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

TOWN OF BAY HARBOR ISLANDS
9665 BAY HARBOR TERRACE
BAY HARBOR ISLANDS, FL 33154

REGULAR COUNCIL MEETING
AGENDA

February 1, 2023

STATEMENT OF DECORUM

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

CALL TO ORDER at approximately 7:00 p.m.:

PLEDGE OF ALLEGIANCE:

ROLL CALL:

SPECIAL PRESENTATION:

1. Proclamation honoring and congratulating Ben Ferencz, the last surviving prosecutor of the Nuremberg trials, for receipt of the Congressional Gold Medal. Enclosed is a copy of the proclamation.

2. Proclamation - March 2023 - Colorectal Cancer Awareness Month. Enclosed is a copy of the proclamation.

3. Pinning Ceremony - Officer Tomas Figueiroa Rego

4. Transfer of Development Rights (TDR's) Report - Marcum, LLP, Town Auditors

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: Set for approximately 7:55 p.m. *(Consent agenda items are those which are routine, do not require discussion or explanation prior to Town Council action, or have already been discussed and/or explained and do not require further discussion or explanation. Items can be removed from the consent agenda by the request of an individual Council member for independent consideration provided such request is made prior to the vote on the consent agenda.)*

5. Approval of Minutes:
   A. Budget Workshop - June 29, 2022
   B. Special Council Meeting - June 29, 2022
   C. Special Council Meeting - July 27, 2022
   D. Regular Council Meeting - August 15, 2022
   E. First Budget Public Hearing - September 14, 2022
   F. Regular Council Meeting - September 14, 2022
   G. Second Budget Public Hearing - September 28, 2022

6. **Consideration** and **Approval** of a Resolution revising Resolution No. 2268 to amend parking meter rates. Enclosed is a copy of the proposed Resolution.

   A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF BAY HARBOR ISLANDS, FLORIDA, REVISING RESOLUTION NO. 2268 AMENDING THE TOWN'S PARKING METER RATES; REPEALING OTHER RESOLUTIONS IN CONFLICT, PROVIDING FOR INCORPORATION OF RECITALS AND SETTING AN EFFECTIVE DATE.

7. **Consideration** and **Approval** of a Memorandum of Understanding (MOU) between Miami-Dade County Association of Chiefs of Police (MDCACP) - First Responder Mental Wellness Initiative and Bay Harbor Islands (Partner Agency) for BHI law enforcement officers participation in the Regional First Responder Peer Support Team Program. Enclosed is a copy of the proposed Memorandum of Understanding.

8. **Consideration** and **Approval** of a Resolution establishing a rate structure for use of the town's Electric Vehicle Charging Station. Enclosed is a copy of the proposed Resolution.

   A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF BAY HARBOR ISLANDS, FLORIDA, ADOPTING FEES FOR USE OF THE ELECTRIC EV CHARGING STATION; PROVIDING FOR INCORPORATION OF RECITALS AND SETTING AN EFFECTIVE DATE.

9. **Consideration** and **Approval** of a Resolution amending the Building Permit Fee Schedule set by Resolution No. 2270 to establish a reduced fee for applicants that choose to use a "Private Provider" for Building Plan Review and Inspections, as per Florida Statutes, Section 553.791. Enclosed is a copy of the fee schedule and legislation.

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF BAY HARBOR ISLANDS, FLORIDA AMENDING THE FEE SCHEDULE OUTLINED IN RESOLUTION NO. 2270 TO ESTABLISH A REDUCED FEE FOR APPLICANTS THAT HIRE A "PRIVATE PROVIDER" FOR PLAN REVIEW AND BUILDING INSPECTIONS AS SPECIFIED IN FLORIDA STATUTES, SECTION 553.791; PROVIDING FOR INCORPORATION OF RECITALS AND SETTING AN EFFECTIVE DATE.

10. **Consideration** and **Approval** of a Resolution awarding an emergency contract to Perkins Roofing Corp. in the amount of $199,188.00 for the replacement of the Town Hall and Annex Building roof. Enclosed are proposals and other supporting documents.

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF BAY HARBOR ISLANDS, FLORIDA, AWARDING AN EMERGENCY CONTRACT TO PERKINS ROOFING CORP FOR REPLACEMENT OF THE TOWN HALL AND ANNEX BUILDINGS' ROOFS, PURSUANT TO SECTION 2.1.2 OF THE TOWN CODE; PROVIDING FOR INCORPORATION OF RECITALS; PROVIDING FOR EXPENDITURE OF FUNDS; AND SETTING AN EFFECTIVE DATE.

STAFF RECOMMENDATION: Approve **POLL VOTE**

ORDINANCES ON SECOND READING:

11. **Consideration** and **Approval** of an ordinance on Second Reading amending Chapter 5, Section 5-23.01(f) of the Town Code pertaining to meetings of the Design Review Board. Sponsored by Council Member Bruder.

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF BAY HARBOR ISLANDS, FLORIDA AMENDING CHAPTER 5 OF THE TOWN CODE, ENTITLED "DESIGN REVIEW BOARD", BY REVISING SECTION 5-23.01(f) PERTAINING TO MEETINGS; 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**

12. **Consideration** and **Approval** of an ordinance on Second Reading amending Sections 9-29 and 12-27 of the Town Code to modify civil penalties and repealing Resolution No. 2271, which previously addressed certain civil penalties.

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF BAY HARBOR ISLANDS, FLORIDA, AMENDING CHAPTER 9, SECTIONS 9-29 AND CHAPTER 12, SECTION 12-27 OF THE TOWN CODE MODIFYING CIVIL PENALTIES TO BE ASSESED FOR VIOLATION OF THE TOWN CODE, REPEALING RESOLUTION NO. 2271; PROVIDING FOR INCORPORATION OF RECITALS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICT AND REPEALER; PROVIDING FOR CODIFICATION; AND SETTING AN EFFECTIVE DATE.

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

ORDINANCES ON FIRST READING:

DEFERRED ITEMS:

TOWN MANAGER ITEMS::

13. Request for approval by Bay Harbor Investment, Inc. for operation of a Sales Center to be located at 1170 Kane Concourse, in connection with the development of a 7-story, 27-unit multifamily residential building at 9740 and 9760 West Bay Harbor Drive; as approved by the Design Review Board on October 18, 2022. Enclosed is a copy of the applicant's "Letter of Intent" .

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

14. **Consideration** and **Approval** of a Resolution approving a Parking Trust Payment Agreement with Kane BH Property 1, LLC 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 commercial development to be located at 9555 Bay Harbor Terrace. Enclosed is a copy of the proposal setting forth the terms of the agreement.

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

15. Request for approval by 1177 Bay Harbor Islands, LLC for operation of a temporary Sales Gallery to be located at 1160 Kane Concourse, in connection with a mixed-use development (commercial, office, and residential) to be located on the northeast corner of Kane Concourse and West Bay Harbor Drive. Enclosed is a copy of the applicant's "Letter of Intent".

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

DISCUSSION ITEMS:

ADJOURNMENT: Approximately 10:00 p.m.

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

AGENDA ITEM REPORT
February 1, 2023

ITEM NUMBER: 1.

ITEM: Proclamation honoring and congratulating Ben Ferencz, the last surviving prosecutor of the Nuremberg trials, for receipt of the Congressional Gold Medal. Enclosed is a copy of the proclamation.

DESCRIPTION:

RECOMMENDED ACTION:

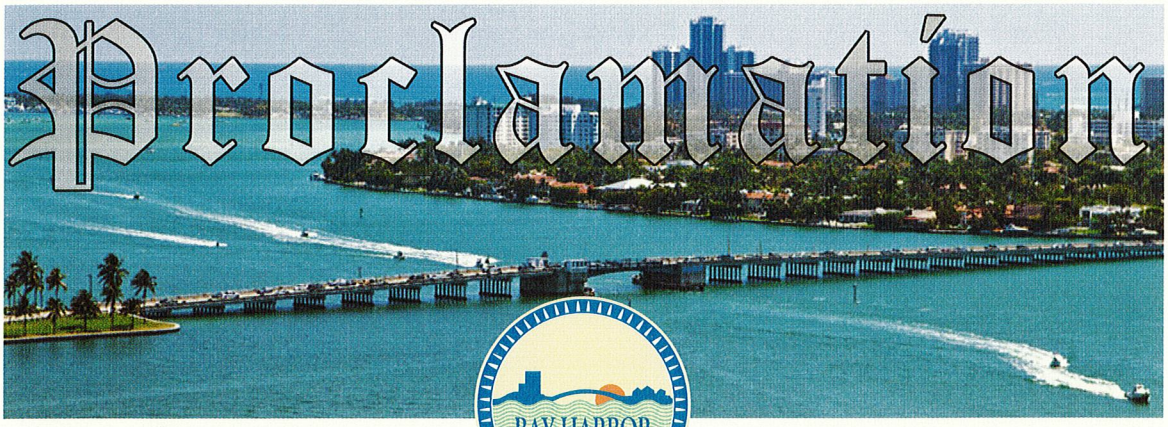
FINANCIAL ANALYSIS:

BUDGET IMPACT:

Submitted By: Yvonne Hamilton, Town Clerk

ATTACHMENTS

1.	Proclamation - Benjamin Ferencz



Town of Bay Harbor Islands *Office of the Mayor*

WHEREAS, Benjamin Ferencz, the last surviving prosecutor of the Nuremberg trials, was awarded the Congressional Gold Medal on January 3, 2023, in recognition of his service to the United States and international community during the post-World War II Nuremberg trials and lifelong advocacy for international criminal justice and rule of law; and

WHEREAS, in 1920, Ben Ferencz and his family fled anti-Semitic persecution and emigrated to the United States. Ben grew up in New York City, and in 1940, was awarded a scholarship to Harvard Law School where he graduated with honors; and

WHEREAS, after the onset of World War II, Ben enlisted in the United States Army in 1943, and joined an anti-aircraft artillery battalion preparing for the invasion of France. As an enlisted man under General Patton, he fought in many of the major campaigns in Western Europe; and

WHEREAS, as Nazi atrocities were uncovered, Ben was transferred to the newly created War Crimes Branch of the Army to gather evidence of war crimes that could be used in a court of law to prosecute persons responsible for these crimes; and

WHEREAS, in 1946, the United States Government recruited Ben to join the team working on the Nuremberg tribunals, a novel independent court established to try top-ranking Nazi officials for crimes perpetrated during the war, including those crimes constituting the Holocaust. Mr. Ferencz was sent to Berlin to oversee a team of 50 researchers investigating official Nazi records, which provided overwhelming evidence to implicate German doctors, lawyers, judges, generals, industrialists and others in perpetrating genocide; and

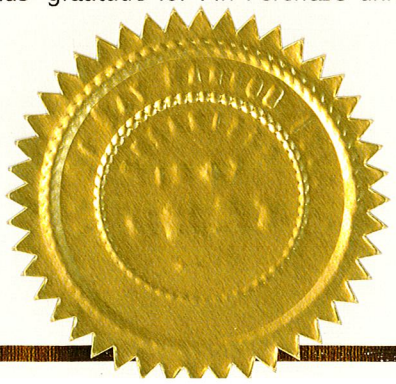
WHEREAS, by 1948, at age 27, Ben, having secured enough evidence to prosecute 22 SS members of Nazi killing squads charged for the murder of over 1,000,0000 Jewish, Roma, Soviet, and other men, women, and children in shooting massacres in occupied Soviet territory, was appointed chief prosecutor. As a result of his efforts and those of his team, the court found 20 Nazi officials guilty of war crimes, crimes against humanity, and membership in a criminal organization for their roles in the murder of over a million people; and

WHEREAS, after the Nuremberg trials ended, Ben fought for compensation for victims and survivors of the Holocaust, the return of stolen assets, and other forms of restitution for those who had suffered at the hands of the Nazis; and

WHEREAS, Since the 1970s, Ben has worked tirelessly to promote development of international mechanisms to outlaw and punish aggressive war and the crimes of genocide, crimes against humanity and war crimes. His efforts contributed to the establishment of the International Criminal Court; and

NOW THEREFORE, I, Joshua Fuller, Mayor of the Town of Bay Harbor Islands, Florida, Miami-Dade County do hereby honor and congratulate Ben Ferencz for receiving Congress's highest honor – The Congressional Gold Medal, and express the Town of Bay Harbor Islands' gratitude for Mr. Ferencz's unrelenting commitment to humanity and justice.

IN WITNESS THEREOF, I hereunto Set my hand and cause the seal of the Town of Bay Harbor Islands to be affixed this 1st day of February 2023.



JOSHUA FULLER
MAYOR

AGENDA ITEM REPORT
February 1, 2023

ITEM NUMBER: 2.

ITEM: Proclamation - March 2023 - Colorectal Cancer Awareness Month. Enclosed is a copy of the proclamation.

DESCRIPTION:

RECOMMENDED ACTION:

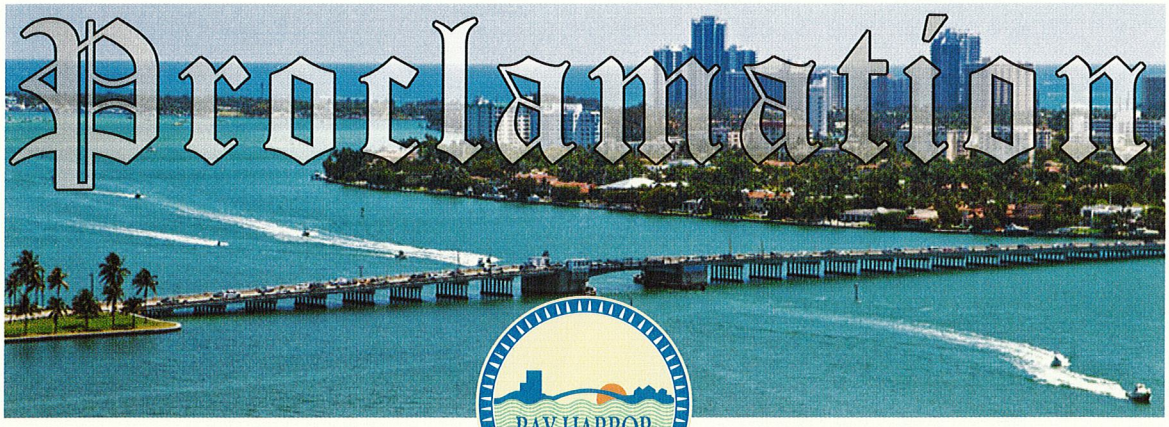
FINANCIAL ANALYSIS:

BUDGET IMPACT:

Submitted By: Yvonne Hamilton, Town Clerk

ATTACHMENTS

1.	Proclamtion - Collorectal Cancer Awareness Month--
2.	Request for Proclamation



Town of Bay Harbor Islands *Office of the Mayor*

WHEREAS colorectal cancer is the second-leading cause of cancer deaths in the United States among men and women combined; and

WHEREAS colorectal cancer is one of the few cancers that can be prevented with timely screening, but 1 in 3 eligible Americans are not up to date on screening; and

WHEREAS colorectal cancer is estimated to by the number one cancer killer for those ages 20-49 by 2030; and

WHEREAS Black Americans are 20% more likely to be diagnosed with colorectal cancer and about 40% more likely to die from the disease than other groups; and

WHEREAS colorectal cancer is expected to account for 11% of cancer deaths among Hispanic men and 9% of cancer deaths for Hispanic women; and

WHEREAS screening colonoscopy rates have still not returned to pre-COVID-19 levels; a nd

WHEREAS the national goal established by the National Colorectal Cancer Roundtable is to strive to increase timely colorectal cancer screening rates to 80 percent in every community for all Americans eligible for screening; and

WHEREAS observing a Colorectal Cancer Awareness Month during the month of March would provide a special opportunity to increase awareness and offer education on the importance of early detection and screening of colorectal cancer.

NOW THEREFORE, I, Joshua Fuller:, Mayor of the Town of Bay Harbor Islands, Florida, Miami-Dade County do hereby proclaim March 2023 as:

"COLORECTAL CANCER AWARENESS MONTH"

IN WITNESS THEREOF, I hereunto Set my hand and cause the seal of the Town of Bay Harbor Islands to be affixed this 1st day of February 2023.

JOSHUA FULLER
MAYOR

Jan 17, 2023

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

Dear Mayor Joshua Fuller:

As someone personally impacted by colorectal cancer and as an advocate of Fight Colorectal Cancer (Fight CRC), a national organization working toward a world without colorectal cancer, I respectfully request your support in proclaiming March 2023 as Colorectal Cancer Awareness Month in the City of Bay Harbor Islands.

Colorectal cancer is the second-leading cause of cancer death for men and women combined[1]. It is often thought of as a disease that only affects older people. But the face of colorectal cancer is changing. Over the past four decades colorectal cancer has been steadily increasing in young people, and in 2030, it is on track to become the number one cancer killer of people ages 20-49 [2].

Colorectal cancer also disproportionately impacts people of color. According to the American Cancer Society, African Americans are 20% more likely to be diagnosed with colorectal cancer and 40% more likely to die from it compared with other racial and ethnic groups[3]. Indigenous communities also have higher rates of colorectal cancer than their white counterparts[4]. Furthermore, colorectal cancer is expected to account for 11% of cancer deaths among Hispanic men and 9% of cancer deaths for Hispanic women[5]. This doesn't have to be our reality.

Colorectal cancer is unique in that if it is detected early through screening, it can be prevented completely, or effectively treated through surgery and/or chemotherapy and radiation. But the COVID-19 pandemic disrupted colorectal cancer screening across the country, and we have not returned to pre-COVID-19 screening rates[6]. Unfortunately, lower rates of routine cancer screenings lead to delayed diagnosis and increased cancer death.

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[1] https://www.cancer.org/content/dam/cancer-org/research/cancer-facts-and-statistics/colorectal-cancer-facts-and-figures/colorectal-cancer-facts-and-figures-2020-2022.pdf

[2] https://jamanetwork.com/journals/jamanetworkopen/fullarticle/2778204

[3] https://www.cancer.org/content/dam/cancer-org/research/cancer-facts-and-statistics/colorectal-cancer-facts-and-figures/colorectal-cancer-facts-and-figures-2020-2022.pdf

[4] https://www.cancer.org/content/dam/cancer-org/research/cancer-facts-and-statistics/colorectal-cancer-facts-and-figures/colorectal-cancer-facts-and-figures-2020-2022.pdf

[5] https://www.cancer.org/content/dam/cancer-org/research/cancer-facts-and-statistics/cancer-facts-and-figures-for-hispanics-and-latinos/cancer-facts-and-figures-for-hispanics-and-latinos-2018-2020.pdf

[6] https://jamanetwork.com/journals/jamaoncology/fullarticle/2798851

The National Cancer Institute (NCI) estimates that there could be as many as 4,500 additional colorectal cancer deaths because of the drop in screening due to COVID-19[7]. Unfortunately, even prior to the challenges presented by COVID-19, far too many Americans were not getting screened. It is estimated that tens of thousands of colorectal cancer deaths could be avoided if people are screened appropriately[8].

Declaring March as Colorectal Cancer Awareness Month is one concrete step our state can take to not only raise awareness and help prevent this disease, but also to honor the families in our state who have been impacted by this cancer.

Together, we can help save lives. I hope you will support my efforts and declare March as Colorectal Cancer Awareness Month.

Enclosed is draft language that I hope you find helpful in crafting a proclamation declaring March 2023 as Colorectal Cancer Awareness Month in the City of Bay Harbor Islands.

A similar proclamation has been approved by the City of Aventura.

Thank you for considering this important request. I look forward to hearing from you.

Sincerely,
Michael Stern
Aventura Commissioner
786-556-5657

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[7] https://www.science.org/doi/10.1126/science.abd3377
[8] https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4554530/

Colorectal Cancer Awareness Month Proclamation

WHEREAS colorectal cancer is the second-leading cause of cancer deaths in the United States among men and women combined[9];

WHEREAS colorectal cancer is one of the few cancers that can be prevented with timely screening, but 1 in 3 eligible Americans are not up to date on screening[10];

WHEREAS colorectal cancer is estimated to by the number one cancer killer for those ages 20-49 by 2030[11];

WHEREAS Black Americans are 20% more likely to be diagnosed with colorectal cancer and about 40% more likely to die from the disease than other groups[12];

WHEREAS colorectal cancer is expected to account for 11% of cancer deaths among Hispanic men and 9% of cancer deaths for Hispanic women[13];

WHEREAS screening colonoscopy rates have still not returned to pre-COVID-19 levels[14];

WHEREAS the national goal established by the National Colorectal Cancer Roundtable is to strive to increase timely colorectal cancer screening rates to 80 percent in every community for all Americans eligible for screening;

WHEREAS observing a Colorectal Cancer Awareness Month during the month of March would provide a special opportunity to increase awareness and offer education on the importance of early detection and screening of colorectal cancer.

NOW THEREFORE, I, Joshua Fuller:, Mayor of the City of Bay Harbor Islands, Florida, do hereby proclaim March 2023 as: COLORECTAL CANCER AWARENESS MONTH.

IN TESTIMONY WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Florida, in the City of Bay Harbor Islands, this 1st of March, 2023

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[9] https://www.cancer.org/content/dam/cancer-org/research/cancer-facts-and-statistics/colorectal-cancer-facts-and-figures/colorectal-cancer-facts-and-figures-2020-2022.pdf

[10] https://www.cancer.org/content/dam/cancer-org/research/cancer-facts-and-statistics/colorectal-cancer-facts-and-figures/colorectal-cancer-facts-and-figures-2020-2022.pdf

[11] https://jamanetwork.com/journals/jamanetworkopen/fullarticle/2778204

[12] https://www.cancer.org/content/dam/cancer-org/research/cancer-facts-and-statistics/colorectal-cancer-facts-and-figures/colorectal-cancer-facts-and-figures-2020-2022.pdf

[13] https://www.cancer.org/content/dam/cancer-org/research/cancer-facts-and-statistics/cancer-facts-and-figures-for-hispanics-and-latinos/cancer-facts-and-figures-for-hispanics-and-latinos-2018-2020.pdf

[14] https://jamanetwork.com/journals/jamanetworkopen/fullarticle/2792956

AGENDA ITEM REPORT
February 1, 2023

ITEM NUMBER: 3.

ITEM: Pinning Ceremony - Officer Tomas Figueiroa Rego

DESCRIPTION:
In 2021, Tomas Figueiroa-Rego joined the BHIPD team as a Police Dispatcher where he served the community for a year before taking the step of becoming a certified law enforcement officer. He graduated from the City of Miami Police Training Center on January 13th, 2023. Officer Rego is currently pursuing a bachelor's degree in Criminal Justice and is working on becoming a certified Breath Test Operator to join the BHIPD DUI team. He is excited for the opportunity to continue his law enforcement career at the Bay Harbor Islands Police Department. His hobbies include spending quality time with his family and friends, and physical fitness.

RECOMMENDED ACTION:

FINANCIAL ANALYSIS:

BUDGET IMPACT:

Submitted By: Yvonne Hamilton, Town Clerk

ATTACHMENTS
None

AGENDA ITEM REPORT
February 1, 2023

ITEM NUMBER: 4.

ITEM: Transfer of Development Rights (TDR's) Report - Marcum, LLP, Town Auditors

DESCRIPTION:

RECOMMENDED ACTION:

FINANCIAL ANALYSIS:

BUDGET IMPACT:

Submitted By: Yvonne Hamilton, Town Clerk

ATTACHMENTS

1.	TDR Independent Accountant Report

MARCUM
ACCOUNTANTS ▲ ADVISORS

INDEPENDENT ACCOUNTANT'S REPORT ON APPLYING AGREED-UPON PROCEDURES

To The Honorable Mayor and Town Council
Town of Bay Harbor Islands, Florida

Marcum LLP ("Marcum" or "we") have performed the procedures enumerated below on the Transfer Development Rights ("TDR") Sales Schedule from inception through the fiscal year ended September 30, 2022. The Town of Bay Harbor Islands, Florida (the "Town") is responsible for the TDR Sales Schedule.

The engaging party, the Town has agreed to and acknowledged that the procedures performed are appropriate to meet the intended purpose of the TDR Sales Schedule analysis from inception through the fiscal year ended September 30, 2022. This report may not be suitable for any other purpose. The procedures performed may not address all the items of interest to a user of this report and may not meet the needs of all users of this report and, as such, users are responsible for determining whether the procedures performed are appropriate for their purposes.

The agreed-upon procedures are as follows:

1) Test the clerical accuracy of the TDR Sales Schedule.
2) Select a sample of TDR Sales and compare TDR Unit Sales Price reported in the TDR Sales Schedule to the underlying Town support (sales agreements, resolutions, and/or Town Council meeting minutes).
3) Select a sample of TDR Sales and obtain proof of payment support for TDR payments made to the Town.
4) Select a sample of TDR Sales and agree or reconcile the TDR sales amount to the Town's general ledger.
5) Compare testing results to the Town's TDR Sales Schedule and identify differences and discrepancies, including any amounts still owed to the Town as of September 30, 2022.

Based on the procedures performed, Marcum noted and reports the following matters:

1) Marcum was unable to obtain bank statements for years 2013 and prior to support proof of cash receipts made on and before January 1, 2013. This is due to record retention limits set forth by United States banking regulations therein providing a 5-year limit for the retention of records. Therefore, from our sampling performed, we were unable to obtain the bank statements for cash receipt of the Harbor Park project totaling $220,000 – the full contract price, and the first cash receipt for the Bay Harbor Club project totaling $90,000. Marcum was only able to obtain cash receipts reports, an internally generated report by the Town, for these particular transactions made in 2013.

Marcum LLP ▪ One Southeast Third Avenue ▪ Suite 1100 ▪ Miami, Florida 33131 ▪ Phone 305.995.9600 ▪ Fax 305.995.9601 ▪ www.marcumllp.com

2) The escrow deposit for the La Baia North project was not submitted as agreed to by the Town and the Developer as per the Agreement for Purchase and Sale of Transferable Development Rights dated March 22, 2013, therefore the contract was deemed null and void. As the project did not materialize (e.g. the Developer did not adhere to the escrow deposit date deadline), the Town should remove the project from the TDR Sales Schedule along with the reported receivable balance until a new sales agreement is executed between the parties. The Town is not owed the project sum of $1,370,000.

3) Based on our analysis of the Bay View project, Marcum determined that the Town is not owed an additional $90,000 as there was a 20-day cure period that the Bay View group was given to obtain the Permit which was met by the developer. If the Permit was not granted within the 20-day cure period the Town would have been owed the $90,000 for the extension, however, this was not the case. The $90,000 outstanding receivable should be removed from the TDR Sales Schedule.

4) Reported on the TDR Sales Schedule is a receivable in the amount of $60,000 for the BH Gardens (Furmanos) project. However, Marcum obtained evidence of a wire transfer made to the Town for the same amount on November 2, 2015. As the Town was paid the full price of the project, the Town is not owed the $60,000 receivable and therefore this amount should be removed from the schedule.

5) Marcum noted 2 (two) projects that were still outstanding as of September 30, 2022. These are the Sophie Project and La Baia South Project, with a reported collectible sum of $180,000 and $585,000, respectively. These projects were agreed-upon by the parties on September 8, 2014 and April 20, 2021, respectively, and have been outstanding and collectible per the TDR Sales Schedule, since then. Based on our procedures performed, Marcum noted that the Sophie project had a total agreed contract price of $240,000, of which $60,000, representing the escrow deposit, had been received. Per discussion with the Consultant Town Planner, the developer of the Sophie project defaulted from the agreement, and thus the Town is not owed the remaining $180,000 balance indicated in the schedule. The Town has taken the position that since the developer defaulted from the project, the Town has the right to retain the $60,000 escrow deposit initially received, and is therefore not obligated to return the amount.

   With regards to the La Baia South project with a reported receivable balance of $585,000 indicated in the schedule, Marcum obtained an addendum to the agreement dated April 20, 2022, therein amending the TDR units sold from 13 (thirteen) TDR's to only 5 (five) TDR's. This decreased the original agreed purchase price from $975,000 to $375,000. Furthermore, the developer agreed to a 6 (six) month extension of the closing date for a monthly fee of $18,750 adjusting the total revised purchase price to $487,500. The Town received the payments according to the Addendum to Agreement for Purchase and Sale of Transfer Development Rights dated April 20, 2022. Final payment was received by the Town on October 20, 2022 in the amount of $390,000 (released from escrow). Therefore, the Town has received the full purchase price and does not have any other collectible amount from the Developer.

Result:

Based on the matters reported in our report, the Town has adjusted the TDR Sales Schedule as of September 30, 2022. As a result, the amounts presented in the TDR Sales Schedule as of September 30, 2022 are accurate. As of September 30, 2022, the Town was owed $390,000 for TDR sales. As noted above, the Town collected this outstanding amount on October 20, 2022.

We were engaged by the Town to perform this agreed-upon procedures engagement and conducted our engagement in accordance with attestation standards established by the American Institute of Certified Public Accountants ("AICPA"). We were not engaged to and did not conduct an examination or review engagement, the objective of which would be the expression of an opinion or conclusion, respectively, on the TDR Sales Schedule from inception through the fiscal year ended September 30, 2022. Accordingly, we do not express such an opinion or conclusion. Had we performed additional procedures, other matters might have come to our attention that would have been reported to you.

We are required to be independent of the Town of Bay Harbor Islands, Florida and to meet our other ethical responsibilities, in accordance with the relevant ethical requirements related to our agreed-upon procedures engagement

This report is intended solely for the information and use of the Honorable Mayor, the Town Council, and Town Manager, and is not intended to be and should not be used by anyone other than those specified parties.

Marcum LLP

Marcum LLP
January 24, 2023

AGENDA ITEM REPORT
February 1, 2023

ITEM NUMBER: 5.

ITEM: Approval of Minutes:
A. Budget Workshop - June 29, 2022
B. Special Council Meeting - June 29, 2022
C. Special Council Meeting - July 27, 2022
D. Regular Council Meeting - August 15, 2022
E. First Budget Public Hearing - September 14, 2022
F. Regular Council Meeting - September 14, 2022
G. Second Budget Public Hearing - September 28, 2022

DESCRIPTION:

RECOMMENDED ACTION:

FINANCIAL ANALYSIS:

BUDGET IMPACT:

Submitted By: Yvonne Hamilton, Town Clerk

ATTACHMENTS

1.	06-29-2022 Budget Workshop
2.	06.29.2022 Special Council Meeting
3.	07.27.22 Special Council Meeting
4.	08.15.22 Regular Council Meeting
5.	09.14.2022 First Budget Public Hearing
6.	09.14.2022 Regular Council Meeting
7.	09.28.2022 SECOND BUD PUB HEARING

TOWN OF BAY HARBOR ISLANDS
MINUTES OF A BUDGET WORKSHOP

A hybrid Budget Work of the Town Council was held on Wednesday, Wednesday, June 29, 2022, at 6:00 p.m. Upon roll call the following members responded:

Mayor Joshua Fuller
Vice Mayor Elizabeth Tricoche
Council Member Stephanie Bruder
Council Member Isaac Salver
Council Member Teri D'Amico
Council Member Robert Yaffe

1. Discussion regarding the tentative millage to be advertised via the Notice of Proposed Taxes to be mailed by Miami-Dade County. There is no recommendation as the item is to discuss the tentative millage to be advertised.

Town Manager Lasday informed the Council that last year's millage rate was 3.590 and the same rate was being proposed for FY 2022-2023, with no increase. She advised that the item was for discussion and formal approval of the millage rate will be at the July 27th meeting.

Mayor Fuller asked about the possibility of rolling back the rate. Town Manager Lasday responded that there are lots of infrastructure projects, such as road and bridge work.

Council Member Yaffe asked what the rollback rate would be. Finance Director Peter Kajokas stated that he did not know at this time, as the information hadn't been received from the Property Appraiser. Town Manager Lasday suggested looking at the wish list to see if anything can be removed.

Council Member Salver explained that considering the overall taxable value had increased from one year to the next, if the same rate as the prior year was utilized, a tax increase would have to be advertised.

Town Manager stated that the generator could be removed; it can be rented instead of installing one.

Mayor Fuller asked what the rollback rate would be based on the $1.6 Billion estimated valuation. Finance Director Kajokas responded that there would be a substantial rate reduction because of the increase of almost $3 Million in property values.

Mayor Fuller estimated $800,000 would be needed to reach the rollback rate based on the budget amount.

Council Member Bruder stated that she would like to see the taxes reduced. She asked the Finance Director if all of the new buildings have started to come online, which will generate more money. He believed that was the reason for the $3 Million increase in values. Mayor Fuller clarified that some of the buildings are starting to come online, but there will be a lot more as of January 1st next year; which will help next year's budget.

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Discussion took place regarding when the property values will be added to the tax roll.

Council Member Bruder preferred to reduce the tax rate due to the impact of inflation on the residents. Council Member Yaffe stated that a rate was not being set at this time, the budget was being discussed as all required information was not available.

Mayor Fuller asked for the location of the generator item in the budget, if one was going to be rented for this year or if a backup would be provided. The Finance Director stated that the generator replacement was budgeted under Public Building.

Mayor Fuller clarified the council's task to locate $800,000 in the budget to reach the rollback rate.

Vice Mayor Tricoche asked what the cost for the annual Sunpass was. Mayor Fuller said $300. She wondered how much money would be generated if there was a $15 nominal increase, which would help over all, even though not a significant increase.

Bridget Morin, Director of Communications Service, advised that there were between 25,000 and 30,000 Sunpass applicants with six months or one-year passes. And if the fees were raised $20, it would generate approximately $60,000. She mentioned the toll rate was last raised in 2016, and the tolls on most bridges have been raised more often. She felt a ten cents increase would be best.

Vice Mayor Tricoche stated that ten cents sounded fair; and complimented by a $10 increase Sunpass fee, it could potentially help to cover the gap. She supported raising the per axle fee as well.

Ms. Morin stated a good portion of the tolls that are not paid are from trucks that hide their license plates. Discussion continued about trucks hiding their license plate.

The mayor asked if the License Plate Reader can get an instantaneous communication that the license plate was blocked.

Ms. Morin stated that somebody would have to actually see it. Even if a camera was placed at ground level, the truck would still need to be identified and be stopped for enforcement. The camera and Sunpass log tell of failure as there is no active transponder signal when going through; a picture is taken by a camera and they are sent to a third party to be identified. Only where the license plate is supposed to be is photographed; and if there is no image of a license plate, that picture is thrown out. A dedicated police officer would be needed in that area.

Council Member D'Amico stated that the town should have been charging a lot more money over the years, based on the weight alone. She asked how many failed readings were there to determine how much money was being lost. Ms. Morin responded that forty percent of the multi axle vehicles fail. Vice Mayor stated that she would be in favor of putting someone out there to get the fines associated with the license plate readings' failure.

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Deputy Chief Lindsey Noel stated that the police department has done enforcement in the area. They have the License Plate Reader and technology that is even more sophisticated than the SunPass technology. It reads not only by the license plate, but the car itself. He informed the council that the department can work with their investigation unit to determine the owner of the vehicles for the ones that are not reading. Mayor Fuller commented on the manpower it would take for monitoring 40% of the trucks. It was suggested that a sampling be done on how many trucks were found in violation for submittal to the council next month.

Vice Mayor Tricoche expressed concern that trucks that without license plates create a security problem. She supported placement of a police officer in the area during high traffic time. Ms. Morin will review reports to find out the most prevalent time. Mayor Fuller requested that the police officers keep an eye out to check for license plates, in addition to placing a police officer in the area for a week or two.

Vice Mayor Tricoche summarized the results of the discussion to place an officer in the area for enforcement, to increase the per axle fee, and a nominal increase for the toll and SunPass.

Council Member Yaffe was not certain it was the best time to raise the toll, considering inflation and the cost of living.

Mayor Fuller stated that it was very likely the toll would have to be raised a little bit more than ten cents not long from now, as the town continues to raise funds for the construction of the new bridge. He concurred that he too didn't like the idea of having people pay additional cost right now, but at the same time the toll hasn't been raised in so long. He was more inclined to do the incremental for the regular toll now and not touch the annual pass in order to push residents towards using the annual pass, which would save money.

Ms. Morin stated that the central and western states are going to be part of the SunPass Program, which mean they can now accept Easy Pass. Plus, there will be additional transponders from the west coast, which may increase the revenue, as more transponder revenues will be collected. She suggested the rate be raised by plate.

Mayor Fuller proposed raising the toll rate for 25 cents for the plate and ten cents for standard.

Vice Mayor Tricoche would like to see the projection for the rates, if everyone were in agreement.

Town Manager Lasday stated that these increases would affect the Causeway Fund, not the General Fund.

Finance Director Kajokas stated the budget would have to be reduced a half mill, $800,000 to reach the rollback rate.

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Town Manager Lasday went through the budget and identified items that could be removed from the budget and be addressed next year: Lighting and reupholstery for the Council Chambers Renovations; Bathroom Renovations in Town Hall and the Public Works Department for a total of $130,000.

Mayor Fuller asked if monies can be saved from any of the other departments.

Town Manager Lasday stated that the budget for most of the departments had decreased. The Town Manager's Department increased with the personnel from the Town Clerk's Office; the budget for the Town Clerk's Department was decreased; Finance Department increased with the addition of a Controller position; IT increased $63,000; Legal Department increased $60,000; Public Buildings was decreased by $109,000; Law Enforcement Department decreased by $94,000; Building Department increased by $36,000 with hiring of Flood Consultant per State requirement; Code Compliance was decreased by $7,400; and Public Safety Department was increased by $74,000 with addition of more crossing guards.

Council Member Salver asked if the penalties from the Sophie Project were accounted for. Town Manager Lasday stated the fees were paid and were included in this year's budget. She noted that there are extra revenues in this budget cycle, and a budget amendment can be done to move some of the projects, which would provide the funds for the FY 23 Budget.

Council Member Bruder referred to the Community Center Budget that was $1 Million "upside down", with only $200,000 of revenues being received. She suggested moving Special Events to the Town Manager' Department to do the town's anniversary party or outsource it, while still working with Parks and Recreation; even though it would still be $1 Million "upside down". She stated that Surfside's Community Center brings in an income of $500,000, which tells us there is full time staff who need to bring in more programs. If someone is there five times a week, there should be 10 programs for seniors, at two per week. She stated that the service needs to be elevated with more programs, or something else need to be done.

Council Member D'Amico stated that the services are going directly to the residents.

Mayor Fuller stated that they wanted to keep the services for the residents, and they were not being cut. And $1.4 Million was proposed for Parks and Recreation after $700,000 was moved to Public Works. Even though a chunk of the work was put to Public Works, it's very close to the actual that was spent in 2021. While COVID had an effect, he thought there would have been a significantly larger drop after the transfer. He stated that might be a place that can be looked at to see what can be done, because while he would like to keep the services, the town was obviously overpaying.

Council Member Bruder continued to address the issue of having Senior Programs seven days per week, increasing the programs, and utilizing the full-time staff to bring in more income to balance out.

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Mayor Fuller suggested expanding the classes and charge a nominal fee.

Vice Mayor Tricoche felt it was worth it to take a look at Parks & Recreation regarding the services that are being provided and the number of attendees. She asked if any of the services were implemented from the residents' poll that was conducted; which will answer opportunities to better served the community and areas that were falling short that can be improved upon.

Mayor Fuller asked about the retirement contribution drop by almost two thirds.

Council Member Salver stated that the drop was tied to the performance of the stock market and securities that are held in the employees' Pension Fund. Finance Director Kajokas added that the Pension Fund was overfunded 125 percent. And when the pension actuaries did the evaluation, they determined the minimum contributions to the retirement fund. Since the investment performance was good and the account was funded properly, and the investment performance was so good in the prior years, the minimum required contribution came out low.

Mayor Fuller stated that he did not see the same drop in the other sections. The Finance Director explained that the drop was related to employees.

Council Member Bruder asked if there was a consensus to remove Special Events to the Town Manager's auspices, considering the 75th Anniversary Celebration. The Town Manager stated that $233,000 was available for Special Events.

Mayor Fuller requested the Town Manager provide a proposal at the next meeting on how to cut part of the cost Parks & Recreation; whether by outsourcing part of it; getting people to pay in; or anything that can be done to get some revenues.

Vice Mayor Tricoche requested a review of Parks & Recreation, which should provide answers; with the offset on changing the toll fees. She stated it sounded like there was an opportunity for improvement and would like to make smart improvements, while still serving the community.

Council Member Bruder would like to receive information on outsourcing some of the events.

Town Manager Lasday asked about analyzing the fees for Stormwater and Parking which had not been increased for a while as there are several hundred thousand dollars' worth of Stormwater projects and many projects for parking. She stated there is a deficit in the stormwater, and a study shows $15 Million worth of projects has to be put into. The Finance Director stated that the stormwater fees are five dollars. Mayor Fuller requested proposals for the fees, as they were not considering huge increases. The manager will provide the information in the July 15th Town Manager's Report.

Mayor Fuller commended staff for the way the budget was prepared.

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Council Member D'Amico too commended staff on working together and for being creative on the budget.

PUBLIC COMMENT

Frances Neuhut, 1060 Kane Concourse, came forward and suggested Bal Harbor be looked at as to the beautiful park they are building; their Community Center; and other things they are doing for the children. She spoke about the town's crowded parks. She stated that TDRs and Parking Trust were not used in the past. She stated that developers who wanted anything extra had to pay and give money for a park. She suggested the council looks at tax-free businesses was taking businesses away. She added that Church by the Sea was destroying the island; looking to take the alley and 1045 95th Street; taking everything and nobody was looking; and was dumping into the stormwater drains. She further commented that no one mentioned a 15-story building was going to be build across the bridge in North Miami, and the town owns property at the front of the location. She stated she didn't know how they can enter and exit without the town's participation.

Council Member Yaffe noted that the 1177 Kane Concourse developer deeded the corner of 96th Street and $500,000; plus, the town receives Park Impact Fees from new developers. Mayor fuller added the town doesn't have the ability to force private land use. The town was able to acquire that piece of property to provide water access to have kayak, paddle board, or for people to sit in the water. He stated the name Bay Harbor Islands is not there for marketing purpose, it also has space limitation.

Council Member D'Amico stated that Church by the Sea is a big property and how can taxes be collected. It was noted that the church is still under construction. She stated that the town should be compensated, if it is giving them parking spaces. Vice Mayor Tricoche stated that as part of the agreement, the town will be compensated, and they have also opted for paying the town for an additional police officer.

PUBLIC COMMENT CLOSED

2. Discussion and review of the Town of Bay Harbor Islands Proposed Budget for Fiscal Year 2022-2023. A brief overview will be presented by Town Manager Maria Lasday.

Discussion regarding additional workshops (if necessary) and the dates and times for the Budget Hearing to adopt the millage rate and proposed budget. The first Budget Public Hearing is tentatively scheduled for September 14th, 2022, at 6:00 p.m. and the Second Budget Public Hearing is tentatively scheduled for September 28, 2022, at 6:00 p.m. Budget Public Hearing dates to be confirmed by the Town Council. Confirmation of Budget Calendar Dates

Town Manager Lasday advised the Council on the proposed dates for the Budget Public Hearings. She informed them that a budget meeting was also scheduled for July 27, 2022 to set the millage rate, which must be held on or before said date to satisfy the County's requirement. The Council agreed to the dates.

Vice Mayor Tricoche requested the calendar events be shared with the Council.

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There being no further business to address the meeting was adjourned at 6:30 P.M.

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MAYOR

ATTEST TO:

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TOWN CLERK

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TOWN OF BAY HARBOR ISLANDS
SPECIAL COUNCIL MEETING

A Special Hybrid Council Meeting was held on Wednesday, June 29th, 2022, at 7:13 p.m. Upon roll call the following members responded:

Mayor Joshua Fuller

Vice Mayor Elizabeth Tricoche	Council Member Stephanie Bruder
Council Member Molly Diallo	Council Member Teri D'Amico
Council Member Isaac Salver	Council Member Robert Yaffe

1. **Consideration** and **Approval** of a Resolution regarding Amendment No. 1 to the FY 2021-2022 Budget. Attached is a copy of the proposed Resolution with supporting documents.

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF BAY HARBOR ISLANDS, FLORIDA, APPROVING BUDGET AMENDMENT NO. 1 FOR THE FISCAL YEAR 2021/2022 BUDGET; PROVIDING FOR IMPLEMENTATION; AND PROVIDING FOR AN EFFECTIVE DATE.

Town Manager Maria Lasday informed the Council the FY 2021/2022 Budget could be further amended to include the costs for the Council Chambers renovations, the bathroom renovations, and the two Storm Water projects totaling $430,000.

PUBLIC COMMENT

Frances Neuhut, 1060 Kane Concourse, came forward to address the Council and commented on the budget documents; asked a series of questions pertaining to government TDR's, Parking Trust Fund, if special meeting to change last year's budget was due to insufficient funds, changing the Charter; approval to issue Business Tax Receipts, parking in Block 11, removal of municipal parking spaces, shortage of spaces, Resolution 999 for Parking Trust for Business District being used for residential, and approval of off-street parking spaces from the Parking Trust by Church by the Sea and 1177 Kane Concourse.

ACTION: Council Member Bruder made a motion to further amend the FY 2021/2022 Budget to include the projects for the costs of the Council Chambers renovations, the bathroom renovations, and the two Storm Water projects. Vice Mayor Tricoche seconded the motion, which passed unanimously on a poll vote.

2. **Consideration** and **Approval** of a Resolution amending the fees to be assessed per parking space regarding the Town Parking Trust Program, pursuant to Section 23-19.1 of the Town Code, sponsored by Council Member Bruder.

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A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF BAY HARBOR ISLANDS, FLORIDA, AMENDING THE FEES TO BE ASSESSED PER PARKING SPACE REGARDING THE TOWN PARKING TRUST PROGRAM; PURSUANT TO SECTION 23-19.1 OF THE TOWN CODE; REPEALING ALL OTHER RESOLUTIONS; PROVIDING FOR AUTHORIZATION AND APPROVAL AND PROVIDING AN EFFECTIVE DATE.

Council Member Bruder reported that after reviewing payments of the Parking Trust Fees, which had not been changed in long time, she wanted the payment structure to be different, and wanted the changes to be done in a way that was helpful to the Town, as well as reflect more value.

Council Member D'Amico spoke about the high cost to build parking spaces and questioned whether the Town was picking up the responsibility of the developer not providing all of the parking spaces. She stated that it seemed as though the parking structure was being changed as residential properties were never allowed to not provide parking spaces onsite. And the applicant was being allowed to get away with not providing parking, which would create a problem when other developers have provided parking. She stated that subterranean parking was not eliminated by FEMA, and the rules were not followed properly. Additionally, the developer was being asked to identify parking spaces around the neighborhood, which were all public spaces that they will be taken.

Council Member Bruder stated that consideration was given to receiving more value for what the Town gives. She stated with the issuance of Building Permits that were not exactly correct, the Town had to be sensitive to the situation and do the best for the citizens; which was the reason for requesting the Council raise the fees. She requested the Council change the Parking Trust fee to $35,000 per space.

Council Member Yaffe made a motion to approve the Resolution to increase the Parking Trust fee per space to $35,000, to be paid in full upon issuance of the Building Permit.

Matthew Amster, Bercow, Radell, 200 South Biscayne Boulevard, Miami came forward on behalf of Bay Harbor Property Owner II, owners of 9431, 9461, and 9481 East Bay Harbor Drive, site of La Baia North Project, which has an item coming up on the agenda. He explained they have been working on the project since 2021 and requested there be an applicability clause for in process development applications to be exempted from the change, so the rules are not changed in the middle of the game. He stated it was appropriate for the Town to change the fees.

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Council Member Salver asked if the Town had any legal obligation. Town Attorney Geller responded that he did not think there was a legal requirement that prevented the Council from adopting what it believed to be a fair and just amount for the Parking Trust fees. Council Member Salver further asked the Town Attorney if he had any experience where a municipality changed their fees in the middle of the application process and of the Council's reaction.

Town Attorney Geller explained that unlike Zoning in Progress where the rules cannot be changed in the middle of the game, when somebody is applying for zoning, which is an exercise of the police power; the Parking Trust is unique and is discretionary with the Council, so he didn't think the Council was legally mandated as to what they could do with the Parking Trust, which is discretionary. He advised that if the Council feels it's changing the rules in the middle of the game, they can cast their vote based on that, as it is a discretion, and the Town is not required to have a Parking Trust Program. He advised the Council could make individual determinations as to what is right, just, and fair and what is in the best interest of the citizens and of fostering a good business environment.

Vice Mayor Tricoche asked if the Council could abolish the Parking Trust Program by a majority vote. The Town Attorney stated that going forward, the Council has the authority to choose not to have a Parking Trust Program.

Council Member Yaffe clarified that the La Baia project is on the agenda for appeal and was seeking accommodation for their parking because they did not have the underground garage. And there was a question that if the Council raise the rate tonight, if it would apply to their property.

PUBLIC COMMENT

Ann Kelly Stoppa, 9881 E. Bay Harbor Drive, came forward to address the Council and asked that residents be considered first, and developer second.

Denis Neuhut, 1060 Kane Concourse, came forward to address the Council and spoke about the history of the Parking Trust that was patterned from Coral Gables' in 2005 to promote the Town's Business District. He stated that the program failed because of unrealistic pricing as the fee should be $65,000 per space instead of $35,000; including nonconforming uses by adding hotels and other various things, including Bal Harbor Shops; waving parking requirements for various projects; and having deferred payments.

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Frances Neuhut, 1060 Kane Concourse, came forward and stated she was present when Resolution 999 was enacted, which is strictly for the Business District. She commented on failed underground projects with flooding in the town; wanting cars to be parked on the site where the project is being built; developer wanting to expand with the TDRs to the residential and build garages; the school as a failure for the Business District because the garage was built in that district; and she was trying to make a point that Block 11 has no parking.

Kathleen Kennedy, 9180 West Bay Harbor Drive, came forward to address the Council and asked how much money is in the Parking Trust and Parking Fund. Finance Director Kajokas advised there was $500,000 in the Parking Trust.

ACTION: Council Member Yaffe made a motion to approve the Resolution. Vice Mayor Tricoche seconded, and it passed unanimously on a poll vote.

3. **Consideration** and **Approval** of an ordinance on Second Reading amending Section 23- 12(15)(a) of the Zoning and Planning Code to establish regulations for balconies in the Gateway "G" District, sponsored by Council Member Robert Yaffe.

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.

Town attorney Geller recused himself from meeting and exited the Council Chambers. Special Counsel Omar Bradford stepped in as Special Counsel.

PUBLIC COMMENT

Ann Kelly Stoppa, 9881 E. Bay Harbor Drive, came forward and questioned why the Council was amending the Code if the Town cannot adhere to it. Council Member Yaffe advised Ms. Stoppa that the item was related to an amendment to the Code to allow balconies in the Gateway District, not to any code violations. She continued to assert as to why the Town continues to amend if it does not enforce the Code properly.

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Council Member D'Amico responded to Ms. Stoppa that the ordinance was about balconies in the Gateway District, which only applies to four properties.

Frances Neuhut, 1060 Kane Concourse, came forward and stated there was a problem with spot zoning with one particular property in the Gateway district that is not in the residential sector. She continued to explain that she owns several properties on Kane Concourse, and she took out extensions on their property which expired; she later renewed them and so did the applicant. She further added giving the applicant 10 feet was wrong because the applicant already has a restaurant on the water, and intends to build underground parking, which is illegal, as has been told.

Matt Amster, 200 S. Biscayne Boulevard, came forward representing One Kane Concourse, LLC, and stated they have large setbacks for the buildings in the Gateway and the balconies do not encroach on the right-of-way. He stated there are balconies in the Hotel project, so they are basically evening this out. All that was left to discuss is how the balconies will be displayed, plus the modifications will require review by the Design Review Board and the Council for site land approval, at a later date.

Luis Ruvuelta, Architect for the project, came forward and stated there are four properties of which two have already been built. This project would be the third with one left that's affected. He stated the balconies add character to the project, and the building is not a residential building. FEMA prohibits underground parking for residential properties.

PUBLIC COMMENT CLOSED

ACTION: Council Member Salver made a motion to approve the ordinance on Second Reading amending Section 23-12(15)(a) of the Zoning and Planning Code to establish regulations for balconies in the Gateway "G" District. Council Member Yaffe seconded the motion, which passed unanimously on a poll vote.

4. **Consideration** and **Approval** of an application for an appeal to the Town Council of the Town of Bay Harbor Islands, Florida of a June 7, 2022, decision of the Design Review Board, denying an application by Bay Harbor Islands Property Owner II, LLC for Site Development Plan Modification pertaining to development at 9431, 9461, and 9481 East Bay Harbor Drive, Bay Harbor Islands, Florida.

Council Member Yaffe moved the item to the floor and Council Member Bruder seconded the motion.

Matthew Amster, Bercow Radell, 200 South Biscayne Boulevard, Miami, Florida, came forward representing Bay Harbor Islands Property Owner ll, owner of properties at 9431, 9461, and 9481 East Bay Harbor Drive, La Baia North. He was accompanied by owner Alexander Eichner, Architects Luis Ruvuelta and Hernando Marin, Traffic Engineer Juan Espinosa, and colleague from the firm Maritza Haro.

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Council Member Yaffe requested information on the request to the Design Review Board and what was denied.

Town Planner Michael Miller explained there is an existing Site Development approval which has been kept alive by extensions, and there is also an active Building Permit. He added that when the new owner purchased the property, they immediately learned they could not build a garage they thought they could, which resulted in the revisions. They had to lose 100 spaces and wanted to upgrade the type of dwelling unit, which was changed from a rental to a condominium project with bigger and less units, and reduction in density. Because they had to lose the garage, the ground floor where the breezeway was located went all the way through the building on the ground now has a garage behind it. They wanted to modify the breezeway that was on the original plan that was three stories tall completely through the building to see the water. Because of the garage behind the breezeway, they created an airconditioned space on the lower two floors and one that goes all the way through. They also widened the span of the breezeway, and the original plan had a lot of undulation. The Board was not pleased with the architectural changes in general with losing some of the articulation and particularly the breezeway area. Some other comments were made about the parking. The applicant tried to get a motion to defer the matter, but the request was denied.

Town Planner Miller further clarified when the owner contracted to purchase the property, there was an underground garage. When they came to the Building Department and the plans were reviewed, the owner was told they could not build the underground garage due to changes to the Florida Building Code and FEMA regulations. As a result, they had to redesign the building and was not too pleased and talked about “lawyering up”.

The Building Department tried to work with the owner to accommodate as many parking spaces as possible on the property.

Council Member Salver asked Mr. Miller to explain comments relating to lawyering up.

