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 mute or turn off your cell phone or electronic devices at the start of the meeting. Thank you.

TOWN OF BAY HARBOR ISLANDS
MORRIS N. BROAD COMMUNITY CENTER
1175 95TH STREET
BAY HARBOR ISLANDS, FL 33154

REGULAR COUNCIL MEETING
AGENDA

November 8, 2023
7:00 PM

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 in being barred from the meeting. Persons exiting the Chambers shall do so quietly.

SPECIAL NOTICE

A Regular Meeting of the Town Council of the Town of Bay Harbor Islands will take place in-person and virtually through the Zoom platform, on Wednesday, November 8, 2023, at 7:00 p.m.

"In an effort to provide greater public access and comment on pending matters, the Town of Bay Harbor Islands is providing a Zoom link to enable members of the public to comment on pending items on the Town Council agenda. Zoom access is provided under the same terms and conditions as in-person access, including length of time and decorum. Anyone desiring to be heard may utilize the Zoom link. However, members of the public must understand that the provision of Zoom access for comments is a courtesy, not a vested right, and that access is provided subject to the availability and functionality of the Town's equipment. There is no guarantee that internet service will be reliable or that the Town's equipment will function as intended. In the event that the Zoom access is unavailable or interrupted for any reason, the Town Council meeting will still proceed forward, and will not be stopped or rescheduled in any regard. Those wishing to be absolutely certain that their comments are heard by the Town Council should present themselves in person at the Council meeting and seek recognition, or alternatively, should submit their comments in advance of the meeting in writing to the Town Clerk, and ask that they be read into the record, subject to the above terms and conditions, such as length and decorum. The validity of any actions taken by the Town Council will in no way be affected by the use or functionality of Zoom access for comments."

Zoom Meeting Link: https://us06web.zoom.us/j/88285349884
Meeting ID: 882 8534 9884

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

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

US Toll Free Numbers: 877 853 5247 or 888 788 0099
For higher quality, dial a number based on your current location:
US: (305) 224-1968 or 1 (312) 626-6799 or 1 (646) 558-8656 or 1 (301) 715-8592

Meeting ID: 882 8534 9884
Participant ID: Press the # key.

To request to speak: Dial *9 on your telephone device to activate the "Raise your Hand" feature on the Zoom platform.

Members of the Public can also submit their request to speak and/or comments via email to the Office of the Town Clerk at yhamilton@bayharborislands-fl.gov prior to 5:00 p.m. on the day of the meeting.

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

PLEDGE OF ALLEGIANCE:

ROLL CALL:

SPECIAL PRESENTATION:

1. Introduction of Police Captain Joseph "Joe" Locke.
2. Introduction of New Police Officer Agnes Lafrance.

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.)*

4. **Consideration** and **Approval** of a project agreement from Kimley-Horn and Associates, Inc., in the amount of $95,765, for the replacement and upgrade of the 100th Street Ejector Station to increase system capacity for proposed developments. Enclosed is the Project Agreement.

5. **Consideration** and **Approval** of the Regular Council Meeting dates for the 2024 calendar year. Enclosed is a list of the proposed dates.

6. **Consideration** and **Approval** of a Resolution for the Third Extension of the Lease Agreement between the Sunshine Gasoline Distributors, Inc., and the Town of Bay Harbor Islands for operation of a motor fuel service station and convenience store at 1501 Broad Causeway, Bay Harbor Islands, Florida. Enclosed is the proposed resolution and Lease Extension Document.

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF BAY HARBOR ISLANDS, FLORIDA, PROVIDING FOR THE APPROVAL OF THE THIRD LEASE EXTENSION AGREEMENT BETWEEN THE TOWN OF BAY HARBOR ISLANDS AND SUNSHINE GASOLINE DISTRIBUTORS, INC., A FLORIDA CORPORATION; PROVIDING FOR INCORPORATION OF RECITALS; PROVIDING FOR AN EFFECTIVE DATE.

7. **Consideration** and **Approval** of a resolution awarding a contract for Invitation to Bid (ITB) NO., ITB- 5-1011-PW-0-2023/FVR, Indian Creek Structural Bridge Repairs Project BC-159, to Lead Engineering Contractors, LLC in an amount of $1,963,014.84. Enclosed are the proposed resolution, ITB, and other supporting documents.

A RESOLUTION OF TOWN COUNCIL OF THE TOWN OF BAY HARBOR ISLANDS, AWARDING THE CONTRACT FOR INVITATION TO BID NO.- 5-1011-PW-0-2023/FVR-INDIAN CREEK STRUCTURAL BRIDGE REPAIRS PROJECT BC-159, TO LEAD ENGINEERING CONTRACTORS, LLC, THE LOWEST RESPONSIBLE AND RESPONSIVE BIDDER, AUTHORIZING EXPENDITURE OF FUNDS; PROVIDING FOR INCORPORATION OF RECITALS; PROVIDING FOR AN EFFECTIVE DATE.

8. **Consideration** and **Approval** to expend the first installment payment of $80,000 allocated in Fiscal Year 2023-2024 budget to MARK43 for acquisition of a new Records Management System and Computer Aided Dispatch System at a total cost of $406,608, under a five-year contract. The Capital Project will be spaced over a five-year payment schedule as listed below. This purchase will be made under the piggyback purchase provision pursuant to Section 2-1.2(6) of the Town Code, which allows for use of contracts from another governmental agency that has been through a competitive bidding process for similar items/services.

9. **Consideration** and **Approval** of a Resolution condemning the terrorist attacks against the State of Israel and expressing support for Israel's people. Enclosed is the proposed resolution. Sponsored by Vice Mayor Joshua Fuller.

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF BAY HARBOR ISLANDS, FLORIDA, CONDEMNING THE TERRORIST ATTACKS AGAINST THE STATE OF ISRAEL AND EXPRESSING SUPPORT FOR ISRAEL'S PEOPLE; PROVIDING FOR INCORPORATION OF RECITALS; PROVIDING FOR DISTRIBUTION; AND PROVIDING FOR AN EFFECTIVE DATE.

10. **Consideration** and **Approval** of a resolution awarding Engineering Consulting Services Continuing contracts for RFQ-5-1005-0-2023/FVR, to 300 Engineering Group, CHA Consulting, Calvin, Giordano, & Associates, Atkins North America, and Chen Moore and Associates. The term of the contracts shall be for two (2) years with the Town's option to extend for up to three (3) additional one (1) year terms. Enclosed are the proposed resolution, agreements, and other supporting documents.

A RESOLUTION OF TOWN COUNCIL OF THE TOWN OF BAY HARBOR ISLANDS, FLORIDA, AWARDING ENGINEERING AND ARCHITECTURAL CONSULTING SERVICES CONTINUING CONTRACTS FOR RFQ-5-1005-0-2023/FVR TO 300 ENGINEERING GROUP, CHA CONSULTING, CALVIN, GIORDANO & ASSOCIATES, ATKINS NORTH AMERICA, AND CHEN MOORE AND ASSOCIATES; PROVIDING FOR INCORPORATION OF RECITALS; AND PROVIDING FOR AN EFFECTIVE DATE.

11. **Consideration** and **Approval** of resolution awarding a contract to V Engineering for Invitation to Bid (ITB) No. -5-1009-PW-0-2023/FVR – Seawall Replacement pertaining to Project Number BC-163- Seawall Replacement Project, at a cost of $240,000.00. Enclosed are the proposed resolution and other supporting documents.

A RESOLUTION OF TOWN COUNCIL OF THE TOWN OF BAY HARBOR ISLANDS, AWARDING THE CONTRACT FOR INVITATION TO BID NO.-5-1009-PW-0-2023/FVR-SEAWALL REPLACEMENT TO V ENGINEERING CORP, THE LOWEST RESPONSIBLE AND RESPONSIVE BIDDER, AUTHORIZING EXPENDITURE OF FUNDS; PROVIDING FOR INCORPORATION OF RECITALS; PROVIDING FOR AN EFFECTIVE DATE.

12. **Consideration** and **Approval** of a resolution authorizing the Town Manager to execute Grant Agreement LPA0459 with the State of Florida Department of Environmental Protection for receipt of $250,000 in grant funding for the Town's Ejector Pump/Manhole Replacement Project. Enclosed are the proposed resolution and the grant agreement.

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF BAY HARBOR ISLANDS, FLORIDA, AUTHORIZING THE TOWN MANAGER TO EXECUTE A GRANT AGREEMENT WITH THE STATE OF FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION (FDEP) FOR THE TOWN TO RECEIVE $250,000 IN GRANT FUNDING FOR THE EJECTOR PUMP/MANHOLE REPLACEMENT PROJECT; PROVIDING FOR INCORPORATION OF RECITALS; PROVIDING FOR IMPLEMENTATION; AND PROVIDING FOR AN EFFECTIVE DATE.

13. **Consideration** of a resolution approving a proposal from Calvin Giordano & Associates, under the CCNA-Engineering Consulting Services Continuing Contract, to provide engineering services for the Community Center/ Parking Garage electrical upgrades and generator installation in the amount of $71,340. Enclosed are the proposed resolution and proposal.

A RESOLUTION OF TOWN COUNCIL OF THE TOWN OF BAY HARBOR ISLANDS, FLORIDA, APPROVING A PROPOSAL FROM CALVIN, GIORDANO & ASSOCIATES, INC., UNDER THE CCNA-ENGINEERING CONSULTING SERVICES CONTINUING CONTRACT, TO PROVIDE ENGINEERING SERVICES FOR THE COMMUNITY CENTER/PARKING GARAGE ELECTRICAL UPGRADES AND GENERATOR INSTALLATION; PROVIDING FOR INCORPORATION OF RECITALS; AUTHORIZING THE TOWN MANAGER TO CARRY OUT THE AIMS OF THIS RESOLUTION; PROVIDING FOR INCORPORATION OF RECITALS AND AN EFFECTIVE DATE.

14. **Consideration** of a Resolution ratifying and approving a contract with AlliedBean Demolition, Inc. for demolition of Town Hall Facilities (Police Department Building, the Annex Building, and the Public Works Dome) at a cost of $231,400.54 with an additional contingency of $50,000.00 related to Engineering from a Town Council approved engineering company and other ancillary expenses regarding demolition of Town Hall, under the piggyback purchase provision pursuant to Section 2-1.2(6) of the Town Code, which allows for use of contracts from another governmental agency that has been through a competitive bidding process for similar items/services. Enclosed are the proposed resolution and agreement. Sponsored by Council Member Stephanie Bruder.

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF BAY HARBOR ISLANDS, FLORIDA, RATIFYING AND APPROVING A CONTRACT WITH ALLIEDBEAN DEMOLITION, INC., UNDER THE PIGGYBACK PURCHASE PROVISION, PURSUANT TO SECTION 2-1.2(6) OF THE TOWN CODE, FOR DEMOLITION OF TOWN HALL FACILITIES; AUTHORIZING THE TOWN MANAGER TO CARRY OUT THE AIMS OF THIS RESOLUTION; PROVIDING FOR INCORPORATION OF RECITALS; AND PROVIDING FOR AN EFFECTIVE DATE.

STAFF RECOMMENDATION: **POLL VOTE**

ORDINANCES ON SECOND READING:

ORDINANCES ON FIRST READING:

15. **Consideration** and **Approval** of an ordinance on First Reading amending Section 23-12 of the Town Code entitled "General Provisions" by revising Section 23-12(26) to add padel ball to the outdoor recreational game court facilities allowed in the Town, modifying fencing regulations and providing for noise mitigation to accommodate this sport. Sponsored by Vice Mayor Fuller and Council Member Stephanie Bruder. Enclosed is the proposed ordinance.

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF BAY HARBOR ISLANDS, FLORIDA, AMENDING THE TOWN'S ZONING AND PLANNING CODE BY AMENDING SECTION 23-12 ENTITLED GENERAL PROVISIONS; AMENDING SECTION 23-12(26) RELATED TO OUTDOOR RECREATIONAL GAME COURT FACILITIES TO CLARIFY AND EXPAND THE TYPES OF GAME COURT FACILITIES ALLOWED AND TO MODIFY FENCING ALLOWANCES; PROVIDING FOR INCORPORATION OF RECITALS; PROVIDING FOR CONFLICT AND REPEALER; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

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

DEFERRED ITEMS:

3. Approval of the following Council Meeting Minutes:
   A. Regular Council Meeting - April 10, 2023
   B. Special Council Meeting - May 1, 2023
   C. Regular Council Meeting - May 10, 2023

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

16. **Consideration** and **Approval** of a private Transfer of Development Rights (TDR) transaction for three (3) dwelling units from 9110 West Bay Harbor Drive to the future Origin Multifamily Development to be located at 9740-9760 West Bay Harbor Drive. Enclosed are the Town Planner's Staff Report, application, Site Development Plans, and other supporting documents.

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

17. **Consideration** and **Approval** of a TDR transaction for the transfer of six (6) TDR units from the Town- owned "pool" of TDR units to the future Origin Multifamily Development project to be located at 9740- 9760 West Bay Harbor Drive. Enclosed are the Town Planner's Staff Report, the TDR application package, and applicant's Letter of Intent.

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

18. **Consideration and Approval** of a Resolution designating a weekday for Early Voting. Enclosed is the proposed Resolution.

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF BAY HARBOR ISLANDS, FLORIDA, DESIGNATING THE WEEKDAY FOR EARLY VOTING FOR THE APRIL 2, 2023 GENERAL ELECTION; AUTHORIZING THE TOWN CLERK TO CARRY OUT THE AIMS OF THIS RESOLUTION; PROVIDING FOR INCORPORATION OF RECITALS; AND PROVIDING FOR AN EFFECTIVE DATE.

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

19. **Consideration** and **Approval** of a Resolution adopting Town Council Public Comment Rules of Procedure and Decorum. Enclosed is the proposed resolution. Sponsored by Council Member Robert Yaffe.

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF BAY HARBOR ISLANDS, FLORIDA, ADOPTING TOWN COUNCIL PUBLIC COMMENT RULES OF PROCEDURE AND DECORUM; PROVIDING FOR INCORPORATION OF RECITALS AND AN EFFECTIVE DATE.

DISCUSSION ITEMS:

20. **Discussion** and **Possible** action regarding a resolution considering a recommendation by ATKINSREALIS and determining the Preferred Alternative for replacement of the Broad Causeway Bridge. Enclosed is a copy of the resolution.

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF BAY HARBOR ISLANDS, FLORIDA, CONSIDERING THE PROPOSAL FROM ATKINSREALIS FOR THE RECOMMENDATION OF THE BROAD CAUSEWAY BRIDGE REPLACEMENT PREFERRED ALTERANATIVE; AUTHORIZING THE TOWN MANAGER TO CARRY OUT THE AIMS OF THIS RESOLUTION; PROVIDING FOR INCORPORATION OF RECITALS; AND AN EFFECTIVE DATE.

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

ADJOURNMENT: Approximately 11:00 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

November 8, 2023

ITEM NUMBER: 1.

ITEM: Introduction of Police Captain Joseph "Joe" Locke.

DESCRIPTION:
Captain Joe Locke was born in New Brunswick, New Jersey. He began his service career in the US Army -New Jersey Army National Guard 50th Armor Division- as a Military Police Officer for six (6) years from 1988 to1994. He has served with the Bay Harbor Islands Police Department for over 26 years. Personally, Captain Locke is married to Dana, and they have one son and two daughters. Throughout his BHIPD career, he has acted in various roles on patrol, leadership positions, including Sergeant, Lieutenant, and just recently was acting as the number two Commanding Officer under the Chief of Police. He has received numerous commendations for his valor throughout his police career. He has been awarded Officer of the Year on three separate occasions. He has risen through the ranks with dignity and honor, which led to the successful promotion to Police Captain.

RECOMMENDED ACTION:

FINANCIAL ANALYSIS:
Currently, the Lieutenant position is non-exempt allowing for overtime. The Lieutenant is a senior command staff member with 26 years of service and his position has a base rate of pay of approximately $135,000. The Lieutenant averages approximately $41,219.00 in overtime each year for the last three (3) fiscal years.

The promotion of Lieutenant Joseph Locke to Captain is projected to reduce the overtime costs significantly because it is an exempt position. The approved budget amount for captain position for Fiscal Year 2023-24 is $158,000; the position has been unfilled for one month. The proposed annual rate of pay for Captain Joseph Locke is $162,000.

BUDGET IMPACT:

Submitted By: Analily Perez, Administrative Coordinator
Lindsley Noel

ATTACHMENTS

None

AGENDA ITEM REPORT

November 8, 2023

ITEM NUMBER: 2.

ITEM: Introduction of New Police Officer Agnes Lafrance.

DESCRIPTION:
Please welcome Officer Agnes Lafrance to the BHI Team. Her first day with the BHIPD was Tuesday, 10/24/2023. She was sworn-in by Town Manager Maria Lasday, Chief Lindsley Noel, and Town Clerk Yvonne Hamilton on Wednesday, October 25, 2023.

Agnes LaFrance was born in Nassau, Bahamas and raised in South Florida. She attended Miami Beach Senior High School. She is a twenty-year veteran of law enforcement and holds a bachelor's degree in law enforcement administration from Union Institute & University. She is looking forward to building a relationship with the community of Bay Harbor Islands.

RECOMMENDED ACTION:

FINANCIAL ANALYSIS:
The annual base salary of Officer Lafrance is approximately $69,451.20 according to the step payment plan documented in the Collective Bargaining Agreement (CBA).

BUDGET IMPACT:

Submitted By: Analily Perez, Administrative Coordinator
Lindsley Noel

ATTACHMENTS
None

AGENDA ITEM REPORT

November 8, 2023

ITEM NUMBER: 3.

ITEM: Approval of the following Council Meeting Minutes:
A. Regular Council Meeting - April 10, 2023
B. Special Council Meeting - May 1, 2023
C. Regular Council Meeting - May 10, 2023

DESCRIPTION:

RECOMMENDED ACTION:

FINANCIAL ANALYSIS:
There is no fiscal impact.

BUDGET IMPACT:

Submitted By: Yvonne Hamilton, Town Clerk

ATTACHMENTS
None

AGENDA ITEM REPORT

November 8, 2023

ITEM NUMBER: 4.

ITEM: Consideration and **Approval** of a project agreement from Kimley-Horn and Associates, Inc., in the amount of $95,765, for the replacement and upgrade of the 100th Street Ejector Station to increase system capacity for proposed developments. Enclosed is the Project Agreement.

DESCRIPTION:
The Scope of Services for this work shall include the removal of the existing ejector station and replacement with a new prefabricated submersible pump station with mechanical and electrical equipment, grinder pumps, pipes, valves, valve vault, and control panel.

The project objectives are as follows:
1. Evaluate the current and proposed wastewater capacities based on land use.
2. Evaluate pump station operating pressures to develop the proposed operating condition and the new pumping equipment requirements.
3. Evaluate available TOWN right-of-way (ROW) for new prefabricated pump station layout.
4. Minor gravity sewer and force main modifications may be required for connection of new prefabricated pump station.
5. Limited hydraulic modeling to confirm proposed pump station force main sizes and to analyze the two (2) existing 4" force mains running parallel along Broadview Terrace and Kane Concourse.
6. Provide professional services associated with project design, permitting, bid document development, and limited post-design services.

The project tasks are as follows:

- Task 1 – Topographic Survey/Site Visit/Preliminary Design
- Task 2 - 90% Design Submittal
- Task 3 - Final Design Submittal
- Task 4 – Permitting Services
- Task 5 - Post Design Services

RECOMMENDED ACTION:
Consideration and **Approval** of a Project Agreement from Kimley-Horn and Associates, Inc., in the amount of $95,765, for the replacement and upgrade of the 100th Street Ejector Station to increase system capacity for proposed developments. Enclosed is a copy of the project agreement.

FINANCIAL ANALYSIS:
$450,000 has been allocated in the Fiscal Year 2023-2024 adopted budget for the Ejector Station Replacement Project within the Sewer Fund Line Item, Account Number 402.5350.400063.000. The amount of $95,765 is being requested for the Professional Services required under the Scope of Services described above.

BUDGET IMPACT:

Name	Impact Date	Fund(s)	Account(s)	Project #(s)	Amount Budgeted
Ejector Station Replacement	11/08/2023	Sewer Fund (402)	402.5350.400063.000	BHI-252 Ejector Station Replacement	$1,680,000.00

Submitted By: Rodney Carrero-Santana, Town Engineer
Rodney Carrero-Santana, Town Engineer

ATTACHMENTS

1.	2023.06.08_100th Street Ejector Station Replacement Proposal

PROJECT AGREEMENT

Between

TOWN OF BAY HARBOR ISLANDS

And

Kimley-Horn and Associates, Inc.

For

100th Street Ejector Station Replacement

Pursuant to the provisions contained in the "Continuing Services Agreement for Professional Engineering Services" (hereinafter referred to "CONTINUING SERVICES AGREEMENT") between the TOWN OF BAY HARBOR ISLANDS (hereinafter referred to as "TOWN") and Kimley-Horn And Associates, Inc. (hereinafter referred to as "CONSULTANT") dated October 23, 2017, this Project Agreement authorizes the CONSULTANT to provide the services as set forth below.

The TOWN and CONSULTANT agree as follows:

SECTION 1. SCOPE OF SERVICES

1.1 The CONSULTANT shall provide professional services to the TOWN for the Project as described in the "Project Description" attached as Exhibit "1."

1.2 The "Scope of Services" and tasks to be provided by the CONSULTANT for this Project are those services and tasks as listed in Exhibit "2."

1.3 The TOWN may request changes that would increase, decrease, or otherwise modify the Scope of Services. Such changes must be contained in a written change order executed by the parties in accordance with the provisions of the Continuing Services Agreement, prior to any deviation from the terms of the Project Agreement, including the initiation of any extra work.

SECTION 2. DELIVERABLES

As part of the Scope of Services the CONSULTANT shall provide to the TOWN the following Deliverables:

See "Scope of Services" as listed in Exhibit "2."

SECTION 3. TERM/TIME OF PERFORMANCE/DAMAGE

3.1 **Term.** This Project Agreement shall commence on the date this instrument is fully executed by all parties and shall continue in full force and effect until the project is completed, unless otherwise terminated pursuant to Section 6 or other applicable provisions of this Project Agreement. The TOWN Manager, in his sole discretion, may extend the term of this Agreement through written notification to the CONSULTANT. Such extension shall not exceed 90 days. No further extensions of this Agreement shall be effective unless authorized by the TOWN Council

3.2 **Commencement.** The CONSULTANT'S services under this Project Agreement and the time frames applicable to this Project Agreement shall commence upon the date provided in a written Notification of Commencement ("Commencement Date") provided to the CONSULTANT from the TOWN. The CONSULTANT shall not incur any expenses or obligations for payment to third parties prior to the issuance of the Notification of Commencement. CONSULTANT must receive written notice from the TOWN Manager prior to the beginning the performance of services.

3.3 **Contract Time.** Upon receipt of the Notification of Commencement, the CONSULTANT shall commence services to the TOWN on the Commencement Date, and shall continuously perform services to the TOWN, without interruption, in accordance with the time frames set forth in Exhibit "2". The number of calendar days from the Commencement Date, through the date set forth in the Project Schedule for completion of the Project or the date of actual completion of the Project, whichever shall last occur, shall constitute the Contract Time.

3.4 All limitations of time set forth in this Agreement are of the essence.

SECTION 4. AMOUNT, BASIS AND METHOD OF COMPENSATION

4.1 **Lump Sum Compensation.** TOWN agrees to pay CONSULTANT as compensation for performance of all services as related to the Project a Lump Sum of **$95,765.00**. It is understood that the method of compensation is that of Lump Sum which means that CONSULTANT shall perform all services set forth for total compensation in the amount stated above. Said Lump Sum includes but is not limited to, compensation for all fees, expenses, and out-of-pocket costs of the CONSULTANT.

4.2 **Reimbursables.** It is acknowledged and agreed to by CONSULTANT that the lump sum set forth in Section 4.1 includes Direct Expenses and describes the maximum extent of, TOWN'S obligation to reimburse CONSULTANT for direct, nonsalary expenses, but does not constitute a limitation of any sort, upon CONSULTANT's obligation to incur such expenses in the performance of services hereunder.

SECTION 5. BILLING AND PAYMENTS TO THE CONSULTANT

5.1 **Invoices**

5.1.1 **Lump Sum Compensation.** CONSULTANT shall submit invoices which are identified by the specific project number on a monthly basis in a timely manner. These invoices shall identify the nature of the work performed, the phase of work, and the estimated percent of work accomplished in accordance with the Payment Schedule as shown on Exhibit "3", attached hereto and made a part of this Agreement. Invoices for each phase shall not exceed the amounts allocated to said phase.

5.2 **Disputed Invoices.** In the event that all or a portion of an invoice submitted to the TOWN for payment to the CONSULTANT is disputed, or additional backup documentation is required, the TOWN shall notify the CONSULTANT within fifteen (15) working days of receipt of the invoice of such objection, modification or additional documentation request. The CONSULTANT shall provide the TOWN with a written response and any additional information requested by the TOWN within five (5) working days of the date of the TOWN's notice. The TOWN may request additional information, including but not limited to, all invoices, time records, expense records, accounting records, and payment records of the CONSULTANT. The TOWN, at its sole discretion, may pay to the CONSULTANT the undisputed portion of the invoice. The parties shall endeavor to resolve the dispute in a mutually agreeable fashion.

5.3 **Suspension of Payment.** In the event that the TOWN becomes credibly informed that any representations of the CONSULTANT, provided pursuant to Subparagraph 5.1, are wholly or partially inaccurate, or in the event that the CONSULTANT is not in compliance with any term or condition of this Project Agreement, the TOWN may withhold payment of sums then or in the future otherwise due to the CONSULTANT until the inaccuracy, or other breach of Project Agreement, and the cause thereof, is corrected to the TOWN's reasonable satisfaction.

5.4 **Final Payment.** Submission of the CONSULTANT'S invoice for final payment and reimbursement shall constitute the CONSULTANT'S representation to the TOWN that, upon receipt from the TOWN of the amount invoiced, all obligations of the CONSULTANT to others, including its consultants, incurred in connection with the Project, shall be paid in full. The CONSULTANT shall deliver to the TOWN all documents requested by the TOWN evidencing payments to any and all subcontractors, and all final specifications, plans, or other documents as dictated in the Scope of Services and Deliverable. Acceptance of final payment shall constitute a waiver of any and all claims against the TOWN by the CONSULTANT.

SECTION 6. TERMINATION/SUSPENSION

6.1 **For Cause.** This Agreement may be terminated by either party upon three (3) calendar days' written notice to the other party should such other party fail substantially to perform in accordance with its material terms through no fault of the party initiating the termination. In the event that CONSULTANT abandons this Agreement or causes it to be terminated by the

TOWN, the CONSULTANT shall indemnify the TOWN against any loss pertaining to this termination. In the event that the CONSULTANT is terminated by the TOWN for cause and it is subsequently determined by a court of competent jurisdiction that such termination was without cause, such termination shall thereupon be deemed a termination for convenience under Section 6.2 of this Project Agreement and the provision of Section 6.2 shall apply.

6.2 **For Convenience.** This Agreement may be terminated by the TOWN for convenience upon five (5) calendar days' written notice to the CONSULTANT. In the event of termination, the CONSULTANT shall incur no further obligations in connection with the Project and shall, to the extent possible terminate any outstanding subconsultant obligations. The CONSULTANT shall be compensated for all services performed to the satisfaction of the TOWN and reimbursable expenses incurred prior to the date of termination. In such event, the CONSULTANT shall promptly submit to the TOWN its invoice for final payment and reimbursement which invoice shall comply with the provisions of Paragraph 5.1. Under no circumstances shall the TOWN make any payment of profit to the CONSULTANT for services which have not been performed.

6.3 **Assignment upon Termination.** Upon termination of this Project Agreement, the work product of the CONSULTANT shall become the property of the TOWN and the CONSULTANT shall, within ten (10) working days of receipt of written direction from the TOWN, transfer to either the TOWN or its authorized designee, a copy of all work product in its possession, including but not limited to, designs, specifications, drawings, studies, reports and all other documents and data in the possession of the CONSULTANT pertaining to this Project Agreement. Upon the TOWN'S request, the CONSULTANT shall additionally assign its rights, title and interest under any subcontractor's agreements to the TOWN.

6.4 **Suspension for Convenience**. The TOWN shall have the right at any time to direct the CONSULTANT to suspend its performance, or any designated part thereof, for any reason whatsoever or without reason, for a cumulative period of up to 30 calendar days. If any such suspension is directed by the TOWN, the CONSULTANT shall immediately comply with same. In the event the TOWN directs a suspension of performance as provided for herein, through no fault of the CONSULTANT, the TOWN shall pay to the CONSULTANT as full compensation for such suspension the CONSULTANT'S reasonable cost, actually incurred and paid, of demobilization and remobilization.

SECTION 7. PERSONNEL ASSIGNED TO PROJECT

7.1 The CONSULTANT shall assign only qualified personnel to perform any services concerning this Project. At the time of execution of this Agreement, the parties anticipate that the following named individuals will perform those supervisory or primary functions indicated:

NAME	FUNCTION
Marissa Maring	Project Manager

Gary Ratay	Senior Engineer
Stefano Viola	Professional Engineer
Stephen LaBonia	Engineer
Angel Turpin	Engineer
Jeffrey Sallee	Electrical Engineering
Luis Guerra	Inspector
Shanda Layne	Administrative
Casey Crozier	Administrative

So long as the individuals named above remain actively employed or retained by the CONSULTANT, they shall perform the functions indicated next to their names. Furthermore, the TOWN reserves the right to reject any proposed substitution for any of the above-named individuals, and the TOWN shall have the further right to require that any individual assigned to the Project by the CONSULTANT be removed from the Project and reassigned for good cause.

SECTION 8. INCORPORATION OF CONTINUING SERVICES AGREEMENT

All terms and conditions of the "Continuing Service Agreement" between the TOWN and the CONSULTANT dated October 23, 2017, not specifically modified by this Project Agreement shall remain in full force and effect and are incorporated into and made a part of this Project Agreement by this reference as though set forth in full.

SECTION 9. SEVERABILITY

If any provision of this Project Agreement or its application to any person or situation shall to any extent, be invalid or unenforceable, the remainder of this Project Agreement, and the application of such provisions to persons or situations other than those to which it shall have been held invalid or unenforceable shall not be affected thereby, and shall continue in full force and effect, and be enforced to the fullest extent permitted by law.

[THE REST OF THIS PAGE INTENTIONALLY LEFT BLANK.]

IN WITNESS WHEREOF, the parties hereto have made and executed this Agreement on the respective dates under each signature: The TOWN, signing by and through its _Town Manager_, attested to by its Town Clerk, duly authorized to execute same, and by CONSULTANT, by and through its __Vice President__, duly authorized officer to execute same.

TOWN
TOWN OF BAY HARBOR ISLANDS

By:_____

The _____ day of _____, 2023

AUTHENTICATION:

_____
Town Clerk

(SEAL)

APPROVED AS TO FORM

_____
Town Attorney

CONSULTANT
KIMLEY-HORN AND ASSOCIATES, INC.

By:_____
Print Name: Gary R. Ratay, P.E.
Title: Vice President

The _____ day of _____, 2023

AUTHENTICATE:

_____
Secretary

_____
Print Name

(CORPORATE SEAL)

WITNESSES:

_____
Print Name: _____

_____
Print Name: _____

Exhibit "1"

Project Description

The CONSULTANT is pleased to submit this proposal for the replacement and upgrade of the TOWN's 100th Street Ejector Station to increase system capacity for proposed development, improve system efficiency, and reduce system maintenance. The work shall include the removal of the existing ejector station and replacement with a new prefabricated submersible pump station with mechanical and electrical equipment, grinder pumps, pipes, valves, valve vault, and control panel.

The project objectives are as follows:

1. Evaluate the current and proposed wastewater capacities based on land use.
2. Evaluate pump station operating pressures to develop the proposed operating condition and the new pumping equipment requirements.
3. Evaluate available TOWN right-of-way (ROW) for new prefabricated pump station layout.
4. Minor gravity sewer and force main modifications may be required for connection of new prefabricated pump station.
5. Limited hydraulic modeling to confirm proposed pump station force main sizes and to analyze the two (2) existing 4" force mains running parallel along Broadview Terrace and Kane Concourse.
6. Provide professional services associated with project design, permitting, bid document development, and limited post design services.

Exhibit "2"

Scope of Services

The scope of services will be completed by CONSULTANT and its sub-consultant Stoner & Associates, Inc. for field surveying and Tierra of South Florida for geotechnical. The following tasks will be performed in close coordination with TOWN staff.

Task 1 – Topographic Survey/Site Visit/Preliminary Design

1.1 The CONSULTANT will provide a topographic and tree survey prepared by a Florida registered professional land surveyor meeting horizontal and vertical requirements for design survey. The survey will be used as the site plan for the proposed pump station improvements. During this phase, the CONSULTANT will perform the following tasks:

- The topographic survey will extend to the right of way lines.
- The survey will go 25' past the radius return along each street.
- Establish horizontal and vertical control points to support the survey efforts.
- Vertical control (elevations) will be based on National Geodetic Vertical Datum of 1929 (NGVD29).
- Horizontal control will be based on the Florida State Plane Coordinates System, East Zone, North American Datum of 83/90.
- Elevations will be measured approximately every 50 feet, at centerline and edges of pavement and high and low spots.
- Locate surface features within the survey limits as follows: pavement, driveways, paved swales, sidewalks, slabs, back of curbs, walls, fences, and signage.
- Locate visible surface evidence of utilities as follows: utility poles, guy wires, street lighting, storm sewer structures, sanitary sewer structures, wire pull boxes, cable enclosures, utility cabinets, valves, valve boxes, meter boxes, backflow preventers, fire hydrants, and overhead utilities.
- Measure the rim and invert elevation of sanitary and storm sewer structures that are accessible. Determine pipe types, size, and flow direction, when possible. Structures located within active roadways will be as-built at the field crew's discretion, based on safety considerations.
- Locate road pavement striping.
- Locate hedges and trees 3" in diameter or larger. Denote diameter and common tree name only.
- Prepare a Tree Table which lists each tree species by common name, survey point number, and trunk diameter.
- Tie in any subdivision corners, lot corners and plat corners which can be located along the right-of-way lines. Depict easements and right-of-way lines on the survey for informational purposes only.
- Easements will be based on information obtained from record plats.
- The drafting scale of the survey will be 1" = 20' unless otherwise specified by the TOWN.

1.2 This task will include one (1) site visit to truth the survey obtained in Subtask 1.1, obtain, and review available ejector station and electrical service information. The TOWN will provide the CONSULTANT with available ejector station operating data such as operating cycles, asbuilt/record drawings, force main plans from ejector station to discharge manhole, and future wastewater flow data based on proposed redevelopment.

1.3 The site visit will include review of existing conditions, available electrical service, constructability impacts, known deficiencies and discussions on proposed project improvements.

1.4 Based on preliminary site observations, the CONSULTANT will provide a preliminary design to reflect the removal of the ejector station and the proposed prefabricated pump station equipment installation. The preliminary design will be conceptual/schematic to establish preliminary plan sheets and a project approach for mechanical and electrical improvements.

1.5 The CONSULTANT will attend one (1) meeting with the TOWN to discuss the preliminary design approach prior to proceeding with 90% Design.

Data To Be Provided By Owner:

- Construction plans for the existing ejector station.
- Available ejector station operating data and force main plans from ejector station to discharge manhole.
- Delineation of the ejector station's current wastewater contributors and proposed development within the ejector station basin.
- Existing capacity and operating conditions for 96th Street Ejector Station basin.

Deliverables:

- Basemap survey plan in digital AutoCAD and PDF formats prepared by a professional land surveyor registered in the State of Florida.
- One (1) signed/sealed hardcopy of site survey.
- Preliminary Design.

Task 2 - 90% Design Submittal

2.1 In addition to the information obtained as part of the topographic site survey and site visit/preliminary design task, the CONSULTANT shall perform the following 90% design items:

- Perform a pump station capacity analysis based on the TOWN properties
- Review of existing force main plans from ejector station to discharge manhole
- Develop pump station capacity memorandum
- Develop control system and electrical service requirements
- Develop demolition requirements

2.2 Based on the preliminary design development, the CONSULTANT shall prepare a 90% design submittal. The 90% design submittal shall include the following:

- Cover Sheet
- Site plan
- Pump station improvements in plan and cross section
- Controls and electrical service plans
- General construction notes and details

2.3 The CONSULTANT shall conduct a geotechnical investigation at the proposed prefabricated pump station location for utility improvements. The scope of work includes up to one (1) standard penetration test (SPT) boring to a depth of 20 feet at the proposed pump station location. This report shall be signed and sealed by a Professional Engineer registered in the State of Florida and shall contain, at a minimum, project vicinity map, plan view showing the location of borings, basis and results of tests performed, detailed description of findings, recommendations, and an executive summary.

2.4 Based on TOWN provided data, the CONSULTANT shall perform hydraulic modeling (limited to the two (2) existing 4" force mains running parallel along Broadview Terrace and Kane Concourse) and data analysis to evaluate pipe sizes, capacity and pressure requirements. No proposed force main improvements for construction associated with this task or this scope of services.

2.5 The CONSULTANT shall submit 90% plans for TOWN review. The design drawings shall be submitted on 11" x 17" plan sheets.

2.6 The CONSULTANT shall prepare a preliminary opinion of probable cost (OPC) as part of the 90% design submittal for review by the TOWN.

2.7 The CONSULTANT will prepare bid documents that include technical specifications and bid form that will list the separate pay items, estimated quantities, and units. The TOWN will incorporate the CONSULTANT provided bid documents into their Front-End contract documents for bidding.

2.8 The CONSULTANT shall attend one (1) coordination meeting with the TOWN to address review comments.

Deliverables:

- Pump station capacity memorandum.
- 90% Design Submittal.
- Geotechnical report.
- Hydraulic analysis memorandum.
- Preliminary OPC.

- Technical Specifications and Bid Form.

Task 3 - Final Design Submittal

3.1 The CONSULTANT shall incorporate the remaining review comments from 90% design submittal and permitting agencies in the Final design submittal. The Final design submittal shall be complete.

3.2 The CONSULTANT shall submit the Final design submittal for TOWN review. The Final design submittal will include the bid documents and design drawings. The design drawings shall be submitted on 11" x 17" plan sheets.

3.3 The CONSULTANT shall prepare an updated OPC as part of the Final design submittal.

3.4 The CONSULTANT shall attend one (1) coordination meeting with the TOWN to address review comments.

3.5 Once comments are addressed, or if no comments or corrections are necessary, the CONSULTANT shall submit the Final design submittal to the TOWN.

Deliverables:

- Final Design Submittal.
- Final OPC.

Task 4 – Permitting Services

4.1 In addition to the construction plans and technical specifications, the CONSULTANT will prepare an Engineering Report with hydraulic analysis associated with the proposed pump station. The Engineering Report is required as part of the Miami-Dade County Department of Regulatory and Environmental Resources Division of Environmental Management (RER-DERM) permitting process.

4.2 The CONSULTANT will prepare permit applications for submittal to RER-DERM. Coordination with Miami-Dade County Water and Sewer Department (WASD) will also be required as the receiving wastewater treatment plant. All permit applications will require TOWN signatures. All permit fees shall be paid by the TOWN. The CONSULTANT will address up to two requests for information from RER-DERM and WASD. No other permits are anticipated or included in this scope of work.

4.3 The CONSULTANT will provide construction plans to the TOWN's Building Department for a cursory review and respond to one (1) round of comments prior to bidding the project.

Deliverables:

- Engineering Report
- Permit application package.

Task 5 - Post Design Services

The following Post Design Services are based on an anticipated construction duration of 240 days:

5.1 The CONSULTANT shall review TOWN-provided construction documentation and photographs as required for project certification.

5.2 The CONSULTANT shall attend the prefabricated pump station startup to observe and verify pump station performance. Actual startup services and performance documentation will be the Contractor/pump vendor's responsibility.

5.3 Once the Contractor advised that the project punch list is complete, the CONSULTANT shall participate in a final completion site visit to confirm all items have been addressed.

5.4 The CONSULTANT shall review as-built drawings provided by the Contractor, provide written comments, and recommend submittal action to the TOWN.

5.5 The CONSULTANT shall coordinate permit closeout processes for the various agencies as discussed above.

The Consultant shall not be responsible for the acts or omissions of any Contractor or subcontractor, any of the Contractor(s)' or subcontractor(s)' agents or employees, or any other persons (except the Consultant's own employees and agents) at the site or otherwise performing any of the Contractor(s)' work.

PROJECT ASSUMPTIONS

Based on removing the existing ejector station and proposing a new prefabricated pump station in place, the following assumptions pertain to this scope of work:

- No modifications or improvements associated with force main piping outside of the pump station structures are anticipated or included. The force main analysis provided as part of Subtask 2.4 is for informational purposes only.
- The proposed prefabricated pump station is equipped with a standard control panel. Custom control panel design will require additional services.
- The TOWN shall utilize their Front End documents to develop final bid documents.
- The TOWN will provide all permit application fees.
- No utility easements will be required for prefabricated pump station improvements.
- No emergency generator for the prefabricated pump station is required.
- No roadway or sidewalk design/improvements are required.

- No drainage design/improvements are required.
- No bidding assistance included in this scope of services.
- The following construction phase services are not included in this scope of services and will require additional services, if requested to be performed by the TOWN:
    - Pre-construction meeting
    - Construction progress meeting(s)
    - Shop drawing review
    - Inspector site visit(s)
    - RFI review
    - Pay application review
    - Test report review
    - Change order review
    - Substantial completion site visit
- Additional services will be required if construction duration exceeds 240 days.

SCHEDULE

The CONSULTANT shall perform the services identified in Tasks 1 – 4 within 240 days of the written Notice to Proceed. Task 5 shall be determined based on the bid dates and construction award period.

Exhibit "3"

Payment Schedule

The CONSULTANT will complete this scope of services for the lump sum amount of **$95,765.00.** The following is a breakdown of the lump sum fee for reference:

Task	Description	Labor Fee
1	Topographic Survey/Site Visit/Preliminary Design	$12,730
2	90% Design Submittal	$43,310
3	Final Design Submittal	$13,895
4	Permitting Services	$12,500
5	Post Design Services	$13,330
	TOTAL LUMP SUM FEE	**$95,765**

Kimley»Horn

WORK PLAN - FEE SCHEDULE

PROJECT:	100th Street Ejector Station Replacement	SHEET:	
CLIENT:	Town of Bay Harbor Islands	PROJECT NO.	
ESTIMATOR:	Marissa Maring	DATE:	06/08/23

DESCRIPTION:	Senior Engineer	Project Manager	Project Engineer	Engineer	Junior Engineer	Support Specialist	Inspector	Survey Sub	Geotech Sub	Expenses	Line Total	Task Total
Task 1 - Topographic Survey/Site Visit/Preliminary Design												
Specific purpose topographic site survey		1		4		1		$3,200.00			$4,225.00	
Initial project site visit	3	3									$1,620.00	
Existing system data collection and review		2		4							$1,160.00	
Prepare preliminary design	1	4		4							$1,960.00	
Prepare preliminary design, electrical	1	4		4							$1,960.00	
Submit preliminary design and meet with Town		4		4		1					$1,805.00	$12,730.00
Task 2 - 90% Design Submittal												
Incorporate preliminary design Town comments		2		6							$1,480.00	
Perform capacity analysis and prepare memorandum		2		8		1					$1,925.00	
Review existing operating pressures and develop pump station conditions of service	1	2		8							$2,080.00	
Develop control system and electrical service requirements		8		12							$4,000.00	
Develop demolition requirements		3		6							$1,740.00	
Prepare 90% plan set	1	8		15							$4,760.00	
Prepare 90% plan set, electrical	1	8		15							$4,760.00	
Geotechnical investigation		1		4					$9,400.00		$10,300.00	
Force main hydraulic analysis	2	4		10							$3,200.00	
Prepare preliminary Opinion of Probable Cost (OPC)		4		10							$2,640.00	
Prepare bid documents and bid form	2	10		10		4					$5,260.00	
Submit 90% plan set package and meet with Town		4				1					$1,165.00	$43,310.00
Task 3 - Final Design Submittal												
Incorporate 90% Town comments and permit agency comments		2		6							$1,480.00	
Prepare Final plan set	1	6		6							$2,800.00	
Prepare Final plan set, electrical	1	6		6							$2,800.00	
Prepare Final bid documents	1	8		10		2					$4,210.00	
Prepare Final OPC	1	2		4							$1,440.00	
Submit Final plan set package and meet with Town		4				1					$1,165.00	$13,895.00
Task 4 - Permitting Services												
Prepare engineering report	2	8		8							$3,920.00	
Prepare permit application package		2		8		2					$2,050.00	
Coordinate with WASD		4		4							$1,680.00	
Submit permit application package to RER-DERM		4		8		1					$2,445.00	
Respond to reasonable permit comments	1	4		6		1					$2,405.00	$12,500.00
Task 5 - Post Design Services												
Coordinate and review Town-provided construction documentation	3	8		8		1					$4,325.00	
Attend pump station start-up meeting	3	3					3				$1,965.00	
Perform final completion site visit	2	2					2				$1,310.00	
As-built review		4		6		1					$2,125.00	
Permit close out		6		12		1					$3,605.00	$13,330.00

Kimley»Horn

WORK PLAN - FEE SCHEDULE

PROJECT:	100th Street Ejector Station Replacement	SHEET:	
CLIENT:	Town of Bay Harbor Islands	PROJECT NO.	
ESTIMATOR:	Marissa Maring	DATE:	06/08/23

DESCRIPTION:	Senior Engineer	Project Manager	Project Engineer	Engineer	Junior Engineer	Support Specialist	Inspector	Survey Sub	Geotech Sub	Expenses	Line Total	Task Total
TOTAL HOURS	**27**	**147**	**0**	**216**	**0**	**18**	**5**	**$3,200.00**	**$9,400.00**	**$0.00**		
LABOR RATE ($/HOUR)	**280.00**	**260.00**	**210.00**	**160.00**	**130.00**	**125.00**	**115.00**	**1.0**	**1.0**	**1.0**		
SUBTOTAL	**$7,560.00**	**$38,220.00**	**$0.00**	**$34,560.00**	**$0.00**	**$2,250.00**	**$575.00**	**$3,200.00**	**$9,400.00**	**$0.00**		
PAGE TOTAL	**$95,765.00**										**$95,765.00**	**$95,765.00**

AGENDA ITEM REPORT

November 8, 2023

ITEM NUMBER: 5.

ITEM: Consideration and **Approval** of the Regular Council Meeting dates for the 2024 calendar year. Enclosed is a list of the proposed dates.

DESCRIPTION:

RECOMMENDED ACTION:

FINANCIAL ANALYSIS:

BUDGET IMPACT:

Submitted By: Maria Lasday, Town Manager

ATTACHMENTS

1.	Council Meeting Dates - 2024

REGULAR COUNCIL MEETING
MEETING DATES AND DEADLINES - 2024
(Second Wednesday of each month)

Deadline for Agenda Items	**Council Meeting Dates**
Wednesday, December 27, 2023	Wednesday, January 10, 2024
Wednesday, January 31, 2024	Wednesday, February 14, 2024
Wednesday, February 28, 2024	Wednesday, March 13, 2024
Wednesday, March 27, 2024	Wednesday, April 10, 2024
Wednesday, April 24, 2024	Wednesday, May 8, 2024
Wednesday, May 27, 2024	Wednesday, June 10, 2024
Wednesday, July 31, 2024	Wednesday, August 14, 2024
Wednesday, August 28, 2024	Wednesday, September 11, 2024
Wednesday, September 25, 2024	Wednesday, October 9, 2024
Wednesday, October 30, 2024	Wednesday, November 13, 2024

- Passover – April 23 – 29, 2024
- Rosh Ha Shanah – October 2 - 4, 2024
- Yom Kippur – October 11, 2024
- Sukkot – October 16, 2024 – October 23, 2024
- **Shavuot 2024** (a two-day holiday, celebrated from **sunset on June 11, 2024 until nightfall on June 13, 2024)**

AGENDA ITEM REPORT

November 8, 2023

ITEM NUMBER: 6.

ITEM: Consideration and **Approval** of a Resolution for the Third Extension of the Lease Agreement between the Sunshine Gasoline Distributors, Inc. and the Town of Bay Harbor Islands for operation of a motor fuel service station and convenience store at 1501 Broad Causeway, Bay Harbor Islands, Florida. Enclosed is the proposed resolution and Lease Extension Document.

DESCRIPTION:
The 2008 lease agreement with Sunshine Gasoline Distributors, Inc. was set to expire on July 31, 2023. At the June 14, 2023 meeting, the Town Council granted an extension to September 30th; a second extension to November 30th was approved at the September 13th meeting. This request is for a Third Extension of 60 days, to February 29, 2024, to allow the Town and the property owner to negotiate the terms of a new lease agreement.

RECOMMENDED ACTION:
Council's Discretion

FINANCIAL ANALYSIS:
$100,000 has been appropriated in the Fiscal Year 2023-2024 adopted budget in the Causeway Fund to account for the revenue generated from this lease agreement. The amount has been allocated under line item Account Number 401.9990.3620000.00.

BUDGET IMPACT:

Submitted By: Maria Lasday, Town Manager

ATTACHMENTS

1.	Fully Executed Lease Extension Agreement - 1501 Broad Causeway-9-30-2023
2.	THIRD Lease Extension Agreement SGD Bay Harbor
3.	Resolution approving Third Lease Extension Agreement

LEASE EXTENSION AGREEMENT

THIS LEASE EXTENSION AGREEMENT (the "Agreement") made this 6th day of July 2023, **SUNSHINE GASOLINE DISTRIBUTORS, INC., a Florida corporation**, whose business address is 1650 NW 87th Avenue, Miami, Florida 33172 (the "Lessee") and the **TOWN OF BAY HARBOR ISLANDS, a Florida municipal corporation** (the "Lessee"). This Agreement shall be effective on the day this Agreement is signed by both Lessor and Lessee.

WITNESSETH

WHEREAS, by that certain Amended and Restated Lease dated on or about August 1, 2008, as amended and/or modified (the "Lease"), Lessor demised and leased unto Lessee a parcel of land situated in the Town of Bay Harbor Islands, County of Miami-Dade, State of Florida more particularly described as: **1501 Broad Causeway, Bay Harbor Islands, Florida 33154 operating as a motor fuel service station and convenience store** (the "Premises"); and

WHEREAS, the Lease is set to expire on July 31, 2023; and

WHEREAS, Lessor and Lessee desire to extend the term of the Lease while actively working on a long term renewal of the Lease; and

NOW THEREFORE, in consideration of the sum of Ten Dollars ($10.00) and other good and valuable consideration in hand paid, and the mutual covenants and promises herein contained, it is hereby agreed that:

1. The Lease term is hereby extended through and including September 30, 2023.

2. This Agreement solely extends the term of the Lease as stated above. All of the terms and conditions of the Lease, as amended and/or modified, are hereby ratified, and confirmed by the parties hereto and the same is declared to be a present, valid, and subsisting lease covering the premises herein described.

3. Lessor and Lessee further acknowledge that they were each given an opportunity to seek counsel in connection with the negotiation and execution of this Agreement, and have either sought the advice of counsel or voluntarily chosen not to seek the advice of counsel.

[EXECUTIONS AND ACKNOWLEDGMENTS ON THE FOLLOWING PAGES]

IN WITNESS WHEREOF, the parties hereto have duly signed or caused these presents to be signed the day and year first above written.

LESSEE	LESSOR
SUNSHINE GASOLINE DISTRIBUTORS, INC., a Florida corporation	TOWN OF BAY HARBOR ISLANDS
Name: MAXIMO ALVAREZ Title: PRESIDENT Date: JULY 6, 2023	Name: Maria Lasday Title: Town Manager Date: 6/14/2023 ATTEST: Name: Title: Town Clerk Date: 6/14/2023

Approved as to form:
Greenspoon Marder, LLP
Town Attorneys
By: Joseph S. Geller

THIRD LEASE EXTENSION AGREEMENT

THIS THIRD LEASE EXTENSION AGREEMENT (the "Agreement") made this _____, **SUNSHINE GASOLINE DISTRIBUTORS, INC., a Florida corporation**, whose business address is 1650 NW 87th Avenue, Miami, Florida 33172 (the "Lessee") and the **TOWN OF BAY HARBOR ISLANDS, a Florida municipal corporation** (the "Lessee"). This Agreement shall be effective on the day this Agreement is signed by both Lessor and Lessee.

WITNESSETH

WHEREAS, by that certain Amended and Restated Lease dated on or about August 1, 2008, as amended and/or modified (the "Lease"), Lessor demised and leased unto Lessee a parcel of land situated in the Town of Bay Harbor Islands, County of Miami-Dade, State of Florida more particularly described as: **1501 Broad Causeway, Bay Harbor Islands, Florida 33154 operating as a motor fuel service station and convenience store** (the "Premises"); and

WHEREAS, the Lessor and Lessee entered into that certain Lease Extension Agreement on or about July 6, 2023 and (ii) that certain Second Lease Extension Agreement on or about September 26, 2023; and

WHEREAS, the Lease is set to expire on November 30, 2023; and

WHEREAS, Lessor and Lessee desire to extend the term of the Lease while actively working on a long term extension of the Lease; and

NOW THEREFORE, in consideration of the sum of Ten Dollars ($10.00) and other good and valuable consideration in hand paid, and the mutual covenants and promises herein contained, it is hereby agreed that:

1. The Lease term is hereby extended through and including February 29, 2024.

2. This Agreement solely extends the term of the Lease as stated above. All of the terms and conditions of the Lease, as amended and/or modified, are hereby ratified and confirmed by the parties hereto and the same is declared to be a present, valid and subsisting lease covering the premises herein described.

3. Lessor and Lessee further acknowledge that they were each given an opportunity to seek counsel in connection with the negotiation and execution of this Agreement, and have either sought the advice of counsel or voluntarily chosen not to seek the advice of counsel.

[EXECUTIONS AND ACKNOWLEDGMENTS ON THE FOLLOWING PAGES]

IN WITNESS WHEREOF, the parties hereto have duly signed or caused these presents to be signed the day and year first above written.

LESSEE	LESSOR
SUNSHINE GASOLINE DISTRIBUTORS, INC., a Florida corporation	TOWN OF BAY HARBOR ISLANDS
Maximo Alvarez, President	Name: _____ Title: _____
Date: _____	Date: _____

ATTEST

_____
Name: _____
Title: _____
Date: _____

APPROVED AS TO FORM:
GREENSPOON MARDER, LLP
Town Attorney

Joseph S. Geller

RESOLUTION NO. _____

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF BAY HARBOR ISLANDS, FLORIDA, PROVIDING FOR THE APPROVAL OF THE THIRD LEASE EXTENSION AGREEMENT BETWEEN THE TOWN OF BAY HARBOR ISLANDS AND SUNSHINE GASOLINE DISTRIBUTORS, INC., A FLORIDA CORPORATION; PROVIDING FOR INCORPORATION OF RECITALS; PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, the Town of Bay Harbor Islands ("Town") and Sunshine Gasoline Distributors, Inc., a Florida corporation ("Lessee") entered into a Lease Extension Agreement on or about July 6, 2023; and

WHEREAS, the Lease expired on September 30, 2023, and the Town entered into a Second Lease Extension Agreement for 60 days, which is set to expire on November 30, 2023; and

WHEREAS, the Town and Lessee desire to extend the term of the Lease by 90 days through February 29, 2024, while actively working on a long term extension of the Lease; and

WHEREAS, the Town Council hereby finds the Third Lease Extension Agreement between the Town and Lessee, attached hereto as Exhibit A, and made a part of this Resolution, to be in the best interest of the Town and Lessee.

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

Section1. The foregoing recitals are adopted and hereby incorporated as if fully set forth herein.

Section 2. The Town hereby approves and adopts the Third Lease Extension Agreement between the Town and the Lessee attached hereto as Exhibit A.

Section 3. 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.

Section 4. The Town Manager is hereby authorized to do all things necessary to carry out the aims of the Resolution.

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

PASSED and ADOPTED this 8th day of November 2023

_____
ELIZABETH TRICOCHE, MAYOR

ATTEST:

_____
YVONNE P. HAMILTON, TOWN CLERK

APPROVED AS TO FORM:

_____
GREENSPOON MARDER LLP
TOWN ATTORNEYS
BY: Joseph S. Geller, Esq.

AGENDA ITEM REPORT

November 8, 2023

ITEM NUMBER: 7.

ITEM: Consideration and **Approval** of a resolution awarding a contract for Invitation to Bid (ITB) NO., ITB-5-1011-PW-0-2023/FVR, Indian Creek Structural Bridge Repairs Project BC-159, to Lead Engineering Contractors, LLC in an amount of $1,963,014.84. Enclosed are the proposed resolution, ITB, and other supporting documents.

DESCRIPTION:
The intent of the project is to complete repairs on Bridge No. 875103 as presented in the plans and specifications for the bridge repairs and the utilities saddle repairs. The bridge is located at the Town of Bay Harbor Islands, Florida on Kane Concourse over Indian Creek. Work under this Project includes but is not limited to restoring cracked or spalled concrete on the superstructure, such as bridge deck, top and underside, and other components at locations indicated in the Plans or as directed by the Engineer, in complete and strict accordance with the plans, specifications, and contract that are part of the Bid Documents.

RECOMMENDED ACTION:

FINANCIAL ANALYSIS:
$2,052,000 has been allocated in the Fiscal Year 2023-2024 adopted budget for Project BC-159 Indian Creek Structural Repair Bridge No 875103 within the Causeway Fund Line Item 401.5415.400063.000.

BUDGET IMPACT:

Name	Impact Date	Fund(s)	Account(s)	Project #(s)	Amount Budgeted
Consideration and Approval of an award of a contract between Lead Engineering Contractors, LLC and the Town of Bay Harbor Islands, Florida, for Invitation to Bid (ITB)-BID NO., ITB-5-1011-PW-0-2023/FVR, Indian Creek Structural Bridge Repairs Project	11/08/2023	Causeway Fund (401)	401.5415.400063.000	BC-159	$2,052,000.00

BC-159 for the amount of $1,963,014.84.					

Submitted By: Rodney Carrero-Santana, Town Engineer

ATTACHMENTS

1.	Resolution -Indian Creek Bridge Repairs Invitation to Bid-Lead Engineering Contractors, LLC
2.	Complete Agreement Lead Engineering

RESOLUTION NO. _____

A RESOLUTION OF TOWN COUNCIL OF THE TOWN OF BAY HARBOR ISLANDS, AWARDING THE CONTRACT FOR INVITATION TO BID NO.-5-1011-PW-0-2023/FVR-INDIAN CREEK STRUCTURAL BRIDGE REPAIRS PROJECT BC-159, TO LEAD ENGINEERING CONTRACTORS, LLC, THE LOWEST RESPONSIBLE AND RESPONSIVE BIDDER, AUTHORIZING EXPENDITURE OF FUNDS; PROVIDING FOR INCORPORATION OF RECITALS; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town duly advertised for competitive bids for repairs structural repairs to the Indian Creek Bridge-ITB NO.-5-1011-PW-0-2023/FVR/Indian Creek Structural Bridge Repairs Project BC-159; and

WHEREAS, four (4) sealed bids were received prior to 3:00 p.m. on October 30, 2023 at the Town Clerk's Office at 9665 Bay Harbor Terrace, Bay Harbor Islands, Florida 33154. Bids were then opened individually and separately read aloud after 3:00 p.m. on October 30, 2023; and

WHEREAS, Town Staff has reviewed the bids, and the Town Manager is recommending that the contract be awarded to Lead Engineering Contractors, LLC, the lowest responsible and responsive bidder; and

WHEREAS, the Town of Bay Harbor Islands desires to execute a construction contract agreement in a timely manner; and

WHEREAS, funds have been allocated in the Fiscal Year 2024 Budget for this project.

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

Section1. The foregoing recitals are adopted and hereby incorporated as if fully set forth herein.

Section2. The Town Council finds and concludes all bids were duly advertised, received, publicly opened, and approved as being completed for consideration for award pursuant to competitive bidding requirements.

Section 3. The contract (copy attached as "Exhibit A") for the structural repairs to Indian Creek Bridge is hereby awarded to Lead Engineering Contractors, LLC, the lowest responsible and responsive bidder, in the amount of $1,963,014.84.

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

PASSED and ADOPTED this 8th day of November 2023

_____
ELIZABETH TRICOCHE, MAYOR

ATTEST:

_____
YVONNE P. HAMILTON, TOWN CLERK

APPROVED AS TO FORM:

_____
GREENSPOON MARDER LLP TOWN ATTORNEYS
BY: Joseph S. Geller, Esq.

TOWN OF BAY HARBOR ISLANDS
CONSTRUCTION AGREEMENT

THIS Agreement made and entered into this _____ day of _____, 2023, by and between the Town of Bay Harbor Islands, a Florida municipal corporation ("Town") and **Lead Engineering Contractors, LLC**, a Florida company/corporation ("Contractor"), ("Party" or collectively "Parties");

WHEREAS, the Town desires to retain a contractor for the Project as expressed in its Invitation to Bid No. ITB-5-1011-PW--0-2023/FVR, Project Number BC-159, which was opened on October 30, 2023; and

WHEREAS, the Contractor has expressed its willingness and capability to perform the necessary work to accomplish the Project;

NOW, THEREFORE, the Town and the Contractor, in consideration of the mutual covenants and conditions contained herein and for other good and valuable consideration, the receipt and sufficiency is hereby acknowledged, agree as follows:

ARTICLE 1 – DEFINITIONS

Whenever used in this Agreement or in other Contract Documents, the following terms have the meanings indicated which are applicable to both the singular and plural forms:

1.1 Agreement – This written Agreement between the Town and the Contractor covering the work to be performed including other Contract Documents that are attached to or incorporated in the Agreement.

1.2 Application for Payment – The form accepted by the Town which is to be used by the Contractor in requesting progress or final payment and which is to include such supporting documentation as is required by the Contract Documents.

1.3 Approve – The word approve is defined to mean review of the material, equipment or methods for general compliance with design concepts and with the information given in the Contract Documents. It does not imply a responsibility on the part of the Town to verify in every detail conformance with plans and specifications.

1.4 Bid – The offer or Bid of the Contractor submitted on the prescribed form setting forth the total prices for the Work to be performed.

1.5 Bid Documents – Advertisement for Invitation to Bids, the Instructions to Bidders, the Bid Form (with supplemental affidavits and sample agreements), the Contract Forms, General Conditions, the Supplementary Conditions, the Specifications, and the Plans, which documents all become an integral part of the Contract Documents.

1.6 Certificate of Substantial Completion - Certificate provided by the Town certifying that all Work, excluding the punch list items, has been completed, inspected, and accepted by the Town.

1.7 Change Order - A written document executed by both Parties ordering a change in the Contract Price or Contract Time or a material change in the Work.

1.8 Town – The Town of Bay Harbor Islands, Florida, including but not limited to its employees, agents, officials, representatives, contractors, subcontractors, volunteers, successors and assigns, with whom the Contractor has entered into the Agreement and for whom the Work is to be provided.

1.9 Contract Documents – The Contract Documents shall consist of this Agreement, Exhibits to this Agreement, Public Construction Bond, Performance Bond, Payment Bond and Certificates of Insurance, Notice of Award and Notice to Proceed, General Conditions, Special Conditions, Technical Specifications, Plans/Drawings, Addenda, Bid Form and supplement Affidavits and Agreements, all applicable provisions of State and Federal Law and any modification, including Change Orders or written amendments duly delivered after execution of Agreement, Invitation to Bid, Instructions to Bidders and Bid Bond, Contractor's response to the Town's Invitation to Bid, Schedule of Completion, Schedule of Values, all amendments, modifications and supplements, work directive changes issued on or after the Effective Date of the Agreement, as well as any additional documents that are required to be submitted under the Agreement.

Permits on file with the Town and/or those permits to be obtained shall be considered directive in nature and will be considered a part of this Agreement. A copy of all permits shall be given to the Town for inclusion in the Contract Documents. Terms of permits shall be met prior to acceptance of the Work and release of the final payment.

1.10 Contract Price – The amount established in the bid submittal and award by the Town's Town Council, as may be amended by Change Order.

1.11 Contract Time – The number of calendar days stated in the Agreement for the completion of the Work. The dates on which the work shall be started and shall be completed as stated in the Notice to Proceed.

1.12 Contractor – The person, firm, company, or corporation with whom the Town has entered into the Agreement, including but not limited to its employees, agents, representatives, contractors, subcontractors, their subcontractors and their other successors and assigns.

1.13 Day – A calendar day of twenty-four (24) hours ending at midnight.

1.14 Defective – When modifying the word "Work" refers to work that is unsatisfactory, faulty, or deficient, or does not conform to the Contract Documents or does not meet the requirements of any inspection, test or approval referred to in the Contract Documents, or has been damaged prior to the Project Manager's recommendation of final payment.

1.15 Effective Date of the Agreement – The effective date of the Agreement shall be the date the Town Council approves the work.

1.16 Final Completion Date – The date the Work is completed, including completion of the final punch list, and delivered along with those items specified in the Contract Documents and is accepted by the Town.

1.17 Hazardous Materials (HAZMAT) - Any solid, liquid, or gaseous material that is toxic, flammable, radioactive, corrosive, chemically reactive, or unstable upon prolonged storage in quantities that could pose a threat to life, property, or the environment defined in Section 101(14) of Comprehensive Environmental Response, Compensation and Liability Act of 1980 and in 40 CFR 300.6. Also defined by 49 CFR 171.8 as a substance or material designated by the Secretary of Transportation to be capable of posing an unreasonable risk to health, safety, and property when transported in commerce and which has been so designated.

1.18 Hazardous Substance - As defined by Section 101(14) of the Comprehensive Environmental Response, Compensation and Liability Act; any substance designated pursuant to Section 311(b) (2) (A) of the Clean Water Act; any element, compound, mixture, solution or substance designated pursuant to Section 102 identified under or listed pursuant to Section 3001 of the Solid Waste Disposal Act {but not including any waste listed under Section 307[a] of the Clean Water Act}; any hazardous air pollutant listed under Section 112 of the Clean Air Act; and any imminently hazardous chemical substance or mixture pursuant to Section 7 of the Toxic Substances Control Act. The term does not include petroleum, including crude oil or any fraction thereof, which is not otherwise specifically listed or designated as a hazardous substance in the first sentence of this paragraph, and the term does not include natural gas, natural gas liquids, liquefied natural gas, or synthetic gas usable for fuel (or mixtures of natural gas and such synthetic gas).

1.19 Hazardous Waste - Those solid wastes designated by OSHA in accordance with 40 CFR 261 due to the properties of ignitability, corrosivity, reactivity, or toxiTown. Any material that is subject to the Hazardous Waste Manifest requirements of the EPA specified in 40 CFR Part 262.

1.20 Holidays - Those designated non-workdays as established by the Town Council of the Town of Bay Harbor Islands.

1.21 Inspection – The term “inspection” and the act of inspecting as used in this Agreement is defined to mean the examination of construction to ensure that it conforms to the design concept expressed in the plans and specifications. This term shall not be construed to mean supervision, superintending and/or overseeing.

1.22 Notice of Award - The written notice by Town to the Contractor stating that upon compliance by the Contractor with the condition’s precedent enumerated therein, within the time specified that the Town will sign and deliver this Agreement.

1.23 Notice to Proceed – A written notice to Contractor authorizing the commencement of the activities identified in the notice or as described in the Contract Documents.

1.24 Plans - The official graphic representations of this Project that are a part of the Contract Documents.

1.25 Premises (otherwise known as Site or Work Site) – means the land, buildings, facilities, etc. upon which the Work is to be performed.

1.26 Project – The construction project described in the Contract Documents, including the Work described therein.

1.27 Project Manager - The employee of the Town, or other designated individual who is herein referred to as the Project Manager, will assume all duties and responsibilities and will have the rights and authorities assigned to the Project Manager in the Contract Documents in connection with completion of the Work in accordance with this Agreement. The Project Manager, or designee, shall be the authorized agent for the Town unless otherwise specified.

1.28 Punch List - The Town's list of Work yet to be done or be corrected by the Contractor, before the Final Completion date can be determined by the Town.

1.29 Record Documents - A complete set of all specifications, drawings, addenda, modifications, shop drawings, submittals and samples annotated to show all changes made during the construction process.

1.30 Record Drawings or "As-Builts" - A set of drawings which show significant changes in the work made during construction and which are usually based on drawings marked up in the field and other data furnished by the Contractor. These documents will be signed and sealed by a Professional Engineer, or a Professional Land Surveyor licensed in the State of Florida and employed by the Contractor at no cost to the Town.

1.31 Substantially Completed Date – A date when written notice is provided by the Town to the Contractor stating that the Work is substantially completed. If, at the time of inspection, it is determined the project is substantially completed, the Town will also issue a letter of Substantial Completion along with a punch list of incomplete or deficient items to be completed prior to requesting a Final Completion inspection.

1.32 Work – The construction and services required by the Contract Documents, whether completed or partially completed, and includes all labor, materials, equipment, and services provided or to be provided by Contractor to fulfill Contractor's obligations. The Work may constitute the whole or a part of the Project.

ARTICLE 2 – SCOPE OF WORK

2.1 The Contractor shall complete all Work as specified or indicated in the Contract Documents. The Project for which the Work under the Contract Documents may be the whole or only part is generally described as follows:

Indian Creek Structural Repairs Bridge
ITB-5-1011-PW-0-2023/FVR-PROJECT BC-159

2.2 All Work for the Project shall be constructed in accordance with the approved plans and Specifications. The Work generally involves:

PROJECT DESCRIPTION

The intent of the project is to complete repairs on bridge no. 875103 as presented in the plans and specifications for the bridge repairs and the utilities saddle repairs. The bridge is located at the Town of Bay Harbor Islands, FL. on Kane Concourse over Indian Creek. Work under this Project includes but is not limited to restoring cracked or spalled concrete on the superstructure, such as bridge deck, top and underside, and other components at locations indicated in the Plans or as directed by the Engineer, in

complete and strict accordance with the plans, specifications and contract that are part of the bidding documents.

2.3 Within ten (10) days of the execution of this Agreement, the Contractor shall submit a Construction Schedule, Schedule of Values and a listing of all personnel employed. The general sequence of the Work shall be submitted by the Contractor and approved by the Town before any work commences. The Town reserves the right to issue construction directives necessary to facilitate the Work or to minimize any conflict with operations.

ARTICLE 3 – PROJECT MANAGER

3.1 The Project Manager is hereby designated by the Town as Rodney Carrero-Santana P.E, whose address is 9665 Bay Harbor Terrace, Bay Harbor Islands, FL 33154, telephone number: (305)455-7275, and email address is rcarrerosantana@bayharborislands-fl.gov. The Project Manager will assume all duties and responsibilities and will have the rights and authorities assigned to the Project Manager in the Contract Documents in connection with completion of the Work in accordance with this Agreement.

ARTICLE 4 – CONTRACT DOCUMENTS

The Contract Documents, which comprise the entire Agreement between the Town and Contractor, are incorporated herein and attached to this Agreement, and consist of the following:

4.1 This Agreement.

4.2 Exhibits to this Agreement: (Plans sheets [1] to [8] inclusive).

4.3 Public Construction Bond, Performance Bond, Payment Bond and Certificates of Insurance.

4.4 Notice of Award and Notice to Proceed.

4.5 General Conditions and Special Conditions.

4.6 Technical Specifications.

4.7 Plans/Drawings.

4.8 Addenda number 1 through 3 , inclusive.

4.9 Bid Form and supplement Affidavits and Agreements.

4.10 All applicable provisions of State and Federal Law.

4.11 Invitation to Bid No. ITB-5-1011-PW-0-2023/FVR, Instructions to Bidders, and Bid Bond.

4.12 Contractor's response to the Town's Invitation to Bid No. ITB-5-1011-PW-0-2023/FVR, dated October 30, 20323.

4.13 Schedule of Completion.

4.14 All amendments, modifications and supplements, change orders and work directive changes, issued on or after the Effective Date of the Agreement.

4.15 Any additional documents that are required to be submitted under the Agreement.

4.16 Permits on file with the Town and or those permits to be obtained shall be considered directive in nature and will be considered a part of this Agreement.

In the event of any conflict between the documents or any ambiguity or missing specification or instruction, the following priority is established:

a. Approved change orders, addenda or amendments.

b. Specifications and Drawings.

c. Special Conditions.

d. General Conditions.

e. This Agreement dated _____, and any attachments.

f. Invitation to Bid No. ITB-5-1011-PW-0-2023/FVR, and the specifications prepared by the Town.

g. Contractor's response to the Town's Invitation to Bid No. ITB-5-1011-PW-0-2023/FVR, dated October 30, 20323.

h. Schedule of Values.

i. Schedule of Completion.

If during the performance of the Work, Contractor finds a conflict, error or discrepancy in the Contract Documents, Contractor shall so report to the Project Manager, in writing, within five (5) calendar days, and before proceeding with the Work affected shall obtain a written interpretation or clarification from the Town.

Any Work that may reasonably be inferred from the specifications or plans as being required to produce the intended result shall be supplied whether or not it is specifically called for. When words which have a well-known technical or trade meaning are used to describe Work, materials, or equipment, such works shall be interpreted in accordance with such meaning. Reference to standard specifications, manuals or codes of any technical society, organization or associations, or to the code of any governmental authority whether such reference be specific or implied, shall mean the latest standard specification, manual or code in effect as of the Effective Date of this Agreement, except as may be otherwise specifically stated. However, no provision of any referenced standard specification, manual or code (whether or not specifically incorporated by reference in the Contract Documents) shall change the duties and responsibilities of the Town, the Contractor, or any of their agents or employees from those set forth in the Contract Documents.

ARTICLE 5 – CONTRACT TIME

5.1 The Contractor recognizes that **TIME IS OF THE ESSENCE**. The Work shall commence within 30 calendar days of the date of the Notice to Proceed.

5.2 The Work shall be Substantially Completed within 185 calendar days after the date when the Contract Time commences to run as provided in the Notice to Proceed.

5.3 The Work shall be finally completed on the Final Completion Date and ready for final payment in accordance with this Agreement within 217 calendar days after the Substantial Completion date.

ARTICLE 6 – CONTRACT PRICE

6.1 Town shall pay Contractor for performance of the Work in accordance with Article 7, subject to additions and deletions by Change Order, as provided for in this Agreement.

6.2 The Parties expressly agree that the Contract Price, which shall not exceed the amount of **$1,963,014.84**, constitutes the total maximum compensation payable to Contractor for performing the Work, plus any Work done pursuant to a Change Order. The Contract Price is in accordance with the line items unit prices listed in the Bid. Line items are based on a unit price cost multiplied by a defined quantity. Any additional duties, responsibilities and obligations assigned to or undertaken by Contractor shall be at Contractor's expense without change to the Contract Price.

6.3 The Contract Price constitutes the compensation payable to Contractor for performing the Work plus any Work done pursuant to a Change Order. All duties, responsibilities and obligations assigned to or undertaken by Contractor shall be at Contractor's expense without change in the Contract Price.

ARTICLE 7 – PAYMENT

7.1 Contractor shall submit Applications for Payment in accordance with the Contract Documents. Applications for Payment will be processed by Town as provided for in the General Conditions.

7.2 Progress Payments. Town shall make progress payments on account of the Contract Price on the basis of Contractor's monthly Applications for Payment, which shall be submitted by the Contractor between the first (1st) and the tenth (10th) day after the end of each calendar month for which payment is requested. All progress payments will be made on the basis of the progress of the Work completed.

7.3 Prior to Final Completion, progress payments will be made in an amount equal to ninety-five percent (95%) of the value of Work completed less in each case the aggregate of payments previously made.

7.4 Final Payment. Upon final completion of the Work in accordance with the General Conditions, as may be supplemented, the Town shall pay Contractor an amount sufficient to increase total payments to one hundred percent (100%) of the Contract Price. However, not less than five percent (5%) of the Contract Price shall be retained until Record Drawings (as-builts), specifications, addenda, modifications, and shop drawings, including all manufacturers' instructional and parts manuals are delivered to and accepted by the Town.

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

7.5.1 Defective work not remedied.
7.5.2 Claims filed or reasonable evidence indicating probable filing of claims by other parties against Contractor or Town because of Contractor's performance.
7.5.3 Failure of Contractor r to make payments properly to subcontractors or for material or labor.
7.5.4 Damage to another contractor not remedied.
7.5.5 Liquidated damages and costs incurred by Contractor for extended construction administration, if applicable.
7.5.6 Failure of Contractor to provide any and all documents required by the Contract Documents.

When the above grounds are removed or resolved satisfactory to the Project Manager, payment shall be made in whole or in part.

7.6 The Town shall make payment to the Contractor in accordance with the Florida Prompt Payment Act, Section 218.70, Florida Statutes (2022), as amended or revised, provided, however, complete and error free pay application is submitted.

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7.7 The Town shall make payment to the Contractor by check.

7.8 Payment Card Industry (PCI) Compliance

Contractor agrees to comply with all applicable state, federal and international laws, as well as industry best practices, governing the collection, access, use, disclosure, safeguarding and destruction of Protected Information.

Contractor and/or any subcontractor that handles credit card data must be, and remain, PCI compliant under the current standards and will provide documentation confirming compliance upon request by the Town of Bay Harbor Islands. Failure to produce documentation could result in termination of the contract.

ARTICLE 8 – CONTRACTOR'S REPRESENTATIONS

In order to induce the Town to enter into this Agreement, Contractor makes the following representations upon which the Town has relied:

8.1 Contractor is qualified in the field of public construction and in particular to perform the Work and services set forth in this Agreement.

8.2 Contractor has visited the Work Site, has conducted extensive tests, examinations and investigations and represents and warrants a thorough familiarization with the nature and extent of the Contract Documents, the Work, locality, soil conditions, water table condition, moisture conditions and all year-round local weather and climate conditions (past and present), and examination and investigations conducted by Contractor and the Contractor's experts, has determined that no conditions exist that would in any manner affect the Bid Price and that the project can be completed for the Bid Price submitted within the Contract Time as defined in this Agreement.

Furthermore, Contractor warrants and confirms that it is totally familiar with, understands and obligates Contractor to comply with all federal, state and local laws, ordinances, rules, regulations and all market conditions that affect or may affect the cost and price of materials and labor needed to fulfill all provisions of this Agreement or that in any manner may affect cost, progress or performance of the Work.

8.3 The Contractor has satisfied itself as to the nature and location of the Work under the Contract Documents, the general and local conditions of the Project, particularly those bearing upon availability of transportation, disposal, handling and storage of materials, availability of labor, water, electric power, and roads, the conformation and conditions at the ground based on Town provided reports, the type of equipment and facilities needed preliminary to and during the prosecution of the Work and all other matters which can in any way affect the Work or the cost thereof under the Contract Documents.

8.4 The Contractor has also studied on its own, investigations and tests of subsurface and latent physical conditions at the site or otherwise affecting cost, progress or performance of the Works, and finds and has further determined that no conditions exist that would in any manner affect the Bid Price and that the Project can be completed for the Bid Price submitted.

8.5 Contractor has made or caused to be made, examinations, investigations, tests and studies of such reports and related data in addition to those referred to in Paragraphs 8.2, 8.3 and 8.4 above as it deems necessary for the performance of the Work at the Contract Prices, within the Contract Time and in accordance with the other terms and conditions of the Contract Documents; and no additional examinations, investigations, tests, reports or similar data are, or will be, required by Contractor for such purposes.

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

8.7 Contractor has given Town written notice of all conflicts, errors or discrepancies that it has discovered in the Contract Documents and the written resolution by Town is acceptable to the Contractor.

8.8 <u>Labor</u>

8.8.1 The Contractor shall provide competent, suitable qualified personnel to survey and lay out the Work and perform construction as required by the Contract Documents. The Contractor shall at all times maintain good discipline and order at the site.

8.8.2 The Contractor shall, at all times, have a competent superintendent, capable of reading and thoroughly understanding the drawings and specifications, as the Contractor's agent on the Work, who shall, as the Contractor's agent, supervise, direct and otherwise conduct the Work.

8.8.3 The Contractor shall designate the superintendent on the job to the Town, in writing, immediately after receipt of the Notice to Proceed. The Contractor understands and agrees that the superintendent's physical presence on the job site is indispensable to the successful completion of the Work. If the superintendent is frequently absent from the job site, the Project Manager may deliver written notice to the Contractor to stop work or terminate the Agreement in accordance with Article 17.

8.8.4 Where required and necessary, the Contractor shall, at all times, have a certified "competent person" assigned to the job site. The Contractor shall assign personnel to the job site that have successfully completed training programs related to trench safety, confined space work, and maintenance of traffic (MOT). Personnel certified by the International Municipal Signal Associations with Florida Department of Transportation qualifications are required relative to MOT. Any other certifications that may be required by applicable permitting agencies for the Work shall also be complied with by the Contractor. Failure to pursue the Work with the properly certified supervisory staff may result in notice to stop work or terminate the Agreement in accordance with Article 17.

8.9 Materials:

8.9.1 The Contractor shall furnish all materials, equipment, labor, transportation, construction equipment and machinery, tools, appliances, fuel, power, light, heat, telephone, water and sanitary facilities and all other facilities and incidentals necessary for the execution, testing, initial operation and completion of Work.

8.9.2 All materials and equipment shall be of good quality and new, except as otherwise provided in the Contract Documents. Suppliers shall be selected and paid by the Contractor; the Town reserves the right to approve all suppliers and materials.

8.10 Work Hours: Except in connection with the safety or protection of persons, or the Work, or property at the site or adjacent thereto, and except as otherwise indicated in the Supplementary Conditions, all work at the site shall be performed during regular working hours between 9 a.m. and 4:30 p.m., Monday through Friday.

Unless approved by the Town in advance, the Contractor will not perform work on Saturday, Sunday or any legal holiday (designated by the Town of Bay Harbor Islands) without the Project Manager's written consent at least seventy-two (72) hours in advance of starting such work. For any overtime inspection required by Town personnel, the Contractor shall pay for the additional charges to the Town with respect to such overtime work. Such additional charges shall be a subsidiary obligation of the Contractor and no extra payment shall be made to the Contractor for overtime work. **It shall be noted that the Town's Inspector work hours are from 9:00 a.m. to 4:30 p.m., Monday through Friday, and any work requiring inspection oversight being performed outside of this timeframe shall be paid for by the Contractor as Inspector overtime at a rate of $100.00 per hour.** The cost to the Contractor to

reimburse the Town for overtime inspection is established at direct-labor and overtime costs for each person or inspector required. Incidental overtime costs for engineering, testing and other related services will also be charged to the Contractor at the actual rate accrued.

8.11 Patent Fee and Royalties: The Contractor shall pay all license fees and royalties and assume all costs incident to the use in the performance of the Work or the incorporation in the Work, of any invention, design, process, product or device which is the subject of patent rights or copyrights held by others. The Contractor hereby expressly binds itself to indemnify and hold harmless the Town from all such claims and fees and from any and all suits and action of every name and description that may be brought against Town on account of any such claims, fees, royalties, or costs for any such invention or patent, and from any and all suits or actions that may be brought against said Town for the infringement of any and all patents or patent rights claimed by any person, firm corporation or other entity.

8.12 Permits: The Contractor shall obtain and pay for all permits and licenses. There shall be no allowance for Contractor markup, overhead or profit for permits and licenses.

The Contractor shall pay all government charges which are applicable at the time of opening of bids. It shall be the responsibility of the Contractor to secure and pay for all necessary licenses and permits of a temporary nature necessary for the prosecution of Work.

8.13 Law and Regulations: The Contractor shall give all notices and comply with all laws, ordinances, rules and regulations applicable to the Work. If the Contractor observes that the specifications or plans are in conflict, the Contractor shall give the Project Manager prompt written notice thereof within five (5) calendar days, and any necessary changes shall be adjusted by any appropriate modifications. If the Contractor performs any work knowing or having reason to know that it is contrary to such laws, ordinances, rules, standards, specifications and regulations, and without such notice to the Project Manager, the Contractor shall bear all costs arising therefrom.

8.14 Taxes: The Contractor shall pay all sales, consumer, use and other similar taxes required to be paid by him in accordance with the laws of the Town of Bay Harbor Islands, County of Dade, and the State of Florida.

8.15 Contractor Use of Premises: The Contractor shall confine construction equipment, the storage of materials and equipment and the operations of workmen to areas permitted by law, ordinances, permits and/or the requirements of the Contract Documents, and shall not unreasonably encumber the premises with construction equipment or other materials or equipment.

The Contractor shall not enter upon private property for any purpose without first securing the permission of the property owner in writing and furnishing the Project Manager with a copy of said permission. This requirement will be strictly enforced, particularly with regard to such vacant properties as may be utilized for storage or staging by the Contractor.

