full payment of all suppliers, laborers, or subcontractors employed pursuant to this Project. Each Bond shall be with a surety company which is qualified pursuant to Section 7.5. Each bond shall be increased in the amount of any change to the total amount paid under the Agreement (excluding Optional Services and Support and Maintenance).

7.3.2 The value of each bond shall be reduced as the one (1) year warranty period expires for each Site, to correspond in value to one hundred percent (100%) of the Construction Cost of the remaining Sites, or an additional bond shall be conditioned that Provider will, upon notification by County, correct any defective or faulty work or materials which appear within one (1) year after Final Completion of each Site.

7.3.3 Pursuant to the requirements of Section 255.05(1)(a), Florida Statutes, Provider shall ensure that the bond(s) referenced above shall be recorded in the public records of Broward County and provide County with evidence of such recording.

7.4 Alternate form of Security: In lieu of a Performance and a Payment Bond, Provider may furnish alternate forms of security which may be in the form of cash, money order, certified

check, cashier's check, or unconditional letter of credit. Such alternate forms of security shall be subject to the approval of County and for same purpose and shall be subject to the same conditions as those applicable above and shall be held by County for one (1) year after Final Completion and acceptance of the last remaining Site.

7.5 Qualifications of Surety. Each bond must be executed by a surety company of recognized standing, authorized to do business in the State of Florida as surety, having a resident agent in the State of Florida, and having been in business with a record of successful continuous operation for at least five (5) years. The surety company shall hold a current certificate of authority as acceptable surety on federal bonds in accordance with United States Department of Treasury Circular 570, Current Revisions. If the amount of the Bond exceeds the underwriting limitation set forth in the circular, in order to qualify, the net retention of the surety company shall not exceed the underwriting limitation in the circular, and the excess risks must be protected by coinsurance, reinsurance, or other methods in accordance with Treasury Circular 297, revised September 1, 1978 (31 CFR Section 223.10, Section 223.111). Further, the surety company shall provide County with evidence satisfactory to County, that such excess risk has been protected in an acceptable manner.

County will accept a surety bond from a company in accordance with the requirements set forth below, provided, however, that if any surety company appears on the watch list that is published quarterly by Intercom of the Office of the Florida Insurance Commissioner, County shall review and either accept or reject the surety company based on the financial information available to County. A surety company that is rejected by County may be substituted by Provider with a surety company acceptable to County, only if the Agreement price does not increase. The following sets forth, in general, the acceptable parameters for bonds:

Amount of Bond	Policy Holder's Ratings	Financial Size Category
500,001 to 1,000,000	A, A-	Class I
1,000,001 to 2,000,000	A ,A-	Class II
2,000,001 to 5,000,000	A	Class III
5,000,001 to 10,000,000	A	Class IV
10,000,001 to 25,000,000	A	Class V
25,000,001 to 50,000,000	A	Class VI
50,000,001 or more	A	Class VII

ARTICLE 8. PROTECTION OF SOFTWARE AND PROPRIETARY RIGHTS

8.1 County Proprietary Rights. Provider acknowledges and agrees that County retains all rights, title and interest in and to all materials, data, documentation and copies thereof furnished by County to Provider hereunder, including all copyright and other proprietary rights therein, which Provider as well as its employees, agents, Subcontractors, and suppliers may use only in connection with the performance of Services or Support and Maintenance Services under this

Agreement. Motorola, the third party manufacturer of any Equipment, and the copyright owner of any third-party Software own and retain all of their respective proprietary rights in the Equipment and Software. All intellectual property developed, originated, or prepared by Motorola in connection with providing the Equipment, Software, or Services under this Agreement remain vested exclusively in Motorola or the applicable third party manufacturer or licensor, and this Agreement does not grant County any shared development rights of intellectual property or source code.

8.2 Ownership. Except for custom work products, if any, County acknowledges that all copies of the Software (in any form) provided by Provider are the sole property of Provider or the applicable third-party licensor. County shall not have any right, title, or interest to any such Software or copies thereof except as expressly provided in this Agreement, and shall take all reasonable steps to secure and protect all Software consistent with maintenance of Provider's proprietary rights therein.

8.3 Custom Work Products. To the extent this Agreement (including in the Statement of Work, any subsequent Work Authorization, any amendment, or the procurement documents relating to this Agreement) expressly identifies any deliverables as custom work products that Provider is to develop and furnish, the parties agree that County shall own all rights, title, and interest in and to all such custom work products and that they shall be deemed to constitute "works made for hire" under the United States Copyright Act, 17 U.S.C. § 101. If, for any reason, any custom work product would not be considered a "work made for hire" under applicable law, Provider hereby exclusively and irrevocably sells, assigns, and transfers to County all of Provider's rights, title, and interest in and to such custom work product and in and to any copyright or copyright application(s) related thereto. Provider agrees that neither it nor its agents shall use or disclose any custom work product except for County's benefit as required in connection with Provider's performance under this Agreement, unless Provider has obtained County's prior written consent to such use or disclosure. "Custom work product" shall not include any software, copyrighted material, or other proprietary material developed by Provider or any third party prior to the Effective Date, but shall include any modification(s) thereof developed pursuant to this Agreement. To the full extent applicable, Provider shall provide County with the source code and object code for all custom work products upon Final Acceptance of the Software or System, or within thirty (30) calendar days after written request by the Contract Administrator, whichever occurs first.

ARTICLE 9. CONFIDENTIAL INFORMATION, SECURITY AND ACCESS

9.1 Public Records Law. As a political subdivision of the State of Florida, County is subject to Florida's Public Records Law, Chapter 119 of the Florida Statutes. Notwithstanding anything else in this Agreement, any action taken by County in compliance with, or in a good faith attempt to comply with, the requirements of Chapter 119 shall not constitute a breach of this Agreement.

9.2 Provider Confidential Information. Provider represents that the Software contains proprietary products and trade secrets of Provider. Any other material submitted to County by

Provider that Provider represents constitutes or contains trade secrets or is otherwise exempt from production under Florida public records laws (including Florida Statutes Chapter 119) must be segregated and conspicuously labeled "EXEMPT FROM PUBLIC RECORD PRODUCT – TRADE SECRET." Provider's Software and properly designated trade secret materials constitute "Provider Confidential Information." To the full extent permissible under applicable law, County agrees to treat Provider Confidential Information as confidential in accordance with this Section unless otherwise ordered by a court of competent jurisdiction. Provider must, simultaneous with the production of any Provider Confidential Information other than the Software, provide a sworn affidavit from a person with personal knowledge attesting that the Provider Confidential Information constitute trade secrets under Florida Statutes Section 812.081 and stating the factual basis for same. In the event that a third party submits a request to the County for Provider Confidential Information, the County shall refrain from disclosing the Provider Confidential Information, unless otherwise ordered by a court of competent jurisdiction or authorized in writing by the Provider. Provider shall indemnify and defend County and its employees and Authorized Third Party Users from any and all claims, causes of action, losses, fines, penalties, damages, judgments and liabilities of any kind, including attorneys' fees, litigation expenses, and court costs, relating to the non-disclosure of any Provider Confidential Information in response to a records request by a third party.

9.3 County Confidential Information.

9.3.1 All materials, data, transactions of all forms, financial information, documentation, inventions, designs, and methods that Provider obtains from County in connection with this Agreement, that are made or developed by Provider in the course of the performance of the Agreement, or in which County holds proprietary rights, constitute "County Confidential Information."

9.3.2 All County-provided employee information, financial information, and personally identifiable information for individuals or entities interacting with County (including, without limitation, social security numbers, birth dates, banking and financial information, and other information deemed exempt or confidential under state or federal law) also constitute County Confidential Information.

9.3.3 County Confidential Information may not, without the prior written consent of County, or as otherwise required by law, be used by Provider or its employees, agents, Subcontractors or suppliers for any purpose other than for the benefit of County pursuant to this Agreement. Neither Provider nor its employees, agents, Subcontractors or suppliers may sell, transfer, publish, disclose, display, license or otherwise make available to any other person or entity any County Confidential Information without the prior written consent of County. Provider shall not, under any circumstances, cause or allow any County Confidential Information to be accessed by, transmitted or stored to any location outside the continental United States, Alaska and Hawaii, without prior written authorization from the Contract Administrator. Provider shall ensure that all County Confidential Information stored, maintained or transmitted by Provider is encrypted using AES 256 or equivalent at all times, whether at rest or in motion.

9.3.4 Provider expressly agrees to be bound by and to defend, indemnify and hold harmless County and its officers and employees from the breach of any federal, state or local law by Provider or its employees, agents, Subcontractors or suppliers regarding the unlawful use or disclosure of County Confidential Information.

9.3.5 Upon expiration or termination of this Agreement, or as otherwise demanded by County, Provider shall immediately turn over to County all County Confidential Information, in any form, tangible or intangible, possessed by Provider or its employees, agents, Subcontractors or suppliers.

9.4 Maintenance of Confidential Information. Each party shall advise its employees, agents, Subcontractors, and suppliers who receive or otherwise have access to the other party's Confidential Information of their obligation to keep such information confidential, and shall promptly advise the other party in writing if it learns of any unauthorized use or disclosure of the other party's Confidential Information. In addition, the parties agree to cooperate fully and provide reasonable assistance to ensure the confidentiality of the other party's Confidential Information.

9.5 Security and Access. Provider will cooperate with County and provide any and all information that County may request in order to determine appropriate security and network access restrictions and verify Provider's compliance with County security standards. Any access by Provider to any aspect of the County's network must comply at all times with all applicable County access and security standards, as well as any other or additional restrictions or standards for which County provides written notice to Provider. If at any point in time County, in the sole discretion of its Chief Information Officer, determines that Provider's access to any aspect of the County's network presents an unacceptable security risk, County may immediately suspend or terminate Provider's access and, if the risk is not promptly resolved to the reasonable satisfaction of the County's Chief Information Officer, may terminate this Agreement or any applicable Work Authorization upon ten (10) business days' notice (including, without limitation, without restoring any access to the County network to Provider).

9.6 Data and Privacy. Provider shall comply with all applicable data and privacy laws and regulations, including without limitation the Florida Information Protection Act of 2014, Florida Statutes Section 501.171. Provider may not sell, market, publicize, distribute, or otherwise make available to any third party any personal identification information (as defined by Florida Statutes Section 817.568 or Section 817.5685) that Provider may receive or otherwise have access to in connection with this Agreement, unless expressly authorized in advance by County. If and to the extent requested by County, Provider shall ensure that all hard drives or other storage devices and media that contained County data have been wiped in accordance with the then-current best industry practices, including without limitation DOD 5220.22-M, and that an appropriate data wipe certification is provided to the satisfaction of the Contract Administrator.

9.7 Injunctive Relief. The parties represent and agree that neither damages nor any other legal remedy is adequate to remedy any breach of this Article, and that the injured party shall therefore be entitled to injunctive relief to restrain or remedy any breach or threatened breach.

9.8 Survival. The obligations under this Article 9 shall survive the termination of this Agreement or of any license granted under this Agreement.

ARTICLE 10. INDEMNIFICATION AND LIMITATION OF LIABILITY

10.1 Indemnification. Provider shall be fully liable for the actions of its current and former officers, employees, subcontractors and other agents under this Agreement. Provider shall at all times hereafter indemnify, hold harmless and defend County and all of County's current and former officers and employees and Authorized Third Party Users (collectively, "Indemnified Party") from and against any and all lawsuits, causes of action, demands, claims, losses, fines, penalties, damages, judgments, liabilities and expenditures of any kind, including attorneys' fees, litigation expenses, and court costs (collectively, "Claim"), raised or asserted by any person or entity that is not a party to this Agreement, which Claim is caused or alleged to be caused, in whole or in part, by any intentional, reckless, or negligent act or omission of Provider or any current or former officer, employee, Subcontractor or other agent of Provider, arising from, relating to, or in connection with any obligation or performance under this Agreement. In the event any Claim is brought against an Indemnified Party, Provider shall, upon written notice from County, defend each Indemnified Party against each such Claim through counsel reasonably satisfactory to County (approval of which shall not be unreasonably withheld). The provisions and obligations of this Section shall survive the expiration or earlier termination of this Agreement. Motorola will have no duty to defend or indemnify for any Claim for intellectual property infringement that is based upon: (a) the combination of the Motorola Equipment with any software, apparatus or device not furnished or approved by Motorola or otherwise specified in the Documentation or Specifications as compatible; (b) use of the Motorola Equipment in a manner for which the Motorola Equipment was not designed or that is inconsistent with the terms of this Agreement; or (c) the failure by County to install an enhancement release to the Software that is intended to correct the claimed infringement for which notice was provided to County that installation was necessary to avoid infringement. In no event will Motorola's liability resulting from its indemnity obligation to County extend in any way to County's revenues derived from user fee royalties payable to the County on a per use basis to the County. In addition, Provider's duties to defend and indemnify are conditioned upon: County promptly notifying Provider in writing of the Claim; Provider having sole control of the defense of the suit and all negotiations for its settlement or compromise; and County providing to Provider cooperation and, if requested by Provider, reasonable assistance in the defense of the Claim.

10.2 Limitation of Liability. Neither Provider nor County shall be liable to the other party for any damages under this Agreement that exceed the largest of the following amounts: (a) $100,000; (b) twice the maximum compensation amount specified in Section 5.1; or (c) the amount of insurance Provider is required to provide under Article 11. Neither party shall be liable for the other party's special, indirect, punitive, or consequential damages (including damages

resulting from lost data or records other than costs incurred in the recovery thereof), even if the party has been advised that such damages are possible, or for the other party's lost profits, lost revenue, or lost institutional operating savings. These limitations of liability shall not apply to (i) any Claim resulting from Provider's actual or alleged disclosure of County Confidential Information or resulting from an actual or alleged data breach in violation of applicable law, (ii) any Claim resulting from an actual or alleged infringement of any interest in any intellectual property, or (iii) any indemnification obligation under this Agreement.

10.3 Third Party Pass Thru Rights. Provider shall extend to County all rights and benefits Provider has from any third party as to the Equipment or Software as to any warranty or infringement claim, including any and all indemnification and hold harmless rights, to the extent permitted under any applicable agreement with the third party equipment or software supplier or otherwise available to Provider. Provider shall at all times use all reasonable efforts to cooperate with County in the event of a third party claim involving any part of the P25 System.

ARTICLE 11. INSURANCE

11.1 Provider shall maintain at its sole expense, on a primary basis, at all times during the term of this Agreement (unless a different time period is stated herein), at least the minimum insurance coverage designated in Exhibit D in accordance with the terms and conditions stated in this Article.

11.2 Such policies shall be issued by companies authorized and licensed to transact business in the State of Florida, with a minimum AM Best financial rating of A-, unless otherwise approved in writing by County. If any deductible amounts are permitted in Exhibit D, Provider shall be responsible for the payment of all such deductible amounts.

11.3 Provider agrees to include County as an additional insured under Provider's commercial liability insurance policy and any excess liability insurance policy. The listed certificate holder on all required policies shall be "Broward County."

11.4 Coverage shall be provided on forms no more restrictive than the latest edition of the applicable forms filed by the Insurance Services Office.

11.5 Provider shall notify County in writing within thirty (30) days after Provider learns of any claim against Provider's professional liability insurance policy in which damages claimed plus defense costs incurred to date exceed $250,000.

11.6 Within fifteen (15) days of execution of this Agreement, Provider shall provide County with proof of insurance in the form of Certificate(s) of Insurance and applicable endorsements. Failure to timely provide acceptable proof of insurance, as determined by County, shall entitle County to terminate this Agreement without any liability to Provider.

11.7 Provider must provide County with at least thirty (30) days' written notice of expiration, cancellation, or restriction of any coverage required under this Article. Provider shall provide certified copies of any required policy to County upon County's request.

11.8 If Provider subcontracts any work under this Agreement, Provider shall require that each subcontractor names County as an additional insured under the subcontractor's general liability insurance policy and any excess liability insurance policy.

ARTICLE 12. EEO and CBE COMPLIANCE

12.1 Nondiscrimination. Provider may not discriminate on the basis of race, color, sex, religion, national origin, disability, age, marital status, political affiliation, sexual orientation, pregnancy, or gender identity and expression in the performance of this Agreement, except that any project assisted by U.S. Department of Transportation funds shall comply with the nondiscrimination requirements in 49 C.F.R. Parts 23 and 26. Provider shall include substantially similar language in its contracts with any and all permitted subcontractors providing goods or services under this Agreement.

12.2 Failure by Provider to carry out any of the requirements of this Article shall constitute a material breach of this Agreement, which shall permit County to terminate this Agreement or to exercise any other remedy provided under this Agreement, Broward County Code of Ordinances, Broward County Administrative Code, or under other applicable law, all such remedies being cumulative.

12.3 Provider shall comply with all applicable requirements of the County's CBE Program as established by Broward County Business Opportunity Act of 2012, Section 1-81, Broward County Code of Ordinances (the "Act"), in performing this Agreement. Provider acknowledges that the Board, acting through the Office of Economic and Small Business Development ("OESBD"), may make minor administrative modifications to the CBE Program which shall become applicable to this Agreement if the administrative modifications are not unreasonable. Written notice of any such modification shall be provided to Provider and shall include a deadline for Provider to notify County if Provider concludes that the modification exceeds the authority of this Section of this Agreement. Failure of Provider to timely notify County of its conclusion that the modification exceeds such authority shall be deemed acceptance of the modification by Provider.

12.4 Provider will meet the following CBE participation goal by utilizing the CBE firms for the following percentage of Services under this Agreement:

CBE participation goal	15% or as otherwise approved by OESBD

Provider stipulates that each CBE firm utilized to meet the CBE participation goal must be certified by the OESBD. Provider shall inform County immediately when a CBE firm is not able to perform or if Provider believes the CBE firm should be replaced for any other reason, so that the

OESBD may review and verify the good faith efforts of Provider to substitute the CBE firm with another CBE firm. Whenever a CBE firm is terminated for any reason, including cause, Provider shall provide written notice to the OESBD and shall substitute another CBE firm in order to maintain the level of CBE participation required herein, unless otherwise provided herein or agreed in writing by the parties. Such substitution shall not be required in the event the termination results from County modifying the scope of services and there is no available CBE to perform the new scope of services, in which event Provider shall notify County and the OESBD may adjust the CBE participation goal by written notice to Provider. Provider may not terminate for convenience a CBE firm without County's prior written consent, which consent shall not be unreasonably withheld. County may add or increase the required participation of CBE firms under this Agreement in connection with any amendment, extension, modification, or change order to this Agreement that, by itself or aggregated with previous amendments, extensions, modifications, or change orders, increases the initial Agreement price by ten percent (10%) or more. To the extent Provider is subcontracting any work under this Agreement, Provider shall make a good faith effort to include CBE firms in work resulting from any such amendment, extension, modification, or change order and shall report such efforts, along with evidence thereof, to the OESBD.

12.5 In performing the Services, the Parties hereby incorporate the list of Provider's participating CBE firms, addresses, scope of work, and the percentage of work amounts identified on each Letter of Intent into this Agreement (Exhibit G). Promptly upon execution of this Agreement by County, Provider shall enter into a formal contract with the CBE firms listed in Exhibit G and, upon request, shall provide copies of the contracts to the Contract Administrator and OESBD.

12.6 Provider shall provide written monthly reports to the Contract Administrator attesting to Provider's compliance with the CBE participation goals stated in this Article. In addition, Provider shall allow County to engage in on-site reviews to monitor Provider's progress in achieving and maintaining its contractual and CBE program obligations. Such review and monitoring shall be by the Contract Administrator in conjunction with the OESBD, unless otherwise determined by the County Administrator. County shall have access, without limitation, to Provider's books and records, including payroll records, tax returns and records, and books of account, on five (5) business days' notice.

12.7 In the event of Provider's noncompliance with its CBE participation goal (including without limitation the unexcused reduction of a CBE firm's participation), the affected CBE firm shall have the right to exercise any remedies as may be available as between the CBE firm and Provider.

12.8 The Contract Administrator may, at its option, increase allowable retainage or withhold progress payments unless and until Provider demonstrates timely payments of sums due to all subcontractors and suppliers. The presence of a "pay when paid" provision in a Provider's contract with a CBE firm shall not preclude County or its representatives from inquiring into allegations of nonpayment.

ARTICLE 13. TERMINATION

13.1 The termination rights of County in this Article 13 may be exercised as to any one or more Statements of Work or component Systems, as elected in the sole direction of County, provided that any right to terminate for cause arises only as to the Statement(s) of Work related to the breach at issue.

13.2 This Agreement may be terminated for cause based on any breach that is not cured within ten (10) days after written notice from the aggrieved party identifying the breach. This Agreement may also be terminated for convenience by the Board upon providing written notice to Provider of the termination date, which shall be not less than thirty (30) days after the date such written notice is provided. If County erroneously, improperly, or unjustifiably terminates for cause, such termination shall, to the full extent permissible under applicable law, be deemed a termination for convenience, which shall be effective thirty (30) days after such notice of termination for cause is provided.

13.3 County may terminate this Agreement if Provider is found to have submitted a false certification pursuant to Section 287.135, Florida Statutes, if Provider has been placed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or if Provider has failed to promptly implement corrective action for audit deficiencies upon reasonable notice by County. Notwithstanding anything contained in this Agreement to the contrary, the rights and obligations of the parties under this paragraph shall be governed by Section 287.135, Florida Statutes, to the full extent applicable.

13.4 Provider represents that neither it nor any of its affiliates has been placed on the discriminatory vendor list, as defined by Section 287.134, Florida Statutes. County may terminate this Agreement effective immediately, without any further obligation to Provider, upon learning that such representation is false or if Provider or any of its affiliates is placed on the discriminatory vendor list.

13.5 Additionally, and notwithstanding anything to the contrary in this Agreement, County may terminate this Agreement without any further liability to Provider upon the decertification of Provider as a Certified Business Entity ("CBE") by County's Office of Economic and Small Business Development ("OESBD"), if Provider's status as a CBE was a factor in the award of the Agreement and such status was misrepresented by Provider. However, such termination shall not be effective until expiration of any timely-filed review or appeal of the decertification decision.

13.6 Notice of termination shall be provided in accordance with the "Notices" section of this Agreement.

13.7 In the event this Agreement is terminated for convenience, Provider shall be paid for any goods and services properly provided through the termination date specified in the written notice of termination. Provider acknowledges that it has received good, valuable and sufficient consideration from County, the receipt and adequacy of which are hereby acknowledged by Provider, for County's right to terminate this Agreement for convenience, and Provider hereby waives, to the full extent permissible under applicable law, any and all rights to challenge the adequacy of such consideration or the validity of County's right to terminate for convenience.

13.8 In case of termination of this Agreement in whole or in part before Final Completion for any reason whatsoever, Provider, if notified to do so by County, shall promptly remove any part or all of the equipment and supplies of Provider or its Subcontractor from the property of County, failing which County shall have the right to remove such equipment and supplies at the expense of Provider.

ARTICLE 14. MISCELLANEOUS

14.1 Rights in Documents and Work. Any and all reports, photographs, surveys, and other data and documents provided or created in connection with this Agreement shall be and remain the property of County and, if a copyright is claimed, Provider hereby grants to County a nonexclusive perpetual license to use the copyrighted item(s), to prepare derivative works, and to make and distribute copies to the public. In the event of termination or expiration of this Agreement, any reports, photographs, surveys, and other data and documents prepared by Provider, whether finished or unfinished, shall become the property of County and shall be delivered by Provider to the Contract Administrator within seven (7) days of termination or expiration of this Agreement by either party.

14.2 Audit Right and Retention of Records. County shall have the right to audit the books, records, and accounts of Provider and its subcontractors that are related to this Agreement. Provider and its subcontractors shall keep such books, records, and accounts as may be necessary in order to record complete and correct entries related to the Agreement and performance thereunder. All books, records, and accounts of Provider and its subcontractors shall be kept in written form, or in a form capable of conversion into written form within a reasonable time, and upon request to do so, Provider or its subcontractor, as applicable, shall make same available at no cost to County in written form.

Provider and its subcontractors shall preserve and make available, at reasonable times within Broward County for examination and audit by County, all financial records, supporting documents, statistical records, and any other documents pertinent to this Agreement for a minimum period of three (3) years after expiration or termination of this Agreement or until resolution of any audit findings, whichever is longer. County audits and inspections pursuant to this Section may be performed by any County representative (including any outside representative engaged by County). County reserves the right to conduct such audit or review at Provider's place of business, if deemed appropriate by County, with seventy-two (72) hours' advance notice.

Any incomplete or incorrect entry in such books, records, and accounts shall be a basis for County's disallowance and recovery of any payment upon such entry. If an audit or inspection in accordance with this Section discloses overpricing or overcharges to County of any nature by Provider in excess of five percent (5%) of the total contract billings reviewed by County, the reasonable actual cost of the County's audit shall be reimbursed to the County by Provider in addition to making adjustments for the overcharges. Any adjustments and/or payments due as a result of such audit or inspection shall be made within thirty (30) days from presentation of County's findings to Provider.

Provider shall ensure that the requirements of this Section are included in all agreements with its subcontractor(s).

14.3 Public Records. To the extent Provider is acting on behalf of the County as stated in Section 119.0701, Florida Statutes, Provider shall:

a. Keep and maintain public records required were County performing the services under this Agreement;

b. Upon request from the County, provide County with a copy of the requested records or allow the records to be inspected or copied within a reasonable time and at a cost that does not exceed that provided in Chapter 119, Florida Statutes, or as otherwise provided by law;

c. Ensure that public records that are exempt or that are confidential and exempt from public record requirements are not disclosed except as authorized by law for the duration of the Agreement and following completion of the Agreement if the records are not transferred to the County; and

d. Upon completion of the Agreement, transfer to County, at no cost, all public records in possession of Provider upon termination of this Agreement or keep and maintain public records required were the County performing the service. If Provider transfers the records to the County, Provider shall destroy any duplicate public records that are exempt or confidential and exempt. If the Provider keeps and maintains public records upon completion of the Agreement, Provider shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to County upon request in a format that is compatible with the information technology systems of County.

The failure of Provider to comply with the provisions of this Section shall constitute a material breach of this Agreement entitling the County to exercise any remedy provided in this Agreement or under applicable law.

A request for public records regarding this Agreement must be made directly to the County, who will be responsible for responding to any such public records requests. Provider will provide any requested records to County to enable County to respond to the public records request.

IF THE PROVIDER HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE PROVIDER'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT (954) 357-8570, bbayag@broward.org, 115 S. ANDREWS AVE., SUITE 325, FORT LAUDERDALE, FLORIDA 33301.

14.4 Truth-In-Negotiation Representation. Provider's compensation under this Agreement is based upon representations supplied to County by Provider, and Provider certifies that that wage rates and other factual unit costs supporting the compensation are accurate, complete, and current at the time of contracting. The original price under this Agreement and any additions thereto will be adjusted to exclude any significant sums by which County determines the price was increased due to inaccurate, incomplete, or noncurrent wage rates and other factual unit costs. County shall be entitled to recover any and all other damages available under law or equity it incurs to the extent any such representation is untrue.

14.5 Public Entity Crime Act. Provider represents that it is familiar with the requirements and prohibitions under the Public Entity Crime Act, Section 287.133, Florida Statutes, and represents that its entry into this Agreement will not violate that Act. In addition to the foregoing, Provider further represents that there has been no determination that it committed a "public entity crime" as defined by Section 287.133, Florida Statutes, and that it has not been formally charged with committing an act defined as a "public entity crime" regardless of the amount of money involved or whether Provider has been placed on the convicted vendor list. Notwithstanding any provision in this Agreement to the contrary, if any representation stated in this paragraph is false, County shall have the right to immediately terminate this Agreement and recover all sums paid to Provider under this Agreement.

14.6 Independent Contractor. Provider is an independent contractor under this Agreement. Provider shall not have the right to bind County to any obligation not expressly undertaken by County under this Agreement.

14.7 Third Party Beneficiaries. The parties acknowledge that there are no third party beneficiaries under this Agreement.

14.8 Notices. In order for a notice to a party to be effective under this Agreement, notice must be sent via U.S. first-class mail with a contemporaneous copy via e-mail to the addresses listed below and shall be effective upon mailing. The addresses for notice shall remain as set forth herein unless and until changed by providing notice of such change.

NOTICE TO COUNTY:
Broward County Office of Regional Communications and Technology
Attn: Brett Bayag
115 S. Andrews Ave., Suite 325
Ft. Lauderdale, Florida 33301
Email address: bbayag@broward.org

NOTICE TO PROVIDER:
Motorola Solutions, Inc.
Attn: Judy Jean-Pierre, Sr. Counsel
500 West Monroe Street, 43rd Floor
Chicago, IL 60661
Email address: Judy.Jean-Pierre@motorolasolutions.com

14.9 Assignment and Subcontractors. Except for subcontracting approved by County at the time of its execution of this Agreement or any written amendment hereto, neither this Agreement nor any right or interest herein may be assigned, transferred, subcontracted, or encumbered by Provider without the prior written consent of County. If Provider violates this provision, County shall have the right to immediately terminate this Agreement. Notwithstanding the foregoing, solely to the extent of its rights and obligations as the licensor of the Software, Motorola may assign its rights or subcontract its obligations as licensor, or encumber or sell its rights in any Software, without prior notice to or consent of County; any such assignment, subcontract, transfer, encumbrance or sale shall have no effect upon and shall not relieve Motorola from any obligation(s) under this Agreement.

Provider shall utilize the Subcontractors identified in the proposal that were a material part of the selection of Provider to provide the services for this Project. Provider shall obtain written approval of Contract Administrator prior to changing or modifying the list of Subcontractors submitted by Provider. Where Provider's failure to use a Subcontractor results in Provider's noncompliance with CBE participation goals, such failure shall entitle the affected CBE firm to damages available under this Agreement and local and state law. The list of Subcontractors is provided on Exhibit G, Schedule of Subcontractors, attached hereto and made a part hereof.

Each Subcontractor must possess certificates of competency and licenses as may be required by law. Provider shall have a continuing obligation to notify County of any change in Subcontractors. Provider shall not employ any Subcontractor against whom County may have a reasonable objection. Provider shall not be required to employ any Subcontractor against whom Provider has a reasonable objection.

Provider shall be fully responsible for all acts and omissions of its Subcontractors and of persons directly or indirectly employed by its Subcontractors and of persons for whose acts any of them may be liable to the same extent that Provider is responsible for the acts and omissions of persons directly employed by it. Nothing in the Design Build Contract Documents shall create any contractual relationship between any Subcontractor and County or any obligation on the part of County to pay or to see the payment of any monies due any Subcontractor. County may furnish

to any Subcontractor evidence of amounts paid to Provider on account of specific work performed.

Provider shall bind in writing each and every Subcontractor to the applicable terms and conditions of the Design Build Contract Documents for the benefit of County, provided that this provision shall not, in and of itself, impose the insurance requirements set forth in Article 11 on Provider's Subcontractors.

14.10 Conflicts. Provider agrees that neither it nor its employees will have or hold any continuing or frequently recurring employment or contractual relationship that is substantially antagonistic or incompatible with Provider's loyal and conscientious exercise of the judgment and care required to perform under this Agreement. Provider further agrees that none of its officers or employees shall, during the term of this Agreement, serve as an expert witness against County in any legal or administrative proceeding in which he, she, or Provider is not a party, unless compelled by court process. Further, such persons shall not give sworn testimony or issue a report or writing, as an expression of his or her expert opinion, which is adverse or prejudicial to the interests of County in connection with any such pending or threatened legal or administrative proceeding unless compelled by court process. The limitations of this Section shall not preclude Provider or any person from in any way representing themselves, including giving expert testimony in support thereof, in any administrative or legal proceeding. Provider agrees that each of its contracts with subcontractors performing under this Agreement shall contain substantively identical language to ensure that each subcontractor and its officers and employees meet the obligations contained in this paragraph.

14.11 Waiver of Breach. The failure of either party to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement. A waiver of any breach under this Agreement shall not be deemed a waiver of any subsequent breach.

14.12 Compliance with Laws. Provider shall comply with all applicable federal, state, and local laws, codes, ordinances, rules, and regulations in performing under this Agreement. Provider shall ensure that its Subcontractors conform to and obey all applicable laws, regulations, or ordinances with regard to labor employed, hours of work, and Subcontractor's general operations. Provider's Subcontractor shall perform the required Services under this Agreement in such a way so as not to close any thoroughfare, nor interfere in any way with traffic on railway, highways, or water, without the written consent of the proper authorities.

14.13 Severability. In the event any part of this Agreement is found to be unenforceable by any court of competent jurisdiction, that part shall be deemed severed from this Agreement and the balance of this Agreement shall remain in full force and effect.

14.14 Joint Preparation. This Agreement has been jointly prepared by the parties hereto, and shall not be construed more strictly against either party.

14.15 Headings and Interpretation. The headings contained in this Agreement are for reference purposes only and shall not in any way affect the meaning or interpretation of this Agreement. All personal pronouns used in this Agreement shall include the other gender, and the singular shall include the plural, and vice versa, unless the context otherwise requires. Terms such as "herein," "hereof," "hereunder," and "hereinafter," refer to this Agreement as a whole and not to any particular sentence, paragraph, or section where they appear, unless the context otherwise requires.

14.16 Governing Law, Venue and Waiver of Jury Trial. This Agreement shall be interpreted and construed in accordance with, and governed by, the laws of the state of Florida. The parties agree that the exclusive venue for any lawsuit arising from, related to, or in connection with this Agreement shall be in the state courts of the Seventeenth Judicial Circuit in and for Broward County, Florida. If any claim arising from, related to, or in connection with this Agreement must be litigated in federal court, the parties agree that the exclusive venue for any such lawsuit shall be in the United States District Court or United States Bankruptcy Court for the Southern District of Florida. **BY ENTERING INTO THIS AGREEMENT, PROVIDER AND COUNTY HEREBY EXPRESSLY WAIVE ANY AND ALL RIGHTS EITHER PARTY MAY HAVE TO A TRIAL BY JURY OF ANY CAUSE OF ACTION OR CLAIM ARISING FROM, RELATED TO, OR IN CONNECTION WITH THIS AGREEMENT.**

14.17 Amendments. No modification or amendment to this Agreement shall be effective unless it is in writing and executed by authorized representatives of each party. Without limiting the foregoing, the terms of this Agreement shall prevail over and against any additional or contrary terms and conditions in any format or medium whatsoever including, without limitation, shrinkwrap, click-through, or terms and conditions associated with any upgrade, update, release, patch, or other modification of the System or Software, unless expressly agreed to in writing by an amendment hereto executed by authorized representatives of each party.

14.18 Prior Agreements. This Agreement represents the final and complete understanding of the parties regarding the subject matter hereof and supersedes all prior and contemporaneous negotiations and discussions regarding that subject matter. There is no commitment, agreement, or understanding concerning the subject matter of this Agreement that is not contained in this written document.

14.19 HIPAA Compliance. It is understood by the parties that County personnel or their agents have access to protected health information (hereinafter known as "PHI") that is subject to the requirements of 45 C.F.R. § 160, 162, and 164 and related statutory and regulatory provisions. In the event Provider is considered by County to be a covered entity or business associate or otherwise required to comply with the Health Insurance Portability and Accountability Act of 1996 ("HIPAA") or the Health Information Technology for Economic and Clinical Health Act ("HITECH"), Provider shall fully protect individually identifiable health information as required by HIPAA and HITECH. If requested by County, Provider shall execute a Business Associate Agreement in the form set forth at www.broward.org/Purchasing/Pages/StandardTerms.aspx. Where required, Provider shall handle and secure such PHI in compliance with HIPAA, HITECH and its related regulations and, if required by HIPAA, HITECH, or other laws, shall include in its

"Notice of Privacy Practices" notice of Provider's and County's uses of a client's PHI. The requirement to comply with this provision, HIPAA and HITECH shall survive the expiration or termination of this Agreement. County hereby authorizes the County Administrator to sign Business Associate Agreements if required under this Agreement.

14.20 Payable Interest

14.20.1 Payment of Interest. County shall not be liable to pay any interest to Provider for any reason, whether as prejudgment interest or for any other purpose, and in furtherance thereof Provider waives, rejects, disclaims and surrenders any and all entitlement it has or may have to receive interest in connection with a dispute or claim arising from, related to, or in connection with this Agreement. This paragraph shall not apply to any claim interest, including for post-judgment interest, if such application would be contrary to applicable law.

14.20.2 Rate of Interest. If, for whatever reason, the preceding subsection is determined to be invalid or unenforceable by a court of competent jurisdiction, the annual rate of interest payable by County under this Agreement, whether as prejudgment interest or for any other purpose, shall be, to the full extent permissible under applicable law, 0.25% (one quarter of one percent) simple interest (uncompounded).

14.21 Incorporation by Reference. Any and all Recital clauses stated above are true and correct and are incorporated herein by reference.

14.22 Representation of Authority. Each individual executing this Agreement on behalf of a party hereto represents and warrants that he or she is, on the date of execution, duly authorized by all necessary and appropriate action to execute this Agreement on behalf of such party and does so with full legal authority. Provider represents that it is an entity authorized to transact business in the State of Florida.

14.23 Domestic Partnership Requirement. Unless this Agreement is exempt from the provisions of Section 16½-157 of the Broward County Code of Ordinances, which requires County contractors to provide benefits to domestic partners of their employees, Provider agrees to fully comply with Section 16½-157 during the entire term of the Agreement. If Provider fails to fully comply with that section, such failure shall constitute a material breach which shall allow County to exercise any remedy available under this Agreement, under applicable law, or under section 16½-157. For that purpose, the contract language referenced in Section 16½-157 is incorporated herein as though fully set forth in this paragraph.

14.24 Drug-Free Workplace. It is a requirement of County that it enter into contracts only with firms that certify the establishment of a drug-free workplace in accordance with Chapter 21.31(a)(2) of the Broward County Procurement Code. Execution of this Agreement by Provider shall serve as Provider's required certification that it has or will establish a drug-free workplace in accordance with Section 287.087, Florida Statutes, and Chapter 21.31(a)(2) of the Broward

County Procurement Code, and that it will maintain such drug-free workplace for the full term of this Agreement.

14.25 Contingency Fee. Provider represents that it has not paid or agreed to pay any person or entity, other than a bona fide employee working solely for Provider, any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the award or making of this Agreement. If County learns that this representation is false, County shall have the right to terminate this Agreement without any further liability to Provider. Alternatively, if such representation is false, County, at its sole discretion, may deduct from the compensation due Provider under this Agreement the full amount of such fee, commission, percentage, gift, or consideration.

14.26 Living Wage Requirement. If Provider is a "covered employer" within the meaning of the Broward County Living Wage Ordinance, Broward County Code sections 26-100 – 26-105, Provider agrees to and shall pay to all of its employees providing "covered services," as defined therein, a living wage as required by such ordinance, and Provider shall fully comply with the requirements of such ordinance. Provider shall be responsible for and shall ensure that all of its subcontractors that qualify as "covered employers" fully comply with the requirements of such ordinance.

14.27 Force Majeure. If the performance of this Agreement, or any obligation hereunder, is prevented by reason of hurricane, earthquake, or other casualty caused by nature, or by labor strike, war, or by a law, order, proclamation, regulation, or ordinance of any governmental agency, the party so affected, upon giving prompt notice to the other party, shall be excused from such performance to the extent of such prevention, provided that the party so affected shall first have taken reasonable steps to avoid and remove such cause of nonperformance and shall continue to take reasonable steps to avoid and remove such cause, and shall promptly notify the other party in writing and resume performance hereunder whenever and to the full extent such causes are removed. However, if such nonperformance exceeds sixty (60) days, the party that is not prevented from performance by the force majeure event shall have the right to immediately terminate this Agreement upon written notice to the party so affected. This Section shall not supersede or prevent the exercise of any right the parties may otherwise have to terminate this Agreement.

14.28 County Logo. Provider shall not use County's name, logo, or otherwise refer to this Agreement in any marketing or publicity materials without the prior written consent of County.

14.29 Resolution of Disputes. During the pendency of any dispute and after a determination thereof, Provider and its Subcontractor shall act in good faith to mitigate any potential damages including utilization of construction schedule changes and alternate means of construction. Provider shall carry on the Services and Work and adhere to the progress schedule during all disputes or disagreements with the County, including disputes or disagreements concerning a request for a Change Order or a request for a change in the Design Build Price or Design Build Time. No work or Services shall be delayed or postponed pending resolution of any disputes or

disagreements except as Provider and County may otherwise agree in writing. Suspension of Work or Services by Provider during any dispute or disagreement with County shall entitle County to terminate the Agreement for cause.

In the event a dispute cannot be resolved amicably between the Contract Administrator and Provider, Parties shall promptly escalate the dispute to the County Administrator, whose resolution will be determinative on behalf of County. If Provider objects to the resolution by the County Administrator, or the County Administrator does not resolve within sixty (60) days of submission and the dispute remains outstanding, upon written demand by either party, the Parties shall participate in voluntary, nonbinding mediation. Neither party shall commence litigation prior to completion or impasse of mediation, which shall be conducted within sixty (60) day of demand by either party. The mediator shall be mutually agreed upon by the Parties and expenses shared by the Parties. Should any objection not be resolved in mediation, the Parties retain all their legal rights and remedies provided under the laws of the State of Florida. **A PARTY SPECIFICALLY WAIVES ALL OF ITS RIGHTS, INCLUDING, BUT NOT LIMITED TO, CLAIMS FOR DESIGN BUILD TIME AND DESIGN BUILD PRICE ADJUSTMENTS PROVIDED IN THE DESIGN BUILD CONTRACT DOCUMENTS, INCLUDING ITS RIGHTS AND REMEDIES UNDER STATE LAW, IF SAID PARTY FAILS TO COMPLY IN STRICT ACCORDANCE WITH THE REQUIREMENTS OF THIS ARTICLE.**

14.30 Counterparts. This Agreement may be executed in multiple originals, and may be executed in counterparts, each of which shall be deemed to be an original, but all of which, taken together, shall constitute one and the same agreement.

(The remainder of this page is intentionally left blank.)

IN WITNESS WHEREOF, the Parties hereto have made and executed this Agreement: BROWARD COUNTY through its BOARD OF COUNTY COMMISSIONERS, signing by and through its Mayor or Vice-Mayor, authorized to execute same by Board action on the 23rd day of May, 2017, and MOTOROLA SOLUTIONS, INC., signing by and through its Vice President, duly authorized to execute same.

COUNTY

ATTEST:

Broward County Administrator, as
Ex-officio Clerk of the Broward County
Board of County Commissioners

BROWARD COUNTY, by and through
its Board of County Commissioners

By: _____

23rd day of May, 2017

Approved as to form by
Joni Armstrong Coffey
Broward County Attorney
Governmental Center, Suite 423
115 South Andrews Avenue
Fort Lauderdale, Florida 33301
Telephone: (954) 357-7600
Telecopier: (954) 357-7641

By: _____ 5/16/17
René D. Harrod (Date)
Assistant County Attorney

Insurance requirements approved by
Broward County
Risk Management Division:

By: _____

Name: WAYNE FLETCHER

Title: RISK MANAGER

RDH
2017-05-01 Motorola P25 Agreement
05/01/17
#17-099.03

COUNTY COMMISSIONERS
CREATED
OCT 1st
1915
BROWARD COUNTY FLORIDA

PROVIDER

WITNESSES:

Signature

Daniel Kimpe

Print Name of Witness above

Signature

BUSTER LERNER

Print Name of Witness above

MOTOROLA SOLUTIONS, INC.

By: _____
Authorized Signor

Robert E. Marshall, Jr. - Vice President

Print Name and Title

15 day of May, 2017

ATTEST:

_____
Assistant Secretary or other person authorized to attest

(CORPORATE SEAL OR NOTARY)

APX 4000 SINGLE BAND PORTABLE RADIOS						
STANDARD RADIO BUNDLE: P25, TDMA, INTEGRATED VOICE & DATA, GPS, BLUETOOTH, WHIP ANTENNA, 1900MAH BATTERY, 3 YEAR WARRANTY						
MODEL	**DESCRIPTION**	**QTY**	**STD DISC%**	**LIST $**	**25% DISC $**	**40% DISC $**
H51UCF9PW6 N	**APX 4000 7/800 MHZ *MODEL 2* PORTABLE**	**1**	**25%**	**$3,988.00**	**$2,991.00**	**$2,392.80**
H51UCH9PW7 N	**APX 4000 7/800 MHZ *MODEL 3* PORTABLE**	**1**	**25%**	**$4,417.00**	**$3,312.75**	**$2,650.20**
OPTIONS(not limited to):		**QTY**	**STD DISC%**	**LIST $**	**25% DISC $**	**40% DISC $**
G996	ADD: PROGRAMMING OVER P25 (OTAP)	1	25%	$75.00	$56.25	$60.00
QA01767	ADD: P25 LINK LAYER AUTHENTICATION	1	25%	$75.00	$56.25	$60.00
QA03399	ADD: ENHANCED DATA	1	25%	$112.50	$84.38	$90.00
QA04447	ADD: APX GEOFENCE	1	25%	$112.50	$84.38	$90.00
QA09008	ADD: GROUP SERVICES	1	25%	$112.50	$84.38	$90.00
H04	ADD: TACTICAL REKEY WITH MULTIKEY	1	25%	$262.50	$196.88	$210.00
H869	ENH: MULTIKEY	1	25%	$247.50	$185.63	$198.00
Q629	ENH: AES ENCRYPTION	1	25%	$356.25	$267.19	$285.00
H499	ENH: SUBMERSIBLE (DELTA T)	1	25%	$187.50	$140.63	$150.00
QA04934	ALT: IMPRES LI-ION 2500MAH RUGGED UL BATTERY	1	25%	$37.50	$28.13	$30.00
QA02750	ALT: IMPRES LI-ION 2800MAH BATTERY	1	25%	$100.00	$75.00	$60.00
H885	ADD: 3 YEAR SERVICE FROM THE START	1	0%	$90.00	$67.50	$90.00
Q887	ADD: 5 YEAR SERVICE FROM THE START	1	0%	$162.00	$121.50	$162.00

Bay Harbor Islands Police Department

Interoffice Memorandum

To: Town Council

Date: May 17, 2022

From: Lindsley Noel
Deputy Chief of Police

Subject: Consideration and approval of a proposal from Motorola Solutions for Radio Communication System

On January 12, 2022, the Bay Harbor Islands Town Council approved agenda item #11 that was submitted by the Bay Harbor Islands Police Department. Agenda item # 11 was the proposal from Motorola Solutions for the Radio Communications System.

Consequently, the finance company (US Bank) terminated the lease agreement. The BHIPD is requesting approval for the Radio Communications System for a new lease agreement which will be executed with Motorola Solutions. The terms and pricing remain the same as the previously approved US Bank lease agreement.

Enclosed are the "piggyback contract" documentation, finance quote, lease agreement document and memorandum provided for further documentation and reference.

AGENDA ITEM REPORT
June 9, 2022

ITEM NUMBER: 3.

ITEM: Consideration and **Approval** of agreement with Miami-Dade County School Board for renewal of the Address Verification Program for School Year 22-23 at Ruth K. Broad elementary.

DESCRIPTION:
Renewal of agreement with Miami-Dade County School Board for the Address Verification Program for school year 22-23 at Ruth K. Broad elementary. This program ensures that the children that are in attendance at Ruth K. Broad meet the address requirements for attendance at this school. The town contributes a total of $10,000 that is applied toward funding the employment of a staff member at Ruth K. that conducts the address verification processes. Throughout the term of the school year, the School Board will provide our Town with reports of those students whose residence is within the Town and those students who are outside of the Town boundaries.

RECOMMENDED ACTION:
Approval

FINANCIAL ANALYSIS:
Total annual cost of the program for the Town is $10,000. This item has been consistently budgeted for the past years' budgets and unless directed otherwise, this item will be budgeted for FY 22-23.

BUDGET IMPACT:

Name	Impact Date	Fund(s)	Account(s)	Project #(s)	Amount Budgeted
Other Current Charges	06/09/2022	$10,000	001.5120.400049.000	Address Verification Porgram	$10,000

Submitted By: Jenice Rosado, Assistant Town Manager

ATTACHMENTS

1.	2022-23 Town of Bay Harbor Islands Address Verification Extension Amendment (5 2 22) (002)
2.	FULLY EXECUTED 2021-2022 BHI AVP - RUTH K BROAD

FIRST EXTENSION AMENDMENT
TO
PROGRAM GRANT AGREEMENT

FOR

TOWN OF BAY HARBOR ISLANDS ADDRESS VERIFICATION PLAN

The School Board of Miami-Dade County, Florida, and the Town of Bay Harbor Islands, as of the 2 day of May, 2022 hereby amend the referenced Program Grant Agreement for Address Verification Plan entered into as of the 1 day of July, 2021, by amending the following provisions as provided for herein:

A. Pursuant to Section 4. Effective Date and Term, the Parties agree to exercise the option to renew for an additional school year. The extension period shall be July 1, 2022 through and including June 30, 2023.

B. Town of Bay Harbor Islands shall pay The School Board of Miami-Dade County, FL, $10,000.00 for the 2022 – 2023 school year to fund a part-time Miami-Dade County Public Schools employee that will support the verification plan at Ruth K. Broad Bay Harbor Islands K-8 Center.

All other terms of the referenced Program Grant Agreement entered into as of the 1 day of July, 2021 shall remain in effect.

IN WITNESS WHEREOF, the Parties hereto have caused this First Extension Amendment to the Program Grant Agreement to be executed by their respective and duly authorized officers the day and year first above written.

[Signature page follows]

FIRST EXTENSION AMENDMENT

PROGRAM GRANT AGREEMENT

FOR

TOWN OF BAY HARBOR ISLANDS ADDRESS VERIFICATION PLAN

APPROVED AS TO FORM AND LEGAL SUFFICIENCY
(as to the School Board):

_____
School Board Attorney Date

SUBMITTED BY:

_____
Charge Location Administrator Date

_____
Office of Intergovernmental Affairs & Compliance Date

REVIEWED AND APPROVED AS TO RISK MANAGEMENT

_____
Risk Management Date

THE SCHOOL BOARD OF MIAMI-DADE COUNTY, FLORIDA

BY: _____
(Superintendent of Schools or Designee)

Date: _____

FIRST EXTENSION AMENDMENT

PROGRAM GRANT AGREEMENT

FOR

TOWN OF BAY HARBOR ISLANDS ADDRESS VERIFICATION PLAN

By: _____
Joshua D. Fuller
MAYOR

ATTEST:

_____
Alba L. Chang, TOWN CLERK

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY FOR THE
SOLE BENEFIT OF THE TOWN OF BAY HARBOR ISLANDS

_____
JOSEPH GELLER, ESQ., TOWN ATTORNEY

PROGRAM GRANT AGREEMENT

FOR

TOWN OF BAY HARBOR ISLANDS ADDRESS VERIFICATION PLAN

This Program Grant Agreement for the Town of Bay Harbor Islands Address Verification Plan ("Agreement") is entered into this _____ day of _____, 2021, by and between the Town of Bay Harbor Islands, a Florida municipal corporation ("Town") and the School Board of Miami-Dade County, Florida, a political subdivision of the State of Florida ("School Board")(The Town and School Board shall be collectively referred to as the "Parties" or, individually, as a "Party").

In Consideration of the mutual covenants and agreements herein contained, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged the Parties agree as follows:

Section 1. Implementation of Address Verification Plan

(a) The School Board and the Town agree that commencing July 1, 2021 and continuing during the Term, the Parties shall implement the Town of Bay Harbor Islands Address Verification Plan ("Plan") in accordance with School Board Policy 5112 for school year ending June 30, 2022, as set forth herein, and in Exhibit "A," hereto. Any amendments to the Plan must be agreed to in writing by the Parties. The funding amounts shall be finalized ninety (90) days prior to the commencement of a school year.

(b) The School Board agrees, subject to the availability of funding in Section 2, to hire one part-time clerical assistant at the Ruth K. Broad Bay Harbor K-8 Center (the "School") to administer the Plan commencing on July 1, 2021 at the schools. The job description for the position shall be substantially similar to the description attached hereto as Exhibit "D". The Plan shall apply to: 1) all children who seek to register as students at the School; 2) children who are already registered at the School; and 3) if the School Board receives information or learns of information that a child may have a Primary Residence (defined below) that is outside of the School's attendance boundaries ("Boundary"). (Each such child is referred to hereinafter as a "Student").

(c) Throughout the Term, the School Board shall provide the Town Manager with a report containing the number of Students enrolled in the School broken down by the aggregate number of Students by grade level whose Primary Residence (defined below) is inside and outside the Boundary, and number of approved- out of boundary students. The School Board shall provide monthly written reports to the Town regarding the progress and results of the implementation of the Plan. The Report shall break down the data for the School on the attendance boundary. The Parties agree that such reports and the activities related to this Agreement shall comply with the Federal Education Rights and Privacy Act (FERPA), 20 U.S.C. §1232g, the Florida Education Code, and School Board Policies and Procedures. School Board Policies and Procedures, including any updates, can be found online at http://www.neola.com/miamidade-fl/. The Parties hereto acknowledge and agree that student data will not be provided to the City. The written report(s) shall include the following information, if applicable (Exhibit "B"):

a. Number of letters mailed to students enrolled;
b. Number of letters returned after mailing;
c. Number of students residing outside the Boundary;
d. Number of transfer students;
e. Number of students transferred to their home school; and
f. Number of students granted an exemption to the Boundary requirements for the month.

(d) The Parties acknowledge and agree that the children of active military personnel who attend Miami-Dade County public school shall have equal priority, for enrollment purposes, with the Student's Primary Residence (defined below) is in the Boundary.

(e) For the purpose of this Agreement, the term Primary Residence shall mean "the home in which the Parent(s) (defined below) designate as their homestead or live with the Student a majority of the time during the School year. The term Parent(s) shall mean "either or both biological or adoptive parent(s) of the Student, the Student's legal guardian(s), or a person exercising supervisory authority over the Student in place of the Student's biological parent(s), pursuant to Section 1000.21(5), Florida Statutes (as amended)".

(f) By October 15 of every school year during the Term, address verification letters shall be mailed to all Parents by U.S. mail at the expense of the School Board. A sample address verification letter can be found under Exhibit "C".

Section 2. Funding

(a) The City agrees to provide $10,000.00 a year for the 2021-2022 school year and, the City will provide full funding for the Plan pursuant to the District's costs as determined by the School Board and agreed to by the City Commission, including, without limitation, compensation plus fringe benefits, not to exceed $10,000.00 as set forth in subsection (b), for the duration of this Agreement and for the duration of the Plan, defined herein as "Adequate Funding."

(b) The parties acknowledge that the average salary of the part-time assistant is approximately $15.00 per hour, with an anticipated workload of 25 hours per week. Payment will be made to the School Board within 30 days of the City receiving an invoice from the School Board, not to exceed $10,000.00 for the school year ending June 30, 2022. The School Board should invoice the City with the name of the part-time clerical assistant and the number of hours logged per month for the project. The final amount of the allotted funding is a maximum of $10,000.00, (inclusive of reimbursement for fringe benefits) for the school year, ending June 30, 2022 and will be transmitted to the School Board in a timely manner that will ensure that the part-time clerical assistant will receive their approved salary and fringe benefits. Clerical assistant job duties are set forth in Exhibit D.

(c) The parties hereto agree that the School Board shall have no financial obligation or liability in connection with the Plan. If the City Commission fails to allocate Adequate Funding for the Plan in any given fiscal year, the School Board shall have no obligation to carry out the Plan.

(d) The Town agrees to reimburse the School Board for the verification letters mailed

by priority mail with a tracking number. The School Board shall invoice the Town with the aggregate number of letters mailed and cost per mailing.

Section 3. Resolution of Disputes

If the Parties are unable to resolve any dispute in which there may be a disagreement concerning their respective rights, duties or responsibilities under this Agreement, the Parties will employ dispute resolution procedures pursuant to Chapter 164 or Chapter 186, Florida Statutes, as amended from time to time, or any other mutually acceptable means of alternative dispute resolution. Each Party shall bear their own attorneys' fees and costs.

Section 4. Effective Date and Term

This Agreement shall become effective upon execution by the School Board and the Town, ("Effective Date"), and shall remain in full force and effect for the duration of this Agreement terminating on June 30, 2022. This Agreement may be cancelled by either party provided that sixty (60) days' notice is provided. The School Board may terminate this agreement with thirty (30) days' notice if the Town fails to provide Funding. This Agreement may be extended upon the mutual consent of the Parties for an additional two (2) School years, on the same terms and conditions as provided herein, provided that the Party seeking an extension gives written notice to the other Party of such intent to extend no later than ninety (90) days prior to the expiration of the then current term, and the other Party agrees in writing to such extension. The Town's financial obligation shall end upon the termination of this Agreement. If the Town is required to make a lump sum payment to cover its financial obligation, the Town is entitled to a refund if the Agreement is terminated prior to the end of 2021-2022 School year. The funding for renewal periods shall be finalized ninety (90) days prior to commencement of a School year.

Section 5. Severability

If any item or provision of this Agreement is held invalid or unenforceable, the remainder of the Agreement shall not be affected and every other term and provision of this Agreement shall be deemed valid and enforceable to the extent permitted by law.

Section 6. Notice and General Condition

All notices which may be given pursuant to this Agreement, except notices for meetings provided for elsewhere in this Agreement, shall be in writing and shall be delivered by personal service or by certified mail return receipt requested addressed to the parties at their respective addresses indicated below or as the same may be changed in writing from time to time. Such notice shall be deemed given on the day on which personally served, or if by mail, on the fifth day after being posted or the date of actual receipt, whichever is earlier.

Maria Lasday
Town Manager
Town of Bay Harbor Islands
9665 Bay Harbor Terrace
Bay Harbor Islands, FL 33154
Phone: 305-866-6241

Fax: 305-866-4863

cc: Joseph Geller, Esq.
Town Attorney
Town of Bay Harbor Islands
9665 Bay Harbor Terrace
Miami, FL 33154
Phone: 305-866-6241
Email: joseph.geller@gmlaw.com

Superintendent
The School Board of Miami-Dade County, Florida
1450 N.E. 2nd Avenue, Room 912
Miami, Florida 33132

Copy to:
School Board Attorney
1450 N.E. 2nd Avenue, Room 430
Miami, Florida 33132
Phone: 305-995-1304
Fax: 305-995-1412

Title and Paragraph headings are for convenient reference and are not intended to confer any rights or obligations upon the parties to this Agreement.

Section 7. Merger Clause

This Agreement, together with the Exhibits hereto, sets forth the entire agreement between the Parties and there are no promises or understandings other than those stated therein. It is further agreed that no modification, amendment or alteration of this Agreement shall be effective unless contained in a written document executed with the same formality and of equal dignity herein. The Exhibits to this Agreement will be deemed to be incorporated by reference as though set forth in full herein. In the event of a conflict or inconsistency between the body of this Agreement and the provisions in the incorporated Exhibits, then the body of this Agreement shall prevail. Words defined in the body of this Agreement, shall have the same meaning in the Exhibits.

Section 8. Counterparts Clause

This Agreement may be executed in counterparts and shall constitute originals documents for all purposes.

Section 9. Assignment

Neither party hereto may assign this Agreement without the prior written consent of the other Party hereto.

Section 10. Governing Law; Compliance with Laws

This Agreement will be interpreted and enforced in accordance with Florida law. The

PROGRAM GRANT AGREEMENT
FOR
TOWN OF BAY HARBOR ISLANDS ADDRESS VERIFICATION PLAN

APPROVED AS TO FORM AND LEGAL SUFFICIENCY

(as to the School Board):

Digitally signed by Ailil Graupera
DN: cn=Ailil Graupera, o=School Board of Miami-Dade County, Florida, ou=SBAO, email=agraupera@dadeschools.net, c=US
Date: 2021.08.06 10:42:39 -04'00'

School Board Attorney Date

THE SCHOOL BOARD OF MIAMI-DADE COUNTY, FLORIDA

BY: _____

~~(Superintendent of Schools or~~ Designee)

Jaime G. Torrens

Date: 8/6/21

SUBMITTED BY:

7/30/21

Charge Location Administrator Date

Office of Intergovernmental Affairs & Compliance Date

Digitally signed by Jorge L. Davila
Location: Office of Risk and Benefits Management
Date: 2021.08.02 10:35:44 -04'00'

Risk Management Date

Parties agree that they shall comply with all applicable laws, ordinances and codes of all applicable governmental authorities. To the extent this Agreement conflicts with said laws, rules, ordinances or codes, said laws, rules, ordinances and codes shall prevail.

Section 11. Indemnification

Subject to the limitations of Florida Statute 768.28, the School Board agrees to indemnify and hold harmless the Town from and against any and all claims, suits, actions, damages, or causes of action arising out of the negligent acts of the School Board arising out of or in connection with the provisions of this Agreement. The School Board shall not be required to indemnify the Town for the Town's own negligence or intentional acts.

Subject to the limitations of Florida Statute 768.28, the Town agrees to indemnify and hold harmless the School Board from and against any and all claims, suits, actions, damages, or causes of action arising out of the negligent acts of the Town arising out of or in connection with the provisions of this Agreement. The Town shall not be required to indemnify the School Board for the School Board's own negligence or intentional acts.

Section 12. Enforcement of Agreement; Venue

In the event that either Party is required to enforce this Agreement by court proceedings or otherwise, then the Parties agree that each Party shall be responsible for all attorneys' fees and costs Venue shall be in Miami-Dade County, Florida.

Section 13. No Third Party Beneficiaries

This Agreement is solely for the benefit of the Board and the Town and no right or cause of action shall accrue upon or by reason, to or for the benefit of any third party not a formal party to this Agreement. Nothing in this Agreement expressed or implied is intended or shall be construed to confer upon any person or corporation other than the Board and The Town any right, remedy, or claim under or by reason of this Agreement or any of the provisions or conditions of this Agreement; and all of the provisions, representations, covenants, and conditions contained in this Agreement shall inure to the sole benefit of and shall be binding upon the Board and the Town, and their respective representatives, successors, and assigns.

IN WITNESS WHEREOF, this Agreement has been executed by and on behalf of the Town of Bay Harbor Islands and the School Board of Miami-Dade County, Florida, on this _____ day of _____, 2021.

PROGRAM GRANT AGREEMENT

FOR

TOWN OF BAY HARBOR ISLANDS ADDRESS VERIFICATION PLAN

By: _____
Joshua D. Fuller
MAYOR

ATTEST:

_____
Alba L. Chang, TOWN CLERK

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY FOR THE
SOLE BENEFIT OF THE TOWN OF BAY HARBOR ISLANDS
GREENSPOON MARDER, LLP

By: _____
JOSEPH GELLER, ESQ., TOWN
ATTORNEY

EXHIBIT "A"

Town of Bay Harbor Islands Address Verification Plan

Pursuant to School Board Policy 5112, the School Board shall verify the Primary Residence of all Students, except the School teachers' children, approved transfers, or Town employees approved pursuant to School Board Policy 5120 and 5131, through Welcome Letters, and Verification Letters.

Welcome Letters

On or before March 1, 2022 and each School year thereafter, the School Board shall send the welcome letter similar to the letter attached hereto as Exhibit "E" to all Parent(s) ("Welcome Letter"). In the event that a Welcome Letter is returned to the School Board or School as undelivered (a "Returned Letter"), the School Board shall send a Verification Letter (Exhibit "C") within fourteen (14) days of its receipt of a Returned Letter.

Verification Letters

In the event that the School Board or School receives a Returned Letter or other information that may lead to a reasonable suspicion that a Student does not have a Primary Residence within the Boundary, the School Board shall verify the Primary Residence by sending a letter similar to the letter attached to Exhibit C to all Parent(s) ("Verification Letter"). The Verification Letter shall request information to verify the Primary Residence pursuant to School Board Policy 5112. Response to the Verification Letter shall be due no later than 30 days from date of mailing. The Verification Letter(s) shall be mailed to the residence designated by the Parents. If the content of the Verification attached Letter is revised substantially, the School Board shall provide a copy to the Town before mailing for the Town's review. The Verification Letter shall be mailed by priority mail with a tracking number to the Parents at the expense of the Town.

Review of Verification Documents

The School Board shall review all verification documents provided by Parents to determine if Students are properly assigned to the School. Post Office boxes, private mail box addresses or commercial establishment addresses are not valid to prove Primary Residence. If a Parent provides a post office box, private mail box address or commercial establishment address, the proper Primary Residence verification documentation shall be requested.

Investigation of Primary Residence

The School Board shall investigate in all instances in which there is a reasonable suspicion that a Student does not have a Primary Residence within the Boundary. Such a reasonable suspicion may be prompted by return, as undeliverable, of the Welcome Letter or Verification Letter, unique feeder patterns based upon previous school attendance, search of property appraiser records, or other information provided by the Town or the residents of the Town.

Reasonable suspicion shall not be based on actual or perceived race, color, religion, national origin, or immigration status. The School Board shall verify addresses by ~~by the Software~~, telephone calls to Parent(s) or house visits. The telephone calls or house visits shall commence no later than two (2) weeks from the deadline to respond to the Verification Letter. On an as needed basis, the School Board may utilize a School Resource Officer to conduct house visit(s) to gain access to multi-family buildings.

Withdrawal of Violators

If the Parent(s) cannot prove that they have a Primary Residence within the Boundary and if no valid School Board exception applies, the School Board shall follow School District protocol to withdraw the Student and refer the Student back to the Student's home school. Each transfer request will be reviewed on a case by case basis and the determination will be based on the hardship and in the best interest of the Student.

EXHIBIT "B"

TOWN OF BAY HARBOR ISLANDS MONTHLY SUMMARY DATA LOG

Ruth K. Broad Bay Harbor K-8									
Monthly Summary Data Log									
	Welcome Letters		Verification Letters		# of Home Visits	# of Students Residing Outside Boundaries	# of Transfer Students	# of Students Transferred to Home School	# of Students Granted Exemption to Boundary Requirements
	Mailed	Returned	Mailed	Returned					
MONTHLY TOTAL:	-	-	-	-		-	-	-	-
CUMMULATIVE TOTAL:	-	-	-	-		-	-	-	-

Exhibit "C"
(Sample Verification Letter)

Date:_____

Dear Parent(s):

In a joint effort between the Town of Bay Harbor Islands and The School Board of Miami-Dade County, Florida, Ruth Broad/Bay Harbor K-8 Center is now conducting address verification meetings for each of the students enrolled at the school. It is imperative that you adhere to the schedule below and come to school with the required documents. Failure to comply with this request may place your child's enrollment at the school in jeopardy. School Board Policy 5112 Entrance Requirements requires the following verification:

Verification of Residence

Verification of a parent's residence via a Statement of Bonafide Residence - FM-7444 shall be required at the time the child registers in a District school. Verification of residence may also be required at any other time at the discretion of the Superintendent. The student shall reside with the parent placing the student in the attendance area of the school.

In addition, submission of two (2) of the following items are required:

A. broker's or attorney's statement of parents' purchase of residence, or properly executed lease agreement;

B. current Homestead Exemption card;

C. electric deposit payment receipt or electric bill, bottom portion, showing name and service address.

If verification is not provided or acceptable, the Superintendent may verify the student's residence.

If an electric deposit payment receipt is used as verification, the electric bill, bottom portion, must also be provided.

Anyone who knowingly makes a false statement in writing with the intent to mislead a public servant in the performance of his/her official duty is guilty of a second-degree misdemeanor of the second degree under F.S. 837.06. In addition, anyone who knowingly makes a false verified declaration is guilty of perjury, a third-degree felony under F.S. 95.525.

You have been scheduled for address verification during the week of _____

Please bring the following **original** and **current** documents to Ruth Broad/Bay Harbor K-8 Center office between 8:00 a.m. – 3:30 p.m. any day during this week.

Your documents will be reviewed and copied by the address verification designee. If the appropriate documents verifying your address are not provided, your child may be withdrawn from this school.

Documents will not be accepted from students. If you have any questions, please contact NAME _____ at 305 865-7912.

Thank you for your continued support and understanding concerning this matter.

Sincerely,

Principal

_____

EXHIBIT "D"

Clerical Job Description

BAY HARBOR ISLANDS ADDRESS VERIFICATION

1. Conduct current student address verification
2. Maintain a log/spreadsheet tracking student being verified and at what point in the process they are.
a. Verification is requested from parent, if not provided
b. Parent is contacted and verification is requested with a due date, if not provided
c. Conduct physical address verification, as appropriate
d. Monthly reporting of numbers of contacts
e. Verification of address through the use of miamidade.gov to verify Homestead Exemption Status
3. Assist with parent/student communication in writing and by phone

EXHIBIT "E"

(Sample Welcome Letter)

March 20, 2022

Via First Class U.S. Mail

Dear Bobcats,

It is hard to believe that we have already reached the end of the first marking period of the 2021-2022 school year! We are well on our way to a spectacular year full of achievements and accomplishments! I am so happy to be part of this dynamic, successful school community and appreciate the warm welcome, as I begin my first year as a Bobcat.

First and foremost, **CONGRATULATIONS** to every Bobcat for complete dedication to their academic courses of study, devotion to caring about each other and commitment to being the best students and human beings! For the 18th consecutive year, Bobcats rate at the top of the academic scale as they achieve another **"A+"** from the State of Florida Department of Education!!! This accomplishment proves that our entire community, with the guidance of our teachers, administration, and staff, support from parents and community organizations has and will continue to move us forward as we strive to assist all students to reach their full academic potential, through rigorous instruction and a student-centered classroom environment.

Our commitment is to provide the necessary tools for each of our students to learn academically, grow emotionally, and become self-confident with whom they are and the actions and decisions they make as they relate with the world around them. We promise to set high standards, challenge and motivate our students to put forth maximum effort and reach their personal and school wide goals.

We expect every Bobcat to show honesty, respect, responsibility, fairness, caring, and citizenship. We will model the same characteristics daily and together we will empower ourselves to make Ruth K. Broad Bay Harbor K-8 Center the absolute best school in the universe! We are committed to our "Start with Hello" program and promise to do whatever it takes to teach proper communication, patience, and tolerance.

I am very grateful to all our families, community partners, PTA, Shepard Broad Foundation, the Town of Bay Harbor Islands, Village of Bal Harbour, and the Town of Surfside for all your continuous support of our children. A special "Thank You" goes out to our PTA, which coordinated a very successful booster-thon campaign, which will assist in enhancing the campus and repair items lost to Hurricane Irma. I thank those that are PTA members and encourage all families to join. We are blessed for all the tender loving care we receive on a daily basis. We ask you to once again be part of the winning combination we proudly call our Bobcat Family!

Lastly, enclosed please find the recently approved revised calendar for this school year.

Sincerely,

Scott Saperstein
Principal

AGENDA ITEM REPORT
June 9, 2022

ITEM NUMBER: 4.

ITEM: Consideration and **Approval** of a Resolution authorizing the Town Manager to enter into an Interlocal Agreement with Miami-Dade County for On-Demand Services.

DESCRIPTION:
Resolution Authorizing the Town Manager to enter into an Interlocal Agreement with Miami Dade County for On-Demand Services. The Town of Bay Harbor Islands desires to continue providing greater mobility for members of the public by providing different transit options, including On-Demand transportation services. The Town Manager is seeking direction and authorization from the Town Council as to their desire to proceed with this initiative. The Town Manager seeks approval for the attached Resolution and approval, in substantial format, of the Interlocal Agreement with Miami-Dade County for On-Demand services (attached).

RECOMMENDED ACTION:

FINANCIAL ANALYSIS:

BUDGET IMPACT:

Submitted By: Jenice Rosado, Assistant Town Manager

ATTACHMENTS

1.	Resolution Approving On-Demand Transportation Interlocal Agreement
2.	Interlocal ILA template On Demand V1 complies with 18120 Bay Harbour Islands (002)

RESOLUTION NO. _____

A RESOLUTION OF THE MAYOR AND TOWN COUNCIL OF THE TOWN OF BAY HARBOR ISLANDS, FLORIDA, APPROVING AN INTERLOCAL AGREEMENT WITH MIAMI-DADE COUNTY FOR ON-DEMAND TRANSPORTATION SERVICES; PROVIDING FOR AUTHORIZATION; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town of Bay Harbor Islands ("Town") and Miami-Dade County ("County") desire to continue providing greater mobility for members of the public by providing different transit options including on-demand transportation services; and

WHEREAS, in 2021 the Town Council accepted an award of the State of Florida Department of Transportation for Grant funds ("Grant") in the maximum amount of $150,000 expiring on December 31, 2022 with a dollar-for-dollar match of Town funds, to be used for the provision of On-Demand transit services; and

WHEREAS, the On-Demand Transportation Services provide Town residents with door-to-door public transit services within the geo-fence established by the Town on Monday through Friday from 8:00 a.m. to 6:00 p.m.; and

WHEREAS, the Town has competitively procured an On-Demand transportation service provider, Beefree, LLC dba "Freebee" to provide this service for the Town; and

WHEREAS, the Town Council wishes to authorize the Town Manager to enter into an Interlocal Agreement with the County, in substantially the form attached hereto as Exhibit "A," for the provision of County on-demand transportation services; and

WHEREAS, the Town Council finds that this Resolution is in the best interest and welfare of the residents of the Town; and

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

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

Section 2. Approval. The Town Council hereby approves the Interlocal Agreement, in substantially the form attached hereto as Exhibit "A."

Section 3. Authorization. The Town Council hereby authorizes the Town Manager to enter into the Interlocal Agreement, in substantially the form attached hereto as Exhibit "A," subject to the Town Attorney's approval as to form, content and legal sufficiency. The Town Manager is further authorized to execute any and all documents necessary to implement the intent and purposes of this Resolution.

Section 4. Effective Date. This Resolution will become effective upon adoption.

PASSED AND ADOPTED this 9th day of June 2022.

_____
MAYOR JOSHUA FULLER

ATTEST:

_____
YVONNE P. HAMILTON, CMC
ACTING TOWN CLERK

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

_____
TOWN ATTORNEY
JOSEPH S. GELLER
BY: GREENSPOON MARDER LLP

Interlocal Agreement Between
Miami-Dade County and the Town of Bay Harbor Islands
For the Provision of SMART Plan Demonstration Projects
On-Demand Public Transportation Services

This is an Interlocal Agreement, made and entered into by and between Miami-Dade County, a political subdivision of the State of Florida, hereinafter referred to as "the County" and the Town of Bay Harbor Islands, a municipal corporation of the State of Florida, hereinafter referred to as "the Town".

WITNESSETH:

WHEREAS, residents of Town of Bay Harbor Islands wish to enhance their transit mobility, and the operation of a municipal on demand service provides the opportunity of transit to match the travel needs of the Bay Harbor Islands residents while improving first and last mile connectivity; and,

WHEREAS, the provision of on-demand services achieves the need for new technological and mobility solutions by County; and

WHEREAS, the provision of a balanced, multimodal transportation network that will connect existing Miami-Dade Department of Transportation and Public Works (DTPW) services and helps increase the use of services provided by DTPW; and

WHEREAS, the Town has sponsored and is willing to provide an alternative form of supplemental public transit throughout the Town and has secured and obligated the necessary funds to provide;

NOW THEREFORE,

IN CONSIDERATION of the mutual terms, conditions, promises, covenants and payments hereinafter set forth, the County and the Town agree as follows:

ARTICLE 1

DEFINITIONS

1.1 "ADA" shall mean the Americans with Disabilities Act of 1990, as amended

1.2 "Contractor" shall mean any entity, public or private providing public On-demand services as described in this Agreement under contract to the Town.

1.3 "The County" shall include Miami-Dade County, the Miami-Dade Department of Transportation and Public Works Miami-Dade. Consumer Services Department, and authorized representatives thereof.

1.4 "The Town" shall mean Town of Bay Harbor Islands and authorized representatives thereof.

1.5 "FDOT" shall mean the Florida Department of Transportation and authorized.

1.6 "DTPW" shall mean the Miami-Dade Department of Transportation and Public Works and authorized representatives thereof.

1.7 "U.S. D.O.T." shall refer to the U.S. Department of Transportation, its rules and regulations and representatives thereof.

1.8 "FTA" shall mean the Federal Transit Administration, its rules and regulations, and representatives thereof.

1.9" CSD" shall mean the Consumer Services Division of Miami-Dade County

1.10 "PTRD" shall refer to the Passenger Transportation Regulatory division of DTPW.

1.11 "Federal Reporting Requirements" shall mean those requirements referenced in 49 CFR Section 5335(a), as may be amended from time to time, and found in the National Transit Database Reporting Manual published by the FTA.

1.12 "Fares" for the on-demand service shall mean individual transportation fees paid by public transit passengers in accordance with a schedule of fares adopted by County Ordinance. “On-demand” section 29-124 of the Code of Miami-Dade County provides that municipalities of may fund on-demand transportation services as defined in the section 212.055(1) (e), Florida Statues.

1.13 "STS", Special Transportation Service, is the component of the conventional transit system designed to provide comparable On-Demand service to disabled individuals as mandated in the ADA.

1.14 “On-demand”, shall mean flexible routing with dynamic dispatching.

ARTICLE 2

GENERAL REQUIREMENTS

2.1 Compliance with Applicable Laws and Regulations. The Town and its contractors, if any, shall comply with all existing and future laws, statutes, ordinances, codes, rules, regulations and procedural requirements, whether federal, state, or local, which are applicable to or in any manner affect, the provision of Town of Bay Harbor Islands On-demand Services. The Town shall be responsible for requiring compliance of its employees, contractors, agents, or assigns with all applicable county, state and federal requirements, including, but not limited to, all safety, mechanical, and vehicular standards mandated by DTPW and CSD. The Town shall be responsible for obtaining copies of the appropriate laws, regulations, ordinances, and documents and complying therewith.

2.2 The County Regulatory Requirements. Prior to the commencement of the on-demand service under this Agreement, the Town and/or its contractors, if any, shall have current and valid certificates of transportation, permits, and chauffeur registrations as required by Chapter 31 of the Code of Miami-Dade County. The Town and its contractors shall maintain such certificates, registrations and permits current during the Period of this Agreement. In no event shall the Town or any of its contractors provide any transportation services contemplated by this Agreement until any and all County regulatory requirements are satisfied.

2.3 Vehicle Licensing. All vehicles utilized to provide transportation services shall at all times be properly licensed and permitted in accordance with applicable federal, state and county requirements. Vehicle operators shall comply with all safety, mechanical and vehicular standards mandated by any applicable county, state and federal requirements including, but not limited to, all safety, mechanical and vehicular standards mandated by DTPW and CSD.

2.4 Vehicle Standards. Vehicles shall comply with all of the Requirements contained in Chapter 30 and 31 of the Code of Miami-Dade County, pertinent state statutes and other directives as may be prescribed and required by CSD or DTPW. All vehicles utilized to provide transportation services authorized by this Agreement shall at all times display a current and valid county permit and shall comply with safety, mechanical and vehicular requirements mandated by applicable county, state or federal requirements, including ADA.

2.5 Chauffeur Requirements. Vehicle chauffeurs shall at all times have a current and valid county chauffeur's registration, vehicle chauffeurs shall also comply with any safety, mechanical and vehicle standards mandated by applicable county, state and federal requirements and as may be prescribed and required by CSD or DTPW.

2.6 Proof of Compliance Prior to Operation. The Town and/or its contractors, if any shall provide the County with proof of compliance with licensure, insurance and any other requirements mandated by the Code of Miami-Dade County, state statute or federal law prior to commencement of the on-demand service.

2.7 Purchase of Services/Sole Responsibility. The parties agree that this Agreement is a contract for the provision of transportation services provided by the Town for the benefit of citizens of Town of Bay Harbor Islands and of the County. Town employees, agents and contractors providing transportation services shall be considered to be, at all times, solely employees, agents or contractors of the Town under its sole direction and not employees, agents or contractors of the County.

2.8 Compliance with ADA. The Town's on-demand services shall comply with all applicable requirements of the ADA. The Town and the County recognize their joint obligation to provide STS in the area served by the Town's on-demand service. In fulfillment of the Town's obligation, the Town hereby allows the County to provide STS Service at no cost to the Town. To the extent that any terms in the Agreement are in conflict with ADA, the requirements of the ADA shall control.

2.9 Compliance with Procurement Requirements. The Town agrees to comply with applicable federal and state procurement requirements, as may be amended from time to time, when entering into contracts with third parties to fulfill the obligations under this Agreement.

2.10 County's Right to Submit Proposals and Bids. The County shall be given the opportunity to bid upon any Requests for Proposals, Requests for Qualifications, or Requests for bids which the Town shall be considered, along with private contractors, for provision of services to be provided by the Town pursuant to this Agreement.

2.11 Drug-free Workplace and Testing. In accordance with the Code of Miami-Dade County, the Town shall certify that it will have dug-free workplace program. Further, the Town shall require pre-employment drug testing and other periodic drug testing for all persons holding safety-sensitive positions, as defined by U.S. D.O.T., related to transit operation. Effective upon execution of the Agreement, the Town shall require that its employees or contractor if applicable, comply with all applicable requirements of the U.S. D.O.T. regulations for drug and alcohol testing. To the extent that any terms in this Agreement are inconsistent with the U.S. D.O.T. regulation, the requirements of the U.S. D.O.T. shall control.

2.12 Town Representative. The Town shall designate individual(s) to act as liaison to the County and notify the County thereof. The Town shall promptly notify the County of any changes.

2.13 County Representative. The County shall designate individual(s) to act as liaison to the Town and notify the Town thereof. The County shall promptly notify the Town of any changes.

2.14 Amendments or modifications. Unless provided otherwise elsewhere in this Agreement, amendments and modifications to this Agreement must be in writing and shall require the signatures of the County Mayor or designee and the Mayor of the Town, or their designees, subject to authorization by their respective Boards. Notwithstanding the foregoing, amendments to this Agreement regarding alignments, schedules, and fares, as described in Section 2-150 (c) of the Miami-Dade County Code, may be approved by the County Mayor or designee and the Bay Harbor Islands Town Manager or their designees.

ARTICLE 3

TOWN OF BAY HARBOR ISLANDS TRANSPORTATION SERVICES

3.1 Provision of Town On-Demand. The Town shall provide public transportation service within the Town of Bay Harbor Islands as contained in Figure 1 (service area map) and span of service schedule contained in Figure 2, copies of which are attached. Figure 2(a) a description of any area within the municipal boundaries not being serviced by the municipal transit services changes to Figures 1 – 2a shall be consistent with Chapter 31 of the Code of Miami-Dade County and be effective only upon the written consent of the County Mayor or designee and the Bay Harbor Islands Town Manager or designee. The following steps must be performed, during the planning phase, if the Town decides to change the service: 1) advertise a notice of public hearing in English and Spanish; and 2) conduct a minimum of one public hearing that gives the community an opportunity to voice their opinion concerning the change. The Town must present proof to Miami-Dade County that the two steps previously mentioned were done before the ~~route~~ change is implemented.

In addition, the Town must notify Miami-Dade County under the following circumstances:

1) Prior to raising fares;

2) If the Town decides to site or locate a vehicle storage facility, maintenance facility or operations center which requires land acquisition or the displacement of persons from their residences and businesses for which a National Environmental Policy Act (NEPA) process has not been completed (NOTE: A facility does not include bus shelters, transit stations or power substations);

3) Prior to the submission of the Town's Title VI Plan, the Public Participation Plan must be reviewed and approved by Miami-Dade County Office of Civil Rights and Labor Relations for the Department of Transportation and Public Works. The plan must include an outreach plan to engage the Town's pre-determine traditionally underserved community; or

4) Prior to conducting either an Environmental Assessment (EA) or an Environmental Impact Statement (EIS) for new projects.

If in the event the Town, after the effective date of this Interlocal Agreement, should place for bid or solicitation for services described herein the Town shall give Miami-Dade County the opportunity to submit a bid or proposal to provide that transportation service.

3.1.5 Miscellaneous. The Town or Town's Contractor shall provide adequate customer service training to its employees. Drivers, dispatchers and supervisors shall be subject to a training program inclusive of the recommended practices established by the American Public Transportation Association (APTA) in documents BTS-BO-RP-001-07 and BTS-BO-RP 0002-07 (copies have previously been provided to the Town).

3.2 Fares. The Town shall operate the On-Demand charging an On-Demand fare in accordance with public transit fares established by the Town of Bay Harbor Islands Commission, as may be modified from time to time. Initially no fare shall be collected until

such a time as the Town of Bay Harbor Islands Commission enacts an Ordnance with an alternative fare structure.

If an alternate fare structure is enacted, the Town shall accept all DTPW passes, transfers, or identification entitling a passenger to ride an on-demand without paying any additional fare. Qualified passengers shall pay no fare. DTPW Easy Cards and Tickets, or identification entitling a passenger shall be accepted to enable passengers to ride the on-demand without paying an additional fare.

3.3 Connection and Coordination with County Bus Routes. The On-demand shall connect with regular County Metro routes at points where the routes, intersect, merge or diverge.

3.4 Operation of Routes in Their Entirety. The Town shall be responsible for ensuring that On-demand service is operated in their entirety with no deviation from the approved areas and span of service unless otherwise authorized by the County.

3.5 Use of Logo. The Town may wish to design a logo uniquely identifying its on-demand service. If they do so, such logo shall at all times be displayed on the exterior of all vehicles operation pursuant to this Agreement.

3.6 Non-Interference and Non-Disturbance. The County and the Town hereby mutually agree not to interfere with or unreasonably impede the free flow of pedestrian movement or of each other's public transit vehicular traffic or passengers accessing or egressing Metrobus or Bay Harbor Islands On-Demand in-service vehicles.

ARTICLE 4

RECORDS AND REPORTS

4.1 Reporting Requirements. The Town shall collect or assure the collection of all information required for Federal and State reporting purposes and shall provide collected and compiled information to the County no less often than quarterly. Town shall submit ridership reports as needed to CITT. The Town shall annually prepare and submit to the County a copy of said reports no later than ninety (90) days after the close of the County's fiscal year.

4.2 Additional Information. The Town shall provide to the County on a quarterly basis the municipal daily transit ridership data for both circulator and on-demand services to the DPTW Office of Performance Improvement (or successors) and any additional information about the Town On-Demand service operations as requested by the County within thirty (30) days, unless a different time period is agreed upon by the Town and the County.

4.3 Real Time Data. Town shall provide to the County the municipality's real time circulator service route information in a format approved by the Department of Transportation and Public Works, or its successor department, such as provided by a Global Positioning System, and which is compatible with, and may be integrated into, the County's smartphone transit tracker application and common third-party applications.

ARTICLE 5

INSURANCE

The parties hereto acknowledge the Town is self-insured governmental entity subject to the limitations of Section 768.28, F.S. The Town shall institute and maintain a fiscally sound and prudent risk management program with regard to its obligations under this Agreement in accordance with the provision of Section 768.28, F.S. The Town shall collect and keep on file documentation of insurance of any and all private providers operating in the Town of Bay Harbor Islands On-Demand service ~~routes~~. In the event that the Town contracts with a private vendor for services, the Town shall require contractor to meet the insurance requirements shown in **Figure 1**, as minimum. The Town shall further require the private operator to include the County as a named insured and shall provide the County with a copy of the insurance policy purchased by any contractor prior to the provision of on-demand service operations.

Figure 1
Insurance Check List

1. Worker's Compensation and Employer's Liability per the statutory limits of the state of Florida.

2. Commercial General liability (occurrence form), limits of liability $1,000,000 per occurrence for bodily injury property damage to include premises/ operations, products and completed operations; independent Contractors; broad form property damage endorsement and contractual indemnity (hold harmless endorsement exactly as written in "Insurance requirements" of specifications).

3. Automobile Liability- $ 1,000,000 each occurrence owned/non-owned/ hired automobiles included.

4. Excess Liability- $_____.00 per occurrence to follow the primary coverage.

5. The Town must be named as an additional insured on the liability policies and it must be named as an additional insured on the liability policies; and it must be stated on the certificate.

6. Other Insurance as indicated:

_____Builders Risk completed value	$_____
_____Liquor liability	$_____
_____Fire legal liability	$_____
_____Protection and indemnity	$_____
_____Employee dishonesty bond	$_____
___X__Other blanket fidelity bond	$_____10,000.00

7. Thirty days written cancellation notice required

8. Best's guide rating B+: VI or better, latest edition.

9. The certificate must state the bid number and title.

ARTICLE 6

INDEMNIFICATION

6.1 The Town and, its contractors, officers, agents, and employees, shall to the extent permitted by law at all-time hereafter, indemnify and hold harmless the County, and its officers, agents, employees and instrumentalities from any and all liability, claims, losses and causes of action, including attorneys' fees and costs of defense which the County or its officers, employees, agents or instrumentalities may incur as a result of claims, demands suits, causes of actions or proceedings of any kinds or nature arising out of, or relating to or resulting from the negligence of the Town and/or its officers, employees, agents or instrumentalities, during the term of this Agreement. The Town shall resolve all claims and losses in connection therewith, and shall investigate and defend all claims, suits or actions of any kind or nature in the name of the County, where applicable, including appellate proceedings, and shall pay all costs, judgments and reasonable attorneys' fees which may issue thereon. The Town expressly understands and agrees that any insurance protection required by this Agreement or otherwise provided by the Town shall in no way limit the responsibility to indemnify, keep and save harmless and defend the County or its officers, employees, agents or instrumentalities as herein provided. Nothing herein shall be deemed to indemnify the County from any liability or claim arising out of the negligent performance or failure of performance of the County, its officers, employees, agents or instrumentalities or any other related third party. This paragraph is subject to the limitations of Section 768.28, F.S.

6.2 The County shall, to the extent permitted by law at all times hereafter, indemnify and hold harmless the Town, and its officers, agents, employees and instrumentalities from any and all liability, claims, losses, and causes of action, including attorneys' fees and costs of defense which the Town or its officers, employees, agents or instrumentalities may incur as a result of claims, demands, suits, causes, of actions or proceedings of any kind or nature arising out of, or relating to or resulting from the negligence of the County and/or its officers, employees, agents or instrumentalities, during the term of this agreement. The County shall pay all claims and losses in connections therewith, and shall investigate and defend all claims, suits or actions of any kind or nature in the name of the Town, where applicable, including appellate proceedings, and shall pay all costs, judgments and reasonable attorney's fees which may issue thereon. The County expressly understands and agrees that any insurance protection required by this Agreement or otherwise provided by the County shall in no way limit the responsibility to indemnify, keep and save harmless and defend the Town or its officers, employees, agents or instrumentalities as herein provided. Nothing herein shall be deemed to indemnify the Town from any liability or claim arising out of the negligent performance or failure of performance of the Town, its officers, employees, agents or instrumentalities or any other related third party. This paragraph is subject to the limitations of Section 768.28, F.S.

6.3 In the event the Town contracts for transportation services authorized by this Agreement, the contractor shall, in its contract with the Town, be required to indemnify and hold harmless the County, and its officers, agents employees and instrumentalities from any and all liability, claims, liabilities, losses, and causes of action, including reasonable attorneys' fees and cost of defense which the County, the Town or their officers, employees, agents and instrumentalities may incur as a result of claims, demands, suits, causes of actions or proceedings of any kind or nature arising out of, or relating to or resulting from the provision of transportation services by the contractor and/or its officers, employees, agents or independent contractors. The contractor shall be required to pay all claims and losses in connection therewith, and shall investigate and defend all claims, suits or actions of any kind or nature in the name of the County and Town, where applicable, including appellate proceedings, and shall pay all costs, judgments and attorneys' fees which may issue thereon. The Town shall require that the contract between and Town and the contractor include a provision which states that the contractor expressly understands and agrees that any insurance protection required by this agreement or otherwise provided by the contractor shall in no way limit the responsibility to indemnify, keep and save harmless and defend the County and the Town or their officers, employees, agents or instrumentalities as herein provided. Nothing herein shall be deemed to indemnify the County and the Town from any liability or claim arising out of the negligent performance of the County and the Town, their officers, employees, agents or instrumentalities or any other related third party.

ARTICLE 7

FINANCIAL ASSISTANCE

7.1 Grant Matching Funds. The Town may, at its sole option, provide grant-matching funds for state and/or federal grants for capital or operating funds to be used for the Transportation Services.

The County shall notify the Town of any increase in operating cost a minimum of (six months in advance).

It is the sole responsibility of the Town of Bay Harbor Islands to determine the source and dollar amount per source of funds to comprise the total contribution to the County for the provision of the Bay Harbor Islands Circulator services as required in this agreement.

7.2 In the event the County seeks federal or state funds and a condition of receipt of said funds is the provision of operating statistics for the National Transit Database, County may require Town to maintain and provide the necessary data. Town's Share of supplemental Federal Funding. Beginning with the first year in which the On-demand service's operating statistics are reflected in the National Transit Database, where those operating statistics result in new or supplemental funds are solely attributable to the On-demand service's properly reported operations, the County agrees to pay the Town its attributable share of federal formula funds received from US D.O.T. no less than sixty (60) days after funding is received from the federal government, less any direct grants received by the Town from the County for the On-demand, provided that the funds remitted to the Town herein shall be used for the expansion, enhancement or maintenance of the On-demand service program.

As used herein, the Town's attributable share shall be one half of the amount equivalent to those Supplemental Urbanized Area Formula Funds, as described in 49 U.S.C, Section 5307, as may be amended from time to time, that the County received as a direct result of On-Demand serve operations provided by the Town pursuant to this Agreement and as included in the National Transit Database. Said attributable share shall be calculated utilizing the following formula:

Multiply by .5 the Town's properly reported annualized Bus Revenue Vehicle Miles statistic that was used in the apportioned federal programs for a fiscal year "Unit Value for Bus Vehicle Miles for Urbanized Areas over 1,000,000" as reported in the table of Unit Values for Formula Grant Apportionments, published annually in the Federal Register.

NOTE: Historically, apportioned funds are allocated to the County two (2) years after Bus Revenue Vehicle Miles are reported to federal government.

7.4 Town's Share of Supplemental State Funding. In the event that the on-demand operations contribute to an increase in the County's State transportation funding, beginning with the first year in which service is reflected in State's reporting system, the County agrees to pay the Town its attributable share (one half of the supplemental funding), as defined in paragraph 7.3 above, of new or supplemental state Transportation Block Grant funding received by the County from F.D.O.T. no less than sixty (60) days after funding is received from the State less any direct grants received by the Town from the County for the on-demand. The State funding formula can be found at Section 341.052(6), F.S.

7.5 Comparable Agreements. In the event that the County enters into an Interlocal Agreement with any other municipality for on-demand services which are comparable to the services provided herein, County may agree to amend this Agreement, if requested by the Town, to provide substantially equivalent favorable terms to the Town as those provided in such other County/ Municipal Interlocal Agreements.

ARTICLE 8

TERMS, MODIFICATIONS AND MISCELLANEOUS PROVISIONS

8.1 Terms of Agreement. This Agreement shall commence upon approval of the board of County Commissioners and the Town of Bay Harbor Islands Commission and the execution by the County Mayor or designee, Mayor of the Town, or designee, and shall remain in force for five years thereafter. This Agreement is subject to two five-year automatic option to renew under the same contract terms and conditions, all parties have the right to terminate (see 8.4 and 8.5).

8.2 Renegotiation or Modification. Any substantive changes in the level of service to be provided by the Town as set forth herein shall only be implemented after the County, the Town have entered into a written agreement describing the changed services, and the provisions of the County Code have been exercised.

8.3 Title VI and VII Civil Rights Act of 1964. The Town and its Contractors shall not discriminate against any person because of race, color, sex, religious background, ancestry or national origin in the performance of the Agreement. The Town and its Contractor agree to comply with any portion of the Title VI and VII of the Civil Rights Act of 1964 applicable to the operation of this route.

8.35 Americans with Disabilities Act (ADA) Title II of 1990.
The Town, and its Contractors shall not discriminate against any person because of race, sex, religious background, ancestry, national origin or disability in the performance of the Agreement. The Town and its contractors agree to comply with all parts of the ADA Title II applicable to the operation of this route. Furthermore, the Town, prior to putting into place and operating this route, shall provide the following evidence to the County of compliance with Tittle II of the ADA as mandated by the Code of Federal Regulations Title 49 Parts 27.13 and 27.15:

1. The name and contact information of the Town's ADA Coordinator.
2. Evidence of ADA notice posted in an accessible format on the Town's website.
3. The ADA notice shall be comprised of the following:
    a. Notice of nondiscrimination on the basis of disability (see Appendix X for sample),
    b. ADA grievance procedure.
    c. An online contact form if applicable.
    d. Accessible contact information of the designated ADA Coordinator, including phone number and email address.

8.4 Termination for Cause. This Agreement may be terminated for cause by either party upon no less than thirty (30) days written notice to the other party, except when on-demand operations are in violation of health and/or safety-related provisions of state statutes or the Code of Miami-Dade County, in which case termination shall be determined by the County Mayor or designee. Said notice shall be delivered by verified facsimile transmission or certified mail, return receipt requested. The noticed party shall have the opportunity to cure any stated cause for termination within a reasonable notice period, in which case the

termination party may cancel the termination notice using the same means by which the notice of termination was delivered.

8.5 Termination without Cause. The County or the Town may terminate this Agreement without cause upon no less than sixty (60) days written notice to the other party. If the County or the Town terminates this Agreement with or without cause, the Town agrees to reimburse the County on a prorated basis for any financial assistance it has received for the On-Demand bus service for the year.

8.6 Notices. All notices and other communications required to be remitted pursuant to this Agreement to either party hereto shall be in writing and shall be delivered by verified facsimile transmission or certified mail, return receipt requested, to the parties at the address indicated below:

FOR MIAMI-DADE COUNTY:

Miami-Dade Department of Transportation and Public Works
701 NW 1st Court
Miami, Florida 33136
Attention: Director, Miami-Dade Department of Transportation and Public Works
Fax: (786) 469-5406

FOR TOWN OF BAY HARBOR ISLANDS

Town of Bay Harbor Islands
9665 Bay Harbor Terrace
Bay Harbor Islands, Florida 33154
Town Hall: (305) 866-6241 Monday - Friday 9am to 5pm

8.7 Complete and Binding Agreement. This writing embodies the full and complete agreement of the parties. No other terms, conditions or modifications shall be binding upon the parties unless in writing and signed by the parties.

8.8 Execution. This document shall be executed in five (5) counterparts, each of which shall be deemed an original.

8.9 Governing Law. This Agreement shall be construed in accordance with the laws of the State of Florida.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their respective and duly authorized officers the day and year first above written.

ATTEST:

TOWN OF BAY HARBOR ISLANDS
A Municipal Corporation of
the State of Florida

By: _____

By: _____
Maria Lasday, Town Manager Date
Town of Bay Harbor Islands

ATTEST:

Miami-Dade County, a political
Subdivision of the State of Florida

HARVEY RUVIN, CLERK

By Its Board of County
Commissioners

By: _____
DEPUTY CLERK

By: _____
Daniella Levine Cava Date
Miami-Dade County Mayor

Approved by County Attorney as
to form and legal sufficiency _____

Figure 1 (Service Area Map)

Figure 2 (Span of Service Schedule)

AGENDA ITEM REPORT
June 9, 2022

ITEM NUMBER: 5.

ITEM: Consideration and **Approval** of a contract with Beefree, LLC dba "Freebee" for On-Demand services.

DESCRIPTION:
The Town of Bay Harbor Islands desires to continue providing greater mobility for members of the public by providing different transit options, including on-demand transportation services. The On-Demand service would travel up and down 123rd st. & Broad Causeway and stop at the commercial areas on this route as well as travel to Whole Foods (121st St.) on the Blvd. The On-Demand service would also travel to the Bal Harbour shops and to the commercial district in Surfside (up to 94th St.). The On-demand service will run 7 days a week, 70 hours a week, ADA accessible vehicle, 8am-6pm along the geo-fence established (please see the attached geo-fence).

In 2021, the Town Council accepted an award from the State of Florida Department of Transportation for grant funds expiring on December 31, 2022 which may possibly help to offset a small portion of the cost of this program for what is remaining in year 2022 (please see attached grant agreement). However, the grant will not fund this program past 2022; the Town, at that point, will need to pay the full cost for the On-Demand service. The Town has competitively procured, through piggyback (City of Sunrise), an On-Demand transportation service provider, Beefree, LLC dba “Freebee” to provide this service for the Town. The Town has already begun the lengthy legislative process with Miami-Dade County in order to be prepared for this project. It is anticipated that this program will further assist Town's residents with additional transportation needs. If the Council desires to proceed with this service, the Town Manager seeks that the Town Council approve in substantial format the contract with Freebee for On-Demand services (attached). If approved, the Town Manager will proceed to execute the contract with Freebee.

The On-Demand program is expected to begin within the next three months.
The annual cost for the On-Demand Service (1 ADA accessible vehicle) will be: $132,287.00

RECOMMENDED ACTION:

FINANCIAL ANALYSIS:
Annual Cost for 1 On-Demand ADA accessible vehicle: $132,287.00
possible partial funding of this service for what is left for the year 2022 will be offset by grant funds
The Town of Bay Harbor Islands did not budget these expenditures for FY 2021-2022, and depending on the actual cost incurred during the remainder of the year, the Budget Amendment might be warranted. The Town Public Transportation department has a budget of $128,000 for FY 2021-2022. The annual cost of Town's shuttle service provided by LSF in FY 2020-2021

amounted to $86,063.74.

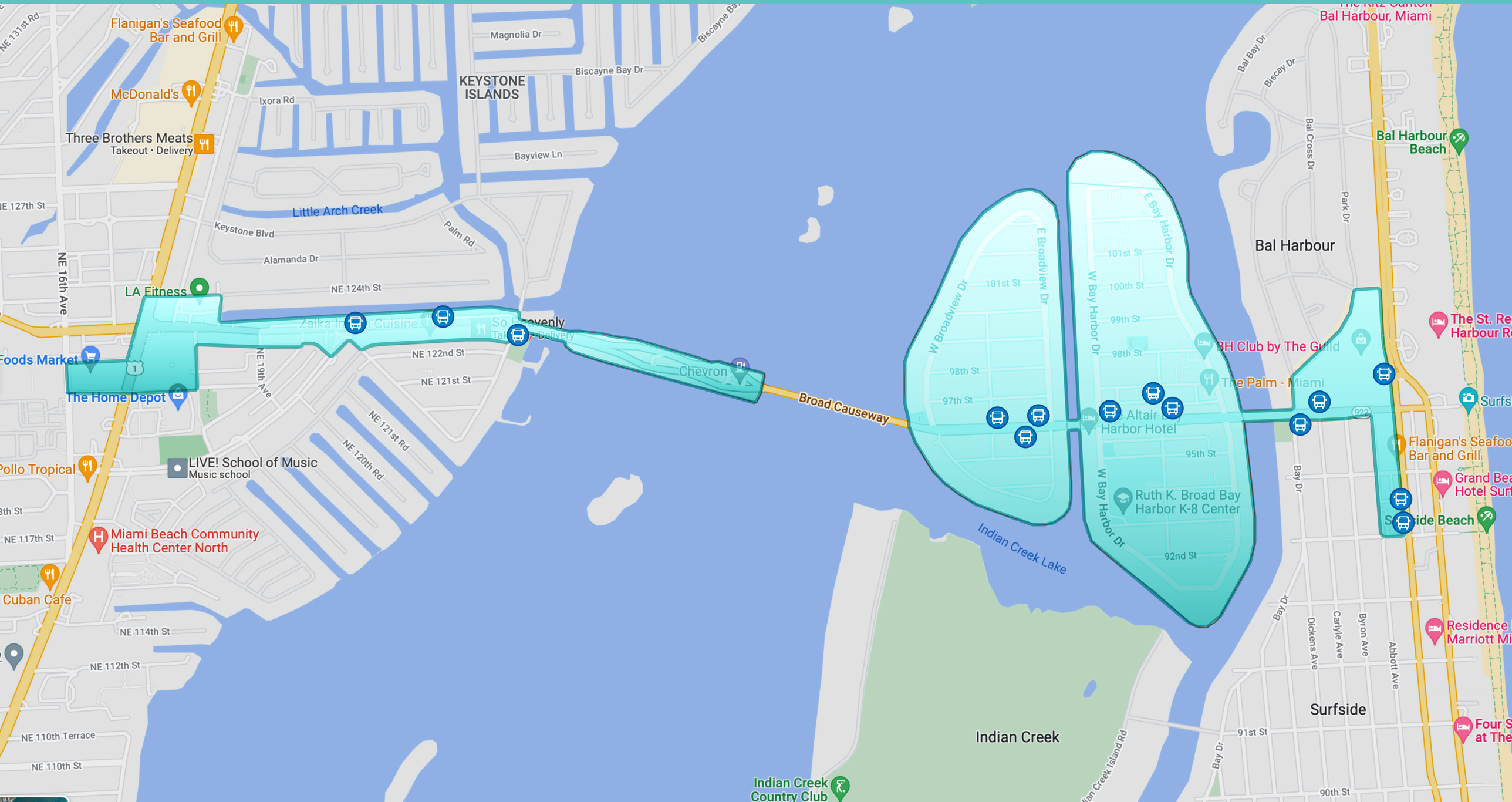
BUDGET IMPACT:

Submitted By: Jenice Rosado, Assistant Town Manager

ATTACHMENTS

1.	Bay Harbor - Map - May 2022
2.	C 21-04-05-MS executed - City of Sunrise
3.	Grant Agreement
4.	On-Demand agreement -Draft

freebee ON-DEMAND GEO FENCE OPTIONS



SUNRISE, FLORIDA

RESOLUTION NO. 22-22

A RESOLUTION OF THE CITY OF SUNRISE, FLORIDA, AWARDING RFP NO. 21-04-05-MS AND "STANDARD CONTRACT NO. C 21-04-05-MS BETWEEN THE CITY OF SUNRISE, FLORIDA AND BEEFREE, LLC D/B/A FREEBEE" FOR ON-DEMAND TRANSPORTATION SERVICES; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, in July 2019, the City applied for a Public Transit Service Development Grant administered by the State of Florida Department of Transportation (FDOT) to assist with funding of a new on-demand electric vehicles program for the Western Sunrise Business and Entertainment District; and

WHEREAS, in January of 2020, the City was awarded an $885,000 grant, which provides partial funding towards the new transportation service as well as a local match; and

WHEREAS, on April 13, 2021, via Resolution No. 21-31, a "State of Florida Department of Transportation Grant Agreement" was approved to accept the award.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF SUNRISE, FLORIDA:

Section 1. The award of RFP No. 21-04-05-MS for On-Demand Transportation Services to Beefree, LLC d/b/a Freebee is hereby approved in an amount not to exceed FY 2021-2022 approved budgeted funds, with subsequent years' expenditures subject to budget approval.

Section 2. "Standard Contract No. C 21-04-05-MS between the City of Sunrise, Florida and Beefree, LLC d/b/a Freebee" (Contract) for On-Demand Transportation Services is hereby approved. A copy of the Contract is attached hereto and made a part of this Resolution as Exhibit A.

Section 3. The Procurement Manager or designee is hereby authorized to execute the Contract. The Procurement Manager or designee is further authorized to extend the Contract, in accordance with the terms of the approved Contract. The City Manager is authorized to approve Additional Flexible Hours in accordance with the terms of the Contract.

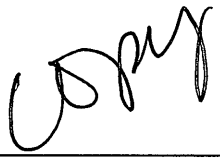
Section 4. Effective Date. This Resolution shall be effective immediately upon its passage.

PASSED AND ADOPTED this 22ND DAY of MARCH, 2022.



Mayor Michael J. Ryan

Authentication:

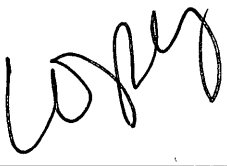


Felicia M. Bravo
City Clerk

MOTION: SCUOTTO
SECOND: KERCH

DOUGLAS: YEA
GUZMAN: YEA
KERCH: YEA
SCUOTTO: YEA
RYAN: YEA

Approved by the City Attorney
as to Form and Legal Sufficiency



Kimberly A. Kisslan

STANDARD CONTRACT NO. C 21-04-05-MS
BETWEEN THE CITY OF SUNRISE, FLORIDA
AND BEEFREE, LLC D/B/A FREEBEE

THIS CONTRACT between the City of Sunrise, a municipal corporation of the State of Florida whose address is 10770 West Oakland Park Boulevard, Sunrise, Florida, 33351 (hereinafter referred to as "the City") and **Beefree, LLC d/b/a Freebee**, a Florida Limited Liability Company (hereinafter referred to as the "Contractor"), whose address is 2312 N Miami Avenue, Miami, Florida 33127 and whose Federal Identification Number is 45-4659887, incorporates **RFP No. 21-04-05-MS,** State of Florida Department of Transportation Public Transportation Grant Agreement, and Contractor's Proposal as if fully set forth herein.

In consideration of the mutual terms and promises set forth below, the City and the Contractor agree as follows:

1. Services

The Contractor's responsibility under this Contract is for On-Demand Transportation as set forth in this Contract and as further stated below in Exhibit "A" – Scope of Services which is attached and made a part of this Contract.

The City's representative during the performance of this Contract shall be Danielle Lima, Economic Development Director, telephone number (954) 746-3430 or designee.

The Contractor's representative during the performance of this Contract shall be Jason Spiegel, Managing Partner, telephone number (215) 370-5699 or designee.

2. Payments

The Contractor will bill the City by the 10th day of each month for services rendered to the minute during the prior month at the hourly rates listed in Exhibit "B." If Contractor does not provide all of the scheduled or flexible hours for a day, partial hours will be prorated at the hourly rates listed in Exhibit "B." The City hereby agrees to pay Contractor for the faithful performance of this Contract, for services rendered in accordance with Exhibit "A".

A total contract price hereto is referred to as Contract Sum and shall not exceed Five Hundred and Ninety Thousand Dollars ($590,000.00) per year.

The Contractor shall submit invoices to:

City of Sunrise
Attn: Accounts Payable Dept.
10770 West Oakland Park Blvd.

Sunrise, FL 33351

Invoice form must minimally include the following information: each day of service shall identify the date of service, start time to the minute for each vehicle, end time to the minute for each vehicle, type of vehicle, rate for each vehicle, and the total number of hours per type of vehicle for that day. The invoice must identify whether the vehicle was Scheduled Circulating Vehicle or a Flexible Circulating Vehicle. The invoice and backup must also include the total number of hours for each type of vehicle for the month, the resulting monthly billing for that type of vehicle, and the total amount of billings for all types of vehicles by vehicle style and by Scheduled Circulating Vehicle and Flexible Circulating Vehicle per Exhibit "B" – Pricing. See Exhibit "C" – Form of Invoice.

3. Initial Contract Period and Contract Renewal

The initial Contract period shall be for three (3) years, commencing upon final execution of this Contract. In addition, contingent upon Budget approval, the City reserves the right, but not the obligation, to renew the Contract for two (2) additional one (1) year periods, under the same terms, conditions and specifications, by written notification to the Contractor by the Procurement Manager at least sixty (60) days prior to the expiration of the then-existing Contract period.

In the event the Services are scheduled to end either by Contract expiration or by termination by the City of Sunrise, the City may request the Contractor to continue the Services until new services can be completely operational. In accordance with Section 5-173 (h) of the City's Code, the City Manager, or designee, may extend the Contract for a period not to exceed 180 calendar days subject to the same terms and conditions set forth in the initial Contract. The Contractor will be reimbursed for Services at the rate in effect when this transitional period clause is invoked by the City. Any additional extensions shall be subject to City Commission approval.

4. Access and Audits

The Contractor shall maintain adequate records related to all charges, expenses, and costs incurred in estimating and performing the work for at least three (3) years after completion of this Contract. Upon reasonable notice to the Contractor, the City shall have access to such books, records, and documents as required in this section for the purpose of inspection or audit during normal business hours, at the Contractor's place of business.

5. Truth-In-Negotiation Certificate

Signature of this Contract by the Contractor shall also act as the execution of a truth-in-negotiation certificate certifying that the wage rates, overhead charges, and other costs

used to determine the compensation provided for in this Contract are accurate, complete and current as of the date of the Contract and no higher than those charged the Contractor's most favored customer for the same or substantially similar services. The said rates and costs shall be adjusted to exclude any significant sums should the City determine that the rates and costs were increased due to inaccurate, incomplete or noncurrent wage rates or due to inaccurate presentation of fees paid to outside Contractors. The City shall exercise its rights under this clause within three (3) years following final payment. Notwithstanding the foregoing, the City acknowledges that the Contractor's services are specialized to each customer and dependent on the timing and scope of each agreement, and thus agrees that all circumstances will be considered in determining whether more favorable terms have been provided.

6. Insurance Requirements

6.1 Contractor agrees at its sole expense to maintain on a primary basis, non-contributory basis during the life of this Contract the following insurance coverages, limits, including endorsements described herein. The requirements contained herein, as well as City's and State of Florida Department of Transportation's review or acceptance of insurance maintained by Contractor is not intended to and shall not in any manner limit or qualify the liabilities or obligations assumed by Contractor under the Contract. Any coverage maintained by the City or State of Florida Department of Transportation shall apply excess of, or contingent upon the absence of, insurance required or maintained by Contractor.

6.2 Commercial General Liability. Contractor agrees to maintain Commercial General Liability at a limit of liability not less than $1,000,000.00 Each Occurrence, $2,000,000 Annual Aggregate. Contractor agrees its coverage shall not contain any restrictive endorsement(s) excluding or limiting Product/Completed Operations, Independent Contractors, Broad Form Property Damage, X-C-U Coverage, Contractual Liability or Separation of Insureds.

6.3 Additional Insured Endorsement. Contractor agrees to endorse the City and State of Florida Department of Transportation as an Additional Insured on the Commercial General Liability with the following, or similar endorsement providing equal or broader Additional Insured coverage, the CG 20 26 07 04, or CG 20 26 04 13, Additional Insured – Designated Person or Organization endorsement; or the CG 20 10 07 04, or CG 20 10 04 13, Additional Insured – Owners, Lessees, or Contractors endorsement, including the additional endorsement of GC 20 37 07 04, or GC 20 04 13, Additional Insured – Owners, Lessees, or Contractors Completed Operations. The name of the organization endorsed as Additional Insured for all endorsements shall read "City of Sunrise" and "State of Florida Department of Transportation".

6.4 Business Automobile Liability. Contractor agrees to maintain Business Automobile Liability at a limit of liability not less than $1,000,000 Each

Occurrence. Coverage shall include liability for Owned, Non-Owned & Hired automobiles. In the event Contractor does not own automobiles, Contractor agrees to maintain coverage for Hired & Non-Owned Auto Liability, which may be satisfied by way of endorsement to the Commercial General Liability policy or separate Business Auto Liability policy. Contractor further agrees to endorse the City and State of Florida Department of Transportation as an Additional Insureds on the Business Automobile Liability with the CA- 2048 Designated Insured Endorsement, or its equivalent.

6.5 Worker's Compensation Insurance & Employers Liability. Contractor agrees to maintain Worker's Compensation Insurance & Employers Liability. Elective exemptions or coverage afforded through an employee leasing arrangement will NOT satisfy this contractual requirement.

6.6 Waiver of Subrogation. Contractor agrees by entering into Contract to a Waiver of Subrogation for each required policy herein. When required by the insurer, or should a policy condition not permit Contractor to enter into a pre-loss agreement to waive subrogation without an endorsement, then Contractor agrees to notify the insurer and request the policy be endorsed with a Waiver of Transfer of Rights of Recovery Against Others, or its equivalent. This Waiver of Subrogation requirement shall not apply to any policy, which includes a condition specifically prohibiting such an endorsement, or voids coverage should Contractor enter into such an agreement on a pre-loss basis.

6.7 Certificate(s) of Insurance. Contractor agrees to provide both the City and State of Florida Department of Transportation with Certificates of Insurance evidencing that all coverages, limits and endorsements required herein are maintained and in full force and effect, and Certificates of Insurance shall provide a minimum thirty (30) day endeavor to notify, when a manuscript notice endorsement is available by Contractor's insurer. If the Contractor receives a non-renewal or cancellation notice from an insurance carrier affording coverage required herein, or receives notice that coverage no longer complies with the insurance requirements herein, Contractor agrees to notify the City by fax or email within five (5) business days with a copy of the non-renewal or cancellation notice, or written specifics as to which coverage is no longer in compliance. The Certificate Holder(s) address shall read:

Original to:

City of Sunrise
Attn: Procurement Manager
Purchasing Office
10770 West Oakland Park Blvd.
Sunrise, Florida 33351
purchasing@sunrisefl.gov
Fax (954) 578-4809

Copy to:

City of Sunrise
Attn: Risk Manager
Risk Management Division
10770 W. Oakland Park Blvd.
Sunrise, FL 33351
riskmanagement@sunrisefl.gov

Copy to:

State of Florida, Department of Transportation
c/o Officer of Comptroller, MS24
Re: Financial Project Number 446658-1-84-01
605 Suwannee Street
Tallahassee, FL 32399-0405
FDOTSingleAudit@dot.state.fl.us

6.8 Umbrella or Excess Liability. Contractor agrees to maintain either a Commercial Umbrella or Excess Liability at a limit of liability not less than $5,000,000 Each Occurrence $5,000,000 Aggregate. The Contractor agrees to endorse the City and State of Florida Department of Transportation as "Additional Insureds" on the Commercial Umbrella/Excess Liability, unless the Certificate of Insurance states the Commercial Umbrella/Excess Liability provides coverage on a pure/true follow-form basis, or the City and State of Florida Department of Transportation are automatically defined as an Additional Insureds or Additional Protected Persons.

6.9 Right to Revise or Reject. City reserves the right, but not the obligation, to revise any insurance requirement, not limited to limits, coverages and endorsements, or to reject any insurance policies which fail to meet the criteria stated herein. Additionally, City reserves the right, but not the obligation, to review and reject any insurer providing coverage due to its poor financial condition or failure to operate legally. City will compensate Contractor for any resulting increases in premiums or will not revise requirements after execution of Agreement.

7. Performance and Payment Bond ☐ Applicable ☒ Not Applicable

The Contractor shall furnish a separate performance and payment bond covering 100% of the amount of award to the City within ten (10) calendar days after receipt of written Notice of Intent to Award Contract. The performance and payment bond furnished by the Contractor shall incorporate by reference the terms of this Contract as fully as though they were set forth verbatim in such performance and payment bond. The performance and payment bond furnished by the Contractor shall be in a form acceptable to the City and shall be executed by a surety, or sureties, reasonably suitable to the City.

8. Termination for Governmental Non-Appropriations

The City is a bona fide governmental entity of the State of Florida with a fiscal year

ending on September 30 of each calendar year. If the City does not appropriate sufficient funds to purchase the Services or quantities required under this Contract for any of the City's fiscal years subsequent to the one in which the Contract is executed and entered into, then this Contract shall be terminated effective upon expiration of the fiscal year in which sufficient funds to continue satisfaction of the City's obligation under this Contract were last appropriated by the City and the City shall not, in this sole event be obligated to make any further purchases beyond said fiscal year.

9. Termination for Cause

This Contract may be terminated by either party upon fifteen (15) days' written notice to the other party, should such other party fail substantially to perform in accordance with the material terms of the Contract through no fault of the party initiating the termination. Said written notice shall specify the alleged failure to substantially perform and shall provide the party not initiating the termination with the opportunity to cure the stated failure within the fifteen (15) day notice period. In the event that the Contractor is terminated by the City for cause and it is subsequently determined by a court of competent jurisdiction that such termination was without cause, such termination shall thereupon be deemed a termination for convenience under Section 10. and the provisions of Section 10. shall govern.

10. Termination for Convenience

This Contract may be terminated by the City without cause upon thirty (30) days' written notice to the Contractor. In the event of such a termination without cause, the Contractor shall be compensated for all Services completed and accepted by the City's representative as authorized herein, together with reimbursable expenses incurred. In such event, the Contractor shall promptly submit its invoice for final payment and reimbursement under the terms of this Contract to the City.

11. Indemnification

To the fullest extent permitted by law, the Contractor agrees to indemnify, defend and hold harmless the City of Sunrise and the State of Florida Department of Transportation, their officers, agents, volunteers, and employees from and against all claims, damages, losses, and expenses, including but not limited to attorneys' fees, court costs, or other alternative dispute resolution costs arising out of or resulting from the performance of work under this Contract (1) provided that any such claims, damages, losses or expenses are attributable to bodily injury, sickness, disease, death, or personal injury, or property damage, and (2) are caused in whole or in part by the negligent acts, errors or omissions, recklessness, or intentional misconduct of the Contractor, Contractor's subcontractor(s), or anyone directly or indirectly employed or hired by Contractor or anyone for whose acts Contractor may be liable,

REGARDLESS OF WHETHER OR NOT CAUSED IN PART BY THE CITY OF SUNRISE and THEIR OFFICERS, AGENTS, VOLUNTEERS, OR EMPLOYEES. The City of Sunrise and State of Florida Department of Transportation reserve the right, but not the obligation, to participate in the defense without relieving Contractor of any obligation hereunder. For any matters in which Contractor is obligated to pay for the City's legal defense hereunder, Contractor shall be permitted to retain counsel of its choosing for both Contractor and the City, provided that such legal counsel is reasonably acceptable to the City, which consent shall not be unreasonably withheld. Contractor agrees this indemnity obligation shall survive the completion or termination of the Contract.

12. Independent Contractor

The Contractor is an independent contractor under this Contract. Personal services provided by the Contractor shall be by employees of the Contractor who are subject to supervision by the Contractor, and who shall not be officers, employees, or agents of the City. Personnel policies, tax responsibilities, purchasing policies and other similar administrative procedures applicable to Services rendered under this Contract shall be those of the Contractor.

13. Authority to Practice

The Contractor hereby represents and warrants that it has and will continue to maintain all licenses and approvals required to conduct its business, and that it will at all times conduct its business activities in a reputable manner. Proof of such licenses and approvals shall be submitted to the City's representative upon request.

14. Severability

If any term or provision of this Contract or the application thereof to any person or circumstances shall, to any extent, be held invalid or unenforceable, the remainder of this Contract, or the application of such terms or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected, and every other term and provision of this Contract shall be deemed valid and enforceable to the extent permitted by law.

15. Governing Law/Jurisdiction/Venue

This Contact shall be construed in accordance with and governed by the law of the State of Florida. Venue for any action arising out of or relating to this Contract shall lie in Broward County, Florida. Both parties hereby agree to waive a jury trial and will proceed to a trial by judge, if necessary. Except as set forth in paragraph 9 and 11, each party will be responsible for their own attorneys' fees and costs.

16. Successors and Assigns

The City and Contractor bind themselves, their successors, assigns and legal representatives to the other party hereto and to successors, assigns and legal representatives of such other party in respect to covenants, agreements and obligations contained in this Contract. The Contractor shall not assign this Contract without written consent of the City, which shall not be unreasonably withheld.

17. Subcontracting

The City reserves the right to accept the use of a subcontractor, or to reject the selection of a particular subcontractor and to inspect all facilities of any subcontractors in order to make a determination as to the capability of the subcontractor to perform properly under this Contract. If a subcontractor fails to perform or make progress, as required by this Contract, and it is necessary to replace the subcontractor to complete the service in a timely fashion, the Contractor shall promptly do so, subject to acceptance of the new subcontractor by the City.

18. Conflict of Interest

The Contractor represents that it presently has no interest and shall acquire no interest, either directly or indirectly, which would conflict in any manner with the performance of Services required hereunder, as provided for in Section 112.311, Florida Statutes. The Contractor further represents that no person having any such interest shall be employed for said performance.

19. Contingent Fees

The Contractor warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the Contractor to solicit or secure this Contract and that it has not paid or agreed to pay any company or person, other than a bona fide employee working solely for the Contractor, any fee, commission, percentage, gift, or any other consideration contingent upon or resulting from the award or making of this Contract.

20. Nondiscrimination

The Contractor warrants and represents that all of its employees are treated equally during employment without regard to race, color, national origin, sex, gender identify, sexual orientation, age, disability/handicap, religion, family or income status.

21. Public Entity Crimes

Pursuant to Section 287.133, Florida Statutes, a person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not

submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity in excess of the threshold amount provided in s. 287.017 for CATEGORY TWO for a period of 36 months following the date of being placed on the convicted vendor list. By execution of this Contract, Contractor represents that it has not been placed on the convicted vendor list as provided in Section 287.133, Florida Statutes.

22. Modifications of Work

If the City requires miscellaneous additional work, Services or materials not delineated in the Contractor's Proposal but within the general Scope of Service, the Contractor shall submit a detailed written proposal to the authorized City representative. If the proposal is approved, the Contractor shall receive authorization to proceed by receipt of a purchase order incorporating the Contractor's proposal.

The City reserves the right to make changes in the Scope of Service, including alterations, reductions therein or additions thereto. Upon receipt by the Contractor of the City's notification of a contemplated change, the Contractor shall, in writing: (1) provide a detailed estimate for the increase or decrease in cost due to the contemplated change, (2) notify the City of any estimated change in the completion date, and (3) advise the City if the contemplated change shall affect the Contractor's ability to meet the completion dates or schedules of this Contract. The parties agree to negotiate in good faith changes in the Scope of Service that may occur.

If the City so instructs in writing, the Contractor shall suspend work on that portion of the Scope of Service affected by a contemplated change, pending the City's decision to proceed with the change. If the City elects to make the change, the City shall initiate a Contract Amendment and the Contractor shall not commence work on any such change until such written amendment is signed by the Contractor and approved and executed by the City's representative and Procurement Manager.

23. Notice

All written notices required in this Contract shall be sent by hand delivery, overnight mail, or certified mail, return receipt requested, and if sent to the City, shall be mailed to:

Procurement Manager
City of Sunrise
10770 West Oakland Park Blvd.
Sunrise, FL 33351

cc: City Attorney
City of Sunrise
10770 West Oakland Park Blvd.
Sunrise, FL 33351

If sent to the Contractor, shall be mailed to:

Jason Spiegel, Managing Partner
Beefree, LLC d/b/a Freebee
2312 N Miami Avenue
Miami, FL 33127
Jason@ridefreebee.com

24. No Damages for Delay

Neither the City nor Contractor shall be considered to be in default of this Agreement if delays in or failure of performance shall be due to Force Majeure, the effect of which, by the exercise of reasonable diligence, the nonperforming party could not avoid. The term "Force Majeure" shall mean any event which results in the prevention or delay of performance by a party of its obligations under this Agreement and which is beyond the reasonable control of the nonperforming party. It includes, but is not limited to, fire, flood, earthquake, tropical storm watch, tropical storm warning, hurricane watch, hurricane warning, epidemic, pandemic, war, riot, civil disturbance, sabotage, and governmental action, but shall not include financial inability of the Contractor. The nonperforming party shall, within a reasonable time of being prevented or delayed from performance by a Force Majeure, give written notice to the other party describing the circumstances and Force Majeure preventing continued performance of the obligations of this Agreement.

25. Public Records Law

The Contractor shall comply with all applicable requirements contained in the Florida Public Records Law (Chapter 119, Florida Statutes), including but not limited to any applicable provisions in Section 119.0701, Florida Statutes. To the extent that the Contractor and this Contract are subject to the requirements in Section 119.0701, Florida Statutes, the Contractor shall: (a) keep and maintain public records required by the City to perform the Services provided hereunder; (b) upon request from the City's custodian of public records, provide the City with a copy of the requested records or allow public records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes, or as otherwise provided by law; (c) ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed, except as

authorized by law for the duration of the term of this Contract and following completion of this Contract if the Contractor does not transfer the records to the City; and (d) upon completion of the Contract, transfer, at no cost, to the City all public records in the possession of the Contractor or keep and maintain public records required by the City to perform the service. If the Contractor transfers all public records to the City upon completion of the Contract, the Contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Contractor keeps and maintains public records upon completion of the Contract, the Contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the City, upon request from the City's custodian of public records, in a format that is compatible with the information technology systems of the City. If the Contractor fails to provide the public records to the City within a reasonable time, it may be subject to penalties under Section 119.10, Florida Statutes.

IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, THE CONTRACTOR SHOULD CONTACT THE CITY'S CUSTODIAN OF PUBLIC RECORDS: THE CITY CLERK, FELICIA M. BRAVO, BY TELEPHONE (954/746-3333), E-MAIL (CITYCLERK@SUNRISEFL.GOV), OR MAIL (CITY OF SUNRISE, OFFICE OF THE CITY CLERK, 10770 WEST OAKLAND PARK BOULEVARD, SUNRISE, FLORIDA 33351).

26. Entirety of Contract

The City and the Contractor agree that this Contract sets forth the entire Contract between the parties, and that there are no promises or understandings other than those stated herein. None of the provisions, terms and conditions contained in this Contract may be added to, modified, superseded or otherwise altered, except by written instrument executed by the parties hereto with the same formality as this Contract. Any alteration of the terms and conditions of this Contract must be contained in the Deviation Page after approval by the City Attorney and executed by the Contractor and City to be binding.

27. Discriminatory Vendor List

Pursuant to Section 287.134, Florida Statutes, an entity or affiliate who has been placed on the discriminatory vendor list may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building

or public work; may not submit bids, proposals, or replies on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity. By execution of this Contract, Contractor represents that it has not been placed on the discriminatory vendor list as provided in Section 287.134, Florida Statutes.

28. Scrutinized Companies

Pursuant to Section 287.135, Florida Statutes, Contractor certifies that it is not on the Scrutinized Companies that Boycott Israel List created pursuant to Section 215.4725, Florida Statutes and that it is not engaged in a boycott of Israel.

Pursuant to Section 287.135, in the event the Contract is for one million dollars or more, Contractor certifies that it is not on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List created pursuant to Section 215.473, Florida Statutes; and Contractor further certifies that it is not engaged in business operations in Cuba or Syria.

Pursuant to Section 287.135, Florida Statutes, City may, at the option of the City Commission, terminate this Contract if Contractor is found to have submitted a false certification as provided under subsection 287.135(5), Florida Statutes; has been placed on the Scrutinized Companies that Boycott Israel List, or is engaged in a boycott of Israel; has been placed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List; or has been engaged in business operations in Cuba or Syria.

29. Order of Precedence

In the event the terms of this Contract conflict with the City's RFP or Contractor's Proposal, the conflict shall be resolved by giving the documents the following order of priority: this Contract, Purchase Order, the City's RFP and Contractor's Proposal.

30. Compliance with Laws

Contractor and the Services must comply with all applicable federal, state, and local laws, codes, ordinances, rules, and regulations including, without limitation, American with Disabilities Act, 42 U.S.C. § 12101, Section 504 of the Rehabilitation Act of 1973, and any related federal, state, or local laws, rules, and regulations.

31. Electronic Recordkeeping

Contractor certifies their services and products meet all recordkeeping requirements of

the State of Florida, including but not limited to those in Chapter 119, Florida Statutes and Rule 1B-26.003(6)(g), Florida Administrative Code.

32. E-Verify – Employment Eligibility

32.1 Contractor warrants and represents that it complies with Section 448.095, Florida Statutes, as may be amended. Contractor has: (1) registered with and uses the E-Verify System (E-Verify.gov), to electronically verify the work authorization status of all newly hired employees; and (2) verified that all of the Contractor's subcontractors performing the duties and obligations of this Contract are registered with and use the E-Verify System to electronically verify the employment eligibility of all newly hired workers.

32.2 Contractor shall obtain from each of its subcontractors an affidavit stating that the subcontractor does not employ, contract with, or subcontract with an Unauthorized Alien, as that term is defined in Section 448.095(1)(k), Florida Statutes, as may be amended. Contractor shall maintain a copy of any such affidavit from a subcontractor for, at a minimum, the duration of the subcontract and any extension thereof. This provision shall not supersede any provision of this Contract which requires a longer retention period.

32.3 City shall terminate this Contract if it has a good faith belief that Contractor has knowingly violated Section 448.09(1), Florida Statutes, as may be amended. If City has a good faith belief that Contractor's subcontractor has knowingly violated Section 448.09(1), Florida Statutes, as may be amended, City shall notify Contractor to terminate its contract with the subcontractor and Contractor shall immediately terminate its contract with the subcontractor.

32.4 If City terminates this Contract pursuant to the subsection 32.3 above, Contractor shall be barred from being awarded a future contract by City for a period of one (1) year from the date on which this Contract was terminated. In the event of such Contract termination, Contractor shall also be liable for any additional costs incurred by City as a result of the termination.

33. Contractor and its subcontractors shall comply with, and shall require any of its subcontractors to comply with all terms and conditions of the State of Florida Department of Transportation Public Transportation Grant Agreement (Project) and all its incorporated attachments and exhibits incorporated to this Contract as if fully set forth herein. The City of Sunrise, contractor and its subcontractors are considered recipient and sub recipient of funds under the State of Florida Department of Transportation Public Transportation Grant Agreement attached and incorporated into this document as Attachment "2."

34. Contractor shall comply and Contractor shall require its contractors and subcontractors to comply with all terms and conditions of the State of Florida Department of Transportation Public Transportation Grant Agreement attached and incorporated into this document as Attachment "2" and all federal, state, and local laws and regulations applicable to this Project.

35. State of Florida Department of Transportation (FDOT) specifically reserves the right to review and approve any and all third party contracts with respect to the Project before the City of Sunrise executes or obligates itself in any manner requiring disbursement of the State of Florida Department of Transportation funds, including consultant and purchase of commodities contracts, or amendments thereto.

36. Disadvantage Business Enterprise (DBE). Contractor and its subcontractors agree to ensure that DBEs have the opportunity to participate in the performance of this Contract. In this regard, Contractor and its subcontractors shall take all necessary and reasonable steps in accordance with applicable federal and state laws and regulations to ensure that the DBEs have the opportunity to compete for and perform contracts. The Contractor, sub recipient or subcontractor shall not discriminate on the basis of race, color, national origin or sex in the award and performance of this contract or other contracts, entered pursuant to the State of Florida Department of Transportation Public Transportation Grant Agreement. The Contractor shall carry out applicable requirements of 49 CFR part 26 in the administration of this Contract. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate, which may include, but is not limited to:

(1) Withholding monthly progress payments;

(2) Assessing sanctions;

(3) Liquidated damages; and/or

(4) Disqualifying the contractor from future bidding as non-responsible.

37. Records Retention. Records of costs incurred under the terms of this Contract shall be maintained and made available upon request to the State of Florida Department of Transportation, its designee, DFS, or State of Florida Auditor General at all times during the period of this Agreement and for five years after final payment is made or five years after the date an audit report is issued, whichever occurs last. Copies of these records shall be furnished to the Department upon request. Records of costs incurred include the Contractor's general accounting records and the Project records, together with supporting documents and records, of the Contractor and all subcontractors performing work on the Project, and all other records of the Contractor and subcontractors considered necessary by the State of Florida Department of Transportation for a proper audit of costs.

38. Prohibition on Using Funds for Lobbying. No funds received pursuant to this Contract may be expanded for lobbying the Florida Legislature, judicial branch, or any state agency, in accordance with Section 216.347, Florida Statutes.

39. Unauthorized Aliens. The State of Florida Department of Transportation shall consider the employment by any contractor of unauthorized aliens a violation of Section 274A(e) of the Immigration and Nationality Act. If the contractor knowingly employs unauthorized aliens, such violation will be cause for unilateral cancellation of this Contract.

40. Contractor and its subcontractors are not agents of the State of Florida Department of Transportation.

41. Inspector General. The Contractor understands its duty, pursuant to Section 20.055(5), F.S., to cooperate with the inspector general in any investigation, audit, inspection, review, or hearing. The Contractor will comply with this duty and ensure that its subcontractors issued under this Contract, if any, impose this requirement, in writing, on its subcontractors, respectively.

42. Travel expenses are eligible for reimbursement under this Contract. Bills for travel expenses specifically authorized in this Contract shall be submitted on the Federal Department of Transportation's Contractor Travel Form No. 300-000-06 and will be paid in accordance with Section 112.061, Florida Statutes, and the most current version of the FDOT's Disbursement Handbook for Employees and Managers.

43. Contractor and its subcontractors must comply with Chapter 14-90, Florida Administrative Code (FAC).

44. Trade Secrets. "Confidential Information" means all information that constitutes a trade secret under Florida Statutes §§ 688.002 and 812.081, is disclosed to City by Contractor, and is designated as "confidential" in writing prior to or at the time of disclosure. The City shall maintain the confidentiality of Contractor's Confidential Information pursuant to Florida Statutes §§119.0715 and 815.045. City shall not disclose and shall maintain the confidentiality of any records to the extent they contain Confidential Information as defined in the Florida Statutes, unless the City determines disclosure is authorized by Florida Statutes §119.0715, the exemption from disclosure does not apply, or the City is otherwise required by law, subpoena, or court order to disclose the record. In the event the City determines that the exemption from disclosure does not apply or that it is required by law, subpoena, or court order to disclose any record which CONTRACTOR identifies as containing trade secrets or proprietary information, the City will provide written notice to CONTRACTOR of its determination and the legal basis for its determination prior to disclosing such records.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK AND SIGNATURES FOLLOW ON ATTACHED PAGE]

IN WITNESS WHEREOF, the Procurement Manager, authorized to execute same by City Commission, has made and executed this Contract on behalf of the City the day and year below written and Contractor has hereunto set its hand the day and year below written.

CITY OF SUNRISE

By: _____

Print: John T. Curran

Title: Procurement Manager

Date: 4/01/2022

Approved as to form and legal sufficiency for the City

By: _____
Kimberly A. Kisslan
City Attorney

_____
Witness

_____
Witness

CONTRACTOR

BEEFREE, LLC D/B/A FREEBEE

By: _____ Jason Spiesel

Title: CEO Beefree

Date: 3-28-22

EXHIBIT "A" – SCOPE OF SERVICES

1.1 PROGRAM OVERVIEW

The City of Sunrise is interested in introducing an on-demand transportation service to transport users around the Business and Entertainment District and enhance the transportation system, in accordance with the scope of services defined herein.

This program will include short distance, door-to-door electric transportation within the service area boundary to any other point within the service area boundary and is available to the user upon demand. The intent is to provide first and last mile connectivity to other forms of mass transit, which would take cars off the road, minimize single occupancy vehicles within communities, and help free up parking.

All vehicles will be electric and must meet the Federal Motor Vehicle Safety Standard (FMVSS) and supply state-of-the-art charging equipment.

The program is expected to start with four (4) on-demand electric vehicles three (3) Teslas Model X (1) Lighting Electric Zero Emission Ford Transit Passenger Van. The Tesla fits six (6) passengers and the van fits 9-10 passengers plus a wheelchair. There is always going to be at least one vehicle available that is ADA compliant.

1.2 GENERAL INFORMATION AND BACKGROUND

The intent of this contract is to implement a Program and provide point-to-point transportation services (Program) that will provide the City of Sunrise residents, visitors, and business employees (Riders) with convenient and efficient transportation options. All vehicles will be electric and must meet the Federal Motor Vehicle Safety Standard (FMVSS) and supply state-of-the-art charging equipment. Program should be hospitality oriented and may include supplementary hours during special events requiring additional vehicles, personnel and resources. The contractor must provide its own mobile application in which the user will be able to locate his or her position and request a vehicle for pickup. Contractor's creative solutions will address the City's mobility needs. The Program is to start operating by June 29, 2022 with four (4) Teslas Model X. By December 29, 2022 one (1) Lightning Electric Zero Emission Ford Transit Passenger van must replace one of the Teslas and added to the fleet. The fleet has a total of four (4) electric vehicles. Until the ADA compliant van is added to the fleet the Contractor must have another ADA compliant vehicle available.

1.3 LOCATION

The Program is to be operated within the Sunrise Business and Entertainment District, which is located on the west side of the City from Flamingo Rd to the Sawgrass

Expressway (see Attachment "1" — Service Area Map). The on demand service is expected to take residents and visitors to and from the Sawgrass Mills Mall, BB&T Center, Metropica, Hotels, restaurants, Corporate Park and more. Service area and hours are subject to change depending on the needs and conditions determined by the City.

1.4 OBJECTIVES

By implementing the Point-to-Point Program, the City desires to meet, at minimum, the following objectives:

1. Operate a demand-response system throughout the boundaries of the service area indicated in Attachment "1."
2. Provide the flexibility to scale up and down the fleet of vehicles, modify hours of operation, allocate additional flex hours, and/or permanently modify the type of vehicle from Tesla to a larger van if needed with sufficient notice to procure the vehicle based on monthly, weekly, daily, and hourly fluctuations in demand in order to achieve the maximum level of service. Notwithstanding the forgoing, any modification in service that results in a reduction of the Maximum Annual Cost for Scheduled Circulating Vehicles, shall require an amendment to the agreement.
3. Provide a safe and pleasing passenger experience with capable, qualified and courteous drivers that will serve as ambassadors.
4. Feature a mobile application with which the user will be able to locate his or her position and flag a proximate, available vehicle to make the pickup.
5. Have the capability to provide data captured from the mobile app which includes but is not limited to amount of users, destinations, average wait time, and user peak times.
6. Cut down time workers and visitors spend in their vehicles circling and idling in the hopes of finding parking adjacent to their destination.
7. Allow users to get to their destination within the service area without the need to drive, park or even own a personal vehicle.
8. Reduce the Business and Entertainment's traffic and vehicle emission.
9. Support local businesses through Ride Freebee's mobile application at no cost to the Sunrise businesses.

1.5 CUSTOMER SERVICE

Customer service is one of the City's key factors of the Program. The Contractor will be responsible for addressing all complaints in a courteous and timely manner and provide reports to City staff as needed. The drivers will be educated on City programming and amenities and serve as ambassadors.

1.6 SERVICE PARAMETERS FOR POINT-TO-POINT TRANSPORTATION SERVICES

The use of environmentally friendly electric vehicles that meets the Federal Motor Vehicle Safety Standard (FMVSS) and supply state-of-the-art charging equipment is required. The vehicles used throughout the term of the contract must be consistent and identifiable with the appropriate Program signage. The criteria below constitute the City's service parameters for the point-to-point Program:

(1) The Program will serve the City's residents, guests and commuters by providing on- demand rides to work, for shopping, restaurant, events, nightlife access and for various appointments within the boundaries of the service area.

(2) All trips must begin and end within an area as shown on the service area map (Attachment "1"). Any changes in the service area shall be in writing and mutually agreed upon.

(3) The service shall be free to users. Tipping is allowed but cannot be solicited by the driver (NO tipping jars, signs or anything that implies that tipping is required).

(4) Service must be provided in fully-electric vehicles that are on-call via a mobile app, phone number or ride-hailing.

(5) The Contractor will identify the locations for the charging stations and the City will cooperate as needed. Charging station equipment, installation, and maintenance will be provided by the Contractor.

(6) Overnight vehicle parking: The Contractor will secure a space to store the vehicles at night or when not in service.

(7) The fleet will include three (3) Tesla Model X and (1) Lighting Electric Zero Emission Ford Transit Passenger Van. All vehicles will be electric and meet the Federal Motor Vehicle Safety Standard (FMVSS) and supply state-of the art charging equipment.

(8) After requesting a ride, patrons must be picked up promptly and safely delivered to their destination, with a reminder to use the app again for subsequent trips back to their point of origin or another destination.

(9) The Contractor shall provide a mobile app for requesting rides compatible with both Android and iPhone.

(10) When requesting a ride via the mobile app, patrons must immediately be given an estimated time of arrival based on driver availability.

(11) The Contractor shall collect ridership data via app, manual counts when phone calls or ride-hailing. Additionally, the Contractor will maintain accurate and complete records of the service and submit monthly, quarterly and yearly reports to the City.

(12) These reports may also include, but are not limited to, hourly, daily, weekly and monthly ridership data, complaints, mileage, driver's names and suspensions, type of vehicle, number of hours per vehicle, type of rate, and accidents.

(13) When drivers use the mobile app to respond to patrons' ride requests, the driver app must be able to organize ride requests in a queue format, allowing for multiple rides to be assigned to one driver.

(14) The Contractor must include at least one ADA vehicle as part of the fleet.

(15) The Contractor shall provide professional, experienced, well-groomed hospitality-oriented personnel and resources to communicate engagingly with riders while answering their questions. Drivers will serve as ambassadors for the City. Qualified drivers must be screened, hired and trained by the Contractor, with satisfactory background checks. Hiring local drivers that are bilingual is preferred.

(16) Additionally, drivers will undergo any further training deemed necessary by the City. The Contractor will provide the City with background checks on all drivers. The City shall have the right to reject or approve all drivers in its sole and absolute discretion. All drivers must have valid Florida driver's license(s) and adhere to all city, county, and state traffic and driving laws.

(17) Drivers must wear a company uniform and name tag.

(18) The Contractor will communicate any problems or requests to the City through the Program manager or designee.

(19) The Contractor will have the right to suspend operation of the vehicles without penalty in the case of uncommon severe weather, unsafe operating conditions, or the issuance of a tropical storm or a hurricane warning, subject to providing written notification to the City.

(20) The initial term of the Contract shall be for three years.

(21) Vehicle maintenance and charging must be performed by the Contractor.

(22) The Contractor shall be responsible for the cleanliness interior and the exterior of the vehicles.

(23) The City reserves the right to require the immediate dismissal of any personnel who fail to meet the standards outlined above. Relief personnel shall be readily available throughout the term of the contract.

(24) Proposed initial Program schedule:

	Mon - Thurs	**Friday**	**Saturday**	**Sunday**
Hours of Operation	11 A.M.– 10 P.M	11 A.M.– 12 Midnight	10 A.M. – 12 Midnight	10 A.M. – 10 P.M.
Amount Vehicles Circulating	**4** (11am– 2pm)	**4** (11am– 2pm)	**3** (10am– 12 noon)	**3** (10am–12 noon)
	2 (2pm – 5pm)	**2** (2pm – 5pm)	**4** (12 noon – 8pm)	**4** (12 noon – 8pm)
	3 (5pm – 8pm)	**3** (5pm – 12 midnight)	**3** (8pm – 12 midnight)	**3** (8pm – 10pm)
	2 (8pm – 10pm)			

a) Scheduled Hours:

The Contractor shall provide the number of vehicles circulating per hour during the dates and times listed above billing at the hourly rates listed in Exhibit "B" provided the Maximum Annual Cost for Scheduled Circulating Vehicles (ASCV) does not exceed $529,000 per year. Any changes in the service hours and/or changes to the number of vehicles circulating per hour shall be in writing and mutually agreed upon.

b) Additional Flexible Hours:

The City may authorize Contractor to provide Authorized Flexible Circulating Vehicles (AFCV) for special events and/or to be used if demand increases during certain hours. The use of the flexible hours need to be pre-authorized in writing by the City Manager. Contractor shall bill for AFCV at the hourly rates listed in Exhibit "B" provided the Maximum Annual Cost for AFCV does not exceed $61,000 per year.

1.7 ADVERTISING

The City may elect to include the City logo and other visuals in a car wrap. City must approve the design of the wrap and may modify the design up to (4) four times per year at no cost to the City. The Contractor will offer free advertising to local businesses via the Ride Freebee mobile application. Initially the City will not allow for paid advertising. Subject to City's prior written consent, paid advertising within and/or outside of vehicles may be permitted to off-set operational costs, if in accordance with all City ordinances, policies and procedures.

Contractor will include screens in all four vehicles with the ability to play video content provided by the City. Freebee will make its best effort to include audio capabilities.

1.8 COST OF THE PROGRAM TO THE CITY

The Contractor shall ensure any fees to be charged to the City for the Program are outlined in the agreement. Fees that are not outlined in the agreement will not be accepted. All fees shall remain firm for up to three-year period of the agreement. Any escalation in pricing thereafter will be subject to approval by the City in its sole discretion.

1.9 CONTRACTOR'S RESPONSIBILITY

The Contractor shall be responsible for ensuring that all its employees are in compliance, at all times, with the Terms, Conditions and Specifications outlined in this Request for Proposals.

The Contractor shall be responsible for obtaining all necessary permits for charging stations and be in in compliance with all applicable Federal, State, and Local statutes pertaining to the services as specified or required.

The Contractor will be responsible for securing its own office space.

The Contractor will be responsible for all costs associated with purchasing, operating and maintaining its own fleet of vehicles, including but not limited to purchasing, charging, maintaining, registering, storing and insurance.

EXHIBIT "B" – PRICING

Maximum Annual Cost for Scheduled Circulating Vehicles

Vehicle Type	Cost/Hour/Vehicle	Total Annual Cost
Tesla	$37.47/hr	
XL Van	$45.94/hr	
Total		**$529,000.00**

The Contractor shall provide the number of vehicles circulating per hour during the dates and times listed in section 1.6 (24) billing at the hourly rates listed above provided the Maximum Annual Cost for Scheduled Circulating Vehicles does not exceed $529,000 per year. Any changes in the service hours and/or changes to the number of vehicles circulating per hour shall be in writing and mutually agreed upon. Contractor will bill for scheduled hours only, even if ride is extended by a few minutes.

Maximum Annual Cost for Authorized Flexible Circulating Vehicles

Tesla	$34.47/hr	
XL Van	$42.26/hr	
Total		**$61,000.00**

The City may authorize Contractor to provide Authorized Flexible Circulating Vehicles for special events and/or to be used if demand increases during certain hours. The use of the flexible hours need to be pre-authorized in writing by the City Manager. Contractor shall bill for AFCV at the hourly rates listed above provided the Maximum Annual Cost for AFCV does not exceed $61,000 per year. Contractor will bill for authorized flexible hours only, even if ride is extended by a few minutes.

The Contract Sum shall not to exceed $590,000 per year

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STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION

PUBLIC TRANSPORTATION GRANT AGREEMENT

Form 725-000-01
STRATEGIC DEVELOPMENT
OGC 02/20

Financial Project Number(s): (item-segment-phase-sequence)		Fund(s):	DPTO	FLAIR Category:	088774
446687-1-84-01		Work Activity Code/Function:	215	Object Code:	751000
		Federal Number/Federal Award Identification Number (FAIN) – Transit only:		Org. Code:	55062020629
Contract Number:	G1T50	Federal Award Date:		Vendor Number:	F596000273012
CFDA Number:	N/A	Agency DUNS Number:			
CFDA Title:	N/A				
CSFA Number:	55.012				
CSFA Title:	Public Transit Service Development Program				

THIS PUBLIC TRANSPORTATION GRANT AGREEMENT ("Agreement") is entered into 3/17/2021 | 9:04 PM EDT, by and between the State of Florida, Department of Transportation, ("Department"), and Town of Bay Harbor Islands, ("Agency"). The Department and the Agency are sometimes referred to in this Agreement as a "Party" and collectively as the "Parties."

NOW, THEREFORE, in consideration of the mutual benefits to be derived from joint participation on the Project, the Parties agree to the following:

1. **Authority.** The Agency, by Resolution or other form of official authorization, a copy of which is attached as **Exhibit "D", Agency Resolution** and made a part of this Agreement, has authorized its officers to execute this Agreement on its behalf. The Department has the authority pursuant to Section(s) 341.051, Florida Statutes, to enter into this Agreement.

2. **Purpose of Agreement.** The purpose of this Agreement is to provide for the Department's participation in FDOT State Service Development Program funds provide to Town of Bay Harbor Islands for the On-Demand Services Connection., as further described in **Exhibit "A", Project Description and Responsibilities**, attached and incorporated into this Agreement ("Project"), to provide Department financial assistance to the Agency, state the terms and conditions upon which Department funds will be provided, and to set forth the manner in which the Project will be undertaken and completed.

3. **Program Area.** For identification purposes only, this Agreement is implemented as part of the Department program area selected below (select all programs that apply):

   _ **Aviation**
   _ **Seaports**
   X **Transit**
   _ **Intermodal**
   _ **Rail Crossing Closure**
   _ **Match to Direct Federal Funding** (Aviation or Transit)
   (Note: Section 15 and Exhibit G do not apply to federally matched funding)
   _ **Other**

4. **Exhibits.** The following Exhibits are attached and incorporated into this Agreement:

   X Exhibit A: Project Description and Responsibilities
   X Exhibit B: Schedule of Financial Assistance
   _ *Exhibit B1: Deferred Reimbursement Financial Provisions
   _ *Exhibit B2: Advance Payment Financial Provisions
   _ *Exhibit C: Terms and Conditions of Construction
   X Exhibit D: Agency Resolution
   X Exhibit E: Program Specific Terms and Conditions
   X Exhibit F: Contract Payment Requirements
   X *Exhibit G: Audit Requirements for Awards of State Financial Assistance
   _ *Exhibit H: Audit Requirements for Awards of Federal Financial Assistance

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__ *Additional Exhibit(s):

*Indicates that the Exhibit is only attached and incorporated if applicable box is selected.

5. **Time.** Unless specified otherwise, all references to "days" within this Agreement refer to calendar days.

6. **Term of Agreement.** This Agreement shall commence upon full execution by both Parties ("Effective Date") and continue through December 31, 2022. If the Agency does not complete the Project within this time period, this Agreement will expire unless an extension of the time period is requested by the Agency and granted in writing by the Department prior to the expiration of this Agreement. Expiration of this Agreement will be considered termination of the Project. The cost of any work performed prior to the Effective Date or after the expiration date of this Agreement will not be reimbursed by the Department.

   a. __ If this box is checked the following provision applies:

      Unless terminated earlier, work on the Project shall commence no later than the __ day of __, or within __ days of the issuance of the Notice to Proceed for the construction phase of the Project (if the Project involves construction), whichever date is earlier. The Department shall have the option to immediately terminate this Agreement should the Agency fail to meet the above-required dates.

7. **Amendments, Extensions, and Assignment.** This Agreement may be amended or extended upon mutual written agreement of the Parties. This Agreement shall not be renewed. This Agreement shall not be assigned, transferred, or otherwise encumbered by the Agency under any circumstances without the prior written consent of the Department.

8. **Termination or Suspension of Project.** The Department may, by written notice to the Agency, suspend any or all of the Department's obligations under this Agreement for the Agency's failure to comply with applicable law or the terms of this Agreement until such time as the event or condition resulting in such suspension has ceased or been corrected.

   a. Notwithstanding any other provision of this Agreement, if the Department intends to terminate the Agreement, the Department shall notify the Agency of such termination in writing at least thirty (30) days prior to the termination of the Agreement, with instructions to the effective date of termination or specify the stage of work at which the Agreement is to be terminated.

   b. The Parties to this Agreement may terminate this Agreement when its continuation would not produce beneficial results commensurate with the further expenditure of funds. In this event, the Parties shall agree upon the termination conditions.

   c. If the Agreement is terminated before performance is completed, the Agency shall be paid only for that work satisfactorily performed for which costs can be substantiated. Such payment, however, may not exceed the equivalent percentage of the Department's maximum financial assistance. If any portion of the Project is located on the Department's right-of-way, then all work in progress on the Department right-of-way will become the property of the Department and will be turned over promptly by the Agency.

   d. In the event the Agency fails to perform or honor the requirements and provisions of this Agreement, the Agency shall promptly refund in full to the Department within thirty (30) days of the termination of the Agreement any funds that were determined by the Department to have been expended in violation of the Agreement.

   e. The Department reserves the right to unilaterally cancel this Agreement for failure by the Agency to comply with the Public Records provisions of Chapter 119, Florida Statutes.

9. **Project Cost:**

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a. The estimated total cost of the Project is $300,000. This amount is based upon **Exhibit "B", Schedule of Financial Assistance**. The timeline for deliverables and distribution of estimated amounts between deliverables within a grant phase, as outlined in **Exhibit "B", Schedule of Financial Assistance**, may be modified by mutual written agreement of the Parties and does not require execution of an **Amendment to the Public Transportation Grant Agreement**. The timeline for deliverables and distribution of estimated amounts between grant phases requires an amendment executed by both Parties in the same form as this Agreement.

b. The Department agrees to participate in the Project cost up to the maximum amount of $150,000 and, the Department's participation in the Project shall not exceed 50.00% of the total eligible cost of the Project, and as more fully described in **Exhibit "B", Schedule of Financial Assistance**. The Agency agrees to bear all expenses in excess of the amount of the Department's participation and any cost overruns or deficits involved.

10. Compensation and Payment:

a. **Eligible Cost.** The Department shall reimburse the Agency for allowable costs incurred as described in **Exhibit "A", Project Description and Responsibilities**, and as set forth in **Exhibit "B", Schedule of Financial Assistance**.

b. **Deliverables.** The Agency shall provide quantifiable, measurable, and verifiable units of deliverables. Each deliverable must specify the required minimum level of service to be performed and the criteria for evaluating successful completion. The Project and the quantifiable, measurable, and verifiable units of deliverables are described more fully in **Exhibit "A", Project Description and Responsibilities**. Modifications to the deliverables in **Exhibit "A", Project Description and Responsibilities** requires a formal written amendment.

c. **Invoicing.** Invoices shall be submitted no more often than monthly by the Agency in detail sufficient for a proper pre-audit and post-audit, based on the quantifiable, measurable, and verifiable deliverables as established in **Exhibit "A", Project Description and Responsibilities**. Deliverables and costs incurred must be received and approved by the Department prior to reimbursement. Requests for reimbursement by the Agency shall include an invoice, progress report, and supporting documentation for the deliverables being billed that are acceptable to the Department. The Agency shall use the format for the invoice and progress report that is approved by the Department.

d. **Supporting Documentation.** Supporting documentation must establish that the deliverables were received and accepted in writing by the Agency and must also establish that the required minimum standards or level of service to be performed based on the criteria for evaluating successful completion as specified in **Exhibit "A", Project Description and Responsibilities** has been met. All costs invoiced shall be supported by properly executed payrolls, time records, invoices, contracts, or vouchers evidencing in proper detail the nature and propriety of charges as described in **Exhibit "F", Contract Payment Requirements**.

e. **Travel Expenses.** The selected provision below is controlling regarding travel expenses:

X Travel expenses are NOT eligible for reimbursement under this Agreement.

__ Travel expenses ARE eligible for reimbursement under this Agreement. Bills for travel expenses specifically authorized in this Agreement shall be submitted on the Department's Contractor Travel Form No. 300-000-06 and will be paid in accordance with Section 112.061, Florida Statutes, and the most current version of the Department's Disbursement Handbook for Employees and Managers.

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f. **Financial Consequences.** Payment shall be made only after receipt and approval of deliverables and costs incurred unless advance payments are authorized by the Chief Financial Officer of the State of Florida under Chapters 215 and 216, Florida Statutes, or the Department's Comptroller under Section 334.044(29), Florida Statutes. If the Department determines that the performance of the Agency is unsatisfactory, the Department shall notify the Agency of the deficiency to be corrected, which correction shall be made within a time-frame to be specified by the Department. The Agency shall, within thirty (30) days after notice from the Department, provide the Department with a corrective action plan describing how the Agency will address all issues of contract non-performance, unacceptable performance, failure to meet the minimum performance levels, deliverable deficiencies, or contract non-compliance. If the corrective action plan is unacceptable to the Department, the Agency will not be reimbursed. If the deficiency is subsequently resolved, the Agency may bill the Department for the amount that was previously not reimbursed during the next billing period. If the Agency is unable to resolve the deficiency, the funds shall be forfeited at the end of the Agreement's term.

g. **Invoice Processing.** An Agency receiving financial assistance from the Department should be aware of the following time frames. Inspection or verification and approval of deliverables shall take no longer than 20 days from the Department's receipt of the invoice. The Department has 20 days to deliver a request for payment (voucher) to the Department of Financial Services. The 20 days are measured from the latter of the date the invoice is received or the deliverables are received, inspected or verified, and approved.

If a payment is not available within 40 days, a separate interest penalty at a rate as established pursuant to Section 55.03(1), Florida Statutes, will be due and payable, in addition to the invoice amount, to the Agency. Interest penalties of less than one (1) dollar will not be enforced unless the Agency requests payment. Invoices that have to be returned to an Agency because of Agency preparation errors will result in a delay in the payment. The invoice payment requirements do not start until a properly completed invoice is provided to the Department.

A Vendor Ombudsman has been established within the Department of Financial Services. The duties of this individual include acting as an advocate for Agency who may be experiencing problems in obtaining timely payment(s) from a state agency. The Vendor Ombudsman may be contacted at (850) 413-5516.

h. **Records Retention.** The Agency shall maintain an accounting system or separate accounts to ensure funds and projects are tracked separately. Records of costs incurred under the terms of this Agreement shall be maintained and made available upon request to the Department at all times during the period of this Agreement and for five years after final payment is made. Copies of these records shall be furnished to the Department upon request. Records of costs incurred include the Agency's general accounting records and the Project records, together with supporting documents and records, of the Contractor and all subcontractors performing work on the Project, and all other records of the Contractor and subcontractors considered necessary by the Department for a proper audit of costs.

i. **Progress Reports.** Upon request, the Agency agrees to provide progress reports to the Department in the standard format used by the Department and at intervals established by the Department. The Department will be entitled at all times to be advised, at its request, as to the status of the Project and of details thereof.

j. **Submission of Other Documents.** The Agency shall submit to the Department such data, reports, records, contracts, and other documents relating to the Project as the Department may require as listed in **Exhibit "E", Program Specific Terms and Conditions** attached to and incorporated into this Agreement.

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k. **Offsets for Claims.** If, after Project completion, any claim is made by the Department resulting from an audit or for work or services performed pursuant to this Agreement, the Department may offset such amount from payments due for work or services done under any agreement that it has with the Agency owing such amount if, upon written demand, payment of the amount is not made within 60 days to the Department. Offsetting any amount pursuant to this paragraph shall not be considered a breach of contract by the Department.

l. **Final Invoice.** The Agency must submit the final invoice on the Project to the Department within 120 days after the completion of the Project. Invoices submitted after the 120-day time period may not be paid.

m. **Department's Performance and Payment Contingent Upon Annual Appropriation by the Legislature.** The Department's performance and obligation to pay under this Agreement is contingent upon an annual appropriation by the Legislature. If the Department's funding for this Project is in multiple fiscal years, a notice of availability of funds from the Department's project manager must be received prior to costs being incurred by the Agency. See **Exhibit "B", Schedule of Financial Assistance** for funding levels by fiscal year. Project costs utilizing any fiscal year funds are not eligible for reimbursement if incurred prior to funds approval being received. The Department will notify the Agency, in writing, when funds are available.

n. **Limits on Contracts Exceeding $25,000 and Term more than 1 Year.** In the event this Agreement is in excess of $25,000 and has a term for a period of more than one year, the provisions of Section 339.135(6)(a), Florida Statutes, are hereby incorporated:

> "The Department, during any fiscal year, shall not expend money, incur any liability, or enter into any contract which, by its terms, involves the expenditure of money in excess of the amounts budgeted as available for expenditure during such fiscal year. Any contract, verbal or written, made in violation of this subsection is null and void, and no money may be paid on such contract. The Department shall require a statement from the comptroller of the Department that funds are available prior to entering into any such contract or other binding commitment of funds. Nothing herein contained shall prevent the making of contracts for periods exceeding 1 year, but any contract so made shall be executory only for the value of the services to be rendered or agreed to be paid for in succeeding fiscal years; and this paragraph shall be incorporated verbatim in all contracts of the Department which are for an amount in excess of $25,000 and which have a term for a period of more than 1 year."

o. **Agency Obligation to Refund Department.** Any Project funds made available by the Department pursuant to this Agreement that are determined by the Department to have been expended by the Agency in violation of this Agreement or any other applicable law or regulation shall be promptly refunded in full to the Department. Acceptance by the Department of any documentation or certifications, mandatory or otherwise permitted, that the Agency files shall not constitute a waiver of the Department's rights as the funding agency to verify all information at a later date by audit or investigation.

p. **Non-Eligible Costs.** In determining the amount of the payment, the Department will exclude all Project costs incurred by the Agency prior to the execution of this Agreement, costs incurred after the expiration of the Agreement, costs that are not provided for in **Exhibit "A", Project Description and Responsibilities**, and as set forth in **Exhibit "B", Schedule of Financial Assistance**, costs agreed to be borne by the Agency or its contractors and subcontractors for not meeting the Project commencement and final invoice time lines, and costs attributable to goods or services received under a contract or other arrangement that has not been approved

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in writing by the Department. Specific unallowable costs may be listed in **Exhibit "A", Project Description and Responsibilities.**

11. **General Requirements.** The Agency shall complete the Project with all practical dispatch in a sound, economical, and efficient manner, and in accordance with the provisions in this Agreement and all applicable laws.

    a. **Necessary Permits Certification.** The Agency shall certify to the Department that the Agency's design consultant and/or construction contractor has secured the necessary permits.

    b. **Right-of-Way Certification.** If the Project involves construction, then the Agency shall provide to the Department certification and a copy of appropriate documentation substantiating that all required right-of-way necessary for the Project has been obtained. Certification is required prior to authorization for advertisement for or solicitation of bids for construction of the Project, even if no right-of-way is required.

    c. **Notification Requirements When Performing Construction on Department's Right-of-Way.** In the event the cost of the Project is greater than $250,000.00, and the Project involves construction on the Department's right-of-way, the Agency shall provide the Department with written notification of either its intent to:

        i. Require the construction work of the Project that is on the Department's right-of-way to be performed by a Department prequalified contractor, or

        ii. Construct the Project utilizing existing Agency employees, if the Agency can complete said Project within the time frame set forth in this Agreement.

    d. __ If this box is checked, then the Agency is permitted to utilize its own forces and the following provision applies: **Use of Agency Workforce.** In the event the Agency proceeds with any phase of the Project utilizing its own forces, the Agency will only be reimbursed for direct costs (this excludes general overhead).

    e. __ If this box is checked, then the Agency is permitted to utilize **Indirect Costs: Reimbursement for Indirect Program Expenses** (select one):

        i. __ Agency has selected to seek reimbursement from the Department for actual indirect expenses (no rate).

        ii. __ Agency has selected to apply a de minimus rate of 10% to modified total direct costs. Note: The de minimus rate is available only to entities that have never had a negotiated indirect cost rate. When selected, the de minimus rate must be used consistently for all federal awards until such time the agency chooses to negotiate a rate. A cost policy statement and de minimis certification form must be submitted to the Department for review and approval.

        iii. __ Agency has selected to apply a state or federally approved indirect cost rate. A federally approved rate agreement or indirect cost allocation plan (ICAP) must be submitted annually.

    f. **Agency Compliance with Laws, Rules, and Regulations, Guidelines, and Standards.** The Agency shall comply and require its contractors and subcontractors to comply with all terms and conditions of this Agreement and all federal, state, and local laws and regulations applicable to this Project.

    g. **Claims and Requests for Additional Work.** The Agency shall have the sole responsibility for resolving claims and requests for additional work for the Project. The Agency will make

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best efforts to obtain the Department's input in its decisions. The Department is not obligated to reimburse for claims or requests for additional work.

12. **Contracts of the Agency:**

a. **Approval of Third Party Contracts.** The Department specifically reserves the right to review and approve any and all third party contracts with respect to the Project before the Agency executes or obligates itself in any manner requiring the disbursement of Department funds, including consultant and purchase of commodities contracts, or amendments thereto. If the Department chooses to review and approve third party contracts for this Project and the Agency fails to obtain such approval, that shall be sufficient cause for nonpayment by the Department. The Department specifically reserves unto itself the right to review the qualifications of any consultant or contractor and to approve or disapprove the employment of the same. If Federal Transit Administration (FTA) funds are used in the Project, the Department must exercise the right to third party contract review.

b. **Procurement of Commodities or Contractual Services.** It is understood and agreed by the Parties hereto that participation by the Department in a project with the Agency, where said project involves the purchase of commodities or contractual services where purchases or costs exceed the Threshold Amount for CATEGORY TWO per Section 287.017, Florida Statutes, is contingent on the Agency complying in full with the provisions of Section 287.057, Florida Statutes. The Agency's Authorized Official shall certify to the Department that the Agency's purchase of commodities or contractual services has been accomplished in compliance with Section 287.057, Florida Statutes. It shall be the sole responsibility of the Agency to ensure that any obligations made in accordance with this Section comply with the current threshold limits. Contracts, purchase orders, task orders, construction change orders, or any other agreement that would result in exceeding the current budget contained in **Exhibit "B", Schedule of Financial Assistance**, or that is not consistent with the Project description and scope of services contained in **Exhibit "A", Project Description and Responsibilities** must be approved by the Department prior to Agency execution. Failure to obtain such approval, and subsequent execution of an amendment to the Agreement if required, shall be sufficient cause for nonpayment by the Department, in accordance with this Agreement.

c. **Consultants' Competitive Negotiation Act.** It is understood and agreed by the Parties to this Agreement that participation by the Department in a project with the Agency, where said project involves a consultant contract for professional services, is contingent on the Agency's full compliance with provisions of Section 287.055, Florida Statutes, Consultants' Competitive Negotiation Act. In all cases, the Agency's Authorized Official shall certify to the Department that selection has been accomplished in compliance with the Consultants' Competitive Negotiation Act.

d. **Disadvantaged Business Enterprise (DBE) Policy and Obligation.** It is the policy of the Department that DBEs, as defined in 49 C.F.R. Part 26, as amended, shall have the opportunity to participate in the performance of contracts financed in whole or in part with Department funds under this Agreement. The DBE requirements of applicable federal and state laws and regulations apply to this Agreement. The Agency and its contractors agree to ensure that DBEs have the opportunity to participate in the performance of this Agreement. In this regard, all recipients and contractors shall take all necessary and reasonable steps in accordance with applicable federal and state laws and regulations to ensure that the DBEs have the opportunity to compete for and perform contracts. The Agency and its contractors and subcontractors shall not discriminate on the basis of race, color, national origin or sex in the award and performance of contracts, entered pursuant to this Agreement.

13. **Maintenance Obligations.** In the event the Project includes construction or the acquisition of commodities then the following provisions are incorporated into this Agreement:

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a. The Agency agrees to accept all future maintenance and other attendant costs occurring after completion of the Project for all improvements constructed or commodities acquired as part of the Project. The terms of this provision shall survive the termination of this Agreement.

14. Sale, Transfer, or Disposal of Department-funded Property:

a. The Agency will not sell or otherwise transfer or dispose of any part of its title or other interests in real property, facilities, or equipment funded in any part by the Department under this Agreement without prior written approval by the Department.

b. If a sale, transfer, or disposal by the Agency of all or a portion of Department-funded real property, facilities, or equipment is approved by the Department, the following provisions will apply:

i. The Agency shall reimburse the Department a proportional amount of the proceeds of the sale of any Department-funded property.

ii. The proportional amount shall be determined on the basis of the ratio of the Department funding of the development or acquisition of the property multiplied against the sale amount, and shall be remitted to the Department within ninety (90) days of closing of sale.

iii. Sale of property developed or acquired with Department funds shall be at market value as determined by appraisal or public bidding process, and the contract and process for sale must be approved in advance by the Department.

iv. If any portion of the proceeds from the sale to the Agency are non-cash considerations, reimbursement to the Department shall include a proportional amount based on the value of the non-cash considerations.

c. The terms of provisions "a" and "b" above shall survive the termination of this Agreement.

i. The terms shall remain in full force and effect throughout the useful life of facilities developed, equipment acquired, or Project items installed within a facility, but shall not exceed twenty (20) years from the effective date of this Agreement.

ii. There shall be no limit on the duration of the terms with respect to real property acquired with Department funds.

15. Single Audit. The administration of Federal or State resources awarded through the Department to the Agency by this Agreement may be subject to audits and/or monitoring by the Department. The following requirements do not limit the authority of the Department to conduct or arrange for the conduct of additional audits or evaluations of Federal awards or State financial assistance or limit the authority of any state agency inspector general, the State of Florida Auditor General, or any other state official. The Agency shall comply with all audit and audit reporting requirements as specified below.

Federal Funded:

a. In addition to reviews of audits conducted in accordance with 2 CFR Part 200, Subpart F – Audit Requirements, monitoring procedures may include but not be limited to on-site visits by Department staff and/or other procedures, including reviewing any required performance and financial reports, following up, ensuring corrective action, and issuing management decisions on weaknesses found through audits when those findings pertain to Federal awards provided through the Department by this Agreement. By entering into this Agreement, the Agency agrees to comply and cooperate fully with any monitoring procedures/processes deemed appropriate by the Department. The Agency further agrees to comply and cooperate with any

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inspections, reviews, investigations, or audits deemed necessary by the Department, State of Florida Chief Financial Officer (CFO), or State of Florida Auditor General.

b. The Agency, a non-Federal entity as defined by 2 CFR Part 200, Subpart F – Audit Requirements, as a subrecipient of a Federal award awarded by the Department through this Agreement, is subject to the following requirements:

i. In the event the Agency expends a total amount of Federal awards equal to or in excess of the threshold established by 2 CFR Part 200, Subpart F – Audit Requirements, the Agency must have a Federal single or program-specific audit conducted for such fiscal year in accordance with the provisions of 2 CFR Part 200, Subpart F – Audit Requirements. **Exhibit "H", Audit Requirements for Awards of Federal Financial Assistance**, to this Agreement provides the required Federal award identification information needed by the Agency to further comply with the requirements of 2 CFR Part 200, Subpart F – Audit Requirements. In determining Federal awards expended in a fiscal year, the Agency must consider all sources of Federal awards based on when the activity related to the Federal award occurs, including the Federal award provided through the Department by this Agreement. The determination of amounts of Federal awards expended should be in accordance with the guidelines established by 2 CFR Part 200, Subpart F – Audit Requirements. An audit conducted by the State of Florida Auditor General in accordance with the provisions of 2 CFR Part 200, Subpart F – Audit Requirements, will meet the requirements of this part.

ii. In connection with the audit requirements, the Agency shall fulfill the requirements relative to the auditee responsibilities as provided in 2 CFR Part 200, Subpart F – Audit Requirements.

iii. In the event the Agency expends less than the threshold established by 2 CFR Part 200, Subpart F – Audit Requirements, in Federal awards, the Agency is exempt from Federal audit requirements for that fiscal year. However, the Agency must provide a single audit exemption statement to the Department at FDOTSingleAudit@dot.state.fl.us no later than nine months after the end of the Agency's audit period for each applicable audit year. In the event the Agency expends less than the threshold established by 2 CFR Part 200, Subpart F – Audit Requirements, in Federal awards in a fiscal year and elects to have an audit conducted in accordance with the provisions of 2 CFR Part 200, Subpart F – Audit Requirements, the cost of the audit must be paid from non-Federal resources (*i.e.*, the cost of such an audit must be paid from the Agency's resources obtained from other than Federal entities).

iv. The Agency must electronically submit to the Federal Audit Clearinghouse (FAC) at https://harvester.census.gov/facweb/ the audit reporting package as required by 2 CFR Part 200, Subpart F – Audit Requirements, within the earlier of 30 calendar days after receipt of the auditor's report(s) or nine months after the end of the audit period. The FAC is the repository of record for audits required by 2 CFR Part 200, Subpart F – Audit Requirements. However, the Department requires a copy of the audit reporting package also be submitted to FDOTSingleAudit@dot.state.fl.us within the earlier of 30 calendar days after receipt of the auditor's report(s) or nine months after the end of the audit period as required by 2 CFR Part 200, Subpart F – Audit Requirements.

v. Within six months of acceptance of the audit report by the FAC, the Department will review the Agency's audit reporting package, including corrective action plans and management letters, to the extent necessary to determine whether timely and appropriate action on all deficiencies has been taken pertaining to the Federal award provided through the Department by this Agreement. If the Agency fails to have an

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audit conducted in accordance with 2 CFR Part 200, Subpart F – Audit Requirements, the Department may impose additional conditions to remedy noncompliance. If the Department determines that noncompliance cannot be remedied by imposing additional conditions, the Department may take appropriate actions to enforce compliance, which actions may include but not be limited to the following:

1. Temporarily withhold cash payments pending correction of the deficiency by the Agency or more severe enforcement action by the Department;
2. Disallow (deny both use of funds and any applicable matching credit for) all or part of the cost of the activity or action not in compliance;
3. Wholly or partly suspend or terminate the Federal award;
4. Initiate suspension or debarment proceedings as authorized under 2 C.F.R. Part 180 and Federal awarding agency regulations (or in the case of the Department, recommend such a proceeding be initiated by the Federal awarding agency);
5. Withhold further Federal awards for the Project or program;
6. Take other remedies that may be legally available.

vi. As a condition of receiving this Federal award, the Agency shall permit the Department or its designee, the CFO, or State of Florida Auditor General access to the Agency's records, including financial statements, the independent auditor's working papers, and project records as necessary. Records related to unresolved audit findings, appeals, or litigation shall be retained until the action is complete or the dispute is resolved.

vii. The Department's contact information for requirements under this part is as follows:

Office of Comptroller, MS 24
605 Suwannee Street
Tallahassee, Florida 32399-0450
FDOTSingleAudit@dot.state.fl.us

State Funded:

a. In addition to reviews of audits conducted in accordance with Section 215.97, Florida Statutes, monitoring procedures to monitor the Agency's use of state financial assistance may include but not be limited to on-site visits by Department staff and/or other procedures, including reviewing any required performance and financial reports, following up, ensuring corrective action, and issuing management decisions on weaknesses found through audits when those findings pertain to state financial assistance awarded through the Department by this Agreement. By entering into this Agreement, the Agency agrees to comply and cooperate fully with any monitoring procedures/processes deemed appropriate by the Department. The Agency further agrees to comply and cooperate with any inspections, reviews, investigations, or audits deemed necessary by the Department, the Department of Financial Services (DFS), or State of Florida Auditor General.

b. The Agency, a "nonstate entity" as defined by Section 215.97, Florida Statutes, as a recipient of state financial assistance awarded by the Department through this Agreement, is subject to the following requirements:

i. In the event the Agency meets the audit threshold requirements established by Section 215.97, Florida Statutes, the Agency must have a State single or project-specific audit conducted for such fiscal year in accordance with Section 215.97, Florida Statutes; applicable rules of the Department of Financial Services; and Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General. **Exhibit "G", Audit Requirements for Awards of State Financial Assistance,** to this Agreement indicates state financial

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assistance awarded through the Department by this Agreement needed by the Agency to further comply with the requirements of Section 215.97, Florida Statutes. In determining the state financial assistance expended in a fiscal year, the Agency shall consider all sources of state financial assistance, including state financial assistance received from the Department by this Agreement, other state agencies, and other nonstate entities. State financial assistance does not include Federal direct or pass-through awards and resources received by a nonstate entity for Federal program matching requirements.

ii. In connection with the audit requirements, the Agency shall ensure that the audit complies with the requirements of Section 215.97(8), Florida Statutes. This includes submission of a financial reporting package as defined by Section 215.97(2)(e), Florida Statutes, and Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General.

iii. In the event the Agency does not meet the audit threshold requirements established by Section 215.97, Florida Statutes, the Agency is exempt for such fiscal year from the state single audit requirements of Section 215.97, Florida Statutes. However, the Agency must provide a single audit exemption statement to the Department at FDOTSingleAudit@dot.state.fl.us no later than nine months after the end of the Agency's audit period for each applicable audit year. In the event the Agency does not meet the audit threshold requirements established by Section 215.97, Florida Statutes, in a fiscal year and elects to have an audit conducted in accordance with the provisions of Section 215.97, Florida Statutes, the cost of the audit must be paid from the Agency's resources (*i.e.*, the cost of such an audit must be paid from the Agency's resources obtained from other than State entities).

iv. In accordance with Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General, copies of financial reporting packages required by this Agreement shall be submitted to:

Florida Department of Transportation
Office of Comptroller, MS 24
605 Suwannee Street
Tallahassee, Florida 32399-0405
FDOTSingleAudit@dot.state.fl.us

And

State of Florida Auditor General
Local Government Audits/342
111 West Madison Street, Room 401
Tallahassee, FL 32399-1450
Email: flaudgen_localgovt@aud.state.fl.us

v. Any copies of financial reporting packages, reports, or other information required to be submitted to the Department shall be submitted timely in accordance with Section 215.97, Florida Statutes, and Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General, as applicable.

vi. The Agency, when submitting financial reporting packages to the Department for audits done in accordance with Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General, should indicate the date the reporting package was delivered to the Agency in correspondence accompanying the reporting package.

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vii. Upon receipt, and within six months, the Department will review the Agency's financial reporting package, including corrective action plans and management letters, to the extent necessary to determine whether timely and appropriate corrective action on all deficiencies has been taken pertaining to the state financial assistance provided through the Department by this Agreement. If the Agency fails to have an audit conducted consistent with Section 215.97, Florida Statutes, the Department may take appropriate corrective action to enforce compliance.

viii. As a condition of receiving state financial assistance, the Agency shall permit the Department or its designee, DFS, or the Auditor General access to the Agency's records, including financial statements, the independent auditor's working papers, and project records as necessary. Records related to unresolved audit findings, appeals, or litigation shall be retained until the action is complete or the dispute is resolved.

c. The Agency shall retain sufficient records demonstrating its compliance with the terms of this Agreement for a period of five years from the date the audit report is issued and shall allow the Department or its designee, DFS, or State of Florida Auditor General access to such records upon request. The Agency shall ensure that the audit working papers are made available to the Department or its designee, DFS, or State of Florida Auditor General upon request for a period of five years from the date the audit report is issued, unless extended in writing by the Department.

16. **Notices and Approvals.** Notices and approvals referenced in this Agreement must be obtained in writing from the Parties' respective Administrators or their designees.

17. **Restrictions, Prohibitions, Controls and Labor Provisions:**

a. **Convicted Vendor List.** A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid on a contract to provide any goods or services to a public entity; may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017, Florida Statutes, for CATEGORY TWO for a period of 36 months from the date of being placed on the convicted vendor list.

b. **Discriminatory Vendor List.** In accordance with Section 287.134, Florida Statutes, an entity or affiliate who has been placed on the Discriminatory Vendor List, kept by the Florida Department of Management Services, may not submit a bid on a contract to provide goods or services to a public entity; may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity.

c. **Non-Responsible Contractors.** An entity or affiliate who has had its Certificate of Qualification suspended, revoked, denied, or have further been determined by the Department to be a non-responsible contractor, may not submit a bid or perform work for the construction or repair of a public building or public work on a contract with the Agency.

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d. **Prohibition on Using Funds for Lobbying.** No funds received pursuant to this Agreement may be expended for lobbying the Florida Legislature, judicial branch, or any state agency, in accordance with Section 216.347, Florida Statutes.

e. **Unauthorized Aliens.** The Department shall consider the employment by any contractor of unauthorized aliens a violation of Section 274A(e) of the Immigration and Nationality Act. If the contractor knowingly employs unauthorized aliens, such violation will be cause for unilateral cancellation of this Agreement.

f. **Procurement of Construction Services.** If the Project is procured pursuant to Chapter 255, Florida Statutes, for construction services and at the time of the competitive solicitation for the Project, 50 percent or more of the cost of the Project is to be paid from state-appropriated funds, then the Agency must comply with the requirements of Section 255.0991, Florida Statutes.

g. **E-Verify.** The Agency shall:

   i. Utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the Agency during the term of the contract; and

   ii. Expressly require any subcontractors performing work or providing services pursuant to the state contract to likewise utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the subcontractor during the contract term.

h. **Design Services and Construction Engineering and Inspection Services.** If the Project is wholly or partially funded by the Department and administered by a local governmental entity, except for a seaport listed in Section 311.09, Florida Statutes, the entity performing design and construction engineering and inspection services may not be the same entity.

18. Indemnification and Insurance:

a. It is specifically agreed between the Parties executing this Agreement that it is not intended by any of the provisions of any part of this Agreement to create in the public or any member thereof, a third party beneficiary under this Agreement, or to authorize anyone not a party to this Agreement to maintain a suit for personal injuries or property damage pursuant to the terms or provisions of this Agreement. The Agency guarantees the payment of all just claims for materials, supplies, tools, or labor and other just claims against the Agency or any subcontractor, in connection with this Agreement. Additionally, the Agency shall indemnify and hold harmless the State of Florida, Department of Transportation, including the Department's officers and employees, from liabilities, damages, losses, and costs, including, but not limited to, reasonable attorney's fees, to the extent caused by the negligence, recklessness, or intentional wrongful misconduct of the Agency and persons employed or utilized by the Agency in the performance of this Agreement. This indemnification shall survive the termination of this Agreement. Additionally, the Agency agrees to include the following indemnification in all contracts with contractors/subcontractors and consultants/subconsultants who perform work in connection with this Agreement:

   "To the fullest extent permitted by law, the Agency's contractor/consultant shall indemnify and hold harmless the Agency and the State of Florida, Department of Transportation, including the Department's officers and employees, from liabilities, damages, losses and costs, including, but not limited to, reasonable attorney's fees, to the extent caused by the negligence, recklessness or intentional wrongful misconduct of the contractor/consultant and

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persons employed or utilized by the contractor/consultant in the performance of this Agreement.

This indemnification shall survive the termination of this Agreement."

b. The Agency shall provide Workers' Compensation Insurance in accordance with Florida's Workers' Compensation law for all employees. If subletting any of the work, ensure that the subcontractor(s) and subconsultant(s) have Workers' Compensation Insurance for their employees in accordance with Florida's Workers' Compensation law. If using "leased employees" or employees obtained through professional employer organizations ("PEO's"), ensure that such employees are covered by Workers' Compensation Insurance through the PEO's or other leasing entities. Ensure that any equipment rental agreements that include operators or other personnel who are employees of independent contractors, sole proprietorships, or partners are covered by insurance required under Florida's Workers' Compensation law.

c. If the Agency elects to self-perform the Project, then the Agency may self-insure. If the Agency elects to hire a contractor or consultant to perform the Project, then the Agency shall carry, or cause its contractor or consultant to carry, Commercial General Liability insurance providing continuous coverage for all work or operations performed under this Agreement. Such insurance shall be no more restrictive than that provided by the latest occurrence form edition of the standard Commercial General Liability Coverage Form (ISO Form CG 00 01) as filed for use in the State of Florida. The Agency shall cause, or cause its contractor or consultant to cause, the Department to be made an Additional Insured as to such insurance. Such coverage shall be on an "occurrence" basis and shall include Products/Completed Operations coverage. The coverage afforded to the Department as an Additional Insured shall be primary as to any other available insurance and shall not be more restrictive than the coverage afforded to the Named Insured. The limits of coverage shall not be less than $1,000,000 for each occurrence and not less than a $5,000,000 annual general aggregate, inclusive of amounts provided by an umbrella or excess policy. The limits of coverage described herein shall apply fully to the work or operations performed under the Agreement, and may not be shared with or diminished by claims unrelated to the Agreement. The policy/ies and coverage described herein may be subject to a deductible and such deductibles shall be paid by the Named Insured. No policy/ies or coverage described herein may contain or be subject to a Retention or a Self-Insured Retention unless the Agency is a state agency or subdivision of the State of Florida that elects to self-perform the Project. Prior to the execution of the Agreement, and at all renewal periods which occur prior to final acceptance of the work, the Department shall be provided with an ACORD Certificate of Liability Insurance reflecting the coverage described herein. The Department shall be notified in writing within ten days of any cancellation, notice of cancellation, lapse, renewal, or proposed change to any policy or coverage described herein. The Department's approval or failure to disapprove any policy/ies, coverage, or ACORD Certificates shall not relieve or excuse any obligation to procure and maintain the insurance required herein, nor serve as a waiver of any rights or defenses the Department may have.

d. When the Agreement includes the construction of a railroad grade crossing, railroad overpass or underpass structure, or any other work or operations within the limits of the railroad right-of-way, including any encroachments thereon from work or operations in the vicinity of the railroad right-of-way, the Agency shall, or cause its contractor to, in addition to the insurance coverage required above, procure and maintain Railroad Protective Liability Coverage (ISO Form CG 00 35) where the railroad is the Named Insured and where the limits are not less than $2,000,000 combined single limit for bodily injury and/or property damage per occurrence, and with an annual aggregate limit of not less than $6,000,000. The railroad shall also be added along with the Department as an Additional Insured on the policy/ies procured pursuant to the paragraph above. Prior to the execution of the Agreement, and at all renewal periods which occur prior to final acceptance of the work, both the Department and the railroad

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shall be provided with an ACORD Certificate of Liability Insurance reflecting the coverage described herein. The insurance described herein shall be maintained through final acceptance of the work. Both the Department and the railroad shall be notified in writing within ten days of any cancellation, notice of cancellation, renewal, or proposed change to any policy or coverage described herein. The Department's approval or failure to disapprove any policy/ies, coverage, or ACORD Certificates shall not relieve or excuse any obligation to procure and maintain the insurance required herein, nor serve as a waiver of any rights the Department may have.

e. When the Agreement involves work on or in the vicinity of utility-owned property or facilities, the utility shall be added along with the Department as an Additional Insured on the Commercial General Liability policy/ies procured above.

19. Miscellaneous:

a. **Environmental Regulations.** The Agency will be solely responsible for compliance with all applicable environmental regulations and for any liability arising from non-compliance with these regulations, and will reimburse the Department for any loss incurred in connection therewith.

b. **Non-Admission of Liability.** In no event shall the making by the Department of any payment to the Agency constitute or be construed as a waiver by the Department of any breach of covenant or any default which may then exist on the part of the Agency and the making of such payment by the Department, while any such breach or default shall exist, shall in no way impair or prejudice any right or remedy available to the Department with respect to such breach or default.

c. **Severability.** If any provision of this Agreement is held invalid, the remainder of this Agreement shall not be affected. In such an instance, the remainder would then continue to conform to the terms and requirements of applicable law.

d. **Agency not an agent of Department.** The Agency and the Department agree that the Agency, its employees, contractors, subcontractors, consultants, and subconsultants are not agents of the Department as a result of this Agreement.

e. **Bonus or Commission.** By execution of the Agreement, the Agency represents that it has not paid and, also agrees not to pay, any bonus or commission for the purpose of obtaining an approval of its application for the financing hereunder.

f. **Non-Contravention of State Law.** Nothing in the Agreement shall require the Agency to observe or enforce compliance with any provision or perform any act or do any other thing in contravention of any applicable state law. If any of the provisions of the Agreement violate any applicable state law, the Agency will at once notify the Department in writing so that appropriate changes and modifications may be made by the Department and the Agency to the end that the Agency may proceed as soon as possible with the Project.

g. **Execution of Agreement.** This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which shall constitute the same Agreement. A facsimile or electronic transmission of this Agreement with a signature on behalf of a party will be legal and binding on such party.

h. **Federal Award Identification Number (FAIN).** If the FAIN is not available prior to execution of the Agreement, the Department may unilaterally add the FAIN to the Agreement without approval of the Agency and without an amendment to the Agreement. If this occurs, an

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updated Agreement that includes the FAIN will be provided to the Agency and uploaded to the Department of Financial Services' Florida Accountability Contract Tracking System (FACTS).

i. **Inspector General Cooperation.** The Agency agrees to comply with Section 20.055(5), Florida Statutes, and to incorporate in all subcontracts the obligation to comply with Section 20.055(5), Florida Statutes.

j. **Law, Forum, and Venue.** This Agreement shall be governed by and construed in accordance with the laws of the State of Florida. In the event of a conflict between any portion of the contract and Florida law, the laws of Florida shall prevail. The Agency agrees to waive forum and venue and that the Department shall determine the forum and venue in which any dispute under this Agreement is decided.

IN WITNESS WHEREOF, the Parties have executed this Agreement on the day and year written above.

AGENCY Town of Bay Harbor Islands

By: Maria Lasday

Name: Maria Lasday

Title: Town Manager

STATE OF FLORIDA, DEPARTMENT OF TRANSPORTATION

DocuSigned by:

By: Iglesias, Daniel

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Name: Iglesias, Daniel

Title: D6 - Director of Transportation Development

STATE OF FLORIDA, DEPARTMENT OF TRANSPORTATION
Legal Review:

DocuSigned by:

Alicia Trujillo

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To: Rosalyn.Carcamo@dot.state.fl.us

FLORIDA DEPARTMENT OF TRANSPORTATION
FUNDS APPROVAL

G1T50

12/22/2020

CONTRACT INFORMATION

Contract:	G1T50
Contract Type:	GD - GRANT DISBURSEMENT (GRANT)
Method of Procurement:	G - GOVERMENTAL AGENCY (287.057,F.S.)
Vendor Name:	TOWN OF BAY HARBOR ISLANDS
Vendor ID:	F596000273012
Beginning Date of This Agreement:	12/21/2020
Ending Date of This Agreement:	12/31/2022
Contract Total/Budgetary Ceiling:	ct = $150,000.00
Description:	Town of Bay Harbor On-Demand Services Connection

FUNDS APPROVAL INFORMATION

FUNDS APPROVED/REVIEWED FOR ROBIN M. NAITOVE, CPA, COMPTROLLER ON 12/22/2020

Action:	Original
Reviewed or Approved:	APPROVED
Organization Code:	55062020629
Expansion Option:	A1
Object Code:	751000
Amount:	$150,000.00
Financial Project:	44668718401
Work Activity (FCT):	215
CFDA:	
Fiscal Year:	2021
Budget Entity:	55100100
Category/Category Year:	088774/21
Amendment ID:	O001
Sequence:	00
User Assigned ID:	
Enc Line (6s)/Status:	0001/04

Total Amount: $150,000.00

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EXHIBIT A

Project Description and Responsibilities

A. Project Description (description of Agency's project to provide context, description of project components funded via this Agreement (if not the entire project)): Bay Harbor Islands / Bal Harbour / Town of Surfside will provide the On-Demand Services Connection.

B. Project Location (limits, city, county, map): Town of Bay Harbor Islands/Bay Harbor Islands, FL/Miami-Dade

C. Project Scope (allowable costs: describe project components, improvement type/service type, approximate timeline, project schedule, project size): "Service Development Projects specifically include projects involving the use of new technologies, services, routes, or vehicle frequencies; the purchase of special transportation services, and other such techniques for increasing service to the riding public as are applicable to specific localities and transit user groups. Projects involving the application of new technologies or methods for improving operations, maintenance, and marketing in public transit systems can be funded through the Service Development program. Eligible capital costs are any costs that would be defined as capital costs by the Federal Transit Administration. Examples would include, but not be limited to: the acquisition of buses for fleet and service expansions; transfer facilities; intermodal terminals and park and ride facilities; and passenger amenities, such as passenger shelters and bus stop signs. Eligible net operating costs are all operating costs of a project; less any federal funds, fares, or other sources of income to the project."

D. Deliverable(s): Bay Harbor Islands / Bal Harbour / Town of Surfside will provide the On-Demand Services Connection.

The project scope identifies the ultimate project deliverables. Deliverables for requisition, payment and invoice purposes will be the incremental progress made toward completion of project scope elements. Supporting documentation will be quantifiable, measurable, and verifiable, to allow for a determination of the amount of incremental progress that has been made, and provide evidence that the payment requested is commensurate with the accomplished incremental progress and costs incurred by the Agency.

E. Unallowable Costs (including but not limited to): N/A

F. Transit Operating Grant Requirements (Transit Only):

Transit Operating Grants billed as an operational subsidy will require an expenditure detail report from the Agency that matches the invoice period. The expenditure detail, along with the progress report, will be the required deliverables for Transit Operating Grants. Operating grants may be issued for a term not to exceed three years from execution. The original grant agreement will include funding for year one. Funding for years two and three will be added by amendment as long as the grantee has submitted all invoices on schedule and the project deliverables for the year have been met.

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EXHIBIT B

Schedule of Financial Assistance
TRANSIT OPERATING ONLY

FUNDS AWARDED TO THE AGENCY PURSUANT TO THIS AGREEMENT CONSIST OF THE FOLLOWING:

A. Fund Type and Fiscal Year:

Financial Project Number	Fund Type	FLAIR Category	State Fiscal Year	Object Code	CSFA/ CFDA Number	CSFA/CFDA Title or Funding Source Description	Funding Amount
446687-1-84-01	DPTO	088774	2021	751000	55.012	Service Development Program	$150,000
		Total Financial Assistance					$150,000

B. Operations Phase - Estimate of Project Costs by Budget Category:

Budget Categories *Operations (Transit Only)* *	State	Local	Federal	Total
Salaries	$0	$0	$0	$0
Fringe Benefits	$0	$0	$0	$0
Contractual Services	$150,000	$150,000	$0	$300,000
Travel	$0	$0	$0	$0
Other Direct Costs	$0	$0	$0	$0
Indirect Costs	$0	$0	$0	$0
Totals	***$150,000***	***$150,000***	***$0***	***$300,000***

* Budget category amounts are estimates and can be shifted between items without amendment (because they are all within the Operations Phase).

C. Cost Reimbursement

The Agency will submit invoices for cost reimbursement on a:

___ Monthly
_X_ Quarterly
___ Other: _N/A_

basis upon the approval of the deliverables including the expenditure detail provided by the Agency.

BUDGET/COST ANALYSIS CERTIFICATION AS REQUIRED BY SECTION 216.3475, FLORIDA STATUTES:

I certify that the cost for each line item budget category has been evaluated and determined to be allowable, reasonable, and necessary as required by Section 216.3475, Florida Statutes. Documentation is on file evidencing the methodology used and the conclusions reached.

Raymond Freeman
Department Grant Manager Name

Raymond Freeman
Signature C25F63C2D45B4DA...

3/17/2021 | 1:29 PM EDT
Date

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EXHIBIT D

AGENCY RESOLUTION

PLEASE SEE ATTACHED

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RESOLUTION NO. 2221

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF BAY HARBOR ISLANDS, FLORIDA; AUTHORIZING THE TOWN MANAGER TO EXECUTE A PUBLIC TRANSPORTATION GRANT AGREEMENT WITH THE STATE OF FLORIDA DEPARTMENT OF TRANSPORTATON (FDOT) TO PROVIDE STATE FUNDING FOR THE TOWN'S GENERAL CIRCULATOR BUS ON- DEMAND CONNECTION SERVICES; SETTING AN EFFECTIVE DATE.

WHEREAS, a Public Transportation Joint Participation Agreement ("the Agreement") has been prepared by the Florida Department of Transportation ("FDOT") to provide State Service Development Grant Program funding assistance for the Town of Bay Harbor Islands General Bus Circulation between Bay Harbor Island, the Town of Bal Harbor, and the Town of Surfside; and

WHEREAS, FDOT agrees to provide funding of $150,000 for this joint participation project from the Public Transit Service Development Program funds.

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

1. That the attached Public Transportation Grant agreement between the State of Florida Department of Transportation (FDOT) and the Town of Bay Harbor Islands to provide On-Demand Services Connection between the Towns of Bay Harbor, Bal Harbor, and Surfside is approved. A copy of the agreement is attached hereto and incorporated by reference.
2. The Town Manager and other appropriate Town officials are authorized to take all action necessary to execute and implement the agreement.

PASSED and ADOPTED this 10th day of March 2021.

STEPHANIE BRUDER
MAYOR

ATTEST:

ALBA L. CHANG
TOWN CLERK

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EXHIBIT E
PROGRAM SPECIFIC TERMS AND CONDITIONS – TRANSIT

(Service Development)

1. **Conformance with Enabling Legislation.** This Agreement is in conformance with Section 341.051, F.S.

2. **Bus Transit System.** In accordance with Section 341.061, F.S., and Rule Chapter 14-90, Florida Administrative Code, the Agency shall submit and the Department shall have on file, an annual safety certification that the Agency has adopted and is complying with its adopted System Safety Program Plan pursuant to Rule Chapter 14-90, F.A.C., and has performed annual safety inspections of all buses operated.

3. **Transit Vehicle Inventory Management.** The agency will follow the Department's Transit Vehicle Inventory Management Procedure (725-030-025), which outlines the requirements for continuing management control, inventory transfer and disposal actions. This procedure pertains ONLY to capital procurements of rolling stock using the FTA Section 5310, Section 5311, Section 5316, and Section 5317 programs as the funding source, or where the Department participates in 50% or more of the public transit vehicle's purchase price. This may include vehicles purchased under the State Transit Block Grant Program, State Transit Corridor Program, State Transit Service Development Program, or other applicable Department programs.

4. **Progress Reports.** The Agency will submit Semi-Annual Progress Reports on monthly ridership data. Reports are due no later than January 30th for the period ending December 31st and July 30th for the period ending June 30th.

5. **Project Goals and Service Data.** The Agency must report on work efforts and provide a detailed, side-by-side comparison of the project goals and actual service data.

6. **Submittal of Proposed Timeline.** The Agency will submit a Proposed Time Line for Service Development Activities prior to the commencement of the project.

7. **Final Report.** At any time when it becomes necessary to terminate the project or at the end of the two years, a Final Report will be submitted by the Agency. This report will accompany the Final Invoice for reimbursement. The Final Report will include the following:

   a) An evaluation of the attainment of the goals and objectives.

   b) The reasons any of the goals were not met.

   c) The benefit accrued by the Agency.

   d) A statement of the Agency's intent to continue with the service demonstrated.

-- ***End of Exhibit E*** --

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EXHIBIT F

Contract Payment Requirements
Florida Department of Financial Services, Reference Guide for State Expenditures
Cost Reimbursement Contracts

Invoices for cost reimbursement contracts must be supported by an itemized listing of expenditures by category (salary, travel, expenses, etc.). Supporting documentation shall be submitted for each amount for which reimbursement is being claimed indicating that the item has been paid. Documentation for each amount for which reimbursement is being claimed must indicate that the item has been paid. Check numbers may be provided in lieu of copies of actual checks. Each piece of documentation should clearly reflect the dates of service. Only expenditures for categories in the approved agreement budget may be reimbursed. These expenditures must be allowable (pursuant to law) and directly related to the services being provided.

Listed below are types and examples of supporting documentation for cost reimbursement agreements:

(1) Salaries: A payroll register or similar documentation should be submitted. The payroll register should show gross salary charges, fringe benefits, other deductions and net pay. If an individual for whom reimbursement is being claimed is paid by the hour, a document reflecting the hours worked times the rate of pay will be acceptable.

(2) Fringe Benefits: Fringe Benefits should be supported by invoices showing the amount paid on behalf of the employee (e.g., insurance premiums paid). If the contract specifically states that fringe benefits will be based on a specified percentage rather than the actual cost of fringe benefits, then the calculation for the fringe benefits amount must be shown.

Exception: Governmental entities are not required to provide check numbers or copies of checks for fringe benefits.

(3) Travel: Reimbursement for travel must be in accordance with Section 112.061, Florida Statutes, which includes submission of the claim on the approved State travel voucher or electronic means.

(4) Other direct costs: Reimbursement will be made based on paid invoices/receipts. If nonexpendable property is purchased using State funds, the contract should include a provision for the transfer of the property to the State when services are terminated. Documentation must be provided to show compliance with Department of Management Services Rule 60A-1.017, Florida Administrative Code, regarding the requirements for contracts which include services and that provide for the contractor to purchase tangible personal property as defined in Section 273.02, Florida Statutes, for subsequent transfer to the State.

(5) In-house charges: Charges which may be of an internal nature (e.g., postage, copies, etc.) may be reimbursed on a usage log which shows the units times the rate being charged. The rates must be reasonable.

(6) Indirect costs: If the contract specifies that indirect costs will be paid based on a specified rate, then the calculation should be shown.

Contracts between state agencies, and/or contracts between universities may submit alternative documentation to substantiate the reimbursement request that may be in the form of FLAIR reports or other detailed reports.

The Florida Department of Financial Services, online Reference Guide for State Expenditures can be found at this web address https://www.myfloridacfo.com/Division/AA/Manuals/documents/ReferenceGuideforStateExpenditures.pdf.

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EXHIBIT G

AUDIT REQUIREMENTS FOR AWARDS OF STATE FINANCIAL ASSISTANCE

THE STATE RESOURCES AWARDED PURSUANT TO THIS AGREEMENT CONSIST OF THE FOLLOWING:

SUBJECT TO SECTION 215.97, FLORIDA STATUTES:~

Awarding Agency: Florida Department of Transportation
State Project Title: Public Transit Service Development Program
CSFA Number: 55.012
***Award Amount:** $150,000

*The award amount may change with amendments

Specific project information for CSFA Number 55.012 is provided at: https://apps.fldfs.com/fsaa/searchCatalog.aspx

COMPLIANCE REQUIREMENTS APPLICABLE TO STATE RESOURCES AWARDED PURSUANT TO THIS AGREEMENT:

State Project Compliance Requirements for CSFA Number 55.012 are provided at: https://apps.fldfs.com/fsaa/searchCompliance.aspx

The State Projects Compliance Supplement is provided at: https://apps.fldfs.com/fsaa/compliance.aspx

AGREEMENT (CONTRACT)

BETWEEN OWNER AND CONTRACTOR

THIS AGREEMENT is dated as of the____day of_____, in the year 2022, by and between the Town of Bay Harbor Islands (hereinafter called OWNER), and Beefree, LLC dba Freebee (hereinafter called CONTRACTOR).

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

Article 1. WORK

CONTRACTOR shall complete all Work as specified or indicated below in CONTRACT NO. BHI-218. The Work is generally described as follows:

> On-Demand Transit Services for the Town of Bay Harbor Islands. The On-Demand Transit Service shall consist of operating air-conditioned ADA accessible electric vehicle(s) to provide the Town of Bay Harbor Island residents with first/last mile transportation when requested through a ride-hailing application.

The Project is referenced as follows:

TOWN OF BAY HARBOR ISLANDS

On-Demand Transit Services

CONTRACT NO. BHI-218

Article II. SCOPE OF SERVICES

2.1 INTRODUCTION.

Contractor shall provide vehicles, maintenance, personnel, and operations for On-Demand Transit Services ("Services") On-Demand Transit Services for the Town of Bay Harbor Islands,

in accordance with the terms, conditions, and specifications stated below.

2.2 ON-DEMAND TRANSIT SERVICES.

2.2.1 SCOPE OF WORK.

On-Demand low speed air-conditioned ADA accessible electric vehicle(s) would provide door-to-door servicethroughout the Town of Bay Harbor Islands and surrounding areas no more than 4 miles past the Town limits. The vehicle(s) would be assigned to provide the on-demand service from 8:00 a.m. to 6:00 p.m., seven days a week. Passengers would request a ride through an app on their smartphone or by calling a phone number. The Town may request changes to the hours (before 8:00 a.m. and after 6:00 p.m.).

On-Demand low speed electric vehicle(s) would provide door-to-door service throughout The Town of Bay Harbor and areas no further than 4 miles from the Town boundary (see attached geo grid) - Exhibit A & A-1)from 8:00 a.m. to 6:00 p.m., seven days a week. The Town may request additional vehicle(s) and hours (before 8:00 a.m. and after 6:00 p.m.). Passengers would request a ride through an app on their smartphone or by calling a phone number. On-Demand Transit Service, focusing on short first/last mile trips, using one (1) On-Demand Transit vehicle(s) will operate in the area described in Exhibit A. & A-1 The Contractor shall operate the On-Demand Transit Service by adjusting vehicle routing to meet ridership demand and service needs within the service area, minimizing wait times and trip length times. The Contractor will provide pricing to add an additional service vehicle should the demand for ridership be high and if requested by the Town.

2.2.1 SERVICE DAYS.

Contractor shall operate On-Demand Transit Service seven days per week, commencing [Month/Date], 2022, until [Month/Date], 2022. Service hours shall be held from 8:00 AM to 6:00 PM, seven (7) days a week. The Town may request additional hours (before 8:00 a.m. and after 6:00 p.m.). Town may request additional vehicle should demand for ridership necessitate.

2.2.2 VEHICLE SPECIFICATIONS.

Contractor's vehicle(s) shall meet the minimum vehicle specifications listed below:

2.2.2.1 Vehicle Type: Electric vehicle with full doors, air-conditioning, ADA accessible, windows and seatbelts.
2.2.2.2 Vehicle Year: 2017 or newer.
2.2.2.3 Seating Capacity: Minimum of five seats (four passenger seats and one vehicle operator seat).
2.2.2.4 Vehicle Charging: Charges shall be provided, installed, operated, and maintained by the Contractor during the entire program. Cost of electricity shall be covered. Charging equipment shall remain property of the Contractor.
2.2.2.5 Vehicle must be low speed, motorized and street legal.

2.2.3 TECHNOLOGY.

Contractor shall use a technology platform that supports on-demand responsive operations. Features of the technology platform shall include, but are not limited to:

2.2.3.1 Routing and dispatching of vehicles in the form of a mobile application.
2.2.3.2 Remote real-time tracking of service for both users and dispatch.
2.2.3.3 Customer-friendly mobile application available for download in the Apple and Android stores, downloadable at no cost to riders.
2.2.3.4 Dashboard for analysis of service operations available to Town staff.
2.2.3.5 Application Programming Interface (API) enabled to connect with Town transit applications, Miami-Dade Transit Application, and Google Maps.

Contractor shall provide a real-time online data portal where all relevant data sourced are housed, and Town staff can track pre-determined metrics. Contractor shall be responsible for tracking and reporting data including, but not limited to, hourly, daily, weekly, monthly ridership, vehicle occupancy, trip origins and destinations, heat maps, minimum, maximum, and average wait times, minimum, maximum, and average trip length, passenger demographics, rider request methods utilized, number of canceled trips (by riders or vehicle operators), numbers of missed trips (if vehicle did not serve customer and customer never cancelled request, and similar statistics. For cancelled trips, information as to duration of time between when the ride was requested and cancelled shall be reported. Additionally, the Contractor shall report drivers' ratings and feedback received from passengers.

2.3 OPERATIONAL REQUIREMENTS FOR ON-DEMANDTRANSIT VEHICLES.

2.3.1 Licenses. Vehicle operators must have a valid Florida Commercial Driver's License (Chauffeurs or commercial) as well as any other licenses required by federal, state, and local regulations.

2.3.2 Maintenance.

2.3.2.1 Vehicle Maintenance and Repairs. Contractor shall be responsible for all maintenance activities including, but not limited to, replacement of parts, tires, oil, fluid changes, filters, and cleaning of vehicle. Contractor shall be responsible and provide all general repairs to all vehicles operated pursuant to this Contract. Town shall not be responsible or required to provide any repairs, replacements, or maintenance for any vehicle at any time.

2.3.2.2 Preventative Maintenance. Contractor shall design and implement a preventative maintenance program that will combine regular inspections with scheduled interval-related servicing needs and warranty requirements as provided by manufacturer. Elements of the preventative maintenance program shall include:

2.3.2.2.1 Daily pre- and post-pullout safety instructions.
2.3.2.2.2 Daily servicing of fluid levels, tires, lights, and minor mechanical problems. Brakes shall be checked weekly.
2.3.2.2.3 Periodic mechanical and safety inspections by mechanics and supervisors. Such inspections shall be documented and completed monthly or more often as indicated necessary by recurring problems.
2.3.2.2.4 Interval related servicing should be scheduled to reduce downtime and ensure maximum life and performance of vehicle components.

2.3.2.2.5 Contractor shall be responsible for the required inspections of all vehicles used for theservices, if and when applicable. Contractor shall schedule and deliver vehicles to a certified inspection station, if and when applicable.

2.3.2.2.6 Repairs to non-working items that relate to safety shall be completed prior to returningthe vehicle to service. Failure of safety related items on a vehicle while performing service shall require immediate removal of the vehicle from service for repair. These items shall include legally required lights, working brakes, tire tread depth or condition, or any other mechanical condition that may have an effect on the continued safe operation of a vehicle.

2.3.2.2.7 Contractor shall be responsible for providing any towing services necessary to complete repairs required.

2.3.2.2.8 Mechanical and Body Repairs. Within three days of learning of damage or the need for any repairs, Contractor shall complete all mechanical repairs found necessary to maintain the function of all components and features of the vehicles, unless otherwisepermitted by the Town. Mechanical and body repairs shall be conducted as follows:

2.3.2.2.8.1 Body and frame repairs, inclusive of necessary painting, will be inspected and certified in writing as completed by the garage performing work prior to returning the vehicle to service.

2.3.2.2.8.2 Minor body damage repairs shall be repaired as soon as possible, but shall not exceed two weeks, subject to availability of OEM parts when needed.

2.3.2.2.8.3 Major body damage shall be repair before returning the vehicle into service, not to exceed five weeks out of service, subject to availability of OEM parts when needed.

2.3.2.3 Vehicle Cleaning. Contractor shall provide all labor and materials necessary to keep all vehicles clean at all times. Contractor shall wash the exterior of the vehicles, including support vehicles, at least weekly, and shall clean the interiors of the vehicles daily by picking up all litter, sweeping/cleaning the floor, and cleaning the windows if required. Contractor shall wash all vehicle interior items, including, for example, seats, handrails, armrests, etc. Vehicle interiors shall be free from vermin, insects, noxious odors, and similar conditions. Contractor shall remove all graffiti from vehicles, whether on the vehicles' interior or exterior, immediately or as soon as is practicable, but no later than the start of the next days' service. If the graffiti is offensive or vulgar and cannot be removed, the vehicle shall be taken out of service immediately.

2.3.2.4 Preventative Maintenance of Heating and Air Conditioning for Vehicles. Periodic inspection and servicing checklists will be developed that conform to manufacturer's mostsevere service recommendations and generally accepted best industry practices. TheContractor shall properly maintain operating HVAC systems on all vehicles at all times. No vehicle shall be permitted to enter service without properly functioning heating or air conditioning systems and the Contractor shall be expected to make all reasonable efforts change out a vehicle that experiences a malfunctioning heating or air-conditioning system while in service.

2.3.2.5 Vehicles in need of Repair or Cleaning. Contractor shall immediately remove from operation any vehicle deemed to be in need of repair, cleaning, or other action by the Town.

2.3.3 Air Conditioning. Vehicles air condition units must function properly at all timesin all vehicles, and shall operate at an internal ambient temperature of 75 degrees Fahrenheit.

2.3.4 Records.

2.3.4.1 Vehicle Records. Contractor shall maintain a complete individual vehicle history of every vehicle used. The Contractor shall be responsible for keeping the vehicle maintenance current throughout the term of the Contract for the Services and shall make available complete copies of all files available to the Town at the end of the Contract. The Town or its agent shall have reasonable access to all vehicle maintenance records during planned or unannounced visits or inspects of the Contractor's facility for the duration of the Contract. The Contractor shall maintain records including, but not limited to:

2.3.4.1.1 Completion of required inspections.
2.3.4.1.2 Timely execution of scheduled services.
2.3.4.1.3 Major repairs and replacements.
2.3.4.1.4 Use of parts and components.
2.3.4.1.5 Unscheduled maintenance.
2.3.4.1.6. Accident repairs and body work.
2.3.4.1.7. Warranty work and claims.
2.3.4.1.8. Fuel and oil and fluids consumption on a unit per vehicle basis.
2.3.4.1.9. Vehicle mileage and hours of operation.
2.3.4.1.10. Tire and brake life.
2.3.4.1.11. Hours of operation.
2.3.4.1.12. Frequency of service provided.
2.3.4.1.13. Days of operation.
2.3.4.1.14. Total actual vehicle miles.
2.3.4.1.15. Total vehicle revenue miles, if applicable.
2.3.4.1.16. Total vehicle revenue miles, if applicable.
2.3.4.1.17. Unlinked passenger trips (number of passengers who board the public transportation vehicle determined by an actual 100% count or by a Federal Transit Administration approved sampling procedure).
2.3.4.1.18. Passenger miles (Sum of distance ridden by each passenger).
2.3.4.1.19. Ridership for each route.

2.3.4.2 Contractor shall maintain records regarding any vehicle defect that occurs. Vehicle defect cards shall be made available to vehicle operators and staff on all vehicles. A vehicle defectreport shall be completed as part of pre-trip inspections on each vehicle and after service and filed chronologically by vehicle number. Vehicle operators will turn in defect cards prior to and after each shift to the Contractor's staff person charged with reviewing each cardto prevent vehicles with problems from being assigned to any following trip.

2.3.4.3 Contractor shall also be responsible for documenting, filing, and executing all warranty

claims with the OEM component manufacturers. Contractor must ensure that all vehicle manufacturer warranty work is accomplished to guarantee the Town compliance with necessary warranty requirements. Contractor shall track all warranty work, including parts and labor, and submit claims for reimbursement to the manufacturer/supplier. The Town may have its staff review Contractor's vehicle records to ensure warranty claims are beingproperly recorded, submitted, and defended.

2.3.4.4 Town shall have immediate and unrestricted access to all vehicles and vehicle maintenancerecords during planned or unannounced visits or inspections to vehicles and Contractor's facility for the duration of awarded Contract for the duration of the Contract.

2.3.5 Identification Tags. Contractor's vehicle operators and other staff that come in contact with the public shall wear identification tags clearly stating their first name at all times while performing their duties.

2.3.6 Accident and Incident Procedures.

2.3.6.1 The Contractor shall develop, implement, and maintain formal and expedient procedures to respond to all accidents, disturbances, passenger injuries/fatalities, and any other serviceinterruptions/failures, subject to approval by the Town.

2.3.6.2 Contractor shall be responsible for reporting to the Town any and all incidents that occur,as described below.

2.3.6.3 All traffic accidents involving vehicles/pedestrians, irrespective of injury, shall be immediately notified to the Town Police Department. The Contractor will advise such agency of the accident and request a police unit to investigate the accident.

2.3.6.4 The Contractor shall immediately notify the Town of any accident or incident, especially those resulting in injury, in loss or damage to the Town and /or private property. Written notification shall be sent within 48 hours. The written notice shall describe the sequence ofevents and include reports by the vehicle operator, attendant, witnesses, and any other relevant individuals. In addition, the Contractor shall notify the Florida Department of Transportation verbally within 48 hours thereafter the incident, followed by a written report within 48 hours. Contractor shall notify the Florida Department of Transportation of any fatalities verbally within 24 hours, followed by a written report within 24 hours. Contractor shall be responsible for providing follow-up reports, both verbally and in writing, within the required hours of the reported incident.

2.3.6.5 Contractor must implement a written Drug and Alcohol Testing program.

2.3.7 Vehicle(s) in Need of Repair or Cleaning. Contractor shall immediately remove from operation any vehicle deemed to be in need of repair, cleaning, or other action by the Town.

2.3.8 Service Standards. Contractor shall operate On-Demand Transit Services in a manner that will maximize the efficiency of the service while achieving excellent customer service. Contractor's technical performance and customer serviceperformance will be periodically evaluated by the Town. The Contractor and the Town shall meet periodically to evaluate

the performance and effectiveness of the On-Demand Transit Services. If applicable, Contractor will take all reasonable actions requested by the Town to immediately correct deficiencies in performance after review of the performance evaluation.

2.3.9 Additional Operating Procedures. Contractor shall observe all safety rules and other requirements of regulatory bodies having jurisdiction over the service area and operate all vehicles with the highest regard for all aspects of safety. Additionally, Contractor will comply with the following requirements:

2.3.9.1.1 Contractor shall not use vehicles for illegal purposes.
2.3.9.1.2 Contractor shall not use vehicles for towing, pushing, or any purpose other than transportation of passengers.
2.3.9.1.3 Contractor shall not overload vehicles beyond their specified carrying capacity, nor operatea vehicle in an unsafe manner.
2.3.9.1.4 Contractor shall not use vehicles in any way except as specifically authorized by the Town.
2.3.9.1.5 All vehicles shall operate with headlights and taillights turned on while in service.
2.3.9.1.6 Service shall be provided to all orderly persons who pay the proper fare, if applicable, and comply with ridership rules and regulations established by the Town. Contractor shall notdiscriminate against any passenger on the basis of race, color, religion, country of origin, age, gender, sexual preference, or disability.
2.3.9.1.7 Contractor's vehicles shall not play music while servicing customers/riders.

2.3.10 Reporting Requirements. Contractor shall maintain and provide to the Town and/or Miami-Dade County with the following information each month:
2.3.10.1 On time performance.
2.3.10.2 Average vehicle speed, per rout.
2.3.10.3 Revenue miles.
2.3.10.4 Revenue hours.
2.3.10.5 Number of incidents.
2.3.10.6 Number of complaints.

2.4 PERSONNEL.

2.4.1 Contractor's dispatch personnel shall be bilingual for English and Spanish, and shall be trained for the special needs of elderly and disabled individuals. Dispatchers shall respond to questions concerning the service with courtesy, respect, sensitivity, and effectiveness.

2.4.2 Contractor's vehicle operators shall comply with the following requirements:

2.4.2.1 Vehicle operators must have a successful a background clearance, medical examination certificate and pass drug testing. Contractor shall not allow any vehicle operator to operate a vehicle if the vehicle operator does not pass the medical and drug examination.
2.4.2.2 Vehicle operators shall be trained in all operational procedures, including thorough knowledge of the service area street network.
2.4.2.3 Vehicle operators shall be fully trained in defensive driving and vehicle handling.

2.4.2.4 Vehicle operators shall be trained in the special skills required to provide transportation to the elderly and disabled individuals, including customer service, assisting elderly and disabled riders enter and exit the vehicle, operation of hydraulic wheelchair lift or use of awheelchair ramp in order for disabled persons to enter and exit vehicles, and proper use ofwheelchair harnesses.

2.4.2.5 Vehicle operators shall assist passengers confined to wheelchairs in boarding and shall perform the tie downs.

2.4.2.6 Vehicle operators shall be trained to operate all types of vehicles (including reserve vehicles owned by the Contractor) in the service, wheelchair lifts and harness systems, andother equipment that they may be expected to use during service hours.

2.4.2.7 Regularly assigned vehicle operators or trained back-up vehicle operators shall be availableand on-time on a daily basis to ensure consistent and reliable service.

2.4.2.8 Vehicle operators shall not take lunch hour or breaks inside or close by the Contractor's vehicles.

2.4.2.9 Passengers must never be kept waiting, except for scheduled headways.

2.4.2.10 Each vehicle operator shall have an accurate timepiece available and in clear sight at all times while operating a vehicle.

2.4.2.11 Vehicle operators must have a thorough knowledge of and abide by all traffic regulations.

2.4.2.12 Vehicle operators shall be sensitive to ridership comforts, such as interior temperatures of their vehicle, cleanliness of their vehicles, etc.

2.4.3 Contractor's staff and vehicle operators shall be trained to understand and practice the high quality of customer service required by the Town. Contractor shall provide adequate customer service training to its employees and demonstrate to the Town that vehicle operators have attended and successfully completed customer service trainings.

2.5 MISCELLANEOUS.

2.5.1 Fares. The Contractor shall operate the On-Demand Transit Services at no cost to the riders, unless the Town, at its sole discretion, elects to impose fares on riders. Contractor's vehicle operators or staff shall not display tip jars or solicit tip acceptance, unless desired by the passenger for exceptional service. If the Town elects to impose fares on the On-Demand Transit services, the Contractor shallcollect such fares for the Town at no additional cost to the Town or riders.

2.5.2 Staff Uniforms. Contractor shall submit staff uniforms to the Town for acceptance.

2.5.3 Road Supervision. Contractor shall provide road supervision as required to monitor vehicle operators, vehicles, quality of service, and adherence to all established routes, timeschedules, and/or response times, and respond to all emergency calls.

2.5.4 Branding and Advertising.

2.5.4.1 Vehicle exterior branding shall be very minimal and limited and designs will be provided by the Contractor to the Town for prior written approval before implementation. Advertisement will not be allowed on vehicles. Once vehicle

design is approved by the Town, Contractor shall install exterior branding/wrapping on vehicles. Maintenance of branding/wrapping on vehicles shall be borne by the Contractor. Contractor shall bear the cost of initial branding/wrapping installation. If the Town changes the Town branding/wrapping design, the Town shall cover the cost of production and installation.

2.5.4.2 Contractor shall maintain a pleasant and aesthetic image and ensure the quality of life of itsresidents.

2.5.4.3 Contractor, at its sole cost and expense, shall be responsible for the design, development, production, redesign, removal and installation of vehicle wraps.

2.5.4.4 Prior to installation of vehicle decals, wraps or designs, the Contractor shall submit sketch and design content to the Town for review and prior written approval, subject to the sole discretion of the Town. The Town, at its discretion, may request removal of any design it deems offensive, objectionable, or inappropriate. Removal of any and all non-compliant design content / graphics will be removed within twenty-four hours after receipt of officialnotice from the Town.

2.5.4.5 Contractor design shall comply with the following requirements:

2.5.4.5.1 All vehicle design accepted for placement by the Town must comply with Federal, State, County, and Town laws, ordinances, rules, and regulations.

2.5.4.5.2 No vehicle design shall be permitted that represent:

2.5.4.5.2.1 Unlawful or illegal goods, services, or activities;
2.5.4.5.2.2 E-cigarettes, tobacco, or tobacco-related products;
2.5.4.5.2.3 Firearms;
2.5.4.5.2.4 Sexual services, programs, or products;
2.5.4.5.2.5 Political candidates or political issues;
2.5.4.5.2.6 Competitive products for any Town wide exclusive sponsorship agreements; and
2.5.4.5.2.7 Alcoholic beverages, as defined by F.S. § 561.01.

2.5.4.6 No vehicle design shall contain the words “STOP,” “LOOK,” “DANGER,” “DRIVE IN” or any other word, symbol, or displays designed to distract vehicular traffic.

2.5.4.7 No vehicle design shall contain material that is immoral, lascivious, or obscene, as definedin F.S. § 847.001; businesses engaged in any activity requiring the exploitation of minors,pursuant to Ch. 847, F.S.; or libelous material or material detrimental to the operation or goals of the Town.

2.5.5 Provision of Parking Spaces. The Town, at its sole discretion, may provide the Contractor with dedicated parking spaces or similar storage locations for the Contractor's vehicles at a mutually agreed upon rate.

2.5.6 Exclusive Use. Contractor shall not enter into an agreement with any other party for use of equipment, personnel, or vehicles dedicated to providing the Services without approvalfrom the Town.

2.5.7 Service Marketing. Contractor shall coordinate with the Town to develop a strategy and schedule for public outreach and marketing of On-Demand Transit Services. The strategy should address both service launch phase and how to ensure continued promotion of the Services throughout the contract. The strategies shall be coordinated, reviewed, and approved by the Town.

Article III. TERMS AND CONDITIONS

Contractor is required to comply with the following terms and conditions:

3.0. PRICING.

The price schedule attached as Exhibit B to this Contract shall specify the Contractor's all inclusive pricing and/or fees for the Services requested herein. The price schedule shall include any and all applicable taxes in the prices. The prices shall remain fixed and firm during the term of the Agreement.

3.1. LICENSES AND PERMITS.

Contractor shall secure any and all necessary and required licenses, certifications and permits to conduct the Services including, but not limited to, all Federal, State, County and Town licenses and permits. All Contractor must provide the necessary documentation to demonstrate that they meet all applicable licensing and permitting requirements, including the following:

3.1.1. Licenses – Contractor must be fully licensed with all applicable and required licenses, certifications, and permits to provide the Services, including all Federal, State, Miami-Dade County and local government licenses, certifications, and permits.

3.1.2. Commercial Driver's License – Contractor must have valid Florida Commercial Driver's License necessary to operate the Services.

Contractor represents and warrants to the Town that it holds all licenses, certifications, and permits, including Commercial Driver's Licenses, ("Licenses") required by applicable law and by any other governmental authority or agency to perform the Services. Contractor represents and warrants to the Town that the Licenses shall be in full force and effect on the date of performance of the Services and further represents that it holds and will hold all Licenses throughout the term of the Agreement. Contractor shall provide the Town with copies of all Licenses and any additional

permits that may be required for performance of the Services during the term of the Agreement.

Where the Contractor is required to enter onto Town property, public right of way or other property to deliver materials or to perform the Services as a result of a proposal award, the Contractor will assume the full duty, obligation and expense of obtaining all necessary approvals, licenses, permits, inspections and insurance required. The Contractor shall be liable for any damages or loss to the Town, property or person occasioned by the acts or omissions, or the negligence of the Contractor, (or their agent) or any person the Contractor has designated in the completion of the Services, as a result of the proposal.

3.2. INSURANCE.

3.2.1 Contractor shall secure and maintain throughout the duration of this Agreement insurance of such types and in such amounts not less than those specified below as satisfactory to Town, naming the Town as an Additional Insured, underwritten by a firm rated A-X or better by A.M. Best and qualified to do business in the State of Florida. The insurance coverage shall be primary and noncontributory insurance with respect to the Town, its officials, employees, agents and volunteers naming the Town as additional insured on a primary and noncontributory basis. Any insurance maintained by the Town shall be in excess of the Contractor's insurance and shall not contribute to the Contractor'sinsurance. The insurance coverages shall include at a minimum the amounts set forth in this section and may be increased by the Town as it deems necessary or prudent. Copies of Contractor's actual Insurance Policies as required herein and Certificates of Insurance shall be provided to the Town, reflecting the Town as an Additional Insured. Each Policyand certificate shall include no less than (30) thirty-day advance written notice to Town prior to cancellation, termination, or material alteration of said policies or insurance. All coverage forms must be primary and non-contributory and the Contractor shall provide a waiver of subrogation for the benefit of the Town. The Contractor shall be responsible for assuring that the insurance policies and certificates required by this Section remain in fullforce and effect for the duration of the Project.

3.2.1.1 Commercial General Liability coverage with limits of liability of not less than a $1,000,000 per Occurrence combined single limit for Bodily Injury and Property Damage. This Liability Insurance shall also include Completed Operations and Product Liability coverages and eliminate the exclusion with respect to property under the care, custody and control of Contractor. The General Aggregate Liability limit and the Products/Completed Operations Liability Aggregate limit shall be in the amount of $2,000,000 each.

3.2.1.2 Workers Compensation and Employer's Liability insurance, to apply for all employees for statutory limits as required by applicable State and Federal laws. The policy(ies) must include Employer's Liability with minimum limits of $1,000,000.00 each accident. No employee, subcontractor or agent of the Contractor shall be allowed to provide Services pursuant to this Agreement who isnot covered by Worker's Compensation insurance.

3.2.1.3 Business Automobile Liability with minimum limits of $1,000,000.00 perOccurrence, combined single limit for Bodily Injury and Property Damage Coverage must be afforded on a form no more restrictive than the latest edition of the Business Automobile Liability policy, without restrictive endorsements, as filed by the Insurance Service Office, and must include Owned, Hired, and Non- Owned Vehicles.

3.2.2. The Contractor agrees to indemnify, defend and hold harmless the Town from andagainst any and all claims, suits, judgments, losses, damages, executions and/or liabilitiesas to bodily injuries and/or property damage which arise or grow out of the Agreement or Contractor's performance of the Services required in this Agreement.

3.2.3 The Contractor shall also, upon request by the Town, provide copies of all officialreceipts and endorsements as verification of Contractor's timely payment of each insurancepolicy premium as required by the Agreement.

3.3 PERFORMANCE BOND.

Within 72 hours of issuance of Notice to Proceed, the successful Contractor shall furnish to the Town a Performance Bond in the amount of **Two Hundred Fifty Thousand and NO/100 ($250,000.00)** for the period of the contract (to be determined at the time of award). The Performance Bond can be in the form of a Cashier's Check, made payable to the Town (Please note that Cashier's Checks will be deposited into an escrow account for the term of the contract);a bond written by a surety company authorized to do business in the State of Florida and shall comply with F.S. § 287.0935; or an Irrevocable Letter of Credit. If the latter is chosen, it must bewritten from a bank located in Miami-Dade County, be in the amount of the contract, and should clearly and expressly state that it cannot be revoked until express written approval has been givenby the Town. The Town, to draw on same, would merely have to give written notice to the bank with a copy to the successful contractor.

3.3.1 Attorney's-in-fact, who sign the Performance Bond, must file with such Bonds, certified copies of their current power of attorney to sign such Bonds. All Bonds must be countersigned by an agent of the Surety licensed in the State of Florida, with a copy of the agent's current identification card, as issued by the State of Florida Insurance Commissioner, attached hereto.

3.3.2 Contractor must submit Bond forms attached hereto or such other acceptable bond forms as approved by the Town, in its sole discretion.

3.4 QUALIFICATION OF SURETIES.

3.4.1 General: The following requirements shall be met by all surety companies furnishing proposal, performance payment or other type of bonds.

3.4.2 Qualifications: As to companies being rated acceptable:

3.4.2.1 The Surety shall be rated as "A" or better as to General Policyholders Rating and Class V or better as to Financial Category by Best's KeyRating Guide, published by Alfred M. Best Company, Inc., of 75 Fulton Street, New York, New York, 10038.

3.4.2.2 The Surety shall be listed on the U.S. Department of the Treasury, Fiscal Service, Bureau of Government Financial Operations, Circular 570, (1982 Revision) entitled, "Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies."

3.4.2.3 All Surety Companies are subject to approval and may be rejected by the Owner without cause, in the same manner that proposals may be rejected.

3.4.3 Limitations: Bonding Limits or Bonding Capital refer to the limit or amount of Bond acceptable on any one risk. 1. The bonding limit of the Surety shall not exceed ten percent (10%) of the policyholder surplus (capital and surplus) as listed by the aforementioned Best's Key Rating Guide, on anyone risk (penalty or amount of any one bond).

3.4.4 Requirements:

3.4.4.1 Policy Holders Surplus is required to be 5 times the amount of any one bond.

3.4.4.2 The Agent countersigning the bond shall be a resident of Miami-Dade County.

3.5 COMPLIANCE WITH LAW AND OTHER REQUIREMENTS.

Contractor shall conduct its operations in compliance with all applicable federal, state, county and local laws in providing the Services required by this Agreement, including specifically, Chapter 316, "State Uniform Traffic Control," of the Florida Statutes; Chapter 30, "Traffic and Motor Vehicles," of the Miami-Dade County Code of Ordinances; and Section 13-24, "Identification on Commercial Vehicles." of Chapter 13 of the Town's Code of Ordinances. Contractor shall also assist the Town in complying with requests for information in connection with Section 29-124, "Special fund created; uses of surtax proceeds; and role of Citizens' Independent Transportation Trust," of the Miami-Dade County Code of Ordinances.

3.6 ASSIGNMENT.

The Contractor shall not transfer or assign the performance of the Services required by this Agreement without the Town's prior written consent.

3.7 ATTORNEY'S FEES.

If the Town incurs any expense in enforcing the terms of the Agreement, whether suit be brought or not, Contractor agrees to pay all such costs and expenses including, but not limited to, court costs, interest and reasonable attorney's fees (including paralegal fees) incurred through mediation, arbitration, or the appellate processes.

3.8 CONTRACTOR'S RELATION TO THE TOWN.

It is expressly agreed and understood that the Contractor is in all respects an independent contractor as to all Services hereunder, and that the Contractor is in no respect an agent, servant or employee of the Town. This Agreement specifies the Services to be performed by the Contractor, but the method to be employed to accomplish the Services shall be the responsibility of the Contractor, unless otherwise provided in the Agreement or by the Town.

3.9 DISCRIMINATORY PRACTICES.

The Contractor shall not discriminate against or deny service, access, or employment to any person on the basis of race, color, creed, sex, sexual orientation religion or national origin. The Contractor will strictly adhere to the equal employment opportunity requirements and any applicable requirements established by the State of Florida or the Federal Government.

3.10 TIME IS OF THE ESSENCE; DELIVERY OF SERVICES.

The Contractor acknowledges and agrees that time is of the essence in the performance and delivery of the Services hereunder.

3.11 CANCELLATION.
Failure on the part of the Contractor to comply with the conditions, specifications, requirements and terms as determined by the Town, shall be just cause for cancellation of the award, with the Contractor holding the Town harmless.

3.12 DISPUTES.
If any dispute concerning a question of fact arises under the resulting Agreement, other than termination for default or convenience, the dispute will be handled by the Town Manager.

3.13 TERMINATION FOR DEFAULT.
In the event of default by the Contractor, the Town may terminate the Agreement, procure the Services from other sources and hold the Contractor responsible for any excess costs occasioned or incurred thereby.

3.14 TERMINATION FOR CONVENIENCE.
The Town may terminate the Agreement, in whole or in part, for convenience upon thirty (30) days prior written notice to the Contractor. Upon such termination, the Town shall be responsible to the Contractor only for payment in accordance with the payment provisions of the Agreement for those Services rendered prior to and through the date of termination.

3.15 INDEMNIFICATION.
The Contractor shall indemnify, save harmless and defend the Town, its officers, agents and employees from and against any claims, demands or causes of action of whatsoever kind or nature arising out of any act, error, omission, negligent act, conduct or misconduct of the Contractor, his agents, servants or employees, in the performance of the Services pursuant to this Agreement.

3.16 SECONDARY/OTHER VENDORS.
The Town reserves the right in the event the Contractor cannot provide the Service(s) in a timely manner as requested, to contact the second contractor to perform the Services. If the secondary contractor is unavailable, the Town reserves the right to seek and obtain other sources.
As tasks and schedules are identified, substantial completion times will be mutually agreed upon between the Contractor and the Town.

3.17 PUBLIC ENTITY CRIME/DISQUALIFICATION.
Pursuant to Section 287.133(3)(a), Florida Statute, all Contractors are advised as follows:

"A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid on a contract to provide any goods or services to a public entity, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids on leases of real property to a public entity, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity, and may not transact business with any public entity and may not transact business with any public entity in excess of the threshold amount provided in s.287.017 for CATEGORY TWO for a period of 36 months from the date of being placed on the convicted vendor list."

3.18 NO CONTINGENT FEE.

Contractor shall warrant that it has not employed or retained any company or person, other than a bona fide employee working solely for the Contractor, to solicit or secure the Agreement and that it has not paid or agreed to pay any person, company, corporation, individual or firm, other than a bona fide employee working solely for the Contractor, any fee, commission, percentage, gift or other consideration contingent upon or resulting from the award or making the Agreement. For the breach or violation of this provision, the Town shall have the right to terminate the Agreement, without liability, at its discretion.

3.19 PUBLIC RECORDS; CONFIDENTIALITY.

Contractor is hereby notified that all information submitted as part of or in support of this Agreement are public records subject to public disclosure in accordance with Chapter 119, Florida Statutes. If there is any apparent conflict between Florida's Public Records Law and this Agreement, Florida Law will govern and prevail.

Article IV. PAYMENT PROCEDURES

Contractor shall submit monthly Applications for Payment. Applications for payment will be processed within 30 days of Town approval of the Contractor's Application for payment provided all the terms of the Agreement are met.

Article V. INTEREST Not Applicable

[Remainder of page intentionally left blank.]

IN WITNESS WHEREOF, the parties hereto have signed TWO (2) copies of this Agreement. At least one counterpart each has been delivered to TOWN and CONTRACTOR. All portions of the Contract Documents have been signed or identified by TOWN and CONTRACTOR.

TOWN	CONTRACTOR
Town of Bay Harbor Islands	_____
ADDRESS	ADDRESS
9665 Bay Harbor Terrace	_____
Bay Harbor Islands, FL 33154	_____
BY _____	BY _____
Maria Lasday Print Name	_____ Print Name
Town Manager Title	President Title
_____ Town Clerk	WITNESS_____
(CORPORATE SEAL)	(CORPORATE SEAL)

Exhibit A

On-Demand Transit Service Area

Description:

On-Demand Transit Service Area would go no further than 4 miles outside of the Town of Bay Harbor Islands boundaries. Heading west on Broad Causeway / 123rd Street towards the mainland intersection with Biscayne Blvd. and left to 121st street for Whole Foods then looping back around towards Broad Causeway / 123rd St.
Heading towards the beaches, the route will travel to Bal Harbour shops and to the Surfside commercial district up to 94th St.

Map – Geo Grid (attached Exhibit A-1)

Exhibit B
Pricing

Total all inclusive annual cost for One (1) On-demand air conditioned, electric, ADA accessible vehicle for 70 hours per week, 7 days a week (as specified in section____ scope: $132,287

Option to add an addiitonal vehicle if demand for ridership is high:

Total all inclusive hourly cost **any additional** On-Demand, air conditioned, electric, ADA accessible vehicle: $ _____

AGENDA ITEM REPORT
June 9, 2022

ITEM NUMBER: 6.

ITEM: Consideration and **Approval** of Issuance of a Request for Proposals (RFP) to select a Design-Build firm for the 92nd Street Dog Park Extension Project. Enclosed is a copy of the RFP package.

DESCRIPTION:
The Town has identified the need for the Design and Build of the extension of the existing dog part located on 92nd Street as part of the Town's recreation program. The extension of the dog park will allow to divide the dog park portion between large and small dogs, as requested by our residents. The new dog park will extend to the area of the existing parking lot which is currently under used. This will be a phased project, which will include the developing of the concept plans prepared by FIU School Architecture, designing and constructing the proposed dog park extension. In addition, the Town would like to update some of the features of the current people's park like the outdoor exercising equipment which are currently outdated.

The selected Design-Build Firm must demonstrate experience in the Planning, Design, Construction of Recreational Facilities, Construction Management, and must demonstrate a level of expertise, technical knowledge, innovation, and overall capacity to provide the Design-Build services.

Enclosed is a copy of the RFP document.

RECOMMENDED ACTION:
Approval

FINANCIAL ANALYSIS:
This project was allocated $200,000 as part of FY21-22 and another $400,000 will be allocated as part of the proposed budget for FY22-23.

BUDGET IMPACT:

Name	Impact Date	Fund(s)	Account(s)	Project #(s)	Amount Budgeted
92nd Street Park Construction	06/09/2022	$600,000	001.5720.400063.000	BHI-228	$600,000

Submitted By: Jose Custodio, Town Engineer

Maria Lasday, Town Manager

ATTACHMENTS

1.	RFP_Binder1_05262022

TOWN OF
BAY HARBOR ISLANDS

Project No. – BHI – 228

92nd Street Dog Park Extension
Design-Build

Request for Proposals

June 16, 2022

92nd Street Dog Park Extension – Design Build
TOWN OF BAY HARBOR ISLANDS
BHI-228

TABLE OF CONTENTS

1. **INVITATION TO BID**
2. **INSTRUCTIONS TO BIDDERS**
3. **SCOPE OF WORK**
4. **EVALUATION COMMITTEE AND PROCEDURE FOR REVIEW OF SUBMITTALS**
5. **BID FORM**
6. **PRICE PROPOSAL FORM**
7. **CONTRACTOR'S QUALIFICATION STATEMENT**
8. **BID BOND**
9. **TRENCH SAFETY ACT**
10. **ACKNOWLEDGEMENT OF CONFORMANCE WITH OSHA STANDARDS**
11. **NON-COLLUSION AFFIDAVIT**
12. **ADDENDUM**
13. **SAMPLE AGREEMENT**
14. **GENERAL CONDITIONS**
15. **SUPPLEMENTARY CONDITIONS**

ATTACHMENT #1 – AERIAL MAP

ATTACHMENT #2 – LAND SURVEY PREPARED BY LONGITUDE SURVEYORS

ATTACHMENT #3 – FIU SCHOOL OF ARCHITECTURE – CONCEPT DESIGN

92nd Street Dog Park Extension – Design Build
TOWN OF BAY HARBOR ISLANDS
BHI-228

INVITATION TO BID

Issue Date: June 16, 2022

All interested parties are hereby notified that the Town of Bay Harbor Islands (the "Town") is accepting sealed Design-Build Proposals for the Project "**92ND STREET DOG PARK EXTENSION – DESIGN BUILD" Project, No. BHI-228**.

Work under this Project includes but is not limited to professional engineering and construction services (Design Build) for the extension of the Dog Park located on 1030 92nd Street. The final design and construction shall be according to the Concept Design prepared by the FIU School of Architecture. The Selected Design-Build Selected firm shall be capable of providing planning, design, permitting, construction, cost estimating, construction management, in complete and strict accordance with specifications in the Request for Proposals.

Proposers must demonstrate experience in the Planning, Design, Construction of Recreational Facilities, Construction Management, and must demonstrate a level of expertise, technical knowledge, innovation, and overall capacity to provide the Design-Build services.

A Non-Mandatory **Pre-Bid Conference** will be held on **June 30, 2022, at 10:00 A.M.,** in the Council Chambers (2nd Floor) at Town Hall. The address of Town Hall is 9665 Bay Harbor Terrace, Bay Harbor Islands, FL 33154.

Contract Documents may be downloaded and printed as required from the Town's Website at www.bayharborislands-fl.gov. Enquiries regarding this contract may be e-mailed to the Town Engineer, Jose Custodio, P.E., jcustodio@bayharborislands-fl.gov.

All bids shall be clearly marked:

TOWN OF BAY HARBOR ISLANDS
CONTRACT NO. BHI-228
92nd STREET DOG PARK EXTENSION – DESIGN BUILD

All bids must be submitted in sealed envelopes to the Town Clerk on or before July 29, 2022, at 3:00 P.M., local time (the "Bid Submittal Deadline"**).** Immediately thereafter, Bids will be opened publicly and read aloud. The Town assumes no responsibility for Bids not properly marked. **Any Bids received after the Bid Submittal Deadline will not be accepted.**

The Town reserves the right to reject any or all bids and to waive informalities, except timely submission of bids, in any bids received, to re-advertise for bids or to take any other such actions that may be deemed in the best interests of the Town.

Town of Bay Harbor Islands, Florida
Yvonne P. Hamilton, CMC, Acting Town Clerk

INSTRUCTIONS TO BIDDERS

1.0 DEFINED TERMS

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

2.0 EXAMINATION OF DOCUMENTS, SITE AND DRAWINGS AND SPECIFICATIONS

2.1 Prior to Bid submission, Bidders shall examine the Site and surrounding area, including but not limited to subsurface, water and soil conditions, utilities, and streets to determine all conditions that will affect the Work and become familiar with the nature and extent of Work to be performed and local conditions that may affect the Work. Bidders should perform a Site visit and inspection to get familiar with the site conditions.

2.2 It is the Bidder's responsibility to become fully informed as to the existing conditions at the Site and to factor any and all costs of these conditions and/ or risks associated therewith into the Bid.

2.3 Bidders shall thoroughly examine the Bidding Documents, General Conditions, Drawings and Specifications, Technical Specifications and any other documents which may be applicable to the Work or Project. All drawings and specifications prepared for this Project are provided in pdf format with this Bid.

3.0 INTERPRETATION OF BIDDING DOCUMENTS

3.1 All inquiries, clarifications or interpretations of the Bidding Documents shall be made in writing to the Town Engineer, Jose Custodio, P.E. on or before **July 15, 2022**, with a copy to the Town Manager, by mail, fax, or by e-mail to the following addresses:

Jose Custodio, P.E
Town Engineer Town of Bay Harbor Islands, Project No. BHI – 228
Telephone No. (305) 866-6241
Email: jcustodio@bayharborislands-fl.gov
With a copy to:

Maria Lasday, Town Manager
Town of Bay Harbor Islands 9665 Bay Harbor Terrace
Bay Harbor Islands, 33154 Florida
Telephone No.: 305-866-6241
Email: mlasday@bayharborislands-fl.gov

3.2 Any modification or interpretation of the Bidding Documents will be made by written Addendum to all who are recorded by the Town as having received a complete set of Bidding Documents. **All Addenda will be issued by July 19, 2022.**

3.3 Interpretations or modifications of Bidding Documents made in any manner other than by written Addendum will not be binding. No oral interpretations or clarifications shall be binding.

3.4 A Bidder, prior to submitting his Bid, shall ascertain that he has received all Addenda issued, and shall acknowledge their receipt by enclosing a signed copy of each Addenda with the Bid Form.

4.0 BID PREPARATION AND SUBMITTAL

4.1 The Bidder shall prepare Bids on the forms provided by the Town with all blanks on the Bid Form filled in by typewriter or written in ink.

4.2 The Bidder shall **submit three (3) originals and two (2) digital (PDF) copies of the Bid**. The Bid shall indicate whether the Bidder is a sole proprietor, a partnership, a corporation, company, or other legal entity. The Bid shall include:

4.2.1 Bid Form;
4.2.2 Contractor's Qualification Statement;
4.2.3 Bid Bond;
4.2.4 Performance Bond;
4.2.5 Florida Trench Safety Act;
4.2.6 Non-Collusion Affidavit;
4.2.7 Any Addenda;
4.2.8 Copy of General Contractor's Licenses;
4.2.9 Corporate/Company Resolution, or Partnership Resolution, evidencing authorization to Submit Bid; and
4.2.10 Evidence of Insurability.

4.3 If the Bid is made by an individual, the Bidder's name and address of place of business shall be shown. If Bid is made by an entity, the name and address of the individual(s) authorized to bind the firm or partnership shall be shown. If Bid is made by a corporation or company, the individual executing the Bid shall show the name of the state under the laws of which the corporation or company is chartered, also the names and business

addresses of its corporate or company officers and members. Anyone signing the Bid as agent shall include in the Bid legal evidence of his/her authority to do so.

4.4 The Florida "Trench Safety Act" and O.S.H.A. forms are included in the Bidding Documents and shall be completed by the Bidder. The Total Bid Price presented in the Bid shall include the Bidders cost of compliance with these applicable standards. The Bid shall include completed forms and the cost of compliance with these applicable standards.

4.5 Non-Collusion Affidavit. The Bidder shall include the Non-Collusion Affidavit as set forth in the form included in the Bidding Documents. Bidder's failure to include the affidavit shall result in disqualification.

4.6 **The Bid shall be enclosed in a sealed envelope**, addressed to Attn: Town Clerk, Town of Bay Harbor Islands, 9665 Bay Harbor Terrace, Bay Harbor, Florida 33154. **The envelope shall be clearly marked with the Project name "Bid for the 92nd Street Dog Park Extension" Project No. BHI-228, and the Bidder's name and address.**

4.7 The Bidder shall deposit Bids at the designated location provided on the Invitation to Bid on or before the time and date for submission of Bids (the "Bid Submittal Deadline"). Bids received after the Bid Submittal Deadline indicated for submission of Bids will not be accepted. The Bidder is advised that delivery services may not be timely. It shall be the Bidder's sole responsibility to ensure delivery prior to the required Bid Submittal Deadline.

4.8 The Bidder shall be registered as a vendor with the Town's Building Department following the Notice of Award by the Town.

5.0 BID BOND

5.1 Each Bid shall be accompanied by a certified or cashier's check drawn on a national or state bank, or an acceptable Bidder's Bond, payable unconditionally to Town of Bay Harbor Islands, in the amount of five percent (5%) of the amount of the Total Bid Price, as a guarantee that the Bidder will, if award is made, execute a Contract for Construction to do the Work for the Bid amount and furnish any required certificates of insurance and bond documents within the time period specified in the General Conditions. The Bid Bond shall be made payable to the Town of Bay Harbor Islands.

6.0 QUALIFICATIONS OF BIDDERS

6.1 Each Bidder shall complete the Contractor's Qualifications Statement provided herewith, along with any other evidence of satisfactory experience, past performance and ability to perform the proposed Work, and shall submit the same with the Bid. Failure to submit the Qualifications Statement and all documents required thereunder together with the Bid Form and all items listed in Section 4.2 will constitute grounds for rejection of the Bid as non-responsive.

6.2 The Bidders may be disqualified, and their Bids rejected for any of the following reasons:

5.2.1 The bid is not responsive, and/or responded with errors and omissions.

5.2.2 Reason to believe that collusion exists among Bidders.

5.2.3 Determination of lack of responsibility or competency as may be revealed by qualification statements, financial statements, experience records or other questionnaires.

5.2.4 The Bidder's uncompleted work load which in the judgment of the Town may cause detrimental impact on prompt completion of this Project.

5.2.5 The Bidder is or has been involved in any litigation against the Town.

5.2.6 The Bidder has defaulted on any previous contract or is in arrears on any existing contract on any public or private matters.

5.2.7 The submittal of more than one bid from an individual, firm, partnership, corporation or association under the same or different names.

5.2.8 The Bidder's previous work with the Town has resulted in claims from third parties and or subconsultants.

6.3 The Town reserves the right to make a pre-award inspection of the Bidder's facilities and equipment prior to award.

6.4 It shall be a requirement of this Bid that there are no related party transactions between the Bidder and any employee, agent or consultant of the Town. Any Bidder who is a related party, as noted herein, will be considered non-responsive and the bid and the bid bond will be immediately returned. A Bidder will be considered a related party if the Bidder has an ownership interest or is in any way related to an employee, agent, consultant or consultant, and can influence the management or operating policy of the other to an extent that one of the transacting parties might be prevented from fully pursuing its own separate interests.

6.5 PUBLIC ENTITY CRIMES ACT -In accordance with the Public Entity Crimes Act, (Section 287.133, Florida Statutes) a person or affiliate who is a consultant/contractor, who had been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid on a contract to provide any goods or services to the Town, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids on leases or real property to the Town, may not be awarded or perform work as a consultant/contractor, supplier, subcontractor, or consultant under a contract with any public entity, and may not transact business with the Town in excess of the threshold amount provided in Section 287.017, Florida Statutes, for Category Two for a period of 36 months from the date of being placed on the convicted vendor list. Violation of this section by the Consultant/Contractor shall result in rejection of the Bid, termination of the contract, and may cause Consultant/Contractor debarment.

7.0 RETURN OF THE BID BOND

7.1 All Bid Bonds of unsuccessful Bidders will be returned after a Contract is awarded and executed.

8.0 MODIFICATION AND WITHDRAWAL OF BID

8.1 Prior to the date and time of Bid opening, a Bidder may withdraw his Bid at any time.
8.2 After the Bid opening, no Bid may be withdrawn, canceled or modified.

9.0 OPENING OF BIDS

9.1 Bids submitted will be opened publicly and read aloud at the time and place stated in the Invitation to Bid.

9.2 The Bidder agrees to maintain all terms of the Bids available for 120 days from the date and time of bid opening.

10.0 AWARD OF CONTRACT

10.1 Town reserves the right to reject any and all Bids, to waive any and all informalities and to negotiate contract terms with the Successful Bidder, and the right to disregard all nonconforming, non-responsive or conditional Bids. Discrepancies between words and figures will be resolved in favor of words. Discrepancies between the indicated sum of any column of figures and the correct sum thereof will be resolved in favor of the correct sum. Discrepancies between the indicated value and the correct value as calculated by the product of the unit price and the estimated quantity will be resolved by using the stated unit price.

10.2 In evaluating Bids, Town shall consider the qualifications of the Bidders, whether or not the Bids comply with the prescribed requirements, alternates, additive/deductive amounts, and unit prices, if requested in the Bid forms. THE TOWN AT ITS SOLE DISCRETION SHALL AWARD THIS CONTRACT BASED ON THE TOTAL BID AMOUNT. It is Town's Intent to accept alternates (if any are accepted) in the order in which they are listed in the Bid form, but award will not be based on alternates and the Town may accept them in any order or combination.

10.3 Town will consider the qualifications and experience of the Contractor, Subcontractors, and other persons or organizations (including those who are to furnish the principal items of material or equipment) proposed for all portions of the Work. The identity of Subcontractors and other persons and organizations must be submitted as provided in the Supplementary Conditions. Operating costs, maintenance considerations, performance data and guarantees of materials and equipment will also be considered by Town.

10.4 Town will conduct such investigations as Town deems necessary to assist in the evaluation of any Bid and to establish the responsibility, qualifications and financial ability of the Bidders, proposed Subcontractors and other persons and organizations to do the Work in accordance with the Contract Documents to Town's satisfaction within the prescribed time. Issues such as past performance, adherence to schedule, and change order requests will be included in this evaluation. The weighing of these factors is at the discretion of the Town.

10.5 At the sole discretion of the Town, the Town reserves the right to reject the Bid of any

Bidder based upon the evaluation noted in Section 6.2 above. References will NOT be limited to those submitted by the Contractor.

10.6 If the contract is to be awarded, it will be awarded to the lowest responsible Bidder whose evaluation by Town indicates to Town that the award will be in the best interests of the Project.

10.7 If the contract is to be awarded, Town will give the Successful Bidder a Notice of Award within sixty (60) days after the day of the Bid opening.

11.0 PERFORMANCE AND OTHER BONDS

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

12.0 EXECUTION OF CONTRACT AND CONTRACT DOCUMENTS

12.1 A Bidder shall be notified of the Town's selection in writing and shall be provided a Contract for Construction upon Notice of Award.

12.2 A Bidder will be required to execute the Contract for Construction and submit all requested certificates of insurance and performance and payment bonds, as required in the Contract Documents.

13.0 FAILURE TO EXECUTE THE CONTRACT

13.1 Failure of a Bidder to execute a Contract, and submit required insurance certificates and bonds may result in a draw on the Bid Bond by the Town. Each Bidder agrees in advance that the Town will likely sustain damages in these circumstances too difficult to ascertain. Accordingly, if the award is forfeited under this Section, the amount of the Bid Bond of the forfeiting Bidder may be retained by the Town, not as forfeiture or a penalty, but as liquidated damages. The Town may, but is not required, to award the Contract to the next lowest responsive and responsible Bidder or reject all Bids and/or re-advertise the Work.

14.0 CONTRACT TIME AND PERFORMANCE

14.1 The Work to be performed under the Contract Documents shall be commenced upon issuance of a Notice to Proceed by the Town. As part of their proposal, Bidder shall submit a preliminary schedule of deliverables.

14.2 By virtue of the submission of its Bid, Bidder agrees and fully understands that the completion time of the Work of the Contract is an essential and material condition of the Contract and that time is of the essence. The Successful Bidder agrees that all Work shall be prosecuted regularly, diligently and uninterrupted at such rate of progress as will ensure full completion thereof within the time specified. The Consultant/Contractor is expected to provide the necessary manpower and management to meet the time schedule as established.

15.0 LIQUIDATED DAMAGES

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

16.0 GOVERNING LAWS AND REGULATIONS

16.1 Bidders shall be familiar with all federal, state, and local laws, ordinances, rules and regulations that may in any manner affect the Work.

17.0 INSURANCE/EVIDENCE OF INSURABILITY

17.1 The Bidder shall be required to provide and maintain insurance coverage of such types and amounts as specified in the General Conditions of the Contract Documents for the life of the Contract. Certificates of Insurance shall be provided by the Bidder upon the Notice of Award, as specified in the General Conditions.

17.2 Bidder shall be required to submit with the Bid Form written evidence of insurability from Bidder's insurance company, for the types and amounts of insurance specified in the General Conditions of the Contract Documents.

18.0 SUBCONTRACTORS AND SUBCONSULTANTS' LIST

18.1 The Bidder shall submit a list of names and addresses of the subcontractors/ subconsultants and major material suppliers proposed for the principal portions of the Work and shall include such information on the Contractor's Qualifications Statement.

18.2 Prior to award of Contract, the Town will notify the Bidder in writing if there is an objection to any person or entity listed. Upon such objection, the Bidder shall propose an acceptable substitute in accordance with the General Conditions.

18.3 In Contracts where the Contract Price is on the basis of Cost-of-the-Work Plus a Fee, the apparent Successful Bidder, prior to the Notice of Award, shall identify in writing to Town those portions of the Work that such Bidder proposes to subcontract and after the Notice of Award may only subcontract other portions of the Work with Town's written consent.

19.0 LICENSES, PERMITS AND FEES

19.1 In accordance with the Public Bid Disclosure Act, 218.80, Florida Statutes, the Town shall disclose all permit fees associated with the Project. Licenses, permits, and fees which may be required by Miami-Dade County or any State or Federal entities are not included. The Consultant/Contractor shall be responsible for filing and obtaining all permits for the Work. The Consultant/Contractor shall file permit applications with the Town prior to construction. The Town will waive Town permit fees generated by the Town permits. Any delays in obtaining permits must be brought to the attention of the Town without delay. Each license, permit or fee a contractor will have to pay the Town before or during construction as part of the Contract, required by the Town and payable

to the Town, is as follows:

Building Permit – Town of Bay Harbor Islands Building Department

19.2 The Bidder shall provide a copy of following license:
A State of Florida General Contractor's License
Subconsultants – State of Florida Professional Engineer or Architect License

19.3 The Successful Bidder shall give all notices and comply with all permit requirements, laws, ordinances, rules, regulations and lawful orders of any public authority bearing on the performance of the Work. The Town shall not be responsible for monitoring the Successful Bidder's compliance with any laws or regulations.

20.0 CONE OF SILENCE

20.1 Pursuant to subsection (t) (1) of Section 2-11.1, Conflict of Interest and Code of Ethics Ordinance of the Miami-Dade County Code, a "Cone of Silence" is imposed upon each Bid after advertisement and terminates at the time the Town Manager makes his written recommendation to the Town Council. The Cone of Silence generally prohibits any communication regarding this Bid between Bidders and their agents and the Town. The details of the Cone of Silence and the permitted exceptions to the Cone of Silence are set forth in subsection (t) (1) of Sec. 2-11.1 of the County Code. A copy of subsection (t)(1) is attached to this Bid as Exhibit "A." In reading that subsection, Bidders are advised that all references to County personnel or boards, as used therein, are construed to mean Town personnel or boards as required by Sec. 2-11.1(a) of the Miami-Dade County Code. Please contact the Town Attorney for any questions concerning the Cone of Silence. The Cone of Silence shall apply to this Bid.

20.2 Generally, except for public hearings and scheduled presentations, contact with the Town regarding this Bid or any aspect of a Bid by a Bidder or any representative of a Bidder shall be limited to written communications until such time as a successful bidder is selected by the Council. All questions or requests for additional information must be asked and answered in writing.

21.0 CONFLICT OF INTEREST

21.1 The Contractor shall insert in all contracts entered into in connection with the Project or any property included or planned to be included in any Project, and shall require contracts to inert in each of their subcontractors, the following provisions.

"No member, officer or employee of the firm or of the locality during his tenure of for 2 years thereafter shall have any interest, direct or indirect, in this contract of the proceeds thereof."

22.0 BID PROTEST PROCEDURE

If a vendor feels that they have been treated unfairly concerning the results of a solicitation, or the resulting recommendation for award, they may protest the Town's action as follows:

22.1 The vendor must submit a letter to the Procurement Manager detailing the nature of the protest accompanied by two (2) cashier's checks within three (3) working days of the Notice of Intent to Award. The first check will be in the amount of $500 (hereinafter called "the administrative fee"). The second check will be in the amount of 1% of the bid amount (hereinafter called "the protest bond"). The Town's Notices of Intent to Award are posted on the Town of Bay Harbor Island's website.

22.2 If the Procurement Manager receives a bid protest letter, the administrative fee, and the protest bond as described above, the bid award process will be suspended, and the protest will be referred to the Bid Protest Committee. However, if the project is needed to protect the health, safety, and/or welfare of the residents of the Town of Bay Harbor Islands, the award of the project will proceed without interruption. The Bid Protest Committee shall consist of three (3) Town staff member selected by the Town Administrator. The Procurement Manager and the employee that wrote the Recommendation for Award may not sit as a member of the Bid Protest Committee. However, the Procurement Manager and the staff member that wrote the Recommendation for Award shall be present at the hearing of the Bid Protest Committee to answer any questions pertaining to the bid process or the evaluation process.

22.3 The Bid Protest Committee shall schedule a hearing within ten (10) working days from receipt of the protest letter. All parties having an interest in the outcome will be notified of the date and time of the hearing. If the bid protest is denied, the vendor will forfeit the protest bond. If the protest is upheld, the protest bond will be returned to the vendor. The administrative fee shall be non-refundable in all cases.

22.4 If the Bid Protest Committee denies the protest, the aggrieved vendor may appeal his/her case to the Town Council. In order to appeal, the vendor must notify the Town Administrator within three (3) working days of the Bid Protest Committee's ruling. Upon notification, the Town Administrator will schedule the appeal as an agenda item on the next available Town Council agenda. All bidders will be notified of the agenda date.

22.5 Once the bid protest is resolved, the Town will proceed with the bid award, except as exempted in 2, above.

EXHIBIT "A"

CONE OF SILENCE PROVISION

(t) *Cone of Silence.*

1. Contracts for the provision of goods and service other than audit and independent private sector inspector general (IPSIG) contracts.

(a) "Cone of Silence" is hereby defined to mean a prohibition on: (i) any communication regarding a particular RFP, RFQ or bid between a potential vendor, service provider, bidder, lobbyist, or consultant and the County's professional staff including, but not limited to, the County Manager and his or her staff; (ii) any communication regarding a particular RFP, RFQ or bid between the Mayor, County Commissioners or their respective staffs and any member of the County's professional staff including, but not limited to, the County Manager and his or her staff; (iii) any communication regarding a particular RFP, RFQ or bid between a potential vendor, service provider, bidder, lobbyist, or consultant and any member of the selection committee therefore; (iv) any communication regarding a particular RFP, RFQ or bid between the Mayor, County Commissioners or their respective staffs and any member of the selection committee therefore; (v) any communication regarding a particular RFP, RFQ or bid between a potential vendor, service provider, bidder, lobbyist, or consultant and the Mayor, County Commissioners and their respective staffs; and (vi) any communication regarding a particular RFP, RFQ or bid between any member the County's professional staff and any member of the selection committee therefore. The County Manager and the Chairperson of the selection committee may communicate about a particular selection committee recommendation, but only after the committee has submitted an award recommendation to the Manager and provided that should any change occur in the committee recommendation, the content of the communication and of the corresponding change shall be described in writing and filed by the Manager with the Clerk of the Board and be included in any recommendation memorandum submitted by the Manager to the Board of County Commissioners. Notwithstanding the foregoing, the Cone of Silence shall not apply to (i) competitive processes for the award of CDBG, HOME, SHIP and Surtax Funds administered by the Miami-Dade County Office of Community and Economic Development and the community-based organization (CBO) competitive grant processes administered by the Park and Recreation, Library, Water and Sewer, and Solid Waste Departments, Cultural Affairs and Tourist Development Councils and the Department of Environmental Resources Management; (ii) communications with the County Attorney and his or her staff; (iii) communications between a potential vendor, service provider, bidder, consultant or lobbyist and employees of the Management and Technical Assistance Unit of the Department of Business Development regarding small business and/or minority business programs, the Community Business Enterprise and Equitable Distribution Programs; (iv) communications between a potential vendor, service provider, bidder, consultant or lobbyist and employees responsible for administering disadvantaged business enterprise programs in County departments receiving federal funds, provided the communications are limited strictly to matters of programmatic process or procedure; (v) duly noticed site visits to determine the competency of bidders regarding a particular bid during the time period between the opening of bids and the time the County Manager makes his or her written recommendation; (vi) any emergency procurement of goods

or services pursuant to Administrative Order 3-2; (vii) communications regarding a particular RFP, RFQ or bid between any person and the Vendor Information Center staff, the procurement agent or contracting officer responsible for administering the procurement process for such RFP, RFQ or bid, provided the communication is limited strictly to matters of process or procedure already contained in the corresponding solicitation document; and (viii) communications regarding a particular RFP, RFQ or bid between the procurement agent or contracting officer, or their designated secretarial/clerical staff responsible for administering the procurement process for such RFP, RFQ or bid and a member of the selection committee therefore provided the communication is limited strictly to matters of process or procedure already contained in the corresponding solicitation document.

(b) Procedure.

(i) A Cone of Silence shall be imposed upon each RFP, RFQ and bid after the advertisement of said RFP, RFQ or bid. At the time of imposition of the Cone of Silence, the County Manager or his or her designee shall provide for public notice of the Cone of Silence. The County Manager shall issue a written notice thereof to the affected departments, file a copy of such notice with the Clerk of the Board, with a copy thereof to each Commissioner, and shall include in any public solicitation for goods and services a statement disclosing the requirements of this ordinance. Notwithstanding any other provision of this Section, the imposition of a Cone of Silence on a particular RFP, RFQ or bid shall not preclude staff from obtaining industry comment or performing market research therefore provided all communications related thereto between a potential vendor, service provider, bidder, lobbyist, or consultant and any member of the County's professional staff including, but not limited to, the County Manager and his or her staff are in writing or are made at a duly noticed public meeting.

(ii) The Cone of Silence shall terminate at the time the Manager makes his or her written recommendation to the County Commission; provided, however, that if the Commission refers the Manager's recommendation back to the Manager or staff for further review, the Cone of Silence shall be reinstated until such time as the Manager makes a subsequent written recommendation. The foregoing notwithstanding, for contracts and purchases which the County Manager has the delegated authority to award under Sec. 2-8.1(b) of this Code, the Cone of Silence shall terminate: (i) at the time the award recommendation letter is issued and filed with the Clerk of the Board for such contracts and purchases involving the expenditure of over one hundred thousand dollars ($100,000); (ii) at the time the written award recommendation is posted in accordance with Section III of A.O. 3-21 for such contracts or purchases involving the expenditure of over $25,000 up to $100,000; or (iii) at the time the award recommendation is issued in accordance with

Section IV of A.O. 3-21 for contracts and purchases involving the expenditure of $25,000 or less.
(c) Exceptions. The provisions of this ordinance shall not apply to oral communications at pre-bid conferences, oral presentations before selection committees, contract negotiations during any duly noticed public meeting, public presentations made to the Board of County Commissioners during any duly noticed public meeting or communications in writing at any time with any county employee, official or member of the Board of County Commissioners unless specifically prohibited by the applicable RFP, RFQ or bid documents. The bidder or proposer shall file a copy of any written communication with the Clerk of the Board. The Clerk of the Board shall make copies available to any person upon request.

92nd Street Dog Park Extension – Design Build
TOWN OF BAY HARBOR ISLANDS
BHI-228

SCOPE OF WORK

1. PROJECT SITE AND CURRENT CONDITIONS

The Town of Bay Harbor Islands owns and maintains four (4) parks. One of these parks is the 92nd Street Park, located at 1030 92nd Street. This park comprises of an area for people to sit and exercise (approx. 14,140 square feet), a dog park (approx. 5,500 square feet) and a parking lot (approx. 9,800 square feet). A general aerial map of the proposed site can be found in **Attachment #1.** A land survey of the area is included in **Attachment #2.**

2. PROJECT DESCRIPTION

The Town has identified the need for the Design and Build an extension of the existing dog part as part of the Town's recreation program. The extension of the dog park will allow to divide the dog park portion between large and small dogs, as requested by the residents. The new dog park will extend to the area of the existing parking lot which is currently under used. This will be a phased project, which will include the developing of the concept plans prepared by FIU School Architecture **(Attachment #3)** and designing and constructing the proposed dog park extension. In addition, the Town would like to update some of the features of the current people's park like the outdoor exercising equipment.

This scope of services of this request for proposals includes, but is not limited to, engineering, surveys, geotechnical, permitting, cost estimates, construction documents, construction and construction administration services to construct the dog park extension on the 92nd Street Park. It is the Town's intent that the selected Team shall obtain all necessary information sufficient to acquire all local, state and any other permits needed for the construction of the Project. It is the Town's expectation that the Architect/Engineer will lead the planning, engineering, and permitting phases of the Project. The Architect/Engineer should also be ready to assist the Town with construction administration services including product submittal review/approval and field inspections/construction meetings.

3. DESIGN DEVELOPMENT PHASE

The Design-Build Team will develop a complete set of design plans, utilizing the final schematic/concept design developed by FIU. The design should include 60%, 90% and 100% complete design submittals, including plans, specifications, cost estimates and schedules for each deliverable. The Design-Build Team shall include on their proposal, a) a Design Kick-off Meeting with the Town, b) a Design Workshop Meeting (60% and 90%), the Town will need two (2) weeks for review of submitted documents c) Meetings with Permitting Agencies. For each deliverable at least one (1) original size set of plans shall be provided. The rest of the documents can be digital (PDF). All drawings shall be prepared using Autocad 2020 or more recent version. All DWG files shall be submitted to the Town when the 100% plans are approved.

A detailed cost breakdown will be required to be provided throughout the development of the project, to assist with decision making and to ensure project stays within budget.

The schedule shall indicate time line to completion with milestones progress and proposed dates for submittals. The Architect/Consultant is to manage and keep the schedule updated.

The design development documents shall indicate the character of the proposed project for architectural, structural, mechanical and electrical systems, materials and other elements as may be appropriate.

The proposed design shall be in compliance with the Town Code, specially but not limited to the following sections ***Sec. 24-16 – Minimum Landscape Standards***

4. CONSTRUCTION DOCUMENTS PHASE

Based on the approved Design Development Documents and any further adjustments in the scope or quality of the Project or in the construction budget authorized by the Owner, the Design-Build Team shall prepare, review, and revise, subject to Owner's approval, Construction Documents consisting of Drawings and Specifications setting forth in detail the requirements for the construction of the Project. They will be responsible for complete construction documents required by local permitting agencies, the permitting processes, and for installation of all components.

Contract documents at the 90% complete stage for the construction of the project must be reviewed and available for mark-up by the Town staff, prior to final preparation of documents. Final copies of the construction documents must be received by the Town prior to construction.

5. CONSTRUCTION PHASE AND CONSTRUCTION ADMINISTRATION

Prior to commencing construction, a detailed cost analysis and schedule of the proposed construction shall be provided to show the project construction budget and detailed timeline for construction work schedule with milestones shown.

- The Contractor is to be responsible for overall project construction quality control including protection and security of site, provides directives to sub-contractors and attends scheduled construction meetings on site. Schedule and attend construction progress meetings.

- Provide inspection/field condition reports as needed.

- Schedule inspections by all required agencies and officials.

- Provide other duties as outlined in contract and as required by project schedule.

- Maintain work schedule.

- Attend meetings with owner, consultants, and subcontractors.

- Project Close-out

As required, construction of the Park shall be performed by a Florida Certified General Contractor with vast experience on this type of Park Projects.

The consultant team leader shall provide construction coordination and is responsible for communicating with team members / owner, prime contractors and attends scheduled construction meetings on site. This individual is to provide reports and meeting minutes to owner, team members, sub-consultants and sub-contractors. If team leader is replaced during construction period, replacement will require Owner's approval of same or greater credentials and experience level initially proposed prior to replacements' start of work.

- Provide input for reports

- Progress meeting minutes

- Responsible for review of all project billing

- Facilitate progress meetings onsite

- Assist with Project Close-out

- Other duties as outlined in contract

Project Close-Out shall include providing the Town with a hard copy and an electronic copy (in PDF and AutoCAD) of design and construction documents. As well as, an electronic copy of as-built drawings, specifications, Owner Manuals, warranty statements and other appropriate close-out documents, plus any other mutually agreeable services that the Town believes necessary for successful completion of the project. All electronic information shall be provided on a USB drive and are considered part of the scope of services. Survey information shall be provided as AutoCAD 2020 or later version, in order to update the existing park database.

6. PROJECT COST

The Project Cost under this Request for Proposal is to be inclusive of all fees for the Design-Build Team and Sub-consultants fees including all taxes, studies, surveys, labor, materials, equipment, and services required for this project, and including compliance with all state and local codes. Reimbursable expenses are not applicable to this contract. All permitting costs are to be included in the base offer.

7. PROJECT SCHEDULE

Proposals shall include a timeline to accomplish all tasks.

The Team's proposal must clearly address their ability to meet the intended schedule. The team shall be required to (a) commence work under this contract within 10 days after the date the team receives the notice to proceed, (b) execute diligently, and (c) substantially complete the entire work. The substantial completion shall include final cleanup of the premises. The team shall achieve final completion within thirty (30) days of Substantial Completion.

EVALUATION COMMITTEE AND PROCEDURE FOR REVIEW OF SUBMITTALS

1. A Committee has been established to review and evaluate all qualifications submitted in response to this Request for Proposals (RFP). The Committee shall conduct a preliminary evaluation of all submittals on the basis of the information provided and other evaluation criteria as set forth in this RFP or as reasonably determined by the Committee pursuant to Section 287.055, Florida Statutes. The factors to be considered by the Town in making this preliminary finding of qualifications of the respondents are the Statement of Interest, General Firm and Project Team Information, List of Projects and References, Cost and Schedule, Project Approach and Conceptual Plan.
2. The Committee will first review each submittal for compliance with the minimum qualifications and mandatory requirements of the RFP. Failure to comply with any mandatory requirements will disqualify a submittal.
3. The Town reserves the right to reject any and all submittals and to waive irregularities in the procedures. The Town further reserves the right to seek new submittals when such a procedure is reasonably in the best interest of the Town to do so.
4. The Award will be made to the Design-Build Firm who submits the overall proposal that is judged to provide the best value to the TOWN. Generally, proposals will be evaluated based on the following criteria;

Criteria	**Points**
Statement of Interest	5
General Firm and Project Team Information	20
List of Projects and References	20
Cost and Schedules	25
Project Approach and Concept Design	30
TOTAL OF 100 POSSIBLE POINTS	**100 Points**

The Committee may require public presentations by firms regarding their qualifications, approach to the project or work, and ability to furnish the required services. All final rankings shall be subject to the Town Council Approval.

Proposers who obtain copies of this solicitation from sources other than the TOWN risk the potential of not receiving addenda, since their names will not be included on the list of firms participating in the process for this solicitation. Such Proposers are solely responsible for those risks.

5. PROPOSAL FORMAT

IT IS THE RESPONSIBILITY OF THE PROPOSER TO ENSURE THAT THE PROPOSAL BEING SUBMITTED IS TIMELY, COMPLETE, INCLUSIVE OF ADDRESSING ALL OF THE REQUIREMENTS AND EVALUATION CRITERIA HEREIN.

To facilitate review and evaluation, the Proposal document prepared in response to this RFP shall provide the following information in the **order shown.**

A. Statement of Interest:

1. Cover Letter on company letter head signed by person authorized to submit the proposal. Letter must include contact person with their telephone number, e-mail address and mailing address. The type of organization (i.e., individual, partnership, corporation, joint venture, etc.), year established, and address of the company shall also be included in the Cover Letter.

B. General Firm and Project Team Information:

1. Provide general contact information and personnel experience. Please provide the same information for any sub-contractors and sub-consultants. Key individuals identified will not be substituted with other personnel or reassigned to another project without City approval. Include Resume and Licenses of Key Individuals.

C. List of Projects and References:

1. Provide a project summary for at least three (3) separate park construction projects performed on the last five (5) years. The project summary shall include a description of the project, services performed, the final project costs and the duration of the entire project from award to completion. Provide Contact Information of the Owner.

D. Cost and Schedules:

1. Provide a proposed schedule from project start date to completion showing the key components and their expected duration, along with estimated cost of each component of the project.

E. Project Approach and Conceptual Plans:

1. Describe the technical approach for accomplishing the project and how the public will be involved in the process. A preliminary conceptual plan shall be provided with the submittal.

F. Bid Forms:

1. Completely Executed Bid Forms.

SCHEDULE OF EVENTS

The following is a general schedule of events:

No.	Event	Date
1.	Advertisement of Bids	June 16, 2022
2.	Non Mandatory Pre-Bid Conference at Town Hall, 9665 Bay Harbor Terrace, Bay Harbor, Florida 33154 10:00 A.M.	June 30, 2022 at
3.	Site Visits & Inspections	Anytime
4.	Deadline for submittal by Bidders of Inquiries	July 15, 2022
5.	Deadline for Issuance of Addenda	July 19, 2022
6.	Bid Submittal Deadline/Opening of Sealed Bids	July 29, 2022 at 3:00 P.M.
7.	Award of Project by Town Council	TBD
8.	Notice of Award given to Contractor, Payment/Performance bonds executed by Contractor and submitted to Town Manager	TBD
9.	Contract Documents Execution by Successful Bidder and Submission of Certificate of Insurance to Town Manager	TBD
10.	Final Approval and Execution of Contract Documents by Town Attorney and Town Manager	TBD
11.	Notice to Proceed Issued to Contractor	TBD
12.	Contract Time (from Notice to Proceed to Substantial Completion)	TBD
13.	Contract Time (from Notice to Proceed to Final Completion)	TBD

92nd Street Dog Park Extension – Design Build
TOWN OF BAY HARBOR ISLANDS
BHI- 228

BID FORM

BID FROM:
Company: _____

Address: _____
City/St/Zip: _____

Phone/ Fax: _____

To furnish all materials, equipment and labor and to perform all work in accordance with the Bid and Contract Documents for Project:

92ND Street Dog Park Extension , Project No. BHI -228, located in the Town of Bay Harbor Islands, Florida.

TO: TOWN OF BAY HARBOR ISLANDS, FLORIDA
ATTN: TOWN MANAGER

1.01 The undersigned Bidder proposes and agrees, if this Bid is accepted, to enter into a Contract for Construction, with the Town in substantially the form included in the Bidding Documents to perform all Work and any Additional Services as specified or indicated in the Bidding Documents at the Total Bid Price and within the Contract Times indicated in this Bid and in accordance with the other terms and conditions of the Bidding Documents.

2.01 Bidder accepts all of the terms and conditions of the Invitation to Bid and Instructions to Bidders, including without limitation those dealing with the disposition of Bid security. The Bid will remain subject to acceptance for **120** days after the Bid opening, or for such longer period of time that Bidder may agree to in writing upon request of Town.

3.01 In submitting this Bid, Bidder represents, as set forth in the Bidding Documents, Contract for Construction, that:

A. Bidder has examined and carefully studied the Bidding Documents, the other related data identified in the Bidding Documents, and the following Addenda, receipt of all, which is hereby acknowledged.

Addendum No.	Addendum Date
_____	_____
_____	_____
_____	_____

B. Bidder has visited the Site and become familiar with and is satisfied as to the general, local and Site conditions that may affect cost, progress, and performance of the Work.

C. Bidder is familiar with and is satisfied as to all federal, state and local laws and Regulations that may affect cost, progress and performance of the Work, including all requirements applicable to the Project, including the provisions, clauses, terms or conditions set forth in Construction Contract (Contract Requirements).

D. Bidder has carefully studied all documents as applicable: (1) reports of explorations and tests of subsurface conditions at or contiguous to the Site and all drawings of physical conditions in or relating to existing surface or subsurface structures at or contiguous to the Site (except Underground Facilities) which have been identified in the Bidding Documents, and (2) reports and drawings of a Hazardous Environmental Condition, if any, which has been identified in the Bidding Documents.

E. Bidder has obtained and carefully studied (or assumes responsibility for having done so) all additional or supplementary examinations, investigations, explorations, tests, studies and data concerning conditions (surface, subsurface and Underground Facilities) at or contiguous to the Site which may affect cost, progress, or performance of the Work or which relate to any aspect of the means, methods, techniques, sequences, and procedures of construction to be employed by Bidder, including applying the specific means, methods, techniques, sequences, and procedures of construction expressly required by the Bidding Documents to be employed by Bidder, and safety precautions and programs incident thereto.

F. Bidder does not consider that any further examinations, investigations, explorations, tests, studies, or data are necessary for the determination of this Bid for performance of the Work at the Total Bid Price and within the Contract Times and in accordance with the other terms and conditions of the Bidding Documents.