Town Planner Miller stated when one purchases a property and closed expecting to develop a property with active Building Permits with the Town and is told they cannot build the project anymore, since an underground garage cannot be built, the applicant talked about getting an attorney; staff has been trying to work towards a solution. He indicated he would prefer to have all of the parking on the property. But the matter is being addressed because they lost the garage on the Island House and the La Baia projects, which are the two primary ones.

Vice Mayor Tricoche requested information on the number of units and parking spaces in the original and proposed project.

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Town Planner Miller responded the original project had 72 dwelling units and 144 parking spaces, and the new proposal with 57 units and the loss of the garage is proposing valet parking to have 75 spaces on the property and 39 into the Parking Trust.

Vice Mayor Tricoche asked if the developer had purchased the property with an existing Building Permit and FEMA had already issued the notification at the time of their purchase that they would not be allowing the underground garage, and the law had already been changed at the point at which they closed.

Town Planner Miller stated that it was not law that an underground garage could not be built. He explained the Florida Building Code was changed in 2017 to incorporate the FEMA requirements, so as of 2017 it was illegal to build a parking garage under a purely residential building.

Vice Mayor Tricoche asked the Town Attorney about potential exposure to the town given there was a Building Permit, and the law had already changed to the point where the developer made the purchase.

Mayor Fuller asked the Town Attorney if, in his opinion, there was a potential for any kind of liability to the Town, and the Town Attorney responded yes.

Matthew Amster, Bercow, Radell, 200 South Biscayne Boulevard, Miami, Florida, Counsel for the applicant, came forward and stated that the Applicant was in a unique situation with project, like a few similar other projects. He stated the former Island House project was approved with the same idea they were now working from; and the major modifications were being made due to having to totally change the way the parking entrances work. In the previous approved project, the main entrance was right through the middle of the building looking into and through the parking garage. The redesign relocated the lobby to the central focal point, which is more urbanistic, and still allows for the number of parking that will work that was analyzed by a traffic expert. He stated they are going from rental to a full-time occupancy situation to condominium and with a market for second and possibly third homes, the occupants will not be here fulltime. Additionally, the combination of reducing the units from 72 to 57 has resulted in a reduction in the parking requirement and providing 24/7 valet parking to assist with making sure parking is provided and managed. There is also an additional element of double stacking of valet undesignated parking spaces for the valet to use, which was vetted by an experienced valet operator as a functional viable valet operation. There would be 75 parking spaces for the 57 units; more than one (1) per unit. The modifications centers around trying to resolve the issue with elimination of the basement parking and at the same time having an improved breezeway.

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Mr. Amster stated that the owner never intended and didn't think they had to make these drastic changes for both projects but has taken on and has worked with the town's staff to make it happen, with the Parking Trust. With the reduced number of units, they were able to provide the necessary parking for the condominium owners, improved exteriors, improved breezeway, installation of a central lobby that is more urbanistic, and a better pedestrian view for those in the town who will go by the building.

Alexander Eichner, 1030 15th Street, Miami Beach, Florida, came forward and stated that she and her father own La Baia North. She stated that they were working with town's staff to solve a problem that was never anticipated; and hoped the Council concludes that their proposal was the best path forward as it solves the parking problem; it's a beautiful building that the town's residents will enjoy walking by, and which unit owners will enjoy living in. She added the proposed changes to the unit count and Site Plan offer the best solution. And if approved, La Baia North will become a FEMA compliant, beautifully designed luxurious condominium. She appreciated being heard by the Council on the Site Plan and noted all the design changes were a result of solving the parking problem. She noted there was a waiting list for this project and the south building was 100% sold.

Luis Ruvuelta, Architect for the Project, came forward and pointed out the project previously approved had the same parking problem and he had to figure out how to prepare a proper layout for valet parking. In reference to people getting to the building and not being able to park will not happen because it will have valet parking, and there will always be a place to park.

Council Member Yaffe asked Mr. Ruvuelta if he meant the residents of the building will always have a place to park because the parking configuration with valet, double stacking, and tandem parking will allow 114 cars to get into the building.

Mr. Ruvuelta responded that there will be 79 parking spaces; even though there will be valet parking, the developer wants to make sure that nobody gets to the building 11:00 p.m. at night and is unable to find parking. They will not let that happen, which is why they are obligated to have valet parking. He stated the members of the Design Review Board who voted against the building praised the design of the building. He explained the Town Code provides two methods to break up the massing of the building: a breezeway (a hole through the building) and an element of architectural significance, which most architects use, because the hole through the building doesn't work. The previous design had a breezeway because it had a driveway in the middle of the building. Given the fact the building has now been reduced in density by 15 units, they decided to have the lobby in the center of the building which is a human pedestrian experience from an urban and architectural standpoint; it's a much better experience because it's transparent and there is still a balcony open area on top of the lobby. The architectural breezeway is wider than the minute breezeway that previously existed and is a better design as well. Additionally, this building is smaller, shorter than the prior approval that used the same method.

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Mr. Amster explained the intent of the breezeway to break up the large single mass of the building and said it has been done effectively for this project, not just with the whole breezeway in the middle where the entire area is recessed, but the framing elements that treat the sides as separate buildings to meet the intent of the Code, which is exactly what the alternative breezeway is meant to provide. There are also similar adjustments to the framing facing the water, so that the massing is improved as shorter and separate as can be on the property.

PUBLIC COMMENT

Ree Stoppa, 9881 East Bay Harbor Drive, came forward and opposed the threat of litigation and the applicant's willingness to pay to have valet parking and their total disregard for the residents.

Frances Neuhut, 1060 Kane Concourse, came forward and spoke about her appeal of La Baia South's approval not being heard; 39 parking spaces being taken away; parking spaces being given to Church by the Sea and 1177 Kane Concourse, suggested there be a moratorium; Resolution 999 pertains to Business District; and DRB was unaware Council approved 39 parking spaces.

Stephen Helfman, 9400 West Bay Harbor Drive, came forward and praised the town as a good place to live, stated that the valet parking does not work; and that the applicant can provide the required parking as there is no hardship, but did not want to.

PUBLIC COMMENT CLOSED

Council Member D'Amico expressed concern as to whether new fees were paid for the new project with the Site Plan modifications in addition to those paid in 2013, considering the amount of time involved for staff and the Town Planner to review the plans. Mr. Amster stated there was a separate application fee for the Site Plan modifications. Chief Building Official Mike Mesa responded a fee for the revisions was paid, as well as cost recovery for the Town Planner's fee. He explained the project has an active Site Plan, and they had applied for a Building Permit within the required amount of time.

Mr. Mesa added the Applicant has a Site Plan that was approved with an underground parking garage, as well as an active Building Permit Application that was kept alive throughout the years by multiple "Emergency Orders". At some point, they figured out they could not build the underground parking garage, and one of the solutions is now being presented. They revised the previously approved Site Plan, which was denied by the Design Review Board, and they are before the Council to appeal that decision. If approved, the next step would be to revise the Building Permit Application to eventually obtain a Building Permit.

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Council Member D'Amico questioned the idea of coming back 10 years later with a Site Plan with a lot of changes that needed to be addressed and claiming a hardship, when a new applicant bought the property with the knowledge that the project couldn't be built in 2017.

Council Member Yaffe commented if the project was not sold to the current owner and the prior owner wanted to proceed with the project and the town said they could not, because although you have a permit application and Site Plan approval, you can no longer build as per the Site Plan, because you cannot have underground parking. Therefore, it did not make any difference to him who owns the project, because if it had not been sold, they would be in the same position because that building cannot be built.

Mayor Fuller stated if the town all of a sudden said the applicant cannot build, there would be a loss of value to the owner. Somebody was going to have the hardship. The hardship did not disappear, so whether it was the current applicant or the previous applicant, somebody was going to have the same problem.

Mr. Amster clarified that the applicant was not seeking a variance and there were no hardship criteria. He stated the new owner was not aware of the issue with the basement parking when they purchased the property. The property approval was provided to them by the seller and only found out afterwards. He acknowledged a Parking Statement and comments from two valet operators who attested that the 75 parking spaces will work. As to the parking arrangement and Parking Trust items, they are related to the modifications to make the parking work.

Town Attorney Geller advised that a vote "Yes" would be to grant the appeal and "No" would be to deny it.

Council Member Salver asked what the result would be in granting the appeal. Town Attorney Geller replied it would be to approve the Site Plan modification which was submitted to the Design Review Board and the vote to approve it failed.

ACTION: Council Member Yaffe made a motion to approve the request. Council Member Bruder seconded the motion, and it passed 5-2 on a Poll Vote, with Council Member D'Amico and Vice Mayor Tricoche opposing.

5. **Consideration** and **Approval** of an application by Bay Harbor Islands Property Owner II, LLC for approval of alternate parking arrangements, including tandem and valet parking spaces for the proposed "La Baia North" project to be located at 9431, 9461, and 9481 East Bay Harbor Drive, Florida, pursuant to Section 23-0(F) of the Town Code.

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Council Member Yaffe commented that a building will be built on the property, regardless of the Council's decision. He stated the town has encouraged developers to build larger units on their property with less density, as some people feel that would be beneficial to the town. He recalled a developer/property owner making a request to the town to change the Zoning Ordinance to permit mixed-use projects in the Multi-Family Residential Districts. Questions were raised about the traffic and trucks that would come to these buildings, and the request was rejected. He stated that he learned from Chief Building Official Mike Mesa and Town Planner Michael Miller that underground parking could have been permitted, if there were mixed-use buildings.

Council Member D'Amico stated that the mixed use was changed to an xzone, which is greatly affecting the properties next door because raising the entire foundation above and beyond and sealing it off, leaves no turning radius to get all that in, so there are limitations the town has had for a long time being an island and the TDR was driving some of this because they want to get as many units as possible. She referred to the plans and pointed out problems with vehicle stacking when people have to exit, and the parking overall, which the Council cannot keep approving.

Mayor Fuller commented the problem is an economic issue. He stated the Council wants developers to come to the town and build larger, nicer units; wants building to be improved; wants increase property values, as well as maintaining the height limitation. However, when that is done, with FEMA not allowing the subterranean parking, or not wanting to elevate above and have flooding going to the neighbors; the problem then becomes the economics of not being able to build to make the numbers work; for a developer to come in, build a building and essentially have a floor that is a certain number above BFE for the first floor of residential with the height limitation and to make their money only on a few floors. He stated that he did not believe the parking was going to work; he agreed stacking is a horrible way to do it but doesn't see another option. As much as the applicant says they will be marketing to people that have a second home, those people eventually sell their units, and the buyer may be a full-time occupant and may have a second car. He added as much as he doesn't like the parking, he doesn't think it will work long-term, until the town has a better solution; the last thing he wants is to freeze development. He suggested stickers for residents, so there isn't an overflow.

Vice Mayor Tricoche spoke about the parking issues in her area and didn't think a parking sticker program would make a difference, as the baseline issue is parking, which needs to be resolved.

Council Member Yaffe gave a history of how the Transfer of Development Rights (TDR's) came into place. He explained that the Town's Comprehensive Plan was adopted improperly when it was done in the late 1980's and limited the town to 34 units per acre as density. When the town was looking to redevelop in the early 1990's, a committee was created to review the zoning issues and recommended an increase in the height of the buildings in the town. Two 15-story buildings existed on East Bay Harbor

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Drive. And the original concept was for larger buildings to be limited in certain areas, with a certain number of street frontage. Other members of the Council felt everybody should be treated the same and an ordinance was adopted to permit 15-story buildings throughout the entire east island. The residents filed a petition and was successful in having a 75-foot height limitation. In conjunction with this height limitation and working with the Town Planner, there was a finite number of units that could be built in the town. A request was made to the South Florida Regional Planning Council to increase the density from 34 to 40/50 acre and was not approved. As a result, a suggestion was made for a density monitoring/averaging system, so that underdeveloped projects with excess units could sell them to developers. Example, if 12 units could be built on a property and 8 were built, the developer could sell the remaining four.

Council Member Salver added only two 15-story buildings were built. One had a 3-story parking pedestal to accommodate the 38 units in the building on a two-lot parcel. The residents were in an uproar, partly due to the appearance of the parking from the street level, which seemed overbearing; and too intense for the landscaping. The Council then decided they did not want tall parking pedestals either. The developers started to propose underground parking, which was a failure; one level, and two levels.

Council Member D'Amico asked if a charrette could be held to address the parking issue.

PUBLIC COMMENT

Frances Neuhut, 1060 Kane Concourse, came forward and stated the Council should be approving alternate parking; lifts are useless, rusted, being used for storage at the Altair Hotel; lack of parking in the business and residential districts; and Church by the Sea being supplied with parking, while she doesn't have parking which has created a hardship and loss of value.

Matthew Amster came forward on behalf of Bay Harbor Islands Property Owner II and requested the presentation in the previous site plan modification appeal be incorporated as part of this record, which is the same project, and leads to the secondary portion of their creation solution that has worked for over a year with the town staff to try and solve the basement parking issue, eliminating it and still provide a viable project. The project was marketed with limited parking and valet only. The applicant has agreed to the conditions in the Site plan modification prohibiting parking on the street. He stated the project was marketed as not full occupancy, as a condominium unit for people who will be here on occasion at peak time. They estimate there will be at 30/40 occupancy. The project is being vetted and sold under those type of demographic. The traffic study and a valet operator evaluate the parking arrangement as viable. The project met all code requirements to request the Parking Fund, 40% parking on site to ask and they have 66%; plus, there is parking nearby which is a criteria for the Parking Trust evaluation; not taking away parking.

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Council Member D'Amico stated the project was taking away parking as they have identified parking on the property the town is building on.

Mayor Fuller clarified the applicant was not saying they will be using the space. The Town requires them to identify where else there is public parking nearby.

Mr. Amster explained it is a building permit type of fee, and impact fee that they are paying instead of providing the parking space. If they want to use the parking space that the town has, they have to go into a separate parking arrangement to lease a parking space; having to take on the reduction in parking has all been worked in to come to this point that they can actually market the project to people who know there will be a limited number of parking with all valet parking; they have a 100% sales in the other project that was already approved utilizing the same creation solution. The design changes to eliminate the basement parking came to this point to still provide a project that will be beneficial to the town and the addition of fees paid to parking trust, and continuation of valorem taxes.

As per Mr. Amster's request, without objection the Town Council accepted the presentation and documents into the record, as well as the Staff Report.

Stephen Helfman, 9400 West Bay Harbor Drive, came forward and commented that the valet arrangement doesn't work; the applicant can provide the parking but do not want to; and that there was no hardship.

Mr. Mesa reiterated the applicant has already received Site Plan approval for the project; has an active Building Permit; revised the Site Plan and is before the council to appeal the decision of the Design Review Board.

Mr. Amster clarified no variances were requested for the project; there was no hardship criteria; and the applicant was not aware of the basement parking regulations when the property was purchased.

ACTION: Council Member Yaffe made a motion to approve the request. Council Member Bruder seconded the motion, and it passed 5-2 on a poll vote, with Council Member D'Amico and Vice Mayor Tricoche opposing.

6. **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.

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Without objection, the Town Planner's Staff Report and all records submitted were accepted into the record.

Mr. Amster explained that the units were reduced from 72 to 57, and they are seeking to pay into the Parking Trust System for the 39 spaces, which meets the requirement of the Town Code for parking.

Council Member Salver asked if there was an agreement proffered by either side. Mr. Amster advised there was a draft agreement in the packet. Town Manager Lasday advised the Council it was an agreement prepared by their attorney and is up to the Town Council to approve their plan being 39 spaces versus requiring the 67 spaces into the trust.

Council Member D'Amico asked if the 10-foot easement is half the town and the owner's property; everything west of that property was that public land given to the owner. Mr. Amster responded years ago it was given and reduced the size of the original platted lot. Council Member Yaffe stated the Town's goal in redevelopment of properties was to remove parking off the street. The Code was amended to have all the parking within the project itself and would have enhanced landscaping getting rid of the swales which explains why the 11-feet goes back to the owner.

Town Manager Lasday stated the Council needed to determine whether or not those 28 valet parking spaces are considered part of the on-site parking spaces which totals 75, 47 permanent parking and 28 valet parking making them short 39 spaces short which totals $780,000; if those 28 valet parking spaces are not considered, then they are short of 67 which equals to $1,340,000.

PUBLIC COMMENT

Stephen Helfman, 9400 West Bay Harbor Drive, came forward and commented the Council has waived 100 spaces, and must get something in return and is amazed the Council approving their contract. Town Attorney Geller advised they proffered a contract, and if Council approves, the contract will be reviewed. Mr. Helfman stated that the whole purpose of the greenbelt program was to get those spaces of the street, and into the building, but now the Council is waiving 100 spaces. He suggested the parking spaces be sold for a higher amount than $20,000.

Frances Neuhut, 1060 Kane Concourse, came forward and commented she will no longer have parking and the Church was going to move bus stop in front of her building. She added the parking lots are full, and the applicant shouldn't be getting any spaces from the Parking Trust.

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ACTION: Council Member Diallo made a motion to approve the Parking Trust Payment agreement for 39 spaces. Council Member Salver seconded the motion, which passed 5-2 on a poll vote. Vice Mayor Tricoche and Council Member D'Amico opposed.

7. **Consideration** and **Approval** of a resolution establishing the Town Clerk's annual compensation.

A RESOLUTION OF THE TOWN OF BAY HARBOR ISLANDS, FLORIDA ESTABLISHING THE TOWN CLERK'S ANNUAL COMPENSATION; SETTING AN EFFECTIVE DATE.

Council Member D'Amico asked about the salary the previous Town Clerk. Mayor Fuller responded Alba Chang was making $112,200 and Marlene was $140,308. The Council continued discussing the average of City/Town Clerk salaries from surrounding cities. Council Member Diallo suggested $126,842 as that is the average. Further discussion continued as to the averages and their basis of minimum and maximums pay ranges.

PUBLIC COMMENT

Frances Neuhut, 1060 Kane Concourse, came forward to address the Council and stated the Town Charter states the Town Clerk reports to the Council, but the Council changed the charter to have the Town Clerk report to the Town Manager.

Council Member Yaffe advised there was not a change to the Charter. They voted by ordinance to change the Town Clerk's responsibilities, but she still reports to the Council.

Council Member Bruder reminded the public that Town Clerk Hamilton has over 16 years of experience, and that should be considered when discussing her salary.

Linda Zilber, 1231 95th Street, came forward through zoom and stated Town Clerk Hamilton is doing a wonderful job.

PUBLIC COMMENT CLOSED

ACTION: Council Member Salver made a motion to compensate the Town Clerk at an annual salary of $110,000. Council Member Diallo seconded the motion, and it passed unanimously.

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There being no further business to address the meeting was adjourned at 10:11 P.M.

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MAYOR

ATTEST

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TOWN CLERK

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TOWN OF BAY HARBOR ISLANDS
MINUTES OF A SPECIAL COUNCIL MEETING

A Hybrid Special Council Meeting was held on Wednesday, July 27, 2022, at 7:00 p.m. The meeting was opened with the Pledge of Allegiance. Upon roll call, the following Council Members responded:

Mayor Joshua Fuller

Vice Mayor Elizabeth Tricoche	Council Member Stephanie Bruder
Council Member Teri D'Amico	Council Member Molly Diallo
Council Member Isaac Salver	Council Member Robert Yaffe

1. Consideration and Approval of a Resolution approving the proposed millage rate as required by Section 200.065, Florida Statutes and setting the date, time, and place of Public Hearings to adopt the tentative and final millage and budget for Fiscal Year 2022/2023. Enclosed is a copy of the proposed Resolution.

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF BAY HARBOR ISLANDS, FLORIDA, DETERMINING THE TOWN'S PROPOSED MILLAGE RATES AS REQUIRED BY SECTION 200.065, FLORIDA STATUTES, AND SETTING THE DATE, TIME, AND PLACE OF PUBLIC HEARINGS TO ADOPT THE TENTATIVE AND FINAL MILLAGE AND BUDGET FOR FISCAL YEAR 2022-2023; DIRECTING THE TOWN CLERK AND THE TOWN MANAGER TO FILE THIS RESOLUTION WITH THE MIAMI-DADE COUNTY PROPERTY APPRAISER; AUTHORIZING THE TOWN MANAGER TO CHANGE THE BUDGET HEARING DATES IF NECESSARY; AND PROVIDING FOR AN EFFECTIVE DATE.

Vice Mayor Tricoche made a motion to approve the Resolution with the rollback rate, and Council Member Salver seconded the motion.

PUBLIC COMMENT

Frances Neuhut, 1060 Kane Concourse, came forward and spoke of a warning letter allegedly addressed to the Town Mayor from the Miami-Dade County Property Appraisers Office regarding significant increase in taxable values with a high rate of inflation; voiced concerns to a problem with Bay Harbor Island Government removing residents and their children from their homes in the middle of the night; taxpayers struggling to pay their mortgages, groceries, gasoline, insurance, and health care bills; questioned why the Council wasn't providing aid and safety; commented Tax-Exempt Church by the Sea was getting rid of the homeless in their parking garage and onto

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the Island and ticketing both private and delivery trucks parking spaces in the alley and avoiding paying taxes and impact fees. She asked why the Council was considering a $300,000 appropriation for a storage building in the 95th Street Parking Lot, when there is a critical shortage for municipal off-street parking spaces; why only Bay Harbor Island taxpayers were paying for The Children's Trust Program, usage in the Bay Harbor Islands Community Center, RKV, Miami Dade Public School opting out of the interlocal agreement and creating shortages of green space and park, no longer paying increase in density parking fees for the 1,200 increases to 1,400 students, and Town new waterfront park for 6,000 Town residents and their children.

PUBLIC COMMENT CLOSED

Council Member Bruder suggested keeping the same millage rate as last year, not the rollback rate. She mentioned that she had requested the Finance Director Peter Kajokas provide the difference between what it would cost per household, which was $215 on average, and this additional monies would assist in so much. She spoke about increased cost and stated that after speaking with Police Deputy Chief Noel, four (4) more police cars with one for use on the causeway can be purchased with the difference of the money. She suggested the Town remove all storage and replace with four (4) storage units, not taking away from the parking; build a garage on Block 11 making it part of the area for storage; build a third floor for police and administration with forfeiture funds with an adult senior area, separate from the Community Center on the bottom floor.

Vice Mayor Tricoche mentioned there were previous conversations about increasing the annual pass per axle on the toll. Town Manager Lasday responded that a lot of enforcement has been done, not the numbers yet. She felt the Town can get a lot of money very quickly by enforcing the ordinance. She informed the Council that even if the toll rate were to increase, those funds would go towards improving the bridges/causeway, which is a separate fund that does not affect the general fund and the millage rate. Mayor Fuller stated the funds can pay for the officer that is needed on the water; and the manager agreed. Vice Mayor Tricoche stated she is comfortable with going to the rollback rate because the Town is conservative with budgeting and always ends up okay. She proceeded to state the revenue from the infractions will be a way to assist the Town financially without having to recoup that money directly from the residents. Council Member Bruder agreed, but also stated there aren't enough police officers. Council Member Salver requested that Deputy Chief Noel come forward and answer questions on how many officers were on the town's payroll, the town's population, and if the Police Department was fully staffed. Acting Chief Noel responded there are 28 officers, the population is approximately 6,000 residents, and the PD was not fully staffed.

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Discussion continued regarding the number of officers, their average per shift and boaters on the water during the weekends. Mayor Fuller then asked Town Attorney Geller if there was anything the Town can do to provide some form of a nuisance to anyone out there in the water. Town Attorney Geller stated the town can try to see about having the County amend its existing ordinance, which can be enforced if it was toughened. Town Attorney Geller suggested more Marine Patrol on the water to deter the boaters. Further discussion ensued regarding the County Commissioner and what can be done through them to deal with the boaters on the water near residences of the Town. Mayor Fuller asked the Council to pause on the topic for discussion at a later date.

Council Member D'Amico asked for clarification on what the Council was voting on. Mayor Fuller explained the reason for the motion and detailed that Council Member Bruder suggested the increase on more Police and other services and that it should be at the current rate and not the rollback, so that there is funding to do that. Vice Mayor Tricoche stated that there was more availability to access cash, and more space in the budget where there's a way to accommodate everyone's needs at that lower rate. Council Member Bruder disagreed with Vice Mayor Tricoche and explained that certain funds in other areas can't be used. Council Member D'Amico stated she understood Council Member Bruder and commented she didn't feel they were fulfilling the needs of the developing community and felt they should address adding a planning staff. Discussion followed on the TDR's and funding, money owed from the TDR's, and employing a fulltime Junior Planner.

Town Attorney Geller explained to the Council Members they were not voting on the budget or the millage rate, but on setting the tentative millage rate and a time and date for the two Budget Hearings, as was mailed out with the TRIM notice; which explained to residents what taxes might be levied. He advised they can vote on a maximum millage and then reduce it.

Vice Mayor Tricoche asked if there was a way inclusive of the Building Permit fee to get three revisions and then an additional per hour fee. The Town Attorney said yes.

Council Member Salver voiced concerns about comments by the Town Manager that there were millions of dollars in unpaid TDR monies and asked how the auditors fit into the matter. He mentioned the auditors are paid a sizable sum of money to go through books and records, and to check procedures, etc. The Town Manager explained that she too had had concerns. She found that the records were bad; felt it had been a major accomplishment to pull all the information together and researched resolutions that the Councils approved since 2012; that they had a good summary and were now verifying if the money had come in or not. The challenge was finding out who the escrow agents were and if the money was ever deposited. Council Member Salver asked how many accounts were there and Finance Director Peter Kajokas answered (17). Council

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Member Salver continued to ask about the accounts and monies being collected. Town Manager continued to explain the steps staff was taking to collect the money and the progression. Council Member Salver stated that if they did anything except the rollback rate, the advertisement would need to state that the Town was raising taxes. Council Member Bruder disagreed. Council Member Salver asked the Town Attorney if they would have to advertise an increase in taxes. Town Attorney stated that exactly what is going to be done must be advertised, if the rollback rate was not being adopted.

The Council Members went on to discuss the rate, and the effects it will have on the residents. Council Member Yaffe also wanted to know why they weren't providing at the rollback rate. Finance Director Peter Kajokas responded saying the removal of capital improvement projects. They continued to speak on the current budget and Town Manager Lasday stated they have moved everything they possibly can for this budget but will bring an amended budget to the August 10th meeting to balance the budget at the rollback rate.

Vice Mayor Tricoche spoke of wanting to provide quality services to the residents. Town Manager Lasday stated they can add a lot more programs to the budget. They've compared programming to others and would like to bring some of those classes for the residents. She also mentioned the non-resident rates are too low and should be increased. Vice Mayor Tricoche went on to summarize everything that was mentioned and commented about the increase of $215 per household. She informed the Council members that $215 was very meaningful to a lot of residents. She explained how some residents are having a hard time financially and she was more comfortable with using the rollback rate.

PUBLIC COMMENT

Ree Stoppa, 9881 East Bay Harbor Drive, came forward and read a statement of information that mentioned Chicago has the second largest police force and third largest population of a city in the United States, with 48 police officers for every 10,000 residents. She stated the average Police Department in a normal city has 16.3 officers for 10,000 residents. She further stated that the Town is close to Chicago in what police to residents numbers look like.

Kathleen Kennedy, 9180 West Bay Harbor Drive, came forward and stated there can never be enough police officers, especially with all the Air BnB's. She also commented on the homeless in the Town.

Former Mayor Linda Zilber, 1235 95th Street, attended via zoom and stated that the police are one of the reasons why the Town is so great and mentioned they should be working eight hours instead of 12. She suggested the millage rate be left as is and changes be made at the budget meeting, if the council wanted to lower the rate.

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PUBLIC COMMENT CLOSED

ACTION: The vote on the motion by Vice Mayor Tricoche and seconded by Council Member Salver to approve the Resolution with the rollback rate, and setting the date, time, and place of Public Hearings to adopt the Tentative and Final Millage and Budget for FY 2022-2023 passed 4-3 with Council Member Bruder, D'Amico, and Diallo opposing.

At this time Mayor Fuller brought up the issue of the town's 75th Anniversary Celebration. He stated previous conversations on the dais related to having a large event, which was budgeted for. He wanted to ensure the council members were all on the same page, as the original intent was to hold a street and/or an art show, as well as have music and events in the park. There was consensus of the council members for the event.

There being no further business to discuss the meeting adjourned at 8:03 p.m.

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MAYOR

ATTEST

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TOWN CLERK

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TOWN OF BAY HARBOR ISLANDS
MINUTES OF A REGULAR COUNCIL MEETING

A Regular Council Meeting was held on Monday, August 15, 2022, at 7:03 p.m. The meeting was opened with the Pledge of Allegiance. Upon roll call, the following Council Members responded:

Mayor Joshua Fuller
Vice Mayor Elizabeth Tricoche Council Member Stephanie Bruder
Council Member Teri D'Amico Council Member Molly Diallo
Council Member Isaac Salver

Council Member Robert Yaffe was absent.

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

Mayor Joshua Fuller recognized student Cameron Mann for being an outstanding student and presented her with a plaque. Miss Mann thanked everyone.

1. Introduction of Circuit Court Judge - Lody Jean

   The Honorable Judge Lodi Jean addressed the Council and residents and spoke of her interest in mental health and offered to answer any questions from the Town's residents.

3. ~~Presentation of Police Explorer Badges~~

REQUESTS FOR WITHDRAWALS, DEFERMENTS AND FUTURE AGENDA ITEMS:

Council Member Bruder pulled Item #9 and Mayor Fuller pulled Item #7 from the Consent Agenda for discussion. Council Member Salver requested a future agenda item to discuss Single Lot Development on the East Island. Council Member Diallo asked for Items #8 and #10 to be pulled, as she would be recusing herself from participating in the matters to avoid appearance of impropriety, as a member of Miami-Dade County School Board.

TOWN MANAGER'S REPORT:

Town Manager Maria Lasday expressed appreciation to the Police Officers for being community oriented and spoke out to the audience in hopes that they (The Community) had enjoyed themselves at the Pizza with the Police event. She mentioned that they are still in the running for a generator grant and hoped to have better news on the next Manager's Report. Council Member Bruder assured Town Manager, that on behalf of the Council she was doing a great job and was appreciated.

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

Council Member Diallo reported on her attendance at the Miami-Dade County League of Cities dinner last week, where Council Member Salver received the Home Hero Award.

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Council Member Bruder reported she attended a meeting regarding the town's 75th Anniversary Celebration. The Council needs to pick a date for the event, and February 2nd was suggested. She felt it will be a nice way for the community to come together and celebrate after COVID; and to welcome other communities into the community.

Council Member D'Amico reported on her attendance at the Florida League of Cities Annual Conference where she attended several programs and learned much.

Council Member Salver reported he received the Miami-Dade County League of Cities Home Hero Award, and it was nice to see his colleagues there to support him. He also attended the Florida League of Cities successful annual event.

Vice Mayor Tricoche congratulated Council Member Diallo on her birthday. She stated that she felt honored to sit on the Council with Council Member Diallo because she gives so much to her community and to her students. She announced school will start on Tuesday for public and private schools; asked that people be aware of the children, and to be patient with the traffic. She added the school will soon be able to plan their after-school activities online, as the Town continues to work hard to provide great programs for children and seniors.

Mayor Fuller congratulated Council Member Diallo and thanked her for attending the meeting on her birthday. He reported he also attended the Miami-Dade County League of Cities Meeting to see Council Member Salver honored, and agreed the Florida League of Cities Annual Conference, which he attended, was a great event. He stated the event allows for idea-sharing to other cities within the State and to get ideas on products that might improve the Town. He also was present at the "Pizza with the Police" and encouraged the public to attend these events.

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.

Ann Marie Stoppa, 9881 East Bay Harbor Drive, came forward and stated the building next door to her building set off their underground drainage and asked Code Enforcement check out the situation. She then mentioned the Town Charter and explained there are so many violations and wanted to understand why there is an absence of government.

Kathleen Kennedy, 9180 West Bay Harbor Drive, came forward and asked the Council Members make more of an effort to support the children of the Town at the Community Center. She also spoke on the need for placement of bumpers on the road to address speeding.

Frances Neuhut, 1060 Kane Concourse, came forward and spoke on the disappointments she has on previous political parties and with Church by the Sea.

DRAFT

Council Member Bruder asked the Town Manager if the Church had any programs to minimize impact to the residents of the Town. The Town Manager stated she had provided updates to the Council in her weekly reports.

PUBLIC COMMENT CLOSED

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.)***

4. **Consideration** and **Approval** to utilize the Sourcewell (Formally NJPA) contract with Enterprise Fleet Management (EFM) for the lease of two (2) new fleet vehicles in the amount of $13,961.04 annually for five (5) years with a total cost of $69,805.20, to be utilized by the Public Works Water and Sewer Department.

5. **Consideration** and **Approval** to issue a Request for Proposal (RFP) to replace HyperV Terminal Servers that have reached their End-of-Life (EOL) cycle. Both the BHIPD Network and the Administrative Network will be replaced.

6. **Consideration** and **Approval** to renew the Mutual Aid Agreement between the City of Aventura and the Town of Bay Harbor Islands Police Department.

ACTION: Council Member Bruder made a motion to approve the Consent Agenda. Vice Mayor Tricoche seconded motion, and it passed unanimously on a poll vote.

8. **Consideration** and A**pproval** of a revised Interlocal agreement between the Town of Bay Harbor Islands and Miami-Dade County School Board Police Department for placement of a School Board assigned School Resource Officer at Ruth K. Broad, for School Year 2022- 2023.

Council Member Diallo recused herself from this item because she is a Miami-Dade County School Board member and exited the Council Chambers.

ACTION: Council Member Bruder made a motion to approve the agreement. Mayor Fuller seconded motion, and it passed unanimously on a poll vote.

10. **Consideration** and A**pproval** of a revised Memorandum of Understanding (MOU) in regard to funding for the Town of Bay Harbor Islands appointed School Resource Officer at Ruth K. Broad for School Year 22-23.

    ACTION: Council Member Bruder made a motion to approve the Memorandum of Understanding. Vice Mayor Tricoche seconded motion, and it passed unanimously on a poll vote.

DRAFT

9. **Consideration** and **Approval** of a Resolution regarding Budget Amendment No. 2 to the FY 2021-2022 Budget. Attached is a copy of the proposed Resolution with supporting documents.

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF BAY HARBOR ISLANDS, FLORIDA, APPROVING BUDGET AMENDMENT NO. 2 FOR THE FISCAL YEAR 2021/2022 BUDGET; PROVIDING FOR IMPLEMENTATION; AND PROVIDING FOR AN EFFECTIVE DATE.

Council Member Bruder suggested a revision to the proposed amended Budget Amendment No. 2 to include a $2,000,000 appropriation from the Capital Reserves that are part of the TDR for a third-floor addition to Town Hall for a senior/adult center. Town Manager Lasday advised the Council the Town has TDR money in reserves. Council Member Bruder asked if that money can be used for capital improvement. Town Finance Director Peter Kajokas confirmed the money can be used for capital improvements.

Vice Mayor Tricoche asked how much TDR money the Town has. Town Manager Lasday responded the Town has about $6,000,000, and another $2,000,000 was expected. Vice Mayor Tricoche asked when the $2,000,000 was expected. Town Manager Lasday responded within 24 to 36 months.

Mayor Fuller added he would love to see a senior center, but he would rather focus on the budget. Plus, an analysis was needed to determine how much would be for seniors and how much for other departments, if a third floor were added.

Council Member Bruder stated this would not only be for seniors, but also for more space for the Police. She added the Town has been waiting for a long time, and it has the funds. The Town Engineer and the Town Manager had been working on the matter, as per her instructions. She stated the funds are sitting in the reserves, and she would like to use them for capital improvements, unless the mayor has other suggestions for capital improvements.

Vice Mayor Tricoche stated that she believed the Town needs numerous amounts of capital projects, and all projects are important. However, the Town has several multi-million-dollar projects such as the Parking Garage, adding a potential floor in Town Hall, adding a floor on the 95th Street Parking Garage, that she must agree with the mayor that a budget needs to be set up for this matter. She felt more comfortable with having a plan.

Council Member Bruder responded that based on the mayor and vice mayor's comments, nothing will be done; and the senior residents need a place to go. And if they continue waiting, the seniors quality of life will deteriorate. She stated that she understood other projects are needed, but the quality of life must come before anything else. She asked the Town Manager how much she estimated the cost to be for the third-floor addition.

DRAFT

Council Member D'Amico stated that she doesn't think the estimation is feasible at this time. She was in favor of the addition, but not 100% at this moment.

Council Member Salver stated he appreciated the work the Town Manager and Town Engineer Custodio did but will not support allocating "on the fly" a resolution for $2,000,000 for a Senior Center. He stated the parking is his priority at this moment.

Town Engineer Custodio reported he had been in conversations with BBC Engineering, as the Town does not have as-built drawings for the Town Hall building. And the structural engineer quoted $16,000 for a structural evaluation, which would also include the conceptual plans on what is needed to retrofit the building. The third floor can be done, but the building needs to be retrofitted, then the construction of a third floor can be determined.

Council Member D'Amico asked if survey plans are available for the Town Hall building, and the Town Manager said no. She then asked Town Engineer Custodio if the information submitted was a proposal. He advised it was not a proposal, but strictly for a structural evaluation.

Town Manager Lasday stated the Town is working hard on applying for grants for the expansion of the Police Department; and has applied for $3,000,000 worth combining the Police Department as part of the improvements, which provides a higher chance for obtaining the grants.

Town Attorney Geller suggested holding workshops on the matter or include with the next two budget hearings.

Council Member Salver stated with the alley parking, garage plans, eliminating the tank, and adding a police gymnasium, perhaps a new space could be found within that project for the seniors.

Council Member Bruder made a motion to amend to move forward with structural engineer proposal. Mayor Fuller advised the Council does not need to vote as the $20,000 estimate was under the Town Manager's purview.

Council Member Bruder then moved to discuss after school programs. She stated she surveyed several nearby cities, and six have their own after-school activities, while the others outsource them. She suggested the Town outsource its program; and moved to outsource the Town's after-school activities and use the difference of the money for other things the Town needs. Vice-Mayor Tricoche stated she did not think the Council can vote on the motion. However, she liked the suggestion and would like the Council to consider testing the outsourced program for a year.

Council Member Salver asked for clarification as to the role of outsourcing and the impact on the employees. He asked if outsourcing meant the Community Center will be managed by a private company; and if so, what about the employees. Vice-Mayor Tricoche responded she would like to see what options benefit the Town. Council Member Salver responded that eliminating positions will have its roadblocks because the employees are in the process of being unionized. He stated he was not a fan of outsourcing.

DRAFT

Council Member D'Amico suggested a pool program for the children. Mayor Fuller responded the Town has an agreement with Miami Shores to have full access to the pool and the splash pad. The Town did look at the economics of having one; it's not only the cost for the space, but the maintenance, insurance, and the staffing; will need a huge amount in the budget just for a pool. Even though the town would like to have one, there is no room for expansion for a pool.

Mayor Fuller continued by stating t the Town's number one duty is to provide services for the residents. He agreed a study is needed, because it would reveal the town saves money, improves services, and offers additional services; which would then make sense. Town Manager Lasday asked the Council if they wanted an analysis to be done before the next Budget Hearing, September 14, 2022. Vice Mayor Tricoche stated she would like to see the options as well.

Council Member Bruder suggested holding a Budget Workshop. It was the consensus of the Council for the item to be discussed at the September 14th Budget Meeting.

PUBLIC COMMENT

Joyce Green, 1360 99 Street, came forward to address the Council and stated that parking is an issue in the alley and in Block 11. She agreed the Town needs to address the seniors, the police and parking for the Business District, but believed this project would add more chaos than a benefit, if the parking issue wasn't addressed before tackling this new project.

Kathleen Kennedy, 9180 West Bay Harbor Drive, came forward and stated that the TDR money is supposed to be used for the infrastructure of the Town. She commented on parking issues, no events for the seniors, and the essentials at the community center like computers, phones not working. She asked where the funds for resort tax for hotels are being allocated.

Mayor Fuller explained the resort tax goes to the County, and the Town is not legally allowed to charge; as it was the State's decision in giving that responsibility to the counties. Town Attorney Geller confirmed Mayor Fuller's statement.

Frances Neuhut, 1060 Kane Concourse, came forward and spoke of the lack of parking, commented on Church by the Sea having a large parking space and the lot next door with additional parking. She suggested Church by the Sea or one of the developers should build the Town a parking garage.

PUBLIC COMMENT CLOSED

ACTION: Council Member Salver made motion to approve resolution. Council Member Bruder seconded motion, and it passed unanimously on a poll vote.

7. **Consideration** and **Approval** to utilize the Sourcewell (formally NJPA) contract with ChargePoint for the installation of a dual port Level 2 EV charger in the 95th Street Parking Garage for the amount of $20,254.00.

DRAFT

Mayor Fuller informed Town Attorney Geller that he was not comfortable with the venue in the contract and wanted it to be changed. Town Attorney Geller stated that if he authorized the Town Manager to enter into a contract, a specific contract will be negotiated. He gave assurance that any contract he approved, and the Town Manager executed will have the venue in Florida. Town Manager Lasday informed the mayor that she had notified the current vendor they will no longer be exercising the contract.

PUBLIC COMMENT:

Frances Neuhut, 1060 Kane Concourse, came forward and expressed her frustrations on the parking in the Town and spoke about the tax-exempt churches and temples.

PUBLIC COMMENT CLOSED

ACTION: Vice Mayor Tricoche made a motion to approve the contract. Council Member Bruder seconded the motion, and it passed unanimously on a poll vote.

11. 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.

Town Attorney Geller swore in those individuals who indicated they would provide testimony.

Nicholas Barshel, Akerman LLP, 98 Southeast Seventh Street, counsel for the applicant, came forward and indicated he was ready for the item to be heard.

Without objection the Council accepted the Town Planner's Staff Report into the record. Town Planner Michael Miller was away on vacation. Members of the Council expressed frustration that a Planner representative was not present at the meeting.

Council Member Bruder suggested the matter be deferred since she had questions for the Town Planner. Discussion ensued regarding deferment of the meeting, and addressing each variance separately, if the matter was heard.

Lisa Spataffina, Miami-Dade County DERM, 701 NW 1st Court, came forward and stated she was willing to answer questions relating to DERM's purview.

Council Member Salver stated that the Town Planner's Report had been in the council's possession for months; the developer had been before the council several times with representation and wanted residents to be present for the matter. He supported moving forward with the request, whether ruling on the matter or suggesting changes.

Council Member Bruder pointed out the applicant had deferred the matter twice.

It was the consensus of the Council to move forward with discussion.

DRAFT

Mr. Barshel presented the project on behalf of the applicant. He explained the docking facility with a maximum of 15 boat slips, as part of the Onda project with the 41-unit residential condominium building that is currently under construction. He stated that the design of the dock was based on long coordination between their consultant with federal, state, county, and environmental agencies and resulted in the configuration they are most comfortable with for the slip mix that the applicant believes is reasonable for this type of development. The reason for the variance is DERM will not allow any boat slips for this slip mix within 30 feet from the shore, due to shallow water depths and the presence of resources, like seagrass, corals, etc. The benefit of the design is that it will preserve the most seagrass and coral as possible and will not involve any dredging in Biscayne Bay. There will be Operating Rules and Regulations governing the dock; it will not be a commercial marina; and accessory use will be limited to Onda's residents. Third-party rentals, live-a-boards, overnight stay on boats, fueling facilities, jet skis, floating docks, boat lifts, commercial use vessels; transient vessels, party boats, food, and alcohol service on the boats will not be allowed. Plus, the list of restrictions coming from various sources with enforcement by DERM and the conditions set on the staff report which they are willing to accept-all operational conditions. Onda Condominium Declaration will also impose the same rules. Mr. Barshel further explained the rendering and gave a brief explanation of the project. The project pushes away from the west side; it has a minimum 30' setback; the property to the east is slightly more than 10' as per code; receipt of a Letter of Consent from that neighbor – so they favor that side. No variance was required based on the distance. The Onda property is the most advantageous for this type of docking facility of probably anywhere in the east island.

Valerio Morabito, Co-Developer, came forward and explained all the detailed work put into the project as a whole and addressed all the comments in the Staff Report. He stated two separate workshops were held with the community; 12 people attended both meetings; and once they heard the reasons for the design and the operational conditions of the docking facility, most of them had no objection. He felt the proposed design and needed variances requested are the best path toward creation of a beautiful, safe, and properly managed docking facility.

Council Member D'Amico addressed her concerns on the docks on the property, whether the slips were being sold, permits, and Florida State submissions of projections.

Bree Cocos, Ocean Consulting, Project Manager, and biologist for environmental permitting for the project came forward and explained the DERM's permitting process and the Department of Environment Protection for the seawall. She stated she performed several inspections, one with the department of environmental protection and an inspection under water for dock and facility. And they are in the process of mitigation/negotiation for underwater seagrass impacts for the dock permit.

Vice Mayor Tricoche asked what was specifically required by DERM for the applicant to have a dock on the property.

Ms. Spataffina came forward and explained the process for Class 1 Permits docking structure. She clarified from Ms. Cocos statement that the D-5 Triangle is an aesthetic boundary to make sure the structure is kept in front of the property. The Code does not require "Letters of Consent" but require DERM to consider whether they have them. The structures are out of the D-5 triangle, and they might need "Letters of Consent", but until they get through the negotiation process, they don't usually make that a requirement. In this case, they don't need any Letter of Consent at this point.

DRAFT

Four (4) feet of water depth is required; they need six (6) feet of water to ensure there is no disturbance of the bay bottom. She added regarding the middle point of the proposed dock, DERM has stated they have to go out 49' 6". The site can be 26', of the request from them, it's not a requirement of DERM for the town to allow larger vessels.

Council Member Bruder asked the DERM's representative if the applicant had advised them of the size of the boat. Ms. Spataffina responded the applicant does include this information on the application. Council Member Bruder continued questioning DERM if the applicants had informed them of the size of the vessels, and how many vessels they allow. Ms. Spataffina responded they don't advise the applicant how many vessels are allowed. Mr. Barshel stated the Town code does not limit the number of slips. The Council Members continued to ask questions on the spacing in the dock, Manatee Protection Plan, zoning, whether there was environmental harm, and what meets code. Ms. Spataffina responded to all the questions with information on the County Codes and that the applicant met all code requirements.

Vice Mayor Tricoche stated that there were a number of "asks" beyond just the hardship of needing to be able to have a dock, and she wanted to know if any of those were required. Town Manager Lasday stated she does not believe they are required to be given and that they were requests being asked. Vice Mayor Tricoche also asked the Town Manager if the minimum dock space from the seawall was a potential item the Town could have an issue with. It was the consensus of both Town Manager Lasday and Vice Mayor Tricoche that the two items that needed approval by DERM are eliminating the width of the dock extending it to more than eight feet from the seawall capped to four feet and width, and some portions of the dock to be six feet in width to accommodate fire hose boxes and fire personnel access, if needed.

Vice Mayor Tricoche made it clear to the developers that she was willing to give them the minimum that DERM requires and the minimum for safety requirements; and was not in favor of providing more.

Council Member Salver asked if there were any negotiations with the neighboring property to acquire that property. Mr. Barshel responded they have not.

PUBLIC COMMENT

Lisa Boardman, 10350 W Bay Harbor Drive, came forward and stated that she was not opposed to the project or the dock; she was concerned with the big vessels. She felt the bigger vessels will be disruptive to the residents who use the waterways.

Janet Adler, 10350 West Bay Harbor Drive, came forward, welcomed, and thanked the designers, developers for redesigning the project to fit into the Town Code. She then informed the Town Council that the rendering shown, shows the boats backed into the slips, where in America the boats are pulled in forward into the slips. She then explained how that will affect the number of feet the boats can extend.

Jose Rodriguez, 1155 103rd Street, came forward and stated his concerns about the keeping over development from happening. He also shared concerns on the potential dock with the big vessels that will be on this property.

DRAFT

Marie Stoppa, 9881 E Bay Harbor Drive, came forward and stated she was opposed to any variance of this size.

Frances Neuhut, 1060 Kane Concourse, came forward, and shared her concerns on the project that she was not in agreement with, and stated the Council doesn't care for the residents.

PUBLIC COMMENT CLOSED

Council Member D'Amico added she does not feel there is any hardship from the applicant and was concerned about the enforcement of the dock.

Mr. Barshel stated that the RM-3 District does not allow commercial use and was willing to discuss conditions of enforcement with the Town. He said the owner would be legally required to follow the law. Mr. Morabito added that all the rules and regulations were included in the Condominium Documents and rules will be enforced by the Condominium Association and Management of the Building. Council Member Bruder added the enforcement of the quality of life and improvement are upon the council and felt the owners will not enforce the rules on themselves.

Council Member Salver asked Town Attorney Geller if there was any way to bifurcate each component of the variance in order that the entire request, if rejected, doesn't go dormant for variance requests. Town Attorney Geller responded anyone on the Council can make a motion to divide the question and address different elements separately and specify which ones, which was permissible. Council Member Salver asked if they could bring the variance back in twelve months, if it were denied. Town Attorney Geller responded he believed the statement was correct.

It was the consensus of the Council they will make a motion on Item #12 since it's the same item as opposed to making a motion on this discussion item.

Mr. Barshel proposed a smaller variance and to limit all the boats to a maximum of thirty-five feet, instead of the council voting on different parts of the variance separately as Council Member Salver was suggesting. He stated they will voluntarily adjust the variance to have them all even and have it heard all at once.

11. **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.

DRAFT

Town Attorney Geller amended his previous response as to dividing the items by vote, but since there are specific variances outlined, each should be voted separately because each is a separate item that could be subject to a separate resolution.

ACTION: Vice Mayor Tricoche made a motion to approve the dock at the minimum standards required by DERM, the dock at 26 feet with a 4-foot pier. Council Member Bruder seconded the motion, and it failed with a 4-2 with Council Members Diallo and D'Amico opposing (five votes are required to pass a variance.)

Mr. Barshel deferred the additional variances request relating to the slips for the dock since the first variance request was denied.

Mr. Barshel asked if the Council can provide any suggestions to improve. Town Attorney Geller responded that Council Member D'Amico does not want to have to tell the developer what to do, but instead have the developer re-design the dock based on what was discussed in the meeting; and the Town Council can then consider whether the re-submitted design is acceptable.

Vice-Mayor explained to the public that the Motion to Reconsider is to allow the applicant to come back in less than a year for the Council to reconsider the new plans.

2. **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. 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.**

3. **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.**

4. **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 DUE 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.**

ACTION: Council Member D'Amico made a motion to reconsider the item for the applicant to redesign the project and resubmit the application, based on discussions. Council Member Diallo seconded the motion, and it passed unanimously.

Without objection, the applicant requested to defer all variance requests and resubmit a new application.

DRAFT

16. **Consideration** and **Discussion** pertaining to the establishment of an Animal Welfare Committee. This item was submitted by Council Member Yaffe on behalf of a Town resident.

Town Manager advised the Council that although Council Member Yaffe was absent, he wanted this item to be discussed and considered.

Joyce Green, 1360 99th Street, came forward to address the Council and stated they wanted to save the animals of the community; and they trap, spay, neuter and feed at their own cost. She explained they leave notes on residents' boxes and rescues kittens and gets them adopted. She added she made an incident report because a resident backed up and followed her down a street in their vehicle yelling at her, which also happened to another resident who feeds the animals. She asked the Council to allow them to form a committee to help control the population of cats, help with any lost pets, and to allow them to carry a badge.

Council Member Bruder advised Ms. Green they may not be able to provide her a badge but instead provide her an orange jacket like the ones the crossing guards use. Vice-Mayor Tricoche stated the Town needed to figure an alternative because authorizing them to serve as Town representatives to enter a property and take control of animals may be an issue. Mayor Fuller added the Town cannot provide them with a crossing guard jacket because legally it would create a liability to the Town but was not opposed to creating a committee that provides ideas with different groups of people to include community service to assist with the pet population.

Town Manager Lasday asked the Council to wait for Town Attorney Geller's input because if this committee was approved, it would be subject to the Sunshine Laws. Mayor Fuller addressed Ms. Green and informed her that if they wanted to create a committee, they will be subjected to the Sunshine Laws and would not be able to discuss anything unless it was at a public meeting. He stated he would support a private citizen's club, but not as part of Bay Harbor Islands government.

Bridget Morin, Communications Director, came forward and advised the Council most of the communities have a committee or animal control or it's part of their code enforcement. The whole point was to lend them some ability to be able to advertise what they're doing. Not just feeding the cats but educating the public on what it is they are doing, which would also provide them some protection.

Vice Mayor Tricoche suggested the Town Manager, Bridget Morin, and the Town Attorney meet and figure out the best way to support this initiative.

Town Manager Lasday asked the Council if they wanted to consider putting a line item in the budget to include money for spaying and neutering. Council Member D'Amico suggested adding an advertisement in the *Newsletter*.

It was the consensus that the Town Manager would return in September with an update.

ORDINANCES ON SECOND READING: There were no ordinances for second reading.

ORDINANCES ON FIRST READING:

DRAFT

13. **Consideration** and **Adoption** of an Ordinance on First Reading modifying Section 23-30(f) of Article II of the Town Code modifying the existing code provisions for mechanically stacked vehicle lifts.

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF BAY HARBOR ISLANDS, FLORIDA, AMENDING THE TOWN'S ZONING AND PLANNING CODE TO MODIFY THE EXISTING CODE PROVISIONS GOVERNING OFF- STREET PARKING; MODIFYING SECTION 23-29.1 OF ARTICLE II OF CHAPTER 23 RELATED TO THE TOWN PARKING TRUST; MODIFYING SECTION 23-30(f) OF ARTICLE II OF CHAPTER 23 RELATED TO DETERMINING THE AMOUNT OF PARKING SPACES; MODIFYING THE CODE TO CLARIFY A 2008 TOWN COUNCIL ACTION THAT REASSIGNED THE RESPONSIBILITY TO CONSIDER ALTERNATE PARKING ARRANGEMENTS TO THE PLANNING AND ZONING BOARD (NOW KNOWN AS THE DESIGN REVIEW BOARD); MODIFYING THE EXISTING CODE AS IT RELATES TO MECHANICALLY STACKED VEHICLE LIFTS TO INCLUDE PROVISIONS FOR THE ALLOWABLE LOCATIONS AND SCREENING OF MECHANICALLY STACKED VEHICLE LIFTS; PROVIDING FOR INCORPORATION OF RECITALS; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICT AND REPEALER; AND PROVIDING AN EFFECTIVE DATE.

Council Member Bruder moved the item to the floor, and Vice Mayor Tricoche seconded the motion.