The Contractor shall conduct its work in such a manner as to avoid damage to adjacent private or public property. Any damage to existing structures of work of any kind,

including permanent reference markers or property corner markers, or the interruption of a utility service, shall be repaired or restored promptly at no expense to the Town or property owner.

The Contractor will preserve and protect all existing vegetation such as trees, shrubs and grass on or adjacent to the site which do not reasonably interfere with the construction, as determined by the Project Manager. The Contractor will be responsible for repairing or replacing any trees, shrubs, lawns and landscaping that may be damaged due to careless operation of equipment, stockpiling of materials, tracking of grass by equipment or other construction activity. The Contractor will be liable for or will be required to replace or restore at no expense to the Town all properties and areas not protected or preserved as required herein that may be destroyed or damaged.

During the progress of the Work, the Contractor shall keep the premises free from accumulation of waste materials, rubbish and debris resulting from the Work. At the completion of the Work, the Contractor shall remove all waste materials, rubbish and debris from and about the premises as well as all tools, appliances, construction equipment and machinery, and surplus materials and shall leave the site clean and ready for occupancy by the Town. The Contractor shall restore to their original condition those portions of the site not designated for alteration by the Contract Documents at no cost to the Town.

8.16 Project Coordination: The Contractor shall provide for the complete coordination of the construction effort. This shall include, but not necessarily be limited to, coordination of the following:

8.16.1 Flow of material and equipment from suppliers.
8.16.2 The interrelated work with affected utility companies.
8.16.3 The interrelated work with the Town where tie-ins to existing facilities are required.
8.16.4 The effort of independent testing agencies.
8.16.5 Notice to affected property owners as may be directed by the Project Manager.
8.16.6 Coordination with and scheduling of all required inspections from all permitting agencies.

8.17 Project Record Documents and Final As-Builts (Record Drawings): Contractor shall be responsible for maintaining up-to-date redline as-built drawings, on site, at all times during construction. All as-built information shall be surveyed and verified by a professional land surveyor registered in the State of Florida. Contractor shall provide the Town with a minimum of three (3) sets of signed and sealed record drawings (Final As-Builts) and a CD of the electronic drawings files created in AutoCad 2014 or later. All costs associated with survey work required for construction layout and as-built preparation shall be the responsibility of the Contractor.

8.18 Safety and Protection:

8.18.1 The Contractor shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the Work. The Contractor shall take all necessary precautions for the safety of, and shall provide the necessary protection to prevent damage, injury or loss to:

8.18.1.1 All employees working on the project and other persons who may be affected thereby.

8.18.1.2 All the Work and all materials or equipment to be incorporated therein, whether in storage on or off the site.

8.18.1.3 Other property at the site or adjacent thereto, including trees, shrubs, lawns, walks, pavements, roadways, structures and utilities not designated for removal, relocation or replacement in the course of construction.

8.18.2 The Contractor shall comply with all applicable laws, ordinances, rules, regulations and orders of any public body having jurisdiction for the safety of persons or property or to protect them from damage, injury or loss; and shall erect and maintain all necessary safeguards for such safety and protection. The Contractor shall notify owners of adjacent property and utilities when execution of the Work may affect them at least seventy-two (72) hours in advance (unless otherwise required). All damage, injury or loss to any property caused, directly or indirectly, in whole or in part by the Contractor, any subcontractor or anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, shall be remedied by the Contractor. The Contractor's dutiesand responsibilities for safety and protection of the Work shall continue until such time as all the Work is completed and accepted by the Town.

8.19 Emergencies: In emergencies affecting the safety or protection of persons or the Work or property at the site or adjacent thereto, the Contractor, without special instruction or authorization from the Town, is obligated to act to prevent threatened damage, injury or loss. The Contractor shall give the Project Manager prompt written notice of any significant changes in the Work or deviations from the Contract Documents caused thereby.

8.20 Risk of Loss: The risk of loss, injury or destruction shall be on the Contractor until acceptance of the Work by the Town. Title to the Work shall pass to the Town upon acceptance of the Work by the Town.

8.21 Environmental: The Contractor has fully inspected the Premises and agrees, except as to the presence of any asbestos, to accept the Premises in an "as is" physical condition, without representation or warranty by the Town of any kind, including, without limitation, any and all existing environmental claims or obligations that may arise from the presence of any "contamination" on, in or about the Premises. Further, Contractor and all entitles claiming by, through or under the Contractor, releases and discharges the Town from any claim, demand, or cause of action arising out of or relating to the Contractor's use, handling, storage, release, discharge, treatment, removal, transport, decontamination, cleanup, disposal and/or presence of any hazardous substances including asbestos on, under, from or about the Premises. The Contractor shall have no liability for any pre-existing claims or "contamination" on the Premises.

The Contractor shall not use, handle, store, discharge, treat, remove, transport, or dispose of Hazardous Substances including asbestos at, in, upon, under, to or from the Premises until receipt of instructions from the Town. At such time, a Town approved Change Order, which shall not include any profit, shall authorize the Contractor to perform such services.

The Contractor shall immediately deliver to the Project Manager complete copies of all notices, demands, or other communications received by the Contractor from any governmental or quasi-governmental authority or any insurance company or board of fire underwriters or like or similar entities regarding in any way alleged violations or potential violations of any Environmental Law or otherwise asserting the existence or potential existence of any condition or activity on the Premises which is or could be dangerous to life, limb, property, or the environment.

For other and additional consideration, the Contractor hereby agrees, at its sole cost and expense, to indemnify and protect, defend, and hold harmless the Town and its respective employees, agents, officials, officers, representatives, contractors and subcontractors, successors, and assigns (hereafter the "Town") from and against any and all claims, demands, losses, damages, costs, expenses, including but not limited to mitigation, restoration, and natural restoration expenses, liabilities, assessments, fines, penalties charges, administrative and judicial proceedings and orders, judgments, causes of action, in law or in equity, remedial action requirements and/or enforcement actions of any kind (including, without limitation, attorneys' fees and costs) directly or indirectly arising out of or attributable to, in whole or in part, the Contractor's use, handling, storage, release, threatened release, discharge, treatment, removal, transport, decontamination, cleanup, disposal and/or presence of a Hazardous Substance (excluding asbestos) on, under, from, to or about the Premises or any other activity carried on or undertaken on or off the Premises by the Contractor or its employees, agents or subcontractors, in connection with the use, handling, storage, release, threatened release, discharge, treatment, mitigation, natural resource restoration, removal, transport, decontamination, cleanup, disposal and/or presence or any Hazardous Substance including asbestos located, transported, or present on, under, from, to, or about the Premises. This indemnity is intended to be operable under 42 U.S.C. Section 9607, as amended or revised, and any successor section.

The scope of the indemnity obligations includes, but is not limited to: (a) all consequential damages; (b) the cost of any required or necessary repair, cleanup, or detoxification of the applicable real estate and the preparation and implementation of any closure, remedial or other required plan, including without limitation; (i) the costs of removal or remedial action incurred by the United States government or the State of Florida or response costs incurred by any other person, or damages from injury to destruction of, or loss of, natural resources, including the cost of assessing such injury, destruction, or loss, incurred pursuant to the Comprehensive Environmental Response, Compensation and Liability Act, as amended; (ii) the clean-up costs, fines, damages, or penalties incurred pursuant to any applicable provisions of Florida law; and (iii) the cost and expenses of abatement, correction or cleanup, fines, damages, response costs, or penalties which arise from the provisions of any other statute, law, regulation, code ordinance, or legal requirement state or federal; and (c) liability for personal injury or property damage arising under any statutory or common law tort theory, including damages assessed for the maintenance of a public private nuisance, response costs, or for the carrying on of an abnormally dangerous activity.

8.22 No Extended Damages: For other and additional good and valuable consideration the receipt and sufficiency of which is hereby acknowledged, the Contractor covenants and agrees that in the event of any delay of construction or for any other reason or allegation or claim, and notwithstanding the reason of the delay, reason, claim or allegation or who

caused them or the construction delay or whether they were caused by the Town, that there will be no entitlement to Contractor to or for any direct or indirect financial damages or losses for extended corporate overhead impact, extended project overhead impacts, project support services, mobilization or demobilization or by whatever other label or legal concept or theory and types of names or labels or basis such claims may have, or any business damages or losses of whatever type or nature, and Contractor hereby waives any right to make any such claim or claims. This provision will also have application and effect when construction delays are anticipated and agreed upon by both the Town and the Contractor.

8.23 No Liens: If any subcontractor, supplier, laborer, or materialmen of Contractor or any other person directly or indirectly acting for or through Contractor files or attempts to file a mechanic's or construction lien against the real property on which the Work is performed or any part or against any personal property or improvements or claim against any monies due or to become due from the Town to Contractor or from Contractor to a subcontractor, for or on account of any work, labor, services, material, equipment, or other items furnished in connection with the Work or any Change Order, Contractor agrees to satisfy, remove, or discharge such lien or claim at its own expense by bond, payment, or otherwise within twenty (20) days of the filing or from receipt of written notice from the Town.

Additionally, until such time as such lien or claim is satisfied, removed or discharged by Contractor, all monies due to Contractor, or that become due to Contractor before the lien or claim is satisfied, removed or otherwise discharged, shall be held by Town as security for the satisfaction, removal and discharge of such lien and any expense that may be incurred while obtaining such. If Contractor shall fail to do so, Town shall have the right, in addition to all other rights and remedies provided by this Agreement or by law, to satisfy, remove, or discharge such lien or claim by whatever means Town chooses at the entire and sole cost and expense of Contractor which costs and expenses shall, without limitation, include attorney's fees, litigation costs, fees and expenses and all court costs and assessments.

8.24 Weather Emergencies: Upon issuance of a hurricane watch by the National Weather Service, the Contractor shall submit to the Town a plan to secure the work area in the event a hurricane warning is issued. The plan shall detail how the Contractor will secure the Premises, equipment and materials in a manner as to prevent damage to the Work and prevent materials and equipment from becoming a hazard to persons and property on and around the Premises. The plan shall include a time schedule required to accomplish the hurricane preparations and a list of emergency contacts that will be available, and in the Town before, during and immediately after the storm.

Upon issuance of a hurricane warning by the National Weather Service, if the Contractor has not already done so, the Contractor shall implement its hurricane preparedness plan. Cost of development and implementation of the hurricane preparedness plan shall be considered as incidental to construction. Cost of any clean up and rework required after the storm will be considered normal construction risk within Florida and shall not entitle the Contractor to any additional compensation. Contractor shall be entitled to request an extension in time for completion of the Work, in accordance with the provisions of Article 15 of this Agreement, equal to the time it is shut down for implementation of the preparedness plan, the duration of the storm and a reasonable period to restore the Premises.

8.25 Force Majeure: No Party shall hold the other responsible for damages or for delays in performance caused by force majeure, acts of God, or other acts or circumstances beyond the control of the other Party or that could not have been reasonably foreseen and prevented. For this purpose, such acts or circumstances shall include, but not be limited to weather conditions affecting performance, floods, epidemics, pandemics, war, act of Governmental Authority, state of emergency, riots, strikes, lockouts, or other industrial disturbances, or protest demonstrations. Should such acts or circumstances occur, the Parties shall use their best efforts to overcome the difficulties arising therefrom and to resume the Work as soon as reasonably possible with the normal pursuit of the Work.

Inclement weather, continuous rain for less than three (3) days or the acts or omissions of subcontractors, third-party contractors, materialmen, suppliers, or their sub-contractors, shall not be considered acts of force majeure.

No Party shall be liable for its failure to carry out its obligations under the Agreement during a period when such Party is rendered unable by force majeure to carry out its obligation, but the obligation of the Party or Parties relying on such force majeure shallbe suspended only during the continuance of the inability and for no longer period than the unexpected or uncontrollable event.

The Contractor further agrees and stipulates, that its right to excuse its failure to perform by reason of force majeure shall be conditioned upon giving written notice of its assertion that a Force Majeure delay has commenced within ninety-six (96) hours after such an occurrence. The Contractor shall use its reasonable efforts to minimize such delays. The Contractor shall promptly provide an estimate of the anticipated additional time required to complete the Project.

ARTICLE 9 – TOWN'S RESPONSIBILITIES

9.1 The Town shall furnish the data required of the Town under the Contract Documents promptly and shall make payments to the Contractor promptly after they are due as provided in Article 7.

9.2 The Town shall provide public rights-of-way and easement, where available, for the installation of conduits, transformers pads and related appurtenances only.

9.3 Technical Clarifications and Interpretations:

9.3.1 The Town shall issue, with reasonable promptness, such written clarifications or interpretations of the Contract Documents as it may determine necessary, which shall be consistent with or reasonably inferable from the overall intent of the Contract Documents. Should the Contractor fail to request interpretation of questionable items in the Contract Documents, the Town shall not entertain any excuse for failure to execute the Work in a satisfactory manner.

9.3.2 The Town shall interpret and decide matters concerning performance under the requirements of the Contract Documents, and shall make decisions on all claims, disputes or other matters in question. Written notice of each claim, dispute or other matter will be delivered by claimant to the other Party but in no event later than five (5) days after the occurrence of event and written supporting data will be submitted to the other Party within five (5) days after such occurrence. All written decisions of the Town on any claim or dispute will be final and binding.

9.4 The Contractor shall perform all Work to the reasonable satisfaction of the Town in accordance with the Contract Documents. In cases of disagreement or ambiguity, the Town shall decide all questions, difficulties, and disputes of whatever nature, which may arise under or by reason of this Agreement or the quality, amount and value of the Work, and the Town's decisions on all claims, questions and determination are final.

9.5 Cancellation for Unappropriated Funds**:** The obligation of the Town for payment to a Contractor is limited to the availability of funds appropriated in a current fiscal period, and continuation of the Agreement into a subsequent fiscal period is subject to appropriation of funds, unless otherwise authorized by law.

ARTICLE 10 – BONDS AND INSURANCE

10.1 Public Construction and Other Bonds: The Contractor shall furnish Public Construction or Performance and Payment Bonds ("Bond"), each in an amount at least equal to the Contract Price as security for the faithful performance and payment of all the Contractor's obligations under the Contract Documents. These Bonds shall remain in effect until at least one (1) year after the date of final payment, except as otherwise provided by law. All Bonds shall be furnished and provided by the surety and shall be in substantially the same form as prescribed by the Contract Documents and be executed by such sureties as (i) are licensed to conduct business in the State of Florida, and (ii) are named in the current list of Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies as published in Circular 570 (amended) by the Audit Staff Bureau of Accounts, U.S. Treasury Department and (iii) otherwise meet the requirements set forth herein that apply to sureties. All Bonds signed by an agent must be accompanied by a certified copy of the authority to act.

10.1.1 Performance Bond: The Contractor shall execute and record in the public records of Dade County, Florida, a payment and performance bond in an amount at least equal to the Contract Price with a surety insurer authorized to do business in the State of Florida as surety, ("Bond"), in accordance with Section 255.05, Florida Statutes (2022), as may be amended or revised, as security for the faithful performance and payment of all of the Contractor's obligations under the Contract Documents.

A Corporate Surety Bond legally issued, meeting the approval of, and running to the Town in an amount not less than the Contract Price of such improvements, conditioned that the Contractor shall maintain and make all repairs to the improvements constructed by the Contractor at their own expense and free of charge to the Town, for the period of one (1) year after the date of acceptance of the Work within such period by reason of any imperfection of the material used

or by reason of any defective workmanship, or any improper, imperfect or defective preparation of the base upon which any such improvement shall be laid.

10.2 Disqualification of Surety: If the Surety on any Bond furnished by the Contractor is declared bankrupt or becomes insolvent or its right to do business is terminated in the State of Florida or it ceases to meet the requirements of clauses (i) and (ii) of Paragraph 10.1, the Contractor shall within five (5) days thereafter substitute another Bond and Surety, both of which shall be acceptable to the Town.

10.3 Insurance

As a condition precedent to the effectiveness of this Agreement, during the term of this Agreement and during any renewal or extension term of this Agreement, the Contractor, at its sole expense, shall provide insurance of such types and with such terms and limits as noted below. Providing proof of and maintaining adequate insurance coverage are material obligations of the Contractor. The Contractor shall provide the Town a certificate of insurance evidencing such coverage. The Contractor's insurance coverage shall be primary insurance for all applicable policies. The limits of coverage under each policy maintained by the Contractor shall not be interpreted as limiting the Contractor's liability and obligations under this Agreement. All insurance policies shall be through insurers authorized or eligible to write policies in the State of Florida and possess an A.M. Best rating of A-, VII or better, subject to approval by the Town's Risk Manager.

The coverages, limits, and/or endorsements required herein protect the interests of the Town, and these coverages, limits, and/or endorsements shall in no way be relied upon by the Contractor for assessing the extent or determining appropriate types and limits of coverage to protect the Contractor against any loss exposures, whether as a result of this Agreement or otherwise. The requirements contained herein, as well as the Town's review or acknowledgement, are not intended to and shall not in any manner limit or qualify the liabilities and obligations assumed by the Contractor under this Agreement.

The following insurance policies and coverages are required:

Commercial General Liability
Coverage must be afforded under a Commercial General Liability policy with limits not less than:
-$2,000,000 each occurrence and $2,000,000 aggregate for Bodily Injury, Property Damage, and Personal and Advertising Injury
-$2,000,000 each occurrence and $2,000,000 aggregate for Products and Completed Operations

Policy must include coverage for contractual liability and independent contractors.

The Town, a Florida municipal corporation, its officials, employees, and volunteers are to be covered as an additional insured with a CG 20 26 04 13 Additional Insured – Designated Person or Organization Endorsement or similar endorsement providing equal or broader Additional Insured Coverage with respect to liability arising out of activities performed by or on behalf of the Contractor. The coverage shall contain no special limitation on the scope of protection afforded to the Town, its officials, employees, and volunteers.

Business Automobile Liability
Coverage must be afforded for all Owned, Hired, Scheduled, and Non-Owned vehicles for Bodily Injury and Property Damage in an amount not less than $1,000,000 combined single limit each accident.

If the Contractor does not own vehicles, the Contractor shall maintain coverage for Hired and Non-Owned Auto Liability, which may be satisfied by way of endorsement to the Commercial General Liability policy or separate Business Auto Liability policy.

Workers' Compensation and Employer's Liability

Coverage must be afforded per Chapter 440, Florida Statutes. Any person or entity performing work for or on behalf of the Town must provide Workers' Compensation insurance. Exceptions and exemptions will be allowed by the Town's Risk Manager, if they are in accordance with Florida Statute.

The Contractor waives, and the Contractor shall ensure that the Contractor's insurance carrier waives, all subrogation rights against the Town, its officials, employees, and volunteers for all losses or damages. The Town requires the policy to be endorsed with WC 00 03 13 Waiver of our Right to Recover from Others or equivalent.

The Contractor must be in compliance with all applicable State and federal workers' compensation laws, including the U.S. Longshore Harbor Workers' Act and the Jones Act, if applicable.

Insurance Certificate Requirements

a. The Contractor shall provide the Town with valid Certificates of Insurance (binders are unacceptable) no later than ten (10) days prior to the start of work contemplated in this Agreement.
b. The Contractor shall provide to the Town a Certificate of Insurance having a thirty (30) day notice of cancellation; ten (10) days' notice if cancellation is for nonpayment of premium.
c. In the event that the insurer is unable to accommodate the cancellation notice requirement, it shall be the responsibility of the Contractor to provide the proper notice. Such notification will be in writing by registered mail, return receipt requested, and addressed to the certificate holder.
d. In the event the Agreement term or any surviving obligation of the Contractor following expiration or early termination of the Agreement goes beyond the expiration date of the insurance policy, the Contractor shall provide the Town with an updated Certificate of Insurance no later than ten (10) days prior to the expiration of the insurance currently in effect. The Town reserves the right to suspend the Agreement until this requirement is met.
e. The Certificate of Insurance shall indicate whether coverage is provided under a claims-made or occurrence form. If any coverage is provided on a claims-made form, the Certificate of Insurance must show a retroactive date, which shall be the effective date of the initial contract or prior.
f. The Town shall be named as an Additional Insured on all liability policies, with the exception of Workers' Compensation.
g. The Town shall be granted a Waiver of Subrogation on the Contractor's Workers' Compensation insurance policy.
h. The title of the Agreement, Bid/Contract number, event dates, or other identifying reference must be listed on the Certificate of Insurance.

Watercraft Liability

Coverage must be afforded in an amount not less than $1,000,000 per occurrence and must cover the utilization of watercraft, including Bodily Injury and Property Damage arising out of ownership, maintenance, or use of any watercraft, including owned, non-owned, and hired.

Coverage may be provided in the form of an endorsement to the Commercial General Liability policy, or in the form of a separate policy covering Watercraft Liability or Protection and Indemnity for Bodily Injury and Property Damage.

The Certificate Holder should read as follows:
Town of Bay Harbor Islands
9665 Bay Harbor Terrace
Bay Harbor Islands, FL 33154

The Contractor has the sole responsibility for all insurance premiums and shall be fully and solely responsible for any costs or expenses as a result of a coverage deductible, co-insurance penalty, or self-insured retention; including any loss not covered because of the operation of such deductible, co-insurance penalty, self-insured retention, or coverage exclusion or limitation. Any costs for adding the Town as an Additional Insured shall be at the Contractor's expense.

If the Contractor's primary insurance policy/policies do not meet the minimum requirements, as set forth in this Agreement, the Contractor may provide evidence of an Umbrella/Excess insurance policy to comply with this requirement.

The Contractor's insurance coverage shall be primary insurance as respects to the Town, a Florida municipal corporation, its officials, employees, and volunteers. Any insurance or self-insurance maintained by the Town, a Florida municipal corporation, its officials, employees, or volunteers shall be non-contributory.

Any exclusion or provision in any insurance policy maintained by the Contractor that excludes coverage required in this Agreement shall be deemed unacceptable and shall be considered breach of contract.

All required insurance policies must be maintained until the contract work has been accepted by the Town, or until this Agreement is terminated, whichever is later. Any lapse in coverage shall be considered breach of contract. In addition, Contractor must provide to the Town confirmation of coverage renewal via an updated certificate should any policies expire prior to the expiration of this Agreement. The Town reserves the right to review, at any time, coverage forms and limits of Contractor's insurance policies.

The Contractor shall provide notice of any and all claims, accidents, and any other occurrences associated with this Agreement to the Contractor's insurance company or companies and the Town's Risk Management office, as soon as practical.

It is the Contractor's responsibility to ensure that any and all of the Contractor's independent contractors and subcontractors comply with these insurance requirements. All coverages for independent contractors and subcontractors shall be subject to all of the applicable requirements stated herein. Any and all deficiencies are the responsibility of the Contractor.

NOTE: TOWN PROJECT NUMBER, PROJECT NAME AND BID NUMBER MUST APPEAR ON EACH CERTIFICATE, AND THE TOWN OF BAY HARBOR ISLANDS MUST BE NAMED ON THE CERTIFICATE AS AN "ADDITIONAL INSURED" ON REQUIRED LIABILITY POLICIES.

ARTICLE 11- WARRANTY AND GUARANTEE, TESTS AND INSPECTIONS, CORRECTION, REMOVAL OR ACCEPTANCE OF DEFECTIVE WORK

11.1 Warranty: The Contractor warrants and guarantees to the Town that all Work will be in accordance with the Contract Documents and will not be defective. Prompt notice of all defects shall be given to the Contractor. All defective work, whether or not in place, may be rejected, corrected or accepted as provided in this Article.

11.1.1 Warranty of Title: The Contractor warrants to the Town that it possesses good, clear and marketable title to all equipment and materials provided and that there are no pending liens, claims or encumbrances against the equipment and materials.

11.1.2 Warranty of Specifications: The Contractor warrants that all equipment, materials and workmanship furnished, whether furnished by the Contractor, its subcontractors or suppliers, will comply with the specifications, drawings and other descriptions supplied or adopted and that all services will be performed in a workmanlike manner.

11.1.3 Warranty of Merchantability: The Contractor warrants that any and all equipment to be supplied pursuant to this Agreement is merchantable, free from defects, whether patent or latent in material or workmanship, and fit for the ordinary purposes for which it is intended.

11.2 Tests and Inspections: Contractor shall retain the services of an independent, certified, testing lab to perform all testing as required by the specifications, contract drawings, and any applicable permitting agency. Contractor shall provide evidence of certification to the Town before the work and testing is done. Testing results shall be submitted to the Project Manager for review and approval at the time the results are provided to the Contractor. The Contractor shall give the Project Manager and Town Inspector a minimum of twenty-four (24) hours' advanced notice of readiness of the Work for all required inspections, tests, or approvals and shall notify all applicable permitting agencies in a timely manner based on requirements set forth in the permit documents.

11.2.1 Neither observations by the Project Manager nor inspections, tests or approvals by others shall relieve the Contractor from its obligations to perform the Work in accordance with the Contract Documents.

11.3 Uncovering Work: If any work that is to be inspected, tested or approved is covered without approval or consent of the Project Manager, it must, if requested by the Project Manager, be uncovered for observation and/or testing. Such uncovering and replacement shall be at the Contractor's sole expense unless the Contractor has given the Project Manager timely notice of the Contractor's intention to cover such Work and the Project Manager has not acted with reasonable promptness in response to such notice.

11.3.1 If the Project Manager considers it necessary or advisable that Work covered in accordance with Paragraphs 11.2.1 be observed by the Town or inspected or tested by others, the Contractor at the Town's request, shall uncover, expose or otherwise make available for observation, inspection or testing as the Project Manager may require, that portion of the Work in question, furnishing all necessary labor, material and equipment. If it is found that such Work is defective, the Contractor shall bear all the expenses of such uncovering, exposure, observation, inspection and testing and of satisfactory reconstruction, including compensation for additional professional services, and an appropriate deductive Change Order shall be issued. If, however, such work is not found to be defective, the Contractor shall be allowed an increase in the Contract Price or an extension of the Contract Time, or both, directly attributable to such uncovering, exposure, observation, inspection testing and reconstruction if it makes a claim therefore as provided in Articles 14 and 15.

11.4 Town May Stop the Work: If the Work is defective, or the Contractor fails to supply sufficient skilled supervisory personnel or workmen or suitable materials or equipment or the work area is deemed unsafe, the Town may order the Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, this right of the Town to stop the Work shall not give rise to any duty on the part of the Town to exercise this right for the benefit of the Contractor or any other Party. The Town will not award any increase in Contract Price or Contract Time if the Work is stopped due to the circumstances described herein.

11.5 Correction or Removal of Defective Work Before Final Payment: If required by the Project Manager, the Contractor shall promptly, without cost to the Town and as specified by the Project Manager, either correct any defective Work, whether or not fabricated, installed or completed, or if the Work has been rejected by the Town remove it from the site and replace it with non-defective Work.

11.6 One Year Correction Period After Final Payment: If within one (1) year after the date of final acceptance, or such longer period of time as may be prescribed by law or by the terms of any applicable special guarantee required by the Contract Documents, any work is found to be defective, the Contractor shall promptly, without cost to the Town and in accordance with the Town's written instructions, either correct such defective Work, or, if it has been rejected by the Town, remove it from the site and replace it with non-defective Work.

If the Contractor does not promptly comply with the terms of such instructions or in an emergency where delay would cause serious risk of loss or damage, the Town may have the defective Work corrected or the rejected Work removed and replaced, and all direct and indirect costs for such removal and replacement, including compensation for additional professional services, shall be paid by the Contractor.

11.7 Acceptance of Defective Work, Deductions: If, instead of requiring correction or removal and replacement of defective Work, the Town, at the Town's sole option, prefers to accept it, the Town may do so. In such a case, if acceptance occurs prior to the Project Manager's recommendation of final payments, a Change Order shall be issued incorporating the necessary revisions in the Contract's Documents, including appropriate reduction in the Contract Price; or if the acceptance occurs after such recommendation, an appropriate amount shall be paid by the Contractor to the Town.

11.8 Town May Correct Defective Work: If the Contractor fails within a reasonable time after written notice of the Project Manager to proceed to correct defective Work or to remove and replace rejected Work as required by the Project Manager in accordance with Paragraph 11.5, or if the Contractor fails to perform the Work in accordance with the Contract Documents, the Town may, after seven (7) days' written notice to the Contractor, correct and remedy any such deficiency. In exercising its rights under this paragraph, the Town shall proceed expeditiously. To the extent necessary to complete corrective and remedial action, the Town may exclude the Contractor from all or part of the site, take possession of all or part of the Work, suspend the Contractor's services related thereto and take possession of the Contractor's tools, construction equipment and materials stored at the site or elsewhere. The Contractor shall allow the Town's representative agents and employees such access to the site as may be necessary to enable the Town to exercise its rights under this paragraph. All direct and indirect costs of the Town in exercising such rights shall be charged against the Contractor in an amount verified by the Project Manager, and a Change Order shall be issued

incorporating the necessary revisions in the Contract Documents and a reduction in the Contract Price. Such direct and indirect costs shall include, in particular but without limitation, compensation for additional professional services required and costs of repair and replacement of work of others destroyed or damaged by correction, removal or replacement of the Contractor's defective Work. The Contractor shall not be allowed an extension of the Contract Time because of any delay in performance of the Work attributable to the exercise by the Town of the Town's right hereunder.

ARTICLE 12 – INDEMNIFICATION

12.1 Disclaimer of Liability: The Town shall not at any time, be liable for injury or damage occurring to any person or property from any cause, whatsoever, arising out of Contractor's construction and fulfillment of this Agreement.

12.2 Indemnification: For other, additional good valuable consideration, the receipt and sufficiency of which is hereby acknowledged:

12.2.1 Contractor shall, at its sole cost and expense, indemnify and hold harmless the Town, its representatives, employees and elected and appointed officials from or on account of all claims, damages, losses, liabilities and expenses, direct, indirect or consequential including but not limited to fees and charges of engineers, architects, attorneys, consultants and other professionals and court costs arising out of or in consequence of the performance of this Agreement at all trial and appellate levels. Indemnification shall specifically include but not be limited to claims, damages, losses, liabilities and expenses arising out of or from (a) the negligent or defective design of the project and Work of this Agreement; (b) any act, omission or default of the Contractor, its subcontractors, agents, suppliers, employees or laborers; (c) any and all bodily injuries, sickness, disease or death; (d) injury to or destruction of tangible property, including any resulting loss of use; (e) other such damages, liabilities, or losses received or sustained by any person or persons during or on account of any operations connected with the construction of this Project including the warranty period; (f) the use of any improper materials; (g) any construction defect including both patent and latent defects; (h) failure to timely complete the work; (i) the violation of any federal, state, county or Town laws, ordinances or regulations by Contractor, its subcontractors, agents, servants, independent contractors or employees; (j) the breach or alleged breach by Contractor of any term of the Agreement, including the breach or alleged breach of any warranty or guarantee.

12.2.2 Contractor agrees to indemnify, defend, and hold harmless the Town, its officers, agents and employees, from all damages, liabilities, losses, claims, fines and fees, and from any and all suits and actions of every name and description that may be brought against Town, its officers, agents and employees, on account of any claims, fees, royalties, or costs for any invention or patent and/or for the infringement of any and all copyrights or patent rights claimed by any person, firm, or corporation.

12.2.3 Contractor shall pay all claims, losses, liens, settlements or judgments of any nature in connection with the foregoing indemnifications including, but not limited to, reasonable attorney's fees and costs for trials and appeals.

12.2.4 If any subcontractor, supplier, laborer, or materialmen of Contractor or any other person directly or indirectly acting for or through Contractor files or attempts to file a mechanic's or construction lien against the real property on which the work is performed or any part or against any personal property or improvements thereon or make a claim against any monies due or to become due from the Town to Contractor or from Contractor to a subcontractor, for or on account of any work, labor, services, material, equipment, or other items furnished in connection with the Work or any change order, Contractor agrees to satisfy, remove, or dischargesuch lien or claim at its own expense by bond, payment, or otherwise within five (5) days of the filing or from receipt of written notice from the Town.

Additionally, until such time as such lien or claim is satisfied, removed or discharged by Contractor, all monies due to Contractor, or that become due to Contractor before the lien or claim is satisfied, removed or otherwise discharged, shall be held by Town as security for the satisfaction, removal and discharge of such lien and any expense that may be incurred while obtaining the discharge. If Contractor shall fail to do so, Town shall have the right, in addition to all other rights and remedies provided by this Agreement or by law, to satisfy, remove, or discharge such lien or claim by whatever means Town chooses at the entire and sole cost and expense of Contractor which costs and expenses shall, without limitation, include attorney's fees, litigation costs, fees and expenses and all court costs and assessments, and which shall be deducted from any amount owing to Contractor. In the event the amount due Contractor is less than the amount required to satisfy Contractor's obligation under this, or any other article, paragraph or section of this Agreement, the Contractor shall be liable for the deficiency due the Town.

12.2.5 The Contractor and the Town agree that Section 725.06(2), Florida Statutes (2022), as may be amended or revised, controls the extent and limits of the indemnification and hold harmless provisions of this Agreement, if any, and that the Parties waive any defects in the wording of this Article that runs afoul of said statutory section.

ARTICLE 13 – CHANGES IN THE WORK

13.1 Without invalidating this Agreement, the Town may, at any time or from time-to-time order additions, deletions or revisions in the Work through the issuance of Change Orders. Upon receipt of a fully executed Change Order, the Contractor shall proceed with the Work involved. All Work shall be executed under the applicable conditions of the Contract Documents. If any Change Order causes an increase or decrease in the Contract Price or an extension or shortening of the Contract Time, an equitable adjustment will be made as provided in Article 14 or Article 15 on the basis of a claim made by either Party.

13.2 The Project Manager may authorize minor changes in the Work not involving an adjustment in the Contract Price or the Contract Time, which are consistent with the overall intent of the Contract Documents. Such changes must be in writing and signed by the Town and the Contractor.

13.3 If notice of any change affecting the general scope of the Work or change in the Contract Price is required by the provisions of any Bond to be given to the Surety, it will be the

Contractor's responsibility to so notify the Surety, and the amount of each applicable Bond shall be adjusted accordingly. The Contractor shall furnish proof of such adjustment to the Town.

ARTICLE 14 – CHANGE OF CONTRACT PRICE

Change of Contract Price, approved by Town, shall be computed as follows:

14.1 Cost of the Work: The term "Cost of the Work" means the sum of all direct costs necessarily incurred and paid by Contractor in the proper performance of the Work. Except as otherwise may be agreed to in writing by the Town, these costs shall be in amounts no higher than those prevailing in the Town and shall include only the following items and shall not include any of the costs itemized in Paragraph 14.3:

14.1.1 Payroll costs for employees in the direct employ of the Contractor in the performance of the Work under schedules of job classifications agreed upon by the Town and the Contractor. Payroll costs for employees not employed full time on the Work shall be apportioned on the basis of their time spent on the Work.

Payroll costs shall include, but not be limited to, salaries and wages plus cost of fringe benefits which shall include social security contributions, unemployment, excise and payroll taxes, worker's compensation, health and retirement benefits, bonuses, sick leave, vacation and applicable holiday pay.

14.1.2 Cost of all materials and equipment furnished and incorporated in the Work, including costs of transportation and storage, and required suppliers and field services. All cash discounts, rebates and refunds and all returns from sale of surplus materials and equipment shall accrue to the Town, and the Contractor shall make provisions so that they may be obtained.

14.1.3 Supplemental costs including the following:

14.1.3.1 Cost, including transportation and maintenance of all materials, supplies, equipment, machinery, appliances, office and temporary facilities at the site and hand tools not owned by the workers, which are consumed in the performance of the Work.

14.1.3.2 Rentals of all construction equipment and machinery and the parts whether rented from the Contractor or others in accordance with rental agreements approved by the Town, and the costs of transporting, loading, unloading, installation, dismantling and removal. The rental of any such equipment, machinery or parts shall cease when the use is no longer necessary for the Work.

14.1.3.3 Sales, consumer, use or similar taxes related to the Work and for which the Contractor is liable, imposed by laws and regulations.

14.1.3.4 Royalty payments and fees for permits and licenses.

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

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

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

14.2 The Contract Price may only be increased by an approved and fully executed Change Order when Work is modified in accordance with Article 13 and approved by the Town in writing. Any claim for an increase in the Contract Price resulting from a Change Order shall be based on written notice delivered to the Project Manager within ten (10) days of the occurrence of the Change Order giving rise to the claim. Notice of the amount of the claim with supporting data shall be included in the Change Order and delivered within twenty (20) days of such occurrence unless Project Manager allows an additional period of time to ascertain accurate cost data. Any change in the Contract Price resulting from any such claim shall be incorporated in the Change Order. **IT IS EXPRESSLY AND SPECIFICALLY AGREED THAT ANY AND ALL CLAIMS FOR CHANGES TO THE CONTRACT PRICE SHALL BE WAIVED IF NOT SUBMITTED IN STRICT ACCORDANCE WITH THE REQUIREMENTS OF THIS SECTION.**

14.3 Not Included in the Cost of the Work: The term "Cost of the Work" shall not include any of the following:

14.3.1 Payroll costs and other compensation of the Contractor's officers' executives, principals (of partnership and sole proprietorships), general managers, engineers, architects, estimators, attorneys, auditor, accountants, purchasing and contracting agents, expediters, timekeepers, clerks and other personnel employed by the Contractor whether at the site or in the Contractor's principal or branch office for general administration of the work and not specifically included in the agreed upon schedule of job classifications referred to in Paragraph 14.1.1, all of which are to be considered administrative costs covered by the Contractor's fee.

14.3.2 Expenses of the Contractor's principal and branch offices other than the Contractor's office at the site.

14.3.3 Any part of the Contractor's capital expenses, including interest on the Contractor's capital employed for the Work and charges against the Contractor for delinquent payments.

14.3.4 Cost of premiums for all bonds and for all insurance whether or not the Contractor is required by the Contract Documents to purchase and maintain the same.

14.3.5 Costs due to the negligence of the Contractor, any subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable, including but not limited to, the correction of defective Work, disposal of materials or equipment wrongly supplied and making good any damage to property.

14.3.6 Other overhead or general expense costs of any kind and the costs of any item not specifically and expressly included in Paragraph 14.1.

14.4 Basis of Compensation: The Contractor's compensation, allowed to the Contractor for overhead and profit, shall be determined as follows:

14.4.1 A mutually acceptable negotiated fee:

14.4.1.1 For costs incurred under Paragraphs 14.1.1 and 14.1.2, the Contractor's fee shall not exceed five percent (5%).

14.4.1.2 No fee shall be payable on the basis of costs itemized under Paragraphs 14.1.3.1, 14.1.3.2, 14.1.3.3, 14.1.3.4, 14.1.3.5, 14.1.3.6, 14.1.3.7, 14.3.1, 14.3.2, 14.3.3, 14.3.4, 14.3.5 and 14.3.6.

14.4.1.3 The amount of credit to be allowed by the Contractor to the Town for any such change which results in a net decrease plus a deduction in the Contractor's fee by an amount equal to five percent (5%) for the net decrease.

14.4.1.4 When both additions and credits are involved in any one change the combined overhead and profit shall be figured on the basis of net increase if any, however, not to exceed five percent (5%) of the agreed compensation. Profit will not be paid on any Work not performed.

14.5 Cost Breakdown Required: Whenever the cost of any Work is to be determined pursuant to this Article, the Contractor will submit in form acceptable to the Town an itemized cost breakdown together with supporting documentation. Whenever a change in the Work is to be based upon mutual acceptance of a lump sum, whether the amount is an addition, credit, or no-charge-in-cost, the Contractor shall submit an estimate substantiated by a complete itemized breakdown:

14.5.1 The breakdown shall list quantities and unit prices for materials, labor, equipment and other items of cost.

14.5.2 Whenever a change involves the Contractor and one (1) or more subcontractors and the change is an increase in the agreed compensation, the overhead and profit percentage for the Contractor and each subcontractor shall be itemized separately.

ARTICLE 15 – CHANGE OF THE CONTRACT TIME

15.1 The Contract Time may only be changed by an approved and fully executed Change Order. Any claim for an extension in the Contract Time shall be based on written notice delivered to the Project Manager within five (5) days of the occurrence of the event giving rise to the claim. Any change in the Contract Time resulting from any such claim shall be incorporated in a Change Order.

15.2 The Contract Time will be extended in an amount equal to time lost due to delays beyond the control of the Contractor if a claim is made therefore as provided in Paragraph 15.1. Such delays shall include but not be limited to, acts or neglect by the Town, or to fires, floods, labor disputes, epidemics, abnormal weather conditions, pandemics, act of Governmental Authority, state of emergency, or acts of God.

15.3 All time limits stated in the Contract Documents are of the essence. The provisions of this Article 15 shall not exclude recovery for damages for delay by the Contractor.

15.4 Delays caused by or resulting from entities, contractors or subcontractors who are not affiliated with the Contractor (non-affiliated Contractors) shall not give rise to a claim by the Contractor for damages for increases in material and/or labor costs. Such entities, contractors and subcontractors include, but are not limited to, the Town's contractors and subcontractors, Florida Power and Light Company, AT&T and Florida East Coast Railway, LLC.

15.5 Rights of Various Interests: Whenever work being done by Town's forces or by other contractors is contiguous to or within the limits of work covered by this Agreement, the respective rights of the various interests involved shall be established by the Project Manager to secure the completion of the various portions of the Work in general harmony.

ARTICLE 16 – LIQUIDATED DAMAGES

16.1 Upon failure of the Contractor to complete the Work within the time specified for completion, the Contractor shall pay to the Town the sum of **One Thousand Dollars ($1000.00)** for each and every calendar day that the completion of the Work is delayed beyond the time specified in this Agreement for completion, as fixed and agreed liquidated damages and not as a penalty, so long as the delay Is caused by the Contractor. Should an act of God or the acts or omissions of the Town, its agents or representatives, in derogation to the terms of this Agreement cause the delay, the Contractor shall not be responsible for the delay nor liquidated damages. Liquidated damages are fixed and agreed upon between the Parties, recognizing the impossibility of precisely ascertaining the amount of damages that will be sustained by the Town as a consequence of such delay and both Parties desiring to obviate any question of dispute concerning the amount of damages and the cost and effect of the failure of the Contractor to complete the Work on time. Liquidated damages shall apply separately to each portion of the Work for which a time of completion is given. The Town shall have the right to deduct from or retain any compensation which may be due or which may become due and payable to the Contractor the amount of liquidated damages, and if the amount retained by the Town is insufficient to pay in full such liquidated damages, the Contractor shall pay all liquidated damages in full. The Contractor shall be responsible for reimbursing the Town, in addition to liquidated damages or other damages for delay, for all costs of engineering, architectural fees, and inspection and other costs incurred in administering the construction of the Project beyond the completion date specified or beyond an approved extension of time granted to the Contractor whichever is later. Delays caused by or resulting from entities, contractors or subcontractors who are not affiliated with the Contractor shall not give rise to a claim by Contractor for damages for increase in material and/or labor costs. Such entities, contractors and subcontractors include, but are not limited to, the Town's contractors and subcontractors, Florida Power and Light Company, AT&T, and Florida East Coast Railway, LLC.

16.2 No Extended Damages: For other and additional good and valuable consideration the receipt and sufficiency of which is hereby acknowledged, the Contractor covenants and agrees that in the event of any delay of construction or for any reason, allegation or claim, and notwithstanding the reason of the delay, reason, claim or allegation or who caused them or the construction delay or whether they were caused by the Town, that there will be no entitlement to Contractor to or for any direct or indirect financial damages

or losses for extended corporate overhead impact, extended project overhead impacts, project support services, mobilization or demobilization or by whatever other label or legal concept or theory and types of names or labels or basis such claims may have, or any business damages or losses of whatever type or nature, and Contractor hereby waives any right to make any such claim or claims. This provision will also have application and effect when construction delays are anticipated and agreed upon by both the Town and the Contractor.

ARTICLE 17 – SUSPENSION OF WORK AND TERMINATION

17.1 Town May Suspend Work: The Town may, at any time and without cause, suspend the Work or any portion of the Work for a period of not more than ninety (90) days by notice in writing to the Contractor which shall fix the date on which Work shall be resumed. The Contractor shall resume the Work on the date fixed. The Contractor will be allowed an increase in the Contract Price or an extension of the Contract Time, or both, directly attributable to any suspension, if the Contractor makes a claim as provided in Articles 14 and 15.

17.2 Town's Right to Terminate Contract: The Town may terminate this Agreement upon fifteen (15) calendar days' written notice upon the occurrence of any one or more of the following events:

17.2.1 If the Contractor makes a general assignment for the benefit of creditors.

17.2.2 If a trustee, receiver, custodian or agent of the Contractor is appointed under applicable law or under Agreement, whose appointment or authority to take charge of property of the Contractor is for the purpose of enforcing a lien against such property or for the purpose of general administration of such property for the benefit of the Contractor's creditors.

17.2.3 If Contractor fails to begin the Work within fifteen (15) calendar days after the date set forth in the Notice to Proceed, or fails to perform the Work with sufficient workers and equipment or with sufficient materials to ensure the prompt completion of the Work, or shall perform the Work unsuitably, or cause it to be rejected as defective and unsuitable, or shall discontinue the prosecution of the Work pursuant to the accepted schedule or if Contractor shall fail to perform any material term set forth in the Contract Documents, or from any other cause whatsoever shall not carry on the Work in an acceptable manner, Project Manager may give notice in writing to Contractor and its Surety of such delay, neglect or default, specifying the same.

17.2.4 If the Contractor repeatedly fails to make prompt payments to subcontractors or for labor, material or equipment.

17.2.5 If the Contractor repeatedly disregards proper safety procedures.

17.2.6 If the Contractor disregards any local, state or federal laws or regulations.

17.2.7 If the Contactor otherwise violates any provisions of this Agreement.

17.3 If Contractor, within a period of ten (10) calendar days after such notice, shall not proceed in accordance therewith, the Town may exclude the Contractor from the Work site and take the prosecution of the Work out of the hands of the Contractor, and take possession of the Work and all of the Contractor's tools, appliances, construction equipment and machinery at the site and use them without liability to the Town for trespass or conversion, incorporate in the Work all materials and equipment stored at the site or for which the Town has paid the Contractor but which are stored elsewhere, and finish the Work as the Town may deem expedient. In this instance, the Contractor shall not be entitled to receive any further compensation until the Work is finished.

17.3.1 If after notice of termination of Contractor's notice to proceed, it is determined for any reason that Contractor was not in default, the rights and obligations of Town and Contractor shall be the same as if the notice of termination had been issued pursuant to the Termination for Convenience clause as set forth below in Section 17.4

17.3.2 Upon receipt of Notice of Termination pursuant to Sections 17.2 or 17.4, Contractor shall promptly discontinue all affected work unless the Notice of Termination directs otherwise and deliver or otherwise make available to Town all data, drawings, specifications, reports, estimates, summaries and such other information as may have been required by the Contract Documents whether completed or in process.

17.4 Termination for Convenience: This Agreement may be terminated for convenience in writing by Town upon thirty (30) days' written notice to Contractor (delivered by certified mail, return receipt requested) by overnight courier of intent to terminate and the date on which such termination becomes effective. In such case, Contractor shall be paid for all work executed and accepted by the Town and costs reasonably incurred by Contractor relating to commitments which had become firm prior to the termination. No payment shall be made for profit for work/services which have not been performed or accepted.

17.5 Where the Contractor's service has been so terminated by the Town, the termination shall not affect any rights of the Town against the Contractor then existing or which may thereafter accrue. Any retention or payment of moneys due the Contractor by the Town will not release the Contractor from liability.

17.6 The Contractor has no right, authority or ability to terminate the Work except for the wrongful withholding of any payments due the Contractor from the Town.

ARTICLE 18 – DISPUTE RESOLUTION

18.1 Resolution of Disputes: Questions, claims, difficulties and disputes of whatever nature which may arise relative to the technical interpretation of the Contract Documents and fulfillment of this Agreement as to the character, quality, amount and value of any work done and materials furnished, or proposed to be done or furnished under, or by reason of, the Contract Documents which cannot be resolved by mutual agreement of Town Project Manager and Contractor shall be submitted to the Town Manager or his designee and Contractor's representative for resolution. Prior to any litigation being commenced (other than for equitable or injunctive relief), for any disputes which remain

unresolved, within sixty (60) days after final completion of the Work, the Parties shall participate in mediation to address all unresolved disputes to a mediator agreed upon by the Parties. Should any objection not be resolved in mediation, the Parties retain all their legal rights and remedies provided under the laws of Florida.

18.1.1 All non-technical administrative disputes (such as billing and payment) shall be determined by the Project Manager.

18.1.2 During the pendency of any dispute and after a determination thereof, Contractor and the Project Manager shall act in good faith to mitigate any potential damages including utilization of construction schedule changes and alternate means of construction. During the pendency of any dispute arising under this Agreement, other than termination herein, Contractor shall carry on the Work and adhere to the progress schedule. The Work shall not be delayed or postponed pending resolution of any disputes or disagreements.

18.1.3 For any disputes which remain unsolved, within sixty (60) calendar days after Final Completion of the Work, the Parties shall participate in mediation to address all unresolved disputes. A mediator shall be mutually agreed upon by the Parties. Should any objection not be resolved in mediation, the Parties retain all their legal rights and remedies under applicable law.

ARTICLE 19 – NOTICES

19.1 All notices required by any of the Contract Documents shall be in writing and shall be deemed delivered upon mailing by certified mail, return receipt requested to the following:

To the Town:

Rodney Carrero-Santana P.E
Project Manager
Town of Bay Harbor Islands
9665 Bay Harbor Terrace
Bay Harbor Islands, Florida 33154
Telephone: (305)455-7275
E-mail: rcarrerosantana@bayharborislands-fl.gov with copies to:

Town Manager and Town Attorney
Town of Bay Harbor Islands
9665 Bay Harbor Terrace
Bay Harbor Islands, Florida 33154
Telephone: (305)455-7275
E-mail: City Manager mlasday@bayharborislands-fl.gov
E-mail: City Attorney joseph.geller@gmlaw.com

To the Contractor:

Lead Engineering Contractors, LLC,
Fernando Sanchez (Manager)
5757 Blue Lagoon Drive, Suite 240

Miami, FL 33126
Telephone: (305) 615-3272
E-mail: estimating@lead-ec.com

ARTICLE 20 – LIMITATION OF LIABILITY

20.1 The Town desires to enter into this Agreement only if in so doing the Town can place a limit on the Town's liability for any cause of action arising out of this Agreement, so that the Town's liability for any breach never exceeds the sum of $1,000. For other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Contractor expresses its willingness to enter into this Agreement with the knowledge that the Contractor's recovery from the Town to any action or claim arising from the Agreement is limited to a maximum amount of $1,000, which amount shall be reduced by the amount actually paid by the Town to the Contractor pursuant to this Agreement, for any action or claim arising out of this Agreement. Nothing contained in this paragraph or elsewhere in this Agreement is in any way intended either to be a waiver of the limitation placed upon the Town's liability as set forth in Section 768.28, Florida Statutes (2022), as may be amended or revised, or to extend the Town's liability beyond the limits established in said Section 768.28, Florida Statutes (2022), as may be amended or revised; and no claim or award against the Town shall include attorney's fees, investigative costs, expert fees, suit costs or pre-judgment interest; nor is anything in this Agreement intended in any way to waive or limit any common law protection against liability which the Town may have by reason of sovereign immunity.

20.2 No Extended Damages: For other and additional good and valuable consideration the receipt and sufficiency of which is hereby acknowledged, the Contractor covenants and agrees that in the event of any delay of construction or for any reason, allegation or claim, and notwithstanding the reason of the delay, reason, claim or allegation or who caused them or the construction delay or whether they were caused by the Town, that there will be no entitlement to Contractor to or for any direct or indirect financial damages or losses for extended corporate overhead impact, extended project overhead impacts, project support services, mobilization or demobilization or by whatever other label or legal concept or theory and types of names or labels or basis such claims may have, or any business damages or losses of whatever type or nature, and Contractor hereby waives any right to make any such claim or claims. This provision will also have application and effect when construction delays are anticipated and agreed upon by both the Town and the Contractor.

ARTICLE 21 – GOVERNING LAW; WAIVER OF JURY TRIAL

21.1 The Agreement shall be interpreted and construed in accordance with, and governed by, the laws of the state of Florida. The Parties agree that the exclusive venue for any lawsuit arising from, related to, or in connection with this Agreement shall be in the state courts of the Eleventh Judicial Circuit in and for Dade County, Florida. If any claims arising from, related to, or in connection with this Agreement must be litigated in federal court, the Parties agree that the exclusive venue for any such lawsuit shall be in the United States District Court or United States Bankruptcy Court for the Southern District of Florida. **BY ENTERING INTO THIS AGREEMENT, THE PARTIES HEREBY EXPRESSLY WAIVE ANY AND ALL RIGHTS EITHER PARTY MIGHT HAVE TO A**

TRIAL BY JURY OF ANY ISSUES RELATED TO THIS AGREEMENT. IF A PARTY FAILS TO WITHDRAW A REQUEST FOR A JURY TRIAL IN A LAWSUIT ARISING OUT OF THIS AGREEMENT AFTER WRITTEN NOTICE BY THE OTHER PARTY OF VIOLATION OF THIS SECTION, THE PARTY MAKING THE REQUEST FOR JURY TRIAL SHALL BE LIABLE FOR THE REASONABLE ATTORNEYS' FEES AND COSTS OF THE OTHER PARTY IN CONTESTING THE REQUEST FOR JURY TRIAL, AND SUCH AMOUNTS SHALL BE AWARDED BY THE COURT IN ADJUDICATING THE MOTION.

ARTICLE 22 – MISCELLANEOUS

22.1 The duties and obligations imposed by this Agreement and the rights and remedies available to the Parties and, in particular but without limitation, the warranties, guaranties and obligations imposed upon the Contractor and all of the rights and remedies available to the Town, are in addition to, and are not to be construed in any way as a limitation of, any rights and remedies available to any or all of them which are otherwise imposed or available by laws or regulations, by special warranty or guarantee or by other provisions of the Contract Documents, and the provisions of this Paragraph will be as effective as if repeated specifically in the Contract Documents, and the provisions of this Paragraph will survive final payment and termination or completion of this Agreement.

22.2 The Contractor shall not assign or transfer this Agreement or its rights, title or interests. The obligations undertaken by the Contractor pursuant to this Agreement shall not be delegated or assigned to any other person or firm. Violation of the terms of this Paragraph shall constitute a material breach of Agreement by the Contractor and the Town may, at its discretion, cancel this Agreement and all rights, title and interest of the Contractor which shall immediately cease and terminate.

22.3 The Contractor and its employees, volunteers and agents shall be and remain as independent contractor and not agents or employees of the Town with respect to all of the acts and services performed by and under the terms of this Agreement. This Agreement shall not in any way be construed to create a partnership, association or any other kind of joint undertaking or venture between the Parties.

22.4 The Town reserves the right to audit the records of the Contractor relating in any way to the Work to be performed pursuant to this Agreement at any time during the performance and term of this Agreement and for a period of three (3) years after completion and acceptance by the Town. If required by the Town, the Contractor agrees to submit to an audit by an independent certified public accountant selected by the Town. The Contractor shall allow the Town to inspect, examine and review the records of the Contractor at any and all times during normal business hours during the term of this Agreement.

22.5 The remedies expressly provided in this Agreement to the Town shall not be deemed to be exclusive but shall be cumulative and in addition to all other remedies in favor of the Town now or later existing at law or in equity.

22.6 Should any part, term or provisions of this Agreement be decided by the courts to be invalid, illegal or in conflict with any state or federal law, the validity of the remaining portion or provision shall not be affected.

22.7 Prohibition Against Contracting With Scrutinized Companies: Subject to *Odebrecht Construction, Inc., v. Prasad*, 876 F.Supp.2d 1305 (S.D. Fla. 2012), *affirmed*, *Odebrecht Construction, Inc., v. Secretary, Florida Department of Transportation*, 715 F.3d 1268 (11th Cir. 2013), with regard to the "Cuba Amendment," the Contractor certifies that it is not on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, and that it does not have business operations in Cuba or Syria, as provided in Section 287.135, Florida Statutes (2022), as may be amended or revised. The Contractor certifies that it is not on the Scrutinized Companies that Boycott Israel List created pursuant to Section 215.4725, Florida Statutes (2022), as may be amended or revised, and that it is not engaged in a boycott of Israel. The Town may terminate this Agreement at the Town's option if the Contractor is found to have submitted a false certification as provided under subsection (5) of Section 287.135, Florida Statutes (2022), as may be amended or revised, or been placed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List or the Scrutinized Companies that Boycott Israel List created pursuant to Section 215.4725, Florida Statutes (2022), as may be amended or revised, or is engaged in a boycott of Israel or has been engaged in business operations in Cuba or Syria, as defined in Section 287.135, Florida Statutes (2022), as may be amended or revised.

By submitting a bid or response, the company, principals, or owners certify that it is not listed on the Scrutinized Companies with Activities in Sudan List or listed on the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List or is engaged in business operations in Cuba or Syria.

22.8 Public Entity Crimes: In accordance with the Public Crimes Act, Section 287.133, Florida Statutes (2022), as may be amended or revised, a person or affiliate who is a contractor, consultant or other provider, who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid on a contract to provide any goods or services to the Town, may not submit a bid on a contract with the Town for the construction or repair of a public building or public work, may not submit bids on leases of real property to the Town, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with the Town, and may not transact any business with the Town in excess of the threshold amount provided in Section 287.017, Florida Statutes (2022), as may be amended or revised, for category two purchases for a period of thirty-six (36) months from the date of being placed on the convicted vendor list. Violation of this section by Contractor shall result in cancellation of the Town purchase and may result in Contractor debarment.

22.9 Attorney Fees: If Town or Contractor incurs any expense in enforcing the terms of this Agreement through litigation, the prevailing Party in that litigation shall be reimbursed for all reasonable costs and expenses, including but not limited to court costs, and reasonable attorney fees incurred during litigation.

22.10 Public Records

Contractor shall:

1. Keep and maintain public records required by the Town in order to perform the service.

2. Upon request from the Town's custodian of public records, provide the Town with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes (2022), as may be amended or revised, or as otherwise provided by law. The Contractor shall in all respects comply with Florida Public Records Act laws and regulations, and shall allow public inspection and copying of all records related to this Agreement, by the public, as would be allowed if these records were maintained by the Town as public records, since the Contractor is acting on behalf of the Town in regards to these records.

3. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of this Agreement if the Contractor does not transfer the records to the Town.

4. Upon completion of the Agreement, transfer, at no cost, to the Town all public records in possession of the Contractor or keep and maintain public records required by the Town to perform the service. If the Contractor transfers all public records to the Town upon completion of this Agreement, the Contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Contractor keeps and maintains public records upon completion of this Agreement, the Contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the Town, upon request from the Town's custodian of public records, in a format that is compatible with the information technology systems of the Town.

22.11 Non-Discrimination

The Contractor shall not discriminate against its employees based on the employee's race, color, religion, gender, gender identity, gender expression, marital status, sexual orientation, national origin, age, disability, or any other protected classification as defined by applicable law.

1. The Contractor certifies and represents that the Contractor offers the same health benefits to the domestic partners of its employees as are offered its employees' spouses or offers its employees the cash equivalent of such health benefits because it is unable to provide health benefits to its employees' domestic partners, and that the Contractor will comply with Section 2-187, Code of Ordinances of the Town of Bay Harbor Islands, Florida, as may be amended or revised, ("Section 2-187"), during the entire term of this Agreement.

2. The failure of the Contractor to comply with Section 2-187 shall be deemed to be a material breach of this Agreement, entitling the Town to pursue any remedy stated below or any remedy provided under applicable law.

3. The Town may terminate this Agreement if the Contractor fails to comply with Section 2-187.

4. The Town may retain all monies due or to become due until the Contractor complies with Section 2-187.

5. The Contractor may be subject to debarment or suspension proceedings. Such proceedings will be consistent with the procedures in Section 2-183 of the Code of Ordinances of the Town of Bay Harbor Islands, Florida.

22.13 E-Verify As a condition precedent to the effectiveness of this Agreement, pursuant to Section 448.095, Florida Statutes (2022), as may be amended or revised, the Contractor and its subcontractors shall register with and use the E-Verify system to electronically verify the employment eligibility of newly hired employees.

1. The Contractor shall require each of its subcontractors, if any, to provide the Contractor with an affidavit stating that the subcontractor does not employ, contract with, or subcontract with an unauthorized alien. The Contractor shall maintain a copy of the subcontractor's affidavit for the duration of this Agreement and in accordance with the public records requirements of this Agreement.

2. The Town, the Contractor, or any subcontractor who has a good faith belief that a person or entity with which it is contracting has knowingly violated Section 448.09(1), Florida Statutes (2022), as may be amended or revised, shall terminate the Agreement with the person or entity.

3. The Town, upon good faith belief that a subcontractor knowingly violated the provisions of Section 448.095(2), Florida Statutes (2022), as may be amended or revised, but that the Contractor otherwise complied with Section 448.095(2), Florida Statutes (2022), as may be amended or revised, shall promptly notify Contractor and order the Contractor to immediately terminate the contract with the subcontractor, and the Contractor shall comply with such order.

4. An Agreement terminated under Sections 448.095(2)(c)1. or 2., Florida Statutes (2022), as may be amended or revised, is not a breach of contract and may not be considered as such. If the Town terminates this Agreement under Section448.095(2)(c), Florida Statutes (2022), as may be amended or revised, the Contractor may not be awarded a public contract for at least one year after the date on which the Agreement was terminated. The Contractor is liable for any additional costs incurred by the Town as a result of termination of this Agreement.

5. Contractor shall include in each of its subcontracts, if any, the requirements set forth in this Section, including this subparagraph, requiring any and all subcontractors, as defined in Section 448.095(1)(j), Florida Statutes (2022), as maybe amended or revised, to include all of the requirements of this Section in its subcontracts. Contractor shall be responsible for compliance by any and all subcontractors, as defined in Section 448.095(1)(j), Florida Statutes (2022), as maybe amended or revised, with the requirements of Section 448.095, Florida Statutes (2022), as may be amended or revised.

[THIS SPACE WAS INTENTIONALLY LEFT BLANK]

TOWN

IN WITNESS OF THE FOREGOING, the Parties have set their hands and seals the day and year first written above.

TOWN OF BAY HARBOR ISLANDS, a Florida municipal corporation

By: _____
MARIA LASDAY
Town Manager

Date: _____

ATTEST:

By: _____
YVONNE HAMILTON
Town Clerk

APPROVED AS TO FORM AND LEGAL SUFFICIENCY

By:_____
GREENSPOON MARDER LLP
Town Attorney
By: JOSEPH S. GELLER, ESQ

CONTRACTOR

WITNESSES:

CONTRACTOR., Lead Engineering Contractors, LLC a Florida corporation.

_____ By:_____

_____ Print Name:_____
Print Name

Title:_____

ATTEST:

_____

_____
Print Name

By:_____
Secretary

(CORPORATE SEAL)

STATE OF _____:

COUNTY OF _____:

The foregoing instrument was acknowledged before me by means of ❑ physical presence or ❑ online notarization, this _____ day of _____, 2023, by _____, Fernando Sanchez as Manager , for Lead Engineering Contractors, LLC, a Florida Corporation.

_____
(Signature of Notary Public - State of Florida)

_____
(Print, Type, or Stamp Commissioned Name of Notary Public)

Personally Known_____ OR Produced Identification_____
Type of Identification Produced: _____

SURETY BOND
IN COMPLIANCE WITH AND INCORPORATING THE PROVISIONS OF SECTION 255.05, FLORIDA STATUTES

THIS IS A SURETY BOND given by **Lead Engineering Contractors, LLC** the "Contractor" as principal, referred to in this Bond as "Contractor" and _____ as "Surety," and they represent by this instrument that they are bound to the Town of Bay Harbor Islands, a municipal corporation of the State of Florida ("Town"), in the sum of **$1,963,014.84** One Million, Nine Hundred Thousand Sixty-three Thousand, Fourteen Dollars, And Eighty Four Cents. for the payment of which, to be made to the Town Of Bay Harbor Islands, Florida, they jointly and severally, bind themselves and each of their heirs, executors, administrators, successors and assigns.

Owner Name:	TONW OF BAY HARBOR ISLANDS a municipal corporation of the State of Florida
Owner Address and Telephone:	Town Hall, Public Works Department 9665 Bay Harbor Terrace Town Of Bay Harbor Islands, Florida 33154 (305) 866-6241
Bond No.:	
Contractor Name, Address, Telephone:	Lead Engineering Contractors, LLC. 5757 Blue Lagoon Drive, Suite 240 Miami, FL 33126 (305) 615-3272
Surety Company, Address, Telephone	
Bid No. & Town Project No.:	**ITB-5-1011-PW-0-2023/FVR**
Name of Project:	**Indian Creek Structural Repairs Bridge**
Project Location:	Town of Bay Harbor Islands
Legal Description and Street Address	FDOT Structure Bridge No. 875103, Kane Concourse Drive over Indian Creek Bridge, Town of Bay Harbor Islands.
Description of Work	The intent of the project is to complete repairs on bridge no. 875103 as presented in the plans and specifications for the bridge repairs and the utilities saddle repairs. Work under this Project includes but is not limited to restoring cracked or spalled concrete on the superstructure, such as bridge deck, top and underside, and other components at locations indicated in the Plans or as directed by the Engineer, in complete and strict accordance with the plans, specifications and contract that are part of the bidding documents.

"Contractor" is bound by an instrument in writing dated the ___ day of _____ , **2023**, by which Contractor has contracted with the Town Of Bay Harbor Islands, Florida, to furnish labor, tools, and materials for the Project referenced and described above, together with

all work incidental thereto, as fully set out in the plans, specifications and details on file in the Office of the Town Engineer of the Town.

Notice required by Section 255.05(6), Florida Statutes: “This bond is given to comply with Section 255.05 Florida Statutes, and any action instituted by a claimant under this bond for payment must be in accordance with the notice and time limitation provisions in Section 255.05(2), Florida Statutes.”

The condition of the above obligation is such that if the above bound “Contractor,” or its successor or assigns shall in good faith and in good, sufficient, substantial and workmanlike manner, perform the work and comply with the conditions of the contract, including payment of penalties, in strict accordance with the terms and provisions stipulated in it and shall indemnify and hold harmless the Town against and for payments of any and all damages that may happen to persons or property by reason of excavations, embankments, obstructions and all other work in streets, alleys or places in connection with the work, or arising out of any act, neglect or omission of the “Contractor” or its agents, servants, or employees with relation to the work, and shall indemnify and hold harmless the Town against and from all suits and acts of every nature and description arising out of any claims by patentees of any process connected with the work agreed to be performed under the contract, or of any materials used upon the work, and pay all costs accruing if the contract is cancelled and a new contract for finishing the work is let, and all other expenses lawfully chargeable to the “Contractor,” then this agreement shall be null and void; otherwise it is to remain in full force and effect, but it is expressly provided, understood and agreed that if the “Contractor” or its subcontractors fail to duly and promptly pay for any labor, material, or other supplies used by “Contractor” or any of its subcontractors in the performance of the work to be done, or the Contractor defaults in its Contract with the Town, the “Surety” will promptly pay to all claimants, as defined in Section 255.05(1), Florida Statutes, the same in an amount not exceeding the sum specified in this bond, together with interest at the rate of fifteen percent (15%) per annum, and the Surety hereby stipulates and agrees that no change, extension, reduction, alteration or addition to the terms of the contract or the plans, details and specifications shall in any way affect the obligations of this bond.

Whenever Contractor shall be, and is declared by the Town to be in default under the contract, the Town may proceed to cancel the contract and award a new contract for finishing the work or order the Surety to promptly remedy the default by obtaining a bid or bids for completing the contract in accordance with the original contract terms and conditions. Upon the determination by the Town of the lowest responsible bidder, the Surety shall complete all work and pay the full cost of completion, less previous payments.

This Bond is effective for one (1) year after completion and acceptance of the work, with liability equal to twenty-five percent (25%) of the contract price, and is so conditioned that the “Contractor” will, at its own expense, correct any defective or faulty work or material which appears within one (1) year after completion of the work and final payment, upon notification by the Town.

IN WITNESS WHEREOF, the above “Contractor” has signed this Agreement, and the “Surety” has caused this Agreement to be signed in its name by its Attorney-in-Fact, and its corporate seal affixed, this ___ day of _____, 2023.

Signed, sealed and delivered
in the presence of:

CONTRACTOR:

_____ _____ (SEAL)
(Witness) Signature

_____ _____ (SEAL)
(Witness) Print Name Print Name and Title

SURETY:

_____ _____ (SEAL)
(Witness) Signature Local Agent

_____ _____ (SEAL)
(Witness) Print Name Print Name and Title

Fausto Vargas-Reyes

From: Fernando Sanchez <FSanchez@LEAD-EC.com>
Sent: Wednesday, November 1, 2023 10:18 AM
To: Fausto Vargas-Reyes; Estimating@Lead-EC.com
Subject: RE: Bid Quantities for BC-159 Indian Creek Bridge

Hello Fausto, we are confirming that item 040024 will be as follows: $135,000 * 0.1 = $13,500.00.
The Bid total will be $1,963,014.84. Please proceed with the bid adjustment.
Thanks

Regards,

LEAD ENGINEERING CONTRACTORS
www.LEAD-EC.com

Fernando Sanchez, MSCE
Principal

Phone: 305-615-3272 Ext. 102
Mobile: 305-989-9646
Email: fsanchez@LEAD-EC.com

5757 Blue Lagoon Drive, Ste 240
Miami, FL 33126

Confidentiality Notice: This message including files attached to it, may contain confidential information that is intended only for use of the Addressee(s) names above. If you are not an intended recipient any dissemination or copying of the information contained in this message or the taking of any action in reliance upon the information is strictly prohibited. If you have received this message in error, please notify the sender immediately by return Email or by phone and delete the original transmission and any attachments without reading or saving in any manner. Thank you.

From: Fausto Vargas-Reyes <fvargasreyes@bayharborislands-fl.gov>
Sent: Tuesday, October 31, 2023 4:32 PM
To: Estimating@Lead-EC.com; Fernando Sanchez <FSanchez@LEAD-EC.com>
Subject: Bid Quantities for BC-159 Indian Creek Bridge

Good afternoon, Mr. Sanchez

I hope you're doing well. I wanted to bring to your attention a minor adjustment needed in your proposal for the Bay Harbor Islands – Indian Creek Structural Repairs Project (BC-159 FDOT Bridge No. 875103). Specifically, it relates to line item 040024, Conc Class II, Bridge Superstructure, where there was a manual modification made to the quantity plans, increasing it from 0.1 to 0.49. Unfortunately, these changes were not officially approved or allowed.

As a result, your revised bid for line item 040024 should be calculated as follows: $135,000 * 0.1 = $13,500.00. This adjustment will reduce the total for this line item by $52,650.00, resulting in a total bid of $1,963,014.84.

We understand that this is a significant change, and we want to ensure you have the opportunity to make an informed decision. We'd like to know if you would prefer to proceed with your bid as adjusted, or if you would like to consider withdrawing it. Please feel free to reach out with any questions or concerns you may have.

Thank you for your understanding and cooperation in this matter. We appreciate your participation in the project.

Best regards,

Fausto Vargas

Procurement Officer/Controller
Town of Bay Harbor Islands
9665 Bay Harbor Terrace
Bay Harbor Islands, FL 33154
O: (305) 455-7108 **C**: (786) 202-6012
fvargasreyes@bayharborislands-fl.gov



CAUTION: This email was originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

BID/PROPOSAL CERTIFICATION

Please Note: It is the sole responsibility of the bidder to ensure that his bid is submitted before prior to the bid opening date and time listed. All fields below must be completed. If the field does not apply to you, please note N/A in that field.

If you are a foreign corporation, you may be required to obtain a certificate of authority from the department of state, in accordance with Florida Statute §607.1501 (visit http://www.dos.state.fl.us/).

Company: (Legal Registration) Lead Engineering Contractors, LLC EIN (Optional): 81-2774010

Address: 5757 Blue Lagoon Drive, Suite 240

Town: Miami State: FL Zip: 33126

Telephone No.: 305-615-3272 FAX No.: 305-615-3283 Email: estimating@lead-ec.com

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ADDENDUM ACKNOWLEDGEMENT - Proposer acknowledges that the following addenda have been received and are included in the proposal:

Addendum No.	Date Issued	Addendum No.	Date Issued	Addendum No.	Date Issued
1	10/22/23	2	10/26/23	3	10/29/23

The below signatory hereby agrees to furnish the following article(s) or services at the price(s) and terms stated subject to all instructions, conditions, specifications addenda, legal advertisement, and conditions contained in the bid/proposal.

I have read all attachments including the specifications and fully understand what is required. By submitting this signed proposal, I will accept a contract if approved by the Town and such acceptance covers all terms, conditions, and specifications of this bid/proposal. The below signatory also hereby agrees, by virtue of submitting or attempting to submit a response, that in no event shall the Town's liability for respondent's direct, indirect, incidental, consequential, special or exemplary damages, expenses, or lost profits arising out of this competitive solicitation process, including but not limited to public advertisement, bid conferences, site visits, evaluations, oral presentations, or award proceedings exceed the amount of Five Hundred Dollars ($500.00). This limitation shall not apply to claims arising under any provision of indemnification or the Town's protest ordinance contained in this competitive solicitation.

Submitted by:

Fernando Sanchez
Name (printed)

Signature

10/30/23
Date

Principal
Title

Affidavit of Compliance with Foreign Entity Laws

The undersigned, on behalf of the entity listed below ("Entity"), hereby attests under penalty of perjury as follows:

1. Entity is not owned by the government of a foreign country of concern as defined in Section 287.138, Florida Statutes. (Source: § 287.138(2)(a), Florida Statutes)

2. The government of a foreign country of concern does not have a controlling interest in Entity. (Source: § 287.138(2)(b), Florida Statutes)

3. Entity is not organized under the laws of, and does not have a principal place of business in, a foreign country of concern. (Source: § 287.138(2)(c), Florida Statutes)

4. Entity is not owned or controlled by the government of a foreign country of concern, as defined in Section 692.201, Florida Statutes. (Source: § 288.007(2), Florida Statutes)

5. Entity is not a partnership, association, corporation, organization, or other combination of persons organized under the laws of or having its principal place of business in a foreign country of concern, as defined in Section 692.201, Florida Statutes, or a subsidiary of such entity. (Source: § 288.007(2), Florida Statutes)

6. Entity is not a foreign principal, as defined in Section 692.201, Florida Statutes. (Source: § 692.202(5)(a)(1), Florida Statutes)

7. Entity is in compliance with all applicable requirements of Sections 692.202, 692.203, and 692.204, Florida Statutes.

8. (*Only applicable if purchasing real property*) Entity is not a foreign principal prohibited from purchasing the subject real property. Entity is either (a) not a person or entity described in Section 692.204(1)(a), Florida Statutes, or (b) authorized under Section 692.204(2), Florida Statutes, to purchase the subject property. Entity is in compliance with the requirements of Section 692.204, Florida Statutes. (Source: §§ 692.203(6)(a), 692.204(6)(a), Florida Statutes)

9. The undersigned is authorized to execute this affidavit on behalf of Entity.

Date: October 30, 2023

Signed: [signature]

Entity: Lead Engineering Contractors, LLC

Name: Fernando Sanchez

Title: Principal

STATE OF Florida
COUNTY OF Miami Dade

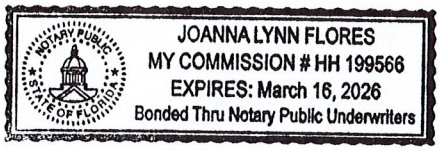
The foregoing instrument was acknowledged before me, by means of ☐ physical presence or ☐ online notarization, this 30th day of October, 2023, by Fernando Sanchez, as Principal for Lead Engineering Contractors, LLC, who is personally known to me or who has produced N/A as identification.

Notary Public Signature: [signature]

State of Florida at Large (Seal)

Print Name: Joanna Flores

My commission expires: 03/16/26



ANTI-KICKBACK AFFIDAVIT

STATE OF FLORIDA)
)
COUNTY OF Miami Dade)

I, the undersigned, hereby duly sworn and deposed say that no portion of this sum herein Bid will be paid to any employees of the Town of Bay Harbor Islands or its elected officials as a commission, kickback, reward or gift, directly or indirectly by me or any member of my firm or by an officer of the corporation.

By: _____

Title: Principal

The foregoing instrument was acknowledged before me this 30th day of, 2023, by Fernando Sanchez [name of person], as Principal [type of authority], for Lead Engineering Contractors, LLC [name of party on behalf of whom instrument was executed].

AFFIX NOTARY STAMP HERE:

JOANNA LYNN FLORES
MY COMMISSION # HH 199566
EXPIRES: March 16, 2026
Bonded Thru Notary Public Underwriters

_____
Notary Public – State of Florida

Joanna Flores
Print or Type Commissioned Name

Personally Known X OR Produced Identification _____ Type of Identification Produced N/A

DISPUTE DISCLOSURE FORM

Answer the following questions by placing a "X" after "Yes" or "No". If you answer "Yes", please explain in the space provided, or on a separate sheet attached to this form.

1. Has your firm or any of its officers, received a reprimand of any nature or been suspended by the Department of Professional Regulations or any other regulatory agency or professional associations within the last five (5) years?

YES _____ NO X

2. Has your firm, or any member of your firm, been declared in default, terminated or removed from a contract or job related to the services your firm provides in the regular course of business within the last five (5) years?

YES _____ NO X

3. Has your firm had against it or filed any requests for equitable adjustment, contract claims, Bid protests, or litigation in the past five (5) years that is related to the services your firm provides in the regular course of business?

YES X NO _____ If yes, state the nature of the request for equitable adjustment, contract claim, litigation, or protest, and state a brief description of the case, the outcome or status of the suit and the monetary amounts of extended contract time involved. * see response below.

I hereby certify that all statements made are true and agree and understand that any misstatement or misrepresentation of falsification of facts shall be cause for forfeiture of rights for further consideration of this Bid for the Town of Bay Harbor Islands.

Lead Engineering Contractors, LLC
Firm

10/30/23
Date

Authorized Signature

Fernando Sanchez
Print or Type Name and Title

* Response to Item 3: Yes, on FDOT contracts, when unforeseen conditions appear, the contract provides language for contractors to submit a claim per standard specifications S-12. The outcome has been that LEAD has gotten fair compensation with or without time involved.

E-VERIFY AFFIRMATION STATEMENT

RFQ/Bid /Contract No: Bid No. ITB-5-1011-PW-0-2023/FVR / Project BC-159

Project Description: Indian Creek Structural Bridge Repairs

Contractor/Proposer/Bidder acknowledges and agrees to utilize the U.S. Department of Homeland Security's E- Verify System to verify the employment eligibility of,

(a) all persons employed by Contractor/Proposer/Bidder to perform employment duties within Florida during the term of the Contract, and,

(b) all persons (including subcontractors/vendors) assigned by Contractor/Proposer/Bidder to perform work pursuant to the Contract.

The Contractor/Proposer/Bidder acknowledges and agrees that use of the U.S. Department of Homeland Security's E-Verify System during the term of the Contract is a condition of the Contract.

Contractor/Proposer/ Bidder Company Name: Lead Engineering Contractors, LLC

Authorized Company Person's Signature:

Authorized Company Person's Title: Principal

Date: 10/30/23

NON-COLLUSION STATEMENT

By signing this offer, the vendor/contractor certifies that this offer is made independently and free from collusion. Vendor shall disclose below any Town of Bay Harbor Islands, FL officer or employee, or any relative of any such officer or employee who is an officer or director of, or has a material interest in, the vendor's business, who is in a position to influence this procurement. Any Town of Bay Harbor Islands, FL officer or employee who has any input into the writing of specifications or requirements, solicitation of offers, decision to award, evaluation of offers, or any other activity pertinent to this procurement is presumed, for purposes hereof, to be in a position to influence this procurement. For purposes hereof, a person has a material interest if they directly or indirectly own more than 5 percent of the total assets or capital stock of any business entity, or if they otherwise stand to personally gain if the contract is awarded to this vendor.

Town employees may not contract with the Town through any corporation or business entity in which they or their immediate family members hold a controlling financial interest (e.g. ownership of five (5) percent or more). Immediate family members (spouse, parents and children) are also prohibited from contracting with the Town subject to the same general rules. Failure of a vendor to disclose any relationship described herein shall be reason for debarment.

Name	Relationships
N/A	N/A

In the event the vendor does not indicate any names, the Town shall interpret this to mean that the vendor has indicated that no such relationships exist.

INVITATION TO BID (ITB) - PROJECT BC-159
INDIAN CREEK STRUCTURAL REPAIRS
BRIDGE NO. 875103

SUMMARY OF STRUCTURE QUANTITIES - BRIDGE 875103						
PAY ITEM NUMBER	**PAY ITEM DESCRIPTION**	**LOCATION DESCRIPTION**	**UNITS**	**QUANTITY PLANS**	**UNIT PRICE**	**TOTAL PRICE**
IV. TEMPORARY TRAFFIC CONTROL PAY ITEMS						
0101-1	Mobilization	General	LS	1.0	200,000	200,000
0102-2	Maintenance Of Traffic	General	LS/DA	1.0	395,000	395,000
0102-14	Traffic Control Officers - As Required By Town	General	EA	1.0	700	700
0102-60	Work Zone Sign	Per Plan	ED	2226	0.25	556.50
0102-71-16	Temporary Barrier, F&I, Free Standing	Per Plan	LF	853	52	44,356
0102-71-26	Temporary Barrier, Relocate, Free Standing	Per Plan	LF	1132	20	22,640
0102-74-1	Channelizing Device – Types I, II, DI, VP, Drum, Or LCD	Per Plan	ED	3857	0.10	385.70
0102-75-1	Temporary Separator, F&I Remove	Per Plan	LF	1094	19.50	21,333
0102-76	Arrow Board/Advance Warning Arrow Panel	Per Plan	ED	196	4.50	882
0102-89-1	Temporary Crash Cushion, Redirective Option	Per Plan	LO	8	950	7,600
0102-115	Type III Barricade	Per Plan	ED	224	0.40	89.60
0710-11-101	Painted Pavement Markings, Standard White, Solid, 6"	Per Plan	GM	0.778	2,026	1,576.23
0710-11-201	Painted Pavement Markings,	Per Plan	GM	0.766	2,035	1,558.81

INVITATION TO BID (ITB) - PROJECT BC-159
INDIAN CREEK STRUCTURAL REPAIRS
BRIDGE NO. 875103

Bay Harbor Islands – Indian Creek Structural Repairs Project BC-159

FDOT Bridge No. 875103

SUMMARY OF STRUCTURE QUANTITIES - BRIDGE 875103						
PAY ITEM NUMBER	**PAY ITEM DESCRIPTION**	**LOCATION DESCRIPTION**	**UNITS**	**QUANTITY PLANS**	**UNIT PRICE**	**TOTAL PRICE**
I. REMOVAL PAY ITEMS						
0110 12 1	Hydrodemolition, Removal of Deck Surface	Slab Units	SY	260	1,900	494,000
II. SUPER STRUCTURE PAY ITEMS						
0401 70 2	Non Shrink Grout, F&I, Miscellaneous-Structures Rehab	Slab Units	CF	4.7	29,000	136,300
0415 1 4	Reinforcing Steel - Bridge Superstructure	Slab Units	LB	3827	4.50	17,221.50
0458 1 21	Bridge Deck Expansion Joint, Rehabilitation, Poured Joint with Backer Rod	Expansion Joint	LF	624	350	218,400
0458 2	Polymer Nosing For Bridge Deck Expansion Joint	Expansion Joint	CF	4.8	6,700	32,160
0918 349	Ultra High Performance Concrete - UHPC	Slab Units	CY	50.6	4,900	247,940
III. SADDLES PAY ITEMS						
0400 2 4	Conc Class II, Bridge Superstructure	Saddle 13 SADDLES	CY	0.49	135,000	66,150
0415 1 6	Reinforcing Steel - Bridge Superstructure	Saddle	LB	4.0	4.50	18
				BRIDGE PAY ITEMS SUBTOTAL =		1,212,189.50

INVITATION TO BID (ITB) - PROJECT BC-159
INDIAN CREEK STRUCTURAL REPAIRS
BRIDGE NO. 875103

SUMMARY OF STRUCTURE QUANTITIES - BRIDGE 875103						
PAY ITEM NUMBER	**PAY ITEM DESCRIPTION**	**LOCATION DESCRIPTION**	**UNITS**	**QUANTITY PLANS**	**UNIT PRICE**	**TOTAL PRICE**
	Standard Yellow, Solid, 6"					
V. PAVEMENT PAY ITEMS						
0327-70-6	Milling Existing Asphalt Pavement, 1½" Avg. Depth	Per Plan	SY	4454.5	5.00	22,272.50
0337-7-83	Asphalt Concrete Friction Course, Traffic C, FC-12.5, PG 76-22	Per Plan	TN	367.5	230	84,525
				ROADWAY PAY ITEMS SUB-TOTAL =		803,475.34

TOTAL BASE BID PRICE (TOTAL OF ALL BID ITEMS; I THROUGH V) = 2,015,664.84

Quantities Notes:

1. The quantities listed for this project are estimates based on past field inspections. Due to the dynamic nature of deterioration, the town does not guarantee the accuracy of the estimates and due to the nature of the work, the bid quantities are not guaranteed and may be overrun or underrun as needed based on the repairs necessary at the time that the bridge is repaired. The actual reimbursement to the contractor will be based on the unit prices for the actual quantities of work completed by the contractor. No adjustment to the unit price shall be made due to overrunning or underrunning a quantity.