G. Bidder has correlated the information known to Bidder, information and observations obtained from visits to the Site, reports and drawings identified in the Bidding Documents, and all additional examinations, investigations, explorations, tests, studies, and data with the Bidding Documents.

H. Bidder has given Town's Representative written notice of all conflicts, errors, ambiguities, or discrepancies that Bidder has discovered in the Bidding Documents, and the written resolution thereof by the Town is acceptable to Bidder.

I. The Bidding Documents are generally sufficient to indicate and convey understanding of all terms and conditions for the performance of the Work for which this Bid is submitted.

J. Bidder has reviewed and carefully studied the Contract for Construction, together with Construction Contract Requirements and understands the requirements and prerequisites for the Project and agrees to comply with the provisions at all times during the Project.

4.01 Bidder further represents that this Bid is genuine and not made in the interest of or on behalf of any undisclosed individual or entity and is not submitted in conformity with any agreement or rules of any group, association, organization or corporation; Bidder has not directly or indirectly induced or solicited any other Bidder to submit a false Bid; Bidder has not solicited or induced any individual or entity to refrain from bidding; and Bidder has not sought by collusion to obtain for itself any advantage over any other Bidder or over Town.

PRICE PROPOSAL SHEET ON FOLLOWING PAGE

92nd Street Dog Park Extension – Design Build
TOWN OF BAY HARBOR ISLANDS
BHI- 228

PRICE PROPOSAL FORM

DESIGN-BUILD TEAM
RFP #: BHI-228

Company: _____

All contingencies, overhead & profit, allowances, fees, subconsultant fees and any other associated costs are included in this Price Proposal.

Item 1 – Design Development: **$ _____**

Item 2 – Construction Documents & Permitting: **$ _____**

Item 3 – Construction: **$ _____**

Item 4 – Construction Administration and Inspection: **$ _____**

TOTAL PRICE **$ _____**

Proposer will complete the Work in accordance with the Contract Documents for the following Total Base Bid Price:

$ _____
(Total Base Bid Price)

Written Total Base Bid Price Amount (in Words):

$_____(Dollars) _____ (cents)

_____ **_____**
Name of Authorized Agent **Signature of Authorized Agent**

Date: _____

6.01 Bidder's Information:
The Bidder states that he/she is an experienced Contractor and has completed similar projects within the last five years. This information has been provided on the Contractor's Qualifications Statement.

7.01 Bidder agrees that the Work will be substantially completed and completed and ready for final payment in accordance with the Bid and Contract Documents on or before the dates or within the number of calendar days indicated in the Contract. If the Bidder does not agree with the construction time allocated in the Bid Documents and the Contract for Construction, attach a statement to this Bid Form to indicate the number of days required.

8.01 Bidder accepts the provisions of the Contract for Construction as to liquidated damages in the event of failure to complete the Work within the times specified above, which shall be stated in the Contract Documents.

9.01 The following documents are attached to and made a condition of this Bid:

A. Required Bid security in the form of Bid Bond
B. Bid Bond form
C. Contractor's Qualifications Statement, containing a tabulation of Subcontractors, Suppliers [and other] individuals and entities required to be identified in this Bid;
D. Signed Trench Safety Act Form (if applicable)
E. O.S.H.A. Standards Acknowledgement Form
F. Non-Collusion Affidavit
G. Copy of State of Florida General Contractor's License (ten days prior to Award);
H. Addenda

10.01 The terms used in this Bid with initial capital letters have the meanings indicated in the Instructions to Bidders, the General Conditions, and the Supplementary Conditions, if any.

SUBMITTED on _____, 2022.

State Contractor License No. _____. (If applicable)

If Bidder is:

An Individual

Name (typed or printed): _____

By: _____(SEAL)
(Individual's signature)
Doing business as: _____
Business address: _____
_____
Phone No.: _____ FAX No.: _____

A Partnership

Partnership Name: _____(SEAL)

By: _____
(Signature of general partner -- attach evidence of authority to sign)
Name (typed or printed): _____

Business address: _____
_____
Phone No.: _____ FAX No.: _____

A Corporation

Corporation Name: _____(SEAL)
State of Incorporation: _____
Type (General Business, Professional, Service, Limited Liability):_____

By: _____
(Signature --attach evidence of authority to sign)

Name: (typed or printed): _____

Title: _____

(CORPORATE SEAL)

Attest _____
(Signature of Corporate Secretary)
Business address: _____
_____
Phone No.: _____ FAX No.: _____

Date of Qualification to do business is _____.

CONTRACTOR'S QUALIFICATIONS STATEMENT

THIS FORM MUST BE SUBMITTED WITH BID FOR BID TO BE DEEMED RESPONSIVE.
The undersigned guarantees the truth and accuracy of all statements and the answers contained herein.

1. Please describe your entity/company in detail.

_____
_____
_____
_____
_____
_____

2. The address of the principal place of business is:

_____
_____
_____
_____

3. Entity/Company telephone number, fax number and e-mail addresses:

_____
_____
_____

4. Number of employees:

_____
_____

5. Number of employees assigned to this Project:

_____
_____

6. Entity/Company Identification numbers for the Internal Revenue Service:

_____

7. Provide Miami-Dade County Occupational License Number, if applicable, and expiration date:

_____
_____
_____

8. How many years has your organization been in business as a General Contractor? Does your organization have a specialty?

_____
_____
_____

9. What is the last project of this nature or magnitude that you have completed? Has this firm ever completed a "public" project? Please provide project description, reference and cost of work completed.

_____
_____
_____
_____
_____
_____

10. Have you ever failed to complete any work awarded to you? If so, where and why?

_____
_____
_____
_____
_____

11. Give names, addresses and telephone numbers of three municipalities, for which you have performed work:

11.1.
Name _____
Address _____
Telephone No. _____

11.2.
Name _____
Address _____
Telephone No. _____

11.3.
Name _____
Address _____
Telephone No. _____

12. List the following information concerning all contracts or work **in progress** as of the date of submission of this bid. (In case of co-venture, list the information for all co-ventures.)

Name of Project	Owner	Value	Contracted Completion Date	% of Completion to Date

(Continue list on insert sheet, if necessary.)

13. Has the Bidder or his or her representative inspected the Project site and does the Bidder have a complete plan for its performance?

_____
_____

14. Provide list of subcontractor(s), the work to be performed and also a list of major materials suppliers for this Project?

SubContractor Name	Address	Work to be Performed

The foregoing list of subcontractor(s) may not be amended after award of the contract without the prior written approval of the Town Manager, whose approval shall not be unreasonably withheld.

15. What equipment do you own that is available for the work?

_____
_____
_____
_____
_____
_____

16. What equipment will you purchase for the proposed work?

_____
_____
_____
_____
_____
_____

17. What equipment will you rent for the proposed work?

_____

_____
_____
_____
_____
_____

18. State the name of your proposed Project Manager and give details of his or her qualifications and experience in managing similar work.

_____
_____
_____
_____
_____
_____

19. State the true, exact, correct and complete name of the partnership, corporation, company and/or trade name under which you do business and the address of the place of business. (If a corporation, state the name of the president and secretary. If a limited liability company, state the name of the managing member. If a partnership, state the names of all partners. If a trade name, state the names of the individuals who do business under the trade name.)

_____
_____
_____
_____
_____
_____

19.1 The correct name of the Bidder is:

_____
_____
_____

19.2. The business is a (Sole Proprietorship) (Partnership) (Corporation) (Company).

_____
_____
_____

19.3. The names of the corporate officers, company members, or partners, or individuals doing business under a trade name, are as follows:

_____
_____
_____

Only those Bidders and Subcontractor (s) who are qualified in the selected installation methodology

will be considered as bona fide bidders. As Bidder, we certify to have constructed at least three (3) similar projects in the last five (5) year period as indicated by the following:

1) NAME OF PROJECT _____
YEAR OF PROJECT _____
OWNER OF PROJECT _____
CONTACT NAME _____
CONTACT PHONE NO. _____
CONTACT E-MAIL _____
LOCATION OF PROJECT _____
SCOPE OF WORK _____
_____
_____
APPROXIMATE VALUE _____

2) NAME OF PROJECT _____
YEAR OF PROJECT _____
OWNER OF PROJECT _____
CONTACT NAME _____
CONTACT PHONE NO. _____
CONTACT E-MAIL _____
LOCATION OF PROJECT _____
SCOPE OF WORK _____
_____
_____
APPROXIMATE VALUE _____

3) NAME OF PROJECT _____
YEAR OF PROJECT _____
OWNER OF PROJECT _____
CONTACT NAME _____
CONTACT PHONE NO. _____
CONTACT E-MAIL _____
LOCATION OF PROJECT _____
SCOPE OF WORK _____
_____
_____
APPROXIMATE VALUE _____

SIGNATURE AND NOTARY ACKNOWLEDGEMENT
FOLLOW ON THE NEXT PAGE

CONTRACTOR:

_____
Print Name: _____

Print Title: _____

Date: _____

STATE OF FLORIDA)
) S.S.
COUNTY OF MIAMI-DADE)

The foregoing instrument was acknowledged before me this _____ day of _____, 2022, by _____ who is personally known to me or who has produced _____ as identification and who did/did not take an oath.

WITNESS my hand and official seal, this _____ day of _____, 2022.

(NOTARY SEAL)

_____
(Signature of person taking acknowledgment)

(Name of officer taking acknowledgment)
typed, printed or stamped

92nd Street Dog Park Extension – Design Build
TOWN OF BAY HARBOR ISLANDS
BHI- 228

BID BOND

BIDDER *(Name and Address)*:

_____
_____

SURETY *(Name and Address of Principal Place of Business)*:

_____
_____
_____

OWNER *(Name and Address)*:

TOWN OF BAY HARBOR ISLANDS
9665 Bay Harbor Terrace
Bay Harbor, FL 33154

BID

BID DUE DATE: July 29, 2022 at 3:00 P.M.
Project Description including Location is as follows:
PROJECT NAME: 92ND STREET DOG PARK EXTENSION – DESIGN BUILD
PROJECT NO: BHI - 228
LOCATION: TOWN OF BAY HARBOR ISLANDS, FLORIDA

BOND

BOND NUMBER: _____
DATE: *(Not later than Bid Due Date)*: _____
PENAL SUM: _____

IN WITNESS WHEREOF, Surety and Bidder, intending to be legally bound hereby, subject to the terms printed on the reverse side hereof, do each cause this Bid Bond to be duly executed on its behalf by its authorized officer, agent, or representative.

BIDDER	SURETY
_____(Seal)	_____(Seal)
Bidder's Name and Corporate Seal	Surety's Name and Corporate Seal
By: _____	By: _____
Signature and Title	Signature and Title
	(Attach Power of Attorney)
Attest: _____	Attest: _____
Signature and Title	Signature and Title

Note: (1) Above addresses are to be used for giving required notice.
(2) Any singular reference to Bidder, Surety, Owner or other party shall be considered plural where applicable.

_____

1. Bidder and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors and assigns to pay to Owner upon default of Bidder for the Work required by the Contract Documents, provided that:

1.1. The penal sum set forth on the face of this Bond, and

1.2. In no event shall Bidder's and Surety's obligation hereunder exceed the penal sum set forth on the face of this Bond.

2. Default of Bidder shall occur upon the failure of Bidder to deliver within the time required by the Bidding Documents (or any extension thereof agreed to in writing by Owner) the executed Agreement required by the Bidding Documents and any performance and payment bonds and insurance certificates required by the Bidding Documents and Contract Documents.

3. This obligation shall be null and void if:

3.1. Owner accepts Bidder's bid and Bidder delivers within the time required by the Bidding Documents (or any extension thereof agreed to in writing by Owner) the executed Construction Contract required by the Bidding Documents and any performance and payment bonds required by the Bidding Documents and Contract Documents, or

3.2. All bids are rejected by Owner, or

3.3. Owner fails to issue a notice of award to Bidder within the time specified in the Bidding Documents (or any extension thereof agreed to in writing by

Bidder and, if applicable, consented to by Surety when required by paragraph 5 hereof).

4. Payment under this Bond will be due and payable upon default by Bidder and within 30 calendar days after receipt by Bidder and within 30 calendar days after receipt by Bidder and Surety of written notice of default from Owner, which notice will be given with reasonable promptness, identifying this Bond and the Project and including a statement of the amount due.

5. Surety waives notice of and any and all defenses based on or arising out of any time extension to issue notice of award agreed to in writing by Owner and Bidder, provided that the total time for issuing notice of award including extensions shall not in the aggregate exceed 120 days from Bid Due Date without Surety's written consent.

6. No suit or action shall be commenced under this Bond prior to 30 calendar days after the notice of default required in paragraph 4 above is received by Bidder and Surety and in no case later than one year after Bid Due Date.

7. Any suit or action under this Bond shall be commenced only in a court of competent jurisdiction located in the state in which the Project is located.

8. Notices required hereunder shall be in writing and sent to Bidder and Surety at their respective addresses shown on the face of this Bond. Such notices may be sent by personal delivery, commercial courier or by United States Registered or Certified Mail, return receipt requested, postage pre-paid, and shall be deemed to be effective upon receipt by the party concerned.

9. Surety shall cause to be attached to this Bond a current and effective Power of Attorney evidencing the authority of the officer, agent or representative who executed this Bond on behalf of Surety to execute, seal and deliver such Bond and bind the Surety thereby.

10. This Bond is intended to conform to all applicable statutory requirements. Any applicable requirement of any applicable statute that has been omitted from this Bond shall be deemed to be included herein as if set forth at

length. If any provision of this Bond conflicts with any applicable provision of this Bond conflicts with any applicable provision of any applicable statute, then the provision of said statute shall govern and the remainder of this Bond that is not in conflict therewith shall continue in full force and effect.

11. The term "bid" as used herein includes a bid, offer or proposal as applicable.

92nd Street Dog Park Extension – Design Build
TOWN OF BAY HARBOR ISLANDS
BHI- 228

TRENCH SAFETY ACT

(90-96, Laws of Florida)

Bidder acknowledges that included in the appropriate bid items of the Bid and in the Total Bid Price are costs for complying with the Florida Trench Safety Act (90-96, Laws of Florida) effective October 1, 1990. The bidder further identifies the costs of such compliance to be summarized below:

	Trench Safety Measure (Description)	Unit of Measure (LFSF)	Unit (Quantity)	Unit Cost	Extended Cost
A.					
B.					
C.					
D.					
				Total	**$**

If applicable, the Contractor certifies that all trench excavation done within his control in excess of five feet in depth shall be in accordance with the Florida Department of Transportation's Special Provisions Article 125-1 and Subarticle 125-4.1 (**TRENCH EXCAVATION SAFETY SYSTEM AND SHORING, SPECIAL -TRENCH EXCAVATION**).

Failure to complete the above may result in the bid being declared non-responsive.

Contractor agrees that the above safety compliances and costs are included in his bid package.

_____
Signature of Bidding Contractor

END OF DOCUMENT

92nd Street Dog Park Extension – Design Build
TOWN OF BAY HARBOR ISLANDS
BHI- 228

ACKNOWLEDGEMENT OF CONFORMANCE

WITH O.S.H.A. STANDARDS

TO: Town of Bay Harbor Islands, Florida

We _____, hereby acknowledge and agree that as contractors for the construction of the "92ND STREET DOG PARK EXTENSION – DESIGN BUILD Project, Project No. BHI -228", that we have the sole responsibility for compliance with all requirements of the Federal Occupational Safety and Health Act of 1970, and all State and Local Safety and Health regulations, and agree to indemnify and hold harmless the Town of Bay Harbor Islands, Florida against any and all legal liability or loss the Town may incur due to _____
_____(Contractor's name) failure to comply with such act.

_____ _____
ATTEST CONTRACTOR

_____ By: _____
ATTEST

Title: _____

_____
DATE

END OF DOCUMENT

NON-COLLUSION AFFIDAVIT

The undersigned individual, being duly sworn, deposes and says that:

1 He/She is _____ of _____, the Bidder that has submitted the attached Bid;

2 He/She is fully informed respecting the preparation and contents of the attached Bid and of all pertinent circumstances respecting such Bid and Construction Contract;

3 Such Bid is genuine and is not a collusive or sham Bid;

4 Neither said Bidder nor any of its officers, partners, owners, agents, representatives, employees, or parties in interest, including this affiant, has in any way colluded, connived, or agreed, directly or indirectly, with any other Bidder, firm or person to submit a collusive or sham proposal in connection with the Construction Contract for which the attached Bid has been submitted or to refrain from proposing in connection with such Construction Contract, or has in any manner, directly or indirectly, sought by agreement of collusion or communication of conference with any other bidder, firm, or person to fix the price or prices in the attached Invitation to Bid, or of any other bidder, or to fix any overhead, profit or cost element of the Bid or the response of any other bidder, or to secure through any collusion, connivance, or unlawful agreement any advantage against the Town of Bay Harbor Islands, Florida, or any person interested in the proposed Construction Contract; and

[THIS SPACE INTENTIONALLY LEFT BLANK]

NON-COLLUSION AFFIDAVIT (CONTINUED)

5. The response to the attached Invitation to Bid is fair and proper and is not tainted by any collusion, conspiracy, connivance, or unlawful agreement on the part of the Bidder or any of its agents, representatives, owners, employees, or parties in interest, including this affiant.

_____
Signature (Blue ink only)

_____
Print Name

_____
Title

_____
Date

Witness my hand and official notary seal/stamp at _____ the day and year written above

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

BEFORE ME, an officer duly authorized by law to administer oaths and take acknowledgments, personally appeared _____ as _____, of _____, an organization authorized to do business in the State of Florida, and acknowledged executing the foregoing Affidavit as the proper official of _____ for the use and purposes mentioned in the Affidavit and affixed the official seal of the corporation, and that the instrument is the act and deed of that corporation. He/She is personally known to me or has produced _____ as identification.

IN WITNESS OF THE FOREGOING, I have set my hand and official seal at in the State and County aforesaid on this _____ day of _____, 202__.

_____

NOTARY PUBLIC
My Commission Expires:

92nd Street Dog Park Extension – Design Build
TOWN OF BAY HARBOR ISLANDS
BHI- 228

ADDENDUM NO. 1

Issued: _____ (Date)

Project: 92ND STREET DOG PARK EXTENSION – DESIGN BUILD

Project No. BHI- 228

Notice to All Bidders:

ADDENDA TO BE PLACED HERE

Issued By: _____
Name

PROOF OF RECEIPT

Bidder/Recipient
Signature: _____
Print Name: _____
Firm: _____
Date: _____

AGREEMENT

Between

TOWN OF BAY HARBOR ISLANDS

and

_____.

For

DESIGN/BUILD SERVICES FOR

92ND Street Dog Park Extension
Project Number BHI-228

REQUEST FOR PROPOSAL

This Agreement made and entered into this ___ day of _____, 202_, between the TOWN OF BAY HARBOR ISLANDS, FLORIDA, a municipal corporation of the State of Florida, hereinafter referred to as "TOWN" and _____**,** a Florida Corporation authorized to transact business in Florida, its successors and assigns, hereinafter referred to as "DESIGN/BUILD FIRM," or collectively the "Party" or "Parties."

WITNESSETH, in consideration of the mutual terms and conditions, promises, covenants and payments hereinafter set forth, TOWN and DESIGN/BUILD FIRM agree as follows:

ARTICLE 1- DEFINITIONS AND IDENTIFICATIONS

For the purposes of this Agreement and the various covenants, conditions, terms and provisions which follow, the definitions set forth below are assumed to be true and correct and are agreed upon by the Parties.

Agreement - This document, inclusive and including all exhibits and documents that are expressly incorporated by reference.

Applicable Laws - All federal, state, county, and local statutes, codes, laws, rules, regulations, ordinances, orders and standards applicable to the Project and any other such law hereafter enacted, and any rules adopted pursuant thereto, as all such laws may be amended from time to time to perform the Work.

Change Order - A written document ordering a change in the Not To Exceed Guaranteed Maximum Price or Contract Time or a material change in the Work.

TOWN - The TOWN (or Owner) shall mean the Town of Bay Harbor Islands, a Florida municipal corporation, having its principal offices at 9665 Bay Harbor Terrace, Bay Harbor Islands, Florida 33154, which is a Party hereto and/or for which this Agreement is to be performed. In all respects hereunder, TOWN's performance is pursuant to TOWN's position as the owner of a construction project. In the event TOWN exercises its regulatory authority as a governmental body, the exercise of such regulatory authority and the enforcement of any rules, regulations, laws and ordinances shall be deemed to have occurred pursuant to the TOWN's regulatory authority as a governmental body and shall not be attributable in any manner to TOWN as a party to this Agreement.

TOWN Council - TOWN Council shall mean the governing and legislative body of the TOWN.

TOWN Manager - TOWN Manager shall mean the Chief Administrative Officer of the TOWN.

Construction Documents Phase - The phase in which DESIGN/BUILD FIRM will consult with Project Manager and prepare the Construction Documents for the Project, based upon the information provided in the Scope of Work, for review and approval of the TOWN (including, without limitation, any and all applicable TOWN departments) and any applicable regulatory agencies.

Construction Manager - The Construction Manager is the authorized individual or firm which is the representative of the DESIGN/BUILD FIRM, who/which will administer/manage the construction effort on behalf of the DESIGN/BUILD FIRM.

Construction Phase - The phase which constitutes DESIGN/BUILD FIRM's administration of the construction of the Project and all activities necessary for the completion of the Project.

Consultant - The person or entity who is a registered architect, professional engineer, professional land surveyor, and/or registered landscape architect having a contract with DESIGN/BUILD FIRM to provide

professional services for the design of the Project, and who is licensed by the State of Florida to provide said services.

Contract Documents - This Agreement, as approved by the Mayor and TOWN Council and its exhibits, attachments and forms, any addenda, performance bond and payment bond, plans and specifications (as approved and permitted) as prepared by the DESIGN/BUILD FIRM in accordance with the information provided in the Design Criteria Package (DCP), Notice of Award, Notice(s) to Proceed, and any and all agreed upon contract and/or design modifications, including but not limited to change orders; Project schedule; a schedule of values, and any additional documents the submission of which is required by this Agreement. When reference is made in the Contract Documents to publications, standards or codes issued by associations or societies, the intent shall be to specify the current or adopted edition of such publication or standard including revision and effect on the date of the issuance of all applicable permits.

Contract Time - The time between the Project Initiation Date specified in the Notice to Proceed and final completion, including any milestone dates thereof, established in the Agreement, as may be amended by Change Order.

Contract Price - The Not to Exceed Guaranteed Maximum Price agreed to between DESIGN/BUILD FIRM and the TOWN. The Contract Price is not subject to increase, except as expressly allowed within the Contract Documents.

Design/Build Firm - **VENDOR.,** its successors and assigns, is the DESIGN/BUILD FIRM selected to perform the Work pursuant to this Agreement, and is the person, firm or corporation liable for the acceptable performance of, and payment of, all legal debts pertaining to the Project. All references in the Contract Documents to third parties under contract or control of DESIGN/BUILD FIRM shall be deemed to be a reference to DESIGN/BUILD FIRM. The DESIGN/BUILD FIRM will be responsible for the provision, installation, and performance of all equipment, materials, services and Work. The DESIGN/BUILD FIRM is in no way relieved of the responsibility for the performance of all equipment furnished.

Design Criteria Package (DCP) - DCP shall mean those certain conceptual plans and specifications and performance-oriented drawings or specifications of the Project, as prepared and sealed by the Design Criteria Professional, and in compliance with the requirements of Section 287.055, Florida Statutes.

Design Criteria Professional - Design Criteria Professional shall mean the individual or entity who/which holds a current certificate as a registered engineer under Chapter 471 to practice engineering and who/which is employed by or retained by the TOWN to provide professional services in compliance with the requirements of Section 287.055, Florida Statues, and in connection with the preparation of the DCP who/which shall review and provide recommendations regarding the Construction Documents prepared by the DESIGN/BUILD FIRM for the Project, and evaluate compliance of Project construction with the DCP.

Field Order or Supplemental Instruction - A written order for minor changes or interpretations of the Contract Documents, but which does not involve a change in the Not To Exceed Price or Contract Time.

Final Completion - The date certified by the Project Manager that all conditions of the permits and regulatory agencies have been met; all construction, including corrective and punch list work, has been performed and accepted by the TOWN; all administrative requirements of the Contract Documents have been completed; and TOWN has received from DESIGN/BUILD FIRM all necessary documentation, as deemed required by the TOWN including, but not limited to, the following: all final releases of liens, consent of surety, release of claims by DESIGN/BUILD FIRM, correct as-built drawings, a final bill of materials, executed final adjusted Change Orders, final invoice, copies of pertinent test results, correspondence, warranties, guarantees, operational manuals, spare parts, service contracts and tools.

NOT TO EXCEED PRICE (NTE) - THE MUTUALLY AGREED UPON CONTRACT PRICE TO BE PAID OF _____ TO THE DESIGN/BUILD FIRM, AND THAT THE DESIGN/BUILD FIRM GUARANTEES NOT TO EXCEED, FOR ALL LABOR, EQUIPMENT, AND MATERIALS TO DESIGN, PERMITS (AS REQUIRED BY THE CONTRACT DOCUMENTS), ADMINISTER, COORDINATE, INSPECT, CONSTRUCT AND INSTALL THE PROJECT WITHIN THE CONTRACT TIME. THE DOLLAR AMOUNT SHALL INCLUDE, BUT NOT BE LIMITED TO ALL PROFIT, OVERHEAD, ON-SITE AND OFF-SITE CONDITIONS (KNOWN AND UNKNOWN) AND ADMINISTRATIVE COSTS. THE NOT TO EXCEED GUARANTEED MAXIMUM PRICE IS NOT SUBJECT TO INCREASE EXCEPT AS EXPRESSLY ALLOWED.

Holidays - Those designated non-workdays as established by the TOWN Council of the TOWN of Bay Harbor Islands.

Notice to Proceed - One or more written notice(s) to DESIGN/BUILD FIRM issued by the Project Manager authorizing the commencement of specified Work.

Owners Representative - The individual or entity who/which holds a current certificate as a registered engineer under Chapter 471 to practice engineering and who/which is employed by or retained by the TOWN to provide professional services in compliance with the requirements of Section 287.055, Florida Statues, and who/which shall review and provide recommendations regarding the Construction Documents prepared by the DESIGN/BUILD FIRM for the Project, and evaluate compliance of Project construction with the requirements of this Agreement.

Plans and Specifications - The official graphic representations of the Project as prepared, signed and sealed by Architect/Engineer and which, upon written approval of TOWN, shall become a part of the Contract Documents.

Project - The design/construction project described in the Contract Documents.

Project Manager/Contract Administrator - The employee of the TOWN, or other designated individual who is herein referred to as the Project Manager, will assume all duties and responsibilities and will have the rights and authorities assigned to the Project Manager in the Contract Documents in connection with completion of the Work in accordance with this Agreement. The Project Manager, or designee, shall be the authorized agent for the TOWN unless otherwise specified. The Term Project Manager and Contract Administrator are used interchangeably.

Punch List - The TOWN's list of Work yet to be done or be corrected by the DESIGN/BUILD FIRM before the final completion date can be determined by the TOWN.

Shop Drawings - Drawings, diagrams and schedules, and other data specially prepared by the DESIGN/BUILD FIRM or its subcontractors, sub-subcontractors, manufacturer, supplier or distributor to illustrate some portion of the Work.

Substantial Completion - The date, as certified by the Project Manager that all conditions of the permits and regulatory agencies have been met for the TOWN's stated use of the Project, and all construction has been performed therein in accordance with the Contract Documents so TOWN can beneficially enjoy, use or occupy and can operate it in all respects for its intended purpose.

Surety - The surety company or individual which is bound by the performance bond and payment bond with and for DESIGN/BUILD FIRM, who is primarily liable, and which surety company or individual is

responsible for DESIGN/BUILD FIRM's acceptable performance of the Work under the Contract and for the payment of all debts pertaining thereto in accordance with Section 255.05, Florida Statutes.

Work - The totality of the obligations, including design, permitting, governmental entitlements, site plan approvals and construction and all other services required by the Contract Documents, whether completed or partially completed, including all labor, materials, equipment and services provided to or to be provided by DESIGN/BUILD FIRM to fulfill its obligations.

ARTICLE 2 - GENERAL PROVISIONS

2.1 DESIGN/BUILD FIRM hereby agrees to furnish all of the labor, materials, equipment, Work, services and incidentals necessary to complete the Project, in accordance with the Contract Documents, within the Contract Time and for the Not to Exceed Guaranteed Maximum Price.

2.2 Relationship of TOWN and DESIGN/BUILD FIRM: The DESIGN/BUILD FIRM accepts the relationship of trust and confidence established between it and the TOWN by this Agreement. The DESIGN/BUILD FIRM warrants and represents to TOWN that it will furnish its best skill and judgment in performing the Work, and shall always act to further the interest of the TOWN in the expeditious completion of the Project at the lowest cost to the TOWN, and in strict accordance with the Contract Documents and prudent and customary construction practices.

2.3 By signing this Agreement, the DESIGN/BUILD FIRM accepts a fiduciary duty with the TOWN and warrants and represents to the TOWN that the DESIGN/BUILD FIRM: (a) has all licenses and certifications required by applicable laws; (b) is experienced in all aspects of pre-construction and construction planning for projects similar to the Project; (c) will act in the TOWN's highest and best interests in performing the Work; and (d) that no employees or affiliates of the DESIGN/BUILD FIRM, including all Consultants, any sub-consultants, subcontractors, and suppliers, at any tier, have been convicted of a public entity crime, fraud, theft, and/or a property damage crime within the preceding thirty-six (36) months from the time this Agreement is executed, as required pursuant to Section 287.133, Florida Statutes.

2.4 Intention of Contract Documents: It is the intent of the Contract Documents to describe a functionally complete Project to be designed and constructed in accordance with the Contract Documents. Any Work, design, construction, other professional services, materials or equipment that may reasonably be inferred from the Contract Documents as being required to produce the intended result shall be supplied by the DESIGN/BUILD FIRM, whether or not specifically called for by the Contract Documents. When words, which have a well-known technical or trade meaning are used to describe Work, such words shall be interpreted in accordance with that meaning. Reference to standard specifications, manuals, or codes of any technical society, organization or association, or to the laws or regulations of any governmental authority, whether such reference is specific or by implication, shall mean the latest standard specification, manual, code or laws or regulations in effect at the time of permit issuance. TOWN shall have no duties other than those duties and obligations expressly set forth within the Contract Documents.

2.5 DESIGN/BUILD FIRM shall plan, record, and update, at least monthly, the design and construction schedule of the Project. The Project Schedule shall indicate the dates for the commencement and completion of the various stages of design and construction and shall be revised at least monthly and as required by the conditions of the Work. The Project Schedule shall encompass all of the work of all professions and trades necessary for the construction of the Project and shall be sufficiently complete and comprehensive to enable progress to be monitored on a weekly basis. DESIGN/BUILD

FIRM shall be responsible to have available to it all materials, supplies, and appropriate personnel, trades, etc., necessary to complete the Work in accordance with the Project Schedule.

ARTICLE 3 - PROJECT MANAGER

3.1 The Project Manager is hereby designated by the TOWN as Jose Custodio, Town Engineer, whose address is 9665 Bay Harbor Terrace, Bay Harbor Islands, Florida 33154. The Project Manager will assume all duties and responsibilities and will have the rights and authority assigned to the Project Manager in the Contract Documents in connection with completion of the Work in accordance with this Agreement.

ARTICLE 4 - CONTRACT DOCUMENTS

4.1 The Contract Documents shall be followed as to Work, materials and dimensions except with the Project Manager may authorize, in his/her sole discretion, and in writing, an exception.

4.2 Dimensions given in figures are to hold preference over scaled measurements from the drawings; however, all discrepancies shall be decided upon by the Consultant, with concurrent written notice to Contract Administrator/ Project Manager. DESIGN/BUILD FIRM shall not proceed when in doubt as to any dimension or measurement but shall seek clarification from the Consultant, with concurrent written notice to Project Manager.

4.3 DESIGN/BUILD FIRM shall maintain two (2) copies of the Contract Documents, one of which shall be preserved and always kept accessible at the site for the Project Manager, and/or authorized representatives.

4.4 The Contract Documents shall have the following order of precedence, beginning with the most important:

A. This Agreement (Contract) and all exhibits, addendums, and amendments thereto;

B. Change Orders (to the extent permitted under this Agreement);

C. The Specifications, as approved and permitted;

D. The Plans, as approved and permitted;

E. All other information provided in the DCP;

F. CPM Project Schedule and Schedule of Values; and

G. DESIGN/BUILD FIRM's response to the TOWN's request;

ARTICLE 5 - SCOPE OF WORK

DESIGN/BUILD FIRM agrees to complete the Project generally described as 92nd Street Dog Park Extension – Design Build Project, Project No. 228, submitted by the DESIGN/BUILD FIRM, to provide design-build services for the Project.

PLACE SCOPE HERE

The Project shall be construed in accordance with the requirements and provisions of said Contract Documents and for the Not to Exceed Guaranteed Maximum Price.

5.1 DESIGN/BUILD FIRM agrees to meet with the Project Manager or his/her respective designees at reasonable times and with reasonable notice.

5.2 Prior to the Final Completion of construction services under this Agreement, and as a condition precedent to final payment, there shall be established a record set of plans on reproducible vellum and a record set of Specifications, both of which shall bear the written approvals of the DESIGN/BUILD FIRM and the TOWN's Project Manager. Such approval shall be indicated by the written signature of both Parties. In addition, there shall be established electronic copies on USB drives of the record set plans, non-compressed, formatted in the latest version of AutoCAD and of the record set of Specifications.

5.3 DESIGN/BUILD FIRM herein represents that Construction Manager, at a minimum, will provide the following services:

5.3.1 At least five (5) days prior to the commencement of the construction phase of the Project, the DESIGN/BUILD FIRM will identify and provide the qualifications of a suitably qualified and experienced Construction Manager, approved by the TOWN, who will be on site full time at the Project. No more than twenty percent (20%) of the proposed team can be changed and such change will require TOWN approval.

5.3.2 DESIGN/BUILD FIRM will use reasonable efforts to have the same Construction Manager on the Project, full time, to its conclusion, and any new representative will first be approved in writing by Project Manager before permanent assignment. Approval shall not be unreasonably withheld.

5.3.3 The Construction Manager will conduct weekly meetings with the DESIGN/BUILD FIRM and its subcontractors at regular times, as previously agreed upon and approved by the Project Manager and shall issue weekly reports on the progress of the Work and the minutes of the previous meeting.

5.3.4 The Construction Manager will administer the DESIGN/BUILD FIRM's Work.

5.3.5 The Construction Manager shall coordinate the processing of shop drawings and material submittals.

5.3.6 The Construction Manager will achieve satisfactory performance by DESIGN/BUILD FIRM and, if required, will require corrections to DESIGN/ BUILD Firm's Work including, but not limited to, maintaining punch lists and observing testing.

5.3.7 The Construction Manager will monitor the cost of the Project, including payment applications and the preparation thereof.

5.3.8 The Construction Manager will assist in the preparation of record drawings and shall transmit to the Consultant requests for additional information concerning the design. In addition, the Project Manager shall be copied on these requests for monitoring purposes.

5.3.9 The Construction Manager will observe testing, start-up activities, and commissioning of project scope as described in the DCP.

5.4.10 The Construction Manager will secure all equipment brochures and warranties from the DESIGN/BUILD FIRM.

5.4.11 The Construction Manager will coordinate the correction and completion of the Work including that required by the punch list.

5.4 DESIGN/BUILD FIRM herein represents that Consultant, at a minimum, will provide the following services:

5.4.1 Consultant shall perform all of the architectural and engineering services necessary to describe, detail and design the Project in accordance with the Contract Documents.

5.4.2 Consultant shall design the Project so as to comply with Applicable Laws.

5.4.3 Consultant shall prepare the Plans and Specifications, as well as obtain all required and necessary reviews and approvals (or take other appropriate action upon) for same, and/or other submittals including, but not limited to, shop drawings, product data, and samples.

5.4.4 Consultant shall also submit the Plans and Specifications to the Owners Representative, with a copy to Project Manager, for his/her review and written approval. Owners Representative shall expeditiously review and approve the Plans and Specifications in accordance with the accepted Project Schedule. Owners Representative's approval of the Plans and Specifications shall not constitute acceptance of any design work which does not comply with Applicable Laws, information provided in the DCP, and/or with the terms of this Agreement. Except as provided herein, and to the extent limited by, the preceding sentence, the approval of the Plans and Specifications by the Owners Representative shall constitute a representation by the Owners Representative that the Project, if constructed as required by the Contract Documents, will be sufficient for its purposes. The Plans and Specifications shall include technical drawings, schedules, diagrams, and specifications setting forth in detail the requirements for construction of the Project; provide information necessary for the use of DESIGN/BUILD FIRM subcontractors and those in the building trade; and include documents necessary for regulatory agencies and other governmental approvals.

5.4.5 Consultant shall prepare construction change directives, if necessary, at no additional cost to the TOWN, and authorize minor changes in the Work, as provided in the Contract Documents.

5.4.6 Consultant shall receive and review for compliance with the Contract Documents, all written warranties and related documents required hereby to be assembled upon substantial completion and issue applications for payment performed in compliance with the requirements of the Contract Documents.

5.5 The approved and permitted Plans and Specifications shall constitute a representation by Consultant to TOWN that the Project, if construed as required by the Contract Documents, will be sufficient for its purposes. The Plans and Specifications include technical drawings, schedules, diagrams, and specifications setting forth in detail the requirements for construction of the Project; provide information necessary for the use of DESIGN/BUILD FIRM, sub-contractors, and those in the building trade; and include documents necessary for regulatory agencies and other governmental approvals.

5.6 Project Manager will provide the following services:

5.6.1 The Project Manager shall review applications for payment and coordinate the processing thereof with the TOWN.

5.6.2 The Project Manager shall monitor the schedule(s).

5.6.3 The Project Manager shall track, log and review all required Project related documents and subsequently address any and all concerns with DESIGN/BUILD FIRM.

5.6.4 The Project Manager shall review and observe the Work and testing thereof for conformance and compliance with the requirements of the Contract Documents.

5.6.5 The Project Manager shall attend all required meetings and maintain and distribute meeting minutes.

5.6.6 At all times, the Project Manager will act as liaison between the Parties to this Agreement and the TOWN's Project Manager.

ARTICLE 6 - CONTRACT TIME AND COMPLETION DATE

6.1 Time is of the essence for the DESIGN/BUILD FIRM's performance of the Work pursuant to this Agreement. The DESIGN/BUILD FIRM agrees to complete the Work in accordance with the approved and accepted Project Schedule and to achieve substantial completion of the Work, in accordance with this Agreement, and within the Contract Time. The DESIGN/BUILD FIRM acknowledges that failure to achieve substantial completion will result in substantial damages to the TOWN, such as loss of beneficial use and/or occupancy of the Project.

6.2 DESIGN/BUILD FIRM shall be instructed to execute the Agreement immediately. DESIGN/BUILD FIRM shall immediately commence scheduling activities, permit applications and other preconstruction Work after the Notice to Proceed.

6.3 The DESIGN/BUILD FIRM shall complete the Construction Documents Phase.

6.4 The DESIGN/BUILD FIRM shall meet the following construction duration:

MILESTONE	**CALENDAR DAYS FROM NOTICE TO PROCEED (COMPLETION DATE)**
Assumed Notice to Proceed Date	_____
Substantial Completion of Project	_____
Final Completion of Project	_____

ARTICLE 7 - LIQUIDATED DAMAGES

7.1 Failure of the DESIGN/BUILD FIRM to substantially complete the Project in accordance with Section 6.4 above, or meet any of the milestones as indicated in Section 6.4 above, DESIGN/BUILD FIRM shall pay to the TOWN the sum of Two Hundred Dollars ($200.00) for each calendar day that the completion of the Work is delayed beyond the time after the time specified in Article 6 Section

6.4 above (plus any approved time extensions at the sole discretion of the TOWN) that DESIGN/BUILD FIRM fails to meet time specified in Section 6.4 above.

7.2 The time frame for liquidated damages shall not commence and thus shall not be tolled until the Project Manager submits the punch list to the DESIGN/BUILD FIRM.

7.3 DESIGN/BUILD FIRM and TOWN HEREBY MUTUALLY AGREE AND ACKNOWLEDGE THAT THE LIQUIDATED DAMAGES AMOUNT SET FORTH HEREIN are not penalties but are liquidated damages to TOWN for its inability to obtain full beneficial occupancy and/or use of the Project. Liquidated damages are hereby fixed and agreed upon between the Parties, recognizing the impossibility of precisely ascertaining the amount of damages that will be sustained by the TOWN as a consequence of such delay, and both parties desiring to obviate any question of dispute concerning the amount of said damages and the cost and effect of the failure of DESIGN/BUILD FIRM to complete the Contract on time. Liquidated damages shall apply separately to each portion of the Work for which a time of completion is given.

7.4 The TOWN shall have the right to deduct from or retain any compensation which may be due or which may become due and payable to the DESIGN/BUILD FIRM the amount of liquidated damages, and if the amount retained by the TOWN is insufficient to pay in full such liquidated damages, the DESIGN/BUILD FIRM shall pay all liquidated damages infull. The DESIGN/BUILD FIRM shall be responsible for reimbursing the TOWN, in addition to liquidated damages or other damages for delay, for all costs of engineering fees and inspection and other costs incurred in administering the construction of the Project beyond the completion date specified or beyond an approved extension of time granted to the DESIGN/BUILD FIRM whichever is later.

7.5 TOWN is authorized to deduct liquidated damages from monies withheld due to DESIGN/BUILD FIRM for the Work under this Agreement or as much thereof as TOWN may, in its sole discretion, deem just and reasonable.

ARTICLE 8 - CHANGE OF THE CONTRACT TIME

8.1 The Contract Time may only be changed by a Change Order. Any claim for an extension in the Contract Time shall be based on written notice delivered to the Project Manager within five (5) days of the occurrence of the event giving rise to the claim. Any change in the Contract Time resulting from any such claim shall be incorporated in a Change Order.

8.2 The Contract Time will be extended in an amount equal to time lost due to delays beyond the control of the DESIGN/BUILD FIRM if a claim is made there for as provided in paragraph 8.1. Such delays shall include but not be limited to, acts or neglect by the TOWN, or to fires, floods, labor disputes, abnormal weather conditions, or acts of God.

8.3 All time limits stated in the Contract Documents are of the essence. The provisions of this Article shall not exclude recovery for damages for delay by the DESIGN/BUILD FIRM.

8.4 Delays caused by or resulting from entities, contractors or subcontractors who are not affiliated with DESIGN/BUILD FIRM shall not give rise to a claim by the DESIGN/BUILD FIRM for damages for increases in material and/or labor costs.

ARTICLE 9 - CONTRACT PRICE (NOT TO EXCEED PRICE) AND METHOD OF PAYMENT

9.1 The Contract Price is the Not To Exceed Guaranteed Maximum Price agreed to by the DESIGN/BUILD FIRM and the TOWN under this Agreement, payable to complete the Work in accordance with the

Agreement and DCP, and, to the extent permitted by this Agreement, as may be increased or decreased by Change Order.

9.2 The Contract Price for the Project, which is also the Not to Exceed Guaranteed Maximum Price is $_____. This includes bonds, allowances, and material change. The TOWN will reimburse actual cost of permit(s) upon submission of paid permit receipts.

_____ ($_____)

9.3 In the event that the DESIGN/BUILD FIRM's total approved expenditures for the Project exceed the Not To Exceed Price Guaranteed Maximum Price, the DESIGN/BUILD FIRM shall pay such excess from its own funds. TOWN shall not be required to pay any amount that exceeds the Not To Exceed Guaranteed Maximum Price and the DESIGN/BUILD FIRM shall have no claim against the TOWN on account thereof.

9.4 METHOD OF BILLING AND PAYMENT

9.4.1 During the Construction Documents Phase, DESIGN/BUILD FIRM may submit a request for payment monthly based upon percentage of completion of the (final construction) Plans and Specifications. During the Construction Phase, DESIGN/BUILD FIRM may submit a request for payment thirty (30) calendar days after beginning field operations, subject to the Notice to Proceed, and every thirty (30) calendar days thereafter. Payment during the Construction Phase will be based upon percentage of work completed for each item in the approved Schedule of Values. DESIGN/BUILD FIRM's requisition for payment shall show a complete breakdown of the Project components, and the amount due, together with such supporting evidence, as may be required by the Project Manager.

At a minimum, the requisition for payment shall be accompanied by a completed certification of Work; consent of surety in the applicable amount; list of subcontractors that performed Work during the payment application period being submitted; releases of liens from the DESIGN/BUILD FIRM for the previous period being billed; releases of liens from subcontractors that have performed Work during the previous billing period unless payment for the previous period has not been received by the DESIGN/BUILD FIRM; aerials and photographs of the areas of Work for the applicable billing period; an accepted, updated Project Schedule (as approved); and back up for all items being billed. The certification of Work will mean compliance by DESIGN/BUILD FIRM with the approved Project Schedule; that as-built drawings of improvements are current for the prior period; and Applicable Laws are being met and complied with. Each requisition for payment shall be submitted to the Project Manager for approval. Payment for Work performed will be made in accordance with the Florida Prompt Payment Act, Sections 255.0705 - 255.078, Florida Statutes, but not more frequently than once a month. The Contract Administrator shall verify completion of the various phases, as noted, and authorize payment accordingly. Should the Project fall behind schedule, as indicated in the Project Schedule, DESIGN/BUILD FIRM shall include a written plan demonstrating how the Final Completion date shall be maintained.

Material purchases can be invoiced to the TOWN, upon receipt of invoice and documentation of order placement must be accompanied by a bill of sale from the manufacturer or supplier. The TOWN will endeavor to pay material invoices earlier, albeit not later than thirty (30) days

of receipt of a valid invoice. Any invoices that are not considered valid will be returned immediately for correction or additional documentation.

9.4.2 TOWN agrees that it will pay DESIGN/BUILD FIRM in accordance with the Florida Prompt Payment Act, within thirty (30) calendar days of receipt of DESIGN/BUILD FIRM's proper requisition for payment, as provided above.

9.4.2.1 TOWN will review DESIGN/BUILD FIRM's invoices and, if inaccuracies or errors are discovered in said invoice, TOWN will inform DESIGN/BUILD FIRM within ten (10) working days by fax and/or by email of such inaccuracies or errors and request that revised copies of all such documents be re-submitted by DESIGN/BUILD FIRM to TOWN.

9.4.3 The DESIGN/BUILD FIRM shall use the sums advanced to it solely for the performance of the Work and the construction, furnishing and equipping of the Work in accordance with the Contract Documents and payment of bills incurred by the DESIGN/BUILD FIRM in performance of the Work.

9.4.4 DESIGN/BUILD FIRM shall remain liable for subcontractors' work and for any unpaid laborers, material suppliers of subcontractors in the event it is after discovered that said work is deficient or that any subcontractors, laborers, or material suppliers did not receive payments due to them on the Project.

9.4.5 Undisputed amounts remaining unpaid thirty (30) calendar days after TOWN's request of DESIGN/BUILD FIRM's proper requisition for payment for conforming Work shall bear interest at the rate set forth in Section 218.74(4), Florida Statutes. This Section shall not apply if the TOWN has a right to withhold any portion of the payment under this Agreement.

9.4.6 Pursuant to Florida Statutes, Section 255.078, five percent (5%) of all monies earned by DESIGN/BUILD FIRM shall be retained by the TOWN until the Project has obtained Final Completion and been accepted by the TOWN. The TOWN may incrementally reduce the rate of retainage pursuant to a schedule provided for in the agreement, or from releasing at any point or a portion of any retainage withheld by the TOWN which is attributable to the labor, services, or materials supplied by the Consultant or by one or more subconsultant or suppliers, if applicable and determined to be in the TOWN's best interest. If the TOWN makes any payment of retainage to Consultant which is attributable to the labor, services, or materials supplied by one or more subconsultant or suppliers, the Consultant must timely remit payment of such retainage to those subconsultants and suppliers.

9.5 If, after the Project has been substantially completed, full completion thereof is delayed through no fault of DESIGN/BUILD FIRM, or by issuance of Change Orders affecting final completion, and the Project Manager so certifies. TOWN shall, upon certification of the Project Manager, and without terminating the Agreement, make payment of the balance due for that portion of the Project fully completed and accepted. Such payment shall be made as required by law under the terms and conditions governing final payment, except that it shall not constitute a waiver of claims.

9.6 Upon receipt of written notice from DESIGN/BUILD FIRM that the Project is ready for final inspection and acceptance, the Project Manager shall, within seven (7) calendar days, make an inspection thereof. If the Project Manager finds the Project acceptable under the Contract

Documents and the Project fully performed, a Final Certificate of Payment shall be issued by the Contract Administrator over his/her own signature, stating that the Work required by this Agreement has been completed and is accepted under the terms and conditions thereof.

9.7 Before issuance of the Final Certificate for Payment, DESIGN/BUILD FIRM shall deliver to the Project Manager a complete release of all liens arising out of this Agreement, or receipts in full in lieu thereof, and an affidavit certifying that all suppliers, consultant, subcontractors, and subconsultants have been paid in full, and that all other indebtedness connected with the Project has been paid, and a consent of the surety to final payment. All as-builts, warranties, guarantees, operational manuals, and instructions in operation must be delivered to TOWN at this time. The warranties provided after the initial warranty period of year one will be covered under the warranty bond attached as an Exhibit to this Agreement. DESIGN/BUILD FIRM shall submit a completed as-built drawings package signed and sealed by a land surveyor registered in the State of Florida and as approved by the TOWN's Public Works Department, and proof that all permits have been closed, which shall be delivered prior to requesting final payment.

9.8 TOWN may withhold final payment or any progress payment to such extent as may be necessary on account of:

A. Defective Work not remedied;

B. Claims filed or written notices of nonpayment indicating probable filing of claims as may be prescribed by law by other parties against DESIGN/BUILD FIRM;

C. Failure of DESIGN/BUILD FIRM to make payments properly to Consultant, subcontractors or subconsultants, or for material or labor;

D. Damage to another subcontractor, subconsultant, supplier, material, person (as provided for in Florida Statute Chapter 713), party or person not remedied which are attributable to DESIGN/BUILD FIRM, its agents, servants, employees, contractor, consultant, subconsultants, subcontractors, sub-subcontractors, sub-subconsultants, material person and suppliers;

E. Liquidated damages pursuant to Article 7 herein;

F. As-built drawings not being in a current and acceptable state. 9.9 When the above grounds in 9.4.7 are removed or resolved, or DESIGN/BUILD FIRM provides a surety bond or a consent of surety satisfactory to TOWN which will protect TOWN in the amount withheld, payment may be made in whole or in part, as applicable.

9.10 If the Project Manager, in his/her reasonable judgment, determines that the portion of the Not To Exceed Price then remaining unpaid will not be sufficient to complete the Work in accordance with the Contract Documents, no additional payments will be due to the DESIGN/BUILD FIRM hereunder unless and until the DESIGN/BUILD FIRM, at its sole cost, performs a sufficient portion of the Work so that such portion of the Not To Exceed Price then remaining unpaid is determined by the Project Manager to be sufficient to so complete the Work.

9.11 The making and acceptance of the final payment shall constitute a waiver of all claims by TOWN, other than those arising from faulty or defective Work, failure of the Project to comply with requirements of the Contract Documents, or terms of any warranties required by the Contract Documents. It shall also constitute a waiver of all claims by DESIGN/BUILD FIRM, except those previously made in writing and

identified by DESIGN/BUILD FIRM as unsettled at the time of the final application for payment.

9.12 The DESIGN/BUILD FIRM warrants to the TOWN that all materials and equipment furnished under this Agreement will be new unless otherwise specified, and that all Work will be of good quality and in conformance with the Contract Documents. Any warranties that are extended to the TOWN beyond the standard warranty are to be in writing with the servicing firm information attached as an Exhibit. All Work not conforming to these requirements, including substitutions not properly approved and authorized by Contract Administrator, may be considered defective. If required by the TOWN, the DESIGN/BUILD FIRM shall furnish satisfactory evidence as to the origin, nature and quality of materials and equipment used for the Project. DESIGN/BUILD FIRM shall properly store and protect all construction materials. Materials which become defective through improper storage shall be replaced with new materials at no additional costs. The DESIGN/BUILD FIRM's warranty excludes damage or defect caused by abuse, modifications not executed by the DESIGN/BUILD FIRM, improper or insufficient maintenance, improper operation, or normal wear and tear under normal usage.

ARTICLE 10 - ADDITIONAL SERVICES AND CHANGES IN SCOPE OF WORK

10.1 Without invalidating the Agreement and without notice to any surety, TOWN reserves and shall have the right to make such changes from time to time in the character and quantity of the Work as may be considered necessary or desirable to complete fully and acceptably the Project in a satisfactory manner. The TOWN may order additions, deletions or revisions in the Work using agreed upon rates to be included in the Contract Documents and/or Schedule of Values. Upon receipt of a Change Order, the DESIGN/BUILD FIRM shall proceed with the Work involved. All Work shall be executed under the applicable conditions of the Contract Documents. If any Change Order causes an increase or decrease in the Contract Price or an extension or shortening of the Contract Time, an equitable adjustment will be made on the basis of a claim made by either party.

10.2 The Project Manager may authorize minor changes in the Work not involving an adjustment in the Contract Price or the Contract Time, which are consistent with the overall intent of the Contract Documents. Such changes must be in writing and signed by the TOWN and DESIGN/BUILD FIRM.

ARTICLE 11 - DESIGN/BUILD FIRM'S RESPONSIBILITIES

11.1 The Parties acknowledge and agree that the DESIGN/BUILD FIRM will be responsible for the design, construction and construction management of the Project according to the DCP.

11.2 The DESIGN/BUILD FIRM will be responsible for security, with full cooperation of the TOWN all permits for the Project, including without limitation, South Florida Water Management District, Miami Dade County, and Florida Department of Environmental Protection. Except as provided in the preceding sentences, the DESIGN/BUILD FIRM shall be fully responsible for any and all other permits and approvals from all governmental authorities having jurisdiction over the Project. All permits and licenses require by federal, state or local laws, rules, and regulations necessary for the prosecution of the Project by DESIGN/BUILD FIRM pursuant to this Agreement shall be secured by the DESIGN/BUILD FIRM and paid for by the TOWN. It is the DESIGN/BUILD FIRM's responsibility to have and maintain appropriate certificate(s) of competency, valid for the Work to be performed, and for all persons working on the Project for whom a certificate of competency is required.

11.3 DESIGN/BUILD FIRM shall be fully responsible for the actions of all its agents, servants, employees, including, but not limited to, the contractor, consultant, subcontractors, sub-consultants, sub-subcontractors, materials persons (pursuant to Chapter 713, Florida Statutes), and any and all other persons working for it in conjunction with the design and construction of the Project.

11.4 DESIGN/BUILD FIRM shall be fully responsible for all acts or omissions of its contractor, consultant, subcontractors, sub-consultants, sub-subcontractors, sub-sub-consultants, materials persons, and any and all other persons working for DESIGN/BUILD FIRM in conjunction with the design and construction of the Project; any and all persons working for contractor, consultant, subcontractors or sub-consultant; and any and all persons for whose acts any of the aforesaid may be liable, to the same extent DESIGN/BUILD FIRM is responsible for the acts and omissions of persons directly employed by DESIGN/BUILD FIRM. Nothing in this Agreement shall create any contractual relationship between TOWN and consultant, or TOWN and any subcontractor, sub-consultant, sub-subcontractor, sub-sub-consultant, or any other person working either for DESIGN/BUILD FIRM or for any of the afore-stated parties in conjunction with the design and construction of the Project, including, without limitation, any obligation on the part of the TOWN to pay or to see the payment of any monies due to any of the afore-stated parties pursuant to this Section.

11.5 DESIGN/BUILD FIRM agrees to bind its consultant, subcontractors, and sub-consultants to the applicable terms and conditions of this Agreement for the benefit of the TOWN.

11.6 Unless otherwise provided herein, DESIGN/BUILD FIRM shall provide and pay for all architecture, engineering, landscape architecture, land surveying services, materials, construction and other labor, water, tools, equipment, light, power, transportation, and other facilities and services necessary for the proper execution and completion of the design and construction of the Project, whether temporary or permanent, and whether or not incorporated or to be incorporated in the Project.

11.7 DESIGN/BUILD FIRM shall at all times enforce strict discipline and good order among its employees, consultants, subcontractors and sub-consultants at the Project site, and shall not employ on the Project any unfit person or anyone not skilled in the work and/or services assigned to him or her.

11.8 DESIGN/BUILD FIRM shall keep itself fully informed of, and shall take into account and comply with any and all Applicable Laws affecting those engaged or employed in the Project; or the materials used or employed in the design and construction of the Project; or in any way affecting the conduct of the Project, including, without limitation, all such orders and decrees of bodies or tribunals having any jurisdiction or authority over the same and of all provisions required by law to be made a part of this Agreement, all of which provisions are hereby incorporated by reference and made a part hereof. If any specification or contract for this Project is in violation of any such Applicable Laws, DESIGN/BUILD FIRM shall forthwith report the same to the Project Manager in writing. DESIGN/BUILD FIRM shall cause all its employees, agents, consultant, subcontractors, subconsultants, sub-subconsultants and sub-subcontractors to observe and comply with all Applicable Laws.

11.9 DESIGN/BUILD FIRM shall pay all applicable sales, consumer, use and other taxes required by law. DESIGN/BUILD FIRM is responsible for reviewing the pertinent state statutes involving state taxes and complying with all requirements.

11.10 If DESIGN/BUILD FIRM has knowledge that the Contract Documents do not comply with Applicable Laws, in any respect, the DESIGN/BUILD FIRM shall promptly notify the Project Manager, in writing, and any necessary changes shall be

adjusted by appropriate revisions. If the DESIGN/BUILD FIRM performs any Work not in accordance with Applicable Laws, and without such notice to the Project Manager, the DESIGN/BUILD FIRM shall assume full responsibility therefore and shall bear all costs attributable thereto. DESIGN/BUILD FIRM warrants to TOWN that it has thoroughly reviewed and studied the DCP, and has determined that it is in conformance with Applicable Laws, and is complete and sufficiently coordinated to perform the Work for the Not To Exceed Price and the Contract Time. DESIGN/BUILD FIRM warrants to TOWN that the DCP is consistent, practical, feasible and constructible. DESIGN/BUILD FIRM further warrants to TOWN that the Work described in the DCP is constructible for the Not To Exceed Price and the Contract Time.

11.11 DESIGN/BUILD FIRM accepts the Project site in its observable and/or documented condition existing at the time of this Agreement, or conditions ordinarily encountered and generally recognized as inherent to the character of the Work to be provided for in this Project. By signing this Agreement, the DESIGN/BUILD FIRM represents to the TOWN that it has: (a) visited the Project site to become familiar with the conditions under which the Work is to be performed; (b) become familiar with all information provided (without warranty) by the TOWN pertaining to the Project site; and (c) correlated its observations with the information furnished by the TOWN (without warranty), and the Contract Documents. The DESIGN/BUILD FIRM hereby waives additional time or compensation for additional work made necessary by observable and/or documented conditions existing at the Project site, or conditions ordinarily encountered and generally recognized as inherent to the character of the Work to be provided for in this Project.

11.12 The DESIGN/BUILD FIRM agrees specifically that no Change Orders shall be required by the DESIGN/BUILD FIRM or considered by the TOWN for reasons involving conflicts in the Contract Documents; questions of clarity with regard to the Contract Documents; and incompatibility or conflicts between the Contract Documents and the existing Project site conditions excluding, without limitation, utilities and unforeseen underground conditions at the discretion of the TOWN and will not be unreasonably withheld. The DESIGN/BUILD FIRM acknowledges that it has ascertained all correct locations for points of connection for all utilities required for this Project.

11.13 The DESIGN/BUILD FIRM shall comply with all conditions of any permits issued by government authorities.

11.14 All material and equipment shall be of good quality and new, except as otherwise provided in the Contract Documents. Suppliers shall be selected and paid by the DESIGN/BUILD FIRM; the TOWN reserves the right to approve all suppliers and materials.

11.15 The DESIGN/BUILD FIRM shall pay all license fees and royalties and assume all costs incident to the use in the performance of the Work or the incorporation in the Work, or any invention, design, process, product or device which is the subject of patent rights or copyrights held by others. The DESIGN/BUILD FIRM hereby expressly binds itself to indemnify and save harmless the TOWN from all such claims and fees and from any and all suits and actions of every name and description that may be brought against TOWN on account of any such claims, fees, royalties, or costs for any such invention or patent, and from any and all suits or actions that may be brought against

said TOWN for the infringement of any and all patents or patent rights claimed by any person, firm, corporation or other entity.

11.16 Except in connection with the safety or protection of persons, or the Work, or property at the site or adjacent thereto, and except as otherwise indicated in the Supplementary Conditions, all work at the site shall be performed during regular TOWN working hours between 9:00 am to 6:00 pm, Monday through Friday. The DESIGN/BUILD FIRM will not permit overtime work or the performance of work on Saturday, Sunday or any legal holiday (designated by the TOWN) without the Town Manager's written consent at least seventy-two (72) hours in advance of starting such work.

11.17 DESIGN/BUILD FIRM requests to work during other than regular hours that conform to the standard hours, must be submitted to the DCP and TOWN Project Manager with six (6) business days in advance of scheduled work. Request shall include the following information:

- Cover page with DESIGN/BUILD FIRM name, project name, and location
- Description of work to be performed outside of normal work hours
- Site plan and location map
- Justification for work and why extended work hours are being requested
- Commencement date and duration of work
- List of DESIGN/BUILD FIRM contacts, including those on site
- Details on type of equipment to be used during extended work hours
- Details on noise levels that may be produced by range of decibels, including current ambient levels at site and levels predicted from proposed construction impacts
- Details on vibratory control measures to be implemented
- Details on how neighbors in vicinity of work area will be notified
- Details on how complaints will be resolved and/or mitigated
- Maintenance of Traffic plans approved by TOWN'S Public Works Department

11.17.1 If no lane closure or traffic impacts are necessary, the DESIGN/BUILD FIRM request must be submitted seven (7) business days in advance of scheduled work. If the Work requires lane closures, request should be submitted at least ten (10) business days in advance, along with MOT plans approved by TOWN's Public Works, and any other agencies if necessary, to allow time for TOWN Manager consideration and approval, TOWN MOT permit issuance, and notification to the public.

11.17.2 The DESIGN/BUILD FIRM will not be permitted overtime work or the performance of work on Saturday, Sunday or any legal holiday (designated by the TOWN) without the TOWN Manager's written consent at least seventy-two (72) hours in advance of the period proposed for such overtime work.

11.18 In the event of an emergency affecting the safety or protection of persons or the Work or property at the site or adjacent thereto, DESIGN/BUILD FIRM, without special instruction or authorization from the TOWN is obligated to act to prevent threatened damage, injury or loss. DESIGN/BUILD FIRM shall give the Project Manager prompt written notice of any significant changes in the Work or deviations from the Contract Documents caused thereby.

11.19 Upon issuance of a hurricane watch by the National Weather Service, DESIGN/BUILD FIRM shall submit to the TOWN a plan to secure the work area in the event a hurricane warning is issued. The plan shall detail how the DESIGN/BUILD FIRM will secure the premises, equipment and materials in a manner as to prevent damage to the Work and prevent materials and equipment from becoming a hazard to persons and property on and around the premises. The plan shall include a time schedule required to accomplish the hurricane preparations and a list of emergency contacts that will be available and in the TOWN before, during and immediately after the storm.

Upon issuance of a hurricane warning by the National Weather Service, if the DESIGN/BUILD FIRM has not already done so, the DESIGN/BUILD FIRM shall implement its hurricane preparedness plan. Cost of development and implementation of the hurricane preparedness plan shall be considered as incidental to construction. Cost of any clean up and rework required after the storm will be considered normal construction risk within Florida and shall not entitle the DESIGN/BUILD FIRM to any additional compensation. DESIGN/BUILD FIRM shall be entitled to request an extension of time for completion of the Work, in accordance with the provision of Article 8 of this Agreement, equal to the time it is shut down for implementation of the preparedness plan, the duration of the storm and a reasonable period to restore the Premises.

11.20 Force Majeure: No Party shall hold the other responsible for damages or for delays in performance caused by force majeure, acts of God, or other acts or circumstances beyond the control of the other party or that could not have been reasonably foreseen and prevented. For these purposes, such acts or circumstances shall include, but not be limited to, weather conditions affecting performance, floods, epidemics, war, riots, strikes, lockouts, or other industrial disturbances, or protest demonstrations. Should such acts or circumstances occur, the parties shall use their best efforts to overcome the difficulties arising therefrom and to resume the Work as soon as reasonably possible with the normal pursuit of the Work.

Inclement weather, continuous rain for less than three (3) days or the acts or omissions of subcontractors, third-party contractors, materialmen, suppliers, or their subcontractors, shall not be considered acts of force majeure.

No Party shall be liable for its failure to carry out its respective obligations under the Agreement during a period when such Party is rendered unable by force majeure to carry out its obligation, but the obligation of the Party or Parties relying on such force majeure shall be suspended only during the continuance of the inability and for no longer period than the unexpected or uncontrollable event.

The DESIGN/BUILD FIRM further agrees and stipulates, that its right to excuse its failure to perform by reason of force majeure shall be conditioned upon giving written notice of its assertion that a force majeure delay has commenced within 96 hours after such an occurrence. The DESIGN/BUILD FIRM shall use its reasonable efforts to minimize such delays. The DESIGN/BUILD FIRM shall promptly provide an estimate of the anticipated additional time required to complete the Project.

ARTICLE 12 - TOWN'S RESPONSIBILITIES

12.1 TOWN shall assist DESIGN/BUILD FIRM by placing at its disposal any available information pertinent to the Project including previous reports, laboratory tests and inspections of samples, materials and equipment, property, boundary, easement, rights-of-way, topographic and utility surveys; property descriptions; and known zoning, deed and other land use restrictions.

12.2 TOWN shall arrange for access to and make all provisions for DESIGN/BUILD FIRM to enter upon public property as required for DESIGN/BUILD FIRM to perform its services.

12.3 TOWN shall render decisions under this Agreement in a timely manner.

ARTICLE 13 - SUPERINTENDENCE AND SUPERVISION

13.1 The orders of the TOWN are to be given through the Project Manager, whose instructions are to be strictly and promptly followed in every case, provided that they are in accordance with this Agreement and the other Contract Documents. Construction Manager shall keep on the Project during its progress, a full-time, competent, English-speaking supervisor, who shall be the Construction Manager Representative and who shall serve as the superintendent, and any necessary assistants, all satisfactory to the Project Manager.

13.2 Construction Manager or Construction Manager Representative shall prepare, on a daily basis, and keep on the Project site, a bound log setting forth at a minimum, for each day: the weather conditions and how any weather conditions affected progress of the Work; time of commencement of Work for the day; the Work performed; materials, labor, personnel, equipment and subcontractors used for the Work; any idle equipment and reasons for idleness; visitors to the Project site; any special or unusual conditions or occurrences encountered; any materials delivered to the Project site; and the time of termination of Work for the day. The daily bound log shall be available for inspection by the TOWN, or its authorized designee, at all times during the Project, without previous notice.

13.3 If DESIGN/BUILD FIRM, in the course of the Project, finds any discrepancy between the Contract Documents and the physical conditions of the site, or any errors or omissions in the Contract Documents including, but not limited to, the Plans and Specifications, it shall be DESIGN/BUILD FIRM's sole obligation and duty to immediately inform the Project Manager, in writing, and the Project Manager will promptly verify same. Any Work done prior to or after such discovery will be done at DESIGN/BUILD FIRM's sole risk. **NOTWITHSTANDING THE PRECEDING, OR ANY OTHER TERM OR CONDITION OF THIS AGREEMENT, DESIGN/BUILD FIRM HEREBY ACKNOWLEDGES AND AGREES THAT THIS IS A DESIGN/BUILD PROJECT AND, ACCORDINGLY, ANY ERRORS OR OMISSIONS SHALL BE CORRECTED AT THE SOLE COST AND EXPENSE OF DESIGN/BUILD FIRM AND WITHOUT A CLAIM FOR ADJUSTMENT IN THE CONTRACT TIME OR CONTRACT PRICE.**

13.4 DESIGN/BUILD FIRM shall coordinate, supervise and direct the Project competently and efficiently, devoting such attention thereto and applying such skills and expertise as may be necessary to perform and complete the Project in accordance with the Contract Documents. DESIGN/BUILD FIRM shall be solely responsible for the design, preparation of Construction Documents, means, methods, techniques, safety, sequences and procedures of construction. DESIGN/BUILD FIRM shall give efficient supervision to the Work, using DESIGN/BUILD FIRM's best skill, attention and judgment.

ARTICLE 14 - RESOLUTION OF DISPUTES

14.1 Questions, claims, difficulties and disputes of whatever nature which may arise relative to the technical interpretation of the Contract Documents and fulfillment of this Agreement as to the character, quality, amount and value of any work done and materials furnished, or proposed to be done or furnished under or, by reason of, the Contract Documents which cannot be resolved by mutual agreement of TOWN Project Manager and DESIGN/BUILD FIRM Project Manager shall be submitted to the Town Manager or his designee and DESIGN/BUILD FIRM's representative for

resolution. When either Party has determined that a disputed question, claim, difficulty or dispute is at an impasse, that Party shall notify the other party in writing and submit the question, claim, difficulty or dispute to the next level of the Parties' respective management levels for resolution. Each Party may determine in such Party's reasonable discretion as to who the "next level of management" is for purposes of resolving disputes.

14.2 All non-technical administrative disputes (such as billing and payment) shall be determined by the Project Manager.

14.3 During the pendency of any dispute and after a determination thereof, DESIGN/BUILD FIRM, and TOWN shall act in good faith to mitigate any potential damages including using construction schedule changes and alternate means of construction. During the pendency of any dispute arising under this Agreement, other than termination herein, DESIGN/BUILD FIRM shall proceed diligently with performance of this Agreement and TOWN shall continue to make payments for undisputed amounts in accordance with the Contract Documents.

14.4 In the event a resolution of a dispute under this section cannot be resolved, the issue shall be submitted by the DESIGN/BUILD FIRM to the Town Manager or designee, in writing within ten (10) days of the impasse. The notice must state the basis of the dispute and the DESIGN/BUILD FIRM's proposed resolution. The notice given by the DESIGN/BUILD FIRM must include a written notarized certification that any NTE adjustment claimed is the entire adjustment to which the DESIGN/BUILD FIRM has reason to believe it is entitled to as a result of the question, claim, difficulty or dispute. Resolution of such dispute shall be made by the Town Manager or designee. The Town Manager's decision shall be final and binding on the Parties subject to mediation and judicial review.

14.5 Prior to any litigation being commenced, for any disputes which remain unresolved, within sixty (60) days after Final Completion of the Work, the Parties shall participate in mediation to address all unresolved disputes to a mediator mutually agreed upon by the Parties. Should any objection not be resolved in mediation, the Parties retain all their legal rights and remedies provided under the laws of Florida. Failure by a Party to comply in strict accordance with the requirements of this Article, then said Party specifically waives all of its rights provided hereunder, including its rights and remedies under the laws of Florida.

ARTICLE 15 - TOWN'S RIGHT TO TERMINATE AGREEMENT

15.l If DESIGN/BUILD FIRM fails to begin the design and construction of the Project within the time specified, or fails to perform the Project with sufficient workers and equipment or with sufficient materials to insure the prompt completion of the Project, in accordance with the Contract Documents and schedules, or shall perform the Work unsuitably, or cause it to be rejected as defective and unsuitable; or shall discontinue the prosecution of the Project, except for excused delays in accordance with this Agreement; or if DESIGN/BUILD FIRM shall become insolvent or be declared bankrupt, or commit any act of bankruptcy or insolvency, or shall make an assignment for the benefit of creditors; or shall not carry on the Project in accordance with the Contract Documents, then the TOWN shall give notice, in writing, to DESIGN/BUILD FIRM and its surety of such delay, neglect or default, specifying the same. If DESIGN/BUILD FIRM within a period of ten (10) calendar days after such notice, shall not proceed in accordance therewith, then TOWN may, upon written notice from the Project Manager of the fact of such delay, neglect or default and DESIGN/BUILD FIRM's failure to comply with such notice, terminate the services of DESIGN/BUILD FIRM, exclude DESIGN/BUILD FIRM from the Project site, and take the prosecution of the Project out of the

hands of DESIGN/BUILD FIRM, as appropriate, or use any or all materials and equipment on the Project site as may be suitable and acceptable, in the TOWN's reasonable discretion. In such case, DESIGN/BUILD FIRM shall not be entitled to receive any further payment until the Project is finished. In addition, TOWN may enter into an Agreement for the completion of the Project according to the terms and provisions of the Contract Documents, or use such other methods as in its opinion shall be required for the completion of the Project in an acceptable manner. All damages, costs and charges incurred by TOWN shall be deducted from any monies due or which may become due to said DESIGN/BUILD FIRM. Actions will be instituted to recover on the posted bonds. In case the damages and expense so incurred by TOWN shall be less than the sum which would have been payable under this Agreement, if it had been completed by said DESIGN/BUILD FIRM, then DESIGN/BUILD FIRM shall be entitled to receive the difference. If such damages and costs exceed the unpaid balance, then DESIGN/BUILD FIRM shall be liable and shall pay to TOWN the amount of said excess.

15.2 If, after Notice of Termination of DESIGN/BUILD FIRM's right to proceed, it is determined for any reason that DESIGN/BUILD FIRM was not in default, the rights and obligations of TOWN and DESIGN/BUILD FIRM shall be the same as if the notice of termination had been issued pursuant to the Termination for Convenience clause, as set forth in Section 15.3 below.

15.3 Notwithstanding any other provision in this Agreement, the performance of work under this Agreement may be terminated in writing by TOWN, for convenience and without cause, upon ten (10) business days from the date of DESIGN/BUILD FIRM's receipt of the written notice to DESIGN/BUILD FIRM of intent to terminate and the date on which such termination becomes effective. In such case, DESIGN/BUILD FIRM shall be paid for all Work and reimbursables executed, and expenses incurred, such as materials stored, cost of severance of leases/contracts directly associated with the Project, and demobilization prior to termination. PAYMENT SHALL INCLUDE REASONABLE PROFIT FOR SERVICES ACTUALLY PERFORMED IN FULL PRIOR TO TERMINATION DATE, BUT SHALL EXCLUDE ALL LOSS PROFITS, INDIRECT CONSEQUENTIAL, SPECIAL OR OTHER DAMAGES.

15.4 Upon receipt of Notice of Termination pursuant to Sections 15.1 and 15.2 above, DESIGN/BUILD FIRM shall, at its sole cost and expense (other than demobilization as a result of the Notice of Termination pursuant to Section 15.3 which shall be paid for by the TOWN) and as a condition precedent to any further payment obligation by the TOWN, promptly discontinue all affected work, unless the Notice of Termination directs otherwise, and deliver to TOWN within seven (7) calendar days of termination, all data, drawings, specifications, reports, estimates, summaries and such other information as may have been required by the Contract Documents, whether completed or in process. Compensation shall be withheld until all documents are produced to TOWN pursuant to this Article.

ARTICLE 16 - DESIGN/BUILD FIRM'S RIGHT TO STOP WORK OR TERMINATE CONTRACT

16.1 If the Project should be stopped under any order of any court or other public authority for a period of more than ninety (90) calendar days, through no act or fault of DESIGN/BUILD FIRM or of anyone employed by DESIGN/BUILD FIRM, or if the Project Manager should fail to review and approve or state in writing reasons for non- approval of any requisition for payment within twenty (20) business days after it is presented; or if TOWN fails to pay DESIGN/BUILD FIRM within thirty (30) calendar days after submittal of a proper requisition for payment, as approved by the Project Manager, then DESIGN/BUILD FIRM may give written notice to TOWN, of such delay, neglect or default, specifying same. If TOWN, within a period of ten (10) business days after such written notice, shall not remedy the delay, neglect, or default upon which notice is based, then DESIGN/BUILD FIRM

may stop work until payment is made, or terminate this Agreement and recover from TOWN payment for all Work executed and reasonable expenses sustained, but excluding any claim for payments for loss profits, indirect, special, consequential or other damages.

ARTICLE 17 - SUBSTANTIAL COMPLETION

17.1 When DESIGN/BUILD FIRM considers that the Project, or a designated portion thereof, which is acceptable to TOWN, in the event TOWN chooses to accept same pursuant to the sole authority and discretion, is substantially complete, DESIGN/BUILD FIRM shall so notify the Project Manager, in writing, and shall prepare for submission to the Project Manager a thorough list of items to be completed or corrected, together with a schedule for completion of all items. The failure to include any items on such list does not alter the responsibility of DESIGN/BUILD FIRM to complete all Work in accordance with the Contract Documents. The Project Manager, and such other persons as they may deem necessary, shall conduct a joint inspection to determine that the Project (or designated portion thereof) is substantially complete.

17.2 The Project Manager will then instruct DESIGN/BUILD FIRM to prepare and deliver to the Contract Administrator a Certificate of Substantial Completion which shall establish the date of Substantial Completion for the Project (or that portion of the Project). After review of the certificate by the Contract Administrator, TOWN shall either accept or reject the certificate. Acceptance of Substantial Completion by TOWN shall be based upon compliance with the Contract Documents and Applicable Laws. DESIGN/BUILD FIRM shall have thirty (30) days to complete the items listed therein. Warranties required by the Contract Documents and submitted in appropriate form to the Project Manager along with the request for Substantial Completion shall commence on the date of Substantial Completion of the Project (or for that portion of the Project). The Certificate of Substantial Completion shall be submitted to TOWN through the Project Manager and DESIGN/BUILD FIRM for its written acceptance of the responsibilities assigned to it in such Certificate.

ARTICLE 18 - FINAL COMPLETION

18.1 When the DESIGN/BUILD FIRM considers that the Project, or a designated portion thereof, which is acceptable to TOWN, in the event TOWN chooses to accept same pursuant to the sole authority and discretion, is finally complete, DESIGN/BUILD FIRM shall so notify the Project Manager, in writing, that the work is complete, and that the DESIGN/BUILD FIRM has satisfied all prerequisites to Final Completion. The DESIGN/BUILD FIRM and the Project Manager and such other persons as they may deem necessary, shall conduct a final inspection. The DESIGN/BUILD FIRM will notify in writing of all particulars in which this inspection reveals that the Work is incomplete, non-conforming or defective. Construction Manager shall immediately take such measures as are necessary to complete such Work or remedy such deficiencies and shall notify all Parties that the Project (or designated portion thereof) is finally complete.

After Project Manager will then instruct DESIGN/BUILD FIRM to prepare and deliver to the Project Manager a Certificate of Final Completion which shall establish the date of Final Completion for the Project (or that portion of the Project). After review of the certificate by the Project Manager, TOWN shall either accept or reject the certificate. Acceptance of Final Completion by TOWN shall be based upon compliance with the Contract Documents and Applicable Laws. DESIGN/BUILD FIRM shall have thirty (30) days to complete the items listed therein. Warranties required by the Contract Documents and submitted in appropriate form to the Project Manager along with the request for Final Completion shall commence on the date of Final Completion of the Project (or for that portion of the Project). The Certificate of Final Completion shall be submitted to TOWN through the Project

Manager and DESIGN/BUILD FIRM for its written acceptance of the responsibilities assigned to it in such certificate.

ARTICLE 19 - SHOP DRAWINGS AND SCHEDULE OF VALUES

19.1 DESIGN/BUILD FIRM shall submit Shop Drawings for all equipment, apparatus, machinery, fixtures, piping, wiring, fabricated structures and manufactured articles. The purpose of a Shop Drawing is to show the suitability, efficiency, technique of manufacture, installation requirements, details of the item and evidence of its compliance or noncompliance with the Contract Documents.

19.2 DESIGN/BUILD FIRM shall thoroughly review and check the Shop Drawings and each and every copy shall show DESIGN/BUILD FIRM's approval thereon.

19.3 If the Shop Drawings show or indicate departures from the Contract requirements, DESIGN/BUILD FIRM shall make specific mention thereof in its shop drawing submittal and a separate letter. Failure to point out such departures shall not relieve DESIGN/BUILD FIRM from its responsibility to comply with the Contract Documents. Project Manager shall determine acceptability of change and, in considering said change, may require data, technical comparisons, cost comparisons, quality comparisons and/or calculations to determine the equality of deviations. Contract Administrator is not obligated to accept deviations.

19.4 No acceptance will be given to partial submittal of Shop Drawings for items which interconnect and/or are interdependent. It is DESIGN/BUILD FIRM's responsibility to assemble the Shop Drawings for all such interconnecting and/or independent items, check them, and then make one (1) submittal to the Project Manager, along with DESIGN/BUILD FIRM's comments as to compliance, noncompliance, or features requiring special attention.

19.5 If catalog sheets or prints of manufacturers' standard drawings are submitted as Shop Drawings, any additional information or changes on such drawings shall be typewritten or lettered in ink. Catalog sheet with multiple options shall be highlighted to depict specific pertinent data including options.

19.6 DESIGN/BUILD FIRM shall submit to Project Manager THREE (3) copies. Re-submissions of Shop Drawings shall be made in the same quantity until final acceptance is obtained.

19.7 Project Manager's acceptance of the Shop Drawings, as approved by DESIGN/BUILD FIRM, will be for general compliance with the Plans and Specifications, and shall not relieve DESIGN/BUILD FIRM of responsibility for the accuracy of such Drawings, nor for the proper fittings and construction of the Work, nor for the furnishing of the materials or Work required by the Agreement and not indicated on the Drawings.

19.8 DESIGN/BUILD FIRM shall keep one (1) set of Shop Drawings, marked with the Project Manager's acceptance, as the Project site at all times.

19.9 The DESIGN/BUILD FIRM shall submit a Schedule of Values to the Project Manager. DESIGN/BUILD FIRM shall submit to the Project Manager a separate Schedule of Values for demolition, abatement, and site work ten (10) calendar days prior to commencing such portion of the Work. The schedule will be typed on 8 ½" x 11" white paper listing: title of Project, location, Project number, Consultant, Contractor, Contract designation and date of submission. The schedule shall list the installed value of the component parts of the Work in sufficient detail to serve as a basis for computing values for progress payments during the construction. The table of contents of the specifications shall establish the format for listing the component items. Each line item will be identified by the number and title of the respective major section of the specifications. For each line item, DESIGN/BUILD FIRM shall list the sub-values of major products or operations under the item. Each item shall include the proportion of DESIGN/BUILD FIRM's overhead and profit. For any

items for which progress payments will be requested for stored materials, the value will be broken down with:

A. Schedule must include the following but is not limited to:

Separate identifiable activity on the critical path, an activity labeled “Other Conditions Allowance.” This activity duration shall be thirty (30) calendar days and inserted at the end of the schedule prior to Substantial Completion. This allowance may or may not be used at the discretion of the TOWN. Use of this activity shall be subject to the review and approval of the TOWN and the Design Criteria Professional. The duration of the "Other Conditions Allowance" activity shall be reduced as other conditions are experienced and inserted in the schedule;

B. The cost of materials delivered, unloaded, properly stored and safeguard, with taxes paid; and

C. The total installed value review.

ARTICLE 20 - FIELD ENGINEERING

20.1 The DESIGN/BUILD FIRM shall provide and pay for field engineering services required for the Project. This Work shall include the following elements:

A. Survey work required in execution of the Project;
B. Civil, structural or other professional engineering, architectural, landscape architectural, or land surveying services specified, or required to execute the DESIGN/BUILD FIRM’s construction methods;
C. The survey completed by DESIGN/BUILD FIRM will identify the qualified engineer or registered land surveyor, acceptable to the TOWN, and he or she shall be retained by the DESIGN/BUILD FIRM at the outset of this Project;
D. The survey will locate and protect control points prior to starting site work, and will preserve all permanent reference points during construction;
E. No changes or relocations will be made without prior written notice to the Project Manager;
F. A written report shall be made to the Project Manager when any reference point is lost or destroyed, or requires relocation because of necessary changes in grades or locations;
G. The surveyor shall be required to replace Project control points which may be lost or destroyed. The surveyor shall be duly registered as a surveyor or mapper, as required by state law;
H. Replacement shall be established based upon original survey control.

20.2 The survey completed by DESIGN/BUILD FIRM will identify the qualified engineer or registered land surveyor, acceptable to the TOWN, and he or she shall be retained by the DESIGN/BUILD FIRM at the outset of this Project.

20.2.1 The survey will locate and protect control points prior to starting site work, and will preserve all permanent reference points during construction.

20.2.2 No changes or relocations will be made without prior written notice to the Project Manager.

20.2.3 A written report shall be made to the Project Manager when any reference point is lost or destroyed or requires relocation because of necessary changes in grades or locations.

20.2.4 The surveyor shall be required to replace Project control points which may be lost or destroyed. The surveyor shall be duly registered as a surveyor or mapper, as required by state law.

20.2.5 Replacements shall be established based upon original survey control.

ARTICLE 21 - FIELD LAYOUT OF THE WORK AND RECORD DRAWINGS

21.1 The entire responsibility for establishing and maintaining a line and grade in the field lies with DESIGN/BUILD FIRM. DESIGN/BUILD FIRM shall maintain an accurate and precise horizontal and vertical record of the existing pavement conditions; final pavement conditions; and all pipelines, conduits, structures, underground utility access portals, handholes, fittings, etc. encountered or installed during construction. DESIGN/BUILD FIRM shall deliver these records in good order to the Contract Administrator as the Work is completed. These records shall serve as a basis for "as-built" drawings. The cost of all such field layout and recording work is included in the Contract Price.

21.2 DESIGN/BUILD FIRM shall maintain in a safe place at the site, one (1) record copy of the Plans and Specifications, addenda, written amendments, Change Orders and written interpretations and clarifications, in good order and annotated to show all changes made during construction. These record documents, together with all approved samples and a counterpart of all approved Shop Drawings, will be available to Contract Administrator for reference. Upon completion of the Project, these record documents, samples and Shop Drawings shall be delivered to Contract Administrator.

21.3 At the completion of the Project, the DESIGN/BUILD FIRM shall tum over to the TOWN a set of reproducible drawings and a complete set of all drawings in the latest version of AutoCAD on Compact Disk, not compressed, which accurately reflect the "as-built" conditions of the new facilities. All changes made to the Construction Documents, either as clarifications or as changes, will be reflected in the plans. The changes shall be submitted at least monthly to the Project Manager. These "as-built" drawings are to be AutoCAD version 2020 and to TOWN Standard Details and CADD Standards. Format media must be delivered and found to be acceptable prior to final payments.

ARTICLE 22 - NO DAMAGES FOR DELAY

22.1 NO CLAIM FOR DAMAGES OR ANY CLAIM OTHER THAN FOR AN EXTENSION OF TIME SHALL BE MADE OR ASSERTED AGAINST TOWN BY REASON OF ANY DELAYS. DESIGN/BUILD FIRM shall not be entitled to an increase in the Contract Price or payment or compensation of any kind from TOWN for direct, indirect, consequential, impact, or other costs, expenses or damages including, but not limited to, costs of acceleration or inefficiency arising because of delay, disruption, interference or hindrance from any cause whatsoever, whether such delay, disruption, interference, or hindrance be reasonable or unreasonable, foreseeable or unforeseeable, or avoidable or unavoidable; provided, DESIGN/BUILD FIRM hindrances or delays are not due solely to fraud, bad faith or active interference by the TOWN, DESIGN/BUILD FIRM shall be entitled only to extensions of the Contract Time as the sole and exclusive remedy for such resulting delays, in accordance with and to the extent specifically provided above. The specific application of this Article to other provisions of this Agreement shall not be construed as a limitation of any sort upon the further application of this Article.

ARTICLE 23 - GOVERNING LAW

23.1 This Agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. Any controversies or legal problems arising out of this Agreement and any action involving the enforcement or interpretation of any rights hereunder shall be submitted to the exclusive jurisdiction of the State courts of the Miami Dade County, Florida, the venue situs, and shall be governed by the laws of the State of Florida. To encourage prompt and equitable resolution of any

litigation that may arise hereunder, DESIGN/BUILD FIRM SHALL SPECIFICALLY BIND ITS PROJECT TEAM MEMBERS AND ANY AND ALL SUBCONTRACTORS TO THE PROVISIONS OF THE AGREEMENT.

ARTICLE 24 - MISCELLANEOUS PROVISIONS

24.1 **OWNERSHIP OF DOCUMENTS:** All finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs, specifications, plans and reports prepared or provided by DESIGN/BUILD FIRM in connection with this Agreement shall become the property of TOWN, whether the Project for which they are made is completed or not, shall become the property of TOWN and shall be delivered by DESIGN/BUILD FIRM to Project Manager within fifteen (15) days of the receipt of the written notice of termination or upon completion of the Project. If applicable, TOWN may withhold payments then due to DESIGN/BUILD FIRM until DESIGN/BUILD FIRM complies with the provisions of this section.

24.2 **AUDIT RIGHT AND RETENTION OF RECORDS:** TOWN shall have the right to audit the books, records, and accounts of DESIGN/BUILD FIRM that are related to this Project. DESIGN/BUILD TEAM shall keep such books, records, and accounts as may be necessary in order to record complete and correct entries related to the Project. DESIGN/BUILD FIRM shall preserve and make available, at reasonable times for examination and audit by TOWN, all financial records, supporting documents, statistical records, and any other documents pertinent to this Agreement for the required retention period of the Florida Public Records Act, Chapter 119, Florida Statutes, or, if the Florida Public Records Act is not applicable, for a minimum period of three (3) years after termination of this Agreement. If any audit has been initiated and audit findings have not been resolved at the end of the retention period or three (3) years, whichever is longer, the books, records, and accounts shall be retained until resolution of the audit findings. If the Florida Public Records Act is determined by TOWN to be applicable to DESIGN/BUILD FIRM's records, DESIGN/BUILD FIRM shall comply with all requirements thereof; however, no confidentiality or non-disclosure requirement of either federal or state law shall be violated by DESIGN-BUILD FIRM. Any incomplete or incorrect entry in such books, records, and accounts shall be a basis for TOWN's disallowance and recovery of any payment upon such entry.

24.3 **ARCHITECT/ENGINEER:** DESIGN/BUILD FIRM shall use the architect/engineer, including subconsultants, identified in the proposal that were a material part of the selection of the DESIGN/BUILD TEAM to provide the services for this Project. DESIGN/BUILD FIRM shall obtain written approval of TOWN's Public Works Director prior to changing or modifying the list of subconsultants submitted by the DESIGN/BUILD FIRM. SEE APPENDICES attached hereto and made a part hereof.

24.4 **ASSIGNMENT AND PERFORMANCE:** Neither this Agreement nor any interest herein shall be assigned, transferred, or encumbered without the prior written consent of the other Party.

24.5 **ONE ORIGINAL AGREEMENT:** This Agreement will be executed in one original.

24.6 **ALL PRIOR AGREEMENTS SUPERSEDED:** This Agreement incorporates and includes all prior negotiations, correspondence, conversations, agreements or understandings applicable to the matters contained herein; and the Parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this Agreement. Accordingly, the Parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or agreements whether oral or written.

24.7 **AMENDMENTS:** No modification, amendment, or alteration in the terms or conditions contained herein shall be effective unless contained in a written document executed by both Parties with the same formality and of equal dignity herewith.

24.8 **INDEPENDENT CONTRACTOR:** DESIGN/BUILD FIRM is an independent contractor under this Agreement. Services provided by DESIGN/BUILD FIRM shall be subject to the supervision of DESIGN/BUILD FIRM. In providing the services, DESIGN/BUILD FIRM or its agents shall not be acting and shall not be deemed as acting as officers, employees, or agents of the TOWN. No partnership, joint venture, or other joint relationship is created hereby. TOWN does not extend to DESIGN/BUILD FIRM or its agents any authority of any kind to bind TOWN in any respect whatsoever.

24.9 **THIRD PARTY BENEFICIARIES:** Neither DESIGN/BUILD FIRM or TOWN intends to directly or substantially benefit a third party by this Agreement. The Parties expressly acknowledge that it is not their intent to create any rights or obligations in any third person or entity under this Agreement. Therefore, the Parties agree that there are no third party beneficiaries to this Agreement and that no third party shall be entitled to assert a claim against either of them based upon this Agreement.

24.10 **WAIVER OF BREACH AND MATERIALITY:** Failure by the TOWN or DESIGN/BUILD FIRM to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement.

24.11 **MATERIAL TERM:** TOWN and DESIGN/BUILD FIRM agree that each requirement, duty, and obligation set forth herein is substantial and important to the formation of this Agreement, and therefore, is a material term hereof.

24.12 **COMPLIANCE WITH LAWS:** DESIGN/BUILD FIRM shall comply with all federal, state, and local laws, codes, ordinances, rules and regulations in performing its duties, responsibilities, and obligations related to this Agreement.

24.13 **NONDISCRIMINATION, EQUAL EMPLOYMENT OPPORTUNITY, AND AMERICANS WITH DISABILITIES ACT:** DESIGN/BUILD FIRM shall not unlawfully discriminate against any person in its operations and activities in its use or expenditure of the funds or any portion of the funds provided by this Agreement and shall affirmatively comply with all applicable provisions of the Americans with Disabilities Act in the course of providing any services funded in whole or in party by TOWN, including Titles 1 and 11 of the Act, and all applicable regulations, guidelines and standards.

DESIGN/BUILD FIRM's decisions regarding the delivery of work and services under this Agreement shall be made without regard to or consideration of race, age, religion, color, gender, sexual orientation, national origin, marital status, physical or mental disability, political affiliation, or any other factor which cannot be lawfully or appropriately used as a basis for service delivery.

DESIGN/BUILD FIRM shall comply with Title 1 of the Americans with Disabilities Act regarding nondiscrimination on the basis of disability in employment and further shall not discriminate against any employee or applicant for employment because of race, age, religion, color, gender, sexual orientation, national origin, marital status, political affiliation, or physical or mental disability. In addition, DESIGN/BUILD FIRM shall take affirmative steps to ensure nondiscrimination in employment against disabled persons. Such actions shall include, but not be limited to, the following: employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff, termination, rates of pay, other forms of compensation, terms and conditions of employment, training (including apprenticeship) and accessibility.

DESIGN/BUILD FIRM shall take affirmative action to ensure that applicants are employed and employees are treated without regard to race, age, religion, color, gender, sexual orientation, national origin, marital status, political affiliation, or physical or mental disability during employment. Such actions shall include, but not be limited to, the following: employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff, termination, rates of pay, other forms of compensation, terms and conditions of employment, training (including apprenticeship) and accessibility.

24.14 **PUBLIC ENTITY CRIMES ACT:** In accordance with the Public Entity Crimes Act, Sec. 287.133, Florida Statutes, a person or affiliate who is a contractor, consultant or other provider, who has been placed on the convicted vendor list following a conviction for a Public Entity Crime, may not submit a bid on a contract to provide any goods or services to the TOWN, may not submit a bid on a contract with the TOWN for the construction or repair of a public building or public work, may not submit bids on leases of real property to the TOWN, may not be awarded or perform work as a contractor supplier, subcontractor or consultant under a contract with the TOWN and may not transact any business with the TOWN in excess of the threshold amount provided in Section 287.017, Florida Statutes, as amended, for category two purchases for a period of thirty-six (36) months from the date of being placed on the convicted vendor list. Violation of this Section shall result in cancellation of the TOWN purchase and may result in debarment.

24.15 **SEVERENCE:** In the event a portion of this Agreement is found by a court of competent jurisdiction to be invalid, the remaining provisions shall continue to be effective unless TOWN elects to terminate this Agreement. The election to terminate this Agreement based upon this provision shall be made within seven (7) days after the finding by the court becomes final.

24.16 **JOINT PREPARATION:** Preparation of this Agreement has been a joint effort of the TOWN and DESIGN/BUILD FIRM and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the Parties than any other.

24.17 **PRIORITY OF PROVISIONS:** If there is a conflict or inconsistency between any term, statement, requirement, or provision of any exhibit attached hereto, any document or events referred to herein, or any document incorporated into this Agreement by reference and a term, statement, requirement, or provision of this Agreement, the term, statement, requirement, or provision contained in Articles 1 through 21 shall prevail and be given effect.

In the event of a conflict among the Contract Documents, the most stringent requirement shall control.

24.18 **TAXES:** DESIGN/BUILD FIRM shall pay all applicable sales, consumer, use and other taxes as required by law. DESIGN/BUILD FIRM is responsible for reviewing the pertinent state statutes involving state taxes and complying with all requirements. All such taxes that are required as of the time of Agreement execution shall be included in the Not To Exceed Guaranteed Maximum Price.

24.19 **SCRUTINIZED COMPANIES:** Subject to Odebrecht Construction, Inc., v. Prasad, 876 F.Supp.2d 1305 (S.D. Fla. 2012), affirmed, *Odebrecht Construction, Inc., v. Secretary*, Florida Department of Transportation, 715 F.3d 1268 (11th Cir. 2013), with regard to the "Cuba Amendment," the DESIGN/BUILD FIRM certifies that it is not on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List or the Scrutinized Companies that Boycott Israel List created pursuant to Section 215.4725, Florida Statutes (2020), as may be amended or revised, and that it is not engaged in a boycott of Israel, and that it does not have business operations in Cuba or Syria, as provided in Section 287.135, Florida Statutes (2020), as may be amended or revised. The TOWN may terminate this Agreement at the TOWN's option if the DESIGN/BUILD FIRM is found to have submitted a false certification as provided

under subsection (5) of Section 287.135, Florida Statutes (2020), as may be amended or revised, or been placed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List or the Scrutinized Companies that Boycott Israel List created pursuant to Section 215.4725, Florida Statutes (2020),as may be amended or revised, or is engaged in a boycott of Israel or has been engaged in business operations in Cuba or Syria, as defined in Section 287.135, Florida Statutes (2020), as may be amended or revised.

TOWN

IN WITNESS OF THE FOREGOING**,** the Parties have set their hands and seals the day and year first written above.

TOWN OF BAY HARBOR ISLANDS, a Florida municipal corporation

By: _____
MARIA LASDAY
Town Manager
Date: _____

ATTEST:

(CORPORATE SEAL)

By: _____
YVONNE P. HAMILTON
Acting Town Clerk

By: _____
JOSEPH GELLER
Town Attorney

CONTRACTOR

WITNESSESS:

_____
A Florida Corporation.

_____

By: _____
_____, President

_____
Print Name

_____

_____
Print Name

ATTEST:

(CORPORATE SEAL)

_____

STATE OF _____:

COUNTY OF _____:

The foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization, this _____ day of _____, 2022, by Name., as Title, for Company., a Florida corporation.

_____
(Signature of Notary Public – State of Florida)

_____
(Print, Type, or Stamp Commissioned Name of Notary Public)

Personally Known _____ or Produced Identification _____

Type of Identification Produced: _____

This document has important legal consequences; consultation with an attorney is encouraged with respect to its use or modification. This document should be adapted to the particular circumstances of the contemplated Project and the Controlling Law.

STANDARD GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT

Prepared by

ENGINEERS JOINT CONTRACT DOCUMENTS COMMITTEE

and

Issued and Published Jointly By

AMERICAN CONSULTING ENGINEERS COUNCIL

National Society of Professional Engineers
Professional Engineers in Private Practice

AMERICAN SOCIETY OF CIVIL ENGINEERS

PROFESSIONAL ENGINEERS IN PRIVATE PRACTICE
a practice division of the
NATIONAL SOCIETY OF PROFESSIONAL ENGINEERS

AMERICAN CONSULTING ENGINEERS COUNCIL

AMERICAN SOCIETY OF CIVIL ENGINEERS

This document has been approved and endorsed by

The Associated General Contractors of America

Construction Specifications Institute

Advancement of Construction Technology

These General Conditions have been prepared for use with the Owner-Contractor Agreements (No. 1910-8-A-1 or 1910-8-A-2) (1996 Editions). Their provisions are interrelated and a change in one may necessitate a change in the other. Comments concerning their usage are contained in the EJCDC User's Guide (No. 1910-50). For guidance in the preparation of Supplementary Conditions, see Guide to the Preparation of Supplementary Conditions (No. 1910-17) (1996 Edition).

EJCDC No. 1910-8 (1996 Edition)

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TABLE OF CONTENTS

Page

ARTICLE 1 - DEFINITIONS AND TERMINOLOGY . . . . . 00700 - 6
1.01 *Defined Terms* . . . . . 00700 - 6
1.02 *Terminology* . . . . . 00700 - 6
ARTICLE 2 - PRELIMINARY MATTERS . . . . . 00700 - 8
2.01 *Delivery of Bonds* . . . . . 00700 - 9
2.02 *Copies of Documents* . . . . . 00700 - 9
2.03 *Commencement of Contract Times; Notice to Proceed* . . . . . 00700 - 9
2.04 *Starting the Work* . . . . . 00700 - 9
2.05 *Before Starting Construction* . . . . . 00700 - 9
2.06 *Preconstruction Conference* . . . . . 00700 - 9
2.07 *Initial Acceptance of Schedules* . . . . . 00700 - 10
ARTICLE 3 - CONTRACT DOCUMENTS: INTENT, AMENDING, REUSE . . . . . 00700 - 10
3.01 *Intent* . . . . . 00700 - 10
3.02 *Reference Standards* . . . . . 00700 - 10
3.03 *Reporting and Resolving Discrepancies* . . . . . 00700 - 10
3.04 *Amending and Supplementing Contract Documents* . . . . . 00700 - 11
3.05 *Reuse of Documents* . . . . . 00700 - 11
ARTICLE 4 - AVAILABILITY OF LANDS; SUBSURFACE AND PHYSICAL CONDITIONS; REFERENCE POINTS . . . . . 00700 - 11
4.01 *Availability of Lands* . . . . . 00700 - 11
4.02 *Subsurface and Physical Conditions* . . . . . 00700 - 11
4.03 *Differing Subsurface or Physical Conditions* . . . . . 00700 - 12
4.04 *Underground Facilities* . . . . . 00700 - 12
4.05 *Reference Points* . . . . . 00700 - 13
4.06 *Hazardous Environmental Condition at Site* . . . . . 00700 - 13
ARTICLE 5 - BONDS AND INSURANCE . . . . . 00700 - 14
5.01 *Performance, Payment, and Other Bonds* . . . . . 00700 - 15
5.02 *Licensed Sureties and Insurers* . . . . . 00700 - 15
5.03 *Certificates of Insurance* . . . . . 00700 - 15
5.04 *CONTRACTOR's Liability Insurance* . . . . . 00700 - 15
5.05 *OWNER's Liability Insurance* . . . . . 00700 - 15
5.06 *Property Insurance* . . . . . 00700 - 16
5.07 *Waiver of Rights* . . . . . 00700 - 16
5.08 *Receipt and Application of Insurance Proceeds* . . . . . 00700 - 17
5.09 *Acceptance of Bonds and Insurance; Option to Replace* . . . . . 00700 - 18
5.10 *Partial Utilization, Acknowledgment of Property Insurer* . . . . . 00700 - 18
ARTICLE 6 - CONTRACTOR'S RESPONSIBILITIES . . . . . 00700 - 18
6.01 *Supervision and Superintendence* . . . . . 00700 - 18
6.02 *Labor; Working Hours* . . . . . 00700 - 18
6.03 *Services, Materials, and Equipment* . . . . . 00700 - 19
6.04 *Progress Schedule* . . . . . 00700 - 19
6.05 *Substitutes and "Or-Equals"* . . . . . 00700 - 19
6.06 *Concerning Subcontractors, Suppliers, and Others* . . . . . 00700 - 19
6.07 *Patent Fees and Royalties* . . . . . 00700 - 20
6.08 *Permits* . . . . . 00700 - 21
6.09 *Laws and Regulations* . . . . . 00700 - 21
6.10 *Taxes* . . . . . 00700 - 22
6.11 *Use of Site and Other Areas* . . . . . 00700 - 22
6.12 *Record Documents* . . . . . 00700 - 22
6.13 *Safety and Protection* . . . . . 00700 - 22
6.14 *Safety Representative* . . . . . 00700 - 23
6.15 *Hazard Communication Programs* . . . . . 00700 - 23

6.16 *Emergencies* . . . 00700 - 23
6.17 *Shop Drawings and Samples* . . . 00700 - 23
6.18 *Continuing the Work* . . . 00700 - 23
6.19 *CONTRACTOR's General Warranty and Guarantee* . . . 00700 - 24
6.20 *Indemnification* . . . 00700 - 25
ARTICLE 7 - OTHER WORK . . . 00700 - 25
7.01 *Related Work at Site* . . . 00700 - 26
7.02 *Coordination* . . . 00700 - 26
ARTICLE 8 - OWNER'S RESPONSIBILITIES . . . 00700 - 26
8.01 *Communications to Contractor* . . . 00700 - 26
8.02 *Replacement of ENGINEER* . . . 00700 - 26
8.03 *Furnish Data* . . . 00700 - 26
8.04 *Pay Promptly When Due* . . . 00700 - 26
8.05 *Lands and Easements; Reports and Tests* . . . 00700 - 26
8.06 *Insurance* . . . 00700 - 27
8.07 *Change Orders* . . . 00700 - 27
8.08 *Inspections, Tests, and Approvals* . . . 00700 - 27
8.09 *Limitations on OWNER's Responsibilities* . . . 00700 - 27
8.10 *Undisclosed Hazardous Environmental Condition* . . . 00700 - 27
8.11 *Evidence of Financial Arrangements* . . . 00700 - 27
ARTICLE 9 - ENGINEER'S STATUS DURING CONSTRUCTION . . . 00700 - 27
9.01 *OWNER'S Representative* . . . 00700 - 27
9.02 *Visits to Site* . . . 00700 - 27
9.03 *Project Representative* . . . 00700 - 27
9.04 *Clarifications and Interpretations* . . . 00700 - 28
9.05 *Authorized Variations in Work* . . . 00700 - 28
9.06 *Rejecting Defective Work* . . . 00700 - 28
9.07 *Shop Drawings, Change Orders and Payments* . . . 00700 - 28
9.08 *Determinations for Unit Price Work* . . . 00700 - 28
9.09 *Decisions on Requirements of Contract Documents and Acceptability of Work* . . . 00700 - 28
9.10 *Limitations on ENGINEER's Authority and Responsibilities* . . . 00700 - 28
ARTICLE 10 - CHANGES IN THE WORK; CLAIMS . . . 00700 - 29
10.01 *Authorized Changes in the Work* . . . 00700 - 29
10.02 *Unauthorized Changes in the Work* . . . 00700 - 29
10.03 *Execution of Change Orders* . . . 00700 - 29
10.04 *Notification to Surety* . . . 00700 - 29
10.05 *Claims and Disputes* . . . 00700 - 30
ARTICLE 11 - COST OF THE WORK; CASH ALLOWANCES; UNIT PRICE WORK . . . 00700 - 30
11.01 *Cost of the Work* . . . 00700 - 30
11.02 *Cash Allowances* . . . 00700 - 32
11.03 *Unit Price Work* . . . 00700 - 32
ARTICLE 12 - CHANGE OF CONTRACT PRICE; CHANGE OF CONTRACT TIMES . . . 00700 - 33
12.01 *Change of Contract Price* . . . 00700 - 33
12.02 *Change of Contract Times* . . . 00700 - 33
12.03 *Delays Beyond CONTRACTOR's Control* . . . 00700 - 33
12.04 *Delays Within CONTRACTOR's Control* . . . 00700 - 34
12.05 *Delays Beyond OWNER's and CONTRACTOR's Control* . . . 00700 - 34
12.06 *Delay Damages* . . . 00700 - 34
ARTICLE 13 - TESTS AND INSPECTIONS; CORRECTION, REMOVAL OR ACCEPTANCE OF DEFECTIVE WORK . . . 00700 - 34
13.01 *Notice of Defects* . . . 00700 - 34
13.02 *Access to Work* . . . 00700 - 34
13.03 *Tests and Inspections* . . . 00700 - 34
13.04 *Uncovering Work* . . . 00700 - 35
13.05 *OWNER May Stop the Work* . . . 00700 - 35
13.06 *Correction or Removal of Defective Work* . . . 00700 - 35

13.07 *Correction Period* . . . . . 00700 - 35
13.08 *Acceptance of Defective Work* . . . . . 00700 - 36
13.09 *OWNER May Correct Defective Work* . . . . . 00700 - 36
ARTICLE 14 - PAYMENTS TO CONTRACTOR AND COMPLETION . . . . . 00700 - 36
14.01 *Schedule of Values* . . . . . 00700 - 36
14.02 *Progress Payments* . . . . . 00700 - 36
14.03 *CONTRACTOR's Warranty of Title* . . . . . 00700 - 37
14.04 *Substantial Completion* . . . . . 00700 - 38
14.05 *Partial Utilization* . . . . . 00700 - 38
14.06 *Final Inspection* . . . . . 00700 - 39
14.07 *Final Payment* . . . . . 00700 - 39
14.08 *Final Completion Delayed* . . . . . 00700 - 39
14.09 *Waiver of Claims* . . . . . 00700 - 40
ARTICLE 15 - SUSPENSION OF WORK AND TERMINATION . . . . . 00700 - 40
15.01 *OWNER May Suspend Work* . . . . . 00700 - 40
15.02 *OWNER May Terminate for Cause* . . . . . 00700 - 40
15.03 *OWNER May Terminate For Convenience* . . . . . 00700 - 40
15.04 *CONTRACTOR May Stop Work or Terminate* . . . . . 00700 - 41
ARTICLE 16 - DISPUTE RESOLUTION . . . . . 00700 - 41
16.01 *Methods and Procedures* . . . . . 00700 - 41
ARTICLE 17 - MISCELLANEOUS . . . . . 00700 - 41
17.01 *Giving Notice* . . . . . 00700 - 42
17.02 *Computation of Times* . . . . . 00700 - 42
17.03 *Cumulative Remedies* . . . . . 00700 - 42
17.04 *Survival of Obligations* . . . . . 00700 - 42
17.05 *Controlling Law* . . . . . 00700 - 42

GENERAL CONDITIONS

ARTICLE 1 - DEFINITIONS AND TERMINOLOGY

1.01 *Defined Terms*

A. Wherever used in the Contract Documents and printed with initial or all capital letters, the terms listed below will have the meanings indicated which are applicable to both the singular and plural thereof.

1. *Addenda*--Written or graphic instruments issued prior to the opening of Bids which clarify, correct, or change the Bidding Requirements or the Contract Documents.

2. *Agreement*--The written instrument which is evidence of the agreement between OWNER and CONTRACTOR covering the Work.

3. *Application for Payment*--The form acceptable to ENGINEER which is to be used by CONTRACTOR during the course of the Work in requesting progress or final payments and which is to be accompanied by such supporting documentation as is required by the Contract Documents.

4. *Asbestos*--Any material that contains more than one percent asbestos and is friable or is releasing asbestos fibers into the air above current action levels established by the United States Occupational Safety and Health Administration.

5. *Bid*--The offer or proposal of a bidder submitted on the prescribed form setting forth the prices for the Work to be performed.

6. *Bidding Documents*--The Bidding Requirements and the proposed Contract Documents (including all Addenda issued prior to receipt of Bids).

7. *Bidding Requirements*--The Advertisement or Invitation to Bid, Instructions to Bidders, Bid security form, if any, and the Bid form with any supplements.

8. *Bonds*--Performance and payment bonds and other instruments of security.

9. *Change Order*--A document recommended by ENGINEER which is signed by CONTRACTOR and OWNER and authorizes an addition, deletion, or revision in the Work or an adjustment in the Contract Price or the Contract Times, issued on or after the Effective Date of the Agreement.

10. *Claim*--A demand or assertion by OWNER or CONTRACTOR seeking an adjustment of Contract Price or Contract Times, or both, or other relief with respect to the terms of the Contract. A demand for money or services by a third party is not a Claim.

11. *Contract*--The entire and integrated written agreement between the OWNER and CONTRACTOR concerning the Work. The Contract supersedes prior negotiations, representations, or agreements, whether written or oral.

12. *Contract Documents*--The Contract Documents establish the rights and obligations of the parties and include the Agreement, Addenda (which pertain to the Contract Documents), CONTRACTOR's Bid (including documentation accompanying the Bid and any post Bid documentation submitted prior to the Notice of Award) when attached as an exhibit to the Agreement, the Notice to Proceed, the Bonds, these General Conditions, the Supplementary Conditions, the Specifications and the Drawings as the same are more specifically identified in the Agreement, together with all Written Amendments, Change Orders, Work Change Directives, Field Orders, and ENGINEER's written interpretations and clarifications issued on or after the Effective Date of the Agreement. Approved Shop Drawings and the reports and drawings of subsurface and physical conditions are not Contract Documents. Only printed or hard copies of the items listed in this paragraph are Contract Documents. Files in electronic media format of text, data, graphics, and the like that may be furnished by OWNER to CONTRACTOR are not Contract Documents.

13. *Contract Price*--The moneys payable by OWNER to CONTRACTOR for completion of the Work in accordance with the Contract Documents as stated in the Agreement (subject to the provisions of paragraph 11.03 in the case of Unit Price Work).

14. *Contract Times*--The number of days or the dates stated in the Agreement to: (i) achieve Substantial Completion; and (ii) complete the Work so that it is ready for final payment as evidenced by ENGINEER's written recommendation of final payment.

15. *CONTRACTOR*--The individual or entity with whom OWNER has entered into the Agreement.

16. *Cost of the Work*--See paragraph 11.01.A for definition.

17. *Drawings*--That part of the Contract Documents prepared or approved by ENGINEER which graphically shows the scope, extent, and character of the Work to be performed by CONTRACTOR. Shop Drawings and other CONTRACTOR submittals are not Drawings as so defined.

18. *Effective Date of the Agreement*--The date indicated in the Agreement on which it becomes effective, but if no such date is indicated, it means the date on which the Agreement is signed and delivered by the last of the two parties to sign and deliver.

19. *ENGINEER*--The individual or entity named as such in the Agreement.

20. *ENGINEER's Consultant*--An individual or entity having a contract with ENGINEER to furnish services as ENGINEER's independent professional associate or consultant with respect to the Project and who is identified as such in the Supplementary Conditions.

21. *Field Order*--A written order issued by ENGINEER which requires minor changes in the Work but which does not involve a change in the Contract Price or the Contract Times.

22. *General Requirements*--Sections of Division 1 of the Specifications. The General Requirements pertain to all sections of the Specifications.

23. *Hazardous Environmental Condition*--The presence at the Site of Asbestos, PCBs, Petroleum, Hazardous Waste, or Radioactive Material in such quantities or circumstances that may present a substantial danger to persons or property exposed thereto in connection with the Work.

24. *Hazardous Waste*--The term Hazardous Waste shall have the meaning provided in Section 1004 of the Solid Waste Disposal Act (42 USC Section 6903) as amended from time to time.

25. *Laws and Regulations; Laws or Regulations*--Any and all applicable laws, rules, regulations, ordinances, codes, and orders of any and all governmental bodies, agencies, authorities, and courts having jurisdiction.

26. *Liens*--Charges, security interests, or encumbrances upon Project funds, real property, or personal property.

27. *Milestone*--A principal event specified in the Contract Documents relating to an intermediate completion date or time prior to Substantial Completion of all the Work.

28. *Notice of Award*--The written notice by OWNER to the apparent successful bidder stating that upon timely compliance by the apparent successful bidder with the conditions precedent listed therein, OWNER will sign and deliver the Agreement.

29. *Notice to Proceed*--A written notice given by OWNER to CONTRACTOR fixing the date on which the Contract Times will commence to run and on which CONTRACTOR shall start to perform the Work under the Contract Documents.

30. *OWNER*--The individual, entity, public body, or authority with whom CONTRACTOR has entered into the Agreement and for whom the Work is to be performed.

31. *Partial Utilization*--Use by OWNER of a substantially completed part of the Work for the purpose for which it is intended (or a related purpose) prior to Substantial Completion of all the Work.

32. *PCBs*--Polychlorinated biphenyls.

33. *Petroleum*--Petroleum, including crude oil or any fraction thereof which is liquid at standard conditions of temperature and pressure (60 degrees Fahrenheit and 14.7 pounds per square inch absolute), such as oil, petroleum, fuel oil, oil sludge, oil refuse, gasoline, kerosene, and oil mixed with other non-Hazardous Waste and crude oils.

34. *Project*--The total construction of which the Work to be performed under the Contract Documents may be the whole, or a part as may be indicated elsewhere in the Contract Documents.

35. *Project Manual*--The bound documentary information prepared for bidding and constructing the Work. A listing of the contents of the Project Manual, which may be bound in one or more volumes, is contained in the table(s) of contents.

36. *Radioactive Material*--Source, special nuclear, or byproduct material as defined by the Atomic Energy Act of 1954 (42 USC Section 2011 et seq.) as amended from time to time.

37. *Resident Project Representative*--The authorized representative of ENGINEER who may be assigned to the Site or any part thereof.

38. *Samples*--Physical examples of materials, equipment, or workmanship that are representative of some portion of the Work and which establish the standards by which such portion of the Work will be judged.

39. *Shop Drawings*--All drawings, diagrams, illustrations, schedules, and other data or information which are specifically prepared or assembled by or for CONTRACTOR and submitted by CONTRACTOR to illustrate some portion of the Work.

40. *Site*--Lands or areas indicated in the Contract Documents as being furnished by OWNER upon which the Work is to be performed, including rights-of-way and easements for access thereto, and such other lands furnished by OWNER which are designated for the use of CONTRACTOR.

41. *Specifications*--That part of the Contract Documents consisting of written technical descriptions of materials, equipment, systems, standards, and workmanship as applied to the Work and certain administrative details applicable thereto.

42. *Subcontractor*--An individual or entity having a direct contract with CONTRACTOR or with any other Subcontractor for the performance of a part of the Work at the Site.

43. *Substantial Completion*--The time at which the Work (or a specified part thereof) has progressed to the point where, in the opinion of ENGINEER, the Work (or a specified part thereof) is sufficiently complete, in accordance with the Contract Documents, so that the Work (or a specified part thereof) can be utilized for the purposes for which it is intended. The terms "substantially complete" and "substantially completed" as applied to all or part of the Work refer to Substantial Completion thereof.

44. *Supplementary Conditions*--That part of the Contract Documents which amends or supplements these General Conditions.

45. *Supplier*--A manufacturer, fabricator, supplier, distributor, materialman, or vendor having a direct contract with CONTRACTOR or with any Subcontractor to furnish materials or equipment to be incorporated in the Work by CONTRACTOR or any Subcontractor.

46. *Underground Facilities*--All underground pipelines, conduits, ducts, cables, wires, manholes, vaults, tanks, tunnels, or other such facilities or attachments, and any encasements containing such facilities, including those that convey electricity, gases, steam, liquid petroleum products, telephone or other communications, cable television, water, wastewater, storm water, other liquids or chemicals, or traffic or other control systems.

47. *Unit Price Work*--Work to be paid for on the basis of unit prices.

48. *Work*--The entire completed construction or the various separately identifiable parts thereof required to be provided under the Contract Documents. Work includes and is the result of performing or providing all labor, services, and documentation necessary to produce such construction, and furnishing, installing, and incorporating all materials and equipment into such construction, all as required by the Contract Documents.

49. *Work Change Directive*--A written statement to CONTRACTOR issued on or after the Effective Date of the Agreement and signed by OWNER and recommended by ENGINEER ordering an addition, deletion, or revision in the Work, or responding to differing or unforeseen subsurface or physical conditions under which the Work is to be performed or to emergencies. A Work Change Directive will not change the Contract Price or the Contract Times but is evidence that the parties expect that the change ordered or documented by a Work Change Directive will be incorporated in a subsequently issued Change Order following negotiations by the parties as to its effect, if any, on the Contract Price or Contract Times.

50. *Written Amendment*--A written statement modifying the Contract Documents, signed by OWNER and CONTRACTOR on or after the Effective Date of the Agreement and normally dealing with the nonengineering or nontechnical rather than strictly construction-related aspects of the Contract Documents.

1.02 *Terminology*

A. *Intent of Certain Terms or Adjectives*

1. Whenever in the Contract Documents the terms "as allowed," "as approved," or terms of like effect or import are used, or the adjectives "reasonable," "suitable," "acceptable," "proper," "satisfactory," or adjectives of like effect or import are used to describe an action or determination of ENGINEER as to the Work, it is intended that such action or determination will be solely to evaluate, in general, the completed Work for compliance with the requirements of and information in the Contract Documents and conformance with the design concept of the completed Project as a functioning whole as shown or indicated in the Contract Documents (unless there is a specific statement indicating otherwise). The

use of any such term or adjective shall not be effective to assign to ENGINEER any duty or authority to supervise or direct the performance of the Work or any duty or authority to undertake responsibility contrary to the provisions of paragraph 9.10 or any other provision of the Contract Documents.

B. *Day*

1. The word "day" shall constitute a calendar day of 24 hours measured from midnight to the next midnight.

C. *Defective*

1. The word "defective," when modifying the word "Work," refers to Work that is unsatisfactory, faulty, or deficient in that it does not conform to the Contract Documents or does not meet the requirements of any inspection, reference standard, test, or approval referred to in the Contract Documents, or has been damaged prior to ENGINEER's recommendation of final payment (unless responsibility for the protection thereof has been assumed by OWNER at Substantial Completion in accordance with paragraph 14.04 or 14.05).

D. *Furnish, Install, Perform, Provide*

1. The word "furnish," when used in connection with services, materials, or equipment, shall mean to supply and deliver said services, materials, or equipment to the Site (or some other specified location) ready for use or installation and in usable or operable condition.

2. The word "install," when used in connection with services, materials, or equipment, shall mean to put into use or place in final position said services, materials, or equipment complete and ready for intended use.

3. The words "perform" or "provide," when used in connection with services, materials, or equipment, shall mean to furnish and install said services, materials, or equipment complete and ready for intended use.

4. When "furnish," "install," "perform," or "provide" is not used in connection with services, materials, or equipment in a context clearly requiring an obligation of CONTRACTOR, "provide" is implied.

E. Unless stated otherwise in the Contract Documents, words or phrases which have a well-known technical or construction industry or trade meaning are used in the Contract Documents in accordance with such recognized meaning.

ARTICLE 2 - PRELIMINARY MATTERS

2.01 *Delivery of Bonds*

A. When CONTRACTOR delivers the executed Agreements to OWNER, CONTRACTOR shall also deliver to OWNER such Bonds as CONTRACTOR may be required to furnish.

2.02 *Copies of Documents*

A. OWNER shall furnish to CONTRACTOR up to ten copies of the Contract Documents. Additional copies will be furnished upon request at the cost of reproduction.

2.03 *Commencement of Contract Times; Notice to Proceed*

A. The Contract Times will commence to run on the thirtieth day after the Effective Date of the Agreement or, if a Notice to Proceed is given, on the day indicated in the Notice to Proceed. A Notice to Proceed may be given at any time within 30 days after the Effective Date of the Agreement. In no event will the Contract Times commence to run later than the sixtieth day after the day of Bid opening or the thirtieth day after the Effective Date of the Agreement, whichever date is earlier.

2.04 *Starting the Work*

A. CONTRACTOR shall start to perform the Work on the date when the Contract Times commence to run. No Work shall be done at the Site prior to the date on which the Contract Times commence to run.

2.05 *Before Starting Construction*

A. *CONTRACTOR's Review of Contract Documents:* Before undertaking each part of the Work, CONTRACTOR shall carefully study and compare the Contract Documents and check and verify pertinent figures therein and all applicable field measurements. CONTRACTOR shall promptly report in writing to ENGINEER any conflict, error, ambiguity, or discrepancy which CONTRACTOR may discover and shall obtain a written interpretation or clarification from ENGINEER before proceeding with any Work affected thereby; however, CONTRACTOR shall not be liable to OWNER or ENGINEER for failure to report any conflict, error, ambiguity, or discrepancy in the Contract Documents unless CONTRACTOR knew or reasonably should have known thereof.

B. *Preliminary Schedules:* Within ten days after the Effective Date of the Agreement (unless otherwise specified

in the General Requirements), CONTRACTOR shall submit to ENGINEER for its timely review:

1. a preliminary progress schedule indicating the times (numbers of days or dates) for starting and completing the various stages of the Work, including any Milestones specified in the Contract Documents;

2. a preliminary schedule of Shop Drawing and Sample submittals which will list each required submittal and the times for submitting, reviewing, and processing such submittal; and

3. a preliminary schedule of values for all of the Work which includes quantities and prices of items which when added together equal the Contract Price and subdivides the Work into component parts in sufficient detail to serve as the basis for progress payments during performance of the Work. Such prices will include an appropriate amount of overhead and profit applicable to each item of Work.

C. *Evidence of Insurance:* Before any Work at the Site is started, CONTRACTOR and OWNER shall each deliver to the other, with copies to each additional insured identified in the Supplementary Conditions, certificates of insurance (and other evidence of insurance which either of them or any additional insured may reasonably request) which CONTRACTOR and OWNER respectively are required to purchase and maintain in accordance with Article 5.

2.06 *Preconstruction Conference*

A. Within 20 days after the Contract Times start to run, but before any Work at the Site is started, a conference attended by CONTRACTOR, ENGINEER, and others as appropriate will be held to establish a working understanding among the parties as to the Work and to discuss the schedules referred to in paragraph 2.05.B, procedures for handling Shop Drawings and other submittals, processing Applications for Payment, and maintaining required records.

2.07 *Initial Acceptance of Schedules*

A. Unless otherwise provided in the Contract Documents, at least ten days before submission of the first Application for Payment a conference attended by CONTRACTOR, ENGINEER, and others as appropriate will be held to review for acceptability to ENGINEER as provided below the schedules submitted in accordance with paragraph 2.05.B. CONTRACTOR shall have an additional ten days to make corrections and adjustments and to complete and resubmit the schedules. No progress payment shall be made to CONTRACTOR until acceptable schedules are submitted to ENGINEER.

1. The progress schedule will be acceptable to ENGINEER if it provides an orderly progression of the Work to completion within any specified Milestones and the Contract Times. Such acceptance will not impose on ENGINEER responsibility for the progress schedule, for sequencing, scheduling, or progress of the Work nor interfere with or relieve CONTRACTOR from CONTRACTOR's full responsibility therefor.

2. CONTRACTOR's schedule of Shop Drawing and Sample submittals will be acceptable to ENGINEER if it provides a workable arrangement for reviewing and processing the required submittals.

3. CONTRACTOR's schedule of values will be acceptable to ENGINEER as to form and substance if it provides a reasonable allocation of the Contract Price to component parts of the Work.

ARTICLE 3 - CONTRACT DOCUMENTS: INTENT, AMENDING, REUSE

3.01 *Intent*

A. The Contract Documents are complementary; what is called for by one is as binding as if called for by all.

B. It is the intent of the Contract Documents to describe a functionally complete Project (or part thereof) to be constructed in accordance with the Contract Documents. Any labor, documentation, services, materials, or equipment that may reasonably be inferred from the Contract Documents or from prevailing custom or trade usage as being required to produce the intended result will be provided whether or not specifically called for at no additional cost to OWNER.

C. Clarifications and interpretations of the Contract Documents shall be issued by ENGINEER as provided in Article 9.

3.02 *Reference Standards*

A. *Standards, Specifications, Codes, Laws, and Regulations*

1. Reference to standards, specifications, manuals, or codes of any technical society, organization, or association, or to Laws or Regulations, whether such reference be specific or by implication, shall mean the standard, specification, manual, code, or Laws or Regulations in effect at the time of opening of Bids (or on the Effective Date of the Agreement if there were no Bids),

except as may be otherwise specifically stated in the Contract Documents.

2. No provision of any such standard, specification, manual or code, or any instruction of a Supplier shall be effective to change the duties or responsibilities of OWNER, CONTRACTOR, or ENGINEER, or any of their subcontractors, consultants, agents, or employees from those set forth in the Contract Documents, nor shall any such provision or instruction be effective to assign to OWNER, ENGINEER, or any of ENGINEER's Consultants, agents, or employees any duty or authority to supervise or direct the performance of the Work or any duty or authority to undertake responsibility inconsistent with the provisions of the Contract Documents.

3.03 *Reporting and Resolving Discrepancies*

A. *Reporting Discrepancies*

1. If, during the performance of the Work, CONTRACTOR discovers any conflict, error, ambiguity, or discrepancy within the Contract Documents or between the Contract Documents and any provision of any Law or Regulation applicable to the performance of the Work or of any standard, specification, manual or code, or of any instruction of any Supplier, CONTRACTOR shall report it to ENGINEER in writing at once. CONTRACTOR shall not proceed with the Work affected thereby (except in an emergency as required by paragraph 6.16.A) until an amendment or supplement to the Contract Documents has been issued by one of the methods indicated in paragraph 3.04; provided, however, that CONTRACTOR shall not be liable to OWNER or ENGINEER for failure to report any such conflict, error, ambiguity, or discrepancy unless CONTRACTOR knew or reasonably should have known thereof.

B. *Resolving Discrepancies*

1. Except as may be otherwise specifically stated in the Contract Documents, the provisions of the Contract Documents shall take precedence in resolving any conflict, error, ambiguity, or discrepancy between the provisions of the Contract Documents and:

a. the provisions of any standard, specification, manual, code, or instruction (whether or not specifically incorporated by reference in the Contract Documents); or

b. the provisions of any Laws or Regulations applicable to the performance of the Work (unless such an interpretation of the provisions of the Contract Documents would result in violation of such Law or Regulation).

3.04 *Amending and Supplementing Contract Documents*

A. The Contract Documents may be amended to provide for additions, deletions, and revisions in the Work or to modify the terms and conditions thereof in one or more of the following ways: (i) a Written Amendment; (ii) a Change Order; or (iii) a Work Change Directive.

B. The requirements of the Contract Documents may be supplemented, and minor variations and deviations in the Work may be authorized, by one or more of the following ways: (i) a Field Order; (ii) ENGINEER's approval of a Shop Drawing or Sample; or (iii) ENGINEER's written interpretation or clarification.

3.05 *Reuse of Documents*

A. CONTRACTOR and any Subcontractor or Supplier or other individual or entity performing or furnishing any of the Work under a direct or indirect contract with OWNER: (i) shall not have or acquire any title to or ownership rights in any of the Drawings, Specifications, or other documents (or copies of any thereof) prepared by or bearing the seal of ENGINEER or ENGINEER's Consultant, including electronic media editions; and (ii) shall not reuse any of such Drawings, Specifications, other documents, or copies thereof on extensions of the Project or any other project without written consent of OWNER and ENGINEER and specific written verification or adaption by ENGINEER. This prohibition will survive final payment, completion, and acceptance of the Work, or termination or completion of the Contract. Nothing herein shall preclude CONTRACTOR from retaining copies of the Contract Documents for record purposes.

ARTICLE 4 - AVAILABILITY OF LANDS; SUBSURFACE AND PHYSICAL CONDITIONS; REFERENCE POINTS

4.01 *Availability of Lands*

A. OWNER shall furnish the Site. OWNER shall notify CONTRACTOR of any encumbrances or restrictions not of general application but specifically related to use of the Site with which CONTRACTOR must comply in performing the Work. OWNER will obtain in a timely manner and pay for easements for permanent structures or permanent changes in existing facilities. If CONTRACTOR and OWNER are unable to agree on entitlement to or on the amount or extent, if any, of any adjustment in the Contract Price or Contract Times, or both, as a result of any delay in OWNER's furnishing the Site, CONTRACTOR may make a Claim therefor as provided in paragraph 10.05.

B. Upon reasonable written request, OWNER shall furnish CONTRACTOR with a current statement of record legal title and legal description of the lands upon which the Work is to be performed and OWNER's interest therein as necessary for giving notice of or filing a mechanic's or construction lien against such lands in accordance with applicable Laws and Regulations.

C. CONTRACTOR shall provide for all additional lands and access thereto that may be required for temporary construction facilities or storage of materials and equipment.

4.02 *Subsurface and Physical Conditions*

A. *Reports and Drawings:* The Supplementary Conditions identify:

1. those reports of explorations and tests of subsurface conditions at or contiguous to the Site that ENGINEER has used in preparing the Contract Documents; and

2. those drawings of physical conditions in or relating to existing surface or subsurface structures at or contiguous to the Site (except Underground Facilities) that ENGINEER has used in preparing the Contract Documents.

B. *Limited Reliance by CONTRACTOR on Technical Data Authorized:* CONTRACTOR may rely upon the general accuracy of the "technical data" contained in such reports and drawings, but such reports and drawings are not Contract Documents. Such "technical data" is identified in the Supplementary Conditions. Except for such reliance on such "technical data," CONTRACTOR may not rely upon or make any Claim against OWNER, ENGINEER, or any of ENGINEER's Consultants with respect to:

1. the completeness of such reports and drawings for CONTRACTOR's purposes, including, but not limited to, any aspects of the means, methods, techniques, sequences, and procedures of construction to be employed by CONTRACTOR, and safety precautions and programs incident thereto; or

2. other data, interpretations, opinions, and information contained in such reports or shown or indicated in such drawings; or

3. any CONTRACTOR interpretation of or conclusion drawn from any "technical data" or any such other data, interpretations, opinions, or information.

4.03 *Differing Subsurface or Physical Conditions*

A. *Notice:* If CONTRACTOR believes that any subsurface or physical condition at or contiguous to the Site that is uncovered or revealed either:

1. is of such a nature as to establish that any "technical data" on which CONTRACTOR is entitled to rely as provided in paragraph 4.02 is materially inaccurate; or

2. is of such a nature as to require a change in the Contract Documents; or

3. differs materially from that shown or indicated in the Contract Documents; or

4. is of an unusual nature, and differs materially from conditions ordinarily encountered and generally recognized as inherent in work of the character provided for in the Contract Documents;

then CONTRACTOR shall, promptly after becoming aware thereof and before further disturbing the subsurface or physical conditions or performing any Work in connection therewith (except in an emergency as required by paragraph 6.16.A), notify OWNER and ENGINEER in writing about such condition. CONTRACTOR shall not further disturb such condition or perform any Work in connection therewith (except as aforesaid) until receipt of written order to do so.

B. *ENGINEER's Review:* After receipt of written notice as required by paragraph 4.03.A, ENGINEER will promptly review the pertinent condition, determine the necessity of OWNER's obtaining additional exploration or tests with respect thereto, and advise OWNER in writing (with a copy to CONTRACTOR) of ENGINEER's findings and conclusions.

C. *Possible Price and Times Adjustments*

1. The Contract Price or the Contract Times, or both, will be equitably adjusted to the extent that the existence of such differing subsurface or physical condition causes an increase or decrease in CONTRACTOR's cost of, or time required for, performance of the Work; subject, however, to the following:

a. such condition must meet any one or more of the categories described in paragraph 4.03.A; and

b. with respect to Work that is paid for on a Unit Price Basis, any adjustment in Contract Price will be subject to the provisions of paragraphs 9.08 and 11.03.

2. CONTRACTOR shall not be entitled to any adjustment in the Contract Price or Contract Times if:

a. CONTRACTOR knew of the existence of such conditions at the time CONTRACTOR made a final commitment to OWNER in respect of Contract Price and Contract Times by the submission of a Bid or becoming bound under a negotiated contract; or

b. the existence of such condition could reasonably have been discovered or revealed as a result of any examination, investigation, exploration, test, or study of the Site and contiguous areas required by the Bidding Requirements or Contract Documents to be conducted by or for CONTRACTOR prior to CONTRACTOR's making such final commitment; or

c. CONTRACTOR failed to give the written notice within the time and as required by paragraph 4.03.A.

3. If OWNER and CONTRACTOR are unable to agree on entitlement to or on the amount or extent, if any, of any adjustment in the Contract Price or Contract Times, or both, a Claim may be made therefor as provided in paragraph 10.05. However, OWNER, ENGINEER, and ENGINEER's Consultants shall not be liable to CONTRACTOR for any claims, costs, losses, or damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) sustained by CONTRACTOR on or in connection with any other project or anticipated project.

4.04 *Underground Facilities*

A. *Shown or Indicated:* The information and data shown or indicated in the Contract Documents with respect to existing Underground Facilities at or contiguous to the Site is based on information and data furnished to OWNER or ENGINEER by the owners of such Underground Facilities, including OWNER, or by others. Unless it is otherwise expressly provided in the Supplementary Conditions:

1. OWNER and ENGINEER shall not be responsible for the accuracy or completeness of any such information or data; and

2. the cost of all of the following will be included in the Contract Price, and CONTRACTOR shall have full responsibility for:

a. reviewing and checking all such information and data,

b. locating all Underground Facilities shown or indicated in the Contract Documents,

c. coordination of the Work with the owners of such Underground Facilities, including OWNER, during construction, and

d. the safety and protection of all such Underground Facilities and repairing any damage thereto resulting from the Work.

B. *Not Shown or Indicated*

1. If an Underground Facility is uncovered or revealed at or contiguous to the Site which was not shown or indicated, or not shown or indicated with reasonable accuracy in the Contract Documents, CONTRACTOR shall, promptly after becoming aware thereof and before further disturbing conditions affected thereby or performing any Work in connection therewith (except in an emergency as required by paragraph 6.16.A), identify the owner of such Underground Facility and give written notice to that owner and to OWNER and ENGINEER. ENGINEER will promptly review the Underground Facility and determine the extent, if any, to which a change is required in the Contract Documents to reflect and document the consequences of the existence or location of the Underground Facility. During such time, CONTRACTOR shall be responsible for the safety and protection of such Underground Facility.

2. If ENGINEER concludes that a change in the Contract Documents is required, a Work Change Directive or a Change Order will be issued to reflect and document such consequences. An equitable adjustment shall be made in the Contract Price of Contract Times, or both, to the extent that they are attributable to the existence or location of any Underground Facility that was not shown or indicated or not shown or indicated with reasonable accuracy in the Contract Documents and that CONTRACTOR did not know of and could not reasonably have been expected to be aware of or to have anticipated. If OWNER and CONTRACTOR are unable to agree on entitlement to or on the amount or extent, if any, of any such adjustment in Contract Price or Contract Times, OWNER or CONTRACTOR may make a Claim therefor as provided in paragraph 10.05.

4.05 *Reference Points*

A. OWNER shall provide engineering surveys to establish reference points for construction which in ENGINEER's judgment are necessary to enable CONTRACTOR to proceed with the Work. CONTRACTOR shall be responsible for laying out the Work, shall protect and preserve the established reference points and property

monuments, and shall make no changes or relocations without the prior written approval of OWNER. CONTRACTOR shall report to ENGINEER whenever any reference point or property monument is lost or destroyed or requires relocation because of necessary changes in grades or locations, and shall be responsible for the accurate replacement or relocation of such reference points or property monuments by professionally qualified personnel.

4.06 *Hazardous Environmental Condition at Site*

A. *Reports and Drawings:* Reference is made to the Supplementary Conditions for the identification of those reports and drawings relating to a Hazardous Environmental Condition identified at the Site, if any, that have been utilized by the ENGINEER in the preparation of the Contract Documents.

B. *Limited Reliance by CONTRACTOR on Technical Data Authorized:* CONTRACTOR may rely upon the general accuracy of the "technical data" contained in such reports and drawings, but such reports and drawings are not Contract Documents. Such "technical data" is identified in the Supplementary Conditions. Except for such reliance on such "technical data," CONTRACTOR may not rely upon or make any Claim against OWNER, ENGINEER or any of ENGINEER's Consultants with respect to:

1. the completeness of such reports and drawings for CONTRACTOR's purposes, including, but not limited to, any aspects of the means, methods, techniques, sequences and procedures of construction to be employed by CONTRACTOR and safety precautions and programs incident thereto; or

2. other data, interpretations, opinions and information contained in such reports or shown or indicated in such drawings; or

3. any CONTRACTOR interpretation of or conclusion drawn from any "technical data" or any such other data, interpretations, opinions or information.

C. CONTRACTOR shall not be responsible for any Hazardous Environmental Condition uncovered or revealed at the Site which was not shown or indicated in Drawings or Specifications or identified in the Contract Documents to be within the scope of the Work. CONTRACTOR shall be responsible for a Hazardous Environmental Condition created with any materials brought to the Site by CONTRACTOR, Subcontractors, Suppliers, or anyone else for whom CONTRACTOR is responsible.

D. If CONTRACTOR encounters a Hazardous Environmental Condition or if CONTRACTOR or anyone for whom CONTRACTOR is responsible creates a Hazardous Environmental Condition, CONTRACTOR shall immediately: (i) secure or otherwise isolate such condition; (ii) stop all Work in connection with such condition and in any area affected thereby (except in an emergency as required by paragraph 6.16); and (iii) notify OWNER and ENGINEER (and promptly thereafter confirm such notice in writing). OWNER shall promptly consult with ENGINEER concerning the necessity for OWNER to retain a qualified expert to evaluate such condition or take corrective action, if any.

E. CONTRACTOR shall not be required to resume Work in connection with such condition or in any affected area until after OWNER has obtained any required permits related thereto and delivered to CONTRACTOR written notice: (i) specifying that such condition and any affected area is or has been rendered safe for the resumption of Work; or (ii) specifying any special conditions under which such Work may be resumed safely. If OWNER and CONTRACTOR cannot agree as to entitlement to or on the amount or extent, if any, of any adjustment in Contract Price or Contract Times, or both, as a result of such Work stoppage or such special conditions under which Work is agreed to be resumed by CONTRACTOR, either party may make a Claim therefor as provided in paragraph 10.05.

F. If after receipt of such written notice CONTRACTOR does not agree to resume such Work based on a reasonable belief it is unsafe, or does not agree to resume such Work under such special conditions, then OWNER may order the portion of the Work that is in the area affected by such condition to be deleted from the Work. If OWNER and CONTRACTOR cannot agree as to entitlement to or on the amount or extent, if any, of an adjustment in Contract Price or Contract Times as a result of deleting such portion of the Work, then either party may make a Claim therefor as provided in paragraph 10.05. OWNER may have such deleted portion of the Work performed by OWNER's own forces or others in accordance with Article 7.

G. To the fullest extent permitted by Laws and Regulations, OWNER shall indemnify and hold harmless CONTRACTOR, Subcontractors, ENGINEER, ENGINEER's Consultants and the officers, directors, partners, employees, agents, other consultants, and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to a Hazardous Environmental Condition, provided that such Hazardous Environmental Condition: (i) was not shown or indicated in the Drawings or Specifications or identified in the Contract Documents to be included within the scope of the Work, and (ii) was not created by CONTRACTOR or by anyone for whom CONTRACTOR is responsible. Nothing

in this paragraph 4.06.E shall obligate OWNER to indemnify any individual or entity from and against the consequences of that individual's or entity's own negligence.

H. To the fullest extent permitted by Laws and Regulations, CONTRACTOR shall indemnify and hold harmless OWNER, ENGINEER, ENGINEER's Consultants, and the officers, directors, partners, employees, agents, other consultants, and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to a Hazardous Environmental Condition created by CONTRACTOR or by anyone for whom CONTRACTOR is responsible. Nothing in this paragraph 4.06.F shall obligate CONTRACTOR to indemnify any individual or entity from and against the consequences of that individual's or entity's own negligence.

I. The provisions of paragraphs 4.02, 4.03, and 4.04 are not intended to apply to a Hazardous Environmental Condition uncovered or revealed at the Site.

ARTICLE 5 - BONDS AND INSURANCE

5.01 *Performance, Payment, and Other Bonds*

A. CONTRACTOR shall furnish performance and payment Bonds, each in an amount at least equal to the Contract Price as security for the faithful performance and payment of all CONTRACTOR's obligations under the Contract Documents. These Bonds shall remain in effect at least until one year after the date when final payment becomes due, except as provided otherwise by Laws or Regulations or by the Contract Documents. CONTRACTOR shall also furnish such other Bonds as are required by the Contract Documents.

B. All Bonds shall be in the form prescribed by the Contract Documents except as provided otherwise by Laws or Regulations, and shall be executed by such sureties as are named in the current list of "Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies" as published in Circular 570 (amended) by the Financial Management Service, Surety Bond Branch, U.S. Department of the Treasury. All Bonds signed by an agent must be accompanied by a certified copy of such agent's authority to act.

C. If the surety on any Bond furnished by CONTRACTOR is declared bankrupt or becomes insolvent or its right to do business is terminated in any state where any part of the Project is located or it ceases to meet the requirements of paragraph 5.01.B, CONTRACTOR shall within 20 days thereafter substitute another Bond and surety, both of which shall comply with the requirements of paragraphs 5.01.B and 5.02.

5.02 *Licensed Sureties and Insurers*

A. All Bonds and insurance required by the Contract Documents to be purchased and maintained by OWNER or CONTRACTOR shall be obtained from surety or insurance companies that are duly licensed or authorized in the jurisdiction in which the Project is located to issue Bonds or insurance policies for the limits and coverages so required. Such surety and insurance companies shall also meet such additional requirements and qualifications as may be provided in the Supplementary Conditions.

5.03 *Certificates of Insurance*

A. CONTRACTOR shall deliver to OWNER, with copies to each additional insured identified in the Supplementary Conditions, certificates of insurance (and other evidence of insurance requested by OWNER or any other additional insured) which CONTRACTOR is required to purchase and maintain. OWNER shall deliver to CONTRACTOR, with copies to each additional insured identified in the Supplementary Conditions, certificates of insurance (and other evidence of insurance requested by CONTRACTOR or any other additional insured) which OWNER is required to purchase and maintain.

5.04 *CONTRACTOR's Liability Insurance*

A. CONTRACTOR shall purchase and maintain such liability and other insurance as is appropriate for the Work being performed and as will provide protection from claims set forth below which may arise out of or result from CONTRACTOR's performance of the Work and CONTRACTOR's other obligations under the Contract Documents, whether it is to be performed by CONTRACTOR, any Subcontractor or Supplier, or by anyone directly or indirectly employed by any of them to perform any of the Work, or by anyone for whose acts any of them may be liable:

1. claims under workers' compensation, disability benefits, and other similar employee benefit acts;

2. claims for damages because of bodily injury, occupational sickness or disease, or death of CONTRACTOR's employees;

3. claims for damages because of bodily injury, sickness or disease, or death of any person other than CONTRACTOR's employees;

4. claims for damages insured by reasonably available personal injury liability coverage which are sustained: (i) by any person as a result of an offense directly or indirectly related to the employment of such person by CONTRACTOR, or (ii) by any other person for any other reason;

5. claims for damages, other than to the Work itself, because of injury to or destruction of tangible property wherever located, including loss of use resulting therefrom; and

6. claims for damages because of bodily injury or death of any person or property damage arising out of the ownership, maintenance or use of any motor vehicle.

B. The policies of insurance so required by this paragraph 5.04 to be purchased and maintained shall:

1. with respect to insurance required by paragraphs 5.04.A.3 through 5.04.A.6 inclusive, include as additional insureds (subject to any customary exclusion in respect of professional liability) OWNER, ENGINEER, ENGINEER's Consultants, and any other individuals or entities identified in the Supplementary Conditions, all of whom shall be listed as additional insureds, and include coverage for the respective officers, directors, partners, employees, agents, and other consultants and subcontractors of each and any of all such additional insureds, and the insurance afforded to these additional insureds shall provide primary coverage for all claims covered thereby;

2. include at least the specific coverages and be written for not less than the limits of liability provided in the Supplementary Conditions or required by Laws or Regulations, whichever is greater;

3. include completed operations insurance;

4. include contractual liability insurance covering CONTRACTOR's indemnity obligations under paragraphs 6.07, 6.11, and 6.20;

5. contain a provision or endorsement that the coverage afforded will not be canceled, materially changed or renewal refused until at least thirty days prior written notice has been given to OWNER and CONTRACTOR and to each other additional insured identified in the Supplementary Conditions to whom a certificate of insurance has been issued (and the certificates of insurance furnished by the CONTRACTOR pursuant to paragraph 5.03 will so provide);

6. remain in effect at least until final payment and at all times thereafter when CONTRACTOR may be correcting, removing, or replacing defective Work i accordance with paragraph 13.07; and

7. with respect to completed operations insurance and any insurance coverage written on a claims-mad basis, remain in effect for at least two years after fina payment (and CONTRACTOR shall furnish OWNER an each other additional insured identified in the Supple mentary Conditions, to whom a certificate of insuranc has been issued, evidence satisfactory to OWNER an any such additional insured of continuation of suc insurance at final payment and one year thereafter).

5.05 *OWNER's Liability Insurance*

A. In addition to the insurance required to be provide by CONTRACTOR under paragraph 5.04, OWNER, a OWNER's option, may purchase and maintain at OWNER' expense OWNER's own liability insurance as will protec OWNER against claims which may arise from operation under the Contract Documents.

5.06 *Property Insurance*

A. Unless otherwise provided in the Supplementar Conditions, OWNER shall purchase and maintain propert insurance upon the Work at the Site in the amount of the ful replacement cost thereof (subject to such deductible amount as may be provided in the Supplementary Conditions o required by Laws and Regulations). This insurance shall:

1. include the interests of OWNER, CONTRAC TOR, Subcontractors, ENGINEER, ENGINEER' Consultants, and any other individuals or entities identi fied in the Supplementary Conditions, and the officers directors, partners, employees, agents, and othe consultants and subcontractors of each and any of them each of whom is deemed to have an insurable interest an shall be listed as an additional insured;

2. be written on a Builder's Risk "all-risk" or ope peril or special causes of loss policy form that shall a least include insurance for physical loss or damage to th Work, temporary buildings, false work, and materials an equipment in transit, and shall insure against at least th following perils or causes of loss: fire, lightning extended coverage, theft, vandalism and maliciou mischief, earthquake, collapse, debris removal demolition occasioned by enforcement of Laws an Regulations, water damage, and such other perils o causes of loss as may be specifically required by th Supplementary Conditions;

3. include expenses incurred in the repair o replacement of any insured property (including but no limited to fees and charges of engineers and architects);

4. cover materials and equipment stored at the Site or at another location that was agreed to in writing by OWNER prior to being incorporated in the Work, provided that such materials and equipment have been included in an Application for Payment recommended by ENGINEER;

5. allow for partial utilization of the Work by OWNER;

6. include testing and startup; and

7. be maintained in effect until final payment is made unless otherwise agreed to in writing by OWNER, CONTRACTOR, and ENGINEER with 30 days written notice to each other additional insured to whom a certificate of insurance has been issued.

B. OWNER shall purchase and maintain such boiler and machinery insurance or additional property insurance as may be required by the Supplementary Conditions or Laws and Regulations which will include the interests of OWNER, CONTRACTOR, Subcontractors, ENGINEER, ENGINEER's Consultants, and any other individuals or entities identified in the Supplementary Conditions, each of whom is deemed to have an insurable interest and shall be listed as an insured or additional insured.

C. All the policies of insurance (and the certificates or other evidence thereof) required to be purchased and maintained in accordance with paragraph 5.06 will contain a provision or endorsement that the coverage afforded will not be canceled or materially changed or renewal refused until at least 30 days prior written notice has been given to OWNER and CONTRACTOR and to each other additional insured to whom a certificate of insurance has been issued and will contain waiver provisions in accordance with paragraph 5.07.

D. OWNER shall not be responsible for purchasing and maintaining any property insurance specified in this paragraph 5.06 to protect the interests of CONTRACTOR, Subcontractors, or others in the Work to the extent of any deductible amounts that are identified in the Supplementary Conditions. The risk of loss within such identified deductible amount will be borne by CONTRACTOR, Subcontractors, or others suffering any such loss, and if any of them wishes property insurance coverage within the limits of such amounts, each may purchase and maintain it at the purchaser's own expense.

E. If CONTRACTOR requests in writing that other special insurance be included in the property insurance policies provided under paragraph 5.06, OWNER shall, if possible, include such insurance, and the cost thereof will be charged to CONTRACTOR by appropriate Change Order or Written Amendment. Prior to commencement of the Work at the Site, OWNER shall in writing advise CONTRACTOR whether or not such other insurance has been procured by OWNER.

5.07 *Waiver of Rights*

A. OWNER and CONTRACTOR intend that all policies purchased in accordance with paragraph 5.06 will protect OWNER, CONTRACTOR, Subcontractors, ENGINEER, ENGINEER's Consultants, and all other individuals or entities identified in the Supplementary Conditions to be listed as insureds or additional insureds (and the officers, directors, partners, employees, agents, and other consultants and subcontractors of each and any of them) in such policies and will provide primary coverage for all losses and damages caused by the perils or causes of loss covered thereby. All such policies shall contain provisions to the effect that in the event of payment of any loss or damage the insurers will have no rights of recovery against any of the insureds or additional insureds thereunder. OWNER and CONTRACTOR waive all rights against each other and their respective officers, directors, partners, employees, agents, and other consultants and subcontractors of each and any of them for all losses and damages caused by, arising out of or resulting from any of the perils or causes of loss covered by such policies and any other property insurance applicable to the Work; and, in addition, waive all such rights against Subcontractors, ENGINEER, ENGINEER's Consultants, and all other individuals or entities identified in the Supplementary Conditions to be listed as insureds or additional insureds (and the officers, directors, partners, employees, agents, and other consultants and subcontractors of each and any of them) under such policies for losses and damages so caused. None of the above waivers shall extend to the rights that any party making such waiver may have to the proceeds of insurance held by OWNER as trustee or otherwise payable under any policy so issued.

B. OWNER waives all rights against CONTRACTOR, Subcontractors, ENGINEER, ENGINEER's Consultants, and the officers, directors, partners, employees, agents, and other consultants and subcontractors of each and any of them for:

1. loss due to business interruption, loss of use, or other consequential loss extending beyond direct physical loss or damage to OWNER's property or the Work caused by, arising out of, or resulting from fire or other peril whether or not insured by OWNER; and

2. loss or damage to the completed Project or part thereof caused by, arising out of, or resulting from fire or other insured peril or cause of loss covered by any property insurance maintained on the completed Project or part thereof by OWNER during partial utilization pursuant to paragraph 14.05, after Substantial Completion

pursuant to paragraph 14.04, or after final payment pursuant to paragraph 14.07.

C. Any insurance policy maintained by OWNER covering any loss, damage or consequential loss referred to in paragraph 5.07.B shall contain provisions to the effect that in the event of payment of any such loss, damage, or consequential loss, the insurers will have no rights of recovery against CONTRACTOR, Subcontractors, ENGINEER, or ENGINEER's Consultants and the officers, directors, partners, employees, agents, and other consultants and subcontractors of each and any of them.

5.08 *Receipt and Application of Insurance Proceeds*

A. Any insured loss under the policies of insurance required by paragraph 5.06 will be adjusted with OWNER and made payable to OWNER as fiduciary for the insureds, as their interests may appear, subject to the requirements of any applicable mortgage clause and of paragraph 5.08.B. OWNER shall deposit in a separate account any money so received and shall distribute it in accordance with such agreement as the parties in interest may reach. If no other special agreement is reached, the damaged Work shall be repaired or replaced, the moneys so received applied on account thereof, and the Work and the cost thereof covered by an appropriate Change Order or Written Amendment.

B. OWNER as fiduciary shall have power to adjust and settle any loss with the insurers unless one of the parties in interest shall object in writing within 15 days after the occurrence of loss to OWNER's exercise of this power. If such objection be made, OWNER as fiduciary shall make settlement with the insurers in accordance with such agreement as the parties in interest may reach. If no such agreement among the parties in interest is reached, OWNER as fiduciary shall adjust and settle the loss with the insurers and, if required in writing by any party in interest, OWNER as fiduciary shall give bond for the proper performance of such duties.

5.09 *Acceptance of Bonds and Insurance; Option to Replace*

A. If either OWNER or CONTRACTOR has any objection to the coverage afforded by or other provisions of the Bonds or insurance required to be purchased and maintained by the other party in accordance with Article 5 on the basis of non-conformance with the Contract Documents, the objecting party shall so notify the other party in writing within 10 days after receipt of the certificates (or other evidence requested) required by paragraph 2.05.C. OWNER and CONTRACTOR shall each provide to the other such additional information in respect of insurance provided as the other may reasonably request. If either party does not purchase or maintain all of the Bonds and insurance required of such party by the Contract Documents, such party shall notify the other party in writing of such failure to purchase prior to the start of the Work, or of such failure to maintain prior to any change in the required coverage. Without prejudice to any other right or remedy, the other party may elect to obtain equivalent Bonds or insurance to protect such other party's interests at the expense of the party who was required to provide such coverage, and a Change Order shall be issued to adjust the Contract Price accordingly.

5.10 *Partial Utilization, Acknowledgment of Property Insurer*

A. If OWNER finds it necessary to occupy or use a portion or portions of the Work prior to Substantial Completion of all the Work as provided in paragraph 14.05, no such use or occupancy shall commence before the insurers providing the property insurance pursuant to paragraph 5.06 have acknowledged notice thereof and in writing effected any changes in coverage necessitated thereby. The insurers providing the property insurance shall consent by endorsement on the policy or policies, but the property insurance shall not be canceled or permitted to lapse on account of any such partial use or occupancy.

ARTICLE 6 - CONTRACTOR'S RESPONSIBILITIES

6.01 *Supervision and Superintendence*

A. CONTRACTOR shall supervise, inspect, and direct the Work competently and efficiently, devoting such attention thereto and applying such skills and expertise as may be necessary to perform the Work in accordance with the Contract Documents. CONTRACTOR shall be solely responsible for the means, methods, techniques, sequences, and procedures of construction, but CONTRACTOR shall not be responsible for the negligence of OWNER or ENGINEER in the design or specification of a specific means, method, technique, sequence, or procedure of construction which is shown or indicated in and expressly required by the Contract Documents. CONTRACTOR shall be responsible to see that the completed Work complies accurately with the Contract Documents.

B. At all times during the progress of the Work, CONTRACTOR shall assign a competent resident superintendent thereto who shall not be replaced without written notice to OWNER and ENGINEER except under extraordinary circumstances. The superintendent will be CONTRACTOR's representative at the Site and shall have authority to act on behalf of CONTRACTOR. All communications given to or received from the superintendent shall be binding on CONTRACTOR.

6.02 *Labor; Working Hours*

A. CONTRACTOR shall provide competent, suitably qualified personnel to survey, lay out, and construct the Work as required by the Contract Documents. CONTRACTOR shall at all times maintain good discipline and order at the Site.

B. Except as otherwise required for the safety or protection of persons or the Work or property at the Site or adjacent thereto, and except as otherwise stated in the Contract Documents, all Work at the Site shall be performed during regular working hours, and CONTRACTOR will not permit overtime work or the performance of Work on Saturday, Sunday, or any legal holiday without OWNER's written consent (which will not be unreasonably withheld) given after prior written notice to ENGINEER.

6.03 *Services, Materials, and Equipment*

A. Unless otherwise specified in the General Requirements, CONTRACTOR shall provide and assume full responsibility for all services, materials, equipment, labor, transportation, construction equipment and machinery, tools, appliances, fuel, power, light, heat, telephone, water, sanitary facilities, temporary facilities, and all other facilities and incidentals necessary for the performance, testing, start-up, and completion of the Work.

B. All materials and equipment incorporated into the Work shall be as specified or, if not specified, shall be of good quality and new, except as otherwise provided in the Contract Documents. All warranties and guarantees specifically called for by the Specifications shall expressly run to the benefit of OWNER. If required by ENGINEER, CONTRACTOR shall furnish satisfactory evidence (including reports of required tests) as to the source, kind, and quality of materials and equipment. All materials and equipment shall be stored, applied, installed, connected, erected, protected, used, cleaned, and conditioned in accordance with instructions of the applicable Supplier, except as otherwise may be provided in the Contract Documents.

6.04 *Progress Schedule*

A. CONTRACTOR shall adhere to the progress schedule established in accordance with paragraph 2.07 as it may be adjusted from time to time as provided below.

1. CONTRACTOR shall submit to ENGINEER for acceptance (to the extent indicated in paragraph 2.07) proposed adjustments in the progress schedule that will not result in changing the Contract Times (or Milestones). Such adjustments will conform generally to the progress schedule then in effect and additionally will comply with any provisions of the General Requirements applicable thereto.

2. Proposed adjustments in the progress schedule that will change the Contract Times (or Milestones) shall be submitted in accordance with the requirements of Article 12. Such adjustments may only be made by a Change Order or Written Amendment in accordance with Article 12.

6.05 *Substitutes and "Or-Equals"*

A. Whenever an item of material or equipment is specified or described in the Contract Documents by using the name of a proprietary item or the name of a particular Supplier, the specification or description is intended to establish the type, function, appearance, and quality required. Unless the specification or description contains or is followed by words reading that no like, equivalent, or "or-equal" item or no substitution is permitted, other items of material or equipment or material or equipment of other Suppliers may be submitted to ENGINEER for review under the circumstances described below.

1. *"Or-Equal" Items:* If in ENGINEER's sole discretion an item of material or equipment proposed by CONTRACTOR is functionally equal to that named and sufficiently similar so that no change in related Work will be required, it may be considered by ENGINEER as an "or-equal" item, in which case review and approval of the proposed item may, in ENGINEER's sole discretion, be accomplished without compliance with some or all of the requirements for approval of proposed substitute items. For the purposes of this paragraph 6.05.A.1, a proposed item of material or equipment will be considered functionally equal to an item so named if:

a. in the exercise of reasonable judgment ENGINEER determines that: (i) it is at least equal in quality, durability, appearance, strength, and design characteristics; (ii) it will reliably perform at least equally well the function imposed by the design concept of the completed Project as a functioning whole, and;

b. CONTRACTOR certifies that: (i) there is no increase in cost to the OWNER; and (ii) it will conform substantially, even with deviations, to the detailed requirements of the item named in the Contract Documents.

2. *Substitute Items*

a. If in ENGINEER's sole discretion an item of material or equipment proposed by CONTRACTOR does not qualify as an "or-equal" item under

paragraph 6.05.A.1, it will be considered a proposed substitute item.

b. CONTRACTOR shall submit sufficient information as provided below to allow ENGINEER to determine that the item of material or equipment proposed is essentially equivalent to that named and an acceptable substitute therefor. Requests for review of proposed substitute items of material or equipment will not be accepted by ENGINEER from anyone other than CONTRACTOR.

c. The procedure for review by ENGINEER will be as set forth in paragraph 6.05.A.2.d, as supplemented in the General Requirements and as ENGINEER may decide is appropriate under the circumstances.

d. CONTRACTOR shall first make written application to ENGINEER for review of a proposed substitute item of material or equipment that CONTRACTOR seeks to furnish or use. The application shall certify that the proposed substitute item will perform adequately the functions and achieve the results called for by the general design, be similar in substance to that specified, and be suited to the same use as that specified. The application will state the extent, if any, to which the use of the proposed substitute item will prejudice CONTRACTOR's achievement of Substantial Completion on time, whether or not use of the proposed substitute item in the Work will require a change in any of the Contract Documents (or in the provisions of any other direct contract with OWNER for work on the Project) to adapt the design to the proposed substitute item and whether or not incorporation or use of the proposed substitute item in connection with the Work is subject to payment of any license fee or royalty. All variations of the proposed substitute item from that specified will be identified in the application, and available engineering, sales, maintenance, repair, and replacement services will be indicated. The application will also contain an itemized estimate of all costs or credits that will result directly or indirectly from use of such substitute item, including costs of redesign and claims of other contractors affected by any resulting change, all of which will be considered by ENGINEER in evaluating the proposed substitute item. ENGINEER may require CONTRACTOR to furnish additional data about the proposed substitute item.

B. *Substitute Construction Methods or Procedures:* If a specific means, method, technique, sequence, or procedure of construction is shown or indicated in and expressly required by the Contract Documents, CONTRACTOR m furnish or utilize a substitute means, method, techniq sequence, or procedure of construction approved by ENG NEER. CONTRACTOR shall submit sufficient informati to allow ENGINEER, in ENGINEER's sole discretion, determine that the substitute proposed is equivalent to th expressly called for by the Contract Documents. The proc dure for review by ENGINEER will be similar to th provided in subparagraph 6.05.A.2.

C. *Engineer's Evaluation:* ENGINEER will be allowe a reasonable time within which to evaluate each proposal submittal made pursuant to paragraphs 6.05.A and 6.05.E ENGINEER will be the sole judge of acceptability. N "or-equal" or substitute will be ordered, installed or utilize until ENGINEER's review is complete, which will b evidenced by either a Change Order for a substitute or a approved Shop Drawing for an "or equal." ENGINEER wi advise CONTRACTOR in writing of any negativ determination.

D. *Special Guarantee:* OWNER may require CON TRACTOR to furnish at CONTRACTOR's expense a specia performance guarantee or other surety with respect to an substitute.

E. *ENGINEER's Cost Reimbursement:* ENGINEER wil record time required by ENGINEER and ENGINEER's Consultants in evaluating substitute proposed or submitted by CONTRACTOR pursuant to paragraphs 6.05.A.2 and 6.05.E and in making changes in the Contract Documents (or in the provisions of any other direct contract with OWNER for work on the Project) occasioned thereby. Whether or not ENGINEER approves a substitute item so proposed or submitted by CONTRACTOR, CONTRACTOR shall reimburse OWNER for the charges of ENGINEER and ENGINEER's Consultants for evaluating each such proposed substitute.

F. *CONTRACTOR's Expense:* CONTRACTOR shall provide all data in support of any proposed substitute or "or-equal" at CONTRACTOR's expense.

6.06 *Concerning Subcontractors, Suppliers, and Others*

A. CONTRACTOR shall not employ any Subcontractor, Supplier, or other individual or entity (including those acceptable to OWNER as indicated in paragraph 6.06.B), whether initially or as a replacement, against whom OWNER may have reasonable objection. CONTRACTOR shall not be required to employ any Subcontractor, Supplier, or other individual or entity to furnish or perform any of the Work against whom CONTRACTOR has reasonable objection.

B. If the Supplementary Conditions require the identity of certain Subcontractors, Suppliers, or other individuals or

entities to be submitted to OWNER in advance for acceptance by OWNER by a specified date prior to the Effective Date of the Agreement, and if CONTRACTOR has submitted a list thereof in accordance with the Supplementary Conditions, OWNER's acceptance (either in writing or by failing to make written objection thereto by the date indicated for acceptance or objection in the Bidding Documents or the Contract Documents) of any such Subcontractor, Supplier, or other individual or entity so identified may be revoked on the basis of reasonable objection after due investigation. CONTRACTOR shall submit an acceptable replacement for the rejected Subcontractor, Supplier, or other individual or entity, and the Contract Price will be adjusted by the difference in the cost occasioned by such replacement, and an appropriate Change Order will be issued or Written Amendment signed. No acceptance by OWNER of any such Subcontractor, Supplier, or other individual or entity, whether initially or as a replacement, shall constitute a waiver of any right of OWNER or ENGINEER to reject defective Work.

C. CONTRACTOR shall be fully responsible to OWNER and ENGINEER for all acts and omissions of the Subcontractors, Suppliers, and other individuals or entities performing or furnishing any of the Work just as CONTRACTOR is responsible for CONTRACTOR's own acts and omissions. Nothing in the Contract Documents shall create for the benefit of any such Subcontractor, Supplier, or other individual or entity any contractual relationship between OWNER or ENGINEER and any such Subcontractor, Supplier or other individual or entity, nor shall it create any obligation on the part of OWNER or ENGINEER to pay or to see to the payment of any moneys due any such Subcontractor, Supplier, or other individual or entity except as may otherwise be required by Laws and Regulations.

D. CONTRACTOR shall be solely responsible for scheduling and coordinating the Work of Subcontractors, Suppliers, and other individuals or entities performing or furnishing any of the Work under a direct or indirect contract with CONTRACTOR.

E. CONTRACTOR shall require all Subcontractors, Suppliers, and such other individuals or entities performing or furnishing any of the Work to communicate with ENGINEER through CONTRACTOR.

F. The divisions and sections of the Specifications and the identifications of any Drawings shall not control CONTRACTOR in dividing the Work among Subcontractors or Suppliers or delineating the Work to be performed by any specific trade.

G. All Work performed for CONTRACTOR by a Subcontractor or Supplier will be pursuant to an appropriate agreement between CONTRACTOR and the Subcontractor or Supplier which specifically binds the Subcontractor or Supplier to the applicable terms and conditions of the Contract Documents for the benefit of OWNER and ENGINEER. Whenever any such agreement is with a Subcontractor or Supplier who is listed as an additional insured on the property insurance provided in paragraph 5.06, the agreement between the CONTRACTOR and the Subcontractor or Supplier will contain provisions whereby the Subcontractor or Supplier waives all rights against OWNER, CONTRACTOR, ENGINEER, ENGINEER's Consultants, and all other individuals or entities identified in the Supplementary Conditions to be listed as insureds or additional insureds (and the officers, directors, partners, employees, agents, and other consultants and subcontractors of each and any of them) for all losses and damages caused by, arising out of, relating to, or resulting from any of the perils or causes of loss covered by such policies and any other property insurance applicable to the Work. If the insurers on any such policies require separate waiver forms to be signed by any Subcontractor or Supplier, CONTRACTOR will obtain the same.

6.07 *Patent Fees and Royalties*

A. CONTRACTOR shall pay all license fees and royalties and assume all costs incident to the use in the performance of the Work or the incorporation in the Work of any invention, design, process, product, or device which is the subject of patent rights or copyrights held by others. If a particular invention, design, process, product, or device is specified in the Contract Documents for use in the performance of the Work and if to the actual knowledge of OWNER or ENGINEER its use is subject to patent rights or copyrights calling for the payment of any license fee or royalty to others, the existence of such rights shall be disclosed by OWNER in the Contract Documents. To the fullest extent permitted by Laws and Regulations, CONTRACTOR shall indemnify and hold harmless OWNER, ENGINEER, ENGINEER's Consultants, and the officers, directors, partners, employees or agents, and other consultants of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to any infringement of patent rights or copyrights incident to the use in the performance of the Work or resulting from the incorporation in the Work of any invention, design, process, product, or device not specified in the Contract Documents.

6.08 *Permits*

A. Unless otherwise provided in the Supplementary Conditions, CONTRACTOR shall obtain and pay for all construction permits and licenses. OWNER shall assist CONTRACTOR, when necessary, in obtaining such permits

and licenses. CONTRACTOR shall pay all governmental charges and inspection fees necessary for the prosecution of the Work which are applicable at the time of opening of Bids, or, if there are no Bids, on the Effective Date of the Agreement. CONTRACTOR shall pay all charges of utility owners for connections to the Work, and OWNER shall pay all charges of such utility owners for capital costs related thereto, such as plant investment fees.

6.09 *Laws and Regulations*

A. CONTRACTOR shall give all notices and comply with all Laws and Regulations applicable to the performance of the Work. Except where otherwise expressly required by applicable Laws and Regulations, neither OWNER nor ENGINEER shall be responsible for monitoring CONTRACTOR's compliance with any Laws or Regulations.

B. If CONTRACTOR performs any Work knowing or having reason to know that it is contrary to Laws or Regulations, CONTRACTOR shall bear all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such Work; however, it shall not be CONTRACTOR's primary responsibility to make certain that the Specifications and Drawings are in accordance with Laws and Regulations, but this shall not relieve CONTRACTOR of CONTRACTOR's obligations under paragraph 3.03.

C. Changes in Laws or Regulations not known at the time of opening of Bids (or, on the Effective Date of the Agreement if there were no Bids) having an effect on the cost or time of performance of the Work may be the subject of an adjustment in Contract Price or Contract Times. If OWNER and CONTRACTOR are unable to agree on entitlement to or on the amount or extent, if any, of any such adjustment, a Claim may be made therefor as provided in paragraph 10.05.

6.10 *Taxes*

A. CONTRACTOR shall pay all sales, consumer, use, and other similar taxes required to be paid by CONTRACTOR in accordance with the Laws and Regulations of the place of the Project which are applicable during the performance of the Work.

6.11 *Use of Site and Other Areas*

A. *Limitation on Use of Site and Other Areas*

1. CONTRACTOR shall confine construction equipment, the storage of materials and equipment, and the operations of workers to the Site and other areas permitted by Laws and Regulations, and shall not unreasonably encumber the Site and other areas with construction equipment or other materials or equipment CONTRACTOR shall assume full responsibility for any damage to any such land or area, or to the owner or occupant thereof, or of any adjacent land or area resulting from the performance of the Work.

2. Should any claim be made by any such owner or occupant because of the performance of the Work CONTRACTOR shall promptly settle with such other party by negotiation or otherwise resolve the claim by arbitration or other dispute resolution proceeding or at law.

3. To the fullest extent permitted by Laws and Regulations, CONTRACTOR shall indemnify and hold harmless OWNER, ENGINEER, ENGINEER's Consultant, and the officers, directors, partners, employees, agents, and other consultants of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to any claim or action, legal or equitable, brought by any such owner or occupant against OWNER, ENGINEER, or any other party indemnified hereunder to the extent caused by or based upon CONTRACTOR's performance of the Work.

B. *Removal of Debris During Performance of the Work:* During the progress of the Work CONTRACTOR shall keep the Site and other areas free from accumulations of waste materials, rubbish, and other debris. Removal and disposal of such waste materials, rubbish, and other debris shall conform to applicable Laws and Regulations.

C. *Cleaning:* Prior to Substantial Completion of the Work CONTRACTOR shall clean the Site and make it ready for utilization by OWNER. At the completion of the Work CONTRACTOR shall remove from the Site all tools, appliances, construction equipment and machinery, and surplus materials and shall restore to original condition all property not designated for alteration by the Contract Documents.

D. *Loading Structures:* CONTRACTOR shall not load nor permit any part of any structure to be loaded in any manner that will endanger the structure, nor shall CONTRACTOR subject any part of the Work or adjacent property to stresses or pressures that will endanger it.

6.12 *Record Documents*

A. CONTRACTOR shall maintain in a safe place at the Site one record copy of all Drawings, Specifications, Addenda, Written Amendments, Change Orders, Work

Change Directives, Field Orders, and written interpretations and clarifications in good order and annotated to show changes made during construction. These record documents together with all approved Samples and a counterpart of all approved Shop Drawings will be available to ENGINEER for reference. Upon completion of the Work, these record documents, Samples, and Shop Drawings will be delivered to ENGINEER for OWNER.

6.13 *Safety and Protection*

A. CONTRACTOR shall be solely responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the Work. CONTRACTOR shall take all necessary precautions for the safety of, and shall provide the necessary protection to prevent damage, injury or loss to:

1. all persons on the Site or who may be affected by the Work;

2. all the Work and materials and equipment to be incorporated therein, whether in storage on or off the Site; and

3. other property at the Site or adjacent thereto, including trees, shrubs, lawns, walks, pavements, roadways, structures, utilities, and Underground Facilities not designated for removal, relocation, or replacement in the course of construction.

B. CONTRACTOR shall comply with all applicable Laws and Regulations relating to the safety of persons or property, or to the protection of persons or property from damage, injury, or loss; and shall erect and maintain all necessary safeguards for such safety and protection. CONTRACTOR shall notify owners of adjacent property and of Underground Facilities and other utility owners when prosecution of the Work may affect them, and shall cooperate with them in the protection, removal, relocation, and replacement of their property. All damage, injury, or loss to any property referred to in paragraph 6.13.A.2 or 6.13.A.3 caused, directly or indirectly, in whole or in part, by CONTRACTOR, any Subcontractor, Supplier, or any other individual or entity directly or indirectly employed by any of them to perform any of the Work, or anyone for whose acts any of them may be liable, shall be remedied by CONTRACTOR (except damage or loss attributable to the fault of Drawings or Specifications or to the acts or omissions of OWNER or ENGINEER or ENGINEER's Consultant, or anyone employed by any of them, or anyone for whose acts any of them may be liable, and not attributable, directly or indirectly, in whole or in part, to the fault or negligence of CONTRACTOR or any Subcontractor, Supplier, or other individual or entity directly or indirectly employed by any of them). CONTRACTOR's duties and responsibilities for safety and for protection of the Work shall continue until such time as all the Work is completed and ENGINEER has issued a notice to OWNER and CONTRACTOR in accordance with paragraph 14.07.B that the Work is acceptable (except as otherwise expressly provided in connection with Substantial Completion).

6.14 *Safety Representative*

A. CONTRACTOR shall designate a qualified and experienced safety representative at the Site whose duties and responsibilities shall be the prevention of accidents and the maintaining and supervising of safety precautions and programs.

6.15 *Hazard Communication Programs*

A. CONTRACTOR shall be responsible for coordinating any exchange of material safety data sheets or other hazard communication information required to be made available to or exchanged between or among employers at the Site in accordance with Laws or Regulations.

6.16 *Emergencies*

A. In emergencies affecting the safety or protection of persons or the Work or property at the Site or adjacent thereto, CONTRACTOR is obligated to act to prevent threatened damage, injury, or loss. CONTRACTOR shall give ENGINEER prompt written notice if CONTRACTOR believes that any significant changes in the Work or variations from the Contract Documents have been caused thereby or are required as a result thereof. If ENGINEER determines that a change in the Contract Documents is required because of the action taken by CONTRACTOR in response to such an emergency, a Work Change Directive or Change Order will be issued.

6.17 *Shop Drawings and Samples*

A. CONTRACTOR shall submit Shop Drawings to ENGINEER for review and approval in accordance with the acceptable schedule of Shop Drawings and Sample submittals. All submittals will be identified as ENGINEER may require and in the number of copies specified in the General Requirements. The data shown on the Shop Drawings will be complete with respect to quantities, dimensions, specified performance and design criteria, materials, and similar data to show ENGINEER the services, materials, and equipment CONTRACTOR proposes to provide and to enable ENGINEER to review the information for the limited purposes required by paragraph 6.17.E.

B. CONTRACTOR shall also submit Samples to ENGINEER for review and approval in accordance with the acceptable schedule of Shop Drawings and Sample

submittals. Each Sample will be identified clearly as to material, Supplier, pertinent data such as catalog numbers, and the use for which intended and otherwise as ENGINEER may require to enable ENGINEER to review the submittal for the limited purposes required by paragraph 6.17.E. The numbers of each Sample to be submitted will be as specified in the Specifications.

C. Where a Shop Drawing or Sample is required by the Contract Documents or the schedule of Shop Drawings and Sample submittals acceptable to ENGINEER as required by paragraph 2.07, any related Work performed prior to ENGINEER's review and approval of the pertinent submittal will be at the sole expense and responsibility of CONTRACTOR.

D. *Submittal Procedures*

1. Before submitting each Shop Drawing or Sample, CONTRACTOR shall have determined and verified:

a. all field measurements, quantities, dimensions, specified performance criteria, installation requirements, materials, catalog numbers, and similar information with respect thereto;

b. all materials with respect to intended use, fabrication, shipping, handling, storage, assembly, and installation pertaining to the performance of the Work;

c. all information relative to means, methods, techniques, sequences, and procedures of construction and safety precautions and programs incident thereto; and

d. CONTRACTOR shall also have reviewed and coordinated each Shop Drawing or Sample with other Shop Drawings and Samples and with the requirements of the Work and the Contract Documents.

2. Each submittal shall bear a stamp or specific written indication that CONTRACTOR has satisfied CONTRACTOR's obligations under the Contract Documents with respect to CONTRACTOR's review and approval of that submittal.

3. At the time of each submittal, CONTRACTOR shall give ENGINEER specific written notice of such variations, if any, that the Shop Drawing or Sample submitted may have from the requirements of the Contract Documents, such notice to be in a written communication separate from the submittal; and, in addition, shall cause a specific notation to be made on each Shop Drawing and Sample submitted to ENGINEER for review and approval of each such variation.

E. *ENGINEER's Review*

1. ENGINEER will timely review and approve Shop Drawings and Samples in accordance with the schedule of Shop Drawings and Sample submittals acceptable to ENGINEER. ENGINEER's review and approval will be only to determine if the items covered by the submittals will, after installation or incorporation in the Work, conform to the information given in the Contract Documents and be compatible with the design concept of the completed Project as a functioning whole as indicated by the Contract Documents.

2. ENGINEER's review and approval will not extend to means, methods, techniques, sequences, or procedures of construction (except where a particular means, method, technique, sequence, or procedure of construction is specifically and expressly called for by the Contract Documents) or to safety precautions or programs incident thereto. The review and approval of a separate item as such will not indicate approval of the assembly in which the item functions.

3. ENGINEER's review and approval of Shop Drawings or Samples shall not relieve CONTRACTOR from responsibility for any variation from the requirements of the Contract Documents unless CONTRACTOR has in writing called ENGINEER's attention to each such variation at the time of each submittal as required by paragraph 6.17.D.3 and ENGINEER has given written approval of each such variation by specific written notation thereof incorporated in or accompanying the Shop Drawing or Sample approval; nor will any approval by ENGINEER relieve CONTRACTOR from responsibility for complying with the requirements of paragraph 6.17.D.1.

F. *Resubmittal Procedures*

1. CONTRACTOR shall make corrections required by ENGINEER and shall return the required number of corrected copies of Shop Drawings and submit as required new Samples for review and approval. CONTRACTOR shall direct specific attention in writing to revisions other than the corrections called for by ENGINEER on previous submittals.

6.18 *Continuing the Work*

A. CONTRACTOR shall carry on the Work and adhere to the progress schedule during all disputes or disagreements with OWNER. No Work shall be delayed or postponed pending resolution of any disputes or disagreements, except

as permitted by paragraph 15.04 or as OWNER and CONTRACTOR may otherwise agree in writing.

6.19 *CONTRACTOR's General Warranty and Guarantee*

A. CONTRACTOR warrants and guarantees to OWNER, ENGINEER, and ENGINEER's Consultants that all Work will be in accordance with the Contract Documents and will not be defective. CONTRACTOR's warranty and guarantee hereunder excludes defects or damage caused by:

1. abuse, modification, or improper maintenance or operation by persons other than CONTRACTOR, Subcontractors, Suppliers, or any other individual or entity for whom CONTRACTOR is responsible; or

2. normal wear and tear under normal usage.

B. CONTRACTOR's obligation to perform and complete the Work in accordance with the Contract Documents shall be absolute. None of the following will constitute an acceptance of Work that is not in accordance with the Contract Documents or a release of CONTRACTOR's obligation to perform the Work in accordance with the Contract Documents:

1. observations by ENGINEER;

2. recommendation by ENGINEER or payment by OWNER of any progress or final payment;

3. the issuance of a certificate of Substantial Completion by ENGINEER or any payment related thereto by OWNER;

4. use or occupancy of the Work or any part thereof by OWNER;

5. any acceptance by OWNER or any failure to do so;

6. any review and approval of a Shop Drawing or Sample submittal or the issuance of a notice of acceptability by ENGINEER;

7. any inspection, test, or approval by others; or

8. any correction of defective Work by OWNER.

6.20 *Indemnification*

A. To the fullest extent permitted by Laws and Regulations, CONTRACTOR shall indemnify and hold harmless OWNER, ENGINEER, ENGINEER's Consultants, and the officers, directors, partners, employees, agents, and other consultants and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to the performance of the Work, provided that any such claim, cost, loss, or damage:

1. is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property (other than the Work itself), including the loss of use resulting therefrom; and

2. is caused in whole or in part by any negligent act or omission of CONTRACTOR, any Subcontractor, any Supplier, or any individual or entity directly or indirectly employed by any of them to perform any of the Work or anyone for whose acts any of them may be liable, regardless of whether or not caused in part by any negligence or omission of an individual or entity indemnified hereunder or whether liability is imposed upon such indemnified party by Laws and Regulations regardless of the negligence of any such individual or entity.

B. In any and all claims against OWNER or ENGINEER or any of their respective consultants, agents, officers, directors, partners, or employees by any employee (or the survivor or personal representative of such employee) of CONTRACTOR, any Subcontractor, any Supplier, or any individual or entity directly or indirectly employed by any of them to perform any of the Work, or anyone for whose acts any of them may be liable, the indemnification obligation under paragraph 6.20.A shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for CONTRACTOR or any such Subcontractor, Supplier, or other individual or entity under workers' compensation acts, disability benefit acts, or other employee benefit acts.

C. The indemnification obligations of CONTRACTOR under paragraph 6.20.A shall not extend to the liability of ENGINEER and ENGINEER's Consultants or to the officers, directors, partners, employees, agents, and other consultants and subcontractors of each and any of them arising out of:

1. the preparation or approval of, or the failure to prepare or approve, maps, Drawings, opinions, reports, surveys, Change Orders, designs, or Specifications; or

2. giving directions or instructions, or failing to give them, if that is the primary cause of the injury or damage.

ARTICLE 7 - OTHER WORK

7.01 *Related Work at Site*

A. OWNER may perform other work related to the Project at the Site by OWNER's employees, or let other direct contracts therefor, or have other work performed by utility owners. If such other work is not noted in the Contract Documents, then:

1. written notice thereof will be given to CONTRACTOR prior to starting any such other work; and

2. if OWNER and CONTRACTOR are unable to agree on entitlement to or on the amount or extent, if any, of any adjustment in the Contract Price or Contract Times that should be allowed as a result of such other work, a Claim may be made therefor as provided in paragraph 10.05.

B. CONTRACTOR shall afford each other contractor who is a party to such a direct contract and each utility owner (and OWNER, if OWNER is performing the other work with OWNER's employees) proper and safe access to the Site and a reasonable opportunity for the introduction and storage of materials and equipment and the execution of such other work and shall properly coordinate the Work with theirs. Unless otherwise provided in the Contract Documents, CONTRACTOR shall do all cutting, fitting, and patching of the Work that may be required to properly connect or otherwise make its several parts come together and properly integrate with such other work. CONTRACTOR shall not endanger any work of others by cutting, excavating, or otherwise altering their work and will only cut or alter their work with the written consent of ENGINEER and the others whose work will be affected. The duties and responsibilities of CONTRACTOR under this paragraph are for the benefit of such utility owners and other contractors to the extent that there are comparable provisions for the benefit of CONTRACTOR in said direct contracts between OWNER and such utility owners and other contractors.

C. If the proper execution or results of any part of CONTRACTOR's Work depends upon work performed by others under this Article 7, CONTRACTOR shall inspect such other work and promptly report to ENGINEER in writing any delays, defects, or deficiencies in such other work that render it unavailable or unsuitable for the proper execution and results of CONTRACTOR's Work. CONTRACTOR's failure to so report will constitute an acceptance of such other work as fit and proper for integration with CONTRACTOR's Work except for latent defects and deficiencies in such other work.

7.02 *Coordination*

A. If OWNER intends to contract with others for the performance of other work on the Project at the Site, the following will be set forth in Supplementary Conditions:

1. the individual or entity who will have authority and responsibility for coordination of the activities among the various contractors will be identified;

2. the specific matters to be covered by such authority and responsibility will be itemized; and

3. the extent of such authority and responsibilities will be provided.

B. Unless otherwise provided in the Supplementary Conditions, OWNER shall have sole authority and responsibility for such coordination.

ARTICLE 8 - OWNER'S RESPONSIBILITIES

8.01 *Communications to Contractor*

A. Except as otherwise provided in these General Conditions, OWNER shall issue all communications to CONTRACTOR through ENGINEER.

8.02 *Replacement of ENGINEER*

A. In case of termination of the employment of ENGINEER, OWNER shall appoint an engineer to whom CONTRACTOR makes no reasonable objection, whose status under the Contract Documents shall be that of the former ENGINEER.

8.03 *Furnish Data*

A. OWNER shall promptly furnish the data required of OWNER under the Contract Documents.

8.04 *Pay Promptly When Due*

A. OWNER shall make payments to CONTRACTOR promptly when they are due as provided in paragraphs 14.02.C and 14.07.C.

8.05 *Lands and Easements; Reports and Tests*

A. OWNER's duties in respect of providing lands and easements and providing engineering surveys to establish reference points are set forth in paragraphs 4.01 and 4.05. Paragraph 4.02 refers to OWNER's identifying and making available to CONTRACTOR copies of reports of explorations

and tests of subsurface conditions and drawings of physical conditions in or relating to existing surface or subsurface structures at or contiguous to the Site that have been utilized by ENGINEER in preparing the Contract Documents.

8.06 *Insurance*

A. OWNER's responsibilities, if any, in respect to purchasing and maintaining liability and property insurance are set forth in Article 5.

8.07 *Change Orders*

A. OWNER is obligated to execute Change Orders as indicated in paragraph 10.03.

8.08 *Inspections, Tests, and Approvals*

A. OWNER's responsibility in respect to certain inspections, tests, and approvals is set forth in paragraph 13.03.B.

8.09 *Limitations on OWNER's Responsibilities*

A. The OWNER shall not supervise, direct, or have control or authority over, nor be responsible for, CONTRACTOR's means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or for any failure of CONTRACTOR to comply with Laws and Regulations applicable to the performance of the Work. OWNER will not be responsible for CONTRACTOR's failure to perform the Work in accordance with the Contract Documents.

8.10 *Undisclosed Hazardous Environmental Condition*

A. OWNER's responsibility in respect to an undisclosed Hazardous Environmental Condition is set forth in paragraph 4.06.

8.11 *Evidence of Financial Arrangements*

A. If and to the extent OWNER has agreed to furnish CONTRACTOR reasonable evidence that financial arrangements have been made to satisfy OWNER's obligations under the Contract Documents, OWNER's responsibility in respect thereof will be as set forth in the Supplementary Conditions.

ARTICLE 9 - ENGINEER'S STATUS DURING CONSTRUCTION

9.01 *OWNER'S Representative*

A. ENGINEER will be OWNER's representative during the construction period. The duties and responsibilities and the limitations of authority of ENGINEER as OWNER's representative during construction are set forth in the Contract Documents and will not be changed without written consent of OWNER and ENGINEER.

9.02 *Visits to Site*

A. ENGINEER will make visits to the Site at intervals appropriate to the various stages of construction as ENGINEER deems necessary in order to observe as an experienced and qualified design professional the progress that has been made and the quality of the various aspects of CONTRACTOR's executed Work. Based on information obtained during such visits and observations, ENGINEER, for the benefit of OWNER, will determine, in general, if the Work is proceeding in accordance with the Contract Documents. ENGINEER will not be required to make exhaustive or continuous inspections on the Site to check the quality or quantity of the Work. ENGINEER's efforts will be directed toward providing for OWNER a greater degree of confidence that the completed Work will conform generally to the Contract Documents. On the basis of such visits and observations, ENGINEER will keep OWNER informed of the progress of the Work and will endeavor to guard OWNER against defective Work.

B. ENGINEER's visits and observations are subject to all the limitations on ENGINEER's authority and responsibility set forth in paragraph 9.10, and particularly, but without limitation, during or as a result of ENGINEER's visits or observations of CONTRACTOR's Work ENGINEER will not supervise, direct, control, or have authority over or be responsible for CONTRACTOR's means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or for any failure of CONTRACTOR to comply with Laws and Regulations applicable to the performance of the Work.

9.03 *Project Representative*

A. If OWNER and ENGINEER agree, ENGINEER will furnish a Resident Project Representative to assist ENGINEER in providing more extensive observation of the Work. The responsibilities and authority and limitations thereon of any such Resident Project Representative and assistants will be as provided in paragraph 9.10 and in the Supplementary Conditions. If OWNER designates another

representative or agent to represent OWNER at the Site who is not ENGINEER's Consultant, agent or employee, the responsibilities and authority and limitations thereon of such other individual or entity will be as provided in the Supplementary Conditions.

9.04 *Clarifications and Interpretations*

A. ENGINEER will issue with reasonable promptness such written clarifications or interpretations of the requirements of the Contract Documents as ENGINEER may determine necessary, which shall be consistent with the intent of and reasonably inferable from the Contract Documents. Such written clarifications and interpretations will be binding on OWNER and CONTRACTOR. If OWNER and CONTRACTOR are unable to agree on entitlement to or on the amount or extent, if any, of any adjustment in the Contract Price or Contract Times, or both, that should be allowed as a result of a written clarification or interpretation, a Claim may be made therefor as provided in paragraph 10.05.

9.05 *Authorized Variations in Work*

A. ENGINEER may authorize minor variations in the Work from the requirements of the Contract Documents which do not involve an adjustment in the Contract Price or the Contract Times and are compatible with the design concept of the completed Project as a functioning whole as indicated by the Contract Documents. These may be accomplished by a Field Order and will be binding on OWNER and also on CONTRACTOR, who shall perform the Work involved promptly. If OWNER and CONTRACTOR are unable to agree on entitlement to or on the amount or extent, if any, of any adjustment in the Contract Price or Contract Times, or both, as a result of a Field Order, a Claim may be made therefor as provided in paragraph 10.05.

9.06 *Rejecting Defective Work*

A. ENGINEER will have authority to disapprove or reject Work which ENGINEER believes to be defective, or that ENGINEER believes will not produce a completed Project that conforms to the Contract Documents or that will prejudice the integrity of the design concept of the completed Project as a functioning whole as indicated by the Contract Documents. ENGINEER will also have authority to require special inspection or testing of the Work as provided in paragraph 13.04, whether or not the Work is fabricated, installed, or completed.

9.07 *Shop Drawings, Change Orders and Payments*

A. In connection with ENGINEER's authority as to Shop Drawings and Samples, see paragraph 6.17.

B. In connection with ENGINEER's authority as to Change Orders, see Articles 10, 11, and 12.

C. In connection with ENGINEER's authority as to Applications for Payment, see Article 14.

9.08 *Determinations for Unit Price Work*

A. ENGINEER will determine the actual quantities and classifications of Unit Price Work performed by CONTRACTOR. ENGINEER will review with CONTRACTOR the ENGINEER's preliminary determinations on such matters before rendering a written decision thereon (by recommendation of an Application for Payment or otherwise). ENGINEER's written decision thereon will be final and binding (except as modified by ENGINEER to reflect changed factual conditions or more accurate data) upon OWNER and CONTRACTOR, subject to the provisions of paragraph 10.05.

9.09 *Decisions on Requirements of Contract Documents and Acceptability of Work*

A. ENGINEER will be the initial interpreter of the requirements of the Contract Documents and judge of the acceptability of the Work thereunder. Claims, disputes and other matters relating to the acceptability of the Work, the quantities and classifications of Unit Price Work, the interpretation of the requirements of the Contract Documents pertaining to the performance of the Work, and Claims seeking changes in the Contract Price or Contract Times will be referred initially to ENGINEER in writing, in accordance with the provisions of paragraph 10.05, with a request for a formal decision.

B. When functioning as interpreter and judge under this paragraph 9.09, ENGINEER will not show partiality to OWNER or CONTRACTOR and will not be liable in connection with any interpretation or decision rendered in good faith in such capacity. The rendering of a decision by ENGINEER pursuant to this paragraph 9.09 with respect to any such Claim, dispute, or other matter (except any which have been waived by the making or acceptance of final payment as provided in paragraph 14.07) will be a condition precedent to any exercise by OWNER or CONTRACTOR of such rights or remedies as either may otherwise have under the Contract Documents or by Laws or Regulations in respect of any such Claim, dispute, or other matter.

9.10 *Limitations on ENGINEER's Authority and Responsibilities*

A. Neither ENGINEER's authority or responsibility under this Article 9 or under any other provision of the Contract Documents nor any decision made by ENGINEER in good faith either to exercise or not exercise such authority

or responsibility or the undertaking, exercise, or performance of any authority or responsibility by ENGINEER shall create, impose, or give rise to any duty in contract, tort, or otherwise owed by ENGINEER to CONTRACTOR, any Subcontractor, any Supplier, any other individual or entity, or to any surety for or employee or agent of any of them.

B. ENGINEER will not supervise, direct, control, or have authority over or be responsible for CONTRACTOR's means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or for any failure of CONTRACTOR to comply with Laws and Regulations applicable to the performance of the Work. ENGINEER will not be responsible for CONTRACTOR's failure to perform the Work in accordance with the Contract Documents.

C. ENGINEER will not be responsible for the acts or omissions of CONTRACTOR or of any Subcontractor, any Supplier, or of any other individual or entity performing any of the Work.

D. ENGINEER's review of the final Application for Payment and accompanying documentation and all maintenance and operating instructions, schedules, guarantees, Bonds, certificates of inspection, tests and approvals, and other documentation required to be delivered by paragraph 14.07.A will only be to determine generally that their content complies with the requirements of, and in the case of certificates of inspections, tests, and approvals that the results certified indicate compliance with, the Contract Documents.

E. The limitations upon authority and responsibility set forth in this paragraph 9.10 shall also apply to ENGINEER's Consultants, Resident Project Representative, and assistants.

ARTICLE 10 - CHANGES IN THE WORK; CLAIMS

10.01 *Authorized Changes in the Work*

A. Without invalidating the Agreement and without notice to any surety, OWNER may, at any time or from time to time, order additions, deletions, or revisions in the Work by a Written Amendment, a Change Order, or a Work Change Directive. Upon receipt of any such document, CONTRACTOR shall promptly proceed with the Work involved which will be performed under the applicable conditions of the Contract Documents (except as otherwise specifically provided).

B. If OWNER and CONTRACTOR are unable to agree on entitlement to, or on the amount or extent, if any, of an adjustment in the Contract Price or Contract Times, or both, that should be allowed as a result of a Work Change Directive, a Claim may be made therefor as provided in paragraph 10.05.

10.02 *Unauthorized Changes in the Work*

A. CONTRACTOR shall not be entitled to an increase in the Contract Price or an extension of the Contract Times with respect to any work performed that is not required by the Contract Documents as amended, modified, or supplemented as provided in paragraph 3.04, except in the case of an emergency as provided in paragraph 6.16 or in the case of uncovering Work as provided in paragraph 13.04.B.

10.03 *Execution of Change Orders*

A. OWNER and CONTRACTOR shall execute appropriate Change Orders recommended by ENGINEER (or Written Amendments) covering:

1. changes in the Work which are: (i) ordered by OWNER pursuant to paragraph 10.01.A, (ii) required because of acceptance of defective Work under paragraph 13.08.A or OWNER's correction of defective Work under paragraph 13.09, or (iii) agreed to by the parties;

2. changes in the Contract Price or Contract Times which are agreed to by the parties, including any undisputed sum or amount of time for Work actually performed in accordance with a Work Change Directive; and

3. changes in the Contract Price or Contract Times which embody the substance of any written decision rendered by ENGINEER pursuant to paragraph 10.05; provided that, in lieu of executing any such Change Order, an appeal may be taken from any such decision in accordance with the provisions of the Contract Documents and applicable Laws and Regulations, but during any such appeal, CONTRACTOR shall carry on the Work and adhere to the progress schedule as provided in paragraph 6.18.A.

10.04 *Notification to Surety*

A. If notice of any change affecting the general scope of the Work or the provisions of the Contract Documents (including, but not limited to, Contract Price or Contract Times) is required by the provisions of any Bond to be given to a surety, the giving of any such notice will be CONTRACTOR's responsibility. The amount of each applicable Bond will be adjusted to reflect the effect of any such change.

10.05 *Claims and Disputes*

A. *Notice:* Written notice stating the general nature of each Claim, dispute, or other matter shall be delivered by the claimant to ENGINEER and the other party to the Contract promptly (but in no event later than 30 days) after the start of the event giving rise thereto. Notice of the amount or extent of the Claim, dispute, or other matter with supporting data shall be delivered to the ENGINEER and the other party to the Contract within 60 days after the start of such event (unless ENGINEER allows additional time for claimant to submit additional or more accurate data in support of such Claim, dispute, or other matter). A Claim for an adjustment in Contract Price shall be prepared in accordance with the provisions of paragraph 12.01.B. A Claim for an adjustment in Contract Time shall be prepared in accordance with the provisions of paragraph 12.02.B. Each Claim shall be accompanied by claimant's written statement that the adjustment claimed is the entire adjustment to which the claimant believes it is entitled as a result of said event. The opposing party shall submit any response to ENGINEER and the claimant within 30 days after receipt of the claimant's last submittal (unless ENGINEER allows additional time).

B. *ENGINEER's Decision:* ENGINEER will render a formal decision in writing within 30 days after receipt of the last submittal of the claimant or the last submittal of the opposing party, if any. ENGINEER's written decision on such Claim, dispute, or other matter will be final and binding upon OWNER and CONTRACTOR unless:

1. an appeal from ENGINEER's decision is taken within the time limits and in accordance with the dispute resolution procedures set forth in Article 16; or

2. if no such dispute resolution procedures have been set forth in Article 16, a written notice of intention to appeal from ENGINEER's written decision is delivered by OWNER or CONTRACTOR to the other and to ENGINEER within 30 days after the date of such decision, and a formal proceeding is instituted by the appealing party in a forum of competent jurisdiction within 60 days after the date of such decision or within 60 days after Substantial Completion, whichever is later (unless otherwise agreed in writing by OWNER and CONTRACTOR), to exercise such rights or remedies as the appealing party may have with respect to such Claim, dispute, or other matter in accordance with applicable Laws and Regulations.

C. If ENGINEER does not render a formal decision in writing within the time stated in paragraph 10.05.B, a decision denying the Claim in its entirety shall be deemed to have been issued 31 days after receipt of the last submittal of the claimant or the last submittal of the opposing party, if any.

D. No Claim for an adjustment in Contract Price or Contract Times (or Milestones) will be valid if not submitted in accordance with this paragraph 10.05.

ARTICLE 11 - COST OF THE WORK; CASH ALLOWANCES; UNIT PRICE WORK

11.01 *Cost of the Work*

A. *Costs Included:* The term Cost of the Work means the sum of all costs necessarily incurred and paid by CONTRACTOR in the proper performance of the Work. When the value of any Work covered by a Change Order or when a Claim for an adjustment in Contract Price is determined on the basis of Cost of the Work, the costs to be reimbursed to CONTRACTOR will be only those additional or incremental costs required because of the change in the Work or because of the event giving rise to the Claim. Except as otherwise may be agreed to in writing by OWNER, such costs shall be in amounts no higher than those prevailing in the locality of the Project, shall include only the following items, and shall not include any of the costs itemized in paragraph 11.01.B.

1. Payroll costs for employees in the direct employ of CONTRACTOR in the performance of the Work under schedules of job classifications agreed upon by OWNER and CONTRACTOR. Such employees shall include without limitation superintendents, foremen, and other personnel employed full time at the Site. Payroll costs for employees not employed full time on the Work shall be apportioned on the basis of their time spent on the Work. Payroll costs shall include, but not be limited to, salaries and wages plus the cost of fringe benefits, which shall include social security contributions, unemployment, excise, and payroll taxes, workers' compensation, health and retirement benefits, bonuses, sick leave, vacation and holiday pay applicable thereto. The expenses of performing Work outside of regular working hours, on Saturday, Sunday, or legal holidays, shall be included in the above to the extent authorized by OWNER.

2. Cost of all materials and equipment furnished and incorporated in the Work, including costs of transportation and storage thereof, and Suppliers' field services required in connection therewith. All cash discounts shall accrue to CONTRACTOR unless OWNER deposits funds with CONTRACTOR with which to make payments, in which case the cash discounts shall accrue to OWNER. All trade discounts, rebates and refunds and returns from sale of surplus materials and equipment shall accrue to OWNER, and CONTRACTOR shall make provisions so that they may be obtained.

3. Payments made by CONTRACTOR to Subcontractors for Work performed by Subcontractors. If required by OWNER, CONTRACTOR shall obtain competitive bids from subcontractors acceptable to OWNER and CONTRACTOR and shall deliver such bids to OWNER, who will then determine, with the advice of ENGINEER, which bids, if any, will be acceptable. If any subcontract provides that the Subcontractor is to be paid on the basis of Cost of the Work plus a fee, the Subcontractor's Cost of the Work and fee shall be determined in the same manner as CONTRACTOR's Cost of the Work and fee as provided in this paragraph 11.01.

4. Costs of special consultants (including but not limited to engineers, architects, testing laboratories, surveyors, attorneys, and accountants) employed for services specifically related to the Work.

5. Supplemental costs including the following:

a. The proportion of necessary transportation, travel, and subsistence expenses of CONTRACTOR's employees incurred in discharge of duties connected with the Work.

b. Cost, including transportation and maintenance, of all materials, supplies, equipment, machinery, appliances, office, and temporary facilities at the Site, and hand tools not owned by the workers, which are consumed in the performance of the Work, and cost, less market value, of such items used but not consumed which remain the property of CONTRACTOR.

c. Rentals of all construction equipment and machinery, and the parts thereof whether rented from CONTRACTOR or others in accordance with rental agreements approved by OWNER with the advice of ENGINEER, and the costs of transportation, loading, unloading, assembly, dismantling, and removal thereof. All such costs shall be in accordance with the terms of said rental agreements. The rental of any such equipment, machinery, or parts shall cease when the use thereof is no longer necessary for the Work.

d. Sales, consumer, use, and other similar taxes related to the Work, and for which CONTRACTOR is liable, imposed by Laws and Regulations.

e. Deposits lost for causes other than negligence of CONTRACTOR, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable, and royalty payments and fees for permits and licenses.

f. Losses and damages (and related expenses) caused by damage to the Work, not compensated by insurance or otherwise, sustained by CONTRACTOR in connection with the performance of the Work (except losses and damages within the deductible amounts of property insurance established in accordance with paragraph 5.06.D), provided such losses and damages have resulted from causes other than the negligence of CONTRACTOR, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable. Such losses shall include settlements made with the written consent and approval of OWNER. No such losses, damages, and expenses shall be included in the Cost of the Work for the purpose of determining CONTRACTOR's fee.

g. The cost of utilities, fuel, and sanitary facilities at the Site.

h. Minor expenses such as telegrams, long distance telephone calls, telephone service at the Site, expressage, and similar petty cash items in connection with the Work.

i. When the Cost of the Work is used to determine the value of a Change Order or of a Claim, the cost of premiums for additional Bonds and insurance required because of the changes in the Work or caused by the event giving rise to the Claim.

j. When all the Work is performed on the basis of cost-plus, the costs of premiums for all Bonds and insurance CONTRACTOR is required by the Contract Documents to purchase and maintain.

B. *Costs Excluded:* The term Cost of the Work shall not include any of the following items:

1. Payroll costs and other compensation of CONTRACTOR's officers, executives, principals (of partnerships and sole proprietorships), general managers, engineers, architects, estimators, attorneys, auditors, accountants, purchasing and contracting agents, expediters, timekeepers, clerks, and other personnel employed by CONTRACTOR, whether at the Site or in CONTRACTOR's principal or branch office for general administration of the Work and not specifically included in the agreed upon schedule of job classifications referred to in paragraph 11.01.A.1 or specifically covered by paragraph 11.01.A.4, all of which are to be

considered administrative costs covered by the CONTRACTOR's fee.

2. Expenses of CONTRACTOR's principal and branch offices other than CONTRACTOR's office at the Site.

3. Any part of CONTRACTOR's capital expenses, including interest on CONTRACTOR's capital employed for the Work and charges against CONTRACTOR for delinquent payments.

4. Costs due to the negligence of CONTRACTOR, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable, including but not limited to, the correction of defective Work, disposal of materials or equipment wrongly supplied, and making good any damage to property.

5. Other overhead or general expense costs of any kind and the costs of any item not specifically and expressly included in paragraphs 11.01.A and 11.01.B.

C. *CONTRACTOR's Fee:* When all the Work is performed on the basis of cost-plus, CONTRACTOR's fee shall be determined as set forth in the Agreement. When the value of any Work covered by a Change Order or when a Claim for an adjustment in Contract Price is determined on the basis of Cost of the Work, CONTRACTOR's fee shall be determined as set forth in paragraph 12.01.C.

D. *Documentation:* Whenever the Cost of the Work for any purpose is to be determined pursuant to paragraphs 11.01.A and 11.01.B, CONTRACTOR will establish and maintain records thereof in accordance with generally accepted accounting practices and submit in a form acceptable to ENGINEER an itemized cost breakdown together with supporting data.

11.02 *Cash Allowances*

A. It is understood that CONTRACTOR has included in the Contract Price all allowances so named in the Contract Documents and shall cause the Work so covered to be performed for such sums as may be acceptable to OWNER and ENGINEER. CONTRACTOR agrees that:

1. the allowances include the cost to CONTRACTOR (less any applicable trade discounts) of materials and equipment required by the allowances to be delivered at the Site, and all applicable taxes; and

2. CONTRACTOR's costs for unloading and handling on the Site, labor, installation costs, overhead, profit, and other expenses contemplated for the allowances have been included in the Contract Price and not in the allowances, and no demand for additional payment on account of any of the foregoing will be valid.

B. Prior to final payment, an appropriate Change Order will be issued as recommended by ENGINEER to reflect actual amounts due CONTRACTOR on account of Work covered by allowances, and the Contract Price shall be correspondingly adjusted.

11.03 *Unit Price Work*

A. Where the Contract Documents provide that all or part of the Work is to be Unit Price Work, initially the Contract Price will be deemed to include for all Unit Price Work an amount equal to the sum of the unit price for each separately identified item of Unit Price Work times the estimated quantity of each item as indicated in the Agreement. The estimated quantities of items of Unit Price Work are not guaranteed and are solely for the purpose of comparison of Bids and determining an initial Contract Price. Determinations of the actual quantities and classifications of Unit Price Work performed by CONTRACTOR will be made by ENGINEER subject to the provisions of paragraph 9.08.

B. Each unit price will be deemed to include an amount considered by CONTRACTOR to be adequate to cover CONTRACTOR's overhead and profit for each separately identified item.

C. OWNER or CONTRACTOR may make a Claim for an adjustment in the Contract Price in accordance with paragraph 10.05 if:

1. the quantity of any item of Unit Price Work performed by CONTRACTOR differs materially and significantly from the estimated quantity of such item indicated in the Agreement; and

2. there is no corresponding adjustment with respect any other item of Work; and

3. if CONTRACTOR believes that CONTRACTOR is entitled to an increase in Contract Price as a result of having incurred additional expense or OWNER believes that OWNER is entitled to a decrease in Contract Price and the parties are unable to agree as to the amount of any such increase or decrease.

ARTICLE 12 - CHANGE OF CONTRACT PRICE; CHANGE OF CONTRACT TIMES

12.01 *Change of Contract Price*

A. The Contract Price may only be changed by a Change Order or by a Written Amendment. Any Claim for an adjustment in the Contract Price shall be based on written notice submitted by the party making the Claim to the ENGINEER and the other party to the Contract in accordance with the provisions of paragraph 10.05.

B. The value of any Work covered by a Change Order or of any Claim for an adjustment in the Contract Price will be determined as follows:

1. where the Work involved is covered by unit prices contained in the Contract Documents, by application of such unit prices to the quantities of the items involved (subject to the provisions of paragraph 11.03); or

2. where the Work involved is not covered by unit prices contained in the Contract Documents, by a mutually agreed lump sum (which may include an allowance for overhead and profit not necessarily in accordance with paragraph 12.01.C.2); or

3. where the Work involved is not covered by unit prices contained in the Contract Documents and agreement to a lump sum is not reached under paragraph 12.01.B.2, on the basis of the Cost of the Work (determined as provided in paragraph 11.01) plus a CONTRACTOR's fee for overhead and profit (determined as provided in paragraph 12.01.C).

C. *CONTRACTOR's Fee:* The CONTRACTOR's fee for overhead and profit shall be determined as follows:

1. a mutually acceptable fixed fee; or

2. if a fixed fee is not agreed upon, then a fee based on the following percentages of the various portions of the Cost of the Work:

a. for costs incurred under paragraphs 11.01.A.1 and 11.01.A.2, the CONTRACTOR's fee shall be 15 percent;

b. for costs incurred under paragraph 11.01.A.3, the CONTRACTOR's fee shall be five percent;

c. where one or more tiers of subcontracts are on the basis of Cost of the Work plus a fee and no fixed fee is agreed upon, the intent of paragraph 12.01.C.2.a is that the Subcontractor who actually performs the Work, at whatever tier, will be paid a fee of 15 percent of the costs incurred by such Subcontractor under paragraphs 11.01.A.1 and 11.01.A.2 and that any higher tier Subcontractor and CONTRACTOR will each be paid a fee of five percent of the amount paid to the next lower tier Subcontractor;

d. no fee shall be payable on the basis of costs itemized under paragraphs 11.01.A.4, 11.01.A.5, and 11.01.B;

e. the amount of credit to be allowed by CONTRACTOR to OWNER for any change which results in a net decrease in cost will be the amount of the actual net decrease in cost plus a deduction in CONTRACTOR's fee by an amount equal to five percent of such net decrease; and

f. when both additions and credits are involved in any one change, the adjustment in CONTRACTOR's fee shall be computed on the basis of the net change in accordance with paragraphs 12.01.C.2.a through 12.01.C.2.e, inclusive.

12.02 *Change of Contract Times*

A. The Contract Times (or Milestones) may only be changed by a Change Order or by a Written Amendment. Any Claim for an adjustment in the Contract Times (or Milestones) shall be based on written notice submitted by the party making the claim to the ENGINEER and the other party to the Contract in accordance with the provisions of paragraph 10.05.

B. Any adjustment of the Contract Times (or Milestones) covered by a Change Order or of any Claim for an adjustment in the Contract Times (or Milestones) will be determined in accordance with the provisions of this Article 12.

12.03 *Delays Beyond CONTRACTOR's Control*

A. Where CONTRACTOR is prevented from completing any part of the Work within the Contract Times (or Milestones) due to delay beyond the control of CONTRACTOR, the Contract Times (or Milestones) will be extended in an amount equal to the time lost due to such delay if a Claim is made therefor as provided in paragraph 12.02.A. Delays beyond the control of CONTRACTOR shall include, but not be limited to, acts or neglect by OWNER, acts or neglect of utility owners or other contractors performing other work as contemplated by

Article 7, fires, floods, epidemics, abnormal weather conditions, or acts of God.

12.04 *Delays Within CONTRACTOR's Control*

A. The Contract Times (or Milestones) will not be extended due to delays within the control of CONTRACTOR. Delays attributable to and within the control of a Subcontractor or Supplier shall be deemed to be delays within the control of CONTRACTOR.

12.05 *Delays Beyond OWNER's and CONTRACTOR's Control*

A. Where CONTRACTOR is prevented from completing any part of the Work within the Contract Times (or Milestones) due to delay beyond the control of both OWNER and CONTRACTOR, an extension of the Contract Times (or Milestones) in an amount equal to the time lost due to such delay shall be CONTRACTOR's sole and exclusive remedy for such delay.

12.06 *Delay Damages*

A. In no event shall OWNER or ENGINEER be liable to CONTRACTOR, any Subcontractor, any Supplier, or any other person or organization, or to any surety for or employee or agent of any of them, for damages arising out of or resulting from:

1. delays caused by or within the control of CONTRACTOR; or

2. delays beyond the control of both OWNER and CONTRACTOR including but not limited to fires, floods, epidemics, abnormal weather conditions, acts of God, or acts or neglect by utility owners or other contractors performing other work as contemplated by Article 7.

B. Nothing in this paragraph 12.06 bars a change in Contract Price pursuant to this Article 12 to compensate CONTRACTOR due to delay, interference, or disruption directly attributable to actions or inactions of OWNER or anyone for whom OWNER is responsible.

ARTICLE 13 - TESTS AND INSPECTIONS; CORRECTION, REMOVAL OR ACCEPTANCE OF DEFECTIVE WORK

13.01 *Notice of Defects*

A. Prompt notice of all defective Work of which OWNER or ENGINEER has actual knowledge will be given to CONTRACTOR. All defective Work may be rejected, corrected, or accepted as provided in this Article 13.

13.02 *Access to Work*

A. OWNER, ENGINEER, ENGINEER's Consultants, other representatives and personnel of OWNER, independent testing laboratories, and governmental agencies with jurisdictional interests will have access to the Site and the Work at reasonable times for their observation, inspecting, and testing. CONTRACTOR shall provide them proper and safe conditions for such access and advise them of CONTRACTOR's Site safety procedures and programs so that they may comply therewith as applicable.

13.03 *Tests and Inspections*

A. CONTRACTOR shall give ENGINEER timely notice of readiness of the Work for all required inspections, tests, or approvals and shall cooperate with inspection and testing personnel to facilitate required inspections or tests.

B. OWNER shall employ and pay for the services of an independent testing laboratory to perform all inspections, tests, or approvals required by the Contract Documents except:

1. for inspections, tests, or approvals covered by paragraphs 13.03.C and 13.03.D below;

2. that costs incurred in connection with tests or inspections conducted pursuant to paragraph 13.04.B shall be paid as provided in said paragraph 13.04.B; and

3. as otherwise specifically provided in the Contract Documents.

C. If Laws or Regulations of any public body having jurisdiction require any Work (or part thereof) specifically to be inspected, tested, or approved by an employee or other representative of such public body, CONTRACTOR shall assume full responsibility for arranging and obtaining such inspections, tests, or approvals, pay all costs in connection therewith, and furnish ENGINEER the required certificates of inspection or approval.

D. CONTRACTOR shall be responsible for arranging and obtaining and shall pay all costs in connection with any inspections, tests, or approvals required for OWNER's and ENGINEER's acceptance of materials or equipment to be incorporated in the Work; or acceptance of materials, mix designs, or equipment submitted for approval prior to CONTRACTOR's purchase thereof for incorporation in the Work. Such inspections, tests, or approvals shall be performed by organizations acceptable to OWNER and ENGINEER.

E. If any Work (or the work of others) that is to be inspected, tested, or approved is covered by CONTRACTOR without written concurrence of ENGINEER, it must, if requested by ENGINEER, be uncovered for observation.

F. Uncovering Work as provided in paragraph 13.03.E shall be at CONTRACTOR's expense unless CONTRACTOR has given ENGINEER timely notice of CONTRACTOR's intention to cover the same and ENGINEER has not acted with reasonable promptness in response to such notice.

13.04 *Uncovering Work*

A. If any Work is covered contrary to the written request of ENGINEER, it must, if requested by ENGINEER, be uncovered for ENGINEER's observation and replaced at CONTRACTOR's expense.

B. If ENGINEER considers it necessary or advisable that covered Work be observed by ENGINEER or inspected or tested by others, CONTRACTOR, at ENGINEER's request, shall uncover, expose, or otherwise make available for observation, inspection, or testing as ENGINEER may require, that portion of the Work in question, furnishing all necessary labor, material, and equipment. If it is found that such Work is defective, CONTRACTOR shall pay all Claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such uncovering, exposure, observation, inspection, and testing, and of satisfactory replacement or reconstruction (including but not limited to all costs of repair or replacement of work of others); and OWNER shall be entitled to an appropriate decrease in the Contract Price. If the parties are unable to agree as to the amount thereof, OWNER may make a Claim therefor as provided in paragraph 10.05. If, however, such Work is not found to be defective, CONTRACTOR shall be allowed an increase in the Contract Price or an extension of the Contract Times (or Milestones), or both, directly attributable to such uncovering, exposure, observation, inspection, testing, replacement, and reconstruction. If the parties are unable to agree as to the amount or extent thereof, CONTRACTOR may make a Claim therefor as provided in paragraph 10.05.

13.05 *OWNER May Stop the Work*

A. If the Work is defective, or CONTRACTOR fails to supply sufficient skilled workers or suitable materials or equipment, or fails to perform the Work in such a way that the completed Work will conform to the Contract Documents, OWNER may order CONTRACTOR to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, this right of OWNER to stop the Work shall not give rise to any duty on the part of OWNER to exercise this right for the benefit of CONTRACTOR, any Subcontractor, any Supplier, any other individual or entity, or any surety for, or employee or agent of any of them.

13.06 *Correction or Removal of Defective Work*

A. CONTRACTOR shall correct all defective Work, whether or not fabricated, installed, or completed, or, if the Work has been rejected by ENGINEER, remove it from the Project and replace it with Work that is not defective. CONTRACTOR shall pay all Claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such correction or removal (including but not limited to all costs of repair or replacement of work of others).

13.07 *Correction Period*

A. If within one year after the date of Substantial Completion or such longer period of time as may be prescribed by Laws or Regulations or by the terms of any applicable special guarantee required by the Contract Documents or by any specific provision of the Contract Documents, any Work is found to be defective, or if the repair of any damages to the land or areas made available for CONTRACTOR's use by OWNER or permitted by Laws and Regulations as contemplated in paragraph 6.11.A is found to be defective, CONTRACTOR shall promptly, without cost to OWNER and in accordance with OWNER's written instructions: (i) repair such defective land or areas, or (ii) correct such defective Work or, if the defective Work has been rejected by OWNER, remove it from the Project and replace it with Work that is not defective, and (iii) satisfactorily correct or repair or remove and replace any damage to other Work, to the work of others or other land or areas resulting therefrom. If CONTRACTOR does not promptly comply with the terms of such instructions, or in an emergency where delay would cause serious risk of loss or damage, OWNER may have the defective Work corrected or repaired or may have the rejected Work removed and replaced, and all Claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such correction or repair or such removal and replacement (including but not limited to all costs of repair or replacement of work of others) will be paid by CONTRACTOR.

B. In special circumstances where a particular item of equipment is placed in continuous service before Substantial Completion of all the Work, the correction period for that

item may start to run from an earlier date if so provided in the Specifications or by Written Amendment.

C. Where defective Work (and damage to other Work resulting therefrom) has been corrected or removed and replaced under this paragraph 13.07, the correction period hereunder with respect to such Work will be extended for an additional period of one year after such correction or removal and replacement has been satisfactorily completed.

D. CONTRACTOR's obligations under this paragraph 13.07 are in addition to any other obligation or warranty. The provisions of this paragraph 13.07 shall not be construed as a substitute for or a waiver of the provisions of any applicable statute of limitation or repose.

13.08 *Acceptance of Defective Work*

A. If, instead of requiring correction or removal and replacement of defective Work, OWNER (and, prior to ENGINEER's recommendation of final payment, ENGINEER) prefers to accept it, OWNER may do so. CONTRACTOR shall pay all Claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) attributable to OWNER's evaluation of and determination to accept such defective Work (such costs to be approved by ENGINEER as to reasonableness) and the diminished value of the Work to the extent not otherwise paid by CONTRACTOR pursuant to this sentence. If any such acceptance occurs prior to ENGINEER's recommendation of final payment, a Change Order will be issued incorporating the necessary revisions in the Contract Documents with respect to the Work, and OWNER shall be entitled to an appropriate decrease in the Contract Price, reflecting the diminished value of Work so accepted. If the parties are unable to agree as to the amount thereof, OWNER may make a Claim therefor as provided in paragraph 10.05. If the acceptance occurs after such recommendation, an appropriate amount will be paid by CONTRACTOR to OWNER.

13.09 *OWNER May Correct Defective Work*

A. If CONTRACTOR fails within a reasonable time after written notice from ENGINEER to correct defective Work or to remove and replace rejected Work as required by ENGINEER in accordance with paragraph 13.06.A, or if CONTRACTOR fails to perform the Work in accordance with the Contract Documents, or if CONTRACTOR fails to comply with any other provision of the Contract Documents, OWNER may, after seven days written notice to CONTRACTOR, correct and remedy any such deficiency.

B. In exercising the rights and remedies under this paragraph, OWNER shall proceed expeditiously. In connection with such corrective and remedial action, OWNER may exclude CONTRACTOR from all or part of the Site, take possession of all or part of the Work and suspend CONTRACTOR's services related thereto, take possession of CONTRACTOR's tools, appliances, construction equipment and machinery at the Site, and incorporate in the Work all materials and equipment stored at the Site or for which OWNER has paid CONTRACTOR but which are stored elsewhere. CONTRACTOR shall allow OWNER, OWNER's representatives, agents and employees, OWNER's other contractors, and ENGINEER and ENGINEER's Consultants access to the Site to enable OWNER to exercise the rights and remedies under this paragraph.

C. All Claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) incurred or sustained by OWNER in exercising the rights and remedies under this paragraph 13.09 will be charged against CONTRACTOR, and a Change Order will be issued incorporating the necessary revisions in the Contract Documents with respect to the Work; and OWNER shall be entitled to an appropriate decrease in the Contract Price. If the parties are unable to agree as to the amount of the adjustment, OWNER may make a Claim therefor as provided in paragraph 10.05. Such claims, costs, losses and damages will include but not be limited to all costs of repair, or replacement of work of others destroyed or damaged by correction, removal, or replacement of CONTRACTOR's defective Work.

D. CONTRACTOR shall not be allowed an extension of the Contract Times (or Milestones) because of any delay in the performance of the Work attributable to the exercise by OWNER of OWNER's rights and remedies under this paragraph 13.09.

ARTICLE 14 - PAYMENTS TO CONTRACTOR AND COMPLETION

14.01 *Schedule of Values*

A. The schedule of values established as provided in paragraph 2.07.A will serve as the basis for progress payments and will be incorporated into a form of Application for Payment acceptable to ENGINEER. Progress payments on account of Unit Price Work will be based on the number of units completed.

14.02 *Progress Payments*

A. *Applications for Payments*

1. At least 20 days before the date established for each progress payment (but not more often than once a month), CONTRACTOR shall submit to ENGINEER for review an Application for Payment filled out and signed by CONTRACTOR covering the Work completed as of the date of the Application and accompanied by such supporting documentation as is required by the Contract Documents. If payment is requested on the basis of materials and equipment not incorporated in the Work but delivered and suitably stored at the Site or at another location agreed to in writing, the Application for Payment shall also be accompanied by a bill of sale, invoice, or other documentation warranting that OWNER has received the materials and equipment free and clear of all Liens and evidence that the materials and equipment are covered by appropriate property insurance or other arrangements to protect OWNER's interest therein, all of which must be satisfactory to OWNER.

2. Beginning with the second Application for Payment, each Application shall include an affidavit of CONTRACTOR stating that all previous progress payments received on account of the Work have been applied on account to discharge CONTRACTOR's legitimate obligations associated with prior Applications for Payment.

3. The amount of retainage with respect to progress payments will be as stipulated in the Agreement.

B. *Review of Applications*

1. ENGINEER will, within 10 days after receipt of each Application for Payment, either indicate in writing a recommendation of payment and present the Application to OWNER or return the Application to CONTRACTOR indicating in writing ENGINEER's reasons for refusing to recommend payment. In the latter case, CONTRACTOR may make the necessary corrections and resubmit the Application.

2. ENGINEER's recommendation of any payment requested in an Application for Payment will constitute a representation by ENGINEER to OWNER, based on ENGINEER's observations on the Site of the executed Work as an experienced and qualified design professional and on ENGINEER's review of the Application for Payment and the accompanying data and schedules, that to the best of ENGINEER's knowledge, information and belief:

a. the Work has progressed to the point indicated;

b. the quality of the Work is generally in accordance with the Contract Documents (subject to an evaluation of the Work as a functioning whole prior to or upon Substantial Completion, to the results of any subsequent tests called for in the Contract Documents, to a final determination of quantities and classifications for Unit Price Work under paragraph 9.08, and to any other qualifications stated in the recommendation); and

c. the conditions precedent to CONTRACTOR's being entitled to such payment appear to have been fulfilled in so far as it is ENGINEER's responsibility to observe the Work.

3. By recommending any such payment ENGINEER will not thereby be deemed to have represented that: (i) inspections made to check the quality or the quantity of the Work as it has been performed have been exhaustive, extended to every aspect of the Work in progress, or involved detailed inspections of the Work beyond the responsibilities specifically assigned to ENGINEER in the Contract Documents; or (ii) that there may not be other matters or issues between the parties that might entitle CONTRACTOR to be paid additionally by OWNER or entitle OWNER to withhold payment to CONTRACTOR.

4. Neither ENGINEER's review of CONTRACTOR's Work for the purposes of recommending payments nor ENGINEER's recommendation of any payment, including final payment, will impose responsibility on ENGINEER to supervise, direct, or control the Work or for the means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or for CONTRACTOR's failure to comply with Laws and Regulations applicable to CONTRACTOR's performance of the Work. Additionally, said review or recommendation will not impose responsibility on ENGINEER to make any examination to ascertain how or for what purposes CONTRACTOR has used the moneys paid on account of the Contract Price, or to determine that title to any of the Work, materials, or equipment has passed to OWNER free and clear of any Liens.

5. ENGINEER may refuse to recommend the whole or any part of any payment if, in ENGINEER's opinion, it would be incorrect to make the representations to OWNER referred to in paragraph 14.02.B.2. ENGINEER may also refuse to recommend any such payment or, because of subsequently discovered evidence or the results of subsequent inspections or tests,

revise or revoke any such payment recommendation previously made, to such extent as may be necessary in ENGINEER's opinion to protect OWNER from loss because:

a. the Work is defective, or completed Work has been damaged, requiring correction or replacement;

b. the Contract Price has been reduced by Written Amendment or Change Orders;

c. OWNER has been required to correct defective Work or complete Work in accordance with paragraph 13.09; or

d. ENGINEER has actual knowledge of the occurrence of any of the events enumerated in paragraph 15.02.A.

C. *Payment Becomes Due*

1. Ten days after presentation of the Application for Payment to OWNER with ENGINEER's recommendation, the amount recommended will (subject to the provisions of paragraph 14.02.D) become due, and when due will be paid by OWNER to CONTRACTOR.

D. *Reduction in Payment*

1. OWNER may refuse to make payment of the full amount recommended by ENGINEER because:

a. claims have been made against OWNER on account of CONTRACTOR's performance or furnishing of the Work;

b. Liens have been filed in connection with the Work, except where CONTRACTOR has delivered a specific Bond satisfactory to OWNER to secure the satisfaction and discharge of such Liens;

c. there are other items entitling OWNER to a set-off against the amount recommended; or

d. OWNER has actual knowledge of the occurrence of any of the events enumerated in paragraphs 14.02.B.5.a through 14.02.B.5.c or paragraph 15.02.A.

2. If OWNER refuses to make payment of the full amount recommended by ENGINEER, OWNER must give CONTRACTOR immediate written notice (with a copy to ENGINEER) stating the reasons for such action and promptly pay CONTRACTOR any amount remaining after deduction of the amount so withheld. OWNER shall promptly pay CONTRACTOR the amount so withheld, or any adjustment thereto agreed to by OWNER and CONTRACTOR, when CONTRACTOR corrects to OWNER's satisfaction the reasons for such action.

3. If it is subsequently determined that OWNER's refusal of payment was not justified, the amount wrongfully withheld shall be treated as an amount due as determined by paragraph 14.02.C.1.

14.03 *CONTRACTOR's Warranty of Title*

A. CONTRACTOR warrants and guarantees that title to all Work, materials, and equipment covered by any Application for Payment, whether incorporated in the Project or not, will pass to OWNER no later than the time of payment free and clear of all Liens.

14.04 *Substantial Completion*

A. When CONTRACTOR considers the entire Work ready for its intended use CONTRACTOR shall notify OWNER and ENGINEER in writing that the entire Work is substantially complete (except for items specifically listed by CONTRACTOR as incomplete) and request that ENGINEER issue a certificate of Substantial Completion. Promptly thereafter, OWNER, CONTRACTOR, and ENGINEER shall make an inspection of the Work to determine the status of completion. If ENGINEER does not consider the Work substantially complete, ENGINEER will notify CONTRACTOR in writing giving the reasons therefor. If ENGINEER considers the Work substantially complete, ENGINEER will prepare and deliver to OWNER a tentative certificate of Substantial Completion which shall fix the date of Substantial Completion. There shall be attached to the certificate a tentative list of items to be completed or corrected before final payment. OWNER shall have seven days after receipt of the tentative certificate during which to make written objection to ENGINEER as to any provisions of the certificate or attached list. If, after considering such objections, ENGINEER concludes that the Work is not substantially complete, ENGINEER will within 14 days after submission of the tentative certificate to OWNER notify CONTRACTOR in writing, stating the reasons therefor. If, after consideration of OWNER's objections, ENGINEER considers the Work substantially complete, ENGINEER will within said 14 days execute and deliver to OWNER and CONTRACTOR a definitive certificate of Substantial Completion (with a revised tentative list of items to be completed or corrected) reflecting such changes from the tentative certificate as ENGINEER believes justified after consideration of any objections from OWNER. At the time of delivery of the tentative certificate of Substantial Completion ENGINEER will deliver to OWNER and CONTRACTOR a written recommendation as to division of responsibili-

ties pending final payment between OWNER and CONTRACTOR with respect to security, operation, safety, and protection of the Work, maintenance, heat, utilities, insurance, and warranties and guarantees. Unless OWNER and CONTRACTOR agree otherwise in writing and so inform ENGINEER in writing prior to ENGINEER's issuing the definitive certificate of Substantial Completion, ENGINEER's aforesaid recommendation will be binding on OWNER and CONTRACTOR until final payment.

B. OWNER shall have the right to exclude CONTRACTOR from the Site after the date of Substantial Completion, but OWNER shall allow CONTRACTOR reasonable access to complete or correct items on the tentative list.

14.05 *Partial Utilization*

A. Use by OWNER at OWNER's option of any substantially completed part of the Work which has specifically been identified in the Contract Documents, or which OWNER, ENGINEER, and CONTRACTOR agree constitutes a separately functioning and usable part of the Work that can be used by OWNER for its intended purpose without significant interference with CONTRACTOR's performance of the remainder of the Work, may be accomplished prior to Substantial Completion of all the Work subject to the following conditions.

1. OWNER at any time may request CONTRACTOR in writing to permit OWNER to use any such part of the Work which OWNER believes to be ready for its intended use and substantially complete. If CONTRACTOR agrees that such part of the Work is substantially complete, CONTRACTOR will certify to OWNER and ENGINEER that such part of the Work is substantially complete and request ENGINEER to issue a certificate of Substantial Completion for that part of the Work. CONTRACTOR at any time may notify OWNER and ENGINEER in writing that CONTRACTOR considers any such part of the Work ready for its intended use and substantially complete and request ENGINEER to issue a certificate of Substantial Completion for that part of the Work. Within a reasonable time after either such request, OWNER, CONTRACTOR, and ENGINEER shall make an inspection of that part of the Work to determine its status of completion. If ENGINEER does not consider that part of the Work to be substantially complete, ENGINEER will notify OWNER and CONTRACTOR in writing giving the reasons therefor. If ENGINEER considers that part of the Work to be substantially complete, the provisions of paragraph 14.04 will apply with respect to certification of Substantial Completion of that part of the Work and the division of responsibility in respect thereof and access thereto.

2. No occupancy or separate operation of part of the Work may occur prior to compliance with the requirements of paragraph 5.10 regarding property insurance.

14.06 *Final Inspection*

A. Upon written notice from CONTRACTOR that the entire Work or an agreed portion thereof is complete, ENGINEER will promptly make a final inspection with OWNER and CONTRACTOR and will notify CONTRACTOR in writing of all particulars in which this inspection reveals that the Work is incomplete or defective. CONTRACTOR shall immediately take such measures as are necessary to complete such Work or remedy such deficiencies.

14.07 *Final Payment*

A. *Application for Payment*

1. After CONTRACTOR has, in the opinion of ENGINEER, satisfactorily completed all corrections identified during the final inspection and has delivered, in accordance with the Contract Documents, all maintenance and operating instructions, schedules, guarantees, Bonds, certificates or other evidence of insurance certificates of inspection, marked-up record documents (as provided in paragraph 6.12), and other documents, CONTRACTOR may make application for final payment following the procedure for progress payments.

2. The final Application for Payment shall be accompanied (except as previously delivered) by: (i) all documentation called for in the Contract Documents, including but not limited to the evidence of insurance required by subparagraph 5.04.B.7; (ii) consent of the surety, if any, to final payment; and (iii) complete and legally effective releases or waivers (satisfactory to OWNER) of all Lien rights arising out of or Liens filed in connection with the Work.

3. In lieu of the releases or waivers of Liens specified in paragraph 14.07.A.2 and as approved by OWNER, CONTRACTOR may furnish receipts or releases in full and an affidavit of CONTRACTOR that: (i) the releases and receipts include all labor, services, material, and equipment for which a Lien could be filed; and (ii) all payrolls, material and equipment bills, and other indebtedness connected with the Work for which OWNER or OWNER's property might in any way be responsible have been paid or otherwise satisfied. If any Subcontractor or Supplier fails to furnish such a release or receipt in full, CONTRACTOR may furnish a Bond or other collateral satisfactory to OWNER to indemnify OWNER against any Lien.

B. *Review of Application and Acceptance*

1. If, on the basis of ENGINEER's observation of the Work during construction and final inspection, and ENGINEER's review of the final Application for Payment and accompanying documentation as required by the Contract Documents, ENGINEER is satisfied that the Work has been completed and CONTRACTOR's other obligations under the Contract Documents have been fulfilled, ENGINEER will, within ten days after receipt of the final Application for Payment, indicate in writing ENGINEER's recommendation of payment and present the Application for Payment to OWNER for payment. At the same time ENGINEER will also give written notice to OWNER and CONTRACTOR that the Work is acceptable subject to the provisions of paragraph 14.09. Otherwise, ENGINEER will return the Application for Payment to CONTRACTOR, indicating in writing the reasons for refusing to recommend final payment, in which case CONTRACTOR shall make the necessary corrections and resubmit the Application for Payment.

C. *Payment Becomes Due*

1. Thirty days after the presentation to OWNER of the Application for Payment and accompanying documentation, the amount recommended by ENGINEER will become due and, when due, will be paid by OWNER to CONTRACTOR.

14.08 *Final Completion Delayed*

A. If, through no fault of CONTRACTOR, final completion of the Work is significantly delayed, and if ENGINEER so confirms, OWNER shall, upon receipt of CONTRACTOR's final Application for Payment and recommendation of ENGINEER, and without terminating the Agreement, make payment of the balance due for that portion of the Work fully completed and accepted. If the remaining balance to be held by OWNER for Work not fully completed or corrected is less than the retainage stipulated in the Agreement, and if Bonds have been furnished as required in paragraph 5.01, the written consent of the surety to the payment of the balance due for that portion of the Work fully completed and accepted shall be submitted by CONTRACTOR to ENGINEER with the Application for such payment. Such payment shall be made under the terms and conditions governing final payment, except that it shall not constitute a waiver of Claims.

14.09 *Waiver of Claims*

A. The making and acceptance of final payment will constitute:

1. a waiver of all Claims by OWNER against CONTRACTOR, except Claims arising from unsettled Liens, from defective Work appearing after final inspection pursuant to paragraph 14.06, from failure to comply with the Contract Documents or the terms of any special guarantees specified therein, or from CONTRACTOR's continuing obligations under the Contract Documents; and

2. a waiver of all Claims by CONTRACTOR against OWNER other than those previously made in writing which are still unsettled.

ARTICLE 15 - SUSPENSION OF WORK AND TERMINATION

15.01 *OWNER May Suspend Work*

A. At any time and without cause, OWNER may suspend the Work or any portion thereof for a period of not more than 90 consecutive days by notice in writing to CONTRACTOR and ENGINEER which will fix the date on which Work will be resumed. CONTRACTOR shall resume the Work on the date so fixed. CONTRACTOR shall be allowed an adjustment in the Contract Price or an extension of the Contract Times, or both, directly attributable to any such suspension if CONTRACTOR makes a Claim therefor as provided in paragraph 10.05.

15.02 *OWNER May Terminate for Cause*

A. The occurrence of any one or more of the following events will justify termination for cause:

1. CONTRACTOR's persistent failure to perform the Work in accordance with the Contract Documents. (including, but not limited to, failure to supply sufficient skilled workers or suitable materials or equipment or failure to adhere to the progress schedule established under paragraph 2.07 as adjusted from time to time pursuant to paragraph 6.04);

2. CONTRACTOR's disregard of Laws or Regulations of any public body having jurisdiction;

3. CONTRACTOR's disregard of the authority of ENGINEER; or

4. CONTRACTOR's violation in any substantial way of any provisions of the Contract Documents.

B. If one or more of the events identified in paragraph 15.02.A occur, OWNER may, after giving CONTRACTOR (and the surety, if any) seven days written notice, terminate

the services of CONTRACTOR, exclude CONTRACTOR from the Site, and take possession of the Work and of all CONTRACTOR's tools, appliances, construction equipment, and machinery at the Site, and use the same to the full extent they could be used by CONTRACTOR (without liability to CONTRACTOR for trespass or conversion), incorporate in the Work all materials and equipment stored at the Site or for which OWNER has paid CONTRACTOR but which are stored elsewhere, and finish the Work as OWNER may deem expedient. In such case, CONTRACTOR shall not be entitled to receive any further payment until the Work is finished. If the unpaid balance of the Contract Price exceeds all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) sustained by OWNER arising out of or relating to completing the Work, such excess will be paid to CONTRACTOR. If such claims, costs, losses, and damages exceed such unpaid balance, CONTRACTOR shall pay the difference to OWNER. Such claims, costs, losses, and damages incurred by OWNER will be reviewed by ENGINEER as to their reasonableness and, when so approved by ENGINEER, incorporated in a Change Order. When exercising any rights or remedies under this paragraph OWNER shall not be required to obtain the lowest price for the Work performed.

C. Where CONTRACTOR's services have been so terminated by OWNER, the termination will not affect any rights or remedies of OWNER against CONTRACTOR then existing or which may thereafter accrue. Any retention or payment of moneys due CONTRACTOR by OWNER will not release CONTRACTOR from liability.

15.03 *OWNER May Terminate For Convenience*

A. Upon seven days written notice to CONTRACTOR and ENGINEER, OWNER may, without cause and without prejudice to any other right or remedy of OWNER, elect to terminate the Contract. In such case, CONTRACTOR shall be paid (without duplication of any items):

1. for completed and acceptable Work executed in accordance with the Contract Documents prior to the effective date of termination, including fair and reasonable sums for overhead and profit on such Work;

2. for expenses sustained prior to the effective date of termination in performing services and furnishing labor, materials, or equipment as required by the Contract Documents in connection with uncompleted Work, plus fair and reasonable sums for overhead and profit on such expenses;

3. for all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) incurred in settlement of terminated contracts with Subcontractors, Suppliers, and others; and

4. for reasonable expenses directly attributable to termination.

B. CONTRACTOR shall not be paid on account of loss of anticipated profits or revenue or other economic loss arising out of or resulting from such termination.

15.04 *CONTRACTOR May Stop Work or Terminate*

A. If, through no act or fault of CONTRACTOR, the Work is suspended for more than 90 consecutive days by OWNER or under an order of court or other public authority, or ENGINEER fails to act on any Application for Payment within 30 days after it is submitted, or OWNER fails for 30 days to pay CONTRACTOR any sum finally determined to be due, then CONTRACTOR may, upon seven days written notice to OWNER and ENGINEER, and provided OWNER or ENGINEER do not remedy such suspension or failure within that time, terminate the Contract and recover from OWNER payment on the same terms as provided in paragraph 15.03. In lieu of terminating the Contract and without prejudice to any other right or remedy, if ENGINEER has failed to act on an Application for Payment within 30 days after it is submitted, or OWNER has failed for 30 days to pay CONTRACTOR any sum finally determined to be due, CONTRACTOR may, seven days after written notice to OWNER and ENGINEER, stop the Work until payment is made of all such amounts due CONTRACTOR, including interest thereon. The provisions of this paragraph 15.04 are not intended to preclude CONTRACTOR from making a Claim under paragraph 10.05 for an adjustment in Contract Price or Contract Times or otherwise for expenses or damage directly attributable to CONTRACTOR's stopping the Work as permitted by this paragraph.

ARTICLE 16 - DISPUTE RESOLUTION

16.01 *Methods and Procedures*

A. Dispute resolution methods and procedures, if any, shall be as set forth in the Supplementary Conditions. If no method and procedure has been set forth, and subject to the provisions of paragraphs 9.09 and 10.05, OWNER and CONTRACTOR may exercise such rights or remedies as either may otherwise have under the Contract Documents or by Laws or Regulations in respect of any dispute.

ARTICLE 17 - MISCELLANEOUS

17.01 *Giving Notice*

A. Whenever any provision of the Contract Documents requires the giving of written notice, it will be deemed to have been validly given if delivered in person to the individual or to a member of the firm or to an officer of the corporation for whom it is intended, or if delivered at or sent by registered or certified mail, postage prepaid, to the last business address known to the giver of the notice.

17.02 *Computation of Times*

A. When any period of time is referred to in the Contract Documents by days, it will be computed to exclude the first and include the last day of such period. If the last day of any such period falls on a Saturday or Sunday or on a day made a legal holiday by the law of the applicable jurisdiction, such day will be omitted from the computation.

17.03 *Cumulative Remedies*

A. The duties and obligations imposed by these General Conditions and the rights and remedies available hereunder to the parties hereto are in addition to, and are not to be construed in any way as a limitation of, any rights and remedies available to any or all of them which are otherwise imposed or available by Laws or Regulations, by special warranty or guarantee, or by other provisions of the Contract Documents, and the provisions of this paragraph will be as effective as if repeated specifically in the Contract Documents in connection with each particular duty, obligation, right, and remedy to which they apply.

17.04 *Survival of Obligations*

A. All representations, indemnifications, warranties, and guarantees made in, required by, or given in accordance with the Contract Documents, as well as all continuing obligations indicated in the Contract Documents, will survive final payment, completion, and acceptance of the Work or termination or completion of the Agreement.

17.05 *Controlling Law*

A. This Contract is to be governed by the law of the state in which the Project is located.

SUPPLEMENTARY CONDITIONS

1.01 GENERAL

These Supplementary Conditions amend or supplement the Standard General Conditions of the Construction Contract (No. 1910-8, 1996 edit.) and other provisions of the Contract Documents as indicated below. All provisions which are not so amended or supplemented remain in full force and effect. If there is a conflict between the Contract, General Conditions (No. 1910-8, 1996 edit.) and these Supplementary Conditions, the terms of the Supplementary Conditions shall control.

The Contractor shall note physically by cross out or cross reference notations all changes in the General Conditions called for in the Supplementary Conditions before submitting his Bid.

Unless otherwise indicated in these Supplementary Conditions, replace the term "ENGINEER" wherever used in the Standard General Conditions of Contract and in these Supplementary Conditions, with "TOWN". The words "TOWN" and "OWNER" may be used interchangeably throughout these documents.

ARTICLE 1 – DEFINITIONS – Page 6

SC-1.01.A

The terms used in these Supplementary Conditions which are defined in the Standard General Conditions of the Construction Contract (No. 1910-8, 1996 edit.) have the meanings assigned to them in the General Conditions, unless otherwise indicated.

Amend paragraph SC-1.01.A.42 by replacing it with the following paragraph:

Subcontractor – An individual or entity having a direct contract with CONTRACTOR. Sub-Subcontractor is an individual or entity having a direct contract with any Subcontractor for the performance of a part of Work at the Project.

ARTICLE 5 – BONDS AND INSURANCE – Page 15

SC-5.01

Amend paragraph 5.01.C by adding the following language at the end of the paragraph:

Any additional costs shall be borne by the Contractor.

SC-5.04

Add the new paragraphs immediately after paragraph 5.04 of the General Conditions.

The limits of liability for the insurance required by paragraph 5.04 of the General Conditions shall provide coverage for not less than the following amounts or greater where required by law:

5.04.A.1 and 5.04.A.2 Worker's Compensation, etc. under paragraphs 5.04.A.1 and 5.04.A.2 of the General Conditions:

1. Comprehensive General Liability:
   (a) Coverage to include Premise/Operations, Broad Form Property Damage, Contractual and Personal Injury, and XCU (where applicable).

2. Limits:

(a)	General Aggregate	$1,000,000
(b)	Each Occurrence	$1,000,000
(c)	Personal Injury	$1,000,000

3. Coverage is to be written on an "occurrence" basis.

4. Owners and Contractors Protection:

(a)	Bodily Injury:	
	Annual Aggregate	$2,000,000
	Each Occurrence	$1,000,000
(b)	Property Damage:	
	Annual Aggregate	$2,000,000
	Each Occurrence	$1,000,000

5. Worker's Compensation shall be in accordance with the provisions of the laws of the State of Florida.

5.04.A.6 Comprehensive Automobile Liability:

(a) Coverage to include all owned, hired, non-owned vehicles, and/or trailers and other equipment required to be licensed.

(b) Limits:

Combined Single Limit	$2,000,000

5.04.B.1 Umbrella:

(a) Limits:

Aggregate	$1,000,000

(b) Cover all claims arising out of the contractor's operations or premises, anyone directly or indirectly employed by the Contractor or Subcontractor, and the Contractor's obligations under indemnification under this Contract.

5.04.B.8 The Town of Bay Harbor Islands, shall be included as a named insured party under the Contractor's Liability Insurance. The following paragraph is required to appear unaltered on the Certificate of Insurance.

"The Town of Bay Harbor Islands, Florida is hereby named Additional Insured under the terms of this policy."

5.04.B.9 A thirty (30) day Notice of Cancellation is required and must be stated on the Certificate of Insurance.

5.04.B.10 The Certificate of Insurance shall be issued to the Town of Bay Harbor Islands, Florida at the following address:

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

ARTICLE 6 – CONTRACTOR'S RESPONSIBILITIES – INDEMNIFICATION – Page 18

SC-6.01

Add the new paragraphs immediately after paragraph 6.01.B of the General Conditions.

The Contractor shall perform all work in compliance with all applicable safety codes. A competent English-speaking superintendent will be on the job at all times during working hours and will be subject to call during off-duty hours for emergency situations. The superintendent shall overall charge of the work with complete authority regarding the Contractor's workmen, equipment and material purchases. The superintendent shall have complete authority to act on behalf of the Contractor. This person must be sufficiently qualified and have read and understood the Drawings, Specifications and all Contract Documents.

SC-6.02

Add the new paragraphs immediately after paragraph 6.02.B of the General Conditions.

The Project sites being located in a single and multifamility residential area, there shall be no undue noise created, whether by workers arriving at the sites or by actual construction work, before 9:00 a.m. or after 5:00 p.m. Monday through Friday. No work shall be performed on Saturdays or Sundays or legal holidays as defined by the Town. There are no public sanitary facilities nearby the work sites, and the Contractor must therefore make arrangements for portable sanitary facilities as authorized by the Town.

SC-6.06

Amend paragraph 6.06.A by replacing the last sentence of the paragraph with the following sentence:

CONTRACTOR shall not be required to employ any Subcontractor, supplier, or other individual or entity to furnish or perform any of the Work against whom CONTRACTOR has reasonable objection, except as required by 6.06.B and the Instruction to Bidders.

Amend paragraph 6.06.B by adding the words "Instructions to Bidders" before Supplementary Conditions wherever it appears.

Amend paragraph 6.06.B by deleting the following sentence from the paragraph:

CONTRACTOR shall submit an acceptable replacement for the rejected Subcontractor, Supplier, or other individual or entity, and the Contract Price will be adjusted by the difference in the cost occasioned by such replacement, and an appropriate Change Order will be issued or Written Amendment signed.

Amend paragraph 6.06.B by adding the following language at the end of the last sentence of the paragraph:

Nor does such acceptable create a contractual relationship between the OWNER and any subcontractor, supplier, individual or entity.

SC-6.09

Amend paragraph 6.09.C by replacing the first sentence of the paragraph with the following sentence:

Changes in Laws or Regulations which become effective after the time of opening of Bids (or, on the Effective Date of the Contract if there were no Bids) having an effect on the cost or time of performance of the Work may be the subject of an adjustment in Contract Price or Contract Times.

Add the new paragraphs immediately after paragraphs 6.09.C. of the General Conditions:

All vehicles used in connection with the Contractor's operations will be required to pay regular tolls to use the Broad Causeway, and to have identification signs.

SC-6.11

Add the new paragraphs immediately after paragraph 6.11.B of the General Conditions:

Adjacent residents must have access to their driveways at all times. All barricades and warning signs for any traffic lane closures will be provided and maintained by the Contractor. Cost of all barricades and signs shall be the responsibility of the Contractor. Any off-duty officers as may be required in the maintenance of traffic shall be provided by the Contractor at the Contractor's Expense.

SC-6.12

Amend paragraph 6.12.A by replacing the first sentence of the paragraph with the following sentence:

CONTRACTOR shall maintain in a safe place at the Project one record copy of all drawings, specifications, addenda, written amendments, change orders, work change directives, field orders, as-builts and written interpretations and clarifications in good order and annotated to show changes made during construction.

SC-6.13

Amend paragraph 6.13.A.3 by replacing it with the following paragraph:

Other property at the Project or adjacent thereto, including, but not limited, to trees, shrubs, lawns, walks, pavements, roadways, structures, utilities, and underground facilities not designated for removal, relocation, or replacement in course of construction.

SC-6.20

Amend the paragraphs 6.20.A.1 and 6.20.A.2 by replacing them with the following paragraph:

To the fullest extent permitted by Laws and Regulations, the Parties agree that in consideration of the first $10.00 dollars to be paid by TOWN to Contractor hereunder- and other specific consideration, the receipt and sufficiency of which is hereby acknowledged, the Contractor shall indeminify, defend and hold harmless the TOWN and their consultants, agents, officers and employees, and the elected officials of the Owner, from and against all claims, damages, losses and expenses, direct, indirect or consequential (including but not limited to fees and charges of engineers, architects, attorneys and other professional and court and arbitration costs) arising out of or resulting from the performance of the Work, provided that any such claim, damage, loss or expense (a) is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself) including the loss of use resulting therefrom and (b) is caused in whole or in part by any negligent act or omission of CONTRACTOR, any Subcontractor, any person or organization directly or indirectly employed by any of them to perform or furnish any of the Work or anyone for whose acts any of them may be liable, regardless of whether or not it is caused in part by a party indemnified hereunder or arises by or is implied by Law and Regulations regardless of the negligence of any such party.

Amend paragraphs 6.20.B by replacing it with the following paragraph:

In any and all claims against TOWN or any of their consultants, agents or employees by any CONTRACTOR, any Subcontractor, any person or organization directly or indirectly employed by any of them to perform or furnish any of the Work or anyone for whose acts any of them may be liable, the indemnification obligation under paragraph 6.20 shall not be limited in any way, by any limitation on the amount or type of damages, compensation or benefits payable by or for CONTRACTOR or any such Subcontractor or other person or organization under

worker's or workmen's compensation acts, disability benefit acts or other employee benefit acts.

ARTICLE 8 – OWNER'S RESPONSIBILITIES - Page 26

Throughout this Article, OWNER is interchangeably with TOWN.

SC-8.01

Amend paragraph 8.01 A by replacing it with the following paragraph:

Except as otherwise provided in these General Conditions, TOWN shall issue all communications to CONTRACTOR through the TOWN MANAGER, STAFF ENGINEER or PROJECT MANAGER.

SC-8.02

Delete paragraph 8.02 A.

ARTICLE 9 – ENGINEER'S STATUS DURING CONSTRUCTION - Page 27

The use of "Engineer" throughout this Article shall mean the Town's "Staff Engineer or Project Manager".

SC-9.03

Delete paragraph 9.03A.

SC-9.05

Amend paragraph 9.05.A by deleting the following sentence from the end of the paragraph:

If TOWN and CONTRACTOR are unable to agree on entitlement to or on the amount or extent, if any, of any adjustment in the Contract Price or Contract Times, or both, as a result of a Field Order, a Claim may be made therefore as provided in paragraph 10.05.

ARTICLE 10 – CHANGES IN THE WORK; CLAIMS - Page 29

SC-10.01

Amend paragraph 10.01.A by replacing the first sentence of the paragraph with the following sentence:

Without invalidating the Contract and without notice to any Surety, TOWN may, at any time or from time to time, order additions, deletions, or revisions in the

Work by a Written Amendment, a Change Order, a Work Change Directive, or a Field Directive.

Amend paragraph 10.05.D by adding the following sentence at the end of the paragraph:

Adherence to the terms of paragraph 10.05 is a condition precedent to bringing any further action in litigation, arbitration or any other dispute resolution forum.

ARTICLE 11 – COST OF THE WORK; CASH ALLOWANCE; UNIT PRICE WORK - Page 30

SC-11.01

Amend paragraph 11.01.A.1 by deleting the word Saturday from the last sentence of the paragraph.

ARTICLE 12 – CHANGE OF CONTRACT PRICE; CHANGE OF CONTRACT TIMES

SC-12.06.B

Amend paragraph 12.06.B by replacing the entire paragraph with the following paragraph:

Contractor will not be entitled to any adjustment in the Contract Price for delays extended general conditions, extended overhead, loss of productivity, acceleration or any damages or other compensation whatsoever in the event of any delays in the progress of the Work on account of hindrances or delays from any cause whatsoever. Such causes of delay include but are not limited to differing site conditions, difficulty in acquiring building permits, limited access to the Project, failure to approve plans and shop drawings on time, delays caused by governmental action, inaction or regulation, subsurface conditions, material shortage or delay in delivery of materials. It is the specific intent hereunder that an extension of time will be the sole and exclusive remedy for delay or any type, description of category. However, if occasioned by an act of God, or by any act or omission on the part of the TOWN such act, hindrance or delay may entitle the CONTRACTOR to an extension of time in which to complete the Work which shall be determined by the STAFF ENGINEER, employed by the TOWN, provided that the CONTRACTOR will give notice as provided herein. The foregoing limitations on adjustments to Contract Price also apply to any causes of delay which affect any subcontractor, material-man, supplier or laborer on the Project. In no event, if any such events of delay occur, shall any subcontractor, material-man, supplier or laborer be entitled to additional compensation for delays including claims for extended general conditions, extended overhead and the like against the TOWN.

ARTICLE 13 – TESTS AND INSPECTIONS; CORRECTION, REMOVAL OR ACCEPTANCE OF DEFECTIVE WORK – Page 34

SC-13.04

Amend paragraph 13.04.A by replacing it with the following paragraph:

If any Work is covered contrary to the Technical Specifications, Drawings or Contract Documents, it must, if requested by the TOWN, be uncovered for his observation and replaced at CONTRACTOR'S expense.

Amend paragraph 13.04.B by adding the following language at the end of the second sentence:

, or direct payment if remaining Contract funds are not sufficient.

SC-13.09

Amend paragraph 13.09.C by adding the following language at the end of the first sentence:

,or direct payment if remaining Contract funds are not sufficient.

ARTICLE 14 – PAYMENTS TO CONTRACTORS AND COMPLETION – Page 36

SC-14.02.A.2

Amend paragraph 14.02.A.2 by deleting the existing paragraph and replacing it with the following paragraph:

With each Application for Payment, the CONTRACTOR shall include a Partial Waiver Upon Progress Payment or Statutory Waiver and Final Release, as appropriate from each and every material-man, supplier and or laborer ("Potential Lienor") who has provided labor, services or materials for the Project. Contractor shall submit its own Statutory Waiver and Partial Release of Line or Statutory Waiver and Final Release of Lien, as appropriate, with each Application for Payment. Moreover, CONTRACTOR shall ensure that no construction liens, or any encumbrances in the nature thereof or any other encumbrances whatsoever (including equitable lien claims), shall be filed or maintained by the CONTRACTOR or by any Potential Lienor in connection with any Work for which OWNER has made payment or for which payment is not yet due. As a condition precedent to the receipt of each progress payment from the TOWN, CONTRACTOR must furnish the Partial Waiver upon Progress Payment Statutory Waiver and Final Release

from each Potential Lienor, in the form prescribed by TOWN, together with a Contractor's Affidavit and Partial Release, in the form prescribed by the TOWN. Further as a condition precedent to the receipt of the final payment, the CONTRACTOR shall provide TOWN with a Statutory Waiver and Final Release from each Potential Lienor in the form prescribed by TOWN, together with a Contractor's Affidavit and Final Release. Each Release given to the TOWN shall waive and release any lien rights of the Potential Lienor to the extent payment is made with respect to any Work performed through the date of the Release. For any Potential Lienor who has served a Notice to Owner and/or Notice to Contractor, but who has not provided labor, services or materials during the period of time covered by an Application for Payment, the CONTRACTOR shall provide a Zero Dollar Release in the form prescribed by TOWN. CONTRACTOR shall comply with all requirements of Florida Statutes, Chapter 713. CONTRACTOR agrees to indemnify, defend and hold the OWNER harmless from and against any and all liens or other claims whatsoever filed against the TOWN or the TOWN's property by any Potential Lienor for worked performed or materials or services furnished in connection with the Work for which CONTRACTOR has been paid or for which payment is not yet due at the time the Lien is recorded. In the event a Claim of Lien is recorded against the OWNER'S property, the CONTRACTOR shall cause the same to be satisfied within ten (10-) days following the date of recordation of the Claim_of Lien, or in the alternative, shall cause the Claim of Lien to be transferred to a Bond. In the event any Liens are not cleared of record within ten (10) days of recordation, TOWN shall have the right to settle, satisfy, or transfer such Lien to a Bond at CONTRACTOR'S sole cost and expense and TOWN may offset any such cost against the next payment due to CONTRACTOR, or CONTRACTOR shall make a direct payment if remaining Contract funds are not sufficient.

TOWN shall not be limited to an is entitled to all other remedies available at law or in equity. The provisions of this paragraph shall be deemed an independent covenant of the CONTRACTOR and shall be effective with respect to all Work performed and materials and services furnished under the Contract Documents, Change Orders or any other agreement for work with respect to the Project.

SC-14.02.D.1.b

Amend paragraph 14.02.D.1.b by deleting the existing paragraph and replacing it with the following:

Liens have been recorded in connection with the Work or the Project.

SC-14.07

Amend paragraph 14.07.A.1 by replacing it with the following paragraph:

After CONTRACTOR has, in the opinion of TOWN, satisfactorily completed all corrections identified during the final inspection and has delivered, in accordance with the Contract Documents, all maintenance and operation instructions, schedules, guarantees, Bonds, certificates or other evidence of insurance, certificates of inspection, marked-up record documents (as provided in paragraph 6.12), final releases, final affidavits, Asbuilts, and other documents, CONTRACTOR may make application for final payment following the procedure for progress payments.

Amend paragraph 14.07.A.2 by adding the following language at the end of the first sentence:

Or claims made against the Bonds provided by CONTRACTOR under the Contract Documents.

Delete paragraph 14.07.A.3 in its entirely.

SC-14.09

Amend paragraph 14.09.A.1 by replacing it with the following paragraph:

A waiver of all Claims by TOWN against CONTRACTOR, except Claims arising from unsettled Liens or Claims against the Bonds, from defective Work appearing after final inspection pursuant to paragraph 14.06, from failure to comply with the Contract Documents or the terms of any special guarantees specified therein, or from CONTRACTOR's continuing obligations under the Contract Documents; and

ARTICLE 15 – SUSPENSION OF WORK AND TERMINATION – Page 40

SC-15.03

Delete paragraph 15.03.A.3 in its entirely.

Delete paragraph 15.03.A.4 in its entirely.

SC-15.04

Amend paragraph 15.04.A by deleting the last sentence of the paragraph.

ATTACHMENT 1

AERIAL MAP



AERIAL MAP

SHEET NO.	X-1
OF	XX
TOTAL:	0
CAD FILE:	XXXXX-XXX-XXXOOOO
DRAWING FILE NO.	4-XXX-XX

PROJECT # BHI 228
92ND STREET DOG PARK EXTENSION
DESIGN-BUILD
AERIAL
1030 92ND STREET

REVISIONS

NO.	DATE	BY	CHK'D	DESCRIPTION

TOWN OF BAY HARBOR ISLANDS
PUBLIC WORKS DEPARTMENT
ENGINEERING
9665 Bay Harbor Terrace
Bay Harbor Islands, Florida 33154

DRAWN BY:	DATE: MM/DD/YY
DESIGNED BY:	SCALE:
CHECKED BY:	
FIELD BOOK:	

ATTACHMENT 2

LAND SURVEY PREPARED BY LONGITUDE SURVEYORS

ATTACHMENT 3

FIU SCHOOL OF ARCHITECTURE – CONCEPT DESIGN



92ND ST DOG PARK

BAY HARBOR, FL

CONCEPT+ DESIGN

FIUxD | PROF. ROBERTO ROVIRA |
BY: ALEJANDRA ESPINOSA + GRACIELA MARTIN

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College of Communication, Architecture + The Arts

OUR DOGS

FIU | Landscape Architecture + Environmental and Urban Design
College of Communication, Architecture + The Arts



Pashmina

Alejandra's Dog



Toby

Graciela's Dog

DOG PARK
92ND ST PARK

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EXISTING CONDITIONS

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ARCHITECTURAL HISTORY

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Bay Harbor Continental (Demolished)



1155 103rd St, Bay Harbor FL 33154

Bay Harbor's East Island has been listed as one of the most endangered historic places in the country.

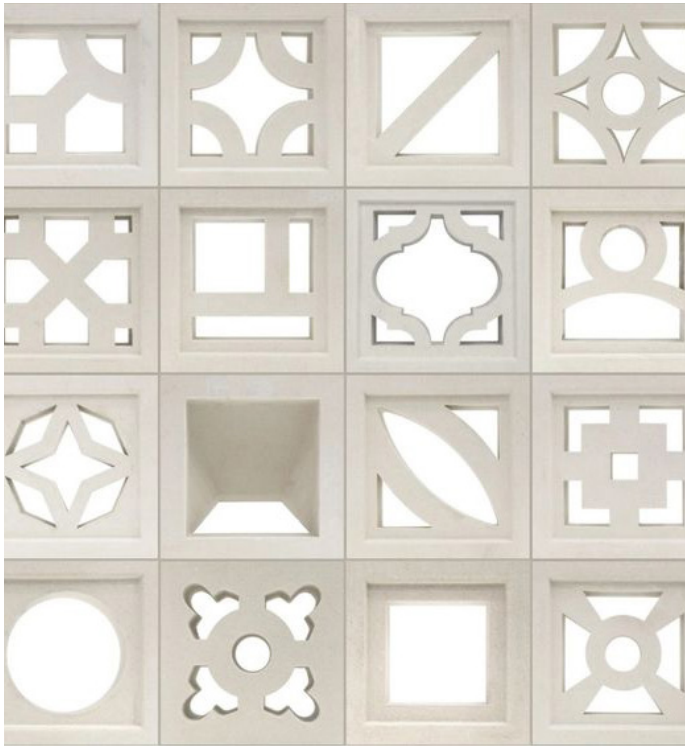
The island, which is home to one of the largest concentrations of Miami Modern architecture in the nation, joined 10 other endangered sites on a list compiled by the National Trust for Historic Preservation.

INSPIRATION

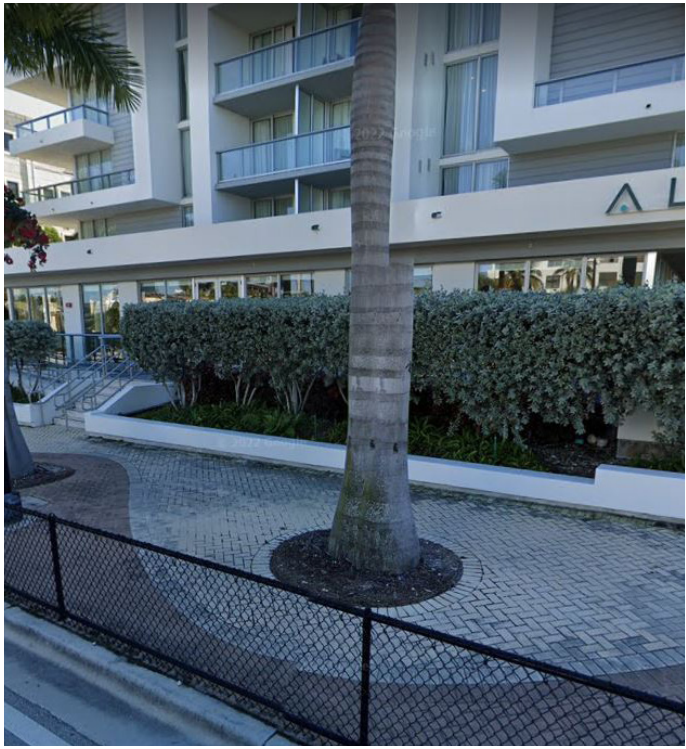
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Consisted of mangroves prior to development



Breeze block designs seen throughout the island

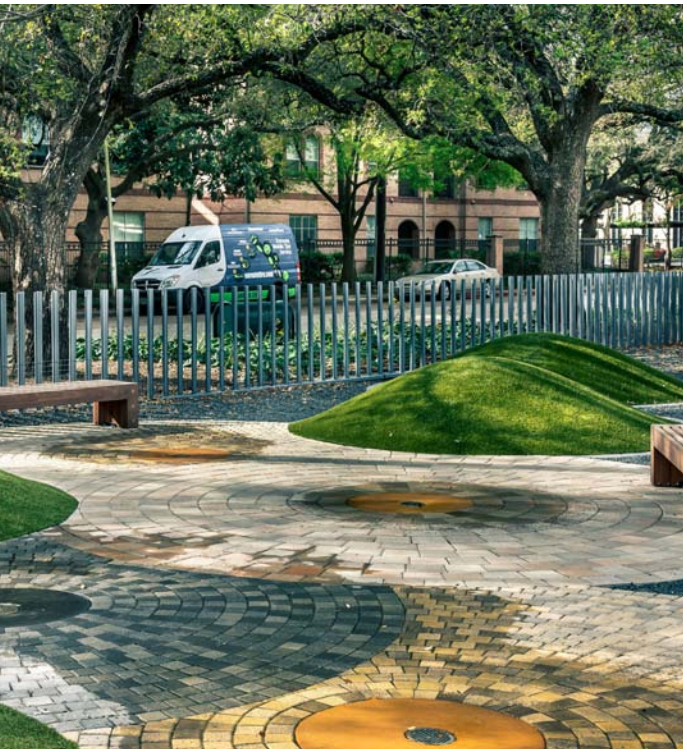


Wavy pattern seen along sidewalks

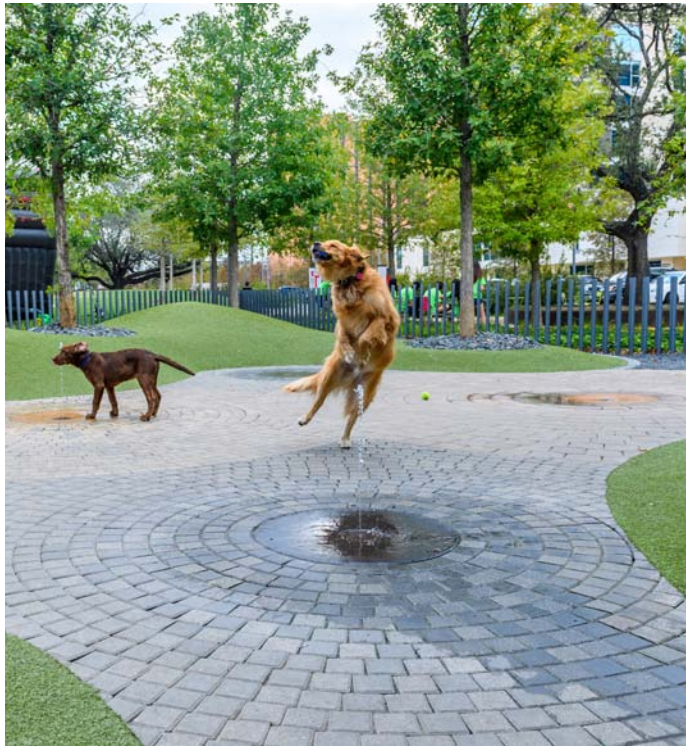
PRECEDENT STUDY

Levy Park | Houston, TX

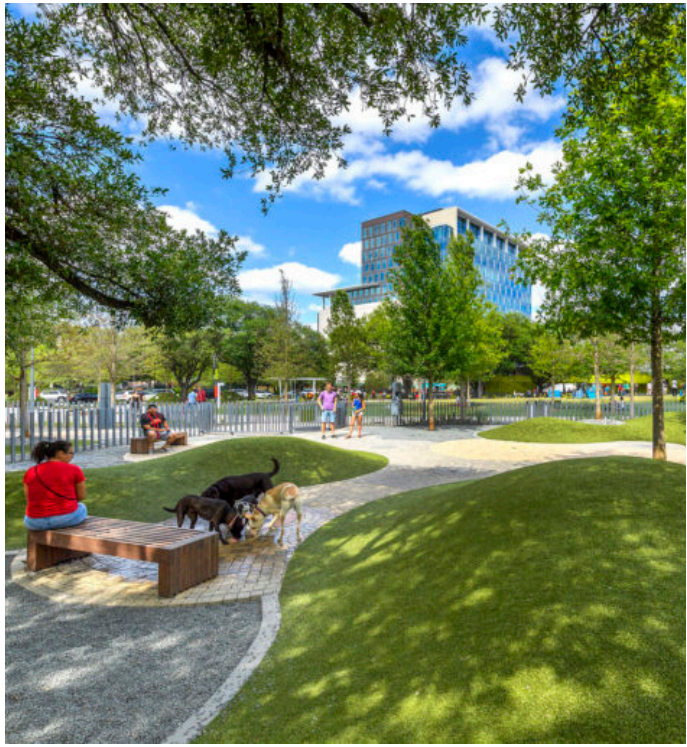
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Pavement Design



Affordances for Play and Leisure

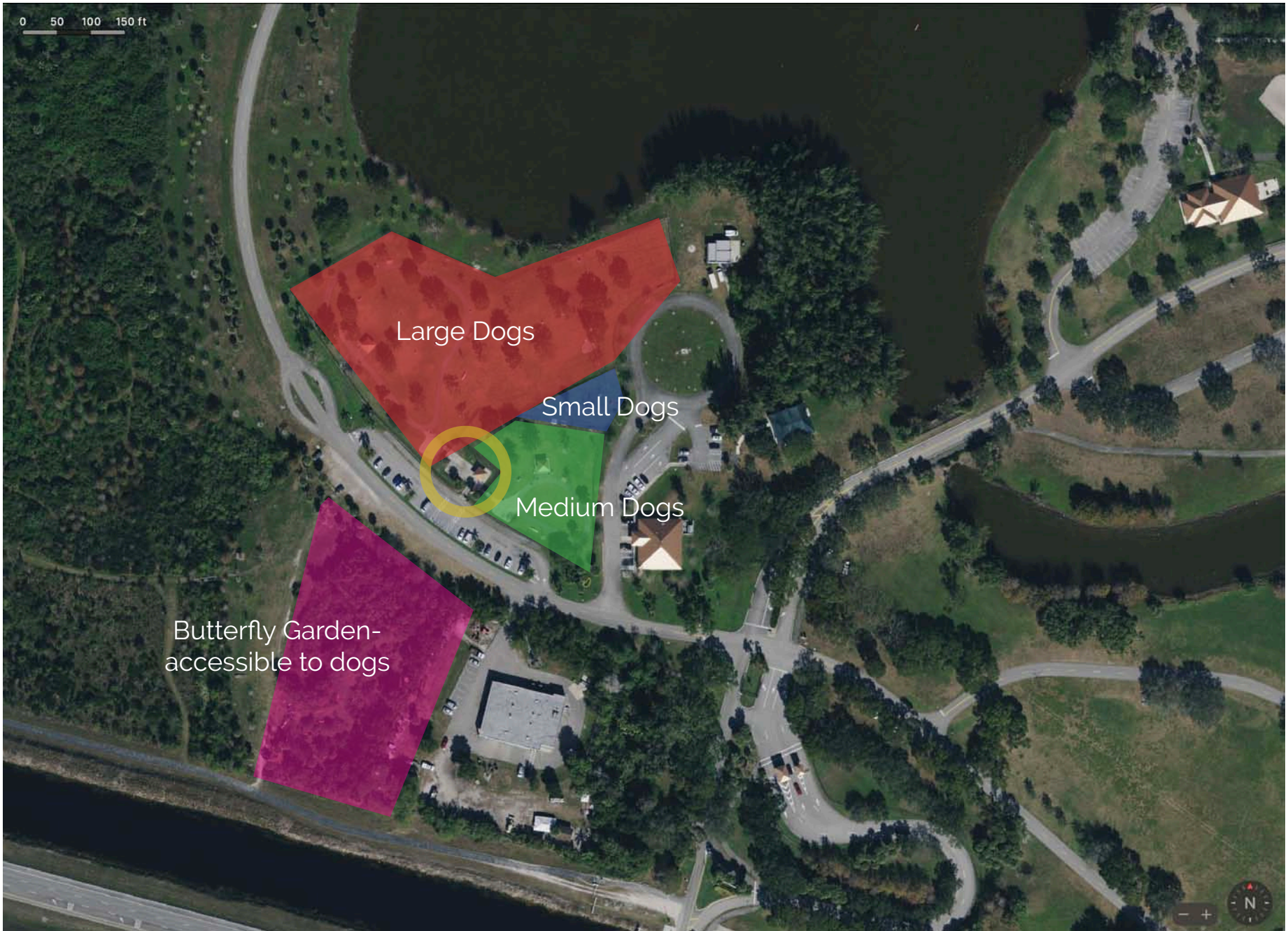


Mounds and Shading

PRECEDENT STUDY

Barkham Park | Sunrise, FL

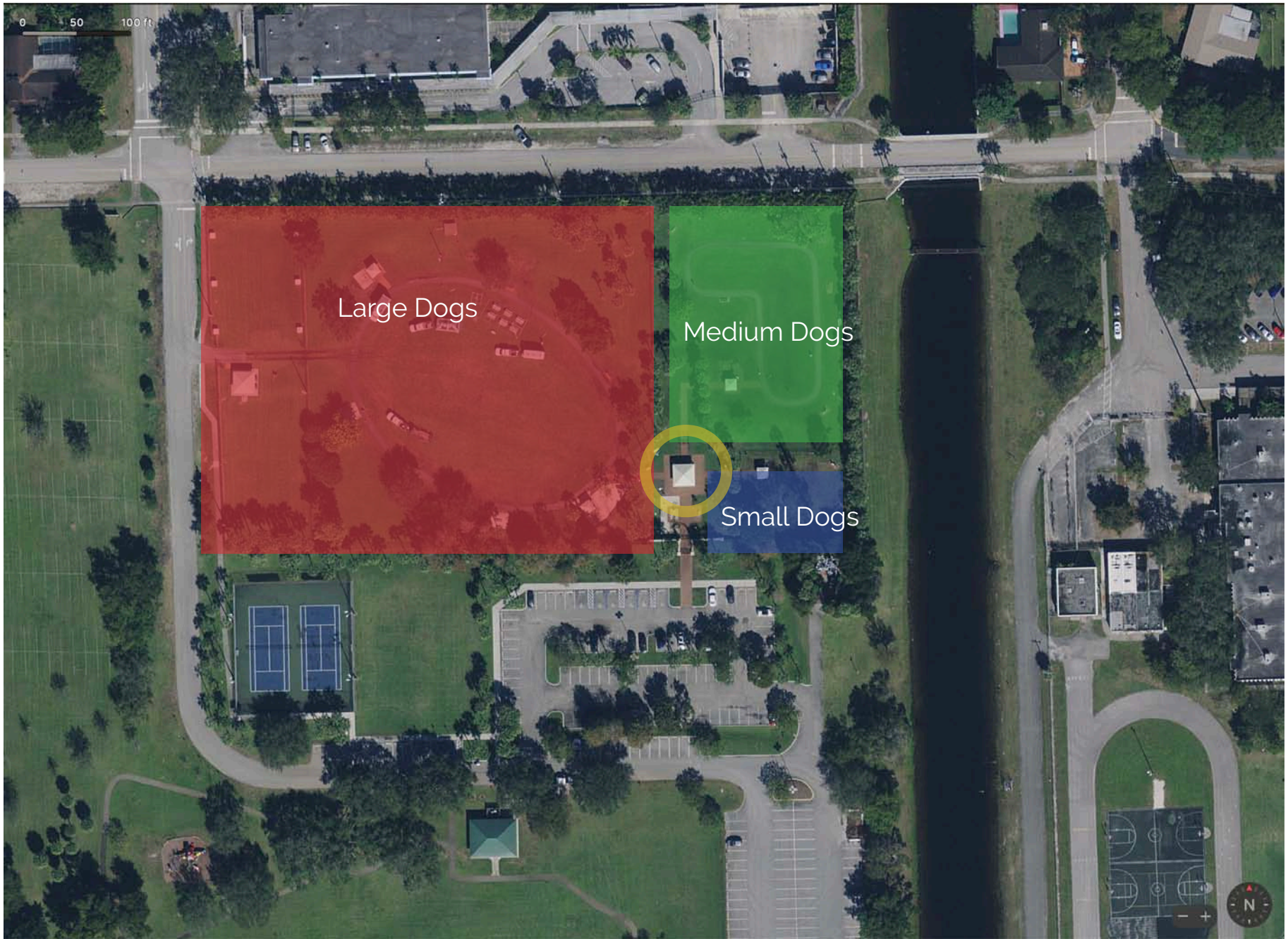
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PRECEDENT STUDY

Happy Tails Dog Park | Plantation, FL

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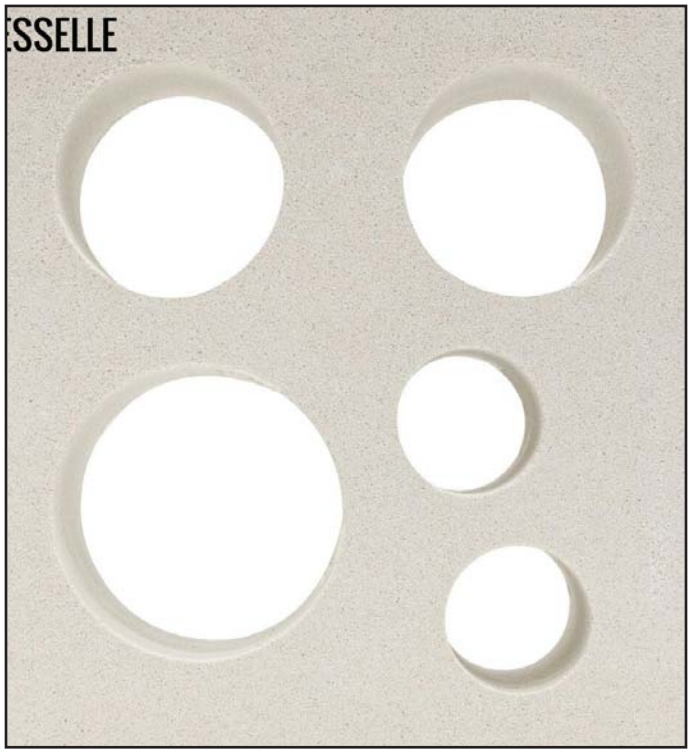


MATERIALS

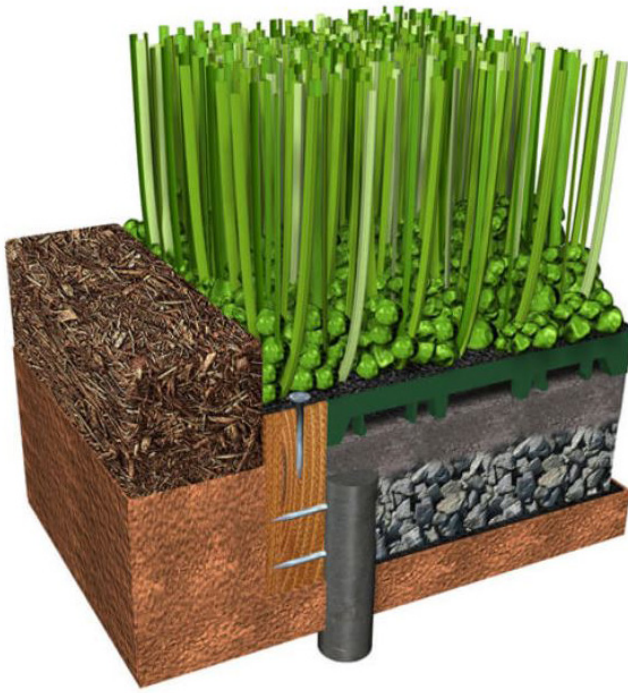
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Metal fencing to create the boundaries of the park; soften edge with native shrubs and grasses at the bed



Breeze Blocks; made of concrete + ashes, and designed with signature dog icons + patterns



Special turf over aggregate base w/ mulch border by XGrass Pet Turf

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MCCORMICK POCKET DOG PARK
CHICAGO, IL
SITE DESIGN GROUP

MAIN IDEA

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PROPOSAL

92ND ST PARK

FIU | Landscape Architecture + Environmental and Urban Design
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92ND STREET DOG PARK
1" = 1/8'

MOUNDS



THE STANDARD EQUIPMENT FOR DOGS TO PLAY AND INTERACT WITH ARE NOT PRACTICAL. MOUNDS CREATE OPPORTUNITY FOR AGILITY AND PLAY THAT IS PRACTICAL AND APPEALING.