Council Member D'Amico stated that Exhibit A states "the participation of the Town's Parking Trust should be limited to non-residential use sites, or on a case of extreme hardship" must be removed. Discussion continued regarding parking in the town, mechanical lifts, and TDR's. Council Member Bruder amended her motion to make sure that the clause pertaining to hardship was not added, anyone who had not gone before the Design Review Board or applied, no buying into the Parking Trust for residential for any reasons, and removal of mechanical lifts in the residential areas. Vice Mayor Tricoche seconded the amended motion.

DRAFT

PUBLIC COMMENT:

Frances Neuhut, 1060 Kane Concourse, came forward and suggested that Town Attorney Geller change the language of the resolution of the Parking Trust created by Resolution 999. She went on to comment on the effects of the TDR's due to the language of the resolution; then commented on the parking issues.

Pierson Tedeschi, 5430 Coral Gables, FL 33146, came forward and stated that 100th street parking is difficult and will become a mess if there was more development. He spoke of the community's growth being slowed down.

Matt Amster, Bercow Radell Fernandez Larkin & Tapanes, 200 S. Biscayne Boulevard, Miami, Florida, came forward and noted that the Clara Homes has three developments in town that has the opportunity for a small number of lifts.

PUBLIC COMMENT CLOSED

ACTION: Council Member Bruder made a motion to approve the ordinance on first reading with removal of the clause pertaining to hardship; the regulations will not apply to anyone who had not gone before the DRB or submitted an application, no buying into the Parking Trust for residential, removal of the mechanical lifts in the residential areas, and screening of mechanical lifts in the Business District. Vice Mayor Tricoche seconded the amended motion, and it passed 5-1 on a poll vote, with Mayor Fuller opposing.

DEFERRED ITEMS: There were no deferred items.

DISCUSSION ITEMS:

19. **Discussion** and **Possible** action on revising various fees charged by the Town. Additionally, Council Member Yaffe requested a discussion item on the possibility of increasing the fines under Section 12- 26/27 of the Town Code pertaining to construction work before and after permissible hours, and demolition activity prior to issuance of the required permits, as per Section 5-5.1 (d), sponsored by Council Member Yaffe.

ACTION: Council Member Bruder made a motion to approve the revised fees. Council Member Diallo seconded the motion, and it passed unanimously.

17. **Discussion** and **Possible** action regarding the design and construction of an additional story to the 1165 95th Street Parking Garage. There is a proposal from THA Consulting, who designed the existing garage, for the evaluation, design, and construction administration of an additional story (120 additional parking spaces). The amount of the proposal for the design is $271,000.00.

Council Member D'Amico commented on adding another floor to the 95th Street Parking Garage. Council Member Bruder stated that she was more interested in building a parking garage.

DRAFT

It was clarified the $271,000 represented design of the plans only for the municipal garage.

Town Engineer Jose Custodio explained that the fees were for the design, permitting, and construction management.

PUBLIC COMMENT

Frances Neuhut, 1060 Kane Concourse, came forward and stated she was told it's cheaper to buy land and build a garage.

PUBLIC COMMENT CLOSED

ACTION: Council Member Bruder moved the item to the floor. Vice Mayor Tricoche seconded the motion, and it failed 1-5 with Vice Mayor Tricoche voting yes.

It was the consensus of the council to roll the following unfinished items to next month:

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

14. **Discussion** and **Possible** action regarding the appointment of a member to the Litigation Committee.

15. **Consideration** and **Approval** of a Resolution amending Section 23-22.2 of the Town Code to modify the percentage of Town-owned Transfer of Development Right Dwelling Units that may be allocated to each project. Introduced by Council Member Stephanie Bruder.

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF BAY HARBOR ISLANDS, FLORIDA, MODIFYING THE PERCENTAGE OF TOWN- OWNED TRANSFER OF DEVELOPMENT RIGHT DWELLING UNITS THAT MAY BE ALLOCATED TO EACH PROJECT, PURSUANT TO SECTION 23-22.2 OF THE TOWN'S CODE OF ORDINANCES; SETTING AN EFFECTIVE DATE.

18. **Discussion** and **Possible** actions regarding the Town's Plans for Block 11. Some of the projects in process or being evaluated are reclaiming the 20' platted alleyway, building a parking garage, relocation of the Public Works storage area, and vertical expansion of the Town Hall.

There being no further business to address the meeting was adjourned at 10:57 P.M.

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MAYOR

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ATTEST

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TOWN CLERK

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TOWN OF BAY HARBOR ISLANDS
MINUTES OF A BUDGET PUBLIC HEARING

A Budget Hearing of the Town Council was held on Wednesday, September 14, 2022, at 5:30 p.m. Upon roll call the following members responded:

Mayor Joshua Fuller
Vice Mayor Elizabeth Tricoche — Council Member Stephanie Bruder
Council Member Teri D'Amico — Council Member Isaac Salver
Council Member Yaffe

1. Announcement of the proposed FY 2023 property tax rate of 3.1728 mills per $1,000 taxable value. The "rolled-back" millage rate is 3.1728 mills per $1,000 taxable value. The proposed FY 2023 millage rate is 0.00% more than the rolled-back rate, needed to fund expenditures and expenses for the Fiscal Year beginning October 1, 2022, and ending September 30, 2022. Enclosed are supporting documents provided by Finance Director Peter Kajokas.

   Town Manager Lasday read the item into the record.

2. Public Comment concerning the proposed millage rate and proposed Budget for Fiscal Year 2022-2023.

   Gene de Souza, 1050 93rd Street, came forward and expressed concern that the Portuguese class he taught in the community center had been on a stand because he was unable to fill it with the minimum number of students. He asked that the guidelines for the minimum requirements of students be lifted, so that the other students may begin classes.

   Discussion followed among the Council Members, Mr. Souza, Town Manager Lasday, and Community Center Director Regine Choute that the requirement is to have a minimum of 10 students; why was classes being limited to students; not in favor of mixing students and adults in classes; separate programs for adults; programs with less than five students; regarding why classes were being limited to students; not a good idea to mix adult and children in the classes; classes and children for security reasons; requirement to have a minimum of 10 students; starting classes with six children; classes condensed; nine students have to be registered for classes for all programs; programs start out with lower numbers; parents evaluate classes in program to have certainty of which one will occur, in the event they have to find alternative afterschool care; lifting the 10 minimum requirement if trying to build something for the future; reduce the number to four and monitor to ensure it fits with what the community wants; assess how the programs are being marketed and if the structure needs to be changed; or if the program is what the community is asking for; provide notice of programs earlier rather than in August; and minimum of five students per class for safety reasons.

   Vice Mayor Tricoche thanked Community Service Director Choute for her work on the program.

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PUBLIC COMMENT

Kathleen Kennedy, 9180 West Bay Harbor Drive, came forward and asked why the speed bumps approved by the Parks & Recreation Department were not included in the budget. She requested speed bumps be placed on the island due to the speeding problem. She expressed concern that West Bay Harbor Drive does not flood, and the coming development will cause flooding. She asked who would hose down the drains to avoid flooding. Town Manager Lasday responded there is a new parking enforcement employee who has been trained, and the Police Department had stepped up code enforcement during the nights. She agreed there are issues and are trying to resolve them. As to the speed bumps, the town engineer was working with the Police Department regarding the best locations to place them and to make sure there are safety protocols. Last year some were installed in various parts of the town. Council Member Bruder suggested a list of the location of construction activities be shared with the police. Vice Mayor Tricoche urged residents to notify the town when they see a problem.

Frances Neuhut, 1060 Kane Concourse, came forward and questioned how a budget was being adopted with TDR monies allegedly not allocated for parking, parking garage, and Community Center, as well as the town paying for a new bridge and new infrastructure throughout the east island, with Church by the Sea contributing as well; millions of unaccounted TDR money with and without CFN number that may have been recorded at Miami-Dade; TDR funds that were deposited to previous Town Attorney, Sherman & Sherman, P.A.; allegations of Bay Harbor Island East taxpayers paying approximately 33% increase for 2023 real estate taxes when the town was providing limited service; when the council allegedly breached the Joint Use Agreement with the School and increased the 1,200 student cap to 1,400, with the elimination of shared parking and parks without receipt of additional money for the parking in the 95th Street Parking Garage. She handed the Town Manager records of government TDR monies that were recorded at Miami-Dade County with CFN number.

PUBLIC COMMENT CLOSED

3. **Consideration** and **Approval** of a resolution adopting a proposed millage rate of 3.1728 mills for the Fiscal Year 2022-2023, which is 0.00 more than the rolled back rate of 3.1728 mills per $1,000 of taxable property value. Enclosed is a copy of the proposed resolution.

> **A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF BAY HARBOR ISLANDS, FLORIDA, ADOPTING A PROPOSED MILLAGE RATE OF 3.1728 MILLS FOR THE FISCAL YEAR 2022-2023, WHICH IS EQUAL TO THE ROLLED BACK RATE OF 3.1728 MILLS, COMPUTED PURSUANT TO STATE LAW WITH 0.00% INCREASE; CONFIRMING THE DATE OF THE SECOND BUDGET PUBLIC HEARING; PROVIDING FOR INCORPORATION OF RECITALS, AND PROVIDING FOR AN EFFECTIVE DATE.**

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ACTION: Council Member Salver made a motion to approve the Resolution, and Vice Mayor Tricoche seconded the motion.

Council Member Salver suggested "no increase" be used instead of "0.00% increase". Town Attorney Geller confirmed that "no increase" could be used. Council Member Salver amended his motion to reflect the wording "no increase."

ACTION: Vice Mayor Tricoche Seconded the amended motion, and it passed unanimously on a poll vote.

4. Consideration and Approval of a resolution on adopting a tentative budget for the Fiscal Year commencing October 1, 2022 and ending September 30, 2023. Enclosed is a copy of the proposed resolution and Town of Bay Harbor Islands Fiscal Year 2023 Budget.

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF BAY HARBOR ISLANDS, FLORIDA, ADOPTING A TENTATIVE BUDGET FOR THE FISCAL YEAR COMMENCING OCTOBER 1, 2022, AND ENDING SEPTEMBER 30, 2023; CONFIRMING THE DATE OF THE SECOND BUDGET PUBLIC HEARING; PROVIDING FOR INCORPORATION OF RECITALS; AND PROVIDING FOR AN AFFECTIVE DATE.

Mayor Fuller introduced discussion on the salary for the Town Manager and thought it would be appropriate to budget some changes.

Council Member Yaffe noted that while he understood the budget was being discussed and the salary may have to be addressed, the council had not done the manager's evaluation, which was to be submitted by a certain date.

Vice Mayor Tricoche wanted the Council to be conscious of the work staff had already done on the budget. She stated that she supported the Town Manager's work, but was also concerned about the changes, when staff had prepared the budget with the roll back rate.

Mayor Fuller stated that regarding Manager's contract, he would like to include in budget a 2.5% increase in addition to an already set 2.5% for the COLA that all Town Employees will receive. Council Member Bruder stated the Town Manager was underpaid. Town Manager Lasday clarified that a 2.5% COLA and 2.5 Merit Increase were contained in budget for all employees, but the percentage for the merit may vary depending on the evaluation.

Council Member Bruder felt the Town Manager was underpaid based on the amount of work she does and the time she puts in; plus compared to neighboring municipalities, the manager was a bargain, and something needed to be done. She requested the Assistant Town Manager provide a listing of salaries for neighboring City Managers.

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Council Member Salver concurred to addressing the issue after all the evaluations were received. He stated it was typical for the council to be provided with the salary listing of City Managers in neighboring municipalities, so they can go into the discussion prepared.

Council Member Yaffe appreciated receiving the evaluations form from the HR Department.

Mayor Fuller stated the budget needs to be adjusted by $100,000 to cover the insurance for the Broad Causeway Bridge to match the cost, since the amount budgeted was less than the actual policy cost. He spoke about the work being done to obtain funding for the bridge replacement. He also felt there will be additional cost for lobbying for the bridge and suggested an additional $10,000 be added to the budget. Town Manager Lasday responded there was room for additional funds due to the way the budget is done. The mayor also requested to add $50,000 to the budget for the 75th Anniversary Celebration.

Vice Mayor Tricoche commended staff for doing a good job on the budget with keeping the millage, electric vehicles, and prepping out for the Children's Trust, etc. She stated that staff listened to what the council was asking, which was challenging and was very impressed and grateful everybody worked hard to bring all the pieces together.

Council Member Bruder stated it was mentioned in previous conversations that some of the departments were "upside down", including the Community Center. She asked what the savings would be to outsource the department.

Finance Director Peter Kajokas stated the Community Center costs $1.2 Million and the budget revenues are $275,000 for the year.

Vice Mayor Tricoche explained, based on information provided, staffing cost was under by $325,000 per annum; there was significant under-participation as associated to other municipalities in their participation related to the cost ratios.

Council Member Yaffe stated part of the issue is a policy decision as the town built the Community Center to provide services for the residents and a place for them to go, which included a library; and its purpose was not to be a profit center. He felt the purpose is to provide service and looked at it as an area that will always be "upside down". He pointed out that nobody was talking about shutting down the Community Center, but it probably could be run more efficiently; but thought it would still be "under water".

Vice Mayor Tricoche stated the council understood the purpose is to deliver services to the constituency that they need, desire, and will participate in. The question is whether the town is fulfilling that goal. She agreed it's not a profit center, but her larger concern is the participation, as to whether the town was meeting the needs of the constituency; if service and creating the programs that they desire and are participating in. Or is this a Community Center that is wildly underutilized and could be operated more efficiently. From the documents that was provided to the council over the last few months, it looked like the town could produce better outcomes and services. She stated she didn't mind the loss but needed to know the town is serving the community; and couldn't say that today.

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Council Member Yaffe asked if any type of study was conducted as to what other types of programming could be offer that might draw more people in and produce more revenue.

Vice Mayor Tricoche stated the documentation received from other communities that they brought in when they outsourced, included a couple of functional items like starting the camp at 7:00 a.m. and ending it at 6:00 p.m., as well as the functions of the camp and how they were delivering them differently. They also talked about the different programs they can offer, how they structure them, and the types of individuals running them. She expressed concern with not running the program to its full potential.

Council Member Bruder concurred. She understood the Community Center will lose money or be cost neutral but didn't think it was being used to the best of its ability. She didn't think they were facilitating programs for senior and there was underuse of the center in not fulfilling the Mission Statement of the community center or for the people who live in the town. She felt consideration should be given to outsourcing the center and use the difference of the money in different ways in the community.

Council Member D'Amico asked if a survey of the community was done as to what programs they are interested in.

Vice Mayor suggested obtaining proposals for outsourcing the Community Center, if the council was amenable.

The Mayor advised that unless someone wanted to change the budget, the conversation was for another day.

ACTION: Council Member Bruder made a motion to approve the Resolution. Council Member Yaffe seconded the motion, and it passed unanimously on a poll vote.

5. Announcement of the Second Budget Public Hearing scheduled for Wednesday, September 28, 2022, at 6:00 p.m.

The meetings were announced as per the Resolution.

There being no further business to address the meeting was adjourned at 6:30 P.M.

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MAYOR

ATTEST

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TOWN CLERK

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TOWN OF BAY HARBOR ISLANDS
MINUTES OF A REGULAR COUNCIL MEETING

A Regular Meeting of the Town Council was held on Wednesday, September 14, 2022, at 7:00 p.m. Upon roll call the following members responded:

Mayor Joshua Fuller

Vice Mayor Elizabeth Tricoche	Council Member Stephanie Bruder
Council Member Teri D'Amico	Council Member Molly Diallo
Council Member Isaac Salver	Council Member Robert Yaffe

Council Member Diallo was present but left prior to the start of the meeting as she was not feeling well.

SPECIAL PRESENTATION:

There were no special presentations.

REQUESTS FOR WITHDRAWALS, DEFERMENTS AND FUTURE AGENDA ITEMS:

There were no requests for withdrawals, deferments, or future agenda items.

ITEMS: TOWN MANAGER'S REPORT:

1. Annual Report of the Town's Transfer of Developments Rights Program.

Town Manager Lasday stated it had been two years since she was elected as Town Manager and thanked the Council for their support and feedback during her tenure, which has been invaluable. She also thanked the community and staff. She then provided some highlights of the accomplishments for the past year as listed below:

- Hired and trained four new police officers; and next year's budget will include an additional marine police officer.
- Appointed two new D.A.R.E. Officers to the school.
- Police Department Accreditation
- Stormwater Management Plan and Stormwater Master Plan completed. Staff working diligently to apply for grant for the $20 –30 Million worth of projects. Award of $600,000 grants for some of the stormwater projects.
- Receipt of over $1 million in grant funds, not including the ARPA fund.
- As of Friday, the town received another grant for $250,000 to help with the west relief bridge.
- Receipt of the GFOA Budget Award. She stated she was proud of the Finance Director for this accomplishment.
- All the improvements made to Town Hall, Public Works Luncheon, and Town Council Chambers, roads done on the east island, and installation of the Love Sculpture, and landscaping.

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The Town Manager further provided some future highlights:

- Major bridge projects. The Town will be working on the west relief bridge and the other three bridges in addition to the causeway. The staff is working on getting funding for these projects.
- 92nd Street Park, 96th Street Park, Stormwater and road improvements are also included in next year's plans of improvement.
- Working aggressively to obtain grants.
- Actively working on the modified shuttle program, the on-demand transportation program for the residents.
- The Charter Review and the Comp Plan are top priorities.

The Town Manager reported on the following:

- An amazing meeting on Friday with FDOT and currently setting the TPO meeting with the County for the causeway.
- Movie Event playing the Addams Family on October 15, 2022.
- The Bay Harbor Islands Car Show on October 23, 2022.
- The Halloween Parade on October 31, 2022.
- Complimented the Police Department for handing out 114 citations in the last couple of months for obscured license plates on the causeway.

The Town Manager discussed the TDR report:

- The Annual report for 2022 has a total of three pending TDRs and five that have been proposed for 2022.
- In July, a TDR appraisal report was ordered. In the past the charge per dwelling unit, for non-waterfront and commercial mixed-use sites was $65,000 and for waterfront sites $75,000. With the new appraisal the non-water sites and commercial mixed-use sites came in at $100,000, and waterfront sites at $120,000.

PUBLIC COMMENT:

Frances Neuhut, 1060 Kane Concourse, came forward and discussed the importance of Resolution 999 when dealing with TDRs, and the effects on parking.

Kathleen Kennedy, 9180 West Bay Harbor Drive, came forward and asked for the current prices for TDRs. She assumed that the TDR's go towards infrastructure in the Town. She then voiced her concerns to more developments and lack of access to the Town's waterways. She stated the Parks & Recreation and Town Council approved the use of kayaks, which the town hasn't done much to promote. She added the town bus makes noises and smoke comes out of it. She commented on the cleaning company and stated that there is dust all over the place.

PUBLIC COMMENT CLOSED

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

Council Member D'Amico felt TDRs are out of control and the council should be able to decide how they are being used. She stated she couldn't read the TDR map and questioned why it was not shown where the TDRs are going. She continued to voice concerns regarding TDR's.

Council Member Yaffe congratulated Town Manager Lasday on her two-year anniversary. He then reported the Town hosted the last Miami-Dade County League of Cities meeting. He stated he attended through zoom the Miami-Dade County League of Cities' meeting along with Assistant Town Manager Rosado where financial and housing issues were discussed with Miami-Dade County Mayor Cava. He stated he will be attending a conference in Orlando with the Florida Leagues of Cities Policy Committee and has been part of the FLC's Taxation Personnel Policy Committee for a couple of years now; and they are starting to prepare for the legislative session that starts in March 2023. The committee is responsible for creating policy goals to help guide the legislature for their use at their own discretion.

Council Member Salver commented his attendance at the Children's Trust Meeting on Monday where the budget and millage rate were adopted. He stated the investments from the Trust to the community are vast and successful. The taxable funds from the county levy will be approximately 180 million dollars, and the Board has decided to make a heavy investment in early childhood education and care. The Children's Trust does not focus on schools, but rather on after school, enrichment, and mentoring programs. Next year, the Town will be investing in the children of the community. He stated he is proud of being a part of this program. He then stated the Policy Committee for the Florida League of Cities will meet next week, and the following week after that, the Executive Board meets to adopt the Committee's policies. The Town, although small in numbers, has a tremendous reputation for participation and quality of participation amongst the Florida League of Cities.

Council Member Bruder congratulated Town Manager Lasday for her two-year anniversary, and Vice Mayor Tricoche for her birthday.

Vice Mayor Tricoche conceded her time to proceed with the meeting.

Town Manager Fuller reported he will be at the Florida League of Cities Conference and is part of the committee, as well. He was happy the Town along with Bal Harbour hosted the Miami-Dade County League of Cities meeting. He also thanked the Police Officers and staff for the 9/11 Memorial Event.

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.

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Frances Neuhut, 1060 Kane Concourse, came forward and advised she met with the Miami-Dade County Ethics Commission today and the Executive Director was considering coming to speak with the Town. She stated some residents are upset that they were unable to attend the September 14, 2022, budget meeting through zoom because the equipment issue had not been addressed. She continued stating the Town is withholding itemized billing she requested through a public records request. She added the Town Council and Attorney are in violation of her first amendment rights by continuing to withhold her appeal regarding Church by the Sea and zoning issue.

COMMITTEE REPORTS:

There were no 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 **Approval** of a property insurance policy for the Shepard Broad Causeway Bridge from AXIS Surplus Insurance Company, Starstone Specialty Insurance Company, and Lloyds of London for a term beginning October 1, 2022 to September 30, 2023, with a total premium not to exceed $349,262.00.

3. **Consideration** and **Approval** of annual premiums for health, life, disability, dental and vision insurance providers for the 2022-2023 Fiscal Year.

4. **Consideration** and **Approval** of a proposal for insurance (general, professional, automobile, property, and workers' compensation) from Florida Municipal Insurance Trust (Florida League of Cities) for the 2022-2023 Fiscal Year in the amount of $343,124.

5. **Consideration** and **Approval** of Task Order #2 with Atkins North America, Inc. for the amount of $2,300,000 for the Project Development and Environmental (PD&E) Study Services for the Broad Causeway Drawbridge Replacement Project.

6. **Consideration** and **Approval** of a Resolution revising Resolution No. 2108 of the Town Code to increase the parking meter rates and monthly decals for the Town's Parking Facilities.

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A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF BAY HARBOR ISLANDS, FLORIDA, REVISING RESOLUTION NO. 2108 INCREASING THE PARKING METER RATES AND MONTHLY DECALS FOR THE TOWN'S PARKING FACILITIES; PROVIDING FOR INCORPORATION OF RECITALS AND SETTING AN EFFECTIVE DATE.

7. **Consideration** and **Approval** of Resolution No. 2100 revising the fees for the Broad Causeway SunPass Toll, as well as the removal of paragraphs related to exemption no longer under the town's governance or included in Florida Statute 338.155. Outdated language was also revised.

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF BAY HARBOR ISLANDS, FLORIDA, REVISING RESOLUTION NO. 2100 REGARDING THE SCHEDULE OF TOLLS ON THE BROAD CAUSEWAY; REPEALING OTHER RESOLUTIONS; INCORPORATING RECITALS; AND SETTING AN EFFECTIVE DATE.

8. **Consideration** and **Approval** of a Resolution amending Resolution No. 2235 revising the fees for Building Department's activities, as well as the imposition of increased penalties for the performance of new construction and demolition without the required Building Permits and commencing work prior to the time set forth in the Town Code.

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF BAY HARBOR ISLANDS, FLORIDA AMENDING RESOLUTION NO. 2235, REVISING CERTAIN FEES CHARGED FOR BUILDING DEPARTMENT ACTIVITIES, IN ACCORDANCE WITH SECTIONS 5-6(b) OF THE TOWN'S CODE OF ORDINANCES; PROVIDING FOR REPEALER; PROVIDING FOR INCORPORATION OF RECITALS AND SETTING AN EFFECTIVE DATE.

9. **Consideration** and **Approval** to issue a Request for Qualifications (RFQ) to hire an engineering design consulting firm for the planning, preparation of concept designs, final design, permitting and owner's representative services for the Block 11 Parking Garage Structure Project.

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10. **Consideration** and **Approval** of a Resolution amending Resolution No. 669 pertaining to the Schedule of Civil Penalties, pursuant to Section 5 3/4 of the Town Code, modifying fees related to violations for failure to obtain a Building Permit for new construction and demolition and allowing garbage to remain on the curb.

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF BAY HARBOR ISLANDS, FLORIDA, REVISING RESOLUTION NO. 669 BY MODIFYING THE SCHEDULE OF CIVIL PENALTIES TO BE ASSESSED FOR VIOLATION OF THE TOWN CODE, PURSUANT TO SECTION 5 ¾- 11; PROVIDING FOR INCORPORATION OF RECITALS AND SETTING AN EFFECTIVE DATE.

11. **Consideration** and **Approval** of a Resolution amending Resolution No. 862 to increase stormwater utility fees, pursuant to Section 20-15 of the Town Code.

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF BAY HARBOR ISLANDS, FLORIDA AMENDING RESOLUTION NO. 862 TO INCREASE STORMWATER UTILITY FEES, IN ACCORDANCE WITH SECTION 20-15 OF THE TOWN CODE; PROVIDING FOR INCORPORATION OF RECITALS AND SETTING AN EFFECTIVE DATE.

12. **Consideration** and **Approval** of a Resolution increasing the Administrative Cost for the Special Magistrate Hearings from $150 to $200, under the authority of Section 5 3/4-4 of the Town's Code of Ordinances.

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF BAY HARBOR ISLANDS, FLORIDA, INCREASING THE ADMINISTRATIVE COST FOR THE SPECIAL MAGISTRATE HEARINGS TO $200.00, UNDER SECTION 5 ¾-4 OF THE TOWN'S CODE OF ORDINANCES; PROVIDING FOR INCORPORATION OF RECITALS; PROVIDING FOR CONFLICT; AND SETTING AN EFFECTIVE DATE.

13. **Consideration** and **Approval** to authorize the Town Manager to sign a Grant Agreement with the Florida Department of Environmental Protection (FDEP) for the amount of $50,000 for the 92nd Street Dog Park Extension Project.

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14. **Consideration** and **Approval** of a Resolution accepting the Dedication of Easement from 9525 BH LLC, to the Town of Bay Harbor Islands to use, access, repair, and maintain the Stormwater Drainage Pipe at 9110 West Bay Harbor Drive.

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF BAY HARBOR ISLANDS, FLORIDA, PROVIDING FOR ACCEPTANCE OF DEDICATION OF AN EASEMENT FROM 9525 BH LLC, A FLORIDA LIMITED LIABILITY COMPANY, TO THE TOWN OF BAY HARBOR ISLANDS TO USE, ACCESS, REPAIR, AND MAINTAIN THE TOWN'S STORMWATER DRAINAGE PIPE AT 9110 WEST BAY HARBOR DRIVE; AUTHORIZING THE TOWN MANAGER TO EXECUTE INSTRUMENTS CONCERNING THE DEDICATION AND TO DO ALL THINGS NECESSARY TO CARRY OUT THE AIMS OF THIS RESOLUTION; PROVIDING FOR INCORPORATION OF RECITALS; AND SETTING AN EFFECTIVE DATE.

15. **Consideration** and **Ratification** of Council Chamber Renovation Estimates.

Mayor Fuller pointed out some of the agenda items refers to "Broad Causeway", and he requested they be changed to "Shepard Broad Causeway".

ACTION: Council Member Bruder made a motion to approve the Consent Agenda. Vice Mayor Tricoche seconded the motion, and it passed unanimously on a poll vote.

26. Presentation and report on the Town Investment portfolio performance for the 2nd Quarter 2022. Presentation will be provided by Gerardo Rodriguez of BNY Mellon Bank Wealth Manager. Attached are the Town of Bay Harbor Islands General, Causeway and Water Fund performance reports provided by BNY Mellon Bank

Gerardo Rodriguez came forward and made a presentation on the investments summary as of June 30, 2022 for the Town of Bay Harbor Islands. He reported the market value of the Contingency, General, and Water Funds was $6,592,324 generating an estimated annual income of $140,076 a year. The average yield for the portfolio was 2.15% compared to the index of 2.17%; the average yield to maturity was 3.3% compared to the index of 3.49%; and the average duration of life per bond was 3.61% compared to the 3.96%. The quarterly return for the contingency fund was -2.05%; -2.04% for the general fund; and -2.03% for the water fund, compared to the index -2.34% for the second quarter of year 2022. The year to date for the contingency fund was -6.05%, for the general fund -6.04%, and for the water fund -6.02% compared

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to the index of -6.71%. The annualized return since inception for the contingency fund was 3.29%, for the general fund 3.32%, and 3.37% for the water fund compared to the 3.92% index.

ORDINANCES ON SECOND READING:

16. **Consideration** and **Approval** of an Ordinance on Second Reading modifying Section 23-29.1 of the Town Code by revising the existing off-street parking regulations to provide limitations on the use of the Town's Parking Trust System, Section 23-30(f) regarding the regulations pertaining to allowable locations and screening of mechanically stacked vehicles, and clarification of the 2008 action of the Town Council reassigning the responsibility to consider alternate parking arrangements to the Design Review Board.

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF BAY HARBOR ISLANDS, FLORIDA, AMENDING THE TOWN'S ZONING AND PLANNING CODE TO MODIFY THE EXISTING CODE PROVISIONS GOVERNING OFF-STREET PARKING; MODIFYING SECTION 23-29.1 OF ARTICLE II OF CHAPTER 23 RELATED TO THE TOWN PARKING TRUST; MODIFYING SECTION 23-30(f) OF ARTICLE II OF CHAPTER 23 RELATED TO DETERMINING THE AMOUNT OF PARKING SPACES; MODIFYING THE CODE TO CLARIFY A 2008 TOWN COUNCIL ACTION THAT REASSIGNED THE RESPONSIBILITY TO CONSIDER ALTERNATE PARKING ARRANGEMENTS TO THE PLANNING AND ZONING BOARD (NOW KNOWN AS THE DESIGN REVIEW BOARD); MODIFYING THE EXISTING CODE AS IT RELATES TO MECHANICALLY STACKED VEHICLE LIFTS TO INCLUDE PROVISIONS FOR THE ALLOWABLE LOCATIONS AND SCREENING OF MECHANICALLY STACKED VEHICLE LIFTS; PROVIDING FOR INCORPORATION OF RECITALS; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICT AND REPEALER; AND PROVIDING AN EFFECTIVE DATE.

Council Member Bruder requested to make a change to section 23-30(f) to include the following: "subsequent to the Design Review Board approval and prior to the submission a building permit application, all proposed alternative parking arrangements shall be placed on a Town Council meeting agenda for review and approval of the Board's actions and that is to include parallel parking and valet parking".

The Council did not have the revised proposed ordinances and asked if the ordinance was properly noticed. The Town Clerk confirmed it was; the Council moved forward with the item.

Council Member Bruder continued and explained the proposed changes to the ordinance.

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Vice Mayor Tricoche questioned the function of this change to the ordinance. Council Member Bruder responded by stating the way people are parking such as one behind the other, the Council must ratify alternative parking arrangements, and ultimately the Design Review Board cannot make this decision; and if they do, it must be ratified by the Town Council.

Mayor Fuller asked if the parking arrangements aren't approved by the Design Review Board, then it wouldn't come to the Council. Council Member Bruder confirmed.

Council Member D'Amico brought up discussion on TDR approvals that is separate from the parking trust ordinance and stating the building must be up to code before approval. The Council can review this when developers are asking for TDRs, and they shouldn't be approved if they ask for TDRs; if they are not asking for TDRs then there isn't much to say. If developers ask for TDRs, the Code states they should provide two-parking spaces, and all these items being approved are not up to Code.

Council Member Bruder asked Town Planner Michael Miller to provide additional information as to the issues regarding parking. Town Planner Miller came forward and stated the Town has required two-parking spaces per unit for years now, and there's a history document that shows the changes from one space to eventually two. When reviewing the site plans that go to the DRB, they require two-parking space. Until recently, the Town has allowed either depressed or underground parking. The Florida Building Code and FEMA regulations changed. Council Member D'Amico interjected disagreeing with the Town Planner. Town Planner Miller continued stating for years now they've been approving underground parking garages in a variety of styles, but now the Town is not allowing this. The newer site plans must provide the number of units, so the developers look more at tandem parking, therefore, more lift applications have been received. The two unusual projects are the Royal House and the Island House; they were in the middle of a site plan approval process; the ownership changed, but were told they cannot build an underground parking garage; they created as much parking spaces on the ground floor, they also proposed valet parking 24/7, and because they couldn't physically force any more parking on the site, the Town would allow them to buy some spaces under the Parking Trust which he doesn't foresee happening again. The Code for many years has said you put the owners in a traditional parking or ask for an alternative parking arrangement which includes what the designers have been trying to do. He stated he helped write this ordinance. Initially he was going to ban the commercial one that was proposed, and now has included restrictions to multi-family properties in general; it would also apply to single family homes.

Vice Mayor Tricoche felt the tandem parking was unsafe. She asked the Town Planner if the ordinance will prevent the residential district from purchasing into the parking trust. Town Planner responded yes; it will prevent residential development from buying into the trust. However, there is a clause allowing them, only if it's a severe emergency. Vice Mayor Tricoche added she would like to remove that clause; the new language prohibits the lifts and tandem parking.

DRAFT

Town Planner Miller responded the proposed ordinance does not prohibit tandem parking but allows through its site approval process to be approved. The new language Council Member Bruder suggested would add a new requirement that once the Board acts on, the alternative requests for parking will come in front of the Council to decide.

Vice Mayor Tricoche stated she wants the iceberg clause and the alternative parking arrangement to be removed. Council Member D'Amico suggested to remove the word "hardship" from the proposed ordinance. She did not agree with the changes made to renaming the Planning & Zoning Board to Design Review Board, and as result the Comprehensive Plan and the Charter do not reflect the name changes. Council Member Bruder responded she has no issues with removing the word "hardship" from the ordinance.

Council Member D'Amico asked when the Design Review Board verbiage would change in the Comprehensive Plan, since there is confusion as to the legality of the Board.

Council Member Yaffe stated he will not vote for the ordinance as written. Section 3A on Page 2 and Page 4 reference August 15, 2022, and he does not agree on voting for an ordinance with an approval date prior to the date of enactment. He also disagreed with verbiage of "approved by the Town." He further added that the verbiage had to be more specific as to who approved the site plan. If the date of approval changes on the ordinance to reflect today's date, then he would approve, and the "entity" of who is approving the site plan is too vague. He felt the ordinance was poorly drafted. Council Member Salver concurred with Council Member Yaffe.

Mayor Fuller felt the Town was making it impossible to build on some of the properties, thereby hurting residents. For purposes of development, the Town has a height restriction; subterranean restriction; two-parking spaces requirement per unit; and there must be the financial ability to create the value for some of the individuals purchasing these homes. The fact the Town is potentially taking value from these properties, especially from a buyer who may have purchased a home based on the current value and availability for development rights, creates an issue he felt could potentially open the Town to a liability. He proposed the property owner may come forward to Council and ask to buy into the parking trust, and they could deny. If the Town simply decides to get tougher on these issues, it can, but simply taking away rights is a problem. He requested the Town Attorney provide feedback on his thought and suggestion.

Council Member Yaffe added if the Town approves lifts, then he will want to see valet for these properties with no self-parking if the developer wants a lift. Council Member Bruder asked who will supervise to ensure the valet is available twenty-four hours. Council Member D'Amico added that lifts should not be operated without a valet company. She stated if the Town takes away lifts and tandem parking, then there would be no parking left.

DRAFT

Vice Mayor Tricoche added that the Town's first issue is buying into the parking trust. She asked the Council if everyone agreed the residential district should not be allowed to buy into the Parking Trust. Council Member Salver added every unit should have two parking spaces assigned. Vice Mayor Tricoche asked Council Member Bruder if they parse back the item and have the language solely be around the removal of the capacity to buy into the Parking Trust if the property owner is in the residential district, would she be amenable to this, and would be permitted in the second reading. Town Attorney Geller directed to Vice Mayor Tricoche to repeat the question, which she did.

Town Attorney Geller responded that based on the Vice Mayor's suggestions, it can be done. The proposed language in 3A is a new section and it starts with "residential developments have all required parking on-site or nearby, or unless extreme hardship exists, and the Town Council approves". He advised that whether the Council changes the language now or excludes it in second reading, enough notice was given.

Mayor Fuller asked Town Attorney Geller if there was any potential liability for removing rights that may exist for property owners. Town Attorney Geller responded that anyone could sue the Town. Secondly, in his opinion, that it can be done without undue liability because the Town is not downzoning someone's property. At this moment, no one has an entitlement to buy into the Parking Trust. The property owner can request to buy into it but is subject for approval by the Town Council. He further added to the degree that the date is in the past versus in the future, somebody can no longer do something as opposed to "rushing to file," that could impact whether anyone has a case. Ultimately, he believed since buying into the parking trust is solely at the Town Council's discretion, a property owner wouldn't have a case.

Vice Mayor Tricoche added that right now it is at the Town's discretion which creates inconsistency, which in turn creates opportunities and second, it creates an opportunity in the future to allow an owner to buy into the Parking Trust. That is unsustainable practice, and this is the first step in locking down and creating a sustainable development.

Mayor Fuller reconfirmed the motion is removing every single change in the ordinance except 3A and it will end in Section 23-29 for that sentence, and then the next sentence would start with "for any residential site development plan" and changing the date to today. Vice Mayor Tricoche interjected and stated that on 3 "participation and the Town Parking trust shall be limited to non-residential use sites." That removes the iceberg hardship clause and then 3A would end at 23-29, and the date would be altered to today. Mayor Fuller asked if there are no other changes throughout the ordinance, and everything is just removed. Vice Mayor Tricoche confirmed and stated this would be a very specific ordinance.

PUBLIC COMMENT

DRAFT

Karl Ahlers, Klaus Parking Systems, came forward and stated he represents a company from Germany that has been in business for 63 years and they have 800,000 installations of mechanical parking lifts. They've been doing this in South Florida since 2003 and have 8,000 lifts just in South Florida and of which they have also installed all the way to Virginia. They are located nearby the Town; they have 30 employees in Miami; they perform certified annual maintenance to ensure they operate safely, and they provide maintenance as well. He added they have zero loss, and understand the Town is trying to solve a parking problem and is concerned on the safety of these lifts. The lifts provided by his company are UL certified along with all the components; all lifts are valet operated. The lifts have dual mechanical locks; lower lifts by gravity; and they have some installed in Bay Harbor Islands.

Matt Amster, Bercow, Radell, Fernandez, Larking & Tapanes, 200 South Biscayne Blvd., came forward and stated his firm represents some developers that use mechanical lifts, and Klaus is the company they would use which is why he presented today to provide the Council with a brief education on lifts. He advocated for Klaus and advised they can provide a visit to see lifts in action. The developers have relied on the code, the opportunities, and track record; they spend millions of dollars to bring these projects to fruition which benefits the Town. Things that were discussed today that would affect the mechanical lifts have been tabled for later; therefore, he would happily discuss his concerns for a later date.

Frances Neuhut, 1060 Kane Concourse, came forward and stated Council Member D'Amico is knowledgeable and Town Planner is not. She also added there were about twelve projects that were brought to the Design Review Board, and the Town Planner allowed these parking proposals to go in front of the Design Review Board to be approved. She also stated she has an appeal in one of the projects allowing parking in the Parks, and the Town would not allow her appeal to be heard. She stated she should be allowed before letting all the projects grandfather in with the changes being made.

PUBLIC COMMENT CLOSED

Town Attorney Geller advised the Council someone needs to make the motion to amend with a second, which can be approved on a voice vote, and the second reading of the ordinance will be by a poll vote.

ACTION: Vice Mayor Tricoche made a motion to amend Section 3 for participation in the Town Parking Trust to be limited to non-residential use sites, removing every single change in the ordinance except 3A to end in Section 23-29 for that sentence, and to reflect September 14, 2022, as the effective date. The motion to amend was seconded by Council Member Bruder, passing unanimously with a voice vote for the motion to amend. A poll vote was taken for the ordinance as amended, and the motion passed 5-1 with Mayor Fuller opposing. Council Member Diallo was absent.

DRAFT

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

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.

PUBLIC COMMENT

Frances Neuhut, 1060 Kane Concourse, came forward to address the Council and stated the Litigation Committee has been serving for about fifteen to twenty years, and it's time for new members. She stated she attends the Special Master Hearings and the committee meetings and felt the settlements offered at those hearings are too low as opposed to how she would be charged.

PUBLIC COMMENT CLOSED

Council Member Bruder left the meeting at 8:28 p.m.

ACTION: Council Member Yaffe made motion to approve the ordinance on second reading. Council Member D'Amico seconded the motion, and it passed by a 4-1 vote, with Council Member Salver opposing. Council Members Diallo and Bruder were absent.

ORDINANCES ON FIRST READING:

18. **Consideration** and **Approval** of an ordinance on first reading amending the Town Code by creating Chapter 25, entitled "Environment", pertaining to stormwater management and treatment regulations; to safeguard persons, protect property, and prevent damage to the environment, Bay Harbor Islands' surface waters, and Biscayne Bay through the regulation of non-stormwater discharges and pollutants into the Town's municipal separate storm sewer system (MS4), Biscayne Bay, and surface waters, to the maximum extent practicable.

DRAFT

AN ORDINANCE OF THE TOWN OF BAY HARBOR ISLANDS, FLORIDA AMENDING THE TOWN'S CODE OF ORDINANCES BY CREATING CHAPTER 25, ENTITLED "ENVIRONMENT"; PERTAINING TO STORMWATER MANAGEMENT AND TREATMENT REGULATIONS; PROVIDING FOR INCORPORATION OF RECITALS; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR CONFLICT AND REPEALER; AND PROVIDING FOR AN EFFECTIVE DATE.

Town Manager Lasday advised the Council the protocols are being required and they were reviewed by the State. She stated that it was important that only stormwater discharges into the bay, and these regulations should be passed.

PUBLIC COMMENT

Frances Neuhut, 1060 Kane Concourse, came forward and stated the Church by the Sea dumped into the stormwater for weeks and the Police and the Mayor were called, and nothing was done. She added the plans are missing the drains; the taxpayer money is paying for this, and the Church have not been shut down for this.

PUBLIC COMMENT CLOSED

Mayor Fuller responded to Ms. Neuhut and advised that he has never spoken to her regarding this issue.

Council Member D'Amico asked if the Brownfield site was approved. Town Manager Lasday affirmed the site went through the process.

ACTION: Council Member Yaffe made motion to approve the ordinance on first reading. Council Member D'Amico seconded motion, which passed unanimously on a poll vote. Council Members Bruder and Diallo were absent.

19. **Consideration** and **Approval** of an Ordinance on First Reading amending Section 20-9 of the Town Code to increase the monthly base and flow charges for sewer service.

DRAFT

AN ORDINANCE OF THE TOWN OF BAY HARBOR ISLANDS, FLORIDA AMENDING SECTION 20-9 OF THE TOWN CODE TO INCREASE THE MONTHLY BASE AND FLOW CHARGES FOR SEWER SERVICE; PROVIDING FOR INCORPORATION OF RECITALS; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR CONFLICT AND REPEALER; AND PROVIDING FOR AN EFFECTIVE DATE.

ACTION: Council Member D'Amico made a motion to approve on first reading. Council Member Yaffe seconded motion which passed with 5-0 poll vote. Council Members Diallo and Bruder were absent.

DEFERRED ITEMS:

20. **Discussion** and **Possible** action regarding the appointment of a member to the Litigation Committee and name of Committee.

    Mayor Fuller asked Council Members Salver and Yaffe if they wanted to remain on the committee; both Council Members affirmed; he then asked for a nomination for the third seat.

    Council Member D'Amico nominated Vice Mayor Tricoche because of her expertise with financial issues. She accepted the nomination.

    ACTION: Council Member Yaffe made a motion to appoint Vice Mayor Tricoche and to change the name of the committee from Litigation Committee to Civil Resolution Committee. Council Member D'Amico seconded motion, which passed unanimously on a poll vote. Council Members Bruder and Diallo were not present.

21. **Consideration** and **Approval** of a Resolution amending Section 23-22.2 of the Town Code to modify the percentage of Town-owned Transfer of Development Right Dwelling Units that may be allocated to each project. Introduced by Council Member Stephanie Bruder.

    A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF BAY HARBOR ISLANDS, FLORIDA, MODIFYING THE PERCENTAGE OF TOWN-OWNED TRANSFER OF DEVELOPMENT RIGHT DWELLING UNITS THAT MAY BE ALLOCATED TO EACH PROJECT PURSUANT TO SECTION 23-22.2 OF THE TOWN'S CODE OF ORDINANCES; SETTING AN EFFECTIVE DATE.

DRAFT

Mayor Fuller asked Town Manager Lasday if Council Member Bruder mentioned anything to her whether she wanted this item to move forward since she left early. Town Manager responded she did not but knew she wanted this item to be heard. The Town Council made a consensus to move forward with the item.

PUBLIC COMMENT

Frances Neuhut, 1060 Kane Concourse, came forward and stated TDRs are related to parking; the Town does not have parking to give away; parking is on a first come first served basis; one project was given forty-six TDRs, but other cities give six at most; and the Town was "playing" with the Comprehensive Plan.

PUBLIC COMMENT CLOSED

Mayor Fuller addressed the Council and stated he understands the resolution is an effort to try and help parking issues but didn't feel the resolution provides much. The Town already has the ability of rejecting TDR requests to developers even under the current rules. Council Member D'Amico added she would rather know if there's a limit. Mayor Fuller added that the current resolution states the town wants more than fifty percent by the private market, but the Town Council has the ability at any point to vote and overturn it. This resolution does the same thing but sets a limit of twenty-five, but ultimately, the Council can override the amount if need be.

Vice Mayor Tricoche responded that just as the previous item, it's important the Town has a clearly defined expectation; the Town bank is limited, and the responsibility is of the Town Council to protect and use that asset in a way that best meets the constituents needs. Expecting the developer to come with a more concrete plan is part of the general strategy. She would like developers to come with seventy-five percent limiting the amount they're getting from the Town bank.

Council Member Salver added he would like developers to come within the Town's code of ordinances as written. The language in this resolution mentions required TDR needed and TDRs are considered a bonus. He stated he didn't like how the resolution was written and will probably vote against it.

Council Member D'Amico raised a question to Council Member Salver if the verbiage is something he's concerned about, and if there was something she should look for when deciding on this item. Council Member Salver responded TDR awards from the Town's bank should be at the discretion of the council.

Mayor Fuller added the Town has made it clear to developers the TDR market isn't as easily available as before; the Town is potentially raising the value of them as well; the number available is not the same number as before. Council Member Yaffe added that property owners should know they need to do a better job of going into the private market to get the TDRs because the Town will not be forthcoming of giving fifty percent.

DRAFT

ACTION: Vice Mayor Tricoche made a motion to approve the resolution. Council Member D'Amico seconded motion which passed 3-2 on a poll vote with Council Member Salver and Mayor Fuller opposing.

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

22. **Consideration** and **Approval** of a Resolution amending the Transfer of Development Right Dwelling Unit price. Public Meeting on methodology, Public Input, and Council vote.

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF BAY HARBOR ISLANDS, FLORIDA, REVISING RESOLUTION NO. 2171 UPDATING AND ADOPTING NEW VALUES FOR THE TOWN-OWNED TDR DWELLING UNITS; PROVIDING FOR INCORPORATION OF RECITALS; PROVIDING FOR CONFLICTS; AND PROVIDING AN EFFECTIVE DATE.

PUBLIC COMMENT

Matt Amster, Bercow Radell Fernandez Larking & Tapanes, 200 South Biscayne Blvd, came forward and stated based on the item previously discussed, it was difficult to go into the private market. However, if the Town can update the privately owned list of TDRs, and make it available, it would facilitate the developers to go to the private market for TDRs. He also suggested the Town do an outreach to the private donor sites and provide education on these transactions, which will in turn give them comfort and ease when speaking to developers. He suggested pamphlets, or a Town Hall meeting to give an education session to people who have TDRs available.

Vice Mayor Tricoche stated she doesn't feel it's the Town's job to educate people on the value of their property, and the Town's responsibility to advocate on behalf of the developers to find TDRs; it is their responsibility.

Council Member Yaffe added there are property owners that are interested but don't know of this. Therefore, if the property owner is interested let the Town know, so they can be added to the list that has been maintained for years.

Mayor Fuller agreed with both and suggested the Town update the list; he was not opposed to developers holding an educational session for property owners to educate them on the purposes of TDRs and placing it in the newsletter.

Council D'Amico added TDRs is a very abstract concept; people can get ripped off very easily and not knowing; the system is designed to put money back into a building that needs it. She discussed the need for a junior planner as she would like to be able to see who the private donors would be.

DRAFT

Council Member Yaffe further added a donor site opens their site to Code Enforcement to make a list of all deficiencies, and at closing of the sale of TDRs, if the items need to be fixed, then monies would be held in escrow until the items are brought up to code; this could benefit the private donor if the building is an older one that need improvement, otherwise if it was a condo, they would have to special assess.

PUBLIC COMMENT CLOSED

ACTION: Council Member Yaffe made a motion to approve resolution. Council Member D'Amico seconded motion, and it passed unanimously on a poll vote.

23. **Reconsideration** 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.

Matt Amster, Bercow Radell Fernandez Larking & Tapanes, 200 South Biscayne Blvd, came forward on behalf of the owner. He stated they were before the Council in June on this matter; they acquired three privately-owned TDRs, but were in need of two more; the Town was in the process of their annual report and appraisal of TDRs therefore asked them to return at a later date; the project is ready to proceed and only has about two months left before the permits are issued; the financing is available to build the project; they are asking for two TDRs which is eighteen percent, and they have attained eighty-two percent through the private market. He described the project as a two-lot development on a corner lot on West Bay Harbor and 103rd Street. He stated that the project went to the Design Review Board (DRB) twice because the board required some improvements before it could be approved. The project is a 28-unit building; it will provide 56 parking, and there will be use of mechanical lifts.

Vice Mayor Tricoche raised a concern as to the pricing of TDR. The developer was offering $75,000; however, after the TDR appraisal, the TDR was valued at $100,000. She stated she will not settle for anything less than the appraised price.

Council Member Salver asked Mr. Amster when they last came before the Council for this project. Mr. Amster responded they came forward in June requesting all TDRs at once; there were three private-TDR transactions approved but were told to wait for the other two after the appraisals were completed. Mr. Amster agreed to the $100,000 price.

ACTION: Council Member Yaffe made a motion to approve the resolution. Vice Mayor Tricoche seconded motion. After discussion, Vice Mayor Tricoche moved to amend with a price of $100,000 per TDR. Council Member D'Amico seconded the amendment, which was accepted and passed. The motion to approve the Resolution as amended passed unanimously on a poll vote.

DRAFT

24. **Consideration and approval** of a private TDR transaction of the transfer of five (5) dwelling units from 10150 East Bay Harbor Drive to 10290 East Bay Harbor Drive.

Nick Bershow, Akerman LLP, came forward to address the Council and stated he represented the property owner of the receiving site which is 10290 East Bay Harbor Drive. He stated that this was a complete private transaction for five TDRs; they will need to come back to the Council for an additional eighteen; and these five TDRs were allegedly sold to this property owner through a deed of the prior owner.

Mayor Fuller recused himself from this meeting after realizing that one of his clients is negotiating on another property with the owner of this property.

Vice Mayor Tricoche asked Town Attorney Geller if there are sufficient members to have a quorum on this item. Town Attorney Geller confirmed there was.

Council Member Yaffe asked Mr. Bershow how many TDRs will be required for this property. Mr. Bershow responded twenty-three of which five were being discussed today with eighteen remaining. Council Member Yaffe commented it's a large site and does not understand the need for twenty-three TDRs.

Vice-Mayor Tricoche explained that the property does not have many units. Mr. Bershow interjected and advised there was a previous TDR transaction by the prior owner taking away from this site, so it lost units which are now being recouped.

Town Attorney Geller explained there was a transaction with a deed with TDR units years ago, but there was no record of the Town ever approving it; the owner bought the property believing this was approved because there was a deed; the Town's position is if there is no record of this transaction and approving it, it's not okay; as they are trying to regularize this purported prior transfer of only five units.

Council Member D'Amico raised a concern as to other means of parking because this project has 35-units and there are thirty-five lifts; the lifts are compliant but it's a bad idea to not have any other means; she was not thrilled with this project; which she felt hurts the value of the property.

Paul Murphy came forward and disagreed with Council Member D'Amico. He stated he has been a builder for fifty-two years; built twenty-four high rises including Regalia in Sunny Isles of which the entire parking in the project is lifts. Council Member D'Amico asked how many staff work the valet in Regalia. Mr. Murphy responded everything is valet; the project holds; forty double lifts just like here for eighty parking spaces; and there are no complaints on this from Regalia residents. Council Member D'Amico raised a concern whether children have access to the parking lifts. Mr. Murphy responded children do not have access to the lifts as its closed off on both sides.

DRAFT

Vice Mayor Tricoche directed a question to the Town Attorney whether they can discuss parking or should only discuss TDR. Town Attorney Geller advised they have discretion in the factors they want to look at.

Vice Mayor Tricoche asked Mr. Bershow if both addresses are related. Mr. Bershow responded they are not related. The alleged deal from 2015 was a prior owner of both the donor and receiver site, and they have both been sold to separate entities. When this issue arose, they had to contact the owner and negotiate a deal to obtain the TDRs; totally separate party they have an agreement with; and it involves the ability for the receiver site to make repairs at their costs on the donor site.

Vice Mayor Tricoche advised Council before deciding to think as the developer is still in need of eighteen TDRs, and even with the ordinance passed today, they can come back and still request the twenty-five percent. Council Member D'Amico added they should let them get these five to get them under the belt because they have a lot more to come back for, but would not be surprised when they return, they get denied because the project only contains lifts.

Vice Mayor Tricoche added the donor site needs improvement.

Town Attorney Geller added that the new ordinance that was passed relating to the twenty-five percent is related to public TDRs not private.

PUBLIC COMMENT

Frances Neuhut, 1060 Kane Concourse, came forward to address the Council and stated she was worried about the Design Review Board; she was not confident in the Design Review Board to go over the zoning and parking; she believes the Town needs a moratorium; and feels the Town Council should be listening to Council Member D'Amico.

PUBLIC COMMENT CLOSED

ACTION: Council Member Salver made a motion to approve private TDR transaction of the transfer of five (5) dwelling units from 10150 East Bay Harbor Drive to 10290 East Bay Harbor Drive. Vice Mayor Tricoche seconded the motion which passed unanimously on a poll vote. Council Members Bruder and Diallo were not present. Mayor Fuller recused.