2. The quantities given for the saddles, are per saddle. Contractor to verify number of saddles to be repaired and adjust quantities of saddles required prior to submittal of the bid.

3. The contractor is responsible and shall verify the estimated for all of the items listed in the Summary of Structure Quantities and the actual payment to the contractor will be based on the unit prices for the actual quantities of work completed by the contractor. No adjustment to the unit price shall be made due to overrunning or underrunning a quantity.

CEAS ENGINEERING CONTRACTORS LLC — 10/30/2023

(Contractor Name) **(Date)**

INVITATION TO BID (ITB) - PROJECT BC-159
INDIAN CREEK STRUCTURAL REPAIRS
BRIDGE NO. 875103

Bidder will complete the Work in accordance with the Contract Documents for the following Total Base Bid Price as itemized above:

$ $ 2,015,664.84

(**Total Base Bid Price**: Total for items I through V)

$ TWO MILLION FIFTEEN THOUSAND SIX HUNDRED SIXTY FOUR — (Dollars) EIGHTY FOUR (cents)

Total for items I through V - Base Bid Price Amount (in Words)

LEAD ENGINEERING CONTRACTORS LLC

Name of Bidder

FERNANDO SANCHEZ

Signature of Bidder

Town of Bay Harbor islands
9665 Bay Harbor Terrace
(305) 866-6241

ITB-5-1011-PW-0-2023/FVR

Indian Creek Structural Bridge Repairs Project BC-159

ADDENDUM NO. 1

ISSUED: October 22, 2023

This Addendum is being issued to provide the following information. It is hereby made a part of the Plans and Specifications and shall be included with all contract documents.

1 New Documents added:

1- Structure Quantities
2- Summary of Pay Items Page 3A

2- Questions submitted:

Question 1.
Could you please share with us the related information regarding the referenced project?

Please advise about the estimated budget for the project.

Answer
The Engineer of Record Estimated Probable Cost of Construction is $2,336,500.00

ADDENDUM #3 1

Fausto Vargas
Procurement Officer

Company Name: Lead Engineering Contractors, LLC
(please print)

Bidder's Signature: _____

Date: 10/30/23

Town of Bay Harbor islands
9665 Bay Harbor Terrace
(305) 866-6241

ITB-5-1011-PW-0-2023/FVR

Indian Creek Structural Bridge Repairs Project BC-159

ADDENDUM NO. 2

ISSUED: October 26, 2023

This Addendum is being issued to provide the following information. It is hereby made a part of the Plans and Specifications and shall be included with all contract documents.

1 Questions submitted:

Question 1.

Concerning Addendum 1, could you please provide clarification as to why page 2 is labeled as ADDENDUM #3? Are there more addendums not released on demandstar?

Furthermore, given that Addendum 1 contained critical details, including the Summary of Quantities, and was issued a mere three days before the bid deadline, would you be open to considering an extension for the bid submission deadline?

Answer

I apologize for the confusion regarding the numbers; it was a clerical error. We have only released addendum number 1.

Please be advised that the bid opening date will remain unchanged and will proceed as initially advertised in the original document.

ADDENDUM #2

Question 2

Bid item 0102-14 Traffic Control Officers- As Required by Town, 1 EA.
The Plans stated that Off-Duty Officer is required at all time during construction.
Please clarify that the intent of this pay item is for one off-duty officer for approximately 200 days.

Answer

This project encompasses work under the bridge and when Temporary Maintenance of Traffic (MOT) Control is required on the bridge as indicated on the plans. The off- duty police officer is required only when the Temporary Maintenance of Traffic MOT is required on the bridge as indicated on the plans.

Question 3

Will Builder's Risk insurance be required for this project?

Answer

In reference to the Insurance Requirement please refer to the General Conditions, Special Conditions Article 9 of the bid documents.

Fausto Vargas
Procurement Officer

Company Name: Lead Engineering Contractors, LLC
(please print)

Bidder's Signature: _____

Date: 10/30/23

Town of Bay Harbor islands
9665 Bay Harbor Terrace
(305) 866-6241

ITB-5-1011-PW-0-2023/FVR

Indian Creek Structural Bridge Repairs Project BC-159

ADDENDUM NO. 3

ISSUED: October 29, 2023

This Addendum is being issued to provide the following information. It is hereby made a part of the Plans and Specifications and shall be included with all contract documents.

1- Questions submitted:

Question 1.
Has the City considered to include a FDOT prequalification for bridges? This Project has some structural components and other repair complexities that merit for the City to request for the Contractor to have FDOT R&R bridges prequalification's.
Answer
The contractor FDOT prequalification was not included in the package as part of the requirements for this project. Therefore, it is not required but recommended.

Question 2.
The requirement for Hydro demolition equipment and operations is to have equipment staged on top of the bridge deck. The existing space as per the traffic control plans do not provide enough room from the start of the attenuator location to the signalized intersection to stage equipment needed. How did the designer envisioned to accomplish this task. It is specifically constrained during Phase II (work in the center lane)

ADDENDUM #3

Answer
The work zone provided is based on the need to provide one lane in each direction to maintain traffic. The selection equipment needed to perform this work is based on the means and methods of the contractor.

Question 3

It is not possible to perform hydro demolition operations on the center lane only while maintaining the outside lanes open, as the hydro equipment needs to be feed with a water line at all times. Additionally, a water source within reach must be made available to the Contractor. Please indicate wow did the designer envisioned to accomplish this task. It is specifically constrained during Phase II (work in the center lane)

Answer
The work zone provided is based on the need to provide one lane in each direction to maintain traffic. The selection equipment needed to perform this work is based on the means and methods of the contractor.

Fausto Vargas
Procurement Officer

Company Name: Lead Engineering Contractors, LLC
(please print)

Bidder's Signature: _____

Date: 10/30/23

Ron DeSantis, Governor

Melanie S. Griffin, Secretary

Florida dbpr

STATE OF FLORIDA
DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

CONSTRUCTION INDUSTRY LICENSING BOARD

THE GENERAL CONTRACTOR HEREIN IS CERTIFIED UNDER THE
PROVISIONS OF CHAPTER 489, FLORIDA STATUTES

ALLEN, JAMES MATHEW

LEAD ENGINEERING CONTRACTORS, LLC
5757 BLUE LAGOOD DRIVE, SITE 240
MIAMI FL 33126

LICENSE NUMBER: CGC1530137

EXPIRATION DATE: AUGUST 31, 2024

Always verify licenses online at MyFloridaLicense.com

Do not alter this document in any form.

This is your license. It is unlawful for anyone other than the licensee to use this document.

FDOT – E4T51 - NW 136 Avenue

LEAD ENGINEERING CONTRACTORS

DESCRIPTION OF WORK

LEAD provided construction services for the FDOT District 4 and performed the following scopes:

- Full Bridge Replacement of NW 136th Avenue Bridge.
- Decommissioning of an existing 24" Force Main and Installation of a new aerial Force Main crossing C-4 canal.
- Drainage Improvements including 24" French Drain along NW 136th Avenue and SR 84th West Bound.
- Signalization Improvements on a major Broward intersection.







FDOT District IV NW 136th Ave & SR 84. 24" FORCE MAIN AERIAL CROSSING AND BRIDGE REPLACEMENT.

CLIENT
FDOT District iv

ROLE
Prime Contractor

DURATION
05-2019 – 12/2020

CONSTRUCTION COST
$ 6.5 M

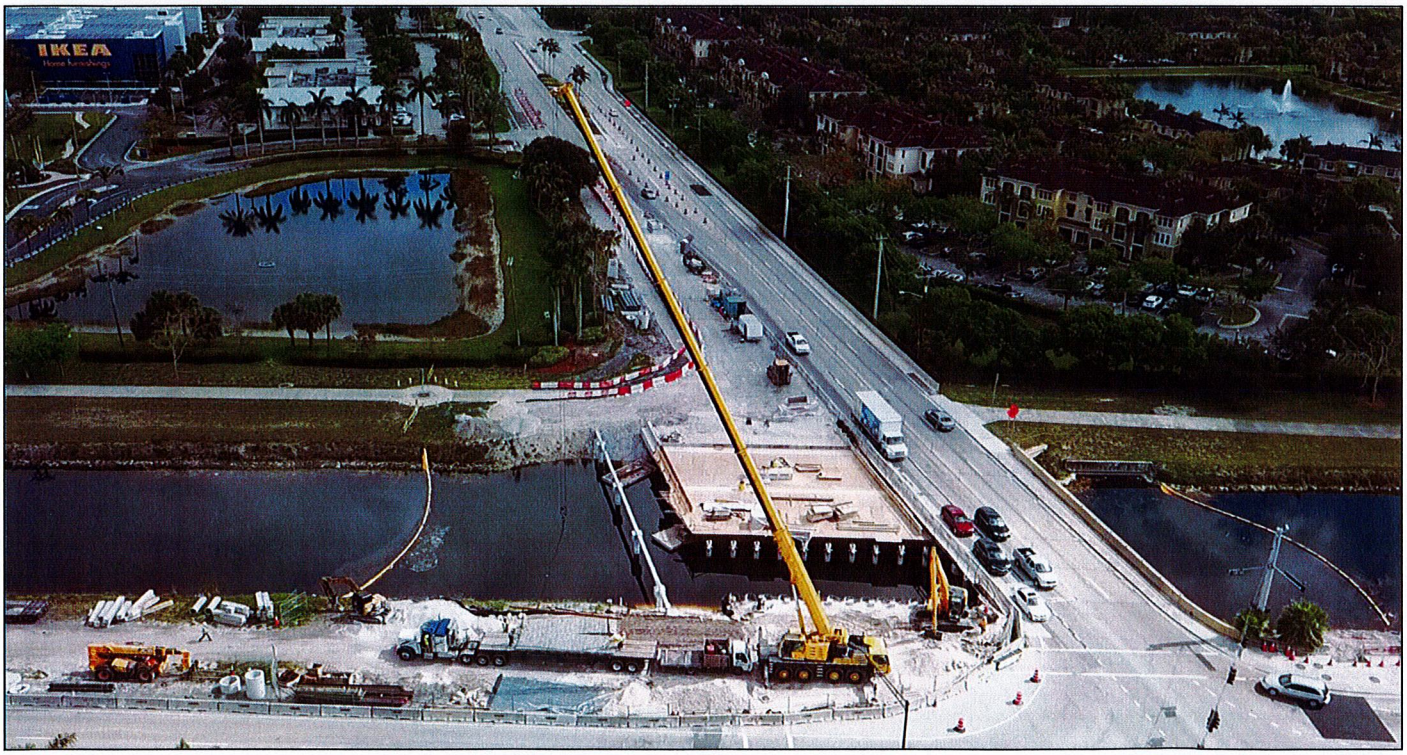
REFERENCE
Mario Sabi
phone no.: (305) 951-1372
email: msabijr@pinnaclecei.com

LEAD PROJECT PERSONNEL + ROLE & RESPONSIBILITY
Mauricio Gonzalez, President & CEO, Project Oversight
Fernando Sanchez, Vice President, Project Oversight
Uriel Lombardo, Project Manager
Mario Jimenez, General Superintendent
Efrain D'Aleccio, Corporate Safety & QC Manager
Eliseo Santamaria, Project Engineer




SIMS
Link-Belt




IKEA


LEAD


LEAD
CONTRACTORS

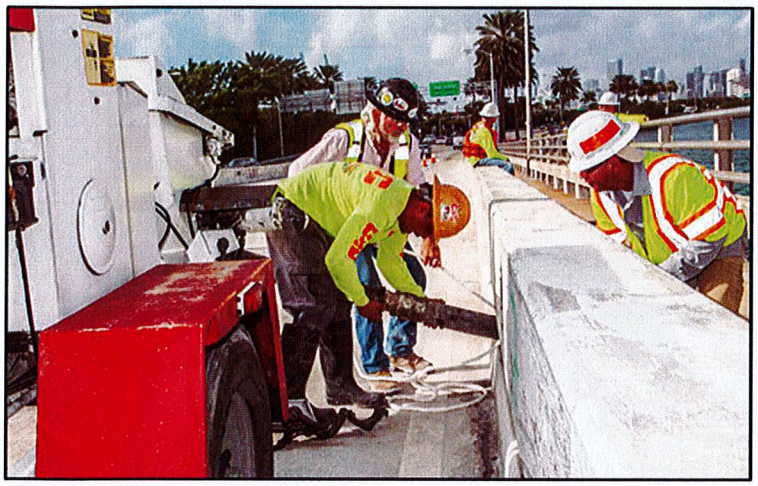
FDOT – E6K72 MACARTHUR CAUSEWAY

DESCRIPTION OF WORK

LEAD provided construction services for the FDOT District 6 and performed the following scopes:

- Complex MOT sequence. Average Daily Traffic Volume > 15,000 V/D.
- Hydro-demolition of the existing deck.
- Casting the new concrete deck with a high-early concrete mix.
- Performing post-tensioning on the existing concrete beams.
- Complete retrofit of the marine fender system.







FDOT District VI- MACARTHUR CAUSEWAY BRIDGE REHABILITATION

CLIENT
FDOT District VI

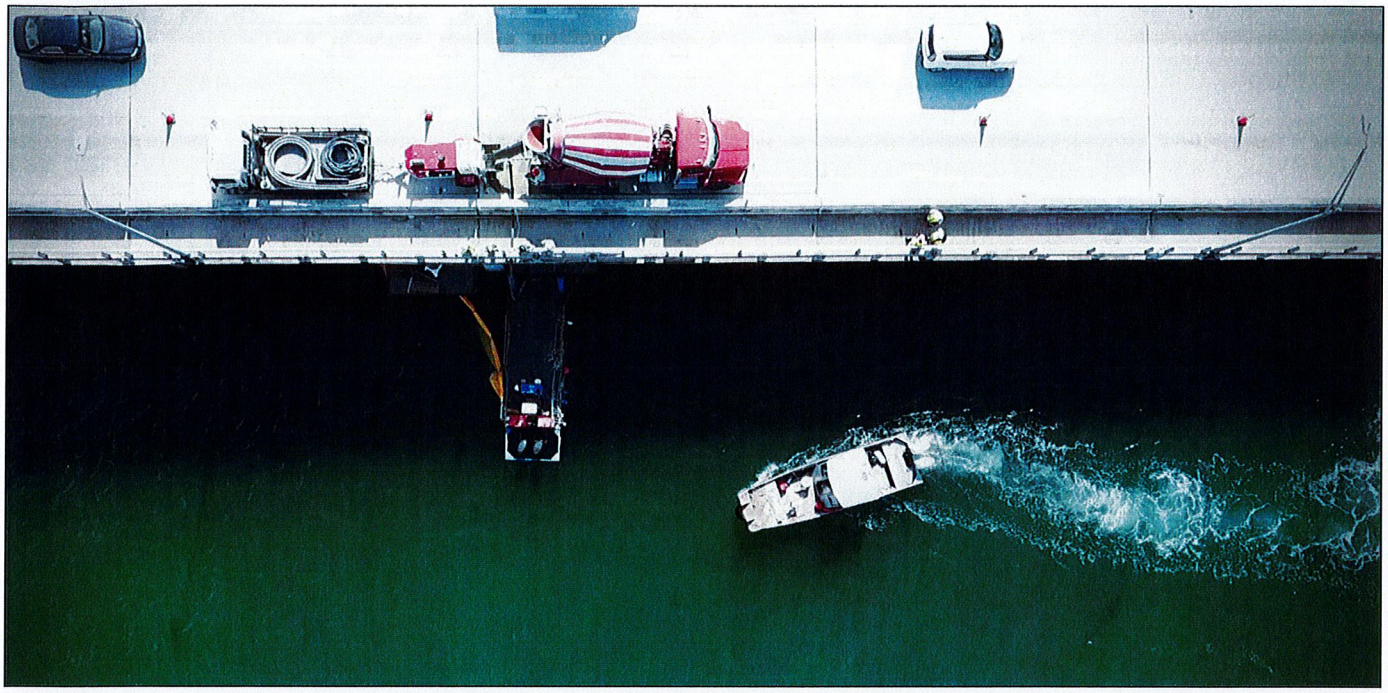
ROLE
Prime Contractor

DURATION
04-2018 – 06/2020

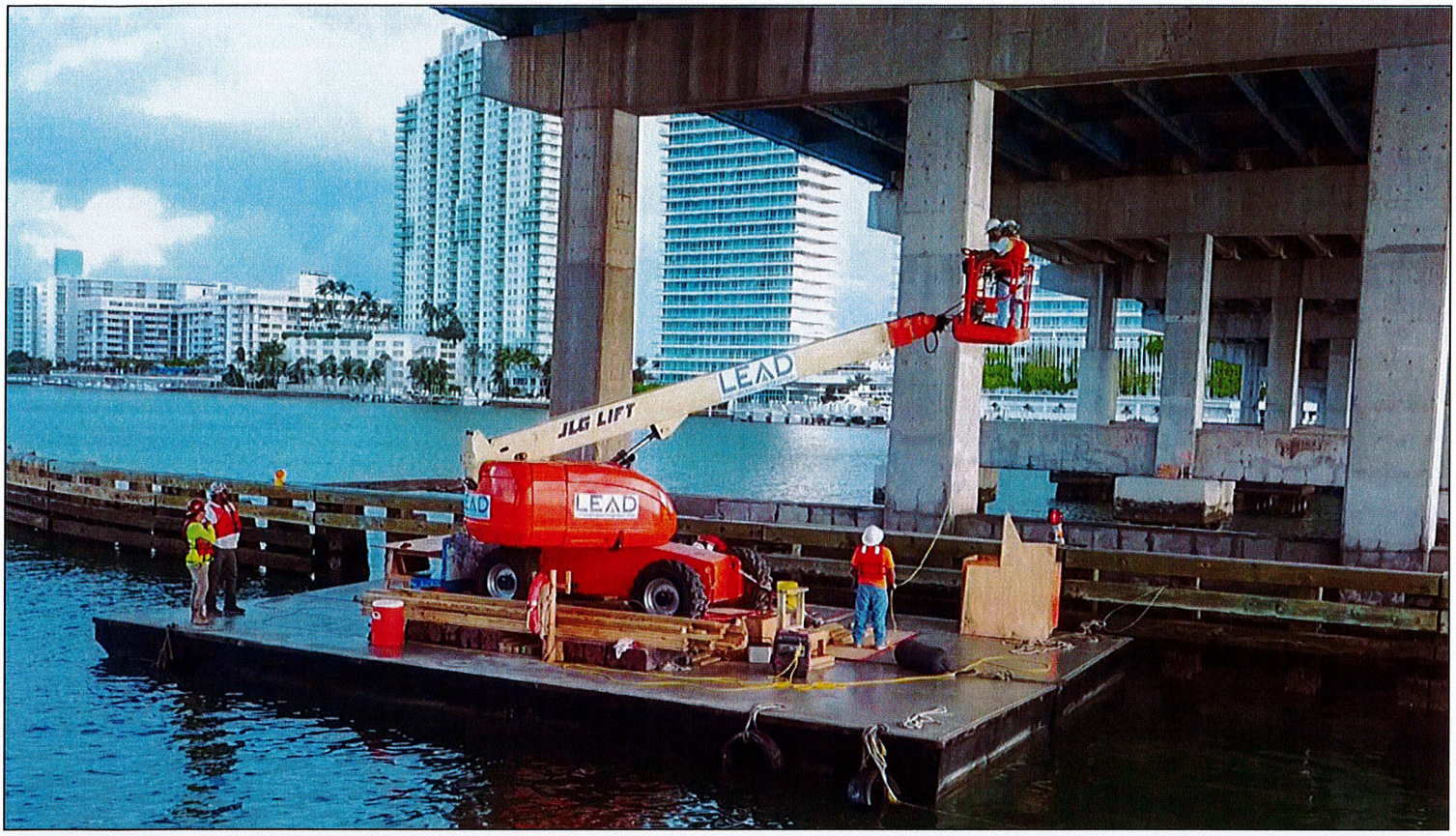
CONSTRUCTION COST
$ 18 M

REFERENCE
Dru Badri
phone no.: (305) 640 -7139
email: dru.badri@dot.state.fl.us

LEAD PROJECT PERSONNEL + ROLE & RESPONSIBILITY
Mauricio Gonzalez, President & CEO, Project Oversight
Fernando Sanchez, Vice President, Project Oversight
Efrain D'Aleccio, Corporate Safety & QC Manager
Sebastian Reineri, Field Engineer

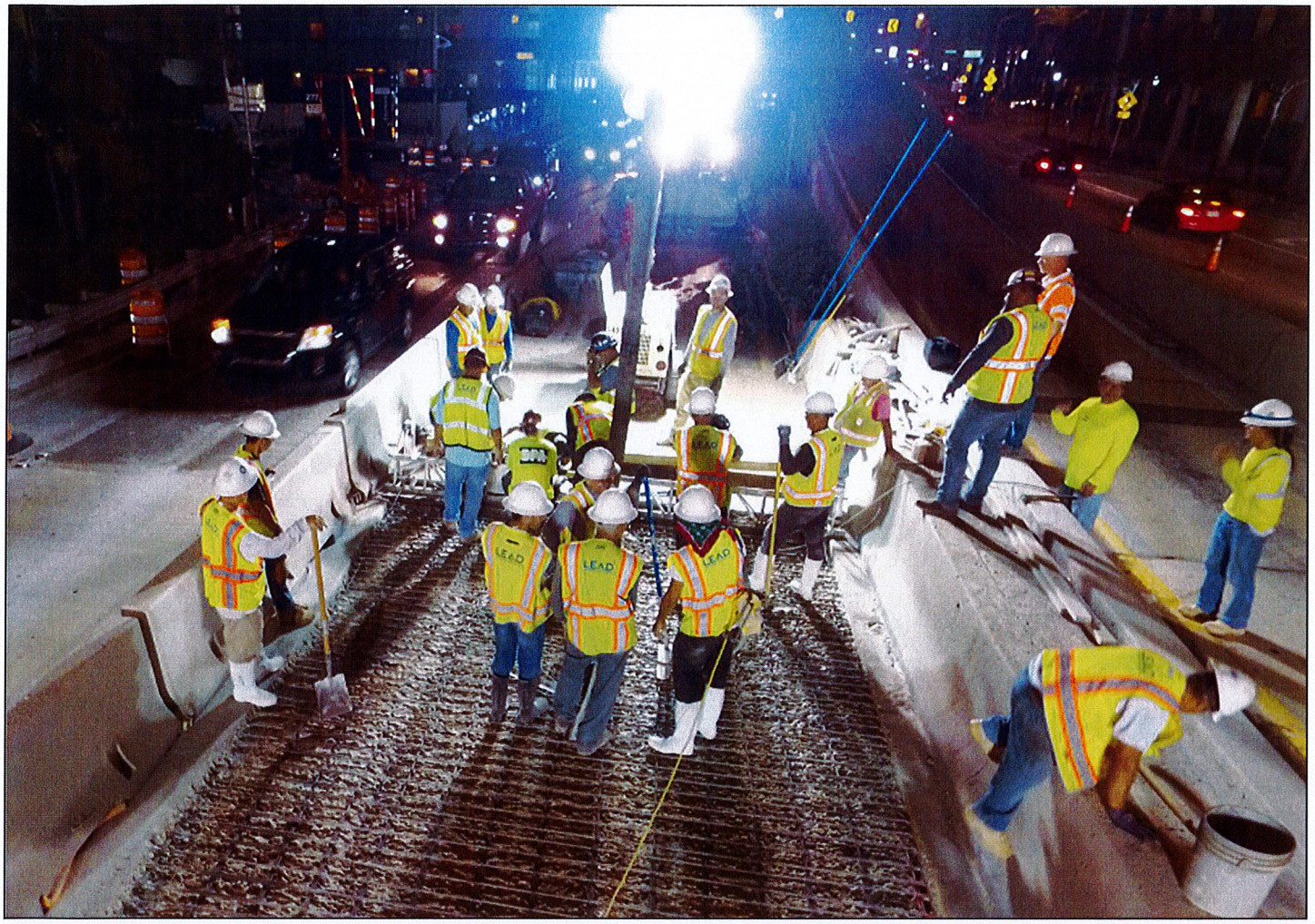




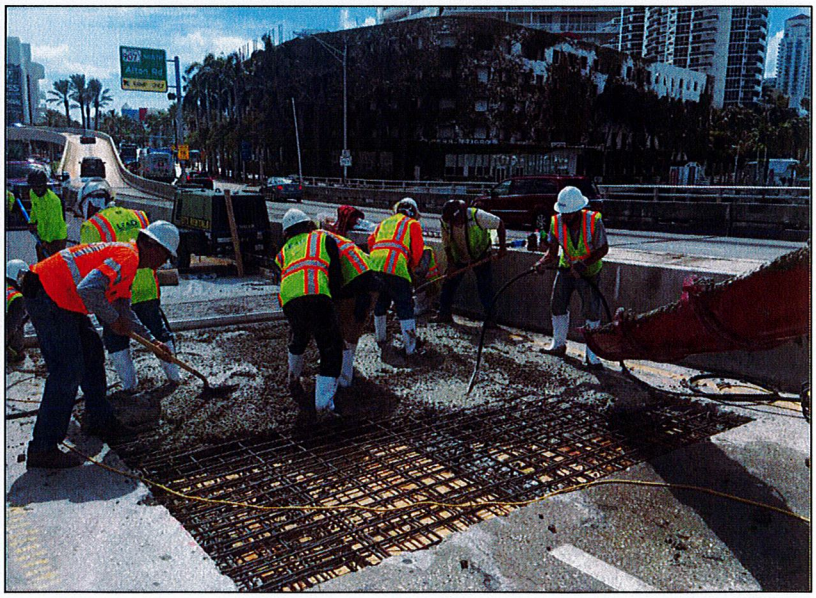

JLG LIFT
LEAD
LEAD




Alton Rd


LEAD
LEAD
LEAD





FDOT – E4S21 – I-95 Bridge Deck Replacement

LEAD ENGINEERING CONTRACTORS

DESCRIPTION OF WORK

LEAD provided construction services for the FDOT District 4 and performed the following scopes:

- Replacement of Existing bridge superstructure (Bridges 940115/940116 over CR-709 & FEC railroad, and Bridges 940122/940123 over Ten Mile Creek), milling and resurfacing, temporary pavement, guardrail, rumble strips, and signing and pavement markings along SR-9 (I-95) from South of Glades Cutoff Road 3.813 miles northerly to north of Okeechobee Road (Virginia Ave.) in the City of Port St. Lucie, St Lucie County.







FDOT District IV I-95 Bridge Deck Replacement

CLIENT
FDOT District IV

ROLE
Prime Contractor

DURATION
05/2017 – 03/2019

CONSTRUCTION COST
$ 13.4M

REFERENCE
Bill Stuckey, P.E., Cardno
phone no.: 407-375-3783
email: bill.stuckey@cardno.com

LEAD PROJECT PERSONNEL + ROLE & RESPONSIBILITY
Mauricio Gonzalez, President & CEO, Project Oversight
Fernando Sanchez, Vice President, Project Oversight
Graham Smith, Sr. Project Manager
Uriel Lombardo, Project Manager
Mario Jimenez, General Superintendent


LEAD





FDOT - SR 916 / NE 135 STREET

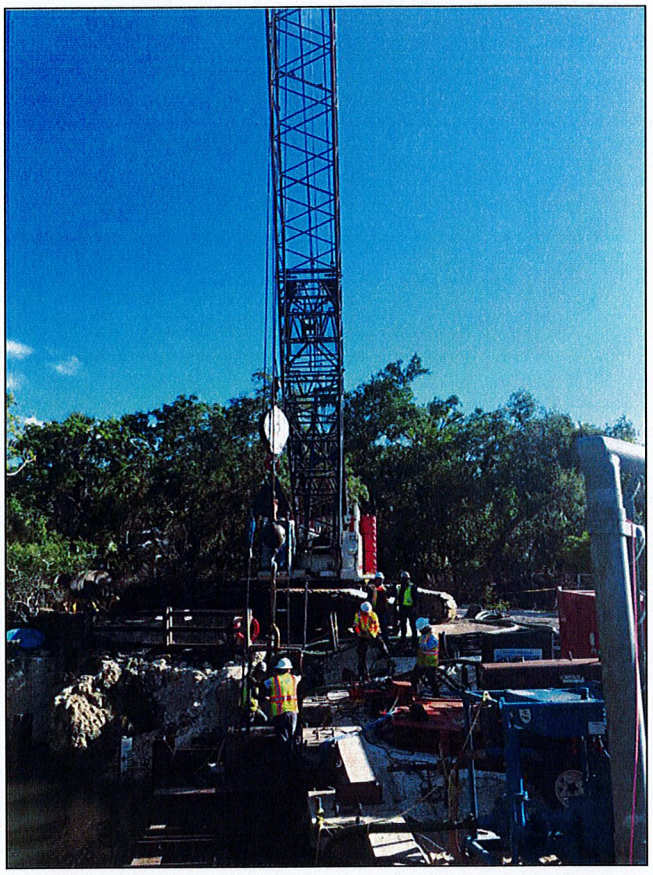
LEAD ENGINEERING CONTRACTORS

DESCRIPTION OF WORK

LEAD provided construction services for the FDOT District 6 and performed the following scopes:

- Slip-lining of four (4) existing 65" culvert pipes (812 LF)
- Underwater barnacle removal of the existing culverts and hydraulic dredging.
- Construction of new headwall, including the installation of 24" concrete piles and bulkhead wall.
- Construction of stilling well and catwalk, installation of flap gates and swing gates.





FDOT District VI DRAINAGE IMPROVEMENTS AND CULVERT SLIP-LINING

CLIENT
FDOT District VI

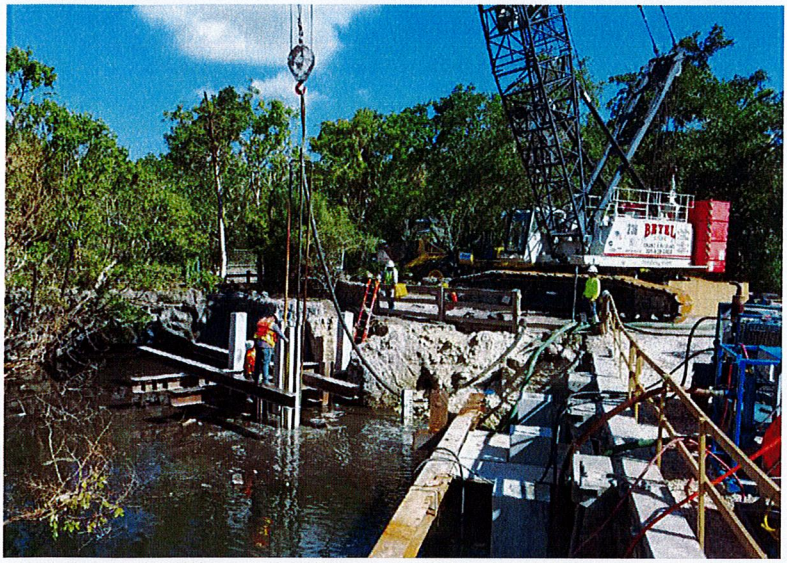
ROLE
Prime Contractor

DURATION
05/2017 – 11/2018

CONSTRUCTION COST
$ 3.6 M

REFERENCE
Dru Badri, P.E.
phone no.: (305) 401-1560
email: dru.badri@dot.state.fl.us

LEAD PROJECT PERSONNEL + ROLE & RESPONSIBILITY
Mauricio Gonzalez, President & CEO, Project Oversight
Fernando Sanchez, Vice President, Project Oversight
Frank Serrano, Sr. Project Manager
Mario Jimenez, General Superintendent




LEAD







LEADENG-01 MWIGUTOW

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY) 10/26/2023

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

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

PRODUCER	CONTACT NAME: AG FL Insurance Team	
American Global LLC 900 S Pine Island Road Suite 210 Plantation, FL 33324	PHONE (A/C, No, Ext): (305) 351-9150	FAX (A/C, No):
	E-MAIL ADDRESS: certsFL@americanglobal.com	
	INSURER(S) AFFORDING COVERAGE	NAIC #
	INSURER A : Starr Indemnity & Liability Co	38318
INSURED Lead Engineering Contractors, LLC 5757 Blue Lagoon Drive Suite 240 Miami, FL 33126	INSURER B :	
	INSURER C :	
	INSURER D :	
	INSURER E :	
	INSURER F :	

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

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

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	X COMMERCIAL GENERAL LIABILITY						EACH OCCURRENCE	$ 2,000,000
	CLAIMS-MADE X OCCUR	X		1000025907231	9/6/2023	9/6/2024	DAMAGE TO RENTED PREMISES (Ea occurrence)	$ 100,000
							MED EXP (Any one person)	$ 10,000
							PERSONAL & ADV INJURY	$ 2,000,000
	GEN'L AGGREGATE LIMIT APPLIES PER:						GENERAL AGGREGATE	$ 4,000,000
	POLICY X PRO-JECT X LOC						PRODUCTS - COMP/OP AGG	$ 4,000,000
	OTHER:							$
A	AUTOMOBILE LIABILITY						COMBINED SINGLE LIMIT (Ea accident)	$ 2,000,000
	X ANY AUTO	X		1000008506231	9/6/2023	9/6/2024	BODILY INJURY (Per person)	$
	OWNED AUTOS ONLY / SCHEDULED AUTOS						BODILY INJURY (Per accident)	$
	HIRED AUTOS ONLY / NON-OWNED AUTOS ONLY						PROPERTY DAMAGE (Per accident)	$
								$
A	UMBRELLA LIAB X OCCUR						EACH OCCURRENCE	$ 6,000,000
	X EXCESS LIAB CLAIMS-MADE	X		1000588617231	9/6/2023	9/6/2024	AGGREGATE	$ 6,000,000
	DED RETENTION $							$
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY						X PER STATUTE OTH-ER	
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) Y/N: N	N/A	X	1000004748	9/6/2023	9/6/2024	E.L. EACH ACCIDENT	$ 1,000,000
	If yes, describe under DESCRIPTION OF OPERATIONS below						E.L. DISEASE - EA EMPLOYEE	$ 1,000,000
							E.L. DISEASE - POLICY LIMIT	$ 1,000,000

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

Indian Creek Structural Bridge Repairs Project BC-159, ITB-5-1011-PW-0-2023/FVR

Town of Bay Harbor Islands is included as Additional Insured in accordance with the policy provisions of the General Liability, Auto Liability, and Umbrella Liability Policies. A Waiver of Subrogation is granted in favor of the Additional Insureds in accordance with the policy provisions of the Worker's Compensation Policy and if permissible by law.

CERTIFICATE HOLDER

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

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

American Global LLC

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AIA® Document A310™ – 2010

Bid Bond

CONTRACTOR:
(Name, legal status and address)
Lead Engineering Contractors, LLC

5757 Blue Lagoon Drive, Suite 240
Miami, FL 33126

SURETY:
(Name, legal status and principal place of business)
Euler Hermes North America Insurance Company

800 Red Brook Boulevard

Owings Mills, MD 21117

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

Any singular reference to Contractor, Surety, Owner or other party shall be considered plural where applicable.

OWNER:
(Name, legal status and address)
Town of Bay Harbor Islands
9665 Bay Harbor Terrace
Bay Harbor Islands, FL 33154

BOND AMOUNT: Five Percent Of The Total Amount Bid (5%)

PROJECT:
(Name, location or address, and Project number, if any)
Indian Creek Structural Repairs

The Contractor and Surety are bound to the Owner in the amount set forth above, for the payment of which the Contractor and Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, as provided herein. The conditions of this Bond are such that if the Owner accepts the bid of the Contractor within the time specified in the bid documents, or within such time period as may be agreed to by the Owner and Contractor, and the Contractor either (1) enters into a contract with the Owner in accordance with the terms of such bid, and gives such bond or bonds as may be specified in the bidding or Contract Documents, with a surety admitted in the jurisdiction of the Project and otherwise acceptable to the Owner, for the faithful performance of such Contract and for the prompt payment of labor and material furnished in the prosecution thereof; or (2) pays to the Owner the difference, not to exceed the amount of this Bond, between the amount specified in said bid and such larger amount for which the Owner may in good faith contract with another party to perform the work covered by said bid, then this obligation shall be null and void, otherwise to remain in full force and effect. The Surety hereby waives any notice of an agreement between the Owner and Contractor to extend the time in which the Owner may accept the bid. Waiver of notice by the Surety shall not apply to any extension exceeding sixty (60) days in the aggregate beyond the time for acceptance of bids specified in the bid documents, and the Owner and Contractor shall obtain the Surety's consent for an extension beyond sixty (60) days.

If this Bond is issued in connection with a subcontractor's bid to a Contractor, the term Contractor in this Bond shall be deemed to be Subcontractor and the term Owner shall be deemed to be Contractor.

When this Bond has been furnished to comply with a statutory or other legal requirement in the location of the Project, any provision in this Bond conflicting with said statutory or legal requirement shall be deemed deleted herefrom and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein. When so furnished, the intent is that this Bond shall be construed as a statutory bond and not as a common law bond.

Signed and sealed this 30th day of October 2023

	Lead Engineering Contractors, LLC
(Witness)	*(Contractor as Principal)* *(Seal)*
	(Title)
	Euler Hermes North America Insurance Company
(Witness)	*(Surety)* *(Seal)*
	(Title) William G. Griffin, Attorney In Fact

CAUTION: You should sign an original AIA Contract Document, on which this text appears in RED. An original assures that changes will not be obscured.

Init.
/

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ACD43070810

Allianz

Allianz Trade

29828

EULER HERMES NORTH AMERICA INSURANCE COMPANY
800 Red Brook Boulevard * Owings Mills, Maryland 21117

The number of persons authorized by this Power of Attorney is not more than:

3

POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS: That EULER HERMES NORTH AMERICA INSURANCE COMPANY (EULER HERMES), a corporation organized and existing under the laws of the state of Maryland, does hereby nominate, constitute, and appoint the person or persons named below, each individually if more than one is named, its true and lawful attorney-in-fact, for and in its name, place, and stead to execute on behalf of EULER HERMES, as surety, any and all bonds, undertakings, and contracts of suretyship, or other written obligations in the nature thereof; provided that the liability of EULER HERMES on any such bond, undertaking, or contract of suretyship executed under this authority shall not exceed the limit stated below.

NAME	ADDRESS	LIMIT OF POWER
William G. Griffin Vivian Santiago Krystal L. Stravato	900 S. Pine Island Road Suite 210 Plantation, FL 33324	Unlimited

This Power of Attorney revokes all previous powers issued on behalf of the attorney(s)-in-fact named above.

IN WITNESS WHEREOF, EULER HERMES has caused these presents to be signed and attested by its appropriate officers and its corporate seal hereunder affixed this 1st day of November, 20 22.

Euler Hermes North America Insurance Company CORPORATE SEAL 2003 MARYLAND

James Daly, President and CEO-The Americas

Nicholas P. Verna II, Senior Vice President and Regional Head of Surety and Guarantee, Americas

State of Maryland, County of Baltimore

On this 1st day of November, 20 22, before me personally appeared Nicholas P. Verna II, to me known, being duly sworn, deposes and says that he resides in Southeastern, PA; that he is Senior Vice President and Regional Head of Surety and Guarantee, Americas of Euler Hermes North America Insurance Company, the Company described herein and which executed the above instrument; that he know the seal of EULER HERMES; that the seal affixed to said instrument is such corporate seal; that it was so affixed by authority of the Board of Directors of EULER HERMES; and that he signed his name thereto by like authority.

Notary Public

Notarial Seal

This Commission Expires February 2, 2026

This Power of Attorney is granted by authority of the following resolutions adopted by the Board of Directors of EULER HERMES NORTH AMERICA INSURANCE COMPANY (Company) by unanimous consent on October 1, 2015.

RESOLVED: That the President, Executive Vice President, Senior Vice President, Vice President, Secretary, and Assistant Vice Secretary, be and hereby are authorized from time to time to appoint one or more Attorneys-in-Fact to execute on behalf of the company, as surety, and any and all bonds, undertakings and contracts of suretyship, or other written obligation in the nature thereof; to proscribe their respective duties and all respective limits of their authority; and to revoke any such appointment at any time.

RESOLVED FURTHER: That the Company seal and signature of the aforesaid officers and may be affixed by facsimile to any Power of Attorney given for the execution of any bond, undertaking, contract of suretyship, or other written obligations in the nature thereof, such signature and seal when so used being hereby adopted by the Company as the original signature of such officer and the original seal of the Company, to be valid and binding upon the Company with the same force and effect as thought manually affixed.

CERTIFICATION

I, Nicholas P. Verna II, Senior Vice President and Regional Head of Surety & Guarantee, Americas of EULER HERMES NORTH AMERICA INSURANCE COMPANY, do hereby certify that the foregoing Power of Attorney and the Resolutions of the Board of Directors of October 1, 2015, have not been revoked and are now in full force and effect.

Signed and sealed this 30th day of October, 20 23.

Euler Hermes North America Insurance Company CORPORATE SEAL 2003 MARYLAND

Nicholas P. Verna II, Senior Vice President and Regional Head of Surety and Guarantee, Americas

Euler Hermes North America Insurance Company and its affiliated debt collection company are part of the Allianz group and market their products and services using the 'Allianz Trade' trademark.

TOWN OF BAY HARBOR ISLANDS
CONTRACT AND SPECIFICATIONS PACKAGE

PROJECT NO. BC-159

Indian Creek Structural Bridge Repairs

FAUSTO VARGAS
PROCUREMENT OFFICER
Telephone: (786) 202-6012 E-mail: fvargasreyes@bayharborislands-fl.gov

INVITATION TO BID

Sealed bids will be received until **3:00 p.m.**, local time, on **Monday, October 30, 2023,** and opened immediately thereafter in the Town Clerk's Office, Town Hall, 9665 Bay Harbor Terrace, Town of Bay Harbor Islands, Florida 33154, for **BID NO., ITB-5-1011-PW-0-2023/FVR, Indian Creek Structural Bridge Repairs Project BC-159.**

The intent of the project is to complete repairs on bridge no. 875103 as presented in the plans and specifications for the bridge repairs and the utilities saddle repairs. The bridge is located at the Town of Bay Harbor Islands, FL. on Kane Concourse over Indian Creek. Work under this Project includes but is not limited to restoring cracked or spalled concrete on the superstructure, such as bridge deck, top and underside, and other components at locations indicated in the Plans or as directed by the Engineer, in complete and strict accordance with the plans, specifications and contract that are part of the bidding documents.

Drawing Plans: This Project consists of 8 sheets. Drawing plans may be obtained **free of charge** at DEMANDSTAR.COM.

Licensing Requirements: Possession of a General Contractor Licensed in the State of Florida is required for this Project.

NOTE: Payment on this contract will be made by Check

Pre-Bid Meeting/Site visit: A pre-bid meeting and/or site visit will be held on Friday, October 13, 2023 9:00 am, local time, at the Morris N. Broad Community Center 1175 95th Street, Town of Bay Harbor Islands, FL

While attendance is not mandatory, it is strongly suggested that all contractors attend the pre-proposal conference. It will be the sole responsibility of the bidder to inspect the Town's location and become familiar with the scope of the Town's requirements and systems before submitting a proposal. No variation in price or conditions shall be permitted based upon a claim of ignorance. Submission of a proposal will be considered evidence that the proposer has familiarized himself with the nature and extent of the work, equipment, materials, and labor required.

However, it will be the sole responsibility of the bidder to inspect the Town's location(s)/facilities and become familiar with the scope of the Town's requirements and systems before submitting a proposal. No variation in price or conditions shall be permitted based upon a claim of ignorance. Submission of a proposal will be considered evidence that the proposer has familiarized himself with the nature and extent of the work, equipment, materials, and labor required.

Bid Security: A certified check, cashier's check, bank officer's check or bid bond for **FIVE** percent **(5%)** of the bid amount, made payable to the Town of Bay Harbor Islands, Florida, shall accompany each offer.

Bid Bonds:

Bidders can submit bid bonds for projects in **two** different ways.

1) Bidders can **hand deliver** their bid bond in a sealed envelope to the Finance Department, Procurement 9665 Bay Harbor Terrace, Town of Bay

Harbor Islands, Florida 33154, before time of bid opening, with the company name, bid number and title clearly indicated on the envelope.

2) Bidders can **mail** their bid bond to the Finance Department, Procurement Services, 9665 Bay Harbor Terrace, Town of Bay Harbor Islands, Florida 33154, before time of bid opening, with the company name, bid number and title clearly indicated on the envelope. NOTE: Bond must be received at the time stamped before bid opening.

It will be the sole responsibility of the bidder to ensure that his bid is submitted before the bid opening date and time listed.

Certified Checks, Cashier's Checks and Bank Drafts:
These **CANNOT** be submitted via DEMANDSTAR, nor are their images allowed to be uploaded and submitted with your electronic bid. These forms of securities, as well as hard copy bid bonds, must be received on or before the Invitation to Bid (ITB) opening date and time, at the Town Clerk's Office, 9665 Bay Harbor Terrace, Bay Harbor Islands, Florida 33154, with the bid number and title clearly indicated on the envelope.

It is the bidder's sole responsibility to ensure that the Town Clerk's Office receives his bid bond or other bid security before the time of bid opening. Failure to adhere to this requirement may be grounds to consider the bid non-responsive.

The Town of Bay Harbor Islands reserves the right to waive any informality in any or all bids and to reject any or all bids. For all inquiries or questions of a material nature must be received prior to the cut-off date specified in the solicitation. Material changes, if any, to the scope of services or bidding procedures, will only be transmitted by written addendum. (See addendum section of DEMANDSTAR Site). concerning this RFQ, questions, and requests for additional information shall be sent via email to:

Attn: Fausto Vargas, Procurement Officer
9665 Bay Harbor Terrace, Town of Bay Harbor Islands, FL 33154
Phone: (305) 455-7108
E-mail: fvargasreyes@bayharborislands-fl.gov

No part of your bid can be submitted via FAX. No variation in price or conditions shall be permitted based upon a claim of ignorance. Submission of a bid will be considered evidence that the bidder has familiarized himself with the nature and extent of the work, equipment, materials, and labor required. The entire bid response must be submitted in accordance with all specifications contained in this solicitation.

INSTRUCTIONS TO BIDDERS

The following instructions are given for the purpose of guiding bidders in properly preparing their bids or proposals. These directions have equal force and weight with the specifications, and strict compliance is required with all of these provisions.

QUALIFICATIONS OF BIDDERS – No proposal will be accepted from, nor will any contract be awarded to, any person who is in arrears to the Town of Bay Harbor Islands, upon any debt or contract, or who has defaulted, as surety or otherwise, upon any obligation to the Town, or who is deemed irresponsible or unreliable by the Town Commission of Bay Harbor Islands.

CONCERNING SUB-CONTRACTORS, SUPPLIERS, AND OTHERS - The amount of work that is sublet by the Bidder shall be limited by the condition that the Bidder shall, with his own organization, perform at least forty percent (40%) of the total dollar amount of the Work to be performed under the Agreement.

PERSONAL INVESTIGATION - Bidders shall satisfy themselves by personal investigation, and by such other means as they may think necessary or desirable, as to the conditions affecting the proposed work and the cost. No information derived from maps, plans, specifications, or from the Engineer, Town Manager, or their assistants shall relieve the Contractor from any risk or from fulfilling all terms of the contract.

INCONSISTENCIES – Any seeming inconsistency between different provisions of the plans, specifications, proposal or contract, or any point requiring explanation must be inquired by the bidder, in writing, at least ten (10) days prior to the time set for opening proposals. After proposals are opened, the bidders shall abide by the decision of the Engineer as to such interpretation.

ADDENDA AND INTERPRETATIONS - No interpretations of the meaning of the plans, specifications or other contract documents will be made orally to any bidder. Prospective bidders must request such interpretation in writing as instructed in the bid package. To be considered, such request must be received by the Questions and Answers deadline as indicated in DEMANDSTAR.COM. Material changes, if any, to the scope of services or bidding procedures will only be transmitted by written addendum. **It is the bidder's responsibility to verify if addenda have been issued in DEMANDSTAR.COM.** Failure of any bidder to receive any such addenda or interpretation shall not relieve any bidder from any obligation under his bid as submitted. All addenda so issued shall become a part of the contract document. **Bidder** shall verify **in DEMANDSTAR.COM** that he has all addenda before submitting a bid.

LEGAL CONDITIONS - Bidders are notified to familiarize themselves with the provisions of the laws of the State of Florida relating to hours of labor on municipal work, and with the provisions of the laws of the State of Florida and the Charter and the ordinances of the Town of Town of Bay Harbor Islands.

PUBLIC ENTITY CRIMES - A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid on a contract to provide any goods or services to a public entity, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids on leases of real property to a public entity, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity, and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017, Florida Statutes, for Category Two for a period of thirty-six (36) months from the date of being placed on the convicted vendor list.

FORMS OF PROPOSALS - Each proposal and its accompanying statements must be made on the blanks provided. THE FORMS MUST BE SUBMITTED WITH THE BID, and must show the name of the bidder and a statement as to its contents.

The proposal must be signed by one duly authorized to do so, and in case signed by a deputy or subordinate, the principal's properly written authority to such deputy or subordinate must accompany the proposal. No proposal will be accepted, for any reason whatsoever, which is not submitted to the Town as stated above, within the specified time.

INSURANCE - Contractor shall provide and shall require all of its sub-contractors to provide, pay for, and maintain in force at all times during the term of the Agreement, such insurance, including Property Insurance (Builder's Risk), Commercial General Liability Insurance, Business Automobile Liability Insurance, Workers' Compensation Insurance, Employer's Liability Insurance, and Umbrella/Excess Liability, as stated below. Such policy or policies shall be issued by companies authorized to do business in the State of Florida and having agents upon whom service of process may be made in the State of Florida.

BID BOND - A certified check, cashier's check or bank officer's check made payable to the Town of Bay Harbor Islands, or a bid bond in favor of the Town of Bay Harbor Islands shall accompany each bid as evidence of the good faith and responsibility of the bidder. The amount of the check or bond shall be retained by the Town as liquidated damages in the event the bidder whose bid is accepted refuses to or fails to enter into a contract for the execution of the work solicited in this Invitation to Bid.

The bid bond or check shall be a guarantee that the successful bidder will promptly execute a contract satisfactory to the Town for the work solicited in this Invitation to Bid and furnish good and sufficient bonds.

Following the full execution of a contract for the work solicited in this Invitation to Bid and the successful bidder's provision of good and sufficient bonds, in the event bid security was provided by check, the amount of the bid security accompanying the successful bidder's bid will be refunded to the successful bidder, or in the event bid security was provided by a bond, the bond accompanying the successful bidder's bid will be returned to the successful bidder. In the event the successful bidder fails to enter into, execute, and deliver a contract and furnish the required bonds within ten (10) days after the Town provides notice to the successful bidder to deliver the executed contract and the required bonds, the bid bond shall immediately be payable to the Town of Town of Bay Harbor Islands or in the case of a check, the Town shall retain the amount of the check, as liquidated damages. The Town's retention of such amount shall not be construed as a penalty or for feature.

FILLING IN BIDS - All prices must be submitted in the proposal pages, and all proposals must fully cover all items for which proposals are asked and no other. Where more than one person is interested, it is required that all persons interested or their legal representative make all verification and subscribe to the proposal.

PRICES QUOTED: Deduct any discount offered and quote firm net unit prices. In the case of a discrepancy in computing the amount of the bid, the unit price quoted will govern. All prices quoted shall be F.O.B. destination, freight prepaid (Bidder pays and bears freight charges, Bidder owns goods in transit and files any claims), unless otherwise stated in Special Conditions. Each item must be bid separately. No attempt shall be made to tie any item or items contained in the ITB with any other business with the Town.

BIDS FIRM FOR ACCEPTANCE: Bidder warrants, by virtue of bidding, that his bid and the prices quoted in his bid will be firm for acceptance by the Town for a period of one hundred and twenty (120) days from the date of bid opening unless otherwise stated in the ITB. The Town shall award contract within this time period or shall request to the recommended awarded vendor an extension to hold pricing, until products/services have been awarded.

ADDITIONAL ITEMS OR SERVICES: The Town may require additional items or services of a similar nature, but not specifically listed in the contract. The Contractor agrees to provide such items or services, and shall provide the Town prices on such additional items or services. If the price(s) offered are not acceptable to the Town, and the situation cannot be resolved to the satisfaction of the Town, the Town reserves the right to procure those items or services from other vendors, or to cancel the contract upon giving the Contractor thirty (30) days written notice.

DELETION OR MODIFICATION OF SERVICES: The Town reserves the right to delete any portion of the Contract at any time without cause, and if such right is exercised by the Town, the total fee shall be reduced in the same ratio as the estimated cost of the work deleted bears to the estimated cost of the work originally planned. If work has already been accomplished on the portion of the Contract to be deleted, the Contractor shall be paid for the deleted portion on the basis of the estimated percentage of completion of such portion.

If the Contractor and the Town agree on modifications or revisions to the task elements, after the Town has approved work to begin on a particular task or project, and a budget has been established for that task or project, the Contractor will submit a revised budget to the Town for approval prior to proceeding with the work.

CANCELLATION FOR UNAPPROPRIATED FUNDS**:** The obligation of the Town for payment to a Contractor is limited to the availability of funds appropriated in a current fiscal period, and continuation of the contract into a subsequent fiscal period is subject to appropriation of funds, unless otherwise authorized by law.

CAUSES FOR REJECTION - No proposal will be canvassed, considered or accepted which, in the opinion of the Town Commission, is informal or unbalanced, or contains inadequate or unreasonable prices for any items; each item must carry its own proportion of the cost as nearly as is practicable. Any alteration, erasure, interlineation, or failure to specify bids for all items called for in the schedule shall render the proposal informal.

REJECTION OF BIDS - The Town reserves the right to reject any bid if the evidence submitted by the bidder, or if the investigation of such bidder, fails to satisfy the Town that such bidder is properly qualified to carry out the obligations and to complete the work contemplated. Any or all proposals will be rejected, if there is reason to believe that collusion exists among bidders. A proposal will be considered irregular and may be rejected, if it shows serious omissions, alterations in form, additions not called for, conditions or unauthorized alternates, or irregularities of any kind. The Town reserves the right to reject any or all proposals and to waive such technical errors as may be deemed best for the interests of the Town.

BID PROTEST PROCEDURE: Any proposer or bidder who is not recommended for award of a contract and who alleges a failure by the Town to follow the Town's procurement ordinance or any applicable law may protest to the Procurement Division by delivering a letter of protest within five (5) days after a Notice of Intent to award is posted on the Town's website

WITHDRAWALS - Any bidder may, without prejudice to himself, withdraw his proposal at any time prior to the expiration of the time during which proposals may be submitted. Such request for withdrawal must be in writing and signed in the same manner and by the same person who signed the proposal. After expiration of the period for receiving proposals, no proposal can be withdrawn, modified, or explained.

CONTRACT - The bidder to whom award is made shall execute a written contract to do the work and maintain the same in good repair until final acceptance by the proper authorities, and shall furnish good and sufficient bonds as specified within ten (10) days after receiving such contract for execution. If the bidder to whom the first award is made fails to enter into a contract as provided, the award may be annulled and the contract let to the next lowest bidder who is reliable, responsible, and responsive in the opinion of the Town Commission, and that bidder shall fulfill every stipulation and obligation as if such bidder were the original party to whom award was made.

The contract shall provide that the Contractor agrees to correct any defective or faulty work or material, which may appear within one (1) year after completion of the work and receipt of final payment.

ENFORCEMENT OF SPECIFICATIONS - Copies of the specifications will be placed in the hands of all the assistants to the Engineer and Inspectors employed on the Work, who shall enforce each and every requirement of the contract. Such assistants shall have no authority to vary from such requirements.

DRAWING PLANS - Drawing plans may be obtained **free of charge** at DEMANDSTAR.COM.

SURETY BOND – The Contractor shall execute and record in the public records of Dade County, Florida, a payment and performance bond in an amount at least equal to the Contract Price with a surety insurer authorized to do business in the State of Florida as surety, ("Bond"), in accordance with Section 255.05, Florida Statutes (2021), as may be amended or revised, as security for the faithful performance and payment of all of the Contractor's obligations under the Contract Documents.

The successful bidder shall furnish a performance and payment bond in compliance with Section 255.05, Florida Statutes (2021), written by a Corporate Surety company, holding a Certificate of Authority from the Secretary of the Treasury of the United States as acceptable sureties on federal bonds, in an amount equal to the total amount payable by the terms of the contract, executed and issued by a Resident Agent licensed by and having an office in the State of Florida, representing such Corporate Surety, conditioned for the due and faithful performance of the work, and providing in addition to all other conditions, that if the Contractor, or his or its subcontractors, fail to duly pay for any labor, materials, or other supplies used or consumed by such Contractor, or his or its subcontractor or subcontractors, in performance of the work contracted to be done, the Surety will pay the same in the amount not exceeding the sum provided in such bonds, together with interest at the rate of fifteen percent (15%) per annum, and that they shall indemnify and hold harmless the Town of Bay Harbor Islands to the extent of any and all payments in connection with carrying out of the contract, which the Town may be required to make under the law.The Contractor is required at all times to have a valid surety bond in force covering the work being performed. A failure to have such bond in force at any time shall constitute a default on the part of the Contractor. A bond written by a surety, which becomes disqualified to do business in the

State of Florida, shall automatically constitute a failure on the part of the Contractor to meet the above requirements.

Such bond shall continue in effect for one (1) year after completion and acceptance of the work with liability equal to at least twenty-five percent (25%) of contract price, or an additional bond shall be conditioned that the Contractor will correct any defective or faulty work or material which appear within one (1) year after completion of the contract, upon notification by the Town, except in contracts which are concerned solely with demolition work, in which cases twenty-five percent (25%) liability will not be applicable.

AUDIT OF CONTRACTOR'S RECORDS - Upon execution of the Contract, the Town reserves the right to conduct any necessary audit of the Contractor's records. Such an audit, or audits, may be conducted by the Town or its representatives at any time prior to final payment, or thereafter, for a period up to three (3) years. The Town may also require submittal of the records from either the Contractor, the Subcontractor, or both. For the purpose of this Section, records shall include all books of account, supporting documents and papers deemed necessary by the Town to assure compliance with the contract provisions.

Failure of the Contractor or Subcontractor to comply with these requirements may result in disqualification or suspension from bidding for future contracts or disapproval as a Subcontractor at the option of the Town.

The Contractor shall assure that each of its Subcontractors will provide access to its records pertaining to the project upon request by the Town.

PERIODIC ESTIMATE FOR PARTIAL PAYMENT - After the Contractor has submitted a periodic estimate for partial payment, approved and certified by the Public Works Department, the Town shall make payment in the manner provided in the Contract Documents and in accordance with Florida's Prompt Payment Act, Section 218, Florida Statutes.

RESERVATION FOR AWARD AND REJECTION OF BIDS - The Town reserves the right to accept or reject any or all bids, part of bids, and to waive minor irregularities or variations to specifications contained in bids, and minor irregularities in the bidding process. The Town also reserves the right to award the contract on a split order basis, lump sum basis, individual item basis, or such combination as shall best serve the interest of the Town. The Town reserves the right to make an award to the responsive and responsible bidder whose product or service meets the terms, conditions, and specifications of the ITB and whose bid is considered to best serve the Town's interest. In determining the responsiveness of the offer and the responsibility of the Bidder, the following shall be considered when applicable: the ability, capacity and skill of the Bidder to perform as required; whether the Bidder can perform promptly, or within the time specified, without delay or interference; the character, integrity, reputation, judgment, experience and efficiency of the Bidder; the quality of past performance by the Bidder; the previous and existing compliance by the Bidder with related laws and ordinances; the sufficiency of the Bidder's financial resources; the availability, quality and adaptability of the Bidder's supplies or services to the required use; the ability of the Bidder to provide future maintenance, service or parts; the number and scope of conditions attached to the bid.

DEBARRED OR SUSPENDED BIDDERS OR PROPOSERS - The bidder or proposer certifies, by submission of a response to this solicitation, that neither it nor its principals and subcontractors are presently debarred or suspended by any Federal department or agency.

GENERAL CONDITIONS

GC - 01 - DEFINITIONS - The following words and expressions, or pronouns used in their stead, shall wherever they appear in the Contract and the Contract Documents, be construed as follows:

"Addendum" or "Addenda" - shall mean the additional Contract provisions issued in writing, by the Engineer, prior to the receipt of bids.

"Bid" – shall mean the offer or proposal of the Bidder submitted on the prescribed form setting forth the prices for the Work to be performed.

"Bidder" – shall mean any person, firm, company, corporation or entity submitting a bid for the Work.

"Bonds" –shall mean bid, performance and payment bonds and other instruments of security, furnished by Contractor and his surety in accordance with the Contract Documents.

"Consultant" – shall mean a person, firm, company, corporation or other entity employed by the Town to perform the professional services for the project.

“Contractor” – shall mean the successful Bidder who has been employed by the Town to perform the construction and related services for the project.

“Contract Work” - shall mean everything expressed or implied to be required to be furnished and furnished by the Contractor by any one or more of the parts of the Contract Documents referred to in the Contract hereof. In the case of any inconsistency in or between any parts of this Contract, the Project Manager shall determine which shall prevail.

“Design Documents” – shall mean the construction plans and specifications included as part of a Bid/Proposal Solicitation prepared either by the Town or by the Consultant under a separate Agreement with the Town.

“Engineer” - shall include the terms “professional engineer” and “licensed engineer” and means a person who is licensed to engage in the practice of engineering under Florida Statute, Chapter 471. An Engineer may be a Town employee or a consultant hired by the Town.

"Extra Work" - shall mean work other than that required by the Contract.

"Inspector" – shall mean an authorized representative of the Town assigned to make necessary inspections of materials furnished by Contractor and of the Work performed by Contractor.

"Notice" - shall mean written notice sent by certified United States mail, return receipt requested, or sent by commercial express carrier with acknowledgement of delivery, or via fax or email, or by hand delivery with a request for a written receipt of acknowledgment of delivery and shall be served upon the Contractor either personally or to its place of business listed in the Bid.

“Owner” - shall mean the Town of Bay Harbor Islands.

“Project Manager” - shall mean a professional designated by the Town to manage the Project under the supervision and direction of the Public Works Director or designee.

"Public Works Director" – shall mean the Public Works Director of the Town of Bay Harbor Islands.

"Site" - shall mean the area upon or in which the Contractor's operations are carried out and such other areas adjacent thereto as may be designated as such by the Project Manager.

"Sub-contractor" - shall mean any person, firm, company, corporation or other entity, other than employees of the Contractor, who or which contracts with the contractor, to furnish, or actually furnishes labor and materials, or labor and equipment, or labor, materials and equipment at the site.

"Surety" - shall mean any corporation or entity that executes, as Surety, the Contractor's performance and payment bond securing the performance of this Contract.

“Town” – shall mean the Town of Bay Harbor Islands, Florida, a Florida municipal corporation. In the event the Town exercises its regulatory authority as a government body, the exercise of such regulatory authority and the enforcement of any rules, regulations, codes, laws and ordinances shall be deemed to have occurred pursuant to Town’s authority as a governmental body and shall not be attributable in any manner to the Town as a party to this Contract.

GC - 02 - SITE INVESTIGATION AND REPRESENTATION - The Contractor acknowledges that it has satisfied itself as to the nature and location of the Work under the Contract Documents, the general and local conditions of the Site, particularly those bearing upon availability of transportation, disposal, handling and storage of materials, availability of labor, water, electric power, and roads, field conditions, the type of equipment and facilities needed preliminary to and during the prosecution of the Work and all other matters which can in any way affect the Work or the cost thereof under the Contract Documents.

The Contractor acknowledges that it has conducted extensive tests, examinations and investigations and represents and warrants a thorough familiarization with the nature and extent of the Contract Documents, the Work, locality, soil conditions, moisture conditions and all year-round local weather and climate conditions (past and present), and, in reliance on such tests, examination and investigations conducted by Contractor and the Contractor’s experts, has determined that no conditions exist that would in any manner affect the Bid Price and that the project can be completed for the Bid Price submitted.

Any failure by the Contractor to acquaint itself with all the Site conditions shall not relieve Contractor from responsibility for properly estimating the difficulty or cost thereof under the Contract Documents.

GC - 03 - SUBSTITUTIONS - If the Contractor desires to use materials and/or products of manufacturer's names different from those specified in the Contract Documents, the Bidder requesting the substitution shall make written application as described herein. The burden of proving the equality of the proposed substitution rests on the Contractor making the request. To be acceptable, the proposed substitution shall meet or exceed all expressed requirements of the Contract Documents and shall be submitted upon the Contractor's letterhead. The following requirements shall be met in order for the substitution to be considered:

1. Requests for substitution shall be accompanied by such technical data, as the party making the request desires to submit. The Project Manager will consider reports from reputable independent testing laboratories, verified experience records from previous users and other written information valid in the circumstances; and

2. Requests for substitution shall completely and clearly indicate in what respects the materials and/or products differ from those indicated in the Contract Documents; and

3. Requests for substitution shall be accompanied by the manufacturer's printed recommendations clearly describing the installation, use and care, as applicable, of the proposed substitutions; and

4. Requests for substitution shall be accompanied by a complete schedule of changes in the Contract Documents, if any, which must be made to permit the use of the proposed substitution.

If a proposed substitution is approved by the Project Manager, an addendum will be issued to prospective bidders not less than three (3) working days prior to the date set for opening of bids. Unless substitutions are received and approved as described above, the successful Bidder shall be responsible for furnishing materials and products in strict accordance with the Contract Documents.

GC- 04 – CONSTRUCTION RESOURCES – Contractor shall provide all labor and equipment necessary to complete the installation within a timely manner. Contractor shall provide details as to manpower and equipment to be dedicated to the project in its Work Plan. Contractor is responsible for making arrangements, obtaining and purchasing construction water services if required to complete the work.

GC - 05 - CONTROL OF THE WORK - The Project Manager shall have full control and direction of the Work in all respects. The Project Manager and/or his authorized designee(s) shall, at all times, have the right to inspect the Work and materials. The Contractor shall furnish all reasonable facilities for obtaining such information, as the Project Manager may desire respecting the quality of the Work and materials and the manner of conducting the Work. Should the Contractor be permitted to perform night Work, or to vary the period which work is ordinarily carried on in the daytime, he shall give ample notice to the Project Manager so that proper and adequate inspection may be provided. Such Work shall be done only under such regulations as are furnished in writing by the Project Manager, and no extra compensation shall be allowed to the Contractor therefore. In the event of night work, the Contractor shall furnish such light, satisfactory to the Project Manager, as will ensure proper inspection. Nothing herein contained shall relieve the Contractor from compliance with any and all Town ordinances relating to noise or Work during prohibited hours.

GC - 06 - SUB-CONTRACTOR - The Contractor shall not sublet, in whole or any part of the Work without the written consent and approval of the Project Manager. Within ten (10) days after official notification of starting date, the Contractor must submit in writing, to the Project Manager, a list of all Sub-contractors. No Work shall be done by any sub-contractor until such Sub-contractor has been officially approved by the Project Manager. A sub-contractor not appearing on the original list will not be approved without written request submitted to the Project Manager and approved by the Public Works Director. In all cases, the Contractor shall give his personal attention to the Work of the Sub-contractors and the Sub-contractor is liable to be discharged by the Contractor, at the direction of the Project Manager, for neglect of duty, incompetence or misconduct.

Acceptance of any sub-contractor, other person, or organization by the Project Manager shall not constitute a waiver of any right of Project Manager to reject defective Work or Work not in conformance with the Contract Documents.

Contractor shall be fully responsible for all acts and omissions of its Sub-contractors and of persons and organizations directly or indirectly employed by them and of persons and organizations for whose acts any of them may be liable to the same extent that he is responsible for the acts and omissions of persons directly employed by him. Nothing in the Contract Documents shall create any contractual relationship between Town and any sub-contractor or other person or organization having a direct contract with Contractor, nor shall it create any obligation on the part of Town to pay or to see to the payment of any moneys due to any sub-contractor or other person, or organization, except as may otherwise be required by law.

GC - 07 - QUANTITIES - Contractor recognizes and agrees that the quantities shown on plans and Bid/Price Schedule are estimates only and may vary during actual construction. No change shall be made involving any departure from the general scheme of the Work and that no such change involving a material change in cost, either to the Town or Contractor, shall be made, except upon written permission of the Town. However, the Project Manager shall have the right to make minor alternations in the line, grade, plan, form or materials of the Work herein contemplated any time before the completion of the same. That if such alterations shall diminish the quantity of the Work to be done, such alterations shall not constitute a claim for damages or anticipated profits. That if such alterations increase the amount of the Work to be done, such increase shall be paid for according to the quantity actually performed and at the unit price or prices stipulated therefore in the Contract. The Town shall, in all cases of dispute, determine the amount or quantity of the several kinds of Work which are to be paid for under this Contract, and shall decide all questions relative to the execution of the same, and such estimates and decisions shall be final and binding.

Any Work not herein specified, which might be fairly implied as included in the Contract, of which the Town shall judge, shall be done by the Contractor without extra charge. However, such cost increases shall be authorized either by the Public Works Director or designee, or the Town Council based upon the purchasing threshold amounts.

GC - 08 - NO ORAL CHANGES - Except to the extent expressly set forth in the Contract, no change in, or modification, termination or discharge of the Contract in any form whatsoever, shall be valid or enforceable unless it is in writing and signed by the parties charged, therewith or their duly authorized representative.

GC - 09 - PERMITS AND PROTECTION OF PUBLIC – Permits on file with the Town and/or those permits to be obtained by the Contractor, shall be considered directive in nature, and will be considered a part of this Contract. A copy of all permits shall be given to the Town and become part of the Contract Documents. Terms of permits shall be met prior to acceptance of the Work and release of the final payment.

Contractor shall secure all permits and licenses required for completing the Project. Contractor will obtain the necessary State, County, and Town construction/work permits if required.

The Contractor shall comply with all applicable Codes, Standards, Specifications, etc. related to all aspects of the Project.

Where there are telephones, light or power poles, water mains, conduits, pipes or drains or other construction, either public or private, in or on the streets or alleys, the Work shall be so conducted that no interruption or delay will be caused in the operation or use of the same. Proper written notice shall be given to all affected parties prior to proceeding with the Work.

The Contractor shall not be permitted to interfere with public travel and convenience by grading or tearing up streets indiscriminately, but the Work of constructing the various items in this contract shall proceed in an orderly, systematic and progressive manner.

GC - 10 - DISEASE REGULATIONS - The Contractor shall enforce all sanitary regulations and take all precautions against infectious diseases as the Project Manager may deem necessary. Should any infectious or contagious diseases occur among his employees, he shall arrange for the immediate removal of the employee from the Site and isolation of all persons connected with the Work.

GC - 11 - CONTRACTOR TO CHECK PLANS, SPECIFICATIONS, AND DATA - The Contractor shall verify all dimensions, quantities, and details shown on the plans, supplementary drawings, schedules, and shall notify the Project Manager of all errors, omissions, conflicts and discrepancies found therein within three (3) working days of discovery. Failure to discover or correct errors, conflictions, or discrepancies shall not relieve the Contractor of full responsibility for unsatisfactory Work, faulty construction, or improper operation resulting therefrom nor from rectifying such condition at its own expense.

GC - 12 - MATERIALS AND WORKMANSHIP - All material shall be new and the workmanship shall, in every respect, be in conformity with approved modern practice and with prevailing standards of performance and quality. In the event of a dispute, the Project Manager's decision shall be final. Wherever the Plans, Specifications, Contract Documents, or the directions of the Project Manager are unclear as to what is permissible and/or fail to note the quality of any Work, that interpretation will be made by the Project Manager, which is in accordance with approved modern practice, to meet the particular requirements of the Contract.

GC - 13 - SAFEGUARDING MARKS - The Contractor shall safeguard all points, stakes, grade marks, monuments, and benchmarks made or established on the Work, bear the cost of re-establishing same if disturbed, or bear the entire expense of rectifying Work improperly installed due to not maintaining or protecting or for removing without authorization, such established points, stakes and marks. The Contractor shall safeguard all existing and known property corners, monuments and marks not related to the Work and, if required, shall bear the cost of having them re-established by a licensed Professional surveyor registered in the State of Florida if disturbed or destroyed during the course of construction.

GC - 14 - RESTROOM FACILITIES - Contractor shall provide portable toilet facilities for employee's use at a location within the Work site to be determined by the Town.

GC - 15 - PROGRESS MEETINGS - Weekly Status meetings will be conducted with representatives from the Town and the Contractor. Contractor shall budget time to participate in such meetings. A well-run Project should result in short meetings.

GC - 16 - ISSUE RESOLUTION - Should Contractor become engaged in a dispute with a resident or a Town employee, the Contractor shall report the situation to the Project Manager immediately. It shall be mandatory that the Town participate in any dispute resolution. Failure of Contractor personnel to notify the Town shall obligate Contractor to replace the offending employee immediately if requested by the Town.

GC - 17 - TOWN SECURITY-CONTRACTOR AND SUBCONTRACTOR EMPLOYEE INFORMATION - Prior to commencing work, Contractor shall provide to the Town a list of all

personnel and sub-contractors on site. The list will include the name, address, birth date and driver's license number for all personnel. All personnel and subcontractors on site will have on their person a company photo ID during all stages of the construction. Contractor shall provide standard required personal information per current Town procedures.

GC - 18 - POST-CONSTRUCTION SURVEY - The Contractor shall provide as-built survey, sealed and signed by a registered surveyor in the State of Florida, as a condition of final payment.

GC – 19 - KEY PERSONNEL - Contractor shall provide as part of the Work Plan, resumes for all key project personnel providing supervision and project management functions. Resumes shall include work history and years of experience performing this type of work.

GC - 20 - EXISTING UTILITY SERVICE - All existing utility service shall be maintained with a minimum of interruption at the expense of the Contractor.

GC - 21 - ACCIDENTS - The Contractor shall provide such equipment and facilities as are necessary and/or required, in the case of accidents, for first aide services to be provided to a person who may be injured during the project duration. The Contractor shall also comply with the OSHA requirements as defined in the United States Labor Code 29 CFR 1926.50.

In addition, the Contractor must report immediately to the Project Manager every accident to persons or damage to property, and shall furnish in writing full information, including testimony of witnesses regarding any and all accidents.

GC - 22 - SAFETY PRECAUTIONS - Contractor must adhere to the applicable environmental protection guidelines for the duration of a project. If hazardous waste materials are used, detected or generated at any time, the Project Manager must be immediately notified of each and every occurrence. The Contractor shall comply with all codes, ordinances, rules, orders and other legal requirements of public authorities (including OSHA, EPA, DERM, the Town, Dade County, State of Florida, and Florida Building Code), which bear on the performance of the Work.

The Contractor shall take the responsibility to ensure that all Work is performed using adequate safeguards, including but not limited to: proper safe rigging, safety nets, fencing, scaffolding, barricades, chain link fencing, railings, barricades, steel plates, safety lights, and ladders that are necessary for the protection of its employees, as well as the public and Town employees. All riggings and scaffolding shall be constructed with good sound materials, of adequate dimensions for their intended use, and substantially braced, tied or secured to ensure absolute safety for those required to use it, as well as those in the vicinity. All riggings, scaffolding, platforms, equipment guards, trenching, shoring, ladders and similar actions or equipment shall be OSHA approved, as applicable, and in accordance with all Federal, State and local regulations.

GC - 23 - DUST PREVENTION - The Contractor shall, by means of a water spray, or temporary asphalt pavement, take all necessary precautions to prevent or abate a dust nuisance arising from dry weather or Work in an incomplete stage. All costs of this Work shall be included in the cost of other parts of the Work.

Should the Contractor fail to abate a dust nuisance the Project Manager may stop the Work until the issue is resolved to the Town's satisfaction.

GC - 24 - SITE CLEANUP AND RESTORATION – The Contractor shall remove all debris and unused or discarded materials from the work site daily. Contractor shall clean the work site to remove all directional drilling "Driller's Mud" materials. No "Driller's Mud" residue shall be allowed to remain in the soil or on the surface of the land or vegetation. All debris and drilling materials must be disposed of offsite at an approved location.

The Contractor shall promptly restore all areas disturbed that are outside the Project limits in equal or better condition at no additional cost to the Town.

GC - 25 - COURTEOUS BEHAVIOR AND RESPECT FOR RESIDENTS AND PROPERTY – The Contractor and its employees, associates and sub-contractors shall maintain courteous behavior at all times and not engage in yelling, loud music, or other such activities. Contractor's employees shall not leave trash or other discarded items at the Work Site, especially on any private property. In the event complaints arise, Contractor shall immediately remove such offending employees from the project if requested to do so by the Project Manager. Contractor's employees shall not trespass on any private property unless necessary to complete the work but with prior permission from the owner.

Contractor shall notify and obtain permission from the residents 24 hours in advance when planning to work within the resident's property. In addition, Contractor shall notify the resident prior to entering their property to perform work or inspect/investigate the work site. Contractor shall not block residents' driveways unnecessarily. Contractor shall not park equipment on landscaped areas when the vehicle is not needed for the current construction activities. Contractor shall be responsible for repair and/or replacement of all damaged landscaping within 48 hours including repairing vehicle wheel impressions, irrigation systems, lighting systems, structures, or any other items of resident's property. Contractor shall not destroy, damage, remove, or otherwise negatively impact any landscaping within or outside the right-of-way without prior approval from the Project Manager.

GC - 26 - PLACING BARRICADES AND WARNING LIGHTS - The Contractor shall furnish and place, at Contractor's own expense, all barricades, warning lights, automatic blinker lights and such devices necessary to properly protect the work and vehicular and pedestrian traffic. Should the Contractor fail to erect or maintain such barricades, warning lights, etc., the Project Manager may, after 24 hours' notice to the Contractor, proceed to have such barricades and warning lights placed and maintained by Town or other forces and all costs incurred thereof charged to the Contractor and may be retained by the Town from any monies due, or to become due, to the Contractor.

GC - 27 - TRAFFIC CONTROL - The Contractor shall coordinate all Work and obtain, through the Town's Engineering Department,, as applicable, any permits required to detour traffic or close any street before starting to work in the road.

All traffic control devices, flashing lights, signs and barricades shall be maintained in working condition at all times and conform to Manual of Uniform Traffic Control Devices (MUTCD), latest edition.

GC - 28 - COORDINATION - The Contractor shall notify all utilities, Engeering department, etc., in writing, with a copy to the Project Manager before construction is started and shall coordinate its Work with them. The Contractor shall cooperate with the owners of any underground or overhead utility lines in their removal, construction and rearrangement

operations in order that services rendered by these parties will not be unnecessarily interrupted.

The Contractor shall arrange its Work and dispose of its materials so as to not interfere with the operation of other contractors engaged upon adjacent work, and to join its Work to that of others in a proper manner, and to perform its Work in the proper sequence in relation to that of other contractors as may be directed by the Project Manager.

Each Contractor shall be responsible for any damage done by it or its agents to the work performed by another contractor.

SPECIAL CONDITIONS

01. PURPOSE

The Town of Bay Harbor Islands, Florida (Town) is seeking bids from qualified bidders, for construction services in accordance with the terms, conditions, and specifications contained in this Invitation To Bid (ITB).

02. DEMANDSTAR

The Town uses Demandstar (www.demandstar.com.) to distribute and receive bids and proposals. There is no charge to vendors/contractors to register and participate in the solicitation process, nor will any fees be charged to the awarded contractor.

03. SUBMISSION OF BIDS

The Town of Bay Harbor Islands uses Demandstar (www.Demandstar.com) to administer the competitive solicitation process, including but not limited to soliciting proposals and issuing addenda. There is no charge to register and download the ITB from Demandstar. Bidders are strongly encouraged to read the various vendor Guides and Tutorials available in Demandstar well in advance of their intention of submitting a proposal to ensure familiarity with the use of Demandstar. The Town shall not be responsible for a Bidder's inability to submit a Proposal by the end date and time for any reason, including issues arising from the use of Demandstar.

Sealed responses shall be delivered during the Town's normal business hours in a sealed envelope and addressed to the Town of Bay Harbor Islands Clerk's Office, 9665 Bay Harbor Terrace, Town of Bay Harbor Islands, FL 33154 (Town Hall) no later than **Monday October 30, 2023**, at **3:00 p.m EST** (the deadline), at which time and place the responses will be publicly opened and the names of the firms will be read. After the deadline, responses will not be accepted. Firms are responsible for making certain that their proposal is received at the location specified by the due date and time. The Town of Town of Bay Harbor Islands is not responsible for delays caused by any mail, package or courier service, including the U.S. mail, or caused by any other occurrence or condition. The Town's normal business hours are Monday through Friday, 9:00 a.m. through 5:00p.m. excluding holidays observed by the Town.

All bids will be opened by the Town Clerk's Office.

04. INFORMATION OR CLARIFICATION

For information concerning procedures for responding to this solicitation, contact **Fausto Vargas Procurement Officer**, at (786) 202-6012 or email at fvargasreyes@bayharborislands-fl.gov. Such contact shall be for clarification purposes only.

For information concerning technical specifications please utilize the Question/Answer platform provided by Demandstar at www.demandstar.com. Questions of a material nature must be received prior to the cut-off date specified in the solicitation. Material changes, if any, to the scope of services or bidding procedures will only be transmitted by

written addendum. (See addendum section of Demandstar site). **Bidders please note**: No part of your bid can be submitted via FAX. No variation in price or conditions shall be permitted based upon a claim of ignorance. Submission of a bid will be considered evidence that the bidder has familiarized himself with the nature and extent of the work, and the equipment, materials, and labor required. The entire bid response must be submitted in accordance with all specifications contained in this solicitation. The questions and answers submitted in Demandstar shall become part of any contract that is created from this ITB.

05. CONTRACT TIME

5.1 The Contractor recognizes that TIME IS OF THE ESSENCE. The Work shall commence within 30 calendar days of the date of the Notice to Proceed.

5.2 The Work shall be Substantially Completed within 185 calendar days after the date when the Contract Time commences to run as provided in the Notice to Proceed.

5.3 The Work shall be finally completed on the Final Completion Date and ready for final payment in accordance with this Agreement within 217 calendar days after the date when the Contract Time commences to run as provided in the Notice to Proceed.

06. BID SECURITY

A certified check, cashier's check, bank officer's check or bid bond for **FIVE percent (5%)** of the bid amount, made payable to the Town of Bay Harbor Islands, shall accompany each offer.

07. REQUIRED LICENSES/CERTIFICATIONS

Contractor must possess the following licenses/certifications to be considered for award:

General Contractor Licensed in the State of Florida

Note: Contractor must have proper licensing and shall submit evidence of same with its bid response.

08. SPECIFIC EXPERIENCE REQUIRED

The following expertise is required to be considered for this Contract. Specific references attesting to this expertise must be submitted with the bid response.

The contractor shall have at least five (5) years previous construction experience in bridge structural repairs projects, bridge surveys, in the State of Florida. Bidder shall submit proof of construction experience for a minimum of three (3) projects of similar scope and scale

(or larger) and shall, for each project listed, identify location; dates of construction; project name and overall scope; scope of work that was self-performed by Contractor; and client's name, address, telephone number and e-mail address.

By signing this bid solicitation, contractor is affirming that this expertise will be provided for this Contract at no additional charge.

9. INSURANCE REQUIREMENTS *(See Article 10, Bonds and Insurance, of the Contract for details)*

INSURANCE

As a condition precedent to the effectiveness of this Agreement, during the term of this Agreement and during any renewal or extension term of this Agreement, the Contractor, at its sole expense, shall provide insurance of such types and with such terms and limits as noted below. Providing proof of and maintaining adequate insurance coverage are material obligations of the Contractor. The Contractor shall provide the Town a certificate of insurance evidencing such coverage. The Contractor's insurance coverage shall be primary insurance for all applicable policies. The limits of coverage under each policy maintained by the Contractor shall not be interpreted as limiting the Contractor's liability and obligations under this Agreement. All insurance policies shall be through insurers authorized or eligible to write policies in the State of Florida and possess an A.M. Best rating of A-, VII or better, subject to approval by the Town's Risk Manager.

The coverages, limits, and/or endorsements required herein protect the interests of the Town, and these coverages, limits, and/or endorsements shall in no way be relied upon by the Contractor for assessing the extent or determining appropriate types and limits of coverage to protect the Contractor against any loss exposures, whether as a result of this Agreement or otherwise. The requirements contained herein, as well as the Town's review or acknowledgement, are not intended to and shall not in any manner limit or qualify the liabilities and obligations assumed by the Contractor under this Agreement.