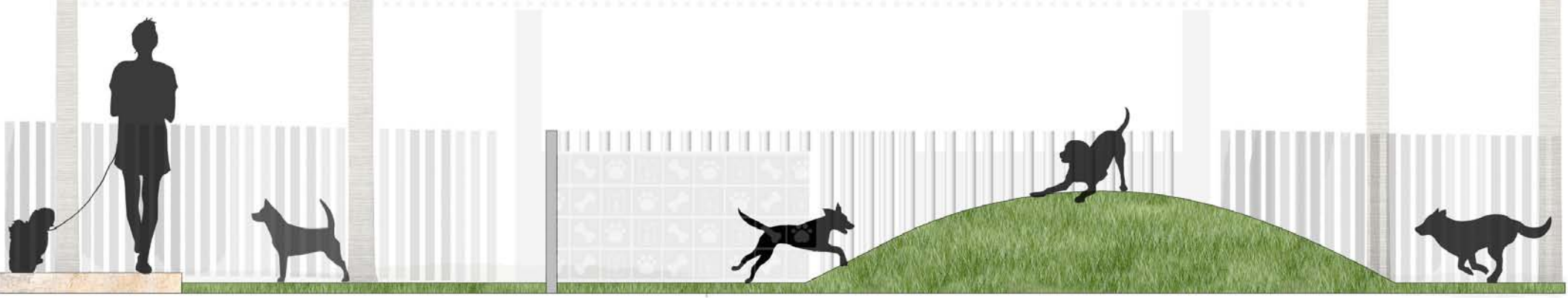


EXISTING

VS



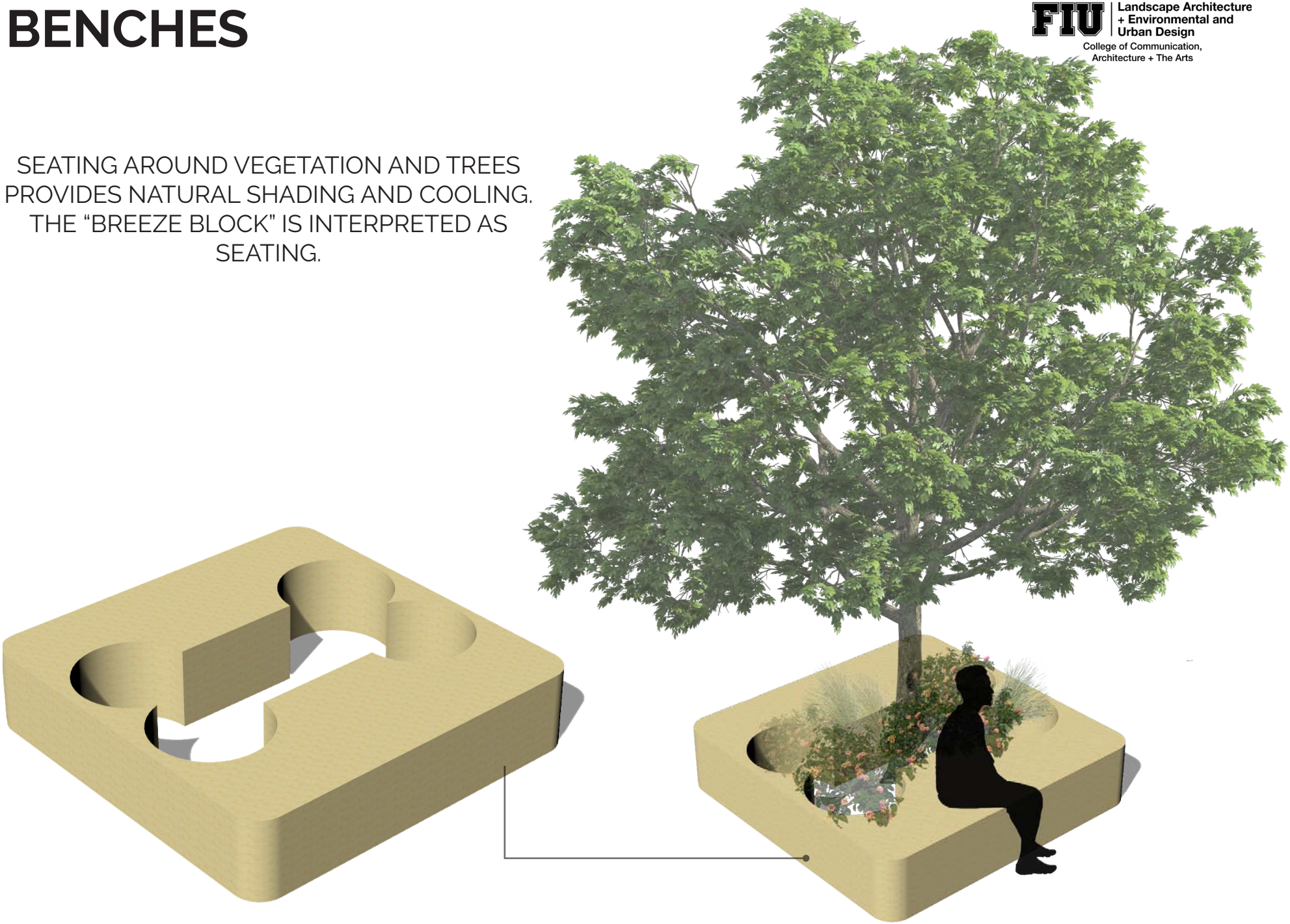
PROPOSED



BENCHES

FIU | Landscape Architecture + Environmental and Urban Design
College of Communication, Architecture + The Arts

SEATING AROUND VEGETATION AND TREES PROVIDES NATURAL SHADING AND COOLING. THE “BREEZE BLOCK” IS INTERPRETED AS SEATING.



BREEZE BLOCK
92ND ST PARK



BREEZE BLOCK THRESHOLD

BREEZE BLOCK
92ND ST PARK



BREEZE BLOCK THRESHOLD

SMALL DOG
92ND ST PARK



SMALL DOG
92ND ST PARK



LARGE DOG
92ND ST PARK



AERIAL + LARGE DOG RUN AREA






FIU
Landscape Architecture
+ Environmental and
Urban Design
College of Communication,
Architecture + The Arts
Thank you!

AGENDA ITEM REPORT
June 9, 2022

ITEM NUMBER: 7.

ITEM: Consideration and **Approval** of Issuance of a Request for Proposals (RFP) to select a Design-Build firm for the 96th Street New Park and Kayak Launch Project. Enclosed is a copy of the RFP package.

DESCRIPTION:
The Town has identified the need for the Design and Build of a new Park at 9600 West Bay Harbor Drive as part of the Town's recreation program. This new park will be for the use of the Residents and shall include a kayak launch and paddle boards rental, as requested by the residents. This will be a phased project, which will include the developing of the concept plans prepared by FIU School Architecture, designing and constructing the new park.

The selected Design-Build Firm must demonstrate experience in the Planning, Design, Construction of Recreational Facilities, Construction Management, and must demonstrate a level of expertise, technical knowledge, innovation, and overall capacity to provide the Design-Build services.

Enclosed is a copy of the RFP document.

RECOMMENDED ACTION:
Approval

FINANCIAL ANALYSIS:
For this Project, $500,000 were allocated on FY21-22 under the Park Impact Fund.

BUDGET IMPACT:

Name	Impact Date	Fund(s)	Account(s)	Project #(s)	Amount Budgeted
96th Street New Park and Kayak Launch	06/09/2022	$483,020.00	302.5310.400063.000	BHI-229	$483,020.00

Submitted By: Jose Custodio, Town Engineer
Maria Lasday, Town Manager

ATTACHMENTS

1.	Binder1_RFP05262022

TOWN OF
BAY HARBOR ISLANDS

Project No. – BHI – 229

96th Street New Park and Kayak Launch

Design-Build

Request for Proposals

July 11, 2022

96th Street New Park and Kayak Launch – Design Build
TOWN OF BAY HARBOR ISLANDS
BHI-229

TABLE OF CONTENTS

1. INVITATION TO BID
2. INSTRUCTIONS TO BIDDERS
3. SCOPE OF WORK
4. EVALUATION COMMITTEE AND PROCEDURE FOR REVIEW OF SUBMITTALS
5. BID FORM
6. PRICE PROPOSAL FORM
7. CONTRACTOR'S QUALIFICATION STATEMENT
8. BID BOND
9. TRENCH SAFETY ACT
10. ACKNOWLEDGEMENT OF CONFORMANCE WITH OSHA STANDARDS
11. NON-COLLUSION AFFIDAVIT
12. ADDENDUM
13. SAMPLE AGREEMENT
14. GENERAL CONDITIONS
15. SUPPLEMENTARY CONDITIONS

ATTACHMENT #1 – AERIAL MAP

ATTACHMENT #2 – LAND SURVEY PREPARED BY LONGITUDE SURVEYORS

ATTACHMENT #3 – FIU SCHOOL OF ARCHITECTURE – CONCEPT DESIGN

96th Street New Park and Kayak Launch – Design Build
TOWN OF BAY HARBOR ISLANDS
BHI-229

INVITATION TO BID

Issue Date: July 11, 2022

All interested parties are hereby notified that the Town of Bay Harbor Islands (the "Town") is accepting sealed Design-Build Proposals for the Project "**96TH STREET NEW PARK AND KAYAK LAUNCH – DESIGN BUILD" Project, No. BHI-229**.

Work under this Project includes but is not limited to professional engineering and construction services (Design Build) for the New Park, Kayak Launch and Paddle Board renting area located on 9600 West Bay Harbor Drive. The final design and construction shall be according to the Concept Design prepared by the FIU School of Architecture. The Selected Design-Build Selected firm shall be capable of providing planning, design, permitting, construction, cost estimating, construction management, in complete and strict accordance with specifications in the Request for Proposals.

Proposers must demonstrate experience in the Planning, Design, Construction of Recreational Facilities, Construction Management, and must demonstrate a level of expertise, technical knowledge, innovation, and overall capacity to provide the Design-Build services.

A Non-Mandatory **Pre-Bid Conference** will be held on **August 1, 2022, at 10:00 A.M.,** in the Council Chambers (2nd Floor) at Town Hall. The address of Town Hall is 9665 Bay Harbor Terrace, Bay Harbor Islands, FL 33154.

Contract Documents may be downloaded and printed as required from the Town's Website at www.bayharborislands-fl.gov. Enquiries regarding this contract may be e-mailed to the Town Engineer, Jose Custodio, P.E., jcustodio@bayharborislands-fl.gov.

All bids shall be clearly marked:

TOWN OF BAY HARBOR ISLANDS
CONTRACT NO. BHI-229
96TH STREET NEW PARK AND KAYAK LAUNCH – DESIGN BUILD

All bids must be submitted in sealed envelopes to the Town Clerk on or before August 25, 2022, at 3:00 P.M., local time (the "Bid Submittal Deadline"**).** Immediately thereafter, Bids will be opened publicly and read aloud. The Town assumes no responsibility for Bids not properly marked. **Any Bids received after the Bid Submittal Deadline will not be accepted.**

The Town reserves the right to reject any or all bids and to waive informalities, except timely submission of bids, in any bids received, to re-advertise for bids or to take any other such actions that may be deemed in the best interests of the Town.

Town of Bay Harbor Islands, Florida
Yvonne P. Hamilton, CMC, Acting Town Clerk

INSTRUCTIONS TO BIDDERS

1.0 DEFINED TERMS

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

2.0 EXAMINATION OF DOCUMENTS, SITE AND DRAWINGS AND SPECIFICATIONS

2.1 Prior to Bid submission, Bidders shall examine the Site and surrounding area, including but not limited to subsurface, water and soil conditions, utilities, and streets to determine all conditions that will affect the Work and become familiar with the nature and extent of Work to be performed and local conditions that may affect the Work. Bidders should perform a Site visit and inspection to get familiar with the site conditions.

2.2 It is the Bidder's responsibility to become fully informed as to the existing conditions at the Site and to factor any and all costs of these conditions and/ or risks associated therewith into the Bid.

2.3 Bidders shall thoroughly examine the Bidding Documents, General Conditions, Drawings and Specifications, Technical Specifications and any other documents which may be applicable to the Work or Project. All drawings and specifications prepared for this Project are provided in pdf format with this Bid.

3.0 INTERPRETATION OF BIDDING DOCUMENTS

3.1 All inquiries, clarifications or interpretations of the Bidding Documents shall be made in writing to the Town Engineer, Jose Custodio, P.E. on or before **August 15, 2022**, with a copy to the Town Manager, by mail, fax, or by e-mail to the following addresses:

Jose Custodio, P.E
Town Engineer Town of Bay Harbor Islands, Project No. BHI – 229
Telephone No. (305) 866-6241
Email: jcustodio@bayharborislands-fl.gov
With a copy to:

Maria Lasday, Town Manager
Town of Bay Harbor Islands 9665 Bay Harbor Terrace
Bay Harbor Islands, 33154 Florida
Telephone No.: 305-866-6241
Email: mlasday@bayharborislands-fl.gov

3.2 Any modification or interpretation of the Bidding Documents will be made by written Addendum to all who are recorded by the Town as having received a complete set of Bidding Documents. **All Addenda will be issued by August 17, 2022.**

3.3 Interpretations or modifications of Bidding Documents made in any manner other than by written Addendum will not be binding. No oral interpretations or clarifications shall be binding.

3.4 A Bidder, prior to submitting his Bid, shall ascertain that he has received all Addenda issued, and shall acknowledge their receipt by enclosing a signed copy of each Addenda with the Bid Form.

4.0 BID PREPARATION AND SUBMITTAL

4.1 The Bidder shall prepare Bids on the forms provided by the Town with all blanks on the Bid Form filled in by typewriter or written in ink.

4.2 The Bidder shall **submit three (3) originals and two (2) digital (PDF) copies of the Bid**. The Bid shall indicate whether the Bidder is a sole proprietor, a partnership, a corporation, company, or other legal entity. The Bid shall include:

4.2.1 Bid Form;
4.2.2 Contractor's Qualification Statement;
4.2.3 Bid Bond;
4.2.4 Performance Bond;
4.2.5 Florida Trench Safety Act;
4.2.6 Non-Collusion Affidavit;
4.2.7 Any Addenda;
4.2.8 Copy of General Contractor's Licenses;
4.2.9 Corporate/Company Resolution, or Partnership Resolution, evidencing authorization to Submit Bid; and
4.2.10 Evidence of Insurability.

4.3 If the Bid is made by an individual, the Bidder's name and address of place of business shall be shown. If Bid is made by an entity, the name and address of the individual(s) authorized to bind the firm or partnership shall be shown. If Bid is made by a corporation or company, the individual executing the Bid shall show the name of the state under the laws of which the corporation or company is chartered, also the names and business

addresses of its corporate or company officers and members. Anyone signing the Bid as agent shall include in the Bid legal evidence of his/her authority to do so.

4.4 The Florida "Trench Safety Act" and O.S.H.A. forms are included in the Bidding Documents and shall be completed by the Bidder. The Total Bid Price presented in the Bid shall include the Bidders cost of compliance with these applicable standards. The Bid shall include completed forms and the cost of compliance with these applicable standards.

4.5 Non-Collusion Affidavit. The Bidder shall include the Non-Collusion Affidavit as set forth in the form included in the Bidding Documents. Bidder's failure to include the affidavit shall result in disqualification.

4.6 **The Bid shall be enclosed in a sealed envelope**, addressed to Attn: Town Clerk, Town of Bay Harbor Islands, 9665 Bay Harbor Terrace, Bay Harbor, Florida 33154. **The envelope shall be clearly marked with the Project name "Bid for the 96th Street New Park and Kayak Launch" Project No. BHI-229, and the Bidder's name and address.**

4.7 The Bidder shall deposit Bids at the designated location provided on the Invitation to Bid on or before the time and date for submission of Bids (the "Bid Submittal Deadline"). Bids received after the Bid Submittal Deadline indicated for submission of Bids will not be accepted. The Bidder is advised that delivery services may not be timely. It shall be the Bidder's sole responsibility to ensure delivery prior to the required Bid Submittal Deadline.

4.8 The Bidder shall be registered as a vendor with the Town's Building Department following the Notice of Award by the Town.

5.0 BID BOND

5.1 Each Bid shall be accompanied by a certified or cashier's check drawn on a national or state bank, or an acceptable Bidder's Bond, payable unconditionally to Town of Bay Harbor Islands, in the amount of five percent (5%) of the amount of the Total Bid Price, as a guarantee that the Bidder will, if award is made, execute a Contract for Construction to do the Work for the Bid amount and furnish any required certificates of insurance and bond documents within the time period specified in the General Conditions. The Bid Bond shall be made payable to the Town of Bay Harbor Islands.

6.0 QUALIFICATIONS OF BIDDERS

6.1 Each Bidder shall complete the Contractor's Qualifications Statement provided herewith, along with any other evidence of satisfactory experience, past performance and ability to perform the proposed Work, and shall submit the same with the Bid. Failure to submit the Qualifications Statement and all documents required thereunder together with the Bid Form and all items listed in Section 4.2 will constitute grounds for rejection of the Bid as non-responsive.

6.2 The Bidders may be disqualified, and their Bids rejected for any of the following reasons:
5.2.1 The bid is not responsive, and/or responded with errors and omissions.
5.2.2 Reason to believe that collusion exists among Bidders.
5.2.3 Determination of lack of responsibility or competency as may be revealed by qualification statements, financial statements, experience records or other questionnaires.
5.2.4 The Bidder's uncompleted work load which in the judgment of the Town may cause detrimental impact on prompt completion of this Project.
5.2.5 The Bidder is or has been involved in any litigation against the Town.
5.2.6 The Bidder has defaulted on any previous contract or is in arrears on any existing contract on any public or private matters.
5.2.7 The submittal of more than one bid from an individual, firm, partnership, corporation or association under the same or different names.
5.2.8 The Bidder's previous work with the Town has resulted in claims from third parties and or subconsultants.

6.3 The Town reserves the right to make a pre-award inspection of the Bidder's facilities and equipment prior to award.

6.4 It shall be a requirement of this Bid that there are no related party transactions between the Bidder and any employee, agent or consultant of the Town. Any Bidder who is a related party, as noted herein, will be considered non-responsive and the bid and the bid bond will be immediately returned. A Bidder will be considered a related party if the Bidder has an ownership interest or is in any way related to an employee, agent, consultant or consultant, and can influence the management or operating policy of the other to an extent that one of the transacting parties might be prevented from fully pursuing its own separate interests.

6.5 PUBLIC ENTITY CRIMES ACT -In accordance with the Public Entity Crimes Act, (Section 287.133, Florida Statutes) a person or affiliate who is a consultant/contractor, who had been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid on a contract to provide any goods or services to the Town, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids on leases or real property to the Town, may not be awarded or perform work as a consultant/contractor, supplier, subcontractor, or consultant under a contract with any public entity, and may not transact business with the Town in excess of the threshold amount provided in Section 287.017, Florida Statutes, for Category Two for a period of 36 months from the date of being placed on the convicted vendor list. Violation of this section by the Consultant/Contractor shall result in rejection of the Bid, termination of the contract, and may cause Consultant/Contractor debarment.

7.0 RETURN OF THE BID BOND

7.1 All Bid Bonds of unsuccessful Bidders will be returned after a Contract is awarded and executed.

8.0 MODIFICATION AND WITHDRAWAL OF BID

8.1 Prior to the date and time of Bid opening, a Bidder may withdraw his Bid at any time.
8.2 After the Bid opening, no Bid may be withdrawn, canceled or modified.

9.0 OPENING OF BIDS

9.1 Bids submitted will be opened publicly and read aloud at the time and place stated in the Invitation to Bid.

9.2 The Bidder agrees to maintain all terms of the Bids available for 120 days from the date and time of bid opening.

10.0 AWARD OF CONTRACT

10.1 Town reserves the right to reject any and all Bids, to waive any and all informalities and to negotiate contract terms with the Successful Bidder, and the right to disregard all nonconforming, non-responsive or conditional Bids. Discrepancies between words and figures will be resolved in favor of words. Discrepancies between the indicated sum of any column of figures and the correct sum thereof will be resolved in favor of the correct sum. Discrepancies between the indicated value and the correct value as calculated by the product of the unit price and the estimated quantity will be resolved by using the stated unit price.

10.2 In evaluating Bids, Town shall consider the qualifications of the Bidders, whether or not the Bids comply with the prescribed requirements, alternates, additive/deductive amounts, and unit prices, if requested in the Bid forms. THE TOWN AT ITS SOLE DISCRETION SHALL AWARD THIS CONTRACT BASED ON THE TOTAL BID AMOUNT. It is Town's Intent to accept alternates (if any are accepted) in the order in which they are listed in the Bid form, but award will not be based on alternates and the Town may accept them in any order or combination.

10.3 Town will consider the qualifications and experience of the Contractor, Subcontractors, and other persons or organizations (including those who are to furnish the principal items of material or equipment) proposed for all portions of the Work. The identity of Subcontractors and other persons and organizations must be submitted as provided in the Supplementary Conditions. Operating costs, maintenance considerations, performance data and guarantees of materials and equipment will also be considered by Town.

10.4 Town will conduct such investigations as Town deems necessary to assist in the evaluation of any Bid and to establish the responsibility, qualifications and financial ability of the Bidders, proposed Subcontractors and other persons and organizations to do the Work in accordance with the Contract Documents to Town's satisfaction within the prescribed time. Issues such as past performance, adherence to schedule, and change order requests will be included in this evaluation. The weighing of these factors is at the discretion of the Town.

10.5 At the sole discretion of the Town, the Town reserves the right to reject the Bid of any

Bidder based upon the evaluation noted in Section 6.2 above. References will NOT be limited to those submitted by the Contractor.

10.6 If the contract is to be awarded, it will be awarded to the lowest responsible Bidder whose evaluation by Town indicates to Town that the award will be in the best interests of the Project.

10.7 If the contract is to be awarded, Town will give the Successful Bidder a Notice of Award within sixty (60) days after the day of the Bid opening.

11.0 PERFORMANCE AND OTHER BONDS

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

12.0 EXECUTION OF CONTRACT AND CONTRACT DOCUMENTS

12.1 A Bidder shall be notified of the Town's selection in writing and shall be provided a Contract for Construction upon Notice of Award.

12.2 A Bidder will be required to execute the Contract for Construction and submit all requested certificates of insurance and performance and payment bonds, as required in the Contract Documents.

13.0 FAILURE TO EXECUTE THE CONTRACT

13.1 Failure of a Bidder to execute a Contract, and submit required insurance certificates and bonds may result in a draw on the Bid Bond by the Town. Each Bidder agrees in advance that the Town will likely sustain damages in these circumstances too difficult to ascertain. Accordingly, if the award is forfeited under this Section, the amount of the Bid Bond of the forfeiting Bidder may be retained by the Town, not as forfeiture or a penalty, but as liquidated damages. The Town may, but is not required, to award the Contract to the next lowest responsive and responsible Bidder or reject all Bids and/or re-advertise the Work.

14.0 CONTRACT TIME AND PERFORMANCE

14.1 The Work to be performed under the Contract Documents shall be commenced upon issuance of a Notice to Proceed by the Town. As part of their proposal, Bidder shall submit a preliminary schedule of deliverables.

14.2 By virtue of the submission of its Bid, Bidder agrees and fully understands that the completion time of the Work of the Contract is an essential and material condition of the Contract and that time is of the essence. The Successful Bidder agrees that all Work shall be prosecuted regularly, diligently and uninterrupted at such rate of progress as will ensure full completion thereof within the time specified. The Consultant/Contractor is expected to provide the necessary manpower and management to meet the time schedule as established.

15.0 LIQUIDATED DAMAGES

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

16.0 GOVERNING LAWS AND REGULATIONS

16.1 Bidders shall be familiar with all federal, state, and local laws, ordinances, rules and regulations that may in any manner affect the Work.

17.0 INSURANCE/EVIDENCE OF INSURABILITY

17.1 The Bidder shall be required to provide and maintain insurance coverage of such types and amounts as specified in the General Conditions of the Contract Documents for the life of the Contract. Certificates of Insurance shall be provided by the Bidder upon the Notice of Award, as specified in the General Conditions.

17.2 Bidder shall be required to submit with the Bid Form written evidence of insurability from Bidder's insurance company, for the types and amounts of insurance specified in the General Conditions of the Contract Documents.

18.0 SUBCONTRACTORS AND SUBCONSULTANTS' LIST

18.1 The Bidder shall submit a list of names and addresses of the subcontractors/ subconsultants and major material suppliers proposed for the principal portions of the Work and shall include such information on the Contractor's Qualifications Statement.

18.2 Prior to award of Contract, the Town will notify the Bidder in writing if there is an objection to any person or entity listed. Upon such objection, the Bidder shall propose an acceptable substitute in accordance with the General Conditions.

18.3 In Contracts where the Contract Price is on the basis of Cost-of-the-Work Plus a Fee, the apparent Successful Bidder, prior to the Notice of Award, shall identify in writing to Town those portions of the Work that such Bidder proposes to subcontract and after the Notice of Award may only subcontract other portions of the Work with Town's written consent.

19.0 LICENSES, PERMITS AND FEES

19.1 In accordance with the Public Bid Disclosure Act, 218.80, Florida Statutes, the Town shall disclose all permit fees associated with the Project. Licenses, permits, and fees which may be required by Miami-Dade County or any State or Federal entities are not included. The Consultant/Contractor shall be responsible for filing and obtaining all permits for the Work. The Consultant/Contractor shall file permit applications with the Town prior to construction. The Town will waive Town permit fees generated by the Town permits. Any delays in obtaining permits must be brought to the attention of the Town without delay. Each license, permit or fee a contractor will have to pay the Town before or during construction as part of the Contract, required by the Town and payable

to the Town, is as follows:

Building Permit – Town of Bay Harbor Islands Building Department

19.2 The Bidder shall provide a copy of following license:
A State of Florida General Contractor's License
Subconsultants – State of Florida Professional Engineer or Architect License

19.3 The Successful Bidder shall give all notices and comply with all permit requirements, laws, ordinances, rules, regulations and lawful orders of any public authority bearing on the performance of the Work. The Town shall not be responsible for monitoring the Successful Bidder's compliance with any laws or regulations.

20.0 CONE OF SILENCE

20.1 Pursuant to subsection (t) (1) of Section 2-11.1, Conflict of Interest and Code of Ethics Ordinance of the Miami-Dade County Code, a "Cone of Silence" is imposed upon each Bid after advertisement and terminates at the time the Town Manager makes his written recommendation to the Town Council. The Cone of Silence generally prohibits any communication regarding this Bid between Bidders and their agents and the Town. The details of the Cone of Silence and the permitted exceptions to the Cone of Silence are set forth in subsection (t) (1) of Sec. 2-11.1 of the County Code. A copy of subsection (t)(1) is attached to this Bid as Exhibit "A." In reading that subsection, Bidders are advised that all references to County personnel or boards, as used therein, are construed to mean Town personnel or boards as required by Sec. 2-11.1(a) of the Miami-Dade County Code. Please contact the Town Attorney for any questions concerning the Cone of Silence. The Cone of Silence shall apply to this Bid.

20.2 Generally, except for public hearings and scheduled presentations, contact with the Town regarding this Bid or any aspect of a Bid by a Bidder or any representative of a Bidder shall be limited to written communications until such time as a successful bidder is selected by the Council. All questions or requests for additional information must be asked and answered in writing.

21.0 CONFLICT OF INTEREST

21.1 The Contractor shall insert in all contracts entered into in connection with the Project or any property included or planned to be included in any Project, and shall require contracts to inert in each of their subcontractors, the following provisions.

"No member, officer or employee of the firm or of the locality during his tenure of for 2 years thereafter shall have any interest, direct or indirect, in this contract of the proceeds thereof."

22.0 BID PROTEST PROCEDURE

If a vendor feels that they have been treated unfairly concerning the results of a solicitation, or the resulting recommendation for award, they may protest the Town's action as follows:

22.1 The vendor must submit a letter to the Procurement Manager detailing the nature of the protest accompanied by two (2) cashier's checks within three (3) working days of the Notice of Intent to Award. The first check will be in the amount of $500 (hereinafter called "the administrative fee"). The second check will be in the amount of 1% of the bid amount (hereinafter called "the protest bond"). The Town's Notices of Intent to Award are posted on the Town of Bay Harbor Island's website.

22.2 If the Procurement Manager receives a bid protest letter, the administrative fee, and the protest bond as described above, the bid award process will be suspended, and the protest will be referred to the Bid Protest Committee. However, if the project is needed to protect the health, safety, and/or welfare of the residents of the Town of Bay Harbor Islands, the award of the project will proceed without interruption. The Bid Protest Committee shall consist of three (3) Town staff member selected by the Town Administrator. The Procurement Manager and the employee that wrote the Recommendation for Award may not sit as a member of the Bid Protest Committee. However, the Procurement Manager and the staff member that wrote the Recommendation for Award shall be present at the hearing of the Bid Protest Committee to answer any questions pertaining to the bid process or the evaluation process.

22.3 The Bid Protest Committee shall schedule a hearing within ten (10) working days from receipt of the protest letter. All parties having an interest in the outcome will be notified of the date and time of the hearing. If the bid protest is denied, the vendor will forfeit the protest bond. If the protest is upheld, the protest bond will be returned to the vendor. The administrative fee shall be non-refundable in all cases.

22.4 If the Bid Protest Committee denies the protest, the aggrieved vendor may appeal his/her case to the Town Council. In order to appeal, the vendor must notify the Town Administrator within three (3) working days of the Bid Protest Committee's ruling. Upon notification, the Town Administrator will schedule the appeal as an agenda item on the next available Town Council agenda. All bidders will be notified of the agenda date.

22.5 Once the bid protest is resolved, the Town will proceed with the bid award, except as exempted in 2, above.

EXHIBIT "A"

CONE OF SILENCE PROVISION

(t) *Cone of Silence.*

1. Contracts for the provision of goods and service other than audit and independent private sector inspector general (IPSIG) contracts.

(a) "Cone of Silence" is hereby defined to mean a prohibition on: (i) any communication regarding a particular RFP, RFQ or bid between a potential vendor, service provider, bidder, lobbyist, or consultant and the County's professional staff including, but not limited to, the County Manager and his or her staff; (ii) any communication regarding a particular RFP, RFQ or bid between the Mayor, County Commissioners or their respective staffs and any member of the County's professional staff including, but not limited to, the County Manager and his or her staff; (iii) any communication regarding a particular RFP, RFQ or bid between a potential vendor, service provider, bidder, lobbyist, or consultant and any member of the selection committee therefore; (iv) any communication regarding a particular RFP, RFQ or bid between the Mayor, County Commissioners or their respective staffs and any member of the selection committee therefore; (v) any communication regarding a particular RFP, RFQ or bid between a potential vendor, service provider, bidder, lobbyist, or consultant and the Mayor, County Commissioners and their respective staffs; and (vi) any communication regarding a particular RFP, RFQ or bid between any member the County's professional staff and any member of the selection committee therefore. The County Manager and the Chairperson of the selection committee may communicate about a particular selection committee recommendation, but only after the committee has submitted an award recommendation to the Manager and provided that should any change occur in the committee recommendation, the content of the communication and of the corresponding change shall be described in writing and filed by the Manager with the Clerk of the Board and be included in any recommendation memorandum submitted by the Manager to the Board of County Commissioners. Notwithstanding the foregoing, the Cone of Silence shall not apply to (i) competitive processes for the award of CDBG, HOME, SHIP and Surtax Funds administered by the Miami-Dade County Office of Community and Economic Development and the community-based organization (CBO) competitive grant processes administered by the Park and Recreation, Library, Water and Sewer, and Solid Waste Departments, Cultural Affairs and Tourist Development Councils and the Department of Environmental Resources Management; (ii) communications with the County Attorney and his or her staff; (iii) communications between a potential vendor, service provider, bidder, consultant or lobbyist and employees of the Management and Technical Assistance Unit of the Department of Business Development regarding small business and/or minority business programs, the Community Business Enterprise and Equitable Distribution Programs; (iv) communications between a potential vendor, service provider, bidder, consultant or lobbyist and employees responsible for administering disadvantaged business enterprise programs in County departments receiving federal funds, provided the communications are limited strictly to matters of programmatic process or procedure; (v) duly noticed site visits to determine the competency of bidders regarding a particular bid during the time period between the opening of bids and the time the County Manager makes his or her written recommendation; (vi) any emergency procurement of goods

or services pursuant to Administrative Order 3-2; (vii) communications regarding a particular RFP, RFQ or bid between any person and the Vendor Information Center staff, the procurement agent or contracting officer responsible for administering the procurement process for such RFP, RFQ or bid, provided the communication is limited strictly to matters of process or procedure already contained in the corresponding solicitation document; and (viii) communications regarding a particular RFP, RFQ or bid between the procurement agent or contracting officer, or their designated secretarial/clerical staff responsible for administering the procurement process for such RFP, RFQ or bid and a member of the selection committee therefore provided the communication is limited strictly to matters of process or procedure already contained in the corresponding solicitation document.

(b) Procedure.

(i) A Cone of Silence shall be imposed upon each RFP, RFQ and bid after the advertisement of said RFP, RFQ or bid. At the time of imposition of the Cone of Silence, the County Manager or his or her designee shall provide for public notice of the Cone of Silence. The County Manager shall issue a written notice thereof to the affected departments, file a copy of such notice with the Clerk of the Board, with a copy thereof to each Commissioner, and shall include in any public solicitation for goods and services a statement disclosing the requirements of this ordinance. Notwithstanding any other provision of this Section, the imposition of a Cone of Silence on a particular RFP, RFQ or bid shall not preclude staff from obtaining industry comment or performing market research therefore provided all communications related thereto between a potential vendor, service provider, bidder, lobbyist, or consultant and any member of the County's professional staff including, but not limited to, the County Manager and his or her staff are in writing or are made at a duly noticed public meeting.

(ii) The Cone of Silence shall terminate at the time the Manager makes his or her written recommendation to the County Commission; provided, however, that if the Commission refers the Manager's recommendation back to the Manager or staff for further review, the Cone of Silence shall be reinstated until such time as the Manager makes a subsequent written recommendation. The foregoing notwithstanding, for contracts and purchases which the County Manager has the delegated authority to award under Sec. 2-8.1(b) of this Code, the Cone of Silence shall terminate: (i) at the time the award recommendation letter is issued and filed with the Clerk of the Board for such contracts and purchases involving the expenditure of over one hundred thousand dollars ($100,000); (ii) at the time the written award recommendation is posted in accordance with Section III of A.O. 3-21 for such contracts or purchases involving the expenditure of over $25,000 up to $100,000; or (iii) at the time the award recommendation is issued in accordance with

Section IV of A.O. 3-21 for contracts and purchases involving the expenditure of $25,000 or less.
(c) Exceptions. The provisions of this ordinance shall not apply to oral communications at pre-bid conferences, oral presentations before selection committees, contract negotiations during any duly noticed public meeting, public presentations made to the Board of County Commissioners during any duly noticed public meeting or communications in writing at any time with any county employee, official or member of the Board of County Commissioners unless specifically prohibited by the applicable RFP, RFQ or bid documents. The bidder or proposer shall file a copy of any written communication with the Clerk of the Board. The Clerk of the Board shall make copies available to any person upon request.

SCOPE OF WORK

1. PROJECT SITE AND CURRENT CONDITIONS

The Town owns the empty lot located at the 9600 West Bay Harbor Drive. This lot was used as a parking lot in the past. It is the Town's intent to create a new park for recreation of our residents. This new Park shall have a Kayak Launch area and an area for renting of Paddle Boards. A general aerial map of the proposed site can be found in **Attachment #1.** A land survey of the area is included in **Attachment #2.**

2. PROJECT DESCRIPTION

The Town has identified the need for the Design and Build of a new Park at 9600 West Bay Harbor Drive as part of the Town's recreation program. This new park will be for the use of the Residents and shall include a kayak launch and paddle boards rental, as requested by the residents. This will be a phased project, which will include the developing of the concept plans prepared by FIU School Architecture **(Attachment #3)** and designing and constructing the new park.

This scope of services of this request for proposals includes, but is not limited to, engineering, surveys, geotechnical, permitting, cost estimates, construction documents, construction and construction administration services to construct the new Park at 9600 West Bay Harbor Drive. It is the Town's intent that the selected Team shall obtain all necessary information sufficient to acquire all local, state and any other permits needed for the construction of the Project. It is the Town's expectation that the Architect/Engineer will lead the planning, engineering, and permitting phases of the Project. The Architect/Engineer should also be ready to assist the Town with construction administration services including product submittal review/approval and field inspections/construction meetings.

3. DESIGN DEVELOPMENT PHASE

The Design-Build Team will develop a complete set of design plans, utilizing the final schematic/concept design developed by FIU. The design should include 60%, 90% and 100% complete design submittals, including plans, specifications, cost estimates and schedules for each deliverable. The Design-Build Team shall include on their proposal, a) a Design Kick-off Meeting with the Town, b) a Design Workshop Meeting (60% and 90%), the Town will need two (2) weeks for review of submitted documents c) Meetings with Permitting Agencies. For each deliverable at least one (1) original size set of plans shall be provided. The rest of the documents can be digital (PDF). All drawings shall be prepared using Autocad 2020 or more recent version. All DWG files shall be submitted to the Town when the 100% plans are approved.

A detailed cost breakdown will be required to be provided throughout the development of the project, to assist with decision making and to ensure project stays within budget.

The schedule shall indicate time line to completion with milestones progress and proposed dates for submittals. The Architect/Consultant is to manage and keep the schedule updated.

The design development documents shall indicate the character of the proposed project for architectural, structural, mechanical and electrical systems, materials and other elements as may be appropriate.

The proposed design shall be in compliance with the Town Code, specially but not limited to the following sections ***Sec. 24-16 – Minimum Landscape Standards***

4. CONSTRUCTION DOCUMENTS PHASE

Based on the approved Design Development Documents and any further adjustments in the scope or quality of the Project or in the construction budget authorized by the Owner, the Design-Build Team shall prepare, review, and revise, subject to Owner's approval, Construction Documents consisting of Drawings and Specifications setting forth in detail the requirements for the construction of the Project. They will be responsible for complete construction documents required by local permitting agencies, the permitting processes, and for installation of all components.

Contract documents at the 90% complete stage for the construction of the project must be reviewed and available for mark-up by the Town staff, prior to final preparation of documents. Final copies of the construction documents must be received by the Town prior to construction.

5. CONSTRUCTION PHASE AND CONSTRUCTION ADMINISTRATION

Prior to commencing construction, a detailed cost analysis and schedule of the proposed construction shall be provided to show the project construction budget and detailed timeline for construction work schedule with milestones shown.

- The Contractor is to be responsible for overall project construction quality control including protection and security of site, provides directives to sub-contractors and attends scheduled construction meetings on site. Schedule and attend construction progress meetings.
- Provide inspection/field condition reports as needed.
- Schedule inspections by all required agencies and officials.
- Provide other duties as outlined in contract and as required by project schedule.
- Maintain work schedule.
- Attend meetings with owner, consultants, and subcontractors.

- Project Close-out

As required, construction of the Park shall be performed by a Florida Certified General Contractor with vast experience on this type of Park Projects.

The consultant team leader shall provide construction coordination and is responsible for communicating with team members / owner, prime contractors and attends scheduled construction meetings on site. This individual is to provide reports and meeting minutes to owner, team members, sub-consultants and sub-contractors. If team leader is replaced during construction period, replacement will require Owner's approval of same or greater credentials and experience level initially proposed prior to replacements' start of work.

- Provide input for reports
- Progress meeting minutes
- Responsible for review of all project billing
- Facilitate progress meetings onsite
- Assist with Project Close-out
- Other duties as outlined in contract

Project Close-Out shall include providing the Town with a hard copy and an electronic copy (in PDF and AutoCAD) of design and construction documents. As well as, an electronic copy of as-built drawings, specifications, Owner Manuals, warranty statements and other appropriate close-out documents, plus any other mutually agreeable services that the Town believes necessary for successful completion of the project. All electronic information shall be provided on a USB drive and are considered part of the scope of services. Survey information shall be provided as AutoCAD 2020 or later version, in order to update the existing park database.

6. PROJECT COST

The Project Cost under this Request for Proposal is to be inclusive of all fees for the Design-Build Team and Sub-consultants fees including all taxes, studies, surveys, labor, materials, equipment, and services required for this project, and including compliance with all state and local codes. Reimbursable expenses are not applicable to this contract. All permitting costs are to be included in the base offer.

7. PROJECT SCHEDULE

Proposals shall include a timeline to accomplish all tasks.

The Team's proposal must clearly address their ability to meet the intended schedule. The team shall be required to (a) commence work under this contract within 10 days after the date the team receives the notice to proceed, (b) execute diligently, and (c) substantially complete the entire work. The substantial completion shall include final cleanup of the premises. The team shall achieve final completion within thirty (30) days of Substantial Completion.

EVALUATION COMMITTEE AND PROCEDURE FOR REVIEW OF SUBMITTALS

1. A Committee has been established to review and evaluate all qualifications submitted in response to this Request for Proposals (RFP). The Committee shall conduct a preliminary evaluation of all submittals on the basis of the information provided and other evaluation criteria as set forth in this RFP or as reasonably determined by the Committee pursuant to Section 287.055, Florida Statutes. The factors to be considered by the Town in making this preliminary finding of qualifications of the respondents are the Statement of Interest, General Firm and Project Team Information, List of Projects and References, Cost and Schedule, Project Approach and Conceptual Plan.
2. The Committee will first review each submittal for compliance with the minimum qualifications and mandatory requirements of the RFP. Failure to comply with any mandatory requirements will disqualify a submittal.
3. The Town reserves the right to reject any and all submittals and to waive irregularities in the procedures. The Town further reserves the right to seek new submittals when such a procedure is reasonably in the best interest of the Town to do so.
4. The Award will be made to the Design-Build Firm who submits the overall proposal that is judged to provide the best value to the TOWN. Generally, proposals will be evaluated based on the following criteria;

Criteria	**Points**
Statement of Interest	5
General Firm and Project Team Information	20
List of Projects and References	20
Cost and Schedules	25
Project Approach and Concept Design	30
TOTAL OF 100 POSSIBLE POINTS	**100 Points**

The Committee may require public presentations by firms regarding their qualifications, approach to the project or work, and ability to furnish the required services. All final rankings shall be subject to the Town Council Approval.

Proposers who obtain copies of this solicitation from sources other than the TOWN risk the potential of not receiving addenda, since their names will not be included on the list of firms participating in the process for this solicitation. Such Proposers are solely responsible for those risks.

5. PROPOSAL FORMAT

IT IS THE RESPONSIBILITY OF THE PROPOSER TO ENSURE THAT THE PROPOSAL BEING SUBMITTED IS TIMELY, COMPLETE, INCLUSIVE OF

ADDRESSING ALL OF THE REQUIREMENTS AND EVALUATION CRITERIA HEREIN.

To facilitate review and evaluation, the Proposal document prepared in response to this RFP shall provide the following information in the **order shown.**

A. Statement of Interest:

1. Cover Letter on company letter head signed by person authorized to submit the proposal. Letter must include contact person with their telephone number, e-mail address and mailing address. The type of organization (i.e., individual, partnership, corporation, joint venture, etc.), year established, and address of the company shall also be included in the Cover Letter.

B. General Firm and Project Team Information:

1. Provide general contact information and personnel experience. Please provide the same information for any sub-contractors and sub-consultants. Key individuals identified will not be substituted with other personnel or reassigned to another project without City approval. Include Resume and Licenses of Key Individuals.

C. List of Projects and References:

1. Provide a project summary for at least three (3) separate park construction projects performed on the last five (5) years. The project summary shall include a description of the project, services performed, the final project costs and the duration of the entire project from award to completion. Provide Contact Information of the Owner.

D. Cost and Schedules:

1. Provide a proposed schedule from project start date to completion showing the key components and their expected duration, along with estimated cost of each component of the project.

E. Project Approach and Conceptual Plans:

1. Describe the technical approach for accomplishing the project and how the public will be involved in the process. A preliminary conceptual plan shall be provided with the submittal.

F. Bid Forms:

1. Completely Executed Bid Forms.

SCHEDULE OF EVENTS

The following is a general schedule of events:

No.	Event	Date
1.	Advertisement of Bids	July 11, 2022
2.	Non Mandatory Pre-Bid Conference at Town Hall, 9665 Bay Harbor Terrace, Bay Harbor, Florida 33154 10:00 A.M.	August 1, 2022 at
3.	Site Visits & Inspections	Anytime
4.	Deadline for submittal by Bidders of Inquiries	August 15, 2022
5.	Deadline for Issuance of Addenda	August 17, 2022
6.	Bid Submittal Deadline/Opening of Sealed Bids	August 25, 2022 at 3:00 P.M.
7.	Award of Project by Town Council	TBD
8.	Notice of Award given to Contractor, Payment/Performance bonds executed by Contractor and submitted to Town Manager	TBD
9.	Contract Documents Execution by Successful Bidder and Submission of Certificate of Insurance to Town Manager	TBD
10.	Final Approval and Execution of Contract Documents by Town Attorney and Town Manager	TBD
11.	Notice to Proceed Issued to Contractor	TBD
12.	Contract Time (from Notice to Proceed to Substantial Completion)	TBD
13.	Contract Time (from Notice to Proceed to Final Completion)	TBD

BID FORM

BID FROM:
Company: _____

Address: _____
City/St/Zip: _____

Phone/ Fax: _____

To furnish all materials, equipment and labor and to perform all work in accordance with the Bid and Contract Documents for Project:

96th Street New Park and Kayak Launch , Project No. BHI -229, located in the Town of Bay Harbor Islands, Florida.

TO: TOWN OF BAY HARBOR ISLANDS, FLORIDA
ATTN: TOWN MANAGER

1.01 The undersigned Bidder proposes and agrees, if this Bid is accepted, to enter into a Contract for Construction, with the Town in substantially the form included in the Bidding Documents to perform all Work and any Additional Services as specified or indicated in the Bidding Documents at the Total Bid Price and within the Contract Times indicated in this Bid and in accordance with the other terms and conditions of the Bidding Documents.

2.01 Bidder accepts all of the terms and conditions of the Invitation to Bid and Instructions to Bidders, including without limitation those dealing with the disposition of Bid security. The Bid will remain subject to acceptance for **120** days after the Bid opening, or for such longer period of time that Bidder may agree to in writing upon request of Town.

3.01 In submitting this Bid, Bidder represents, as set forth in the Bidding Documents, Contract for Construction, that:

A. Bidder has examined and carefully studied the Bidding Documents, the other related data identified in the Bidding Documents, and the following Addenda, receipt of all, which is hereby acknowledged.

Addendum No.	Addendum Date
_____	_____
_____	_____
_____	_____

B. Bidder has visited the Site and become familiar with and is satisfied as to the general, local and Site conditions that may affect cost, progress, and performance of the Work.

C. Bidder is familiar with and is satisfied as to all federal, state and local laws and Regulations that may affect cost, progress and performance of the Work, including all requirements applicable to the Project, including the provisions, clauses, terms or conditions set forth in Construction Contract (Contract Requirements).

D. Bidder has carefully studied all documents as applicable: (1) reports of explorations and tests of subsurface conditions at or contiguous to the Site and all drawings of physical conditions in or relating to existing surface or subsurface structures at or contiguous to the Site (except Underground Facilities) which have been identified in the Bidding Documents, and (2) reports and drawings of a Hazardous Environmental Condition, if any, which has been identified in the Bidding Documents.

E. Bidder has obtained and carefully studied (or assumes responsibility for having done so) all additional or supplementary examinations, investigations, explorations, tests, studies and data concerning conditions (surface, subsurface and Underground Facilities) at or contiguous to the Site which may affect cost, progress, or performance of the Work or which relate to any aspect of the means, methods, techniques, sequences, and procedures of construction to be employed by Bidder, including applying the specific means, methods, techniques, sequences, and procedures of construction expressly required by the Bidding Documents to be employed by Bidder, and safety precautions and programs incident thereto.

F. Bidder does not consider that any further examinations, investigations, explorations, tests, studies, or data are necessary for the determination of this Bid for performance of the Work at the Total Bid Price and within the Contract Times and in accordance with the other terms and conditions of the Bidding Documents.

G. Bidder has correlated the information known to Bidder, information and observations obtained from visits to the Site, reports and drawings identified in the Bidding Documents, and all additional examinations, investigations, explorations, tests, studies, and data with the Bidding Documents.

H. Bidder has given Town's Representative written notice of all conflicts, errors, ambiguities, or discrepancies that Bidder has discovered in the Bidding Documents, and the written resolution thereof by the Town is acceptable to Bidder.

I. The Bidding Documents are generally sufficient to indicate and convey understanding of all terms and conditions for the performance of the Work for which this Bid is submitted.

J. Bidder has reviewed and carefully studied the Contract for Construction, together with Construction Contract Requirements and understands the requirements and prerequisites for the Project and agrees to comply with the provisions at all times during the Project.

4.01 Bidder further represents that this Bid is genuine and not made in the interest of or on behalf of any undisclosed individual or entity and is not submitted in conformity with any agreement or rules of any group, association, organization or corporation; Bidder has not directly or indirectly induced or solicited any other Bidder to submit a false Bid; Bidder has not solicited or induced any individual or entity to refrain from bidding; and Bidder has not sought by collusion to obtain for itself any advantage over any other Bidder or over Town.

PRICE PROPOSAL SHEET ON FOLLOWING PAGE

96th Street New Park and Kayak Launch – Design Build
TOWN OF BAY HARBOR ISLANDS
BHI- 229

PRICE PROPOSAL FORM

DESIGN-BUILD TEAM
RFP #: BHI-229

Company: _____

All contingencies, overhead & profit, allowances, fees, subconsultant fees and any other associated costs are included in this Price Proposal.

Item 1 – Design Development: **$ _____**

Item 2 – Construction Documents & Permitting: **$ _____**

Item 3 – Construction: **$ _____**

Item 4 – Construction Administration and Inspection: **$ _____**

TOTAL PRICE **$ _____**

Proposer will complete the Work in accordance with the Contract Documents for the following Total Base Bid Price:

$ _____
(Total Base Bid Price)

Written Total Base Bid Price Amount (in Words):

$_____(Dollars) _____ (cents)

_____ **_____**
Name of Authorized Agent **Signature of Authorized Agent**

Date: _____

6.01 Bidder's Information:
The Bidder states that he/she is an experienced Contractor and has completed similar projects within the last five years. This information has been provided on the Contractor's Qualifications Statement.

7.01 Bidder agrees that the Work will be substantially completed and completed and ready for final payment in accordance with the Bid and Contract Documents on or before the dates or within the number of calendar days indicated in the Contract. If the Bidder does not agree with the construction time allocated in the Bid Documents and the Contract for Construction, attach a statement to this Bid Form to indicate the number of days required.

8.01 Bidder accepts the provisions of the Contract for Construction as to liquidated damages in the event of failure to complete the Work within the times specified above, which shall be stated in the Contract Documents.

9.01 The following documents are attached to and made a condition of this Bid:

A. Required Bid security in the form of Bid Bond
B. Bid Bond form
C. Contractor's Qualifications Statement, containing a tabulation of Subcontractors, Suppliers [and other] individuals and entities required to be identified in this Bid;
D. Signed Trench Safety Act Form (if applicable)
E. O.S.H.A. Standards Acknowledgement Form
F. Non-Collusion Affidavit
G. Copy of State of Florida General Contractor's License (ten days prior to Award);
H. Addenda

10.01 The terms used in this Bid with initial capital letters have the meanings indicated in the Instructions to Bidders, the General Conditions, and the Supplementary Conditions, if any.

SUBMITTED on _____, 2022.

State Contractor License No. _____. (If applicable)

If Bidder is:

<u>An Individual</u>

Name (typed or printed): _____

By: _____(SEAL)
(Individual's signature)
Doing business as: _____
Business address: _____
_____
Phone No.: _____ FAX No.: _____

A Partnership

Partnership Name: _____(SEAL)

By: _____
(Signature of general partner -- attach evidence of authority to sign)
Name (typed or printed): _____

Business address: _____
_____
Phone No.: _____ FAX No.: _____

A Corporation

Corporation Name: _____(SEAL)
State of Incorporation: _____
Type (General Business, Professional, Service, Limited Liability):_____

By: _____
(Signature --attach evidence of authority to sign)

Name: (typed or printed): _____

Title: _____

(CORPORATE SEAL)

Attest _____
(Signature of Corporate Secretary)
Business address: _____
_____
Phone No.: _____ FAX No.: _____

Date of Qualification to do business is _____.

CONTRACTOR'S QUALIFICATIONS STATEMENT

THIS FORM MUST BE SUBMITTED WITH BID FOR BID TO BE DEEMED RESPONSIVE.
The undersigned guarantees the truth and accuracy of all statements and the answers contained herein.

1. Please describe your entity/company in detail.

_____
_____
_____
_____
_____
_____

2. The address of the principal place of business is:

_____
_____
_____
_____

3. Entity/Company telephone number, fax number and e-mail addresses:

_____
_____
_____

4. Number of employees:

_____
_____

5. Number of employees assigned to this Project:

_____
_____

6. Entity/Company Identification numbers for the Internal Revenue Service:

_____

7. Provide Miami-Dade County Occupational License Number, if applicable, and expiration date:

_____
_____
_____

8. How many years has your organization been in business as a General Contractor? Does your organization have a specialty?

_____
_____
_____

9. What is the last project of this nature or magnitude that you have completed? Has this firm ever completed a "public" project? Please provide project description, reference and cost of work completed.

_____
_____
_____
_____
_____
_____

10. Have you ever failed to complete any work awarded to you? If so, where and why?

_____
_____
_____
_____
_____

11. Give names, addresses and telephone numbers of three municipalities, for which you have performed work:

11.1.
Name _____
Address _____
Telephone No. _____

11.2.
Name _____
Address _____
Telephone No. _____

11.3.
Name _____
Address _____
Telephone No. _____

12. List the following information concerning all contracts or work **in progress** as of the date of submission of this bid. (In case of co-venture, list the information for all co-ventures.)

Name of Project	Owner	Value	Contracted Completion Date	% of Completion to Date

(Continue list on insert sheet, if necessary.)

13. Has the Bidder or his or her representative inspected the Project site and does the Bidder have a complete plan for its performance?

_____
_____

14. Provide list of subcontractor(s), the work to be performed and also a list of major materials suppliers for this Project?

SubContractor Name	Address	Work to be Performed

The foregoing list of subcontractor(s) may not be amended after award of the contract without the prior written approval of the Town Manager, whose approval shall not be unreasonably withheld.

15. What equipment do you own that is available for the work?

_____
_____
_____
_____
_____
_____

16. What equipment will you purchase for the proposed work?

_____
_____
_____
_____
_____
_____

17. What equipment will you rent for the proposed work?

_____

_____
_____
_____
_____
_____

18. State the name of your proposed Project Manager and give details of his or her qualifications and experience in managing similar work.

_____
_____
_____
_____
_____
_____

19. State the true, exact, correct and complete name of the partnership, corporation, company and/or trade name under which you do business and the address of the place of business. (If a corporation, state the name of the president and secretary. If a limited liability company, state the name of the managing member. If a partnership, state the names of all partners. If a trade name, state the names of the individuals who do business under the trade name.)

_____
_____
_____
_____
_____
_____

19.1 The correct name of the Bidder is:

_____
_____
_____

19.2. The business is a (Sole Proprietorship) (Partnership) (Corporation) (Company).

_____
_____
_____

19.3. The names of the corporate officers, company members, or partners, or individuals doing business under a trade name, are as follows:

_____
_____
_____

Only those Bidders and Subcontractor (s) who are qualified in the selected installation methodology

will be considered as bona fide bidders. As Bidder, we certify to have constructed at least three (3) similar projects in the last five (5) year period as indicated by the following:

1) NAME OF PROJECT _____
YEAR OF PROJECT _____
OWNER OF PROJECT _____
CONTACT NAME _____
CONTACT PHONE NO. _____
CONTACT E-MAIL _____
LOCATION OF PROJECT _____
SCOPE OF WORK _____
_____
_____
APPROXIMATE VALUE _____

2) NAME OF PROJECT _____
YEAR OF PROJECT _____
OWNER OF PROJECT _____
CONTACT NAME _____
CONTACT PHONE NO. _____
CONTACT E-MAIL _____
LOCATION OF PROJECT _____
SCOPE OF WORK _____
_____
_____
APPROXIMATE VALUE _____

3) NAME OF PROJECT _____
YEAR OF PROJECT _____
OWNER OF PROJECT _____
CONTACT NAME _____
CONTACT PHONE NO. _____
CONTACT E-MAIL _____
LOCATION OF PROJECT _____
SCOPE OF WORK _____
_____
_____
APPROXIMATE VALUE _____

SIGNATURE AND NOTARY ACKNOWLEDGEMENT
FOLLOW ON THE NEXT PAGE

CONTRACTOR:

_____
Print Name: _____

Print Title: _____

Date: _____

STATE OF FLORIDA)
) S.S.
COUNTY OF MIAMI-DADE)

The foregoing instrument was acknowledged before me this _____ day of _____, 2022, by _____ who is personally known to me or who has produced _____ as identification and who did/did not take an oath.

WITNESS my hand and official seal, this _____ day of _____, 2022.

(NOTARY SEAL)

_____
(Signature of person taking acknowledgment)

(Name of officer taking acknowledgment)
typed, printed or stamped

96th Street New Park and Kayak Launch – Design Build
TOWN OF BAY HARBOR ISLANDS
BHI- 229

BID BOND

BIDDER *(Name and Address)*:

_____
_____

SURETY *(Name and Address of Principal Place of Business)*:

_____
_____
_____

OWNER *(Name and Address)*:

TOWN OF BAY HARBOR ISLANDS
9665 Bay Harbor Terrace
Bay Harbor, FL 33154

BID

BID DUE DATE: August 25, 2022 at 3:00 P.M.
Project Description including Location is as follows:
PROJECT NAME: 96TH STREET NEW PARK AND KAYAK LAUNCH – DESIGN BUILD
PROJECT NO: BHI - 229
LOCATION: TOWN OF BAY HARBOR ISLANDS, FLORIDA

BOND

BOND NUMBER: _____
DATE: *(Not later than Bid Due Date)*: _____
PENAL SUM: _____

IN WITNESS WHEREOF, Surety and Bidder, intending to be legally bound hereby, subject to the terms printed on the reverse side hereof, do each cause this Bid Bond to be duly executed on its behalf by its authorized officer, agent, or representative.

BIDDER	SURETY
_____(Seal)	_____(Seal)
Bidder's Name and Corporate Seal	Surety's Name and Corporate Seal
By: _____	By: _____
Signature and Title	Signature and Title
	(Attach Power of Attorney)
Attest: _____	Attest: _____
Signature and Title	Signature and Title

Note: (1) Above addresses are to be used for giving required notice.
(2) Any singular reference to Bidder, Surety, Owner or other party shall be considered plural where applicable.

_____

1. Bidder and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors and assigns to pay to Owner upon default of Bidder for the Work required by the Contract Documents, provided that:

1.1. The penal sum set forth on the face of this Bond, and

1.2. In no event shall Bidder's and Surety's obligation hereunder exceed the penal sum set forth on the face of this Bond.

2. Default of Bidder shall occur upon the failure of Bidder to deliver within the time required by the Bidding Documents (or any extension thereof agreed to in writing by Owner) the executed Agreement required by the Bidding Documents and any performance and payment bonds and insurance certificates required by the Bidding Documents and Contract Documents.

3. This obligation shall be null and void if:

3.1. Owner accepts Bidder's bid and Bidder delivers within the time required by the Bidding Documents (or any extension thereof agreed to in writing by Owner) the executed Construction Contract required by the Bidding Documents and any performance and payment bonds required by the Bidding Documents and Contract Documents, or

3.2. All bids are rejected by Owner, or

3.3. Owner fails to issue a notice of award to Bidder within the time specified in the Bidding Documents (or any extension thereof agreed to in writing by

Bidder and, if applicable, consented to by Surety when required by paragraph 5 hereof).

4. Payment under this Bond will be due and payable upon default by Bidder and within 30 calendar days after receipt by Bidder and within 30 calendar days after receipt by Bidder and Surety of written notice of default from Owner, which notice will be given with reasonable promptness, identifying this Bond and the Project and including a statement of the amount due.

5. Surety waives notice of and any and all defenses based on or arising out of any time extension to issue notice of award agreed to in writing by Owner and Bidder, provided that the total time for issuing notice of award including extensions shall not in the aggregate exceed 120 days from Bid Due Date without Surety's written consent.

6. No suit or action shall be commenced under this Bond prior to 30 calendar days after the notice of default required in paragraph 4 above is received by Bidder and Surety and in no case later than one year after Bid Due Date.

7. Any suit or action under this Bond shall be commenced only in a court of competent jurisdiction located in the state in which the Project is located.

8. Notices required hereunder shall be in writing and sent to Bidder and Surety at their respective addresses shown on the face of this Bond. Such notices may be sent by personal delivery, commercial courier or by United States Registered or Certified Mail, return receipt requested, postage pre-paid, and shall be deemed to be effective upon receipt by the party concerned.

9. Surety shall cause to be attached to this Bond a current and effective Power of Attorney evidencing the authority of the officer, agent or representative who executed this Bond on behalf of Surety to execute, seal and deliver such Bond and bind the Surety thereby.

10. This Bond is intended to conform to all applicable statutory requirements. Any applicable requirement of any applicable statute that has been omitted from this Bond shall be deemed to be included herein as if set forth at

length. If any provision of this Bond conflicts with any applicable provision of this Bond conflicts with any applicable provision of any applicable statute, then the provision of said statute shall govern and the remainder of this Bond that is not in conflict therewith shall continue in full force and effect.

11. The term "bid" as used herein includes a bid, offer or proposal as applicable.

96th Street New Park and Kayak Launch – Design Build
TOWN OF BAY HARBOR ISLANDS
BHI- 229

TRENCH SAFETY ACT

(90-96, Laws of Florida)

Bidder acknowledges that included in the appropriate bid items of the Bid and in the Total Bid Price are costs for complying with the Florida Trench Safety Act (90-96, Laws of Florida) effective October 1, 1990. The bidder further identifies the costs of such compliance to be summarized below:

	Trench Safety Measure (Description)	Unit of Measure (LFSF)	Unit (Quantity)	Unit Cost	Extended Cost
A.					
B.					
C.					
D.					
				Total	**$**

If applicable, the Contractor certifies that all trench excavation done within his control in excess of five feet in depth shall be in accordance with the Florida Department of Transportation's Special Provisions Article 125-1 and Subarticle 125-4.1 (**TRENCH EXCAVATION SAFETY SYSTEM AND SHORING, SPECIAL -TRENCH EXCAVATION**).

Failure to complete the above may result in the bid being declared non-responsive.

Contractor agrees that the above safety compliances and costs are included in his bid package.

_____
Signature of Bidding Contractor

END OF DOCUMENT

96th Street New Park and Kayak Launch – Design Build
TOWN OF BAY HARBOR ISLANDS
BHI- 229

ACKNOWLEDGEMENT OF CONFORMANCE

WITH O.S.H.A. STANDARDS

TO: Town of Bay Harbor Islands, Florida

We _____, hereby acknowledge and agree that as contractors for the construction of the "96TH STREET NEW PARK AND KAYAK LAUNCH – DESIGN BUILD Project, Project No. BHI -229", that we have the sole responsibility for compliance with all requirements of the Federal Occupational Safety and Health Act of 1970, and all State and Local Safety and Health regulations, and agree to indemnify and hold harmless the Town of Bay Harbor Islands, Florida against any and all legal liability or loss the Town may incur due to _____
_____(Contractor's name) failure to comply with such act.

_____ _____
ATTEST CONTRACTOR

_____ By: _____
ATTEST

Title: _____

_____
DATE

END OF DOCUMENT

NON-COLLUSION AFFIDAVIT

The undersigned individual, being duly sworn, deposes and says that:

1 He/She is _____ of _____, the Bidder that has submitted the attached Bid;

2 He/She is fully informed respecting the preparation and contents of the attached Bid and of all pertinent circumstances respecting such Bid and Construction Contract;

3 Such Bid is genuine and is not a collusive or sham Bid;

4 Neither said Bidder nor any of its officers, partners, owners, agents, representatives, employees, or parties in interest, including this affiant, has in any way colluded, connived, or agreed, directly or indirectly, with any other Bidder, firm or person to submit a collusive or sham proposal in connection with the Construction Contract for which the attached Bid has been submitted or to refrain from proposing in connection with such Construction Contract, or has in any manner, directly or indirectly, sought by agreement of collusion or communication of conference with any other bidder, firm, or person to fix the price or prices in the attached Invitation to Bid, or of any other bidder, or to fix any overhead, profit or cost element of the Bid or the response of any other bidder, or to secure through any collusion, connivance, or unlawful agreement any advantage against the Town of Bay Harbor Islands, Florida, or any person interested in the proposed Construction Contract; and

[THIS SPACE INTENTIONALLY LEFT BLANK]

NON-COLLUSION AFFIDAVIT (CONTINUED)

5. The response to the attached Invitation to Bid is fair and proper and is not tainted by any collusion, conspiracy, connivance, or unlawful agreement on the part of the Bidder or any of its agents, representatives, owners, employees, or parties in interest, including this affiant.

_____
Signature (Blue ink only)

_____
Print Name

_____
Title

_____
Date

Witness my hand and official notary seal/stamp at _____ the day and year written above

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

BEFORE ME, an officer duly authorized by law to administer oaths and take acknowledgments, personally appeared _____ as _____, of _____, an organization authorized to do business in the State of Florida, and acknowledged executing the foregoing Affidavit as the proper official of _____ for the use and purposes mentioned in the Affidavit and affixed the official seal of the corporation, and that the instrument is the act and deed of that corporation. He/She is personally known to me or has produced _____ as identification.

IN WITNESS OF THE FOREGOING, I have set my hand and official seal at in the State and County aforesaid on this _____ day of _____, 202__.

_____

NOTARY PUBLIC
My Commission Expires:

96th Street New Park and Kayak Launch – Design Build
TOWN OF BAY HARBOR ISLANDS
BHI- 229

ADDENDUM NO. 1

Issued:* _____ *(Date)

Project: 96TH STREET NEW PARK AND KAYAK LAUNCH – DESIGN BUILD

Project No. BHI- 229

Notice to All Bidders:

ADDENDA TO BE PLACED HERE

Issued By: _____
Name

PROOF OF RECEIPT

Bidder/Recipient
Signature: _____
Print Name: _____
Firm: _____
Date: _____

AGREEMENT

Between

TOWN OF BAY HARBOR ISLANDS

and

_____.

For

DESIGN/BUILD SERVICES FOR

96th STREET NEW PARK AND KAYAK LAUNCH
Project Number BHI-229

REQUEST FOR PROPOSAL

This Agreement made and entered into this ___ day of _____, 202_, between the TOWN OF BAY HARBOR ISLANDS, FLORIDA, a municipal corporation of the State of Florida, hereinafter referred to as "TOWN" and _____**,** a Florida Corporation authorized to transact business in Florida, its successors and assigns, hereinafter referred to as "DESIGN/BUILD FIRM," or collectively the "Party" or "Parties."

WITNESSETH, in consideration of the mutual terms and conditions, promises, covenants and payments hereinafter set forth, TOWN and DESIGN/BUILD FIRM agree as follows:

ARTICLE 1- DEFINITIONS AND IDENTIFICATIONS

For the purposes of this Agreement and the various covenants, conditions, terms and provisions which follow, the definitions set forth below are assumed to be true and correct and are agreed upon by the Parties.

Agreement - This document, inclusive and including all exhibits and documents that are expressly incorporated by reference.

Applicable Laws - All federal, state, county, and local statutes, codes, laws, rules, regulations, ordinances, orders and standards applicable to the Project and any other such law hereafter enacted, and any rules adopted pursuant thereto, as all such laws may be amended from time to time to perform the Work.

Change Order - A written document ordering a change in the Not To Exceed Guaranteed Maximum Price or Contract Time or a material change in the Work.

TOWN - The TOWN (or Owner) shall mean the Town of Bay Harbor Islands, a Florida municipal corporation, having its principal offices at 9665 Bay Harbor Terrace, Bay Harbor Islands, Florida 33154, which is a Party hereto and/or for which this Agreement is to be performed. In all respects hereunder, TOWN's performance is pursuant to TOWN's position as the owner of a construction project. In the event TOWN exercises its regulatory authority as a governmental body, the exercise of such regulatory authority and the enforcement of any rules, regulations, laws and ordinances shall be deemed to have occurred pursuant to the TOWN's regulatory authority as a governmental body and shall not be attributable in any manner to TOWN as a party to this Agreement.

TOWN Council - TOWN Council shall mean the governing and legislative body of the TOWN.

TOWN Manager - TOWN Manager shall mean the Chief Administrative Officer of the TOWN.

Construction Documents Phase - The phase in which DESIGN/BUILD FIRM will consult with Project Manager and prepare the Construction Documents for the Project, based upon the information provided in the Scope of Work, for review and approval of the TOWN (including, without limitation, any and all applicable TOWN departments) and any applicable regulatory agencies.

Construction Manager - The Construction Manager is the authorized individual or firm which is the representative of the DESIGN/BUILD FIRM, who/which will administer/manage the construction effort on behalf of the DESIGN/BUILD FIRM.

Construction Phase - The phase which constitutes DESIGN/BUILD FIRM's administration of the construction of the Project and all activities necessary for the completion of the Project.

Consultant - The person or entity who is a registered architect, professional engineer, professional land surveyor, and/or registered landscape architect having a contract with DESIGN/BUILD FIRM to provide

professional services for the design of the Project, and who is licensed by the State of Florida to provide said services.

Contract Documents - This Agreement, as approved by the Mayor and TOWN Council and its exhibits, attachments and forms, any addenda, performance bond and payment bond, plans and specifications (as approved and permitted) as prepared by the DESIGN/BUILD FIRM in accordance with the information provided in the Design Criteria Package (DCP), Notice of Award, Notice(s) to Proceed, and any and all agreed upon contract and/or design modifications, including but not limited to change orders; Project schedule; a schedule of values, and any additional documents the submission of which is required by this Agreement. When reference is made in the Contract Documents to publications, standards or codes issued by associations or societies, the intent shall be to specify the current or adopted edition of such publication or standard including revision and effect on the date of the issuance of all applicable permits.

Contract Time - The time between the Project Initiation Date specified in the Notice to Proceed and final completion, including any milestone dates thereof, established in the Agreement, as may be amended by Change Order.

Contract Price - The Not to Exceed Guaranteed Maximum Price agreed to between DESIGN/BUILD FIRM and the TOWN. The Contract Price is not subject to increase, except as expressly allowed within the Contract Documents.

Design/Build Firm - **VENDOR.,** its successors and assigns, is the DESIGN/BUILD FIRM selected to perform the Work pursuant to this Agreement, and is the person, firm or corporation liable for the acceptable performance of, and payment of, all legal debts pertaining to the Project. All references in the Contract Documents to third parties under contract or control of DESIGN/BUILD FIRM shall be deemed to be a reference to DESIGN/BUILD FIRM. The DESIGN/BUILD FIRM will be responsible for the provision, installation, and performance of all equipment, materials, services and Work. The DESIGN/BUILD FIRM is in no way relieved of the responsibility for the performance of all equipment furnished.

Design Criteria Package (DCP) - DCP shall mean those certain conceptual plans and specifications and performance-oriented drawings or specifications of the Project, as prepared and sealed by the Design Criteria Professional, and in compliance with the requirements of Section 287.055, Florida Statutes.

Design Criteria Professional - Design Criteria Professional shall mean the individual or entity who/which holds a current certificate as a registered engineer under Chapter 471 to practice engineering and who/which is employed by or retained by the TOWN to provide professional services in compliance with the requirements of Section 287.055, Florida Statues, and in connection with the preparation of the DCP who/which shall review and provide recommendations regarding the Construction Documents prepared by the DESIGN/BUILD FIRM for the Project, and evaluate compliance of Project construction with the DCP.

Field Order or Supplemental Instruction - A written order for minor changes or interpretations of the Contract Documents, but which does not involve a change in the Not To Exceed Price or Contract Time.

Final Completion - The date certified by the Project Manager that all conditions of the permits and regulatory agencies have been met; all construction, including corrective and punch list work, has been performed and accepted by the TOWN; all administrative requirements of the Contract Documents have been completed; and TOWN has received from DESIGN/BUILD FIRM all necessary documentation, as deemed required by the TOWN including, but not limited to, the following: all final releases of liens, consent of surety, release of claims by DESIGN/BUILD FIRM, correct as-built drawings, a final bill of materials, executed final adjusted Change Orders, final invoice, copies of pertinent test results, correspondence, warranties, guarantees, operational manuals, spare parts, service contracts and tools.

NOT TO EXCEED PRICE (NTE) - THE MUTUALLY AGREED UPON CONTRACT PRICE TO BE PAID OF _____ TO THE DESIGN/BUILD FIRM, AND THAT THE DESIGN/BUILD FIRM GUARANTEES NOT TO EXCEED, FOR ALL LABOR, EQUIPMENT, AND MATERIALS TO DESIGN, PERMITS (AS REQUIRED BY THE CONTRACT DOCUMENTS), ADMINISTER, COORDINATE, INSPECT, CONSTRUCT AND INSTALL THE PROJECT WITHIN THE CONTRACT TIME. THE DOLLAR AMOUNT SHALL INCLUDE, BUT NOT BE LIMITED TO ALL PROFIT, OVERHEAD, ON-SITE AND OFF-SITE CONDITIONS (KNOWN AND UNKNOWN) AND ADMINISTRATIVE COSTS. THE NOT TO EXCEED GUARANTEED MAXIMUM PRICE IS NOT SUBJECT TO INCREASE EXCEPT AS EXPRESSLY ALLOWED.

Holidays - Those designated non-workdays as established by the TOWN Council of the TOWN of Bay Harbor Islands.

Notice to Proceed - One or more written notice(s) to DESIGN/BUILD FIRM issued by the Project Manager authorizing the commencement of specified Work.

Owners Representative - The individual or entity who/which holds a current certificate as a registered engineer under Chapter 471 to practice engineering and who/which is employed by or retained by the TOWN to provide professional services in compliance with the requirements of Section 287.055, Florida Statues, and who/which shall review and provide recommendations regarding the Construction Documents prepared by the DESIGN/BUILD FIRM for the Project, and evaluate compliance of Project construction with the requirements of this Agreement.

Plans and Specifications - The official graphic representations of the Project as prepared, signed and sealed by Architect/Engineer and which, upon written approval of TOWN, shall become a part of the Contract Documents.

Project - The design/construction project described in the Contract Documents.

Project Manager/Contract Administrator - The employee of the TOWN, or other designated individual who is herein referred to as the Project Manager, will assume all duties and responsibilities and will have the rights and authorities assigned to the Project Manager in the Contract Documents in connection with completion of the Work in accordance with this Agreement. The Project Manager, or designee, shall be the authorized agent for the TOWN unless otherwise specified. The Term Project Manager and Contract Administrator are used interchangeably.

Punch List - The TOWN's list of Work yet to be done or be corrected by the DESIGN/BUILD FIRM before the final completion date can be determined by the TOWN.

Shop Drawings - Drawings, diagrams and schedules, and other data specially prepared by the DESIGN/BUILD FIRM or its subcontractors, sub-subcontractors, manufacturer, supplier or distributor to illustrate some portion of the Work.

Substantial Completion - The date, as certified by the Project Manager that all conditions of the permits and regulatory agencies have been met for the TOWN's stated use of the Project, and all construction has been performed therein in accordance with the Contract Documents so TOWN can beneficially enjoy, use or occupy and can operate it in all respects for its intended purpose.

Surety - The surety company or individual which is bound by the performance bond and payment bond with and for DESIGN/BUILD FIRM, who is primarily liable, and which surety company or individual is

responsible for DESIGN/BUILD FIRM's acceptable performance of the Work under the Contract and for the payment of all debts pertaining thereto in accordance with Section 255.05, Florida Statutes.

Work - The totality of the obligations, including design, permitting, governmental entitlements, site plan approvals and construction and all other services required by the Contract Documents, whether completed or partially completed, including all labor, materials, equipment and services provided to or to be provided by DESIGN/BUILD FIRM to fulfill its obligations.

ARTICLE 2 - GENERAL PROVISIONS

2.1 DESIGN/BUILD FIRM hereby agrees to furnish all of the labor, materials, equipment, Work, services and incidentals necessary to complete the Project, in accordance with the Contract Documents, within the Contract Time and for the Not to Exceed Guaranteed Maximum Price.

2.2 Relationship of TOWN and DESIGN/BUILD FIRM: The DESIGN/BUILD FIRM accepts the relationship of trust and confidence established between it and the TOWN by this Agreement. The DESIGN/BUILD FIRM warrants and represents to TOWN that it will furnish its best skill and judgment in performing the Work, and shall always act to further the interest of the TOWN in the expeditious completion of the Project at the lowest cost to the TOWN, and in strict accordance with the Contract Documents and prudent and customary construction practices.

2.3 By signing this Agreement, the DESIGN/BUILD FIRM accepts a fiduciary duty with the TOWN and warrants and represents to the TOWN that the DESIGN/BUILD FIRM: (a) has all licenses and certifications required by applicable laws; (b) is experienced in all aspects of pre-construction and construction planning for projects similar to the Project; (c) will act in the TOWN's highest and best interests in performing the Work; and (d) that no employees or affiliates of the DESIGN/BUILD FIRM, including all Consultants, any sub-consultants, subcontractors, and suppliers, at any tier, have been convicted of a public entity crime, fraud, theft, and/or a property damage crime within the preceding thirty-six (36) months from the time this Agreement is executed, as required pursuant to Section 287.133, Florida Statutes.

2.4 Intention of Contract Documents: It is the intent of the Contract Documents to describe a functionally complete Project to be designed and constructed in accordance with the Contract Documents. Any Work, design, construction, other professional services, materials or equipment that may reasonably be inferred from the Contract Documents as being required to produce the intended result shall be supplied by the DESIGN/BUILD FIRM, whether or not specifically called for by the Contract Documents. When words, which have a well-known technical or trade meaning are used to describe Work, such words shall be interpreted in accordance with that meaning. Reference to standard specifications, manuals, or codes of any technical society, organization or association, or to the laws or regulations of any governmental authority, whether such reference is specific or by implication, shall mean the latest standard specification, manual, code or laws or regulations in effect at the time of permit issuance. TOWN shall have no duties other than those duties and obligations expressly set forth within the Contract Documents.

2.5 DESIGN/BUILD FIRM shall plan, record, and update, at least monthly, the design and construction schedule of the Project. The Project Schedule shall indicate the dates for the commencement and completion of the various stages of design and construction and shall be revised at least monthly and as required by the conditions of the Work. The Project Schedule shall encompass all of the work of all professions and trades necessary for the construction of the Project and shall be sufficiently complete and comprehensive to enable progress to be monitored on a weekly basis. DESIGN/BUILD

FIRM shall be responsible to have available to it all materials, supplies, and appropriate personnel, trades, etc., necessary to complete the Work in accordance with the Project Schedule.

ARTICLE 3 - PROJECT MANAGER

3.1 The Project Manager is hereby designated by the TOWN as Jose Custodio, Town Engineer, whose address is 9665 Bay Harbor Terrace, Bay Harbor Islands, Florida 33154. The Project Manager will assume all duties and responsibilities and will have the rights and authority assigned to the Project Manager in the Contract Documents in connection with completion of the Work in accordance with this Agreement.

ARTICLE 4 - CONTRACT DOCUMENTS

4.1 The Contract Documents shall be followed as to Work, materials and dimensions except with the Project Manager may authorize, in his/her sole discretion, and in writing, an exception.

4.2 Dimensions given in figures are to hold preference over scaled measurements from the drawings; however, all discrepancies shall be decided upon by the Consultant, with concurrent written notice to Contract Administrator/ Project Manager. DESIGN/BUILD FIRM shall not proceed when in doubt as to any dimension or measurement but shall seek clarification from the Consultant, with concurrent written notice to Project Manager.

4.3 DESIGN/BUILD FIRM shall maintain two (2) copies of the Contract Documents, one of which shall be preserved and always kept accessible at the site for the Project Manager, and/or authorized representatives.

4.4 The Contract Documents shall have the following order of precedence, beginning with the most important:

A. This Agreement (Contract) and all exhibits, addendums, and amendments thereto;

B. Change Orders (to the extent permitted under this Agreement);

C. The Specifications, as approved and permitted;

D. The Plans, as approved and permitted;

E. All other information provided in the DCP;

F. CPM Project Schedule and Schedule of Values; and

G. DESIGN/BUILD FIRM's response to the TOWN's request;

ARTICLE 5 - SCOPE OF WORK

DESIGN/BUILD FIRM agrees to complete the Project generally described as 96TH Street New Park and Kayak Launch – Design Build Project, Project No. 229, submitted by the DESIGN/BUILD FIRM, to provide design-build services for the Project.

PLACE SCOPE HERE

The Project shall be construed in accordance with the requirements and provisions of said Contract Documents and for the Not to Exceed Guaranteed Maximum Price.

5.1 DESIGN/BUILD FIRM agrees to meet with the Project Manager or his/her respective designees at reasonable times and with reasonable notice.

5.2 Prior to the Final Completion of construction services under this Agreement, and as a condition precedent to final payment, there shall be established a record set of plans on reproducible vellum and a record set of Specifications, both of which shall bear the written approvals of the DESIGN/BUILD FIRM and the TOWN's Project Manager. Such approval shall be indicated by the written signature of both Parties. In addition, there shall be established electronic copies on USB drives of the record set plans, non-compressed, formatted in the latest version of AutoCAD and of the record set of Specifications.

5.3 DESIGN/BUILD FIRM herein represents that Construction Manager, at a minimum, will provide the following services:

5.3.1 At least five (5) days prior to the commencement of the construction phase of the Project, the DESIGN/BUILD FIRM will identify and provide the qualifications of a suitably qualified and experienced Construction Manager, approved by the TOWN, who will be on site full time at the Project. No more than twenty percent (20%) of the proposed team can be changed and such change will require TOWN approval.

5.3.2 DESIGN/BUILD FIRM will use reasonable efforts to have the same Construction Manager on the Project, full time, to its conclusion, and any new representative will first be approved in writing by Project Manager before permanent assignment. Approval shall not be unreasonably withheld.

5.3.3 The Construction Manager will conduct weekly meetings with the DESIGN/BUILD FIRM and its subcontractors at regular times, as previously agreed upon and approved by the Project Manager and shall issue weekly reports on the progress of the Work and the minutes of the previous meeting.

5.3.4 The Construction Manager will administer the DESIGN/BUILD FIRM's Work.

5.3.5 The Construction Manager shall coordinate the processing of shop drawings and material submittals.

5.3.6 The Construction Manager will achieve satisfactory performance by DESIGN/BUILD FIRM and, if required, will require corrections to DESIGN/ BUILD Firm's Work including, but not limited to, maintaining punch lists and observing testing.

5.3.7 The Construction Manager will monitor the cost of the Project, including payment applications and the preparation thereof.

5.3.8 The Construction Manager will assist in the preparation of record drawings and shall transmit to the Consultant requests for additional information concerning the design. In addition, the Project Manager shall be copied on these requests for monitoring purposes.

5.3.9 The Construction Manager will observe testing, start-up activities, and commissioning of project scope as described in the DCP.

5.4.10 The Construction Manager will secure all equipment brochures and warranties from the DESIGN/BUILD FIRM.

5.4.11 The Construction Manager will coordinate the correction and completion of the Work including that required by the punch list.

5.4 DESIGN/BUILD FIRM herein represents that Consultant, at a minimum, will provide the following services:

5.4.1 Consultant shall perform all of the architectural and engineering services necessary to describe, detail and design the Project in accordance with the Contract Documents.

5.4.2 Consultant shall design the Project so as to comply with Applicable Laws.

5.4.3 Consultant shall prepare the Plans and Specifications, as well as obtain all required and necessary reviews and approvals (or take other appropriate action upon) for same, and/or other submittals including, but not limited to, shop drawings, product data, and samples.

5.4.4 Consultant shall also submit the Plans and Specifications to the Owners Representative, with a copy to Project Manager, for his/her review and written approval. Owners Representative shall expeditiously review and approve the Plans and Specifications in accordance with the accepted Project Schedule. Owners Representative's approval of the Plans and Specifications shall not constitute acceptance of any design work which does not comply with Applicable Laws, information provided in the DCP, and/or with the terms of this Agreement. Except as provided herein, and to the extent limited by, the preceding sentence, the approval of the Plans and Specifications by the Owners Representative shall constitute a representation by the Owners Representative that the Project, if constructed as required by the Contract Documents, will be sufficient for its purposes. The Plans and Specifications shall include technical drawings, schedules, diagrams, and specifications setting forth in detail the requirements for construction of the Project; provide information necessary for the use of DESIGN/BUILD FIRM subcontractors and those in the building trade; and include documents necessary for regulatory agencies and other governmental approvals.

5.4.5 Consultant shall prepare construction change directives, if necessary, at no additional cost to the TOWN, and authorize minor changes in the Work, as provided in the Contract Documents.

5.4.6 Consultant shall receive and review for compliance with the Contract Documents, all written warranties and related documents required hereby to be assembled upon substantial completion and issue applications for payment performed in compliance with the requirements of the Contract Documents.

5.5 The approved and permitted Plans and Specifications shall constitute a representation by Consultant to TOWN that the Project, if construed as required by the Contract Documents, will be sufficient for its purposes. The Plans and Specifications include technical drawings, schedules, diagrams, and specifications setting forth in detail the requirements for construction of the Project; provide information necessary for the use of DESIGN/BUILD FIRM, sub-contractors, and those in the building trade; and include documents necessary for regulatory agencies and other governmental approvals.

5.6 Project Manager will provide the following services:

5.6.1 The Project Manager shall review applications for payment and coordinate the processing thereof with the TOWN.

5.6.2 The Project Manager shall monitor the schedule(s).

5.6.3 The Project Manager shall track, log and review all required Project related documents and subsequently address any and all concerns with DESIGN/BUILD FIRM.

5.6.4 The Project Manager shall review and observe the Work and testing thereof for conformance and compliance with the requirements of the Contract Documents.

5.6.5 The Project Manager shall attend all required meetings and maintain and distribute meeting minutes.

5.6.6 At all times, the Project Manager will act as liaison between the Parties to this Agreement and the TOWN's Project Manager.

ARTICLE 6 - CONTRACT TIME AND COMPLETION DATE

6.1 Time is of the essence for the DESIGN/BUILD FIRM's performance of the Work pursuant to this Agreement. The DESIGN/BUILD FIRM agrees to complete the Work in accordance with the approved and accepted Project Schedule and to achieve substantial completion of the Work, in accordance with this Agreement, and within the Contract Time. The DESIGN/BUILD FIRM acknowledges that failure to achieve substantial completion will result in substantial damages to the TOWN, such as loss of beneficial use and/or occupancy of the Project.

6.2 DESIGN/BUILD FIRM shall be instructed to execute the Agreement immediately. DESIGN/BUILD FIRM shall immediately commence scheduling activities, permit applications and other preconstruction Work after the Notice to Proceed.

6.3 The DESIGN/BUILD FIRM shall complete the Construction Documents Phase.

6.4 The DESIGN/BUILD FIRM shall meet the following construction duration:

MILESTONE	**CALENDAR DAYS FROM NOTICE TO PROCEED (COMPLETION DATE)**
Assumed Notice to Proceed Date	_____
Substantial Completion of Project	_____
Final Completion of Project	_____

ARTICLE 7 - LIQUIDATED DAMAGES

7.1 Failure of the DESIGN/BUILD FIRM to substantially complete the Project in accordance with Section 6.4 above, or meet any of the milestones as indicated in Section 6.4 above, DESIGN/BUILD FIRM shall pay to the TOWN the sum of Two Hundred Dollars ($200.00) for each calendar day that the completion of the Work is delayed beyond the time after the time specified in Article 6 Section

6.4 above (plus any approved time extensions at the sole discretion of the TOWN) that DESIGN/BUILD FIRM fails to meet time specified in Section 6.4 above.

7.2 The time frame for liquidated damages shall not commence and thus shall not be tolled until the Project Manager submits the punch list to the DESIGN/BUILD FIRM.

7.3 DESIGN/BUILD FIRM and TOWN HEREBY MUTUALLY AGREE AND ACKNOWLEDGE THAT THE LIQUIDATED DAMAGES AMOUNT SET FORTH HEREIN are not penalties but are liquidated damages to TOWN for its inability to obtain full beneficial occupancy and/or use of the Project. Liquidated damages are hereby fixed and agreed upon between the Parties, recognizing the impossibility of precisely ascertaining the amount of damages that will be sustained by the TOWN as a consequence of such delay, and both parties desiring to obviate any question of dispute concerning the amount of said damages and the cost and effect of the failure of DESIGN/BUILD FIRM to complete the Contract on time. Liquidated damages shall apply separately to each portion of the Work for which a time of completion is given.

7.4 The TOWN shall have the right to deduct from or retain any compensation which may be due or which may become due and payable to the DESIGN/BUILD FIRM the amount of liquidated damages, and if the amount retained by the TOWN is insufficient to pay in full such liquidated damages, the DESIGN/BUILD FIRM shall pay all liquidated damages infull. The DESIGN/BUILD FIRM shall be responsible for reimbursing the TOWN, in addition to liquidated damages or other damages for delay, for all costs of engineering fees and inspection and other costs incurred in administering the construction of the Project beyond the completion date specified or beyond an approved extension of time granted to the DESIGN/BUILD FIRM whichever is later.

7.5 TOWN is authorized to deduct liquidated damages from monies withheld due to DESIGN/BUILD FIRM for the Work under this Agreement or as much thereof as TOWN may, in its sole discretion, deem just and reasonable.

ARTICLE 8 - CHANGE OF THE CONTRACT TIME

8.1 The Contract Time may only be changed by a Change Order. Any claim for an extension in the Contract Time shall be based on written notice delivered to the Project Manager within five (5) days of the occurrence of the event giving rise to the claim. Any change in the Contract Time resulting from any such claim shall be incorporated in a Change Order.

8.2 The Contract Time will be extended in an amount equal to time lost due to delays beyond the control of the DESIGN/BUILD FIRM if a claim is made there for as provided in paragraph 8.1. Such delays shall include but not be limited to, acts or neglect by the TOWN, or to fires, floods, labor disputes, abnormal weather conditions, or acts of God.

8.3 All time limits stated in the Contract Documents are of the essence. The provisions of this Article shall not exclude recovery for damages for delay by the DESIGN/BUILD FIRM.

8.4 Delays caused by or resulting from entities, contractors or subcontractors who are not affiliated with DESIGN/BUILD FIRM shall not give rise to a claim by the DESIGN/BUILD FIRM for damages for increases in material and/or labor costs.

ARTICLE 9 - CONTRACT PRICE (NOT TO EXCEED PRICE) AND METHOD OF PAYMENT

9.1 The Contract Price is the Not To Exceed Guaranteed Maximum Price agreed to by the DESIGN/BUILD FIRM and the TOWN under this Agreement, payable to complete the Work in accordance with the

Agreement and DCP, and, to the extent permitted by this Agreement, as may be increased or decreased by Change Order.

9.2 The Contract Price for the Project, which is also the Not to Exceed Guaranteed Maximum Price is $_____. This includes bonds, allowances, and material change. The TOWN will reimburse actual cost of permit(s) upon submission of paid permit receipts.

_____ ($_____)

9.3 In the event that the DESIGN/BUILD FIRM's total approved expenditures for the Project exceed the Not To Exceed Price Guaranteed Maximum Price, the DESIGN/BUILD FIRM shall pay such excess from its own funds. TOWN shall not be required to pay any amount that exceeds the Not To Exceed Guaranteed Maximum Price and the DESIGN/BUILD FIRM shall have no claim against the TOWN on account thereof.

9.4 METHOD OF BILLING AND PAYMENT

9.4.1 During the Construction Documents Phase, DESIGN/BUILD FIRM may submit a request for payment monthly based upon percentage of completion of the (final construction) Plans and Specifications. During the Construction Phase, DESIGN/BUILD FIRM may submit a request for payment thirty (30) calendar days after beginning field operations, subject to the Notice to Proceed, and every thirty (30) calendar days thereafter. Payment during the Construction Phase will be based upon percentage of work completed for each item in the approved Schedule of Values. DESIGN/BUILD FIRM's requisition for payment shall show a complete breakdown of the Project components, and the amount due, together with such supporting evidence, as may be required by the Project Manager.

At a minimum, the requisition for payment shall be accompanied by a completed certification of Work; consent of surety in the applicable amount; list of subcontractors that performed Work during the payment application period being submitted; releases of liens from the DESIGN/BUILD FIRM for the previous period being billed; releases of liens from subcontractors that have performed Work during the previous billing period unless payment for the previous period has not been received by the DESIGN/BUILD FIRM; aerials and photographs of the areas of Work for the applicable billing period; an accepted, updated Project Schedule (as approved); and back up for all items being billed. The certification of Work will mean compliance by DESIGN/BUILD FIRM with the approved Project Schedule; that as-built drawings of improvements are current for the prior period; and Applicable Laws are being met and complied with. Each requisition for payment shall be submitted to the Project Manager for approval. Payment for Work performed will be made in accordance with the Florida Prompt Payment Act, Sections 255.0705 - 255.078, Florida Statutes, but not more frequently than once a month. The Contract Administrator shall verify completion of the various phases, as noted, and authorize payment accordingly. Should the Project fall behind schedule, as indicated in the Project Schedule, DESIGN/BUILD FIRM shall include a written plan demonstrating how the Final Completion date shall be maintained.

Material purchases can be invoiced to the TOWN, upon receipt of invoice and documentation of order placement must be accompanied by a bill of sale from the manufacturer or supplier. The TOWN will endeavor to pay material invoices earlier, albeit not later than thirty (30) days

of receipt of a valid invoice. Any invoices that are not considered valid will be returned immediately for correction or additional documentation.

9.4.2 TOWN agrees that it will pay DESIGN/BUILD FIRM in accordance with the Florida Prompt Payment Act, within thirty (30) calendar days of receipt of DESIGN/BUILD FIRM's proper requisition for payment, as provided above.

9.4.2.1 TOWN will review DESIGN/BUILD FIRM's invoices and, if inaccuracies or errors are discovered in said invoice, TOWN will inform DESIGN/BUILD FIRM within ten (10) working days by fax and/or by email of such inaccuracies or errors and request that revised copies of all such documents be re-submitted by DESIGN/BUILD FIRM to TOWN.

9.4.3 The DESIGN/BUILD FIRM shall use the sums advanced to it solely for the performance of the Work and the construction, furnishing and equipping of the Work in accordance with the Contract Documents and payment of bills incurred by the DESIGN/BUILD FIRM in performance of the Work.

9.4.4 DESIGN/BUILD FIRM shall remain liable for subcontractors' work and for any unpaid laborers, material suppliers of subcontractors in the event it is after discovered that said work is deficient or that any subcontractors, laborers, or material suppliers did not receive payments due to them on the Project.

9.4.5 Undisputed amounts remaining unpaid thirty (30) calendar days after TOWN's request of DESIGN/BUILD FIRM's proper requisition for payment for conforming Work shall bear interest at the rate set forth in Section 218.74(4), Florida Statutes. This Section shall not apply if the TOWN has a right to withhold any portion of the payment under this Agreement.

9.4.6 Pursuant to Florida Statutes, Section 255.078, five percent (5%) of all monies earned by DESIGN/BUILD FIRM shall be retained by the TOWN until the Project has obtained Final Completion and been accepted by the TOWN. The TOWN may incrementally reduce the rate of retainage pursuant to a schedule provided for in the agreement, or from releasing at any point or a portion of any retainage withheld by the TOWN which is attributable to the labor, services, or materials supplied by the Consultant or by one or more subconsultant or suppliers, if applicable and determined to be in the TOWN's best interest. If the TOWN makes any payment of retainage to Consultant which is attributable to the labor, services, or materials supplied by one or more subconsultant or suppliers, the Consultant must timely remit payment of such retainage to those subconsultants and suppliers.

9.5 If, after the Project has been substantially completed, full completion thereof is delayed through no fault of DESIGN/BUILD FIRM, or by issuance of Change Orders affecting final completion, and the Project Manager so certifies. TOWN shall, upon certification of the Project Manager, and without terminating the Agreement, make payment of the balance due for that portion of the Project fully completed and accepted. Such payment shall be made as required by law under the terms and conditions governing final payment, except that it shall not constitute a waiver of claims.

9.6 Upon receipt of written notice from DESIGN/BUILD FIRM that the Project is ready for final inspection and acceptance, the Project Manager shall, within seven (7) calendar days, make an inspection thereof. If the Project Manager finds the Project acceptable under the Contract

Documents and the Project fully performed, a Final Certificate of Payment shall be issued by the Contract Administrator over his/her own signature, stating that the Work required by this Agreement has been completed and is accepted under the terms and conditions thereof.

9.7 Before issuance of the Final Certificate for Payment, DESIGN/BUILD FIRM shall deliver to the Project Manager a complete release of all liens arising out of this Agreement, or receipts in full in lieu thereof, and an affidavit certifying that all suppliers, consultant, subcontractors, and subconsultants have been paid in full, and that all other indebtedness connected with the Project has been paid, and a consent of the surety to final payment. All as-builts, warranties, guarantees, operational manuals, and instructions in operation must be delivered to TOWN at this time. The warranties provided after the initial warranty period of year one will be covered under the warranty bond attached as an Exhibit to this Agreement. DESIGN/BUILD FIRM shall submit a completed as-built drawings package signed and sealed by a land surveyor registered in the State of Florida and as approved by the TOWN's Public Works Department, and proof that all permits have been closed, which shall be delivered prior to requesting final payment.

9.8 TOWN may withhold final payment or any progress payment to such extent as may be necessary on account of:

A. Defective Work not remedied;

B. Claims filed or written notices of nonpayment indicating probable filing of claims as may be prescribed by law by other parties against DESIGN/BUILD FIRM;

C. Failure of DESIGN/BUILD FIRM to make payments properly to Consultant, subcontractors or subconsultants, or for material or labor;

D. Damage to another subcontractor, subconsultant, supplier, material, person (as provided for in Florida Statute Chapter 713), party or person not remedied which are attributable to DESIGN/BUILD FIRM, its agents, servants, employees, contractor, consultant, subconsultants, subcontractors, sub-subcontractors, sub-subconsultants, material person and suppliers;

E. Liquidated damages pursuant to Article 7 herein;

F. As-built drawings not being in a current and acceptable state. 9.9 When the above grounds in 9.4.7 are removed or resolved, or DESIGN/BUILD FIRM provides a surety bond or a consent of surety satisfactory to TOWN which will protect TOWN in the amount withheld, payment may be made in whole or in part, as applicable.

9.10 If the Project Manager, in his/her reasonable judgment, determines that the portion of the Not To Exceed Price then remaining unpaid will not be sufficient to complete the Work in accordance with the Contract Documents, no additional payments will be due to the DESIGN/BUILD FIRM hereunder unless and until the DESIGN/BUILD FIRM, at its sole cost, performs a sufficient portion of the Work so that such portion of the Not To Exceed Price then remaining unpaid is determined by the Project Manager to be sufficient to so complete the Work.

9.11 The making and acceptance of the final payment shall constitute a waiver of all claims by TOWN, other than those arising from faulty or defective Work, failure of the Project to comply with requirements of the Contract Documents, or terms of any warranties required by the Contract Documents. It shall also constitute a waiver of all claims by DESIGN/BUILD FIRM, except those previously made in writing and

identified by DESIGN/BUILD FIRM as unsettled at the time of the final application for payment.

9.12 The DESIGN/BUILD FIRM warrants to the TOWN that all materials and equipment furnished under this Agreement will be new unless otherwise specified, and that all Work will be of good quality and in conformance with the Contract Documents. Any warranties that are extended to the TOWN beyond the standard warranty are to be in writing with the servicing firm information attached as an Exhibit. All Work not conforming to these requirements, including substitutions not properly approved and authorized by Contract Administrator, may be considered defective. If required by the TOWN, the DESIGN/BUILD FIRM shall furnish satisfactory evidence as to the origin, nature and quality of materials and equipment used for the Project. DESIGN/BUILD FIRM shall properly store and protect all construction materials. Materials which become defective through improper storage shall be replaced with new materials at no additional costs. The DESIGN/BUILD FIRM's warranty excludes damage or defect caused by abuse, modifications not executed by the DESIGN/BUILD FIRM, improper or insufficient maintenance, improper operation, or normal wear and tear under normal usage.

ARTICLE 10 - ADDITIONAL SERVICES AND CHANGES IN SCOPE OF WORK

10.1 Without invalidating the Agreement and without notice to any surety, TOWN reserves and shall have the right to make such changes from time to time in the character and quantity of the Work as may be considered necessary or desirable to complete fully and acceptably the Project in a satisfactory manner. The TOWN may order additions, deletions or revisions in the Work using agreed upon rates to be included in the Contract Documents and/or Schedule of Values. Upon receipt of a Change Order, the DESIGN/BUILD FIRM shall proceed with the Work involved. All Work shall be executed under the applicable conditions of the Contract Documents. If any Change Order causes an increase or decrease in the Contract Price or an extension or shortening of the Contract Time, an equitable adjustment will be made on the basis of a claim made by either party.

10.2 The Project Manager may authorize minor changes in the Work not involving an adjustment in the Contract Price or the Contract Time, which are consistent with the overall intent of the Contract Documents. Such changes must be in writing and signed by the TOWN and DESIGN/BUILD FIRM.

ARTICLE 11 - DESIGN/BUILD FIRM'S RESPONSIBILITIES

11.1 The Parties acknowledge and agree that the DESIGN/BUILD FIRM will be responsible for the design, construction and construction management of the Project according to the DCP.

11.2 The DESIGN/BUILD FIRM will be responsible for security, with full cooperation of the TOWN all permits for the Project, including without limitation, South Florida Water Management District, Miami Dade County, and Florida Department of Environmental Protection. Except as provided in the preceding sentences, the DESIGN/BUILD FIRM shall be fully responsible for any and all other permits and approvals from all governmental authorities having jurisdiction over the Project. All permits and licenses require by federal, state or local laws, rules, and regulations necessary for the prosecution of the Project by DESIGN/BUILD FIRM pursuant to this Agreement shall be secured by the DESIGN/BUILD FIRM and paid for by the TOWN. It is the DESIGN/BUILD FIRM's responsibility to have and maintain appropriate certificate(s) of competency, valid for the Work to be performed, and for all persons working on the Project for whom a certificate of competency is required.

11.3 DESIGN/BUILD FIRM shall be fully responsible for the actions of all its agents, servants, employees, including, but not limited to, the contractor, consultant, subcontractors, sub-consultants, sub-subcontractors, materials persons (pursuant to Chapter 713, Florida Statutes), and any and all other persons working for it in conjunction with the design and construction of the Project.

11.4 DESIGN/BUILD FIRM shall be fully responsible for all acts or omissions of its contractor, consultant, subcontractors, sub-consultants, sub-subcontractors, sub-sub-consultants, materials persons, and any and all other persons working for DESIGN/BUILD FIRM in conjunction with the design and construction of the Project; any and all persons working for contractor, consultant, subcontractors or sub-consultant; and any and all persons for whose acts any of the aforesaid may be liable, to the same extent DESIGN/BUILD FIRM is responsible for the acts and omissions of persons directly employed by DESIGN/BUILD FIRM. Nothing in this Agreement shall create any contractual relationship between TOWN and consultant, or TOWN and any subcontractor, sub-consultant, sub-subcontractor, sub-sub-consultant, or any other person working either for DESIGN/BUILD FIRM or for any of the afore-stated parties in conjunction with the design and construction of the Project, including, without limitation, any obligation on the part of the TOWN to pay or to see the payment of any monies due to any of the afore-stated parties pursuant to this Section.

11.5 DESIGN/BUILD FIRM agrees to bind its consultant, subcontractors, and sub-consultants to the applicable terms and conditions of this Agreement for the benefit of the TOWN.

11.6 Unless otherwise provided herein, DESIGN/BUILD FIRM shall provide and pay for all architecture, engineering, landscape architecture, land surveying services, materials, construction and other labor, water, tools, equipment, light, power, transportation, and other facilities and services necessary for the proper execution and completion of the design and construction of the Project, whether temporary or permanent, and whether or not incorporated or to be incorporated in the Project.

11.7 DESIGN/BUILD FIRM shall at all times enforce strict discipline and good order among its employees, consultants, subcontractors and sub-consultants at the Project site, and shall not employ on the Project any unfit person or anyone not skilled in the work and/or services assigned to him or her.

11.8 DESIGN/BUILD FIRM shall keep itself fully informed of, and shall take into account and comply with any and all Applicable Laws affecting those engaged or employed in the Project; or the materials used or employed in the design and construction of the Project; or in any way affecting the conduct of the Project, including, without limitation, all such orders and decrees of bodies or tribunals having any jurisdiction or authority over the same and of all provisions required by law to be made a part of this Agreement, all of which provisions are hereby incorporated by reference and made a part hereof. If any specification or contract for this Project is in violation of any such Applicable Laws, DESIGN/BUILD FIRM shall forthwith report the same to the Project Manager in writing. DESIGN/BUILD FIRM shall cause all its employees, agents, consultant, subcontractors, subconsultants, sub-subconsultants and sub-subcontractors to observe and comply with all Applicable Laws.

11.9 DESIGN/BUILD FIRM shall pay all applicable sales, consumer, use and other taxes required by law. DESIGN/BUILD FIRM is responsible for reviewing the pertinent state statutes involving state taxes and complying with all requirements.

11.10 If DESIGN/BUILD FIRM has knowledge that the Contract Documents do not comply with Applicable Laws, in any respect, the DESIGN/BUILD FIRM shall promptly notify the Project Manager, in writing, and any necessary changes shall be

adjusted by appropriate revisions. If the DESIGN/BUILD FIRM performs any Work not in accordance with Applicable Laws, and without such notice to the Project Manager, the DESIGN/BUILD FIRM shall assume full responsibility therefore and shall bear all costs attributable thereto. DESIGN/BUILD FIRM warrants to TOWN that it has thoroughly reviewed and studied the DCP, and has determined that it is in conformance with Applicable Laws, and is complete and sufficiently coordinated to perform the Work for the Not To Exceed Price and the Contract Time. DESIGN/BUILD FIRM warrants to TOWN that the DCP is consistent, practical, feasible and constructible. DESIGN/BUILD FIRM further warrants to TOWN that the Work described in the DCP is constructible for the Not To Exceed Price and the Contract Time.

11.11 DESIGN/BUILD FIRM accepts the Project site in its observable and/or documented condition existing at the time of this Agreement, or conditions ordinarily encountered and generally recognized as inherent to the character of the Work to be provided for in this Project. By signing this Agreement, the DESIGN/BUILD FIRM represents to the TOWN that it has: (a) visited the Project site to become familiar with the conditions under which the Work is to be performed; (b) become familiar with all information provided (without warranty) by the TOWN pertaining to the Project site; and (c) correlated its observations with the information furnished by the TOWN (without warranty), and the Contract Documents. The DESIGN/BUILD FIRM hereby waives additional time or compensation for additional work made necessary by observable and/or documented conditions existing at the Project site, or conditions ordinarily encountered and generally recognized as inherent to the character of the Work to be provided for in this Project.

11.12 The DESIGN/BUILD FIRM agrees specifically that no Change Orders shall be required by the DESIGN/BUILD FIRM or considered by the TOWN for reasons involving conflicts in the Contract Documents; questions of clarity with regard to the Contract Documents; and incompatibility or conflicts between the Contract Documents and the existing Project site conditions excluding, without limitation, utilities and unforeseen underground conditions at the discretion of the TOWN and will not be unreasonably withheld. The DESIGN/BUILD FIRM acknowledges that it has ascertained all correct locations for points of connection for all utilities required for this Project.

11.13 The DESIGN/BUILD FIRM shall comply with all conditions of any permits issued by government authorities.

11.14 All material and equipment shall be of good quality and new, except as otherwise provided in the Contract Documents. Suppliers shall be selected and paid by the DESIGN/BUILD FIRM; the TOWN reserves the right to approve all suppliers and materials.

11.15 The DESIGN/BUILD FIRM shall pay all license fees and royalties and assume all costs incident to the use in the performance of the Work or the incorporation in the Work, or any invention, design, process, product or device which is the subject of patent rights or copyrights held by others. The DESIGN/BUILD FIRM hereby expressly binds itself to indemnify and save harmless the TOWN from all such claims and fees and from any and all suits and actions of every name and description that may be brought against TOWN on account of any such claims, fees, royalties, or costs for any such invention or patent, and from any and all suits or actions that may be brought against

said TOWN for the infringement of any and all patents or patent rights claimed by any person, firm, corporation or other entity.

11.16 Except in connection with the safety or protection of persons, or the Work, or property at the site or adjacent thereto, and except as otherwise indicated in the Supplementary Conditions, all work at the site shall be performed during regular TOWN working hours between 9:00 am to 6:00 pm, Monday through Friday. The DESIGN/BUILD FIRM will not permit overtime work or the performance of work on Saturday, Sunday or any legal holiday (designated by the TOWN) without the Town Manager's written consent at least seventy-two (72) hours in advance of starting such work.

11.17 DESIGN/BUILD FIRM requests to work during other than regular hours that conform to the standard hours, must be submitted to the DCP and TOWN Project Manager with six (6) business days in advance of scheduled work. Request shall include the following information:

- Cover page with DESIGN/BUILD FIRM name, project name, and location
- Description of work to be performed outside of normal work hours
- Site plan and location map
- Justification for work and why extended work hours are being requested
- Commencement date and duration of work
- List of DESIGN/BUILD FIRM contacts, including those on site
- Details on type of equipment to be used during extended work hours
- Details on noise levels that may be produced by range of decibels, including current ambient levels at site and levels predicted from proposed construction impacts
- Details on vibratory control measures to be implemented
- Details on how neighbors in vicinity of work area will be notified
- Details on how complaints will be resolved and/or mitigated
- Maintenance of Traffic plans approved by TOWN'S Public Works Department

11.17.1 If no lane closure or traffic impacts are necessary, the DESIGN/BUILD FIRM request must be submitted seven (7) business days in advance of scheduled work. If the Work requires lane closures, request should be submitted at least ten (10) business days in advance, along with MOT plans approved by TOWN's Public Works, and any other agencies if necessary, to allow time for TOWN Manager consideration and approval, TOWN MOT permit issuance, and notification to the public.

11.17.2 The DESIGN/BUILD FIRM will not be permitted overtime work or the performance of work on Saturday, Sunday or any legal holiday (designated by the TOWN) without the TOWN Manager's written consent at least seventy-two (72) hours in advance of the period proposed for such overtime work.

11.18 In the event of an emergency affecting the safety or protection of persons or the Work or property at the site or adjacent thereto, DESIGN/BUILD FIRM, without special instruction or authorization from the TOWN is obligated to act to prevent threatened damage, injury or loss. DESIGN/BUILD FIRM shall give the Project Manager prompt written notice of any significant changes in the Work or deviations from the Contract Documents caused thereby.

11.19 Upon issuance of a hurricane watch by the National Weather Service, DESIGN/BUILD FIRM shall submit to the TOWN a plan to secure the work area in the event a hurricane warning is issued. The plan shall detail how the DESIGN/BUILD FIRM will secure the premises, equipment and materials in a manner as to prevent damage to the Work and prevent materials and equipment from becoming a hazard to persons and property on and around the premises. The plan shall include a time schedule required to accomplish the hurricane preparations and a list of emergency contacts that will be available and in the TOWN before, during and immediately after the storm.

Upon issuance of a hurricane warning by the National Weather Service, if the DESIGN/BUILD FIRM has not already done so, the DESIGN/BUILD FIRM shall implement its hurricane preparedness plan. Cost of development and implementation of the hurricane preparedness plan shall be considered as incidental to construction. Cost of any clean up and rework required after the storm will be considered normal construction risk within Florida and shall not entitle the DESIGN/BUILD FIRM to any additional compensation. DESIGN/BUILD FIRM shall be entitled to request an extension of time for completion of the Work, in accordance with the provision of Article 8 of this Agreement, equal to the time it is shut down for implementation of the preparedness plan, the duration of the storm and a reasonable period to restore the Premises.

11.20 Force Majeure: No Party shall hold the other responsible for damages or for delays in performance caused by force majeure, acts of God, or other acts or circumstances beyond the control of the other party or that could not have been reasonably foreseen and prevented. For these purposes, such acts or circumstances shall include, but not be limited to, weather conditions affecting performance, floods, epidemics, war, riots, strikes, lockouts, or other industrial disturbances, or protest demonstrations. Should such acts or circumstances occur, the parties shall use their best efforts to overcome the difficulties arising therefrom and to resume the Work as soon as reasonably possible with the normal pursuit of the Work.

Inclement weather, continuous rain for less than three (3) days or the acts or omissions of subcontractors, third-party contractors, materialmen, suppliers, or their subcontractors, shall not be considered acts of force majeure.

No Party shall be liable for its failure to carry out its respective obligations under the Agreement during a period when such Party is rendered unable by force majeure to carry out its obligation, but the obligation of the Party or Parties relying on such force majeure shall be suspended only during the continuance of the inability and for no longer period than the unexpected or uncontrollable event.

The DESIGN/BUILD FIRM further agrees and stipulates, that its right to excuse its failure to perform by reason of force majeure shall be conditioned upon giving written notice of its assertion that a force majeure delay has commenced within 96 hours after such an occurrence. The DESIGN/BUILD FIRM shall use its reasonable efforts to minimize such delays. The DESIGN/BUILD FIRM shall promptly provide an estimate of the anticipated additional time required to complete the Project.

ARTICLE 12 - TOWN'S RESPONSIBILITIES

12.1 TOWN shall assist DESIGN/BUILD FIRM by placing at its disposal any available information pertinent to the Project including previous reports, laboratory tests and inspections of samples, materials and equipment, property, boundary, easement, rights-of-way, topographic and utility surveys; property descriptions; and known zoning, deed and other land use restrictions.

12.2 TOWN shall arrange for access to and make all provisions for DESIGN/BUILD FIRM to enter upon public property as required for DESIGN/BUILD FIRM to perform its services.

12.3 TOWN shall render decisions under this Agreement in a timely manner.

ARTICLE 13 - SUPERINTENDENCE AND SUPERVISION

13.1 The orders of the TOWN are to be given through the Project Manager, whose instructions are to be strictly and promptly followed in every case, provided that they are in accordance with this Agreement and the other Contract Documents. Construction Manager shall keep on the Project during its progress, a full-time, competent, English-speaking supervisor, who shall be the Construction Manager Representative and who shall serve as the superintendent, and any necessary assistants, all satisfactory to the Project Manager.

13.2 Construction Manager or Construction Manager Representative shall prepare, on a daily basis, and keep on the Project site, a bound log setting forth at a minimum, for each day: the weather conditions and how any weather conditions affected progress of the Work; time of commencement of Work for the day; the Work performed; materials, labor, personnel, equipment and subcontractors used for the Work; any idle equipment and reasons for idleness; visitors to the Project site; any special or unusual conditions or occurrences encountered; any materials delivered to the Project site; and the time of termination of Work for the day. The daily bound log shall be available for inspection by the TOWN, or its authorized designee, at all times during the Project, without previous notice.

13.3 If DESIGN/BUILD FIRM, in the course of the Project, finds any discrepancy between the Contract Documents and the physical conditions of the site, or any errors or omissions in the Contract Documents including, but not limited to, the Plans and Specifications, it shall be DESIGN/BUILD FIRM's sole obligation and duty to immediately inform the Project Manager, in writing, and the Project Manager will promptly verify same. Any Work done prior to or after such discovery will be done at DESIGN/BUILD FIRM's sole risk. **NOTWITHSTANDING THE PRECEDING, OR ANY OTHER TERM OR CONDITION OF THIS AGREEMENT, DESIGN/BUILD FIRM HEREBY ACKNOWLEDGES AND AGREES THAT THIS IS A DESIGN/BUILD PROJECT AND, ACCORDINGLY, ANY ERRORS OR OMISSIONS SHALL BE CORRECTED AT THE SOLE COST AND EXPENSE OF DESIGN/BUILD FIRM AND WITHOUT A CLAIM FOR ADJUSTMENT IN THE CONTRACT TIME OR CONTRACT PRICE.**

13.4 DESIGN/BUILD FIRM shall coordinate, supervise and direct the Project competently and efficiently, devoting such attention thereto and applying such skills and expertise as may be necessary to perform and complete the Project in accordance with the Contract Documents. DESIGN/BUILD FIRM shall be solely responsible for the design, preparation of Construction Documents, means, methods, techniques, safety, sequences and procedures of construction. DESIGN/BUILD FIRM shall give efficient supervision to the Work, using DESIGN/BUILD FIRM's best skill, attention and judgment.

ARTICLE 14 - RESOLUTION OF DISPUTES

14.1 Questions, claims, difficulties and disputes of whatever nature which may arise relative to the technical interpretation of the Contract Documents and fulfillment of this Agreement as to the character, quality, amount and value of any work done and materials furnished, or proposed to be done or furnished under or, by reason of, the Contract Documents which cannot be resolved by mutual agreement of TOWN Project Manager and DESIGN/BUILD FIRM Project Manager shall be submitted to the Town Manager or his designee and DESIGN/BUILD FIRM's representative for

resolution. When either Party has determined that a disputed question, claim, difficulty or dispute is at an impasse, that Party shall notify the other party in writing and submit the question, claim, difficulty or dispute to the next level of the Parties' respective management levels for resolution. Each Party may determine in such Party's reasonable discretion as to who the "next level of management" is for purposes of resolving disputes.

14.2 All non-technical administrative disputes (such as billing and payment) shall be determined by the Project Manager.

14.3 During the pendency of any dispute and after a determination thereof, DESIGN/BUILD FIRM, and TOWN shall act in good faith to mitigate any potential damages including using construction schedule changes and alternate means of construction. During the pendency of any dispute arising under this Agreement, other than termination herein, DESIGN/BUILD FIRM shall proceed diligently with performance of this Agreement and TOWN shall continue to make payments for undisputed amounts in accordance with the Contract Documents.

14.4 In the event a resolution of a dispute under this section cannot be resolved, the issue shall be submitted by the DESIGN/BUILD FIRM to the Town Manager or designee, in writing within ten (10) days of the impasse. The notice must state the basis of the dispute and the DESIGN/BUILD FIRM's proposed resolution. The notice given by the DESIGN/BUILD FIRM must include a written notarized certification that any NTE adjustment claimed is the entire adjustment to which the DESIGN/BUILD FIRM has reason to believe it is entitled to as a result of the question, claim, difficulty or dispute. Resolution of such dispute shall be made by the Town Manager or designee. The Town Manager's decision shall be final and binding on the Parties subject to mediation and judicial review.

14.5 Prior to any litigation being commenced, for any disputes which remain unresolved, within sixty (60) days after Final Completion of the Work, the Parties shall participate in mediation to address all unresolved disputes to a mediator mutually agreed upon by the Parties. Should any objection not be resolved in mediation, the Parties retain all their legal rights and remedies provided under the laws of Florida. Failure by a Party to comply in strict accordance with the requirements of this Article, then said Party specifically waives all of its rights provided hereunder, including its rights and remedies under the laws of Florida.

ARTICLE 15 - TOWN'S RIGHT TO TERMINATE AGREEMENT

15.l If DESIGN/BUILD FIRM fails to begin the design and construction of the Project within the time specified, or fails to perform the Project with sufficient workers and equipment or with sufficient materials to insure the prompt completion of the Project, in accordance with the Contract Documents and schedules, or shall perform the Work unsuitably, or cause it to be rejected as defective and unsuitable; or shall discontinue the prosecution of the Project, except for excused delays in accordance with this Agreement; or if DESIGN/BUILD FIRM shall become insolvent or be declared bankrupt, or commit any act of bankruptcy or insolvency, or shall make an assignment for the benefit of creditors; or shall not carry on the Project in accordance with the Contract Documents, then the TOWN shall give notice, in writing, to DESIGN/BUILD FIRM and its surety of such delay, neglect or default, specifying the same. If DESIGN/BUILD FIRM within a period of ten (10) calendar days after such notice, shall not proceed in accordance therewith, then TOWN may, upon written notice from the Project Manager of the fact of such delay, neglect or default and DESIGN/BUILD FIRM's failure to comply with such notice, terminate the services of DESIGN/BUILD FIRM, exclude DESIGN/BUILD FIRM from the Project site, and take the prosecution of the Project out of the

hands of DESIGN/BUILD FIRM, as appropriate, or use any or all materials and equipment on the Project site as may be suitable and acceptable, in the TOWN's reasonable discretion. In such case, DESIGN/BUILD FIRM shall not be entitled to receive any further payment until the Project is finished. In addition, TOWN may enter into an Agreement for the completion of the Project according to the terms and provisions of the Contract Documents, or use such other methods as in its opinion shall be required for the completion of the Project in an acceptable manner. All damages, costs and charges incurred by TOWN shall be deducted from any monies due or which may become due to said DESIGN/BUILD FIRM. Actions will be instituted to recover on the posted bonds. In case the damages and expense so incurred by TOWN shall be less than the sum which would have been payable under this Agreement, if it had been completed by said DESIGN/BUILD FIRM, then DESIGN/BUILD FIRM shall be entitled to receive the difference. If such damages and costs exceed the unpaid balance, then DESIGN/BUILD FIRM shall be liable and shall pay to TOWN the amount of said excess.

15.2 If, after Notice of Termination of DESIGN/BUILD FIRM's right to proceed, it is determined for any reason that DESIGN/BUILD FIRM was not in default, the rights and obligations of TOWN and DESIGN/BUILD FIRM shall be the same as if the notice of termination had been issued pursuant to the Termination for Convenience clause, as set forth in Section 15.3 below.

15.3 Notwithstanding any other provision in this Agreement, the performance of work under this Agreement may be terminated in writing by TOWN, for convenience and without cause, upon ten (10) business days from the date of DESIGN/BUILD FIRM's receipt of the written notice to DESIGN/BUILD FIRM of intent to terminate and the date on which such termination becomes effective. In such case, DESIGN/BUILD FIRM shall be paid for all Work and reimbursables executed, and expenses incurred, such as materials stored, cost of severance of leases/contracts directly associated with the Project, and demobilization prior to termination. PAYMENT SHALL INCLUDE REASONABLE PROFIT FOR SERVICES ACTUALLY PERFORMED IN FULL PRIOR TO TERMINATION DATE, BUT SHALL EXCLUDE ALL LOSS PROFITS, INDIRECT CONSEQUENTIAL, SPECIAL OR OTHER DAMAGES.

15.4 Upon receipt of Notice of Termination pursuant to Sections 15.1 and 15.2 above, DESIGN/BUILD FIRM shall, at its sole cost and expense (other than demobilization as a result of the Notice of Termination pursuant to Section 15.3 which shall be paid for by the TOWN) and as a condition precedent to any further payment obligation by the TOWN, promptly discontinue all affected work, unless the Notice of Termination directs otherwise, and deliver to TOWN within seven (7) calendar days of termination, all data, drawings, specifications, reports, estimates, summaries and such other information as may have been required by the Contract Documents, whether completed or in process. Compensation shall be withheld until all documents are produced to TOWN pursuant to this Article.

ARTICLE 16 - DESIGN/BUILD FIRM'S RIGHT TO STOP WORK OR TERMINATE CONTRACT

16.1 If the Project should be stopped under any order of any court or other public authority for a period of more than ninety (90) calendar days, through no act or fault of DESIGN/BUILD FIRM or of anyone employed by DESIGN/BUILD FIRM, or if the Project Manager should fail to review and approve or state in writing reasons for non- approval of any requisition for payment within twenty (20) business days after it is presented; or if TOWN fails to pay DESIGN/BUILD FIRM within thirty (30) calendar days after submittal of a proper requisition for payment, as approved by the Project Manager, then DESIGN/BUILD FIRM may give written notice to TOWN, of such delay, neglect or default, specifying same. If TOWN, within a period of ten (10) business days after such written notice, shall not remedy the delay, neglect, or default upon which notice is based, then DESIGN/BUILD FIRM

may stop work until payment is made, or terminate this Agreement and recover from TOWN payment for all Work executed and reasonable expenses sustained, but excluding any claim for payments for loss profits, indirect, special, consequential or other damages.

ARTICLE 17 - SUBSTANTIAL COMPLETION

17.1 When DESIGN/BUILD FIRM considers that the Project, or a designated portion thereof, which is acceptable to TOWN, in the event TOWN chooses to accept same pursuant to the sole authority and discretion, is substantially complete, DESIGN/BUILD FIRM shall so notify the Project Manager, in writing, and shall prepare for submission to the Project Manager a thorough list of items to be completed or corrected, together with a schedule for completion of all items. The failure to include any items on such list does not alter the responsibility of DESIGN/BUILD FIRM to complete all Work in accordance with the Contract Documents. The Project Manager, and such other persons as they may deem necessary, shall conduct a joint inspection to determine that the Project (or designated portion thereof) is substantially complete.

17.2 The Project Manager will then instruct DESIGN/BUILD FIRM to prepare and deliver to the Contract Administrator a Certificate of Substantial Completion which shall establish the date of Substantial Completion for the Project (or that portion of the Project). After review of the certificate by the Contract Administrator, TOWN shall either accept or reject the certificate. Acceptance of Substantial Completion by TOWN shall be based upon compliance with the Contract Documents and Applicable Laws. DESIGN/BUILD FIRM shall have thirty (30) days to complete the items listed therein. Warranties required by the Contract Documents and submitted in appropriate form to the Project Manager along with the request for Substantial Completion shall commence on the date of Substantial Completion of the Project (or for that portion of the Project). The Certificate of Substantial Completion shall be submitted to TOWN through the Project Manager and DESIGN/BUILD FIRM for its written acceptance of the responsibilities assigned to it in such Certificate.

ARTICLE 18 - FINAL COMPLETION

18.1 When the DESIGN/BUILD FIRM considers that the Project, or a designated portion thereof, which is acceptable to TOWN, in the event TOWN chooses to accept same pursuant to the sole authority and discretion, is finally complete, DESIGN/BUILD FIRM shall so notify the Project Manager, in writing, that the work is complete, and that the DESIGN/BUILD FIRM has satisfied all prerequisites to Final Completion. The DESIGN/BUILD FIRM and the Project Manager and such other persons as they may deem necessary, shall conduct a final inspection. The DESIGN/BUILD FIRM will notify in writing of all particulars in which this inspection reveals that the Work is incomplete, non-conforming or defective. Construction Manager shall immediately take such measures as are necessary to complete such Work or remedy such deficiencies and shall notify all Parties that the Project (or designated portion thereof) is finally complete.

After Project Manager will then instruct DESIGN/BUILD FIRM to prepare and deliver to the Project Manager a Certificate of Final Completion which shall establish the date of Final Completion for the Project (or that portion of the Project). After review of the certificate by the Project Manager, TOWN shall either accept or reject the certificate. Acceptance of Final Completion by TOWN shall be based upon compliance with the Contract Documents and Applicable Laws. DESIGN/BUILD FIRM shall have thirty (30) days to complete the items listed therein. Warranties required by the Contract Documents and submitted in appropriate form to the Project Manager along with the request for Final Completion shall commence on the date of Final Completion of the Project (or for that portion of the Project). The Certificate of Final Completion shall be submitted to TOWN through the Project

Manager and DESIGN/BUILD FIRM for its written acceptance of the responsibilities assigned to it in such certificate.

ARTICLE 19 - SHOP DRAWINGS AND SCHEDULE OF VALUES

19.1 DESIGN/BUILD FIRM shall submit Shop Drawings for all equipment, apparatus, machinery, fixtures, piping, wiring, fabricated structures and manufactured articles. The purpose of a Shop Drawing is to show the suitability, efficiency, technique of manufacture, installation requirements, details of the item and evidence of its compliance or noncompliance with the Contract Documents.

19.2 DESIGN/BUILD FIRM shall thoroughly review and check the Shop Drawings and each and every copy shall show DESIGN/BUILD FIRM's approval thereon.

19.3 If the Shop Drawings show or indicate departures from the Contract requirements, DESIGN/BUILD FIRM shall make specific mention thereof in its shop drawing submittal and a separate letter. Failure to point out such departures shall not relieve DESIGN/BUILD FIRM from its responsibility to comply with the Contract Documents. Project Manager shall determine acceptability of change and, in considering said change, may require data, technical comparisons, cost comparisons, quality comparisons and/or calculations to determine the equality of deviations. Contract Administrator is not obligated to accept deviations.

19.4 No acceptance will be given to partial submittal of Shop Drawings for items which interconnect and/or are interdependent. It is DESIGN/BUILD FIRM's responsibility to assemble the Shop Drawings for all such interconnecting and/or independent items, check them, and then make one (1) submittal to the Project Manager, along with DESIGN/BUILD FIRM's comments as to compliance, noncompliance, or features requiring special attention.

19.5 If catalog sheets or prints of manufacturers' standard drawings are submitted as Shop Drawings, any additional information or changes on such drawings shall be typewritten or lettered in ink. Catalog sheet with multiple options shall be highlighted to depict specific pertinent data including options.

19.6 DESIGN/BUILD FIRM shall submit to Project Manager THREE (3) copies. Re-submissions of Shop Drawings shall be made in the same quantity until final acceptance is obtained.

19.7 Project Manager's acceptance of the Shop Drawings, as approved by DESIGN/BUILD FIRM, will be for general compliance with the Plans and Specifications, and shall not relieve DESIGN/BUILD FIRM of responsibility for the accuracy of such Drawings, nor for the proper fittings and construction of the Work, nor for the furnishing of the materials or Work required by the Agreement and not indicated on the Drawings.

19.8 DESIGN/BUILD FIRM shall keep one (1) set of Shop Drawings, marked with the Project Manager's acceptance, as the Project site at all times.

19.9 The DESIGN/BUILD FIRM shall submit a Schedule of Values to the Project Manager. DESIGN/BUILD FIRM shall submit to the Project Manager a separate Schedule of Values for demolition, abatement, and site work ten (10) calendar days prior to commencing such portion of the Work. The schedule will be typed on 8 ½" x 11" white paper listing: title of Project, location, Project number, Consultant, Contractor, Contract designation and date of submission. The schedule shall list the installed value of the component parts of the Work in sufficient detail to serve as a basis for computing values for progress payments during the construction. The table of contents of the specifications shall establish the format for listing the component items. Each line item will be identified by the number and title of the respective major section of the specifications. For each line item, DESIGN/BUILD FIRM shall list the sub-values of major products or operations under the item. Each item shall include the proportion of DESIGN/BUILD FIRM's overhead and profit. For any

items for which progress payments will be requested for stored materials, the value will be broken down with:

A. Schedule must include the following but is not limited to:

Separate identifiable activity on the critical path, an activity labeled “Other Conditions Allowance.” This activity duration shall be thirty (30) calendar days and inserted at the end of the schedule prior to Substantial Completion. This allowance may or may not be used at the discretion of the TOWN. Use of this activity shall be subject to the review and approval of the TOWN and the Design Criteria Professional. The duration of the "Other Conditions Allowance" activity shall be reduced as other conditions are experienced and inserted in the schedule;

B. The cost of materials delivered, unloaded, properly stored and safeguard, with taxes paid; and

C. The total installed value review.

ARTICLE 20 - FIELD ENGINEERING

20.1 The DESIGN/BUILD FIRM shall provide and pay for field engineering services required for the Project. This Work shall include the following elements:

A. Survey work required in execution of the Project;
B. Civil, structural or other professional engineering, architectural, landscape architectural, or land surveying services specified, or required to execute the DESIGN/BUILD FIRM’s construction methods;
C. The survey completed by DESIGN/BUILD FIRM will identify the qualified engineer or registered land surveyor, acceptable to the TOWN, and he or she shall be retained by the DESIGN/BUILD FIRM at the outset of this Project;
D. The survey will locate and protect control points prior to starting site work, and will preserve all permanent reference points during construction;
E. No changes or relocations will be made without prior written notice to the Project Manager;
F. A written report shall be made to the Project Manager when any reference point is lost or destroyed, or requires relocation because of necessary changes in grades or locations;
G. The surveyor shall be required to replace Project control points which may be lost or destroyed. The surveyor shall be duly registered as a surveyor or mapper, as required by state law;
H. Replacement shall be established based upon original survey control.

20.2 The survey completed by DESIGN/BUILD FIRM will identify the qualified engineer or registered land surveyor, acceptable to the TOWN, and he or she shall be retained by the DESIGN/BUILD FIRM at the outset of this Project.

20.2.1 The survey will locate and protect control points prior to starting site work, and will preserve all permanent reference points during construction.

20.2.2 No changes or relocations will be made without prior written notice to the Project Manager.

20.2.3 A written report shall be made to the Project Manager when any reference point is lost or destroyed or requires relocation because of necessary changes in grades or locations.

20.2.4 The surveyor shall be required to replace Project control points which may be lost or destroyed. The surveyor shall be duly registered as a surveyor or mapper, as required by state law.

20.2.5 Replacements shall be established based upon original survey control.

ARTICLE 21 - FIELD LAYOUT OF THE WORK AND RECORD DRAWINGS

21.1 The entire responsibility for establishing and maintaining a line and grade in the field lies with DESIGN/BUILD FIRM. DESIGN/BUILD FIRM shall maintain an accurate and precise horizontal and vertical record of the existing pavement conditions; final pavement conditions; and all pipelines, conduits, structures, underground utility access portals, handholes, fittings, etc. encountered or installed during construction. DESIGN/BUILD FIRM shall deliver these records in good order to the Contract Administrator as the Work is completed. These records shall serve as a basis for "as-built" drawings. The cost of all such field layout and recording work is included in the Contract Price.

21.2 DESIGN/BUILD FIRM shall maintain in a safe place at the site, one (1) record copy of the Plans and Specifications, addenda, written amendments, Change Orders and written interpretations and clarifications, in good order and annotated to show all changes made during construction. These record documents, together with all approved samples and a counterpart of all approved Shop Drawings, will be available to Contract Administrator for reference. Upon completion of the Project, these record documents, samples and Shop Drawings shall be delivered to Contract Administrator.

21.3 At the completion of the Project, the DESIGN/BUILD FIRM shall tum over to the TOWN a set of reproducible drawings and a complete set of all drawings in the latest version of AutoCAD on Compact Disk, not compressed, which accurately reflect the "as-built" conditions of the new facilities. All changes made to the Construction Documents, either as clarifications or as changes, will be reflected in the plans. The changes shall be submitted at least monthly to the Project Manager. These "as-built" drawings are to be AutoCAD version 2020 and to TOWN Standard Details and CADD Standards. Format media must be delivered and found to be acceptable prior to final payments.

ARTICLE 22 - NO DAMAGES FOR DELAY

22.1 NO CLAIM FOR DAMAGES OR ANY CLAIM OTHER THAN FOR AN EXTENSION OF TIME SHALL BE MADE OR ASSERTED AGAINST TOWN BY REASON OF ANY DELAYS. DESIGN/BUILD FIRM shall not be entitled to an increase in the Contract Price or payment or compensation of any kind from TOWN for direct, indirect, consequential, impact, or other costs, expenses or damages including, but not limited to, costs of acceleration or inefficiency arising because of delay, disruption, interference or hindrance from any cause whatsoever, whether such delay, disruption, interference, or hindrance be reasonable or unreasonable, foreseeable or unforeseeable, or avoidable or unavoidable; provided, DESIGN/BUILD FIRM hindrances or delays are not due solely to fraud, bad faith or active interference by the TOWN, DESIGN/BUILD FIRM shall be entitled only to extensions of the Contract Time as the sole and exclusive remedy for such resulting delays, in accordance with and to the extent specifically provided above. The specific application of this Article to other provisions of this Agreement shall not be construed as a limitation of any sort upon the further application of this Article.

ARTICLE 23 - GOVERNING LAW

23.1 This Agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. Any controversies or legal problems arising out of this Agreement and any action involving the enforcement or interpretation of any rights hereunder shall be submitted to the exclusive jurisdiction of the State courts of the Miami Dade County, Florida, the venue situs, and shall be governed by the laws of the State of Florida. To encourage prompt and equitable resolution of any

litigation that may arise hereunder, DESIGN/BUILD FIRM SHALL SPECIFICALLY BIND ITS PROJECT TEAM MEMBERS AND ANY AND ALL SUBCONTRACTORS TO THE PROVISIONS OF THE AGREEMENT.

ARTICLE 24 - MISCELLANEOUS PROVISIONS

24.1 **OWNERSHIP OF DOCUMENTS:** All finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs, specifications, plans and reports prepared or provided by DESIGN/BUILD FIRM in connection with this Agreement shall become the property of TOWN, whether the Project for which they are made is completed or not, shall become the property of TOWN and shall be delivered by DESIGN/BUILD FIRM to Project Manager within fifteen (15) days of the receipt of the written notice of termination or upon completion of the Project. If applicable, TOWN may withhold payments then due to DESIGN/BUILD FIRM until DESIGN/BUILD FIRM complies with the provisions of this section.

24.2 **AUDIT RIGHT AND RETENTION OF RECORDS:** TOWN shall have the right to audit the books, records, and accounts of DESIGN/BUILD FIRM that are related to this Project. DESIGN/BUILD TEAM shall keep such books, records, and accounts as may be necessary in order to record complete and correct entries related to the Project. DESIGN/BUILD FIRM shall preserve and make available, at reasonable times for examination and audit by TOWN, all financial records, supporting documents, statistical records, and any other documents pertinent to this Agreement for the required retention period of the Florida Public Records Act, Chapter 119, Florida Statutes, or, if the Florida Public Records Act is not applicable, for a minimum period of three (3) years after termination of this Agreement. If any audit has been initiated and audit findings have not been resolved at the end of the retention period or three (3) years, whichever is longer, the books, records, and accounts shall be retained until resolution of the audit findings. If the Florida Public Records Act is determined by TOWN to be applicable to DESIGN/BUILD FIRM's records, DESIGN/BUILD FIRM shall comply with all requirements thereof; however, no confidentiality or non-disclosure requirement of either federal or state law shall be violated by DESIGN-BUILD FIRM. Any incomplete or incorrect entry in such books, records, and accounts shall be a basis for TOWN's disallowance and recovery of any payment upon such entry.

24.3 **ARCHITECT/ENGINEER:** DESIGN/BUILD FIRM shall use the architect/engineer, including subconsultants, identified in the proposal that were a material part of the selection of the DESIGN/BUILD TEAM to provide the services for this Project. DESIGN/BUILD FIRM shall obtain written approval of TOWN's Public Works Director prior to changing or modifying the list of subconsultants submitted by the DESIGN/BUILD FIRM. SEE APPENDICES attached hereto and made a part hereof.

24.4 **ASSIGNMENT AND PERFORMANCE:** Neither this Agreement nor any interest herein shall be assigned, transferred, or encumbered without the prior written consent of the other Party.

24.5 **ONE ORIGINAL AGREEMENT:** This Agreement will be executed in one original.

24.6 **ALL PRIOR AGREEMENTS SUPERSEDED:** This Agreement incorporates and includes all prior negotiations, correspondence, conversations, agreements or understandings applicable to the matters contained herein; and the Parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this Agreement. Accordingly, the Parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or agreements whether oral or written.

24.7 **AMENDMENTS:** No modification, amendment, or alteration in the terms or conditions contained herein shall be effective unless contained in a written document executed by both Parties with the same formality and of equal dignity herewith.

24.8 **INDEPENDENT CONTRACTOR:** DESIGN/BUILD FIRM is an independent contractor under this Agreement. Services provided by DESIGN/BUILD FIRM shall be subject to the supervision of DESIGN/BUILD FIRM. In providing the services, DESIGN/BUILD FIRM or its agents shall not be acting and shall not be deemed as acting as officers, employees, or agents of the TOWN. No partnership, joint venture, or other joint relationship is created hereby. TOWN does not extend to DESIGN/BUILD FIRM or its agents any authority of any kind to bind TOWN in any respect whatsoever.

24.9 **THIRD PARTY BENEFICIARIES:** Neither DESIGN/BUILD FIRM or TOWN intends to directly or substantially benefit a third party by this Agreement. The Parties expressly acknowledge that it is not their intent to create any rights or obligations in any third person or entity under this Agreement. Therefore, the Parties agree that there are no third party beneficiaries to this Agreement and that no third party shall be entitled to assert a claim against either of them based upon this Agreement.

24.10 **WAIVER OF BREACH AND MATERIALITY:** Failure by the TOWN or DESIGN/BUILD FIRM to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement.

24.11 **MATERIAL TERM:** TOWN and DESIGN/BUILD FIRM agree that each requirement, duty, and obligation set forth herein is substantial and important to the formation of this Agreement, and therefore, is a material term hereof.

24.12 **COMPLIANCE WITH LAWS:** DESIGN/BUILD FIRM shall comply with all federal, state, and local laws, codes, ordinances, rules and regulations in performing its duties, responsibilities, and obligations related to this Agreement.

24.13 **NONDISCRIMINATION, EQUAL EMPLOYMENT OPPORTUNITY, AND AMERICANS WITH DISABILITIES ACT:** DESIGN/BUILD FIRM shall not unlawfully discriminate against any person in its operations and activities in its use or expenditure of the funds or any portion of the funds provided by this Agreement and shall affirmatively comply with all applicable provisions of the Americans with Disabilities Act in the course of providing any services funded in whole or in party by TOWN, including Titles 1 and 11 of the Act, and all applicable regulations, guidelines and standards.

DESIGN/BUILD FIRM's decisions regarding the delivery of work and services under this Agreement shall be made without regard to or consideration of race, age, religion, color, gender, sexual orientation, national origin, marital status, physical or mental disability, political affiliation, or any other factor which cannot be lawfully or appropriately used as a basis for service delivery.

DESIGN/BUILD FIRM shall comply with Title 1 of the Americans with Disabilities Act regarding nondiscrimination on the basis of disability in employment and further shall not discriminate against any employee or applicant for employment because of race, age, religion, color, gender, sexual orientation, national origin, marital status, political affiliation, or physical or mental disability. In addition, DESIGN/BUILD FIRM shall take affirmative steps to ensure nondiscrimination in employment against disabled persons. Such actions shall include, but not be limited to, the following: employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff, termination, rates of pay, other forms of compensation, terms and conditions of employment, training (including apprenticeship) and accessibility.

DESIGN/BUILD FIRM shall take affirmative action to ensure that applicants are employed and employees are treated without regard to race, age, religion, color, gender, sexual orientation, national origin, marital status, political affiliation, or physical or mental disability during employment. Such actions shall include, but not be limited to, the following: employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff, termination, rates of pay, other forms of compensation, terms and conditions of employment, training (including apprenticeship) and accessibility.

24.14 **PUBLIC ENTITY CRIMES ACT:** In accordance with the Public Entity Crimes Act, Sec. 287.133, Florida Statutes, a person or affiliate who is a contractor, consultant or other provider, who has been placed on the convicted vendor list following a conviction for a Public Entity Crime, may not submit a bid on a contract to provide any goods or services to the TOWN, may not submit a bid on a contract with the TOWN for the construction or repair of a public building or public work, may not submit bids on leases of real property to the TOWN, may not be awarded or perform work as a contractor supplier, subcontractor or consultant under a contract with the TOWN and may not transact any business with the TOWN in excess of the threshold amount provided in Section 287.017, Florida Statutes, as amended, for category two purchases for a period of thirty-six (36) months from the date of being placed on the convicted vendor list. Violation of this Section shall result in cancellation of the TOWN purchase and may result in debarment.

24.15 **SEVERENCE:** In the event a portion of this Agreement is found by a court of competent jurisdiction to be invalid, the remaining provisions shall continue to be effective unless TOWN elects to terminate this Agreement. The election to terminate this Agreement based upon this provision shall be made within seven (7) days after the finding by the court becomes final.

24.16 **JOINT PREPARATION:** Preparation of this Agreement has been a joint effort of the TOWN and DESIGN/BUILD FIRM and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the Parties than any other.

24.17 **PRIORITY OF PROVISIONS:** If there is a conflict or inconsistency between any term, statement, requirement, or provision of any exhibit attached hereto, any document or events referred to herein, or any document incorporated into this Agreement by reference and a term, statement, requirement, or provision of this Agreement, the term, statement, requirement, or provision contained in Articles 1 through 21 shall prevail and be given effect.

In the event of a conflict among the Contract Documents, the most stringent requirement shall control.

24.18 **TAXES:** DESIGN/BUILD FIRM shall pay all applicable sales, consumer, use and other taxes as required by law. DESIGN/BUILD FIRM is responsible for reviewing the pertinent state statutes involving state taxes and complying with all requirements. All such taxes that are required as of the time of Agreement execution shall be included in the Not To Exceed Guaranteed Maximum Price.

24.19 **SCRUTINIZED COMPANIES:** Subject to Odebrecht Construction, Inc., v. Prasad, 876 F.Supp.2d 1305 (S.D. Fla. 2012), affirmed, *Odebrecht Construction, Inc., v. Secretary*, Florida Department of Transportation, 715 F.3d 1268 (11th Cir. 2013), with regard to the "Cuba Amendment," the DESIGN/BUILD FIRM certifies that it is not on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List or the Scrutinized Companies that Boycott Israel List created pursuant to Section 215.4725, Florida Statutes (2020), as may be amended or revised, and that it is not engaged in a boycott of Israel, and that it does not have business operations in Cuba or Syria, as provided in Section 287.135, Florida Statutes (2020), as may be amended or revised. The TOWN may terminate this Agreement at the TOWN's option if the DESIGN/BUILD FIRM is found to have submitted a false certification as provided

under subsection (5) of Section 287.135, Florida Statutes (2020), as may be amended or revised, or been placed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List or the Scrutinized Companies that Boycott Israel List created pursuant to Section 215.4725, Florida Statutes (2020),as may be amended or revised, or is engaged in a boycott of Israel or has been engaged in business operations in Cuba or Syria, as defined in Section 287.135, Florida Statutes (2020), as may be amended or revised.

TOWN

IN WITNESS OF THE FOREGOING**,** the Parties have set their hands and seals the day and year first written above.

TOWN OF BAY HARBOR ISLANDS, a Florida municipal corporation

By: _____
MARIA LASDAY
Town Manager
Date: _____

ATTEST:

(CORPORATE SEAL)

By: _____
YVONNE P. HAMILTON
Acting Town Clerk

By: _____
JOSEPH GELLER
Town Attorney

CONTRACTOR

WITNESSESS:

_____
A Florida Corporation.

_____

By: _____
_____, President

_____
Print Name

_____

_____
Print Name

ATTEST:

(CORPORATE SEAL)

_____

STATE OF _____:

COUNTY OF _____:

The foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization, this _____ day of _____, 2022, by Name., as Title, for Company., a Florida corporation.

_____
(Signature of Notary Public – State of Florida)

_____
(Print, Type, or Stamp Commissioned Name of Notary Public)

Personally Known _____ or Produced Identification _____

Type of Identification Produced: _____

This document has important legal consequences; consultation with an attorney is encouraged with respect to its use or modification. This document should be adapted to the particular circumstances of the contemplated Project and the Controlling Law.

STANDARD GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT

Prepared by

ENGINEERS JOINT CONTRACT DOCUMENTS COMMITTEE

and

Issued and Published Jointly By

AMERICAN CONSULTING ENGINEERS COUNCIL

National Society of Professional Engineers
Professional Engineers in Private Practice

AMERICAN SOCIETY OF CIVIL ENGINEERS

PROFESSIONAL ENGINEERS IN PRIVATE PRACTICE
a practice division of the
NATIONAL SOCIETY OF PROFESSIONAL ENGINEERS

AMERICAN CONSULTING ENGINEERS COUNCIL

AMERICAN SOCIETY OF CIVIL ENGINEERS

This document has been approved and endorsed by

The Associated General Contractors of America

Construction Specifications Institute

Advancement of Construction Technology

These General Conditions have been prepared for use with the Owner-Contractor Agreements (No. 1910-8-A-1 or 1910-8-A-2) (1996 Editions). Their provisions are interrelated and a change in one may necessitate a change in the other. Comments concerning their usage are contained in the EJCDC User's Guide (No. 1910-50). For guidance in the preparation of Supplementary Conditions, see Guide to the Preparation of Supplementary Conditions (No. 1910-17) (1996 Edition).

EJCDC No. 1910-8 (1996 Edition)

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American Consulting Engineers Council
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American Society of Civil Engineers
345 East 47th Street, New York, NY 10017

TABLE OF CONTENTS

Page

ARTICLE 1 - DEFINITIONS AND TERMINOLOGY . . . . . 00700 - 6
1.01 *Defined Terms* . . . . . 00700 - 6
1.02 *Terminology* . . . . . 00700 - 6
ARTICLE 2 - PRELIMINARY MATTERS . . . . . 00700 - 8
2.01 *Delivery of Bonds* . . . . . 00700 - 9
2.02 *Copies of Documents* . . . . . 00700 - 9
2.03 *Commencement of Contract Times; Notice to Proceed* . . . . . 00700 - 9
2.04 *Starting the Work* . . . . . 00700 - 9
2.05 *Before Starting Construction* . . . . . 00700 - 9
2.06 *Preconstruction Conference* . . . . . 00700 - 9
2.07 *Initial Acceptance of Schedules* . . . . . 00700 - 10
ARTICLE 3 - CONTRACT DOCUMENTS: INTENT, AMENDING, REUSE . . . . . 00700 - 10
3.01 *Intent* . . . . . 00700 - 10
3.02 *Reference Standards* . . . . . 00700 - 10
3.03 *Reporting and Resolving Discrepancies* . . . . . 00700 - 10
3.04 *Amending and Supplementing Contract Documents* . . . . . 00700 - 11
3.05 *Reuse of Documents* . . . . . 00700 - 11
ARTICLE 4 - AVAILABILITY OF LANDS; SUBSURFACE AND PHYSICAL CONDITIONS; REFERENCE POINTS . . . . . 00700 - 11
4.01 *Availability of Lands* . . . . . 00700 - 11
4.02 *Subsurface and Physical Conditions* . . . . . 00700 - 11
4.03 *Differing Subsurface or Physical Conditions* . . . . . 00700 - 12
4.04 *Underground Facilities* . . . . . 00700 - 12
4.05 *Reference Points* . . . . . 00700 - 13
4.06 *Hazardous Environmental Condition at Site* . . . . . 00700 - 13
ARTICLE 5 - BONDS AND INSURANCE . . . . . 00700 - 14
5.01 *Performance, Payment, and Other Bonds* . . . . . 00700 - 15
5.02 *Licensed Sureties and Insurers* . . . . . 00700 - 15
5.03 *Certificates of Insurance* . . . . . 00700 - 15
5.04 *CONTRACTOR's Liability Insurance* . . . . . 00700 - 15
5.05 *OWNER's Liability Insurance* . . . . . 00700 - 15
5.06 *Property Insurance* . . . . . 00700 - 16
5.07 *Waiver of Rights* . . . . . 00700 - 16
5.08 *Receipt and Application of Insurance Proceeds* . . . . . 00700 - 17
5.09 *Acceptance of Bonds and Insurance; Option to Replace* . . . . . 00700 - 18
5.10 *Partial Utilization, Acknowledgment of Property Insurer* . . . . . 00700 - 18
ARTICLE 6 - CONTRACTOR'S RESPONSIBILITIES . . . . . 00700 - 18
6.01 *Supervision and Superintendence* . . . . . 00700 - 18
6.02 *Labor; Working Hours* . . . . . 00700 - 18
6.03 *Services, Materials, and Equipment* . . . . . 00700 - 19
6.04 *Progress Schedule* . . . . . 00700 - 19
6.05 *Substitutes and "Or-Equals"* . . . . . 00700 - 19
6.06 *Concerning Subcontractors, Suppliers, and Others* . . . . . 00700 - 19
6.07 *Patent Fees and Royalties* . . . . . 00700 - 20
6.08 *Permits* . . . . . 00700 - 21
6.09 *Laws and Regulations* . . . . . 00700 - 21
6.10 *Taxes* . . . . . 00700 - 22
6.11 *Use of Site and Other Areas* . . . . . 00700 - 22
6.12 *Record Documents* . . . . . 00700 - 22
6.13 *Safety and Protection* . . . . . 00700 - 22
6.14 *Safety Representative* . . . . . 00700 - 23
6.15 *Hazard Communication Programs* . . . . . 00700 - 23

6.16 *Emergencies* . . . 00700 - 23
6.17 *Shop Drawings and Samples* . . . 00700 - 23
6.18 *Continuing the Work* . . . 00700 - 23
6.19 *CONTRACTOR's General Warranty and Guarantee* . . . 00700 - 24
6.20 *Indemnification* . . . 00700 - 25
ARTICLE 7 - OTHER WORK . . . 00700 - 25
7.01 *Related Work at Site* . . . 00700 - 26
7.02 *Coordination* . . . 00700 - 26
ARTICLE 8 - OWNER'S RESPONSIBILITIES . . . 00700 - 26
8.01 *Communications to Contractor* . . . 00700 - 26
8.02 *Replacement of ENGINEER* . . . 00700 - 26
8.03 *Furnish Data* . . . 00700 - 26
8.04 *Pay Promptly When Due* . . . 00700 - 26
8.05 *Lands and Easements; Reports and Tests* . . . 00700 - 26
8.06 *Insurance* . . . 00700 - 27
8.07 *Change Orders* . . . 00700 - 27
8.08 *Inspections, Tests, and Approvals* . . . 00700 - 27
8.09 *Limitations on OWNER's Responsibilities* . . . 00700 - 27
8.10 *Undisclosed Hazardous Environmental Condition* . . . 00700 - 27
8.11 *Evidence of Financial Arrangements* . . . 00700 - 27
ARTICLE 9 - ENGINEER'S STATUS DURING CONSTRUCTION . . . 00700 - 27
9.01 *OWNER'S Representative* . . . 00700 - 27
9.02 *Visits to Site* . . . 00700 - 27
9.03 *Project Representative* . . . 00700 - 27
9.04 *Clarifications and Interpretations* . . . 00700 - 28
9.05 *Authorized Variations in Work* . . . 00700 - 28
9.06 *Rejecting Defective Work* . . . 00700 - 28
9.07 *Shop Drawings, Change Orders and Payments* . . . 00700 - 28
9.08 *Determinations for Unit Price Work* . . . 00700 - 28
9.09 *Decisions on Requirements of Contract Documents and Acceptability of Work* . . . 00700 - 28
9.10 *Limitations on ENGINEER's Authority and Responsibilities* . . . 00700 - 28
ARTICLE 10 - CHANGES IN THE WORK; CLAIMS . . . 00700 - 29
10.01 *Authorized Changes in the Work* . . . 00700 - 29
10.02 *Unauthorized Changes in the Work* . . . 00700 - 29
10.03 *Execution of Change Orders* . . . 00700 - 29
10.04 *Notification to Surety* . . . 00700 - 29
10.05 *Claims and Disputes* . . . 00700 - 30
ARTICLE 11 - COST OF THE WORK; CASH ALLOWANCES; UNIT PRICE WORK . . . 00700 - 30
11.01 *Cost of the Work* . . . 00700 - 30
11.02 *Cash Allowances* . . . 00700 - 32
11.03 *Unit Price Work* . . . 00700 - 32
ARTICLE 12 - CHANGE OF CONTRACT PRICE; CHANGE OF CONTRACT TIMES . . . 00700 - 33
12.01 *Change of Contract Price* . . . 00700 - 33
12.02 *Change of Contract Times* . . . 00700 - 33
12.03 *Delays Beyond CONTRACTOR's Control* . . . 00700 - 33
12.04 *Delays Within CONTRACTOR's Control* . . . 00700 - 34
12.05 *Delays Beyond OWNER's and CONTRACTOR's Control* . . . 00700 - 34
12.06 *Delay Damages* . . . 00700 - 34
ARTICLE 13 - TESTS AND INSPECTIONS; CORRECTION, REMOVAL OR ACCEPTANCE OF DEFECTIVE WORK . . . 00700 - 34
13.01 *Notice of Defects* . . . 00700 - 34
13.02 *Access to Work* . . . 00700 - 34
13.03 *Tests and Inspections* . . . 00700 - 34
13.04 *Uncovering Work* . . . 00700 - 35
13.05 *OWNER May Stop the Work* . . . 00700 - 35
13.06 *Correction or Removal of Defective Work* . . . 00700 - 35

13.07 *Correction Period* . . . . . 00700 - 35
13.08 *Acceptance of Defective Work* . . . . . 00700 - 36
13.09 *OWNER May Correct Defective Work* . . . . . 00700 - 36
ARTICLE 14 - PAYMENTS TO CONTRACTOR AND COMPLETION . . . . . 00700 - 36
14.01 *Schedule of Values* . . . . . 00700 - 36
14.02 *Progress Payments* . . . . . 00700 - 36
14.03 *CONTRACTOR's Warranty of Title* . . . . . 00700 - 37
14.04 *Substantial Completion* . . . . . 00700 - 38
14.05 *Partial Utilization* . . . . . 00700 - 38
14.06 *Final Inspection* . . . . . 00700 - 39
14.07 *Final Payment* . . . . . 00700 - 39
14.08 *Final Completion Delayed* . . . . . 00700 - 39
14.09 *Waiver of Claims* . . . . . 00700 - 40
ARTICLE 15 - SUSPENSION OF WORK AND TERMINATION . . . . . 00700 - 40
15.01 *OWNER May Suspend Work* . . . . . 00700 - 40
15.02 *OWNER May Terminate for Cause* . . . . . 00700 - 40
15.03 *OWNER May Terminate For Convenience* . . . . . 00700 - 40
15.04 *CONTRACTOR May Stop Work or Terminate* . . . . . 00700 - 41
ARTICLE 16 - DISPUTE RESOLUTION . . . . . 00700 - 41
16.01 *Methods and Procedures* . . . . . 00700 - 41
ARTICLE 17 - MISCELLANEOUS . . . . . 00700 - 41
17.01 *Giving Notice* . . . . . 00700 - 42
17.02 *Computation of Times* . . . . . 00700 - 42
17.03 *Cumulative Remedies* . . . . . 00700 - 42
17.04 *Survival of Obligations* . . . . . 00700 - 42
17.05 *Controlling Law* . . . . . 00700 - 42

GENERAL CONDITIONS

ARTICLE 1 - DEFINITIONS AND TERMINOLOGY

1.01 *Defined Terms*

A. Wherever used in the Contract Documents and printed with initial or all capital letters, the terms listed below will have the meanings indicated which are applicable to both the singular and plural thereof.

1. *Addenda*--Written or graphic instruments issued prior to the opening of Bids which clarify, correct, or change the Bidding Requirements or the Contract Documents.

2. *Agreement*--The written instrument which is evidence of the agreement between OWNER and CONTRACTOR covering the Work.

3. *Application for Payment*--The form acceptable to ENGINEER which is to be used by CONTRACTOR during the course of the Work in requesting progress or final payments and which is to be accompanied by such supporting documentation as is required by the Contract Documents.

4. *Asbestos*--Any material that contains more than one percent asbestos and is friable or is releasing asbestos fibers into the air above current action levels established by the United States Occupational Safety and Health Administration.

5. *Bid*--The offer or proposal of a bidder submitted on the prescribed form setting forth the prices for the Work to be performed.

6. *Bidding Documents*--The Bidding Requirements and the proposed Contract Documents (including all Addenda issued prior to receipt of Bids).

7. *Bidding Requirements*--The Advertisement or Invitation to Bid, Instructions to Bidders, Bid security form, if any, and the Bid form with any supplements.

8. *Bonds*--Performance and payment bonds and other instruments of security.

9. *Change Order*--A document recommended by ENGINEER which is signed by CONTRACTOR and OWNER and authorizes an addition, deletion, or revision in the Work or an adjustment in the Contract Price or the Contract Times, issued on or after the Effective Date of the Agreement.

10. *Claim*--A demand or assertion by OWNER or CONTRACTOR seeking an adjustment of Contract Price or Contract Times, or both, or other relief with respect to the terms of the Contract. A demand for money or services by a third party is not a Claim.

11. *Contract*--The entire and integrated written agreement between the OWNER and CONTRACTOR concerning the Work. The Contract supersedes prior negotiations, representations, or agreements, whether written or oral.

12. *Contract Documents*--The Contract Documents establish the rights and obligations of the parties and include the Agreement, Addenda (which pertain to the Contract Documents), CONTRACTOR's Bid (including documentation accompanying the Bid and any post Bid documentation submitted prior to the Notice of Award) when attached as an exhibit to the Agreement, the Notice to Proceed, the Bonds, these General Conditions, the Supplementary Conditions, the Specifications and the Drawings as the same are more specifically identified in the Agreement, together with all Written Amendments, Change Orders, Work Change Directives, Field Orders, and ENGINEER's written interpretations and clarifications issued on or after the Effective Date of the Agreement. Approved Shop Drawings and the reports and drawings of subsurface and physical conditions are not Contract Documents. Only printed or hard copies of the items listed in this paragraph are Contract Documents. Files in electronic media format of text, data, graphics, and the like that may be furnished by OWNER to CONTRACTOR are not Contract Documents.

13. *Contract Price*--The moneys payable by OWNER to CONTRACTOR for completion of the Work in accordance with the Contract Documents as stated in the Agreement (subject to the provisions of paragraph 11.03 in the case of Unit Price Work).

14. *Contract Times*--The number of days or the dates stated in the Agreement to: (i) achieve Substantial Completion; and (ii) complete the Work so that it is ready for final payment as evidenced by ENGINEER's written recommendation of final payment.

15. *CONTRACTOR*--The individual or entity with whom OWNER has entered into the Agreement.

16. *Cost of the Work*--See paragraph 11.01.A for definition.

17. *Drawings*--That part of the Contract Documents prepared or approved by ENGINEER which graphically shows the scope, extent, and character of the Work to be performed by CONTRACTOR. Shop Drawings and other CONTRACTOR submittals are not Drawings as so defined.

18. *Effective Date of the Agreement*--The date indicated in the Agreement on which it becomes effective, but if no such date is indicated, it means the date on which the Agreement is signed and delivered by the last of the two parties to sign and deliver.

19. *ENGINEER*--The individual or entity named as such in the Agreement.

20. *ENGINEER's Consultant*--An individual or entity having a contract with ENGINEER to furnish services as ENGINEER's independent professional associate or consultant with respect to the Project and who is identified as such in the Supplementary Conditions.

21. *Field Order*--A written order issued by ENGINEER which requires minor changes in the Work but which does not involve a change in the Contract Price or the Contract Times.

22. *General Requirements*--Sections of Division 1 of the Specifications. The General Requirements pertain to all sections of the Specifications.

23. *Hazardous Environmental Condition*--The presence at the Site of Asbestos, PCBs, Petroleum, Hazardous Waste, or Radioactive Material in such quantities or circumstances that may present a substantial danger to persons or property exposed thereto in connection with the Work.

24. *Hazardous Waste*--The term Hazardous Waste shall have the meaning provided in Section 1004 of the Solid Waste Disposal Act (42 USC Section 6903) as amended from time to time.

25. *Laws and Regulations; Laws or Regulations*--Any and all applicable laws, rules, regulations, ordinances, codes, and orders of any and all governmental bodies, agencies, authorities, and courts having jurisdiction.

26. *Liens*--Charges, security interests, or encumbrances upon Project funds, real property, or personal property.

27. *Milestone*--A principal event specified in the Contract Documents relating to an intermediate completion date or time prior to Substantial Completion of all the Work.

28. *Notice of Award*--The written notice by OWNER to the apparent successful bidder stating that upon timely compliance by the apparent successful bidder with the conditions precedent listed therein, OWNER will sign and deliver the Agreement.

29. *Notice to Proceed*--A written notice given by OWNER to CONTRACTOR fixing the date on which the Contract Times will commence to run and on which CONTRACTOR shall start to perform the Work under the Contract Documents.

30. *OWNER*--The individual, entity, public body, or authority with whom CONTRACTOR has entered into the Agreement and for whom the Work is to be performed.

31. *Partial Utilization*--Use by OWNER of a substantially completed part of the Work for the purpose for which it is intended (or a related purpose) prior to Substantial Completion of all the Work.

32. *PCBs*--Polychlorinated biphenyls.

33. *Petroleum*--Petroleum, including crude oil or any fraction thereof which is liquid at standard conditions of temperature and pressure (60 degrees Fahrenheit and 14.7 pounds per square inch absolute), such as oil, petroleum, fuel oil, oil sludge, oil refuse, gasoline, kerosene, and oil mixed with other non-Hazardous Waste and crude oils.

34. *Project*--The total construction of which the Work to be performed under the Contract Documents may be the whole, or a part as may be indicated elsewhere in the Contract Documents.

35. *Project Manual*--The bound documentary information prepared for bidding and constructing the Work. A listing of the contents of the Project Manual, which may be bound in one or more volumes, is contained in the table(s) of contents.

36. *Radioactive Material*--Source, special nuclear, or byproduct material as defined by the Atomic Energy Act of 1954 (42 USC Section 2011 et seq.) as amended from time to time.

37. *Resident Project Representative*--The authorized representative of ENGINEER who may be assigned to the Site or any part thereof.

38. *Samples*--Physical examples of materials, equipment, or workmanship that are representative of some portion of the Work and which establish the standards by which such portion of the Work will be judged.

39. *Shop Drawings*--All drawings, diagrams, illustrations, schedules, and other data or information which are specifically prepared or assembled by or for CONTRACTOR and submitted by CONTRACTOR to illustrate some portion of the Work.

40. *Site*--Lands or areas indicated in the Contract Documents as being furnished by OWNER upon which the Work is to be performed, including rights-of-way and easements for access thereto, and such other lands furnished by OWNER which are designated for the use of CONTRACTOR.

41. *Specifications*--That part of the Contract Documents consisting of written technical descriptions of materials, equipment, systems, standards, and workmanship as applied to the Work and certain administrative details applicable thereto.

42. *Subcontractor*--An individual or entity having a direct contract with CONTRACTOR or with any other Subcontractor for the performance of a part of the Work at the Site.

43. *Substantial Completion*--The time at which the Work (or a specified part thereof) has progressed to the point where, in the opinion of ENGINEER, the Work (or a specified part thereof) is sufficiently complete, in accordance with the Contract Documents, so that the Work (or a specified part thereof) can be utilized for the purposes for which it is intended. The terms "substantially complete" and "substantially completed" as applied to all or part of the Work refer to Substantial Completion thereof.

44. *Supplementary Conditions*--That part of the Contract Documents which amends or supplements these General Conditions.

45. *Supplier*--A manufacturer, fabricator, supplier, distributor, materialman, or vendor having a direct contract with CONTRACTOR or with any Subcontractor to furnish materials or equipment to be incorporated in the Work by CONTRACTOR or any Subcontractor.

46. *Underground Facilities*--All underground pipelines, conduits, ducts, cables, wires, manholes, vaults, tanks, tunnels, or other such facilities or attachments, and any encasements containing such facilities, including those that convey electricity, gases, steam, liquid petroleum products, telephone or other communications, cable television, water, wastewater, storm water, other liquids or chemicals, or traffic or other control systems.

47. *Unit Price Work*--Work to be paid for on the basis of unit prices.

48. *Work*--The entire completed construction or the various separately identifiable parts thereof required to be provided under the Contract Documents. Work includes and is the result of performing or providing all labor, services, and documentation necessary to produce such construction, and furnishing, installing, and incorporating all materials and equipment into such construction, all as required by the Contract Documents.

49. *Work Change Directive*--A written statement to CONTRACTOR issued on or after the Effective Date of the Agreement and signed by OWNER and recommended by ENGINEER ordering an addition, deletion, or revision in the Work, or responding to differing or unforeseen subsurface or physical conditions under which the Work is to be performed or to emergencies. A Work Change Directive will not change the Contract Price or the Contract Times but is evidence that the parties expect that the change ordered or documented by a Work Change Directive will be incorporated in a subsequently issued Change Order following negotiations by the parties as to its effect, if any, on the Contract Price or Contract Times.

50. *Written Amendment*--A written statement modifying the Contract Documents, signed by OWNER and CONTRACTOR on or after the Effective Date of the Agreement and normally dealing with the nonengineering or nontechnical rather than strictly construction-related aspects of the Contract Documents.

1.02 *Terminology*

A. *Intent of Certain Terms or Adjectives*

1. Whenever in the Contract Documents the terms "as allowed," "as approved," or terms of like effect or import are used, or the adjectives "reasonable," "suitable," "acceptable," "proper," "satisfactory," or adjectives of like effect or import are used to describe an action or determination of ENGINEER as to the Work, it is intended that such action or determination will be solely to evaluate, in general, the completed Work for compliance with the requirements of and information in the Contract Documents and conformance with the design concept of the completed Project as a functioning whole as shown or indicated in the Contract Documents (unless there is a specific statement indicating otherwise). The

use of any such term or adjective shall not be effective to assign to ENGINEER any duty or authority to supervise or direct the performance of the Work or any duty or authority to undertake responsibility contrary to the provisions of paragraph 9.10 or any other provision of the Contract Documents.

B. *Day*

1. The word "day" shall constitute a calendar day of 24 hours measured from midnight to the next midnight.

C. *Defective*

1. The word "defective," when modifying the word "Work," refers to Work that is unsatisfactory, faulty, or deficient in that it does not conform to the Contract Documents or does not meet the requirements of any inspection, reference standard, test, or approval referred to in the Contract Documents, or has been damaged prior to ENGINEER's recommendation of final payment (unless responsibility for the protection thereof has been assumed by OWNER at Substantial Completion in accordance with paragraph 14.04 or 14.05).

D. *Furnish, Install, Perform, Provide*

1. The word "furnish," when used in connection with services, materials, or equipment, shall mean to supply and deliver said services, materials, or equipment to the Site (or some other specified location) ready for use or installation and in usable or operable condition.

2. The word "install," when used in connection with services, materials, or equipment, shall mean to put into use or place in final position said services, materials, or equipment complete and ready for intended use.

3. The words "perform" or "provide," when used in connection with services, materials, or equipment, shall mean to furnish and install said services, materials, or equipment complete and ready for intended use.

4. When "furnish," "install," "perform," or "provide" is not used in connection with services, materials, or equipment in a context clearly requiring an obligation of CONTRACTOR, "provide" is implied.

E. Unless stated otherwise in the Contract Documents, words or phrases which have a well-known technical or construction industry or trade meaning are used in the Contract Documents in accordance with such recognized meaning.

ARTICLE 2 - PRELIMINARY MATTERS

2.01 *Delivery of Bonds*

A. When CONTRACTOR delivers the executed Agreements to OWNER, CONTRACTOR shall also deliver to OWNER such Bonds as CONTRACTOR may be required to furnish.

2.02 *Copies of Documents*

A. OWNER shall furnish to CONTRACTOR up to ten copies of the Contract Documents. Additional copies will be furnished upon request at the cost of reproduction.

2.03 *Commencement of Contract Times; Notice to Proceed*

A. The Contract Times will commence to run on the thirtieth day after the Effective Date of the Agreement or, if a Notice to Proceed is given, on the day indicated in the Notice to Proceed. A Notice to Proceed may be given at any time within 30 days after the Effective Date of the Agreement. In no event will the Contract Times commence to run later than the sixtieth day after the day of Bid opening or the thirtieth day after the Effective Date of the Agreement, whichever date is earlier.

2.04 *Starting the Work*

A. CONTRACTOR shall start to perform the Work on the date when the Contract Times commence to run. No Work shall be done at the Site prior to the date on which the Contract Times commence to run.

2.05 *Before Starting Construction*

A. *CONTRACTOR's Review of Contract Documents:* Before undertaking each part of the Work, CONTRACTOR shall carefully study and compare the Contract Documents and check and verify pertinent figures therein and all applicable field measurements. CONTRACTOR shall promptly report in writing to ENGINEER any conflict, error, ambiguity, or discrepancy which CONTRACTOR may discover and shall obtain a written interpretation or clarification from ENGINEER before proceeding with any Work affected thereby; however, CONTRACTOR shall not be liable to OWNER or ENGINEER for failure to report any conflict, error, ambiguity, or discrepancy in the Contract Documents unless CONTRACTOR knew or reasonably should have known thereof.

B. *Preliminary Schedules:* Within ten days after the Effective Date of the Agreement (unless otherwise specified

in the General Requirements), CONTRACTOR shall submit to ENGINEER for its timely review:

1. a preliminary progress schedule indicating the times (numbers of days or dates) for starting and completing the various stages of the Work, including any Milestones specified in the Contract Documents;

2. a preliminary schedule of Shop Drawing and Sample submittals which will list each required submittal and the times for submitting, reviewing, and processing such submittal; and

3. a preliminary schedule of values for all of the Work which includes quantities and prices of items which when added together equal the Contract Price and subdivides the Work into component parts in sufficient detail to serve as the basis for progress payments during performance of the Work. Such prices will include an appropriate amount of overhead and profit applicable to each item of Work.

C. *Evidence of Insurance:* Before any Work at the Site is started, CONTRACTOR and OWNER shall each deliver to the other, with copies to each additional insured identified in the Supplementary Conditions, certificates of insurance (and other evidence of insurance which either of them or any additional insured may reasonably request) which CONTRACTOR and OWNER respectively are required to purchase and maintain in accordance with Article 5.

2.06 *Preconstruction Conference*

A. Within 20 days after the Contract Times start to run, but before any Work at the Site is started, a conference attended by CONTRACTOR, ENGINEER, and others as appropriate will be held to establish a working understanding among the parties as to the Work and to discuss the schedules referred to in paragraph 2.05.B, procedures for handling Shop Drawings and other submittals, processing Applications for Payment, and maintaining required records.

2.07 *Initial Acceptance of Schedules*

A. Unless otherwise provided in the Contract Documents, at least ten days before submission of the first Application for Payment a conference attended by CONTRACTOR, ENGINEER, and others as appropriate will be held to review for acceptability to ENGINEER as provided below the schedules submitted in accordance with paragraph 2.05.B. CONTRACTOR shall have an additional ten days to make corrections and adjustments and to complete and resubmit the schedules. No progress payment shall be made to CONTRACTOR until acceptable schedules are submitted to ENGINEER.

1. The progress schedule will be acceptable to ENGINEER if it provides an orderly progression of the Work to completion within any specified Milestones and the Contract Times. Such acceptance will not impose on ENGINEER responsibility for the progress schedule, for sequencing, scheduling, or progress of the Work nor interfere with or relieve CONTRACTOR from CONTRACTOR's full responsibility therefor.

2. CONTRACTOR's schedule of Shop Drawing and Sample submittals will be acceptable to ENGINEER if it provides a workable arrangement for reviewing and processing the required submittals.

3. CONTRACTOR's schedule of values will be acceptable to ENGINEER as to form and substance if it provides a reasonable allocation of the Contract Price to component parts of the Work.

ARTICLE 3 - CONTRACT DOCUMENTS: INTENT, AMENDING, REUSE

3.01 *Intent*

A. The Contract Documents are complementary; what is called for by one is as binding as if called for by all.

B. It is the intent of the Contract Documents to describe a functionally complete Project (or part thereof) to be constructed in accordance with the Contract Documents. Any labor, documentation, services, materials, or equipment that may reasonably be inferred from the Contract Documents or from prevailing custom or trade usage as being required to produce the intended result will be provided whether or not specifically called for at no additional cost to OWNER.

C. Clarifications and interpretations of the Contract Documents shall be issued by ENGINEER as provided in Article 9.

3.02 *Reference Standards*

A. *Standards, Specifications, Codes, Laws, and Regulations*

1. Reference to standards, specifications, manuals, or codes of any technical society, organization, or association, or to Laws or Regulations, whether such reference be specific or by implication, shall mean the standard, specification, manual, code, or Laws or Regulations in effect at the time of opening of Bids (or on the Effective Date of the Agreement if there were no Bids),

except as may be otherwise specifically stated in the Contract Documents.

2. No provision of any such standard, specification, manual or code, or any instruction of a Supplier shall be effective to change the duties or responsibilities of OWNER, CONTRACTOR, or ENGINEER, or any of their subcontractors, consultants, agents, or employees from those set forth in the Contract Documents, nor shall any such provision or instruction be effective to assign to OWNER, ENGINEER, or any of ENGINEER's Consultants, agents, or employees any duty or authority to supervise or direct the performance of the Work or any duty or authority to undertake responsibility inconsistent with the provisions of the Contract Documents.

3.03 *Reporting and Resolving Discrepancies*

A. *Reporting Discrepancies*

1. If, during the performance of the Work, CONTRACTOR discovers any conflict, error, ambiguity, or discrepancy within the Contract Documents or between the Contract Documents and any provision of any Law or Regulation applicable to the performance of the Work or of any standard, specification, manual or code, or of any instruction of any Supplier, CONTRACTOR shall report it to ENGINEER in writing at once. CONTRACTOR shall not proceed with the Work affected thereby (except in an emergency as required by paragraph 6.16.A) until an amendment or supplement to the Contract Documents has been issued by one of the methods indicated in paragraph 3.04; provided, however, that CONTRACTOR shall not be liable to OWNER or ENGINEER for failure to report any such conflict, error, ambiguity, or discrepancy unless CONTRACTOR knew or reasonably should have known thereof.

B. *Resolving Discrepancies*

1. Except as may be otherwise specifically stated in the Contract Documents, the provisions of the Contract Documents shall take precedence in resolving any conflict, error, ambiguity, or discrepancy between the provisions of the Contract Documents and:

a. the provisions of any standard, specification, manual, code, or instruction (whether or not specifically incorporated by reference in the Contract Documents); or

b. the provisions of any Laws or Regulations applicable to the performance of the Work (unless such an interpretation of the provisions of the Contract Documents would result in violation of such Law or Regulation).

3.04 *Amending and Supplementing Contract Documents*

A. The Contract Documents may be amended to provide for additions, deletions, and revisions in the Work or to modify the terms and conditions thereof in one or more of the following ways: (i) a Written Amendment; (ii) a Change Order; or (iii) a Work Change Directive.

B. The requirements of the Contract Documents may be supplemented, and minor variations and deviations in the Work may be authorized, by one or more of the following ways: (i) a Field Order; (ii) ENGINEER's approval of a Shop Drawing or Sample; or (iii) ENGINEER's written interpretation or clarification.

3.05 *Reuse of Documents*

A. CONTRACTOR and any Subcontractor or Supplier or other individual or entity performing or furnishing any of the Work under a direct or indirect contract with OWNER: (i) shall not have or acquire any title to or ownership rights in any of the Drawings, Specifications, or other documents (or copies of any thereof) prepared by or bearing the seal of ENGINEER or ENGINEER's Consultant, including electronic media editions; and (ii) shall not reuse any of such Drawings, Specifications, other documents, or copies thereof on extensions of the Project or any other project without written consent of OWNER and ENGINEER and specific written verification or adaption by ENGINEER. This prohibition will survive final payment, completion, and acceptance of the Work, or termination or completion of the Contract. Nothing herein shall preclude CONTRACTOR from retaining copies of the Contract Documents for record purposes.

ARTICLE 4 - AVAILABILITY OF LANDS; SUBSURFACE AND PHYSICAL CONDITIONS; REFERENCE POINTS

4.01 *Availability of Lands*

A. OWNER shall furnish the Site. OWNER shall notify CONTRACTOR of any encumbrances or restrictions not of general application but specifically related to use of the Site with which CONTRACTOR must comply in performing the Work. OWNER will obtain in a timely manner and pay for easements for permanent structures or permanent changes in existing facilities. If CONTRACTOR and OWNER are unable to agree on entitlement to or on the amount or extent, if any, of any adjustment in the Contract Price or Contract Times, or both, as a result of any delay in OWNER's furnishing the Site, CONTRACTOR may make a Claim therefor as provided in paragraph 10.05.

B. Upon reasonable written request, OWNER shall furnish CONTRACTOR with a current statement of record legal title and legal description of the lands upon which the Work is to be performed and OWNER's interest therein as necessary for giving notice of or filing a mechanic's or construction lien against such lands in accordance with applicable Laws and Regulations.

C. CONTRACTOR shall provide for all additional lands and access thereto that may be required for temporary construction facilities or storage of materials and equipment.

4.02 *Subsurface and Physical Conditions*

A. *Reports and Drawings:* The Supplementary Conditions identify:

1. those reports of explorations and tests of subsurface conditions at or contiguous to the Site that ENGINEER has used in preparing the Contract Documents; and

2. those drawings of physical conditions in or relating to existing surface or subsurface structures at or contiguous to the Site (except Underground Facilities) that ENGINEER has used in preparing the Contract Documents.

B. *Limited Reliance by CONTRACTOR on Technical Data Authorized:* CONTRACTOR may rely upon the general accuracy of the "technical data" contained in such reports and drawings, but such reports and drawings are not Contract Documents. Such "technical data" is identified in the Supplementary Conditions. Except for such reliance on such "technical data," CONTRACTOR may not rely upon or make any Claim against OWNER, ENGINEER, or any of ENGINEER's Consultants with respect to:

1. the completeness of such reports and drawings for CONTRACTOR's purposes, including, but not limited to, any aspects of the means, methods, techniques, sequences, and procedures of construction to be employed by CONTRACTOR, and safety precautions and programs incident thereto; or

2. other data, interpretations, opinions, and information contained in such reports or shown or indicated in such drawings; or

3. any CONTRACTOR interpretation of or conclusion drawn from any "technical data" or any such other data, interpretations, opinions, or information.

4.03 *Differing Subsurface or Physical Conditions*

A. *Notice:* If CONTRACTOR believes that any subsurface or physical condition at or contiguous to the Site that is uncovered or revealed either:

1. is of such a nature as to establish that any "technical data" on which CONTRACTOR is entitled to rely as provided in paragraph 4.02 is materially inaccurate; or

2. is of such a nature as to require a change in the Contract Documents; or

3. differs materially from that shown or indicated in the Contract Documents; or

4. is of an unusual nature, and differs materially from conditions ordinarily encountered and generally recognized as inherent in work of the character provided for in the Contract Documents;

then CONTRACTOR shall, promptly after becoming aware thereof and before further disturbing the subsurface or physical conditions or performing any Work in connection therewith (except in an emergency as required by paragraph 6.16.A), notify OWNER and ENGINEER in writing about such condition. CONTRACTOR shall not further disturb such condition or perform any Work in connection therewith (except as aforesaid) until receipt of written order to do so.

B. *ENGINEER's Review:* After receipt of written notice as required by paragraph 4.03.A, ENGINEER will promptly review the pertinent condition, determine the necessity of OWNER's obtaining additional exploration or tests with respect thereto, and advise OWNER in writing (with a copy to CONTRACTOR) of ENGINEER's findings and conclusions.

C. *Possible Price and Times Adjustments*

1. The Contract Price or the Contract Times, or both, will be equitably adjusted to the extent that the existence of such differing subsurface or physical condition causes an increase or decrease in CONTRACTOR's cost of, or time required for, performance of the Work; subject, however, to the following:

a. such condition must meet any one or more of the categories described in paragraph 4.03.A; and

b. with respect to Work that is paid for on a Unit Price Basis, any adjustment in Contract Price will be subject to the provisions of paragraphs 9.08 and 11.03.

2. CONTRACTOR shall not be entitled to any adjustment in the Contract Price or Contract Times if:

a. CONTRACTOR knew of the existence of such conditions at the time CONTRACTOR made a final commitment to OWNER in respect of Contract Price and Contract Times by the submission of a Bid or becoming bound under a negotiated contract; or

b. the existence of such condition could reasonably have been discovered or revealed as a result of any examination, investigation, exploration, test, or study of the Site and contiguous areas required by the Bidding Requirements or Contract Documents to be conducted by or for CONTRACTOR prior to CONTRACTOR's making such final commitment; or

c. CONTRACTOR failed to give the written notice within the time and as required by paragraph 4.03.A.

3. If OWNER and CONTRACTOR are unable to agree on entitlement to or on the amount or extent, if any, of any adjustment in the Contract Price or Contract Times, or both, a Claim may be made therefor as provided in paragraph 10.05. However, OWNER, ENGINEER, and ENGINEER's Consultants shall not be liable to CONTRACTOR for any claims, costs, losses, or damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) sustained by CONTRACTOR on or in connection with any other project or anticipated project.

4.04 *Underground Facilities*

A. *Shown or Indicated:* The information and data shown or indicated in the Contract Documents with respect to existing Underground Facilities at or contiguous to the Site is based on information and data furnished to OWNER or ENGINEER by the owners of such Underground Facilities, including OWNER, or by others. Unless it is otherwise expressly provided in the Supplementary Conditions:

1. OWNER and ENGINEER shall not be responsible for the accuracy or completeness of any such information or data; and

2. the cost of all of the following will be included in the Contract Price, and CONTRACTOR shall have full responsibility for:

a. reviewing and checking all such information and data,

b. locating all Underground Facilities shown or indicated in the Contract Documents,

c. coordination of the Work with the owners of such Underground Facilities, including OWNER, during construction, and

d. the safety and protection of all such Underground Facilities and repairing any damage thereto resulting from the Work.

B. *Not Shown or Indicated*

1. If an Underground Facility is uncovered or revealed at or contiguous to the Site which was not shown or indicated, or not shown or indicated with reasonable accuracy in the Contract Documents, CONTRACTOR shall, promptly after becoming aware thereof and before further disturbing conditions affected thereby or performing any Work in connection therewith (except in an emergency as required by paragraph 6.16.A), identify the owner of such Underground Facility and give written notice to that owner and to OWNER and ENGINEER. ENGINEER will promptly review the Underground Facility and determine the extent, if any, to which a change is required in the Contract Documents to reflect and document the consequences of the existence or location of the Underground Facility. During such time, CONTRACTOR shall be responsible for the safety and protection of such Underground Facility.

2. If ENGINEER concludes that a change in the Contract Documents is required, a Work Change Directive or a Change Order will be issued to reflect and document such consequences. An equitable adjustment shall be made in the Contract Price of Contract Times, or both, to the extent that they are attributable to the existence or location of any Underground Facility that was not shown or indicated or not shown or indicated with reasonable accuracy in the Contract Documents and that CONTRACTOR did not know of and could not reasonably have been expected to be aware of or to have anticipated. If OWNER and CONTRACTOR are unable to agree on entitlement to or on the amount or extent, if any, of any such adjustment in Contract Price or Contract Times, OWNER or CONTRACTOR may make a Claim therefor as provided in paragraph 10.05.

4.05 *Reference Points*

A. OWNER shall provide engineering surveys to establish reference points for construction which in ENGINEER's judgment are necessary to enable CONTRACTOR to proceed with the Work. CONTRACTOR shall be responsible for laying out the Work, shall protect and preserve the established reference points and property

monuments, and shall make no changes or relocations without the prior written approval of OWNER. CONTRACTOR shall report to ENGINEER whenever any reference point or property monument is lost or destroyed or requires relocation because of necessary changes in grades or locations, and shall be responsible for the accurate replacement or relocation of such reference points or property monuments by professionally qualified personnel.

4.06 *Hazardous Environmental Condition at Site*

A. *Reports and Drawings:* Reference is made to the Supplementary Conditions for the identification of those reports and drawings relating to a Hazardous Environmental Condition identified at the Site, if any, that have been utilized by the ENGINEER in the preparation of the Contract Documents.

B. *Limited Reliance by CONTRACTOR on Technical Data Authorized:* CONTRACTOR may rely upon the general accuracy of the "technical data" contained in such reports and drawings, but such reports and drawings are not Contract Documents. Such "technical data" is identified in the Supplementary Conditions. Except for such reliance on such "technical data," CONTRACTOR may not rely upon or make any Claim against OWNER, ENGINEER or any of ENGINEER's Consultants with respect to:

1. the completeness of such reports and drawings for CONTRACTOR's purposes, including, but not limited to, any aspects of the means, methods, techniques, sequences and procedures of construction to be employed by CONTRACTOR and safety precautions and programs incident thereto; or

2. other data, interpretations, opinions and information contained in such reports or shown or indicated in such drawings; or

3. any CONTRACTOR interpretation of or conclusion drawn from any "technical data" or any such other data, interpretations, opinions or information.

C. CONTRACTOR shall not be responsible for any Hazardous Environmental Condition uncovered or revealed at the Site which was not shown or indicated in Drawings or Specifications or identified in the Contract Documents to be within the scope of the Work. CONTRACTOR shall be responsible for a Hazardous Environmental Condition created with any materials brought to the Site by CONTRACTOR, Subcontractors, Suppliers, or anyone else for whom CONTRACTOR is responsible.

D. If CONTRACTOR encounters a Hazardous Environmental Condition or if CONTRACTOR or anyone for whom CONTRACTOR is responsible creates a Hazardous Environmental Condition, CONTRACTOR shall immediately: (i) secure or otherwise isolate such condition; (ii) stop all Work in connection with such condition and in any area affected thereby (except in an emergency as required by paragraph 6.16); and (iii) notify OWNER and ENGINEER (and promptly thereafter confirm such notice in writing). OWNER shall promptly consult with ENGINEER concerning the necessity for OWNER to retain a qualified expert to evaluate such condition or take corrective action, if any.

E. CONTRACTOR shall not be required to resume Work in connection with such condition or in any affected area until after OWNER has obtained any required permits related thereto and delivered to CONTRACTOR written notice: (i) specifying that such condition and any affected area is or has been rendered safe for the resumption of Work; or (ii) specifying any special conditions under which such Work may be resumed safely. If OWNER and CONTRACTOR cannot agree as to entitlement to or on the amount or extent, if any, of any adjustment in Contract Price or Contract Times, or both, as a result of such Work stoppage or such special conditions under which Work is agreed to be resumed by CONTRACTOR, either party may make a Claim therefor as provided in paragraph 10.05.

F. If after receipt of such written notice CONTRACTOR does not agree to resume such Work based on a reasonable belief it is unsafe, or does not agree to resume such Work under such special conditions, then OWNER may order the portion of the Work that is in the area affected by such condition to be deleted from the Work. If OWNER and CONTRACTOR cannot agree as to entitlement to or on the amount or extent, if any, of an adjustment in Contract Price or Contract Times as a result of deleting such portion of the Work, then either party may make a Claim therefor as provided in paragraph 10.05. OWNER may have such deleted portion of the Work performed by OWNER's own forces or others in accordance with Article 7.

G. To the fullest extent permitted by Laws and Regulations, OWNER shall indemnify and hold harmless CONTRACTOR, Subcontractors, ENGINEER, ENGINEER's Consultants and the officers, directors, partners, employees, agents, other consultants, and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to a Hazardous Environmental Condition, provided that such Hazardous Environmental Condition: (i) was not shown or indicated in the Drawings or Specifications or identified in the Contract Documents to be included within the scope of the Work, and (ii) was not created by CONTRACTOR or by anyone for whom CONTRACTOR is responsible. Nothing

in this paragraph 4.06.E shall obligate OWNER to indemnify any individual or entity from and against the consequences of that individual's or entity's own negligence.

H. To the fullest extent permitted by Laws and Regulations, CONTRACTOR shall indemnify and hold harmless OWNER, ENGINEER, ENGINEER's Consultants, and the officers, directors, partners, employees, agents, other consultants, and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to a Hazardous Environmental Condition created by CONTRACTOR or by anyone for whom CONTRACTOR is responsible. Nothing in this paragraph 4.06.F shall obligate CONTRACTOR to indemnify any individual or entity from and against the consequences of that individual's or entity's own negligence.

I. The provisions of paragraphs 4.02, 4.03, and 4.04 are not intended to apply to a Hazardous Environmental Condition uncovered or revealed at the Site.

ARTICLE 5 - BONDS AND INSURANCE

5.01 *Performance, Payment, and Other Bonds*

A. CONTRACTOR shall furnish performance and payment Bonds, each in an amount at least equal to the Contract Price as security for the faithful performance and payment of all CONTRACTOR's obligations under the Contract Documents. These Bonds shall remain in effect at least until one year after the date when final payment becomes due, except as provided otherwise by Laws or Regulations or by the Contract Documents. CONTRACTOR shall also furnish such other Bonds as are required by the Contract Documents.

B. All Bonds shall be in the form prescribed by the Contract Documents except as provided otherwise by Laws or Regulations, and shall be executed by such sureties as are named in the current list of "Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies" as published in Circular 570 (amended) by the Financial Management Service, Surety Bond Branch, U.S. Department of the Treasury. All Bonds signed by an agent must be accompanied by a certified copy of such agent's authority to act.

C. If the surety on any Bond furnished by CONTRACTOR is declared bankrupt or becomes insolvent or its right to do business is terminated in any state where any part of the Project is located or it ceases to meet the requirements of paragraph 5.01.B, CONTRACTOR shall within 20 days thereafter substitute another Bond and surety, both of which shall comply with the requirements of paragraphs 5.01.B and 5.02.

5.02 *Licensed Sureties and Insurers*

A. All Bonds and insurance required by the Contract Documents to be purchased and maintained by OWNER or CONTRACTOR shall be obtained from surety or insurance companies that are duly licensed or authorized in the jurisdiction in which the Project is located to issue Bonds or insurance policies for the limits and coverages so required. Such surety and insurance companies shall also meet such additional requirements and qualifications as may be provided in the Supplementary Conditions.

5.03 *Certificates of Insurance*

A. CONTRACTOR shall deliver to OWNER, with copies to each additional insured identified in the Supplementary Conditions, certificates of insurance (and other evidence of insurance requested by OWNER or any other additional insured) which CONTRACTOR is required to purchase and maintain. OWNER shall deliver to CONTRACTOR, with copies to each additional insured identified in the Supplementary Conditions, certificates of insurance (and other evidence of insurance requested by CONTRACTOR or any other additional insured) which OWNER is required to purchase and maintain.

5.04 *CONTRACTOR's Liability Insurance*

A. CONTRACTOR shall purchase and maintain such liability and other insurance as is appropriate for the Work being performed and as will provide protection from claims set forth below which may arise out of or result from CONTRACTOR's performance of the Work and CONTRACTOR's other obligations under the Contract Documents, whether it is to be performed by CONTRACTOR, any Subcontractor or Supplier, or by anyone directly or indirectly employed by any of them to perform any of the Work, or by anyone for whose acts any of them may be liable:

1. claims under workers' compensation, disability benefits, and other similar employee benefit acts;

2. claims for damages because of bodily injury, occupational sickness or disease, or death of CONTRACTOR's employees;

3. claims for damages because of bodily injury, sickness or disease, or death of any person other than CONTRACTOR's employees;

4. claims for damages insured by reasonably available personal injury liability coverage which are sustained: (i) by any person as a result of an offense directly or indirectly related to the employment of such person by CONTRACTOR, or (ii) by any other person for any other reason;

5. claims for damages, other than to the Work itself, because of injury to or destruction of tangible property wherever located, including loss of use resulting therefrom; and

6. claims for damages because of bodily injury or death of any person or property damage arising out of the ownership, maintenance or use of any motor vehicle.

B. The policies of insurance so required by this paragraph 5.04 to be purchased and maintained shall:

1. with respect to insurance required by paragraphs 5.04.A.3 through 5.04.A.6 inclusive, include as additional insureds (subject to any customary exclusion in respect of professional liability) OWNER, ENGINEER, ENGINEER's Consultants, and any other individuals or entities identified in the Supplementary Conditions, all of whom shall be listed as additional insureds, and include coverage for the respective officers, directors, partners, employees, agents, and other consultants and subcontractors of each and any of all such additional insureds, and the insurance afforded to these additional insureds shall provide primary coverage for all claims covered thereby;

2. include at least the specific coverages and be written for not less than the limits of liability provided in the Supplementary Conditions or required by Laws or Regulations, whichever is greater;

3. include completed operations insurance;

4. include contractual liability insurance covering CONTRACTOR's indemnity obligations under paragraphs 6.07, 6.11, and 6.20;

5. contain a provision or endorsement that the coverage afforded will not be canceled, materially changed or renewal refused until at least thirty days prior written notice has been given to OWNER and CONTRACTOR and to each other additional insured identified in the Supplementary Conditions to whom a certificate of insurance has been issued (and the certificates of insurance furnished by the CONTRACTOR pursuant to paragraph 5.03 will so provide);

6. remain in effect at least until final payment and at all times thereafter when CONTRACTOR may be correcting, removing, or replacing defective Work i accordance with paragraph 13.07; and

7. with respect to completed operations insurance and any insurance coverage written on a claims-mad basis, remain in effect for at least two years after fina payment (and CONTRACTOR shall furnish OWNER an each other additional insured identified in the Supple mentary Conditions, to whom a certificate of insuranc has been issued, evidence satisfactory to OWNER an any such additional insured of continuation of suc insurance at final payment and one year thereafter).

5.05 *OWNER's Liability Insurance*

A. In addition to the insurance required to be provide by CONTRACTOR under paragraph 5.04, OWNER, a OWNER's option, may purchase and maintain at OWNER' expense OWNER's own liability insurance as will protec OWNER against claims which may arise from operation under the Contract Documents.

5.06 *Property Insurance*

A. Unless otherwise provided in the Supplementar Conditions, OWNER shall purchase and maintain propert insurance upon the Work at the Site in the amount of the ful replacement cost thereof (subject to such deductible amount as may be provided in the Supplementary Conditions o required by Laws and Regulations). This insurance shall:

1. include the interests of OWNER, CONTRAC TOR, Subcontractors, ENGINEER, ENGINEER' Consultants, and any other individuals or entities identi fied in the Supplementary Conditions, and the officers directors, partners, employees, agents, and othe consultants and subcontractors of each and any of them each of whom is deemed to have an insurable interest an shall be listed as an additional insured;

2. be written on a Builder's Risk "all-risk" or ope peril or special causes of loss policy form that shall a least include insurance for physical loss or damage to th Work, temporary buildings, false work, and materials an equipment in transit, and shall insure against at least th following perils or causes of loss: fire, lightning extended coverage, theft, vandalism and maliciou mischief, earthquake, collapse, debris removal demolition occasioned by enforcement of Laws an Regulations, water damage, and such other perils o causes of loss as may be specifically required by th Supplementary Conditions;

3. include expenses incurred in the repair o replacement of any insured property (including but no limited to fees and charges of engineers and architects);

4. cover materials and equipment stored at the Site or at another location that was agreed to in writing by OWNER prior to being incorporated in the Work, provided that such materials and equipment have been included in an Application for Payment recommended by ENGINEER;

5. allow for partial utilization of the Work by OWNER;

6. include testing and startup; and

7. be maintained in effect until final payment is made unless otherwise agreed to in writing by OWNER, CONTRACTOR, and ENGINEER with 30 days written notice to each other additional insured to whom a certificate of insurance has been issued.

B. OWNER shall purchase and maintain such boiler and machinery insurance or additional property insurance as may be required by the Supplementary Conditions or Laws and Regulations which will include the interests of OWNER, CONTRACTOR, Subcontractors, ENGINEER, ENGINEER's Consultants, and any other individuals or entities identified in the Supplementary Conditions, each of whom is deemed to have an insurable interest and shall be listed as an insured or additional insured.

C. All the policies of insurance (and the certificates or other evidence thereof) required to be purchased and maintained in accordance with paragraph 5.06 will contain a provision or endorsement that the coverage afforded will not be canceled or materially changed or renewal refused until at least 30 days prior written notice has been given to OWNER and CONTRACTOR and to each other additional insured to whom a certificate of insurance has been issued and will contain waiver provisions in accordance with paragraph 5.07.

D. OWNER shall not be responsible for purchasing and maintaining any property insurance specified in this paragraph 5.06 to protect the interests of CONTRACTOR, Subcontractors, or others in the Work to the extent of any deductible amounts that are identified in the Supplementary Conditions. The risk of loss within such identified deductible amount will be borne by CONTRACTOR, Subcontractors, or others suffering any such loss, and if any of them wishes property insurance coverage within the limits of such amounts, each may purchase and maintain it at the purchaser's own expense.

E. If CONTRACTOR requests in writing that other special insurance be included in the property insurance policies provided under paragraph 5.06, OWNER shall, if possible, include such insurance, and the cost thereof will be charged to CONTRACTOR by appropriate Change Order or Written Amendment. Prior to commencement of the Work at the Site, OWNER shall in writing advise CONTRACTOR whether or not such other insurance has been procured by OWNER.

5.07 *Waiver of Rights*

A. OWNER and CONTRACTOR intend that all policies purchased in accordance with paragraph 5.06 will protect OWNER, CONTRACTOR, Subcontractors, ENGINEER, ENGINEER's Consultants, and all other individuals or entities identified in the Supplementary Conditions to be listed as insureds or additional insureds (and the officers, directors, partners, employees, agents, and other consultants and subcontractors of each and any of them) in such policies and will provide primary coverage for all losses and damages caused by the perils or causes of loss covered thereby. All such policies shall contain provisions to the effect that in the event of payment of any loss or damage the insurers will have no rights of recovery against any of the insureds or additional insureds thereunder. OWNER and CONTRACTOR waive all rights against each other and their respective officers, directors, partners, employees, agents, and other consultants and subcontractors of each and any of them for all losses and damages caused by, arising out of or resulting from any of the perils or causes of loss covered by such policies and any other property insurance applicable to the Work; and, in addition, waive all such rights against Subcontractors, ENGINEER, ENGINEER's Consultants, and all other individuals or entities identified in the Supplementary Conditions to be listed as insureds or additional insureds (and the officers, directors, partners, employees, agents, and other consultants and subcontractors of each and any of them) under such policies for losses and damages so caused. None of the above waivers shall extend to the rights that any party making such waiver may have to the proceeds of insurance held by OWNER as trustee or otherwise payable under any policy so issued.

B. OWNER waives all rights against CONTRACTOR, Subcontractors, ENGINEER, ENGINEER's Consultants, and the officers, directors, partners, employees, agents, and other consultants and subcontractors of each and any of them for:

1. loss due to business interruption, loss of use, or other consequential loss extending beyond direct physical loss or damage to OWNER's property or the Work caused by, arising out of, or resulting from fire or other peril whether or not insured by OWNER; and

2. loss or damage to the completed Project or part thereof caused by, arising out of, or resulting from fire or other insured peril or cause of loss covered by any property insurance maintained on the completed Project or part thereof by OWNER during partial utilization pursuant to paragraph 14.05, after Substantial Completion

pursuant to paragraph 14.04, or after final payment pursuant to paragraph 14.07.

C. Any insurance policy maintained by OWNER covering any loss, damage or consequential loss referred to in paragraph 5.07.B shall contain provisions to the effect that in the event of payment of any such loss, damage, or consequential loss, the insurers will have no rights of recovery against CONTRACTOR, Subcontractors, ENGINEER, or ENGINEER's Consultants and the officers, directors, partners, employees, agents, and other consultants and subcontractors of each and any of them.

5.08 *Receipt and Application of Insurance Proceeds*

A. Any insured loss under the policies of insurance required by paragraph 5.06 will be adjusted with OWNER and made payable to OWNER as fiduciary for the insureds, as their interests may appear, subject to the requirements of any applicable mortgage clause and of paragraph 5.08.B. OWNER shall deposit in a separate account any money so received and shall distribute it in accordance with such agreement as the parties in interest may reach. If no other special agreement is reached, the damaged Work shall be repaired or replaced, the moneys so received applied on account thereof, and the Work and the cost thereof covered by an appropriate Change Order or Written Amendment.

B. OWNER as fiduciary shall have power to adjust and settle any loss with the insurers unless one of the parties in interest shall object in writing within 15 days after the occurrence of loss to OWNER's exercise of this power. If such objection be made, OWNER as fiduciary shall make settlement with the insurers in accordance with such agreement as the parties in interest may reach. If no such agreement among the parties in interest is reached, OWNER as fiduciary shall adjust and settle the loss with the insurers and, if required in writing by any party in interest, OWNER as fiduciary shall give bond for the proper performance of such duties.

5.09 *Acceptance of Bonds and Insurance; Option to Replace*

A. If either OWNER or CONTRACTOR has any objection to the coverage afforded by or other provisions of the Bonds or insurance required to be purchased and maintained by the other party in accordance with Article 5 on the basis of non-conformance with the Contract Documents, the objecting party shall so notify the other party in writing within 10 days after receipt of the certificates (or other evidence requested) required by paragraph 2.05.C. OWNER and CONTRACTOR shall each provide to the other such additional information in respect of insurance provided as the other may reasonably request. If either party does not purchase or maintain all of the Bonds and insurance required of such party by the Contract Documents, such party shall notify the other party in writing of such failure to purchase prior to the start of the Work, or of such failure to maintain prior to any change in the required coverage. Without prejudice to any other right or remedy, the other party may elect to obtain equivalent Bonds or insurance to protect such other party's interests at the expense of the party who was required to provide such coverage, and a Change Order shall be issued to adjust the Contract Price accordingly.

5.10 *Partial Utilization, Acknowledgment of Property Insurer*

A. If OWNER finds it necessary to occupy or use a portion or portions of the Work prior to Substantial Completion of all the Work as provided in paragraph 14.05, no such use or occupancy shall commence before the insurers providing the property insurance pursuant to paragraph 5.06 have acknowledged notice thereof and in writing effected any changes in coverage necessitated thereby. The insurers providing the property insurance shall consent by endorsement on the policy or policies, but the property insurance shall not be canceled or permitted to lapse on account of any such partial use or occupancy.

ARTICLE 6 - CONTRACTOR'S RESPONSIBILITIES

6.01 *Supervision and Superintendence*

A. CONTRACTOR shall supervise, inspect, and direct the Work competently and efficiently, devoting such attention thereto and applying such skills and expertise as may be necessary to perform the Work in accordance with the Contract Documents. CONTRACTOR shall be solely responsible for the means, methods, techniques, sequences, and procedures of construction, but CONTRACTOR shall not be responsible for the negligence of OWNER or ENGINEER in the design or specification of a specific means, method, technique, sequence, or procedure of construction which is shown or indicated in and expressly required by the Contract Documents. CONTRACTOR shall be responsible to see that the completed Work complies accurately with the Contract Documents.

B. At all times during the progress of the Work, CONTRACTOR shall assign a competent resident superintendent thereto who shall not be replaced without written notice to OWNER and ENGINEER except under extraordinary circumstances. The superintendent will be CONTRACTOR's representative at the Site and shall have authority to act on behalf of CONTRACTOR. All communications given to or received from the superintendent shall be binding on CONTRACTOR.

6.02 *Labor; Working Hours*

A. CONTRACTOR shall provide competent, suitably qualified personnel to survey, lay out, and construct the Work as required by the Contract Documents. CONTRACTOR shall at all times maintain good discipline and order at the Site.

B. Except as otherwise required for the safety or protection of persons or the Work or property at the Site or adjacent thereto, and except as otherwise stated in the Contract Documents, all Work at the Site shall be performed during regular working hours, and CONTRACTOR will not permit overtime work or the performance of Work on Saturday, Sunday, or any legal holiday without OWNER's written consent (which will not be unreasonably withheld) given after prior written notice to ENGINEER.

6.03 *Services, Materials, and Equipment*

A. Unless otherwise specified in the General Requirements, CONTRACTOR shall provide and assume full responsibility for all services, materials, equipment, labor, transportation, construction equipment and machinery, tools, appliances, fuel, power, light, heat, telephone, water, sanitary facilities, temporary facilities, and all other facilities and incidentals necessary for the performance, testing, start-up, and completion of the Work.

B. All materials and equipment incorporated into the Work shall be as specified or, if not specified, shall be of good quality and new, except as otherwise provided in the Contract Documents. All warranties and guarantees specifically called for by the Specifications shall expressly run to the benefit of OWNER. If required by ENGINEER, CONTRACTOR shall furnish satisfactory evidence (including reports of required tests) as to the source, kind, and quality of materials and equipment. All materials and equipment shall be stored, applied, installed, connected, erected, protected, used, cleaned, and conditioned in accordance with instructions of the applicable Supplier, except as otherwise may be provided in the Contract Documents.

6.04 *Progress Schedule*

A. CONTRACTOR shall adhere to the progress schedule established in accordance with paragraph 2.07 as it may be adjusted from time to time as provided below.

1. CONTRACTOR shall submit to ENGINEER for acceptance (to the extent indicated in paragraph 2.07) proposed adjustments in the progress schedule that will not result in changing the Contract Times (or Milestones). Such adjustments will conform generally to the progress schedule then in effect and additionally will comply with any provisions of the General Requirements applicable thereto.

2. Proposed adjustments in the progress schedule that will change the Contract Times (or Milestones) shall be submitted in accordance with the requirements of Article 12. Such adjustments may only be made by a Change Order or Written Amendment in accordance with Article 12.

6.05 *Substitutes and "Or-Equals"*

A. Whenever an item of material or equipment is specified or described in the Contract Documents by using the name of a proprietary item or the name of a particular Supplier, the specification or description is intended to establish the type, function, appearance, and quality required. Unless the specification or description contains or is followed by words reading that no like, equivalent, or "or-equal" item or no substitution is permitted, other items of material or equipment or material or equipment of other Suppliers may be submitted to ENGINEER for review under the circumstances described below.

1. *"Or-Equal" Items:* If in ENGINEER's sole discretion an item of material or equipment proposed by CONTRACTOR is functionally equal to that named and sufficiently similar so that no change in related Work will be required, it may be considered by ENGINEER as an "or-equal" item, in which case review and approval of the proposed item may, in ENGINEER's sole discretion, be accomplished without compliance with some or all of the requirements for approval of proposed substitute items. For the purposes of this paragraph 6.05.A.1, a proposed item of material or equipment will be considered functionally equal to an item so named if:

a. in the exercise of reasonable judgment ENGINEER determines that: (i) it is at least equal in quality, durability, appearance, strength, and design characteristics; (ii) it will reliably perform at least equally well the function imposed by the design concept of the completed Project as a functioning whole, and;

b. CONTRACTOR certifies that: (i) there is no increase in cost to the OWNER; and (ii) it will conform substantially, even with deviations, to the detailed requirements of the item named in the Contract Documents.

2. *Substitute Items*

a. If in ENGINEER's sole discretion an item of material or equipment proposed by CONTRACTOR does not qualify as an "or-equal" item under

paragraph 6.05.A.1, it will be considered a proposed substitute item.

b. CONTRACTOR shall submit sufficient information as provided below to allow ENGINEER to determine that the item of material or equipment proposed is essentially equivalent to that named and an acceptable substitute therefor. Requests for review of proposed substitute items of material or equipment will not be accepted by ENGINEER from anyone other than CONTRACTOR.

c. The procedure for review by ENGINEER will be as set forth in paragraph 6.05.A.2.d, as supplemented in the General Requirements and as ENGINEER may decide is appropriate under the circumstances.

d. CONTRACTOR shall first make written application to ENGINEER for review of a proposed substitute item of material or equipment that CONTRACTOR seeks to furnish or use. The application shall certify that the proposed substitute item will perform adequately the functions and achieve the results called for by the general design, be similar in substance to that specified, and be suited to the same use as that specified. The application will state the extent, if any, to which the use of the proposed substitute item will prejudice CONTRACTOR's achievement of Substantial Completion on time, whether or not use of the proposed substitute item in the Work will require a change in any of the Contract Documents (or in the provisions of any other direct contract with OWNER for work on the Project) to adapt the design to the proposed substitute item and whether or not incorporation or use of the proposed substitute item in connection with the Work is subject to payment of any license fee or royalty. All variations of the proposed substitute item from that specified will be identified in the application, and available engineering, sales, maintenance, repair, and replacement services will be indicated. The application will also contain an itemized estimate of all costs or credits that will result directly or indirectly from use of such substitute item, including costs of redesign and claims of other contractors affected by any resulting change, all of which will be considered by ENGINEER in evaluating the proposed substitute item. ENGINEER may require CONTRACTOR to furnish additional data about the proposed substitute item.

B. *Substitute Construction Methods or Procedures:* If a specific means, method, technique, sequence, or procedure of construction is shown or indicated in and expressly required by the Contract Documents, CONTRACTOR m furnish or utilize a substitute means, method, techniq sequence, or procedure of construction approved by ENG NEER. CONTRACTOR shall submit sufficient informati to allow ENGINEER, in ENGINEER's sole discretion, determine that the substitute proposed is equivalent to th expressly called for by the Contract Documents. The proc dure for review by ENGINEER will be similar to th provided in subparagraph 6.05.A.2.

C. *Engineer's Evaluation:* ENGINEER will be allowe a reasonable time within which to evaluate each proposal submittal made pursuant to paragraphs 6.05.A and 6.05.E ENGINEER will be the sole judge of acceptability. N "or-equal" or substitute will be ordered, installed or utilize until ENGINEER's review is complete, which will b evidenced by either a Change Order for a substitute or a approved Shop Drawing for an "or equal." ENGINEER wi advise CONTRACTOR in writing of any negativ determination.

D. *Special Guarantee:* OWNER may require CON TRACTOR to furnish at CONTRACTOR's expense a specia performance guarantee or other surety with respect to an substitute.

E. *ENGINEER's Cost Reimbursement:* ENGINEER wil record time required by ENGINEER and ENGINEER's Consultants in evaluating substitute proposed or submitted by CONTRACTOR pursuant to paragraphs 6.05.A.2 and 6.05.E and in making changes in the Contract Documents (or in the provisions of any other direct contract with OWNER for work on the Project) occasioned thereby. Whether or not ENGINEER approves a substitute item so proposed or submitted by CONTRACTOR, CONTRACTOR shall reimburse OWNER for the charges of ENGINEER and ENGINEER's Consultants for evaluating each such proposed substitute.

F. *CONTRACTOR's Expense:* CONTRACTOR shall provide all data in support of any proposed substitute or "or-equal" at CONTRACTOR's expense.

6.06 *Concerning Subcontractors, Suppliers, and Others*

A. CONTRACTOR shall not employ any Subcontractor, Supplier, or other individual or entity (including those acceptable to OWNER as indicated in paragraph 6.06.B), whether initially or as a replacement, against whom OWNER may have reasonable objection. CONTRACTOR shall not be required to employ any Subcontractor, Supplier, or other individual or entity to furnish or perform any of the Work against whom CONTRACTOR has reasonable objection.

B. If the Supplementary Conditions require the identity of certain Subcontractors, Suppliers, or other individuals or

entities to be submitted to OWNER in advance for acceptance by OWNER by a specified date prior to the Effective Date of the Agreement, and if CONTRACTOR has submitted a list thereof in accordance with the Supplementary Conditions, OWNER's acceptance (either in writing or by failing to make written objection thereto by the date indicated for acceptance or objection in the Bidding Documents or the Contract Documents) of any such Subcontractor, Supplier, or other individual or entity so identified may be revoked on the basis of reasonable objection after due investigation. CONTRACTOR shall submit an acceptable replacement for the rejected Subcontractor, Supplier, or other individual or entity, and the Contract Price will be adjusted by the difference in the cost occasioned by such replacement, and an appropriate Change Order will be issued or Written Amendment signed. No acceptance by OWNER of any such Subcontractor, Supplier, or other individual or entity, whether initially or as a replacement, shall constitute a waiver of any right of OWNER or ENGINEER to reject defective Work.

C. CONTRACTOR shall be fully responsible to OWNER and ENGINEER for all acts and omissions of the Subcontractors, Suppliers, and other individuals or entities performing or furnishing any of the Work just as CONTRACTOR is responsible for CONTRACTOR's own acts and omissions. Nothing in the Contract Documents shall create for the benefit of any such Subcontractor, Supplier, or other individual or entity any contractual relationship between OWNER or ENGINEER and any such Subcontractor, Supplier or other individual or entity, nor shall it create any obligation on the part of OWNER or ENGINEER to pay or to see to the payment of any moneys due any such Subcontractor, Supplier, or other individual or entity except as may otherwise be required by Laws and Regulations.

D. CONTRACTOR shall be solely responsible for scheduling and coordinating the Work of Subcontractors, Suppliers, and other individuals or entities performing or furnishing any of the Work under a direct or indirect contract with CONTRACTOR.

E. CONTRACTOR shall require all Subcontractors, Suppliers, and such other individuals or entities performing or furnishing any of the Work to communicate with ENGINEER through CONTRACTOR.

F. The divisions and sections of the Specifications and the identifications of any Drawings shall not control CONTRACTOR in dividing the Work among Subcontractors or Suppliers or delineating the Work to be performed by any specific trade.

G. All Work performed for CONTRACTOR by a Subcontractor or Supplier will be pursuant to an appropriate agreement between CONTRACTOR and the Subcontractor or Supplier which specifically binds the Subcontractor or Supplier to the applicable terms and conditions of the Contract Documents for the benefit of OWNER and ENGINEER. Whenever any such agreement is with a Subcontractor or Supplier who is listed as an additional insured on the property insurance provided in paragraph 5.06, the agreement between the CONTRACTOR and the Subcontractor or Supplier will contain provisions whereby the Subcontractor or Supplier waives all rights against OWNER, CONTRACTOR, ENGINEER, ENGINEER's Consultants, and all other individuals or entities identified in the Supplementary Conditions to be listed as insureds or additional insureds (and the officers, directors, partners, employees, agents, and other consultants and subcontractors of each and any of them) for all losses and damages caused by, arising out of, relating to, or resulting from any of the perils or causes of loss covered by such policies and any other property insurance applicable to the Work. If the insurers on any such policies require separate waiver forms to be signed by any Subcontractor or Supplier, CONTRACTOR will obtain the same.

6.07 *Patent Fees and Royalties*

A. CONTRACTOR shall pay all license fees and royalties and assume all costs incident to the use in the performance of the Work or the incorporation in the Work of any invention, design, process, product, or device which is the subject of patent rights or copyrights held by others. If a particular invention, design, process, product, or device is specified in the Contract Documents for use in the performance of the Work and if to the actual knowledge of OWNER or ENGINEER its use is subject to patent rights or copyrights calling for the payment of any license fee or royalty to others, the existence of such rights shall be disclosed by OWNER in the Contract Documents. To the fullest extent permitted by Laws and Regulations, CONTRACTOR shall indemnify and hold harmless OWNER, ENGINEER, ENGINEER's Consultants, and the officers, directors, partners, employees or agents, and other consultants of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to any infringement of patent rights or copyrights incident to the use in the performance of the Work or resulting from the incorporation in the Work of any invention, design, process, product, or device not specified in the Contract Documents.

6.08 *Permits*

A. Unless otherwise provided in the Supplementary Conditions, CONTRACTOR shall obtain and pay for all construction permits and licenses. OWNER shall assist CONTRACTOR, when necessary, in obtaining such permits

and licenses. CONTRACTOR shall pay all governmental charges and inspection fees necessary for the prosecution of the Work which are applicable at the time of opening of Bids, or, if there are no Bids, on the Effective Date of the Agreement. CONTRACTOR shall pay all charges of utility owners for connections to the Work, and OWNER shall pay all charges of such utility owners for capital costs related thereto, such as plant investment fees.

6.09 *Laws and Regulations*

A. CONTRACTOR shall give all notices and comply with all Laws and Regulations applicable to the performance of the Work. Except where otherwise expressly required by applicable Laws and Regulations, neither OWNER nor ENGINEER shall be responsible for monitoring CONTRACTOR's compliance with any Laws or Regulations.

B. If CONTRACTOR performs any Work knowing or having reason to know that it is contrary to Laws or Regulations, CONTRACTOR shall bear all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such Work; however, it shall not be CONTRACTOR's primary responsibility to make certain that the Specifications and Drawings are in accordance with Laws and Regulations, but this shall not relieve CONTRACTOR of CONTRACTOR's obligations under paragraph 3.03.

C. Changes in Laws or Regulations not known at the time of opening of Bids (or, on the Effective Date of the Agreement if there were no Bids) having an effect on the cost or time of performance of the Work may be the subject of an adjustment in Contract Price or Contract Times. If OWNER and CONTRACTOR are unable to agree on entitlement to or on the amount or extent, if any, of any such adjustment, a Claim may be made therefor as provided in paragraph 10.05.

6.10 *Taxes*

A. CONTRACTOR shall pay all sales, consumer, use, and other similar taxes required to be paid by CONTRACTOR in accordance with the Laws and Regulations of the place of the Project which are applicable during the performance of the Work.

6.11 *Use of Site and Other Areas*

A. *Limitation on Use of Site and Other Areas*

1. CONTRACTOR shall confine construction equipment, the storage of materials and equipment, and the operations of workers to the Site and other areas permitted by Laws and Regulations, and shall not unreasonably encumber the Site and other areas with construction equipment or other materials or equipment CONTRACTOR shall assume full responsibility for any damage to any such land or area, or to the owner or occupant thereof, or of any adjacent land or area resulting from the performance of the Work.

2. Should any claim be made by any such owner or occupant because of the performance of the Work CONTRACTOR shall promptly settle with such other party by negotiation or otherwise resolve the claim by arbitration or other dispute resolution proceeding or at law.

3. To the fullest extent permitted by Laws and Regulations, CONTRACTOR shall indemnify and hold harmless OWNER, ENGINEER, ENGINEER's Consultant, and the officers, directors, partners, employees, agents, and other consultants of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to any claim or action, legal or equitable, brought by any such owner or occupant against OWNER, ENGINEER, or any other party indemnified hereunder to the extent caused by or based upon CONTRACTOR's performance of the Work.

B. *Removal of Debris During Performance of the Work:* During the progress of the Work CONTRACTOR shall keep the Site and other areas free from accumulations of waste materials, rubbish, and other debris. Removal and disposal of such waste materials, rubbish, and other debris shall conform to applicable Laws and Regulations.

C. *Cleaning:* Prior to Substantial Completion of the Work CONTRACTOR shall clean the Site and make it ready for utilization by OWNER. At the completion of the Work CONTRACTOR shall remove from the Site all tools, appliances, construction equipment and machinery, and surplus materials and shall restore to original condition all property not designated for alteration by the Contract Documents.

D. *Loading Structures:* CONTRACTOR shall not load nor permit any part of any structure to be loaded in any manner that will endanger the structure, nor shall CONTRACTOR subject any part of the Work or adjacent property to stresses or pressures that will endanger it.

6.12 *Record Documents*

A. CONTRACTOR shall maintain in a safe place at the Site one record copy of all Drawings, Specifications, Addenda, Written Amendments, Change Orders, Work

Change Directives, Field Orders, and written interpretations and clarifications in good order and annotated to show changes made during construction. These record documents together with all approved Samples and a counterpart of all approved Shop Drawings will be available to ENGINEER for reference. Upon completion of the Work, these record documents, Samples, and Shop Drawings will be delivered to ENGINEER for OWNER.

6.13 *Safety and Protection*

A. CONTRACTOR shall be solely responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the Work. CONTRACTOR shall take all necessary precautions for the safety of, and shall provide the necessary protection to prevent damage, injury or loss to:

1. all persons on the Site or who may be affected by the Work;

2. all the Work and materials and equipment to be incorporated therein, whether in storage on or off the Site; and

3. other property at the Site or adjacent thereto, including trees, shrubs, lawns, walks, pavements, roadways, structures, utilities, and Underground Facilities not designated for removal, relocation, or replacement in the course of construction.

B. CONTRACTOR shall comply with all applicable Laws and Regulations relating to the safety of persons or property, or to the protection of persons or property from damage, injury, or loss; and shall erect and maintain all necessary safeguards for such safety and protection. CONTRACTOR shall notify owners of adjacent property and of Underground Facilities and other utility owners when prosecution of the Work may affect them, and shall cooperate with them in the protection, removal, relocation, and replacement of their property. All damage, injury, or loss to any property referred to in paragraph 6.13.A.2 or 6.13.A.3 caused, directly or indirectly, in whole or in part, by CONTRACTOR, any Subcontractor, Supplier, or any other individual or entity directly or indirectly employed by any of them to perform any of the Work, or anyone for whose acts any of them may be liable, shall be remedied by CONTRACTOR (except damage or loss attributable to the fault of Drawings or Specifications or to the acts or omissions of OWNER or ENGINEER or ENGINEER's Consultant, or anyone employed by any of them, or anyone for whose acts any of them may be liable, and not attributable, directly or indirectly, in whole or in part, to the fault or negligence of CONTRACTOR or any Subcontractor, Supplier, or other individual or entity directly or indirectly employed by any of them). CONTRACTOR's duties and responsibilities for safety and for protection of the Work shall continue until such time as all the Work is completed and ENGINEER has issued a notice to OWNER and CONTRACTOR in accordance with paragraph 14.07.B that the Work is acceptable (except as otherwise expressly provided in connection with Substantial Completion).

6.14 *Safety Representative*

A. CONTRACTOR shall designate a qualified and experienced safety representative at the Site whose duties and responsibilities shall be the prevention of accidents and the maintaining and supervising of safety precautions and programs.

6.15 *Hazard Communication Programs*

A. CONTRACTOR shall be responsible for coordinating any exchange of material safety data sheets or other hazard communication information required to be made available to or exchanged between or among employers at the Site in accordance with Laws or Regulations.

6.16 *Emergencies*

A. In emergencies affecting the safety or protection of persons or the Work or property at the Site or adjacent thereto, CONTRACTOR is obligated to act to prevent threatened damage, injury, or loss. CONTRACTOR shall give ENGINEER prompt written notice if CONTRACTOR believes that any significant changes in the Work or variations from the Contract Documents have been caused thereby or are required as a result thereof. If ENGINEER determines that a change in the Contract Documents is required because of the action taken by CONTRACTOR in response to such an emergency, a Work Change Directive or Change Order will be issued.

6.17 *Shop Drawings and Samples*

A. CONTRACTOR shall submit Shop Drawings to ENGINEER for review and approval in accordance with the acceptable schedule of Shop Drawings and Sample submittals. All submittals will be identified as ENGINEER may require and in the number of copies specified in the General Requirements. The data shown on the Shop Drawings will be complete with respect to quantities, dimensions, specified performance and design criteria, materials, and similar data to show ENGINEER the services, materials, and equipment CONTRACTOR proposes to provide and to enable ENGINEER to review the information for the limited purposes required by paragraph 6.17.E.

B. CONTRACTOR shall also submit Samples to ENGINEER for review and approval in accordance with the acceptable schedule of Shop Drawings and Sample

submittals. Each Sample will be identified clearly as to material, Supplier, pertinent data such as catalog numbers, and the use for which intended and otherwise as ENGINEER may require to enable ENGINEER to review the submittal for the limited purposes required by paragraph 6.17.E. The numbers of each Sample to be submitted will be as specified in the Specifications.

C. Where a Shop Drawing or Sample is required by the Contract Documents or the schedule of Shop Drawings and Sample submittals acceptable to ENGINEER as required by paragraph 2.07, any related Work performed prior to ENGINEER's review and approval of the pertinent submittal will be at the sole expense and responsibility of CONTRACTOR.

D. *Submittal Procedures*

1. Before submitting each Shop Drawing or Sample, CONTRACTOR shall have determined and verified:

a. all field measurements, quantities, dimensions, specified performance criteria, installation requirements, materials, catalog numbers, and similar information with respect thereto;

b. all materials with respect to intended use, fabrication, shipping, handling, storage, assembly, and installation pertaining to the performance of the Work;

c. all information relative to means, methods, techniques, sequences, and procedures of construction and safety precautions and programs incident thereto; and

d. CONTRACTOR shall also have reviewed and coordinated each Shop Drawing or Sample with other Shop Drawings and Samples and with the requirements of the Work and the Contract Documents.

2. Each submittal shall bear a stamp or specific written indication that CONTRACTOR has satisfied CONTRACTOR's obligations under the Contract Documents with respect to CONTRACTOR's review and approval of that submittal.

3. At the time of each submittal, CONTRACTOR shall give ENGINEER specific written notice of such variations, if any, that the Shop Drawing or Sample submitted may have from the requirements of the Contract Documents, such notice to be in a written communication separate from the submittal; and, in addition, shall cause a specific notation to be made on each Shop Drawing and Sample submitted to ENGINEER for review and approval of each such variation.

E. *ENGINEER's Review*

1. ENGINEER will timely review and approve Shop Drawings and Samples in accordance with the schedule of Shop Drawings and Sample submittals acceptable to ENGINEER. ENGINEER's review and approval will be only to determine if the items covered by the submittals will, after installation or incorporation in the Work, conform to the information given in the Contract Documents and be compatible with the design concept of the completed Project as a functioning whole as indicated by the Contract Documents.

2. ENGINEER's review and approval will not extend to means, methods, techniques, sequences, or procedures of construction (except where a particular means, method, technique, sequence, or procedure of construction is specifically and expressly called for by the Contract Documents) or to safety precautions or programs incident thereto. The review and approval of a separate item as such will not indicate approval of the assembly in which the item functions.

3. ENGINEER's review and approval of Shop Drawings or Samples shall not relieve CONTRACTOR from responsibility for any variation from the requirements of the Contract Documents unless CONTRACTOR has in writing called ENGINEER's attention to each such variation at the time of each submittal as required by paragraph 6.17.D.3 and ENGINEER has given written approval of each such variation by specific written notation thereof incorporated in or accompanying the Shop Drawing or Sample approval; nor will any approval by ENGINEER relieve CONTRACTOR from responsibility for complying with the requirements of paragraph 6.17.D.1.

F. *Resubmittal Procedures*

1. CONTRACTOR shall make corrections required by ENGINEER and shall return the required number of corrected copies of Shop Drawings and submit as required new Samples for review and approval. CONTRACTOR shall direct specific attention in writing to revisions other than the corrections called for by ENGINEER on previous submittals.

6.18 *Continuing the Work*

A. CONTRACTOR shall carry on the Work and adhere to the progress schedule during all disputes or disagreements with OWNER. No Work shall be delayed or postponed pending resolution of any disputes or disagreements, except

as permitted by paragraph 15.04 or as OWNER and CONTRACTOR may otherwise agree in writing.

6.19 *CONTRACTOR's General Warranty and Guarantee*

A. CONTRACTOR warrants and guarantees to OWNER, ENGINEER, and ENGINEER's Consultants that all Work will be in accordance with the Contract Documents and will not be defective. CONTRACTOR's warranty and guarantee hereunder excludes defects or damage caused by:

1. abuse, modification, or improper maintenance or operation by persons other than CONTRACTOR, Subcontractors, Suppliers, or any other individual or entity for whom CONTRACTOR is responsible; or

2. normal wear and tear under normal usage.

B. CONTRACTOR's obligation to perform and complete the Work in accordance with the Contract Documents shall be absolute. None of the following will constitute an acceptance of Work that is not in accordance with the Contract Documents or a release of CONTRACTOR's obligation to perform the Work in accordance with the Contract Documents:

1. observations by ENGINEER;

2. recommendation by ENGINEER or payment by OWNER of any progress or final payment;

3. the issuance of a certificate of Substantial Completion by ENGINEER or any payment related thereto by OWNER;

4. use or occupancy of the Work or any part thereof by OWNER;

5. any acceptance by OWNER or any failure to do so;

6. any review and approval of a Shop Drawing or Sample submittal or the issuance of a notice of acceptability by ENGINEER;

7. any inspection, test, or approval by others; or

8. any correction of defective Work by OWNER.

6.20 *Indemnification*

A. To the fullest extent permitted by Laws and Regulations, CONTRACTOR shall indemnify and hold harmless OWNER, ENGINEER, ENGINEER's Consultants, and the officers, directors, partners, employees, agents, and other consultants and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to the performance of the Work, provided that any such claim, cost, loss, or damage:

1. is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property (other than the Work itself), including the loss of use resulting therefrom; and

2. is caused in whole or in part by any negligent act or omission of CONTRACTOR, any Subcontractor, any Supplier, or any individual or entity directly or indirectly employed by any of them to perform any of the Work or anyone for whose acts any of them may be liable, regardless of whether or not caused in part by any negligence or omission of an individual or entity indemnified hereunder or whether liability is imposed upon such indemnified party by Laws and Regulations regardless of the negligence of any such individual or entity.

B. In any and all claims against OWNER or ENGINEER or any of their respective consultants, agents, officers, directors, partners, or employees by any employee (or the survivor or personal representative of such employee) of CONTRACTOR, any Subcontractor, any Supplier, or any individual or entity directly or indirectly employed by any of them to perform any of the Work, or anyone for whose acts any of them may be liable, the indemnification obligation under paragraph 6.20.A shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for CONTRACTOR or any such Subcontractor, Supplier, or other individual or entity under workers' compensation acts, disability benefit acts, or other employee benefit acts.

C. The indemnification obligations of CONTRACTOR under paragraph 6.20.A shall not extend to the liability of ENGINEER and ENGINEER's Consultants or to the officers, directors, partners, employees, agents, and other consultants and subcontractors of each and any of them arising out of:

1. the preparation or approval of, or the failure to prepare or approve, maps, Drawings, opinions, reports, surveys, Change Orders, designs, or Specifications; or

2. giving directions or instructions, or failing to give them, if that is the primary cause of the injury or damage.

ARTICLE 7 - OTHER WORK

7.01 *Related Work at Site*

A. OWNER may perform other work related to the Project at the Site by OWNER's employees, or let other direct contracts therefor, or have other work performed by utility owners. If such other work is not noted in the Contract Documents, then:

1. written notice thereof will be given to CONTRACTOR prior to starting any such other work; and

2. if OWNER and CONTRACTOR are unable to agree on entitlement to or on the amount or extent, if any, of any adjustment in the Contract Price or Contract Times that should be allowed as a result of such other work, a Claim may be made therefor as provided in paragraph 10.05.

B. CONTRACTOR shall afford each other contractor who is a party to such a direct contract and each utility owner (and OWNER, if OWNER is performing the other work with OWNER's employees) proper and safe access to the Site and a reasonable opportunity for the introduction and storage of materials and equipment and the execution of such other work and shall properly coordinate the Work with theirs. Unless otherwise provided in the Contract Documents, CONTRACTOR shall do all cutting, fitting, and patching of the Work that may be required to properly connect or otherwise make its several parts come together and properly integrate with such other work. CONTRACTOR shall not endanger any work of others by cutting, excavating, or otherwise altering their work and will only cut or alter their work with the written consent of ENGINEER and the others whose work will be affected. The duties and responsibilities of CONTRACTOR under this paragraph are for the benefit of such utility owners and other contractors to the extent that there are comparable provisions for the benefit of CONTRACTOR in said direct contracts between OWNER and such utility owners and other contractors.

C. If the proper execution or results of any part of CONTRACTOR's Work depends upon work performed by others under this Article 7, CONTRACTOR shall inspect such other work and promptly report to ENGINEER in writing any delays, defects, or deficiencies in such other work that render it unavailable or unsuitable for the proper execution and results of CONTRACTOR's Work. CONTRACTOR's failure to so report will constitute an acceptance of such other work as fit and proper for integration with CONTRACTOR's Work except for latent defects and deficiencies in such other work.

7.02 *Coordination*

A. If OWNER intends to contract with others for the performance of other work on the Project at the Site, the following will be set forth in Supplementary Conditions:

1. the individual or entity who will have authority and responsibility for coordination of the activities among the various contractors will be identified;

2. the specific matters to be covered by such authority and responsibility will be itemized; and

3. the extent of such authority and responsibilities will be provided.

B. Unless otherwise provided in the Supplementary Conditions, OWNER shall have sole authority and responsibility for such coordination.

ARTICLE 8 - OWNER'S RESPONSIBILITIES

8.01 *Communications to Contractor*

A. Except as otherwise provided in these General Conditions, OWNER shall issue all communications to CONTRACTOR through ENGINEER.

8.02 *Replacement of ENGINEER*

A. In case of termination of the employment of ENGINEER, OWNER shall appoint an engineer to whom CONTRACTOR makes no reasonable objection, whose status under the Contract Documents shall be that of the former ENGINEER.

8.03 *Furnish Data*

A. OWNER shall promptly furnish the data required of OWNER under the Contract Documents.

8.04 *Pay Promptly When Due*

A. OWNER shall make payments to CONTRACTOR promptly when they are due as provided in paragraphs 14.02.C and 14.07.C.

8.05 *Lands and Easements; Reports and Tests*

A. OWNER's duties in respect of providing lands and easements and providing engineering surveys to establish reference points are set forth in paragraphs 4.01 and 4.05. Paragraph 4.02 refers to OWNER's identifying and making available to CONTRACTOR copies of reports of explorations

and tests of subsurface conditions and drawings of physical conditions in or relating to existing surface or subsurface structures at or contiguous to the Site that have been utilized by ENGINEER in preparing the Contract Documents.

8.06 *Insurance*

A. OWNER's responsibilities, if any, in respect to purchasing and maintaining liability and property insurance are set forth in Article 5.

8.07 *Change Orders*

A. OWNER is obligated to execute Change Orders as indicated in paragraph 10.03.

8.08 *Inspections, Tests, and Approvals*

A. OWNER's responsibility in respect to certain inspections, tests, and approvals is set forth in paragraph 13.03.B.

8.09 *Limitations on OWNER's Responsibilities*

A. The OWNER shall not supervise, direct, or have control or authority over, nor be responsible for, CONTRACTOR's means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or for any failure of CONTRACTOR to comply with Laws and Regulations applicable to the performance of the Work. OWNER will not be responsible for CONTRACTOR's failure to perform the Work in accordance with the Contract Documents.

8.10 *Undisclosed Hazardous Environmental Condition*

A. OWNER's responsibility in respect to an undisclosed Hazardous Environmental Condition is set forth in paragraph 4.06.

8.11 *Evidence of Financial Arrangements*

A. If and to the extent OWNER has agreed to furnish CONTRACTOR reasonable evidence that financial arrangements have been made to satisfy OWNER's obligations under the Contract Documents, OWNER's responsibility in respect thereof will be as set forth in the Supplementary Conditions.

ARTICLE 9 - ENGINEER'S STATUS DURING CONSTRUCTION

9.01 *OWNER'S Representative*

A. ENGINEER will be OWNER's representative during the construction period. The duties and responsibilities and the limitations of authority of ENGINEER as OWNER's representative during construction are set forth in the Contract Documents and will not be changed without written consent of OWNER and ENGINEER.

9.02 *Visits to Site*

A. ENGINEER will make visits to the Site at intervals appropriate to the various stages of construction as ENGINEER deems necessary in order to observe as an experienced and qualified design professional the progress that has been made and the quality of the various aspects of CONTRACTOR's executed Work. Based on information obtained during such visits and observations, ENGINEER, for the benefit of OWNER, will determine, in general, if the Work is proceeding in accordance with the Contract Documents. ENGINEER will not be required to make exhaustive or continuous inspections on the Site to check the quality or quantity of the Work. ENGINEER's efforts will be directed toward providing for OWNER a greater degree of confidence that the completed Work will conform generally to the Contract Documents. On the basis of such visits and observations, ENGINEER will keep OWNER informed of the progress of the Work and will endeavor to guard OWNER against defective Work.

B. ENGINEER's visits and observations are subject to all the limitations on ENGINEER's authority and responsibility set forth in paragraph 9.10, and particularly, but without limitation, during or as a result of ENGINEER's visits or observations of CONTRACTOR's Work ENGINEER will not supervise, direct, control, or have authority over or be responsible for CONTRACTOR's means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or for any failure of CONTRACTOR to comply with Laws and Regulations applicable to the performance of the Work.

9.03 *Project Representative*

A. If OWNER and ENGINEER agree, ENGINEER will furnish a Resident Project Representative to assist ENGINEER in providing more extensive observation of the Work. The responsibilities and authority and limitations thereon of any such Resident Project Representative and assistants will be as provided in paragraph 9.10 and in the Supplementary Conditions. If OWNER designates another

representative or agent to represent OWNER at the Site who is not ENGINEER's Consultant, agent or employee, the responsibilities and authority and limitations thereon of such other individual or entity will be as provided in the Supplementary Conditions.

9.04 *Clarifications and Interpretations*

A. ENGINEER will issue with reasonable promptness such written clarifications or interpretations of the requirements of the Contract Documents as ENGINEER may determine necessary, which shall be consistent with the intent of and reasonably inferable from the Contract Documents. Such written clarifications and interpretations will be binding on OWNER and CONTRACTOR. If OWNER and CONTRACTOR are unable to agree on entitlement to or on the amount or extent, if any, of any adjustment in the Contract Price or Contract Times, or both, that should be allowed as a result of a written clarification or interpretation, a Claim may be made therefor as provided in paragraph 10.05.

9.05 *Authorized Variations in Work*

A. ENGINEER may authorize minor variations in the Work from the requirements of the Contract Documents which do not involve an adjustment in the Contract Price or the Contract Times and are compatible with the design concept of the completed Project as a functioning whole as indicated by the Contract Documents. These may be accomplished by a Field Order and will be binding on OWNER and also on CONTRACTOR, who shall perform the Work involved promptly. If OWNER and CONTRACTOR are unable to agree on entitlement to or on the amount or extent, if any, of any adjustment in the Contract Price or Contract Times, or both, as a result of a Field Order, a Claim may be made therefor as provided in paragraph 10.05.

9.06 *Rejecting Defective Work*

A. ENGINEER will have authority to disapprove or reject Work which ENGINEER believes to be defective, or that ENGINEER believes will not produce a completed Project that conforms to the Contract Documents or that will prejudice the integrity of the design concept of the completed Project as a functioning whole as indicated by the Contract Documents. ENGINEER will also have authority to require special inspection or testing of the Work as provided in paragraph 13.04, whether or not the Work is fabricated, installed, or completed.

9.07 *Shop Drawings, Change Orders and Payments*

A. In connection with ENGINEER's authority as to Shop Drawings and Samples, see paragraph 6.17.

B. In connection with ENGINEER's authority as to Change Orders, see Articles 10, 11, and 12.

C. In connection with ENGINEER's authority as to Applications for Payment, see Article 14.

9.08 *Determinations for Unit Price Work*

A. ENGINEER will determine the actual quantities and classifications of Unit Price Work performed by CONTRACTOR. ENGINEER will review with CONTRACTOR the ENGINEER's preliminary determinations on such matters before rendering a written decision thereon (by recommendation of an Application for Payment or otherwise). ENGINEER's written decision thereon will be final and binding (except as modified by ENGINEER to reflect changed factual conditions or more accurate data) upon OWNER and CONTRACTOR, subject to the provisions of paragraph 10.05.

9.09 *Decisions on Requirements of Contract Documents and Acceptability of Work*

A. ENGINEER will be the initial interpreter of the requirements of the Contract Documents and judge of the acceptability of the Work thereunder. Claims, disputes and other matters relating to the acceptability of the Work, the quantities and classifications of Unit Price Work, the interpretation of the requirements of the Contract Documents pertaining to the performance of the Work, and Claims seeking changes in the Contract Price or Contract Times will be referred initially to ENGINEER in writing, in accordance with the provisions of paragraph 10.05, with a request for a formal decision.

B. When functioning as interpreter and judge under this paragraph 9.09, ENGINEER will not show partiality to OWNER or CONTRACTOR and will not be liable in connection with any interpretation or decision rendered in good faith in such capacity. The rendering of a decision by ENGINEER pursuant to this paragraph 9.09 with respect to any such Claim, dispute, or other matter (except any which have been waived by the making or acceptance of final payment as provided in paragraph 14.07) will be a condition precedent to any exercise by OWNER or CONTRACTOR of such rights or remedies as either may otherwise have under the Contract Documents or by Laws or Regulations in respect of any such Claim, dispute, or other matter.

9.10 *Limitations on ENGINEER's Authority and Responsibilities*

A. Neither ENGINEER's authority or responsibility under this Article 9 or under any other provision of the Contract Documents nor any decision made by ENGINEER in good faith either to exercise or not exercise such authority

or responsibility or the undertaking, exercise, or performance of any authority or responsibility by ENGINEER shall create, impose, or give rise to any duty in contract, tort, or otherwise owed by ENGINEER to CONTRACTOR, any Subcontractor, any Supplier, any other individual or entity, or to any surety for or employee or agent of any of them.

B. ENGINEER will not supervise, direct, control, or have authority over or be responsible for CONTRACTOR's means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or for any failure of CONTRACTOR to comply with Laws and Regulations applicable to the performance of the Work. ENGINEER will not be responsible for CONTRACTOR's failure to perform the Work in accordance with the Contract Documents.

C. ENGINEER will not be responsible for the acts or omissions of CONTRACTOR or of any Subcontractor, any Supplier, or of any other individual or entity performing any of the Work.

D. ENGINEER's review of the final Application for Payment and accompanying documentation and all maintenance and operating instructions, schedules, guarantees, Bonds, certificates of inspection, tests and approvals, and other documentation required to be delivered by paragraph 14.07.A will only be to determine generally that their content complies with the requirements of, and in the case of certificates of inspections, tests, and approvals that the results certified indicate compliance with, the Contract Documents.

E. The limitations upon authority and responsibility set forth in this paragraph 9.10 shall also apply to ENGINEER's Consultants, Resident Project Representative, and assistants.

ARTICLE 10 - CHANGES IN THE WORK; CLAIMS

10.01 *Authorized Changes in the Work*

A. Without invalidating the Agreement and without notice to any surety, OWNER may, at any time or from time to time, order additions, deletions, or revisions in the Work by a Written Amendment, a Change Order, or a Work Change Directive. Upon receipt of any such document, CONTRACTOR shall promptly proceed with the Work involved which will be performed under the applicable conditions of the Contract Documents (except as otherwise specifically provided).

B. If OWNER and CONTRACTOR are unable to agree on entitlement to, or on the amount or extent, if any, of an adjustment in the Contract Price or Contract Times, or both, that should be allowed as a result of a Work Change Directive, a Claim may be made therefor as provided in paragraph 10.05.

10.02 *Unauthorized Changes in the Work*

A. CONTRACTOR shall not be entitled to an increase in the Contract Price or an extension of the Contract Times with respect to any work performed that is not required by the Contract Documents as amended, modified, or supplemented as provided in paragraph 3.04, except in the case of an emergency as provided in paragraph 6.16 or in the case of uncovering Work as provided in paragraph 13.04.B.

10.03 *Execution of Change Orders*

A. OWNER and CONTRACTOR shall execute appropriate Change Orders recommended by ENGINEER (or Written Amendments) covering:

1. changes in the Work which are: (i) ordered by OWNER pursuant to paragraph 10.01.A, (ii) required because of acceptance of defective Work under paragraph 13.08.A or OWNER's correction of defective Work under paragraph 13.09, or (iii) agreed to by the parties;

2. changes in the Contract Price or Contract Times which are agreed to by the parties, including any undisputed sum or amount of time for Work actually performed in accordance with a Work Change Directive; and

3. changes in the Contract Price or Contract Times which embody the substance of any written decision rendered by ENGINEER pursuant to paragraph 10.05; provided that, in lieu of executing any such Change Order, an appeal may be taken from any such decision in accordance with the provisions of the Contract Documents and applicable Laws and Regulations, but during any such appeal, CONTRACTOR shall carry on the Work and adhere to the progress schedule as provided in paragraph 6.18.A.

10.04 *Notification to Surety*

A. If notice of any change affecting the general scope of the Work or the provisions of the Contract Documents (including, but not limited to, Contract Price or Contract Times) is required by the provisions of any Bond to be given to a surety, the giving of any such notice will be CONTRACTOR's responsibility. The amount of each applicable Bond will be adjusted to reflect the effect of any such change.

10.05 *Claims and Disputes*

A. *Notice:* Written notice stating the general nature of each Claim, dispute, or other matter shall be delivered by the claimant to ENGINEER and the other party to the Contract promptly (but in no event later than 30 days) after the start of the event giving rise thereto. Notice of the amount or extent of the Claim, dispute, or other matter with supporting data shall be delivered to the ENGINEER and the other party to the Contract within 60 days after the start of such event (unless ENGINEER allows additional time for claimant to submit additional or more accurate data in support of such Claim, dispute, or other matter). A Claim for an adjustment in Contract Price shall be prepared in accordance with the provisions of paragraph 12.01.B. A Claim for an adjustment in Contract Time shall be prepared in accordance with the provisions of paragraph 12.02.B. Each Claim shall be accompanied by claimant's written statement that the adjustment claimed is the entire adjustment to which the claimant believes it is entitled as a result of said event. The opposing party shall submit any response to ENGINEER and the claimant within 30 days after receipt of the claimant's last submittal (unless ENGINEER allows additional time).

B. *ENGINEER's Decision:* ENGINEER will render a formal decision in writing within 30 days after receipt of the last submittal of the claimant or the last submittal of the opposing party, if any. ENGINEER's written decision on such Claim, dispute, or other matter will be final and binding upon OWNER and CONTRACTOR unless:

1. an appeal from ENGINEER's decision is taken within the time limits and in accordance with the dispute resolution procedures set forth in Article 16; or

2. if no such dispute resolution procedures have been set forth in Article 16, a written notice of intention to appeal from ENGINEER's written decision is delivered by OWNER or CONTRACTOR to the other and to ENGINEER within 30 days after the date of such decision, and a formal proceeding is instituted by the appealing party in a forum of competent jurisdiction within 60 days after the date of such decision or within 60 days after Substantial Completion, whichever is later (unless otherwise agreed in writing by OWNER and CONTRACTOR), to exercise such rights or remedies as the appealing party may have with respect to such Claim, dispute, or other matter in accordance with applicable Laws and Regulations.

C. If ENGINEER does not render a formal decision in writing within the time stated in paragraph 10.05.B, a decision denying the Claim in its entirety shall be deemed to have been issued 31 days after receipt of the last submittal of the claimant or the last submittal of the opposing party, if any.

D. No Claim for an adjustment in Contract Price or Contract Times (or Milestones) will be valid if not submitted in accordance with this paragraph 10.05.

ARTICLE 11 - COST OF THE WORK; CASH ALLOWANCES; UNIT PRICE WORK

11.01 *Cost of the Work*

A. *Costs Included:* The term Cost of the Work means the sum of all costs necessarily incurred and paid by CONTRACTOR in the proper performance of the Work. When the value of any Work covered by a Change Order or when a Claim for an adjustment in Contract Price is determined on the basis of Cost of the Work, the costs to be reimbursed to CONTRACTOR will be only those additional or incremental costs required because of the change in the Work or because of the event giving rise to the Claim. Except as otherwise may be agreed to in writing by OWNER, such costs shall be in amounts no higher than those prevailing in the locality of the Project, shall include only the following items, and shall not include any of the costs itemized in paragraph 11.01.B.

1. Payroll costs for employees in the direct employ of CONTRACTOR in the performance of the Work under schedules of job classifications agreed upon by OWNER and CONTRACTOR. Such employees shall include without limitation superintendents, foremen, and other personnel employed full time at the Site. Payroll costs for employees not employed full time on the Work shall be apportioned on the basis of their time spent on the Work. Payroll costs shall include, but not be limited to, salaries and wages plus the cost of fringe benefits, which shall include social security contributions, unemployment, excise, and payroll taxes, workers' compensation, health and retirement benefits, bonuses, sick leave, vacation and holiday pay applicable thereto. The expenses of performing Work outside of regular working hours, on Saturday, Sunday, or legal holidays, shall be included in the above to the extent authorized by OWNER.

2. Cost of all materials and equipment furnished and incorporated in the Work, including costs of transportation and storage thereof, and Suppliers' field services required in connection therewith. All cash discounts shall accrue to CONTRACTOR unless OWNER deposits funds with CONTRACTOR with which to make payments, in which case the cash discounts shall accrue to OWNER. All trade discounts, rebates and refunds and returns from sale of surplus materials and equipment shall accrue to OWNER, and CONTRACTOR shall make provisions so that they may be obtained.

3. Payments made by CONTRACTOR to Subcontractors for Work performed by Subcontractors. If required by OWNER, CONTRACTOR shall obtain competitive bids from subcontractors acceptable to OWNER and CONTRACTOR and shall deliver such bids to OWNER, who will then determine, with the advice of ENGINEER, which bids, if any, will be acceptable. If any subcontract provides that the Subcontractor is to be paid on the basis of Cost of the Work plus a fee, the Subcontractor's Cost of the Work and fee shall be determined in the same manner as CONTRACTOR's Cost of the Work and fee as provided in this paragraph 11.01.

4. Costs of special consultants (including but not limited to engineers, architects, testing laboratories, surveyors, attorneys, and accountants) employed for services specifically related to the Work.

5. Supplemental costs including the following:

a. The proportion of necessary transportation, travel, and subsistence expenses of CONTRACTOR's employees incurred in discharge of duties connected with the Work.

b. Cost, including transportation and maintenance, of all materials, supplies, equipment, machinery, appliances, office, and temporary facilities at the Site, and hand tools not owned by the workers, which are consumed in the performance of the Work, and cost, less market value, of such items used but not consumed which remain the property of CONTRACTOR.

c. Rentals of all construction equipment and machinery, and the parts thereof whether rented from CONTRACTOR or others in accordance with rental agreements approved by OWNER with the advice of ENGINEER, and the costs of transportation, loading, unloading, assembly, dismantling, and removal thereof. All such costs shall be in accordance with the terms of said rental agreements. The rental of any such equipment, machinery, or parts shall cease when the use thereof is no longer necessary for the Work.

d. Sales, consumer, use, and other similar taxes related to the Work, and for which CONTRACTOR is liable, imposed by Laws and Regulations.

e. Deposits lost for causes other than negligence of CONTRACTOR, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable, and royalty payments and fees for permits and licenses.

f. Losses and damages (and related expenses) caused by damage to the Work, not compensated by insurance or otherwise, sustained by CONTRACTOR in connection with the performance of the Work (except losses and damages within the deductible amounts of property insurance established in accordance with paragraph 5.06.D), provided such losses and damages have resulted from causes other than the negligence of CONTRACTOR, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable. Such losses shall include settlements made with the written consent and approval of OWNER. No such losses, damages, and expenses shall be included in the Cost of the Work for the purpose of determining CONTRACTOR's fee.

g. The cost of utilities, fuel, and sanitary facilities at the Site.

h. Minor expenses such as telegrams, long distance telephone calls, telephone service at the Site, expressage, and similar petty cash items in connection with the Work.

i. When the Cost of the Work is used to determine the value of a Change Order or of a Claim, the cost of premiums for additional Bonds and insurance required because of the changes in the Work or caused by the event giving rise to the Claim.

j. When all the Work is performed on the basis of cost-plus, the costs of premiums for all Bonds and insurance CONTRACTOR is required by the Contract Documents to purchase and maintain.

B. *Costs Excluded:* The term Cost of the Work shall not include any of the following items:

1. Payroll costs and other compensation of CONTRACTOR's officers, executives, principals (of partnerships and sole proprietorships), general managers, engineers, architects, estimators, attorneys, auditors, accountants, purchasing and contracting agents, expediters, timekeepers, clerks, and other personnel employed by CONTRACTOR, whether at the Site or in CONTRACTOR's principal or branch office for general administration of the Work and not specifically included in the agreed upon schedule of job classifications referred to in paragraph 11.01.A.1 or specifically covered by paragraph 11.01.A.4, all of which are to be

considered administrative costs covered by the CONTRACTOR's fee.

2. Expenses of CONTRACTOR's principal and branch offices other than CONTRACTOR's office at the Site.

3. Any part of CONTRACTOR's capital expenses, including interest on CONTRACTOR's capital employed for the Work and charges against CONTRACTOR for delinquent payments.

4. Costs due to the negligence of CONTRACTOR, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable, including but not limited to, the correction of defective Work, disposal of materials or equipment wrongly supplied, and making good any damage to property.

5. Other overhead or general expense costs of any kind and the costs of any item not specifically and expressly included in paragraphs 11.01.A and 11.01.B.

C. *CONTRACTOR's Fee:* When all the Work is performed on the basis of cost-plus, CONTRACTOR's fee shall be determined as set forth in the Agreement. When the value of any Work covered by a Change Order or when a Claim for an adjustment in Contract Price is determined on the basis of Cost of the Work, CONTRACTOR's fee shall be determined as set forth in paragraph 12.01.C.

D. *Documentation:* Whenever the Cost of the Work for any purpose is to be determined pursuant to paragraphs 11.01.A and 11.01.B, CONTRACTOR will establish and maintain records thereof in accordance with generally accepted accounting practices and submit in a form acceptable to ENGINEER an itemized cost breakdown together with supporting data.

11.02 *Cash Allowances*

A. It is understood that CONTRACTOR has included in the Contract Price all allowances so named in the Contract Documents and shall cause the Work so covered to be performed for such sums as may be acceptable to OWNER and ENGINEER. CONTRACTOR agrees that:

1. the allowances include the cost to CONTRACTOR (less any applicable trade discounts) of materials and equipment required by the allowances to be delivered at the Site, and all applicable taxes; and

2. CONTRACTOR's costs for unloading and handling on the Site, labor, installation costs, overhead, profit, and other expenses contemplated for the allowances have been included in the Contract Price and not in the allowances, and no demand for additional payment on account of any of the foregoing will be valid.

B. Prior to final payment, an appropriate Change Order will be issued as recommended by ENGINEER to reflect actual amounts due CONTRACTOR on account of Work covered by allowances, and the Contract Price shall be correspondingly adjusted.

11.03 *Unit Price Work*

A. Where the Contract Documents provide that all or part of the Work is to be Unit Price Work, initially the Contract Price will be deemed to include for all Unit Price Work an amount equal to the sum of the unit price for each separately identified item of Unit Price Work times the estimated quantity of each item as indicated in the Agreement. The estimated quantities of items of Unit Price Work are not guaranteed and are solely for the purpose of comparison of Bids and determining an initial Contract Price. Determinations of the actual quantities and classifications of Unit Price Work performed by CONTRACTOR will be made by ENGINEER subject to the provisions of paragraph 9.08.

B. Each unit price will be deemed to include an amount considered by CONTRACTOR to be adequate to cover CONTRACTOR's overhead and profit for each separately identified item.

C. OWNER or CONTRACTOR may make a Claim for an adjustment in the Contract Price in accordance with paragraph 10.05 if:

1. the quantity of any item of Unit Price Work performed by CONTRACTOR differs materially and significantly from the estimated quantity of such item indicated in the Agreement; and

2. there is no corresponding adjustment with respect any other item of Work; and

3. if CONTRACTOR believes that CONTRACTOR is entitled to an increase in Contract Price as a result of having incurred additional expense or OWNER believes that OWNER is entitled to a decrease in Contract Price and the parties are unable to agree as to the amount of any such increase or decrease.

ARTICLE 12 - CHANGE OF CONTRACT PRICE; CHANGE OF CONTRACT TIMES

12.01 *Change of Contract Price*

A. The Contract Price may only be changed by a Change Order or by a Written Amendment. Any Claim for an adjustment in the Contract Price shall be based on written notice submitted by the party making the Claim to the ENGINEER and the other party to the Contract in accordance with the provisions of paragraph 10.05.

B. The value of any Work covered by a Change Order or of any Claim for an adjustment in the Contract Price will be determined as follows:

1. where the Work involved is covered by unit prices contained in the Contract Documents, by application of such unit prices to the quantities of the items involved (subject to the provisions of paragraph 11.03); or

2. where the Work involved is not covered by unit prices contained in the Contract Documents, by a mutually agreed lump sum (which may include an allowance for overhead and profit not necessarily in accordance with paragraph 12.01.C.2); or

3. where the Work involved is not covered by unit prices contained in the Contract Documents and agreement to a lump sum is not reached under paragraph 12.01.B.2, on the basis of the Cost of the Work (determined as provided in paragraph 11.01) plus a CONTRACTOR's fee for overhead and profit (determined as provided in paragraph 12.01.C).

C. *CONTRACTOR's Fee:* The CONTRACTOR's fee for overhead and profit shall be determined as follows:

1. a mutually acceptable fixed fee; or

2. if a fixed fee is not agreed upon, then a fee based on the following percentages of the various portions of the Cost of the Work:

a. for costs incurred under paragraphs 11.01.A.1 and 11.01.A.2, the CONTRACTOR's fee shall be 15 percent;

b. for costs incurred under paragraph 11.01.A.3, the CONTRACTOR's fee shall be five percent;

c. where one or more tiers of subcontracts are on the basis of Cost of the Work plus a fee and no fixed fee is agreed upon, the intent of paragraph 12.01.C.2.a is that the Subcontractor who actually performs the Work, at whatever tier, will be paid a fee of 15 percent of the costs incurred by such Subcontractor under paragraphs 11.01.A.1 and 11.01.A.2 and that any higher tier Subcontractor and CONTRACTOR will each be paid a fee of five percent of the amount paid to the next lower tier Subcontractor;

d. no fee shall be payable on the basis of costs itemized under paragraphs 11.01.A.4, 11.01.A.5, and 11.01.B;

e. the amount of credit to be allowed by CONTRACTOR to OWNER for any change which results in a net decrease in cost will be the amount of the actual net decrease in cost plus a deduction in CONTRACTOR's fee by an amount equal to five percent of such net decrease; and

f. when both additions and credits are involved in any one change, the adjustment in CONTRACTOR's fee shall be computed on the basis of the net change in accordance with paragraphs 12.01.C.2.a through 12.01.C.2.e, inclusive.

12.02 *Change of Contract Times*

A. The Contract Times (or Milestones) may only be changed by a Change Order or by a Written Amendment. Any Claim for an adjustment in the Contract Times (or Milestones) shall be based on written notice submitted by the party making the claim to the ENGINEER and the other party to the Contract in accordance with the provisions of paragraph 10.05.

B. Any adjustment of the Contract Times (or Milestones) covered by a Change Order or of any Claim for an adjustment in the Contract Times (or Milestones) will be determined in accordance with the provisions of this Article 12.

12.03 *Delays Beyond CONTRACTOR's Control*

A. Where CONTRACTOR is prevented from completing any part of the Work within the Contract Times (or Milestones) due to delay beyond the control of CONTRACTOR, the Contract Times (or Milestones) will be extended in an amount equal to the time lost due to such delay if a Claim is made therefor as provided in paragraph 12.02.A. Delays beyond the control of CONTRACTOR shall include, but not be limited to, acts or neglect by OWNER, acts or neglect of utility owners or other contractors performing other work as contemplated by

Article 7, fires, floods, epidemics, abnormal weather conditions, or acts of God.

12.04 *Delays Within CONTRACTOR's Control*

A. The Contract Times (or Milestones) will not be extended due to delays within the control of CONTRACTOR. Delays attributable to and within the control of a Subcontractor or Supplier shall be deemed to be delays within the control of CONTRACTOR.

12.05 *Delays Beyond OWNER's and CONTRACTOR's Control*

A. Where CONTRACTOR is prevented from completing any part of the Work within the Contract Times (or Milestones) due to delay beyond the control of both OWNER and CONTRACTOR, an extension of the Contract Times (or Milestones) in an amount equal to the time lost due to such delay shall be CONTRACTOR's sole and exclusive remedy for such delay.

12.06 *Delay Damages*

A. In no event shall OWNER or ENGINEER be liable to CONTRACTOR, any Subcontractor, any Supplier, or any other person or organization, or to any surety for or employee or agent of any of them, for damages arising out of or resulting from:

1. delays caused by or within the control of CONTRACTOR; or

2. delays beyond the control of both OWNER and CONTRACTOR including but not limited to fires, floods, epidemics, abnormal weather conditions, acts of God, or acts or neglect by utility owners or other contractors performing other work as contemplated by Article 7.

B. Nothing in this paragraph 12.06 bars a change in Contract Price pursuant to this Article 12 to compensate CONTRACTOR due to delay, interference, or disruption directly attributable to actions or inactions of OWNER or anyone for whom OWNER is responsible.

ARTICLE 13 - TESTS AND INSPECTIONS; CORRECTION, REMOVAL OR ACCEPTANCE OF DEFECTIVE WORK

13.01 *Notice of Defects*

A. Prompt notice of all defective Work of which OWNER or ENGINEER has actual knowledge will be given to CONTRACTOR. All defective Work may be rejected, corrected, or accepted as provided in this Article 13.

13.02 *Access to Work*

A. OWNER, ENGINEER, ENGINEER's Consultants, other representatives and personnel of OWNER, independent testing laboratories, and governmental agencies with jurisdictional interests will have access to the Site and the Work at reasonable times for their observation, inspecting, and testing. CONTRACTOR shall provide them proper and safe conditions for such access and advise them of CONTRACTOR's Site safety procedures and programs so that they may comply therewith as applicable.

13.03 *Tests and Inspections*

A. CONTRACTOR shall give ENGINEER timely notice of readiness of the Work for all required inspections, tests, or approvals and shall cooperate with inspection and testing personnel to facilitate required inspections or tests.

B. OWNER shall employ and pay for the services of an independent testing laboratory to perform all inspections, tests, or approvals required by the Contract Documents except:

1. for inspections, tests, or approvals covered by paragraphs 13.03.C and 13.03.D below;

2. that costs incurred in connection with tests or inspections conducted pursuant to paragraph 13.04.B shall be paid as provided in said paragraph 13.04.B; and

3. as otherwise specifically provided in the Contract Documents.

C. If Laws or Regulations of any public body having jurisdiction require any Work (or part thereof) specifically to be inspected, tested, or approved by an employee or other representative of such public body, CONTRACTOR shall assume full responsibility for arranging and obtaining such inspections, tests, or approvals, pay all costs in connection therewith, and furnish ENGINEER the required certificates of inspection or approval.

D. CONTRACTOR shall be responsible for arranging and obtaining and shall pay all costs in connection with any inspections, tests, or approvals required for OWNER's and ENGINEER's acceptance of materials or equipment to be incorporated in the Work; or acceptance of materials, mix designs, or equipment submitted for approval prior to CONTRACTOR's purchase thereof for incorporation in the Work. Such inspections, tests, or approvals shall be performed by organizations acceptable to OWNER and ENGINEER.

E. If any Work (or the work of others) that is to be inspected, tested, or approved is covered by CONTRACTOR without written concurrence of ENGINEER, it must, if requested by ENGINEER, be uncovered for observation.

F. Uncovering Work as provided in paragraph 13.03.E shall be at CONTRACTOR's expense unless CONTRACTOR has given ENGINEER timely notice of CONTRACTOR's intention to cover the same and ENGINEER has not acted with reasonable promptness in response to such notice.

13.04 *Uncovering Work*

A. If any Work is covered contrary to the written request of ENGINEER, it must, if requested by ENGINEER, be uncovered for ENGINEER's observation and replaced at CONTRACTOR's expense.

B. If ENGINEER considers it necessary or advisable that covered Work be observed by ENGINEER or inspected or tested by others, CONTRACTOR, at ENGINEER's request, shall uncover, expose, or otherwise make available for observation, inspection, or testing as ENGINEER may require, that portion of the Work in question, furnishing all necessary labor, material, and equipment. If it is found that such Work is defective, CONTRACTOR shall pay all Claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such uncovering, exposure, observation, inspection, and testing, and of satisfactory replacement or reconstruction (including but not limited to all costs of repair or replacement of work of others); and OWNER shall be entitled to an appropriate decrease in the Contract Price. If the parties are unable to agree as to the amount thereof, OWNER may make a Claim therefor as provided in paragraph 10.05. If, however, such Work is not found to be defective, CONTRACTOR shall be allowed an increase in the Contract Price or an extension of the Contract Times (or Milestones), or both, directly attributable to such uncovering, exposure, observation, inspection, testing, replacement, and reconstruction. If the parties are unable to agree as to the amount or extent thereof, CONTRACTOR may make a Claim therefor as provided in paragraph 10.05.

13.05 *OWNER May Stop the Work*

A. If the Work is defective, or CONTRACTOR fails to supply sufficient skilled workers or suitable materials or equipment, or fails to perform the Work in such a way that the completed Work will conform to the Contract Documents, OWNER may order CONTRACTOR to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, this right of OWNER to stop the Work shall not give rise to any duty on the part of OWNER to exercise this right for the benefit of CONTRACTOR, any Subcontractor, any Supplier, any other individual or entity, or any surety for, or employee or agent of any of them.

13.06 *Correction or Removal of Defective Work*

A. CONTRACTOR shall correct all defective Work, whether or not fabricated, installed, or completed, or, if the Work has been rejected by ENGINEER, remove it from the Project and replace it with Work that is not defective. CONTRACTOR shall pay all Claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such correction or removal (including but not limited to all costs of repair or replacement of work of others).

13.07 *Correction Period*

A. If within one year after the date of Substantial Completion or such longer period of time as may be prescribed by Laws or Regulations or by the terms of any applicable special guarantee required by the Contract Documents or by any specific provision of the Contract Documents, any Work is found to be defective, or if the repair of any damages to the land or areas made available for CONTRACTOR's use by OWNER or permitted by Laws and Regulations as contemplated in paragraph 6.11.A is found to be defective, CONTRACTOR shall promptly, without cost to OWNER and in accordance with OWNER's written instructions: (i) repair such defective land or areas, or (ii) correct such defective Work or, if the defective Work has been rejected by OWNER, remove it from the Project and replace it with Work that is not defective, and (iii) satisfactorily correct or repair or remove and replace any damage to other Work, to the work of others or other land or areas resulting therefrom. If CONTRACTOR does not promptly comply with the terms of such instructions, or in an emergency where delay would cause serious risk of loss or damage, OWNER may have the defective Work corrected or repaired or may have the rejected Work removed and replaced, and all Claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such correction or repair or such removal and replacement (including but not limited to all costs of repair or replacement of work of others) will be paid by CONTRACTOR.

B. In special circumstances where a particular item of equipment is placed in continuous service before Substantial Completion of all the Work, the correction period for that

item may start to run from an earlier date if so provided in the Specifications or by Written Amendment.

C. Where defective Work (and damage to other Work resulting therefrom) has been corrected or removed and replaced under this paragraph 13.07, the correction period hereunder with respect to such Work will be extended for an additional period of one year after such correction or removal and replacement has been satisfactorily completed.

D. CONTRACTOR's obligations under this paragraph 13.07 are in addition to any other obligation or warranty. The provisions of this paragraph 13.07 shall not be construed as a substitute for or a waiver of the provisions of any applicable statute of limitation or repose.

13.08 *Acceptance of Defective Work*

A. If, instead of requiring correction or removal and replacement of defective Work, OWNER (and, prior to ENGINEER's recommendation of final payment, ENGINEER) prefers to accept it, OWNER may do so. CONTRACTOR shall pay all Claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) attributable to OWNER's evaluation of and determination to accept such defective Work (such costs to be approved by ENGINEER as to reasonableness) and the diminished value of the Work to the extent not otherwise paid by CONTRACTOR pursuant to this sentence. If any such acceptance occurs prior to ENGINEER's recommendation of final payment, a Change Order will be issued incorporating the necessary revisions in the Contract Documents with respect to the Work, and OWNER shall be entitled to an appropriate decrease in the Contract Price, reflecting the diminished value of Work so accepted. If the parties are unable to agree as to the amount thereof, OWNER may make a Claim therefor as provided in paragraph 10.05. If the acceptance occurs after such recommendation, an appropriate amount will be paid by CONTRACTOR to OWNER.

13.09 *OWNER May Correct Defective Work*

A. If CONTRACTOR fails within a reasonable time after written notice from ENGINEER to correct defective Work or to remove and replace rejected Work as required by ENGINEER in accordance with paragraph 13.06.A, or if CONTRACTOR fails to perform the Work in accordance with the Contract Documents, or if CONTRACTOR fails to comply with any other provision of the Contract Documents, OWNER may, after seven days written notice to CONTRACTOR, correct and remedy any such deficiency.

B. In exercising the rights and remedies under this paragraph, OWNER shall proceed expeditiously. In connection with such corrective and remedial action, OWNER may exclude CONTRACTOR from all or part of the Site, take possession of all or part of the Work and suspend CONTRACTOR's services related thereto, take possession of CONTRACTOR's tools, appliances, construction equipment and machinery at the Site, and incorporate in the Work all materials and equipment stored at the Site or for which OWNER has paid CONTRACTOR but which are stored elsewhere. CONTRACTOR shall allow OWNER, OWNER's representatives, agents and employees, OWNER's other contractors, and ENGINEER and ENGINEER's Consultants access to the Site to enable OWNER to exercise the rights and remedies under this paragraph.

C. All Claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) incurred or sustained by OWNER in exercising the rights and remedies under this paragraph 13.09 will be charged against CONTRACTOR, and a Change Order will be issued incorporating the necessary revisions in the Contract Documents with respect to the Work; and OWNER shall be entitled to an appropriate decrease in the Contract Price. If the parties are unable to agree as to the amount of the adjustment, OWNER may make a Claim therefor as provided in paragraph 10.05. Such claims, costs, losses and damages will include but not be limited to all costs of repair, or replacement of work of others destroyed or damaged by correction, removal, or replacement of CONTRACTOR's defective Work.

D. CONTRACTOR shall not be allowed an extension of the Contract Times (or Milestones) because of any delay in the performance of the Work attributable to the exercise by OWNER of OWNER's rights and remedies under this paragraph 13.09.

ARTICLE 14 - PAYMENTS TO CONTRACTOR AND COMPLETION

14.01 *Schedule of Values*

A. The schedule of values established as provided in paragraph 2.07.A will serve as the basis for progress payments and will be incorporated into a form of Application for Payment acceptable to ENGINEER. Progress payments on account of Unit Price Work will be based on the number of units completed.

14.02 *Progress Payments*

A. *Applications for Payments*

1. At least 20 days before the date established for each progress payment (but not more often than once a month), CONTRACTOR shall submit to ENGINEER for review an Application for Payment filled out and signed by CONTRACTOR covering the Work completed as of the date of the Application and accompanied by such supporting documentation as is required by the Contract Documents. If payment is requested on the basis of materials and equipment not incorporated in the Work but delivered and suitably stored at the Site or at another location agreed to in writing, the Application for Payment shall also be accompanied by a bill of sale, invoice, or other documentation warranting that OWNER has received the materials and equipment free and clear of all Liens and evidence that the materials and equipment are covered by appropriate property insurance or other arrangements to protect OWNER's interest therein, all of which must be satisfactory to OWNER.

2. Beginning with the second Application for Payment, each Application shall include an affidavit of CONTRACTOR stating that all previous progress payments received on account of the Work have been applied on account to discharge CONTRACTOR's legitimate obligations associated with prior Applications for Payment.

3. The amount of retainage with respect to progress payments will be as stipulated in the Agreement.

B. *Review of Applications*

1. ENGINEER will, within 10 days after receipt of each Application for Payment, either indicate in writing a recommendation of payment and present the Application to OWNER or return the Application to CONTRACTOR indicating in writing ENGINEER's reasons for refusing to recommend payment. In the latter case, CONTRACTOR may make the necessary corrections and resubmit the Application.

2. ENGINEER's recommendation of any payment requested in an Application for Payment will constitute a representation by ENGINEER to OWNER, based on ENGINEER's observations on the Site of the executed Work as an experienced and qualified design professional and on ENGINEER's review of the Application for Payment and the accompanying data and schedules, that to the best of ENGINEER's knowledge, information and belief:

a. the Work has progressed to the point indicated;

b. the quality of the Work is generally in accordance with the Contract Documents (subject to an evaluation of the Work as a functioning whole prior to or upon Substantial Completion, to the results of any subsequent tests called for in the Contract Documents, to a final determination of quantities and classifications for Unit Price Work under paragraph 9.08, and to any other qualifications stated in the recommendation); and

c. the conditions precedent to CONTRACTOR's being entitled to such payment appear to have been fulfilled in so far as it is ENGINEER's responsibility to observe the Work.

3. By recommending any such payment ENGINEER will not thereby be deemed to have represented that: (i) inspections made to check the quality or the quantity of the Work as it has been performed have been exhaustive, extended to every aspect of the Work in progress, or involved detailed inspections of the Work beyond the responsibilities specifically assigned to ENGINEER in the Contract Documents; or (ii) that there may not be other matters or issues between the parties that might entitle CONTRACTOR to be paid additionally by OWNER or entitle OWNER to withhold payment to CONTRACTOR.

4. Neither ENGINEER's review of CONTRACTOR's Work for the purposes of recommending payments nor ENGINEER's recommendation of any payment, including final payment, will impose responsibility on ENGINEER to supervise, direct, or control the Work or for the means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or for CONTRACTOR's failure to comply with Laws and Regulations applicable to CONTRACTOR's performance of the Work. Additionally, said review or recommendation will not impose responsibility on ENGINEER to make any examination to ascertain how or for what purposes CONTRACTOR has used the moneys paid on account of the Contract Price, or to determine that title to any of the Work, materials, or equipment has passed to OWNER free and clear of any Liens.

5. ENGINEER may refuse to recommend the whole or any part of any payment if, in ENGINEER's opinion, it would be incorrect to make the representations to OWNER referred to in paragraph 14.02.B.2. ENGINEER may also refuse to recommend any such payment or, because of subsequently discovered evidence or the results of subsequent inspections or tests,

revise or revoke any such payment recommendation previously made, to such extent as may be necessary in ENGINEER's opinion to protect OWNER from loss because:

a. the Work is defective, or completed Work has been damaged, requiring correction or replacement;

b. the Contract Price has been reduced by Written Amendment or Change Orders;

c. OWNER has been required to correct defective Work or complete Work in accordance with paragraph 13.09; or

d. ENGINEER has actual knowledge of the occurrence of any of the events enumerated in paragraph 15.02.A.

C. *Payment Becomes Due*

1. Ten days after presentation of the Application for Payment to OWNER with ENGINEER's recommendation, the amount recommended will (subject to the provisions of paragraph 14.02.D) become due, and when due will be paid by OWNER to CONTRACTOR.

D. *Reduction in Payment*

1. OWNER may refuse to make payment of the full amount recommended by ENGINEER because:

a. claims have been made against OWNER on account of CONTRACTOR's performance or furnishing of the Work;

b. Liens have been filed in connection with the Work, except where CONTRACTOR has delivered a specific Bond satisfactory to OWNER to secure the satisfaction and discharge of such Liens;

c. there are other items entitling OWNER to a set-off against the amount recommended; or

d. OWNER has actual knowledge of the occurrence of any of the events enumerated in paragraphs 14.02.B.5.a through 14.02.B.5.c or paragraph 15.02.A.

2. If OWNER refuses to make payment of the full amount recommended by ENGINEER, OWNER must give CONTRACTOR immediate written notice (with a copy to ENGINEER) stating the reasons for such action and promptly pay CONTRACTOR any amount remaining after deduction of the amount so withheld. OWNER shall promptly pay CONTRACTOR the amount so withheld, or any adjustment thereto agreed to by OWNER and CONTRACTOR, when CONTRACTOR corrects to OWNER's satisfaction the reasons for such action.

3. If it is subsequently determined that OWNER's refusal of payment was not justified, the amount wrongfully withheld shall be treated as an amount due as determined by paragraph 14.02.C.1.

14.03 *CONTRACTOR's Warranty of Title*

A. CONTRACTOR warrants and guarantees that title to all Work, materials, and equipment covered by any Application for Payment, whether incorporated in the Project or not, will pass to OWNER no later than the time of payment free and clear of all Liens.

14.04 *Substantial Completion*

A. When CONTRACTOR considers the entire Work ready for its intended use CONTRACTOR shall notify OWNER and ENGINEER in writing that the entire Work is substantially complete (except for items specifically listed by CONTRACTOR as incomplete) and request that ENGINEER issue a certificate of Substantial Completion. Promptly thereafter, OWNER, CONTRACTOR, and ENGINEER shall make an inspection of the Work to determine the status of completion. If ENGINEER does not consider the Work substantially complete, ENGINEER will notify CONTRACTOR in writing giving the reasons therefor. If ENGINEER considers the Work substantially complete, ENGINEER will prepare and deliver to OWNER a tentative certificate of Substantial Completion which shall fix the date of Substantial Completion. There shall be attached to the certificate a tentative list of items to be completed or corrected before final payment. OWNER shall have seven days after receipt of the tentative certificate during which to make written objection to ENGINEER as to any provisions of the certificate or attached list. If, after considering such objections, ENGINEER concludes that the Work is not substantially complete, ENGINEER will within 14 days after submission of the tentative certificate to OWNER notify CONTRACTOR in writing, stating the reasons therefor. If, after consideration of OWNER's objections, ENGINEER considers the Work substantially complete, ENGINEER will within said 14 days execute and deliver to OWNER and CONTRACTOR a definitive certificate of Substantial Completion (with a revised tentative list of items to be completed or corrected) reflecting such changes from the tentative certificate as ENGINEER believes justified after consideration of any objections from OWNER. At the time of delivery of the tentative certificate of Substantial Completion ENGINEER will deliver to OWNER and CONTRACTOR a written recommendation as to division of responsibili-

ties pending final payment between OWNER and CONTRACTOR with respect to security, operation, safety, and protection of the Work, maintenance, heat, utilities, insurance, and warranties and guarantees. Unless OWNER and CONTRACTOR agree otherwise in writing and so inform ENGINEER in writing prior to ENGINEER's issuing the definitive certificate of Substantial Completion, ENGINEER's aforesaid recommendation will be binding on OWNER and CONTRACTOR until final payment.