DISCUSSION ITEMS:

25. Discussion regarding single lot development on the East Island. Sponsored by Council Member Isaac Salver

DRAFT

Council Member Salver expressed he was not a fan of single lot developments, the notion of putting eight-story monolithic building plot down in a single lot with tiny setbacks does not improve the Town. He addressed the Town Manager and Planner to create a plan to avoid tall monolithic structures on single lot whether on the dry or water lots. He suggested making more robust setbacks or demanding smaller buildings or different styles on single lots. He stated that the Council oversees preserving the Town and the small-town way of life, and if the council continues to allow this, it's a grave mistake. He added projects are being approved through the Design Review Board without being seen by the Council because they follow the Code. He would like to see all the developments come through whether approved or not.

Council Member Yaffe added that one of the benefits from Town Manager Lasday's weekly report is she provides the Council a recap of all the Design Review Board meetings and the renderings of these projects, and he appreciates this of her.

Council Member Salver continued by asking the Council to give the Town Planner approval or guidance of what the Council wants.

Mayor Fuller added that it's a matter of incentives; there is a certain value for the lots, and if a lot of the rights are stripped away, the value is going to plummet. He suggested maybe providing an incentive to do a different style design to preserve the property value, but they can no longer build boxes.

Council Member Salver stated he considered bringing in a developer and suggesting, instead of making a building 75 feet plus, make it 55 feet plus and give a discount on TDRs, so they can put more units on the development in a smaller box.

Council Member D'Amico agreed with Council Member Salver.

Council Member Salver asked Town Planner Miller to compare how other towns handle to encourage lower more compatible developments.

PUBLIC COMMENT

Frances Neuhut, 1060 Kane Concourse, came forward and started by agreeing with Council Member Salver's comments. She added Council Member Salver's suggestion should also be used in the west island; the houses are getting bigger and wider; she wants to see improvements in the Town; she suggested the east island needs more sidewalks; the FPL wiring looks disgusting, and instead of beautifying the Town, it makes it look tacky; she would like to see new developments approved by Town Council.

PUBLIC COMMENTS CLOSED

DRAFT

27. Discussion regarding the Town's 75th Anniversary Celebration.

Mayor Fuller stated that he wants to have the Town's first real art festival. The celebration would be an entire weekend presentation starting with Thursday, hosting a private event, and thereafter, starting on Saturday through Sunday there would be a street fair up and down Kane Concourse; one side of Kane Concourse will be completely shut down; it will stretch from East Bay Harbor Drive all the way to West Bay Harbor Drive and a little on Bay Harbor Terrace; the town will have art vendors, food music, concert series, security and considering merging one concert series that weekend. He then asked Council Member Salver, since Shabbat ends early on Saturday and wants all the community to participate, if holding the art festival on Saturday and Sunday, and the concert on Saturday night, would be a problem. Council Member Salver asked if the Art Exhibit would be available for the whole weekend. Mayor Fuller affirmed, which then Council Member Salver agreed the date of events were acceptable. Mayor Fuller further explained that the plan to hold the concert on a Saturday night was because they were trying to figure out whether to hold movie night or concert on Sunday, but it was later suggested that movie night might be Friday; the Town can't do a movie night on Sunday because children have school on Monday.

Town Manager Lasday gave a brief history of the solicitation of this event. An RFP was initially advertised; however, the Town did not receive suitable proposals. The Town then solicited many quotes and received one from a company she believed would do a great job. The company has plenty of experience handling these types of events; however, the company advised this event is a lot of work, and if they are going to be setting this event and making all the contacts, if there would be an option, based on their performance on this event, to come back for a second or third year to handle events for the Town. She asked the Council whether she would be allowed to extend the contract for a second and third year, or would the Town have to start the RFP process all over again.

Vice Mayor Tricoche responded she would like an option included to extend the contract for an additional two years, if the town was satisfied.

Mayor Fuller added that in multiple conversations with the company handling the event, their fear was that they do all the setup for the Town, and then moving forward the Town handles their own events. He continued saying the dates of the event fills a hole in the calendar as to art festivals, and it was right before the Super Bowl to ensure residents would attend. Vice Mayor Tricoche asked if the Town will be including bounce houses and face painting. Mayor Fuller responded he doesn't know yet and was not sure what will be placed there yet. The Town can always supplement if need be.

Vice Mayor Tricoche added she wanted to see children's supplemental items in the event. Mayor Fuller responded he wanted an area exclusively just for Bay Harbor's residents because the art festival is open to everyone; they are looking at taking over the park next to the community center and make it an hors d'oeuvre or dinner area just for residents. Vice Mayor Tricoche suggested having a painting class which the Town Manager suggested can be done in the Community Center.

DRAFT

Mayor Fuller requested to move forward with the event and for the Town Manager to stay within the $20,000 fee for the event planner. It was the Council's consensus that the Mayor and Town Manager proceed with the event planning and amount suggested.

There being no further business to address the meeting was adjourned at 9:53 p.m.

_____

MAYOR

ATTEST

_____

TOWN CLERK

DRAFT

TOWN OF BAY HARBOR ISLANDS

MINUTES OF A BUDGET PUBLIC HEARING

A Second Budget Public Hearing of the Town of Bay Harbor Islands was held on Wednesday, September 28, 2022, at 6:05 p.m. in the Town Council Chambers. Upon roll call the following Council Members responded:

Mayor Joshua Fuller

Vice Mayor Tricoche
Council Member Molly Diallo
Council Member Robert Yaffe
Council Teri D'Amico
Council Member Isaac Salver

Council Member Stephanie Bruder was absent.

1. **Consideration** and **Approval** of a resolution adopting a final millage rate of 3.1728 mills for the Fiscal Year 2022/2023, which is equal to the rolled back rate of 3.1728 mills per $1,000 of taxable property value. Enclosed is a copy of the proposed resolution.

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF BAY HARBOR ISLANDS, FLORIDA, ADOPTING A FINAL MILLAGE RATE FOR THE FISCAL YEAR COMMENCING OCTOBER 1, 2022 AND ENDING SEPTEMBER 30, 2023; ANNOUNCING THE ADOPTED FINAL MILLAGE RATE OF 3.1728 MILLS, WHICH IS EQUAL TO THE ROLLED BACK RATE OF 3.1728 MILLS COMPUTED PURSUANT TO STATE LAW; PROVIDING FOR INCORPORATION OF RECITALS; AND PROVIDING FOR AN EFFECTIVE DATE.

PUBLIC COMMENT

Frances Neuhut, 1060 Kane Concourse, came forward and inquired if the millage rate would be lowered; expressed concerns that $4.1 Million TDR monies in escrow had not been discovered and the $8.1 Million mentioned cannot be found. She indicated the Town Code requires an independent auditor to handle the matter of the TDR's, if the Finance Director is unable to do so. She added that the TDR program was to be used for improvements.

Town Manager Lasday informed the Town Council she authorized the Town Auditor's to review the Transfer of Development Rights (TDR's).

Council Member Salver asked if the auditors will be handling the TDR Audit within the Scope of the original audit or as a separate engagement.

DRAFT

Town Manager Lasday responded the work was under her $20,000 spending authority; and she authorized separate work for the auditors to conduct a forensic audit, to ensure everything is correct.

PUBLIC COMMENT CLOSED

ACTION: Council Member Salver made a motion to adopt the Resolution. Vice Mayor Tricoche seconded the motion, and it passed unanimously on a poll vote.

1. **Consideration** and **Approval** of a resolution adopting a final budget for the fiscal year commencing October 1, 2022 and ending September 30, 2023. Enclosed is a copy of the proposed resolution and Town of Bay Harbor Islands Fiscal Year 2023 Budget.

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF BAY HARBOR ISLANDS, FLORIDA, ADOPTING A FINAL BUDGET FOR THE FISCAL YEAR COMMENCING OCTOBER 1, 2022 AND ENDING SEPTEMBER 30, 2023; PROVIDING FOR EXPENDITURE OF BUDGETED FUNDS; PROVIDING FOR BUDGETARY CONTROLS; PROVIDING FOR GRANTS AND GIFTS; PROVIDING FOR BUDGET AMENDMENTS; PROVIDING FOR INCORPORATION OF RECITALS; AND PROVIDING FOR AN EFFECTIVE DATE.

PUBLIC COMMENT

There was no public comment.

PUBLIC COMMENT CLOSED

ACTION: Council Member Yaffe made a motion to adopt the Resolution. Vice Mayor Tricoche seconded the motion and passed unanimously on a poll vote.

In reference to questions from the public as to why the Town was conducting the Budget Hearing this evening given the fact of the storm, Mayor Fuller explained the town's requirement by State law to have the hearing and set the budget by a specific date; to provide notification of the hearing; and especially considering Town Hall was opened this afternoon. He added the items were discussed multiple times; budget workshops were held, there were individual meetings, and the hearing was published.

Council Member Yaffe stated he attended a zoom meeting with Miami-Dade County League of Cities and Mayor Levine Cava, who briefed the municipalities on storm preparation. During that meeting, the issue of budget came up and each municipality indicated they were moving forward with their meetings this evening as well, because they were required to have those meetings.

DRAFT

Council Member Salver pointed out that the area did not receive a direct hit from the storm.

Mayor Fuller further thanked the Police Department, Public Works, and every member of the Town's staff for their efforts in preparing the town for the storm and ensuring the residents were safe.

Council Member Salver asked for prayers for those in the southwest coast of Florida who were receiving a direct impact from the storm.

ADJOURNMENT:

There being no further business to discuss the meeting was adjourned at 6:14 p.m.

_____

MAYOR

ATTEST

_____

TOWN CLERK

DRAFT

AGENDA ITEM REPORT
February 1, 2023

ITEM NUMBER: 6.

ITEM: Consideration and **Approval** of a Resolution revising Resolution No. 2268 to amend parking meter rates. Enclosed is a copy of the proposed Resolution.

DESCRIPTION:
On September 14, 2022, the Town Council adopted Resolution No. 2268 pertaining to fees for parking meter rates. The proposed Resolution will amend the parking meter rates from hourly at $2.00 to half-hour increments at a cost of $1.00.

RECOMMENDED ACTION:
Approve

FINANCIAL ANALYSIS:
No estimated additional Fiscal Impact to amend the hourly Parking Fees in Parking Fund. The Resolutions will allow the Town residents, constituents and visitors to be able to pay for on street parking in 30 minutes increments instead of 1 hour increment. The previous hourly fee of $2.00/per hour fee is split to $1.00/per 30 minutes fee.

BUDGET IMPACT:

Submitted By: Yvonne Hamilton, Town Clerk

ATTACHMENTS

1.	Resolution - Parking Meter Rates-

RESOLUTION NO. _____

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF BAY HARBOR ISLANDS, FLORIDA, REVISING RESOLUTION NO. 2268 AMENDING THE TOWN'S PARKING METER RATES; REPEALING OTHER RESOLUTIONS, PROVIDING FOR INCORPORATION OF RECITALS AND SETTING AN EFFECTIVE DATE.

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

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

WHEREAS, the Town Council adopted Resolution No. 2268 on September 14, 2022, imposing fees for services rendered by the Town in providing public parking; and

WHEREAS the Town Council desires to amend the parking meter rates as indicated by underlining below.

Municipal Parking Garage -Blue lot	$90.00
Orange Municipal Parking lot 95 Street	$75.00
Green North Service Alley lot	$107.00
Red Municipal Parking lot 103 Street	$35.00
Red Municipal Parking lot 100 Street	$35.00
Red Municipal Parking lot 92 Street	$35.00
Brown Municipal Parking lot 97 Street	$75.00
Municipal Parking Garage	~~$2.00~~ $1.00 per 30/Minutes
Orange Municipal Parking lot 95 Street	~~$2.00~~ $1.00 per 30/Minutes
Green North Service Alley Lot	~~$2.00~~ $1.00 per 30/Minutes
Red Municipal Parking lot 103 Street	~~$2.00~~ $1.00 per 30/Minutes
Red Municipal Parking lot 100 Street	~~$2.00~~ $1.00 per 30/Minutes
Red Municipal Parking lot 92 Street	~~$2.00~~ $1.00 per 30/Minutes
Brown Municipal Parking lot 97 Street	~~$2.00~~ $1.00 per 30/Minutes
96th St Kane Concourse Meters	~~$2.00~~ $1.00 per 30/Minutes

PaybyPhone Location 4571 Garage	~~$2.00~~ $1.00 per 30/Minutes	~~Per Hour~~
PaybyPhone Location 4585 Orange lot	~~$2.00~~ $1.00 per 30/Minutes	~~Per Hour~~
PaybyPhone Location 4586 Green lot 1.00	~~$2.00~~ $1.00 per 30/Minutes	~~Per Hour~~

PaybyPhone Location 2270 Red lot	~~$2.00~~ $1.00 per 30/Minutes	~~Per Hour~~
PaybyPhone Location 2271 Red lot	~~$2.00~~ $1.00 per 30/Minutes	~~Per Hour~~
PaybyPhone Location 2280 Red lot	~~$2.00~~ $1.00 per 30/Minutes	~~Per Hour~~
PaybyPhone Location 4587 Brown lot 1	~~$2.00~~ $1.00 per 30/Minutes	~~Per Hour~~
PaybyPhone Location 2281 No permit 1	~~$2.00~~ $1.00 per 30/Minutes	~~Per Hour~~
Bay Harbor Terrace 95 Street	~~$2.00~~ $1.00 per 30/Minutes	~~Per Hour~~

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

Section 1. Recitals. The foregoing recitals are adopted and hereby incorporated as if fully set forth herein.

Section 2: Conflict and Repealer. All prior Resolutions adopting parking meter and decal rates are hereby repealed.

Section 3. Resolution Amended. Resolution No. 2268 is hereby amended to adopt the Fee Schedule set forth herein.

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

PASSED AND ADOPTED this 1st day of February 2023.

By: _____
Joshua D. Fuller - Mayor

ATTEST:

_____
Yvonne P. Hamilton, CMC
Town Clerk

APPROVED AS TO FORM AND LEGAL SUFFIENCY:

_____
Greenspoon Marder LLP – Town Attorneys
By: Joseph S. Geller

AGENDA ITEM REPORT
February 1, 2023

ITEM NUMBER: 7.

ITEM: Consideration and **Approval** of a Memorandum of Understanding (MOU) between Miami-Dade County Association of Chiefs of Police (MDCACP) - First Responder Mental Wellness Initiative and Bay Harbor Islands (Partner Agency) for BHI law enforcement officers participation in the Regional First Responder Peer Support Team Program. Enclosed is a copy of the proposed Memorandum of Understanding.

DESCRIPTION:
The First Responder Mental Wellness Initiative program developed by the Miami-Dade County Association of Chiefs of Police will be partnering over 30 local PD agencies and the Miami-Dade County Association of Chiefs of Police (MDCACP) to establish and staff a Regional First Responder Peer Support Team Program. The Regional First Responder Peer Support Team Program will provide the Miami-Dade law enforcement community and their families the support needed to constructively navigate through personal and professional struggles. The emphasis of the Program will be on supporting first responders' ability to struggle well and thrive through trauma and challenges in their professional and personal lives.

RECOMMENDED ACTION:

FINANCIAL ANALYSIS:

BUDGET IMPACT:

Submitted By: Yvonne Hamilton, Town Clerk

ATTACHMENTS

1.	Letter for MOU DRAFT 12.16.2022

MIAMI-DADE COUNTY
ASSOCIATION OF CHIEFS OF POLICE

ASSOCIATION OF CHIEFS OF POLICE

CHIEF DELMA K. NOEL PRATT
PRESIDENT
DEPUTY CHIEF SAMUEL BEJAR
VICE PRESIDENT
MAJOR PETE DELGADO
SECRETARY
CHIEF LUIS CABRERA
TREASURER
RET. CHIEF IRVING HELLER
SERGEANT AT ARMS
CHIEF RENÉ G. LANDA
PAST PRESIDENT

AFFILIATES
U.S. DHS - ATF
U.S. DHS - AIR MARSHALS
U.S. DHS - BORDER PATROL
U.S. DHS - COAST GUARD
U.S. CUSTOMS OFFICE
U.S. DHS - DEA
U.S. DHS - DSS
U.S. DHS - FBI
U.S. DHS - ICE
U.S. DHS - MARSHALS SERVICE
U.S. DHS - POSTAL INSPECTION
U.S. DHS - SECRET SERVICE
AVENTURA POLICE
BAL HARBOUR POLICE
BAY ISLANDS HARBOR POLICE
BISCAYNE PARK POLICE
MIAMI POLICE
CORAL GABLES POLICE
DORAL POLICE
EL PORTAL POLICE
FIU POLICE
FLORIDA CITY POLICE
GOLDEN BEACH POLICE
HIALEAH GARDENS POLICE
HIALEAH POLICE
HOMESTEAD POLICE
INDIAN CREEK PUBLIC SAFETY
KEY BISCAYNE POLICE
MEDLEY POLICE
MIAMI POLICE
MIAMI BEACH POLICE
MIAMI GARDENS POLICE
MIAMI-DADE POLICE
M-D DEPT. OF CORRECTIONS
M-D SCHOOL POLICE
MDC PUBLIC SAFTEY DEPT.
MDC SCHOOL OF JUSTICE POLICE
MIAMI SHORES POLICE
MIAMI SPRINGS POLICE
MICCOSUKEE TRIBAL POLICE
NORTH BAY VILLAGE POLICE
NORTH MIAMI POLICE
NORTH MIAMI BEACH POLICE
OPA-LOCKA POLICE
PINECREST POLICE
SOUTH MIAMI POLICE
SUNNY ISLES BEACH POLICE
SURFSIDE POLICE
SWEETWATER POLICE
UNIVERSITY OF MIAMI POLICE
VIRGINIA GARDENS POLICE
WEST MIAMI POLICE
STATE ATTORNEY'S OFFICE
SFML STRIKE FORCE
LEO FOUNDATION
SO FLORIDA SHOMRIM SOCIETY
FL DEPT. OF LAW ENFORCEMENT
FLORIDA HIGHWAY PATROL
FL FISH & WILDLIFE COMMISSION

P.O. BOX 531045
MIAMI SHORES, FL 33153

Dear Colleagues,

It is my pleasure to announce that we are in the final stages of approving a Memorandum of Understanding (MOU) for agencies to be part of the Miami-Dade County Association of Chiefs of Police – First Responder Mental Wellness Initiative. Through the MOU agencies will partner with each other and the MDCACP to establish and staff the Regional First Responder Peer Support Team Program.

The Regional First Responder Peer Support Team Program will provide the Miami-Dade law enforcement community and their families the support needed to constructively navigate through personal and professional struggles. The emphasis of the Program will be on supporting first responders' ability to struggle well and thrive through trauma and challenges in their professional and personal lives.

Attached you will find a copy of the MOU that has been reviewed and approved by the Miami-Dade County Association of Chiefs of Police (MDCACP) Executive Board.

Please have your respective governmental representatives review the language. If any changes are required, please return the changes so that they can be reviewed and discussed further for possible incorporation.

If there are any amendments, a revised MOU will be distributed for final review.

Once the MOU is finalized, please provide me with a fully executed signature page. After all participating agencies have completed and returned their signature page, we will integrate all documents, including the signature page of the First Responder Mental Wellness Initiative [Program] Director to the agreement. Copies of the fully executed MOU will then be distributed for your records.

I appreciate the fact that this process is time consuming and you are all busy; however, I ask that you address this with your representatives in a timely manner due to the importance of this program and its potential life-saving impact on our law enforcement community.

If you have any questions or concerns, please contact me or a MDCACP Board member.

Regards,

Rene Landa
Chief of Police
South Miami Police Department

MEMORANDUM OF UNDERSTANDING

BETWEEN THE MIAMI-DADE COUNTY ASSOCIATION OF CHIEFS OF POLICE (MDCACP) – FIRST RESPONDER MENTAL WELLNESS INITIATIVE

AND

PARTNER LAW ENFORCEMENT AGENCY

This Memorandum of Understanding (MOU), by and between The Miami-Dade County Association of Chiefs of Police (referred to herein as the "MDCACP") – First Responder Mental Wellness Initiative and Miami-Dade county area law enforcement agencies (referred to herein as "Partner Agency"), establishes a relationship between MDCACP and Partner Agencies under which the Partner Agencies shall consent to agency members participation in the Regional First Responder Peer Support Team Program (referred to herein as "Program").

The Program has been created to promote trust, allow anonymity, and preserve confidentiality, while providing support to participating Miami-Dade county area law enforcement agency personnel and their families. Additionally, Partner Agencies may utilize the Program to support personnel responding to and/or involved in traumatic events such as, but not limited to, police involved shooting, mass casualty incidents, natural disasters, death investigations, and personnel traumatic events.

Miami-Dade County has over 30 law enforcement agencies employing thousands of individuals that may seek support services for a variety of issues. In many cases, the perceived stigma of going to a therapist is a deterrent to people in need of support. The Program allows for first responders, their families and agency employees to access support from trusted sources that are confidential and known.

Whereas the parties agree that it is in their best interest and in the best interest of the Miami-Dade county area first responders, their families and agency employees to participate in the Program.

NOW, THEREFORE, BE IT RESOLVED BY THE PARTIES, AS FOLLOWS:

1) That the Parties hereby approve this agreement
2) That the Parties hereby authorize their joint participation in the Program under the conditions set herein.

I. Program Organization

The Program shall have a defined hierarchy in order to establish lines of communication and a chain-of-command. The following is the hierarchy that the Program has established to accomplish the Program's goals:

- First Responder Mental Wellness Initiative Director – (MDCACP)
- Program Advisory Committee
- Licensed Clinical Director
- Program Coordinator – Program Coordinator Assistant
- First Responder Peer Support Team Leader(s)
- First Responder Peer Support Team Member

The First Responder Mental Wellness Initiative [Program] Director shall be appointed by the President and Executive Board Members of MDCACP.

The Licensed Clinical Director shall be appointed by the First Responder Mental Wellness Initiative Director in consultation with the Program Advisory Committee. The final decision shall rest with the First Responder Mental Wellness Initiative Director.

The Clinical Director shall be licensed in the state of Florida and be in good standing with the licensing body.

Advisory Committee members shall be appointed by the First Responder Mental Wellness Initiative Director, in consultation with the Executive Board of the MDCACP. The final decision shall rest with the First Responder Mental Wellness Initiative Director.

Advisory Committee members shall elect the Committee Chair and Co-chair.

The Program Coordinator shall be appointed by the members of the Advisory Committee in consultation with the First Responder Mental Wellness Initiative Director.

The Program Coordinator Assistant shall be chosen by the Program Coordinator in consultation with the Advisory Committee. The final decision will rest with the Advisory Committee.

First Responder Peer Support Team Leader(s) shall be chosen by the Advisory Committee in consultation with the Program Coordinator, and the First Responder Mental Wellness Initiative Director.

First Responder Peer Support Team Member(s) shall be chosen by the Advisory Committee in consultation with the Program Coordinator. The final decision rests with the Program Coordinator.

Recommendations for First Responder Peer Support Team membership shall be considered on a case-by-case basis; however, the final appointments shall be decided as outlined above.

All Program members shall comply with confidentiality requirements pursuant to Florida Statutes §111.09.

The Florida licensed Clinical Director shall comply with all rules, regulations, and laws pursuant to the licensing body, and the state of Florida.

All public records requests for information related to the Program and/or program activities shall be referred to the Program Coordinator who is also the Program's records custodian.

II. Program Responsibilities

The Program mission is to support members of the first responder community, encompassing a range of activities and interactions between people who share similar experiences. The connection between a First Responder Peer Support Team Member and the person(s) seeking assistance promotes healing and inspires hope. First Responder Peer support offers a level of acceptance, understanding, and validation not found in many other professional relationships.

By sharing their own lived experience and practical guidance, a First Responder Peer's support helps people to develop their own goals, create strategies for self-empowerment, and take concrete steps towards building fulfilling, self-determined lives for themselves.

The First Responder Peer can help break down barriers of experience and understanding, as well as power dynamics that may get in the way of working with other members of a treatment team.

The First Responder Peer's role is to assist law enforcement community personnel and their families find and follow their own recovery paths, without judgment, expectation, rules, or requirements.

The Program Advisory Committee in collaboration with the Clinical Director and Program Director shall approve training programs for participating First Responder Peers.

Training shall include Train-the-Trainer programs to facilitate member training and mitigate training expenses, when possible.

The Program Coordinator shall be responsible for the day-to-day operations including but not limited to, collection of relevant data, records requests (records custodian), reporting to the Advisory Committee, meeting with First Responder Peer Support Team Leader(s), and coordination of peer support activities as needed.

The Program Advisory Committee shall meet on a monthly basis to discuss matters related to the viability of the Program, including but not limited to, financial issues, and collection of data to evaluate the mental health and other resources needed to accomplish the Program's mission. The Advisory Committee shall report to the Program Director and make recommendations based on the information discussed during the monthly meetings that impact the effectiveness and efficiency of the program.

The Program Advisory Committee Chairperson may call for ad hoc meetings to discuss matters of imminent importance if necessary.

All Program members involved in support activities shall comply with the provision on confidentially pursuant to Fla. Stat §111.09. Any breach of confidentiality in violation of the provisions in Fla. Stat §111.09, shall result in immediate removal of the member from the Program.

III. Partner Agency Responsibility[1]

Partner Agencies agree to assign a liaison that can communicate, when needed, with members of the Program and has the authority to make decisions about an agency's Peer Support Team Member's response and participation, in consultation with the agency head (Chief).

[1] The First Responder Mental Wellness Initiative is currently an unfunded program; however, efforts to solicit grants and other funding sources are being considered. Responsibility for the cost of training and other program related expenses may be incurred by the Partner Agency, if outside funding efforts are not successful, or until funding is obtained. Any monies obtained from grants or other funding sources will be managed for the benefit of the Program via an inclusive and transparent process that will be developed for that purpose by the Program stakeholders.

The liaison is not considered a Program member and shall not be involved in support services.

The agency head shall select personnel from within their agency for consideration as Program members. Agency heads may recommend/select employees that have a flexible work schedule in order to provide accessibility when needed. Final selection of members rests with the Advisory Committee as stated above.

In the event the Partner Agency member suffers an injury while conducting Program related support activities, workers compensation will be the responsibility of the Partner Agency and the appropriate municipal governmental agency and/or political subdivision.

In the event there are any allegations of wrongdoing by a Partner Agency member, during their participation in any support activities, the Partner Agency shall be responsible to investigate the allegations pursuant to the Partner Agency's internal investigation directives. Other Program members may be asked to provide statements; however, any statement will be subject to the limitations pursuant to Fla. Stat §111.09.

The Partner Agency shall be responsible for any overtime expenses incurred by the participating Partner Agency member, as agreed upon by the agency or consistent with contractual obligations, such as but not limited to, collective bargaining agreements.

Partner Agencies shall be responsible for any training expenses, related to the Program, incurred by participating agency members.

Partner Agencies shall be responsible for any travel expenses, related to the Program, incurred by participating agency members.

At no time shall a Partner Agency's representative(s) (employees) request or divulge information about Program support activities or communications that are confidential in nature, pursuant to Fla. Stat. §111.09, or any other rule, regulation, or law that makes licensed clinician information privileged, confidential and exempt from public records disclosure.

A First Responder Peer Support Team member may be deactivated by his or her agency head or designee for operational necessity or disciplinary action, at any time. The agency head or designee shall notify the Program Coordinator as soon as possible so that the Program can replace the First Responder Peer Support Team member.

First Responder Peer Support Team members shall not be assigned to the Partner Agency's internal affairs unit.

Program Members may be drawn from both a Partner Agencies sworn and non-sworn employees.

At no time shall a Program Member be asked to divulge information about a peer support communication unless the circumstances for the release of information is specifically outlined in Fla. Stat. §111.09.

IV. Liability

The Parties to this MOU agree to assume responsibility for the acts, omissions, or conduct of such Party's own employees while participating herein and pursuant to this MOU 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 MOU.

Fla. Stat. §111.09 establishes the limitations of liability for Program members regarding divulging information related to peer support communications. No Program Member shall divulge information provided during a peer support communication unless specifically pursuant to the exceptions outlined in Fla. Stat. §111.09.

V. Terms of Agreement

This agreement shall be in full force and effect from the date of full execution by the parties and shall continue for a period of three (3) years. At the expiration of the three (3) year period, the parties may renew the agreement, at which time the terms and condition may be amended.

Any amendment(s) to this agreement prior to the expiration of the three (3) year period can only become effective if all parties to the agreement agree to the amendment(s) in writing prior to the amendment(s) becoming effective.

Notwithstanding the above, this agreement may be terminated by either the Partner Agency or the First Responder Mental Wellness Initiative Director upon thirty (30) days written notice.

VI. Entirety of the Agreement

This agreement shall be governed by the terms and conditions set in this document and any rules, regulations, and laws of the State of Florida.

The Partner Agencies and the First Responder Mental Wellness Initiative Director and Program Members, agree that this agreement contains the entirety of the agreement between the parties as to the matters contained herein. It is further agreed that any oral representation or modifications concerning this agreement shall be of no force or effect, and that this agreement may be modified, altered, or amended only by written amendment duly executed by all parties hereto and their authorized representatives.

Signature Pages Below

AGENDA ITEM REPORT
February 1, 2023

ITEM NUMBER: 8.

ITEM: Consideration and **Approval** of a Resolution establishing a rate structure for use of the town's Electric Vehicle Charging Station. Enclosed is a copy of the proposed Resolution.

DESCRIPTION:
At the Town Council Meeting held on Wednesday, August 15, 2022, approval was granted to utilize a Sourcewell (formally NJPA) contract with ChargePoint for the installation of a dual port Level 2 EV charger in the 95th Street Parking Garage for the amount of $20,254.00.

The existing Blink charging station in the municipal garage (95th Street Garage) was removed; and the new ChargePoint EV dual port (providing 2 chargers) charging station was installed on December 22, 2022.

Unlike the prior charging station, the Town will be the owner of the chargers, and ChargePoint will provide maintenance for the first five (5) years with the option to extend. The advantage of owning the equipment is that the Town will have total control of the rate and 100% of the revenues.

The Town intends to activate the EV charging station and needs to set the rate which customers will be charged for use of the station.

RECOMMENDED ACTION:
Approve

FINANCIAL ANALYSIS:
The proposed EV Charging fee is $4.00/per hour was suggested by ChargePoint - the EV Charging Station software provider. According to the ChargePoint the Per Hour Used fee will charge the driver per hours used over the per kWH used. The advantage of the Per Hours Used charge pricing model is that it does encourages drivers to move their vehicle after charging has been completed.

The estimated revenues for the Fiscal Year at 50% utilization rate is $52,560 ($4.00/per hour * 24 hours * 365 days/year * 2 charging stencils * 75%)
The estimated revenues for the Fiscal Year at 50% utilization rate is $35,040 ($4.00/per hour * 24 hours * 365 days/year * 2 charging stencils * 50%)
The estimated revenues for the Fiscal year at 25% utilization rate is $17,520 ($4.00/per hour * 24 hours * 365 days/year * 2 charging stencils * 25%)

Since the cost of the Charging Station installation was $20,254.00 and estimated maintenance cost is $1,500/year, and the Town will pay the cost of electricity somewhere between $0.45 to

$0.75 per kWh. Also there is a cost associated with two parking spots that will be designated for electrical vehicle charging stations which is $2.00/per hour.

Other considerations regarding $4.00/per hour fee:

We have EVs ChargePoint **CT4000 Double pedestal with 30Amp Capacity.**

Level 2 AC Charging

Model	Average Charging Time	Average Time Plugged In (Session Length)	Average Cost per Session
Model 3	2 hours 47 minutes	4 hours	2hrs 47 min X BHI Fee?
Model S	3 hours 14 minutes	5 hours 24 minutes	3hrs 14min X BHI Fee?
Model X	3 hours 20 minutes	5 hours 32 minutes	3hrs 20min X BHI Fee?

With the $4.00/hour charge to fully charge, the biggest Tesla Model X will cost a customer about $14.00, and if we go by Average Session plugged in, then it would be about $22.00 for 5.5 hours.

BUDGET IMPACT:

Submitted By: Yvonne Hamilton, Town Clerk

ATTACHMENTS

1.	Resolution - EV Charging Station Rate

RESOLUTION NO. _____

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF BAY HARBOR ISLANDS, FLORIDA, ADOPTING FEES FOR USE OF THE ELECTRIC EV CHARGING STATION; PROVIDING FOR INCORPORATION OF RECITALS AND SETTING AN EFFECTIVE DATE.

WHEREAS, as part of the Town's Energy Efficient Program, a new dual port Level 2 EV Charger has been installed in the 95th Street Parking Garage for use by the public; and

WHEREAS, the town will provide electricity to the Vehicle Charging Station; and

WHEREAS, in order to recover some of the costs for the station, pay for the electricity, incentivize electric vehicles to charge their vehicle and free up spots for another user, staff recommends establishing a new fee for usage; and

WHEREAS, the Town desires to establish an electric vehicle charging fee of $4.00 per hour while charging. These fees were developed based on the cost of comparable charging stations in the area and are set to cover electricity and operating costs.

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

Section 1. Recitals. The foregoing recitals are adopted and hereby incorporated as if fully set forth herein.

Section 2. Approval of Fees. The fees set forth hereinabove for use of the town's Electric Vehicle Charging Station are hereby approved and adopted.

Section 3. Effective Date. This Resolution shall become effective immediately upon its adoption.

PASSED AND ADOPTED this 1st day of February 2023.

By: _____
Joshua D. Fuller - Mayor

ATTEST:

_____
Yvonne P. Hamilton, CMC
Town Clerk

APPROVED AS TO FORM AND LEGAL SUFFIENCY:

_____
Greenspoon Marder LLP – Town Attorneys
By: Joseph S. Geller

AGENDA ITEM REPORT
February 1, 2023

ITEM NUMBER: 9.

ITEM: Consideration and **Approval** of a Resolution amending the Building Permit Fee Schedule set by Resolution No. 2270 to establish a reduced fee for applicants that choose to use a "Private Provider" for Building Plan Review and Inspections, as per Florida Statutes, Section 553.791. Enclosed is a copy of the fee schedule and legislation.

DESCRIPTION:
House Bill 7103 made numerous changes to Community Development-related functions. One of the sections of the Bill now contained in Florida Statutes, Section 553.791, called "Alternative plans review and Inspection" allows for reduced fees related to building permit requirements when hiring a private provider for plan review and building inspections.

A private provider is a company that can conduct plan review and/or inspections for a project. According to the Statute, the local jurisdiction must calculate the cost savings to a local enforcement agency, based on a property owner or contractors hiring of a private provider in lieu of the local building official, and reduce the permit fees accordingly. Because the legislation provides very limited guidance, staff has contacted other jurisdictions in this vicinity to see what they have adopted. After reviewing what other jurisdictions are doing, staff is recommending a 20% reduction for Plan Review and inspections performed by a Private Provider and 10% reduction for Plan Review performed by the Town and inspected by a "Private Provider".

This discount would not apply to fees for standalone trade permits, such as mechanical, electrical, plumbing, etc.

RECOMMENDED ACTION:
Approve

FINANCIAL ANALYSIS:
The financial impact depends on the number of projects that utilize a Private Provider. There will be a reduction of revenue, which should be monitored and reviewed annually.

BUDGET IMPACT:

Submitted By: Yvonne Hamilton, Town Clerk

ATTACHMENTS

1.	Final Resolution- Building Permit Fee Schedule Revision-Private Providers
2.	EXHIBIT A - Revised Building Department Fee Schedule
3.	Fla. Stat. 553.791 - Alternative Plan Review and Inspection

RESOLUTION NO. _____

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF BAY HARBOR ISLANDS, FLORIDA AMENDING THE FEE SCHEDULE OUTLINED IN RESOLUTION NO. 2270 TO ESTABLISH A REDUCED FEE FOR APPLICANTS THAT HIRE A "PRIVATE PROVIDER" FOR PLAN REVIEW AND BUILDING INSPECTIONS AS SPECIFIED IN FLORIDA STATUTES, SECTION 553.791; PROVIDING FOR INCORPORATION OF RECITALS AND SETTING AN EFFECTIVE DATE.

WHEREAS, Florida Statute, Section 553.791, allows the fee owner of a building or structure, or the fee owner's contractor to utilize the services of Private Providers to perform Building Code Plan Review and Inspections; and

WHEREAS, the regulations require local jurisdictions to reduce the permit fee, when an owner or contractor retains a private provider for purposes of plans review or building inspection services; and

WHEREAS, the Town's professional staff recommends a 20% reduction for Plan Review and inspections performed by a Private Provider and 10% reduction for Plan Review performed by the Town and inspected by a "Private Provider" as indicated in the attached Fee Schedule by underlining; and

WHEREAS the Town Council desires to revise the Building Department Fee Schedule to establish a reduced fee for applicants who choose to use a "Private Provider" for Building Plan Review and Inspections, as per Florida Statutes.

NOW, THEREFORE, BE IT RESOLVED by the Town Council of the Town of Bay Harbor Islands that the Building Department Activities fee schedule attached hereto as Exhibit A and incorporated herein is hereby adopted, pursuant to Section 5-6(b) of the Town's Code of Ordinances.

SECTION 1. The foregoing recitals are adopted and hereby incorporated as if fully set forth herein.

SECTION 2. The Town Council hereby adopts the updated schedule of fees for Building Department activities as set forth in Exhibit A attached hereto.

SECTION 3. Resolution No. 2270 is hereby amended to adopt the Fee Schedule set forth herein.

SECTION 4. Resolutions or parts of Resolutions in conflict are hereby repealed.

SECTION 5. This Resolution shall become effective immediately upon its adoption.

PASSED and ADOPTED this **1st** day of **February 2023.**

_____
JOSHUA D. FULLER
MAYOR

ATTEST:

_____
YVONNE P. HAMILTON
TOWN CLERK

APPROVED AS TO FORM AND LEGAL SUFFIENCY:

_____
Greenspoon Marder LLP – Town Attorneys
By: Joseph S. Geller

EXHIBIT A - RESOLUTION NO. _____ BUILDING DEPARTMENT-
PERMIT FEE SCHEDULE
AMENDED AS OF FEBRUARY 1, 2022

Master building permit fees will be based on the estimated cost of construction including all systems. For the purpose of determining the cost of construction and / or building estimated costs, a verified contract figure including all systems may be used to determine the construction value or the estimated construction cost computed per the latest edition of R.S. Means Square Foot Costs, as published by R.S. Means Co., Inc., whichever is greater. The estimated construction value will then be used to determine the master permit fee.	**Separate sub-trade values, Electrical, Plumbing, Mechanical) shall be based on a verifiable contract amount or the estimated construction cost of work as calculated by the latest issue of R.S. Means Square Foot Costs, as published by R.S. Means Co, Inc. whichever is greater.**
DESCRIPTION	**FEE**
PROCESSING FEE UP FRONT PROCESSING FEES -(NON-REFUNDABLE) UP-FRONT FEE IS REQUIRED AT THE TIME OF PERMIT APPLICATION, THIS FEE IS REQUIRED FOR RESIDENTIAL AND COMMERCIAL PERMITS.	$25.00 MIN. $5,001 OR MORE $5/$1,000 - JOB COST SINGLE FAMILY - $250.00 MULTI FAMILY / COMMERCIAL - $1,000.00 30% OF PERMIT FEE
BUILDING PERMITS NEW CONSTRUCTION ADDITION AND OR ALTERATION TO EXISTING STRUCTURE	 $150.00 MINIMUM OR 3% OF JOB COST **COPY OF CONTRACT REQUIRED $150.00 MINIMUM OR 2% OF JOB COST **COPY OF CONTRACT REQUIRED
ROLL-OFF WASTE CONTAINER	$65.00/CONTAINER
DEMOLITION OF BUILDINGS SINGLE FAMILY MULTI FAMILY / COMMERCIAL	 $500.00 $1,500.00
SIGN PERMIT FEES MINIMUM SIGN FEE (ILLUMINATED SIGN REQUIRES AN ELECTRICAL PERMIT) For detailed sign fees see Town Code Chapter 17	$75.00
REVIEW OF 40- YEAR RE-CERTIFICATION **STRUCTURAL**	$250.00 $100.00/HOUR
PLAN REVIEW REVISIONS PER PAGE	$25.00 RESIDENTIAL $50.00 COMMERCIAL
PLUMBING PERMIT FEES MINIMUM PLUMBING OR GAS FEE PER PERMIT	 $150.00 MINIMUM OR 3% OF JOB COST (sub-trade value) **COPY OF CONTRACT REQUIRED
ELECTRICAL PERMIT FEES	$150.00 MINIMUM OR 3% OF JOB COST – (sub-trade value) **COPY OF CONTRACT REQUIRED
MECHANICAL PERMIT FEES	$150.00 MINIMUM OR 3% OF JOB COST -(sub-trade value) **COPY OF CONTRACT REQUIRED
BUILDING INFORMATION LETTERS	$25.00
CHANGE OF CONTRACTOR	$100 FLAT FEE
LOST PLAN FEE	$6.00 PER PAGE

PERMIT CARD REPLACEMENT	$5.00
ANY CHARGE NOT SPECIFICALLY COVERED PAYROLL RATE PLUS 50%	$35.00 MIN
CERTIFICATE OF COMPLETION (SINGLE FAMILY, TOWNHOUSE, COMMERCIAL SHELL)	$50.00
REINSPECTION FEE A FEE FOR EACH INSPECTOR WHO MUST RETURN SHALL BE CHARGED WHEN EXTRA INSPECTION TRIPS ARE NECESSARY DUE TO ANY OF THE FOLLOWING: 1. WRONG ADDRESS BEING GIVEN ON CALL FOR INSPECTION 2. REQUIRED CORRECTIONS NOT BEING MADE OR COMPLETED AT TIME SPECIFIED 3. FAILURE TO PROVIDE ACCESS TO THE PROPERTY OR USE. 4. PERMITS OR PLANS NOT POSTED. WORK NOT TO CODE OR PER APPROVED PLANS. 2ND REINSPECTION AFTER THE INITIAL REINSPECTION SHALL REQUIRE PAYMENT OF A RE-INSPECTION FEE 3RD REINSPECTION SPECIAL INSPECTIONS/MEETINGS/CONFERENCES	$85.00 $100.00 $250.00 $50.00 PER HOUR
CERTIFICATES OF USE AND OCCUPANCY. PERMANENT USE AND OCCUPANCY CERFIFICATES SHALL REMAIN VALID FOR AN UNLIMITED TIME, UNLESS REVOKED FOR CAUSE OR ABONDONED AND PROVIDING THERE IS NO CHANGE OF USE, OWNERSHIP, OR NAME, OR THAT THERE IS NO ENLARGEMENT.	$100.00
OCCUPANCY WITHOUT C.O… PER DAY	$250.00/DAY PLUS DOUBLE C.O. FEE
DUMPSTER BOND (REFUNDABLE) – MAY BE USED TO REMOVE DUMPSTER DURING STORM WARNINGS.	$250.00 POSTING OF CONSTRUCTION BONDS – FOR DAMAGE TO SIDEWALKS, PARKWAYS, PARKWAY TREES AND SHRUBS, STREET PAVEMENT OR OTHER MUNICIPAL OR PRIVATE PROPERTY.
MARKING OF BFE (MECHANICAL EQUIPMENT)	$25.00
ALL INSPECTIONS MUST BE REQUESTED IN ACCORDANCE WITH REQUIREMENTS OF THE FLORIDA BUILDING CODE. FINAL INSPECTIONS ARE TO BE CALLED IN WITHIN 30 DAYS OF COMPLETION OF THE WORK ANY DAMAGE TO TOWN PROPERTY MUST BE CORRECTED TO THE SATISFACTION OF THE TOWN. FAILURE TO COMPLY WITH THESE AND/OR AND OTHER REQUIREMENTS MAY RESULT IN FORFEITURE OF THE BOND. TO BE DETERMINED BY THE BUILDING OFFICIAL OR TOWN MANAGER. INITIAL BOND WILL NOT EXCEED $5,000.00	FAILURE TO COMPLY WITH THESE AND/OR AND OTHER REQUIREMENTS MAY RESULT IN FORFEITURE OF THE BOND. TO BE DETERMINED BY THE BUILDING OFFICIAL OR TOWN MANAGER. INITIAL BOND WILL NOT EXCEED $5,000.00
TECHNOLOGY FEE	10% OF PERMIT FEE
SCANNING FEE SHEETS 11” x 17” OR SMALLER SHEETS LARGER THAN 11” X 17”	$2.00 PER SHEET $3.00 PER SHEET

DIGITIZED "JOB COPY" (PERMIT SET) SHEETS 11" X 17" OR SMALLER SHEETS LARGER THAN 11" X 17" CD BURNING OR USB	$2.00 PER SHEET $3.00 PER SHEET $6.00
EXTENSION REQUEST – 180 DAYS	50% OF ORIGINAL PERMIT FEE
SEWER ALLOCATION LETTERS	$25.00
CONSTRUCTION TRAILER	$250.00 RENEWAL FEE - $250 PER SIX MONTH
USE OF RIGHT OF WAY – PERMIT BOND – SEC 18-1 TOWN CODE	$150.00 1 ½% OF JOB COST – NOT TO EXCEED $20,000
NEW CONSTRUCTION – ZONING INSPECTION FINAL ZONING INSPECTION ZONING PLAN REVIEW	SINGLE FAMILY - $500.00 MULTI FAMILY / COMMERCIAL - $3,000.00 $120.00 per hour
WORK WITHOUT PERMITS - AFTER THE FACT PERMIT	DOUBLE PERMIT FEE + $100 FINE
PLANNING & ZONING INQUIRIES TO TOWN PLANNER	$120 PER HOUR
PLAN REVIEW AND INSPECTIONS PERFORMED BY PRIVATE PROVIDER	20% Credit
PLAN REVIEW PERFORMED BY THE TOWN AND INSPECTIONS BY PRIVATE PROVIDER	10% Credit

Sec. 553.791, Florida Statutes

553.791 Alternative plans review and inspection.—

(1) As used in this section, the term:

(a) "Applicable codes" means the Florida Building Code and any local technical amendments to the Florida Building Code but does not include the applicable minimum fire prevention and firesafety codes adopted pursuant to chapter 633.

(b) "Audit" means the process to confirm that the building code inspection services have been performed by the private provider, including ensuring that the required affidavit for the plan review has been properly completed and submitted with the permit documents and that the minimum mandatory inspections required under the building code have been performed and properly recorded. The local building official may not replicate the plan review or inspection being performed by the private provider, unless expressly authorized by this section.

(c) "Building" means any construction, erection, alteration, demolition, or improvement of, or addition to, any structure or site work for which permitting by a local enforcement agency is required.

(d) "Building code inspection services" means those services described in s. 468.603(5) and (8) involving the review of building plans as well as those services involving the review of site plans and site work engineering plans or their functional equivalent, to determine compliance with applicable codes and those inspections required by law, conducted either in person or virtually, of each phase of construction for which permitting by a local enforcement agency is required to determine compliance with applicable codes.

(e) "Deliver" or "delivery" means any method of delivery used in conventional business or commercial practice, including delivery by electronic transmissions.

(f) "Duly authorized representative" means an agent of the private provider identified in the permit application who reviews plans or performs inspections as provided by this section and who is licensed as an engineer under chapter 471 or as an architect under chapter 481 or who holds a standard certificate under part XII of chapter 468.

(g) "Electronically posted" means providing notices of decisions, results, or records, including inspection records, through the use of a website or other form of electronic communication used to transmit or display information.

(h) "Electronic signature" means any letters, characters, or symbols manifested by electronic or similar means which are executed or adopted by a party with an intent to authenticate a writing or record.

(i) "Electronic transmission" or "submitted electronically" means any form or process of communication not directly involving the physical transfer of paper or another tangible medium which is suitable for the retention, retrieval, and reproduction of information by the recipient and is retrievable in paper form by the receipt through an automated process. All notices provided for in this

section may be transmitted electronically and shall have the same legal effect as if physically posted or mailed.

(j) “Immediate threat to public safety and welfare” means a building code violation that, if allowed to persist, constitutes an immediate hazard that could result in death, serious bodily injury, or significant property damage. This paragraph does not limit the authority of the local building official to issue a Notice of Corrective Action at any time during the construction of a building project or any portion of such project if the official determines that a condition of the building or portion thereof may constitute a hazard when the building is put into use following completion as long as the condition cited is shown to be in violation of the building code or approved plans.

(k) “Local building official” means the individual within the governing jurisdiction responsible for direct regulatory administration or supervision of plans review, enforcement, and inspection of any construction, erection, alteration, demolition, or substantial improvement of, or addition to, any structure for which permitting is required to indicate compliance with applicable codes and includes any duly authorized designee of such person.

(l) “Permit application” means a properly completed and submitted application for the requested building or construction permit, including:

1. The plans reviewed by the private provider.
2. The affidavit from the private provider required under subsection (6).
3. Any applicable fees.
4. Any documents required by the local building official to determine that the fee owner has secured all other government approvals required by law.

(m) “Plans” means building plans, site engineering plans, or site plans, or their functional equivalent, submitted by a fee owner or fee owner’s contractor to a private provider or duly authorized representative for review.

(n) “Private provider” means a person licensed as a building code administrator under part XII of chapter 468, as an engineer under chapter 471, or as an architect under chapter 481. For purposes of performing inspections under this section for additions and alterations that are limited to 1,000 square feet or less to residential buildings, the term “private provider” also includes a person who holds a standard certificate under part XII of chapter 468.

(o) “Request for certificate of occupancy or certificate of completion” means a properly completed and executed application for:

1. A certificate of occupancy or certificate of completion.
2. A certificate of compliance from the private provider required under subsection (12).
3. Any applicable fees.
4. Any documents required by the local building official to determine that the fee owner has secured all other government approvals required by law.

(p) “Single-trade inspection” means any inspection focused on a single construction trade, such as plumbing, mechanical, or electrical. The term includes, but is not limited to, inspections of door or window replacements; fences and block walls more than 6 feet high from the top of the wall to the bottom of the footing; stucco or plastering; reroofing with no structural alteration; HVAC replacements; ductwork or fan replacements; alteration or installation of wiring, lighting, and service panels; water heater changeouts; sink replacements; and repiping.

(q) “Site work” means the portion of a construction project that is not part of the building structure, including, but not limited to, grading, excavation, landscape irrigation, and installation of driveways.

(r) “Stop-work order” means the issuance of any written statement, written directive, or written order which states the reason for the order and the conditions under which the cited work will be permitted to resume.

(2)(a) Notwithstanding any other law or local government ordinance or local policy, the fee owner of a building or structure, or the fee owner’s contractor upon written authorization from the fee owner, may choose to use a private provider to provide building code inspection services with regard to such building or structure and may make payment directly to the private provider for the provision of such services. All such services shall be the subject of a written contract between the private provider, or the private provider’s firm, and the fee owner or the fee owner’s contractor, upon written authorization of the fee owner. The fee owner may elect to use a private provider to provide plans review or required building inspections, or both. However, if the fee owner or the fee owner’s contractor uses a private provider to provide plans review, the local building official, in his or her discretion and pursuant to duly adopted policies of the local enforcement agency, may require the fee owner or the fee owner’s contractor to use a private provider to also provide required building inspections.

(b) If an owner or contractor retains a private provider for purposes of plans review or building inspection services, the local jurisdiction must reduce the permit fee by the amount of cost savings realized by the local enforcement agency for not having to perform such services. Such reduction may be calculated on a flat fee or percentage basis, or any other reasonable means by which a local enforcement agency assesses the cost for its plans review or inspection services. The local jurisdiction may not charge fees for building inspections if the fee owner or contractor hires a private provider to perform such services; however, the local jurisdiction may charge a reasonable administrative fee.

(3) A private provider and any duly authorized representative may only perform building code inspection services that are within the disciplines covered by that person’s licensure or certification under chapter 468, chapter 471, or chapter 481, including single-trade inspections. A private provider may not provide building code inspection services pursuant to this section upon any building designed or constructed by the private provider or the private provider’s firm.

(4) A fee owner or the fee owner's contractor using a private provider to provide building code inspection services shall notify the local building official in writing at the time of permit application, or by 2 p.m. local time, 2 business days before the first scheduled inspection by the local building official or building code enforcement agency that a private provider has been contracted to perform the required inspections of construction under this section, including single-trade inspections, on a form to be adopted by the commission. This notice shall include the following information:

(a) The services to be performed by the private provider.

(b) The name, firm, address, telephone number, and e-mail address of each private provider who is performing or will perform such services, his or her professional license or certification number, qualification statements or resumes, and, if required by the local building official, a certificate of insurance demonstrating that professional liability insurance coverage is in place for the private provider's firm, the private provider, and any duly authorized representative in the amounts required by this section.

(c) An acknowledgment from the fee owner in substantially the following form:

> I have elected to use one or more private providers to provide building code plans review and/or inspection services on the building or structure that is the subject of the enclosed permit application, as authorized by s. 553.791, Florida Statutes. I understand that the local building official may not review the plans submitted or perform the required building inspections to determine compliance with the applicable codes, except to the extent specified in said law. Instead, plans review and/or required building inspections will be performed by licensed or certified personnel identified in the application. The law requires minimum insurance requirements for such personnel, but I understand that I may require more insurance to protect my interests. By executing this form, I acknowledge that I have made inquiry regarding the competence of the licensed or certified personnel and the level of their insurance and am satisfied that my interests are adequately protected. I agree to indemnify, defend, and hold harmless the local government, the local building official, and their building code enforcement personnel from any and all claims arising from my use of these licensed or certified personnel to perform building code inspection services with respect to the building or structure that is the subject of the enclosed permit application.

If the fee owner or the fee owner's contractor makes any changes to the listed private providers or the services to be provided by those private providers, the fee owner or the fee owner's contractor shall, within 1 business day after any change or within 2 business days before the next scheduled inspection, update the notice to reflect such changes. A change of a duly authorized representative named in the

permit application does not require a revision of the permit, and the building code enforcement agency shall not charge a fee for making the change.

(5) After construction has commenced and if the local building official is unable to provide inspection services in a timely manner, the fee owner or the fee owner's contractor may elect to use a private provider to provide inspection services by notifying the local building official of the owner's or contractor's intention to do so by 2 p.m. local time, 2 business days before the next scheduled inspection using the notice provided for in paragraphs (4)(a)-(c).

(6) A private provider performing plans review under this section shall review the plans to determine compliance with the applicable codes. Upon determining that the plans reviewed comply with the applicable codes, the private provider shall prepare an affidavit or affidavits certifying, under oath, that the following is true and correct to the best of the private provider's knowledge and belief:

(a) The plans were reviewed by the affiant, who is duly authorized to perform plans review pursuant to this section and holds the appropriate license or certificate.

(b) The plans comply with the applicable codes.

Such affidavit may bear a written or electronic signature and may be submitted electronically to the local building official.