The following insurance policies and coverages are required:

Commercial General Liability
Coverage must be afforded under a Commercial General Liability policy with limits not less than:
-$2,000,000 each occurrence and $2,000,000 aggregate for Bodily Injury, Property Damage, and Personal and Advertising Injury
-$2,000,000 each occurrence and $2,000,000 aggregate for Products and Completed Operations

Policy must include coverage for contractual liability and independent contractors.

The Town, a Florida municipal corporation, its officials, employees, and volunteers are to be covered as an additional insured with a CG 20 26 04 13 Additional Insured – Designated Person or Organization Endorsement or similar endorsement providing equal or broader Additional Insured Coverage with respect to liability arising out of activities performed by or on behalf of the Contractor. The coverage shall contain no special

limitation on the scope of protection afforded to the Town, its officials, employees, and volunteers.

Business Automobile Liability

Coverage must be afforded for all Owned, Hired, Scheduled, and Non-Owned vehicles for Bodily Injury and Property Damage in an amount not less than $1,000,000 combined single limit each accident.

If the Contractor does not own vehicles, the Contractor shall maintain coverage for Hired and Non-Owned Auto Liability, which may be satisfied by way of endorsement to the Commercial General Liability policy or separate Business Auto Liability policy.

Workers' Compensation and Employer's Liability

Coverage must be afforded per Chapter 440, Florida Statutes. Any person or entity performing work for or on behalf of the Town must provide Workers' Compensation insurance. Exceptions and exemptions will be allowed by the Town's Risk Manager, if they are in accordance with Florida Statute.

The Contractor waives, and the Contractor shall ensure that the Contractor's insurance carrier waives, all subrogation rights against the Town, its officials, employees, and volunteers for all losses or damages. The Town requires the policy to be endorsed with WC 00 03 13 Waiver of our Right to Recover from Others or equivalent.

The Contractor must be in compliance with all applicable State and federal workers' compensation laws, including the U.S. Longshore Harbor Workers' Act and the Jones Act, if applicable.

Insurance Certificate Requirements

a. The Contractor shall provide the Town with valid Certificates of Insurance (binders are unacceptable) no later than ten (10) days prior to the start of work contemplated in this Agreement.

b. The Contractor shall provide to the Town a Certificate of Insurance having a thirty (30) day notice of cancellation; ten (10) days' notice if cancellation is for nonpayment of premium.

c. In the event that the insurer is unable to accommodate the cancellation notice requirement, it shall be the responsibility of the Contractor to provide the proper notice. Such notification will be in writing by registered mail, return receipt requested, and addressed to the certificate holder.

d. In the event the Agreement term or any surviving obligation of the Contractor following expiration or early termination of the Agreement goes beyond the expiration date of the insurance policy, the Contractor shall provide the Town with an updated Certificate of Insurance no later than ten (10) days prior to the expiration of the insurance currently in effect. The Town reserves the right to suspend the Agreement until this requirement is met.

e. The Certificate of Insurance shall indicate whether coverage is provided under a claims-made or occurrence form. If any coverage is provided on a claims-made form, the Certificate of Insurance must show a retroactive date, which shall be the effective date of the initial contract or prior.

f. The Town shall be named as an Additional Insured on all liability policies, with the exception of Workers' Compensation.

g. The Town shall be granted a Waiver of Subrogation on the Contractor's Workers' Compensation insurance policy.
h. The title of the Agreement, Bid/Contract number, event dates, or other identifying reference must be listed on the Certificate of Insurance.

Watercraft Liability
Coverage must be afforded in an amount not less than $1,000,000 per occurrence and must cover the utilization of watercraft, including Bodily Injury and Property Damage arising out of ownership, maintenance, or use of any watercraft, including owned, non-owned, and hired.

Coverage may be provided in the form of an endorsement to the Commercial General Liability policy, or in the form of a separate policy covering Watercraft Liability or Protection and Indemnity for Bodily Injury and Property Damage.

The Certificate Holder should read as follows:
Town of Bay Harbor Islands
9665 Bay Harbor Terrace
Bay Harbor Islands, FL 33154

The Contractor has the sole responsibility for all insurance premiums and shall be fully and solely responsible for any costs or expenses as a result of a coverage deductible, co-insurance penalty, or self-insured retention; including any loss not covered because of the operation of such deductible, co-insurance penalty, self-insured retention, or coverage exclusion or limitation. Any costs for adding the Town as an Additional Insured shall be at the Contractor's expense.

If the Contractor's primary insurance policy/policies do not meet the minimum requirements, as set forth in this Agreement, the Contractor may provide evidence of an Umbrella/Excess insurance policy to comply with this requirement.

The Contractor's insurance coverage shall be primary insurance as respects to the Town, a Florida municipal corporation, its officials, employees, and volunteers. Any insurance or self-insurance maintained by the Town, a Florida municipal corporation, its officials, employees, or volunteers shall be non-contributory.

Any exclusion or provision in any insurance policy maintained by the Contractor that excludes coverage required in this Agreement shall be deemed unacceptable and shall be considered breach of contract.

All required insurance policies must be maintained until the contract work has been accepted by the Town, or until this Agreement is terminated, whichever is later. Any lapse in coverage shall be considered breach of contract. In addition, Contractor must provide to the Town confirmation of coverage renewal via an updated certificate should any policies expire prior to the expiration of this Agreement. The Town reserves the right to review, at any time, coverage forms and limits of Contractor's insurance policies.

The Contractor shall provide notice of any and all claims, accidents, and any other occurrences associated with this Agreement to the Contractor's insurance company or companies and the Town's Risk Management office, as soon as practical.

It is the Contractor's responsibility to ensure that any and all of the Contractor's independent contractors and subcontractors comply with these insurance requirements. All coverages for independent contractors and subcontractors shall be subject to all of the applicable requirements stated herein. Any and all deficiencies are the responsibility of the Contractor.

NOTE: TOWN PROJECT NUMBER, PROJECT NAME AND BID NUMBER MUST APPEAR ON EACH CERTIFICATE, AND THE TOWN OF BAY HARBOR ISLANDS MUST BE NAMED ON THE CERTIFICATE AS AN "ADDITIONAL INSURED" ON REQUIRED LIABILITY POLICIES.

A Sample Insurance Certificate shall be included with the proposal to demonstrate the firm's ability to comply with insurance requirements. Provide a previous certificate or other evidence listing the insurance companies' names for all required coverage, and the dollar amounts of the coverage.

10. PERFORMANCE AND PAYMENT BOND: 100%

11. TOWN PROJECT MANAGER

The Town hereby designates the Project Manager as Rodney Carrero-Santana P.E whose address is 9665 Bay Harbor Terrace, Town of Bay Harbor Islands, Florida 33154, telephone number: (305)455-7275, and e-mail address is rcarrerosantana@bayharborislands-fl.gov The Project Manager will assume all duties and responsibilities and will have the rights and authorities assigned to the Project Manager in the Contract Documents in connection with the completion of the Work in accordance with this Agreement.

12. LIQUIDATED DAMAGES

Upon failure of the Contractor to complete the Work within the time specified for completion, the Contractor shall pay to the Town the sum of **One Thousand Dollars ($1000.00)** for each and every calendar day that the completion of the Work is delayed beyond the time specified in this Agreement for completion, as fixed and agreed liquidated damages and not as a penalty, so long as the Contractor causes the delay.

13. PAYMENT

Payment on this Contract will be made by check.

14. WORK SCHEDULE (including overtime hours):
Regular work hours: **9:00 am to 5:00 pm, Monday through Friday.**
Town Inspector Hours: **9:00 am to 4:30 pm, Monday through Friday.**
Any inspection requested by the contractor outside those hours will be considered overtime to be paid by the Contractor.

15. INSPECTION OVERTIME COST: $170/hr.

TECHNICAL SPECIAL PROVISION

FOR

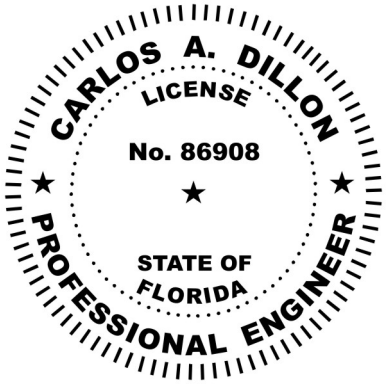
SECTION T401

CONCRETE REPAIR AND RESTORATION

BRIDGE No. 875103

MAY, 2023

THIS ITEM HAS BEEN DIGITALLY
SIGNED AND SEALED BY



ON THE DATE ADJACENT TO THE SEAL

PRINTED COPIES OF THIS DOCUMENT ARE NOT CONSIDERED SIGNED AND SEALED AND THE SIGNATURE MUST BE VERIFIED ON THE ELECTRONIC COPIES.

BCC ENGINEERING, LLC.
6401 S.W. 87TH AVENUE, SUITE 200
MIAMI, FL 33173
CERTIFICATE OF AUTHORIZATION: 7184

The official record of the above referenced section(s) is the electronic file digitally signed and sealed under Rule 61G15-23.004(3)(d)1, F.A.C.

SECTION T401
CONCRETE REPAIR AND RESTORATION

T401-1 Description: The work under this Technical Special Provision consists of restoring cracked or spalled concrete on the superstructure, such as bridge deck, top and underside, and other components at locations indicated in the Plans or as directed by the Engineer using pump or pour methods. Coordinate and execute work such that repairs can proceed within the specified period without conflict.

T401-1.1 General: Repairs will require phased work at specific bridge components where the structural integrity of the component may be affected due to the amount of required concrete removal as determined by the Engineer. Specific work includes the following: locate and document cracked and unsound concrete, concrete removal, surface preparation, repairing broken rebar, concrete restoration by means of patching or forming, and applying bonding agent.

T401-1.2 Quantities: Due to the nature of the deterioration present on this bridge, the Town shall have the authority to increase, decrease, or delete the quantities of work to be performed in excess or below the percentages allowed by the Section 4-3.1 of the FDOT Standard Specifications and revisions thereto with no adjustment to the contract unit prices. The Work will be assigned by the Engineer for a specific group of locations at a time.

In addition to the locations of spalls shown in the Plans, perform a sounding survey of the bridge superstructure and identify all locations in need of repair, for approval by the Engineer. Perform the survey in the presence of the Engineer prior to commencing any work.

Do not perform concrete removal without the Engineer's approval. The Town shall be allowed to take actions including non-payment and stoppage of work due to poor workmanship, unapproved materials, or unapproved work procedure at any time without consequence to the Town.

T401-1.3 Tracking Repair Quantities: Prepare a detailed report with the identified areas documented as per Article T401-1.2 indicating the square footage of each spall along with an estimated total amount of repairs. Format the report to indicate precise location of each area, estimated quantities for each repair and calculations for each. Use this report to track quantities. The Engineer will also use this document for preparing the authorization to proceed with repairs. Update the report on a monthly basis to include actual quantities of repairs and remaining budget available to continue with repairs. Repairs performed after exhaustion of budget due to failure to track quantities will be performed at no additional expense to the Town.

The Town shall determine the size of the work assignments. Do not commence work on any new work assignment until the satisfactory completion or substantial progress (more than 40% completion) of previously issued assignments has been confirmed, except when the Engineer determines that such other work is in the best interest of the Town and gives written

instructions to proceed. The expectation is for work to begin within 14 Calendar Days following issuance of the authorization to proceed with work.

T401-1.4 Work Vessels: Use a proper size vessel (such as barges, work platforms, etc) to execute the work and house all the Equipment taking into consideration site conditions, strong currents, and winds at the site. The Town will not allow additional time for work delays due to rough waters if it determines that the chosen Equipment was not adequate for the existing conditions at the site.

Provide a gasoline or diesel fuel powered emergency boat with communication equipment (phone or radio) at the job site at all times when work is being performed. Whenever a worker is present on the job site, make available immediate transportation to shore in the event of an emergency. Provide the emergency watercraft in addition to the watercraft provided for Town inspections under provisions of FDOT Standard Specification 5-9.1. Do not use the emergency boat as anything other than an emergency boat (i.e. do not use as a work platform, transportation other than emergency, etc.).

T401-1.5 Staging of Work: Perform the underdeck concrete repair work from the water using a barge(s) or a suitable boat(s) provided with lifts and other devices as required in order to complete the work. Do not tie vessels to the bridge piers at any time. Do not locate Equipment on the roadway or on the bridge unless otherwise approved by the Engineer for specific operations. If mooring is used, identify any potential mooring areas and submit potential mooring areas to the Engineer for approval. Do not moor outside of the bridge footprint, coping to coping. If spudding is used, the spuds must not be outside of the footprint of the bridge, coping to coping.

Some spalls are located at elevations which may require an access system for repairs. Remove any anchors and patch any holes created to support forms, false work, etc. with an appropriate approved mortar or epoxy. Do not use permanent attachments or modify the bridge structure for the purpose of staging/access.

T401-1.6 Shop Drawings: Provide shop drawings indicating the type of form systems including supports, method of concrete placement, and containment of concrete and waste materials. Assure containment systems continually function as intended on a daily basis as a minimum. Approval of the containment system will ultimately be based upon continued performance.

T401-1.7 Work Plan and Work Schedule: Submit a detailed work plan and schedule for all the types of work as stated in the Plans and the Technical Special Provision for review and approval prior of beginning any work.

T401-2 Materials and Testing: Use a pre-packed, latex modified (polymer concrete) for typical spall repairs that are of a small volume not exceeding the placement limitations of pre-packed mix. For spall repairs deeper than 10 inches or other large-volume spall repairs that exceed the placement limitations of pre-packed mix, use a Class IV concrete with No.89 aggregate. Provide Class IV concrete in accordance with FDOT Standard Specifications Section 346 and properties based on Florida Limerock Aggregate. Submit a placement plan to the Engineer including

anticipated repair volumes, placement limitations of pre-packed mix, and approach to large-volume repairs prior to beginning work.

T401-2.1 Latex Modified (Polymer Concrete) (Item 401-70-2)**:** Use an approved pre-packaged latex modified (polymer concrete) concrete for spall repairs unless otherwise indicated in the Contract Documents for specific components. Select a material with a minimum compressive strength of 3000 psi at 3 Calendar Days, and 5500 psi at 28 Calendar Days, and that is produced and marketed for pump or pour applications. Use repair materials that do not exceed a maximum chloride content of 0.4 pounds of chloride per cubic yard of material when placed. Where overhead repairs are required, assure suitability of material, means, and methods.

For applications where there is a need to extend the patching material by adding coarse aggregate, the aggregate shall meet the product manufacturer recommendations and be approved by the manufacturer or shall be from a Department approved source.

Keep pre-packaged patch materials and aggregates at a clean, dry location away from contaminants.

T401-2.2 Patch Mortar: Pre-packaged patch mortar or epoxy may be used to repair holes for falsework attachment only. Do not use this material for spall repairs.

T401-2.3 Bonding Agent: Apply an approved concrete bonding agent to the existing concrete and reinforcing steel prior to placement of the new concrete or patching material. Assure that such bonding compound is solvent free; epoxy-cement based. Do not use the bonding compound as a vapor barrier. Use a bonding compound that contains corrosion inhibitors and is suitable for application over concrete and reinforcement with a minimum application time of 1 hour after mixing. Mix the bonding compound and apply it per the Manufacturer's Specifications. Assure that the bonding compound is in tacky condition (not allowed to harden) when concrete material is placed. Schedule the placement of the repair material as not to exceed the manufacturer allowed time.

T401-2.4 Manufacturer's Technical Data Sheets: Provide Manufacturer's certifications for the following materials:

1) Pre-packed concrete repair materials including formulation and aggregates; shall include technical data indicating compliance with contract requirements. All aggregates added in the field shall be from an FDOT approved source unless certified satisfactory by the concrete material Manufacturer.
2) Concrete bonding compound; data sheet and Material Safety Data Sheets (MSDS)
3) Media blasting system

T401-2.5 Concrete Materials Testing: Quality control requirements are per FDOT Standard Specifications Section 346 for concrete products.

T401-2.6 Concrete Pumping Plan: Submit a Concrete Pumping Plan for review and approval by the Engineer. Approval is based on performance. Include in the Concrete Pumping Plan as a minimum:

1) Equipment,
2) estimated time of placement per section,
3) port pumping sequence,
4) method of sealing ports,
5) concrete test protocol at discharge point,
6) method of collecting flushed material and,
7) method of venting form work.

T401-3. Construction Methods for Concrete Restoration:

T401-3.1 Schedule of Work: Schedule concrete repairs to allow for proper application and curing of material and considerations such as Traffic Control Plan conditions and restrictions.

T401-3.2 Construction Methods:

T401-3.2.1 Concrete Removal: Remove all cracked, delaminated, or hollow sounding concrete and perform repairs as designated in the Contract Documents or as directed by the Engineer. Concrete with Class 1 (0 to 1/64 in.) cracks, but solid when sounded, may not need to be removed and repaired if directed by the Engineer. When Class 1 cracks are encountered, notify the Engineer for inspection.

In addition, remove solid concrete to a depth ranging from 3/4 to 1 inch. behind the reinforcement for achieving a mechanical bond between the repair material and the reinforcement, for locating rebars for continuity corrections, and for location of reinforcing steel not affected by corrosion. Remove sound concrete for mechanical bond to a maximum distance of 4 inches from the edge of the spall after the perimeter is sawcut if the rebar is not corroded and is fully exposed at the edge of the spall. Should rebar be corroded, remove concrete until non-corroded reinforcing steel is reached. Cut vent grooves prior to placing concrete when needed to prevent voids due to air pockets.

Provide a substrate with a minimum surface profile of ICRI-CPS5 (1/8” to 1/4”) at the existing and new concrete interface unless a deeper profile is specified by the repair material Manufacturer.

Clean concrete of dust, marine growth, existing coatings, or debris that may be present by mediablasting or other approved method. Blast clean existing concrete surfaces that will be in contact with the freshly placed repair material. Remove all loose material and dust, and rinse concrete with fresh water immediately prior to the application of the repair material.

T401-3.2.2 Concrete Removal Tools: Use hand tools or light duty (15 lb. max) pneumatic or electric chippers, and 4 lb. (max) scaling hammer to remove concrete.

During the concrete removal process, take great care to prevent damage to the reinforcing steel and prevent damage to sound concrete beyond the delaminated areas, sound concrete beyond the mechanical bond areas, or sound concrete beyond the continuity correction areas. Should reinforcing steel or sound concrete as described above be damaged by the construction operation, stop concrete removal work and submit a damage report to the Engineer including documentation such as photographs, the cause of the damage, the extent of the damage, measurements of the damage, and any additional visible effects resulting from the damage. Submit a repair method for the damaged area(s) for approval by the Engineer prior to continuing the concrete removal work.

T401-3.2.3 Perimeter of Spall: Sawcut the perimeter of the spalls a depth of 3/4" prior to forming or placing the concrete. Adjust depth of saw cut if shallow reinforcing steel is encountered as approved by the Engineer. Define the perimeter of the saw cut repair area by exposing a minimum of 6 inches of reinforcing steel beyond the oxidized portion, and extending 4 inches past any edge of spall. Provide horizontal and vertical cuts that follow the general pattern of the spall avoiding 90 degree angle saw cut as the geometry of the spall permits. Roughen the cut face as possible to provide a profile. Assure that there are no feathered edges.

T401-3.3 Reinforcing Steel: Maintain all reinforcing steel at its original position. Media blast all exposed steel clean for the entire circumference of the bar to a near white condition as to meet SSPC SP-10 Standards prior to concrete placement. Assure that there are no traces of rust, mill scale, coating, or other contaminants present after media lasting. Observe special attention to ensure proper cleaning and preparation of the backside of these bars. Replace bars that have lost 20% or more of its cross-sectional area with new bars spliced in place, by lapping or using mechanical connectors to develop the full strength of the bar as shown in the Plans.

T401-3.4 Placing and Finishing: Do not place any repair material when the temperature is below 45 °F or when the temperature range exceeds that provided by the material Manufacturer.

T401-3.4.1 Finishing: Provide concrete spall repairs that are smooth and uniform and match the original profile of the concrete components. Adjust concrete placement methods as necessary to avoid gaps between the existing concrete and the concrete patching material.

T401-3.4.2 Bonding Agent Application: Apply an approved bonding agent to the entire spall area. Perform mixing, application and curing as per Manufacturer's specifications. Assure that mixed material is uniform in appearance and free of lumps or other irregularities. Assure that the application time does not exceed the Manufacturer's specified pot life.

T401-3.4.3 Forms: Complete placement of the forms and pouring as soon as practical after blasting and before any contaminant is present, not to exceed 72 hours or the maximum allowed time required by the bonding agent Manufacturer, whichever is the shorter. Forms must withstand the anticipated head pressure of the repair material. Install proper venting

on the forms as to ensure complete filling of the inside. Pump material to the bottom of the form to ensure proper air vent. Cap the vents when all air has been removed and maintain pumping pressure until an increase of 3 to 6 psi is observed and close the port.

If placing the concrete by pour methods, provide shoots and maintain these full to produce a standing head pressure on the material. Remove shoots and excess material after the material has set.

Use forms capable of withstanding internal and external vibration. Chamfer all formed concrete corners 3/4 inch. in accordance with Section 400-5.4.1 of the FDOT Standard Specifications unless otherwise noted.

T401-3.4.4 Curing: Form cure concrete for a minimum of 7 Calendar Days before removing the forms. Form curing time may be extended by the Engineer based on site conditions. Ensure that ambient exposed areas of formed concrete are wet cured for the same amount of time as for form curing. Make every effort to avoid shrinkage cracking of the poured concrete including, but not limited to: external cooling in the forms, or wet burlap curing after removal of the forms. Remove all forms and anchors, and seal all form anchor holes after curing time has been approved by the Engineer.

T401-4 Method of Measurement:

401-4.1 Measurements: Unless otherwise approved by the Engineer, take all measurements horizontally and vertically for each depth of repairs. Use the method or combination of methods of measurements that reflects, with reasonable accuracy, the actual volume of finished concrete work as determined by the Engineer.

T401-4.2 Quantities: The quantity to be paid for will be the volume, in cubic feet, of spalled areas actually restored, complete, in place and accepted satisfactory by the Engineer.

T401-5 Basis of Payment:

T401-5.1 Concrete Repairs: Price and payment for concrete repairs shall provide full compensation for all related items including but not limited to materials, equipment, labor, structure survey (including sounding), concrete removal, saw-cutting, surface preparation, bonding agent application, forming, curing, and any incidentals as applicable necessary to complete the Work.

Pay Item No. 401-70-2	Restore Spalled Area. (Latex Modified Mortar/Concrete)	Cubic Feet

T401-5.2 Rebar: Price and payment for new rebar used to reinforce existing damaged rebars shall provide full compensation for all related items including but not limited to: new rebar, splicing accessories, labor, and all incidentals associated with rebar splicing.

Pay Item No. 415-1-4	Reinforcing Steel (Superstructure)	Pound

END OF TECHNICAL SPECIAL PROVISIONS

ULTRA-HIGH-PERFORMANCE CONCRETE (UHPC).
(REV 4-20-23)

The following new Section is added after Section 347.

SECTION 349
ULTRA HIGH PERFORMANCE CONCRETE

349-1 Description.

Use ultra-high-performance concrete (UHPC) composed of an optimized gradation of granular constituents, cementitious materials, and reinforcing fibers with a water-to-cementitious materials ratio of less than 0.25. Use only materials listed on the Department's Approved Product List (APL).

Prior to casting UHPC, construct a mockup of a typical UHPC element to demonstrate the casting process meets Contract Document requirements.

349-2 Materials.

349-2.1 General: Meet the following requirements:

Prepackaged Ultra-High-Performance Concrete (UHPC)*..…….Section 927
Water**…….…….Section 923
*Use products listed on the Department's APL.
**Use potable water only.

349-3 Onsite Supervision of Ultra-High-Performance Concrete (UHPC) Production.

349-3.1 General: Ensure a qualified onsite supervisor and a technical field representative from the manufacturer is on-site during all UHPC production and work activities; including mockup, mixing, batching, placement, and curing.

349-3.2 On-Site Supervisor: On-site supervisors must complete the Department's online training course.

Ensure that the on-site supervisors have related work experience on at least one long bridge (bridges having a length greater than 100 feet) or two short bridges (bridges having a length less than or equal to100 feet). Submit a list of projects where the work included UHPC production and work activities. For each bridge listed, provide a brief description of each, dates of completion of work, the project owner's name, and the name, title, and current contact information of a project owner representative.

349-3.3 Manufacturer's Technical Representative: Arrange for a technical field representative of the UHPC manufacturer to be onsite during mockup demonstration, and project construction, including mixing, batching, placement, and curing activities of UHPC for bridge construction.

When the UHPC placement is scheduled for more than one day, the manufacturer representative must be present at the jobsite on the first day of production. The Engineer may accept the non-participation of the manufacturer's for the rest of the onsite placements.

349-4 Construction Work Plan.

Submit a detailed work plan to the Engineer for review and approval prior to UHPC pre-pour meeting. As a minimum, include the following items in the work plan:

1. Quality Control Plan (QCP) in accordance with Section 105.
2. Submit the selected APL product at least 60 days prior to the first anticipated UHPC placement.
3. Project specific storage requirements of UHPC materials ingredients per manufacturer's recommendation.
4. Structural Plans with dimensions showing connection joints, suggested sequence of UHPC placement, and project schedule requirements.
5. Proposed forming materials and procedure for maintaining watertight joints.
6. Top forms when used for deck-level connections are prepared and adequate hold downs are available for the top forms.
7. Top form when used for deck -level connections are set at a minimum of ¼ inch above the top of the deck to allow for all overfilling in accordance with the project Plans.
8. Details of all equipment to be used to batch and place UHPC materials.
9. Schedule and duration of traffic control measures required for completion of the work.
10. Method to attain 1/8 inch to 3/16-inch average amplitude of the exposed aggregate finish for all precast concrete surfaces in contact with UHPC. The use of paste retarders is required to provide the required aggregate finish of precast concrete surfaces in contact with UHPC surfaces.
11. Surface preparation plan of existing concrete surfaces and pre-wetting of the existing concrete interface to a saturated surface-dry (SSD) condition prior to placement of UHPC.
12. Detailed plan and procedure for UHPC joint mockup.
13. Include provisions for acceptable ambient temperature, batch temperatures, ambient relative humidity, batch consistency, and batch times.
14. The mixing, batching, delivery, placement, finishing, and curing procedure of UHPC.
15. The procedure for casting of a demonstration mockup to show the ability to properly cast UHPC components.
16. Proposed schedule and procedure for watertight integrity testing of completed UHPC bridge deck joints.
17. Pre-pour meeting agenda, including manufacturer's recommended topics.

349-5 UHPC Pre-Pour Meeting.

Conduct a pre-pour meeting prior to the UHPC mockup demonstration. Notify the District Materials Office (DMRO) and the State Materials Office (SMO) at least 48 hours prior to the scheduled meeting.

349-6 UHPC Mockup.

349-6.1 General: Construct a mockup in accordance with the design Plans, approved shop drawings, pre-pour meeting discussions, and as recommended by the UHPC manufacturer.

Notify the DMRO and the SMO for witnessing, reviewing, and evaluating of the mockup construction operations, at least seven calendar days prior casting of the mockup.

Cast a mockup at least 30 calendar days prior to placement of UHPC, either at the jobsite or offsite, that is a full-scale representation of the proposed joint and replicates the form pressure created by the liquid. Ensure that the mockup replicates the interface between the UHPC and precast concrete panel, roughened to an exposed aggregate finish. The use of paste

retarders is required to provide the exposed aggregate finish of precast concrete surface in contact with UHPC surfaces. Following placement and sufficient curing of the UHPC, cut the hardened mockup transversely at two locations to allow for visual inspection of the joint interface and material bond.

Make the completed mockup cut sections available for review. Notify the DMRO and the SMO.

The Engineer with input from the SMO or their designated DMRO representative may approve the mockup.

The Engineer's approval of field casting of the UHPC is dependent on successful demonstration of the mockup.

349-7 Construction Methods and Requirements.

1. Notify the DMRO and the SMO for witnessing, reviewing, and evaluating of the construction operations, at least seven calendar days prior of the onsite placement.
2. Perform forming, batching, placing, and curing in accordance with approved construction work plan.
3. Do not remove formwork prior to 24 hours after UHPC placement or per manufacturer's recommendations.
4. Provide the required number of mixers in accordance with the manufacturer's recommendations.
5. Ensure that the fibers are evenly distributed to avoid clumping.
6. During batching, keep the temperature of the UHPC below 85°F. Add ice to the mix as recommended by the UHPC manufacturer's representative, but do not exceed the allowable specified water-to-cementitious materials ratio.
7. Ensure that the measured average amplitude of the exposed aggregate finish for all precast concrete surfaces in contact with UHPC is between 1/8 inch and 3/16 inch.
8. Keep connections free of any oil, dirt, and debris.
9. Prior to UHPC placement, prewet precast concrete surfaces that will be in contact with UHPC. Continuously wet the concrete contact area with fresh water for at least 24 hours prior to the UHPC placement.
10. Remove all standing surface water just prior to UHPC placement.
11. Follow the batching sequence as described in the approved UHPC construction work plan.
12. When specified, fill the surface of the UHPC field joints to 1/4-inch above the surface of the adjacent concrete surface.
13. Place UHPC in accordance with the approved construction work plan. Do not use internal vibration during UHPC placement. The use of rodding of UHPC is allowed at the locations where successive pours meet. Keep UHPC at the manufacturer's recommended temperature range during the placement.
14. On short bridges, place the UHPC in a continuous operation with no cold joints. For long bridges, submit for Engineer's approval, the UHPC placement sequence, including all planned joints. Cure and cover the UHPC in accordance with the manufacturer's recommendations.
15. Ensure that the connection joints remain free from differential movement and rotation until the UHPC achieves the required compressive strength shown in the Contract Documents.
16. Ensure that all lifting lug pockets and any other deck protrusions are water blast cleaned and filled with UHPC.

17. After the installation of the bridge deck joints, perform a water integrity test in accordance with 349-9.2.

18. Perform grinding of the UHPC surface after the UHPC achieves the required compressive strength shown in the Contract Documents. Suspend grinding if significant fiber pullout is observed during grinding operations. Take corrective actions to prevent the recurrence of the problem which require the Engineer's approval prior to implementation.

19. Ensure that the UHPC compressive strength has achieved the required strength shown in the Contract Documents.

349-8 Sampling and Testing.

349-8.1 UHPC Quality Control Sampling and Testing: During field demonstration of mockups and construction, perform sampling and testing of UHPC at the frequencies described in Tables 349-1 and 349-2, respectively. Perform the following quality control sampling and testing during casting of the mockup and field casting of UHPC placement:

1. Measure the flow of each batch of UHPC. The allowable flow range is between 8 to 10 inches.

2. Record UHPC flow, ambient air temperature, and mix temperature for each batch. Include the time and date, amounts of water and ice, and admixtures corresponding to the UHPC batch and LOT numbers for traceability. A LOT of UHPC is defined as 15 cubic yards or one day's production, whichever comes first.

3. As part of the as-built records, track and show the placement locations of UHPC LOTs. Submit a copy of the as-built records to the Engineer.

4. Compressive Strength Cylindrical Specimens: From every LOT, take four sets of three compressive strength test cylinders described in Table 349-2. Cure all sets in an environment like that of the placed UHPC. For traceability, track all sets to LOT numbers.

Table 349-1
Quality Control Sampling and Testing Frequencies During Field Demonstration of Mockup

Material Characteristic Description	Test Method	Minimum Sampling and Testing Frequency
Flow of UHPC	ASTM C1437 (Using Modifications Described in ASTM C1856)	One test per batch
Temperature of freshly mixed hydraulic cement concrete	ASTM C1064	One test per batch
Compressive strength of cylindrical concrete specimens	Make test specimens in accordance with ASTM C31 and test them in accordance with ASTM C39 (Using Modifications Described in ASTM C1856)	Cast two sets of 3 cylinders for testing at 4 and 28 days. Include extra set when other ages are specified in the Contract Documents.
Tensile strength and relative toughness of cylinders	FM 5-626	Cast a specimen for 28 days testing. Include extra specimens when other ages are specified in the Contract Documents.

Table 349-2 Quality Control Sampling and Testing Frequencies During Construction		
Material Characteristic Description	Test Method	Minimum Sampling and Testing Frequency
Flow of UHPC	ASTM C1437(Using Modifications Described in ASTM C1856)	One test per batch
Temperature of freshly mixed hydraulic cement concrete	ASTM C1064	One test per batch
Compressive strength of cylindrical concrete specimens	Make test specimens in accordance with ASTM C31 and test them in accordance with ASTM C39 (Using Modifications Described in ASTM C1856)	Cast two sets of 3 cylinders for testing at 4 and 28 days, and two additional cylinders for resolution per LOT of 15 CY or one day's production, whichever comes first. Include extra sets when other ages are specified in the Contract Documents.
Tensile strength and relative toughness of cylinders	FM 5-626	Cast a specimen for 28 days testing. Include extra specimens when other ages are specified in the Contract Documents.
Chloride content	FM 5-516	One test per month of UHPC production
Water integrity test for bridge deck joints	349-10.2	One test per bridge deck

349-8.2 UHPC Quality Control Compressive Strength Testing: For each LOT, test the compressive strength cylinders at the times that are described below:

1. Test three cylinders at 4 days.
2. Test three cylinders at 28 days.
3. Hold the remaining two cylinders for resolution testing, if needed.

Cast additional sets of cylinders when other ages are specified in the Contract Documents, or for form removal, opening of the bridge to traffic and loading the structure.

Ensure that the tests are performed by a testing laboratory meeting the lab qualifications of 105-7. Cure the cylinders onsite in a similar environment as the UHPC joint material and ship them to the Department qualified testing laboratory for testing. Cure the 28-day test cylinders and resolution test cylinders initially in the field in accordance with ASTM C31 and ship them to the laboratory for final curing and testing.

Ensure that the Quality Control (QC) testing laboratory enters the compressive strength test results into the Department's Materials Acceptance and Certification (MAC) within 24 hours of their testing, as described in 346-9.1.

349-8.3 UHPC Chloride Content Limits for Concrete Construction: Perform the chloride content test at a frequency of one sample per month of UHPC production. The maximum allowable chloride content is 0.40 pounds per cubic yard.

349-9 Quality Assurance Program.

349-9.1 Verification Sampling and Testing: The Engineer will observe the UHPC placement and take verification samples for concrete temperature, flow, and compressive strength tests at a frequency of one sample per four LOTs.

For UHPC, the compressive strength verification samples consist of five cylinders; three cylinders for the 28-day tests and two cylinders for resolution testing, if needed.

Notify the Engineer at least 48 hours prior to the anticipated UHPC placement. Final acceptance will be based upon 28-day compressive strength. Field coring of UHPC for dispute resolution is not allowed.

The Engineer will compare UHPC QC and Verification test results in accordance with 346-9.5. The Department will proceed to the resolution procedure in accordance with 346-9.6 if the difference between the QC and Verification test results exceeds 14%.

Provide an adequate location to place acceptance specimens for initial curing prior to transport to the laboratory. Equip the curing boxes with supplemental heat or cooling as necessary to cure specimens in accordance with ASTM C31.

Remove the UHPC and replace or remediate to the satisfaction of the Engineer, if the UHPC does not meet the minimal material properties of this Section.

349-9.2 Water Integrity Test for Bridge Deck joints: After the bridge deck joints have been installed with UHPC and formwork has been removed, flood the entire deck with water for a minimum duration of 30 minutes. Inspect the concrete surfaces under the joint during this minimum of 30-minute period, and for a minimum of 45 minutes after the supply of water has stopped to ensure that there is no evidence of dripping water or moisture. The Engineer will verify the results of the inspections by performing an independent inspection of the concrete surfaces under the joints. The surfaces on the underside of the joint are considered watertight when they are free from any sign of moisture. If the joint system exhibits evidence of water leak at any location, take remedial measures necessary to stop further leakage. Subsequent water integrity tests may be required subject to the same conditions as the original test per the Engineer.

349-10 Method of Measurement.

The quantity of UHPC to be paid for will be the Plan Quantity, in cubic yards, in place, and accepted.

349-11 Basis of Payment.

349-11.1 General: Price and payment will constitute full compensation for all work including surface preparation, supplying, mixing, transporting, volume of UHPC joint mockup, placing, finishing, curing, grinding, water integrity testing for bridge deck joints, and for furnishing all equipment, tools, labor, and incidentals required to complete the work.

No payment will be made for material used in the determination of material properties or for acceptance testing.

349-11.2 Pay Items: Payment will be made under:

Item No. 918-349 – Ultra High-Performance Concrete – per cubic yard.

PREPACKAGED ULTRA-HIGH-PERFORMANCE CONCRETE (UHPC)
(REV 4-20-23)

The following new Section is added after Section 926.

SECTION 927
PREPACKAGED ULTRA-HIGH-PERFORMANCE CONCRETE (UHPC)

927-1 Description.

This Section covers ultra-high-performance concrete (UHPC) products.

927-2 Product Certification.

UHPC Manufacturers must submit product data sheets and certified test reports from an independent laboratory showing that the product meets the requirements of this Section.

Manufacturers seeking evaluation of products for inclusion on the Department's Approved Products List (APL) shall submit an application to the Department and include the documentation identified in 927-3.2. The Department may require material samples for verification testing.

Any change of materials or material sources requires new testing and certification of the conformance of the UHPC with this Specification.

927-3 Materials.

927-3.1 Packaging, Marking and Storage: Deliver product in original, unopened moisture-proof bags with the manufacturer's name, date of manufacture, and clearly marked with the information described below. Store the material in a dry and weather protected enclosure in full compliance with the manufacturer's recommendations. Material must be used within the manufacturer's recommended shelf life.

All containers must be marked with the following information:

1. Packaging date and material expiration date.
2. Weight of each bag and number of bags in each pallet.
3. Storage temperature.
4. Mix components, proportions, yield, and mixing procedure, including the following:

a. Description of the premixed dry materials in each bag.

b. Fibers – the type, diameter, length, and tensile strength of fiber, including the percentage of the mix's dry volume. All fibers reinforcement must comply with the source of supply requirements of Section 6.

c. Admixtures – Indicate if admixtures are part of the premixed component or if they will be delivered in separate bags or containers. Do not use admixtures or additives containing calcium chloride, either in the raw materials or introduced during the manufacturing process.

927-3.2 Product Data Sheet: Provide a product data sheet with the following information:

1. Storage of product components at project site.
2. Mix proportions and yield in cubic yards. For each product, provide a mix design with a maximum allowable water-to-cementitious materials ratio of less than 0.25

3. Ambient and mixture temperatures during mixing, batching, and placement.
4. Batching, mixing, transportation, placement, finishing, and curing.
5. Product properties listed in Tables 927-1 and 927-2
6. The typical fresh properties of UHPC product, including density, flow, working time, and set time of the mix.

Table 927-1: Prepackaged UHPC Properties		
Material Characteristic Description	Test Method	Acceptance Criteria (*)
Temperature of freshly mixed hydraulic cement concrete	ASTM C1064	Specified by the Manufacturer
Flow of UHPC	ASTM C1437(Using Modifications Described in ASTM C1856)	Specified by the Manufacturer
Time of setting of UHPC	ASTM C191 (Using Modifications Described in ASTM C1856)	Specified by the Manufacturer
Concrete Compressive Strength of Cylindrical Concrete Specimens (Non-Heat Treated)	ASTM C39 (using modifications described in ASTM C1856)	≥17,400 psi at 28 days
Tensile strength and relative toughness of cylinders	FM 5-626	For Information Only
Split Cylinder First Cracking Strength	ASTM C496 (Mount LVDTs to the ends of the test cylinder for measuring the first cracking strength.)	≥1,000 psi at 28 days
Flexural Performance of Fiber - Reinforced Concrete (First- Peak Strength)	ASTM C1609 (using modifications described in ASTM C1856)	≥1,200 psi at 28 days
Static Modulus of Elasticity of Concrete in Compression	ASTM C469 (using modifications described in ASTM C1856)	≥6,500,000 psi at 28 days
Length Change of Hardened Concrete	ASTM C157 (using modifications described in ASTM C1856)	≤800 micro-strain at 28 days
(*) For APL approval, the Department may accept values outside of the specified acceptance criteria.		

Table 927-2: UHPC Durability Properties		
Material Characteristic Description	Test Method	Acceptance Criteria (*)
Chloride content	FM 5-516	≤ 0.40 lb/yd^3
Chloride ion permeability	AASHTO T 259 (0.5-inch depth)	< 0.1 lb/yd^3
Scaling Resistance	ASTM C672	Y < 3
Freeze-Thaw Resistance	AASHTO T 161/ASTM C666A (600 cycles)	Relative Dynamic Modulus of Elasticity ≥ 95%
Alkali-Silica Reaction	ASTM C1567	Innocuous (at 28-day Test)
(*) For IPL approval, the Department may accept values outside of the specified acceptance criteria.		

INDEX OF TEMPORARY TRAFFIC CONTROL PLANS

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11 – 13	PHASE III TRAFFIC CONTROL PLANS
14 – 16	PHASE IV A TRAFFIC CONTROL PLANS
17 – 19	PHASE IV B TRAFFIC CONTROL PLANS

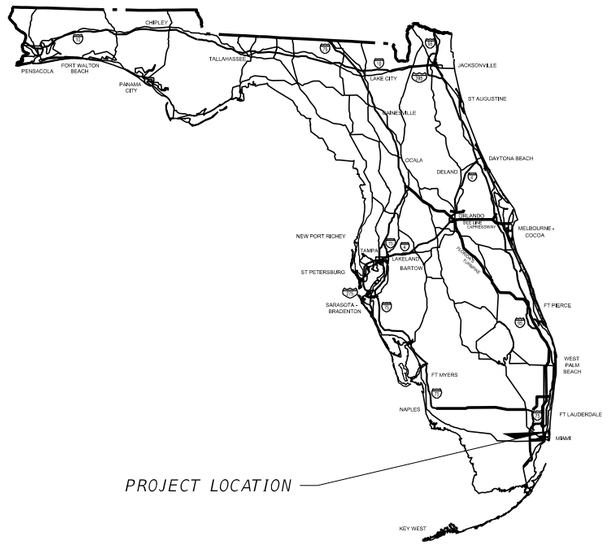
TOWN OF BAY HARBOR ISLANDS

CONTRACT PLANS

PROJECT ID BC-159

BRIDGE REPAIRS AND UTILITY SADDLE REPLACEMENT

TEMPORARY TRAFFIC CONTROL PLANS



OSCAR OLIVA
LICENSE
No 75502
STATE OF
FLORIDA
PROFESSIONAL ENGINEER

THIS ITEM HAS BEEN DIGITALLY SIGNED AND SEALED BY

ON THE DATE ADJACENT TO THE SEAL

PRINTED COPIES OF THIS DOCUMENT ARE NOT CONSIDERED SIGNED AND SEALED AND THE SIGNATURE MUST BE VERIFIED ON ANY ELECTRONIC COPIES.

GOVERNING DESIGN STANDARDS:

FLORIDA DEPARTMENT OF TRANSPORTATION, FY 2021-22 STANDARD PLANS FOR ROAD AND BRIDGE CONSTRUCTION AND APPLICABLE INTERIM REVISIONS (IRS).

STANDARD PLANS FOR ROAD CONSTRUCTION AND ASSOCIATED IRS ARE AVAILABLE AT THE FOLLOWING WEBSITE: HTTP://WWW.FDOT.GOV/DESIGN/STANDARDPLANS

STANDARD PLANS FOR BRIDGE CONSTRUCTION ARE INCLUDED IN THE STRUCTURES PLANS COMPONENT

GOVERNING STANDARD SPECIFICATIONS:

FLORIDA DEPARTMENT OF TRANSPORTATION, 2021 STANDARD SPECIFICATIONS FOR ROAD AND BRIDGE CONSTRUCTION AT THE FOLLOWING WEBSITE: HTTP://WWW.FDOT.GOV/PROGRAMMANAGEMENT/IMPLEMENTED/SPECBOOKS

TEMPORARY TRAFFIC CONTROL PLANS ENGINEER OF RECORD:

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P.E. NO.: 75502
BCC ENGINEERING, LLC.
6401 SW 87TH AVENUE, SUITE 200
MIAMI, FL 33173
PHONE: 305-670-2350
CONTRACT NO.: E7R10
VENDOR NO.: 65-0540100
CERTIFICATE OF AUTHORIZATION NO.: 7184

TOWN ENGINEER:

RODNEY CARRERO-SANTANA, PE

FISCAL YEAR	SHEET NO.
21	1

THE OFFICIAL RECORD OF THIS SHEET IS THE ELECTRONIC FILE DIGITALLY SIGNED AND SEALED UNDER RULE 61G15-23.004, F.A.C.

TRAFFIC CONTROL PLAN GENERAL NOTES:

1. TRAFFIC SHALL BE MAINTAINED IN ACCORDANCE WITH FDOT STANDARD PLANS (INDEX 102-600 SERIES).
2. IN THE EVENT OF A HURRICANE OR OTHER EVACUATION NEED, THE CONTRACTOR, WHEN NOTIFIED BY THE ENGINEER, SHALL COORDINATE THE SECURING OF ALL LOOSE MATERIAL, OPEN ALL CLOSED LANES, REMOVE OBSTRUCTIONS TO DRAINAGE AND WATER FLOW, AND ANY OTHER MEASURE REQUIRED BY THE ENGINEER.
3. PEDESTRIANS SHALL BE PROHIBITED FROM PASSING THROUGH THE ESTABLISHED WORK ZONE. THE SIDEWALK ON THE OPPOSITE SIDE OF THE WORK ZONE SHALL BE MAINTAINED OPEN FOR PEDESTRIANS. SEE FDOT STANDARD PLANS INDEX 102-660.
4. POSTED SPEED OF 30 MPH SHALL REMAIN WITHIN THE PROJECT LIMITS.
5. CONTRACTOR SHALL OBTAIN AN MOT PERMIT FROM THE TOWN OF BAY HARBOR PRIOR TO STARTING CONSTRUCTION.
6. CONTRACTOR SHALL NOTIFY THE TOWN OF BAY HARBOR POLICE @ https://www.bayharborislands-fl.gov/322/Off-Duty-Police-Services FOUR (4) WORKING DAYS IN ADVANCE OF ANY LANE CLOSURE OF A DURATION GREATER THAN ONE HOUR AND AT THE BEGINNING AND ENDING OF EACH PHASE.
7. CONTRACTOR SHALL MAINTAIN BRIDGE TRAFFIC AS INDICATED ON PHASES I. II, III, AND IV. BRIDGE LANE CLOSURES SHALL BE PERMITTED DURING THE SUMMER BREAK, WHEN THERE IS NO SCHOOL. CONTRACTOR SHALL PROVIDE A WRITTEN REQUEST FOR ANY BRIDGE CLOSURE TO THE TOWN OF BAY HARBOR AT LEAST 30 CALENDAR DAYS PRIOR TO CLOSURE.
8. ALL TEMPORARY STRIPES AND MARKINGS SHALL BE PAINT ON THE ROADWAY AND TEMPORARY TAPE ON THE BRIDGE, UNLESS OTHERWISE SPECIFIED ON THE PLANS OR APPROVED BY THE ENGINEER.
9. ALL PAVEMENT MARKINGS SHALL BE RESTORED TO EXISTING CONDITIONS UPON COMPLETION OF CONSTRUCTION, IN ACCORDANCE WITH FDOT STANDARD PLANS INDEX 102-607 (MOBILE OPERATIONS).

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REVISIONS			
DATE	DESCRIPTION	DATE	DESCRIPTION

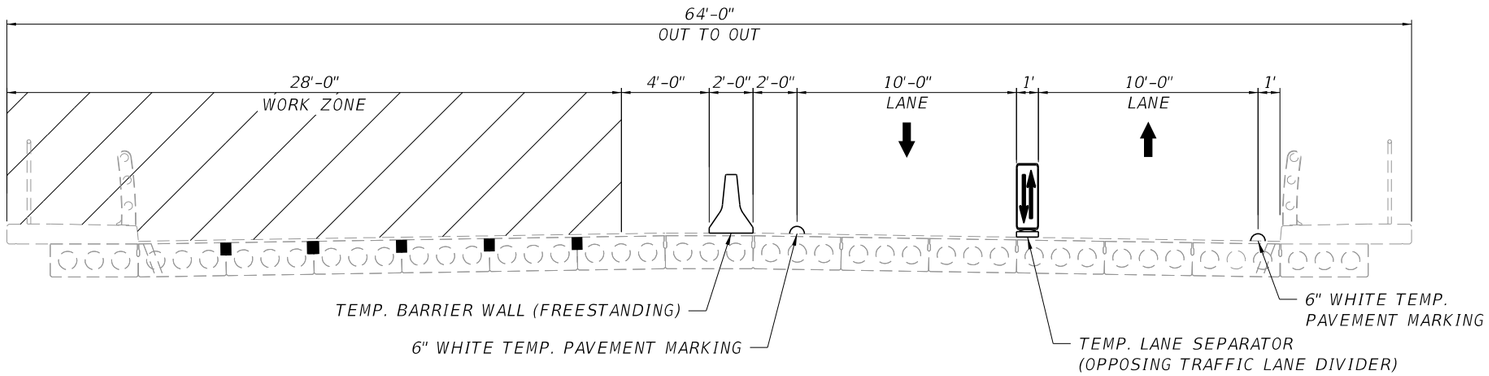
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Certificate of Authorization No. 7184

TOWN OF BAY HARBOR ISLANDS

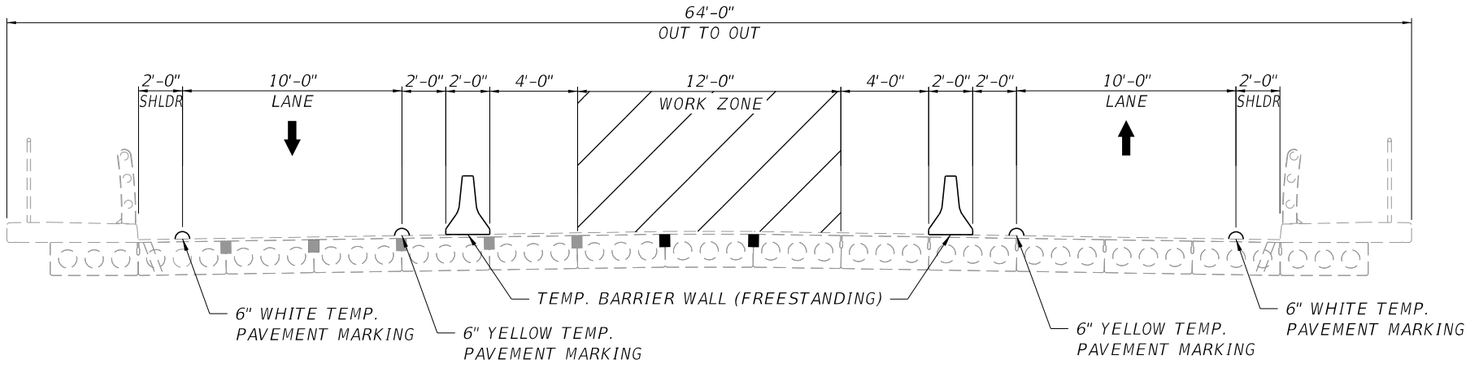
BRIDGE NO.	COUNTY
875103	MIAMI-DADE

TTCP GENERAL NOTES

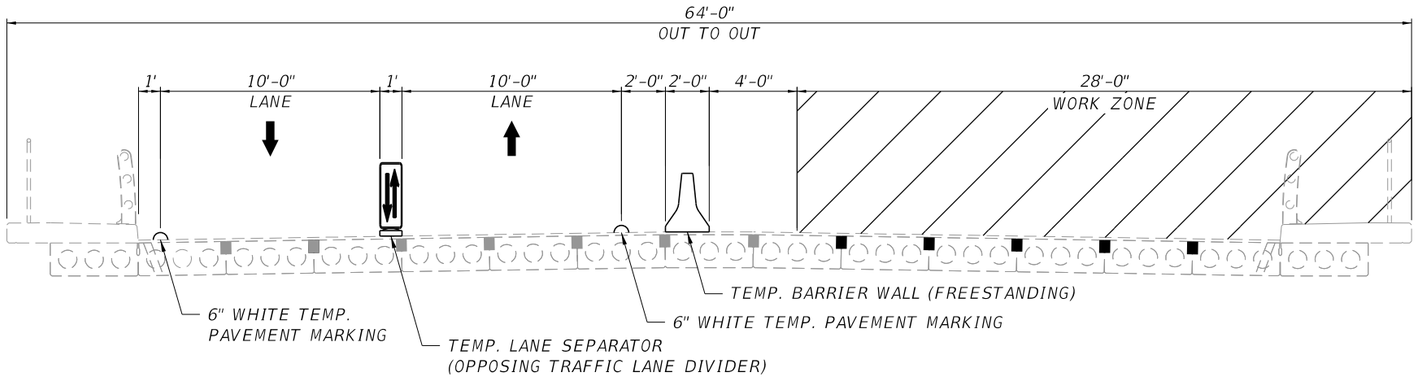
SHEET NO. 2



SR 922 / KANE CONCOURSE / 96TH STREET TRAFFIC CONTROL PHASE I



SR 922 / KANE CONCOURSE / 96TH STREET TRAFFIC CONTROL PHASE II



SR 922 / KANE CONCOURSE / 96TH STREET TRAFFIC CONTROL PHASE III

TTCP PHASING NOTES:

PHASE I

MAINTENANCE OF TRAFFIC:

SHIFT SR 922 / KANE CONCOURSE / 96TH STREET TRAFFIC TO THE SOUTH SIDE OF INDIAN CREEK BRIDGE AS SHOWN IN THE TRAFFIC CONTROL PLANS.

CONSTRUCTION ACTIVITIES:

1. PRIOR TO PHASE I – CONSTRUCTION ACTIVITIES AND DURING OFF PEAK HOURS REMOVE EXISTING PAVEMENT MARKINGS, RE-STRIPE, AND SET UP TRAFFIC CONTROL DEVICES, TEMPORARY SIGNS, CHANNELIZING DEVICES, TEMPORARY BARRIER WALL, TEMPORARY LANE SEPARATOR, ETC. PER TTCP USING STANDARD PLANS INDEX 102-615.
2. MILL EXISTING ASPHALT OVERLAY TO EXPOSE TOP OF BEAMS AND PERFORM HYDRO-DEMOLITION OF LONGITUDINAL JOINTS. FILL CONNECTIONS WITH SUPPLEMENTAL TIE BARS AND UHPC.

PHASE II

MAINTENANCE OF TRAFFIC:

SHIFT SR 922 / KANE CONCOURSE / 96TH STREET TRAFFIC TO THE OUTSIDE OF INDIAN CREEK BRIDGE AS SHOWN IN THE TRAFFIC CONTROL PLANS.

CONSTRUCTION ACTIVITIES:

1. PRIOR TO PHASE II – CONSTRUCTION ACTIVITIES AND DURING OFF PEAK HOURS REMOVE EXISTING PAVEMENT MARKINGS, RE-STRIPE, AND SET UP TRAFFIC CONTROL DEVICES, TEMPORARY SIGNS, CHANNELIZING DEVICES, TEMPORARY BARRIER WALL, TEMPORARY LANE SEPARATOR, ETC. PER TTCP USING STANDARD PLANS INDEX 102-615.
2. MILL EXISTING ASPHALT OVERLAY TO EXPOSE TOP OF BEAMS AND PERFORM HYDRO-DEMOLITION OF LONGITUDINAL JOINTS. FILL CONNECTIONS WITH SUPPLEMENTAL TIE BARS AND UHPC.

PHASE III

MAINTENANCE OF TRAFFIC:

SHIFT SR 922 / KANE CONCOURSE / 96TH STREET TRAFFIC TO THE NORTH SIDE OF INDIAN CREEK BRIDGE AS SHOWN IN THE TRAFFIC CONTROL PLANS.

CONSTRUCTION ACTIVITIES:

1. PRIOR TO PHASE III – CONSTRUCTION ACTIVITIES AND DURING OFF PEAK HOURS REMOVE EXISTING PAVEMENT MARKINGS, RE-STRIPE, AND SET UP TRAFFIC CONTROL DEVICES, TEMPORARY SIGNS, CHANNELIZING DEVICES, TEMPORARY BARRIER WALL, TEMPORARY LANE SEPARATOR, ETC. PER TTCP USING STANDARD PLANS INDEX 102-615.
2. MILL EXISTING ASPHALT OVERLAY TO EXPOSE TOP OF BEAMS AND PERFORM HYDRO-DEMOLITION OF LONGITUDINAL JOINTS. FILL CONNECTIONS WITH SUPPLEMENTAL TIE BARS AND UHPC.

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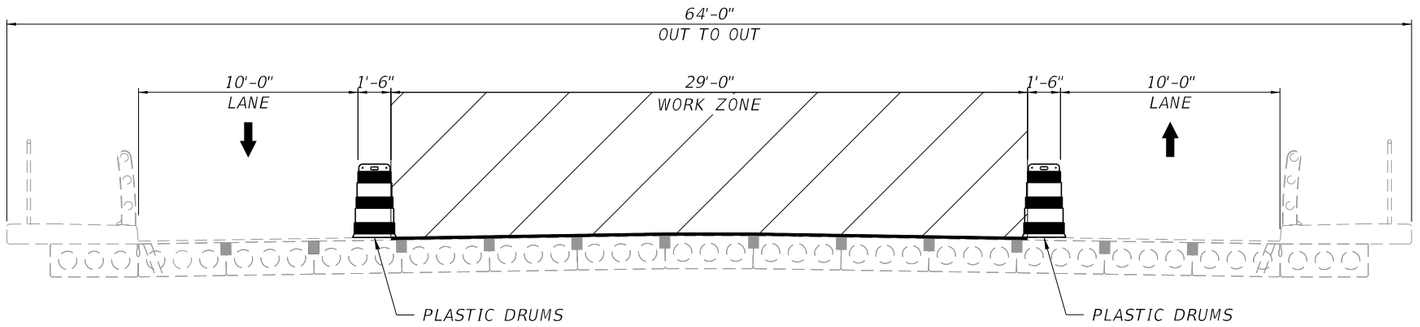
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TOWN OF BAY HARBOR ISLANDS

BRIDGE NO.	COUNTY
875103	MIAMI-DADE

TTCP PHASING NOTES

SHEET NO. 3



SR 922 / KANE CONCOURSE / 96TH STREET TRAFFIC CONTROL PHASE IV A

PHASE IV A

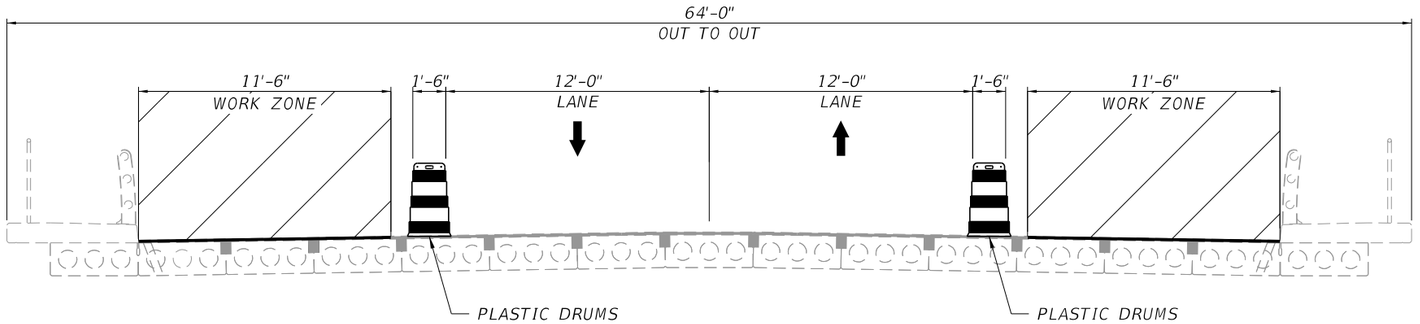
MAINTENANCE OF TRAFFIC:

SHIFT SR 922 / KANE CONCOURSE / 96TH STREET TRAFFIC TO THE OUTSIDE OF INDIAN CREEK BRIDGE AS SHOWN IN THE TRAFFIC CONTROL PLANS.

CONSTRUCTION ACTIVITIES:

1. PRIOR TO PHASE IV A – CONSTRUCTION ACTIVITIES AND DURING OFF PEAK HOURS SET UP TRAFFIC CONTROL DEVICES, TEMPORARY SIGNS, CHANNELIZING DEVICES, ETC. PER TTCP USING STANDARD PLANS INDEX 102-615.

2. DURING OFF PEAK HOURS PERFORM MILLING AND RESURFACING, AND RESTORE PAVEMENT MARKINGS TO EXISTING CONDITIONS IN ACCORDANCE WITH FDOT STANDARD PLANS INDEX 102-607 (MOBILE OPERATIONS).



SR 922 / KANE CONCOURSE / 96TH STREET TRAFFIC CONTROL PHASE IV B

PHASE IV B

MAINTENANCE OF TRAFFIC:

SHIFT SR 922 / KANE CONCOURSE / 96TH STREET TRAFFIC TO THE INSIDE OF INDIAN CREEK BRIDGE AS SHOWN IN THE TRAFFIC CONTROL PLANS.

CONSTRUCTION ACTIVITIES:

1. PRIOR TO PHASE IV B – CONSTRUCTION ACTIVITIES AND DURING OFF PEAK HOURS SET UP TRAFFIC CONTROL DEVICES, TEMPORARY SIGNS, CHANNELIZING DEVICES, ETC. PER TTCP USING STANDARD PLANS INDEX 102-615.

2. DURING OFF PEAK HOURS PERFORM MILLING AND RESURFACING, AND RESTORE PAVEMENT MARKINGS TO EXISTING CONDITIONS IN ACCORDANCE WITH FDOT STANDARD PLANS INDEX 102-607 (MOBILE OPERATIONS).

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BRIDGE NO.	COUNTY
875103	MIAMI-DADE

TTCP PHASING NOTES

SHEET NO. 4

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TOWN OF BAY HARBOR ISLANDS

BRIDGE NO.	COUNTY
875103	MIAMI-DADE

PHASE I
TRAFFIC CONTROL PLANS

SHEET NO. 5



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TOWN OF BAY HARBOR ISLANDS

BRIDGE NO.	COUNTY
875103	MIAMI-DADE

PHASE I
TRAFFIC CONTROL PLANS

SHEET NO. 6

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BRIDGE NO.	COUNTY
875103	MIAMI-DADE

PHASE I
TRAFFIC CONTROL PLANS

SHEET NO. 7

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TOWN OF BAY HARBOR ISLANDS

BRIDGE NO.	COUNTY
875103	MIAMI-DADE

PHASE II
TRAFFIC CONTROL PLANS

SHEET NO. 8



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BRIDGE NO.	COUNTY
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PHASE II
TRAFFIC CONTROL PLANS

SHEET NO. 9

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TOWN OF BAY HARBOR ISLANDS

BRIDGE NO.	COUNTY
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PHASE II
TRAFFIC CONTROL PLANS

SHEET NO. 10

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TOWN OF BAY HARBOR ISLANDS

BRIDGE NO.	COUNTY
875103	MIAMI-DADE

PHASE III
TRAFFIC CONTROL PLANS

SHEET NO. 11

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TOWN OF BAY HARBOR ISLANDS

BRIDGE NO.	COUNTY
875103	MIAMI-DADE

PHASE III
TRAFFIC CONTROL PLANS

SHEET NO. 12

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TOWN OF BAY HARBOR ISLANDS

BRIDGE NO.	COUNTY
875103	MIAMI-DADE

PHASE III
TRAFFIC CONTROL PLANS

SHEET NO. 13

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TOWN OF BAY HARBOR ISLANDS

BRIDGE NO.	COUNTY
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PHASE IV A
TRAFFIC CONTROL PLANS

SHEET NO. 14



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TOWN OF BAY HARBOR ISLANDS

BRIDGE NO.	COUNTY
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PHASE IV A
TRAFFIC CONTROL PLANS

SHEET NO. 15

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TOWN OF BAY HARBOR ISLANDS	
BRIDGE NO.	COUNTY
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PHASE IV A
TRAFFIC CONTROL PLANS

SHEET NO. 16

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PHASE IV B
TRAFFIC CONTROL PLANS

SHEET NO. 17

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PHASE IV B
TRAFFIC CONTROL PLANS

SHEET NO. 18

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TOWN OF BAY HARBOR ISLANDS

BRIDGE NO.	COUNTY
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PHASE IV B
TRAFFIC CONTROL PLANS

SHEET NO. 19

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GENERAL NOTES:

1. Temporary barrier systems may be any of the following:

   A. Type K Temporary Concrete Barrier System (Index 102-110) installed as either Free-Standing or Anchored.

   B. Proprietary Temporary Barrier Systems on the Approved Product List (APL).
      a. Concrete Barrier (Free-Standing or Anchored)
      b. Steel Barrier (Anchored)
      c. Water Filled Barrier (Free-Standing)

2. Where existing flexible pavement is not present, construct a minimum 2" thick temporary Asphalt Pad using Miscellaneous Asphalt Pavement in accordance with Specification 339 with the exception that the use of a pre-emergent herbicide is not required.

3. For Barrier Delineators, see Specification 102. Mount on top of temporary barriers. Color must match adjacent longitudinal pavement marking.

4. Remove all grass debris, loose dirt, and sand for the pavement, bridge deck, or asphalt pad surface within the barrier footprint just prior to placement of the temporary barrier.

5. Ensure the setback distance is clear of any grass, construction debris, stockpiled materials, equipment, and objects.

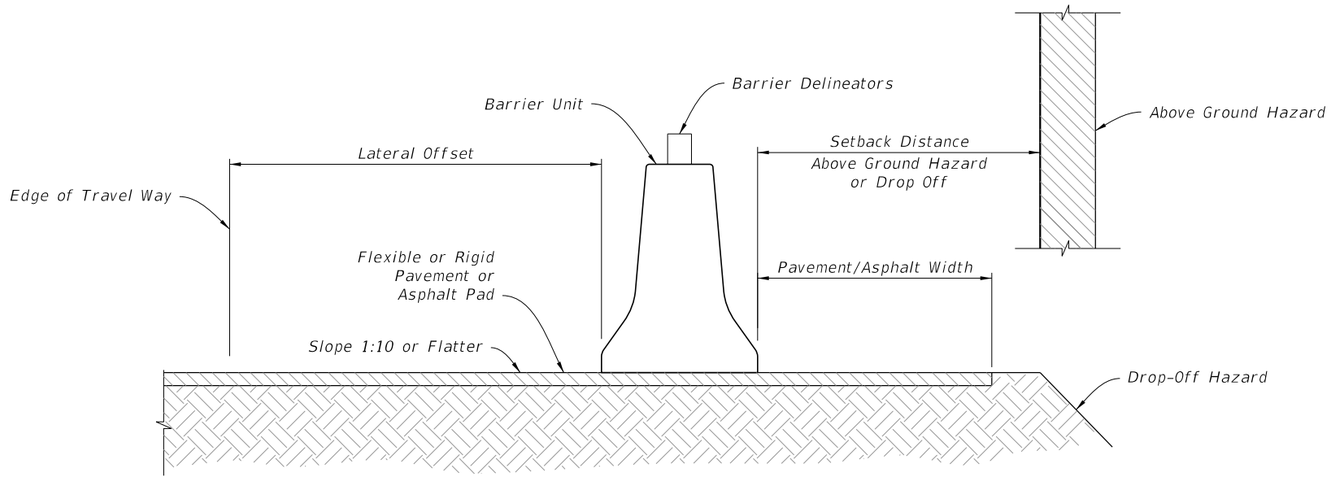
6. Transitions are required between Type K Barrier and free-standing, anchored, back-filled or other types of temporary barrier. See Index 102-110 for transitions between Type K Barrier and permanent bridge or traffic railing. Refer to the APL for transitions allowed for Proprietary Temporary Barrier Systems.

7. Anchoring (Bolting) of temporary barrier or crash cushions is not permitted on bridge superstructures that contain post-tensioned tendons within the concrete deck (top flange of concrete box girders) or on bridge superstructures consisting of longitudinally prestressed, transversely post-tensioned, solid or voided concrete slab units.

8. Anchor abutting segments of temporary barrier terminated with a Crash Cushion as shown in Index 102-110 or the APL.

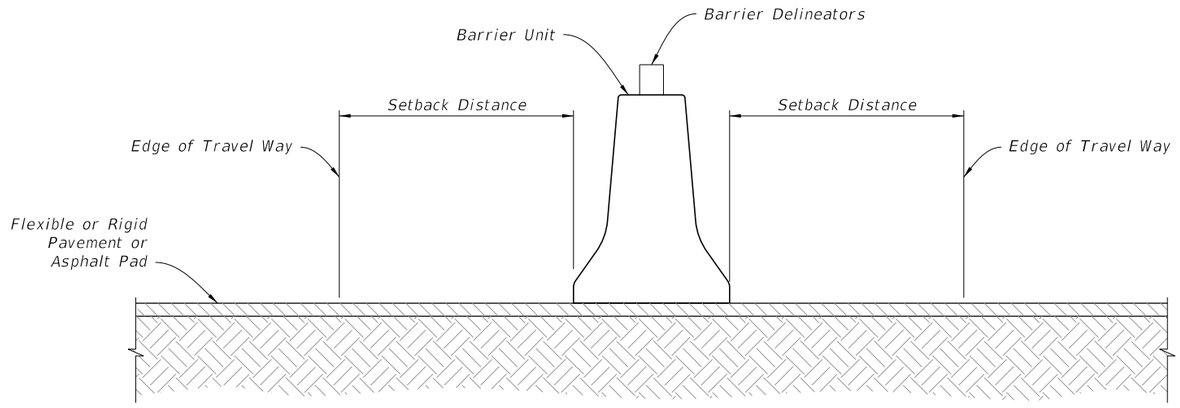
9. The requirements of this Index do not apply to Temporary Low Profile Barrier, See Index 102-120.

10. Setback requirements below cover most Temporary Barrier options. Provide additional setback distance for APL products that require additional setback (deflection) space.



ROADSIDE INSTALLATION

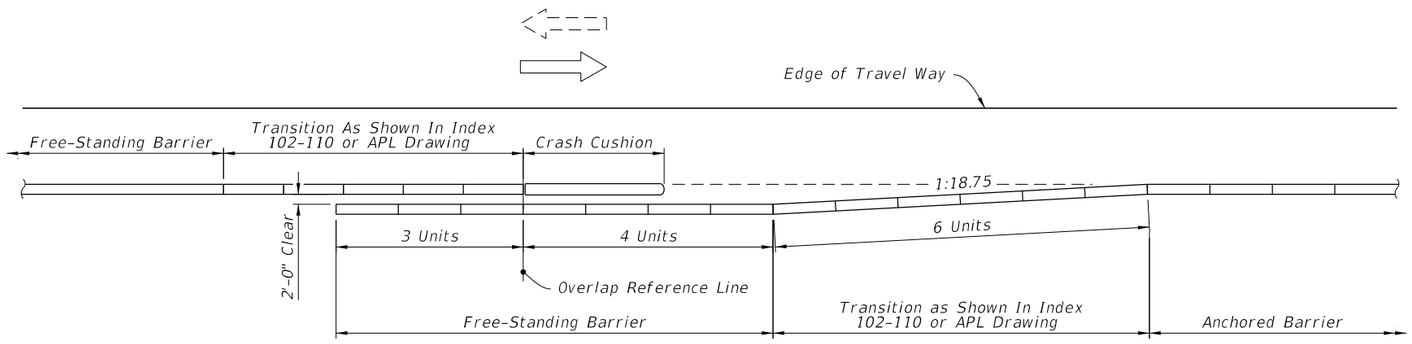
INSTALLATION DATA			
CONDITION	LATERAL OFFSET	SETBACK DISTANCE	PAVEMENT/ ASPHALT WIDTH
Anchored	2' Min.	2' Min. (See Note)	1' Min.
Free-standing	2' Min.	4' Min.	4' Min.
NOTE: For Bridge Decks see Index 102-110 or APL.			



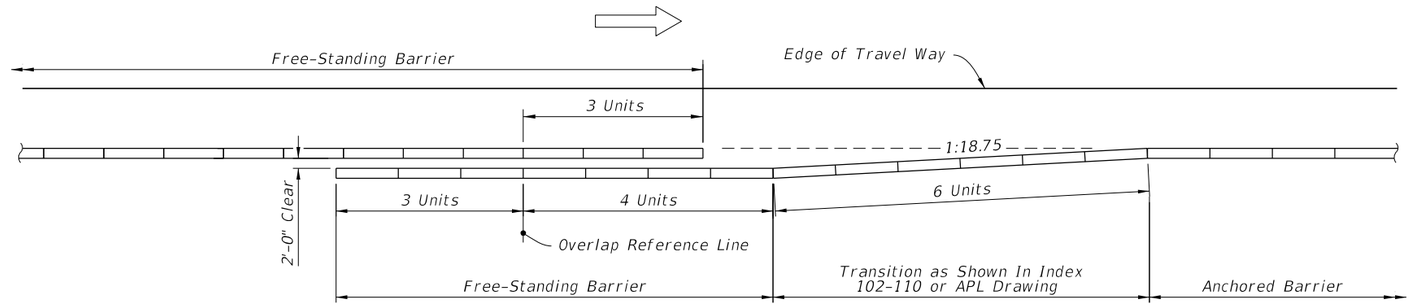
MEDIAN INSTALLATION

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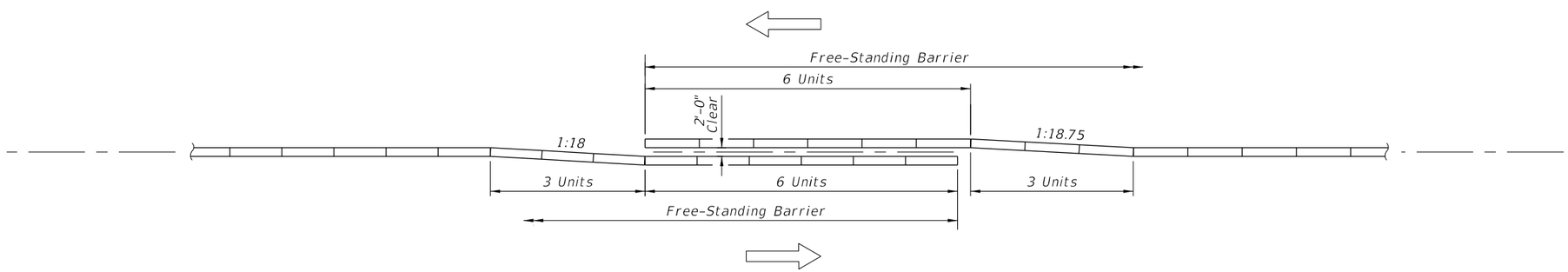
LAST REVISION	REVISION	DESCRIPTION:			INDEX	SHEET
11/01/20			FDOT FY 2022-23 STANDARD PLANS	TEMPORARY BARRIER	102-100	1 of 4



APPROACH SHOULDER BARRIER TRANSITION ON UNDIVIDED FACILITIES



APPROACH SHOULDER BARRIER TRANSITION ON DIVIDED FACILITIES



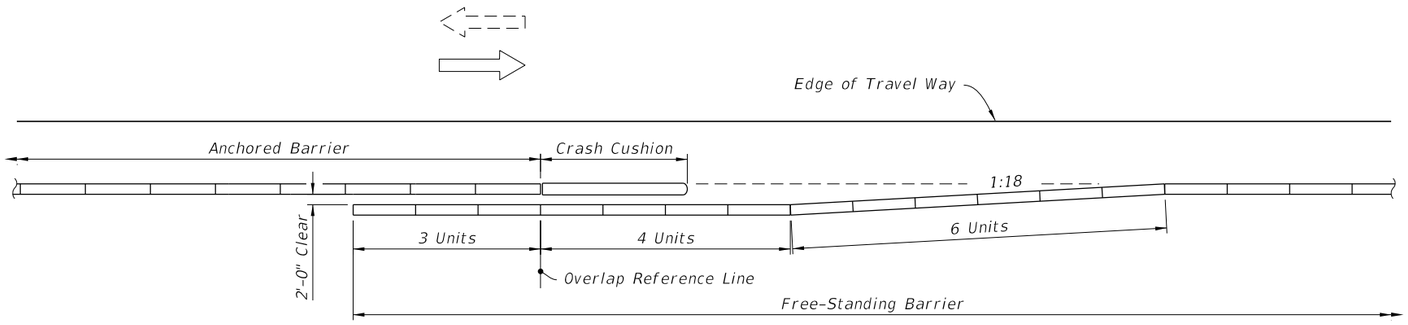
SYMBOL:

⇨ Direction of Traffic

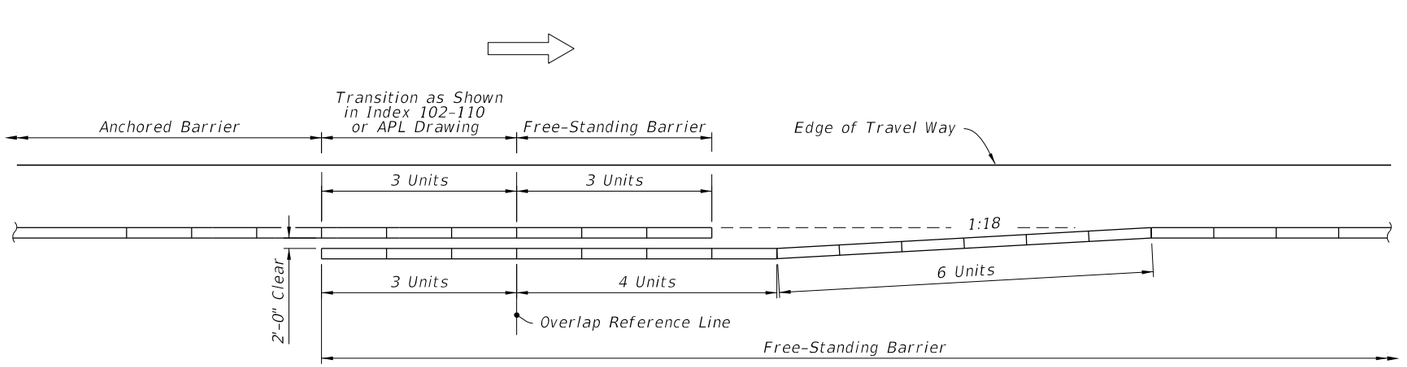
MEDIAN BARRIER TRANSITION

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11/01/20			FDOT FY 2022-23 STANDARD PLANS	TEMPORARY BARRIER	INDEX 102-100	SHEET 2 of 4



DEPARTURE SHOULDER BARRIER TRANSITION ON UNDIVIDED FACILITIES



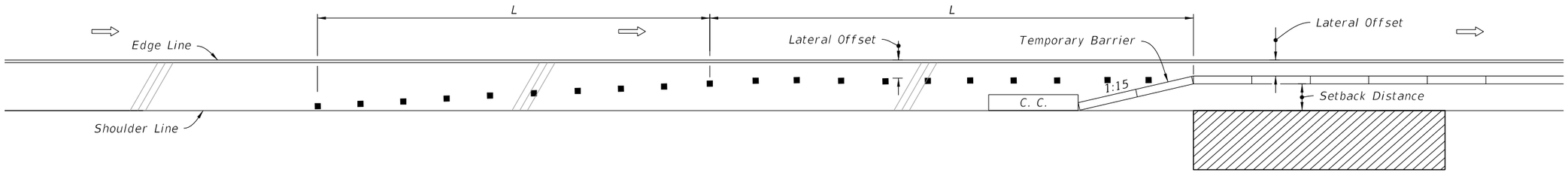
DEPARTURE (TRAILING) SHOULDER BARRIER TRANSITION ON DIVIDED FACILITIES

SYMBOL:

⟹ Direction of Traffic

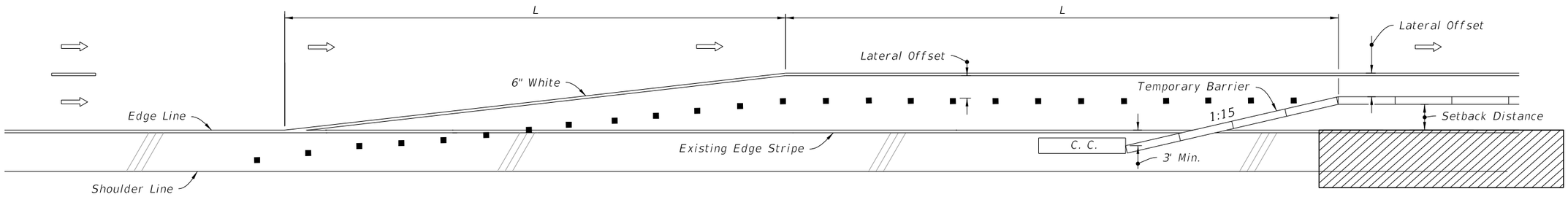
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11/01/20					102-100	3 of 4



BARRIER AND TRANSITION LOCATED ON SHOULDERS

(Right Lane Shown - Inverted For Left Lane)



BARRIER AND TRANSITION WITH LANE DROP ON MULTILANE FACILITIES

(Right Lane Merge Left Shown - Inverted For Left Lane Merge Right)

NOTE:

L = Taper Length, See Index 102-600 for "L" and channelizing device spacing values.

SYMBOLS:

- Work Area
- Channelizing Device (See Index 102-600)
- C. C. Crash Cushion
- Lane Identification and Direction of Traffic

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LAST REVISION	REVISION	DESCRIPTION:	FDOT	FY 2022-23 STANDARD PLANS	TEMPORARY BARRIER	INDEX	SHEET
11/01/20						102-100	4 of 4

SHEET	TABLE OF CONTENTS
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2	Definitions Temporary Traffic Control Devices Overhead Work Railroads Sight Distance Above Ground Hazard
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4	Flagger Control Survey Work Zones Signs
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7	Manholes/Crosswalks/Joints Truck Mounted Attenuators Signals Channelizing Devices Channelizing Devices Consistency Advanced Warning Arrow Boards
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GENERAL NOTES:

1. This Index contains information specific to the Federal and State guidelines and standards for the preparation of traffic control plans and for the execution of traffic control in work zones, for construction and maintenance operations and utility work on highways, roads and streets on the State Highway System. Certain requirements in this Index are based on the high volume nature of State Highways. For highways, roads and streets off the State Highway System, the local agency (City/County) having jurisdiction may adopt requirements based on the minimum requirements provided in the MUTCD.

2. Use this Index in accordance with the Plans and Indexes 102-601 through 102-680. Indexes 102-601 through 102-680 are Department-specific typical applications of commonly encountered situations. Adjust device location or number thereof as recommended by the Worksite Traffic Supervisor and approved by the Engineer. Devices include, but are not limited to, flaggers, portable temporary signals, signs, pavement markings, and channelizing devices. Comply with MUTCD or applicable Department criteria for any changes and document the reason for the change.

3. Except for emergencies, any road closure on State Highway System must comply with Section 335.15, F.S.

TABLE 1
CHANNELIZING DEVICE SPACING

Work Zone Speed (mph)	Max. Spacing (feet)			
	Cones or Temporary Tubular Markers		Type I Barricades, Type II Barricades, Vertical Panels, or Drums	
	Taper	Tangent	Taper	Tangent
≤ 45	25	50	25	50
≥ 50	25	50	50	100

TABLE 2
TAPER LENGTH "L"

Work Zone Speed (mph)	Min. Length (feet)
≤ 40	$L = \frac{WS^2}{60}$
≥ 45	$L = WS$
Where: W = width of offset in feet S = speed in mph	

TABLE 3
WORK ZONE SIGN SPACING "X"

Road Type	Min. Spacing (feet)
Arterials and Collectors with Work Zone Speed ≤ 40 mph	200
Arterials and Collectors with Work Zone Speed ≥ 45 mph	500
Limited Access Roadways *	1,500

* For Limited access roadways with work zone speed ≤ 55 mph, the minimum spacing may be reduced in accordance with the MUTCD and as approved by the Engineer.

TABLE 4
BUFFER LENGTH "B"

Work Zone Speed (mph)	Min. Length (feet)
25	155
30	200
35	250
40	305
45	360
50	425
55	495
60	570
65	645
70	730

Note: When Buffer Length "B" cannot be attained due to geometric constraints, use the greatest length possible, but not less than 155 feet.

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DEFINITIONS:

Regulatory Speed (In Work Zones)

The maximum permitted travel speed posted for the work zone is indicated by the regulatory speed limit signs. The work zone speed must be shown or noted in the plans. This speed should be used as the minimum design speed to determine runout lengths, departure rates, flare rates, lengths of need, clear zone widths, taper lengths, crash cushion requirements, marker spacings, superelevation and other similar features.