B. OWNER shall have the right to exclude CONTRACTOR from the Site after the date of Substantial Completion, but OWNER shall allow CONTRACTOR reasonable access to complete or correct items on the tentative list.

14.05 *Partial Utilization*

A. Use by OWNER at OWNER's option of any substantially completed part of the Work which has specifically been identified in the Contract Documents, or which OWNER, ENGINEER, and CONTRACTOR agree constitutes a separately functioning and usable part of the Work that can be used by OWNER for its intended purpose without significant interference with CONTRACTOR's performance of the remainder of the Work, may be accomplished prior to Substantial Completion of all the Work subject to the following conditions.

1. OWNER at any time may request CONTRACTOR in writing to permit OWNER to use any such part of the Work which OWNER believes to be ready for its intended use and substantially complete. If CONTRACTOR agrees that such part of the Work is substantially complete, CONTRACTOR will certify to OWNER and ENGINEER that such part of the Work is substantially complete and request ENGINEER to issue a certificate of Substantial Completion for that part of the Work. CONTRACTOR at any time may notify OWNER and ENGINEER in writing that CONTRACTOR considers any such part of the Work ready for its intended use and substantially complete and request ENGINEER to issue a certificate of Substantial Completion for that part of the Work. Within a reasonable time after either such request, OWNER, CONTRACTOR, and ENGINEER shall make an inspection of that part of the Work to determine its status of completion. If ENGINEER does not consider that part of the Work to be substantially complete, ENGINEER will notify OWNER and CONTRACTOR in writing giving the reasons therefor. If ENGINEER considers that part of the Work to be substantially complete, the provisions of paragraph 14.04 will apply with respect to certification of Substantial Completion of that part of the Work and the division of responsibility in respect thereof and access thereto.

2. No occupancy or separate operation of part of the Work may occur prior to compliance with the requirements of paragraph 5.10 regarding property insurance.

14.06 *Final Inspection*

A. Upon written notice from CONTRACTOR that the entire Work or an agreed portion thereof is complete, ENGINEER will promptly make a final inspection with OWNER and CONTRACTOR and will notify CONTRACTOR in writing of all particulars in which this inspection reveals that the Work is incomplete or defective. CONTRACTOR shall immediately take such measures as are necessary to complete such Work or remedy such deficiencies.

14.07 *Final Payment*

A. *Application for Payment*

1. After CONTRACTOR has, in the opinion of ENGINEER, satisfactorily completed all corrections identified during the final inspection and has delivered, in accordance with the Contract Documents, all maintenance and operating instructions, schedules, guarantees, Bonds, certificates or other evidence of insurance certificates of inspection, marked-up record documents (as provided in paragraph 6.12), and other documents, CONTRACTOR may make application for final payment following the procedure for progress payments.

2. The final Application for Payment shall be accompanied (except as previously delivered) by: (i) all documentation called for in the Contract Documents, including but not limited to the evidence of insurance required by subparagraph 5.04.B.7; (ii) consent of the surety, if any, to final payment; and (iii) complete and legally effective releases or waivers (satisfactory to OWNER) of all Lien rights arising out of or Liens filed in connection with the Work.

3. In lieu of the releases or waivers of Liens specified in paragraph 14.07.A.2 and as approved by OWNER, CONTRACTOR may furnish receipts or releases in full and an affidavit of CONTRACTOR that: (i) the releases and receipts include all labor, services, material, and equipment for which a Lien could be filed; and (ii) all payrolls, material and equipment bills, and other indebtedness connected with the Work for which OWNER or OWNER's property might in any way be responsible have been paid or otherwise satisfied. If any Subcontractor or Supplier fails to furnish such a release or receipt in full, CONTRACTOR may furnish a Bond or other collateral satisfactory to OWNER to indemnify OWNER against any Lien.

B. *Review of Application and Acceptance*

1. If, on the basis of ENGINEER's observation of the Work during construction and final inspection, and ENGINEER's review of the final Application for Payment and accompanying documentation as required by the Contract Documents, ENGINEER is satisfied that the Work has been completed and CONTRACTOR's other obligations under the Contract Documents have been fulfilled, ENGINEER will, within ten days after receipt of the final Application for Payment, indicate in writing ENGINEER's recommendation of payment and present the Application for Payment to OWNER for payment. At the same time ENGINEER will also give written notice to OWNER and CONTRACTOR that the Work is acceptable subject to the provisions of paragraph 14.09. Otherwise, ENGINEER will return the Application for Payment to CONTRACTOR, indicating in writing the reasons for refusing to recommend final payment, in which case CONTRACTOR shall make the necessary corrections and resubmit the Application for Payment.

C. *Payment Becomes Due*

1. Thirty days after the presentation to OWNER of the Application for Payment and accompanying documentation, the amount recommended by ENGINEER will become due and, when due, will be paid by OWNER to CONTRACTOR.

14.08 *Final Completion Delayed*

A. If, through no fault of CONTRACTOR, final completion of the Work is significantly delayed, and if ENGINEER so confirms, OWNER shall, upon receipt of CONTRACTOR's final Application for Payment and recommendation of ENGINEER, and without terminating the Agreement, make payment of the balance due for that portion of the Work fully completed and accepted. If the remaining balance to be held by OWNER for Work not fully completed or corrected is less than the retainage stipulated in the Agreement, and if Bonds have been furnished as required in paragraph 5.01, the written consent of the surety to the payment of the balance due for that portion of the Work fully completed and accepted shall be submitted by CONTRACTOR to ENGINEER with the Application for such payment. Such payment shall be made under the terms and conditions governing final payment, except that it shall not constitute a waiver of Claims.

14.09 *Waiver of Claims*

A. The making and acceptance of final payment will constitute:

1. a waiver of all Claims by OWNER against CONTRACTOR, except Claims arising from unsettled Liens, from defective Work appearing after final inspection pursuant to paragraph 14.06, from failure to comply with the Contract Documents or the terms of any special guarantees specified therein, or from CONTRACTOR's continuing obligations under the Contract Documents; and

2. a waiver of all Claims by CONTRACTOR against OWNER other than those previously made in writing which are still unsettled.

ARTICLE 15 - SUSPENSION OF WORK AND TERMINATION

15.01 *OWNER May Suspend Work*

A. At any time and without cause, OWNER may suspend the Work or any portion thereof for a period of not more than 90 consecutive days by notice in writing to CONTRACTOR and ENGINEER which will fix the date on which Work will be resumed. CONTRACTOR shall resume the Work on the date so fixed. CONTRACTOR shall be allowed an adjustment in the Contract Price or an extension of the Contract Times, or both, directly attributable to any such suspension if CONTRACTOR makes a Claim therefor as provided in paragraph 10.05.

15.02 *OWNER May Terminate for Cause*

A. The occurrence of any one or more of the following events will justify termination for cause:

1. CONTRACTOR's persistent failure to perform the Work in accordance with the Contract Documents. (including, but not limited to, failure to supply sufficient skilled workers or suitable materials or equipment or failure to adhere to the progress schedule established under paragraph 2.07 as adjusted from time to time pursuant to paragraph 6.04);

2. CONTRACTOR's disregard of Laws or Regulations of any public body having jurisdiction;

3. CONTRACTOR's disregard of the authority of ENGINEER; or

4. CONTRACTOR's violation in any substantial way of any provisions of the Contract Documents.

B. If one or more of the events identified in paragraph 15.02.A occur, OWNER may, after giving CONTRACTOR (and the surety, if any) seven days written notice, terminate

the services of CONTRACTOR, exclude CONTRACTOR from the Site, and take possession of the Work and of all CONTRACTOR's tools, appliances, construction equipment, and machinery at the Site, and use the same to the full extent they could be used by CONTRACTOR (without liability to CONTRACTOR for trespass or conversion), incorporate in the Work all materials and equipment stored at the Site or for which OWNER has paid CONTRACTOR but which are stored elsewhere, and finish the Work as OWNER may deem expedient. In such case, CONTRACTOR shall not be entitled to receive any further payment until the Work is finished. If the unpaid balance of the Contract Price exceeds all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) sustained by OWNER arising out of or relating to completing the Work, such excess will be paid to CONTRACTOR. If such claims, costs, losses, and damages exceed such unpaid balance, CONTRACTOR shall pay the difference to OWNER. Such claims, costs, losses, and damages incurred by OWNER will be reviewed by ENGINEER as to their reasonableness and, when so approved by ENGINEER, incorporated in a Change Order. When exercising any rights or remedies under this paragraph OWNER shall not be required to obtain the lowest price for the Work performed.

C. Where CONTRACTOR's services have been so terminated by OWNER, the termination will not affect any rights or remedies of OWNER against CONTRACTOR then existing or which may thereafter accrue. Any retention or payment of moneys due CONTRACTOR by OWNER will not release CONTRACTOR from liability.

15.03 *OWNER May Terminate For Convenience*

A. Upon seven days written notice to CONTRACTOR and ENGINEER, OWNER may, without cause and without prejudice to any other right or remedy of OWNER, elect to terminate the Contract. In such case, CONTRACTOR shall be paid (without duplication of any items):

1. for completed and acceptable Work executed in accordance with the Contract Documents prior to the effective date of termination, including fair and reasonable sums for overhead and profit on such Work;

2. for expenses sustained prior to the effective date of termination in performing services and furnishing labor, materials, or equipment as required by the Contract Documents in connection with uncompleted Work, plus fair and reasonable sums for overhead and profit on such expenses;

3. for all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) incurred in settlement of terminated contracts with Subcontractors, Suppliers, and others; and

4. for reasonable expenses directly attributable to termination.

B. CONTRACTOR shall not be paid on account of loss of anticipated profits or revenue or other economic loss arising out of or resulting from such termination.

15.04 *CONTRACTOR May Stop Work or Terminate*

A. If, through no act or fault of CONTRACTOR, the Work is suspended for more than 90 consecutive days by OWNER or under an order of court or other public authority, or ENGINEER fails to act on any Application for Payment within 30 days after it is submitted, or OWNER fails for 30 days to pay CONTRACTOR any sum finally determined to be due, then CONTRACTOR may, upon seven days written notice to OWNER and ENGINEER, and provided OWNER or ENGINEER do not remedy such suspension or failure within that time, terminate the Contract and recover from OWNER payment on the same terms as provided in paragraph 15.03. In lieu of terminating the Contract and without prejudice to any other right or remedy, if ENGINEER has failed to act on an Application for Payment within 30 days after it is submitted, or OWNER has failed for 30 days to pay CONTRACTOR any sum finally determined to be due, CONTRACTOR may, seven days after written notice to OWNER and ENGINEER, stop the Work until payment is made of all such amounts due CONTRACTOR, including interest thereon. The provisions of this paragraph 15.04 are not intended to preclude CONTRACTOR from making a Claim under paragraph 10.05 for an adjustment in Contract Price or Contract Times or otherwise for expenses or damage directly attributable to CONTRACTOR's stopping the Work as permitted by this paragraph.

ARTICLE 16 - DISPUTE RESOLUTION

16.01 *Methods and Procedures*

A. Dispute resolution methods and procedures, if any, shall be as set forth in the Supplementary Conditions. If no method and procedure has been set forth, and subject to the provisions of paragraphs 9.09 and 10.05, OWNER and CONTRACTOR may exercise such rights or remedies as either may otherwise have under the Contract Documents or by Laws or Regulations in respect of any dispute.

ARTICLE 17 - MISCELLANEOUS

17.01 *Giving Notice*

A. Whenever any provision of the Contract Documents requires the giving of written notice, it will be deemed to have been validly given if delivered in person to the individual or to a member of the firm or to an officer of the corporation for whom it is intended, or if delivered at or sent by registered or certified mail, postage prepaid, to the last business address known to the giver of the notice.

17.02 *Computation of Times*

A. When any period of time is referred to in the Contract Documents by days, it will be computed to exclude the first and include the last day of such period. If the last day of any such period falls on a Saturday or Sunday or on a day made a legal holiday by the law of the applicable jurisdiction, such day will be omitted from the computation.

17.03 *Cumulative Remedies*

A. The duties and obligations imposed by these General Conditions and the rights and remedies available hereunder to the parties hereto are in addition to, and are not to be construed in any way as a limitation of, any rights and remedies available to any or all of them which are otherwise imposed or available by Laws or Regulations, by special warranty or guarantee, or by other provisions of the Contract Documents, and the provisions of this paragraph will be as effective as if repeated specifically in the Contract Documents in connection with each particular duty, obligation, right, and remedy to which they apply.

17.04 *Survival of Obligations*

A. All representations, indemnifications, warranties, and guarantees made in, required by, or given in accordance with the Contract Documents, as well as all continuing obligations indicated in the Contract Documents, will survive final payment, completion, and acceptance of the Work or termination or completion of the Agreement.

17.05 *Controlling Law*

A. This Contract is to be governed by the law of the state in which the Project is located.

SUPPLEMENTARY CONDITIONS

1.01 GENERAL

These Supplementary Conditions amend or supplement the Standard General Conditions of the Construction Contract (No. 1910-8, 1996 edit.) and other provisions of the Contract Documents as indicated below. All provisions which are not so amended or supplemented remain in full force and effect. If there is a conflict between the Contract, General Conditions (No. 1910-8, 1996 edit.) and these Supplementary Conditions, the terms of the Supplementary Conditions shall control.

The Contractor shall note physically by cross out or cross reference notations all changes in the General Conditions called for in the Supplementary Conditions before submitting his Bid.

Unless otherwise indicated in these Supplementary Conditions, replace the term "ENGINEER" wherever used in the Standard General Conditions of Contract and in these Supplementary Conditions, with "TOWN". The words "TOWN" and "OWNER" may be used interchangeably throughout these documents.

ARTICLE 1 – DEFINITIONS – Page 6

SC-1.01.A

The terms used in these Supplementary Conditions which are defined in the Standard General Conditions of the Construction Contract (No. 1910-8, 1996 edit.) have the meanings assigned to them in the General Conditions, unless otherwise indicated.

Amend paragraph SC-1.01.A.42 by replacing it with the following paragraph:

Subcontractor – An individual or entity having a direct contract with CONTRACTOR. Sub-Subcontractor is an individual or entity having a direct contract with any Subcontractor for the performance of a part of Work at the Project.

ARTICLE 5 – BONDS AND INSURANCE – Page 15

SC-5.01

Amend paragraph 5.01.C by adding the following language at the end of the paragraph:

Any additional costs shall be borne by the Contractor.

SC-5.04

Add the new paragraphs immediately after paragraph 5.04 of the General Conditions.

The limits of liability for the insurance required by paragraph 5.04 of the General Conditions shall provide coverage for not less than the following amounts or greater where required by law:

5.04.A.1 and 5.04.A.2 Worker's Compensation, etc. under paragraphs 5.04.A.1 and 5.04.A.2 of the General Conditions:

1. Comprehensive General Liability:
   (a) Coverage to include Premise/Operations, Broad Form Property Damage, Contractual and Personal Injury, and XCU (where applicable).

2. Limits:

(a)	General Aggregate	$1,000,000
(b)	Each Occurrence	$1,000,000
(c)	Personal Injury	$1,000,000

3. Coverage is to be written on an "occurrence" basis.

4. Owners and Contractors Protection:

(a)	Bodily Injury:	
	Annual Aggregate	$2,000,000
	Each Occurrence	$1,000,000
(b)	Property Damage:	
	Annual Aggregate	$2,000,000
	Each Occurrence	$1,000,000

5. Worker's Compensation shall be in accordance with the provisions of the laws of the State of Florida.

5.04.A.6 Comprehensive Automobile Liability:

(a) Coverage to include all owned, hired, non-owned vehicles, and/or trailers and other equipment required to be licensed.

(b) Limits:

Combined Single Limit	$2,000,000

5.04.B.1 Umbrella:

(a) Limits:

Aggregate	$1,000,000

(b) Cover all claims arising out of the contractor's operations or premises, anyone directly or indirectly employed by the Contractor or Subcontractor, and the Contractor's obligations under indemnification under this Contract.

5.04.B.8 The Town of Bay Harbor Islands, shall be included as a named insured party under the Contractor's Liability Insurance. The following paragraph is required to appear unaltered on the Certificate of Insurance.

"The Town of Bay Harbor Islands, Florida is hereby named Additional Insured under the terms of this policy."

5.04.B.9 A thirty (30) day Notice of Cancellation is required and must be stated on the Certificate of Insurance.

5.04.B.10 The Certificate of Insurance shall be issued to the Town of Bay Harbor Islands, Florida at the following address:

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

ARTICLE 6 – CONTRACTOR'S RESPONSIBILITIES – INDEMNIFICATION – Page 18

SC-6.01

Add the new paragraphs immediately after paragraph 6.01.B of the General Conditions.

The Contractor shall perform all work in compliance with all applicable safety codes. A competent English-speaking superintendent will be on the job at all times during working hours and will be subject to call during off-duty hours for emergency situations. The superintendent shall overall charge of the work with complete authority regarding the Contractor's workmen, equipment and material purchases. The superintendent shall have complete authority to act on behalf of the Contractor. This person must be sufficiently qualified and have read and understood the Drawings, Specifications and all Contract Documents.

SC-6.02

Add the new paragraphs immediately after paragraph 6.02.B of the General Conditions.

The Project sites being located in a single and multifamility residential area, there shall be no undue noise created, whether by workers arriving at the sites or by actual construction work, before 9:00 a.m. or after 5:00 p.m. Monday through Friday. No work shall be performed on Saturdays or Sundays or legal holidays as defined by the Town. There are no public sanitary facilities nearby the work sites, and the Contractor must therefore make arrangements for portable sanitary facilities as authorized by the Town.

SC-6.06

Amend paragraph 6.06.A by replacing the last sentence of the paragraph with the following sentence:

CONTRACTOR shall not be required to employ any Subcontractor, supplier, or other individual or entity to furnish or perform any of the Work against whom CONTRACTOR has reasonable objection, except as required by 6.06.B and the Instruction to Bidders.

Amend paragraph 6.06.B by adding the words "Instructions to Bidders" before Supplementary Conditions wherever it appears.

Amend paragraph 6.06.B by deleting the following sentence from the paragraph:

CONTRACTOR shall submit an acceptable replacement for the rejected Subcontractor, Supplier, or other individual or entity, and the Contract Price will be adjusted by the difference in the cost occasioned by such replacement, and an appropriate Change Order will be issued or Written Amendment signed.

Amend paragraph 6.06.B by adding the following language at the end of the last sentence of the paragraph:

Nor does such acceptable create a contractual relationship between the OWNER and any subcontractor, supplier, individual or entity.

SC-6.09

Amend paragraph 6.09.C by replacing the first sentence of the paragraph with the following sentence:

Changes in Laws or Regulations which become effective after the time of opening of Bids (or, on the Effective Date of the Contract if there were no Bids) having an effect on the cost or time of performance of the Work may be the subject of an adjustment in Contract Price or Contract Times.

Add the new paragraphs immediately after paragraphs 6.09.C. of the General Conditions:

All vehicles used in connection with the Contractor's operations will be required to pay regular tolls to use the Broad Causeway, and to have identification signs.

SC-6.11

Add the new paragraphs immediately after paragraph 6.11.B of the General Conditions:

Adjacent residents must have access to their driveways at all times. All barricades and warning signs for any traffic lane closures will be provided and maintained by the Contractor. Cost of all barricades and signs shall be the responsibility of the Contractor. Any off-duty officers as may be required in the maintenance of traffic shall be provided by the Contractor at the Contractor's Expense.

SC-6.12

Amend paragraph 6.12.A by replacing the first sentence of the paragraph with the following sentence:

CONTRACTOR shall maintain in a safe place at the Project one record copy of all drawings, specifications, addenda, written amendments, change orders, work change directives, field orders, as-builts and written interpretations and clarifications in good order and annotated to show changes made during construction.

SC-6.13

Amend paragraph 6.13.A.3 by replacing it with the following paragraph:

Other property at the Project or adjacent thereto, including, but not limited, to trees, shrubs, lawns, walks, pavements, roadways, structures, utilities, and underground facilities not designated for removal, relocation, or replacement in course of construction.

SC-6.20

Amend the paragraphs 6.20.A.1 and 6.20.A.2 by replacing them with the following paragraph:

To the fullest extent permitted by Laws and Regulations, the Parties agree that in consideration of the first $10.00 dollars to be paid by TOWN to Contractor hereunder- and other specific consideration, the receipt and sufficiency of which is hereby acknowledged, the Contractor shall indeminify, defend and hold harmless the TOWN and their consultants, agents, officers and employees, and the elected officials of the Owner, from and against all claims, damages, losses and expenses, direct, indirect or consequential (including but not limited to fees and charges of engineers, architects, attorneys and other professional and court and arbitration costs) arising out of or resulting from the performance of the Work, provided that any such claim, damage, loss or expense (a) is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself) including the loss of use resulting therefrom and (b) is caused in whole or in part by any negligent act or omission of CONTRACTOR, any Subcontractor, any person or organization directly or indirectly employed by any of them to perform or furnish any of the Work or anyone for whose acts any of them may be liable, regardless of whether or not it is caused in part by a party indemnified hereunder or arises by or is implied by Law and Regulations regardless of the negligence of any such party.

Amend paragraphs 6.20.B by replacing it with the following paragraph:

In any and all claims against TOWN or any of their consultants, agents or employees by any CONTRACTOR, any Subcontractor, any person or organization directly or indirectly employed by any of them to perform or furnish any of the Work or anyone for whose acts any of them may be liable, the indemnification obligation under paragraph 6.20 shall not be limited in any way, by any limitation on the amount or type of damages, compensation or benefits payable by or for CONTRACTOR or any such Subcontractor or other person or organization under

worker's or workmen's compensation acts, disability benefit acts or other employee benefit acts.

ARTICLE 8 – OWNER'S RESPONSIBILITIES - Page 26

Throughout this Article, OWNER is interchangeably with TOWN.

SC-8.01

Amend paragraph 8.01 A by replacing it with the following paragraph:

Except as otherwise provided in these General Conditions, TOWN shall issue all communications to CONTRACTOR through the TOWN MANAGER, STAFF ENGINEER or PROJECT MANAGER.

SC-8.02

Delete paragraph 8.02 A.

ARTICLE 9 – ENGINEER'S STATUS DURING CONSTRUCTION - Page 27

The use of "Engineer" throughout this Article shall mean the Town's "Staff Engineer or Project Manager".

SC-9.03

Delete paragraph 9.03A.

SC-9.05

Amend paragraph 9.05.A by deleting the following sentence from the end of the paragraph:

If TOWN and CONTRACTOR are unable to agree on entitlement to or on the amount or extent, if any, of any adjustment in the Contract Price or Contract Times, or both, as a result of a Field Order, a Claim may be made therefore as provided in paragraph 10.05.

ARTICLE 10 – CHANGES IN THE WORK; CLAIMS - Page 29

SC-10.01

Amend paragraph 10.01.A by replacing the first sentence of the paragraph with the following sentence:

Without invalidating the Contract and without notice to any Surety, TOWN may, at any time or from time to time, order additions, deletions, or revisions in the

Work by a Written Amendment, a Change Order, a Work Change Directive, or a Field Directive.

Amend paragraph 10.05.D by adding the following sentence at the end of the paragraph:

Adherence to the terms of paragraph 10.05 is a condition precedent to bringing any further action in litigation, arbitration or any other dispute resolution forum.

ARTICLE 11 – COST OF THE WORK; CASH ALLOWANCE; UNIT PRICE WORK - Page 30

SC-11.01

Amend paragraph 11.01.A.1 by deleting the word Saturday from the last sentence of the paragraph.

ARTICLE 12 – CHANGE OF CONTRACT PRICE; CHANGE OF CONTRACT TIMES

SC-12.06.B

Amend paragraph 12.06.B by replacing the entire paragraph with the following paragraph:

Contractor will not be entitled to any adjustment in the Contract Price for delays extended general conditions, extended overhead, loss of productivity, acceleration or any damages or other compensation whatsoever in the event of any delays in the progress of the Work on account of hindrances or delays from any cause whatsoever. Such causes of delay include but are not limited to differing site conditions, difficulty in acquiring building permits, limited access to the Project, failure to approve plans and shop drawings on time, delays caused by governmental action, inaction or regulation, subsurface conditions, material shortage or delay in delivery of materials. It is the specific intent hereunder that an extension of time will be the sole and exclusive remedy for delay or any type, description of category. However, if occasioned by an act of God, or by any act or omission on the part of the TOWN such act, hindrance or delay may entitle the CONTRACTOR to an extension of time in which to complete the Work which shall be determined by the STAFF ENGINEER, employed by the TOWN, provided that the CONTRACTOR will give notice as provided herein. The foregoing limitations on adjustments to Contract Price also apply to any causes of delay which affect any subcontractor, material-man, supplier or laborer on the Project. In no event, if any such events of delay occur, shall any subcontractor, material-man, supplier or laborer be entitled to additional compensation for delays including claims for extended general conditions, extended overhead and the like against the TOWN.

ARTICLE 13 – TESTS AND INSPECTIONS; CORRECTION, REMOVAL OR ACCEPTANCE OF DEFECTIVE WORK – Page 34

SC-13.04

Amend paragraph 13.04.A by replacing it with the following paragraph:

If any Work is covered contrary to the Technical Specifications, Drawings or Contract Documents, it must, if requested by the TOWN, be uncovered for his observation and replaced at CONTRACTOR'S expense.

Amend paragraph 13.04.B by adding the following language at the end of the second sentence:

, or direct payment if remaining Contract funds are not sufficient.

SC-13.09

Amend paragraph 13.09.C by adding the following language at the end of the first sentence:

,or direct payment if remaining Contract funds are not sufficient.

ARTICLE 14 – PAYMENTS TO CONTRACTORS AND COMPLETION – Page 36

SC-14.02.A.2

Amend paragraph 14.02.A.2 by deleting the existing paragraph and replacing it with the following paragraph:

With each Application for Payment, the CONTRACTOR shall include a Partial Waiver Upon Progress Payment or Statutory Waiver and Final Release, as appropriate from each and every material-man, supplier and or laborer ("Potential Lienor") who has provided labor, services or materials for the Project. Contractor shall submit its own Statutory Waiver and Partial Release of Line or Statutory Waiver and Final Release of Lien, as appropriate, with each Application for Payment. Moreover, CONTRACTOR shall ensure that no construction liens, or any encumbrances in the nature thereof or any other encumbrances whatsoever (including equitable lien claims), shall be filed or maintained by the CONTRACTOR or by any Potential Lienor in connection with any Work for which OWNER has made payment or for which payment is not yet due. As a condition precedent to the receipt of each progress payment from the TOWN, CONTRACTOR must furnish the Partial Waiver upon Progress Payment Statutory Waiver and Final Release

from each Potential Lienor, in the form prescribed by TOWN, together with a Contractor's Affidavit and Partial Release, in the form prescribed by the TOWN. Further as a condition precedent to the receipt of the final payment, the CONTRACTOR shall provide TOWN with a Statutory Waiver and Final Release from each Potential Lienor in the form prescribed by TOWN, together with a Contractor's Affidavit and Final Release. Each Release given to the TOWN shall waive and release any lien rights of the Potential Lienor to the extent payment is made with respect to any Work performed through the date of the Release. For any Potential Lienor who has served a Notice to Owner and/or Notice to Contractor, but who has not provided labor, services or materials during the period of time covered by an Application for Payment, the CONTRACTOR shall provide a Zero Dollar Release in the form prescribed by TOWN. CONTRACTOR shall comply with all requirements of Florida Statutes, Chapter 713. CONTRACTOR agrees to indemnify, defend and hold the OWNER harmless from and against any and all liens or other claims whatsoever filed against the TOWN or the TOWN's property by any Potential Lienor for worked performed or materials or services furnished in connection with the Work for which CONTRACTOR has been paid or for which payment is not yet due at the time the Lien is recorded. In the event a Claim of Lien is recorded against the OWNER'S property, the CONTRACTOR shall cause the same to be satisfied within ten (10-) days following the date of recordation of the Claim_of Lien, or in the alternative, shall cause the Claim of Lien to be transferred to a Bond. In the event any Liens are not cleared of record within ten (10) days of recordation, TOWN shall have the right to settle, satisfy, or transfer such Lien to a Bond at CONTRACTOR'S sole cost and expense and TOWN may offset any such cost against the next payment due to CONTRACTOR, or CONTRACTOR shall make a direct payment if remaining Contract funds are not sufficient.

TOWN shall not be limited to an is entitled to all other remedies available at law or in equity. The provisions of this paragraph shall be deemed an independent covenant of the CONTRACTOR and shall be effective with respect to all Work performed and materials and services furnished under the Contract Documents, Change Orders or any other agreement for work with respect to the Project.

SC-14.02.D.1.b

Amend paragraph 14.02.D.1.b by deleting the existing paragraph and replacing it with the following:

Liens have been recorded in connection with the Work or the Project.

SC-14.07

Amend paragraph 14.07.A.1 by replacing it with the following paragraph:

After CONTRACTOR has, in the opinion of TOWN, satisfactorily completed all corrections identified during the final inspection and has delivered, in accordance with the Contract Documents, all maintenance and operation instructions, schedules, guarantees, Bonds, certificates or other evidence of insurance, certificates of inspection, marked-up record documents (as provided in paragraph 6.12), final releases, final affidavits, Asbuilts, and other documents, CONTRACTOR may make application for final payment following the procedure for progress payments.

Amend paragraph 14.07.A.2 by adding the following language at the end of the first sentence:

Or claims made against the Bonds provided by CONTRACTOR under the Contract Documents.

Delete paragraph 14.07.A.3 in its entirely.

SC-14.09

Amend paragraph 14.09.A.1 by replacing it with the following paragraph:

A waiver of all Claims by TOWN against CONTRACTOR, except Claims arising from unsettled Liens or Claims against the Bonds, from defective Work appearing after final inspection pursuant to paragraph 14.06, from failure to comply with the Contract Documents or the terms of any special guarantees specified therein, or from CONTRACTOR's continuing obligations under the Contract Documents; and

ARTICLE 15 – SUSPENSION OF WORK AND TERMINATION – Page 40

SC-15.03

Delete paragraph 15.03.A.3 in its entirely.

Delete paragraph 15.03.A.4 in its entirely.

SC-15.04

Amend paragraph 15.04.A by deleting the last sentence of the paragraph.

ATTACHMENT 1

AERIAL MAP

P:\TOWN ENGINEER\BLOCK 11 PARKING GARAGE\BLOCK 11 PARKING GARAGE\AERIAL SKETCH.DWG



AERIAL SKETCH

DRAWING FILE NO.
CAD FILE: BHI-XX-XX
TOTAL: 01
SHEET NO. C01 OF 01

PROJECT # BHI-229
96TH STREET NEW PARK
AND KAYAK LAUNCH
AERIAL MAP
9600 WEST BAY HARBOR DRIVE

REVISIONS				
NO.	DATE	BY	CHK'D	DESCRIPTION

..\Logo.jpg

TOWN OF BAY HARBOR ISLANDS
PUBLIC WORKS DEPARTMENT
ENGINEERING
9665 Bay Harbor Terrace
Bay Harbor Islands, Florida 33154

DRAWN BY:	DATE: 05/26/2022
DESIGNED BY:	SCALE: NTS
CHECKED BY:	
FIELD BOOK:	

ENGINEER:
REG. No:
DATE: #DATE

TEL:
FAX: #Fax

ATTACHMENT 2

LAND SURVEY PREPARED BY LONGITUDE SURVEYORS

ATTACHMENT 3

FIU SCHOOL OF ARCHITECTURE – CONCEPT DESIGN

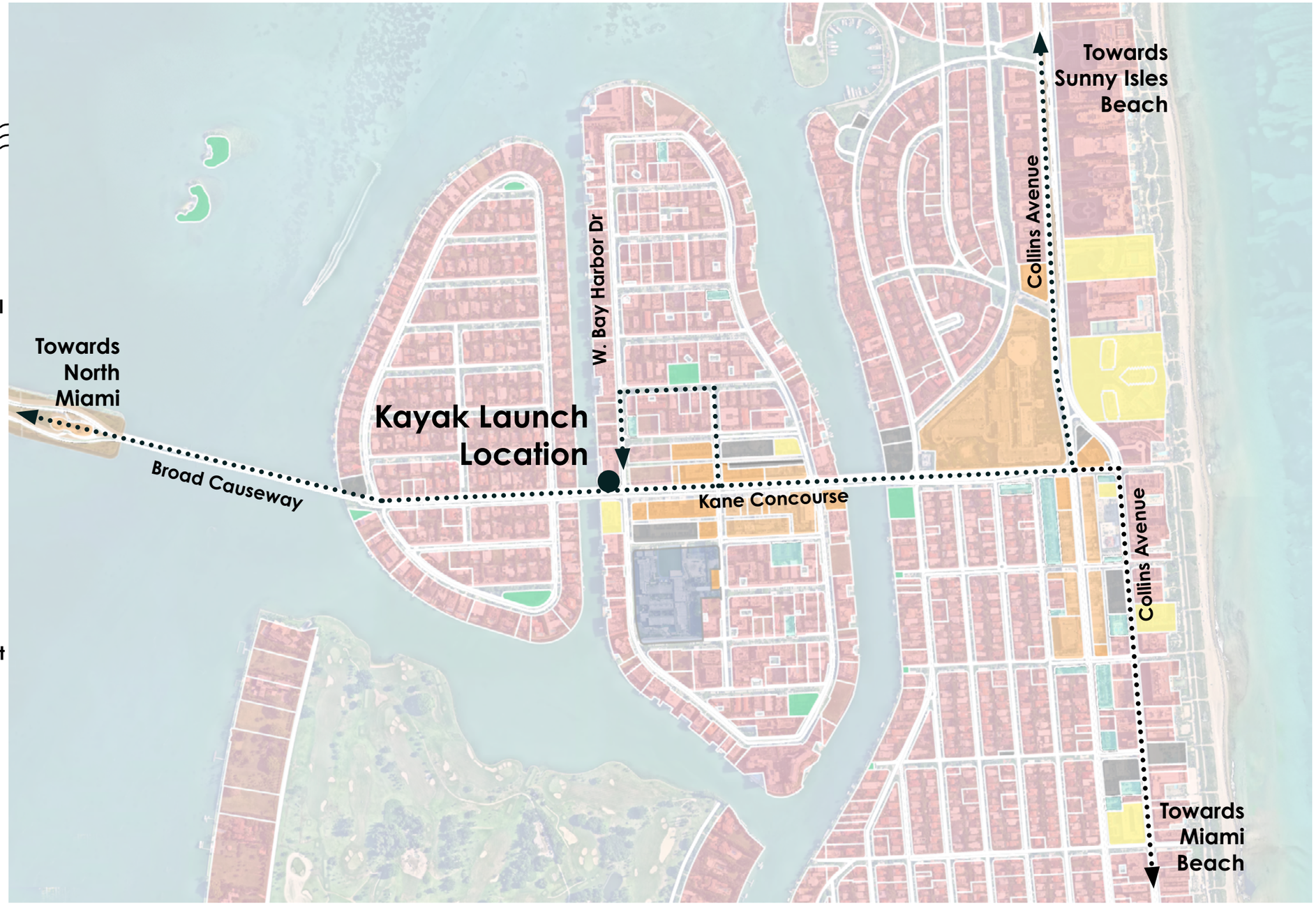


Parking Lot Renovation:
Kayak Pier
96th St

FIUxD | PROF. ROBERTO ROVIRA | BY IRENE CAMBEYRO + KEVIN CHONG

FIU | Landscape Architecture + Environmental and Urban Design
College of Communication, Architecture + The Arts

Kayak Launch Location



Residential

Commercial

Hotel

Parks

Parking

School

Government

2800 ft

1400 ft

700 ft

0

Kayak Destinations

2.5 mi

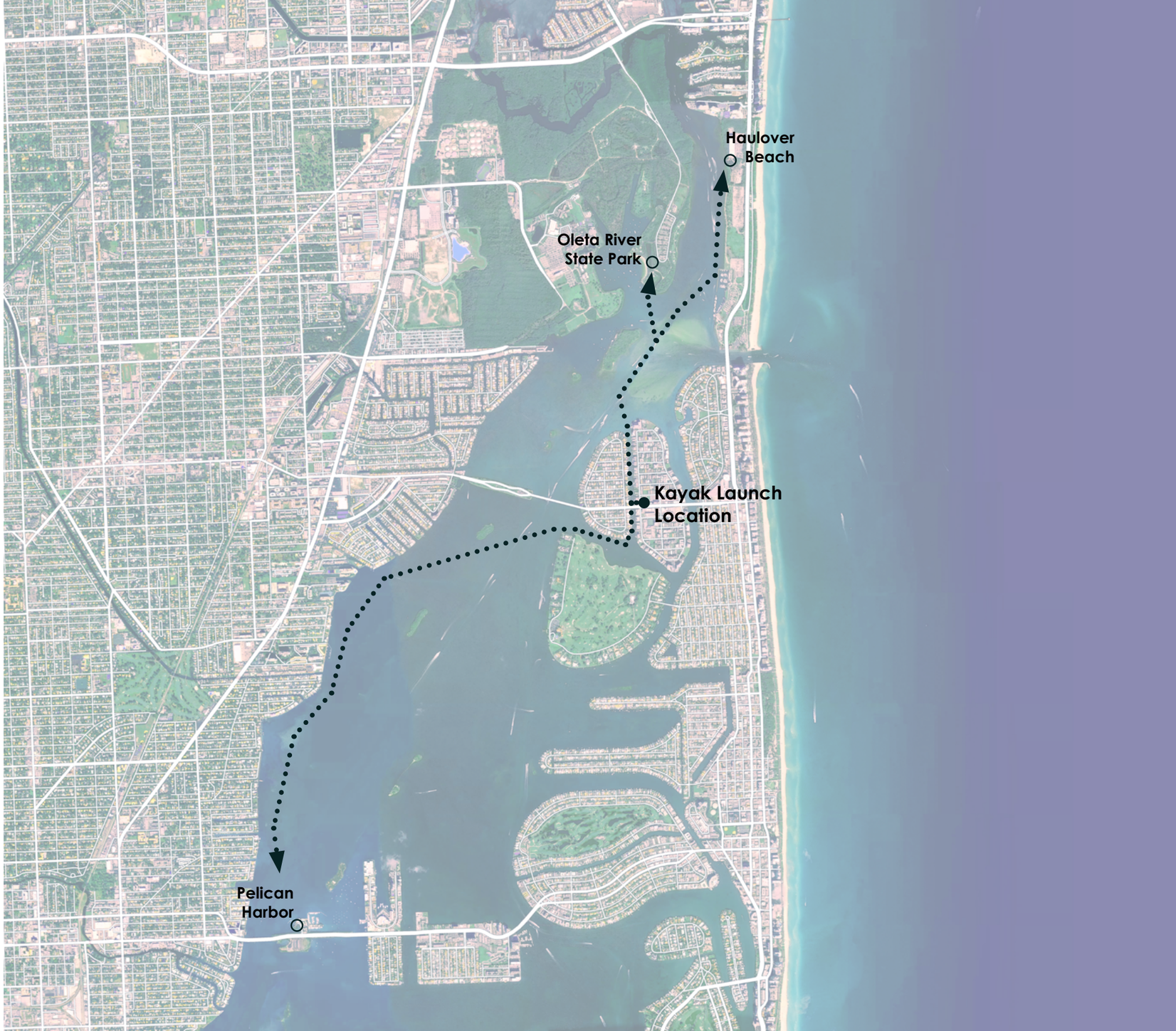
1.25 mi

0.5 mi

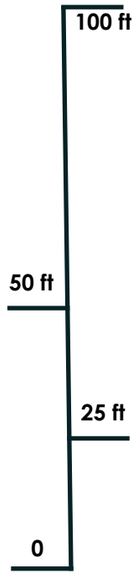
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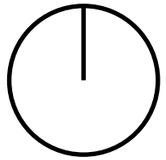
Existing Kayak Infrastructure (Non-ADA)

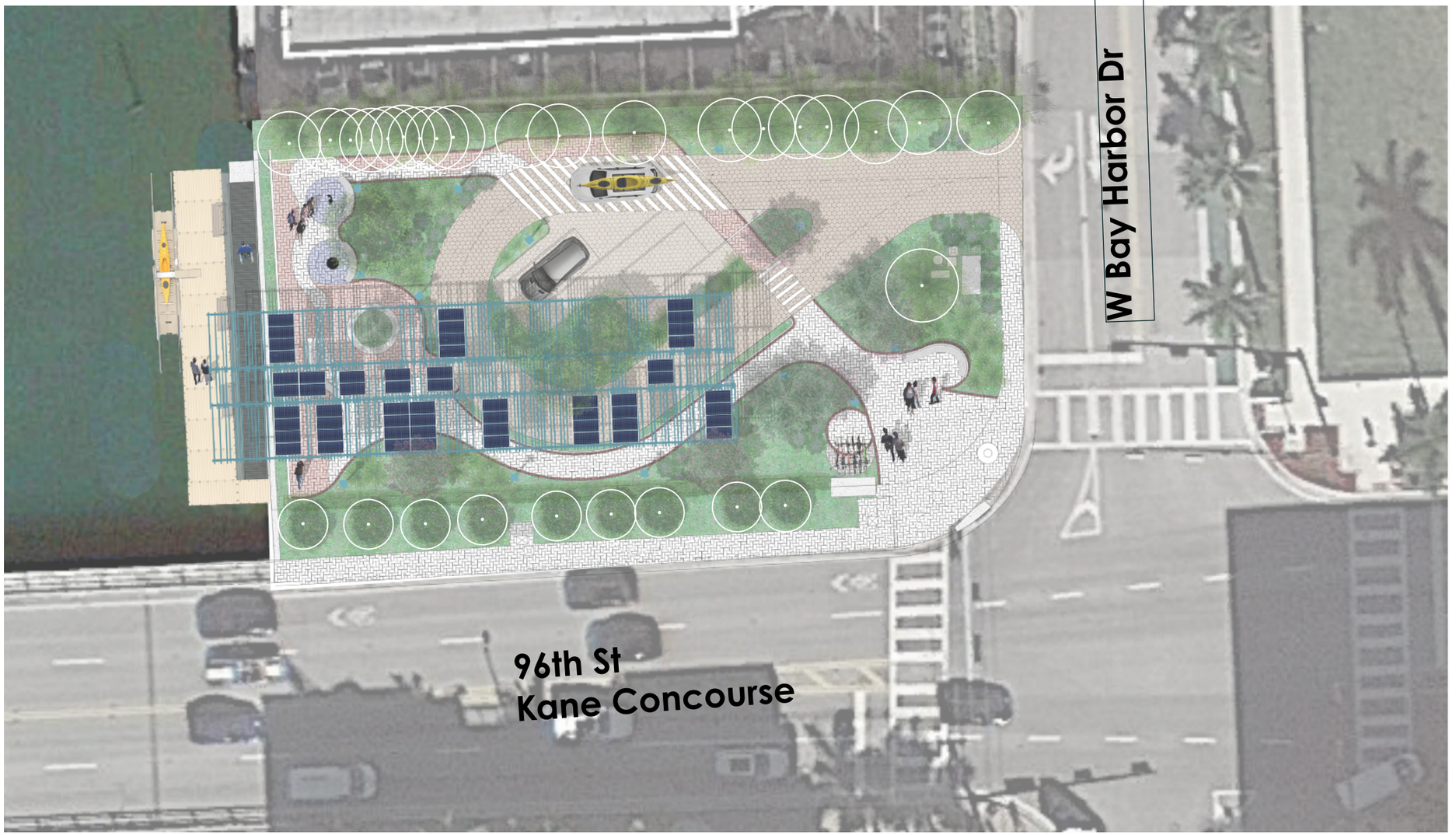
Proposed Kayak Launch (ADA Compliant)



96th St Kayak Launch







Constituents





Kayakers

Neighbours

50 ft

25 ft

12.5 ft

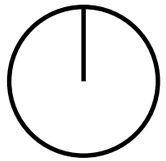
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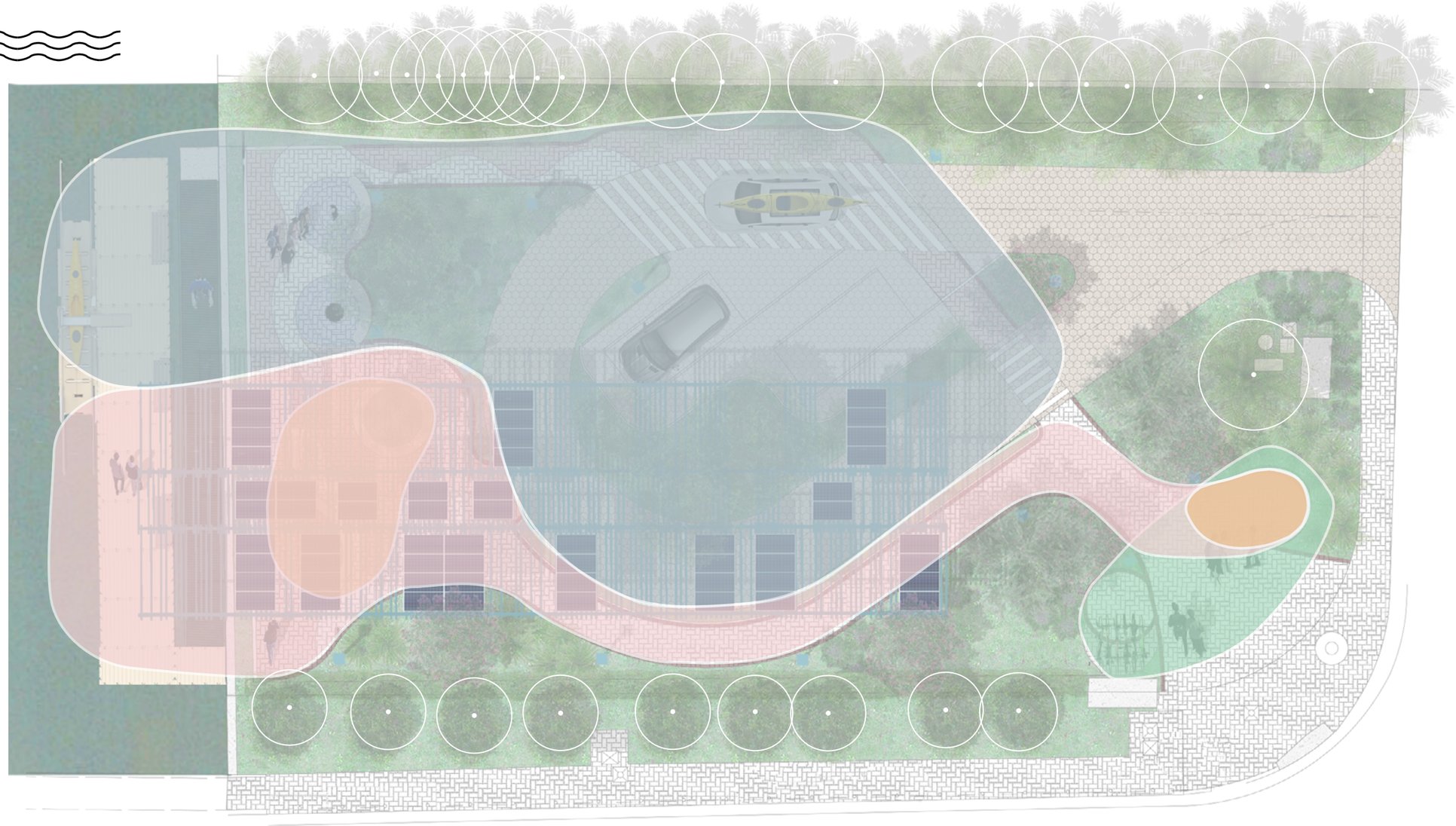


Cyclists

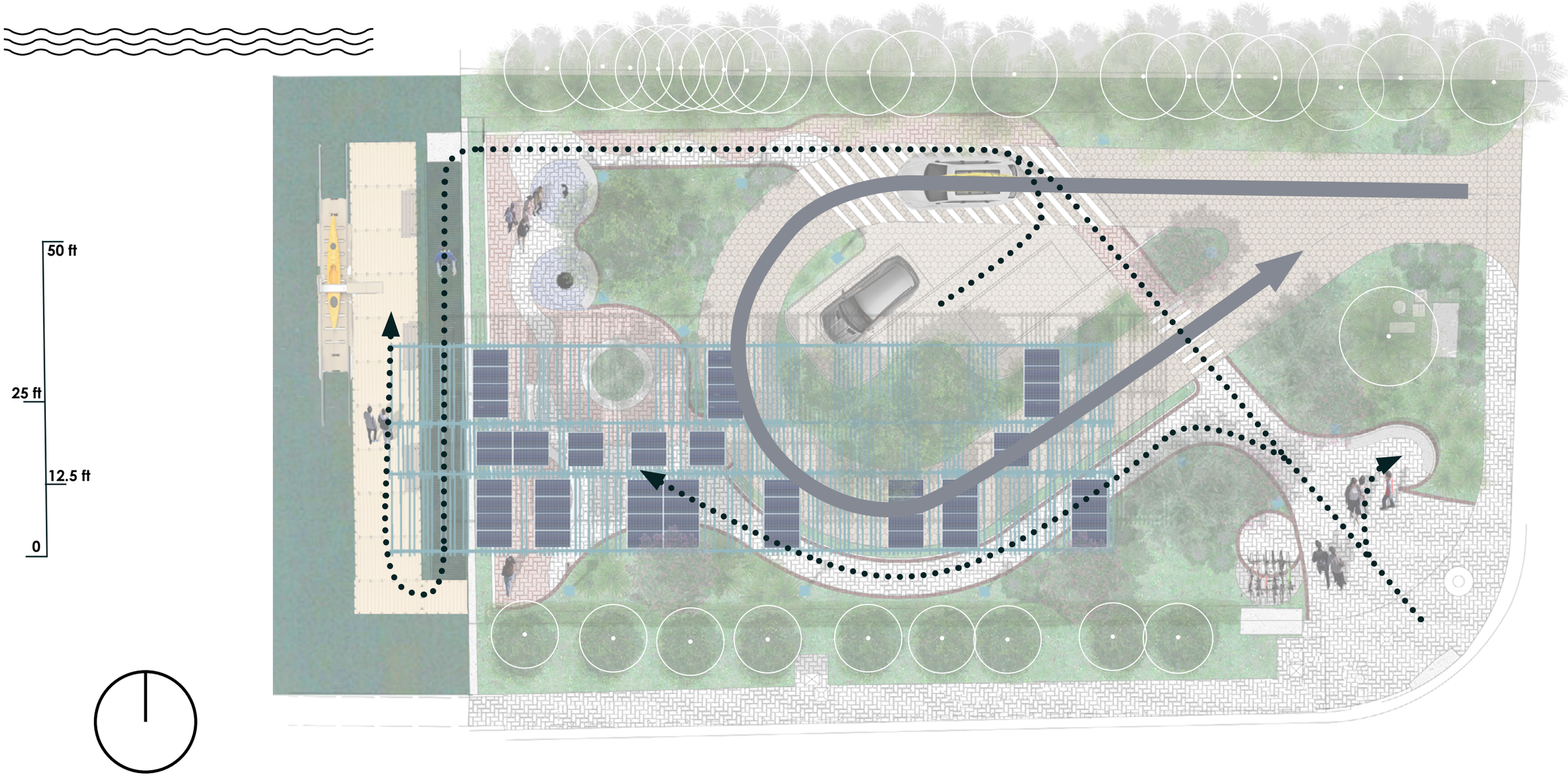


Lunch Breakers





Movement & Location



Amenities



Air Pumps



Shower



Solar Energy



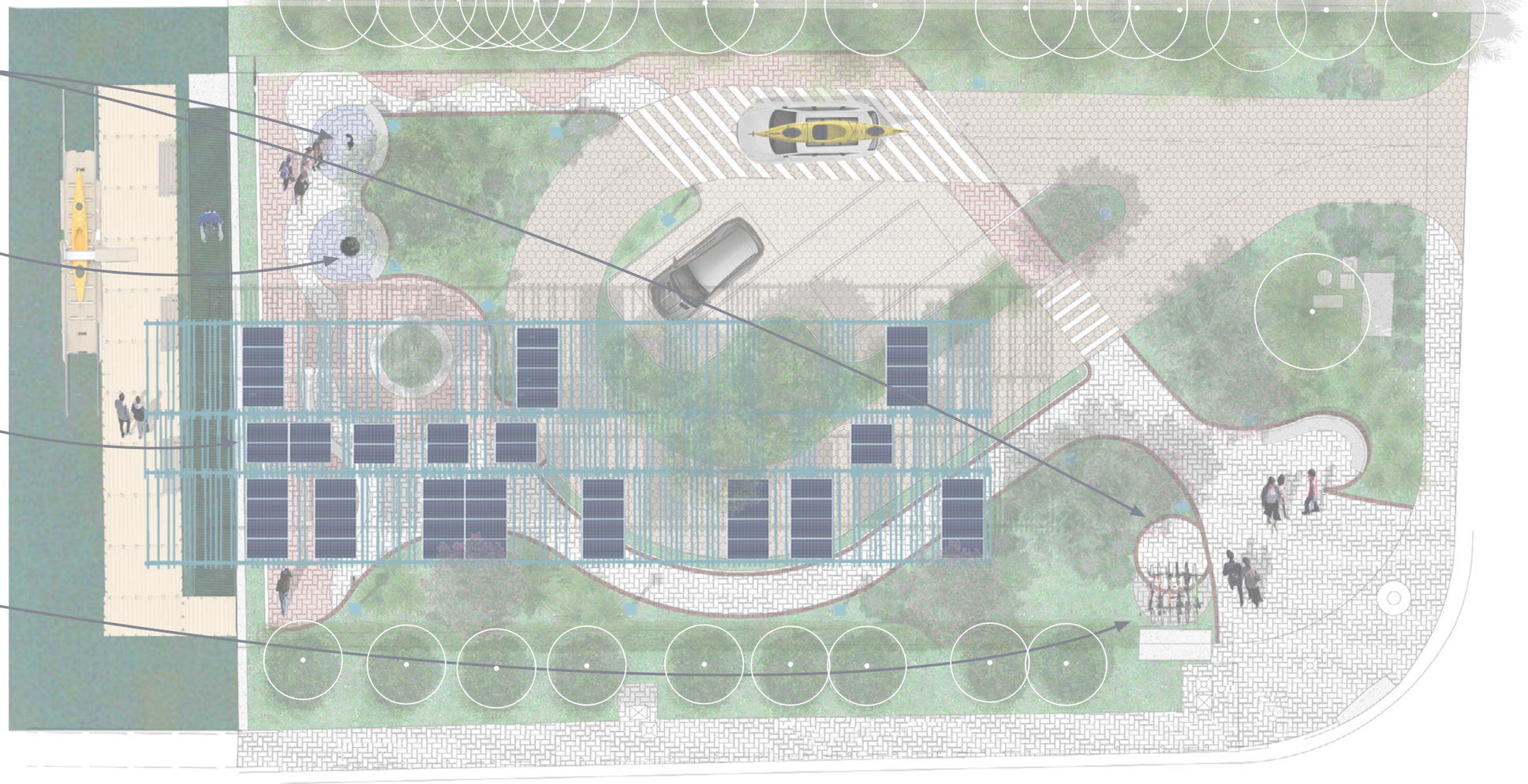
Bike Rack

50 ft

25 ft

12.5 ft

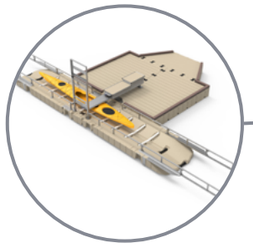
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Amenities



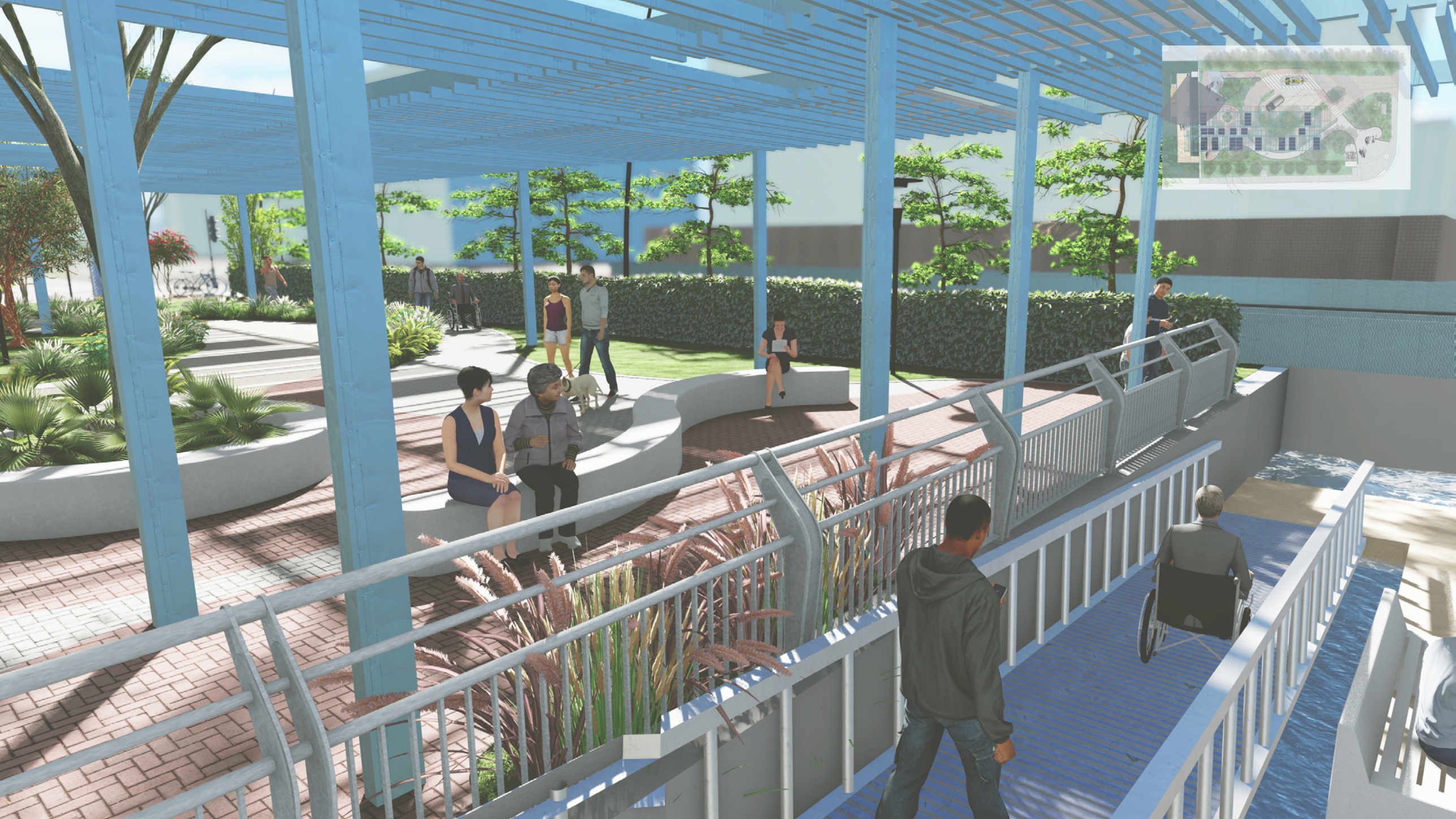
ADA-Compliant
Kayak Launch

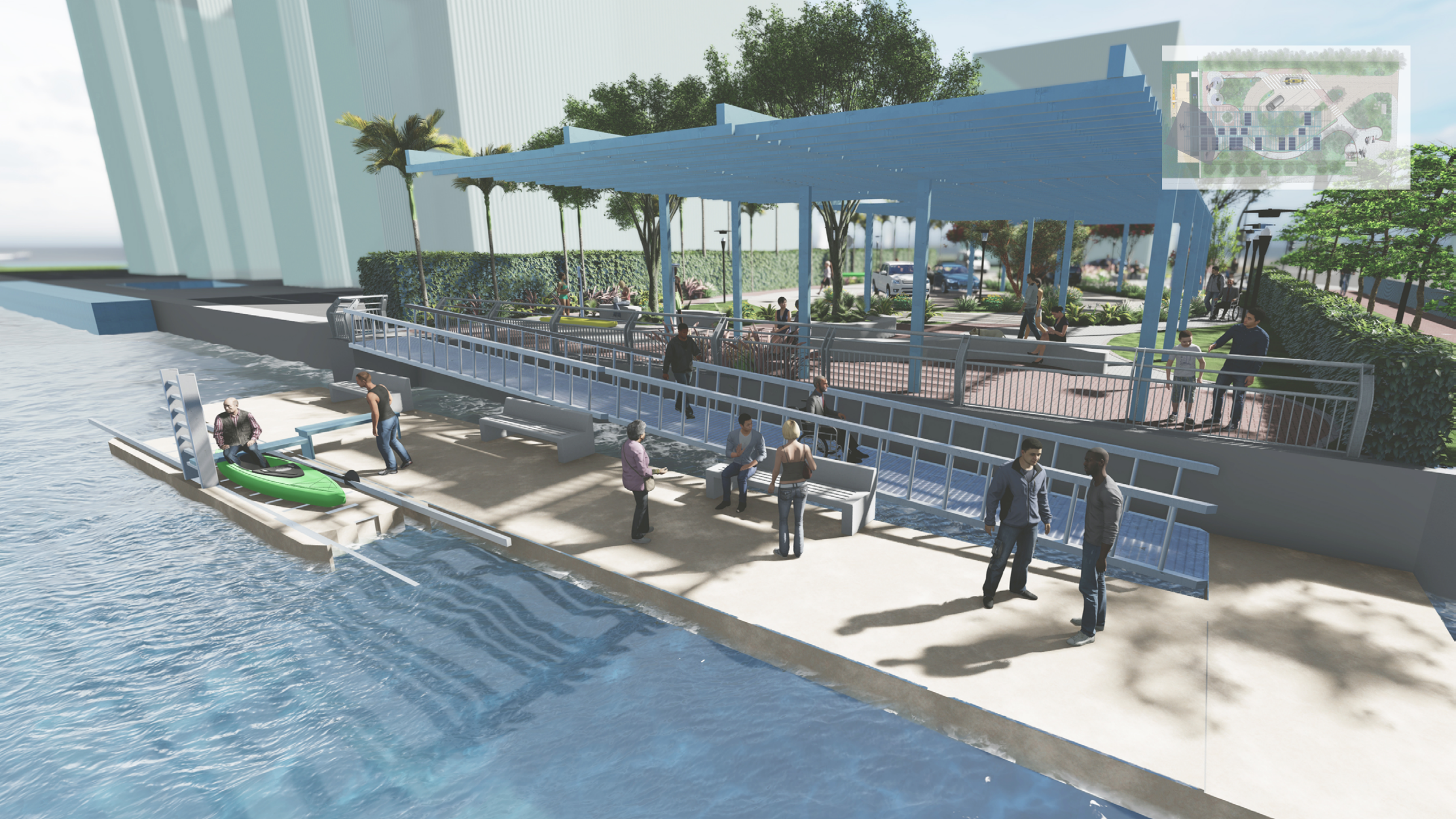
50 ft

25 ft

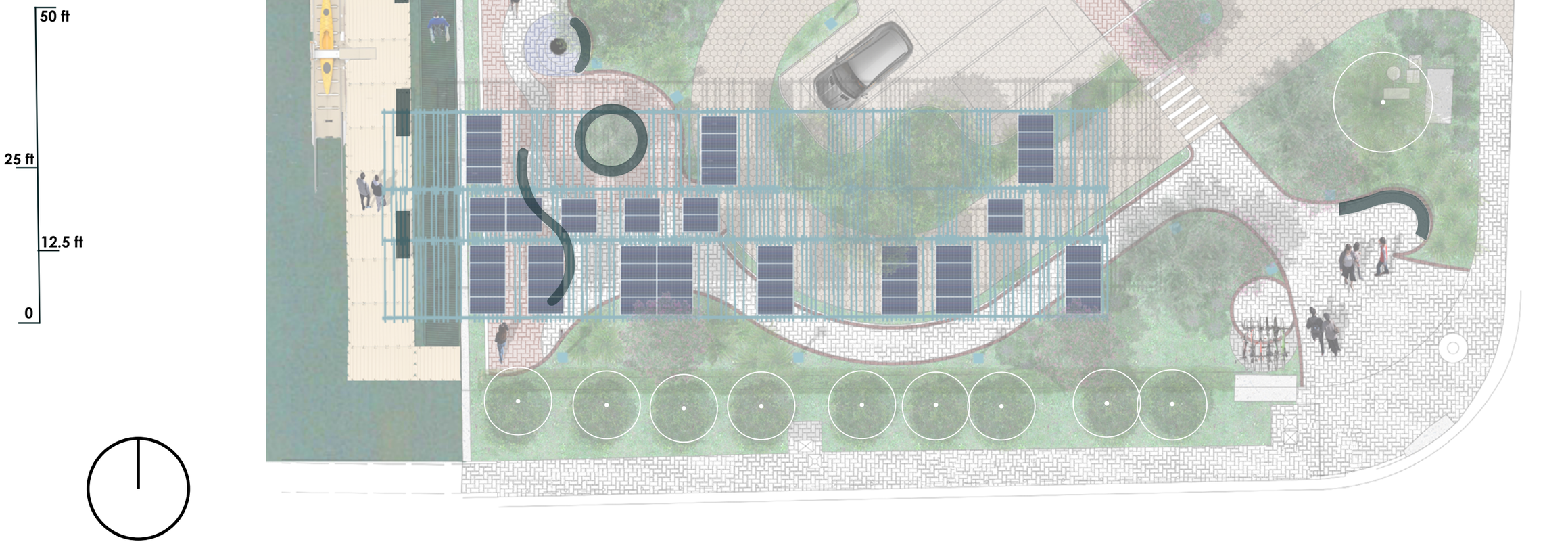
12.5 ft

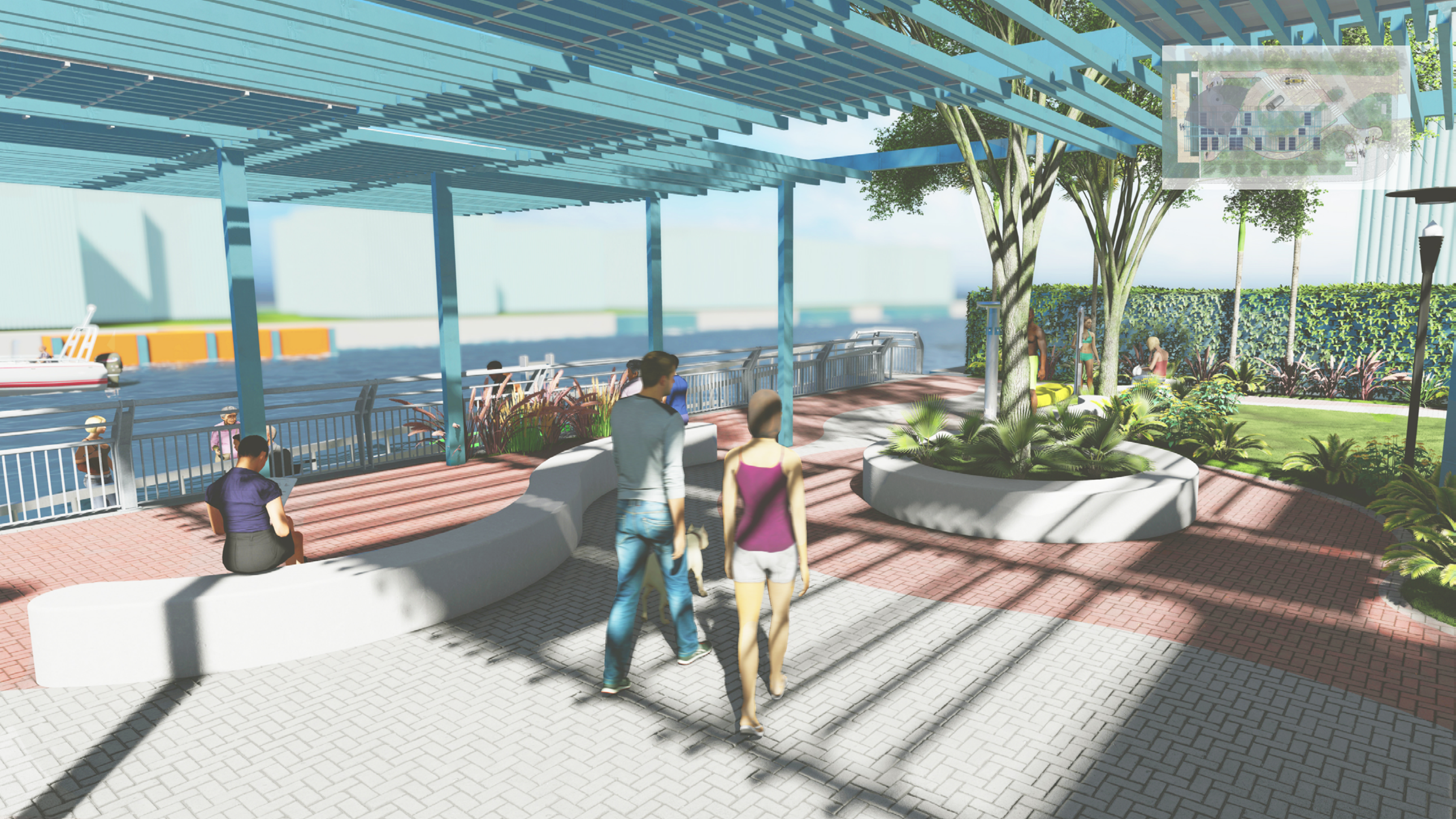
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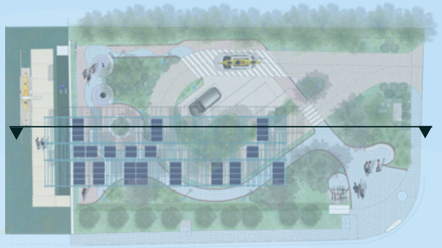


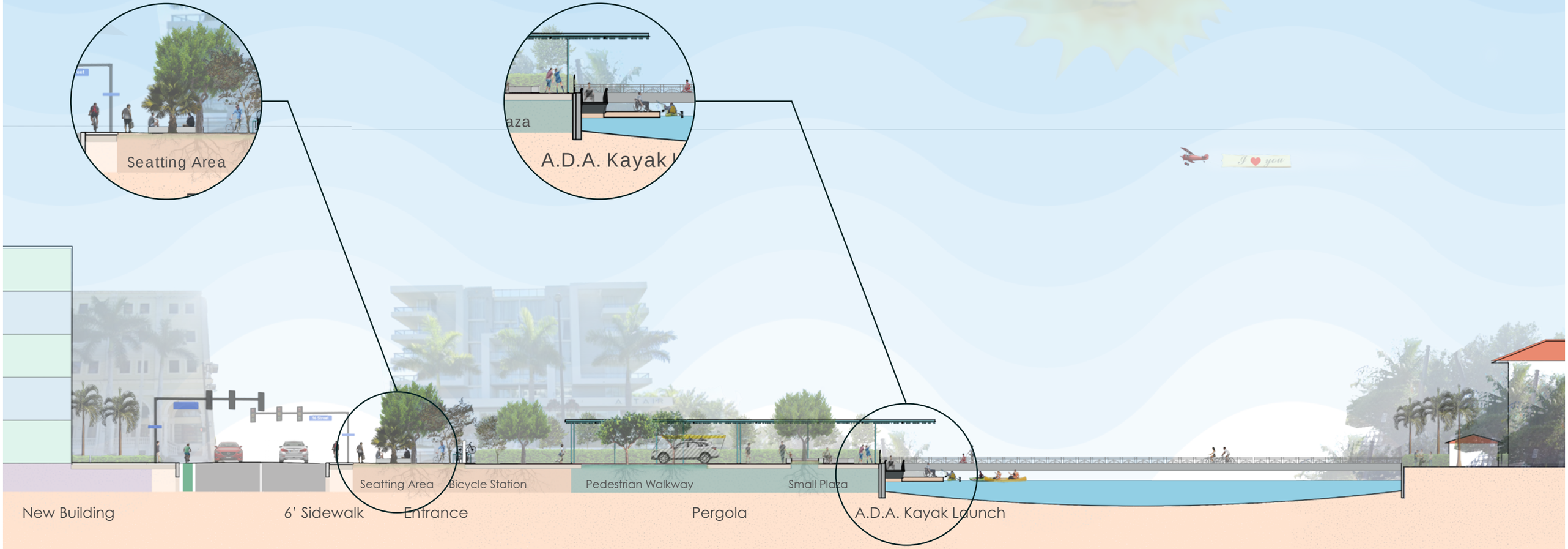
Seating

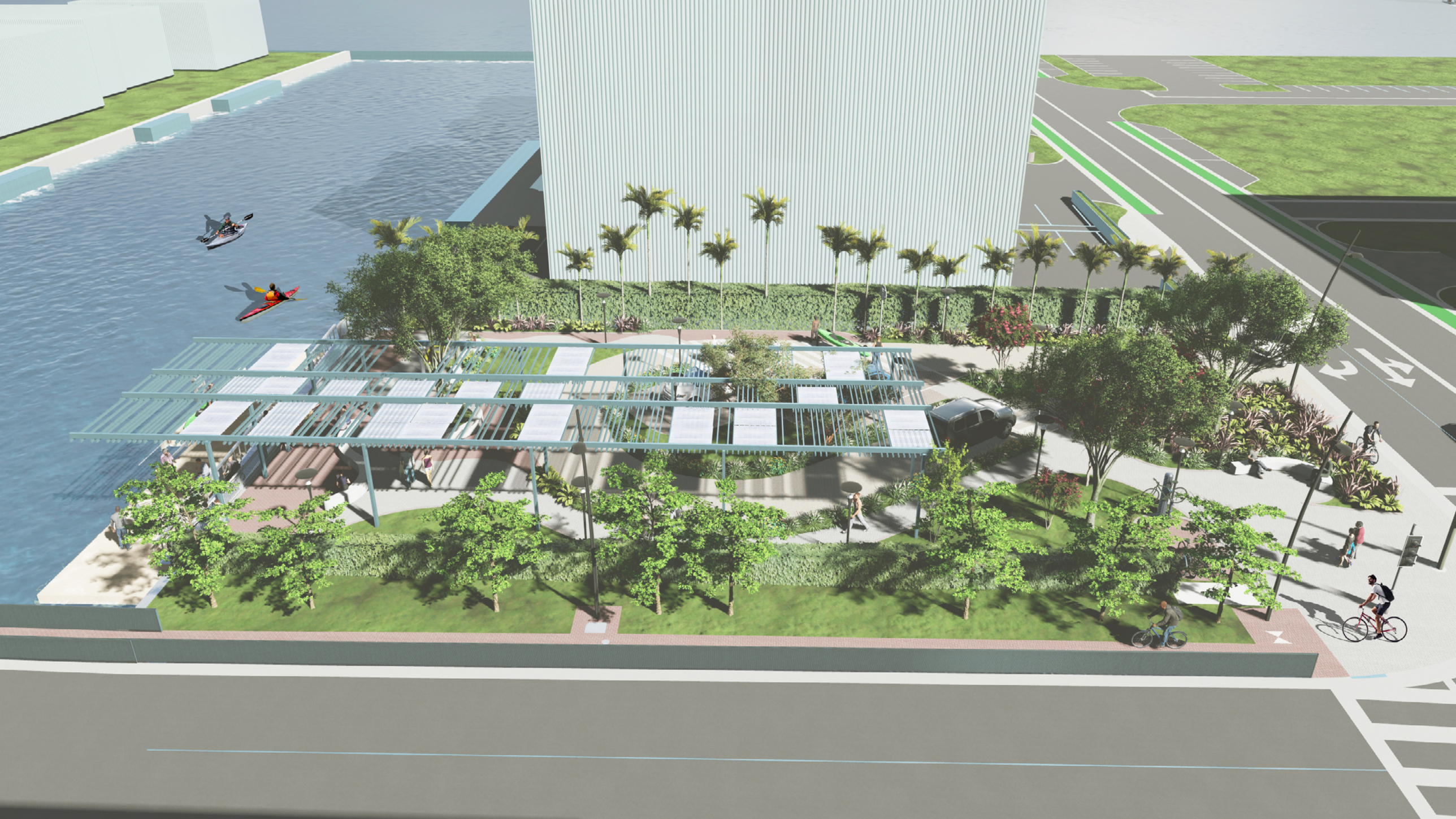




96th St Bridge + Surroundings









AGENDA ITEM REPORT
June 9, 2022

ITEM NUMBER: 8.

ITEM: Consideration and **Approval** of Chen Moore & Associates, Inc. (Continuing Engineering Services Firm for the Town) design fees proposal in the amount of $81,643.25 for design, permitting and construction inspection of a new seawall on 9600 West Bay Harbor Drive, where the new Town Park will be located. Enclosed is a copy of the proposal.

DESCRIPTION:
In 2018, a Seawall Condition Report was conducted by the Town of Bay Harbor Islands for every property in the Town. The Report found that the concrete dock on the property 9600 West Bay Harbor Drive was in critical condition, and the seawall was showing cracks and deterioration. The concrete dock collapsed in 2020. In 2021, the Town applied for a Resilient Florida Grant from FDEP and was awarded $255,000 for this Seawall Replacement Project. For the Design Phase, $85,000 were approved and for construction $170,000.

The Design Fee Proposal is for the land survey, geotechnical investigation, design, permitting and construction inspection of approximately 80 linear feet of a new seawall and removing the collapsed concrete dock from the bay. This proposal is less than the approved Design Fees from the Resilient Florida Grant.

Enclosed is a copy of the Fee Proposal.

RECOMMENDED ACTION:
Approval

FINANCIAL ANALYSIS:
The Town was awarded a Resilient Florida Grant for the amount of $255,000 for this specific Project.

BUDGET IMPACT:

Name	Impact Date	Fund(s)	Account(s)	Project #(s)	Amount Budgeted
Improvements (Excl. Buildings)	06/09/2022	$255,000	401.5415.400063.000	Seawall Renovation Project	$255,000

Submitted By: Jose Custodio, Town Engineer

Maria Lasday, Town Manager

ATTACHMENTS

1.	22-0326.P0001-04 - Sea Wall Replacement_CMA Civil Fee proposal 051122

2103 Coral Way, Suite 401
Miami, FL 33145
Office: +1 (786) 497-1500

chen moore and associates

May 11, 2022

SENT VIA E-MAIL (jcustodio@bayharborislands-fl.gov)

Mr. Jose Custidio, P.E.
Town Engineer
Town of Bay Harbor Islands
9665 Bay Harbor Terrace
Bay Harbor Islands, FL 33154

Subject: **Town of Bay Harbor Islands – Sea Wall Replacement - Civil Engineering**
CMA Proposal No. 22-0326.P0001.04

Dear Mr. Custodio:

Chen Moore and Associates (CMA) are pleased to submit the attached Agreement for Professional Services and Scope of Services to provide civil engineering services for the above referenced project near Kane Concourse and W Bay Harbor Drive within the Town of Bay Harbor Islands, Florida.

PROJECT INTRODUCTION

As we understand it, the Town of bay Harbor Islands has expressed interest in replacing approximately 80LF of existing, dilapidated seawall just NW of the intersection of Kane Concourse and W Bay Harbor Drive, on a lot owned by the Town. This lot shall eventually be developed into a park for the Town under a future and separate contract. The sea wall replacement is required soon in order to secure its grant funding. We shall sub-contract the survey and geotechnical engineering work to our sub-consultants, Longitude Surveyors, Inc. and PanGeo Consultants, respectively. Cummins Cederberg shall undertake the marine/coastal and structural engineering, also in accordance with our continuing services contract. The following proposal shall address the City's request.

PROJECT STAFFING

Our staff and team are ready and prepared to work on this project. Chen Moore staff project roles shall be as follows:

Principal – Peter Moore, P.E., President
Project Director - Jose L. Acosta, P.E., Executive Vice President
Senior Project Manager – Gregory Mendez, P.E.
Senior Engineer (Lighting/electrical) – Floyd Fasking, P.E.
Project Engineer – Nicholas Karpathy, P.E.
Engineer – Harry Palenzuela, E.I.
Senior Landscape Architect – Eric Harrison, RLA
Senior CAD Technician – Andres Aristazabal
Senior Construction Specialist – Jose McCray

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Miami, FL 33145
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Sub-consultants for this Project

- Surveying – Longitude Surveyors, Inc.
- Geotechnical Engineering – PanGeo Consultants
- Marine/Coastal and Structural Engineering – Cummins Cederberg

SCOPE OF SERVICES

The scope of services that our firm shall provide as per our recent discussions, is as follows:

Task 1 – Utility Coordination, Site Reconnaissance & Data Collection

- Consultant shall utilize a combination of client provided survey information and GIS based maps to acquire available information from the utility providers for water, sewer, drainage, power, gas, cable, electrical power, etc. as appropriate to acquire existing information.
- Consultant shall perform site visits, as necessary, to assess the existing conditions, familiarize themselves with the site and obtain any data required for the development of the plans.
- Coordination with the franchise utility owners as required to facilitate the relocations and/or removals of existing facilities to accommodate the proposed alley conversion.
- Consultant shall review survey and/or as-built drawings from local utilities and field verify locations as per available accessibility.
- Consultant shall contact, as necessary, governmental permitting agencies or other authorities having jurisdiction as required regarding any pertinent regulatory requirements and limitations.
- Consultant shall closely coordinate with the client and authorities having jurisdiction.
- Consultant shall perform a topographic and boundary survey of the proposed alley (NE 96th Street).
- Consultant shall perform three (3) Standard Penetration Tests (SPTs) and two (2) exfiltration tests.

Task 2 – Construction Documents – Plans Preparation

- Consultant shall examine and verify all existing site conditions as to their accuracy as depicted on the boundary & topographic survey furnished by the Owner.

Preliminary Design (60%)

The seawall replacement anticipated to extend from its interface with an existing, intact seawall on the south to the north property line (approx. 80 LF). Geotechnical data will be evaluated for the design of the seawall, along with lateral loads due to mooring, surcharges, and other identified loads. It is anticipated the new bulkhead will consist of concrete panels with anchorage for lateral support (e.g., batter piles). A sheet piling wall may serve as an alternative, either cantilevered or with anchorage. The seawall design will include a reinforced concrete cap and consider sea level rise elevation predictions. The existing marginal dock is anticipated to be impacted as part of the seawall construction, therefore, it is proposed to be removed. Preliminary drawings, at approximately 60% completion level, shall include sufficient detail for submittal to the regulatory agencies as 'permit sketches'. The plans will be prepared in CAD format using industry standards

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for this type of construction. Specifications and details for materials will be developed for various components as part of the design process. The following drawing sheets are anticipated:

- Cover Sheet – Location maps, titles, etc.
- General Notes – Specifications, materials, list of abbreviations, etc.
- Site Plan – Existing conditions, bathymetric survey, etc.
- Proposed Plan – seawall, piling, turbidity curtain, etc.
- Sections – Cross sections of seawall, structural details, etc.

Construction Documents (100%)

Consultant will finalize the design and drawings of the seawall replacement (approx. 80 LF). The plans and calculations will be signed and sealed by a Florida registered Professional Engineer.

Task 3 – Permitting and Approvals

- Consultant shall prepare submittal packages and submit for government agency permits with the appropriate calculations and back-up to the following agencies:
  - Miami-Dade County – Department of Environmental Resource Management (DERM) (Short Form Class I Coastal Construction Permit)
  - Florida Department of Environmental Protection (FDEP) – Statewide Environmental Resource Permit Exemption Verification Form
  - U.S Army Corps of Engineers (USACOE) – JaxBO forms (with DERM permit application)
  - Town of Bay Harbor Islands Public Works Department
- Consultant shall revise plans and coordinate permit resubmittals.

Task 4 – Bid & Award Support Services – Consultant shall perform the following:

- Attendance at a pre-bid meeting
- Prepare responses to questions from bidders for the scope of work in this proposal.
- Review bids to assist in selecting a qualified contractor.

Task 5 – Limited Construction Administration Support Services – Consultant shall perform the following:

- Consultant shall attend one pre-construction meeting, as arranged by the client.
- Consultant shall perform all required shop drawing reviews as they relate to the improvements designed and permitted under this scope of services.
- Consultant shall respond to requests for information (RFIs) during both the bid and construction phases.
- Consultant shall perform one weekly site visit and provide a construction observation report for each visit.
- Coordination of certification/site close out packages.

BASIS OF SCOPE

The basis for the above scope of services and associated fee(s) are based on the following:

- Project shall be completed in a single phase.
- The Project is in the Town of Bay Harbor Islands, Florida.

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- All project management and communications shall be undertaken by the prime consultant, CMA.
- Upland improvements (from the sea wall east) of any kind are specifically excluded from this scope of work.
- Specifications shall be included on the design plans on an as-needed basis.
- Client to pay all required permit fees.
- Construction staging plans and maintenance of traffic plans are not included in this scope.
- Contractor to obtain any necessary NPDES NOI permits.
- Contractor to prepare any dewatering plans and obtain dewatering permit(s).
- Contractor to obtain permits for construction as applicable.

INFORMATION TO BE PROVIDED BY CLIENT

Information to be provided by City includes the following:

- Copies of all relevant data, including correspondence, plans, specifications or any other information in the Town's possession which may be beneficial to the work effort to be performed by Consultant.
- Filing and permit application fees, review fees, impact fees or any other associated assessments by other governments/agencies.
- An official Notice to proceed (NTP) or work order from the Town of Bay Harbor Islands.

SCHEDULE AND FEES

Consultant shall schedule work upon receipt of signed approval and shall provide the aforementioned services in accordance with RFQ2013-06 Professional Services Agreement for General Engineering Services. The total lump sum fees for this project are as follows:

Task(s)	Task Description	Lump Sum Fees	Total Fees
1	Utility Coordination, Site Reconnaissance & Data Collection	$2,610.00	$2,610.00
2	Construction Documents – Plans Preparation	$4,290.00	$4,290.00
3	Permitting and Approvals	$2,850.00	$2,850.00
4	Bid & Award Support Services	$2,010.00	$2,010.00
5	Limited Construction Admin. Support Services	$5,680.00	$5,680.00
	Civil Engineering Subtotal	**$17,440.00**	**$17,440.00**
	Sub-consultants		
	Surveying – Longitude Surveyors, Inc.	$4,916.25	$4,916.25
	Geotechnical Engineering – PanGeo Consultants	$5,037.00	$5,037.00
	Coastal Engineering – Cummins Cederberg	$51,750.00	$51,750.00
	Sub-Consultants Subtotal	**$61,703.25**	**$61,703.25**
	Reimbursables Allowance	$2,500.00	$2,500.00
	TOTAL	**$81,643.25**	**$81,643.25**

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Miami, FL 33145
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Reimbursable expenses for mileage and report preparation have been included in the lump sum fees noted above. Additional reimbursable expenses requested by the Client outside of the items for the tasks above, including delivery of additional copies of items shall be invoiced as defined in our Continuing Services Agreement for Professional Engineering Services

This proposal is based on our understanding of the requirements for engineering services as itemized under the anticipated tasks listed above. Accordingly, we reserve the right to modify this proposal due to any changes in scope.

Should you have any questions, please do not hesitate to contact me at my office at +1 (786) 497-1500, Ext. 1125, my cell phone at +1 (305) 562-4789 or send me an electronic message at gmendez@chenmoore.com.

Respectfully submitted,



CHEN MOORE AND ASSOCIATES
Gregory Mendez, P.E.
Principal Engineer / Miami Office Leader

Cc: Jose L. Acosta, P.E., Chen Moore and Associates

2103 Coral Way, Suite 401
Miami, FL 33145
Office: +1 (786) 497-1500

chen moore and associates

AGREEMENT FOR PROFESSIONAL SERVICES - WORK AUTHORIZATION

CMA Project Name: **Sea Wall Replacement**
Client Name: **Town of Bay Harbor Islands**
Client Contact: **Mr. Jose Custodio, P.E. - Town Engineer**
Client Address: **9665 Bay Harbor Terrace, Bay Harbor Islands FL 33154**
Client Phone/Mobile: **+1 (305) 886-6241 / M(786) 256-8965**
Client E-mail: jcustodio@bayharborislands-fl.gov

CMA Project No. **22-0326.P0004**
Agreement Date: **May 11, 2022**

FEE: Lump Sum of **$79,143.25 (**+ a $2,500.00 Reimbursables allowance)

RETAINER: **N/A**

Notice to Owner: Town of Bay Harbor Islands is the Owner of the site.

The undersigned agree to the afore-mentioned scope of work. Any additional requested services will be addressed in a separate agreement.

CHEN MOORE AND ASSOCIATES, INC. (CONSULTANT)

_____
Authorized Signature

_____
Print Name/Title

_____
Date

TOWN OF BAY HARBOR ISLANDS (CLIENT)

_____
Authorized Signature

_____
Print Name/Title

_____
Date

AGENDA ITEM REPORT
June 9, 2022

ITEM NUMBER: 9.

ITEM: Consideration and **Approval** of BCC Engineering Inc. Proposals for the total amount of $74,560 to design additional structural improvements required by the Town to the Plans being prepared for the Indian Creek Bridge (875103) and for the West Relief Bridge (875105). Enclosed are copies of the Proposals.

DESCRIPTION:
Both the Indian Creek Bridge and West Relief Bridge were inspected by FDOT in 2021 and the Inspection Report identified both bridges as "Structurally Deficient". On the Indian Creek Bridge, FDOT has imposed a weight limit restriction of 27 TONS (equivalent to a 9 cubic yards concrete truck). As discussed with BCC, these bridges were designed using Sonovoid Units. The main issue with Sonovoid bridges is either the post tensioning is not spaced close enough, or relaxes, so over time group action is lost and the slab units are allowed to deflect independently. They are in conversations with FDOT and they believe this is the reason these bridges were cataloged as "Structurally Deficient".

Recently, the FDOT has been using Ultra-High Performance Concrete (UHPC) instead of steel plates to address the sonovoid slab problems. The retrofit requires to hydro-demolition the area between the slab units, remove approximately 7” to 10” wide by 6” to 7” deep concrete and place the new UHPC with U-bar reinforcement. This will remove the differential movement between the slab units and we should obtain better distribution factors for the Load Rating of the bridge. The design of the repairs will be coordinated with FDOT to make sure these will result in the removal of the weight limit restriction and improve the condition of the bridge. BCC will also review the load rating performed by FDOT and perform a load rating with the new UHPC details to justify the removal of the signs.

Enclosed are copies of the Proposals.

RECOMMENDED ACTION:
Approval

FINANCIAL ANALYSIS:
Fund 401.5415.400063.000 includes monies for the bridge repairs, approximately $900,000 as part of the FY21-22 Budget. For FY22-23 a total of $400,000 are being allocated for the repairs of the Indian Creek Bridge and $500,000 for the West Relief Bridge repairs.

BUDGET IMPACT:

Name	Impact Date	Fund(s)	Account(s)	Project #(s)	Amount Budgeted

FDOT Inspection Report Repairs: Spall Replacement	06/09/2022	$74,560	401.5415.400063.000	BHI-159 and BHI-161	$900,000

Submitted By: Jose Custodio, Town Engineer
Maria Lasday, Town Manager

ATTACHMENTS

1.	BC-156 Bridge 875103 - Bridge Repair_BCC_Update
2.	Bridge 875105 - Bridge Repair_BCC_Update

May 26, 2022

Douglas P. Armstrong
Public Works Director
Town of Bay Harbor Islands
9665 Bay Harbor TE
Bay Harbor Islands, FL 33154

RE: BC-156 Bridge No. 875013 – Repair Plans

Dear Mr. Armstrong,

BCC Engineering, LLC. is pleased for the opportunity to provide structural services on the above referenced project.

Scope of services will include:

BCC Engineering, LLC. will update the repairs plans due to the recent posting by FDOT on the subject bridge. Additional Scope is as follows:

- Review Load Rating Calculations performed by the FDOT
- Prepare new Load Rating Calculations after the repairs.
- Prepare MOT Plans
- Post Design for MOT.
- Schedule: Submittal will be completed 5 weeks after receiving NTP.

For the above services, our lump sum fee will be $33,920.00

Thank you and please feel free to contact our office if you have any questions or wish to discuss any item further.

Respectfully,



Joan De La Rosa, PE
Structures Division Manager
BCC Engineering, LLC

May 26, 2022

Douglas P. Armstrong
Public Works Director
Town of Bay Harbor Islands
9665 Bay Harbor TE
Bay Harbor Islands, FL 33154

RE: Bridge No. 875105 – Repair Plans

Dear Mr. Armstrong,

BCC Engineering, LLC. is pleased for the opportunity to provide structural services on the above referenced project.

Scope of services will include:

BCC Engineering, LLC. will prepare engineering plans on the behalf of the Town for the repairs on Bridge No. 875105. Additional Scope is as follows

- Review Load Rating Calculations performed by the FDOT
- Prepare new Load Rating Calculations after the repairs
- Compare Cost of Retrofit vs Replacement
- Prepare MOT Plans
- Post Design for MOT
- Schedule: 4 Additional to the original agreement, 16 weeks after NTP.

For the above services, our lump sum fee will be $ 40,640.00

Thank you and please feel free to contact our office if you have any questions or wish to discuss any item further.

Respectfully,



Joan De La Rosa, PE
Structures Division Manager
BCC Engineering, LLC

AGENDA ITEM REPORT
June 9, 2022

ITEM NUMBER: 10.

ITEM: Consideration and **Approval** of Task Order #1 with ATKINS North America, Inc. for an amount Not-to Exceed (NTE) $500,000 for the Broad Causeway Drawbridge SR-922 Replacement Project.

DESCRIPTION:
In August 2022, A Town Staff Committee evaluated the Qualifications Packages for the Broad Causeway Bridge Replacement Project PD&E Study. Based on this Evaluation ATKINS North America, was the highest ranked firm and recommended for award of the Project.

As part of Task Order #1, ATKINS will engage with FDOT and the Miami Dade TPO to start helping the Town with the first component of the PD&E Study which is the "Efficient Transportation Decision-Making" (ETDM Process). On this process a "Project Purpose and Statement" needs to be developed. This document is very important to determine if the Project will qualify for Federal Funds and what Federal Agency will take the lead on reviewing the documents (FDOT or US Coast Guard). During this process comments from all federal agencies involved in the Project will be received and will determine what will be the Scope of Work for Task Order #2 (PD&E Study). In addition, during this Task the Consultant will provide support to the Town in Grant Services for the Project, and in obtaining the State Certification for Local Agency Project (LAP) which is a requirement for every Project receiving money from the state or federal agencies. The Town will only be invoiced for hours incurred. Any remaining funds in the NTE Limit that are not utilized, will not be invoiced.

Enclosed is a copy of Task Order #1.

RECOMMENDED ACTION:
Approval.

FINANCIAL ANALYSIS:
The PD&E Process will take between 2-4 years to be completed and a total cost of approximately between $4-5M. As part of the FY21-22 Budget, $500,000 were allocated to this Project "Design of Broad Causeway Bridge" Task Order 1. For FY 22-23 a total of $2.1M are being allocated for Task Order 2.

BUDGET IMPACT:

Name	Impact Date	Fund(s)	Account(s)	Project #(s)	Amount Budgeted
Broad Causeway Bridge	06/09/2022	$500,000	401.5415.400063.000	BHI-	$500,000

Replacement PD&E				160	

Submitted By: Jose Custodio, Town Engineer
Maria Lasday, Town Manager

ATTACHMENTS

1.	Task Assignment 1 - NTE Start up Services - 5-25-22
2.	Exhibit B Atkins Rates - 5-25-22

Exhibit A: Scope of Services

Task Assignment 1: Start-Up Services
Broad Causeway Drawbridge SR 922 (#875101) Replacement Concept Design

Background

As set forth in the Master agreement, the Town of Bay Harbor Islands (CLIENT or TOWN) has contracted with Atkins to provide services in support of the Broad Causeway Drawbridge SR 922 (#875101) Replacement Project (Project). This will be a comprehensive, long-term project with several unknowns and project specifics that will need to be developed and refined as a part of the overall delivery. For this reason, the TOWN and Atkins have entered into a Master services agreement to span the life of the project, and which provides the flexibility to scope and fee individual task assignments that will be used to accomplish the over-arching goals of the project. Each task assignment will be accompanied by its own scope and fees, and the pricing will be in accordance with the rates established in the master agreement. All task assignments will be crafted toward progressive delivery of the over-arching project goals.

This scope reflects the first task assignment under the master contract. Due to the nature of this first assignment, the scope is less defined, and all services will be provided under one task as described in further detail below.

Task 1: Miscellaneous Time and Material Services

In order to facilitate a better understanding of the project requirements as they relate to the needs of the TOWN, the availability of potential funding streams, and to account for the flexibility and evaluation of various procurement and delivery approaches, miscellaneous services will be provided by Atkins to the TOWN under this Task Assignment 1. Both the services provided and the information that is collected under this assignment will be geared towards crafting future Task Assignments in accordance with project needs. The establishment of this Task Assignment will allow staff to have initial project and agency discussions, perform preliminary evaluations and services, address urgent needs and questions, and to begin work as quickly as possible while allowing future specific Task Assignments to be more firmly decided and outlined. The miscellaneous services that will be performed under this Task Assignment are geared towards starting the project, crafting a plan for future Task assignments that aligns with the overall needs of the TOWN and engaging in critical services related to the Efficient Transportation Decision Making (ETDM) process, the TOWN LAP certification process, grant and funding evaluations and other services in direct support of the overall Project.

Atkins will engage in all work on this Task Assignment under a time and materials not-to-exceed basis in accordance with the rates contained in the master contract as referenced again in **Exhibit B** for consistency. The hourly services will be confined to the upset limits in Exhibit B. There is no fixed scope for the services that will be provided under this Task Assignment and there are no firm deliverables. All services that will be delivered under Task Assignment 1 are hourly services and will be billed on a cost incurred basis as outlined in Exhibit B.

Due to the nature and anticipated short duration of this Task Assignment as it related to the longer-term duration of the overall project, the upfront services that Atkins will be providing under this task may vary in nature and as such specific deliverables are not identified. Staff will perform as-needed services and offer as-needed support to the TOWN and those services will cease once the Not-To- Exceed (NTE) upset limits of compensation for this Task Assignment are reached; at which point the scope of services associated with Task Assignment number 1 will be deemed complete regardless of the status of any individually assigned task or the total status of the overall job. It is anticipated that any items not completed within the upset limits of the this first Task assignment will be rolled into future Task Assignments under more defined scopes. However, the services provided under this Task assignment will be critical to determine the elements that are needed to be included in future Task assignments and to allow those more detailed scopes and fees to be developed.

This Task Assignment will remain open for the duration of the master contract (referenced above) under which it is attached, or until funds are depleted. Additional funds can be added to this Task Assignment at any time, under these same terms, if acceptable to both parties and deemed in the best interest of the overall project. All services performed under this Task Assignment will be under these conditions.

Some of the services that are anticipated to be included in the time and material services associated with Task Assignment 1 may include:

- **Meetings and Coordination Activities** – Atkins will meet with TOWN staff and various other stakeholders to assess the needs, timing and overall approach to the Project. The purpose of these meetings will be to better understand project constraints including funding, timing, procurement methods and options, and to discuss and collect other information that will be critical to better refining and planning for the overall project. This meeting can also be used to discuss various design options, and to provided analysis of benefits of differing procurement methods that may be considered on this project.
- **Grant Services** – Atkins will provide preliminary grant services geared towards assessing various funding options and determining what assistance may be needed in future phases. The potential for other financial services geared towards tolls and other bonding needed to support the project's construction may also be provided.
- **Refinement of Project Approach and Task Assignment Schedule** – Atkins will work with the TOWN to provide preliminary refinement of the project approach and set the groundwork for an anticipated schedule, scope and costs description of future Task Assignments that can be used for planning purposes. Services provided under this category will also allow development of scope and fee for future Task Assignments.
- **Preliminary Project Scheduling** – Atkins may provide work towards development of a preliminary schedule that will span the overall program.
- **ETDM and LAP assistance** – It is anticipated that preliminary meetings and work to support the ETDM process, and the TOWN's LAP recertification processes will be required. These support service can occur under this Task.

Atkins' project manager will act as the main point of contact for this Task Assignment. It is anticipated that various other Atkins staff will also be utilized including the principal and subject matter experts needed to set the proper foundation for the on-going project. Various staff with differing skill sets will likely be utilized and continued services under one or more Task assignments will likely result. QA/QC, management and supervision of all staffing required for this task will also be included services within the NTE limits.

Schedule

The work under this task order is anticipated to begin concurrent with the notice to proceed (anticipated in early June of 2022) through roughly October 31, 2022, at which time it is anticipated that the scope and fee for Task Assignment 2 will be executed. The end date of this assignment is approximate and will be automatically extended up to 6 months if funding remains in order to keep forward progression of the project. This will allow extra time to draft and refine Task Assignment 2, if that is needed, and also provide an avenue to continue services that might align with the project needs and that may not be a part of Task Assignment 2.

Due to the nature of Task Assignment 1, it is understood that the schedule, milestones and deliverables are fluid and there will be no penalties or other consequences associated with schedule, deadline or any activities delivered as a part of this Task. If the TOWN chooses to add funding to this task that is allowable as long as there is agreement from both parties and the services can continue beyond the anticipated end date for this Task Assignment under this same conditions as long as there is agreement from both parties.

Fee Basis

The services described under Task Assignment 1 will be billed on a time and materials (T&M) basis in accordance with the rates shown on Exhibit B (which are consistent with the master contract vehicle). Task 1 services will be provided within the not-to-exceed (NTE) upset limits shown on Exhibit B, which can be increased by the TOWN upon mutual agreement from Atkins, following required approvals. Once the upset limit is reached work will stop until or unless additional authorization is received at which time services can restart. Atkins is not responsible for any delays or impact to work caused as a result of exhaustion of the NTE upset limit and failure to timely replenish that limit or to have another Task Assignment in place for continued services.

It is not anticipated that sub-consultant services will be a part of Task Assignment 1. However, if such services are deemed necessary, they can be added under the upset limits of this task upon mutual approval by both Atkins and the TOWN. Atkins will work with the TOWN to align the services provided under this task with the needs of the TOWN and to ensure they largely remain geared towards refining the future Task Assignments and the actively outline in Task 1.

All the services provided shall be invoiced in accordance with the master agreement.

Assumptions

Due to the nature of this assignment, certain elements referenced the master services agreement do not apply and as such, the language of this individual task order assignment will govern. For example, as there is no set schedule for these preliminary services. As such, any tie to schedule or deliverable, including monetary consequences, will not be applicable to this Task Assignment.

Atkins will have the flexibility to assign staff that they feel is appropriate for the activities and that align with the needs of the TOWN. The Atkins PM will communicate with the TOWN on a routine basis as to the general level and total hours of staffing under this assignment, but it is recognized that services will be provided to the upset limits. If the TOWN elects to limit hours and/or staffing under this Task Assignment at any time, such as upon establishment of a more refined future Task Assignment, they may

do so via written email request. If this occurs, the TOWN will only be invoiced for hours incurred prior to confirmation of receipt of the communication to reduce overall staffing.

If subconsultant services are required/utilized under this Task Assignment, the costs associated with those services will be provided to the TOWN for approval prior to engagement and billed in accordance with the master contract terms. The costs associated with the subconsultant services will be deducted from the overall available funding.

Assumptions

- It is not anticipated that any directs expenses will be incurred under this contract. Any expense that are incurred, will be billed in accordance with the master agreement and will be billed against the approved upset limits of this Task Assignment.

Exhibit B: Compensation

Task Assignment 1: Start-Up Services
Broad Causeway Drawbridge SR 922 (#875101) Replacement Concept Design

The labor rates for the Atkins staff that are anticipated to be billing on Task Assignment 1 are shown in the master contract. All services will be provided as T&M with an initial NTE limit $500,000. It is not anticipated that subconsultant services will be provided under this assignment. However, if subconsultant services are provided as a part of this Task Assignment, they will be billed consistent with the Master contract and approved by the TOWN in advance. The NTE limit can be increased upon request from the TOWN and mutual consent by both parties. The TOWN will only be invoiced for hours incurred. Any remaining funds in this NTE limit that are not utilized, will not be invoiced.

Exhibit C: Signature and Acceptance

Task Assignment 1: Start-Up Services

Broad Causeway Drawbridge SR 922 (#875101) Replacement Concept Design

The scope and fee for Task Assignment #1 under the Master Services agreement for the above referenced project (Pages 1 to 5 of this document) has been reviewed and accepted by both parties as attested by the below signatures.

TOWN

Legal Name: TOWN OF BAYHARBOR ISLANDS,

a municipal corporation of the State of Florida

By: _____

Name: MARIA LASDAY

Title: Town Manager

Date: _____

WITNESS (to TOWN)

By: _____

Name: _____

CONSULTANT

Legal Name: Atkins North America, Inc.

By: _____

Name: Charlotte Maddox, PE

Title: Vice President

Date: _____

WITNESS (to CONSULTANT)

By: _____

Name: _____

Exhibit B: Hourly Billing Rates for Task Orders
Broad Causeway Drawbridge SR 922 (#875101) Replacement Concept Design

Staff Title	Billing Rates
Administrative Coordinator I	85.84
Architect I	89.82
Architect II	128.58
CAD Designer I	91.60
CAD Designer II	117.85
CAD Manager	170.76
CAD Technician I	64.64
CAD Technician II	84.79
Construction Management Representative I	95.23
Construction Management Representative II	126.04
Construction Manager	169.12
Designer I	89.16
Designer II	122.68
Emergency Management Technician I	129.36
Emergency Management Technician II	157.08
Engineer I	113.16
Engineer II	123.66
Engineer III	150.25
Estimator/Scheduler I	97.15
Geomaticist I	98.36
Geomaticist II	115.25
GIS Analyst I	91.10
GIS Analyst II	101.60
Intern I	69.30
Intern II	76.97
Landscape Architect II	127.34
Operations Coordinator I	93.09

Exhibit B: Hourly Billing Rates for Task Orders
Broad Causeway Drawbridge SR 922 (#875101) Replacement Concept Design

Staff Title	Billing Rates
Operations Coordinator II	116.00
Planner I	93.59
Planner II	112.87
Principal Technical Professional	372.00
Project Controls Manager	165.97
Project Director	294.73
Project Manager	306.08
Public Information Specialist I	92.32
Public Information Specialist II	111.62
Resident Engineer	202.23
ROW Agent I	107.56
ROW Agent II	125.10
ROW Technician I	77.33
ROW Technician II	89.90
Health, Safety and Security Manager	215.62
Scientist I	79.11
Scientist II	101.85
Sharepoint Systems Administrator	99.46
Software Developer I	95.02
Software Developer II	117.73
Sr Applications Developer II	192.93
Sr Architect I	146.04
Sr Architect II	171.90
Sr Architect III	211.50
Sr Architect IV	232.61
Sr CAD Technician	125.53
Sr Designer I	147.71
Sr Designer II	163.19
Sr Designer III	186.14
Sr Designer IV	220.33
Sr Emergency Management Technician I	114.94
Sr Engineer I	146.23
Sr Engineer II	175.77

Exhibit B: Hourly Billing Rates for Task Orders
Broad Causeway Drawbridge SR 922 (#875101) Replacement Concept Design

Staff Title	Billing Rates
Sr Engineer III	246.06
Sr Engineer IV	266.00
Sr Estimator/Scheduler I	160.57
Sr Estimator/Scheduler II	187.74
Sr Field Representative I	117.84
Sr Geomaticist I	102.08
Sr Geomaticist II	164.47
Sr GIS Analyst I	112.87
Sr GIS Analyst II	163.90
Sr Graphic Designer II	137.61
Sr Landscape Architect I	124.82
Sr Operations Coordinator I	131.47
Sr Planner I	127.87
Sr Planner II	158.74
Sr Planner III	209.53
Sr Project Director	328.13
Sr Project Manager	295.62
Sr Public Information Specialist	141.45
Sr ROW Agent I	135.75
Sr ROW Agent II	161.59
Sr Scientist I	129.48
Sr Scientist II	165.21
Sr Scientist III	200.83
Sr Scientist IV	246.69
Sr Sector Manager	397.61
Sr Software Developer I	135.24
Sr Survey Field Data Specialist I	77.95
Sr Surveyor I	127.11

Exhibit B: Hourly Billing Rates for Task Orders
Broad Causeway Drawbridge SR 922 (#875101) Replacement Concept Design

Staff Title	Billing Rates
Sr Surveyor II	142.16
Sr Technical Manager I	254.53
Sr Web Designer	128.83
Sr Word Processor I	91.10
Surveyor I	98.93
Surveyor II	128.13
Technical Manager I	179.77
Technical Manager II	221.16
Technician I	63.46
Technician II	70.87

Note: Atkins staff will be billed according to the rates shown in Attachment B based on staff titles. Adjustment to staff title billings to reflect project roles or to account for billings associated with staff titles not reflected in Exhibit B is allowable on a limited basis with advanced approval of the client. If such adjustment is made, email approval from the cleint shall be obtained prior to the first relevant invoice and included as back-up for that initial affected billing invoice.

The rates in this section will be used to build-up to the overall fee associated with each Individual Task Assignment. Fee proposals shall be detailed, with staff title by task and hours. Hours allocated to the Principal Technical Professional category will be limited. The billing will be T&M, not to exceed (NTE) in accordance with the Master contract unless mutually agreed by all parties in an individual Task assignment to bill lump sum (LS). It is noted that the actual number of hours billed by each staff category under the individual Task Assignments will likely vary from those reflected in the fee estimates as the rate build up will be to support the NTE Task Assignment limits and to provide fee estimation but will not identically represent the actual hours worked by staff as they complete the Task assignments.

The rates will be set for the first two years of the project and will be subject to an automatic 3% cost of living increase each year thereafter concurrent with the start of the Town's FY on October 1 (starting on October 1, 2024). All active Task Assignments will remain within the same NTE upset limits regardless of cost-of-living rates increases that occur after Task Assignment NTP, but the staff billings associated with those active Task Assignments will increase to reflect the adjusted billing rates.

The listed minimum job requirements for Atkins staff titles follows. Staff title requirements are standard for Atkins and all Atkins staff are assigned titles using the referenced criterion. It is noted that in some cases, staff can hold a title without meeting the minimum requirements of all criteria; typically, this occurs,

when they have additional qualifications, certifications and/or experiences above the minimum requirements of one or more criterion. For example, positions that require a bachelor's and minimum number of years of experience can be held by staff with a masters and less working experience. Staff will bill according to title/role. Use of Atkins staff, outside of North American will be billed hourly in accordance with their job role using these rates.

The job descriptions associated with each billing title are shown starting on Page B-5.

Exhibit B: Hourly Billing Rates for Task Orders
Broad Causeway Drawbridge SR 922 (#875101) Replacement Concept Design

Title	Education and Experience
Administrative Coordinator I	Bachelor's degree in Business Administration, plus five years' experience. Without a degree, requires ten years' experience in progressively responsible administrative work.
Architect I	Bachelor's degree in Architecture. Minimal experience is required of incumbents with a Bachelor's degree in Architecture; no experience required with a Master's degree in Architecture.
Architect II	Bachelor's or Master's degree in Architecture. This level may be achieved by Architects with two years' experience with Bachelor's or one year experience with Master's. Typical incumbent has four to five years' experience.
CAD Designer I	College degree in related technical field. CAD training required. Generally requires minimum six years of related experience in a combination of technician and/or CAD technician or designer positions. May also require experience in the particular discipline supported. Strong knowledge of sat and local codes and ordinances, design inputs codes and standards.
CAD Designer II	College degree in related technical field. CAD training required. Generally requires minimum eight years of related experience in a combination of technician and/or CAD technician or designer positions. May also require experience in the particular discipline supported. Strong knowledge of sat and local codes and ordinances, design inputs codes and standards.
CAD Manager	Bachelor's degree in technical field or high school plus five years of specialized technical training, such as is obtained in a vocational or technical school. Formal CAD training preferred. Generally requires minimum twelve years of experience in a combination of technician, and/or CAD technician or designer positions, at least three years of which should have been working at a prior level within the firm. May also require experience in the particular discipline supported.
CAD Technician I	High school diploma (or equivalent) plus four years related experience OR an Associates Degree in a related technical field plus two years related experience is required.
CAD Technician II	High school diploma (or equivalent) plus six years related experience OR an Associates Degree in a related technical field plus four years related experience is required.
Construction Management Representative I	Bachelor's degree in construction management, civil engineering, or related field. With Associate's degree, eight years of related experience. Without a degree, ten years of related experience is required.

Exhibit B: Hourly Billing Rates for Task Orders
Broad Causeway Drawbridge SR 922 (#875101) Replacement Concept Design

Title	Education and Experience
Construction Management Representative II	Bachelor's degree in construction management, civil engineering, or related field and two years related experience. With Associate's degree, ten years of related experience. Without a degree, twelve years related experience is required.
Construction Manager	Bachelor's degree in construction management, civil engineering, or related field and seven years related experience including personnel supervision. Engineering design experience desirable. With Associate's degree, fifteen years of related experience. Without a degree, seventeen years related experience is required.
Designer I	Bachelor's degree in Engineering, Architecture or equivalent technical discipline, or Associate's degree plus a minimum of eight years' progressive drafting and design experience, including at least two as a Designer, or HS diploma (or equivalent) plus a minimum of ten years progressive drafting and design experience.
Designer II	Bachelor's degree in Engineering, Architecture or equivalent technical discipline plus five years' experience, or Associate's degree plus a minimum of twelve years' progressive drafting and design experience, including at least four as a Designer, or HS diploma (or equivalent) plus a minimum of fifteen years progressive drafting and design experience, including at least seven as a Designer.
Emergency Management Technician I	High school diploma (or equivalent) plus four years related experience OR an Associate's Degree in a related technical field plus two years related experience is required.
Emergency Management Technician II	High school diploma (or equivalent) plus six years related experience OR an Associate's Degree in a related technical field plus four years related experience is required.
Engineer I	B.S. in Engineering. Minimal experience is required of incumbents with a Bachelor's Degree in a branch of Engineering directly related to hiring discipline; no experience required with a Master's degree.
Engineer II	B.S. or M.S. in Engineering. This level my be achieved by Engineers with 2 years' experience since B.S. or 1 year since M.S. The typical incumbent has 3 to 5 years' experience since Bachelor's degree.
Engineer III	B.S. or M.S. in Engineering. This level may be achieved by Engineers who compensate for lack of P.E. through 10 or more years of experience since Bachelor's degree.
Estimator / Scheduler I	Minimal experience required with Bachelor's degree. No experience required with Masters degree

Exhibit B: Hourly Billing Rates for Task Orders
Broad Causeway Drawbridge SR 922 (#875101) Replacement Concept Design

Title	Education and Experience
Geomaticist I	Bachelor's degree in Geomatics, Engineering, Land Surveying or related discipline. Must be proficient with survey calculations, CAD, and GIS.
Geomaticist II	Bachelor's degree in Geomatics, Engineering, Land Surveying or related discipline, plus two years post-bachelor's professional experience as a Geomaticist. Must be proficient with survey calculations, CAD, and GIS.
GIS Analyst I	B.S. or B.A. in Geography, Computer Science or related GIS Environmental Discipline, commensurate with hiring discipline. Minimal experience is required of incumbents with directly related Bachelor's Degree; no experience required with a Master's degree.
GIS Analyst II	B.S. or B.A. or M.S. in Geography, Computer Science or GIS related Environmental Discipline commensurate with hiring discipline. This level may be achieved by GIS practitioners with 2 years of experience since Bachelor's degree or 1 year since Master's. Typical incumbent has 4 -5 years' experience.
Intern I	High school level courses in math, technical drafting, computer assisted drafting and/or science may be required. No experience is generally required with the applicable high school courses or equivalent training, or if accepted into an Associate's or Bachelor's degree program in a related technical field.
Intern II	High school plus two years of specialized training such as is obtained in vocational or technical school, or completion of an Associate's degree program in a related technical field, or completion of the first two years in a four-year college or university technical program. No experience is required with a related Associate's degree or its equivalent; two years of related experience is required without such formal training.
Landscape Architect II	Bachelor's or Master's degree in Landscape Architecture. This level may be achieved by Landscape Architects with two years of experience w/Bachelor's degree or one year experience w/Master's degree; typical incumbent has approximately four to five years' experience.
Operations Coordinator I	Bachelor's degree in Business Administration, plus five years' experience. Without a degree, requires ten years' experience in progressively responsible administrative work.
Operations Coordinator II	Bachelor's degree in Business Administration, plus seven years' experience. Without a degree, requires twelve years' experience in progressively responsible administrative work.
Planner I	Bachelor's or Master's degree in Planning or related degree. Minimal experience required with Bachelor's degree. No experience required with Master's degree.

Exhibit B: Hourly Billing Rates for Task Orders
Broad Causeway Drawbridge SR 922 (#875101) Replacement Concept Design

Title	Education and Experience
Planner II	Bachelor's or Master's degree in Planning or related field. This level may be achieved by Planners with two years experience since Bachelor's or one year since Master's. Typical degreed incumbent has 4-5 years experience.
Principal Technical Professional	Bachelor's or Master's degree in appropriate discipline. Ph.D. preferred. This level may be achieved by technical professionals with 20 years of experience since Bachelor's degree or 18 years since Master's. Typical incumbent has 20-25 years of experience.
Project Controls Manager	Bachelor's degree with major in Accounting, Finance or related field. Minimum seven years experience in financial and administrative work with at least five years in a supervisory capacity with budget responsibility.
Project Director	Bachelor's degree in field of practice. Graduate degree preferred. Management coursework and/or MBA a plus. This level may be achieved by technical professionals or managers with twelve years of experience since B.S. or eleven years since M.S., with at least three of these years in the Senior Project Manager position with highly complex project management responsibility.
Project Manager	Bachelor's degree in field(s) of practice. Graduate degree desirable. Management coursework and/or MBA a plus. This level may be achieved with 8 years experience in project production and technical professional activities, two of these working as a Sr. Technical Professional.
Public Information Specialist I	Bachelor's degree in Communication Studies, Public Relations, English, Public Administration, or related degree; excellent writing and proofreading skills; and strong verbal communication skills required. Internship in consulting firm preferred.
Public Information Specialist II	Bachelor's degree in Communications, Journalism, English, or related field from an accredited four-year college or university. Three or more years of professional related experience involving public relations, public outreach and other related areas. Knowledge of public relations and public involvement techniques and strategies; knowledge of media relations strategies.
Resident Engineer	Bachelor's degree in Civil Engineering or equivalent. Ten years experience with Bachelor's in a combination of engineering design and construction/construction observation activities, including management and supervision of field personnel. Twenty years experience without degree.
ROW Agent I	Bachelor's degree in Real Estate, Business Administration or other related field. Without a degree, ten years professional experience in real estate, property management or other related areas is required.

Exhibit B: Hourly Billing Rates for Task Orders
Broad Causeway Drawbridge SR 922 (#875101) Replacement Concept Design

Title	Education and Experience
ROW Agent II	Bachelor's degree in Real Estate, Business Administration, or other related field plus two years of professional experience in real estate, property management, or other related areas. Without a degree, twelve years professional experience in real estate, property management or other related areas is required.
ROW Technician I	High school diploma (or equivalent) plus four years related experience OR an Associates Degree in a related technical field plus two years related experience is required.
ROW Technician II	High school diploma (or equivalent) plus eight years related experience OR an Associates Degree in a related technical field plus six years related experience is required.
Safety Health and Environment Manager	Bachelor's degree in science, engineering, or a relevant technical discipline, plus minimum seven years EHS-related technical experience, including at least three years in an EHS management position.
Scientist I	B.S. or B.A. in a field of Science to commensurate with hiring discipline. Minimal experience is required of incumbents with directly related Bachelor's degree; no experience is required with a Master's degree.
Scientist II	B.S./B.A. or M.S. in a field of Science to commensurate with hiring discipline. This level may be achieved by Scientists with minimum three years' experience since Bachelor's degree or two years' experience with Master's degree; typical incumbent has five years' experience.
SharePoint Systems Administrator	Bachelor of Science in Computer Systems or similar degree. Minimum five years network/system administration and PC support experience. Requires enterprise level experience with 2003 Active Directory, IIS 5 and 6, SharePoint 2007 and Microsoft SQL Server 2005; strong understanding of Microsoft Operating Systems, Exchange, and Active Directory; good understanding of network security and management frameworks; experience in integrating MOSS with a Microsoft Exchange Server environment; experience in Document Collaboration tools and company wide information systems; experience in formal Business Analysis and/or Business Process Engineering; excellent organizational and communication skills to coordinate with departmental business units regarding all aspects of IT projects. Experience with setting up Single Sign On and Microsoft Identity Integration server is a plus.

Exhibit B: Hourly Billing Rates for Task Orders
Broad Causeway Drawbridge SR 922 (#875101) Replacement Concept Design

Title	Education and Experience
Software Developer I	B.S. or B.A. in Computer Science, IT-related discipline or four years relevant computer programming experience after degrees in Engineering or other related disciplines. Minimal experience is required of incumbents with directly related Bachelor's degree. Non-degreed practitioners must demonstrate at least six years of direct experience in lieu of degree.
Software Developer II	B.S. or B.A in Computer Science, IT-related discipline, or four years relevant computer programming experience after degrees in Engineering, or other related disciplines. This level may be achieved by practitioners with 2 years of experience since related Bachelor's degree; minimal experience required with related Master's degree if academic program provided opportunity to develop software development experience directly applicable to job. Non-degreed practitioners must demonstrate at least six years of direct experience in lieu of degree. Typical incumbent has 4-6 years' experience.
Sr. Applications Developer II	Bachelor's degree and seven years of experience in applications development and programming. Must have extensive experience with current object-oriented programming techniques and web development tools. Must also demonstrate experience with database design and/or administration of enterprise relational database management systems and large scale custom applications. As applicable based on anticipated application specialization, must have minimum of 5 years experience with relevant application development and administration (e.g., Remedy, application/systems architecture).
Sr Architect I	Bachelor's or Master's degree in Architecture. This level may be achieved by Architects with four years experience since Bachelor's degree or three years experience with Master's. Typical incumbent has six to ten years experience.
Sr Architect II	Bachelor's degree in Architecture; graduate level technical coursework preferred. This level may be achieved by Architects with seven years experience since Bachelor's degree or six years experience with Master's degree. Typical incumbent has ten or more years' experience.
Sr Architect III	Bachelor's degree in Architecture; Master's degree in Architecture or graduate level technical coursework preferred. This level may be achieved by Architects with ten years experience since Bachelor's degree or nine years experience with Master's degree. Typical incumbent has fifteen or more years' experience.

Exhibit B: Hourly Billing Rates for Task Orders
Broad Causeway Drawbridge SR 922 (#875101) Replacement Concept Design

Title	Education and Experience
Sr Architect IV	Bachelor's degree in Architecture; Master's degree in Architecture or graduate level technical coursework preferred. This level may be achieved by Architects with fifteen years experience since Bachelor's degree or fourteen years with Master's degree. Typical incumbent has twenty or more years' experience.
Sr CAD Technician	High school diploma (or equivalent) plus twelve years related experience OR an Associates Degree in a related technical field plus ten years related experience is required. Strong knowledge of state and local codes and ordinances, design input codes and standards.
Sr Designer I	Bachelor's degree in Engineering, Architecture or equivalent technical discipline plus ten years' experience, or Associate's degree plus a minimum of fifteen years' progressive drafting and design experience, including at least seven as a Designer, or HS diploma (or equivalent) plus a minimum of twenty years progressive drafting and design experience, including at least ten as a Designer.
Sr Designer II	Bachelor's degree in Engineering, Architecture or equivalent technical discipline plus fifteen years' experience, or Associate's degree plus a minimum of twenty years' progressive drafting and design experience, including at least twelve as a Designer, or HS diploma (or equivalent) plus a minimum of twenty five years progressive drafting and design experience, including at least fifteen as a Designer.
Sr Designer III	Bachelor's degree in Engineering, Architecture or equivalent technical discipline plus fifteen years' experience, or Associate's degree plus a minimum of twenty five years' progressive drafting and design experience, including at least twenty as a Designer, or HS diploma (or equivalent) plus a minimum of twenty five years progressive drafting and design experience, including at least twenty as a Designer.
Sr Designer IV	Bachelor's degree in Engineering, Architecture or equivalent technical discipline plus fifteen years' experience, or Associate's degree plus a minimum of twenty five years' progressive drafting and design experience, including at least twenty as a Designer, or HS diploma (or equivalent) plus a minimum of twenty five years progressive drafting and design experience, including at least twenty FIVE as a Designer.
Sr Emergency Management Technician	High school diploma (or equivalent) plus eight years related experience OR an Associate's Degree in a related technical field plus six years related experience is required.

Exhibit B: Hourly Billing Rates for Task Orders
Broad Causeway Drawbridge SR 922 (#875101) Replacement Concept Design

Title	Education and Experience
Sr Engineer I	B.S. or M.S. in Engineering. This level may be achieved by Engineers with four years' experience since B.S.; three years experience since M.S. Incumbents typically have six to ten years' experience since Bachelor's degree.
Sr Engineer II	B.S. or M.S. in Engineering. M.S. or graduate level technical coursework preferred. This level may be achieved by Engineers with seven years of experience since B.S. or 6 years since M.S. Typical incumbent has ten to fourteen years of experience.
Sr Engineer III	B.S. or M.S. in Engineering. M.S. or graduate level technical coursework preferred. This level may be achieved by Engineers with ten years experience since B.S. or nine years since M.S. Typical incumbent has 15 to 20 years of experience.
Sr Engineer IV	B.S. or M.S. in Engineering. M.S. or graduate level technical coursework preferred. This level may be achieved by Engineers with fifteen years experience since Bachelor's or fourteen years since Master's. Typical incumbent has 20+ years of experience.
Sr Estimator / Scheduler I	Bachelor's degree in technical discipline with 7 years' relevant experience; 6 years' experience required with Master's degree; or 10 years' experience in project control or cost analysis with an Associates Degree.
Sr Estimator / Scheduler II	Bachelor's degree in technical discipline with ten years relevant experience; nine years experience required with Master's degree; or twelve years experience in project control or cost analysis with an Associates Degree.
Sr Field Representative I	High school diploma (or equivalent) plus ten years related experience OR an Associates Degree in a related technical field plus eight years related experience is required.
Sr Geomaticist I	Bachelor's degree in Geomatics, Engineering, Land Surveying or related discipline, plus four years post-bachelor's professional experience as a Geomaticist. Must be proficient with survey calculations, CAD, and GIS.
Sr Geomaticist II	Bachelor's degree in Geomatics, Engineering, Land Surveying or related discipline, plus seven years post-bachelor's professional experience as a Geomaticist. Must be proficient with survey calculations, CAD, and GIS.
Sr GIS Analyst I	B.A. or B.S. or M.S. in Geography, computer science, or GIS-related environmental discipline commensurate with hiring discipline. This level may be achieved by GIS practitioners with 4 years of experience since Bachelor's degree or 2 years since Master's. Typical incumbent has 6 -7 years experience.

Exhibit B: Hourly Billing Rates for Task Orders
Broad Causeway Drawbridge SR 922 (#875101) Replacement Concept Design

Title	Education and Experience
Sr GIS Analyst II	B.S. or B.A. or M. S. in Geography, Computer Science, or GIS related Environmental Discipline. This level may be achieved by GIS practitioners with 7 years of experience since Bachelor's degree or 6 years since Master's. Typical incumbent has 8 - 10 years experience.
Sr Graphic Designer	A.A. or B.A. degree in Graphic Design or related degree, or the equivalent combination of education and experience. For this level, minimum 7 years experience in all phases of graphic design with an A.A.; with Bachelors degree, 5 year minimum.
Sr Landscape Architect	Bachelor's or Master's degree in Landscape Architecture. This level may be achieved by Landscape Architects with four years experience w/Bachelor's or three years experience w/Master's degree; typical incumbent has six to seven years' experience.
Sr Operations Coordinator I	Bachelor's degree in Business Administration, plus ten years' experience. Without a degree, requires fifteen years' experience in progressively responsible administrative work.
Sr Planner I	Bachelor's or Master's degree in Planning or related field. This level may be achieved by Planners with five years experience since Bachelor's or four years since Master's. Typical incumbent has 6-7 years experience.
Sr Planner II	Bachelor's or Master's degree in Planning or related field. Master's or graduate level technical coursework preferred. This level may be achieved by Planners with seven years experience since Bachelor's or six years since Master's. Typical incumbent has 8-10 years' experience.
Sr Planner III	Bachelor's or Master's degree in Planning or related field. Master's or graduate level technical coursework preferred. This level may be achieved by Planners with ten years experience since Bachelor's or nine years since Master's. Typical incumbent has 12-15 years experience. Some public agency experience desirable.
Sr Project Director	Bachelor's degree in field of practice. Graduate degree preferred. Management coursework and/or MBA a plus. This level may be achieved by technical professionals or managers with fifteen years of experience since B.S. or fourteen years since M.S., with at least two of these years in the Senior Program Manager position with highly complex project management responsibility.
Sr Project Manager	Bachelor's degree in field(s) of practice. Graduate degree preferred. Management coursework and/or MBA a plus. This level may be achieved with ten years of experience in project production and technical professional activities, four of these working as a project manager.

Title	Education and Experience
Sr Public Information Specialist	Bachelor's degree in Communications, Journalism, English, or related field from an accredited four-year college or university. Five or more years of professional related experience involving public relations, public outreach and other related areas. Knowledge of public relations and public involvement techniques and strategies; knowledge of media relations strategies.
Sr ROW Agent I	Bachelor's degree in Real Estate, Business Administration, or other related field plus four years of professional experience in real estate, property management, or other related areas. Without a degree, fourteen years professional experience in real estate, property management or other related areas is required.
Sr ROW Agent II	Bachelor's degree in Real Estate, Business Administration, or other related field plus seven years of professional experience in real estate, property management, or other related areas. Without a degree, seventeen years professional experience in real estate, property management or other related areas is required.
Sr Scientist I	B.A./B.S. or M.S. in a field of Science to commensurate with hiring discipline. This level may be achieved by Scientists with minimum five years experience since Bachelor's degree or four years experience with Master's degree; typical incumbent has six to seven years' experience.
Sr Scientist II	B.S./B.A. or M.S. in a field of Science to commensurate with hiring discipline; M.S. or graduate level coursework preferred. This level may be achieved by Scientists with minimum seven years' experience since Bachelor's degree, or six years' experience with Master's degree; typical incumbent has eight to ten years' experience.
Sr Scientist III	B.S./B.A. or M.S. in a field Science to commensurate with hiring discipline; Master's or applicable graduate level coursework preferred. This level may be achieved by Scientists with ten years' experience since Bachelor's degree or nine years' experience with Master's degree; typical incumbent has twelve to fifteen years' experience.
Sr Scientist IV	B.S./B.A. or M.S. in Science to commensurate with hiring discipline; Master's or graduate level science coursework preferred. This level may be achieved by Scientists with fifteen years experience (with Bachelor's degree) or fourteen years experience (with Master's degree); typical incumbent has fifteen to twenty years experience.

Exhibit B: Hourly Billing Rates for Task Orders
Broad Causeway Drawbridge SR 922 (#875101) Replacement Concept Design

Title	Education and Experience
Sr Sector Manager	Bachelor's degree in field of practice. Post-graduate degree preferred. Management coursework and/or MBA a plus. This level may be achieved by technical professionals or technical managers with 20 years of experience since B.S., with at least five of these years in a senior operating management position.
Sr Software Developer I	B.S. or B.A in Computer Science, IT-related discipline, or four years relevant computer programming experience after degrees in Engineering or other related disciplines. This level may be achieved by practitioners with 4 years of experience since related Bachelor's degree or 3 years since Master's degree. Non-degreed practitioners must demonstrate at least six years of direct experience in lieu of degree. Typical incumbent has 6-10 years' experience.
Sr Survey Field Data Specialist I	High school diploma (or equivalent) plus six years related experience OR an associate's degree in a related technical field plus four years related experience is required. Experience should include two years as Party Chief or similar role. Interest in pursuing a Geomatics degree highly desirable.
Sr Surveyor I	Bachelor's degree plus four years related experience OR an associate's degree in a related technical field plus twelve years related experience OR high school diploma (or equivalent) plus fourteen years related experience is required.
Sr Surveyor II	Bachelor's degree plus seven years related experience OR an associate's degree in a related technical field plus fifteen years related experience OR high school diploma (or equivalent) plus seventeen years related experience is required.
Sr Technical Manager I	Bachelor's degree in field of practice. Post graduate degree preferred. Management coursework and/or MBA a plus. This level may be achieved by technical professionals or technical managers with 15 years of experience since B.S., with at least three of these years in positions with project management or supervisory responsibilities.
Sr Web Designer	Bachelor's Degree in related area and three years experience, including hands-on experience to provide working knowledge of state-of-the-art design and presentation software. Expert level knowledge of Photoshop, Fireworks, Illustrator, Dreamweaver, FrontPage, Flash and PowerPoint.

Title	Education and Experience
Sr Word Processor II	High school or General Educational Development (GED) graduate, plus microcomputer applications (word processing and spreadsheet) or business courses. Minimum seven years of general office experience, including at least five years of experience with applicable word processing software, preferably within the company or within the engineering/environmental industry. Must be skilled with Microsoft Windows operating system. Familiarity with earth and life sciences (biology, ecology, geology, archaeology, etc.) and engineering terminology helpful.
Surveyor I	Bachelor's degree OR an associate's degree in a related technical field plus eight years related experience OR high school diploma (or equivalent) plus ten years related experience is required.
Surveyor II	Bachelor's degree plus two years related experience OR an associate's degree in a related technical field plus ten years related experience OR high school diploma (or equivalent) plus twelve years related experience is required.
Technical Manager I	Bachelor's degree in field of practice. Post graduate degree preferred. Management coursework and/or MBA a plus. This level may be achieved by technical professionals or technical managers with 7 years of experience since B.S., with at least three of these years in positions with project management or supervisory responsibilities.
Technical Manager II	Bachelor's degree in field of practice. Post graduate degree preferred. Management coursework and/or MBA a plus. This level may be achieved by technical professionals or technical managers with 10 years of experience since B.S., with at least three of these years in positions with project management or supervisory responsibilities.
Technician I	High school diploma (or equivalent) plus four years related experience OR an Associates Degree in a related technical field plus two years related experience is required.
Technician II	High school diploma (or equivalent) plus six years related experience OR an Associates Degree in a related technical field plus four years related experience is required.

AGENDA ITEM REPORT
June 9, 2022

ITEM NUMBER: 11.

ITEM: Consideration and **approval** to purchase four (4) SOOFA solar-powered, smart city digital, Town-branded sign kiosks. Bay Harbor Islands own the rights to all communication and branding on the sign. No advertising will be permitted.

DESCRIPTION:
Approval to enter into a purchase agreement with SOOFA to purchase and service digital signage for Kane Concourse (2), the Community Center (1) and Town Hall (1) or elsewhere if the council prefers at a cost of $100,000.00 or $25,000 per sign. (Signs may be purchased individually for the same cost.) The initial cost includes the sign, the first-year's maintenance and a custom, branded vinyl skin for the sign(s). Additional vinyl skins may be purchased for $1,000 per sign.

SOOFA is a sole source provider and also provides signs to Miami-Dade County.

RECOMMENDED ACTION:
Approval.

FINANCIAL ANALYSIS:
This item was not budgeted for the current FY; however, the need to reach members of the Community who do not have Internet access or who do not use social media in real time is great. They would also expand our reach beyond residents to those visiting and would provide our residents with insights into pedestrian traffic, using cell phone signals. (No personally identifiable information will be collected.)

The Parks and Recreation department's adjusted current fiscal year's, FY 2021-2022 budget, line item 001.5720.400049.000 Other Current Charges has budgeted appropriations of $235,022.00. At the end of April 30, 2022, which is the seventh month of the Fiscal Year 2022, there was $87,952.54 expensed in this account, with the remaining balance of $147,069.46. The staff is to reclassify the $100,000.00 of these funds to the line item 001.5720.400063.000 Improvements (Excl. Buildings) where the SOOFA solar-powered, smart city digital,-branded signed kiosks will be expensed.

BUDGET IMPACT:

Name	Impact Date	Fund(s)	Account(s)	Project #(s)	Amount Budgeted
General Services	06/01/2022	$100,000.00	001.5720.400063.000	Improvements (Excl. Buildings)	$0.00

Agreement for Soofa Sign					

Submitted By: Yvonne Hamilton, Acting Town Clerk

ATTACHMENTS

1.	Soofa Sign General Services

soofa

General Services Agreement for Soofa Sign

Town of Bay Harbor Islands and Changing Environments, Inc.

May 2, 2022

SUMMARY

Product	Soofa Sign
Units	4
Upfront price per unit	$25,000
Upfront total price	$100,000
Annual Cost per unit in years 2-5	$6,200
Total annual cost each year 2-5	$24,800
Total costs for 5 year contract	**$199,200**

2. INSTALLATION

Final locations to be determined together with the Licensee. Sign placement will not physically obstruct safe, normal pedestrian or existing operations in any location. Physical installation of the Soofa Sign will be coordinated between the Licensee and Changing Environments. The Licensee agrees to use Soofa Sign as intended, including but not limited to, bolting the sign into the concrete sidewalk.

The Licensee agrees to make the location available to Changing Environments' employees, agents, and/or independent contractors for installation. If the Licensee does not provide timely location access, Changing Environments will not be held responsible for any delays in installation.

Installation, removal and location change is solely the responsibility of Changing Environments unless explicitly granted in writing. Shall the Licensee remove or relocate a Soofa Sign without Changing Environment's approval, the Licensee assumes full responsibility of the hardware and any related accidents or liability. In the event of a Sign relocation requested by the Licensee or the Licensee's subcontractor, Soofa may withhold the associated relocation, installation and storage fees from its quarterly revenue share paid to the City.

3. SPONSORED & RESTRICTED CONTENT

If Licensee selects an advertising model, Changing Environments will actively seek digital and static advertisement participation from businesses and institutions throughout the duration of this Agreement and retains exclusive responsibility for procurement. The Licensee will be entitled to 20% of net revenues after Changing Environments has recouped all initial costs and may not sell, license, or solicit paid partnerships. The Licensee will have no decision making authority over the businesses and/or institutions that statically or digitally advertise on the Sign. Revenue share will be paid out quarterly to the Licensee.

Changing Environments retains exclusive responsibility for the procurement and maintenance of paid content sponsors (advertisers) for 80% of the airtime through Soofa Talk for the Soofa Signs. The Licensee cannot sell in part or in whole their 20% reserved digital airtime through Soofa Talk.

Changing Environments retains the ultimate right to review all content before it is live and reserves the right to reject any advertisement which is in violation of any law, false, misleading or deceptive, or contrary to community standards. TheLicensee agrees to Changing Environment's Privacy Policy in the use of SoofaTalk.com.

4. INSURANCE

Changing Environments shall purchase and maintain, at its expense and during the term of this Contract, all insurance required by the applicable laws of Florida.

5. INDEMNIFICATION

The Licensee shall indemnify, defend, and hold harmless Changing Environments, its employees, officers, and agents from and against any claim, loss, damages, injury, expense, judgment or liability associated with the Soofa Sign to the extent such claim, loss, damages injury, expense, judgment or liability is caused by the willful, reckless, or negligent act or omission of the Licensee, its employees, officers and/or agents.

REVENUE SHARE CHECK

Please provide:

Name for check to be addressed to: _____

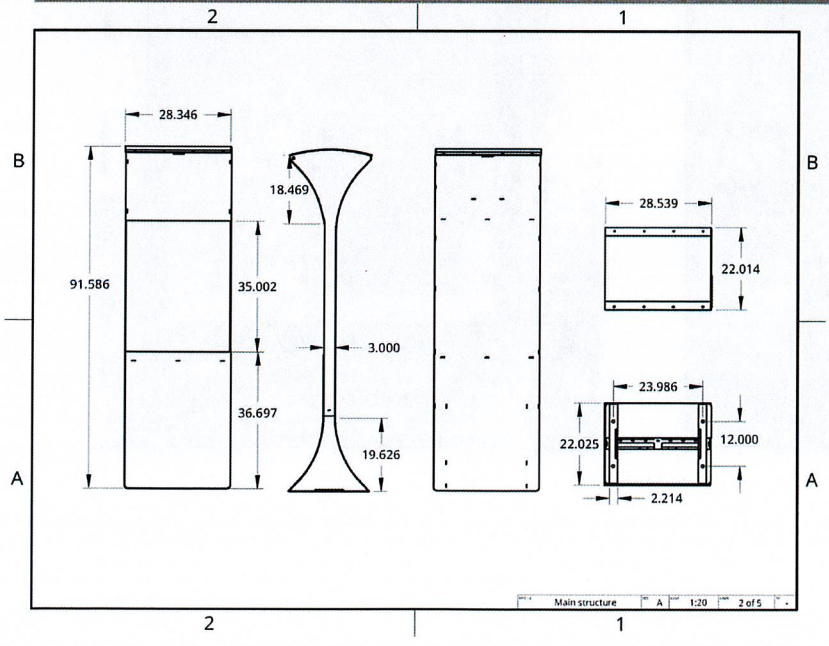
Address for check to be sent to : _____

Name, Title, and Email for revenue share report :_____

EXHIBIT A – SIGN DESIGN



DIMENSIONS SOOFA SIGN & INSTALLATION



All you need is a 8" long, ½" dia. adhesive anchored on top of threaded rods, min. 4" embedded in concrete. (Proposed Hilti HY 150 Injection Adhesive Anchors). The Soofa Sign is solar-powered and has its own cell service.

EXHIBIT C – VINYL WAYFINDING DECAL

Option 1: Communications Platform; Digital Advertising and Sponsorship Not Allowed

On the back of the Soofa Sign, a wayfinding vinyl decal is placed. Changing Environments reserves the right to use up part of the display area for instructional information on how to access Soofa Talk and post to the sign.

Example decal design from the City of Chelsea shown below for reference only.



EXHIBIT D - RESTRICTED CONTENT

soofa sign

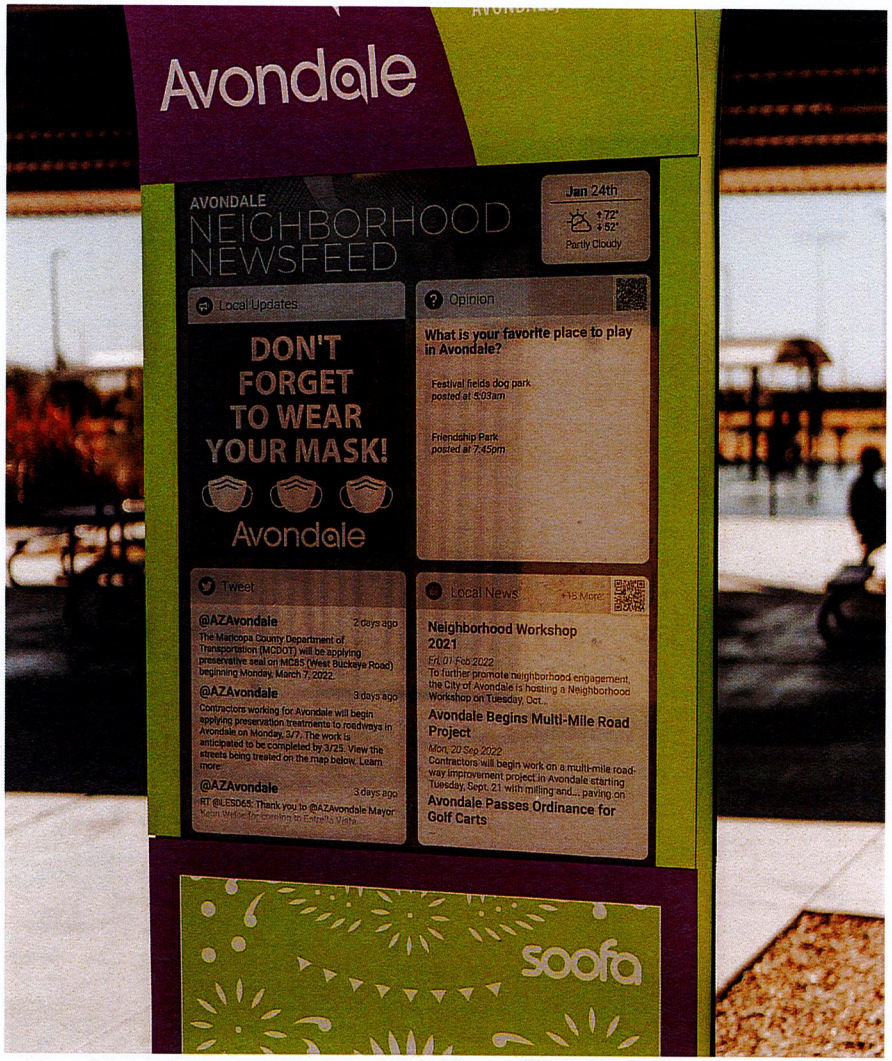
The neighborhood news feed for smart cities.



Make vital community information accessible to all.

Communicate news and PSAs to all, including those without access to the internet or devices.

Soofa Signs are a trusted source of information on health guidelines, events, public works, and more.



soofa

Applets currently available for Soofa Signs



Events



Local Updates



Transit



Restaurants



Tweets



Poll / Opinion



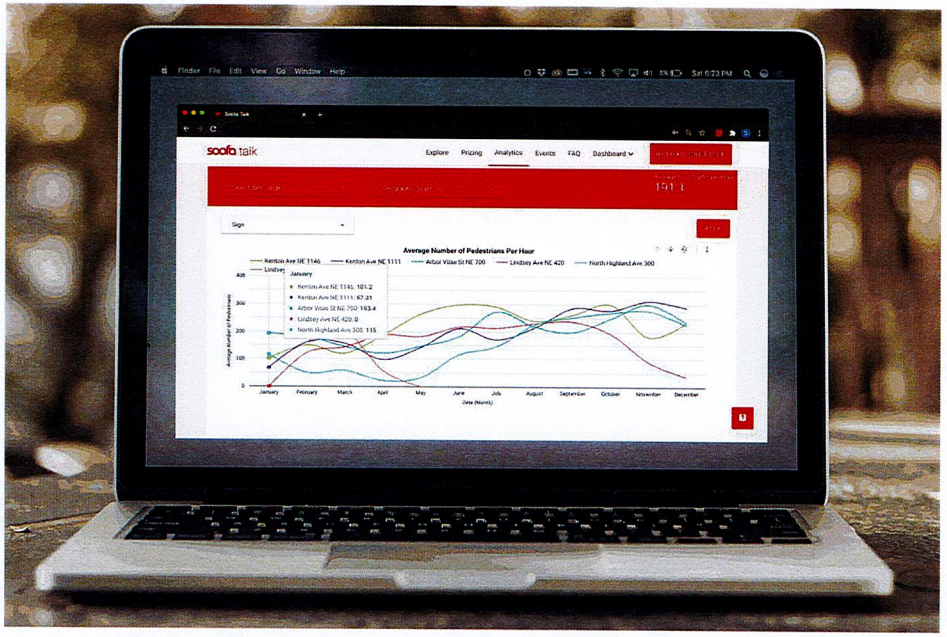
News

soofa

Gain on-demand access to hyperlocal pedestrian data and insights.

Access data from our pedestrian sensor online.

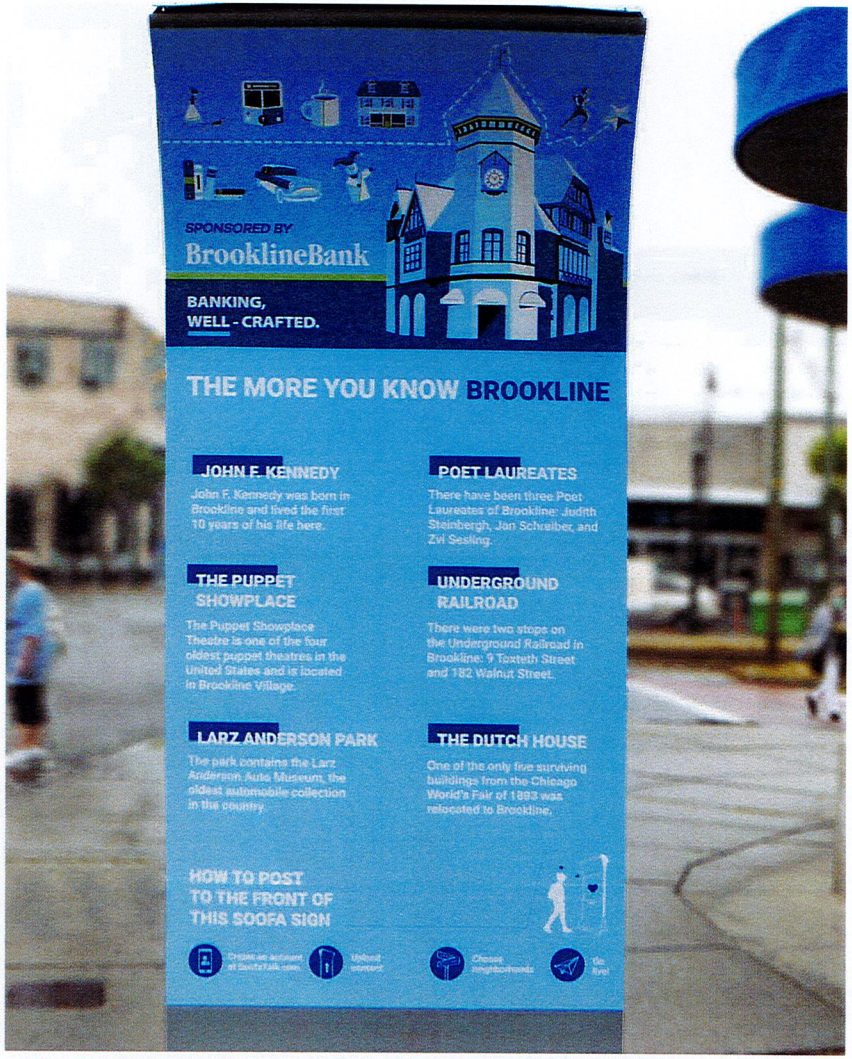
Use the data to better understand use of your public spaces, automate people counting, and support local initiatives and economic planning.



soofa

Enhance wayfinding and welcome visitors with custom vinyl decals.

Help pedestrians navigate the area and drive traffic to local attractions and businesses with an eye-catching vinyl sticker reflecting the character of the neighborhood.



soofa

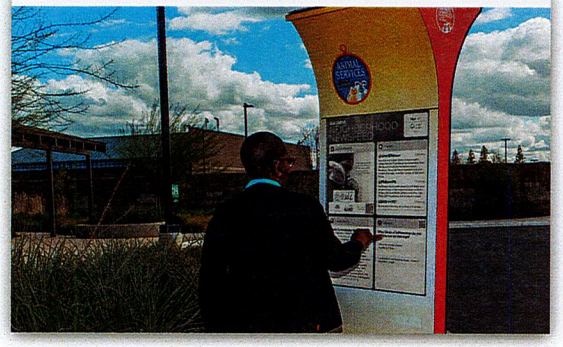
Community-Branded

Landowner owns the rights to all communication and branding on the sign. No advertising is allowed.

One-Time Cost: $25,000/sign

Annual Fee (after year 1): $6,200/sign

Additional Vinyl Updates: $1,000/sign



Digital Advertising Allowed Static Advertising not Allowed

Cost of the sign is partially subsidized by digital advertising. Landowner owns the right to the static vinyl design.

One-Time Cost: $18,000/sign (Includes 1 city vinyl)

Annual Fee (after year 1): $6,200/sign

Additional Vinyl Updates: $1,000/sign



Digital & Static Advertising Allowed

Cost of the sign is partially subsidized by digital advertising and static advertising on the vinyl.

One-Time Cost: $16,000/sign

Annual Fee (after year 1): $2,000/sign

Additional Vinyl Updates: $1,000/sign

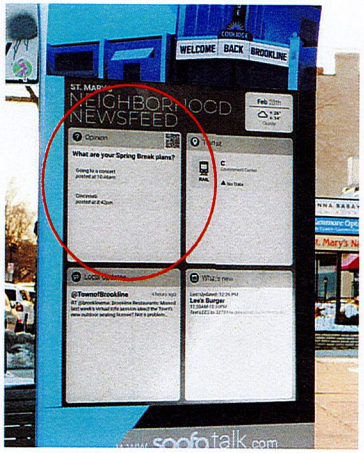



Thank you!
www.soofadigital.com/soofa-sign
soofa®

Choose which features you want to display on the Sign.



Events calendar
Weather updates



Polling widget

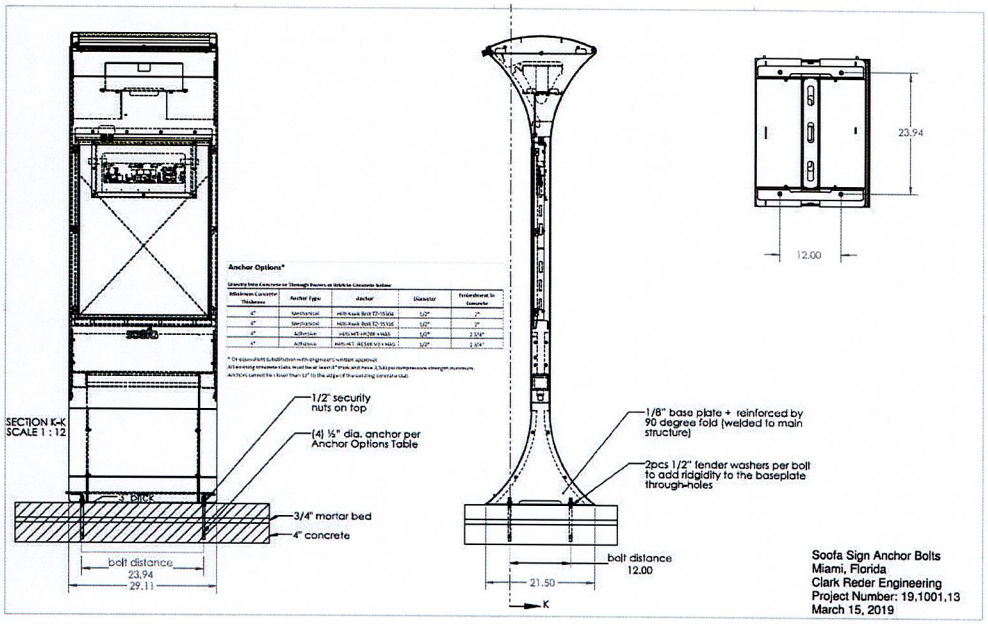


Real-time transit information

soofa

Plug-and-play Installation

- 20min installation with four bolts (no wiring)
- Apps are setup in advance and content is preloaded
- Small footprint for easy placement: 21.5” x 29.1”
- Engineered to withstand hurricane force winds (180mph)



AGENDA ITEM REPORT
June 9, 2022

ITEM NUMBER: 12.

ITEM: Discussion for the purpose of hearing public comments with respect to an application for a variance from Section 23-12(6)(b)(iii); Section 23-12(8); Section 23-12(6)(v) and Section 23-12(6)(a)(x) of the Town Code to construct a boat dock facility. The application for a variance is being requested by the property owner BH Investment, LLC for the property located at 1135 103 Street, Tract F, Bay Harbor Islands, Florida. Enclosed is a copy of the variance application and other supporting documents.

DESCRIPTION:
Approval or Denial of a variance request for the property located at 1135 103rd Street. In accordance with 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 variance request. The decision of the Town Council is final. If the request is granted, the decision of the Town Council shall be recorded in a resolution to be prepared by the Town Attorney. It should be noted that any approval of the Town Council is subject to other requirements of the Town Code, Miami-Dade County Code, Florida Building Code, FEMA or any other applicable governing agency.

RECOMMENDED ACTION:

FINANCIAL ANALYSIS:

BUDGET IMPACT:

Submitted By: Yvonne Hamilton, Acting Town Clerk

ATTACHMENTS

1.	May 12, 2022 Letter to Town Council, Valero Morabito, CEO of Morabito Properties
2.	Onda Dock Presentation
3.	Letter of Intent
4.	Variance Application 1135 103 Street
5.	BH ONDA Doc. Var. Rev. Final TC Staff Report, February 1, 2022

6.	BH Investment Certificate of Formation
7.	BH Investment Deed
8.	Dock Plans and Site Survey
9.	2021.07.02 1135 103 St. Bay Harbor Island Tract F, 06.30.2021-24x36 DS (1)

MORABITO
PROPERTIES

CMC GROUP

May 12, 2022

Honorable Mayor and Council
Town of Bay Harbor Islands
9665 Bay Harbor Terrace
Bay Harbor Islands, FL 33154

RE: Onda Dock Project - 1135 103rd Street, Bay Harbor Islands, FL

Dear Honorable Mayor and Council Members,

As you know, we are seeking approvals for a boat docking facility at Onda Residences, a 41-unit boutique ultra-luxury condominium development that my partner, Ugo Colombo of CMC Group, and I are developing at 1135 103rd Street. We are writing to clear the air regarding some misleading statements and rumors swirling around the building's dock and to make sure the community is fully aware of our plans in advance of the next meeting.

First and foremost, Onda's dock will not be a commercial "marina." It will be a residents-only facility where the condominium's owners can periodically dock their personal boats, in the same way that any waterfront property owner in Florida has the right to do. We have no issue with the operational conditions that guide this type of use; there will be no liveaboard vessels, no party boats, and outside users allowed. Onda's future residents—most of whom will not have access to a boat slip—are purchasing luxury residences in a small, boutique building on the waterfront with the expectation of a having a safe, quiet, and minimally intrusive dock in their backyard – a common amenity for waterfront condominiums of this caliber.

Secondly, we have been adhering to the environmental permitting processes on this dock over the past three years. The resulting design is based on close involvement with Miami-Dade County's DERM, the FDEP, and the U.S Army Corps of Engineers. Each of these agencies has conceptually approved the project. We have requested no exemptions or waivers from compliance with any of their criteria, and cannot begin construction until all final permits are issued.

A variance application with the Town is required for the precise purpose of protecting the sensitive resources of Biscayne Bay, in the manner DERM specifies for this dock. The Bay floor is extremely shallow at this location, and we are not allowed to dredge. Therefore, the boat slips must be farther away to obtain adequate water depth. The Town's Code recognizes this as a specific justification for a variance. Extending the docking platforms into the water also allows for the maximum avoidance of protected marine species, which include both coral and seagrass. The dock uses grated decking to allow for sunlight to transmit to the bay bottom and allow

additional seagrass growth. And the overall dock surface area is limited to the greatest extent possible, leaving most of the space as open water with narrow accessways to boat slips.

We are committed to respecting the Biscayne Bay environment, which is what first attracted us to this site. No public access to the Bay will be taken away by the dock project. In terms of the upland, the Town does not allow publicly accessible baywalks, and our rear yard configuration was approved by the County's Shoreline Development Review Committee. In the Bay, even after installation of the Onda boat slips, over 1,000 feet of open water will remain between the Onda dock and the nearest land. Finally, this dock complies with all side setback requirements and requires no variance based on distance from neighboring properties. We have pushed the dock as far as possible from the property line to the west (a *minimum* of 30 feet setback), and the property owner to the east has issued a letter of support for our project.

Our team is coordinating a series of informational workshops at our on-site sales gallery (10301 E. Bay Harbor Drive, Bay Harbor Islands, FL 33154). The meetings will take place on **May 18th and June 1st, beginning at 4:30 PM**. We'd like to invite the community to hear a more detailed presentation on the dock project and ask questions they may have. We then look forward to returning to the Town Council in June for our hearing.

Sincerely,

Valerio Morabito
CEO of Morabito Properties

cc: Maria Lasday, Town Manager
Yvonne Hamilton, Acting Town Clerk

Onda Bay Harbor Docking Facility

March 2022

BH INVESTMENT LLC





Project Background

- Onda is a new luxury residential project with 41 units developed by CMC Group and Morabito Properties
- 80% of the units have been pre-sold, and the building is currently under construction
- Onda is proposing a docking facility with a maximum of 15 boat slips (most residents will not get a slip)

Basis for Design

- Tiered dock configuration required by environmental agencies (federal, state, county)
- DERM will not allow boat slips within 30' from the seawall due to shallow water depths and existing marine life



Resulting Benefits

- Preservation of corals and seagrass and no dredging of the bay bottom
- Ample room for safe navigation
- A natural barrier to passing vessels and reduced wake impacts to seawalls

Operating Rules and Regulations

The dock will be a clean, quiet, and safe facility consistent with the other residential amenities

- Use limited to Onda residents only (no 3rd party rentals)
- No liveaboard or overnight stays
- No fueling facilities
- No jet skis or floating docks
- No boat lifts
- No commercial or transient (short stay) vessels
- No party boats or food/alcohol service

Size of the Vessels
Size limited to 35 feet for 11 of the 15 slips
Only 4 vessels on the outer finger have a size of 45 to 50 feet

- Restrictions will be enforced by both the Town and DERM

- Onda condo declaration also imposes the restrictions above



Comparable Projects



1135 103rd STREET DOCKING FACILITY PROJECT

Bay Harbor Islands, Florida

CLIENT:
BH INVESTMENT, LLC
c/o MR. VALERIO MORABITO
1691 Michigan Ave
Suite 440
Miami Beach, FL 33139

ENVIRONMENTAL CONSULTANT:
OCEAN CONSULTING, LLC
340 Minorca Avenue, Suite 7
Coral Gables, Florida 33134
Tel: (305) 921-9344
Fax: (305) 677-3254

CONTRACTOR:

PROJECT ENGINEER:
DYNAMIC ENGINEERING SOLUTIONS, INC.
351 S. Cypress Road, Suite 303
Pompano Beach, FL 33060

Office - 954-545-1740
Fax - 954-545-1721

SEAL / SIGNATURE / DATE

This document has been electronically signed and sealed by John H. Omslaer, P.E on using a SHA-1 authentication code. Printed copies are not considered signed and sealed and the SHA-1 authentication code must be verified on any electronic copies per rule 62-30.060, F.A.C

John Omslaer
PE 52733, CA 26829

PERMIT DRAWINGS

Issue #	Issue Date
1	February 23, 2022

PROJECT: 16-5865

COMPARISON OF WATERWAY WIDTH

SCALE : AS SHOWN

SHEET NO.

P-1

Conclusions

- Onda is committed to run a safe, silent, and state of the art docking facility
- The interests of Onda residents for a properly run facility are aligned with its neighbors
- Variances necessary to avoid disturbing the sensitive bay environment
- Most conducive site for this dock extension of any property on the East Island



akerman

Nicholas J. Barshel

Akerman LLP
Three Brickell City Centre
98 SE 7th Street, Suite 1100
Miami, FL 33131
Tel: 305 982 5538
nicholas.barshel@akerman.com

December 20, 2021

Honorable Mayor and Council
Town of Bay Harbor Islands
9665 Bay Harbor Terrace
Bay Harbor Islands, FL 33154

RE: Variance Hardship Letter - Dock for Onda Project (1135 103rd Street)

Dear Honorable Mayor and Council Members,

Akerman LLP represents BH Investment LLC ("Owner"), which owns the property located at 1135 103rd Street on the northern tip of the East Island of Bay Harbor Islands ("Property"). Owner is currently developing an eight-story luxury residential building with 41 condo units on the Property, which was previously approved by the Town ("Onda"). Owner is now seeking approvals for a dock facility to serve Onda residents in Biscayne Bay ("Dock").

Enclosed herein are plans for the Dock and our application materials for certain variances from the Town's dock regulations set forth under Town Code Section 23-12(6). Owner must obtain variances from the maximum length of dock and pile projections into Biscayne Bay to avoid negative environmental impacts (disturbing the bay bottom and seagrass) and to allow adequate clearance for necessary fire suppression equipment on the Dock. Owner's responses to the hardship criteria for variances under Town Code Section 2-17(b) are included below.

A. Property Background

The Property is approximately 1.2 acres in size and is currently vacant, as Owner prepares for construction of the Onda project on the uplands. The Property is one of the six largest platted tracts (A-F) on the East Island, located on the northern and southern tips. As these sites are considerably larger than other multifamily residential lots in the Town (and abut long stretches of waterfront), they are zoned RM-3 and include appropriate development criteria for this nature. Additionally, unlike the southern tip of the East Island, the Property directly abuts a broad stretch of open water in Biscayne Bay, and vessel navigation is not confined as it is for other properties in the Town located along Indian Creek or the Bay Harbor Waterway.

Onda was inspired directly by this waterfront setting, and the façade is designed with a nautical style including fluid lines interrupted by a series of ripples, invoking a wave crossing calm seas. The building will include luxury amenities for its residents that include a rooftop pool with sweeping views of Biscayne Bay and direct access to the water from the Dock. The Onda project was approved by the Town's Planning and Zoning Board on May 7, 2019 (*Resolution No. 2174*).

B. Proposed Dock

Owner has submitted permit applications for the Dock to the Town, Miami-Dade County's Department of Environmental Resources ("DERM"), the Florida Department of Environmental Protection ("FDEP"), and the U.S. Army Corps of Engineers ("Corps"). These agencies review potential environmental impacts, including on endangered and threatened marine species.

The Dock is specifically designed to avoid marine species and the sensitive bay bottom, in accordance with agency permitting criteria. The Dock follows the curvature of the Property and includes 2,284 square feet of total surface area, which is comprised of a series of narrow accessways with mooring piles to allow up to 15 vessels to moor at the Dock. On July 30, 2019, DERM staff conducted a biological assessment of the Property and noted the presence of benthic resources (seagrass) and shallow water depths. The "tiered" shape of the Dock resulted to meet DERM environmental regulations. The DERM biological assessment is attached as **Exhibit A.**

To avoid protected seagrasses and to provide adequate depths for vessels without disturbing the bay bottom by dredging, DERM is requiring 4 of the slips at the Dock (27%) to begin a minimum of 53.5 feet waterward of the seawall at the Property. The other 11 slips are closer to the shoreline (30 feet waterward) because adequate water depth already existed. Otherwise, DERM had no objection to construction of the Dock at this location, and found that the number of proposed boat slips is consistent with the County's Manatee Protection Plan.[1] The letter from DERM setting forth these design requirements for the Dock is attached as **Exhibit B.**

Finally, the Dock is set back 30 feet from the west boundary of the Property and 11.5 feet from the east boundary. Due to the curvature of the Property, the west setback becomes larger as the Dock extends out into Biscayne Bay. Although the Dock side setbacks both comply with Town Code Section 23-12(6)(a)(vii), DERM required the neighbor to the east approve the Onda dock project due to its proximity to that property line. Owner obtained written consent from this neighbor on August 30, 2021. This neighbor consent for the Dock is attached as **Exhibit C.**

C. Town Code Regulations

Pursuant to Town Code Section 23-12, the Town has local development regulations that apply to docking facilities in addition to the DERM, FDEP, and Corps environmental permitting criteria. Based on the existing sensitive environmental conditions discussed above, the Dock cannot comply with three of these Town regulations, which are set forth in the table below:

[1] In addition, DERM issued its preliminary approval of the submitted plans for the Dock on December 10, 2021.

Code Section	Town Regulation	Amount	Provided
23-12(6)(a)(iii)	Maximum projection of dock into bay	25'	73.5'
23-12(6)(a)(v)	Maximum width of dock beyond 8' from seawall	4'	6'
23-12(8)	Maximum projection of mooring piles into bay	40 '	89.5'

Except for the instances noted above, the Dock complies with the regulations in Town Code Section 23-12. The boat slips also comply with the required distance between docks and mooring piles (15 feet), but must exceed the maximum projections because the slips begin farther into the bay to have adequate water depth. Regarding the dock width, 11 of 14 total accessway spans (79%) are in compliance with the 4-foot dock width requirement in Town Code 23-12(6)(a)(v). Only the 3 walkways closest to the shore are 6 feet wide because they must include fire hose cabinets and a safe working clearance in front of the cabinets for fire department personnel.

D. Variance Hardship Criteria

Pursuant to Town Code 2-17(b), there are six (6) criteria by which requests for variances must be evaluated by the Town Council. These criteria are listed below, along with the Owner's responses to each. Our responses prove that the requested Dock variances are not contrary to the public interest and a literal enforcement of the Town's regulations would instead result in unnecessary and undue hardship on Owner, and therefore the variances should be granted.

1) The nature and type of hardship.

The hardship is based entirely on existing marine environmental conditions surrounding the Dock, which is identified by the Town as a valid justification for a variance. Pursuant to Town Code Section 23-12(6)(a)(x), DERM may require alterations to the Town's dock regulations "*because of shifting underwater land elevations and/or environmental characteristics in Biscayne Bay....*" At the Property, DERM requires 4 slips to begin a minimum of 53.5 feet waterward of the seawall and the other 11 slips to begin at least 30 feet out to obtain the required water depth for vessels to avoid disturbing the bay bottom during dock construction or while in operation.

2) *The circumstances which caused the hardship, and that make the hardship peculiar to the property in question or to such a small number of properties that may clearly constitute marked exceptions to the property in the neighborhood.*

The Property is uniquely well-suited for multifamily residential boat slips in Bay Harbor Islands. The entire West Island is zoned for single family homes. And many lots on the East Island abut the Bay Harbor Waterway or Indian Creek, which physically restricts docks from projecting beyond the Code maximum of 25 feet, because it would impede or totally block navigation in narrow boat channels. This includes the waterways adjacent to the RM-3 properties on the southern tip of the East Island, which are each less than 400 feet wide. In contrast, the RM-3 tracts on the northern tip of the East Island abut the open waters of Biscayne Bay and could

support longer docks without impeding any boat navigation. Despite this, the Town Code does not distinguish maximum dock projections based on the widely varying width of waterways surrounding the outside of the Town (not including Bay Harbor Waterway). When compared to other properties subject to the same dock regulations, this constitutes a hardship for Owner.

3) The circumstances which show that the variance is required in order to preserve a substantial property right of the applicant. The substantial property right does not include the fact that the applicant might be denied some opportunity to use the subject property in a more profitable way or to sell it at a greater profit than is possible under the terms of the ordinance. An applicant-property owner is entitled only to a reasonable use of the subject property.

As part of their riparian rights, waterfront property owners in the State of Florida have a legal right to access an abutting waterbody with boats. Because of DERM environmental protection regulations, no boat slip could be closer than 30 feet to the seawall at the Property, and 27% of the slips must begin a minimum of 53.5 feet out. Although it remains far short of providing each of the 41 unit owners at Onda with a boat slip, 15 slips is a reasonable use for a building of this size and this amount is explicitly permitted at the Property under the County's Manatee Protection Plan. If not for the unique environmental characteristics of the site, all 15 boat slips could be constructed along the seawall in compliance with the Town Code. Instead, applying the Town dock regulations literally to the Property would not allow any boat slips for the Onda residents, which is an unreasonable restraint on the riparian rights of Owner.

4) The circumstances establishing that any alleged hardship is not self created by any person having any interest in the subject property or is not the result of mere disregard for or ignorance of the provisions of any ordinance.

Owner did not create the existing marine environmental characteristics of the site in the open waters of Biscayne Bay immediately adjacent to the Property, namely shallow water depths and habitat for an extensive variety of marine life. And Owner is not disregarding provisions of any regulation—rather these variances are required to comply with permitting criteria from DERM, FDEP, and the Corps that relate to protecting marine life and habitat in dock projects.

5) The circumstances under which the ordinance to which the variance is sought shall be modified as little as possible so that the substantial intent and purpose of the ordinance or regulations contained therein shall be preserved.

All boat slips are located the minimum distance from the seawall that DERM will allow to provide adequate water depths and avoid impacting marine life on the bay bottom, ranging from 30 to 53.5 feet out from the Property boundary. The decks and mooring piles are configured to provide access to these boat slips and safely secure vessels with as little over-water area as possible. Because the finger piers and parallel Dock sections do not require fire suppression equipment, they also are in compliance with the Town requirement for dock width under Code

Section 23-12(6)(a)(v). The three accessways connecting the Dock to the Property exceed the 4 foot requirement by the minimum amount possible (6 feet wide) to provide adequate clearance for fire department personnel to operate fire hose cabinets while standing on the Dock.

6) The circumstances under which it can be established that a variance will not result in substantial detriment to adjacent property, or the surrounding neighborhood, and will not be materially detrimental to the public welfare.

Approval of the requested Dock variances will not be detrimental to Owner's neighbors or to the public welfare. The Dock will not pose any navigational hazard because it abuts wide and open waters of Biscayne Bay, unlike most other Bay Harbor Islands properties. The DERM-required configuration of the boat slips will prevent negative environmental impacts, and the 6-foot-wide access piers will allow fire department personnel to safely respond to any future emergency at this site. The Dock is setback significantly from the neighboring property to the west (30 feet), and the boat slips are further away due to the curved nature of the Property. The Dock is also setback 11.5 feet from the neighboring property to the east, and that owner has approved the Dock design. Finally, the boat slips will be solely for the use of Onda residents and will not bring any commercial uses or high intensity activities to this residential neighborhood.

E. Conclusion and Request for Variances

In summary, the Owner is requesting the minimum variances from the Town Code required to construct the Dock for Onda in compliance with DERM and other environmental permitting criteria. We submit that extending the Dock further into open waters of Biscayne Bay is highly preferable to harming marine life and habitat in shallow waters closer to the Property. The Dock will not be materially detrimental to the public welfare, and is intended only to serve the residents of Onda. Due to the unique environmental characteristics of the bay bottom at this site, literal interpretation of Town Code regulations would result in unnecessary hardship on the Owner, by effectively preventing any boat slips from being built behind the Property. Therefore, we respectfully request that the Town Council approve the variances for the Dock.

Sincerely,

Nicholas Barshel

Enclosures

cc: Maria Lasday, Town Manager
Alba Chang, Town Clerk
Michael Miller, Town Planner

Exhibit A

CLI-2019-0308

Biological Assessment
7/30/19
Biologists L. Elam, S. Tiffany

- Scale ☐ = 6LF
- Assessment completed on weather
- Adjusted to MLW @ 11:20am
  Adj = 1.4'

Resources
- Sea whip
- Mung. Snapper
- Rainbow fish
- Vase sponge
- Sm. urchin
- Barrel sponge
- Anemone
- Angel fish
- Cassiopeia
- Pufferfish
- Needle fish
- Feather Star
- Yellow stingray

HD = Halophila decipiens
TT = Thalassia testudinum

LF	Wall	4'	5'	6'
20	2.6'	10'	19.4'	45.9'
40	3.1'	8.3'	29.7'	45.5'
60	3.1'	20.4'	36.8'	54'
80	2.7'	20.3'	41.8'	56'
100	2.9'	16.6'	39.8'	54.2'
120	3'	16'	38'	60.9'
140	3.2'	8.7'	37.4'	57.7'
160	2.9'	8'	29.8'	53.2'
180	3.4'	8.3'	34'	57.8'
200	3.7'	4.5'	37.3'	61.3'
220	2.8'	9.5'	25.3'	53.4'
240	1.8'	14'	25'	49.1'
260	2.4'	14.5'	24'	52'
280	2.6'	13.7'	28.4'	45'

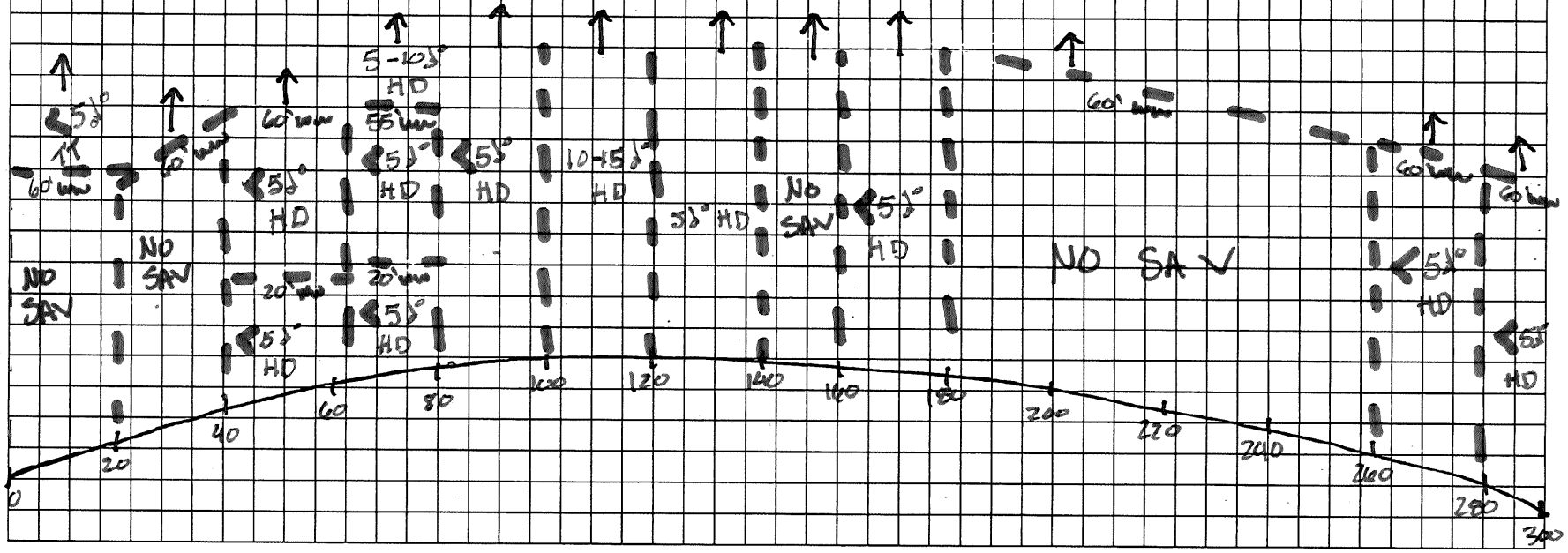


Exhibit B

MIAMI-DADE COUNTY
Carlos A. Gimenez, Mayor

Department of Regulatory and Economic Resources
Environmental Resources Management
701 NW 1st Court, 6th Floor
Miami, Florida 33136-3912
T 305-372-6567 F 305-372-6407

miamidade.gov

August 8, 2019

BH Investment, LLC
c/o Valerio Morabito, Manager
1691 Michigan Avenue
Suite 440
Miami Beach, Florida 33139

Re: Class I Permit Application CLI-2019-0308: BH Investment, LLC – Dock located at 1135 103rd Street, Bay Harbor Islands, Miami-Dade County, Florida. (Folio No. 13-2227-001-6770)

Dear Mr. Morabito:

Please accept this letter in response to your submittal of a Class I permit application for the above referenced property. DERM staff has conducted a biological assessment and has the following recommendations to continue processing your permit application.

During the biological assessment staff documented debris in tidal waters (i.e. tree, dock debris). Pursuant to the Code of Miami-Dade County (Code), it shall be unlawful for any person to dispose of solid wastes or any other wastes into the waters of this County. The debris must be removed from tidal waters upon receipt of this letter. **Failure to remove the debris upon receipt of this letter may result in enforcement action by DERM without further notice.**

Staff also documented unauthorized dock piles on-site. A review of DERM's records indicates that said dock piles were installed without the required Class I permit. Based on the proposed scope of work, the unauthorized dock piles will be removed. DERM does not intend to pursue enforcement action for the unpermitted dock piles at this time provided they will be removed. However, repair or replacement of the existing structures will require a Class I permit. **Failure to obtain a Class I permit for any such work may result in enforcement action by DERM without further notice.**

Additionally, two pipes that discharge to tidal waters were documented on-site. Pursuant to the Code, it shall be unlawful for any person to dewater or to discharge sewage, industrial wastes, cooling water and solid wastes, or any other wastes into the waters of this County, including but not limited to surface water, tidal salt water estuaries, or ground water. **The pipes must be removed, sealed or reconfigured to drain on the uplands upon receipt of this letter.**

Recommendations for Class I permits are based on several evaluation factors including, but not limited to, a project's consistency with the Miami-Dade County Manatee Protection Plan (MPP). Pursuant to the MPP, the project site is located within an area recommended for "Motorboat Density and Various- Water Dependent Uses as Determined by Existing Zoning or Environmental Regulations". Based on the existing site conditions DERM has no objection to the creation of a docking facility, provided that the proposed slip areas for the vessels with a 4 foot draft are modified to be located in an area with adequate water depth of 6 feet Mean Low Water datum and impacts to resources are avoided and minimized. The number of slips depicted on the sketches and the number of slips listed on the application are not consistent. Please clarify the total number of proposed slips, submit revised sketches that depict the proposed slips in area that avoid and minimize impacts to benthic resources and locate the slips for the 4 foot draft vessels a minimum of 53.5 feet waterward of the existing seawall cap. Additionally, label the seawall work as "to be installed under CLI-2018-0307", include setbacks to all proposed structures, and depict the proposed mooring configuration in order for DERM to complete the evaluation.

A Marine Facilities Annual Operating Permit (MOP) is required for docking facilities with 10 or more boat slips, moorings, davit spaces, and vessel tie-up spaces. A valid MOP will be required prior to the operation of the docking facility, including the mooring of vessels. Please contact the Coastal Resources Section at (305) 372-6575 for additional information.

For any structures that exceed the boundaries described in Section D-5(03)(2)(a) of the Miami-Dade County Public Works Manual beyond the minimum necessary, letters of consent that reference DERM preliminary approved plans may be requested prior to permit issuance. Please note that the Class I permit will not be issued until the requested letters have been submitted to DERM for review and approval. If the letters cannot be obtained, a modification to the proposed scope of work and new review by DERM may be required. Any new proposal that results in a significant modification to the scope of work may result in additional process time.

The cost of construction provided in the Class I Permit application is not consistent with the scope of work. Please submit a copy of the contract or an itemized cost of construction for the work.

Mitigation is required for all unavoidable impacts to resources, and is calculated based on the square footage of the structures and permitted boat slip areas over resources. In addition, mitigation is required for the long term and short term environmental impacts associated with the operation of the facility, and is calculated based on the number of slips to be created. Riprap boulders will be required to be placed onsite as mitigation for impacts associated with the seawall installation under CLI-2018-0307. Therefore, DERM recommends that mitigation be satisfied off-site, or a contribution to the Biscayne Bay Environmental Enhancement Trust Fund be provided in an amount to be determined.

Please provide a statement of acknowledgment directly from the contractor of record that includes the contractor's name, address, telephone number, license number, DERM Class I permit application number, and scope of work for the project. The information may not be submitted through a third party. A Class I permit will not be issued unless and until a Miami-Dade County or State licensed contractor submits the requested information.

Attached please find a Completeness Summary detailing items required in order to complete your Class I Permit Application Package, and a State and Federal Delegated Review Checklist containing additional information and indicating additional items to be submitted prior to Class I permit issuance. If you have any questions concerning the above referenced application, please contact me at (305) 372-6931 or Burtot@miamidade.gov.

Sincerely,

Tammy Burton

Tammy Burton, Biologist II
Coastal Resources Section
Division of Environmental Resources Management (DERM)

cc: Ocean Consulting, LLC - Authorized Agent (Justina@oceanconsultingfl.com)
U.S. Army Corps of Engineers (SEAPPLS@usace.army.mil)
Robert Kirby – U.S. Army Corps of Engineers (Robert.J.Kirby@usace.army.mil)
Kellie Youmans – Florida Fish and Wildlife Conservation Commission (kellie.youmans@myfwc.com)

COMPLETENESS SUMMARY
COASTAL CONSTRUCTION PERMIT APPLICATION
PROJECT NO. CLI-2019-0308

PROJECT NAME: BH Investment, LLC

PROJECT ADDRESS: 1135 103rd Street, Miami Beach

DATE: August 8, 2019

PROJECT MANAGER: Tammy Burton

THE FOLLOWING DOCUMENTS SHALL BE SUBMITTED TO CONTINUE PROCESSING YOUR PERMIT APPLICATION:

- A complete set of sketches as described in the Completeness Summary Cover Letter.

DOCUMENTS REQUIRED PRIOR TO PERMIT ISSUANCE:

- A minimum of 4 sets of plans signed and sealed by a Florida Licensed Professional Engineer.
- Structural and zoning approvals from the Town of Bay Harbor Islands.
- Itemized cost of construction.
- Application fee balance in an amount to be determined.
- Permit fee balance in an amount to be determined.
- Miami-Dade County surcharge fee in an amount to be determined.
- A contribution to the Biscayne Bay Environmental Enhancement Trust Fund in an amount to be determined.
- Letters of consent from adjacent property owners to the east and west which specifically references the construction approved by DERM may be requested.
- A statement of acknowledgment directly from the contractor of record that includes the contractor's name, address, telephone number, license number, DERM Class I permit application number, and scope of work for the project. The information may not be submitted through a third party.

STATE AND FEDERAL CHECKLIST

FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION (FDEP)

DERM has been delegated the authority to review the proposed project and grant proprietary authorization for the use of sovereign submerged lands pursuant to an operating agreement between DERM and the FDEP.

Not applicable- Bay Harbor Islands.

UNITED STATES ARMY CORPS OF ENGINEERS (USACE)

Please contact USACE at (305) 526-7181 for authorization for the proposed work.

Exhibit C

LETTER OF CONSENT

Note: Please insert applicable information

Date: August 30, 2021

Miami-Dade County DERM
Class I Permitting Program
701 NW 1st Court
Miami FL, 33136

Re: Letter of Consent for Miami-Dade County DERM Class I Permit Application Number CLI-2019-0308, (insert Class I Permit application number), for work proposed at

1135 103rd Street, Bay Harbor Islands, Miami-Dade County, Florida
(insert address of proposed work)

Ladies and Gentlemen:

I, Bay Harbor NorthLLC, a Delaware limited liability company (insert name), am the owner of the property located at

10301 East Bay Harbor Drive, Bay Harbor Islands, FL,
(insert address of adjoining riparian property)

which is an adjoining riparian property to the above-referenced property. I have reviewed the plans entitled 1135 103rd Street Docking Facility Project (insert title of plans) prepared by Ocean Consulting LLC/Adolfo J. Gonzalez PE dated _____, and preliminarily approved by DERM on _____ for the above-referenced project. Pursuant to Section 24-48.3(1)(j)(iii) of the Code of Miami-Dade County, Florida, I hereby consent to the above-referenced project.

Sincerely,
BAY HARBOR NORTH LLC, a Delaware limited liability company
By: TRD Bay Harbor LLC, a Florida limited liability company, its Managing Member
By: _____
Adjoining Riparian Property Owner
Daniel G. Hayes, Manager

SUBSCRIBED AND SWORN TO ME THIS 30th DAY OF August, 20 21,
BY Daniel G. Hayes, Manger & Authorized Representaive of Property Owner

☑ PERSONALLY KNOWN ☐ PRODUCED IDENTIFICATION (PLEASE CHECK ONE)

TYPE OF ID PRODUCED _____

JANINE M CABAJ
Notary Public - State of Florida
Commission # HH 122021
My Comm. Expires Apr 26, 2025
Bonded through National Notary Assn.

_____ NOTARY PUBLIC

APPLICATION FOR VARIANCE AND PUBLIC HEARING

DATE: 12/20/21	PROPERTY ADDRESS: 1135 103rd STREET	
LEGAL DESCRIPTION	LOT: TRACT F	BLOCK: N/A
SUBDIVISION:	TOWN OF BAY HARBOR ISLANDS	

APPLICANT'S NAME:	NICHOLAS J. BARSHEL, AKERMAN LLP	
ADDRESS:	98 SE 7th STREET, SUITE 1100, MIAMI, FL 33131	
BUSINESS PHONE: 305-982-5538	RESIDENCE PHONE: -	CELL PHONE: -

PROPERTY OWNER'S NAME: (If different from applicant)	BH INVESTMENTS LLC	
ADDRESS:	1691 MICHIGAN AVE, STE 440, MIAMI BEACH, FL 33139	
BUSINESS PHONE: 305-531-1234	RESIDENCE PHONE: -	CELL PHONE: -

NAME OF CONTRACTOR and/or ARCHITECT:	KIRK LOFGREN	
COMPANY NAME:	OCEAN CONSULTING, LLC	
ADDRESS:	340 MINORCA AVE, STE 7, CORAL GABLES, FL 33134	
BUSINESS PHONE: 305-921-9344	RESIDENCE PHONE: -	CELL PHONE: -

PRESENT ZONING CLASSIFICATION:

- ☐ BAA - Business District
- ☐ RBA - Tract
- ☐ RD - Single Family
- ☐ PRD - Planned Residential Development
- ☐ CA - Causeway
- ☒ RE - Multiple Family (RM-3)
- ☐ PUD - Planned Unit Development

IF APPLICANT IS THE PROPERTY OWNER, INDICATE DATE ACQUIRED: 11 / 13 / 2017

IF APPLICANT IS THE LESSEE, INDICATE LEASE DATE: ___ / ___ / ___

INDICATE TERMS OF LEASE:	N/A

LEGAL DESCRIPTION OF ANY CONTIGUOUS PROPERTY OWNED BY THE APPLICANT:

LOT: N/A	BLOCK: -	SUBDIVISION: -

IS THERE AN OPTION TO PURCHASE OR LEASE THE SUBJECT PROPERTY? ☐ Yes X No

IS IT PREDICATED ON APPROVAL OF APPLICATION? ☐ Yes X No

IS HEARING BEING REQUESTED AS A RESULT OF A VIOLATION NOTICE? ☐ Yes X No

HAS A PUBLIC HEARING PREVIOUSLY BEEN HELD REGARDING THIS PROPERTY? X Yes ☐ No
IF YES DATE: 5/7/2019 DECISION: SITE PLAN APPROVAL (RESO. 2174)

ARE THERE ANY EXISTING STRUCTURES ON THE PROPERTY TO BE DEMOLISHED? ☐ Yes X No
DESCRIBE: N/A

BRIEFLY STATE REQUEST:
REQUEST FOR VARIANCES ON RESIDENT DOCK FACILITIES AT ONDA. PURSUANT TO TOWN CODE SECS. 23-12(6) and (8). SEE ATTACHED LOI.

THE FOLLOWING ARE TO BE NOTIFIED OF HEARING DATE, AS MY REPRESENTATIVE(S):
(Please provide this information, or they will NOT be notified)

NAME	ADDRESS	PHONE
NICHOLAS BARSHEL	98 SE 7 ST, STE 1100, MIAMI, FL	305-982-5538
KIRK LOFGREN	340 MINORCA AVE, STE 7, CORAL GABLES, FL	305-921-9344

Applicant Signature(s) _____ Date 12/20/21

_____ Date ___/___/___

_____ Date ___/___/___

ALL INFORMATION SUBMITTED IN CONNECTION WITH THIS APPLICATION BECOMES A PERMANENT PART OF THE PUBLIC RECORDS OF THE TOWN OF BAY HARBOR ISLANDS.

(FOR OFFICE USE ONLY)

APPROVED: ☐ YES ☐ NO
DATE APPROVED: ___/___/___
CODE SECTION: _____

REQUEST FOR VARIANCE
CORPORATION AFFIDAVIT

DATE: 12/20/21

The subject property is legally described as:

LOT: **TRACT F**	BLOCK: **N/A**	SUBDIVISION: BAY HARBOR ISLANDS
ADDRESS:	**1135 103rd STREET**	
CORPORATION NAME:	**BH INVESTMENT, LLC**	

I, **VALERIO MORABITO** and N/A, being first duly sworn, depose and say that we are the President/Vice President, and Secretary/Asst. Secretary of the aforesaid corporation, and as such, have been authorized by the corporation to file this application for public hearing; that all answers to the questions in said application and all supplemental data attached to and made a part of this application are honest and true to the best of our knowledge and belief; that said corporation is the owner/tenant of the property described herein and which is the subject matter of the proposed hearing.

We hereby authorize the Town of Bay Harbor Islands to enter the subject property for the sole purpose of posting a NOTICE OF PUBLIC HEARING on the property as required by the Town Council and we take the responsibility of removing this notice after the date of the hearing.

Signature of President/Vice President

Signature of Secretary/Assistant Secretary

Before me this day personally appeared VALERIO MORABITO known to me to be the person described in and who executed the foregoing instrument, and acknowledged to and before me that V.M. executed this document for the purposes therein expressed.

Sworn to and subscribed to before me this 19th day of NOVEMBER, 2021.

Notary Public

My commission expires: 8/27/2025 Personally known X Produced I.D. _____
Type/number of I.D.

_____ DID TAKE an oath, or
X DID NOT take an oath

Notary Public State of Florida
Maria Risi
My Commission HH 138364
Expires 08/27/2025

Before me this day personally appeared _____ known to me to be the person described in and who executed the foregoing instrument, and acknowledged to and before me that _____ executed this document for the purposes therein expressed.

Sworn to and subscribed to before me this day of _____, 20____.

Notary Public

My commission expires: _____ Personally known ___ Produced I.D. _____
Type/number of I.D.

_____ DID TAKE an oath, or
_____ DID NOT take an oath

REQUEST FOR VARIANCE
OWNER/POWER OF ATTORNEY AFFIDAVIT

DATE: 12/20/21

The subject property is legally described as:

LOT: **TRACT F**	BLOCK: **N/A**	SUBDIVISION: BAY HARBOR ISLANDS
ADDRESS:	**1135 103rd STREET**	

I (we), **VALERIO MORABITO, MANAGER OF BH INVESTMENT, LLC** being duly sworn, depose and say that I am (we are) the owner(s) of the described real property and that I am (we are) aware of the nature and effect of the request for variance(s) on the above subject property, which request is hereby made by me (us) OR I am (we are) hereby authorizing **NICHOLAS J. BARSHEL, AKERMAN LLP** to be my (our) legal representative before the Town Council with respect to said request.

I (we) hereby authorize the Town of Bay Harbor Islands to enter the subject property for the sole purpose of posting a NOTICE OF PUBLIC HEARING on the property as required by the Town Council, and do take the responsibility of removing this notice after the date of the hearing.

Signature of Owner

Before me this day personally appeared VALERIO MORABITO known to me to be the person described in and who executed the foregoing instrument, and acknowledged to and before me that V.M. executed this document for the purposes therein expressed.

Sworn to and subscribed to before me this 19TH day of NOVEMBER, 2021.

Notary Public

My commission expires: 8/27/2025 Personally known X Produced I.D. _____
Type/number of I.D.

_____ DID TAKE an oath, or
X DID NOT take an oath

N/A

Signature of Co-owner

Before me this day personally appeared _____ known to me to be the person described in and who executed the foregoing instrument, and acknowledged to and before me that _____ executed this document for the purposes therein expressed.

Sworn to and subscribed to before me this day of _____, 20____.

Notary Public

My commission expires: _____ Personally known ____ Produced I.D. _____
Type/number of I.D.

_____ DID TAKE an oath, or
_____ DID NOT take an oath

Notary Public State of Florida
Maria Risi
My Commission HH 138364
Expires 08/27/2025

c:\all\gnl\forms\variance.aff

MICHAEL MILLER PLANNING ASSOCIATES, INC.
Land Design Municipal Planning Services Transportation Planning

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, CMC - Town Clerk
Joseph S. Geller, Esq. - Town Attorney

From: Michael J. Miller, AICP
Consultant Town Planner

Date: January 28th, 2022

Subject: Zoning Variance Application
BH Investment, LLC / ONDA Multifamily Residential Development (41 DU)
1135 103rd Street / Tract F (PB 46 / PG 5 / MDCR)
Boat Dock & Mooring Piles Projections into Biscayne Bay
Application Review Comments
MMPA Project No.: 01-0702-0501- 1124

ISSUE

On May 7th, 2019 the Town's Planning & Zoning Board (now Design Review Board) approved a Site Development Plan for a 41 Dwelling Unit (DU) multifamily residential development referred to as the "ONDA" located at the northeastern tip of the Eastern Island on Tract "F" via Resolution No. 2174. The ONDA project has been issued building permits and is now under construction. The redevelopment plans depicted conceptual new boat dock facilities within the adjoining Biscayne Bay waterway north of the site. Over time some of the waterways surrounding the Town's islands have silted-in near the seawalls, including adjacent to this site. The Town owns all of the waterways surrounding the community via the Town's Charter issued in 1953 (SB 865). However, Sec 253.141 of the Florida Statutes grants certain riparian rights to landowners bordering upon navigable waters of the State. For many years, the Town has had a series of regulations governing seawalls, boat docks, boat lifts, pilings, and boat size limitations in its Zoning and Planning Code. The ONDA owner / applicant is now seeking to construct boat docking facilities for the project. In July 2021 a building permit application was made to the Town for the docking facilities, but denied for Code noncompliance, as some features of the docking facilities failed to meet some minimum Town Code requirements. Conversations have occurred between the applicant's representatives (attorney / marine contractor) about the dock design, Town Code requirements, and Miami-Dade / other regulatory agency environmental issues. Based on those initial conversations dock design revisions were made, which have been preliminarily reviewed / approved by M-D DERM / others.

On December 20th, 2021, the Town received a variance application requesting several variances from the Town Zoning Code in order to construct a series of docks that project out further into Biscayne Bay than the Town Code would normally allow, due mostly to environmental reasons analyzed by M-D DERM. The water adjoining this site (and most of the Town) are quite shallow due to high tidal fluctuations from Haulover Inlet and the connected Intracoastal Waterway / Biscayne Bay resulting in underwater silting-in over the years. In addition, due to the shallow water depths around the Town's islands, abundant seagrasses / other aquatic plants / living creatures have grown / occupied the areas. While the Town owns the waterways around the islands, Miami-Dade / other environmental regulatory agencies have review / permitting jurisdiction (M-D DERM Class 1 Permit required). As part of this docking facility design M-D DERM staff inspected the site, including underwater reviews, to determine the water depth and environmental features. Concerns were raised by M-D DERM about the existing shallow water depth and environmental conditions observed near the site's seawall, which was recently rebuilt and raised in anticipation of redevelopment. Docking facilities and boats, particularly larger boats with deeper hull drafts, can potentially damage the shallow underwater lands near the seawall (hulls / propellers). The applicant's design team worked with M-D DERM / Town staff to try to revise the original design plans to meet as many of the Town's Code requirements as reasonably possible, but also comply with M-D DERM environmental issues. The Town Code provisions limit docks from extending into adjoining waterways more than 25 feet from a seawall cap face in this area (asking for some portions up to 73.5'). Also, the Town Code provisions limit mooring pilings from extending into adjoining waterways more than 40 feet from a seawall cap in this area (asking for some piles up to 89.5'). Finally, the Town Code limits the width of docks extending more than 8 feet from the seawall to no more than 4 feet in width (asking for some sections up to 6 feet in width). The Town Code does not allow any obstructions on the narrow docks such as storage bins / benches / etc. The applicant is proposing to install eight (8) electrical outlets and three (3) fire hose cabinets – the Town Code is silent as these types of facilities; however, we are aware that some docking facilities in the Town have electrical services for boats.

The applicant is seeking to install a multiple vessel docking facility that could accommodate up to fifteen (15) larger boats (35' - 50') although smaller boats could easily be docked at the facility too. The plans show three (3) wider (6 feet width) dock extensions from the seawall out into the water connecting to narrower east / west cross docks (4 feet width), some of which extend out further into the water. A total of twenty-one (21) mooring piles are shown waterward of the docks. Accessory stairs at the ends of some docks and numerous mooring cleats are also proposed. A set of preliminary plans (include preliminary DERM stamp of approval) was included in the submittal package showing the proposed docks / boats locations. Despite the above Town Code criteria, the Code allows for docks / boat lifts / piles / etc. to project out further than the stated limitations if the Miami-Dade Department of Environmental Resource Management (DERM) requires alterations to the above limitations, based on underwater conditions, such as depth of the bay / canal bottom, existing seagrasses, etc. Although the County preliminarily approved their initial request, the Code states that the Town may approve the "minimum variance necessary" to address the unique characteristics of the site. MMPA notes that within the waterways surrounding the islands other variances have been granted over the years by the Town for similar reasons (Riva 2013 / Monarch Hotel 2017 / several single-family homes). A review of the latest design plans by MMPA reveals that all other Town Code requirements are being met (setbacks / etc.).

Following is a summary of the applicable Code provisions:

Applicant Requested Variances and Code Provisions:

- Variance from Section 23-12(6)(a)(iii) limiting the projection of docks to no more than 25 feet from the face of the seawall cap at this location (BH Waterway locations are more restrictive). The applicant is requesting a tiered / graduated scale beginning with the side outermost docks starting at 26 feet – 30 feet from the seawall and extending out about 45+/- feet from the seawall with the farthest out docks starting about 53.5 feet from the seawall and extending out a maximum of 73.5 feet from the seawall.

- Variance from Section 23-12(8) limiting the projection of mooring piles to no more than 40 feet from the face of the seawall cap for this location (BH Waterway locations are more restrictive). The applicant is requesting a tiered / graduated scale beginning about 66 feet from the seawall with the farthest out pilings at about 89.5 feet from the seawall.

- Variance from Section 23-12(6)(a)(v) limiting the width of docks which extend more than 8 feet from the seawall cap to 4 feet in width. The applicant is requesting that some portions of the docks (the 3 main dock extensions from the seawall) to be 6 feet in width so as to accommodate fire hose boxes / fire personnel access.

- Complying with Section 23-12(6)(a)(x) allowing for further projections, through the use of a variance granted by the Town Council, if DERM / other review agency requires alterations to the above limitations die to environmental / other reasons. Approval shall be limited to the minimal variation of the criteria necessary to meet the unique environmental characteristics of the site.

BACKGROUND

The Town has had land development regulations governing seawalls, docks, mooring piles, boats and related structures for many years. A major Code rewrite was performed in 2007. Former Mayor Peter Lynch, a professional boat captain, led efforts to update the Code provisions to include modern standards. Another effort was undertaken in 2009-10 due primarily address to seawall heights but was never adopted. In August 2016, the Town adopted its last revisions to this Code section. The overall community goal is to have reasonable regulations for upland landowners (uniform taller seawall hgt.) and boaters, while safeguarding neighboring property owners (views / nuisances).

There are currently no docks at the site; however, one small dock / 2 mooring piles previously existed, but those have been removed. The seawall was recently rebuilt / upgraded prior to construction of the new multifamily building beginning (5.50' NGVD). MMPA notes that the vast majority of existing docks in this area appear to be parallel to the seawall with only a few extending into the waterways.

The applicant submitted a Town variance application form, a property survey, an M-D DERM underwater survey, a justification letter, a letter of no objection from an adjoining site (10301 EBHD) and preliminary plans reviewed by M-D DERM and other information showing the location of the proposed docks designed by a dock contractor (Ocean Consulting, LLC).

ANALYSIS

As per the Town's request, MMPA has completed our review of the revised variance application and provide the following analysis and comments.

The subject property is located on the north side of 103rd Street near the roadway bend onto East Bay Harbor Drive and fronts on a portion of Biscayne Bay. The portion of Biscayne Bay in this area is quite large and connects to the Haulover Inlet to the northeast. A large sandbar frequented by boaters exists in the middle of Biscayne Bay to the north with deeper navigable channels around the sandbar. The community of Bal Harbour Village exists to the east across the 400'+/- wide Indian Creek. A private boat marina built in the 1940s serving the Bal Harbour Village single-family area exists directly east of the site across the Indian Creek. Per Town Code, docks in the Town, except those located in the Bay Harbor Waterway separating the East / West Islands (150' width waterway with more restrictive encroachment criteria) are limited from extending more than 25 feet into the water, unless M-D DERM requires alterations to the above limitations. In which case, the Town Council must grant a variance that is limited to the minimal variation of the stated criteria necessary to meet the unique environmental characteristics of the site.

The Miami-Dade DERM staff report states that normally 4-6 feet of water depth is required for docking larger vessels. The underwater land has silted in over the years and is about 3+/- feet in depth near the site seawall, according to the report. Therefore, DERM will not allow mooring within close proximity of the site's seawall and has determined the dock design must be altered as presented. The plans show only larger boat "shapes" moored perpendicular to the seawall in the bay, but other smaller boats could presumably moor at dock spaces too – but not near the seawall. Dredging of the shallow areas in this area is apparently prohibited and DERM. The county's EQCB may need to approve any variances to the M-D Code (triangles); however, DERM staff is not objecting to the current design.

MMPA notes that the design shows fifteen (15) dock slips; however, smaller boats could easily dock at the dock slips as well, but access to the "lagoon" interior to the dock would be difficult due to the low dock height (5.50' NGVD). The site plan drawing submitted with the Town variance application indicates that the docks would project (varies) up to seventy-three and one-half (73.5) feet into the Biscayne Bay and some mooring plies will project up to eighty-nine and one-half (89.5) feet into the bay. Again, Section 23-12(6)(a)(iii) of the Town Code limits the projection of docks for this property to 25 feet unless DERM requires alterations to the above limitation, in which case a variance is required and shall be limited to the minimal variation necessary. The DERM approval was based upon keeping boats at least 26 – 30 feet seaward to avoid the shallow water / grass beds. As some of the boat docks are expected to accommodate 50' boats this would make the "minimum" variation necessary to 50+/- feet for the western portion of the docks, 54+/- feet for the eastern portions of the docks, and 69+/- feet for the center most extended portion of the docks. The mooring piles are shown at about 66 feet out into the water for the closest pilings and about 89.5 feet for the furthest out pilings. Presumably the dock design could be different with the center section not as far out versus the shape submitted but the M-D DERM water depth data seems to show the water depth shallower in this area.

Again, as to the dock widths the applicant states the reason for the 6-foot width perpendicular docks versus the Code allowed 4' widths is so that fire hose cabinets can be built near the parallel cross dock connections for fire personnel / fire suppression if needed. The Town Code does not allow storage cabinets / benches / etc. on docks in general; however, this may be a Fire Code issue and they cabinets are not meant for general personal storage. The Town Code is also silent as to electrical service / potable water stands as well, but these have been commonly allowed by the Town.

The applicant states the dock facilities will be reserved solely for ONDA residents and not open to the public. This is important to note by the Town due to the location and should be a condition of approval. Also, no other types of docks (floating / jet skis / personal watercraft / etc.) should be allowed.

CONCLUSION AND RECOMMENDATION

Based on the above analysis, MMPA recommends that the Town Council **APPROVE** the requested variances as is, or with revisions deemed appropriate. MMPA suggests the variance be subject to the conditions listed below.

MMPA recommends the following conditions:

1) This variance approval is based on the design plans submitted with the application dated December 8th, 2021 prepared by Ocean Consulting, LLC / Dynamic Engineering Solutions, Inc. which have been approved preliminarily by Miami-Dade DERM, subject to any changes required by the Town Council, which shall take precedence.

2) No dock may extend more than 73.5 feet into Biscayne Bay from the face of the seawall cap.

3) No vessel mooring piles may extend more than 89.5 feet into Biscayne Bay from the face of the seawall cap.

4) No vessels shall be allowed to dock within 25 feet of the seawall cap to help protect the environmental features (seagrasses / other) noted by Miami-Dade DERM in this area. Further no boats shall be allowed within the enclosed portion of the dock system.

5) Compliance with the conditions listed in the Miami-Dade DERM letter dated August 8th, 2021.

6) Only residents of the ONDA multifamily project are permitted to dock at the facility. No dock shall be leased out to 3rd parties. No commercial fishing vessels, no commercial food service or alcoholic beverage vessels, and no boat rental use is allowed or may dock at the facility. No live-aboard boat use shall occur. No overnight stays aboard any vessel shall occur.

7) No floating docks or boat / jet ski lifts, and no jet ski or personal watercraft use shall be permitted to operate from the docks nor mooring of such vessels at any of the docks.

8) No vessel docked / moored at the ONDA docking facilities shall exceed 35 feet in hull length.

9) The ONDA development owners and all vessel owners moored at the docking facilities shall be jointly responsible for maintaining the docking facilities and waters surrounding the docking facilities at all times. The docking facilities and surrounding waters shall be kept in a safe, clean, and orderly manner free from debris at all times.

10) No dumping of refuse or solid waste, the dumping of wastewater, or other pollutants shall be permitted into the water or left on the docks, nor shall any noise in excess of that permitted by the Town Code (Chapter 12 - Nuisances) be generated.

11) All required safety ladders shall be installed as shown, as well as additional supplemental ladders as agreed to by the Town Manager, or their designee, at other locations spaced around the entire docking facilities, as a safety measure for swimmers and those that may accidentally falling into the water.

12) The ONDA development owners and all vessel owners shall comply with all regulations of the Town governing marine facilities and nuisances. The Town reserves the right, as the owner of the waterways (Town Charter / SB 865) and local police jurisdiction, to institute Code Enforcement and legal / police actions to enforce the laws of the Town, to maintain order, peace and tranquility, and to address nuisances to the Town in general and neighboring sites.


Site
Google Earth
Imagery date: 11/22/19
200 m
Camera: 1,188 m 25°53'45"N 80°07'53"W -1 m





Onda brings a new 'wave' of luxury to Bay Harbor Islands

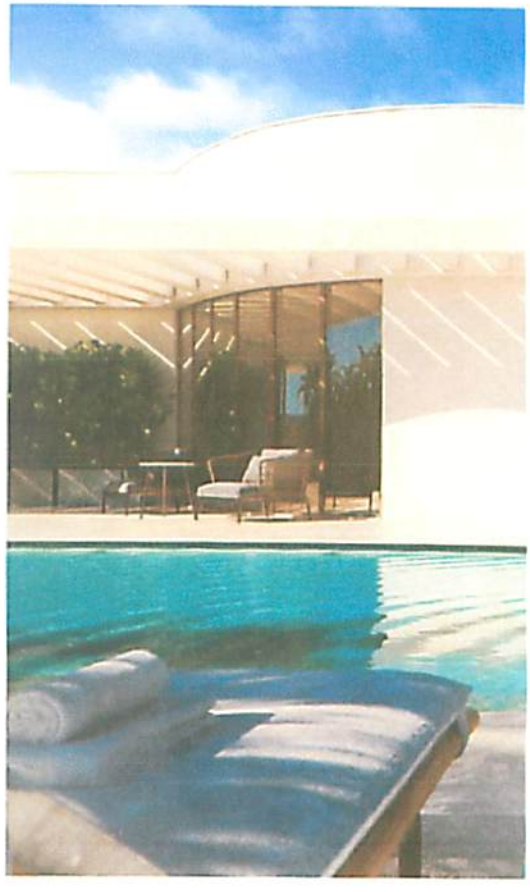
By Robyn A. Friedman

Veteran Miami developers Ugo Colombo, of CMC Group, and Valerio Morabito, of Morabito Properties, have broken ground on Onda Residences, a new boutique luxury condominium in Bay Harbor Islands, a town in Miami-Dade County. Designed by renowned architect Bernardo Fort-Brescia of Arquitectonica, the eight-story waterfront development, now under construction at 1135 103rd St., will have 41 two- to four-bedroom residences ranging from 1,809 to 3,535 square feet, with four penthouse units measuring up to 5,073 square feet. Two of the penthouses will have private rooftop pool decks. "Onda" means "wave" in Italian.

All residences will have an office/den, private or semi-private elevators, tiled terraces with private gardens, open floor plans, Snaidero kitchens with Miele appliances, bathrooms with Italian marble and wood cabinetry, Italian flooring throughout and floor-to-ceiling sliding glass doors and windows. Building amenities include a rooftop pool deck and lounge area, a fitness center with yoga studio, a spa with massage treatment rooms, electric-vehicle charging stations and a digital concierge. There is also a private marina with boat slips ranging from 35 to 60 linear feet, 70 percent of which are already sold to future residents.

Construction is expected to be completed in 2023. Prices for available units – nearly 70 percent of which have been pre-sold – range from $1.8 million to over $9.5 million.

For information, call 305-344-1234 or visit ondaresidences.com.



Delaware

The First State

I, JEFFREY W. BULLOCK, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY THE ATTACHED IS A TRUE AND CORRECT COPY OF THE CERTIFICATE OF FORMATION OF "BH INVESTMENT LLC", FILED IN THIS OFFICE ON THE TWENTY-THIRD DAY OF OCTOBER, A.D. 2017, AT 5:49 O`CLOCK P.M.

Jeffrey W. Bullock, Secretary of State

6581190 8100
SR# 20176747439

Authentication: 203447511
Date: 10-24-17

You may verify this certificate online at corp.delaware.gov/authver.shtml

State of Delaware
Secretary of State
Division of Corporations
Delivered 05:49 PM 10/23/2017
FILED 05:49 PM 10/23/2017
SR 20176747439 - File Number 6588926

CERTIFICATE OF FORMATION
OF
BH INVESTMENT LLC

This Certificate of Formation of BH INVESTMENT LLC (the "Company") is being executed by the undersigned for the purpose of forming a limited liability company pursuant to the Delaware Limited Liability Company Act.

1. The name of the Company is BH INVESTMENT LLC.

2. The address of the registered office of the Company in Delaware is Corporation Trust Center, 1209 Orange Street, Wilmington, New Castle County, Delaware 19801.

3. The name and address of the registered agent for service of process on the Company in the State of Delaware are The Corporation Trust Company at Corporation Trust Center, 1209 Orange Street, Wilmington, New Castle County, Delaware 19801.

IN WITNESS WHEREOF, the undersigned has executed this Certificate of Formation as of the 23rd day of October, 2017.

Arthur J. Murphy
Authorized Person

CFN: 20170656202 BOOK 30764 PAGE 1606
DATE:11/21/2017 02:22:24 PM
DEED DOC 123,000.00
SURTAX 92,250.00
HARVEY RUVIN, CLERK OF COURT, MIA-DADE CTY

(1)

Rec 44pg
Doc $123,000
Sur Tax $92,250.00

Prepared by and return to:

Richard M. Bezold Esq.
Akerman LLP,
Three Brickell City Centre,
98 SE 7 Street, Suite 1100
Miami, Florida 33131

PARCEL IDENTIFICATION NO: 13-2227-001-6770

First American Title Ins. Co.
National Commercial Services
200 South Biscayne Blvd., Suite 2930
Miami, FL 33131
NCS File No. 859767

SPECIAL WARRANTY DEED

THIS INDENTURE is made this 13th day of November, 2017, by and between **P3 Investments I, LLC**, a Florida limited liability company (hereinafter called "**Grantor**"), whose address is 407 Lincoln Road, Penthouse NE, Miami Beach, Florida 33139 and **BH Investment LLC**, a Delaware limited liability company (hereinafter called "**Grantee**"), whose address is 1691 Michigan Avenue, Suite 440, Miami Beach, Florida 33139.

WITNESSETH

The Grantor, for and in consideration of the sum of Ten Dollars ($10.00), to it in hand paid by the Grantee, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, has granted, bargained and sold and does hereby grant, bargain and sell to Grantee the following described real estate, situated, lying and being in the County of Miami-Dade, State of Florida, more particularly described on Exhibit A attached hereto and made a part hereof, together with all buildings, improvements and fixtures located thereon and owned by Grantor as of the date hereof and all right, title and interest, if any, that Grantor may have in and to all rights, privileges and appurtenances pertaining thereto including all of Grantor's right, title and interest, if any, in and to all rights-of-way, open or proposed streets, alleys, easements, strips or gores of land adjacent thereto (herein collectively called the "Real Property").

SUBJECT TO only those matters set forth on Exhibit B attached hereto and made a part hereof (the "Permitted Exceptions"), without reimposing same.

TO HAVE AND TO HOLD the aforesaid Real Property, together with all the improvements, licenses, tenements, hereditaments, easements and appurtenances thereto belonging or in anywise appertaining unto Grantee, its successors and assigns in fee simple forever.

Subject to the matters described above, Grantor specially warrants the title to the Real Property and will defend the same against the lawful claims of all persons claiming by, through or under Grantor, but against none other.

(When used herein the terms "Grantor" and "Grantee" shall be construed to include, masculine, feminine, singular or plural as the context permits or requires, and shall include heirs, personal representatives, successors or assigns.)

[The remainder of the page is intentionally left blank]

IN WITNESS WHEREOF, the Grantor has caused this Indenture to be executed in its name and caused its seal to be affixed as of the day and year first above written.

Signed, sealed and delivered in the presence of:

Witness #1 signature

Irma Spoto Duran
Witness #1 print name

Witness #2 signature

Richard Bezold
Witness #2 print name

GRANTOR:

P3 INVESTMENTS I, LLC,
a Florida limited liability company

By: BH-X2 Management, LLC
a Florida limited liability company,
its Manager

By: _____
Name: Carlos E. Malagoni
Title: Manager

THE STATE OF FLORIDA §

COUNTY OF MIAMI-DADE §

The foregoing instrument was acknowledged before me on November 13, 2017 by Carlos E. Malagoni, as Manager of BH-X2 Management, LLC, a Florida limited liability company, the Manager of P3 Investments I, LLC, a Florida limited liability company, on behalf of said entities. He is personally known to me or produced _____ as identification.

Notary Public, State of Florida

My Commission Expires:

Printed/Typed Name

Irma Spoto Duran
COMMISSION #FF916781
EXPIRES: September 9, 2019
WWW.AARONNOTARY.COM

EXHIBIT A

REAL PROPERTY

Parcel I

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

LESS AND EXCEPT, that portion conveyed to the Town of Bay Harbor Islands, a Florida municipality by that instrument recorded in Official Records Book 427, Page 281, of the Public Records of Miami-Dade County, Florida.

Parcel II:

The Southerly 11 feet of Tract "F" of BAY HARBOR ISLAND, according to the Plat thereof, recorded in Plat Book 46, Page 5, of the Public Records of Miami-Dade County, Florida.

EXHIBIT B

PERMITTED EXCEPTIONS

1. Taxes and assessments for the year 2017 and subsequent years, which are not yet due and payable.

2. Restrictions, dedications, conditions, reservations, easements and other matters shown on the plat of BAY HARBOR ISLAND, as recorded in Plat Book 46, Page 5, of the Public Records of Miami-Dade County, Florida.

3. Terms, conditions and easements contained in that instrument in favor of Florida Power & Light Company, recorded in Official Records Book 9010, Page 551, of the Public Records of Miami-Dade County, Florida.

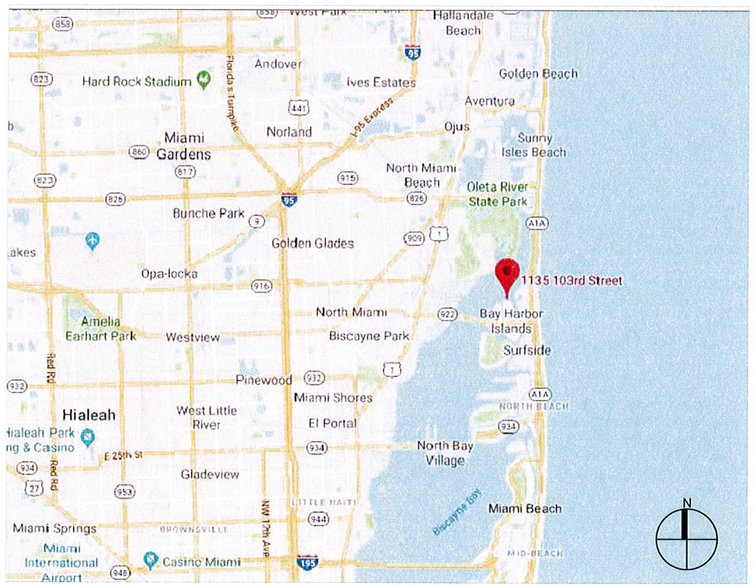
4. Terms, conditions and easements contained in that instrument in favor of the Town of Bay Harbor Islands, recorded in Official Records Book 30485, Page 1478, of the Pubic Records of Miami Dade County, Florida.

5. Survey prepared by Blanco Surveyors, Inc., dated August 25, 2014, under Job No. 14-257, shows the following: (a) concrete sidewalk, entry drive and asphalt parking area including 9 parking spaces all lie within the right of way along the South property line; (b) wood dock wholly within waterway.

6. Automatic reservation in an undivided 3/4 interest in all of the phosphate, minerals and metals and an undivided 1/2 interest in all the petroleum that is or may be in, on or under the land by vitue of conveyance from the Town of Bay Harbor Islands, a Florida municipal corporation, recorded in O.R. Book 30485, Page 1476. (As to The Southerly 11 feet of Tract "F" of BAY HARBOR ISLAND, according to the Plat thereof, recorded in Plat Book 46, Page 5, of the Public Records of Miami-Dade County, Florida).[Per Section 270.11, Florida Statutes].



LOCATION MAP AND LEGAL DESCRIPTION



PROJECT SITE LOCATION:
1135 103 STREET
Bay Harbor Islands, FL 33154-1297

LATITUDE: 25°89'37.31" N
LONGITUDE: 80° 13'26.82" W

FOLIO No.: 13-2227-001-6770

LEGAL DESCRIPTION:

BAY HARBOR ISLAND PB 46-5

LOT F

LOT SIZE 52666 SQ FT M/L

FKA HARBOR CONTINENTAL CO OP

FAU 13 2227 026 0001

GENERAL NOTES:

1. ELEVATIONS SHOWN REFER TO THE NATIONAL GEODETIC VERTICAL DATUM (NGVD) OF 1929.
2. ALL DIMENSIONS ON PLANS ARE SUBJECT TO VERIFICATION IN THE FIELD.
3. IT IS THE INTENT OF THESE PLANS TO BE IN ACCORDANCE WITH APPLICABLE CODES AND AUTHORITIES HAVING JURISDICTION. ANY DISCREPANCIES BETWEEN THESE PLANS AND APPLICABLE CODES SHALL BE IMMEDIATELY BROUGHT TO THE ATTENTION OF ENGINEER BEFORE PROCEEDING WITH WORK. CONTRACTOR AND ALL SUBCONTRACTORS ARE RESPONSIBLE FOR ALL LINES, ELEVATIONS, AND MEASUREMENTS IN CONNECTION WITH THEIR WORK.
4. IT IS THE INTENT OF THESE PLANS AND THE RESPONSIBILITY OF THE CONTRACTOR TO COMPLY WITH LOCAL, STATE, AND FEDERAL ENVIRONMENTAL PERMITS ISSUED FOR THIS PROJECT. IT SHALL BE THE CONTRACTOR'S RESPONSIBILITY TO FAMILIARIZE AND GOVERN HIMSELF BY ALL PROVISIONS OF THESE PERMITS.
5. APPLICABLE BUILDING CODE: FLORIDA BUILDING CODE, 2020 EDITION (AND CURRENT ADDENDUMS).
6. APPROVED CONTRACTOR TO DETERMINE THE SUITABILITY OF EXISTING STRUCTURES AND VERIFY ALL DIMENSIONS. THE APPROVED CONTRACTOR IS RESPONSIBLE FOR ALL METHODS, MEANS, SEQUENCES AND PROCEDURES OF WORK.
7. DO NOT SCALE DRAWINGS FOR DIMENSIONS.
8. CONTRACTOR TO VERIFY LOCATION OF EXISTING UTILITIES PRIOR TO COMMENCING WORK.
9. CONTRACTOR TO PROPERLY FENCE AND SECURE AREA WITH BARRICADES.
10. ANY DEVIATION AND/OR SUBSTITUTION FROM THE INFORMATION PROVIDED HEREIN SHALL BE SUBMITTED TO THE ENGINEER FOR APPROVAL PRIOR TO COMMENCEMENT OF WORK.
11. ALL NEW MATERIALS AND/OR PATCHWORK SHALL BE PROVIDED TO MATCH EXISTING MATERIALS AND/OR ADJOINING WORK WHERE PRACTICAL EXCEPT AS SPECIFICALLY NOTED HEREIN.
12. LICENSED CONTRACTOR SHALL USE ALL POSSIBLE CARE TO PROTECT ALL EXISTING MATERIALS, SURFACES, AND FURNISHINGS FROM DAMAGE DURING ALL PHASES OF CONSTRUCTION.
13. THE LICENSED CONTRACTOR TO INSTALL AND REMOVE ALL SHORING AND BRACING AS REQUIRED FOR THE PROPER EXECUTION OF THE WORK.
14. ALL NEW WORK AND/OR MATERIALS SHALL CONFORM TO ALL REQUIREMENTS OF EACH ADMINISTRATIVE BODY HAVING JURISDICTION IN EACH PERTAINING CIRCUMSTANCE.
15. THE CONTRACTOR WILL EMPLOY AND MAINTAIN ADEQUATE SEDIMENT AND EROSION CONTROL MEASURES TO PROTECT BISCAYNE BAY FROM SEDIMENT AND CONSTRUCTION DEBRIS.

DOCK: LL 80 PSF

BOLTS

1. ALL BOLTS SHALL BE 316 STAINLESS STEEL, UNLESS OTHERWISE NOTED.

DESIGN CRITERIA

STRUCTURAL DESIGN IS IN ACCORDANCE WITH THE FOLLOWING CODES AND SPECIFICATIONS:

1. FLORIDA BUILDING CODE (FBC), 2020 EDITION.
2. ACI 318-19, BUILDING CODE REQUIREMENTS FOR STRUCTURAL CONCRETE.
3. ASCE 7-16, MINIMUM DESIGN LOADS FOR BUILDINGS AND OTHER STRUCTURES.
4. NDS NATIONAL DESIGN SPECIFICATION FOR WOOD CONSTRUCTION, 2018 EDITION.
5. EM 1110-2-1100 (PART VI) COASTAL ENGINEERING MANUAL, 2011 EDITION.

IN THE EVEN OF CONFLICT BETWEEN PERTINENT CODES AND REGULATIONS AND THE REQUIREMENTS OF THE REFERENCED STANDARDS OF THESE SPECIFICATIONS, THE PROVISIONS OF THE MORE STRINGENT SHALL GOVERN.

CONCRETE

1186243. CONCRETE SHALL CONFORM TO ACI 318 (LATEST ED.) AND SHALL BE REGULAR WEIGHT, SULFATE RESISTANT, WITH A DESIGN STRENGTH OF 5,000 PSI AT 28 DAYS W/ A MAX WATER-CEMENTIOUS MATERIALS RATIO, BY WEIGHT, NORMAL WEIGHT AGGREGATE CONCRETE OF 0.40.

1186244. OWNER SHALL EMPLOY AND PAY FOR TESTING SERVICES FROM AN INDEPENDENT TESTING LABORATORY FOR CONCRETE SAMPLING AND TESTING IN ACCORDANCE W/ ASTM.

1186245. LICENSED CONTRACTOR IS RESPONSIBLE FOR THE ADEQUACY OF FORMS AND SHORING AND FOR SAFE PRACTICE IN THEIR USE AND REMOVAL.

1186246. CONCRETE COVER SHALL BE 3" UNLESS OTHERWISE NOTED ON APPROVED DRAWINGS.

1186247. REINFORCING STEEL SHALL BE IN CONFORMANCE WITH THE LATEST VERSION OF ASTM A615 GRADE 60 SPECIFICATIONS. ALL REINFORCEMENT SHALL BE PLACED IN ACCORDANCE W/ ACI 315 AND ACI MANUAL OF STANDARD PRACTICE.

1186248. SPLICES IN REINFORCING BARS SHALL NOT BE LESS THAN 48 BAR DIAMETERS AND REINFORCING SHALL BE CONTINUOUS AROUND ALL CORNERS AND CHANGES IN DIRECTION. CONTINUITY SHALL BE PROVIDED AT CORNERS OR CHANGES IN DIRECTION BY BENDING THE LONGITUDINAL STEEL AROUND THE CORNER 48 BAR DIAMETERS.

WOOD

1. PRIMARY WOOD FRAMING MEMBERS SHALL BE NUMBER 1 PRESSURE TREATED MARINE GRADE SOUTHERN PINE, OR BETTER.
2. ALL DIMENSIONS ON PLANS ARE SUBJECT TO VERIFICATION IN THE FIELD.
3. 3 PIECE FASCIA TO BE ADDED TO OUTSIDE EDGE FOR ENTIRE DOCK.

PILE DRIVING NOTES

1. PILE DRIVING OPERATIONS SHALL BE OBSERVED BY A SPECIAL INSPECTOR, INCLUDING TEST PILES SUFFICIENT TO DETERMINE THE APPROXIMATE LENGTH REQUIRED TO MEET DESIGN CAPACITY.
2. PILES SHALL BE DRIVEN USING AN APPROVED CUSHION BLOCK CONSISTING OF MATERIAL SO ARRANGED SO AS TO PROVIDE THE TRANSMISSION OF THE HAMMER ENERGY.
3. PILES SHALL BE DRIVEN TO REQUIRED MINIMUM 15 TON. BEARING CAPACITY FOR WOOD PILES, AND 25 TON. FOR CONCRETE PILES.
4. PILES SHALL BE DRIVEN WITH A DROP HAMMER OR GRAVITY HAMMER PROVIDED THE HAMMER SHALL WEIGH NO LESS THAN 3,000 POUNDS, AND THE FALL OF THE HAMMER SHALL NOT EXCEED 6 FT.
5. PILES SHALL BE DRIVEN WITH A VARIATION OF NOT MORE THAN $\frac{1}{4}$" PER FOOT FROM THE VERTICAL, OR FROM THE BATTER LINE INDICATED, WITH A MAX VARIATION OF THE HEAD OF THE PILE FROM THE POSITION SHOWN ON THE PLANS OF NOT MORE THAN 3".
6. WHERE PILING MUST PENETRATE STRATA OFFERING HIGH RESISTANCE TO DRIVING, THE STRUCTURAL ENGINEER OF RECORD OR SPECIAL INSPECTOR MAY REQUIRE THAT PILES BE SET IN PRE-DRILLED OR PUNCHED HOLES. THE PILES SHALL REACH THEIR FINAL PENETRATION BY DRIVING.

SCOPE OF WORK

INSTALLATION OF 2283.55 SF OF WOOD DOCK (INCLUDING MARGINAL, ACCESS PIER & FINGER PIERS) SUPPORTED BY 12'X12: P.S CONCRETE PILES AND 12" DIA WOOD PILES WITH CLEATS AND ALUMINUM LADDER.

INSTALLATION OF (21) 12" DIA WOOD MOORING PILES

1135 103rd STREET DOCKING FACILITY PROJECT

Bay Harbor Islands, Florida

CLIENT:

BH INVESTMENT, LLC
c/o **MR. VALERIO MORABITO**
1691 Michigan Ave
Suite 440
Miami Beach, FL 33139

ENVIRONMENTAL CONSULTANT:

OCEAN CONSULTING, LLC
340 Minorca Avenue, Suite 7
Coral Gables, Florida 33134
Tel: (305) 921-9344
Fax: (305) 677-3254

CONTRACTOR:

PROJECT ENGINEER:

DYNAMIC ENGINEERING SOLUTIONS, INC.
351 S. Cypress Road, Suite 303
Pompano Beach, FL 33060

Office - 954-545-1740
Fax - 954-545-1721

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John Omslaer
PE 52733, CA 26829

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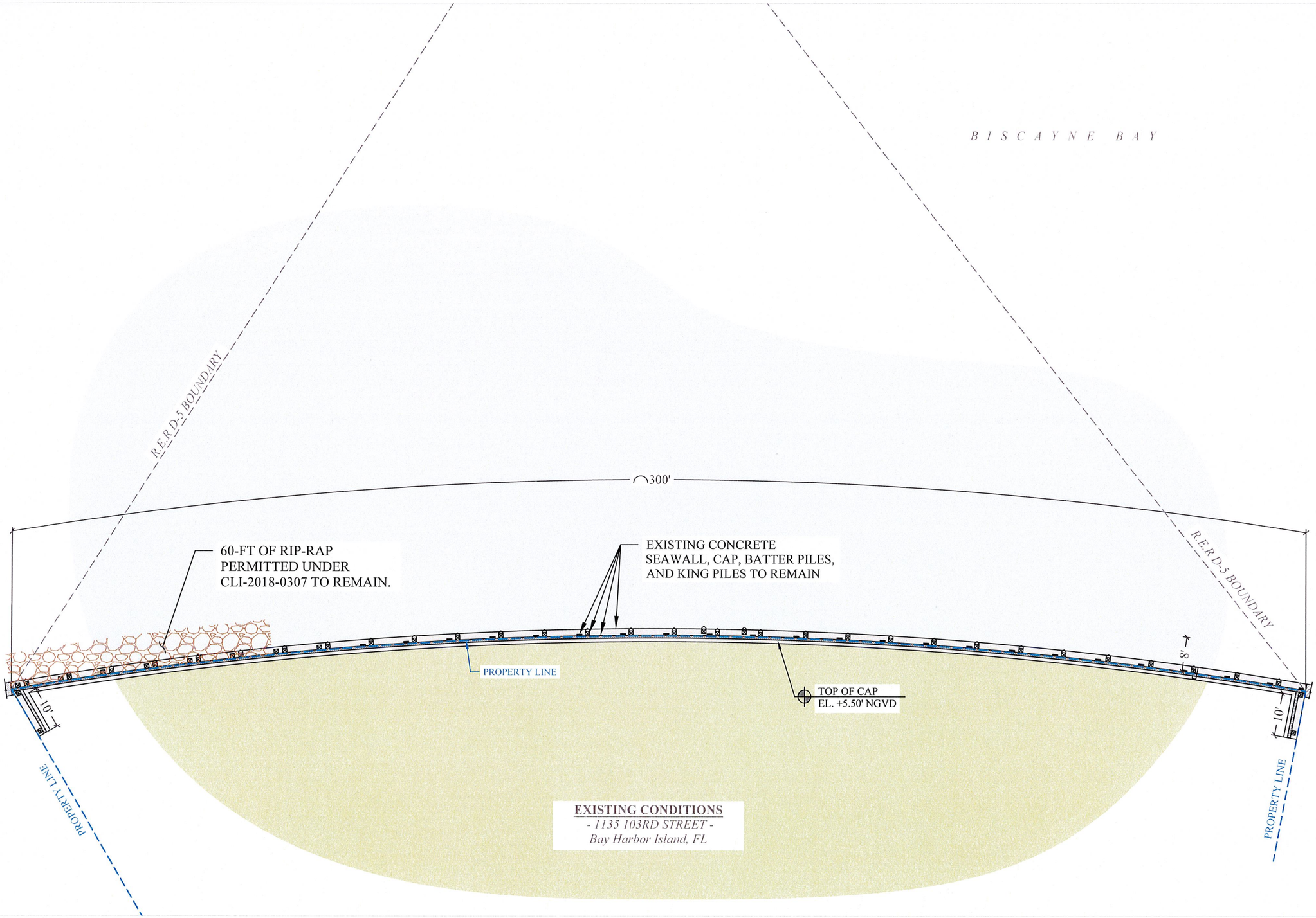
PROJECT: 16-5865

PROJECT LOCATION & NOTES

SCALE : AS SHOWN

SHEET NO.

S-1



N

5' 10' 20' 40'

GRAPHIC SCALE

1135 103rd STREET DOCKING FACILITY PROJECT

Bay Harbor Islands, Florida

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PROJECT: 16-5865

EXISTING CONDITIONS

SCALE : AS SHOWN

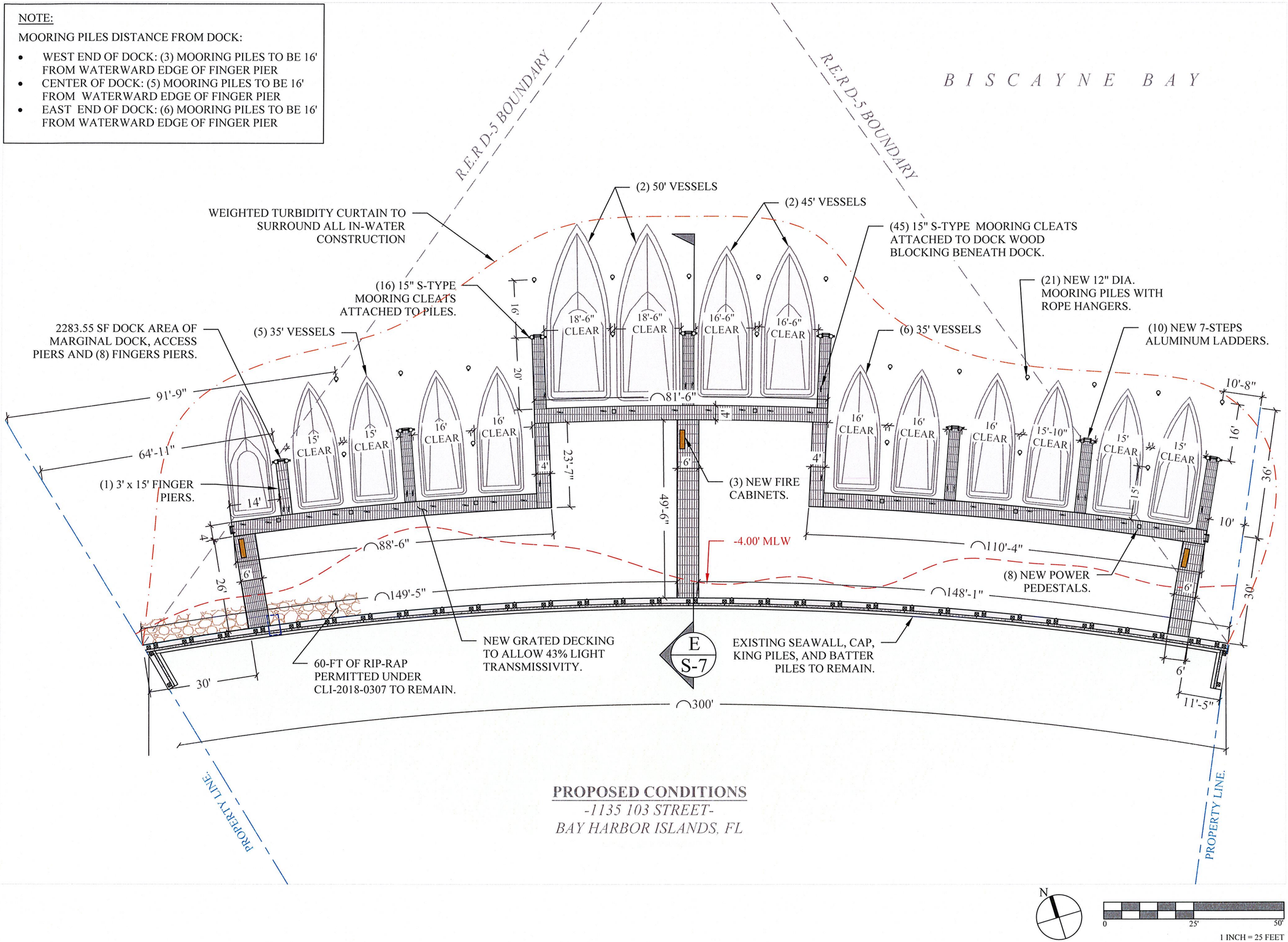
SHEET NO.

S-2

NOTE:

MOORING PILES DISTANCE FROM DOCK:

- WEST END OF DOCK: (3) MOORING PILES TO BE 16' FROM WATERWARD EDGE OF FINGER PIER
- CENTER OF DOCK: (5) MOORING PILES TO BE 16' FROM WATERWARD EDGE OF FINGER PIER
- EAST END OF DOCK: (6) MOORING PILES TO BE 16' FROM WATERWARD EDGE OF FINGER PIER



PROPOSED CONDITIONS

-1135 103 STREET-

BAY HARBOR ISLANDS, FL

N

0 25' 50'

1 INCH = 25 FEET

1135 103rd STREET DOCKING FACILITY PROJECT

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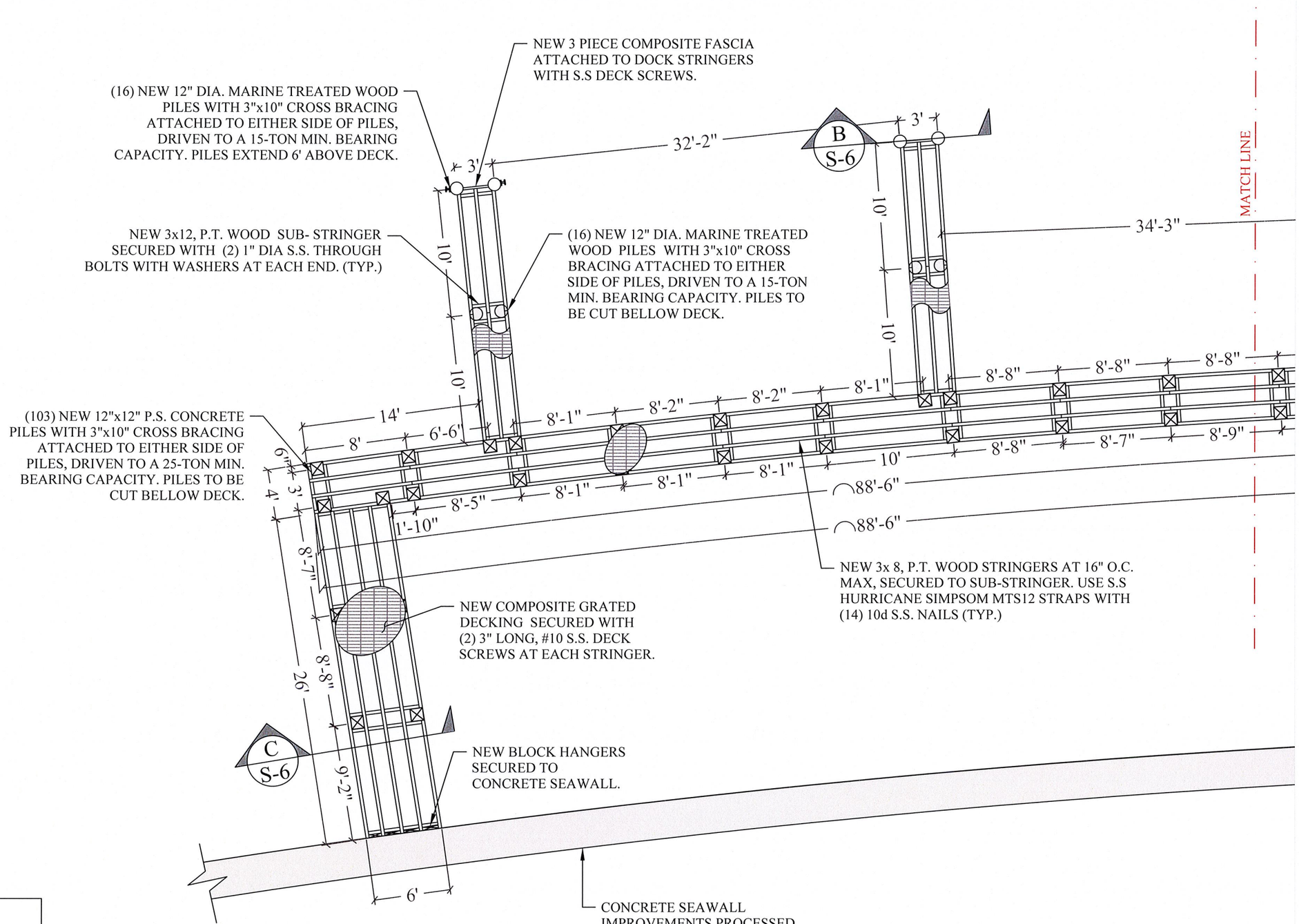
PROJECT: 16-5865

PROPOSED CONDITIONS

SCALE : AS SHOWN

SHEET NO.

S-3



NOTE:
ENTIRE DOCK STRUCTURE FRAMED IN (3) PIECE FASCIA.

DOCK FRAMING PLAN

0 8' 16'

SCALE: 1/8" = 1"

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DOCK FRAMING PLAN

SCALE : AS SHOWN

SHEET NO.

S-4

(16) 15" S-TYPE MOORING CLEATS ATTACHED TO PILES.

NEW 3 PIECE COMPOSITE FASCIA ATTACHED TO DOCK STRINGERS WITH S.S DECK SCREWS.

(16) NEW 12" DIA. MARINE TREATED WOOD PILES WITH 3"x10" CROSS BRACING ATTACHED TO EITHER SIDE OF PILES, DRIVEN TO A 15-TON MIN. BEARING CAPACITY. PILES EXTEND 6' ABOVE DECK.

(16) NEW 12" DIA. MARINE TREATED WOOD PILES WITH 3"x10" CROSS BRACING ATTACHED TO EITHER SIDE OF PILES, DRIVEN TO A 15-TON MIN. BEARING CAPACITY. PILES TO BE CUT BELLOW DECK.

NEW 3x 8, P.T. WOOD STRINGERS AT 16" O.C. MAX, SECURED TO SUB-STRINGER. USE S.S HURRICANE SIMPSOM MTS12 STRAPS WITH (14) 10d S.S. NAILS (TYP.)

NEW 3x12, P.T. WOOD SUB- STRINGER SECURED WITH (2) 1" DIA S.S. THROUGH BOLTS WITH WASHERS AT EACH END. (TYP.)

NEW COMPOSITE GRATED DECKING SECURED WITH (2) 3" LONG, #10 S.S. DECK SCREWS AT EACH STRINGER.

(103) NEW 12"x12" P.S. CONCRETE PILES WITH 3"x10" CROSS BRACING ATTACHED TO EITHER SIDE OF PILES, DRIVEN TO A 25-TON MIN. BEARING CAPACITY. PILES TO BE CUT BELLOW DECK.

NOTE:
ENTIRE DOCK STRUCTURE FRAMED IN (3) PIECE FASCIA.

CONCRETE SEAWALL IMPROVEMENTS PROCESSED UNDER CLI-2018-0307.

NEW BLOCK HANGERS SECURED TO CONCRETE SEAWALL.

B S-6 · C S-6 · D S-6 · E S-7

MATCH LINE

DOCK FRAMING PLAN

SCALE: 1/8" = 1"

1135 103rd STREET DOCKING FACILITY PROJECT

Bay Harbor Islands, Florida

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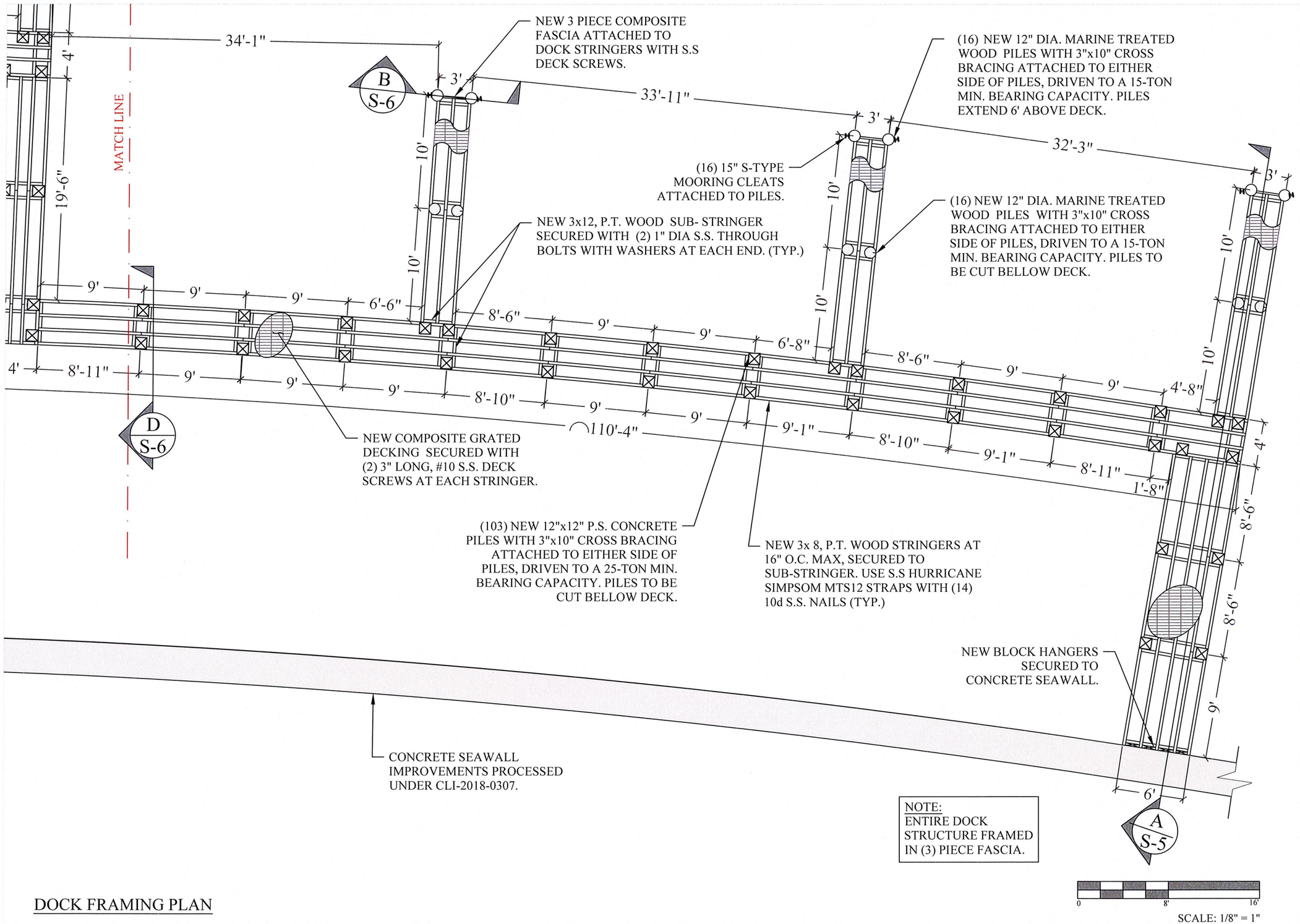
PROJECT: 16-5865

DOCK FRAMING PLAN

SCALE : AS SHOWN

SHEET NO.

S-4.1



SCALE: 1/8" = 1"

DOCK FRAMING PLAN

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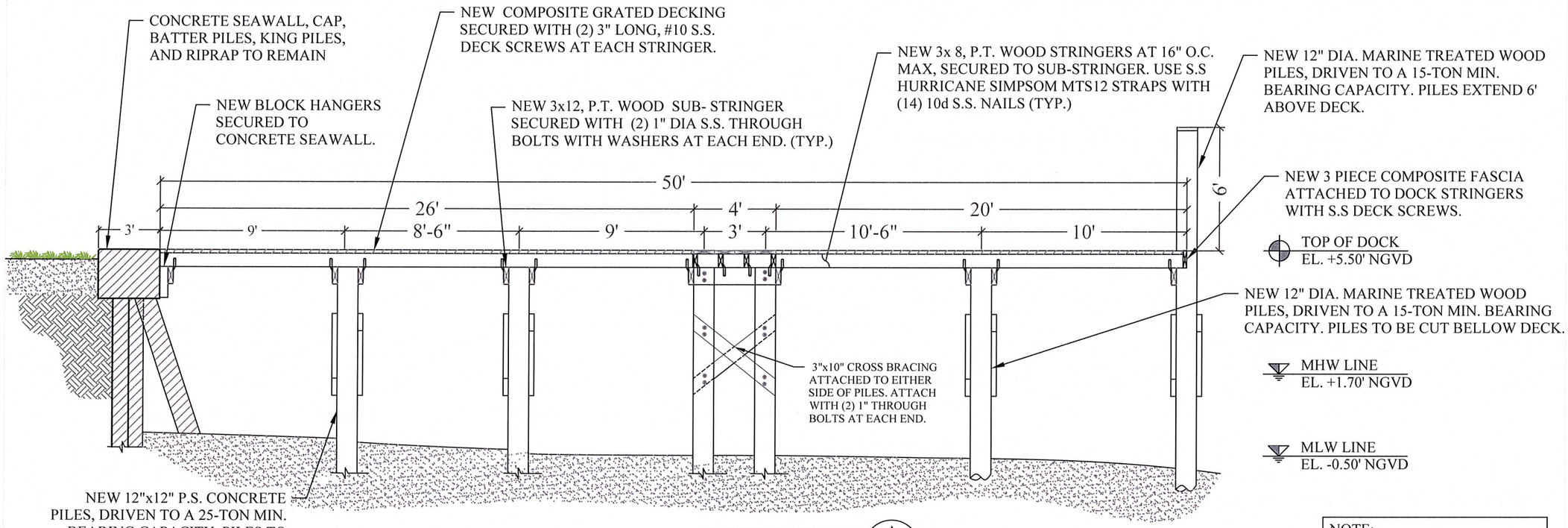
PROJECT: 16-5865

DOCK FRAMING PLAN

SCALE : AS SHOWN

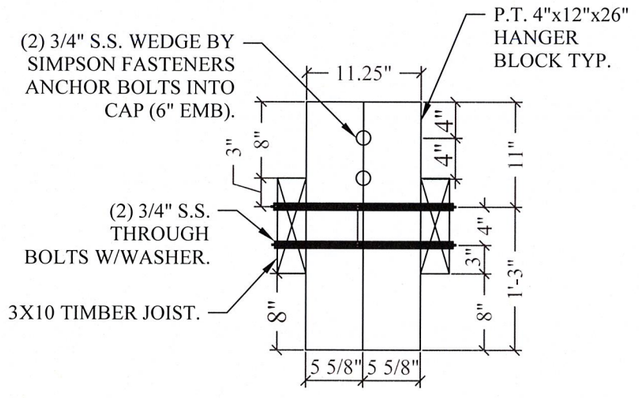
SHEET NO.

S-4.2

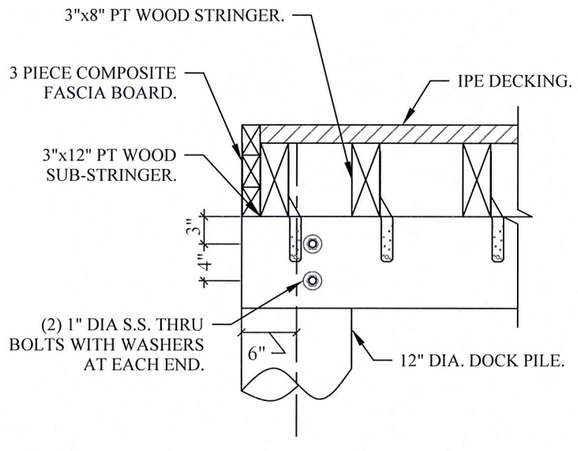


DOCK SECTION A / S-5
SCALE: 3/16" = 1'-0"

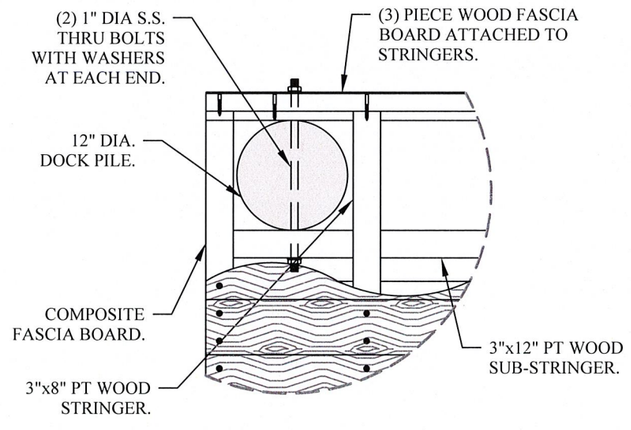
NOTE:
ENTIRE DOCK STRUCTURE FRAMED IN (3) PIECE FASCIA.



MARGINAL DOCK HANGER BLOCK DETAIL 1 / S-5
SCALE: ¾" = 1'-0"



DECK EDGE SECTION DETAIL 2 / S-5
SCALE: 3/4" = 1'-0"



DECK EDGE PLAN DETAIL 3 / S-5
SCALE: 3/4" = 1'-0"

1135 103rd STREET DOCKING FACILITY PROJECT
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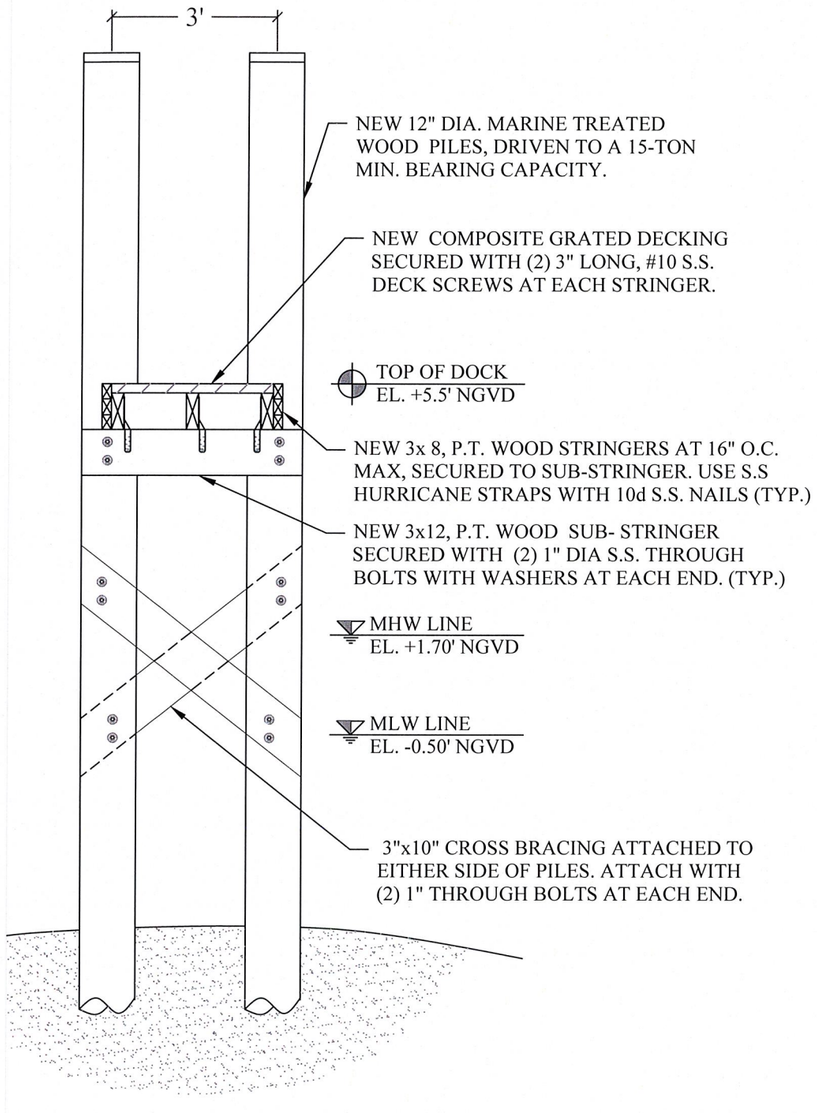
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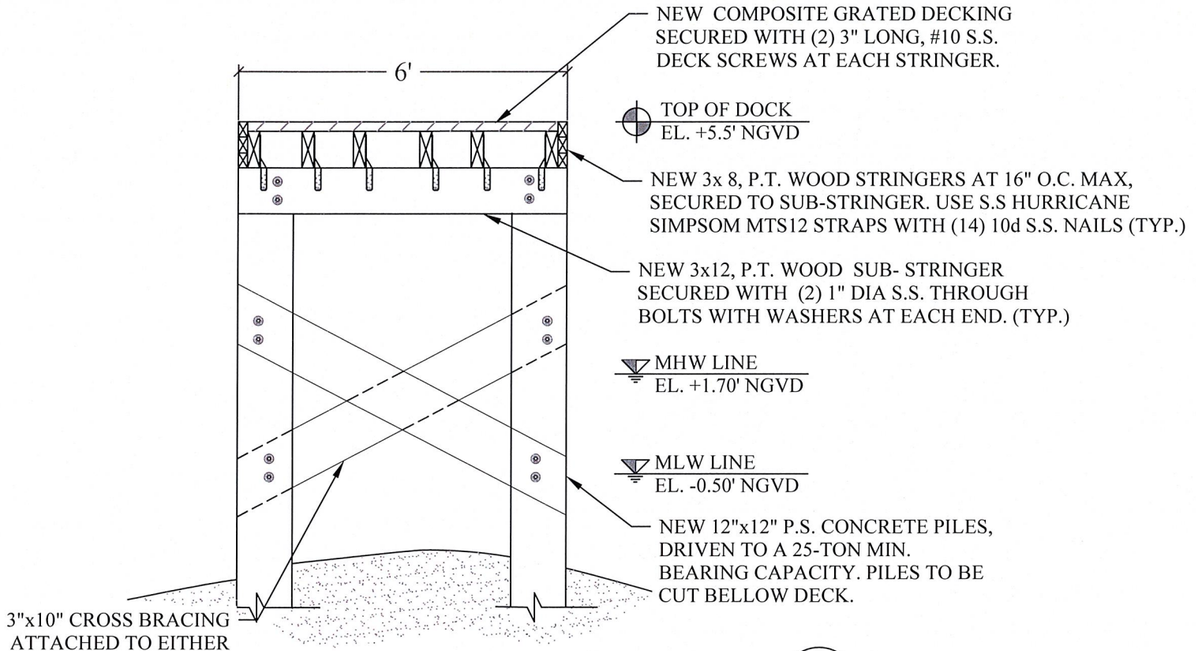
TYPICAL DOCK SECTION AND DETAILS

SCALE : AS SHOWN
SHEET NO.
S-5



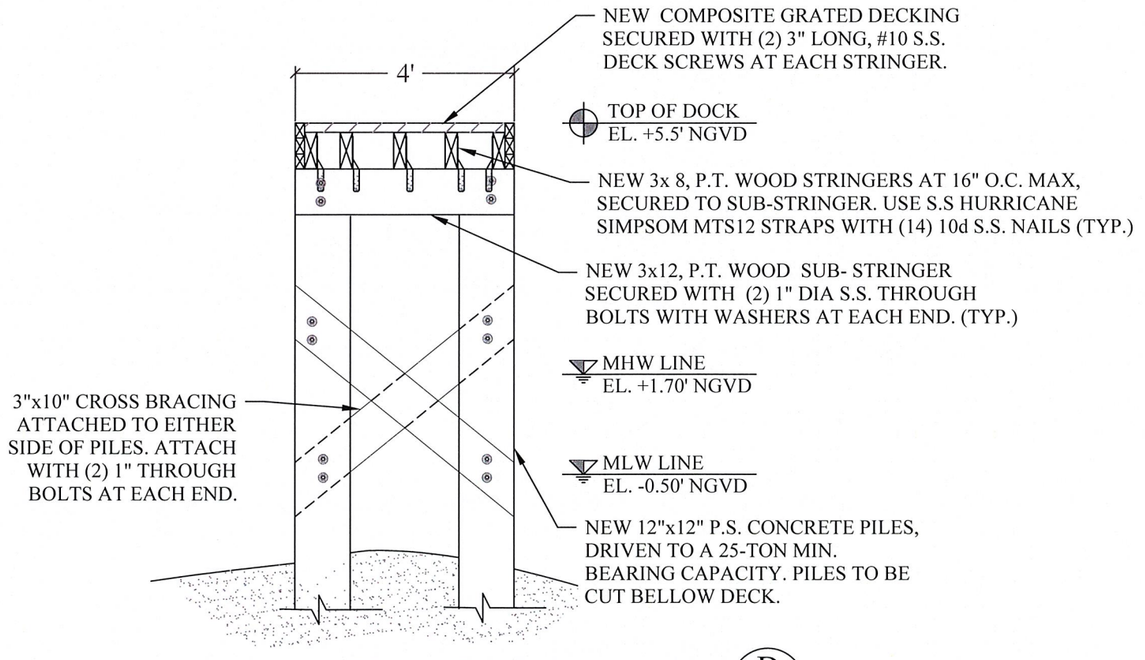
TYPICAL FINGER PIER SECTION B S-6

SCALE: 3/8" = 1'-0"



TYPICAL FINGER PIER SECTION C S-6

SCALE: 3/8" = 1'-0"



TYPICAL FINGER PIER SECTION D S-6

SCALE: 3/8" = 1'-0"

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351 S. Cypress Road, Suite 303
Pompano Beach, FL 33060

Office - 954-545-1740
Fax - 954-545-1721

SEAL / SIGNATURE / DATE

This document has been electronically signed and sealed by John H. Omslaer, P.E on using a SHA-1 authentication code. Printed copies are not considered signed and sealed and the SHA-1 authentication code must be verified on any electronic copies per rule 62-30.060, F.A.C

John Omslaer
PE 52733, CA 26829

PERMIT DRAWINGS

Issue #	Issue Date
1	December 8, 2021
2	February 4, 2022
3	February 22, 2022

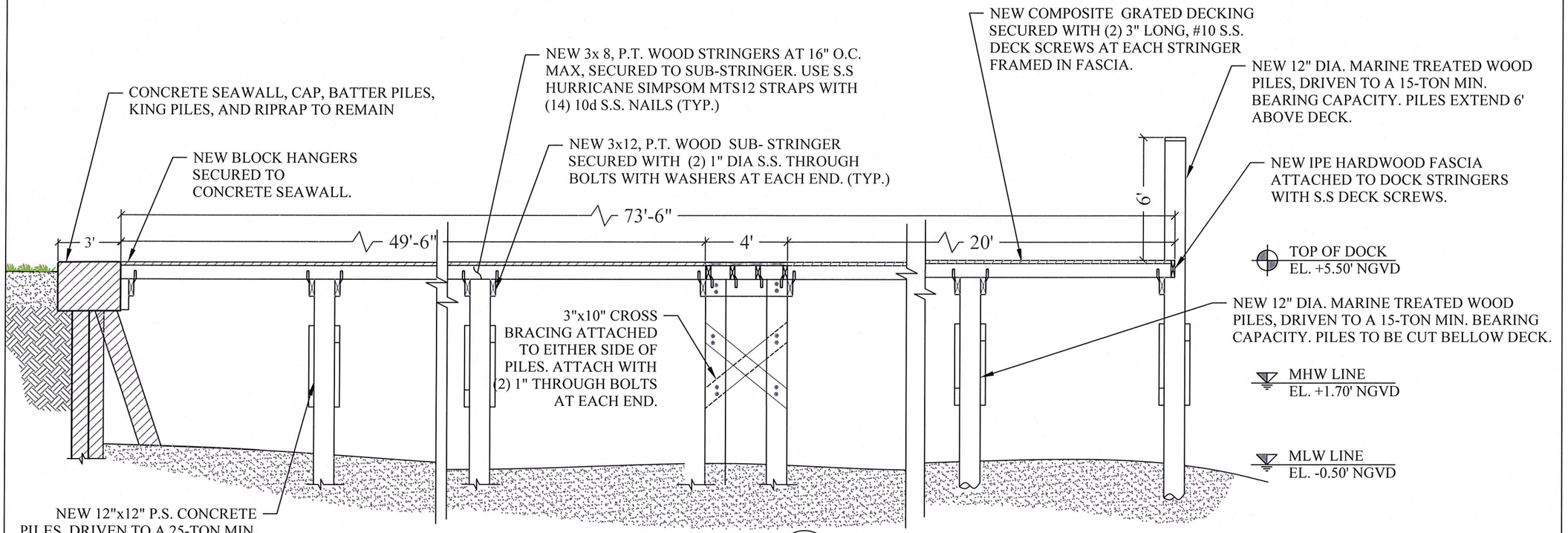
PROJECT: 16-5865

FINGER PIER SECTION

SCALE : AS SHOWN

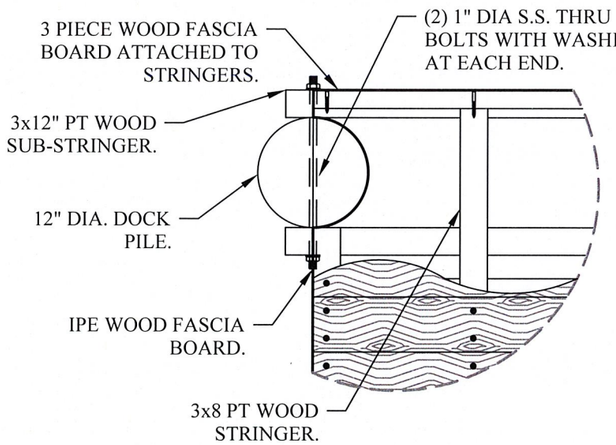
SHEET NO.

S-6



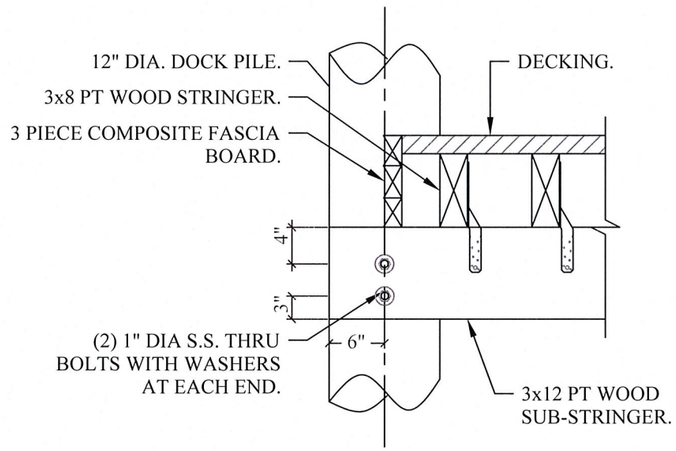
DOCK SECTION E / S-7

SCALE: 3/16" = 1'-0"



TYPICAL DOCK EDGE PLAN DETAIL 4 / S-7

SCALE: ¾" = 1'-0"



TYPICAL DOCK EDGE DETAIL 5 / S-7

SCALE: ¾" = 1'-0"

1135 103rd STREET DOCKING FACILITY PROJECT

Bay Harbor Islands, Florida

CLIENT:

BH INVESTMENT, LLC
c/o **MR. VALERIO MORABITO**
1691 Michigan Ave
Suite 440
Miami Beach, FL 33139

ENVIRONMENTAL CONSULTANT:

OCEAN CONSULTING, LLC
340 Minorca Avenue, Suite 7
Coral Gables, Florida 33134
Tel: (305) 921-9344
Fax: (305) 677-3254

CONTRACTOR:

PROJECT ENGINEER:

DYNAMIC ENGINEERING SOLUTIONS, INC.
351 S. Cypress Road, Suite 303
Pompano Beach, FL 33060

Office - 954-545-1740
Fax - 954-545-1721

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John Omslaer
PE 52733, CA 26829

PERMIT DRAWINGS

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3	February 22, 2022

PROJECT: 16-5865

TYPICAL DOCK SECTION AND DETAILS

SCALE : AS SHOWN

SHEET NO. S-7

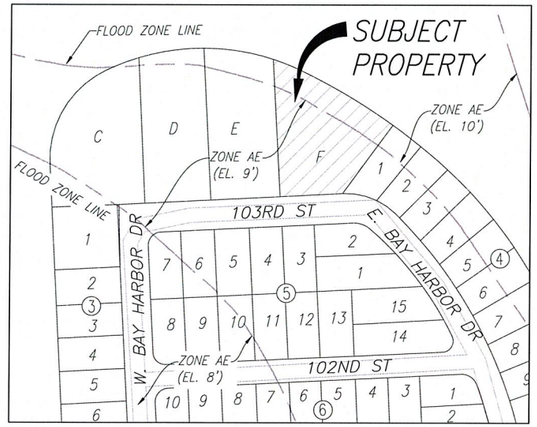
GENERAL LEGEND:

- AERIAL TARGET
- ALUMINUM LIGHT POST
- ALUMINUM LIGHT POST (SINGLE)
- ALUMINUM LIGHT POST (DOUBLE)
- ALUMINUM LIGHT POST (TRIPLE)
- ALUMINUM LIGHT POST (QUAD)
- ANCHOR/GUY WIRE
- BACKFLOW PREVENTER ASSEMBLY
- CABLE TELEVISION BOX
- CATCH BASIN
- CATCH BASIN F-3
- CENTERLINE
- CHECK VALVE ASSEMBLY
- CIRCULAR DRAIN
- COLUMN (CIRCULAR)
- COLUMN (SQUARE)
- CONCRETE LIGHT POLE
- CONCRETE LIGHT POLE (DOUBLE)
- CPP CONCRETE POWER POLE
- CONTROL POINT
- CURB INLET
- ELECTRIC BOX
- ELECTRIC HAND HOLE
- ELEVATIONS (SEE NOTES FOR DATUM)
- FIRE HYDRANT
- FLAGPOLE
- FLOW LINE
- FORCE MAIN MANHOLE
- FORCE MAIN VALVE
- F.P.L. ELECTRIC MANHOLE
- F.P.L. FIBER NETWORK
- F.P.L. TRANSMISSION POLE
- GAS MANHOLE
- GAS METER
- GAS PUMP
- GAS VALVE
- GREASE TRAP MANHOLE
- GROUND LIGHTING
- GP GUARD POST
- IRRIGATION HAND HOLE
- IRRIGATION VALVE
- MAILBOX
- MONITOR WELL
- MONUMENT LINE
- OHW OVERHEAD WIRES (APPROXIMATE)
- P-5 INLET
- P-6 INLET
- PARKING METER
- PEDESTRIAN CROSSING SIGNAL
- PRM PERMANENT REFERENCE MONUMENT
- POST INDICATOR VALVE
- VACUUM BREAKER ASSEMBLY
- PROPERTY LINE
- ROUND CATCH BASING
- SANITARY SEWER CLEANOUT
- SANITARY SEWER MANHOLE
- SIAMESE CONNECTION
- SIGN POST
- SPRINKLER PUMP
- STANDPIPE
- STORM SEWER MANHOLE
- SWALE INLET
- TELEPHONE BOX (SOUTHERN BELL)
- TELEPHONE HAND HOLE
- TELEPHONE MANHOLE (SO. BELL)
- TELEPHONE PAYPHONE
- TRAFFIC HAND HOLE
- TRAFFIC UTILITY BOX
- TRAFFIC SIGNAL POST
- UNDERGROUND UTILITY MARKER
- UNKNOWN UTILITY MANHOLE
- UNKNOWN UTILITY HAND HOLE
- WATER MANHOLE
- WM WATER METER
- WV WATER VALVE
- WOOD LIGHT POLE
- WOOD POWER POLE
- WOOD TELEPHONE POLE
- HANDICAP PARKING
- STROLLER PARKING
- STREET LIGHT BOX
- TREE

ABBREVIATIONS:

R denotes RADIUS
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WF denotes WOOD FENCE
FFE denotes FINISH FLOOR ELEVATION
F.I.P. denotes FOUND IRON PIPE
S.I.P. denotes SET IRON PIPE & LB-87 CAP
F.N.D. denotes FOUND NAIL & BRASS DISC
S.N.D. denotes SET LB-87 NAIL & BRASS DISC
CIP denotes CORRUGATED IRON PIPE
CL denotes CLEAR
E.T.R. denotes ELECTRIC TRANSFORMER PAD
ENCR. denotes ENCROACHMENT
D.C. denotes DEPRESSED CURB
PL denotes PLANTER
B.S. denotes BUS SHELTER
I.E. denotes INVERT ELEVATION
T.O.P. denotes TOP OF PIPE
C.M.P. denotes CORRUGATE METAL PIPE
P.L. denotes PROPERTY LINE
(D) denotes DEED DISTANCE
(L) denotes DISTANCE BY LEGAL DESCRIPTION
(M) denotes MEASURED DISTANCE
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- COMM COMMUNICATION
- DRAIN DRAINAGE
- FPL ELECTRIC
- FM FORCE MAIN
- IRRIG IRRIGATION
- GAS NATURAL GAS
- OHW OVERHEAD WIRES
- SM SANITARY SEWER
- W WATER
- LIMITED ACCESS RIGHT OF WAY LINE



LOCATION SKETCH

Scale: 1"=150'

A PORTION OF SECTION 27-52S-42E, MIAMI-DADE COUNTY, FLORIDA.

LEGAL DESCRIPTION

TRACT "F" OF BAY HARBOR ISLAND, ACCORDING TO THE PLAT THEREOF, RECORDED IN PLAT BOOK 46, PAGE 5, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA.

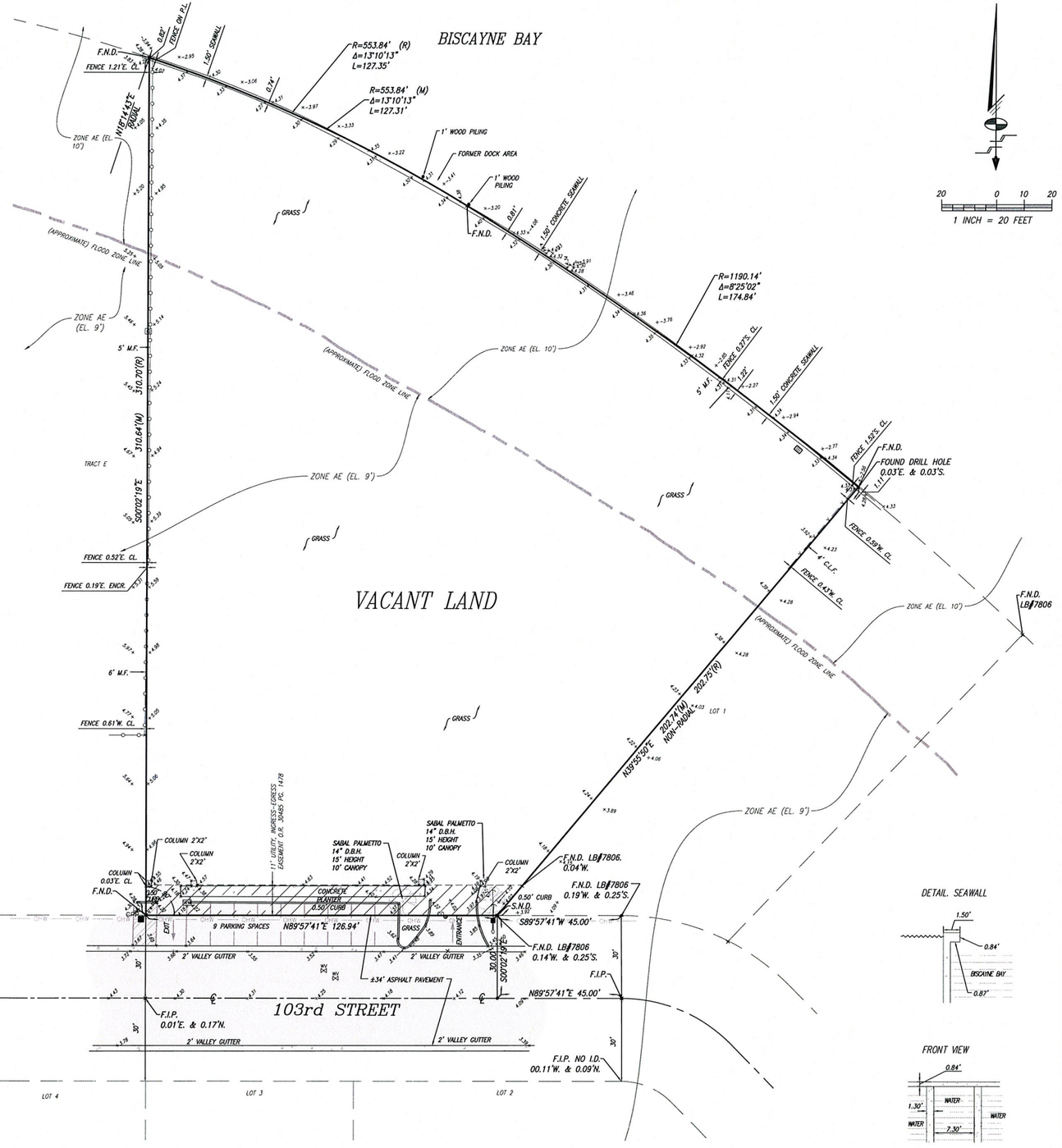
SURVEYOR'S NOTES:

1. THE BEARINGS SHOWN HEREON RELATE TO AN ASSUMED BEARING OF N89°57'41"E ALONG THE NORTH RIGHT-OF-WAY LINE OF 103rd STREET BETWEEN WEST BAY HARBOR DRIVE AND EAST BAY HARBOR DRIVE.
2. LEGAL DESCRIPTION SHOWN HEREON WAS PROVIDED BY CLIENT.
3. AREAS OF THE PROPERTY DESCRIBED HEREON IS ± 52,567 SQ. FT. (± 1.207 ACRES).
4. THIS SURVEY WAS PREPARED FOR THE EXCLUSIVE USE OF THE ENTITIES NAMED HEREON. THE ATTACHED CERTIFICATION DOES NOT EXTEND TO ANY UNNAMED PARTIES
5. UNLESS OTHERWISE NOTED, THIS FIRM HAS NOT ATTEMPTED TO LOCATE FOOTINGS AND/OR FOUNDATIONS.
6. THE PROPERTY SHOWN HEREON FALLS WITHIN FEDERAL FLOOD HAZARD ZONE "AE" (ELEVATION 9') AND FEDERAL FLOOD HAZARD ZONE "AE" (ELEVATION 10'), PER FLOOD INSURANCE RATE MAP NO. 12086C0144L, COMMUNITY NO. 120637, PANEL NO. 0144, SUFFIX L, OF FEDERAL EMERGENCY MANAGEMENT AGENCY (F.E.M.A) MAP DATED SEPTEMBER 11, 2009.
7. VISIBLE INDICATORS OF UTILITIES ARE SHOWN HEREON, HOWEVER, NO ATTEMPT HAS BEEN MADE TO LOCATE UNDERGROUND ITEMS.
8. THE DISTANCES SHOWN ALONG THE BOUNDARY OF THE SUBJECT PROPERTY ARE RECORD AND/OR MEASURED UNLESS OTHERWISE STATED.
9. SHOWN HEREON ARE PLOTTABLE EASEMENTS AND RIGHTS-OF-WAY REFLECTED AS EXCEPTION IN TITLE COMMITMENT FILE NO.: 859767-MIA ISSUED BY FIRST AMERICAN TITLE INSURANCE COMPANY WITH AN EFFECTIVE DATE OF JULY 05, 2017 AT 8:00 A.M.
10. THIS SITE CONTAINS 9 PARKING SPACES THAT ARE PARTIALLY INTO THE PROPERTY AND PARTIALLY INTO THE RIGHT-OF-WAY OF 103rd STREET.
11. MIAMI-DADE COUNTY PROPERTY APPRAISER FOLIO NO.: 13-2227-001-6770
12. ADDRESS: 1135 103RD STREET BAY HARBOR ISLANDS, FL 33154
13. ELEVATIONS SHOWN HEREON REFER TO NATIONAL GEODETIC VERTICAL DATUM OF 1929 (N.G.V.D. 29) AND ARE EXPRESSED IN FEET.
14. BENCHMARKS:
    MIAMI-DADE BENCHMARK. NAME R-243. LOCATOR 2225 W.
    LOC1: 96 ST (KANE CONCOURSE) --- 5' NORTH OF NORTH CURB LINE.
    LOC2: E. BROADVIEW DRIVE --- 150'+- EAST OF C/L.
    BM DESCRIPTION: US C & G BRASS DISC IN TOP OF GUARD RAIL BASE AT NW CORNER OF BRIDGE
    ELEVATION=6.61' N.G.V.D. 29

NOTES REGARDING SCHEDULE B-SECTION 2

(AS REFLECTED AS EXCEPTION IN TITLE COMMITMENT (FILE No.: NCS-859767-MIA/ CUSTOMER REF: BAY HARBOR), ISSUED BY FIRST AMERICAN TITLE INSURANCE COMPANY, WITH AN EFFECTIVE DATE OF JULY 05, 2017 AT 8:00 A.M.