(7)(a) No more than 20 business days after receipt of a permit application and the affidavit from the private provider required pursuant to subsection (6), the local building official shall issue the requested permit or provide a written notice to the permit applicant identifying the specific plan features that do not comply with the applicable codes, as well as the specific code chapters and sections. If the local building official does not provide a written notice of the plan deficiencies within the prescribed 20-day period, the permit application shall be deemed approved as a matter of law, and the permit shall be issued by the local building official on the next business day.

(b) If the local building official provides a written notice of plan deficiencies to the permit applicant within the prescribed 20-day period, the 20-day period shall be tolled pending resolution of the matter. To resolve the plan deficiencies, the permit applicant may elect to dispute the deficiencies pursuant to subsection (14) or to submit revisions to correct the deficiencies.

(c) If the permit applicant submits revisions, the local building official has the remainder of the tolled 20-day period plus 5 business days from the date of resubmittal to issue the requested permit or to provide a second written notice to the permit applicant stating which of the previously identified plan features remain in noncompliance with the applicable codes, with specific reference to the relevant code chapters and sections. Any subsequent review by the local building official is limited to the deficiencies cited in the written notice. If the local building official does not provide the second written notice within the prescribed time period, the permit shall be deemed approved as a matter of law, and the local building official must issue the permit on the next business day.

(d) If the local building official provides a second written notice of plan deficiencies to the permit applicant within the prescribed time period, the permit applicant may elect to dispute the deficiencies pursuant to subsection (14) or to submit additional revisions to correct the deficiencies. For all revisions submitted after the first revision, the local building official has an additional 5 business days from the date of resubmittal to issue the requested permit or to provide a written notice to the permit applicant stating which of the previously identified plan features remain in noncompliance with the applicable codes, with specific reference to the relevant code chapters and sections.

(8) A private provider performing required inspections under this section shall inspect each phase of construction as required by the applicable codes. Such inspection may be performed in-person or virtually. The private provider may have a duly authorized representative perform the required inspections, provided all required reports are prepared by and bear the written or electronic signature of the private provider or the private provider's duly authorized representative. The duly authorized representative must be an employee of the private provider entitled to receive reemployment assistance benefits under chapter 443. The contractor's contractual or legal obligations are not relieved by any action of the private provider.

(9) A private provider performing required inspections under this section shall provide notice to the local building official of the date and approximate time of any such inspection no later than the prior business day by 2 p.m. local time or by any later time permitted by the local building official in that jurisdiction. The local building official may not prohibit the private provider from performing any inspection outside the local building official's normal operating hours, including after hours, weekends, or holidays. The local building official may visit the building site as often as necessary to verify that the private provider is performing all required inspections. A deficiency notice must be posted by the private provider, the duly authorized representative of the private provider, or the building department whenever a noncomplying item related to the building code or the permitted documents is found. Such notice may be physically posted at the job site or electronically posted. After corrections are made, the item must be reinspected by the private provider or representative before being concealed. Reinspection or reaudit fees shall not be charged by the local jurisdiction as a result of the local jurisdiction's audit inspection occurring before the performance of the private provider's inspection or for any other administrative matter not involving the detection of a violation of the building code or a permit requirement.

(10) If equipment replacements and repairs must be performed in an emergency situation, subject to the emergency permitting provisions of the Florida Building Code, a private provider may perform emergency inspection services without first notifying the local building official pursuant to subsection (9). A private provider must conduct the inspection within 3 business days after being contacted to conduct an emergency inspection and must submit the inspection report to the local building official within 1 day after the inspection is completed.

(11) Upon completing the required inspections at each applicable phase of construction, the private provider shall record such inspections on a form acceptable to the local building official. The form must bear the written or electronic signature of the provider or the provider's duly authorized representative. These inspection records shall reflect those inspections required by the applicable codes of each phase of construction for which permitting by a local enforcement agency is required. The private provider, upon completion of the required inspection, shall post each completed inspection record, indicating pass or fail, and provide the record to the local building official within 2 business days. Such inspection record may be electronically posted by the private provider, or the private provider may post such inspection record physically at the project site. The private provider may electronically transmit the record to the local building official. The local building official may waive the requirement to provide a record of each inspection within 2 business days if the record is electronically posted or posted at the project site and all such inspection records are submitted with the certificate of compliance. Unless the records have been electronically posted, records of all required and completed inspections shall be maintained at the building site at all times and made available for review by the local building official. The private provider shall report to the local enforcement agency any condition that poses an immediate threat to public safety and welfare.

(12) Upon completion of all required inspections, the private provider shall prepare a certificate of compliance, on a form acceptable to the local building official, summarizing the inspections performed and including a written representation, under oath, that the stated inspections have been performed and that, to the best of the private provider's knowledge and belief, the building construction inspected complies with the approved plans and applicable codes. The statement required of the private provider shall be substantially in the following form and shall be signed and sealed by a private provider as established in subsection (1) or may be electronically transmitted to the local building official:

> To the best of my knowledge and belief, the building components and site improvements outlined herein and inspected under my authority have been completed in conformance with the approved plans and the applicable codes.

(13) No more than 2 business days after receipt of a request for a certificate of occupancy or certificate of completion and the applicant's presentation of a certificate of compliance and approval of all other government approvals required by law, the local building official shall issue the certificate of occupancy or certificate of completion or provide a notice to the applicant identifying the specific deficiencies, as well as the specific code chapters and sections. If the local building official does not provide notice of the deficiencies within the prescribed 2-day period, the request for a certificate of occupancy or certificate of completion shall be deemed granted and the certificate of occupancy or

certificate of completion shall be issued by the local building official on the next business day. To resolve any identified deficiencies, the applicant may elect to dispute the deficiencies pursuant to subsection (14) or to submit a corrected request for a certificate of occupancy or certificate of completion.

(14) If the local building official determines that the building construction or plans do not comply with the applicable codes, the official may deny the permit or request for a certificate of occupancy or certificate of completion, as appropriate, or may issue a stop-work order for the project or any portion thereof as provided by law, if the official determines that the noncompliance poses an immediate threat to public safety and welfare, subject to the following:

(a) The local building official shall be available to meet with the private provider within 2 business days to resolve any dispute after issuing a stop-work order or providing notice to the applicant denying a permit or request for a certificate of occupancy or certificate of completion.

(b) If the local building official and private provider are unable to resolve the dispute, the matter shall be referred to the local enforcement agency's board of appeals, if one exists, which shall consider the matter at its next scheduled meeting or sooner. Any decisions by the local enforcement agency's board of appeals, or local building official if there is no board of appeals, may be appealed to the commission as provided by this chapter.

(c) Notwithstanding any provision of this section, any decisions regarding the issuance of a building permit, certificate of occupancy, or certificate of completion may be reviewed by the local enforcement agency's board of appeals, if one exists. Any decision by the local enforcement agency's board of appeals, or local building official if there is no board of appeals, may be appealed to the commission as provided by this chapter, which shall consider the matter at the commission's next scheduled meeting.

(15) For the purposes of this section, any notice to be provided by the local building official shall be deemed to be provided to the person or entity when successfully transmitted to the e-mail address listed for that person or entity in the permit application or revised permit application, or, if no e-mail address is stated, when actually received by that person or entity.

(16)(a) A local enforcement agency, local building official, or local government may not adopt or enforce any laws, rules, procedures, policies, qualifications, or standards more stringent than those prescribed by this section.

(b) A local enforcement agency, local building official, or local government may establish, for private providers and duly authorized representatives working within that jurisdiction, a system of registration to verify compliance with the licensure requirements of paragraph (1)(n) and the insurance requirements of subsection (17).

(c) This section does not limit the authority of the local building official to issue a stop-work order for a building project or any portion of the project, as provided by law, if the official determines that a condition on the building site constitutes an immediate threat to public safety and welfare.

(17) A private provider may perform building code inspection services on a building project under this section only if the private provider maintains insurance for professional liability covering all services performed as a private provider. Such insurance shall have minimum policy limits of $1 million per occurrence and $2 million in the aggregate for any project with a construction cost of $5 million or less and $2 million per occurrence and $4 million in the aggregate for any project with a construction cost of over $5 million. Nothing in this section limits the ability of a fee owner to require additional insurance or higher policy limits. For these purposes, the term “construction cost” means the total cost of building construction as stated in the building permit application. If the private provider chooses to secure claims-made coverage to fulfill this requirement, the private provider must also maintain coverage for a minimum of 5 years subsequent to the performance of building code inspection services. The insurance required under this subsection shall be written only by insurers authorized to do business in this state with a minimum A.M. Best’s rating of A. Before providing building code inspection services within a local building official’s jurisdiction, a private provider must provide to the local building official a certificate of insurance evidencing that the coverages required under this subsection are in force.

(18) When performing building code inspection services, a private provider is subject to the disciplinary guidelines of the applicable professional board with jurisdiction over his or her license or certification under chapter 468, chapter 471, or chapter 481. All private providers shall be subject to the disciplinary guidelines of s. 468.621(1)(c)-(h). Any complaint processing, investigation, and discipline that arise out of a private provider’s performance of building code inspection services shall be conducted by the applicable professional board.

(19) Each local building code enforcement agency may audit the performance of building code inspection services by private providers operating within the local jurisdiction. However, the same private provider may not be audited more than four times in a month unless the local building official determines a condition of a building constitutes an immediate threat to public safety and welfare. Work on a building or structure may proceed after inspection and approval by a private provider if the provider has given notice of the inspection pursuant to subsection (9) and, subsequent to such inspection and approval, the work shall not be delayed for completion of an inspection audit by the local building code enforcement agency.

(20) The local government, the local building official, and their building code enforcement personnel shall be immune from liability to any person or party for any action or inaction by a fee owner of a building, or by a private provider or its duly authorized representative, in connection with building code inspection services as authorized in this act.

(21) Notwithstanding any other law, a county, a municipality, a school district, or an independent special district may use a private provider to provide building code inspection services for a public works project, an improvement, a building, or any other structure that is owned by the county, municipality, school district, or independent special district.

History.—s. 17, ch. 2002-293; s. 106, ch. 2005-2; s. 11, ch. 2005-147; s. 1, ch. 2005-216; s. 6, ch. 2006-65; s. 6, ch. 2007-187; s. 141, ch. 2008-4; s. 77, ch. 2012-30; s. 7, ch. 2017-149; s. 12, ch. 2019-86; s. 14, ch. 2019-165; s. 132, ch. 2020-2; s. 20, ch. 2020-27; s. 4, ch. 2021-201.

AGENDA ITEM REPORT
February 1, 2023

ITEM NUMBER: 10.

ITEM: Consideration and **Approval** of a Resolution awarding an emergency contract to Perkins Roofing Corp. in the amount of $199,188.00 for the replacement of the Town Hall and Annex Building roof. Enclosed are proposals and other supporting documents.

DESCRIPTION:
The Town currently has granular cap sheet roll roofing installed over the Town Hall and the Annex Building. Granular cap sheet roll roofing has a service life of 5 - 15 years depending on the environmental conditions. Records demonstrate that the roof was replaced in 2006. Visual inspection of the roof shows that there have been several roof patches made from the roof installation in 2006 until now. The roof on the Town Hall and the Annex Building has extended its service life. It now needs to be replaced. There are several areas where water is trapped between the cap sheet and the concrete roof. At this moment, Town Hall has an excessive number of roof leaks in multiple locations. The worst roof leaks are occurring over the Council Chambers, and water is seeping into the walls and creating a condition favorable for mold growth. Although air tests have been taken in the Town Hall and the results are not above harmful conditions, the possibility is there for mold growth to occur with moisture entering the walls from the roof. There are sections of drywall that need to be replaced, but repairs should not be made until the roof is replaced to avoid the new drywall becoming saturated after a rainstorm.

It is advantageous for the Town to replace the roof in conjunction with the installation of new air conditioning units placed on top of the Annex Building. The conjunction of both installations would lower installation costs and allow the Town to maintain the warranty on the roof. Since the air conditioning condenser unit is not functioning at this moment on top of the Annex Building, it can be removed along with the structural support beams that are beneath it. The new air conditioning units will sit on a curb design that eliminates the need for a stand and lowers the final elevation of the units. The new roof will be installed around the units and eliminate the need for the roofing contractor to come back out to perform the repair.

Due to the potential of mold growth and health concerns, the Town solicited proposals from five commercial roofing contractors for the emergency replacement of the roof. The roofing contractors that were solicited include the following: Earl Johnston Roofing LLC., Big G Roofing & More, Perkins Roofing Corp., Pioneer Roofing, and T&S Roofing. Site visits were performed by all five contractors, and the Town received four (4) proposals.

Proposals

- Earl Johnston Roofing LLC - $165,325.68 (Missing insulation over Annex Building)
- Big G Roofing & More - $229,755.06
- Perkins Roofing Corp. - $199,188.00
- Pioneer Roofing - $158,460.00 (Missing proper tapered insulation. Quote a Hot Mop roof, which is not preferred)
- T&S Roofing - Opted not to provide a quote.

The staff evaluated all of the roof proposals. The evaluation of the proposals included the quality

of the roofing material proposed, the warranty, and the price of the installation. Based on the evaluation, Perkins Roofing Corp. provided the best proposal at a cost of $199,188.00. The roof has a warranty of 25 years.

Staff recommends that the Town Council approve a Resolution awarding an emergency contract to Perkins Roofing Corp. in the amount of $199,188.00 for the replacement of the Town Hall and Annex Building roof.

RECOMMENDED ACTION:
Approve

FINANCIAL ANALYSIS:
The Roof Replacement was not included in FY 2022-2023 Budget. The appropriations in the amount of $199,188.00 will have to be made from Unassigned Fund Balance (Reserves) which will be presented to the Town Council in the March 2022 Regular Council meeting.

BUDGET IMPACT:

Name	Impact Date	Fund(s)	Account(s)	Project #(s)	Amount Budgeted
Town Building Roof Replacement	02/01/2023	199,188.00	001.0000.247000.000 Fund Balance - Other Reserves	Town Building Roof Replacement	$0.00

Submitted By: Jason Atkinson, Public Works Director

ATTACHMENTS

1.	Resolution - Perkins Roofing Corp-Town Hall-Annex Roofs Replacements
2.	Perkins Roofing Proposal
3.	Town Hall-Annex Building Roof Proposals
4.	Big G Roofing & More, Inc. Proposal
5.	Earl Johnston Annex Bldg. Proposal
6.	Earl Johnston Town Hall Proposal
7.	Perkins Roofing Warranty
8.	Pioneer Roofing Proposal
9.	Roofing Quote - T&S Roofing

RESOLUTION NO. _____

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF BAY HARBOR ISLANDS, FLORIDA, AWARDING AN EMERGENCY CONTRACT TO PERKINS ROOFING CORP FOR REPLACEMENT OF THE TOWN HALL AND ANNEX BUILDINGS' ROOFS, PURSUANT TO SECTION 2.1.2 OF THE TOWN CODE; PROVIDING FOR INCORPORATION OF RECITALS; PROVIDING FOR EXPENDITURE OF FUNDS; AND SETTING AN EFFECTIVE DATE.

WHEREAS, the roofs on Town Hall and the Annex Building have exceeded their service life and now need to be replaced on an emergency basis, due to the potential of mold growth and other health concerns; and

WHEREAS, the Town solicited proposals from five (5) commercial roofing contractors for emergency replacement of the roofs; and

WHEREAS, Staff evaluated the proposals and found Perkins Roof Corp to be the most responsive proposer in the amount of $199,188.00, with a 25-year roof warranty; and

WHEREAS, staff wishes to utilize the services of Perkins Roof Corp on an emergency basis, pursuant to Section 2-1.2(a)(1) and 2-1.2(b) of the Town Code, due to the urgent nature of the situation, and believes that this is in the best interests of the Town and its citizens.

Sec. 2-1.2. Exemptions and waivers from competitive bidding.

(a) The following shall be exempt from the competitive bidding requirements of section 2-1.1 but shall not obviate the need for the approval of the town council for any transaction exceeding $10,000.00.

(1) <u>Emergency purchases which are more fully described in section 2-1.3;</u>

(2) Contracts for professional services;

(3) Contracts which are governed by F.S. § 287.055, the Consultants' Competitive Negotiation Act;

(4) Contracts for services governed by F.S. § 218.391, Auditor Selection Procedures;

(5) Other contracts for which the selection process is provided by state law;

(6) Contracts which utilize a bid or proposal which has been secured by another governmental entity "piggyback contract";

(7) Contracts made under cooperative bids by the town jointly with other governmental agencies;

(8) Contracts for procurements which are only available from a sole source of supply upon the filing of a written request for such exemption by a town department head to the town manager outlining the conditions and circumstances involved.

(b) The town council may, by resolution, waive competitive bidding requirements for a specific transaction if it is found to be in the best interest of the town..

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

Section 1. Recitals. The foregoing recitals are adopted and hereby incorporated as if fully set forth herein.

Section 2. Authorization of the Town Council. The Town Council hereby waives the competitive bidding process and authorizes the expenditure of $199,188.00 to Perkins Roofing Corp for replacement of the roofs at Town Hall and the Annex Building, under the emergency procurement provision.

Section 3. Effective Date. This Resolution shall be effective immediately upon its adoption.

PASSED AND ADOPTED by the Town of Bay Harbor Islands this 1st day of February 2023.

By: _____
Joshua Fuller, Mayor

ATTEST:

_____
Yvonne P. Hamilton, Town Clerk

APPROVED AS TO FORM:

_____
Greenspoon Marder, LLP
Town Attorneys
By: Joseph S. Geller, Esq.

License #: CCC042786 & CCC1331944

PROPOSAL

TO:
Town of Bay Harbor Island
9665 Bay Harbor Terrace
Bay Harbor Islands, FL 33154

Project: FLAT 2 PLY RE ROOF

Date: 1/25/2023

We propose to furnish all materials, equipment, and labor, subject to any exclusions listed below, required to complete the following:

1. Polyglass 2-Ply Torch Built-Up Roofing System (Concrete Deck) $185,338.00

Description of Services:
---BUILT-UP POLYGLASS ROOFING SYSTEM---
Location of work will be conducted in the Town of Bay Harbor Islands Police Department and Public Works Facilities
Specifics of Proposed Work:
1. Obtain the roofing permit. We do all processing, you pay permit fee(s) only.
2. Tear off the existing built up roofing down to the concrete deck. Allow roof to dry.
3. Prime the concrete decks with asphalt primer.
4. Install tapered insulation package to create positive water drainage on roof, tapered insulation will be at 1/4'
5. Install Polyglass SA V modified bitumen interply over all field areas and up cants sealing decks.
6. Replace all ventilators with new including plumbing stacks and all purpose vents. Flash mechanical racks.
7. Fabricate, prime, and install factory painted 3" x 3" perimeter drip edge metal (larger sizing or upgrade to stainless steel or copper will be billed at an additional material upgrade cost). This metal is to be fastened every four inches using 1-1/4 inch ring shank nails.
8. Check wall flashing metals for damage - if wall flashings need to be replaced, any wall flashings and stucco / wall repairs will be completed and invoiced at $95. per man/hr plus the material cost.
9. Install heat-welded Polyglass G modified bitumen roof system, white granulated.
10. Clean up and haul debris away daily.

---ADDITIONAL INFORMATION---
1. All roof work done in accordance with the high velocity hurricane zone section of the Florida Building Code.
2. Permitting and processing is done by Perkins Roofing Corp. for no additional fee.
3. Permit and Engineering fees will be an additional charge to the price given below.
4. Owner interference with permitting, inspections or ladders for inspections will result in a

re-inspection fee charged by the building department to the owner.
5. During re-roof it is necessary to take down gutters, Perkins Roofing recommends installing a new gutter and downspout system with re-roof. Gutter and Downspout System will be charged in addition to the given price for re-roof if requested. Re-install of existing gutters (if kept) will be charged in addition.
6. Bi-Annual Maintenance Program: Please note Perkins Roofing highly recommends bi-annual roof maintenance to be performed before and after hurricane season to not only monitor any potential damages due to storms, but also to maintain the roof and prolong the roof life to the maximum capacity. Bi-Annual Maintenance cost is an additional $800 per service for every 2,000 SF of roofing.
7. Financing is available through RenewPace: 1-888-906-3560

---WARRANTY---
Perkins Roofing Limited Warranty of TEN year(s) upon final payment and signed Perkins Roofing Limited Warranty Certificate.
Polyglass provides a FIFTEEN year(s) material warranty.
All warranties require FREE annual maintenance inspections in order to maintain validity throughout the duration.

Quantity: 100 x Square

2. Polyfresko EnergyRated Cap Sheet $8,500.00

Description of Services:
(OPTIONAL) Upgrade from standard Polyglass SAP cap sheet to bright white energy rated PolyFresko G torch applied cap sheet for an additional charge, Polyfresko G gives you an additional 140 mills of roof thickness.

Min. 1/4 slope necessary for this cap sheet.

---WARRANTY---
Polyglass provides an upgraded TWENTY FIVE year(s) material warranty.
Polyglass Quantum Contractor warranty

Quantity: 100 x Squares

3. Scupper Drain (Inc. Wall Chip Out) $5,350.00

Description of Services:
---INSTALL SCUPPER DRAIN (INC. WALL CHIP OUT)---
Specifications of Proposed Work:
1. Chip a hole out in the wall to match the requested scupper size.
2. Install custom fabricated scupper metal to match requested scupper size.
3. Seal the scupper into the existing roof.
4. Clean up and haul away debris daily

Quantity: 5 x Scupper

Subtotal:	**$199,188.00**
**0% Tax:*	*$0.00*
TOTAL:	**$199,188.00**

Terms and Conditions

Includes all service dates, skilled techs, supplies and materials, waste service fee, taxes and insurance.
COMMERCIAL PROPERTIES (INC. CONDO ASSOCIATIONS) MUST PAY WITH CASH, CHECK OR MONEY ORDERS

PAYMENT TERMS:
---TERMS---
5% upon acceptance
30% upon permitting and mobilization
30% upon installation of roofing underlayment
Remaining net balance upon substantial completion

BUILDERS RISK INSURANCE:
Owner and/or owner's agent have risk of loss and may elect at their sole cost to cover such risk by purchasing Builders Risk insurance to cover materials in transit and/or in temporary storage throughout the project. Perkins Roofing is not responsible for and will be re-compensated at fair value in the event of loss for any materials or equipment via hurricane, fire, theft, vandalism, etc. at the project site.

FLORIDA HOMEOWNERS' CONSTRUCTION RECOVERY FUND:
Payment, up to a limited amount, may be available from the Florida Homeowners' Construction Recovery Fund if you lose money on a project performed under contract, where the loss results from specified violations of Florida Law by a licensed contractor. For information about the recovery fund and filing a claim, contact the Florida Construction Industry Licensing Board at the following telephone number and address:

Construction Industry Licensing Board
2601 Blairstone Road
Tallahassee, Florida 32399-1039
(850) 487-1395

WINDSTORM INSURANCE:
Please note most insurance companies require re-roof at the following roof ages in order to maintain windstorm insurance:
3-tab shingle: 15-years-old
Architectural shingle: 20-years-old
Flat roofs: 20-years-old
Concrete Tile: 20-years-old
Clay Tile: 25-years-old
Metal: 30-years-old

SEASONAL CHARITABLE DONATION:
Charity Partnership: Perkins Roofing Corp. donates $50.00 for every accepted roof repair project and $250.00 for every accepted re-roof project by dispersing the funds to Abandoned Pet Rescue, Beyond Nine Cat Rescue, and a Tail to Remember. All non-profit animal charities located in South Florida.

CONTRACT PROVISIONS:
1. SCHEDULE: All agreements on project timeline are contingent upon accidents or delays beyond our control (ie: material manufacturing or distribution delays, change order or approval delays, logistical delays due to other parties, rain days, named storms, all force majeure events, etc.). In addition, upon acceptance of the contract,

Perkins Roofing mobilization may not be delayed by the building owner(s) or scheduled more than 60 days in advance to protect the project cost from material price adjustments or increases.

2. MATERIAL ESCALATION: Due to the current shortages of materials on the market and volatility of pricing nationwide related to shipping and logistics, any increase in material pricing due to delays or events beyond the control of Perkins Roofing Corporation will be covered by the owner(s).

CONCRETE TILE PRICING: Concrete tiles as of now have a lead time of more than 4 months and are charged upon delivery, not upon purchase. Any increase in tile pricing from contract signing to delivery will be billed as a change order to the client with a 10% markup.

NOTE: Permitting times are out of the control of Perkins Roofing Corporation once permit applications have been submitted and are dependent based on the city or county building officials. Standard waiting periods are between 30 - 45 days.

3. LIABILITY: It is agreed that Perkins Roofing Corporation is liability insured as per Florida Law, but will not be held responsible for construction effects such as but not limited to dust, dirt, noise, asphalt, landscape, walks, drives, sudden rain storms or any accident beyond our control. It is agreed Perkins Roofing will maintain yard conditions with best efforts, but Perkins Roofing will not be held liable for landscaping issues due to necessary access to complete the project. Perkins Roofing is not responsible for any damages that may occur because of the weight of equipment or vehicles necessary to complete the project.

NOTE: Perkins Roofing Corporation offers a Driveway and Paver Protection Plan to cover sidewalks, drives, pavers, pools, vegetation, etc. with wood and plastic coverings as desired for the project. The cost of this protection plan differs based on the extent of protection equipment needed, but is not included in the provided price. Owner must notify Perkins Roofing prior to project startup in the event Driveway and Paver Protection Plan is requested.

NOTE (INTERIOR PROTECTION): Owner / Owner's Representative is responsible for protecting the property directly below the roof, including inside of the unit in the case of open beam ceilings or in the event of balcony / terrace deck overhangs.

4. WARRANTY: Any warranty shall apply to specifications only and does not cover additional damage to property. Damage incurred by other parties, a named storm, other force majeure events, etc. is not covered under warranties.

5. Damage to roof caused by obvious circumstances such as but not limited to trees, footwear, termites, mold, additional work done by others, etc. is also not warranted.

6. REPAIR WARRANTIES: Any repair warranty only covers the area of repair. In the event of future leaks in additional areas or due to additional causes, the warranty will not cover these areas and these new or additional issues would require an additional contract for work.

NOTE: ROOF REPAIRS are only temporary solutions to a long-term problem. The signature below indicates the customer / client understands that forgoing a roof replacement for a roof repair may not correct all of the leak issues with the home. Many times leaks are prolonged due to other issues with the structure (ie: A/C condensation, mechanical equipment issues, attic ventilation issues leading to humidity problems, water intrusion through walls and windows, etc.) additionally, the repair of one leak does not mean that another leak will not occur in the future. Termite damage is a major issue in Florida and termites may cause multiple leaks, even create damage to a newly repaired area causing a roof repair to leak again (under these circumstances, this would not be a recall, but an additional repair). Additionally some leaks may spot through one area, but may have multiple sources of water intrusion. The repair of one of these sources may not fully correct the issue. Please schedule roof repairs at your own risk.

7. TIME AND MATERIAL WORK / APPROVALS: Clients have the option to approve emergency services or immediate work at the time and material rate of $95 per man / hour, plus materials with a 10% markup for contractor facilitation, pickup and delivery.

8. DAMAGE LIMITATION: In the event any breach of contract or defective work claim against Perkins Roofing Corporation, the total liability to Owner shall be deemed limited to the contract price reflected on the bottom line (total) of the Proposal. All claims for damages of any kind, but not

limited to special, indirect, incidental, consequential, punitive, and/or exemplary damages in excess of the contract price reflected on the Proposal shall be deemed waived and released. Perkins Roofing Corp. shall bear no liability for damages related to or caused by delivery of materials or dumpsters, ceiling cracks, interior drywall, painting, landscaping, screens and or burried improvements. Perkins Roofing Corporation shall bear no liability for damages caused to A/C lines, electrical wires, plumbing, or other items located too close to the roof decking.

9. ROOF COMPONENTS: Unless otherwise specified in the contract, re-roof will only include standard roof terminations per the manufacturer. Other components included must be specified within the contract.

NOTE: In the event of skylight, roof hatch, roof vent or other pre-fabricated accessory install: Failure of pre-fabricated components, such as, but not limited to caulking, material deterioration or impact glass are not covered under the Perkins Roofing Limited Warranty. Our sole responsibility is flashing in the roofing accessory.

10. NON-ROOFING DETAILS: Perkins Roofing may recommend repairs or replacement of non-roof components, that may still affect the viability of the roofing system including, but not limited to stucco or wall repairs and treatments tied-into the roofing system, plumbing or drainage issues, HVAC or mechanical issues, solar panels, pool cages, custom gutters, etc. If these recommended issues are not treated or fixed in due time, they may negatively affect the roofing system and/or void the warranty of the roofing system. Perkins Roofing will not be held liable for non-completion of these details and damages this may cause to the roofing system.

11. ANNUAL MAINTENANCE INSPECTION: In the case of long-term warranty (more than ONE year), annual roof maintenance inspections must be conducted by Perkins Roofing from the effective date of the warranty to keep valid the Perkins Roofing Corp. Limited Warranty throughout the maximum duration. Any necessary roof maintenance (as determined by annual maintenance inspections) must be conducted by Perkins Roofing to ensure the quality of the roof remains unperturbed by external forces as mentioned above. Failure to perform recommended work or to schedule the annual roof inspection with Perkins Roofing Corp. will cause the terms of the warranty to lapse.

12. EXISTING STRUCTURE: Perkins Roofing Corporation can not be held liable for undetectable deficiencies within the existing structure / deck underneath the roofing system (including sloping issues that may result in ponding water acceptable by building code). Perkins Roofing does not, either itself or through it's representative, practice architecture or engineering and offers no opinion on, and expressly disclaims any responsibility for, the structural soundness of any roof deck on which roofing products may be applied. Opinions of competent structural engineers should be obtained by the Owner and/or Owner's representative as to the structural soundness of the roof deck and its ability to properly support the contemplated roof installation (including, but not limited to the slope/pitch of the structure and ability to avoid ponding water of any kind or definition). Additionally, other conditions of the building including, but not limited to anything outside of the specific defined scope of work. Perkins Roofing accepts no liability for any failure of the roof deck, it's ability to support the contemplated roof installation, or resulting damages.

NOTE: All wall transition work, unless otherwise specified, end in a standard 8" termination as specified by manufacturers and by code. Any water intrusion issues above this point are not the responsibility of Perkins Roofing Corp. Perkins Roofing is not responsible for leaks or damages caused by water infiltration into the roof system, as a result of moisture migration. Building with cracked stucco, A/C or electrical equipment or any other surface that allows water into the roofing system is not the responsibility of Perkins Roofing and corrective action is specifically excluded from this contract document.

ADDITIONAL NOTE: Scope of work approved is the responsibility of the Owner / Owner's Rep., including, but not limited to replacement or adjustments of A/C accessories, plumbing accessories, concrete restoration or sheet metal not specifically written into the scope of work in the contract.

13. WOOD CLAUSE: Per Florida Building Code, Perkins Roofing is required to replace damaged wood and leave a safe and sound structure. Some structural damages to homes can exceed a home owner's

allotted budget, but it is understood when signing the contract all bad wood must be replaced regardless of approval and signing this contract is an approval to replace all damaged structural or decking wood unless otherwise noted in writing, including addition of a wood nailer per code, sistering damaged trusses, replacing damaged fascia wood that is tied into the roof and replacing damaged blocking woods at roof top accessories or insulation blocking. Same clause applies to structural concrete or metal decking repairs to facilitate work as per Florida Building Code and failure to agree can result in life, safety issues that may result in building closure. Note wood bills do NOT include priming or painting wood, however this can be requested at a further expense.

14. INSPECTOR / WARRANTY REQUIRED CHANGE ORDER: Local inspectors reserve the right to require certain work to be done outside of the contract scope of work in order to fulfill updated local codes including, but not limited to skylight replacement, roof hatch replacement, install of a wood nailer, replacement of flashing metals, electrical or HVAC work, chimney or stucco repairs and more. In the event an inspector requires an item to be replaced and the owner does not agree to the change order, local code supersedes the owner and the work must be completed and paid to Perkins Roofing. Same goes for an NDL warranty work required by the manufacturer beyond the written scope of work in the contract.

15. OPEN / EXPOSED BEAM CEILING: Please be advised that where you have open beam ceilings; dust, dirt and debris will infiltrate the interior of the structure. Please take precautions to protect any items that you do not wish to be soiled. Additionally, in the event you have an open beam ceiling, this must be disclosed to Perkins Roofing Corporation prior to bidding in order to properly estimate the cost of additional work (short nails and additional water barrier) to prevent nail penetration through the decking wood. If this is not disclosed to Perkins Roofing and written per estimate specs, Perkins Roofing can not be held liable for nail penetration through the exposed decking wood. Lastly, painting of the exposed / open beam ceiling is not included.

16. INTERIOR ACCESS: Must be provided to Project Manager prior to start-up and upon request during and after the project in order to document pre-existing damages and any potential new damages that occur throughout the project.

17. INSULATION / VENTILATION: Perkins Roofing is not responsible for providing additional insulation or ventilation to the roof unless otherwise written into the job specifications. Please note insulation and ventilation will affect performance of your home heating and cooling system.

18. OIL CANNING: Perkins Roofing Corporation is not responsible for Oil Canning, a common aesthetic phenomenon in metal roofing that does not affect the structural integrity of the panel system.

19. INTERNAL PLUMBING SYSTEMS: Perkins Roofing Corporation recommends checking, maintaining and jetting any internal plumbing both prior to and after any major construction projects if any internal plumbing systems exist within the building structure.

20. ADDITIONS BY OTHERS: In the event additions such as, but not limited to terrace tiling, artificial grass, lighting, additional plumbing HVAC or mechanical vents, etc. are installed by others atop our work without our express permission or supervisions, these items may void out any warranty.

21. OTHER TRADES: In the event mechanical, plumbing, electrical, concrete restoration or other trades are necessary to complete or tie-in the roofing system correctly, the owner or owner's representative is responsible for scheduling and hiring these trades in coordination with Perkins Roofing Corp. unless otherwise agreed and contracted differently. Perkins Roofing will not be held responsible for completing the Project per the contract when trade contractors employed by the Owner, Owner's Representative, or anyone else that impacts Perkins Roofing's ability to complete their work. This could include, but is not limited to, closed out permits, completion of related work such as A/C units, electrical work, etc. Owner will make payments to Perkins Roofing for the entire value of the work in place and not withhold retainage for such reasons.

22. CONTRACT ADDENDUMS: In the event of any contract addendums, additions or alterations to this contract, these contract terms shall take ultimate precedence if in conflict or disagreement with any

other potential terms. These terms supersede any conflicting terms.
23. CONTRACT NEGOTIATION: Any alterations to the existing contract herein may result in attorney fees being charged to the building owner in the event the contract alterations results in Perkins Roofing needing the advisement of our team of construction attorneys. Any fees will be billed directly and at cost to the building owner.
24. WORKMANSHIP: Perkins Roofing will have final say over any workmanship specifications or details resulting in a Perkins Roofing warranty. If in conflict with the owner or any consultant, engineer or architect hired by the owner, Perkins Roofing details and specifications supersede those of any other parties unless expressly specified in writing or additional details or detail alterations are agreed to be contracted as a change order.
NOTE: Unforeseen or inspector required repairs to hidden damages (see existing structure clause #12 above) must be completed to facilitate proper re-roof. If project momentum is halted by the owner / owner's rep., the owner is responsible for paying for delays, immediately paying for progress up to completion, including demobilization profit and overhead. Perkins Roofing will inform owner immediately upon discovery of additional damages, it may be impossible to estimate costs of said damages until the roof is completely uncovered. If water intrusion occurs due to owner caused delays or demobilization, Perkins Roofing will not be held responsible or liable for any damages. Including permitting issues beyond the control of Perkins Roofing (ie: clouds on title or failure to close permit due to issues unrelated to the roof), which Perkins Roofing will be compensated up to the point of completion when work halts.
25. CONSULTATION: If hiring Perkins Roofing, it is agreed Perkins Roofing and Perkins Roofing employees are the experts in the field of roofing and are ultimately in charge of the project. If any third-party consultants or engineers are hired by the owner, they will be hired as indirect observers of the project, not as direct supervisors to Perkins Roofing. The contract between Perkins Roofing and the owner is an agreement that Perkins Roofing has the knowledge and experience to complete the project without third party supervision unless otherwise expressly agreed in writing.
26. DEMOBILIZATION: If asked to demobilize by the owner, property manager or GC for whatever reason, all Perkins Roofing Corp. expenses, including storage of materials, transportation costs associated with demobilization, equipment demobilization costs, profit and overhead will be covered up to the point of demobilization (including demobilization for named storms or force majeure events).
Perkins Roofing retains the right to demobilize the project in the event of non- or late payment and will be recompensed to the point of completion in the event of demobilization, including change orders or time and material work related to hidden structural conditions such as a wood bill. Remobilization fees will be charged in the event a project is halted by owner or by non- or late payment, then resumed at a later date. Remobilization fees will be charged at cost plus a 15% general conditions margin.
27. CANCELATION / UNKNOWN CONDITIONS: If the Owner wishes to cancel this transaction prior to mobilization, the owner must pay any and all permit and engineering costs of the project to date, including office administration fees of $500.00. In the event the contractor determines this agreement cannot be performed as intended by the parties due to, for example, incorrect pricing, unforeseen / hidden structural defects or pre-existing conditions to the buyer's property, Perkins Roofing Corporation may cancel this agreement, notify the owner(s) of such cancellation in writing and return all monies paid by the buyer, or buyer(s) up to the current progress of the project including O&P expenses.
28. MATERIALS: Additional materials are ordered for each job to ensure there is no shortage on the work-site. All left-over materials are the property of Perkins Roofing Corporation unless otherwise agreed in writing and must remain available for pickup by Perkins Roofing Corporation or partnered suppliers.
29. ADDITIONAL TERMS AGREEMENT: In the event payment is not made as agreed in Terms, all fees incurred in

collection are to be paid by owner or signer.

FINAL PAYMENT NOTE: The making of final payment shall constitute a waiver of all claims against Perkins Roofing or by Owner/Owner's Representative except those arising from unsettled liens from work performed by Perkins Roofing. No Warranty or Warranty provided by Perkins Roofing or material manufacturer shall be valid until paid in full and final payment is received.

30. LATE FEES: If payment surpasses 30 days overdue, a late fee of 5% of the total amount due will be charged in addition to the remaining total amount due. The 5% late fee will be continuously applied every 30 days overdue (compounding) unless otherwise specified within the contract.

NOTE: Material suppliers impose late fees to Perkins Roofing when materials are not paid within 30 days - these charges are fairly imposed and passed down through Perkins Roofing for unpaid bills and invoices.

COLLECTIONS: Any legal fees or collections fees paid to obtain earned moneys on behalf of Perkins Roofing will be added to the final invoice and must be paid with final payment to close out the contract and obtain the warranty.

ADDITIONAL NOTE: If payment surpasses 60 days overdue or Perkins Roofing has to come out of pocket legal fees, Perkins Roofing may void any associated warranties at their discretion. This includes any approved or inspector forced change orders to complete the roof per code.

31. LIEN RIGHTS: If payment has not been received once 45 days overdue, Perkins Roofing Corp. has the right to process a claim of lien unless otherwise specified within the contract. (Sections 713.001-713.37 Florida Statutes). Additionally, as required by Florida Construction Lien Law, Perkins Roofing hereby notifies owner(s) that persons or companies furnishing labor or materials for the construction on owner's land may have lien rights on owner's land and buildings if the contract is not timely paid in full.

32. WRITTEN NOTICE: Florida law states written notice must be delivered to Perkins Roofing Corp. regarding any potential defects and Perkins Roofing must be given the opportunity to correct such defects 60 days prior attempting any legal action. (per Chapter 558 of the Florida Statutes)

33. ATTORNEY FEES: In the event of a legal dispute, the defeated party will pay reasonable attorney fees and travel expenses related to a legal dispute.

34. PAYMENT METHOD DISCOUNT (RESIDENTIAL PROPERTIES ONLY): Payment with debit card, ACH transfer, check, money order, or cash will result in a 3% discount off the total amount due for residential properties only. Commercial properties must pay with check, cash, wire transfer or money order - otherwise will be imposed a 5% penalty on top of the contracted price.

35. ONLINE PAYMENTS: Payments are now accepted through PayPal and Quickbooks merchant services for CC or ACH payment via the online payment portal for residential properties only.

36. CREDIT CARDS (RESIDENTIAL PROPERTIES ONLY): All major credit cards are accepted for residential properties up to $25,000.00. Projects above this total must be paid via cash, check or debit unless processed through a third-party financing service.

37. FINANCING: Perkins Roofing Corporation may assist in providing clients with a third party financing institution in relation to roofing projects. Perkins Roofing is not held directly responsible for making payments or arranging financing terms and interest rates.

38. REFERRAL PROGRAM: Perkins Roofing Corp. offers the opportunity to receive a $50 Amazon gift card for providing any customer referral translating into a project with Perkins Roofing.

39. DIGITAL MATERIAL RIGHTS: Perkins Roofing Corp. reserves the right to use photos taken by employees for record purposes in addition to advertising and other digital media means so long as they do not infringe the privacy of customers and their property.

40. NAMED STORM PRICING: Potential named storm threats may affect material pricing and availability. In the instance of a “named storm” landing in South Florida, Perkins Roofing must be compensated regarding pricing increases and scheduling issues due to material delays or unworkable weather. This includes other force majeure events.

41. PROFILE AND COLOR SELECTIONS: Roof shingles, tiles and metal panel profiles and colors must be selected and approved within fourteen days of the accepted contract or else price may be subjected to regular material

price increases.

NOTE: Color selection may affect utility pricing and roof's performance at reflecting heat. Contact Perkins Roofing personnel for more information on this topic. Perkins Roofing will not be held liable for any changes to heating, cooling or any other utility.

42. PRICE QUOTE: This estimate will be automatically withdrawn if not accepted within THIRTY (30) days.

NOTE: Metal Roofs must be accepted within fifteen (15) days of receiving the price quote due to the volatility in material / metal pricing.

43. EXECUTION OF CONTRACT: This estimate becomes an executed contract upon signature by both a Perkins Roofing officer and of the property owner or an authorized signer (property manager).

44. The above prices, specifications and conditions are satisfactory and hereby accepted.

Contractor: *Alejandro Montejo* 1/25/2023

Perkins Roofing Corporation Date

ACCEPTANCE OF PROPOSAL: The above prices, scope, specifications and conditions are satisfactory and hereby accepted. You are authorized to do the work specified.

Client: _____ _____

Town of Bay Harbor Island Date

Earl W. Johnston Roofing, LLC
5721 Dewey Street
Hollywood, FL 33023
Phone: (954) 989-7794
Fax: (954) 989-5666
www.johnstonroofing.com
Lic. #:CCC057073/CCC1333783

Date: 01/23/23
Representative: Anjoe Barrett
(954) 557-1853
anjoe@johnstonroofing.com

Customer:	Main Phone:	Work Phone:	Cell Phone:
CITY HALL			(786) 709-6555
Customer/Project Address:	**City:**	**State:**	**Zip:**
9665 BAY HARBOR TERRACE	BAY HARBOR ISLAND	FL	33154

GAF EVERGUARD .60 TPO REROOF PROPOSAL - STORE ROOM AREA

#	Item
1	GAF Remove existing flat roof to a smooth workable surface. Remove and dispose of all debris in dump vehicles provided by Earl W. Johnston Roofing. No dumpsters to be left on site. Install adhered attachment with GAF Everguard .060 Fleeceback TPO system without insualtion - Benefits of EverGuardÂ® TPO 60-mil Membrane include: Great Value: Superior performance at a cost-effective price. Excellent Seam Strength: Heat-welded seams provide greater seam strength to taped and other seams. Long-term Weathering: Excellent long-term heat and UV resistance. Energy Saving: Highly reflective and emissive white roof can help reduce energy costs and urban heat island effect.
2	Price based on tear off of 1 roof layer. If additional roof layers are discovered during tear off an additional cost of $0.60 per square foot will incur to remove and dispose of.
3	Contract includes the following lumber - Any damaged or rotten lumber will be removed and installed at costs below: LUMBER COST Rafter @ $6.50 per linear ft. (Nailer board) * This proposal is based on the conditions observable by visual and non-invasive means. There may exist hidden problems and latent deficiencies and defects, including those which may not be readily observable through visual or non-invasive inspection, or which are otherwise obscured from visual inspection or which would be revealed through invasive procedures. To the extent that such hidden problems, latent deficiencies and defects are discovered after the obscuring condition is removed, invasive procedures and/or work hereunder has begun, and additional materials are required due to any of the foregoing (such as additional lumber beyond that set forth herein), EARL W. JOHNSTON ROOFING, LLC., shall be entitled to payment for such additional material at the rate stated herein. ROOF DECK ATTACHMENT WILL BE BROUGHT UP TO CURRENT CODE USING 2.5 INCH GALVANIZED RING SHANK NAILS. INITIAL ACKNOWLEDGEMENT_____
4	Install GAF TPO Universal Boots
5	Remove lead plumbing stack flashings and non-electrical exhaust vents and replace with GAF Everguard Universal TPO Boots
6	Install taper cricket along parapet walls to drain water to scuppers for TPO
7	Install GAF TPO Split Pipe Boots around A/C stands and electrical pipes.
8	Install GAF Everguard TPO around Curbs using termination bar at top of TPO
9	Install Scuppers and Overflow Scuppers to Parapet Wall.
10	Install GAF Everguard TPO adhered to parapet walls
11	WARRANTY/GUARANTEE ON FLAT ROOF SYSTEM

12 TPO Flat Roof System has a 15 year manufacturer's warranty. - GAF warrants to you, the original owner of the building described above, that the GAF roof membrane and base flashing material (the EverGuard TPO Materials) will not leak due to ordinary wear and tear by the elements or a manufacturing defect for 15 years from the date of completion of the roof.

13 GAF NDL WARRANTY OPTION - As a GAF Master Select roofing contractor we are are proud to provide you with extra ordinary guarantee coverage for your new roofing system of the GAF Everguard Diamond Pledge NDL Roof Guarantee

For the next 20 years the Everguard Diamond Pledge NDL Roof Guarantee provides you with comprehensive system protection so that if your new GAF roofing system leaks from a manufacturing defect or workmanship error, the costs of repair are 100% covered (see your EverGuard Diamond Pledge NDL Roof Guarantee for complete coverage and restrictions).

Backed by GAF, North America's largest manufacturer of roofing products.
Peace of Mind, Sleep easier knowing that you have protected the roof that protects your family.
Protect your investment, A quality roof is your home's first line of defense against damaging weather.

The cost for this optional coverage is $1,200.00

Property Owner Signature _____
Date_____

14 EXCLUSIONS - Initial Acknowledgment. _____
A: PRICE DOES NOT INCLUDE AIR CONDITIONER, ELECTRICAL, SOLAR OR OTHER REQUIRED TRADES, EACH SPECIFIC WORK SHOULD BE PERFORMED BY A QUALIFIED LICENSED CONTRACTOR IN EACH SPECIFIC TRADE,
B: PRICE DOES NOT INCLUDE ANY ENGINEERING REPORTS OR ASBESTOS SURVEYS OR REMOVAL IF REQUIRED BY BUILDING DEPT.
C: PRICE DOES NOT INCLUDE GUTTER AND DOWNSPOUTS
The existing gutters and downspouts (if any) will be removed and disposed of by EARL W. JOHNSTON ROOFING, LLC. We can have a gutter company send you a quote upon request.

15 PRICE AND PAYMENT TERMS

16 TERMS: 10% AT SIGNING/ 40% AT START/ BALANCE UPON COMPLETION

17 Guaranteed 60 months for labor and material by Earl W. Johnston Roofing, LLC. See additional terms and conditions.

Grand Total: $54,948.59

Signature of Owner or Owner's Agent_____
Date_____

Signature of Representative_____Date_____
Earl W. Johnston Roofing, LLC

UNSIGNED CONTRACT PRICE IS SUBJECT TO CHANGE AFTER 7 DAYS

Customer is responsible for having electrician remove electrical cables from the parapet walls and other areas of the roof where they are hanging
Customer responsible for removing the old AC unit and cage from roof before tearoff

Big G Roofing & More, Inc
4005 NW 135 TH ST Opa-locka FL 33440
305-800-2444
305-627-3909
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99ROOF.COM
License # CCC1331250

Proposal # 12206221	**Date: 01/23/2023**
Name: Jason Atkinson	**Phone: 305-866-6241 Cell 786-641-3428**
Address: 9665 Bay Harbor Terrace	**Email:** jatkinson@bayharborislands-fl.gov
Re: TPO Flat Roof Replacement 9665 Bay Harbor Terrace Bay Harbor Islands Fl 33154.	

Ivan Gomez thanks you for this opportunity, and would like to present to you the following Scope of Work for the Roof Replacement process and procedures that, with your help and cooperation, will run the Project without any inconveniences for you as well as us.

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PREPARATORY OF WORK:

- An area on site will be designated for our equipment, materials and any vehicles for our personnel.
- A crane will be contracted for all the roofing materials as well as equipment as necessary.
- If needed, Customer, General Contractor and other trade contractors will be notified prior to the commencement of the roof project to have access to parking, staging and other areas, as well as delivery trucks for materials loaded to the roof.
- Installation of OSHA Approved safety flag system to the perimeter of the roof if required.
- Cover entire grass, Ac Unit, windows, doors, siding deck, etc. for protection.

TPO FLAT ROOF REPLACEMENT SYSTEM

- Move or cover all items that could get damaged during the roof replacement out of the way.
- Remove existing roof system down to substrate and dispose of debris appropriately.
- Replace all plumbing pipe flashing stacks with lead.
- Apply new metal flashing where necessary.
- Supply and install 1" Polyisocyanurate rigid roof insulation with Foam® Quick Cure or Hot Mop to concrete deck.
- Application of ½ inch crickets to divert water flow and have a positive drainage towards the roof outlets.
- Application of 1x4 cant strips to angle of the roof on parapet walls.
- Supply and Install GAF TPO 60 Mil single-ply membranes using GAF Bonding Adhesive, applied at a rate of 60 SQ ft per gallon on insulation and 60sq ft to underside of membrane for a total of 120 SQ ft per gallon.
- The roof cover side and end laps will be sealed with a minimum 1 ½ inch heat weld in accordance with manufacturer's requirements and Florida Building Code.
- Supply and install base tie, flashing for all roof penetrations, curbs, vents, drip edge metal system, pipe flashing etc. in accordance with manufacturer's installation details. [NOA 17-0213.08].
- Installation of Aluminum Termination Bar to the parapet with masonry anchors at a rate of one every 6" as per Florida Building Code 2004.
- Supply and install metal.
- If drainage system does not comply with Florida Building Code, new thru wall roof drainage system will be fabricated. If existing overflow drains are too small, they will be updated and amplified to comply with Florida Building Code as an additional charge.

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Rotten or Damaged Wood & Metal Flashing Replacement

- Wood deck, Fascia, Soffit, Trusses, Beam Replacements, and Metal Flashing includes materials, labor, removal of old wood or flashing and installation. Basic wood replacement is included in the contract. Any additional wood or flashing replaced that is not included in the contract is billed per foot or per sheet of plywood if needed.

General Notes

- No carpentry work, stucco, or painting will be performed unless specifically stated in this contract.
- No mechanical, plumbing or electrical work is included unless specified in this contract.
- Owner to provide appropriate space for staging area.
- The approval of this agreement implies that owners the all the owners of the individual units are in accordance with this contract. Big G Roofing & More Inc will not be liable for any misunderstanding nor implication made outside this agreement. For more information into this matter review term and condition 3**B.**
- Property owner agrees to bring all electrical, plumbing and A/C units up to code, prior and after the commencement of the job.
- A designated area will be granted to Big G Roofing & More Inc and affiliates for material delivery and to enact the scope of work specified.
- Debris and dust will fall from the roof to the ground. Cars around the area getting worked on must be moved. Big G Roofing will not be held liable for any vehicle damage, dirt or any extent.
- Due to current code requirements the existing scuppers may have to be moved. Big G Roofing Inc will not
- be responsible for the aesthetic of the remaining.

Total Contract Price: $229.755.06

Payment terms:

- 30% upon signing of contract.
- 30% upon completion of inter-ply installation.
- 30% upon completion of roof system.
- 10% upon approval of final inspection.
- **Please make all checks payable to: Big G Roofing & More Inc.**

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Warranty

- **Big G Roofing & More Inc**. warrants for **10** years from the approved final inspection date the roof will not leak due to improper workmanship on installation of the scope of work specified above.
- Any defects in the materials or workmanship will be repaired or replaced, at the discretion of Big G Roofing & More, Inc., at no cost to Client. This Warranty does not cover damages due to hurricane, hail, tornado, acts of GOD or natural disaster**.**

Projected time of completion

- After job has been awarded to Big G Roofing and More, Inc., these are the steps that follow:

- Permit applications to be signed by the Owner or Authorized Agent, and Notice of Commencement to be recorded at the City County Court of Clerks.
- Tests for calculations, asbestos, and/or engineering will be requested for permitting if needed.
- Permit submittals at the respective municipality or city. Estimated time for both steps about ten working days**.**
- Projected time for tear off and installation of new roofing system, weather permitting, and tiles/shingles/metal availability, is estimated for about 3-4weeks including all required inspections by proper municipality inspector.

Cleaning Up

- On a daily basis, tools, equipment, surplus materials, and roofing debris resulting from the new roof installation will be organized, cleaned up, or removed and disposed of. We will use a 30 lb. magnet to ensure no nails left behind after job is done. Inspect existing gutters insuring they will be free of any debris.

- It is possible that dust and dirt may infiltrate into the attic space during installation or removal of the roofing system. This is particularly true during removal of existing roof system. Contractor will not be held responsible for cleanup of attic areas or any other interior areas. Clients are advised to remove any valuable items from the roof or attic spaces and/or to cover such items with plastic, tarps, or other suitable covering.

Insurance

- Contractor will carry General Liability Insurance and Workers' Compensation Insurance and will provide Certificates of Insurance to Client, with Client named as Certificate Holder, prior to the execution of any work, upon request.

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Terms and Conditions:

Property-owner's responsibility.

Property owner is responsible for any work related but not limited to air condition, solar panels and water heaters, electrical, plumbing, gas vent, mechanical, structural, engineering, screen enclosures, gutters, landscape, phone and internet lines, awnings and other trades. Big G Roofing & More Inc. reserves the right to remove any interfering object at property-owner's expense and will not be held responsible for operating condition nor damage to said items after installation.

Property owner is responsible for painting, caulking or reinstalling any lumber, flashing, stucco, wall plaster, bricks, siding, keystones, tiles any other area where work was performed or removed to replace wall flashing

Property-owner is responsible for obtaining homeowner's association approval letter if residence is part of an association.