Advisory Speed

The maximum recommended travel speed through a curve or a hazardous area.

Travel Way

The portion of the roadway for the movement of vehicles. For traffic control through work zones, travel way may include the temporary use of shoulders and any other permanent or temporary surface intended for use as a lane for the movement of vehicular traffic.

a. Travel Lane: The designated widths of roadway pavement marked to carry through traffic and to separate it from opposing traffic or traffic occupying other traffic lanes.

b. Auxiliary Lane: The designated widths of roadway pavement marked to separate speed change, turning, passing and climbing maneuvers from through traffic.

Detour, Lane Shift, and Diversion

A detour is the redirection of traffic onto another roadway to bypass the temporary traffic control zone. A lane shift is the redirection of traffic onto a different section of the permanent pavement. A diversion is the redirection of traffic onto a temporary roadway, usually adjacent to the permanent roadway and within the limits of the right of way.

Aboveground Hazard

An aboveground hazard is any object, material or equipment other than traffic control devices that encroaches upon the travel way or that is located within the clear zone which does not meet the Department's safety criteria, i.e., anything that is greater than 4" in height and is firm and unyielding or doesn't meet breakaway requirements.

TEMPORARY TRAFFIC CONTROL DEVICES:

1. All temporary traffic control devices shall be ON the Department's Approved Products List (APL). Ensure the appropriate APL number is permanently marked on the device in a readily visible location.

2. All temporary traffic control devices shall be removed as soon as practical when they are no longer needed. When work is suspended for short periods of time, temporary traffic control devices that are no longer appropriate shall be removed or covered. Do not store temporary traffic control devices on the shoulder, sidewalk, or other roadway facility not affected by the work when work is suspended.

3. Arrow Boards, Portable Changeable Message Signs, Radar Speed Display Trailer, Portable Regulatory Signs, and any other trailer mounted device shall be delineated with a channelizing device placed at each corner when in use and shall be moved outside the travel way and clear zone or be shielded by a barrier or crash cushion when not in use.

OVERHEAD WORK:

Work is only allowed over a traffic lane when one of the following options is used:

OPTION 1 (OVERHEAD WORK USING A MODIFIED LANE CLOSURE)

Overhead work using a modified lane closure is allowed if all of the following conditions are met:

a. Work operation is located in a signalized intersection and limited to signals, signs, lighting and utilities.
b. Work operations are 60 minutes or less.
c. Speed limit is 45 mph or less.
d. Aerial lift equipment in the work area has high-intensity, rotating, flashing, oscillating, or strobe lights operating.
e. Aerial lift equipment is placed directly below the work area to close the lane.
f. Traffic control devices are placed in advance of the vehicle/equipment closing the lane using a minimum 100 foot taper.
g. Volume or complexity of the roadway may dictate additional devices, signs, flagmen and/or a traffic control officer.

OPTION 2 (OVERHEAD WORK ABOVE AN OPEN TRAFFIC LANE)

Overhead work above a open traffic lane is allowed if all of the following conditions are met:

a. Work operation is located on a utility pole, light pole, signal pole, or their appurtenances.
b. Work operations are 60 minutes or less.
c. Speed limit is 45 mph or less.
d. No encroachment by any part of the work activities and equipment within an area bounded by 2 feet outside the edge of travel way and 18 feet high.
e. Aerial lift equipment in the work area has high-intensity, rotating, flashing, oscillating, or strobe lights operating.
f. Volume or complexity of the roadway may dictate additional devices, signs, flagmen and/or a traffic control officer.
g. Adequate precautions are taken to prevent parts, tools, equipment and other objects from falling into open lanes of traffic.
h. Other Governmental Agencies, Rail facilities, or Codes may require a greater clearance. The greater clearance required prevails as the rule.

OPTION 3 (OVERHEAD WORK ADJACENT TO AN OPEN TRAFFIC LANE)

Overhead work adjacent to an open traffic lane is allowed if all of the following conditions are met:

a. Work operation is located on a utility pole, light pole, signal pole, or their appurtenances.
b .Work operations are 1 day or less.
c. Speed limit is 45 mph or less.
d. No encroachment by any part of the work activities and equipment within 2 foot from the edge of travel way up to 18' height. Above 18' in height, no encroachment by any part of the work activities and equipment over the open traffic lane (except as allowed in Option 2 for work operations of 60 minutes or less).
e. Aerial lift equipment in the work area has high-intensity, rotating, flashing, oscillating, or strobe lights operating.
f. Volume or complexity of the roadway may dictate additional devices, signs, flagmen and/or a traffic control officer.
g. Adequate precautions are taken to prevent parts, tools, equipment and other objects from falling into open lanes of traffic.
h. Other Governmental Agencies, Rail facilities, or Codes may require a greater clearance. The greater clearance required prevails as the rule.

OVERHEAD WORK: (Cont.)

OPTION 4 (OVERHEAD WORK MAINTAINING TRAFFIC WITH NO ENCROACHMENT BELOW THE OVERHEAD WORK AREA)

Traffic shall be detoured, shifted, diverted or paced as to not encroach in the area directly below the overhead work operations in accordance with the appropriate index drawing or detailed in the plans. This option applies to, but not limited to, the following construction activities:

a. Beam, girder, segment, and bent/pier cap placement.
b. Form and falsework placement and removal.
c. Concrete placement.
d. Railing construction located at edge of deck.
e. Structure demolition.

OPTION 5 (CONDUCTOR/CABLE PULLING ABOVE AN OPEN TRAFFIC LANE)

Overhead cable and/or de-energized conductor installations initial pull to proper tension shall be done in accordance with the appropriate Index or temporary traffic control plan.

Continuous pulling operations of secured cable and/or conductors are allowed over open lane(s) of traffic with no encroachment by any part of the work activities, materials or equipment within the minimal vertical clearance above the travel way. The utility shall take precautions to ensure that pull ropes and conductors/cables at no time fall below the minimum vertical clearance.

On Limited Access facilities, a site specific temporary traffic control plan is required. The temporary traffic control plan shall include:

a .The temporary traffic control set up for the initial pulling of the pull rope across the roadway.
b. During pulling operations, advance warning consisting of no less than a Changeable Message Sign upstream of the work area with alternating messages, "Overhead Work Ahead" and "Be Prepared to Stop" followed by a traffic control officer and police vehicle with blue lights flashing during the pulling operation.

RAILROADS:

Railroad crossings affected by a construction project should be evaluated for traffic controls to reduce queuing on the tracks. The evaluation should include as a minimum: traffic volumes, distance from the tracks to the intersections, lane closure or taper locations, signal timing, etc.

SIGHT DISTANCE:

1. Tapers: Transition tapers should be obvious to drivers. If restricted sight distance is a problem (e.g., a sharp vertical or horizontal curve), the taper should begin well in advance of the view obstruction. The beginning of tapers should not be hidden behind curves.

2. Intersections: Traffic control devices at intersections must provide sight distances for the road user to perceive potential conflicts and to traverse the intersection safely. Construction equipment and materials shall not restrict intersection sight distance.

ABOVEGROUND HAZARD:

1. Aboveground hazards (see definitions) are to be considered work areas during working hours and treated with appropriate work zone traffic control procedures. During nonworking hours, all objects, materials and equipment that constitute an aboveground hazard must be stored/placed outside the travel way and clear zone or be shielded by a barrier or crash cushion.

2. For aboveground hazards within a work zone the clear zone required should be based on the regulatory speed posted during construction.

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CLEAR ZONE WIDTHS FOR WORK ZONES:

The term 'clear zone' describes the unobstructed relatively flat area, impacted by construction, extending outward from the edge of the traffic lane. The table below gives clear zone widths in work zones for medians and roadside conditions other than for roadside canals; where roadside canals are present, clear zone widths are to conform with the distances to canals as described in the FDOT Design Manual 215.2.

TABLE 5

CLEAR ZONE WIDTHS FOR WORK ZONES

WORK ZONE SPEED (MPH)	TRAVEL LANES & MULTILANE RAMPS (feet)	AUXILIARY LANES & SINGLE LANE RAMPS (feet)
60–70	30	18
55	24	14
45–50	18	10
30–40	14	10
ALL SPEEDS CURB & GUTTER	4' BEHIND FACE OF CURB	4' BEHIND FACE OF CURB

NOTE: For temporary conditions where existing curb has been removed but not reconstructed, curb and gutter values may be used.

SUPERELEVATION:

Horizontal curves constructed in conjunction with work zone traffic control should have the required superelevation applied to the design radii. Under conditions where normal crown controls curvature, the minimum radii that can be applied are listed in the table below.

TABLE 6

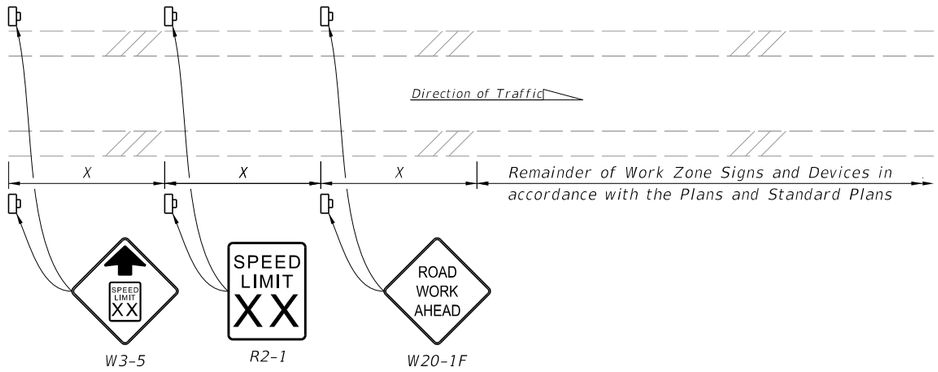
MINIMUM RADII FOR NORMAL CROWN

WORK ZONE POSTED SPEED	MINIMUM RADIUS
MPH	feet
70	4090
65	3130
60	2400
55	1840
50	1390
45	1080
40	820
35	610
30	430

Superelevate When Smaller Radii is Used

LENGTH OF LANE CLOSURES:

For interstates and state highways with a posted speed of 55MPH or greater, lane closures must not exceed 3 miles (includes taper, buffer, and work zone) in any given direction and must not close two consecutive interchanges.



NOTES:

1. X = Work Zone Sign Spacing
2. When called for in the Plans, use this detail in accordance with the Plans and Standard Plans. Place the speed reduction signs (W3-5 and R2-1) in advance of the "Road Work Ahead" sign (W20-1F) as shown.
3. Do not use this detail in conjunction with the Motorist Awareness System.
4. For speed reductions greater than 10 MPH, reduce the speed in 10 MPH increments of 'X' distance. Do not reduce the speed below the minimum statutory speed for the class of facility.
5. Place additional "Speed Limit" signs (R2-1) at intervals of no more than one mile for rural conditions and 1,000 feet for urban conditions.
6. For undivided roadways, omit the signs shown in the median.
7. Remove temporary regulatory speed signs as soon as the conditions requiring the reduced speed no longer exist. Once the work zone regulatory speeds are removed, the regulatory speed existing prior to construction will automatically go back into effect.

SPEED REDUCTION SIGNING

OVERWEIGHT/OVERSIZE VEHICLES:

Restrictions to Lane Widths, Heights or Load Capacity can greatly impact the movement of over dimensioned loads. The Contractor shall notify the Engineer who in turn shall notify the State Permits Office, phone no. (850) 410-5777, at least seven calendar days in advance of implementing a maintenance of traffic plan which will impact the flow of overweight/oversized vehicles. Information provided shall include location, type of restriction (height, width or weight) and restriction time frames. When the roadway is restored to normal service the State Permits Office shall be notified immediately.

LANE WIDTHS:

Lane widths of through roadways should be maintained through work zone travel ways wherever practical. Provide minimum widths for work zone travel lanes as follows: 11' for Interstate with at least one 12' lane provided in each direction, unless formally excepted by the Federal Highway Administration; 11' for all other limited access roadways; and 10' for all other facilities.

HIGH-VISIBILITY SAFETY APPAREL:

All high-visibility safety apparel shall meet the requirements of the International Safety Equipment Association (ISEA) and the American National Standards Institute (ANSI) for "High-Visibility Safety Apparel", and labeled as ANSI/ISEA 107-2004 or newer. The apparel background (outer) material color shall be either fluorescent orange-red or fluorescent yellow-green as defined by the standard. The retroreflective material shall be orange, yellow, white, silver, yellow-green, or a fluorescent version of these colors, and shall be visible at a minimum distance of 1,000 feet. Class 3 apparel may be substituted for Class 2 apparel. Replace apparel that is not visible at 1,000 feet.

WORKERS: All workers within the right-of-way shall wear ANSI/ISEA Class 2 apparel. Workers operating machinery or equipment in which loose clothing could become entangled during operation shall wear fitted high-visibility safety apparel. Workers inside the bucket of a bucket truck are not required to wear high-visibility safety apparel.

UTILITIES: When other industry apparel safety standards require utility workers to wear apparel that is inconsistent with FDOT requirements such as NFPA, OSHA, ANSI, etc., the other standards for apparel may prevail.

FLAGGERS: For daytime activities, Flaggers shall wear ANSI/ISEA Class 2 apparel. For nighttime activities, Flaggers shall wear ANSI/ISEA Class 3 apparel.

FLAGGER CONTROL:

Regulatory Speed (In Work Zones)

Where flaggers are used, a FLAGGER symbol or legend sign must replace the WORKERS symbol or legend sign.

The flagger must be clearly visible to approaching traffic for a distance sufficient to permit proper response by the motorist to the flagging instructions, and to permit traffic to reduce speed or to stop as required before entering the work site. Flaggers shall be positioned to maintain maximum color contrast between the Flagger's high-visibility safety apparel and equipment and the work area background.

Hand-Signaling Devices

STOP/SLOW paddles are the primary hand-signaling device. The STOP/SLOW paddle shall have an octagonal shape on a rigid handle. If the STOP/SLOW paddle is placed on a rigid staff, the minimum length of the staff, measured from the bottom of the paddle to the end of the staff that rests on the ground, must not be less than 6 ft. STOP/SLOW paddles shall be at least 24 inches wide with letters at least 6 inches high and should be fabricated from light semirigid material. The background of the STOP face shall be red with white letters and border. The background of the SLOW face shall be orange with black letters and border. When used at night-time, the STOP/SLOW paddle shall be retroreflectorized.

Flag use is limited to immediate emergencies, intersections, and when working on the centerline or shared left turn lanes where two (2) flaggers are required and there is opposing traffic in the adjacent lanes. Flags, when used, shall be a minimum of 24 inches square, made of a good grade of red material, and securely fastened to a staff that is approximately 36 inches in length. When used at nighttime, flags shall be retroreflectorized red.

Flashlight, lantern or other lighted signal that will display a red warning light shall be used at night.

Flagger Stations

Flagger stations shall be located far enough in advance of the work area so that approaching road users will have sufficient distance to stop before entering the work area. When used at nighttime, the flagger station shall be illuminated.

SURVEY WORK ZONES:

The SURVEY CREW AHEAD symbol or legend sign shall be the principal Advance Warning Sign used for Traffic Control Through Survey Work Zones and may replace the ROAD WORK AHEAD sign when lane closures occur, at the discretion of the Party Chief.

When Traffic Control Through Work Zones is being used for survey purposes only, the END ROAD WORK sign as called for on certain 102 Series of Indexes should be omitted.

Survey Between Active Traffic Lanes or Shared Left Turn Lanes

The following provisions apply to Main Roadway Traffic Control Work Zones. These provisions must be adjusted by the Party Chief to fit roadway and traffic conditions when the Survey Work Zone includes intersections.

(A) A STAY IN YOUR LANE (M0T-1-06) sign shall be added to the Advance Warning Sign sequence as the second most immediate sign from the work area.

(B) Elevation Surveys-Cones may be used at the discretion of the Party Chief to protect prism holder and flagger(s). Cones, if used, may be placed at up to 50' intervals along the break line throughout the work zone.

SURVEY WORK ZONES: (Cont.)

(C) Horizontal Control-With traffic flow in the same direction, cones shall be used to protect the backsight tripod and/or instrument. Cones shall be placed at the equipment, and up to 50' intervals for at least 200' towards the flow of traffic.

(D) Horizontal Control-With traffic flow in opposite directions, cones shall be used to protect the backsight tripod and/or instrument. Cones shall be placed at the equipment, and up to 50' intervals for at least 200' in both directions towards the flow of traffic.

SIGNS:

SIGN MATERIALS

Mesh signs and non-retroreflectice vinyl signs may only be used for daylight operations. Non-retroreflectice vinyl signs must meet the requirements of Specifications Section 994.

Retroreflective vinyl signs meeting the requirements of Specification Section 994 may be used for daylight or night operations not to exceed 1 day except as noted in the Indexes.

Rigid or Lightweight sign panels may be used in accordance with the vendor APL drawing for the sign stand to which they are attached.

INTERSECTING ROAD SIGNING

Signing for the control of traffic entering and leaving work zones by way of intersecting crossroads shall be adequate to make drivers aware of work zone conditions. When Work operations exceed 60 minutes, place the ROAD WORK AHEAD sign on the side street entering the work zone.

ADJOINING AND/OR OVERLAPPING WORK ZONE SIGNING

Adjoining work zones may not have sufficient spacing for standard placement of signs and other traffic control devices in their advance warning areas or in some cases other areas within their traffic control zones. Where such restraints or conflicts occur or are likely to occur, one of the following methods will be employed to avoid conflicts and prevent conditions that could lead to misunderstanding on the part of the traveling public as to the intended travel way by the traffic control procedure applied:

(A) For scheduled projects the engineer in responsible charge of project design will resolve anticipated work zone conflicts during the development of the project traffic control plan. This may entail revision of plans on preceding projects and coordination of plans on concurrent projects.

(B) Unanticipated conflicts arising between adjoining in progress highway construction projects will be resolved by the Resident Engineer for projects under his residency, and, by the District Construction Engineer for in progress projects under adjoining residencies.

(C) The District Maintenance Engineer will resolve anticipated and occurring conflicts within scheduled maintenance operations.

(D) The Unit Maintenance Engineer will resolve conflicts that occur within routine maintenance works; between routine maintenance work, unscheduled work and/or permitted work; and, between unit controlled maintenance works and highway construction projects.

SIGNS: (Cont.)

SIGN COVERING AND INTERMITTENT WORK STOPPAGE SIGNING

Existing or temporary traffic control signs that are no longer applicable or are inconsistent with intended travel paths shall be removed or fully covered.

Sign blanks or other available coverings must completely cover the existing sign. Rigid sign coverings shall be the same size as the sign it is covering, and bolted in a manner to prevent movement.

Sign covers are incidental to work operations and are not paid for separately.

SIGNING FOR DETOURS, LANE SHIFTS AND DIVERSIONS

Detours should be signed clearly over their entire length so that motorists can easily determine how to return to the original roadway. The reverse curve (W1-4) warning sign should be used for the advanced warning for a lane shift. A diversion should be signed as a lane shift.

EXTENDED DISTANCE ADVANCE WARNING SIGN

Advance Warning Signs shall be used at extended distance of one-half mile or more when limited sight distance or the nature of the obstruction may require a motorist to bring their vehicle to a stop. Extended distance Advanced Warning Signs may be required on any type roadway, but particularly be considered on multilane divided highways where vehicle speed is generally in the higher range (45 MPH or more).

UTILITY WORK AHEAD SIGN

The UTILITY WORK AHEAD (W21-7) sign may be used as an alternate to the ROAD WORK AHEAD or the ROAD WORK XX FT (W20-1) sign for utility operations on or adjacent to a highway.

LENGTH OF ROAD WORK SIGN

The length of road work sign (G20-1) bearing the legend ROAD WORK NEXT_____ MILES is required for all projects of more than 2 miles in length. The number of miles entered should be rounded up to the nearest mile. The sign shall be located at begin construction points.

GROOVED PAVEMENT AHEAD SIGN

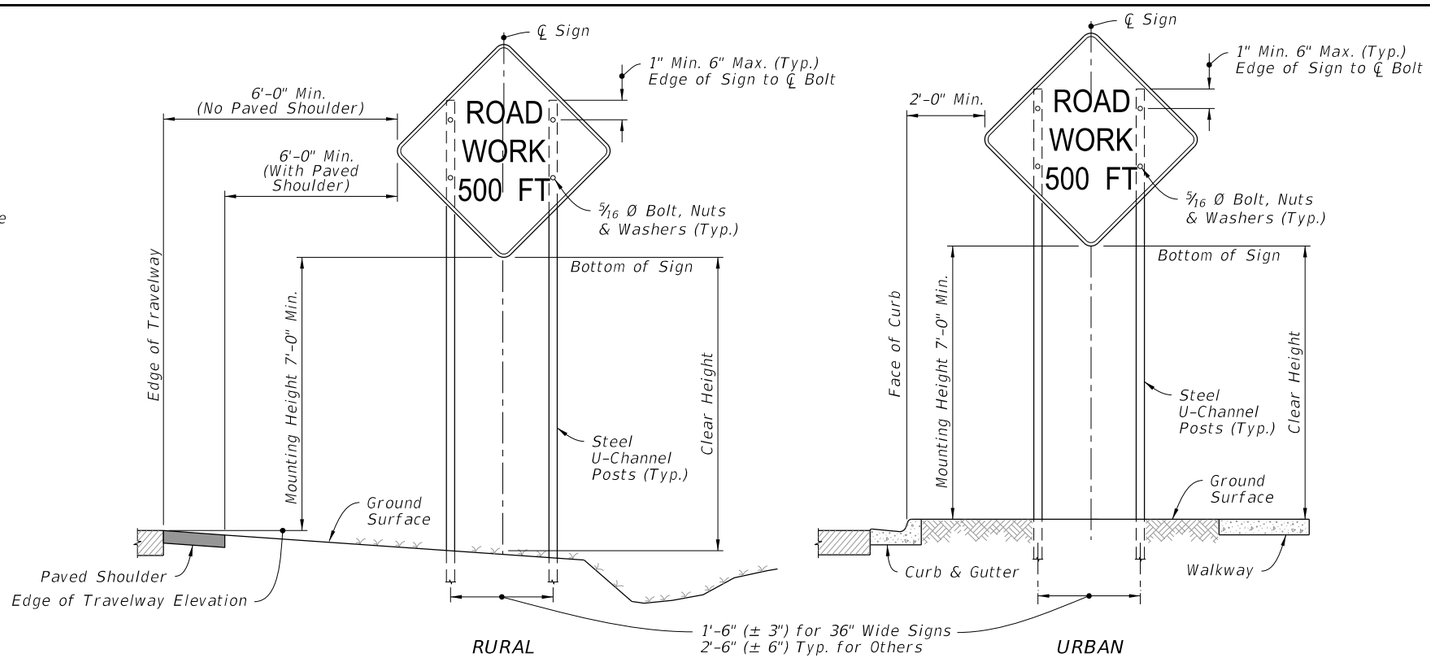
The GROOVED PAVEMENT AHEAD sign is required 500 feet in advance of a milled or grooved surface open to traffic. The W8-15P placard shall be used in conjunction with the GROOVED PAVEMENT AHEAD sign.

END ROAD WORK SIGN

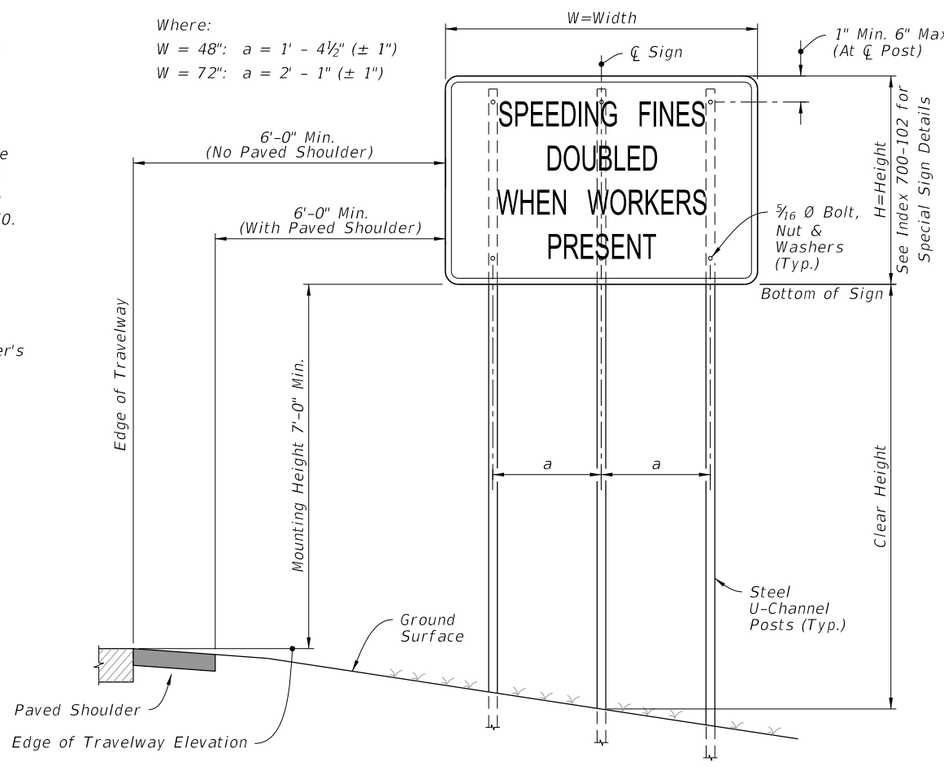
The END ROAD WORK sign (G20-2) should be installed on all projects, but may be omitted where the work operation is less than 1 day. The sign should be placed approximately 500 feet beyond the end of a construction or maintenance project unless other distance is called for in the plans. When other Construction or Maintenance Operations occur within 1 mile this sign should be omitted and signing coordinated in accordance with Index 102-600, ADJOINING AND/OR OVERLAPPING WORK ZONE SIGNING.

NOTES:

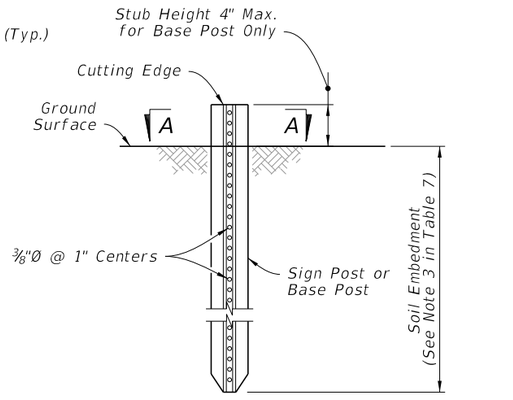
1. All signs shall be post mounted when work operations exceed one day except for:
   a. Road closure signs mounted in accordance with the vendor drawing for the Type III Barricade shown on the APL.
   b. Pedestrian and bicycle advanced warning or pedestrian regulatory signs mounted on sign supports in accordance with the vendor drawing shown on the APL.
   c. Median barrier mounted signs per Index 700-013.
   d. Bridge mounted signs per Index 700-012.
2. Unless shielded with barrier or outside of the Clear Zone, signs mounted on temporary supports or barricades, and barricade/sign combination must be crashworthy in accordance with NCHRP 350 requirements and included on the Approved Products List (APL).
3. Use only approved systems listed on the Department's Approved Products List (APL).
4. Manufacturers seeking approval of U-Channel and steel square tube sign support assemblies for inclusion on the Approved Products List (APL) must submit a APL application, design calculations (for square tube only), and detailed drawings showing the product meets all the requirements of this Index.
5. Provide 3 lb/ft Steel U-Channel Posts with a minimum section modulus of 0.43 in^3 for 60 ksi steel, a minimum section modulus of 0.37 in^3 for 70 ksi steel, or a minimum section modulus of 0.34 in^3 for 80 ksi steel.
6. Provide 4 lb/ft Steel U-Channel Posts with a minimum section modulus of 0.56 in^3 for 60 ksi steel, or a minimum section modulus of 0.47 in^3 for 70 ksi or 80 ksi steel.
7. U-channel posts shall conform with ASTM A 499, Grade 60, or ASTM A 576, Grade 1080 (with a minimum yield strength of 60 ksi). Square tube posts shall conform with ASTM A 653, Grade 50, or ASTM A 1011, Grade 50.
8. Sign attachment bolts, washers, nuts, and spacers shall conform with ASTM A307 or A 36.
9. Install 4 lb/ft Steel U-Channel Posts with approved breakaway splice in accordance with the manufacturer's detail shown on the APL.
10. The contractor may install 3 lb/ft Steel U-Channel Posts with approved breakaway splice in accordance with the manufacturer's detail shown on the APL.
11. Install all posts plumb.
12. The contractor may set posts in preformed holes to the specified depth with suitable backfill tamped securely on all sides, or drive 3 lb/ft sign posts and any size base post in accordance with the manufacturer's detail shown on the APL.



2 POST SIGN SUPPORT MOUNTING DETAILS
(SINGLE POST SIMILAR)

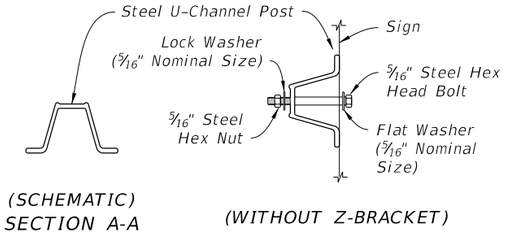


3 POST SIGN SUPPORT MOUNTING DETAILS



See APL for post, splice and connection details.
No bolts installed closer than 1" to cutting edge.

FOUNDATION DETAIL



SIGN ATTACHMENT DETAIL

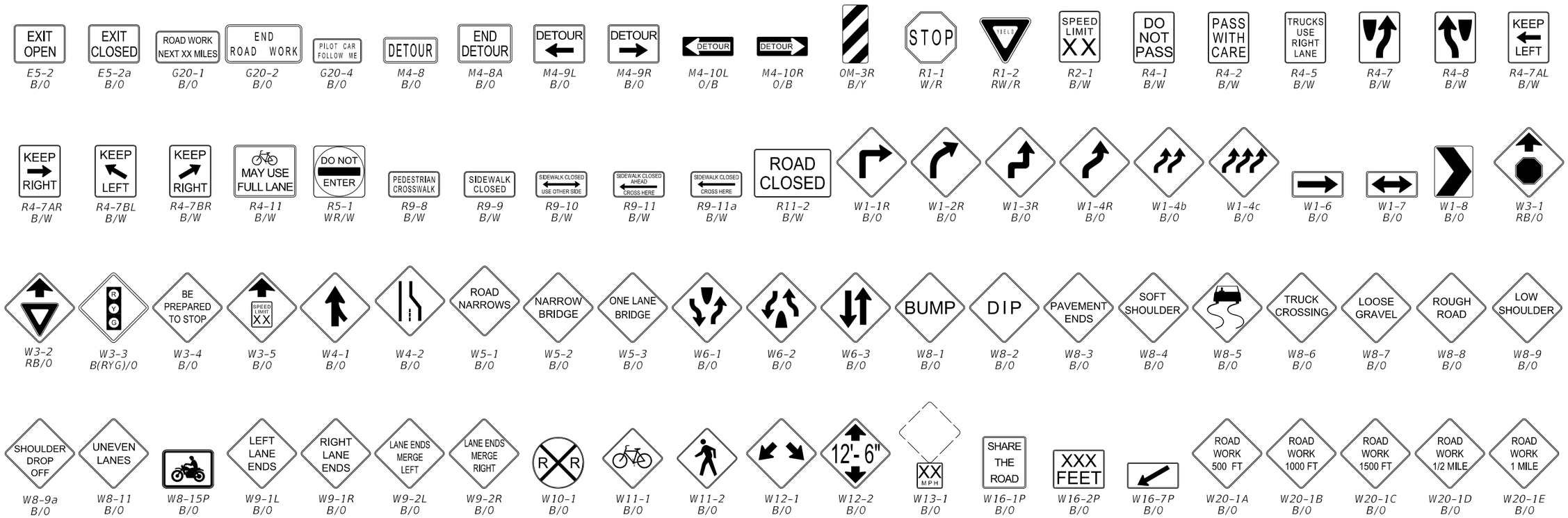
TABLE 7
POST AND FOUNDATION TABLE FOR WORK ZONE SIGNS

SIGN SHAPE	SIGN SIZE (inches)	NUMBER OF STEEL U CHANNEL POSTS
Octagon	30x30	1
Triangle	36x36x36	1
	48x48x48	1
	60x60x60	2
Rectangle (W x H)	24x18	1
	24x30	1
	30x24	1
	36x18	1
	36x24	1
	48x18	1
	48x24	1
	36x48	2
	48x30	2
	48x36	2
	54x36	2
	48x60	3
	72x48	3
Square	30x30	1
	36x36	2
	48x48	2
Diamond	48x48	2
Circle	36Ø	2

Notes For Table:

1. Use 3 lb/ft posts for Clear Height up to 10' and 4 lb/ft posts for Clear Height up to 12'.
2. Minimum foundation depth is 4.0' for 3 lb/ft posts and 4.5' for 4 lb/ft posts.
3. For both 3 lb/ft and 4 lb/ft base or sign posts installed in rock, a minimum cumulative depth of 2' of rock layer is required.
4. The soil plate as shown on the APL vendor drawing is not required for base posts or sign posts installed in existing rock (as defined in Note 3), asphalt roadway, shoulder pavement or soil under sidewalk.
5. For diamond warning signs with supplement plaque (up to 5 ft^2 in area), use 4 lb/ft posts for up to 10 ft Clear Height (measure to the bottom of diamond warning sign).

WORK ZONE SIGN SUPPORTS



NOTES:

1. The size of diamond shaped Temporary Traffic Control (TTC) warning signs shall be a minimum of 48" X 48".
2. Fluorescent orange shall be used for all orange colored work zone signs.
3. The sign shields, symbols and messages contained on this sheet are provided for ready reference to those signs used in the development of the 102 Series of Indexes and are commonly used in the development of traffic control plans. For additional signs and sign detail information refer to the STANDARD HIGHWAY SIGNS MANUAL as specified in the MUTCD. Special signs for traffic control plans will be as approved by the State Traffic Plans Engineer.

   The sign codes shown on this sheet are for the purpose of identifying cell names found in the Traffic Control Cell Library (TCZ.Cel).

   The STANDARD HIGHWAY SIGNS MANUAL should be referenced for the official sign codes for use in the development of traffic control plans.

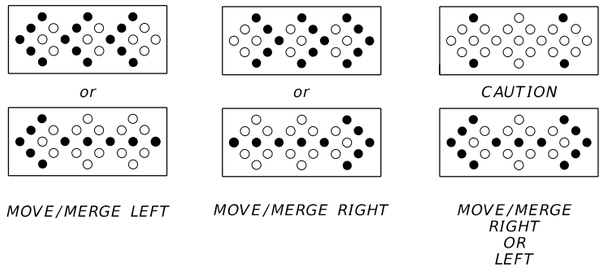
   See Index 700-102 for MOT sign details.

COLOR CODES:

Legend and/or
Symbol Background

R-Red (Reflectorized)
Y-Yellow (Reflectorized)
G-Green (Reflectorized)
O-Orange (Reflectorized)
B-Black (Non-Reflectorized)
W-White (Reflectorized)

COMMONLY USED WARNING AND REGULATORY SIGNS IN WORK ZONES



MODES

NOTES:

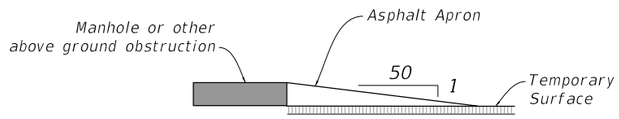
An arrow board in the arrow or chevron mode shall be used only for stationary or moving lane closures on multilane roadways.

For shoulder work, blocking the shoulder, for roadside work near the shoulder, or for temporarily closing one lane on a two-lane, two-way roadway, an arrow board shall be used only in the caution mode.

A single arrow board shall not be used to merge traffic laterally more than one lane. When arrow boards are used to close multiple lanes, a single board shall be used at the merging taper for each closed lane.

When Advance Warning Arrow Boards are used at night, the intensity of the flashers shall be reduced during darkness when lower intensities are desirable.

ADVANCE WARNING ARROW BOARDS



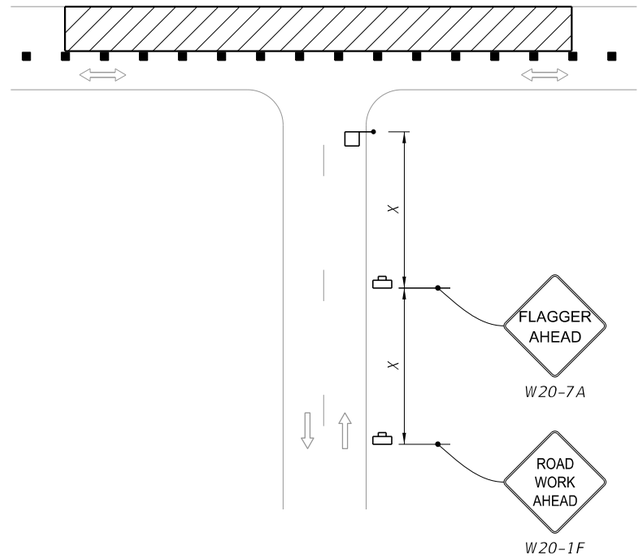
NOTES:

Manholes extending 1" or more above the travel lane and crosswalks having an uneven surface greater than ¼" shall have a temporary asphalt apron constructed as shown above.

All transverse joints that have a difference in elevation of 1" or more shall have a temporary asphalt apron constructed as shown above.

The apron is to be removed prior to constructing the next lift of asphalt. The cost of the temporary asphalt shall be included in the contract unit price for Maintenance of Traffic, LS.

MANHOLES/CROSSWALKS/JOINTS



NOTE:

Optionally, use "Flagger Ahead" sign with text (W20-7A) instead of "Flagger Ahead" sign with symbol (W20-7).

SIDE ROAD INTERSECTING THE WORK ZONE

SIGNALS:

Existing traffic signal operations that require modification in order to carry out work zone traffic control shall be included in the Plans and be approved by the District Traffic Operations Engineer.

Refer to Specification 102-9 for additional information.

CHANNELIZING DEVICES:

Channelizing devices for work zone traffic control shall be as prescribed in Part VI of the MUTCD, subject to supplemental revisions provided in the contract documents and the 102 Series of Indexes. Lighting Devices must not be used to supplement channelization. Omit tapers and channelizing devices for paved shoulders less than 4' in width.

CHANNELIZING DEVICE CONSISTENCY:

Barricades, vertical panels, cones, tubular markers and drums shall not be intermixed within either the lateral transition or within the tangent alignment.

TRUCK/TRAILER-MOUNTED ATTENUATORS:

Truck/Trailer-mounted attenuators (TMA) can be used for moving operations and short-term stationary operations. For moving operations, see Index 102-607. For short-term, stationary operations, see Part VI of the MUTCD.

DROP-OFF CONDITION NOTES

1. These conditions and treatments can be applied only in work areas that fall within a properly signed work zone.

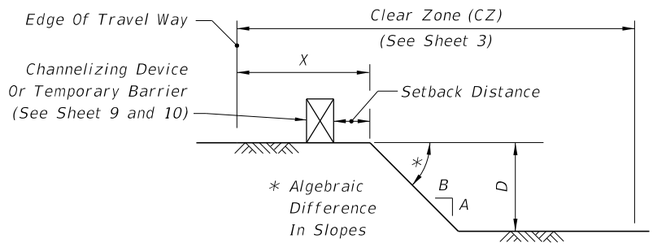
2. When drop-offs occur within the clear zone due to construction or maintenance activities, protection devices are required (See Table 8). A drop-off is defined as a drop in elevation, parallel to the adjacent travel lanes, greater than 3" with slope (A:B) steeper than 1:4. In superelevated sections, the algebraic difference in slopes should not exceed 0.25 (See Drop-off Condition Detail).

3. Drop-offs may be mitigated by placement of slopes with optional base material per Specifications Section 285. Slopes shallower than 1:4 may be required to avoid algebraic difference in slopes greater than 0.25. Include the cost for the placement and removal of the material in Maintenance of Traffic, LS. Use of this treatment in lieu of a temporary barrier is not eligible for CSIP consideration. Conduct daily inspections for deficiencies related to erosion, excessive slopes, rutting or other adverse conditions. Repair any deficiencies immediately.

4. For Setback Distance, refer to the Index or Approved Products List (APL) drawing of the selected barrier.

5. For Conditions 1 and 3 provided in Table 8, any drop-off condition that is created and restored within the same work period will not be subject to use of temporary barriers; however, channelizing devices will be required.

6. When permanent curb heights are ≥ 6", no channelizing device will be required. For curb heights < 6", see Table 8.



DROP-OFF CONDITION DETAIL

Table 8
Drop-off Protection Requirements

Condition	X (ft)	D (in.)	Device Required
1	0-12	> 3	Temporary Barrier
2	> 12-CZ	> 3 to ≤ 5	Channelizing Device
3	0-CZ	> 5	Temporary Barrier
4	Removal of Bridge or Retaining Wall Barrier		Temporary Barrier
5	Removal of portions of Bridge Deck		Temporary Barrier

TRAVEL LANE TREATMENT FOR MILLING OR RESURFACING NOTES

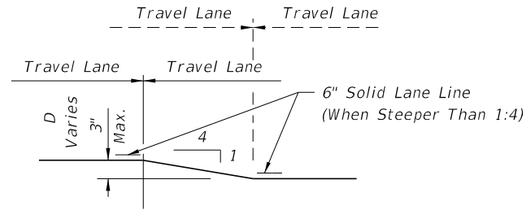
1. This treatment applies to resurfacing or milling operations between adjacent travel lanes.

2. Whenever there is a difference in elevation between adjacent travel lanes, the W8-11 sign with "UNEVEN LANES" is required at intervals of ½ mile maximum.

3. If D is 1½" or less, no treatment is required.

4. Treatment allowed only when D is 3" or less.

5. If the slope is steeper than 1:4 (not to be steeper than 1:1), the R4-1 and MOT-1-06 signs shall be used as a supplement to the W8-11; this condition should never exceed 3 miles in length.



TRAVEL LANE TREATMENT FOR
MILLING OR RESURFACING DETAIL

PEDESTRIAN WAY DROP-OFF CONDITION NOTES

1. A pedestrian way drop-off is defined as:

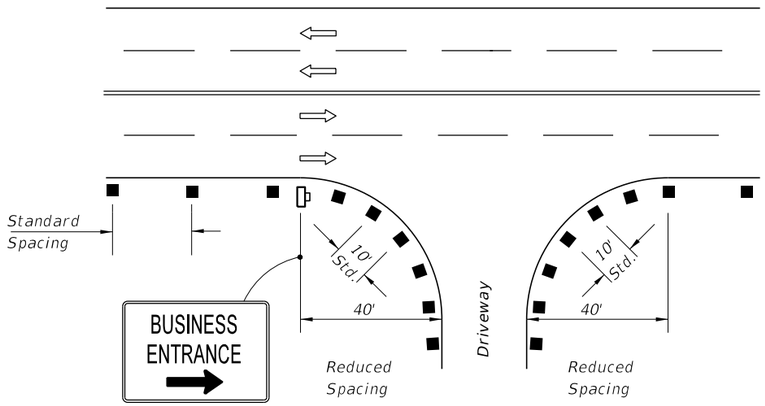
   a. a drop in elevation greater than 10" that is closer than 2' from the edge of the pedestrian way

   b. a slope steeper than 1:2 that begins closer than 2' from the edge of the pedestrian way when the total drop-off is greater than 60"

2. Protect any drop-off adjacent to a pedestrian way with pedestrian longitudinal channelizing devices, temporary barrier wall, or approved handrail.

DROP-OFFS IN WORK ZONES

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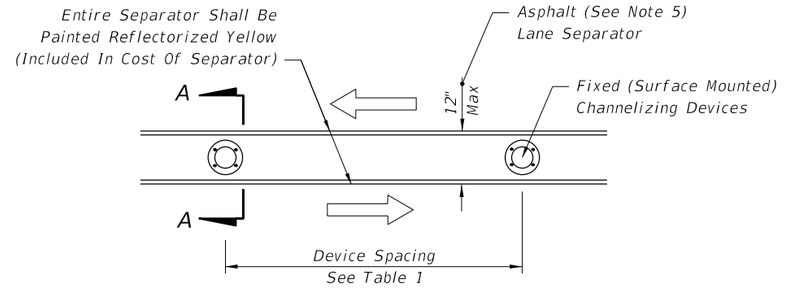
1. For single business entrances, place one 24" x 36" business sign for each driveway entrance affected. Signs shall show specific business names. Logos may be provided by business owners. Standard BUSINESS ENTRANCE sign in Index 700-102 may be used when approved by the Engineer.

2. When several businesses share a common driveway entrance, place one 24" x 36" standard BUSINESS ENTRANCE sign in accordance with Index 700-102 at the common driveway entrance.

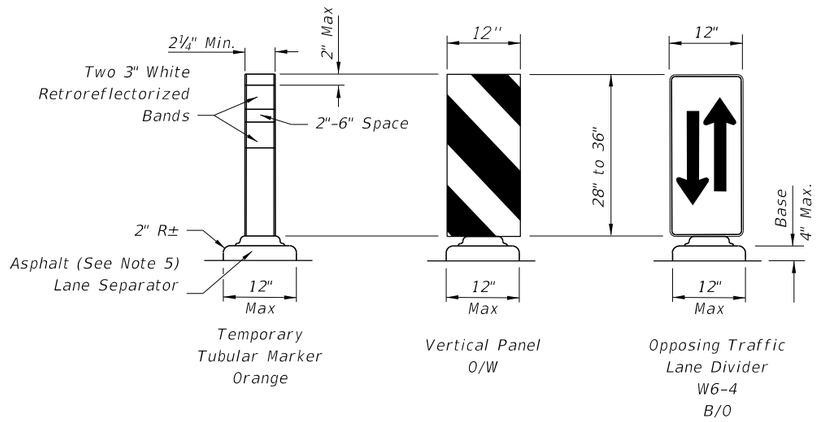
3. Channelizing devices shall be placed at a reduced spacing on each side of the driveway entrance, but shall not restrict sight distance for the driveway users.

4. Business entrance signs are intended to guide motorist to business entrances moved/modified or disturbed during construction projects. Business entrance signs are not required where there is minimal disruption to business driveways which is often the case with resurfacing type projects.

PLACEMENT OF BUSINESS ENTRANCE SIGNS AND CHANNELIZING DEVICES AT BUSINESS ENTRANCE



PLAN



FIXED (SURFACE MOUNTED)
CHANNELIZING DEVICES

SECTION AA

1. Temporary lane separators shall be supplemented with any of the following approved fixed (surface mounted) channelizing devices: temporary tubular markers, vertical panels, or opposing traffic lane divider panels. Opposing traffic lane divider panels (W6-4) shall only be used as center lane dividers to separate opposing vehicular traffic on a two-lane, two-way operation. Temporary Tubular Markers, Vertical Panels and Opposing Traffic Lane Divider panels shall not be intermixed within the limits where the temporary lane separator is used. The connection between the channelizing device and the temporary lane separator curb shall hold the channelizing device in a vertical position.

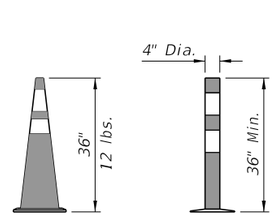
2. Reflectorized materials shall have a smooth sealed outer surface which will display the same approximate color day and night. Furnish channelizing devices having retroreflective sheeting meeting the requirements of Section 990.

3. 12" openings for drainage shall be constructed in the asphalt and portable temporary lane separator at a maximum spacing of 25' in areas with grades of 1% or less or 50' in areas with grades over 1% as directed by the Engineer.

4. Tapered ends shall be used at the beginning and end of each run of the temporary lane separator to form a gradual increase in height from the pavement level to the top of the temporary lane separator.

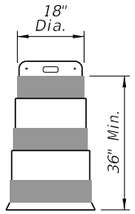
5. The Contractor has the option of using portable temporary lane separators containing fixed channelizing devices in lieu of the temporary asphalt separator and channelizing devices detailed on this sheet. The portable temporary lane separator shall come in portable sections that can be connected to maintain continuous alignment between the separate curb sections. Each temporary lane separator section shall be 36 inches to 48 inches in total length. Portable temporary lane separators shall duplicate the color of the pavement marking. Portable temporary lane separators shall be one of those listed on the Approved Products List.

TEMPORARY LANE SEPARATOR

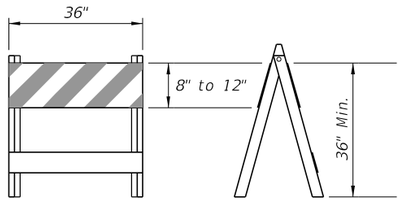


CONES

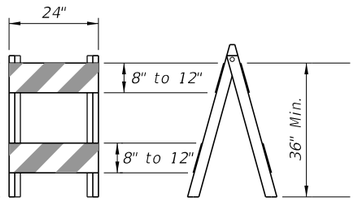
TEMPORARY TUBULAR MARKER



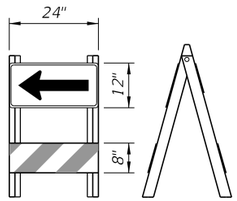
PLASTIC DRUMS



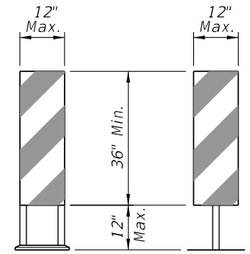
TYPE I BARRICADE



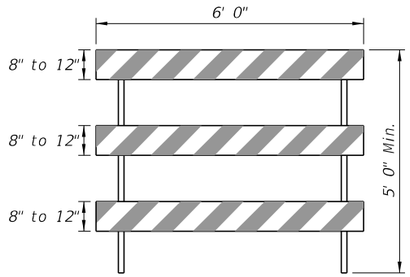
TYPE II BARRICADE



DIRECTION INDICATOR BARRICADE



A-FRAME POST MOUNT VERTICAL PANEL



TYPE III BARRICADE

CHANNELIZING DEVICES

CHANNELIZING DEVICE NOTES:

1. The details shown on this sheet are for the following purposes:
   a. For ease of identification and
   b. To provide information that supplements or supersedes that provided by the MUTCD.

2. The Type III Barricade shall have a unit length of 6'-0" only. When barricades of greater lengths are required those lengths shall be in multiples of the 6'-0" unit.

3. No sign panel should be mounted on any channelizing device unless the channelizing device/sign combination was found to be crashworthy and the sign panel is mounted in accordance with the vendor drawing for the channelizing device shown on the Approved Products List (APL).

4. Ballast shall not be placed on top rails or any striped rails or higher than 13" above the driving surface.

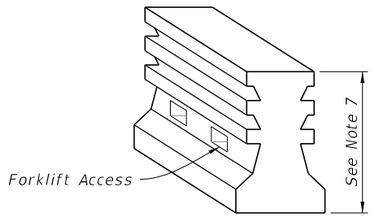
5. The direction indicator barricade may be used in tapers and transitions where specific directional guidance to drivers is necessary. If used, direction indicator barricades shall be used in series to direct the driver through the transition and into the intended travel lane.

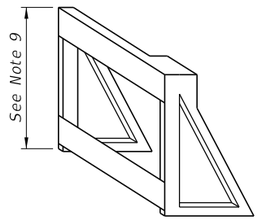
6. The splicing of sheeting is not permitted on channelizing devices or MOT signs.

7. For rails less than 3'-0" long, 4" stripes shall be used.

8. Cones shall:
   a. Be used only in active work zones where workers are present.
   b. Be reflectorized as per the MUTCD with Department-approved reflective collars when used at night.

9. For pedestrian longitudinal channelizing devices, the device shall have a minimum of 8" continuous detectable edging above the walkway. A gap not exceeding a height of 2" is allowed to facilitate drainage. The top surface of the device shall be a minimum height of 32" and have a ⅛" or less difference in any plane at all connection points between the devices to facilitate hand trailing. The bottom and the top surface of the device shall be in the same vertical plane. If pedestrian drop-off protection is required, the device shall have a footprint or offset of at least 2', otherwise the device must be at least 42" in height above the walkway and be anchored or ballasted to withstand a 200 lb lateral point load at the top of the device.





PEDESTRIAN LONGITUDINAL CHANNELIZING DEVICES

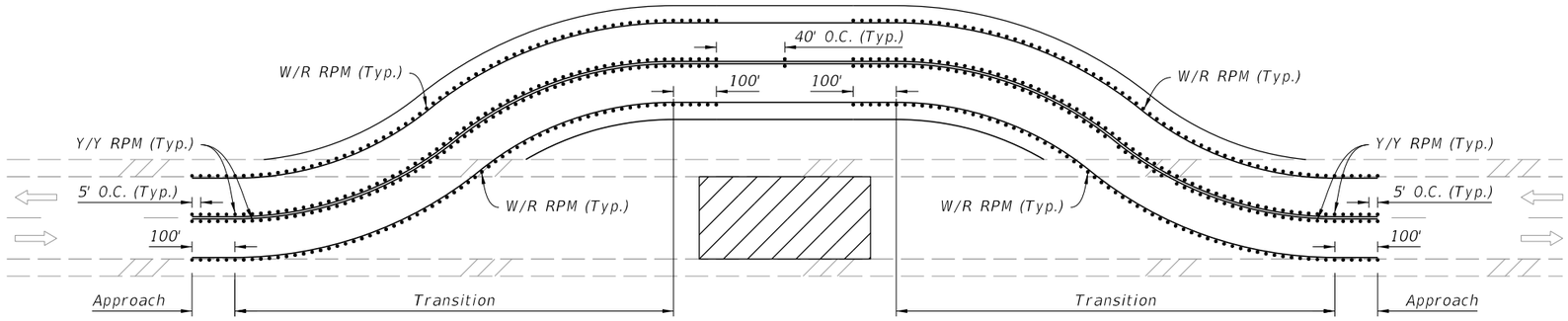
TEMPORARY BARRIER NOTES:

1. Where a barrier is specified, any of the types below may be used in accordance with the applicable Index:

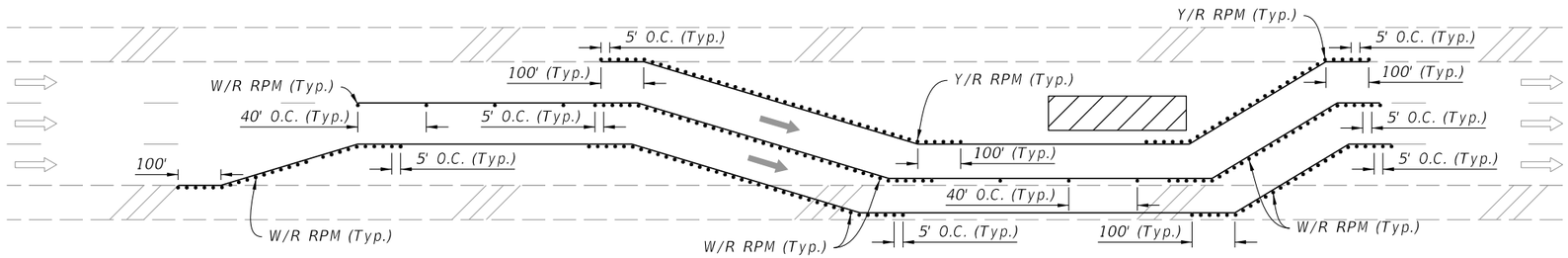
Index	Description
102-100	Temporary Barrier
102-120	Low Profile Barrier
536-001	Guardrail

2. Trailer Mounted Barriers may be used to provide positive protection for workers within the work areas. APL drawings may be used as a guide to develop project specific Temporary Traffic Control Plans that are signed and sealed by the Contractor's Engineer.

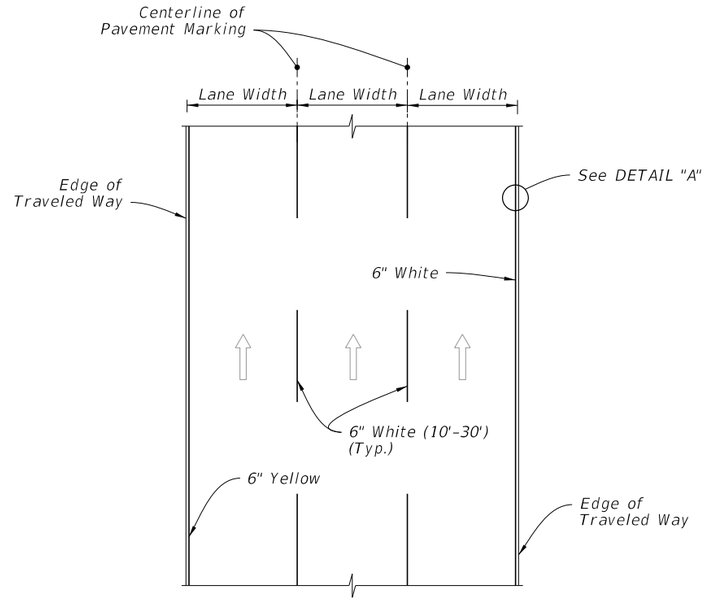
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RPM PLACEMENT ON TWO-LANE ROADWAYS



RPM PLACEMENT ON MULTILANE ROADWAYS
(Lane Shift Shown, Other Multilane Typical Applications Similar)



PLAN VIEW

NOTES:

1. Install RPMs as a supplement to:
   a. All lane lines
   b. Edge lines in transitions (e.g., merges, diversions, lane shifts)
   c. Edge lines of gore areas

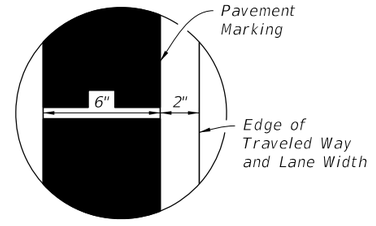
2. Extend pavement marking and 5' RPM spacing by 100' in each direction for all transitions regardless of the line type.

3. Place RPMs in accordance with this detail and Index 706-001.

SYMBOLS:

Work Area

Lane Identification and Direction of Traffic



DETAIL "A"

RPM PLACEMENT IN WORK ZONES

PAVEMENT MARKINGS PLACEMENT

WORK ZONE PAVEMENT MARKINGS

LAST REVISION	REVISION	DESCRIPTION:	FDOT	FY 2022-23 STANDARD PLANS	GENERAL INFORMATION FOR TRAFFIC CONTROL THROUGH WORK ZONES	INDEX	SHEET
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GENERAL NOTES:

1. This Index applies to two-lane, two-way and multilane roadways with work that requires a moving operation.

2. Mount vehicle-mounted signs with the bottom of the sign at a minimum height of 48 inches above the pavement. Vehicle mounted changeable message signs may be used in lieu of truck mounted static signs and arrow boards. Ensure changeable message signs flash alternately to read "Left or Right Lane" or "Two Left or Two Right Lanes", "Closed Ahead", and the arrow symbol. Do not use arrow boards in combination with truck mounted changeable message signs or obscure boards with equipment, supplies, signs, or enclosure. Cover or turn sign legends from view when work is not in progress.

3. For multilane roadways with curb and no paved shoulder, omit the shadow vehicle that would have been used on the paved shoulder. In such instances, the warning sign should be mounted on the shadow vehicle farthest from the work vehicle.

4. Where work activities within 2' of the edge of travel way are incidental (i.e., Mowing, Litter Removal), the Engineer may omit requirements for signs and the Shadow vehicle on the shoulder.

5. Minimize the longitudinal spacing between vehicles to deter road users from driving in between.

6. Use inverted plan of the illustrations for work on left side of roadways.

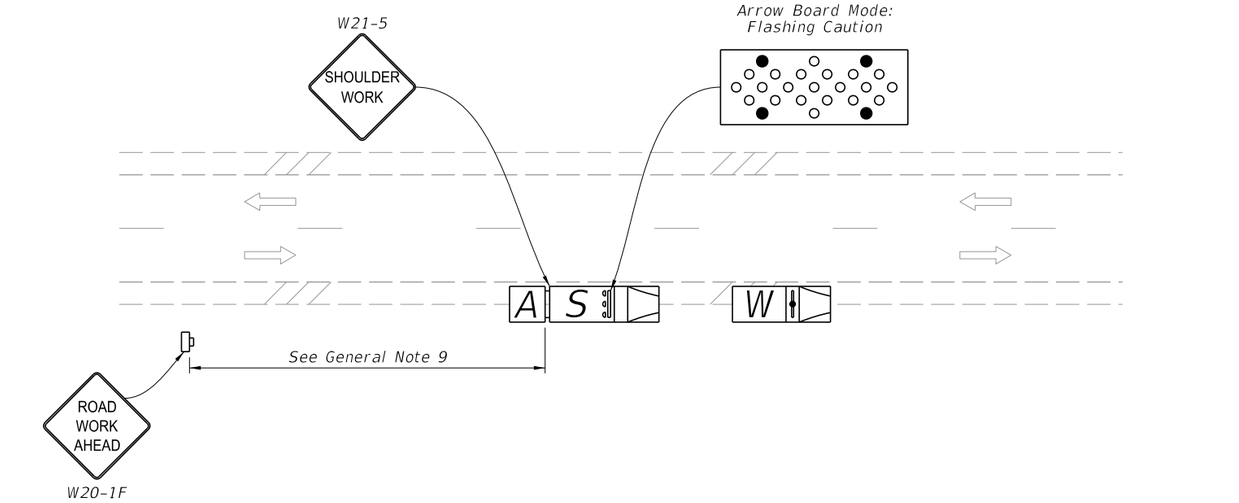
7. Ensure that all vehicles in the mobile operation convoy have functional two-way communication.

8. If the speed of the mobile operation exceeds the existing posted minimum speed limit on limited access roadways and one half the existing posted speed limit on other roadways, the Engineer may delete requirements for shadow vehicles and attenuators. In such situations, mount arrow board and sign on the work vehicle.

9. The distance between the advance warning sign and the work location should not exceed 5 miles.

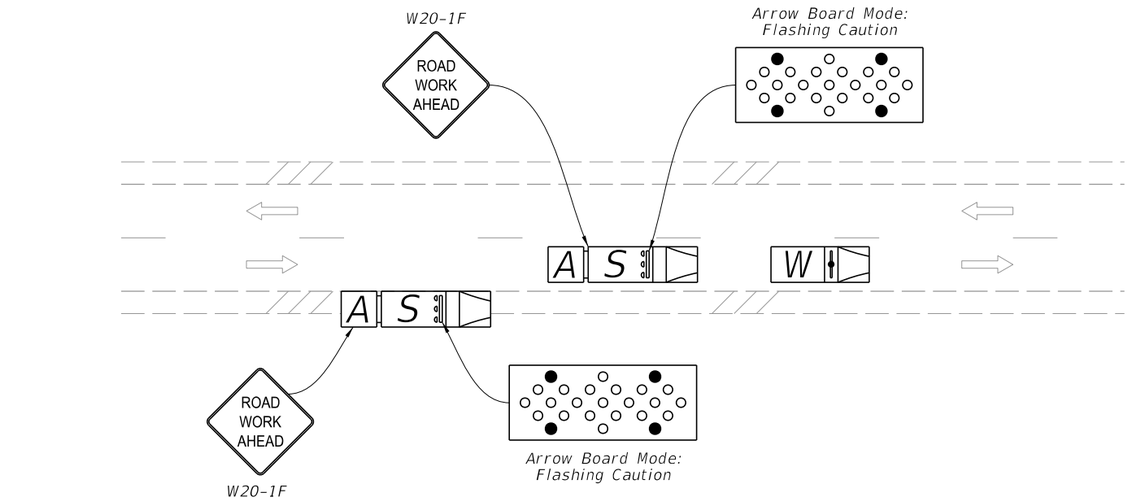
SYMBOLS:

- Lane Identification and Direction of Traffic
- A — Truck/Trailer Mounted Attenuator (TMA)
- W — Work Vehicle With Warning Lights
- S — Shadow (S) Vehicle With Warning Lights And Arrow Board
- Work Zone Sign



WORK ON SHOULDER

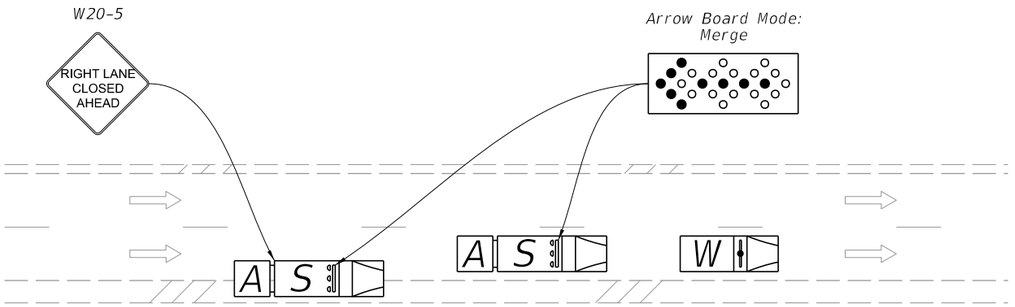
(Two-Lane Roadway Shown, Multilane Roadway Similar)



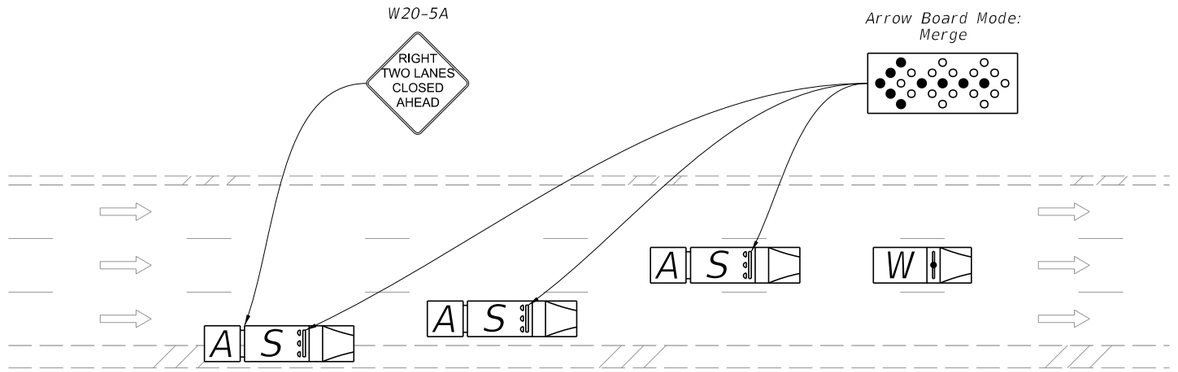
WORK IN TRAVELED WAY - TWO-LANE ROADWAY, LANE CLOSURE

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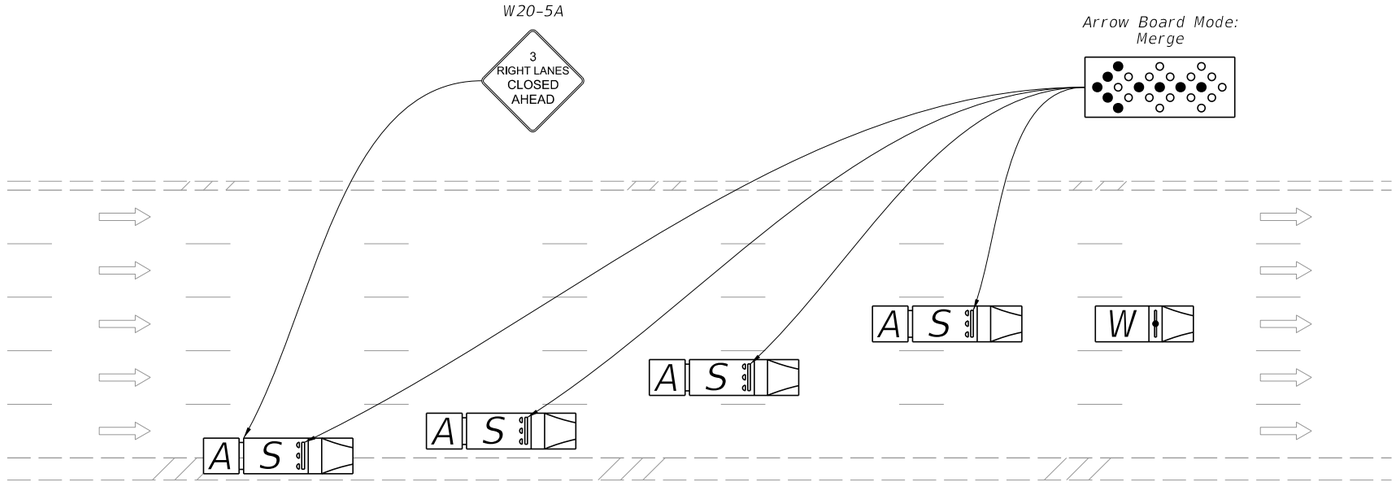
LAST REVISION	REVISION	DESCRIPTION:	FDOT	FY 2022-23 STANDARD PLANS	MOBILE OPERATIONS	INDEX	SHEET
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WORK IN TRAVELED WAY - MULTILANE ROADWAY, SINGLE LANE CLOSURE



WORK IN TRAVELED WAY - MULTILANE ROADWAY, DOUBLE LANE CLOSURE



WORK IN TRAVELED WAY - MULTILANE ROADWAY, TRIPLE LANE CLOSURE

SYMBOLS:

- W — *Work Vehicle With Warning Lights*
- S — *Shadow (S) Vehicle With Warning Lights And Arrow Board*
- A — *Truck/Trailer Mounted Attenuator (TMA)*
- *Lane Identification and Direction of Traffic*

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LAST REVISION	REVISION	DESCRIPTION:			INDEX	SHEET
11/01/20			FDOT FY 2022-23 STANDARD PLANS	MOBILE OPERATIONS	102-607	2 of 2

GENERAL NOTES:

1. L = Taper Length
   B = Buffer Length
   X = Work Zone Sign Distance
   See Index 102-600 for "L", "B", "X", and channelizing device spacing values.

2. If vehicles in a parking zone block the line of sight to TCZ signs, locate and post mount signs in accordance with Index 700-101.

3. District Traffic Operations Engineer must approve temporary signal phasing modifications prior to beginning of work.

4. Use temporary "STOP" sign (R1-1) where the existing stop bar is more than 30' from the taper, remove or cover existing sign.

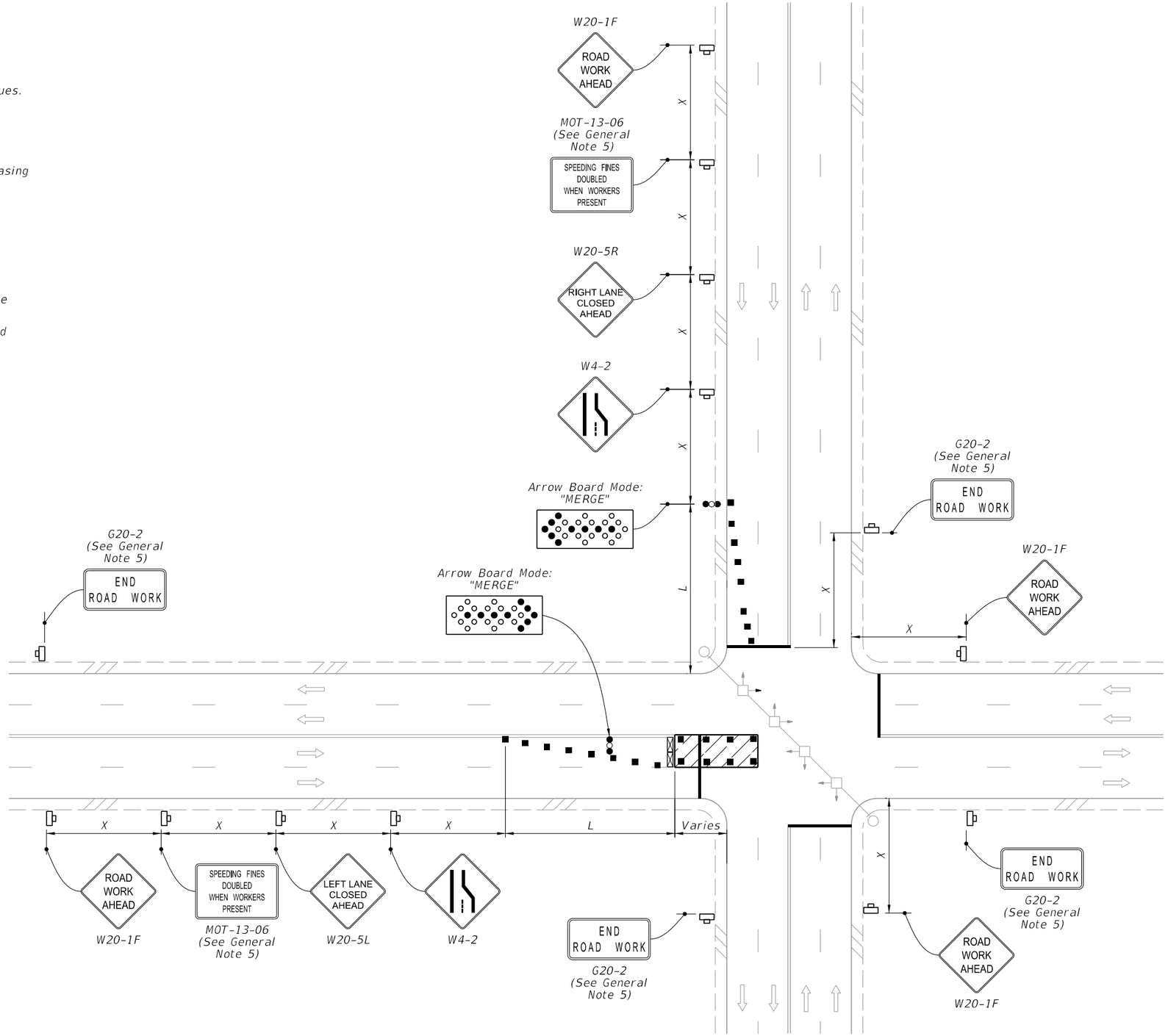
5. The "Speeding Fines Doubled When Workers Present" sign (M0T-13-06) and "End Road Work" Sign (G20-2), along with associated Work Zone Sign Distances, may be omitted when the work operation will be in place for 24 hours or less. Additionally, arrow boards may be omitted when the work operation will be in place for 60 minutes or less and the speed limit is 45 mph or less.

6. If the work area extends across a crosswalk, close the crosswalk in accordance with Index 102-660.

7. Dual signs are required for divided roadways.

SYMBOLS:

- Work Area
- Channelizing Device (See Index 102-600)
- Work Zone Sign
- Type III Barricade
- Arrow Board
- Stop Bar
- Lane Identification and Direction of Traffic



WORK IN INTERSECTION OF MULTILANE ROADWAY

9/21/2021 12:23:26 PM

LAST REVISION	REVISION	DESCRIPTION:	FDOT FY 2022-23 STANDARD PLANS	MULTILANE ROADWAY, INTERSECTION WORK	INDEX	SHEET
11/01/21					102-615	1 of 5

NOTES:

Confine work operations to the following lane or lane combinations:

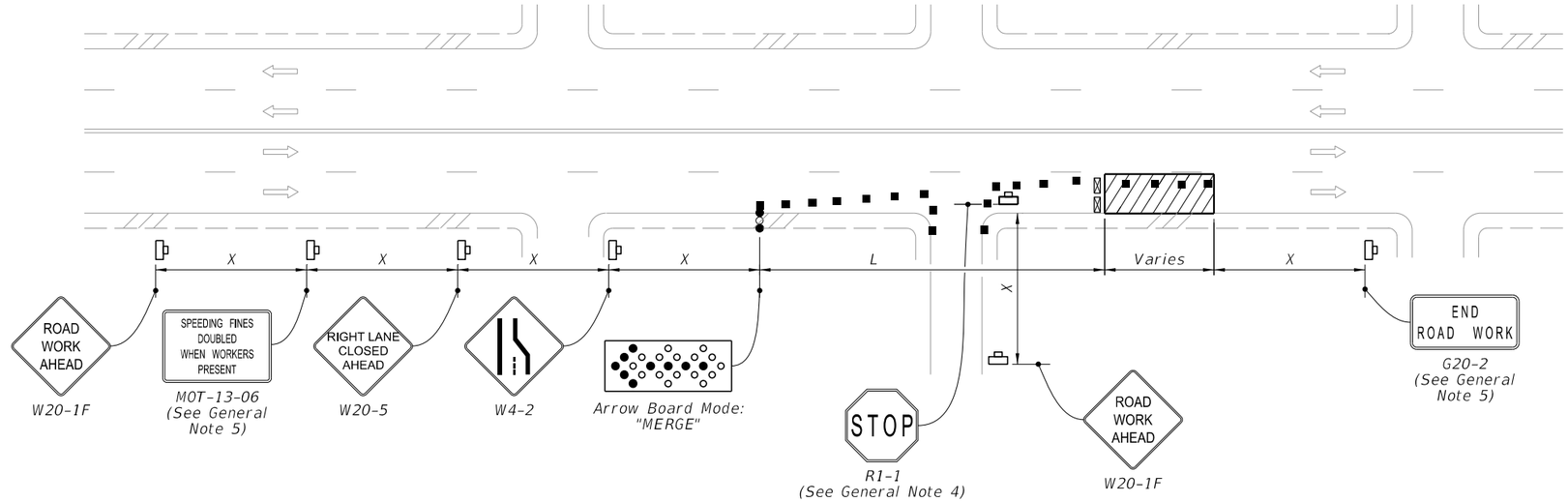
a. *Outside travel lane*
b. *Outside auxiliary lane*
c. *Outside travel lane and adjoining auxiliary lane*
d. *Inside travel lane*
e. *Inside auxiliary lane*
f. *Inside travel lane and adjoining auxiliary lane*

If the work area is confined to an auxiliary lane, the work area must be barricaded. Replace the RIGHT (LEFT) LANE CLOSED AHEAD signs with ROAD WORK AHEAD signs, and omit the merge symbol signs and arrow board.

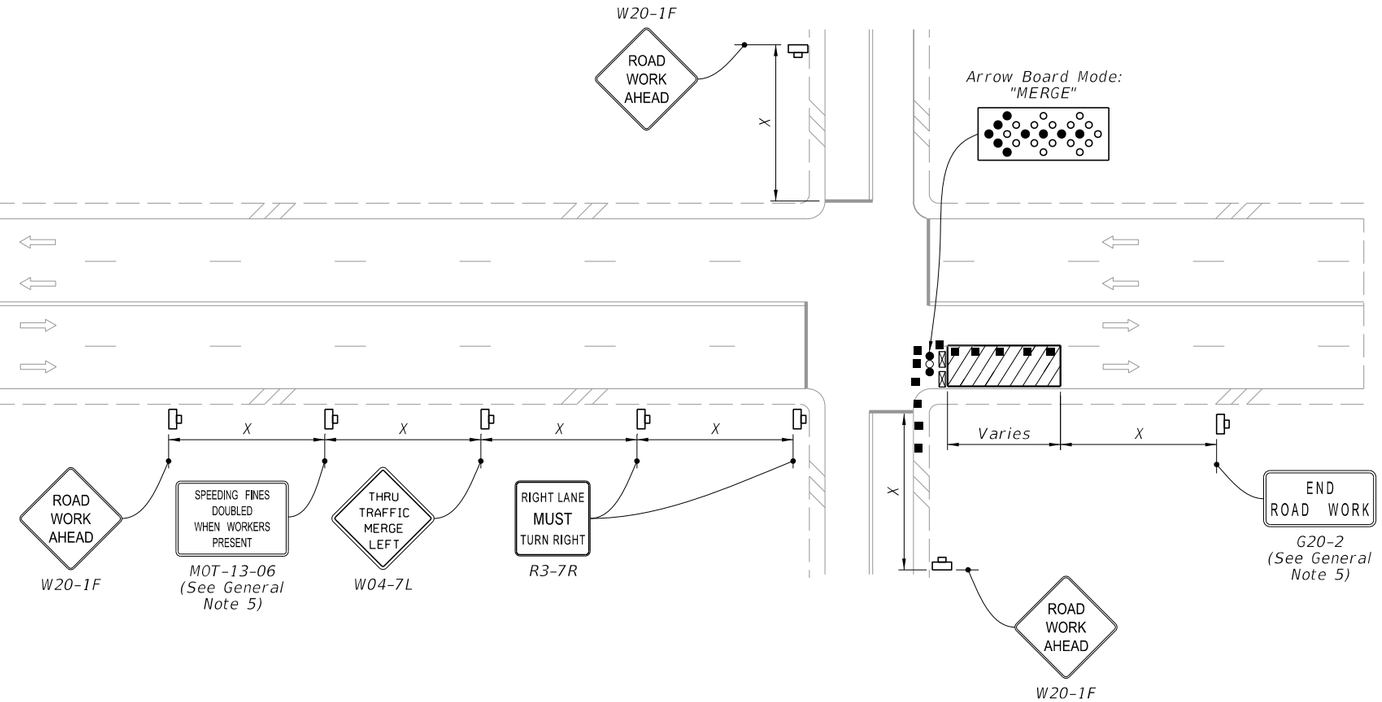
SYMBOLS:

- *Work Area*
- *Channelizing Device (See Index 102-600)*
- *Work Zone Sign*
- *Type III Barricade*
- *Arrow Board*
- *Stop Bar*
- *Lane Identification and Direction of Traffic*

RIGHT LANE CLOSED ON FAR SIDE OF MINOR SIDE STREET



RIGHT LANE CLOSED ON FAR SIDE OF INTERSECTION WITH SIGNIFICANT RIGHT TURNING MOVEMENTS



NOTES:

1. Confine work operations to the following lane or lane combinations:

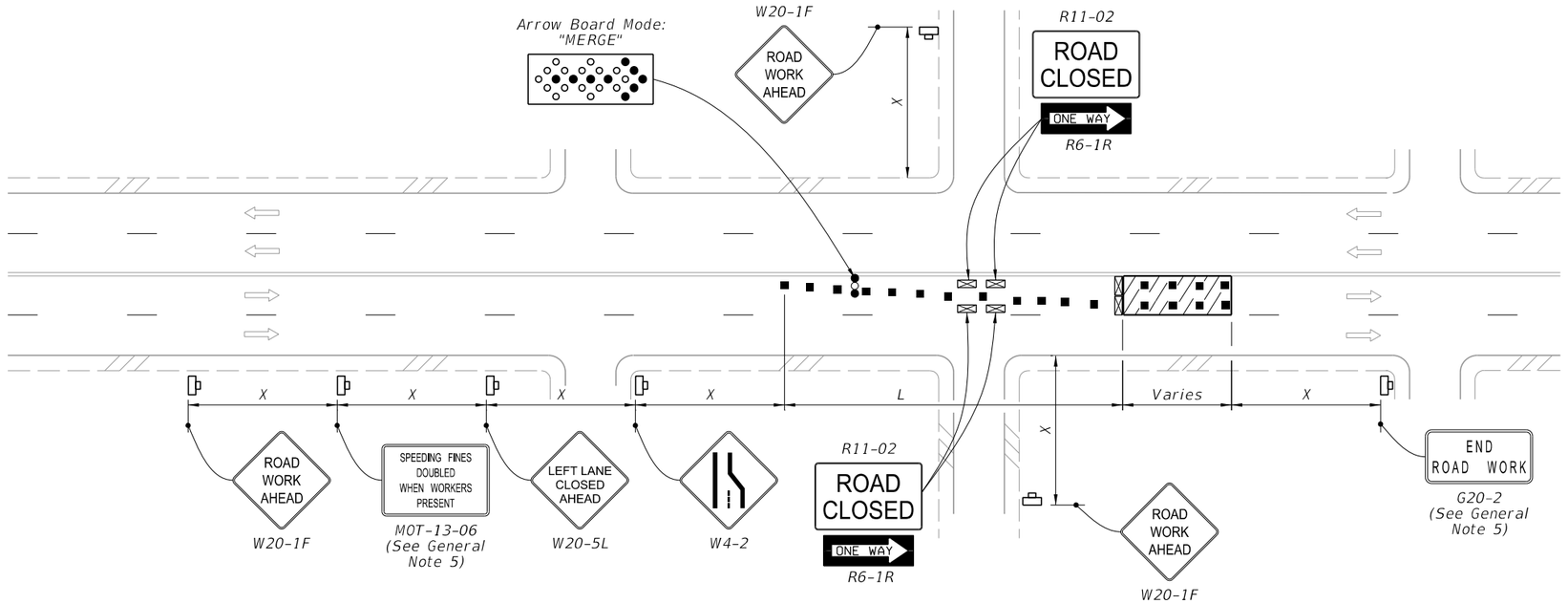
   a. Outside travel lane
   b. Outside auxiliary lane
   c. Outside travel lane and adjoining auxiliary lane
   d. Inside travel lane
   e. Inside auxiliary lane
   f. Inside travel lane and adjoining auxiliary lane

   If the work area is confined to an auxiliary lane, the work area must be barricaded. Replace the RIGHT (LEFT) LANE CLOSED AHEAD signs with ROAD WORK AHEAD signs, and omit the merge symbol signs and arrow board.