9. MATTERS SHOWN ON PLAT OF BAY HARBOR ISLAND, RECORDED IN PLAT BOOK 46, PAGE 5. (SHOWN)
10. EASEMENT GRANTED TO FLORIDA POWER & LIGHT COMPANY BY INSTRUMENT RECORDED IN BOOK 9010, PAGE 551. (BLANKET EASEMENT)
11. INTENTIONALLY DELETED
12. EASEMENT RECORDED IN BOOK 30485, PAGE 1478. (SHOWN)



SURVEYOR'S CERTIFICATION:

THIS IS TO CERTIFY THAT THIS MAP OR PLAT AND THE SURVEY ON WHICH IT IS BASED WERE MADE IN ACCORDANCE WITH THE 2016 MINIMUM STANDARD DETAIL REQUIREMENTS FOR ALTA/NSPS LAND TITLE SURVEYS, JOINTLY ESTABLISHED AND ADOPTED BY ALTA AND NSPS

THAT THIS "BOUNDARY SURVEY & TOPOGRAPHIC SURVEY" OF THE PROPERTY DESCRIBED HEREON IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF AS RECENTLY SURVEYED AND DRAWN UNDER MY SUPERVISION AND DIRECTION. THIS SURVEY COMPLIES WITH THE STANDARD OF PRACTICE REQUIREMENTS ADOPTED BY THE FLORIDA STATE BOARD OF SURVEYORS AND MAPPERS AS CONTAINED IN RULES 5J-17.051 AND 5J-17.052, FLORIDA ADMINISTRATIVE CODE, PURSUANT TO CHAPTER 472.027, FLORIDA STATES.

Schwebke-Shiskin & Associates, Inc.

BY: Mark Steven Johnson DATE OF PLAT OR MAP: 06-30-2021

MARK STEVEN JOHNSON, PRINCIPAL
PROFESSIONAL LAND SURVEYOR NO. 4775
STATE OF FLORIDA.

MARK STEVEN JOHNSON LICENSED No. 4775 STATE OF FLORIDA PROFESSIONAL SURVEYOR & MAPPER

THE SEAL APPEARING ON THIS DOCUMENT WAS AUTHORIZED BY MARK STEVEN JOHNSON, P.S.M. 4775

CERTIFIED TO:

- MORABITO HOLDING LLC
- FIRST AMERICAN TITLE INSURANCE COMPANY
- PJ INVESTMENTS I, LLC, A FLORIDA LIMITED LIABILITY COMPANY
- APOLLO BANK, ITS SUCCESSORS AND ASSIGNS
- BH INVESTMENT LLC, A DELAWARE LIMITED LIABILITY COMPANY

Schwebke-Shiskin & Associates, Inc.
LAND PLANNERS • ENGINEERS • LAND SURVEYORS
3240 CORPORATE WAY, MIRAMAR, FLORIDA 33025
TEL: (954) 435-7010 FAX: (954) 439-3288

CERTIFICATE OF AUTHORIZATION No. LB-87

Drawn By: Y.M.F. Survey Date: 06-03-2017
Order No. 2013176 F.B. No.: 224/A Pg.14
Sheet 1 of 1 Sheet(s)
Checked By: M.S.J. Date: 08-14-2017
Scale: AS SHOWN
File No. AJ-5524

NOTE: This sketch is not valid unless it bears the signature and the original raised seal of a Florida licensed surveyor and mapper.

This is a "Boundary Survey."

ALTA/NSPS LAND TITLE SURVEY

Section 27, Township 52 South, Range 42 East, Miami-Dade County, Florida

REVISIONS

Date	Order No.	Field Book	Remarks	By
7/29/2013	2013176	224/A	Update Survey	YMF
10/7/2013	2013176	224/A	Add Elevations	YMF
12/5/2013	2013176	224/A	Add Location Detail	YMF
6/30/2021	2013176	224/A	Update Certification	YMF

FILE NO. AJ-5524

K:\275242\BAY HARBOR ISLAND. PB. 46 PG. 5\SURVEY\1135 103 ST BAY HARBOR ISLAND. TRACT F (06-30-2021).dwg, 7/2/2021 11:30:09 AM, DWG To PDF.pc3

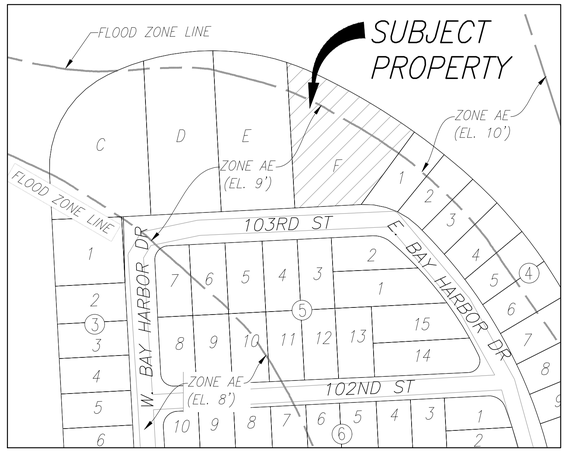
GENERAL LEGEND:

AERIAL TARGET
ALUMINUM LIGHT POST
ALUMINUM LIGHT POST (SINGLE)
ALUMINUM LIGHT POST (DOUBLE)
ALUMINUM LIGHT POST (TRIPLE)
ALUMINUM LIGHT POST (QUAD)
ANCHOR/GUY WIRE
BACKFLOW PREVENTER ASSEMBLY
CABLE TELEVISION BOX
CATCH BASIN
CATCH BASIN F-.3
CENTERLINE
CHECK VALVE ASSEMBLY
CIRCULAR DRAIN
COLUMN (CIRCULAR)
COLUMN (SQUARE)
CONCRETE LIGHT POLE
CONCRETE LIGHT POLE (DOUBLE)
CPP CONCRETE POWER POLE
CONTROL POINT
CI CURB INLET
ELECTRIC BOX
ELECTRIC HAND HOLE
ELEVATIONS (SEE NOTES FOR DATUM)
FIRE HYDRANT
FLAGPOLE
FLOW LINE
FM FORCE MAIN MANHOLE
FORCE MAIN VALVE
F.P.L. ELECTRIC MANHOLE
F.P.L. FIBER NETWORK
F.P.L. TRANSMISSION POLE
GAS MANHOLE
GAS METER
GAS PUMP
GAS VALVE
GREASE TRAP MANHOLE
GROUND LIGHTING
GP GUARD POST
IRRIGATION HAND HOLE
IRRIGATION VALVE
MAILBOX
MONITOR WELL
MONUMENT LINE
OHW OVERHEAD WIRES (APPROXIMATE)
P-5 INLET
P-6 INLET
PARKING METER
PEDESTRIAN CROSSING SIGNAL
PRM PERMANENT REFERENCE MONUMENT
POST INDICATOR VALVE
VACUUM BREAKER ASSEMBLY
PROPERTY LINE
ROUND CATCH BASING
SANITARY SEWER CLEANOUT
SANITARY SEWER MANHOLE
SIAMESE CONNECTION
SIGN POST
SPRINKLER PUMP
STANDPIPE
STORM SEWER MANHOLE
SWALE INLET
TELEPHONE BOX (SOUTHERN BELL)
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TELEPHONE MANHOLE (SO. BELL)
TELEPHONE PAYPHONE
TRAFFIC HAND HOLE
TRAFFIC UTILITY BOX
TRAFFIC SIGNAL POST
UNDERGROUND UTILITY MARKER
UNKNOWN UTILITY MANHOLE
UNKNOWN UTILITY HAND HOLE
WATER MANHOLE
WM WATER METER
WATER VALVE
WOOD LIGHT POLE
WOOD POWER POLE
WOOD TELEPHONE POLE
HANDICAP PARKING
STROLLER PARKING
SLB STREET LIGHT BOX
TREE

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MF denotes METAL FENCE
WF denotes WOOD FENCE
FFE denotes FINISH FLOOR ELEVATION
F.I.P. denotes FOUND IRON PIPE
S.I.P. denotes SET IRON PIPE & LB-87 CAP
F.N.D. denotes FOUND NAIL & BRASS DISC
S.N.D. denotes SET LB-87 NAIL & BRASS DISC
CIP denotes CORRUGATED IRON PIPE
CL denotes CLEAR
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COMM — COMMUNICATION
DRAIN — DRAINAGE
FPL — ELECTRIC
FM — FORCE MAIN
IRRIG — IRRIGATION
GAS — NATURAL GAS
OHW — OVERHEAD WIRES
SM — SANITARY SEWER
WM — WATER
LIMITED ACCESS RIGHT OF WAY LINE



LOCATION SKETCH

Scale: 1"=150'

A PORTION OF SECTION 27-52S-42E, MIAMI-DADE COUNTY, FLORIDA.

LEGAL DESCRIPTION

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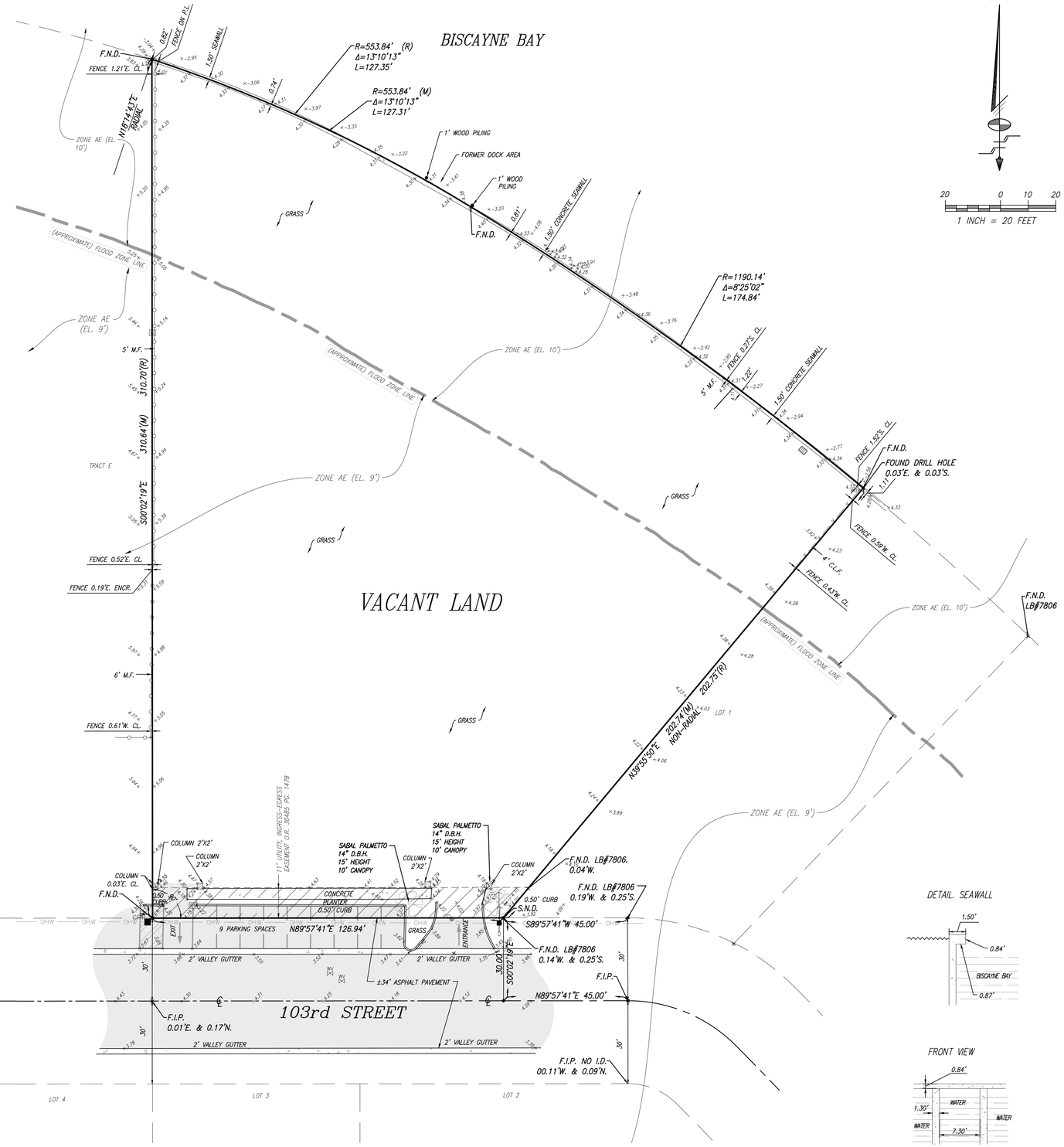
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14. BENCHMARKS:
    MIAMI-DADE BENCHMARK. NAME R-243. LOCATOR 2225 W.
    LOC1: 96 ST (KANE CONCOURSE) ---- 5' NORTH OF NORTH CURB LINE.
    LOC2: E. BROADVIEW DRIVE ---- 150'+- EAST OF C/L.
    BM DESCRIPTION: US C & G BRASS DISC IN TOP OF GUARD RAIL BASE AT NW CORNER OF BRIDGE
    ELEVATION=6.61' N.G.V.D. 29

NOTES REGARDING SCHEDULE B-SECTION 2

(AS REFLECTED AS EXCEPTION IN TITLE COMMITMENT (FILE No.: NCS-859767-MIA/ CUSTOMER REF: BAY HARBOR), ISSUED BY FIRST AMERICAN TITLE INSURANCE COMPANY, WITH AN EFFECTIVE DATE OF JULY 05, 2017 AT 8:00 A.M.

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10. EASEMENT GRANTED TO FLORIDA POWER & LIGHT COMPANY BY INSTRUMENT RECORDED IN BOOK 9010, PAGE 551. (BLANKET EASEMENT)
11. INTENTIONALLY DELETED
12. EASEMENT RECORDED IN BOOK 30485, PAGE 1478. (SHOWN)



DETAIL. SEAWALL

FRONT VIEW

SURVEYOR'S CERTIFICATION:

THIS IS TO CERTIFY THAT THIS MAP OR PLAT AND THE SURVEY ON WHICH IT IS BASED WERE MADE IN ACCORDANCE WITH THE 2016 MINIMUM STANDARD DETAIL REQUIREMENTS FOR ALTA/NSPS LAND TITLE SURVEYS, JOINTLY ESTABLISHED AND ADOPTED BY ALTA AND NSPS

THAT THIS "BOUNDARY SURVEY & TOPOGRAPHIC SURVEY" OF THE PROPERTY DESCRIBED HEREON IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF AS RECENTLY SURVEYED AND DRAWN UNDER MY SUPERVISION AND DIRECTION. THIS SURVEY COMPLIES WITH THE STANDARD OF PRACTICE REQUIREMENTS ADOPTED BY THE FLORIDA STATE BOARD OF SURVEYORS AND MAPPERS AS CONTAINED IN RULES 5J-17.051 AND 5J-17.052, FLORIDA ADMINISTRATIVE CODE, PURSUANT TO CHAPTER 472.027, FLORIDA STATES.

Schwebke-Shiskin & Associates, Inc.

BY: Mark Steven Johnson DATE OF PLAT OR MAP: 06-30-2021

MARK STEVEN JOHNSON, PRINCIPAL
PROFESSIONAL LAND SURVEYOR NO. 4775
STATE OF FLORIDA.

MARK STEVEN JOHNSON LICENSE No. 4775 STATE OF FLORIDA PROFESSIONAL SURVEYOR AND MAPPER

Mark S. Johnson

THE SEAL APPEARING ON THIS DOCUMENT WAS AUTHORIZED BY MARK STEVEN JOHNSON, P.S.M. 4775

CERTIFIED TO:

- MORABITO HOLDING LLC
- FIRST AMERICAN TITLE INSURANCE COMPANY
- P3 INVESTMENTS I, LLC, A FLORIDA LIMITED LIABILITY COMPANY
- APOLLO BANK, ITS SUCCESSORS AND ASSIGNS
- BH INVESTMENT LLC, A DELAWARE LIMITED LIABILITY COMPANY

N

20 0 10 20

1 INCH = 20 FEET

Schwebke-Shiskin & Associates, Inc.
LAND PLANNERS • ENGINEERS • LAND SURVEYORS
3240 CORPORATE WAY, MIRAMAR, FLORIDA 33025
TEL: (954) 435-7010 FAX: (954) 438-3288
CERTIFICATE OF AUTHORIZATION No. LB-87

Drawn By: Y.H.F. | Survey Date: 08-03-2017 | Checked By: M.S.J. | Date: 08-14-2017
Order No. 207376 | F.B. No.: 274/24 Pg.14 | Scale: AS SHOWN
File No. AJ-5524 | Sheet 1 of 1 Sheet(s)

NOTE: This sketch is not valid unless it bears the signature and the original raised seal of a Florida licensed surveyor and mapper.

This is a "Boundary Survey."

ALTA/NSPS LAND TITLE SURVEY

Section 27, Township 52 South, Range 42 East, Miami-Dade County, Florida

REVISIONS

Date	Order No.	Field Book	Remarks	By
08/14/17	207376	274/24	UPDATED SURVEY	CSC
01/09/18	207376	282/24	UPDATED SURVEY	CSC
06/19/21	207376	282/24	ADDED SURVEY	CSC

FILE NO. AJ-5524

K:\275242\BAY HARBOR ISLAND. PB. 46 PG. 5\SURVEY\1135 103 ST BAY HARBOR ISLAND. TRACT F (06-30-2021).dwg, 7/2/2021 11:30:09 AM, DWG To PDF.pc3

AGENDA ITEM REPORT
June 9, 2022

ITEM NUMBER: 13.

ITEM: Approval or Denial of a variance request for the property located at 1135 103rd Street. In accordance with Section 2-22 of the Town Code, the Town Council shall determine whether to grant or deny the application for a variance. An affirmative vote of five Council Members is necessary in order to grant the variance request. The decision of the Town Council is final. If the request is granted, the decision of the Town Council shall be recorded in a resolution to be prepared by the Town Attorney. It should be noted that any approval of the Town Council is subject to other requirements of the Town Code, Miami Dade County Code, Florida Building Code, FEMA or any other applicable governing agency.

DESCRIPTION:

RECOMMENDED ACTION:
Council's Discretion.

FINANCIAL ANALYSIS:

BUDGET IMPACT:

Submitted By: Yvonne Hamilton, Acting Town Clerk

ATTACHMENTS
None

AGENDA ITEM REPORT
June 9, 2022

ITEM NUMBER: 14.

ITEM: Consideration and **Approval** of an ordinance on second reading to rezone a 20-foot strip of land at 9110 West Bay Harbor Drive from RM-3, Multiple-Family Residential District to RM-1, Multiple-Family District. Enclosed is a copy of the proposed ordinance.

DESCRIPTION:
The applicant, 9525 BH LLC is under contract to purchase 9110 West Bay Harbor Drive. The overall property is a split-zoned parcel that currently includes the Bay Harbor Apartments Condominium building. One of the town's stormwater drainage pipes runs through the eastern end of the property which has a different zoning designation. The applicant is requesting to change the Town's zoning designation of the easternmost 20 feet of the property, the portion of Tract "A" from RM-3 to RM-1 to be consistent with the remainder of the site's RM-1 zoning designation and to better facilitate redevelopment of the property.

The only portion of the property that is not zoned RM-1 is that portion of Tract "A", which is zoned RM-3.

RECOMMENDED ACTION:
Council's Discretion.

FINANCIAL ANALYSIS:

BUDGET IMPACT:

Submitted By: Yvonne Hamilton, Acting Town Clerk

ATTACHMENTS

1.	BHI 9110 WBHD TC Staff Report Rezoning May 2, 2022
2.	BHI Section 23-2 Zoning District Mod May 2022
3.	9110 W. Bay Harbor Drive Letter of Intent
4.	9110 W. Bay Harbor Drive - Exhibits to LOI
5.	Portion of Tract A - Survey

6.	Owner Rezoning Application - Notarized by Joel_4.18.22
7.	Section 23-2. - Districts-Code Text Language
8.	Ordinance - 9110 West Bay Harbor Drive Rezoning

MICHAEL MILLER PLANNING ASSOCIATES, INC.
Land Design Municipal Planning Services Transportation Planning

TOWN OF BAY HARBOR ISLANDS COMMUNITY DEVELOPMENT MEMORANDUM

To: Mayor and Town Councilmembers
Town of Bay Harbor Islands

From: Michael J. Miller, AICP MJM
Consultant Town Planner

Date: May 2nd, 2022

Subject: Rezoning Application – From RM-3 to RM-1
Current Development - Bay Harbor Apts. Condominium Association, Inc.
9110 West Bay harbor Drive
North 20 Feet of Tract "A", Bay Harbor Island Subdivision
BHI Project No.: REZ22-000001
MMPA Project No. 01-0702-1130B

ISSUE:

The Town has received a rezoning petition from Neisen Kasdin, Esq. from the law firm Akerman, LLP, on behalf of the contract purchaser of the site (9525 BH, LLC), and the current property owners that will be selling the site (Bay Harbor Apartments Condominium Association, Inc.), requesting a rezoning of the northern 20 feet of Tract "A" from the current RM-3 Multiple Family Residential District to the RM-1 Multiple Family Residential District (Waterfront Lots). The current property owners also own the contiguous lot to the northwest (Lot 29, Block 2) which comprises a single 10 DU development site built in 1955. The applicant has submitted a justification statement that is attached hereto. The applicant has stated in the justification statement that the contract purchaser would like to submit an application for a new multifamily development under one consistent zoning district for the entire property - the RM-1 Multiple Family Residential District. The 20-foot area contains a Town-owned drainage outfall pipe.

GENERAL PROPERTY DESCRIPTION

Future Land Use Map Designation: Medium – High Density Residential (6-80 DUA)
Existing Zoning District: RM-3 Multiple Family Residential District
Proposed Zoning District: RM-1 Multiple Family Residential District (Waterfront Lots)
Legal Description: Northern 20' of Tract "A", Bay Harbor Islands Subdivision
General Location: South of West Bay Harbor Drive & 91st Street

BACKGROUND INFORMATION

As stated above, the applicant is requesting to change the current RM-3 Multiple Family Residential District zoning designation of the westerly 20 feet of Tract "A" to the RM-1 Multiple Family Residential District. The same landowner (BH Apts. Condo HOA) owns both Lot 29, where the current 10 DU Bay Harbor Apartments Condominium Association is built, and the 20-foot wide sliver of Tract "A". While the exact 1950s land transactions and Town development approvals are somewhat vague and public records few, the applicant has provided some Title Abstract excerpts and an opinion from the Title Attorney about this somewhat odd arrangement. Prior to this rezoning submittal MMPA was not aware of this situation, nor was any Town staff member that were asked about it historically. What is known from our knowledge of the recorded Bay Harbor Islands Subdivision plat (PB 46 / Page 5, MDCR) and the Town's Public Works / Engineering staff, the plat did not contain any notations or dedications for easements, such as utility easements for potable water / sanitary sewer / FPL / others, drainage easements for the stormwater outfalls from the streets to the adjoining waterways, or any others. It is not uncommon to grant such easements via a separate instrument after the pipes / pumps / inlets / poles / wires / etc. were built and you know exactly where they are located. It is also not uncommon in that time-period that a developer building a subdivision would install various types of what will eventually become public infrastructure - and not establish formal easements (flexibility in land sales) or convey (Bill of Sale) - improvements to the applicable government. The original developer apparently installed numerous drainage facilities under the streets and constructed outfall pipes from the streets to the adjoining waterways. The metal street drainage inlets give an indication of where the outfalls now exist. The Public Works Department maintains a Drainage Master Plan showing the location of drainage inlets and lines, including the outfalls. The outfalls are quite old but have been lined / repaired over the years (replacement / major upgrades would be very expensive and need to meet modern environmental design / permit standards). Unfortunately, once land is sold to a third party, the developer / land seller often loses the right to convey easements / dedicate lands, unless the Deed Restrictions / sale contracts has a reservation provision. Often in redevelopment reviews the Town staff identifies that an outfall exists across the land being analyzed, and as a condition of approval, an easement(s) is required to be granted to the Town at the time of building permit issuance.

As to this specific situation there is a metal street drain inlet located in the valley gutter curb at the southwest corner of the intersection of West Bay Harbor Drive and 91st Street. An 8-inch drainage outfall pipe exists from that inlet southwesterly across Tract "A" to the Indian Creek Lake (pictures included in applicant's backup). The outfall pipe is apparently not buried very deep and is located (centered) about 9.5 feet from the east property line of Tract "A". A typical drainage easement is 15'-20' in width due to the fact that a backhoe must be able to access the pipes for repairs and the area must be unobstructed (landscaping allowed and now exists / sometimes parking lots). The Town's Public Works staff has tentatively agreed that a 15' wide drainage easement would suffice in this case (measured from the east property line) which would allow 5'+/- of access area from the west side of the pipe. The new developer is willing to grant such an easement to the Town. If the rezoning / redevelopment does not happen the Town may leave its outfall pipe where it is, as the outfall has been there for 75+/- years, and the Town has most likely obtained proscriptive legal rights. If the site is redeveloped the Town will require a drainage easement as a condition of Site Development Plan approval.

It is not exactly clear why the 20-foot sliver was merged with the Lot 29 development site, rather than remain as part of Tract "A" – there were really no density limitation in the 1950s – and 10 DU is below the current density limits (34 DUA). There is a surface parking lot for the Blair House MFR complex adjoining the 20' wide land sliver, and this land area could have remained as part of the Blair House complex.

The combined size of the subject site is about 14,500 sq. ft. / .33 acres. It appears from the MDPA website / survey legal description that this site deeded the front 11' of the site to the Town for on-street parking, as many others did in the past. It is believed the landowner will eventually request the Town to quit claim the 11' of land back to them, as is the normal procedure. This would result in a slightly larger site area. It is noted the existing multifamily building is positioned only on Lot 29 and meets the minimum side setback requirements – not including the use of the 20' land sliver.

The applicant's basic justification for the rezoning is this is generally a "cleanup" matter so the site has one set of common Land Development Regulations to apply. It is noted the RM-3 District has larger side setback requirements (20' min.) as the so-called "Tract" development sites are mostly high-rise complexes. The RM-1 District side setback requirements start at 10' base (15% of lot width with 10' min.) and increase progressively as a building gets taller. If the Town grants the rezoning the net result if the site is redeveloped will be the site's eastern side setback could be 15' (drainage easement area) – where it is about 30' now (20' land sliver + 10' Lot 29 side setback). The allowable base density is the same in either district (34 DUA). The potential density could increase based on the lot size (existing site / 11' ROW deed area). As stated previously the current development includes 10 DUs. The current allowed base density is 11 DUs (at 34 DUA). If the 11' of right-of-way is deeded back, the allowable base density could increase to 12 DU. There is always the potential for developers to acquire TDR units to increase the density too. In theory up to 27+/- DU could be built at the maximum allowed density (80 DUA); however, this would be very difficult with the Town's stringent building height limits, parking requirements, and open space requirements. It is expected the site will be a luxury development due its proximity on the Indian Creek Lake. A nearby similarly sized site (9290 WBHD) is now being reviewed for development with only 8 DU (no TDR units).

An existing 11-story / 80 DU multiple-family apartment building, the Blair House, abuts the subject lot to the southeast. An existing 7-story / 8 DU multiple-family apartment building, 9120 WBHD, abuts the subject lot to the northwest. To the northeast across 91st Street is the 7-story / 72 DU Longwood Towers multifamily complex. To the southwest of the subject site is the Indian Creek Lake, a wide navigable waterway separating the Town from Indian Creek Village.

The Town's 2006 Historic Structure Survey indicates the current building was built in 1955+/-. The architectural style is listed as having "MiMo Influenced Design" features.

PLANNING ANALYSIS:

A. Comprehensive Plan Consistency

The adopted Comprehensive Plan Future Land Use Map (FLUM) designation of the subject property is "Medium-High Density Residential (6-80 DUA). Both Lot 29 and the 20-foot land parcel have the same adopted FLUM designation.

Following are citations from the Town's adopted Comprehensive Plan:

Future Land Use Element

Objective 2: Innovative land use regulations shall be reviewed for adoption and development and redevelopment in the Town of Bay Harbor Islands shall be consistent with the goals, objectives and policies of this element; future uses shall be as indicated in the adopted Future Land Use Map, and shall be consistent with the desired community character, i.e., generally low density residential development on the west island, and in the east island, a variety of multiple-family residential development with commercial land uses along Kane Concourse.

Consistency Analysis: The proposed zoning change would be consistent with the Town's adopted Comprehensive Plan.

B. Zoning Analysis

The current zoning classification of the subject property (West 20 feet of Tract "A") is RM-3 Multiple Family Residential District. The applicant is requesting to rezone the site to the RM-1 Multiple Family Residential District (Waterfront Lots) so that the entire property will have the same zoning designation. The table below details the adjacent Future Land Use Map (FLUM) designations, existing uses, and current zoning. To the northwest of the subject lot all of the waterfront lots are zoned RM-1 Multiple Family Residential District. Almost every waterfront site is developed in this area. To the southeast of the subject lot are two (2) of the large so-called "Tract" sites, referring to their platted designation (Tracts "A" & "B"). There are two (2) existing high-rise developments on those sites – the 11-story / 80 DU Blair House which adjoins the subject site, and the 10-story / 59 DU Mediterranean multifamily complex. Across the 60-foot wide road right-of-way of West Bay Harbor Drive / 91st Street e applicant's property is the 7-story / 72 DU Longwood Towers multifamily complex. To the south of the subject property is the Indian Creek Lake waterway.

Adjacent Land Use Analysis:

Direction	FLUM Designation	Existing Uses	Current Zoning	Allowable Bldg Height
Northwest	MH Medium-High Density Residential (6-80 DUA)	2-Story Multifamily Site (9110 WBHD) (Lot 29 of Block 2) *Remainder of Applicant's Property	RM-1 Multiple Family Residential	75 Feet
Southeast	MH Medium-High Density Residential (6-80 DUA)	Blair House Condominiums 11-Story MFR	RM-3 Multiple Family Residential	75 Feet per Charter / 120 Feet Max. Ref. *Existing MFR Exceeds Hgt.

South	Waterway Not Designated / Town Boundary	Indian Creek Lake / Indian Creek Village Golf Course / Homes	Waterway Unzoned / Town Boundary	N/A
Northeast	MH Medium-High Density Residential (6-80 DUA)	West Bay Harbor Dr. Longwood Towers Condominiums 7-Story MFR	RM-2 Multiple Family Residential	65-feet

The Town's Code does not contain criteria for reviewing rezoning applications. Typically in other jurisdictions the following items are considered when reviewing a rezoning: consistency with the Comprehensive Plan; consistency with established land use patterns; does the change create an isolated or unrelated district; are the current district boundaries drawn illogically or not responsive to changed conditions; does it impact infrastructure and municipal services; and substantial reasons exist that make the property unable to be used in accordance with the existing zoning. As already discussed above is an analysis of whether the proposed rezoning may be consistent with the Town's Comprehensive Plan. The rezoning would allow development consistent with the established land use patterns (no change), does not create an isolated or unrelated district, would not impose major impacts on the Town's infrastructure or services and will be reviewed in more detail at time of site plan consideration. The permitted uses and allowable density would not change for the parcel since the current requirements for both Lot 29 and the 20' sliver of Tract "A" follow the permitted uses as discussed in Section 23-21(4) and (6).

The only key issue we observe regarding the requested rezoning is a change that would be allowed under the Town's Land Development Regulations related to side building setbacks. The following table compares the side setback requirements for RM-3 and RM-1 districts:

District	**Setbacks**
RM-3	(3) *Side yard setbacks.* All lots shall have minimum side yard setbacks as follows: (a) Buildings up to 30 feet in height—Twenty feet. (b) For each additional three feet of building height above 30 feet, there shall be one additional foot of building setback for that portion of the structure over 30 feet in height. Notwithstanding the above provision, the maximum required setback shall be 30 feet.
RM-1	(3) *Side yard setbacks.* All lots in the RM-1 Multiple Family zoning district shall have minimum side yard setbacks as follows: a. *Buildings less than 30 feet in height.* Ten feet. b. For each additional three feet of building height above 30 feet, there shall be one additional foot of building setback for that portion of the structure over 30 feet in height. Notwithstanding the above provision, for developments located on single lots, the maximum setback shall be 20 feet.

	c. Notwithstanding the above provisions for developments on more than one lot the minimum setback from each side lot line shall be equal to ten percent of the street frontage of the lot but not less than ten feet. The maximum required side setback width shall be 22.5 feet.

From the above comparison table, it can be observed the district regulations for the RM-3 District is slightly stricter than the RM-1 District (20' side setback vs. 10' side setback). This is attributable to the fact that the RM-1 lots are platted as 75 feet in width while the Tract sites are huge and allow high-rise buildings – more deserving of larger setbacks. However, in this instance, due to the existence of the Town's WBHD drainage outfall pipe location – and Town's requirement for a 15 foot wide drainage easement (cannot relocate the pipe) - the smallest side setback from the Blair House site will be 15 feet vs. 10 feet. This results in a 5' difference. Since the existing 10 DU building is placed centered within Lot 29 and meets all RM-1 setback requirements (except the front setback due to the 11-foot dedication for parking that will be cured prior to redevelopment) it is anticipated there could be 15 feet of newly available building area (use of existing 10' side setback / use of 5 feet of the 20 feet land sliver). A future redevelopment would have the availability to have a slightly enlarged building footprint. The allowable density would not change nor the building height, nor any other zoning criteria.

At this time the applicant has not submitted a Site Development Plan application for redevelopment of the site. Therefore, this analysis is based on the theoretical Code allowances.

CONCLUSION / STAFF RECOMMENDATION

The Town has received a rezoning petition requesting a rezoning of the northern 20 feet of Tract "A" from the current RM-3 Multiple Family Residential District to the RM-1 Multiple Family Residential District (Waterfront Lots). The current property owners (BH Apts. Condo Assoc.) also own the contiguous lot to the northwest (Lot 29, Block 2) which contains a single 10 DU development site built in 1955. The applicant has stated in their justification statement that the contract purchaser would like to submit an application for a new multifamily development under one consistent zoning district for the entire property - the RM-1 Multiple Family Residential District. It is noted the 20-foot area contains a Town-owned drainage outfall pipe.

For the reasons stated herein, MMPA recommends **APPROVAL** of the rezoning of the subject site to the RM-1 Multiple Family Residential District. MMPA believes that while a slightly narrower side setback may result if the site is redeveloped, the other comparative district LDRs are very similar, in fact the RM-1 LDRs are more stringent in some cases.

Exhibit “B”

Proposed Revisions to Section 23-2. - Districts

Sec. 23-2. - Districts.

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

Use districts:

(1) RD—Single Family district.

(2) RM-1—Multiple-Family district (waterfront lots).

(3) RM-2—Multiple-Family district (non-waterfront lots).

(4) B-1—Business district.

(5) RM-3—Multiple-Family district.

(6) CA—Causeway district.

(7) PUD district.

(8) G—Gateway district.

Area districts: Area districts are as hereinafter set forth:

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

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

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

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

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

akerman

Neisen Kasdin

Akerman LLP
Three Brickell City Centre
98 Southeast Seventh Street
Suite 1100
Miami, FL 33131

D: 305 982 5629
neisen.kasdin@akerman.com

April 21, 2022

Honorable Mayor and Council
Town of Bay Harbor Islands
9665 Bay Harbor Terrace
Bay Harbor Islands, FL 33154

Re: 9110 WEST BAY HARBOR DRIVE - Proposed Rezoning of 20 Foot Strip from RM-3 to RM-1, and Dedication of Stormwater Easement

Dear Honorable Mayor and Council Members:

We represent 9525 BH LLC ("Applicant"), which is under contract to purchase the subject property located at 9110 West Bay Harbor Drive ("Property") in the Town of Bay Harbor Islands. The overall Property is a split-zoned parcel that currently includes the Bay Harbor Apartments Condominium building constructed in the 1950s ("Existing Improvements"). One of the Town's stormwater drainage pipes runs through the eastern end of the Property, which has a different zoning designation.

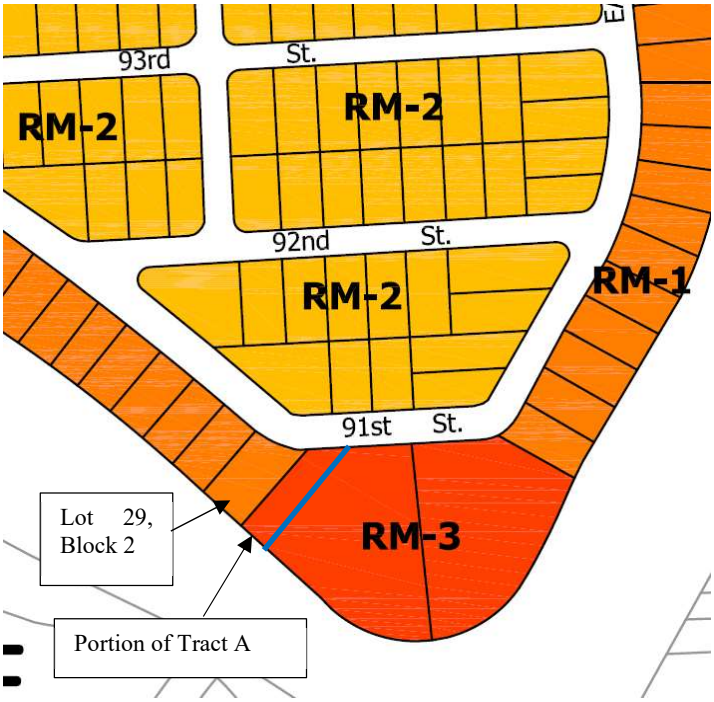
For the reasons set forth below, Applicant is now requesting to change the Town's zoning designation of the easternmost 20 feet of the Property (the "Portion of Tract A") from *RM-3* to *RM-1*, to be consistent with the remainder of the site's *RM-1* zoning designation and to better facilitate redevelopment of the Property.

A. Existing Zoning Regulations

For a majority of the Property including the Existing Improvements, the current zoning designation is *RM-1*. Pursuant to Town Code Section 23-11(B1)(3), *RM-1* zoning districts are required to have minimum side yard setbacks of 10 feet for portions of the building less than 30 feet in height and for each additional 3 feet of building height above 30 feet, an additional 1 foot

of building setback is required for that portion of the structure over 30 feet in height. The maximum setback is 20 feet.

The only portion of the Property that is not zoned *RM-1* is the Portion of Tract A, which is zoned *RM-3*. Pursuant to Town Code Section 23-11(D)(3), *RM-3* zoning districts are required to have minimum side yard setbacks of 20 feet for portions of the building up to 30 feet in height and for each additional 3 feet of building height above 30 feet, an additional 1 foot of building setback is required for that portion of the structure over 30 feet in height. The maximum setback is 30 feet.



Based on the required *RM-3* side yard setback of 20 feet and the narrow width of this area, development is effectively prohibited on the entire Portion of Tract A, which is comprised of the eastern 20 feet of the Property. The current *RM-3* zoning thus renders the Portion of Tract A completely undevelopable.

B. Property Background

The Property's two different zoning designations are based on its history of development and joinder of platted lots. The entire Property contains approximately 14,500 square feet of lot area. In 1953, the original developer of the Property constructed a 10-unit, 2-story concrete block structure condominium building, which has approximately 10,000 square feet of floor area ("Existing Improvements"), and is depicted on the enclosed survey **(*Exhibit 1*)**. Currently, the Existing Improvements are in a poor state of repair and it would be very expensive for the unit owners to bring it up to standards.

The legal description of the Property includes both Lot 29 in Block 2 of the Plat of Bay Harbor Islands, along with the northwesterly 20 feet of Tract A of the Plat of Bay Harbor Islands (the "Portion of Tract A"). According to the enclosed survey, the Portion of Tract A contains approximately 3,500 square feet of "lot" area. The remaining portions of the platted Tract A to the east were developed separately from the Property, as the Blair House Condominium.

It appears that this situation has existed since original development of Bay Harbor Islands in the 1950s. In 1954, both Tract A and Lot 29 in Block 2 were owned by Irwin Cohen. In 1956, Irwin Cohen likely deeded Tract A while retaining ownership of the Portion of Tract A and Lot 29, Block 2. Therefore, it is likely that from 1956 onwards, the Portion of Tract A was included with

Lot 29, Block 2 in the legal description of the Property. A legal description of Tract A recorded in a 1958 deed excludes the Portion of Tract A and a legal description of the Property in a 1987 deed **(*Exhibit 2*)** includes the Portion of Tract A. Further, a legal description of the Property in a 1987 Declaration of Condominium for the Bay Harbor Apartments (the "Declaration") includes the Portion of Tract A ***(Exhibit 3)***. A detailed summary of the history of Tract A, the Portion of Tract A, and Lot 29, Block 2 based on a Title Search Report from Old Republic National Title Insurance Company is enclosed for reference as ***Exhibit 4***.

C. Stormwater Drainage Outfall

The existing stormwater drainage pipe on the eastern end of the Property is utilized by the Town, and is located approximately 9.5 feet from the east property line. This underground drainage pipe runs the full length of, and parallel to, the east property line until it reaches an outfall location on the southwesterly edge of the Property bordering Indian Creek Lake. Enclosed as ***Exhibit 5*** is the Town's map of existing stormwater drainage pipe locations, and enclosed as ***Exhibit 6*** are several images of the existing condition of the stormwater drainage outfall.

In our title research and discussions with the Town, we were not able to locate any official document or a recorded instrument granting the Town its necessary rights to periodically use, access, maintain, and repair the existing stormwater drainage pipe on the Property (which we presume has also been in place since original development of these lots in the 1950s).

D. Proposed Rezoning and Dedication of Easement

Based on these existing conditions, Applicant is proposing a rezoning of the Portion of Tract A from *RM-3* to *RM-1* at this time so that the Portion of Tract A can be more efficiently incorporated into an overall redevelopment of the Property, while also respecting an appropriate side setback for the open area containing the existing Town drainage pipe. Applicant is seeking to move forward with development of a high-end boutique residential building on the Property, and a rezoning of the Portion of Tract A from *RM-3* to *RM-1* will enable the Portion of Tract A to be developed upon, which will promote a more cohesive design for the entire Property.

Separate and apart from the rezoning, Applicant is proffering an easement to the Town for the east 15 feet of the Portion of Tract A, that would include 15 feet of vertical clearance, granting the Town a easement to access the existing underground stormwater drainage pipe (note that this 15-foot easement would exceed the 10-foot minimum required building setback under *RM-1* zoning regulations). The remaining 5 feet of the Portion of Tract A would remain developable, along with air rights, incorporating 15 feet of vertical clearance, above the western 5 feet of the easement area. This would grant the Town the necessary rights to use, access, maintain, and repair the stormwater drainage pipe.

Based on discussions with the Town Engineer, a 5 foot clearance on both sides of the pipe and 15 feet of vertical clearance is sufficient for accessing the pipe since the pipe is small and shallow, and the equipment needed to repair the pipe in case of damage should be small. The

15 foot easement would provide 5 feet of clearance on both sides of the pipe. Applicant would also ensure that the building would be developed in a manner that permits the use, access, maintenance, and repair of the stormwater drainage pipe.

E. Conclusion

The current split zoning of the Property is unusual and prohibits any realistic use of the Portion of Tract A. It causes the Portion of Tract A to be entirely undevelopable. A rezoning of the Portion of Tract A from *RM-3* to *RM-1* would correct this impractical split zoning condition and create uniformity, allowing a building to be developed that is a better fit for the site. For these reasons, we respectfully request a rezoning of the Portion of Tract A to *RM-1*.

Sincerely,

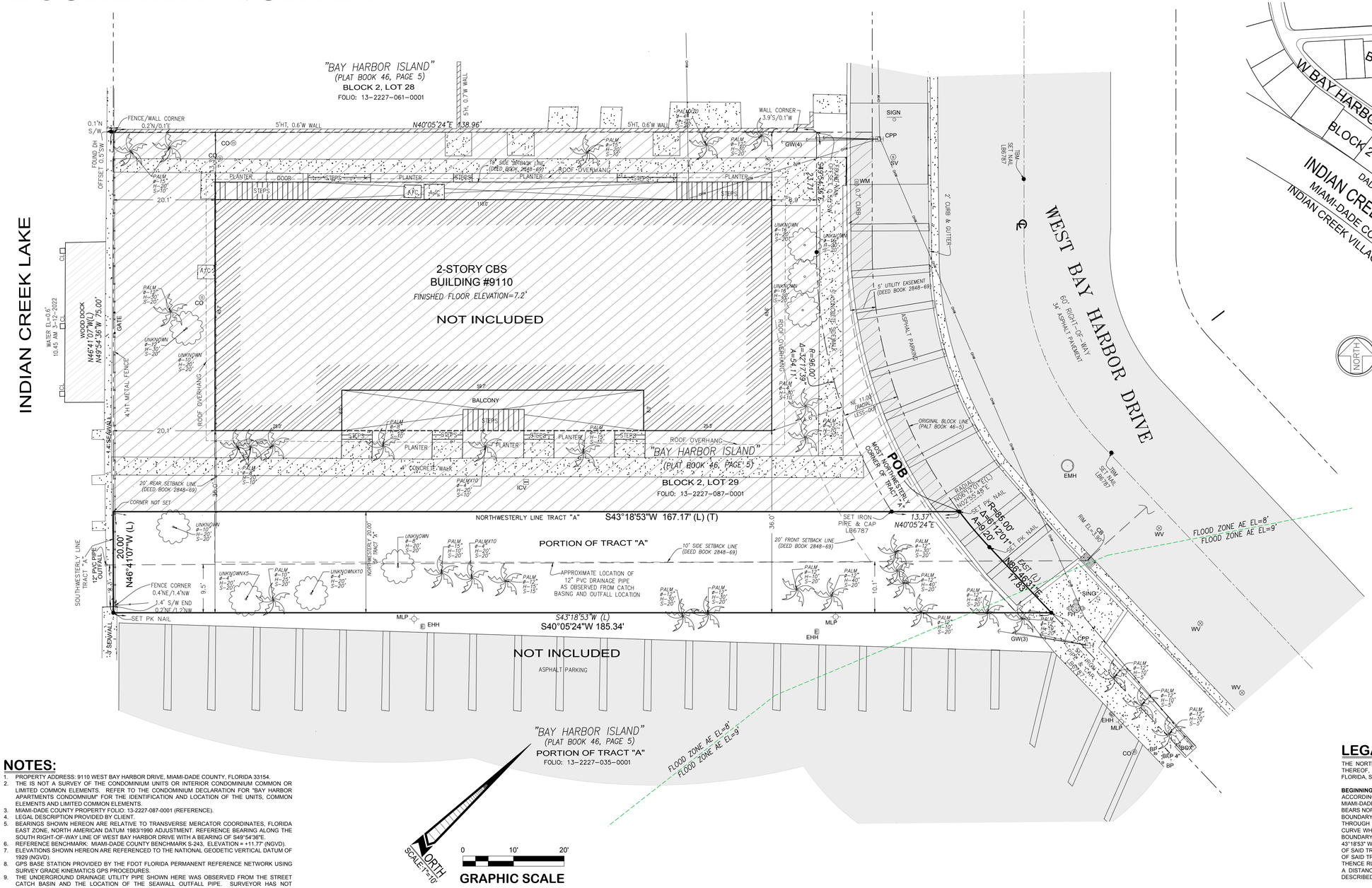
AKERMAN, LLP

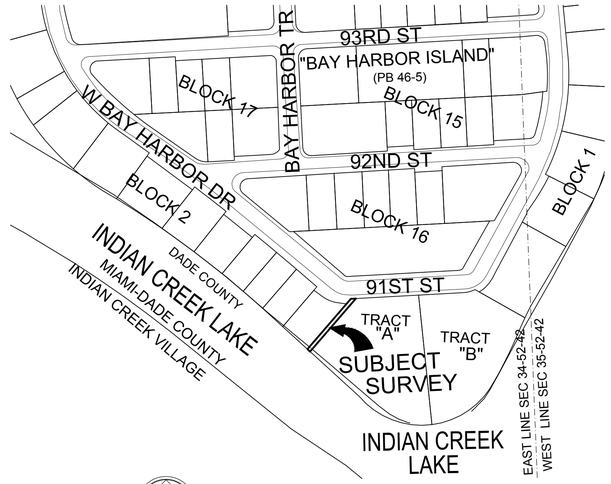
Neisen O. Kasdin

Enclosures

cc: Maria Lasday, Town Manager
Joe Geller, Town Attorney
Yvonne Hamilton, Interim Town Clerk
Michael Miller, Town Planner

BOUNDARY SURVEY





LOCATION MAP

IN SECTION 34, TOWNSHIP 52 SOUTH, RANGE 42 EAST
TOWN OF BAY HARBOR ISLAND, DADE COUNTY, FLORIDA
SCALE: 1" = 200'

LEGEND

BP	-	BOLLARD POST
BFP	-	BACK FLOW PREVENTER
CONC	-	CONCRETE
CO	-	SEWER CLEANOUT
℄	-	CENTERLINE
CB	-	CATCH BASIN
CL	-	COLUMNA
CPP	-	CONCRETE POWER POLE
CBS	-	CONCRETE BLOCK & STUCCO
DC	-	DROPPED CURB
DH	-	DRILL HOLE
EMH	-	ELECTRIC MANHOLE
EHH	-	ELECTRIC HANDHOLE
8.95	-	ELEVATIONS IN FEET (EL)
FH	-	FIRE HYDRANT
FEMA	-	FEDERAL EMERGENCY MANAGEMENT AGENCY
GW	-	GUY WIRE ANCHOR
HT	-	HEIGHT
ID	-	IDENTIFICATION
ICV	-	IRRIGATION CONTROL VALVE
LB	-	LICENSED BUSINESS
(L)	-	LEGAL DESCRIPTION
MLP	-	METAL LIGHT POLE
MD	-	MEASURE DOWN
NGVD	-	NATIONAL GEODETIC VERTICAL DATUM 1929
OHW	-	OVERHEAD WIRE
ORB	-	OFFICIAL RECORDS BOOK
PB	-	PLAT BOOK
PVC	-	POLYVINYL CHLORIDE
PL	-	PLANTER
RW	-	RIGHT OF WAY
SV	-	SEWER VALVE
TBM	-	TEMPORARY BENCHMARK
(T)	-	TOTAL
W	-	WIDTH
WV	-	WATER VALVE
WM	-	WATER METER
	-	PALM TREE
	-	TREE UNKNOWN
ø	-	TRUNK DIAMETER
S	-	SPREAD CANOPY
H	-	TREE HEIGHT

NOTES:

1. PROPERTY ADDRESS: 9110 WEST BAY HARBOR DRIVE, MIAMI-DADE COUNTY, FLORIDA 33154.
2. THE IS NOT A SURVEY OF THE CONDOMINIUM UNITS OR INTERIOR CONDOMINIUM COMMON OR LIMITED COMMON ELEMENTS. REFER TO THE CONDOMINIUM DECLARATION FOR "BAY HARBOR APARTMENTS CONDOMINIUM" FOR THE IDENTIFICATION AND LOCATION OF THE UNITS, COMMON ELEMENTS AND LIMITED COMMON ELEMENTS.
3. MIAMI-DADE COUNTY PROPERTY FOLIO: 13-2227-087-0001 (REFERENCE).
4. LEGAL DESCRIPTION PROVIDED BY CLIENT.
5. BEARINGS SHOWN HEREON ARE RELATIVE TO TRANSVERSE MERCATOR COORDINATES, FLORIDA EAST ZONE, NORTH AMERICAN DATUM 1983/1990 ADJUSTMENT. REFERENCE BEARING ALONG THE SOUTH RIGHT-OF-WAY LINE OF WEST BAY HARBOR DRIVE WITH A BEARING OF S49°54'36"E.
6. REFERENCE BENCHMARK: MIAMI-DADE COUNTY BENCHMARK S-243, ELEVATION = +11.77' (NGVD).
7. ELEVATIONS SHOWN HEREON ARE REFERENCED TO THE NATIONAL GEODETIC VERTICAL DATUM OF 1929 (NGVD).
8. GPS BASE STATION PROVIDED BY THE FDOT FLORIDA PERMANENT REFERENCE NETWORK USING SURVEY GRADE KINEMATICS GPS PROCEDURES.
9. THE UNDERGROUND DRAINAGE UTILITY PIPE SHOWN HERE WAS OBSERVED FROM THE STREET CATCH BASIN AND THE LOCATION OF THE SEAWALL OUTFALL PIPE. SURVEYOR HAS NOT PERFORMED ANY SUBSURFACE ANALYSIS TO DETERMINE ANY DEVIATIONS FROM THE UTILITY PIPE ROUTE SHOWN HEREON.
9. TREE SURVEY PERFORMED ON 3-12-2022. MEASURED TRUNK DIAMETER, CANOPY AND HEIGHT. TREE SYMBOLS DEPICTED HEREON ARE NOT SCALED TO CANOPY SIZE.
10. TOTAL AREA: THE SUBJECT PROPERTY CONTAINS 0.0808 ACRES OR 3,519 SQUARE FEET, MORE OR LESS.
11. ALL DOCUMENTS ARE RECORDED IN THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA UNLESS OTHERWISE NOTED.
12. ROOF OVERHANGS, IF ANY, NOT SHOWN UNLESS OTHERWISE NOTED.
13. DISTANCES ALONG BOUNDARY OF SUBJECT PROPERTY ARE RECORD AND MEASURED UNLESS OTHERWISE STATED.
14. RIGHT-OF-WAY LINES DO NOT REPRESENT AN OPINION OF OWNERSHIP BY THIS FIRM.
15. LANDS SHOWN HEREON HAVE NOT BEEN ABSTRACTED BY THIS FIRM FOR EASEMENTS, RIGHTS-OF-WAY OR ANY OTHER MATTERS OF RECORD.
16. SURVEYOR HAS NOT SHOWN ANY OFFICIAL ZONING CLASSIFICATION, VARIANCES, USES PERMITTED THEREUNDER, SETBACK, HEIGHT, BULK, DENSITY AND/OR PARKING REQUIREMENTS. REFERENCE TO BUILDING CODES, OR ZONING CODES, AS SAME MAY VARY DEPENDING ON CONSTRUCTION. ALL TO BE DETERMINED BY OTHERS.
17. THIS SURVEY WAS PREPARED FOR AND CERTIFIED TO THE PARTY AND/OR PARTIES INDICATED HEREON AND IS NOT TRANSFERABLE OR ASSIGNABLE.
16. IF SHOWN, FENCE AND WALL OWNERSHIP IS NOT DETERMINED. THIS SURVEY DOES NOT REFLECT OR DETERMINE OWNERSHIP.
17. EASEMENTS, IF ANY, PLOTTED AS PER SAID TITLE COMMITMENT, SCHEDULE B-II.
18. ADJACENT PROPERTY OWNER INFORMATION OBTAINED FROM THE MIAMI-DADE COUNTY PROPERTY APPRAISER'S WEB-SITE.
24. THIS IS A BOUNDARY SURVEY OF THE SUBJECT PROPERTY.

LEGAL DESCRIPTION:

THE NORTHWESTERLY 20 FEET OF TRACT "A" OF BAY HARBOR ISLAND, ACCORDING TO THE PLAT THEREOF, RECORDED IN PLAT BOOK 46, PAGE 5, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA, SAID PORTION OF TRACT "A" BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS.

BEGINNING AT THE MOST NORTHWESTERLY CORNER OF TRACT "A" OF **BAY HARBOR ISLAND**, ACCORDING TO THE PLAT THEREOF, RECORDED IN PLAT BOOK 46, PAGE 5, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA, SAID POINT OF BEGINNING ON A CIRCULAR CURVE WHOSE CENTER BEARS NORTH 6°12'01" EAST THEREFROM; THENCE RUN IN AN EASTERLY DIRECTION ALONG THE NORTH BOUNDARY OF SAID TRACT "A" AND ALONG SAID CIRCULAR CURVE HAVING A RADIUS OF 85 FEET THROUGH A CENTRAL ANGLE OF 6°12'01" FOR AN ARC DISTANCE OF 9.20 FEET TO THE END OF SAID CURVE WHOSE CENTER BEARS DUE NORTH THEREFROM; THENCE RUN DUE EAST ALONG THE NORTH BOUNDARY OF SAID TRACT "A" FOR A DISTANCE OF 17.83 FEET TO A POINT; THENCE RUN SOUTH 43°18'53" WEST FOR A DISTANCE OF 185.34 FEET TO A POINT ON THE SOUTHWESTERLY BOUNDARY LINE OF SAID TRACT "A"; THENCE RUN NORTH 46°41'07" WEST ALONG THE SOUTHWESTERLY BOUNDARY LINE OF SAID TRACT "A" FOR A DISTANCE OF 20 FEET TO THE MOST WESTERLY CORNER OF SAID TRACT"A"; THENCE RUN NORTH 43°18'53" EAST ALONG THE NORTHWESTERLY BOUNDARY OF SAID TRACT "A" FOR A DISTANCE OF 167.17 FEET TO THE **POINT OF THE BEGINNING** OF THE TRACT OF LAND HEREIN DESCRIBED.

FEMA FLOOD ZONE

Community No.:	*120637*
Community Name:	*Town of Bay Harbor Islands*
Panel No:	*0144*
Suffix:	*L*
Map Number:	*12086C0144L*
Flood Zone:	*AE*
Base Flood Elevation:	*8' & 9' NGVD 1929*
Date of Map Panel:	*9/11/2009*
Date of Firm Index:	*9/11/2009*

811 KNOW WHAT'S BELOW ALWAYS CALL 811 BEFORE YOU DIG
It's fast. It's free. It's the law.
www.callsunshine.com

This item has been digitally signed and sealed by Geoffrey Leiter, P.S.M. No. 6395 State of Florida, on 4/05/2022 using a Digital Signature.

Printed copies of this document are not considered signed and sealed and the **SHA** authentication code must be verified on any electronic copies.

LEITER, PEREZ & ASSOCIATES, INC.
LAND DEVELOPMENT CONSULTANTS
CIVIL ENGINEERS - LAND SURVEYORS
LAND PLANNERS - ENVIRONMENTAL
520 N.W. 165TH STREET ROAD, SUITE 209, MIAMI, FLORIDA 33169
MIAMI-DADE (305) 652-5133 BROWARD (954)524-2202 FAX: (305) 652-0411
E-Mail: office@leiterperez.com WEBSITE: www.leiterperez.com LICENSED BUSINESS No. 6787

TYPE OF SURVEY: *BOUNDARY SURVEY*
PREPARED FOR: **9525 BH LLC**

SURVEY DATE:	3-12-2022
JOB ORDER:	22-145
FILE NO.:	B-2777
FILE NAME:	Bound Survey.dwg
F.B. 390	PG. 43-44

REVISIONS:

DATE:	JOB ORDER:	DESCRIPTION:	F.B. PG.

NOTES
1. ELEVATIONS WHEN SHOWN REFER TO THE NATIONAL GEODETIC VERTICAL DATUM (NGVD) 1929.
2. THIS FIRM HAS MADE NO ATTEMPT TO LOCATE FOOTINGS AND/OR FOUNDATIONS (UNLESS OTHERWISE NOTED).
3. THE LANDS SHOWN HEREON HAVE NOT BEEN ABSTRACTED BY THIS FIRM REGARDING MATTERS OF INTEREST, OTHER PARTIES, SUCH AS EASEMENTS, RIGHTS-OF-WAY, ETC.
4. THIS SURVEY WAS PREPARED FOR AND CERTIFIED TO THE PARTY AND/OR PARTIES INDICATED HEREON AND IS NOT TRANSFERABLE OR ASSIGNABLE.
5. ALL IRON PIPES & NAILS AND DISCS SET BY THIS FIRM, SET WITH CAP OR DISC WITH LB# 6787.

SURVEYOR'S CERTIFICATE:
WE HEREBY CERTIFY: THAT THIS SURVEY IS TRUE AND CORRECT TO THE BEST OF OUR KNOWLEDGE AND BELIEF AS RECENTLY SURVEYED AND DRAWN UNDER OUR DIRECTION, AND THAT THIS SURVEY MEETS THE "STANDARDS OF PRACTICE" AS SET FORTH BY THE FLORIDA STATE BOARD OF PROFESSIONAL SURVEYORS AND MAPPERS IN CHAPTER 5J-17 FLORIDA ADMINISTRATIVE CODE, PURSUANT TO SECTION 472.027 FLORIDA STATUTES.

LEITER, PEREZ & ASSOCIATES, INC.

BY: _____, PRESIDENT
GEOFFREY LEITER, PROFESSIONAL SURVEYOR & MAPPER #6395
STATE OF FLORIDA

NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.

SHEET 1 OF 1

FILE: C:\Projects\Upcoming\22-145 9110 West Bay Harbor Dr Tract A Boundary Survey\22-132 - (A) 9110 West Bay Harbor Dr Survey-3-30-22.dwg
DATE: Apr 05, 2022 - 2:28pm EST

1987 AUG 11 PM 4:15 87R310194

EXHIBIT 2

RETURN TO: DEBBI LANDSBERG, ESQ.
KEITH, MACK, LEWIS & ALLISON
111 N.E. 1st Street
Miami, Florida 33132-2593

O.R. BK. 13377 PG 470

QUIT-CLAIM DEED

THIS QUIT-CLAIM DEED, executed this 15th day of May, A.D. 1987, by the ESTATE OF IRWIN I. COHN, DECEASED, Dade County, Florida, Probate File No. 86-99, by and through RITA C. HADDOW, not personally but as Ancillary Personal Representative of said Estate (hereinafter referred to as the "First Party") to the following persons (hereinafter collectively referred to as the "Second Party") at the following addresses, as tenants in common, the following undivided interests in real property described herein:

Name	Address	Percent Interest Being Conveyed
Lee Sofferin	9110 West Bay Harbor Drive Bay Harbor Islands, FL 33154	8%
Alex Spector	9110 West Bay Harbor Drive Bay Harbor Islands, FL 33154	8%
Sadie Cohn	9110 West Bay Harbor Drive Bay Harbor Islands, FL 33154	21%
Ben B. Buten & Dorothy Buten, his Wife	9110 West Bay Harbor Drive Bay Harbor Islands, FL 33154	21%
George Seyburn & Florence Seyburn, his Wife	9110 West Bay Harbor Drive Bay Harbor Islands, FL 33154	21%
Gladys Beznos	9110 West Bay Harbor Drive Bay Harbor Islands, FL 33154	21%

WITNESSETH, that said First Party for and in consideration of the sum of One ($1.00) Dollar, in hand paid by the said Second Party, the receipt whereof is hereby acknowledged, does hereby remise, release and quit-claim unto the said Second Party forever, all of the right, title, interest, claim and demand which the said First Party has in and to the following described lot, piece or parcel of land, situate, lying and being in the County of Dade, State of Florida, to wit:

Documentary Stamps Collected
Clerk & County Comptr
By Dawn G. Eccles DC
Stu/87

15.00/200

Lot 29 in Block 2 of Bay Harbor Islands, less the northeast 11 feet fronting on West Bay Harbor Drive, measured at right angle to the margin of West Bay Harbor Drive, of said Lot 29 in Block 2 of Bay Harbor Islands, a subdivision according to the plat thereof recorded in Plat Book 46 at Page 5 of the Public Records of Dade County, Florida, together with all right, title, interest, reservations and right of reversion in and to said northeast 11 feet fronting on West Bay Harbor Drive, excepted from said Lot 29; and together with the West 20 feet of Tract A of Bay Harbor Islands according to the plat thereof recorded in Plat Book 46 at Page 5 of the Public Records of Dade County, Florida.

TO HAVE AND TO HOLD the same together with all and singular the appurtenances thereunto belonging or in anywise appertaining, and all the estate, right, title, interest, lien, equity and claim whatsoever of the said First Party, either in law or equity, to the only proper use, benefit and behalf of said Second Party forever.

Sadie Cohn, the surviving wife of Irwin I. Cohn, Deceased, joins in this Quit-Claim Deed for the sole purpose of releasing her rights to dower and homestead property, if any, with respect to the interest conveyed by this Quit-Claim Deed.

IN WITNESS WHEREOF, the said First Party and Sadie Cohn signed and sealed these presents the day and year first above written.

Signed, sealed and delivered in the presence of:

Marie N. Primo

Marie N. Primo

William L. Pantalone

Marie N. Primo

Marie N. Primo

William L. Pantalone

William L. Pantalone

ESTATE OF IRWIN I. COHN, DECEASED

RITA C. HADDOW, Ancillary Personal Representative of the Estate of Irwin I. Cohn, Deceased and not individually.

SADIE COHN

STATE OF MICHIGAN)
)SS
COUNTY OF WAYNE)

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State aforesaid and in the County aforesaid to take acknowledgments, personally appeared RITA C. HADDOW, Ancillary Personal Representative of the Estate of Irwin I. Cohn, Deceased, Dade County, Florida, Probate File No. 86-99, to me known to be the person described in and who executed the foregoing instrument on behalf of said Estate and she acknowledged before me that she executed the same on behalf of said Estate.

WITNESS my hand and official seal in the County and State last aforesaid this 15th day of May, A.D. 1987.

Notary Public
Wayne County, Michigan
My commission expires: 5-19-87

WILLIAM L. PANTALONE
Notary Public, Wayne County, Michigan
My Commission Expires May 19, 1987

OFFICIAL RECORDS BOOK
PALM BEACH COUNTY, FLORIDA.
I CERTIFIED
RICHARD P. BRINKER
CLERK CIRCUIT COURT

STATE OF MICHIGAN)
)SS
COUNTY OF WAYNE)

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State aforesaid and in the County aforesaid to take acknowledgments, personally appeared SADIE COHN, to me known to be the person described in and who executed the foregoing instrument and she acknowledged before me that she executed the same.

WITNESS my hand and official seal in the County and State last aforesaid this 15th day of May, A.D. 1987.

Notary Public
Wayne County, Michigan
My commission expires: 5-19-87

WILLIAM L. PANTALONE
Notary Public, Wayne County, Michigan
My Commission Expires May 19, 1987

Instrument prepared by:

Charles Nida, Esq.
Honigman Miller Schwartz and Cohn
2290 First National Building
Detroit, Michigan 48226

EXHIBIT 3

EXHIBIT A

LEGAL DESCRIPTION

Lot 29, in Block 2, of BAY HARBOR ISLAND, less the Northeast 11 feet fronting on West Bay Harbor Drive, measured at right angles to the margin of West Bay Harbor Drive, of said Lot 29, in Block 2, of BAY HARBOR ISLAND, a subdivision according to the Plat thereof, recorded in Plat Book 46, at Page 5, of the Public Records of Dade County, Florida;

Together with all right, title, interest, reservations and right of reversion in and to said Northeast 11 feet fronting on West Bay Harbor Drive excepted from said Lot 29;

and

The Northwesterly 20 feet of Tract "A" of BAY HARBOR ISLAND, according to the Plat thereof, recorded in Plat Book 46, at Page 5, of the Public Records of Dade County, Florida, said portion of Tract "A" being more particularly described as follows:

Begin at the most Northwesterly corner of Tract "A" of BAY HARBOR ISLAND, according to the Plat thereof, recorded in Plat Book 46, at Page 5, of the Public Records of Dade County, Florida, said point of beginning being on a circular curve whose center bears North 6°12'01" East therefrom; thence run in an Easterly direction along the North boundary of said Tract "A" and along said circular curve having a radius of 85 feet through a central angel of 6°12'01" for an arc distance of 9.20 feet to the end of said curve whose center bears due North therefrom; thence run due east along the North boundary of said Tract "A" for a distance of 17.83 feet to a point; thence run South 43°18'53" West for a distance of 185.34 feet to a point on the Southwesterly boundary line of said Tract "A"; thence run North 46°41'07" West along the Southwesterly boundary line of said Tract "A" for a distance of 20 feet to the most Westerly corner of said Tract "A"; thence run North 43°18'53" East along the Northwesterly boundary of said Tract "A" for a distance of 167.17 feet to the point of beginning of the tract of land herein described.

EXHIBIT 4

MEMORANDUM OF TITLE SEARCH REPORT

I have received and reviewed the Title Search Report that I ordered from my underwriter, Old Republic National Title Insurance Company for Tract 'A' and Lot 29. Copy with the actual documents which I downloaded and reviewed individual 'pdf' entries is attached.

The history of Tract A and Lot 29 in Block 2 is that as of December 1954 Irwin I. Cohen was the owner of **both** Lots.

It appears that in the Deed filed on December 31st, 1956 under Deed Book FF197144 Irwin Cohen deeded Tract A to Irving B. Green and Albert Sherman which recites " Tract A less part (see slip)." Without seeing that actual Deed, I conclude that Irwin Cohen, who was also the owner of Lot 29, retained ownership of that West 20 foot portion. I noted in my research that in 1958 Irving Green conveyed by Warranty Deed 58R184335 the portion of Tract A, less the westerly 20 feet. Therefore from 1956, this portion was included with Lot 29. Subsequent multiple conveyances of both lots all reference the same legal description.

Both the Blair House Condominium which was developed on Tract A in 1970 and The Bay Harbor Apartments Condominium on Lot 29, which Declaration was recorded in 1987 reflect the same legal description.

Nowhere in all of these historical documents did I find any other reference to this as any kind of separate parcel.

Therefore, I have been unable to determine exactly what "restriction" exists that seems to be a hinderance for the developer being able to construct the proposed building with the current zoning in place, or why the "strip" of land plays such an important part of this, nor has this been explained in any detail to any of us on the 'seller' side to the best of my knowledge.

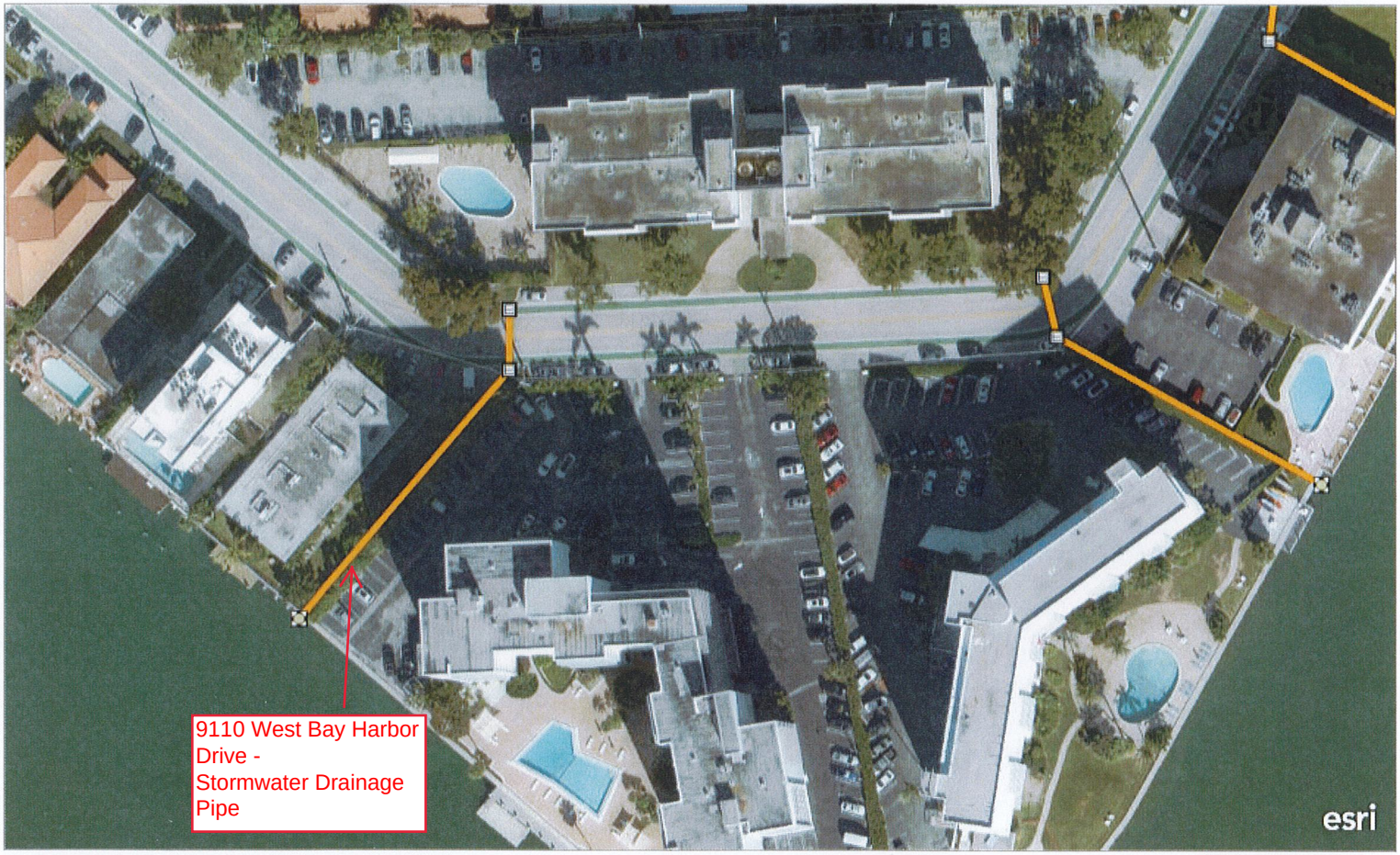
Perhaps the historical references here will assist Menachem and his legal counsel in any meetings with Town building officials and/or the Town attorney, Mr. Geller, and lead to a resolution of whatever issues seem to have been created, although none seem to be reflected in the Public Records.

I am copying everyone with this information and perhaps someone feels it is valuable enough to be forwarded to Mr. Kasdan or anyone else in the Town of Bay Harbor Islands.

With regards to all,
/S/
MARC HAUSER
MH: Sh

EXHIBIT 5

Bay Harbor Islands Stormwater



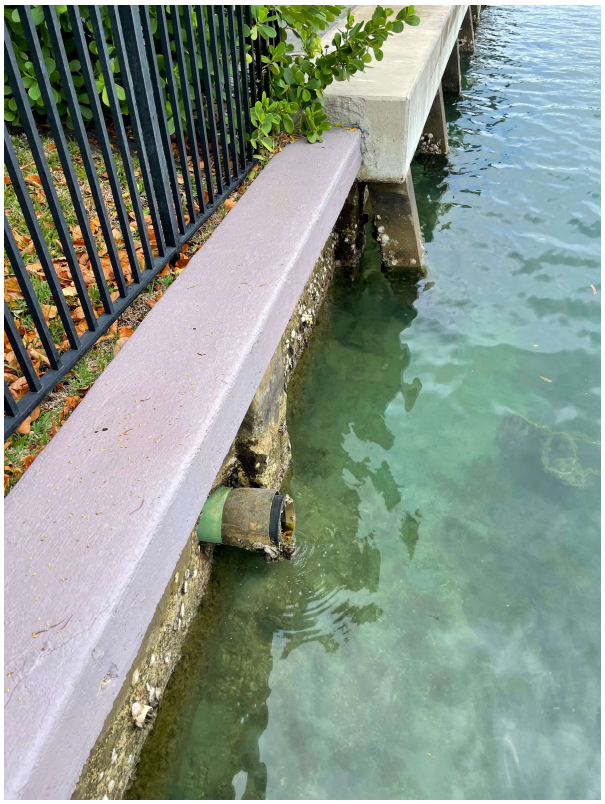
Bay Harbor Islands Stormwater

100ft

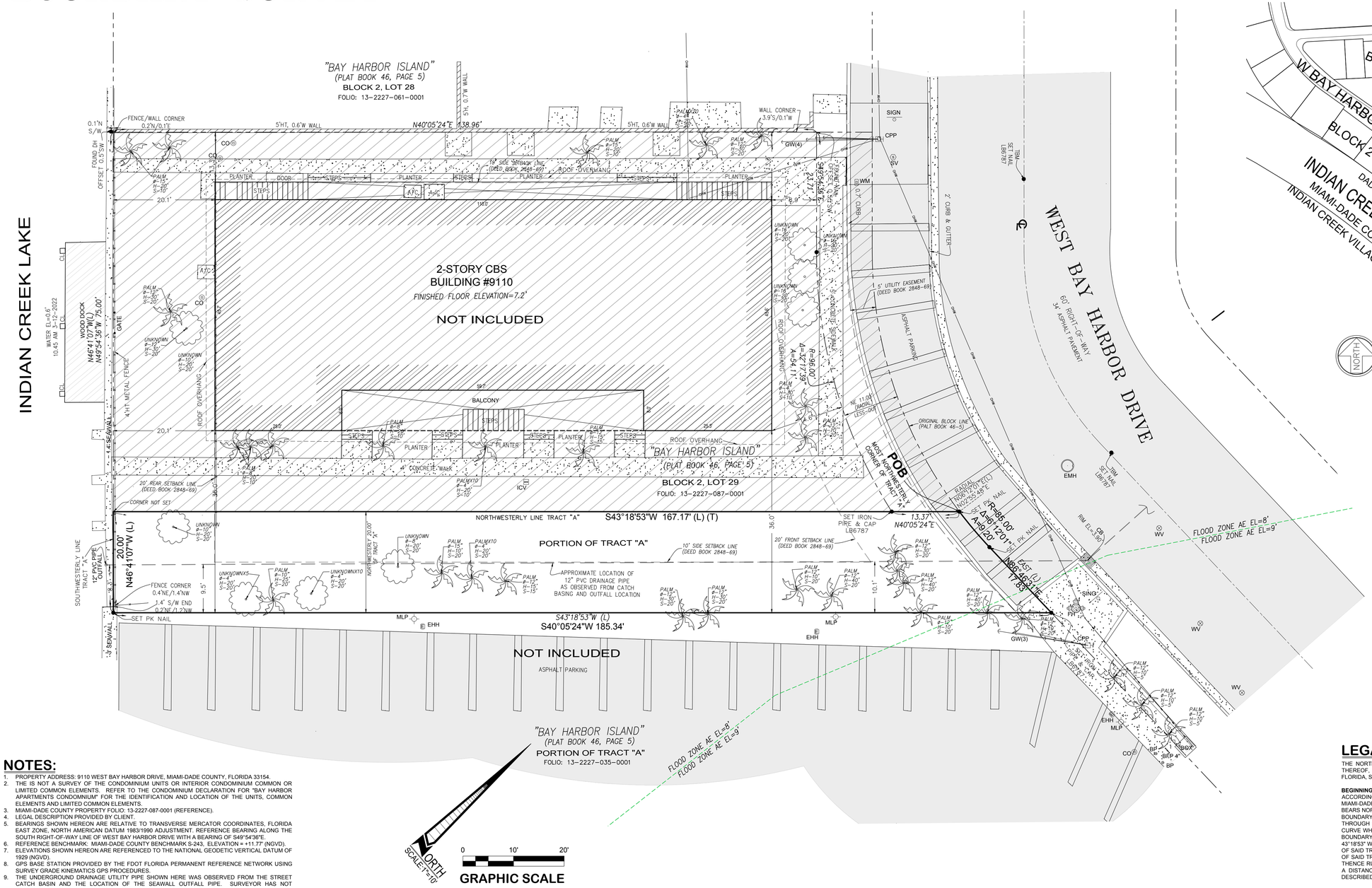
State of Florida, Maxar, Microsoft

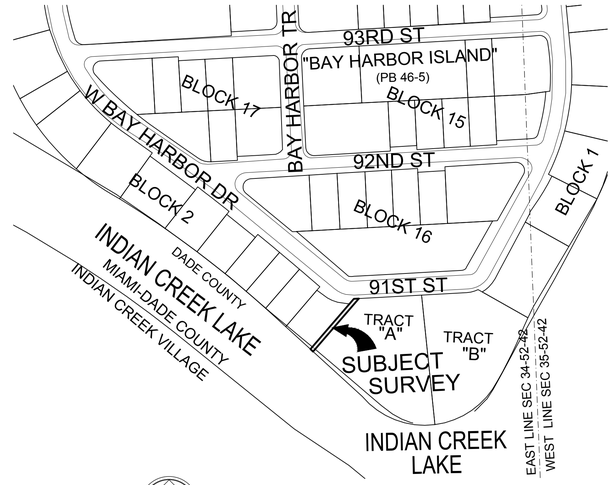
EXHIBIT 6: Stormwater Drainage Pipe Outfall Existing Conditions





BOUNDARY SURVEY





LOCATION MAP

IN SECTION 34, TOWNSHIP 52 SOUTH, RANGE 42 EAST
TOWN OF BAY HARBOR ISLAND, DADE COUNTY, FLORIDA
SCALE: 1" = 200'

LEGEND

BP	-	BOLLARD POST
BFP	-	BACK FLOW PREVENTER
CONC	-	CONCRETE
CO	-	SEWER CLEANOUT
℄	-	CENTERLINE
CB	-	CATCH BASIN
CL	-	COLUMNA
CPP	-	CONCRETE POWER POLE
CBS	-	CONCRETE BLOCK & STUCCO
DC	-	DROPPED CURB
DH	-	DRILL HOLE
EMH	-	ELECTRIC MANHOLE
EHH	-	ELECTRIC HANDHOLE
9.85	-	ELEVATIONS IN FEET (EL)
FH	-	FIRE HYDRANT
FEMA	-	FEDERAL EMERGENCY MANAGEMENT AGENCY
GW	-	GUY WIRE ANCHOR
HT	-	HEIGHT
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ICV	-	IRRIGATION CONTROL VALVE
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WM	-	WATER METER
	-	PALM TREE
	-	TREE UNKNOWN
ø	-	TRUNK DIAMETER
S	-	SPREAD CANOPY
H	-	TREE HEIGHT

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2. THE IS NOT A SURVEY OF THE CONDOMINIUM UNITS OR INTERIOR CONDOMINIUM COMMON OR LIMITED COMMON ELEMENTS. REFER TO THE CONDOMINIUM DECLARATION FOR "BAY HARBOR APARTMENTS CONDOMINIUM" FOR THE IDENTIFICATION AND LOCATION OF THE UNITS, COMMON ELEMENTS AND LIMITED COMMON ELEMENTS.
3. MIAMI-DADE COUNTY PROPERTY FOLIO: 13-2227-087-0001 (REFERENCE).
4. LEGAL DESCRIPTION PROVIDED BY CLIENT.
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7. ELEVATIONS SHOWN HEREON ARE REFERENCED TO THE NATIONAL GEODETIC VERTICAL DATUM OF 1929 (NGVD).
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9. THE UNDERGROUND DRAINAGE UTILITY PIPE SHOWN HERE WAS OBSERVED FROM THE STREET CATCH BASIN AND THE LOCATION OF THE SEAWALL OUTFALL PIPE. SURVEYOR HAS NOT PERFORMED ANY SUBSURFACE ANALYSIS TO DETERMINE ANY DEVIATIONS FROM THE UTILITY PIPE ROUTE SHOWN HEREON.
9. TREE SURVEY PERFORMED ON 3-12-2022. MEASURED TRUNK DIAMETER, CANOPY AND HEIGHT. TREE SYMBOLS DEPICTED HEREON ARE NOT SCALED TO CANOPY SIZE.
10. TOTAL AREA: THE SUBJECT PROPERTY CONTAINS 0.0808 ACRES OR 3,519 SQUARE FEET, MORE OR LESS.
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12. ROOF OVERHANGS, IF ANY, NOT SHOWN UNLESS OTHERWISE NOTED.
13. DISTANCES ALONG BOUNDARY OF SUBJECT PROPERTY ARE RECORD AND MEASURED UNLESS OTHERWISE STATED.
14. RIGHT-OF-WAY LINES DO NOT REPRESENT AN OPINION OF OWNERSHIP BY THIS FIRM.
15. LANDS SHOWN HEREON HAVE NOT BEEN ABSTRACTED BY THIS FIRM FOR EASEMENTS, RIGHTS-OF-WAY OR ANY OTHER MATTERS OF RECORD.
16. SURVEYOR HAS NOT SHOWN ANY OFFICIAL ZONING CLASSIFICATION, VARIANCES, USES PERMITTED THEREUNDER, SETBACK, HEIGHT, BULK, DENSITY AND/OR PARKING REQUIREMENTS. REFERENCE TO BUILDING CODES, OR ZONING CODES, AS SAME MAY VARY DEPENDING ON CONSTRUCTION. ALL TO BE DETERMINED BY OTHERS.
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LEGAL DESCRIPTION:

THE NORTHWESTERLY 20 FEET OF TRACT "A" OF BAY HARBOR ISLAND, ACCORDING TO THE PLAT THEREOF, RECORDED IN PLAT BOOK 46, PAGE 5, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA, SAID PORTION OF TRACT "A" BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS.

BEGINNING AT THE MOST NORTHWESTERLY CORNER OF TRACT "A" OF **BAY HARBOR ISLAND**, ACCORDING TO THE PLAT THEREOF, RECORDED IN PLAT BOOK 46, PAGE 5, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA, SAID POINT OF BEGINNING ON A CIRCULAR CURVE WHOSE CENTER BEARS NORTH 6°12'01" EAST THEREFROM; THENCE RUN IN AN EASTERLY DIRECTION ALONG THE NORTH BOUNDARY OF SAID TRACT "A" AND ALONG SAID CIRCULAR CURVE HAVING A RADIUS OF 85 FEET THROUGH A CENTRAL ANGLE OF 6°12'01" FOR AN ARC DISTANCE OF 9.20 FEET TO THE END OF SAID CURVE WHOSE CENTER BEARS DUE NORTH THEREFROM; THENCE RUN DUE EAST ALONG THE NORTH BOUNDARY OF SAID TRACT "A" FOR A DISTANCE OF 17.83 FEET TO A POINT; THENCE RUN SOUTH 43°18'53" WEST FOR A DISTANCE OF 185.34 FEET TO A POINT ON THE SOUTHWESTERLY BOUNDARY LINE OF SAID TRACT "A"; THENCE RUN NORTH 46°41'07" WEST ALONG THE SOUTHWESTERLY BOUNDARY LINE OF SAID TRACT "A" FOR A DISTANCE OF 20 FEET TO THE MOST WESTERLY CORNER OF SAID TRACT"A"; THENCE RUN NORTH 43°18'53" EAST ALONG THE NORTHWESTERLY BOUNDARY OF SAID TRACT "A" FOR A DISTANCE OF 167.17 FEET TO THE **POINT OF THE BEGINNING** OF THE TRACT OF LAND HEREIN DESCRIBED.

FEMA FLOOD ZONE

Community No.:	*120637*
Community Name:	*Town of Bay Harbor Islands*
Panel No:	*0144*
Suffix:	*L*
Map Number:	*12086C0144L*
Flood Zone:	*AE*
Base Flood Elevation:	*8' & 9' NGVD 1929*
Date of Map Panel:	*9/11/2009*
Date of Firm Index:	*9/11/2009*

0 10' 20'
GRAPHIC SCALE

811 KNOW WHAT'S BELOW ALWAYS CALL 811 BEFORE YOU DIG
It's fast. It's free. It's the law.
www.callsunshine.com

This item has been digitally signed and sealed by Geoffrey Leiter, P.S.M. No. 6395 State of Florida, on 4/05/2022 using a Digital Signature.

Printed copies of this document are not considered signed and sealed and the **SHA** authentication code must be verified on any electronic copies.

TYPE OF SURVEY: *BOUNDARY SURVEY*
PREPARED FOR: **9525 BH LLC**

LEITER, PEREZ & ASSOCIATES, INC.
LAND DEVELOPMENT CONSULTANTS
CIVIL ENGINEERS - LAND SURVEYORS
LAND PLANNERS - ENVIRONMENTAL
520 N.W. 165TH STREET ROAD, SUITE 209, MIAMI, FLORIDA 33169
MIAMI-DADE (305) 652-5133 BROWARD (954)524-2202 FAX: (305) 652-0411
E-Mail: office@leiterperez.com WEBSITE: www.leiterperez.com LICENSED BUSINESS No. 6787

SURVEY DATE: 3-12-2022
JOB ORDER: 22-145
FILE NO.: B-2777
FILE NAME: Bound Survey.dwg
F.B. 390 PG. 43-44

REVISIONS:

DATE:	JOB ORDER:	DESCRIPTION:	F.B.	PG.

NOTES
1. ELEVATIONS WHEN SHOWN REFER TO THE NATIONAL GEODETIC VERTICAL DATUM (NGVD) 1929.
2. THIS FIRM HAS MADE NO ATTEMPT TO LOCATE FOOTINGS AND/OR FOUNDATIONS (UNLESS OTHERWISE NOTED).
3. THE LANDS SHOWN HEREON HAVE NOT BEEN ABSTRACTED BY THIS FIRM REGARDING MATTERS OF INTEREST, OTHER PARTIES, SUCH AS EASEMENTS, RIGHTS-OF-WAY, ETC.
4. THIS SURVEY WAS PREPARED FOR AND CERTIFIED TO THE PARTY AND/OR PARTIES INDICATED HEREON AND IS NOT TRANSFERABLE OR ASSIGNABLE.
5. ALL IRON PIPES & NAILS AND DISCS SET BY THIS FIRM, SET WITH CAP OR DISC WITH LB# 6787.

SURVEYOR'S CERTIFICATE:
WE HEREBY CERTIFY: THAT THIS SURVEY IS TRUE AND CORRECT TO THE BEST OF OUR KNOWLEDGE AND BELIEF AS RECENTLY SURVEYED AND DRAWN UNDER OUR DIRECTION, AND THAT THIS SURVEY MEETS THE "STANDARDS OF PRACTICE" AS SET FORTH BY THE FLORIDA STATE BOARD OF PROFESSIONAL SURVEYORS AND MAPPERS IN CHAPTER 5J-17 FLORIDA ADMINISTRATIVE CODE, PURSUANT TO SECTION 470.027 FLORIDA STATUTES.

LEITER, PEREZ & ASSOCIATES, INC.
BY: _____, PRESIDENT
GEOFFREY LEITER, PROFESSIONAL SURVEYOR & MAPPER #6395 STATE OF FLORIDA

NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.

SHEET 1 OF 1

FILE: C:\Projects\Upcoming\22-145 9110 West Bay Harbor Dr Tract A Boundary Survey\22-132 - (A) 9110 West Bay Harbor Dr Survey-5-30-22.dwg
DATE: Apr 05, 2022 - 2:28pm EST

TOWN OF BAY HARBOR ISLANDS

APPLICATION FOR REZONING

Date: _____
Case No: _____
Receipt No.: _____

Filing Fees: The initial deposit fee shall be $3,500.00 plus the non-administrative costs incurred by the Town in processing the request. $500.00 of the fee shall be non-refundable.

Applicant: 9525 BH LLC

Address: 10010 W. Broadview Drive City: Bay Harbor Islands

Phone: _____ Fax: _____ E-Mail: mk@ahavaip.com

Applicant's Relation to Subject Property: Contract Purchaser of the Property

If Applicant is not Owner, Name of Owner: BAY HARBOR APARTMENTS CONDOMINIUM ASSOCIATION, INC.

Signature of Applicant: _____

Present Zoning District: RM-3 Requested Zoning District: RM-1

Present Future Land Use Map (FLUM) Designation: Medium-High Density

Address of Subject Property: 9110 W. Bay Harbor Drive, Bay Harbor Islands, FL 33154

Legal Description of Property Sought to be Rezoned (Plat Book/Page or Metes and Bounds)
Note: Current Survey (not more than 6 months old) of the Property must be attached.
The northwesterly 20 feet of Tract "A" of Bay Harbor Island, according to the plat thereof, recorded in Plat Book 46, Page 5, of the Public Records of Miami-Dade County, Florida.

Purpose of Rezoning: Please refer to the enclosed Letter of Intent.

All petitions shall be accompanied with a plot plan to scale of the area affected, showing thereon adjacent properties within 375 feet, as well as existing roadways, if any, within 375 feet.

OWNER / AGENT CERTIFICATE:

This is to certify that I am the owner / agent of subject lands described above in the Application for Rezoning, and that all information supplied herein is true and correct to the best of my knowledge. By signing this application, owner / agent specifically agrees to allow access to described property at reasonable times by Town personnel for the purpose of verification of information provided by owner / agent.

Signature of owner/agent: _____ Sworn to and subscribed before me this 14th day of April 2022, by _____ AS THE PRESIDENT OF BAY HARBOR APARTMENTS CONDOMINIUM ASSOCIATION, INC.

☐ He/She is personally known to me, or

☒ He/She has presented Driver License as identification.

Signature of Notary Public Denise Mansoor Type or Print Name Denise Mansoor, Notary Public

Non-administrative cost shall be defined as follows: (a) Town Planner's fee; (b) Engineer's fee; (c) Postage and other mailing expenses; (d) copying expenses; (e) Newspaper advertising expenses; (f) title search and/or abstracting expenses; (g) Legal fees

FOR STAFF USE ONLY

Planning and Zoning Board Date: _____ ( ) Approved ( ) Denied ( ) Approved with conditions

Town Council Date: _____ ( ) Approved Ordinance No. _____
( ) Denied ( ) Approved with conditions

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California
County of Sacramento)

On April 14,2022 before me, Denise Mansoor, Notary Public
(insert name and title of the officer)

personally appeared Joel Edward Kimmelshue,
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

DENISE MANSOOR
COMM. #2278060
NOTARY PUBLIC - CALIFORNIA
SACRAMENTO COUNTY
My Commission Expires 02/19/2023

Signature Denise Mansoor (Seal)

Sec. 23-2. - Districts.

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

Use districts:

(1) RD—Single Family district.

(2) RM-1—Multiple-Family district (waterfront lots).

(3) RM-2—Multiple-Family district (non-waterfront lots).

(4) B-1—Business district.

(5) RM-3—Multiple-Family district.

(6) CA—Causeway district.

(7) PUD district.

(8) G—Gateway district.

Area districts: Area districts are as hereinafter set forth:

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

All of the lots and tracts appearing on the West Island, except Lots 68, 69, 70 and 71 in Block 23 thereof, are hereby designated as "use district RD"; Lots 3 through 25 in Block 1, Lots 2 through 29 in Block 2 and the northwesterly 20 feet of Tract “A”, Lots 1 through 31 in Block 3 and Lots 1 through 36 in Block 4 are hereby designated as "use district RM-1"; Lots 1 through 15 in Block 5, Lots 1 through 20 in Block 6, Lots 1 through 20 in Block 7, Lots 1 through 21 [library.municode.com] in Block 8, Lots 1 through 25 in Block 9, Lots 1 through 12 in Block 10, Lots 1 through 18 in Block 13, Lots 1 through 18 in Block 14, Lots 1 through 18 in Block 15, Lots 1 through 13 in Block 16, Lots 1 through 10 in Block 17, Lots 1 through 16 in Block 18, Lots 1 through 16 in Block 19 [library.municode.com], and Lots 1 through 16 in Block 22 are hereby designated as "use district RM-2"; all of the lots appearing Blocks 11, 12, 20 and 21 [library.municode.com], of the East Island are hereby designated as "use district B-1"; Tract A, less the northwesterly 20 feet thereof, and all of Tracts B, C, D, E and F, appearing on the plat of the East Island, are hereby designated as "use district RM-3"; all lots and tracts located on that portion of the Broad Causeway which comprises Lots 68, 69, 70 and 71 in Block 23 on the

West Island, and the land and causeway extending westerly therefrom across Biscayne Bay to the west shore of Biscayne Bay are hereby designated as "use district CA"; Lots 1, 2 and 3 in Block 2 and Lots 35, 36 and 37 in Block 4 are hereby designated as "use district PUD"; and Lots 1 and 2 in Block 1, Lot 1 in Block 2, Lot 32 in Block 3 and Lot 37 in Block 4 are hereby designated as "use district gateway (G)".

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

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

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

ORDINANCE NO. _____

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF BAY HARBOR ISLANDS, FLORIDA, RELATING TO THE REZONING OF A CERTAIN PARCEL OF LAND, AS MORE PARTICULARLY DESCRIBED HEREIN, THE NORTHWESTERLY 20 FEET OF TRACT "A", 9110 WEST BAY HARBOR DRIVE, FROM THE RM-3, MULTIPLE-FAMILY DISTRICT TO THE RM-1, MULTIPLE-FAMILY DISTRICT; AMENDING SECTION 23-2 OF THE TOWN CODE AND THE OFFICIAL ZONING MAP TO REFLECT SAID ZONING; PROVIDING FOR INCORPORATION OF RECITALS; PROVIDING FOR CONFLICT AND REPEALER; PROVIDING FOR SEVERABLITY; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, an application has been submitted by 9525 BH LLC ("Applicant") to rezone a portion of the property generally located at 9110 West Bay Harbor Drive, Lot 29, Block 1, more particularly described as the northwesterly 20 feet of Tract "A" of Bay Harbor Island, according to the plat thereof, recorded in Plat Book 46, Page 5, of the Public Records of Miami-Dade County, Florida, from RM-3 to RM-1; and

WHEREAS, in accordance with Section 23-16 of the Town's Code of Ordinances and the provisions of Chapter 166.041, Florida Statutes, the Town Council considered the application for rezoning of the property described in Section 2, of this Ordinance on first reading during its May 11, 2022, meeting; and

WHEREAS, the Town Council of the Town of Bay Harbor Islands ("Town Council") conducted a public hearing, on June 9, 2022, pursuant to notice, to consider the application and this ordinance on second reading; and

WHEREAS, after said hearing, the Town Council finds that the amendment is consistent with the requirements of Bay Harbor Islands Code and Comprehensive Plan;

DRAFT

and

WHEREAS, after said hearing, the Town Council deems it in the best interest of the Town of Bay Harbor Islands to amend the Zoning Classification of the subject property from the former RM-3, Multiple-Family District, to the RM-1 Multiple-Family District:

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

Section 1. Recitals. The foregoing recitals are adopted and hereby incorporated as if fully set forth herein.

Section 2. That the following described property is hereby rezoned from RM-3, Multiple-Family District, to RM-1, Multiple-Family District:

> The Northwesterly 20 feet of Tract "A" of Bay Harbor Island, according to the Plat thereof, records in Plat Book 46, at Page 5, of the Public Records of Dade County, Florida, said portion of Tract "A" being more particularly described in Exhibit 3 Attached hereto.

Section 3. The amendment set forth in Section 2 hereof shall be codified in the Town Code and entered in the official zoning map of the Town of Bay Harbor Islands, after the effective date of this Ordinance.

Section 4. That 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 5. 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.

DRAFT

Section 6. That the zoning district boundary descriptions found in Section 23-2 of the Town Code are hereby amended to reflect that the property listed in Section 2 above is henceforth zoned in the RM-1 Multiple Family District. The attached Exhibit 1 shall henceforth constitute the revised Section 23-2 of the Town Code, and the Town Zoning Map shall also be amended accordingly.

Section 7. That this Ordinance shall be in full force and take effect immediately upon its passage and adoption.

PASSED on First Reading this 11th day May 2022.

PASSED AND ENACTED on Second Reading this ___ day of ____, 2022.

_____
JOSHUA FULLER
Mayor

ATTEST:

_____
YVONNE P. HAMILTON, CMC
Town Clerk

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:

GREENSPOON MARDER, LLP

_____
By: JOSEPH S. GELLER, ESQ.
Town Attorneys

DRAFT

AGENDA ITEM REPORT
June 9, 2022

ITEM NUMBER: 15.

ITEM: Consideration and **Approval** of an ordinance on second reading amending Chapter 13, entitled "Local Business Tax Receipt and Regulations by revising Sections 13-4, 13-7, 13-9, 13-14 through 13-16, and 13-18 of the Town Code to update the Business Tax Receipt issuance process; designating the authority to issue Business Tax Receipts to the Town Manager or her designee. Enclosed is a copy of the proposed ordinance.

DESCRIPTION:
At the April 13, 2022, Town Council Meeting, the Council voted unanimously to amend the Town Clerk's Job Description, which included elimination of the Business Tax Receipt issuance function, that was granted under the authority of Chapter 13 of the Town Code.

The attached proposed ordinance will facilitate the amendment to the Code giving the Town Manager the authority over the Business Tax Receipts.

RECOMMENDED ACTION:
Council's Discretion.

FINANCIAL ANALYSIS:

BUDGET IMPACT:

Submitted By: Yvonne Hamilton, Acting Town Clerk
Maria Lasday, Town Manager

ATTACHMENTS

1.	Ordinance - Business Tax Receipt-Town Manager

ORDINANCE NO. _____

AN ORDINANCE OF THE TOWN OF BAY HARBOR ISLANDS, FLORIDA AMENDING CHAPTER 13 OF THE TOWN CODE, ENTITLED "LOCAL BUSINESS TAXES AND REGULATIONS", BY REVISING SECTIONS 13-4 THROUGH 13-18 TO UPDATE THE BUSINESS TAX RECEIPT ISSUANCE PROCESS; PROVIDING FOR CONFLICT AND REPEALER; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; PROVIDING FOR INCORPORATION OF RECITALS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, The Town Council of the Town of Bay Harbor Islands, Florida ("Town Council") wishes to update the procedures in the Town's Code of Ordinances (the "Code") regarding the issuance of the Business Tax Receipts, with the goal of making the process more expedient and efficient.

WHEREAS, The Town Council finds that this amendment improves the way individuals and businesses conduct businesses within the Town and is in the best interest of the community.

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

Section 1. Recitals. The foregoing recitals are adopted and hereby incorporated as if fully set forth herein.

Section 2. Village Code of Ordinances amended. Chapter 13 of Bay Harbor Islands Code of Ordinance entitled "Local Business Tax Receipt and Regulations" is hereby amended to read as follows:

Sec. 13-4. - Application for business Tax Receipt

Application for a business tax receipt shall be made in writing, filed with the ~~town clerk~~ Town Manager or his/her designee, ~~and~~ stating the name, domicile, age, principal business address, nature of business, how and where the business will be conducted, the person in charge thereof, the character and extent of facilities therefor, and such other relevant information as the ~~town clerk~~ Town Manager or his/her designee shall require. A~~n~~ nonrefundable application fee of $25.00 shall be assessed.

ec. 13-7. - Denial or revocation.

(a)*Background investigation into fitness and character of applicants.* The police department shall perform an investigation of the background of all applicants for a business tax receipt. Such background investigation shall include a review of the

applicant's possible past or present involvement in criminal activity, research of any pending problems with the Florida Department of Professional and Business Regulation [Business and Professional Regulation], and/or with any other applicable agency of the state or federal governments. Should the findings indicate that the applicant has a past criminal history or criminal charges pending which exhibits behavior which could present a threat to the public health, safety, and welfare, including but not limited to charges which are related to the business applied for, then such investigative findings shall be reported to the ~~town clerk~~ Town Manager or his/her designee and may include a recommendation that the business tax receipt be denied.

(b) *Denial of* business tax receipt. The ~~town clerk~~, Town Manager or his/her designee upon approval by the town council, may refuse to issue a receipt to any person:

(1) Who does not have adequate facilities for, or

(2) Who, based upon his or her character and fitness, shall not be competent to conduct, without danger or injury to the town or its inhabitants, the business for which receipt be applied for.

The ~~town clerk~~ Town Manager or his/her designee shall provide the town council with all information upon which he or she has relied when deciding whether a refusal would be proper, including any recommendations by the police department, so that the council can make an independent and informed decision.

(c) *Revocation of* business tax receipt. The ~~town clerk~~, Town Manager or his/her designee upon notice, a hearing, and approval by the town council, may revoke any receipt:

(1) If further operation of such business shall be detrimental to the town or its inhabitants, or

(2) If the holder of the receipt shall have been convicted of an offense against the town in connection with the operation or maintenance of the business.

Sec. 13-9. - Enforcement; investigations and arrests.

(a) It is hereby made the duty of the ~~town clerk~~ Town Manager or his/her designee to investigate persons engaged in any of the aforesaid business, occupations, or professions and to make such inquiry and investigation as shall be necessary to determine whether or not they have procured a business tax receipt or receipts as hereinbefore provided; and any person refusing to allow the ~~town clerk~~ Town Manager or his/her designee to investigate for the purpose of determining whether such person has a receipt shall, upon conviction, be punished as provided in section 1-8, and the ~~town clerk~~ Town Manager or his/her designee and his deputies are

hereby vested with the power and authority to make arrests for violations of this chapter.

(b) No person who shall have operated a business in the town without an occupational license or business tax receipt in prior years shall be granted a current occupational license or business tax receipt without first having paid to the town all amounts owed as license or business tax fees and penalties for previous years during which the operation was carried on under such person or ownership, including late fees, which shall be 25 percent of the license or business tax fee per year.

Sec. 13-14. - Bottled gas— Business tax receipt required; fee.

No person shall engage in or manage any business or occupation concerned with the installation or servicing of bottled or manufactured gas equipment in the town unless a town business tax receipt shall have been procured from the ~~town clerk~~, Town Manager or his/her designee, which receipt shall be issued to each person upon the receipt of a business tax fee in the amount of $150.00. The servicing of bottled or manufactured gas is deemed to include the replacement or replenishment of all containers or bottles supplying gas to the establishment.

Sec. 13-15. - Same—Business tax receipt period; no proration.

No business tax receipt for the business of installing or servicing of bottled or manufactured gas equipment shall be issued for more than one year, and all business tax receipts are to run for a term beginning October 1st and expiring September 30th. No business tax receipt shall be issued for an amount less than $150.00, even though such a receipt shall be taken out after October 1st .

Sec. 13-16. - Same—Separate fee for each type of gas; liability insurance.

Should any person engage in the distribution, servicing and installation of both bottled and manufactured gas, a separate business tax receipt fee in the amount of $150.00 shall be paid for each type of gas marketed. It is further required that each business tax receipt applicant submit to the ~~town clerk~~ Town Manager or his/her designee a certificate of satisfactory insurance as to comprehensive general liability insurance covering all phases of distribution, servicing and installing said gas equipment.

Sec. 13-18. - Same—Permit.

Before any installation can be made, a permit must be secured from the ~~town clerk~~, Town Manager or his/her designee and prior to hookup of gas service, an inspection by the plumbing inspector shall have been applied for with the ~~town clerk~~ Town Manager or his/her designee and approved by the plumbing inspector.

Section 3. Severability. If any section, sentence, clause, or phrase of this Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this Ordinance.

Section 4. Conflicts and Repealer. All Ordinances or parts of Ordinances, Resolutions, or parts of Resolutions in conflict herewith, be and the same are repealed to the extent of suchconflict.

Section 5. Codification. If the Official Code of Ordinances of the Town of Bay Harbor Islands Tables of Contents or other reference portions is affected by these provisions, then changes are approved as a part of this Ordinance.

Section 6. Effective Date. This Ordinance shall be in full force and take effect

upon its passing and adoption on second reading.

PASSED on First Reading this 11th day May 2022.

PASSED AND ADOPTED on Second Reading this ___ day of ____, 2022.

_____
JOSHUA FULLER
Mayor

ATTEST:

_____
YVONNE P. HAMILTON, CMC
Town Clerk

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:

_____
JOSEPH S. GELLER, ESQ.
Town Attorney
BY: Greenspoon Marder LLP

AGENDA ITEM REPORT
June 9, 2022

ITEM NUMBER: 16.

ITEM: Consideration and **Approval** of an ordinance on second reading amending Chapter 16, Section 16-1(i) of the Town Code for average final compensation to be calculated based on a member's highest annual pay received during the member's last three years prior to retirement.

DESCRIPTION:
The General Employees' Retirement System regulations are being revised to provide for a Member's Average Final Compensation to be based on his or her highest annual pay during the last three years of service preceding retirement as opposed to the last five years of service preceding retirement.

RECOMMENDED ACTION:
Council's Discretion.

FINANCIAL ANALYSIS:
There is no immediate Fiscal Impact in current FY 2021-2022. The reduction of the average period for general employees from five years to three years will have an affect the Town's future budgets, starting in FY 2022-2023. The FY 2022-2023 will have an additional $61,444 factored into the Town's minimum retirement contribution to the Retirement Fund.

BUDGET IMPACT:

Name	Impact Date	Fund(s)	Account(s)	Project #(s)	Amount Budgeted
Town Contribution for Pensions	10/01/2022	$61,444	601.9990.368100.000	Reduction of Benefit Calculation to Three-Year Averaging	$0.00

Submitted By: Yvonne Hamilton, Acting Town Clerk
Maria Lasday, Town Manager

ATTACHMENTS

1.	Actuarial Valuation - Average Current Salary Year Reduction 5.4.22
2.	Ordinance-Retirement -AFC to 3 years

SOUTHERN ACTUARIAL SERVICES

Post Office Box 888343
Atlanta, Georgia 30356-0343
Telephone 770.392.0980
Facsimile 770.392.2193

May 4, 2022

Trustees of the Town of Bay Harbor Islands Employees Retirement System
c/o Mr. Peter V. Kajokas, C.P.A., M.B.A.
Director of Finance
Town of Bay Harbor Islands
9665 Bay Harbor Terrace
Bay Harbor Islands, FL 33154

Re: Town of Bay Harbor Islands Employees Retirement System

Ladies and Gentlemen:

Pursuant to your request, I have estimated the cost of reducing the current five-year averaging period for general employees to three years.

If the averaging period for general employees is reduced from five year to three years, the plan's projected liability is estimated to increase by $394,053 and the Town's minimum required contribution is estimated to increase by $61,444 per year.

Note that my calculation is based on the data, assumptions, and methods used to complete the October 1, 2021 actuarial valuation of the plan. The October 1, 2021 actuarial valuation report contains a detailed outline of the assumptions and methods used to value the plan, as well as important disclosures concerning the risk that actual future cost will differ from the estimated cost shown in this letter.

If you have any questions or need any additional cost studies, please do not hesitate to call me.

Sincerely,

Charles T. Carr

Charles T. Carr
Consulting Actuary

The individual above is a member of the American Academy of Actuaries and meets the Qualification Standards of the American Academy of Actuaries to render the actuarial opinion contained herein.

ORDINANCE NO. _____

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF BAY HARBOR ISLANDS, FLORIDA, AMENDING CHAPTER 16, THE TOWN OF BAY HARBOR ISLANDS GENERAL EMPLOYEES' RETIREMENT SYSTEM, AMENDING, ARTICLE I, SECTION 16-1(i), DEFINITIONS AND TERMS, PROVIDING FOR AVERAGE FINAL COMPENSATION TO BE CALCULATED BASED ON A MEMBER'S HIGHEST ANNUAL PAY RECEIVED DURING THE MEMBER'S LAST THREE YEARS PRIOR TO RETIREMENT; PROVIDING FOR INCORPORATION OF RECITALS; PROVIDING FOR CONFLICT AND REPEALER; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town of Bay Harbor Islands intends to revise the General Employees' Retirement System to provide for a Member's Average Final Compensation to be based on his or her highest annual pay during the last three years of service preceding retirement as opposed to the last five years of service preceding retirement; and

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

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

Section 1. The foregoing recitals are adopted and hereby incorporated as if fully set forth herein.

Section 2. That Section 16-1(i) of Chapter 16; Article I, *Definitions and Terms*, of the Town of Bay Harbor Islands Employees' Retirement System, is hereby amended by adding the following underlined language and deleting the stricken language as follows:

ARTICLE I. - DEFINITIONS AND TERMS.

Sec. 16-1. - Schedule.

For the purposes of this chapter, the following terms shall have the respective meanings hereinafter set forth:

[…]

(i) *Average final compensation:* Shall mean the average of the highest annual pay received by a member during the highest five (three for police officer members) of the ten years of service immediately preceding retirement. Effective [insert date], Average Final Compensation shall mean the average of the highest annual pay received by a General employee during the highest three (3) of the ten (10) years of credited service immediately preceding retirement. Compensation for purposes herein shall include base compensation only and not overtime or other amounts not normally included in base pay. Base compensation shall include amounts paid by the Town of Bay Harbor Islands as deferred compensation for any member.

[…]

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

Section 3. That it is the intention of the Town Council of the Town of Bay Harbor Islands, and it is therefore ordained, that the provisions of this Ordinance shall become and be made a part of the Town of Bay Harbor Islands' Code of Ordinances, that sections of this Ordinance may be renumbered 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 11th day of May 2022.

PASSED and ADOPTED on Second Reading on this 9th day of June 2022.

JOSHUA FULLER
MAYOR

ATTEST:

YVONNE P. HAMILTON, CMC
ACTING TOWN CLERK

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

TOWN ATTORNEY
GREENSPOON MARDER LLP
BY: JOSEPH S. GELLER, ESQ.
TOWN ATTORNEY

AGENDA ITEM REPORT
June 9, 2022

ITEM NUMBER: 17.

ITEM: Consideration and **Approval** of an ordinance on first reading amending Chapter 5, Section 5 3/4-16 of the Town Code clarifying and amending the authority of the Litigation Committee.

DESCRIPTION:
At the Regular Council Meeting of April 13, 2022, the Town Council directed the Town Attorney to prepare an ordinance for penalties or fines mitigated by the Litigation Committee in amounts greater than $75,000 to be ratified and approved by the Town Council.

RECOMMENDED ACTION:
Council's Discretion.

FINANCIAL ANALYSIS:

BUDGET IMPACT:

Submitted By: Yvonne Hamilton, Acting Town Clerk
Stephanie Bruder, Council Member

ATTACHMENTS

1.	Ordinance Amending Chapter 5 3-4 Code Enforcement - Jun 02
2.	Code Tex Language - Section 5 3-4-16

ORDINANCE NO. _____

AN ORDINANCE OF THE TOWN OF BAY HARBOR ISLANDS, FLORIDA RENAMING AND AMENDING SECTION 5 ¾-16 OF THE TOWN CODE TO CLARIFY THE AUTHORITY OF THE TOWN'S LITIGATION COMMITTEE; PROVIDING FOR INCORPORATION OF RECITALS; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR CONFLICT AND REPEALER; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS Section 5 ¾-16 of the Town Code of Ordinances deals with the authority of the Town Litigation Committee;

WHEREAS the Town Council has expressed the desire to clarify and amend the authority of the Litigation Committee.

NOW THEREFORE, IT IS HEREBY ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF BAY HARBOR ISLANDS, AS FOLLOWS:

Section 1. Recitals. The foregoing recitals are hereby ratified as true and correct and incorporated herein by reference.

Section 2. Town Code Amended. That Section 5 ¾ - 16 of the Code of Ordinances of the Town of Bay Harbor Islands is hereby repealed, renamed, and amended to read as follows:

Sec. 5 3/4-16. Litigation Committee.

The Town shall have a Litigation Committee, consisting of three Town Council members, to be appointed by a majority vote of the Town Council from time to time. Notwithstanding any of the foregoing sections of this chapter, the Town's Litigation Committee, shall have the authority at all times to settle or otherwise resolve violations of the Town Code and the penalties arising

thereunder. However, if the Town's Litigation Committee votes that a penalty or fine be mitigated in an amount greater than $75,000.00, then such mitigation shall not be final, but shall be submitted to the full Town Council for ratification and approval.

Section 3. Severability. The provisions of this Ordinance are declared to be severable and if any section, sentence, clause, or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

Section 4. Inclusion In The Code. It is the intention of the Town Council that the provisions of this Ordinance shall become and be made a part of the Code of Bay Harbor Islands, Florida. The sections of this Ordinance may be renumbered or re-lettered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or other appropriate word.

Section 5. Repeal of Ordinances in Conflict

All ordinances or parts of ordinances in conflict herewith or inconsistent herewith, are hereby repealed, but only insofar as such ordinances may be inconsistent or in conflict with this Ordinance.

Section 6. Effective Date. This Ordinance shall be effective immediately upon its adoption on second reading.

PASSED on First Reading this __ day of _____, 2022.

PASSED AND ADOPTED on Second Reading this ___ day of _____, 2022.

By: _____
Joshua D. Fuller
Mayor

ATTEST:

_____
Yvonne P. Hamilton, CMC
Acting Town Clerk

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

_____
Joseph S. Geller
Greenspoon Marder LLP
Town Attorneys

- ## Sec. 5¾-16. - Authority of town manager to settle or resolve Code violations.

SHARE LINK TO SECTIONPRINT SECTIONDOWNLOAD (DOCX) OF SECTIONSEMAIL SECTIONCOMPARE VERSIONS

Notwithstanding any of the foregoing sections of this chapter, the town's litigation committee shall have the authority at all times to settle or otherwise resolve violations of the Town Code and the penalties arising thereunder.

(Ord. No. 894, § 2, 12-14-09)

AGENDA ITEM REPORT
June 9, 2022

ITEM NUMBER: 18.

ITEM: Consideration and **Approval** of an ordinance on first reading amending the Town's Code of Ordinances related to the regulation of exterior balconies, sponsored by Council Member Robert Yaffe.

DESCRIPTION:
The proposed ordinance seeks to amend Section 23-12(15)(a) of the Zoning and Planning Code to establish regulations for balconies in the Gateway "G" District.

RECOMMENDED ACTION:
Council's Discretion.

FINANCIAL ANALYSIS:

BUDGET IMPACT:

Submitted By: Yvonne Hamilton, Acting Town Clerk
Robert Yaffe, Council Member

ATTACHMENTS

1.	BHI TC Staff Report #2 Gateway Balconies June 3 2022
2.	BHI TC Staff Report June 3 2022
3.	ORDINANCE - Amending Section 23-12 - Balcony
4.	Code Text Amendment - Balconies Ordinance

MICHAEL MILLER PLANNING ASSOCIATES, INC.
Land Design Municipal Planning Services Transportation Planning

TOWN OF BAY HARBOR ISLANDS COMMUNITY DEVELOPMENT MEMORANDUM

To: Mayor and Town Council Members
Town of Bay Harbor Islands

From: Michael J. Miller, AICP MJM
Consultant Town Planner

Date: June 3rd, 2022

Subject: Land Development Code Analysis
Allowing Balconies – Gateway (G) District
Suggested Code Modifications
MMPA Acct. No. 01-0702-0800

ISSUE / ANALYSIS

The Town has had a set of Land Development Regulations (LDRS) for many decades (1957). Initially based mostly on the Town developer's Deed Restrictions (CCRs) criteria from the 1940s, as well as adopting provisions from several nearby larger communities (Miami / Miami Beach / Coral Gables / etc.), the LDRs have been studied extensively and updated over the years to cover a broad range of topics. In our opinion, the Town has one of the most comprehensive and detailed set of LDRs in South Florida. Between 2002-2005 the Town significantly updated its Comprehensive Plan (mostly density issues) and studied / updated many of its original set of LDRs from individual district setbacks, building height, open space, DU sizes, landscaping, etc. In addition, Planning & Zoning Sec. 23-12 contains a large listing of miscellaneous LDRs for accessory structures, such as marine facilities (docks & boat lifts & seawalls), fences & walls, sport courts (tennis / basketball), and projections into setback yard areas (roof overhangs / architectural features / patios / pools & pool decks / walkways / mechanical equipment / balconies & balcony enclosures / awnings / etc.). Sec. 23-12(15)(a) addresses balconies, which are defined in Sec. 23-1 as follows:

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

The Code has detailed design criteria for balconies on the West Island (single-family both waterfront & interior dry lots) and the East Island (multi-family both waterfront & interior dry lots). However, there are currently no allowances in the Code to install balconies at non-residential complexes on the East Island (B-1 Business District / the sole Gateway (G) commercial site

(One Kane Concourse). Two (2) of the other four (4) Gateway sites were developed with hotels via the Town's PUD zoning process (Grand Beach / ALTAIR); however, the underlying Complan FLUM designation (Medium Density Residential) / zoning (RM-1) is multifamily residential. The other Gateway site (KC / WBHD) is now owned by the Town via the 1177 Kane Concourse MXD approval and is intended for a park use. At the One Kane Concourse commercial site the underlying Complan FLUM designation (Commercial) / zoning (formerly Gateway & B-1 was rezoned entirely to Gateway in 2007) is commercial.

While the Town has seen an influx of multifamily redevelopment projects for 20+ years now, recently the Town has started to receive applications for redevelopment in the commercial areas, including the "Downtown" 4-Block areas along Kane Concourse, and the One Kane Concourse "Gateway" site despite being approved several years ago is poised to begin construction. Inquiries have been made by architects / developers if they could construct exterior balconies for office uses in upper floors multistory buildings. The existing Code is silent as to their allowance or any design standards. A visual inspection of the commercial areas notes there are some examples of so-called roof terraces (outdoor spaces on the roofs of building areas below) that allow persons to go outdoors to relax / smoke / etc.). In May 2021 the Town approved some requested revisions of the LDRs in the Gateway District to accommodate desired revisions to the One Kane Concourse project design (ground floor restaurant / rooftop). This enabling Zoning Code language now allows projects to request their incorporation into their designs. At that time the use of exterior balconies was not discussed with the Town. Now that developer and others in the "Downtown" area have requested permission to possibly install exterior balconies.

June 2022 Update - As requested primarily by the developer of the One Kane Concourse site, on May 11th, 2022, the Town Council discussed a proposed Zoning Code amendment that would have included an allowance for property owners in both the "B-1" Business District and Gateway "G" District to construct balconies on their buildings. Due to the uniqueness of the Town's "B-1" Business District (basically zero lot line setbacks allowed) and the Gateway "G" District (more like the RM setbacks allowed) the initial draft set of proposed Code amendments reviewed at the May 11th, 2022 Town Council meeting had two sets of proposed regulations. The Town Council held an extensive discussion on this proposal and expressed concerns mostly with allowing balconies in the "B-1" Business District. Due to a lack of support the matter died and did not move forward. Subsequently, the Town was requested by the One Kane Concourse developer to reconsider this issue for their site and allow balconies only on Gateway "G" zoned sites. Again, the two hotels in Gateway zoned lands have balconies – they were allowed due to their location in multifamily designated / zoned lands (RM).

It would be more difficult to install balconies in the "Downtown" area due to the small lot sizes and lack of any meaningful setbacks (0' – av. 5'). Of concern would be balcony overhangs onto public road right-of-way, including Kane Concourse which is state arterial roadway. Although the Town allows ground floor removable / retractable awnings & umbrellas over the Kane Concourse pedestrian plazas, a permanent balcony attached on upper floors may be a concern. As to the One Kane Concourse site, the Gateway District has substantial buildings setbacks; therefore, allowing upper floor balconies would seem to be no issue in concept (DRB would need to review for architectural compatibility).

It is not clear historically if the existing Code provisions related to balconies was intentional (only residential areas) or an oversight (nobody thought anyone would ask for a balcony at a commercial site). MMPA is not totally opposed to the idea of allowing balconies in some situations on commercial sites. We find that some nearby comparable communities (Miami Beach) already allow this.

Following is summary of the current LDRs for balconies on the East Island:

Waterfront

Front	4' yard encroachment / 6' max. depth (unless PZB approves more depth)
Rear	6' yard encroachment / 8' max. depth (unless PZB approves more depth)
Side	2' yard encroachment / 8' max. depth (unless PZB approves more depth)

Non-Waterfront

Front	4' yard encroachment / 6' max. depth (unless PZB approves more depth)
Rear	4' yard encroachment / 6' max. depth (unless PZB approves more depth)
Side	2' yard encroachment / 8' max. depth (unless PZB approves more depth)

Note: In no instance can balconies encroach further into minimum / required setback areas (includes base setbacks plus additional setbacks due to increased building height – only increased balcony depths into the building).

The above LDRs seem to be working quite well on new multifamily developments, allowing for reasonable minor encroachments into various setbacks (front / sides / rear). If a developer wants a larger / deeper balcony / outdoor space (roof terrace) they can take space out of their interior living areas – and most do – rather than further encroach into the minimum setbacks. There is no reason to believe the same balcony dimensions are not unreasonable for the requested Gateway site.

SUMMARY / RECOMMENDED ACTION

The Town has had a set of Land Development Regulations (LDRS) for many decades (1957). The LDRs have been studied extensively and updated over the years to cover a broad range of topics. At present the Town's LDRs have allowances for balconies attached to the sides of buildings in only the residential zoning districts. While the Town has seen an influx of new multifamily redevelopment project for 20+ years now, recently the Town has started to receive applications for redevelopment in the commercial areas, including the "Downtown" 4-Block areas along Kane Concourse, and the One Kane Concourse site despite being approved several years ago is poised to begin construction. Recent inquiries have been made by architects / developers if they could construct exterior balconies for office uses in upper floors multistory buildings. The existing Code is silent as to their allowance or any design standards.

While some have expressed comments about the "closeness" of newer redevelopment, the same basic setback and yard encroachments have existed for 65+/- years and seem appropriate in this instance. The Town is located in a tropical coastal area with ocean breezes that invite the use of outdoor spaces. Many new upscale developments have some form of outdoor balconies or spaces.

June 2022 Update - For the May 11th, 2022, Town Council meeting MMPA was instructed to research this issue, prepare a brief staff report, and draft some suggested Ordinance text for consideration on this subject. MMPA feels the recent requests to allow some type of outdoor space (balconies / roof terraces / etc.) is reasonable for the Town's non-residential developments. In our initial version of the draft Zoning Code revisions MMPA suggested more stringent LDRs for the B-1 Business areas (no right-of-way encroachments), but similar LDRs for the referenced Gateway site.

June 2022 Update – At the May 11th, 2022 Town Council meeting an extensive discussion was held on this proposal and some councilmembers expressed concerns mostly with allowing balconies in the "B-1" Business District. Due to a lack of support the matter died and did not move forward. Subsequently, the Town was requested by the One Kane Concourse developer to reconsider this issue for their site and allow balconies only on their Gateway "G" zoned site.

June 2022 Update - On June 3rd, 2022, MMPA was requested to revise the initial draft Ordinance to delete any proposed changes that would allow balconies in the "B-1" Business District - but allow them only in the Gateway "G" District. If adopted these regulations would apply only to the One Kane Concourse site, as it is the only "non-residentially" designated Gateway site. Please review the attached modified draft Ordinance, backup materials, discuss the matter and provide direction to staff on any desired Code amendments.

MICHAEL MILLER PLANNING ASSOCIATES, INC.
Land Design Municipal Planning Services Transportation Planning

TOWN OF BAY HARBOR ISLANDS COMMUNITY DEVELOPMENT MEMORANDUM

To: **Mayor and Town Council Members**
Town of Bay Harbor Islands

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

Date: **June 3rd, 2022**

Subject: **Land Development Code Analysis**
Allowing Balconies – Gateway (G) District
Suggested Code Modifications
MMPA Acct. No. 01-0702-0800

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The Town has had a set of Land Development Regulations (LDRS) for many decades (1957). Initially based mostly on the Town developer's Deed Restrictions (CCRs) criteria from the 1940s, as well as adopting provisions from several nearby larger communities (Miami / Miami Beach / Coral Gables / etc.), the LDRs have been studied extensively and updated over the years to cover a broad range of topics. In our opinion, the Town has one of the most comprehensive and detailed set of LDRs in South Florida. Between 2002-2005 the Town significantly updated its Comprehensive Plan (mostly density issues) and studied / updated many of its original set of LDRs from individual district setbacks, building height, open space, DU sizes, landscaping, etc. In addition, Planning & Zoning Sec. 23-12 contains a large listing of miscellaneous LDRs for accessory structures, such as marine facilities (docks & boat lifts & seawalls), fences & walls, sport courts (tennis / basketball), and projections into setback yard areas (roof overhangs / architectural features / patios / pools & pool decks / walkways / mechanical equipment / balconies & balcony enclosures / awnings / etc.). Sec. 23-12(15)(a) addresses balconies, which are defined in Sec. 23-1 as follows:

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SUMMARY / RECOMMENDED ACTION

The Town has had a set of Land Development Regulations (LDRS) for many decades (1957). The LDRs have been studied extensively and updated over the years to cover a broad range of topics. At present the Town's LDRs have allowances for balconies attached to the sides of buildings in only the residential zoning districts. While the Town has seen an influx of new multifamily redevelopment project for 20+ years now, recently the Town has started to receive applications for redevelopment in the commercial areas, including the "Downtown" 4-Block areas along Kane Concourse, and the One Kane Concourse site despite being approved several years ago is poised to begin construction. Recent inquiries have been made by architects / developers if they could construct exterior balconies for office uses in upper floors multistory buildings. The existing Code is silent as to their allowance or any design standards.

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June 2022 Update - For the May 11th, 2022, Town Council meeting MMPA was instructed to research this issue, prepare a brief staff report, and draft some suggested Ordinance text for consideration on this subject. MMPA feels the recent requests to allow some type of outdoor space (balconies / roof terraces / etc.) is reasonable for the Town's non-residential developments. In our initial version of the draft Zoning Code revisions MMPA suggested more stringent LDRs for the B-1 Business areas (no right-of-way encroachments), but similar LDRs for the referenced Gateway site.

June 2022 Update – At the May 11th, 2022 Town Council meeting an extensive discussion was held on this proposal and some councilmembers expressed concerns mostly with allowing balconies in the "B-1" Business District. Due to a lack of support the matter died and did not move forward. Subsequently, the Town was requested by the One Kane Concourse developer to reconsider this issue for their site and allow balconies only on their Gateway "G" zoned site.

June 2022 Update - On June 3rd, 2022, MMPA was requested to revise the initial draft Ordinance to delete any proposed changes that would allow balconies in the "B-1" Business District - but allow them only in the Gateway "G" District. If adopted these regulations would apply only to the One Kane Concourse site, as it is the only "non-residentially" designated Gateway site. Please review the attached modified draft Ordinance, backup materials, discuss the matter and provide direction to staff on any desired Code amendments.

ORDINANCE NO. _____

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF BAY HARBOR ISLANDS, FLORIDA, AMENDING THE TOWN'S CODE OF ORDINANCES RELATED TO THE REGULATION OF EXTERIOR BALCONIES; AMENDING SECTION 23-12(15)(a) OF THE ZONING AND PLANNING CODE TO ESTABLISH REGULATIONS FOR BALCONIES IN THE GATEWAY "G" DISTRICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Town Council periodically studies various land development trends and issues and amends the Town's Land Development Regulations accordingly; and

WHEREAS, the Town Council has studied the current Zoning and Planning Code provisions of the Town and find that certain modifications are necessary and desirable to address the requests of Town property owners, by providing regulations to allow and regulate balconies in the Gateway "G" District, which are currently only allowed in residential developments within the Town; and

WHEREAS, the Town Council held duly advertised public meetings to consider the proposed modifications to the Town's Land Development Regulations.

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

Section 1: The foregoing recitals are adopted and hereby incorporated as if fully set forth herein.

Section 2: That the Town of Bay Harbor Islands Zoning and Planning Code is hereby amended to modify Section 23-12(15)(a) to establish land development regulations for balconies on buildings constructed in the Gateway "G" District, as more fully set forth in the attached Exhibit "A", and by reference are made a part hereof.

Section 3: 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 4: 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 5: 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 6: That this Ordinance shall be in full force and take effect immediately upon its passage and adoption.

PASSED on First Reading this ___ day of _____, 2022.

PASSED on Second Reading this ___ day of _____, 2022.

_____
JOSHUA D. FULLER
MAYOR

ATTEST:

_____
YVONNE P. HAMILTON, CMC
ACTING TOWN CLERK

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

_____
JOSEPH S. GELLER, ESQ.
GREENSPOON MARDER, LLP
TOWN ATTORNEYS

EXHIBIT "A"

The Town of Bay Harbor Islands, Florida Code of Ordinances is hereby amended as follows:

CHAPTER 23

ZONING AND PLANNING

ARTICLE I. ZONING REGULATIONS

Sec. 23-12. – General provisions.

***

(15) Projections into setback areas:

(a) Notwithstanding anything to the contrary set forth in this subsection, the following are permitted:

i. On the West Island in waterfront homes, balconies having accessibility from within the building may project into the front yard setback areas not more than four feet; provided there shall be not less than eight feet clear headroom under such projection and providing that such balconies shall not be screened, shuttered or enclosed in any fashion.

ii. On the West Island in waterfront homes which have a second story with an area of over 1,500 square feet, an exit staircase may project from the second story into the front yard setback area not more than four feet.

iii. On homes on the West Island which are on interior lots, which have a second story with an area of over 1,500 square feet, an exit staircase may project from the second story into the rear yard setback area not to exceed four feet.

iv. None of the foregoing subsections i., ii. or iii. shall permit any portion of the balconies or staircases to project into any side yard setback.

v. On the East Island for RM-1 (waterfront) lots, balconies extending from the exterior walls of the main building shall be permitted to encroach into the front, side and rear yard areas as follows:

Front (street) yards. Balconies may project into the minimum front yard area not more than four feet. However, if a building is set back on a lot more than the minimum setback requirement, a balcony

may be deeper, provided no portion of any balcony shall encroach closer than four feet into the minimum front setback. Notwithstanding the above, no balcony adjoining a front lot line shall exceed six feet in depth, unless otherwise approved by the town as part of a site development plan.

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

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

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

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

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

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

vii. On the East Island for RM-3 (waterfront) tracts, balconies extending from the exterior walls of the main building into the minimum front, side and rear yard areas shall not be permitted.

viii. On the East Island for Gateway "G" zoned lots, balconies extending from the exterior walls of the main building into the minimum front, side and rear yard areas shall be permitted. Balconies may project into the minimum front (street) yard or rear yard areas by not more than four feet. Balconies may project into the minimum side yard areas by not more than two feet. Notwithstanding the above, the town may approve variations to the above balcony projections, except for road right-of-way encroachments, as part of a site development plan.

AGENDA ITEM REPORT
June 9, 2022

ITEM NUMBER: 19.

ITEM: Consideration and **Approval** of a Parking Trust Payment Agreement with Bay Harbor Islands Property Owner II for payment of a fee to the Town's Parking Trust for a portion of the required parking spaces in lieu of the Developer providing all of the project's required on-site parking spaces, pursuant to Section 23-29.1 of the Town Code; for the proposed "La Baia North" project to be located at 9431, 9461 & 9481 East Bay Harbor Drive. Approval of alternative parking arrangements valet and tandem parking, to satisfy parking requirements per Code, Section 23-30 (f). Approval of conditions for alternative parking arrangements and use of Parking Trust pursuant to revised site plan application. Enclosed is a copy of the proposal setting forth the terms of the agreement and a copy of the related section of the Town Code.

DESCRIPTION:
Consideration and **Approval** of a Parking Trust Payment Agreement with Bay Harbor Islands Property Owner II for payment of a fee to the Town's Parking Trust for a portion of the required parking spaces in lieu of the Developer providing all of the project's required on-site parking spaces, pursuant to Section 23-29.1 of the Town Code; for the proposed "La Baia North" project to be located at 9431, 9461, and 9481 East Bay Harbor Drive. Approval of alternate parking arrangement, including tandem and valet spaces, pursuant to Section 23-30 (f) of the Town Code.

On August 20, 2013, the Town's Design Review Board (formerly Planning & Zoning Board) approved a site plan in order to construct a 72-unit multi-family residential development with a partially subterranean parking garage. The Design Review Board is scheduled to hear a request for a site plan development modification on June 7th, which amended the project from 72 to 57 dwelling units, which would require 114 parking spaces on the site. The project is proposing 75 on-site parking spaces, including tandem and valet parking.

Due to FEMA and the Florida Building Code restrictions for residential projects, the previously approved underground parking garage that contained a majority of the required parking spaces cannot be built. The developer is seeking the Town Council's approval to pay the Parking Trust Fee for 39 required on-site parking spaces, at the time of the issuance of the Master Building Permit for the project.

Resolution No. 2005 Establishes the Parking Trust Fund Fees

- The payment for each required parking space shall be $20,000
- Financing the Parking Trust Fees in annual installments, twenty-five percent (25%) of the Parking Trust Fees shall be paid as down payment within thirty (30) days of the Town Council's approval, the balance may be amortized over no more than fifteen (15) years, and the payments shall bear interest at 2.25%, per annum.
- Parking Trust Fees by annual lease payments - the annual lease payment for each required space shall be $1,000.00.

Enclosed is a copy of the proposal, staff report, and other supporting documents.

RECOMMENDED ACTION:
Coiuncil's Discretion.

FINANCIAL ANALYSIS:
The property owners are seeking to purchase 39 parking spaces from the Parking Trust at $20,000 for each space for a total of $780,000.

BUDGET IMPACT:

Submitted By: Yvonne Hamilton, Acting Town Clerk

ATTACHMENTS

1.	BHI La Baia North Parking Trust TC Staff Report May 31 2022
2.	LOI La Baia North - Parking Trust Request 5.31.22 mh
3.	Draft Parking Trust Fund Agreement - La Baia North 5.26.22 mh
4.	La Baia North - Traffic and Parking Statement
5.	La Baia North - Plans
6.	Section 23-29.1 Town Parking Trust
7.	Section 23-30F
8.	Resolution 2005 - Parking Trust Fees

MICHAEL MILLER PLANNING ASSOCIATES, INC.
Land Design Municipal Planning Services Transportation Planning

TOWN OF BAY HARBOR ISLANDS COMMUNITY DEVELOPMENT MEMORANDUM

To: Mayor and Town Councilmembers
Town of Bay Harbor Islands

CC: Maria Lasday – Town Manager
Joseph S. Geller, Esq. - Town Attorney
Alba Chang, CMC – Town Clerk

From: Michael J. Miller, AICP
Consultant Town Planner

Date: May 31st, 2022

Subject: Request to Purchase Town Parking Trust Parking Spaces
La Baia North (formerly Royal House) Multi-Family Residential (57 DU)
9131 / 9461 / 9481 E. Bay Harbor Drive
Bay Harbor Islands Acct. No.: SPR22-000010
MMPA Acct. No. 01-0702-0961B

ISSUE

On December 18th, 2012, an initial Site Development Plan approval was granted by the Town's Planning and Zoning Board (now Design Review Board (DRB)) for a 72 DU multiple-family complex (Res. No 1147-B). Over the summer of 2013 the developer at that time requested several modifications to the initial Site Development Plan. On August 20th, 2013, a revised Site Development Plan approval was granted by the Town's Planning and Zoning Board (now DRB) also for a 72 DU multiple-family complex (Res. No. 1175). The project has received a number of Development Order / Permit approval timeframe extensions over the years (Town Code allowances up to 18 months / various state allowances due to COVID & natural disasters / FBC for BP) to timely submit / obtain building permits / begin construction. The 2013 Site Development Plan contained 72 DU which would have required at least 144 parking spaces – 145 parking spaces were proposed - including 102 parking spaces in a fully underground parking garage – the balance was proposed above grade. On May 17th, 2021, this development site was sold to a new developer (The Continuum Co.). The new developer revisited the original design plans with the project architect (Revuelta International) over the winter of 2022 and filed for a Site Development Plan revision for a number of Site Development Plan revisions to construct a 57 DU condo complex that is more family-oriented / luxurious (original complex was intended as a rental complex). Based on the 57 DU concept the developer needs to provide at least 114 parking spaces.

The Design Review Board (DRB) is scheduled to meet & consider approval of a revised Site Development Plan on June 7th, 2022, subject to a number of staff / DRB added conditions. Due to the Town Council's summer schedule (no meetings during July) the developer is seeking to have the Council consider an application to acquire 39 parking spaces in the Town's Parking Trust at their June 9th, 2022 monthly meeting (rescheduled meeting date). One of the major site redesign issues / conditions relates to the quantity of parking spaces that can be physically provided on the site.

The same project architect, Revuelta Architecture International, as agent for the current property owner, Bay Harbor Property Owner 1, LLC, has submitted a revised Site Development Plan application to allow for the construction of a proposed fifty-seven (57) unit mid-rise residential development located at 9431 / 9461 / 9481 E. Bay Harbor Drive. The proposed now enlarged dwelling units range from 1,434 to 2,109 square feet of A/C space plus balconies, etc. The proposed site design incorporates one (1) rectangular-shaped building positioned north / south on top of a one-story grade level parking garage structure. Two (2) driveway connections to E. Bay Harbor Drive are proposed. The southerly driveway is primarily an inbound driveway that forms a looped "drop-off area" in front of the building and connects internally to other driveways. This driveway connects to a two-way driveway located at the north end of the building that serves as the entry to the parking garage. Four (4) exterior guest / loading spaces are provided in the revised site design. On the building rooftop is a recreational facility with a swimming pool and expansive sundeck areas. The proposed new building is 8-stories in height (7 floors of residential over 1st floor lobby / common areas / parking garage @ max. 75-feet above BFE +1' FBC freeboard). The updated survey submitted indicates the lands are now vacant and cleared.

As mentioned above the original 2013 Site Development Plan included a fully enclosed underground parking garage with 102 parking spaces (regular / tandem / vehicle lifts) – the balance above grade. This comprised a majority of the project's required parking spaces. The Town Code allows underground parking garages subject to design criteria – but all construction is subject to the Florida Building Code (FBC) / other governmental agencies such as FEMA. FEMA and the FBC still allows "parking / storage / access to the building (lobby) below the established FIRM Base Flood Elevation (BFE). However, if a parking garage is enclosed and the floor of the garage is below "grade" the current rules do not allow an underground parking garage under "residential" buildings. However, underground parking garages are acceptable to FEMA / FBC under Commercial or Mixed-Use developments (some mixture of residential / commercial / office / hotel etc.).

Since 2019-20 the Town's new Bldg. Officials have realized / commented that this project (and several others) could not be built as originally designed, as it included an underground parking garage that is not permitted by either FEMA or the Florida Building Code, as it is deemed a "basement" that is prohibited in purely residential projects. The Town Code requires all required parking spaces to be constructed on the actual development site, but also allows parking to be constructed on nearby sites held under a Unity of Title, and the Town Code also allows payment into the Town's Parking Trust (last resort as the parking demand is at the site). Based on 57 DU a total of 114 parking spaces are now required per the Town's Off-Street Parking Code (2 per DU), which includes guest / ADA spaces. This loss of required parking spaces in the previous underground (basement) parking garage is very substantial to this development.

The new developer is proposing that all parking at this site be via a 24/7 valet service. The new developer / Town staff have been working together in an attempt to avoid confrontation, provide sufficient on-site parking spaces, and provide for additional off-site parking accommodations to meet the Town Code minimum criteria and demand. Without removing additional DUs above the ground level (example - converting all or part of Level 2 to a parking garage) the project architect has redesigned the project to remove the underground parking garage completely and reconfigure the grade level (Level 1) parking facilities (garage / outside) to provide 47 permanent designated parking spaces. The developer hired a noted Transportation Engineering firm (David Plummer) to examine the revised development plan to study expected parking demand (# of spaces needed), their location, valet parking options, off-site parking options, and drop-off queuing (vehicle stacking) analysis to avoid negative impacts to the future residents and neighboring sites. The study indicates that 75 parking spaces should be adequate to serve this development, provided the recommended number of valet attendants (3) occurs at peak times. A valet parking plan was provided (Sheet A-601) indicating that up to 75 parking spaces could be provided at the site (parking garage / front yard guest). The Town Code does not specifically allow parking reductions for valet / ridesharing / Uber / etc. alternatives; therefore, MMPA believes the Code required total quantity of parking spaces may be still required. The developer is aware of this and despite the engineer's analysis anticipates participating in the Town's Parking Trust. A question arose if only 39 Parking Trust parking spaces are required (counting the 28 valet spaces) or if 67 Parking Trust parking spaces are required (count only the 47 permanent spaces). The DRB will consider this issue as part of their Site Development Plan revision at their June 7th, 2022 meeting, including the revised parking arrangement (permanent / valet) totally 75 parking spaces. The DRB members clearly understand the unique changed parking situation (loss of underground garage) that has occurred in the Town due to the FEMA / FBC flood code changes and expressed concerns with potential parking congestion for the proposed La Baia (formerly Island House) project, despite the applicant's Traffic Engineer's findings that 75 parking spaces (66% on site) should be sufficient and valet stacking can be handled on the site without affecting traffic flows on EBHD / parking at nearby complexes.

As with the initial La Baia (former Island House) development site, the DRB will be requested to find that the 38 valet parking spaces should count as part of the total available on-site parking spaces under Zoning Code Sec. 23-30(f), which allows for the Town's DRB to approve innovative solutions to providing parking / parking designs due to the Town's limited land area, small lots, changing technology, etc. Based on the DRB's approval of 47 permanent spaces (2 per DU @ 8.5' x 18' specifically designated) and 28 undesignated valet spaces totaling 75 available on-site parking spaces this developer is seeking to purchase 39 parking spaces from the Town Parking Trust, as there is no reasonable opportunity to add more parking spaces within the site without the loss on DU areas, and there appears to be no opportunity to acquire additional land nearby for more off-site parking. Per Town Code Sec. 23-29.1 only the Town Council may approve participation in the Town's Parking Trust, subject to the criteria set forth.

Town Zoning Code Sec. 23-29.1 established the Town Parking Trust system in 2004. The intent of the Town Code is for private landowners to provide all of their required quantity of parking spaces on the development site itself. Many of the earlier developments in the Town provided little or no parking on their lots and the Town suffers from a lack of parking. The Town subsequently allowed for the construction of head-in swale parking along its streets so as to provide some limited parking near the multifamily complexes. The Town even acquired several sites on the East Island and

constructed Town-owned surface parking lots. In recent times nearly all new development has provided their required parking spaces on their lots. As of May 2022 only the hotel developments (Grand Beach Hotel (21) / Altair Hotel (44) have purchased some parking spaces from the Parking Trust. The 1177 Kane Concourse mixed-use project approval documents (Developer Agreement) includes a provision that if parking becomes a problem at the complex in the future once operational (after engineering analysis) they must acquire additional parking spaces in the Town's Parking Trust. As stated above, only the similar loss of parking that has affected the proposed La Baia "South" site (formerly Island House) has participated in the Parking Trust program (39 spaces acquired), as this is discouraged in general. At a minimum the Code requires at least 40% of the required number of parking spaces must be built on a development site. In this instance the 47 permanent parking spaces constitutes about 41% of the required parking spaces. Adding the 28 valet parking spaces increases the total number of on-site parking spaces to 75 (66%). However, given the unique circumstance of this particular site (and probably a few others in the same situation) due to the current FEMA / FBC flood rules that prohibit underground parking garages there are limited options at this point. The Town staff has been trying to work with the developer to adjust for the loss on the underground parking garage and preserve the DU count and provide adequate parking. It is noted a Town-owned parking lot (26 spaces) is nearby but used by others, as well as several parallel parking spaces along the streets (95th Street / others). This affords some nearby parking backup.

SUMMARY

If the Town Council agrees with the DRB determination that both the permanent parking spaces (47) and valet spaces (28) constitute the total available on-site parking spaces at the site (75 total) an additional 39 parking spaces must be provided elsewhere or purchased from the Town Parking Trust to meet the minimum Code requirements (39 spaces x $20,000 = $780,000). If the Town Council feels the valet spaces should not be counted (in total or in part), this would result in the need to purchase up to 67 additional permanent parking spaces (67 spaces x $20,000 = $1,340,000). There is no mandate that the Town must approve a request to purchase parking spaces from the Town's Parking Trust. The Town must be comfortable that sufficient parking spaces will be available for this development. The DRB approval of the Site Development Plan will include safeguards for overflow parking / vehicle stacking that may affect nearby sites. See the DRB staff report / applicant docs.

BERCOW
RADELL
FERNANDEZ
LARKIN +
TAPANES

ZONING, LAND USE AND ENVIRONMENTAL LAW

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Suite 300, Miami, FL 33131

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305.377.6236 office
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mamster@brzoninglaw.com

VIA ELECTRONIC MAIL

June 1, 2022

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

Re: Parking Trust and Alternate Arrangements for Required Parking Requests for Property Located at 9431, 9461 & 9481 East Bay Harbor Drive, Bay Harbor Islands, FL

Dear Ms. Lasday,

Our law firm represents Bay Harbor Islands Property Owner II, LLC (the "Applicant"). The Applicant owns the properties located at 9431, 9461 & 9481 East Bay Harbor Drive, Bay Harbor Islands (collectively the "Property"). On June 7, 2022, the Design Review Board (DRB) will consider the Applicant's modification to the previously approved site plan on the Property, currently referred to as "La Baia North" (the "Project"). The purpose of this letter is to request:

(1) Approval of alternate parking arrangements, including tandem and valet spaces, pursuant to Section 23-30(f) of the Bay Harbor Code of Ordinances (the "Code"), in order to comply with required parking; and

(2) Approval of payment into the Town Parking Trust in lieu of providing 39 parking spaces for the Project, to ensure the Project satisfies off-street parking requirements.

The Project. The DRB approval is for a family-oriented condominium building composed of 57 residential units. The currently proposed units for the Project are a significant reduction from a previously approved site plan of 72 units, which also included basement level parking. Importantly, due to FEMA and Florida Building Code restrictions for residential buildings, the Applicant had to eliminate the basement parking level, and

through this substantial adjustment in the Project requests approval of alternate parking arrangements and payment into the Town Parking Trust.

Project Parking and Circulation. As previously discussed, due to FEMA restrictions for residential buildings, the Applicant must eliminate the previously approved basement parking level. The prior approval consisted of 2 levels of parking, including a basement, with 102 spaces (at -16' BFE / -6' NGVD), as well as an additional 43 parking spaces at the ground floor level. For appropriate resiliency and sustainability, the Applicant's current plan proposes all parking at the ground level above 5'-0" NGVD. The parking will include 43 standard interior parking spaces, 4 exterior spaces, and 28 valet parking spaces for efficient parking, with a total of 75 parking spaces. The valet operation will be 24/7 and access to the valet drop-off /pick-up area will be provided at the front entrance to the building on the private driveway. The proposed drop-off design includes an ADA compliant accessible walkway, which will connect the lobby with the right-of-way. The Applicant's proposed plan will also maintain 36 double bicycle racks which will accommodate 72 bicycles.

Parking Requirements. Based on the Applicant's proposed reduction to 57 residential units, the Applicant is required to provide 114 parking spaces. The Applicant's proposal accommodates 75 parking spaces. Pursuant to Section 23-29.1 of the Bay Harbor Code of Ordinances (the "Code"), which establishes a Town Parking Trust, subject to approval by the Town Council a property owner can pay a fee for each of the required on-site parking spaces that are not provided on-site.

In order to be eligible to pay the Parking Trust Fee in lieu of providing required parking, the property owner must provide a minimum of 40 percent of all required parking spaces and meet certain criteria. Specifically, the property owner must demonstrate that,

(1) adequate off-street parking is available within 500 feet of the subject site;

(2) the Council determines that the surrounding area will not be adversely impacted by the granting of the deviation;

(3) the Town Manager or his/her designee, in conjunction with the chief of police, issues a written recommendation in support of the application; and

(4) appropriate mitigation is provided in the form of the Parking Trust Fee or other equivalent mitigation.

The proposed plan provides more than 40 percent of required parking. Particularly, the Project provides approximately 65 percent of required parking. The Project also meets the Code criteria. First, there is adequate off-street parking within 500 feet of the Property because there is a public parking lot located west of the Project on 95th Street. Second, the reduction of units is beneficial and reduces traffic. Moreover, the elimination of the subterranean basement parking avoids flooding impacts to the Property and the surrounding area and, therefore, allows for a more resilient Project. Third, there have been multiple discussions with the Town Administration to address the proposed reduction in parking and the Applicant's proposal has been met with support. Fourth, the Applicant is willing to pay the Parking Trust Fee for each of the remaining 39 required on-site parking spaces.

Additionally, the Applicant anticipates several mitigating factors above participation in the Town Parking Trust, such as greater than 50% seasonal occupancy and low expected turnover with no short-term rentals, the preference of ride-sharing services over driving, the convenience of nearby transit including Miami Dade Transit Route 107-G, and both the Property and the surrounding community's compatibility with walking and bicycling. The Applicant further mitigates required parking by providing for and ensuring the following:

- Electric carsharing platform allowing for on-demand guest/resident access and operation of 2 electronic vehicles with dedicated parking spots
- Only 1 guaranteed parking space for 1- and 2-bedroom units
- Additional 72 spaces for bicycle parking
- 24-hour Valet Parking System managing all 75 parking spaces
- Adequate drop-off/pick-up queuing space at the front of the building to ensure no spillover of vehicles onto the street

Notably, a parking generation analysis for the Project was conducted by David Plummer & Associates, Inc., a reputable consulting firm specializing in transportation and civil engineering, and included with the application materials. Overall, the analysis concluded that the 75 parking spaces provided by the Project would satisfy the parking demand and notes that the Town has a higher than average parking requirements for multifamily buildings compared to nearby municipalities. Additionally, a separate queuing analysis revealed that the proposed valet station will be able to accommodate up to five vehicles in the queue, and that during the worst-case scenario of the AM peak hour, the valet station would have an average of no vehicles on queue. Thus, the valet parking system proposed will ensure that the average queue at the valet station will not extend past the provided valet storage and Project entrance.

Summary. La Baia North is a well-designed project that is compatible with the surrounding development in both scale and appearance. The required parking for the Project can be accommodated through the proposed alternate arrangement of tandem and valet parking spaces and, since the Project meets the criteria for the Parking Trust Fund, through the payment of a Parking Trust Fee. Therefore, the Applicant respectfully requests approval of the alternate arrangements for required parking and approval to pay the Parking Trust Fee for the remaining 39 parking spaces.

We look forward to your favorable recommendation and the Town Council's approval of these requests. Should you have any questions or wish to discuss further you can reach me at 305-377-6236.

Sincerely,

Matthew Amster

Attachments

cc: Michael Miller, Town Planner
Alba Chang, Town Clerk
Bruce Eichner
Maritza Haro, Esq.
Shakeyla Flores, Esq.

PARKING TRUST PAYMENT AGREEMENT

This AGREEMENT (the "Agreement") is made and entered into as of the ____ day of _____, 2022 (the "Effective Date") by and between the TOWN OF BAY HARBOR ISLANDS (the "Town") and BAY HARBOR ISLANDS PROPERTY OWNER II, LLC, (the "Developer"). Town and Developer are referred to herein individually as a "Party" and collectively as the "Parties."

RECITALS:

A. Developer submitted an application (the "Application") to the Town for the approval of a multifamily development at the property located at 9431, 9461 & 9481 East Bay Harbor Drive, (the "Project" and the "Property").

B. The Application was approved by Resolution Nos. _____, subject to, among other things, satisfying the on-site parking requirements for the Project (collectively the "Resolution").

C. The Project is required to have 114 on-site parking spaces.

D. The Project will have 75 on-site parking spaces, including tandem and valet parking spaces.

E. The Developer proposes to provide the remaining required 39 on-site parking spaces through payment into the Town's Parking Trust Fund, pursuant to Section 23-29.1 of the Town's Code of Ordinances (the "Code").

F. The Developer submitted an application to the Town requesting that the Town Council approve payment into the Town's Parking Trust Fund for 39 parking spaces, so that the Project may satisfy its on-site parking requirements.

G. On _____, at a public meeting, the Town Council found that the Developer's request for satisfying its on-site parking requirement will not disrupt vehicle parking and traffic patterns or negatively affect adjacent land uses and, therefore, agreed to allow the Developer to pay a fee to the Town's Parking Trust pursuant Section 23-29.1(6) of the Town's Code of Ordinances, applicable to 39 parking spaces in lieu of the Developer providing all of the Project's required parking spaces on-site, 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) Parking Trust Payments. The Parking Trust Fee (for each of the 39 required parking spaces) is twenty thousand dollars $20,000 (the "Parking Trust Fee"). Developer shall pay the Town a total sum of $780,000 for the 39 parking spaces (the "Parking Trust Fee"). The Parking Trust Fee payment shall be paid at the time of issuance of the Master Building Permit for the Project.

3) Valet. Valet service will be provided at the Property 24 hours a day, 7 days a week. Valet operator will not park vehicles on-street along East Bay Harbor Drive or other off-site residents' spaces.

4) Representations, Warranties, Covenants, and Agreements of Developer. Developer hereby represents, warrants, covenants, agrees and states to and with the Town as follows:

   a) Developer 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. Developer has the full right, power and authority to enter into and perform under this Agreement and consummate the transaction contemplated herein. Developer 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 (ii) perform any of its obligations under this Agreement. The person executing this Agreement on behalf of Developer is duly authorized to execute and bind Developer to this Agreement, and upon such execution and delivery, this Agreement shall be valid, binding and enforceable against Developer.

   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 Developer of (A) any agreement, document or instrument to which Developer is a party or by which Developer is subject or bound, or (B) any judgment, order, writ, injunction or decree issued against or imposed upon Developer; 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 Developer.

   c) Developer 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.

d) Developer understands and agrees that it is not purchasing or renting parking spaces from the Town. Rather, Developer is paying a fee for the impact that the Project will have upon the Town and for the Town, in conjunction with other such fees paid into its parking trust, to improve and/or expand its existing parking or to add new municipal parking in the Town. As such, should Developer wish to rent parking spaces from the Town, such parking space rentals would be the subject of a separate agreement between the Developer and the Town.

e) The Parties agree that any Parking Trust Payments made by Developer to Town shall be non-refundable.

5) 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 a 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 clay; 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 Developer:

BAY HARBOR ISLANDS PROPERTY OWNER I LLC
49 West 23rd Street, 4th Floor
New York, New York 10010

Attn: Ian Bruce Eichner
E-mail: ibe@continuumllc.net
Together with copy to Matthew Amster, Esq.
E-Mail: mamster@brzoninglaw.com

Notices to Town:

TOWN OF BAY HARBOR ISLANDS
9665 Bay Harbor Terrace,
Bay Harbor Islands, Florida 33154

Attn: Maria Lasday, Town Manager
E-mail: mlasday@bayharborislands-fl.gov
Together with copy to Joseph Geller, Esq.
E-Mail: Joseph.Geller@gmlaw.com

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.

6) 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.

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 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.

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) This Agreement is neither transferrable nor assignable prior to issuance of the Certificate of Occupancy for the Project; however, the Developer may establish a condominium form of ownership for the Project without need to amend this Agreement.

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

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

[Remainder of Agreement is Intentionally Left Blank. Signature Page Follows]

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

Witnesses:

_____

_____
Print Name of Witness

_____

_____
Print Name of Witness

DEVELOPER:

BAY HARBOR ISLANDS PROPERTY OWNER II LLC, a Delaware Limited Liability Company

By: _____
Ian Bruce Eichner, Manager
49 West 23rd Street, 4th Floor
New York, New York 10010

STATE OF FLORIDA
COUNTY OF MIAMI-DADE

The foregoing instrument was acknowledged before me by means of physical presence [ ] or online notarization [ ] on this ____ day of _____, 2022, by _____, as Manager of BAY HARBOR ISLANDS PROPERTY OWNER II LLC, a Delaware limited liability company, on behalf of the company, who is personally known to me or _____ produced _____ as identification.

_____
Notary Public, State of Florida

_____
Print Name

Approved as to Legal Form and Correctness:

By: _____

Greenspoon Marder, LLP, Town Attorney

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

TOWN:
TOWN OF BAY HARBOR ISLANDS

By: _____

Print Name: Maria Lasday, Town Manager

Attest:

By: _____

Yvonne Hamilton, Town Clerk

DAVID PLUMMER & ASSOCIATES
TRAFFIC ENGINEERING • CIVIL ENGINEERING • TRANSPORTATION PLANNING

1750 PONCE DE LEON BOULEVARD | CORAL GABLES, FLORIDA 33134
305•447•0900 | DPA@DPLUMMER.COM

April 27, 2022

Mr. Ian Bruce Eichner
Bay Harbour Islands Property Own I, LLC
c/o The Continuum Company LLC
49 West 23 Street, 4 Floor
New York, NY 10010

RE: La Baia North Traffic Statement - #21258

Dear Mr. Eichner,

The proposed project is located at 9461 E. Bay Harbor Drive in Bay Harbor Islands, Florida (See Attachment A for the site plan). The project is a proposing a residential building with 57 units. The project is providing 43 interior parking spaces and four exterior parking spaces for a total of 47 spaces. The project parking will be all valet, therefore by utilizing all the available space in the parking area, the project can accommodate 28 additional spaces. Access to the valet drop-off / pick-up area will be provided along E. Bay Harbor Drive, just south of the valet parking entrance.

Parking Analysis

A parking analysis was conducted for the project to determine if the proposed number of parking spaces (75) is sufficient to satisfy the anticipated peak parking demand. To determine the required number of parking spaces, data from the Institute of Transportation Engineers (ITE), **Parking Generation, 5th Edition** was obtained. Parking requirement from several municipalities in South Florida were also researched to compare them against the requirements from the Town of Bay Harbor Islands.

A parking calculation for the proposed project was performed using the parking rates published by ITE, for the cities of North Miami Beach, North Bay Village, and Sunny Isles Beach. Exhibit 1 shows the results of the parking analysis.

Exhibit 1
Parking Analysis

Land Use	Units		Bay Harbor Islands		ITE		North Bay Village		North Miami Beach		Sunny Isles Beach	
			Rate	Parking Required	Rate	Parking Required	Rate	Parking Required	Rate	Parking Required	Rate	Parking Required
Residential (1 Bdr/Studio)	0	Dwelling Units	2	0	1.47	0	1.5	0	1.5	0	1.5	0
Residential (2 Bdr)	27	Dwelling Units	2	54	1.47	40	1.5	41	1.5	41	1.5	41
Residential (3 or more Bdr)	30	Dwelling Units	2	60	1.47	44	1.5	45	2	60	1.5	45
Residential - Visitors	57	Dwelling Units	0	0	0	0	0.1	6	0	0	0.05	3
Total			114		84		92		101		89	

The results of the parking analysis show that based on parking rates published by ITE, the project will require 84 parking spaces. The analysis also shows that the residential parking requirement from the Town of Bay Harbor Islands is on average 24% higher than those required by similar municipalities in South Florida. It should be noted that the ITE rates are based on actual parking demand by the individual land uses.

Parking rates assume 100% occupancy for all land uses. It is understood that an additional 10% - 20% vacancy rate reduction may apply to residential utilization as a factor of seasonal occupancy and expected turnover. This will reduce the parking requirement for the project to 91 parking spaces based on the Town's rate and 67 parking spaces based on ITE rates.

Parking Reduction Strategies

Ride-sharing - Digital ridesharing services, such as Uber and Lyft, are part of a broader suite of innovations that constitute what is sometimes referred to as the sharing economy. Research shows that 21% of adults personally use ride-sharing services; an additional 9% use ride-sharing with friends, but have not installed the app themselves. Nearly a quarter (24%) of ride-sharing users in

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metropolitan areas use ride-sharing on a weekly or daily basis. Parking represents the top reason (37%) that ride-sharing users substitute a ride-sharing service in place of driving themselves.

Ace Parking — one of the largest parking companies in North America has reported that overnight parking at hotels has declined 5% to 10% due to ride-sharing services. At restaurant valet stands, business is down 25% and nightclub valets are seeing a 50% reduction in demand. Although there is not enough data to quantify the effect of ride-sharing services on parking, there is evidence that ride-sharing services have created an alternative for consumers who would otherwise drive and park.

Pedestrian / Bicyclist - The project is located in an area conducive to pedestrian and bicycle activities. The area surrounding the proposed project has a comprehensive sidewalk network, signalized intersections with clearly marked crosswalks, and pedestrian signals. This environment promotes walking and bicycling as a means of transportation and further reduces the need for off-street parking.

Transit - The area surrounding the project is served by transit (Miami Dade Transit Route 107-G). The use of transit is another effective way to reduce the need for off-street parking.

Trip Generation

The proposed project trip generation was calculated based on the rates / equations published by the Institute of Transportation Engineers (ITE) *Trip Generation Manual,* 11th Edition. This manual provides gross trip generation rates and/or equations by land use type. These rates and equations estimate vehicle trip ends at a free-standing site's driveway. (Trip generation worksheets are available in Attachment B.)

The US Census Bureau provides data on other means of transportation. Census survey data shows a 6.2% use of other modes of transportation (2.3% public transportation and 3.9% walking) for Census tract 38.01. A 6.2% reduction factor was used in the study to account for other modes of transportation. Trip generation calculations were performed for a typical weekday, as well as, AM

and PM peak hours of the adjacent street (see Attachment B). The proposed project trip generation calculations are summarized in Exhibit 2.

Exhibit 2
Project Trip Generation Summary

Proposed ITE Land Use Designation[1]	Number of Units	Daily Vehicle Trips	AM Peak Hour Vehicle Trips			PM Peak Hour Vehicle Trips		
			In	Out	Total	In	Out	Total
Multifamily Housing (Mid-Rise) *Land Use Code: 221*	57 DU	168	3	17	20	7	3	10
Total Gross Trips		**168**	**3**	**17**	**20**	**7**	**3**	**10**
Other Modes of Transportation[2]		6.2%	0	-1	-1	0	0	0
Net Proposed Trips			**3**	**16**	**19**	**7**	**3**	**10**

[1] Based on ITE Trip Generation Manual, 11th Edition.

[2] Based on US Census Tract 38.01 and local characteristics.

Valet Queuing Analysis

A queuing analysis was performed to determine if there is sufficient storage to accommodate the anticipated queue at the valet drop-off / pick-up area during the AM peak hour of the adjacent street (worst case scenario) so that the queue does not extend past the project entrance (95% confidence level analysis). The queuing analysis was performed based on the methodology outlined in the *Institute of Transportation Engineers (ITE) Transportation and Land Development*. The potential queue was calculated based on the peak hour traffic published by the Institute of Transportation Engineers (ITE) trip generation rates and/or equations for the proposed land use. The peak of the adjacent street (worst case scenario) was used for the purpose of calculating the expected queue. The proposed AM and PM peak of generator trip generation is summarized in Exhibit 3. Support documentation is provided in Attachment C.

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Exhibit 3
Project Peak Hour Trip Generation

Proposed ITE Land Use Designation[1]	Number of Units	Daily Vehicle Trips	AM Peak Hour Vehicle Trips			PM Peak Hour Vehicle Trips		
			In	Out	Total	In	Out	Total
Multifamily Housing (Mid-Rise) *Land Use Code: 221*	57 DU	168	3	17	20	7	3	10
Total Gross Trips		**168**	**3**	**17**	**20**	**7**	**3**	**10**
Other Modes of Transportation[2]		6.2%	0	-1	-1	0	0	0
Net Proposed Trips			**3**	**16**	**19**	**7**	**3**	**10**

[1] Based on ITE Trip Generation Manual, 11th Edition.

[2] Based on US Census Tract 38.01 and local characteristics.

The queuing analysis used the single-channel waiting line model with Poisson arrivals and exponential service times. The analysis is based on the coefficient of utilization (ρ) which is the ratio of the average arrival rate of vehicles to the average service rate.

$$\rho = \frac{Average\ Demand\ Rate}{Average\ Sevice\ Rate}$$

The average service rate corresponds to the time it will take a valet attendant to park or retrieve a vehicle. If the coefficient of utilization is greater than 1, then the calculation will yield an infinite queue length.

The required queue storage (M) is determined using the following equation:

$$M = \left[\frac{\ln P(x > M) - \ln Q_M}{\ln \rho}\right] - 1$$

In this equation, *P(x > M)* is set at 5% to yield a 95% confidence that the queue will not back-up onto the adjacent street.

The processing rates were calculated by adding the time it will take a valet attendant to process the vehicles (**processing time**), the time it will take the valet attendant to circulate to the parking space (**driving time)**, the time it will take the valet to maneuver into the parking space (**park processing** time), and the time it will take the valet attendant to walk to/from the parking area (**walking time**).

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A processing time of 60 seconds per vehicle was used in the analysis. The driving time for the valet attendant was calculated on a speed of 15 mph, and the walking time for the valet attendant was calculated on a jogging speed of 5 ft / sec. Since the distance from the valet drop-off / pick-up area differs for inbound and outbound trips, a weighted average was taken of the inbound / outbound valet processing times. The weighted average was based on the inbound / outbound trip distribution, which is 16% inbound and 84% outbound. The valet processing rate for the standard parking can be seen in Exhibit 4.

Exhibit 4
Standard Parking Processing Rate
Valet Drop-off / Pick-up

Valet Time (Inbound)	
***Processing time*:**	60 sec / 60 sec / 1 min = ***1 min***
***Driving time*:**	360 ft * 1 mile / 5280 ft * 1hr / 15 miles * 60 min / hr = ***0.27 min***
***Park Processing Time*:**	= ***1.05 min***
Walking time:	245 ft / 5 ft / sec / 60 sec / min = ***0.82 min***
Total	**= 3.14 min**
Valet Time (Outbound)	
***Processing time*:**	60 sec / 60 sec / 1 min = ***1 min***
***Driving time*:**	360 ft * 1 mile / 5280 ft * 1hr / 15 miles * 60 min / hr = ***0.27 min***
***Park Processing Time*:**	= ***1.05 min***
Walking time:	245 ft / 5 ft / sec / 60 sec / min = ***0.82 min***
Total	**= 3.14 min**
Weighted (Standard Parking) Valet Time	
16% Inbound:	0.16*3.14 min = ***0.50 min***
84% Outbound:	0.84*3.14 min = ***2.64 min***
Total	**= 3.14 min**

An iterative approach was used to determine the minimum number of valet attendants required during the AM peak hour of the adjacent street (worst case scenario) to serve both the entering and exiting vehicles that will ensure that the average queue at the valet station will not extend past the provided valet storage. Exhibit 5 shows the calculations for the inbound / outbound valet (drop-off /pick-up area) during the AM peak hour.

Exhibit 5

Valet Station Queuing Calculations

Q = Processing rate = $\frac{60\ min/hr}{3.14\ min/process} = 19.11\ process/hr$

q = Demand Rate = $19\ \frac{veh}{hr}$

N = Service Positions = 3 Attendants

ρ = Utilization factor = $\frac{q}{(NQ)} = \frac{19\ veh/hr}{3 \times 19.11\ process/hr} = 0.3314$

Q_m = Table Value = 0.0923

M = queue length which is exceeded 5% of the time [P(x>M)]

$M = \frac{\ln P(x>M) - \ln(Q_m)}{\ln(\rho)} - 1 = \frac{\ln(0.05) - \ln(0.0923)}{\ln(0.3314)} - 1 = -0.44$ say, no vehicles on queue

The results of the analysis show that a total of 3 valet attendants would be able to handle the demand during the AM peak hour of the adjacent street (worst case scenario) at the valet station with an average of no vehicles on queue. Based on the site plan, the valet station has approximately 110 feet of storage; this distance is enough to accommodate five vehicles in the queue. It should be noted that the queuing analysis considers the worst-case scenario during the peak hours to make sure that the queue does not spill onto the public right-of-way or interferes with site operations. Once operational, the development can assess the actual need for valet attendants at different times of the day.

Conclusions

Based on the parking generation analysis, comparison of parking rates from other municipalities, seasonal vacancies, transit availability, and walking/bicycling opportunities it is our professional opinion that the 75 parking spaces provided by the project should satisfy their parking demand.

The results of the valet analysis show that a total of 3 valet attendants would be able to handle the demand at the drop-off / pick-up area during the AM peak of the adjacent street (worst case scenario) with an average of no vehicles on queue. It is also our professional opinion that the operations of the valet station, will not have an adverse impact on the operations of E Bay Harbor Drive.

We stand ready to provide any support needed for this project. Should you have any questions or comments, please call me at (305) 447-0900.

Sincerely,

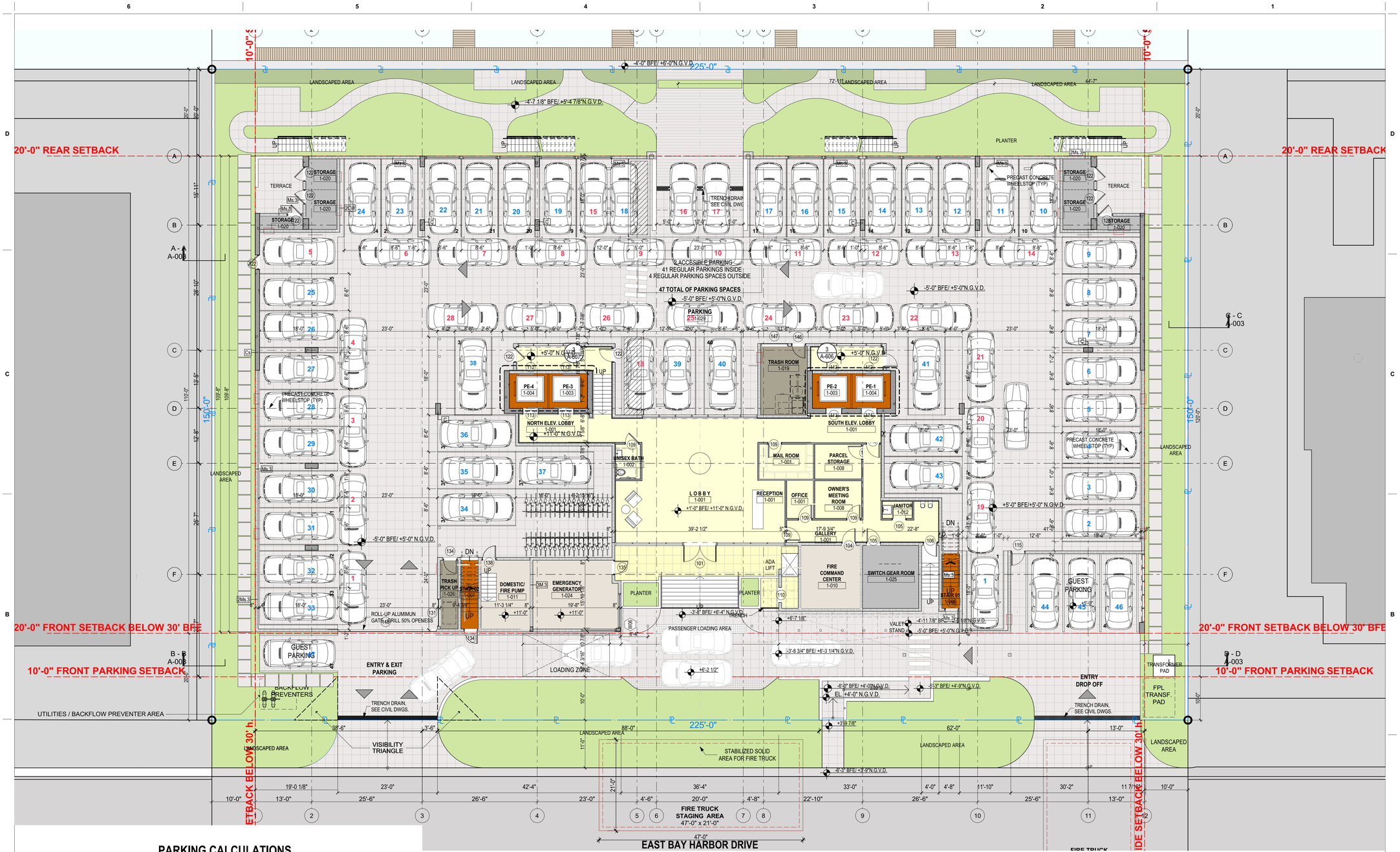
Juan Espinosa, PE
Vice-President – Transportation

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Attachment A

NOT FOR CONSTRUCTION



PARKING CALCULATIONS
57 UNITS x 2 = **114 UN**

REGULAR PARKING PROVIDED = 47 UN
VALET PARKING CALCULATED = 28 UN

BALANCE PARKING TRUST = 39 UN

PARKING BREAKDOWN:
PARKING INTERIOR PROVIDED = 43 UN
PARKING EXTERIOR PROVIDED = 4 UN
SUB-TOTAL PARKING PROVIDED = 47 UN
VALET PARKING CALCULATED = 28 UN

TOTAL PARKING PROVIDED = 75 UN

LEGEND:
REGULAR PARKING PROVIDED - **BLUE**
VALET PARKING PROPOSED - **RED**

VALET PARKING LAYOUT

1 LOBBY LEVEL - FLOOR PLAN
SCALE: 3/32" = 1'-0"

EL.+11'-0" N.G.V.D

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Project

LA BAIA NORTH

9461 EAST BAY HARBOR DR.
BAY HARBOR ISLANDS, FLORIDA 33154

Revisions

Owner Information
CONTINUUM LLC
9201 East Bay Harbour Dr
Bay Harbour Islands, Fl 33154
305.861.8181

Consultant

Luis O. Revuelta
AR-0007972

SITE PLAN REVISION

Date
04.21.22

Scale
AS SHOWN

Project No.
2202

Sheet Name
LOBBY LEVEL - FLOOR PLAN

Sheet No.
.1

Attachment B

Scenario - 3

Scenario Name: Proposed North
User Group:
Dev. phase: 1
No. of Years to Project Traffic : 0
Analyst Note:
Warning: The time periods among the land uses do not appear to match.

VEHICLE TRIPS BEFORE REDUCTION

Land Use & Data Source	Location	IV	Size	Time Period	Method	Entry	Exit	Total
					Rate/Equation	Split%	Split%	
221 - Multifamily Housing (Mid-Rise) - Not Close	Dense Multi-Use Urban	Dwelling Units	57	Weekday	Average	84	84	168
Data Source: Trip Generation Manual, 11th Ed					2.93	50%	50%	
221(1) - Multifamily Housing (Mid-Rise) - Not	Dense Multi-Use Urban	Dwelling Units	57	Weekday, Peak Hour of	Best Fit (LIN)	3	17	20
Data Source: Trip Generation Manual, 11th Ed				Adjacent Street Traffic,	T = 0.25(X) + 5.35	15%	85%	
221(2) - Multifamily Housing (Mid-Rise) - Not	Dense Multi-Use Urban	Dwelling Units	57	Weekday, Peak Hour of	Best Fit (LIN)	7	3	10
Data Source: Trip Generation Manual, 11th Ed				Adjacent Street Traffic,	T = 0.29(X) - 6.26	73%	27%	

An official website of the United States government Here's how you know

COMMUTING CHARACTERISTICS BY SEX

United States® Census Bureau

Note: This is a modified view of the original table produced by the U.S. Census Bureau. This download or printed version may have missing information from the original table.

	Census Tract 38.01, Miami-Dade County, Florida		
	Total	Male	Female
Label	Estimate	Estimate	Estimate
Workers 16 years and over	2,726	1,389	1,337
MEANS OF TRANSPORTATION TO WORK			
Car, truck, or van	82.8%	89.7%	75.6%
Drove alone	71.5%	85.6%	56.9%
Carpooled	11.3%	4.1%	18.7%
In 2-person carpool	11.3%	4.1%	18.7%
In 3-person carpool	0.0%	0.0%	0.0%
In 4-or-more person carpool	0.0%	0.0%	0.0%
Workers per car, truck, or van	1.07	1.02	1.14
Public transportation (excluding taxicab)	2.3%	3.4%	1.1%
Walked	3.9%	1.9%	5.9%
Bicycle	0.0%	0.0%	0.0%
Taxicab, motorcycle, or other means	0.5%	0.0%	1.0%
Worked from home	10.6%	5.0%	16.4%
PLACE OF WORK			
Workers 16 years and over who did not work from home	2,438	1,320	1,118
VEHICLES AVAILABLE			

Table Notes

COMMUTING CHARACTERISTICS BY SEX

Survey/Program: American Community Survey
Year: 2019
Estimates: 5-Year
Table ID: S0801

Although the American Community Survey (ACS) produces population, demographic and housing unit estimates, it is the Census Bureau's Population Estimates Program that produces and disseminates the official estimates of the population for the nation, states, counties, cities, and towns and estimates of housing units for states and counties.

Source: U.S. Census Bureau, 2015-2019 American Community Survey 5-Year Estimates

When information is missing or inconsistent, the Census Bureau logically assigns an acceptable value using the response to a related question or questions. If a logical assignment is not possible, data are filled using a statistical process called allocation, which uses a similar individual or household to provide a donor value. The "Allocated" section is the number of respondents who received an allocated value for a particular subject.

2019 ACS data products include updates to several categories of the existing means of transportation question. For more information, see: Change to Means of Transportation.

Data are based on a sample and are subject to sampling variability. The degree of uncertainty for an estimate arising from sampling variability is represented through the use of a margin of error. The value shown here is the 90 percent margin of error. The margin of error can be interpreted roughly as providing a 90 percent probability that the interval defined by the estimate minus the margin of error and the estimate plus the margin of error (the lower and upper confidence bounds) contains the true value. In addition to sampling variability, the ACS estimates are subject to nonsampling error (for a discussion of nonsampling variability, see ACS Technical Documentation). The effect of nonsampling error is not represented in these tables.

The 12 selected states are Connecticut, Maine, Massachusetts, Michigan, Minnesota, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, and Wisconsin.

Workers include members of the Armed Forces and civilians who were at work last week.

The 2015-2019 American Community Survey (ACS) data generally reflect the September 2018 Office of Management and Budget (OMB) delineations of metropolitan and micropolitan statistical areas. In certain instances, the names, codes, and boundaries of the principal cities shown in ACS tables may differ from the OMB delineation lists due to differences in the effective dates of the geographic entities.

Estimates of urban and rural populations, housing units, and characteristics reflect boundaries of urban areas defined based on Census 2010 data. As a result, data for urban and rural areas from the ACS do not necessarily reflect the results of ongoing urbanization.

Attachment C

Scenario - 3

Scenario Name: Proposed North
User Group:
Dev. phase: 1
No. of Years to Project Traffic : 0
Analyst Note:
Warning: The time periods among the land uses do not appear to match.

VEHICLE TRIPS BEFORE REDUCTION

Land Use & Data Source	Location	IV	Size	Time Period	Method	Entry	Exit	Total
					Rate/Equation	Split%	Split%	
221 - Multifamily Housing (Mid-Rise) - Not Close	Dense Multi-Use Urban	Dwelling Units	57	Weekday	Average	84	84	168
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Data Source: Trip Generation Manual, 11th Ed				Adjacent Street Traffic,	T = 0.25(X) + 5.35	15%	85%	
221(2) - Multifamily Housing (Mid-Rise) - Not	Dense Multi-Use Urban	Dwelling Units	57	Weekday, Peak Hour of	Best Fit (LIN)	7	3	10
Data Source: Trip Generation Manual, 11th Ed				Adjacent Street Traffic,	T = 0.29(X) - 6.26	73%	27%	

location, a 5% probability of back-up onto the adjacent street is judged to be acceptable. Demand on the system for design is expected to be 110 vehicles in a 45-minute period. Average service time was expected to be 2.2 minutes. Is the queue storage adequate?

Such problems can be quickly solved using Equation (8–9b) given in Table 8-10 and repeated below for convenience.

$$M = \left[\frac{\ln P(x > M) - \ln Q_M}{\ln \rho}\right] - 1$$

where:

M = queue length which is exceeded p percent of the time
N = number of service channels (drive-in positions)
Q = service rate per channel (vehicles per hour)
$\rho = \dfrac{\text{demand rate}}{\text{service rate}} = \dfrac{q}{NQ}$ = utilization factor
q = demand rate on the system (vehicles per hour)
Q_M = tabled values of the relationship between queue length, number of channels, and utilization factor (see Table 8.11)

TABLE 8-11
Table of Q_M Values

ρ	$N = 1$	2	3	4	6	8	10
0.0	0.0000	0.0000	0.0000	0.0000			
0.1	.1000	.0182	.0037	.0008	.0000	0.0000	0.0000
.2	.2000	.0666	.0247	.0096	.0015	.0002	.0000
.3	.3000	.1385	.0700	.0370	.0111	.0036	.0011
.4	.4000	.2286	.1411	.0907	.0400	.0185	.0088
.5	.5000	.3333	.2368	.1739	.0991	.0591	.0360
.6	.6000	.4501	.3548	.2870	.1965	.1395	.1013
.7	.7000	.5766	.4923	.4286	.3359	.2706	.2218
.8	.8000	.7111	.6472	.5964	.5178	.4576	.4093
.9	.9000	.8526	.8172	.7878	.7401	.7014	.6687
1.0	1.0000	1.0000	1.0000	1.0000	1.0000	1.0000	1.0000

$\rho = \dfrac{q}{NQ} = \dfrac{\text{arrival rate, total}}{(\text{number of channels})(\text{service rate per channel})}$
N = number of channels (service positions)

Solution

Step 1: $Q = \dfrac{60 \text{ min/hr}}{2.2 \text{ min/service}} = 27.3$ services per hour

Step 2: $q = (110 \text{ veh}/45 \text{ min}) \times (60 \text{ min/hr}) = 146.7$ vehicles per hour

Step 3: $\rho = \dfrac{q}{NQ} = \dfrac{146.7}{(6)(27.3)} = 0.8956$

Step 4: $Q_M = 0.7303$ by interpolation between 0.8 and 0.9 for $N = 6$ from the table of Q_M values (see Table 8-11).

Step 5: The acceptable probability of the queue, M, being longer than the storage, 18 spaces in this example, was stated to be 5%. $P(x > M) = 0.05$, and:

$$M = \left[\frac{\ln 0.05 - \ln 0.7303}{\ln 0.8956}\right] - 1 = \left[\frac{-2.996 - (-0.314)}{-0.110}\right] - 1$$
$$= 24.38 - 1 = 23.38, \text{ say } 23 \text{ vehicles.}$$

INDEX

ARCHITECTURAL

- COVER
A-000 -SURVEY
A-001 -DATA SHEET
A-002 -CONTEXT STUDY
A-003 -PERIMETER SECTIONS
A-101.1 -SITE PLAN - PREVIOUSLY APPROVAL
A-101.2 -SITE PLAN - NEW PROPOSAL
A-102.1 -SUB-T LEVEL - PREVIOUSLY APPROVAL
A-102.2 -SUB-T LEVEL - NEW PROPOSAL
A-103.1 -FIRST LEVEL - PREVIOUSLY APPROVAL
A-103.2 -FIRST LEVEL - NEW PROPOSAL
A-104.1 -SECOND LEVEL - PREVIOUSLY APPROVAL
A-104.2 -SECOND LEVEL - NEW PROPOSAL
A-105.1 -THIRD LEVEL - PREVIOUSLY APPROVAL
A-105.2 -THIRD LEVEL - NEW PROPOSAL
A-106.1 -TYPICAL LEVEL(4th to 7th LV) - PREVIOUSLY APPROVAL
A-106.2 -TYPICAL LEVEL(4th to 6th LV) - NEW PROPOSAL
A-107.1 -SEVENTH LEVEL - PREVIOUSLY APPROVAL
A-107.2 -SEVENTH LEVEL - NEW PROPOSAL
A-108.1 -EIGHTH LEVEL - PREVIOUSLY APPROVAL
A-108.2 -EIGHTH LEVEL - NEW PROPOSAL
A-109.1 -ROOF LEVEL - PREVIOUSLY APPROVAL
A-109.2 -ROOF LEVEL - NEW PROPOSAL
A-401 -WEST ELEVATION - PREVIOUSLY APPROVAL - NEW PROPOSAL
A-402 -EAST ELEVATION - PREVIOUSLY APPROVAL - NEW PROPOSAL
A-403 -SOUTH ELEVATION - PREVIOUSLY APPROVAL - NEW PROPOSAL
A-404 -NORTH ELEVATION - PREVIOUSLY APPROVAL - NEW PROPOSAL
A-405 -3D VIEW - STREET FRONT
A-406 -3D VIEW - WATER FRONT
A-501 -N-S SECTION - PREVIOUSLY APPROVAL - NEW PROPOSAL
-**COVER - APPENDIX A**
A-601 -VALET PARKING LAYOUT

CIVIL

C-1 PAVING, GRADING & DRAINAGE PLAN
C-2 WATER & SEWER PLAN
C-3 PAVEMENT MARKING & SIGNAGE PLAN
C-4 SECTIONS & DETAILS
C-5 DRAINAGE DETAILS
C-6 UTILITY DETAILS
C-7 CIVIL DETAILS

LANDSCAPE

L100 - GROUND MATERIALS
L101 i - GROUND ILLUSTRATIVE CANOPY
L101 - GROUND CANOPY
L101 p - GROUND CANOPY PLANT BOARD
L102 i - GROUND UNDERSTORY ILLUSTRATIVE
L102 - GROUND UNDERSTORY
L102 p - GROUND UNDERSTORU PLANT BOARD
L103 - GROUND SCHEDULE, NOTES AND SPECIFICATIONS
L104 - GROUND LANDSCAPE LEGEND COMPARISON
L105 - LEVEL 3 UNDERSTORY
L106 - ROOF MATERIALS
L107 i - ROOF ILLUSTRATIVE CANOPY
L107 - ROOF CANOPY
L107 p - ROOF CANOPY PLANT BOARD
L108 i - ROOF UNDERSTORY ILLUSTRATIVE
L108 - ROOF UNDERSTORY
L108 p - ROOF UNDERSTORY PLANT BOARD
L109 - SCHEDULE, NOTES AND SPECIFICATIONS
L110 - ILLUSTRATIVE WEST ELEVATION (FRONT)
L111 - ILLUSTRATIVE EAST ELEVATION (REAR)
LR01 - LANDSCAPE RENDERING FRONT
LR02 - LANDSCAPE RENDERING REAR
LR03 - LANDSCAPE RENDERING ROOF 1
LR04 - LANDSCAPE RENDERING ROOF 2
L101-PA - GROUND LANDSCAPE PREVIOUSLY APPROVED
L107-PA - ROOF LANDSCAPE PREVIOUSLY APPROVED

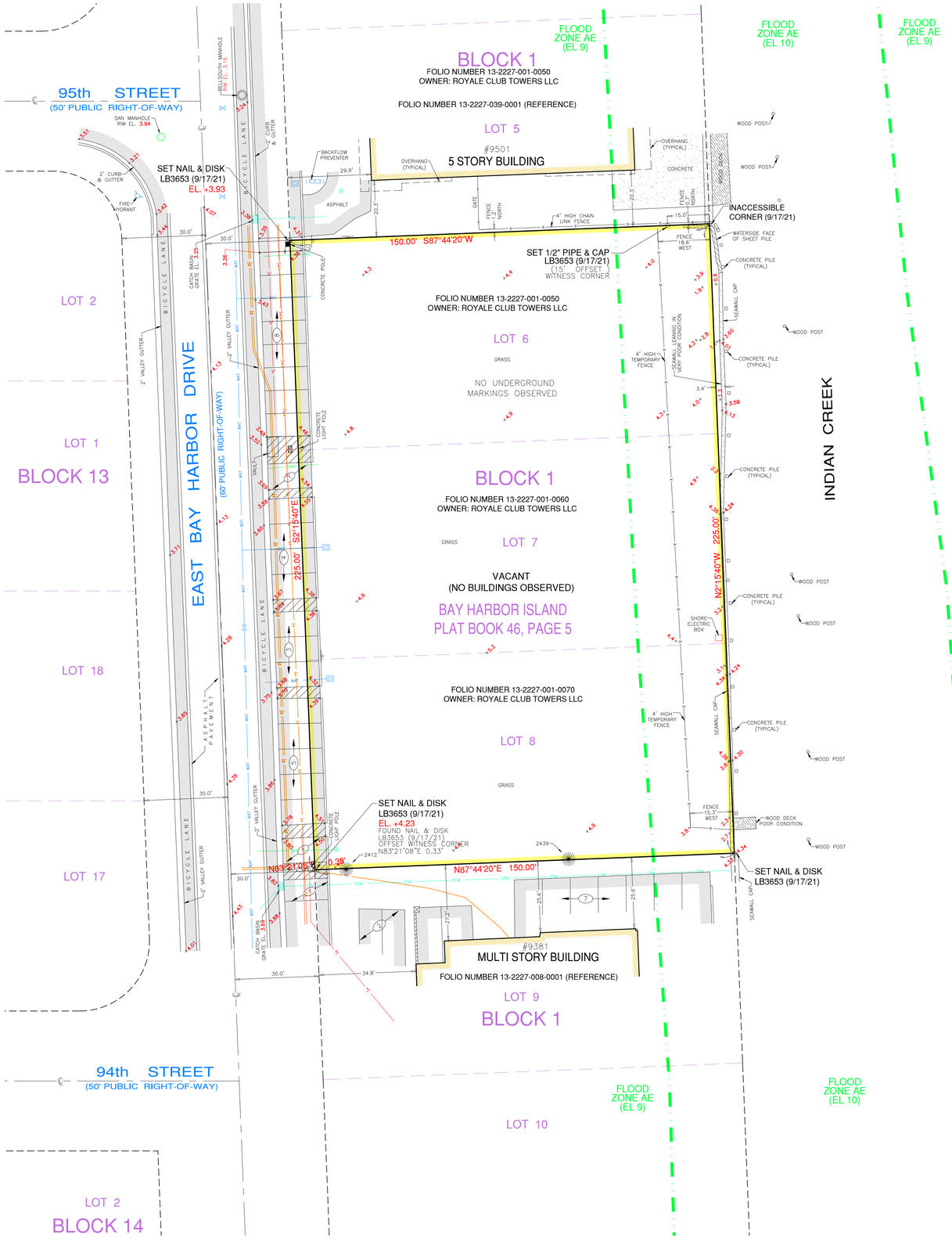
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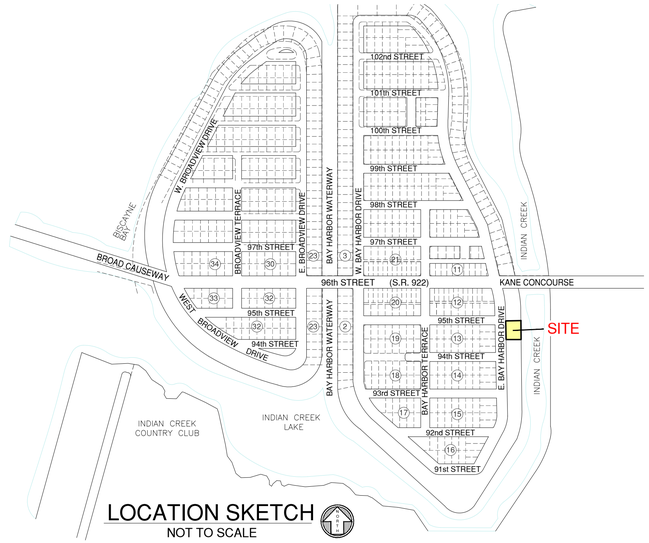
DEVELOPED BY
CONTINUUM LLC
9201 EAST BAY HARBOUR DR.
BAY HARBOUR ISLANDS, FL. 33154

ARCHITECT
REVUELTA ARCHITECTURE INTERNATIONAL
2950 SW 27TH AVENUE
SUITE No 110
MIAMI, FLORIDA 33133

REVISION TO CURRENTLY APPROVED SITE PLAN
APRIL 28, 2022

9461 EAST BAY HARBOR DR.





LOCATION SKETCH
NOT TO SCALE

LEGAL DESCRIPTION:

FOLIO NUMBER 13-2227-001-0050

Lot 6, Block 1, BAY HARBOR ISLAND, a subdivision according to the map or Plat thereof recorded in Plat Book 46, Page 5, of the Public Records of Miami-Dade County, Florida.

FOLIO NUMBER 13-2227-001-0060

Lot 7, Block 1, BAY HARBOR ISLAND, a subdivision according to the map or Plat thereof, as recorded in Plat Book 46, Page 5, of the Public Records of Miami-Dade County, Florida.

FOLIO NUMBER 13-2227-001-0070

Lot 8, Block 1, BAY HARBOR ISLAND, a subdivision according to the map or Plat thereof, as recorded in Plat Book 46, Page 5, of the Public Records of Miami-Dade County, Florida.

SURVEYOR'S NOTES:

- This site lies in Section 27, Township 52 South, Range 42 East, Town of Bay Harbor Islands, Miami-Dade County, Florida.
- All documents are recorded in the Public Records of Miami-Dade County, Florida unless otherwise noted.
- Lands shown hereon were NOT abstracted for restrictions, easements and/or rights-of-way of records.
- Bearings hereon are referred to an assumed value of S02°15'40"E for the East Right of Way line of East Bay Harbor Drive.
- Elevations shown hereon are relative to the National Geodetic Vertical Datum of 1929, based on Miami-Dade County Benchmark No. S-243, Elevation +11.77 Located in at 96th Street and Bal Bay Drive.
- Lands shown hereon are located within an area having a Zone Designation AE (EL 9 & 10) by the Federal Emergency Management Agency (FEMA), an Flood Insurance Rate Map No. 12086C0144L, for Community No. 120637, dated September 11, 2009, and index map revised September 11, 2009, and is relative to the National Geodetic Vertical Datum of 1929.
- Dimensions indicated hereon are field measured by electronic measurement, unless otherwise noted.
- Lands shown hereon containing 33,750 square feet, or 0.775 acres, more or less.
- All horizontal control measurements are within a precision of 1:10,000.
- This map is intended to be displayed at the graphic scale shown hereon or smaller.
- Roof overhang not located unless otherwise shown.
- Trees shown are surveyed for their horizontal location and/or size. Identification and/or name verification of all trees should be confirmed by the Division of Forestry, a certified Arborist or a professional in that field.
- Underground improvements and/or underground encroachments not shown unless otherwise indicated.
- The approximate location of all utilities shown hereon were determined from As-Built plans and/or on-site locations and should be verified before construction.
- The underground utilities shown have been located from field survey information and existing drawings. The surveyor makes no guarantee that the underground utilities shown comprise all such utilities in the area, either in service or abandoned. The surveyor further does not warrant that the underground utilities shown are in the exact location indicated although he does certify that they are located as accurately as possible from the information available. Except for where accessible at sanitary and/or storm sewer structures, the surveyor has not physically located the underground utilities. This firm recommends that the underground utilities should be field verified prior to any new construction.
- Legal description shown hereon based on information furnished by client and no claims as to ownership are made or implied.
- Location of utilities existing on or serving the surveyed property as determined by: observed evidence collected pursuant to Section 5.E.iv. PER ALTA/NSPS.
- There is no visible observed evidence of the site being used as a solid waste dump, sump or sanitary landfill.
- There is no visible evidence or knowledge of any location of wetlands, as delineated by the proper authorities.

N O R T H

GRAPHIC SCALE
0 10 20 40
(IN FEET)
1 inch = 20 ft.

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TREE TABLE

TREE NUMBER	COMMON NAME	D.B.H. (INCHES)	HEIGHT (FEET)	SPREAD (FEET)
2412	CABBAGE PALM	15	30	18
2439	CABBAGE PALM	22	20	12

LEGEND

- CB = CATCH BASIN
- CBI = CATCH BASIN INLET
- MH = MANHOLE
- LP = LIGHT POLE
- WM = WATER METER
- WV = WATER VALVE
- UP = UTILITY POLE
- R = RISER
- FH = FIRE HYDRANT
- HH = HANDHOLE
- SGV = SEWER/GAS VALVE
- C = CLEANOUT
- W = WELL
- D = DRAIN
- GE = GRADE ELEVATION
- B = BOLLARD
- OHW = OVERHEAD UTILITY WIRE
- X = CHAIN LINK FENCE
- LIMITED ACCESS RIGHT-OF-WAY LINE
- 0.5' CURB
- 2.00' CURB & GUTTER
- WALL
- EL. = ELEVATION
- INV. = INVERT
- B.O.S. = BOTTOM OF STRUCTURE
- T.O.B. = TOP OF BAFFLE
- P.B. = PLAT BOOK PG. = PAGE
- CONCRETE
- ASPHALT PAVEMENT
- R/W = RIGHT-OF-WAY
- ℄ = CENTER LINE
- M = MONUMENT LINE
- S = SIGN

UNDERGROUND UTILITY LEGEND

- E = ELECTRIC LINES
- T = COMMUNICATION LINES
- SAN = SANITARY LINES
- WAT = WATER LINES
- STORM = STORM SEWER LINES

SURVEYOR'S CERTIFICATION:

This is to certify that this "Boundary and Topographic Survey" was made under my responsible charge on August 17, 2021, in accordance with the 2021 Minimum Standard Detail Requirements for ALTA/NSPS Land Title Surveys, jointly established and adopted by ALTA and NSPS, and meets the applicable codes as set forth in the Florida Administrative Code, pursuant to Section 472.027, Florida Statutes. The fieldwork was completed on September 16, 2021.

"Not valid without the signature and original raised seal or a digital signature of the Florida Licensed Surveyor and Mapper shown below"

FORTIN, LEAVY, SKILES, INC., LB3653

By: _____
Daniel C. Fortin Jr., For The Firm
Surveyor and Mapper, LS6435

Digitally signed by Daniel C Fortin
DN: c=US, o=Unaffiliated, ou=A01410D0000017402A2BF420004295B, cn=Daniel C Fortin
Date: 2021.10.11 16:11:11 -04'00'

Certificate of Service not to be Reproduced in Whole or in Part without the Express WRITTEN Permission of Same

FORTIN, LEAVY, SKILES, INC.
CONSULTING ENGINEERS, SURVEYORS & MAPPERS
FLORIDA CERTIFICATE OF AUTHORIZATION NUMBER: 00003653
180 Northeast 168th Street / North Miami Beach, Florida 33162
tel. xxx-xxx-xxxx fax xxx-xxx-xxxx

ALTA/NSPS LAND TITLE SURVEY
9431, 9461 & 9481 EAST BAY HARBOR DRIVE
TOWN OF BAY HARBOR ISLANDS, MIAMI-DADE, FLORIDA

Original Date	8/17/21
Scale	1" = 20'
Drawn By	KTF
CAD No.	210611
Plotted	8/23/21 1:27p
Ref. Dwg.	2021-036
Field Book	FLD. SHEET-RLI
Job No.	210611
Dwg. No.	2021-088



UNITS QUANTITIES AND APPROXIMATE AREA BREAKDOWN

BLDG LOCAT.	SLAB LABEL	UNIT TAG NAME	1 BED	1 BED + DEN	2 BED	2 BED + DEN	3 BED	3 BED + DEN	UNITS	UNIT AREA (SF) TYP. UNIT AC AREA	TYP. BALCONY AREA	TOTAL AC AREA	TOTAL BALCONY AREA
		201 - 209						2	2	2,109	338	4,218	676
LEVEL	2nd.	202 - 210				2			2	1,453	1,018	2,906	2,036
		203 - 207				2			2	1,537	266	3,074	532
	TOTAL FLOORS	1	0	0	0	4	0	2	6	TOTAL TYP. FLOOR		10,198	3,244
										TOTAL PER FLOOR		**10,198**	**3,244**

BLDG LOCAT.	SLAB LABEL	UNIT TAG NAME	1BED	1 BED + DEN	2 BED	2 BED + DEN	3 BED	3 BED + DEN	UNITS	UNIT AREA TYP. UNIT AC AREA	TYP. BALCONY AREA	TOTAL AC AREA PER FL	TOTAL BALCONY AREA
		301 - 309						2	2	2,109	321	4,218	642
LEVEL	3rd.	302 - 310				2			2	1,453	168	2,906	336
		303 - 307				2			2	1,537	233	3,074	466
		304 - 308				2			2	1,453	301	2,906	602
	TOTAL FLOORS	1	0	0	0	6	0	2	8	TOTAL TYP. FLOOR		13,104	2,046
										TOTAL PER FLOOR		**13,104**	**2,046**

BLDG LOCAT.	SLAB LABEL	UNIT TAG NAME	1BED	1 BED + DEN	2 BED	2 BED + DEN	3 BED	3 BED + DEN	UNITS	UNIT AREA TYP. UNIT AC AREA	TYP. BALCONY AREA	TOTAL AC AREA	TOTAL BALCONY AREA
		X01 - X09						2	2	2,109	321	4,218	642
		X02 - X10				2			2	1,453	168	2,906	336
LEVEL	4th. - 6th.	X03 - X07						2	2	1,858	293	3,716	586
		X04 - X08				2			2	1,432	301	2,864	602
		X06				1			1	1,452	214	1,452	214
	TOTAL FLOORS	3	0	0	0	5	0	4	9	TOTAL TYP. FLOOR		15,156	2,380
			0	0	0	15	0	12	27				
						TOTAL UNITS FLOORS 4th. - 6th			27	TOTAL ALL FLOORS		**45,468**	**7,140**

BLDG LOCAT.	SLAB LABEL	UNIT TAG NAME	1BED	1 BED + DEN	2 BED	2 BED + DEN	3 BED	3 BED + DEN	UNITS	UNIT AREA TYP. UNIT AC AREA	TYP. BALCONY AREA	TOTAL AC AREA	TOTAL BALCONY AREA
		701 - 709						2	2	2,101	329	4,202	658
	7th.	702 - 710					2		2	1,704	241	3,408	482
LEVEL		703 - 707						2	2	1,858	293	3,716	586
		704 - 708						2	2	1,884	335	3,768	670
	TOTAL FLOORS	1	0	0	0	0	2	6	8	TOTAL TYP. FLOOR		15,094	2,396
										TOTAL PER FLOOR		**15,094**	**2,396**

BLDG LOCAT.	SLAB LABEL	UNIT TAG NAME	1BED	1 BED + DEN	2 BED	2 BED+DEN	3 BED	3 BED + DEN	UNITS	UNIT AREA TYP. UNIT AC AREA	TYP. BALCONY AREA	TOTAL AC AREA	TOTAL BALCONY AREA
		801 - 809						2	2	2,076	342	4,152	684
	8th.	802 - 810					2		2	1,815	487	3,630	974
LEVEL		803 - 807						2	2	1,823	308	3,646	616
		804 - 808				2			2	1,618	365	3,236	730
	TOTAL FLOORS	1	0	0	0	2	2	4	8	TOTAL TYP. FLOOR		14,664	3,004
										TOTAL PER FLOOR		**14,664**	**3,004**

UNITS							TOTAL UNITS	TOTAL AC AREA	
	1 BED	1 BED + DEN	2 BED	2 BED+DEN	3 BED	3 BED + DEN	57		
	0	0	0	27	4	26		98,528	17,830
								TOTAL	**116,358**

CURRENTLY APPROVED BUILDING UNITS BREAKDOWN	TOTAL UNITS 72	15 UNITS LESS

ZONING & SHORELINE SUMMARY - ROYAL HOUSE — **revuelta architecture international p.a.**

9461 EAST BAY HARBOR DRIVE — 04.21.2022

	SF	Acres
Lot Area	**33,750**	0.77

LEGAL DESCRIPTION
Lot 6, 7 and 8, 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 INFORMATION

Flood Zone AE	**10'**	**Base Flood Elevation**	**10.0' FT NGVD**	**Design Flood Elevation**	**11.0' FT NGVD**
FIRM Map Number	12086C0144L	Lowest Floor Top of Slab Elevation	5.0 FT NGVD	Lowest Elev. of Equip. Servicing Building	11.0 FT NGVD
Next Lower Floor Elevation	4'-4" FT NGVD	Next Higher Floor Elevation	4'-11 1/2" FT NGVD	Crown of Road Elevation	4'-4" NGVD
Garage Top Elevation	5.0 FT NGVD	Lowest Floor Top of Habitable Space	11.0 FT NGVD	Risk Category per FBC	II
Lowest Elevation of Equipment Servicing the Buildir (sump pit pumps)	-2.0 FT NGVD				

Zoning Classification — **RM1 - MULTIPLE FAMILY RESIDENTIAL DISTRICT (WATERFRONT LOTS)**

				CURRRENTLY APPROVED
FLR (Determined by the setbacks)			**Allowable** N/A / **Proposed** N/A	Currently Approved N/A
Maximum Density			**Allowable** / **Proposed**	Currently Approved
34 units per net Acre	34	0.77	**26** / **57**	72
Proposed Density			**74.02 (units/acre)**	93.5 (units/acre)
Setbacks			**Required** / **Proposed**	Currently Approved
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 / 20'-0" Below 30 feet.30'-0" Above 30 feet.	20'-0" Below 30 feet.30'-0" Above 30 feet.
Side Setback			Buildings less than 30 feet in height. 10 feet maximum setback shall be 25 feet / 10'-0" Below 30 feet.25'-0" Above 30 feet.	10'-0" Below 30 feet.25'-0" Above 30 feet.
Rear Setback (Waterfront)			20'-0" / 20'-0"	20'-0"
Flex Setback (side only)		side building length	**Allowable (Feet)** / **Proposed (Feet)**	Currently Approved (Feet)
maximum allowed 1/3 of length of building		110	36.67 / 36.5	36.5
Maximum Height			**Allowable** / **Proposed**	Currently Approved
Maximum Building Height			75 feet above BFE + 1ft FBC Freeboard / **75'-0" above BFE**	75'-0" above BFE
Open Space Requirements			**Required** / **Proposed**	Currently Approved
20% of Lot Area Minimum	33,750	0.20	6,750 SF / **7,649 SF (22.6%)**	8,064 SF (23%)
Roof Deck Landscape Requirements			**Required** / **Proposed**	Currently Approved
15% of Roof Area Minimum	13,813	0.15	2,072 SF / **2,900 SF (18.4%)**	3,869 SF (28%)
Lot Coverage (Perimiter determined by the setbacks)			**Allowable** Determined by Setbacks / **Proposed** **22,380 SF**	Currently Approved 22,380 SF
Building Length The maximum overall length of any single building in a linea shape with no breaks or angles greater than 15 degrees shall not exceed 205 feet			≤ 205 feet without breaks / 205 feet in length	205 feet in length
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.			205'-0" with a 20'-0" breezeway	205'-0" with a 20'-0" breezeway
Parking Space Requirements			**Required** / **Proposed**	Currently Approved
Residential - 2 per Dwelling Unit Minimum	57	2.0	114 / 47	
Guest Parking - (included in parking count)			4 / 3	
Total Parking Spaces **(including 2 handicap spaces)**			/ **47**	
Valet Parking - (All parking will be Valet)			/ 28	
Parking Trust - (TC Approval required due to loss underground parking)			/ 39	
Total Parking Spaces **(including 2 handicap spaces)**			/ **114**	145
Storage Requirements			**Required** / **Proposed**	Currently Approved
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			57 / 57	96
Loading Zone				
Residential Loading Berths (660 SF)	1 per 1st 100 Units	100 Units	N/A / N/A	
Commercial Loading Berths (420 SF)	1 for 25k-50k commercial		N/A / N/A	

1 A-001 ZONING SUMMARY
SCALE: 1:0.23

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architecture international

Miami
Santiago, Chile

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MIAMI, FL 33133

T. 305.590.5000

Project

LA BAIA NORTH
9461 EAST BAY HARBOR DR.
BAY HARBOR ISLANDS, FLORIDA 33154

Revisions

Owner Information
CONTINUUM LLC
9201 East Bay Harbour Dr
Bay Harbour Islands, Fl 33154
305.861.8181

1

Consultant

Luis O. Revuelta
AR-0007972

SITE PLAN REVISION

Date
04.21.22

Scale
AS SHOWN

Project No.
2202

Sheet Name
DATA SHEET

Sheet No.
A-001

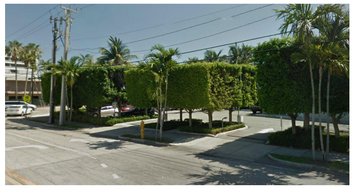
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FLUM: MEDIUM HIGH DENSITY
5 STORY



MULTI-FAMILY, RM-1
FLUM: MEDIUM HIGH DENSITY
2 STORY



OFFICE, BUSINESS DISTRICT
FLUM: COMMERCIAL
1 STORY



MULTI-FAMILY, RM-1
FLUM: MEDIUM HIGH DENSITY
2 STORY



COMMERCIAL, BUSINESS DISTRICT
FLUM: COMMERCIAL
1 STORY

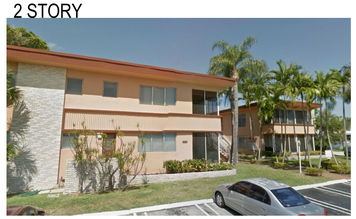


MULTI-FAMILY, RM-1
FLUM: MEDIUM HIGH DENSITY
7 STORY





MULTI-FAMILY, RM-2
FLUM: MEDIUM HIGH DENSITY
2 STORY



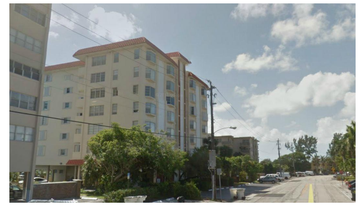
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FLUM: MEDIUM HIGH DENSITY
2 STORY



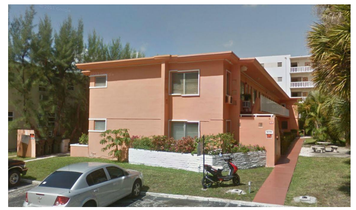
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FLUM: MEDIUM HIGH DENSITY
3 STORY



MULTI-FAMILY, RM-1
FLUM: MEDIUM HIGH DENSITY
7 STORY



MULTI-FAMILY, RM-2
FLUM: MEDIUM HIGH DENSITY
2 STORY



MULTI-FAMILY, RM-2
FLUM: MEDIUM HIGH DENSITY
2 STORY



MULTI-FAMILY, RM-2
FLUM: MEDIUM HIGH DENSITY
5 STORY



1 LAND USE PLAN DESIGNATION
NOT TO SCALE

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SUITE 110
MIAMI, FL 33133

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Project

LA BAIA NORTH

9461 EAST BAY HARBOR DR.
BAY HARBOR ISLANDS, FLORIDA 33154

Revisions

Owner Information
CONTINUUM LLC
9201 East Bay Harbour Dr
Bay Harbour Islands, Fl 33154
305.861.8181

Consultant

Luis O. Revuelta
AR-0007972

SITE PLAN REVISION

Date
04.21.22

Scale
AS SHOWN

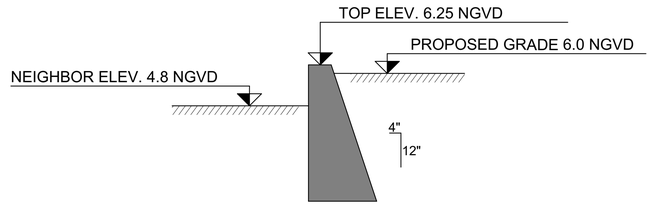
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2202

Sheet Name
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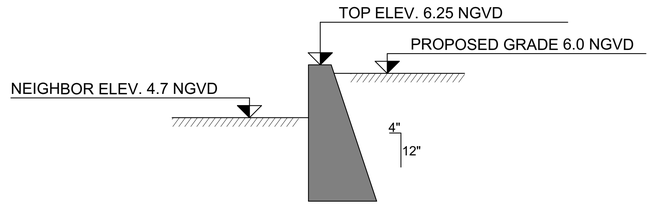
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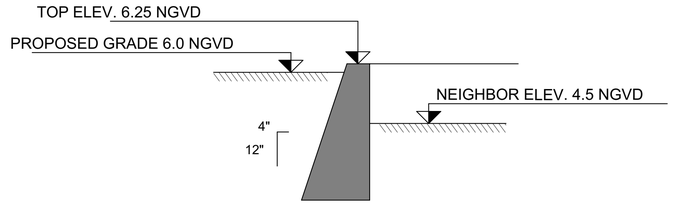
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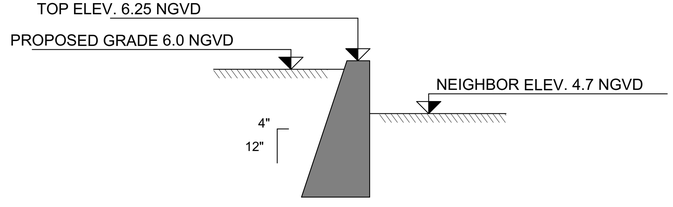
SECTION B-B



SECTION C-C



SECTION D-D



NOTE:
FOR GRAVITY WALL DETAIL REFER TO SHEET C-4

1 SECTIONS_
GRAVITY WALL ALONG PROP. PERIMETER
NOT TO SCALE

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Project

LA BAIA NORTH
9461 EAST BAY HARBOR DR.
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Revisions

Owner Information
CONTINUUM LLC
9201 East Bay Harbour Dr
Bay Harbour Islands, Fl 33154
305.861.8181

Consultant

Luis O. Revuelta
AR-0007972

SITE PLAN REVISION

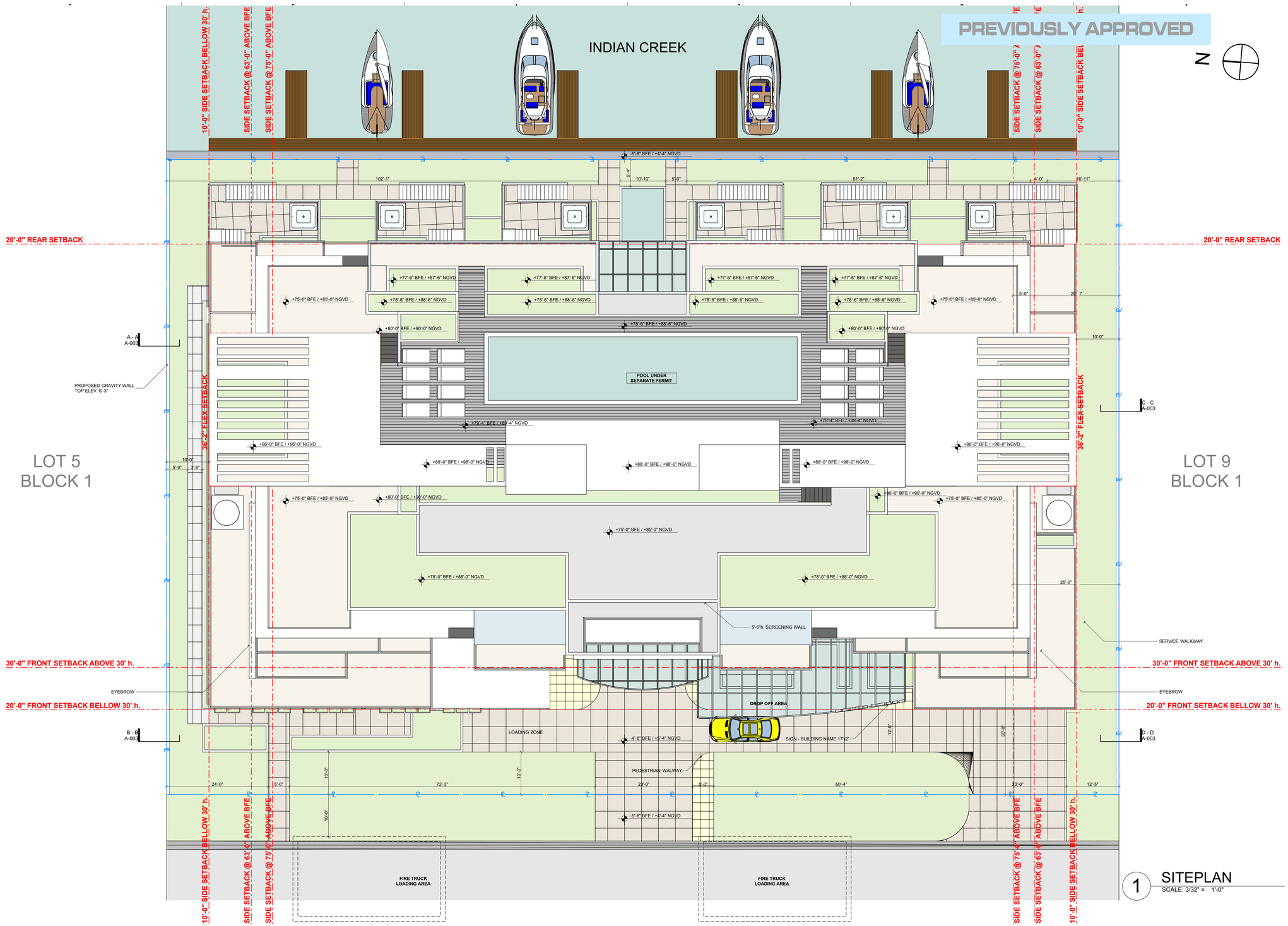
Date
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Scale
AS SHOWN

Project No.
2202

Sheet Name
PERIMETER SECTIONS

Sheet No.
A-003



1 SITEPLAN
SCALE: 3/32" = 1'-0"

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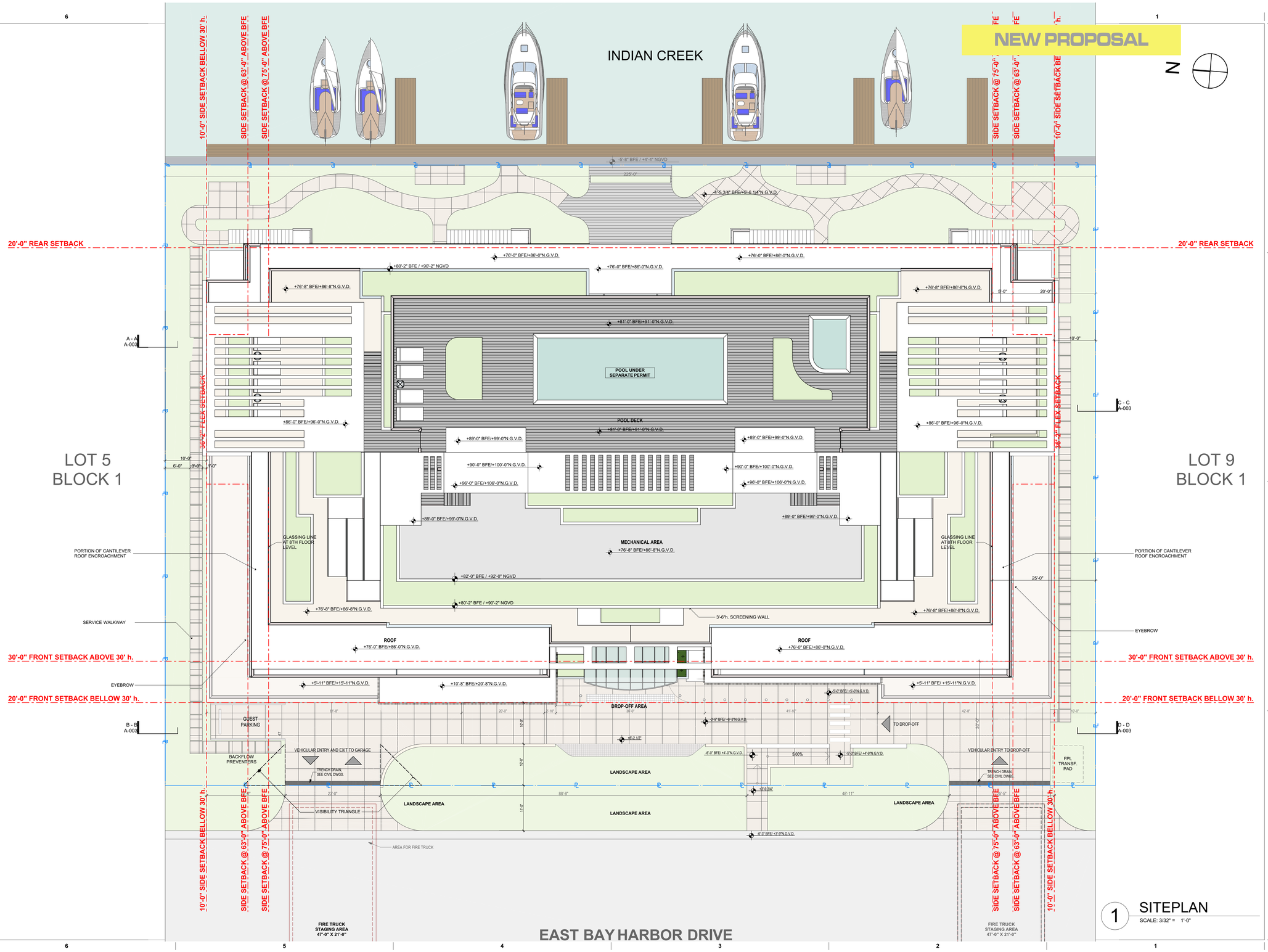
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Project No.
2202

Sheet Name
SITE PLAN

Sheet No.
A-101.1

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1 SITEPLAN
SCALE: 3/32" = 1'-0"

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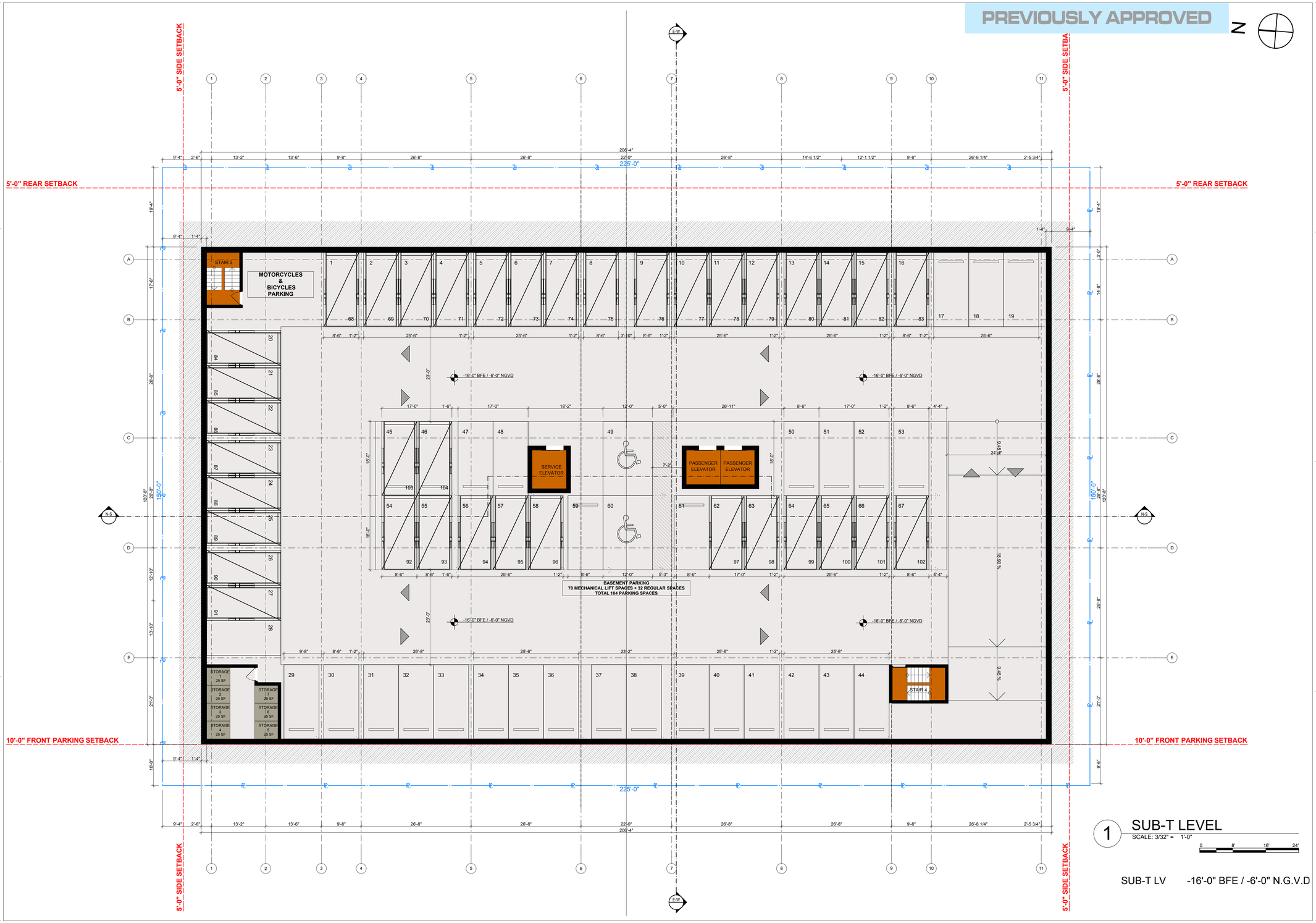
Project No.
2202

Sheet Name
SITE PLAN

Sheet No.
A-101.2

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PREVIOUSLY APPROVED



1 SUB-T LEVEL
SCALE: 3/32" = 1'-0"
0 8' 16' 24'

SUB-T LV -16'-0" BFE / -6'-0" N.G.V.D

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Project No.
2202

Sheet Name
SUB-T LEVEL

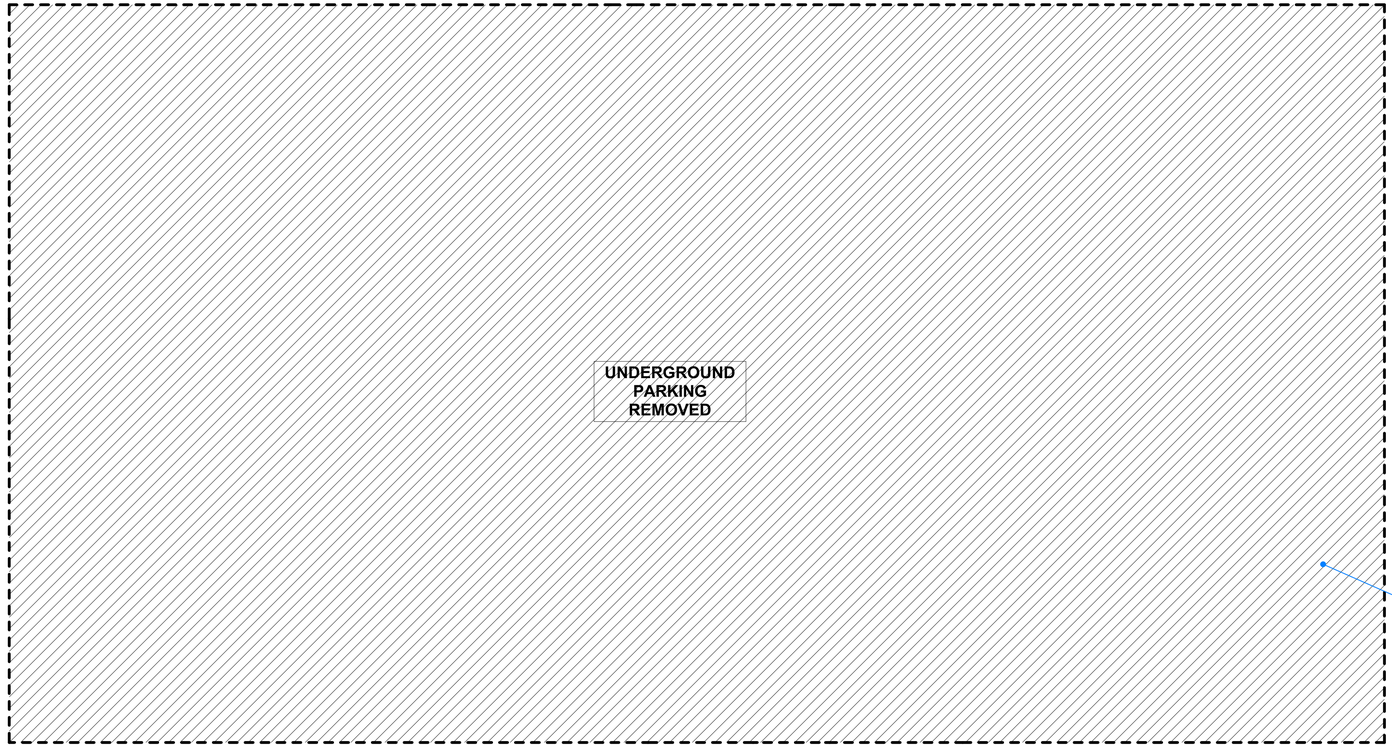
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NEW PROPOSAL

N



MAIN SCOPE OF WORK

REDUCTION OF RESIDENTIAL DENSITY FROM CURRENTLY APPROVED 72 DWELLING UNITS TO **57 UNITS**

SUMMARY OF PROPOSED ARCHITECTURAL MODIFICATIONS

1. UNDERGROUND PARKING - REMOVED
2. LARGER EQUIPMENT ROOMS ENCLOSURE
3. ACCESSIBLE WALKWAY - CODE REQUIRED TO CONNECT LOBBY WITH RIGHT OF WAY (SLOPE 5%) EGRESS WALKWAY REQUESTED BY FIRE DEPARTMENT
4. LOCATION OF FPL TRANSFORMER AND SWITCH PADS
5. NEW LOUVER REQUIRED FOR AIR-INTAKE TO EMERGENCY GENERATOR, PAINTED IN SAME COLOR OF ADJACENT WALLS.
6. VERTICAL COMPOSED WOOD SLAT PANELING LIGHT COLOR 50% OPENING.
7. LOUVERS FOR PARKING VENTILATION/IN-TAKE
8. NEW BREEZEWAY TERRACE
9. NEW LANDSCAPE DESIGN
10. NEW STEPPING BREEZEWAY FRAME
11. REVISED DROP OFF AND EXTERIOR PARKING REDESIGNED LANSDCAPE
12. VERTICAL STUCCO/PAINTED BUILDING FRAMES
13. REVISED RAILING DESIGN, 2 TYPES: ONE WITH ALUMINUM AT THE BOTTOM AND GLASS ON TOP, AND OTHER WITH FULL GLASS.
14. FLOOD VENT LOCATION. G.C TO PROVIDE SHOP DRAWINGS AND CALCULATIONS FOR A/E REVIEW.
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16. RELOCATED LOBBY
17. NEW PASSENGER ELEVATOR
18. RELOCATED STAIRS
19. REVISED BALCONIES RESPONDING TO NEW UNITS SIZES.

1 SUB-T LEVEL
SCALE: 3/32" = 1'-0"
0 8' 16' 24'

STREET LVL. -5'-8" BFE / 4'-4" N.G.V.D
PARKING LVL.-16'-0" BFE / -6'-0" N.G.V.D

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SITE PLAN REVISION

Date
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Scale
AS SHOWN

Project No.
2202

Sheet Name
SUB-T LEVEL_ NEW PROPOSAL

Sheet No.
A-102.2

PREVIOUSLY APPROVED

N

10'-0" SIDE SETBACK BELLOW 30' BFE

10'-0" SIDE SETBACK BELLOW

DOCK UNDER SEPARATE PERMIT

SCREENING LANDSCAPE

SCREENING LANDSCAPE

SCREENING LANDSCAPE

SEAWALL

E-W

20'-0" REAR SETBACK

20'-0" REAR SETBACK

TW +3'-0" ABOVE GRADE

-5'-8" BFE / +4'-4" NGVD

+2'-0" BFE / +12'-0" NGVD

STORAGE 1 25 SF

STORAGE 2 25 SF

STAIR 3

SERVICE WALKWAY

SCREENING HEDGE

A - A A-003

PROPOSED GRAVITY WALL TOP ELEV. 6'-3"

-3'-4" BFE / +6'-8" NGVD

43 PARKING SPACES OF WHICH 3 ARE FOR GUEST

TRASH ROOM

SERVICE ELEVATOR

SERVICE STAIRS

BREEZE WAY -3'-4" BFE / +6'-8" NGVD

PASSENGER ELEVATOR

PASSENGER ELEVATOR

GUEST PARKING

GUEST PARKING

GUEST PARKING

MAIL ROOM 106 SF

STAIR

LOBBY 857 SF

±0'-0" BFE / +10'-0" NGVD

FIRE COMMAND CENTER 203 SF

OPEN TO GARAGE BELOW

STAIR 1

DROP OFF

TRANSFORMER VAULT

-4'-8" BFE / +5'-4" NGVD

DROP OFF

STAIR

SCREENING HEDGE

SERVICE WALKWAY

SCREENING LANDSCAPE

SOLID WASTE PICK-UP AREA

SCREENING LOUVERS

20'-0" FRONT SETBACK BELLOW 30' BFE

TRASH PICK UP

B - B A-003

10'-0" FRONT PARKING SETBACK

BACKFLOW PREVENTER

LOADING ZONE

TW +3'-0" ABOVE GRADE

UTILITIES / BACKFLOW PREVENTER AREA

SCREENING LANDSCAPE

LANDSCAPE

LANDSCAPE

VISIBILITY TRIANGLE

VISIBILITY TRIANGLE

-5'-8" BFE / +4'-4" NGVD

FROM LEVEL - 1

TO LEVEL - 1

SCREENING HEDGE

PROPOSED GRAVITY WALL TOP ELEV. 6'-3"

C - C A-003

SCREENING HEDGE

SCREENING HEDGE

SCREENING HEDGE

D - D A-003

20'-0" FRONT SETBACK BELLOW 30' BFE

10'-0" FRONT PARKING SETBACK

10'-0" SIDE SETBACK BELLOW 30' h.

10'-0" SIDE SETBACK BELLOW 30' h.

FIRE TRUCK LOADING AREA

FIRE TRUCK LOADING AREA

1 FIRST LEVEL

SCALE: 3/32" = 1'-0"

0 8' 16' 24'

STREET LV. -5'-8" BFE / 4'-4" N.G.V.D

PARKING LV. -3'-4" BFE / 6'-8" N.G.V.D

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SITE PLAN REVISION

Date
04.21.22

Scale
AS SHOWN

Project No.
2202

Sheet Name
FIRST LEVEL

Sheet No.
A-103.1

NEW PROPOSAL

N

10'-0" SIDE SETBACK BELOW 30' BFE

10'-0" SIDE SETBACK BELOW 3

DOCKED BOAT (TYP.)

DOCK UNDER SEPARATE PERMIT

225'-0"

-4'-0" BFE/ +8'-0"N.G.V.D.

-4'-1 1/4" BFE/ +5'-4 3/4"N.G.V.D.

20'-0" REAR SETBACK

STORAGE 1-020

FLOOD VENTS.

TRENCH DRAIN, SEE CIVIL DWGS.

PRECAST CONCRETE WHEELSTOP (TYP)

EXIT DOOR

2 ACCESIBLE PARKING
41 REGULAR PARKINGS INSIDE
4 REGULAR PARKING SPACES OUTSIDE
47 TOTAL OF PARKING SPACES

-5'-0" BFE/ +5'-0"N.G.V.D.

PARKING 1-009

-5'-0" BFE/ +5'-0"N.G.V.D.

PRKG. ELEVATOR LOBBY

+5'-0" N.G.V.D.

PIT-4 1-004

PIT-3 1-003

PIT-2 1-002

PIT-1 1-001

TRASH ROOM 1-019

NORTH ELEV. LOBBY 1-001

+11'-0" N.G.V.D.

SOUTH ELEV. LOBBY 1-001

UNISEX BATH 1-002

MAIL ROOM 1-001

PARCEL STORAGE 1-008

LOBBY 1-001

+11'-0" BFE/ +11'-0" N.G.V.D.

RECEPTION 1-001

OFFICE 1-001

OWNER'S MEETING ROOM 1-008

JANITOR 1-052

36 DOUBLE BICYCLE RACKS = 72 BICYCLES

GALLERY 1-021

+5'-0" BFE/ +5'-0" N.G.V.D.

ACCESSIBLE PATH

HDCP. LIFT

ENTRY TERRACE

FIRE COMMAND CENTER 1-010

SWITCH GEAR ROOM 1-025

STAIR #1 1-006

TRASH PICK UP 1-026

DOMESTIC/ FIRE PUMP 1-011

EMERGENCY GENERATOR 1-024

PLTR

TRENCH

-3'-8" BFE/ +6'-4" N.G.V.D.

-3'-9" BFE/ +6'-3"N.G.V.D.

DROP-OFF AREA

TO DROP-OFF

-5'-0" BFE/ +5'-0"N.G.V.D.

-5'-0" BFE/ +4'-0"N.G.V.D. 5.00 %

-5'-3" BFE/ +4'-9"N.G.V.D.

-5'-3 1/4" BFE/ +5'-8 3/4" N.G.V.D.

-5'-3" BFE/ +5'-0"N.G.V.D.

GUEST PARKING

+5'-0"

20'-0" FRONT SETBACK BELOW 30' BFE

20'-0" FRONT

10'-0" FRONT PARKING SETBACK

ROLL-UP ALUMINUN GATE - GRILL 50% OPENESS

BACKFLOW PREVENTERS

UTILITIES / BACKFLOW PREVENTER AREA

VEHICULAR ENTRY AND EXIT TO GARAGE

VISIBILITY TRIANGLE

LANDSCAPE AREA

AREA FOR FIRE TRUCK

VEHICULAR ENTRY TO DROP-OFF

FPL TRANSF. PAD

10'-0" SIDE SETBACK BELOW 30' BFE

A - A
A-003

B - B
A-003

C - C
A-003

D - D
A-003

MAIN SCOPE OF WORK

REDUCTION OF RESIDENTIAL DENSITY FROM CURRENTLY APPROVED 72 DWELLING UNITS TO **57 UNITS**

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1 FIRST LEVEL
SCALE: 3/32" = 1'-0"
0 8' 16' 24'

STREET LVL. -5'-8" BFE / 4'-4" N.G.V.D
PARKING LVL.-5'-0" BFE / 5'-0" N.G.V.D

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Date
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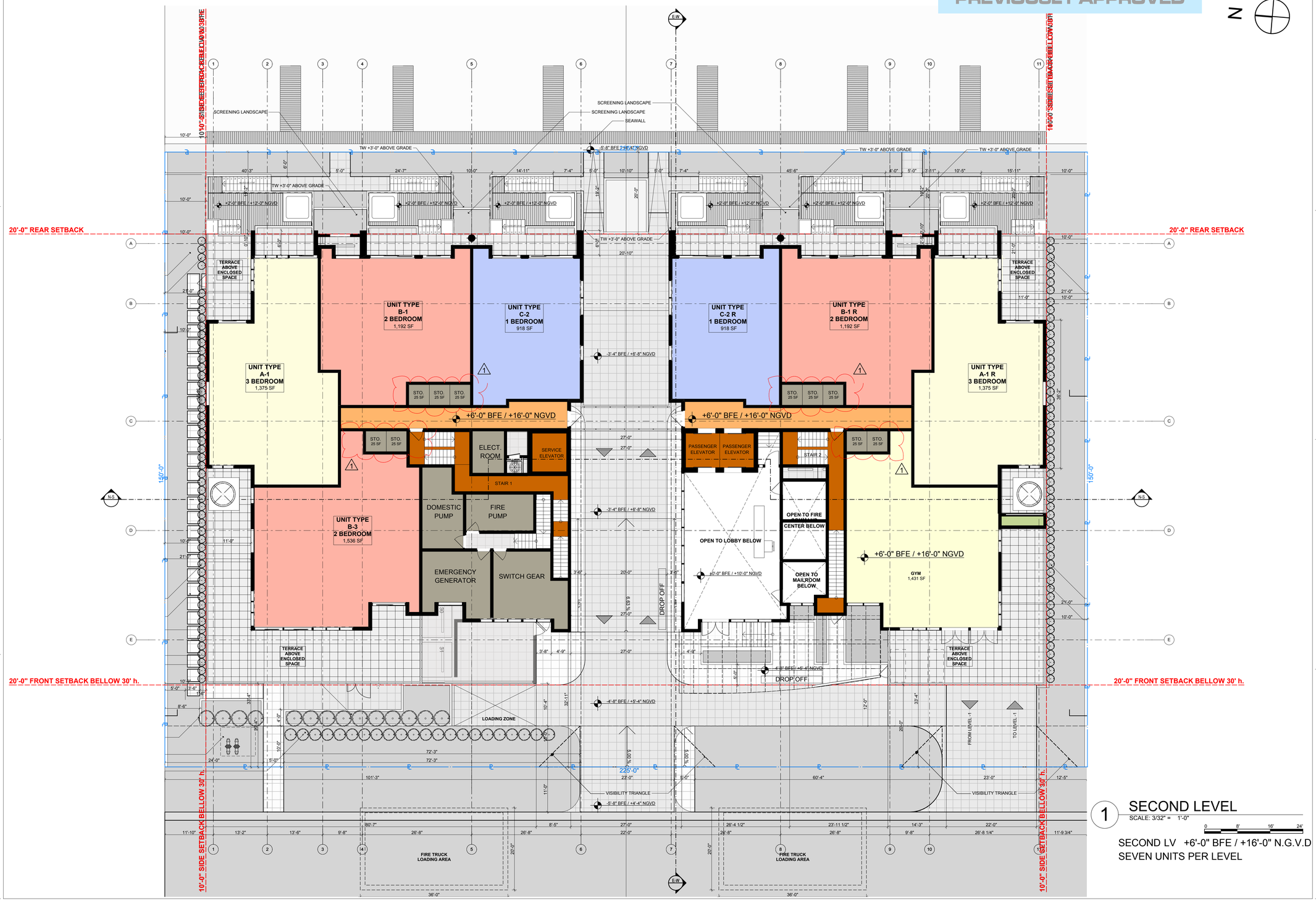
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Sheet Name
FIRST LEVEL_ NEW PROPOSAL

Sheet No.
A-103.2

PREVIOUSLY APPROVED



1 SECOND LEVEL

SCALE: 3/32" = 1'-0"

0 8' 16' 24'

SECOND LV +6'-0" BFE / +16'-0" N.G.V.D
SEVEN UNITS PER LEVEL

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Project No.
2202

Sheet Name
SECOND LEVEL

Sheet No.
A-104.1

NOT FOR CONSTRUCTION

NEW PROPOSAL

N

20'-0" REAR SETBACK

20'-0" FRONT SETBACK BELOW 30' h.

10'-0" SIDE SETBACK BELOW 30' h.

UNIT 209
3 BED+DEN
2,109 SF

UNIT 207
2 BED+DEN
1,537 SF

CLUB ROOM
2-010
623 SF

UNIT 203
2 BED+DEN
1,537 SF

UNIT 201
3 BED+DEN
2,109 SF

UNIT 210
2 BED+DEN
1,453 SF

UNIT 202
2 BED+DEN
1,453 SF

CORRIDOR
4-001
398 SF

CORRIDOR
4-001
408 SF

STORAGE
4-010
23 SF

STAIR 02
2-006

STAIR 01
2-005

PE-4
2-004

PE-3
2-003

PE-2
2-003

PE-1
2-004

ELECT ROOM
3-008
36 SF

TRASH CHUTE
2-007

STORAGE
4-009
55 SF

STORAGE
4-003
44 SF

STORAGE
4-002

RESTROOM
2-010
59 SF

GYM
2-010
969 SF

OPEN TO PARKING BELOW.

OPEN TO NORTH ELEV. 4-OBBY BELOW.

OPEN TO SOUTH ELEV. 4-OBBY BELOW.

OPEN TO BATHROOM BELOW.

OPEN TO LOBBY BELOW

OPEN TO MAIL ROOM BELOW.

OPEN TO MAIL ROOM BELOW.

OPEN TO PARCEL STORAGE BELOW.

OPEN TO PARKING BELOW.

OPEN TO OFFICE ROOM BELOW.

OPEN TO MEETING ROOM BELOW.

OPEN TO JANITOR BELOW.

OPEN TO GALLERY BELOW.

OPEN TO FCC BELOW.

OPEN TO SWITCH GEAR ROOM BELOW.

ROOF

ROOF

DROP-OFF AREA

GUEST PARKING

TO DROP-OFF

VEHICULAR ENTRY AND EXIT TO GARAGE

VEHICULAR ENTRY TO DROP-OFF

BACKFLOW PREVENTERS

FPL TRANSF. PAD

VISIBILITY TRIANGLE

AREA FOR FIRE TRUCK

+16'-0" N.G.V.D.

+6'-0" BFE/ +6.67'N.G.V.D.

+6'-0" BFE/ +5'-4 3/4"N.G.V.D.

10'10"-SIDE SETBACK BELOW 30' h.

225'-0"

205'-0"

150'-0"

MAIN SCOPE OF WORK

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SCALE: 3/32" = 1'-0"
0 8' 16' 24'

SECOND LVL. +6'-0" BFE / +16'-0" N.G.V.D.
SIX UNITS PER LEVEL

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Project

LA BAIA NORTH

9461 EAST BAY HARBOR DR.
BAY HARBOR ISLANDS, FLORIDA 33154

Revisions

Owner Information

CONTINUUM LLC

9201 East Bay Harbour Dr
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305.861.8181

Consultant

Luis O. Revuelta
AR-0007972

SITE PLAN REVISION

Date
04.21.22

Scale
AS SHOWN

Project No.
2202

Sheet Name
SECOND LEVEL_ NEW PROPOSAL

Sheet No.
A-104.2

NOT FOR CONSTRUCTION

PREVIOUSLY APPROVED

N

10'-0" SIDE SETBACK BELLOW 30' h.

10'-0" SIDE SETBACK BELLOW 30' h.

20'-0" REAR SETBACK

20'-0" REAR SETBACK

20'-0" FRONT SETBACK BELLOW 30' h.

20'-0" FRONT SETBACK BELLOW 30' h.

225'-0"

205'-0"

UNIT TYPE A-1
3 BEDROOM
1,518 SF

UNIT TYPE B-1
2 BEDROOM
1,192 SF

UNIT TYPE C-2
1 BEDROOM
918 SF

UNIT TYPE C-2 R
1 BEDROOM
918 SF

UNIT TYPE B-1 R
2 BEDROOM
1,192 SF

UNIT TYPE A-1 R
3 BEDROOM
1,518 SF

UNIT TYPE B-3
2 BEDROOM
1,326 SF

UNIT TYPE B-4
2 BEDROOM
1,319 SF

UNIT TYPE B-4 R
2 BEDROOM
1,319 SF

UNIT TYPE B-3 R
2 BEDROOM
1,326 SF

STO. 25 SF

STAIR 1

STAIR 2

SERVICE ELEVATOR

PASSENGER ELEVATOR

+15'-8" BFE / +25'-8" NGVD

N-S

E-W

1 THIRD LEVEL
SCALE: 3/32" = 1'-0"

0 8' 16' 24'

THIRD LV +15'-8" BFE / +25'-8" N.G.V.
TEN UNITS PER LEVEL

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Date
04.21.22

Scale
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Project No.
2202

Sheet Name
THIRD LEVEL

Sheet No.
A-105.1

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NEW PROPOSAL

N

10'-0" SIDE SETBACK BELOW 30' h.

20'-0" REAR SETBACK

20'-0" FRONT SETBACK BELOW 30' h.

20'-0"

10'-0" SIDE SETBACK BELOW 30' h.

10'-0" SIDE SETBACK BELOW 30' h.

225'-0"

205'-0"

UNIT 309
3 BED+DEN
2,109 SF

UNIT 307
2 BED+DEN
1,537 SF

UNIT 303
2 BED+DEN
1,537 SF

UNIT 301
3 BED+DEN
2,109 SF

UNIT 310
2 BED+DEN
1,453 SF

UNIT 308
2 BED+DEN
1,453 SF

UNIT 304
2 BED+DEN
1,453 SF

UNIT 302
2 BED+DEN
1,453 SF

TERRACE
BREEZEWAY

BREEZEWAY

STORAGE 4-010 | STORAGE 4-009 | STORAGE 4-008 | STORAGE 4-007 | STORAGE 4-006 | STORAGE 4-005 | STORAGE 4-004 | STORAGE 4-003 | STORAGE 4-002 | STORAGE 4-001 | STORAGE 4-002 | STORAGE 4-003 | STORAGE 4-004 | STORAGE 4-005 | STORAGE 4-006 | STORAGE 4-007 | STORAGE 4-008 | STORAGE 4-009 | STORAGE 4-010

CORRIDOR 4-001 | CORRIDOR 4-001

+25'-9 1/2" N.G.V.D. | +25'-9 1/2" N.G.V.D.

STAIR #7 3-007 DN UP | STAIR #8 3-006 UP DN

ELEC. ROOM 3-008 | TRASH CHUTE 3-009 | ELEC. ROOM 3-009

PE-4 [3-004] | PE-3 [3-003] | PE-2 [3-002] | PE-1 [3-001]

19 | 8 | 9 | 18 | 17 | 19 | 19 | 19 | 18 | 19

ABOVE PLAN #2

ABOVE PLAN #3

1 THIRD LEVEL

SCALE: 3/32" = 1'-0"

0 8" 16" 24"

THIRD LVL. +15'-8" BFE / +25'-8" N.G.V.D.
EIGHT UNITS PER LEVEL

MAIN SCOPE OF WORK

REDUCTION OF RESIDENTIAL DENSITY FROM CURRENTLY APPROVED 72 DWELLING UNITS TO **57 UNITS**

SUMMARY OF PROPOSED ARCHITECTURAL MODIFICATIONS

1. UNDERGROUND PARKING - REMOVED
2. LARGER EQUIPMENT ROOMS ENCLOSURE
3. ACCESSIBLE WALKWAY - CODE REQUIRED TO CONNECT LOBBY WITH RIGHT OF WAY (SLOPE 5%) EGRESS WALKWAY REQUESTED BY FIRE DEPARTMENT
4. LOCATION OF FPL TRANSFORMER AND SWITCH PADS
5. NEW LOUVER REQUIRED FOR AIR-INTAKE TO EMERGENCY GENERATOR, PAINTED IN SAME COLOR OF ADJACENT WALLS.
6. VERTICAL COMPOSED WOOD SLAT PANELING
   LIGHT COLOR 50% OPENING.
7. LOUVERS FOR PARKING VENTILATION/IN-TAKE
8. NEW BREEZEWAY TERRACE
9. NEW LANDSCAPE DESIGN
10. NEW STEPPING BREEZEWAY FRAME
11. REVISED DROP OFF AND EXTERIOR PARKING REDESIGNED LANSDCAPE
12. VERTICAL STUCCO/PAINTED BUILDING FRAMES
13. REVISED RAILING DESIGN, 2 TYPES: ONE WITH ALUMINUM AT THE BOTTOM AND GLASS ON TOP, AND OTHER WITH FULL GLASS.
14. FLOOD VENT LOCATION. G.C TO PROVIDE SHOP DRAWINGS AND CALCULATIONS FOR A/E REVIEW.
15. NEW COMMUNAL ROOM.
16. RELOCATED LOBBY
17. NEW PASSENGER ELEVATOR
18. RELOCATED STAIRS
19. REVISED BALCONIES RESPONDING TO NEW UNITS SIZES.

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Project

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Consultant

Luis O. Revuelta
AR-0007972

SITE PLAN REVISION

Date
04.21.22

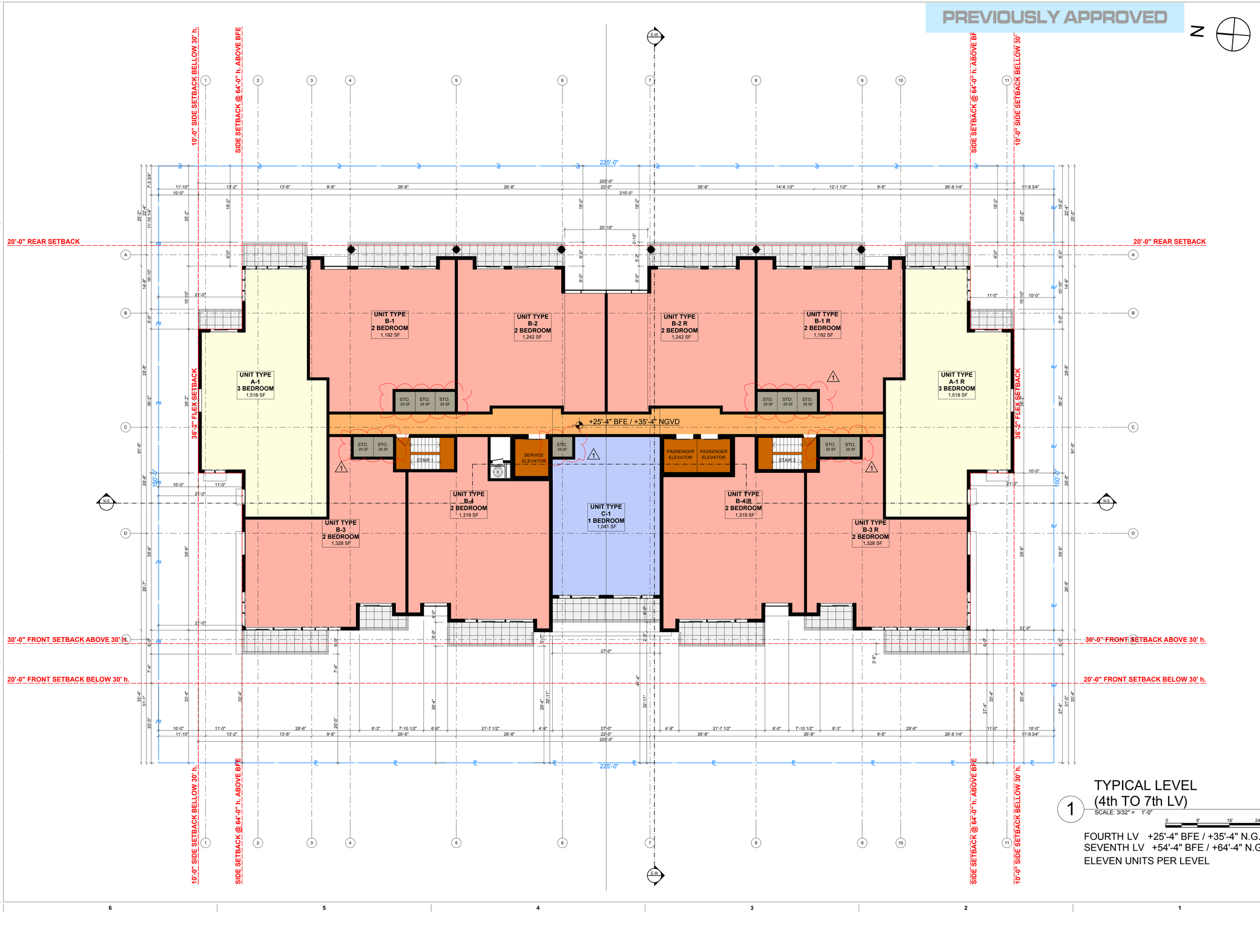
Scale
AS SHOWN

Project No.
2202

Sheet Name
THIRD LEVEL_ NEW PROPOSAL

Sheet No.
A-105.2

PREVIOUSLY APPROVED



TYPICAL LEVEL (4th TO 7th LV)

1 SCALE: 3/32" = 1'-0"

0 8' 16' 24'

FOURTH LV +25'-4" BFE / +35'-4" N.G.V.D.
SEVENTH LV +54'-4" BFE / +64'-4" N.G.V.D.
ELEVEN UNITS PER LEVEL

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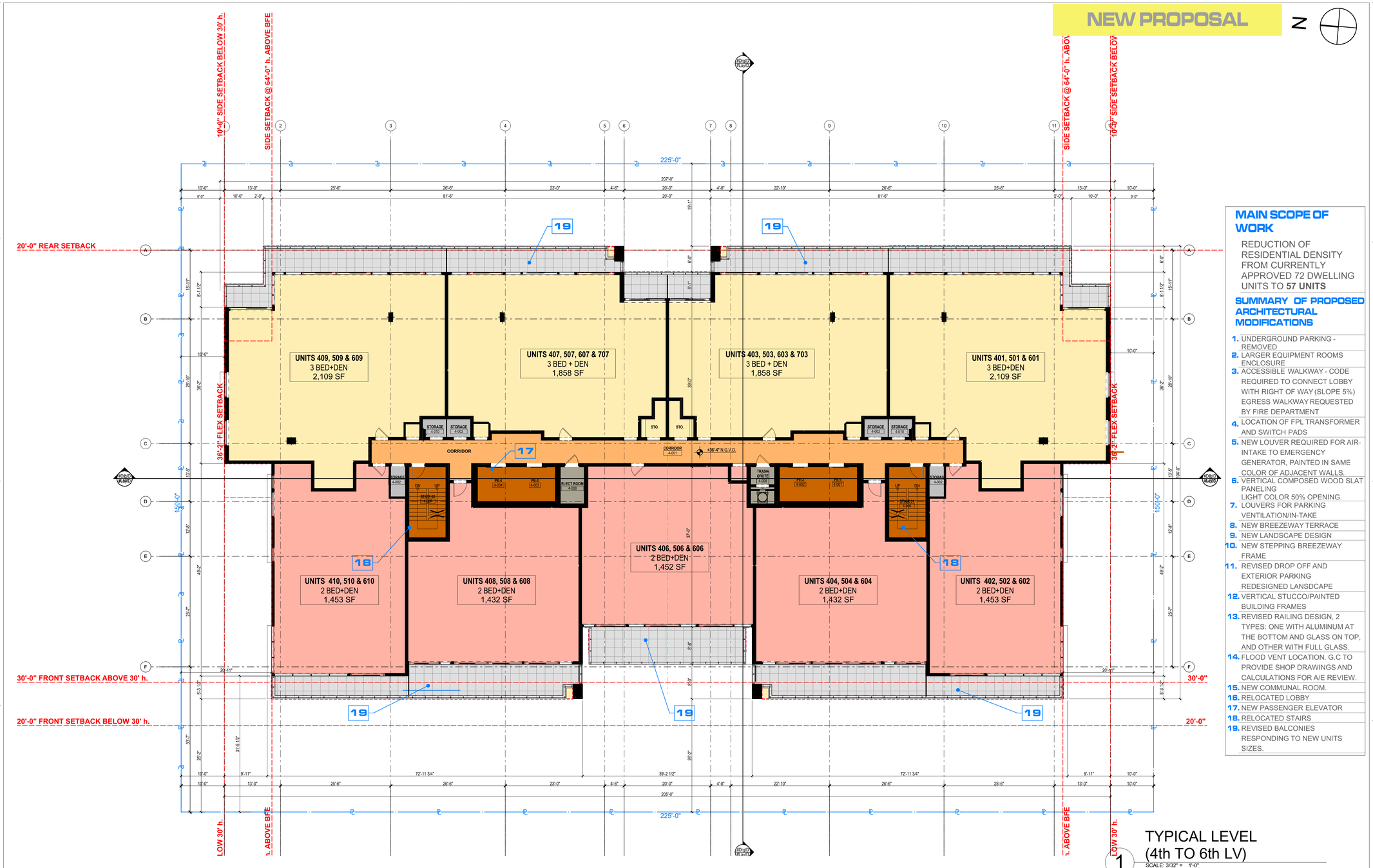
Scale
AS SHOWN

Project No.
2202

Sheet Name
TYPICAL LEVEL (4th to 7th LV)

Sheet No.
A-106.1

NOT FOR CONSTRUCTION



MAIN SCOPE OF WORK

REDUCTION OF RESIDENTIAL DENSITY FROM CURRENTLY APPROVED 72 DWELLING UNITS TO **57 UNITS**

SUMMARY OF PROPOSED ARCHITECTURAL MODIFICATIONS

1. UNDERGROUND PARKING - REMOVED
2. LARGER EQUIPMENT ROOMS ENCLOSURE
3. ACCESSIBLE WALKWAY - CODE REQUIRED TO CONNECT LOBBY WITH RIGHT OF WAY (SLOPE 5%) EGRESS WALKWAY REQUESTED BY FIRE DEPARTMENT
4. LOCATION OF FPL TRANSFORMER AND SWITCH PADS
5. NEW LOUVER REQUIRED FOR AIR-INTAKE TO EMERGENCY GENERATOR, PAINTED IN SAME COLOR OF ADJACENT WALLS.
6. VERTICAL COMPOSED WOOD SLAT PANELING LIGHT COLOR 50% OPENING.
7. LOUVERS FOR PARKING VENTILATION/IN-TAKE
8. NEW BREEZEWAY TERRACE
9. NEW LANDSCAPE DESIGN
10. NEW STEPPING BREEZEWAY FRAME
11. REVISED DROP OFF AND EXTERIOR PARKING REDESIGNED LANSDCAPE
12. VERTICAL STUCCO/PAINTED BUILDING FRAMES
13. REVISED RAILING DESIGN, 2 TYPES: ONE WITH ALUMINUM AT THE BOTTOM AND GLASS ON TOP, AND OTHER WITH FULL GLASS.
14. FLOOD VENT LOCATION. G.C TO PROVIDE SHOP DRAWINGS AND CALCULATIONS FOR A/E REVIEW.
15. NEW COMMUNAL ROOM.
16. RELOCATED LOBBY
17. NEW PASSENGER ELEVATOR
18. RELOCATED STAIRS
19. REVISED BALCONIES RESPONDING TO NEW UNITS SIZES.

TYPICAL LEVEL (4th TO 6th LV)

1 SCALE: 3/32" = 1'-0"

0 8' 16' 24'

FOURTH LVL. +25'-4" BFE / +35'-4" N.G.V.D.
SIXTH LVL. +44'-8" BFE / +54'-8" N.G.V.D.
NINE UNITS PER LEVEL

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Consultant

Luis O. Revuelta
AR-0007972

SITE PLAN REVISION

Date
04.21.22

Scale
AS SHOWN

Project No.
2202

Sheet Name
TYPICAL LEVEL (4th to 6th LV)_NEW PROPOSAL

Sheet No.
A-106.2

PREVIOUSLY APPROVED

10'-0" SIDE SETBACK BELLOW 30' h.
SIDE SETBACK @ 64'-0" h. ABOVE BFE
SIDE SETBACK @ 64'-0" h. ABOVE BFE
10'-0" SIDE SETBACK BELLOW 30' h.
20'-0" REAR SETBACK
20'-0" REAR SETBACK
36'-2" FLEX SETBACK
36'-2" FLEX SETBACK
30'-0" FRONT SETBACK ABOVE 30' h.
30'-0" FRONT SETBACK ABOVE 30' h.
20'-0" FRONT SETBACK BELOW 30' h.
20'-0" FRONT SETBACK BELOW 30' h.
225'-0"
215'-0"
205'-0"
150'-0"
+25'-4" BFE / +35'-4" NGVD

UNIT TYPE A-1 3 BEDROOM 1,518 SF
UNIT TYPE B-1 2 BEDROOM 1,192 SF
UNIT TYPE B-2 2 BEDROOM 1,242 SF
UNIT TYPE B-2 R 2 BEDROOM 1,242 SF
UNIT TYPE B-1 R 2 BEDROOM 1,192 SF
UNIT TYPE A-1 R 3 BEDROOM 1,518 SF
UNIT TYPE B-4 2 BEDROOM 1,319 SF
UNIT TYPE B-4R 2 BEDROOM 1,319 SF
UNIT TYPE C-1 1 BEDROOM 1,041 SF
UNIT TYPE B-3 2 BEDROOM 1,328 SF
UNIT TYPE B-3 R 2 BEDROOM 1,328 SF

STO. 25 SF
STAIR 1
STAIR 2
SERVICE ELEVATOR
PASSENGER ELEVATOR
PASSENGER ELEVATOR

TYPICAL LEVEL (4th TO 7th LV)

1 SCALE: 3/32" = 1'-0"

0 8' 16' 24'

FOURTH LV +25'-4" BFE / +35'-4" N.G.V.D.
SEVENTH LV +54'-4" BFE / +64'-4" N.G.V.D.
ELEVEN UNITS PER LEVEL

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SITE PLAN REVISION

Date
04.21.22

Scale
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Project No.
2202

Sheet Name
SEVENTH LEVEL

Sheet No.
A-107.1

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NEW PROPOSAL

N

10'-0" SIDE SETBACK BELOW 30' h.
22'-0" SIDE SETBACK @ 7th LEVEL
22'-0" SIDE SETBACK @ 7th
10'-0" SIDE SETBACK BELOW
20'-0" REAR SETBACK
30'-0" FRONT SETBACK ABOVE 30' h.
20'-0" FRONT SETBACK BELOW 30' h.
36'-2" FLEX SETBACK

225'-0"

UNIT 709
3 BED+DEN
2,076 SF

UNIT 407, 507, 607 & 707
3 BED+DEN
1,823 SF

UNIT 403, 503, 603 & 703
3 BED+DEN
1,823 SF

UNIT 701
3 BED+DEN
2,076 SF

UNIT 710
3 BED
1,834 SF

UNIT 708
3 BED + DEN
1,616 SF

UNIT 704
3 BED + DEN
1,616 SF

UNIT 702
3 BED
1,834 SF

CORRIDOR 7-001
+65'-4" N.G.V.D.
STAIR 03 7-007
STAIR 01 7-005
ELECT ROOM 4-008
TRASH CHUTE 7-008
PE-4 7-004
PE-3 7-003
PE-2 7-002
PE-1 7-001
STORAGE

MAIN SCOPE OF WORK

REDUCTION OF RESIDENTIAL DENSITY FROM CURRENTLY APPROVED 72 DWELLING UNITS TO **57 UNITS**

SUMMARY OF PROPOSED ARCHITECTURAL MODIFICATIONS

1. UNDERGROUND PARKING - REMOVED
2. LARGER EQUIPMENT ROOMS ENCLOSURE
3. ACCESSIBLE WALKWAY - CODE REQUIRED TO CONNECT LOBBY WITH RIGHT OF WAY (SLOPE 5%) EGRESS WALKWAY REQUESTED BY FIRE DEPARTMENT
4. LOCATION OF FPL TRANSFORMER AND SWITCH PADS
5. NEW LOUVER REQUIRED FOR AIR-INTAKE TO EMERGENCY GENERATOR, PAINTED IN SAME COLOR OF ADJACENT WALLS.
6. VERTICAL COMPOSED WOOD SLAT PANELING LIGHT COLOR 50% OPENING.
7. LOUVERS FOR PARKING VENTILATION/IN-TAKE
8. NEW BREEZEWAY TERRACE
9. NEW LANDSCAPE DESIGN
10. NEW STEPPING BREEZEWAY FRAME
11. REVISED DROP OFF AND EXTERIOR PARKING REDESIGNED LANSDCAPE
12. VERTICAL STUCCO/PAINTED BUILDING FRAMES
13. REVISED RAILING DESIGN, 2 TYPES: ONE WITH ALUMINUM AT THE BOTTOM AND GLASS ON TOP, AND OTHER WITH FULL GLASS.
14. FLOOD VENT LOCATION. G.C TO PROVIDE SHOP DRAWINGS AND CALCULATIONS FOR A/E REVIEW.
15. NEW COMMUNAL ROOM.
16. RELOCATED LOBBY
17. NEW PASSENGER ELEVATOR
18. RELOCATED STAIRS
19. REVISED BALCONIES RESPONDING TO NEW UNITS SIZES.

1 SEVENTH LEVEL

SCALE: 3/32" = 1'-0"

0 8' 16' 24'

SEVENTH LVL. +54'-4" BFE / +64'-4" N.G.V.D.
EIGHT UNITS PER LEVEL

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Consultant

Luis O. Revuelta
AR-0007972

SITE PLAN REVISION

Date
04.21.22

Scale
AS SHOWN

Project No.
2202

Sheet Name
SEVENTH LEVEL_ NEW PROPOSAL

Sheet No.
A-107.2

NOT FOR CONSTRUCTION

PREVIOUSLY APPROVED

N

SIDE SETBACK @ 30'-0" ABOVE BFE

SIDE SETBACK @ 72'-0" ABOVE BFE

20'-0" REAR SETBACK

30'-0" FRONT SETBACK ABOVE 30' h.

36'-2" FLEX SETBACK

UNIT TYPE B-1 2 BEDROOM 1,192 SF

UNIT TYPE B-2 2 BEDROOM 1,242 SF

UNIT TYPE B-2 R 2 BEDROOM 1,242 SF

UNIT TYPE B-1 R 2 BEDROOM 1,192 SF

UNIT TYPE A-1 3 BEDROOM 1,429 SF

UNIT TYPE A-1 R 3 BEDROOM 1,429 SF

UNIT TYPE B-4 2 BEDROOM 1,319 SF

UNIT TYPE B-4 R 2 BEDROOM 1,319 SF

UNIT TYPE C-1 1 BEDROOM 1,041 SF

UNIT TYPE B-3 2 BEDROOM 1,158 SF

UNIT TYPE B-3 R 2 BEDROOM 1,158 SF

STO. 25 SF

STAIR 1

STAIR 2

SERVICE ELEVATOR

PASSENGER ELEVATOR

+64'-0" BFE / +74'-0" NGVD

1 EIGHTH LEVEL

SCALE: 3/32" = 1'-0"

EIGHTH LV +64'-0" BFE / +74'-0" N.G.V.D.
ELEVEN UNITS PER LEVEL

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Date
04.21.22

Scale
AS SHOWN

Project No.
2202

Sheet Name
EIGHTH LEVEL

Sheet No.
A-108.1

NOT FOR CONSTRUCTION

NEW PROPOSAL

N

10'-0" SIDE SETBACK BELOW 30' h.
25'-0" SIDE SETBACK @ 8TH LEVEL
20'-0" REAR SETBACK
30'-0" FRONT SETBACK ABOVE 30' h.
36'-2" FLEX SETBACK
225'-0"
206'-11 9/16"
205'-0"
112'-1 1/4"
71'-0 3/4"
+75'-0" N.G.V.D.

UNIT 809
3 BED + DEN
2,076 SF

UNIT 807
3 BED + DEN
1,823 SF

UNIT 803
3 BED + DEN
1,823 SF

UNIT 801
3 BED + DEN
2,076 SF

UNIT 810
3 BED
1,834 SF

UNIT 808
2 BED + DEN
1,616 SF

UNIT 804
2 BED + DEN
1,616 SF

UNIT 802
3 BED
1,834 SF

CORRIDOR 4-001
STORAGE 8-010
STORAGE 8-002
STAIR 03 8-007
STAIR 01 8-005
ELECT ROOM 4-008
TRASH CHUTE 4-009
PIT-1 8-003
PIT-2 8-004
PIT-3 8-005
PIT-4 8-006
PIT-5 8-001

17 18 19

MAIN SCOPE OF WORK

REDUCTION OF RESIDENTIAL DENSITY FROM CURRENTLY APPROVED 72 DWELLING UNITS TO **57 UNITS**

SUMMARY OF PROPOSED ARCHITECTURAL MODIFICATIONS

1. UNDERGROUND PARKING - REMOVED
2. LARGER EQUIPMENT ROOMS ENCLOSURE
3. ACCESSIBLE WALKWAY - CODE REQUIRED TO CONNECT LOBBY WITH RIGHT OF WAY (SLOPE 5%) EGRESS WALKWAY REQUESTED BY FIRE DEPARTMENT
4. LOCATION OF FPL TRANSFORMER AND SWITCH PADS
5. NEW LOUVER REQUIRED FOR AIR-INTAKE TO EMERGENCY GENERATOR, PAINTED IN SAME COLOR OF ADJACENT WALLS.
6. VERTICAL COMPOSED WOOD SLAT PANELING
   LIGHT COLOR 50% OPENING.
7. LOUVERS FOR PARKING VENTILATION/IN-TAKE
8. NEW BREEZEWAY TERRACE
9. NEW LANDSCAPE DESIGN
10. NEW STEPPING BREEZEWAY FRAME
11. REVISED DROP OFF AND EXTERIOR PARKING REDESIGNED LANSDCAPE
12. VERTICAL STUCCO/PAINTED BUILDING FRAMES
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16. RELOCATED LOBBY
17. NEW PASSENGER ELEVATOR
18. RELOCATED STAIRS
19. REVISED BALCONIES RESPONDING TO NEW UNITS SIZES.

1 EIGHTH LEVEL

SCALE: 3/32" = 1'-0"

0 8' 16' 24'

EIGHTH LVL. +64'-0" BFE / +74'-0" N.G.V.D.
EIGHT UNITS PER LEVEL

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Consultant

Luis O. Revuelta
AR-0007972

SITE PLAN REVISION

Date
04.21.22

Scale
AS SHOWN

Project No.
2202

Sheet Name
EIGHTH LEVEL_ NEW PROPOSAL

Sheet No.
A-108.2

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PREVIOUSLY APPROVED

N

E-W

N-S

SIDE SETBACK @ 30'-0" ABOVE BFE

SIDE SETBACK @ 75'-0" ABOVE BFE

SIDE SETBACK @ 75'-0" ABOVE

SIDE SETBACK @ 30'-0" ABOVE

0'-0" REAR SETBACK

20'-0" REAR SETBACK

0'-0" FRONT SETBACK ABOVE 30' h.

30'-0" FRONT SETBACK ABOVE 30' h.

36'-2" FLEX SETBACK

PRIVATE TERRACE

POOL EQUIPMENT
94 SF

POOL UNDER SEPARATE PERMIT

WET BAR

POOL STORAGE
94 SF

STAIR 2

ELEVATOR LOBBY

SERVICE ELEVATOR

RESTROOMS
76 SF

PASSENGER ELEVATOR

+79'-4" BFE / +89'-4" NGVD

+75'-0" BFE / +85'-0" NGVD

MECHANICAL AREA

3'-6" SCREENING PARAPET

205'-0"

175'-0"

75'-0"

1 ROOF LEVEL
SCALE: 3/32" = 1'-0"

ROOF LV+75'-0" BFE / +85'-0" N.G.V.D.

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Project No.
2202

Sheet Name
ROOF LEVEL

Sheet No.
A-109.1

NOT FOR CONSTRUCTION

NEW PROPOSAL

N

10'-0" SIDE SETBACK BELOW 30' h.
25'-0" SIDE SETBACK @ 8TH LEVEL
25'-0" SIDE SETBACK @ 8TH LEVEL
10'-0" SIDE SETBACK BELOW 30' h.
20'-0" REAR SETBACK
36'-2" FLEX SETBACK
36'-2" FLEX SETBACK
30'-0" FRONT SETBACK ABOVE 30' h.
30'-0" FRO

225'-0"
205'-0"
183'-2"
150'-0"

PLANTER
ARCHITECTURAL FEATURE ABOVE
WET BAR
COVERED TERRACE
D.A.S. ROOM 9-014
CONTROL ROOM ELEV 3 9-016
CONTROL ROOM ELEV 1 & 2 9-013
J/C 9-012
POOL (UNDER SEPARATE PERMIT)
SPA (UNDER SEPARATE PERMIT)
ELEVATOR LOBBY 9-001
ELEVATOR LOBBY 9-001
STAIR 02 9-007
STAIR 01 9-006
PE-4 (LOW) 9-004
PE-3 (LOW) 9-003
PE-2 (LOW) 9-002
PE-1 (LOW) 9-001
RESTROOM 9-010
RESTROOM 9-009
AQUATIC EQUIP. 2 9-015
AQUATIC EQUIP. 1 9-011
MECHANICAL AREA
+86'-0" N.G.V.D. T.O.S.
+91'-0" N.G.V.D.
+86'-8" N.G.V.D.
+75'-0" BFE / +85'-0" N.G.V.D.
UP

MAIN SCOPE OF WORK

REDUCTION OF RESIDENTIAL DENSITY FROM CURRENTLY APPROVED 72 DWELLING UNITS TO **57 UNITS**

SUMMARY OF PROPOSED ARCHITECTURAL MODIFICATIONS

1. UNDERGROUND PARKING - REMOVED
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1 ROOF LEVEL

SCALE: 3/32" = 1'-0"

0 8' 16' 24'

ROOF LVL. +75'-0" BFE / +85'-0" N.G.V.D.

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SITE PLAN REVISION

Date
04.21.22

Scale
AS SHOWN

Project No.
2202

Sheet Name
ROOF LEVEL_ NEW PROPOSAL

Sheet No.
A-109.2

NOT FOR CONSTRUCTION

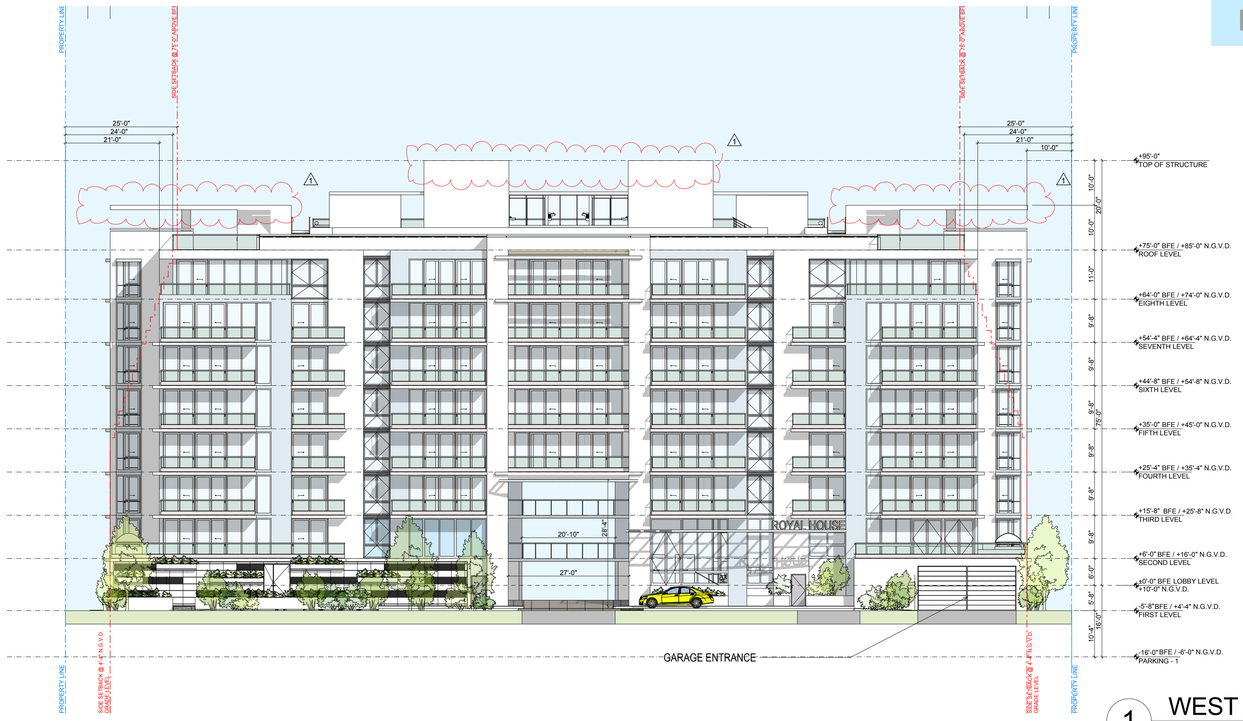
MAIN SCOPE OF WORK

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20. ARCHITECTURAL FEATURE. FRAME CONNECTING STAIRS AND ELEVATOR TOWERS.