Property-owner is responsible for notifying io Big G Roofing Inc. in writing the location of exposed sheathing, septic tanks, or any "special request" prior to the execution of the contract.

Property-owner is responsible for protecting, securing or removing furniture, cars, items, carpets or flooring beneath an open beam roof. Big G Roofing & More Inc. will not be held liable for:

Big G Roofing & More Inc will not be held liable for oil canning on metal roofs, ponding water nor roof deflections, variations or dips on any roof caused by the structural stress or roof shape. These are considered pre-existing conditions that cannot be corrected by a roofing contractor.

Big G Roofing & More Inc. will not be held liable for damages caused by inclement weather during the re-roof process. This includes but is not limited to damages to the building, interior ceiling, paint, furniture and/or any other personal items.

Big G Roofing & More Inc will not be held liable for any damage to exposed sheathing, septic tanks, "special requests" made by property-owner, and/or electrical conduits or plumbing pipes that are not visible from the roof surface.

Big G Roofing & More Inc will not be held liable for damages caused by roof vibrations and/or dust, water, debris or other items that enter the house through an open beam roof.

Big G Roofing & More Inc. will not be held liable for scope of work delays due to weather, material and crew availability, and/or inspection approval.

Property-owners agrees:

Property-owner agrees to all written terms herein. No verbal or other agreements are part of this contract.

Property-owner agrees that's this contract is signed by owner, owner's agent and/or owner's representative that he/she has the actual authority to bind property- owner to this contract.

Property-owner agrees to grant access to the property for all Big G Roofing & More Inc staff to execute contract's scope of work and the first right to repair any damages that fall under the roofing contractor's responsibility.

Property-owner agrees to allow the use of water and electrical outlets for power tools and it is understood that the property owner or tenant will not be reimbursed for electrical or water consumption.

Property-owner agrees to pay all cost of the contract plus reasonable attorney fees, court costs and/or the act of filing a construction

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lien in the event the account is turned over to an attorney for collection and or suit, and Big G Roofing & More Inc is the prevailing party.
a. tract within three (3) working days of acceptance. If cancelled thereafter, a 20% of the deposit will be incurred by property-owner.

b. Property-owner agrees that's this contract is signed by owner, owner's agent and/or owner's representative that he/she has the actual authority to bind property-owner to this contract. c. Property-owner agrees to grant access to the property for all Big G Roofing & More Inc staff to execute contract's scope of work and the first right to repair any damages that falls under the roofing contractor's responsibility.

d. Property-owner agrees to allow the use of water and electrical outlets for power tools and it is understood that the property owner or tenant will not be reimbursed for electrical or water consumption. e. Property-owner agrees to pay all cost of the contract plus reasonable attorney fees, court costs and/or the act of filing a construction lien in the event the account is turned over to an attorney for collection and or suit, and Big G Roofing & More Inc is the prevailing party.

Permit: a. Permit must remain accessible to building officials always. Any re-inspection fee caused by property-owner, such as leaving the gate close, placing ladder on the floor, or any other related causes will be billed to property-owner in the next payment schedule.

Carpentry: a. Carpentry with a custom size or a different type lumber, from the lumber schedule attached to this contract, will be quoted separately.

b. Carpentry done on a second story will increase by $2.00 a linear foot or $50.00 per sheet. c. Carpentry Work will be solely determined by Big G Roofing & More Inc to pass inspections. Property Owner is not be entitled to compensation for any lost wages or expenses incurred with respect to being present during the work.

Double roof and insulation: a. It is understood that double roof is a roof system that is greater than 0.25" not including roof tiles. If double roof is present during the "Tear Off" phase specified in the contract; price will increase by $0.40/SF per 0.25".

b. If insulation is discovered during the "Tear Off phase", then the price will increase by $0.80/SF per inch and new insulation will need to be installed at a rate quoted separately to comply with code.

Payments: a. Payments are due according to the payment term for the progress of the job. b. Payments made after seven (7) days from the due date will incur an additional

$50.00 per day unless payment extension is requested in written form. 8. Cancellation: a. Property-owner may cancel this contract within

three (3) working days of acceptance. If cancelled thereafter, a 20% of the deposit will be incurred by property-owner. 10. Warranty:
a. In case of leak due to improper workmanship of installation of roof system, Big G Roofing & More Inc. guarantees full repair at no cost to
b. the property owner. Big G Roofing & More Inc is to be notified in writing, within (7) days of system leaks or defects and will perform an
c. inspection within a reasonable time to determine required corrections. i. Under no circumstances will Big G Roofing & More Inc. be held liable for:
damages caused by: Lightning, insect infestation, floods, fire, storms, hurricanes, tornadoes or any other acts of God.
Installation, erection or construction of additional structure on or through the roofing substrate and/or flashings. This is not limited to cable satellites, antennas or any other equipment.
Application of, or repairs to roofing substrate of flashings done after issued date by anyone who is not Big G Roofing & More Inc. personnel.

4.Chemicals, cleaning chemicals, or any other harmful material that meets the roof system installed. This is not limited to pressure cleaning or any other method of cleaning using pressured air or water.

5.Acts of negligence, abuse, vandalism, war, falling objects, civil disobedience or any other act beyond the control of Big G Roofing & More Inc

6.big G Roofing & More Inc. disclaims any expressed or implied warranties other than those stated above.

7.This warranty is only granted and guaranteed to the property owners above and will not be transferable nor extended.

8. Warranty will not be valid unless Big G Roofing & More Inc. has been paid in full.

9. If roof leak is a result from anything other than poor workmanship or material defect installed by Big G Roofing & More Inc, Big G Roofing & More Inc. reserves the right to inspect and repair the roof system for a fee in order to re-issue the warranty.

10. In the event the property-owner decides to dismiss these additional charges the warranty will automatically be void.

11. Credit card fee: All credit card payments will automatically incur a 3% processing fee.

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Legal

Note: The claim of lien may be recorded at any time during the progress of the work or thereafter but not later than 90 (ninety) days after the final furnishing of labor or services or materials by the lienor per Florida Statute 713 to 713.79. For more information on this Florida Statute 713 (Liens, Generally) please visit http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&URL=0700-0799/0713/0713.html

For additional information.

Note: Deposits and progress payments must be made in accordance with the contract terms. Any lapse or stoppage in payments shall constitute an immediate work stoppage.

Note: If Big G is not paid within the requisite time period, finance charges will be applied to the account at the highest allowable rate by law. The owner shall be responsible to pay the greater of either the cost of collections incurred or thirty (30%) percent of the principal balance due. The costs of collections include all fees and costs related to the collections of the debt, including but not limited to reasonable attorney's fees and costs.

Note: This agreement shall govern by the laws of the State of Florida. Should any dispute arise between the parties hereto with regard to any of the forgoing, the proper venue for any such dispute shall be Miami Dade County, Florida.

Note: In the event either parties hereto are compelled to enforce any portion of this agreement hereof, the prevailing party shall be entitles to recoup reasonable attorney's fees and costs up to and including post judgment and appellate level proceedings.

Note: There are no promises, representations or understandings outside of this instrument which instrument represents the complete agreement between the parties. No modification of this contract shall be valid unless in writing, signed by the party against whom the change is asserted. Any notification required by this Contractor shall be made in writing.

Note: The parties agree that the Subcontractor and/or Subcontractor's insurer will exclude all coverage, including defense, damage related to bodily injury, property damage and clean up expenses caused directly or indirectly in whole or in part for any action or claim brought on account of mold, including fungus and mildew regardless of the cause, event, material, product or damage that occurs.

Note: It is understood and agreed that the roofing contractor (and roofing contractor's insurer) will be held harmless for alleged or actual damages/claims as a result of mold, algae, or fungus. It is understood that the roofing contractor and roofing contractor's insurer will exclude all coverage, including defense, damages related to bodily injury, property damage, and clean up expenses caused directly or indirectly in whole part for any action brought as a result of mold, including fungus and mildew regardless of the cost, event, material, product, or workmanship that may have contributed concurrently or in any sequence to the injury or damage that occurs.

Note: This agreement includes the cost of sheathing re-nailing and secondary water resistance as required by the newly adopted Hurricane Mitigation Standard. However, the agreement amount stated herein does not include the cost of Truss to Wall Hurricane Mitigation Standards as imposed by the State of Florida Effective October 1st, 2007. Pursuant to the Law as adopted by the Legislature you may require to upgrade your connections of the truss system to the load bearing wall and the cost of same is NOT included in the proposal. State Law mandated that you are not obligated to spend more than 15% of the face value of this contract to mitigate these areas. The specific scope of work and cost of required mitigation can only be calculated after removal of the existing roof system or by a Licensed General Contractor or Structural Engineer if you choose to have them provide you with an independent report at your own expense prior to acceptance of this agreement.

Note: If waiver of subrogation is required, please ADD $ 250.00 Dollars to the contract/agreement amount.

Exclusions: Plumbing, electrical, mechanical, structural, sod replacement, vegetation replacement and any other item not specified on this agreement/proposal.

ACCORDING TO FLORIDA'S CONSTRUCTION LAW (SECTION 713.001-713.37, FLORIDA STATUTES), THOSE WHO WORK ON YOUR PROPERTY OR PROVIDE MATERIALS AND ARE NOT PAID IN FULL HAVE THE RIGHT TO ENFORCE THEIR CLAIM FOR PAYMENT AGAINST YOUR PROPERTY. THIS CLAIM IS KNOWN AS A CONSTRUCTION LIEN. IF YOUR CONTRACTOR OR A SUBCONTRACTOR FAILS TO PAY SUBCONTRACTORS, SUB-SUBCONTRACTORS OR MATERIAL SUPPLIERS OR NEGLECT TO MAKE OTHER LEGALLY REQUIRED PAYMENTS, THE PEOPLE WHO ARE OWED MONEY MAY LOOK TO YOUR PROPERTY FOR PAYMENT, EVEN IF YOU HAVE PAID YOUR CONTRACTOR IN FULL. IF YOU FAIL TO PAY YOUR CONTRACTOR,

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YOURCONTRACTOR MAY ALSO HAVE ALIEN ON YOUR PROPERTY. THIS MEANS IF A LIEN IS FILED YOUR PROPERTY COULD BE SOLD AGAINST YOUR WILL TO PAY FOR MATERIAL, LABOR, AND OTHER SERVICES THAT YOUR CONTRACTOR OR A SUBCONTRACTOR MAY HAVE FAILED TO PAY. FLORIDA'S CONTRUCTION LIEN LAW IS COMPLEX AND IT IS RECOMMENDED THAT WHENEVER A SPECIFIC PROBLEM ARISES, YOU CONSULT AN ATTORNEY. -- TO PROTECT YOURSELF, YOU SHOULD STIPULATE IN THIS CONTRACT THAT BEFORE ANY PAYMENT IS MADE, YOUR CONTRACTOR IS REQUIRED TO PROVIDE YOU WITH A WRITTEN RELEASE OF LIEN FROM ANY PERSON OR COMPANY THAT HAS PROVIDED TO YOUR A "NOTICE TO OWNER."

Florida Statute 501.031 requires specific language. 501.031 Home solicitation sale; written agreement. —Every home solicitation sale shall be evidenced by a writing as provided in this section. (1) In a home solicitation sale, the seller must present to and obtain from the buyer his or her signature to a written agreement or offer to purchase which designates, as the date of the transaction, the date on which the buyer actually signs and which contains a statement of the buyer's rights, which statement complies with subsection (2). (2) The statement must: (a) Appear under the conspicuous caption, "BUYER'S RIGHT TO CANCEL";
(b) Read as follows: "This is a home solicitation sale, and if you do not want the goods or services, you may cancel this agreement by providing written notice to the seller in person, by telegram, or by mail. This notice must indicate that you do not want the goods or
services and must be delivered or postmarked before midnight of the third (3) business day after you sign this agreement. If you cancel this agreement, the seller may not keep all or part of any cash down payment. "Any alteration or deviation from the above specifications involving extra cost of labor or material will only be executed upon written orders for same and will become an extra charge over the sum stated in this contract. All agreements must be made in writing according to the Conditions of Contract. BIG G Roofing & More, Inc. shall carry all workers compensation and liability insurance and shall also provide all licenses and permits necessary to complete this job.

--ACCEPTANCE--

You are hereby authorized to furnish all materials and labor required to complete the work specified in the above proposal, for which the undersigned agrees to pay the amount stated in said proposal, and according to the terms thereof.

Owner Authorized Date

Big G Roofing & More Authorized Date

Earl W. Johnston Roofing, LLC
5721 Dewey Street
Hollywood, FL 33023
Phone: (954) 989-7794
Fax: (954) 989-5666
www.johnstonroofing.com
Lic. #:CCC057073/CCC1333783

Date: 01/23/23
Representative: Anjoe Barrett
(954) 557-1853
anjoe@johnstonroofing.com

Customer:	Main Phone:	Work Phone:	Cell Phone:
CITY HALL			(786) 709-6555
Customer/Project Address:	**City:**	**State:**	**Zip:**
9665 BAY HARBOR TERRACE	BAY HARBOR ISLAND	FL	33154

GAF EVERGUARD .60 TPO REROOF PROPOSAL - STORE ROOM AREA

#	Item
1	GAF Remove existing flat roof to a smooth workable surface. Remove and dispose of all debris in dump vehicles provided by Earl W. Johnston Roofing. No dumpsters to be left on site. Install adhered attachment with GAF Everguard .060 Fleeceback TPO system without insualtion - Benefits of EverGuardÂ® TPO 60-mil Membrane include: Great Value: Superior performance at a cost-effective price. Excellent Seam Strength: Heat-welded seams provide greater seam strength to taped and other seams. Long-term Weathering: Excellent long-term heat and UV resistance. Energy Saving: Highly reflective and emissive white roof can help reduce energy costs and urban heat island effect.
2	Price based on tear off of 1 roof layer. If additional roof layers are discovered during tear off an additional cost of $0.60 per square foot will incur to remove and dispose of.
3	Contract includes the following lumber - Any damaged or rotten lumber will be removed and installed at costs below: LUMBER COST Rafter @ $6.50 per linear ft. (Nailer board) * This proposal is based on the conditions observable by visual and non-invasive means. There may exist hidden problems and latent deficiencies and defects, including those which may not be readily observable through visual or non-invasive inspection, or which are otherwise obscured from visual inspection or which would be revealed through invasive procedures. To the extent that such hidden problems, latent deficiencies and defects are discovered after the obscuring condition is removed, invasive procedures and/or work hereunder has begun, and additional materials are required due to any of the foregoing (such as additional lumber beyond that set forth herein), EARL W. JOHNSTON ROOFING, LLC., shall be entitled to payment for such additional material at the rate stated herein. ROOF DECK ATTACHMENT WILL BE BROUGHT UP TO CURRENT CODE USING 2.5 INCH GALVANIZED RING SHANK NAILS. INITIAL ACKNOWLEDGEMENT_____
4	Install GAF TPO Universal Boots
5	Remove lead plumbing stack flashings and non-electrical exhaust vents and replace with GAF Everguard Universal TPO Boots
6	Install taper cricket along parapet walls to drain water to scuppers for TPO
7	Install GAF TPO Split Pipe Boots around A/C stands and electrical pipes.
8	Install GAF Everguard TPO around Curbs using termination bar at top of TPO
9	Install Scuppers and Overflow Scuppers to Parapet Wall.
10	Install GAF Everguard TPO adhered to parapet walls
11	WARRANTY/GUARANTEE ON FLAT ROOF SYSTEM

12 TPO Flat Roof System has a 15 year manufacturer's warranty. - GAF warrants to you, the original owner of the building described above, that the GAF roof membrane and base flashing material (the EverGuard TPO Materials) will not leak due to ordinary wear and tear by the elements or a manufacturing defect for 15 years from the date of completion of the roof.

13 GAF NDL WARRANTY OPTION - As a GAF Master Select roofing contractor we are are proud to provide you with extra ordinary guarantee coverage for your new roofing system of the GAF Everguard Diamond Pledge NDL Roof Guarantee

For the next 20 years the Everguard Diamond Pledge NDL Roof Guarantee provides you with comprehensive system protection so that if your new GAF roofing system leaks from a manufacturing defect or workmanship error, the costs of repair are 100% covered (see your EverGuard Diamond Pledge NDL Roof Guarantee for complete coverage and restrictions).

Backed by GAF, North America's largest manufacturer of roofing products.
Peace of Mind, Sleep easier knowing that you have protected the roof that protects your family.
Protect your investment, A quality roof is your home's first line of defense against damaging weather.

The cost for this optional coverage is $1,200.00

Property Owner Signature _____
Date_____

14 EXCLUSIONS - Initial Acknowledgment. _____
A: PRICE DOES NOT INCLUDE AIR CONDITIONER, ELECTRICAL, SOLAR OR OTHER REQUIRED TRADES, EACH SPECIFIC WORK SHOULD BE PERFORMED BY A QUALIFIED LICENSED CONTRACTOR IN EACH SPECIFIC TRADE,
B: PRICE DOES NOT INCLUDE ANY ENGINEERING REPORTS OR ASBESTOS SURVEYS OR REMOVAL IF REQUIRED BY BUILDING DEPT.
C: PRICE DOES NOT INCLUDE GUTTER AND DOWNSPOUTS
The existing gutters and downspouts (if any) will be removed and disposed of by EARL W. JOHNSTON ROOFING, LLC. We can have a gutter company send you a quote upon request.

15 PRICE AND PAYMENT TERMS

16 TERMS: 10% AT SIGNING/ 40% AT START/ BALANCE UPON COMPLETION

17 Guaranteed 60 months for labor and material by Earl W. Johnston Roofing, LLC. See additional terms and conditions.

Grand Total: $54,948.59

Signature of Owner or Owner's Agent_____
Date_____

Signature of Representative_____Date_____
Earl W. Johnston Roofing, LLC

UNSIGNED CONTRACT PRICE IS SUBJECT TO CHANGE AFTER 7 DAYS

Customer is responsible for having electrician remove electrical cables from the parapet walls and other areas of the roof where they are hanging
Customer responsible for removing the old AC unit and cage from roof before tearoff

Earl W. Johnston Roofing, LLC
5721 Dewey Street
Hollywood, FL 33023
Phone: (954) 989-7794
Fax: (954) 989-5666
www.johnstonroofing.com
Lic. #:CCC057073/CCC1333783

Date: 01/23/23
Representative: Anjoe Barrett
(954) 557-1853
anjoe@johnstonroofing.com

Customer:	Main Phone:	Work Phone:	Cell Phone:
CITY HALL			(786) 709-6555
Customer/Project Address:	**City:**	**State:**	**Zip:**
9665 BAY HARBOR TERRACE	BAY HARBOR ISLAND	FL	33154

GAF EVERGUARD .60 TPO REROOF PROPOSAL - MAIN BUILDING

#	Item
1	GAF Remove existing flat roof to a smooth workable surface. Remove and dispose of all debris in dump vehicles provided by Earl W. Johnston Roofing. No dumpsters to be left on site. Install adhered attachment with GAF Everguard .060 TPO system, with insulation. - Benefits of EverGuardÂ® TPO 60-mil Membrane include: Great Value: Superior performance at a cost-effective price. Excellent Seam Strength: Heat-welded seams provide greater seam strength to taped and other seams. Long-term Weathering: Excellent long-term heat and UV resistance. Energy Saving: Highly reflective and emissive white roof can help reduce energy costs and urban heat island effect.
2	Price based on tear off of 1 roof layer. If additional roof layers are discovered during tear off an additional cost of $0.60 per square foot will incur to remove and dispose of.
3	Remove lead plumbing stack flashings and non-electrical exhaust vents and replace with GAF Everguard Universal TPO Boots
4	Contract includes the following lumber - Any damaged or rotten lumber will be removed and installed at costs below: LUMBER COST Rafter @ $6.50 per linear ft. (Nailer board) * This proposal is based on the conditions observable by visual and non-invasive means. There may exist hidden problems and latent deficiencies and defects, including those which may not be readily observable through visual or non-invasive inspection, or which are otherwise obscured from visual inspection or which would be revealed through invasive procedures. To the extent that such hidden problems, latent deficiencies and defects are discovered after the obscuring condition is removed, invasive procedures and/or work hereunder has begun, and additional materials are required due to any of the foregoing (such as additional lumber beyond that set forth herein), EARL W. JOHNSTON ROOFING, LLC., shall be entitled to payment for such additional material at the rate stated herein. ROOF DECK ATTACHMENT WILL BE BROUGHT UP TO CURRENT CODE USING 2.5 INCH GALVANIZED RING SHANK NAILS. INITIAL ACKNOWLEDGEMENT_____
5	Install GAF TPO Universal Boots
6	Install Scuppers and Overflow Scuppers to Parapet Wall.
7	Install GAF Everguard TPO around Curbs using termination bar at top of TPO
8	Install Roof Drain
9	Install taper cricket along parapet walls to drain water to scuppers and drains for TPO
10	Install GAF Everguard TPO adhered to parapet walls
11	Install eave drip metal along the perimeter edge of TPO system.
12	WARRANTY/GUARANTEE ON FLAT ROOF SYSTEM

13 TPO Flat Roof System has a 15 year manufacturer's warranty. - GAF warrants to you, the original owner of the building described above, that the GAF roof membrane and base flashing material (the EverGuard TPO Materials) will not leak due to ordinary wear and tear by the elements or a manufacturing defect for 15 years from the date of completion of the roof.

14 GAF NDL WARRANTY OPTION - As a GAF Master Select roofing contractor we are are proud to provide you with extra ordinary guarantee coverage for your new roofing system of the GAF Everguard Diamond Pledge NDL Roof Guarantee

For the next 20 years the Everguard Diamond Pledge NDL Roof Guarantee provides you with comprehensive system protection so that if your new GAF roofing system leaks from a manufacturing defect or workmanship error, the costs of repair are 100% covered (see your EverGuard Diamond Pledge NDL Roof Guarantee for complete coverage and restrictions).

Backed by GAF, North America's largest manufacturer of roofing products.
Peace of Mind, Sleep easier knowing that you have protected the roof that protects your family.
Protect your investment, A quality roof is your home's first line of defense against damaging weather.

The cost for this optional coverage is $2,500.00

Property Owner Signature _____
Date_____

15 EXCLUSIONS - Initial Acknowledgment. _____
A: PRICE DOES NOT INCLUDE AIR CONDITIONER, ELECTRICAL, SOLAR OR OTHER REQUIRED TRADES, EACH SPECIFIC WORK SHOULD BE PERFORMED BY A QUALIFIED LICENSED CONTRACTOR IN EACH SPECIFIC TRADE,
B: PRICE DOES NOT INCLUDE ANY ENGINEERING REPORTS OR ASBESTOS SURVEYS OR REMOVAL IF REQUIRED BY BUILDING DEPT.
C: PRICE DOES NOT INCLUDE GUTTER AND DOWNSPOUTS
The existing gutters and downspouts (if any) will be removed and disposed of by EARL W. JOHNSTON ROOFING, LLC. We can have a gutter company send you a quote upon request.

16 PRICE AND PAYMENT TERMS

17 TERMS: 10% AT SIGNING/ 40% AT START/ BALANCE UPON COMPLETION

18 Guaranteed 60 months for labor and material by Earl W. Johnston Roofing, LLC. See additional terms and conditions.

Grand Total: $106,636.09

Signature of Owner or Owner's Agent_____
Date_____

Signature of Representative_____Date_____
Earl W. Johnston Roofing, LLC

UNSIGNED CONTRACT PRICE IS SUBJECT TO CHANGE AFTER 7 DAYS

Customer is responsible for having electrician remove electrical cables from the parapet walls and other areas of the roof where they are hanging

Polyglass U.S.A., Inc.
CORPORATE OFFICE
1111 WEST NEWPORT CENTER DRIVE
DEERFIELD BEACH, FL 33442
(954) 233-1330 • FAX (954) 418-4453
polyglass.us

ROOFING AND WATERPROOFING SYSTEMS
POLYGLASS
MAPEI GROUP

January 25, 2023

To: Perkins Roofing Corp.
575 NW 152nd St
Miami, FL 33169

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

This is to confirm the roofing assemblies as noted below are approved and eligible for a Twenty-five (25) Year Polyglass NDL Roof System Warranty (RSW) when installed by a current Polyglass Preferred or Quantum Contractor in good standing:

Deck Substrate:	Structural Concrete, Minimum 2500 psi; cured a minimum of 28 days in accordance with ACI-308
Insulation:	Polytherm Polyisocyanurate (Flat & Tapered); ASTM C1289 Type II, Class 1
Insulation Attachment:	Polyglass LRF M applied at a continuous rate of 0.25 to 0.5-inch wide ribbons, 12-inch o.c.
Base Membrane:	Elastoflex SA V FR (Self Adhered); ASTM D6163, Type I, Grade S
Cap Membrane:	Polyfresko G FR (Heat Welded); ASTM D6222, Type I, Grade G
Details:	Polyflash 1C; One-component, moisture-cure silane modified polyurethane

The above system is approved per Evaluation Report P40690.12.13-1-R14 for FL16717-R13 system number C-39. System has a maximum design pressure of -232.5 psf.

The above system meets a Class A-Fully Adhered fire rating per UL Listing TGFU.R14571 deck number 23.

In consideration of the above proposed roof system assemblies, it is Polyglass' intent to issue up to a 25 Year NDL Roof System Warranty (RSW) upon successful completion of the project by a current Polyglass Preferred or Quantum Contractor, installed to Polyglass published installation requirements, and at such time all proper documentation is provided, any pertinent required fees are received, and any required final Roof Observation and Punch List items are completed to the satisfaction of Polyglass Technical Services. All standard Terms and Conditions of the Polyglass Roof System Warranty (RSW) apply.

Thank you for consideration of Polyglass roofing systems and products.

Sincerely,

Scott Hillard, RRO, CERTA Trainer
Technical Services Design Specialist
Polyglass USA, Inc.
561-797-0280
shillard@polyglass.com | www.polyglass.us

PIONEER ROOFING

YOUR FRIENDS IN HIGH PLACES

/ TO
Mr. Jason Atkinson

/ JOB NAME & NUMBER
Town of Bay Harbor Town Hall Reroof
02-23-9296

/ DATE
1/25/23

/ JOB ADDRESS
9665 Bay Harbor Terrace
Bay Harbor, FL 33154

/ MAILING ADDRESS
Same

REROOFING AGREEMENT

We are pleased to submit the following estimate on the above captioned job. This agreement includes only work stated in "Scope of Work" section of this Proposal.

SCOPE OF WORK

1 / Remove existing roofing and insulation from the roof and premises.
2 / Install asphalt primer over the entire concrete flat roof area.
3 / Install **one-eighth (1/8") inch tapered insulation**, insulation fill, and/or insulation crickets mopped in hot asphalt over areas as specified by owner, manufacturer's representative, consultant, and/or as noted on the enclosed roofing schematic.
4 / Install **Stata vent, loose laid.**
5 / Install **THREE (3) ply fiberglass VI ply sheets mopped in hot asphalt.**
6 / Install aluminum all-purpose roof vents WITH RODENT SCREENS where required.
7 / Install lead flashing over all plumbing vents through roof.
8 / Install lead flashing at all interior roof drains.
9 / Install aluminum pitch pans around all penetrations where existing removed.
10 / Install new aluminum scuppers where removed.
11 / Install **new aluminum metal cap** where removed and/or as required. Seal all seams.
12 / Install **CLASS "A" fiberglass cap sheet mopped in hot asphalt** over the entire flat roof.
13 / Install cant strip, modified bitumen flashing, termination bar/fasteners, mastic with membrane flashing over the top horizontal seam of the modified bitumen flashing, aluminum counter-flashing set in roofing cement and sealed with an approved sealant at all parapet walls and areas where the roofs change levels.
14 / Install granules in all asphalt "bleed-outs" throughout the cap sheet roofing system.
15 / PMMA flashing to be installed at the west circular building where annex building roofing ties in.
16 / Remove all roofing debris from roof and premises.

17 / Permit included.
18 / Drainage calculations included.
19 / 20 YR manufacturers NDL warranty included.

SUM OF THE ENTIRE JOB:
One Hundred Fifty-Eight Thousand Four Hundred Sixty Dollars $158,460.00

PIONEER ROOFING

YOUR FRIENDS IN HIGH PLACES

/ TO
Mr. Jason Atkinson

/ JOB NAME & NUMBER
Town of Bay Harbor Town Hall Reroof
02-23-9296

/ DATE
1/25/23

/ JOB ADDRESS
9665 Bay Harbor Terrace
Bay Harbor, FL 33154

/ MAILING ADDRESS
Same

CONTRACT NOTES

THE ABOVE CONTRACT AMOUNT IS VALID BASED UPON THE SCOPE OF WORK AND CONDITIONS AS LISTED ABOVE AND BELOW:

INCLUDED ROOF AREAS ARE THE TWO-STORY BUILDING AT THE JOB ADDRESS LISTED ABOVE AND THE ONE STORY ANNEX BUILDING TO THE EAST.

PLEASE SEE THE GENERAL TERMS AND CONDITIONS ATTACHED AS EXHIBIT "A" AND INCLUDE THE SAME AS PART OF THE CONTRACT DOCUMENTS.

THE ABOVE SPECIFICATIONS QUALIFY FOR AND INCLUDE A TWENTY (20) YEAR LABOR AND MATERIAL NO DOLLAR LIMIT MANUFACTURER'S WARRANTY. PLEASE REQUEST A SPECIMEN OF THE MANUFACTURER'S WARRANTY AND INCLUDE SAME AS PART OF THE CONTRACT DOCUMENTS.

The cost for drainage calculations is included in the above contract amount. **ANY REQUIRED WORK NOT INCLUDED IN THIS PROPOSAL DEEMED REQUIRED AS A RESULT OF THE CALCULATIONS IS TO BE CONSIDERED AN ADDITIONAL CHARGE AND ADDED TO THE CONTRACT AMOUNT.**

If wood nailer is required, there will be additional cost to replace and/or install.

TAPERING IS NOT INCLUDED ON THE MAIN ROOF FOR THE ANNEX BUILDING.

Pioneer Roofing Company, LLC guarantees total reroofing to the owner named above for a period of five (5) years for workmanship and materials only. This guarantee is subject to Article #13 of the General Terms and Conditions. Subject to any terms required by Pioneer Roofing Company, LLC, the owner named above may assign this guarantee to a subsequent owner of the property for the remaining term of the guarantee period. **PIONEER ROOFING'S GUARANTEE TO RUN CONCURRENTLY WITH MANUFACTURER'S GUARANTEE** if selected and/or included. Any request for such assignment must be made in writing. Pioneer Roofing Company, LLC, may charge an assignment fee as part of any such assignment.

Please contact this Contractor regarding an extended guarantee.

The above contract amount includes the cost of the permit, Notice of Commencement and cost to obtain the Notice of Commencement, the permit all licenses, taxes, and insurances.

Structural repairs to the deck and/or the underside of the decking, and any other items that are structural **ARE NOT** included in this contract. A general contractor will be required to complete these items.

In the event the building official requires the roofing system be cut to facilitate an inspection, the owner agrees to allow Contractor to cut roofing for said inspection. New roofing will be installed to match existing. There will be **NO** additional charge for this work.

IN THE EVENT THE BUILDING DEPARTMENT, THE BUILDING INSPECTOR, AND/OR THE BUILDING CODE REQUIRES CHANGES IN THE SPECIFICATIONS LISTED ABOVE, THE ADDITIONAL MATERIALS AND/OR LABOR COSTS ARE TO BE ADDED TO THE ABOVE CONTRACT AMOUNT.

IN THE EVENT OWNER OR OWNER'S REPRESENTATIVE CLAIMS THAT THIS CONTRACTOR OR CONTRACTOR'S REPRESENTATIVE CAUSED DAMAGE TO THE INTERIOR OR EXTERIOR OF THE PROPERTY, CLAIM MUST BE SUBMITTED WITHIN TWENTY-FOUR (24) HOURS OF THE ALLEGED DAMAGE AND NO WORK TO BE COMPLETED BY OTHERS WITHOUT THIS CONTRACTOR'S WRITTEN APPROVAL.

This Contractor will remove all rotted and/or damaged wood and install new wood where rotted and/or damaged wood removed. **THE COST FOR THIS WORK WILL BE ADDED TO THE INVOICE AMOUNT, IF ANY.**

If required, air conditioning and other equipment on roof to be disconnected, removed, replaced, and reconnected as per the newest Florida Building Codes. This work to be completed by others. This Contractor will coordinate this phase of the reroofing, if requested. This work **IS NOT INCLUDED** in the above contract amount.

Bell blower vents to be disconnected, removed, and replaced by others. This Contractor will coordinate this phase of the reroofing, if requested. This work **IS NOT** included in the contract amount.

Electrical equipment or conduits that are on the roof surface will need to be removed, replaced and set on code approved supports by others. This work is not included in the contract amount. This contractor will coordinate this phase of the work during the reroofing.

DAMAGED OR BROKEN INTERNAL ROOF DRAINS TO BE REPLACED WITH ALUMINUM RETRO-FIT DRAIN ASSEMBLIES. THERE WILL BE AN ADDITIONAL COST FOR THIS ITEM. PLEASE CONTACT THIS CONTRACTOR REGARDING THE COST AND THIS NOTE.
THIS CONTRACTOR WILL BE AS CAREFUL AS POSSIBLE BUT, WILL NOT BE RESPONSIBLE FOR ANY DAMAGES CAUSED BY DUST AND/OR DEBRIS THAT MAY OCCUR DURING THE REROOFING PROCESS.

In the event asbestos related roofing materials are found, there **WILL** be an additional charge for removal and hauling debris from premises.

Pioneer Roofing Company, LLC agrees to perform its services in a reasonable and customary manner which will protect the roof and underlying building area from water and moisture intrusion. Mold and fungus growth in or on the roof and underlying building areas **ARE NOT** included in any guarantees nor do we claim that the roof and underlying building areas will remain free from mold and fungus growth.

Pioneer Roofing Company, LLC undertakes no testing and makes no representations in connection with the existence of mold or fungus in the present roof or any related growth or growths and owner hereby waives and releases any and all actions, suits, debts or damages, including incidental and consequential damages, judgments, executions, claims and demands whatsoever, in law or in equity, whether known or unknown, and whether matured or unmatured, which said owner ever had, now has, can, shall or may have against Pioneer, for, or upon, or by reason of any manner, cause, or thing whatsoever, that arises from or in any way relates to the growth, development, intrusion or invasion of mold or fungus on, in, or into the subject roof and underlying building area. Owner acknowledges that he/she/it is responsible for adequately maintaining the property, including the roof.

There may be sags in the roof structure. The sags **WILL NOT** be removed or leveled by this Contractor. This is structural. The sags **WILL NOT** affect this Contractor's guarantee or the watertight integrity of the roofing system throughout the guarantee period.

The roof at the above address ponds and holds water. The ponding of water **WILL NOT** affect this Contractor's guarantee or the watertight integrity of the roofing system throughout the guarantee period. IT COULD AFFECT THE MANUFACTURER'S GUARANTEE. PLEASE CONTACT THIS CONTRACTOR REGARDING THIS ITEM.

The Florida Building Code requires that we advise the owner of the building that, "Should ponding be present in the final application in an area greater than 5% of the total roof area, the licensed contractor shall provide a letter to the building owner, copied to the Building Official advising of the existence of ponding. The letter shall recommend a structural review and shall advise of the potential of premature deterioration of the roof membrane." If additional work is required, there will be AN ADDITIONAL CHARGE TO THE OWNER.

All new or existing metal will be primed with an asphalt primer prior to the installation of the fabric flashing.

This Contractor must have access across the property in order to complete the reroofing. This Contractor will be as careful as possible but shall NOT be responsible for property damages due to Contractor's access across the property.

This Contractor will be as careful as possible but after taking precautions we will not be responsible for damages beyond our control.

IN THE EVENT THIS PROPOSAL IS NOT SIGNED WITHIN THIRTY (30) DAYS FROM THE DATE LISTED ABOVE - - all roofing related products including the delivery and possibly the installation of same could be subjected to price volatility and/or availability due to economic and/or climactic phenomena that is beyond the control of this Contractor. If a price increase should occur, the cost of this increase will be added to the contract amount. These costs will be documented prior to invoicing.

ACCEPTANCE OF THIS CONTRACT ACKNOWLEDGES RECEIPT OF NOTIFICATIONS AS REQUIRED BY FLORIDA STATUTES, WHERE APPLICABLE.

TERMS: 20% deposit submitted with the signed contract, 30% upon starting, 20% upon mop-in, 20% upon completion, balance upon furnishing owner with release of liens, manufacturer's warranty - - if selected, copy of the permit noting interim and final inspections, and photographs depicting the completed work.

PIONEER ROOFING

YOUR FRIENDS IN HIGH PLACES

/ TO
Mr. Jason Atkinson

/ JOB NAME & NUMBER
Town of Bay Harbor Town Hall Reroof
02-23-9296

/ DATE
1/25/23

/ JOB ADDRESS
9665 Bay Harbor Terrace
Bay Harbor, FL 33154

/ MAILING ADDRESS
Same

ANY CLAIMS FOR CONSTRUCTION DEFECTS ARE SUBJECT TO THE NOTICE AND CURE PROVISIONS OF CHAPTER 558, FLORIDA STATUTES. CHAPTER 558, FLORIDA STATUTES, CONTAINS IMPORTANT REQUIREMENTS YOU MUST FOLLOW BEFORE YOU MAY BRING ANY LEGAL ACTION FOR AN ALLEGED CONSTRUCTION DEFECT IN YOUR HOME. SIXTY DAYS BEFORE YOU BRING ANY LEGAL ACTION, YOU MUST DELIVER TO THE OTHER PARTY TO THIS CONTRACT A WRITTEN NOTICE, REFERRING TO CHAPTER 558, OF ANY CONSTRUCTION CONDITIONS YOU ALLEGE ARE DEFECTIVE AND PROVIDE SUCH PERSON THE OPPORTUNITY TO INSPECT THE ALLEGED CONSTRUCTION DEFECTS AND TO CONSIDER MAKING AN OFFER TO REPAIR OR PAY FOR THE ALLEGED CONSTRUCTION DEFECTS. YOU ARE NOT OBLIGATED TO ACCEPT ANY OFFER WHICH MAY BE MADE. THERE ARE STRICT DEADLINES AND PROCEDURES UNDER THIS FLORIDA LAW WHICH MUST BE MET AND FOLLOWED TO PROTECT YOUR INTERESTS.

ACCEPTANCE

PIONEER ROOFING COMPANY, LLC

/ BY _____
Andrew Wharton / President

When this job is accepted please sign and return one copy which will be our order to proceed with work and constitutes the entire agreement of the parties. No verbal agreement shall be a part of this contract.

The undersigned accepts the above job at the price quoted and agrees to pay for said work promptly as herein specified.

/ DATE _____

/ ACCEPTED BY _____

/ PRINT NAME _____

/ TITLE _____

PIONEER ROOFING

YOUR FRIENDS IN HIGH PLACES

/ TO
Mr. Jason Atkinson

/ JOB NAME & NUMBER
Town of Bay Harbor Town Hall Reroof
02-23-9296

/ DATE
1/25/23

/ JOB ADDRESS
9665 Bay Harbor Terrace
Bay Harbor, FL 33154

/ MAILING ADDRESS
Same

STATUTORILY REQUIRED DISCLOSURE (713.015)

ACCORDING TO FLORIDA'S CONSTRUCTION LIEN LAW (SECTIONS 713.001-713.37, FLORIDA STATUTES), THOSE WHO WORK ON YOUR PROPERTY OR PROVIDE MATERIALS AND SERVICES AND ARE NOT PAID IN FULL HAVE A RIGHT TO ENFORCE THEIR CLAIM FOR PAYMENT AGAINST YOUR PROPERTY. THIS CLAIM IS KNOWN AS A CONSTRUCTION LIEN. IF YOUR CONTRACTOR OR A SUBCONTRACTOR FAILS TO PAY SUBCONTRACTORS, SUB-SUBCONTRACTORS, OR MATERIAL SUPPLIERS, THOSE PEOPLE WHO ARE OWED MONEY MAY LOOK TO YOUR PROPERTY FOR PAYMENT, EVEN IF YOU HAVE ALREADY PAID YOUR CONTRACTOR IN FULL. IF YOU FAIL TO PAY YOUR CONTRACTOR, YOUR CONTRACTOR MAY ALSO HAVE A LIEN ON YOUR PROPERTY. THIS MEANS IF A LIEN IS FILED YOUR PROPERTY COULD BE SOLD AGAINST YOUR WILL TO PAY FOR LABOR, MATERIALS, OR OTHER SERVICES THAT YOUR CONTRACTOR OR A SUBCONTRACTOR MAY HAVE FAILED TO PAY. TO PROTECT YOURSELF, YOU SHOULD STIPULATE IN THIS CONTRACT THAT BEFORE ANY PAYMENT IS MADE, YOUR CONTRACTOR IS REQUIRED TO PROVIDE YOU WITH A WRITTEN RELEASE OF LIEN FROM ANY PERSON OR COMPANY THAT HAS PROVIDED TO YOU A "NOTICE TO OWNER." FLORIDA'S CONSTRUCTION LIEN LAW IS COMPLEX, AND IT IS RECOMMENDED THAT YOU CONSULT AN ATTORNEY.

Acknowledged and agreed to by Owner:

/ DATE _____

/ ACCEPTED BY _____

/ PRINT NAME _____

/ TITLE _____

PIONEER ROOFING

YOUR FRIENDS IN HIGH PLACES

/ TO
Mr. Jason Atkinson

/ JOB NAME & NUMBER
Town of Bay Harbor Town Hall Reroof
02-23-9296

/ DATE
1/25/23

/ JOB ADDRESS
9665 Bay Harbor Terrace
Bay Harbor, FL 33154

/ MAILING ADDRESS
Same

EXHIBIT A – GENERAL TERMS AND CONDITIONS

1 / PARTIES. Pioneer Roofing Company, LLC, shall be referred to as "Pioneer" or "Contractor". The owner of the property or any of the owner's employees, officers, directors, managers, representatives or agents shall be referred to collectively as "Owner". The real property described herein shall be referred to as "the Property". This contract, including all notes and Exhibit A, shall be referred to as the "Agreement".

2 / BLANKS. All blanks are intended to be filled and may carry important terms of this Agreement. Should the Agreement be signed with a blank space, the Agreement may be amended to add the incomplete term. Such a blank or the subsequent change completing the blank will not invalidate any portion of this Agreement.

3 / AGENCY. The party signing this Agreement on behalf of Owner is the Owner of the Property or the authorized agent for the Owner, in which case, agent specifically acknowledges that he/she has authority to enter into this Agreement and further agrees to defend and indemnify Pioneer from and against any loss it might suffer or expense it might incur, including costs, such as reasonable attorneys' fees, as a result of his acting in excess of his authority or allegations in connection therewith, including, but not limited to full payment at the contract price for all work performed.

4 / CONTRACT DATE. This Agreement shall become a binding contract upon acceptance by Pioneer's authorized representative and the date of that acceptance as indicated on the front hereof shall be the Contract Date.

5 / COMMENCEMENT. Pioneer shall commence performance under this contract within a reasonable time after the Contract Date, which includes any and all delays not caused by Pioneer's negligence, and subject to the express provisions of ''Excepted Liability" contained below.

6 / CALL BEFORE WORK IS READY. Any costs, fees or expenses incurred by Pioneer at the request of Owner, after the Contract Date, but prior to commencement of work, shall be paid by Owner at Pioneer's current rates and shall be in addition to the contract price.

7 / PERMITS. Owner to reimburse Pioneer Roofing Company, LLC for cost of permits, and notices of commencement, including the costs to obtain, unless specifically stated otherwise.

8 / LOCATION OF UTILITIES. Owner shall advise Pioneer in writing prior to the commencement of work hereunder of the location of all septic tanks, drain fields, sprinkler systems, underground plumbing, and underground/above ground utilities. Owner's failure to so advise Pioneer shall relieve Pioneer of any liability for damage caused to same, and Owner agrees to defend and indemnify Pioneer from and against any loss it might suffer or expense it might incur, including reasonable attorneys' fees and costs, in connection with damages caused to same or as a result of Pioneer not having said information.

9 / UTILITIES. Owner shall provide, at its expense, all water, electric or other utility service needed by Pioneer to perform hereunder.

10 / REPLACEMENT OF DAMAGED AND/OR ROTTED WOOD. Pioneer will advise Owner as to when it intends to remove and replace damaged and/or rotted wood and Owner shall be on the Property to confirm Pioneer's description of the damaged and/or rotted wood and measurements, including any photographs taken. If Owner is not present after being advised, then Pioneers measurements will be binding. Pioneer shall not be responsible under the warranty or otherwise for replacing any wood after completion of the original work hereunder. Any wood installed to be invoiced based upon time and materials.

11 / EXCEPTED LIABILITY. Pioneer shall not be responsible for delays or damages as a result of material shortages, transportation difficulties, labor shortages, accidents, acts of God (including fire, tornado, hail, hurricane, storms, earthquake, or otherwise), acts of third parties, acts of the Owner, or any other factors beyond Pioneer's control, including, but not limited to, defective materials. Pioneer shall not be responsible for painting of work performed hereunder or liable in connection with any damage whatsoever to wallpaper, painted surfaces, walls, ceilings, flooring, drywall, carpeting, interiors, furniture, fixtures, decorations, electronics, stock or equipment, sidewalks, exteriors, garage doors, fencing, driveways, pavement, trees, shrubbery or lawns, whether due to leakage, vibration, material delivery or storage, or any other cause whatsoever. The provisions excepting Pioneer's liability herein shall be applicable to both the commencement of, and the completion of performance under this Agreement, and throughout. Nor shall Pioneer be responsible for any damage to its work caused by settlement, warping, distortion, or failure of roof deck, sheathing, walls, partition walls, ceilings or foundation of said building, nor for the failure of any materials or integral part(s) of said building used as a base, attachment to, or for, said work. Pioneer is not responsible for damages in connection with waves or dips in the roof.

12 / WARRANTY. Upon completion of the work hereunder, there shall be no warranties or guarantees, implied or in fact, except for the written warranty provided for on the face hereof. In addition, the warranty provided on the face hereof shall be expressly limited to all terms and provisions therein and of the Excepted Liability paragraph above and said warranty shall terminate and be voided in the event that any work is done on the roof of the property by any person, firm, or entity other than Pioneer or its authorized representative. Maintenance is Owner's responsibility, and lack of Owner's maintenance may result in the termination and unenforceability of any written warranty provided for on the face hereof. No warranty shall be provided while any balances remain unpaid.

13 / NO CONSEQUENTIAL DAMAGES. Pioneer shall not be responsible for any consequential damages whatsoever under any and all circumstances.

14 / MODIFICATION. Owner cannot modify or change this Agreement, or the work provided for herein, except upon Pioneer's express written agreement to any such modification or change through its authorized representative.

15 / DAMAGE TO PIONEER'S WORK. Owner shall be responsible for all damage to Pioneer's work in progress or materials caused by Owner, his/her/its agents and contractors or subcontractors, or by any other factors, such as fire, theft, vandalism, wind, flood, or any other such cause. Owner shall reimburse Pioneer for any such loss or damage. In the event that Pioneer elects to repair any such damage, Owner shall reimburse Pioneer for same on the basis of the cost of labor, materials and expenses, plus reasonable overhead and profit.

16 / PAYMENTS. All payments made by Owner shall first be applied to any unpaid balances, change orders or extras, and then to payments provided for herein. If Owner fails to make any payment when due then Pioneer may, at its option, immediately discontinue performance until such payments are brought current and Pioneer will not be liable for delays, losses, or damage that might occur as a result of its discontinuing work.

17 / TERMS OF PAYMENT. Payment shall be timely made to Pioneer based upon the issuance of monthly invoices by Pioneer to Owner, not later than 30 days after the date of invoice or earlier as specified. Pioneer may elect to seize work if any progress payment or balance remains unpaid. Any such unpaid balance shall bear interest at 17.9%, but not to exceed the maximum rate allowable by law. Any bounced checks shall be subject to a fee calculated as the greater of $25 or 1% of the check. After Owner's acceptance of Pioneer's work herein and payment to Pioneer in full, no further liability shall exist on the part of Pioneer, except for any written warranty hereunder. Credit card chargebacks are explicitly prohibited. Owner agrees to a 25% penalty fee in addition to all other amounts due to Pioneer if a chargeback is made.

18 / WORKING CONDITIONS. Pioneer's employees will not and cannot work in hazardous conditions (including, but not limited to, freshly painted areas, in close proximity to uninsulated power lines, in or around noxious fumes, in or around unusually intense heat from furnaces, or where traveling cranes may strike their scaffolds or other contractors may present a hazard), and Owner agrees to give Pioneer's employees reasonable cooperation and allowance to mitigate such conditions.

19 / WORKING HOURS. The price quoted herein is computed upon Pioneer's crews working full time, not to exceed however, forty (40) hours weekly, to be able to work without interruption or interference during work hours by Owner, Owner's agents, contractors, or subcontractors until the work, or agreed part thereof is completed and, it is agreed that Owner shall pay any extra expenses involved by overtime and/or idle time, and/or extra traveling expenses caused thereby, and for which Pioneer is not responsible.

20 / INTERRUPTIONS. It is mutually agreed that should the work be interrupted or delayed on account of factors beyond Pioneer's control for a period of thirty (30) days or longer, Pioneer, at its option, may bill Owner for the following: (a) the cost of all materials in place; (b) the total of all labor, including overhead or labor, used in application work, and/or estimating the work and/or procuring the work; (c) the cost of all materials purchased and/or fabricated specifically for the job at the delivered cost at the site of the job; and (d) reasonable overhead and profit. Pioneer shall then render a statement to Owner for the total sum of all four items described above by the last day of the month and payment shall be made to Pioneer by Owner not later than the tenth day of the following month.

21 / ESCALATOR CLAUSE. In the event of an increase in labor and/or materials, material transportation and loading, insurance, or any other of Pioneer's direct and indirect costs, fees or expenses, prior to commencement of the work and during performance of the work hereunder, the Owner shall be responsible for reimbursing Pioneer for any such increases.

22 / CHANGES AND/OR ALTERATIONS. In the event that there are any changes in the drawings and/or specifications from those which Pioneer computed the sum of this proposal, or Owner requests any departure in construction from said drawings, then it shall become the duty of both Owner and Pioneer before proceeding with the affected work, to compute the additional cost or credit for such changes, and thereby agree upon the new total amount set in this Agreement.

23 / WORK NOT CONFORMING TO LAWS. Pioneer shall not be responsible for damages or expenses resulting from changes of law.

24 / OWNER'S RESPONSIBILITY AS TO ROOFING WORK. Pioneer, at the time of commencement of the work, expects and anticipates (a) a clean roof deck, free of rubbish, with any chips, nails, and other foreign debris loosened and swept up and removed therefrom and (b) all decks shall be properly graded to outlets and formed so as to drain all water from roof. In the event it becomes necessary for Pioneer to provide any items stated above, the same shall be construed as additional work over and above the amount of this Agreement and shall be paid for by Owner pursuant to Pioneer's rates.

25 / STAGINGS, HOISTS, ETC. The Owner shall furnish and install without charge, all stagings and scaffoldings required for the proper installation of Pioneer's work. Also, Owner shall allow Pioneer such use of hoists and elevators as may be necessary for the expedience of Pioneer's work without charge.

26 / CANCELLATION. This Agreement may be canceled either before or after commencement of the work by the mutual agreement of both parties hereto, and in such event, Owner shall be responsible for payment to Pioneer as provided for in paragraphs (a) – (d) of the Interruptions paragraph, above.

27 / COMPLETION AND ACCEPTANCE. Upon completion, Owner shall immediately inspect Pioneer's work, and issue an acceptance to Pioneer, provided the work has been completed according to the terms of this Agreement, and full payment shall be made in accordance with this Agreement. A full and complete acceptance of the work shall be presumed upon Owner making final and full payment and/or executing a note for final payment.

28 / VENUE. This Agreement shall be construed in accordance with the laws of the State of Florida and jurisdiction and venue as to any disputes hereunder shall be in the appropriate court in and for Broward County, Florida, except if Pioneer shall attempt to foreclose a lien on the property, then it may file suit in the Circuit Court in the county in which the property is located.

29 / JURY TRIAL WAIVER. Owner hereby waives Its right to a jury trial as to any and all Issues relating to this Agreement.

30 / ATTORNEY'S FEES. If Owner defaults in making any of the payments provided for herein when said payments come due, then Owner shall be liable for all costs of collection incurred by Pioneer, including, but not limited to, reasonable attorney's fees and costs.

31 / MECHANIC'S LIEN. In addition to all other rights and remedies that the parties may have under this Agreement, the parties shall have all those rights and remedies granted to them in Chapter 713 of the Florida Statutes and none of those rights shall be considered waived by any of the provisions of this Agreement.

32 / WITHDRAWAL. This Agreement will be withdrawn it not accepted within thirty (30) days and may be subject to price change if materials are not delivered and invoiced within ninety (90) days of acceptance of bid for any reason.

33 / SEVERABILITY. If any provision of this Agreement is illegal or unenforceable, then this Agreement will be enforced as if such provision had never been contained herein, without invalidating the remaining provisions of this Agreement.

34 / OPEN BEAM CEILING. Care will be taken in the event of open beam ceilings; however, Pioneer will not be responsible for damages to the open beam ceiling or for dust and/or debris that may enter the premises. Upon request from Owner, Pioneer will furnish visqueen for an additional charge.

35 / DAMAGE CAUSED BY PIONEER. In the event that the Owner claims Pioneer caused any property damage directly or indirectly, Owner agrees that Pioneer shall have the option to perform repairs first at Pioneer's expense. Under all circumstances, Pioneer's liability for property damage and personal injury claims is capped at the amount invoiced for the project.

/ Pioneer Initial / Owner Initial

Yvonne Hamilton

From: Ricky Libutti <rlibutti@tsroofingsystems.com>
Sent: Monday, January 23, 2023 11:22 AM
To: Jason Atkinson
Subject: Re: Roofing Quote - T&S Roofing

Jason,

Unfortunately after reviewing the photos of our site walk with our production team, T&S will not be a good fit for this project. Best of luck, and it was a real pleasure meeting with you.

Ricky

Richard Libutti
Sales Consultant
T&S Roofing Systems, Inc.
Direct: (305) 244-5477
Office: (305) 265-2654
rlibutti@tsroofingsystems.com
www.tsroofingsystems.com
PO BOX 420690 Miami, Fl 33242

Refer us to friends and family and receive $100 when they sign up!