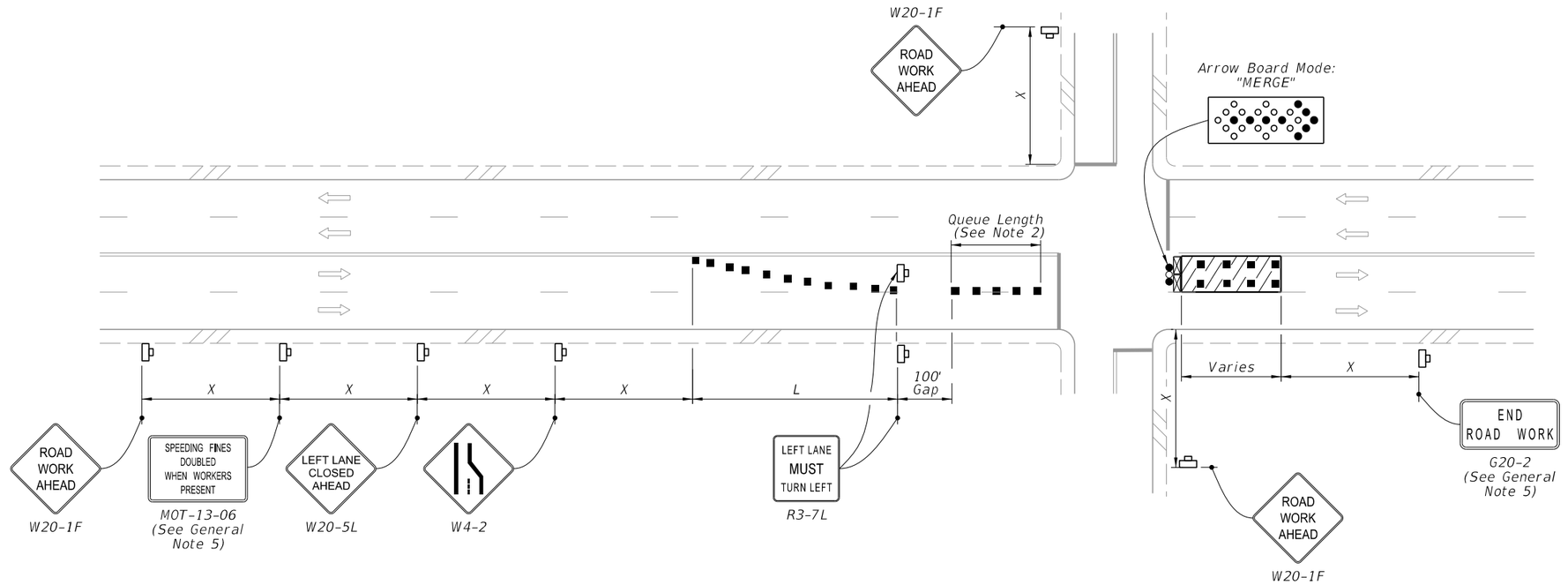
2. Provide sufficient Queue Length so that left-turning vehicles do not block through lanes.

SYMBOLS:

- Work Area
- Channelizing Device (See Index 102-600)
- Work Zone Sign
- Type III Barricade
- Arrow Board
- Stop Bar
- Lane Identification and Direction of Traffic



LEFT LANE CLOSED ON FAR SIDE OF MINOR SIDE STREET - RESTRICTED TURNING MOVEMENTS

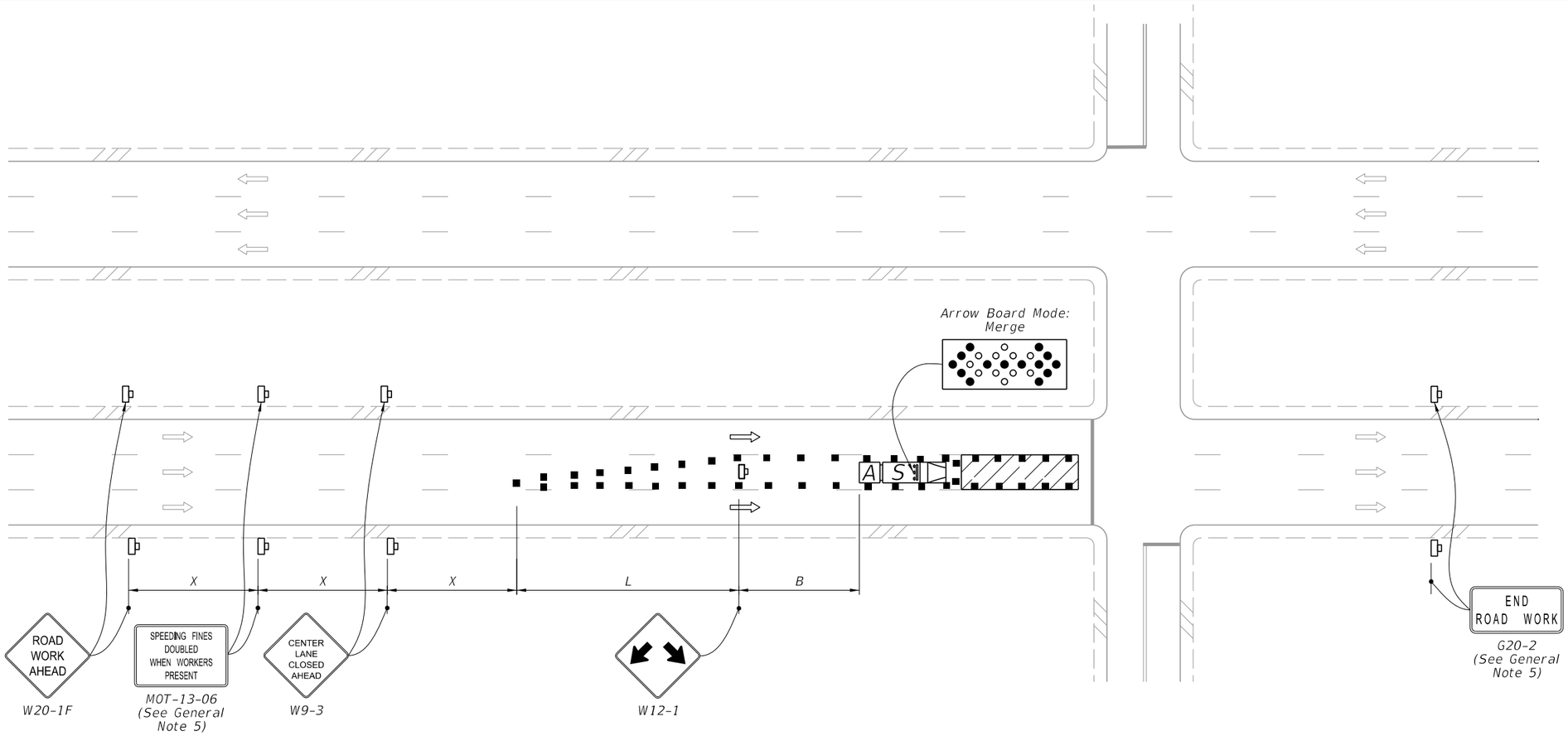


LEFT LANE CLOSED ON FAR SIDE OF INTERSECTION TURNING MOVEMENTS ALLOWED

7:58:26 AM

1/4/2022

LAST REVISION	REVISION	DESCRIPTION:				
11/01/20			FDOT FY 2022-23 STANDARD PLANS	MULTILANE ROADWAY, INTERSECTION WORK	INDEX 102-615	SHEET 3 of 5



MULTILANE, WORK IN INTERSECTION CENTER LANE

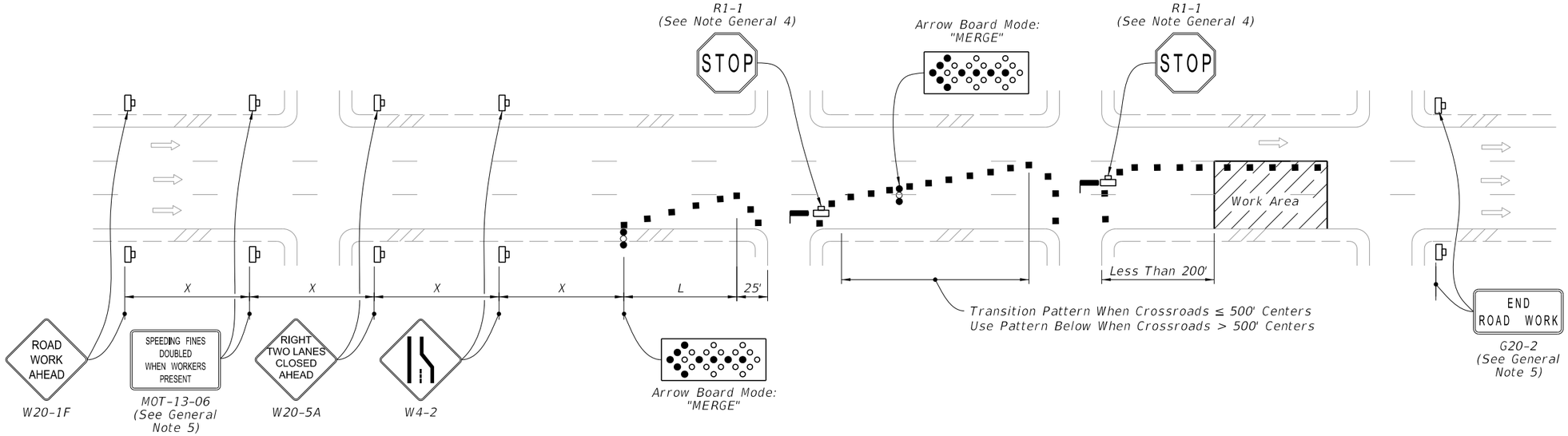
NOTES:

1. Confine work operations to one center travel lane and leave the adjacent travel lanes open to traffic.

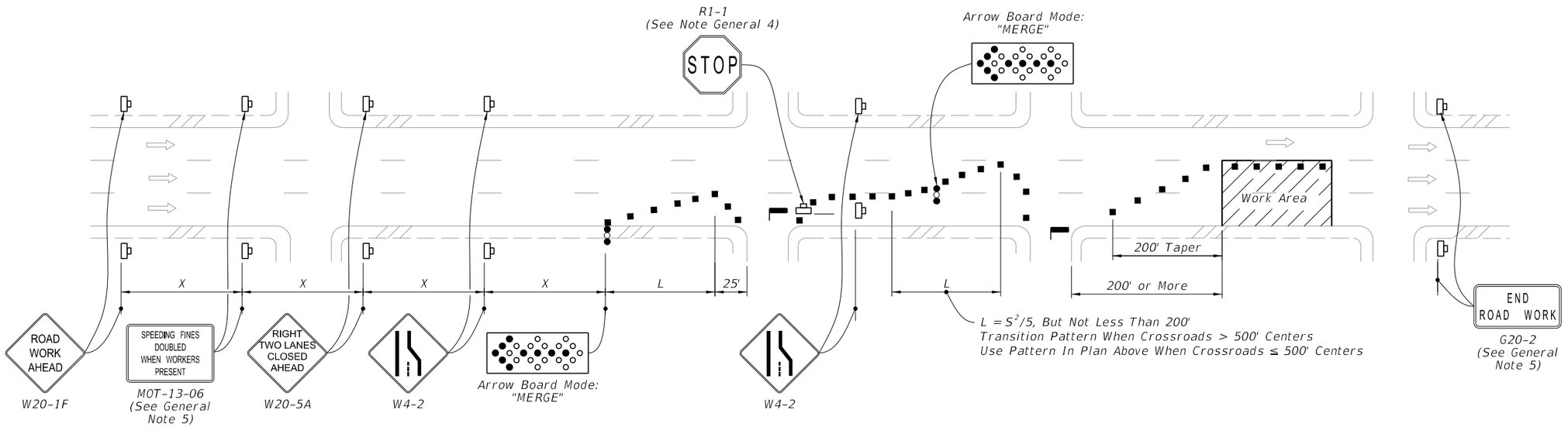
2. Ensure that the merging taper only directs vehicular traffic into either the right or left lane.

SYMBOLS:

- Work Area
- Channelizing Device (See Index 102-600)
- Work Zone Sign
- Type III Barricade
- Arrow Board
- Stop Bar
- Shadow (S) Vehicle With Warning Lights And Arrow Board
- Truck/Trailer Mounted Attenuator (TMA)
- Lane Identification and Direction of Traffic



DOUBLE LANE CLOSURE FOR WORK LESS THAN 200' FROM INTERSECTION



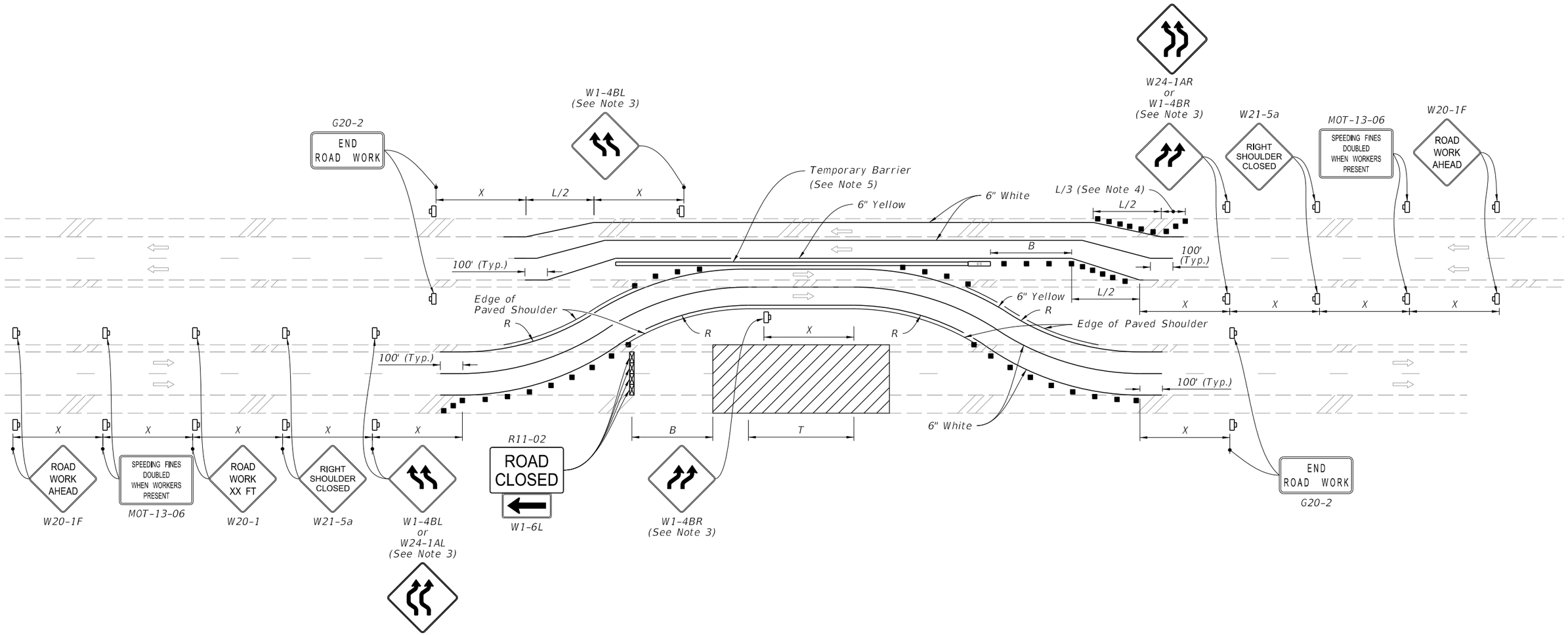
DOUBLE LANE CLOSURE FOR WORK MORE THAN 200' FROM INTERSECTION

SYMBOLS: (See General Note 5)

- Work Area
- Channelizing Device (See Index 102-600)
- Work Zone Sign
- Arrow Board
- Stop Bar
- Lane Identification and Direction of Traffic

9/21/2021 12:23:28 PM

LAST REVISION	REVISION	DESCRIPTION:	FDOT	FY 2022-23 STANDARD PLANS	MULTILANE ROADWAY, INTERSECTION WORK	INDEX	SHEET
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TEMPORARY DIVERSION FOR DIVIDED ROADWAYS

SYMBOLS:

- Work Area
- Channelizing Device (See Index 102-600)
- Work Zone Sign
- Type III Barricade
- Crash Cushion
- Lane Identification and Direction of Traffic

NOTES:

1. This Index applies to multilane roadways, except with undivided roadways with 6 or more lanes, where the work requires the closure of the lanes in one direction and diversion is provided to convert the opposing traffic lanes to temporary two-way travel.

2. L = Taper Length
   B = Buffer Length
   X = Work Zone Sign Distance
   R = Radius of Curve
   See Index 102-600 for "L", "B", "X", channelizing device spacing values. See Plans for "R" values.

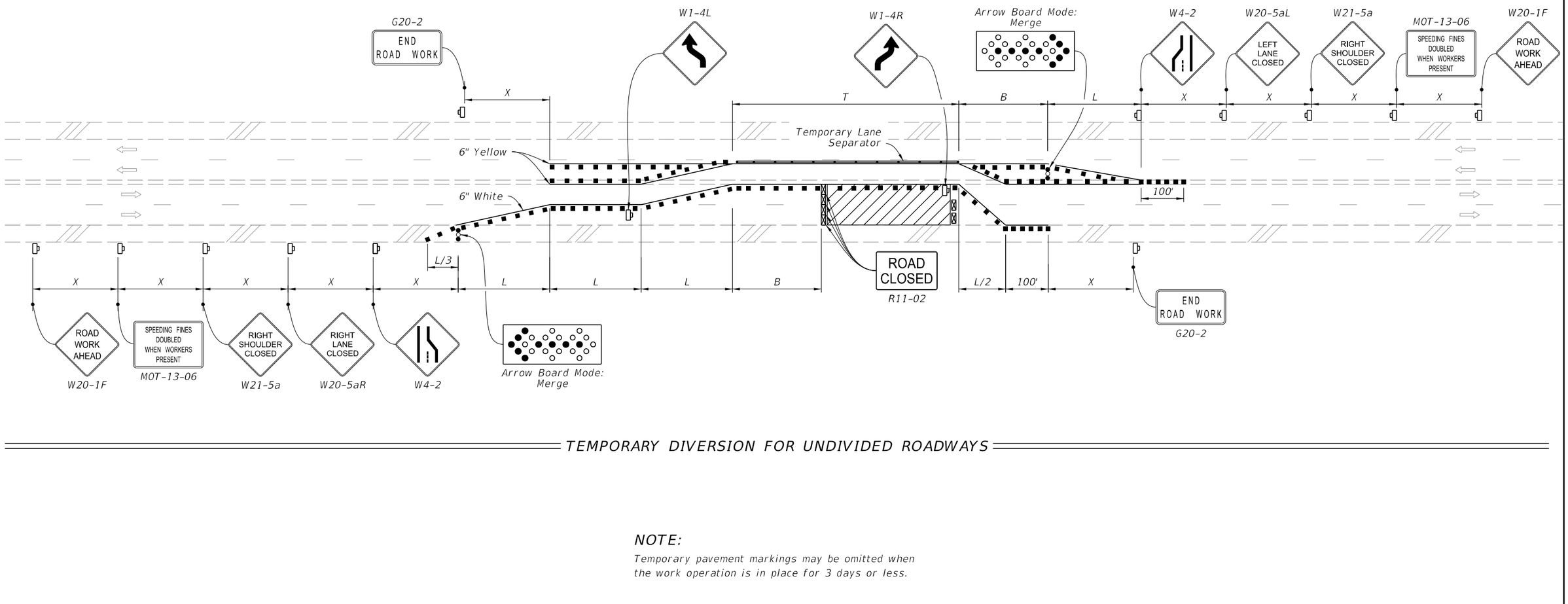
3. For undivided roadways with a tangent distance "T" less than 600', use "Double Reverse Curve" signs (W24-1A) instead of the first pair of "Reverse Curve" signs (W1-4B) and omit the second pair of "Reverse Curve" signs.

4. If the paved shoulder is less than 4' in width, omit the taper and channelizing devices shown on the paved shoulder.

5. Temporary Lane Separator may be used in lieu of Temporary Barrier for speed limits of 45 mph or less.

1/18/2022 8:11:41 AM

LAST REVISION	REVISION	DESCRIPTION:	FDOT FY 2023-24 STANDARD PLANS	MULTILANE ROADWAY, TEMPORARY DIVERSION	INDEX	SHEET
11/01/21					102-620	1 of 2



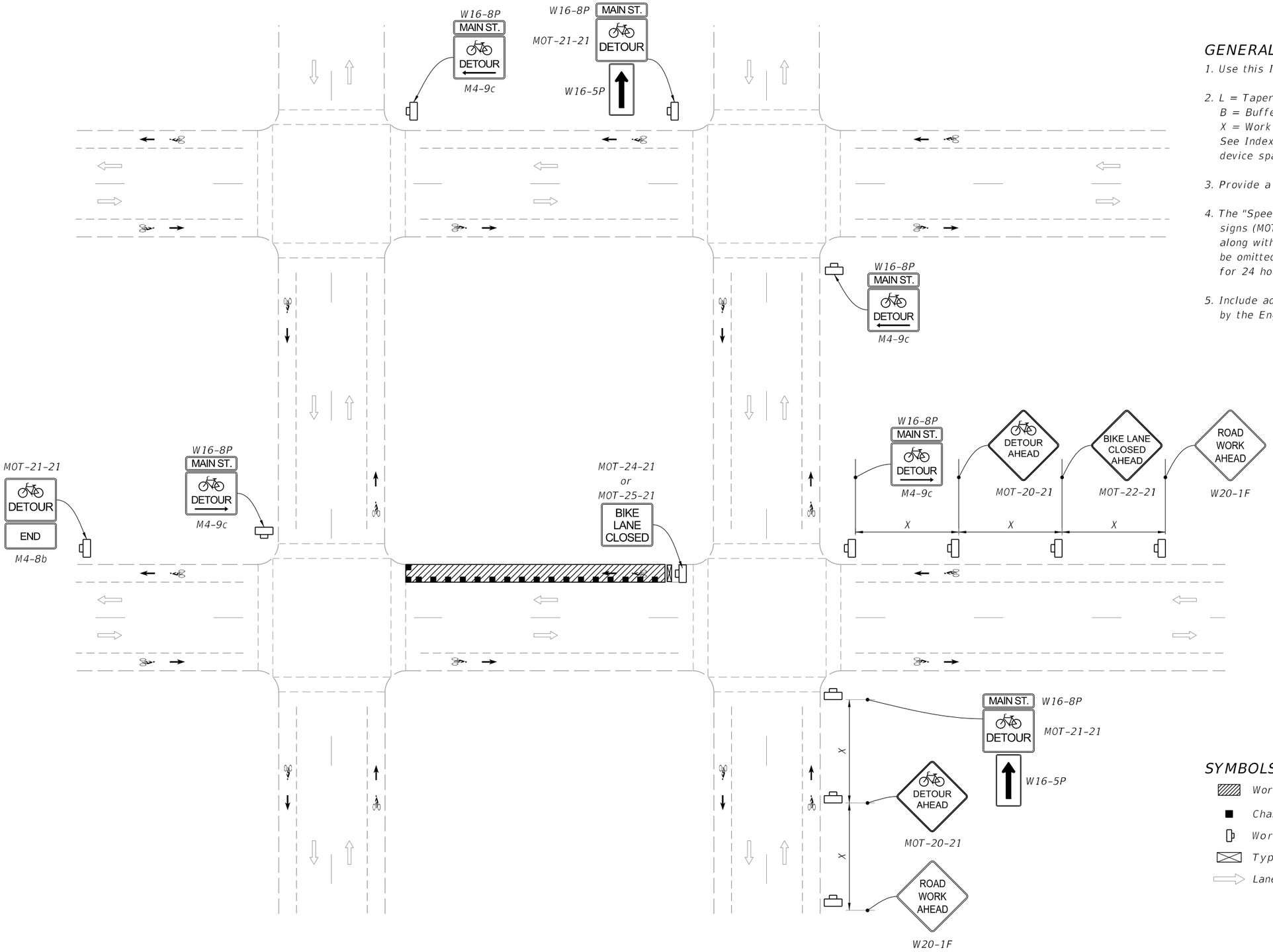
TEMPORARY DIVERSION FOR UNDIVIDED ROADWAYS

NOTE:

Temporary pavement markings may be omitted when the work operation is in place for 3 days or less.

SYMBOLS:

- Work Area
- Channelizing Device (See Index 102-600)
- Work Zone Sign
- Type III Barricade
- Crash Cushion
- Lane Identification and Direction of Traffic



BICYCLE DETOUR

GENERAL NOTES:

1. Use this Index only when called for in the Plans.
2. L = Taper Length
   B = Buffer Length
   X = Work Zone Sign Distance
   See Index 102-600 for "L", "B", "X", channelizing device spacing values.
3. Provide a minimum 5'-0" wide bicycle path.
4. The "Speeding Fines Doubled When Workers Present" signs (MOT-13-06) and "End Road Work" signs (G20-2), along with associated work zone sign distances, may be omitted when the work operation will be in place for 24 hours or less.
5. Include additional signage at intersections as required by the Engineer or shown in the Plans.

SYMBOLS:

- Work Area
- Channelizing Device (See Index 102-600)
- Work Zone Sign
- Type III Barricade
- Lane Identification and Direction of Traffic

11/15/2021 8:11:17 AM

LAST REVISION	REVISION	DESCRIPTION:	FDOT	FY 2022-23 STANDARD PLANS	BICYCLE FACILITY CLOSURES	INDEX	SHEET
11/01/21						102-661	1 of 2

NOTES:

1. Temporary pavement markings may be omitted when the work operation is in place for 3 days or less.
2. If the Closed Bicycle Facility is a marked bicycle lane, use sign MOT 22-21 instead of sign W21-5a.
3. If the travel lane is less than 14' wide, use sign R4-11.

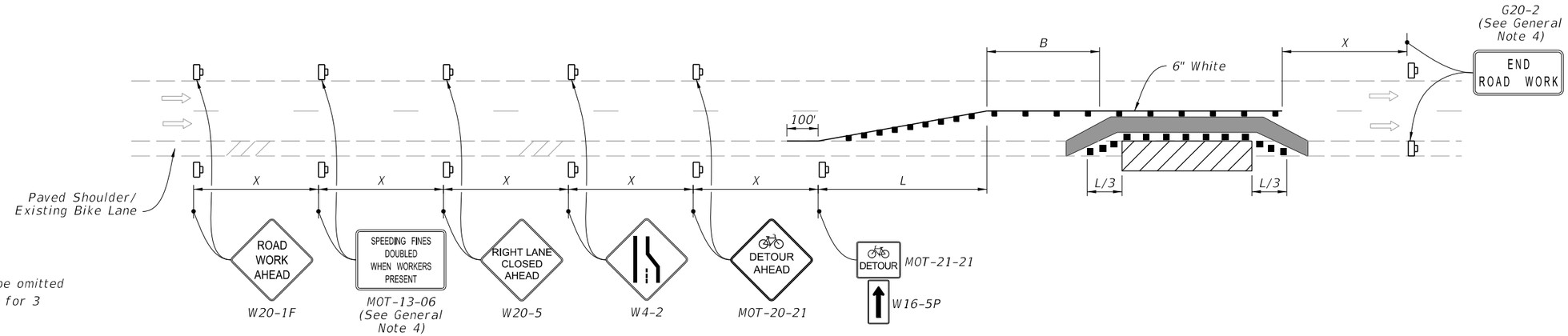
SYMBOLS:

- Work Area
- Temporary Bicycle Way
- Channelizing Device (See Index 102-600)
- Work Zone Sign
- Arrow Board
- Lane Identification and Direction of Traffic
- (1) PCMS=Portable Changeable (Variable) Message Sign

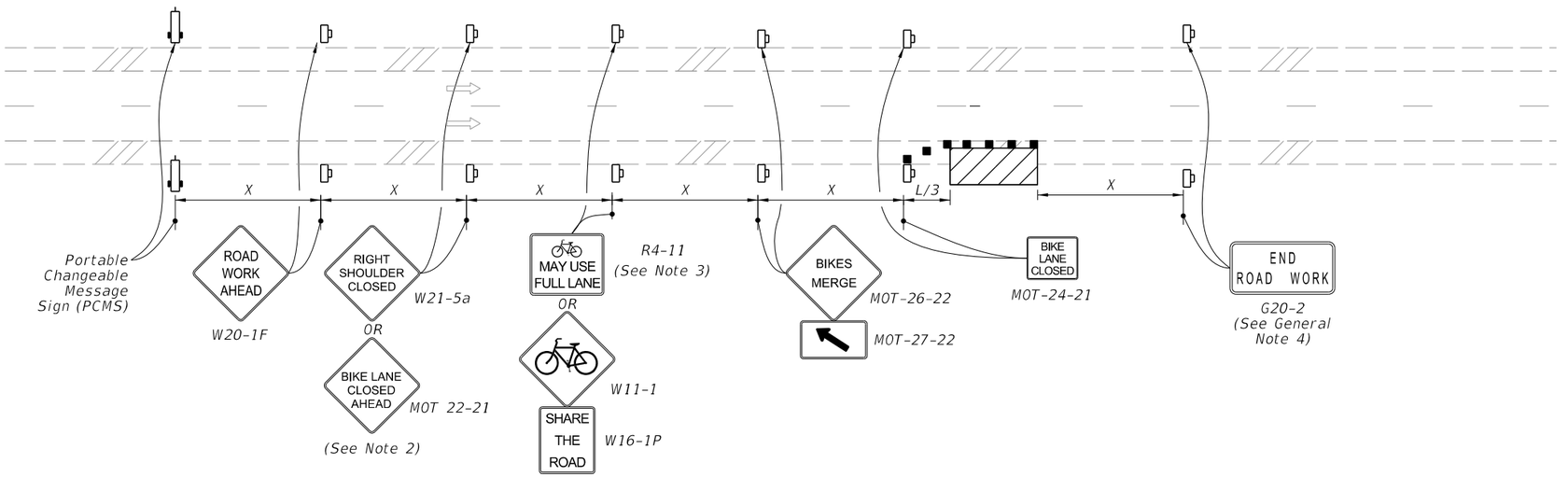
TYPICAL PCMS DISPLAY:

Message 1: BIKE FACILITY CLOSED

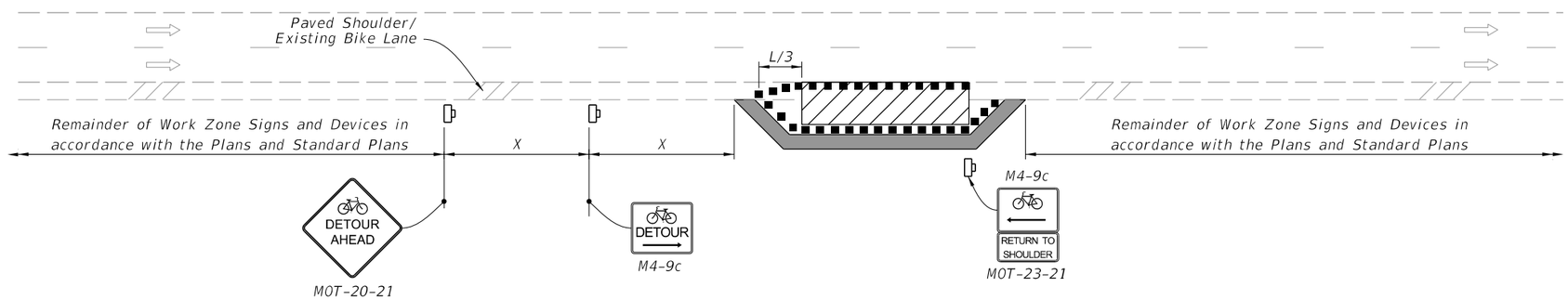
Message 2: BICYCLES ON ROAD



BICYCLE FACILITY SHIFT (With Lane Closure)



BICYCLE FACILITY SHIFT (Work Zone Speed of 35 mph or Less)



BICYCLE SPECIAL DETOUR

9/21/2021 12:27:28 PM

LAST REVISION	REVISION	DESCRIPTION:	FDOT FY 2022-23 STANDARD PLANS	BICYCLE FACILITY CLOSURES	INDEX	SHEET
11/01/21					102-661	2 of 2

INDEX OF STRUCTURE PLANS

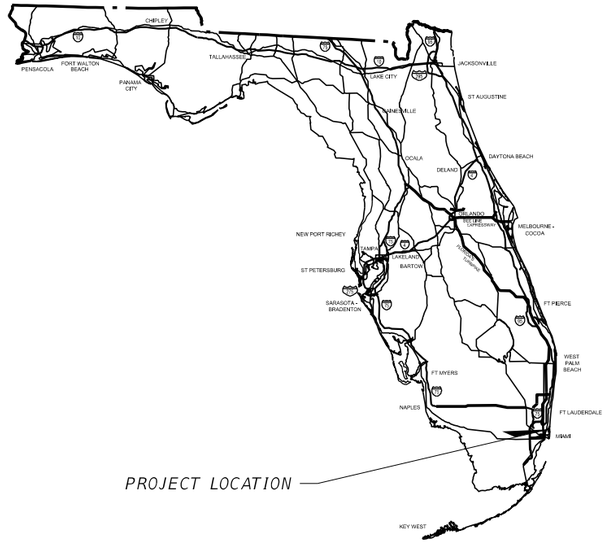
SHEET NO.	SHEET DESCRIPTION
1	KEY SHEET
2	GENERAL NOTES (1 OF 2)
3	GENERAL NOTES (2 OF 2)
4	PLAN AND ELEVATION
5	TYPICAL SECTION
6	SUPERSTRUCTURE DETAILS
7	EXPANSION JOINT REPAIR DETAILS
8	CONCRETE REPAIR DETAILS (1 OF 3)
9	CONCRETE REPAIR DETAILS (2 OF 3)
10	CONCRETE REPAIR DETAILS (3 OF 3)
11	INTERMEDIATE SADDLE REPAIR DETAILS (1 OF 2)
12	INTERMEDIATE SADDLE REPAIR DETAILS (2 OF 2)
13	LOAD RATING CHART

TOWN OF BAY HARBOR ISLANDS

CONTRACT PLANS

PROJECT ID BC-159

BRIDGE REPAIRS AND UTILITY SADDLE REPLACEMENT



CARLOS A. DILLON
LICENSE
No. 86908
STATE OF FLORIDA
PROFESSIONAL ENGINEER

THIS ITEM HAS BEEN DIGITALLY SIGNED AND SEALED BY

ON THE DATE ADJACENT TO THE SEAL

PRINTED COPIES OF THIS DOCUMENT ARE NOT CONSIDERED SIGNED AND SEALED AND THE SIGNATURE MUST BE VERIFIED ON ANY ELECTRONIC COPIES.

STRUCTURE PLANS ENGINEER OF RECORD:

CARLOS A. DILLON, P.E.
P.E. NO.: 86908
BCC ENGINEERING, LLC.
6401 SW 87TH AVENUE, SUITE 200
MIAMI, FL 33173
PHONE: 305-670-2350
CONTRACT NO.: E7R10
VENDOR NO.: 65-0540100
CERTIFICATE OF AUTHORIZATION NO.: 7184

TOWN ENGINEER:

RODNEY CARRERO-SANTANA, PE

GOVERNING DESIGN STANDARDS:

FLORIDA DEPARTMENT OF TRANSPORTATION, FY 2021-22 STANDARD PLANS FOR ROAD AND BRIDGE CONSTRUCTION AND APPLICABLE INTERIM REVISIONS (IRS).

STANDARD PLANS FOR ROAD CONSTRUCTION AND ASSOCIATED IRS ARE AVAILABLE AT THE FOLLOWING WEBSITE: HTTP://WWW.FDOT.GOV/DESIGN/STANDARDPLANS

STANDARD PLANS FOR BRIDGE CONSTRUCTION ARE INCLUDED IN THE STRUCTURES PLANS COMPONENT

GOVERNING STANDARD SPECIFICATIONS:

FLORIDA DEPARTMENT OF TRANSPORTATION, 2021 STANDARD SPECIFICATIONS FOR ROAD AND BRIDGE CONSTRUCTION AT THE FOLLOWING WEBSITE: HTTP://WWW.FDOT.GOV/PROGRAMMANAGEMENT/IMPLEMENTED/SPECBOOKS

FISCAL YEAR	SHEET NO.
21	1

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GENERAL NOTES

PURPOSE

THE INTENT OF THE PROJECT IS TO COMPLETE REPAIRS ON BRIDGE NO. 875103 AS PRESENTED IN THE PLANS AND SPECIFICATIONS.

DESIGN SPECIFICATION:

1. FDOT STRUCTURES MANUAL DATED JANUARY, 2022.

2. AMERICAN ASSOCIATION OF STATE HIGHWAY AND TRANSPORTATION OFFICIALS (AASHTO) LOAD AND RESISTANCE FACTOR (LRFD) BRIDGE DESIGN SPECIFICATIONS (9th EDITION).

3. FDOT DESIGN MANUAL DATED JANUARY, 2022.

ENVIRONMENT:

SUPERSTRUCTURE: EXTREMELY AGGRESSIVE
SUBSTRUCTURE: EXTREMELY AGGRESSIVE

UTILITIES:

ALL EXISTING UTILITIES ARE TO REMAIN UNLESS OTHERWISE NOTED.

PROJECT REQUIRES WORK IN LOW HEADROOM AND/OR RESTRICTED WORKING AREAS WITH LIMITED ACCESS IN CLOSE PROXIMITY TO AN EXISTING WATER/SEWER MAIN CRITICAL TO THE TOWN OF BAY HARBOR ISLANDS. THE CONTRACTOR SHALL BE RESPONSIBLE FOR ENSURING THAT NO DAMAGE OCCURS TO UTILITIES AS A RESULT OF THEIR WORK. THE CONTRACTOR SHALL IDENTIFY AND LOCATE ALL UTILITIES LOCATED WITHIN THE PROJECT LIMITS PRIOR TO CONSTRUCTION. ANY DAMAGE TO UTILITIES DURING CONSTRUCTION SHALL BE INFORMED TO THE OWNER REPRESENTATIVE PROJECT ENGINEER AND UTILITY COMPANIES IMMEDIATELY AND THE REPAIR OF THE DAMAGES SHALL BE AT NO COST TO THE OWNER.

THE FOLLOWING UTILITY COMPANY AND CONTACT HAS BEEN IDENTIFIED NEAR THE BRIDGE SITE:

UTILITY	CONTACT	PHONE NUMBER
1. MIAMI-DADE WATER & SEWER	LAZARO GUERRA	(786) 268-5273

MATERIALS:

1. REINFORCING STEEL: GRADE 60 CARBON STEEL PER SPECIFICATIONS SECTION 931.

2. CONCRETE:

CONCRETE CLASSES:

CLASS	MIN. 28-DAY COMP. STRENGTH	LOCATION
LATEX MODIFIED (SPECIAL PROVISION, SECTION T401)	f'c = 5500 psi	SPALL REPAIRS
EPOXY F-2	N/A	SHALLOW SPALL REPAIRS
CLASS II	f'c = 3400 psi	UTILITY SADDLE

MAINTAIN EXISTING COVER UNLESS OTHERWISE NOTED.

3. HARDWARE: USE TYPE 316 STAINLESS STEEL FOR ALL HARDWARE INCLUDING, BUT NOT LIMITED TO, NUTS, WASHERS, ANCHORS, CONDUIT CLAMPS, ETC.

PLAN DIMENSIONS:

1. DIMENSIONS SHOWN IN THE CONTRACT PLANS WERE OBTAINED FROM FIELD REVIEWS AND ARE PROVIDED FOR INFORMATION AND ESTIMATING PURPOSES ONLY. THE CONTRACTOR IS RESPONSIBLE FOR FIELD VERIFYING ALL DIMENSIONS AND CONDITIONS REQUIRED TO PERFORM THE REPAIR WORK. CONTRACTOR SHALL PREPARE A CATALOG WITH PICTURES AND DIMENSIONS OF THEIR FINDINGS AND PRESENT AS PART OF THE BIDDING SUBMITTAL. COST FOR ALL FIELD VERIFICATIONS OF DIMENSIONS AND SURVEY SHALL BE INCLUDED IN THE PRICE FOR PAY ITEM AA-123 (FIELD SURVEY AND MEASUREMENT). ANY DISCREPANCIES FROM THE DIMENSIONS SHOWN IN THE CONTRACT PLANS OR FAILURE BY THE CONTRACTOR TO VERIFY DIMENSIONS SHALL NOT BE JUSTIFICATION FOR CLAIMS. THE DETAILS ON THE DRAWINGS INDICATE THE UNITS OF REMOVAL AND REPAIR BASED ON AN INSPECTION PERFORMED IN AUGUST, 2021 (ATTACHED TO THIS SUBMITTAL FOR INFORMATIONAL PURPOSE ONLY). THE REMOVAL AND REPAIR UNITS SHOWN ON THE CONTRACT DRAWINGS INDICATE APPROXIMATE REMOVAL AND REPAIR LIMITS BASED ON THE CONDITION OF THE STRUCTURE AT THE TIME OF THE INSPECTION. THE CONTRACTOR SHALL TAKE ALL SUCH FIELD MEASUREMENT AS ARE NECESSARY TO ASSURE PROPER FIT OF THE FINISHED WORK AND THE CONTRACTOR SHALL ASSUME FULL RESPONSIBILITY FOR THEIR ACCURACY. WHEN SHOP DRAWING BASED ON FIELD MEASUREMENT ARE SUBMITTED FOR APPROVAL, THE FIELD MEASUREMENTS MADE SHALL BE INDICATED ON THE SHOP DRAWING SUBMITTED FOR REFERENCE TO THE REVIEWER.
2. CONTRACTOR IS TO SUBMIT A SET OF PLANS SIGNED AND SEALED BY A FLORIDA LICENSED PROFESSIONAL LAND SURVEYOR SHOWING THE AS-BUILT LOCATIONS OF THE REPAIRS DONE.

MAINTENANCE OF NAVIGABLE CHANNEL TRAFFIC AND WATERWAY:

1. NOTIFY US COAST GUARD SECTOR MIAMI WATERWAYS MANAGEMENT AND USCG DISTRICT 7 BRIDGE ADMINISTRATION VIA EMAIL 60 DAYS PRIOR TO THE START OF CONSTRUCTION AND 30 DAYS PRIOR TO ANY ANTICIPATED CHANNEL RESTRICTIONS.

2. PROVIDE 30 DAYS OF ADVANCE NOTICE FOR ANY CHANNEL RESTRICTIONS (HORIZONTAL AND/OR VERTICAL) FOR APPROVAL BY THE U.S. COAST GUARD.

3. MAINTAIN NAVIGATIONAL LIGHTING ON ALL IN-WATER CONSTRUCTION EQUIPMENT AND VESSELS DURING CONSTRUCTION.

4. USCG CONTACT INFORMATION:

USCG DISRICT SEVEN - BRIDGE ADMINISTRATION
MR. EDDIE LAWRENCE - (305) 415-6946, (eddie.h.lawrence@uscg.mil)
MS. JENNIFER ZERCHER - (305) 415-6740, (jennifer.n.zercher@uscg.mil)

REPAIRS TO EXISTING BRIDGE:

1. DURING ALL CONSTRUCTION OPERATIONS, DO NOT DROP WASTE CONCRETE, DEBRIS, OR OTHER MATERIAL TO THE CHANNEL BELOW THE BRIDGE. USE PLATFORMS, NETS, SCREENS, OR OTHER PROTECTIVE DEVICES TO CATCH THE MATERIAL. IF THE ENGINEER DETERMINES THAT ADEQUATE PROTECTIVE DEVICES ARE NOT BEING EMPLOYED, SUSPEND THE WORK UNTIL ADEQUATE PROTECTION IS PROVIDED.

2. NO SPOIL AREA IS AVAILABLE FOR THIS CONTRACT WITHIN THE OWNER'S RIGHT-OF-WAY. DISPOSE OF ALL SPOIL MATERIAL (STRUCTURAL CONCRETE, REINFORCING STEEL, ETC.) REMOVED FROM THE JOB SITE OFF OF THE OWNER'S PROPERTY.

3. ALL EXCESS MATERIAL, IS TO BE DISPOSED OF WITHIN 72 HOURS OF BEING DEPOSITED IN THE CONSTRUCTION AREA.

CONSTRUCTION NOTES:

1. THE CONTRACTOR SHALL PROVIDE SAFE ACCESS FOR THE ENGINEER AT ALL TIMES TO INSPECT ALL ASPECTS OF THE PROJECT. THIS INCLUDES (BUT NOT LIMITED TO) SCAFFOLDING, INSPECTION BOAT WITH OPERATOR, MANLIFT AND THESE MUST BE AVAILABLE AND MAINTAINED UNTIL THE ENGINEER CAN PERFORM ALL NECESSARY INSPECTIONS.

2. NO STAGING OR ADDITIONAL ACTIVITIES FOR THIS PROJECT WILL BE ALLOWED WITHIN THE INDIAN CREEK CHANNEL/TOWN OF BAY HARBOR ISLANDS.

3. THE CONTRACTOR SHALL NOT DAMAGE THE EXISTING BRIDGE. ANY ADDITIONAL DAMAGES RESULTING FROM THE CONTRACTOR'S OPERATIONS DURING CONSTRUCTION SHALL BE REPAIRED BY THE CONTRACTOR AT NO COST TO THE OWNER.

4. WORK THAT WILL RESULT IN IMPACTS/CLOSURES OF THE SIDEWALKS OR A LANE OF TRAFFIC SHALL BE PREPARED DURING NIGHT TIME (8PM TO 5AM).

5. PER TOWN CODE, FOR LANE CLOSURES - OFFDUTY OFFICER IS REQUIRED AT ALL TIME DURING CONSTRUCTION.

EXISTING FEATURES:

1. UNLESS OTHERWISE NOTED, ALL EXISTING PROJECT FEATURES, STRUCTURES, AND BRIDGE APPURTENANCES ARE TO REMAIN, INCLUDING BUT NOT LIMITED TO UTILITIES, LIGHTING, GUARDRAIL, WALLS, PAVEMENT MARKINGS, FENCING, DRAINAGE, ETC.).

THE OFFICIAL RECORD OF THIS SHEET IS THE ELECTRONIC FILE DIGITALLY SIGNED AND SEALED UNDER RULE 61G15-23.004, F.A.C.

REVISIONS			
DATE	DESCRIPTION	DATE	DESCRIPTION

BCC ENGINEERING, LLC.
CARLOS A. DILLON, P.E. No. 86908
6401 SW 87th Avenue, Suite 200.
Miami, Florida 33173
P: (305) 670-2350 F: (305) 670-2351
Certificate of Authorization No. 7184

TOWN OF BAY HARBOR ISLANDS

BRIDGE NO.	COUNTY
875103	MIAMI-DADE

GENERAL NOTES (1 OF 2)

SHEET NO. 2

GENERAL NOTES (CONT'D)

CONCRETE REPAIR NOTES:

1. ALL SURFACES TO BE REPAIRED MUST BE CLEAN, SOUND AND FREE OF SURFACE MOISTURE, OIL AND GREASE. REMOVE DUST, RESIDUE, MARINE GROWTH, LAITANCE, CURING COMPOUNDS, WAXES, IMPREGNATION, FOREIGN PARTICLES AND OTHER BOND INHIBITING MATERIALS FROM THE SURFACE BY MEDIA BLASTING. CHIP OFF AREAS THAT HAVE BEEN SATURATED WITH OIL OR GREASE TO SOUND NON-CONTAMINATED CONCRETE. AREAS THAT MAY TRAP AIR ARE TO BE TRIMMED OR VENTED. IF AREAS BECOME CONTAMINATED AFTER INITIAL CLEANING, THEY MUST BE RE-CLEANED PRIOR TO APPLYING THE REPAIR MATERIAL.

2. USE EXTREME CAUTION NOT TO DAMAGE EXISTING REINFORCING STEEL, MEDIA BLAST STEEL TO SSPC-SP 10 CONDITION. IF ANY STEEL IS DAMAGED, NOTIFY THE ENGINEER FOR ADDITIONAL INSTRUCTIONS ON THE APPLICABLE REPAIR. ANY REINFORCING STEEL THAT IS DAMAGED BY THE CONTRACTOR'S OPERATIONS IS TO BE REPAIRED AT NO COST TO THE OWNER. REMAINING REINFORCING STEEL MUST DISPLAY ACCEPTABLE BONDING WITH EXISTING CONCRETE, IF BONDING IS LOST OR DAMAGED, EXPOSE ADDITIONAL REINFORCING STEEL UNTIL BONDED UNDAMAGED STEEL IS REACHED. IF IT IS DETERMINED THAT DAMAGE HAS ADVERSELY EFFECTED THE CAPACITY OF THE BEAM, PROVIDE A LOAD RATING SIGNED AND SEALED BY A PROFESSIONAL ENGINEER LICENSED IN THE STATE OF FLORIDA AT NO COST TO THE OWNER. TO MAINTAIN SAFETY, HAVE A CONTINGENCY PLAN IN PLACE IN THE EVENT THAT STRAND DAMAGE RESULTS IN UNRAVELING OF THE STRANDS.

3. IF THE EXISTING REINFORCEMENT HAS LOST MORE THAN 20% OF ITS CROSS SECTION, DRILL AND EPOXY A NEW BAR OF EQUAL SIZE (DIAMETER) WITH AN EMBEDDED LENGTH AND LAP SPLICE AS INDICATED ON PLANS FOR SPECIFIC REPAIR. PLACE REBAR WITH A COVER NOT LESS THAN EXISTING COVER.

4. PLACE FORMS AND POUR CONCRETE AS SOON AS IS PRACTICAL AFTER MEDIA BLASTING AND BEFORE ANY OTHER CONTAMINATING SITUATION OCCURS, (72 HRS MAX.).

5. FOR SPALLS IN WHICH FORMWORK IS NOT NEEDED, THE REPAIR MATERIAL CAN BE PLACED BY HAND AND TROWELED TO MATCH THE ORIGINAL SECTION. DEFECTS IN THE BASE CONCRETE SUCH AS BROKEN PIECES, VOIDS, HONEYCOMB, CORROSION, ETC., MUST BE REMOVED. CLEAN ALL STEEL REINFORCEMENT TO AN SSPC-SP 10 CONDITION AND PREPARE THROUGHLY BY MEDIA BLASTING PRIOR TO THE AREA BEING PATCHED.

6. SHOP DRAWINGS INCLUDE AND SHOW:

   RESTORE SPALL AREAS:

   - PRODUCT DATA SHEET FOR THE REPAIR MATERIAL.

SHALLOW SPALL REPAIR:

WHERE THE BOND BETWEEN EXISTING CONCRETE AND REINFORCING STEEL HAS NOT BEEN DESTROYED OR WHERE LESS THAN HALF THE DIAMETER OF THE REINFORCING STEEL IS EXPOSED, REMOVE UNSOUND CONCRETE.

APPLY AN EPOXY COMPOUNT TO CLEAN CONCRETE SURFACES TO BE REPAIRED. ADHERE TO MANUFACTURER'S RECOMMENDATIONS FOR PROPORTION, MIXING, AND APPLICATION. PLACE EPOXY MATERIAL (TYPE F-2) FOR THE REPAIR. PROVIDE ENGINEER WITH STRENGTH VS TIME CURVE. MINIMUM COMPRESSIVE STRENGTHS ARE AS FOLLOWS: 2,000 PSI AFTER TWO (2) HOURS, 2,400 PSI AT FINAL WITH A MINIMUM CURING TIME OF SIX (6) HOURS.

PAY ITEM NOTES:

PAYMENT FOR INCIDENTAL ITEMS NOT SPECIFICALLY COVERED IN THE INDIVIDUAL BID ITEMS ARE INCLUDED IN THE CONTRACT UNIT PRICE FOR BID ITEMS.

PAY ITEM NO. 101-1

MOBILIZATION INCLUDES, BUT NOT BE LIMITED TO THE COST OF INSPECTION SCAFFOLDING, MOTORIZED INSPECTION VEHICLES, INSPECTION VESSEL AND OPERATORS, AND OTHER EQUIPMENT REQUIRED TO PROVIDE SAFE ACCESS FOR INSPECTION OR TESTING. PROVIDE A MANNED SAFETY BOAT AT THE BRIDGE SITE ANYTIME EMPLOYEES ARE WORKING OUTSIDE THE PROTECTION OF PERMANENT HANDRAILS OR BARRIERS. INCLUDE PROTECTIVE EQUIPMENT FOR CATCHING MATERIAL AND DEBRIS. INCLUDE EROSION CONTROL. INCLUDE TURBIDITY CONTROL. INCLUDES ALL DESIGN OF, INSTALLATION, MODIFICATIONS AND MAINTENANCE TO EQUIPMENT FOR CONTAINING AND CATCHING MATERIAL AND DEBRIS. INCLUDE THE COST FOR EROSION CONTROL DEVICES REQUIRED TO PROTECT STOCKPILED MATERIAL. INCLUDES ALL COSTS ASSOCIATED WITH SPOIL MATERIAL.

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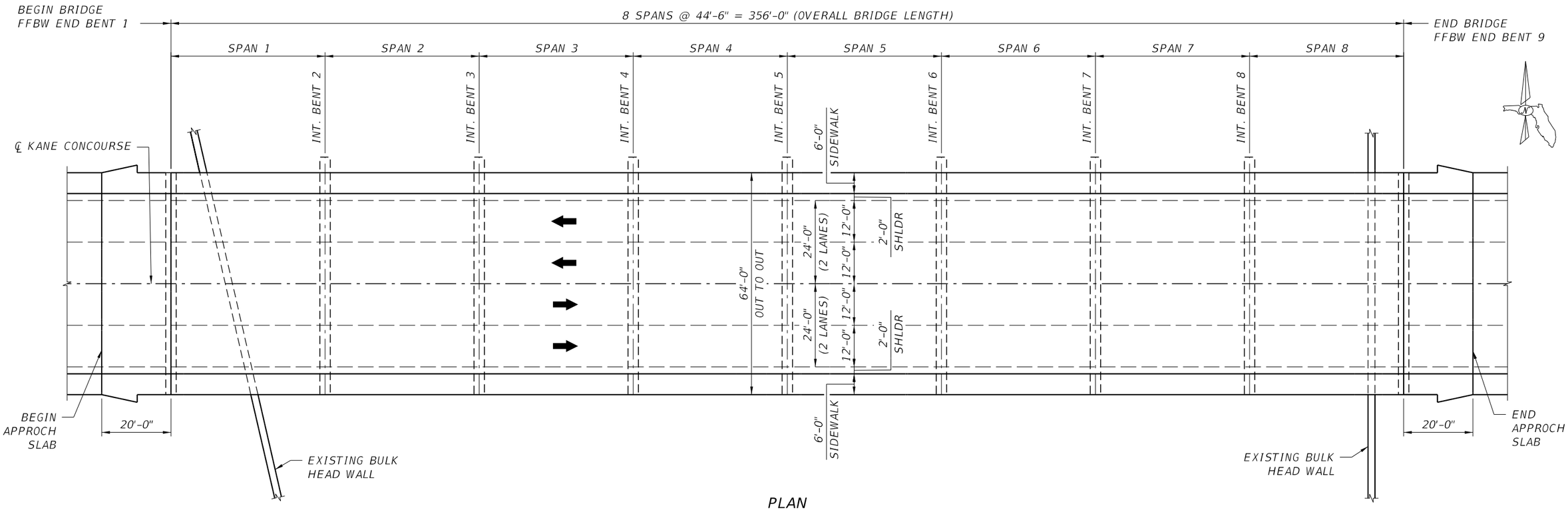
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TOWN OF BAY HARBOR ISLANDS

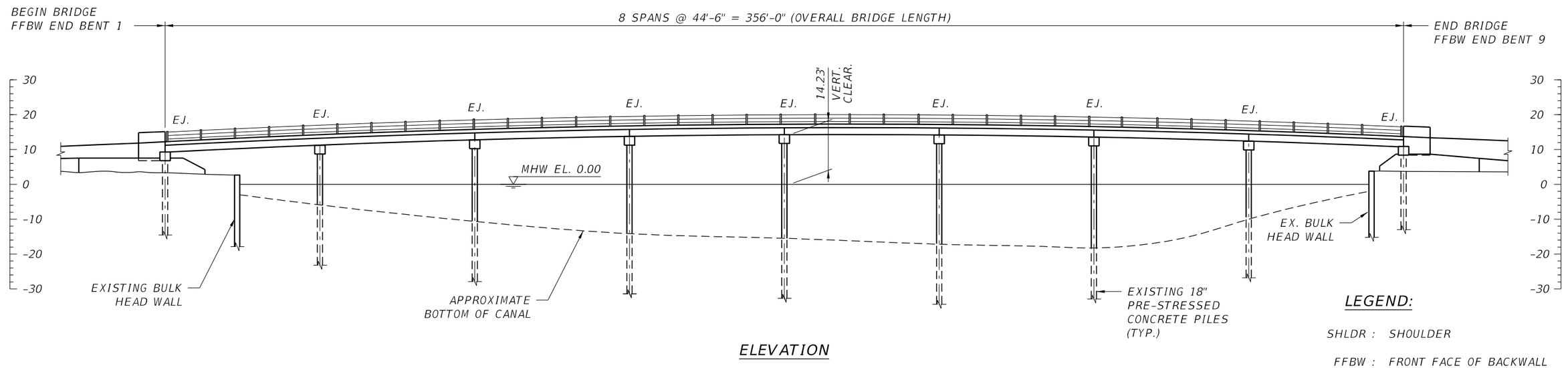
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875103	MIAMI-DADE

GENERAL NOTES (2 OF 2)

SHEET NO. 3



PLAN



ELEVATION

LEGEND:

SHLDR : SHOULDER

FFBW : FRONT FACE OF BACKWALL

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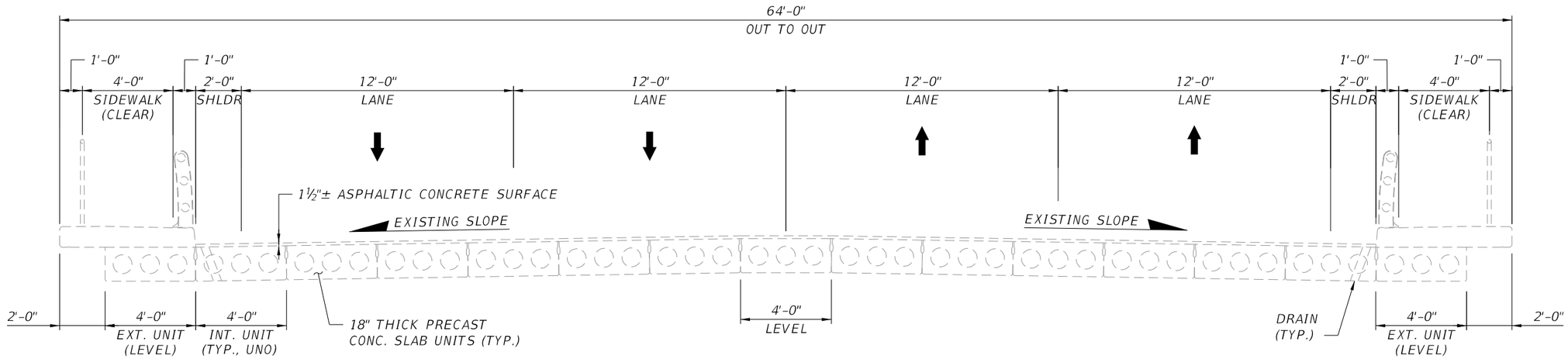
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PLAN AND ELEVATION

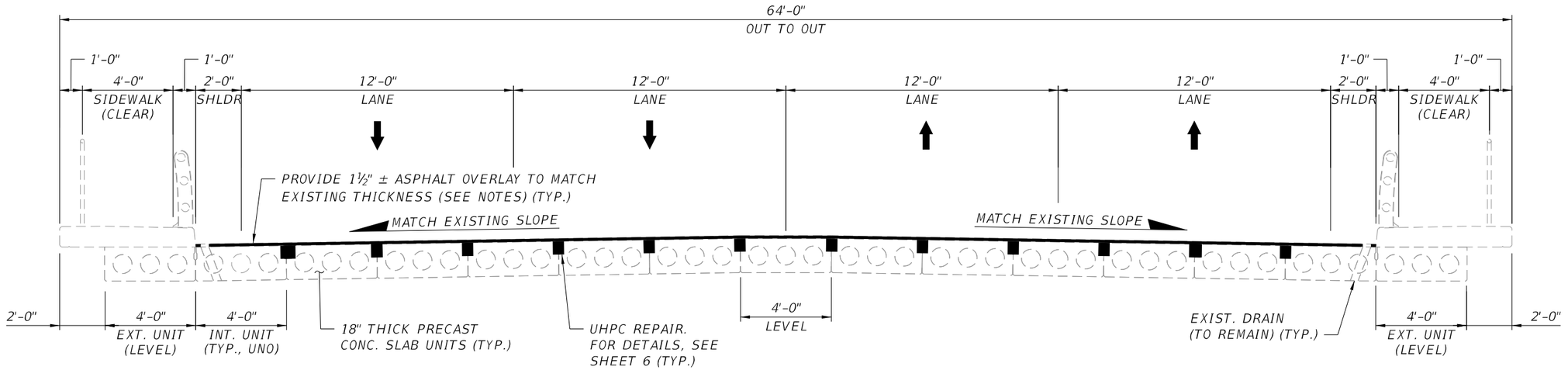
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EXISTING TYPICAL SECTION



PROPOSED TYPICAL SECTION

LEGEND:

UHPC: ULTRA HIGH PERFORMANCE CONCRETE.
SHLDR: SHOULDER

NOTES:

1. CONTRACTOR SHALL REMOVE EXISTING ASPHALT OVERLAY PRIOR TO IMPLEMENTING THE UHPC REPAIR. ASPHALT ON THE APPROACH SLAB SHALL BE GRADED FROM THE BEGIN/END APPROACH SLAB TO THE BEGIN/END BRIDGE TO AVOID A SUDDEN DROP IN THE TRAVELING SURFACE.
2. SEE TEMPORARY TRAFFIC CONTROL PLANS FOR CONSTRUCTION PHASES.

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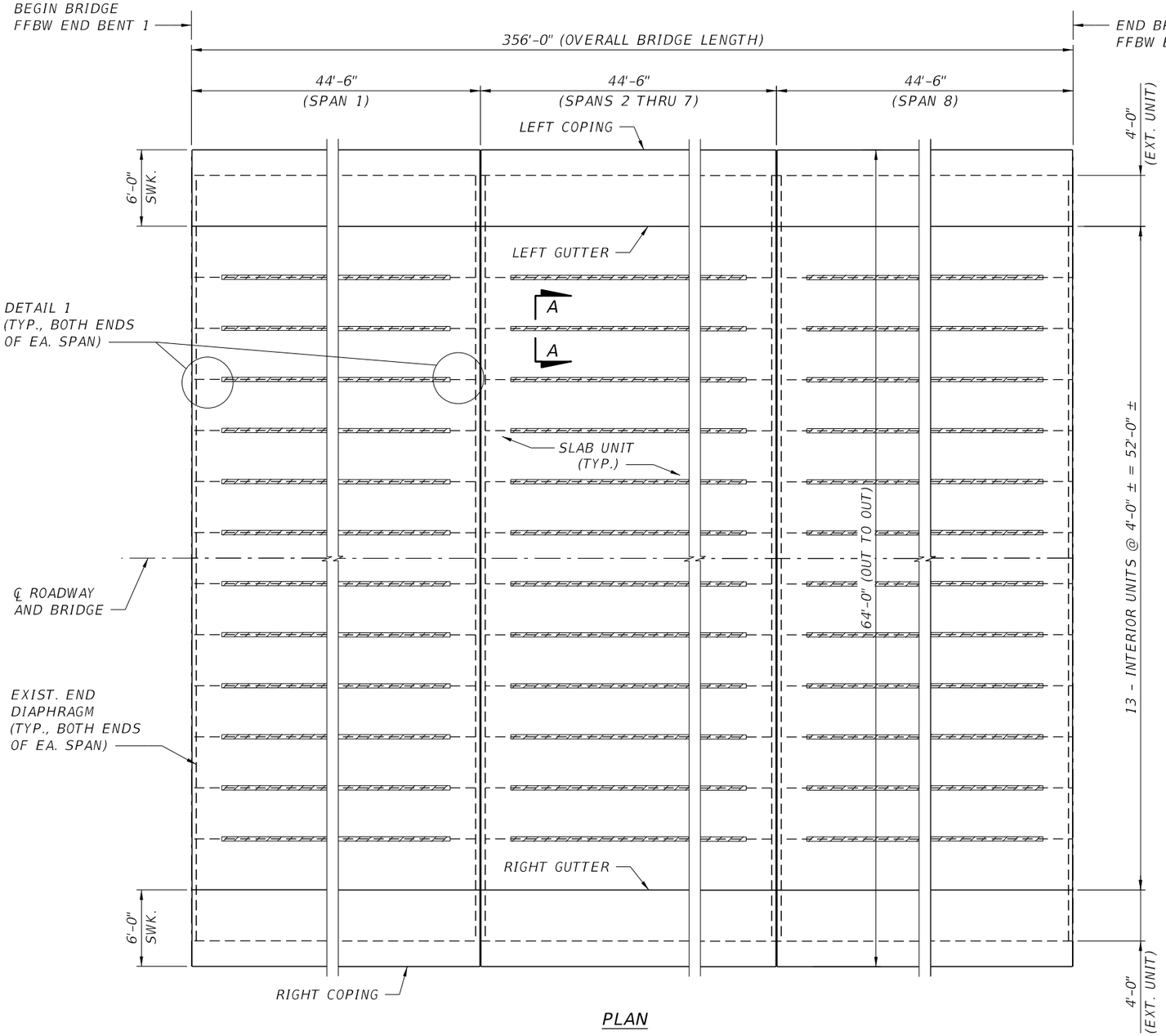
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TYPICAL SECTION

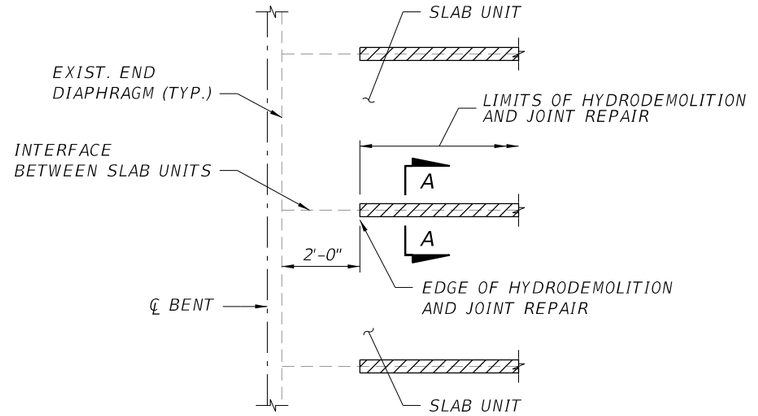
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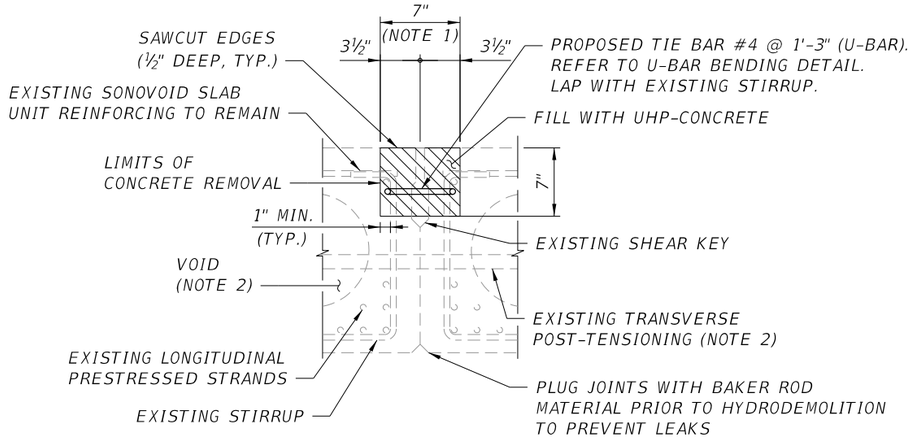
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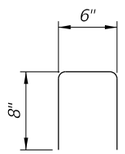
PLAN



DETAIL 1
LIMITS OF HYDRODEMOLITION AND UHPC



SECTION A-A
SLAB UNIT CONNECTION DETAIL USING UHPC



31 U-BARS PER JOINT.
NUMBER OF BARS TO BE FIELD
VERIFIED BASED ON EXISTING
STIRRUP SPACING.

#4 U-BAR BENDING DETAIL

LEGEND

▨ = AREAS OF HYDRODEMOLITION AND UHPC REPAIR.

FFBW = FRONT FACE OF BACKWALL

NOTES:

1. CONTRACTOR SHALL FIELD VERIFY EXISTING STIRRUP LOCATIONS AND PROVIDE 1" MIN. CLEARANCE BETWEEN EXISTING STIRRUPS AND EDGE OF CONCRETE REMOVAL.
2. CONTRACTOR SHALL AVOID PENETRATING THE VOIDS AS WELL AS DAMAGING THE EXISTING TRANSVERSE POST-TENSIONING BARS.

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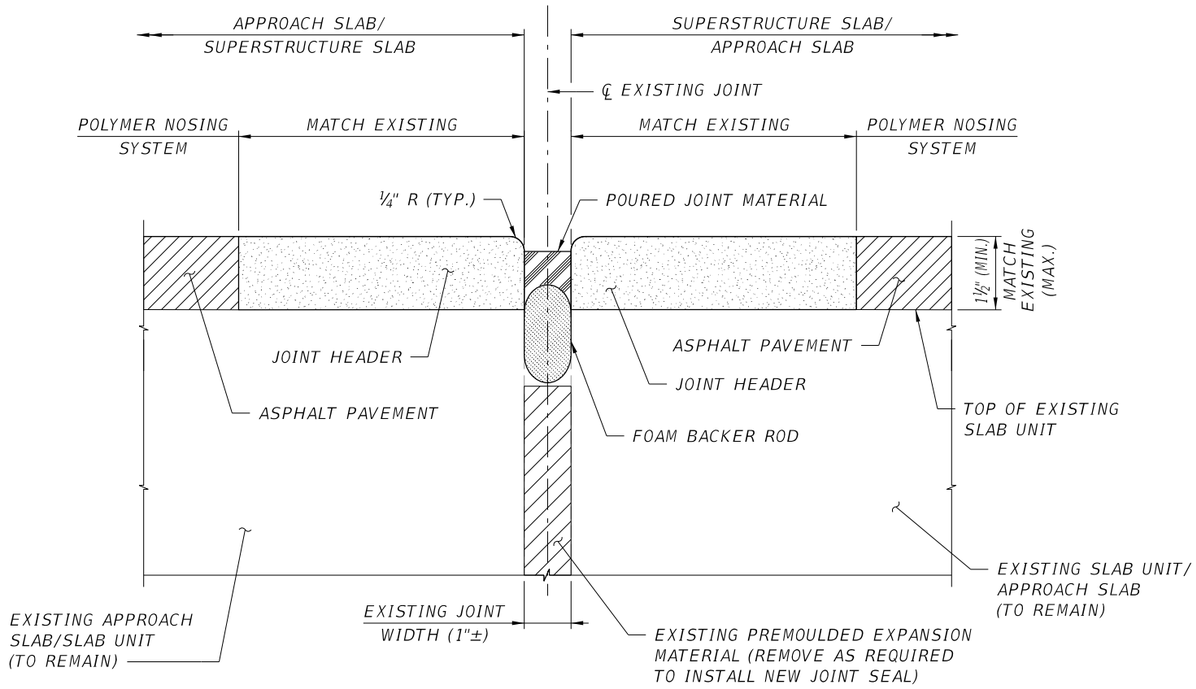
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SUPERSTRUCTURE DETAILS

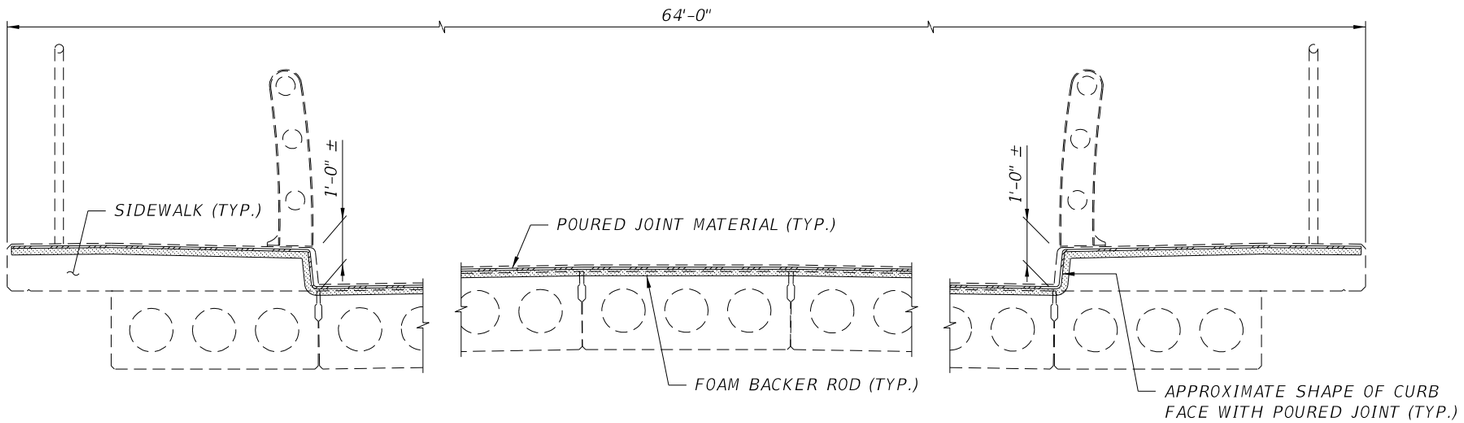
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TYPICAL SECTION THRU EXPANSION JOINT



TYPICAL SECTION ALONG EXPANSION JOINT

EXPANSION JOINT REPAIR NOTES:

1. REPLACE THE EXISTING JOINT SEALS AND OR POLYMER NOSING AT THE BENTS LISTED IN THE EXPANSION JOINT REPAIR LOCATIONS TABLE PER STANDARD SPECIFICATIONS SECTION 458 WITH NEW EXPANSION JOINTS AS SHOWN IN THE EXPANSION JOINT REPAIR DETAIL SHOWN ON THIS SHEET.
2. REPAIR QUANTITIES MAY DIFFER AT TIME OF CONSTRUCTION. ADDITIONAL REPAIRS MAY BE DIRECTED BY ENGINEER.
3. JOINT REPAIR SHALL BE COMPLETED AFTER RESURFACING DECK.
4. THE INSTALLATION SHALL BE AS SUCH TO PROVIDE A CONTINUOUS WATER SEAL ACROSS THE ENTIRE BRIDGE, INCLUDING THE SIDEWALKS.
5. POURED JOINT WITH BACKER ROD EXPANSION JOINT SYSTEM SHALL BE IN ACCORDANCE WITH SPECIFICATIONS SECTION 932 AND STANDARD INDEX NO. 458-110.
6. REPAIRED NOSING DEPTH TO MATCH EXISTING NOSING OR MINIMUM 1.5" FROM TOP OF ROADWAY SURFACE.
7. VERIFY EXISTING JOINT OPENINGS BEFORE ORDERING JOINT MATERIAL. THE MINIMUM RECOMMENDED JOINT WIDTH AT THE TIME OF JOINT INSTALLATION IS 1 INCH, UNLESS OTHERWISE SPECIFIED BY THE MANUFACTURER. THE CONTRACTOR SHALL NOTIFY THE ENGINEER IF A JOINT WIDTH IS LESS THAN ½ INCH OR MORE THAN 3 INCHES IS ENCOUNTERED. THE BACKER ROD SHALL ACCOMMODATE ANY CHANGES IN JOINT WIDTH ALONG THE LENGTH OF THE JOINT, ACCORDING TO THE MANUFACTURE'S RECOMMENDATIONS, THE CONTRACTOR SHALL NOTIFY THE ENGINEER IF THE JOINT WIDTH ALONG THE LENGTH OF THE JOINT VARIES BY MORE THAN ⅛ INCH.

EXPANSION JOINT REPAIR LOCATIONS

DEFICIENCY TYPE	LOCATION	LENGTH (FT)
NOSING FAILURE	END BENT 1	10
JOINT SEAL FAILURE	END BENT 1	66
NOSING FAILURE	INT. BENT 2	12
JOINT SEAL FAILURE	INT. BENT 2	66
NOSING FAILURE	INT. BENT 3	66
JOINT SEAL FAILURE	INT. BENT 4	3
NOSING FAILURE	INT. BENT 4	66
JOINT SEAL FAILURE	INT. BENT 5	4
NOSING FAILURE	INT. BENT 5	66
JOINT SEAL FAILURE	INT. BENT 6	3
NOSING FAILURE	INT. BENT 6	66
JOINT SEAL FAILURE	INT. BENT 7	66
NOSING FAILURE	INT. BENT 8	6
JOINT SEAL FAILURE	INT. BENT 8	66
NOSING FAILURE	END BENT 9	10
JOINT SEAL FAILURE	END BENT 9	66

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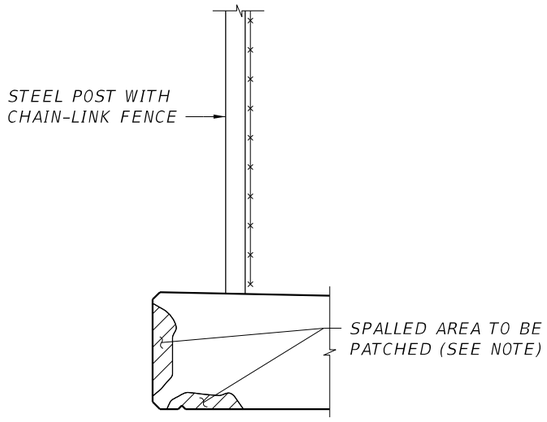
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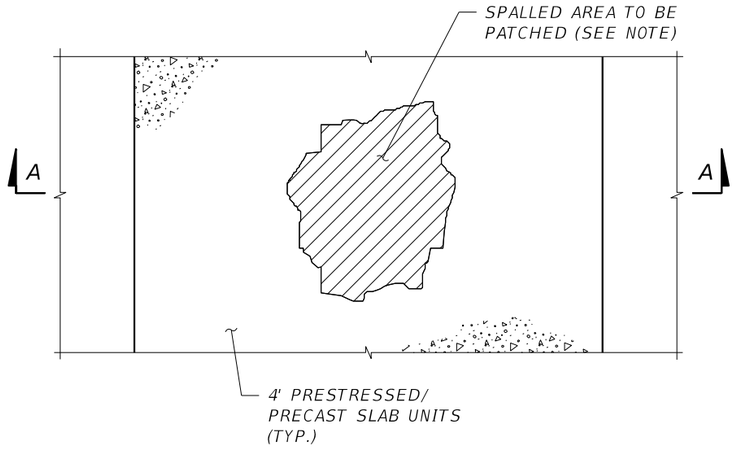
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EXPANSION JOINT REPAIR DETAILS

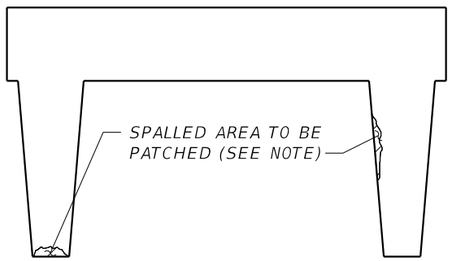
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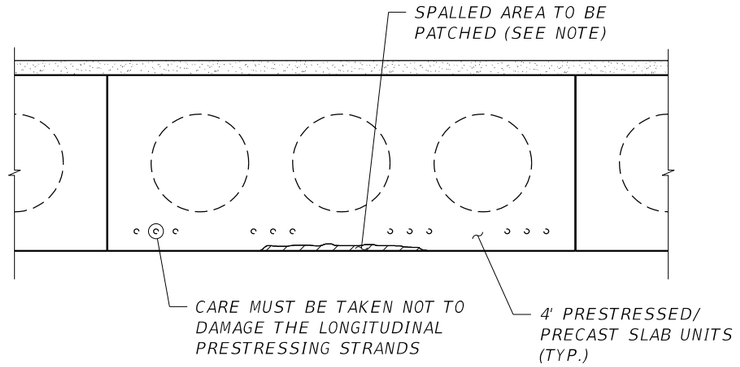
COPING REPAIR DETAIL



VIEW OF DECK UNDERSIDE



CHANNEL SECTION



SECTION A-A

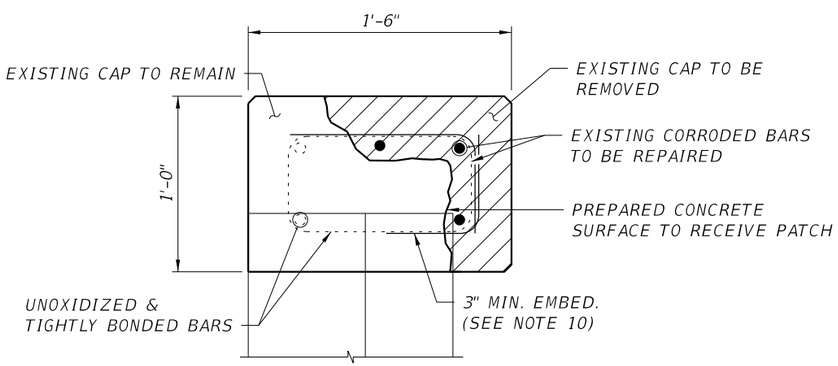
NOTE:

SEE SHEET 10 FOR SOME LOCATIONS OF THE BRIDGE SPALLS.

SUPERSTRUCTURE REPAIRS

LOCATION			REPAIR DIMENSIONS			
SPAN	LOCATION	DESCRIPTION	LENGTH (IN)	WIDTH (IN)	DEPTH (IN)	VOLUME (CF)
1	RIGHT SIDEWALK	SPALL	60.0	24.0	0.25	0.21
1	RIGHT SIDEWALK	SPALL	18.0	6.0	1.00	0.06
2	RIGHT SIDEWALK	SPALL	8.0	4.0	0.75	0.01
4	RIGHT SIDEWALK	SPALL	6.0	4.0	2.00	0.03
5	LEFT SIDEWALK	SPALL/DELAMINATION	16.0	10.0	5.00	0.46
6	RIGHT SIDEWALK	SPALL/DELAMINATION	12.0	8.0	0.25	0.01
6	RIGHT SIDEWALK	SPALL/DELAMINATION	36.0	6.0	1.50	0.19
8	RIGHT SIDEWALK	SPALL/DELAMINATION	6.0	6.0	1.00	0.02
8	LEFT SIDEWALK	SPALL	4.0	4.0	2.00	0.02
8	LEFT SIDEWALK	SPALL	48.0	10.0	5.00	1.39
1	UTILITY SUPPORT CHANNEL BEAM	SPALL	17.0	3.0	1.00	0.03
5	SLAB UNIT	SPALL/DELAMINATION	8.0	8.0	0.50	0.02
2	SLAB UNIT	SPALL	8.0	3.0	0.50	0.01
5	SLAB UNIT	DELAMINATION	18.0	18.0	0.25	0.05
5	SLAB UNIT	DELAMINATION	5.0	3.0	0.25	0.002
7	SLAB UNIT	DELAMINATION	36.0	5.0	0.25	0.03
7	SLAB UNIT	DELAMINATION	10.0	6.0	0.25	0.01
1	SLAB UNIT	SPALL	3.0	3.0	0.50	0.003
4	SLAB UNIT	SPALL	10.0	8.0	2.00	0.09
5	SLAB UNIT	SPALL	6.0	6.0	1.50	0.03
6	SLAB UNIT	SPALL	3.0	2.0	0.50	0.002
6	SLAB UNIT	SPALL	3.0	2.0	0.50	0.002
6	SLAB UNIT	SPALL/DELAMINATION	12.0	5.0	0.25	0.01
6	SLAB UNIT	SPALL/DELAMINATION	12.0	5.0	0.25	0.01
7	SLAB UNIT	SPALL	6.0	2.0	0.75	0.01
7	SLAB UNIT	SPALL	18.0	4.0	2.50	0.10

NOTE: THESE ARE SOME OF THE LOCATIONS PROVIDED BY THE BRIDGE INSPECTION REPORT. CONTRACTOR TO PROVIDE ADDITIONAL QUANTITIES AS MENTIONED IN THE GENERAL NOTES.