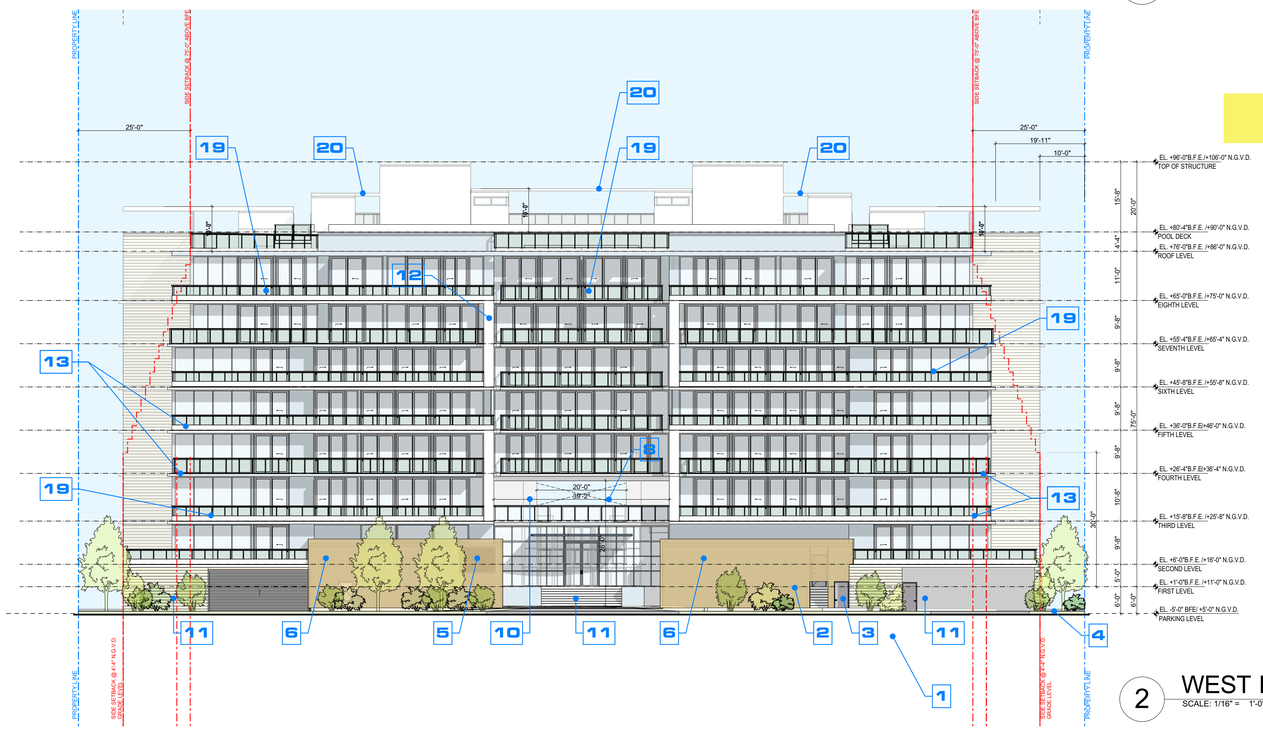
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1 WEST ELEVATION

SCALE: 1/16" = 1'-0"

NEW PROPOSAL



2 WEST ELEVATION

SCALE: 1/16" = 1'-0"

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SITE PLAN REVISION

Date
04.21.22

Scale
AS SHOWN

Project No.
2202

Sheet Name
WEST ELEVATION

Sheet No.
A-401

NOT FOR CONSTRUCTION

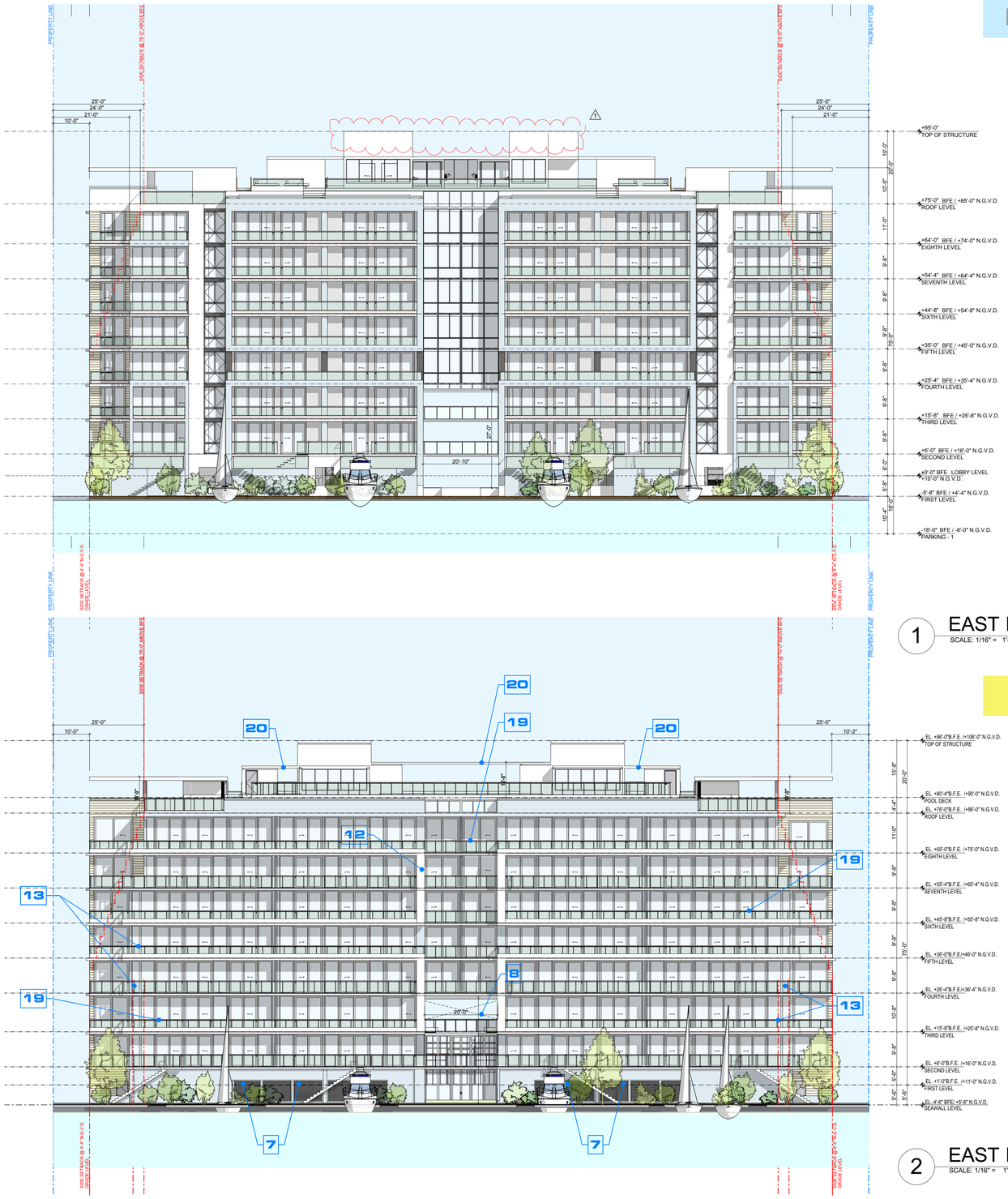
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1 EAST ELEVATION
SCALE: 1/16" = 1'-0"

NEW PROPOSAL

2 EAST ELEVATION
SCALE: 1/16" = 1'-0"

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SITE PLAN REVISION

Date
04.21.22

Scale
AS SHOWN

Project No.
2202

Sheet Name
EAST ELEVATION

Sheet No.
A-402

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PREVIOUSLY APPROVED

MAIN SCOPE OF WORK

REDUCTION OF RESIDENTIAL DENSITY FROM CURRENTLY APPROVED 72 DWELLING UNITS TO **57 UNITS**

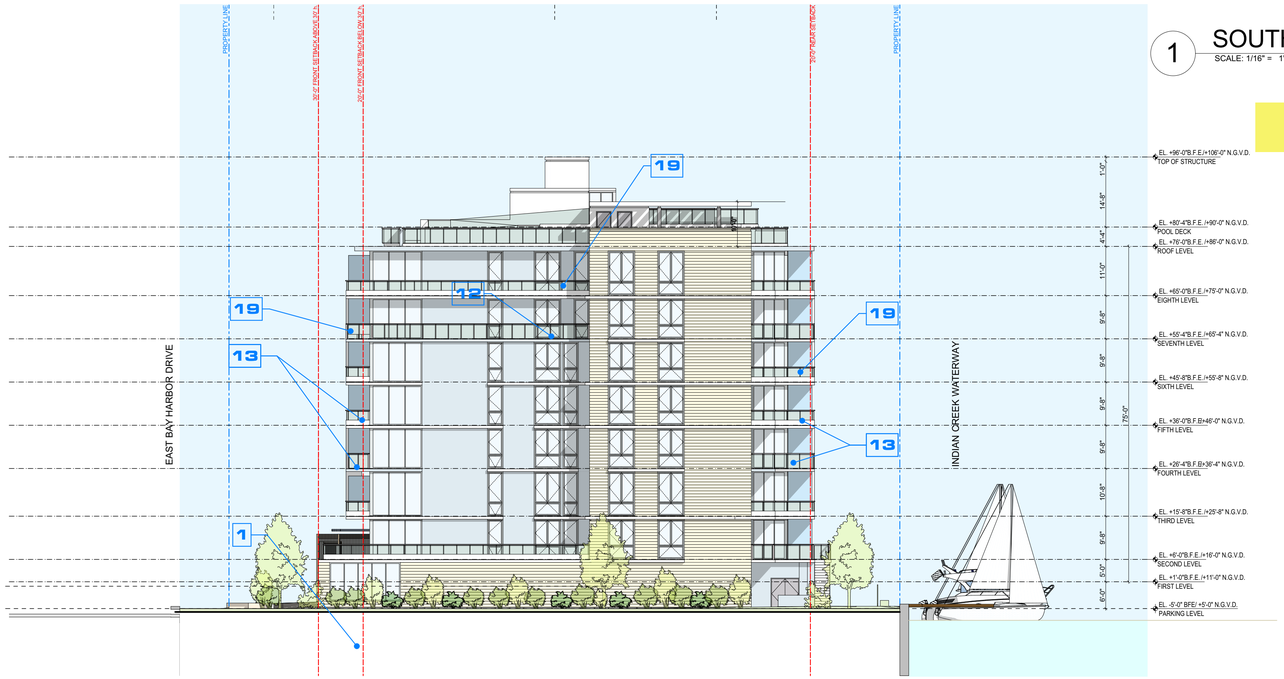
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1 SOUTH ELEVATION
SCALE: 1/16" = 1'-0"

NEW PROPOSAL



2 SOUTH ELEVATION
SCALE: 1/16" = 1'-0"

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Consultant

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SITE PLAN REVISION

Date
04.21.22

Scale
AS SHOWN

Project No.
2202

Sheet Name
SOUTH ELEVATION

Sheet No.
A-403

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MAIN SCOPE OF WORK

REDUCTION OF RESIDENTIAL DENSITY FROM CURRENTLY APPROVED 72 DWELLING UNITS TO **57 UNITS**

SUMMARY OF PROPOSED ARCHITECTURAL MODIFICATIONS

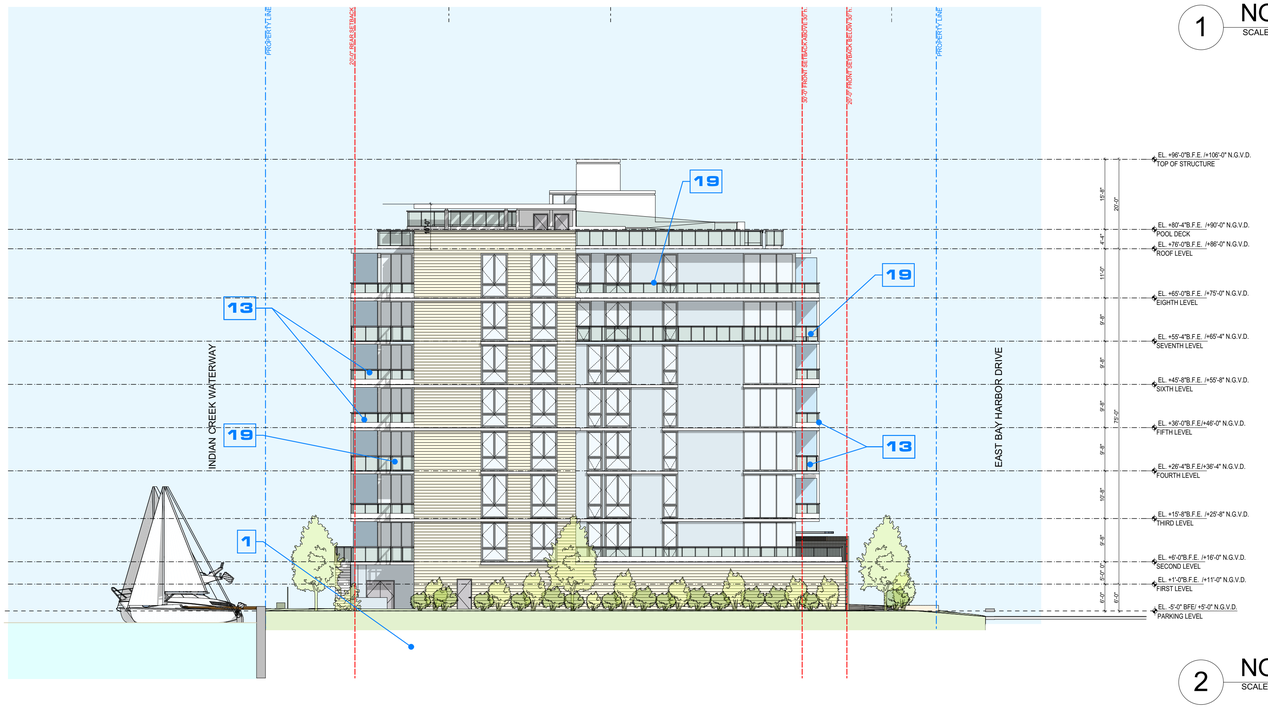
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PREVIOUSLY APPROVED



1 NORTH ELEVATION
SCALE: 1/16" = 1'-0"

NEW PROPOSAL



2 NORTH ELEVATION
SCALE: 1/16" = 1'-0"

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SITE PLAN REVISION

Date
04.21.22

Scale
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Project No.
2202

Sheet Name
NORTH ELEVATION

Sheet No.
A-404

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1 3D VIEW - STREET FRONT

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2202

Sheet Name
3D VIEW - STREET FRONT

Sheet No.
A-405

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1 3D VIEW - WATER FRONT

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2202

Sheet Name

3D VIEW - WATER FRONT

Sheet No.
A-406

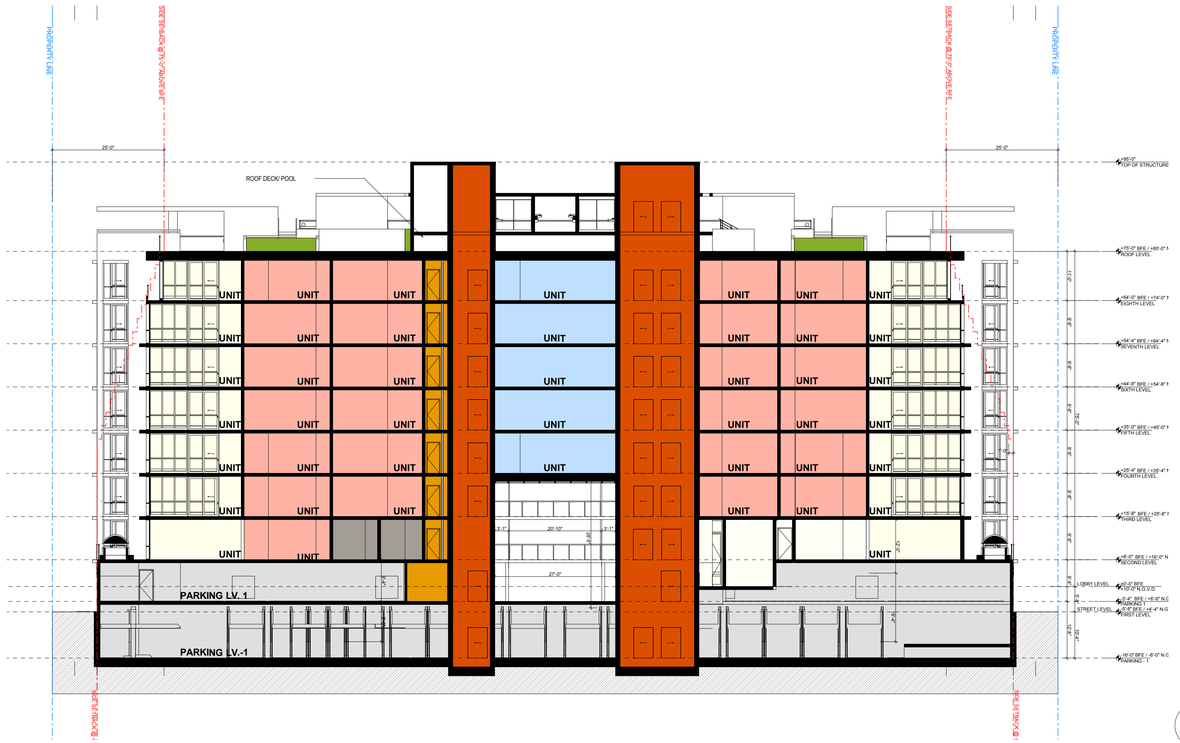
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MAIN SCOPE OF WORK

REDUCTION OF RESIDENTIAL DENSITY FROM CURRENTLY APPROVED 72 DWELLING UNITS TO **57 UNITS**

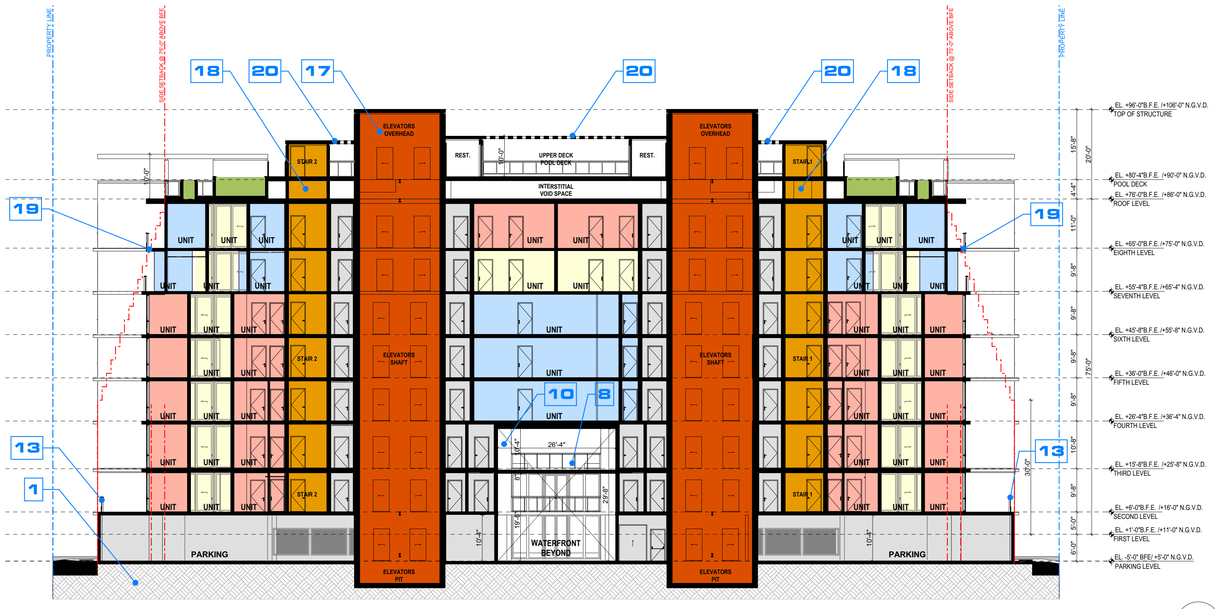
SUMMARY OF PROPOSED ARCHITECTURAL MODIFICATIONS

1. UNDERGROUND PARKING - REMOVED
2. LARGER EQUIPMENT ROOMS ENCLOSURE
3. ACCESSIBLE WALKWAY - CODE REQUIRED TO CONNECT LOBBY WITH RIGHT OF WAY (SLOPE 5%) EGRESS WALKWAY REQUESTED BY FIRE DEPARTMENT
4. LOCATION OF FPL TRANSFORMER AND SWITCH PADS
5. NEW LOUVER REQUIRED FOR AIR-INTAKE TO EMERGENCY GENERATOR, PAINTED IN SAME COLOR OF ADJACENT WALLS.
6. VERTICAL COMPOSED WOOD SLAT PANELING LIGHT COLOR 50% OPENING.
7. LOUVERS FOR PARKING VENTILATION/IN-TAKE
8. NEW BREEZEWAY TERRACE
9. NEW LANDSCAPE DESIGN
10. NEW STEPPING BREEZEWAY FRAME
11. REVISED DROP OFF AND EXTERIOR PARKING REDESIGNED LANSDCAPE
12. VERTICAL STUCCO/PAINTED BUILDING FRAMES
13. REVISED RAILING DESIGN, 2 TYPES: ONE WITH ALUMINUM AT THE BOTTOM AND GLASS ON TOP, AND OTHER WITH FULL GLASS.
14. FLOOD VENT LOCATION. G.C TO PROVIDE SHOP DRAWINGS AND CALCULATIONS FOR A/E REVIEW.
15. NEW COMMUNAL ROOM.
16. RELOCATED LOBBY
17. NEW PASSENGER ELEVATOR
18. RELOCATED STAIRS
19. REVISED BALCONIES RESPONDING TO NEW UNITS SIZES.
20. ARCHITECTURAL FEATURE. FRAME CONNECTING STAIRS AND ELEVATOR TOWERS.



1 N-S SECTION
SCALE: 1/16" = 1'-0"

NEW PROPOSAL



2 N-S SECTION
SCALE: 1/16" = 1'-0"

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File: BIM\cloud: RA1-SERVER1 - BIM\cloud Basic for Archicad 25\2202_LA BAIA_NORTH\2202_LA BAIA - NORTH - By:ychung - Date: 5/13/2022

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Project

LA BAIA NORTH

9461 EAST BAY HARBOR DR.
BAY HARBOR ISLANDS, FLORIDA 33154

Revisions

Owner Information

CONTINUUM LLC

9201 East Bay Harbour Dr
Bay Harbour Islands, Fl 33154
305.861.8181

Consultant

Luis O. Revuelta
AR-0007972

SITE PLAN REVISION

Date
04.21.22

Scale
AS SHOWN

Project No.
2202

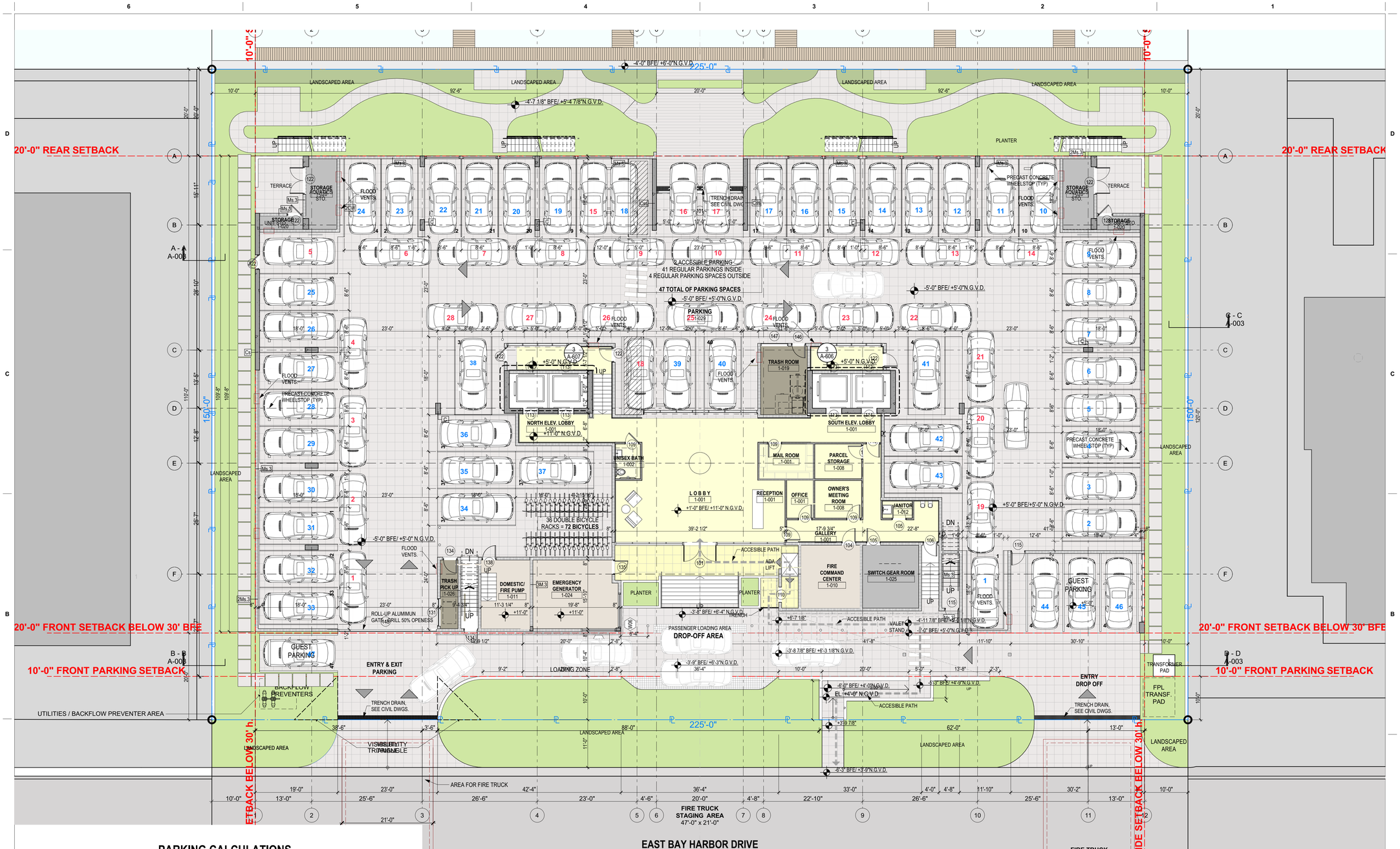
Sheet Name
N-S SECTION

Sheet No.
A-501

LA BAIA NORTH

APPENDIX A - VALET PARKING LAYOUT

9461 EAST BAY HARBOR DR.



PARKING CALCULATIONS
57 UNITS x 2 = **114 UN**

REGULAR PARKING PROVIDED = 47 UN
VALET PARKING CALCULATED = 28 UN

BALANCE PARKING TRUST = 39 UN

PARKING BREAKDOWN:
PARKING INTERIOR PROVIDED = 43 UN
PARKING EXTERIOR PROVIDED = 4 UN
SUB-TOTAL PARKING PROVIDED = 47 UN
VALET PARKING CALCULATED = 28 UN

TOTAL PARKING PROVIDED = 75 UN

LEGEND:
REGULAR PARKING PROVIDED - **BLUE**
VALET PARKING PROPOSED - **RED**

VALET PARKING LAYOUT

1 LOBBY LEVEL - FLOOR PLAN
SCALE: 3/32" = 1'-0"

N

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04.21.22

Scale
AS SHOWN

Project No.
2202

Sheet Name
LOBBY LEVEL - FLOOR PLAN

Sheet No.
A-601

LEGAL DESCRIPTION:

FOLIO NUMBER 13-2227-001-0050

Lot 6, Block 1, BAY HARBOR ISLAND, a subdivision according to the map or Plat thereof recorded in Plat Book 46, Page 5, of the Public Records of Miami-Dade County, Florida.

FOLIO NUMBER 13-2227-001-0060

Lot 7, Block 1, BAY HARBOR ISLAND, a subdivision according to the map or Plat thereof, as recorded in Plat Book 46, Page 5, of the Public Records of Miami-Dade County, Florida.

FOLIO NUMBER 13-2227-001-0070

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THE LOCATION AND SIZE OF ALL EXISTING UTILITIES SHOWN ON THE PLANS ARE APPROXIMATE AND ARE BASED ON THE BEST AVAILABLE INFORMATION. ADDITIONAL UTILITIES MAY EXIST WHICH ARE NOT SHOWN ON THE PLANS. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE LOCATION OF ALL EXISTING UTILITIES. THE CONTRACTOR SHALL VERIFY ALL UTILITIES, BY ELECTRONIC METHODS AND BY HAND EXCAVATION IN COORDINATION WITH ALL UTILITY COMPANIES, PRIOR TO BEGINNING ANY CONSTRUCTION OPERATIONS. CONTRACTOR SHALL NOTIFY THE ENGINEER IN WRITING OF DISCREPANCIES PRIOR TO BEGINNING WORK. ANY AND ALL CONFLICTS OF EXISTING UTILITIES WITH PROPOSED IMPROVEMENTS SHALL BE RESOLVED BY THE ENGINEER AND THE UTILITY OWNER PRIOR TO BEGINNING ANY CONSTRUCTION OPERATIONS. THIS WORK BY THE CONTRACTOR SHALL BE CONSIDERED INCIDENTAL TO THE CONTRACT AND NO ADDITIONAL COMPENSATION SHALL BE ALLOWED.

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NOTES:

1. EXISTING GUTTER TO BE REPLACED WHERE CRACKED OR DAMAGED.
2. MAXIMUM CROSS SLOPE ON WALKWAYS TO BE 2%.
3. MAXIMUM LENGTH WISE SLOPE ON WALKWAYS TO BE 5%.
4. CONNECT ALL ROOF DRAINS TO DRAINAGE WELL.
5. CONTRACTOR TO COORDINATE CONSTRUCTION OF DRAINAGE SYSTEM WITH WATER, FIRE AND IRRIGATION PIPES.
6. ALL EXISTING AND PROPOSED ELEVATIONS ARE REFERENCED TO NGVD 1929.
8. ALL DRAINAGE PIPE TO HAVE MINIMUM 1% (⅛ INCH/FT) SLOPE.
9. REFER TO PLUMBING PLANS FOR INFORMATION ON ROOF DRAINS AND CONDENSATE LINES.

GENERAL NOTES:

1. ALL EXISTING VALLEY GUTTER SHALL BE REPLACED WITH F-CURB EXCEPT WHERE VEHICULAR & PEDESTRIAN ACCESS IS ALLOWED. EXISTING VALLEY GUTTER SHALL BE COMPLETELY DEMOLISHED & REPLACED; MODIFICATION OF THE EXISTING VALLEY GUTTER IS NOT ALLOWED.
2. ALL WORK WITHIN THE BUILDING MUST BE PERFORMED BY A LICENSED CONTRACTOR PER THE FLORIDA BUILDING CODE. ALL MATERIALS MUST MEET THE REQUIREMENTS OF THE FLORIDA BUILDING CODE.
3. REFER TO SHEET C-2 FOR LOCATION OF FIRE DEPARTMENT STAGING AREA.
4. DRAINAGE TO BE RETAINED ON-SITE AND NOT DISCHARGE ONTO ADJACENT PROPERTY.
5. ONLY ROOF DRAINS AND CONDENSATE LINES CAN GO TO THE WELL. ALL OTHER DRAINS TO EXFILTRATION TRENCH.
6. RESTORATION SHALL BE IN ACCORDANCE WITH FDOT STANDARDS. ALL DAMAGED VALLEY GUTTER AND F-CURB SHALL BE REMOVED WITHOUT DAMAGING ADJACENT ROADWAY. THE FINISH ON THE NEW VALLEY GUTTER AND F-CURB SECTIONS SHALL MATCH EXISTING.

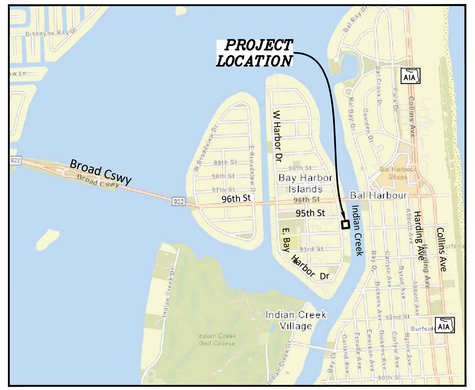
FLOOD INFORMATION:

Control panel number: 12086C0144L
Flood zone: "AE"
Base flood elevation: 8.00' NGVD

REFER TO LANDSCAPE PLANS FOR WALKWAY AND DRIVEWAY MATERIALS AND FINISHES

ALL STORMWATER IS TO BE RETAINED ONSITE

NEW PROPOSAL

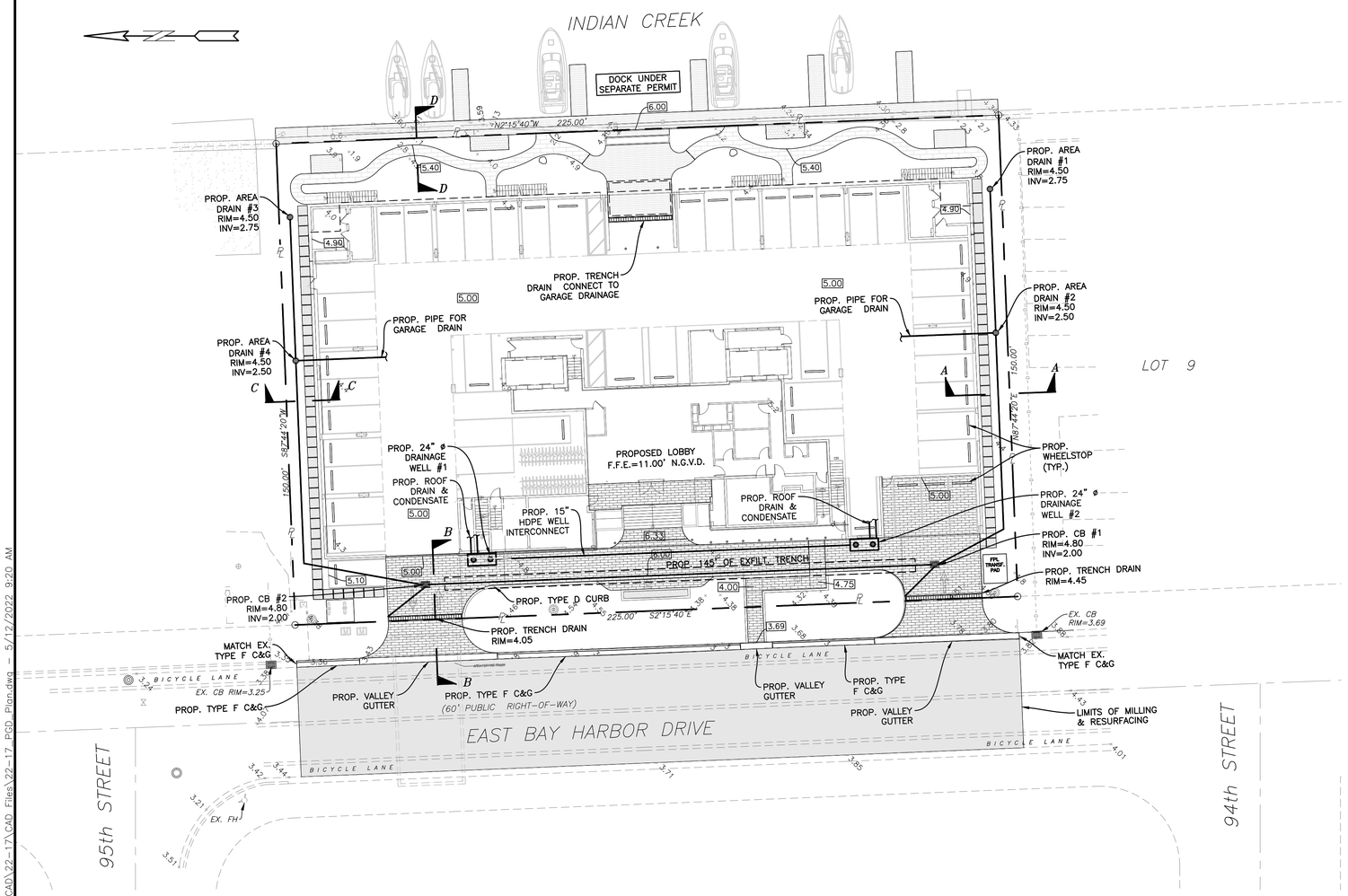


LOCATION MAP

N.T.S.

SEC 35, TWSP 52S, RNG 42E

NOTE:
ALL ELEVATIONS ARE REFERENCED TO N.G.V.D. 1929



LEGEND

- PROPOSED CONCRETE
- PAVEMENT RESTORATION
- PROPOSED PAVERS
- PROPOSED MILL & RESURFACE
- 5.50 PROPOSED ELEVATION
- PROPOSED SURFACE FLOW
- WM PROPOSED WATER METER
- PROPOSED CATCH BASIN
- PROPOSED SIGN (AS INDICATED)
- PROPOSED CLEANOUT
- PROPOSED RPZ BACKFLOW PREVENTER
- PROPOSED PIPING
- EXISTING CONCRETE
- EXISTING PIPING AND APPURTENANCES
- EXISTING CATCH BASIN
- X 3.53 EXISTING ELEVATION
- EXISTING POWER POLE
- MH EXISTING MANHOLE (AS DESIGNATED)
- WM EXISTING WATER METER
- —X— EXISTING FENCE

HOLLAND ENGINEERING
CIVIL ENGINEERING SOLUTIONS
301 S.W. 7th Street
Fort Lauderdale, Florida 33315
Phone: 954.367.0371
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PAVING, GRADING & DRAINAGE PLAN

SCALE: 1"=20'

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Project

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Revisions

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Consultant

Luis O. Revuelta
AR-0007972

NEW PROPOSAL

Date
04.21.22

Scale
1"=20'

Project No.
2202

Sheet Name
PAVING, GRADING & DRAINAGE PLAN

Sheet No.
C-1

22-17

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NEW PROPOSAL

LEGAL DESCRIPTION:

FOLIO NUMBER 13-2227-001-0050

Lot 6, Block 1, BAY HARBOR ISLAND, a subdivision according to the map or Plat thereof recorded in Plat Book 46, Page 5, of the Public Records of Miami-Dade County, Florida.

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GENERAL NOTES:

1. TEMPORARY ASPHALT PATCH SHALL BE MADE IF ANY WATER SERVICE IS ABANDONED AT THE CORPORATION STOP.
2. ALL EXCAVATION IN THE ROW SHALL BE RESTORED WITH FLOWABLE FILL AND COMPACTED LIMEROCK IN ACCORDANCE WITH FDOT REQUIREMENTS.
3. ALL WORK IN THE ROW SHALL BE THE SUBJECT OF A SEPARATE ENGINEERING PERMIT ISSUED BY THE BUILDING DEPARTMENT IN COLLABORATION WITH THE DEPARTMENT OF PUBLIC WORKS.
4. CONTRACTOR TO EXPOSE SEWER LATERALS INSIDE OF THE PROPERTY LINE FOR INSPECTION BY THE TOWN OF BAY HARBOR ISLANDS TOWN ENGINEER.
5. PIPES 2" OR LARGER SHALL REQUIRE BACTERIA TESTING. SAMPLES SHALL BE COLLECTED BY A CERTIFIED TESTING LAB. ALL SAMPLES SHALL MEET HEALTH DEPARTMENT STANDARDS.
6. ANY EXISTING WATER SERVICES TO BE ABANDONED SHALL BE CAPPED AT THE CORPORATION STOP BY THE DEVELOPER. ANY SEWER SERVICES NOT NEEDED FOR THIS PROJECT SHALL BE ABANDONED AT THE COLLECTION MAIN AT THE DEVELOPER'S EXPENSE.
7. FOR SEWER CONNECTION, CONTRACTOR TO CONNECT TO CITY'S V.C.P. CLAY PIPE SYSTEM. NO CAST IRON FITTINGS TO BE BETWEEN THE CLAY AND THE NEW CONNECTION AS TO NOT COMPROMISE THE NEW CONNECTION.
8. CONNECT NEW PVC SEWER LATERAL TO CITY'S CLAY SEWER LATERAL PRIOR TO CLEANOUT.
9. INSTALL PLUG (OR CAP) ON THE PROPERTY SIDE OF THE PVC CLEANOUT. SEWER CAP & SEWER CLEANOUT SHALL BE INSTALLED PRIOR TO CONSTRUCTION START UP. PROVIDE 6" SEWER LATERAL CONNECTION.

NOTES:

1. REFER TO PLUMBING PLANS FOR COORDINATION WITH BUILDING WATER AND SEWER SERVICES.
2. CONTRACTOR TO FIELD LOCATE EXISTING SEWER LATERAL AND CONFIRM DEPTH OF PIPE.
3. CONTRACTOR TO FIELD LOCATE ALL EXISTING UNDERGROUND UTILITIES AND CONFIRM DEPTH PRIOR TO CONSTRUCTION.
4. INSTALLATION OF ALL UTILITIES TO BE COORDINATED TO PREVENT PIPE CONFLICTS
5. ALL BACKFLOW PREVENTERS TO BE INSTALLED IN ACCORDANCE WITH COUNTY REGULATIONS.
6. SEWER LATERAL TO BE CAPPED, IS TO BE INSPECTED BY CITY INSPECTOR

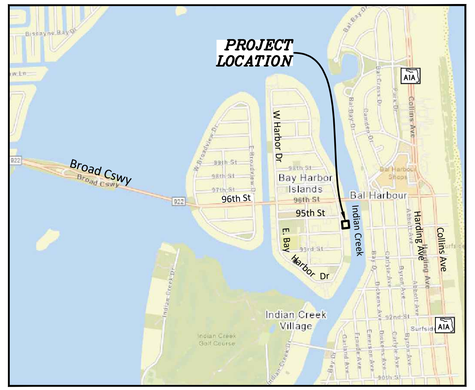
SEWAGE VOLUME

57 UNITS AT 300 GPD PER UNIT= 17,100 GPD

FLOOD INFORMATION:

Control panel number: 12086C0144L
Flood zone: "AE"
Base flood elevation: 8.00' NGVD

WATER AND SEWER TO MEET THE STANDARDS AND REQUIREMENTS OF MDWASD.

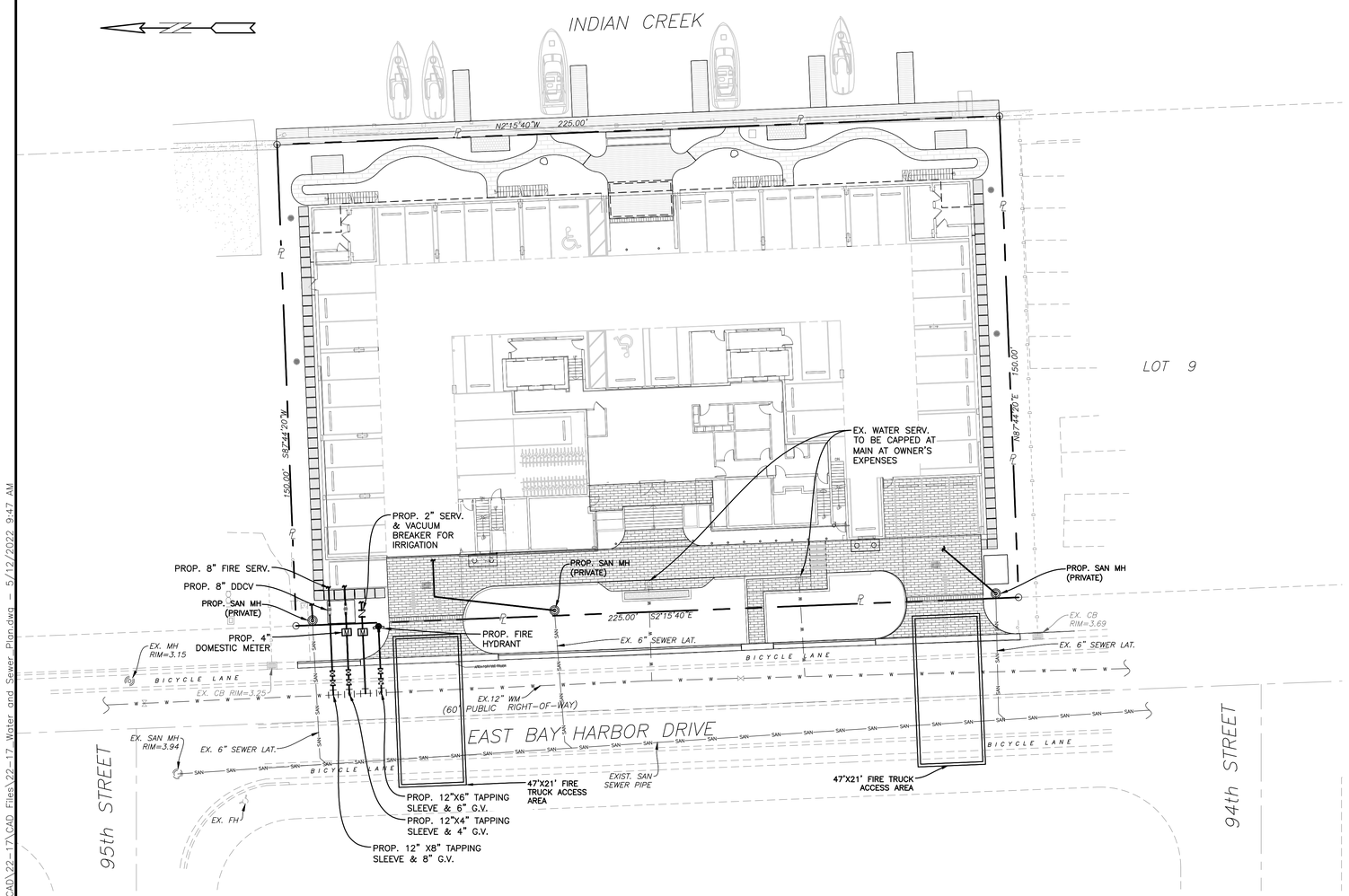


LOCATION MAP

N.T.S.

SEC 35, TWSP 52S, RNG 42E

NOTE:
ALL ELEVATIONS ARE REFERENCED TO N.G.V.D. 1929



WATER MAIN NOTES

1. ALL WATER MAINS SHALL BE DESIGNED FOR A MINIMUM WORKING PRESSURE OF 150 PSI. 2. ALL PIPE TO BE USED ON THIS PROJECT SHALL BE C-900 PVC FOR THE WATER SERVICE AND FIRE SERVICE CONNECTIONS.
3. MINIMUM DEPTH OVER PVC WATER MAINS SHALL BE 36". MINIMUM DEPTH OVER DIP WATER MAINS SHALL BE 30".
4. THE COMPLETE WATER SYSTEM SHALL BE PRESSURE TESTED AND DISINFECTED. THE PRESSURE TEST SHALL BE FOR TWO HOURS AT 150 PSI MINIMUM TEST PRESSURE IN ACCORDANCE WITH ANSI/AWWA C600-05 OR LATEST REVISION. THE PRESSURE TEST SHALL NOT VARY MORE THAN 5 PSI DURING THE TEST. LEAKAGE ALLOWANCES WILL NOT BE MADE FOR FITTINGS OR VALVES.
5. ALLOWABLE LEAKAGE SHALL NOT EXCEED THE FORMULA OF:

$$L \text{ (GALLONS PER HOUR)} = \frac{S\ D\ (P)^{0.5}}{148{,}000}$$

L = ALLOWABLE LEAKAGE IN GALS/HR (NO ALLOWABLE LEAKAGE FOR VALVES)
S = LENGTH OF PIPE TESTED IN FEET
D = NOMINAL DIAMETER OF PIPE
P = AVERAGE TEST PRESSURE DURING TEST IN LBS/SQ. IN.

6. THE PRESSURE TEST SHALL BE WITNESSED BY A REPRESENTATIVE OF THE CITY & THE ENGINEER OF RECORD.
7. THE WATER SYSTEM SHALL BE CLEANED AND TESTED. ALL HYDROSTATIC TESTING AND DISINFECTION SHALL BE MADE IN ACCORDANCE WITH ANSI/AWWA C651-05, OR LATEST REVISIONS.
8. ALL PIPE & PIPE FITTINGS INSTALLED UNDER THIS PROJECT WILL BE COLOR CODED OR MARKED IN ACCORDANCE WITH SUBPARAGRAPH 62-555.320(21)(b)3, F.A.C., USING BLUE AS A PREDOMINANT COLOR. (UNDERGROUND PLASTIC PIPE WILL BE SOLID-WALL BLUE PIPE, WILL HAVE A CO-EXTRUDED BULE EXTERNAL SKIN, OR WILL BE WHITE OR BLACK PIPE WITH BLUE STRIPES INCORPORATED INTO, OR APPLIED INTO, THE PIPE WALL; AND UNDERGROUND METAL OR CONCRETE PIPE WILL HAVE BLUE STRIPES APPLIED TO THE PIPE WALL. PIPE STRIPED DURING MANUFACTURING OF THE PIPE WILL HAVE CONTINUOUS STRIPES THAT RUN PARALLEL TO THE AXIS OF THE PIPE, THAT ARE LOCATED AT NO GREATER THAN 90' INTERVALS AROUND THE PIPE, AND THAT WILL REMAIN INTACT DURING AND AFTER INSTALLATION OF THE PIPE. IF TAPE OR PAINT IS USED TO STRIPE PIPE DURING INSTALLATION OF THE PIPE, THE TAPE OR PAINT WILL BE APPLIED IN A CONTINUOUS LINE THAT RUNS PARALLEL TO THE AXIS OF THE PIPE AND THAT IS LOCATED ALONG THE TOP OF THE PIPE; FOR PIPE WITH AN INTERNAL DIAMETER OF 24 INCHES OR GREATER, TAPE OR PAINT WILL BE APPLIED IN CONTINUOUS LINES ALONG EACH SIDE OF THE PIPE AS WELL AS ALONG THE TOP OF THE PIPE. ABOVEGROUND PIPE WILL BE PAINTED BLUE OR WILL BE COLOR CODED OR MARKED LIKE UNDERGROUND PIPE).
9. ALL PVC WATER PIPE ASSOCIATED WITH THIS PROJECT SHALL HAVE MAGNETIZED TAPE ON THE PIPE TO FACILITATE LOCATION USING A METAL DETECTOR. THE MAGNETIC TAPE WILL BE USED ON THE PVC PIPE IN THE TRENCH SO IT CAN BE LOCATED USING A MAGNETIC METAL DETECTOR IN THE FUTURE.

LEGEND

- PROPOSED CONCRETE
- PAVEMENT RESTORATION
- PROPOSED PAVERS
- PROPOSED MILL & RESURFACE
- 5.50 PROPOSED ELEVATION
- PROPOSED SURFACE FLOW
- PROPOSED WATER METER
- PROPOSED CATCH BASIN
- PROPOSED SIGN (AS INDICATED)
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- EXISTING WATER METER
- X EXISTING FENCE

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WATER & SEWER PLAN

SCALE: 1"=20'

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Consultant

Luis O. Revuelta
AR-0007972

NEW PROPOSAL

Date
04.21.22

Scale
1"=20'

Project No.
2202

Sheet Name
WATER & SEWER PLAN

Sheet No.
C-2

22-17

J:\CAD\22-17\CAD Files\22-17 Water and Sewer Plan.dwg - 5/12/2022 9:47 AM

NEW PROPOSAL

LEGAL DESCRIPTION:

FOLIO NUMBER 13-2227-001-0050

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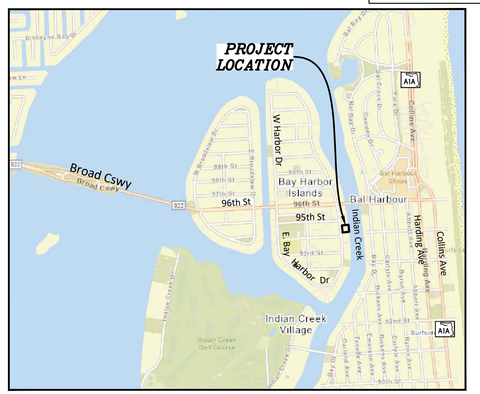
FOLIO NUMBER 13-2227-001-0070

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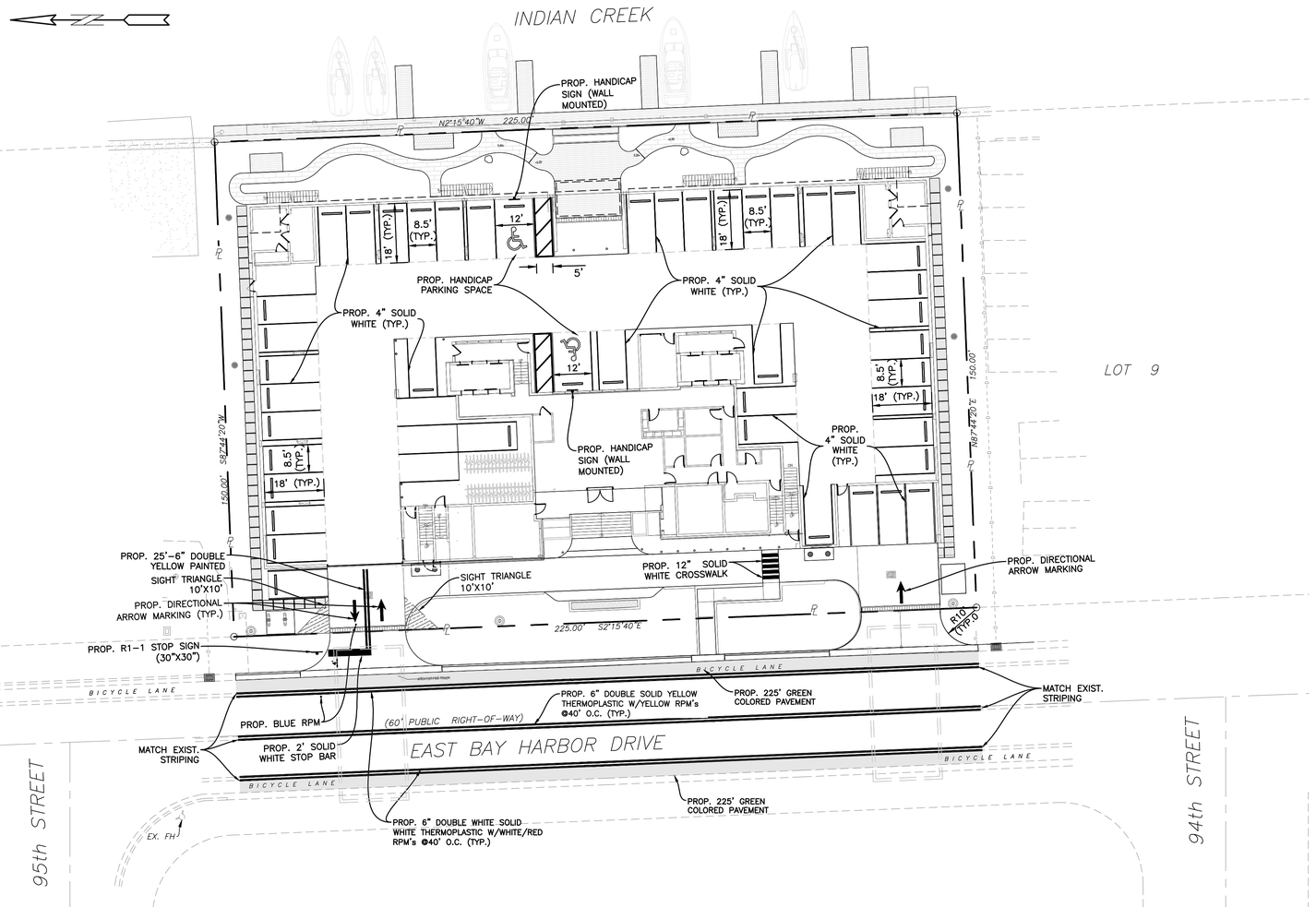
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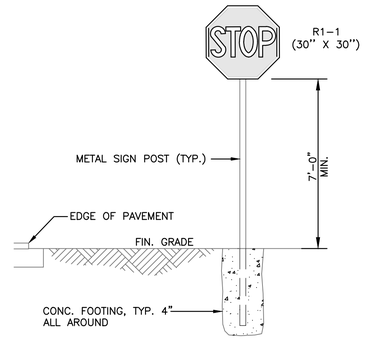
FLOOD INFORMATION:

Control panel number: 12086C0144L
Flood zone: "AE"
Base flood elevation: 8.00' NGVD



LOCATION MAP
SEC 35, TWSP 52S, RNG 42E
N.T.S.





STOP SIGN DETAIL
N.T.S.

LEGEND

- PROPOSED CONCRETE
- PAVEMENT RESTORATION
- PROPOSED PAVERS
- PROPOSED GREEN COLORED PAVEMENT
- 5.50 PROPOSED ELEVATION
- PROPOSED SURFACE FLOW
- W PROPOSED WATER METER
- PROPOSED CATCH BASIN
- PROPOSED SIGN (AS INDICATED)
- PROPOSED CLEANOUT
- PROPOSED RPZ BACKFLOW PREVENTER
- PROPOSED PIPING
- EXISTING CONCRETE
- EXISTING PIPING AND APPURTENANCES
- EXISTING CATCH BASIN
- X 3.55 EXISTING ELEVATION
- EXISTING POWER POLE
- MH EXISTING MANHOLE (AS DESIGNATED)
- EXISTING WATER METER
- X EXISTING FENCE

HOLLAND ENGINEERING
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Fort Lauderdale, Florida 33315
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Certificate of Authorization 7325

SUSAN C. HOLLAND
STATE OF FLORIDA PROFESSIONAL ENGINEER
LICENSE No. 41831

Sunshine811
Call 811 or visit sunshine811.com two full business days before digging to have buried facilities located and marked.
Check positive response codes before you dig!

PAVEMENT MARKING & SIGNAGE PLAN

SCALE: 1"=20'

revuelta
architecture international

Miami
Santiago, Chile

revuelta-architecture.com

2950 SW 27th. AVE.
SUITE 110
MIAMI, FL. 33133

305.590.5000

Project

LA BAIA NORTH
9461 EAST BAY HARBOR DRIVE
BAY HARBOR ISLANDS, FLORIDA 33154

Revisions

Owner Information
CONTINUUM LLC
9201 East Bay Harbour Dr
Bay Harbour Islands, Fl 33154
305.861.8181

Consultant

Luis O. Revuelta
AR-0007972

NEW PROPOSAL

Date
04.21.22

Scale
1"=20'

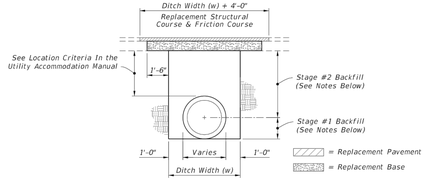
Project No.
2202

Sheet Name
PAVEMENT MARKING & SIGNAGE PLAN

Sheet No.
C-3

22-17

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NOTES:

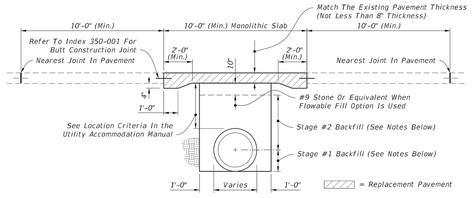
PAVEMENT REMOVAL AND REPLACEMENT

1. Pavement shall be mechanically sawed.
2. The replacement asphalt shall match the existing structural and friction courses for type and thickness in accordance with current FDOT asphalt mix specifications.
3. The new base materials shall be either of the same type and composition as the materials removed or of equal or greater structural adequacy.

BACKFILL OPTION

1. COMPACTED AND STABILIZED FILL
   - A. Place backfill material in accordance with Specification 125.
   - B. In Stage #1, construct compacted fill beneath the haunches of the pipe, using mechanical tamps suitable for this purpose. This compaction applies to the material placed beneath the haunches of the pipe and above any bedding.
   - C. In Stage #2, construct compacted fill along the sides of the pipe and up to the bottom of the base, with the upper 12" receiving Type B Stabilization. In lieu of Type B Stabilization, the Contractor may construct using Optional Base Group 3.
2. FLOWABLE FILL
   - A. If compaction can not be achieved through normal mechanical methods then flowable fill may be used.
   - B. Flowable fill is to be placed in accordance with Specification 121, as approved by the Engineer.
   - C. Do not allow the utility being installed to float. If a method is provided to prevent flotation from occurring, Stages #1 and #2 can be combined, if approved by the Engineer.
   - D. In Stage #1, place flowable fill midway up on both sides of the utility. Allow to harden before placing Stage #2.
   - E. In Stage #2, place flowable fill to the bottom of the existing base course.

FLEXIBLE PAVEMENT CUT



NOTES:

PAVEMENT REMOVAL AND REPLACEMENT

1. High early strength cement concrete (3000 psi) meeting the requirements of Specification 346 shall be used for rigid pavement replacement.
2. Pavement shall be mechanically sawed and restored to conform with existing pavement joints within 12 hours. (See Index 350-001)

BACKFILL OPTION

1. GRANULAR BACKFILL
   - A. Any edgedrain system that is removed shall be replaced with the same type materials. Any edgedrain system that is damaged shall be repaired with methods approved by the Engineer.
   - B. Fill material shall be placed in accordance with the Standard Specifications. Fill material shall be special select soil in accordance with Index 350-001.
   - C. In Stage #1, construct compacted fill beneath the haunches of the pipe, using mechanical tamps suitable for this purpose. This compaction applies to the material placed beneath the haunches of the pipe and above any bedding.
   - D. In Stage #2, construct fill along the sides of the pipe and up to the bottom of replacement pavement.
2. FLOWABLE FILL
   - A. If mechanical compaction can not be achieved through normal mechanical methods then flowable fill may be used.
   - B. Flowable fill is to be placed in accordance with Specification 121, as approved by the Engineer.
   - C. Do not allow the utility being installed to float. If a method is provided to prevent flotation from occurring, Stages #1 and #2 can be combined, if approved by the Engineer.
   - D. In Stage #1, place flowable fill midway up on both sides of the utility. Allow to harden before placing Stage #2.
   - E. In Stage #2, place flowable fill to the bottom of the stone layer.

RIGID PAVEMENT CUT

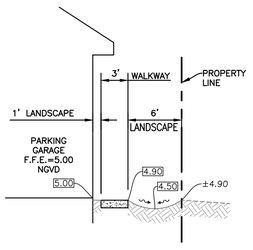
GENERAL NOTES

1. The details provided in this Index apply to cases in which jack and bore or directional boring methods are not required by the Engineer.
2. Flowable fill shall not be placed directly over loose, or high plastic, or muck material (see Index 120-001) which will cause settlement due to fill weight. Where highly compressible material exists, the amount, shape and depth of flowable fill must be engineered to prevent pavement settlement.
3. These details do not apply to utility cuts longitudinal to the centerline of the roadway which may require the additional use of geotextiles, special bedding and backfill, or other special requirements.
4. Method of construction must be approved by the Engineer.
5. Some pipe may require special granular backfill up to 6" above top of pipe. Geotextiles may be required to encapsulate the special granular material.
6. Where asphalt concrete overlays exist over full slab concrete pavement, the replacement pavement shall have an overlay constructed over the replacement slab. The overlay shall match the existing asphalt pavement thickness. The replacement friction course shall match the existing friction course, except structural course may be used in lieu of dense graded friction course.
7. All shoulder pavement, curb, curb and gutter, and their substructure disturbed by utility trench cut construction shall be restored in kind.
8. The use of flowable fill to reduce the time traffic is taken off a facility is acceptable but must have prior approval by the Engineer. Flowable fill use is allowed only when properly engineered for pavement crossings, whether straight or diagonal, and shall not be installed for significant depths or lengths. The maximum length shall be fifty (50) feet and a maximum depth of six (6) feet unless supported by an engineering document prepared by a registered professional engineer that specializes in soils engineering. The engineering document shall address the evaluation of local groundwater flow interruption and settlement potential.
9. Excavatable flowable fill is to be used when the flowable fill option is selected.

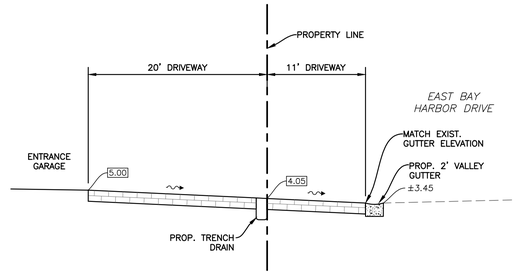
TRENCH CUTS AND RESTORATIONS ACROSS ROADWAYS

LAST REVISION	REVISION	DESCRIPTION:	FDOT	FY 2022-23 STANDARD PLANS	UTILITY ADJUSTMENTS THRU EXISTING PAVEMENT	INDEX	SHEET
11/01/17						125-001	1 of 2

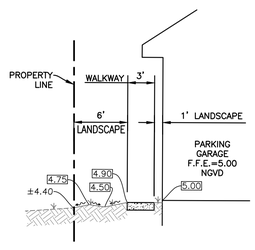
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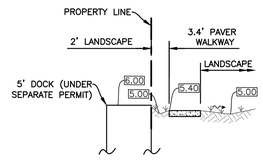
SECTION A–A
N.T.S.



SECTION B–B
N.T.S.



SECTION C–C
N.T.S.



SECTION D–D
N.T.S.

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SECTIONS & DETAILS

SCALE: N.T.S.

NEW PROPOSAL

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1"=20'

Project No.
2202

Sheet Name
SECTIONS & DETAILS

Sheet No.
C-4

22-17

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NEW PROPOSAL

GENERAL CONDITION NOTES :

1. THE LOCATION OF EXISTING UTILITIES AND TOPOGRAPHY HAS BEEN PREPARED FROM THE MOST RELIABLE INFORMATION AVAILABLE TO THE ENGINEER. THIS INFORMATION IS NOT GUARANTEED AND IT IS THE RESPONSIBILITY OF THE CONTRACTOR TO DETERMINE THE EXACT LOCATION OF ALL EXISTING UTILITIES AND TOPOGRAPHY PRIOR TO CONSTRUCTION.
2. PRIOR TO CONSTRUCTION THE CONTRACTOR IS TO NOTIFY THE FOLLOWING COMPANIES & AGENCIES AND ANY OTHERS SERVING THE AREA:

   FLORIDA POWER & LIGHT CO., CONSTRUCTION
   SOUTHERN BELL TELEPHONE & TEL. CO.
   CABLE CONSTRUCTION BUREAU
   LOCAL CITY / COUNTY ENGINEERING & UTILITY DEPARTMENTS
   FLORIDA DEPARTMENT OF TRANSPORTATION (FDOT), AS APPLICABLE
   UNDERGROUND UTILITIES NOIFICATION CENTER OF FLORIDA
   (S.U.N.S.H.I.N.E.)

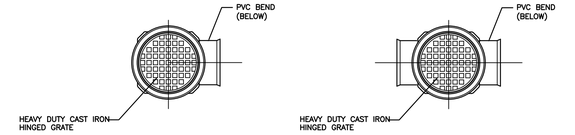
PAVING, GRADING & DRAINAGE NOTES:

1. ALL UNSUITABLE MATERIALS, SUCH AS MUCK, HARDPAN, ORGANIC MATERIAL & OTHER DELETERIOUS MATERIAL AS CLASSIFIED BY AASHTO M-145, FOUND WITHIN THE ROAD & PARKING LOT AREAS SHALL BE REMOVED DOWN TO ROCK OR SUITABLE MATERIAL, & REPLACED W/ THE SPECIFIED FILL MATERIAL IN MAXIMUM 12" LIFTS COMPACTED TO NOT LESS THAN 100% MAXIMUM DRY DENSITY AT OPTIMUM MOISTURE IN ACCORDANCE W/AASHTO T-99. THICKNESS OF LAYERS MAY BE INCREASED PROVIDED THE EQUIPMENT & METHODS USED ARE PROVEN BY FIELD DENSITY TESTING TO BE CAPABLE OF COMPACTING THICK LAYERS TO SPECIFIED DENSITIES.
2. ALL AREAS SHALL BE CLEARED & GRUBBED PRIOR TO CONSTRUCTION. THIS SHALL CONSIST OF THE COMPLETE REMOVAL & DISPOSAL OF ALL TREES, BRUSH, STUMPS, ROOTS, GRASS, WEEDS, RUBBISH & ALL OTHER OBSTRUCTION RESTING ON OR PROTRUDING THROUGH THE SURFACE OF THE EXIST. GROUND TO A DEPTH OF 12". ITEMS DESIGNATED TO REMAIN OR TO BE RELOCATED OR ADJUSTED SHALL BE SO DESIGNATED ON THE DWGS.
3. FILL MATERIAL SHALL BE CLASSIFIED AS A-1, A-3 OR A-2.4 IN ACCORDANCE W/ AASHTO M-145 & SHALL BE FREE FROM VEGETATION & ORGANIC MATERIAL. NOT MORE THAN 12% BY WEIGHT OF FILL MATERIAL SHALL PASS THE NO. 200 SIEVE.
4. THE CONTRACTOR SHALL BE RESPONSIBLE FOR PROVIDING CERTIFIED MATERIAL TEST RESULTS TO THE ENGINEER OF RECORD PRIOR TO THE RELEASE OF FINAL CERTIFICATION BY THE ENG. TEST RESULTS MUST INCLUDE BUT MAY NOT BE LIMITED TO, DENSITIES FOR SUBGRADE & LIME ROCK, UTILITIES, EXCAVATION, ASPHALT GRADIATION REPORTS, CONC. CYLINDERS, ETC.
5. ALL INLETS & PIPE SHALL BE PROTECTED DURING CONSTRUCTION TO PREVENT SILTATION IN THE DRAINAGE SYSTEMS BY WAY OF TEMPORARY PLUGS & PLYWOOD OR PLASTIC COVERS OVER THE INLETS. THE ENTIRE DRAINAGE SYSTEM TO BE CLEAN OF DEBRIS PRIOR TO FINAL ACCEPTANCE.
6. WHERE NEW ASPHALT MEETS OR ABUTS EXIST. ASPHALT, THE EXIST. ASPHALT SHALL BE SAWCUT TO PROVIDE A STRAIGHT EVEN LINE. PRIOR TO REMOVING CURB OR GUTTER, THE ADJACENT ASPHALT SHALL ALSO BE SAWCUT TO PROVIDE A STRAIGHT EVEN LINE.
7. SITE GRADING SHALL BE W/IN 0.1' OF THE REQUIRED ELEVATION & ALL AREAS SHALL BE GRADED TO DRAIN.
8. ALL SUBGRADE SHALL HAVE AN LBR OF 40 UNLESS OTHERWISE NOTED & SHALL BE COMPACTED TO 95% MAXIMUM DRY DENSITY PER AASHTO T-180.
9. ALL LIMEROCK SHALL BE COMPACTED TO 98% PER AASHTO T-180 & HAVE NOT LESS THAN 60% OF CARBONATES OF CALCIUM & MAGNESIUM UNLESS OTHERWISE DESIGNATED. ALL LIMEROCK SHALL BE PRIMED.
10. CONCRETE & ASPHALT THICKNESS SHALL BE OF TYPE DESIGNATED ON DWGS.
11. PLASTIC FILTER FABRIC SHALL BE MIRAFI, TYPAR OR EQUAL CONFORMING TO SECTION 985 OF THE FDOT STANDARD SPECIFICATIONS.
12. CONC. SIDEWALKS SHALL BE 4" THICK ON COMPACTED SUBGRADE, W/ 1/2" EXPANSION JOINTS PLACED AT A MAXIMUM OF 75'. CRACK CONTROL JOINTS SHALL BE 5' ON CENTER. THE BACK OF SIDEWALK ELEVATION SHALL EQUAL THE CROWN OF ROADWAY, UNLESS SPECIFIED OTHERWISE BY LOCAL CODES OR INDICATED ON DWGS. ALL CONC. SIDEWALKS THAT CROSS DRIVEWAYS SHALL BE 6" THICK.
13. PIPE SPECIFICATIONS : THE MATERIAL TYPE IS SHOWN ON THE DRAWINGS BY ONE OF THE FOLLOWING DESIGNATIONS –

    RCP = REINFORCED CONC. PIPE, ASTM DESIGNATION C-76, TABLE III
    CMP = CORRUGATED METAL (ALUM.) PIPE, TM DESIGNATION M-196
    CMP = (SMOOTH LINED) CORRUGATED METAL (ALUM.) PIPE, ASTM DESIGNATION M-196
    SCP = SLOTTED CONC. PIPE, FDOT SECTIONS 941 & 942
    PVC = POLYVINYLCHLORIDE PIPE
    PCMP = PERFORATED CMP, FDOT SECTION 945
    DIP = DUCTILE IRON PIPE
    HDPE = HIGH DENSITY POLYETHYLENE PIPE.

PAVEMENT MARKING & SIGNING STANDARD NOTES :

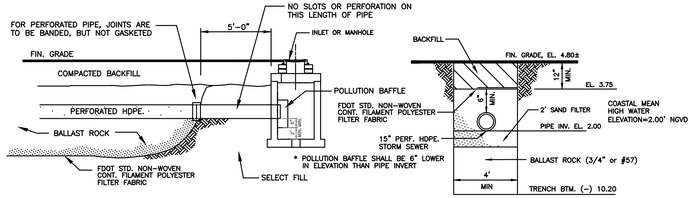
1. STOP SIGNS SHALL BE 30"x30" (R1-1), HIGH INTENSITY.
2. ALL SIGNS SHALL BE PLACED AT A HEIGHT NOT LESS THAN 5' & NOT GREATER THAN 7'. THE HEIGHT IS MEASURED FROM THE BOTTOM OF THE SIGN TO THE EDGE OF NEAREST PAVEMENT. THE SIGN POST SHALL BE PLACED A MINIMUM OF 6' TO A MAXIMUM OF 12' FROM THE ADJACENT PAVEMENT, & A MINIMUM OF 6' FROM THE CROSS TRAFFIC PAVEMENT.
3. STOP BARS SHALL BE 24" WHITE.
4. ALL SITE PAVEMENT MARKINGS SHALL BE PAINT. (UNLESS INDICATED OTHERWISE)
5. ALL PAVEMENT MARKINGS IN THE ROAD RIGHT-OF-WAY SHALL BE THERMOPLASTIC & SHALL CONFORM TO FDOT OR LOCAL CITY/COUNTY STANDARDS.



ENDLINE DRAIN BASIN
N.T.S.

INLINE DRAIN BASIN
N.T.S.

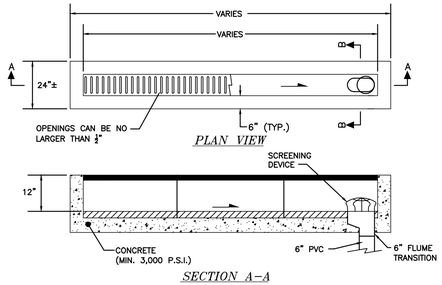
AREA DRAIN
N.T.S.



EXFILTRATION NOTES:

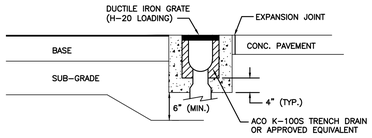
1. PLASTIC FILTER FABRIC (AT EACH SIDE, TOP & BOTT.) SHALL BE USED IN SANDY AREAS AS NOTED ON PLANS AND/OR DIRECTED BY THE ENGINEER.
2. AFTER THE BALLAST ROCK HAS BEEN PLACED TO THE PROPER ELEVATION IT SHALL BE CAREFULLY WASHED DOWN WITH CLEAN WATER IN ORDER TO ALLOW FOR INITIAL SETTLEMENT THAT MAY OCCUR. (BALLAST ROCK – 3/4" or #57)

EXFILTRATION TRENCH WITH SAND FILTER
N.T.S.



PLAN VIEW

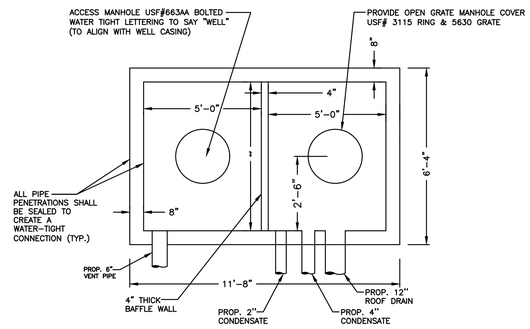
SECTION A–A



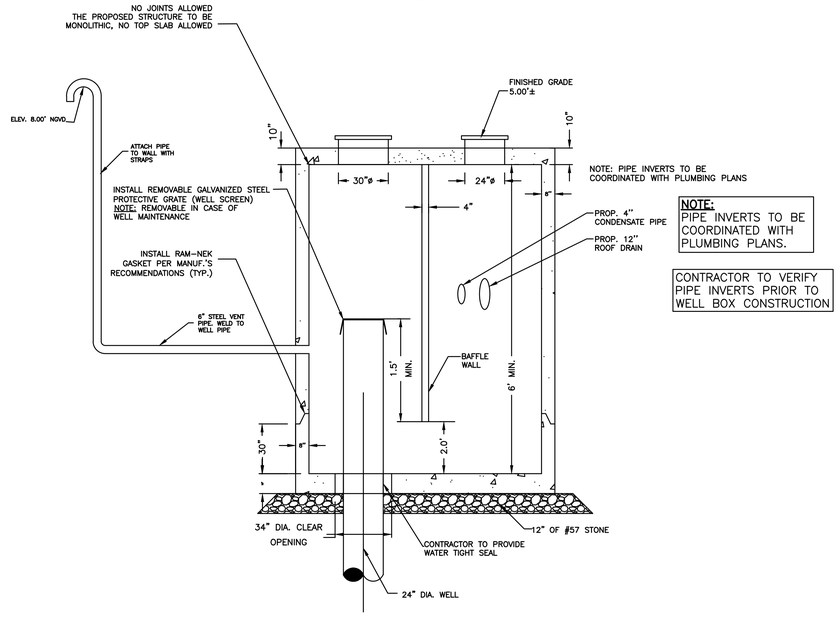
SECTION B–B

TRENCH DRAIN
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DRAINAGE WELLS
NTS



TOP VIEW
NTS



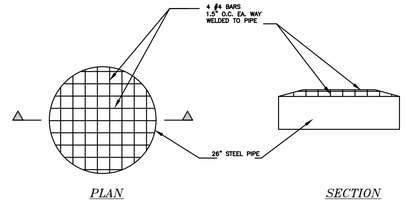
NOTE:
PIPE INVERTS TO BE COORDINATED WITH PLUMBING PLANS.

CONTRACTOR TO VERIFY PIPE INVERTS PRIOR TO WELL BOX CONSTRUCTION

SECTION VIEW
NTS

NOTES:

1. WELL DRILLER RESPONSIBLE FOR OBTAINING WELL CONSTRUCTION PERMIT.
2. NEOPRENE GASKETS TO BE INSTALLED UNDER LIDS AND AROUND PIPES.
3. VENT PIPES NOT TO BE INSTALLED DIRECTLY ACROSS FROM INLET PIPE.
4. WELL COVERS TO BE SECURELY ATTACHED TO STRUCTURE WITH NO MORTAR OR BRICKS.
5. CONTRACTOR SHALL GROUT BETWEEN 4" CONC. BAFFLE AND LID OF STRUCTURE TO ENSURE WATER PROOF SEAL.
6. WELL BOX REINFORCEMENT SHALL BE DESIGNED BY PRE-CASTER TO MEET F-DOT STANDARDS AND SPECIFICATIONS



PLAN *SECTION*

WELL SCREEN DETAIL
NTS

CONTRACTOR SHALL VERIFY ALL DIMENSIONS AND SITE CONDITIONS BEFORE PROCEEDING WITH WORK. IF ANY DISCREPANCIES, ERRORS OR OMISSIONS SHOULD BE ENCOUNTERED ON PLANS, CONTRACTOR SHALL NOTIFY ARCHITECT BEFORE ANY PART OF THE WORK IS STARTED, SO THAT PROPER CORRECTIONS BE MADE. IF ARCHITECT IS NOT NOTIFIED PRIOR TO COMMENCING OF THE WORK, THE CONTRACTOR SHALL BEAR FULL RESPONSIBILITY FOR ANY DISCREPANCIES, ERRORS OR OMISSIONS.

DRAINAGE DETAILS

SCALE: N.T.S.

HOLLAND ENGINEERING
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Certificate of Authorization 7325

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Consultant

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AR-0007972

NEW PROPOSAL

Date
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1"=20'

Project No.
2202

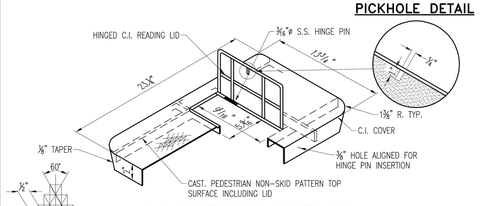
Sheet Name
SECTIONS & DETAILS

Sheet No.
C-5

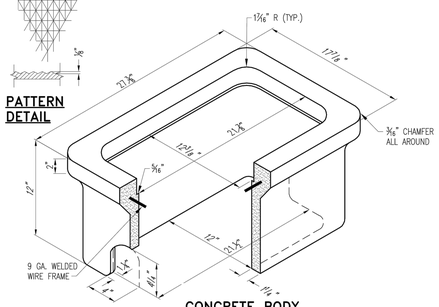
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PICKHOLE DETAIL



C.I. COVER WITH HINGER LID



PATTERN DETAIL

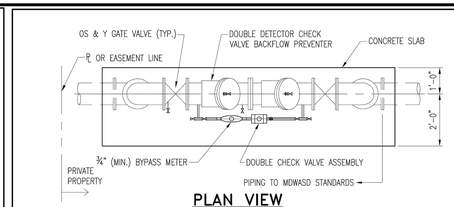
CONCRETE BODY

NOTES:

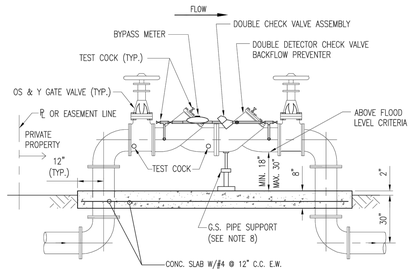
1. SOME DIMENSIONS MAY VARY WITH DEPARTMENT APPROVAL. I/O W.T.= MAX. 53 LBS., MIN. 42 LBS.
2. METERS WILL NOT BE INSTALLED IF THE METER BOX IS IN A DRIVING SURFACE.

ITEM	CROSS REF.	SPEC. REF.
1" SERVICE CONNECTION	WS 4.11	
TYPICAL SERVICE PLAN	WS 4.10	

MIAMI-DADE COUNTY	ISSUE DATE	APPROVED BY	STANDARD DETAIL	WS 2.10
WATER & SEWER DEPARTMENT	06/01/2008	V.F.C.	SINGLE METER BOX DETAIL	SHEET 2 OF 3



PLAN VIEW



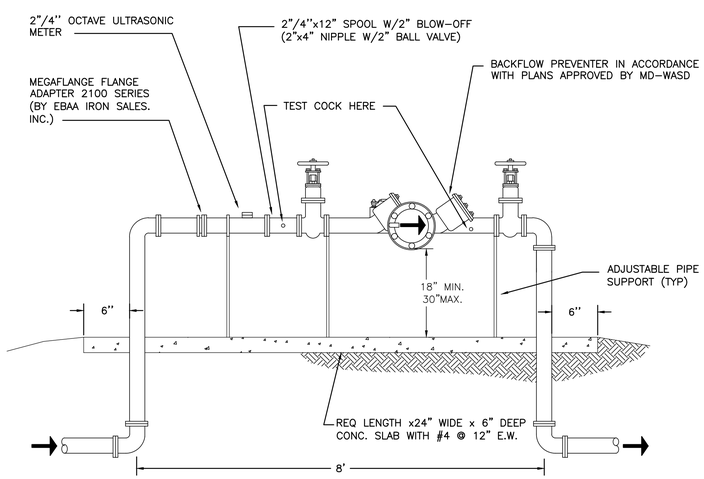
ELEVATION VIEW

NOTES:

PIPING SHALL BE DUCTILE IRON PIPE WITH FLANGED FITTINGS, IN ACCORDANCE WITH MDWASD "CONSTRUCTION SPECIFICATIONS FOR DONATION WATER MAINS".

ITEM	CROSS REF.	SPEC. REF.
GUARD POST DETAIL	WS 4.5	

MIAMI-DADE COUNTY	ISSUE DATE	APPROVED BY	STANDARD DETAIL	WS 4.20
WATER & SEWER DEPARTMENT	09/30/2009	V.F.C.	DOUBLE DETECTOR CHECK VALVE ASSEMBLY FOR FIRELINE SERVICE	SHEET 2 OF 4



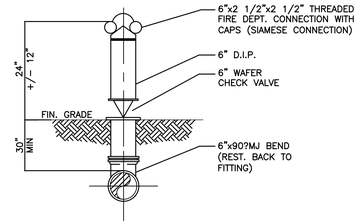
NOTE:

1. THE ASSEMBLY MUST BE INSTALLED WITH MINIMUM HORIZONTAL CLEARANCE OF 18", FREE FROM OBSTRUCTIONS IN ALL DIRECTIONS.
2. THE BACKFLOW PREVENTION ASSEMBLY SHALL BE ON THE APPROVED LIST OF FOUNDATION FOR CROSS CONNECTION CONTROL, UNIVERSITY OF CALIFORNIA, CONTRACTOR TO PROVIDE MANUFACTURERS CERTIFICATION OF U.S.C. APPROVAL.
3. ALL BACKFLOW PREVENTION ASSEMBLIES SHALL BE FACTORY ASSEMBLED INCLUDING SHUT-OFF VALVE AS REQUIRED BY U.S.C. FOUNDATION FOR CROSS CONNECTION CONTROL STANDARDS.
4. BACKFLOW PREVENTION ASSEMBLIES SHALL BE INSTALLED IN AN ACCESSIBLE LOCATION APPROVED BY THE TOWN OF BAY HARBOR ISLANDS. LOCATIONS INSIDE BUILDINGS OR WITH OTHERWISE RESTRICTED ACCESS WILL NOT BE APPROVED.
5. THE ASSEMBLY WILL NEED LANDSCAPING OR SCREENING WITH LANDSCAPING FOR PROTECTION.
6. IF REQUIRED GUARDPOSTS OR PROTECTIVE ENCLOSURE IS RECOMMENDED DEPENDING ON SITE CONDITIONS.
7. ALL ABOVE-GROUND PIPING TO BE FLANGED.
8. INSTALL ADJUSTABLE PIPE SUPPORTS WHERE INDICATED.
9. CONTRACTOR TO PROVIDE SHOP DRAWINGS FOR TOWN APPROVAL.

NOTE:
2" & 4" WATER METER/BACKFLOW PREVENTER ASSEMBLY DETAIL TO BE USED FOR WATER METER INSTALLATION.

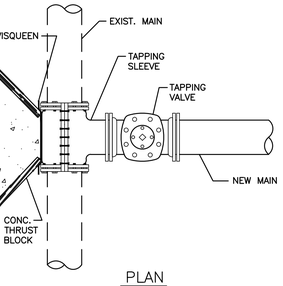
2" & 4" WATER METER/BACKFLOW PREVENTER ASSEMBLY DETAIL

N.T.S.



FIRE DEPARTMENT CONNECTION

NTS



HORIZONTAL THRUST BLOCK DETAILS

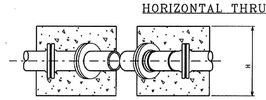
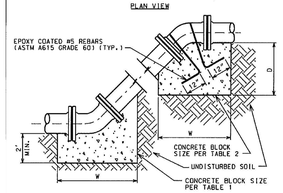


TABLE 1

PIPE SIZE	DEAD END & TEE				HORIZONTAL 1/4 BEND				HORIZONTAL 1/8 BEND			
INCH DIA.	D	H	W	CY	D	H	W	CY	D	H	W	CY
16	1	5.5	4.5	2	1	6.5	5	2.5	1	4.5	4	1.
12	1	3.5	3.5	1	1	4	4	1.5	1	3	3	.7
8	.5	2.5	2.5	.5	.5	3	3	.5	.5	2	2	.2

PIPE SIZE	HORIZONTAL 1/16 BEND				HORIZONTAL 1/32 BEND			
INCH DIA.	D	H	W	CY	D	H	W	CY
16	1	3.5	3.5	1	1	2.5	2.5	.6
12	1	2.5	2.5	.5	1	2	2	.4
8	.5	1.5	1.5	.25	.5	1.5	1.5	.25



VERTICAL THRUST BLOCK DETAILS

TABLE 2

PIPE SIZE	VERTICAL 1/8 BEND				VERTICAL 1/8 BEND BOTTOM			
INCH DIA.	D	H	W	CY	D	H	W	CY
16	7	6	6	11	2	4.5	4	2.25
12	5	6	5	7	2	3	3	1
8	4.5	4	4	3.5	2	2	2	.5

D IS THE DIMENSION INTO UNDISTURBED GROUND IN FEET
H IS HEIGHT OF THRUST BLOCK IN FEET
W IS WIDTH OF THRUST BLOCK IN FEET
ALL DIMENSIONS ARE MINIMUM.
THRUST BLOCKS IN LOOSE FILL OR SAND AREAS ARE NOT INCLUDED IN THESE TABLES AND WILL REQUIRE ADDITIONAL ANALYSIS.

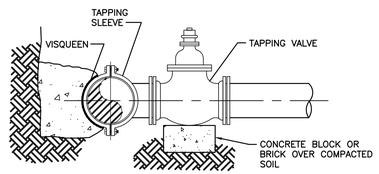
NOTES:

1. FULL CONCRETE THRUST BLOCKS AS SHOWN ARE REQUIRED WHEN THRUST RESTRAIN IS NOT PROVIDED BY OTHER MEANS SUCH AS RESTRAINED JOINT PIPE.
2. WHEN THRUST RESTRAINT GLANDS ARE INSTALLED FOR THE CONNECTIONS. CONCRETE THRUST BLOCKS SHALL BE PROVIDED UP TO THE THE DOTTED LINE AS SHOWN.
3. ALL BOLTS, NUTS, THRUST RESTRAINT GLANDS AND FITTINGS SHALL BE WRAPPED WITH POLYETHYLENE TUBING TO PREVENT CORROSION AND CONCRETE ADHESION.
4. CONCRETE FOR THRUST BLOCKS MUST NOT CONTAIN FLY ASH.

REV:04.07

THRUST RESTRAINT
CONCRETE THRUST BLOCK DETAILS D-11

PLAN



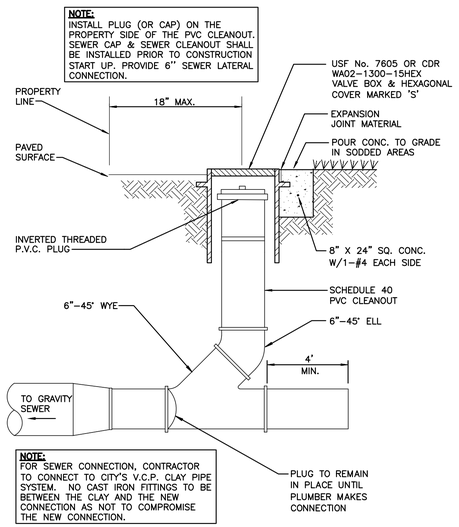
ELEVATION

NOTES:

1. NOTIFY THE CITY 48 HOURS IN ADVANCE OF PROPOSED TAP.
2. TAPPING MUST BE DONE IN THE PRESENCE OF AN AUTHORIZED CITY REPRESENTATIVE.

WATER MAIN TIE-IN

NTS



NOTE:
INVERTED BRASS CAP SHALL BE USED IN GRASS AREAS IN LIEU OF CASTING AND CONE COLLAR.

TYPICAL CLEANOUT DETAIL

NTS

CONTRACTOR SHALL VERIFY ALL DIMENSIONS AND SITE CONDITIONS BEFORE PROCEEDING WITH WORK. IF ANY DISCREPANCIES, ERRORS OR OMISSIONS SHOULD BE ENCOUNTERED ON PLANS, CONTRACTOR SHALL NOTIFY ARCHITECT BEFORE ANY PART OF THE WORK IS STARTED, SO THAT PROPER CORRECTIONS BE MADE. IF ARCHITECT IS NOT NOTIFIED PRIOR TO COMMENCING OF THE WORK, THE CONTRACTOR SHALL BEAR FULL RESPONSIBILITY FOR ANY DISCREPANCIES, ERRORS OR OMISSIONS.

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NEW PROPOSAL

revuelta
architecture international

Miami
Santiago, Chile

revuelta-architecture.com

2950 SW 27th. AVE.
SUITE 110
MIAMI, FL. 33133

305.590.5000

Project

LA BAIA NORTH
9461 EAST BAY HARBOR DRIVE
BAY HARBOR ISLANDS, FLORIDA 33154

Revisions

Owner Information
CONTINUUM LLC
9201 East Bay Harbour Dr
Bay Harbour Islands, Fl 33154
305.861.8181

Consultant

Luis O. Revuelta
AR-0007972

NEW PROPOSAL

Date
04.21.22

Scale
1"=20'

Project No.
2202

Sheet Name
SECTIONS & DETAILS

Sheet No.
C-6

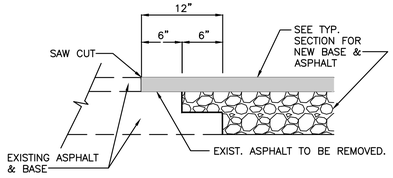
22-17

HOLLAND ENGINEERING
CIVIL ENGINEERING SOLUTIONS
301 S.W. 7th Street
Fort Lauderdale, Florida 33315
Phone: 954.367.0371
Certificate of Authorization 7325

SUSAN C. HOLLAND
STATE OF FLORIDA PROFESSIONAL ENGINEER
LICENSE No. 41831

UTILITY DETAILS

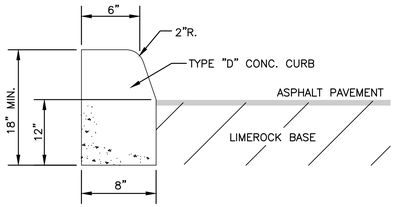
SCALE: N.T.S.



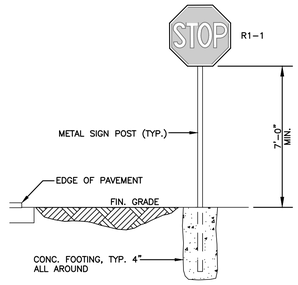
NOTE:

THIS METHOD OF PAVEMENT JOINT SHALL BE USED FOR ANY APPLICATION OR CONSTRUCTION WHERE PROPOSED PAVEMENT AND BASE WILL BE CONNECTED TO EXISTING PAVEMENT AND BASE.

PAVEMENT JOINT DETAIL
NTS



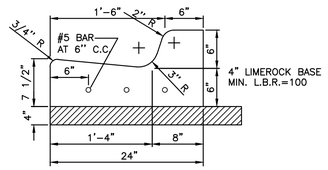
TYPE "D" CONCRETE CURB
NTS



TYPICAL SIGN INSTALLATION
NTS

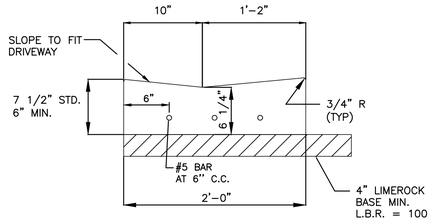
CURB NOTE:

1. DOWELS SHALL BE DRILLED & EXPOXIED INTO EXISTING VALLEY GUTTER & "F" CURB TO RESIST SHEAR FORCES BETWEEN THE OLD STRUCTURES & THE NEW STRUCTURES.
2. ALL DAMAGED VALLEY GUTTER AND F-CURB SHALL BE REMOVED WITHOUT DAMAGING ADJACENT ROADWAY.
3. THE FINISH ON THE NEW VALLEY GUTTER AND F-CURB SECTIONS SHALL MATCH EXISTING.

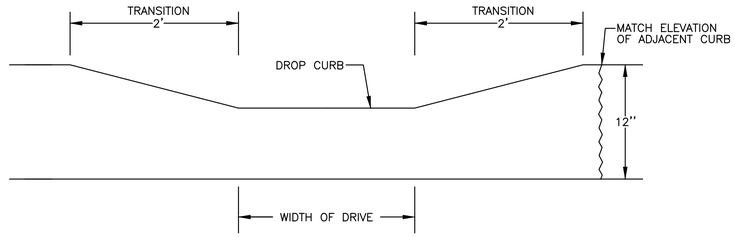


TYPE "F" CONCRETE CURB AND GUTTER PER FDOT STANDARD INDEX 300 DETAIL
NTS

CURB NOTE:
PROVIDE 1/2" X 18" SMOOTH DOWELS AT 12" C.C. TO CONNECT NEW CURB TO EXITING CURB.



STANDARD DROP CURB (VALLEY GUTTER) PER FDOT STANDARD INDEX 300 DETAIL
NTS



TRANSITION FROM DROP CURB TO TYPE "F" CURB DETAIL
NTS

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Phone: 954.367.0371
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SUSAN C. HOLLAND
STATE OF FLORIDA PROFESSIONAL ENGINEER
LICENSE No. 41831

CIVIL DETAILS

SCALE: N.T.S.

NEW PROPOSAL

revuelta
architecture international

Miami
Santiago, Chile

revuelta-architecture.com

2950 SW 27th. AVE.
SUITE 110
MIAMI, FL. 33133

305.590.5000

Project

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Revisions

Owner Information
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305.861.8181

Consultant

Luis O. Revuelta
AR-0007972

NEW PROPOSAL

Date
04.21.22

Scale
1"=20'

Project No.
2202

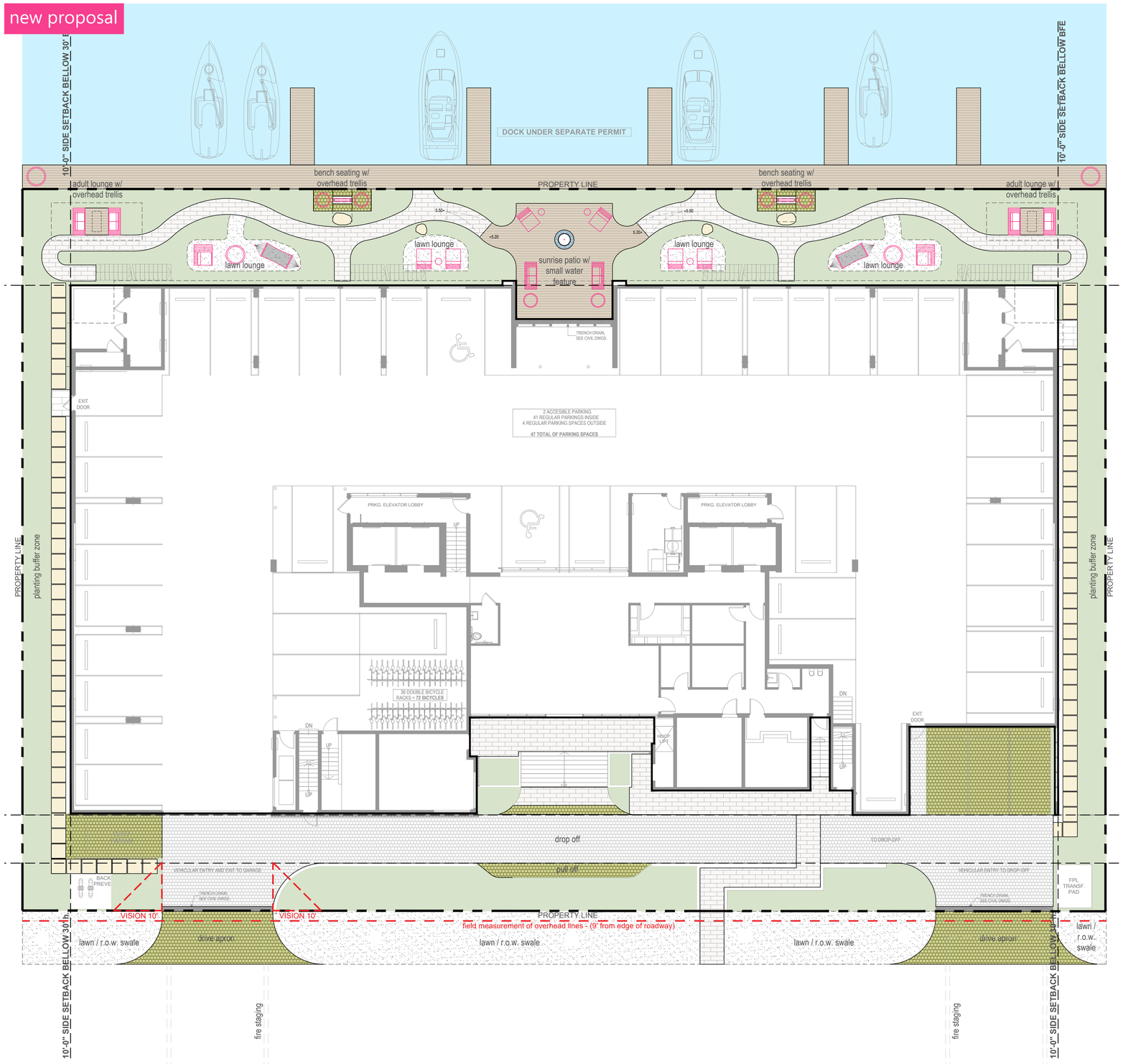
Sheet Name
SECTIONS & DETAILS

Sheet No.
C-7

22-17

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new proposal



MATERIAL LEGEND

Porcelain Tile on Slab



Concrete Step Finish (non-pervious surface)



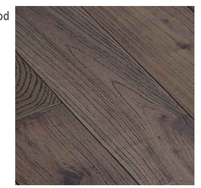
Granite Cobbles w/ Sand Joints



Permeable Paver Type / Detectable Warning Transition (darker tone cobble w/ moss or lawn joints)



Aged Teak Wood



lawn areas

landscape areas

NOTE: Refer to sheet L-103 for landscape calculations. For additional materials above ground level refer to subsequent sheets

DRAWING SCALE AND NORTH ARROW:

0' 10' 20' 40'

SCALE: 3/32" = 1'-0"

NORTH

right studios

LANDSCAPE DESIGNER:
C. Right Studios
1810 E. Terra Mar Drive
Pompano Beach, FL 33062
954.591.6864
corey@crightstudios.com

+

LANDSCAPE ARCHITECT:
Patrick Hodges Land Studio
PO Box 611052
Rosemary Beach
FL 32461
850.528.1925
patrick@phlandstudio.com

Project

LA BAIA NORTH

9461 EAST BAY HARBOR DR.
BAY HARBOR ISLANDS, FLORIDA 33154

Revisions

Owner Information
CONTINUUM LLC
9201 East Bay Harbour Dr
Bay Harbour Islands, Fl 33154
305.861.8181

Consultant

Landscape Architect

REGISTERED LANDSCAPE ARCHITECT PATRICK KENNEY HODGES LA 0000850 STATE OF FLORIDA

Patrick K. Hodges
LA-0000850

SITE PLAN REVISION

Date
05.17.22

Scale
AS SHOWN

Project No.
2202

Sheet Name
First Floor Site & Hardscape Plan

Sheet No.
L-100

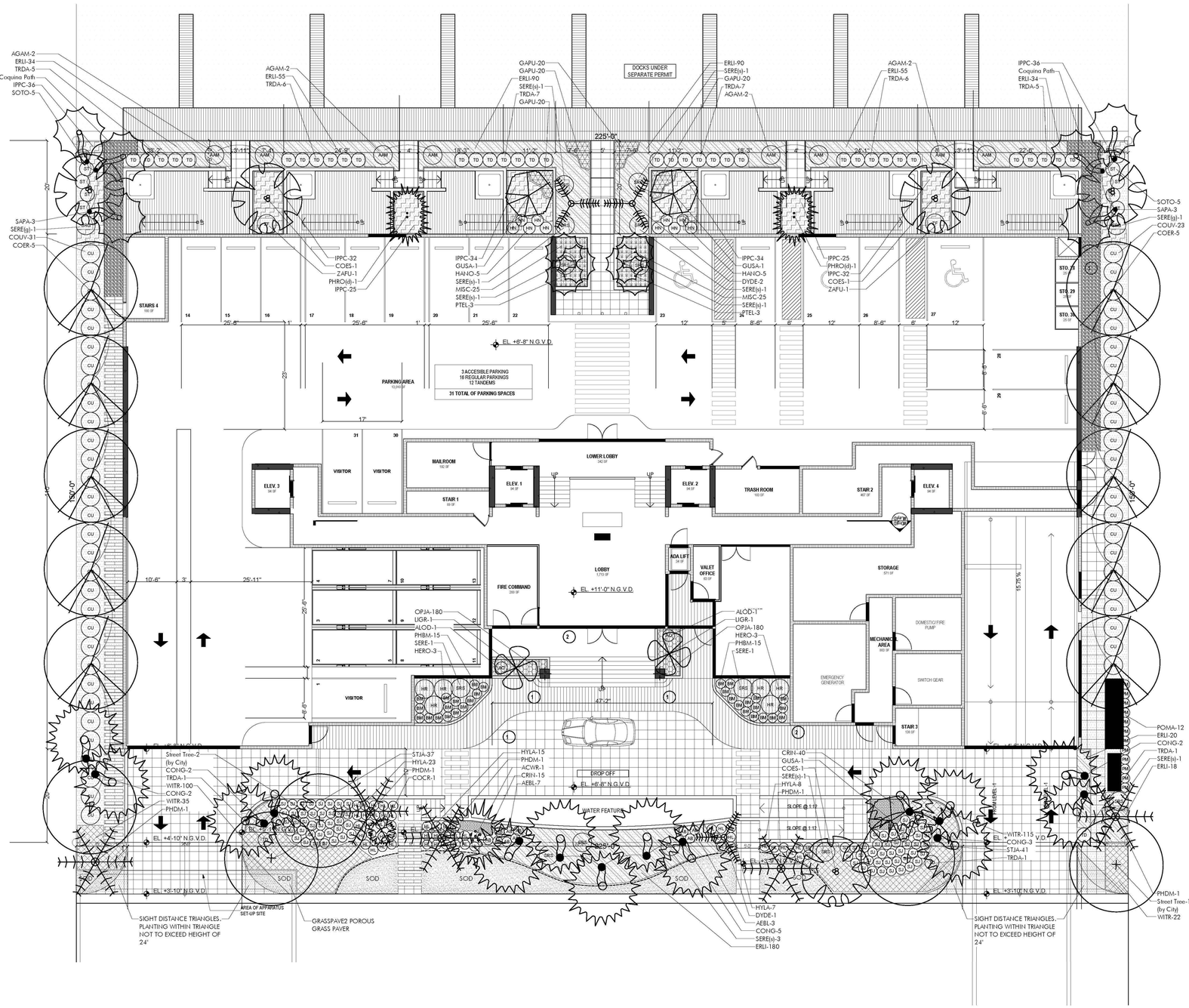
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previously approved

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PLANT LIST - GROUND FLOOR				
TREES				
KEY	PLANT NAME	QTY.	UT.	SIZE
COER	Conocarpus erectus ...Green Buttonwood	10	ea.	14' tall x 5' spread, 3" cal, 5' ct
COES	Conocarpus erectus 'Sericeus' ...Silver Buttonwood	5	ea.	12' tall OA, multi-trunk, lifted to tree form 4' CT min.
GUSA	Guaiaum sanctum ...Lignum Vitae	3	ea.	8' tall x 6' spread, 2" DBH. Min
STREET TREES (Species to be selected by the Village)		5	ea.	16-18' tall x 7' spread, 6 ct. 4" cal
PALMS				
KEY	PLANT NAME	QTY.	UT.	SIZE
ACWR	Acoelorrhaphe wrightii ...Paurotis Palm	1	ea.	10' tall OA, 6 trunks min.
COCR	Coccothrinax crinita ...Old Man Palm	1	ea.	5' Tall OA
CONG	Cocos nucifera "Maypan" ...Coconut Palm	14	ea.	30' tall OA, curved trunks, lean 5° where shown on plans
DYDE	Dypsis decaryi ...Triangle Palm	3	ea.	16' tall OA
LIGR	Licuala grandis ...Ruffled Fan Palm	2	ea.	5' Tall OA
PHDM	Phoenix dactylifera 'Medjool' ...Medjool Date Palm	5	ea.	15' GW, classic cut
PHRO(d)	Phoenix roebellini ...Pygmy Date Palm	2	ea.	8' tall OA, double trunk
PTEL	Ptychosperma elegans ...Solitare Palm	6	ea.	22' tall OA
SAPA	Sabal palmetto ...Sabal Palm	6	ea.	24' tall OA, character trunks, leaning where shown on plans
SHRUBS AND GROUNDCOVERS				
KEY	PLANT NAME	QTY.	UT.	SIZE
AEBL	Aechmea blanchetiana ...Orange Bromeliad	10	ea.	24"x24", orange color
AGAM	Agave americana ...Blue Agave	8	ea.	48"x48"
ALOD	Alcantarea odorata ...Fragrant Bromeliad	2	ea.	24" x 24"
COUV	Coccoloba uvifera ...Seagrape	54	ea.	36"x36", install 48" o.c.
CRIN	Crossandra indiliformis ...Orange Marmalade	55	ea.	1 gal cans, install 12" o.c.
ERLI	Ernodea littoralis ...Golden Creeper	576	ea.	3 gallon cans, 18" o.c.
GAPU	Gaillardia pulchella ...Blanket Flower	80	ea.	1 gal cans, install 12" o.c.
HANO	Hamelia nodosa ...Dwarf Firebush	10	ea.	18" x 18"
HERO	Heliconia rostrata ...Hanging Lobster Claw	6	ea.	5' Tall OA
HYLA	Hymenocallis latifolia ...Spider Lily	53	ea.	3 gallon cans, full
IPPC	Ipomea pes-caprae ...Railroad Vine	254	ea.	3 gal cans, full, install 18" o.c.
MISC	Microsorum scolopendria ...Wart Fern	50	ea.	3 gal cans, full, install 18" o.c.
OPJA	Ophiopogon japonicum ...Mondo Grass	360	ea.	6" pots, install 6" o.c.
PHBM	Philodendron 'Burle Marx' ...Burle Marx Philodendron	30	ea.	18"x18"
POMA	Podocarpus macrophyllus ...Podocarpus	12	ea.	30"x18"
SERE(G)	Serenoa repens ...Saw Palmetto	2	ea.	24" x 24", Green color
SERE(S)	Serenoa repens 'Silver' ...Saw Palmetto	13	ea.	24" x 24", Silver color
SOTO	Sophora tomentosa ...Necklace Pod	10	ea.	24" x 24"
STJA	Stachytarpheta jamaicensis ...Blue Porterweed NATIVE VARIETY	78	ea.	18"x18", creeping NATIVE VARIETY
TRDA	Tripsacum dactyloides ...Fakahachee Grass	39	ea.	3 gallon cans, full
WITR	Widelia trilobata ...Widelia	272	ea.	1 gal cans, 18" o.c.
ZAFU	Zamia furfuracea ...Cardboard Palm	2	ea.	36" x 36"
MISCELLANEOUS				
sod	Celebration Bermuda Sod	650	s.f.	solid sod
	Planting Soil 80% Silica Sand 20% Florida Peat	410	c.y.	excavate and backfill 12" in all sod areas, 18" in all shrub areas, and 24" in tree pits
	Shredded Melaluca Mulch	40	c.y.	2" layer in all shrub beds


AGAM-2
ERLI-34
TRDA-5
Coquina Path
IPPC-36
SOTO-5
AGAM-2
ERLI-55
TRDA-6
GAPU-20
GAPU-20
ERLI-90
SERE(s)-1
TRDA-7
GAPU-20
DOCKS UNDER SEPARATE PERMIT
ERLI-90
SERE(s)-1
GAPU-20
TRDA-7
AGAM-2
AGAM-2
ERLI-55
TRDA-6
IPPC-36
Coquina Path
ERLI-34
TRDA-5
225'-6"
SAPA-3
SERE(g)-1
COUV-31
COER-5
SOTO-5
SAPA-3
SERE(g)-1
COUV-23
COER-5
IPPC-32
COES-1
ZAFU-1
PHRO(d)-1
IPPC-25
IPPC-34
GUSA-1
HANO-5
SERE(s)-1
MISC-25
SERE(s)-1
PTEL-3
IPPC-34
GUSA-1
HANO-5
DYDE-2
SERE(s)-1
MISC-25
SERE(s)-1
PTEL-3
IPPC-25
PHRO(d)-1
IPPC-32
COES-1
ZAFU-1
STAIRS 4
STO. 28
STO. 29
STO. 30
EL. +6'-8" N.G.V.D.
PARKING AREA
3 ACCESIBLE PARKING
16 REGULAR PARKINGS
12 TANDEMS
31 TOTAL OF PARKING SPACES
LOWER LOBBY
MAILROOM
ELEV. 3
VISITOR
VISITOR
ELEV. 1
STAIR 1
ELEV. 2
TRASH ROOM
STAIR 2
ELEV. 4
FIRE COMMAND
EL. +11'-0" N.G.V.D.
LOBBY
ADA LIFT
VALET OFFICE
STORAGE
MECHANICAL AREA
DOMESTIC FIRE PUMP
SWITCH GEAR
EMERGENCY GENERATOR
STAIR 3
VISITOR
OPJA-180
LIGR-1
ALOD-1
PHBM-15
SERE-1
HERO-3
ALOD-1
LIGR-1
OPJA-180
HERO-3
PHBM-15
SERE-1
47'-2"
150'-0"
150'-0"
Street Tree-2
(by City)
CONG-2
TRDA-1
WITR-100
CONG-2
WITR-35
PHDM-1
STJA-37
HYLA-23
PHDM-1
COCR-1
HYLA-15
PHDM-1
ACWR-1
CRIN-15
AEBL-7
DROP OFF
EL. +6'-8" N.G.V.D.
WATER FEATURE
CRIN-40
GUSA-1
COES-1
SERE(s)-1
HYLA-8
PHDM-1
SLOPE @ 1:12
SLOPE @ 1:12
EL. +4'-10" N.G.V.D.
EL. +3'-10" N.G.V.D.
EL. +3'-10" N.G.V.D.
EL. +WITR-115 V.D
CONG-3
STJA-41
TRDA-1
SOD
SOD
SOD

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new proposal



PLANT SCHEDULE

TREES			
QTY	SYM	Botanical Name	Common Name
2	QV	Quercus virginiana	Live Oak
2	CR	Clusia rosea	Autograph Tree
6	CS	Cordia sebestena	Orange Gieger Tree
13	EF	Myrcianthes fragrans	Simpson's Stopper
8	CD	Coccoloba diversifolia	Pigeon Plum
6	MC	Myrica cerifera	Florida Privet
4	PP	Plumeria 'Pink' frangipani	Pink Frangipani Tree
2	TC	Tabebuia chrysotricha	Golden Trumpet Tree

PALMS			
QTY	SYM	Botanical Name	Common Name
12	AM	Adonidia Merrillii	Christmas Palm
14	SP	Sabal palmetto	Sabal Palm
12	VM	Veitchia montgomeryana	Montgomery Palm

DRAWING SCALE AND NORTH ARROW:

0' 10' 20' 40'

SCALE: 3/32" = 1'-0" NORTH

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Project

LA BAIA NORTH
9461 EAST BAY HARBOR DR.
BAY HARBOR ISLANDS, FLORIDA 33154

Revisions

Owner Information
CONTINUUM LLC
9201 East Bay Harbour Dr
Bay Harbour Islands, Fl 33154
305.861.8181

Consultant

Landscape Architect

REGISTERED LANDSCAPE ARCHITECT
PATRICK KENNEY HODGES
LA 0000850
STATE OF FLORIDA

Patrick K. Hodges
LA-0000850

SITE PLAN REVISION

Date
05.17.22

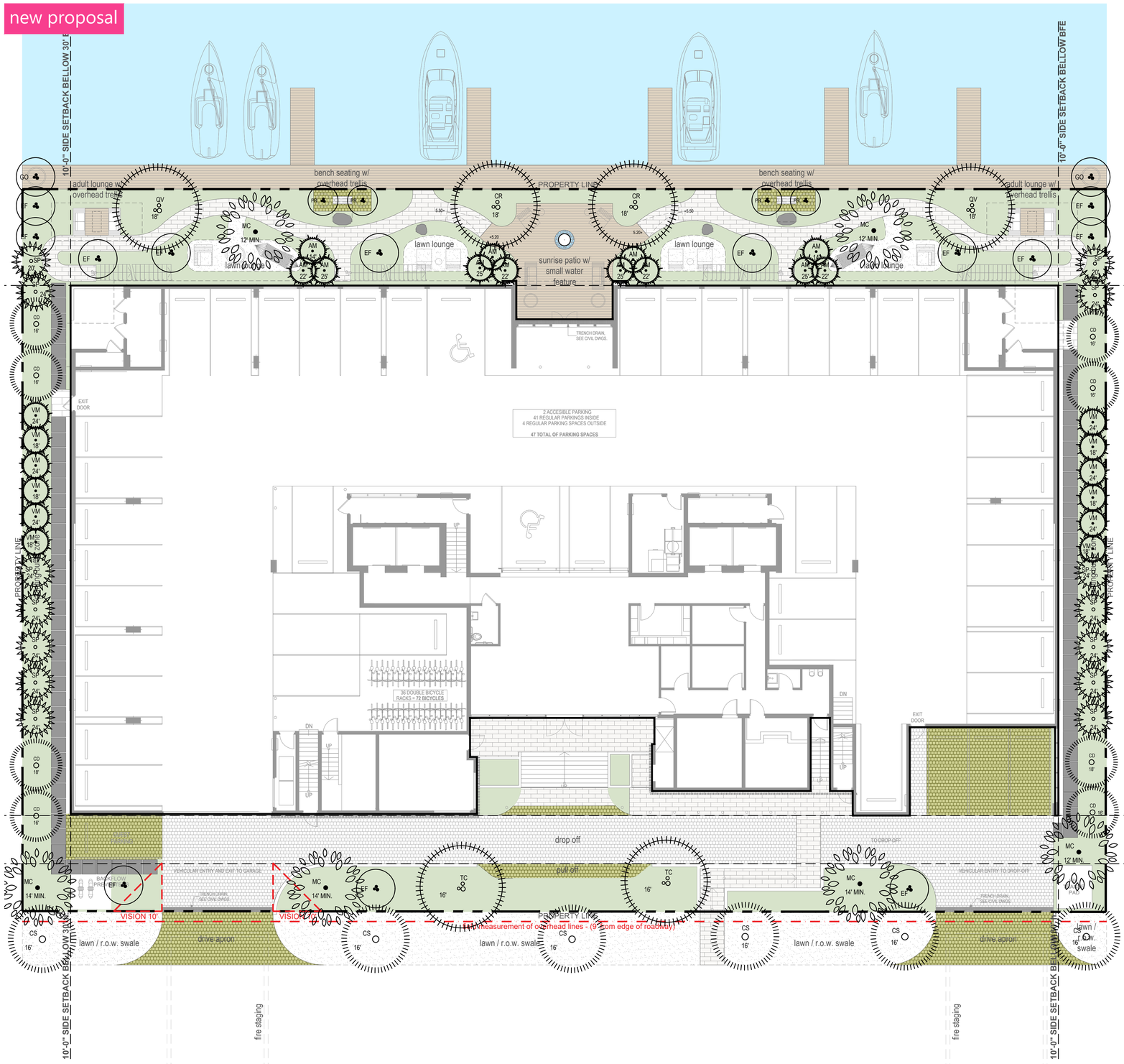
Scale
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Project No.
2202

Sheet Name
First Floor Canopy
Planting Plan

Sheet No.
L-101 i

new proposal



PLANT SCHEDULE

TREES			
QTY	SYM	Botanical Name	Common Name
2	QV	Quercus virginiana	Live Oak
2	CR	Clusia rosea	Autograph Tree
6	CS	Cordia sebestena	Orange Gieger Tree
13	EF	Myrcianthes fragrans	Simpson's Stopper
8	CD	Coccoloba diversifolia	Pigeon Plum
6	MC	Myrica cerifera	Florida Privet
4	PP	Plumeria 'Pink' frangipani	Pink Frangipani Tree
2	TC	Tabebuia chrysotricha	Golden Trumpet Tree
PALMS			
QTY	SYM	Botanical Name	Common Name
12	AM	Adonidia Merrillii	Christmas Palm
14	SP	Sabal palmetto	Sabal Palm
12	VM	Veitchia montgomeryana	Montgomery Palm

NOTES: REFER TO SHEET L-103 FOR FULL SPECIFICATIONS AND SHEET L-104 FOR LANDSCAPE LEGEND AND PLANT CALCULATIONS

Per town code; 22 required trees, requires 6 variable tree species on site which is provided above and in plan. Street trees shall have 3' diameter of mulch around base of tree. No sod shall be allowed over tree roots until the roots have been established as to maximize growth rate and ensure survival for guarantee period

SHRUBS

REFER TO SHEETS L-102 AND L-104

IRRIGATION

REFER TO PERFORMANCE SPECIFICATIONS REQUIRED BY LANDSCAPE ARCHITECT ON PLANTING SCHEDULE, NOTES AND DETAILS SHEET WITHIN THIS SET

NOTE: refer to L103 for complete tree specifications and L104 for comparison to previously approved submission.

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0' 10' 20' 40'

SCALE: 3/32" = 1'-0"

NORTH

right studios

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Project No.
2202

Sheet Name
First Floor Canopy Planting Plan

Sheet No.
L-101

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NOT FOR CONSTRUCTION

new proposal


pigeon plum


live oak


autograph tree (leaf , fruit)


autograph tree


simpson stopper


southern wax myrtle


pink plumeria (flower)


pink plumeria


pink trumpet tree


christmas palm


sabal palm


montgomary palm


lignum vitae (GO) - potential potted plant


orange geiger (street tree)

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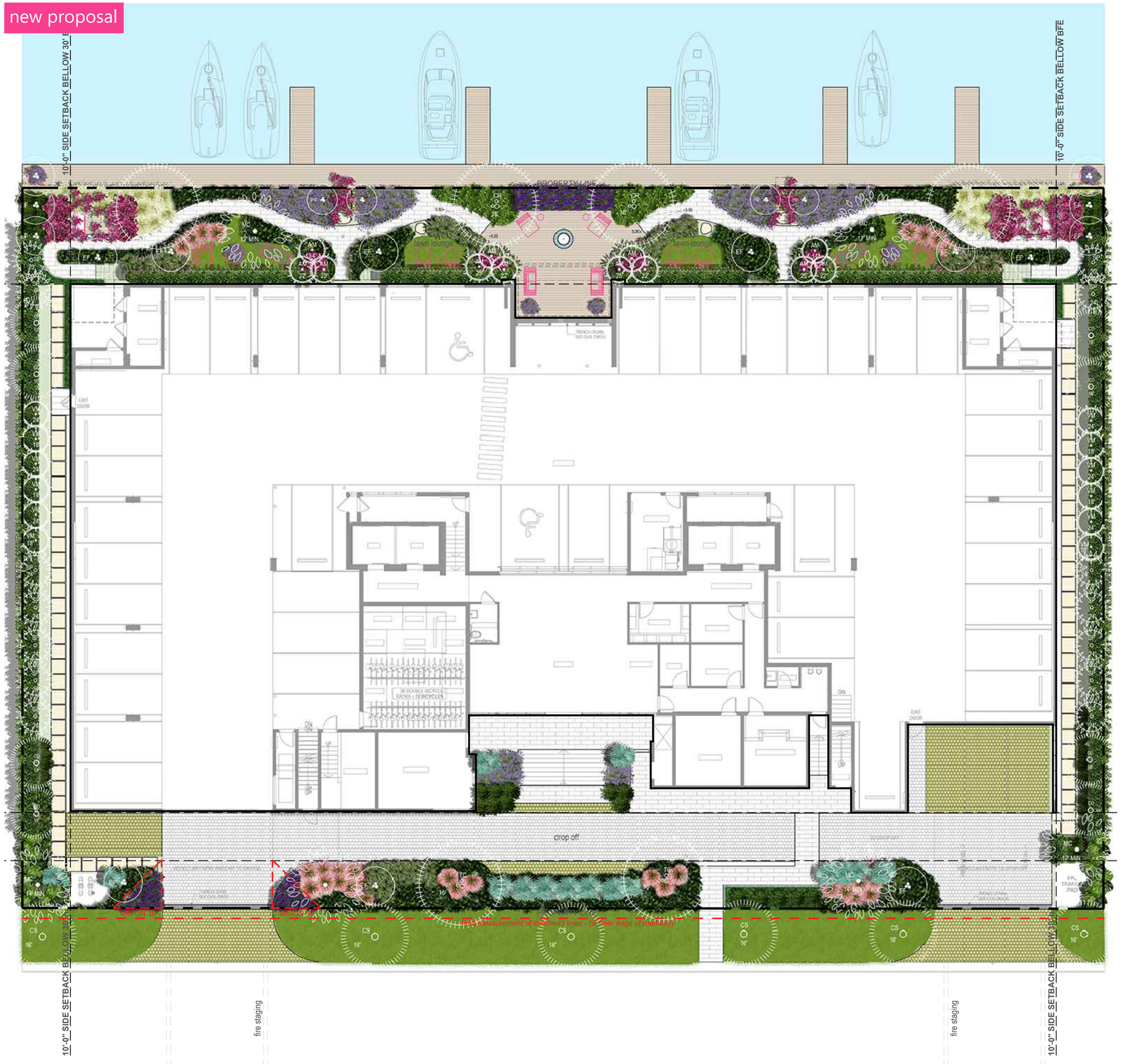
Project No.
2202

Sheet Name
First Floor Canopy
Plant Image Board

Sheet No.
L-101 p

NOT FOR CONSTRUCTION

new proposal



PLANT SCHEDULE

SHRUBS			
QTY	SYM	Botanical Name	Common Name
245	FM	Ficus microcarpa	Green Island Ficus
37	NB	Nephrolepis biserrata	Sword Fern
99	GL	Gymnanthes lucida	Crabwood
9	SRC	Serenoa repens 'silver'	Silver Saw Palmetto
13	SRS	Serenoa repens	Green Saw Palmetto
53	ZP	Zamia pumila	Coontie
ACCENTS, VINES and GRASSES			
QTY	SYM	Botanical Name	Common Name
14	BA	Bougainvillea 'Afterglow'	After Glow Bougainvillea
29	MC	Muhlenbergia capillaris	Pink Muhly Grass
107	SP	Spartina patens	Saltmeadow Cordgrass
83	NC	Neomarica caerulea 'Regina'	Giant Apostle Iris
GROUNDCOVERS			
QTY	SYM	Botanical Name	Common Name
64	LM	Liriope muscari	Big Blue Lilyturf
73	LN	Lysimachia nummularia	Creeping Jenny
42	PB	Philodendron Burle Marx	Burle Marx Philodendron
125	TA	Trachelospermum asiaticum	Asiatic Jasmine
500	SOD	Stenotaphrum secundatum	St. Agustine
1,780	SOD	Stenotaphrum secundatum	St. Agustine

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0' 10' 20' 40'

SCALE: 3/32" = 1'-0" NORTH

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Landscape Architect

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Patrick K. Hodges
LA-0000850

SITE PLAN REVISION

Date
05.17.22

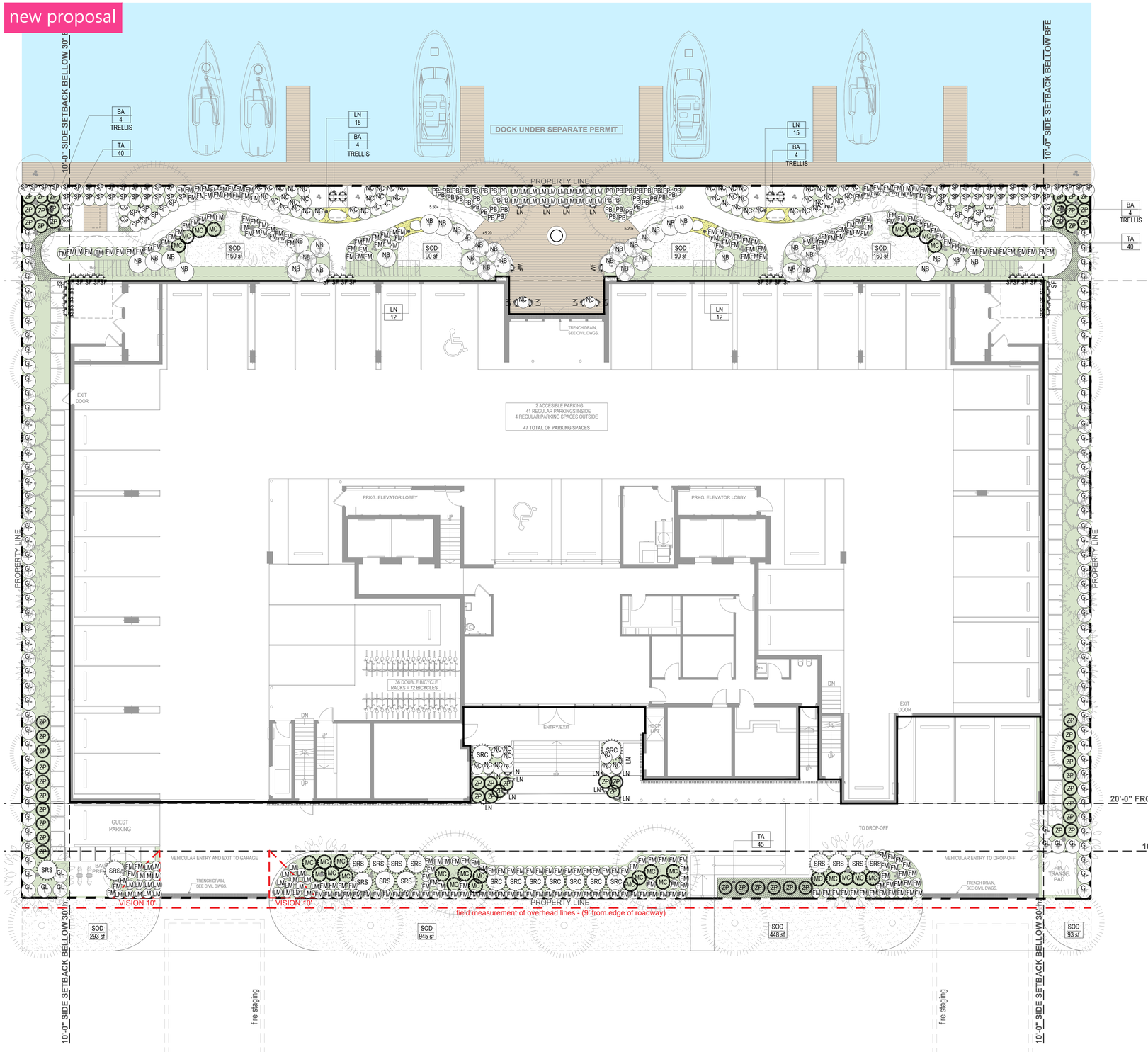
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Project No.
2202

Sheet Name
First Floor Understory Planting Plan

Sheet No.
L-102 i

new proposal



PLANT SCHEDULE

SHRUBS			
QTY	SYM	Botanical Name	Common Name
245	FM	Ficus microcarpa	Green Island Ficus
37	NB	Nephrolepis biserrata	Sword Fern
99	GL	Gymnanthes lucida	Crabwood
9	SRC	Serenoa repens 'silver'	Silver Saw Palmetto
13	SRS	Serenoa repens	Green Saw Palmetto
53	ZP	Zamia pumila	Coontie
ACCENTS, VINES and GRASSES			
QTY	SYM	Botanical Name	Common Name
14	BA	Bougainvillea 'Afterglow'	After Glow Bougainvillea
29	MC	Muhlenbergia capillaris	Pink Muhly Grass
107	SP	Spartina patens	Saltmeadow Cordgrass
83	NC	Neomarica caerulea 'Regina'	Giant Apostle Iris
GROUNDCOVERS			
QTY	SYM	Botanical Name	Common Name
64	LM	Liriope muscari	Big Blue Lilyturf
73	LN	Lysimachia nummularia	Creeping Jenny
42	PB	Philodendron Burle Marx	Burle Marx Philodendron
125	TA	Trachelospermum asiaticum	Asiatic Jasmine
500	SOD	Stenotaphrum secundatum	St. Agustine
1,780	SOD	Stenotaphrum secundatum	St. Agustine

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SITE PLAN REVISION

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05.17.22

Scale
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Project No.
2202

Sheet Name
First Floor Understory Planting Plan

Sheet No.
L-102

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new proposal


green island ficus

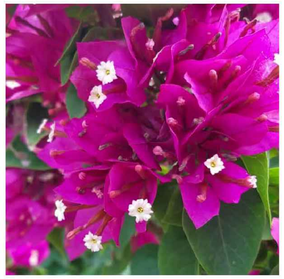

sword fern


crabwood (hedge)


silver saw palmetto


green saw palmetto


coontie


bougainvillea


pink muhly grass


saltmeadow cordgrass


giant iris


big blue liriope


creeping jenny


philodendron burle marx


asiatic jasmine

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SITE PLAN REVISION

Date
05.17.22

Scale
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Project No.
2202

Sheet Name
First Floor Understory
Plant Image Board

Sheet No.
L-102 p

NOT FOR CONSTRUCTION

GENERAL NOTES AND REQUIREMENTS

1. The contractor is responsible for obtaining any permits or approvals from the federal, state or local government required for the work included in this contract and on these drawings.
2. Locate all underground utilities, electrical wiring, water, sewer, telephone, cable tv, etc., prior to landscape or irrigation installation
3. Stake out all tree & large shrub locations for la and owner review and approval prior to excavation or planting. Plan locations are subject to field adjustment by the la.
4. The contractor shall install an irrigation system as needed to provide a complete working system and as required to ensure 100% coverage of all new planting and sodded lawn areas. See irrigation plan by the landscape architect.
5. Install only plants graded florida no.1 or better as set forth in the florida department of agriculture 'grades and standards for nursery plants" second edition feb. 1998 including revisions and which meet or exceed the sizes indicated in the planting schedule and details.
6. Plant shrubs in circular pits with a diameter 16" greater than rootball or container. Plant trees in circular pits with a diameter 36" greater than rootball or container,. Place plants with best "face" forward.
7. Fertilize all trees with agriform 21 gram tablets, slow-release 20-10-5 analysis with one tablet per 1/2" of trunk diameter.
8. Backfill all planting pits with the following mixture ; 1/2 onsite soil, 1/2 clean friable topsoil. Submit topsoil sample and soil test analysis for approval by landscape architect, (see planting details). Remove excess soil excavated from plant pit from the site or distribute on-site as directed by l.a.
9. Apply "diehard transplant" mycorrhizal inoculant and 100% organic starter fertilizer to each new tree planted and shrub/groundcover beds in accordance with the manufacturer's recommendations i.e. 8 oz. Per 2" caliper, 3 lbs/100 s.f. area, etc... Contact horticultural alliance, inc. Sarasota, fl. 34277 800-628-6373
10. Fertilize all planting beds with osmocote 14-14-14 slow-release fertilizer at the rate of 16 pounds per 1,000 square feet. Furnish receipts for material used.
11. Treat all planting beds with pre-emergent and post-emergent herbicides according to the manufacturer's specifications. Submit receipts for materials used.
12. Mulch planting beds to a minimum 2 1/2" compacted thickness with pine straw, free of weeds.
13. Sod all disturbed areas which do not have shrub or groundcover plantings indicated with solid sod laid with closely abutting joints. Fertilize after installation with a slow-release formula.
14. Contractor shall verify all plant quantities based on the quantities in place as indicated on the plans and provide composite unit prices for each plant including all costs for materials and installation; i.e., labor, mulch, fertilzer, watering, staking, herbicides, mowing, weeding, site preparation, etc.
15. Fertilize palms with palmgain 8-2-12 formula as manufactured by bgi www.bgi-usa.com per manufacturer recommened rate.
16. Notify the owner and landscape architect of any unforeseen conditions, i.e., compacted soil / subgrade, poor drainage, unconsolidated soil, erosion, utility conflicts, excessive sun or shade, etc., prior to proceeding with landscape installation.
17. Guarantee all plants for one year.
18. All plants, materials and workmanship are subject to the approval of the landscape architect and owner.
19. Do not make substitutions or revisions, any revision or modifications to the landscape plan must have prior approval by the landscape architect & owner
20. Maintain all planting including watering, mowing, mulching, weed, pest control, etc. Until final acceptance by the owner.
23. Non-woven geo-textile product installation per manufacturers specifications. Any alternates to the specified products shall be submitted to landscape architect for approval prior to procurement.

IRRIGATION

IRRIGATION SYSTEM NOTES AND REQUIREMENTS:

the contractor shall install an automatic underground irrigation system with a minimum of two bubblers or drip emitters at each new tree and palm location and with sprayheads to ensure 100% coverage of all planting bed areas and rotors for complete coverage of all sodded lawn areas within the limits of work for this project (refer to plan provied by landscape architect).

the contractor shall submit shop drawings of the irrigation system for review and approval by the landscape architect and owner prior to the award of the landscape and irrigation contract.

the shop drawings for the irrigation system shall include a backflow preventer, lightning protection, a "smart" controller, moisture-sensing devices, piping, heads, valves and all other equipment required by local codes and as necessary for a complete working system.

the contractor shall provide an operations manual to the owner and landscape architect prior to completion of the irrigation system installation and shall demonstrate and instruct the owner's maintenance provider in the complete operation of the system.

PLANT SCHEDULE

QTY	SYM	Botanical Name	Common Name		Specifications
TREES					
2	QV	Quercus virginiana	Live Oak	N	FG, 8" min. cal, 18' ht min. 12' sp min. 6' min. CT
2	CR	Clusia rosea	Autograph Tree	N	FG, 8" min. cal, 18' ht min. 12' sp min. 6' min. CT
6	CS	Cordia sebestena	Orange Gieger Tree	N	FG, 3" min. cal, 12'-14' ht min. 6' min. sp, 6' min. CT (street tree)
13	EF	Myrcianthes fragrans	Simpson's Stopper	N	45 gal, Multi-trunk, 8-10 ft ht, 4'-6' sp (accent non-tree count)
8	CD	Coccoloba diversifolia	Pigeon Plum	N	FG, 4" min. cal, (2) 18' ht min. 8' sp (6) 14'-16'ht 6' sp, 6' min. CT
6	MC	Myrica cerifera	Florida Privet	N	FG, Multi-trunk, 12'-14' ht min. 12' sp 6' min CT
4	PP	Plumeria 'Pink' frangipani	Pink Frangipani Tree		65 gal, 8' ht, 6' spr (accent non-tree count)
2	TC	Tabebuia chrysotricha	Golden Trumpet Tree	N	FG, Grade #1, 5" min. cal, 16'-18' ht x 6'-8' sp, 6' min. CT
PALMS					
QTY	SYM	Botanical Name	Common Name		Specification
12	AM	Adonidia Merrillii	Christmas Palm		FG, singles 14'-20' hts (see plan) 4" min. cal
14	SP	Sabal palmetto	Sabal Palm	N	FG, 14'-24' hts (see plan) 12" min. cal (booted)
12	VM	Veitchia montgomeryana	Montgomery Palm		FG, singles 18'-24' hts (see plan) 4" min. cal
SHRUBS					
QTY	SYM	Botanical Name	Common Name		Specification
245	FM	Ficus microcarpa	Green Island Ficus		7 gal 24"x24" full
37	NB	Nephrolepis biserrata	Sword Fern	N	7 gal 30"x 30" full
99	GL	Gymnanthes lucida	Crabwood	N	15 gal, 5'-6' ht, 24" min. spr (36" o.c. spacing max.)
9	SRC	Serenoa repens 'silver'	Silver Saw Palmetto	N	25 gal, 3'x3' full
13	SRS	Serenoa repens	Green Saw Palmetto	N	25 gal, 3'x3' full
53	ZP	Zamia pumila	Coontie	N	7 gal, 30"x30" full
ACCENTS, VINES and GRASSES					
QTY	SYM	Botanical Name	Common Name		Specifications
14	BA	Bougainvillea 'Afterglow'	After Glow Bougainvillea		15 gal, 7'-8' ht trellis
29	MC	Muhlenbergia capillaris	Pink Muhly Grass		7 gal 30"x30" full
107	SP	Spartina patens	Saltmeadow Cordgrass		7 gal 24" x 24"
83	NC	Neomarica caerulea 'Regina'	Giant Apostle Iris		7 gal 24"x24" full
GROUNDCOVERS					
QTY	SYM	Botanical Name	Common Name		Specifications
64	LM	Liriope muscari	Big Blue Lilyturf		7 gal 24"x24" full
73	LN	Lysimachia nummularia	Creeping Jenny		1 gal 12"x12" full
42	PB	Philodendron Burle Marx	Burle Marx Philodendron		7 gal 24"x24" full
125	TA	Trachelospermum asiaticum	Asiatic Jasmine		1 gal 12"x12" full
500	SOD	Stenotaphrum secundatum	St. Agustine		REAR LOT - solid sod, butt jointed, no gaps
1,780	SOD	Stenotaphrum secundatum	St. Agustine		ROW - solid sod, butt jointed, no gaps, not within 3' dia of tree trunks

N = Native Species

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LA 0000850
STATE OF FLORIDA

Patrick K. Hodges

LA-0000850

SITE PLAN REVISION

Date
05.17.22

Scale
AS SHOWN

Project No.
2202

Sheet Name
Planting Schedule, Notes & Specifications

Sheet No.

L-103

NOT FOR CONSTRUCTION

previously approved

LANDSCAPE LEGEND

CITY OF BAY HARBOR

INFORMATION REQUIRED TO BE PERMANENTLY AFFIXED TO PLANS
Zoning District RM-1 Lot Area 33,750 SF Acres .77

	REQUIRED	PROVIDED
OPEN SPACE		
A. Square feet of required Open Space as indicated on site plan: Lot Area = 33,750 s.f.x 20 % = 6,750 s.f.	6,750 SF	8,494 SF
B. Square feet of parking lot open space required as indicated on site plan: Number of parking spaces N/A x 10 s.f. parking space =	N/A	N/A
C. Total square feet of landscaped open space required: A+B=	6,750 SF	9,716 SF
LAWN AREA CALCULATION		
A. Total Square feet of landscaped open space required by Chapter 33	6,750 SF	8,494 SF
B. Maximum lawn area (sod) permitted= 20% % = 1,350 s.f.	1,350 SF	650
TREES		
A. Number of trees required per lot or net lot acre, less existing number of trees meeting minimum requirements= 28 trees x .77 net lot acres - number of existing trees=	22	23
B. Street Trees (maximum average spacing of 35' o.c.) 225 linear feet along street divided by 35'=	7	6
Palms allowed as street trees (3:1 ratio)	6	6
Street tree species allowed directly beneath power lines: (maximum average spacing of 25' o.c.): 225 linear feet along street divided by 25'=	N/A	N/A
TOTAL STREET TREES REQUIRED	7	7
TOTAL TREES REQUIRED	29	44
TOTAL NEW TREES REQUIRED	29	44
C. 25% Palm species allowed (three palms = one tree) Palms provided:	15 max.	15
D. % Natives required: Number of trees provided x 50% =	15	25
E. % Low maintenance / drought and salt tolerant required: Number of trees provided x 50%=	15	34
SHRUBS		
A. Total number of trees required x 10 = the number of shrubs required:	346	379
B. The total number of shrubs required x 30% = the number of native shrubs required:	104	267
C. The total number of shrubs required x 50% = the number of drought shrubs required:	not provided	not provided
IRRIGATION		
AUTOMATIC IRRIGATION REQUIRED	YES	YES
REQUIRED TREE SIZES FOR 5+ STORY BUILDING		
25% Trees @ 18'-20' x 7' or Palms @ 22'-28':	10	15
50% Trees @ 16'-18' x 7' or Palms @ 22'-28':	19	16
25% Trees @ 12'-5' (min. req.) or Palms @ 14'-18':	10	31

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new proposal

LANDSCAPE LEGEND

TOWN OF BAY HARBOR ISLAND

LANDSCAPE CODE (SEC. 24-16) REQUIREMENTS LEGEND (WORKSHEET)
Multi-Family Residential - Townhouse Sites (RM-1, RM-2, RM-3)
Site Address 9461 East Bay Harbor Drive

Net Lot Area 33,750 SF Acres .77

	REQUIRED	PROVIDED
A. Open Space Requirement: Lot Area = 33,750 SF sf x 20 % = 6,750 sf	6,750 SF	8,851 SF
B. Maximum Lawn Area Allowed allowed open space _____ sf x 60%= _____ sf	5,310 SF	500 SF
C. Shade Trees Required 1. 28 trees / acre x .77 acers = 22	22	12 palms = (4 trees) + 20 trees (24 total)
2. Native Species Required - 50% # of Trees req. 22 x 50% = 11	11	20
3. Drought Tolerant and Low Maintenance Species Required - 50% # of Trees req. 22 x 50% = 11	11	20
D. Street Trees Required Measured @ 1:35 lineal feet of frontage Width of lot 225 / 35' = 6 Note: Street trees do not count towards required on-site lot trees Note: Street tree species determined by Town Street Tree Master Plan.	6	6
E. Shrubs Required 1. 10 shrubs x required trees	220	456
2. Native Species Required - 30%	66	211
3. Drought Tolerant and Low Maintenance Species Required - 50%	110	456
F. Parking Lot Landscaping (N/A)		
		(per provided trees required above in C-1)
REQUIRED TREE SIZES FOR 5+ STORY BUILDING		
25% Trees @ 18'-20' x 7' or Palms @ 22'-28':	6	6
50% Trees @ 16'-18' x 7' or Palms @ 22'-28':	12	12
25% Trees @ 12'-5' (min. req.) or Palms @ 14'-18':	6	6

right studios
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LA BAIA NORTH
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Patrick K. Hodges
LA-0000850

SITE PLAN REVISION

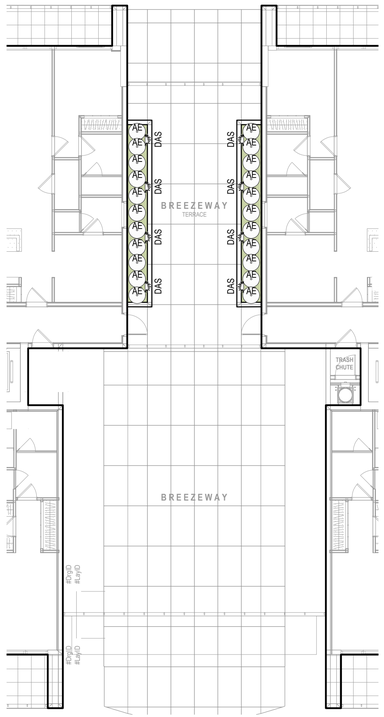
Date 05.17.22
Scale AS SHOWN
Project No. 2202
Sheet Name
Plant Legend Comparison
Sheet No.
L-104

NOT FOR CONSTRUCTION

previously approved

N/A

new proposal



PLANT SCHEDULE



DAS / 8 - dichondra silver falls



AE / 22 - cast iron plant

NOTE: refer to plant specifications, notes and details on sheet L-XXX

DRAWING SCALE AND NORTH ARROW:

0' 10' 20' 40'

SCALE: 3/32" = 1'-0"

NORTH

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Patrick K. Hodges
LA-0000850

SITE PLAN REVISION

Date
05.17.22

Scale
AS SHOWN

Project No.
2202

Sheet Name
Third Floor Understory Planting Plan

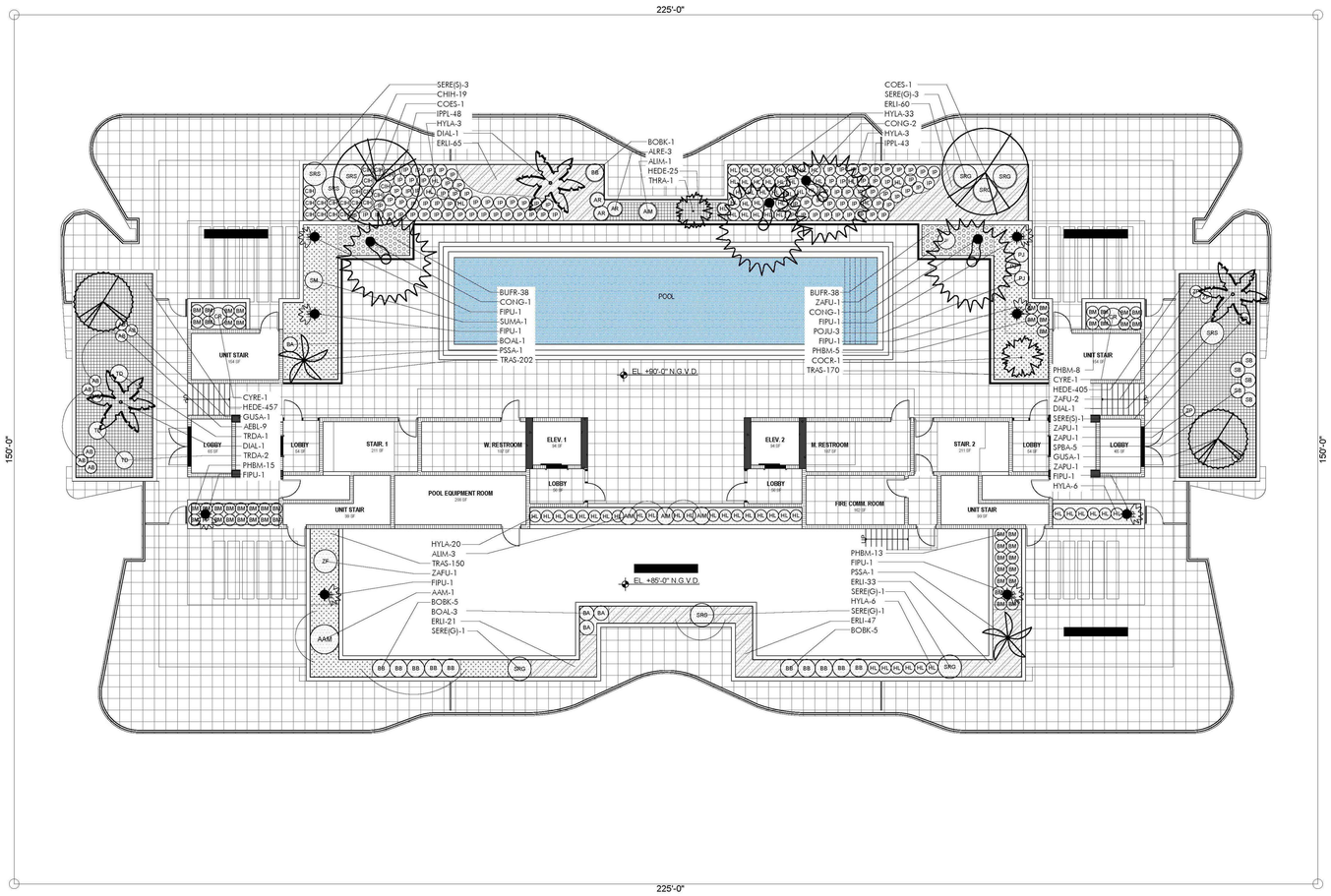
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previously approved

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PLANT LIST - ROOF LEVEL				
TREES				
KEY	PLANT NAME	QTY.	UT.	SIZE
COES	Conocarpus erectus 'Sericeus' ...Silver Buttonwood	2	ea.	8' x 6', multi-trunk, lifted to tree form
GUSA	Guaiacum sanctum ...Lignum vitae	2	ea.	7' tall x 5' spread
PALMS				
KEY	PLANT NAME	QTY.	UT.	SIZE
CONG	Cocos nucifera 'Maypan' ...Coconut Palm	5	ea.	6' GW, curved trunks, lean 5° where shown on plan
COCR	Coccothrinax crinata ...Old Man Palm	1	ea.	5' tall OA
DIAL	Dictyosperma album ...Hurricane Palm	3	ea.	6'-7' tall overall
PSSA	Pseudophoenix sargentii ...Buccaneer Palm	2	ea.	6' Tall OA
THRA	Thrinax radiata ...Green Thatch Palm	1	ea.	6'-7' tall overall
SHRUBS AND GROUNDCOVERS				
KEY	PLANT NAME	QTY.	UT.	SIZE
AEBL	Aechmea blanchetiana 'Orange Form' ...Bromeliad	9	ea.	24'x24', Orange Color
AGAM	Agave americana ...Blue Agave	1	ea.	36'x36'
ALIM	Alcantarea imperialis ...Imperial Bromeliad	4	ea.	30" x 30"
ALRE	Alcantarea reginae ...Bromeliad	3	ea.	24" x 24"
BOAS	Bougainvillea 'Alabama Sunset' ...Bougainvillea 'Alabama Sunset'	4	ea.	24'x24"
BOBK	Bougainvillea 'Barbara Karst' ...Barbara Karst Bougainvillea	11	ea.	24" x 24"
BUFR	Bulbine frutescens 'Hallmark' ...Orange Stalked Bulbine	76	ea.	1 gallon cans, 12" o.c.
CHIH	Chrysobalanus icaco 'Horizontal' ...Horizontal Cocoplum	19	ea.	12" x 18"
ERLI	Ernodea littoralis ...Golden Creeper	226	ea.	3 gallon cans, 18" o.c.
FIPU	Ficus pumila ...Creeping Fig	8	ea.	3 gal cans, full, install against columns
HEDE	Helianthus debilis ...Beach Sunflower	887	ea.	1 gallon cans, 12" o.c.
HYLA	Hymenocallis latifolia ...Spider Lily	70	ea.	3 gallon cans, full
IPPC	Ipomoea pes-caprae ...Railroad Vine	91	ea.	3 gallon cans, 18" o.c.
PHBM	Philodendron 'Burle Marx' ...Burle Max Philodendron	49	ea.	18'x18"
POJU	Portea 'Jungles' ...Bromeliad	3	ea.	24'x24"
SERE(G)	Serenoa repens 'Green' ...Silver Saw Palmetto	5	ea.	24" x 24", Green color
SERE(S)	Serenoa repens 'Silver' ...Silver Saw Palmetto	5	ea.	24" x 24", Silver color
SPBA	Spartina bakeri ...Cord Grass	5	ea.	3 gallon cans, full
SUMA	Suriana maritima ...Bay cedar	1	ea.	30" x 30"
TRAS	Trachelospermum asiaticum ...Asiatic Jasmine	522	ea.	1 gal cans, full, install 12" o.c.
TRDA	Tripsacum dactyloides ...Fakahatchee Grass	3	ea.	3 gallon cans, full
ZAFU	Zamia furfuracea ...Cardboard Palm	2	ea.	36'x36"
ZAPU	Zamia pumila ...Coontie	5	ea.	24'x24"
MISCELLANEOUS				
	GSLA Roof Planter Soil Mix 25% Coarse Sand 25% Medium Sand 20% Rice Rock 30% Florida Peat	395	c.y.	
	Shredded Melaluca Mulch	21	c.y.	2" layer in all shrub beds



PLANTING PLAN - ROOF LEVEL

SCALE: 1" = 10'

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Patrick K. Hodges

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SITE PLAN REVISION

Date
05.17.22

Scale
AS SHOWN

Project No.
2202

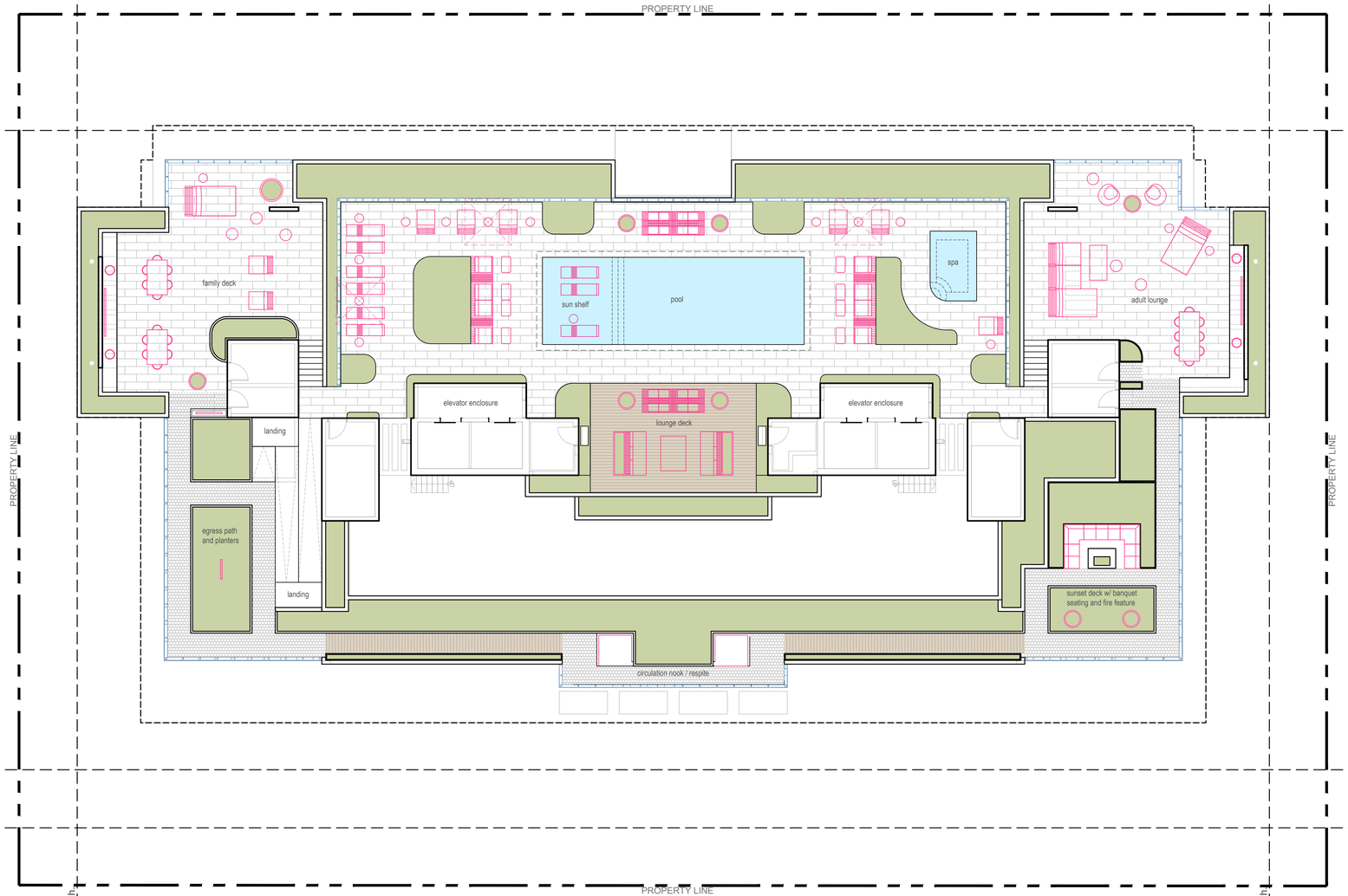
Sheet Name
Previously Approved
Roof Landscape Plan

Sheet No.

L-107-PA

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new proposal



MATERIAL LEGEND

Porcelain Tile on Slab



(4,685 sf)

Permeable Paver Type
(w/ moss or lawn joints)



(1,049 sf)

Aged Teak Wood



(780 sf)

water surface

(770 sf)

landscape
areas

(3,767 sf)

LANDSCAPE SITE CALCULATIONS:

total roof	16,125 sf	
required landscape area	2,419 sf	15%
provided landscape area	3,767 sf	23.3%

DRAWING SCALE AND NORTH ARROW:

0' 10' 20' 40'

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NORTH

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05.17.22

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Project No.
2202

Sheet Name
Roof Site &
Hardscape Plan

Sheet No.
L-106

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new proposal

PLANT SCHEDULE



TREES				
	QTY	SYM	Botanical Name	Common Name
	6	CR	Clusia rosea	Autograph Tree
	17	EF	Myrcianthes fragrans	Simpson's Stopper
b	5	LJ	Ligustrum japonicum	Japanese Privet
b	4	PP	Plumeria 'Pink' frangipani	Pink Frangipani Tree
PALMS				
	QTY	SYM	Botanical Name	Common Name
a	12	AM	Adonidia Merrillii	Christmas Palm
TREE and PALMS ALTERNATES				
	QTY	SYM	Botanical Name	Common Name
a	12	VM	Veitchia Montgomeryana	Montgomery Palm
b	TBD	GO	Guaiacum officinale	Lignum Vitae (option)

Alternate suggestions shall be approved by city of Bay Harbor prior to permit and installation. Alternate symbols above are placed next to options for alternates with corresponding letter tag

DRAWING SCALE AND NORTH ARCHITECT:

0' 10' 20' 40'

SCALE: 3/32" = 1'-0"

NORTH

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SITE PLAN REVISION

Date
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Scale
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Project No.
2202

Sheet Name
Roof Level Canopy
Planting Plan

Sheet No.
L-107 i

new proposal

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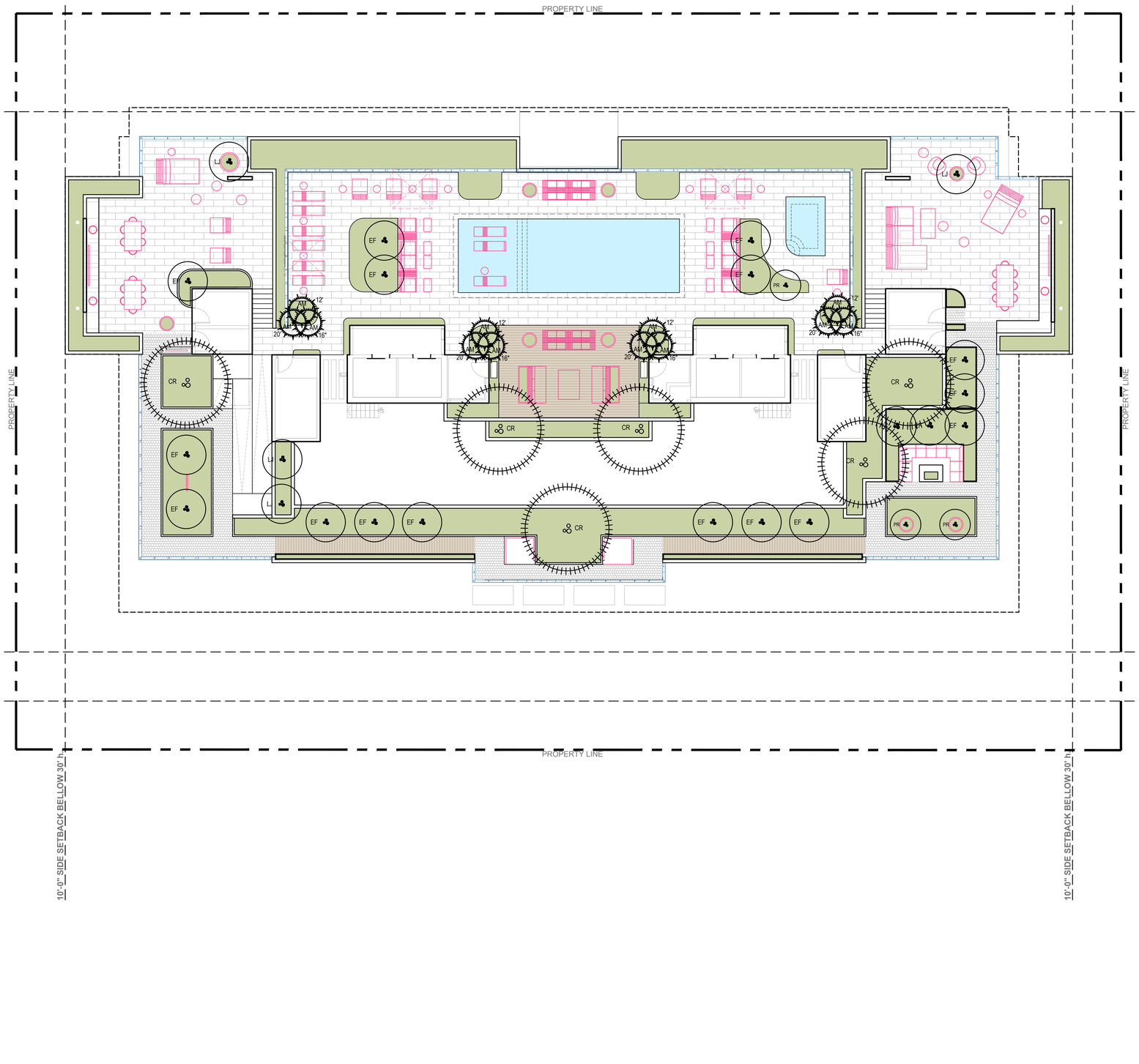
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PLANT SCHEDULE

TREES			
QTY	SYM	Botanical Name	Common Name
6	CR	Clusia rosea	Autograph Tree
17	EF	Myrcianthes fragrans	Simpson's Stopper
5	LJ	Ligustrum japonicum	Japanese Privet
4	PP	Plumeria 'Pink' frangipani	Pink Frangipani Tree

PALMS			
QTY	SYM	Botanical Name	Common Name
12	AM	Adonidia Merrillii	Christmas Palm

TREE and PALMS ALTERNATES			
QTY	SYM	Botanical Name	Common Name
12	VM	Veitchia Montgomeryana	Montgomery Palm
TBD	GO	Guaiacum officinale	Lignum Vitae (option)



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Date
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2202

Sheet Name
Roof Level Canopy
Planting Plan

Sheet No.
L-107

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new proposal



autograph tree (leaf , fruit)



autograph tree



simpson stopper



lignum vitae



ligustrum



pink plumeria (flower)



pink plumeria



christmas palm



montgomery palm

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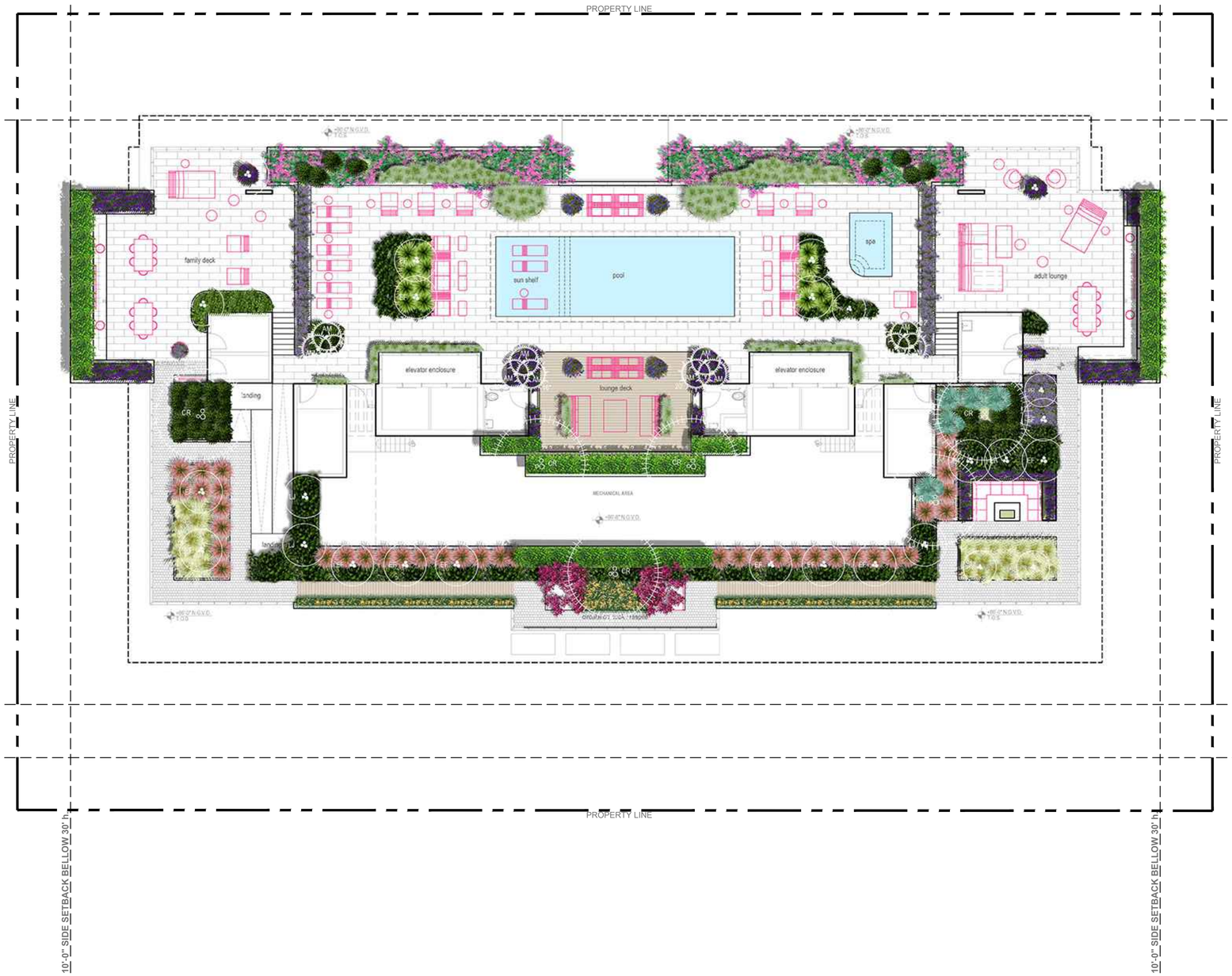
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2202

Sheet Name
Roof Level Canopy
Plant Image Board

Sheet No.
L-107 p

new proposal

NOT FOR CONSTRUCTION



PLANT SCHEDULE

SHRUBS			
QTY	SYM	Botanical Name	Common Name
56	CG	Clusia Guttifera	Clusia hedge
164	FM	Ficus microcarpa	Green Island Ficus
5	SRS	Serenoa repens 'silver'	Silver Saw Palmetto
43	ZP	Zamia pumila	Coontie

ACCENTS, VINES and GRASSES			
QTY	SYM	Botanical Name	Common Name
4	BA	Bougainvillea 'Afterglow'	After Glow Bougainvillea
500	IP	Ipomoea Pes-caprae	Rail Road Vine
49	MC	Muhlenbergia capillaris	Pink Muhly Grass
6	SL	Salvia leucantha	Mexican Sage
41	SP	Spartina patens	Saltmeadow Cordgrass
13	TD	Tripsacum dactyloides	Fakahatchee Grass

GROUNDCOVERS			
QTY	SYM	Botanical Name	Common Name
135	BF	Bulbine frutescens 'orange'	Orange Bulbine
92	LM	Liriope muscari	Big Blue Lilyturf
10	LN	Lysimachia nummularia	Creeping Jenny
39	NC	Neomarica caerulea 'Regina'	Giant Apostle Iris
334	OJ	Ophiopogon japonicus	Mondo Grass
17	PB	Philodendron Burle Marx	Burle Marx Philodendron

DRAWING SCALE AND NORTH ARROW:

0' 10' 20' 40'

SCALE: 3/32" = 1'-0"

NORTH

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SITE PLAN REVISION

Date
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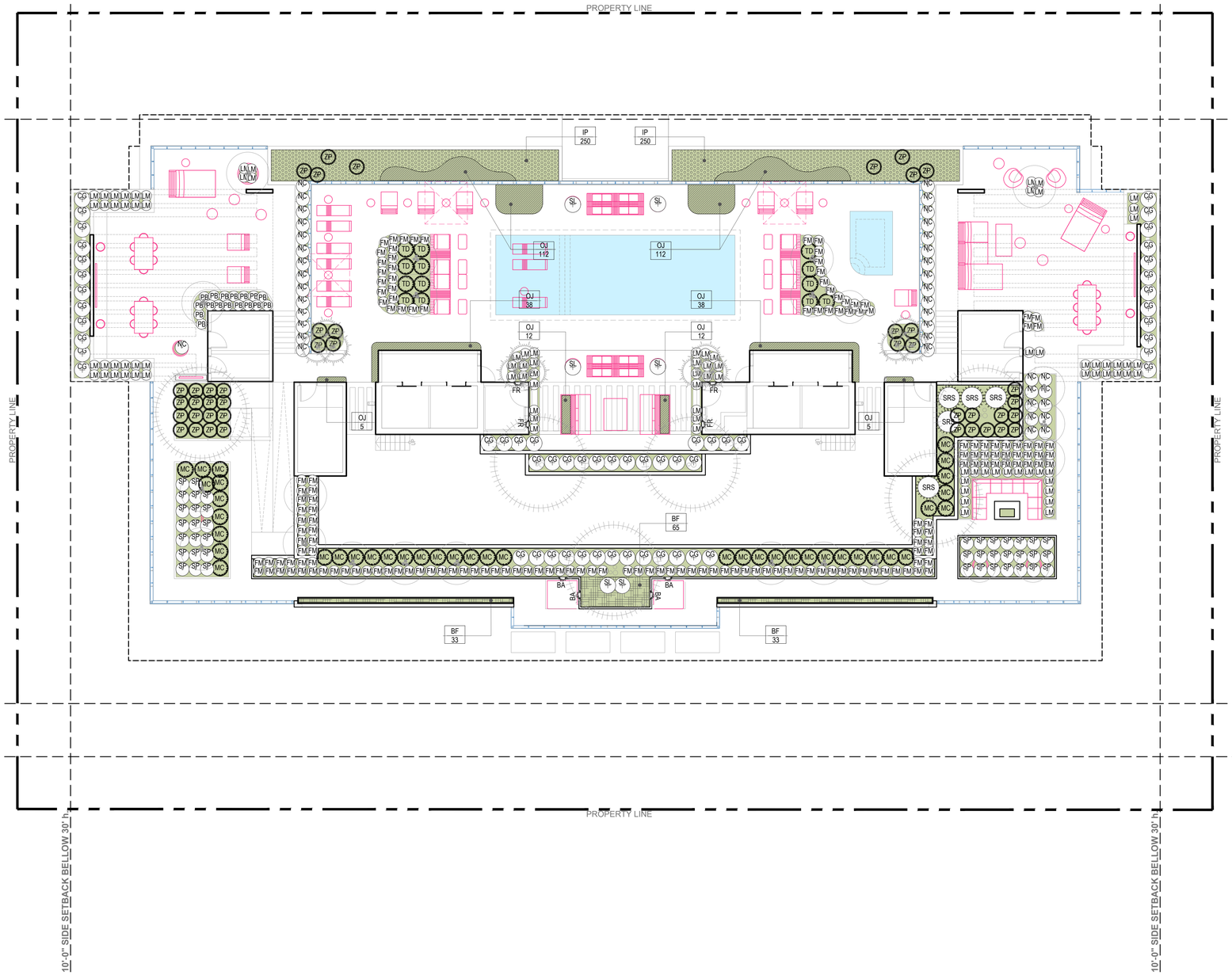
Project No.
2202

Sheet Name
Roof Level Understory Planting Plan

Sheet No.
L-108 i

new proposal

PLANT SCHEDULE



SHRUBS			
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5	SRS	Serenoa repens 'silver'	Silver Saw Palmetto
43	ZP	Zamia pumila	Coontie

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QTY	SYM	Botanical Name	Common Name
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Patrick K. Hodges
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SITE PLAN REVISION

Date
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Sheet Name
Roof Level Understory Planting Plan

Sheet No.
L-108

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green island ficus



silver saw palmetto



coontie



bougainvillea



pink muhly grass



mexican sage



saltmeadow cordgrass



fakahatchee grass



liriope



purple iris



orange bulbine



mondo grass



variegated mondo grass (tbd option)



philodendron burly marx

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PATRICK KENNEY HODGES
LA 0000850
STATE OF FLORIDA

Patrick K. Hodges
LA-0000850

SITE PLAN REVISION

Date
05.17.22

Scale
AS SHOWN

Project No.
2202

Sheet Name
Roof Level Understory
Plant Image Board

Sheet No.
L-108 p

NOT FOR CONSTRUCTION

new proposal

GENERAL NOTES AND REQUIREMENTS

1. The contractor is responsible for obtaining any permits or approvals from the federal, state or local government required for the work included in this contract and on these drawings.
2. Locate all underground utilities, electrical wiring, water, sewer, telephone, cable tv, etc., prior to landscape or irrigation installation
3. Stake out all tree & large shrub locations for la and owner review and approval prior to excavation or planting. Plan locations are subject to field adjustment by the la.
4. The contractor shall install an irrigation system as needed to provide a complete working system and as required to ensure 100% coverage of all new planting and sodded lawn areas. See irrigation plan by the landscape architect.
5. Install only plants graded florida no.1 or better as set forth in the florida department of agriculture 'grades and standards for nursery plants" second edition feb. 1998 including revisions and which meet or exceed the sizes indicated in the planting schedule and details.
6. Plant shrubs in circular pits with a diameter 16" greater than rootball or container. Plant trees in circular pits with a diameter 36" greater than rootball or container,. Place plants with best "face" forward.
7. Fertilize all trees with agriform 21 gram tablets, slow-release 20-10-5 analysis with one tablet per 1/2" of trunk diameter.
8. Backfill all planting pits with the following mixture ; 1/2 onsite soil, 1/2 clean friable topsoil. Submit topsoil sample and soil test analysis for approval by landscape architect, (see planting details). Remove excess soil excavated from plant pit from the site or distribute on-site as directed by l.a.
9. Apply "diehard transplant" mycorrhizal inoculant and 100% organic starter fertilizer to each new tree planted and shrub/groundcover beds in accordance with the manufacturer's recommendations i.e. 8 oz. Per 2" caliper, 3 lbs/100 s.f. area, etc... Contact horticultural alliance, inc. Sarasota, fl. 34277 800-628-6373
10. Fertilize all planting beds with osmocote 14-14-14 slow-release fertilizer at the rate of 16 pounds per 1,000 square feet. Furnish receipts for material used.
11. Treat all planting beds with pre-emergent and post-emergent herbicides according to the manufacturer's specifications. Submit receipts for materials used.
12. Mulch planting beds to a minimum 2 1/2" compacted thickness with pine straw, free of weeds.
13. Sod all disturbed areas which do not have shrub or groundcover plantings indicated with solid sod laid with closely abutting joints. Fertilize after installation with a slow-release formula.
14. Contractor shall verify all plant quantities based on the quantities in place as indicated on the plans and provide composite unit prices for each plant including all costs for materials and installation; i.e., labor, mulch, fertilzer, watering, staking, herbicides, mowing, weeding, site preparation, etc.
15. Fertilize palms with palmgain 8-2-12 formula as manufactured by bgi www.bgi-usa.com per manufacturer recommened rate.
16. Notify the owner and landscape architect of any unforeseen conditions, i.e., compacted soil / subgrade, poor drainage, unconsolidated soil, erosion, utility conflicts, excessive sun or shade, etc., prior to proceeding with landscape installation.
17. Guarantee all plants for one year.
18. All plants, materials and workmanship are subject to the approval of the landscape architect and owner.
19. Do not make substitutions or revisions, any revision or modifications to the landscape plan must have prior approval by the landscape architect & owner
20. Maintain all planting including watering, mowing, mulching, weed, pest control, etc. Until final acceptance by the owner.
23. Non-woven geo-textile product installation per manufacturers specifications. Any alternates to the specified products shall be submitted to landscape architect for approval prior to procurement.

IRRIGATION

IRRIGATION SYSTEM NOTES AND REQUIREMENTS:

the contractor shall install an automatic underground irrigation system with a minimum of two bubblers or drip emitters at each new tree and palm location and with sprayheads to ensure 100% coverage of all planting bed areas and rotors for complete coverage of all sodded lawn areas within the limits of work for this project (refer to plan provied by landscape architect).

the contractor shall submit shop drawings of the irrigation system for review and approval by the landscape architect and owner prior to the award of the landscape and irrigation contract.

the shop drawings for the irrigation system shall include a backflow preventer, lightning protection, a "smart" controller, moisture-sensing devices, piping, heads, valves and all other equipment required by local codes and as necessary for a complete working system.

the contractor shall provide an operations manual to the owner and landscape architect prior to completion of the irrigation system installation and shall demonstrate and instruct the owner's maintenance provider in the complete operation of the system.

PLANT SCHEDULE

TREES

	QTY	SYM	Botanical Name	Common Name		Specifications
	6	CR	Clusia rosea	Autograph Tree		100 gal, 14'-16' ht, 10' sp, 4" min. cal
	17	EF	Myrcianthes fragrans	Simpson's Stopper		30 gal, Multi-trunk, 6-8 ft ht, 4'-6' sp
b	5	LJ	Ligustrum japonicum	Japanese Privet		65 gal, 8' ht, 6' spr
b	4	PP	Plumeria 'Pink' frangipani	Pink Frangipani Tree		65 gal, 8' ht, 6' spr

PALMS

	QTY	SYM	Botanical Name	Common Name		Specification
a	12	AM	Adonidia Merrillii	Christmas Palm		FG, singles 12'-20' hts (see plan) 4" min. cal

TREE and PALMS ALTERNATES

	QTY	SYM	Botanical Name	Common Name		Specification
a	12	VM	Veitchia Montgomeryana	Montgomery Palm		FG, singles 12'-20' hts (see plan) 4" min. cal
b	TBD	GO	Guaiacum officinale	Lignum Vitae (option)		30 gal, 4'-6' ht x 4'-6' sp

SHRUBS

QTY	SYM	Botanical Name	Common Name		Specification
56	CG	Clusia Guttifera	Clusia hedge		15 gal 3x3 full
164	FM	Ficus microcarpa	Green Island Ficus		15 gal 3x3 full
5	SRS	Serenoa repens 'silver'	Silver Saw Palmetto		25 gal, 3x3 full
43	ZP	Zamia pumila	Coontie		3 gal, 2x2

ACCENTS, VINES and GRASSES

QTY	SYM	Botanical Name	Common Name		Specifications
4	BA	Bougainvillea 'Afterglow'	After Glow Bougainvillea		15 gal, 7'-8' ht trellis
500	IP	Ipomoea Pes-caprae	Rail Road Vine		1 gal
49	MC	Muhlenbergia capillaris	Pink Muhly Grass		3 gal
6	SL	Salvia leucantha	Mexican Sage		7 gal
41	SP	Spartina patens	Saltmeadow Cordgrass		3 gal
13	TD	Tripsacum dactyloides	Fakahatchee Grass		

GROUNDCOVERS

QTY	SYM	Botanical Name	Common Name		Specifications
135	BF	Bulbine frutescens 'orange'	Orange Bulbine		1 gal
92	LM	Liriope muscari	Big Blue Lilyturf		3 gal
10	LN	Lysimachia nummularia	Creeping Jenny		1 gal
39	NC	Neomarica caerulea 'Regina'	Giant Apostle Iris		7 gal
334	OJ	Ophiopogon japonicus	Mondo Grass		3 gal
17	PB	Philodendron Burle Marx	Burle Marx Philodendron		7 gal

Alternate suggestions shall be approved by city of Bay Harbor prior to permit and installation. Alternate symbols above are placed next to options for alternates with corresponding letter tag

S# = Street Tree designation and quantity

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LA BAIA NORTH
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Patrick K. Hodges

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SITE PLAN REVISION

Date
05.17.22

Scale
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Project No.
2202

Sheet Name
Roof Level Plant Schedule, Notes and Specifications

Sheet No.

L-109

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FRONT ELEVATION



DRAWING SCALE AND NORTH ARROW:

0' 10' 20' 40'

SCALE: 3/32" = 1'-0"

NORTH

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Project No.
2202

Sheet Name
Illustrative Elevation West

Sheet No.
L-110

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REAR ELEVATION



DRAWING SCALE AND NORTH ARROW:

0' 10' 20' 40'

SCALE: 3/32" = 1'-0"

NORTH

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Date
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Project No.
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Sheet Name
Illustrative
East Elevation

Sheet No.
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Sheet Name
Rendering

Sheet No.

LR-01

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Project No.
2202

Sheet Name
Rendering

Sheet No.
LR-02

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Rendering

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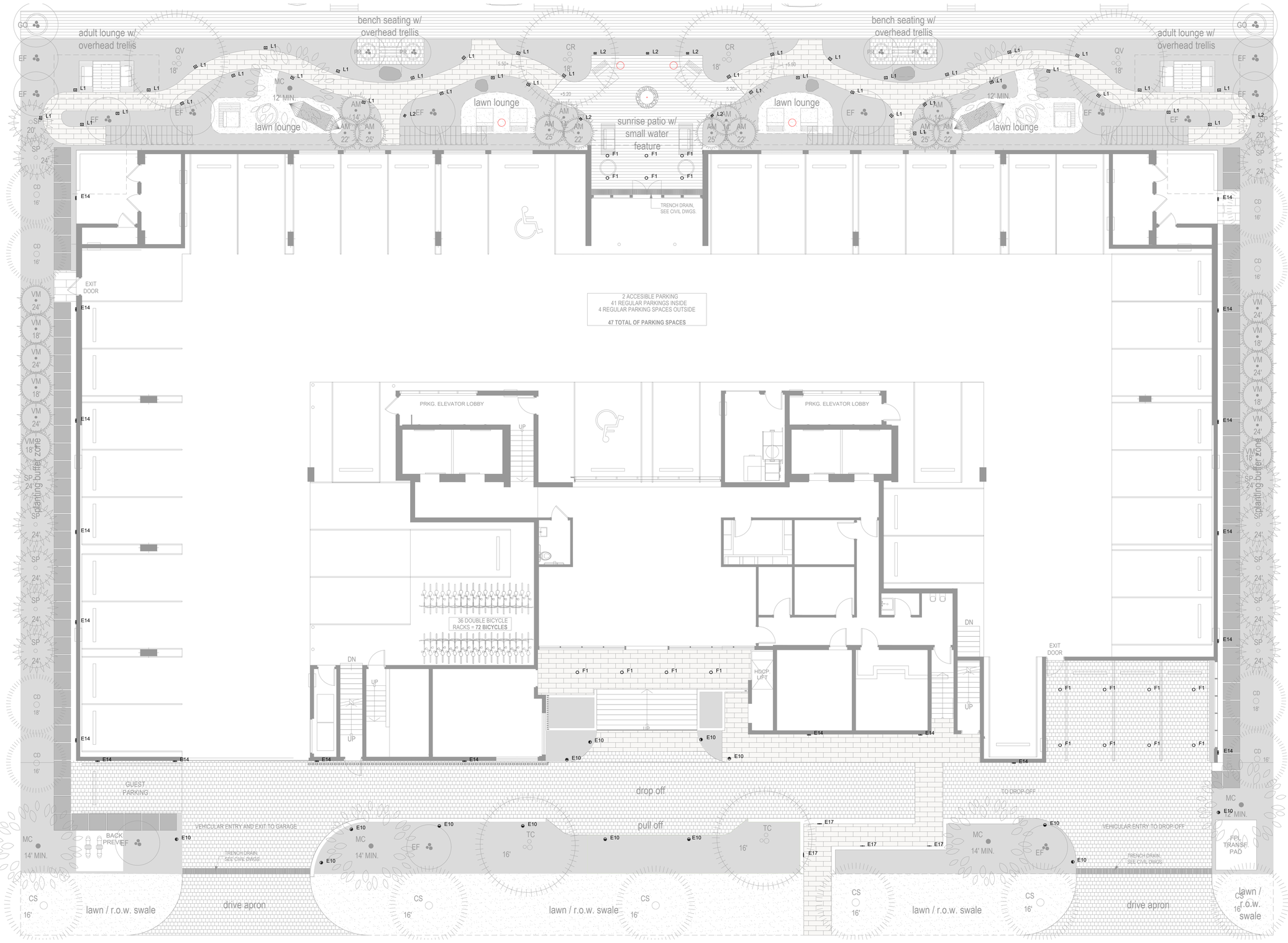
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LANDSCAPE LIGHTING PLAN LEVEL 1

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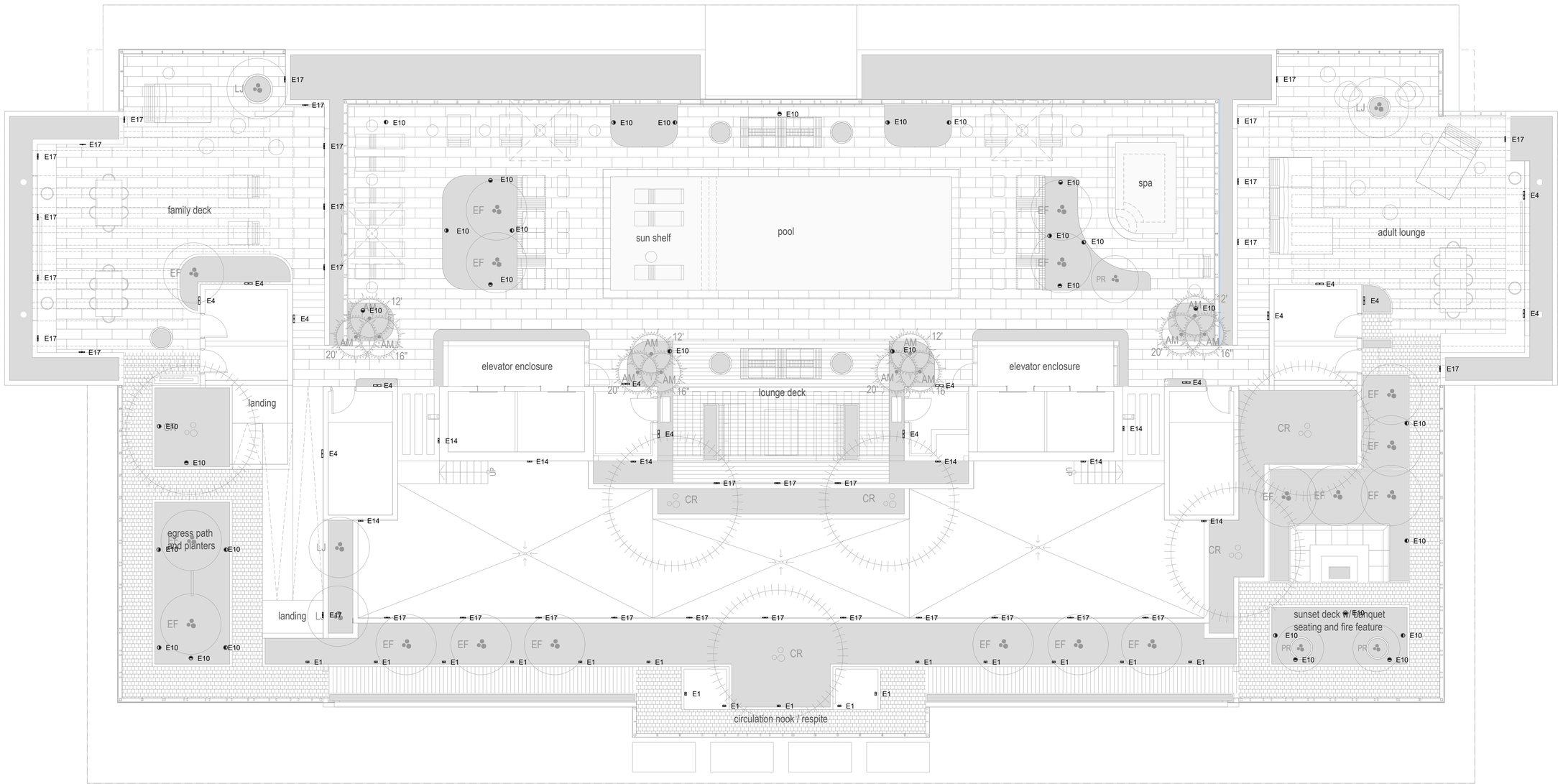
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Project No.
2202

Sheet Name
LEVEL 1_
Landscape Lighting Plan

Sheet No.
LD-109

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LANDSCAPE LIGHTING PLAN ROOF LEVEL

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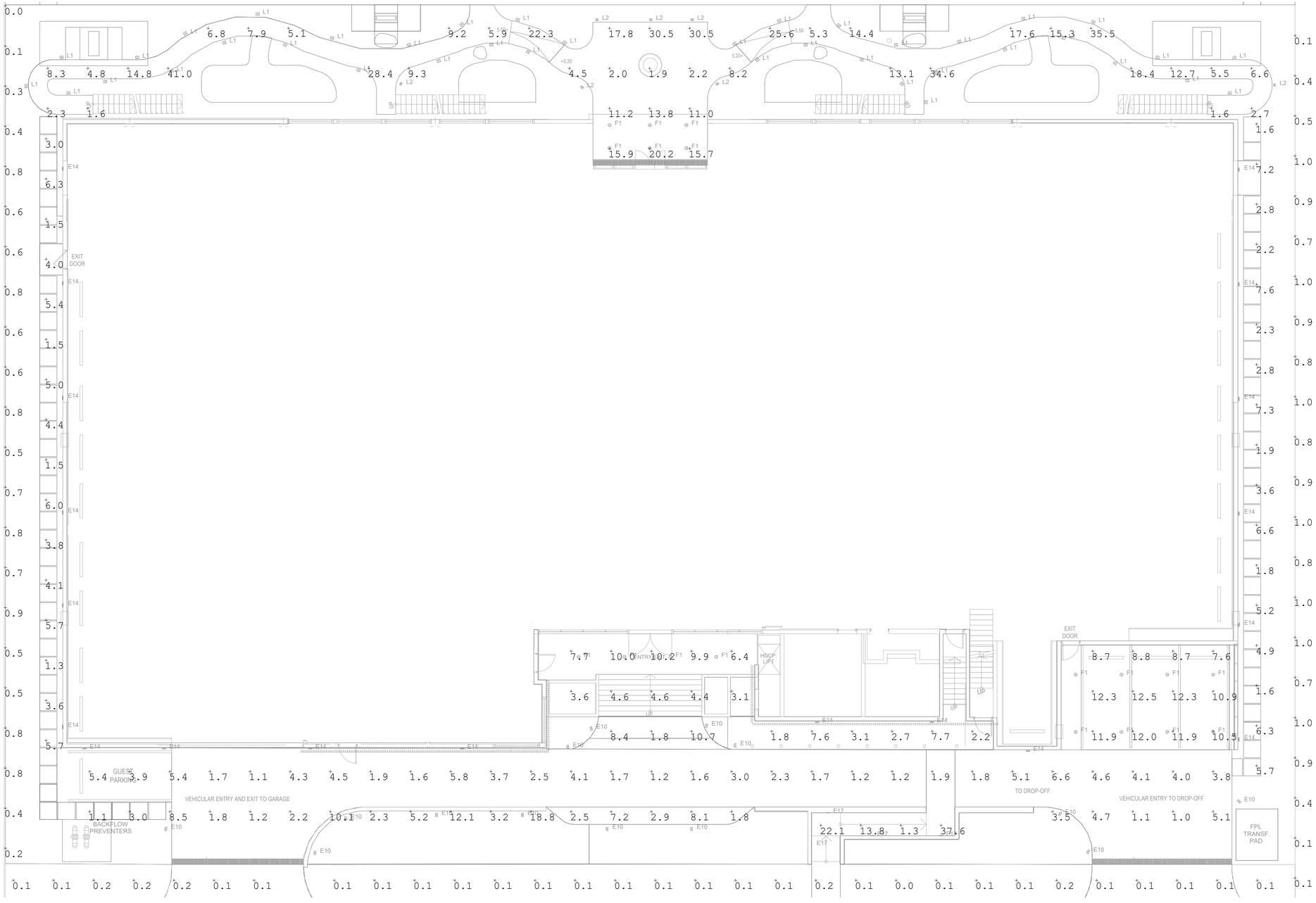
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Project No.
2202

Sheet Name
ROOF LEVEL_
Landscape Lighting Plan

Sheet No.
LD-110



Luminaire Schedule									
Symbol	Qty	Label	Arrangement	Description	Tag	LLF	Luminaire Lumens	Luminaire Watts	Total Watts
	14	E10	Single	US_Light_Measurement_FLINDT_B		0.980	579	15	210
	4	E17	Single	33046_BEGA_IES		1.000	463	8	32
	19	E14	Single	7075-08-C13-35K		0.980	1207	12.0199	228.378
	18	F1	Single	DRD2M10930-DRD2TR6SWH		1.000	1046	13.5	243
	7	L2	Single	303-P1-LEDB1-3000-UNV-T4-DIM10		0.980	636	8.2	57.4
	39	L1	Single	303-P1-LEDB1-3000-UNV-T2-DIM10		0.980	642	8.2	319.8

Calculation Summary							
Label	CalcType	Units	Avg	Max	Min	Avg/Min	Max/Min
EAST PATH WAY	Illuminance	Fc	13.38	41.0	1.6	8.36	25.63
NORTH PATHWAY	Illuminance	Fc	3.93	6.3	1.3	3.02	4.85
PROPERTY LINE	Illuminance	Fc	0.39	1.0	0.0	N.A.	N.A.
SOUTH PATHWAY	Illuminance	Fc	4.20	7.6	1.6	2.63	4.75
WEST RAMP	Illuminance	Fc	18.70	37.6	1.3	14.38	28.92
WEST SIDE	Illuminance	Fc	5.44	18.8	1.0	5.44	18.80

LANDSCAPE EMERGENCY PHOTOMETRICS LEVEL 1

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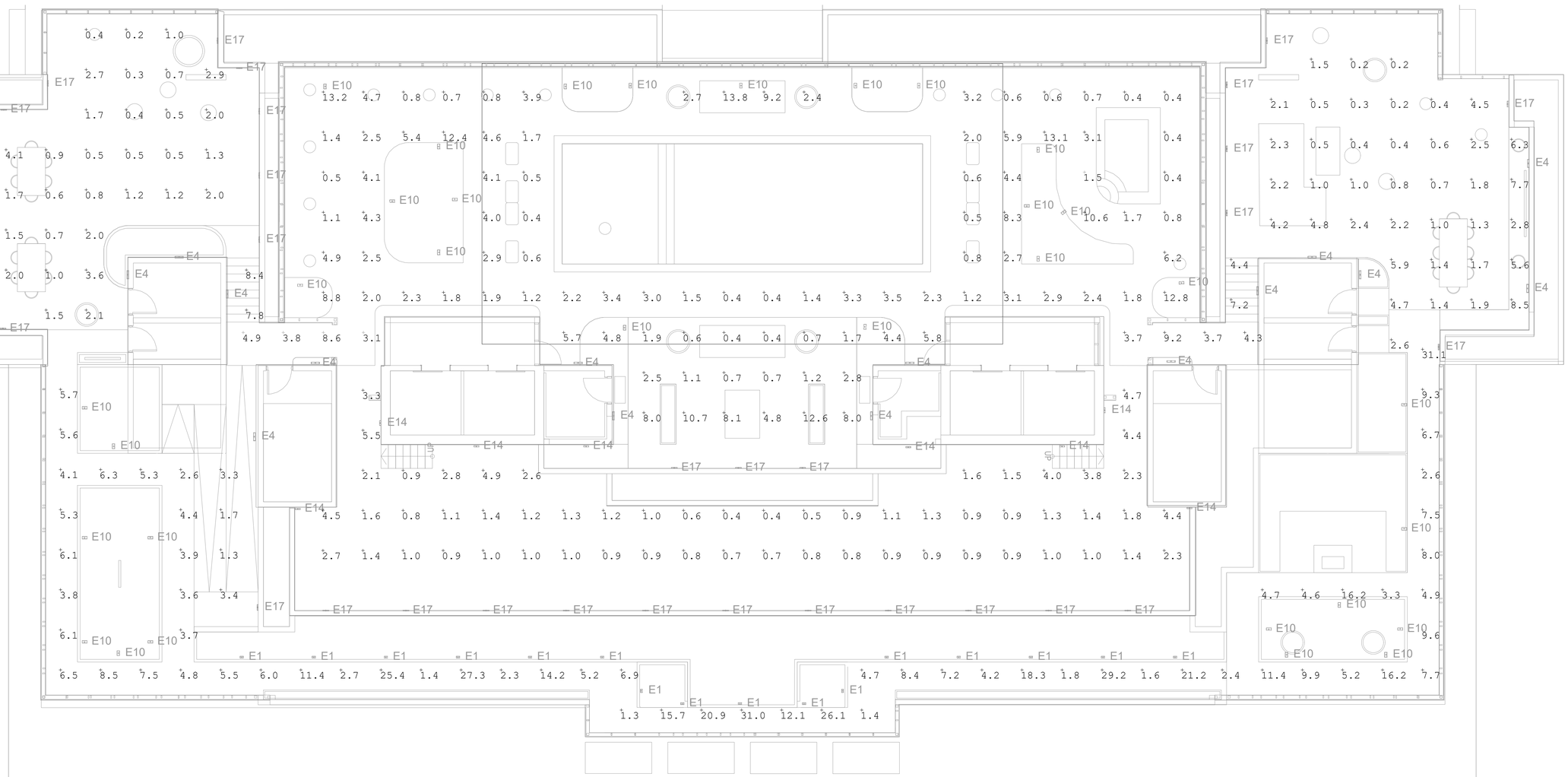
Date
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Project No.
2202

Sheet Name
LEVEL 1_
Landscape Emergency Photometrics

Sheet No.
LD-407



Luminaire Schedule									
Symbol	Qty	Label	Arrangement	Description	Tag	LLF	Luminaire Lumens	Luminaire Watts	Total Watts
	8	E14	Single	7075-08-C13-35K		1.000	1207	12.0199	96.159
	16	E1	Single	303-P1-LEDB1-3000-UNV-T2-DIM10		1.000	642	8.2	131.2
	33	E17	Single	33046_BEGA_IES		1.000	463	8	264
	15	E4	Single	S7250W_14		0.980	888	24.2	363
	32	E10	Single	US_Light_Measurement_FLINDT_B		0.980	579	15	480

Calculation Summary							
Label	CalcType	Units	Avg	Max	Min	Avg/Min	Max/Min
ADULT LOUNGE AREA	Illuminance	Fc	2.49	8.5	0.2	12.45	42.50
FAMILY DECK AREA	Illuminance	Fc	1.78	8.4	0.2	8.90	42.00
MECHANICAL AREA	Illuminance	Fc	1.69	5.5	0.4	4.23	13.75
POOL DECK AREA	Illuminance	Fc	3.52	13.8	0.4	8.80	34.50
WEST SIDE	Illuminance	Fc	8.29	31.1	1.3	6.38	23.92

LANDSCAPE EMERGENCY PHOTOMETRICS ROOF LEVEL

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BAY HARBOR ISLANDS, FLORIDA 33154

Revisions

Owner Information
CONTINUUM LLC
9201 East Bay Harbour Dr
Bay Harbour Islands, Fl 33154
305.861.8181

Lighting Consultant
MIAMI LIGHTING DESIGN
2550 South Bayshore Dr
Suite 206
Miami, FL 33178
P: 305.443.2004

Luis O. Revuelta
AR-0007972

SITE PLAN REVISION

Date
04.21.22

Scale
AS SHOWN

Project No.
2202

Sheet Name
ROOF LEVEL_
Landscape Emergency Photometrics

Sheet No.
LD-408

Sec. 23-29.1. - Town parking trust

(1) A town parking trust is hereby established to receive payments from property owners and/or developers in the town, when as a result of expansion or new growth, all required parking cannot be provided in part or total, onsite;

(2) Payments made into the town parking trust shall be used to improve and/or expand existing or proposed town owned on and off-street parking facilities and to secure other sites where additional parking may be established for the public.

(3) If the required number of parking spaces cannot or will not be provided onsite, a property owner and/or developer may meet his/her/its on-site parking requirements by payment into the town parking trust a fee for each of the required on-site parking spaces that cannot or will not be provided on-site (hereinafter the "parking trust fee"), subject to approval by the town council upon a finding that the parking trust fee, in lieu of providing the required on-site parking will not disrupt vehicle parking and traffic patterns or negatively affect adjacent land uses. The parking trust fee shall be established by resolution. Notwithstanding the above, a minimum of 40 percent of all required parking spaces must be provided on-site. The town reserves the right to grant deviations from the provisions of this section upon a demonstration from the applicant of the following:

(a) Adequate off-street parking is available within 500 feet of the subject site;

(b) The council determines that the surrounding area will not be adversely impacted by the granting of the deviation;

(c) The town manager or his/her designee, in conjunction with the chief of police, issues a written recommendation in support of the application; and

(d) The applicant demonstrates appropriate mitigation in the form of the Parking Trust Fee or other equivalent mitigation.

This section may be waived for municipal, state or federal uses only.

(4) Additional parking spaces created by the town parking trust shall be made available to the public on a first-come first-served basis. The town may elect to issue a parking certificate for reserved parking spaces created by the town parking trust.

(5) Parking trust fees. The parking trust fee (for each required parking space) shall be set by resolution. The town council shall periodically re-evaluate the parking trust fee on at least a semi-annual basis.

(6) Payment of parking trust fees. The parking trust fee payment shall be ratified via a written parking trust payment agreement prior to the issuance of building permits for a principal structure. The parking trust fee payment may be made:

(a) In full;

(b) Financed in annual installments; or

(c) By annual payments.

(7) Failure to make payment. Failure to make any parking trust fee payment required by the parking trust payment agreement or any other breach of the parking trust payment agreement may result in the imposition of late fees (as established by resolution and/or the parking trust payment agreement) and revocation of the town council's approval of the parking trust payment agreement. Any such revocation of the town council's approval of the parking trust payment agreement shall be approved by the town council at a public meeting after receiving a report from the town manager, and after posting the property and notifying the affected property owner in writing at least 30 days prior to the town council meeting date. If arrangements for payment are not made or alternative parking arrangements approved, the town reserves the right to declare the parking trust payment agreement as void and the revoke occupancy permits, including but not limited to business tax receipts and/or certificates of use until adequate parking is provided, as determined by the town and the property owner shall forfeit and any all rights there under, and any previous funds paid into the parking trust. The administrative costs of any enforcement actions, including staff time, notification and posting, postage, etc. shall be invoiced to the property owner and must be paid in full prior to the town approving construction or reinstating occupancy permits.

(8) Notwithstanding the above, the town council may consider other alternative arrangements from those specified herein, upon receiving a recommendation from the town manager, based upon the submission of a written demonstration by an applicant that the alternative costs/terms will not be detrimental to properties in proximity to the subject site or to the town in general. Justifications may include, but are not limited to, economic hardship, economic incentives, cost changes, or practical application.

(Ord. No. 742, § 1(Exh. A), 5-10-04; Ord. No. 814, § 1(Exh. A), 2-12-07; Ord. No. 935, § 1(Exh. A), 7-9-2012; Ord. No. 962, § 1(Exh. A), 4-7-14)

Sec. 23-30. - Determining amount of parking spaces.

In determining the amount of space required to be set aside for the parking of vehicles, the following shall be used:

(a) Where frontage is used in accordance with the provisions of section 23-27, all frontage parking will be at an angle of 90 degrees to the property line. A minimum width of eight and one-half feet measured at right angles to the parking space sidelines and a minimum length of 18 feet shall be paved as a basis for each parking space. Each parking space shall be permanently marked by white painted stripes four inches in width, which stripes will also delineate an area of 20 inches (included within the eight and one-half feet) to separate the cars. Toward the front end of each such parking space a car stop or bumper shall be provided which shall be six feet in length and made of materials which have been approved by the planning and zoning board for use in the town and placed on a line two feet from the end of the parking space furthest from the centerline of the street. The placing of the car stop is illustrated by the drawing attached and made a part hereof. A minimum width of 12 feet measured along said frontage shall be entirely clear of streetfront parking for each driveway access to offstreet parking. All parking shall be in accordance with the diagram attached.

(b) All plans submitted for a building permit shall include a dimensioned plan showing all parking spaces, driveways and landscaping. All offstreet parking shall be so planned that each car can turn and exit forward.

(c) For each off-street parking space, adequate ingress, egress and turning space of at least 23 clear feet shall be provided, and each parking space shall be directly accessible to a street, alley or driveway. Two-way driveways shall be a minimum of 23 feet in width unless otherwise approved by the town during the site plan approval process. One-way driveways shall be not less than 12 feet in width. At the intersection of a driveway with a public street, adequate provisions shall be made for the stacking of vehicles so that vehicles waiting to enter or exit a site do not block traffic on the adjoining street. Any security gates shall be set back to accommodate at least one in-bound vehicle inside the property line.

(d) The minimum parking space for off-street parking shall be eight and one-half feet by 18 feet with striping as specified in subsection (a) and in accordance with the diagram attached.

(1) In the BAA-Business district, for 90-degree angle parking and 60-degree angle parking or less, each parking space shall not be less than eight and one-half feet in width and 18 feet in length. For parallel parking, each space shall be eight and one-half feet in width and 25 feet in length.

(e) No part of any off-street parking or driveway area shall be permitted on a five-foot-wide continuous planting strip measured in from the side and rear property line and ten feet from a front (street) property line in accordance with the minimum Miami-Dade County Landscape

Code.

(f) Notwithstanding the above provisions, due the limited land areas in the town, changes in parking requirements over the years and current off-street parking arrangements (including roadway swale parking), the town encourages innovative solutions to provide required parking spaces within lot areas. To that end, required parking spaces may be provided in alternate arrangements other than surface parking, if approved by the town council. This shall include, but is not limited to, tandem parking and mechanically stacked parking. This criteria shall apply in both residential and nonresidential developments.

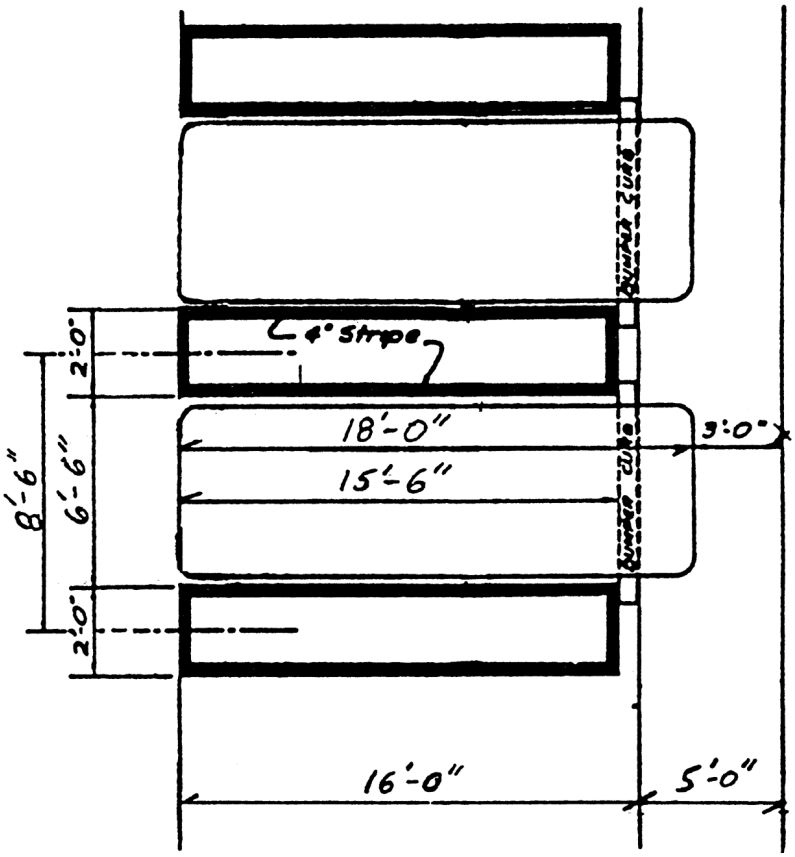


Illustration Following Sec. 23-30(e)

(Ord. No. 130, § 10, 6-8-59; Ord. No. 323, §§ 1—3, 8-8-77; Ord. No. 351, § 1, 4-9-79; Ord. No. 352, §§ 1, 3, 4-9-79; Ord. No. 386, §§ 1, 2, 2-9-81; Ord. No. 592, § 8, 7-8-96; Ord. No. 701, § 1, 4-8-02; Ord. No. 770, § 1(Exh. A), 5-9-05; Ord. No. 813, § 1(Exh. A), 1-8-07)

RESOLUTION NO. 2005

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF BAY HARBOR ISLANDS ESTABLISHING THE TOWN PARKING TRUST FEES PURSUANT TO SECTION 23-29 OF THE TOWN'S CODE OF ORDINANCES.

WHEREAS, Section 23-29 of the Town's Code of Ordinances ("Code") permits a property owner to make Payment(s) of Parking Trust Fees when all of the required parking cannot or will not be provided on site, subject to approval by the Town Council; and

WHEREAS, Section 23-29 of the Code requires the Town to establish certain costs and fees for the Parking Trust Fees, as such costs and fees may vary through the years.

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

1. In the event that an owner or developer desires to make the payment of Parking Trust Fees in full (as permitted by Section 23-29(6)(a) of the Code), the payment for each required space shall be $20,000.00. Provided that payment is received by the Town, in full, within sixty (60) days of the Town Council's approval, this amount shall be reduced by ten percent (10%).

2. In the event that an owner or developer desires to finance the Parking Trust Fees in annual installment payments (as permitted by Section 23-29(6)(b) of the Code), the payment for each required space shall be $20,000.00. Twenty five percent (25%) of the Parking Trust Fees shall be paid as a down payment within thirty (30) days of the Town Council's approval, the balance may be amortized over no more than fifteen (15) years, and the payments shall bear interest at 2.25%, per annum.

3. In the event that an owner or developer desires to make the payment of Parking Trust Fees by annual lease payments (as permitted by Section 23-29(6)(b) of the Code), the annual lease payment for each required space shall be $1,000.00.

4. Any payment not timely made shall bear late fees as set forth in parties' Parking Trust Payment Agreement. In the event that the Parking Trust Payment Agreement fails to set forth late fees, the late fees shall be as follows:

   a. A late fee for each parking space equal to 5% of the Parking Trust Fee is required if payment is not received within fifteen (15) days of the due date.
   b. A late fee for each parking space equal to 10% of the Parking Trust Fee is required if payment is not received within thirty (30) days of the due date.

   c. Payments not received within thirty (30) days of the due date shall be charged an interest rate of 10% per annum calculated monthly on the unpaid balance, including applicable late fees.

d. If any payment is returned due to insufficient or uncollectable funds in addition to any other fee or charge due, the property owner shall be liable for a returned check charge in the amount of 5% of the amount of the check. In that event the Town may require future payments to be made by cashier's check or automatic electronic debit.

5. The instant Resolution shall supersede and replace Resolution Number 999.

PASSED AND ADOPTED this 7th day of April, 2014.

TOWN OF BAY HARBOR ISLANDS

By: _____
MAYOR

ATTEST:

_____
TOWN CLERK

AGENDA ITEM REPORT
June 9, 2022

ITEM NUMBER: 20.

ITEM: Consideration and approval of BHI 222: Irrigation and Landscape Maintenance Contract to Brightview Landscape Services for the amount of $323,007.14 per year. Supporting documentation attached.

DESCRIPTION:
Consideration and approval of award BHI 222: Landscape and Irrigation Maintenance to Brightview Landscape Service, the lowest responsible bidder, with a Base Bid amount of $268,614.80 per year for a three-year period. A Request for Proposals was advertised on April 18, 2022, in the hope of receiving several bidders for this contract. The Town hosted five companies for the Pre-bid meeting held on May 5, 2022. All bids were due by May 13, 2022 at 2:00 PM. The Town received four bid proposals. BrightView Landscape Service, South Florida Maintenance Services (SFM), Superior Landscaping, and Visualscape. All bid packages were opened and read aloud by the Interim Town Clerk, Yvonne Hamilton at that time.
Each bid package was thoroughly examined to ensure that all required paperwork was included and completed. Attached is the Administrative Review Tabulation which reveals items which were missing from each submitted bid package. In short, all bidders, with the exception of Brightview Landscaping Service, were missing some of the paperwork requested for the bid. Those bidders, and their lack of requested documentation, are as follows; Both SFM and Visualscape were missing proof of a company irrigation license and neither revealed their financial status. Superior Landscaping provided an expired company pest control license, did not include a maintenance plan, nor did they reveal their financial status as requested by the bid documents. These are small infractions which could be remedied by asking for the documents prior to awarding the bid; however, these documents would not help any of the bidders' "Base Bids", nor the additional value prices submitted.
Also attached is the bid tabulation sheet for BHI 222 Irrigation and Landscape Maintenance, for which there are two parts. First is the Base Bid. This value covers the cost of all routine irrigation and landscape pricing for a full year.The Base Bids submitted are as follows, from lowest to highest pricing; BrightView at $268,614.80, Visualscape at $313,256.00, Superior Landscaping at $343,551.38, and SFM at $396,314.28.
The other major cost consideration in the bid analysis was the total schedule of additional values (Attached). This tabulation consisted of bid prices for 53 items, such as; plants, fertilizer, trees, shrubbery, and machinery needed to accomplish work requested outside of the regular maintenance Base Bid. Of the prices provided by each bidder for the Additional Schedule of Values, Brightview had the lowest aggregate average of pricing, submitting a total of $54,392.34. SFM submitted a price of $100,944.69. Superior Landscaping's price was incomplete, as items C through J were missing on all copies provided. Visualscape provided a bid of $78,779.28 for the Additional Schedule of Values.
Adding the Base Bid to the Additional Schedule of costs for each bidder reveals the total cost per year. These totals are from the lowest total bid to the highest total bid, and are as follows; Brightview: $323,007.14; Visualscape: $392,305.28, and SFM: $497,258.97. Superior Landscaping submitted an incomplete bid; therefore, their bid was removed from consideration. Resulting from this complete analysis of bid pricing provided, Brightview Landscaping Services is the lowest responsible bidder and should be awarded the contract with the Town Council's approval. The effective date of this contract shall be July 1, 2022.

RECOMMENDED ACTION:
Approval.

FINANCIAL ANALYSIS:
Since the new contract will commence on 7/1/22, the Town will be paying Brightview for maintenance and unscheduled services from the current Fiscal Year. There is currently $323,007.14 remaining in the budget to continue to pay for these services until September 30, 2022. The FY '22-'23 budget requests amounts of $260,000.00 to the Causeway Fund and $210,000.00 to the Streets & Parkways fund. All funding requested for this award in FY '23-'24 totals $470,000.00, of which $268,614.00 for monthly routine maintenance (base bid) will be split between the Causeway Fund and the Streets and Parkways Fund, leaving $201,386.00 for non-maintenance related services, such as replacing flowers, plants,shrubs,trees, major irrigation repairs, and any other requested services outside the scope of the regular monthly maintenance amount.

BUDGET IMPACT:

Name	Impact Date	Fund(s)	Account(s)	Project #(s)	Amount Budgeted
BHI - 222 Irrigation and Landscape Maintenance	07/01/2022	$323,007.14	401.5415.400034.000 & 001.5410.400034.000	BHI - 222 Irrigation & Landscape Maintenance	$336,000.00

Submitted By: Douglas Armstrong, Public Works Director
Maria Lasday, Town Manager

ATTACHMENTS

1.	Administrative Review Tabulation #BHI-222
2.	Bid Tabulation #BHI-222

TOWN OF BAY HARBOR ISLANDS
Landscape & Irrigation Maintenance Bid #BHI-222
ADMINISTRATIVE REVIEW TABULATION
MAY, 2022

Description	Page Location	Brightview Landscape Services, Inc.	SFM Services Inc.	Superior Landscaping and Lawn Services, Inc.	VisualScape (Formerly Vila & Son Landscaping)
Sunbiz	Internet	Active	Active	Active	Active
OSHA Citations	Internet	0 Records Found	0 records found	0 Records Found	0 Records Found
Attended Mandatory pre-bid conference		Yes	Yes	Yes	Yes
Bid Form	33-34	Submitted	Submitted	Submitted	Submitted
Respondent's Certification	35-36	Submitted	Submitted	Submitted	Submitted
No Bid or Proposal Certification	37	N/A	N/A	N/A	N/A
Base Bid	38	Submitted	Submitted	Submitted	Submitted
Schedule of Values	38 to 42	Submitted	Submitted	Submitted	Submitted
Three (3) year contract	43	Submitted	Submitted	Submitted	Submitted
Proposer's Qualification Form	44-47	Submitted	Submitted	Submitted	Submitted
Total # of employees	45	1300 Local	200+	250+	12
Total # of employees assigned to contract	45	4 to 7	16	35	17
Project Manager	55	Vanessa Quinonez (12 Years with company: Branch Manager)	Robert Montesino (20 years with company)	Betty Gerdts (11 years with company)	John McAllister (8 mo. w/company, 45 years total experience)
Field Supervisor	55	Luke Fakarrazo (20 Years with company)	Alain Barriero (14 years with company)	Daniel Roque (25 years with company)	Wilfred Milien (11 Years with company)
Contracts 'In Progress'	58	Submitted	Submitted	Submitted	Submitted
Agency References	Attached	Submitted	Submitted	Submitted	Submitted
Other References	Attached	Submitted	Submitted	Submitted	Submitted
Licenses/Certifications					
a) Pest Control Company License		Expires 12/31/23	Expires 6/30/23	Expired 4/30/22	Expires 12/31/23
a) Cert.Pest Control Operator License		Expires 6/1/23	Expires 5/31/22	Expires 6/1/22	Expires 12/31/22
b) Irrigation License		Expires 8/31/22	Not Submitted	Exipres 8/31/22	Not Submitted
c) ISA Certified Arborist		Two Personell (no Dates)	Expires 6/30/24	Expires 12/31/23	Expires 12/31/24
FNGLA Member	28	Submitted	Submitted	Submitted	Submitted
TCIA and/or ISA Member	28	Submitted	Submitted	Submitted	Submitted
Maintenance Plan	64	Submitted	Submitted	Not Submitted	Submitted
Bid Exception Form	52	Submitted	Submitted	Submitted	Submitted
Indemnification Clause	53	Submitted	Submitted	Submitted	Submitted
Sworn Statement or Public Entity Crimes	54-55	Submitted	Submitted	Submitted	Submitted
Business Entity Affidavit	56-57	Submitted	Submitted	Submitted	Submitted
Drug Free Workplace Affidavit	58-59	Submitted	Submitted	Submitted	Submitted
Anti-Kickback Affidavit	60	Submitted	Submitted	Submitted	Submitted
Non-Collusion Affidavit	61-63	Submitted	Submitted	Submitted	Submitted
Bid Bond 5% of extended total	64-67	Fidelity & Deposit Co., of Maryland	United States Fire	Great Midwest Insurance., Co.	Philadelphia Indemnity Ins. Co.
W-9	68	Submitted	Submitted	Submitted	Submitted
Financial Status	Attached	PUBLICALLY TRADED FISCAL RESULTS FROM 2020: $103,600,000 IN REVENUE	Not Submitted	Not Submitted	Not Submitted
Liability, Insurance, License & Permits	Attached				
a) $1 Million-Automobile	Attached	$5M	$2M	$1M	$1M
b) $1 Million-General Liability	Attached	$2M	$1M	$1M	$1M
c) Workers Comp	Attached	$2M	$1M	$1M	$1M
Miami-Dade Business Tax Receipt (LBT)	Attached	Submitted	Submitted	Submitted	Submitted
Acknowledgement of Addendum Form No. 1 & 2	Attached	Submitted Addendum 1, did not submit Addemdum 2	Submitted	Submitted	Submitted

TOWN OF BAY HARBOR ISLANDS

Landscape & Irrigation Maintenance Bid #BHI-183 BID TABULATION MAY 2022

BRIGHTVIEW					SFM SERVICES				SUPERIOR				VISUAL SCAPE			
Row #	Item	6 Month cost for Maintenance April-Sept.	6 Month cost for Maintenance Oct. - Mar.	Total Cost per 12 Months	Row #	6 Month cost for Maintenance April-Sept.	6 Month cost for Maintenance Oct. - Mar.	Total Cost per 12 Months	Row #	6 Month cost for Maintenance April-Sept.	6 Month cost for Maintenance Oct. - Mar.	Total Cost per 12 Months	Row #	6 Month cost for Maintenance April-Sept.	6 Month cost for Maintenance Oct. - Mar.	Total Cost per 12 Months
1	Broad Causeway	$14,782.30	$8,681.68	**$23,463.98**	1	$18,747.60	$9,026.63	**$27,774.23**	1	$58,916.92	$41,025.39	**$99,942.31**	1	$30,984.25	$25,350.75	**$56,335.00**
2	Kane Concourse	$51,738.05	$30,385.88	**$82,123.93**	2	$36,988.51	$17,809.28	**$54,797.79**	2	$31,983.47	$22,270.92	**$54,254.39**	2	$23,512.50	$19,237.50	**$42,750.00**
3	East Island	$36,955.75	$21,704.20	**$58,659.95**	3	$84,110.87	$40,497.82	**$124,608.69**	3	$47,133.54	$32,820.23	**$79,953.77**	3	$52,728.50	$43,141.50	**$95,870.00**
4	West Island	$44,346.90	$26,045.04	**$70,391.94**	4	$103,365.16	$49,768.41	**$153,133.57**	4	$30,300.13	$21,098.78	**$51,398.91**	4	$49,390.55	$40,410.45	**$89,801.00**
5	Royal Palm Pruning for Items 1 - 4 (Add. #4)	**$22,650.00**	**$11,325.00**	$33,975.00	5	**$18,000.00**	**$18,000.00**	$36,000.00	5	**$29,001.00**	**$29,001.00**	$58,002.00	5	**$14,385.00**	**$14,385.00**	$28,770.00
$268,614.80					**$396,314.28**				**$343,551.38**				**$313,526.00**			
BASE BID					**BASE BID**				**BASE BID**				**BASE BID**			

ADDITIONAL SCHEDULE OF VALUES

BRIGHTVIEW			SFM SERVICES			SUPERIOR			VISUAL SCAPE		
A	Per Plant delivered & in place. Plant (2,500) Sunpatiens, 4.5" Pot, w/ Atlas 3000 soil & fertilizer; remove existing.	**$2.45 x (2,500)= $6,125.00 TOTAL**	A	Per Plant delivered & in place. Plant (2,500) Sunpatiens, 4.5" Pot, w/ Atlas 3000 soil & fertilizer; remove existing	**$4.00 x (2,500) = $10,500 TOTAL**	A	Per Plant delivered & in place. Plant (2,500) Sunpatiens, 4.5" Pot, w/ Atlas 3000 soil & fertilizer; remove existing	**$2.75 x (2,500) = $6,875.00 TOTAL**	A	Per Plant delivered & in place. Plant (2,500) Sunpatiens, 4.5" Pot, w/ Atlas 3000 soil & fertilizer; remove existing	**$3.75 x (2,500) = $9,375.00 TOTAL**
B	Per Plant delivered & in place. Plant (2,500) Calladiums, 4.5" Pot, w/ Atlas 3000 Soil and fertilizer and remove existing	**$2.45 x (2500)= $6,125.00 TOTAL**	B	Per Plant delivered & in place. Plant (2,500) Calladiums, 4.5" Pot, w/ Atlas 3000 Soil and fertilizer/ remove existing	**$5.00 x (2,500) = $12,500.00 TOTAL**	B	Per Plant delivered & in place. Plant (2,500) Calladiums, 4.5" Pot, w/ Atlas 3000 Soil and fertilizer and remove existing	**$5.00 x (2,500) = $12,500.00 TOTAL**	B	Per Plant delivered & in place. Plant (2,500) Calladiums, 4.5" Pot, w/ Atlas 3000 Soil and fertilizer and remove existing	**$3.75 x (2,500) = $9,375.00 TOTAL**
C	Per Plant delivered & in place. Plant (2,500) Pentas, 4.5" Pot, with Atlas 3000 Soil and fertilizer; remove existing	**$1.60 X (2500)= $4,000.00 TOTAL**	C	Per Plant delivered & in place. Plant (2,500) Pentas, 4.5" Pot, with Atlas 3000 Soil and fertilizer; remove existing	**$4.00 x (2,500) = $10,000.00 TOTAL**	C	**MISSING PAGE 40, ADDITIONAL SCHEDULE OF VALUES, ITEMS C THROUGH J, IN ALL COPIES SUMBITTED**		C	Per Plant delivered & in place. Plant (2,500) Pentas, 4.5" Pot, with Atlas 3000 Soil and fertilizer; remove existing	**$2.85 x (2,500) = $7,125 TOTAL**
D	Per Plant delivered & in place. Plant (2,500) Geraniums,4.5" Pot, w/ Atlas 3000 Soil & Fertilizer; remove existing	**$2.45 X (2500)= $6,125.00 TOTAL**	D	Per Plant delivered & in place. Plant (2,500) Geraniums, 4.5" Pot, w/ Atlas 3000 Soil & fertilizer; remove existing	**$5.00 x (2,500) = $12,500 TOTAL**	D	**MISSING PAGE 40, ADDITIONAL SCHEDULE OF VALUES, ITEMS C THROUGH J, IN ALL COPIES SUMBITTED**		D	Per Plant delivered & in place. Plant (2,500) Geraniums, 4.5" Pot, w/ Atlas 3000 Soil & fertilizer; remove existing	**$4.70 x (2,500) = $10,000 .00 TOTAL**
E	Per Plant delivered & in place. Plant (2,500) Dusty Millers (Seasonal), 4.5" Pot, w/ Atlas 3000 Soil & Fertilizer; remove existing	**$2.00 X (2500) = $5,000.00 TOTAL**	E	Per Plant delivered & in place. Plant (2,500) Dusty Millers (Seasonal), 4.5" Pot, w/ Atlas 3000 Soiland Fertilizer; remove existing	**$10.00 x (2,500) = $25,000.00 TOTAL**	E	**MISSING PAGE 40, ADDITIONAL SCHEDULE OF VALUES, ITEMS C THROUGH J, IN ALL COPIES SUMBITTED**		E	Per Plant delivered & in place. Plant (2,500) Dusty Millers (Seasonal), 4.5" Pot, w/ Atlas 3000 Soil and Fertilizer and remove existing	**$3.90 x (2,500) = $9,750.00 TOTAL**

F	Cost of Performance Bond after the initial (First) Contract Year	**$3,000.00 TOTAL**	F	Cost of Performance Bond after the initial (First) Contract Year	**$4,000.00 TOTAL**	F	**MISSING PAGE 40, ADDITIONAL SCHEDULE OF VALUES, ITEMS C THROUGH J, IN ALL COPIES SUMBITTED**		F	Cost of Performance Bond after the initial (First) Contract Year	**$6,871.02 TOTAL**
G	Prune Kane Concourse Royal Palms in Median and Sidewalk areas during Per Pruning Event. $_____x evening hours only and (2) times per year (2) = **$ See Addendum 4** TOTAL including hauling and disposal of debris		G	Prune Kane Concourse Royal Palms in Median and Sidewalk areas during Per Pruning Event. $ x evening hours only and (2) times per year (2) = $ See Addendum 4 TOTAL including hauling and disposal of debris		G	**MISSING PAGE 40, ADDITIONAL SCHEDULE OF VALUES, ITEMS C THROUGH J, IN ALL COPIES SUMBITTED**		G	Prune Kane Concourse Royal Palms in Median and Sidewalk areas during Per Pruning Event. $ x evening hours only and (2) times per year (2) = $ See Addendum 4 TOTAL including hauling and disposal of debris	
H	Per Hour 8:00 a.m. - 4:30 p.m., Mon -Fri One Landscape Superintendent = **$45.00** Per Hour for all other items = **$67.50**		H	Per Hour 8:00 a.m. - 4:30 p.m., Mon -Fri One Landscape Superintendent = **$41.00** Per Hour for all other items = **$61.50**		H	**MISSING PAGE 40, ADDITIONAL SCHEDULE OF VALUES, ITEMS C THROUGH J, IN ALL COPIES SUMBITTED**		H	Per Hour 8 a.m. - 4:30 p.m.,Mon.- Fri. One Landscape Superintendent = **$75.00** Per Hour for all other times = **$110.00**	
I	Per Hour 8:00 a.m. - 4:30 p.m., Mon -Fri One Landscape laboror = **$35.00** for all other times = **$52.50**		I	Per Hour 8:00 a.m. - 4:30 p.m., Mon -Fri One Landscape Laborer = **$36.00** Per Hour for all other items = **$54.00**		I	**MISSING PAGE 40, ADDITIONAL SCHEDULE OF VALUES, ITEMS C THROUGH J, IN ALL COPIES SUMBITTED**		I	Per Hour 8:00 a.m. - 4:30 p.m., Mon -Fri.,8:00 p.m. One Landscape Laborer = **$45.00** Per Hour for all other times = **$65.00**	
J	One Front-End Loader w/Backhoe & Operator Per Hour = **$60.00** Per Day = **$480.00** Per Week = **$2,500.00** Per Month = **$7,700.00**		J	One Front-End Loader w/Backhoe & Operator Per Hour = **$150.00** Per Day = **$1200.00** Per Week = **$4,800.00** Per Month = **$6,000.00**		J	**MISSING PAGE 40, ADDITIONAL SCHEDULE OF VALUES, ITEMS C THROUGH J, IN ALL COPIES SUMBITTED**		J	One Front-End Loader w/Backhoe & Operator Per Hour = $**125.00** Per Day = **$875.00** Per Week = **$3,500.00** Per Month = **$11,000.00**	
K	One min. 15,000 GVM Dump Truck with Operator	Per Hour = **$46.50** Per Day = **$372.00** Per Week = **$1800.00** Per Month = **$8,000.00**	K	One min. 15,000 GVM Dump Truck with Operator	Per Hour = **$150.00** Per Day = **$1,200.00** Per Week = **$4,800.00** Per Month = **$6,000.00**	K	One min. 15,000 GVM Dump Truck with Operator	Per Hour = **$80.00** Per Day = **$600.00** Per Week = **$2,800.00** Per Month = **$10,000.00**	K	One min. 15,000 GVM Dump Truck with Operator	Per Hour = **$125.00** Per Day = **$875.00** Per Week = **$3,500.00** Per Month = **$11,000.00**
L	Rate for Topsoil (70/30 mix) delivered and installed in place	Per CY = **$90.00**	L	Rate for Topsoil (70/30 mix) delivered and installed in place	Per CY = **$75.00**	L	Rate for Topsoil (70/30 mix) delivered and installed in place	Per CY = **$89.00**	L	Rate for Topsoil (70/30 mix) delivered and installed in place	Per CY = **$150.00**
M	Rate for Lawn Sand delivered and installed in place	Per CY = **$90.00**	M	Rate for Lawn Sand delivered and installed in place	Per CY = **$75.00**	M	Rate for Lawn Sand delivered and installed in place	Per CY = **$89.00**	M	Rate for Lawn Sand delivered and installed in place	Per CY = **$250.00**
N	One Irrigation Repair Specialist	8:00 a.m. - 4:30 p.m., Mon.- Fri. Per Hour = **$55.00** Per Hour for all other times = **$82.50**	N	One Irrigation Repair Specialist	8:00 a.m. - 4:30 p.m., Mon.- Fri. Per Hour = **$75.00** Per Hour for all other times = **$112.50**	N	One Irrigation Repair Specialist	8:00 a.m. - 4:30 p.m., Mon.- Fri. Per Hour = **$65.00** Per Hour for all other times = **$75.00**	N	One Irrigation Repair Specialist	8:00 a.m. - 4:30 p.m., Mon.- Fri. Per Hour = **$70.00** Per Hour for all other times = **$120.00**
O	One Irrigation Laborer	8:00 a.m. - 4:30 p.m., Mon.- Fri. Per Hour= **$35.00** Hour for all other times = **$52.50**	O	One Irrigation Laborer	8:00 a.m. - 4:30 p.m., Mon.- Fri. Per Hour = **$75.00** Per Hour for all other times= **$112.50**	O	One Irrigation Laborer	8:00 a.m. - 4:30 p.m., Mon.- Fri. Per Hour = **$45.00** Per Hour for all other times= **$55.00**	O	One Irrigation Laborer	8:00 a.m. - 4:30 p.m., Mon.- Fri. Per Hour = **$55.00** Per Hour for all other times = **$85.00**
P	Solid St. Augustine 'Floratam' Sod in place for lawn repair	Per Square Foot = **$1.00**	P	Solid St. Augustine 'Floratam' Sod in place for lawn repair	Per Square Foot = **$0.95**	P	Solid St. Augustine 'Floratam' Sod in place for lawn repair	Per Square Foot = **$0.75**	P	Solid St. Augustine 'Floratam' Sod in place for lawn repair	Per Square Foot = **$1.50**
Q	500 Sq. Ft. Pallete of St. Augustine "Floratam" sod delivered and installed per Town direction	Per Palette = **$500.00**	Q	500 Sq. Ft. Pallete of St. Augustine "Floratam" sod delivered and installed per Town direction	Per Palette = **$475.00**	Q	500 Sq. Ft. Pallete of St. Augustine "Floratam" sod delivered and installed per Town direction	Per Palette = **$575.00**	Q	500 Sq. Ft. Pallete of St. Augustine "Floratam" sod delivered and installed per Town direction	Per Palette = **$650.00**

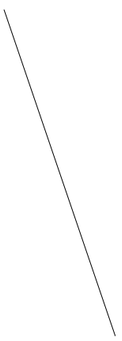
R	Rate for one skid steer Loader (Bobcat) with Operator	Per Hour = **$67.50** Per Day = **$540.00** Per Week = **$2,700.00** Per Month = **$9,600.00**	R	Rate for one skid steer Loader (Bobcat) with Operator	Per Hour = **$95.00** Per Day = **$760.00** Per Week = **$3,800.00** Per Month = **$7,000.00**	R	Rate for one skid steer Loader (Bobcat) with Operator	Per Hour = **$85.00** Per Day = **$640.00** Per Week = **$3,600.00** Per Month = **$12,000.00**	R	Rate for one skid steer Loader (Bobcat) with Operator	Per Hour = **$115.00** Per Day = **$800.00** Per Week = **$3,000.00** Per Month = **$4,500.00**
S	Plant Clusia guttifera (Small Leaf Clusia) and remove old plantings; fertilize	Per Plant in place (3G) = **$16.00** Per Plant in place (7G) = **$58.00** Per Plant in place (15G) = **$115.00**	S	Plant Clusia guttifera (Small Leaf Clusia) and remove old plantings; fertilize	Per Plant in place (3G) = **$18.00** Per Plant in place (7G) = **$54.00** Per Plant in place (15G)= **$115.00**	S	Plant Clusia guttifera (Small Leaf Clusia) and remove old plantings; fertilize	Per Plant in place (3G) = **$12.00** Per Plant in place (7G) = **$38.00** Per Plant in place (15G) = **$85.00**	S	Plant Clusia guttifera (Small Leaf Clusia) and remove old plantings; fertilize	Per Plant in place (3G) = **$20.00** Per Plant in place (7G) = **$55.00** Per Plant in place (15G) = **$120.00**
T	Plant Chrysobalanus icaco 'Red Tip Cocoplum' and remove old plantings; fertilize	Per Plant in place (3G) = **$16.000** Per Plant in place (7G) = **$44.00**	T	Plant Chrysobalanus icaco 'Red Tip Cocoplum' and remove old plantings; fertilize	Per Plant in place (3G) = **$15.00** Per Plant in place (7G) = **$50.00**	T	Plant Chrysobalanus icaco 'Red Tip Cocoplum' and remove old plantings; fertilize	Per Plant in place (3G) = **$12.00** Per Plant in place (7G) = **$38.00**	T	Plant Chrysobalanus icaco 'Red Tip Cocoplum' and remove old plantings; fertilize	Per Plant in place (3G) = **$20.00** Per Plant in place (7G) = **$55.00**
U	Plant Conocarpus erectus 'Sericeus' (Silver Buttonwood) and remove old plantings; fertilize	Per Plant in place (8' Ht.) = **$16.00** Per Plant in place (12' Ht.) = **$37.00** Per Plant in place (14' Ht.) **= $115.00**	U	Plant Conocarpus erectus 'Sericeus' (Silver Buttonwood) and remove old plantings; fertilize	Per Plant in place (8' Ht.) = **$18.00** Per Plant in place (12' Ht.) = **$54.00** Per Plant in place (14' Ht.)= **$115.00**	U	Plant Conocarpus erectus 'Sericeus' (Silver Buttonwood) and remove old plantings; fertilize	Per Plant in place (8' Ht.)= **$6.00** Per Plant in place (12' Ht.)= **$20.00** Per Plant in place (14' Ht.)= **$55.00**	U	Plant Conocarpus erectus 'Sericeus' (Silver Buttonwood) and remove old plantings; fertilize	Per Plant in place (8' Ht.) =**$20.00** Per Plant in place (12' Ht.)= **$55.00** Per Plant in place (14' Ht.) = **$120.00**
V	Plant Croton variegatum 'Mammey' and remove old plantings; fertilize	Per Plant in place (3G) = **$16.00** Per Plant in place (7G) =**$47.00**	V	Plant Croton variegatum 'Mammey' and remove old plantings; fertilize	Per Plant in place (3G)= **$15.00** Per Plant in place (7G) = **$50.00**	V	Plant Croton variegatum 'Mammey' and remove old plantings; fertilize	Per Plant in place (3G) = **$12.50** Per Plant in place (7G) = **$35.00**	V	Plant Croton variegatum 'Mammey' and remove old plantings; fertilize	Per Plant in place (3G) = **$25.00** Per Plant in place (7G) = **$65.00**
W	Plant Schefflera Arboricola 'Trinette' and remove old plantings; fertilize	Per Plant in place (3G) = **$16.00** Per Plant in place (7G) =**$47.00**	W	Plant Schefflera Arboricola 'Trinette' and remove old plantings; fertilize	Per Plant in place (3G) = **$15.00** Per Plant in place (7G) = **$50.00**	W	Plant Schefflera Arboricola 'Trinette' and remove old plantings; fertilize	Per Plant in place (3G) = **$12.00** Per Plant in place (7G) = **$38.00**	W	Plant Schefflera Arboricola 'Trinette' and remove old plantings; fertilize	Per Plant in place (3G) = **$20.00** Per Plant in place (7G) = **$55.00**
X	Plant Ficus microcarpa 'Green Island' (Green Isl. Ficus) and remove old plantings; fertilize	Per Plant in place (3G) = **$17.00** Per Plant in place (7G) =**$45.00**	X	Plant Ficus microcarpa 'Green Island' (Green Isl. Ficus) and remove old plantings; fertilize	Per Plant in place (3G) = **$15.00** Per Plant in place (7G) = **$50.00**	X	Plant Ficus microcarpa 'Green Island' (Green Isl. Ficus) and remove old plantings; fertilize	Per Plant in place (3G) = **$12.00** Per Plant in place (7G) = **$29.00**	X	Plant Ficus microcarpa 'Green Island' (Green Isl. Ficus) and remove old plantings; fertilize	Per Plant in place (3G) = **$20.00** Per Plant in place (7G) = **$55.00**
Y	Plant Ixora 'Nora Grant' (Pink Ixora) and remove old plantings; fertilize	Per Plant in place (3G) = **$17.00** Per Plant in place (7G) =**$45.00**	Y	Plant Ixora 'Nora Grant' (Pink Ixora) and remove old plantings; fertilize	Per Plant in place (3G) = **$18.00** Per Plant in place (7G) = **$54.00**	Y	Plant Ixora 'Nora Grant' (Pink Ixora) and remove old plantings; fertilize	Per Plant in place (3G) = **$14.00** Per Plant in place (7G) = **$32.00**	Y	Plant Ixora 'Nora Grant' (Pink Ixora) and remove old plantings; fertilize	Per Plant in place (3G) = **$25.00** Per Plant in place (7G) = **$65.00**
Z	Plant Dianella tasmanica 'Variegata' (Flax Lily) and remove old plantings; fertilize	Per Plant in place (3G) = **$17.00** Per Plant in place (7G) =**$45.00**	Z	Plant Dianella tasmanica 'Variegata' (Flax Lily) and remove old plantings; fertilize	Per Plant in place (3G) = **$18.00** Per Plant in place (7G) = **$50.00**	Z	Plant Dianella tasmanica 'Variegata' (Flax Lily) and remove old plantings; fertilize	Per Plant in place (3G) = **$12.00** Per Plant in place (7G) = **$29.00**	Z	Plant Dianella tasmanica 'Variegata' (Flax Lily) and remove old plantings; fertilize	Per Plant in place (3G) = **$20.00** Per Plant in place (7G) = **$55.00**
AA	Plant Tripsacum floridana (Dwarh Fakahatchee) and remove old plantings; fertilize	Per Plant in place (3G) = **$16.00** Per Plant in place (7G) =**$42.00**	AA	Plant Tripsacum floridana (Dwarh Fakahatchee) and remove old plantings; fertilize	Per Plant in place (3G) = **$15.00** Per Plant in place (7G) = **$50.00**	AA	Plant Tripsacum floridana (Dwarh Fakahatchee) and remove old plantings; fertilize	Per Plant in place (3G) = **$12.00** Per Plant in place (7G) = **$29.00**	AA	Plant Tripsacum floridana (Dwarh Fakahatchee) and remove old plantings; fertilize	Per Plant in place (3G) = **$20.00** Per Plant in place (7G) = **$55.00**
BB	Plant Pittosporum tobira 'Variegata' (Varigated Pittosporum) and remove old plantings; fertilize	Per Plant in place (3G) = **$16.00** Per Plant in place (7G) =**$42.00**	BB	Plant Pittosporum tobira 'Variegata (Varigated Pittosporum) and remove old plantings; fertilize	Per Plant in place (3G) = **$18.00** Per Plant in place (7G) = **$54.00**	BB	Plant Pittosporum tobira 'Variegata (Varigated Pittosporum) and remove old plantings; fertilize	Per Plant in place (3G) = **$14.00** Per Plant in place (7G) = **$39.00**	BB	Plant Pittosporum tobira 'Variegata (Varigated Pittosporum) and remove old plantings; fertilize	Per Plant in place (3G) = **$25.00** Per Plant in place (7G) = **$60.00**

CC	Plant Conocarpus erectus 'Sericeus' (Green Buttonwood) and remove old plantings; fertilize	Per Plant in Place (SMALL)= **$18.00** Per Plant in Place (MED)= **$45.00** Per Plant in Place (LARGE)= **$115.00**	CC	Plant Conocarpus erectus 'Sericeus' (Green Buttonwood) and remove old plantings; fertilize	Per Plant in Place (SM)= $**18.00** Per Plant in Place (MED)= **$54.00** Per Plant in Place (LARGE)= **$115.00**	CC	Plant Conocarpus erectus 'Sericeus' (Green Buttonwood) and remove old plantings; fertilize	Per Plant in Place (SM)= $**600.00** Per Plant in Place (MED)= **$1,250.00** Per Plant in Place (LARGE)= **$2,200.00**	CC	Plant Conocarpus erectus 'Sericeus' (Green Buttonwood) and remove old plantings; fertilize	Per Plant in Place (SM)= **$25.00** Per Plant in Place (MED)= **$55.00** Per Plant in Place (LARGE)= **$125.00**
DD	Plant 1 Gal., 12" ht. Liriope muscari 'Evergreen Giant' (Giant Lily turf) and remove old plantings; fertilize	Per Plant in place = **$8.00**	DD	Plant Liriope muscari 'Evergreen Giant' (Giant Lily turf) and remove old plantings; fertilize	Per Plant in place = **$8.00**	DD	Plant Liriope muscari 'Evergreen Giant' (Giant Lily turf) and remove old plantings; fertilize	Per Plant in place = **$6.00**	DD	Plant Liriope muscari 'Evergreen Giant' (Giant Lily turf) and remove old plantings; fertilize	Per Plant in place = **$12.00**
EE	Plant 1 Gal., Juniperus horizontalis 'Blue Rug', and remove old plantings; fertilize	Per Plant in place = **$8.00**	EE	Plant 1 Gal., Juniperus horizontalis 'Blue Rug', and remove old plantings; fertilize	Per Plant in place = **$12.00**	EE	Plant 1 Gal., Juniperus horizontalis 'Blue Rug', and remove old plantings; fertilize	Per Plant in place = **$12.50**	EE	Plant 1 Gal., Juniperus horizontalis 'Blue Rug', and remove old plantings; fertilize	Per Plant in place = **$15.00**
FF	Plant (1) Cocos nucifera, 'Green Malayn', 8' G.W.	Per Palm in Place = $**1,800**	FF	Plant (1) Cocos nucifera, 'Green Malayn', 8' G.W.	Per Palm in Place = **$1,500**	FF	Plant (1) Cocos nucifera, 'Green Malayn', 8' G.W.	Per Palm in Place = **$1,440**	FF	Plant (1) Cocos nucifera, 'Green Malayn', 8' G.W.	Per Palm in Place = **$1,850.00**
GG	Plant 'Gold Mound Duranta' (Golden Dewdrop) and remove old plantings; fertilize	Per Plant in place (3G) = **$16.00** Per Plant in place (7G) =**$32.00**	GG	Plant Duranta erecta 'Gold Mound' (Golden Dewdrop) and remove old	Per Plant in place (3G) =**$15.00** Per Plant in place (7G) =**$50.00**	GG	Plant Duranta erecta 'Gold Mound' (Golden Dewdrop) and remove old plantings; fertilize	Per Plant in place (3G) = **$12.00** Per Plant in place (7G) =**$38.00**	GG	Plant Duranta erecta 'Gold Mound' (Golden Dewdrop) and remove old	Per Plant in place (3G) = **$20.00** Per Plant in place (7G) =**$55.00**
HH	Plant Cordyline fruticosa 'Red Sister' (Ti Plant) and remove old plantings; fertilize	Per Plant in place (3G) = **$18.00** Per Plant in place (7G) =**$42.00**	HH	Plant Cordyline fruticosa 'Red Sister' (Ti Plant) and remove old plantings; fertilize	Per Plant in place (3G) = **$18.00** Per Plant in place (7G) =**$54.00**	HH	Plant Cordyline fruticosa 'Red Sister' (Ti Plant) and remove old plantings; fertilize	Per Plant in place (3G) = **$18.00** Per Plant in place (7G) =**$39.00**	HH	Plant Cordyline fruticosa 'Red Sister' (Ti Plant) and remove old plantings; fertilize	Per Plant in place (3G) = **$30.00** Per Plant in place (7G) =**$75.00**
II	Plant Hamelia compacta (Dwarf Firebush) and remove old plantings; fertilize	Per Plant in place (3G) = **$18.00** Per Plant in place (7G) =**$42.00**	II	Plant Hamelia compacta (Dwarf Firebush) and remove old plantings; fertilize	Per Plant in place (3G) = **$15.00** Per Plant in place (7G) =**$54.00**	II	Plant Hamelia compacta (Dwarf Firebush) and remove old plantings; fertilize	Per Plant in place (3G) = **$12.50** Per Plant in place (7G) =**$39.00**	II	Plant Hamelia compacta (Dwarf Firebush) and remove old plantings; fertilize	Per Plant in place (3G) = **$20.00** Per Plant in place (7G) =**$55.00**
JJ	Plant Philodendron 'Rojo Congo' and remove old plantings; fertilize	Per Plant in place (3G) = **$21.00** Per Plant in place (7G) =**$47.00**	JJ	Plant Philodendron 'Rojo Congo' and remove old plantings; fertilize	Per Plant in place (3G) = **$18.00** Per Plant in place (7G) = **$54.00**	JJ	Plant Philodendron 'Rojo Congo' and remove old plantings; fertilize	Per Plant in place (3G) = **$18.00** Per Plant in place (7G) = **$55.00**	JJ	Plant Philodendron 'Rojo Congo' and remove old plantings; fertilize	Per Plant in place (3G) = **$30.00** Per Plant in place (7G) = **$75.00**
KK	Plant Alpinia zerumbet 'Varigata' (Varigated Shell Ginger) and remove old plantings; fertilize	Per Plant in place (3G) = **$21.00** Per Plant in place (7G) =**$47.00**	KK	Plant Alpinia zerumbet 'Varigata' (Varigated Shell Ginger) and remove old plantings; fertilize	Per Plant in place (3G) = **$18.00** Per Plant in place (7G) = **$54.00**	KK	Plant Alpinia zerumbet 'Varigata' (Varigated Shell Ginger) and remove old plantings; fertilize	Per Plant in place (3G) = **$18.00** Per Plant in place (7G) = **$45.00**	KK	Plant Alpinia zerumbet 'Varigata' (Varigated Shell Ginger) and remove old plantings; fertilize	Per Plant in place (3G) = **$30.00** Per Plant in place (7G) = **$75.00**
LL	Plant Raphiolepis indica (Indian Hawthorn - Bush) and remove old plantings; fertilize	Per Plant in place (3G) = **$21.00** Per Plant in place (7G) =**$47.00**	LL	Plant Raphiolepis indica (Indian Hawthorn - Bush) and remove old plantings; fertilize	Per Plant in place (3G) = **$15.00** Per Plant in place (7G) =**$50.00**	LL	Plant Raphiolepis indica (Indian Hawthorn - Bush) and remove old plantings; fertilize	Per Plant in place (3G) = **$18.00** Per Plant in place (7G) =**$45.00**	LL	Plant Raphiolepis indica (Indian Hawthorn - Bush) and remove old plantings; fertilize	Per Plant in place (3G) = **$20.00** Per Plant in place (7G) =**$55.00**

MM	Plant Podocarpus macrophyllus (Japanese Yew) and remove old plantings; fertilize	Per Plant in place (3G) = **$18.00** Per Plant in place (7G) =**$45.00**	MM	Plant Podocarpus macrophyllus (Japanese Yew) and remove old plantings; fertilize	Per Plant in place (3G) = **$18.00** Per Plant in place (7G) = **$54.00**	MM	Plant Podocarpus macrophyllus (Japanese Yew) and remove old plantings; fertilize	Per Plant in place (3G) = **$18.00** Per Plant in place (7G) = **$28.00**	MM	Plant Podocarpus macrophyllus (Japanese Yew) and remove old plantings; fertilize	Per Plant in place (3G) = **$20.00** Per Plant in place (7G) = **$55.00**
NN	Plant Muhlenbergia capillaris (Muhly Grass) and remove old plantings; fertilize	Per Plant in place (3G) = **$18.00** Per Plant in place (7G) =$**45.00**	NN	Plant Muhlenbergia capillaris (Muhly Grass) and remove old plantings; fertilize	Per Plant in place (3G) = **$15.00** Per Plant in place (7G) = **$50.00**	NN	Plant Muhlenbergia capillaris (Muhly Grass) and remove old plantings; fertilize	Per Plant in place (3G) = **$12.00** Per Plant in place (7G) = **$28.00**	NN	Plant Muhlenbergia capillaris (Muhly Grass) and remove old plantings; fertilize	Per Plant in place (3G) = **$20.00** Per Plant in place (7G) = **$55.00**
OO	Plant Pennisetum setaceum (White Fountain Grass) and remove old plantings; fertilize	Per Plant in place (3G) = **$18.00** Per Plant in place (7G) =**$45.00**	OO	Plant Pennisetum setaceum (White Fountain Grass) and remove old plantings; fertilize	Per Plant in place (3G) = **$18.00** Per Plant in place (7G) = **$54.00**	OO	Plant Pennisetum setaceum (White Fountain Grass) and remove old plantings; fertilize	Per Plant in place (3G) = **$12.00** Per Plant in place (7G) = **$28.00**	OO	Plant Pennisetum setaceum (White Fountain Grass) and remove old plantings; fertilize	Per Plant in place (3G) = **$20.00** Per Plant in place (7G) = **$55.00**
PP	Plant Sansevieria Trifasciata 'Laurentii' (Snake Plant) and remove old plantings; fertilize	Per Plant in place (3G) = **$21.00** Per Plant in place (7G) =**$47.00**	PP	Plant Sansevieria Trifasciata 'Laurentii' (Snake Plant) and remove old plantings; fertilize	Per Plant in place (3G) = **$18.00** Per Plant in place (7G) = **$54.00**	PP	Plant Sansevieria Trifasciata 'Laurentii' (Snake Plant) and remove old plantings; fertilize	Per Plant in place (3G) = **$18.00** Per Plant in place (7G) = **$40.00**	PP	Plant Sansevieria Trifasciata 'Laurentii' (Snake Plant) and remove old plantings; fertilize	Per Plant in place (3G) = **$55.00** Per Plant in place (7G) = **$75.00**
QQ	Plant Cocos Nucifera, installed in place and remove old plantings; fertilize	Per Plant in place (SM) = **$1,500.00** Per Plant in place (MED) = **$3,600.00** Per Plant in lace (LG.) = **$6,000.00**	QQ	Plant Cocos Nucifera, installed in place and remove old plantings; fertilize	Per Plant in place (SM) = **$600** Per Plant in place (MED) = **$1,500.00** Per Plant in lace (LG.) = **$3,000.00**	QQ	Plant Cocos Nucifera, installed in place and remove old plantings; fertilize	Per Plant in place (SM) = **$870.00** Per Plant in place (MD) = **$1,650.00** Per Plant in lace (LG.) = **$2,400.00**	QQ	Plant Cocos Nucifera, installed in place and remove old plantings; fertilize	Per Plant in place (SM) = **$1,850.00** Per Plant in place (MED) = **$2,500.00** Per Plant in lace (LG.) = **$3,500.00**
RR	Plant (1) Lagerstroemia indica 'Muskogee' (Crepe Myrtle) installed in place and remove dead tree if existing; fertilize	Per Plant in place (8' Ht.) = **$200.00** Per Plant in place (10' Ht.) = **$450.00** Per plant in place (14'Ht.) **= $900.00**	RR	Plant (1) Lagerstroemia indica 'Muskogee' (Crepe Myrtle) installed in place and remove dead tree if existing; fertilize	Per Plant in place (8' Ht.) = **$400.00** Per Plant in place (10' Ht.) = **$700.00** Per plant in place (14' Ht.) = **$900.00**	RR	Plant (1) Lagerstroemia indica 'Muskogee' (Crepe Myrtle) installed in place and remove dead tree if existing; fertilize	Per Plant in place (8' Ht.) = **$580.00** Per Plant in place (10' Ht.) = **$900.00** Per plant in place (14' Ht.) = **$1,600.00**	RR	Plant (1) Lagerstroemia indica 'Muskogee' (Crepe Myrtle) installed in place and remove dead tree if existing; fertilize	Per Plant in place (8' Ht.) = **$650.00** Per Plant in place (10' Ht.) = **$1,500.00** Per plant in place (14' Ht.) = **$3,000.00**
SS	Plant (1) Raphiolepis indica (Indian Hawthorne) *Tree Form* installed in place and remove dead tree if existing; fertilize	Per Plant in place (SM) = **$275.00** Per Plant in place (MED) = **$642.00** Per Plant in place (LG) = **$1,255.00**	SS	Plant (1) Raphiolepis indica (Indian Hawthorne) *Tree Form* installed in place and remove dead tree if existing; fertilize	Per Plant in place (SM) = **$400.00** Per Plant in place (MED) = **$700.00** Per Plant in place (LG) = **$900.00**	SS	Plant (1) Raphiolepis indica (Indian Hawthorne) *Tree Form* installed in place and remove dead tree if existing; fertilize	Per Plant in place (SM) = **$55.00** Per Plant in place (MED) = **$95.00** Per Plant in place (LG) = **$185.00**	SS	Plant (1) Raphiolepis indica (Indian Hawthorne) *Tree Form* installed in place and remove dead tree if existing; fertilize	Per Plant in place (SM) = **$25.00** Per Plant in place (MED) = **$55.00** Per Plant in place (LG) = **$110.00**
TT	Plant (1) Ligustrum japonicum (Wax Privet) *Tree Form* installed in place and remove dead tree if existing; fertilize	Per Plant in place (8' Ht.) = **$450.00** Per Plant in place (10' Ht.) = **$900.00** Per plant in place (14'Ht.) = **$1,800.00**	TT	Plant (1) Ligustrum japonicum (Wax Privet) *Tree Form* installed in place and remove dead tree if existing; fertilize	Per Plant in place (8' Ht.) = **$300.00** Per Plant in place (10' Ht.) = **$700.00** Per plant in place (14' Ht.) = **$900.00**	TT	Plant (1) Ligustrum japonicum (Wax Privet) *Tree Form* installed in place and remove dead tree if existing; fertilize	Per Plant in place (8' Ht.) = **$500.00** Per Plant in place (10' Ht.) = **$850.00** Per plant in place (14' Ht.) = **$1,200.00**	TT	Plant (1) Ligustrum japonicum (Wax Privet) *Tree Form* installed in place and remove dead tree if existing; fertilize	Per Plant in place (8' Ht.) = **$750.00** Per Plant in place (10' Ht.) = **$2,000.00** Per plant in place (14' Ht.)= **$3,000.00**
UU	Gold Premium Shredded Mulch, Grade 'A' or better, delivered and installed in place	Per Bag = **$5.50** Cubic Yard = **$50.00** Per 20 Cubic Yard = **$1,000.00**	UU	Gold Premium Shredded Mulch, Grade 'A' or better, delivered and installed in place	Per Bag = **$4.25** Per Cubic Yard = **$57.00** Per 20 Cubic Yard = **$1,100**	UU	Gold Premium Shredded Mulch, Grade 'A' or better, delivered and installed in place	Per Bag = **$6.00** Per Cubic Yard = **$48.00** Per 20 Cubic Yard = **$960.00**	UU	Gold Premium Shredded Mulch, Grade 'A' or better, delivered and installed in place	Per Bag = **$6.00** Per Cubic Yard = **$75.00** Per 20 Cubic Yard = **$1,300.00**

VV	50lb. Bag of 13-13-13 for seasonal color, by Harrell's Lakeland, FL., installed in place	Per Bag = **$115.00**	VV	50lb. Bag of 13-13-13 for seasonal color, by Harrell's Lakeland, FL., installed in place	Per Bag = **$50.00**	VV	50lb. Bag of 13-13-13 for seasonal color, by Harrell's Lakeland, FL., installed in place	Per Bag = **$120.00**	VV	50lb. Bag of 13-13-13 for seasonal color, by Harrell's Lakeland, FL., installed in place	Per Bag = **$200.00**
WW	Plant (1) Roystonea regia (Royal Palm), 20' wood, Florida Facny, installed in place and remove dead palm, if existing	Per Palm in place = **$5,150**	WW	Plant (1) Roystonea regia (Royal Palm), 20' wood, Florida Facny, installed in place and remove dead palm, if existing	Per Palm in place = **$3,800.00**	WW	Plant (1) Roystonea regia (Royal Palm), 20' wood, Florida Facny, installed in place and remove dead palm, if existing	Per Palm in place = **$2,900.00**	WW	Plant (1) Roystonea regia (Royal Palm), 20' wood, Florida Facny, installed in place and remove dead palm, if existing	Per Palm in place = **$3,500.00**
XX	Atlas 3000 Soil Mix , delivered and installed in place	Per Cu. Yard in place = **$90.00**	XX	Atlas 3000 Soil Mix , delivered and installed in place	Per Cu. Yard in place = **$95.00**	XX	Atlas 3000 Soil Mix , delivered and installed in place	Per Cu. Yard in place = **$85.50**	XX	Atlas 3000 Soil Mix , delivered and installed in place	Per Cu. Yard in place = **$250.00**
YY	50 lb. bag of 8-10-10 fertilizer 50% sulphur coated urea, installed in place	Per Bag = **$75.00**	YY	50 lb. bag of 8-10-10 fertilizer 50% sulphur coated urea, installed in place	Per Bag = **$50.00**	YY	50 lb. bag of 8-10-10 fertilizer 50% sulphur coated urea, installed in place	Per Bag = **$65.00**	YY	50 lb. bag of 8-10-10 fertilizer 50% sulphur coated urea, installed in place	Per Bag = **$70.00**
ZZ	50 lb. bag of 12-4-8 palm fertilizer 25% sulphur coated urea, installed in place	Per Bag = **$85.00**	ZZ	50 lb. bag of 12-4-8 palm fertilizer 25% sulphur coated urea, installed in place	Per Bag = **$50.00**	ZZ	50 lb. bag of 12-4-8 palm fertilizer 25% sulphur coated urea, installed in place	Per Bag = **$70.00**	ZZ	50 lb. bag of 12-4-8 palm fertilizer 25% sulphur coated urea, installed in place	Per Bag = **$75.00**
AAA	50 lb. bag of 16-4-8 turf fertilizer, installed in place	Per Bag = **$90.00**	AAA	50 lb. bag of 16-4-8 turf fertilizer, installed in place	Per Bag = **$50.00**	AAA	50 lb. bag of 16-4-8 turf fertilizer, installed in place	Per Bag = **$65.00**	AAA	50 lb. bag of 16-4-8 turf fertilizer, installed in place	Per Bag = **$70.00**
	BASE BID: $268,614.80			**BASE BID: $396,314.28**			**BASE BID: $343,551.38**			**BASE BID: $313,526.00**	
	Total Additional Services: $54,392.34 *			**Total Additional Services: $100,944.69***			**Total Additional Services: INCOMPLETE BID**			**Total Additional Services: $78,779.28 ***	
	Grand Total: $323,007.14			**Grand Total: $497,258.97**			**Grand Total: INCOMPLETE BID**			**Grand Total: $392,305.28**	

*** TOTAL ADDITIONAL SERVICES WERE CALCULATED USING THE AVERAGE PRICE PER UNIT FOR THOSE ITEMS HAVING MORE THAN ONE VALUE.**



AGENDA ITEM REPORT
June 9, 2022

ITEM NUMBER: 21.

ITEM: Consideration and **Approval** of a private TDR transaction for the transfer of two (2) TDR dwelling units from 9300 Harbor Terrace Condominium Association, Inc. (9300 Bay Harbor Terrace) to Future Clara BH MFR structure (10281 West Bay Harbor Drive). Enclosed are copies of the application, contract, site plans, and other supporting documents.

DESCRIPTION:
The applicant is requesting approval of private Transfer of Development Rights (TDR) transaction of two (2) dwelling units from 9300 Harbor Terrace Condominium Association, Inc.

Donor Site: 9300 Bay Harbor Terrace (9300 Bay Harbor Terrace Condominium Association, Inc.)
Receiving Site: 10281 West Bay Harbor Drive (Future Clara BH MFR)
Number of units to be transferred: 2
Price per Unit: $65,000

All required information was submitted pursuant to Section 23-22.2 of the Town Code. If the TDR application is approved by the Town Council, staff recommends the Town Attorney prepare a resolution setting forth the Town Council approval and recommendations.

RECOMMENDED ACTION:
Council's Discretion.

FINANCIAL ANALYSIS:
The Transfer of two (2) Developmental Rights (TDR) dwelling units from 9300 Harbor Terrace Condominium Association, Inc. to Future Clara BH MFR is private transaction and the Town does not derive any revenue from this transaction. The only revenue receivable for this transfer is $1,000.00 TDR application fee. There is no additional financial impact regarding this transaction.

BUDGET IMPACT:

Name	Impact Date	Fund(s)	Account(s)	Project #(s)	Amount Budgeted
TDR Sale Proceeds	06/09/2022	$1,000.00	001.9990.369002.222	TDR Sale Proceeds	$0.00

Submitted By: Yvonne Hamilton, Acting Town Clerk

ATTACHMENTS

1.	Planner's Staff Report - 5-27-2022
2.	TDR Application with supporting documents
3.	La Baia North - Plans
4.	Staff Inspection Report-Building and Code.pdf-9300 Bay Harbor Terrace

7522 Wiles Road Suite B-203
Coral Springs, Florida 33067
(Tel) 954-757-9909
(Fax) 954-757-7089
(E-mail) mmiller@michaelmillerplanning.com

MICHAEL MILLER PLANNING ASSOCIATES, INC.

Fax

To:	Yvonne Hamilton, Interim Town Clerk Town of Bay Harbor Islands	**From:**	Michael J. Miller, AICP MJM Consultant Town Planner
Fax:	305-866-4863	**Pages:**	2 (Including Cover Page)
Phone:	305-866-6241	**Date:**	5/27/2022
Re:	Transfer of Development Rights (TDR) Clara MFR (former Atlantis) (28 Total DU)	**CC:**	Maria Lasday – Town Manager Joseph S. Geller, Esq. – Town Attorney

☐ **Urgent** ☐ **For Review** ☐ **Please Comment** ☐ **Please Reply** ☐ **As Requested**

TDR Request – 2 Private DU

Donor Site: **9300 Bay Harbor Terrace / Lots 2, 15 &16 of Block 18 (9300 Harbor Terrace Condominium Association, Inc.)**

Receiving Site: **10281 W. Bay Harbor Drive / Lots 6 & 7 of Block 5 (Future Clara BH MFR)**

In response to the Town's request for our firm's analysis of the lands proposed to be involved with the above referenced TDR application requesting approval of the transfer of two (2) private TDR units, following is our analysis.

Our records indicate the **receiving** site (Clara MFR) was granted a Site Development Plan approval by the Town's Design Review Board on April 7th, 2022, for a total of 28 DU. The survey submitted for the future Clara site shows that the site is slightly smaller than usual as it is a corner lot. The combined parcel size is 22,366 sq. ft. Therefore, the allowable base zoning density of 34 DUA would allow for 17 DU on the receiving site (.513 acres X 34 DUA = 17.46 or 17 DU). Since the proposed project includes 28 total dwelling units this requires the acquisition of 11 TDR units to construct the project. To date, the developer has acquired six (6) TDR units and another five (5) are required to construct the project. The TDRs previously acquired include one (1) DU from the Southern Star Condo and five (5) DU from Bay Harbor Townhouses. The previous Atlantis MFR developer also made arrangements to acquire five (5) additional TDR DU in 2018; however, those sales agreements were canceled & released, as that project did not move forward for development. In September 2021 the land was acquired by Clara BH, LLC.

The **donor** site is currently developed as a 7-story / 24 DU condominium complex built in 1981. The survey submitted with the TDR application notes the site is comprised of three (3) lots and the size of the property is 33,750 sq. ft. (0.77 acres). Therefore, up to twenty-six (26) DU could have built at 34 DUA. Town records indicate that the site was developed with a twenty-four (24) unit condominium at a density

of 31.17 units per acre. Our records do not indicate that any TDR units were previously transferred from this site and two (2) units are available to donate. If the two (2) TDR unit requested is approved, the **donor** site will have zero (0) TDR units available.

The **receiving** site has also submitted a concurrent application to contract with Covenant Manor Condominium located at 9871-9881 West Bay Harbor Drive for one (1) private TDR unit. Finally, the **receiving** site is requesting to acquire the remaining two (2) TDR unit from the Town (public TDR account). If both of the private TDR applications are approved (3 DU) plus the Town TDR sale (2 DU) the **receiving** site will have acquired the eleven (11) total TDR units needed to construct the 28 DU complex. MMPA will provide separate staff reports for the other private TDR sale and Town TDR sale.

Our office was not requested to perform any inspections of the donor site to determine if the site complies with Town Codes or has any Code violations. We assume other Town staff members will perform those tasks in conformance with the Town TDR Code requirements. The backup documents include an inspection report for the 9300 Bay Harbor Terrace donor site.

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 Clara BH LLC c/o James Curnin		
Phone (305)972-8568	e-mail jc@clarahomes.co	Fax ( )
Address 2665 S. Bayshore Dr Suite 410		
City and State Miami, Florida		Zip Code 33133
Relationship to Property: Owner		

RECEIVER SITE INFORMATION

Owner's Name Clara BH LLC c/o James Curnin		
Phone (305) 972-8568	e-mail jc@clarahomes.co	Fax ( )
Address 10281 W Bay Harbor Drive & 1170 103 Street		
City and State Bay Harbor Islands, Florida		Zip Code 33154
Property Address/Location 10281 W Bay Harbor Drive & 1170 103 Street, Bay Harbor Islands, Florida, 33154		
Legal Description: LOT(S) 6 & 7 BLOCK 5		
Folio Number 13-2227-001-1160 & 13-2227-001-1150		Current Zoning RM-2 Multiple Family District General
Property size 22,365.8 Square Feet; 0.5 Acres		Purchase date
Existing use of the property Vacant		
Describe Existing Structure on Property Vacant		
Dwelling units to be received 2		
Total Dwelling units including TDR 28		

HAS SITE PLAN FOR RECEIVING PROPERTY BEEN APPROVED?
☒ Yes ☐ No

If Yes, then provide date of approval April 7, 2022
If Not, then attach preliminary site plan.

ARE TDRs BEING REQUESTED FROM THE TOWN? Yes ☐ 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 9300 Harbor Terrace Condominium Association, Inc.		
Phone (305) 323-0627	e-mail	Fax ( )
Address 9300 Bay Harbor Terrace		
City and State Bay Harbor Islands, Florida		Zip Code 33154
Property Address/Location 9300 Bay Harbor Terrace, Bay Harbor Islands, Florida, 33154		
Legal Description: LOT(S) 2, 15, & 16 BLOCK 18		
Folio Number 13-2227-078-0001	Current Zoning RM-2	Year built 1981
Property size 33,616 square feet; 0.77 Acres	Purchase date Multiple as Condominium	
Existing use of the property Multi-family residential development		
Describe Existing Structure on Property 7-story condominium with 24 units		
Dwelling units to be transferred to TDR Bank 2 to Receiver Site		
Units permitted 26		

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 Mojarena & Associates, Inc. (Receiver)		
Address P.O. Box 56-0126, Miami, Florida 33256-0126		
Phone (305) 278-2494	e-mail	Fax ( )

Name of Surveyor Royal Point Land Surveyors, Inc. (Donor)		
Address 6175 NW 153rd Street, Suite 321, Miami Lakes, Florida, 33014		
Phone (305) 822-6062	e-mail info@RoyalPointLS.com	Fax (305) 827-9669

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

_____ 12/29/21
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 29 day of December, 2021, by James Curnin on behalf of Clara BH, 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: 3/5/22

BETTY LLERENA
MY COMMISSION # GG 175999
EXPIRES: March 5, 2022
Bonded Thru Notary Public Underwriters

_____
Notary Public, State of Florida

Print Name: Betty Llerena

DONOR SITE

_____ NOV 30, 2021
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 30 day of NOV, 2021, by VLADIMIR MILIEV on behalf of BAY HARBOR ISLAND CONDOMINIUM ASSOCIATION, a Florida (corporation) (partnership) (Other: _____.) He/She is personally known to me or has produced FLDL (type of identification produced) as identification and did take an oath.

My Commission Expires:

_____
Notary Public, State of Florida

Print Name: ARMOGAN MANIKUM

ARMOGAN MANIKUM
Notary Public, State of Florida
Commission# GG 277569
My comm. expires Dec. 5, 2022

EXHIBIT A

CFN: 20170575752 BOOK 30716 PAGE 1008
DATE:10/13/2017 09:53:05 AM
DEED DOC 0.60
SURTAX 0.45
HARVEY RUVIN, CLERK OF COURT, MIA-DADE CTY

This instrument prepared by, record and return to:

Jennifer Snyder, Esq.
SNYDER INTERNATIONAL LAW GROUP, P.A.
21500 Biscayne Boulevard, Suite 401
Aventura, FL 33180

Notice to Recorder:

The deed is for a transfer of development rights to the property described herein and does not transfer any interests in real property. Accordingly, pursuant to TAA No. 03B4-007 (July 14, 2003), no documentary stamp tax is due in connection herewith.

Folio No.

[Space above line reserved for recording office use]

WARRANTY DEED
FOR TRANSFER OF DEVELOPMENT RIGHTS AND DECLARATION OF RESTRICTIONS

THIS INDENTURE, made as of the 11th day of October, 2017 between Bay Harbor TH 1, LLC, a Florida limited liability company whose post office address is 20900 NE 30th Avenue, Suite 510, Aventura, FL 33180, hereinafter called Grantor, and Atlantis 103, LLC, a Florida limited liability company, whose post office address is 7657 NW 50th Street, Miami, FL 33166, hereinafter called Grantee:

(wherever used herein, the terms "Grantor" and "Grantee" include all parties to this instrument and the heirs, legal representatives and assigns of individuals, and the successors and assigns of corporations)

WITNESSETH, That Grantor, for and in consideration of the sum of Ten Dollars ($10.00), to the Grantor in hand paid by the Grantee, the receipt whereof is acknowledged, has granted, bargained and sold to the Grantee and the Grantee and the Grantee's heirs, successors and assigns forever, FIVE (5) UNITS OF DEVELOPMENT RIGHTS (the **"Development Rights"**) as set forth in the Town of Bay Harbor Island Zoning and Planning Code (the **"Town Code"**), Ordinance No. 769 and Section 23-22.2 and Resolution No. 2131 from the following described property (the **"Donor Parcel"**) situate, lying and being in Miami-Dade County, Florida to wit:

Lot 1, Block 9, BAY HARBOR ISLAND, according to the Plat thereof, recorded in Plat Book 46, at Page 5, of the Public Records of Miami-Dade County, Florida.

AND THE GRANTOR DOES HEREBY FULLY WARRANT the title to said Development Rights and will defend the same against the lawful claims of all person, whosoever, and the Grantor hereby represents that the transfer of the Development Rights to the Grantee herein has been approved by the Town of Bay Harbor Islands in accordance with the requirement of the Town Code, avers that the Rights are hereby severed and extinguished from the Donor Parcel.

SAVING AND RESERVING TO THE GRANTOR all other rights to develop the Donor Parcel in accordance with the Town Code, except for the Development Rights that are hereby transferred to the Grantee.

The Development Rights transferred to the Grantee by this instrument are and shall be appurtenant to the following described land now owned by the Grantee (the **"Receiving Parcel"**) unless and until such Development Rights are subsequently transferred in accordance with the provisions of the Town Code:

Lots 6 and 7, of Block 5, BAY HARBOR ISLAND, according to the Plat thereof, as recorded in Plat Book 46, at Page 5, of the Public Records of Miami-Dade County, Florida.

The use of the Donor Parcel and the Receiving Parcel is hereby restricted to uses permitted under the Town Code, as amended from time to time.

This instrument may be executed in counterparts with the respective original signature pages assembled into one document for recordation in the Public Records of Miami-Dade County.

IN WITNESS WHEREOF, the Grantor has signed and sealed these presents effective as of the day and year first above written, with the joinder and consent of the Grantee.

Signed, sealed and delivered in the presence of Witnesses:

Witnesses:

NORBERTO LAUCE

Print name: _____

Solomon Nizovkin

Print name: _____

Bay Harbor TH 1 LLC, a Florida limited liability company

By: Bay Harbor TH 1 Developer LP, a Delaware limited partnership, its Manager

By: Bay Harbor TH 1 GP LLC, a Delaware limited liability company, its General Partner

By: _____
Michel Leibovich, Manager

STATE OF FLORIDA
COUNTY OF MIAMI-DADE

The foregoing instrument was acknowledged before me this 11th day of October, 2017, by Michel Leibovich, as Manager of Bay Harbor TH 1 GP LLC, a Delaware limited liability company, the General partner of Bay Harbor TH 1 Developer LP, a Delaware limited partnership, as Manager of Bay Harbor TH 1 LLC, a Florida limited liability company, who [✓] is personally known to me or [ ] produced FL FD as identification.

My commission expires:

SINAI LAMUS
COMMISSION # FF142549
EXPIRES: July 16, 2018
WWW.AARONNOTARY.COM

July 16 2018

Notary Public

Print name: Sinai Lamus.

JOINDER AND CONSENT BY RECEIVING PARCEL OWNER

The undersigned owner of the Receiving Parcel hereby joins in and consents to the above foregoing Warranty Deed for Transfer of Development Rights and Declaration of Restrictions and acknowledges that the same is and shall be binding upon the undersigned owner.

EXECUTED by the undersigned on the 11, day of October, 2017, to be effective on the date first written above.

Signed, sealed and delivered in the presence of Witnesses:

Witnesses:

Print name: Alexandra Vega

Print name: Eric SAMI

Atlantis 103, LLC, a Florida limited liability company

By: Sorosh, LLC, a Florida limited liability company, its Manager

By: _____
Sam Sami, Managing Member

STATE OF FLORIDA
COUNTY OF MIAMI-DADE

The foregoing instrument was acknowledged before me this 11 day of October, 2017, by Sam Sami, as Managing Member of Sorosh, LLC, a Florida limited liability company, the Manager of Atlantis 103, LLC, a Florida limited liability company who [✓] is personally known to me or [ ] produced _____ as identification.

_____
Notary Public

Print name: Glendy Acosta.