On Mon, Jan 23, 2023 at 11:15 AM Jason Atkinson <jatkinson@bayharborislands-fl.gov> wrote:

Hello Richard,

I was wondering how close you are to submitting the quote. Please let me know. Thanks.

If you'd like to opt out, please let me know. Thanks

Jason Atkinson

Public Works Director

AGENDA ITEM REPORT
February 1, 2023

ITEM NUMBER: 11.

ITEM: Consideration and **Approval** of an ordinance on Second Reading amending Chapter 5, Section 5-23.01(f) of the Town Code pertaining to meetings of the Design Review Board. Sponsored by Council Member Bruder.

DESCRIPTION:
Section 5-23.01(f) of the Town Code mandates a meeting of the Design Review Board be held each month on the first Tuesday of the month. The proposed ordinance seeks to amend the regulations to provide more flexibility in scheduling meetings. The amendments to the ordinance on First Reading seek to remove the requirement for a meeting to be held each month, by eliminating mandatory meetings in the months of July and December. In an effort to curtail the length of the meetings, a section has been added for discussion on an item before the Board to be no more than 45 minutes, except by a successful motion. It also contains a provision for meetings to conclude by 11:00 p.m.

The ordinance was heard on First Reading on January 11, 2023 and

RECOMMENDED ACTION:
Council's Discretion

FINANCIAL ANALYSIS:

BUDGET IMPACT:

Submitted By: Yvonne Hamilton, Town Clerk

ATTACHMENTS

1.	1-27-2023 Revised -Ordinance - Design Review Board Meetings-July and December

ORDINANCE NO._____

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF BAY HARBOR ISLANDS, FLORIDA AMENDING CHAPTER 5 OF THE TOWN CODE, ENTITLED "DESIGN REVIEW BOARD", BY REVISING SECTION 5-23.01(f) PERTAINING TO MEETINGS; PROVIDING FOR CONFLICT AND REPEALER; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; PROVIDING FORINCORPORATION OF RECITALS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Section 5-23.01(f) of the Town Code mandates that the Design Review Board shall hold one regularly scheduled meeting every month on the first Tuesday or as otherwise needed; and

WHEREAS, it is the intent of the Town Council to revise the meeting schedule to provide that no meetings are held by the Design Review Board during the months of July and December and to provide more flexibility as to the date of the meetings; and

WHEREAS, The Town Council finds that this amendment is in the best interest of the town and the general public.

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. Town Code of Ordinances amended. Chapter 5, Section 23.01(f) of the Town Code "Meeting" is hereby amended to read as follows:

Sec. 5-23.01. Design review board membership; appointment; vacancies; terms; removal; meetings; officers; and quorum.

(a) *Members.* Effective November 30th, 2021, the planning and zoning board which heretofore existed, shall be retitled as the design review board, consisting 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 design review board shall

serve on the design review 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 design review 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 design review board for a one-year term. After the 2020 appointments, each member shall be appointed to serve on the design review board for two-year terms as set forth in subsection (a), above.

(c) *Appointment to the design review board.* Each town council member shall submit one or more persons as candidates for consideration by the town council for appointment to the design review board. In order for a candidate to be appointed to the design review 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 design review 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 design review 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 design review board member, with or without cause, at any time. Any member who misses three consecutive regularly scheduled design review board meetings or misses five meetings in any 12-month period may be removed from the design review board.

(f) *Meetings.* One regularly scheduled DRB meeting shall be scheduled each month at a date to be selected by the Board Chair or the Town Manager, except that no meetings shall be scheduled in the months of July and December. If additional meeting(s) are desired during the months in which meetings are scheduled, or in July or December, the chairperson or at least two members of the board, or the mayor, or at least two town council members, may request a meeting, subject to approval by a majority of the Board Members to be determined by polling of the Board by the Town Clerk.

No item may be discussed for longer than 45 minutes absent a successful motion to extend the time for discussion, which shall be done only in increments not to exceed 15 minutes.

Meetings of the Design Review Board shall conclude by 11:00 p.m., provided that any item which the Board takes up prior to adjournment may be concluded prior to adjournment, or deferred, at the Board's discretion. Any unfinished business shall be deferred to the next meeting.

(g) *Officers.* One member shall be elected by the design review board as chairperson. One member shall be elected by the design review 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 design review 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 design and review board meetings. In the chairperson's absence, the vice-chairperson shall preside. The chairperson shall submit any and all reports and recommendations of the design review board to the town council.

The town shall provide a secretary for the design review board, and the town clerk shall be the custodian of all records, books, and journals of the design review 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 design review board in performance of its duties. Proper public meeting decorum shall occur, with respect for landowners, developers, and design professionals. In the absence of contrary rules approved by the Town as to any matter, Robert's Rules of Order, Newly Revised , shall govern.

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 11th day of January 2023.

PASSED AND ADOPTED on Second Reading this ___ day of _____ 2023.

By:_____
Joshua D. Fuller
Mayor

ATTEST:

_____
Yvonne P. Hamilton, CMC
Town Clerk

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

_____
Greenspoon Marder LLP
Town Attorneys
By: Joseph S. Geller, Esq.

AGENDA ITEM REPORT
February 1, 2023

ITEM NUMBER: 12.

ITEM: Consideration and **Approval** of an ordinance on Second Reading amending Sections 9-29 and 12-27 of the Town Code to modify civil penalties and repealing Resolution No. 2271, which previously addressed certain civil penalties.

DESCRIPTION:
Sec. 9-29. Penalty; notice; lien.
(a) Any person who shall violate any of the provisions of this chapter shall be punished in accordance with the provisions of section 1-8.
(b) Violation of the provisions of this chapter creates a civil liability in addition to the penalty provisions of section 1-8. The civil liability of the owner, operator and occupant of the property shall be as follows:

(1) The town shall have the right to remove any container, garbage or trash, landscape debris, special-handling landscape debris and trash that is in violation of this chapter, and to levy and charge the owner of the property $100 for the First Violation, $250 for the Second Violation, and $500 for each subsequent violation. ~~a fee as determined by the town but in the amount of not less than $50.00 for each violation~~, plus the costs to the town of removal and/or correction of any violation of this chapter.
Sec. 12-27. Penalties.
The following fines and penalties shall be imposed on violators of this article:
~~(a) For the first violation, the violator shall receive a notice of violation imposing a fine of $250.00.~~
~~(b) For any subsequent violation, the violator shall receive a notice of violation imposing a fine of $500.00.~~
(a) For the First Violation, the violator shall receive a Notice of Violation imposing a fine of $1,000.00
Second Violation - $2,000
Third Violation - $3,000 plus 8-hour Stop Work Order
Each subsequent violation - $5,000
(b) However, notwithstanding the foregoing, for violation of Section 12-26.1(c), the violator shall receive, for the first violation, a Notice of Violation imposing a fine of $250, and for any subsequent violations, a Notice of Violation imposing a fine of $500.

The ordinance was approved unanimously on First Reading.

RECOMMENDED ACTION:
Council's Discretion

FINANCIAL ANALYSIS:

BUDGET IMPACT:

Submitted By: Yvonne Hamilton, Town Clerk

ATTACHMENTS

1.	Ordinance - Civil Penalties-12-15-2022

ORDINANCE NO. _____

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF BAY HARBOR ISLANDS, FLORIDA, AMENDING CHAPTER 9, SECTIONS 9-29 AND CHAPTER 12, SECTION 12-27 OF THE TOWN CODE MODIFYING CIVIL PENALTIES TO BE ASSESED FOR VIOLATION OF THE TOWN CODE, REPEALING RESOLUTION NO. 2271; PROVIDING FOR INCORPORATION OF RECITALS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICT AND REPEALER; PROVIDING FOR CODIFICATION; AND SETTING AN EFFECTIVE DATE.

WHEREAS, the Code of Ordinances of the Town of Bay Harbor Islands, Florida, provides for enforcement remedies for activities regulated under the jurisdiction of these codes; and

WHEREAS, said Code authorizes applicable fees, charges, and penalties for code violations to be charged by Resolution of the Town Council; and

WHEREAS, the Town Council wishes to repeal Resolution No. 2271 adopted on September 14, 2022, clarifying fees, charges, and penalties for code violations, in its entirety; and

WHEREAS, staff conducted a survey among comparable municipalities regarding civil penalties; and

WHEREAS, the Town Council has determined the Code provisions set forth below be revised by deleting words strikethrough and by adding the provisions indicated by underlining.

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

Section 1. Recitals. The foregoing recitals are adopted and hereby incorporated as if fully set forth herein.

Section 2. Resolution Repealed. Resolution No. 2271 is hereby repealed in its entirety.

Section 3. Town Code Amended. Chapter 9, Section 9-29 and Chapter 12, Section 2-27 of the Town Code are hereby amended to read as follows:

Sec. 9-29. Penalty; notice; lien.

(a) Any person who shall violate any of the provisions of this chapter shall be punished in accordance with the provisions of section 1-8.

(b) Violation of the provisions of this chapter creates a civil liability in addition to the penalty provisions of section 1-8. The civil liability of the owner, operator and occupant of the property shall be as follows:

(1) The town shall have the right to remove any container, garbage or trash, landscape debris, special-handling landscape debris and trash that is in violation of this chapter, and to levy and charge the owner of the property $100 for the First Violation, $250 for the Second Violation, and $500 for each subsequent violation. ~~a fee as determined by the town but in the amount of not less than $50.00 for each violation~~, plus the costs to the town of removal and/or correction of any violation of this chapter.

Sec. 12-26. Permissible hours for construction activity and landscaping.

(1) The performance of construction activity and landscaping within the town shall be allowed pursuant to the following schedule:

(a) *Construction activity.* Construction activity is permitted from 9:00 a.m. until 6:00 p.m. Monday through Friday. No construction activity is permitted on Saturdays or Sundays, except for watering in connection with dust mitigation.

(b) *Interior repair and maintenance activity.* Repair and maintenance activity inside a dwelling is permitted from 9:00 a.m. until 6:00 p.m. Monday through Friday. Repair and maintenance activity inside a dwelling is permitted on Saturdays between the hours of 10:00 a.m. and 5:00 p.m., provided that the activity does not result in audible noise outside the dwelling.

(c) *Landscaping activity.* Landscaping activity is permitted from 9:00 a.m. until 6:00 p.m. Monday to Friday. On Saturdays, landscaping activity is permitted between the hours of 10:00 a.m. and 5:00 p.m., but only by owners and tenants. There shall be no use of leaf blowers on Saturdays. No commercial landscapers are permitted to perform work in the town on Saturdays.

(d) *Town projects.* Town projects are permitted from 8:00 a.m. until 6:00 p.m. Monday to Friday. Weekends and nighttime hours shall be allowed at the discretion of the town manager, in the public's best interest to finish roadway and right of way projects expeditiously to minimize traffic impact and long-term inconvenience to residents and visitors of the town.

(2) Except for watering as provided for in subsection (1)(a) above, no construction, repair, maintenance, or landscaping activity is permitted on Sundays or legal holidays, and the same is hereby specifically prohibited. For purposes of this section, the term "legal holidays" is defined as any day observed by the town as a legal holiday.

(3) Notwithstanding the 9:00 a.m. start time provided for in Sections 1(a) and 1(b) above, projects that have submitted applications for new construction and foundation permits as of June 8, 2015 shall be permitted to perform construction activities from 8:00 a.m. until 6:00 p.m. Monday through Friday so long as all new construction and foundation permit(s) remain in full force and effect, except for construction activity located within 375 feet of Ruth K. Broad K-8 that shall commence no earlier than 9:00 a.m. Monday through Friday.

Sec. 12-27. Penalties.

The following fines and penalties shall be imposed on violators of this article:

~~(a) For the first violation, the violator shall receive a notice of violation imposing a fine of $250.00.~~

~~(b) For any subsequent violation, the violator shall receive a notice of violation imposing a fine of $500.00.~~

(a) For the First Violation, the violator shall receive a Notice of Violation imposing a fine of $1,000.00

Second Violation - $2,000

Third Violation - $3,000 plus 8-hour Stop Work Order

Each subsequent violation - $5,000

(b) However, notwithstanding the foregoing, for violation of Section 12-26.1(c), the violator shall receive, for the first violation, a Notice of Violation imposing a fine of $250, and for any subsequent violations, a Notice of Violation imposing a fine of $500.

Section 4. 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 5. 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 6. 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 7. 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 of January 2023.

PASSED AND ADOPTED on Second Reading this _____ day of _____ 2023.

_____
JOSHUA FULLER
Mayor

ATTEST:

_____
YVONNE P. HAMILTON, CMC
Town Clerk

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:

_____
Greenspoon Marder LLP
Town Attorneys
By: Joseph S. Geller, Esq.

AGENDA ITEM REPORT
February 1, 2023

ITEM NUMBER: 13.

ITEM: Request for approval by Bay Harbor Investment, Inc. for operation of a Sales Center to be located at 1170 Kane Concourse, in connection with the development of a 7-story, 27-unit multifamily residential building at 9740 and 9760 West Bay Harbor Drive; as approved by the Design Review Board on October 18, 2022. Enclosed is a copy of the applicant's "Letter of Intent" .

DESCRIPTION:
Pursuant to Section 23-4(7) of the Town Code, a temporary Sales Center requires approval by the Town Council; as outlined below:
"Temporary sales and business offices, construction trailers, and model dwelling units, but only in connection with the construction of dwelling units, and upon specific approval and permit of the town council, including but not limited to such time limits and other any other conditions as may be imposed by the town council at its discretion."

RECOMMENDED ACTION:
Council's Discretion

FINANCIAL ANALYSIS:

BUDGET IMPACT:

Submitted By: Yvonne Hamilton, Town Clerk

ATTACHMENTS

1.	Application - Sales Office (Origin Bay Harbor)
2.	Sec._23_4.___Use_regulations__RM_1_and_RM_2_Multiple_Family_districts

akerman

Kristofer D. Machado

Akerman LLP
Three Brickell City Centre
98 Southeast Seventh Street
Suite 1100
Miami, FL 33131

T: 305 374 5600
F: 305 374 5095

January 10, 2023

VIA ELECTRONIC MAIL

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

RE: Letter of Intent – *Origin Bay Harbor* Temporary Sales Office To be Located at 1170 Kane Concourse, Suite 101

Ms. Lasday:

We represent Bay Harbour Investment, Inc ("BHI"), the owner and developer of 9740 & 9760 West Bay Harbor Drive, Bay Harbor Islands, Florida. As you know, on October 18, 2022, the Town's Design Review Board approved BHI's application to develop a 7-story, 27-unit multifamily residential building at the property, known as *Origin Bay Harbor*. Since then, BHI has been working to build the project and launch sales for the condominium units.

We write to request Town Council approval, pursuant to Section 23-5(14) of the Town Code, of a proposed temporary sales office for the *Origin* project, to be operated within the existing office building located at 1170 Kane Concourse.

Background

In November 2022, BHI consulted with Town staff regarding the viability of operating a temporary sales office for the *Origin* project at the 1170 Kane Concourse building, just a few blocks from the *Origin* development site. The Town's building department confirmed to BHI in writing that the proposed temporary sales office use is allowed at the 1170 Kane Concourse property under B-1 zoning without requiring Town Council approval. However, Town planning staff later determined that the use requires Town Council approval because it is not specifically enumerated in the list of allowed uses for the B-1 zoning district.

BHI does not necessarily agree that Town Council approval is required by code. The proposed use—a professional office where prospective buyers can meet with the developer and its broker, view renderings and floor plans of the units, and enter into contracts for their purchase—though not identified expressly in the code, would appear to be encompassed within one or more of the many office and commercial uses permitted by right in the B-1 district, the Town's sole "business" district. Nevertheless, in the spirit of cooperation, and without waiting any rights, BHI is willing to seek Town Council approval.

BHI has entered into a lease with 1170, LLC, the owner of the 1170 Kane Concourse building, for purposes of operating the sales office at 1170 Kane Concourse, Suite 101. Enclosed as **Exhibit A** is a letter from 1170, LLC, in support of this application, confirming the existence of the lease.

Proposed Sales Office

Section 23-5(14) of the Town Code allows the Town Council to approve uses that are "similar" to those permitted under B-1 zoning, so long as they are "compatible with and do not adversely affect the character of the district." Town planning staff has indicated that the proposed sales office use is eligible for such approval. Indeed, the proposed sales office use is similar to the many business and professional office uses permitted "by right" under B-1 zoning, such as a real estate sales office, and is a far less intense use than the office, retail, restaurant, and related commercial uses that currently line Kane Concourse. We understand, in fact, that the Town Council has approved several other development sales offices previously, most recently for the La Baia project.

Enclosed as **Exhibit B** are conceptual renderings of the sales center's proposed interiors, and **Exhibit C** contains a copy of the lease floor plan. Though the Town Council's review does not extend to the interiors, you will see that the sales office is beautifully and tastefully designed to provide an intimate setting of just +/- 662 square feet where prospective buyers can learn more about the developer and the project, choose desired finishes and upgrades for their units, and sign any necessary paperwork.

BHI intends to operate the sales office for a period of 24 months (with a possible extension to 36 months), commencing in February 2023. We anticipate that the office will operate Monday through Friday from 8:00 am to 6:00 pm, Saturdays from 8:00 am to 4:00 pm, and Sundays from 11:00 am to 4:00 pm. Many if not most visits will occur by advance appointment. To deliver exceptional client service, only a few clients will be present in the office at a given time.

Ultimately, the proposed use will activate a vacant storefront on the Town's most important corridor, will have no discernable adverse effects on the surrounding area, and is more desirable and efficient than the alternative of having BHI construct a temporary sales office structure at their development site.

Request

We would be grateful if you would calendar this item for consideration by the Town Council at their next available meeting.

Thank you for your attention and consideration.

Sincerely,

Kristofer D. Machado

Enclosures

Exhibit A

Landlord Letter

1170, LLC
1170 Kane Concourse, Suite 500
Bay Harbor Islands, Florida 33154
Tel: 305-861-9477

January 10, 2023

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

Re: Lease by and between 1170, LLC, (as "Landlord"), and Bay Harbour Investment Inc. (as "Tenant")

Dear Ms. Lasday:

At the request of Tenant, please be advised that Landlord has entered into a Lease Agreement with Tenant for Suite 101, comprising approximately 662 sq. ft., at the 1170 Building, located at 1170 Kane Concourse, Bay Harbor Islands, Florida, which commenced on December 1, 2022 for a term of two (2) years.

Very truly yours,

Gabriel Gilinski, Manager

GG/cdr

Exhibit B

Conceptual Plans

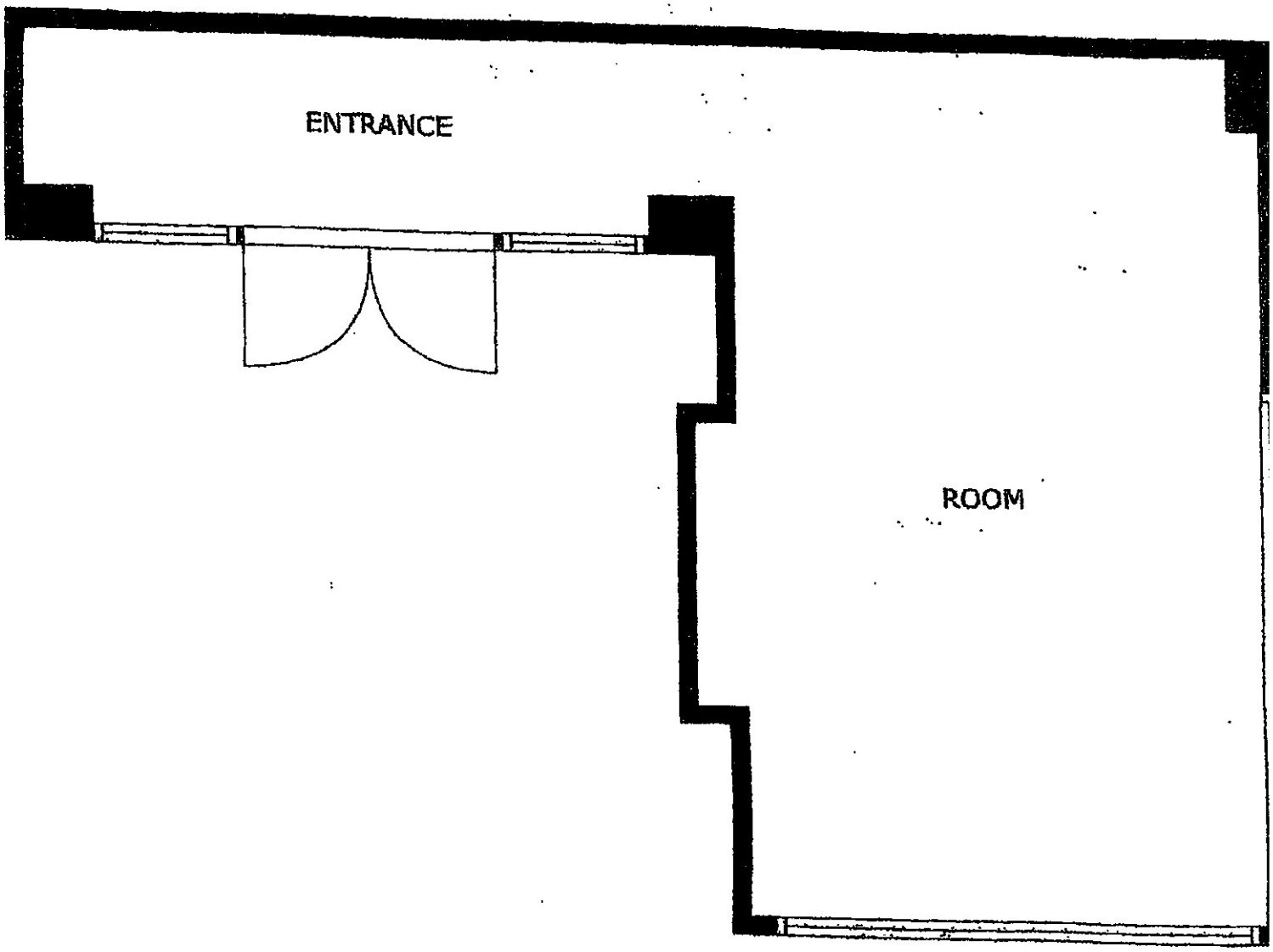
artefacto
HOME
DESIGN

MIAMI
ORIGIN
RESIDENCES

Exhibit C

Lease Floor Plan

FLOOR PLAN



Sec. 23-4. Use regulations, RM-1 and RM-2 Multiple Family districts.

In the RM-1 and RM-2 Multiple Family districts, no building or land shall be used and no building shall hereafter be erected, constructed, reconstructed or structurally altered which is designed, arranged or intended to be used or occupied for any purpose, excepting for one or more of the following uses:

(1) Two-family dwellings.

(2) Multiple-family dwellings or apartments, including townhouses, and accessory buildings including duly licensed home occupation.

(3) Accessory uses and site improvements, including outdoor recreational game court facilities, subject to the provisions specified in section 23-12.

(4) Reserved.

(5) Public schools, but only upon specific approval and permit of the town council.

(6) Single-story drive-in bank tellers' structures and parking facilities for a national or state bank situated in an adjacent block of the national or state bank which block is zoned B-1, but only upon the specific approval and permit by the town council as to the precise location and type and kind of improvements as well as landscaping requirements.

(7) Temporary sales and business offices, construction trailers, and model dwelling units, but only in connection with the construction of dwelling units, and upon specific approval and permit of the town council, including but not limited to such time limits and other any other conditions as may be imposed by the town council at its discretion.

(8) Parks, recreation and open space as either a primary use or accessory use.

(9) Public or private off-street parking facilities as either a primary use or accessory use. Commercially owned and/or operated parking facilities are not permitted without the prior approval of the town council.

(10) Vacation rentals subject to the provisions in Chapter 23, Article VI of the Code of Ordinances of the Town of Bay Harbor Islands.

(Ord. No. 108, § 4, 6-10-57; Ord. No. 130, § 1, 6-8-59; Ord. No. 574, § 1, 6-12-95; Ord. No. 261, § 1, 8-14-72; Ord. No. 314, § 2, 2-14-77; Ord. No. 317, § 2, 6-13-77; Ord. No. 425, § 3, 4-8-85; Ord. No. 626, § 1, 11-10-97; Ord. No. 744, § 1, 6-12-04; Ord. No. 747, § 2, 8-16-04; Ord. No. 757, § 1(Exh. A), 12-13-04; Ord. No. 819, § 1(Exh. A), 7-9-07; Ord. No. 893, § 1(Exh. A), 11-9-09; Ord. No. 1003, § 1(Exh. A), 11-14-16)

AGENDA ITEM REPORT
February 1, 2023

ITEM NUMBER: 14.

ITEM: Consideration and **Approval** of a Resolution approving a Parking Trust Payment Agreement with Kane BH Property 1, LLC 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 commercial development to be located at 9555 Bay Harbor Terrace. Enclosed is a copy of the proposal setting forth the terms of the agreement.

DESCRIPTION:
In December 2017 the Town received an application for a new Site Development Plan for a 40,000+/- sq. ft. retail / office building on the above site. The site is currently developed with a surface parking lot that serves as the primary parking facility for the 108-1090 Kane Concourse commercial site. Numerous reviews by staff / PZB occurred. Finally, on Sept. 24, 2019 the PZB approved a Site Development Plan subject to conditions. A key feature of this redevelopment is the proposed use of an interior carousal robotic parking system for 56 parking spaces. However, an additional 48 parking spaces are required by Code. The developer is seeking permission from the Town to acquire the 48 parking spaces in the Town Parking Trust (48 @ $35,000 each = $1,680,000). The Town Code requires that at least 40% of the required parking occur on the development site. In this case 57% of the required parking is to be provided on the site. Both the PZB members and MMPA expressed some concerns with this arrangement; however, the Town Council is the entity that must determine if this is allowed. While the monies would be beneficial to the Town for the proposed new Parking Garage in Block 11 / other Town parking facilities, the loss of actual parking at the site must be weighed. The PZB approval is conditioned on the Town Council approving the Parking Trust arrangements.

In 2022 the Town received a Building Permit application for this project and staff review is ongoing. On January 6, 2023 the Town received a formal application to utilize the Town's Parking Trust program from the Bercow law firm. MMPA was requested to analyze the request and prepare a staff report for the Town Council's consideration.

RECOMMENDED ACTION:
Council's Discretion

FINANCIAL ANALYSIS:

BUDGET IMPACT:

Submitted By: Yvonne Hamilton, Town Clerk

ATTACHMENTS

1.	Parking Trust Request LOI 01.06.2023
2.	Kane BH Property 1, LLC Parking Trust Request
3.	Proposed Parking Trust Fund Agreement
4.	2187 - 9555 BHT PnZ Approval
5.	Resolution 2005 - Parking Trust Fees
6.	9555 Bay Harbor Terrace Traffic Analysis-Plans

BERCOW
RADELL
FERNANDEZ
LARKIN +
TAPANES

ZONING, LAND USE AND ENVIRONMENTAL

200 S. Biscayne Boulevard
Suite 300, Miami, FL 33131

www.brzoninglaw.com

305.377.6236 office
305.377.6222 fax
mamster@brzoninglaw.com

VIA ELECTRONIC MAIL

January 6, 2023

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

Re: Parking Trust Payment In Lieu of Required Parking for Property Located at 9555 Bay Harbor Terrace in Bay Harbor Islands

Dear Ms. Lasday:

Our law firm represents Kane BH Property 1, LLC (the "Applicant") in connection with the redevelopment of the property located at 9555 Bay Harbor Terrace (the "Property") in Bay Harbor Islands (the "Town"). See Exhibit A, Property Appraiser Summary. Please accept this letter as the Applicant's request for approval of payment into the Town Parking Trust in lieu of providing forty-eight (48) parking spaces for the project approved by the Town on September 24, 2019, via Resolution No. 2187, referred to as "Concourse Terrace II" (the "Project"). See Exhibit B, Resolution No. 2187.

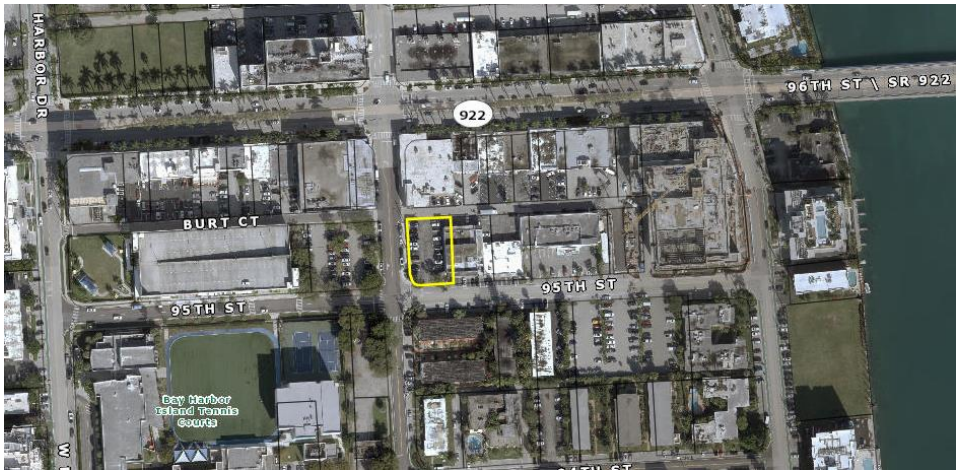


Figure 1. Aerial

Property. The Property, further identified by Folio No. 13-2234-006-0001, is located on the northeast corner of Bay Harbor

Terrace and 95th Street. See Figure 1, Aerial, above. The Property is currently developed as a surface parking lot and is the subject of a unity of title with the parcel immediately abutting to the north with address 1080-90 Kane Concourse currently developed with an existing office building proposed to remain.

The Project. As mentioned above, in 2019 the Town approved the development of a seven (7) story mixed-use retail and office building including three (3) levels of enclosed mechanical parking all in 39,484 square feet. Based on the approved plans, the Project required a total of 112 parking spaces and 64 are being provided on-site. The Applicant seeks to pay into the Town's Parking Trust Fund in lieu of providing the remaining 48 spaces on site as permitted by Section 23-29.1. In addition, as required by a condition of Resolution No. 2187, the proposed mechanical parking system will be operated by valet only during office and retail hours. The Project is in the building permit process and has been assigned Building Permit No. B22-000490. A condition of the Resolution No. 2187 is that the Applicant execute and keep in full force and effect a Parking Trust Payment Agreement for the forty-eight (48) parking spaces. Accordingly, the Applicant respectfully requests Town Council approval of a Parking Trust Payment Agreement for the forty-eight (48) parking spaces.

Town Parking Trust Requirements. In accordance with Section 23-29.1 of the Town Code, 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 the following criteria:

(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.

In this case, the proposed plan provides more than 40 percent of required parking (112 spaces are required and 64 spaces or 57% of required parking is provided on site). The Applicant seeks to pay into the Town's Parking Trust Fund for the remaining 48 spaces. There is adequate

off-street parking within 500 feet of the Property because there are public parking lots located east and west of the Project on 95th Street. The immediate area will not be adversely impacted by allowing the payment into the Town's Parking Trust Fund because the proposed uses are neighborhood friendly retail and office uses which will encourage pedestrianism in the area. Notably, the Property is located in a business district where patrons often park in one location and then visit multiple establishments due to their close proximity. Finally, the Applicant will pay the Parking Trust Fee for each of the remaining forty-eight (48) required on-site parking spaces.

Conclusion. The Project has been tastefully designed and will be a welcomed addition to the neighborhood by providing exciting retail uses and office space for locals. The proposed onsite parking will accommodate the daily needs of the Project along with the nearby parking lots. The Project meets the criteria for the Parking Trust Fund and through the payment of a Parking Trust Fee will assist the Town in building future public parking and addressing parking needs in the area. Accordingly, the Applicant respectfully requests approval of the Parking Trust Fee Agreement for 48 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: Maritza Haro Salgado
Gray Crow

EXHIBIT A

OFFICE OF THE PROPERTY APPRAISER

Summary Report

Generated On : 1/6/2023

Property Information	
Folio:	13-2234-006-0001
Property Address:	
Owner	REFERENCE ONLY
Mailing Address	
PA Primary Zone	6000 COMMERCIAL - GENERAL
Primary Land Use	0000 REFERENCE FOLIO
Beds / Baths / Half	0 / 0 / 0
Floors	0
Living Units	0
Actual Area	0 Sq.Ft
Living Area	0 Sq.Ft
Adjusted Area	0 Sq.Ft
Lot Size	0 Sq.Ft
Year Built	0

Assessment Information			
Year	2022	2021	2020
Land Value	$0	$0	$0
Building Value	$0	$0	$0
XF Value	$0	$0	$0
Market Value	$0	$0	$0
Assessed Value	$0	$0	$0

Taxable Value Information			
	2022	2021	2020
County			
Exemption Value	$0	$0	$0
Taxable Value	$0	$0	$0
School Board			
Exemption Value	$0	$0	$0
Taxable Value	$0	$0	$0
City			
Exemption Value	$0	$0	$0
Taxable Value	$0	$0	$0
Regional			
Exemption Value	$0	$0	$0
Taxable Value	$0	$0	$0

Benefits Information				
Benefit	Type	2022	2021	2020

Note: Not all benefits are applicable to all Taxable Values (i.e. County, School Board, City, Regional).

Short Legal Description
1080 1090 KANE CONCOURSE CONDO
BAY HARBOR ISLAND PB 46-5
LOT 11 LESS N15FT & LOT 12 LESS
N15FT & LESS WLY5FT BLK 12 &
LOT 13 LESS WLY 5FT BLK 12

Sales Information			
Previous Sale	Price	OR Book-Page	Qualification Description

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

Version:

EXHIBIT B

RESOLUTION NO. 2187

A RESOLUTION OF THE PLANNING AND ZONING BOARD OF THE TOWN OF BAY HARBOR ISLANDS, FLORIDA, APPROVING THE SITE DEVELOPMENT PLAN APPLICATION FOR THE CONCOURSE TERRACE II PROJECT.

WHEREAS, on April 2, 2019, Kane Concourse Investment Group, LLC (hereinafter the "Applicant"), filed an initial application for site plan approval. On July 16, 2019, Applicant submitted a revised site plan for a seven (7) story mixed use office building consisting of three (3) levels of an enclosed mechanical parking garage, two (2) retail spaces on the ground floor, and offices located on floors three (3) through seven (7) at 9555 Bay Harbor Terrace, Bay Harbor Islands, Florida, and legally described as:

> Lot 13, less the westerly 5 feet of Block 12, "Bay Harbor Island" Subdivision according to the plat thereof, as recorded in Plat Book 46, at Page 5 of the Public Records of Miami-Dade County;
>
> (hereinafter the "Project" or "Site Plan"); and

WHEREAS, a site plan for new construction requires approval by the Planning and Zoning Board pursuant to Section 5-23.1(a) of the Town of Bay Harbor Islands' Code of Ordinances (hereinafter the "Code"); and

WHEREAS, on September 24, 2019, the Town's Planning and Zoning Board approved the Site Plan, pursuant to Section 5-23.1(a) of the Code, with the conditions set forth below.

NOW THEREFORE, be it resolved that:

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

2. Finding. The Planning and Zoning Board finds that the Site Plan is consistent with the criteria set forth in Section of 5-23.1 of the Code and approves the Site Plan dated June 14, 2016, subject to the below conditions for approval.

3. Effective Date. This Resolution shall take effect upon the date of its adoption (the "Effective Date").

4. Conditions of Approval.

   A. This approval is based on the Site Plan dated July 16, 2019. Any modifications thereto shall require separate approvals from either staff or the Planning and Zoning Board, as specified in the Code.

B. When the Miami-Dade Fire Department formally reviews the Project, if any material site design changes are required, a re-approval of the Site Plan shall be required by staff or the Planning and Zoning Board, as specified in the Code.

C. Applicant shall submit final working plans within 365 days after the Effective date of this Resolution, unless extended by the Town Manager, or his or her designee, for up to 180 days. Applicant shall obtain a building permit within 90 days after the approval of final working plans, unless extended by the Town Manager, or his or her designee, for up to 90 days. Failure to obtain a building permit within the prescribed time shall result in the invalidation of the Site Plan, except and unless this Resolution is extended pursuant to the Code or other valid extension as prescribed by Florida law.

D. The existing overhead power lines adjoining the Project shall be relocated underground during the redevelopment of the site or infrastructure necessary for the Project to connect to the undergrounding of the utility service facilities, at the sole expense of the Applicant, pursuant to Section 18-22 of the Code;

E. Prior to the issuance of a building permit, Applicant shall pay all required impact fees including, but not limited to, those payable to the Town, County, and School Board;

F. Prior to the issuance of a building permit, Applicant shall execute and keep in full force and effect a Parking Trust Payment Agreement for 48 parking spaces;

G. Valet shall operate the mechanical parking system during office and retail hours;

H. The south stair column shall be lowered one (1) level;

I. Retail units one (1) and two (2) shall have store front doors that open to Bay Harbor Terrace and 95th Street, respectively, with walkways to the sidewalk;

J. The sidewalk along Bay Harbor Terrace shall extend closer to the showcase windows and meet the sidewalk on 95th Street in a straight line. Landscaping shall be located in the curb extension ("bulb out");

K. A sculpture substantially similar in scale to the sculpture depicted on the Site Plan dated July 16, 2019, shall be installed; and

L. Ribbon windows shall be added along the width of the concrete wall on the north façade.

5. Severability. If any provision, section, phrase or word of this Resolution is declared invalid or unenforceable by a court of competent jurisdiction, the remaining provisions, sections, phrases or words of this Resolution shall remain in full force and effect.

6. This Resolution shall become effective immediately upon its adoption, unless a timely appeal is filed with the Town Council.

PASSED this 24th day of September, 2019.

PLANNING AND ZONING BOARD
TOWN OF BAY HARBOR ISLANDS

By: _____
Steven Hurwitz
Chair Person

ATTEST:

_____
Marlene M. Siegel
Town Clerk

APPROVED AS TO FORM:

_____
Frank C. Simone, Esq.,
Assistant Town Attorney

From:	Maritza Haro Salgado
To:	Maria Lasday; Yvonne Hamilton
Cc:	Joseph Geller; Michael J. Miller; Ayanidys Martinez; Matthew Amster; Betty LLerena; Gray J. Crow
Subject:	Parking Trust Agreement for 9555 Bay Harbor Terrace
Date:	Friday, January 6, 2023 5:54:48 PM
Attachments:	image573921.jpg Parking Trust Request LOI 01.06.2023.pdf Parking Trust Fund Agreement Clean.pdf

---

Good afternoon Maria,

Happy new year! I hope 2023 is off to a great start. Our firm represents Kane BH Property 1, LLC in connection with the property located at 9555 Bay Harbor Terrace. Through Resolution No. 2187, the Town approved the redevelopment of the Property conditioned on payment into the Town's Parking Trust Fund in lieu of providing 48 parking spaces on site. A building permit has been submitted for the project (Building Permit No. B22-000490) and execution of a Parking Trust Agreement is a condition to issuance of the building permit.

Accordingly, attached please find a formal request to secure Town Council approval of payment into the Town's Parking Trust Fund in lieu of providing 48 parking spaces on site and of the attached Parking Trust Agreement.

We have included a copy of Resolution No. 2187 as Exhibit B of our letter of intent and the approved plans can be found here:
https://www.dropbox.com/s/dljjiv7acfsfrsg/Approved%20Plans.pdf?dl=0

We will deliver hard copies to Yvonne Monday morning and kindly request the Town's prompt review and scheduling of this request before the Town Council. Please let us know if you have any questions.

Thank you and have a great weekend!

Maritza Haro Salgado
Bercow Radell Fernandez Larkin + Tapanes
200 S. Biscayne Boulevard, Suite 300, Miami, FL 33131
mharo@brzoninglaw.com | www.brzoninglaw.com
O: (305) 377 6225 | F: (305) 377 6222
vCard Biography

The information contained in this electronic message is privileged and confidential and is intended only for the use of the individual named above and others who have been specifically authorized to receive it. If the recipient is not the intended recipient, you are hereby notified that any dissemination, distribution or duplication of the communication is strictly prohibited. If you have received this communication in

error, or if any problems occur with transmission, please immediately notify us by telephone (305) 374-5300.

Total Control Panel Login

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yhamilton@bayharborislands-fl.gov

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mharo@brzoninglaw.com

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Block brzoninglaw.com

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Medium (75): Pass

Low (90): Pass

This message was delivered because the content filter score did not exceed your filter level.

PARKING TRUST PAYMENT AGREEMENT

This AGREEMENT (the "Agreement") is made and entered into as of the ____ day of January, 2023 (the "Effective Date") by and between the TOWN OF BAY HARBOR ISLANDS (the "Town") and Kane BH Property 1, 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 commercial development at the property located at 9555 Bay Harbor Terrace (the "Project" and the "Property").

B. The Application was approved by Resolution No. 2187, subject to, among other things, satisfying the on-site parking requirements for the Project (the "Resolution").

C. The Project is required to have 112 on-site parking spaces.

D. The Project will have 64 on-site parking spaces, including valet parking and mechanically-stacked parking spaces.

E. The Developer proposes to seeks to pay into the Town's Parking Trust Fund in lieu of providing the remaining 48 spaces on site as permitted by 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 48 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 payment into the Town's Parking Trust Fund in lieu of providing 48 spaces on site consistent with the requirements of Section 23-29.1(6) of the Town's Code of Ordinances.

H. Accordingly, the Parties are entering into this Agreement to allow the Developer to pay into the Town's Parking Trust Fund for 48 parking spaces in lieu of providing them on-site, in accordance with 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:

DRAFT

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 48 required parking spaces) is twenty thousand dollars $20,000 (the "Parking Trust Fee"). Developer shall pay the Town a total sum of $960,000 for the 48 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 shall operate the mechanical parking system during office and retail hours.

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:

Kane BH Property 1, LLC,
915 BROADWAY, 13TH FLOOR
C/O COGENCY GLOBAL INC.
NEW YORK, NY 10010

Attn: Kane BH Property 1, LLC
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.

DRAFT

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]

DRAFT

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

Witnesses: DEVELOPER:

_____

Kane BH Property 1, LLC, a Florida Limited Liability Company

_____
Print Name of Witness

By: _____

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 _____ of Kane BH Property 1, LLC, a Florida 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: _____

DRAFT

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

DRAFT

RESOLUTION NO. 2187

A RESOLUTION OF THE PLANNING AND ZONING BOARD OF THE TOWN OF BAY HARBOR ISLANDS, FLORIDA, APPROVING THE SITE DEVELOPMENT PLAN APPLICATION FOR THE CONCOURSE TERRACE II PROJECT.

WHEREAS, on April 2, 2019, Kane Concourse Investment Group, LLC (hereinafter the "Applicant"), filed an initial application for site plan approval. On July 16, 2019, Applicant submitted a revised site plan for a seven (7) story mixed use office building consisting of three (3) levels of an enclosed mechanical parking garage, two (2) retail spaces on the ground floor, and offices located on floors three (3) through seven (7) at 9555 Bay Harbor Terrace, Bay Harbor Islands, Florida, and legally described as:

> Lot 13, less the westerly 5 feet of Block 12, "Bay Harbor Island" Subdivision according to the plat thereof, as recorded in Plat Book 46, at Page 5 of the Public Records of Miami-Dade County;
>
> (hereinafter the "Project" or "Site Plan"); and

WHEREAS, a site plan for new construction requires approval by the Planning and Zoning Board pursuant to Section 5-23.1(a) of the Town of Bay Harbor Islands' Code of Ordinances (hereinafter the "Code"); and

WHEREAS, on September 24, 2019, the Town's Planning and Zoning Board approved the Site Plan, pursuant to Section 5-23.1(a) of the Code, with the conditions set forth below.

NOW THEREFORE, be it resolved that:

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

2. Finding. The Planning and Zoning Board finds that the Site Plan is consistent with the criteria set forth in Section of 5-23.1 of the Code and approves the Site Plan dated June 14, 2016, subject to the below conditions for approval.

3. Effective Date. This Resolution shall take effect upon the date of its adoption (the "Effective Date").

4. Conditions of Approval.

   A. This approval is based on the Site Plan dated July 16, 2019. Any modifications thereto shall require separate approvals from either staff or the Planning and Zoning Board, as specified in the Code.

B. When the Miami-Dade Fire Department formally reviews the Project, if any material site design changes are required, a re-approval of the Site Plan shall be required by staff or the Planning and Zoning Board, as specified in the Code.

C. Applicant shall submit final working plans within 365 days after the Effective date of this Resolution, unless extended by the Town Manager, or his or her designee, for up to 180 days. Applicant shall obtain a building permit within 90 days after the approval of final working plans, unless extended by the Town Manager, or his or her designee, for up to 90 days. Failure to obtain a building permit within the prescribed time shall result in the invalidation of the Site Plan, except and unless this Resolution is extended pursuant to the Code or other valid extension as prescribed by Florida law.

D. The existing overhead power lines adjoining the Project shall be relocated underground during the redevelopment of the site or infrastructure necessary for the Project to connect to the undergrounding of the utility service facilities, at the sole expense of the Applicant, pursuant to Section 18-22 of the Code;

E. Prior to the issuance of a building permit, Applicant shall pay all required impact fees including, but not limited to, those payable to the Town, County, and School Board;

F. Prior to the issuance of a building permit, Applicant shall execute and keep in full force and effect a Parking Trust Payment Agreement for 48 parking spaces;

G. Valet shall operate the mechanical parking system during office and retail hours;

H. The south stair column shall be lowered one (1) level;

I. Retail units one (1) and two (2) shall have store front doors that open to Bay Harbor Terrace and 95th Street, respectively, with walkways to the sidewalk;

J. The sidewalk along Bay Harbor Terrace shall extend closer to the showcase windows and meet the sidewalk on 95th Street in a straight line. Landscaping shall be located in the curb extension ("bulb out");

K. A sculpture substantially similar in scale to the sculpture depicted on the Site Plan dated July 16, 2019, shall be installed; and

L. Ribbon windows shall be added along the width of the concrete wall on the north façade.

5. Severability. If any provision, section, phrase or word of this Resolution is declared invalid or unenforceable by a court of competent jurisdiction, the remaining provisions, sections, phrases or words of this Resolution shall remain in full force and effect.

6. This Resolution shall become effective immediately upon its adoption, unless a timely appeal is filed with the Town Council.

PASSED this 24th day of September, 2019.

PLANNING AND ZONING BOARD
TOWN OF BAY HARBOR ISLANDS

By: _____
Steven Hurwitz
Chair Person

ATTEST:

_____
Marlene M. Siegel
Town Clerk

APPROVED AS TO FORM:

_____
Frank C. Simone, Esq.,
Assistant Town Attorney

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

Thomas A. Hall, Inc.
1355 Adams Street
Hollywood, FL 33019
954-288-4447
tomhall1234@gmail.com

June 12, 2019

Ari Sklar, AIA
President
SKLARchitecture
2310 Hollywood Boulevard
Hollywood, FL 33020

RE: Concourse Terrace II Traffic Analysis
Project No. 201846.01

Dear Ari:

As requested, my firm has completed a traffic analysis of the proposed development of Concourse Terrace II in the Town of Bay Harbor Isles, Florida. This report was prepared in accordance with the study requirements noted by Mr. Michael Miller, of Michael Miller Planning Associates, Inc., the Town's Planning Consultant. Our study and its findings follow:

Project Description

The existing building located at 1090 Kane Concourse contains approximately 12,504 square feet of office land use and 6,774 square feet of retail land use. The proposed new building, located at 9555 Bay Harbor Terrace, is expected to add approximately 18,689 square feet of office land use and 2,548 square feet of retail land use. This results in a net increase in building square footage of 21,237 square feet.

Parking for the existing building is in the rear and is accessed directly via a twenty-foot-wide, one-way-eastbound alleyway that extends eastward from Bay Harbor Terrace. Instead of tying into E. Bay Harbor Drive to the east, the alleyway turns south approximately 200 feet west of E. Bay Harbor Drive and connects to 95th Street. The existing eight parking spaces against the building on the north side of the alleyway are proposed to remain. Another 24 parking spaces are currently on the south side of the alleyway in a surface parking lot where the new, seven-story building is proposed to be located.

The new building is proposed to contain 56 parking spaces. This parking will use Parkmatic's parking carousel technology. There is additional paid parking on the east side of Bay Harbor Terrace and on-street paid parking along Kane Concourse on the north side of the project site. A copy of the proposed site plan is enclosed.

Project Trip Generation

Tables 1, 2 and 3, enclosed, depict the trip generation for the existing building's uses and the proposed building's uses. Trip generation characteristics information obtained from the Institute of Transportation Engineers' (ITE) *Trip Generation* manual, 10th Edition was used to obtain trip generation characteristics data for both the existing 1090 Kane Concourse building and the proposed new 9555 Bay Harbor Terrace building. Based on the information shown in Tables 1, 2 and 3, the proposed new building is expected to result in an increase of 396 net new daily trips, 142 net new morning peak-hour trips, and 34 afternoon net new peak-hour trips.

Traffic Counts

Manual traffic counts were collected at the existing intersection of Bay Harbor Terrace and the alleyway behind the 1090 Kane Concourse building on April 23, 2019. A copy of the traffic counts is enclosed. The traffic counts required no adjustment to reflect peak season conditions since the Peak Season Category Factor (PSCF) obtained from the Florida Department of Transportation's 2018 Online Traffic Database was 1.0. A copy of the PSCF is enclosed.

Table 4 shows the peak season traffic counts during the morning and afternoon peak hours for the intersection of Bay Harbor Terrace and the alleyway behind the 1090 Kane Concourse building. As the table reveals, the alleyway is not heavily traveled. However, as might be expected, the morning peak-hour traffic entering the alleyway from Bay Harbor Terrace is higher than the afternoon peak-hour traffic entering the alleyway.

Parking

Currently, there are 31 parking spaces plus one handicap parking space serving 1090 Kane Concourse. Twenty-four of these parking spaces are located on the south side of the alleyway where the new building is proposed for construction. It is proposed that the parking supply be increased to 63 parking spaces plus one handicap parking space with 56 of the parking spaces in the new building.

As the parking table on the enclosed site plan shows, the new building is required to provide a total of 112 parking spaces. Forty percent of these parking spaces are required to be on site by Town Code. In this case, with 64 parking spaces, the forty percent requirement is exceeded by 17 percent. All of the 56 parking spaces in the new building are to be valet parked. There is a valet station located at the entrance to the building.

Vehicles in the new building will be parked in Parkmatic's carousel system. If a valet attendant wishes to park, they simply drive into the available empty parking space at the bottom of the carousel. Once they exit the vehicle, they can use the adjacent keypad to make the carousel lift their car and place another empty berth in the entryway to the carousel. The time required to accomplish this task is approximately 20 seconds, based on timing the operation shown in a video of the system provided by the manufacturer.

Adding the time to receive the vehicle from the owner and drive the car through the garage to the parking carousel (25 seconds), the total time required for each parking operation is estimated to be 45 seconds.

The Parkmatic system is simple enough to operate that, during off hours, business owners within the building will use their own keycode for the system to park themselves.

There is a three car length area in which to drop off a vehicle that is in the entrance to the new building and out of the alleyway. The enclosed queuing analysis demonstrates that, during the morning peak hour, two valet attendants are required to accommodate the influx of vehicles while keeping the alleyway clear. During the afternoon peak hour, a single valet attendant should be able to receive entering vehicles and park them without exceeding the available queue storage length. Returning vehicles to their owners is done on site in the exit lane from the building and, thus, doesn't affect the alleyway.

Conclusion

Based on these findings, it is our conclusion that the proposed new building at 9555 Bay Harbor Terrace will have no significant impact on the adjacent roadway network.

Very truly yours,

Freddie A Vargas

Digitally signed by Freddie A Vargas
DN: CN=Freddie A Vargas, OU=A01427E0000016A12D61F1900000736, O=CARNAHAN PROCTOR AND CROSS INC., C=US
Date: 2019.06.17 15:17:17-04'00'

Thomas A. Hall
President

Freddie Vargas, P.E.
Registration No. 35941
814 S. Military Trail
Deerfield Beach, FL 33442

TAH/kh

Cc: Adina Kaufman

Enclosures

NEW MIXED USE RETAIL & OFFICE BUILDING

CONCOURSE TERRACE II

9555 BAY HARBOR TERRACE
BAY HARBOR ISLANDS, FL 33154

PROJECT TEAM

SKLARchitecture
DESIGN ASSOCIATES

2310 HOLLYWOOD BLVD.
HOLLYWOOD, FL 33020
www.sklarchitect.com
TEL - (954) 925-9292
FAX - (954) 925-6292

AA 0002849
IB 0000894
NCARB CERTIFIED

PROPERTY OWNER:

KANE CONCOURSE INVESTMENT GROUP LLC

LANDSCAPE ARCHITECT:

HS2G
PETER STRELKOW
4474 WESTON RD. STE. 144
DAVIE, FL 33331
TEL - (954)326-7212
HS2GMAIL.COM

FL LICENSE # 000884

IRRIGATION CONSULTANT :

KENNETH DI DONATO, INC.
TEL - (954)923-2555

CIVIL ENGINEER:

ZEPHYR ENGINEERING INC.
WILFORD ZEPHYR P.E.
HOLLYWOOD, FL
TEL - (786) 302-7893
WZEPHYRENG@GMAILCOM

CA#31158

PHOTOMETRIC ILUMINATION :

GENESIS LIGHTING
RYAN McCARTHY - OUTSIDE SALES
14101 NW 8 STREET
SUNRISE, FL 33325
TEL - (954)306-3931
mccarthy@genesislighting.net

M.E.P. ENGINEER:

FIALLO MEP DESIGN, INC
JORGE FIALLO, P.E.
10010 SW 83RD ST.
MIAMI, FL 33173
TEL - (305)877-1845

PHOTOMETRIC ILUMINATION :

GENESIS LIGHTING
RYAN McCARTHY - OUTSIDE SALES
14101 NW 8 STREET
SUNRISE, FL 33325
TEL - (954)306-3931
mccarthy@genesislighting.net

STRUCTURAL ENGINEER:

ARBAB ENGINEERING
ALI ARBAB P.E.
3363 NE 163 STREET - STE. 701
NORTH MIAMI BEACH FL 33160
TEL- (305)940-3088

ARBORIST CONSULTANT :

TROPICAL DESIGNS OF FLORIDA, INC.
JEFF SHIMONSKI
TEL (305)773-9406

SCOPE OF WORK

NEW MIXED USE BUILDING
APROX. 46,692 TOTAL SQ. FT. GROSS

LEGAL DESCRIPTION & ADDRESS

LOT 13, LESS THE WESTERLY 5 FEET, BLOCK 12, OF BAY HARBOR ISLAND, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 46, PAGE 5, PUBLIC RECORDS OF MIAMI-DADE COUNTRY, FLORIDA

A.K.A. 1080-90 KANE CONCOURSE, BAY HARBOR ISLANDS, FL.