SEAWALL REPAIR DETAILS

SEAWALL REPAIR NOTES:

1. REMOVE LOOSE OR DELAMINATED CONCRETE ABOVE OXIDIZED REINFORCING STEEL. ONCE INITIAL REMOVALS ARE MADE, PROCEED WITH THE UNDERCUTTING OF ALL EXPOSED OXIDIZED (CORRODED) BARS.
2. PROVIDE RIGHT ANGLE CUTS AT ALL EDGES OF PATCH. AVOID FEATHER EDGES. PATCH CONFIGURATIONS SHALL BE KEPT AS SIMPLE AS POSSIBLE.
3. PROVIDE MINIMUM 1" CLEARANCE BETWEEN EXPOSED REBARS AND SURROUNDING CONCRETE.
4. CONCRETE REMOVALS SHALL EXTEND ALONG THE BARS TO LOCATIONS ALONG THE BAR FREE OF BOND INHIBITING MATERIAL (2" MINIMUM), AND WHERE THE BAR IS WELL BONDED TO SURROUNDING CONCRETE.
5. IF UNOXIDIZED REINFORCING STEEL IS EXPOSED DURING THE UNDERCUTTING PROCESS, CARE SHALL BE TAKEN NOT TO DAMAGE THE BAR'S BOND TO SURROUNDING CONCRETE. IF BOND BETWEEN BAR AND CONCRETE IS BROKEN, UNDERCUTTING OF THE BAR SHALL BE REQUIRED.
6. REMOVE ALL HEAVY OXIDES, SCALE OR OTHER BOND INHIBITING MATERIALS FROM EXPOSED REINFORCEMENT PRIOR TO PLACEMENT OF PATCH MATERIAL. CLEANING OF REINFORCEMENT AND PLACEMENT OF PATCH MATERIAL SHALL OCCUR WITHIN THE SAME DAY.
7. WET EXISTING CONCRETE SURFACES PRIOR TO PLACEMENT OF PATCH MATERIAL. SURFACES SHALL BE DAMP, BUT WITHOUT VISIBLE FREE WATER.
8. IF REBAR HAS LOST MORE THAN 25% OF IT'S CROSS SECTION, SPLICE A NEW BAR OF EQUAL SIZE OVER AFFECTED SECTION. LAP LENGTH SHALL BE 3'-0".
9. RE-TIE ALL EXISTING EXPOSED REINFORCEMENT INTERSECTION PRIOR TO PLACEMENT OF REPAIR CONCRETE.
10. SET DOWELS IN A STRUCTURAL ADHESIVE BONDING COMPOUND DESIGNATED AS TYPE HV FROM THE FDOT APL.

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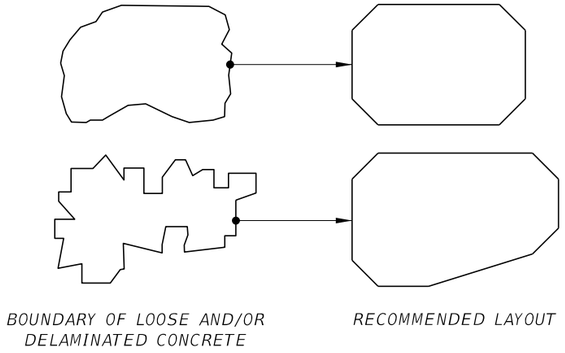
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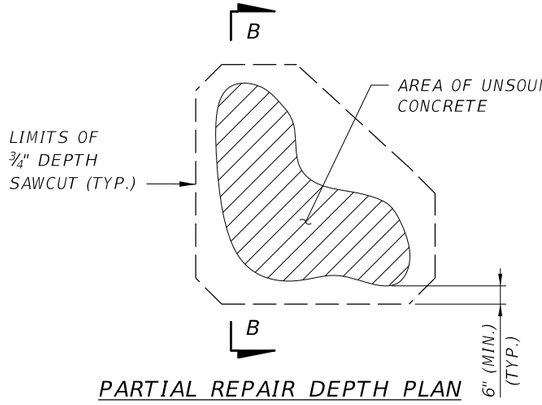
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CONCRETE REPAIR DETAILS (1 OF 3)

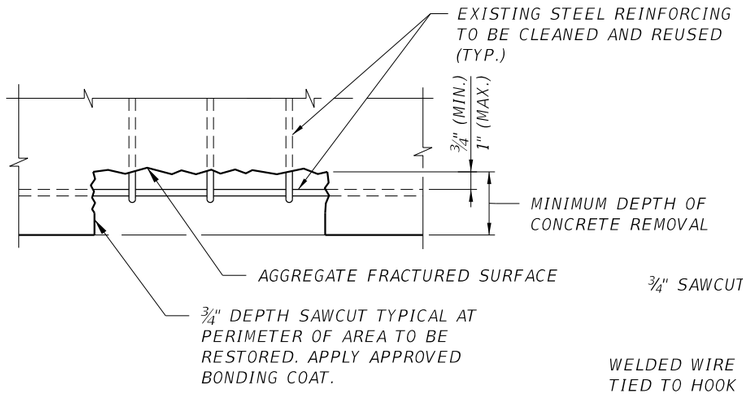
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TYPICAL SPALL CONFIGURATIONS

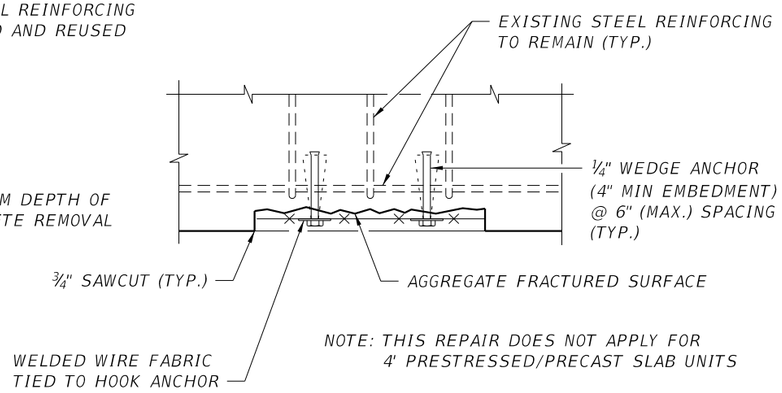


PARTIAL REPAIR DEPTH PLAN



SECTION B-B

(SEE SPALL/DELAMINATION REPAIR PROCEDURE, NOTE 2)



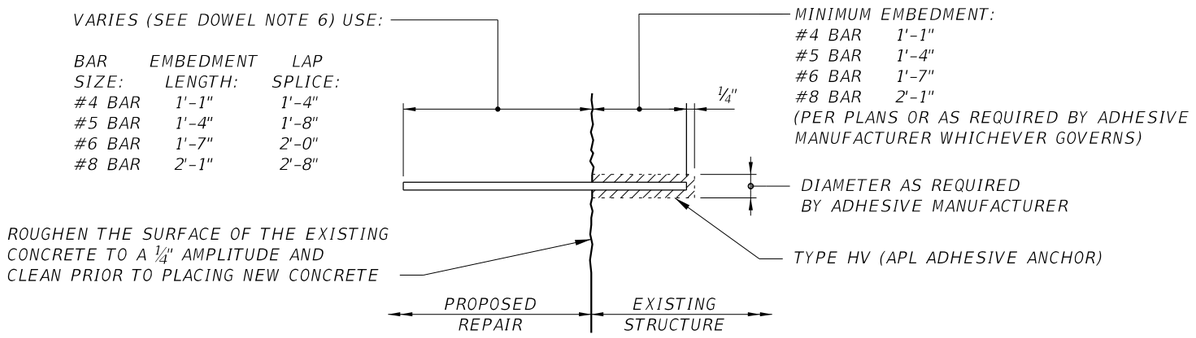
SECTION B-B

(SEE SPALL/DELAMINATION REPAIR PROCEDURE, NOTE 3)

SPALL/DELAMINATION REPAIR DETAILS

SPALL/DELAMINATION REPAIR PROCEDURE:

1. SAWCUT ALONG PERIMETER OF AREA TO BE RESTORED. AVOID SHARP CORNERS.
2. WHEN CONCRETE REMOVAL EXPOSES REINFORCING STEEL, REMOVE ALL UNSOUND CONCRETE WITHIN THE SAWCUT LIMITS BY CHIPPING TO SOUND CONCRETE. REMOVE CONCRETE A MINIMUM OF 1" DEEP WITHIN SAWCUT LIMITS AND 1" AROUND REINFORCEMENT. USE SQUARE EDGES FOR ALL REPAIRS. ANY REINFORCING STEEL THAT IS DAMAGED BY THE CONTRACTOR IS TO BE REPAIRED AT NO COST TO THE OWNER. IF ANY REINFORCEMENT IS FOUND TO BE DAMAGED, INFORM THE ENGINEER AND REQUEST INSTRUCTIONS AS HOW TO PROCEED.
3. WHEN CONCRETE REMOVAL DOES NOT EXPOSE REINFORCING STEEL, REMOVE ALL UNSOUND CONCRETE WITHIN THE SAWCUT LIMITS BY CHIPPING TO SOUND CONCRETE. LOCATE EXISTING REINFORCEMENT BARS TO AVOID CONFLICT WITH WEDGE ANCHOR PRIOR TO INSTALLATION. USE SQUARE EDGES FOR ALL REPAIRS. PROVIDE MINIMUM COVER OF 2 INCHES TO WELDED WIRE FABRIC.
4. MEDIA BLAST THE EXPOSED CONCRETE SURFACES AND ANY REINFORCING STEEL TO A SSPC-SP10 CONDITION.
5. PROVIDE AN AGGREGATE-FRACTURED SURFACE WITH A MINIMUM SURFACE PROFILE AMPLITUDE OF ¼" BY USE OF SCRABBLER OR OTHER APPROPRIATE MEANS AS NECESSARY.
6. WET EXPOSED CONCRETE SURFACES WITH CLEAN, POTABLE WATER. APPLY AN APPROVED BONDING AGENT TO THE EXPOSED CONCRETE SURFACES TO MANUFACTURER RECOMMENDATIONS.
7. PLACE FORM WORK. FORMWORK MAY BE SUPPORTED BY GRADE 316 STAINLESS STEEL INSERTS WHERE REQUIRED. LOCATE STAINLESS STEEL INSERTS IN SOUND CONCRETE. RECESS AND PATCH STAINLESS STEEL INSERTS LEFT IN PLACE.
8. PLACE LATEX MODIFIED PORTLAND-CEMENT MORTAR/CONCRETE. PLAN REPAIR TO PREVENT THE FORMATION OF VOIDS. PLACE BY PUMP OR POUR METHODS UNLESS OTHERWISE APPROVED BY THE ENGINEER. MATCH REPAIR GROUT SURFACE TO SURROUNDING CONCRETE SURFACES. PROVIDE "V" GROOVE CONSTRUCTION JOINTS AND DRIP NOTCHES TO MATCH ANY EXISTING. CURE PER MANUFACTURERS SPECIFICATIONS.
9. OPEN CONSTRUCTION JOINTS WILL NOT BE CONSIDERED ACCEPTABLE.



DOWEL AND REINFORCING STEEL REPAIR DETAILS

(STRAIGHT DOWELS SHOWN, BENT DOWELS SIMILAR)

DOWEL NOTES:

1. EMBED THE DOWEL BARS THE MINIMUM LENGTH TO DEVELOP A CAPACITY OF 1.25 x Fy TENSION IN THE DOWEL BARS. DOWELS ARE REQUIRED WHEN THE EXISTING REINFORCEMENT HAS LOST MORE THAN 20% OF ITS CROSS SECTION. LENGTH OF DOWEL EMBEDMENT SHOWN TO THE RIGHT IS BASED ON FDOT APPROVED PRODUCT LIST (APL) TYPE HV ADHESIVE ANCHOR.
2. DRY AND THOROUGHLY CLEAN HOLES FOR DOWEL BARS PRIOR TO PLACING EPOXY AND DOWELS.
3. PLACE HOLES A MINIMUM OF 3" CLEARANCE FROM THE EDGE OF THE CONCRETE.
4. SET DOWELS IN A STRUCTURAL ADHESIVE BONDING COMPOUND DESIGNATED AS TYPE HV.
5. PRIOR TO DRILLING FOR DOWELS, LOCATE EXISTING REINFORCEMENT STEEL TO AVOID DAMAGE TO EXISTING REINFORCEMENT BARS. IN THE EVENT THAT UNEXPECTED REINFORCEMENT STEEL IS ENCOUNTERED, SHIFT THE HOLE TO CLEAR AND SEAL THE UNUSED DRILLED HOLE WITH EPOXY.
6. THE MINIMUM REQUIRED EMBEDMENT LENGTH FOR DOWEL BARS EXTENDING INTO THE PROPOSED REPAIR IS SHOWN. THIS EMBEDMENT LENGTH MAY VARY AT LOCATIONS REQUIRING LAPPING TO PROPOSED REINFORCING.

REVISIONS			
DATE	DESCRIPTION	DATE	DESCRIPTION

BCC ENGINEERING, LLC.
CARLOS A. DILLON, P.E. No. 86908
6401 SW 87th Avenue, Suite 200.
Miami, Florida 33173
P: (305) 670-2350 F: (305) 670-2351
Certificate of Authorization No. 7184

TOWN OF BAY HARBOR ISLANDS	
BRIDGE NO.	COUNTY
875103	MIAMI-DADE

CONCRETE REPAIR DETAILS (2 OF 3)

SHEET NO. 9

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PEDESTRIAN WALKWAY



COPING



COPING



COPING



BEAM UNDERSIDE



BEAM UNDERSIDE



BEAM UNDERSIDE



BEAM UNDERSIDE



CHANNEL



CHANNEL



CHANNEL



CHANNEL

FIELD PICTURES

NOTE: THESE ARE SOME PICTURES OF THE SPALLS ON THE BRIDGE.

REVISIONS			
DATE	DESCRIPTION	DATE	DESCRIPTION

BCC ENGINEERING, LLC.
CARLOS A. DILLON, P.E. No. 86908
6401 SW 87th Avenue, Suite 200.
Miami, Florida 33173
P: (305) 670-2350 F: (305) 670-2351
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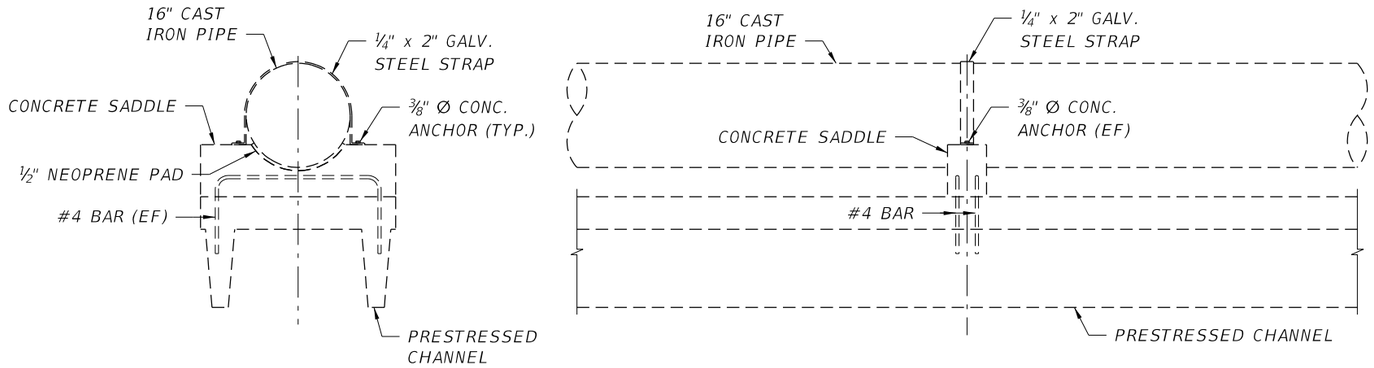
TOWN OF BAY HARBOR ISLANDS

BRIDGE NO.	COUNTY
875103	MIAMI-DADE

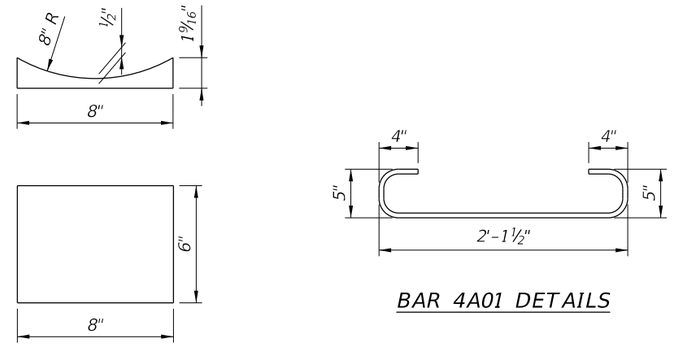
CONCRETE REPAIR DETAILS (3 OF 3)

SHEET NO. 10

THE OFFICIAL RECORD OF THIS SHEET IS THE ELECTRONIC FILE DIGITALLY SIGNED AND SEALED UNDER RULE 61G15-23.004, F.A.C.

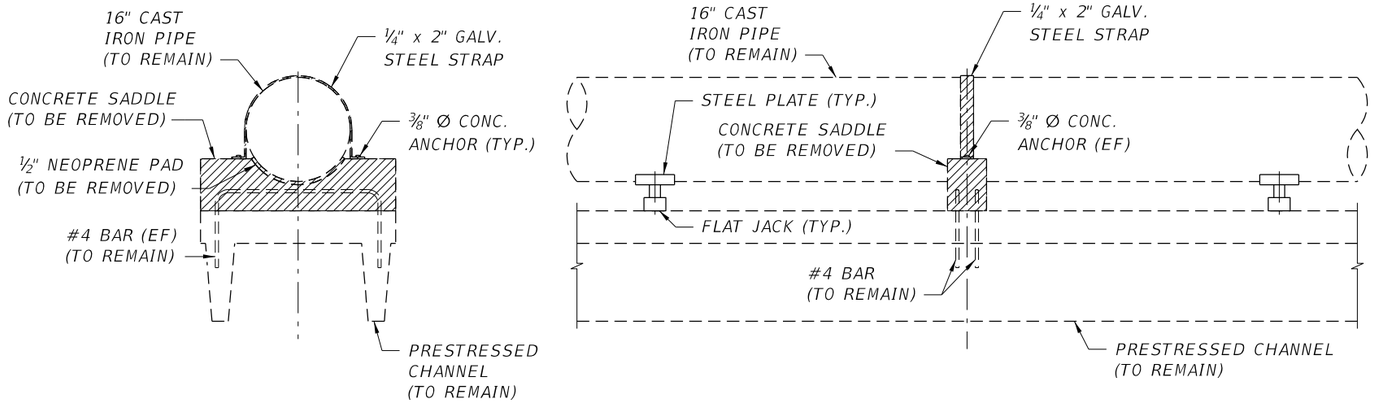


EXISTING CONDITIONS

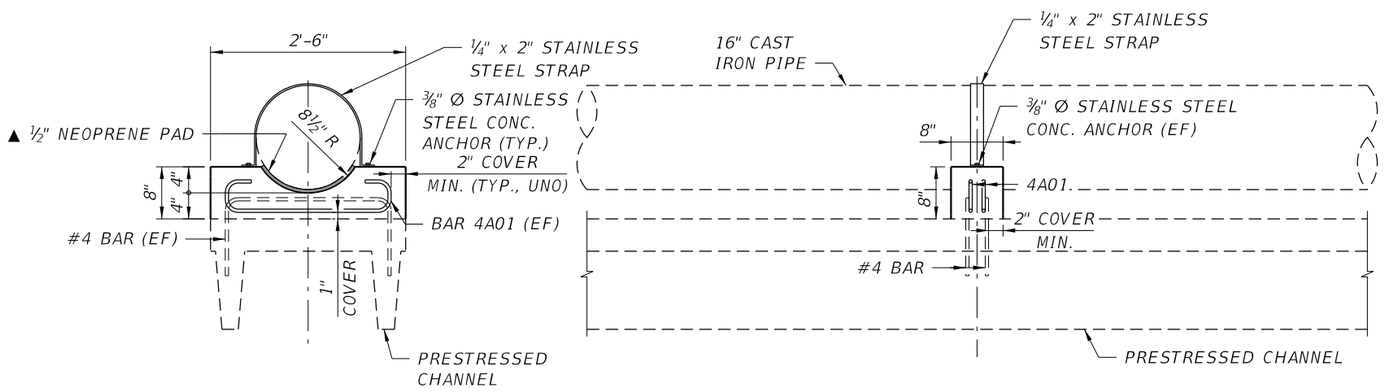


BAR 4A01 DETAILS

STEEL PLATE DETAILS



REPAIR PROCEDURE



FINAL CONDITIONS

▲ PROVIDE TWO LAYERS OF 30 POUND SMOOTH ROOFING PAPER ON TOP OF NEOPRENE PAD

1. REMOVE GALVANIZED STEEL STRAP AROUND PIPE.
2. SLIGHTLY LIFT PIPE WITH JACKS AND STEEL PLATES, CARE MUST BE TAKEN NOT TO DAMAGE THE PIPE.
3. CAREFULLY, CHIP AWAY CONCRETE SADDLE AND LEAVE EXISTING REBARS IN PLACE. IF EXISTING REBAR IS DAMAGED OR IN BAD CONDITIONS, FOLLOW DOWEL PROCEDURE IN THE CONCRETE REPAIR DETAILS SHEET TO REPLACE DAMAGED REBAR.
4. REMOVE EXISTING NEOPRENE PAD IF STILL ATTACHED TO THE PIPE.

ESTIMATED QUANTITIES FOR SADDLE REPAIRS

ITEM (PER SADDLE)	UNIT	QUANTITY TOTAL
CLASS II CONCRETE	CF	1.02
REINFORCING STEEL	LB	3.95

1. ATTACH NEW NEOPRENE PAD UNDER PIPE WITH AN ADHESIVE PRODUCT FROM THE APL.
2. PLACE REBARS AS SHOWN.
3. CAST CONCRETE SADDLE WITH CLASS II CONCRETE.
4. SLOWLY LOWER THE PIPE INTO ITS FINAL POSITION AND REMOVE JACK AND STEEL PLATES.
5. SECURE PIPE WITH STAINLESS STEEL STRAP AND STAINLESS STEEL CONCRETE ANCHORS. DRILL DIAMETER TO BE IN ACCORDANCE WITH EPOXY ADHESIVE MANUFACTURER'S RECOMMENDATIONS FOR THE SPECIFIED ANCHOR DIAMETER. INSERT ANCHOR BOLT WITH 3" MINIMUM EMBEDMENT INTO CONCRETE. PROVIDE AN FDOT APL EPOXY ADHESIVE PER FDOT SPECIFICATIONS SECTION 937.

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REVISIONS			
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TOWN OF BAY HARBOR ISLANDS

BRIDGE NO.	COUNTY
875103	MIAMI-DADE

INTERMEDIATE SADDLE REPAIR DETAILS (1 OF 2)

SHEET NO. 11

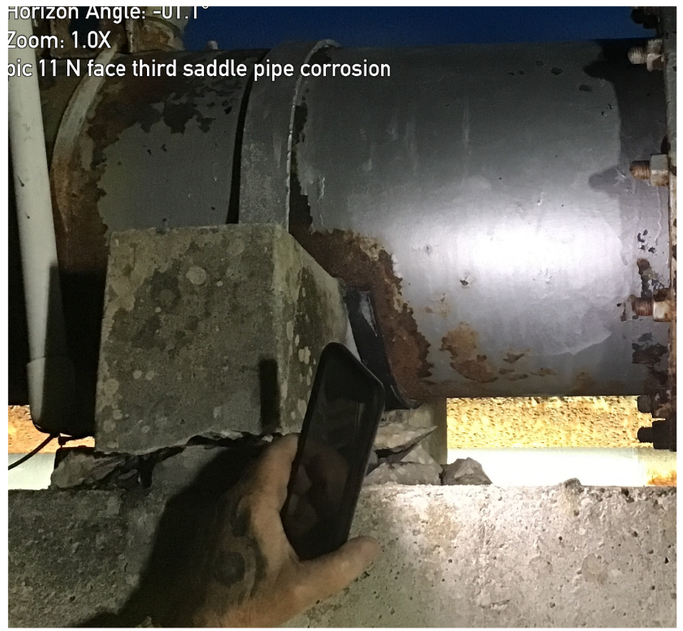












FIELD PICTURES

NOTE: THESE ARE SOME PICTURES OF THE UTILITY SADDLES.

REVISIONS			
DATE	DESCRIPTION	DATE	DESCRIPTION

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TOWN OF BAY HARBOR ISLANDS

BRIDGE NO.	COUNTY
875103	MIAMI-DADE

INTERMEDIATE SADDLE REPAIR DETAILS (2 OF 2)

SHEET NO. 12

cdillon 5/3/2023 8:54:29 AM c:\bms\bcc-pw-01\carlos dillon\d0191283\B1MiscDet05.dgn

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LOAD RATING SUMMARY DETAILS FOR PRESTRESSED CONCRETE BRIDGES (FLAT SLAB AND DECK/GIRDER)

Table Date 07-01-15

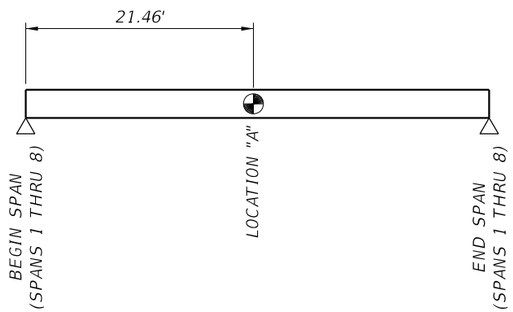
TABLE 2 - LRFR

LEVEL	LIMIT STATE	VEHICLE	WEIGHT (TONS)	LOAD FACTORS			MOMENT (STRENGTH) OR STRESS (SERVICE)					SHEAR (STRENGTH)					
				LL	DC	DW	DISTRIBUTION FACTOR (DF)	RATING FACTOR	TONS	LOCATION	DIMENSION	DISTRIBUTION FACTOR (DF)	RATING FACTOR	TONS	LOCATION	DIMENSION	COMMENTS: INTERIOR/EXTERIOR BEAM DF METHOD IF OTHER THAN LRFD. OTHER APPROPRIATE COMMENTS
DESIGN LOAD RATING	STRENGTH I (INV)	HL-93	N/A	1.75	1.25	1.50	0.32	0.91	N/A	A	21.46'	N/A	N/A	N/A	N/A	N/A	ALL BEAMS, ALL SPANS
	STRENGTH I (OP)	HL-93	N/A	1.35	1.25	1.50	0.32	1.18	N/A	A	21.46'	N/A	N/A	N/A	N/A	N/A	ALL BEAMS, ALL SPANS
	SERVICE III (INV)	HL-93	N/A	0.80	1.00	1.00	0.32	1.12	N/A	A	21.46'	N/A	N/A	N/A	N/A	N/A	ALL BEAMS, ALL SPANS
LEGAL LOAD RATING	STRENGTH I	C3	28.0	1.35	1.25	1.50	0.32	2.21	61.91	A	21.46'	N/A	N/A	N/A	N/A	N/A	ALL BEAMS, ALL SPANS
	STRENGTH I	C4	36.6	1.35	1.25	1.50	0.32	1.66	60.98	A	21.46'	N/A	N/A	N/A	N/A	N/A	ALL BEAMS, ALL SPANS
	STRENGTH I	C5	40.0	1.35	1.25	1.50	0.32	1.57	62.73	A	21.46'	N/A	N/A	N/A	N/A	N/A	ALL BEAMS, ALL SPANS
	STRENGTH I	ST5	40.0	1.35	1.25	1.50	0.32	1.63	65.18	A	21.46'	N/A	N/A	N/A	N/A	N/A	ALL BEAMS, ALL SPANS
	STRENGTH I	SU2	17.0	1.35	1.25	1.50	0.32	2.47	42.05	A	21.46'	N/A	N/A	N/A	N/A	N/A	ALL BEAMS, ALL SPANS
	STRENGTH I	SU3	33.0	1.35	1.25	1.50	0.32	1.31	43.25	A	21.46'	N/A	N/A	N/A	N/A	N/A	ALL BEAMS, ALL SPANS
	STRENGTH I	SU4	35.0	1.35	1.25	1.50	0.32	1.22	42.78	A	21.46'	N/A	N/A	N/A	N/A	N/A	ALL BEAMS, ALL SPANS
	STRENGTH I	EV2	28.8	1.30	1.25	1.50	0.32	1.69	48.48	A	21.46'	N/A	N/A	N/A	N/A	N/A	ALL BEAMS, ALL SPANS
	STRENGTH I	EV3	43.0	1.30	1.25	1.50	0.32	1.08	46.54	A	21.46'	N/A	N/A	N/A	N/A	N/A	ALL BEAMS, ALL SPANS
PERMIT LOAD RATING	STRENGTH II	FL120	60.0	1.35	1.25	1.50	0.32	0.86	51.86	A	21.46'	N/A	N/A	N/A	N/A	N/A	ALL BEAMS, ALL SPANS

GENERAL NOTES:
1. THIS TABLE IS BASED ON THE REQUIREMENTS ESTABLISHED IN THE JANUARY 2022 "STRUCTURES MANUAL".
2. RATING FACTORS CALCULATED USING PRECAST/PRESTRESSED GIRDER MODULE OF LEAP BRIDGE ENTERPRISE CONCRETE CONNECT EDITION VERSION 19.02.00.33 ON 08/07/2020.

TABLE 2 NOTES [NOTES DATE 07-01-15]:
1. PERMIT CAPACITY IS DETERMINED BY USING THE PERMIT VEHICLE IN ALL LANES.
2. SERVICE III DESIGN INVENTORY TENSILE STRESS LIMITS = $3\sqrt{F'C}$.
3. HAS THE AASHTO LRFD SPECIFICATIONS ARTICLE 5.8.3.5 LONGITUDINAL REINFORCEMENT BEEN SATISFIED?
   ☒ YES ☐ NO

ABBREVIATIONS:
INV - INVENTORY
OP - OPERATING



RATING LOCATIONS

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REVISIONS			
DATE	DESCRIPTION	DATE	DESCRIPTION

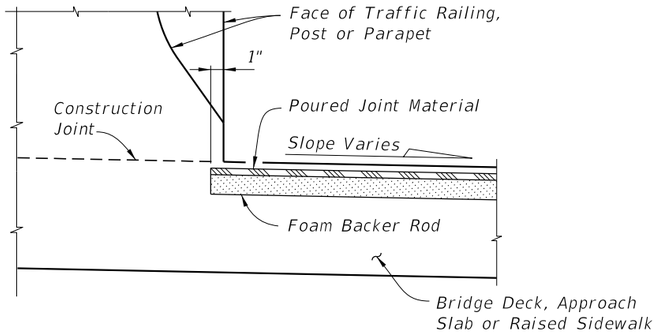
BCC ENGINEERING, LLC.
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TOWN OF BAY HARBOR ISLANDS

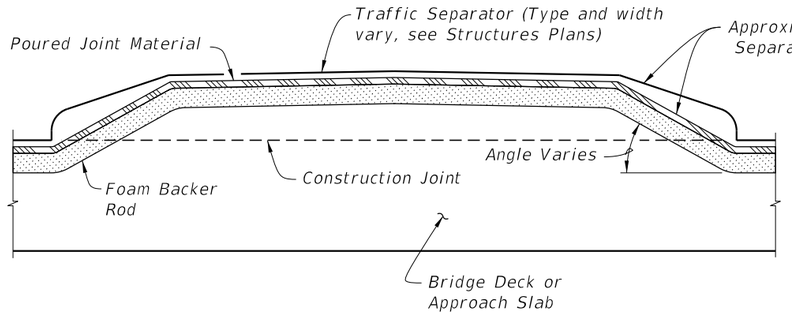
BRIDGE NO.	COUNTY
875103	MIAMI-DADE

LOAD RATING CHART

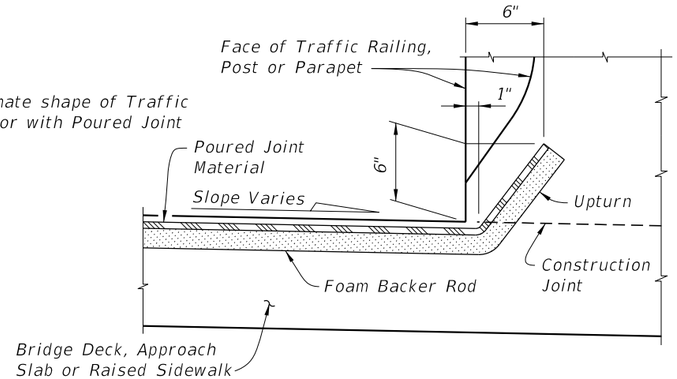
SHEET NO. 13



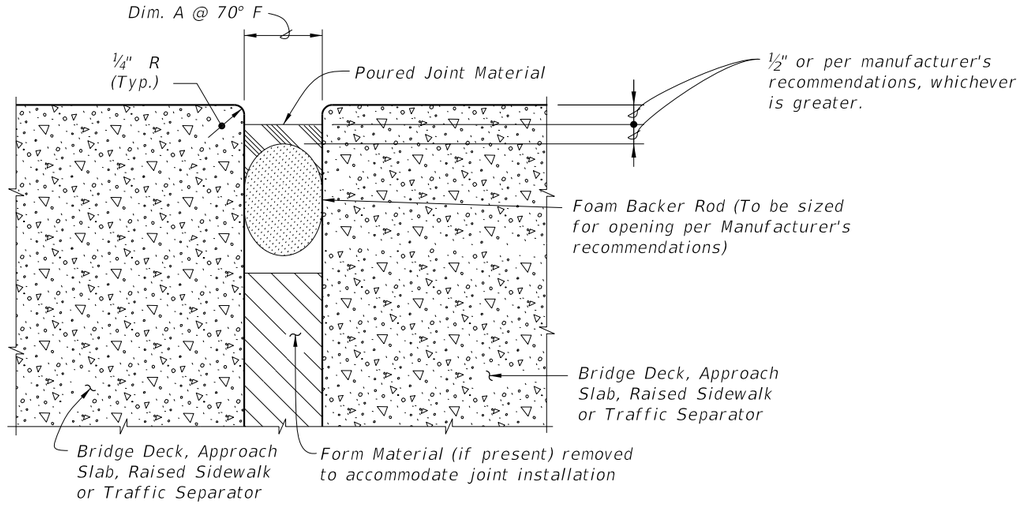
PARTIAL SECTION ALONG ℄ JOINT
JOINT TREATMENT AT HIGH SIDE OF
DECK WITH SLOPES 1% OR GREATER



PARTIAL SECTION ALONG ℄ JOINT,
JOINT TREATMENT AT TRAFFIC SEPARATOR



PARTIAL SECTION ALONG ℄ JOINT
JOINT TREATMENT AT LOW SIDE OF DECK OR
HIGH SIDE OF DECK WITH SLOPES < 1%



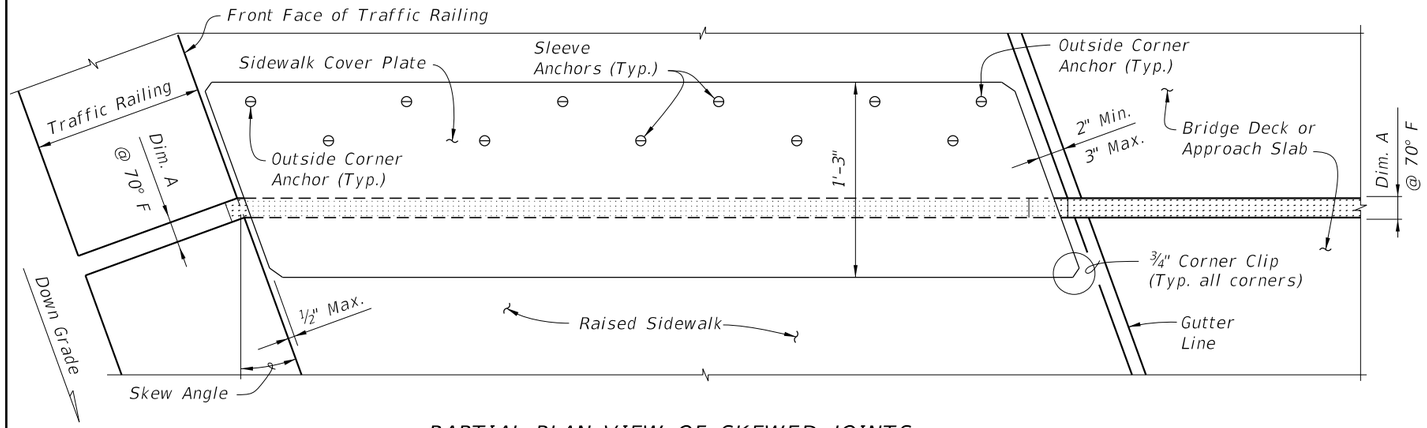
TYPICAL SECTION THRU JOINT

GENERAL NOTES:

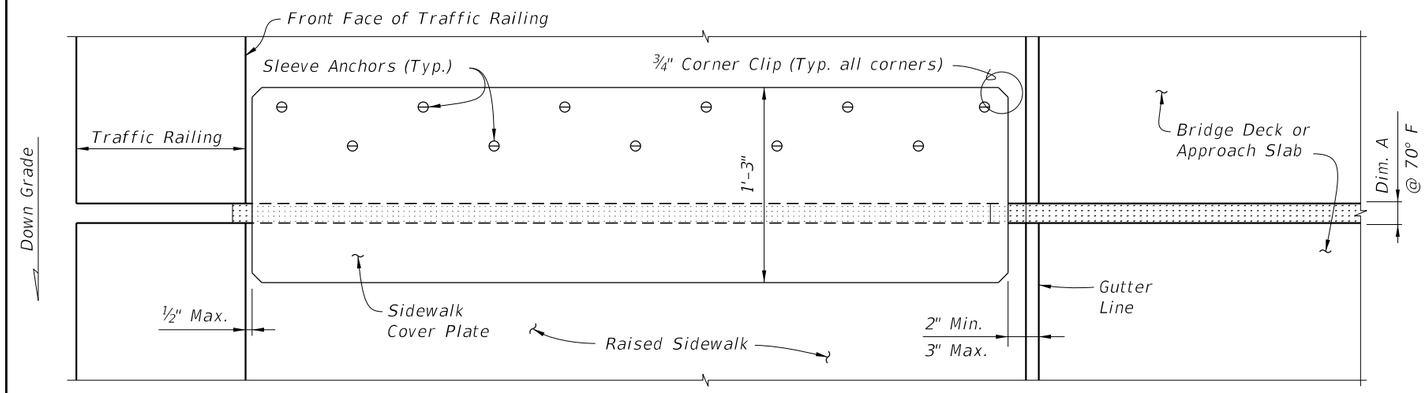
1. Furnish and install Poured Joint With Backer Rod Expansion Joint Systems in accordance with Specification Sections 458 and 932 using Type D silicone sealant material.
2. Refer to the Structures Plans, Poured Expansion Joint Data Table for Dim. A @ 70° F.

10/21/2022 11:15:13 AM

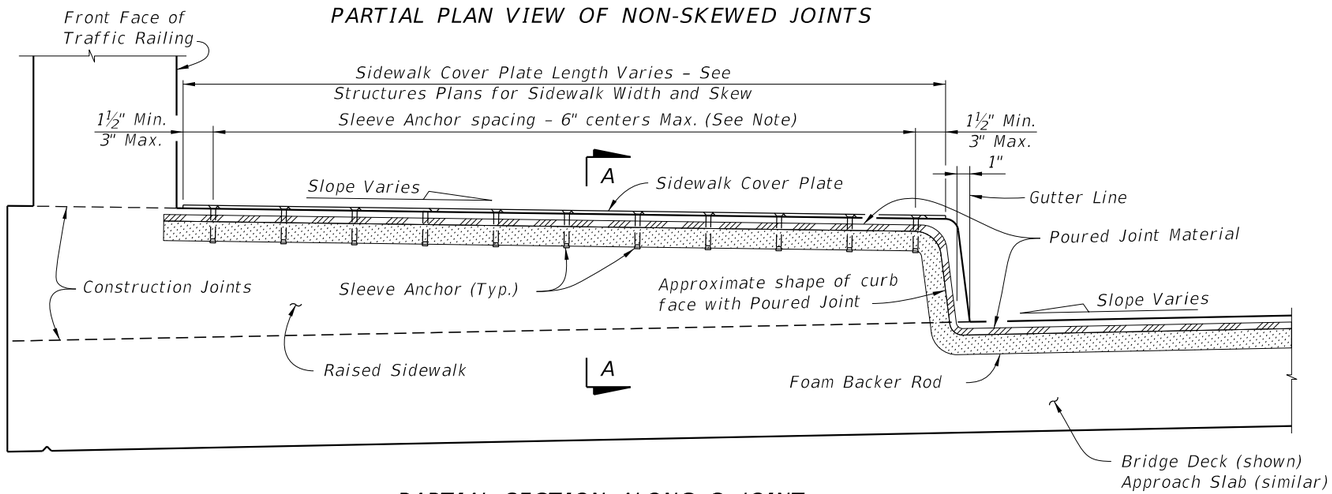
LAST REVISION	REVISION	DESCRIPTION:			INDEX	SHEET
07/01/14			FY 2023-24 STANDARD PLANS	EXPANSION JOINT SYSTEM - POURED JOINT WITH BACKER ROD	458-110	1 of 2



PARTIAL PLAN VIEW OF SKEWED JOINTS

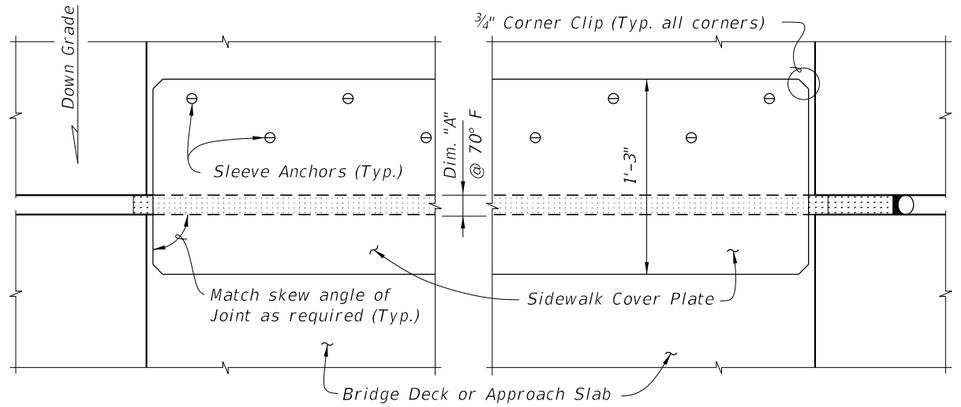


PARTIAL PLAN VIEW OF NON-SKEWED JOINTS

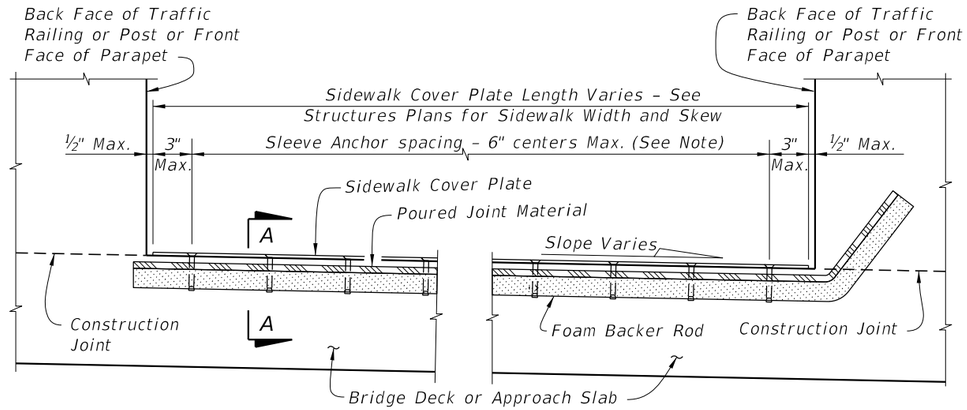


PARTIAL SECTION ALONG ℄ JOINT

RAISED SIDEWALK DETAIL

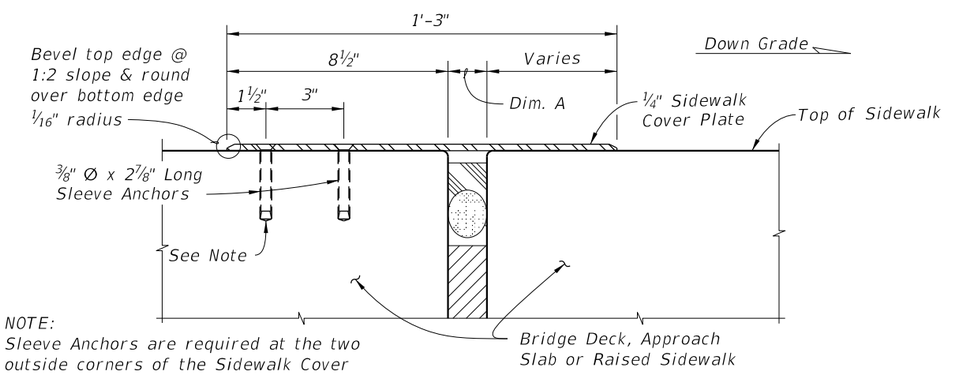


PARTIAL PLAN VIEW



PARTIAL SECTION ALONG ℄ JOINT

FLUSH SIDEWALK DETAIL



NOTE:
Sleeve Anchors are required at the two outside corners of the Sidewalk Cover Plate. Space Sleeve Anchors uniformly between the corner anchors.

SECTION A-A

10/21/2022 11:15:15 AM

LAST REVISION	REVISION	DESCRIPTION:			INDEX	SHEET
07/01/13			FY 2023-24 STANDARD PLANS	EXPANSION JOINT SYSTEM - POURED JOINT WITH BACKER ROD	458-110	2 of 2

MARLIN

November 02, 2021

Town of Bay Harbor Island
Public Works Department

Attn: Mr. Douglas P. Armstrong, Public Works Director
9665 bay Harbor Terrace
Bay Harbor Islands, FL 33154
(305) 866-6241

SUBJECT: FDOT District 6 – Local Government Bridge Inspection Program (LGBI)
Signed and Sealed Electronic Bridge Inspection Reports

Dear Mr. Armstrong,

Included in this package, you will find signed and sealed electronic bridge inspection report(s) for your agency. The report(s) included in this package was/were inspected during August 2021.

REPORTS INCLUDED:

875103

Should you have any questions or concerns regarding this submittal, please contact Mrs. Hope Sotolongo-Miranda, (FDOT Consultant Project Manager) at 305-470-5251. email: Hope.Sotolongo-Miranda@dot.state.fl.us

Sincerely,

Alexis Rego, CBI
Bridge Program Manager
786-863-4391

cc: Sepehr Amiri, EI, Consultant Inspection Project Manager
Jose Quintana, P.E., Marlin V.P. of Operations

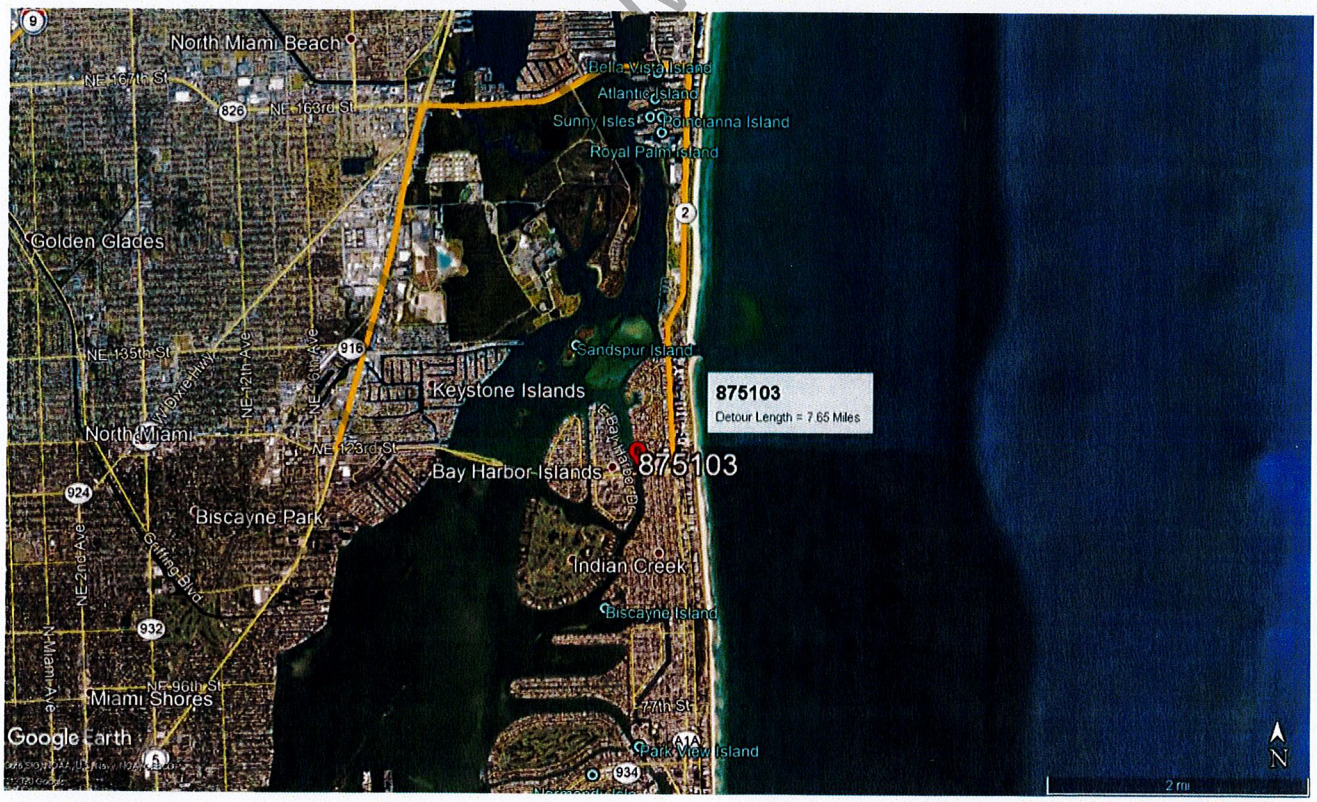
FOR INFORMATION ONLY

FDOT	**BRIDGE INSPECTION REPORT** PREPARED FOR: FDOT District 6 BRIDGE OWNER: TOWN OF BAY HARBOR ISLAND INSPECTION TYPE: Interim CONTRACT No. CA611	Inspected by: **Marlin Engineering, Inc.**
Bridge No. 875103	**REPORT CONTAINS**	**Inspection Date: 08-17-21**

- ☒ BrM Inspection Report
- ☒ CIDR Information
- ☐ Bridge Profile
- ☐ Underwater Inspection
- ☐ Fracture Critical Data
- ☒ Load Rating Summary Sheet
- ☐ Addendum
- ☐ Mechanical and Electrical Data



Kane Concourse over Indian creek	**Facility Carried & Location**	**80 ft. E/O Bayharbor Dr.**



Location Map		**Detour Length = 7.65 Miles**

MARLIN ONLY

FLORIDA DEPARTMENT OF TRANSPORTATION
BRIDGE MANAGEMENT SYSTEM
Inspection/CIDR Report with PDF attachment(s)
(INTERIM INSPECTION REPORT)

Structure ID: 875103 **Inspection**

DISTRICT: D6 - Miami **INSPECTION DATE: 8/17/2021 PFLH**

BY:	Marlin Engineering, Inc.	STRUCTURE NAME:	Not recorded
OWNER:	4 City/Municipal Hwy Agy	YEAR BUILT:	1963
MAINTAINED BY:	4 City/Municipal Hwy Agy	SECTION NO.:	87 066 000
STRUCTURE TYPE:	5 Prestressed Concrete - 01 Slab	MP:	5.176
LOCATION:	80 ft. E/O Bayharbor Dr.	ROUTE:	00000
SERV. TYPE ON:	5 Highway-pedestrian	FACILITY CARRIED:	Kane Concourse
SERV. TYPE UNDER:	5 Waterway	FEATURE INTERSECTED:	Indian creek

☐ FUNCTIONALLY OBSOLETE ☒ STRUCTURALLY DEFICIENT

TYPE OF INSPECTION: Interim

DATE FIELD INSPECTION WAS PERFORMED: ABOVE WATER: 8/17/2021 UNDERWATER: 8/18/2020

SUFFICIENCY RATING: 38
HEALTH INDEX: 93

FOR INFORMATION ONLY

This report contains information relating to the physical security of a structure and depictions of the structure. This information is confidential and exempt from public inspection pursuant to sections 119.071(3)(a) and 119.071(3)(b), Florida Statutes. Only the cover page of this report may be inspected and copied.

FLORIDA DEPARTMENT OF TRANSPORTATION
BRIDGE MANAGEMENT SYSTEM
Inspection/CIDR Report with PDF attachment(s)
(INTERIM INSPECTION REPORT)

Structure ID: 875103 **Inspection**

DISTRICT: D6 - Miami **INSPECTION DATE: 8/17/2021 PFLH**

BY:	Marlin Engineering, Inc.	STRUCTURE NAME:	Not recorded
OWNER:	4 City/Municipal Hwy Agy	YEAR BUILT:	1963
MAINTAINED BY:	4 City/Municipal Hwy Agy	SECTION NO.:	87 066 000
STRUCTURE TYPE:	5 Prestressed Concrete - 01 Slab	MP:	5.176
LOCATION:	80 ft. E/O Bayharbor Dr.	ROUTE:	00000
SERV. TYPE ON:	5 Highway-pedestrian	FACILITY CARRIED:	Kane Concourse
SERV. TYPE UNDER:	5 Waterway	FEATURE INTERSECTED:	Indian creek

- [ ] THIS BRIDGE CONTAINS FRACTURE CRITICAL COMPONENTS
- [X] THIS BRIDGE IS SCOUR CRITICAL
- [ ] THIS REPORT IDENTIFIES DEFICIENCIES WHICH REQUIRE PROMPT CORRECTIVE ACTION
- [ ] FUNCTIONALLY OBSOLETE
- [X] STRUCTURALLY DEFICIENT

TYPE OF INSPECTION: Interim

DATE FIELD INSPECTION WAS PERFORMED: ABOVE WATER: 8/17/2021 UNDERWATER: 8/18/2020

OVERALL NBI RATINGS:

DECK:	4 Poor	CHANNEL:	7 Minor Damage
SUPERSTRUCTURE:	4 Poor	CULVERT:	N N/A (NBI)
SUBSTRUCTURE:	6 Satisfactory	SUFF. RATING:	38
PERF. RATING:	Poor	HEALTH INDEX:	93

FIELD PERSONNEL / TITLE / NUMBER: **INITIALS**

Noriega, Kevin - Bridge Inspector Team Leader (PE# 89264) (lead) KN Digitally signed by KN Date: 2021.09.30 13:57:09 -04'00'

Denis-Levy, Eduardo - Assistant Bridge Inspector

REVIEWING BRIDGE INSPECTION SUPERVISOR:

Rego, Alexis - Bridge Inspector (CBI#00409) AR Digitally signed by AR Date: 2021.09.30 13:52:30 -04'00'

CONFIRMING REGISTERED PROFESSIONAL ENGINEER:

Cuervo Guilarte, Erick - Operations Structural Engr (PE# 82455) Marlin Engineering, Inc.
6840 NW 77th Court
Miami Florida 33166

SIGNATURE: Erick Cuervo Guilarte

Digitally signed by Erick Cuervo Guilarte
Date: 2021.09.30 14:35:35 -04'00'

DATE:

ERICK CUERVO GUILARTE ★ LICENSE ★ No. 82455 ★ STATE OF FLORIDA PROFESSIONAL ENGINEER

The official record of this package has been electronically signed and sealed by Erick Cuervo Guillarte, P.E. on the date adjacent to the seal a s required by Rule 61G15-23.004, F.A.C.. Printed copies of this document are not considered signed and sealed and the signature must be verified on any electronic copies.

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FLORIDA DEPARTMENT OF TRANSPORTATION
BRIDGE MANAGEMENT SYSTEM
Inspection/CIDR Report with PDF attachment(s)
(INTERIM INSPECTION REPORT)

Structure ID: 875103 **Inspection**

DISTRICT: D6 - Miami **INSPECTION DATE: 8/17/2021 PFLH**

All Elements

DECKS : Decks/Slabs

Str Unit	Elem/Env	Description	Qty1	%1	Qty2	%2	Qty3	%3	Qty4	%4	T Qty
0	8099 / 4	PS Conc Slab (Sonovoid)	21833	96.08	371	1.63	520	2.29	0	.	22724 (SF)
0	1080 / 4	Delamination/Spall/Patched Area	0	.	9	81.82	2	18.18	0	.	11 (SF)
0	1090 / 4	Exposed Rebar	0	.	1	10	9	90	0	.	10 (SF)
0	1100 / 4	Exposed Prestressing	0	.	1	100	0	.	0	.	1 (SF)
0	1110 / 4	Cracking (PSC)	0	.	0	.	509	100	0	.	509 (SF)
0	1900 / 4	Distortion	0	.	360	100	0	.	0	.	360 (SF)
0	510 / 4	Wearing Surfaces	17579	94.72	0	.	979	5.28	0	.	18558 sq.ft
0	3220 / 4	Crack (Wearing Surface)	0	.	0	.	979	100	0	.	979 sq.ft

Element Inspection Notes:

8099/4 Notes: The deck top is not visible due to an asphalt overlay.
Spall/delamination 10in. L x 6in. W x 1/2in. D in Slab Unit 6-1 underside with one exposed transverse rebar at mid span was not found during this inspection cycle and was removed from the report.

SECONDARY:
_The sidewalks have multi-directional cracks up to 1/32in. W throughout. NO CHANGE. NCAR.

_The right sidewalk, Span 1 has minor spalling and delaminations in an area 60in. L x 24in. W x up to 1/4in. D at mid-span. Refer to Photo 01. NO CHANGE.

_The right sidewalk underside, Span 1 has a spall 18in. L x 6in. W x 1in. D with one exposed rebar having 90% section remaining over Bent 2. Refer to Photo 02. NEW.

_The right sidewalk, south fascia at Span 2 has a spall 8in. H x 4in. W x 3/4in. D with exposed rebar with moderate corrosion near Bent 3. Refer to Photo 03. NO CHANGE.

_Span 4, right sidewalk has a spall 6in. L x 4in. W x 2in. D in the south edge over Bent 5. NO CHANGE. NCAR.

_Span 5, left sidewalk has a spall/delamination 16in. L x 10in. W x 5in. D in the north edge over Bent 5. NO CHANGE. NCAR.

_Span 6, right sidewalk has a spall/delamination 1ft. L x 8in. W x 1/4in. D. at the aluminum post 6-2. NO CHANGE. NCAR.

_The underside of right sidewalk overhang, at Span 6 has a spall/delamination 3ft. L x 6in. W x 1-1/2in. D with two exposed rebars having up to 60% section remaining in a previously repaired area. Refer to Photo 04. NO CHANGE.

_The underside of the right sidewalk overhang in Span 8 has intermittent delaminations up to 8in. W and spalls up to 6in. L x 6in. W x 1in. D with exposed rebars in an area extending from Bent 8 to mid-span. Refer to Photo 05. NO CHANGE.

_The underside of the left sidewalk overhang in Span 8 has spalls at the anchors for the roadway light pole pedestal up to 4in. L x 4in. W x 2in. D and a 4ft. L x 10in. W x 5in. D spall with exposed rebar with light surface corrosion in the north face of the light pole pedestal. NO CHANGE.

_The utility support channel beam, bottom south stem has a spall 17in. L x 3in. W x 1in. D with exposed strand having up to 90% section remaining at Span 1, next to Bent 2. Refer to

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Photo 06. NO CHANGE.

_The utility support channel beam, north face of Span 4 has intermittent spalls up to span length with exposed and broken strands. Refer to Photo 07. NO CHANGE.

_There is concrete splatter at Lane 4 of Span 2. NO CHANGE. NCAR.

For additional deficiencies refer to Defects 1080, 1090, 1100, 1110, and 1900.

PREVIOUS RECOMMENDED CORRECTIVE ACTION:
_Remove tree growing at Bent 7 between Slabs units 7-15 and 8-15.
_Repair spall/delamination on the right sidewalk at Span 1, midspan.
_Repair spall with exposed rebar at the right sidewalk, south fascia at Span2 near Bent 3.
_Repair spall with exposed strands ends at Slab Unit 7-15 over Bent 7.
_Clean and coat exposed strands, repair spalls/delaminations and reinforce the utility support beam at Span 4.
_Repair spalls with exposed rebars along both sidewalk overhangs at Spans 6 and 8.
_Clean and coat exposed strands, repair spall on the utility support beam at Span 1 next to Bent 2.
_Repair spalls with exposed rebars along the underside of Slabs Units 4-5, 5-3, 5-4, 6-1, 6-5, 6-7, and 7-6.

CORRECTIVE ACTION EVALUATION:
_The corrective action noted above was not completed. Recommendation will be repeated.
_The corrective action noted above was not completed. Recommendation will be repeated.
_The corrective action noted above was not completed. Recommendation will be repeated.
_The corrective action noted above was not completed. Recommendation will be repeated.
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1080/4 CS-3:
_The underside of Slab Unit 5-13 has minor spalled/delaminated area 8in. L x 8in. W x 1/2in. D at Bent 6. (Total 1 SF) NO CHANGE. NCAR.

_The underside of Slab Unit 2-1 has spall 8in. L x 3in. W x 1/2in. D on the south edge, 5ft from Bent 2. (Total 1 SF) NO CHANGE. NCAR.

CS-2:
_Slab Unit 5-14 exhibits a delamination 18in. L x 18in. W around second scupper from Bent 5. (Total 4 SF) NEW. NCAR.

_Slab Unit 5-15, south edge exhibits a delamination 5in. L x 3in. W over Bent 5. (Total 1 SF) NEW. NCAR.

_Slab Unit 7-11 has a delamination 3ft. L x 5in. W in the north edge at Bent 8 cap. (Total 3 SF) Refer to Photo 08. NO CHANGE. NCAR.

_Slab Unit 7-15 has a delamination 10in. L x 6in. W in the south face over Bent 8 due to vegetation. (Total 1 SF) NO CHANGE. NCAR.

1090/4 CS-3:
_Slab Units 1-7 and 1-8 exhibit a spall up to 3in. diameter x 1/2in. D with one exposed transverse rebar having up to 50% section remaining, located at 18ft. and 19ft. from Bent 2. (Total 2 SF) Refer to Photo 09. NEW.

_The underside of Slab Unit 4-5 has a spall 10in. L x 8in. W x 2in. D with one exposed

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transverse rebar having up to 70% section remaining at mid-span. (Total 1 SF) Refer to Photo 10. NO CHANGE.

_The underside of Slab Unit 5-3 has a spall 6in. L x 6in. W x 1-1/2in. D with one exposed transverse rebar having up to 70% section remaining at mid-span. (Total 1 SF) NO CHANGE.

_The underside of Slab unit 6-5 has 2 spalls up to 3in. L x 2in. W x 1/2in. D each with one exposed corroded rebar having up to 70% section remaining near Bent 7. (Total 2 SF) Refer to Photo 11. NO CHANGE.

_The underside of Slab Unit 6-7 has two spall/delaminations up to 12in. L x 5in. W x 1/4in. D, each with one exposed transverse rebar having up to 70% section remaining, at 17ft. and 22ft. from Bent 6. (Total 2 SF) NO CHANGE.

_The underside of Slab Unit 7-6 has a minor spall up to 6in. L x 2in. W x 3/4in. D with one exposed transverse rebar having up to 70% section remaining, 6ft. from Bent 7. (Total 1 SF) NO CHANGE.

CS-2:
_Slab Unit 5-4 has an exposed rebar approximately 1ft. L with no measurable section loss due to lack of concrete cover at mid-span.(Total 1 SF) Refer to Photo 12. NO CHANGE.

1100/4 CS-2:
_Slab Unit 7-15 has a full height x 4in. L x 2-1/2in. D spall with exposed strands ends in the south face over Bent 7, possibly due to a tree growing at this area. (Total 1 SF) Refer to Photo 13. NO CHANGE.

1110/4 CS-3:
_The underside of the slab units in all spans have hairline flexure transverse cracks between the 1/3 and 2/3 points of the slab units. Previously noted in Spans 1 and 8. (Total 509 SF) Refer to Photo 14. INCREASE. NCAR.

1900/4 CS-2:
_Slab Unit 2-1 is misaligned vertically with negative camber up to 2in. H at midspan, indicating shear key failure. (Total 180 SF) NO CHANGE.

_Slab Unit 8-8 is misaligned vertically with negative camber up to 1-1/2in. H at midspan indicating shear key failure. (Total 180 SF) Refer to Photo 15. NEW.

510/4 Refer to Defect 3220 for deficiencies.

PREVIOUS RECOMMENDED CORRECTIVE ACTION:
_Monitor slabs units for independent movement.

CORRECTIVE ACTION EVALUATION:
_This is an ongoing corrective action. Recommendation will be repeated.

3220/4 CS-3:
There are 4 longitudinal cracks up to span length x 1/8in. W on Span 1, north of the centerline, and 3 longitudinal cracks on the rest of the spans along the slab units joints, possibly indicating shear key failure and independent slab units movement. (Total 979 SF) Refer to Photo 16. NO CHANGE.

Total Number of Elements*: 1
*excluding defects/protective systems

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DISTRICT: D6 - Miami **INSPECTION DATE: 8/17/2021 PFLH**

Inspector Recommendations

UNIT: 0 **DECKS**

ELEMENT/ENV: 8099 / 4 PS Conc Slab (Sonovoid) **ELEM CATEGORY: Decks/Slabs**

CONDITION STATE		PRIORITY
1 , 2 , 3	MMS Quantity: 10 sf Element Estimated Quantity: 10 (SF)	3

WORK ORDER RECOMMENDATION:
Repair area of spalling and delamination in the right sidewalk at Span 1, midspan. Photo 01

CONDITION STATE		PRIORITY
1 , 2 , 3	MMS Quantity: 2 sf Element Estimated Quantity: 2 (SF)	3

WORK ORDER RECOMMENDATION:
Clean and coat exposed strand, repair spall on the utility support beam at Span 1. Photo 06

CONDITION STATE		PRIORITY
1 , 2 , 3	MMS Quantity: 1 sf Element Estimated Quantity: 1 (SF)	3

WORK ORDER RECOMMENDATION:
Remove tree growing at Bent 7 between Slabs units 7-15 and 8-15. Photo 13

CONDITION STATE		PRIORITY
1 , 2 , 3	MMS Quantity: 44 sf Element Estimated Quantity: 44 (SF)	3

WORK ORDER RECOMMENDATION:
Repair spalls and reinforce the utility support beam at Span 4. Photo 07

CONDITION STATE		PRIORITY
1 , 2 , 3	MMS Quantity: 37 sf Element Estimated Quantity: 37 (SF)	3

WORK ORDER RECOMMENDATION:
Repair spalls with exposed rebars along both sidewalk overhangs. Photos 02 to 05

ELEMENT/ENV: 8099:1090 / 4 Exposed Rebar **ELEM CATEGORY: Decks/Slabs**

CONDITION STATE		PRIORITY
2 , 3	MMS Quantity: 10 sf Element Estimated Quantity: 10 (SF)	3

WORK ORDER RECOMMENDATION:
Clean and coat exposed rebars and repair spalls along the underside of slabs units. Photos 09 to 12

ELEMENT/ENV: 8099:1100 / 4 Exposed Prestressing **ELEM CATEGORY: Decks/Slabs**

CONDITION STATE		PRIORITY
2	MMS Quantity: 1 sf Element Estimated Quantity: 1 (SF)	3

WORK ORDER RECOMMENDATION:
Repair spall with exposed strands ends at Slab Unit 7-15 over Bent 7. Photo 13

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Inspector Recommendations

UNIT: 0 **DECKS**

ELEMENT/ENV: 8099:1900 / 4 Distortion **ELEM CATEGORY: Decks/Slabs**

CONDITION STATE			PRIORITY
2	MMS Quantity: 360 sf	Element Estimated Quantity: 360 (SF)	3

WORK ORDER RECOMMENDATION:

Monitor the slab units for independent movement. Photos 15 and 16

Structure Notes

BRIDGE OWNER: TOWN OF BAY HARBOR ISLAND

8 Spans PS Conc Slab on R/Conc Caps on P/S Conc Columns

Structure inventoried from west to east.

Overhang dimensions for Bridges with Railings and Sidewalks cantilevered from sonovoid slabs:
_Left overhang dimension (22in.)
_Right overhang dimension (17in.)

TRAFFIC RESTRICTIONS: Based on the current load rating analysis dated 6/30/09, posting is not required. The structure is not posted.

REVIEWED BY:

Erick Cuervo Guilarte

Digitally signed by Erick Cuervo Guilarte
Date: 2021.09.30 14:35:07 -04'00'

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INSPECTION NOTES: **PFLH** **8/17/2021**

Sufficiency Rating Calculation Accepted by knmeira at 9/27/2021 2:32 PM.

This Interim inspection was conducted to evaluate Element 8099 PS Conc Slab (Sonovoid). Refer to the last Regular NBI Inspection (08/18/2020) for the condition of the entire structure. (08/17/2021).

Following the "Additional Guidance for Assigning NBI Ratings for Deck/Superstructure for Sonovoid Slab Bridges", NBI Rating for SIA Item 58 Deck and Item 59 Superstructure remain coded as 4 Poor due to transverse flexure cracks in the Slab Units underside. (08/17/2021).

LOAD CAPACITY EVALUATION:
Since the current load rating dated 6/30/2009, there is no indication that deterioration, geometric changes or additional dead load have occurred that would warrant a new load rating analysis. This only applies to this inspection dated (08/17/2021) per Erick Cuervo, P.E.

The structure is on a 12 months inspection frequency due to NBI Rating 4 for SIA Items 58 Deck and 59 Superstructure. (08/17/2021).

LEGEND:

NCAR: NO CORRECTIVE ACTION RECOMMENDED.
RT: Right
LT: Left
NC: No Change
INC: Increase
CAT: Corrective Action Taken
L: Long
W: Wide
H: High
D: Deep
UW: Underwater
S.L.: Section Loss
in.: Inches
ft.: Feet

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Photo 01 Element/Env 8099/4: PS Conc Slab (Sonovoid)

The right sidewalk, Span 1 has minor spalling and delamination in an area 60in. L x 24in. W x up to 1/4in. D at mid-span.

WORK ORDER RECOMMENDATION:
Repair area of spalling and delamination in the right sidewalk at Span 1, midspan.

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Photo 02 Element/Env 8099/4: PS Conc Slab (Sonovoid)

The right sidewalk underside, Span 1 has a spall 18in. L x 6in. W x 1in. D with one exposed rebar having 90% section remaining over Bent 2.

WORK ORDER RECOMMENDATION:
Repair spalls with exposed rebars along both sidewalk overhangs.

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Photo 03 Element/Env 8099/4: PS Conc Slab (Sonovoid)

The right sidewalk, south fascia at Span 2 has a spall 8in. H x 4in. W x 3/4in. D with exposed rebar with moderate corrosion near Bent 3.

WORK ORDER RECOMMENDATION:
Repair spalls with exposed rebars along both sidewalk overhangs.

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Photo 04 Element/Env 8099/4: PS Conc Slab (Sonovoid)

The underside of right sidewalk overhang, at Span 6 has a spall/delamination 3ft. L x 6in. W x 1-1/2in. D with two exposed rebars having up to 60% section remaining in a previously repaired area.

WORK ORDER RECOMMENDATION:
Repair spalls with exposed rebars along both sidewalk overhangs.

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Photo 05 Element/Env 8099/4: PS Conc Slab (Sonovoid)

The underside of the right sidewalk overhang in Span 8 has intermittent delaminations up to 8in. W and spalls up to 6in. L x 6in. W x 1in. D with exposed rebars in an area extending from Bent 8 to mid-span.

WORK ORDER RECOMMENDATION:
Repair spalls with exposed rebars along both sidewalk overhangs.

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Photo 06 Element/Env 8099/4: PS Conc Slab (Sonovoid)

The utility support channel beam, bottom south stem has a spall 17in. L x 3in. W x 1in. D with exposed strand having up to 90% section remaining at Span 1, next to Bent 2.

WORK ORDER RECOMMENDATION:
Clean and coat exposed strand, repair spall on the utility support beam at Span 1.

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Photo 07 Element/Env 8099/4: PS Conc Slab (Sonovoid)

The utility support channel beam, north face of Span 4 has intermittent spalls up to span length with exposed and broken strands.

WORK ORDER RECOMMENDATION:
Repair spalls and reinforce the utility support beam at Span 4.

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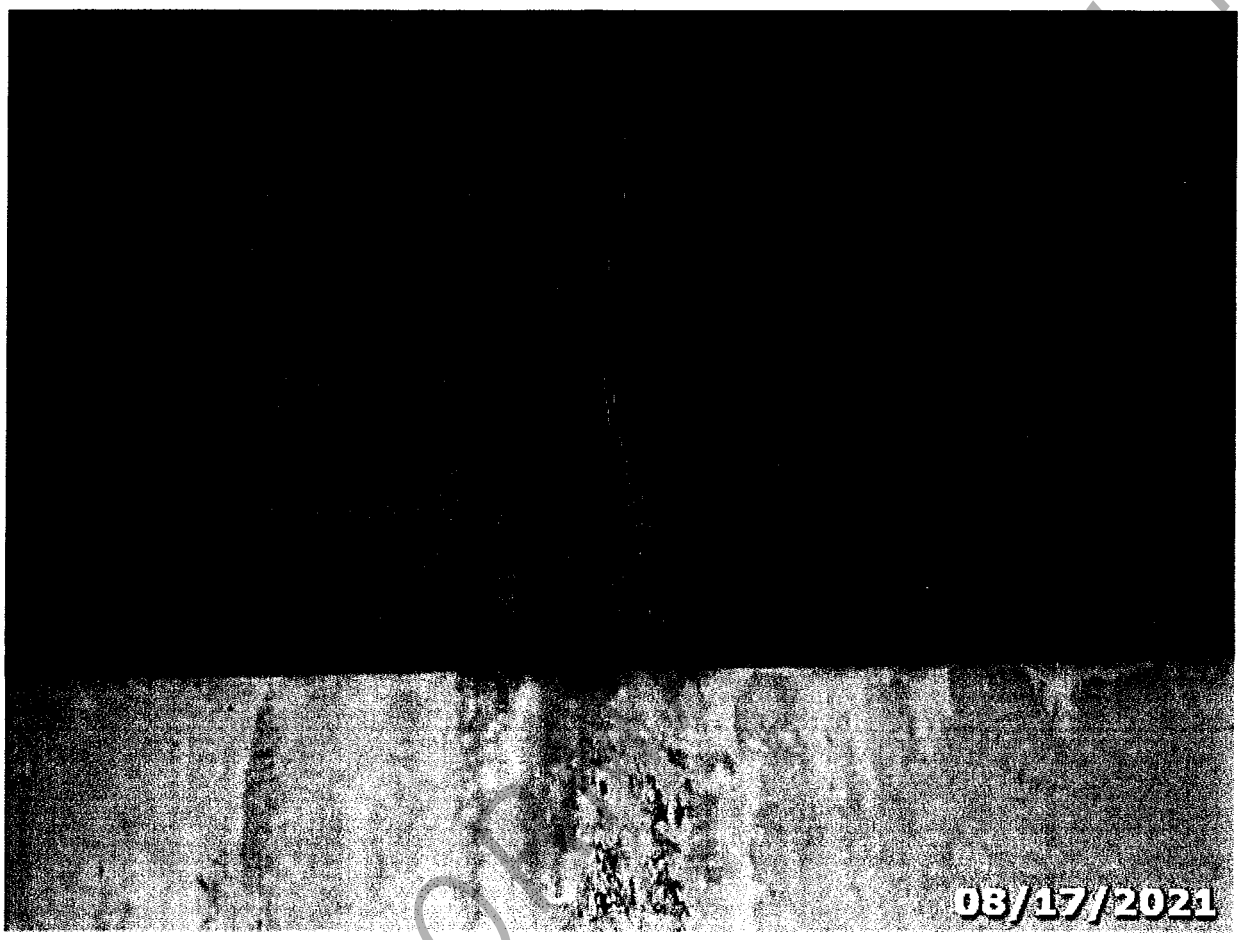


Photo 08 Element/Env 8099/4: PS Conc Slab (Sonovoid)

Slab Unit 7-11 has a delamination 3ft. L x 5in. W in the north edge at Bent 8 cap.

WORK ORDER RECOMMENDATION:
None.

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Photo 09 Element/Env 8099/4: PS Conc Slab (Sonovoid)

Slab Units 1-7 and 1-8 exhibit a spall up to 3in. diameter x 1/2in. D with one exposed transverse rebar having up to 50% section remaining, located at 18ft. and 19ft. from Bent 2.

WORK ORDER RECOMMENDATION:
Clean and coat exposed rebars and repair spalls along the underside of slabs units.

FOR INFO

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FLORIDA DEPARTMENT OF TRANSPORTATION
BRIDGE MANAGEMENT SYSTEM
Inspection/CIDR Report with PDF attachment(s)
(INTERIM INSPECTION REPORT)

Structure ID: 875103 **Inspection**

DISTRICT: D6 - Miami **INSPECTION DATE: 8/17/2021 PFLH**



Photo 10 Element/Env 8099/4: PS Conc Slab (Sonovoid)

The underside of Slab Unit 4-5 has a spall 10in. L x 8in. W x 2in. D with one exposed transverse rebar having up to 70% section remaining at mid-span.

WORK ORDER RECOMMENDATION:
Clean and coat exposed rebars and repair spalls along the underside of slabs units.

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Structure ID: 875103 **Inspection**

DISTRICT: D6 - Miami **INSPECTION DATE: 8/17/2021 PFLH**



Photo 11 Element/Env 8099/4: PS Conc Slab (Sonovoid)

The underside of Slab unit 6-5 has 2 spalls up to 3in. L x 2in. W x 1/2in. D each with one exposed corroded rebar having up to 70% section remaining near Bent 7.

WORK ORDER RECOMMENDATION:
Clean and coat exposed rebars and repair spalls along the underside of slabs units.

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BRIDGE MANAGEMENT SYSTEM
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(INTERIM INSPECTION REPORT)

Structure ID: 875103 **Inspection**

DISTRICT: D6 - Miami **INSPECTION DATE: 8/17/2021 PFLH**

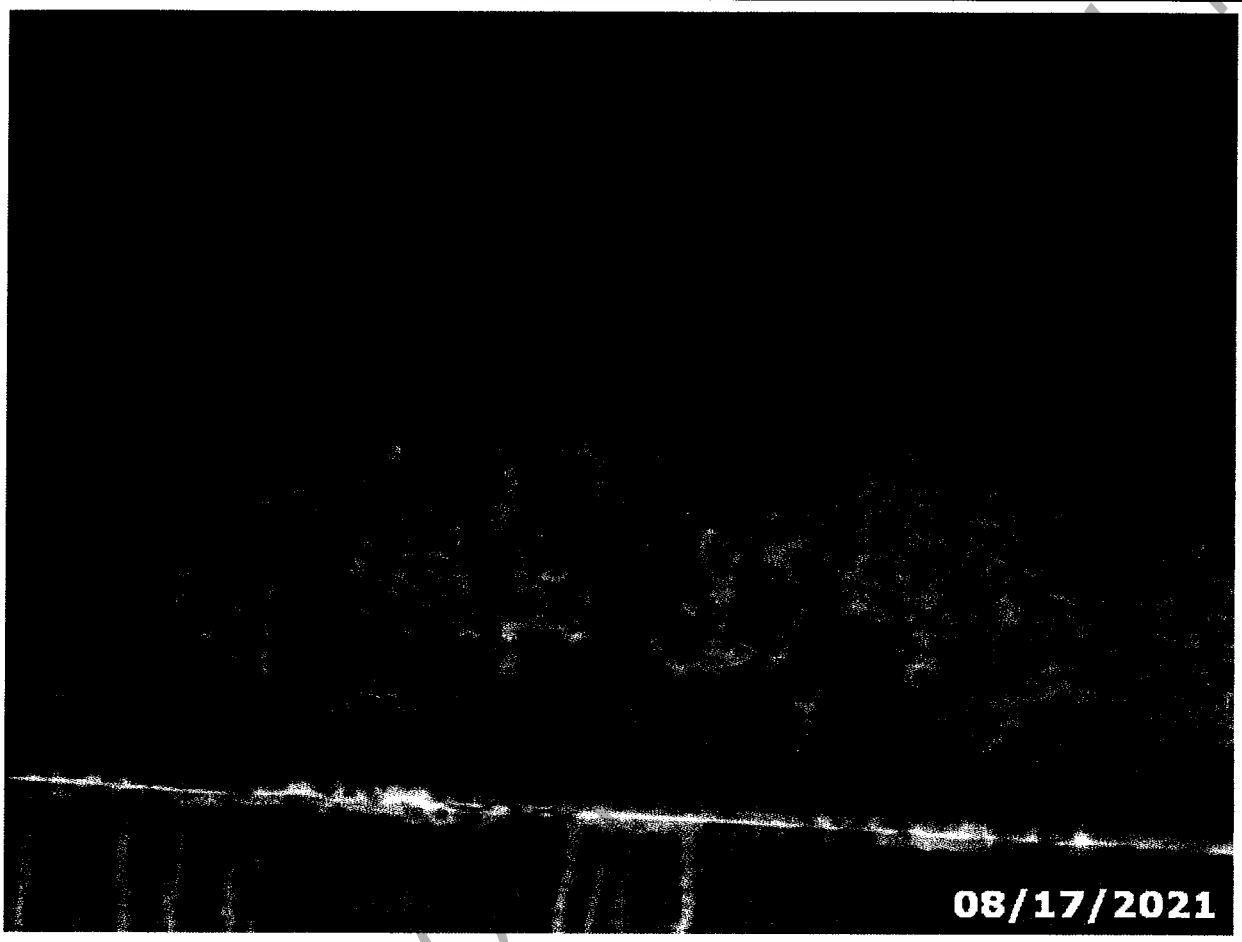


Photo 12 Element/Env 8099/4: PS Conc Slab (Sonovoid)

Slab Unit 5-4 has an exposed rebar approximately 1ft. L with no measurable section loss due to lack of concrete cover at mid-span.

WORK ORDER RECOMMENDATION:
Clean and coat exposed rebars and repair spalls along the underside of slabs units.

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BRIDGE MANAGEMENT SYSTEM
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Structure ID: 875103 **Inspection**

DISTRICT: D6 - Miami **INSPECTION DATE: 8/17/2021 PFLH**



Photo 13 Element/Env 8099/4: PS Conc Slab (Sonovoid)

Slab Unit 7-15 has a full height x 4in. L x 2-1/2in. D spall with exposed strands ends in the south face over Bent 7, possibly due to a tree growing at this area.

WORK ORDER RECOMMENDATION:
_Remove tree growing at Bent 7 between Slabs units 7-15 and 8-15.
_Repair spall with exposed strands ends at Slab Unit 7-15 over Bent 7.