My commission expires:

Glendy Acosta
Commission # GG121926
Expires: July 6, 2021
Bonded thru Aaron Notary

EXHIBIT B

CFN: 20170686647 BOOK 30783 PAGE 1967
DATE:12/06/2017 04:25:19 PM
DEED DOC 0.60
SURTAX 0.45
HARVEY RUVIN, CLERK OF COURT, MIA-DADE CTY

This instrument prepared by:

Kristy L. Phillips, Esq.
Real Estate & Association Law Firm, P.A.
101 N.E. 3rd Ave. #1500
Ft. Lauderdale, Florida

Record and return to:
Brian M. Rokaw, P.A.
4070 Laguna Street
Coral Gables, Florida 33146

Notice to Recorder:
The deed is for a transfer of development rights to the property described herein and does not transfer any interests in real property. Accordingly, pursuant to TAA No. 03B4-007 (July 14, 2003) no documentary stamp tax is due in connection herewith.

Folio No. 13-2227-100-0001

[Space above line reserved for recording office use]

WARRANTY DEED FOR TRANSFER OF DEVELOPMENT RIGHTS AND DECLARATION OF RESTRICTIONS

THIS INDENTURE, made as of the day of November 6, 2017 between **SOUTHERN STAR CONDOMINIUM ASSOCIATION, Inc.** a Florida not-for-profit corporation, whose post office address is 1060 Kane Concourse Suite A, Bay Harbor Islands, FL 33154, hereinafter called Grantor, and **ATLANTIS 103, LLC**, a Florida limited liability company, whose post office address is 7657 NW 50th Street, Miami, Florida, 33166, hereinafter called Grantee:

(wherever used herein, the terms "Grantor" and "Grantee" include all parties to this instrument and the heirs, legal representatives and assigns of individuals, and the successors and assigns of corporations)

WITNESSETH, That Grantor, for and in consideration of the sum of Ten Dollars ($10.00), to the Grantor in hand paid by the Grantee, the receipt whereof is acknowledged, has granted, bargained and sold to the Grantee and the Grantee and the Grantee's heirs, successors and assigns forever, ONE (1) UNIT OF DEVELOPMENT RIGHTS (the **"Development Rights"**) as set forth in the Town of Bay Harbor Island Zoning and Planning Code (the **"Town Code"**), Section 23.22.2 and Resolution No. 2130 from the following described property (the **"Donor Parcel"**) situate, lying and being in Miami-Dade County, Florida to wit:

Lots 1 and 2, Block 17, less North 11 feet of Lots 1 and 2, Block 17 and less East 11 feet of Lot 1, Block 17, BAY HARBOR ISLAND, according to the Plat thereof, as recorded in Plat Book 46, Page 5 of the Public Records of Miami-Dade County, Florida.

A/K/A Southern Star, a Condominium, according to the declaration of Condominium thereof, recorded in Official Records Book 21198, at Page 3223, of the Public Records of Miami-Dade County, Florida.

AND THE GRANTOR DOES HEREBY FULLY WARRANT the title to said Development Rights and will defend the same against the lawful claims of all person, whosoever, and the Grantor hereby represents that the transfer of the Development Rights to the Grantee herein has been approved by the Town of Bay Harbor Islands in accordance with the requirement of the Town Code, avers that the Rights are hereby severed and extinguished from the Donor Parcel.

SAVING AND RESERVING TO THE GRANTOR all other rights to develop the Donor Parcel in accordance with the Town Code, except for the Development Rights that are hereby transferred to the Grantee.

The Development Rights transferred to the Grantee by this instrument are and shall be appurtenant to the following described land now owned by the Grantee (the **"Receiving Parcel"**) unless and until such Development Rights are subsequently transferred in accordance with the provisions of the Town Code:

Lots 6 and 7 of Block 5, "Bay Harbor Island" Subdivision according to the plat thereof, as recorded in Plat Book 46, Page 5 of the Public Records of Miami Dade County, Florida.

The use of the Donor Parcel and the Receiving Parcel is hereby restricted to uses permitted under the Town Code, as amended from time to time.

This instrument may be executed in counterparts with the respective original signature pages assembled into one document for recordation in the Public Records of Miami-Dade County

JOINDER AND CONSENT BY RECEIVING PARCEL OWNER

The undersigned owner of the Receiving Parcel hereby joins in and consents to the above foregoing Warranty Deed for Transfer of Development Rights and Declaration of Restrictions and acknowledges that the same is and shall be binding upon the undersigned owner.

EXECUTED by the undersigned on the 11th, day of Nov. 2017, to be effective on the first date written above.

Signed, sealed and delivered in the presence of Witnesses:

ATLANTIS 103, LLC, a Florida limited liability company

By: SOROSH, LLC, a Florida limited liability company, its Manager

By: _____
Name: Sam Sami
Title: Managing Member

_____
Signature of Witness
Print Name: Alexandra Vega

_____
Signature of Witness
Print Name: Glendy Acosta

STATE OF FLORIDA
COUNTY OF MIAMI-DADE

The foregoing instrument was acknowledged before me on this 6th day of, November, 2017 by Sam Sami, as Managing Member of Sorosh, LLC, a Florida limited liability company, the Manager of Atlantis 103, LLC, a Florida limited liability company who {_____}is personally known to be or who {_____} has provided _____ S500-796-53-244-0. as valid identification.

_____
Notary Public, State of Florida

_____
Print Name of Notary
My Commission Expires:

Glendy Acosta
Commission # GG121926
Expires: July 6, 2021
Bonded thru Aaron Notary

In Witness Whereof, grantor has hereunto set grantor's hand and seal the day and year first above written.

Signed, sealed and delivered in our presence:

SOUTHERN STAR CONDOMINIUM ASSOCIATION, INC,
a Florida not-for-profit corporation

Linda Johnson
Signature of Witness
Print Name: Linda Johnson

Carmen Wong
Signature of Witness
Print Name: Carmen Wong

By: _____
Name: Hayim Katan
Title: President

Linda Johnson
Signature of Witness
Print Name: Linda Johnson

By: _____
Name: Robert Colon
Title: Vice President

Keyosha Ruiz
Signature of Witness
Print Name: Keyosha Ruiz

STATE OF FLORIDA
COUNTY OF MIAMI-DADE

The foregoing instrument was acknowledged before me on this 14 day of November, 2017 by Hayim Katan, as President and Robert Colon as Vice President for and on behalf of Southern Star Condominium Association, Inc., a Florida not-for-profit corporation who {X} are personally known to be or who {_____} have provided _____ as valid identification.

_____
Notary Public, State of Florida
Evis E. Vasallo
Print Name of Notary
My Commission Expires: 9-25-2020

EVIS E. VASALLO
MY COMMISSION # GG 026014
EXPIRES: September 25, 2020
Bonded Thru Budget Notary Services

DocuSign Envelope ID: 0BCDC496-855C-41B1-BFEC-3AC56A782418

AGREEMENT TO PURCHASE TRANSFER OF DEVELOPMENT RIGHTS

THIS AGREEMENT TO PURCHASE TRANSFER OF DEVELOPMENT RIGHTS ("Agreement") is entered into on this ___ day of September, 2021, ("Effective Date") by and between **9300 HARBOR TERRACE CONDOMINIUM ASSOCIATION, INC, a Florida corporation not for profit**,.and/or its successors and assigns and on behalf of the Unit Owners of 9300 Harbor Terrace Condominium ("Seller"), and **CLARA BH LLC**, a Delaware limited liability company and/or its assigns ("Buyer").

WITNESSETH:

WHEREAS, Seller, as the Condominium Association governing 9300 Harbor Terrace Condominium, 9300 Bay Harbor Terrace, Bay Harbor Islands, Florida. 33154, is the holder of two (2) transfer of development rights (individually and collectively, the "**9300 Harbor TDR Unit(s)**") in the Town of Bay Harbor Islands (the "Town"), Miami-Dade County, Florida, currently belonging to the Seller for the properties more particularly described in Exhibit A attached hereto (the "**Donor Parcel**");

WHEREAS, Section 23-22.2 of the Town Zoning Regulations governs the transfer of development rights in the Town (the "**TDR Ordinance**");

WHEREAS, Buyer is owner of the real property located in the Town more particularly described in Exhibit B attached hereto and located at 10281 W Bay Harbor Dr (and 1170 103rd St.), Bay Harbor Islands, Fla. (the "**Receiving Parcel**");

WHEREAS, Buyer intends to develop the Receiving Parcel as contemplated by the site plan approved by the Town through Resolution No. 2115 on March 21, 2017, as amended, for improvements on the Receiving Parcel consisting of a multi-story residential building comprised of 28 residential Units and ancillary parking and amenities (the "**Approved Site Plan**");

WHEREAS, Buyer desires to purchase all of the 9300 Harbor TDR Units from Seller, and Seller desires to sell the 9300 Harbor TDR Units to Buyer, on the terms and conditions hereinafter provided.

NOW, THEREFORE, in consideration of the foregoing and the respective representations, warranties, covenants and agreements set forth herein, and other good and valuable consideration, the receipt and sufficiency of which is acknowledged by the Parties, each of the Parties agrees as follows:

1. **Purchase of TDR Units.** Seller hereby agrees to sell to Buyer and Buyer hereby agrees to purchase from Seller the 9300 Harbor TDR Unit upon the terms and conditions hereinafter set forth.

2. **Purchase Price and Deposit.**

(a) Within two (2) business days after the Effective Date (hereinafter defined), Buyer shall deposit in escrow with Beloff Law, P.A., Attorney located 1691 Michigan Ave., Suite 250, Miami Beach, Fla. 33139 ("**Escrow Agent**") the sum of Five Thousand and 00/100 dollars ($5,000) (the "**Initial Deposit**"), to be delivered to Seller at Closing and applied as a credit against the Purchase Price (as defined below) at Closing (hereinafter defined). Within two (2) business days after a determination is made by the Town Manager, or designee, approving in writing the eligibility of transfer by Seller to Buyer of the 9300 Harbor TDR Unit from the Donor Parcel to the Receiving Parcel, Buyer shall deposit in escrow with the Escrow Agent the additional sum of Twenty-Five thousand 00/100 dollars ($25,000) (the "**Additional Deposit**"), to be delivered to Seller at Closing and applied as a credit against the Purchase Price at Closing, The Additional Deposit shall be held together with, and on the same terms and conditions as the Initial Deposit. Once the Additional Deposit is paid to Escrow Agent, the term "**Deposit**" shall mean the Initial Deposit, plus the Additional Deposit, prior to payment of the Additional Deposit, whenever used in this Agreement, the term "'Deposit" shall mean only the Initial Deposit. Escrow Agent shall hold and disburse the Earnest Money in accordance with the terms of this Agreement.

(b) The purchase price of the 9300 Harbor TDR Units is One Hundred Thirty Seven Thousand ($137,000.00) (the "Purchase Price"), representing $-68,500.00 for each of the two 9300 Harbor TDR Units. The entire Purchase Price, less the amount of the Deposit, subject to any adjustments as herein provided, shall be due and payable by cashier's check or in immediately available funds, by wire transfer, at Closing.

3. **Closing.**

(a) **Closing Date**. Subject to satisfaction of all conditions to Closing, the closing (the "Closing" or "Closing Date") of the purchase and sale of the 9300 Harbor TDR Units under this Agreement shall take place on the date which is five (5) business days after the date that the Buyer obtains the final binding and non-appealable approval by the Town of the transfer of the 9300 Harbor TDR Units to the Receiving Parcel, at the offices of Escrow Agent.

(b) **Closing Expenses**. Buyer shall pay the cost of recording the instrument of transfer of the 9300 Harbor TDR Units and documentary stamps and surtax, assessed thereon, if any. Buyer shall also pay any and all costs incurred in connection with the Town's approval of the transfer contemplated hereunder, including but not limited to the application fee (currently $1,000) and the cost of recording the Restrictive Covenant (hereinafter defined), if required. Each party shall be responsible for paying their own attorney fees.

4. **Additional Termination Provisions.** Each of the following shall constitute a "Termination Event" under this Agreement:

(a) If the Town Manager does not make a determination within ninety (90) days after the Effective Date that the 9300 Harbor TDR Units are legally available to be transferred from the Donor Parcel to the Receiving Parcel as provided by the TDR Ordinance;

(b) If the Town refuses or fails to schedule a hearing of the town Council to occur on or before ninety (90) days following the Effective Date for the approval of the transfer of the 9300 Harbor TDR Unit from the Donor Parcel to the Receiving Parcel;

(c) If the transfer of the 9300 Harbor TDR Units from the Donor Parcel to the Receiving Parcel has not been approved by affirmative resolution of the Town Council,

after expiration of all appeal periods, by the Town Council by the date which is one (1) year after the Effective Date herein;

(d) If the Seller fails to obtain the approval of 75% of its unit owners to sell the 9300 Harbor TDR Units to Buyer within thirty (30) days of the effective date, unless Buyer and Seller agree to extend the time for approval; and

(e) If the Donor Parcel shall not be in compliance with current code requirements as determined by the Town under the TDR Ordinance.

Buyer, at Buyer's sole option, and as Buyer's sole recourse, may terminate this Agreement by written notice to Seller, upon theoccurrence of any Termination Event, in which event the Deposit shall be returned to Buyer and the parties shall be released from all obligations and liabilities under this Agreement. As to 4(d), Seller may also terminate this Agreement if it cannot obtain the approval requisite approval of its unit owners within thirty (30) days of the effective date, unless Buyer and Seller agree to an extension of time to obtain such approval.

5. **Covenants, Representations and Warranties of Seller.** Seller hereby agrees,covenants, represents and warrants to Buyer as follows:

(a) Seller has not transferred, assigned, sold, conveyed, hypothecated, or otherwise alienated the 9300 Harbor TDR Unit.

(b) Seller has good, valid and marketable title to the 9300 Harbor TDR Unit, free and clear of any and all liens, encumbrances, charges and adverse claims of every nature.

(c) Seller has all requisite power and authority, and has taken all actions required to authorize it to execute and deliver this Agreement. All of the individuals executing this Agreement and any other documents and instruments executed by Seller pursuant hereto have the legal power, right, and actual authority to bind Seller to the terms and conditions hereof and thereof.

(d) All requisite corporate action has been taken by Seller and all required consents have been obtained by Seller in connection with the entering into this Agreement and the consummation of the transactions contemplated hereby.

(e) Within thirty (30) days of the Effective Date., Seller shall request that a determination be made by the Town Manager as provided by the TDR Ordinance that the 9300 Harbor TDR Units are legally available to be transferred from the Donor Parcel to the Receiving Parcel.

The covenants, representations and warranties of Seller set forth of this Section shall specifically survive the Closing.

6. **Representations and Warranties of Buyer.** Buyer hereby represents andwarrants to Seller as follows:

(a) Buyer has all requisite power and authority, and has taken all actions required by its organizational documents to authorize it to execute and deliver this Agreement. All of the individuals executing this Agreement and any other documents and instruments executed by Buyer pursuant hereto have the legal power, right, and actual authority to bind Buyer to the terms and conditions hereof and thereof.

7. **Buyer's Conditions to Closing.** Buyer's obligation to consummate the Closing or otherwise to perform any obligation provided in this Agreement is expressly conditioned upon the fulfillment or satisfaction of each of the following conditions precedent on or before the Closing Date (any of which may be waived only in writing by Buyer in its sole and absolute discretion):

(a) Seller shall have fully performed each covenant and agreement to be performed by Seller in this Agreement and each representation and warranty made in this Agreement by Seller shall be complete, true and accurate in all material respects as of the Closing Date;

(b) The final binding and non-appealable approval by the Town of the transferof the 9300 Harbor TDR Unit to the Receiving Parcel shall have been obtained, including, without limitation; any required approval of Buyer's supplemental TDR application for the transfer of the 9300 Harbor TDR Unit to the Receiving Parcel, and final binding and non-appealable approval by Town Council of the TDR required as a condition of the Approved Site Plan;

(c) There shall be no development or building moratoria in effect with regard to the Receiving Parcel as of the Closing Date; and

(d) The Approved Site Plan shall remain in full force and effect.

If any of the foregoing conditions are not satisfied at or before Closing, then in addition to any remedy available to Buyer under this Agreement, Buyer may terminate this Agreement by written notice to Seller, in which event the Deposit shall be returned to Buyer and the parties shall be released from all obligations and liabilities under this Agreement.

8. **Buyer's Obligations at Closing.** Buyer shall do the following at the Closing:

(a) Execute and deliver the closing statement; and

(b) Pay the portion of the Purchase Price described in paragraph 2(b).

9. **Seller's Obligations at Closing.** Seller shall execute and deliver the following documents to Buyer at the Closing:

(a) The closing statement;

(b) That certain Quitclaim Assignment of Transfer of Development Rights, the form of which is attached hereto and incorporated herein as Exhibit B (the "Assignment").

(c) A Restrictive Covenant in recordable form restricting the future use of the Donor Parcel as required by the TDR Ordinance, in form and content acceptable to the Town Attorney (the "Restrictive Covenant"), if required;

(d) A Certificate of Non-Foreign Status of Seller as required by Section 1445 of the Internal Revenue Code;

(e) Such proof of Seller's authority and authorization to enter into this transaction as may be reasonably required by Buyer; and

(f) Any other documents expressly required to be delivered or furnished pursuant to any other provisions of this Agreement or reasonably required to carry out the purpose and intent of this Agreement.

10. **Escrow Agent.** In the event a dispute arises between the parties regarding the Deposit, or in the event the Escrow Agent shall receive conflicting demands or instructions with respect thereto, Escrow Agent may, in its sole discretion, continue to hold the Deposit until all parties mutually agree to release thereof or until an order or a judgment of a court of competent jurisdiction shall determine the rights of the parties hereto. Alternatively, Escrow Agent may, in its discretion, deposit the Deposit with the Clerk of the Circuit Court of Miami-Dade County, Florida (the "Clerk") pursuant to interpleader procedure, whereupon, after notifying all parties concerned with such action and paying all costs imposed by the Clerk as a result of such deposit, all liability on the part of Escrow Agent shall terminate. It is agreed that the duties of the Escrow Agent are purely ministerial in nature and shall be expressly limited to the safekeeping of the Deposit and for the release of the same in accordance with this Agreement. The Escrow Agent shall not be liable for any action done or omitted by it or for any action which it may in good faith do or refrain from doing in connection with this Agreement. The Escrow Agent will incur no liability for relying on any signature or signatures of Buyer or Seller, their agents, directors oremployees, their purported authority to act, the genuineness of such signatures, or as to the truth and accuracy of any information contained therein. Buyer and Seller hereby indemnify Escrow Agent and hold it harmless from and against any and all claims, liabilities, damages, costs, penalties, losses, attorneys fees, actions, suits or proceedings at law or in equity, or any other expenses, fees or charges of any character or nature, which it may incur as Escrow Agent or withwhich it may be threatened directly or indirectly arising from or in any way connected with this Agreement, except for matters resulting from Escrow Agent's gross negligence or willful misconduct. Buyer and Seller expressly request that the Escrow Agent act pursuant to this Agreement.

11. **Default by Seller.** In the event that Seller defaults in the observance or performance of its covenants and obligations hereunder, Buyer may, at its option, elect to bring an action to enforce specific performance of this Agreement against Seller or elect to terminate this Agreement and receive a full refund of the Deposit.

12. **Default by Buyer.** If the sale is not consummated due to any default by Buyer hereunder, then Seller, as its sole and exclusive remedy, shall (as an election of remedies) have the right to terminate this Agreement and receive the Deposit from the Escrow Agent as liquidated damages and in full settlement of all claims. Buyer and Seller acknowledge the difficulty of ascertaining the actual damages in the event of such default, that it is impossible to more precisely estimate the damages to be suffered by Seller upon such default, that the retention of the Deposit by Seller is intended not as a penalty but as full liquidated damages and that such amount constitutes a good faith estimate of the potential damages arising therefrom.

13. **No Third Party Beneficiary.** This Agreement does not and is not intended to

confer any rights or remedies upon any person other than the Buyer and Seller.

14. **Broker.** Neither Seller nor Buyer has used the services of, or for any other reason owes compensation to a licensed real estate broker and each agrees to indemnify and hold the other harmless from and against any and all liability, obligations and claims for commissions owed to third party brokers as a result of such party's actions. The provisions of this Section shall survive Closing.

15. **Waiver of Jury Trial.** To the fullest extent permitted by applicable law, the parties each hereby knowingly, voluntarily and intentionally waive any right (whether arising under the Constitution of the United States or the State of Florida or under any foreign jurisdiction, under any statutes regarding or rules of civil procedure applicable in any state, federal, or foreign legal proceeding, under common law, or otherwise) to demand or have a trial by jury of any claim, demand, action or cause of action arising under this Agreement or in any way connected with or related to or incidental to the discussions, dealings, or actions of such persons or any of them (whether oral or written) with respect thereto, or to the transactions related thereto, in each case whether now existing or hereafter arising, and whether sounding in contract, tort or otherwise; and each party agrees and consents that any such claim, demand, action or cause of action shall be decided by trial court without a jury, and that any other party tothis Agreement may file an original counterpart or a copy of this Agreement with any court as written evidence of such waiver of right to trial by jury. The parties acknowledge and agree that they have received full and sufficient consideration for this provision (and each other provision of each other related document to which they are a party) and that this provision is a material inducement for the Seller's accepting this Agreement. By waiving a jury trial, the parties intend claims and disputes to be resolved by a judge acting without a jury in order to avoid the delays, expenses and risks of mistaken interpretations which each party acknowledges to be greater with jury trials than with non jury trials.

16. **Miscellaneous.**

(a) **Governing Law**. This Agreement shall be construed and enforced m accordance with the laws of the State of Florida.

(b) **Notices.** All notices required or allowed by this Agreement shall be delivered at the following addresses:

To Buyer: Clara BH LLC
2665 S. Bayshore Dr Suite 410
Miami, FL 33133
Attn: James Curnin

With a copy to: Beloff Law, P.A.
1691 Michigan Ave., Suite 250
Miami Beach, Fla. 33139
Attn. Jonathan D. Beloff, Esq.

To Seller: 9300 Harbor Terrace Condominium Association Inc.

9300 Bay Harbor Dr.
Bay Harbor Islands, Fla. 33154
Attn: Albert Ruder, V.P.

With a copy to: Robert A. Yaffe, P.A.
1135 Kane Concourse, Third Floor
Bay Harbor Islands, Fla. 33154
Attn. Robert A. Yaffe, Esq.

(c) **Attorney's Fees and Costs.** In the event of any litigation arising under this Agreement, the prevailing party shall be entitled to recover such attorney's fees, court costs and expenses (including without limitation, all such fees, costs and expenses incident to pre-trial, trial, appellate, bankruptcy, post judgment and alternative dispute resolution proceedings), incurred in that suit, action or proceeding, in addition to any other relief to which such party is entitled as determined by the court. Attorney's fees shall include, without limitation, paralegal fees, investigative fees, expert witness fees, administrative costs and all other charges billed by the attorney to the prevailing party.

(d) **Headings.** The captions and headings herein are for convenience and reference only and in no way define or limit the scope or content of this Agreement or in any way affect its provisions.

(e) **Assignment by Buyer.** Buyer shall have the right to assign this Agreement without the prior written consent of Seller.

(f) **Effective Date of this Agreement**. The date when the last one of Seller or Buyer has signed and delivered this Agreement to the other party, or (ii) if changes in this Agreement have been made (after signature) and initialed by the parties, the date when the last one of Seller or Buyer has initialed those changes.

(g) **Counterparts; Signatures.** This Agreement may be executed in a number of identical counterparts, each of which for all purposes is deemed an original, and all of which constitute collectively one agreement, but in making proof of this Agreement, it shall not be necessary to produce or account for more than one such counterpart. Signatures to this Agreement may be transmitted via facsimile or scanned and e-mailed, and delivery thereby shall be deemed sufficient for all purposes to the same extent as would be delivery of an original signature.

(h) **Binding Effect**. This Agreement shall be binding upon and inure to the benefit of the parties hereto, and their respective successors and assigns.

(i) **Time Periods.** If the final date of any period which is set out in any provision of this Agreement or the Closing Date falls on a Saturday, Sunday or legal holiday under the laws of the United States or the State of Florida, then the time of such period or the Closing Date, as the case may be, shall be extended to the next date which is not a Saturday, Sunday or legal holiday.

SIGNATURES ON FOLLOWING PAGE]

DocuSign Envelope ID: 0BCDC496-855C-41B1-BFEC-3AC56A782418

IN WITNESS WHEREOF, Seller and Buyer have caused this Agreement to be executed, as of the day and year first above written.

SELLER:

9300 HARBOR TERRACE CONDOMINIUM ASSOCIATION INC., a Florida corporation not for profit

By:_____

Name: Vladimir Mihalkov

Title: President Board of Directors

Date: September 13, 2021

BUYER:

CLARA BH LLC., a Delaware limited liability company

DocuSigned by:

By:_____
400DCEAD88AD433...

Name:_ James Curnin

Title:_ Manager

Date: September 9/14/2021, 2021

DocuSign Envelope ID: 0BCDC496-855C-41B1-BFEC-3AC56A782418

EXHIBIT B

RECEIVING PARCEL LEGAL

Land Use Designation: MH-Medium-High Density Residential
FOLIO(S): 13-2227-001-1150 & 13-2227-001-1160
Zoning District: RM-2 Multiple Family District General
Location: 10281 West Bay Harbor Drive and 1170 103 Street

Legal Description: Lots 6 and 7 of Block 5, "Bay Harbor Island" Subdivision according to theplat thereof, as recorded in Plat Book 46, at page 5 of the Public Records of Miami-Dade County, Florida

DocuSign Envelope ID: 0BCDC496-855C-41B1-BFEC-3AC56A782418

EXHIBIT C

[FORM OF QUITCLAIM ASSIGNMENT OF TRANSFER OF DEVELOPMENT RIGHTS]

This instrument prepared by:
_____,Esq.
_____
_____
_____

Property Tax Folios #: _____

----------(Space above this line for recording data)----------

QUITCLAIM ASSIGNMENT OF TRANSFER OF DEVELOPMENT RIGHTS

THIS QUITCLAIM ASSIGNMENT OF TRANSFER OF DEVELOPMENT RIGHTS ("Assignment") is entered into this_____day of_____, 2021, by **9300 HARBOR TERRACE CONDOMINIUM INC., a Florida corporation not for profit** ("Seller"), in favor of **CLARA BH LLC, a Delaware limited liability company** ("Buyer").

BACKGROUND

WHEREAS, Seller and Buyer entered into an Agreement to Purchase Transfer of Development Rights dated September ___, 2021 (the "Purchase Agreement") whereby Seller has agreed to transfer its interest in certain development rights in the Town of Bay Harbor Islands, Miami-Dade County, Florida, as more particularly described in and evidenced on Exhibit A attached hereto (the "9300 Harbor TDR Unit").

WITNESSETH:

NOW THEREFORE, for and in consideration of these premises and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Seller does hereby assign, grant, bargain and convey unto Buyer, its successors and assigns, all of the 9300 Harbor TDR Unit so that the 9300 Harbor TDR Unit shall be allocated to the real property located in the Town of Bay Harbor Islands, Miami-Dade County, Florida as more particularly described in Exhibit "B" attached hereto.

This Assignment shall be binding upon and inure to the benefit of the parties hereto, their heirs, executors, administrators, successors in interest and assigns.

Seller hereby represents and warrants to Buyer that Seller has the full right and authority to execute and deliver this Assignment to Buyer and to assign, grant, bargain and convey the 9300 Harbor TDR Unit to Buyer.

This Assignment shall be governed by and construed in accordance with the laws of the State of Florida.

Seller agrees to cooperate with Buyer and to execute such other documents, instruments, and writings as may be reasonably requested by Buyer or that are necessary or desirable to further document or effect the intent of this Assignment.

This Assignment may be executed in counterparts, including facsimile counterparts, each of which will be deemed to be an original and all of which are one and the same assignment, but all of which shall together constitute one and the same Instrument. Delivery of an executed counterpart of a signature page to this Assignment by facsimile transmission shall be effective delivery of a manually executed counterpart of this Assignment.

IN WITNESS WHEREOF, this Assignment is executed as of the date first above written.

Signed, Sealed and Delivered, inthe presence of:

WITNESSES:

_____

Print Name:_____

_____

Print Name:_____

SELLER:

9300 HARBOR TERRACE CONDOMINIUM INC.,
a Florida corporation not for profit

By: _____

Name: _____

Title: _____

Date: _____

[ADD ACKNOWLEDMENT]

3600.00

81R182266

1981 JUL -9 AM 8:48

OFF REC 11152 PG 726

This instrument was prepared by

MELVIN F. FRANKEL, ESQUIRE
BLASS & FRANKEL, P.A.
1 S.E. 3rd Avenue, Suite 2250
MIAMI, FLORIDA 33131

Warranty Deed (STATUTORY FORM—SECTION 689.02 F.S.)

This Indenture, Made this 30th day of June 1981 **Between**

N. V. PROSPER CORPORATION, a Netherlands Antilles Corporation

of the County of , State of , grantor*, and

HARBOUR TERRACE, INC., a Florida corporation

whose post office address is 1160 Kane Concourse, Bay Harbour Islands

of the County of Dade , State of Florida , grantee*,

Witnesseth, That said grantor, for and in consideration of the sum of

Dollars,

and other good and valuable considerations to said grantor in hand paid by said grantee, the receipt whereof is hereby acknowledged, has granted, bargained and sold to the said grantee, and grantee's heirs and assigns forever, the following described land, situate, lying and being in Dade County, Florida, to-wit:

DADE COUNTY FLA.
35848

Lots 9 and 10 of Block 17 and Lots 2, 15 and 16, of Block 18, BAY HARBOR ISLANDS, a Subdivision, as recorded in Plat Book 46 at Page 5 of the Public Records of Dade County, Florida.

SUBJECT TO:
1. Taxes for the current and subsequent years.
2. Restrictions, limitations and easements of record.

STATE OF FLORIDA DOCUMENTARY STAMP TAX DEPT OF REVENUE PB 11027 999.00

STATE OF FLORIDA DOCUMENTARY STAMP TAX 999.00

STATE OF FLORIDA DOCUMENTARY STAMP TAX DEPT OF REVENUE PB 11027 603.00

STATE OF FLORIDA DOCUMENTARY STAMP TAX 999.00

and said grantor does hereby fully warrant the title to said land, and will defend the same against the lawful claims of all persons whomsoever

* "Grantor" and "grantee" are used for singular or plural, as context requires

In Witness Whereof, Grantor has hereunto set grantor's hand and seal the day and year first above written.

Signed, sealed and delivered in our presence:

N. V. PROSPER CORPORATION, a Netherlands Antilles Corporation (Seal)

By: Sara Volovitz de Bibliowicz (Seal)
SARA VOLOVITZ de BIBLIOWICZ,
Vice-President and Secretary (Seal)

(Seal)

RECORDED IN OFFICIAL RECORDS BOOK OF DADE COUNTY, FLORIDA. RECORD VERIFIED RICHARD P. BRINKER, CLERK CIRCUIT COURT

STATE OF FLORIDA
COUNTY OF DADE

I HEREBY CERTIFY that on this day before me, an officer duly qualified to take acknowledgments personally appeared SARA VOLOVITZ de BIBLIOWICZ, Vice-President and Secretary of N. V. PROSPER CORPORATION, a Netherlands Antilles Corporation to me known to be the person described in and who executed the foregoing instrument and acknowledged before me that She executed the same

WITNESS my hand and official seal in the County and State last aforesaid this 30th day of June 1981

Notary Public

My commission expires

NOTARY PUBLIC STATE OF FLORIDA AT LARGE
MY COMMISSION EXPIRES DEC 7 1983
BONDED THRU GENERAL INS. UNDERWRITERS

4.00 mail

CFN: 20210697799 BOOK 32747 PAGE 1571
DATE:09/21/2021 12:39:17 PM
DEED DOC 39,000.00
SURTAX 29,250.00
HARVEY RUVIN, CLERK OF COURT, MIA-DADE CTY

Prepared by:
Brian M. Rokaw, Esq.
Brian M. Rokaw, P.A.
4070 Laguna Street
Coral Gables, FL 33146
Tel: (305) 722-5888

Return to:
Beloff Law, P.A.
1691 Michigan Avenue, Suite 250
Miami Beach, Florida 33139
Tel: (305) 673-1101
File Number: CU-0566-16

_____ [Space Above This Line For Recording Data] _____

Warranty Deed

This Warranty Deed made this 10 day of **September, 2021** between **Atlantis 103, LLC, a Florida limited liability company,** whose post office address is **1200 Brickell Avenue, Suite 800, Miami, Florida 33131**, grantor, and **Clara BH LLC, a Delaware limited liability company** whose post office address is **10201 Collins Avenue, Apt. 1107, Bal Harbour, Florida 33154**, grantee:

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

Witnesseth, that said grantor, for and in consideration of the sum of TEN AND NO/100 DOLLARS ($10.00) and other good and valuable considerations to said grantor in hand paid by said grantee, the receipt whereof is hereby acknowledged, has granted, bargained, and sold to the said grantee, and grantee's heirs and assigns forever, the following described land, situate, lying and being in **Miami-Dade County, Florida** to-wit:

Lots 6 and 7, Block 5 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.

Parcel Identification Number(s): 13-2227-001-1150 and 13-2227-001-1160

Property Addresses: 10281 West Bay Harbor Drive, Bay Harbor Islands, FL 33154 and
1170 103rd Street, Bay Harbor Islands, FL 33154

AND Grantor does hereby further grant, transfer, sell and convey to Grantee, its successors and assigns, all of Grantor's right, title and interest in and to those certain SIX (6) Units of Development Rights heretofore transferred to the Grantor pursuant to the following Warranty Deeds ("TDR Deeds"):

a. **Warranty Deed For Transfer of Development Rights and Declaration of Restrictions dated October 11, 2017 and recorded October 13, 2017 in Official Records Book 30716, at Page 1008, of the Public Records of Miami-Dade County, Florida (5 Units), and**

b. **Warranty Deed For Transfer of Development Rights and Declaration of Restrictions dated November 6, 2017 and recorded December 6, 2017 in Official Records Book 30783, at Page 1967, of the Public Records of Miami-Dade County, Florida (1 Unit),**

which Development Rights are owned and have not heretofore been transferred or conveyed by Grantor, and are and shall continue to be appurtenant to the Property hereinabove described, as the 'Receiving Parcel', all in accordance with and subject to the terms and conditions of the said TDR Deeds.

Subject To: Conditions, restrictions and easements of records without hereby reimposing same; zoning restrictions, prohibitions and other requirements imposed by governmental authority.

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

To Have and to Hold, the same in fee simple forever.

And the grantor hereby covenants with said grantee that the grantor is lawfully seized of said land in fee simple; that the grantor has good right and lawful authority to sell and convey said land; that the grantor hereby fully warrants the title to said land and will defend the same against the lawful claims of all persons whomsoever; and that said land is free of all encumbrances, except taxes accruing subsequent to **December 31, 2020**.

In Witness Whereof, grantor has hereunto set grantor's hand and seal the day and year first above written.

Signed, sealed and delivered in our presence:

ATLANTIS 103, LLC,
a Florida limited liability company

By: Burotto International, LLC, a Delaware limited liability company, its Manager

Witness Signature: _____

Printed Name: BRIAN ROKAW

By: _____ (Seal)
Name: Cesar Burotto
Title: Manager

Witness Signature: _____

Printed Name: Jonathan D. Beloff

State of Florida

County of Miami-Dade

THE FOREGOING INSTRUMENT WAS ACKNOWLEDGED before me by means of [✓] physical presence or [ ] online notarization, this 10 day of September, 2021 by Cesar Burotto, as Manager of Burotto International, LLC, a Delaware limited liability company, the Manager of Atlantis 103, LLC, a Florida limited liability company, who [ ] is personally known or [✓] has produced a driver's license as identification.

_____
Notary Public

[Notary Seal]

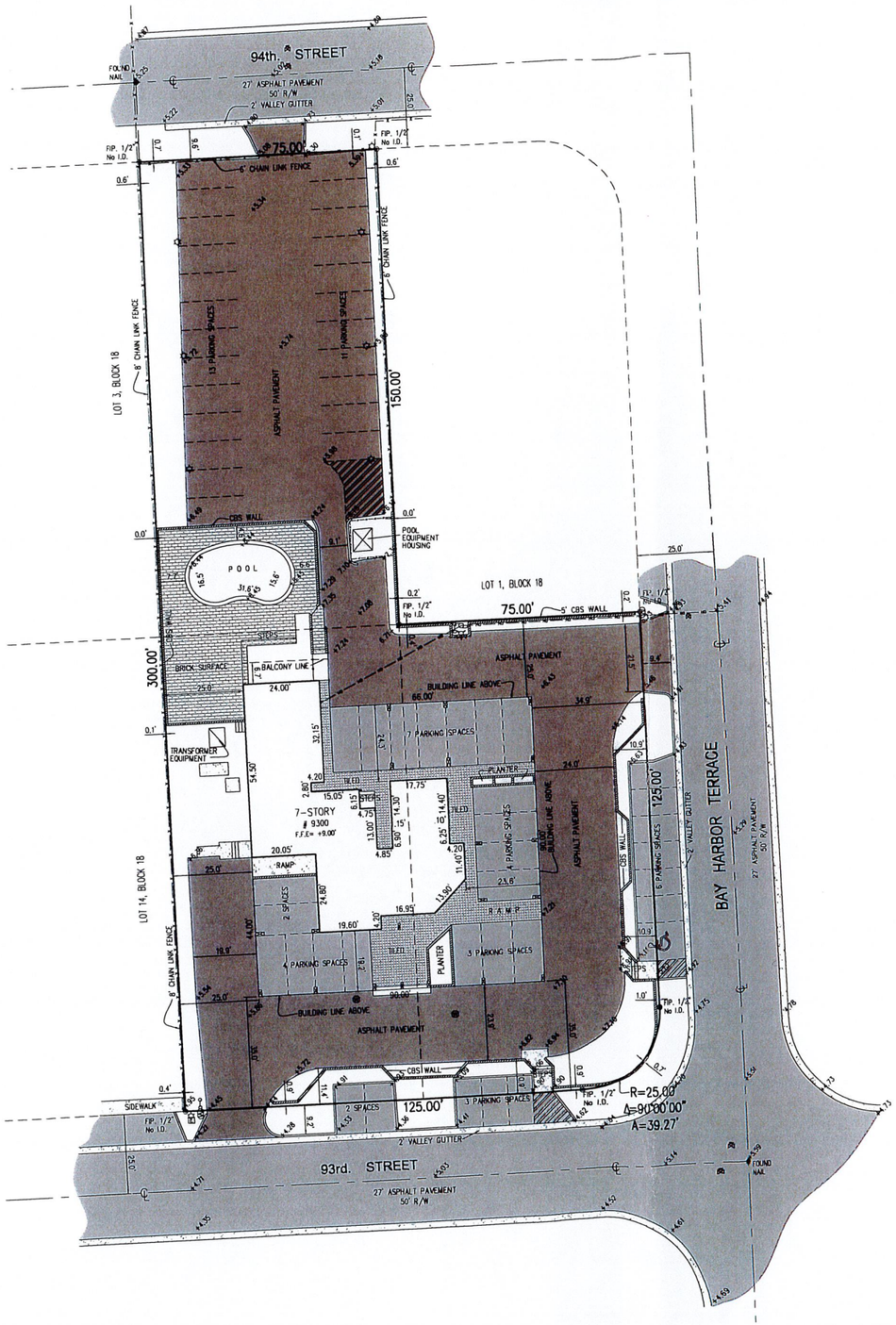
Notary Public State of Florida
Brian M. Rokaw
My Commission GG 226949
Expires 06/23/2022

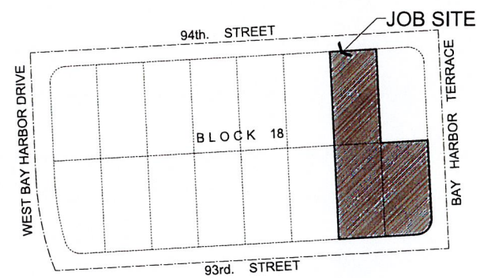
Printed Name: BRIAN M. ROKAW

My Commission Expires: June 23, 2022

GRAPHIC SCALE

(IN FEET)
1 inch = 20 ft.





VICINITY MAP
NOT TO SCALE

PROPERTY ADDRESS:
9300 BAY HARBOR TERRACE, BAY HARBOR ISLAND, FLORIDA 33154
Folio# 13-2227-078-0001

LEGAL DESCRIPTION
Lots 2, 15 and 16, in Block 18, 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.

Said lands containing 33,616 square feet (0.77+/- acres)

SURVEYOR'S NOTES:
1- The Legal Description was provided by the Client from most recent County Records available.
2- This is not a Certification of Title, Zoning, Easements, or Freedom of Encumbrances. ABSTRACT NOT REVIEWED.
3- There may be additional Restrictions not shown on this survey that may be found in the Public Records of this County. Examination of ABSTRACT OF TITLE will have to be made to determine recorded instruments, if any affecting this property. County property appraisers office notes an 11 foot additional right-of-way taking along the East and South property lines, however, recorded deed does NOT mention any take.
4- No attempt was made by this firm to locate underground utilities, foundations and/or footings of buildings, walls or fences, except as shown hereon, if any.
5- Underground utilities are not depicted hereon, contact the appropriate authority prior to any design work or construction on the property herein described. Surveyor shall be notified as to any deviation from utilities shown hereon.
6- Contact the appropriate authority prior to any design work on the herein - described parcel for Building and Zoning information.
7- The surveyor does not determine fence and/or wall ownership.
8- Accuracy:
The Horizontal positional accuracy of well-defined improvement on this survey is +/-0.2'.
The Vertical accuracy of elevations of well-defined improvement on this survey is +/-0.1'
9- All measurements shown hereon are made in accordance with the United States Standard Feet.
10- Type of survey BOUNDARY SURVEY.
11- North arrow direction and/or Bearings are based on an assumed meridian with a value of: N00°00'00"E along the centerline of Mangito Drive as shown on the aforementioned Plat.
12- Elevations shown hereon are relative to National Geodetic Vertical Datum (1929 Mean Sea Level)
13- Benchmark Used: Miami-Dade County Benchmark #XXX. Elevation = +X.XX'.
14- Flood Zone Data: Community/ Panel # 120651/0XXXL Dated: 9/11/09 Flood Zone: "XXX" Base Flood Elevation = +X.X'
15- This SURVEY has been prepared for the exclusive use of the entities named hereon. The Certificate does not extend to any unnamed party:

- 9300 HARBOR TERRACE CONDOMINIUM ASSOCIATION

SURVEYOR'S CERTIFICATE:
I HEREBY CERTIFY:
That this Survey meets the intent of the required Standards of Practice as set forth by the Florida Board of Professional Surveyors and Mappers in Chapter 5J-17, Florida Administrative Code, pursuant to Section 472.027, Florida Statutes.

Not valid without the signature and the original raised seal of a Florida Licensed Surveyor and Mapper. Additions or deletions to this survey by other than the signing party are prohibited without written consent of the signing party.

For the Firm Royal Point Land Surveyors, Inc LB# 7282

☐ JACOB GOMIS, PROFESSIONAL SURVEYOR AND MAPPER LS# 6231 STATE OF FLORIDA

☐ PABLO J. ALFONSO, PROFESSIONAL SURVEYOR AND MAPPER LS# 5880 STATE OF FLORIDA

LEGEND

- Overhead Wire Line
- Wood Fence
- Chain Link Fence
- Iron Fence
- Monument Line
- Centerline
- Property Line

A = Arc
BRG = Bearing
Crd = Chord
Δ = Delta
L = Length
R = Radius
T = Tangent
Ø = Diameter

- 0.00' = Existing Elevations
- CB = Catch Basin
- WM = Water Meter
- EB = Electric Box
- S = Sanitary Manhole
- SP = Sprinkler Pump
- WP = Wood Pole
- CP = Conc. Pole
- LP = Light Pole
- FH = Fire Hydrant
- WV = Water Valve
- I = Inlet
- TV = Cable Tv Box
- EM = Electric Meter Box
- TS = Traffic Signal Box
- GV = Gas Valve
- MV = Monitoring Valve
- M = Manhole

A/C = Air Conditioner
Conc. = Concrete
C.B.S. = Concrete Block & Stucco
(D) = Deed
D.E. = Drainage Easement
D.M.E. = Drainage Maintenance Easement
F.D.H. = Found Drill Hole
F.F.E. = Finish Floor Elevation
F.I.P. = Found Iron Pipe/Pin
F.I.R. = Found Iron Rebar
F.N. = Found Nail
F.N.D. = Found Nail & Disc
F.P.L. = Florida Power Light
H = Height
L.M.E. = Lake Maintenance Easement
(M) = Measured
(P) = Platted
P.O.B. = Point of Beginning
P.O.C. = Point of Commencement
(R) = Record
Res. = Residence
SIR = Set Iron Pin/Rebar
S = Spread
U.E. = Utility Easement

NO.	DATE	DESCRIPTION	BY	APP

RECORD OF REVISION

ROYAL POINT
LAND SURVEYORS, INC. L.B.# 7282
info@RoyalPointLS.com
6175 NW 153rd STREET, SUITE 321, MIAMI LAKES, FL. 33014 *** TEL: 305-822-6062 *** FAX.305-827-9669

PREPARED FOR:
9300 HARBOR TERRACE CONDOMINIUM
9300 BAY HARBOR TERRACE, BAY HARBOR ISLAND, FL.

TYPE OF SURVEY:
BOUNDARY SURVEY

DRAWN: J.G.
CHECKED: P.J.A.
SCALE: 1" = 20'
FIELD DATE: 03/24/2021
JOB No.: RP21-0432

SHEET:
1
OF 1 SHEET

I:\DRAWING\9300 BAY HARBOR TERRACE_RP21-0432.dwg 3/26/2021

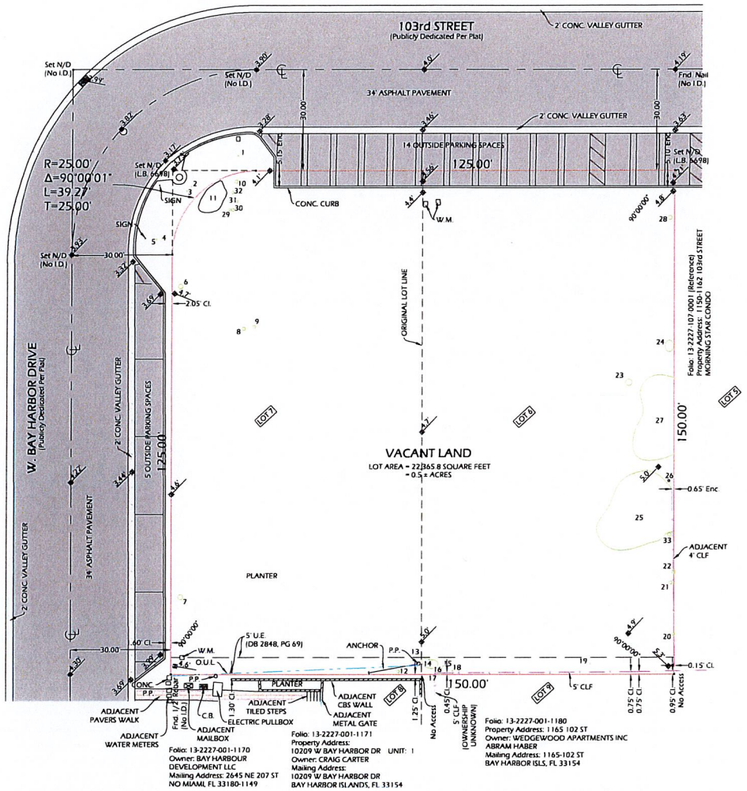
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ALTA/NSPS LAND TITLE SURVEY

GRAPHIC SCALE

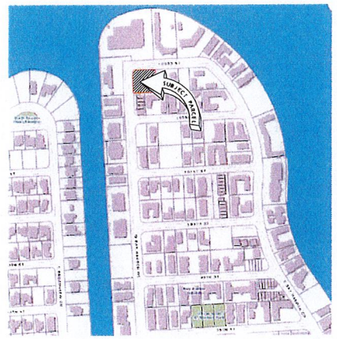
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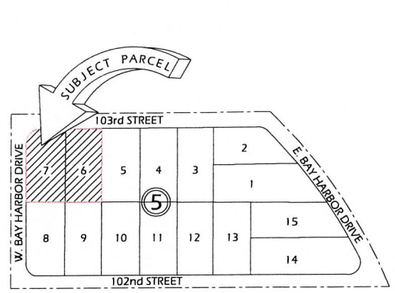


TREE TABLE

TREE No.	TREE NAME	DIAMETER (±)	HEIGHT (±)	SPREAD (±)
1	PALM	0.45'	16'	12'
2	PALM	0.35'	10'	11'
3	PALM	0.45'	14'	12'
4	PALM	0.35'	9.5'	9.5'
5	PALM	0.40'	19'	10'
6	ROYAL PALM	1.4'	45'	16'
7	ROYAL PALM	1.5'	56'	18'
8	TREE	1.0'	29.5'	22'
9	PALMETTO PALM	0.90'	13.5'	16'
10	PALMETTO PALM	1.0'	6.0'	14'
11	TREE	5.9' X 1.1'	32'	49'
12	PALMETTO PALM	0.80	19'	18'
13	PALM	0.35'	20'	10'
14	STRANGLER FIG	2.5' X 5'	22'	20'
15	SCHEFFLERA	0.35'	20'	4'
16	PALM	0.40'	14'	10'
17	PALM	0.40'	14'	10'
18	PALM	0.30'	7'	9'
19	PALM	0.45'	8.7'	10'
20	MANGO	0.75'	22'	15'
21	YUCCA	1.0'	20'	7'
22	PALMETTO PALM	1.10'	16'	18'
23	NORFOLK PINE	2.0'	80'	12'
24	SCHEFFLERA	3.5' X 7.5'	39'	36'
25	FLORIDA HOLLY	0.85'	18.5'	24'
26	PALM	0.65'	9'	14'
27	SAWGRASS	NO ACCESS	12.5'	12' X 25'
28	FICUS	1.25'	32'	30'
29	PALMETTO PALM	0.75'	25'	14'
30	PALMETTO PALM	0.90'	4.5'	12'
31	PALMETTO PALM	0.60'	3.0'	12'
32	PALMETTO PALM	0.85'	6'	14'
33	YUCCA	0.75'	15'	8'



VICINITY MAP
NTS



LOCATION SKETCH
NTS

Notes:
- All clearances and/or encroachments shown hereon are of apparent nature. Fence ownership by visual means. Legal ownership of fences not determined.
- Encroachments
  1. Portion of the 5 foot high chain link fence is lying within a 5 foot wide utility easement along the South 5 feet.
  2. Portion of the asphalt parking and concrete curb are encroaching over the North boundary line.
  3. Portion of the adjacent 4 foot high chain link fence is encroaching over the East boundary line.
- Underground structures, if any, not located.
- Legal description provided by client.
- This certification is only for land as described. It is not a certification of title, zoning, easements, or freedom from encumbrances.
- There may be additional restrictions not shown on this survey that may be found in the public records of this county.
- This ALTA SURVEY has been prepared for the exclusive use of the entities named hereon. The Certificate does not extend to any unnamed party.
- This survey was based on the monuments found on the field. No construction in any manner should be made without the prior written consent of the Surveyor.
- According to FEMA the subject property falls within Flood Zone AE, Base 9, as shown in Flood Insurance Rate Map Panel No. 12086C0144L; Community No. 120637 ; Revised Date of September 11, 2009.
- Lot Area: 22,365.8 Square Feet, 0.5 ± Acres;
- Marked Parking spaces: 19 Outside Regular; 0 Handicap

LEGAL DESCRIPTION:
Lots 6 and 7, Block 5, Bay Harbor Island, according to the map or plat thereof, as recorded in Plat Book 46, Page(s) 5, of the Public Records of Miami-Dade County, Florida.

SCHEDULE B – SECTION II Exceptions - Chicago Title Insurance Company, Order No 9715025; Effective Date July 17, 2021 at 11:00 PM

6. Restrictions, covenants, conditions, easements and other matters as contained on the Plat of Bay Harbor Island, recorded in Plat Book 46, Page 5, of the Public Records of Miami-Dade County, Florida. [APPLIES]
7. Easements and other matters contained in Declaration of Restrictions recorded in Deed Book 2848, Page 69 (APPLIES - SHOWN ON SURVEY), as assigned in Official Records Book 9632, Page 1157.
8. Reservations and other matters contained in Warranty Deeds for Transfer of Development Rights recorded in Official Records Book 30716, Page 1008 and Official Records Book 30783, Page 1967. (APPLIES - NOT A SURVEY MATTER)
9. Unity of Title recorded in Official Records Book 30812, Page 3122. (APPLIES)

PREPARED FOR: Clara BH LLC, a Delaware limited liability company

PROPERTY ADDRESS: 10281 W. Bay Harbor Drive & 1170 103 Street, Bay Harbor Islands, FL 33154

To Clara BH LLC, a Delaware limited liability company; Beloff Law, PA; Chicago Title Insurance Company; Maxim Credit Group LLC, its successors and/or assigns, as their interests may appear.

This is to certify that this map or plat and the survey on which it is based were made in accordance with the 2021 Minimum Standard Detail Requirements for ALTA/NSPS Land Title Surveys, jointly established and adopted by ALTA and NSPS, and includes Items 1, 2, 3, 4, 7a, 7b(1), 8, 9, 11 (observed), 13, and 16 of Table A thereof. The fieldwork was completed on August 12, 2021.

Date of Plat or Map: August 25, 2021

NELSON MOJARENA
Registered Surveyor & Mapper No. 5504
State of Florida

NELSON MOJARENA LICENSE LS5504 STATE OF FLORIDA PROFESSIONAL SURVEYOR & MAPPER
8/30/2021

NELSON MOJARENA

Digitally signed by NELSON MOJARENA
DN: c=US, o=MOJARENA AND ASSOCIATES INC., ou=A01410C00000174458B02A90000090A, cn=NELSON MOJARENA
Date: 2021.08.30 16:52:37 -04'00'

LEGEND

Δ	= Central Angle	℄	= Center Line	F.H.	= Fire Hydrant	M	= Measured	O/S	= Offset	PL	= Planter	R.L.S.	= Registered Land Surveyor	T	= Tangent
A	= Arc	CLF	= Chain Link Fence	FIP	= Found 1/2" Iron Pipe	MAINT.	= Maintenance	O.U.L.	= Overhead Utility Lines	PLS	= Professional Land Surveyor	RNG	= Range	Trans.	= Transformer
A/C	= Air Conditioner	Cl.	= Clear	FIR	= Found 1/2" Iron Rebar	ME	= Maintenance Easement	P	= Plat	P.O.B.	= Point of Beginning	R/R	= Railroad	TWP	= Township
ASPH	= Asphalt	Conc.	= Concrete	FPL	= Florida Power & Light	MH	= Manhole	PB	= Plat Book	P.O.C.	= Point of Commencement	RSM	= Registered Surveyor & Mapper	Typ.	= Typical
C	= Calculated	D	= Deed	ID	= Identification	ℳ	= Monument Line	PC	= Point of Curvature	P.P.	= Power Pole	R/W	= Right-of-Way	U.E.	= Utility Easement
C.B.	= Catch Basin	Ø	= Diameter	I.P.	= Iron Pipe	Mon	= Monument	PCP	= Permanent Control Point	PRC	= Point of Reverse Curvature	Sdwk	= Sidewalk	UTIL.	= Utility
CBS	= Concrete Block Structure	DH	= Drill Hole	LB	= Licensed Business	N/A	= Not Applicable	PG	= Page	PRM	= Point of Reference Monument	Sec.	= Section	W.F.	= Wood Fence
CH	= Chord	DME	= Drainage & Maintenance Easmt	LME	= Lake Maintenance Easement	N/D	= Nail & Disc	P.I.	= Point of Intersection	PT	= Point of Tangency	SD	= Storm Drain	W.M.	= Water Meter
Chatta.	= Chattahoochee	Easmt	= Easement	L.P.	= Light Pole	N°	= Number	PKWY	= Parkway	R	= Radius	S.M.H.	= Sanitary Manhole	WME	= Wall Maintenance Easement
		Enc.	= Encroachment	L.S.	= Land Surveyor	NTS	= Not to Scale	P.L.	= Property Line	Res.	= Residence	SSMH	= Sanitary Sewer Manhole	W.V.	= Water Valve

SURVEYOR'S SEAL
This survey has been digitally signed and sealed by Nelson Mojarena, P.S.M. on the date adjacent to the seal. Printed copies are not considered signed and sealed and the signature must be verified on any electronic copies.

REVISED:

MOJARENA & ASSOCIATES, INC.
Land Surveyors & Mappers
Certificate of Authorization No. 6698
P.O. Box 56-0126
Miami, Florida 33256-0126
Tel. (305) 278-2494

FLOOD ZONE: AE	BASE: 9		
DATE:	SCALE:	DWN. BY	JOB NO.
08-12-21	1" = 20'	N.M.	21-0193

INDEX

ARCHITECTURAL

- COVER
A-000 -SURVEY
A-001 -DATA SHEET
A-002 -CONTEXT STUDY
A-003 -PERIMETER SECTIONS
A-101.1 -SITE PLAN - PREVIOUSLY APPROVAL
A-101.2 -SITE PLAN - NEW PROPOSAL
A-102.1 -SUB-T LEVEL - PREVIOUSLY APPROVAL
A-102.2 -SUB-T LEVEL - NEW PROPOSAL
A-103.1 -FIRST LEVEL - PREVIOUSLY APPROVAL
A-103.2 -FIRST LEVEL - NEW PROPOSAL
A-104.1 -SECOND LEVEL - PREVIOUSLY APPROVAL
A-104.2 -SECOND LEVEL - NEW PROPOSAL
A-105.1 -THIRD LEVEL - PREVIOUSLY APPROVAL
A-105.2 -THIRD LEVEL - NEW PROPOSAL
A-106.1 -TYPICAL LEVEL(4th to 7th LV) - PREVIOUSLY APPROVAL
A-106.2 -TYPICAL LEVEL(4th to 6th LV) - NEW PROPOSAL
A-107.1 -SEVENTH LEVEL - PREVIOUSLY APPROVAL
A-107.2 -SEVENTH LEVEL - NEW PROPOSAL
A-108.1 -EIGHTH LEVEL - PREVIOUSLY APPROVAL
A-108.2 -EIGHTH LEVEL - NEW PROPOSAL
A-109.1 -ROOF LEVEL - PREVIOUSLY APPROVAL
A-109.2 -ROOF LEVEL - NEW PROPOSAL
A-401 -WEST ELEVATION - PREVIOUSLY APPROVAL - NEW PROPOSAL
A-402 -EAST ELEVATION - PREVIOUSLY APPROVAL - NEW PROPOSAL
A-403 -SOUTH ELEVATION - PREVIOUSLY APPROVAL - NEW PROPOSAL
A-404 -NORTH ELEVATION - PREVIOUSLY APPROVAL - NEW PROPOSAL
A-405 -3D VIEW - STREET FRONT
A-406 -3D VIEW - WATER FRONT
A-501 -N-S SECTION - PREVIOUSLY APPROVAL - NEW PROPOSAL
-**COVER - APPENDIX A**
A-601 -VALET PARKING LAYOUT

CIVIL

C-1 PAVING, GRADING & DRAINAGE PLAN
C-2 WATER & SEWER PLAN
C-3 PAVEMENT MARKING & SIGNAGE PLAN
C-4 SECTIONS & DETAILS
C-5 DRAINAGE DETAILS
C-6 UTILITY DETAILS
C-7 CIVIL DETAILS

LANDSCAPE

L100 - GROUND MATERIALS
L101 i - GROUND ILLUSTRATIVE CANOPY
L101 - GROUND CANOPY
L101 p - GROUND CANOPY PLANT BOARD
L102 i - GROUND UNDERSTORY ILLUSTRATIVE
L102 - GROUND UNDERSTORY
L102 p - GROUND UNDERSTORU PLANT BOARD
L103 - GROUND SCHEDULE, NOTES AND SPECIFICATIONS
L104 - GROUND LANDSCAPE LEGEND COMPARISON
L105 - LEVEL 3 UNDERSTORY
L106 - ROOF MATERIALS
L107 i - ROOF ILLUSTRATIVE CANOPY
L107 - ROOF CANOPY
L107 p - ROOF CANOPY PLANT BOARD
L108 i - ROOF UNDERSTORY ILLUSTRATIVE
L108 - ROOF UNDERSTORY
L108 p - ROOF UNDERSTORY PLANT BOARD
L109 - SCHEDULE, NOTES AND SPECIFICATIONS
L110 - ILLUSTRATIVE WEST ELEVATION (FRONT)
L111 - ILLUSTRATIVE EAST ELEVATION (REAR)
LR01 - LANDSCAPE RENDERING FRONT
LR02 - LANDSCAPE RENDERING REAR
LR03 - LANDSCAPE RENDERING ROOF 1
LR04 - LANDSCAPE RENDERING ROOF 2
L101-PA - GROUND LANDSCAPE PREVIOUSLY APPROVED
L107-PA - ROOF LANDSCAPE PREVIOUSLY APPROVED

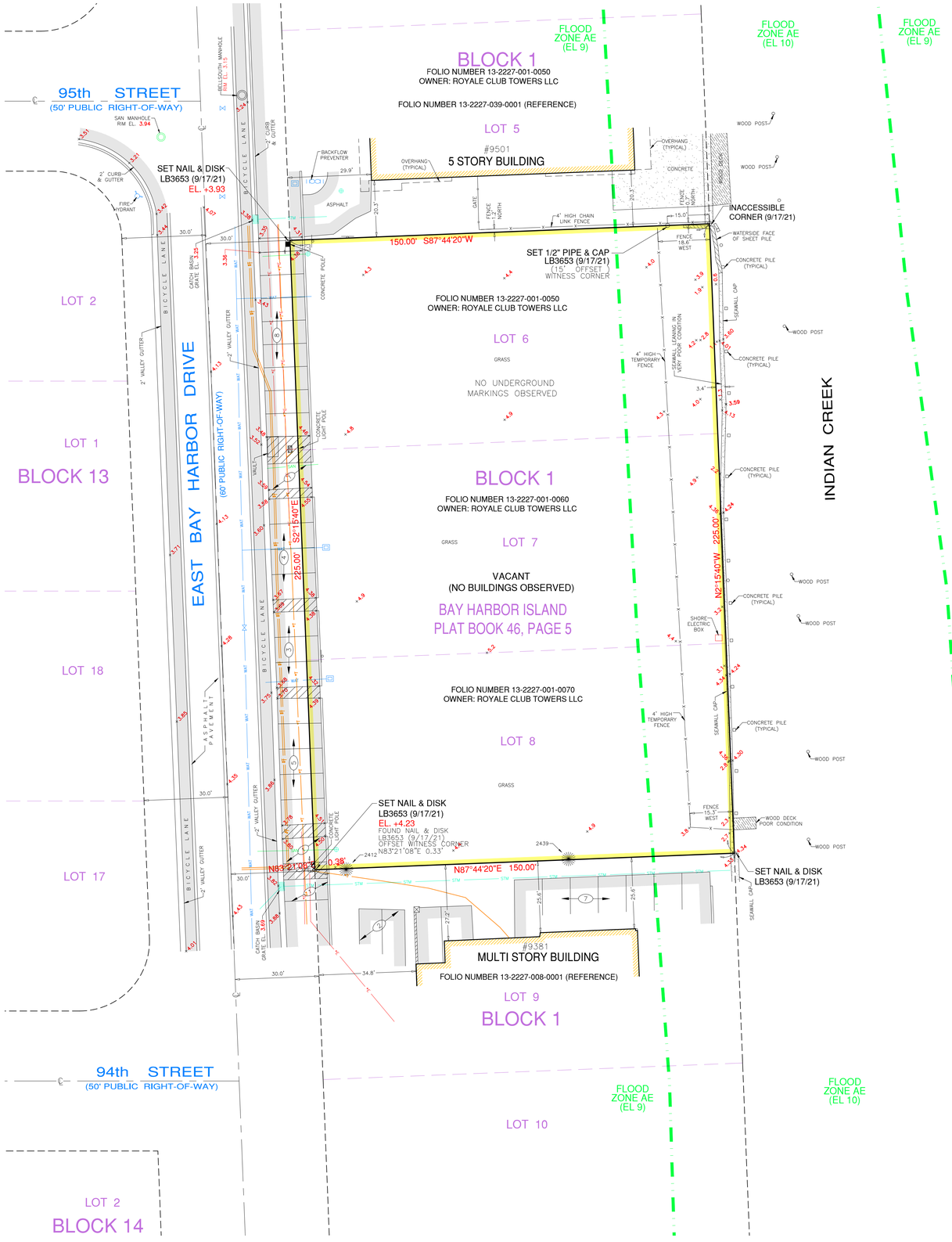
LA BAIA NORTH

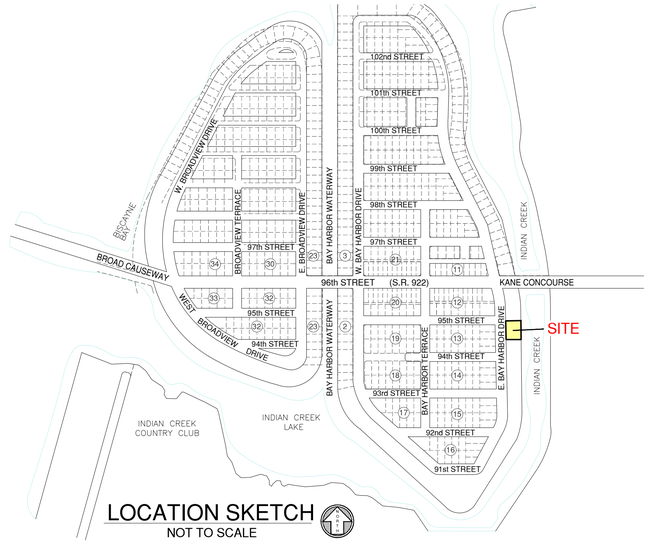
DEVELOPED BY
CONTINUUM LLC
9201 EAST BAY HARBOUR DR.
BAY HARBOUR ISLANDS, FL. 33154

ARCHITECT
REVUELTA ARCHITECTURE INTERNATIONAL
2950 SW 27TH AVENUE
SUITE No 110
MIAMI, FLORIDA 33133

REVISION TO CURRENTLY APPROVED SITE PLAN
APRIL 28, 2022

9461 EAST BAY HARBOR DR.





LOCATION SKETCH
NOT TO SCALE

LEGAL DESCRIPTION:

FOLIO NUMBER 13-2227-001-0050

Lot 6, Block 1, BAY HARBOR ISLAND, a subdivision according to the map or Plat thereof recorded in Plat Book 46, Page 5, of the Public Records of Miami-Dade County, Florida.

FOLIO NUMBER 13-2227-001-0060

Lot 7, Block 1, BAY HARBOR ISLAND, a subdivision according to the map or Plat thereof, as recorded in Plat Book 46, Page 5, of the Public Records of Miami-Dade County, Florida.

FOLIO NUMBER 13-2227-001-0070

Lot 8, Block 1, BAY HARBOR ISLAND, a subdivision according to the map or Plat thereof, as recorded in Plat Book 46, Page 5, of the Public Records of Miami-Dade County, Florida.

SURVEYOR'S NOTES:

- This site lies in Section 27, Township 52 South, Range 42 East, Town of Bay Harbor Islands, Miami-Dade County, Florida.
- All documents are recorded in the Public Records of Miami-Dade County, Florida unless otherwise noted.
- Lands shown hereon were NOT abstracted for restrictions, easements and/or rights-of-way of records.
- Bearings hereon are referred to an assumed value of S02°15'40"E for the East Right of Way line of East Bay Harbor Drive.
- Elevations shown hereon are relative to the National Geodetic Vertical Datum of 1929, based on Miami-Dade County Benchmark No. S-243, Elevation +11.77 Located in at 96th Street and Bal Bay Drive.
- Lands shown hereon are located within an area having a Zone Designation AE (EL 9 & 10) by the Federal Emergency Management Agency (FEMA), an Flood Insurance Rate Map No. 12086C0144L, for Community No. 120637, dated September 11, 2009, and index map revised September 11, 2009, and is relative to the National Geodetic Vertical Datum of 1929.
- Dimensions indicated hereon are field measured by electronic measurement, unless otherwise noted.
- Lands shown hereon containing 33,750 square feet, or 0.775 acres, more or less.
- All horizontal control measurements are within a precision of 1:10,000.
- This map is intended to be displayed at the graphic scale shown hereon or smaller.
- Roof overhang not located unless otherwise shown.
- Trees shown are surveyed for their horizontal location and/or size. Identification and/or name verification of all trees should be confirmed by the Division of Forestry, a certified Arborist or a professional in that field.
- Underground improvements and/or underground encroachments not shown unless otherwise indicated.
- The approximate location of all utilities shown hereon were determined from As-Built plans and/or on-site locations and should be verified before construction.
- The underground utilities shown have been located from field survey information and existing drawings. The surveyor makes no guarantee that the underground utilities shown comprise all such utilities in the area, either in service or abandoned. The surveyor further does not warrant that the underground utilities shown are in the exact location indicated although he does certify that they are located as accurately as possible from the information available. Except for where accessible at sanitary and/or storm sewer structures, the surveyor has not physically located the underground utilities. This firm recommends that the underground utilities should be field verified prior to any new construction.
- Legal description shown hereon based on information furnished by client and no claims as to ownership are made or implied.
- Location of utilities existing on or serving the surveyed property as determined by: observed evidence collected pursuant to Section 5.E.iv. PER ALTA/NSPS.
- There is no visible observed evidence of the site being used as a solid waste dump, sump or sanitary landfill.
- There is no visible evidence or knowledge of any location of wetlands, as delineated by the proper authorities.

N O R T H

GRAPHIC SCALE
0 10 20 40
(IN FEET)
1 inch = 20 ft.

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TREE TABLE

TREE NUMBER	COMMON NAME	D.B.H. (INCHES)	HEIGHT (FEET)	SPREAD (FEET)
2412	CABBAGE PALM	15	30	18
2439	CABBAGE PALM	22	20	12

LEGEND

- CB = CATCH BASIN
- CBI = CATCH BASIN INLET
- MH = MANHOLE
- LP = LIGHT POLE
- WM = WATER METER
- WV = WATER VALVE
- UP = UTILITY POLE
- R = RISER
- FH = FIRE HYDRANT
- HH = HANDHOLE
- SGV = SEWER/GAS VALVE
- C = CLEANOUT
- W = WELL
- D = DRAIN
- GE = GRADE ELEVATION
- B = BOLLARD
- OHW = OVERHEAD UTILITY WIRE
- X = CHAIN LINK FENCE
- LIMITED ACCESS RIGHT-OF-WAY LINE
- 0.5' CURB
- 2.00' CURB & GUTTER
- WALL
- EL. = ELEVATION
- INV. = INVERT
- B.O.S. = BOTTOM OF STRUCTURE
- T.O.B. = TOP OF BAFFLE
- P.B. = PLAT BOOK PG. = PAGE
- CONCRETE
- ASPHALT PAVEMENT
- R/W = RIGHT-OF-WAY
- ℄ = CENTER LINE
- M = MONUMENT LINE
- S = SIGN

UNDERGROUND UTILITY LEGEND

- E = ELECTRIC LINES
- T = COMMUNICATION LINES
- SAN = SANITARY LINES
- WAT = WATER LINES
- STORM = STORM SEWER LINES

SURVEYOR'S CERTIFICATION:

This is to certify that this "Boundary and Topographic Survey" was made under my responsible charge on August 17, 2021, in accordance with the 2021 Minimum Standard Detail Requirements for ALTA/NSPS Land Title Surveys, jointly established and adopted by ALTA and NSPS, and meets the applicable codes as set forth in the Florida Administrative Code, pursuant to Section 472.027, Florida Statutes. The fieldwork was completed on September 16, 2021.

"Not valid without the signature and original raised seal or a digital signature of the Florida Licensed Surveyor and Mapper shown below"

FORTIN, LEAVY, SKILES, INC., LB3653

By: _____
Daniel C. Fortin Jr., For The Firm
Surveyor and Mapper, LS6435

Digitally signed by Daniel C Fortin
DN: c=US, o=Unaffiliated, ou=A01410D0000017402A2BF420004295B, cn=Daniel C Fortin
Date: 2021.10.11 16:11:11 -04'00'

Certificate of Service not to be Reproduced in Whole or in Part without the Express WRITTEN Permission of Same

FORTIN, LEAVY, SKILES, INC.
CONSULTING ENGINEERS, SURVEYORS & MAPPERS
FLORIDA CERTIFICATE OF AUTHORIZATION NUMBER: 00003653
180 Northeast 168th Street / North Miami Beach, Florida 33162
tel. 305-653-4493 fax. 305-653-2233

ALTA/NSPS LAND TITLE SURVEY
9431, 9461 & 9481 EAST BAY HARBOR DRIVE
TOWN OF BAY HARBOR ISLANDS, MIAMI-DADE, FLORIDA

Original Date	8/17/21
Scale	1" = 20'
Drawn By	KTF
CAD No.	210611
Plotted	8/23/21 1:27p
Ref. Dwg.	2021-036
Field Book	FLD. SHEET-RLI
Job No.	210611
Dwg. No.	2021-088



UNITS QUANTITIES AND APPROXIMATE AREA BREAKDOWN

BLDG LOCAT.	SLAB LABEL	UNIT TAG NAME	1 BED	1 BED + DEN	2 BED	2 BED + DEN	3 BED	3 BED + DEN	UNITS	UNIT AREA (SF) TYP. UNIT AC AREA	TYP. BALCONY AREA	TOTAL AC AREA	TOTAL BALCONY AREA
		201 - 209						2	2	2,109	338	4,218	676
LEVEL	2nd.	202 - 210				2			2	1,453	1,018	2,906	2,036
		203 - 207				2			2	1,537	266	3,074	532
	TOTAL FLOORS	1	0	0	0	4	0	2	6	TOTAL TYP. FLOOR		10,198	3,244
										TOTAL PER FLOOR		**10,198**	**3,244**

BLDG LOCAT.	SLAB LABEL	UNIT TAG NAME	1BED	1 BED + DEN	2 BED	2 BED + DEN	3 BED	3 BED + DEN	UNITS	UNIT AREA TYP. UNIT AC AREA	TYP. BALCONY AREA	TOTAL AC AREA PER FL	TOTAL BALCONY AREA
		301 - 309						2	2	2,109	321	4,218	642
LEVEL	3rd.	302 - 310				2			2	1,453	168	2,906	336
		303 - 307				2			2	1,537	233	3,074	466
		304 - 308				2			2	1,453	301	2,906	602
	TOTAL FLOORS	1	0	0	0	6	0	2	8	TOTAL TYP. FLOOR		13,104	2,046
										TOTAL PER FLOOR		**13,104**	**2,046**

BLDG LOCAT.	SLAB LABEL	UNIT TAG NAME	1BED	1 BED + DEN	2 BED	2 BED + DEN	3 BED	3 BED + DEN	UNITS	UNIT AREA TYP. UNIT AC AREA	TYP. BALCONY AREA	TOTAL AC AREA	TOTAL BALCONY AREA
		X01 - X09						2	2	2,109	321	4,218	642
		X02 - X10				2			2	1,453	168	2,906	336
LEVEL	4th. - 6th.	X03 - X07						2	2	1,858	293	3,716	586
		X04 - X08				2			2	1,432	301	2,864	602
		X06				1			1	1,452	214	1,452	214
	TOTAL FLOORS	3	0	0	0	5	0	4	9	TOTAL TYP. FLOOR		15,156	2,380
			0	0	0	15	0	12	27				
						TOTAL UNITS FLOORS 4th. - 6th			27	TOTAL ALL FLOORS		**45,468**	**7,140**

BLDG LOCAT.	SLAB LABEL	UNIT TAG NAME	1BED	1 BED + DEN	2 BED	2 BED + DEN	3 BED	3 BED + DEN	UNITS	UNIT AREA TYP. UNIT AC AREA	TYP. BALCONY AREA	TOTAL AC AREA	TOTAL BALCONY AREA
		701 - 709						2	2	2,101	329	4,202	658
	7th.	702 - 710					2		2	1,704	241	3,408	482
LEVEL		703 - 707						2	2	1,858	293	3,716	586
		704 - 708						2	2	1,884	335	3,768	670
	TOTAL FLOORS	1	0	0	0	0	2	6	8	TOTAL TYP. FLOOR		15,094	2,396
										TOTAL PER FLOOR		**15,094**	**2,396**

BLDG LOCAT.	SLAB LABEL	UNIT TAG NAME	1BED	1 BED + DEN	2 BED	2 BED+DEN	3 BED	3 BED + DEN	UNITS	UNIT AREA TYP. UNIT AC AREA	TYP. BALCONY AREA	TOTAL AC AREA	TOTAL BALCONY AREA
		801 - 809						2	2	2,076	342	4,152	684
	8th.	802 - 810					2		2	1,815	487	3,630	974
LEVEL		803 - 807						2	2	1,823	308	3,646	616
		804 - 808				2			2	1,618	365	3,236	730
	TOTAL FLOORS	1	0	0	0	2	2	4	8	TOTAL TYP. FLOOR		14,664	3,004
										TOTAL PER FLOOR		**14,664**	**3,004**

UNITS							TOTAL UNITS	TOTAL AC AREA	
	1 BED	1 BED + DEN	2 BED	2 BED+DEN	3 BED	3 BED + DEN	57		
	0	0	0	27	4	26		98,528	17,830
								TOTAL	**116,358**

CURRENTLY APPROVED BUILDING UNITS BREAKDOWN	TOTAL UNITS 72	15 UNITS LESS

ZONING & SHORELINE SUMMARY - ROYAL HOUSE — **revuelta architecture international p.a.**

9461 EAST BAY HARBOR DRIVE — 04.21.2022

	SF	Acres
Lot Area	**33,750**	0.77

LEGAL DESCRIPTION
Lot 6, 7 and 8, 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 INFORMATION

Flood Zone AE	**10'**	**Base Flood Elevation**	**10.0' FT NGVD**	**Design Flood Elevation**	**11.0' FT NGVD**
FIRM Map Number	12086C0144L	Lowest Floor Top of Slab Elevation	5.0 FT NGVD	Lowest Elev. of Equip. Servicing Building	11.0 FT NGVD
Next Lower Floor Elevation	4'-4" FT NGVD	Next Higher Floor Elevation	4'-11 1/2" FT NGVD	Crown of Road Elevation	4'-4" NGVD
Garage Top Elevation	5.0 FT NGVD	Lowest Floor Top of Habitable Space	11.0 FT NGVD	Risk Category per FBC	II
Lowest Elevation of Equipment Servicing the Buildir (sump pit pumps)	-2.0 FT NGVD				

Zoning Classification — **RM1 - MULTIPLE FAMILY RESIDENTIAL DISTRICT (WATERFRONT LOTS)**

				CURRRENTLY APPROVED
FLR (Determined by the setbacks)			**Allowable** N/A / **Proposed** N/A	Currently Approved N/A
Maximum Density			**Allowable**	**Proposed**	Currently Approved
34 units per net Acre	34	0.77	**26**	**57**	72
Proposed Density				**74.02 (units/acre)**	93.5 (units/acre)
Setbacks			**Required**	**Proposed**	Currently Approved
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	20'-0" Below 30 feet.30'-0" Above 30 feet.	20'-0" Below 30 feet.30'-0" Above 30 feet.
Side Setback			Buildings less than 30 feet in height. 10 feet maximum setback shall be 25 feet	10'-0" Below 30 feet.25'-0" Above 30 feet.	10'-0" Below 30 feet.25'-0" Above 30 feet.
Rear Setback (Waterfront)			20'-0"	20'-0"	20'-0"
Flex Setback (side only)		side building length	**Allowable (Feet)**	**Proposed (Feet)**	Currently Approved (Feet)
maximum allowed 1/3 of length of building		110	36.67	36.5	36.5
Maximum Height			**Allowable**	**Proposed**	Currently Approved
Maximum Building Height			75 feet above BFE + 1ft FBC Freeboard	**75'-0" above BFE**	75'-0" above BFE
Open Space Requirements			**Required**	**Proposed**	Currently Approved
20% of Lot Area Minimum	33,750	0.20	6,750 SF	**7,649 SF (22.6%)**	8,064 SF (23%)
Roof Deck Landscape Requirements			**Required**	**Proposed**	Currently Approved
15% of Roof Area Minimum	13,813	0.15	2,072 SF	**2,900 SF (18.4%)**	3,869 SF (28%)
Lot Coverage (Perimiter determined by the setbacks)			**Allowable** Determined by Setbacks	**Proposed** **22,380 SF**	Currently Approved 22,380 SF
Building Length The maximum overall length of any single building in a linea shape with no breaks or angles greater than 15 degrees shall not exceed 205 feet			≤ 205 feet without breaks	205 feet in length	205 feet in length
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.				205'-0" with a 20'-0" breezeway	205'-0" with a 20'-0" breezeway
Parking Space Requirements			**Required**	**Proposed**	Currently Approved
Residential - 2 per Dwelling Unit Minimum	57	2.0	114	47	
Guest Parking - (included in parking count)			4	3	
Total Parking Spaces	**(including 2 handicap spaces)**			**47**	
Valet Parking - (All parking will be Valet)				28	
Parking Trust - (TC Approval required due to loss underground parking)				39	
Total Parking Spaces	**(including 2 handicap spaces)**			**114**	145
Storage Requirements			**Required**	**Proposed**	Currently Approved
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			57	57	96
Loading Zone					
Residential Loading Berths (660 SF)	1 per 1st 100 Units	100 Units	N/A	N/A	
Commercial Loading Berths (420 SF)	1 for 25k-50k commercial		N/A	N/A	

1 / A-001 ZONING SUMMARY
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Project

LA BAIA NORTH
9461 EAST BAY HARBOR DR.
BAY HARBOR ISLANDS, FLORIDA 33154

Revisions

Owner Information
CONTINUUM LLC
9201 East Bay Harbour Dr
Bay Harbour Islands, Fl 33154
305.861.8181

1

Consultant

Luis O. Revuelta
AR-0007972

SITE PLAN REVISION

Date
04.21.22

Scale
AS SHOWN

Project No.
2202

Sheet Name
DATA SHEET

Sheet No.
A-001

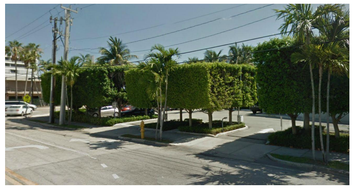
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FLUM: MEDIUM HIGH DENSITY
5 STORY



MULTI-FAMILY, RM-1
FLUM: MEDIUM HIGH DENSITY
2 STORY



OFFICE, BUSINESS DISTRICT
FLUM: COMMERCIAL
1 STORY



MULTI-FAMILY, RM-1
FLUM: MEDIUM HIGH DENSITY
2 STORY



COMMERCIAL, BUSINESS DISTRICT
FLUM: COMMERCIAL
1 STORY

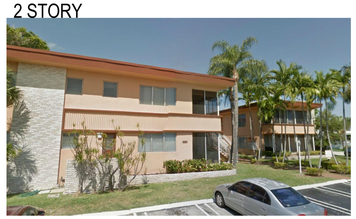


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FLUM: MEDIUM HIGH DENSITY
7 STORY





MULTI-FAMILY, RM-2
FLUM: MEDIUM HIGH DENSITY
2 STORY



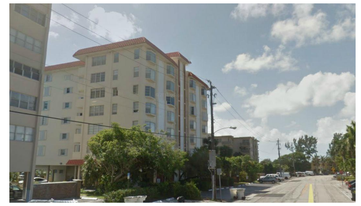
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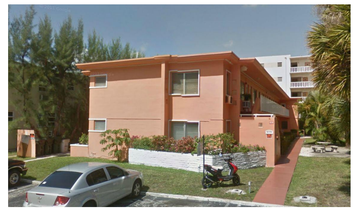
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FLUM: MEDIUM HIGH DENSITY
3 STORY



MULTI-FAMILY, RM-1
FLUM: MEDIUM HIGH DENSITY
7 STORY



MULTI-FAMILY, RM-2
FLUM: MEDIUM HIGH DENSITY
2 STORY



MULTI-FAMILY, RM-2
FLUM: MEDIUM HIGH DENSITY
2 STORY



MULTI-FAMILY, RM-2
FLUM: MEDIUM HIGH DENSITY
5 STORY



1 LAND USE PLAN DESIGNATION
NOT TO SCALE

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Project

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Revisions

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9201 East Bay Harbour Dr
Bay Harbour Islands, Fl 33154
305.861.8181

Consultant

Luis O. Revuelta
AR-0007972

SITE PLAN REVISION

Date
04.21.22

Scale
AS SHOWN

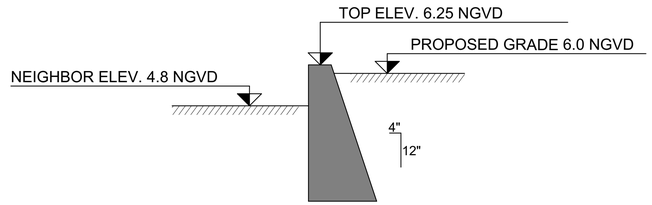
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2202

Sheet Name
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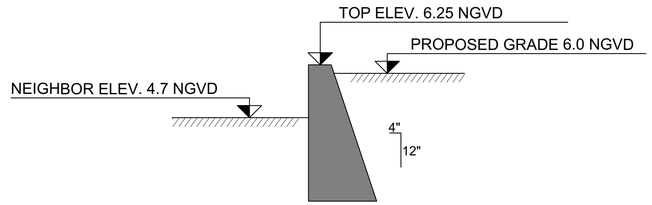
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A-002

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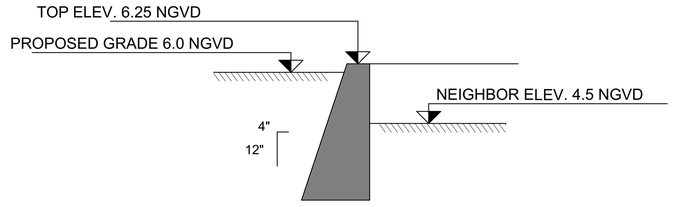
SECTION A-A



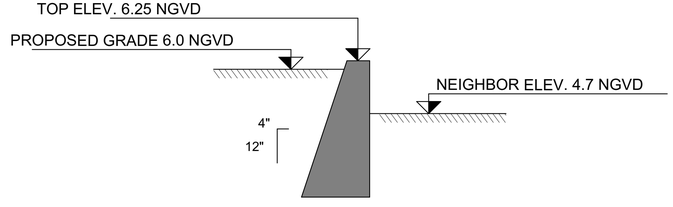
SECTION B-B



SECTION C-C



SECTION D-D



NOTE:
FOR GRAVITY WALL DETAIL REFER TO SHEET C-4

1 SECTIONS_
GRAVITY WALL ALONG PROP. PERIMETER
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Consultant

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AR-0007972

SITE PLAN REVISION

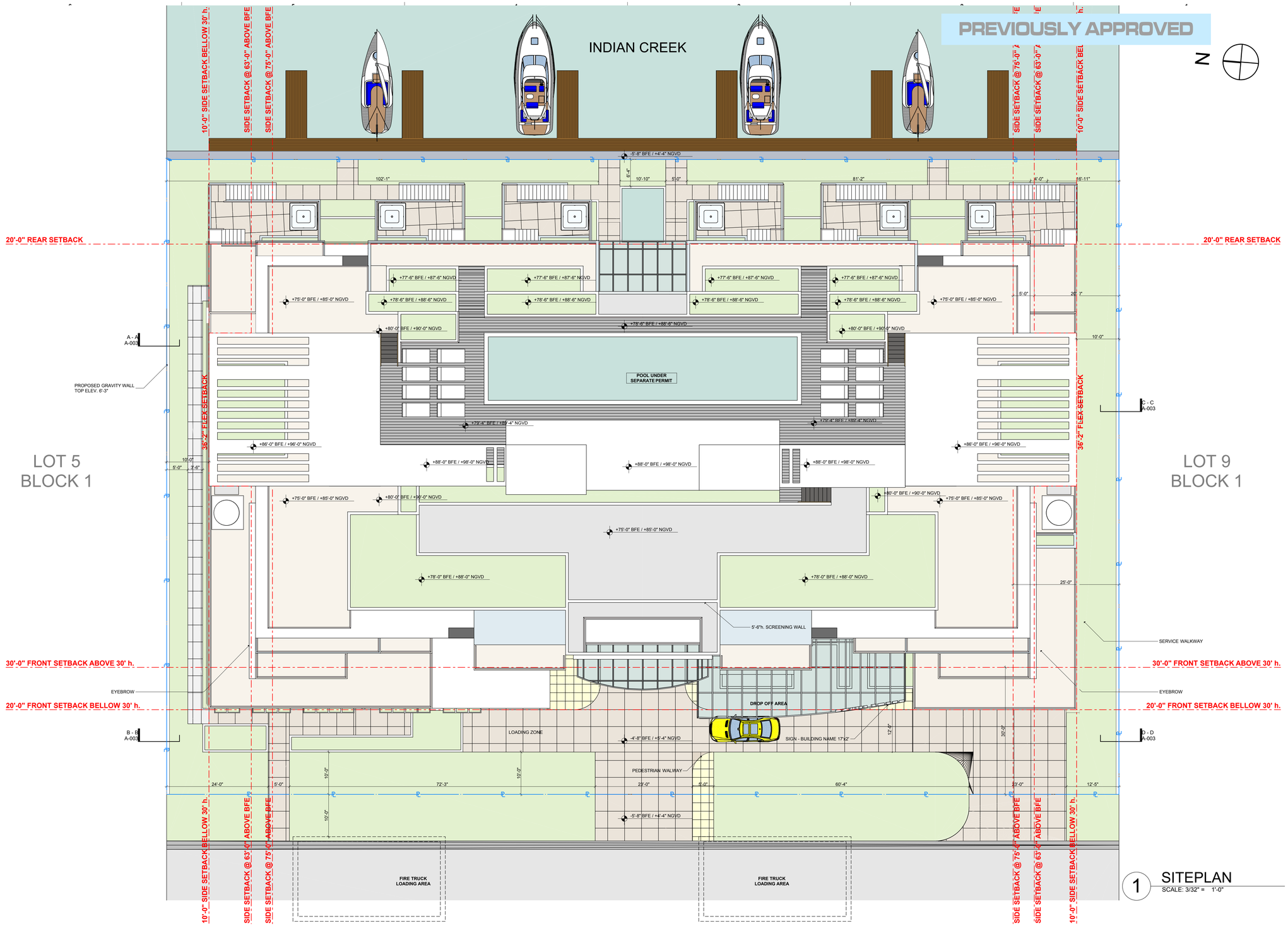
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Project No.
2202

Sheet Name
PERIMETER SECTIONS

Sheet No.
A-003



1 SITEPLAN
SCALE: 3/32" = 1'-0"

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SITE PLAN REVISION

Date
04.21.22

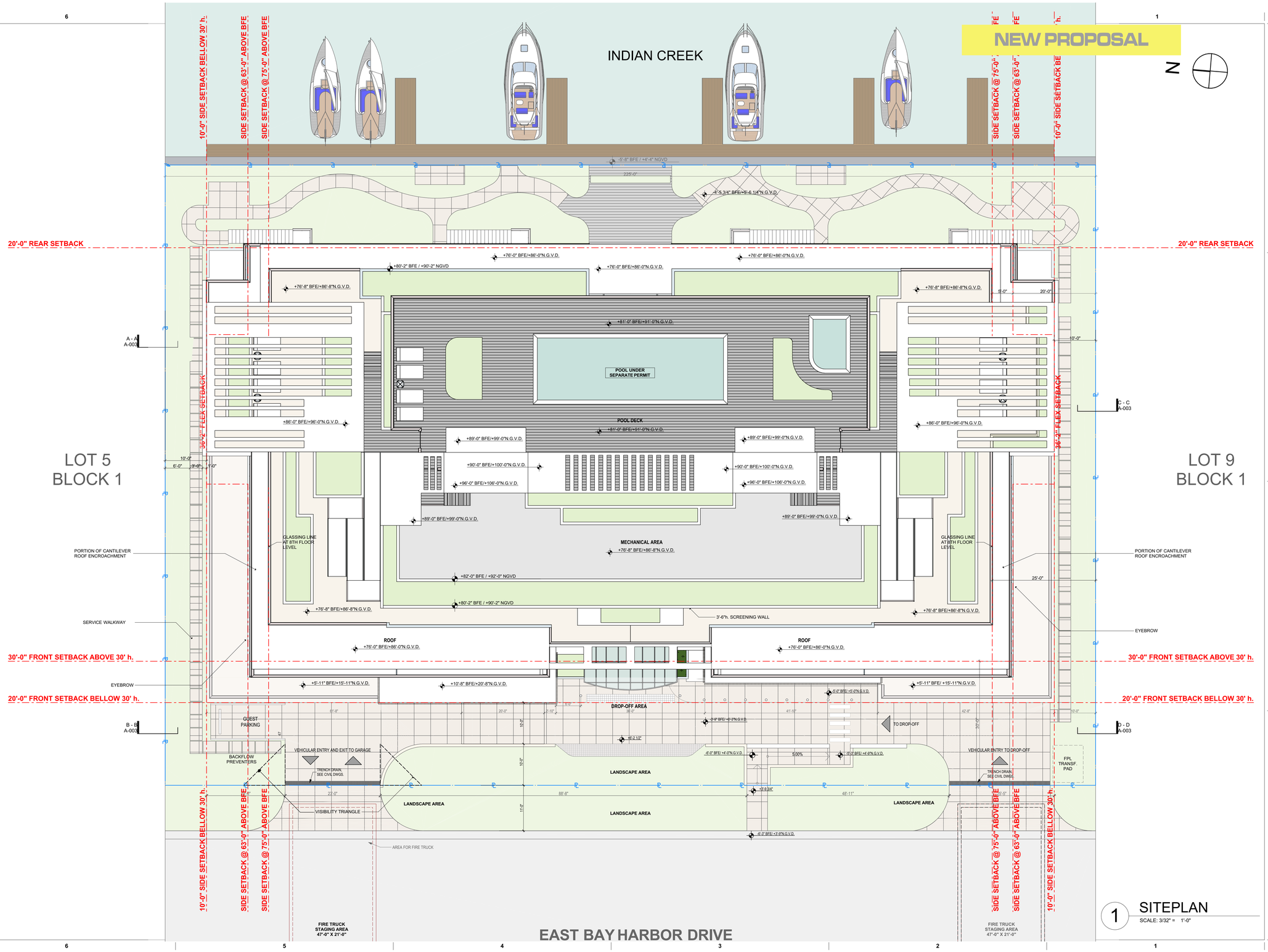
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Project No.
2202

Sheet Name
SITE PLAN

Sheet No.
A-101.1

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1 SITEPLAN
SCALE: 3/32" = 1'-0"

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Project

LA BAIA NORTH

9461 EAST BAY HARBOR DR.
BAY HARBOR ISLANDS, FLORIDA 33154

Revisions

Owner Information

CONTINUUM LLC

9201 East Bay Harbour Dr
Bay Harbour Islands, Fl 33154
305.861.8181

Consultant

Luis O. Revuelta
AR-0007972

SITE PLAN REVISION

Date
04.21.22

Scale
AS SHOWN

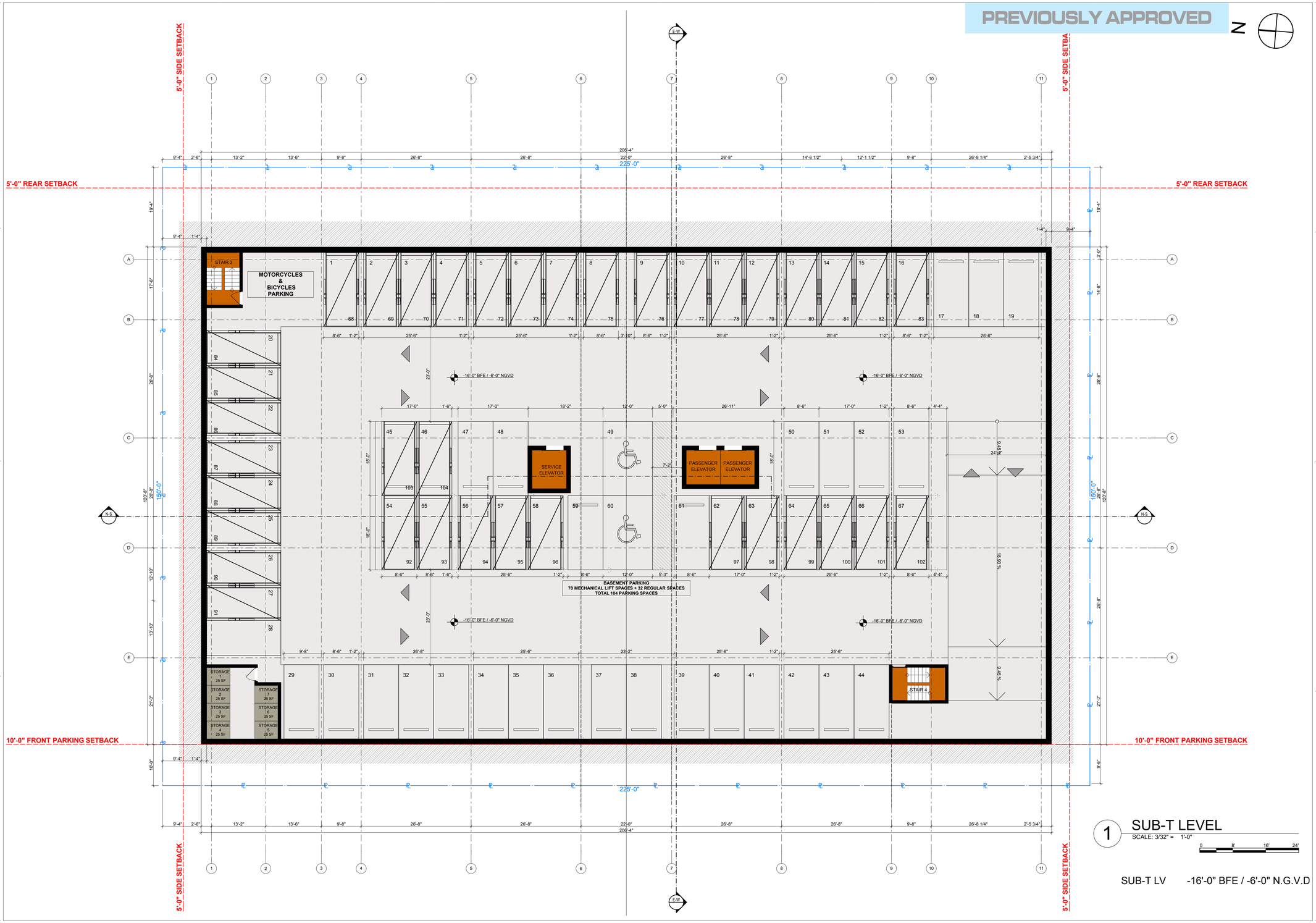
Project No.
2202

Sheet Name
SITE PLAN

Sheet No.
A-101.2

NOT FOR CONSTRUCTION

PREVIOUSLY APPROVED



1 SUB-T LEVEL
SCALE: 3/32" = 1'-0"
0 8' 16' 24'

SUB-T LV -16'-0" BFE / -6'-0" N.G.V.D

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AS SHOWN

Project No.
2202

Sheet Name
SUB-T LEVEL

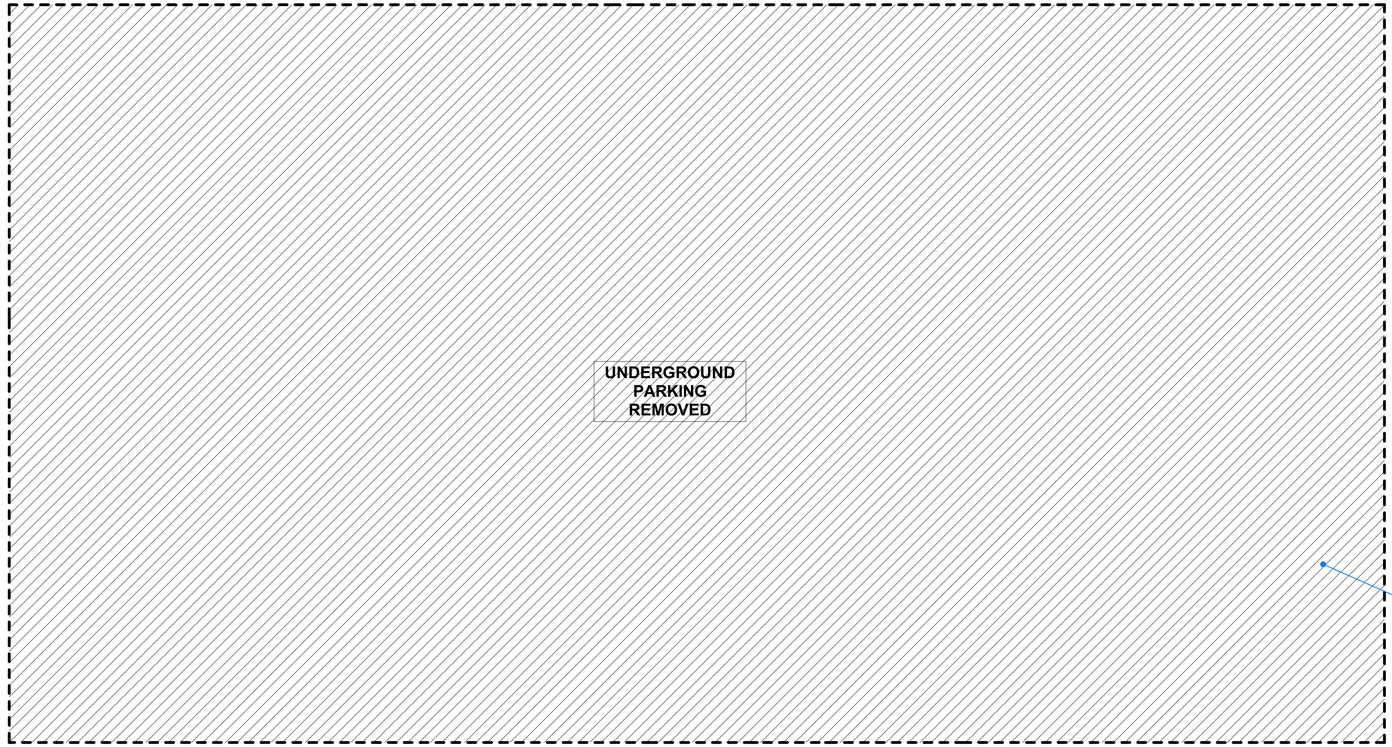
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A-102.1

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NEW PROPOSAL

N



MAIN SCOPE OF WORK

REDUCTION OF RESIDENTIAL DENSITY FROM CURRENTLY APPROVED 72 DWELLING UNITS TO **57 UNITS**

SUMMARY OF PROPOSED ARCHITECTURAL MODIFICATIONS

1. UNDERGROUND PARKING - REMOVED
2. LARGER EQUIPMENT ROOMS ENCLOSURE
3. ACCESSIBLE WALKWAY - CODE REQUIRED TO CONNECT LOBBY WITH RIGHT OF WAY (SLOPE 5%) EGRESS WALKWAY REQUESTED BY FIRE DEPARTMENT
4. LOCATION OF FPL TRANSFORMER AND SWITCH PADS
5. NEW LOUVER REQUIRED FOR AIR-INTAKE TO EMERGENCY GENERATOR, PAINTED IN SAME COLOR OF ADJACENT WALLS.
6. VERTICAL COMPOSED WOOD SLAT PANELING LIGHT COLOR 50% OPENING.
7. LOUVERS FOR PARKING VENTILATION/IN-TAKE
8. NEW BREEZEWAY TERRACE
9. NEW LANDSCAPE DESIGN
10. NEW STEPPING BREEZEWAY FRAME
11. REVISED DROP OFF AND EXTERIOR PARKING REDESIGNED LANSDCAPE
12. VERTICAL STUCCO/PAINTED BUILDING FRAMES
13. REVISED RAILING DESIGN, 2 TYPES: ONE WITH ALUMINUM AT THE BOTTOM AND GLASS ON TOP, AND OTHER WITH FULL GLASS.
14. FLOOD VENT LOCATION. G.C TO PROVIDE SHOP DRAWINGS AND CALCULATIONS FOR A/E REVIEW.
15. NEW COMMUNAL ROOM.
16. RELOCATED LOBBY
17. NEW PASSENGER ELEVATOR
18. RELOCATED STAIRS
19. REVISED BALCONIES RESPONDING TO NEW UNITS SIZES.

1 SUB-T LEVEL
SCALE: 3/32" = 1'-0"
0 8' 16' 24'

STREET LVL. -5'-8" BFE / 4'-4" N.G.V.D
PARKING LVL.-16'-0" BFE / -6'-0" N.G.V.D

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SITE PLAN REVISION

Date
04.21.22

Scale
AS SHOWN

Project No.
2202

Sheet Name
SUB-T LEVEL_ NEW PROPOSAL

Sheet No.
A-102.2

PREVIOUSLY APPROVED

N

10'-0" SIDE SETBACK BELLOW 30' BFE

10'-0" SIDE SETBACK BELLOW

DOCK UNDER SEPARATE PERMIT

SCREENING LANDSCAPE

SCREENING LANDSCAPE

SCREENING LANDSCAPE

SEAWALL

E-W

20'-0" REAR SETBACK

20'-0" REAR SETBACK

TW +3'-0" ABOVE GRADE

-5'-8" BFE / +4'-4" NGVD

+2'-0" BFE / +12'-0" NGVD

STORAGE 1 25 SF

STORAGE 2 25 SF

STAIR 3

SERVICE WALKWAY

SCREENING HEDGE

A - A A-003

PROPOSED GRAVITY WALL TOP ELEV. 6'-3"

-3'-4" BFE / +6'-8" NGVD

43 PARKING SPACES OF WHICH 3 ARE FOR GUEST

TRASH ROOM

SERVICE ELEVATOR

SERVICE STAIRS

BREEZE WAY -3'-4" BFE / +6'-8" NGVD

PASSENGER ELEVATOR

PASSENGER ELEVATOR

GUEST PARKING

GUEST PARKING

GUEST PARKING

MAIL ROOM 106 SF

STAIR

LOBBY 857 SF

±0'-0" BFE / +10'-0" NGVD

FIRE COMMAND CENTER 203 SF

OPEN TO GARAGE BELOW

STAIR 1

DROP OFF

TRANSFORMER VAULT

-4'-8" BFE / +5'-4" NGVD

DROP OFF

STAIR

SCREENING HEDGE

SERVICE WALKWAY

SCREENING LANDSCAPE

SOLID WASTE PICK-UP AREA

SCREENING LOUVERS

20'-0" FRONT SETBACK BELLOW 30' BFE

TRASH PICK UP

B - B A-003

10'-0" FRONT PARKING SETBACK

BACKFLOW PREVENTER

LOADING ZONE

TW +3'-0" ABOVE GRADE

UTILITIES / BACKFLOW PREVENTER AREA

SCREENING LANDSCAPE

LANDSCAPE

LANDSCAPE

VISIBILITY TRIANGLE

VISIBILITY TRIANGLE

-5'-8" BFE / +4'-4" NGVD

FROM LEVEL - 1

TO LEVEL - 1

SCREENING HEDGE

PROPOSED GRAVITY WALL TOP ELEV. 6'-3"

C - C A-003

SCREENING HEDGE

SCREENING HEDGE

SCREENING HEDGE

D - D A-003

20'-0" FRONT SETBACK BELLOW 30' BFE

10'-0" FRONT PARKING SETBACK

10'-0" SIDE SETBACK BELLOW 30' h.

10'-0" SIDE SETBACK BELLOW 30' h.

FIRE TRUCK LOADING AREA

FIRE TRUCK LOADING AREA

1 FIRST LEVEL

SCALE: 3/32" = 1'-0"

0 8' 16' 24'

STREET LV. -5'-8" BFE / 4'-4" N.G.V.D

PARKING LV. -3'-4" BFE / 6'-8" N.G.V.D

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Date
04.21.22

Scale
AS SHOWN

Project No.
2202

Sheet Name
FIRST LEVEL

Sheet No.
A-103.1

NEW PROPOSAL

N

10'-0" SIDE SETBACK BELOW 30' BFE

10'-0" SIDE SETBACK BELOW 3

DOCKED BOAT (TYP.)

DOCK UNDER SEPARATE PERMIT

225'-0"

-4'-0" BFE/ +8'-0"N.G.V.D.

-4'-1 1/4" BFE/ +5'-4 3/4"N.G.V.D.

20'-0" REAR SETBACK

STORAGE 1-020

FLOOD VENTS.

TRENCH DRAIN, SEE CIVIL DWGS.

PRECAST CONCRETE WHEELSTOP (TYP)

EXIT DOOR

2 ACCESIBLE PARKING
41 REGULAR PARKINGS INSIDE
4 REGULAR PARKING SPACES OUTSIDE
47 TOTAL OF PARKING SPACES

-5'-0" BFE/ +5'-0"N.G.V.D.

PARKING 1-009

-5'-0" BFE/ +5'-0"N.G.V.D.

PRKG. ELEVATOR LOBBY

+5'-0" N.G.V.D.

PIT-4 1-004

PIT-3 1-003

PIT-2 1-002

PIT-1 1-001

TRASH ROOM 1-019

NORTH ELEV. LOBBY 1-001

+11'-0" N.G.V.D.

SOUTH ELEV. LOBBY 1-001

UNISEX BATH 1-002

MAIL ROOM 1-001

PARCEL STORAGE 1-008

LOBBY 1-001

+11'-0" BFE/ +11'-0" N.G.V.D.

RECEPTION 1-001

OFFICE 1-001

OWNER'S MEETING ROOM 1-008

JANITOR 1-052

36 DOUBLE BICYCLE RACKS = 72 BICYCLES

GALLERY 1-021

+5'-0" BFE/ +5'-0" N.G.V.D.

ACCESSIBLE PATH

HDCP. LIFT

ENTRY TERRACE

FIRE COMMAND CENTER 1-010

SWITCH GEAR ROOM 1-025

STAIR #1 1-006

TRASH PICK UP 1-026

DOMESTIC/ FIRE PUMP 1-011

EMERGENCY GENERATOR 1-024

PLTR

TRENCH

-3'-8" BFE/ +6'-4" N.G.V.D.

-3'-9" BFE/ +6'-3"N.G.V.D.

DROP-OFF AREA

TO DROP-OFF

-5'-0" BFE/ +5'-0"N.G.V.D.

-5'-0" BFE/ +4'-0"N.G.V.D. 5.00 %

-5'-3" BFE/ +4'-9"N.G.V.D.

-5'-3 1/4" BFE/ +5'-8 3/4" N.G.V.D.

-5'-3" BFE/ +5'-0"N.G.V.D.

GUEST PARKING

+5'-0"

20'-0" FRONT SETBACK BELOW 30' BFE

20'-0" FRONT

10'-0" FRONT PARKING SETBACK

ROLL-UP ALUMINUN GATE - GRILL 50% OPENESS

BACKFLOW PREVENTERS

UTILITIES / BACKFLOW PREVENTER AREA

VEHICULAR ENTRY AND EXIT TO GARAGE

VISIBILITY TRIANGLE

LANDSCAPE AREA

AREA FOR FIRE TRUCK

VEHICULAR ENTRY TO DROP-OFF

FPL TRANSF. PAD

10'-0" SIDE SETBACK BELOW 30' BFE

A - A
A-003

B - B
A-003

C - C
A-003

D - D
A-003

MAIN SCOPE OF WORK

REDUCTION OF RESIDENTIAL DENSITY FROM CURRENTLY APPROVED 72 DWELLING UNITS TO **57 UNITS**

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1 FIRST LEVEL
SCALE: 3/32" = 1'-0"
0 8' 16' 24'

STREET LVL. -5'-8" BFE / 4'-4" N.G.V.D
PARKING LVL.-5'-0" BFE / 5'-0" N.G.V.D

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Project

LA BAIA NORTH

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Consultant

Luis O. Revuelta
AR-0007972

SITE PLAN REVISION

Date
04.21.22

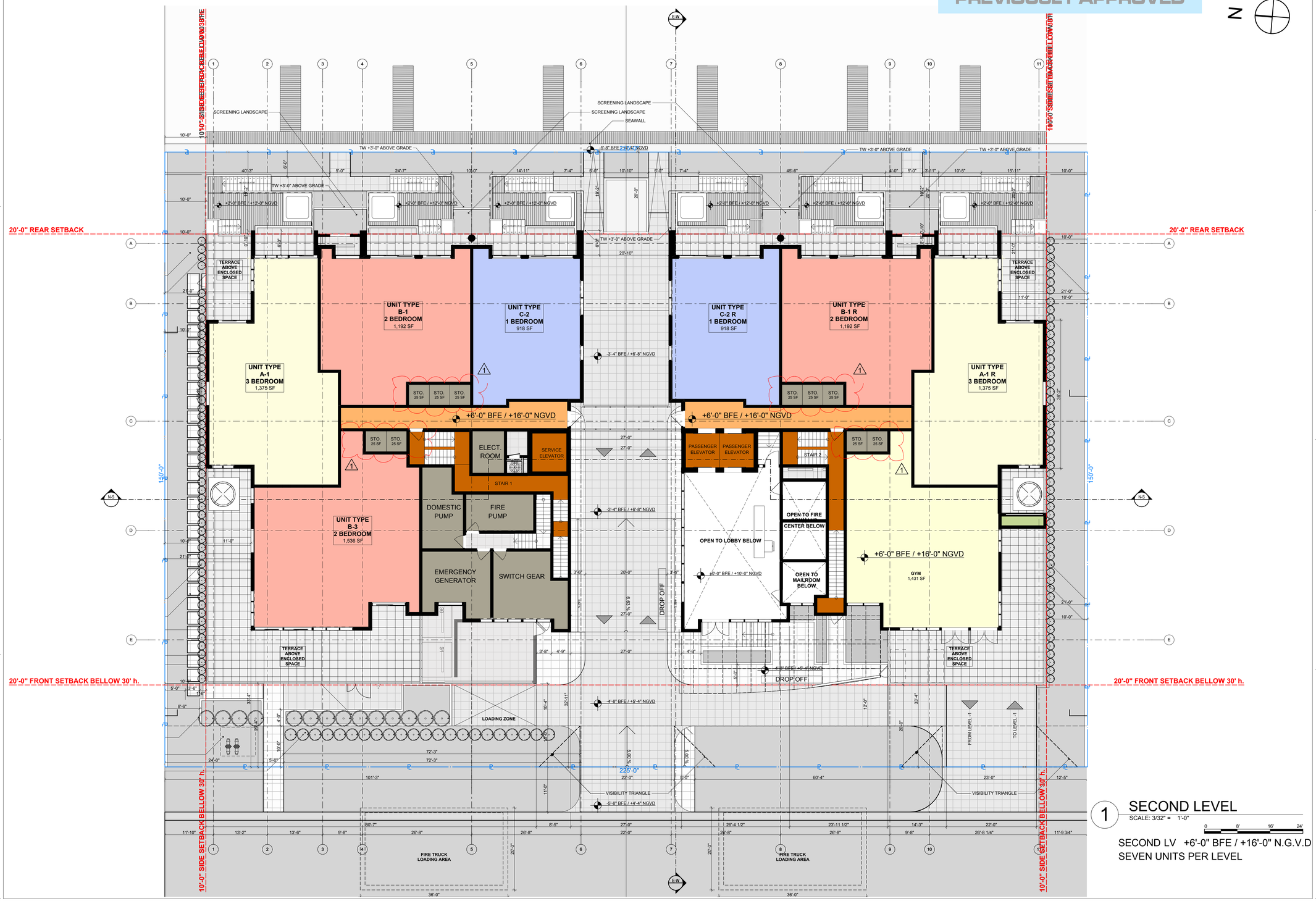
Scale
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Project No.
2202

Sheet Name
FIRST LEVEL_ NEW PROPOSAL

Sheet No.
A-103.2

PREVIOUSLY APPROVED



1 SECOND LEVEL

SCALE: 3/32" = 1'-0"

0 8' 16' 24'

SECOND LV +6'-0" BFE / +16'-0" N.G.V.D
SEVEN UNITS PER LEVEL

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Project No.
2202

Sheet Name
SECOND LEVEL

Sheet No.
A-104.1

NOT FOR CONSTRUCTION

NEW PROPOSAL

N

20'-0" REAR SETBACK

20'-0" FRONT SETBACK BELOW 30' h.

10'-0" SIDE SETBACK BELOW 30' h.

UNIT 209
3 BED+DEN
2,109 SF

UNIT 207
2 BED+DEN
1,537 SF

CLUB ROOM
2-010
623 SF

UNIT 203
2 BED+DEN
1,537 SF

UNIT 201
3 BED+DEN
2,109 SF

UNIT 210
2 BED+DEN
1,453 SF

UNIT 202
2 BED+DEN
1,453 SF

CORRIDOR
4-001
398 SF

CORRIDOR
4-001
408 SF

STORAGE
4-010
23 SF

STAIR 02
2-006

STAIR 01
2-005

PE-4
2-004

PE-3
2-003

PE-2
2-003

PE-1
2-004

ELECT ROOM
3-008
36 SF

TRASH CHUTE
2-007

STORAGE
4-009
55 SF

STORAGE
4-003
44 SF

STORAGE
4-002

RESTROOM
2-010
59 SF

GYM
2-010
969 SF

OPEN TO PARKING BELOW.

OPEN TO NORTH ELEV. 4-OBBY BELOW.

OPEN TO SOUTH ELEV. 4-OBBY BELOW.

OPEN TO BATHROOM BELOW.

OPEN TO LOBBY BELOW

OPEN TO MAIL ROOM BELOW.

OPEN TO MAIL ROOM BELOW.

OPEN TO PARCEL STORAGE BELOW.

OPEN TO PARKING BELOW.

OPEN TO OFFICE ROOM BELOW.

OPEN TO MEETING ROOM BELOW.

OPEN TO JANITOR BELOW.

OPEN TO GALLERY BELOW.

OPEN TO FCC BELOW.

OPEN TO SWITCH GEAR ROOM BELOW.

ROOF

ROOF

DROP-OFF AREA

GUEST PARKING

TO DROP-OFF

VEHICULAR ENTRY AND EXIT TO GARAGE

VEHICULAR ENTRY TO DROP-OFF

BACKFLOW PREVENTERS

FPL TRANSF. PAD

VISIBILITY TRIANGLE

AREA FOR FIRE TRUCK

+16'-0" N.G.V.D.

+6'-0" BFE/ +6.67'N.G.V.D.

+6'-0" BFE/ +5'-4 3/4"N.G.V.D.

10'10"-SIDE SETBACK BELOW 30' h.

225'-0"

205'-0"

150'-0"

MAIN SCOPE OF WORK

REDUCTION OF RESIDENTIAL DENSITY FROM CURRENTLY APPROVED 72 DWELLING UNITS TO **57 UNITS**

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18. RELOCATED STAIRS
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1 SECOND LEVEL

SCALE: 3/32" = 1'-0"

0 8' 16' 24'

SECOND LVL. +6'-0" BFE / +16'-0" N.G.V.D.
SIX UNITS PER LEVEL

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SITE PLAN REVISION

Date
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Scale
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Project No.
2202

Sheet Name
SECOND LEVEL_ NEW PROPOSAL

Sheet No.
A-104.2

NOT FOR CONSTRUCTION

PREVIOUSLY APPROVED

N

10'-0" SIDE SETBACK BELLOW 30' h.

10'-0" SIDE SETBACK BELLOW 30' h.

20'-0" REAR SETBACK

20'-0" REAR SETBACK

20'-0" FRONT SETBACK BELLOW 30' h.

20'-0" FRONT SETBACK BELLOW 30' h.

225'-0"

205'-0"

UNIT TYPE A-1
3 BEDROOM
1,518 SF

UNIT TYPE B-1
2 BEDROOM
1,192 SF

UNIT TYPE C-2
1 BEDROOM
918 SF

UNIT TYPE C-2 R
1 BEDROOM
918 SF

UNIT TYPE B-1 R
2 BEDROOM
1,192 SF

UNIT TYPE A-1 R
3 BEDROOM
1,518 SF

UNIT TYPE B-3
2 BEDROOM
1,326 SF

UNIT TYPE B-4
2 BEDROOM
1,319 SF

UNIT TYPE B-4 R
2 BEDROOM
1,319 SF

UNIT TYPE B-3 R
2 BEDROOM
1,326 SF

STO. 25 SF

STAIR 1

STAIR 2

SERVICE ELEVATOR

PASSENGER ELEVATOR

+15'-8" BFE / +25'-8" NGVD

N-S

E-W

1 THIRD LEVEL
SCALE: 3/32" = 1'-0"

0 8' 16' 24'

THIRD LV +15'-8" BFE / +25'-8" N.G.V.
TEN UNITS PER LEVEL

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LA BAIA NORTH

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BAY HARBOR ISLANDS, FLORIDA 33154

Revisions

Owner Information

CONTINUUM LLC

9201 East Bay Harbour Dr
Bay Harbour Islands, Fl 33154
305.861.8181

Consultant

Luis O. Revuelta
AR-0007972

SITE PLAN REVISION

Date
04.21.22

Scale
AS SHOWN

Project No.
2202

Sheet Name
THIRD LEVEL

Sheet No.
A-105.1

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File: BIM\cloud: RAI-SERVER1 - BIM\cloud Basic for Archicad 25\2202_LA BAIA_NORTH\2202_LA BAIA - NORTH - By ychung - Date: 5/13/2022

NEW PROPOSAL

N

10'-0" SIDE SETBACK BELOW 30' h.

20'-0" REAR SETBACK

20'-0" FRONT SETBACK BELOW 30' h.

20'-0"

10'-0" SIDE SETBACK BELOW 30' h.

10'-0" SIDE SETBACK BELOW 30' h.

225'-0"

205'-0"

UNIT 309
3 BED+DEN
2,109 SF

UNIT 307
2 BED+DEN
1,537 SF

UNIT 303
2 BED+DEN
1,537 SF

UNIT 301
3 BED+DEN
2,109 SF

UNIT 310
2 BED+DEN
1,453 SF

UNIT 308
2 BED+DEN
1,453 SF

UNIT 304
2 BED+DEN
1,453 SF

UNIT 302
2 BED+DEN
1,453 SF

TERRACE
BREEZEWAY

BREEZEWAY

STORAGE 4-010 | STORAGE 4-009 | STORAGE 4-008 | STORAGE 4-007 | STORAGE 4-006 | STORAGE 4-005 | STORAGE 4-004 | STORAGE 4-003 | STORAGE 4-002 | STORAGE 4-001 | STORAGE 4-002 | STORAGE 4-003 | STORAGE 4-004 | STORAGE 4-005 | STORAGE 4-006 | STORAGE 4-007 | STORAGE 4-008 | STORAGE 4-009 | STORAGE 4-010

CORRIDOR 4-001 | CORRIDOR 4-001

+25'-9 1/2" N.G.V.D. | +25'-9 1/2" N.G.V.D.

STAIR #7 3-007 DN UP | STAIR #8 3-006 UP DN

ELEC. ROOM 3-008 | TRASH CHUTE 3-009 | ELEC. ROOM 3-009

PE-4 [3-004] | PE-3 [3-003] | PE-2 [3-002] | PE-1 [3-001]

19 | 8 | 9 | 18 | 17 | 19 | 19 | 19 | 18 | 19

ABOVE PLAN #2

ABOVE PLAN #3

1 THIRD LEVEL

SCALE: 3/32" = 1'-0"

0 8" 16" 24"

THIRD LVL. +15'-8" BFE / +25'-8" N.G.V.D.
EIGHT UNITS PER LEVEL

MAIN SCOPE OF WORK

REDUCTION OF RESIDENTIAL DENSITY FROM CURRENTLY APPROVED 72 DWELLING UNITS TO **57 UNITS**

SUMMARY OF PROPOSED ARCHITECTURAL MODIFICATIONS

1. UNDERGROUND PARKING - REMOVED
2. LARGER EQUIPMENT ROOMS ENCLOSURE
3. ACCESSIBLE WALKWAY - CODE REQUIRED TO CONNECT LOBBY WITH RIGHT OF WAY (SLOPE 5%) EGRESS WALKWAY REQUESTED BY FIRE DEPARTMENT
4. LOCATION OF FPL TRANSFORMER AND SWITCH PADS
5. NEW LOUVER REQUIRED FOR AIR-INTAKE TO EMERGENCY GENERATOR, PAINTED IN SAME COLOR OF ADJACENT WALLS.
6. VERTICAL COMPOSED WOOD SLAT PANELING
   LIGHT COLOR 50% OPENING.
7. LOUVERS FOR PARKING VENTILATION/IN-TAKE
8. NEW BREEZEWAY TERRACE
9. NEW LANDSCAPE DESIGN
10. NEW STEPPING BREEZEWAY FRAME
11. REVISED DROP OFF AND EXTERIOR PARKING REDESIGNED LANSDCAPE
12. VERTICAL STUCCO/PAINTED BUILDING FRAMES
13. REVISED RAILING DESIGN, 2 TYPES: ONE WITH ALUMINUM AT THE BOTTOM AND GLASS ON TOP, AND OTHER WITH FULL GLASS.
14. FLOOD VENT LOCATION. G.C TO PROVIDE SHOP DRAWINGS AND CALCULATIONS FOR A/E REVIEW.
15. NEW COMMUNAL ROOM.
16. RELOCATED LOBBY
17. NEW PASSENGER ELEVATOR
18. RELOCATED STAIRS
19. REVISED BALCONIES RESPONDING TO NEW UNITS SIZES.

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Project

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Consultant

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AR-0007972

SITE PLAN REVISION

Date
04.21.22

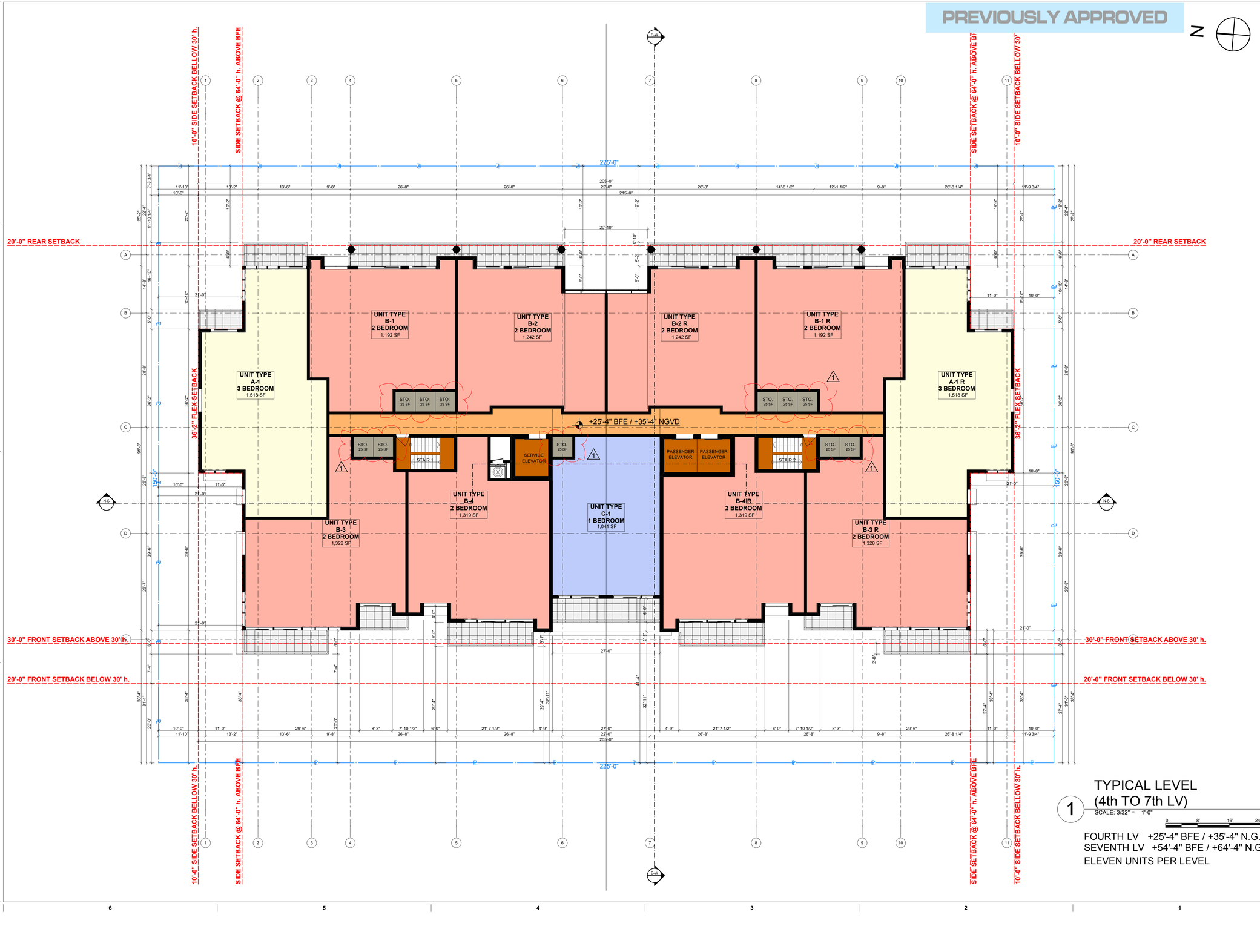
Scale
AS SHOWN

Project No.
2202

Sheet Name
THIRD LEVEL_ NEW PROPOSAL

Sheet No.
A-105.2

PREVIOUSLY APPROVED



TYPICAL LEVEL (4th TO 7th LV)

1 SCALE: 3/32" = 1'-0"

0 8' 16' 24'

FOURTH LV +25'-4" BFE / +35'-4" N.G.V.D.
SEVENTH LV +54'-4" BFE / +64'-4" N.G.V.D.
ELEVEN UNITS PER LEVEL

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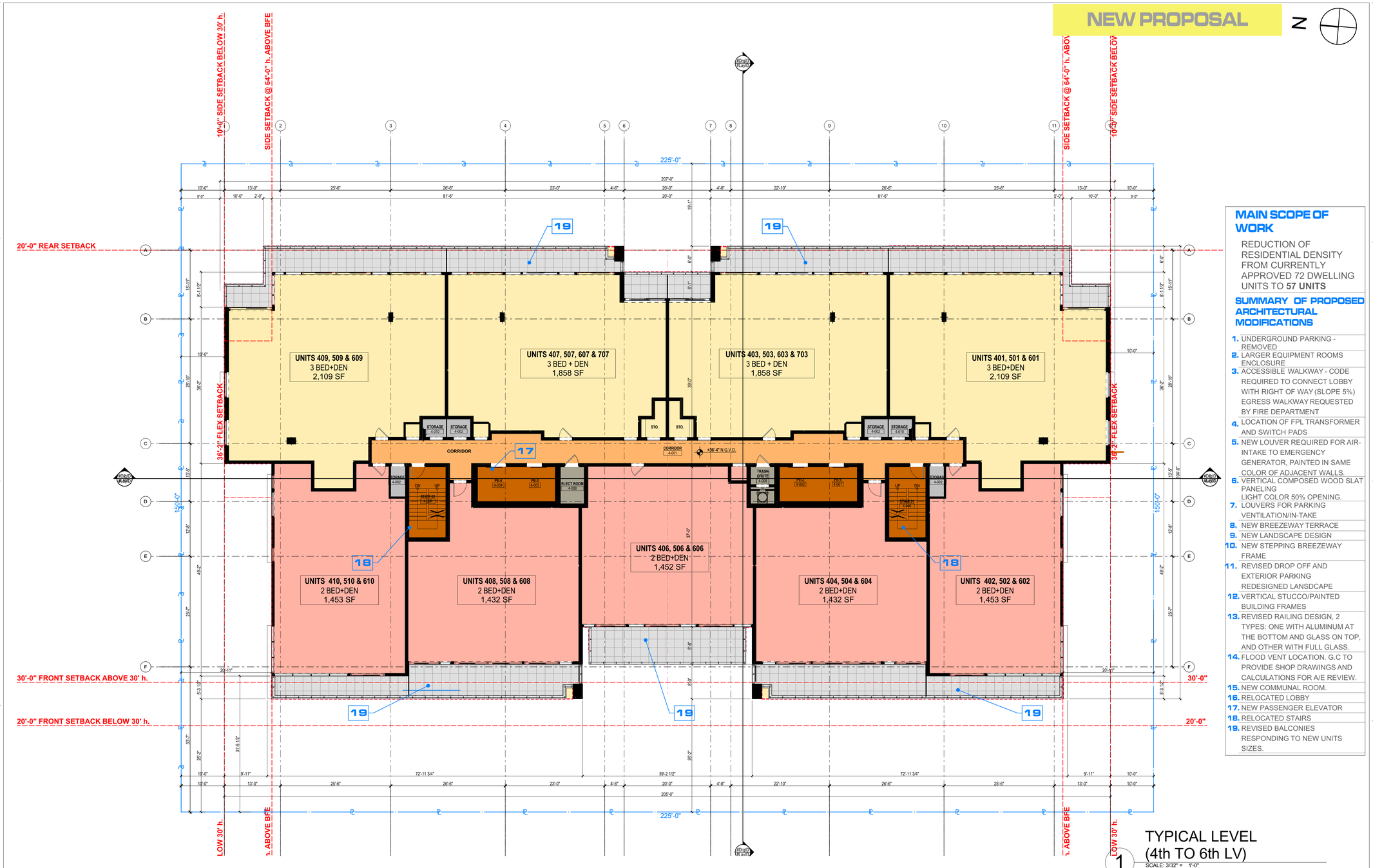
Scale
AS SHOWN

Project No.
2202

Sheet Name
TYPICAL LEVEL (4th to 7th LV)

Sheet No.
A-106.1

NOT FOR CONSTRUCTION



MAIN SCOPE OF WORK

REDUCTION OF RESIDENTIAL DENSITY FROM CURRENTLY APPROVED 72 DWELLING UNITS TO **57 UNITS**

SUMMARY OF PROPOSED ARCHITECTURAL MODIFICATIONS

1. UNDERGROUND PARKING - REMOVED
2. LARGER EQUIPMENT ROOMS ENCLOSURE
3. ACCESSIBLE WALKWAY - CODE REQUIRED TO CONNECT LOBBY WITH RIGHT OF WAY (SLOPE 5%) EGRESS WALKWAY REQUESTED BY FIRE DEPARTMENT
4. LOCATION OF FPL TRANSFORMER AND SWITCH PADS
5. NEW LOUVER REQUIRED FOR AIR-INTAKE TO EMERGENCY GENERATOR, PAINTED IN SAME COLOR OF ADJACENT WALLS.
6. VERTICAL COMPOSED WOOD SLAT PANELING LIGHT COLOR 50% OPENING.
7. LOUVERS FOR PARKING VENTILATION/IN-TAKE
8. NEW BREEZEWAY TERRACE
9. NEW LANDSCAPE DESIGN
10. NEW STEPPING BREEZEWAY FRAME
11. REVISED DROP OFF AND EXTERIOR PARKING REDESIGNED LANSDCAPE
12. VERTICAL STUCCO/PAINTED BUILDING FRAMES
13. REVISED RAILING DESIGN, 2 TYPES: ONE WITH ALUMINUM AT THE BOTTOM AND GLASS ON TOP, AND OTHER WITH FULL GLASS.
14. FLOOD VENT LOCATION. G.C TO PROVIDE SHOP DRAWINGS AND CALCULATIONS FOR A/E REVIEW.
15. NEW COMMUNAL ROOM.
16. RELOCATED LOBBY
17. NEW PASSENGER ELEVATOR
18. RELOCATED STAIRS
19. REVISED BALCONIES RESPONDING TO NEW UNITS SIZES.

TYPICAL LEVEL (4th TO 6th LV)

1 SCALE: 3/32" = 1'-0"

0 8' 16' 24'

FOURTH LVL. +25'-4" BFE / +35'-4" N.G.V.D.
SIXTH LVL. +44'-8" BFE / +54'-8" N.G.V.D.
NINE UNITS PER LEVEL

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Consultant

Luis O. Revuelta
AR-0007972

SITE PLAN REVISION

Date
04.21.22

Scale
AS SHOWN

Project No.
2202

Sheet Name
TYPICAL LEVEL (4th to 6th LV)_NEW PROPOSAL

Sheet No.
A-106.2

PREVIOUSLY APPROVED

10'-0" SIDE SETBACK BELLOW 30' h.
SIDE SETBACK @ 64'-0" h. ABOVE BFE
SIDE SETBACK @ 64'-0" h. ABOVE BFE
10'-0" SIDE SETBACK BELLOW 30' h.
20'-0" REAR SETBACK
20'-0" REAR SETBACK
36'-2" FLEX SETBACK
36'-2" FLEX SETBACK
30'-0" FRONT SETBACK ABOVE 30' h.
30'-0" FRONT SETBACK ABOVE 30' h.
20'-0" FRONT SETBACK BELOW 30' h.
20'-0" FRONT SETBACK BELOW 30' h.
225'-0"
215'-0"
205'-0"
150'-0"
+25'-4" BFE / +35'-4" NGVD

UNIT TYPE A-1 3 BEDROOM 1,518 SF
UNIT TYPE B-1 2 BEDROOM 1,192 SF
UNIT TYPE B-2 2 BEDROOM 1,242 SF
UNIT TYPE B-2 R 2 BEDROOM 1,242 SF
UNIT TYPE B-1 R 2 BEDROOM 1,192 SF
UNIT TYPE A-1 R 3 BEDROOM 1,518 SF
UNIT TYPE B-4 2 BEDROOM 1,319 SF
UNIT TYPE B-4R 2 BEDROOM 1,319 SF
UNIT TYPE C-1 1 BEDROOM 1,041 SF
UNIT TYPE B-3 2 BEDROOM 1,328 SF
UNIT TYPE B-3 R 2 BEDROOM 1,328 SF

STO. 25 SF
STAIR 1
STAIR 2
SERVICE ELEVATOR
PASSENGER ELEVATOR
PASSENGER ELEVATOR

TYPICAL LEVEL (4th TO 7th LV)

1 SCALE: 3/32" = 1'-0"

0 8' 16' 24'

FOURTH LV +25'-4" BFE / +35'-4" N.G.V.D.
SEVENTH LV +54'-4" BFE / +64'-4" N.G.V.D.
ELEVEN UNITS PER LEVEL

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Project

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Luis O. Revuelta
AR-0007972

SITE PLAN REVISION

Date
04.21.22

Scale
AS SHOWN

Project No.
2202

Sheet Name
SEVENTH LEVEL

Sheet No.
A-107.1

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NEW PROPOSAL

N

10'-0" SIDE SETBACK BELOW 30' h.
22'-0" SIDE SETBACK @ 7th LEVEL
22'-0" SIDE SETBACK @ 7th
10'-0" SIDE SETBACK BELOW
20'-0" REAR SETBACK
30'-0" FRONT SETBACK ABOVE 30' h.
20'-0" FRONT SETBACK BELOW 30' h.
36'-2" FLEX SETBACK

225'-0"

UNIT 709
3 BED+DEN
2,076 SF

UNIT 407, 507, 607 & 707
3 BED+DEN
1,823 SF

UNIT 403, 503, 603 & 703
3 BED+DEN
1,823 SF

UNIT 701
3 BED+DEN
2,076 SF

UNIT 710
3 BED
1,834 SF

UNIT 708
3 BED + DEN
1,616 SF

UNIT 704
3 BED + DEN
1,616 SF

UNIT 702
3 BED
1,834 SF

CORRIDOR 7-001
+65'-4" N.G.V.D.
STAIR 03 7-007
STAIR 01 7-005
ELECT ROOM 4-008
TRASH CHUTE 7-008
PE-4 7-004
PE-3 7-003
PE-2 7-002
PE-1 7-001
STORAGE

MAIN SCOPE OF WORK

REDUCTION OF RESIDENTIAL DENSITY FROM CURRENTLY APPROVED 72 DWELLING UNITS TO **57 UNITS**

SUMMARY OF PROPOSED ARCHITECTURAL MODIFICATIONS

1. UNDERGROUND PARKING - REMOVED
2. LARGER EQUIPMENT ROOMS ENCLOSURE
3. ACCESSIBLE WALKWAY - CODE REQUIRED TO CONNECT LOBBY WITH RIGHT OF WAY (SLOPE 5%) EGRESS WALKWAY REQUESTED BY FIRE DEPARTMENT
4. LOCATION OF FPL TRANSFORMER AND SWITCH PADS
5. NEW LOUVER REQUIRED FOR AIR-INTAKE TO EMERGENCY GENERATOR, PAINTED IN SAME COLOR OF ADJACENT WALLS.
6. VERTICAL COMPOSED WOOD SLAT PANELING LIGHT COLOR 50% OPENING.
7. LOUVERS FOR PARKING VENTILATION/IN-TAKE
8. NEW BREEZEWAY TERRACE
9. NEW LANDSCAPE DESIGN
10. NEW STEPPING BREEZEWAY FRAME
11. REVISED DROP OFF AND EXTERIOR PARKING REDESIGNED LANSDCAPE
12. VERTICAL STUCCO/PAINTED BUILDING FRAMES
13. REVISED RAILING DESIGN, 2 TYPES: ONE WITH ALUMINUM AT THE BOTTOM AND GLASS ON TOP, AND OTHER WITH FULL GLASS.
14. FLOOD VENT LOCATION. G.C TO PROVIDE SHOP DRAWINGS AND CALCULATIONS FOR A/E REVIEW.
15. NEW COMMUNAL ROOM.
16. RELOCATED LOBBY
17. NEW PASSENGER ELEVATOR
18. RELOCATED STAIRS
19. REVISED BALCONIES RESPONDING TO NEW UNITS SIZES.

1 SEVENTH LEVEL

SCALE: 3/32" = 1'-0"

0 8' 16' 24'

SEVENTH LVL. +54'-4" BFE / +64'-4" N.G.V.D.
EIGHT UNITS PER LEVEL

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Consultant

Luis O. Revuelta
AR-0007972

SITE PLAN REVISION

Date
04.21.22

Scale
AS SHOWN

Project No.
2202

Sheet Name
SEVENTH LEVEL_ NEW PROPOSAL

Sheet No.
A-107.2

NOT FOR CONSTRUCTION

PREVIOUSLY APPROVED

N

SIDE SETBACK @ 30'-0" ABOVE BFE

SIDE SETBACK @ 72'-0" ABOVE BFE

20'-0" REAR SETBACK

30'-0" FRONT SETBACK ABOVE 30' h.

36'-2" FLEX SETBACK

UNIT TYPE B-1 2 BEDROOM 1,192 SF

UNIT TYPE B-2 2 BEDROOM 1,242 SF

UNIT TYPE B-2 R 2 BEDROOM 1,242 SF

UNIT TYPE B-1 R 2 BEDROOM 1,192 SF

UNIT TYPE A-1 3 BEDROOM 1,429 SF

UNIT TYPE A-1 R 3 BEDROOM 1,429 SF

UNIT TYPE B-4 2 BEDROOM 1,319 SF

UNIT TYPE B-4 R 2 BEDROOM 1,319 SF

UNIT TYPE C-1 1 BEDROOM 1,041 SF

UNIT TYPE B-3 2 BEDROOM 1,158 SF

UNIT TYPE B-3 R 2 BEDROOM 1,158 SF

STO. 25 SF

STAIR 1

STAIR 2

SERVICE ELEVATOR

PASSENGER ELEVATOR

+64'-0" BFE / +74'-0" NGVD

1 EIGHTH LEVEL

SCALE: 3/32" = 1'-0"

EIGHTH LV +64'-0" BFE / +74'-0" N.G.V.D.
ELEVEN UNITS PER LEVEL

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04.21.22

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Project No.
2202

Sheet Name
EIGHTH LEVEL

Sheet No.
A-108.1

NOT FOR CONSTRUCTION

NEW PROPOSAL

N

10'-0" SIDE SETBACK BELOW 30' h.
25'-0" SIDE SETBACK @ 8TH LEVEL
20'-0" REAR SETBACK
30'-0" FRONT SETBACK ABOVE 30' h.
36'-2" FLEX SETBACK
225'-0"
206'-11 9/16"
205'-0"
112'-1 1/4"
71'-0 3/4"
+75'-0" N.G.V.D.

UNIT 809
3 BED + DEN
2,076 SF

UNIT 807
3 BED + DEN
1,823 SF

UNIT 803
3 BED + DEN
1,823 SF

UNIT 801
3 BED + DEN
2,076 SF

UNIT 810
3 BED
1,834 SF

UNIT 808
2 BED + DEN
1,616 SF

UNIT 804
2 BED + DEN
1,616 SF

UNIT 802
3 BED
1,834 SF

CORRIDOR 4-001
STORAGE 8-010
STORAGE 8-002
STAIR 03 8-007
STAIR 01 8-005
ELECT ROOM 4-008
TRASH CHUTE 4-009
PIT-1 8-003
PIT-2 8-004
PIT-3 8-005
PIT-4 8-006
PIT-5 8-001

17 18 19

MAIN SCOPE OF WORK

REDUCTION OF RESIDENTIAL DENSITY FROM CURRENTLY APPROVED 72 DWELLING UNITS TO **57 UNITS**

SUMMARY OF PROPOSED ARCHITECTURAL MODIFICATIONS

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18. RELOCATED STAIRS
19. REVISED BALCONIES RESPONDING TO NEW UNITS SIZES.

1 EIGHTH LEVEL

SCALE: 3/32" = 1'-0"

0 8' 16' 24'

EIGHTH LVL. +64'-0" BFE / +74'-0" N.G.V.D.
EIGHT UNITS PER LEVEL

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Consultant

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SITE PLAN REVISION

Date
04.21.22

Scale
AS SHOWN

Project No.
2202

Sheet Name
EIGHTH LEVEL_ NEW PROPOSAL

Sheet No.
A-108.2

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PREVIOUSLY APPROVED

N

E-W

N-S

SIDE SETBACK @ 30'-0" ABOVE BFE

SIDE SETBACK @ 75'-0" ABOVE BFE

SIDE SETBACK @ 75'-0" ABOVE

SIDE SETBACK @ 30'-0" ABOVE

0'-0" REAR SETBACK

20'-0" REAR SETBACK

0'-0" FRONT SETBACK ABOVE 30' h.

30'-0" FRONT SETBACK ABOVE 30' h.

36'-2" FLEX SETBACK

PRIVATE TERRACE

POOL EQUIPMENT
94 SF

POOL UNDER SEPARATE PERMIT

WET BAR

POOL STORAGE
94 SF

STAIR 2

ELEVATOR LOBBY

SERVICE ELEVATOR

RESTROOMS
76 SF

PASSENGER ELEVATOR

+79'-4" BFE / +89'-4" NGVD

+75'-0" BFE / +85'-0" NGVD

MECHANICAL AREA

3'-6" SCREENING PARAPET

205'-0"

175'-0"

75'-0"

1 ROOF LEVEL
SCALE: 3/32" = 1'-0"

ROOF LV+75'-0" BFE / +85'-0" N.G.V.D.

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Project

LA BAIA NORTH

9461 EAST BAY HARBOR DR.
BAY HARBOR ISLANDS, FLORIDA 33154

Revisions

Owner Information

CONTINUUM LLC
9201 East Bay Harbour Dr
Bay Harbour Islands, Fl 33154
305.861.8181

Consultant

Luis O. Revuelta
AR-0007972

SITE PLAN REVISION

Date
04.21.22

Scale
AS SHOWN

Project No.
2202

Sheet Name
ROOF LEVEL

Sheet No.
A-109.1

NOT FOR CONSTRUCTION

NEW PROPOSAL

N

10'-0" SIDE SETBACK BELOW 30' h.
25'-0" SIDE SETBACK @ 8TH LEVEL
25'-0" SIDE SETBACK @ 8TH LEVEL
10'-0" SIDE SETBACK BELOW 30' h.
20'-0" REAR SETBACK
36'-2" FLEX SETBACK
36'-2" FLEX SETBACK
30'-0" FRONT SETBACK ABOVE 30' h.
30'-0" FRO

225'-0"
205'-0"
183'-2"
150'-0"

PLANTER
ARCHITECTURAL FEATURE ABOVE
WET BAR
COVERED TERRACE
D.A.S. ROOM 9-014
CONTROL ROOM ELEV 3 9-016
CONTROL ROOM ELEV 1 & 2 9-013
J/C 9-012
POOL (UNDER SEPARATE PERMIT)
SPA (UNDER SEPARATE PERMIT)
ELEVATOR LOBBY 9-001
ELEVATOR LOBBY 9-001
STAIR 02 9-007
STAIR 01 9-006
PE-4 (LOW) 9-004
PE-3 (LOW) 9-003
PE-2 (LOW) 9-002
PE-1 (LOW) 9-001
RESTROOM 9-010
RESTROOM 9-009
AQUATIC EQUIP. 2 9-015
AQUATIC EQUIP. 1 9-011
MECHANICAL AREA
+86'-0" N.G.V.D. T.O.S.
+91'-0" N.G.V.D.
+86'-8" N.G.V.D.
+75'-0" BFE / +85'-0" N.G.V.D.
UP

MAIN SCOPE OF WORK

REDUCTION OF RESIDENTIAL DENSITY FROM CURRENTLY APPROVED 72 DWELLING UNITS TO **57 UNITS**

SUMMARY OF PROPOSED ARCHITECTURAL MODIFICATIONS

1. UNDERGROUND PARKING - REMOVED
2. LARGER EQUIPMENT ROOMS ENCLOSURE
3. ACCESSIBLE WALKWAY - CODE REQUIRED TO CONNECT LOBBY WITH RIGHT OF WAY (SLOPE 5%) EGRESS WALKWAY REQUESTED BY FIRE DEPARTMENT
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16. RELOCATED LOBBY
17. NEW PASSENGER ELEVATOR
18. RELOCATED STAIRS
19. REVISED BALCONIES RESPONDING TO NEW UNITS SIZES.

1 ROOF LEVEL

SCALE: 3/32" = 1'-0"

0 8' 16' 24'

ROOF LVL. +75'-0" BFE / +85'-0" N.G.V.D.

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Scale
AS SHOWN

Project No.
2202

Sheet Name
ROOF LEVEL_ NEW PROPOSAL

Sheet No.
A-109.2

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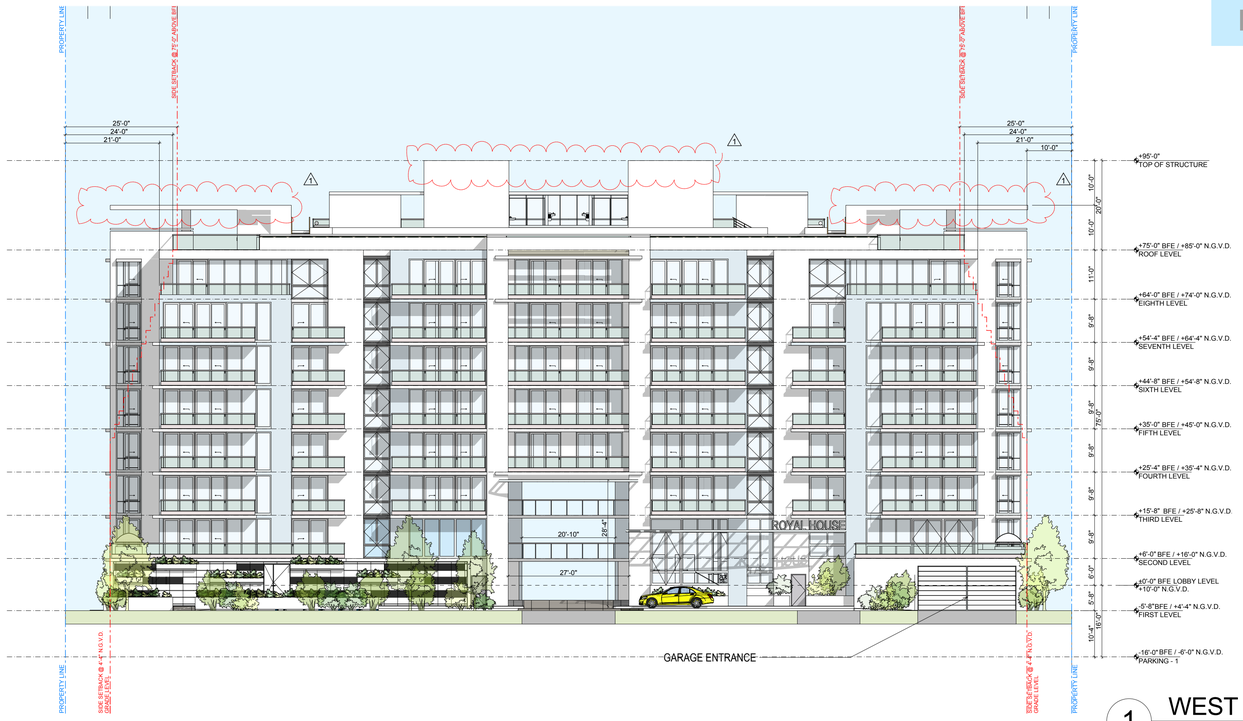
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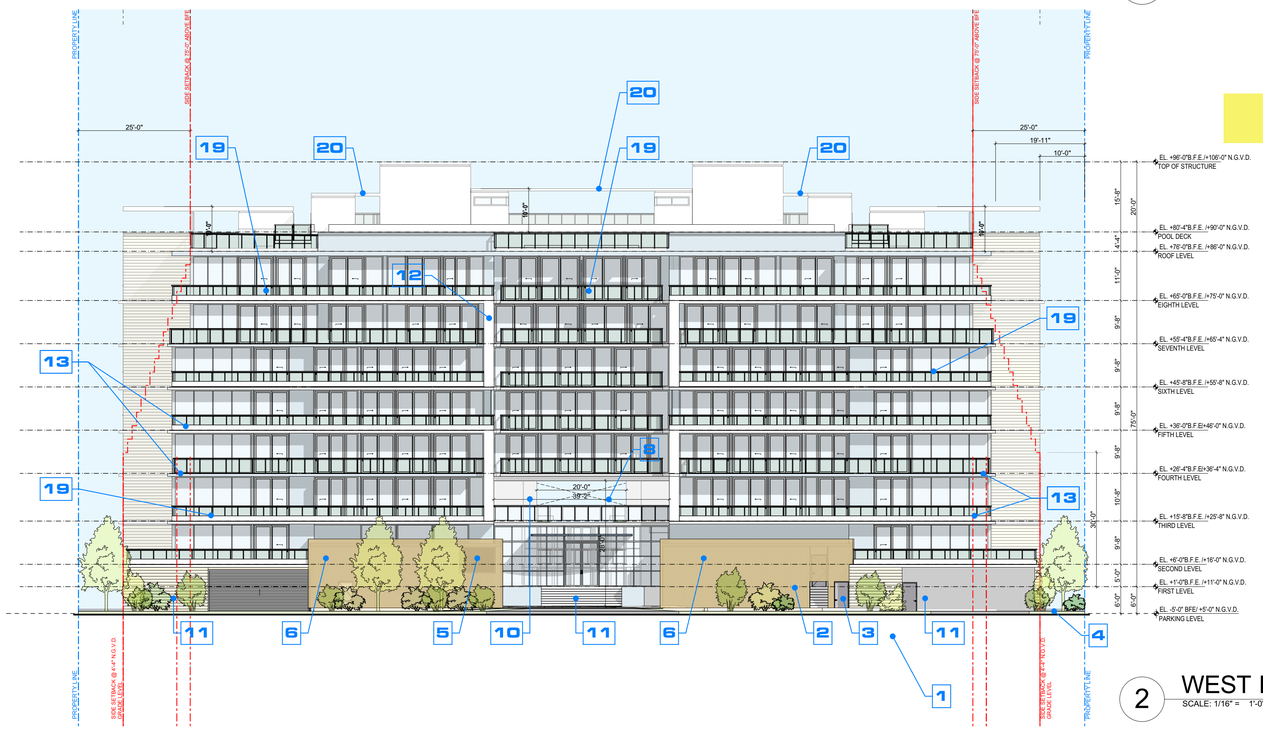
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1 WEST ELEVATION

SCALE: 1/16" = 1'-0"

NEW PROPOSAL



2 WEST ELEVATION

SCALE: 1/16" = 1'-0"

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Scale
AS SHOWN

Project No.
2202

Sheet Name
WEST ELEVATION

Sheet No.
A-401

NOT FOR CONSTRUCTION

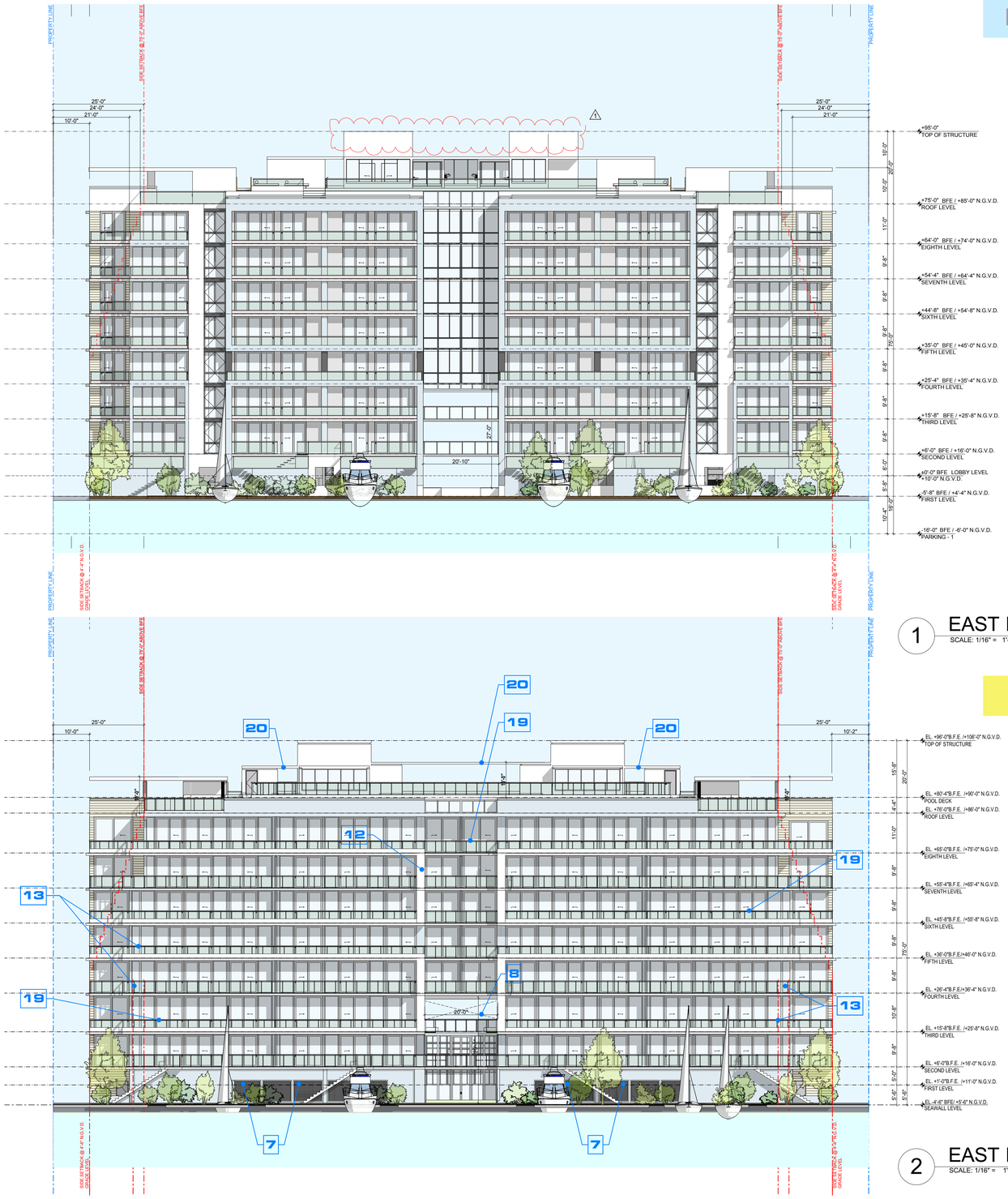
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1 EAST ELEVATION
SCALE: 1/16" = 1'-0"

NEW PROPOSAL

2 EAST ELEVATION
SCALE: 1/16" = 1'-0"

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SITE PLAN REVISION

Date
04.21.22

Scale
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Project No.
2202

Sheet Name
EAST ELEVATION

Sheet No.
A-402

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MAIN SCOPE OF WORK

REDUCTION OF RESIDENTIAL DENSITY FROM CURRENTLY APPROVED 72 DWELLING UNITS TO **57 UNITS**

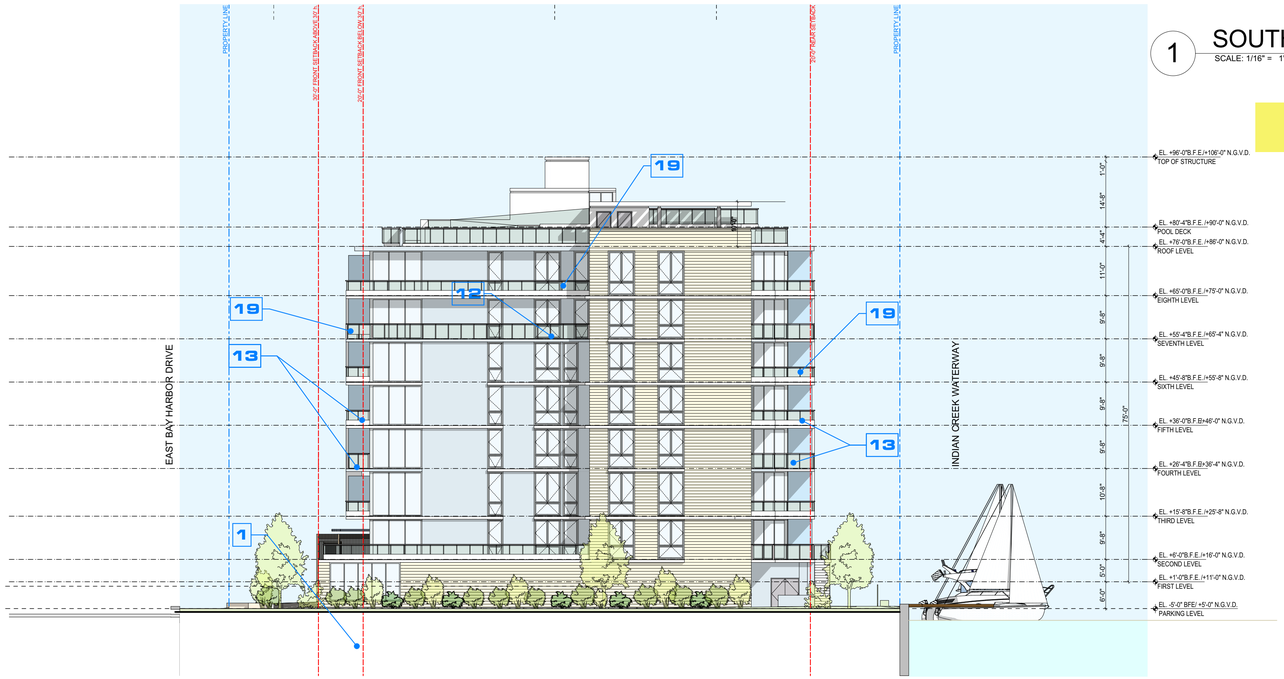
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1 SOUTH ELEVATION
SCALE: 1/16" = 1'-0"

NEW PROPOSAL



2 SOUTH ELEVATION
SCALE: 1/16" = 1'-0"

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Consultant

Luis O. Revuelta
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SITE PLAN REVISION

Date
04.21.22

Scale
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Project No.
2202

Sheet Name
SOUTH ELEVATION

Sheet No.
A-403

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SUMMARY OF PROPOSED ARCHITECTURAL MODIFICATIONS

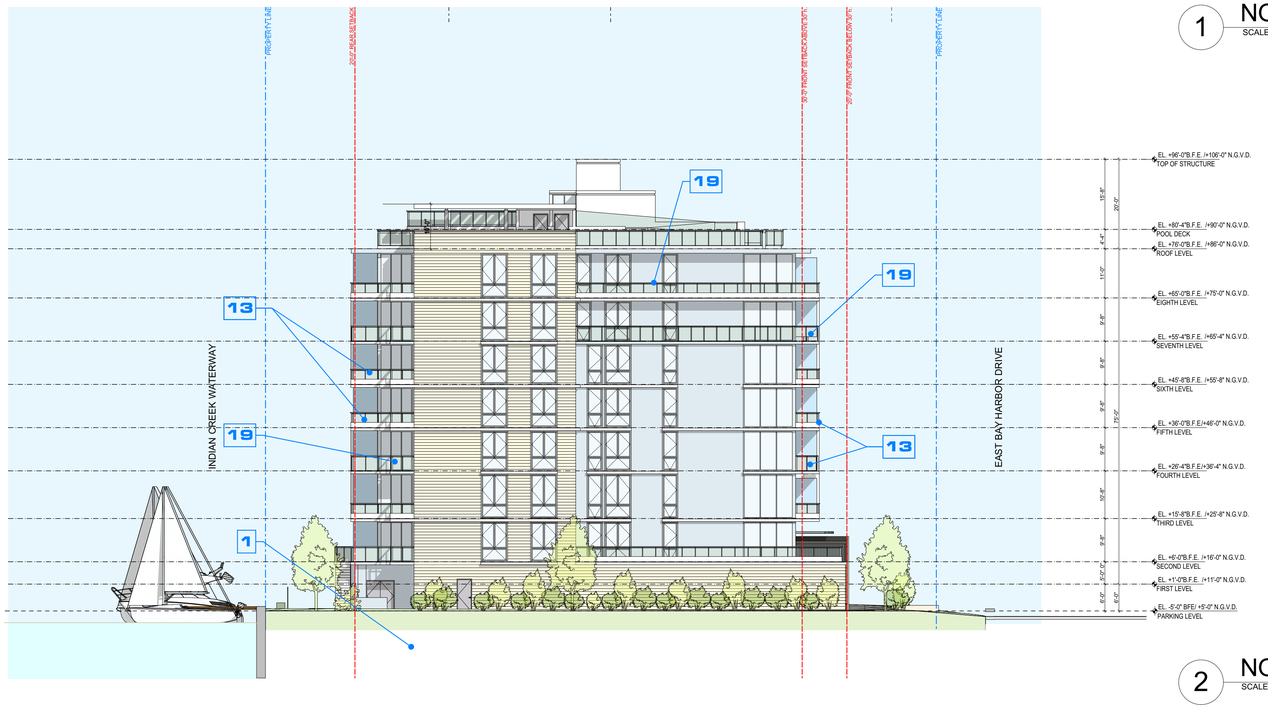
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PREVIOUSLY APPROVED



1 NORTH ELEVATION
SCALE: 1/16" = 1'-0"

NEW PROPOSAL



2 NORTH ELEVATION
SCALE: 1/16" = 1'-0"

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SITE PLAN REVISION

Date
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Scale
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2202

Sheet Name
NORTH ELEVATION

Sheet No.
A-404

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1 3D VIEW - STREET FRONT

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Sheet Name
3D VIEW - STREET FRONT

Sheet No.
A-405

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1 3D VIEW - WATER FRONT

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3D VIEW - WATER FRONT

Sheet No.
A-406

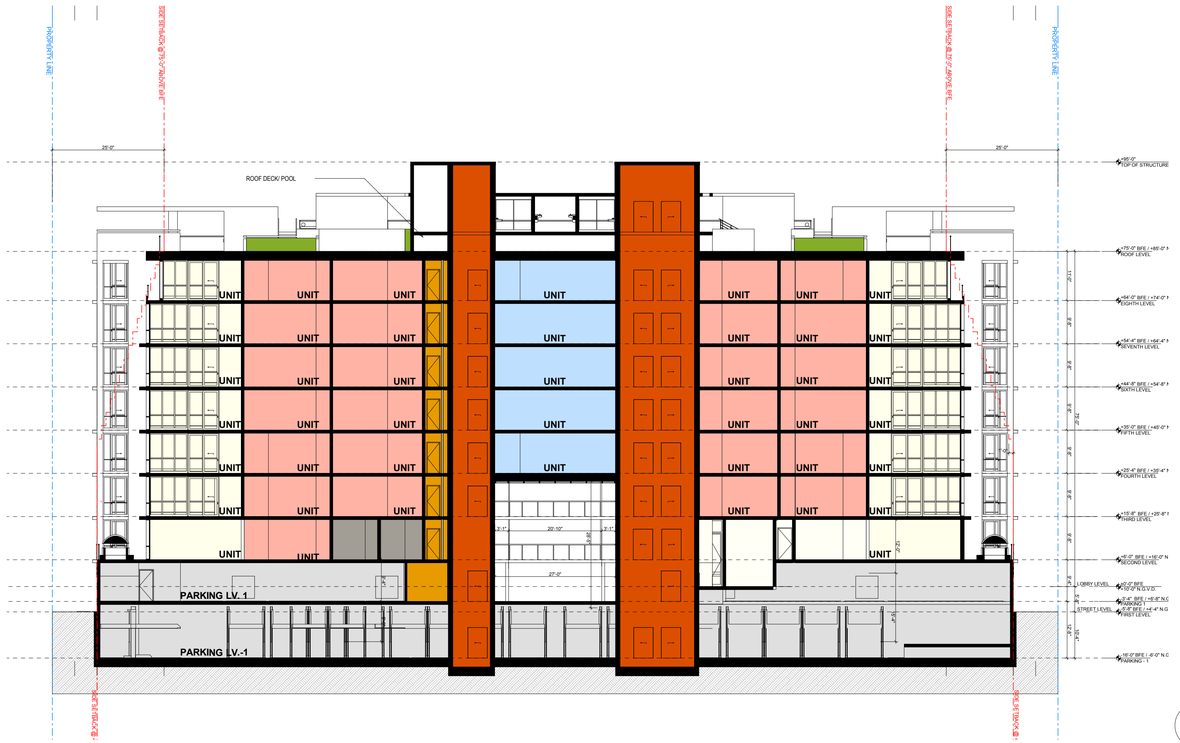
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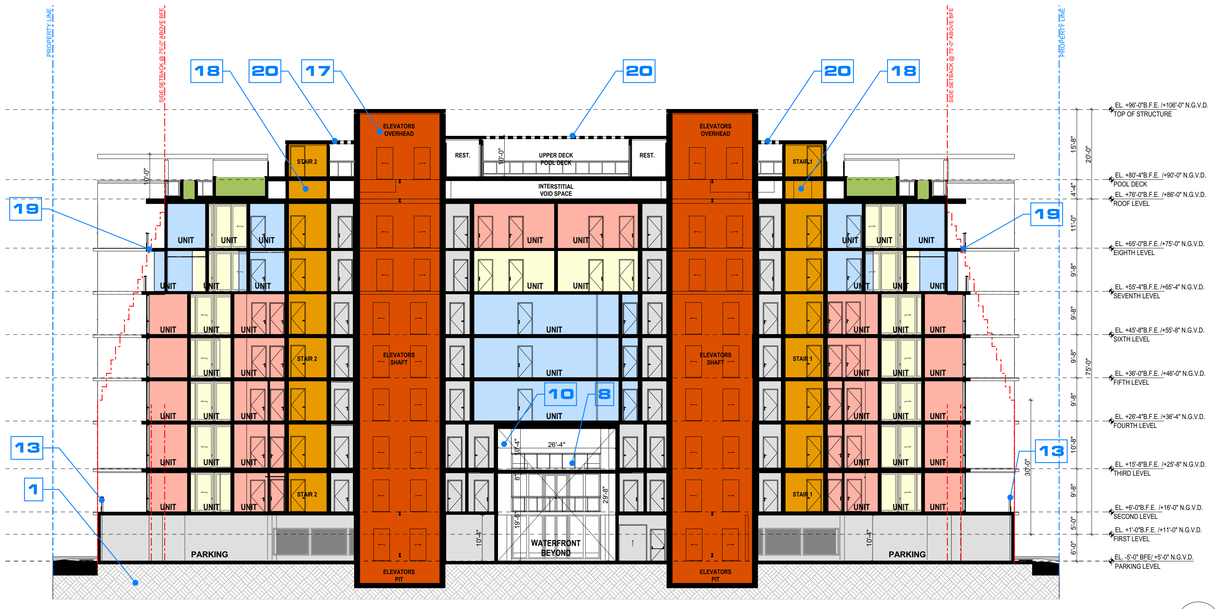
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1 N-S SECTION
SCALE: 1/16" = 1'-0"

NEW PROPOSAL



2 N-S SECTION
SCALE: 1/16" = 1'-0"

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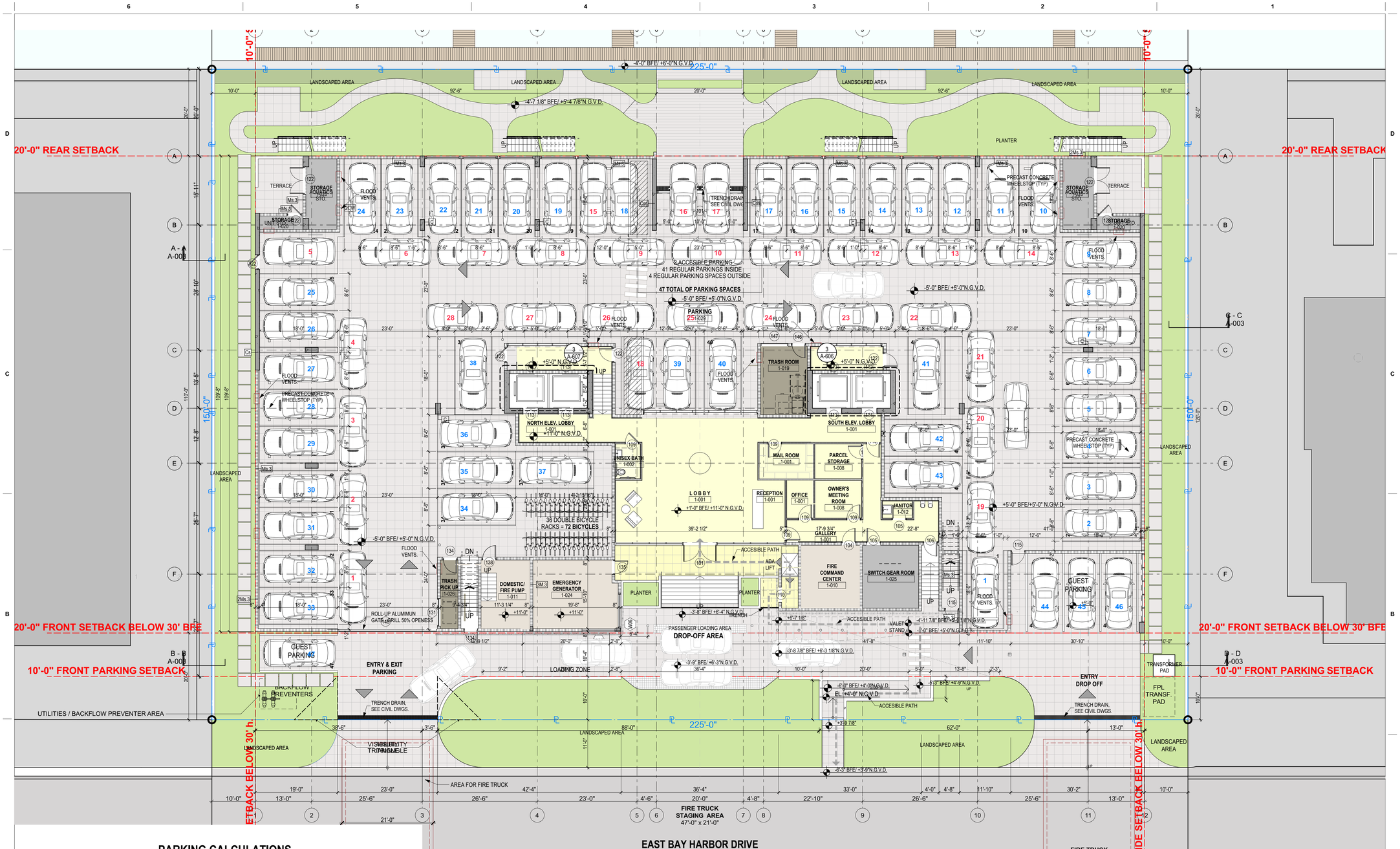
Sheet Name
N-S SECTION

Sheet No.
A-501

LA BAIA NORTH

APPENDIX A - VALET PARKING LAYOUT

9461 EAST BAY HARBOR DR.



PARKING CALCULATIONS
57 UNITS x 2 = **114 UN**

REGULAR PARKING PROVIDED = 47 UN
VALET PARKING CALCULATED = 28 UN

BALANCE PARKING TRUST = 39 UN

PARKING BREAKDOWN:
PARKING INTERIOR PROVIDED = 43 UN
PARKING EXTERIOR PROVIDED = 4 UN
SUB-TOTAL PARKING PROVIDED = 47 UN
VALET PARKING CALCULATED = 28 UN

TOTAL PARKING PROVIDED = 75 UN

LEGEND:
REGULAR PARKING PROVIDED - **BLUE**
VALET PARKING PROPOSED - **RED**

VALET PARKING LAYOUT

1 LOBBY LEVEL - FLOOR PLAN
SCALE: 3/32" = 1'-0"

N

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The Contractor Must Check And Verify all Dimensions Of The Job And Be Responsible For Same, Reporting Any Discrepancies to The Architects Before Commencing work. Drawings Not to be Scaled.
File: BIMcloud: RAI-SERVER1 - BIMcloud Basic for Archicad 25/2202_LA BAIA_NORTH/2202_LA BAIA - NORTH - By:ychung - Date: 5/13/2022

NOT FOR CONSTRUCTION

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Project

LA BAIA NORTH

9461 EAST BAY HARBOR DR.
BAY HARBOR ISLANDS, FLORIDA 33154

Revisions

Owner Information
CONTINUUM LLC
9201 East Bay Harbour Dr
Bay Harbour Islands, Fl 33154
305.861.8181

Consultant

Luis O. Revuelta
AR-0007972

SITE PLAN REVISION

Date
04.21.22

Scale
AS SHOWN

Project No.
2202

Sheet Name
LOBBY LEVEL - FLOOR PLAN

Sheet No.
A-601

LEGAL DESCRIPTION:

FOLIO NUMBER 13-2227-001-0050

Lot 6, Block 1, BAY HARBOR ISLAND, a subdivision according to the map or Plat thereof recorded in Plat Book 46, Page 5, of the Public Records of Miami-Dade County, Florida.

FOLIO NUMBER 13-2227-001-0060

Lot 7, Block 1, BAY HARBOR ISLAND, a subdivision according to the map or Plat thereof, as recorded in Plat Book 46, Page 5, of the Public Records of Miami-Dade County, Florida.

FOLIO NUMBER 13-2227-001-0070

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NOTES:

1. EXISTING GUTTER TO BE REPLACED WHERE CRACKED OR DAMAGED.
2. MAXIMUM CROSS SLOPE ON WALKWAYS TO BE 2%.
3. MAXIMUM LENGTH WISE SLOPE ON WALKWAYS TO BE 5%.
4. CONNECT ALL ROOF DRAINS TO DRAINAGE WELL.
5. CONTRACTOR TO COORDINATE CONSTRUCTION OF DRAINAGE SYSTEM WITH WATER, FIRE AND IRRIGATION PIPES.
6. ALL EXISTING AND PROPOSED ELEVATIONS ARE REFERENCED TO NGVD 1929.
8. ALL DRAINAGE PIPE TO HAVE MINIMUM 1% (⅛ INCH/FT) SLOPE.
9. REFER TO PLUMBING PLANS FOR INFORMATION ON ROOF DRAINS AND CONDENSATE LINES.

GENERAL NOTES:

1. ALL EXISTING VALLEY GUTTER SHALL BE REPLACED WITH F-CURB EXCEPT WHERE VEHICULAR & PEDESTRIAN ACCESS IS ALLOWED. EXISTING VALLEY GUTTER SHALL BE COMPLETELY DEMOLISHED & REPLACED; MODIFICATION OF THE EXISTING VALLEY GUTTER IS NOT ALLOWED.
2. ALL WORK WITHIN THE BUILDING MUST BE PERFORMED BY A LICENSED CONTRACTOR PER THE FLORIDA BUILDING CODE. ALL MATERIALS MUST MEET THE REQUIREMENTS OF THE FLORIDA BUILDING CODE.
3. REFER TO SHEET C-2 FOR LOCATION OF FIRE DEPARTMENT STAGING AREA.
4. DRAINAGE TO BE RETAINED ON-SITE AND NOT DISCHARGE ONTO ADJACENT PROPERTY.
5. ONLY ROOF DRAINS AND CONDENSATE LINES CAN GO TO THE WELL. ALL OTHER DRAINS TO EXFILTRATION TRENCH.
6. RESTORATION SHALL BE IN ACCORDANCE WITH FDOT STANDARDS. ALL DAMAGED VALLEY GUTTER AND F-CURB SHALL BE REMOVED WITHOUT DAMAGING ADJACENT ROADWAY. THE FINISH ON THE NEW VALLEY GUTTER AND F-CURB SECTIONS SHALL MATCH EXISTING.

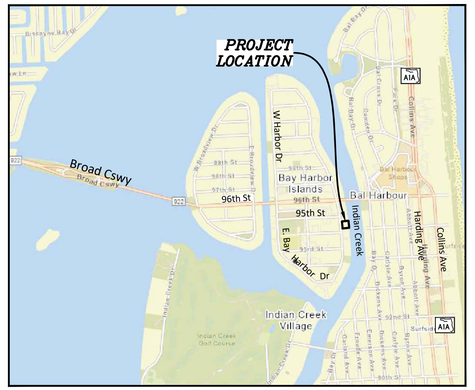
FLOOD INFORMATION:

Control panel number: 12086C0144L
Flood zone: "AE"
Base flood elevation: 8.00' NGVD

REFER TO LANDSCAPE PLANS FOR WALKWAY AND DRIVEWAY MATERIALS AND FINISHES

ALL STORMWATER IS TO BE RETAINED ONSITE

NEW PROPOSAL

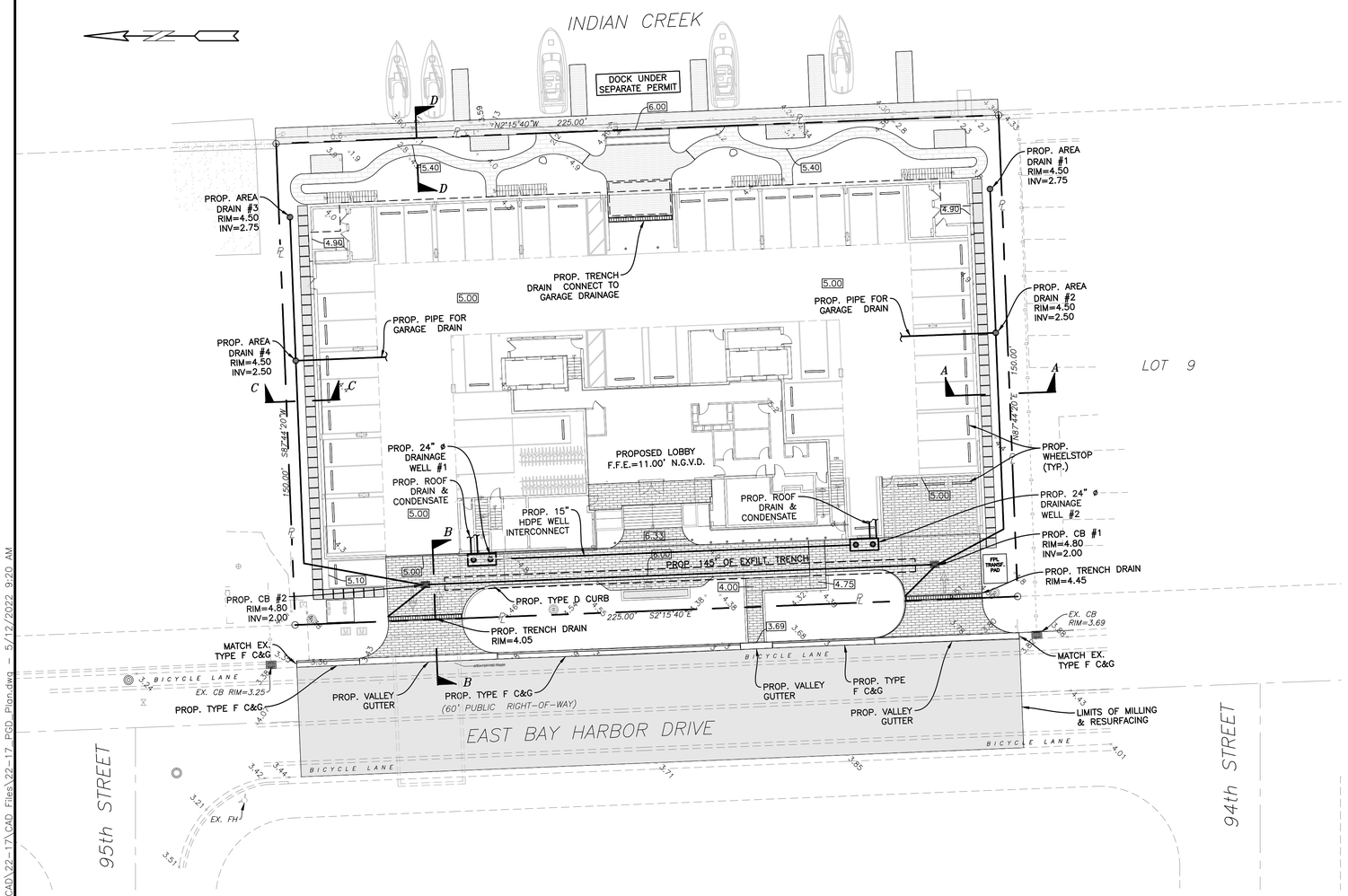


LOCATION MAP

N.T.S.

SEC 35, TWSP 52S, RNG 42E

NOTE:
ALL ELEVATIONS ARE REFERENCED TO N.G.V.D. 1929



LEGEND

- PROPOSED CONCRETE
- PAVEMENT RESTORATION
- PROPOSED PAVERS
- PROPOSED MILL & RESURFACE
- 5.50 PROPOSED ELEVATION
- PROPOSED SURFACE FLOW
- WM PROPOSED WATER METER
- PROPOSED CATCH BASIN
- PROPOSED SIGN (AS INDICATED)
- PROPOSED CLEANOUT
- PROPOSED RPZ BACKFLOW PREVENTER
- PROPOSED PIPING
- EXISTING CONCRETE
- EXISTING PIPING AND APPURTENANCES
- EXISTING CATCH BASIN
- X 3.53 EXISTING ELEVATION
- EXISTING POWER POLE
- MH EXISTING MANHOLE (AS DESIGNATED)
- WM EXISTING WATER METER
- —X— EXISTING FENCE

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Check positive response codes before you dig!

PAVING, GRADING & DRAINAGE PLAN

SCALE: 1"=20'

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Revisions

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305.861.8181

Consultant

Luis O. Revuelta
AR-0007972

NEW PROPOSAL

Date
04.21.22

Scale
1"=20'

Project No.
2202

Sheet Name
PAVING, GRADING & DRAINAGE PLAN

Sheet No.
C-1

22-17

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NEW PROPOSAL

LEGAL DESCRIPTION:

FOLIO NUMBER 13-2227-001-0050

Lot 6, Block 1, BAY HARBOR ISLAND, a subdivision according to the map or Plat thereof recorded in Plat Book 46, Page 5, of the Public Records of Miami-Dade County, Florida.

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GENERAL NOTES:

1. TEMPORARY ASPHALT PATCH SHALL BE MADE IF ANY WATER SERVICE IS ABANDONED AT THE CORPORATION STOP.
2. ALL EXCAVATION IN THE ROW SHALL BE RESTORED WITH FLOWABLE FILL AND COMPACTED LIMEROCK IN ACCORDANCE WITH FDOT REQUIREMENTS.
3. ALL WORK IN THE ROW SHALL BE THE SUBJECT OF A SEPARATE ENGINEERING PERMIT ISSUED BY THE BUILDING DEPARTMENT IN COLLABORATION WITH THE DEPARTMENT OF PUBLIC WORKS.
4. CONTRACTOR TO EXPOSE SEWER LATERALS INSIDE OF THE PROPERTY LINE FOR INSPECTION BY THE TOWN OF BAY HARBOR ISLANDS TOWN ENGINEER.
5. PIPES 2" OR LARGER SHALL REQUIRE BACTERIA TESTING. SAMPLES SHALL BE COLLECTED BY A CERTIFIED TESTING LAB. ALL SAMPLES SHALL MEET HEALTH DEPARTMENT STANDARDS.
6. ANY EXISTING WATER SERVICES TO BE ABANDONED SHALL BE CAPPED AT THE CORPORATION STOP BY THE DEVELOPER. ANY SEWER SERVICES NOT NEEDED FOR THIS PROJECT SHALL BE ABANDONED AT THE COLLECTION MAIN AT THE DEVELOPER'S EXPENSE.
7. FOR SEWER CONNECTION, CONTRACTOR TO CONNECT TO CITY'S V.C.P. CLAY PIPE SYSTEM. NO CAST IRON FITTINGS TO BE BETWEEN THE CLAY AND THE NEW CONNECTION AS TO NOT COMPROMISE THE NEW CONNECTION.
8. CONNECT NEW PVC SEWER LATERAL TO CITY'S CLAY SEWER LATERAL PRIOR TO CLEANOUT.
9. INSTALL PLUG (OR CAP) ON THE PROPERTY SIDE OF THE PVC CLEANOUT. SEWER CAP & SEWER CLEANOUT SHALL BE INSTALLED PRIOR TO CONSTRUCTION START UP. PROVIDE 6" SEWER LATERAL CONNECTION.

NOTES:

1. REFER TO PLUMBING PLANS FOR COORDINATION WITH BUILDING WATER AND SEWER SERVICES.
2. CONTRACTOR TO FIELD LOCATE EXISTING SEWER LATERAL AND CONFIRM DEPTH OF PIPE.
3. CONTRACTOR TO FIELD LOCATE ALL EXISTING UNDERGROUND UTILITIES AND CONFIRM DEPTH PRIOR TO CONSTRUCTION.
4. INSTALLATION OF ALL UTILITIES TO BE COORDINATED TO PREVENT PIPE CONFLICTS
5. ALL BACKFLOW PREVENTERS TO BE INSTALLED IN ACCORDANCE WITH COUNTY REGULATIONS.
6. SEWER LATERAL TO BE CAPPED, IS TO BE INSPECTED BY CITY INSPECTOR

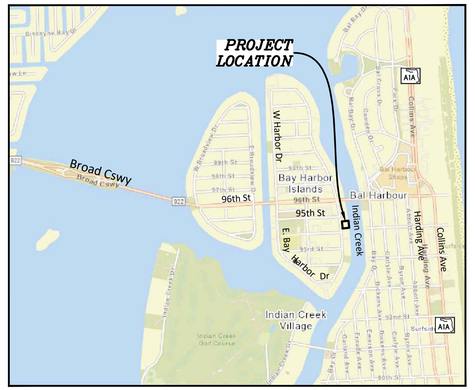
SEWAGE VOLUME

57 UNITS AT 300 GPD PER UNIT= 17,100 GPD

FLOOD INFORMATION:

Control panel number: 12086C0144L
Flood zone: "AE"
Base flood elevation: 8.00' NGVD

WATER AND SEWER TO MEET THE STANDARDS AND REQUIREMENTS OF MDWASD.

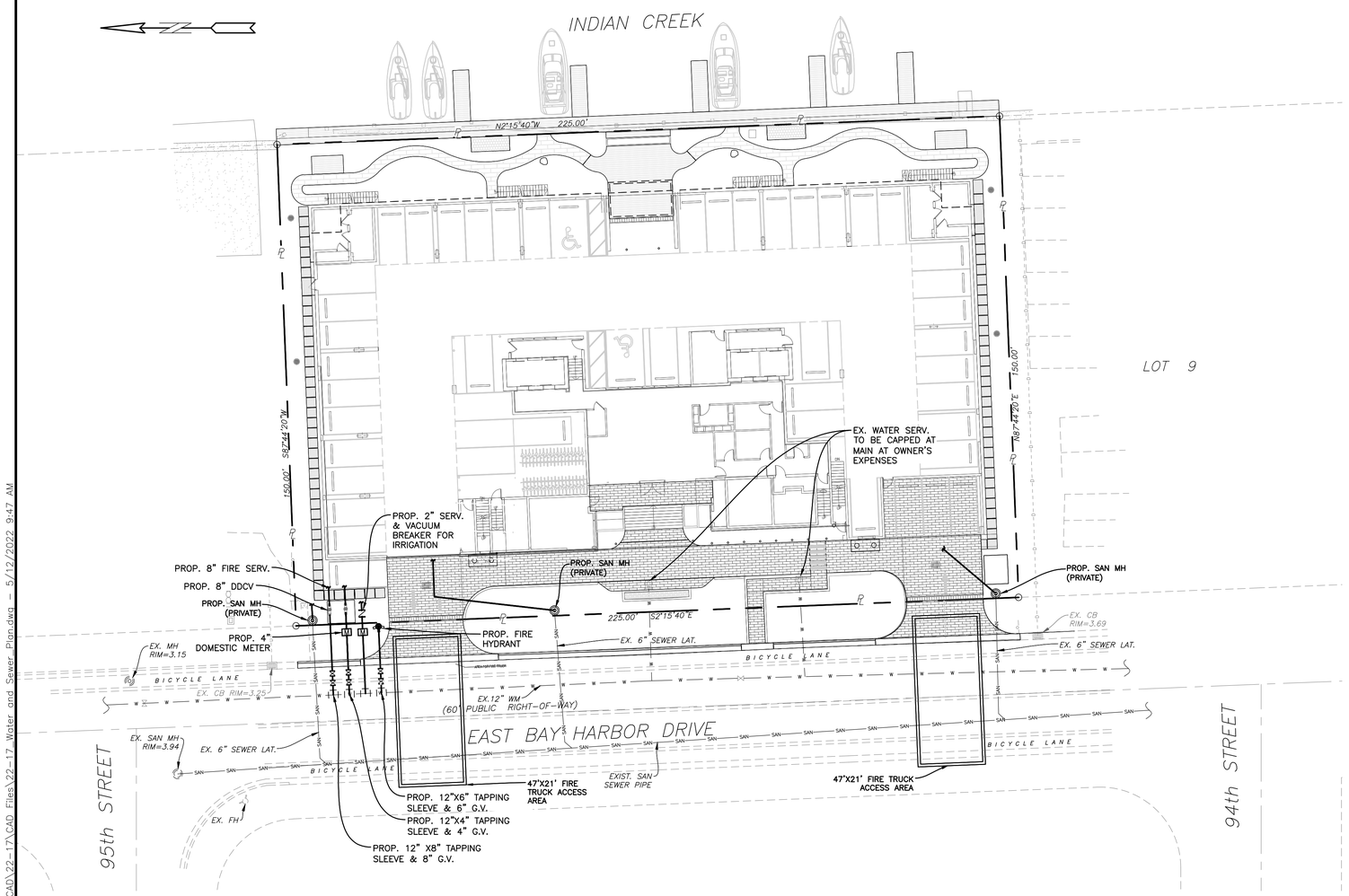


LOCATION MAP

N.T.S.

SEC 35, TWSP 52S, RNG 42E

NOTE:
ALL ELEVATIONS ARE REFERENCED TO N.G.V.D. 1929



WATER MAIN NOTES

1. ALL WATER MAINS SHALL BE DESIGNED FOR A MINIMUM WORKING PRESSURE OF 150 PSI. 2. ALL PIPE TO BE USED ON THIS PROJECT SHALL BE C-900 PVC FOR THE WATER SERVICE AND FIRE SERVICE CONNECTIONS.
3. MINIMUM DEPTH OVER PVC WATER MAINS SHALL BE 36". MINIMUM DEPTH OVER DIP WATER MAINS SHALL BE 30".
4. THE COMPLETE WATER SYSTEM SHALL BE PRESSURE TESTED AND DISINFECTED. THE PRESSURE TEST SHALL BE FOR TWO HOURS AT 150 PSI MINIMUM TEST PRESSURE IN ACCORDANCE WITH ANSI/AWWA C600-05 OR LATEST REVISION. THE PRESSURE TEST SHALL NOT VARY MORE THAN 5 PSI DURING THE TEST. LEAKAGE ALLOWANCES WILL NOT BE MADE FOR FITTINGS OR VALVES.
5. ALLOWABLE LEAKAGE SHALL NOT EXCEED THE FORMULA OF:

$$L \text{ (GALLONS PER HOUR)} = \frac{S\ D\ (P)^{0.5}}{148{,}000}$$

L = ALLOWABLE LEAKAGE IN GALS/HR (NO ALLOWABLE LEAKAGE FOR VALVES)
S = LENGTH OF PIPE TESTED IN FEET
D = NOMINAL DIAMETER OF PIPE
P = AVERAGE TEST PRESSURE DURING TEST IN LBS/SQ. IN.

6. THE PRESSURE TEST SHALL BE WITNESSED BY A REPRESENTATIVE OF THE CITY & THE ENGINEER OF RECORD.
7. THE WATER SYSTEM SHALL BE CLEANED AND TESTED. ALL HYDROSTATIC TESTING AND DISINFECTION SHALL BE MADE IN ACCORDANCE WITH ANSI/AWWA C651-05, OR LATEST REVISIONS.
8. ALL PIPE & PIPE FITTINGS INSTALLED UNDER THIS PROJECT WILL BE COLOR CODED OR MARKED IN ACCORDANCE WITH SUBPARAGRAPH 62-555.320(21)(b)3, F.A.C., USING BLUE AS A PREDOMINANT COLOR. (UNDERGROUND PLASTIC PIPE WILL BE SOLID-WALL BLUE PIPE, WILL HAVE A CO-EXTRUDED BULE EXTERNAL SKIN, OR WILL BE WHITE OR BLACK PIPE WITH BLUE STRIPES INCORPORATED INTO, OR APPLIED INTO, THE PIPE WALL; AND UNDERGROUND METAL OR CONCRETE PIPE WILL HAVE BLUE STRIPES APPLIED TO THE PIPE WALL. PIPE STRIPED DURING MANUFACTURING OF THE PIPE WILL HAVE CONTINUOUS STRIPES THAT RUN PARALLEL TO THE AXIS OF THE PIPE, THAT ARE LOCATED AT NO GREATER THAN 90' INTERVALS AROUND THE PIPE, AND THAT WILL REMAIN INTACT DURING AND AFTER INSTALLATION OF THE PIPE. IF TAPE OR PAINT IS USED TO STRIPE PIPE DURING INSTALLATION OF THE PIPE, THE TAPE OR PAINT WILL BE APPLIED IN A CONTINUOUS LINE THAT RUNS PARALLEL TO THE AXIS OF THE PIPE AND THAT IS LOCATED ALONG THE TOP OF THE PIPE; FOR PIPE WITH AN INTERNAL DIAMETER OF 24 INCHES OR GREATER, TAPE OR PAINT WILL BE APPLIED IN CONTINUOUS LINES ALONG EACH SIDE OF THE PIPE AS WELL AS ALONG THE TOP OF THE PIPE. ABOVEGROUND PIPE WILL BE PAINTED BLUE OR WILL BE COLOR CODED OR MARKED LIKE UNDERGROUND PIPE).
9. ALL PVC WATER PIPE ASSOCIATED WITH THIS PROJECT SHALL HAVE MAGNETIZED TAPE ON THE PIPE TO FACILITATE LOCATION USING A METAL DETECTOR. THE MAGNETIC TAPE WILL BE USED ON THE PVC PIPE IN THE TRENCH SO IT CAN BE LOCATED USING A MAGNETIC METAL DETECTOR IN THE FUTURE.

LEGEND

- PROPOSED CONCRETE
- PAVEMENT RESTORATION
- PROPOSED PAVERS
- PROPOSED MILL & RESURFACE
- 5.50 PROPOSED ELEVATION
- PROPOSED SURFACE FLOW
- PROPOSED WATER METER
- PROPOSED CATCH BASIN
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- X EXISTING FENCE

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WATER & SEWER PLAN

SCALE: 1"=20'

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Project

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305.861.8181

Consultant

Luis O. Revuelta
AR-0007972

NEW PROPOSAL

Date
04.21.22

Scale
1"=20'

Project No.
2202

Sheet Name
WATER & SEWER PLAN

Sheet No.
C-2

22-17

J:\CAD\22-17\CAD Files\22-17 Water and Sewer Plan.dwg - 5/12/2022 9:47 AM

NEW PROPOSAL

LEGAL DESCRIPTION:

FOLIO NUMBER 13-2227-001-0050

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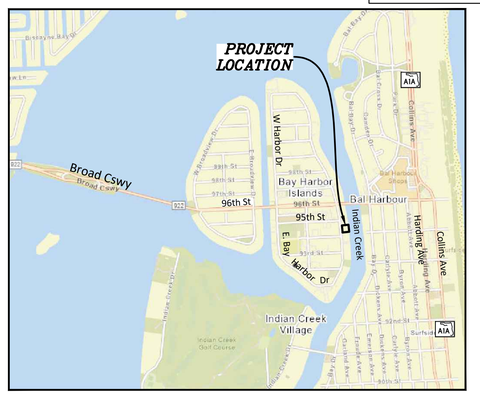
FOLIO NUMBER 13-2227-001-0070

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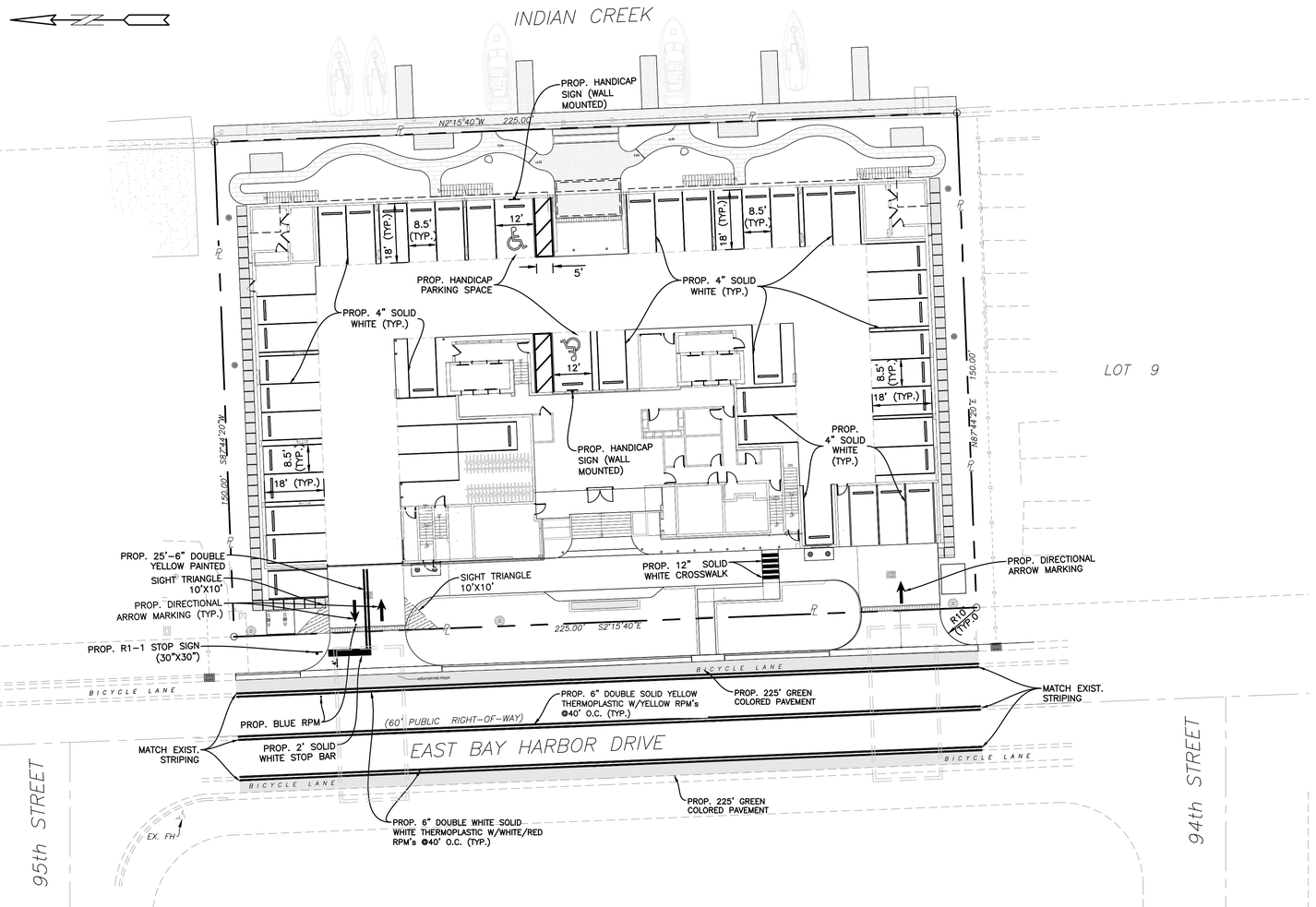
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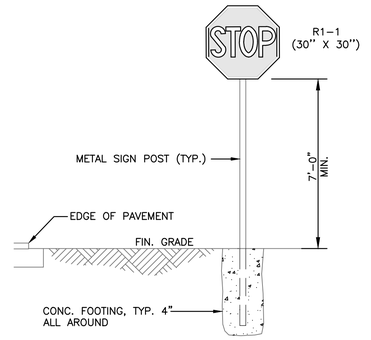
FLOOD INFORMATION:

Control panel number: 12086C0144L
Flood zone: "AE"
Base flood elevation: 8.00' NGVD



LOCATION MAP
SEC 35, TWSP 52S, RNG 42E
N.T.S.





STOP SIGN DETAIL
N.T.S.

LEGEND

- PROPOSED CONCRETE
- PAVEMENT RESTORATION
- PROPOSED PAVERS
- PROPOSED GREEN COLORED PAVEMENT
- 5.50 PROPOSED ELEVATION
- PROPOSED SURFACE FLOW
- W PROPOSED WATER METER
- PROPOSED CATCH BASIN
- PROPOSED SIGN (AS INDICATED)
- PROPOSED CLEANOUT
- PROPOSED RPZ BACKFLOW PREVENTER
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- EXISTING CONCRETE
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- EXISTING CATCH BASIN
- X 3.55 EXISTING ELEVATION
- EXISTING POWER POLE
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PAVEMENT MARKING & SIGNAGE PLAN

SCALE: 1"=20'

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1"=20'

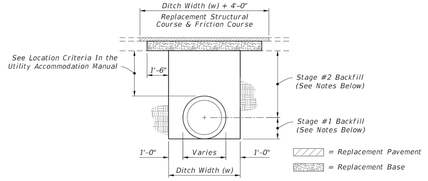
Project No.
2202

Sheet Name
PAVEMENT MARKING & SIGNAGE PLAN

Sheet No.
C-3

22-17

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NOTES:

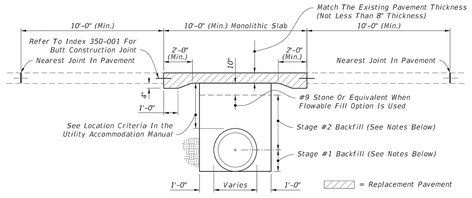
PAVEMENT REMOVAL AND REPLACEMENT

1. Pavement shall be mechanically sawed.
2. The replacement asphalt shall match the existing structural and friction courses for type and thickness in accordance with current FDOT asphalt mix specifications.
3. The new base materials shall be either of the same type and composition as the materials removed or of equal or greater structural adequacy.

BACKFILL OPTION

1. COMPACTED AND STABILIZED FILL
   - A. Place backfill material in accordance with Specification 125.
   - B. In Stage #1, construct compacted fill beneath the haunches of the pipe, using mechanical tamps suitable for this purpose. This compaction applies to the material placed beneath the haunches of the pipe and above any bedding.
   - C. In Stage #2, construct compacted fill along the sides of the pipe and up to the bottom of the base, with the upper 12" receiving Type B Stabilization. In lieu of Type B Stabilization, the Contractor may construct using Optional Base Group 3.
2. FLOWABLE FILL
   - A. If compaction can not be achieved through normal mechanical methods then flowable fill may be used.
   - B. Flowable fill is to be placed in accordance with Specification 121, as approved by the Engineer.
   - C. Do not allow the utility being installed to float. If a method is provided to prevent flotation from occurring, Stages #1 and #2 can be combined, if approved by the Engineer.
   - D. In Stage #1, place flowable fill midway up on both sides of the utility. Allow to harden before placing Stage #2.
   - E. In Stage #2, place flowable fill to the bottom of the existing base course.

FLEXIBLE PAVEMENT CUT



NOTES:

PAVEMENT REMOVAL AND REPLACEMENT

1. High early strength cement concrete (3000 psi) meeting the requirements of Specification 346 shall be used for rigid pavement replacement.
2. Pavement shall be mechanically sawed and restored to conform with existing pavement joints within 12 hours. (See Index 350-001)

BACKFILL OPTION

1. GRANULAR BACKFILL
   - A. Any edgedrain system that is removed shall be replaced with the same type materials. Any edgedrain system that is damaged shall be repaired with methods approved by the Engineer.
   - B. Fill material shall be placed in accordance with the Standard Specifications. Fill material shall be special select soil in accordance with Index 350-001.
   - C. In Stage #1, construct compacted fill beneath the haunches of the pipe, using mechanical tamps suitable for this purpose. This compaction applies to the material placed beneath the haunches of the pipe and above any bedding.
   - D. In Stage #2, construct fill along the sides of the pipe and up to the bottom of replacement pavement.
2. FLOWABLE FILL
   - A. If mechanical compaction can not be achieved through normal mechanical methods then flowable fill may be used.
   - B. Flowable fill is to be placed in accordance with Specification 121, as approved by the Engineer.
   - C. Do not allow the utility being installed to float. If a method is provided to prevent flotation from occurring, Stages #1 and #2 can be combined, if approved by the Engineer.
   - D. In Stage #1, place flowable fill midway up on both sides of the utility. Allow to harden before placing Stage #2.
   - E. In Stage #2, place flowable fill to the bottom of the stone layer.

RIGID PAVEMENT CUT

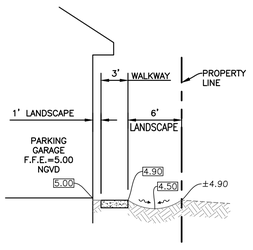
GENERAL NOTES

1. The details provided in this Index apply to cases in which jack and bore or directional boring methods are not required by the Engineer.
2. Flowable fill shall not be placed directly over loose, or high plastic, or muck material (see Index 120-001) which will cause settlement due to fill weight. Where highly compressible material exists, the amount, shape and depth of flowable fill must be engineered to prevent pavement settlement.
3. These details do not apply to utility cuts longitudinal to the centerline of the roadway which may require the additional use of geotextiles, special bedding and backfill, or other special requirements.
4. Method of construction must be approved by the Engineer.
5. Some pipe may require special granular backfill up to 6" above top of pipe. Geotextiles may be required to encapsulate the special granular material.
6. Where asphalt concrete overlays exist over full slab concrete pavement, the replacement pavement shall have an overlay constructed over the replacement slab. The overlay shall match the existing asphalt pavement thickness. The replacement friction course shall match the existing friction course, except structural course may be used in lieu of dense graded friction course.
7. All shoulder pavement, curb, curb and gutter, and their substructure disturbed by utility trench cut construction shall be restored in kind.
8. The use of flowable fill to reduce the time traffic is taken off a facility is acceptable but must have prior approval by the Engineer. Flowable fill use is allowed only when properly engineered for pavement crossings, whether straight or diagonal, and shall not be installed for significant depths or lengths. The maximum length shall be fifty (50) feet and a maximum depth of six (6) feet unless supported by an engineering document prepared by a registered professional engineer that specializes in soils engineering. The engineering document shall address the evaluation of local groundwater flow interruption and settlement potential.
9. Excavatable flowable fill is to be used when the flowable fill option is selected.

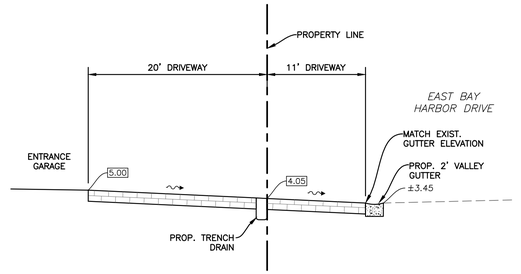
TRENCH CUTS AND RESTORATIONS ACROSS ROADWAYS

LAST REVISION	REVISION	DESCRIPTION:	FDOT	FY 2022-23 STANDARD PLANS	UTILITY ADJUSTMENTS THRU EXISTING PAVEMENT	INDEX	SHEET
11/01/17						125-001	1 of 2

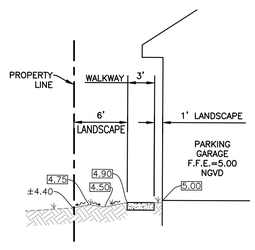
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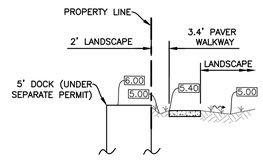
SECTION A–A
N.T.S.



SECTION B–B
N.T.S.



SECTION C–C
N.T.S.



SECTION D–D
N.T.S.

HOLLAND ENGINEERING
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301 S.W. 7th Street
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Phone: 954.367.0371
Certificate of Authorization 7325

SUSAN C. HOLLAND
STATE OF FLORIDA PROFESSIONAL ENGINEER
LICENSE No. 41831

SECTIONS & DETAILS

SCALE: N.T.S.

NEW PROPOSAL

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architecture international

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Santiago, Chile

revuelta-architecture.com

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305.590.5000

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BAY HARBOR ISLANDS, FLORIDA 33154

Revisions

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Bay Harbour Islands, Fl 33154
305.861.8181

Consultant

Luis O. Revuelta
AR-0007972

NEW PROPOSAL

Date
04.21.22

Scale
1"=20'

Project No.
2202

Sheet Name
SECTIONS & DETAILS

Sheet No.
C-4

22-17

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NEW PROPOSAL

GENERAL CONDITION NOTES :

1. THE LOCATION OF EXISTING UTILITIES AND TOPOGRAPHY HAS BEEN PREPARED FROM THE MOST RELIABLE INFORMATION AVAILABLE TO THE ENGINEER. THIS INFORMATION IS NOT GUARANTEED AND IT IS THE RESPONSIBILITY OF THE CONTRACTOR TO DETERMINE THE EXACT LOCATION OF ALL EXISTING UTILITIES AND TOPOGRAPHY PRIOR TO CONSTRUCTION.
2. PRIOR TO CONSTRUCTION THE CONTRACTOR IS TO NOTIFY THE FOLLOWING COMPANIES & AGENCIES AND ANY OTHERS SERVING THE AREA:

   FLORIDA POWER & LIGHT CO., CONSTRUCTION
   SOUTHERN BELL TELEPHONE & TEL. CO.
   CABLE CONSTRUCTION BUREAU
   LOCAL CITY / COUNTY ENGINEERING & UTILITY DEPARTMENTS
   FLORIDA DEPARTMENT OF TRANSPORTATION (FDOT), AS APPLICABLE
   UNDERGROUND UTILITIES NOIFICATION CENTER OF FLORIDA
   (S.U.N.S.H.I.N.E.)

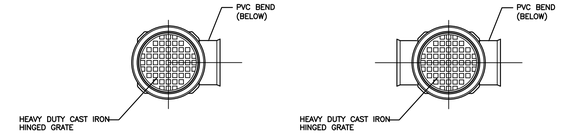
PAVING, GRADING & DRAINAGE NOTES:

1. ALL UNSUITABLE MATERIALS, SUCH AS MUCK, HARDPAN, ORGANIC MATERIAL & OTHER DELETERIOUS MATERIAL AS CLASSIFIED BY AASHTO M-145, FOUND WITHIN THE ROAD & PARKING LOT AREAS SHALL BE REMOVED DOWN TO ROCK OR SUITABLE MATERIAL, & REPLACED W/ THE SPECIFIED FILL MATERIAL IN MAXIMUM 12" LIFTS COMPACTED TO NOT LESS THAN 100% MAXIMUM DRY DENSITY AT OPTIMUM MOISTURE IN ACCORDANCE W/AASHTO T-99. THICKNESS OF LAYERS MAY BE INCREASED PROVIDED THE EQUIPMENT & METHODS USED ARE PROVEN BY FIELD DENSITY TESTING TO BE CAPABLE OF COMPACTING THICK LAYERS TO SPECIFIED DENSITIES.
2. ALL AREAS SHALL BE CLEARED & GRUBBED PRIOR TO CONSTRUCTION. THIS SHALL CONSIST OF THE COMPLETE REMOVAL & DISPOSAL OF ALL TREES, BRUSH, STUMPS, ROOTS, GRASS, WEEDS, RUBBISH & ALL OTHER OBSTRUCTION RESTING ON OR PROTRUDING THROUGH THE SURFACE OF THE EXIST. GROUND TO A DEPTH OF 12". ITEMS DESIGNATED TO REMAIN OR TO BE RELOCATED OR ADJUSTED SHALL BE SO DESIGNATED ON THE DWGS.
3. FILL MATERIAL SHALL BE CLASSIFIED AS A-1, A-3 OR A-2.4 IN ACCORDANCE W/ AASHTO M-145 & SHALL BE FREE FROM VEGETATION & ORGANIC MATERIAL. NOT MORE THAN 12% BY WEIGHT OF FILL MATERIAL SHALL PASS THE NO. 200 SIEVE.
4. THE CONTRACTOR SHALL BE RESPONSIBLE FOR PROVIDING CERTIFIED MATERIAL TEST RESULTS TO THE ENGINEER OF RECORD PRIOR TO THE RELEASE OF FINAL CERTIFICATION BY THE ENG. TEST RESULTS MUST INCLUDE BUT MAY NOT BE LIMITED TO, DENSITIES FOR SUBGRADE & LIME ROCK, UTILITIES, EXCAVATION, ASPHALT GRADIATION REPORTS, CONC. CYLINDERS, ETC.
5. ALL INLETS & PIPE SHALL BE PROTECTED DURING CONSTRUCTION TO PREVENT SILTATION IN THE DRAINAGE SYSTEMS BY WAY OF TEMPORARY PLUGS & PLYWOOD OR PLASTIC COVERS OVER THE INLETS. THE ENTIRE DRAINAGE SYSTEM TO BE CLEAN OF DEBRIS PRIOR TO FINAL ACCEPTANCE.
6. WHERE NEW ASPHALT MEETS OR ABUTS EXIST. ASPHALT, THE EXIST. ASPHALT SHALL BE SAWCUT TO PROVIDE A STRAIGHT EVEN LINE. PRIOR TO REMOVING CURB OR GUTTER, THE ADJACENT ASPHALT SHALL ALSO BE SAWCUT TO PROVIDE A STRAIGHT EVEN LINE.
7. SITE GRADING SHALL BE W/IN 0.1' OF THE REQUIRED ELEVATION & ALL AREAS SHALL BE GRADED TO DRAIN.
8. ALL SUBGRADE SHALL HAVE AN LBR OF 40 UNLESS OTHERWISE NOTED & SHALL BE COMPACTED TO 95% MAXIMUM DRY DENSITY PER AASHTO T-180.
9. ALL LIMEROCK SHALL BE COMPACTED TO 98% PER AASHTO T-180 & HAVE NOT LESS THAN 60% OF CARBONATES OF CALCIUM & MAGNESIUM UNLESS OTHERWISE DESIGNATED. ALL LIMEROCK SHALL BE PRIMED.
10. CONCRETE & ASPHALT THICKNESS SHALL BE OF TYPE DESIGNATED ON DWGS.
11. PLASTIC FILTER FABRIC SHALL BE MIRAFI, TYPAR OR EQUAL CONFORMING TO SECTION 985 OF THE FDOT STANDARD SPECIFICATIONS.
12. CONC. SIDEWALKS SHALL BE 4" THICK ON COMPACTED SUBGRADE, W/ 1/2" EXPANSION JOINTS PLACED AT A MAXIMUM OF 75'. CRACK CONTROL JOINTS SHALL BE 5' ON CENTER. THE BACK OF SIDEWALK ELEVATION SHALL EQUAL THE CROWN OF ROADWAY, UNLESS SPECIFIED OTHERWISE BY LOCAL CODES OR INDICATED ON DWGS. ALL CONC. SIDEWALKS THAT CROSS DRIVEWAYS SHALL BE 6" THICK.
13. PIPE SPECIFICATIONS : THE MATERIAL TYPE IS SHOWN ON THE DRAWINGS BY ONE OF THE FOLLOWING DESIGNATIONS –

    RCP = REINFORCED CONC. PIPE, ASTM DESIGNATION C-76, TABLE III
    CMP = CORRUGATED METAL (ALUM.) PIPE, TM DESIGNATION M-196
    CMP = (SMOOTH LINED) CORRUGATED METAL (ALUM.) PIPE, ASTM DESIGNATION M-196
    SCP = SLOTTED CONC. PIPE, FDOT SECTIONS 941 & 942
    PVC = POLYVINYLCHLORIDE PIPE
    PCMP = PERFORATED CMP, FDOT SECTION 945
    DIP = DUCTILE IRON PIPE
    HDPE = HIGH DENSITY POLYETHYLENE PIPE.

PAVEMENT MARKING & SIGNING STANDARD NOTES :

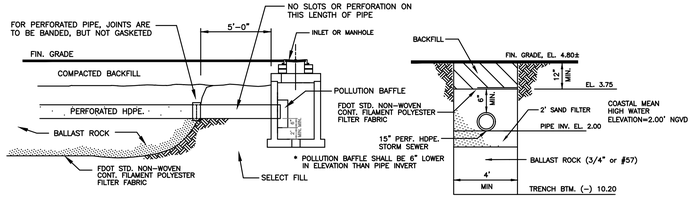
1. STOP SIGNS SHALL BE 30"x30" (R1-1), HIGH INTENSITY.
2. ALL SIGNS SHALL BE PLACED AT A HEIGHT NOT LESS THAN 5' & NOT GREATER THAN 7'. THE HEIGHT IS MEASURED FROM THE BOTTOM OF THE SIGN TO THE EDGE OF NEAREST PAVEMENT. THE SIGN POST SHALL BE PLACED A MINIMUM OF 6' TO A MAXIMUM OF 12' FROM THE ADJACENT PAVEMENT, & A MINIMUM OF 6' FROM THE CROSS TRAFFIC PAVEMENT.
3. STOP BARS SHALL BE 24" WHITE.
4. ALL SITE PAVEMENT MARKINGS SHALL BE PAINT. (UNLESS INDICATED OTHERWISE)
5. ALL PAVEMENT MARKINGS IN THE ROAD RIGHT-OF-WAY SHALL BE THERMOPLASTIC & SHALL CONFORM TO FDOT OR LOCAL CITY/COUNTY STANDARDS.



ENDLINE DRAIN BASIN
N.T.S.

INLINE DRAIN BASIN
N.T.S.

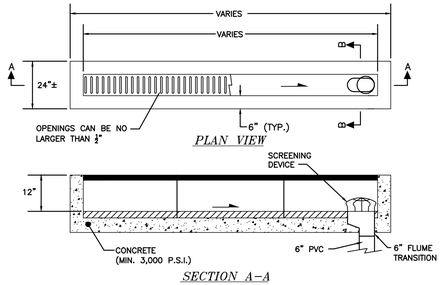
AREA DRAIN
N.T.S.



EXFILTRATION NOTES:

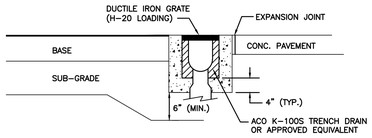
1. PLASTIC FILTER FABRIC (AT EACH SIDE, TOP & BOTT.) SHALL BE USED IN SANDY AREAS AS NOTED ON PLANS AND/OR DIRECTED BY THE ENGINEER.
2. AFTER THE BALLAST ROCK HAS BEEN PLACED TO THE PROPER ELEVATION IT SHALL BE CAREFULLY WASHED DOWN WITH CLEAN WATER IN ORDER TO ALLOW FOR INITIAL SETTLEMENT THAT MAY OCCUR. (BALLAST ROCK – 3/4" or #57)

EXFILTRATION TRENCH WITH SAND FILTER
N.T.S.



PLAN VIEW

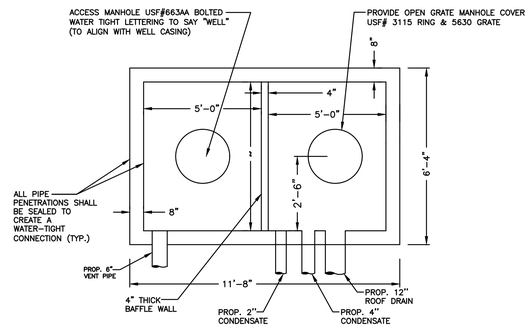
SECTION A–A



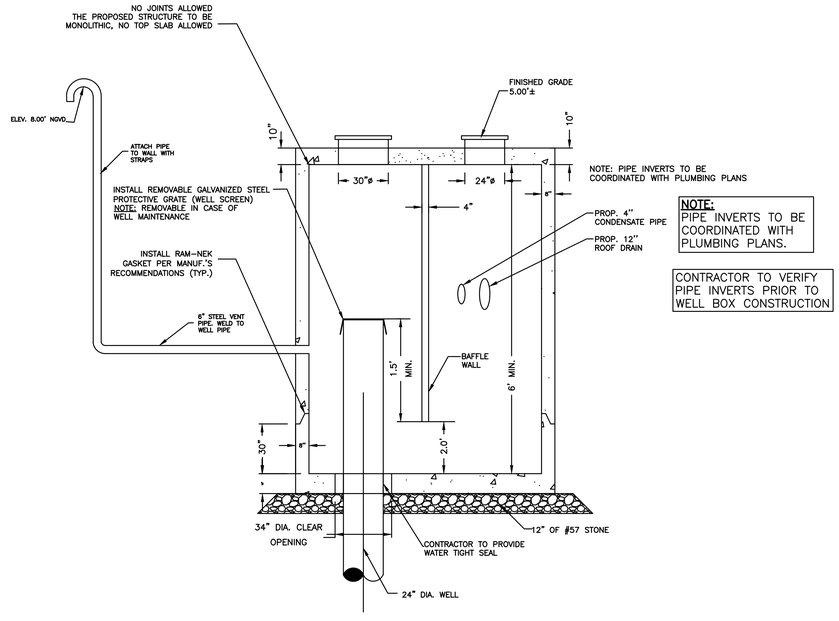
SECTION B–B

TRENCH DRAIN
NTS

DRAINAGE WELLS
NTS



TOP VIEW
NTS



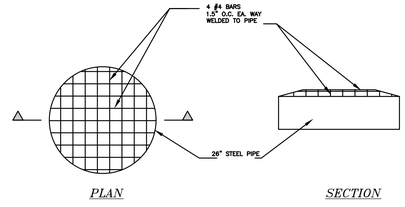
NOTE:
PIPE INVERTS TO BE COORDINATED WITH PLUMBING PLANS.

CONTRACTOR TO VERIFY PIPE INVERTS PRIOR TO WELL BOX CONSTRUCTION

SECTION VIEW
NTS

NOTES:

1. WELL DRILLER RESPONSIBLE FOR OBTAINING WELL CONSTRUCTION PERMIT.
2. NEOPRENE GASKETS TO BE INSTALLED UNDER LIDS AND AROUND PIPES.
3. VENT PIPES NOT TO BE INSTALLED DIRECTLY ACROSS FROM INLET PIPE.
4. WELL COVERS TO BE SECURELY ATTACHED TO STRUCTURE WITH NO MORTAR OR BRICKS.
5. CONTRACTOR SHALL GROUT BETWEEN 4" CONC. BAFFLE AND LID OF STRUCTURE TO ENSURE WATER PROOF SEAL.
6. WELL BOX REINFORCEMENT SHALL BE DESIGNED BY PRE-CASTER TO MEET F-DOT STANDARDS AND SPECIFICATIONS



PLAN *SECTION*

WELL SCREEN DETAIL
NTS

CONTRACTOR SHALL VERIFY ALL DIMENSIONS AND SITE CONDITIONS BEFORE PROCEEDING WITH WORK. IF ANY DISCREPANCIES, ERRORS OR OMISSIONS SHOULD BE ENCOUNTERED ON PLANS, CONTRACTOR SHALL NOTIFY ARCHITECT BEFORE ANY PART OF THE WORK IS STARTED, SO THAT PROPER CORRECTIONS BE MADE. IF ARCHITECT IS NOT NOTIFIED PRIOR TO COMMENCING OF THE WORK, THE CONTRACTOR SHALL BEAR FULL RESPONSIBILITY FOR ANY DISCREPANCIES, ERRORS OR OMISSIONS.

DRAINAGE DETAILS

SCALE: N.T.S.

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LA BAIA NORTH
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BAY HARBOR ISLANDS, FLORIDA 33154

Revisions

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305.861.8181

Consultant

Luis O. Revuelta
AR-0007972

NEW PROPOSAL

Date
04.21.22

Scale
1"=20'

Project No.
2202

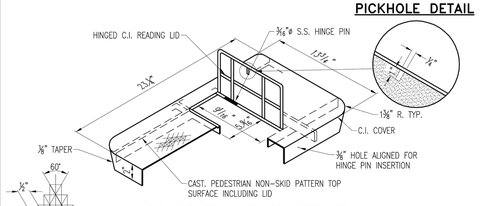
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SECTIONS & DETAILS

Sheet No.
C-5

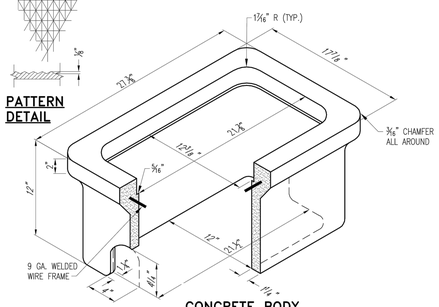
22-17

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PICKHOLE DETAIL



C.I. COVER WITH HINGER LID



PATTERN DETAIL

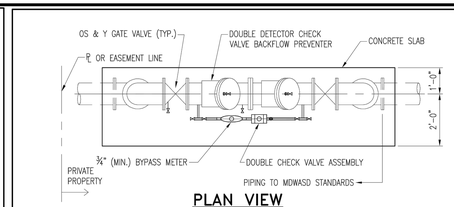
CONCRETE BODY

NOTES:

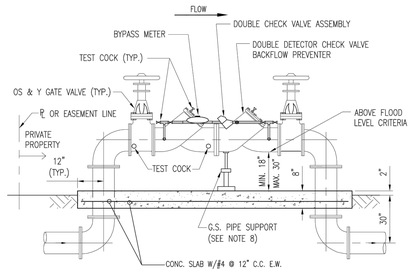
1. SOME DIMENSIONS MAY VARY WITH DEPARTMENT APPROVAL. I/O W.T.= MAX. 53 LBS., MIN. 42 LBS.
2. METERS WILL NOT BE INSTALLED IF THE METER BOX IS IN A DRIVING SURFACE.

ITEM	CROSS REF.	SPEC. REF.
1" SERVICE CONNECTION	WS 4.11	
TYPICAL SERVICE PLAN	WS 4.10	

MIAMI-DADE COUNTY	ISSUE DATE	APPROVED BY	STANDARD DETAIL	WS 2.10
WATER & SEWER DEPARTMENT	06/01/2008	V.F.C.	SINGLE METER BOX DETAIL	SHEET 2 OF 3



PLAN VIEW



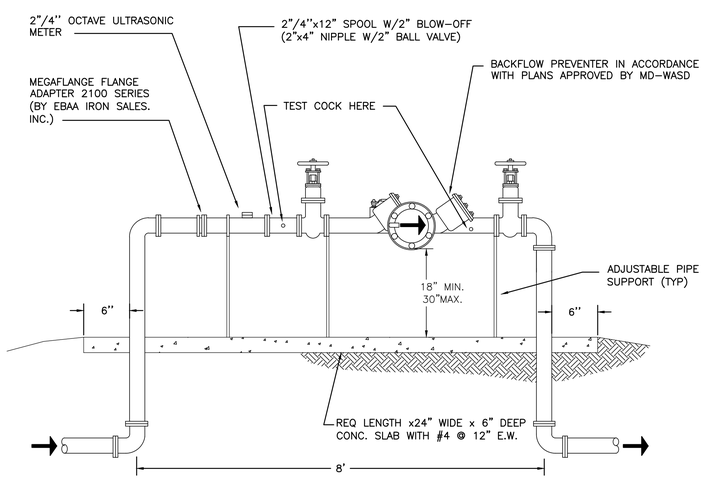
ELEVATION VIEW

NOTES:

PIPING SHALL BE DUCTILE IRON PIPE WITH FLANGED FITTINGS, IN ACCORDANCE WITH MDWASD "CONSTRUCTION SPECIFICATIONS FOR DONATION WATER MAINS".

ITEM	CROSS REF.	SPEC. REF.
GUARD POST DETAIL	WS 4.5	

MIAMI-DADE COUNTY	ISSUE DATE	APPROVED BY	STANDARD DETAIL	WS 4.20
WATER & SEWER DEPARTMENT	09/30/2009	V.F.C.	DOUBLE DETECTOR CHECK VALVE ASSEMBLY FOR FIRELINE SERVICE	SHEET 2 OF 4



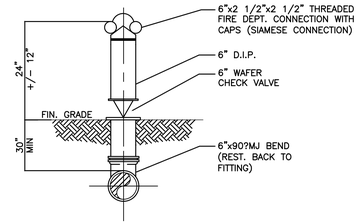
NOTE:

1. THE ASSEMBLY MUST BE INSTALLED WITH MINIMUM HORIZONTAL CLEARANCE OF 18", FREE FROM OBSTRUCTIONS IN ALL DIRECTIONS.
2. THE BACKFLOW PREVENTION ASSEMBLY SHALL BE ON THE APPROVED LIST OF FOUNDATION FOR CROSS CONNECTION CONTROL, UNIVERSITY OF CALIFORNIA, CONTRACTOR TO PROVIDE MANUFACTURERS CERTIFICATION OF U.S.C. APPROVAL.
3. ALL BACKFLOW PREVENTION ASSEMBLIES SHALL BE FACTORY ASSEMBLED INCLUDING SHUT-OFF VALVE AS REQUIRED BY U.S.C. FOUNDATION FOR CROSS CONNECTION CONTROL STANDARDS.
4. BACKFLOW PREVENTION ASSEMBLIES SHALL BE INSTALLED IN AN ACCESSIBLE LOCATION APPROVED BY THE TOWN OF BAY HARBOR ISLANDS. LOCATIONS INSIDE BUILDINGS OR WITH OTHERWISE RESTRICTED ACCESS WILL NOT BE APPROVED.
5. THE ASSEMBLY WILL NEED LANDSCAPING OR SCREENING WITH LANDSCAPING FOR PROTECTION.
6. IF REQUIRED GUARDPOSTS OR PROTECTIVE ENCLOSURE IS RECOMMENDED DEPENDING ON SITE CONDITIONS.
7. ALL ABOVE-GROUND PIPING TO BE FLANGED.
8. INSTALL ADJUSTABLE PIPE SUPPORTS WHERE INDICATED.
9. CONTRACTOR TO PROVIDE SHOP DRAWINGS FOR TOWN APPROVAL.

NOTE:
2" & 4" WATER METER/BACKFLOW PREVENTER ASSEMBLY DETAIL TO BE USED FOR WATER METER INSTALLATION.

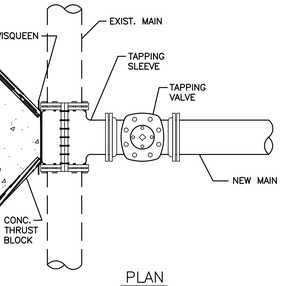
2" & 4" WATER METER/BACKFLOW PREVENTER ASSEMBLY DETAIL

N.T.S.



FIRE DEPARTMENT CONNECTION

NTS



HORIZONTAL THRUST BLOCK DETAILS

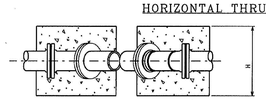
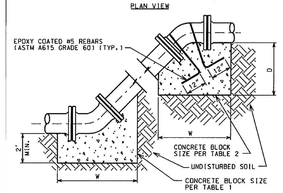


TABLE 1

PIPE SIZE	DEAD END & TEE				HORIZONTAL 1/4 BEND				HORIZONTAL 1/8 BEND			
INCH DIA.	D	H	W	CY	D	H	W	CY	D	H	W	CY
16	1	5.5	4.5	2	1	6.5	5	2.5	1	4.5	4	1.
12	1	3.5	3.5	1	1	4	4	1.5	1	3	3	.7
8	.5	2.5	2.5	.5	.5	3	3	.5	.5	2	2	.2

PIPE SIZE	HORIZONTAL 1/16 BEND				HORIZONTAL 1/32 BEND			
INCH DIA.	D	H	W	CY	D	H	W	CY
16	1	3.5	3.5	1	1	2.5	2.5	.6
12	1	2.5	2.5	.5	1	2	2	.4
8	.5	1.5	1.5	.25	.5	1.5	1.5	.25



VERTICAL THRUST BLOCK DETAILS

TABLE 2

PIPE SIZE	VERTICAL 1/8 BEND				VERTICAL 1/8 BEND BOTTOM			
INCH DIA.	D	H	W	CY	D	H	W	CY
16	7	6	6	11	2	4.5	4	2.25
12	5	6	5	7	2	3	3	1
8	4.5	4	4	3.5	2	2	2	.5

D IS THE DIMENSION INTO UNDISTURBED GROUND IN FEET
H IS HEIGHT OF THRUST BLOCK IN FEET
W IS WIDTH OF THRUST BLOCK IN FEET
ALL DIMENSIONS ARE MINIMUM.
THRUST BLOCKS IN LOOSE FILL OR SAND AREAS ARE NOT INCLUDED IN THESE TABLES AND WILL REQUIRE ADDITIONAL ANALYSIS.

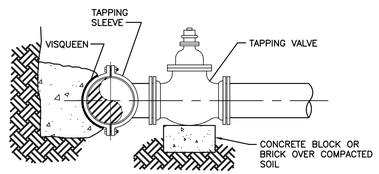
NOTES:

1. FULL CONCRETE THRUST BLOCKS AS SHOWN ARE REQUIRED WHEN THRUST RESTRAIN IS NOT PROVIDED BY OTHER MEANS SUCH AS RESTRAINED JOINT PIPE.
2. WHEN THRUST RESTRAINT GLANDS ARE INSTALLED FOR THE CONNECTIONS. CONCRETE THRUST BLOCKS SHALL BE PROVIDED UP TO THE THE DOTTED LINE AS SHOWN.
3. ALL BOLTS, NUTS, THRUST RESTRAINT GLANDS AND FITTINGS SHALL BE WRAPPED WITH POLYETHYLENE TUBING TO PREVENT CORROSION AND CONCRETE ADHESION.
4. CONCRETE FOR THRUST BLOCKS MUST NOT CONTAIN FLY ASH.

REV:04.07

THRUST RESTRAINT
CONCRETE THRUST BLOCK DETAILS D-11

PLAN



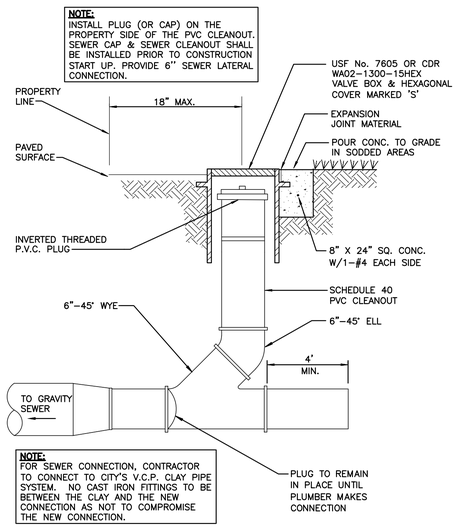
ELEVATION

NOTES:

1. NOTIFY THE CITY 48 HOURS IN ADVANCE OF PROPOSED TAP.
2. TAPPING MUST BE DONE IN THE PRESENCE OF AN AUTHORIZED CITY REPRESENTATIVE.

WATER MAIN TIE-IN

NTS



NOTE:
INVERTED BRASS CAP SHALL BE USED IN GRASS AREAS IN LIEU OF CASTING AND CONE COLLAR.

TYPICAL CLEANOUT DETAIL

NTS

CONTRACTOR SHALL VERIFY ALL DIMENSIONS AND SITE CONDITIONS BEFORE PROCEEDING WITH WORK. IF ANY DISCREPANCIES, ERRORS OR OMISSIONS SHOULD BE ENCOUNTERED ON PLANS, CONTRACTOR SHALL NOTIFY ARCHITECT BEFORE ANY PART OF THE WORK IS STARTED, SO THAT PROPER CORRECTIONS BE MADE. IF ARCHITECT IS NOT NOTIFIED PRIOR TO COMMENCING OF THE WORK, THE CONTRACTOR SHALL BEAR FULL RESPONSIBILITY FOR ANY DISCREPANCIES, ERRORS OR OMISSIONS.

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NEW PROPOSAL

revuelta
architecture international

Miami
Santiago, Chile

revuelta-architecture.com

2950 SW 27th. AVE.
SUITE 110
MIAMI, FL. 33133

305.590.5000

Project

LA BAIA NORTH
9461 EAST BAY HARBOR DRIVE
BAY HARBOR ISLANDS, FLORIDA 33154

Revisions

Owner Information
CONTINUUM LLC
9201 East Bay Harbour Dr
Bay Harbour Islands, Fl 33154
305.861.8181

Consultant

Luis O. Revuelta
AR-0007972

NEW PROPOSAL

Date
04.21.22

Scale
1"=20'

Project No.
2202

Sheet Name
SECTIONS & DETAILS

Sheet No.
C-6

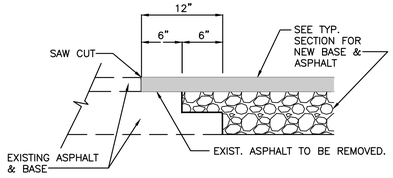
22-17

HOLLAND ENGINEERING
CIVIL ENGINEERING SOLUTIONS
301 S.W. 7th Street
Fort Lauderdale, Florida 33315
Phone: 954.367.0371
Certificate of Authorization 7325

SUSAN C. HOLLAND
STATE OF FLORIDA PROFESSIONAL ENGINEER
LICENSE No. 41831

UTILITY DETAILS

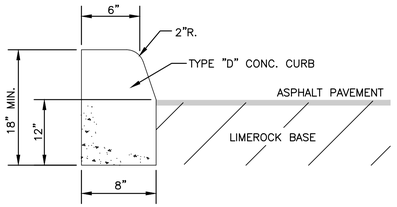
SCALE: N.T.S.



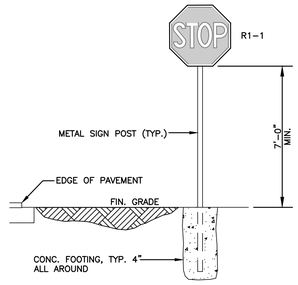
NOTE:

THIS METHOD OF PAVEMENT JOINT SHALL BE USED FOR ANY APPLICATION OR CONSTRUCTION WHERE PROPOSED PAVEMENT AND BASE WILL BE CONNECTED TO EXISTING PAVEMENT AND BASE.

PAVEMENT JOINT DETAIL
NTS



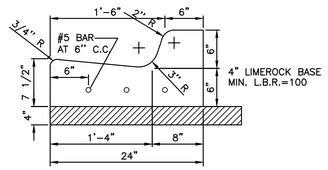
TYPE "D" CONCRETE CURB
NTS



TYPICAL SIGN INSTALLATION
NTS

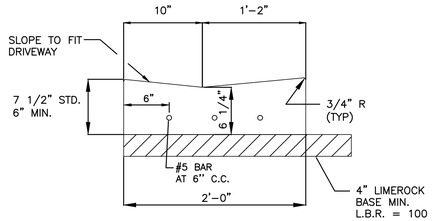
CURB NOTE:

1. DOWELS SHALL BE DRILLED & EXPOXIED INTO EXISTING VALLEY GUTTER & "F" CURB TO RESIST SHEAR FORCES BETWEEN THE OLD STRUCTURES & THE NEW STRUCTURES.
2. ALL DAMAGED VALLEY GUTTER AND F-CURB SHALL BE REMOVED WITHOUT DAMAGING ADJACENT ROADWAY.
3. THE FINISH ON THE NEW VALLEY GUTTER AND F-CURB SECTIONS SHALL MATCH EXISTING.

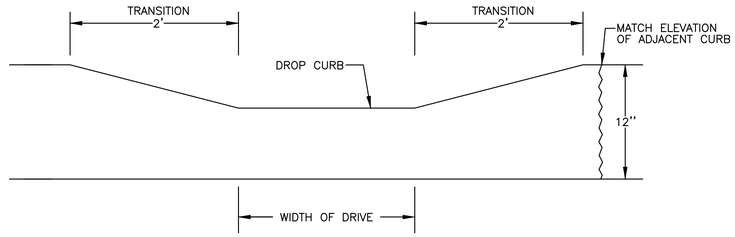


TYPE "F" CONCRETE CURB AND GUTTER PER FDOT STANDARD INDEX 300 DETAIL
NTS

CURB NOTE:
PROVIDE 1/2" X 18" SMOOTH DOWELS AT 12" C.C. TO CONNECT NEW CURB TO EXITING CURB.



STANDARD DROP CURB (VALLEY GUTTER) PER FDOT STANDARD INDEX 300 DETAIL
NTS



TRANSITION FROM DROP CURB TO TYPE "F" CURB DETAIL
NTS

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STATE OF FLORIDA PROFESSIONAL ENGINEER
LICENSE No. 41831

CIVIL DETAILS

SCALE: N.T.S.

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Project No.
2202

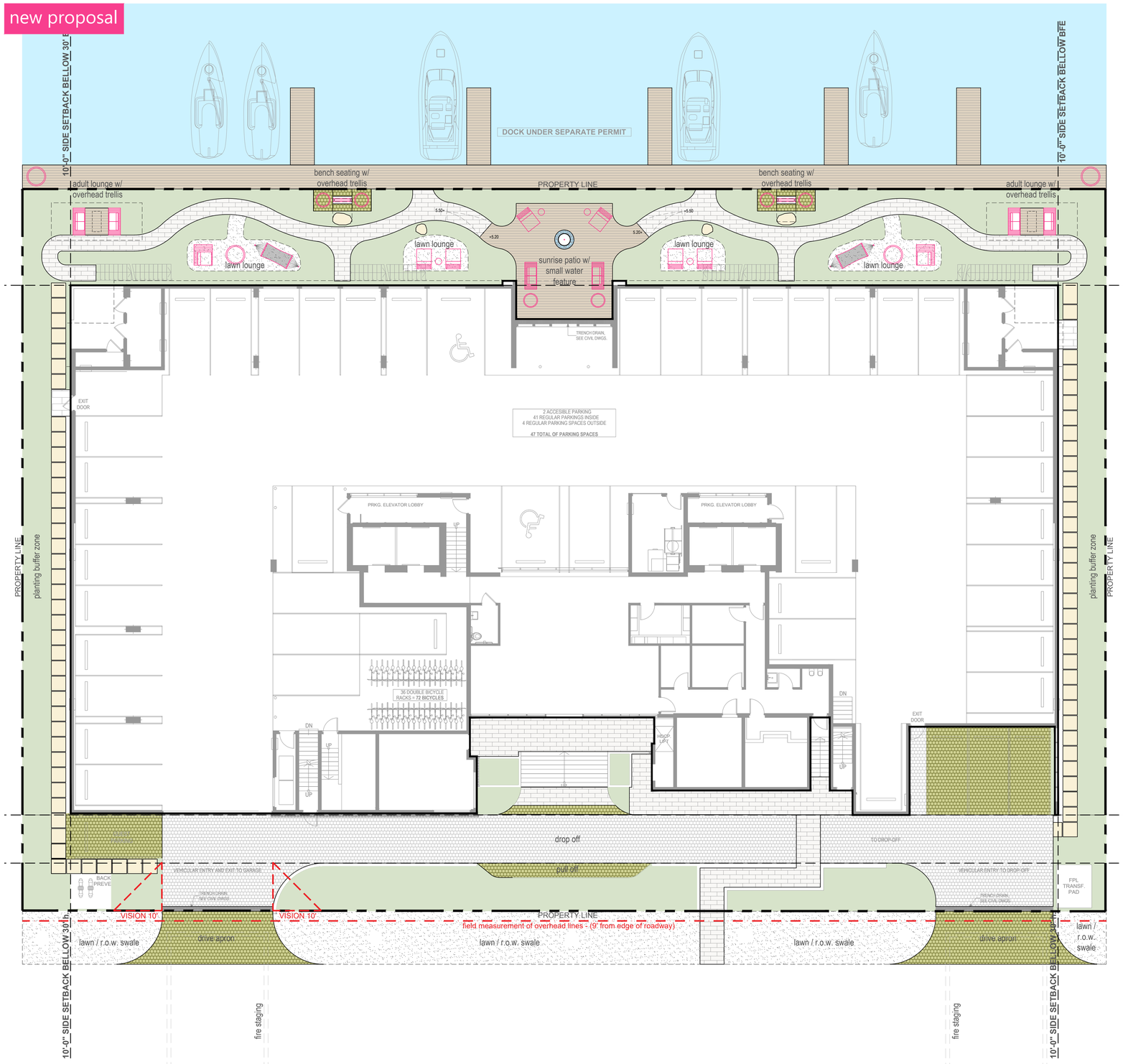
Sheet Name
SECTIONS & DETAILS

Sheet No.
C-7

22-17

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new proposal



MATERIAL LEGEND

Porcelain Tile on Slab



Concrete Step Finish (non-pervious surface)



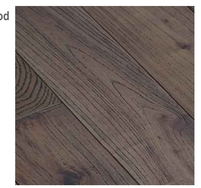
Granite Cobbles w/ Sand Joints



Permeable Paver Type / Detectable Warning Transition (darker tone cobble w/ moss or lawn joints)



Aged Teak Wood



lawn areas

landscape areas

NOTE: Refer to sheet L-103 for landscape calculations. For additional materials above ground level refer to subsequent sheets

DRAWING SCALE AND NORTH ARROW:

0' 10' 20' 40'

SCALE: 3/32" = 1'-0"

NORTH

right studios

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+

LANDSCAPE ARCHITECT:
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Consultant

Landscape Architect

REGISTERED LANDSCAPE ARCHITECT PATRICK KENNEY HODGES LA 0000850 STATE OF FLORIDA

Patrick K. Hodges
LA-0000850

SITE PLAN REVISION

Date
05.17.22

Scale
AS SHOWN

Project No.
2202

Sheet Name
First Floor Site & Hardscape Plan

Sheet No.
L-100

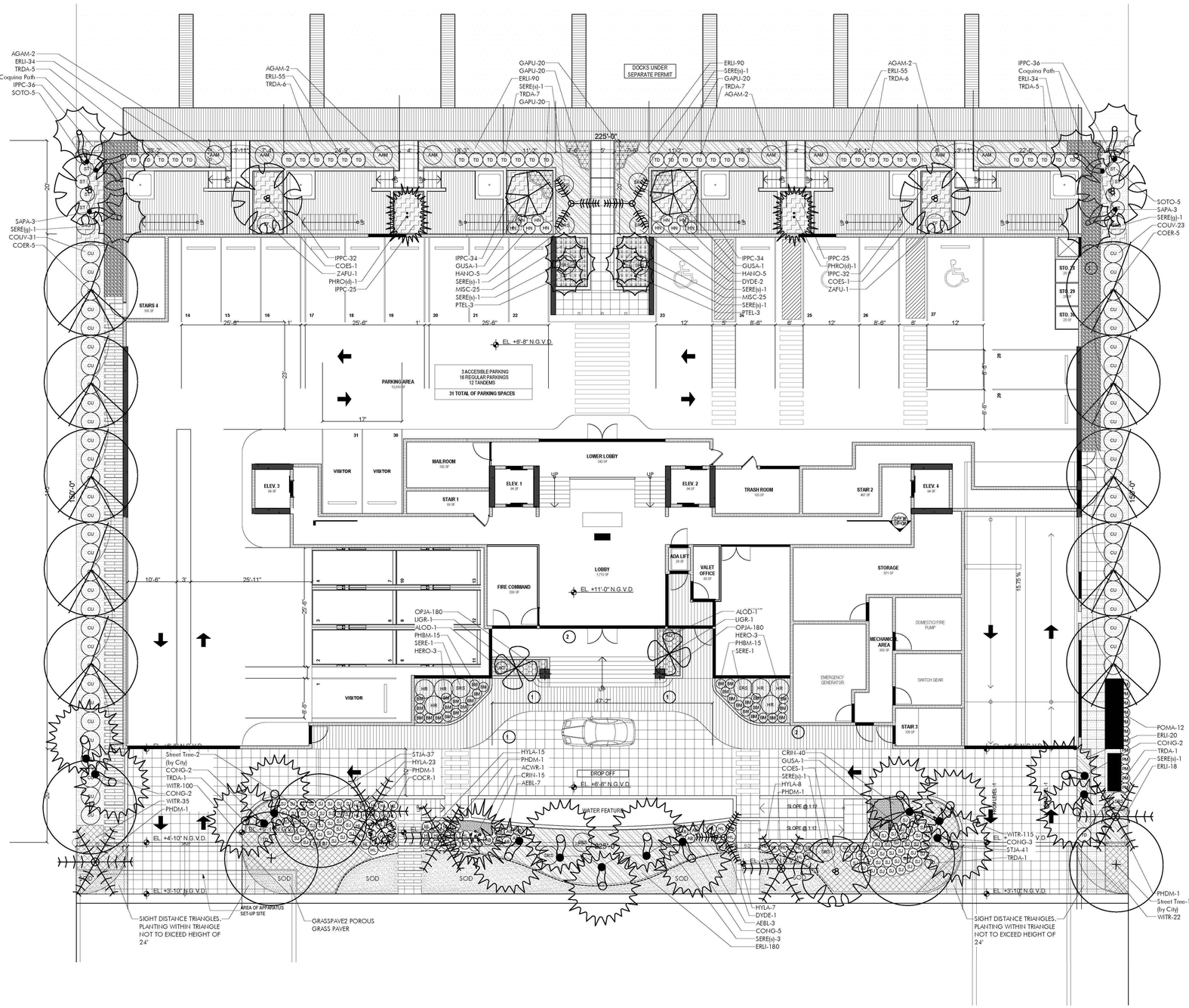
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previously approved

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PLANT LIST - GROUND FLOOR				
TREES				
KEY	PLANT NAME	QTY.	UT.	SIZE
COER	Conocarpus erectus ...Green Buttonwood	10	ea.	14' tall x 5' spread, 3" cal, 5' ct
COES	Conocarpus erectus 'Sericeus' ...Silver Buttonwood	5	ea.	12' tall OA, multi-trunk, lifted to tree form 4' CT min.
GUSA	Guaiaum sanctum ...Lignum Vitae	3	ea.	8' tall x 6' spread, 2" DBH. Min
STREET TREES (Species to be selected by the Village)		5	ea.	16-18' tall x 7' spread, 6 ct. 4" cal
PALMS				
KEY	PLANT NAME	QTY.	UT.	SIZE
ACWR	Acoelorrhaphe wrightii ...Paurotis Palm	1	ea.	10' tall OA, 6 trunks min.
COCR	Coccothrinax crinita ...Old Man Palm	1	ea.	5' Tall OA
CONG	Cocos nucifera "Maypan" ...Coconut Palm	14	ea.	30' tall OA, curved trunks, lean 5° where shown on plans
DYDE	Dypsis decaryi ...Triangle Palm	3	ea.	16' tall OA
LIGR	Licuala grandis ...Ruffled Fan Palm	2	ea.	5' Tall OA
PHDM	Phoenix dactylifera 'Medjool' ...Medjool Date Palm	5	ea.	15' GW, classic cut
PHRO(d)	Phoenix roebellini ...Pygmy Date Palm	2	ea.	8' tall OA, double trunk
PTEL	Ptychosperma elegans ...Solitare Palm	6	ea.	22' tall OA
SAPA	Sabal palmetto ...Sabal Palm	6	ea.	24' tall OA, character trunks, leaning where shown on plans
SHRUBS AND GROUNDCOVERS				
KEY	PLANT NAME	QTY.	UT.	SIZE
AEBL	Aechmea blanchetiana ...Orange Bromeliad	10	ea.	24"x24", orange color
AGAM	Agave americana ...Blue Agave	8	ea.	48"x48"
ALOD	Alcantarea odorata ...Fragrant Bromeliad	2	ea.	24" x 24"
COUV	Coccoloba uvifera ...Seagrape	54	ea.	36"x36", install 48" o.c.
CRIN	Crossandra indiliformis ...Orange Marmalade	55	ea.	1 gal cans, install 12" o.c.
ERLI	Ernodea littoralis ...Golden Creeper	576	ea.	3 gallon cans, 18" o.c.
GAPU	Gaillardia pulchella ...Blanket Flower	80	ea.	1 gal cans, install 12" o.c.
HANO	Hamelia nodosa ...Dwarf Firebush	10	ea.	18" x 18"
HERO	Heliconia rostrata ...Hanging Lobster Claw	6	ea.	5' Tall OA
HYLA	Hymenocallis latifolia ...Spider Lily	53	ea.	3 gallon cans, full
IPPC	Ipomea pes-caprae ...Railroad Vine	254	ea.	3 gal cans, full, install 18" o.c.
MISC	Microsorum scolopendria ...Wart Fern	50	ea.	3 gal cans, full, install 18" o.c.
OPJA	Ophiopogon japonicum ...Mondo Grass	360	ea.	6" pots, install 6" o.c.
PHBM	Philodendron 'Burle Marx' ...Burle Marx Philodendron	30	ea.	18"x18"
POMA	Podocarpus macrophyllus ...Podocarpus	12	ea.	30"x18"
SERE(G)	Serenoa repens ...Saw Palmetto	2	ea.	24" x 24", Green color
SERE(S)	Serenoa repens 'Silver' ...Saw Palmetto	13	ea.	24" x 24", Silver color
SOTO	Sophora tomentosa ...Necklace Pod	10	ea.	24" x 24"
STJA	Stachytarpheta jamaicensis ...Blue Porterweed NATIVE VARIETY	78	ea.	18"x18", creeping NATIVE VARIETY
TRDA	Tripsacum dactyloides ...Fakahachee Grass	39	ea.	3 gallon cans, full
WITR	Widelia trilobata ...Widelia	272	ea.	1 gal cans, 18" o.c.
ZAFU	Zamia furfuracea ...Cardboard Palm	2	ea.	36" x 36"
MISCELLANEOUS				
sod	Celebration Bermuda Sod	650	s.f.	solid sod
	Planting Soil 80% Silica Sand 20% Florida Peat	410	c.y.	excavate and backfill 12" in all sod areas, 18" in all shrub areas, and 24" in tree pits
	Shredded Melaluca Mulch	40	c.y.	2" layer in all shrub beds


AGAM-2
ERLI-34
TRDA-5
Coquina Path
IPPC-36
SOTO-5
AGAM-2
ERLI-55
TRDA-6
GAPU-20
GAPU-20
ERLI-90
SERE(s)-1
TRDA-7
GAPU-20
DOCKS UNDER SEPARATE PERMIT
ERLI-90
SERE(s)-1
GAPU-20
TRDA-7
AGAM-2
AGAM-2
ERLI-55
TRDA-6
IPPC-36
Coquina Path
ERLI-34
TRDA-5
225'-6"
SAPA-3
SERE(g)-1
COUV-31
COER-5
SOTO-5
SAPA-3
SERE(g)-1
COUV-23
COER-5
IPPC-32
COES-1
ZAFU-1
PHRO(d)-1
IPPC-25
IPPC-34
GUSA-1
HANO-5
SERE(s)-1
MISC-25
SERE(s)-1
PTEL-3
IPPC-34
GUSA-1
HANO-5
DYDE-2
SERE(s)-1
MISC-25
SERE(s)-1
PTEL-3
IPPC-25
PHRO(d)-1
IPPC-32
COES-1
ZAFU-1
STAIRS 4
STO. 28
STO. 29
STO. 30
EL. +6'-8" N.G.V.D.
PARKING AREA
3 ACCESIBLE PARKING
16 REGULAR PARKINGS
12 TANDEMS
31 TOTAL OF PARKING SPACES
LOWER LOBBY
MAILROOM
ELEV. 3
VISITOR
VISITOR
ELEV. 1
STAIR 1
ELEV. 2
TRASH ROOM
STAIR 2
ELEV. 4
FIRE COMMAND
EL. +11'-0" N.G.V.D.
LOBBY
ADA LIFT
VALET OFFICE
STORAGE
MECHANICAL AREA
DOMESTIC FIRE PUMP
SWITCH GEAR
EMERGENCY GENERATOR
STAIR 3
VISITOR
OPJA-180
LIGR-1
ALOD-1
PHBM-15
SERE-1
HERO-3
ALOD-1
LIGR-1
OPJA-180
HERO-3
PHBM-15
SERE-1
47'-2"
150'-0"
150'-0"
Street Tree-2
(by City)
CONG-2
TRDA-1
WITR-100
CONG-2
WITR-35
PHDM-1
STJA-37
HYLA-23
PHDM-1
COCR-1
HYLA-15
PHDM-1
ACWR-1
CRIN-15
AEBL-7
DROP OFF
EL. +6'-8" N.G.V.D.
WATER FEATURE
CRIN-40
GUSA-1
COES-1
SERE(s)-1
HYLA-8
PHDM-1
SLOPE @ 1:12
SLOPE @ 1:12
EL. +4'-10" N.G.V.D.
EL. +3'-10" N.G.V.D.
EL. +3'-10" N.G.V.D.
EL. +WITR-115 V.D
CONG-3
STJA-41
TRDA-1
SOD
SOD
SOD

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new proposal



PLANT SCHEDULE

TREES			
QTY	SYM	Botanical Name	Common Name
2	QV	Quercus virginiana	Live Oak
2	CR	Clusia rosea	Autograph Tree
6	CS	Cordia sebestena	Orange Gieger Tree
13	EF	Myrcianthes fragrans	Simpson's Stopper
8	CD	Coccoloba diversifolia	Pigeon Plum
6	MC	Myrica cerifera	Florida Privet
4	PP	Plumeria 'Pink' frangipani	Pink Frangipani Tree
2	TC	Tabebuia chrysotricha	Golden Trumpet Tree

PALMS			
QTY	SYM	Botanical Name	Common Name
12	AM	Adonidia Merrillii	Christmas Palm
14	SP	Sabal palmetto	Sabal Palm
12	VM	Veitchia montgomeryana	Montgomery Palm

DRAWING SCALE AND NORTH ARROW:

0' 10' 20' 40'

SCALE: 3/32" = 1'-0" NORTH

LANDSCAPE DESIGNER:
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1810 E. Terra Mar Drive
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Project

LA BAIA NORTH
9461 EAST BAY HARBOR DR.
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Revisions

Owner Information
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Consultant

Landscape Architect

REGISTERED LANDSCAPE ARCHITECT
PATRICK KENNEY HODGES
LA 0000850
STATE OF FLORIDA

Patrick K. Hodges
LA-0000850

SITE PLAN REVISION

Date
05.17.22

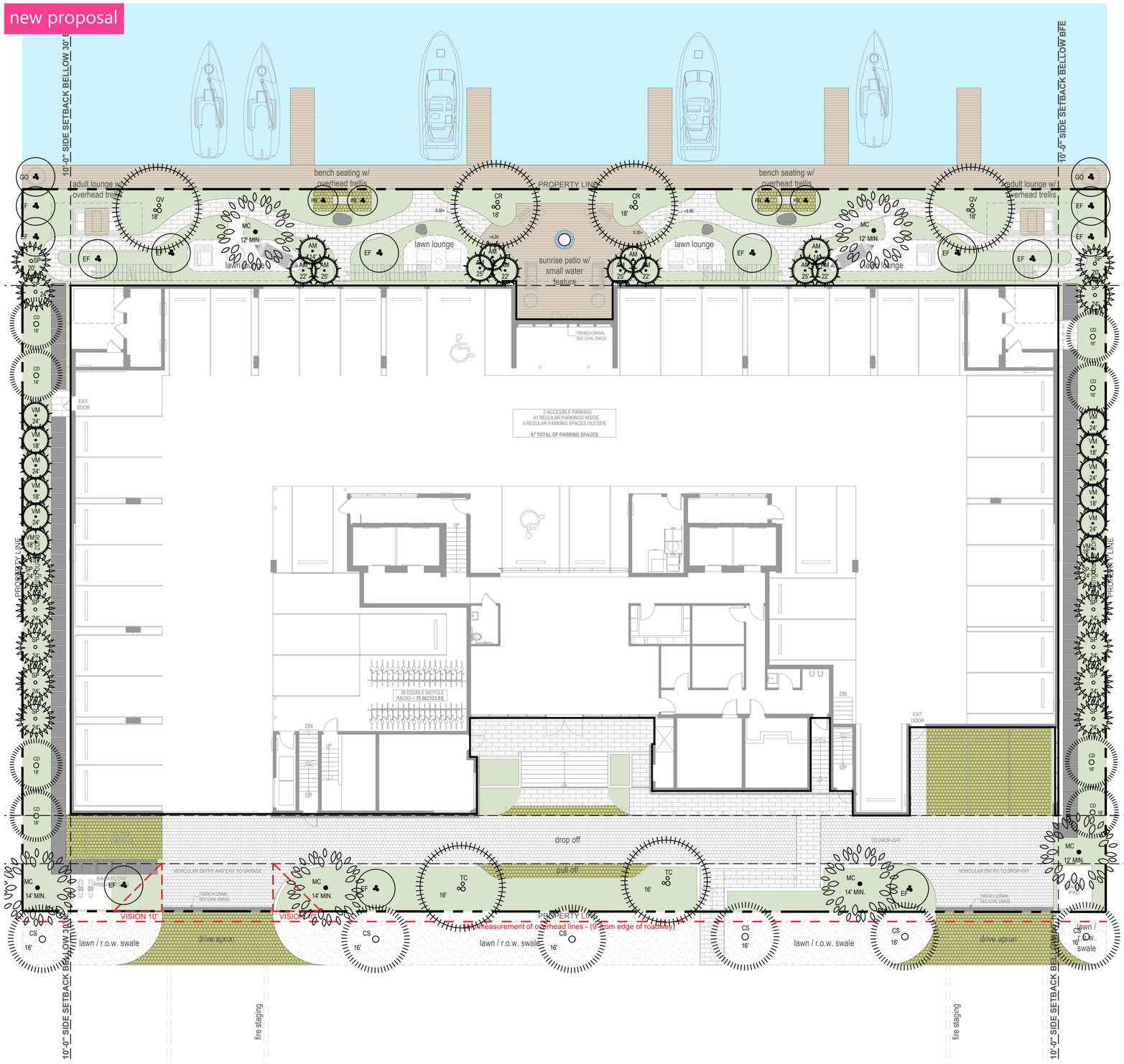
Scale
AS SHOWN

Project No.
2202

Sheet Name
First Floor Canopy
Planting Plan

Sheet No.
L-101 i

new proposal



PLANT SCHEDULE

TREES			
QTY	SYM	Botanical Name	Common Name
2	QV	Quercus virginiana	Live Oak
2	CR	Clusia rosea	Autograph Tree
6	CS	Cordia sebestena	Orange Gieger Tree
13	EF	Myrcianthes fragrans	Simpson's Stopper
8	CD	Coccoloba diversifolia	Pigeon Plum
6	MC	Myrica cerifera	Florida Privet
4	PP	Plumeria 'Pink' frangipani	Pink Frangipani Tree
2	TC	Tabebuia chrysotricha	Golden Trumpet Tree
PALMS			
QTY	SYM	Botanical Name	Common Name
12	AM	Adonidia Merrillii	Christmas Palm
14	SP	Sabal palmetto	Sabal Palm
12	VM	Veitchia montgomeryana	Montgomery Palm

NOTES: REFER TO SHEET L-103 FOR FULL SPECIFICATIONS AND SHEET L-104 FOR LANDSCAPE LEGEND AND PLANT CALCULATIONS

Per town code; 22 required trees, requires 6 variable tree species on site which is provided above and in plan. Street trees shall have 3' diameter of mulch around base of tree. No sod shall be allowed over tree roots until the roots have been established as to maximize growth rate and ensure survival for guarantee period

SHRUBS

REFER TO SHEETS L-102 AND L-104

IRRIGATION

REFER TO PERFORMANCE SPECIFICATIONS REQUIRED BY LANDSCAPE ARCHITECT ON PLANTING SCHEDULE, NOTES AND DETAILS SHEET WITHIN THIS SET

NOTE: refer to L103 for complete tree specifications and L104 for comparison to previously approved submission.

DRAWING SCALE AND NORTH ARROW:

0' 10' 20' 40'

SCALE: 3/32" = 1'-0"

NORTH

right studios

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patrick@phlandstudio.com

Project

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Consultant

Landscape Architect

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STATE OF FLORIDA

Patrick K. Hodges
LA-0000850

SITE PLAN REVISION

Date
05.17.22

Scale
AS SHOWN

Project No.
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Sheet Name
First Floor Canopy Planting Plan

Sheet No.
L-101

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new proposal


pigeon plum


live oak


autograph tree (leaf , fruit)


autograph tree


simpson stopper


southern wax myrtle


pink plumeria (flower)


pink plumeria


pink trumpet tree


christmas palm


sabal palm


montgomary palm


lignum vitae (GO) - potential potted plant


orange geiger (street tree)

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Project

LA BAIA NORTH
9461 EAST BAY HARBOR DR.
BAY HARBOR ISLANDS, FLORIDA 33154

Revisions

Owner Information
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9201 East Bay Harbour Dr
Bay Harbour Islands, Fl 33154
305.861.8181

Consultant

Landscape Architect
REGISTERED LANDSCAPE ARCHITECT
PATRICK KENNEY HODGES
LA 0000850
STATE OF FLORIDA
Patrick K. Hodges
LA-0000850

SITE PLAN REVISION

Date
05.17.22

Scale
AS SHOWN

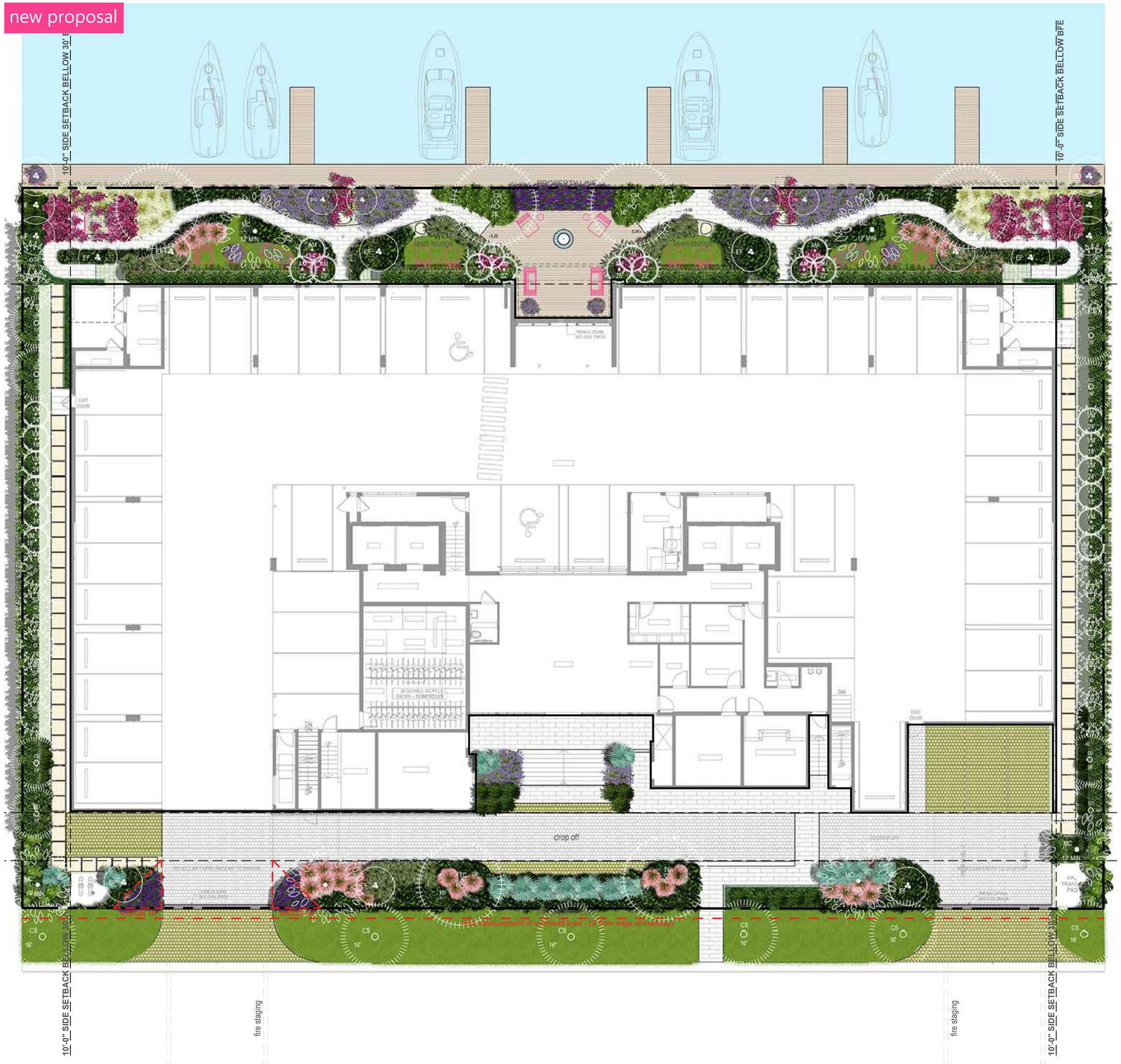
Project No.
2202

Sheet Name
First Floor Canopy
Plant Image Board

Sheet No.
L-101 p

NOT FOR CONSTRUCTION

new proposal



PLANT SCHEDULE

SHRUBS			
QTY	SYM	Botanical Name	Common Name
245	FM	Ficus microcarpa	Green Island Ficus
37	NB	Nephrolepis biserrata	Sword Fern
99	GL	Gymnanthes lucida	Crabwood
9	SRC	Serenoa repens 'silver'	Silver Saw Palmetto
13	SRS	Serenoa repens	Green Saw Palmetto
53	ZP	Zamia pumila	Coontie
ACCENTS, VINES and GRASSES			
QTY	SYM	Botanical Name	Common Name
14	BA	Bougainvillea 'Afterglow'	After Glow Bougainvillea
29	MC	Muhlenbergia capillaris	Pink Muhly Grass
107	SP	Spartina patens	Saltmeadow Cordgrass
83	NC	Neomarica caerulea 'Regina'	Giant Apostle Iris
GROUNDCOVERS			
QTY	SYM	Botanical Name	Common Name
64	LM	Liriope muscari	Big Blue Lilyturf
73	LN	Lysimachia nummularia	Creeping Jenny
42	PB	Philodendron Burle Marx	Burle Marx Philodendron
125	TA	Trachelospermum asiaticum	Asiatic Jasmine
500	SOD	Stenotaphrum secundatum	St. Agustine
1,780	SOD	Stenotaphrum secundatum	St. Agustine

DRAWING SCALE AND NORTH ARROW:

0' 10' 20' 40'

SCALE: 3/32" = 1'-0" NORTH

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SITE PLAN REVISION

Date
05.17.22

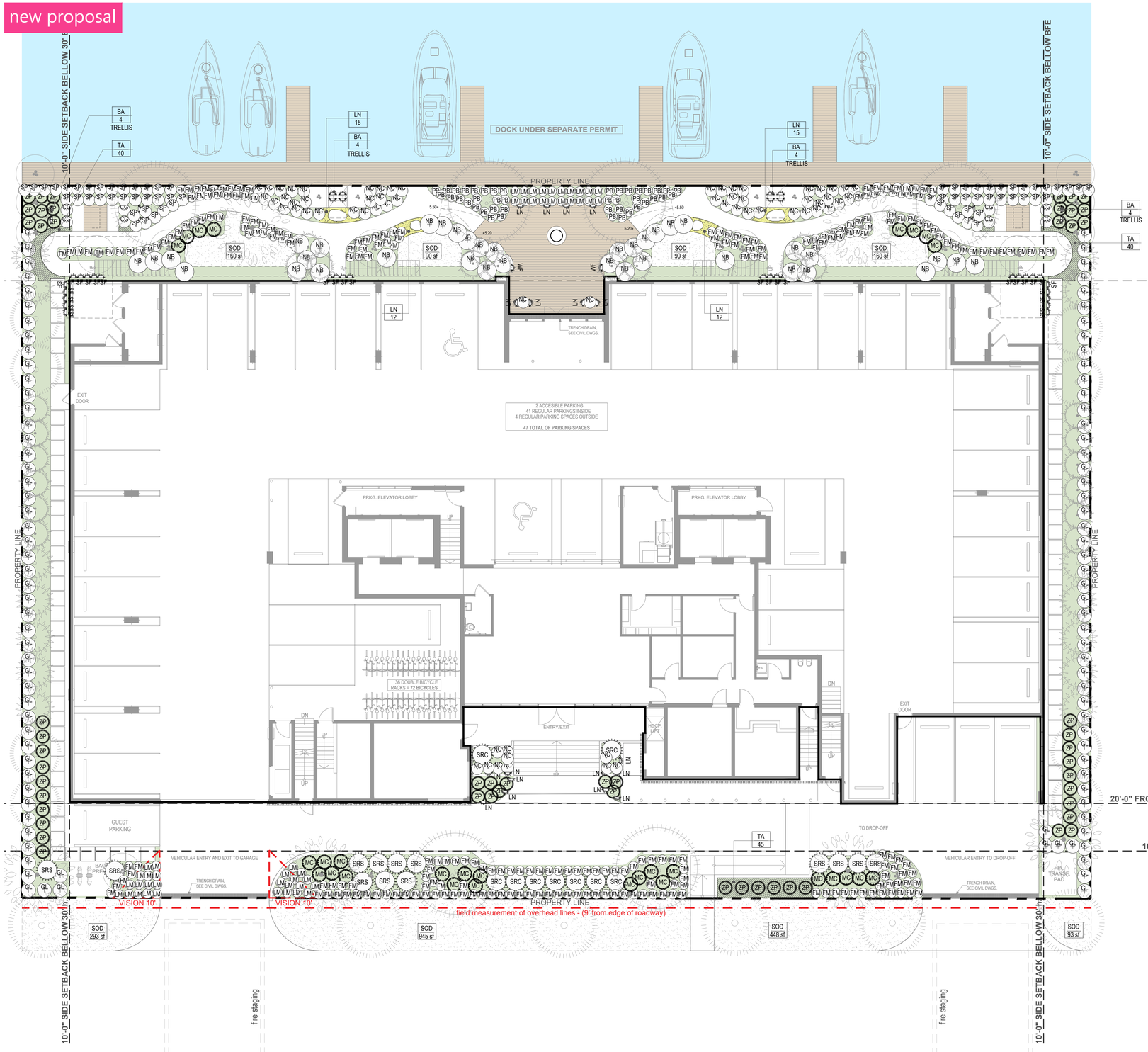
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Project No.
2202

Sheet Name
First Floor Understory Planting Plan

Sheet No.
L-102 i

new proposal



PLANT SCHEDULE

SHRUBS			
QTY	SYM	Botanical Name	Common Name
245	FM	Ficus microcarpa	Green Island Ficus
37	NB	Nephrolepis biserrata	Sword Fern
99	GL	Gymnanthes lucida	Crabwood
9	SRC	Serenoa repens 'silver'	Silver Saw Palmetto
13	SRS	Serenoa repens	Green Saw Palmetto
53	ZP	Zamia pumila	Coontie
ACCENTS, VINES and GRASSES			
QTY	SYM	Botanical Name	Common Name
14	BA	Bougainvillea 'Afterglow'	After Glow Bougainvillea
29	MC	Muhlenbergia capillaris	Pink Muhly Grass
107	SP	Spartina patens	Saltmeadow Cordgrass
83	NC	Neomarica caerulea 'Regina'	Giant Apostle Iris
GROUNDCOVERS			
QTY	SYM	Botanical Name	Common Name
64	LM	Liriope muscari	Big Blue Lilyturf
73	LN	Lysimachia nummularia	Creeping Jenny
42	PB	Philodendron Burle Marx	Burle Marx Philodendron
125	TA	Trachelospermum asiaticum	Asiatic Jasmine
500	SOD	Stenotaphrum secundatum	St. Agustine
1,780	SOD	Stenotaphrum secundatum	St. Agustine

DRAWING SCALE AND NORTH ARROW:

0' 10' 20' 40'

SCALE: 3/32" = 1'-0" NORTH

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Scale
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Project No.
2202

Sheet Name
First Floor Understory Planting Plan

Sheet No.
L-102

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new proposal


green island ficus

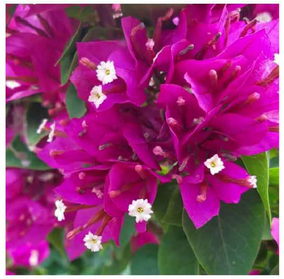

sword fern


crabwood (hedge)


silver saw palmetto


green saw palmetto


coontie


bougainvillea


pink muhly grass


saltmeadow cordgrass


giant iris


big blue liriope


creeping jenny


philodendron burle marx


asiatic jasmine

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Scale
AS SHOWN

Project No.
2202

Sheet Name
First Floor Understory
Plant Image Board

Sheet No.
L-102 p

NOT FOR CONSTRUCTION

GENERAL NOTES AND REQUIREMENTS

1. The contractor is responsible for obtaining any permits or approvals from the federal, state or local government required for the work included in this contract and on these drawings.
2. Locate all underground utilities, electrical wiring, water, sewer, telephone, cable tv, etc., prior to landscape or irrigation installation
3. Stake out all tree & large shrub locations for la and owner review and approval prior to excavation or planting. Plan locations are subject to field adjustment by the la.
4. The contractor shall install an irrigation system as needed to provide a complete working system and as required to ensure 100% coverage of all new planting and sodded lawn areas. See irrigation plan by the landscape architect.
5. Install only plants graded florida no.1 or better as set forth in the florida department of agriculture 'grades and standards for nursery plants" second edition feb. 1998 including revisions and which meet or exceed the sizes indicated in the planting schedule and details.
6. Plant shrubs in circular pits with a diameter 16" greater than rootball or container. Plant trees in circular pits with a diameter 36" greater than rootball or container,. Place plants with best "face" forward.
7. Fertilize all trees with agriform 21 gram tablets, slow-release 20-10-5 analysis with one tablet per 1/2" of trunk diameter.
8. Backfill all planting pits with the following mixture ; 1/2 onsite soil, 1/2 clean friable topsoil. Submit topsoil sample and soil test analysis for approval by landscape architect, (see planting details). Remove excess soil excavated from plant pit from the site or distribute on-site as directed by l.a.
9. Apply "diehard transplant" mycorrhizal inoculant and 100% organic starter fertilizer to each new tree planted and shrub/groundcover beds in accordance with the manufacturer's recommendations i.e. 8 oz. Per 2" caliper, 3 lbs/100 s.f. area, etc... Contact horticultural alliance, inc. Sarasota, fl. 34277 800-628-6373
10. Fertilize all planting beds with osmocote 14-14-14 slow-release fertilizer at the rate of 16 pounds per 1,000 square feet. Furnish receipts for material used.
11. Treat all planting beds with pre-emergent and post-emergent herbicides according to the manufacturer's specifications. Submit receipts for materials used.
12. Mulch planting beds to a minimum 2 1/2" compacted thickness with pine straw, free of weeds.
13. Sod all disturbed areas which do not have shrub or groundcover plantings indicated with solid sod laid with closely abutting joints. Fertilize after installation with a slow-release formula.
14. Contractor shall verify all plant quantities based on the quantities in place as indicated on the plans and provide composite unit prices for each plant including all costs for materials and installation; i.e., labor, mulch, fertilzer, watering, staking, herbicides, mowing, weeding, site preparation, etc.
15. Fertilize palms with palmgain 8-2-12 formula as manufactured by bgi www.bgi-usa.com per manufacturer recommened rate.
16. Notify the owner and landscape architect of any unforeseen conditions, i.e., compacted soil / subgrade, poor drainage, unconsolidated soil, erosion, utility conflicts, excessive sun or shade, etc., prior to proceeding with landscape installation.
17. Guarantee all plants for one year.
18. All plants, materials and workmanship are subject to the approval of the landscape architect and owner.
19. Do not make substitutions or revisions, any revision or modifications to the landscape plan must have prior approval by the landscape architect & owner
20. Maintain all planting including watering, mowing, mulching, weed, pest control, etc. Until final acceptance by the owner.
23. Non-woven geo-textile product installation per manufacturers specifications. Any alternates to the specified products shall be submitted to landscape architect for approval prior to procurement.