PROJECT RENDERING

LOCATION MAP

N

SCALE: N.T.S.

GREEN PRACTICES

THE PROJECT WILL STRIVE TO ACHIVE THE HIGHEST FGBC DESIGNATION POSSIBLE FOR THIS TYPE OF BUILDING

DRAWING INDEX

ARCHITECTURAL

A0.1	COVER PAGE
A0.1.2	AREA CALCULATIONS
A0.2	PROPOSED SITE PLAN
A0.3	ADJACENT PROPERTY PHOTOGRAPHS
A0.4	AERIAL RENDERING
A0.5	STREET VIEW RENDERINGS
A0.6	STREET ELEVATION
A1.0	GROUND FLOOR - PROPOSED FLOOR PLAN
A1.1	MEZZANINE FLOOR - PROPOSED FLOOR PLAN
A1.2	3RD FLOOR - PROPOSED FLOOR PLAN
A1.3	4TH FLOOR - PROPOSED FLOOR PLAN
A1.4	5TH FLOOR - PROPOSED FLOOR PLAN
A1.5	6TH FLOOR - PROPOSED FLOOR PLAN
A1.6	7TH FLOOR - PROPOSED FLOOR PLAN
A1.7	ROOF TOP - PROPOSED ROOF PLAN
A2.0	WEST ELEVATION
A2.1	EAST ELEVATION
A2.2	NORTH ELEVATION
A2.3	SOUTH ELEVATION
A3.0	LONGITUDINAL SECTIONS
A3.1	LONGITUDINAL SECTION 2
A3.2	STAIRS SECTION
A3.3	CROSS SECTIONS
A4.0	PARKING SYSTEM SPECS
A5.1	Ground Floor & Mezzanine Area Plans
A5.3	3rd & 4th Floor Area Plans
A5.5	5th & 6th Floor Area Plans
A5.7	7th Floor Area Plan

CIVIL

C-1	PRELIMINARY GRADING & DRAINAGE PLAN
C-2	PRELIMINARY WATER & SEWER PLAN

LANDSCAPE PLANS

L1.0	EXISTING TREE DISPOSITION PLAN & GROUND FLOOR PLANTING PLAN
L1.1	GROUND FLOOR - LANDSCAPING PLAN
L1.2	4TH FLOOR - LANDSCAPING PLAN
L1.3	ROOF PLAN- LANDSCAPING PLAN
L1.4	PLANTING SCHEDULE, DETAILS AND NOTES

PHOTOMETRICS

PH-1	GROUND FLOOR - PHOTOMETRICS
PH-2	4TH FLOOR - PHOTOMETRICS
	SURVEY

PROJECT DATA

NEW BUILDING LEGAL DESCRIPTION ADDRESS:
LOT 13, LESS THE WESTERLY 5 FEET, BLOCK 12, OF BAY HARBOR ISLAND, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 46, PAGE 5, PUBLIC RECORDS OF MIAMI-DADE COUNTRY, FLORIDA
ADDRESS : 9555 BAY HARBOUR TERRACE, BAY HARBOR, FL 33154

EXISTING BUILDING LEGAL DESCRIPTION & ADDRESS :
LOT 11 T 12 A.K.A. 1080-90 KANE CONCOURSE, BAY HARBOUR ISLANDS, FL.

BOTH PROPERTIES ARE UNDER UNITY OF TITLE

GENERAL	REQ'D/ALLOWED	PROVIDED
ZONING:	B-1	
LAND USE:	COMMERCIAL	
BASE FLOOD ELEVATION (B.F.E.):	8.0' + 1' FREEBOARD	
HEIGHT:	65' ABOVE BFE	65' ABOVE BFE
LOT SIZE:	9,100 SF 0.21 AC	
TOTAL BUILDING SQ. FT.	N/A	46,692 SF
BUILDING FRONTAGE	80'-0" MIN.	130'-0"
SETBACK AREA SQ. FT.	N/A	975 SF
LANDSCAPING % REQ./PROV.	9,100 SF X 0.20 = 1,820 SF	2,417 SF
IMPERVIOUS AREA	N/A	8,018 SF
PERVIOUS AREA	N/A	1,082 SF
SETBACKS		
ALLEY (NORTH)	0'-0"	0'-0"
SIDE (EAST)	0'-0"	0'-0"
BAY HARBOUR TERRACE (WEST)	5'-0" AVERAGE	5'-0" AVERAGE
ABOVE 30'	1'-0" PER 3'-0" OF RISE	1'-0" PER 3'-0" OF RISE
95 ST (SOUTH)	5'-0" AVERAGE	5'-0"
ABOVE 30'	1'-0" PER 3'-0" OF RISE	1'-0" PER 3'-0" OF RISE
PARKING		
NEW BLDG - RETAIL (GRND FLR-2 FLR)	2548 SF / 300 = **8.5**	56 SPACES
NEW BLDG - OFFICE SPACE (3-7 FLRS)	18689 SF / 300 = **62.2**	
EXTG BLDG - OFFICE (GRND FLR)	2843 SF / 300 = **9.5**	8 SPACES
EXTG BLDG - OFFICE SPACE (2ND FLR)	9661 SF / 300 = **32.2**	
TOTAL PARKING SPACES	**112.4 = 112 SPACES**	**64 SPACES (60%)**
40% REQD ON SITE - DIFFERENCE TO BE PURCHASED	**112.4 x 0.4 (40%) = 45 SPACES 45 SPACES REQ'D ON SITE (PROVIDED 64 SPACES = 60%)**	**112 - 64 = 48 SPACES TO BE PURCHASED**

NEW BUILDING - GROSS FLOOR AREA

LEVEL	GROSS FLOOR AREA
GROUND FLOOR	7594 SF
MEZZANINE FLOOR	3670 SF
3RD FLOOR	4820 SF
4TH FLOOR	6200 SF
5TH FLOOR	6200 SF
6TH FLOOR	5500 SF
7TH FLOOR	5500 SF
	39484 SF

NET AREA FOR PARKING CALCULATION - NEW BUILDING

GROUND AREA	RETAIL	1,122 SF
MEZZANINE	RETAIL	1,426 SF
TOTAL RETAIL		**2,548 SF**
3RD FLOOR	OFFICE	2,799 SF
4TH FLOOR	OFFICE	4,338 SF
5TH FLOOR	OFFICE	4,338 SF
6TH FLOOR	OFFICE	3,607 SF
7TH FLOOR	OFFICE	3,607 SF
TOTAL OFFICE		**18,689 SF**

NET AREA FOR PARKING CALCULATIONS - EXISTING BUILDING

LEVEL/SUITE #	TYPE	AREA	
GRND FLR / 1080	OFFICE	2,747 SF	
GRND FLR / 1086	RETAIL	~~2,253 SF~~	EXEMPT
GRND FLR / 1088	RETAIL	~~2,216 SF~~	EXEMPT
GRND FLR / 1090	OFFICE	96 SF	
GRND FLR / 1090A	RETAIL	~~1,625 SF~~	EXEMPT
GRND FLR / 1090B	RETAIL	680 SF	EXEMPT
GRND FLR TOTAL	OFFICE	**2,843 SF**	
2ND FLR / 201	OFFICE	1,440 SF	
2ND FLR / 202	OFFICE	2,420 SF	
2ND FLR / 203	OFFICE	383 SF	
2ND FLR / 204	OFFICE	1,891 SF	
2ND FLR / 205	OFFICE	1,362 SF	
2ND FLR / 206	OFFICE	1,227 SF	
2ND FLR / 207	OFFICE	938 SF	
2ND FLR TOTAL		**9,661 SF**	
EXTG BUILDING TOTAL		12,504 SF	
TOTAL REQ PARKING 1/300		41.68 Spaces	

PROPRIETARY INFORMATION: THIS DOCUMENT IS SUBJECT TO COPYRIGHT LAWS. NEITHER THE DOCUMENT NOR ANY INFORMATION THEREON MAY BE RELEASED WITHOUT THE WRITTEN PERMISSION OF SKLARchitecture INC.

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www.sklarchitect.com
AA 0002849
IB 0000894
NCARB
CERTIFIED

SEAL
ARI L. SKLAR
LICENSE #AR1473

REVISION

Revision 03/29/2019

Revision 04/30/2019

CONCOURSE TERRACE II

9555 BAY HARBOR TERRACE
BAY HARBOR ISLANDS, FL 33154

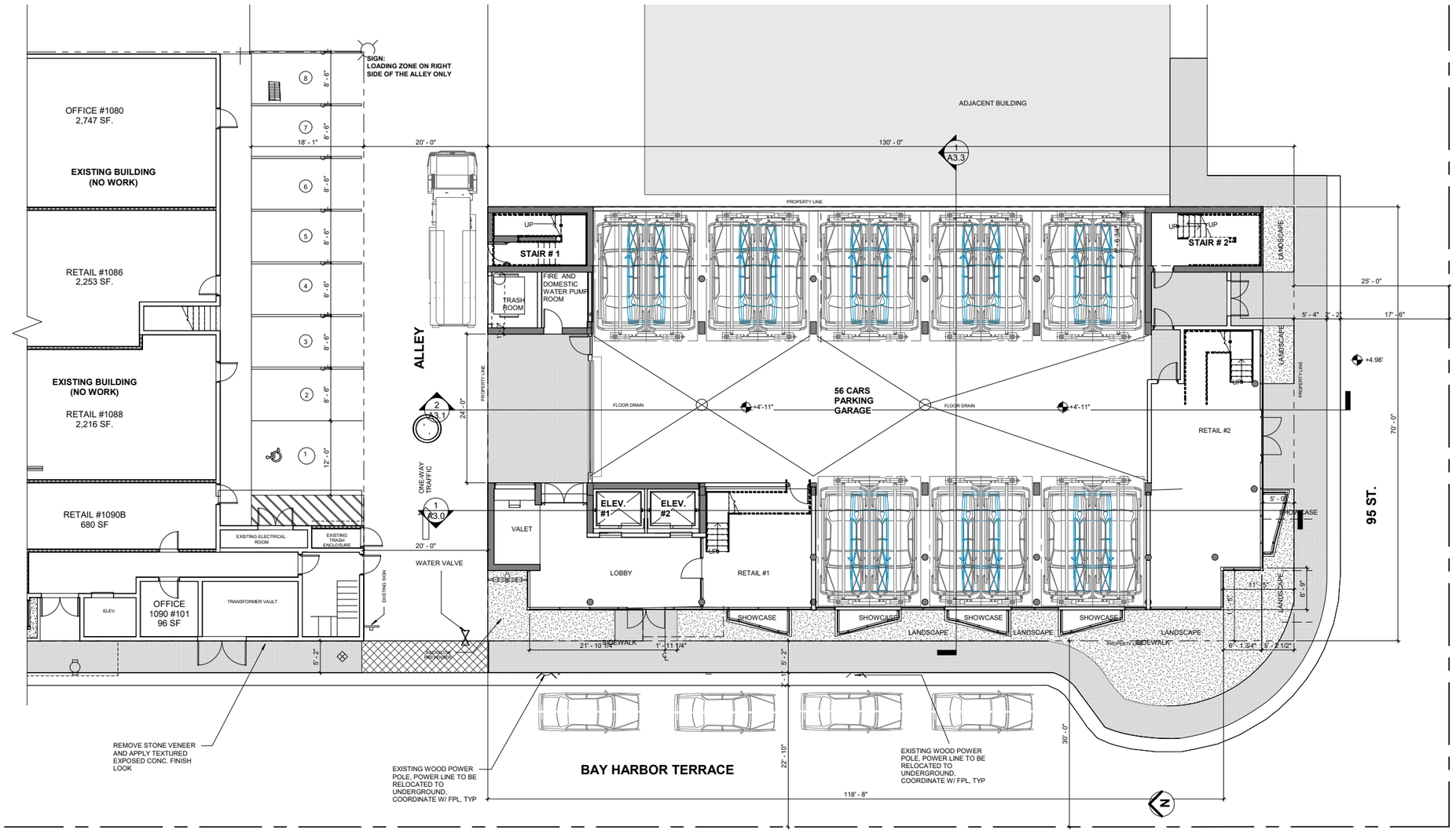
Drawn By:
CP, GVG
Checked By:
ARI SKLAR

COVER PAGE

A0.1

PROJECT #07-044

DATE : 09-07-18



1 SITE PLAN
1/8" = 1'-0"

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SEAL
ARI L. SKLAR
LICENSE #AR1473

REVISION

Revision 03/29/2019

Revision 04/30/2019

CONCOURSE TERRACE II

9555 BAY HARBOR TERRACE
BAY HARBOR ISLANDS, FL 33154

Drawn By:
CP, GVG
Checked By:
ARI SKLAR

PROPOSED SITE PLAN

A0.2

PROJECT #07-044

DATE : 09-07-18

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Table 1
Daily Trip Generation
Concourse Terrace II

Land Use	ITE Code	Intensity		Trip Generation Rate	Total Trips			Internal Trips				Adjusted Trips			Pass-by Trips		Adjusted Trips			Multi-Modal		Net New Trips		
					In	Out	Total	In	Out	Total	%	In	Out	Total			In	Out	Total	Trips		In	Out	Total
Existing Use																								
Office	710	12,504	sf	Ln(T)=0.97Ln(X)+2.50 (50/50)	71	70	141	17	17	34	24.00%	54	53	107	7	5.00%	50	50	100	5	10.00%	47	48	95
Shopping Center	820	6,774	sf	Ln(T)=0.68Ln(X)+5.57 (50/50)	482	482	964	19	20	39	4.00%	463	462	925	328	34.00%	298	299	597	46	10.00%	276	275	551
Sub-Total					553	552	1,105	36	37	73	6.00%	517	515	1,032	335		348	349	697	51		323	323	646
Proposed Use																								
Office	710	18,689	sf	Ln(T)=0.97Ln(X)+2.50 (50/50)	104	105	209	25	26	50	24.00%	80	79	159	10	5.00%	75	74	149	8	10.00%	71	70	141
Shopping Center	820	2,548	sf	Ln(T)=0.68Ln(X)+5.57 (50/50)	248	248	496	25	25	50	10.00%	223	223	446	169	34.00%	138	139	277	22	10.00%	128	127	255
Sub-Total					352	353	705	50	51	101	14.00%	303	302	605	179		213	213	426	30		199	197	396
Total Trips					**905**	**905**	**1,810**	**86**	**88**	**174**	**0**	**820**	**817**	**1,636**	**514**	**0**	**561**	**562**	**1,123**	**81**	**0**	**522**	**520**	**1,042**

(1) Source: Institute of Transportation Engineers' *Trip Generation*, 10th Edition.

Table 2
AM Peak-Hour Trip Generation
Concourse Terrace II

Land Use	ITE Code	Intensity		Trip Generation Rate	Total Trips			Internal Trips				Adjusted Trips			Pass-by Trips		Adjusted Trips			Multi-Modal		Net New Trips		
					In	Out	Total	In	Out	Total	%	In	Out	Total			In	Out	Total	Trips		In	Out	Total
Existing Use																								
Office	710	12,504	sf	T=0.94(X)+26.49 (86/14)	33	5	38	8	1	9	24.00%	25	4	29	2	5.00%	23	4	27	2	10.00%	12	13	25
Shopping Center	820	6,774	sf	T=0.50(X)+ 151.78 (62/38)	96	59	155	4	2	6	4.00%	92	57	149	16	10.00%	83	50	133	9	10.00%	62	62	124
Sub-Total					129	64	193	12	3	15	6.00%	117	61	178	17		106	54	160	11		74	75	149
Proposed Use																								
Office	710	18,689	sf	T=0.94(X)+26.49 (86/14)	38	6	44	9	2	11	24.00%	29	4	33	2	5.00%	27	4	31	3	10.00%	14	14	28
Shopping Center	820	2,548	sf	T=0.50(X)+ 151.78 (62/38)	95	58	153	9	6	15	10.00%	86	52	138	15	10.00%	77	46	123	9	10.00%	57	57	114
Sub-Total					133	64	197	18	8	26	14.00%	115	56	171	18		104	50	154	12		71	71	142
Total Trips					**262**	**128**	**390**	**29**	**11**	**41**	**0**	**232**	**117**	**349**	**35**	**0**	**210**	**104**	**314**	**23**	**0**	**145**	**146**	**291**

(1) Source: Institute of Transportation Engineers' *Trip Generation*, 10th Edition.

Table 3
PM Peak-Hour Trip Generation
Concourse Terrace II

Land Use	ITE Code	Intensity		Trip Generation Rate	Total Trips			Internal Trips				Adjusted Trips			Pass-by Trips		Adjusted Trips			Multi-Modal		Net New Trips		
					In	Out	Total	In	Out	Total	%	In	Out	Total			In	Out	Total	Trips		In	Out	Total
Existing Use																								
Office	710	12,504	sf	Ln(T)=0.95Ln(X)+0.36 (16/84)	3	13	16	1	3	4	24.00%	2	10	12	1	5.00%	2	9	11	0	10.00%	6	5	11
Shopping Center	820	6,774	sf	Ln(T)=0.74Ln(X)+2.89 (48/52)	36	38	74	1	2	3	4.00%	35	36	71	25	34.00%	22	24	46	4	10.00%	21	21	42
Sub-Total					39	51	90	2	5	7	6.00%	37	46	83	26		24	33	57	4		27	26	53
Proposed Use																								
Office	710	18,689	sf	Ln(T)=0.95Ln(X)+0.36 (16/84)	4	19	23	1	5	6	24.00%	3	14	17	1	5.00%	3	13	16	0	10.00%	8	8	16
Shopping Center	820	2,548	sf	Ln(T)=0.74Ln(X)+2.89 (48/52)	17	19	36	2	2	4	10.00%	17	15	32	12	34.00%	10	10	20	2	10.00%	9	9	18
Sub-Total					21	38	59	3	7	10	14.00%	20	29	49	13		13	23	36	1		17	17	34
Total Trips					**60**	**89**	**149**	**5**	**12**	**17**	**0**	**57**	**75**	**132**	**39**	**0**	**37**	**56**	**93**	**5**	**0**	**44**	**43**	**87**

(1) Source: Institute of Transportation Engineers' *Trip Generation*, 10th Edition.

THOMAS A. HALL, INC.
1355 ADAMS STREET
HOLLYWOOD, FL 33019
954-288-4447

CONCOURSE TERRACE II
MIAMI-DADE COUNTY, FLORIDA
COUNTED BY:
UNSIGNALIZED

Site Code: 10064
Start Date: 4/23/2019
File I.D.: BAY HARBOU
Page: 1

ALL VEHICLES

	ALLEY WAY From West				ALLEY WAY From East				BAY HARBOUR TERR From South				BAY HARBOUR TERR From North				
Date 4/23/2019	Uturn	Left	Thru	Right	Uturn	Left	Thru	Right	Uturn	Left	Thru	Right	Uturn	Left	Thru	Right	Total
7:00	0	0	0	0	0	0	0	0	0	3	13	0	0	0	7	8	31
7:15	0	0	1	0	0	0	0	0	0	3	17	0	0	4	28	7	60
7:30	0	0	0	0	0	0	0	0	0	0	10	0	0	6	18	11	45
7:45	0	0	0	0	0	0	0	0	0	0	14	0	0	7	52	26	99
Hr Total	0	0	1	0	0	0	0	0	0	6	54	0	0	17	105	52	235
8:00	0	0	0	0	0	0	1	0	0	0	20	1	0	5	31	30	88
8:15	0	0	0	0	0	0	0	0	0	0	23	1	0	5	17	35	81
8:30	0	0	0	0	0	0	1	0	0	0	5	0	0	8	7	5	26
8:45	0	0	0	0	0	0	1	0	0	0	6	1	0	9	16	14	47
Hr Total	0	0	0	0	0	0	3	0	0	0	54	3	0	27	71	84	242
* BREAK *																	
11:00	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
11:15	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
11:30	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
11:45	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Hr Total	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
12:00	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
12:15	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
12:30	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
12:45	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Hr Total	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
* BREAK *																	
16:00	0	0	0	0	0	0	0	2	0	4	18	1	1	5	15	7	53
16:15	0	0	0	0	0	0	0	0	0	0	11	2	0	4	26	0	43
16:30	0	0	0	0	0	0	0	0	0	3	14	0	0	2	17	4	40
16:45	0	0	0	0	0	0	1	1	0	1	8	0	0	0	11	2	24
Hr Total	0	0	0	0	0	0	1	3	0	8	51	3	1	11	69	13	160
17:00	0	0	0	0	0	0	0	0	0	3	12	1	0	2	18	3	39
17:15	0	0	0	2	0	0	0	1	0	0	26	1	0	2	30	5	67
17:30	0	0	0	0	0	0	0	0	1	2	21	2	0	4	28	4	62
17:45	0	0	0	0	0	0	0	0	0	2	26	1	1	4	28	1	63
Hr Total	0	0	0	2	0	0	0	1	1	7	85	5	1	12	104	13	231
TOTAL	0	0	1	2	0	0	4	4	1	21	244	11	2	67	349	162	868

THOMAS A. HALL, INC.
1355 ADAMS STREET
HOLLYWOOD, FL 33019
954-288-4447

CONCOURSE TERRACE II
MIAMI-DADE COUNTY, FLORIDA
COUNTED BY:
UNSIGNALIZED

Site Code: 10064
Start Date: 4/23/19
File I.D.: BAY HARBOU

ALL VEHICLES

	ALLEY WAY From West				ALLEY WAY From East				BAY HARBOUR TERR From South				BAY HARBOUR TERR From North				
Date 4/23/2019	Uturn	Left	Thru	Right	Uturn	Left	Thru	Right	Uturn	Left	Thru	Right	Uturn	Left	Thru	Right	Total
Peak Hour Analysis By Entire Intersection for the Period: 07:00 to 09:00 on 4/23/2019																	
Peak start	07:30				07:30				**07:30**				07:30				
Volume	0	0	0	0	0	0	1	0	0	0	67	2	0	23	118	102	313
Percent	#####	#####	#####	#####	0%	0%	100%	0%	0%	0%	97%	3%	0%	9%	49%	42%	
Pk total	0				1				69				243				
Highest	8:00				8:00				8:00				8:00				
Volume	0	0	0	0	0	0	1	0	0	0	20	1	0	5	31	30	
Hi total	0				1				21				66				
PHF	#####				0.25				0.82				0.92				
Peak Hour Analysis By Entire Intersection for the Period: 11:00 to 01:00 on 4/23/2019																	
Peak start	12:00				12:00				12:00				12:00				
Volume	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Percent	#####	#####	#####	#####	#####	#####	#####	#####	#####	#####	#####	#####	#####	#####	#####	#####	
Pk total	0				0				0				0				
Highest	12:15				12:45				12:15				12:30				
Volume	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	
Hi total	0				0				0				0				
PHF	#####				#####				#####				#####				
Peak Hour Analysis By Entire Intersection for the Period: 16:00 to 18:00 on 4/23/2019																	
Peak start	17:00				17:00				17:00				17:00				
Volume	0	0	0	2	0	0	0	1	1	7	85	5	1	12	104	13	231
Percent	0%	0%	0%	100%	0%	0%	0%	100%	1%	7%	87%	5%	1%	9%	80%	10%	
Pk total	2				1				98				130				
Highest	17:15				17:15				17:45				17:15				
Volume	0	0	0	2	0	0	0	1	0	2	26	1	0	2	30	5	
Hi total	2				1				29				37				
PHF	0.25				0.25				0.84				0.88				

2018 PEAK SEASON FACTOR CATEGORY REPORT - REPORT TYPE: COUNTY
CATEGORY: 8700 MIAMI-DADE NORTH

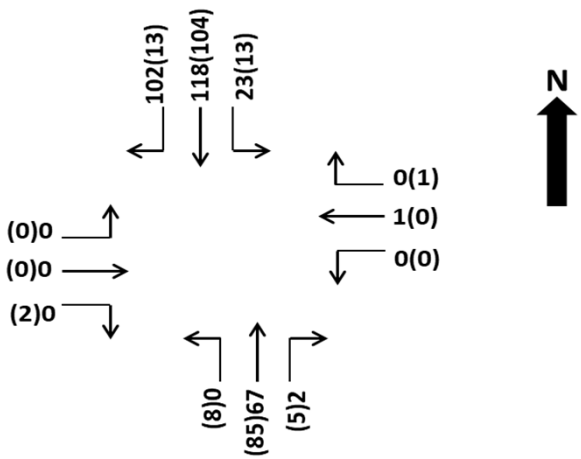
MOCF: 0.98

WEEK	DATES	SF	PSCF
1	01/01/2018 - 01/06/2018	1.03	1.05
2	01/07/2018 - 01/13/2018	1.03	1.05
3	01/14/2018 - 01/20/2018	1.04	1.06
4	01/21/2018 - 01/27/2018	1.02	1.04
5	01/28/2018 - 02/03/2018	1.01	1.03
* 6	02/04/2018 - 02/10/2018	0.99	1.01
* 7	02/11/2018 - 02/17/2018	0.98	1.00
* 8	02/18/2018 - 02/24/2018	0.98	1.00
* 9	02/25/2018 - 03/03/2018	0.98	1.00
*10	03/04/2018 - 03/10/2018	0.97	0.99
*11	03/11/2018 - 03/17/2018	0.97	0.99
*12	03/18/2018 - 03/24/2018	0.97	0.99
*13	03/25/2018 - 03/31/2018	0.97	0.99
*14	04/01/2018 - 04/07/2018	0.97	0.99
*15	04/08/2018 - 04/14/2018	0.97	0.99
*16	04/15/2018 - 04/21/2018	0.97	0.99
*17	04/22/2018 - 04/28/2018	0.98	1.00
*18	04/29/2018 - 05/05/2018	0.99	1.01
19	05/06/2018 - 05/12/2018	1.00	1.02
20	05/13/2018 - 05/19/2018	1.01	1.03
21	05/20/2018 - 05/26/2018	1.01	1.03
22	05/27/2018 - 06/02/2018	1.01	1.03
23	06/03/2018 - 06/09/2018	1.01	1.03
24	06/10/2018 - 06/16/2018	1.01	1.03
25	06/17/2018 - 06/23/2018	1.01	1.03
26	06/24/2018 - 06/30/2018	1.02	1.04
27	07/01/2018 - 07/07/2018	1.02	1.04
28	07/08/2018 - 07/14/2018	1.02	1.04
29	07/15/2018 - 07/21/2018	1.02	1.04
30	07/22/2018 - 07/28/2018	1.02	1.04
31	07/29/2018 - 08/04/2018	1.01	1.03
32	08/05/2018 - 08/11/2018	1.01	1.03
33	08/12/2018 - 08/18/2018	1.00	1.02
34	08/19/2018 - 08/25/2018	1.00	1.02
35	08/26/2018 - 09/01/2018	1.00	1.02
36	09/02/2018 - 09/08/2018	1.01	1.03
37	09/09/2018 - 09/15/2018	1.01	1.03
38	09/16/2018 - 09/22/2018	1.00	1.02
39	09/23/2018 - 09/29/2018	1.00	1.02
40	09/30/2018 - 10/06/2018	1.00	1.02
41	10/07/2018 - 10/13/2018	0.99	1.01
42	10/14/2018 - 10/20/2018	0.99	1.01
43	10/21/2018 - 10/27/2018	1.00	1.02
44	10/28/2018 - 11/03/2018	1.00	1.02
45	11/04/2018 - 11/10/2018	1.01	1.03
46	11/11/2018 - 11/17/2018	1.01	1.03
47	11/18/2018 - 11/24/2018	1.02	1.04
48	11/25/2018 - 12/01/2018	1.02	1.04
49	12/02/2018 - 12/08/2018	1.02	1.04
50	12/09/2018 - 12/15/2018	1.03	1.05
51	12/16/2018 - 12/22/2018	1.03	1.05
52	12/23/2018 - 12/29/2018	1.03	1.05
53	12/30/2018 - 12/31/2018	1.04	1.06

* PEAK SEASON

Table 4
Peak Hour Turning-Movement Counts
Concourse Terrace II

		From West				From East				From South				From North				
Time of Day	Adjustment	Uturn	Left	Thru	Right	Uturn	Left	Thru	Right	Uturn	Left	Thru	Right	Uturn	Left	Thru	Right	Total
A.M. Peak Hour	**Raw Count**	**0**	**0**	**0**	**0**	**0**	**0**	**1**	**0**	**0**	**0**	**67**	**2**	**0**	**23**	**118**	**102**	**313**
	Peak Season Factor	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00
	2019 Peak Season Traffic	**0**	**0**	**0**	**0**	**0**	**0**	**1**	**0**	**0**	**0**	**67**	**2**	**0**	**23**	**118**	**102**	**313**
	Project Traffic	0	0	0	0	0	0	0	0	0	0	0	6	0	65	0	0	0
	2019 Total Traffic	**0**	**0**	**0**	**0**	**0**	**0**	**1**	**0**	**0**	**0**	**67**	**8**	**0**	**88**	**118**	**102**	**313**
P.M. Peak Hour	**Raw Count**	**0**	**0**	**0**	**2**	**0**	**0**	**0**	**1**	**1**	**7**	**85**	**5**	**1**	**12**	**104**	**13**	**231**
	Peak Season Factor	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.00
	2019 Peak Season Traffic	**0**	**0**	**0**	**2**	**0**	**0**	**0**	**1**	**1**	**7**	**85**	**5**	**1**	**12**	**104**	**13**	**231**
	Project Traffic	0	0	0	0	0	0	0	0	0	0	0	5	0	12	0	0	0
	2019 Total Traffic	**0**	**0**	**0**	**2**	**0**	**0**	**0**	**1**	**1**	**7**	**85**	**10**	**1**	**24**	**104**	**13**	**231**



Queue Analysis for Concourse Terrace II

Scenario 1 - Morning Peak Hour of Adjacent Street Traffic (7-9 a.m.) in one lane:

$P =$	0.05	(probability of backup onto the adjacent street)
$M =$	3	(queue length which is exceeded p percent of the time)
$N =$	2	(number of service positions)
$Q =$	80.00	(service rate - vehicles per hour)
$p =$	0.444	(utilization factor)
$q =$	71	(demand rate - vehicles per hour)
$Q_{M=}$	0.385	(tabled value of the relationship between queue length, number of channels, and utilization factor)

$$M = \frac{[\ln P(x>M) - \ln Q_M]}{\ln p} - 1$$

$$M = \frac{[\ln 0.05 - \ln 0.385]}{\ln 0.444} - 1$$

$$M = \frac{[-2.9957 - -0.9553]}{-0.8125} - 1$$

$M =$ **1.5113** (< 3 vehicle lengths of queue storage required.)

Scenario 2 - Afternoon Peak Hour of Adjacent Street Traffic (4-6 p.m.) in one lane:

$P =$	0.05	(probability of backup onto the adjacent street)
$M =$	3	(queue length which is exceeded p percent of the time)
$N =$	1	(number of service positions)
$Q =$	80.00	(service rate - vehicles per hour)
$p =$	0.213	(utilization factor)
$q =$	17	(demand rate - vehicles per hour)
$Q_{M=}$	0.213	(tabled value of the relationship between queue length, number of channels, and utilization factor)

$$M = \frac{[\ln P(x>M) - \ln Q_M]}{\ln p} - 1$$

$$M = \frac{[\ln 0.05 - \ln 0.213]}{\ln 0.213} - 1$$

$$M = \frac{[-2.9957 - -1.54657]}{-1.5488} - 1$$

$M =$ **-0.0643** (< 3 vehicle lengths of queue storage required.)

AGENDA ITEM REPORT
February 1, 2023

ITEM NUMBER: 15.

ITEM: Request for approval by 1177 Bay Harbor Islands, LLC for operation of a temporary Sales Gallery to be located at 1160 Kane Concourse, in connection with a mixed-use development (commercial, office, and residential) to be located on the northeast corner of Kane Concourse and West Bay Harbor Drive. Enclosed is a copy of the applicant's "Letter of Intent".

DESCRIPTION:
Pursuant to Section 23-4(7) of the Town Code, a temporary Sales Center requires approval by the Town Council; as outlined below:
"Temporary sales and business offices, construction trailers, and model dwelling units, but only in connection with the construction of dwelling units, and upon specific approval and permit of the town council, including but not limited to such time limits and other any other conditions as may be imposed by the town council at its discretion.

The development was approved by the Design Review Board (formerly Planning & Zoning Board) by Resolution No. 2185, on August 20, 2019.

The Sales Gallery will be accessed directly from the sidewalk. Parking will be provided in the 1160 Kane Concourse parking lot and the adjacent Town garage.

RECOMMENDED ACTION:
Council's Discretion.

FINANCIAL ANALYSIS:

BUDGET IMPACT:

Submitted By: Yvonne Hamilton, Town Clerk

ATTACHMENTS

1.	Letter of Intent -- 1177 Kane Concourse Sales Gallery

BERCOW
RADELL
FERNANDEZ
LARKIN +
TAPANES
ZONING, LAND USE AND ENVIRONMENTAL LAW

200 S. Biscayne Boulevard
Suite 300, Miami, FL 33131

www.brzoninglaw.com

305.377.6229 office
305.377.6222 fax
gpenn@brzoninglaw.com

VIA ELECTRONIC MAIL

January 12, 2023

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

RE: Letter of Intent – "1177 Kane Concourse" Sales Gallery to be Located at 1160 Kane Concourse.

Dear Ms. Lasday,

Our client, 1177 Bay Harbor Islands, LLC (the "Applicant") is the owner and developer of the "1177 Kane Concourse" mixed-use development to be located on the northeast corner of Kane Concourse and W. Bay Harbor Drive. Please consider this letter the Applicant's request for the Town's approval, pursuant to Section 23-5(14), for a temporary sales gallery to be located within an existing commercial tenant space at 1160 Kane Concourse.

The sales gallery has been issued the necessary building permits and the interior work is complete and ready for occupancy. We expect the gallery will be operational for approximately two (2) years during the development of the 1177 Kane Concourse project. As you know, the 1177 Kane Concourse project has also been issued a building permit and we expect to start work on the site in the next several months. We are excited to be bringing a first-class mixed-use development to the Town and having the sales gallery across the street from the project site will help make 1177 Kane Concourse a success.

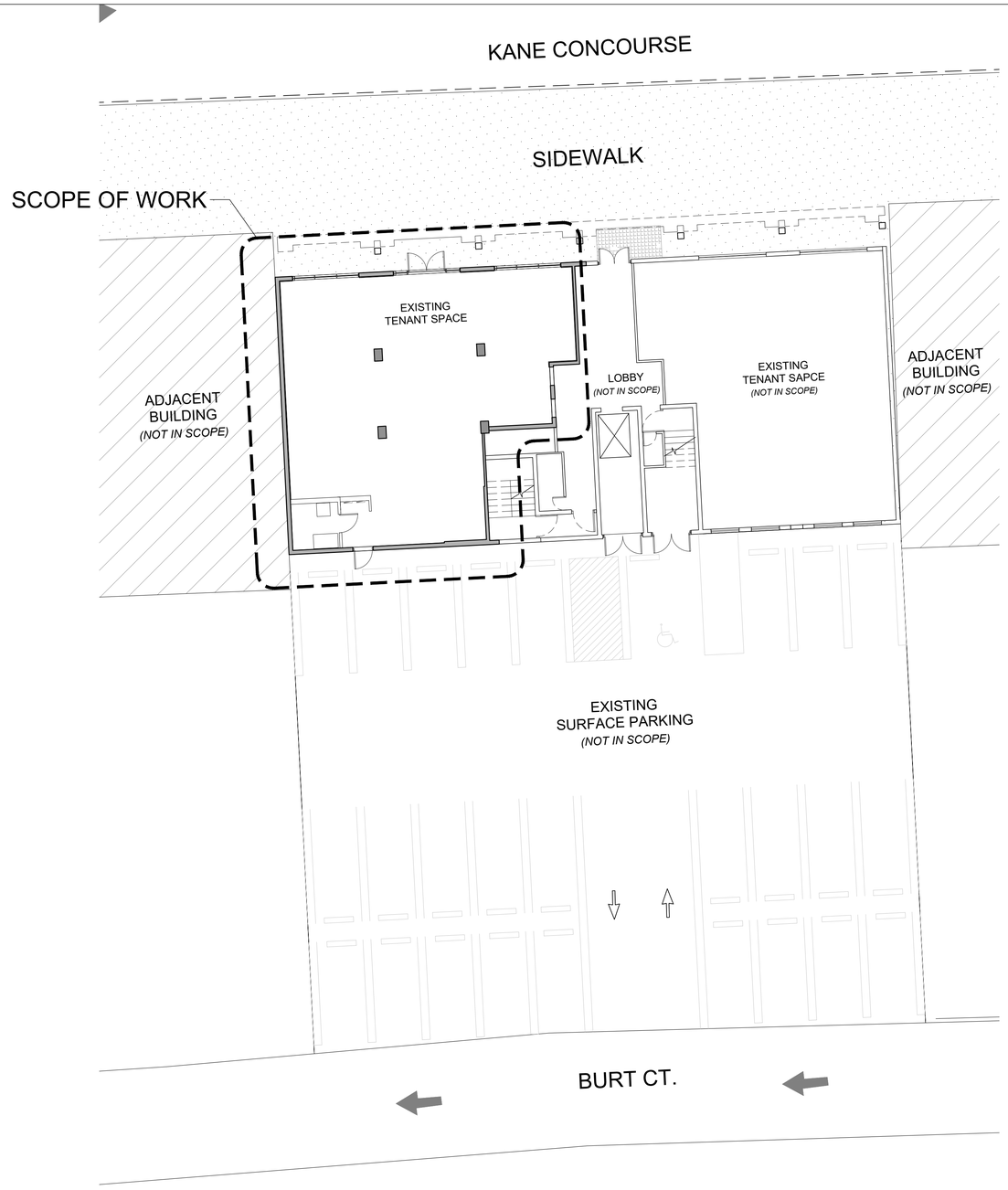
The sales gallery will be located in unit 101 of the 1160 Kane Concourse building and will be accessed directly from the sidewalk. More than adequate parking for the sales gallery will be provided in the 1160 Kane Concourse parking lot as well as the

adjacent Town garage. The gallery has been designed to activate the ground floor space and provide interest and activity along this portion of the street.

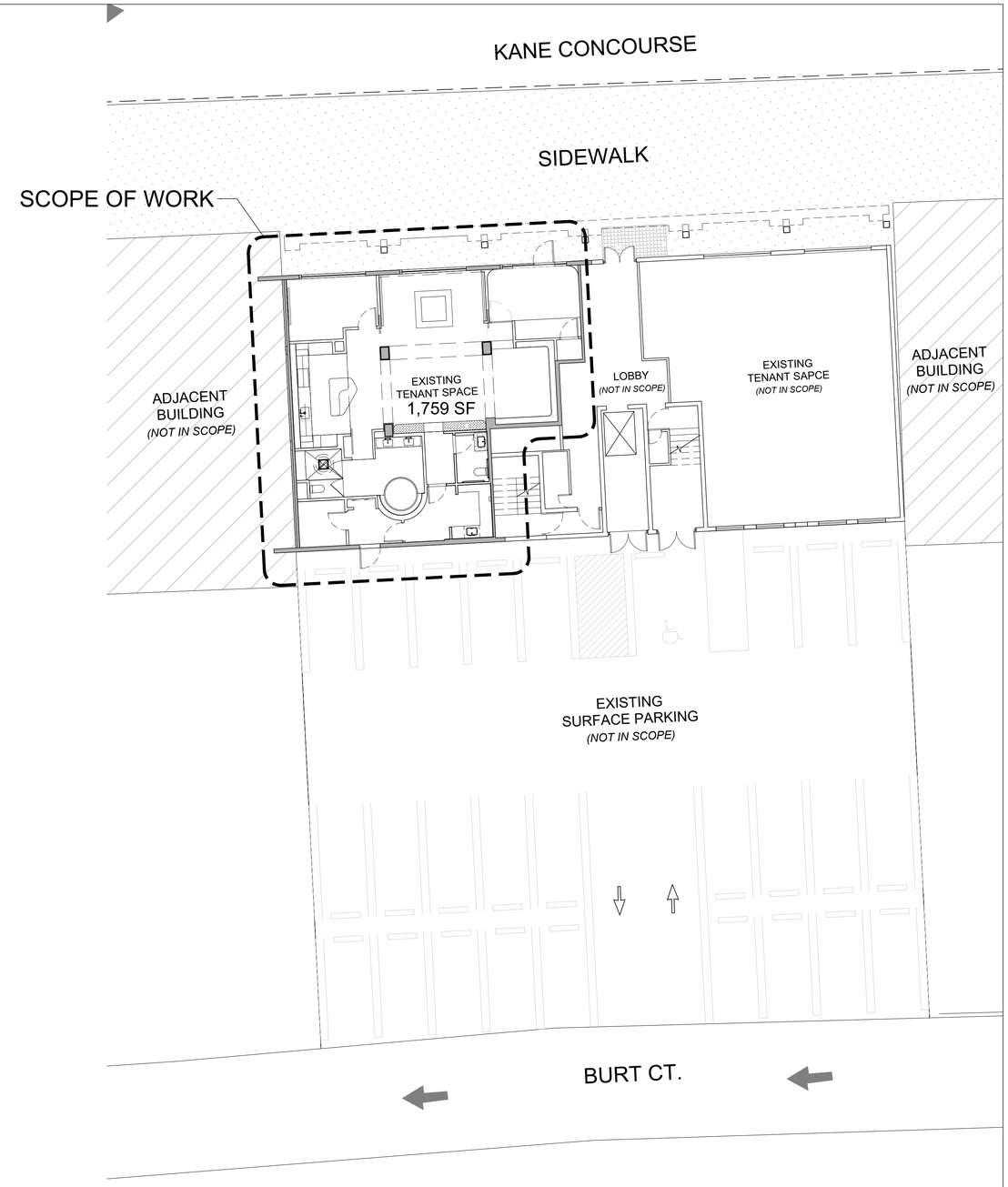
Conclusion. We respectfully request approval for the temporary sales galley use at 1160 Kane Concourse. If you need any additional information, please let me know, I can be reached via phone at (305) 377-6229 or gpenn@brzoninglaw.com.

Sincerely,

Graham Penn



1 EXISTING SITE PLAN
SCALE: 3/32 " = 1' - 0"



1 PROPOSED SITE PLAN
SCALE: 3/32 " = 1' - 0"

EXISTING TENANT AREA = 1,759 SF

SCOPE OF WORKS
INTERIOR TENANT IMPROVEMENT

THE WELL
SALES GALLERY

1160 KANE CONCOURSE
SUITE # 101
BAY HARBOR ISLANDS

ARCHITECT OF RECORD
KIRK WENG ARCHITECTS

7901 LUDLAM ROAD, SUITE 205
MIAMI, FLORIDA 33143
+1.305.851.3351

OWNER:
1177 BAY HARBOR ISLAND, LLC

3310 Mary Street, 2nd Floor
Coconut Grove, Florida 33133

INTERIOR DESIGNER
MEYER DAVIS

180 Varick St, Suite 404, New York, NY 10014
www.meyerdavis.com

M.E.P. ENGINEER:
L. Triana & Associates, Inc.

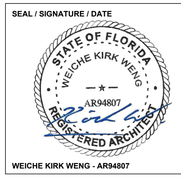
9701 SW 56th Street, Miami, FL 33165
Phone: 305.595.9765

CONSULTANT

CONSULTANT

CONSULTANT

SEAL / SIGNATURE / DATE



WEICHE KIRK WENG - AR94807

DIGITAL SIGNATURE (FOR DIGITAL SUBMISSION)

WEICHE KIRK WENG - AR94807

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Date	#	Revision
2022.01.14		ISSUED FOR PERMIT

Project No.: 2195
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SHEET INDEX

OVERALL
SITE PLAN

SCALE: 3/32" = 1'- 0"

A2.00

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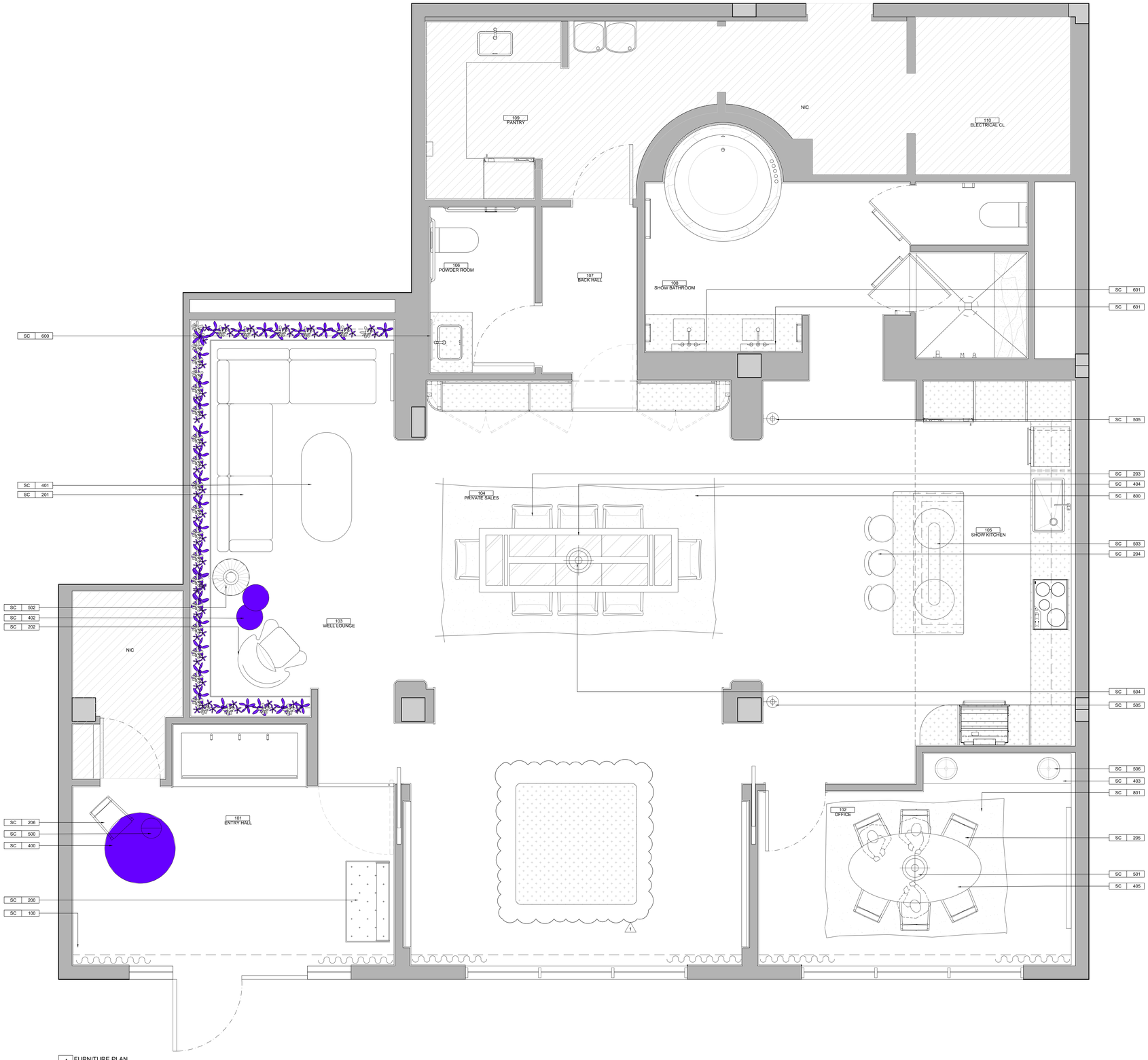

1 FURNITURE PLAN
SCALE:1/2" = 1'-0"

SYMBOL LEGEND

0'-0" FLR	INDICATES FINISH FLOOR HEIGHT
XX XXXX	DETAIL MARKER - DRAWING NUMBER/ SHEET NUMBER
100 DINING	ROOM NAME AND ROOM NUMBER
XX	MATERIAL TAG
XX XXX	INDICATES SECTION NUMBER
	WALL SCONCE
	TABLE LAMP
	BATTERY TABLE LAMP

FFE ABBREVIATIONS

XXX-100A	DRAPERY AND WINDOW TREATMENTS (WT)
XXX-200A	UPHOLSTERED GOODS + UPHOLSTERED GOODS FABRIC (UG) IE: SOFAS (INCLUDES SOFA SPECIFIC THROW PILLOWS), DINING CHAIRS, SIDE CHAIRS, BENCHES, OTTOMANS, LOOSE BANQUETTES, ASSOCIATED FABRIC FOR SEATING FURNITURE, ASSOCIATED THROW PILLOWS FOR SEATING FURNITURE.
XXX-300	CASEGOODS + CASEGOOD FABRIC (CG) IE: ATTACHED HEADBOARDS, DESKS, CONSOLES, VITRINES, CLOSETS, AND BANQUETTES, SHELVING.
XXX-400	TABLES (TA) IE: COFFEE, COCKTAIL, DINING, SIDE, END, CONSOLES, ETAGERES, DESKS
XXX-500	DECORATIVE LIGHTING (LL) IE: TABLE LAMPS, FLOOR LAMPS, PENDANTS, WALL SCONCES, CHANDELIERS, PICTURE LIGHTS
XXX-600	ACCESSORIES & ARTWORK (AC); REFER TO SPECS FOR ITEMIZED LIST
XXX-700	OSE (OS); REFER TO SPECS FOR ITEMIZED LIST
XXX-800	PLANTERS (PL); REFER TO SPECS FOR ITEMIZED LIST

KEY NOTES:

NOTE:
FABRICATOR TO COORDINATE WITH PROPERTY ENGINEER, PURCHASING AGENT, GENERAL CONTRACTOR & INSTALLER TO CONFIRM ALL FURNITURE PIECES ARE BUILT TO AN ACCEPTABLE SIZE AND WEIGHT TO ALLOW INSTALLATION THROUGH AREAS INCLUDING BUT NOT LIMITED TO SERVICE ENTRANCE, SERVICE ELEVATOR, CORRIDORS.

NOTE:
PROPOSED ARTWORK LOCATIONS TO BE COORDINATED WITH ART CONSULTANT.

THE WELL SALES GALLERY

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2022.06.24		100% CD SET
2022.09.07		100% CD SET REV. 1

Project No.: 2195
Drawn by:
Approved by:

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FURNITURE PLAN

SCALE:

ID-SC-205

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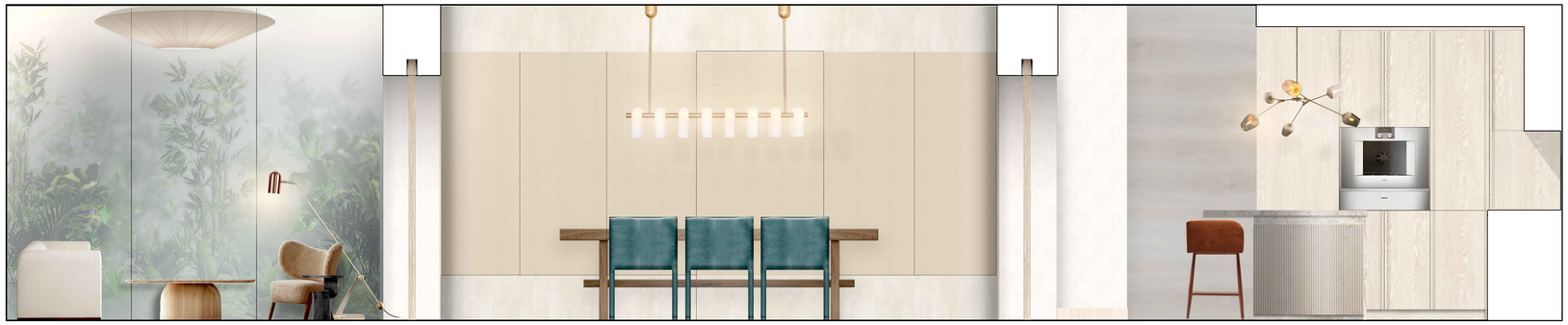

SALES CENTER LOUNGE/DINING/KITCHEN

SALES CENTER KITCHEN

SALES CENTER BATHROOM

		75% DD - SALES GALLERY DECEMBER 22, 2021	50% CD - SALES GALLERY APRIL 21, 2022	100% CD - SALES GALLERY JUNE 24, 2022	100% CD REV. 1 - SALES GALLERY SEPTEMBER 9, 2022
INTERIOR DESIGN PACKAGE - SALES GALLERY					
DWG NO	**DRAWING NAME**				
ID-SC-000	TITLE SHEET & INDEX	X	X	X	X
ID-SC-000.1	GENERAL NOTES	X	X	X	X
ID-SC-201	SALES CENTER - CONSTRUCTION PLAN	X	X	X	X
ID-SC-202	SALES CENTER - RCP PLAN	X	X	X	X
ID-SC-203	SALES CENTER - POWER PLAN	X	X	X	X
ID-SC-204	SALES CENTER - FINISH PLAN	X	X	X	X
ID-SC-205	SALES CENTER - FURNITURE PLAN	X	X	X	X
	SALES CENTER - INTERIOR ELEVATIONS				
ID-SC-400	SALES CENTER - INTERIOR ELEVATIONS	X	X	X	X
ID-SC-401	SALES CENTER - INTERIOR ELEVATIONS	X	X	X	X
ID-SC-402	SALES CENTER - INTERIOR ELEVATIONS	X	X	X	X
ID-SC-403	SALES CENTER - INTERIOR ELEVATIONS	X	X	X	X
	SALES CENTER - ARCHITECTURAL DETAILS				
ID-SC-500	WALL AND TRIM DETAILS		X	X	X
ID-SC-501	CEILING DETAILS		X	X	X
ID-SC-502	FLOOR/TRANSITION DETAILS		X	X	X
ID-SC-503	BATHROOM DETAILS		X	X	X
ID-SC-503.1	BATHROOM DETAILS		X	X	X
	SALES CENTER - DOOR DETAILS				
ID-SC-600	DOOR TYPES		X	X	X
ID-SC-601	DOOR DETAILS		X	X	X
ID-SC-602	DOOR DETAILS		X	X	X
	SALES CENTER - MILLWORK DETAILS				
ID-SC-700	MILLWORK DETAILS			X	X
ID-SC-701	MILLWORK DETAILS			X	X

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SHEET INDEX

TITLE PAGE

SCALE:

T-100

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100% CONSTRUCTION DOCUMENTS, REV. 1 - SALES CENTER

SEPTEMBER 9, 2022

THE WELL RESIDENCES

1160 KANE CONCOURSE, STE. 101 BAY HARBOR ISLANDS, FL 33154