IRRIGATION

IRRIGATION SYSTEM NOTES AND REQUIREMENTS:

the contractor shall install an automatic underground irrigation system with a minimum of two bubblers or drip emitters at each new tree and palm location and with sprayheads to ensure 100% coverage of all planting bed areas and rotors for complete coverage of all sodded lawn areas within the limits of work for this project (refer to plan provied by landscape architect).

the contractor shall submit shop drawings of the irrigation system for review and approval by the landscape architect and owner prior to the award of the landscape and irrigation contract.

the shop drawings for the irrigation system shall include a backflow preventer, lightning protection, a "smart" controller, moisture-sensing devices, piping, heads, valves and all other equipment required by local codes and as necessary for a complete working system.

the contractor shall provide an operations manual to the owner and landscape architect prior to completion of the irrigation system installation and shall demonstrate and instruct the owner's maintenance provider in the complete operation of the system.

PLANT SCHEDULE

QTY	SYM	Botanical Name	Common Name		Specifications
TREES					
2	QV	Quercus virginiana	Live Oak	N	FG, 8" min. cal, 18' ht min. 12' sp min. 6' min. CT
2	CR	Clusia rosea	Autograph Tree	N	FG, 8" min. cal, 18' ht min. 12' sp min. 6' min. CT
6	CS	Cordia sebestena	Orange Gieger Tree	N	FG, 3" min. cal, 12'-14' ht min. 6' min. sp, 6' min. CT (street tree)
13	EF	Myrcianthes fragrans	Simpson's Stopper	N	45 gal, Multi-trunk, 8-10 ft ht, 4'-6' sp (accent non-tree count)
8	CD	Coccoloba diversifolia	Pigeon Plum	N	FG, 4" min. cal, (2) 18' ht min. 8' sp (6) 14'-16'ht 6' sp, 6' min. CT
6	MC	Myrica cerifera	Florida Privet	N	FG, Multi-trunk, 12'-14' ht min. 12' sp 6' min CT
4	PP	Plumeria 'Pink' frangipani	Pink Frangipani Tree		65 gal, 8' ht, 6' spr (accent non-tree count)
2	TC	Tabebuia chrysotricha	Golden Trumpet Tree	N	FG, Grade #1, 5" min. cal, 16'-18' ht x 6'-8' sp, 6' min. CT
PALMS					
QTY	SYM	Botanical Name	Common Name		Specification
12	AM	Adonidia Merrillii	Christmas Palm		FG, singles 14'-20' hts (see plan) 4" min. cal
14	SP	Sabal palmetto	Sabal Palm	N	FG, 14'-24' hts (see plan) 12" min. cal (booted)
12	VM	Veitchia montgomeryana	Montgomery Palm		FG, singles 18'-24' hts (see plan) 4" min. cal
SHRUBS					
QTY	SYM	Botanical Name	Common Name		Specification
245	FM	Ficus microcarpa	Green Island Ficus		7 gal 24"x24" full
37	NB	Nephrolepis biserrata	Sword Fern	N	7 gal 30"x 30" full
99	GL	Gymnanthes lucida	Crabwood	N	15 gal, 5'-6' ht, 24" min. spr (36" o.c. spacing max.)
9	SRC	Serenoa repens 'silver'	Silver Saw Palmetto	N	25 gal, 3'x3' full
13	SRS	Serenoa repens	Green Saw Palmetto	N	25 gal, 3'x3' full
53	ZP	Zamia pumila	Coontie	N	7 gal, 30"x30" full
ACCENTS, VINES and GRASSES					
QTY	SYM	Botanical Name	Common Name		Specifications
14	BA	Bougainvillea 'Afterglow'	After Glow Bougainvillea		15 gal, 7'-8' ht trellis
29	MC	Muhlenbergia capillaris	Pink Muhly Grass		7 gal 30"x30" full
107	SP	Spartina patens	Saltmeadow Cordgrass		7 gal 24" x 24"
83	NC	Neomarica caerulea 'Regina'	Giant Apostle Iris		7 gal 24"x24" full
GROUNDCOVERS					
QTY	SYM	Botanical Name	Common Name		Specifications
64	LM	Liriope muscari	Big Blue Lilyturf		7 gal 24"x24" full
73	LN	Lysimachia nummularia	Creeping Jenny		1 gal 12"x12" full
42	PB	Philodendron Burle Marx	Burle Marx Philodendron		7 gal 24"x24" full
125	TA	Trachelospermum asiaticum	Asiatic Jasmine		1 gal 12"x12" full
500	SOD	Stenotaphrum secundatum	St. Agustine		REAR LOT - solid sod, butt jointed, no gaps
1,780	SOD	Stenotaphrum secundatum	St. Agustine		ROW - solid sod, butt jointed, no gaps, not within 3' dia of tree trunks

N = Native Species

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Project

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LA 0000850
STATE OF FLORIDA

Patrick K. Hodges

LA-0000850

SITE PLAN REVISION

Date
05.17.22

Scale
AS SHOWN

Project No.
2202

Sheet Name
Planting Schedule, Notes & Specifications

Sheet No.

L-103

NOT FOR CONSTRUCTION

previously approved

LANDSCAPE LEGEND

CITY OF BAY HARBOR

INFORMATION REQUIRED TO BE PERMANENTLY AFFIXED TO PLANS
Zoning District RM-1 Lot Area 33,750 SF Acres .77

	REQUIRED	PROVIDED
OPEN SPACE		
A. Square feet of required Open Space as indicated on site plan: Lot Area = 33,750 s.f.x 20 % = 6,750 s.f.	6,750 SF	8,494 SF
B. Square feet of parking lot open space required as indicated on site plan: Number of parking spaces N/A x 10 s.f. parking space =	N/A	N/A
C. Total square feet of landscaped open space required: A+B=	6,750 SF	9,716 SF
LAWN AREA CALCULATION		
A. Total Square feet of landscaped open space required by Chapter 33	6,750 SF	8,494 SF
B. Maximum lawn area (sod) permitted= 20% % = 1,350 s.f.	1,350 SF	650
TREES		
A. Number of trees required per lot or net lot acre, less existing number of trees meeting minimum requirements= 28 trees x .77 net lot acres - number of existing trees=	22	23
B. Street Trees (maximum average spacing of 35' o.c.) 225 linear feet along street divided by 35'=	7	6
Palms allowed as street trees (3:1 ratio)	6	6
Street tree species allowed directly beneath power lines: (maximum average spacing of 25' o.c.): 225 linear feet along street divided by 25'=	N/A	N/A
TOTAL STREET TREES REQUIRED	7	7
TOTAL TREES REQUIRED	29	44
TOTAL NEW TREES REQUIRED	29	44
C. 25% Palm species allowed (three palms = one tree) Palms provided:	15 max.	15
D. % Natives required: Number of trees provided x 50% =	15	25
E. % Low maintenance / drought and salt tolerant required: Number of trees provided x 50%=	15	34
SHRUBS		
A. Total number of trees required x 10 = the number of shrubs required:	346	379
B. The total number of shrubs required x 30% = the number of native shrubs required:	104	267
C. The total number of shrubs required x 50% = the number of drought shrubs required:	not provided	not provided
IRRIGATION		
AUTOMATIC IRRIGATION REQUIRED	YES	YES
REQUIRED TREE SIZES FOR 5+ STORY BUILDING		
25% Trees @ 18'-20' x 7' or Palms @ 22'-28':	10	15
50% Trees @ 16'-18' x 7' or Palms @ 22'-28':	19	16
25% Trees @ 12'-5' (min. req.) or Palms @ 14'-18':	10	31

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new proposal

LANDSCAPE LEGEND

TOWN OF BAY HARBOR ISLAND

LANDSCAPE CODE (SEC. 24-16) REQUIREMENTS LEGEND (WORKSHEET)
Multi-Family Residential - Townhouse Sites (RM-1, RM-2, RM-3)
Site Address 9461 East Bay Harbor Drive

Net Lot Area 33,750 SF Acres .77

	REQUIRED	PROVIDED
A. Open Space Requirement: Lot Area = 33,750 SF sf x 20 % = 6,750 sf	6,750 SF	8,851 SF
B. Maximum Lawn Area Allowed allowed open space _____ sf x 60%= _____ sf	5,310 SF	500 SF
C. Shade Trees Required 1. 28 trees / acre x .77 acers = 22	22	12 palms = (4 trees) + 20 trees (24 total)
2. Native Species Required - 50% # of Trees req. 22 x 50% = 11	11	20
3. Drought Tolerant and Low Maintenance Species Required - 50% # of Trees req. 22 x 50% = 11	11	20
D. Street Trees Required Measured @ 1:35 lineal feet of frontage Width of lot 225 / 35' = 6 Note: Street trees do not count towards required on-site lot trees Note: Street tree species determined by Town Street Tree Master Plan.	6	6
E. Shrubs Required 1. 10 shrubs x required trees	220	456
2. Native Species Required - 30%	66	211
3. Drought Tolerant and Low Maintenance Species Required - 50%	110	456
F. Parking Lot Landscaping (N/A)		
		(per provided trees required above in C-1)
REQUIRED TREE SIZES FOR 5+ STORY BUILDING		
25% Trees @ 18'-20' x 7' or Palms @ 22'-28':	6	6
50% Trees @ 16'-18' x 7' or Palms @ 22'-28':	12	12
25% Trees @ 12'-5' (min. req.) or Palms @ 14'-18':	6	6

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SITE PLAN REVISION

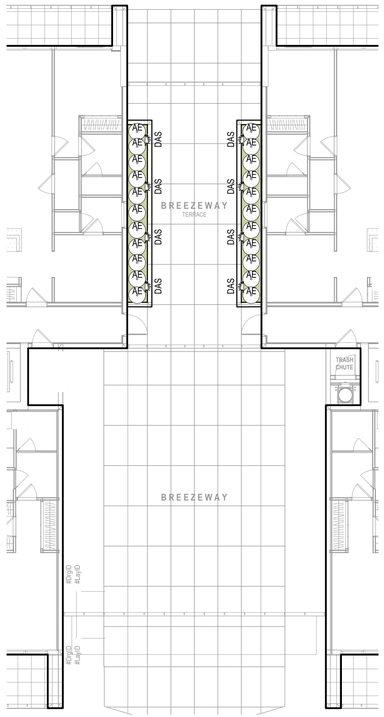
Date 05.17.22
Scale AS SHOWN
Project No. 2202
Sheet Name
Plant Legend Comparison
Sheet No.
L-104

NOT FOR CONSTRUCTION

previously approved

N/A

new proposal



PLANT SCHEDULE



DAS / 8 - dichondra silver falls



AE / 22 - cast iron plant

NOTE: refer to plant specifications, notes and details on sheet L-XXX

DRAWING SCALE AND NORTH ARROW:

0' 10' 20' 40'

SCALE: 3/32" = 1'-0"

NORTH

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Sheet Name
Third Floor Understory Planting Plan

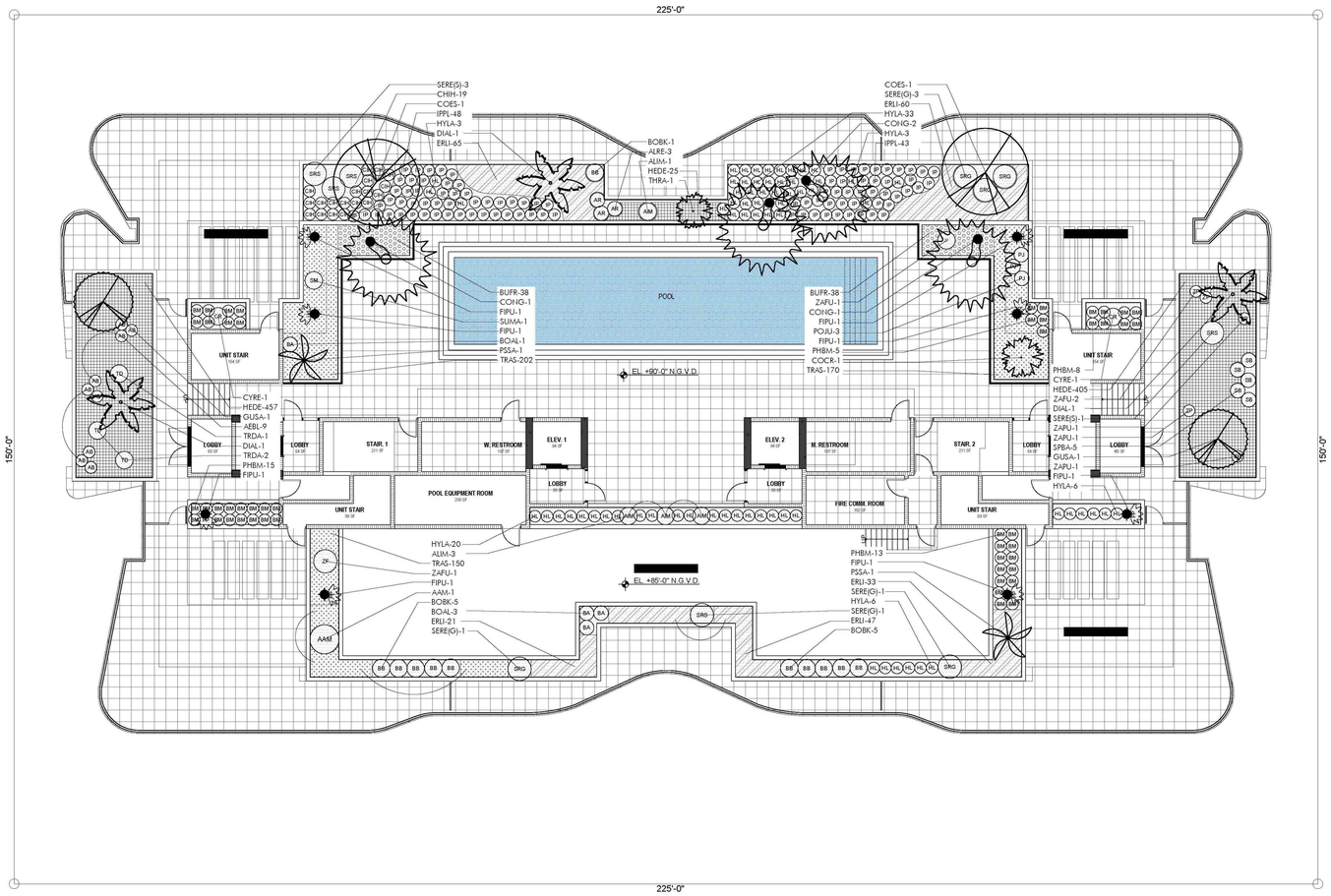
Sheet No.
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previously approved

NOT FOR CONSTRUCTION

PLANT LIST - ROOF LEVEL				
TREES				
KEY	PLANT NAME	QTY.	UT.	SIZE
COES	Conocarpus erectus 'Sericeus' ...Silver Buttonwood	2	ea.	8' x 6', multi-trunk, lifted to tree form
GUSA	Guaiacum sanctum ...Lignum vitae	2	ea.	7' tall x 5' spread
PALMS				
KEY	PLANT NAME	QTY.	UT.	SIZE
CONG	Cocos nucifera 'Maypan' ...Coconut Palm	5	ea.	6' GW, curved trunks, lean 5° where shown on plan
COCR	Coccothrinax crinata ...Old Man Palm	1	ea.	5' tall OA
DIAL	Dictyosperma album ...Hurricane Palm	3	ea.	6'-7' tall overall
PSSA	Pseudophoenix sargentii ...Buccaneer Palm	2	ea.	6' Tall OA
THRA	Thrinax radiata ...Green Thatch Palm	1	ea.	6'-7' tall overall
SHRUBS AND GROUNDCOVERS				
KEY	PLANT NAME	QTY.	UT.	SIZE
AEBL	Aechmea blanchetiana 'Orange Form' ...Bromeliad	9	ea.	24'x24', Orange Color
AGAM	Agave americana ...Blue Agave	1	ea.	36'x36'
ALIM	Alcantarea imperialis ...Imperial Bromeliad	4	ea.	30" x 30"
ALRE	Alcantarea reginae ...Bromeliad	3	ea.	24" x 24"
BOAS	Bougainvillea 'Alabama Sunset' ...Bougainvillea 'Alabama Sunset'	4	ea.	24'x24"
BOBK	Bougainvillea 'Barbara Karst' ...Barbara Karst Bougainvillea	11	ea.	24" x 24"
BUFR	Bulbine frutescens 'Hallmark' ...Orange Stalked Bulbine	76	ea.	1 gallon cans, 12" o.c.
CHIH	Chrysobalanus icaco 'Horizontal' ...Horizontal Cocoplum	19	ea.	12" x 18"
ERLI	Ernodea littoralis ...Golden Creeper	226	ea.	3 gallon cans, 18" o.c.
FIPU	Ficus pumila ...Creeping Fig	8	ea.	3 gal cans, full, install against columns
HEDE	Helianthus debilis ...Beach Sunflower	887	ea.	1 gallon cans, 12" o.c.
HYLA	Hymenocallis latifolia ...Spider Lily	70	ea.	3 gallon cans, full
IPPC	Ipomoea pes-caprae ...Railroad Vine	91	ea.	3 gallon cans, 18" o.c.
PHBM	Philodendron 'Burle Marx' ...Burle Max Philodendron	49	ea.	18'x18"
POJU	Portea 'Jungles' ...Bromeliad	3	ea.	24'x24"
SERE(G)	Serenoa repens 'Green' ...Silver Saw Palmetto	5	ea.	24" x 24", Green color
SERE(S)	Serenoa repens 'Silver' ...Silver Saw Palmetto	5	ea.	24" x 24", Silver color
SPBA	Spartina bakeri ...Cord Grass	5	ea.	3 gallon cans, full
SUMA	Suriana maritima ...Bay cedar	1	ea.	30" x 30"
TRAS	Trachelospermum asiaticum ...Asiatic Jasmine	522	ea.	1 gal cans, full, install 12" o.c.
TRDA	Tripsacum dactyloides ...Fakahatchee Grass	3	ea.	3 gallon cans, full
ZAFU	Zamia furfuracea ...Cardboard Palm	2	ea.	36'x36"
ZAPU	Zamia pumila ...Coontie	5	ea.	24'x24"
MISCELLANEOUS				
	GSLA Roof Planter Soil Mix 25% Coarse Sand 25% Medium Sand 20% Rice Rock 30% Florida Peat	395	c.y.	
	Shredded Melaluca Mulch	21	c.y.	2" layer in all shrub beds



PLANTING PLAN - ROOF LEVEL

SCALE: 1" = 10'

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Project

LA BAIA NORTH
9461 EAST BAY HARBOR DR.
BAY HARBOR ISLANDS, FLORIDA 33154

Revisions

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Landscape Architect

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STATE OF FLORIDA

Patrick K. Hodges

LA-0000850

SITE PLAN REVISION

Date
05.17.22

Scale
AS SHOWN

Project No.
2202

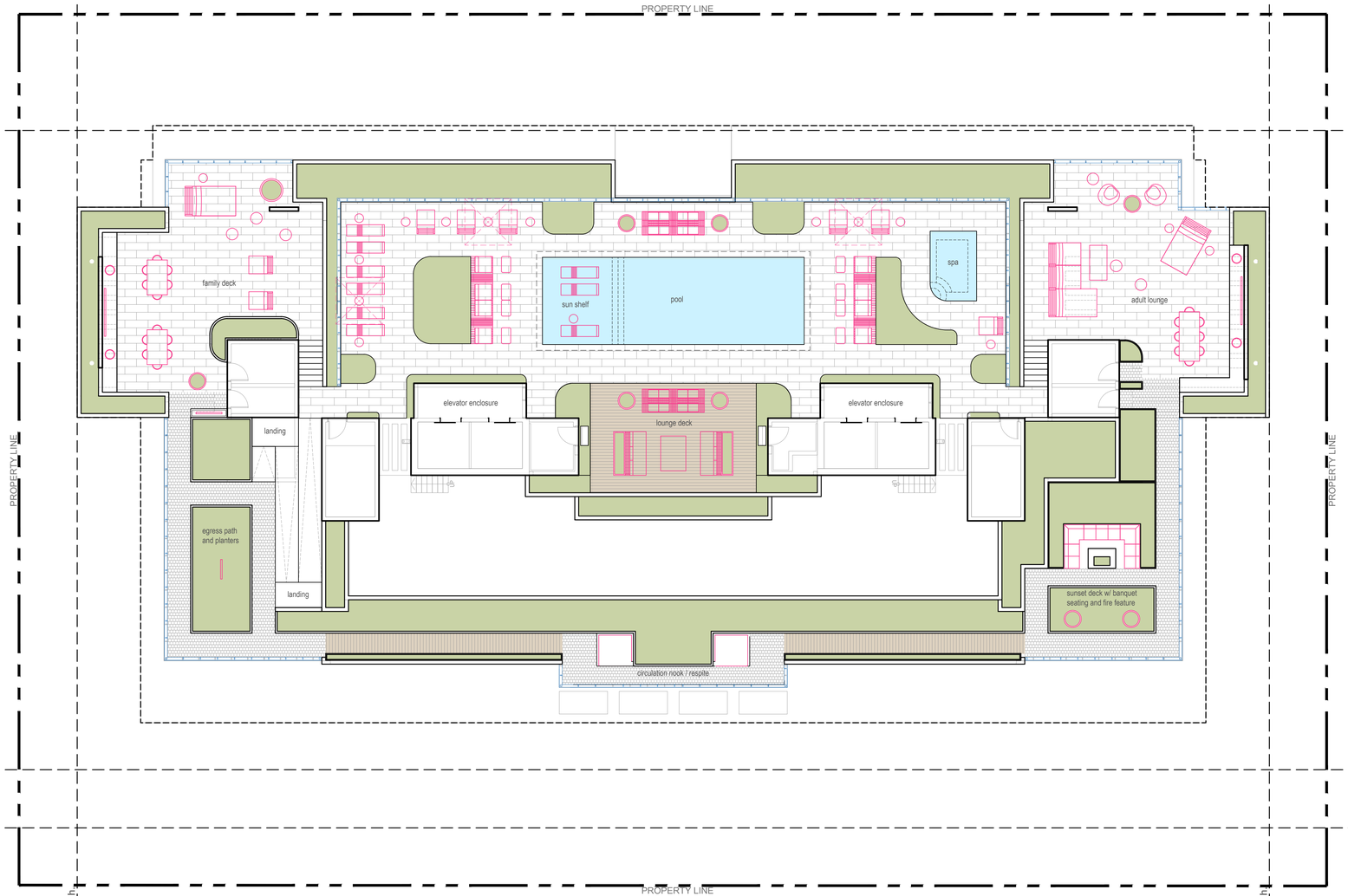
Sheet Name
Previously Approved
Roof Landscape Plan

Sheet No.

L-107-PA

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new proposal



MATERIAL LEGEND

Porcelain Tile on Slab



(4,685 sf)

Permeable Paver Type
(w/ moss or lawn joints)



(1,049 sf)

Aged Teak Wood



(780 sf)

water surface

(770 sf)

landscape
areas

(3,767 sf)

LANDSCAPE SITE CALCULATIONS:

total roof	16,125 sf	
required landscape area	2,419 sf	15%
provided landscape area	3,767 sf	23.3%

DRAWING SCALE AND NORTH ARROW:

0' 10' 20' 40'

SCALE: 3/32" = 1'-0"

NORTH

right studios

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Date
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Sheet Name
Roof Site &
Hardscape Plan

Sheet No.
L-106

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new proposal

PLANT SCHEDULE



TREES				
	QTY	SYM	Botanical Name	Common Name
	6	CR	Clusia rosea	Autograph Tree
	17	EF	Myrcianthes fragrans	Simpson's Stopper
b	5	LJ	Ligustrum japonicum	Japanese Privet
b	4	PP	Plumeria 'Pink' frangipani	Pink Frangipani Tree
PALMS				
	QTY	SYM	Botanical Name	Common Name
a	12	AM	Adonidia Merrillii	Christmas Palm
TREE and PALMS ALTERNATES				
	QTY	SYM	Botanical Name	Common Name
a	12	VM	Veitchia Montgomeryana	Montgomery Palm
b	TBD	GO	Guaiacum officinale	Lignum Vitae (option)

Alternate suggestions shall be approved by city of Bay Harbor prior to permit and installation. Alternate symbols above are placed next to options for alternates with corresponding letter tag

DRAWING SCALE AND NORTH ARCHITECT:

0' 10' 20' 40'

SCALE: 3/32" = 1'-0"

NORTH

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Date
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Scale
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Project No.
2202

Sheet Name
Roof Level Canopy
Planting Plan

Sheet No.
L-107 i

new proposal

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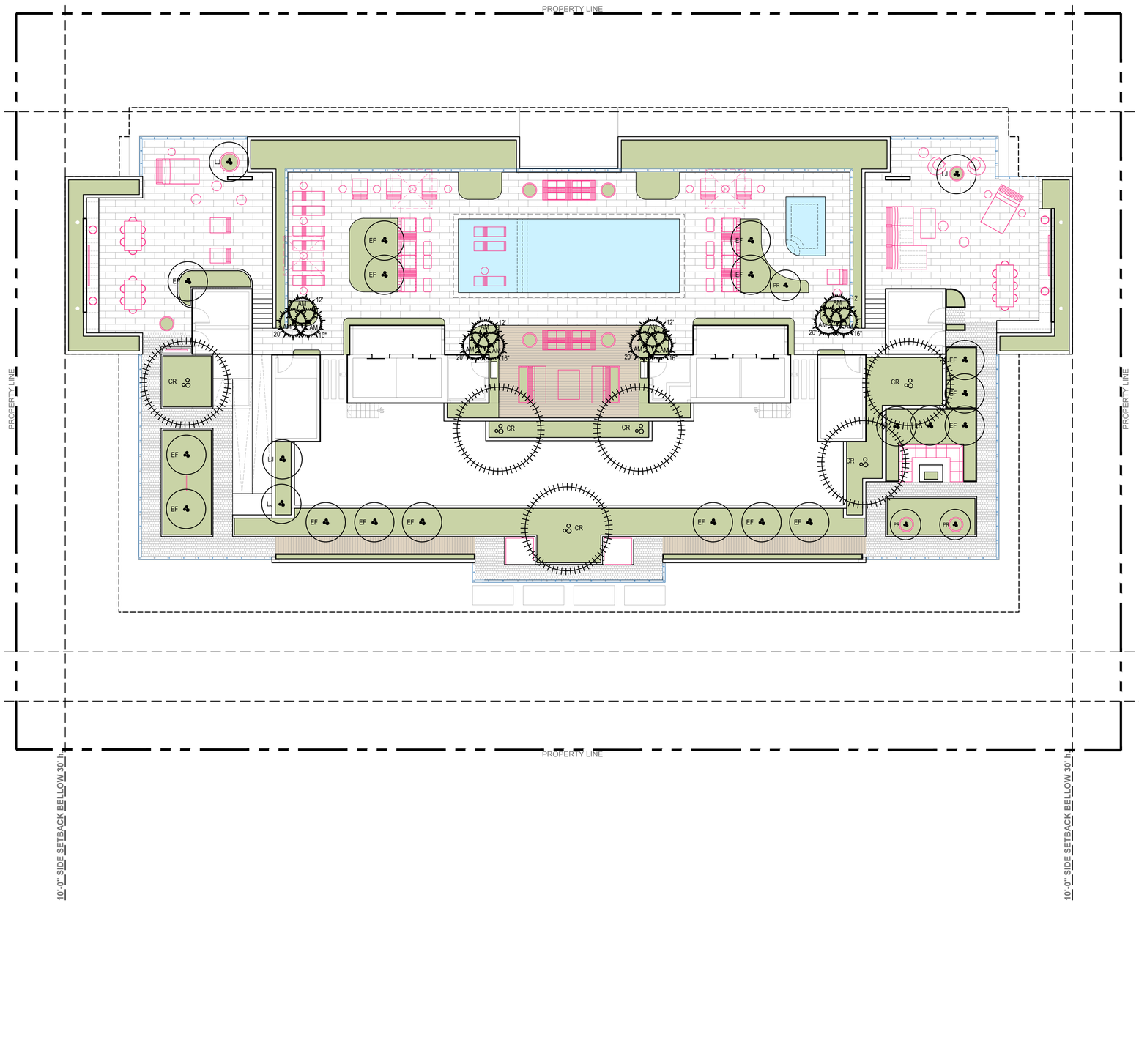
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PLANT SCHEDULE

TREES			
QTY	SYM	Botanical Name	Common Name
6	CR	Clusia rosea	Autograph Tree
17	EF	Myrcianthes fragrans	Simpson's Stopper
5	LJ	Ligustrum japonicum	Japanese Privet
4	PP	Plumeria 'Pink' frangipani	Pink Frangipani Tree

PALMS			
QTY	SYM	Botanical Name	Common Name
12	AM	Adonidia Merrillii	Christmas Palm

TREE and PALMS ALTERNATES			
QTY	SYM	Botanical Name	Common Name
12	VM	Veitchia Montgomeryana	Montgomery Palm
TBD	GO	Guaiacum officinale	Lignum Vitae (option)



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Planting Plan

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autograph tree (leaf , fruit)



autograph tree



simpson stopper



lignum vitae



ligustrum



pink plumeria (flower)



pink plumeria



christmas palm



montgomery palm

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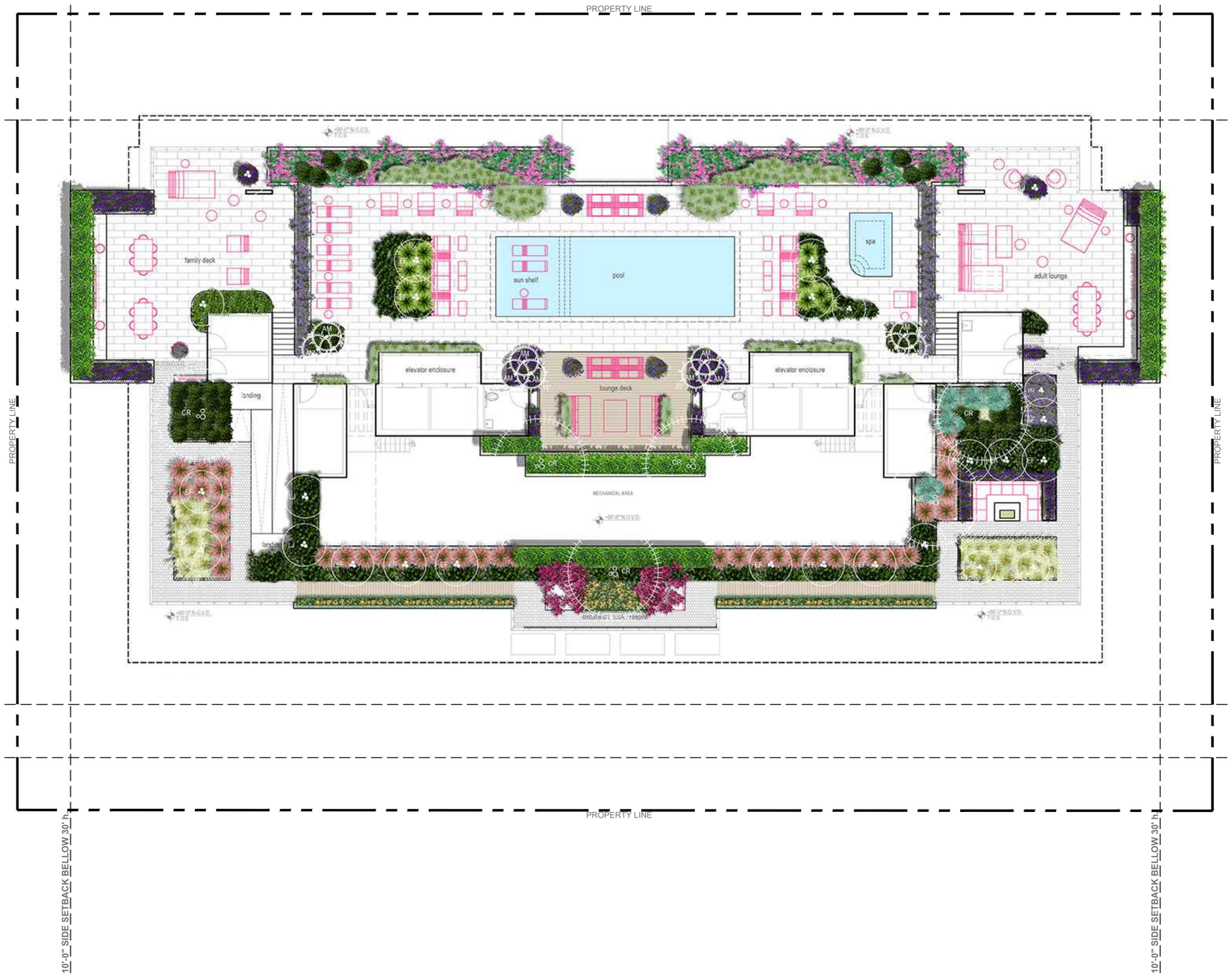
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Sheet Name
Roof Level Canopy
Plant Image Board

Sheet No.
L-107 p

new proposal

NOT FOR CONSTRUCTION



PLANT SCHEDULE

SHRUBS			
QTY	SYM	Botanical Name	Common Name
56	CG	Clusia Guttifera	Clusia hedge
164	FM	Ficus microcarpa	Green Island Ficus
5	SRS	Serenoa repens 'silver'	Silver Saw Palmetto
43	ZP	Zamia pumila	Coontie

ACCENTS, VINES and GRASSES			
QTY	SYM	Botanical Name	Common Name
4	BA	Bougainvillea 'Afterglow'	After Glow Bougainvillea
500	IP	Ipomoea Pes-caprae	Rail Road Vine
49	MC	Muhlenbergia capillaris	Pink Muhly Grass
6	SL	Salvia leucantha	Mexican Sage
41	SP	Spartina patens	Saltmeadow Cordgrass
13	TD	Tripsacum dactyloides	Fakahatchee Grass

GROUNDCOVERS			
QTY	SYM	Botanical Name	Common Name
135	BF	Bulbine frutescens 'orange'	Orange Bulbine
92	LM	Liriope muscari	Big Blue Lilyturf
10	LN	Lysimachia nummularia	Creeping Jenny
39	NC	Neomarica caerulea 'Regina'	Giant Apostle Iris
334	OJ	Ophiopogon japonicus	Mondo Grass
17	PB	Philodendron Burle Marx	Burle Marx Philodendron

DRAWING SCALE AND NORTH ARROW:

0' 10' 20' 40'

SCALE: 3/32" = 1'-0"

NORTH

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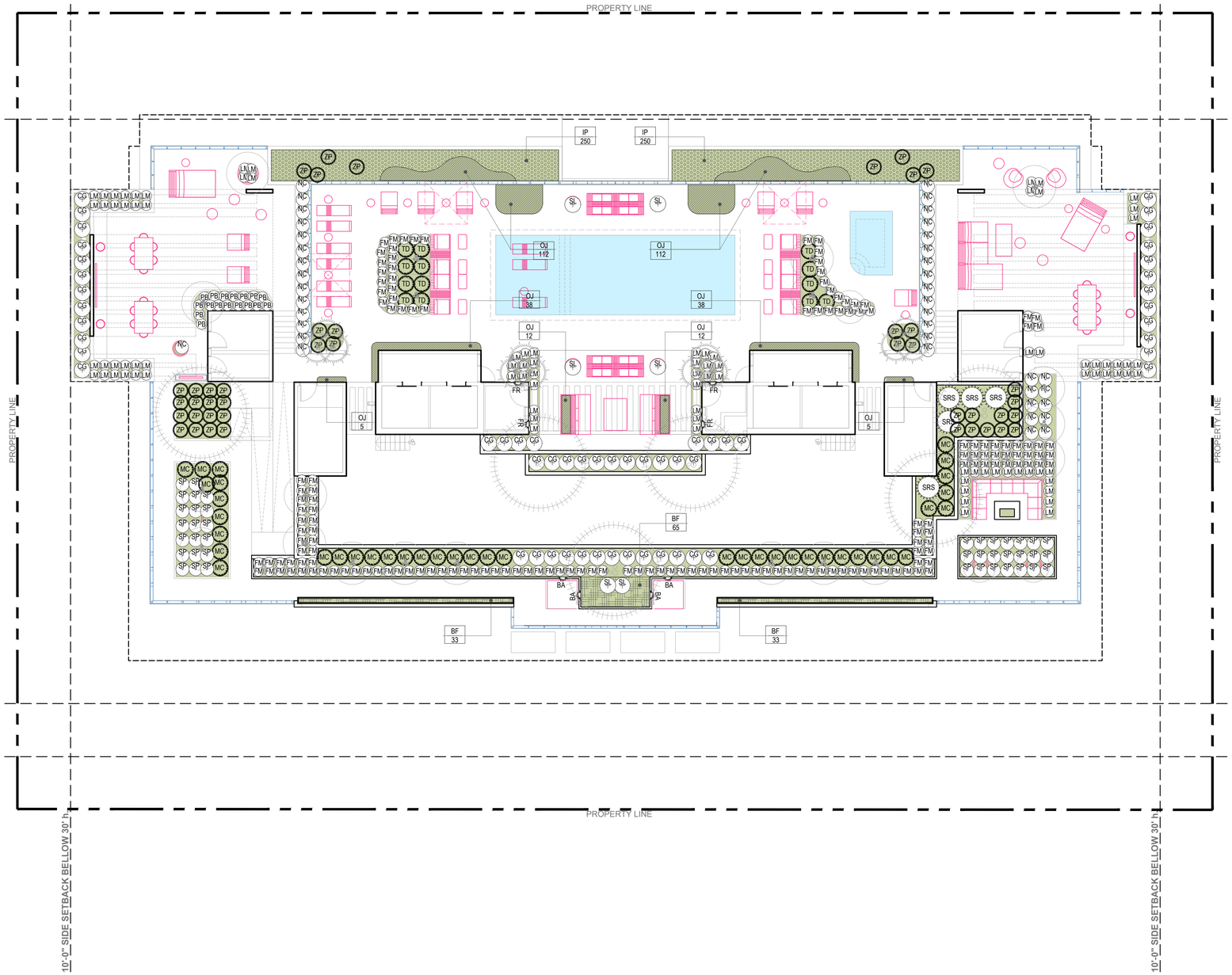
Project No.
2202

Sheet Name
Roof Level Understory Planting Plan

Sheet No.
L-108 i

new proposal

PLANT SCHEDULE



SHRUBS			
QTY	SYM	Botanical Name	Common Name
56	CG	Clusia Guttifera	Clusia hedge
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5	SRS	Serenoa repens 'silver'	Silver Saw Palmetto
43	ZP	Zamia pumila	Coontie

ACCENTS, VINES and GRASSES			
QTY	SYM	Botanical Name	Common Name
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Landscape Architect

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Patrick K. Hodges
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green island ficus



silver saw palmetto



coontie



bougainvillea



pink muhly grass



mexican sage



saltmeadow cordgrass



fakahatchee grass



liriope



purple iris



orange bulbine



mondo grass



variegated mondo grass (tbd option)



philodendron burly marx

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Roof Level Understory
Plant Image Board

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L-108 p

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new proposal

GENERAL NOTES AND REQUIREMENTS

1. The contractor is responsible for obtaining any permits or approvals from the federal, state or local government required for the work included in this contract and on these drawings.
2. Locate all underground utilities, electrical wiring, water, sewer, telephone, cable tv, etc., prior to landscape or irrigation installation
3. Stake out all tree & large shrub locations for la and owner review and approval prior to excavation or planting. Plan locations are subject to field adjustment by the la.
4. The contractor shall install an irrigation system as needed to provide a complete working system and as required to ensure 100% coverage of all new planting and sodded lawn areas. See irrigation plan by the landscape architect.
5. Install only plants graded florida no.1 or better as set forth in the florida department of agriculture 'grades and standards for nursery plants" second edition feb. 1998 including revisions and which meet or exceed the sizes indicated in the planting schedule and details.
6. Plant shrubs in circular pits with a diameter 16" greater than rootball or container. Plant trees in circular pits with a diameter 36" greater than rootball or container,. Place plants with best "face" forward.
7. Fertilize all trees with agriform 21 gram tablets, slow-release 20-10-5 analysis with one tablet per 1/2" of trunk diameter.
8. Backfill all planting pits with the following mixture ; 1/2 onsite soil, 1/2 clean friable topsoil. Submit topsoil sample and soil test analysis for approval by landscape architect, (see planting details). Remove excess soil excavated from plant pit from the site or distribute on-site as directed by l.a.
9. Apply "diehard transplant" mycorrhizal inoculant and 100% organic starter fertilizer to each new tree planted and shrub/groundcover beds in accordance with the manufacturer's recommendations i.e. 8 oz. Per 2" caliper, 3 lbs/100 s.f. area, etc... Contact horticultural alliance, inc. Sarasota, fl. 34277 800-628-6373
10. Fertilize all planting beds with osmocote 14-14-14 slow-release fertilizer at the rate of 16 pounds per 1,000 square feet. Furnish receipts for material used.
11. Treat all planting beds with pre-emergent and post-emergent herbicides according to the manufacturer's specifications. Submit receipts for materials used.
12. Mulch planting beds to a minimum 2 1/2" compacted thickness with pine straw, free of weeds.
13. Sod all disturbed areas which do not have shrub or groundcover plantings indicated with solid sod laid with closely abutting joints. Fertilize after installation with a slow-release formula.
14. Contractor shall verify all plant quantities based on the quantities in place as indicated on the plans and provide composite unit prices for each plant including all costs for materials and installation; i.e., labor, mulch, fertilzer, watering, staking, herbicides, mowing, weeding, site preparation, etc.
15. Fertilize palms with palmgain 8-2-12 formula as manufactured by bgi www.bgi-usa.com per manufacturer recommened rate.
16. Notify the owner and landscape architect of any unforeseen conditions, i.e., compacted soil / subgrade, poor drainage, unconsolidated soil, erosion, utility conflicts, excessive sun or shade, etc., prior to proceeding with landscape installation.
17. Guarantee all plants for one year.
18. All plants, materials and workmanship are subject to the approval of the landscape architect and owner.
19. Do not make substitutions or revisions, any revision or modifications to the landscape plan must have prior approval by the landscape architect & owner
20. Maintain all planting including watering, mowing, mulching, weed, pest control, etc. Until final acceptance by the owner.
23. Non-woven geo-textile product installation per manufacturers specifications. Any alternates to the specified products shall be submitted to landscape architect for approval prior to procurement.

IRRIGATION

IRRIGATION SYSTEM NOTES AND REQUIREMENTS:

the contractor shall install an automatic underground irrigation system with a minimum of two bubblers or drip emitters at each new tree and palm location and with sprayheads to ensure 100% coverage of all planting bed areas and rotors for complete coverage of all sodded lawn areas within the limits of work for this project (refer to plan provied by landscape architect).

the contractor shall submit shop drawings of the irrigation system for review and approval by the landscape architect and owner prior to the award of the landscape and irrigation contract.

the shop drawings for the irrigation system shall include a backflow preventer, lightning protection, a "smart" controller, moisture-sensing devices, piping, heads, valves and all other equipment required by local codes and as necessary for a complete working system.

the contractor shall provide an operations manual to the owner and landscape architect prior to completion of the irrigation system installation and shall demonstrate and instruct the owner's maintenance provider in the complete operation of the system.

PLANT SCHEDULE

TREES

	QTY	SYM	Botanical Name	Common Name		Specifications
	6	CR	Clusia rosea	Autograph Tree		100 gal, 14'-16' ht, 10' sp, 4" min. cal
	17	EF	Myrcianthes fragrans	Simpson's Stopper		30 gal, Multi-trunk, 6-8 ft ht, 4'-6' sp
b	5	LJ	Ligustrum japonicum	Japanese Privet		65 gal, 8' ht, 6' spr
b	4	PP	Plumeria 'Pink' frangipani	Pink Frangipani Tree		65 gal, 8' ht, 6' spr

PALMS

	QTY	SYM	Botanical Name	Common Name		Specification
a	12	AM	Adonidia Merrillii	Christmas Palm		FG, singles 12'-20' hts (see plan) 4" min. cal

TREE and PALMS ALTERNATES

	QTY	SYM	Botanical Name	Common Name		Specification
a	12	VM	Veitchia Montgomeryana	Montgomery Palm		FG, singles 12'-20' hts (see plan) 4" min. cal
b	TBD	GO	Guaiacum officinale	Lignum Vitae (option)		30 gal, 4'-6' ht x 4'-6' sp

SHRUBS

QTY	SYM	Botanical Name	Common Name		Specification
56	CG	Clusia Guttifera	Clusia hedge		15 gal 3x3 full
164	FM	Ficus microcarpa	Green Island Ficus		15 gal 3x3 full
5	SRS	Serenoa repens 'silver'	Silver Saw Palmetto		25 gal, 3x3 full
43	ZP	Zamia pumila	Coontie		3 gal, 2x2

ACCENTS, VINES and GRASSES

QTY	SYM	Botanical Name	Common Name		Specifications
4	BA	Bougainvillea 'Afterglow'	After Glow Bougainvillea		15 gal, 7'-8' ht trellis
500	IP	Ipomoea Pes-caprae	Rail Road Vine		1 gal
49	MC	Muhlenbergia capillaris	Pink Muhly Grass		3 gal
6	SL	Salvia leucantha	Mexican Sage		7 gal
41	SP	Spartina patens	Saltmeadow Cordgrass		3 gal
13	TD	Tripsacum dactyloides	Fakahatchee Grass		

GROUNDCOVERS

QTY	SYM	Botanical Name	Common Name		Specifications
135	BF	Bulbine frutescens 'orange'	Orange Bulbine		1 gal
92	LM	Liriope muscari	Big Blue Lilyturf		3 gal
10	LN	Lysimachia nummularia	Creeping Jenny		1 gal
39	NC	Neomarica caerulea 'Regina'	Giant Apostle Iris		7 gal
334	OJ	Ophiopogon japonicus	Mondo Grass		3 gal
17	PB	Philodendron Burle Marx	Burle Marx Philodendron		7 gal

Alternate suggestions shall be approved by city of Bay Harbor prior to permit and installation. Alternate symbols above are placed next to options for alternates with corresponding letter tag

S# = Street Tree designation and quantity

right studios

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LA BAIA NORTH
9461 EAST BAY HARBOR DR.
BAY HARBOR ISLANDS, FLORIDA 33154

Revisions

Owner Information

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Consultant

Landscape Architect

REGISTERED LANDSCAPE ARCHITECT
PATRICK KENNEY HODGES
LA 0000850
STATE OF FLORIDA

Patrick K. Hodges

LA-0000850

SITE PLAN REVISION

Date
05.17.22

Scale
AS SHOWN

Project No.
2202

Sheet Name
Roof Level Plant Schedule, Notes and Specifications

Sheet No.

L-109

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FRONT ELEVATION



DRAWING SCALE AND NORTH ARROW:

0' 10' 20' 40'

SCALE: 3/32" = 1'-0"

NORTH

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Date
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Project No.
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Sheet Name
Illustrative Elevation West

Sheet No.
L-110

new proposal

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REAR ELEVATION



DRAWING SCALE AND NORTH ARROW:

0' 10' 20' 40'

SCALE: 3/32" = 1'-0"

NORTH

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Patrick K. Hodges
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Date
05.17.22

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2202

Sheet Name
Illustrative
East Elevation

Sheet No.
L-111

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Patrick K. Hodges

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SITE PLAN REVISION

Date
05.17.22

Scale
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2202

Sheet Name
Rendering

Sheet No.

LR-01

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Patrick K. Hodges
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Date
05.17.22

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Project No.
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Sheet Name
Rendering

Sheet No.
LR-02

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STATE OF FLORIDA

Patrick K. Hodges

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STATE OF FLORIDA

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SITE PLAN REVISION

Date
05.17.22

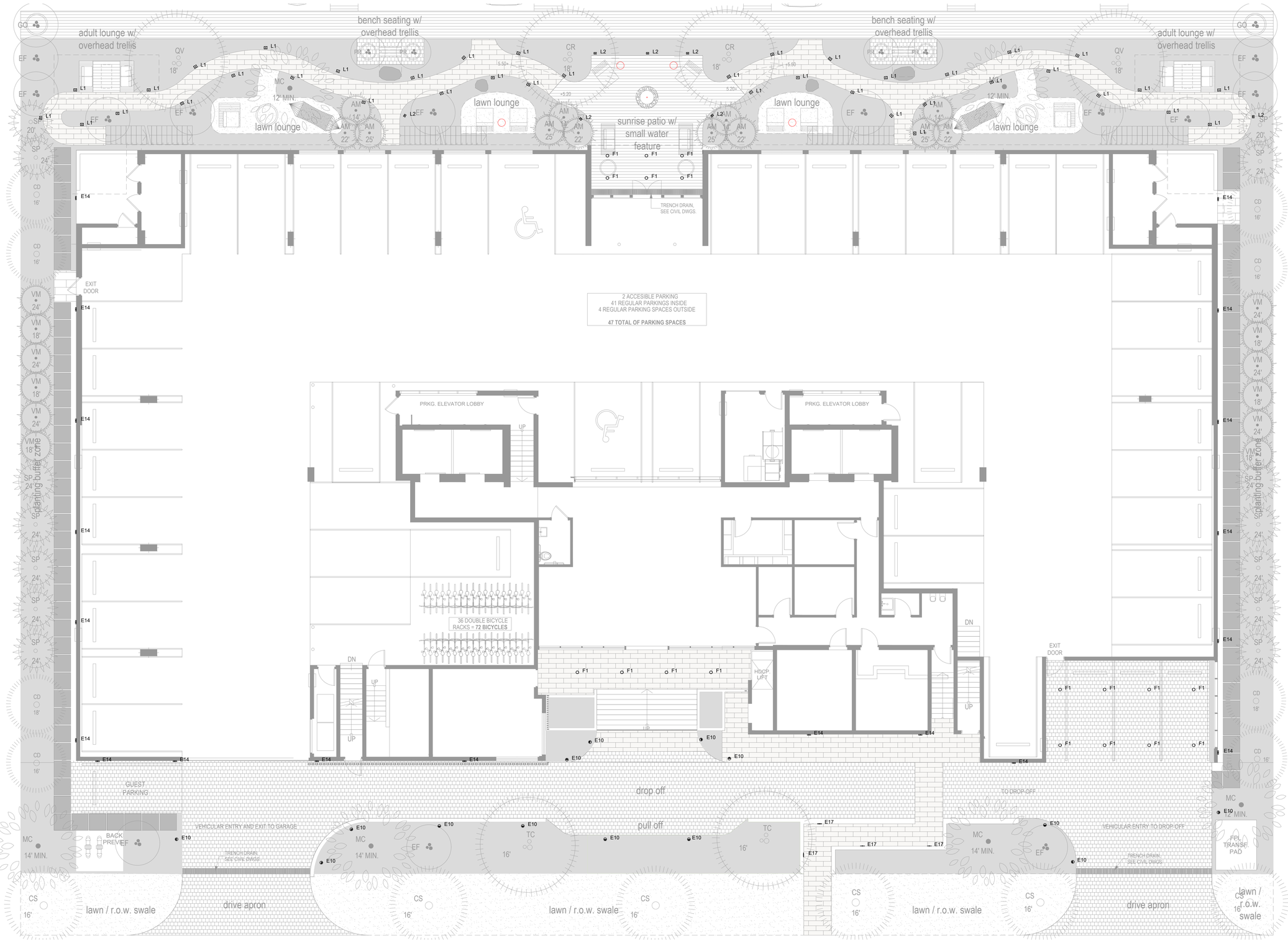
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Rendering

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LANDSCAPE LIGHTING PLAN LEVEL 1

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AR-0007972

SITE PLAN REVISION

Date
04.21.22

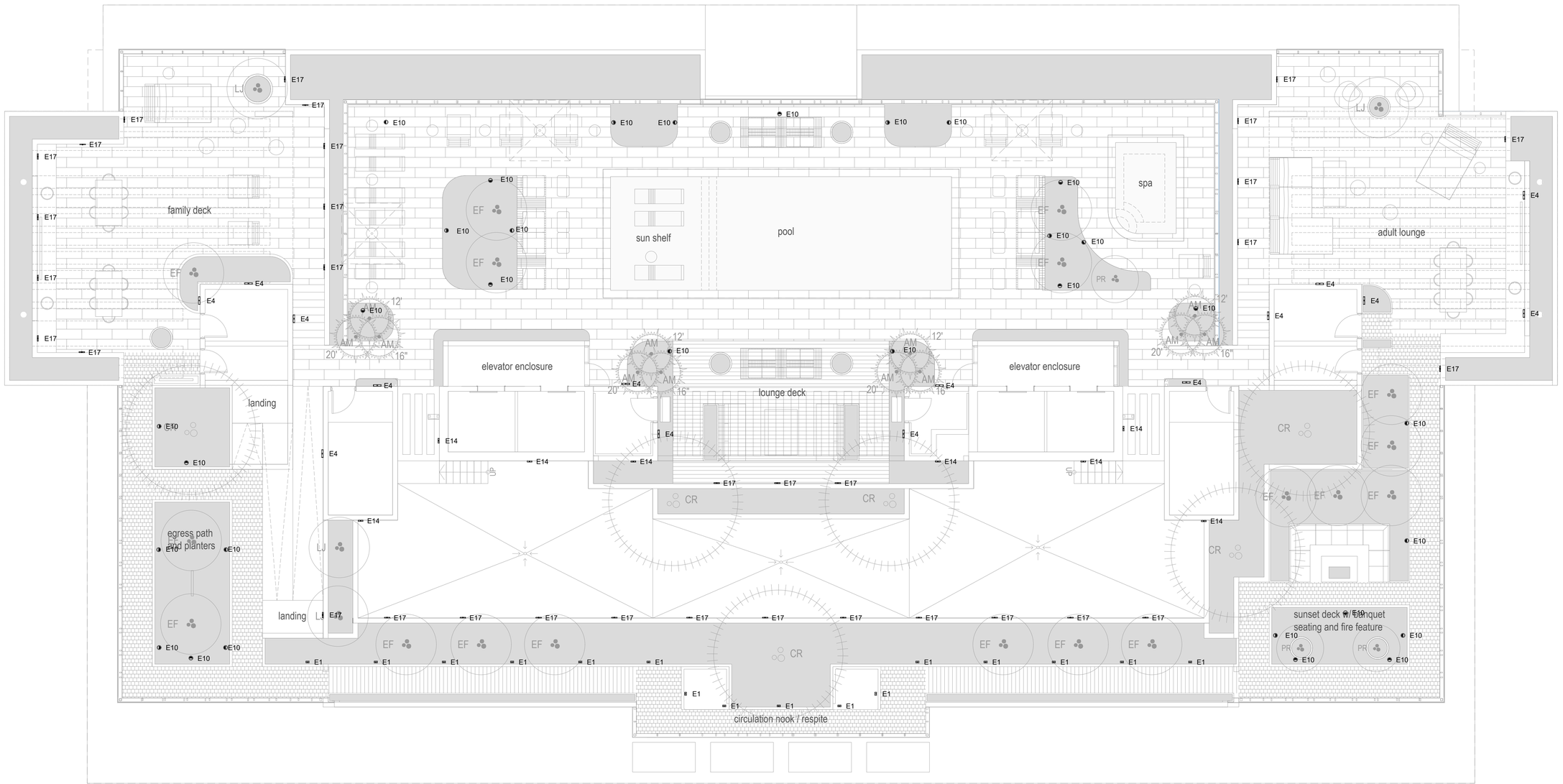
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Sheet Name
LEVEL 1_
Landscape Lighting Plan

Sheet No.
LD-109

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LANDSCAPE LIGHTING PLAN ROOF LEVEL

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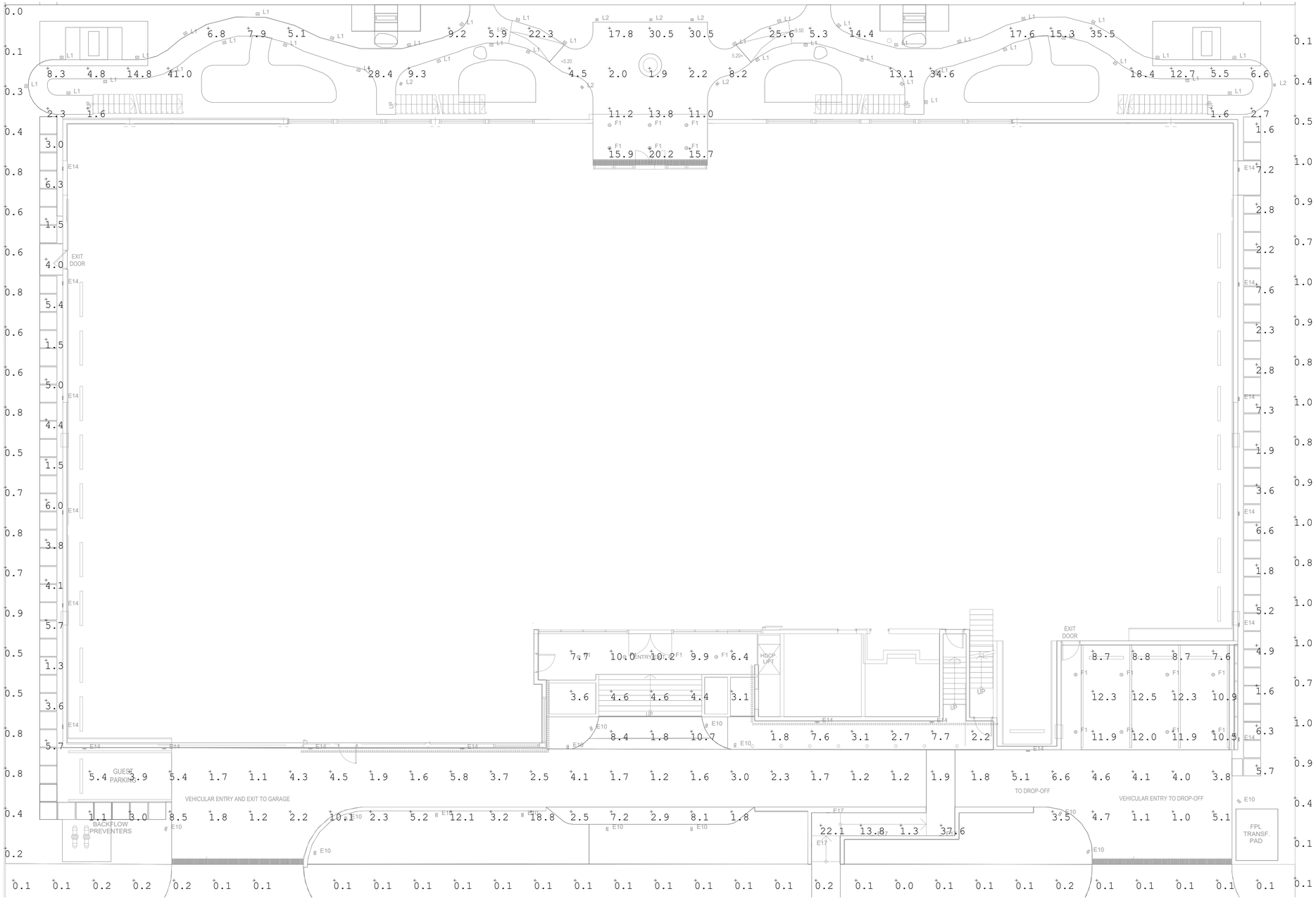
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Project No.
2202

Sheet Name
ROOF LEVEL_
Landscape Lighting Plan

Sheet No.
LD-110



Luminaire Schedule									
Symbol	Qty	Label	Arrangement	Description	Tag	LLF	Luminaire Lumens	Luminaire Watts	Total Watts
	14	E10	Single	US_Light_Measurement_FLINDT_B		0.980	579	15	210
	4	E17	Single	33046_BEGA_IES		1.000	463	8	32
	19	E14	Single	7075-08-C13-35K		0.980	1207	12.0199	228.378
	18	F1	Single	DRD2M10930-DRD2TR6SWH		1.000	1046	13.5	243
	7	L2	Single	303-P1-LEDB1-3000-UNV-T4-DIM10		0.980	636	8.2	57.4
	39	L1	Single	303-P1-LEDB1-3000-UNV-T2-DIM10		0.980	642	8.2	319.8

Calculation Summary							
Label	CalcType	Units	Avg	Max	Min	Avg/Min	Max/Min
EAST PATH WAY	Illuminance	Fc	13.38	41.0	1.6	8.36	25.63
NORTH PATHWAY	Illuminance	Fc	3.93	6.3	1.3	3.02	4.85
PROPERTY LINE	Illuminance	Fc	0.39	1.0	0.0	N.A.	N.A.
SOUTH PATHWAY	Illuminance	Fc	4.20	7.6	1.6	2.63	4.75
WEST RAMP	Illuminance	Fc	18.70	37.6	1.3	14.38	28.92
WEST SIDE	Illuminance	Fc	5.44	18.8	1.0	5.44	18.80

LANDSCAPE EMERGENCY PHOTOMETRICS LEVEL 1

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SITE PLAN REVISION

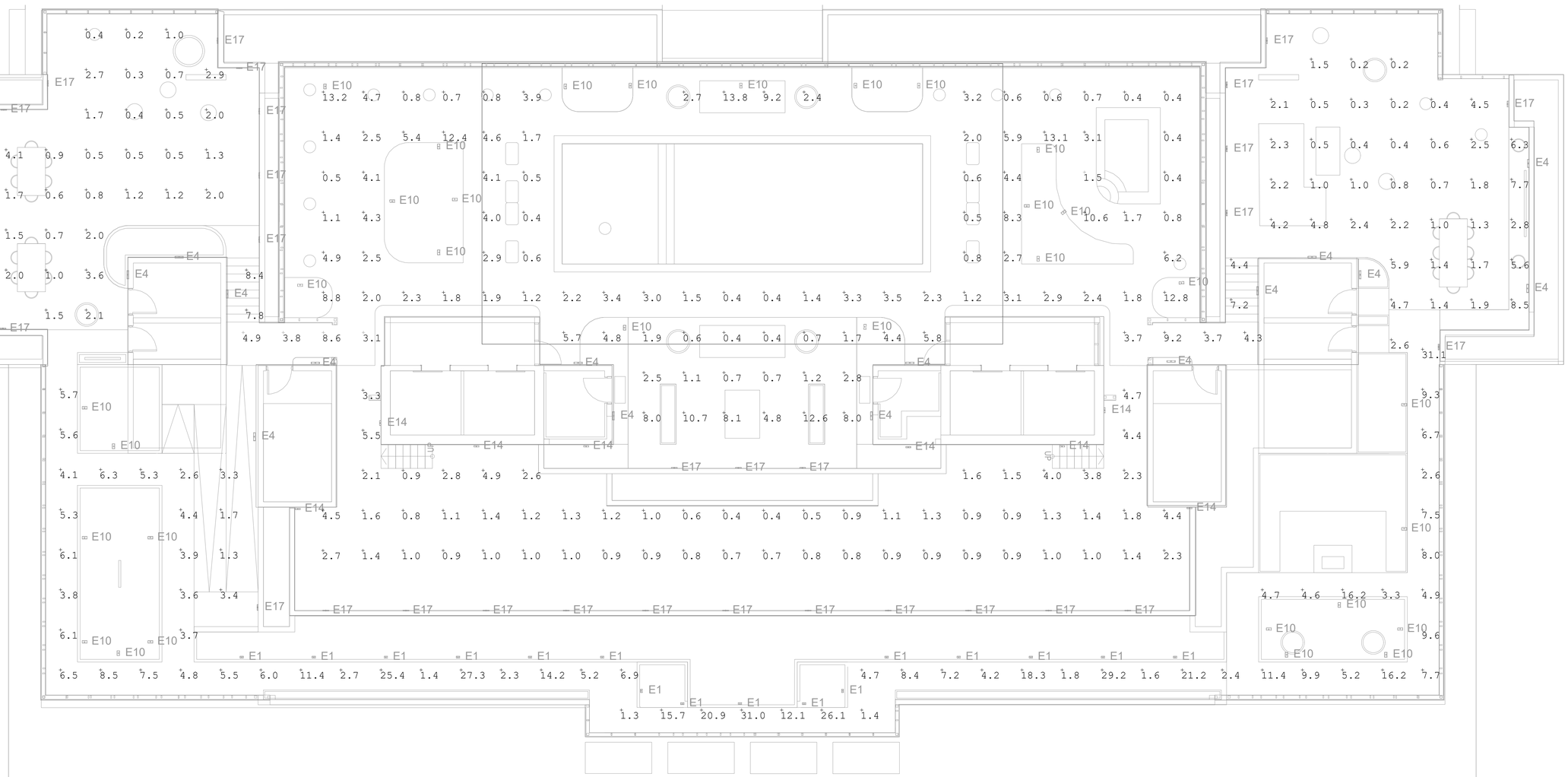
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Project No.
2202

Sheet Name
LEVEL 1_
Landscape Emergency Photometrics

Sheet No.
LD-407



Luminaire Schedule									
Symbol	Qty	Label	Arrangement	Description	Tag	LLF	Luminaire Lumens	Luminaire Watts	Total Watts
	8	E14	Single	7075-08-C13-35K		1.000	1207	12.0199	96.159
	16	E1	Single	303-P1-LEDB1-3000-UNV-T2-DIM10		1.000	642	8.2	131.2
	33	E17	Single	33046_BEGA_IES		1.000	463	8	264
	15	E4	Single	S7250W_14		0.980	888	24.2	363
	32	E10	Single	US_Light_Measurement_FLINDT_B		0.980	579	15	480

Calculation Summary							
Label	CalcType	Units	Avg	Max	Min	Avg/Min	Max/Min
ADULT LOUNGE AREA	Illuminance	Fc	2.49	8.5	0.2	12.45	42.50
FAMILY DECK AREA	Illuminance	Fc	1.78	8.4	0.2	8.90	42.00
MECHANICAL AREA	Illuminance	Fc	1.69	5.5	0.4	4.23	13.75
POOL DECK AREA	Illuminance	Fc	3.52	13.8	0.4	8.80	34.50
WEST SIDE	Illuminance	Fc	8.29	31.1	1.3	6.38	23.92

LANDSCAPE EMERGENCY PHOTOMETRICS ROOF LEVEL

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SITE PLAN REVISION

Date
04.21.22

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Project No.
2202

Sheet Name
ROOF LEVEL_
Landscape Emergency Photometrics

Sheet No.
LD-408

Town Council

Joshua D. Fuller
Mayor

Elizabeth Tricoche
Vice Mayor

Stephanie Bruder
Council Member

Molly Winters Diallo
Council Member

Isaac Salver
Council Member

Teri D'Amico
Council Member

Robert Yaffe
Council Member

Town Officials

Maria Lasday
Town Manager

Yvonne Hamilton
Interim Town Clerk

Joseph S. Geller
Town Attorney

April 28, 2022

Yvonne Hamilton, Interim Clerk
Town of Bay Harbor Islands
9665 Bay Harbor Terrace
Bay Harbor Islands, Florida 33154

RE: PROPOSED NEW PROJECT ~ CLARA BH
Transfer of Development Rights
Receiver: 10281 W. Bay Harbor Drive
Donor: 9300 Bay Harbor Terrace
Folio #13-2227-078-0001 ~ Lots 2 & 15-16 / Block 18

Dear Ms Hamilton:

As per you request, attached please find the inspection results as required for the Transfer of Development Rights for the above-mentioned property.

This Building was built in 1981. The 40 year re-certification was due for 2021. The Engineers Report was been submitted. The building is under a repair and paint permit B21-000452.

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

Sincerely,

Ayanidys Martinez

Ayanidys J Martinez, CEP
Building & Zoning Supervisor

Encl: Photographs

TOWN OF BAY HARBOR ISLANDS
9665 BAY HARBOR TERRACE
BAY HARBOR ISLANDS, FL 33154
Phone: (305) 993-1786

Inspections

Permit Number: MB22-000007
Parcel Address: 9300 Bay Harbor Terrace
Applicant: 9300 Harbor Terrace Condominium Association Inc c/o Quality Ass

---

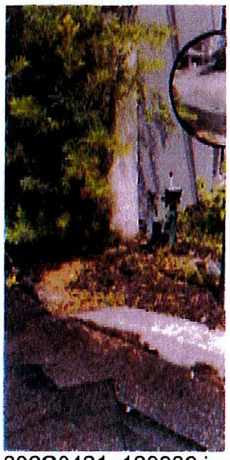
Inspection Date: 04/27/2022
Inspector: Mike Mesa
Inspection Type: Inspection
Inspection Status: Denied
Comments: The Building is due for recertification in 2021. Building under repair permit B21-000452. See pictures of the Building attached.

Inspection Date: 04/20/2022
Inspector: Candelario Martinez
Inspection Type: Inspection
Inspection Status: Approved
Comments:

Inspection Date: 04/20/2022
Inspector: Jan Pierre Perez
Inspection Type: Inspection
Inspection Status: Approved
Comments:

Inspection Date: 04/20/2022
Inspector: Maykel Massanet
Inspection Type: Inspection
Inspection Status: Denied
Comments: 1. Missing drinking fountain on pool area 2. Missing vacuum breaker on hoses bib - pool area and on pool equipment area 3. Pool bath - lavatories don't comply with ADA

Inspection Date: 04/25/2022
Inspector: Ayanidys Martinez
Inspection Type: Inspection
Inspection Status: Denied
Comments: The Building is due for recertification in 2021. Building under repair permit B21-000452. See pictures of the Building attached.



20220421_120920.jpg
TDR Inspection
Apr 25, 2022



20220421_120853.jpg
TDR Inspection
Apr 25, 2022



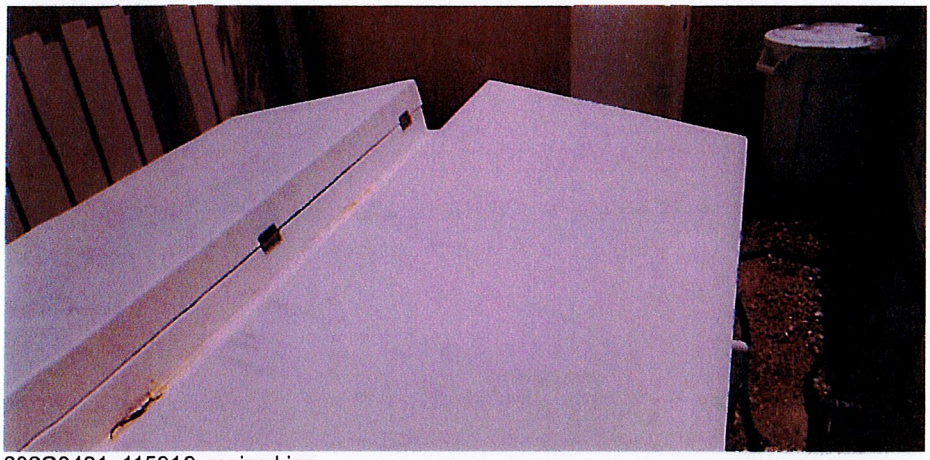
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Apr 25, 2022



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Apr 25, 2022



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TDR Inspection
Apr 25, 2022



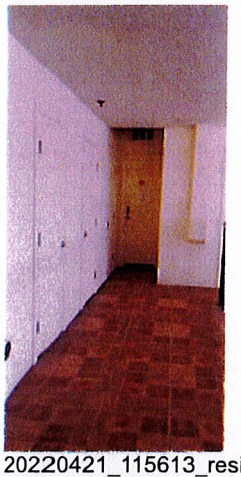
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Apr 25, 2022



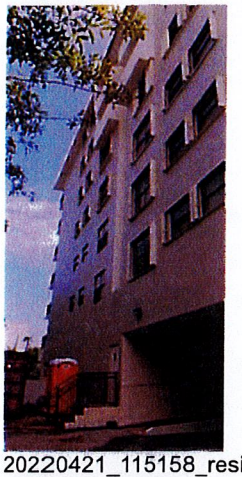
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Apr 25, 2022



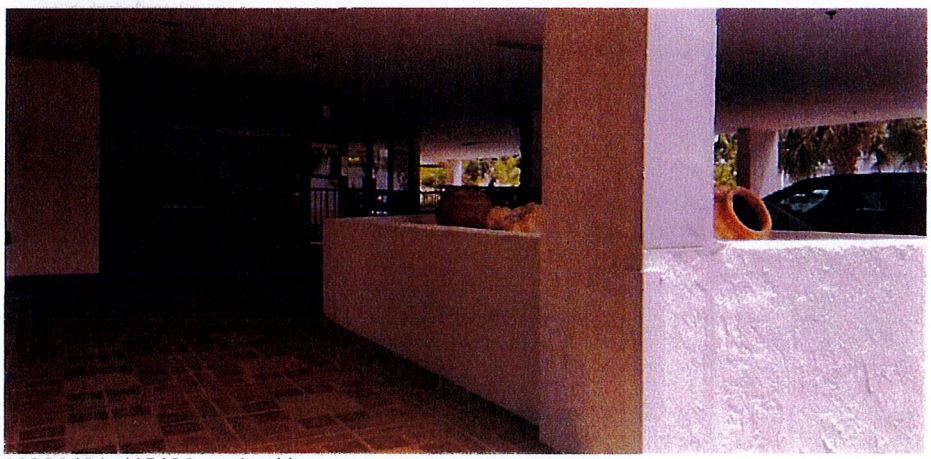
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TDR Inspection
Apr 25, 2022



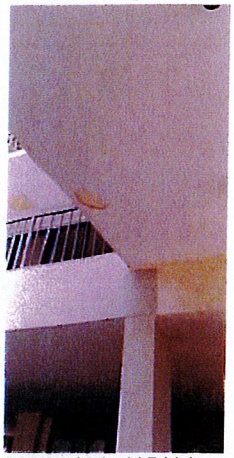
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TDR Inspection
Apr 25, 2022



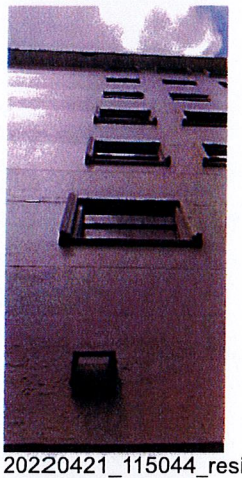
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TDR Inspection
Apr 25, 2022



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TDR Inspection
Apr 25, 2022

Town of Bay Harbor Islands Code Compliance Department
TDR Re-inspection

Date: April 21, 2022

Property Address: 9300 Bay Harbor Terrace Condo
9300 Bay Harbor Terrace
Bay Harbor Islands, FL 33154



Front view of the building.



Found cracks in the wall and paint peeling.

24-9. - Safe and sanitary maintenance of structure and facilities.
(e) All exterior surfaces subject to deterioration shall be properly maintained and protected



Found screening/enclosing material installed on two balconies that need to be removed.

(24.1)*Shutters, screens, glass or any material which enclose balconies.*

(h)Balconies shall be specifically prohibited for the use of storage, mechanical equipment including air-conditioning units, laundry drying, barbecuing or cooking and sleeping quarters. Balconies are intended to be used for occasional use and as such, those activities that may lead to noisy or unsightly conditions to neighbors or passersby; will endanger the safety of the building; or will create weight loads beyond which the balcony was designed are prohibited.

AGENDA ITEM REPORT
June 9, 2022

ITEM NUMBER: 22.

ITEM: Consideration and **Approval** of a private TDR transaction for the transfer of one (1) TDR dwelling unit from Covenant Manor Condominium Association, Inc. (9871-9881 West Bay Harbor Drive) to Future Clara BH MFR (10281 W. Bay Harbor Drive. Enclosed are copies of the application, contract, site plans, and other supporting documents.

DESCRIPTION:
The applicant is requesting approval of private Transfer of Development Rights (TDR) transaction of one (1) dwelling unit from Covenant Manor Condominium Association, Inc.)

Donor Site: 9871-9881 West Bay Harbor Drive (Covenant Manor Condominium Association, Inc.)
Receiving Site: 10281 West Bay Harbor Drive (Future Clara BH MFR)
Number of units to be transferred:1
Price per Unit: $65,000

All required information was submitted pursuant to Section 23-22.2 of the Town Code. If the TDR application is approved by the Town Council, staff recommends the Town Attorney prepare a resolution setting forth the Town Council approval and recommendations.

RECOMMENDED ACTION:
Council's Discretion.

FINANCIAL ANALYSIS:
The Transfer of one (1) Developmental Rights (TDR) dwelling unit from Covenant Manor Condominium Association, Inc. to Future Clara BH MFR is a private transaction and the Town does not derive any revenue from this transaction. The only revenue receivable for this transfer is $1,000.00 TDR application fee. There is no additional financial impact regarding this transaction.

BUDGET IMPACT:

Name	Impact Date	Fund(s)	Account(s)	Project #(s)	Amount Budgeted
TDR Sale Proceeds	06/09/2022	$1,000.00	001.9990.369002.222	TDR Sale Proceeds	$0.00

Submitted By: Yvonne Hamilton, Acting Town Clerk

ATTACHMENTS

1.	Town Planner's Staff Report - 5-27-2022 --
2.	TDR Application with supporting documents -
3.	Staff Inspection Report-Building and Code.pdf-9871-9881 West Bay Harbor Drive

7522 Wiles Road Suite B-203
Coral Springs, Florida 33067
(Tel) 954-757-9909
(Fax) 954-757-7089
(E-mail) mmiller@michaelmillerplanning.com

MICHAEL MILLER PLANNING ASSOCIATES, INC.

Fax

To:	Yvonne Hamilton, Interim Town Clerk	**From:**	Michael J. Miller, AICP
	Town of Bay Harbor Islands		Consultant Town Planner
Fax:	305-866-4863	**Pages:**	2 (Including Cover Page)
Phone:	305-866-6241	**Date:**	5/27/2022
Re:	Transfer of Development Rights (TDR)	**CC:**	Maria Lasday – Town Manager
	Clara MFR (former Atlantis) (28 Total DU)		Joseph S. Geller, Esq. – Town Attorney

☐ **Urgent** ☐ **For Review** ☐ **Please Comment** ☐ **Please Reply** ☐ **As Requested**

TDR Request – 1 Private DU

Donor Site: **9871-9881 West Bay Harbor Drive / Lot 12, less the northerly & westerly 11 feet (deeded to Town for on-street parking) of Block 9 (Covenant Manor Condominium Association, Inc.)**

Receiving Site: **10281 W. Bay Harbor Drive / Lots 6 & 7 of Block 5 (Future Clara BH MFR)**

In response to the Town's request for our firm's analysis of the lands proposed to be involved with the above referenced TDR application requesting approval of the transfer of one (1) private TDR units, following is our analysis.

Our records indicate the **receiving** site (Clara MFR) was granted a Site Development Plan approval by the Town's Design Review Board on April 7th, 2022, for a total of 28 DU. The survey submitted for the future Clara site shows that the site is slightly smaller than usual as it is a corner lot. The combined parcel size is 22,366 sq. ft. Therefore, the allowable base zoning density of 34 DUA would allow for 17 DU on the receiving site (.513 acres X 34 DUA = 17.46 or 17 DU). Since the proposed project includes 28 total dwelling units this requires the acquisition of 11 TDR units to construct the project. To date, the developer has acquired six (6) TDR units and another five (5) are required to construct the project. The TDRs previously acquired include one (1) DU from the Southern Star Condo and five (5) DU from Bay Harbor Townhouses. The previous Atlantis MFR developer also made arrangements to acquire five (5) additional TDR DU in 2018; however, those sales agreements were canceled & released, as that project did not move forward for development. In September 2021 the land was acquired by Clara BH, LLC.

The **donor** site is currently developed as a 2-story / 6 DU condominium complex built in 1955. The survey submitted with the TDR application notes the site is comprised of one lot (Lot 12); however, this property owner deeded 11 feet of their property to the Town along both WBHD and 99th Street for

adjoining on-street parking spaces, which reduces the lot size significantly. The lot is also located at an intersection, so the lot area is further reduced due to the loss of land area at the intersection curve. In November 2021 the donor property owner representatives contacted the Town / MMPA about the potential number of the TDR units. The loss of land area affects the potential number of development rights for this site which was discussed with the Covenant Manor representatives. MMPA suggested the condominium HOA petition the Town to vacate the 11' previously deeded areas for parking to return the lot size to its original size and increase the density rights for potential additional TDR sales and correct several zoning nonconformities (setbacks / open space) created by the previous dedication. MMPA stated to the HOA representative that an accurate calculated lot area would need to be provided for the existing reduced lot size (Lot 12 less the 11' deeded areas) and eventually for the whole lot size if the HOA chose to vacate the 11' parking areas. Unfortunately, the survey provided for the donor site in the TDR application does not include a calculated lot square footage for the existing reduced lot size, making it somewhat difficult for the Town to properly analyze the application. So as not to defer this application, MMPA has attempted to assist by estimating the existing reduced lot size. Based on our estimate the reduced lot area comprises about 8,296 sq. ft. / .19 acres. Therefore, up to seven (7) DU could have built at 34 DUA (.19 acres x 34 DUA = 6.5 rounded up to 7 DU) – possibly up to 9 DU if the 11' is vacated and returned to the landowners. Again, a surveyor must provide an accurate calculated lot area to determine the exact lot size / development right calculations (adjusted for curve at intersection). Based on the above one (1) TDR DU is now available which is being requested to convey to the Clara MF site. Our records do not indicate that any TDR units were previously transferred from this site. If the one (1) TDR unit requested is approved, the **donor** site will have zero (0) TDR units available, unless the 11' areas are vacated.

The **receiving** site has also submitted a concurrent application to contract with 9300 Harbor Terrace Condominium Association located at 9300 Bay Harbor Terrace for two (2) private TDR units. Finally, the **receiving** site is requesting to acquire the remaining two (2) TDR unit from the Town (public TDR account). If both of the private TDR applications are approved (3 DU) plus the Town TDR sale (2 DU) the **receiving** site will have acquired the eleven (11) total TDR units needed to construct the 28 DU complex. MMPA will provide separate staff reports for the other private TDR sale and Town TDR sale.

Our office was not requested to perform any inspections of the donor site to determine if the site complies with Town Codes or has any Code violations. We assume other Town staff members will perform those tasks in conformance with the Town TDR Code requirements. The backup documents include an inspection report for the Covenant Manor Condominium donor site.

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 Clara BH LLC c/o James Curnin		
Phone (305)972-8568	e-mail jc@clarahomes.co	Fax ( )
Address 2665 S. Bayshore Dr Suite 410		
City and State Miami, Florida		Zip Code 33133
Relationship to Property: Owner		

RECEIVER SITE INFORMATION

Owner's Name Clara BH LLC c/o James Curnin		
Phone (305) 972-8568	e-mail jc@clarahomes.co	Fax ( )
Address 10281 W Bay Harbor Drive & 1170 103 Street		
City and State Bay Harbor Islands, Florida		Zip Code 33154
Property Address/Location 10281 W Bay Harbor Drive & 1170 103 Street, Bay Harbor Islands, Florida, 33154		
Legal Description: LOT(S) 6 & 7 BLOCK 5		
Folio Number 13-2227-001-1160 & 13-2227-001-1150		Current Zoning RM-2 Multiple Family District General
Property size 22,365.8 Square Feet; 0.5 Acres		Purchase date
Existing use of the property Vacant		
Describe Existing Structure on Property Vacant		
Dwelling units to be received 1		
Total Dwelling units including TDR 28		

HAS SITE PLAN FOR RECEIVING PROPERTY BEEN APPROVED?

☒ **Yes** ☐ **No**

If Yes, then provide date of approval ~~March 21, 2017~~ April 7, 2022

If Not, then attach preliminary site plan.

DocuSign Envelope ID: 1C1030F8-9194-4E68-B0DC-3435DF32654F

ARE TDRs BEING REQUESTED FROM THE TOWN? Yes ☐ 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 Covenant Manor Condominium ~~Association~~, Inc.		
Phone (786-431-8440	e-mail antonelliblanco@gmail.com	Fax ( )
Address 9871 - 9881 W Bay Harbor Dr.		
City and State Bay Harbor Islands, Florida		Zip Code 33154
Property Address/Location 9871 - 9881 W Bay Harbor Dr., Bay Harbor Islands, Florida, 33154		
Legal Description: LOT(S) 12	BLOCK 9	
Folio Number 13-2227-030-0001	Current Zoning RM-2	Year built 1955
Property size	Purchase date Multiple as Condominium	
Existing use of the property Multi-family residential development		
Describe Existing Structure on Property 2-story residential building		
Dwelling units to be transferred to TDR Bank 1 to Receiver Site		
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 Mojarena & Associates, Inc. (Receiver)		
Address P.O. Box 56-0126, Miami, Florida 33256-0126		
Phone (305) 278-2494	e-mail	Fax ( )

Name of Surveyor Blanco Surveyors, Inc. (Donor)		
Address 555 N Shore Drive, Miami Beach, Florida 33141		
Phone (305) 865-1200	e-mail blancosurveyorsinc@yahoo.com	Fax (305) 865-7810

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

DocuSigned by:

_____ _____
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 February, 2022, by James Curnin 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: _____

DONOR SITE
COVENANT MANOR CONDOMINIUM INC.

_____ _____
Signature of Owner (Applicant) Date
FRANCO ANTONELLI

_____ 2/17/22
Signature of Owner (Co-Applicant) Date

STATE OF FLORIDA
COUNTY OF MIAMI-DADE

The foregoing instrument was acknowledged before me this 17 day of Feb, 2022, by FRANCO ANTONELLI on behalf of Covenant Manor Condominium Inc. 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:

RICHARD I KROOP
Notary Public - State of Florida
Commission # HH 027098
My Comm. Expires Nov 15, 2024
Bonded through National Notary Assn.

_____
Notary Public, State of Florida

Print Name: _____

DocuSign Envelope ID: 1C1030F8-9194-4E68-B0DC-3435DF32654F

EXHIBIT A

9871 – 9881 W Bay Harbor Dr., Bay Harbor Islands, Fla.

LEGAL DESCRIPTION

Lots 12 of, Block 9, BAY HARBOR ISLAND, according to the Plat thereof, recorded in Plat Book 46, at Page 5, of the Public Records of Miami-Dade County, Florida.

A/KIA: Folio numbers

13-2227-030-0010
13-2227-030-0020
13-2227-030-0030
13-2227-030-0040
13-2227-030-0050
13-2227-030-0060

DocuSign Envelope ID: 1C1030F8-9194-4E68-B0DC-3435DF32654F

EXHIBIT B

RECEIVING PARCEL LEGAL

Land Use Designation: MH-Medium-High Density Residential
FOLIO(S): 13-2227-001-1150 & 13-2227-001-1160
Zoning District: RM-2 Multiple Family District General
Location: 10281 West Bay Harbor Drive and 1170 103 Street

Legal Description: Lots 6 and 7 of Block 5, "Bay Harbor Island" Subdivision according to theplat thereof, as recorded in Plat Book 46, at page 5 of the Public Records of Miami-Dade County, Florida

BERCOW
RADELL
FERNANDEZ
LARKIN +
TAPANES

ZONING, LAND USE AND ENVIRONMENTAL LAW

200 S. Biscayne Boulevard
Suite 300, Miami, FL 33131

www.brzoninglaw.com

305.377.6236 office
305.377.6222 fax
mamster@brzoninglaw.com

VIA EMAIL & HAND DELIVERY

TOWN OF BAY HARBOR ISLANDS
MIAMI-DADE COUNTY, FL
MAY 25 2022
RECEIVED
By

May 25, 2022

Maria Lasday, Town Manager
Town of Bay Harbor Islands
9665 Bay Harbor Terrace
Bay Harbor Islands, Florida 33154

Re: TDR Application – Covenant Manor Condominium, Inc. to Clara BH, LLC for Approved Site Plan for the Bay Harbor Apartments located at 10281 W Bay Harbor Drive & 1170 103 Street, Bay Harbor Islands, FL, 33154

Dear Ms. Lasday:

This law firm represents Clara BH, LLC (the "Applicant"), the owner of the lots located at 10281 W Bay Harbor Drive and 1170 103 Street, Bay Harbor Islands, FL 33154 (collectively, the "Property"). The Property consists of two vacant dry lots at the southeast corner of the intersection of W. Bay Harbor Drive and 103 Street. The Property has a lot size of 22,366 square feet (0.51 acres) and is zoned RM-2, Multiple Family Residential District (nonwaterfront). At the maximum permissible density of 60 units/acre, the Property could have 31 units. The purpose of this letter is to request approval of the Transfer of Development Rights ("TDRs"), through a private transfer, for the approved development on the Property.

The Project. On March 21, 2017, the Planning and Zoning Board (PZB) approved the prior owner's site plan for a multi-family residential project, entitled "Atlantis," (the "Project"). Designed by Blanco Surveyors, Inc., the Project is a 7-story multifamily residential building, comprised of 28 residential units, a fitness center, and a roof top pool and spa. The Project will provide the required number of parking spaces plus an additional two spaces. The height of the building is consistent with the maximum building height of 65 feet.

Most recently, on April 7, 2022, the Town's Design Review Board approved a revised site plan called Clara BH for the same number of dwelling units, 28, with all required parking provided on-site.

TDRs. The Property size provides for 17 as of right dwelling units, which means the Project requires 11 TDRs. In 2017, the prior owner of the Property secured 6 private TDR units for the Property. See Exhibit A, BH Harbor TH1 Transfer Warranty Deed (5 TDR units) and Exhibit B, Southern Star Transfer Warranty Deed (1 TDR unit). Additionally, although the prior owner obtained approval from the Town for 5 private TDR units in 2018, the associated TDR purchase agreements were cancelled and released.

Therefore, the Applicant requires 5 more TDRs for the Project. This application is for 1 TDR via a private contract with Covenant Manor Condominium, Inc. (the "Covenant Manor Condo"), from the property located at 9871-9881 West Bay Harbor Drive. The Covenant Manor Condo obtained approval for and has developed a 2-story residential building with 6 units. The Applicant is currently finalizing the transfer of the other 4 TDRs through another private TDR contract and a purchase agreement with the Town of Bay Harbor, and will submit the applications separately.

The Project satisfies the criteria for approval of TDRs. The proposed development plan design fully complies with the minimum standards set forth in the Town's land development regulations and no variances are needed. The design, height and massing, are compatible with the surrounding area, which contains numerous buildings of similar size. The Project's density of 28 units where 31 units are allowed, is also compatible with the surrounding Medium-High Density Residential land use through the TDR program.

Should you have any questions, comments, or require additional information, please do not hesitate to phone my direct line at (305) 377-6236.

Very truly yours,

Matthew Amster

Enclosures
CC: Maritza Haro Salgado
Shakeyla Flores

CFN: 20210697799 BOOK 32747 PAGE 1571
DATE:09/21/2021 12:39:17 PM
DEED DOC 39,000.00
SURTAX 29,250.00
HARVEY RUVIN, CLERK OF COURT, MIA-DADE CTY

Prepared by:
Brian M. Rokaw, Esq.
Brian M. Rokaw, P.A.
4070 Laguna Street
Coral Gables, FL 33146
Tel: (305) 722-5888

Return to:
Beloff Law, P.A.
1691 Michigan Avenue, Suite 250
Miami Beach, Florida 33139
Tel: (305) 673-1101
File Number: CU-0566-16

[Space Above This Line For Recording Data]

Warranty Deed

This Warranty Deed made this 10 day of **September, 2021** between **Atlantis 103, LLC, a Florida limited liability company,** whose post office address is **1200 Brickell Avenue, Suite 800, Miami, Florida 33131**, grantor, and **Clara BH LLC, a Delaware limited liability company** whose post office address is **10201 Collins Avenue, Apt. 1107, Bal Harbour, Florida 33154**, grantee:

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

Witnesseth, that said grantor, for and in consideration of the sum of TEN AND NO/100 DOLLARS ($10.00) and other good and valuable considerations to said grantor in hand paid by said grantee, the receipt whereof is hereby acknowledged, has granted, bargained, and sold to the said grantee, and grantee's heirs and assigns forever, the following described land, situate, lying and being in **Miami-Dade County, Florida** to-wit:

Lots 6 and 7, Block 5 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.

Parcel Identification Number(s): 13-2227-001-1150 and 13-2227-001-1160

Property Addresses: 10281 West Bay Harbor Drive, Bay Harbor Islands, FL 33154 and
1170 103rd Street, Bay Harbor Islands, FL 33154

AND Grantor does hereby further grant, transfer, sell and convey to Grantee, its successors and assigns, all of Grantor's right, title and interest in and to those certain SIX (6) Units of Development Rights heretofore transferred to the Grantor pursuant to the following Warranty Deeds ("TDR Deeds"):

a. **Warranty Deed For Transfer of Development Rights and Declaration of Restrictions dated October 11, 2017 and recorded October 13, 2017 in Official Records Book 30716, at Page 1008, of the Public Records of Miami-Dade County, Florida (5 Units), and**

b. **Warranty Deed For Transfer of Development Rights and Declaration of Restrictions dated November 6, 2017 and recorded December 6, 2017 in Official Records Book 30783, at Page 1967, of the Public Records of Miami-Dade County, Florida (1 Unit),**

which Development Rights are owned and have not heretofore been transferred or conveyed by Grantor, and are and shall continue to be appurtenant to the Property hereinabove described, as the 'Receiving Parcel', all in accordance with and subject to the terms and conditions of the said TDR Deeds.

Subject To: Conditions, restrictions and easements of records without hereby reimposing same; zoning restrictions, prohibitions and other requirements imposed by governmental authority.

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

To Have and to Hold, the same in fee simple forever.

And the grantor hereby covenants with said grantee that the grantor is lawfully seized of said land in fee simple; that the grantor has good right and lawful authority to sell and convey said land; that the grantor hereby fully warrants the title to said land and will defend the same against the lawful claims of all persons whomsoever; and that said land is free of all encumbrances, except taxes accruing subsequent to **December 31, 2020**.

In Witness Whereof, grantor has hereunto set grantor's hand and seal the day and year first above written.

Signed, sealed and delivered in our presence:

ATLANTIS 103, LLC,
a Florida limited liability company

By: Burotto International, LLC, a Delaware limited liability company, its Manager

By: _____ (Seal)
Name: Cesar Burotto
Title: Manager

Witness Signature: _____
Printed Name: BRIAN ROKAW

Witness Signature: _____
Printed Name: Jonathan D. Beloff

State of Florida

County of Miami-Dade

THE FOREGOING INSTRUMENT WAS ACKNOWLEDGED before me by means of [✓] physical presence or [ ] online notarization, this 10 day of September, 2021 by Cesar Burotto, as Manager of Burotto International, LLC, a Delaware limited liability company, the Manager of Atlantis 103, LLC, a Florida limited liability company, who [ ] is personally known or [✓] has produced a driver's license as identification.

_____
Notary Public

[Notary Seal]

Notary Public State of Florida
Brian M. Rokaw
My Commission GG 226949
Expires 06/23/2022

Printed Name: BRIAN M. ROKAW

My Commission Expires: June 23, 2022

EXHIBIT A

CFN: 20170575752 BOOK 30716 PAGE 1008
DATE:10/13/2017 09:53:05 AM
DEED DOC 0.60
SURTAX 0.45
HARVEY RUVIN, CLERK OF COURT, MIA-DADE CTY

This instrument prepared by, record and return to:

Jennifer Snyder, Esq.
SNYDER INTERNATIONAL LAW GROUP, P.A.
21500 Biscayne Boulevard, Suite 401
Aventura, FL 33180

Notice to Recorder:

The deed is for a transfer of development rights to the property described herein and does not transfer any interests in real property. Accordingly, pursuant to TAA No. 03B4-007 (July 14, 2003), no documentary stamp tax is due in connection herewith.

Folio No.

[Space above line reserved for recording office use]

WARRANTY DEED
FOR TRANSFER OF DEVELOPMENT RIGHTS AND DECLARATION OF RESTRICTIONS

THIS INDENTURE, made as of the 11th day of October, 2017 between Bay Harbor TH 1, LLC, a Florida limited liability company whose post office address is 20900 NE 30th Avenue, Suite 510, Aventura, FL 33180, hereinafter called Grantor, and Atlantis 103, LLC, a Florida limited liability company, whose post office address is 7657 NW 50th Street, Miami, FL 33166, hereinafter called Grantee:

(wherever used herein, the terms "Grantor" and "Grantee" include all parties to this instrument and the heirs, legal representatives and assigns of individuals, and the successors and assigns of corporations)

WITNESSETH, That Grantor, for and in consideration of the sum of Ten Dollars ($10.00), to the Grantor in hand paid by the Grantee, the receipt whereof is acknowledged, has granted, bargained and sold to the Grantee and the Grantee and the Grantee's heirs, successors and assigns forever, FIVE (5) UNITS OF DEVELOPMENT RIGHTS (the **"Development Rights"**) as set forth in the Town of Bay Harbor Island Zoning and Planning Code (the **"Town Code"**), Ordinance No. 769 and Section 23-22.2 and Resolution No. 2131 from the following described property (the **"Donor Parcel"**) situate, lying and being in Miami-Dade County, Florida to wit:

Lot 1, Block 9, BAY HARBOR ISLAND, according to the Plat thereof, recorded in Plat Book 46, at Page 5, of the Public Records of Miami-Dade County, Florida.

AND THE GRANTOR DOES HEREBY FULLY WARRANT the title to said Development Rights and will defend the same against the lawful claims of all person, whosoever, and the Grantor hereby represents that the transfer of the Development Rights to the Grantee herein has been approved by the Town of Bay Harbor Islands in accordance with the requirement of the Town Code, avers that the Rights are hereby severed and extinguished from the Donor Parcel.

SAVING AND RESERVING TO THE GRANTOR all other rights to develop the Donor Parcel in accordance with the Town Code, except for the Development Rights that are hereby transferred to the Grantee.

The Development Rights transferred to the Grantee by this instrument are and shall be appurtenant to the following described land now owned by the Grantee (the **"Receiving Parcel"**) unless and until such Development Rights are subsequently transferred in accordance with the provisions of the Town Code:

Lots 6 and 7, of Block 5, BAY HARBOR ISLAND, according to the Plat thereof, as recorded in Plat Book 46, at Page 5, of the Public Records of Miami-Dade County, Florida.

The use of the Donor Parcel and the Receiving Parcel is hereby restricted to uses permitted under the Town Code, as amended from time to time.

This instrument may be executed in counterparts with the respective original signature pages assembled into one document for recordation in the Public Records of Miami-Dade County.

IN WITNESS WHEREOF, the Grantor has signed and sealed these presents effective as of the day and year first above written, with the joinder and consent of the Grantee.

Signed, sealed and delivered in the presence of Witnesses:

Witnesses:

NORBERTO LAUCE

Print name: _____

Solomon Mizrahi

Print name: _____

Bay Harbor TH 1 LLC, a Florida limited liability company

By: Bay Harbor TH 1 Developer LP, a Delaware limited partnership, its Manager

By: Bay Harbor TH 1 GP LLC, a Delaware limited liability company, its General Partner

By: _____
Michel Leibovich, Manager

STATE OF FLORIDA
COUNTY OF MIAMI-DADE

The foregoing instrument was acknowledged before me this 11th day of October, 2017, by Michel Leibovich, as Manager of Bay Harbor TH 1 GP LLC, a Delaware limited liability company, the General partner of Bay Harbor TH 1 Developer LP, a Delaware limited partnership, as Manager of Bay Harbor TH 1 LLC, a Florida limited liability company, who [✓] is personally known to me or [ ] produced FL ID as identification.

My commission expires:

SINAI LAMUS
COMMISSION # FF142549
EXPIRES: July 16, 2018
WWW.AARONNOTARY.COM

July 16 2018

_____
Notary Public

Print name: Sinai Lamus.

JOINDER AND CONSENT BY RECEIVING PARCEL OWNER

The undersigned owner of the Receiving Parcel hereby joins in and consents to the above foregoing Warranty Deed for Transfer of Development Rights and Declaration of Restrictions and acknowledges that the same is and shall be binding upon the undersigned owner.

EXECUTED by the undersigned on the 11, day of October, 2017, to be effective on the date first written above.

Signed, sealed and delivered in the presence of Witnesses:

Witnesses:

Print name: Alexandra Vega

Print name: Eric SAMI

Atlantis 103, LLC, a Florida limited liability company

By: Sorosh, LLC, a Florida limited liability company, its Manager

By: _____
Sam Sami, Managing Member

STATE OF FLORIDA
COUNTY OF MIAMI-DADE

The foregoing instrument was acknowledged before me this 11 day of October, 2017, by Sam Sami, as Managing Member of Sorosh, LLC, a Florida limited liability company, the Manager of Atlantis 103, LLC, a Florida limited liability company who [✓] is personally known to me or [ ] produced _____ as identification.

_____
Notary Public

Print name: Glendy Acosta.

My commission expires:

NOTARY PUBLIC STATE OF FLORIDA

Glendy Acosta
Commission # GG121926
Expires: July 6, 2021
Bonded thru Aaron Notary

EXHIBIT B

CFN: 20170686647 BOOK 30783 PAGE 1967
DATE:12/06/2017 04:25:19 PM
DEED DOC 0.60
SURTAX 0.45
HARVEY RUVIN, CLERK OF COURT, MIA-DADE CTY

This instrument prepared by:

Kristy L. Phillips, Esq.
Real Estate & Association Law Firm, P.A.
101 N.E. 3rd Ave. #1500
Ft. Lauderdale, Florida

Record and return to:
Brian M. Rokaw, P.A.
4070 Laguna Street
Coral Gables, Florida 33146

Notice to Recorder:
The deed is for a transfer of development rights to the property described herein and does not transfer any interests in real property. Accordingly, pursuant to TAA No. 03B4-007 (July 14, 2003) no documentary stamp tax is due in connection herewith.

Folio No. 13-2227-100-0001

[Space above line reserved for recording office use]

WARRANTY DEED
FOR TRANSFER OF DEVELOPMENT RIGHTS AND DECLARATION OF RESTRICTIONS

THIS INDENTURE, made as of the day of November 6, 2017 between **SOUTHERN STAR CONDOMINIUM ASSOCIATION, Inc.** a Florida not-for-profit corporation, whose post office address is 1060 Kane Concourse Suite A, Bay Harbor Islands, FL 33154, hereinafter called Grantor, and **ATLANTIS 103, LLC**, a Florida limited liability company, whose post office address is 7657 NW 50th Street, Miami, Florida, 33166, hereinafter called Grantee:

(wherever used herein, the terms "Grantor" and "Grantee" include all parties to this instrument and the heirs, legal representatives and assigns of individuals, and the successors and assigns of corporations)

WITNESSETH, That Grantor, for and in consideration of the sum of Ten Dollars ($10.00), to the Grantor in hand paid by the Grantee, the receipt whereof is acknowledged, has granted, bargained and sold to the Grantee and the Grantee and the Grantee's heirs, successors and assigns forever, ONE (1) UNIT OF DEVELOPMENT RIGHTS (the **"Development Rights"**) as set forth in the Town of Bay Harbor Island Zoning and Planning Code (the **"Town Code"**), Section 23.22.2 and Resolution No. 2130 from the following described property (the **"Donor Parcel"**) situate, lying and being in Miami-Dade County, Florida to wit:

Lots 1 and 2, Block 17, less North 11 feet of Lots 1 and 2, Block 17 and less East 11 feet of Lot 1, Block 17, BAY HARBOR ISLAND, according to the Plat thereof, as recorded in Plat Book 46, Page 5 of the Public Records of Miami-Dade County, Florida.

A/K/A Southern Star, a Condominium, according to the declaration of Condominium thereof, recorded in Official Records Book 21198, at Page 3223, of the Public Records of Miami-Dade County, Florida.

AND THE GRANTOR DOES HEREBY FULLY WARRANT the title to said Development Rights and will defend the same against the lawful claims of all person, whosoever, and the Grantor hereby represents that the transfer of the Development Rights to the Grantee herein has been approved by the Town of Bay Harbor Islands in accordance with the requirement of the Town Code, avers that the Rights are hereby severed and extinguished from the Donor Parcel.

SAVING AND RESERVING TO THE GRANTOR all other rights to develop the Donor Parcel in accordance with the Town Code, except for the Development Rights that are hereby transferred to the Grantee.

The Development Rights transferred to the Grantee by this instrument are and shall be appurtenant to the following described land now owned by the Grantee (the **"Receiving Parcel"**) unless and until such Development Rights are subsequently transferred in accordance with the provisions of the Town Code:

Lots 6 and 7 of Block 5, "Bay Harbor Island" Subdivision according to the plat thereof, as recorded in Plat Book 46, Page 5 of the Public Records of Miami Dade County, Florida.

The use of the Donor Parcel and the Receiving Parcel is hereby restricted to uses permitted under the Town Code, as amended from time to time.

This instrument may be executed in counterparts with the respective original signature pages assembled into one document for recordation in the Public Records of Miami-Dade County

This instrument may be executed in counterparts with the respective original signature pages assembled into one document for recordation in the Public Records of Miami-Dade County

JOINDER AND CONSENT BY RECEIVING PARCEL OWNER

The undersigned owner of the Receiving Parcel hereby joins in and consents to the above foregoing Warranty Deed for Transfer of Development Rights and Declaration of Restrictions and acknowledges that the same is and shall be binding upon the undersigned owner.

EXECUTED by the undersigned on the 11th, day of Nov. 2017, to be effective on the first date written above.

Signed, sealed and delivered in the presence of Witnesses:

ATLANTIS 103, LLC, a Florida limited liability company

By: SOROSH, LLC, a Florida limited liability company, its Manager

By: _____
Name: Sam Sami
Title: Managing Member

_____
Signature of Witness
Print Name: Alexandra Vega

_____
Signature of Witness
Print Name: Glendy Acosta

STATE OF FLORIDA
COUNTY OF MIAMI-DADE

The foregoing instrument was acknowledged before me on this 6th day of, November, 2017 by Sam Sami, as Managing Member of Sorosh, LLC, a Florida limited liability company, the Manager of Atlantis 103, LLC, a Florida limited liability company who {_____}is personally known to be or who {_____} has provided _____ S500-796-53-244-0. as valid identification.

_____
Notary Public, State of Florida

_____
Print Name of Notary
My Commission Expires:

Glendy Acosta
Commission # GG121926
Expires: July 6, 2021
Bonded thru Aaron Notary

In Witness Whereof, grantor has hereunto set grantor's hand and seal the day and year first above written.

Signed, sealed and delivered in our presence:

SOUTHERN STAR CONDOMINIUM ASSOCIATION, INC,
a Florida not-for-profit corporation

By: _____
Name: Hayim Katan
Title: President

_____
Signature of Witness
Print Name: Linda Johnson

_____
Signature of Witness
Print Name: Carmen Wong

By: _____
Name: Robert Colon
Title: Vice President

_____
Signature of Witness
Print Name: Linda Johnson

_____
Signature of Witness
Print Name: Reyoora Ruiz

STATE OF FLORIDA
COUNTY OF MIAMI-DADE

The foregoing instrument was acknowledged before me on this 14 day of November, 2017 by Hayim Katan, as President and Robert Colon as Vice President for and on behalf of Southern Star Condominium Association, Inc., a Florida not-for-profit corporation who {X} are personally known to be or who {_____} have provided _____ as valid identification.

_____
Notary Public, State of Florida

Evis E. Vasallo
Print Name of Notary
My Commission Expires: 9-25-2020

EVIS E. VASALLO
MY COMMISSION # GG 026014
EXPIRES: September 25, 2020
Bonded Thru Budget Notary Services

DocuSign Envelope ID: AAB7D0A4-3059-4C6F-9D96-5B3D6268840E

AGREEMENT TO PURCHASE TRANSFER OF DEVELOPMENT RIGHTS

THIS AGREEMENT TO PURCHASE TRANSFER OF DEVELOPMENT RIGHTS ("Agreement") is entered into on this ___ day of August, 2021, ("Effective Date") by and between **COVENANT MANOR CONDOMINIUM, INC., a Florida corporation not for profit** and/or its successors and assigns and on behalf of the Unit Owners of Covenant Manor Condominium ("Seller"), and **CLARA BH LLC**, a Delaware limited liability company and/or its assigns ("Buyer").

WITNESSETH:

WHEREAS, Seller, as the Condominium Association governing Covenant Manor Condominium, 9871 - 9881 W Bay Harbor Dr., Bay Harbor Islands, Fla., is the holder of one (1) transfer of development rights (the "**Covenant Manor TDR Unit**") in the Town of Bay Harbor Islands (the "Town"), Miami-Dade County, Florida, currently belonging to the Seller for the properties more particularly described in Exhibit A attached hereto (the "**Donor Parcel**");

WHEREAS, Section 23-22.2 of the Town Zoning Regulations governs the transfer of development rights in the Town (the "**TDR Ordinance**");

WHEREAS, Buyer is owner of the real property located in the Town more particularly described in Exhibit B attached hereto and located at 10281 W Bay Harbor Dr (and 1170 103rd St.), Bay Harbor Islands, Fla. (the "**Receiving Parcel**");

WHEREAS, Buyer intends to develop the Receiving Parcel as contemplated by the site plan approved by the Town through Resolution No. 2115 on March 21, 2017, as amended, for improvements on the Receiving Parcel consisting of a multi-story residential building comprised of 28 residential Units and ancillary parking and amenities (the "**Approved Site Plan**");

WHEREAS, Buyer desires to purchase the Covenant Manor TDR Unit from Seller, and Seller desires to sell the Covenant Manor TDR Unit to Buyer, on the terms and conditions hereinafter provided.

NOW, THEREFORE, in consideration of the foregoing and the respective representations, warranties, covenants and agreements set forth herein, and other good and valuable consideration, the receipt and sufficiency of which is acknowledged by the Parties, each of the Parties agrees as follows:

1. **Purchase of TDR Units.** Seller hereby agrees to sell to Buyer and Buyer hereby agrees to purchase from Seller the Covenant Manor TDR Unit upon the terms and conditions hereinafter set forth.

2. **Purchase Price and Deposit.**

(a) Within two (2) business days after the Effective Date (hereinafter defined), Buyer shall deposit in escrow with Beloff Law, P.A., Attorney located 1691 Michigan Ave., Suite 250, Miami Beach, Fla. 33139 ("**Escrow Agent**") the sum of Five Thousand and 00/100 dollars ($5,000) (the "**Initial Deposit**"), to be delivered to Seller at Closing and applied as a credit against the Purchase Price (as defined below) at Closing (hereinafter defined). Within two (2) business days after a determination is made by the Town Manager, or designee, approving in writing the eligibility of transfer by Seller to Buyer of the Covenant Manor TDR Unit from the Donor Parcel to the Receiving Parcel. Buyer shall deposit in escrow with the Escrow Agent the additional sum of Twenty-Five thousand 00/100 dollars ($25,000) (the "**Additional Deposit**"), to be delivered to Seller at Closing and applied as a credit against the Purchase Price at Closing. The Additional Deposit shall be held together with, and on the same terms and conditions as the Initial Deposit. Once the Additional Deposit is paid to Escrow Agent, the term "**Deposit**" shall mean the Initial Deposit, plus the Additional Deposit, prior to payment of the Additional Deposit, whenever used in this Agreement, the term "'Deposit" shall mean only the Initial Deposit. Escrow Agent shall hold and disburse the Earnest Money in accordance with the terms of this Agreement.

(b) The purchase price of the Covenant Manor TDR Unit is seventy two thousand dollars ($72,500.00) (the "Purchase Price"). The entire Purchase Price, less the amount of the Deposit, subject to any adjustments as herein provided, shall be due and payable by cashier's check or in immediately available funds, by wire transfer, at Closing.

3. **Closing.**

(a) **Closing Date**. Subject to satisfaction of all conditions to Closing, the closing (the "Closing" or "Closing Date") of the purchase and sale of the Covenant Manor TDR Unit under this Agreement shall take place on the date which is five (5) business days after the date that the Buyer obtains the final binding and non-appealable approval by the Town of the transfer of the Covenant Manor TDR Unit to the Receiving Parcel, at the offices Escrow Agent. Seller agrees that, at the option of Buyer, the Closing may take place as an escrow closing in order to accommodate the acquisition by Buyer of the Remaining Required TDR Unit for Development simultaneously with the Closing.

(b) **Closing Expenses**. Buyer shall pay the cost of recording the instrument of transfer of the Covenant Manor TDR Unit and documentary stamps and surtax, assessed thereon, if any. Buyer shall also pay any and all costs incurred in connection with the Town's approval of the transfer contemplated hereunder, including but not limited to the application fee (currently $1,000) and the cost of recording the Restrictive Covenant (hereinafter defined), if required. Each party shall be responsible for paying their own attorney fees.

4. **Additional Termination Provisions.** Each of the following shall constitute a "Termination Event" under this Agreement:

(a) If the Town Manager does not make a determination within ninety (90) days after the Effective Date that the Covenant Manor TDR Unit is legally available to be transferred from the Donor Parcel to the Receiving Parcel as provided by the TDR Ordinance;

(b) If the Town refuses or fails to schedule a hearing of the town Council to occur on or before sixty (60) days following the Effective Date for the approval of the transfer of the Covenant Manor TDR Unit from the Donor Parcel to the Receiving Parcel;

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(c) If the transfer of the Covenant Manor TDR Unit from the Donor Parcel to the Receiving Parcel has not been approved by affirmative resolution of the Town Council, after expiration of all appeal periods, by the Town Council by the date which is one (1) year after the Effective Date herein; and

(d) If the Donor Parcel shall not be in compliance with current code requirements as determined by the Town under the TDR Ordinance.

Buyer, at Buyer's sole option, and as Buyer's sole recourse, may terminate this Agreement by written notice to Seller, upon theoccurrence of any Termination Event, in which event the Deposit shall be returned to Buyer and the parties shall be released from all obligations and liabilities under this Agreement.

5. **Covenants, Representations and Warranties of Seller.** Seller hereby agrees,covenants, represents and warrants to Buyer as follows:

(a) Seller has not transferred, assigned, sold, conveyed, hypothecated, or otherwise alienated the Covenant Manor TDR Unit.

(b) Seller has good, valid and marketable title to the Covenant Manor TDR Unit, free and clear of any and all liens, encumbrances, charges and adverse claims of every nature.

(c) Seller has all requisite power and authority, and has taken all actions required to authorize it to execute and deliver this Agreement. All of the individuals executing this Agreement and any other documents and instruments executed by Seller pursuant hereto have the legal power, right, and actual authority to bind Seller to the terms and conditions hereof and thereof.

(d) All requisite corporate action has been taken by Seller and all required consents have been obtained by Seller in connection with the entering into this Agreement and the consummation of the transactions contemplated hereby.

(e) Within thirty (30) days of the Effective Date., Seller shall request that a determination be made by the Town Manager as provided by the TDR Ordinance that the Covenant Manor TDR Unit is legally available to be transferred from the Donor Parcel to the Receiving Parcel.

The covenants, representations and warranties of Seller set forth of this Section shall specifically survive the Closing.

6. **Representations and Warranties of Buyer.** Buyer hereby represents and warrants to Seller as follows:

(a) Buyer has all requisite power and authority, and has taken all actions required by its organizational documents to authorize it to execute and deliver this Agreement. All of the individuals executing this Agreement and any other documents and instruments executed

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by Buyer pursuant hereto have the legal power, right, and actual authority to bind Buyer to the terms and conditions hereof and thereof.

7. **Buyer's Conditions to Closing.** Buyer's obligation to consummate the Closing or otherwise to perform any obligation provided in this Agreement is expressly conditioned upon the fulfillment or satisfaction of each of the following conditions precedent on or before the Closing Date (any of which may be waived only in writing by Buyer in its sole and absolute discretion):

(a) Seller shall have fully performed each covenant and agreement to be performed by Seller in this Agreement and each representation and warranty made in this Agreement by Seller shall be complete, true and accurate in all material respects as of the Closing Date;

(b) The final binding and non-appealable approval by the Town of the transferof the Covenant Manor TDR Unit to the Receiving Parcel shall have been obtained, including, without limitation: any required approval of Buyer's supplemental TDR application for the transfer of the Covenant Manor TDR Unit to the Receiving Parcel, and final binding and non-appealable approval by Town Council of the TDR required as a condition of the Approved Site Plan;

(c) There shall be no development or building moratoria in effect with regard to the Receiving Parcel as of the Closing Date; and

(d) The Approved Site Plan shall remain in full force and effect.

If any of the foregoing conditions are not satisfied at or before Closing, then in addition to any remedy available to Buyer under this Agreement, Buyer may terminate this Agreement by written notice to Seller, in which event the Deposit shall be returned to Buyer and the parties shall be released from all obligations and liabilities under this Agreement.

8. **Buyer's Obligations at Closing.** Buyer shall do the following at the Closing:

(a) Execute and deliver the closing statement; and

(b) Pay the portion of the Purchase Price described in paragraph 2(b).

9. **Seller's Obligations at Closing.** Seller shall execute and deliver the following documents to Buyer at the Closing:

(a) The closing statement;

(b) That certain Quitclaim Assignment of Transfer of Development Rights, the form of which is attached hereto and incorporated herein as Exhibit B (the "Assignment").

(c) A Restrictive Covenant in recordable form restricting the future use of the Donor Parcel as required by the TDR Ordinance, in form and content acceptable to the Town Attorney (the "Restrictive Covenant");

(d) A Certificate of Non-Foreign Status of Seller as required by

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Section 1445 of the Internal Revenue Code;

(e) Such proof of Seller's authority and authorization to enter into this transaction as may be reasonably required by Buyer; and

(f) Any other documents expressly required to be delivered or furnished pursuant to any other provisions of this Agreement or reasonably required to carry out the purpose and intent of this Agreement.

10. **Escrow Agent.** In the event a dispute arises between the parties regarding the Deposit, or in the event the Escrow Agent shall receive conflicting demands or instructions with respect thereto, Escrow Agent may, in its sole discretion, continue to hold the Deposit until all parties mutually agree to release thereof or until an order or a judgment of a court of competent jurisdiction shall determine the rights of the parties hereto. Alternatively, Escrow Agent may, in its discretion, deposit the Deposit with the Clerk of the Circuit Court of Miami-Dade County, Florida (the "Clerk") pursuant to interpleader procedure, whereupon, after notifying all parties concerned with such action and paying all costs imposed by the Clerk as a result of such deposit, all liability on the part of Escrow Agent shall terminate. It is agreed that the duties of the Escrow Agent are purely ministerial in nature and shall be expressly limited to the safekeeping of the Deposit and for the release of the same in accordance with this Agreement. The Escrow Agent shall not be liable for any action done or omitted by it or for any action which it may in good faith do or refrain from doing in connection with this Agreement. The Escrow Agent will incur no liability for relying on any signature or signatures of Buyer or Seller, their agents, directors or employees, their purported authority to act, the genuineness of such signatures, or as to the truth and accuracy of any information contained therein. Buyer and Seller hereby indemnify Escrow Agent and hold it harmless from and against any and all claims, liabilities, damages, costs, penalties, losses, attorneys fees, actions, suits or proceedings at law or in equity, or any other expenses, fees or charges of any character or nature, which it may incur as Escrow Agent or with which it may be threatened directly or indirectly arising from or in any way connected with this Agreement, except for matters resulting from Escrow Agent's gross negligence or willful misconduct. Buyer and Seller expressly request that the Escrow Agent act pursuant to this Agreement.

11. **Default by Seller.** In the event that Seller defaults in the observance or performance of its covenants and obligations hereunder, Buyer may, at its option, elect to bring an action to enforce specific performance of this Agreement against Seller or elect to terminate this Agreement and receive a full refund of the Deposit.

12. **Default by Buyer.** If the sale is not consummated due to any default by Buyer hereunder, then Seller, as its sole and exclusive remedy, shall (as an election of remedies) have the right to terminate this Agreement and receive the Deposit from the Escrow Agent as liquidated damages and in full settlement of all claims. Buyer and Seller acknowledge the difficulty of ascertaining the actual damages in the event of such default, that it is impossible to more precisely estimate the damages to be suffered by Seller upon such default, that the retention of the Deposit by Seller is intended not as a penalty but as full liquidated damages and that such amount constitutes a good faith estimate of the potential damages arising therefrom.

13. **No Third Party Beneficiary**. This Agreement does not and is not intended to

confer any rights or remedies upon any person other than the Buyer and Seller.

14. **Broker.** Neither Seller nor Buyer has used the services of, or for any other reason owes compensation to a licensed real estate broker and each agrees to indemnify and hold the other harmless from and against any and all liability, obligations and claims for commissions owed to third party brokers as a result of such party's actions. The provisions of this Section shall survive Closing.

15. **Waiver of Jury Trial.** To the fullest extent permitted by applicable law, the parties each hereby knowingly, voluntarily and intentionally waive any right (whether arising under the Constitution of the United States or the State of Florida or under any foreign jurisdiction, under any statutes regarding or rules of civil procedure applicable in any state, federal, or foreign legal proceeding, under common law, or otherwise) to demand or have a trial by jury of any claim, demand, action or cause of action arising under this Agreement or in any way connected with or related to or incidental to the discussions, dealings, or actions of such persons or any of them (whether oral or written) with respect thereto, or to the transactions related thereto, in each case whether now existing or hereafter arising, and whether sounding in contract, tort or otherwise; and each party agrees and consents that any such claim, demand, action or cause of action shall be decided by trial court without a jury, and that any other party to this Agreement may file an original counterpart or a copy of this Agreement with any court as written evidence of such waiver of right to trial by jury. The parties acknowledge and agree that they have received full and sufficient consideration for this provision (and each other provision of each other related document to which they are a party) and that this provision is a material inducement for the Seller's accepting this Agreement. By waiving a jury trial, the parties intend claims and disputes to be resolved by a judge acting without a jury in order to avoid the delays, expenses and risks of mistaken interpretations which each party acknowledges to be greater with jury trials than with non jury trials.

16. **Miscellaneous.**

(a) Governing Law. This Agreement shall be construed and enforced in accordance with the laws of the State of Florida.

(b) **Notices.** All notices required or allowed by this Agreement shall be delivered at the following addresses:

To Buyer: Clara BH LLC
2665 S. Bayshore Dr Suite 410
Miami, FL 33133
Attn: James Curnin

With a copy to: Beloff Law, P.A.
1691 Michigan Ave., Suite 250
Miami Beach, Fla. 33139
Attn. Jonathan D. Beloff, Esq.

To Seller: Covenant Manor Condominium Inc.

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9871-9881 W Bay Harbor Dr.
Bay Harbor Islands, Fla. 33154
Attn: Franco Antonelli

With a copy to: _Richard I Kroop Esq.
9240 W. Bay Harbor Drive #6A
Bay Harbor Island FL
33154

(c) **Attorney's Fees and Costs.** In the event of any litigation arising under this Agreement, the prevailing party shall be entitled to recover such attorney's fees, court costs and expenses (including without limitation, all such fees, costs and expenses incident to pre-trial, trial, appellate, bankruptcy, post judgment and alternative dispute resolution proceedings), incurred in that suit, action or proceeding, in addition to any other relief to which such party is entitled as determined by the court. Attorney's fees shall include, without limitation, paralegal fees, investigative fees, expert witness fees, administrative costs and all other charges billed by the attorney to the prevailing party.

(d) **Headings.** The captions and headings herein are for convenience and reference only and in no way define or limit the scope or content of this Agreement or in any way affect its provisions.

(e) **Assignment by Buyer.** Buyer shall have the right to assign this Agreement without the prior written consent of Seller.

(f) **Effective Date of this Agreement**. The date when the last one of Seller or Buyer has signed and delivered this Agreement to the other party, or (ii) if changes in this

Agreement have been made (after signature) and initialed by the parties, the date when the last one of Seller or Buyer has initialed those changes.

(g) **Counterparts; Signatures.** This Agreement may be executed in a number of identical counterparts, each of which for all purposes is deemed an original, and all of which constitute collectively one agreement, but in making proof of this Agreement, it shall not be necessary to produce or account for more than one such counterpart. Signatures to this Agreement may be transmitted via facsimile or scanned and e-mailed, and delivery thereby shall be deemed sufficient for all purposes to the same extent as would be delivery of an original signature.

(h) **Binding Effect**. This Agreement shall be binding upon and inure to the benefit of the parties hereto, and their respective successors and assigns.

(i) **Time Periods.** If the final date of any period which is set out in any provision of this Agreement or the Closing Date falls on a Saturday, Sunday or legal holiday under the laws of the United States or the State of Florida, then the time of such period or the Closing Date, as the case may be, shall be extended to the next date which is not a Saturday, Sunday or legal holiday.

[SIGNATURES ON FOLLOWING PAGE]

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IN WITNESS WHEREOF, Seller and Buyer have caused this Agreement to be executed, as of the day and year first above written.

SELLER:

COVENANT MANOR CONDOMINIUM INC., a Florida corporation not for profit

By: _____

Name: FRANCO ANTONELLI

Title: PRESIDENT

Date: 2/17/22

BUYER:

CLARA BH LLC., a Delaware limited liability company

By: _____ DocuSigned by: 400DCEAD88AD433...

Name: James Curnin

Title: Manager 2/17/2022

Date: August ___, 2021

CFN: 20210138709 BOOK 32366 PAGE 1797
DATE:02/24/2021 09:02:12 AM
DEED DOC 0.60
HARVEY RUVIN, CLERK OF COURT, MIA-DADE CTY

Parcel Identification No: **13-2227-030-0020**

This Instrument Prepared By
and Return to:
Mimi Ruano
Global Title Services of South Florida, Inc.
3600 Red Road, Suite 402
Miramar, FL 33025

QUIT CLAIM DEED

This Quit Claim Deed, made this 22nd day of **February, 2021** between **Franco Antonelli, a married man, joined by his wife, Dolores Blanco,** whose address is **9881 W Bay Harbor Drive, Unit 2. Bay Harbor Island, FL 33145,** Grantor, to **Franco Antonelli and Dolores Blanco, husband and wife,** whose address is **9881 W Bay Harbor Drive, Unit 2. Bay Harbor Island, FL 33145,** Grantee.

(Wherever used herein the terms "Grantor" and "Grantee" include all the parties to this instrument and the heirs, legal representatives and assigns of individuals, and the successors and assigns of corporations)

WITNESSETH, that the Grantor, for and in consideration of the sum of ----------TEN & NO/100 ($10.00)----------DOLLARS, and other good and valuable consideration to Grantor in hand paid by Grantee, the receipt of which is hereby acknowledged, has granted, bargained and quitclaimed to the said Grantee and Grantee's heirs and assigns forever, the following described land, situate, lying and being in the County of Miami-Dade, State of Florida, to-wit:

Unit 2 of the Covenant Manor, a Condominium according to the Declaration of Condominium thereof, recorded in Official Records Book 6443, Page(s) 326, of the Public Records of Miami-Dade County, Florida, and any amendments thereto, together with its undivided share in the common elements.

This preparation of this instrument did not review and abstract of title search and makes no option as to the status of title.

SUBJECT TO restrictions, reservations, conditions, limitations, covenants and easements of record; matters pf plat; zoning and governmental regulations; and taxes for the currant year and all subsequent years.

IN WITNESS WHEREOF, the Grantor has hereunto set his/her hand and seal the day and year first above written.

Signed, sealed and delivered in our presence:

Witness #1 Signature

Mirna Ruano
Witness #1 Printed Name

Witness #2 Signature

Ashley Comer
Witness #2 Printed Name

Franco Antonelli

Dolores Blanco

STATE OF FLORIDA
COUNTY OF MIAMI-DADE

The foregoing instrument was acknowledged before me this 22nd day of February, 2021, by Franco Antonelli and Dolores Blanco, who are appeared by ☑ physical presence or ☐ online notarization and has produced Florida DL as identification.

SEAL

MIRNA RUANO
NOTARY PUBLIC
Comm. # GG 224372
My Comm. Expires
Sep 29, 2022
STATE OF FLORIDA

Notary Public

Mirna Ruano
Printed Notary Name
My Commission Expires:

LTF

COVENANT MANOR CONDOMINIUM ASSOCIATION
9871-9881 WEST BAY HARBOR DRIVE
BAY HARBOR ISLANDS FL 33154

At a special meeting of the Board of Directors and Unit owners of Covenant Manor Condominium Association Inc. held on the _____ Day of January, 2021, it was unanimously agreed by the Board of Directors and the Membership that the Association sell one (1) Development Right to CLARA BH LLC for the total sum of $72,500.00 and further confirm and ratify the contract for the sale of such Development Right to CLARA BH LLC for the total sum of $72,500.00

It was further resolved that the President of the Association Yanira Felix is authorized to execute any and all documents necessary to effectuate the sale.

There being no further business before the Board or the Membership The meeting was adjourned

Dated_____ Covenant Manor Condominium Association

By: _____
Secretary

QUITCLAIM ASSIGNMENT OF TRANSFER OF DEVELOPMENT RIGHTS

This instrument prepared by:
Richard Kroop Esq.
9240 W. Bay Harbor Dr. #6A
Bay Harbor Islands FL 33154

Property Tax Folio # SEE EXHIBIT A

QUITCLAIM ASSIGNMENT OF TRANSFER OF DEVELOPMENT RIGHTS

THIS QUITCLAIM ASSIGNMENT OF TRANSFER OF DEVELOPMENT RIGHTS ("Assignment") is entered into this_____day of_____, 2022. by **COVENANT MANOR CONDOMINIUM INC., a Florida corporation not for profit** ("Seller"), in favor of **CLARA BH LLC, a Delaware limited liability company** ("Buyer").

BACKGROUND

WHEREAS, Seller and Buyer entered into an Agreement to Purchase Transfer of Development Right dated September ___, 2021_(the "Purchase Agreement") whereby Seller has agreed to transfer its interest in certain development right in the Town of Bay Harbor Islands, Miami-Dade County, Florida, as more particularly described in and evidenced on Exhibit A attached hereto (the "COVENANT MANORTDR Unit").

WITNESSETH:

NOW THEREFORE, for and in consideration of these premises and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Seller does hereby assign, grant, bargain and convey unto Buyer, its successors and assigns, all of the COVENANT MANOR TDR Unit so that the COVENANT MANOR TDR Unit shall be allocated to the real property located in the Town of Bay Harbor Islands, Miami-Dade County, Florida as more particularly described in Exhibit "B" attached hereto.

This Assignment shall be binding upon and inure to the benefit of the parties hereto, their heirs, executors, administrators, successors in interest and assigns.

Seller hereby represents and warrants to Buyer that Seller has the full right and authority to execute and deliver this Assignment to Buyer and to assign, grant, bargain and convey the COVENANT MANOR TDR Unit to Buyer.

This Assignment shall be governed by and construed in accordance with the laws of the State of Florida.

Seller agrees to cooperate with Buyer and to execute such other documents, instruments, and writings as may be reasonably requested by Buyer or that are necessary or desirable to further document or effect the intent of this Assignment.

This Assignment may be executed in counterparts, including facsimile counterparts, each of which will be deemed to be an original and all of which are one and the same assignment, but all of which shall together constitute one and the same Instrument. Delivery of an executed counterpart of a signature page to this Assignment by facsimile transmission shall be effective delivery of a manually executed counterpart of this Assignment.

IN WITNESS WHEREOF, this Assignment is executed as of the date first above written.

Signed, Sealed and Delivered, inthe presence of:

WITNESSES:

_____

Print Name:_____

_____

Print Name:_____

SELLER:

COVENANT MANOR CONDOMINIUM ASSOCIATION INC.,
a Florida corporation not for profit

By: _____

Name: YANIRA FELIX

Title PRESIDENT

Date:

State of Florida

County of Miami Dade

I hereby certify that on this day personally appeared before me Yanira Felix by (X) personal presence or ( ) on line notarization, an office duly authorized to administer oaths and take acknowledgments, personally know to me or who have produced _____as identification.

WITNESS my hand and official seal at Miami Dade County Florida this _____day of _____2022.

_____

Notary Public-State of Florida

My commission expires:

EXHIBIT A

9871 – 9881 W Bay Harbor Dr., Bay Harbor Islands, Fla.

LEGAL DESCRIPTION

Lots 12 of, Block 9, BAY HARBOR ISLAND, according to the Plat thereof, recorded in Plat Book 46, at Page 5, of the Public Records of Miami-Dade County, Florida.

A/KIA: Folio numbers

13-2227-030-0010
13-2227-030-0020
13-2227-030-0030
13-2227-030-0040
13-2227-030-0050
13-2227-030-0060

EXHIBIT B

RECEIVING PARCEL LEGAL

Land Use Designation: MH-Medium-High Density Residential
FOLIO(S): 13-2227-001-1150 & 13-2227-001-1160
Zoning District: RM-2 Multiple Family District General
Location: 10281 West Bay Harbor Drive and 1170 103 Street

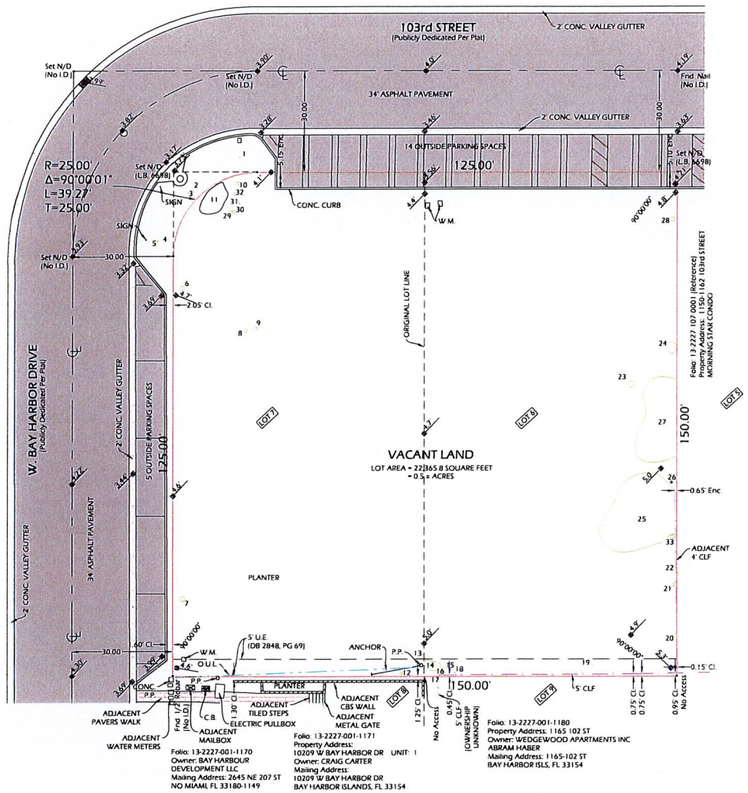
Legal Description: Lots 6 and 7 of Block 5, "Bay Harbor Island" Subdivision according to theplat thereof, as recorded in Plat Book 46, at page 5 of the Public Records of Miami-Dade County, Florida

ALTA/NSPS LAND TITLE SURVEY

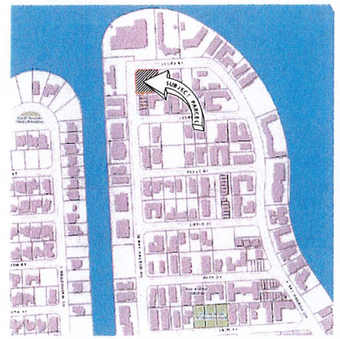
GRAPHIC SCALE

10 0 10 20 30 40 50 60 70 80 90 100

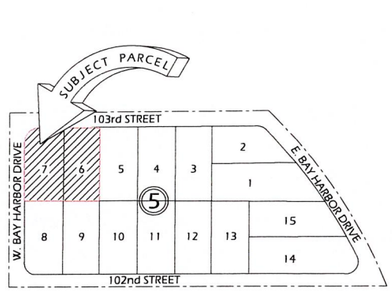
Scale: 1"=20'



TREE TABLE				
TREE No.	TREE NAME	DIAMETER (±)	HEIGHT (±)	SPREAD (±)
1	PALM	0.45'	16'	12'
2	PALM	0.35'	10'	11'
3	PALM	0.45'	14'	12'
4	PALM	0.35'	9.5'	9.5'
5	PALM	0.40'	19'	10'
6	ROYAL PALM	1.4'	45'	16'
7	ROYAL PALM	1.5'	56'	18'
8	TREE	1.0'	29.5'	22'
9	PALMETTO PALM	0.90'	13.5'	16'
10	PALMETTO PALM	1.0'	6.0'	14'
11	TREE	5.9' X 11'	32'	49'
12	PALMETTO PALM	0.80	19'	18'
13	PALM	0.35'	20'	10'
14	STRANGLER FIG	2.5' X 5'	22'	20'
15	SCHEFFLERA	0.35'	20'	4'
16	PALM	0.40'	14'	10'
17	PALM	0.40'	14'	10'
18	PALM	0.30'	7'	9'
19	PALM	0.45'	8.7'	10'
20	MANGO	0.75'	22'	15'
21	YUCCA	1.0'	20'	7'
22	PALMETTO PALM	1.10'	16'	18'
23	NORFOLK PINE	2.0'	80'	12'
24	SCHEFFLERA	3.5' X 7.5'	39'	36'
25	FLORIDA HOLLY	0.85'	18.5'	24'
26	PALM	0.65'	9'	14'
27	SAWGRASS	NO ACCESS	12.5'	12' X 25'
28	FICUS	1.25'	32'	30'
29	PALMETTO PALM	0.75'	25'	14'
30	PALMETTO PALM	0.90'	4.5'	12'
31	PALMETTO PALM	0.60'	3.0'	12'
32	PALMETTO PALM	0.85'	6'	14'
33	YUCCA	0.75'	15'	8'



VICINITY MAP
NTS



LOCATION SKETCH
NTS

Notes:
- All clearances and/or encroachments shown hereon are of apparent nature. Fence ownership by visual means. Legal ownership of fences not determined.
- Encroachments
  1. Portion of the 5 foot high chain link fence is lying within a 5 foot wide utility easement along the South 5 feet.
  2. Portion of the asphalt parking and concrete curb are encroaching over the North boundary line.
  3. Portion of the adjacent 4 foot high chain link fence is encroaching over the East boundary line.
- Underground structures, if any, not located.
- Legal description provided by client.
- This certification is only for land as described. It is not a certification of title, zoning, easements, or freedom from encumbrances.
- There may be additional restrictions not shown on this survey that may be found in the public records of this county.
- This ALTA SURVEY has been prepared for the exclusive use of the entities named hereon. The Certificate does not extend to any unnamed party.
- This survey was based on the monuments found on the field. No construction in any manner should be made without the prior written consent of the Surveyor.
- According to FEMA the subject property falls within Flood Zone AE, Base 9, as shown in Flood Insurance Rate Map Panel No. 12086C0144L; Community No. 120637 ; Revised Date of September 11, 2009.
- Lot Area: 22,365.8 Square Feet, 0.5 ± Acres;
- Marked Parking spaces: 19 Outside Regular; 0 Handicap

LEGAL DESCRIPTION:
Lots 6 and 7, Block 5, Bay Harbor Island, according to the map or plat thereof, as recorded in Plat Book 46, Page(s) 5, of the Public Records of Miami-Dade County, Florida.

SCHEDULE B – SECTION II Exceptions - Chicago Title Insurance Company, Order No 9715025; Effective Date July 17, 2021 at 11:00 PM

6. Restrictions, covenants, conditions, easements and other matters as contained on the Plat of Bay Harbor Island, recorded in Plat Book 46, Page 5, of the Public Records of Miami-Dade County, Florida. (APPLIES)
7. Easements and other matters contained in Declaration of Restrictions recorded in Deed Book 2848, Page 69 (APPLIES - SHOWN ON SURVEY), as assigned in Official Records Book 9632, Page 1157.
8. Reservations and other matters contained in Warranty Deeds for Transfer of Development Rights recorded in Official Records Book 30716, Page 1008 and Official Records Book 30783, Page 1967. (APPLIES - NOT A SURVEY MATTER)
9. Unity of Title recorded in Official Records Book 30812, Page 3122. (APPLIES)

PREPARED FOR: Clara BH LLC, a Delaware limited liability company

PROPERTY ADDRESS: 10281 W. Bay Harbor Drive & 1170 103 Street, Bay Harbor Islands, FL 33154

To Clara BH LLC, a Delaware limited liability company; Beloff Law, PA; Chicago Title Insurance Company; Maxim Credit Group LLC, its successors and/or assigns, as their interests may appear.

This is to certify that this map or plat and the survey on which it is based were made in accordance with the 2021 Minimum Standard Detail Requirements for ALTA/NSPS Land Title Surveys, jointly established and adopted by ALTA and NSPS, and includes items 1, 2, 3, 4, 7a, 7b(1), 8, 9, 11 (observed), 13, and 16 of Table A thereof. The fieldwork was completed on August 12, 2021.

Date of Plat or Map: August 25, 2021

NELSON MOJARENA
Registered Surveyor & Mapper No. 5504
State of Florida

NELSON MOJARENA LICENSE LS5504 STATE OF FLORIDA PROFESSIONAL SURVEYOR & MAPPER
8/30/2021

NELSON MOJARENA

Digitally signed by NELSON MOJARENA
DN: c=US, o=MOJARENA AND ASSOCIATES INC., ou=A01410C00000174458B02A90000090A, cn=NELSON MOJARENA
Date: 2021.08.30 16:52:37 -04'00'

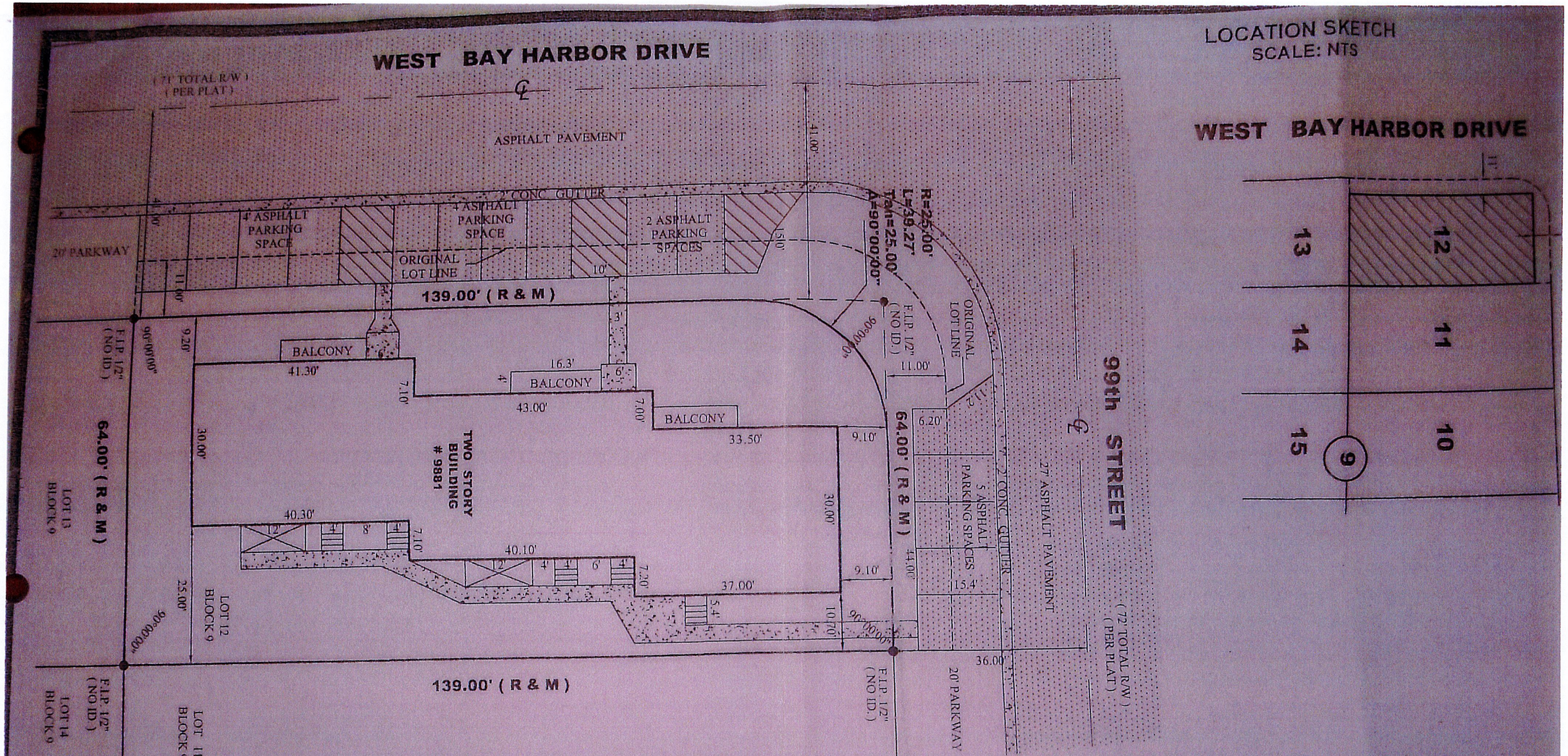
LEGEND															
Δ	= Central Angle	℄	= Center Line	F.H.	= Fire Hydrant	M	= Measured	O/S	= Offset	PL	= Planter	R.L.S.	= Registered Land Surveyor	T	= Tangent
A	= Arc	CLF	= Chain Link Fence	FIP	= Found 1/2" Iron Pipe	MAINT.	= Maintenance	O.U.E.	= Overhead Utility Lines	PLS	= Professional Land Surveyor	RNG	= Range	Trans.	= Transformer
A/C	= Air Conditioner	Cl.	= Clear	FIR	= Found 1/2" Iron Rebar	ME	= Maintenance Easement	P	= Plat	P.O.B.	= Point of Beginning	R/R	= Railroad	TWP	= Township
ASPH	= Asphalt	Conc.	= Concrete	FPL	= Florida Power & Light	MH	= Manhole	PB	= Plat Book	P.O.C.	= Point of Commencement	RSM	= Registered Surveyor & Mapper	Typ.	= Typical
C	= Calculated	D	= Deed	ID	= Identification	ℳ	= Monument Line	PC	= Point of Curvature	P.P.	= Power Pole	R/W	= Right-of-Way	U.E.	= Utility Easement
C.B.	= Catch Basin	Ø	= Diameter	I.P.	= Iron Pipe	Mon.	= Monument	PCP	= Permanent Control Point	PRC	= Point of Reverse Curvature	Sdwk	= Sidewalk	UTIL.	= Utility
CBS	= Concrete Block Structure	DH	= Drill Hole	LB	= Licensed Business	N/A	= Not Applicable	PG	= Page	PRM	= Point of Reference Monument	Sec	= Section	W.F.	= Wood Fence
CH	= Chord	DME	= Drainage & Maintenance Easm't	LME	= Lake Maintenance Easement	N/D	= Nail & Disc	P.I.	= Point of Intersection	PT	= Point of Tangency	SD	= Storm Drain	W.M.	= Water Meter
Chatta.	= Chattahoochee	Esm't	= Easement	LP	= Light Pole	N'	= Number	PKWY	= Parkway	R	= Radius	S.M.H.	= Sanitary Manhole	WME	= Wall Maintenance Easement
		Enc.	= Encroachment	L.S.	= Land Surveyor	NTS	= Not to Scale	℄	= Property Line	Res.	= Residence	SSMH	= Sanitary Sewer Manhole	W.V.	= Water Valve

SURVEYOR'S SEAL
This survey has been digitally signed and sealed by Nelson Mojarena, P.S.M. on the date adjacent to the seal. Printed copies are not considered signed and sealed and the signature must be verified on any electronic copies.

REVISED:

MOJARENA & ASSOCIATES, INC.
Land Surveyors & Mappers
Certificate of Authorization No. 6698
P.O. Box 56-0126
Miami, Florida 33256-0126
Tel. (305) 282-2494

FLOOD ZONE:	AE	BASE:	9
DATE:	SCALE:	DWN. BY	JOB NO.
08-12-21	1" = 20'	N.M.	21-0193



LOCATION SKETCH
SCALE: NTS

Property Address: 9871-9881 W Bay Harbor Dr., Bay Harbor Islands, FL. 33154.

Legal description: Lot 12, Less the Northerly 11 feet and the Westerly 11 feet, of
ISLAND, according to the Plat thereof, as recorded in Plat Book 46, Page 5, of th
Miami-Dade County, Florida.

ABBREVIATIONS:
SWK=SIDEWALK, CBS=CONCRETE BLOCK STRUCTURE, CLF=CHAIN LINK FENCE, PL=PROPERTY LINE, DUE=DRAINAGE UTILITY EASEMENT, IP=IRON PIPE, F=FOUND, A/C=AIR CONDITIONER PAD, P/C=PROPERTY CORNER, D/H=DRILLED HOLE, WF=WOODEN FENCE, RES=RESIDENCE, CL-C LEAR, RB=REBAR, UE=UTILITY EASEMENT, CONC=CONCRETE SLAB, R/W=RIGHT OF WAY, DE=DRAINAGE EASEMENT, C/L=CENTER LINE, Ø=DIAMTER, TYP=TYPICAL, M=MEASURED, R=RECORDED, ENCR=ENCROACHMENT, COMP=COMPUTER, ASH=ASPHALT, N/D=NAIL & DISC, S=SET, FEE=FINISH FLOOR ELEVATION, O/S=OFFSET, P/P=POWER POLE, OHP=OVERHEAD POWERLINE, W/M=WATER METER
WOOD FENCE=
MASONRY WALL=
CONCRETE=
MAINTENANCE & DRAINAGE EASEMENT=M & D.E.

ELEVATION BASED ON LOC. #
CBM# ELV.
TYPE OF SURVEY: BOUNDARY SURVEY

NOT VALID UNLESS EMBOSSED WITH SURVEYOR'S SEAL

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.

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 PB _____ PAGE _____

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 N. NUNEZ
REGISTERED LAND SURVEYOR
STATE OF FLORIDA #5924

SINCE 1987
BLANCO SURVEYO
Engineers • Land Surveyors • Planr
555 NORTH SHORE D
MIAMI BEACH, FL 3
(305) 865-1200 Email: blancosurveyorinc@y

FLOOD ZONE: AE
PANEL: 0144
DATE: 5/30/17
SCALE: 1" = 20'
SUFFIX: L
COMMUNITY #
CHK. BY
F. BLANCO

REVISED

Town Council

Joshua D. Fuller
Mayor

Elizabeth Tricoche
Vice Mayor

Stephanie Bruder
Council Member

Molly Winters Diallo
Council Member

Isaac Salver
Council Member

Teri D'Amico
Council Member

Robert Yaffe
Council Member

Town Officials

Maria Lasday
Town Manager

Yvonne Hamilton
Interim Town Clerk

Joseph S. Geller
Town Attorney

April 28, 2022

Yvonne Hamilton, Interim Town Clerk
Town of Bay Harbor Islands
9665 Bay Harbor Terrace
Bay Harbor Islands, Florida 33154

RE: PROPOSED NEW PROJECT ~ CLARA BH
Transfer of Development Rights
Receiver: 10281 W. Bay Harbor Drive
Donor: 9871-9881 W. Bay Harbor Drive
Folio #13-2227-030-0001 ~ Lots 11-12 / Block 9

Dear Ms Hamilton:

As per you request, below please find the inspection results as required for the Transfer of Development Rights for the above-mentioned property.

BUILDING REPAIRS
1. Multiple Planters around the perimeter of the property needs to be repaired
2. Pavers loose or missing in walkways - Not leveled or in place
3. Exterior Doors /Storage Area Rusted - Replace Doors
4. Concrete spalling in several areas of the building
5. Building has different tones of color - Paint Exterior of Building to Match

ELECTRICAL REPAIRS - Inspection Approved

MECHANICAL REPAIRS - Inspection Approved

PLUMBING REPAIRS
1. Hoses bib missing vacuum breaker. 2. Condensation line shall be 6" above ground.

Please note that all the above repairs will require a permit prior to commencing the work.

This Building was built in 1955. The 60 year re-certification was due for 2015. The Engineers Report was been submitted. Multiple permits have been applied for and inspected but no re-certification has been issued. Pending updated letter from Engineer.

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

Ayanidys Martinez

Ayanidys J/Martinez, CEP
Building & Zoning Supervisor
Encl: Photographs

TOWN OF BAY HARBOR ISLANDS
9665 BAY HARBOR TERRACE
BAY HARBOR ISLANDS, FL 33154
Phone: (305) 993-1786

Inspections

Permit Number: MB22-000021
Parcel Address: 9871 - 9881 West Bay Harbor Drive
Applicant: COVENANT MANOR CONDOMINIUM INC.

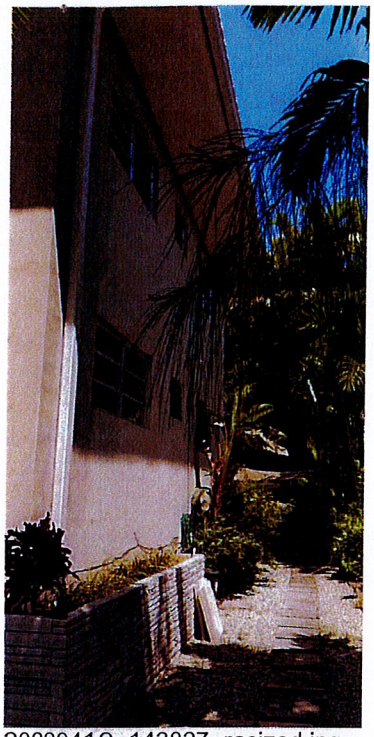
Inspection Date: 04/25/2022
Inspector: Mike Mesa
Inspection Type: Inspection
Inspection Status: Denied
Comments: repairs needed. see pictures.

Inspection Date: 04/14/2022
Inspector: Candelario Martinez
Inspection Type: Inspection
Inspection Status: Approved
Comments:

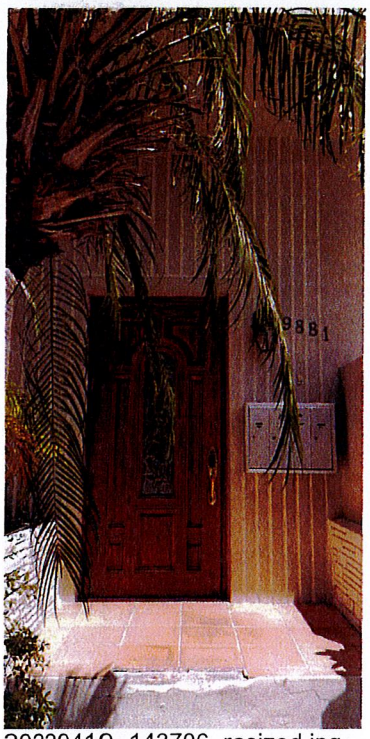
Inspection Date: 04/14/2022
Inspector: Jan Pierre Perez
Inspection Type: Inspection
Inspection Status: Approved
Comments:

Inspection Date: 04/14/2022
Inspector: Maykel Massanet
Inspection Type: Inspection
Inspection Status: Denied
Comments: 1. Hoses bib missing vacuum breaker. 2. Condensation line shall be 6" above ground.

Inspection Date: 04/22/2022
Inspector: Ayanidys Martinez
Inspection Type: Inspection
Inspection Status: Denied
Comments: The Building is due for recertification in 2015. Multiple permits have been applied for and inspected but no re-certification has been issued. Pending updated letter from Engineer. See pictures of the Building attached.



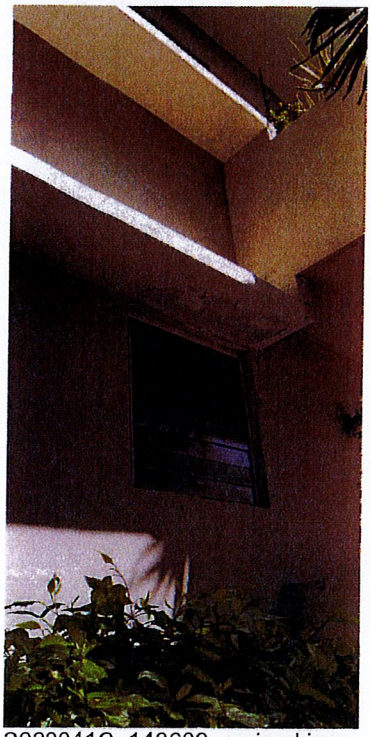
20220419_143827_resized.jpg
TDR Inspection
Apr 25, 2022



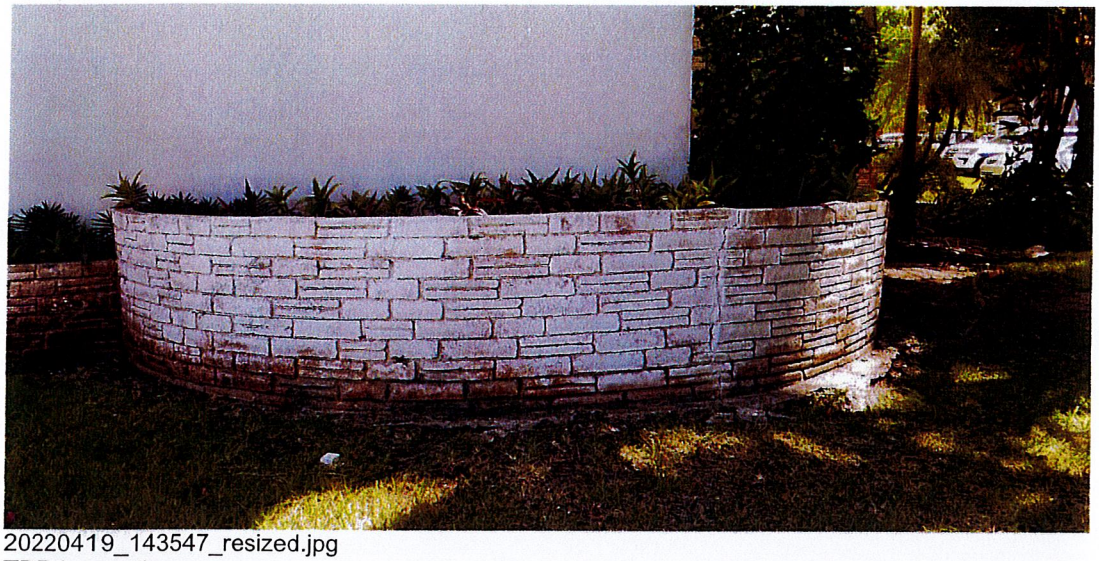
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TDR Inspection
Apr 25, 2022



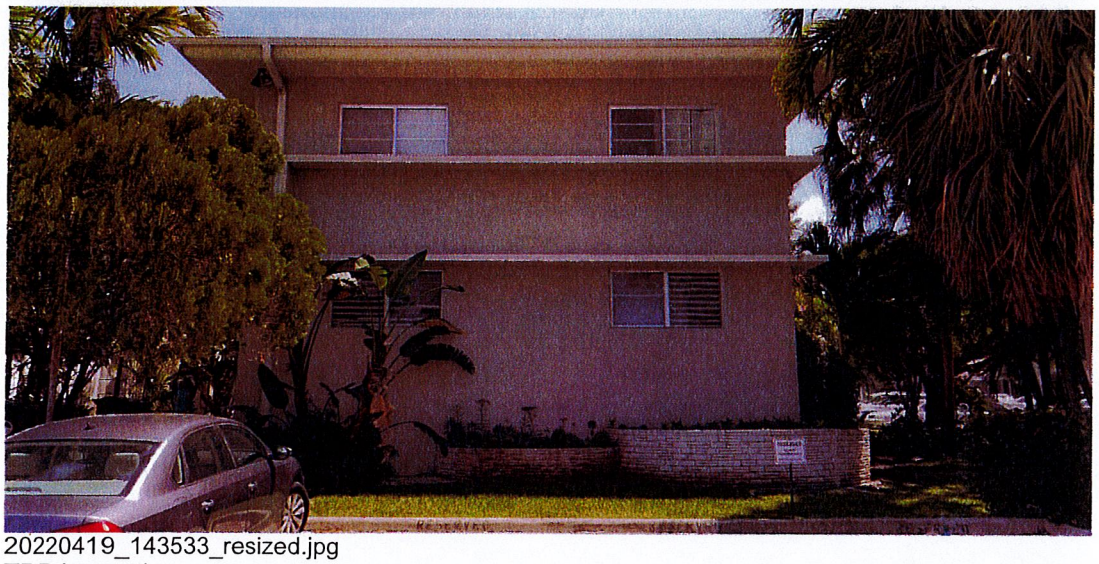
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TDR Inspection
Apr 25, 2022



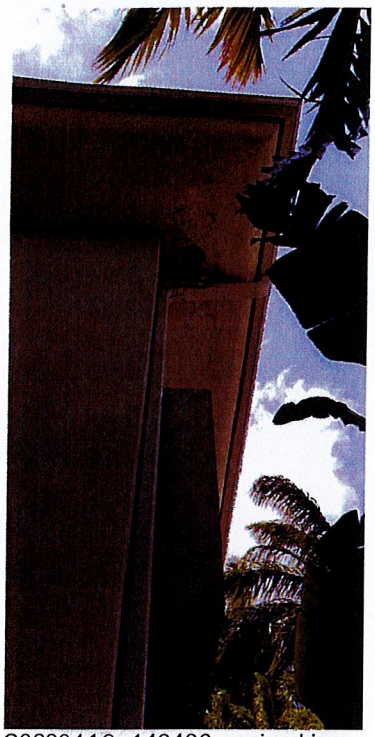
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TDR Inspection
Apr 25, 2022



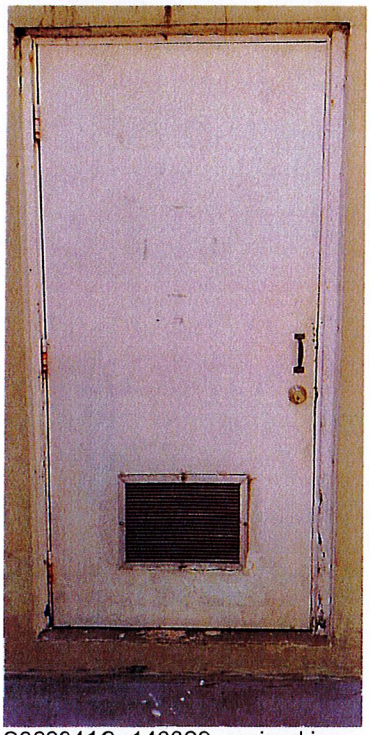
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TDR Inspection
Apr 25, 2022



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Apr 25, 2022



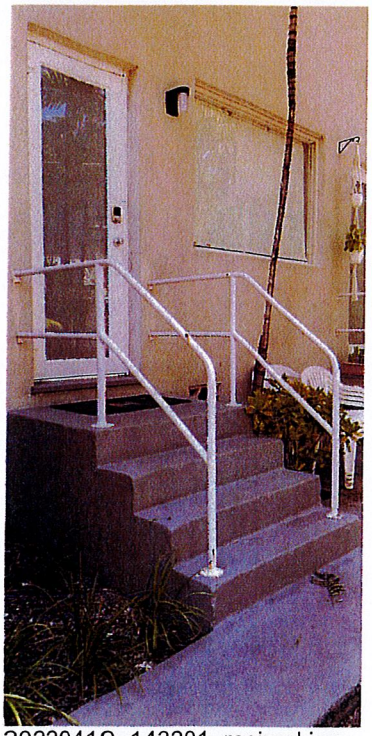
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Apr 25, 2022



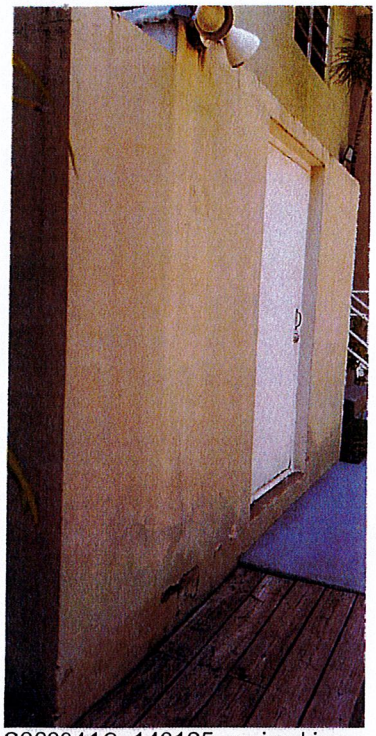
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TDR Inspection
Apr 25, 2022



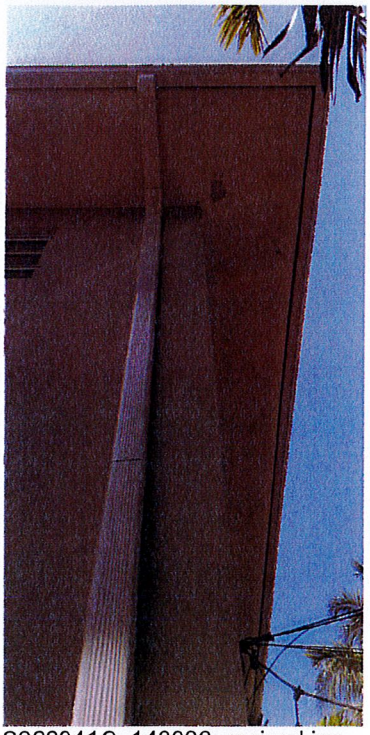
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TDR Inspection
Apr 25, 2022



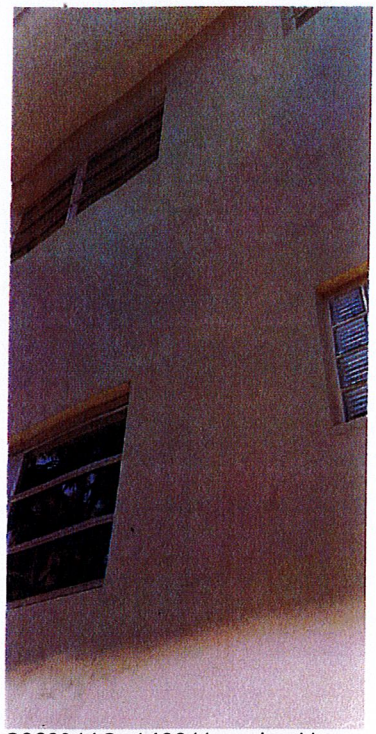
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Apr 25, 2022



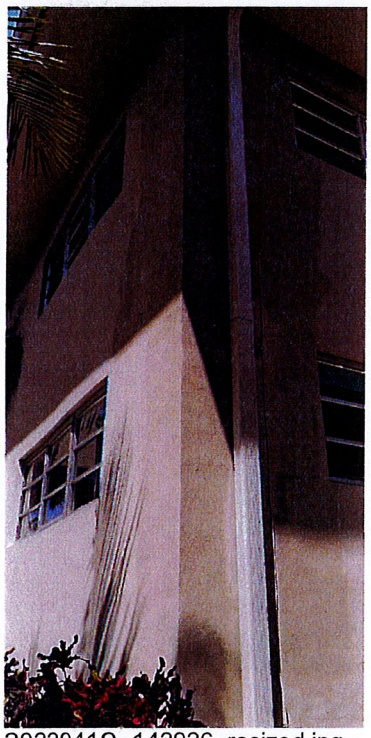
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Apr 25, 2022



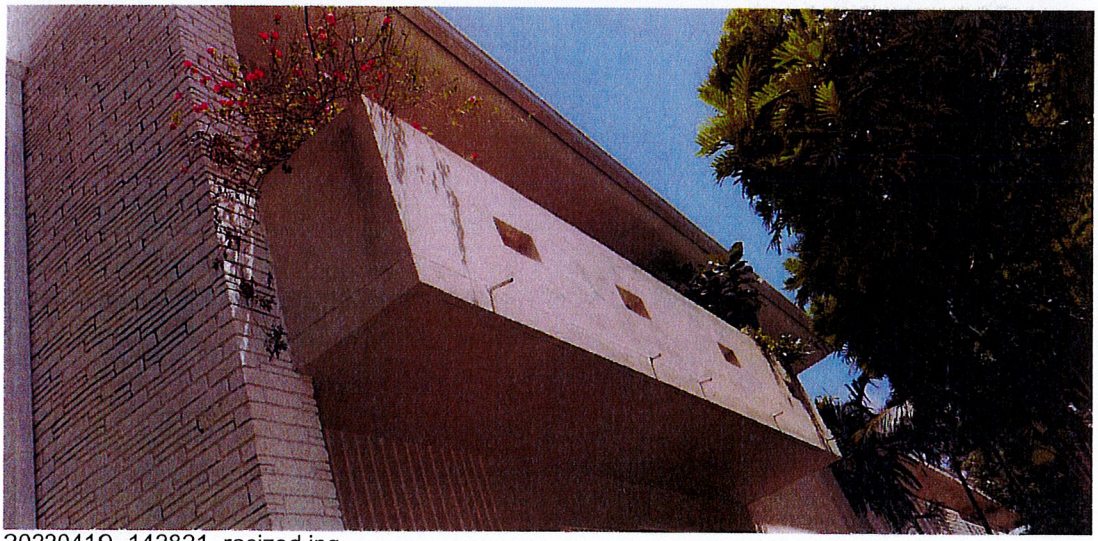
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Apr 25, 2022



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Apr 25, 2022



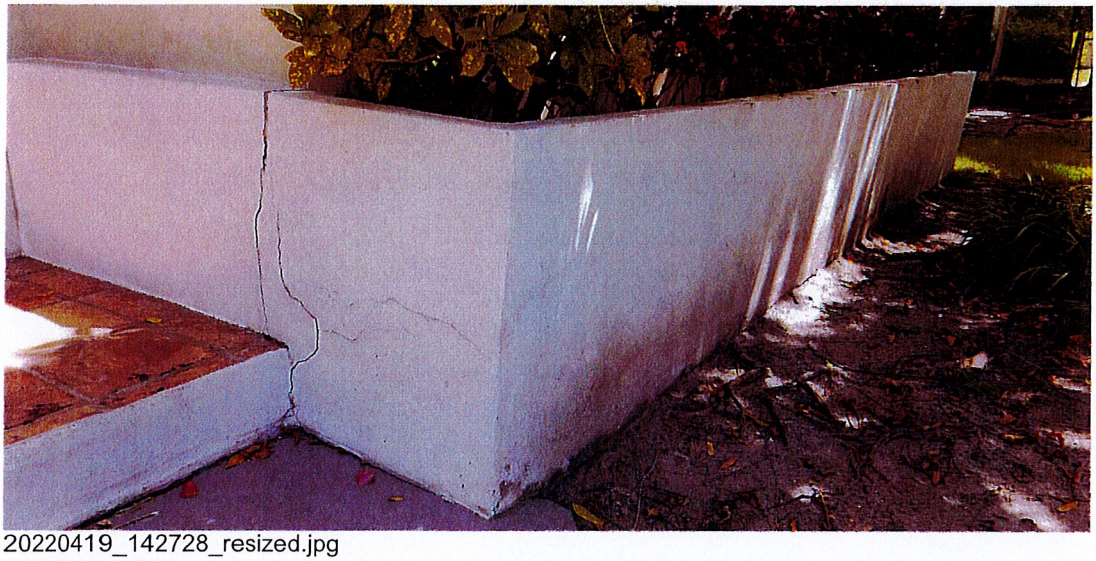
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TDR Inspection
Apr 25, 2022



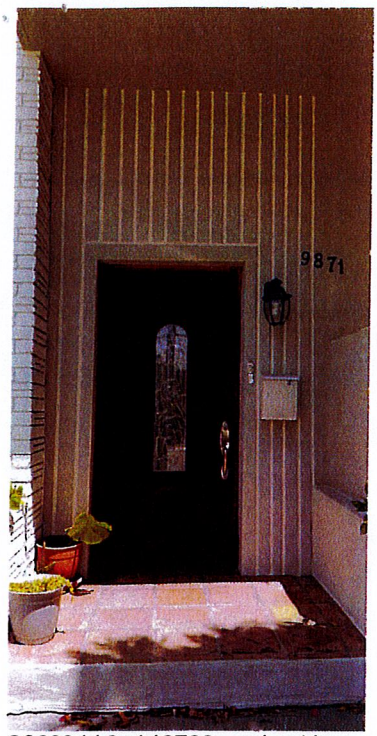
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TDR Inspection
Apr 25, 2022



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TDR Inspection
Apr 25, 2022



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Apr 25, 2022

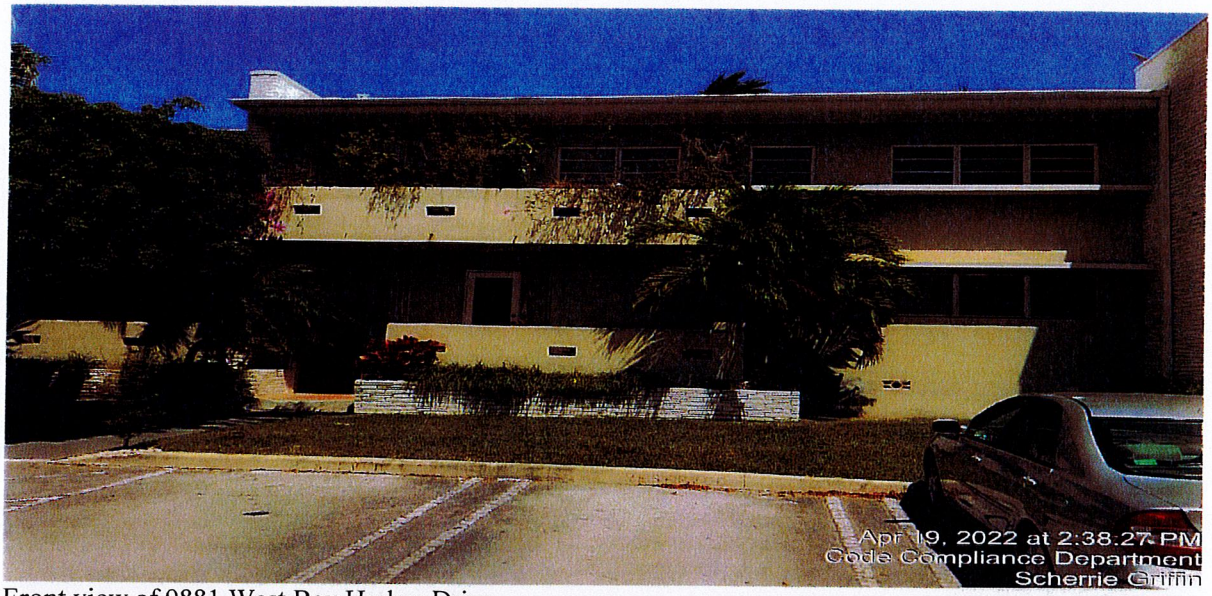


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TDR Inspection
Apr 25, 2022

Town of Bay Harbor Islands Code Compliance Department
TDR Re-inspection

Date: April 22, 2022

Property Address: Covenant Manor Condo
9871- 9881 West Bay Harbor Drive
Bay Harbor Islands, FL 33154



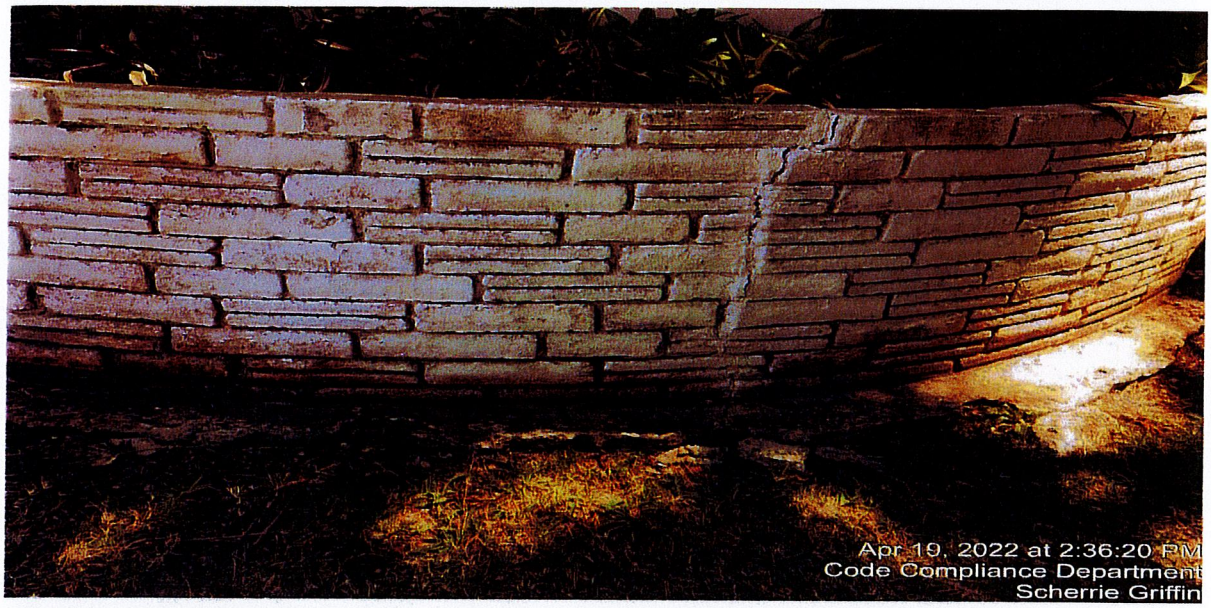
Front view of 9881 West Bay Harbor Drive



9881 West Bay Harbor Drive - The garbage/recycling containers are visible from the street.

9-3(a) All dumpsters or containers shall be kept together in or within a wall or enclosed area on private property, or in a location approved by the town. As an alternative to a wall or enclosed area, and

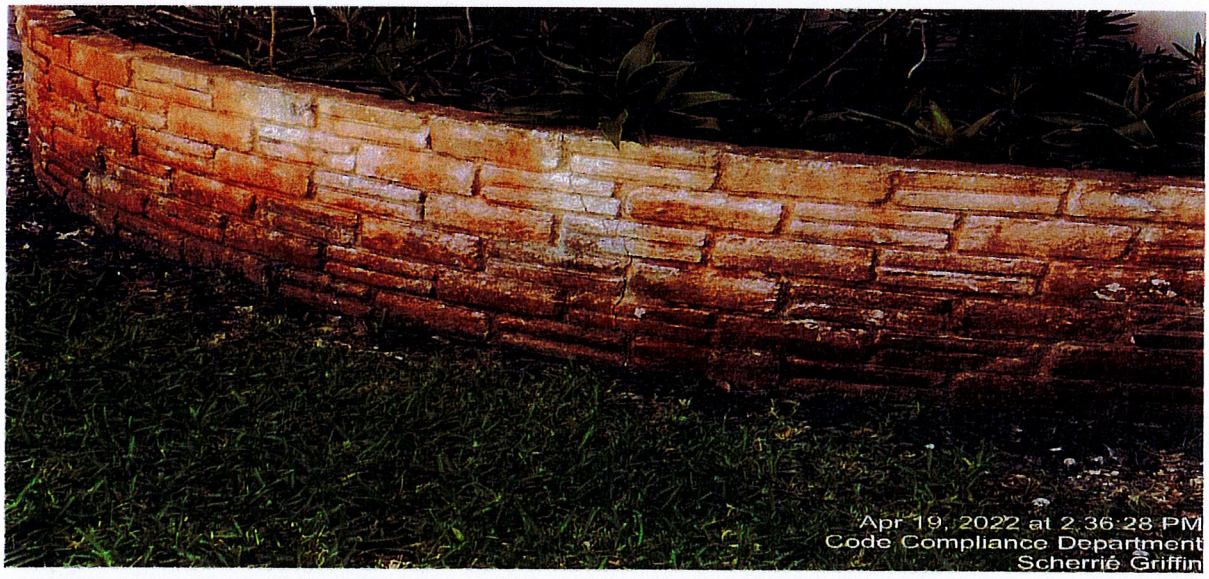
subject to the approval of the town, containers may be screened from view by a hedge or shrubbery. Such area shall not extend into any front yard; on corner lots it shall not extend into any yard facing the street. Such area shall be accessible to both town and private waste collectors.



9881 West Bay Harbor Drive- The planters are in disrepair and in need to be painted.

24-9. - Safe and sanitary maintenance of structure and facilities.

(e) All exterior surfaces subject to deterioration shall be properly maintained and protected from the elements by paint or other approved protective coating applied in a workmanlike fashion.



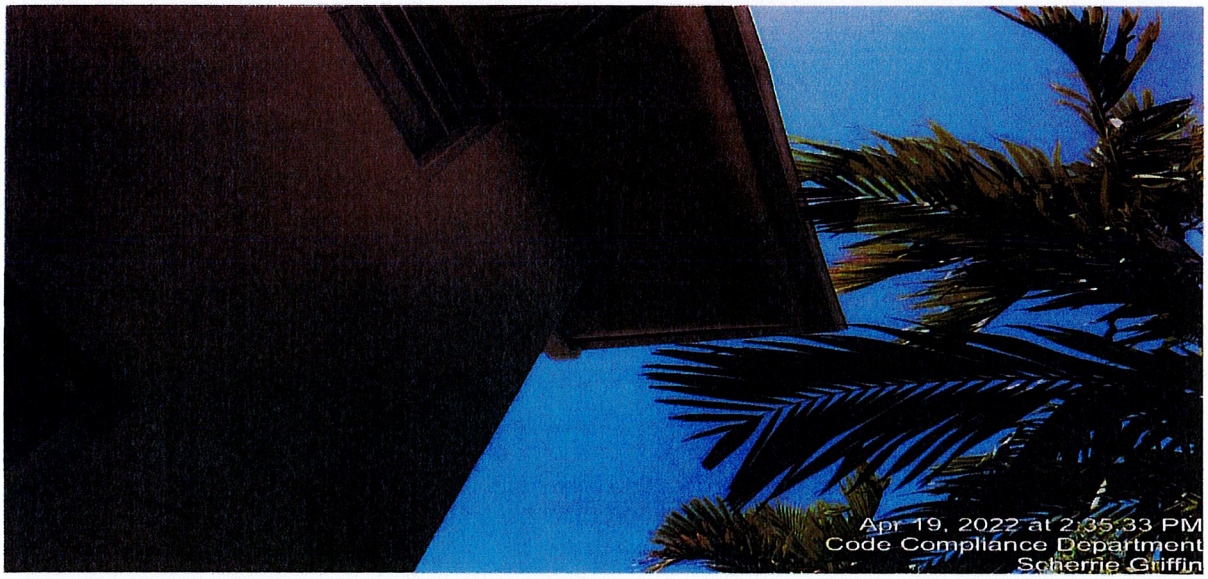
9881 West Bay Harbor Drive- The planters are in disrepair and in need to be painted.

24-9. - Safe and sanitary maintenance of structure and facilities.
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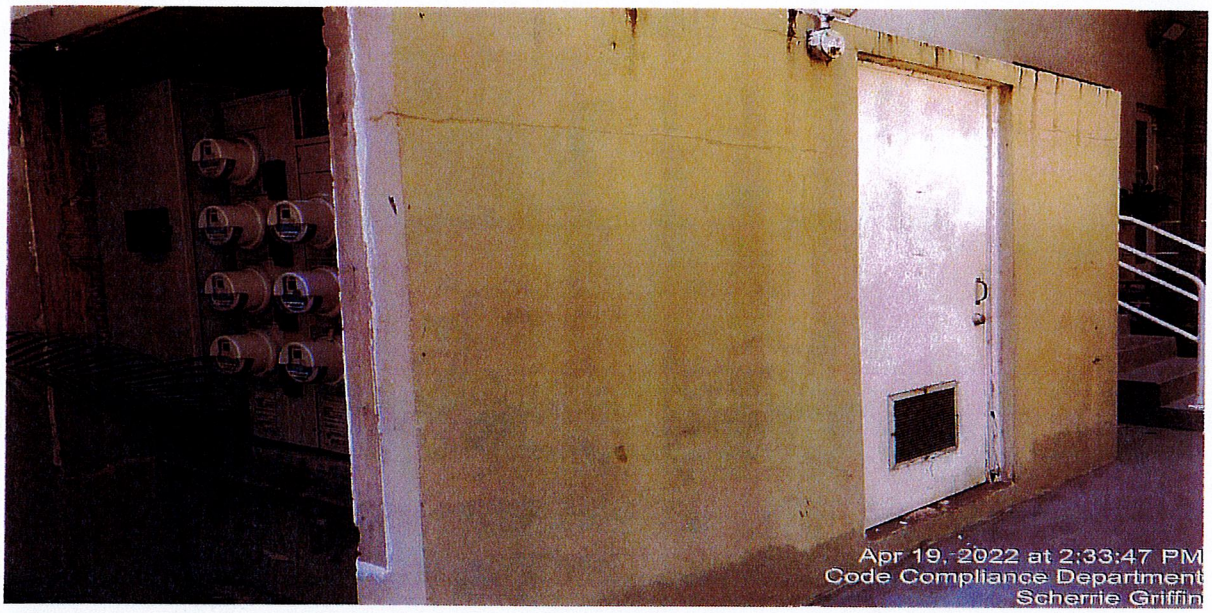
9881 West Bay Harbor Drive- Found paint on the exterior of the building is peeling.

24-9. - Safe and sanitary maintenance of structure and facilities.
(e) All exterior surfaces subject to deterioration shall be properly maintained and protected from the elements by paint or other approved protective coating applied in a workmanlike fashion.



9881 West Bay Harbor Drive- Found evidence of deterioration at the roof eaves.

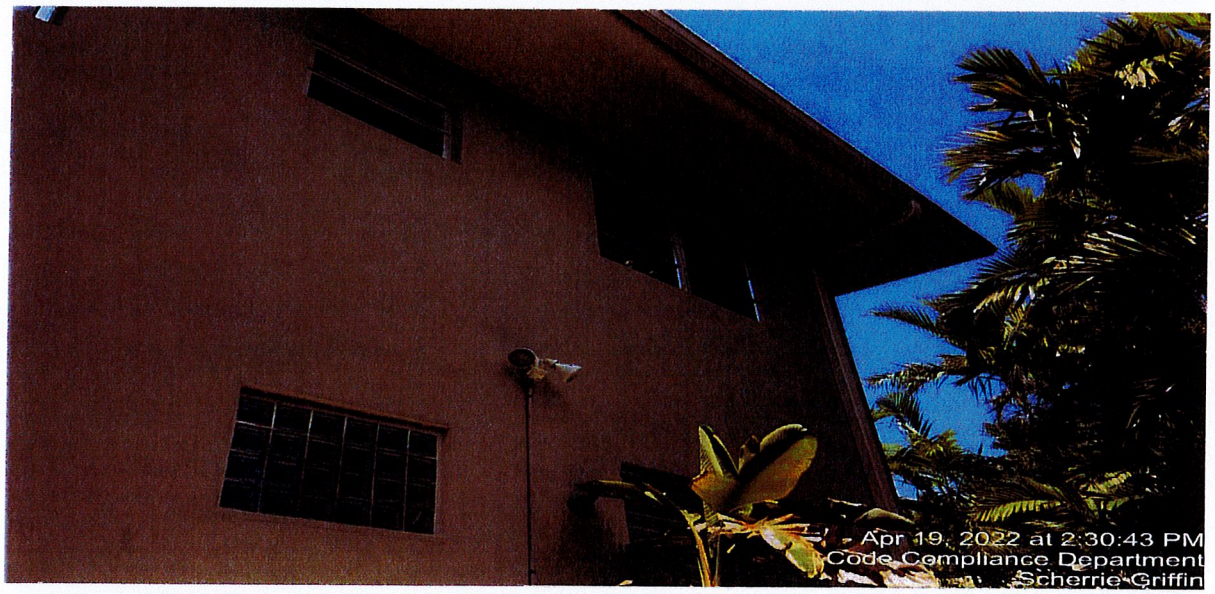
24-9. - Safe and sanitary maintenance of structure and facilities.
(e) All exterior surfaces subject to deterioration shall be properly maintained and protected from the elements by paint or other approved protective coating applied in a workmanlike fashion.



9881 West Bay Harbor Drive- Found cracks and peeling paint at the rear of the building.

24-9. - Safe and sanitary maintenance of structure and facilities.
(e) All exterior surfaces subject to deterioration shall be properly maintained and protected from the elements by paint or other approved protective coating applied in a workmanlike fashion.

Town of Bay Harbor Islands Code Compliance Department
TDR Re-inspection



9881 West Bay Harbor Drive- Found cracks and peeling paint at the rear of the building.

24-9. - Safe and sanitary maintenance of structure and facilities.

(e) All exterior surfaces subject to deterioration shall be properly maintained and protected from the elements by paint or other approved protective coating applied in a workmanlike fashion.



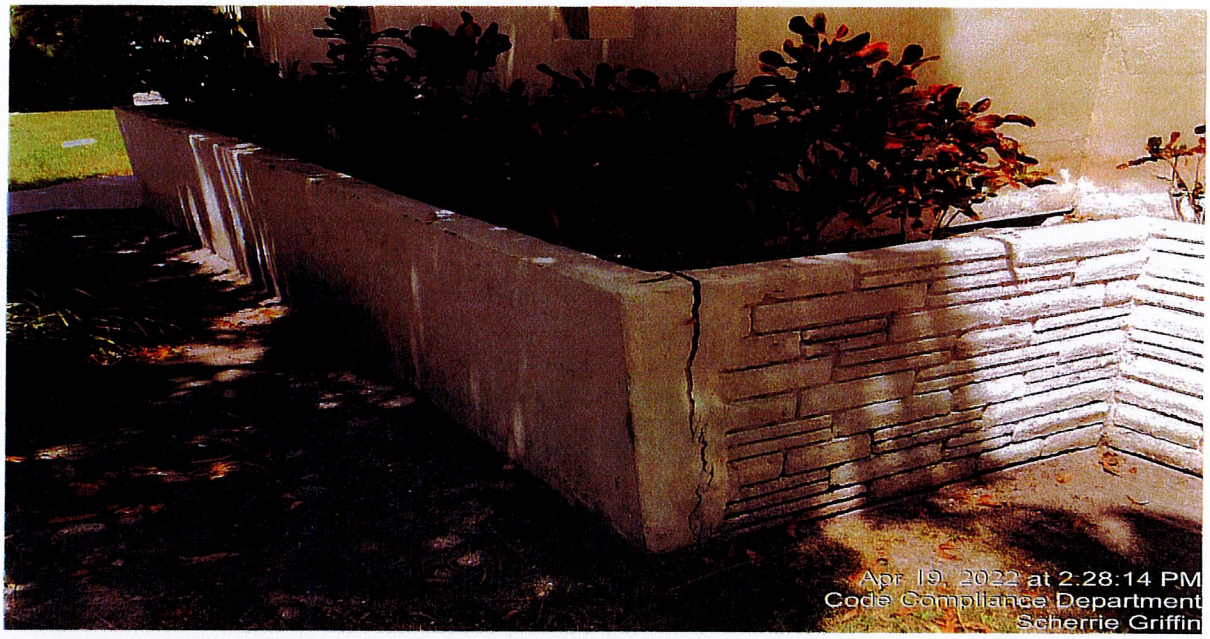
Front view of 9871 West Bay Harbor Drive



9871 West Bay Harbor Drive - Found the exterior of the building is painted two colors.

Town of Bay Harbor Islands Code Compliance Department
TDR Re-inspection

24-9. - Safe and sanitary maintenance of structure and facilities.
(e) All exterior surfaces subject to deterioration shall be properly maintained and protected from the elements by paint or other approved protective coating applied in a workmanlike fashion.



9871 West Bay Harbor Drive- The planters are in disrepair and in need to be painted.

24-9. - Safe and sanitary maintenance of structure and facilities.
(e) All exterior surfaces subject to deterioration shall be properly maintained and protected from the elements by paint or other approved protective coating applied in a workmanlike fashion.



9871 West Bay Harbor Drive- The planters are in disrepair and in need to be painted.

24-9. - Safe and sanitary maintenance of structure and facilities.
(e) All exterior surfaces subject to deterioration shall be properly maintained and protected from the elements by paint or other approved protective coating applied in a workmanlike fashion.



9871 West Bay Harbor Drive- The planters are in disrepair and in need to be painted.

24-9. - Safe and sanitary maintenance of structure and facilities.
(e) All exterior surfaces subject to deterioration shall be properly maintained and protected from the elements by paint or other approved protective coating applied in a workmanlike fashion.

AGENDA ITEM REPORT
June 9, 2022

ITEM NUMBER: 23.

ITEM: Consideration and **Approval** of a TDR transaction for the transfer of two (2) TDR units from the Town-owned "pool" of TDR units to the future Clara BH Multiple-Family Residential project to be located 10281 West Bay Harbor Drive. Enclosed are copies of the application and other supporting documents.

DESCRIPTION:
The applicant is requesting approval of Transfer of Development Rights (TDR) transaction of two (2) dwelling units from the Town-owned "pool" of TDR units.

Donor Site: Two (2) Town-owned Public Dwelling Units.
Receiving Site: 10281 West Bay Harbor Drive
Number of units to be transferred: 2
Price per Unit: $65,000

All required information was submitted pursuant to Section 23-22.2 of the Town Code. If the TDR application is approved by the Town Council, staff recommends the Town Attorney prepare a resolution setting forth the Town Council approval and recommendations.

RECOMMENDED ACTION:
Council's Discretion.

FINANCIAL ANALYSIS:
The Transfer of two (2) Developmental Rights (TDR) units from the Town-owned "pool" of TDR units to the future Clara BH Multiple-Family Residential Project will produce $130,000.00 (2*$65,000) of TDR revenues for the Town coffers. These revenues were not budgeted for FY 2021-2022, and the Budget Amendment might be necessary at the end of the Fiscal Year 2021-2022. Additionally, the application for the TDR transfers will produce $500.00 in TDR proceed revenues.

BUDGET IMPACT:

Name	Impact Date	Fund(s)	Account(s)	Project #(s)	Amount Budgeted
TDR Sale Proceeds	06/09/2022	$130,500.00	001.9990.369002.222	TDR Sale Proceeds	$0.00

Submitted By: Yvonne Hamilton, Acting Town Clerk

ATTACHMENTS

1.	TDR Application with supporting documents -
2.	Town Planner's Staff Report - 5-27-2022

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 Clara BH LLC c/o James Curnin		
Phone (305) 972-8568	e-mail jc@clarahomes.co	Fax ( )
Address 2665 S. Bayshore Dr, Suite 410		
City and State Miami, Florida		Zip Code 33133
Relationship to Property: Owner		

RECEIVER SITE INFORMATION

Owner's Name Clara BH LLC c/o James Curnin		
Phone (305) 972-8568	e-mail jc@clarahomes.co	Fax ( )
Address 10281 W Bay Harbor Drive & 1170 103 Street		
City and State Bay Harbor Islands, Florida		Zip Code 33154
Property Address/Location 10281 W Bay Harbor Drive & 1170 103 Street, Bay Harbor Islands, Florida 33154		
Legal Description: LOT(S) 6 & 7 BLOCK 5		
Folio Number 13-2227-001-1160 &13-2227-001-1150		Current Zoning RM-2 Multiple Family District General
Property size 22,365.8 Square Feet; 0.5 Acres		Purchase date
Existing use of the property Vacant		
Describe Existing Structure on Property Vacant		
Dwelling units to be received 2		
Total Dwelling units including TDR 28		

HAS SITE PLAN FOR RECEIVING PROPERTY BEEN APPROVED?
☒ **Yes** ☐ **No**

If Yes, then provide date of approval ~~March 21, 2017~~ April 7, 2022
If Not, then attach preliminary site plan.

ARE TDRs BEING REQUESTED FROM THE TOWN? Yes ☒ 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 Mojarena & Associates, Inc (Receiver)		
Address P.O Box 56-0126, Miami , Florida 3326-0126		
Phone (305) 278-2494	e-mail	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

_____ 12/29/21
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 29 day of December, 20 21, by James Curnin on behalf of Clara BH, 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: 3/5/22

_____
Notary Public, State of Florida

BETTY LLERENA
MY COMMISSION # GG 175999
EXPIRES: March 5, 2022
Bonded Thru Notary Public Underwriters

Print Name: Betty Llerena

DONOR SITE

_____ _____
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: _____

BERCOW
RADELL
FERNANDEZ
LARKIN +
TAPANES

ZONING, LAND USE AND ENVIRONMENTAL LAW

200 S. Biscayne Boulevard
Suite 300, Miami, FL 33131

www.brzoninglaw.com

305.377.6236 office
305.377.6222 fax
mamster@brzoninglaw.com

VIA EMAIL & HAND DELIVERY

TOWN OF BAY HARBOR ISLANDS
MIAMI-DADE COUNTY, FL
RECEIVED
MAY 25 2022
By

May 25, 2022

Maria Lasday, Town Manager
Town of Bay Harbor Islands
9665 Bay Harbor Terrace
Bay Harbor Islands, Florida 33154

Re: TDR Application – Town of Bay Harbor Islands to Clara BH, LLC for Approved Site Plan for the Bay Harbor Apartments located at 10281 W Bay Harbor Drive & 1170 103 Street, Bay Harbor Islands, FL, 33154

Dear Ms. Lasday:

This law firm represents Clara BH, LLC (the "Applicant"), the owner of the lots located at 10281 W Bay Harbor Drive and 1170 103 Street, Bay Harbor Islands, FL 33154 (collectively, the "Property"). The Property consists of two vacant dry lots at the southeast corner of the intersection of W. Bay Harbor Drive and 103 Street. The Property has a lot size of 22,366 square feet (0.51 acres) and is zoned RM-2, Multiple Family Residential District (nonwaterfront). At the maximum permissible density of 60 units/acre, the Property could have 31 units. The purpose of this letter is to request approval of the Transfer of Development Rights ("TDRs"), through purchase of TDRs from the Town of Bay Harbor, for the approved development on the Property.

The Project. On March 21, 2017, the Planning and Zoning Board (PZB) approved the prior owner's site plan for a multi-family residential project, entitled "Atlantis," (the "Project"). Designed by Blanco Surveyors, Inc., the Project is a 7-story multifamily residential building, comprised of 28 residential units, a fitness center, and a roof top pool and spa. The Project will provide the required number of parking spaces plus an additional two spaces. The height of the building is consistent with the maximum building height of 65 feet.

Most recently, on April 7, 2022, the Town's Design Review Board approved a revised site plan called Clara BH for the same number of dwelling units, 28, with all required parking provided on-site.

TDRs. The Property size provides for 17 as of right dwelling units, which means the Project requires 11 TDRs. In 2017, the prior owner of the Property secured 6 private TDR units for the Property. See Exhibit A, BH Harbor TH1 Transfer Warranty Deed (5 TDR units) and Exhibit B, Southern Star Transfer Warranty Deed (1 TDR unit). Additionally, although the prior owner obtained approval from the Town for 5 private TDR units in 2018, the associated TDR purchase agreements were cancelled and released.

Therefore, the Applicant requires 5 more TDRs for the Project. This application is for 2 TDRs via a purchase agreement with the Town of Bay Harbor (the "Town"). The Applicant is currently finalizing the transfer of the other 3 TDRs through two other private TDR contracts and will submit the applications separately.

The Project satisfies the criteria for approval of TDRs. The proposed development plan design fully complies with the minimum standards set forth in the Town's land development regulations and no variances are needed. The design, height and massing, are compatible with the surrounding area, which contains numerous buildings of similar size. The Project's density of 28 units where 31 units are allowed, is also compatible with the surrounding Medium-High Density Residential land use through the TDR program.

Should you have any questions, comments, or require additional information, please do not hesitate to phone my direct line at (305) 377-6236.

Very truly yours,

Matthew Amster

Enclosures
CC: Maritza Haro Salgado
Shakeyla Flores

EXHIBIT A

CFN: 20170575752 BOOK 30716 PAGE 1008
DATE:10/13/2017 09:53:05 AM
DEED DOC 0.60
SURTAX 0.45
HARVEY RUVIN, CLERK OF COURT, MIA-DADE CTY

This instrument prepared by, record and return to:

Jennifer Snyder, Esq.
SNYDER INTERNATIONAL LAW GROUP, P.A.
21500 Biscayne Boulevard, Suite 401
Aventura, FL 33180

Notice to Recorder:

The deed is for a transfer of development rights to the property described herein and does not transfer any interests in real property. Accordingly, pursuant to TAA No. 03B4-007 (July 14, 2003), no documentary stamp tax is due in connection herewith.

Folio No.

[Space above line reserved for recording office use]

WARRANTY DEED
FOR TRANSFER OF DEVELOPMENT RIGHTS AND DECLARATION OF RESTRICTIONS

THIS INDENTURE, made as of the 11th day of October, 2017 between Bay Harbor TH 1, LLC, a Florida limited liability company whose post office address is 20900 NE 30th Avenue, Suite 510, Aventura, FL 33180, hereinafter called Grantor, and Atlantis 103, LLC, a Florida limited liability company, whose post office address is 7657 NW 50th Street, Miami, FL 33166, hereinafter called Grantee:

(wherever used herein, the terms "Grantor" and "Grantee" include all parties to this instrument and the heirs, legal representatives and assigns of individuals, and the successors and assigns of corporations)

WITNESSETH, That Grantor, for and in consideration of the sum of Ten Dollars ($10.00), to the Grantor in hand paid by the Grantee, the receipt whereof is acknowledged, has granted, bargained and sold to the Grantee and the Grantee and the Grantee's heirs, successors and assigns forever, FIVE (5) UNITS OF DEVELOPMENT RIGHTS (the **"Development Rights"**) as set forth in the Town of Bay Harbor Island Zoning and Planning Code (the **"Town Code"**), Ordinance No. 769 and Section 23-22.2 and Resolution No. 2131 from the following described property (the **"Donor Parcel"**) situate, lying and being in Miami-Dade County, Florida to wit:

Lot 1, Block 9, BAY HARBOR ISLAND, according to the Plat thereof, recorded in Plat Book 46, at Page 5, of the Public Records of Miami-Dade County, Florida.

AND THE GRANTOR DOES HEREBY FULLY WARRANT the title to said Development Rights and will defend the same against the lawful claims of all person, whosoever, and the Grantor hereby represents that the transfer of the Development Rights to the Grantee herein has been approved by the Town of Bay Harbor Islands in accordance with the requirement of the Town Code, avers that the Rights are hereby severed and extinguished from the Donor Parcel.

SAVING AND RESERVING TO THE GRANTOR all other rights to develop the Donor Parcel in accordance with the Town Code, except for the Development Rights that are hereby transferred to the Grantee.

The Development Rights transferred to the Grantee by this instrument are and shall be appurtenant to the following described land now owned by the Grantee (the **"Receiving Parcel"**) unless and until such Development Rights are subsequently transferred in accordance with the provisions of the Town Code:

Lots 6 and 7, of Block 5, BAY HARBOR ISLAND, according to the Plat thereof, as recorded in Plat Book 46, at Page 5, of the Public Records of Miami-Dade County, Florida.

The use of the Donor Parcel and the Receiving Parcel is hereby restricted to uses permitted under the Town Code, as amended from time to time.

This instrument may be executed in counterparts with the respective original signature pages assembled into one document for recordation in the Public Records of Miami-Dade County.

IN WITNESS WHEREOF, the Grantor has signed and sealed these presents effective as of the day and year first above written, with the joinder and consent of the Grantee.

Signed, sealed and delivered in the presence of Witnesses:

Witnesses:

Norberto Lance

Print name:

Solomon Nizovki

Print name:

Bay Harbor TH 1 LLC, a Florida limited liability company

By: Bay Harbor TH 1 Developer LP, a Delaware limited partnership, its Manager

By: Bay Harbor TH 1 GP LLC, a Delaware limited liability company, its General Partner

By:

Michel Leibovich, Manager

STATE OF FLORIDA
COUNTY OF MIAMI-DADE

The foregoing instrument was acknowledged before me this 11th day of October, 2017, by Michel Leibovich, as Manager of Bay Harbor TH 1 GP LLC, a Delaware limited liability company, the General partner of Bay Harbor TH 1 Developer LP, a Delaware limited partnership, as Manager of Bay Harbor TH 1 LLC, a Florida limited liability company, who [✓] is personally known to me or [ ] produced FL ID as identification.

My commission expires:

SINAI LAMUS
COMMISSION # FF142549
EXPIRES: July 16, 2018
WWW.AARONNOTARY.COM

July 16 2018

Notary Public

Print name: Sinai Lamus.

JOINDER AND CONSENT BY RECEIVING PARCEL OWNER

The undersigned owner of the Receiving Parcel hereby joins in and consents to the above foregoing Warranty Deed for Transfer of Development Rights and Declaration of Restrictions and acknowledges that the same is and shall be binding upon the undersigned owner.

EXECUTED by the undersigned on the 11, day of October, 2017, to be effective on the date first written above.

Signed, sealed and delivered in the presence of Witnesses:

Witnesses:

Print name: Alexandra Vega

Print name: Eric SAMI

Atlantis 103, LLC, a Florida limited liability company

By: Sorosh, LLC, a Florida limited liability company, its Manager

By: _____
Sam Sami, Managing Member

STATE OF FLORIDA
COUNTY OF MIAMI-DADE

The foregoing instrument was acknowledged before me this 11 day of October, 2017, by Sam Sami, as Managing Member of Sorosh, LLC, a Florida limited liability company, the Manager of Atlantis 103, LLC, a Florida limited liability company who [✓] is personally known to me or [ ] produced _____ as identification.

_____
Notary Public

Print name: Glendy Acosta

My commission expires:

Glendy Acosta
Commission # GG121926
Expires: July 6, 2021
Bonded thru Aaron Notary

EXHIBIT B

CFN: 20170686647 BOOK 30783 PAGE 1967
DATE:12/06/2017 04:25:19 PM
DEED DOC 0.60
SURTAX 0.45
HARVEY RUVIN, CLERK OF COURT, MIA-DADE CTY

This instrument prepared by:

Kristy L. Phillips, Esq.
Real Estate & Association Law Firm, P.A.
101 N.E. 3rd Ave. #1500
Ft. Lauderdale, Florida

Record and return to:
Brian M. Rokaw, P.A.
4070 Laguna Street
Coral Gables, Florida 33146

Notice to Recorder:
The deed is for a transfer of development rights to the property described herein and does not transfer any interests in real property. Accordingly, pursuant to TAA No. 03B4-007 (July 14, 2003) no documentary stamp tax is due in connection herewith.

Folio No. 13-2227-100-0001

[Space above line reserved for recording office use]

WARRANTY DEED FOR TRANSFER OF DEVELOPMENT RIGHTS AND DECLARATION OF RESTRICTIONS

THIS INDENTURE, made as of the day of November 6, 2017 between **SOUTHERN STAR CONDOMINIUM ASSOCIATION, Inc.** a Florida not-for-profit corporation, whose post office address is 1060 Kane Concourse Suite A, Bay Harbor Islands, FL 33154, hereinafter called Grantor, and **ATLANTIS 103, LLC**, a Florida limited liability company, whose post office address is 7657 NW 50th Street, Miami, Florida, 33166, hereinafter called Grantee:

(wherever used herein, the terms "Grantor" and "Grantee" include all parties to this instrument and the heirs, legal representatives and assigns of individuals, and the successors and assigns of corporations)

WITNESSETH, That Grantor, for and in consideration of the sum of Ten Dollars ($10.00), to the Grantor in hand paid by the Grantee, the receipt whereof is acknowledged, has granted, bargained and sold to the Grantee and the Grantee and the Grantee's heirs, successors and assigns forever, ONE (1) UNIT OF DEVELOPMENT RIGHTS (the **"Development Rights"**) as set forth in the Town of Bay Harbor Island Zoning and Planning Code (the **"Town Code"**), Section 23.22.2 and Resolution No. 2130 from the following described property (the **"Donor Parcel"**) situate, lying and being in Miami-Dade County, Florida to wit:

Lots 1 and 2, Block 17, less North 11 feet of Lots 1 and 2, Block 17 and less East 11 feet of Lot 1, Block 17, BAY HARBOR ISLAND, according to the Plat thereof, as recorded in Plat Book 46, Page 5 of the Public Records of Miami-Dade County, Florida.

A/K/A Southern Star, a Condominium, according to the declaration of Condominium thereof, recorded in Official Records Book 21198, at Page 3223, of the Public Records of Miami-Dade County, Florida.

AND THE GRANTOR DOES HEREBY FULLY WARRANT the title to said Development Rights and will defend the same against the lawful claims of all person, whosoever, and the Grantor hereby represents that the transfer of the Development Rights to the Grantee herein has been approved by the Town of Bay Harbor Islands in accordance with the requirement of the Town Code, avers that the Rights are hereby severed and extinguished from the Donor Parcel.

SAVING AND RESERVING TO THE GRANTOR all other rights to develop the Donor Parcel in accordance with the Town Code, except for the Development Rights that are hereby transferred to the Grantee.

The Development Rights transferred to the Grantee by this instrument are and shall be appurtenant to the following described land now owned by the Grantee (the **"Receiving Parcel"**) unless and until such Development Rights are subsequently transferred in accordance with the provisions of the Town Code:

Lots 6 and 7 of Block 5, "Bay Harbor Island" Subdivision according to the plat thereof, as recorded in Plat Book 46, Page 5 of the Public Records of Miami Dade County, Florida.

The use of the Donor Parcel and the Receiving Parcel is hereby restricted to uses permitted under the Town Code, as amended from time to time.

This instrument may be executed in counterparts with the respective original signature pages assembled into one document for recordation in the Public Records of Miami-Dade County

JOINDER AND CONSENT BY RECEIVING PARCEL OWNER

The undersigned owner of the Receiving Parcel hereby joins in and consents to the above foregoing Warranty Deed for Transfer of Development Rights and Declaration of Restrictions and acknowledges that the same is and shall be binding upon the undersigned owner.

EXECUTED by the undersigned on the 11th, day of Nov. 2017, to be effective on the first date written above.

Signed, sealed and delivered in the presence of Witnesses:

ATLANTIS 103, LLC, a Florida limited liability company

By: SOROSH, LLC, a Florida limited liability company, its Manager

Signature of Witness
Print Name: Alexandra Vega

Signature of Witness
Print Name: Glendy Acosta

By:
Name: Sam Sami
Title: Managing Member

STATE OF FLORIDA
COUNTY OF MIAMI-DADE

The foregoing instrument was acknowledged before me on this 6th day of, November, 2017 by Sam Sami, as Managing Member of Sorosh, LLC, a Florida limited liability company, the Manager of Atlantis 103, LLC, a Florida limited liability company who {_____}is personally known to be or who {_____} has provided _____ S500-796-53-244-0. as valid identification.

Notary Public, State of Florida

Print Name of Notary
My Commission Expires:

Glendy Acosta
Commission # GG121926
Expires: July 6, 2021
Bonded thru Aaron Notary

In Witness Whereof, grantor has hereunto set grantor's hand and seal the day and year first above written.

Signed, sealed and delivered in our presence:

SOUTHERN STAR CONDOMINIUM ASSOCIATION, INC,
a Florida not-for-profit corporation

Signature of Witness
Print Name: Linda Johnson

Signature of Witness
Print Name: Carmen Wong

By:
Name: Hayim Katan
Title: President

Signature of Witness
Print Name: Linda Johnson

Signature of Witness
Print Name: Reyesta Ruiz

By:
Name: Robert Colon
Title: Vice President

STATE OF FLORIDA
COUNTY OF MIAMI-DADE

The foregoing instrument was acknowledged before me on this 14 day of November, 2017 by Hayim Katan, as President and Robert Colon as Vice President for and on behalf of Southern Star Condominium Association, Inc., a Florida not-for-profit corporation who {X} are personally known to be or who {_____} have provided _____ as valid identification.

Notary Public, State of Florida
Evis E. Vasallo
Print Name of Notary
My Commission Expires: 9-25-2020

EVIS E. VASALLO
MY COMMISSION # GG 026014
EXPIRES: September 25, 2020
Bonded Thru Budget Notary Services

CFN: 20210697799 BOOK 32747 PAGE 1571
DATE:09/21/2021 12:39:17 PM
DEED DOC 39,000.00
SURTAX 29,250.00
HARVEY RUVIN, CLERK OF COURT, MIA-DADE CTY

Prepared by:
Brian M. Rokaw, Esq.
Brian M. Rokaw, P.A.
4070 Laguna Street
Coral Gables, FL 33146
Tel: (305) 722-5888

Return to:
Beloff Law, P.A.
1691 Michigan Avenue, Suite 250
Miami Beach, Florida 33139
Tel: (305) 673-1101
File Number: CU-0566-16

[Space Above This Line For Recording Data]

Warranty Deed

This Warranty Deed made this 10 day of **September, 2021** between **Atlantis 103, LLC, a Florida limited liability company,** whose post office address is **1200 Brickell Avenue, Suite 800, Miami, Florida 33131**, grantor, and **Clara BH LLC, a Delaware limited liability company** whose post office address is **10201 Collins Avenue, Apt. 1107, Bal Harbour, Florida 33154**, grantee:

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

Witnesseth, that said grantor, for and in consideration of the sum of TEN AND NO/100 DOLLARS ($10.00) and other good and valuable considerations to said grantor in hand paid by said grantee, the receipt whereof is hereby acknowledged, has granted, bargained, and sold to the said grantee, and grantee's heirs and assigns forever, the following described land, situate, lying and being in **Miami-Dade County, Florida** to-wit:

Lots 6 and 7, Block 5 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.

Parcel Identification Number(s): 13-2227-001-1150 and 13-2227-001-1160

Property Addresses: 10281 West Bay Harbor Drive, Bay Harbor Islands, FL 33154 and
1170 103rd Street, Bay Harbor Islands, FL 33154

AND Grantor does hereby further grant, transfer, sell and convey to Grantee, its successors and assigns, all of Grantor's right, title and interest in and to those certain SIX (6) Units of Development Rights heretofore transferred to the Grantor pursuant to the following Warranty Deeds ("TDR Deeds"):

a. **Warranty Deed For Transfer of Development Rights and Declaration of Restrictions dated October 11, 2017 and recorded October 13, 2017 in Official Records Book 30716, at Page 1008, of the Public Records of Miami-Dade County, Florida (5 Units), and**

b. **Warranty Deed For Transfer of Development Rights and Declaration of Restrictions dated November 6, 2017 and recorded December 6, 2017 in Official Records Book 30783, at Page 1967, of the Public Records of Miami-Dade County, Florida (1 Unit),**

which Development Rights are owned and have not heretofore been transferred or conveyed by Grantor, and are and shall continue to be appurtenant to the Property hereinabove described, as the 'Receiving Parcel', all in accordance with and subject to the terms and conditions of the said TDR Deeds.

Subject To: Conditions, restrictions and easements of records without hereby reimposing same; zoning restrictions, prohibitions and other requirements imposed by governmental authority.

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

To Have and to Hold, the same in fee simple forever.

And the grantor hereby covenants with said grantee that the grantor is lawfully seized of said land in fee simple; that the grantor has good right and lawful authority to sell and convey said land; that the grantor hereby fully warrants the title to said land and will defend the same against the lawful claims of all persons whomsoever; and that said land is free of all encumbrances, except taxes accruing subsequent to **December 31, 2020**.

In Witness Whereof, grantor has hereunto set grantor's hand and seal the day and year first above written.

Signed, sealed and delivered in our presence:

ATLANTIS 103, LLC,
a Florida limited liability company

By: Burotto International, LLC, a Delaware limited liability company, its Manager

By: _____ (Seal)
Name: Cesar Burotto
Title: Manager

Witness Signature: _____
Printed Name: BRIAN ROKAW

Witness Signature: _____
Printed Name: Jonathan D. Beloff

State of Florida

County of Miami-Dade

THE FOREGOING INSTRUMENT WAS ACKNOWLEDGED before me by means of [✓] physical presence or [__] online notarization, this 10 day of September, 2021 by Cesar Burotto, as Manager of Burotto International, LLC, a Delaware limited liability company, the Manager of Atlantis 103, LLC, a Florida limited liability company, who [__] is personally known or [✓] has produced a driver's license as identification.

_____
Notary Public

[Notary Seal]

Notary Public State of Florida
Brian M. Rokaw
My Commission GG 226949
Expires 08/23/2022

Printed Name: BRIAN M. ROKAW

My Commission Expires: June 23, 2022

MICHAEL MILLER PLANNING ASSOCIATES, INC.
Land Design Municipal Planning Services Transportation Planning

TOWN OF BAY HARBOR ISLANDS COMMUNITY DEVELOPMENT MEMORANDUM

To: Yvonne Hamilton – Interim Town Clerk
Town of Bay Harbor Islands

CC: Maria Lasday – Town Manager
Joseph S. Geller, Esq. – Town Attorney

From: Michael J. Miller, AICP
Consultant Town Planner

Date: May 27th, 2022

Subject: Transfer of Development Rights (TDR) Application
Clara (former Atlantis MF Site) – 28 DU Multi-Family Residence
10281 West Bay Harbor Drive
TDR Donor Request – Public from Town-Owned "Pool"
Bay Harbor Islands Acct. No.: SPR21-00023
MMPA Acct. No. 01-0702-1113

ISSUE

TDR Request – Two (2) Town-Owned Public DU

Donor: Town-owned Residential TDR Account for East Island

Receiving Site: 10281 W. Bay Harbor Drive / Lots 6 & 7 of Block 5 (Future Clara BH MFR)

In response to the Town's request for our firm's analysis of the lands proposed to be involved with the above referenced TDR application requesting approval of the transfer of two (2) public TDR units, following is our analysis.

Our records indicate the **receiving** site (Clara MFR) was granted a Site Development Plan approval by the Town's Design Review Board (DRB) on April 7th, 2022, for a total of 28 DU. The survey submitted for the future Clara site shows that the site is slightly smaller than usual as it is a corner lot. The combined parcel size is 22,366 sq. ft. Therefore, the allowable base zoning density of 34 DUA would allow for 17 DU on the receiving site (.513 acres X 34 DUA = 17.46 or 17 DU). Since the proposed project includes 28 total dwelling units this requires the acquisition of 11 TDR units to construct the project. To date, the developer has acquired six (6) TDR units and another five (5) are required to construct the project. The TDRs previously acquired include one (1) DU from the Southern

Star Condo and five (5) DU from Bay Harbor Townhouses. The previous Atlantis MFR developer also made initial arrangements to acquire five (5) additional TDR DU in 2018; however, those sales agreements were canceled & released, as that project did not move forward for development. In September 2021 the land was acquired by Clara BH, LLC.

The **receiving** site has also submitted a concurrent applications to contract with the 9300 Harbor Terrace Condominium Association, Inc. located at 9300 Bay Harbor Terrace for two (2) private TDR units and the Covenant Manor Condominium located at 9871-9881 West Bay Harbor Drive for one (1) private TDR unit. As stated above, the **receiving** site is requesting to acquire the remaining two (2) TDR unit from the Town (public TDR account). If both of the private TDR applications are approved (3 DU) plus the Town TDR sale (2 DU) the **receiving** site will have acquired the eleven (11) total TDR units needed to construct the 28 DU complex. MMPA has provided separate staff reports for the other private TDR sale and Town TDR sale. The applicant is aware that the Town Council has adopted the 50% rule by Resolution and is requesting that the Town Council approve their request to purchase two (2) TDR units (18% of total required 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 two (2) 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. 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 ($65,000) for a dry interior lot 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 1/3 of the original existing developments had densities over 34 DUA. Conversely, many properties are "underdeveloped" with villas / duplexes / triplexes / etc., and while 8-9 DU could be built, the original developer chose not to build that many DU. However, those properties are entitled to build more DU if they desire to redevelop the 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 density than 34 DUA, and they can meet all the Town's land development criteria, the Design Review Board approves the site design, and the Town Council likes the design and approves TDR allocations (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.

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 preserve 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.

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 done since April 2011. **The current Town-owned TDR values set by Resolution in March 2016 are $75,000 for waterfront sites and $65,000 for non-waterfront sites. The Town is now in the process of updating the appraisal and DU costs.**

In the last few years there have been numerous Town-owned TDR allocations approved by the Town Council. As of May 2022, our records note the Town has now committed to sell 243 of the 330 available Town-owned TDR units (East Island multi-family area). Due to voluntary density reductions by some developers the Town is poised to regain control over a number of the previously "sold" TDR units. There have also been several "sales" of TDR units approved by the Town from private property owners. Our records reflect these private "sales" total 184 TDR units from private parties to date. Some have been approved by the Town but not closed as yet.

SUMMARY

On April 7th, 2022, a Site Development Plan was approved by the Design Review Board (DRB) for the Clara multifamily development, for a total of 28 DU. The allowable base zoning density of 34 DUA would allow 17 DU on the receiving site (.513 acres X 34 DUA = 17.46 or 17 DU). Since the proposed project includes 28 total dwelling units this requires the acquisition of 11 TDR units to construct the

project. To date, the developer has acquired six (6) TDR units and another five (5) are required to construct the project. The previous Atlantis MFR developer also made initial arrangements to acquire five (5) additional TDR DU in 2018; however, those sales agreements were canceled & released, as that project did not move forward for development. In September 2021 the land was acquired by Clara BH, LLC and a new project design was prepared and approved by the Town.

The developer has also submitted concurrent applications to contract with the 9300 Harbor Terrace Condominium Association, Inc. located at 9300 Bay Harbor Terrace for two (2) private TDR units and the Covenant Manor Condominium located at 9871-9881 West Bay Harbor Drive for one (1) private TDR unit. The developer is requesting permission from the Town to acquire the remaining two (2) TDR unit from the Town (public TDR account). If both of the private TDR applications are approved (3 DU) plus the Town TDR sale (2 DU) the **receiving** site will have acquired the eleven (11) total TDR units needed to construct the 28 DU complex.

If the Town Council approves the applicant's request of allocating 2 public TDR units at the current $65,000 each, the total value would be $130,000.

Suggested Condition - TDR allocations are meant for site specific allocations and the intention is the development will move forward in a timely manner. 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 a specified time period, the TDR units revert back to the Town-owned "pool".

AGENDA ITEM REPORT
June 9, 2022

ITEM NUMBER: 24.

ITEM: Discussion and **Possible Action** regarding appointment of member to the Design Review Board.

DESCRIPTION:
The Council appointed Matthew Barnard, Jed Frankel, and Weskey Kean to the Design Review Board at the May 11th Regular Council Meeting, and deferred appointment of the seventh member to the next meeting.

Alan Sklar and Jerome Gavcovich, whose term of office expired, were the two remaining candidates. On May 17th, Mr. Sklar indicated to us that he did not wish to be considered for re-appointment. A copy of his email correspondence is attached.

Note: Mr. Barnard has informed us he will be moving to Miami Beach and is still interested serving the Town. He did attend the May 17th meeting and was sworn into office. Pursuant to Section 5-23.01(a) of the Town Code the professional members are not required to be residents of Bay Harbor Island.

The Board consists of the following members.
Chair Hurwitz
Janet Adler
Matthew Barnard
Alan Bebchik
Jed Frankel
Wesley Kean

The one remaining application for appointment is attached.

RECOMMENDED ACTION:
Council's Discretion.

FINANCIAL ANALYSIS:

BUDGET IMPACT:

Submitted By: Yvonne Hamilton, Acting Town Clerk

ATTACHMENTS

1.	Oscar Sklar-Resignation from DRB
2.	Gavcovich Re-Appointment Request

From: Oscar Sklar
To: Yvonne Hamilton
Subject: Fwd: Appointment to DRB Board
Date: Tuesday, May 17, 2022 3:19:41 PM

> Good afternoon Yvonne,
> As per our conversation of yesterday and your notification that my term on the Board has expired, I am herewith confirming that I am not going to be seeking reappointment to the Board.
> I appreciated all the years that I was appointed and served on the Planning and Zoning Board now DRB.
> My Best to all.
> Sincerely,
> Oscar
>
> Oscar Sklar

Total Control Panel Login

To: yhamilton@bayharborislands-fl.gov
From: oscarsklar@gmail.com

Message Score: 1
My Spam Blocking Level: High

Block this sender
Block gmail.com

High (60): Pass
Medium (75): Pass
Low (90): Pass

This message was delivered because the content filter score did not exceed your filter level.

Sec. 5-23.01. - Planning and zoning board membership; appointment; vacancies; terms; removal; meetings; officers; and quorum.

(a) *Members.* The town council will resign as members of the planning and zoning board. Thereafter, the planning and zoning board shall consist of seven members. Up to five of the members shall be presently employed full time or were employed full time in the field of engineering, architecture, land use and zoning law, city planning, construction, or any other field which substantially relates to the planning and development of real estate. The professional members are not required to be residents of Bay Harbor Islands. The two remaining members shall be residents of the town for a minimum of one year and they are not required to possess any professional license or professional designation. Each member of the planning and zoning board shall serve on the planning and zoning board for a two-year term unless they resign, are no longer able to serve, or are otherwise removed as set forth in subsection (d).

(b) *Staggered board.* The planning and zoning board shall be a staggered board. As such, as a one-time event in 2020, three of the seven appointed members appointed by the town council (who shall be selected randomly through a lottery type drawing") shall serve on the planning and zoning board for a one-year term. After the 2020 appointments, each member shall be appointed to serve on the planning and zoning board for two-year terms as set forth in subsection (a), above.

(c) *Appointment to the planning and zoning board.* Each town council member shall submit one or more persons as candidates for consideration by the town council for appointment to the planning and zoning board. In order for a candidate to be appointed to the planning and zoning board, the candidate must meet the membership requirement of subsection (a) and must be approved by at least five town council members.

(d) *Vacancies.* Should a planning and zoning board member resign, lose the residency requirement of subsection (b), be removed pursuant to subsection (d), or otherwise not be able to serve on the Planning and Zoning Board for whatever reason, the member's vacancy shall be filled pursuant to subsection (b).

(e) *Removal of members.* The town council, upon the vote of at least five council members, may remove any planning and zoning board member, with or without cause, at any time. Any member who misses three consecutive regularly scheduled planning and zoning board meetings or misses five meetings in any 12-month period may be removed from the planning and zoning board.

(f) *Meetings.* The regularly scheduled planning and zoning board meeting shall occur in the evening on the first Tuesday and third Tuesday of every month or as needed.

(g) *Officers.* One member shall be elected by the planning and zoning board as chairperson. One member shall be elected by the planning and zoning board as vice-chairperson. The chairperson and vice-chairperson shall serve a term of one year. A new election shall occur at the conclusion of the one-year term. In the event that the chairperson position becomes vacant within the one-year term, the vice-chairperson shall be appointed as chairperson for the duration of the prior chairperson's term and the planning and zoning board shall elect a member to the vice-chairperson position for the duration of the prior vice-chairperson's term. The chairperson shall preside at all planning and zoning meetings. In the chairperson's absence, the vice-chairperson shall preside. The chairperson shall submit any and all reports and recommendations of the planning and zoning board to the town council. The town shall provide a secretary for the planning and zoning board and the town clerk shall be the custodian of all records, books, and journals of the planning and zoning board.

(h) *Quorum.* Four present members shall constitute a quorum.

(i) *[Rules, regulations.]* The town council shall promulgate such rules and regulations as may be reasonably necessary to govern the operations of the planning and zoning board in performance of its duties.

(Ord. No. 840, § 1, 7-14-08; Ord. No. 1022, § 1(Exh. A), 8-13-18)

Sec. 5-23.1. - Architectural and aesthetic review of plans; failure to comply with plans as agreed.

(a) The planning and zoning board shall examine, approve, approve with conditions, or disapprove the issuance of a building permit in any matter subject to its jurisdiction after consideration of whether the following criteria are complied with:

(1) The plan for the proposed structure or project is in conformity with good taste, good design and in general, contributes to the image of the town as a place of beauty, spaciousness, harmony, taste, fitness, broad vistas and high quality.

(2) The proposed structure or project is not, in its exterior design and appearance, of inferior qualities such as to cause the nature of the local environment or evolving environment to materially depreciate in appearance and value.

(3) The proposed structure is in conformity with standards of this Code and other applicable ordinances insofar as the location and appearance of the buildings and structures are involved.

(4) The proposed structure or project is in harmony with other actual and proposed developments in the general area, considering the following additional criteria:

a. Site layout, orientation, location of structures and relationship to one another and to open spaces in topography.

b. Harmonious relationship with existing and proposed adjoining developments, avoiding both excessive repetition, but allowing similarity of style, if warranted.

c. Maximum height, area, setbacks and overall masks as well as parts of any structure (buildings, walls, screens, towers or signs) and effective concealment of all mechanical equipment.

d. Building design, materials, and colors to be sympathetic with surroundings.

e. Harmony of materials, colors, and composition of low sides of a structure which are visible simultaneously.

f. Consistency of composition and treatment.

g. Location and type of planting with due regard for climatic conditions, preservation of specimen and landmark plantings upon a site, and proper irrigation to insure maintenance of all plant materials.

h. Design and appropriateness of signs, as well as interior and exterior lighting.

i. Graphics, as understood in architectural design.

(b) If the above criteria are met, the application shall be approved. Conditions may be applied when the proposed building or structure does not comply with the above criteria and shall be such as to bring said structure or project into conformity. If any application is disapproved, the planning and zoning board shall detail in its findings the criterion or criteria that are not met. The action taken by the board shall be reduced to writing, signed by the chairman, and a copy thereof made available to the applicant upon request. Any action taken by the planning and zoning board may be appealed to the town council, whose decision on appeal shall be final.

(c) Subsequent to planning and zoning board approval, if the proposed structure or project is not constructed in accordance with the plan proposed and approved by the planning and zoning board, no certificate of occupancy shall be issued, and a fine may be levied against a real property owner in an amount not to exceed $250.00 per day per unit for each day of continued violation. And in the event that a certificate of occupancy has been issued previously, it shall be revoked and no further occupancy shall be permitted until the proposed structure or project is brought into conformity with the plan approved by the planning and zoning board. Provided further, in the event that occupancy is not discontinued, then a fine shall be levied in the amount of $250.00 per day per unit for each day of continued occupancy until the proposed structure or project is brought into conformity with the plan approved by the planning and zoning board.

(Ord. No. 363, §§ 1, 2, 2-11-80; Ord. No. 687, § 1, 8-13-01; Ord. No. 767, 4-11-05)

TOWN OF BAY HARBOR ISLADS

PLANNING & ZONING BOARD

REQUEST FOR RE-APPOINTMENT

Jerome Gavcovich

Name of the Board Member

■ I would like to request reappointment to the Bay Harbor Islands Planning and Zoning Board for the term 2021-2023.

☐ I would like to give another individual the opportunity to serve on the Bay Harbor Islands Planning and Zoning Board for the term 2021-2023.

Signature

JEROME N. GAVCOVICH, R.A.
1251 97 Street, Bay Harbor Islands, Florida 33154 Telephone: (305) 318-0670

PROFESSIONAL LICENSES

Architect, State of Florida, 1998

EDUCATION

UNIVERSITY OF MIAMI
SCHOOL OF BUSINESS ADMINISTRATION, Coral Gables, Florida
MASTER OF BUSINESS ADMINISTRATION, December 1989

UNIVERSITY OF MIAMI
SCHOOL OF ARCHITECTURE, Coral Gables, Florida
BACHELOR OF ARCHITECTURE, May 1988

EMPLOYMENT EXPERIENCE

1/2003 – present

ARCHITECT / PRINCIPAL
JEROME GAVCOVICH, ARCHITECT, Bay Harbor Islands, Florida

- Provide full scope of architectural services for multiple projects and project types, including hi-rise commercial, hi-rise multifamily residential, low-rise multi-family residential, single family residential, office tenant buildout, and residential tenant buildout
- Architectural Consultant to the Firm of Kobi Karp Architecture & Interior Design for multiple projects and project types

6/1991 – 6/2004

PROJECT ARCHITECT / PROJECTS COORDINATOR
RAUL A. SUAREZ-DEL CAMPO, ARCHITECT, Miami, Florida
RSC MANAGEMENT, INC., Miami, Florida

- Coordinate and manage all levels of architectural and construction management projects, including institutional, commercial, and residential
- Coordination of Interior Design and space planning efforts related to several of the architectural projects.
- Performed field inspections and prepared reports of residential properties for Bank for construction loan requisitions and loan approval.
- Aided in development of and implemented an approved disaster relief program/model for several national Church based organizations and federal and local agencies, for Hurricane Andrew in 1992, Great Flood of the Midwest in 1993, Northridge Earthquake in Los Angles of 1994, Central Pennsylvania Floods of 1995, and Upper Midwest Floods (Red River) of 1997.

8/1992 – 11/1997

FINANCE MANAGER
NATIONAL FIRST FINANCIAL CORP., Miami Beach, Florida

- Managed accounts and prepared reports of accounts for accounts receivable financing firm.

2/1990 – 5/1991

ARCHITECT IN TRAINING
SMITH & SMITH DESIGN CORP., North Miami, Florida
- Coordinate all aspects of residential architectural projects. Prepare complete sets of working drawings, including architectural, structural, and electrical plans.

5/1986 – 8/1988
5/1985 – 8/1985

JUNIOR DRAFTSMAN
ROBERT BLEEMER AND ASSOCIATES, INTERIOR DESIGNERS AND PLANNERS, Miami, Florida
- Coordinated projects through completion, including client and supplier relations, design development, working drawings, field inspections, and research.

3/1988 – 6/1988

DRAFTSMAN
TOMAS L. LOPEZ-GOTTARDI, ARCHITECT, Coral Gables, Florida
- Assisted in the preparation of working drawings and obtained building permits for the Ziff Residence in Miami, Florida

PROFESSIONAL ASSOCIATIONS / VOLUNTEER ACTIVTIES

10/2008 – present

MEMBER OF PLANNING & ZONING BOARD
BAY HARBOR ISLANDS, FLORIDA

6/2007 – 9/2008

MEMBER OF DESIGN REVIEW COMMITTEE
BAY HARBOR ISLANDS, FLORIDA

AGENDA ITEM REPORT
June 9, 2022

ITEM NUMBER: 25.

ITEM: Discussion and **Possible** action regarding renewal of funding for the School Resource Officer at Ruth K. Broad for School Year 22-23.

DESCRIPTION:

RECOMMENDED ACTION:
Discussion and possible action regarding renewal of funding for the School Resource Officer (SRO) at Ruth K. Broad for school year 22-23. In prior years, the Town of Bay Harbor, Bal Harbour and Surfside have collaborated with each other and with Miami Dade County School Board so that we are allowed to have and to fund our own SRO at Ruth K. Broad. Officer Brillant has been the Town's assigned SRO for the last few years. Officer Brillant knows the ins and outs of our school, its families and is an integral part of keeping our kids safe. The Town of Bay Harbor reached out to the School Board a few months back and informed them of the Town's intent to continue this collaboration for next school year 22-23. Miami-Dade County School Board replied a few weeks ago and stated that they would be sending the Town the agreement to renew for next school year and that they would continue to contribute the 30k annually so that we may fund part of the SRO we assign (Officer Brillant). The total annual cost of the SRO's salary is approximately 55K, leaving the remaining 25K to complete the salary funded in equal parts by the three communities (Bay Harbor, Bal Harbor and Surfside) a total of $8,333 for each community. Bal Harbor has advised us just recently that they have reason to believe the School Board should be funding the entire portion of the SRO salary and so they are trying to obtain their own clarification on this matter. If the School Board funds a greater amount (above the 30k), the amount each municipality will contribute will decrease proportionately.

The Town Manager seeks direction as to what is the maximum amount of funding the Town will contribute to this program. The Town Manager seeks approval from the Town Council to enter into an MOU with surrounding municipalities to fund a portion of the SRO program. The Town Manager seeks approval in substantial form for the attached SRO MOU amongst the municipalities.

Total needed at this time to fund SRO= $25,000

Possible Options:
25K annually to fund the SRO program if Town of Bay Harbor Islands is the only funding contributor.
$12,500 annually to fund the SRO program if only 2 municipalities contribute to the funding..
$8,333 annually to fund the SRO program if Town of Bay Harbor, Surfside and Bal Harbor each contribute to funding. This amount can be reduced proportionately if the School Board contributes above the set 30k.

Prior year funding was $8,333 because the total $25,000 expense was shared between the 3 communities: Bay Harbor, Bal Harbour and Surfside.

FINANCIAL ANALYSIS:
Total needed at this time to fund SRO= $25,000

Possible Options:
25K annually to fund the SRO program if Town of Bay Harbor Islands is the only funding contributor.
$12,500 annually to fund the SRO program if only 2 municipalities contribute to the funding..
$8,333 annually to fund the SRO program if Town of Bay Harbor, Surfside and Bal Harbor each contribute to funding. This amount can be reduced proportionately if the School Board contributes above the set 30k.

Prior year funding was $8,333 because the total $25,000 expense was shared between the 3 communities: Bay Harbor, Bal Harbour and Surfside.

BUDGET IMPACT:

Submitted By: Jenice Rosado, Assistant Town Manager

ATTACHMENTS

1.	2022-2023 SBLEO MOU - Bay Harbor Islands
2.	2022 School Resource Officer SRO MOU Bay Harbor Bal Harbour Surfside

Memorandum of Understanding

School Based Law Enforcement Officers

THIS AGREEMENT, made and entered into this ___ day of _____, 2022, is between The School Board of Miami-Dade County, Florida, a political subdivision of the State of Florida ("the School Board"), through The Miami-Dade Schools Police Department ("MDSPD") and the Town of Bay Harbor Islands ("BHIPD"), through the Bay Harbor Islands Police Department (also referred to as "Law Enforcement Agency"), together referred to as "the Parties."

Intent

It is the intent of both parties to enter in to this this Memorandum of Understanding ("MOU") to provide guidelines as to the roles and responsibilities of the Law Enforcement Agency and the MDSPD regarding the placement of school-based law enforcement officers (SBLEOs) at Miami-Dade County Public Schools ("MDCPS") as listed in item 9 below and in accordance with the terms set out below.

SBLEO Orientation

The MDSPD is responsible for providing an orientation for SBLEOs that will include information pertaining, but not limited to, MDCPS policies and procedures, lockdown and evacuation procedures, and confidentiality expectations as they relate to state and federal law. Every SBLEO is required to attend the orientation class prior to being assigned to a school site.

Roles and Responsibilities of SBLEOs

1. The primary mission of the SBLEOs is to support the MDSPD by providing a visible deterrent to crime and a safe learning environment for all students and staff.

2. Non-criminal violations of student conduct are the responsibility of school administrators.

3. The Law Enforcement Agency and the assigned SBLEO shall abide by state and federal law and School Board Policies, including The Family Education Rights and Privacy Act (20 U.S.C. §1232g; 34 CFR Part 99) (otherwise known as "FERPA"), which requires all student information be kept confidential and not disclosed to any third party. Also, The Law Enforcement Agency understands the broad nature of Florida's Public Records Laws and agrees to act in compliance with Chapter 119 of Florida Statutes. With regard to juvenile information obtained by the Law Enforcement Agency, the Law Enforcement Agency agrees to abide by Florida Statute Section 985.04 and any other applicable state and federal laws.

4. SBLEOs shall adhere to their respective Law Enforcement Agency's Standard Operating Procedures/General Orders (written policies).

5. The Law Enforcement Agency is responsible for conducting use of force investigations involving their SBLEO.

6. The Law Enforcement Agency and the assigned SBLEO shall abide by state law 1006.07(4) F.S. and be physically present on campus and directly involved in the execution of all active assailant emergency drills.

7. SBLEOs are required to complete mental health crisis intervention training (CIT), as specified in Florida Statute Section 1006.12. Each SBLEO participating in covering schools must, prior to the start of each school year, provide a copy of his/her CIT certificate as proof of completion of CIT to Ms. Corina Putt via email to cputt@dadeschools.net. If the school elects to have the SBLEO participate in threat assessment team meetings, the SBLEO must complete threat assessment training, to be provided by MDSPD or the District.

8. School site administrators are responsible for all personnel at MDCPS school sites. As such, SBLEOs must work cooperatively with school administration. SBLEOs must remain responsive to the chain of command within their respective Law Enforcement Agency and his/her primary supervisor shall be designated by the Law Enforcement Agency.

9. At the conclusion of the School Board's Fiscal Year 2022-2023, the School Board shall provide BHIPD reimbursement of funds in the amount of Thirty Thousand Dollars ($30,000.00) per school for which an SBLEO provides coverage as indicated in the chart in Paragraph 9. BHIPD will provide MDSPD no less than 24 hours advance notice, when feasible, in writing via email to Ms. Corina Putt at cputt@dadeschools.net, in the event the Law Enforcement Agency cannot provide coverage services as agreed upon in this MOU. BHIPD shall provide The School Board invoices for services completed. The School Board will only pay BHIPD's invoices for services completed and for days where coverage was provided by the Law Enforcement Agency. The School Board will not pay invoices for future and/or uncompleted services, regardless of the circumstances for non-completion.

10. BHIPD agrees that, during the term of the MOU, at least one (1) BHIPD shall be present at each of the schools indicated in the chart below, when requested by MDSPD, during the entirety of the school day. For the purposes of this MOU, a "school day" is defined as a weekday in which school is in regular session, from the hours of 7:00am to 3:00pm or 8:00am to 4:00pm, and shall not include recess days, legal holidays, teacher planning days, summer days or days in which no students are present at the school, as a result of distance learning, or otherwise.

LOC #	SCHOOL/ FACILITY NAME	ADDRESS
0241	Ruth K Broad/Bay Harbor K-8 Center	1155 93 Street Bay Harbor Islands, FL 33154

11. BHIPD hereby agrees and provides assurances that BHIPD will use the funding provided by the School Board exclusively toward its fulfillment of assigning SBLEOs to the Schools indicated and otherwise completing its performance under the MOU during the School Board's Fiscal Year 2022-2023.

Force Majeure and Warranties

The Parties shall not be responsible for interruptions of service due to forces of nature, war, manmade disasters, or other such acts beyond the control of any of the Parties.

Indemnification and Duty to Defend

Each party to this Agreement agrees to assume responsibility for the acts, omissions, or conduct of such party's own employees while participating herein and pursuant to this Agreement, subject to the provisions of Section 768.28, Florida Statutes, where applicable. "Assume Responsibility" shall mean incurring any and all costs associated with any suit, action, or claim for damages arising from the performance of this Agreement. Furthermore, each party agrees to indemnify the other party as set forth below.

Subject to the limitations of Florida Statutes Section 768.28, BHIPD agrees to indemnify, hold harmless and defend the School Board from and against any and all claims, suits, actions, damages, or causes of action arising out of the intentional wrongdoings or willful negligent acts of BHIPD, the Law Enforcement Agency and/or its SBLEOs arising out of or in connection with the provisions of this MOU.

Subject to the limitations of Florida Statutes Section 768.28, the School Board agrees to indemnify, hold harmless and defend BHIPD from and against any and all claims, suits, actions, damages, or causes of action arising out of the intentional wrongdoings or willful negligent acts of the School Board's employees arising out of or in connection with the provisions of this agreement.

Public Records

Both parties understand the broad nature of Florida's public records laws and agree to comply with the laws related to record retention and disclosure, in accordance with Chapter 119, Florida Statutes.

Notifications

Pursuant to 1006.07(9), the District is required to report all incidents occurring on the school campus related to safety and discipline and does so through MDSPD generated police reports. When the SBLEO learns of an incident which requires him/her to take lawful action and/or write a police report, the SBLEO must call 305-995-2677 (COPS) and report such incident. A MDSPD supervisor will advise the SBLEO and a MDSPD unit will respond to handle the call for service and write a police report, unless otherwise determined. This will not preclude the SBLEO from taking immediate and necessary action during exigent circumstances. The SBLEO must also inform the school principal and/or designee of said action. These incidents may garner significant media attention; therefore, it is imperative MDSPD learn about such incidents from the SBLEO in an

expedited manner so MDSPD can make the appropriate notifications within the District. Any other incident which may result in substantial media attention shall be reported by the SBLEO to MDSPD and school site administration. Any reports generated in conjuncture with this term must be categorized as "Assist other Agency."

Term of the MOU

Such activities are fully described herein below for a term concurrent with the School Board's Fiscal Year 2022-2023, which commences on July 1, 2022, and shall continue in full force and effect until June 30, 2023, unless terminated prior thereto by any or all of the parties herein. Under no circumstances may this Agreement be renewed, amended, or extended except in writing and executed by both parties.

Each party reserves the right to terminate this MOU without cause by giving thirty (30) days written notice to the other party.

The addresses for The School Board for all purposes under this agreement and for all noticed hereunder shall be:

The School Board:
The School Board of Miami-Dade County, Florida
Attn: Dr. Jose L. Dotres, Superintendent
1450 NE 2nd Avenue, Suite 912
Miami, Florida 33132

With a copy to:
The Miami-Dade Schools Police Department
Attn: Chief Edwin Lopez
3300 NW 27th Avenue
Miami, FL 33142

With a copy to:
The School Board of Miami-Dade County, Florida
The School Board Attorney's Office
Attn: Walter J. Harvey, School Board Attorney
1450 NE 2nd Avenue, Suite 430
Miami, FL 33132

The addresses for BHIPD for all purposes under this agreement and for all noticed hereunder shall be:

Town of Bay Harbor Islands
9665 Bay Harbor Terrace
Bay Harbor Islands, FL 33154
ATTN: Maria Lasday, Town Manager

With a copy to:

Joseph S. Geller, Esq.
Greenspoon Marder
200 East Broward Blvd, Suite 1800
Fort Lauderdale, FL 33301

THE SCHOOL BOARD OF MIAMI-DADE COUNTY, FLORIDA BY:_____ Dr. Jose L. Dotres *Date* Superintendent of Schools or Designee	**TOWN OF BAY HARBOR ISLAND** BY:_____ Joshua D. Fuller *Date* Mayor
SUBMITTED BY: _____ Edwin Lopez *Date* Chief of Police **APPROVED AS TO FORM AND LEGAL SUFFICIENCY AS TO THE SCHOOL BOARD CONTINGENT UPON EXECUTION OF A WAIVER** _____ Assistant School Board Attorney *Date*	**APPROVED AS TO FORM AND LEGAL SUFFICIENCY AS TO LAW ENFORCEMENT AGENCY** _____ Joseph S. Geller, Esq. *Date* Town Attorney
OFFICE OF RISK AND BENEFITS MANAGEMENT _____ Michael G. Fox *Date* Risk and Benefits Officer	**BAY HABOR ISLANDS POLICE DEPARTMENT** _____ Raul Diaz *Date* Chief of Police

MEMORANDUM OF UNDERSTANDING BETWEEN THE TOWN OF SURFSIDE, THE VILLAGE OF BAL HARBOUR, AND THE TOWN OF BAY HARBOR ISLANDS

This Memorandum of Understanding ("MOU") is entered into this _____ day of _____, 2021 by and between The Town of Surfside ("Surfside"), The Village of Bal Harbour ("Bal Harbour") and the Town of Bay Harbor Islands ("Bay Harbor Islands"). Surfside, Bal Harbour, and Bay Harbor Islands are collectively referred to as the "Parties" and individually as a "Party."

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

WHEREAS, children who are residents of Surfside, Bal Harbour, and Bay Harbor Islands attend Ruth K. Broad K-8 Center School ("School") which is located in Bay Harbor Islands; and

WHEREAS, Bay Harbor Islands intends to execute a Memorandum of Understanding with the Miami-Dade County School Board ("School Board") in which, Bay Harbor Islands will provide a police officer ("Resource Officer") at the School during School hours and the School Board will pay Bay Harbor Islands $30,000 towards the cost of the Resource Officer ("School Board's Contribution"); and

WHEREAS, the Parties understand and agree that the cost of the Resource Officer will be approximately $55,000, per year, which cost shall exceed the amount of the School Board's Contribution in the approximate amount of $25,000; and

WHEREAS, the Parties wish to equally share the cost of the Resource Officer that is in excess of the School Board's Contribution ("Excess Cost") as the Resource Officer will serve to protect the safety of the children who reside within Surfside, Bal Harbour, and Bay Harbor Islands; and

WHEREAS, the Parties find that the adoption of this Memorandum of Understanding is in the best interest of the residents of Surfside, Bal Harbour, and Bay Harbor Islands.

NOW, THEREFORE, the Parties agree as follows:

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

2. The Parties agree to equally share the Excess Cost of the Resource Officer.

3. Based upon the information known to Bay Harbor Islands as of the Effective Date (defined below) of this MOU, the Excess Cost applicable for the School Resource Officer is anticipated to be approximately $25,000.[1]

[1] The anticipated Excess Cost of $25,000 divided by 3 (Bay Harbor / Bal Harbour / Surfside) equals $8,333 each.

4. Within thirty (30) days after the end of the school year, Bay Harbor Islands shall prepare and send Surfside and Bal Harbour an invoice identifying the hours worked by the Resource Officer(s), the total cost of the Resource Officer(s), the School Board's Contribution, the actual Excess Cost, and each Party's equal share of the actual Excess Cost ("Invoice"). Surfside and Bal Harbour shall pay their equal share of the actual Excess Cost within thirty (30) days of their receipt of the Invoice.

5. Bal Harbour and Surfside's obligations under this MOU are solely limited to their financial contribution of approximately $8,333 each. Nothing in this agreement permits, and Bal Harbour and Surfside do not have the ability to exercise, any control over any aspect of the employment, duties, tasks, responsibilities, operations, actions or inactions of any Resource Officer(s) employed by Bay Harbor Islands. Under no circumstance shall this MOU provide the basis for any claim that: a) the Resource Officer is an employee or agent of Bal Harbour or Surfside; or b) Bal Harbour or Surfside are a "joint employer" of the Resource Officer or are in any way responsible for the actions or inactions of the Resource Officer. Bay Harbor Islands shall be solely responsible for the employment of the Resource Officer and payment of salary, wages, and fringe benefits, if any, to the Resource Officer. Bay Harbor Islands shall be solely responsible for any employment based claims made by the Resource Officer, including claims for the payment of salary, wages, fringe benefits, and for unlawful termination, and for any claims based on the employee's actions or inactions. Under no circumstance shall this MOU provide the basis for any Party to make a claim against any other Party for indemnification.

6. The Parties agree that this MOU represents the Parties' entire agreement and it cannot be amended or modified without the express consent of the Parties.

7. The Parties have had the opportunity to consult with legal counsel of their choosing.

8. The Parties signify their agreement with this MOU by affixing their signatures below.

9. This MOU shall become effective the date on which it is fully ratified by the Parties ("Effective Date"). The term of this MOU shall run concurrently with the term of Bay Harbor Island's Memorandum of Understanding with the School Board, a copy of which is attached hereto as Exhibit "A."

Town of Bay Harbor Islands, Florida

By: _____ **Date:_____**
Maria Lasday, Town Manager

Town of Surfside, Florida

By: _____ **Date:_____**

_____

Village of Bal Harbour, Florida

By: _____ **Date:_____**

_____

AGENDA ITEM REPORT
June 9, 2022

ITEM NUMBER: 26.

ITEM: Consideration and **Approval** of a Resolution introduced by Vice Mayor Tricoche asking Miami-Dade County Public School System to approve a new public high school to serve northeast Dade municipalities, including the Town of Bay Harbor Islands. Enclosed is a copy of the draft Resolution.

DESCRIPTION:
The proposed Resolution seeks for Miami-Dade County Public School System to establish a new public high school to serve Bay Harbor Islands, Bal Harbor, Surfside, Indian Creek, Sunny Isles Beach, and Golden Beach.

RECOMMENDED ACTION:
Council's Discretion

FINANCIAL ANALYSIS:

BUDGET IMPACT:

Submitted By: Yvonne Hamilton, Acting Town Clerk
Elizabeth Tricoche, Vice Mayor

ATTACHMENTS

1.	TBHI Resolution - New Highschool

RESOLUTION NO. _____

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF BAY HARBOR ISLANDS, FLORIDA, ASKING MIAMI DADE COUNTY PUBLIC SCHOOL SYSTEM TO APPROVE A NEW PUBLIC HIGH SCHOOL TO SERVE NORTHEAST DADE MUNICIPALITIES INCLUDING THE TOWN OF BAY HARBOR ISLANDS, FLORIDA; PROVIDING FOR INCORPORATION OF RECITALS; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, there are six municipalities, all in Northeastern Miami-Dade, north of the City of Miami Beach, that do not have their own public high school, including Bay Harbor Islands, Bal Harbour, Surfside, Indian Creek, Sunny Isles Beach, and Golden Beach; and

WHEREAS the Town of Bay Harbor Islands has determined that a public high school serving these six municipalities would benefit the community, and suggests it could be located in Haulover Park, or another suitable location; and

WHEREAS the Town of Surfside has recently indicated support for such an action; and

WHEREAS, the Town of Bay Harbor Islands asks the Miami Dade County Public School System to move forward with establishing a new public high school to serve these six municipalities.

NOW THEREFORE, be it resolved that:

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

2. The Town Council of the Town of Bay Harbor Islands Florida hereby calls upon the Miami Dade County Public School System to move forward with establishing a new public high school to serve the municipalities of Bay Harbor Islands, Bal Harbour, Surfside, Indian Creek, Sunny Isles Beach, and Golden Beach.

3. Effective Date. This Resolution shall take effect upon the date of its adoption (the "Effective Date").

PASSED and ADOPTED this ___ day of June, 2022.

By:_____
Joshua D. Fuller
Mayor

ATTEST:

_____
Yvonne P. Hamilton, CMC
Acting Town Clerk

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

_____
Joseph S. Geller
Greenspoon Marder LLP
Town Attorneys

AGENDA ITEM REPORT
June 9, 2022

ITEM NUMBER: 27.

ITEM: Consideration and **Possible** action regarding the Town Clerk's position.

DESCRIPTION:
Following the Town Council's directive, a national search to fill the Town Clerk vacancy was conducted. The advertisement highlighted a competitive salary range of $97,000 - $148,000 and was posting on the following websites:

- International Institute of Municipal Clerks (IIMC)
- International City/County Management Association (ICMA)
- Florida Association of City Clerks
- Florida League of Cities
- Governmentjobs.com
- Miami-_Dade County Municipal Clerks Association
- Town of Bay Harbor Islands

The recruitment produced a total of nine (9) applicants, but only four (4) met some or all of the minimum requirements.

Please see the following breakdown of these four applicants:

- 5-year experience as a Clerk (doesn't include Deputy Clerk experience):
    1. Yvonne Hamilton
        1. Brenda Pree

or

- Master's Degree in business administration, public administration or a closely related field:
    1. Tiffany Fell (MBA)

o Wesley Young (MPA),

It is also noted that only two (2) have the IIMC's Certified Municipal Clerk designation:

1. Yvonne Hamilton (CMC)
2. Brenda Pree (MMC)

RECOMMENDED ACTION:

FINANCIAL ANALYSIS:

BUDGET IMPACT:

Submitted By: Shaun Gelvez, Human Resources Manager

ATTACHMENTS

1.	2022 Town Clerk Recruitment
2.	Fell Tiffany (resume)
3.	Hamilton Yvonne (resume)
4.	Pree Brenda (resume)
5.	Young, Wesley (resume)

Date: May 17, 2022

To: Maria Lasday, Town Manager

From: Shaun S. Gelvez, Human Resources Director

RE: Town Clerk Recruitment

Following the Town Council's directive, a national search to fill the Town Clerk vacancy was conducted. The advertisement highlighted a competitive salary range of $97,000 - $148,000 and was posting on the following websites:

- International Institute of Municipal Clerks (IIMC)
- International City/County Management Association (ICMA)
- Florida Association of City Clerks
- Florida League of Cities
- Governmentjobs.com
- Miami-Dade County Municipal Clerks Association
- Town of Bay Harbor Islands

The recruitment produced a total of nine (9) applicants, but only four (4) met some or all of the minimum requirements.

Please see the following breakdown of these four applicants:

- 5-year experience as a Clerk (doesn't include Deputy Clerk experience):
  - Yvonne Hamilton
  - Brenda Pree

or

- Master's Degree in business administration, public administration or a closely related field:
  - Tiffany Fell (MBA)
  - Wesley Young (MPA),

It is also noted that only two (2) have the IIMC's Certified Municipal Clerk designation:

- Yvonne Hamilton (CMC)
- Brenda Pree (MMC)

Tiffany Fell, MBA...

VISIONARY LEADERSHIP FOR DRIVING ORGANIZATIONAL IMPACT AND INFLUENCE

Tampa, Florida • 204-793-4349 • tcafell@gmail.com • www.linkedin.com/in/tiffany-fell/

Results-driven government executive who conceives, builds, executes, and manages innovative solutions to municipal organizational challenges. A dynamic change agent, inspirational team leader, and natural collaborator having transformed a stagnant $84M municipality into a thriving, economically vibrant entity and elevated operational performance to new levels. Skilled in coalescing diverse stakeholders around mission-critical initiatives that create value. An engaging communicator with expertise in organization planning, team development, envisioning and executing new program concepts, risk management, budget optimization, manage multi-million dollar capital projects. Blends strategic thinking, communication proficiency, and creative solutions with infectious enthusiasm and energy, unwavering integrity, and a bias for action to deliver results in key performance areas. Dedicated to maintaining an impeccable reputation built on serving the community, providing excellent customer service, executing the will of the Council, and maintaining uncompromising ethics,

- **Transformational Influence** – Elevated performance expectations, quality of service, and level of responsiveness of 160+ person department. Built not-for-profit facility to address unmet needs of multiple underserved market segments, creating transportation hub with direct connection to the United States.
- **Strategic Planning** – Created first-ever long-term strategy, including department-specific initiatives aligned with goals around sustainability, organizational resilience, collaboration, and value. Prioritized capital projects over 10-year period with decision framework to evaluate emerging opportunities and roadmap.
- **Stakeholder Engagement** – Coalesced colleagues around plan to increase revenue and provide new services. Issued completed municipal development plan, spurring involvement by residents despite 19 years of previous attempts, hosting 15 open houses, and achieving complete support.
- **Team Leadership** – Improved communication and collaboration among departments, bringing ideas and providing an open, transparent forum. Initiated and co-led annual offsite for senior management to review state of the organization, including team building, and transformed leadership culture.
- **Operational Excellence** – Expanded and improved equipment with latest GPS and software enabling real-time updates, and reprioritized policy around service levels. Outsourced engineering services, eliminating wasted resources and generating hundreds of thousands of dollars in savings.

Competencies that Advance Organizational and Legislative Priorities

- Policy and Bylaw Formulation
- Government Relations
- Operations Management
- Risk Management
- Organizational Planning and Development
- Communications Strategy
- Human Resource management
- Political Acumen
- Regulatory Compliance
- Budget Optimization
- Customer Focussed
- Capital Projects
- Contract Negotiation
- Leadership & Team Building
- Stakeholder Engagement
- Strategic Business Planning

Transformational Influence and Creative Solutions for Delivering on Mission Critical Initiatives

Rural Municipality of Springfield, MB 2014 – Present

CHIEF ADMINISTRATIVE OFFICER (INTERIM), 2018 – 2020 | **MAYOR,** 2018 - present

DIRECTOR OF COMMUNICATIONS AND LEGISLATIVE FUNCTIONS, 2020 - present

Elected to transform this stagnant municipality into forward-oriented dynamic entity. With accountability for $84M evaluation of public service operations. Lead nine departments, twelve direct reports serving community of 16,000. Inject transparent and open communication internally and externally. Create and implement economic and community growth initiatives. Provide strategic planning and vision. Establish aggressive short- and long-term goals around cost control, economic development, infrastructure, and community growth. Secure financing from public and private sources. Review and approve annual budgets and capital expenditures. Build motivated leadership team, fostering positive and inclusive working environment. Promote transparent and accountable culture.

- Created organization's first-ever succession and business continuity plan.
- Built strategic five- and 20-year vision and plan.
- Secured $4.7M for water treatment facility, and $54M for building senior wellness center.
- Attracted dozens of businesses, generating millions of dollars for infrastructure and 170 new jobs.
- Standardized best practices and project governance oversight.
- Reversed negative perceptions, elevated employee satisfaction and community sentiment.

DIRECTOR OF COMMUNICATIONS AND LEGISLATIVE FUNCTIONS 2014 – 2018 | **DEPUTY MAYOR** 2017 – 2018
CHIEF ADMINISTRATIVE OFFICER (INTERIM), 2015 – 2016 | **COUNCILOR** 2014 – 2016
Appointed to strengthen community and legislative initiatives and outcomes. Led team of eight. Built collaborative relationships with officials at all levels of government. Monitored and responded to critical legislative issues. Facilitated meetings with stakeholders to promote and advance organization's public policy priorities. Led and coordinated advocacy efforts, outreach programs, partnerships, and other initiatives. Project managed new sustainable green initiatives. Reviewed and drafted policy, bylaws and legislation. Crafted press releases, conducted interviews with press and organized media events. Created high-value relationships with tv, radio and print outlets. Drove internal and external communication cadence around policy amendments and changes to legislation. Designed and implemented strategic vision and goals that aligned with community feedback.

- Revised procurement policies, and created dedicated reserves for projects, increasing cost efficiency and accountability.
- Lowered tax burden on residents.
- Partnered with government leadership to create a sustainable managed wetland, eliminating the use of harsh chemicals and saving $2.4M
- Developed completely green LEED platinum-certified assisted living facility and wellness center, including partnering with private donor and federal government.
- Spearheaded innovative growth and revenue strategies in line with council objectives, exceeding goals through grants and revenue-producing initiatives.
- Streamlined the budgeting process, increasing transparency and input from the public. Adjusted timelines to create cost savings for the Municipality, including updating procurement policy documents and creating dedicated reserves for municipal projects

Steinbach Credit Union (SCU), Steinbach, MB 2009 – 2014
EXECUTIVE ASSISTANT TO VICE PRESIDENT OF CORPORATE LENDING AND PROJECTS
Hired based on cultural fit and interpersonal style to serve in ambassador-like role as first point of contact for stakeholders internally and externally, while providing operational support for corporate lending team. Organized and prioritized department goals for team of 17 account managers and the VP. Overseeing administrative staff of five managed schedules and deadlines for timely reporting of financial information. Created and delivered client and partner presentations. Maintained corporate calendars. Produced correspondence, meeting agendas, emails, and business communications. Maintained confidentiality of highly sensitive information.

- Project-directed 18-month software conversion for department including training staff; led soft launch of new program.
- Created presentations for current and potential new members to identify new business opportunities and to present proposals for projects with existing members.
- Maintain and strengthen relationships with high-wealth clients through the delivery of great customer service ensuring objectives and timelines were met.

Custom House Global Foreign Exchange, Winnipeg, MB 2006 – 2009
CORPORATE SALES EXECUTIVE | PROJECT MANAGER
Recruited to this financial services company based on prior success in designing and managing marketing programs, along with financial knowledge. Tasked to develop marketing initiatives to protect and grow customer accounts in increasingly competitive environment. Partnered with Director in setting project goals and objectives. Identified, qualified, and presented to clients, merchants, OTC firms, institutions, and distribution partners. Built and maintained client relationships. Networked with high-net-worth individuals, educated clients on trading platforms, and ensured high levels of client service. Provided administrative and operational support to Managing Director. Researched competitors.

- Regularly exceeded sales targets by 12% – 15%.

Tiger Courier
SALES AND MARKETING EXECUTIVE
Recruited to this transportation company out of university to accelerate marketplace awareness, client engagement, and revenue. Designed promotional programs. Managed trade shows. Generated leads.

- Exceeded revenue target increasing sales by double digits.

Education

MBA, Global Leadership – University of Fredericton, Fredericton, NB
BBA – University of Winnipeg, Winnipeg, MB

Licenses and Certifications

PMI-ACP (PMI-Agile Certified Practitioner) – Project Management Institute, In Progress
Certified Municipal Official – Association of Manitoba Municipalities, 2018

Professional Development and Board Experience

Negotiation Theory and Practice Workshop – University of Winnipeg
Meditation Workshop – University of Winnipeg

Winnipeg Metropolitan Region – Member Board of Directors
JohnQ Corporation - Member, Board of Directors
Kin Place Health Complex – Board Member
Interlake-Eastern Regional HealthAssociation – Committee Member
International City/County Manager Association – Member
Springfield Public Library – Board Member
Interlake-Eastern Regional Health Authority – Committee member
Association of Manitoba Municipalities – Member
Federeaiton of Canadian Municipalites - Member
Red River Basin Commission (North Chapter) – Committee Member
Springfield Agricultural Committee – Member

Oakbank Christan Church - Volunteer and Event Coordinator
Springfield Spartans – Board Member
Springfield Share-a-ton - Creator

Yvonne P. Hamilton
12080 NE 16th Avenue, #205
Miami, FL 33161
(305) 588-1209
smrfyvonne@yahoo.com

May 13, 2022

Mrs. Shaun Gelvez
Human Resources Director
Town of Bay Harbor Islands
9665 Bay Harbor Terrace
Bay Harbor Islands, FL 33154

Dear Mrs. Gelvez:

I respectfully submit my resume for review and consideration for the Town Clerk's position. It would be an honor to be promoted from an acting capacity. I take great pleasure in serving our residents and assisting in conducting the Town's business.

My background consists of over 16 years of strong experience with the City of North Bay Village as the City Clerk, during which I coordinated and led administrative and operational functions for the City Commission and municipal directors. Backed by strong work ethic and multitasking capabilities, I have excelled at providing exceptional organizational and time management skills for optimal efficiency and success.

Some highlights of my experience fit with the job responsibilities outlined in your job advertisement: managing municipal records, agenda and meeting minutes preparation, local elections, general administrative functions, records management, attending council meetings, and keeping detailed meeting minutes.

I would be honored and privileged to be considered for the position of Town Clerk of Bay Harbor Islands.

Thank you for your consideration.

Sincerely,

Yvonne P. Hamilton

Governmental Experience

Acting Town Clerk
February 2022 – present

- Supervises the day-to-day operations of the Town Clerk's Office, prepares Town Council Meeting agendas, researching agenda issues, supervised the Town's General Election as Supervisor of Elections, supervising the issuance and verification of nomination papers, providing information to candidates, and ensuring timely filings as required by the Elections Code. Maintaining Town Ordinances, Resolutions, Agreements, Minutes of Town Council and Boards/Committee Meetings, respond to Public Records Requests, prepares Claims and Release of Liens. Processes general and Vacation Rental Business Tax Receipts/Licenses; and manages Lien Search requests.

Deputy Town Clerk
Town of Bay Harbor Islands, Florida
January 2021 – February 15, 2022

- Preparation of Town Council Meeting Minutes
- Assisted with preparation of Town Council/Board/Committees Agendas
- Prepared Claim/Releases of Liens
- Attended Town Council/Board/Committee Meetings
- Prepared department invoices
- Handled Lien Search Requests
- Assisted with the preparation of Ordinances/Resolutions.
- Reviewed and processed Business Tax Receipts
- Prepared required public notices and advertisements for DRB projects and Town Council Meetings.
- Prepared records for retention and for disposition in accordance with Florida laws and regulations
- Prepared records for scanning
- Prepared and maintained listing to ensure timely renewal of expired contracts.
- Received and filed Lobbyist Registrations.

October 2018 – November 2020

Served as personal representative of family members' Estates.

City Clerk
North Bay Village, Florida
April 2002 – September 2018

- Managed all aspects of the City Clerk's Office
- Provided general administrative support to City Commission and other departments
- Developed City Commission Meeting Agendas
- Attended City Commission Meetings and transcribed Minutes
- Maintained paper and digital Town records using Laserfiche
- Responded to Public Records Requests
- Records Management/served as Records Management Liaison with the State of Florida/Disposal of Records in compliance with Florida Statutes.
- Processed Business Tax Receipts
- Served as Clerk to the Special Master preparing Notice of Violations, Notices to Appear, and Orders of Enforcement
- Established and maintained effective working relationships
- Accepted applications for new development and coordinated public notice requirements with the Zoning Official
- Supervised the issuance of Passports
- Prepared Resolutions and Ordinances

Building & Zoning Clerk
North Bay Village, Florida
March 1992 – April 2002

- Managed the administrative functions of the Building & Zoning Department, processed Building, Plumbing, Electrical, Mechanical, and Sign Permits
- Processed Public Hearing applications for Variances and Special Use Exceptions and assisted Building Director in the preparation of the related Staff Reports.

Education

Paralegal Studies-Associates Degree
Miami-Dade College

SKILLS

- Strong knowledge of office procedures
- Excellent organizational skills and ability to manage multiple tasks
- Advanced level knowledge of Microsoft Office Products/Office Equipment
- Demonstrates excellent attention to detail
- Ability to work well with others
- Customer Service oriented
- Possesses leadership/team building skills

Certification

Certified Municipal Clerk

Affiliation

Florida Association of City Clerks
Florida Association of Business Tax Officials
International Institute of Municipal Clerks

BRENDA PREE, MMC, CERA

Homestead, PA
Phone: 601.870.9590 Email: preebrenda@yahoo.com

JUDICIAL / CITY CLERK

Innovative, resourceful and results-driven Administrator with exceptional knowledge of judicial and municipal processes. Delivers hands-on experience in legal procedures, leadership, training, customer relations, public information, financial management and team building. Provides outstanding human relations, communication, and analytical skills. Designs strategies and innovative procedures to effectively lead, educate and develop staff. Recognized for the ability to identify areas requiring improvement and creates innovative processes for heightened efficiency. Combines strategic planning and organizational leadership skills with strong resource allocation and cost reduction abilities. Develops and presents goals for long-range and short-term planning.

AREAS OF EXPERTISE

- ♦ Operations Management
- ♦ Leadership / Training
- ♦ Accounting
- ♦ Problem Resolution
- ♦ Customer Relations
- ♦ Research / Analysis
- ♦ Process Improvement
- ♦ Team Building
- ♦ Judicial/Municipal Process
- ♦ Financial Oversight
- ♦ Technology
- ♦ Strategic Planning

CAREER OVERVIEW

City of Pittsburgh, Pittsburgh, PA **2017-Present**

CITY CLERK

Serve as the official record keeper and custodian of records of the legislative body, overseeing attendance, voting records, legislative history and indexing of current and archived records of the City Council in addition to scheduling meetings, maintaining the council's calendar, setting public hearings, and attending meetings to keep accurate minutes.

- Supervise 10 support staff providing administrative and operational services to the nine-member elected body.
- Deliver historical background on matters involving the council, including elections, vacancies, legal matters, legislative process, and all matters pertaining to the role and rights of the elected body as outlined in the Home Rule Charter.
- Provide agendas and minutes of all legislative proceedings, and serve as a notary when needed.
- Record and file all ordinances and resolutions, publishing as required.
- Track daily spending records of council members' employee salaries and services, organize and serve as chair of official swearing-in ceremonies during election years and special elections, and serve as the Chair of the Commission on City Archives in addition to providing custody of current and former legal opinions for references.
- Prepare and maintain municipal record index books, perform the official certification of legislation for distribution to city departments and appropriate agencies, and update members on the daily status of functions relating to legislative processes.
- Advertise and post all meetings, resolutions and ordinances in accordance with law, assist with the census-driven reapportionment commission process, and administer legislative tracking and agenda management software.

Fairfax County Office of Elections, Fairfax, VA **2016-2017**

MANAGEMENT ANALYST II

Managed elections officer support for the Fairfax County Office of Elections. Recruited, onboarded and developed staff, implementing effective training and tracking completion. Utilized project management principles, techniques and effective change management processes, setting goals and evaluating the quality of outcomes. Delivered analytic and technical analysis, data management, research and policy development as related to operations and services. Developed, recommended and implemented plans and programs for performance improvement, quality, compliance and efficiency of operations. Performed a full scope of administrative management tasks complex in nature, including procurement, contracts administration, human resources management and IT project oversight. Reported quantitative and qualitative data to track and monitor various business process indicators.

- Managed 3,800 election officers and 10 administrative assistants in addition to 18 trainers within the fast-paced office.
- Developed a deep pool of election officers to serve the diverse communities represented.
- Generated election officer staffing needs reports and forecasting.
- Ensured election officers and other support staff received all appropriate training, materials and direction, and oversaw the development and management of all related logistics issues for election officer deployment to polling places.
- Played a key role in developing and conducting special studies and research initiatives, designing survey instruments, gathering data and developing data analysis tools.
- Offered strong knowledge of budgeting, financial management, government management, programmatic services and methods of solving complex business issues.

City of Ridgeland, Ridgeland, MS **2014-2015**

COURT CLERK

Filled the temporary position for six months before accepting the current Management Analyst II role.

City of Jackson, Jackson, MS **2009-2014**

CITY CLERK

Managed all services and activities within the city clerk's office, establishing and administering policies and procedures. Screened, hired, trained, supervised and motivated staff, establishing expectations and mentoring for achievement. Implemented discipline and termination procedures when necessary. Notarized all applicable documents. Published all city ordinances, resolutions, proclamations and legal notices.

- Prepared and assembled agendas and meeting packets for city council meetings, posting public data as required and recording/distributing minutes.
- Maintained accountability for legal documents, ordinances, resolutions, bonds, contracts, agreements, deeds and city contracts.
- Coordinated municipal elections, oversaw voter registration, instructed temporary election staff, and ensured adequate inventory.
- Organized and controlled the bid opening process, recording all results.
- Carried out city bond sales, accepting bids, publishing notices, accepting delivery, and signing bonds.
- Ensured appropriate city staffing levels, allocating resources for optimal customer service and task completion.
- Monitored and evaluated the efficiency and effectiveness of service delivery methods and procedures.
- Managed and actively participated in the development and administration of the city clerk's office and municipal election commission budgets, accurately forecasting funds for a variety of areas.
- Represented the clerk's office with city departments, elected officials and external agencies.
- Negotiated and resolved sensitive, significant and controversial issues.
- Coordinated collaborative efforts between the clerk's office and external/internal stakeholders.
- Responded to and resolved difficult and sensitive city/council inquiries and complaints.
- Provided staffing support to multiple boards and commissions.
- Demonstrated knowledge of election laws/procedures; principles of official record keeping; administrative procedures; federal/state/local laws, codes and regulations; and the proper function of city, county, state and federal governments.
- Actively delegated authority and tasks, providing administrative leadership and establishing goals.

Accomplishments:

- Implemented the paperless agenda systems and live video streaming for all council meetings.
- Upgraded the City Council Chamber with current technology compatible with iPhones and iPads.
- Introduced the first DS200 digital scanner to the State of Mississippi for elections.

PRIOR CAREER HISTORY:

Justice Court Clerk / Court Administrator, Washington County Board of Supervisors, Greenville, MS

- Instituted an in-house collections division for past due fines, effectively reducing $1MM in outstanding payments to $300K.

Collections Supervisor / Technical Assistant, Delta Foundation, Inc., Greenville, MS
Financial Officer / Bookkeeper, Greenville Council on Aging, Greenville, MS
Account Manager, Spiegel's, Inc., Bensalem, PA
Personnel Manager / Assistant Store Manager, Pizza Hut, Inc., Philadelphia, PA
Personnel Manager / Assistant Store Manager, Marriot, Inc., Philadelphia, PA

EDUCATION and PROFESSIONAL DEVELOPMENT

BACHELOR OF SCIENCE - BUSINESS ADMINISTRATION, Rust College, Holly Springs, MS

CERTIFICATIONS and TRAINING: Master Municipal Clerk (MMC); Certified Election Registration Administrator (CERA); Mississippi Municipal Clerks and Tax Assessors' Certification; International Municipal Clerk Certification; National Certification in Court Proceedings, Mississippi Judicial College and American Institute of Justice; Graduate - Leadership of Washington County Program, Delta Economic Development Center; Orientation to the County's Code of Ethics (Fairfax County); Security Awareness Training; Performance Management Curriculum; Performance Management Course; FOCUS Manager Self-Service; Sexual Harassment for Managers; Sexual Harassment for Employees; New Employee Orientation Part I/II; The Americans w/Disabilities Act; EEO for Managers; Diversity in the Workplace; AIDS in the Workplace; Employee U for Managers/Supervisors

AFFILIATIONS

National Association of Parliamentarian; Government Finance Officers Association; National League of Cities; Mississippi Black Caucus of Local Elected Officials; Mississippi Municipal Clerks' Association; National Association of Government Archives and Records Administrators (NAGARA); Pennsylvania Association of Notaries; Women in Municipal Government



Wesley Robert Young

County Administrator

More than 10 years of experience in the public sector. Involved in product testing, personnel management, operations and project management.

wes.youngmpa@gmail.com | 4795865213 | Bella Vista, AR | linkedin.com/in/wryoungmpa

WORK EXPERIENCE

County Administrator
Benton County Dept. of Human Services

10/2016 - Present

Achievements/Tasks

- Created a review system to help improve statewide accuracy.
- Created a data entry system to measure statewide employees against consistent standards.
- Designed and implemented several statewide databases to ensure equitable work flow and timely assignment completion.
- Repaired damaged county reputation with with local stakeholders.

Contact: Karen Rettmann - 4792739011

Program Coordinator
Benton County Dept. of Human Services

10/2012 - 10/2016

Achievements/Tasks

- Lead county from underperforming to high performing within first year
- Created front line solutions to streamline county processes
- Participated in development of an integrated data retrieval tool for statewide work force

Contact: Karen Rettmann - 4792739011

Lecturer
University of Arkansas

10/2021 - Present

Achievements/Tasks

- Introduction to Public Administration
- Member of Political Science Faculty

Contact: Dr. Patrick Stewart - pastewar@uark.edu

CERTIFICATES

Certified Public Manager (05/2016)

EDUCATION

Master of Public Administration
University of Arkansas

08/2009 - 05/2012

SKILLS

Leadership | Public Speaking | Spreadsheets | MS Office Suite (Expert) | Policy | Coding | Computer Building/Repair

VOLUNTEER EXPERIENCE

Technology Consultant
Bella Vista Community TV

10/2021 - Present *Bella Vista, AR*

Tasks/Achievements

- Created donations drive information webpage
- Created source based links to track success of solicitation methods

Contact: JB Portillo

ORGANIZATIONS

Rotary Club (10/2016 - Present)

Mensa (06/1995 - Present)

County Administrator's Association (10/2016 - Present)

HONOR AWARDS

DCO Director's Leadership Award (07/2017)
AR Department of Human Services

DHS Employee of the Year (10/2018)
AR Human Service Employees Association

DCO Employee of the Year (10/2018)
AR Human Service Employees Association

SUPPORTED CAUSES

Hunger & Nutrition | Poverty Alleviation | Health and Wellness

INTERESTS

Drone Building | Playing Music | Programming | Cycling | Kayaking | Hiking | Travelling