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BRIDGE MANAGEMENT SYSTEM
Inspection/CIDR Report with PDF attachment(s)
(INTERIM INSPECTION REPORT)

Structure ID: 875103 **Inspection**

DISTRICT: D6 - Miami **INSPECTION DATE: 8/17/2021 PFLH**

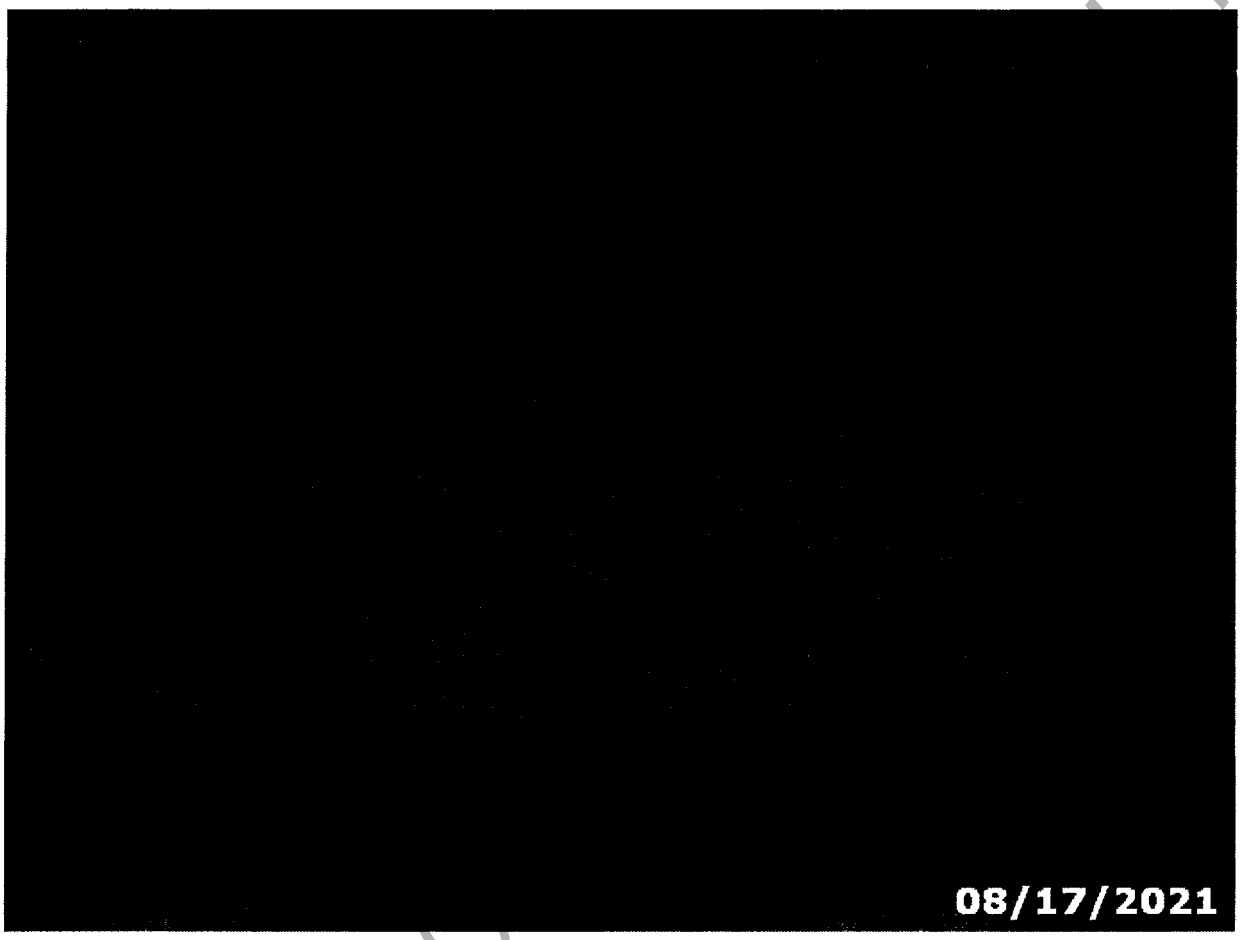


Photo 14 Element/Env 8099/4: PS Conc Slab (Sonovoid)

The underside of the slab units in all spans have hairline flexure transverse cracks between the 1/3 and 2/3 points of the slab units.

WORK ORDER RECOMMENDATION:
None.

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BRIDGE MANAGEMENT SYSTEM
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Structure ID: 875103 **Inspection**

DISTRICT: D6 - Miami **INSPECTION DATE: 8/17/2021 PFLH**



Photo 15 Element/Env 8099/4: PS Conc Slab (Sonovoid)

Slab Unit 8-8 is misaligned vertically with negative camber up to 1-1/2in. H at midspan indicating shear key failure.

WORK ORDER RECOMMENDATION:
Monitor the slab units for independent movement.

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BRIDGE MANAGEMENT SYSTEM
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Structure ID: 875103 **Inspection**

DISTRICT: D6 - Miami **INSPECTION DATE: 8/17/2021 PFLH**



Photo 16 Element/Env 8099/ 510/4: PS Conc Slab (Sonovoid)/ Wearing Surfaces

There are 4 longitudinal cracks up to span length x 1/8in. W on Span 1, north of the centerline, and 3 longitudinal cracks on the rest of the spans along the slab units joints, possibly indicating shear key failure and independent slab units movement.

WORK ORDER RECOMMENDATION:
Monitor the slab units for independent movement.

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BRIDGE LOAD RATING SUMMARY FORM

BRIDGE DATA

Bridge Number:	**875103**
Struct. Type Main [Item 43] @:	502
Struct. Type Appr. [Item 44] @:	

POSTING DATA

Current Restrictions

Item 41 @:	Open, No Restrictions
Is Posting Needed:	No

Proposed Restrictions

Item 70 @:	At/Above Legal Loads

PROGRAM USED

Leap Bridge: Conspan ver 08.01

BASIS FOR ANALYSIS

Design Drawings:	Yes
As-Built Drawings:	No
Shop Drawings:	No
Field Measurements:	Yes
Coupon Testing:	No
Other:	Previous Load Rating

LIVE LOAD DISTRIBUTION

AASHTO LFD:	X
AASHTO LRFD:	
SALOD:	
BRUFEM:	
Finite Element on Grillage:	

LONGITUDINAL GOVERNING COMPONENT

Main/Approach Span:	Main
Description:	Multi-Beam
Material:	Concrete
Simple/Continuous Span:	Simple
Span Length:	43.00
Flexure, Shear or Principal Tension:	Flexure

TRANSVERSE GOVERNING COMPONENT

Main/Approach Span:	
Description:	
Material:	
Deck, Box or Substructure:	
Flexure, Shear or Principal Tension:	

OTHER SPAN OF INTEREST
(If Applicable)

OTHER SPAN OF INTEREST
(If Applicable)

PONTIS DATABASE INPUT

PONTIS APPRAISAL TAB

Description (NBIS Code)	Value	
Design Load (31) @	MS18 (HS20)	
HL93, M9 (H10), M13.5 ((H15), M13.5 (HS15), M18 (H20), MS18 (HS20), MS18 (HS20)+Mod, Pedestrian, Railroad, MS22.5 (HS25), Unknown (NBI), Unknown (P), Not Applicable (P)		
Operating Type (63) @	Load Factor	
Unknown, Load Factor, Allowable Stress, Load & Resistance Factor, Load Test, No Rating, Unknown (NBI), Not Applicable (P)		
Operating Rating (64)* @ ( )	62.6 (M)	Tons
Inventory Type (65) @	Load Factor	
Unknown, Load Factor, Allowable Stress, Load & Resistance Factor, Load Test, No Rating, Unknown (NBI), Not Applicable (P)		
Inventory Rating (66)* @ ( )	37.8 (M)	Tons

LEGEND

* If rating is provided as a factor from an LRFR analysis, multiply the rating factor by 36 tons
** If not calculated, enter "-1"
# LRFR Rating Only
If Posting is not required, enter "99"
@ BMS Coding Manual available on the FDOT Office of Maintenance website
( ) List Controlling Member & (M=moment, V=shear, pt=post-tensioning) for this Rating

PONTIS LOAD RATING 1 TAB

Description (NBIS Code)	Value	
HS 20/HL 93 Governing Span Length	43.00	FT
Load Rating Origination	Field Measurements	
Unknown, Design Plans, As-Built Plans, Field Measurements		
Load Rating Date	03-Jun-09	
Method Calculation	AASHTO Formula	
Unknown, AASHTO Formula, SALOD, BRUFEM, Other		
Load Distribution Factor	0.6980	
Impact Factor	0.298	
Design Method	Load Factor	
Unknown, Working Stress, Load Factor, LRFD, Others		
Design Measure	English	
Unknown, English, Systeme International		

TRUCK OPERATING RATINGS

SU 2**		( )	-1	Tons
SU 3**		( )	-1	Tons
SU 4**	Interior Beam	(M)	51.8	Tons
C 3**		( )	-1	Tons
C 4**		( )	-1	Tons
C 5**	Interior Beam	(M)	76.0	Tons
ST 5**	Interior Beam	(M)	78.8	Tons
Recommended SU Posting ##			99	Tons
Recommended C Posting ##			99	Tons
Recommended ST Posting ##			99	Tons

PONTIS LOAD RATING 2 TAB

Description (NBIS Code)	Value	
FL 120 Longitudinal Governing Span Rating	-1	Tons
SEGMENTAL		
FL 120 Transverse Rating (Segmental)**	-1	Tons
Single Axle Transverse Rating**	-1	Tons
Tandem Axle Transverse Rating**	-1	Tons
Wing Span**	-1	FT
Web-to-Web Span**	-1	FT
MAXIMUM SPAN		
HS 20 Operating Rating Maximum Span**	62.6	Tons
FL 120 Longitudinal Maximum Span #	-1	Tons
FLOOR BEAM		
Floor Beam Present	No = Stop / Yes = Continue	
Governing Floor Beam Span**	-1	FT
Governing Floor Beam Spacing**	-1	FT
Floor Beam HS 20 Rating**	-1	Tons
Floor Beam SU 4 Rating**	-1	Tons
Floor Beam Inventory Rating Factor** #	-1	
Floor Beam Operating Rating Factor **#	-1	
Floor Beam FL 120 Rating #	-1	Tons

COMMENTS BY ENGINEER

Interior Girder governs the load rating. Rating based on limited bridge plans, previous load ratings and field measurements. Shear rating not performed based on limited bridge data.

COMPUTATIONS

Performed By:	J. Dennis Martinez	Date:	03-Jun-09
Checked By:	BL	Date:	06 / 09
Reviewed By:		Date:	

Responsible Engineer: J. Dennis Martinez
FL P.E. #: 69303
Date: 30-Jun-09
Address: 201 Alhambra Circle, Suite 200
Coral Gables, Florida, 33134

6/30/09

Seal

FOR INFORMATION ONLY

FLORIDA DEPARTMENT OF TRANSPORTATION
BRIDGE MANAGEMENT SYSTEM

REPORT ID: INSP005 — Inspection/CIDR Report with PDF attachment(s)

Structure ID: 875103 — CIDR — DATE PRINTED: 9/30/2021

Description

Structure Unit Identification

Bridge/Unit Key: 875103 0
Structure Name:
Description: Spans 1 thru 8
Type: M - Main

Structure Unit Identification

Bridge/Unit Key: 875103 1
Structure Name:
Description: Add Notes
Type: O - Other

Roadway Identification

NBI Structure No (8): 875103
Position/Prefix (5): 1 - Route On Structure
Kind Hwy (Rte Prefix): 4 County Hwy
Design Level of Service: 1 Mainline
Route Number/Suffix: 00000 / 0 N/A (NBI)
Feature Intersect (6): Indian creek
Critical Facility: Not Defense-crit
Facility Carried (7): Kane Concourse
Mile Point (11): 5.176
Latitude (16): 025d53'12.7" Long (17): 080d07'41.3"

Roadway Traffic and Accidents

Lanes (28): 4 Medians: 0 Speed: 30 mph
ADT Class: 4 ADT Class 4
Recent ADT (29): 23500 Year (30): 2020
Future ADT (114): 40773 Year (115): 2042
Truck % ADT (109): 2
Detour Length (19): 7.6 mi
Detour Speed: 30 mph
Accident Count: -1 Rate:

Roadway Classification

Nat. Hwy Sys (104): 0 Not on NHS
National base Net (12): 0 - Not on Base Network
LRS Inventory Rte (13a): 87 066 000 Sub Rte (13b):
Functional Class (26): 16 Urban Minor Arterial
Federal Aid System: ON
Defense Hwy (100): 0 Not a STRAHNET hwy
Direction of Traffic (102): 2 2-way traffic
Emergency: [X]

Roadway Clearances

Vertical (10): 99.99 ft Appr. Road (32): 52 ft
Horiz. (47): 52 ft Roadway (51): 52 ft
Truck Network (110): 0 Not part of natl netwo
Toll Facility (20): 3 On free road
Fed. Lands Hwy (105): 0 N/A (NBI)
School Bus Route: [ ]
Transit Route: [X]

NBI Project Data

Proposed Work (075A): Not Applicable (P)
Work To Be Done By (075B): Not Applicable (P)
Improvement Length (076): 0 ft

Improvement Cost (094): $ 0.00
Roadway Improvement Cost (095): $ 0.00
Total Cost (096): $ 0.00
Year of Estimate (097):

NBI Rating

Channel (61): 7 Minor Damage
Deck (58): 4 Poor
Superstructure (59): 4 Poor
Substructure (60): 6 Satisfactory

Culvert (62): N N/A (NBI)
Waterway (71): 7 Above Minimum
Unrepaired Spalls: -1 sq.ft.
Review Required: [X]

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FLORIDA DEPARTMENT OF TRANSPORTATION
BRIDGE MANAGEMENT SYSTEM
Inspection/CIDR Report with PDF attachment(s)

REPORT ID: INSP005
Structure ID: 875103
CIDR
DATE PRINTED: 9/30/2021

Structure Identification

Admin Area: Miami-Dade
District (2): D6 - Miami
County (3): (87)Miami-Dade
Place Code (4): Bay Harbor Islands
Location (9): 80 ft. E/O Bayharbor Dr.
Border Br St/Reg (98): Not Applicable (P) Share: 0 %
Border Struct No (99):
FIPS State/Region (1): 12 Florida Region 4-Atlanta
NBIS Bridge Len (112): Y - Meets NBI Length

Parallel Structure (101): No || bridge exists
Temp. Structure (103): Not Applicable (P)
Maint. Resp. (21): 4 City/Municipal Hwy Agy
Owner (22): 4 City/Municipal Hwy Agy
Historic Signif. (37): 5 Not eligible for NRHP

Structure Type and Material

Curb/Sidewalk (50): Left: 4 ft Right: 4 ft
Bridge Median (33): 0 No median
Main Span Material (43A): 5 Prestressed Concrete
Appr Span Material (44A): Not Applicable
Main Span Design (43B): 01 Slab
Appr Span Design (44B): Not Applicable

Geometrics

Spans in Main Unit (45): 8
Approach Spans (46): 0
Length of Max Span (48): 44.5 ft
Structure Length (49): 356.9 ft
Total Length: 396.9 ft
Deck Area: 22724 sqft
Structure Flared (35): 0 No flare

Age and Service

Year Built (27): 1963
Year Reconstructed (106): 0
Type of Service On (42a): 5 Highway-pedestrian
Under (42b): 5 Waterway
Fracture Critical Details: Not Applicable

Deck Type and Material

Deck Width (52): 63.67 ft
Skew (34): 0 deg
Deck Type (107): 2 Concrete Precast Panel
Surface (108): 6 Bituminous
Membrane: 0 None
Deck Protection: None

Appraisal

Structure Appraisal

Open/Posted/Closed (41): A Open, no restriction
Deck Geometry (68): 4 Tolerable
Underclearances (69): N Not applicable (NBI)
Approach Alignment (72): 7-No Accel/Reduce Curve
Bridge Railings (36a): 0 Substandard
Transitions (36b): 0 Substandard

Approach Guardrail (36c): 0 Substandard
Approach Guardrail Ends (36d): 0 Substandard
Scour Critical (113): 3 SC - Unstable

Navigation Data

Navigation Control (38): Permit Not Required
Nav Vertical Clr (39): 0 ft
Nav Horizontal Clr (40): 0 ft
Min Vert Lift Clr (116): 0 ft
Pier Protection (111): 2 In-Place, Functioning

NBI Condition Rating

Sufficiency Rating: 38
Health Index: 93
Structural Eval (67): 4 Minimum Tolerable
Deficiency: Structurally Deficient

Minimum Vertical Clearance

Over Structure (53): 99.99 ft
Under (reference) (54a): N Feature not hwy or RR
Under (54b): 0 ft

Minimum Lateral Underclearance

Reference (55a): N Feature not hwy or RR
Right Side (55b): 0 ft
Left Side (56): 0 ft

Schedule

Current Inspection

Inspection Date: 08/17/2021
Inspector: KNMEIKN - Kevin Noriega
Bridge Group: CA611
Alt. Bridge Group:
Primary Type: Interim
Review Required: [X]

Next Inspection Date Scheduled

NBI: 08/17/2022
Element: 08/17/2022
Fracture Critical:
Underwater: 08/17/2022
Other/Special: 08/17/2022
Inventory Photo Update Due: 08/17/2024

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FLORIDA DEPARTMENT OF TRANSPORTATION
BRIDGE MANAGEMENT SYSTEM
Inspection/CIDR Report with PDF attachment(s)

REPORT ID: INSP005 | CIDR | DATE PRINTED: 9/30/2021

Structure ID: 875103

Schedule Cont.

Inspection Types Performed NBI ☐ Element ☒ Fracture Critical ☐ Underwater ☐ Other Special ☒

Inspection Intervals	Required (92)	Frequency (92)	Last Date (93)	Inspection Resources
Fracture Critical	☐	mos		Crew Hours: 4
Underwater	☒	24 mos	08/18/2020	Flagger Hours: 0
Other Special	☒	12 mos	08/17/2021	Helper Hours: 0
NBI		24 mos (91)	08/18/2020 (90)	Snooper Hours: 0
				Special Crew Hours: 4
				Special Equip Hours: 0

Bridge Related

General Bridge Information

Parallel Bridge Seq:
Channel Depth: 16.1 ft
Radio Frequency: -1
Phone Number:
Exception Date:
Exception Type: Unknown
Accepted By Maint: 01/01/1963
Warranty Expiration: 00/00/0000
Performance Rating: Poor

Bridge Rail 1: Combination not defined
Bridge Rail 2: Other
Electrical Devices: Combination values 1-7
Culvert Type: Not applicable
Maintenance Yard: Not FDOT Maintained
FIHS ON / OFF: No Routes on FIHS
Previous Structure:
2nd Previous Structure:
Replacement Structure:

Permitted Utilities: Power ☐ Water ☐ Gas ☐ Fiber Optic ☐ Sewage ☐ Other ☐

Bridge Load Rating Information

Inventory Type (065): 1 LF Load Factor
Operating Type (063): 1 LF Load Factor
Original Design Load (031): 4 M 18 (H 20)
Date: 06/30/2009
Initials: JDM
Load Rating Rev. Recom.:
Load Rating Plans Status: Field Measurements

Inventory Rating (066): 37.8 tons
Operating Rating (064): 62.6 tons
FL120 Permit Rating: -1.0 tons
HS20/FL120 Max Span Rating: 62.6 tons
Dynamic Impact in Percent: 30 %
Governing Span Length: 43.0 ft
Minimum Span Length:
Distribution Method: AASHTO formula

Load Rating Notes:

LEGAL LOADS

SU2: -1.0 tons
SU3: -1.0 tons
SU4: 51.8 tons
C3: -1.0 tons
C4: -1.0 tons
C5: 76.0 tons
ST5: 78.8 tons
Posting (070): 5 At/Above Legal Loads
Open/Posted/Closed (041): A Open, no restriction

POSTING

Recom. SU Posting: 99 tons
Recom. C Posting: 99 tons
Recom. ST5 Posting: 99 tons
Actual SU Posting: 99 tons
Actual C Posting: 99 tons
Actual ST5 Posting: 99 tons
Actual Blanket Posting: 99 tons
Emergency Vehicle: 1 EV inapplicable

FLOOR BEAM (FB) FB Present: No

FB Span Length, Gov: 0.0 ft
FB Spacing, Gov: 0.0 ft
FB OPR Rating: 0.0 tons
FB SU4 OPR Rating: 0.0 tons
FB FL120 Rating: 0.0 tons

SEGMENTAL (SEG)

SEG Wing-Span: -1.0 ft
SEG Web-to-Web Span: -1.0 ft
SEG Transverse HL93 Operating: -1.00 RF

Bridge Scour and Storm Information

Pile Driving Record: No pile driving records
Foundation Type: Unknown
Mode of Flow: Tidal
Rating Scour Eval: Unknown
Highest Scour Eval: Unknown
Scour Evaluation Method:

Scour Recommended I: Unknown
Scour Recommended II: Unknown
Scour Recommended III: Unknown
Scour Elevation: -1 ft
Action Elevation: -1 ft
Storm Frequency: -1

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BRIDGE MANAGEMENT SYSTEM

REPORT ID: INSP005 — **Inspection/CIDR Report with PDF attachment(s)**

Structure ID: 875103 — **CIDR** — DATE PRINTED: 9/30/2021

Elements

Inspection Date: 08/17/2021 **PFLH**

DECKS : Decks/Slabs

Str Unit	Elem/Env	Description	Qty1	%1	Qty2	%2	Qty3	%3	Qty4	%4	T Qty
0	8099 / 4	PS Conc Slab (Sonovoid)	21833	96.08	371	1.63	520	2.29	0	.	22724 (SF)
0	1080 / 4	Delamination/Spall/Patched Area	0	.	9	81.82	2	18.18	0	.	11 (SF)
0	1090 / 4	Exposed Rebar	0	.	1	10	9	90	0	.	10 (SF)
0	1100 / 4	Exposed Prestressing	0	.	1	100	0	.	0	.	1 (SF)
0	1110 / 4	Cracking (PSC)	0	.	0	.	509	100	0	.	509 (SF)
0	1900 / 4	Distortion	0	.	360	100	0	.	0	.	360 (SF)
0	510 / 4	Wearing Surfaces	17579	94.72	0	.	979	5.28	0	.	18558 sq.ft
0	3220 / 4	Crack (Wearing Surface)	0	.	0	.	979	100	0	.	979 sq.ft

DECKS : Joints

Str Unit	Elem/Env	Description	Qty1	%1	Qty2	%2	Qty3	%3	Qty4	%4	T Qty
0	301 / 4	Pourable Joint Seal	482	83.83	62	10.78	28	4.87	3	0.52	575 ft
0	2320 / 4	Seal Adhesion	0	.	0	.	2	100	0	.	2 ft
0	2330 / 4	Seal Damage	0	.	0	.	0	.	3	100	3 ft
0	2350 / 4	Debris Impaction	0	.	50	100	0	.	0	.	50 ft
0	2360 / 4	Adjacent Deck or Header	0	.	12	31.58	26	68.42	0	.	38 ft

MISCELLANEOUS : Channel

Str Unit	Elem/Env	Description	Qty1	%1	Qty2	%2	Qty3	%3	Qty4	%4	T Qty
0	8290 / 4	Channel	0	.	1	100	0	.	0	.	1 (EA)
0	9140 / 4	Debris	0	.	1	100	0	.	0	.	1 (EA)

MISCELLANEOUS : Other Elements

Str Unit	Elem/Env	Description	Qty1	%1	Qty2	%2	Qty3	%3	Qty4	%4	T Qty
0	321 / 4	Re Conc Approach Slab	2547	100	0	.	0	.	0	.	2547 sq.ft
0	510 / 4	Wearing Surfaces	2054	98.75	0	.	26	1.25	0	.	2080 sq.ft
0	3220 / 4	Crack (Wearing Surface)	0	.	0	.	26	100	0	.	26 sq.ft

MISCELLANEOUS : Other Elements

Str Unit	Elem/Env	Description	Qty1	%1	Qty2	%2	Qty3	%3	Qty4	%4	T Qty
0	8475 / 4	R/Conc Walls	24	100	0	.	0	.	0	.	24 ft

SUBSTRUCTURE : Substructure

Str Unit	Elem/Env	Description	Qty1	%1	Qty2	%2	Qty3	%3	Qty4	%4	T Qty
0	215 / 4	Re Conc Abutment	128	100	0	.	0	.	0	.	128 ft

SUBSTRUCTURE : Substructure

Str Unit	Elem/Env	Description	Qty1	%1	Qty2	%2	Qty3	%3	Qty4	%4	T Qty
0	226 / 4	Pre Conc Pile	28	36.36	1	1.3	48	62.34	0	.	77 (EA)
0	1080 / 4	Delamination/Spall/Patched Area	0	.	1	50	1	50	0	.	2 (EA)
0	1090 / 4	Exposed Rebar	0	.	0	.	1	100	0	.	1 (EA)
0	1110 / 4	Cracking (PSC)	0	.	0	.	46	100	0	.	46 (EA)

SUBSTRUCTURE : Substructure

Str Unit	Elem/Env	Description	Qty1	%1	Qty2	%2	Qty3	%3	Qty4	%4	T Qty
0	234 / 4	Re Conc Pier Cap	482	100	0	.	0	.	0	.	482 ft

FOR INFORMATION ONLY

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FLORIDA DEPARTMENT OF TRANSPORTATION
BRIDGE MANAGEMENT SYSTEM

REPORT ID: INSP005 — **Inspection/CIDR Report with PDF attachment(s)**

Structure ID: 875103 — **CIDR** — **DATE PRINTED: 9/30/2021**

SUBSTRUCTURE : Substructure

Str Unit	Elem/Env	Description	Qty1	%1	Qty2	%2	Qty3	%3	Qty4	%4	T Qty
0	8298 / 4	Pile Jacket Bare	39	100	0	.	0	.	0	.	39 (EA)

SUBSTRUCTURE : Substructure

Str Unit	Elem/Env	Description	Qty1	%1	Qty2	%2	Qty3	%3	Qty4	%4	T Qty
0	8389 / 4	Timber Fender/Dolphin	0	.	0	.	12	100	0	.	12 ft
0	1140 / 4	Decay/Section Loss	0	.	0	.	12	100	0	.	12 ft

SUBSTRUCTURE : Substructure

Str Unit	Elem/Env	Description	Qty1	%1	Qty2	%2	Qty3	%3	Qty4	%4	T Qty
0	8393 / 4	Bulkhead Seawall Any Material	0	.	0	.	148	100	0	.	148 ft
0	1080 / 4	Delamination/Spall/Patched Area	0	.	0	.	7	100	0	.	7 ft
0	1090 / 4	Exposed Rebar	0	.	0	.	58	100	0	.	58 ft
0	1130 / 4	Cracking (RC and Other)	0	.	0	.	83	100	0	.	83 ft

SUPERSTRUCTURE : Superstructure

Str Unit	Elem/Env	Description	Qty1	%1	Qty2	%2	Qty3	%3	Qty4	%4	T Qty
0	330 / 4	Metal Bridge Railing	1420	99.44	8	0.56	0	.	0	.	1428 ft
0	1000 / 4	Corrosion	0	.	8	100	0	.	0	.	8 ft
0	8516 / 4	Painted Steel	5240	100	0	.	0	.	0	.	5240 sq.ft

SUPERSTRUCTURE : Superstructure

Str Unit	Elem/Env	Description	Qty1	%1	Qty2	%2	Qty3	%3	Qty4	%4	T Qty
0	8580 / 4	Navigational Lights	4	66.67	2	33.33	0	.	0	.	6 (EA)
0	1000 / 4	Corrosion	0	.	2	100	0	.	0	.	2 (EA)

Total Number of Elements*: 13
*excluding defects/protective systems

FOR INFORMATION ONLY

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FLORIDA DEPARTMENT OF TRANSPORTATION
BRIDGE MANAGEMENT SYSTEM

REPORT ID: INSP005 — **Inspection/CIDR Report with PDF attachment(s)**

Structure ID: 875103 — **CIDR** — **DATE PRINTED: 9/30/2021**

Inspection Information

Inspection Date: 08/17/2021 **Type:** Interim

Inspector: KNMEIKN - Kevin Noriega

Inspection Notes: Sufficiency Rating Calculation Accepted by knmeira at 9/27/2021 2:32 PM.

This Interim inspection was conducted to evaluate Element 8099 PS Conc Slab (Sonovoid). Refer to the last Regular NBI Inspection (08/18/2020) for the condition of the entire structure. (08/17/2021).

Following the "Additional Guidance for Assigning NBI Ratings for Deck/Superstructure for Sonovoid Slab Bridges", NBI Rating for SIA Item 58 Deck and Item 59 Superstructure remain coded as 4 Poor due to transverse flexure cracks in the Slab Units underside. (08/17/2021).

LOAD CAPACITY EVALUATION:
Since the current load rating dated 6/30/2009, there is no indication that deterioration, geometric changes or additional dead load have occurred that would warrant a new load rating analysis. This only applies to this inspection dated (08/17/2021) per Erick Cuervo, P.E.

The structure is on a 12 months inspection frequency due to NBI Rating 4 for SIA Items 58 Deck and 59 Superstructure. (08/17/2021).

LEGEND:

NCAR: NO CORRECTIVE ACTION RECOMMENDED.
RT: Right
LT: Left
NC: No Change
INC: Increase
CAT: Corrective Action Taken
L: Long
W: Wide
H: High
D: Deep
UW: Underwater
S.L.: Section Loss
in.: Inches
ft.: Feet

Structure Notes

BRIDGE OWNER: TOWN OF BAY HARBOR ISLAND

8 Spans PS Conc Slab on R/Conc Caps on P/S Conc Columns

Structure inventoried from west to east.

Overhang dimensions for Bridges with Railings and Sidewalks cantilevered from sonovoid slabs:
_Left overhang dimension (22in.)
_Right overhang dimension (17in.)

TRAFFIC RESTRICTIONS: Based on the current load rating analysis dated 6/30/09, posting is not required. The structure is not posted.

REVIEWED BY:

Schedule Notes

FOR INFORMATION ONLY

This report contains information relating to the physical security of a structure and depictions of the structure. This information is confidential and exempt from public inspection pursuant to sections 119.071(3)(a) and 119.071(3)(b), Florida Statutes. Only the cover page of this report may be inspected and copied.

BID/PROPOSAL CERTIFICATION

Please Note: It is the sole responsibility of the bidder to ensure that his bid is submitted before prior to the bid opening date and time listed. All fields below must be completed. If the field does not apply to you, please note N/A in that field.

If you are a foreign corporation, you may be required to obtain a certificate of authority from the department of state, in accordance with Florida Statute §607.1501 (visit http://www.dos.state.fl.us/).

Company: (Legal Registration) _____ EIN (Optional): _____

Address: _____

Town: _____ State: _____ Zip: _____

_____ _____

Telephone No.: _____ FAX No.: Email:

ADDENDUM ACKNOWLEDGEMENT - Proposer acknowledges that the following addenda have been received and are included in the proposal:

Addendum No.	Date Issued	Addendum No.	Date Issued	Addendum No.	Date Issued

---

The below signatory hereby agrees to furnish the following article(s) or services at the price(s) and terms stated subject to all instructions, conditions, specifications addenda, legal advertisement, and conditions contained in the bid/proposal.

I have read all attachments including the specifications and fully understand what is required. By submitting this signed proposal, I will accept a contract if approved by the Town and such acceptance covers all terms, conditions, and specifications of this bid/proposal. The below signatory also hereby agrees, by virtue of submitting or attempting to submit a response, that in no event shall the Town's liability for respondent's direct, indirect, incidental, consequential, special or exemplary damages, expenses, or lost profits arising out of this competitive solicitation process, including but not limited to public advertisement, bid conferences, site visits, evaluations, oral presentations, or award proceedings exceed the amount of Five Hundred Dollars ($500.00). This limitation shall not apply to claims arising under any provision of indemnification or the Town's protest ordinance contained in this competitive solicitation.

Submitted by:

_____ _____

Name (printed) Signature

_____ _____

Date Title

Affidavit of Compliance with Foreign Entity Laws

The undersigned, on behalf of the entity listed below ("Entity"), hereby attests under penalty of perjury as follows:

1. Entity is not owned by the government of a foreign country of concern as defined in Section 287.138, Florida Statutes. (Source: § 287.138(2)(a), Florida Statutes)

2. The government of a foreign country of concern does not have a controlling interest in Entity. (Source: § 287.138(2)(b), Florida Statutes)

3. Entity is not organized under the laws of, and does not have a principal place of business in, a foreign country of concern. (Source: § 287.138(2)(c), Florida Statutes)

4. Entity is not owned or controlled by the government of a foreign country of concern, as defined in Section 692.201, Florida Statutes. (Source: § 288.007(2), Florida Statutes)

5. Entity is not a partnership, association, corporation, organization, or other combination of persons organized under the laws of or having its principal place of business in a foreign country of concern, as defined in Section 692.201, Florida Statutes, or a subsidiary of such entity. (Source: § 288.007(2), Florida Statutes)

6. Entity is not a foreign principal, as defined in Section 692.201, Florida Statutes. (Source: § 692.202(5)(a)(1), Florida Statutes)

7. Entity is in compliance with all applicable requirements of Sections 692.202, 692.203, and 692.204, Florida Statutes.

8. (*Only applicable if purchasing real property*) Entity is not a foreign principal prohibited from purchasing the subject real property. Entity is either (a) not a person or entity described in Section 692.204(1)(a), Florida Statutes, or (b) authorized under Section 692.204(2), Florida Statutes, to purchase the subject property. Entity is in compliance with the requirements of Section 692.204, Florida Statutes. (Source: §§ 692.203(6)(a), 692.204(6)(a), Florida Statutes)

9. The undersigned is authorized to execute this affidavit on behalf of Entity.

Date: _____, 20___ Signed: _____

Entity: _____ Name: _____

Title: _____

STATE OF _____
COUNTY OF _____

The foregoing instrument was acknowledged before me, by means of ☐ physical presence or ☐ online notarization, this ____ day of _____, 20____, by _____, as _____ for _____, who is personally known to me or who has produced _____ as identification.

Notary Public Signature: _____ State of Florida at Large (Seal)

Print Name: _____ My commission expires: _____

ANTI-KICKBACK AFFIDAVIT

STATE OF FLORIDA)
)
COUNTY OF _____)

I, the undersigned, hereby duly sworn and deposed say that no portion of this sum herein Bid will be paid to any employees of the Town of Bay Harbor Islands or its elected officials as a commission, kickback, reward or gift, directly or indirectly by me or any member of my firm or by an officer of the corporation.

By: _____

Title: _____

The foregoing instrument was acknowledged before me this _____day of, 2023, by_____ [name of person], as _____[type of authority], for _____ [name of party on behalf of whom instrument was executed].

AFFIX NOTARY STAMP HERE:

_____
Notary Public – State of Florida

_____
Print or Type Commissioned Name

Personally Known _____ OR Produced Identification _____ Type of Identification Produced _____

DISPUTE DISCLOSURE FORM

Answer the following questions by placing a "X" after "Yes" or "No". If you answer "Yes", please explain in the space provided, or on a separate sheet attached to this form.

1. Has your firm or any of its officers, received a reprimand of any nature or been suspended by the Department of Professional Regulations or any other regulatory agency or professional associations within the last five (5) years?

YES _____ NO _____

2. Has your firm, or any member of your firm, been declared in default, terminated or removed from a contract or job related to the services your firm provides in the regular course of business within the last five (5) years?

YES _____ NO _____

3. Has your firm had against it or filed any requests for equitable adjustment, contract claims, Bid protests, or litigation in the past five (5) years that is related to the services your firm provides in the regular course of business?

YES _____ NO _____If yes, state the nature of the request for equitable adjustment, contract claim, litigation, or protest, and state a brief description of the case, the outcome or status of the suit and the monetary amounts of extended contract time involved.

I hereby certify that all statements made are true and agree and understand that any misstatement or misrepresentation of falsification of facts shall be cause for forfeiture of rights for further consideration of this Bid for the Town of Bay Harbor Islands.

_____ _____

Firm Date

_____ _____

Authorized Signature Print or Type Name and Title

E-VERIFY AFFIRMATION STATEMENT

RFQ/Bid /Contract No:

Project Description:

Contractor/Proposer/Bidder acknowledges and agrees to utilize the U.S. Department of Homeland Security's E- Verify System to verify the employment eligibility of,

(a) all persons employed by Contractor/Proposer/Bidder to perform employment duties within Florida during the term of the Contract, and,

(b) all persons (including subcontractors/vendors) assigned by Contractor/Proposer/Bidder to perform work pursuant to the Contract.

The Contractor/Proposer/Bidder acknowledges and agrees that use of the U.S. Department of Homeland Security's E-Verify System during the term of the Contract is a condition of the Contract.

Contractor/Proposer/ Bidder Company Name:

Authorized Company Person's Signature:

Authorized Company Person's Title:

Date:

NON-COLLUSION STATEMENT

By signing this offer, the vendor/contractor certifies that this offer is made independently and free from collusion. Vendor shall disclose below any Town of Bay Harbor Islands, FL officer or employee, or any relative of any such officer or employee who is an officer or director of, or has a material interest in, the vendor's business, who is in a position to influence this procurement. Any Town of Bay Harbor Islands, FL officer or employee who has any input into the writing of specifications or requirements, solicitation of offers, decision to award, evaluation of offers, or any other activity pertinent to this procurement is presumed, for purposes hereof, to be in a position to influence this procurement. For purposes hereof, a person has a material interest if they directly or indirectly own more than 5 percent of the total assets or capital stock of any business entity, or if they otherwise stand to personally gain if the contract is awarded to this vendor.

Town employees may not contract with the Town through any corporation or business entity in which they or their immediate family members hold a controlling financial interest (e.g. ownership of five (5) percent or more). Immediate family members (spouse, parents and children) are also prohibited from contracting with the Town subject to the same general rules. Failure of a vendor to disclose any relationship described herein shall be reason for debarment.

Name	Relationships
_____	_____
_____	_____

In the event the vendor does not indicate any names, the Town shall interpret this to mean that the vendor has indicated that no such relationships exist.

Town of Bay Harbor islands
9665 Bay Harbor Terrace
(305) 866-6241

ITB-5-1011-PW-0-2023/FVR

Indian Creek Structural Bridge Repairs Project BC-159

ADDENDUM NO. 1

ISSUED: October 22, 2023

This Addendum is being issued to provide the following information. It is hereby made a part of the Plans and Specifications and shall be included with all contract documents.

1 New Documents added:

1- Structure Quantities
2- Summary of Pay Items Page 3A

2- Questions submitted:

Question 1.
Could you please share with us the related information regarding the referenced project?

Please advise about the estimated budget for the project.

Answer
The Engineer of Record Estimated Probable Cost of Construction is $2,336,500.00

ADDENDUM #3

Fausto Vargas
Procurement Officer

Company Name:_____
(please print)

Bidder's Signature: _____

Date:_____

INVITATION TO BID (ITB) - PROJECT BC-159
INDIAN CREEK STRUCTURAL REPAIRS
BRIDGE NO. 875103

Bay Harbor Islands – Indian Creek Structural Repairs Project BC-159

FDOT Bridge No. 875103

SUMMARY OF STRUCTURE QUANTITIES - BRIDGE 875103						
PAY ITEM NUMBER	**PAY ITEM DESCRIPTION**	**LOCATION DESCRIPTION**	**UNITS**	**QUANTITY PLANS**	**UNIT PRICE**	**TOTAL PRICE**
I. REMOVAL PAY ITEMS						
0110 12 1	Hydrodemolition, Removal of Deck Surface	Slab Units	SY	260		
II. SUPER STRUCTURE PAY ITEMS						
0401 70 2	Non Shrink Grout, F&I, Miscellaneous-Structures Rehab	Slab Units	CF	4.7		
0415 1 4	Reinforcing Steel - Bridge Superstructure	Slab Units	LB	3827		
0458 1 21	Bridge Deck Expansion Joint, Rehabilitation, Poured Joint with Backer Rod	Expansion Joint	LF	624		
0458 2	Polymer Nosing For Bridge Deck Expansion Joint	Expansion Joint	CF	4.8		
0918 349	Ultra High Performance Concrete - UHPC	Slab Units	CY	50.6		
III. SADDLES PAY ITEMS						
0400 2 4	Conc Class II, Bridge Superstructure	Saddle	CY	0.1		
0415 1 6	Reinforcing Steel - Bridge Superstructure	Saddle	LB	4.0		
					BRIDGE PAY ITEMS SUBTOTAL =	

INVITATION TO BID (ITB) - PROJECT BC-159
INDIAN CREEK STRUCTURAL REPAIRS
BRIDGE NO. 875103

SUMMARY OF STRUCTURE QUANTITIES - BRIDGE 875103						
PAY ITEM NUMBER	**PAY ITEM DESCRIPTION**	**LOCATION DESCRIPTION**	**UNITS**	**QUANTITY PLANS**	**UNIT PRICE**	**TOTAL PRICE**
IV. TEMPORARY TRAFFIC CONTROL PAY ITEMS						
0101-1	Mobilization	General	LS	1.0		
0102-2	Maintenance Of Traffic	General	LS/DA	1.0		
0102-14	Traffic Control Officers - As Required By Town	General	EA	1.0		
0102-60	Work Zone Sign	Per Plan	ED	2226		
0102-71-16	Temporary Barrier, F&I, Free Standing	Per Plan	LF	853		
0102-71-26	Temporary Barrier, Relocate, Free Standing	Per Plan	LF	1132		
0102-74-1	Channelizing Device – Types I, II, DI, VP, Drum, Or LCD	Per Plan	ED	3857		
0102-75-1	Temporary Separator, F&I Remove	Per Plan	LF	1094		
0102-76	Arrow Board/Advance Warning Arrow Panel	Per Plan	ED	196		
0102-89-1	Temporary Crash Cushion, Redirective Option	Per Plan	LO	8		
0102-115	Type III Barricade	Per Plan	ED	224		
0710-11-101	Painted Pavement Markings, Standard White, Solid, 6”	Per Plan	GM	0.778		
0710-11-201	Painted Pavement Markings,	Per Plan	GM	0.766		

INVITATION TO BID (ITB) - PROJECT BC-159
INDIAN CREEK STRUCTURAL REPAIRS
BRIDGE NO. 875103

SUMMARY OF STRUCTURE QUANTITIES - BRIDGE 875103						
PAY ITEM NUMBER	**PAY ITEM DESCRIPTION**	**LOCATION DESCRIPTION**	**UNITS**	**QUANTITY PLANS**	**UNIT PRICE**	**TOTAL PRICE**
	Standard Yellow, Solid, 6”					
V. PAVEMENT PAY ITEMS						
0327-70-6	Milling Existing Asphalt Pavement, 1½” Avg. Depth	Per Plan	SY	4454.5		
0337-7-83	Asphalt Concrete Friction Course, Traffic C, FC-12.5, PG 76-22	Per Plan	TN	367.5		
				ROADWAY PAY ITEMS SUB-TOTAL =		

TOTAL BASE BID PRICE (TOTAL OF ALL BID ITEMS; I THROUGH V) =	

Quantities Notes:

1. The quantities listed for this project are estimates based on past field inspections. Due to the dynamic nature of deterioration, the town does not guarantee the accuracy of the estimates and due to the nature of the work, the bid quantities are not guaranteed and may be overrun or underrun as needed based on the repairs necessary at the time that the bridge is repaired. The actual reimbursement to the contractor will be based on the unit prices for the actual quantities of work completed by the contractor. No adjustment to the unit price shall be made due to overrunning or underrunning a quantity.

2. The quantities given for the saddles, are per saddle. Contractor to verify number of saddles to be repaired and adjust quantities of saddles required prior to submittal of the bid.

3. The contractor is responsible and shall verify the estimated for all of the items listed in the Summary of Structure Quantities and the actual payment to the contractor will be based on the unit prices for the actual quantities of work completed by the contractor. No adjustment to the unit price shall be made due to overrunning or underrunning a quantity.

_____

(Contractor Name) **(Date)**

INVITATION TO BID (ITB) - PROJECT BC-159
INDIAN CREEK STRUCTURAL REPAIRS
BRIDGE NO. 875103

Bidder will complete the Work in accordance with the Contract Documents for the following Total Base Bid Price as itemized above:

$_____

(**Total Base Bid Price**: Total for items I through V)

$_____(Dollars)_____(cents)

Total for items I through V - Base Bid Price Amount (in Words)

_____

Name of Bidder

_____

Signature of Bidder

SUMMARY OF STRUCTURE QUANTITIES - BRIDGE 875103

SECTION	PAY ITEM NUMBER	PAY ITEM DESCRIPTION	UNIT	QUANTITY		TOTAL QUANTITY		LOCATION	DESIGN NOTES	CONSTRUCTION REMARKS
				P	F	P	F			
REMOVAL	0110 12 1	HYDRODEMOLITION, REMOVAL OF DECK SURFACE	SY	260		260		SLAB UNITS		
SUPERSTRUCTURE	0401 70 2	RESTORE SPALLED AREAS, LATEX MODIFIED MORTAR-STYRENE BUTADIENE	CF	4.7		4.7		SLAB UNITS		
	0415 1 4	REINFORCING STEEL - BRIDGE SUPERSTRUCTURE	LB	3827		3827		SLAB UNITS		
	0458 1 21	BRIDGE DECK EXPANSION JOINT, REHABILITATION, POURED JOINT WITH BACKER ROD	LF	624		624		EXPANSION JOINT		
	0458 2	POLYMER NOSING FOR BRIDGE DECK EXPANSION JOINT	CF	4.8		4.8		EXPANSION JOINT		
	0918 349	ULTRA HIGH PERFORMANCE CONCRETE (UHPC)	CY	50.6		50.6		SLAB UNITS		
SADDLES (SEE NOTE 2)	0400 2 4	CONC CLASS II, BRIDGE SUPERSTRUCTURE	CY	0.1		0.1		SADDLE		
	0415 1 4	REINFORCING STEEL - BRIDGE SUPERSTRUCTURE	LB	4		4		SADDLE		

QUANTITIES NOTES:

1. THE QUANTITIES LISTED FOR THIS PROJECT ARE ESTIMATES BASED ON PAST FIELD INSPECTIONS. DUE TO THE DYNAMIC NATURE OF DETERIORATION, THE TOWN DOES NOT GUARANTEE THE ACCURACY OF THE ESTIMATES AND DUE TO THE NATURE OF THE WORK, THE BID QUANTITIES ARE NOT GUARANTEED AND MAY BE OVERRUN OR UNDERRUN AS NEEDED BASED ON THE REPAIRS NECESSARY AT THE TIME THE BRIDGE IS REPAIRED. THE ACTUAL REIMBURSEMENT TO THE CONTRACTOR WILL BE BASED ON THE UNIT PRICES FOR THE ACTUAL QUANTITIES OF WORK COMPLETED BY THE CONTRACTOR. NO ADJUSTMENT TO THE UNIT PRICE SHALL BE MADE DUE TO OVERRUNING OR UNDERRUNNING A QUANTITY.
2. THE QUANTITIES GIVEN FOR THE SADDLES ARE PER SADDLE. CONTRACTOR TO VERIFY NUMBER OF SADDLES TO BE REPAIRED AND ADJUST TOTAL QUANTITIES REQUIRED FOR BIDDING.

THE OFFICIAL RECORD OF THIS SHEET IS THE ELECTRONIC FILE DIGITALLY SIGNED AND SEALED UNDER RULE 61G15-23.004, F.A.C.

REVISIONS			
DATE	DESCRIPTION	DATE	DESCRIPTION

BCC ENGINEERING, LLC.
CARLOS A. DILLON, P.E. No. 86908
6401 SW 87th Avenue, Suite 200.
Miami, Florida 33173
P: (305) 670-2350 F: (305) 670-2351
Certificate of Authorization No. 7184

TOWN OF BAY HARBOR ISLANDS

BRIDGE NO.	COUNTY
875103	MIAMI-DADE

SUMMARY OF PAY ITEMS

SHEET NO. 3A

Town of Bay Harbor islands
9665 Bay Harbor Terrace
(305) 866-6241

ITB-5-1011-PW-0-2023/FVR

Indian Creek Structural Bridge Repairs Project BC-159

ADDENDUM NO. 2

ISSUED: October 26, 2023

This Addendum is being issued to provide the following information. It is hereby made a part of the Plans and Specifications and shall be included with all contract documents.

1 Questions submitted:

Question 1.

Concerning Addendum 1, could you please provide clarification as to why page 2 is labeled as ADDENDUM #3? Are there more addendums not released on demandstar?

Furthermore, given that Addendum 1 contained critical details, including the Summary of Quantities, and was issued a mere three days before the bid deadline, would you be open to considering an extension for the bid submission deadline?

Answer

I apologize for the confusion regarding the numbers; it was a clerical error. We have only released addendum number 1.

Please be advised that the bid opening date will remain unchanged and will proceed as initially advertised in the original document.

ADDENDUM #2

Question 2

Bid item 0102-14 Traffic Control Officers- As Required by Town, 1 EA.
The Plans stated that Off-Duty Officer is required at all time during construction.
Please clarify that the intent of this pay item is for one off-duty officer for approximately 200 days.

Answer

This project encompasses work under the bridge and when Temporary Maintenance of Traffic (MOT) Control is required on the bridge as indicated on the plans. The off- duty police officer is required only when the Temporary Maintenance of Traffic MOT is required on the bridge as indicated on the plans.

Question 3

Will Builder's Risk insurance be required for this project?

Answer

In reference to the Insurance Requirement please refer to the General Conditions, Special Conditions Article 9 of the bid documents.

Fausto Vargas
Procurement Officer

Company Name:_____
(please print)

Bidder's Signature: _____

Date:_____

Town of Bay Harbor islands
9665 Bay Harbor Terrace
(305) 866-6241

ITB-5-1011-PW-0-2023/FVR

Indian Creek Structural Bridge Repairs Project BC-159

ADDENDUM NO. 3

ISSUED: October 29, 2023

This Addendum is being issued to provide the following information. It is hereby made a part of the Plans and Specifications and shall be included with all contract documents.

1- Questions submitted:

Question 1.
Has the City considered to include a FDOT prequalification for bridges? This Project has some structural components and other repair complexities that merit for the City to request for the Contractor to have FDOT R&R bridges prequalification's.

Answer
The contractor FDOT prequalification was not included in the package as part of the requirements for this project. Therefore, it is not required but recommended.

Question 2.
The requirement for Hydro demolition equipment and operations is to have equipment staged on top of the bridge deck. The existing space as per the traffic control plans do not provide enough room from the start of the attenuator location to the signalized intersection to stage equipment needed. How did the designer envisioned to accomplish this task. It is specifically constrained during Phase II (work in the center lane)

ADDENDUM #3

Answer
The work zone provided is based on the need to provide one lane in each direction to maintain traffic. The selection equipment needed to perform this work is based on the means and methods of the contractor.

Question 3

It is not possible to perform hydro demolition operations on the center lane only while maintaining the outside lanes open, as the hydro equipment needs to be feed with a water line at all times. Additionally, a water source within reach must be made available to the Contractor. Please indicate wow did the designer envisioned to accomplish this task. It is specifically constrained during Phase II (work in the center lane)

Answer
The work zone provided is based on the need to provide one lane in each direction to maintain traffic. The selection equipment needed to perform this work is based on the means and methods of the contractor.

Fausto Vargas
Procurement Officer

Company Name:_____
(please print)

Bidder's Signature: _____

Date:_____

AGENDA ITEM REPORT

November 8, 2023

ITEM NUMBER: 8.

ITEM: Consideration and **Approval** to expend the first installment payment of $80,000 allocated in Fiscal Year 2023-2024 budget to MARK43 for acquisition of a new Records Management System and Computer Aided Dispatch System at a total cost of $406,608, under a five-year contract. The Capital Project will be spaced over a five-year payment schedule as listed below. This purchase will be made under the piggyback purchase provision pursuant to Section 2-1.2(6) of the Town Code, which allows for use of contracts from another governmental agency that has been through a competitive bidding process for similar items/services.

DESCRIPTION:

The Town Council of Bay Harbor Islands approved and appropriated funds from the Police Department Budget Capital Projects Fund, Fiscal Year 2023/2024 which includes the acquisition of a new Records Management System and Computer Aided Dispatch System. This memo serves as a request to expend the funds previously approved for the purchase of the Records Management and Computer Aided System (Mark43) for the amount of $406,608.00. The current Records Management System is outdated and does not meet the requirements for compliance with the State of Florida for FIBRS Submission and Uniform Crime Reporting (UCR). The purchase of the Mark43 system will ensure the BHIPD is compliant with all requirements.

The purchase will include 24/7 customer support, data and cybersecurity measures, configuration updates, software updates, software maintenance, knowledge base and help desk access, administrative support tools, and personnel and implementation support. The vendor, Mark43 will be utilized using a "piggyback contract," based on the vendor's capabilities to supply all items in the purchase, fitting the agency's necessary needs.

The police department sought and received 3 quotes from 3 separate vendors. Mark43 is solely dedicated to advancing the mission of Public Safety and Law Enforcement and solely focused on developing the best in breed CAD/RMS platforms. They are Data Driven with intuitive AI-based user interface. Officers can spend more time in the field and less time on administrative tasks. Data and data governance is built into the platform. They also ensure data protection. Mark43 is mission critical with options such as Cloud native on AWS, Mobility through Onscene, CJIS and FIBRS compliant, with the highest levels of security, including FedRAMP and StateRAMP.

This purchase will be made as a "piggyback contract based on the Contract/Master Agreement between The City of Boynton Beach and Mark43. Attached is the contract document as proof of the "piggyback contract" the Police Department and Town are requesting to use as provided for in Sec. 2-1.2(6) of the Town's Code, allowing for contracts that utilize a bid or proposal which has been secured by another governmental entity "piggyback contract."

The quote from Mark43, in the amount of $406,608.00, includes the total cost of the system. The Capital Project will be spaced over a five-year payment schedule. The payment schedule is listed below.

Year	Due Date	Amount Due*
1	Payment due on Effective Date (Contract Execution)	$ 80,000
2	Payment due on Effective Date anniversary	$ 81,652
3	Payment due on Effective Date anniversary	$ 81,652
4	Payment due on Effective Date anniversary	$ 81,652
5	Payment due on Effective Date anniversary	$ 81,652
	(5) YEAR TOTAL	$ 406,608

RECOMMENDED ACTION:
Approve

FINANCIAL ANALYSIS:
The project is included in the approved 5-year Capital Plan, and the first installment of $80,000 has been allocated in the Fiscal Year 2023-2024 adopted budget for the acquisition of the new Records Management System and Computer Aided Dispatch System, Line Item #001.5210.400066.000.

BUDGET IMPACT:

Submitted By: Analily Perez, Administrative Coordinator
Lindsley Noel

ATTACHMENTS

1.	Memo RMS Mark 43
2.	Mark43
3.	2023.02.23 Mark43 SLSA for Boynton Beach - 9.25.2023

Bay Harbor Islands Police Department

Interoffice Memorandum

To: Town Council Date: 10/23/2023

From: Lindsley Noel
Chief of Police

Subject: Approval to expend allocated funds for
Police Department Records Management System
Computer Aided Dispatch System

The Town Council of Bay Harbor Islands approved and appropriated funds from the Police Department Budget Capital Projects Fund () Fiscal Year 2023/2024 which includes the acquisition of a new Records Management System and Computer Aided Dispatch System. This memo serves as a request to expend the funds previously approved for the purchase of the Records Management and Computer Aided System (Mark43) in the amount of $406,608.00. The current Records Management System is outdated and does not meet the requirements for compliance with the State of Florida for FIBRS Submission and Uniform Crime Reporting (UCR). The purchase of the Mark43 system will ensure the BHIPD is compliant with all requirements.

The purchase will include 24/7 customer support, data and cybersecurity measures, configuration updates, software updates, software maintenance, knowledge base and help desk access, administrative support tools, and personnel and implementation support. The vendor, Mark43 will be utilized using a "piggyback contract," based on the vendor's capabilities to supply all items in the purchase, fitting the agency's necessary needs.

The police department sought and received 3 quotes from 3 separate vendors. Mark43 is Solely dedicated to advancing the mission of Public Safety and Law Enforcement and solely focused on developing the best in breed CAD/RMS platforms. They are Data Driven with intuitive AI based User interface, officers can spend more time in the field and less time with administrative tasks. Data and data governance is built into the platform. They also ensure data protection. Mark43 is mission critical with options such as Cloud native on AWS, Mobility through Onscene, CJIS and FIBRS compliant, with the highest levels of security, including FedRAMP and StateRAMP.

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Bay Harbor Islands Police Department

Interoffice Memorandum

4	**Payment due on Effective Date anniversary**	**$ 81,652**
5	**Payment due on Effective Date anniversary**	**$ 81,652**
	(5) YEAR TOTAL	**$ 406,608**

Bay Harbor Islands PD
Mark43 CAD/RMS Proposal
10.18.23

MARK43



Why Mark43 ?

- Solely dedicated to advancing the mission of Public Safety and Law Enforcement and solely focused on developing best in breed CAD/RMS platform

- Data Driven
  - Intuitive AI based User interface – Officers can spend more time in the field and less time with administrative tasks
  - Data Quality and Data Governance built into the platform so you Trust your data, drive desired outcomes and enable a more thoughtful engagement with the Community

- Always On - Mission Critical CAD/RMS
  - Cloud native on AWS
  - Mobility through Onscene
  - CJIS and FIBRS compliant
  - Highest levels of security - FedRAMP and StateRAMP in process

The most trusted platform for major agencies



Tennessee
Highway Patrol



Atlanta
Police Department



Louisiana
State Police



Boston
Police Department



Chicago Police
Department



Houston Police
Department



San Antonio
Police Department



Seattle
Police Department



California
Highway Patrol



Washington, D.C.
Metropolitan Police
Department

The most trusted platform for Florida



Fort Myers
Police Department



Miramar
Police Department



Miami Gardens
Police Department

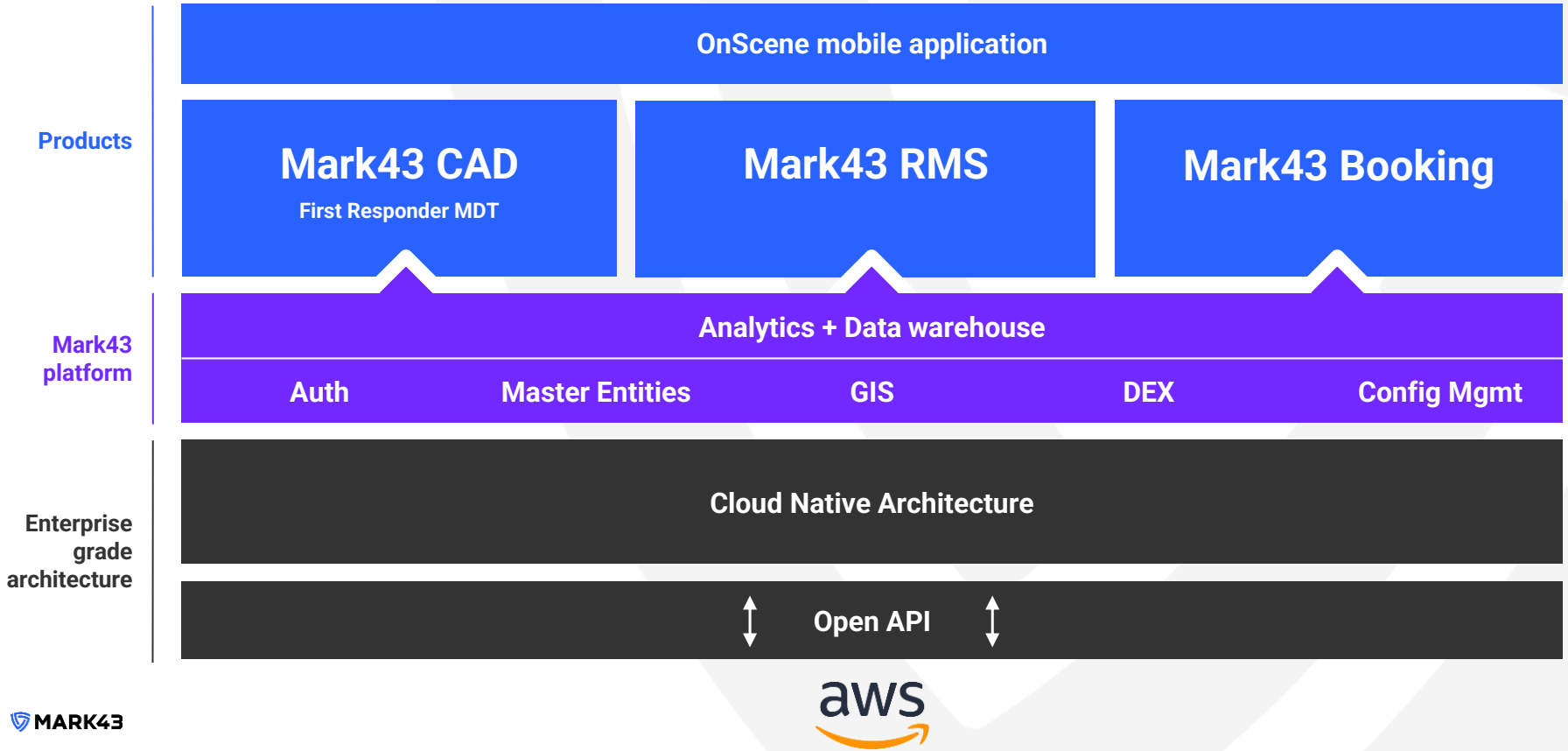


Boynton Beach
Police Department



Coral Gables
Police Department

Mark43: The modern public safety platform



Mark43 Solution for Bay Harbor

CAD Modules:
Quantity: Not to exceed 5 Telecommunicators/ Dispatchers, 30 First Responders

- Dispatcher/Call-Taker View
- LE First Responder View
- OnScene Mobile Application
- CommSys: ConnectCIC State Only

Analytics: Analytics BI Suite Explorer/Viewer

Data Lake: Base; 1 instance

RMS Modules:
Quantity: Not to exceed 30 sworn

- OnScene Mobile Application
- RMS Reports Writing - 5 report types
- RMS Case Management - 1 case type
- RMS Fillable PDFs
- RMS Property and Evidence

Interfaces (5): Axon Evidence.com, ELVIS, TRaCS, Dade County A-Form, Linx SE

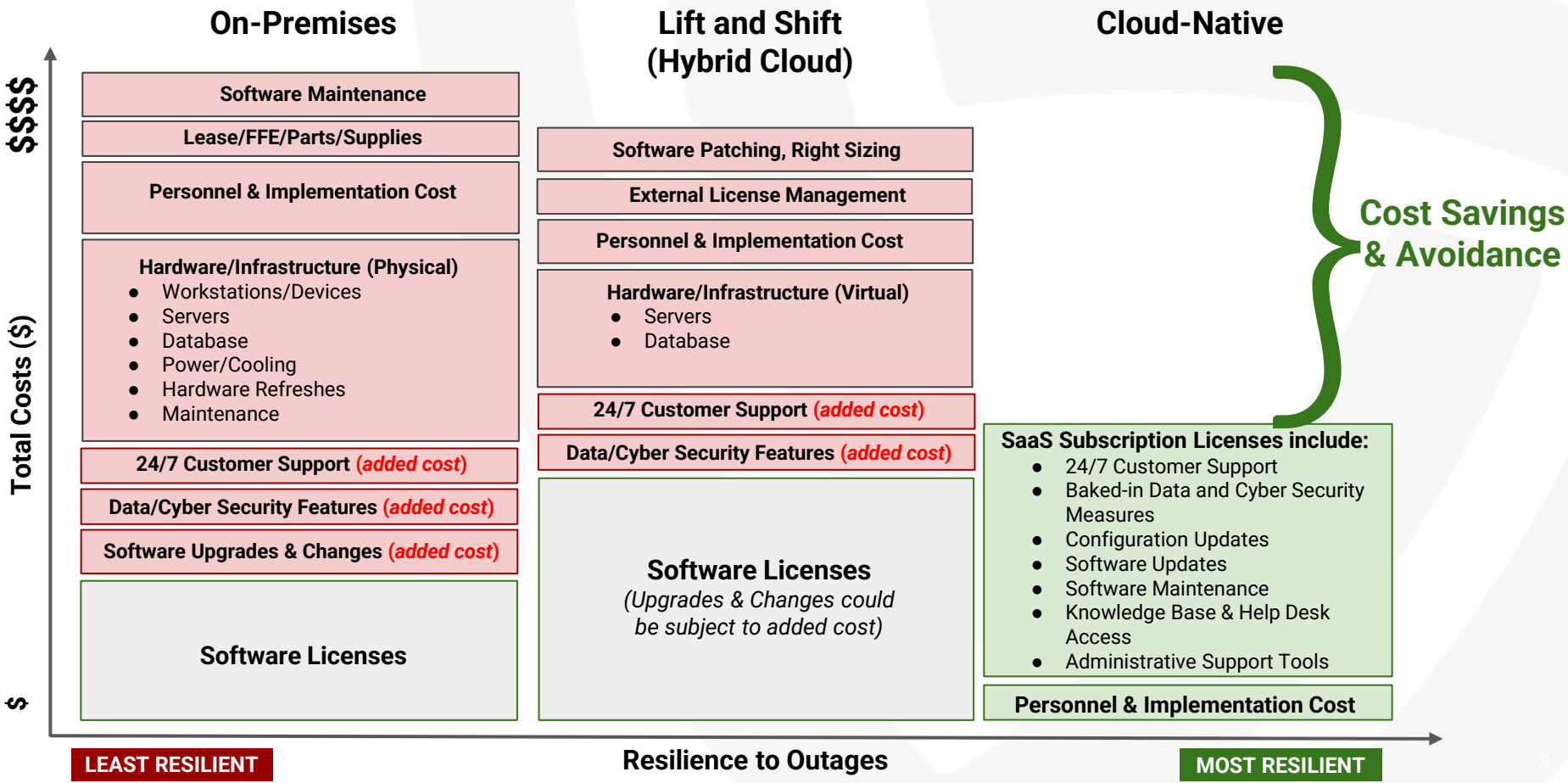
Data Migration: Not included at this time. Additional scoping required for Migration options

Payment Schedule

Year	Due Date	Amount Due*
1	Payment due on Effective Date (Contract Execution)	$ 80,000
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5	Payment due on Effective Date anniversary	$ 81,652
	(5) YEAR TOTAL	$ 406,608

*Note: NTE (not to exceed) pricing included. Official pricing to be obtained from a certified Mark43 partner. Pricing inclusive of Subscription and Implementation Services

5-Year Total Cost of Ownership Comparisons



SOFTWARE LICENSE AND SERVICES AGREEMENT

This Software License and Services Agreement (this "**Agreement**") is effective as of _____, 2023 (the "**Effective Date**") by and between Mark43, Inc. ("**Mark43**"), with a place of business at 250 Hudson Street, 3rd Floor, New York, NY 10013, and the City of Boynton Beach ("**Subscriber**"), with a place of business at 100 E Ocean Ave, Boynton Beach, FL 33435.

Commented [SRS1]: Please confirm.

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

1. DEFINITIONS.

1.1 "**Affiliate**" means, with respect to any entity, any other entity who, directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with, such entity. The term "control" means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of an entity, whether through the ownership of voting securities, by contract or otherwise.

1.2 "**Affiliated Agency**" means any other government agency to which Subscriber is legally or contractually bound to share information.

1.3 "**Applicable Law(s)**" means, with respect to any party, any federal, state or local statute, law, ordinance, rule, administrative interpretation, regulation, order, writ, injunction, directive, judgment, decree or other requirement of any international, federal, state or local court, administrative agency or commission or other governmental or regulatory authority or instrumentality, domestic or foreign, applicable to such party or any of its properties, assets or business operations.

1.4 "**Applications**" means the applications purchased by Subscriber as described in Schedule E.

1.5 "**Authorized Users**" means employees of Subscriber and any Affiliated Agency who are authorized to access and use the Applications through the applicable security designation(s), pursuant to which full or limited access to the applicable Applications may be granted.

1.6 "**Documentation**" means the knowledge base for the SaaS Services to which Subscriber will be granted access by Mark43.

1.7 **"Go Live"** means the date of cutover to each respective Mark43 Application.

1.8 **"Integrated Application**" means a third-party product, database or application requested by Subscriber and approved by Mark43 that will be installed, linked or enabled by Subscriber for use in connection with the SaaS Services (e.g. NCIC).

1.9 "**Integrated Application Data**" means all data, information, content and other materials stored on an Integrated Application.

1.10 "**Integrated Application Provider**" means any third party, including other vendors, state agencies and local agencies, that control products and/or databases with which Mark43 SaaS Services are to be interfaced.

1.11 "**Intellectual Property Rights**" means all intellectual and industrial property rights, whether now existing or existing in the future, including without limitation, (i) all patent rights, including any rights in pending patent applications and any related rights; (ii) all copyrights and other related rights throughout the world in works of authorship, including all registrations and applications therefor; (iii) all trademarks, service marks, trade dress or other proprietary trade designations, including all registrations and applications therefor (iv) all rights throughout the world to proprietary know-how, trade secrets and other confidential information, whether arising by law or pursuant to any contractual obligation of non-disclosure; and (v) all other rights covering industrial or intellectual property recognized in any jurisdiction.

1.12 "**Professional Services**" means any implementation, training, project management, consulting and other services (outside the scope of the Support Services) that are described in a Statement of Work.

1.13 "**SaaS Services**" means the Applications, Software, and related software-as-a-service, hosting, maintenance and/or support services made available by Mark43 for remote access and use by Subscriber, including any Documentation thereto.

1.14 **"Services**" means the services provided or required to be provided by or through Mark43, including without limitation, SaaS Services and Professional Services.

1.15 **"Software**" means the object code version of Mark43's computer software and all Updates made available by Mark43 to Subscriber under this Agreement.

1.16 **"Statement of Work**" means a detailed plan of work to be agreed by the Parties in conjunction with this Agreement.

1.17 "**Subscriber Data**" means all data, information, content and other materials stored or transmitted by Subscriber and any Authorized User through the SaaS Services (i) in their user accounts; and (ii) on any Integrated Application, excluding any Third-Party Data and any Mark43 data.

1.18 "**Term**" means the Initial Term and any Renewal Terms.

1.19 **"Third-Party Component"** means a third-party application incorporated in, integrated with or accessed through the SaaS Services (e.g. a mapping provider).

1.20 **"Third-Party Data"** means any data, information, content and other materials made available by any third party, including without limitation through a Third-Party Component.

1.21 "**Updates**" means any and all new releases, new versions, patches and other updates for the SaaS Services that Mark43 makes generally available without additional charge to its other subscribers of the SaaS Services.

1.22 "**Website**" means any Internet website through which Mark43 provides the SaaS Services under this Agreement.

1.23 "**Work Product**" means all deliverables (whether or not specifically identified in a Statement of Work), materials, software, tools, data, inventions, works of authorship and other innovations of any kind that Mark43, or personnel working for or through Mark43, may make, conceive, develop or reduce to practice, alone or jointly with others, in the course of performing Professional Services or as a result of such Professional Services, whether or not eligible for patent, copyright, trademark, trade secret or other legal protection.

2. PROVISION OF THE SERVICES AND SOFTWARE.

2.1 **SaaS Services**. Subject to the terms of this Agreement, and during the Term, Mark43 hereby grants a non-exclusive, non-transferable, non-sublicensable license to Subscriber and its Authorized Users to access and use the SaaS Services through the Website for Subscriber's internal purposes and in accordance with the terms and conditions of this Agreement. Mark43 will be responsible for hosting the Website, and Subscriber and its Authorized Users will be responsible for obtaining internet connections and other third-party software, hardware and services necessary for it to access the Website through the internet, including as set forth at https://mark43.zendesk.com/hc/en-us/articles/4409896858381-Technical-Requirements-for-Mark43-Applications, which may be updated from time to time upon reasonable advance notice (email acceptable) to Subscriber. Subscriber will be responsible to Mark43 for compliance with the restrictions on use and other terms and conditions of this Agreement by any of its Authorized Users.

2.2 **Professional Services**. Mark43 will provide Professional Services in connection with the SaaS Services as further described on Schedule E and the Statement of Work. To the extent any Professional Services involve the development of any customization or configuration to the SaaS Services, all Intellectual Property Rights to such customization or configuration will be solely owned by Mark43 and will be deemed to be included in the definition of SaaS Services and licensed to Subscriber on the terms set forth herein.

2.3 **Access to Documentation**. Mark43 will provide Subscriber via the Website or other means with access to the Documentation, as may be updated from time to time. Subscriber may print copies of, use, and permit its Authorized Users to use, the Documentation solely in connection with the use of the SaaS Services.

2.4 **Support Services**. Subject to the terms and conditions of this Agreement, Mark43 will provide to Subscriber the support services detailed on Schedule A (the "**Support Services**").

2.5 **Restrictions on Use.** Subscriber and its Authorized Users will not (and will not permit any third party to): (i) share Subscriber's or any Authorized User's login credentials; (ii) reverse engineer, decompile, disassemble, or otherwise attempt to discern the source code, underlying ideas, algorithms, file formats, or interface protocols of the SaaS Services or of any files contained in or generated by the SaaS Services; (iii) copy, modify, adapt or translate the SaaS Services or the Third-Party Data, or otherwise make any use, resell, distribute or sublicense the SaaS Services or the Third-Party Data other than in connection with this Agreement; (iv) make the SaaS Services available on a "service

bureau" basis or allow any third parties to use the SaaS Services; (v) disclose the SaaS Services or any of its components to third parties; (vi) remove or modify any proprietary marking or restrictive legends placed on the SaaS Services or the Third-Party Data; (vii) use the SaaS Services or the Third-Party Data in violation of any Applicable Law; (viii) create or augment any mapping-related dataset (including a mapping or navigation dataset, business listings database, mailing list, or telemarketing list) for use in an implementation that is not connected to the Services; (ix) introduce into the Services any viruses, worms, defects, Trojan horses, malware, or any items of a destructive nature; (x) use the Services to post advertising or listings; (xi) use the Services to defame, abuse, harass, stalk, or threaten others; (xii) permit access or use of the Services by any individual outside the United States; (xiii) hide or obscure any Authorized User's location; (xiv) permit access or use of the Services, for any activities other than to enhance Subscriber's own services, where reliance solely on, or failure to use, the Services could lead to death, personal injury, or property damages. Subscriber and its Authorized Users will not access the SaaS Services if in direct competition with Mark43, and will not allow access to the SaaS Services by any party who is in direct competition with Mark43, except with Mark43's prior written consent. Subscriber shall comply with additional restrictions on use of the Services in accordance with the Third-Party Component Terms.

2.6 **Security Obligations.** Subscriber agrees it and its Authorized Users shall securely manage their respective password(s) for access to the SaaS Services. Subscriber agrees it shall notify Mark43 promptly in the event it becomes aware of any unauthorized access or use of the SaaS Services, or of any of its or its Authorized Users passwords or accounts. Unless expressly stated otherwise in this Agreement, a single username or password may not be used by more than one (1) Authorized User. In addition, Authorized Users may log into the SaaS Services from only one location at any given time; concurrent usage (or sign in) under a single username is prohibited, unless Subscriber has a business justification for concurrent usage, in which case Subscriber is responsible for providing approval for such usage to the applicable Authorized Users. Subscriber is responsible for all activities conducted within user accounts in use of the SaaS Services. Subscriber shall comply with all applicable local, state, federal and regional or other laws and regulations applicable in connection with use of the SaaS Services, including all those related to data privacy and the transmission of technical or personal data. Subscriber agrees to (a) provide true, accurate, current and complete registration data for each account it creates via the SaaS Services, and (b) maintain and promptly update the registration data to keep it true, accurate, current and complete.

2.7 **Changes to Services**. Mark43 may make changes and Updates to its Services, provided that it does not materially derogate the overall quality of the Services. Mark43 does not guarantee that the Services are or will remain compatible with any particular third-party software or equipment, and may, upon written notice, terminate its support for, any software or equipment of Subscriber that Mark43 determines are incompatible with the operation of the Services.

2.8 **Data Sharing**. Mark43 will allow Subscriber to grant other agencies specified levels of access to Subscriber Data pursuant to an executed data-sharing agreement between agencies, and with permissions subject to the parameters laid out in the relevant data-sharing agreement. Subscriber shall provide Mark43 with a copy of the executed data-sharing agreement prior to allowing any such data-sharing. As between Mark43 and Subscriber, Subscriber will be solely responsible for any liabilities that arise as a result of such data-sharing.

3. PROPRIETARY RIGHTS; SUBSCRIBER DATA.

3.1 **Ownership of Subscriber Data.** As between Mark43 and Subscriber, Subscriber owns the Subscriber Data. Mark43 will have, and Subscriber hereby grants and agrees to grant to Mark43, a royalty-free, worldwide, transferable, sublicensable, irrevocable, perpetual license to use the Subscriber Data to configure and/or provide the SaaS Services, Software, Support Services and Professional Services to Subscriber, and/or to prevent or address service or technical problems, in accordance with this Agreement and the Documentation, or otherwise in accordance with Subscriber's requests or instructions. Mark43 may also use Subscriber Data in anonymized and/or aggregated form to develop analytics that may be used to provide products and services to Subscriber and/or to other Mark43 customers, provided that: (a) Mark43 makes available to Subscriber functionality and services based on anonymized data obtained from other Mark43 customers that are similar to the functionality and services provided to such other customers based on the anonymized data; and (b) Mark43 may not sell or offer for sale any Subscriber Data, whether in Subscriber identifiable, or anonymized and aggregated form. Mark43 shall comply with its obligations under all Applicable Laws in its provision of the Services and use of Subscriber Data.

3.2 **Ownership and Reservation of Rights to Mark43 Intellectual Property.** As between Mark43 and Subscriber, Mark43, its Affiliates and/or its licensors own all right, title and interest in and to the

Services, Software, Work Product and all related technology and Intellectual Property Rights. Subject to the limited rights expressly granted hereunder, and except with respect to Third-Party Components, Mark43 reserves all rights, title and interest in and to the Services, Software, and Work Product, including all related technology and Intellectual Property Rights. No rights are granted to Subscriber hereunder other than as expressly set forth in this Agreement or as required by Applicable Law.

3.3 **Subscriber Feedback**. Subscriber and its Authorized Users may elect to provide Mark43 with suggestions, enhancement requests, recommendations and other feedback concerning the SaaS Services, Software, Support Services or Professional Services (the "**Subscriber Feedback**"). Subscriber hereby assigns and agrees to assign all Subscriber Feedback to Mark43 without lien or encumbrance and agrees that Subscriber Feedback will be the sole property of Mark43 and that Mark43 may use Subscriber Feedback in its discretion without obligation to Subscriber. Mark43 has no obligation to make Subscriber Feedback an improvement. For the avoidance of doubt, Subscriber Feedback does not constitute Confidential Information of Subscriber hereunder.

3.4 **Usage Data**. Mark43 may collect certain information in connection with Subscriber's access to or use of the Services, such as access records, date and time stamps, transaction and activity records and system performance data ("**Usage Data**"). Mark43 may use Usage Data to deliver and manage its products and services, perform maintenance and support, and develop, test, analyze, and improve the Services and other Mark43 products and services, and generate statistical data about usage of its products and services. As between Mark43 and Subscriber, Mark43 owns the Usage Data.

3.5 **Data Security**. Terms applicable to the privacy and security of Subscriber Data are set forth in the Data Processing Addendum attached as Schedule D hereto (the "**Data Processing Addendum**").

4. THIRD-PARTY COMPONENTS AND INTEGRATED APPLICATIONS.

4.1 **Third-Party Components.** Third-Party Components may be made available to Subscriber through the SaaS Services. In connection with the functionality provided by and/or through Third-Party Components, Subscriber hereby accepts and agrees to be bound by the terms and conditions set forth in Schedule C, which may be updated from time to time upon notice (email acceptable) to Subscriber (the "**Third-Party Component Terms**"). In the event of any inconsistency or conflict between the Third-Party Component Terms and the terms of this Agreement, the Third-Party Component Terms shall govern with respect to Subscriber's access to and use of the applicable Third-Party Component.

4.2 **Integrated Applications**. To the extent Subscriber installs, links to or enables any Integrated Application for use with the SaaS Services, Subscriber grants and agrees to grant (and will cause the applicable Integrated Application Provider to grant) to Mark43 permission to access, retrieve, view, store, copy, modify and process Integrated Application Data from Subscriber's existing account(s) on each such Integrated Application to the extent necessary to facilitate the interoperation of such Integrated Application with the SaaS Services. To the extent Subscriber requires an Integrated Application Provider's assistance to install, link to or enable any Integrated Application for use with the SaaS Services, Subscriber shall separately contract with each such Integrated Application Provider for any such assistance. In no event will Mark43 be responsible for any Integrated Application or Integrated Application Data, or for any failure of an Integrated Application to properly interoperate with the SaaS Services; provided, however, to the extent that Mark43 creates, pursuant to the Statement of Work, an interface for an Integrated Application hereunder, Mark43 shall be responsible for such interface only, subject to the terms and conditions of this Agreement and the applicable Statement of Work. Mark43 may at any time, in its sole reasonable discretion, including upon the request of an Integrated Application Provider or due to an actual or potential security threat, disable any connection between an Integrated Application and the Applications, and any access, retrieval and viewing of Integrated Application Data via the Applications. For the avoidance of doubt, Subscriber's access to and use of Integrated Applications and Integrated Application Data shall be subject to the terms and conditions of Subscriber's agreement(s) with the applicable Integrated Application Provider.

5. FEES AND PAYMENT TERMS.

5.1 **Fees for the Services**. Subscriber will pay the fees as stated in Schedule E (the "**Fees**") attached hereto in accordance with the payment schedule set forth in Schedule E. All Fees due hereunder will be due and payable by Subscriber within thirty (30) days of the invoice date. All payments of Fees are non-refundable. All amounts stated in this Agreement or on any invoice are in U.S. dollars, and all payments will be made in U.S. dollars.

5.2 **Overdue Payments**. Any payment not received from Subscriber by the due date shall accrue late charges at the rate of 1.5% of the outstanding balance per month, or the maximum rate permitted by Applicable Law, whichever is lower, from the date such payment was due until the date paid.

5.3 **Taxes.** Subscriber will pay all taxes, including sales, use, excise, and other governmental fees, duties, and charges (and any penalties, interest, and other additions thereto) that are imposed on Subscriber or Mark43 with respect to the transactions and payments under this Agreement (excluding taxes based on Mark43's income or employment) ("**Indirect Taxes**"). All Fees are exclusive of Indirect Taxes. If any such taxes are required to be withheld on any payment, Subscriber will pay such additional amounts as are necessary so that the net amount received by Mark43 is equal to the amount then due and payable under this Agreement.

6. TERM AND TERMINATION.

6.1 **Term.**

(a) Initial Term**.** The initial term of this Agreement begins on the Effective Date and will continue for the period set forth on Schedule E, unless and until terminated in accordance with Section 6.2 (the "**Initial Term**").

(b) Renewal Terms**.** Upon expiration of the Initial Term or any Renewal Term, this Agreement will automatically renew for successive periods as set forth on Schedule E (each, a "**Renewal Term**") at the rates set forth on Schedule E, unless either party provides the other with written notice of non-renewal at least thirty (30) days prior to the expiration of the then-current term.

6.2 **Termination; Suspension of Services**.

(a) Termination for Breach by Either Party. Either party may terminate this Agreement upon written notice to the other party, if the other party breaches a material term of this Agreement and such breach remains uncured for thirty (30) days after the other party's receipt of such notice.

(b) Termination for Non-Appropriation. Subscriber's payment obligation under this Agreement extends only to funds appropriated annually by Subscriber or Subscriber's governing body for the purpose of this Agreement. For each succeeding fiscal period covered by this Agreement, Subscriber or other applicable agency or department responsible for this Agreement agrees to include in its budget request appropriations sufficient to cover the annual financial obligations under this Agreement. If Subscriber is appropriated insufficient funds to continue annual payments under this Agreement, Subscriber may terminate this Agreement by giving Mark43 not less than thirty (30) days' prior written notice. Upon termination under this paragraph, Mark43 shall be entitled to compensation for all Services rendered prior to the effective termination date, plus any prepaid Fees, as well as reimbursement for reasonable costs actually incurred in closing out this Agreement.

(c) Suspension of Services. To the extent permitted by Applicable Law, in addition to any other rights or remedies it may have under this Agreement or by Applicable Law, Mark43 may immediately suspend provision of the Services without liability to Subscriber: (a) if Subscriber's account is more than sixty (60) days past due, until paid in full; (b) if Subscriber breaches Section 2.5 (Restrictions on Use) or Section 2.6 (Security Obligations); (c) to avoid harm or liability to Mark43, its Affiliates or its other customers, including in the case of denial of service attacks or other disruptions; or (d) if required by Applicable Law or requested by a governmental authority. Subscriber shall remain liable for any fees and other amounts payable under this Agreement during any period of suspension. Mark43 will use commercially reasonable efforts to restore Subscriber's rights to use and access those portions of the Services or accounts that gave rise to the suspension promptly after Subscriber has resolved the problem giving rise to the suspension.

6.3 **Effect of Termination**. In the event of any termination or expiration of this Agreement,

(a) Subscriber will pay Mark43 all amounts payable hereunder as of the termination or expiration date;

(b) all rights and licenses granted hereunder to Subscriber (as well as all rights granted to any Authorized Users of Subscriber) will immediately cease, including but not limited to all use of the SaaS Services; and

(c) Mark43 will provide records to Subscriber in accordance with its transition assistance services ("**Transition Assistance**") as set forth in Schedule B.

(d) Subscriber will, upon written request of Mark43, either return to Mark43 or provide Mark43 with written certification of the destruction of, all documents, computer files and other materials containing any Confidential Information of Mark43 that are in Subscriber's possession or control.

6.4 Survival. The following provisions will survive any termination or expiration of this Agreement: Section 3.1 ("Ownership of Subscriber Data"), Section 4 ("Third-Party Components and Integrated Applications"), Section 6.3 ("Effect of Termination"), Section 7 ("Confidentiality"), Section 8.4 ("Disclaimer"), Section 9 ("Limitation of Liability"), Section 10 ("Indemnification"), Section 11 ("Miscellaneous"), Schedule B ("Transition Assistance") and this Section 6.4 ("Survival").

7. CONFIDENTIALITY.

7.1 Definition of Confidential Information. For the purposes of this Agreement, "**Confidential Information**" means: (a) with respect to Mark43, the SaaS Services, and any and all source code relating thereto, as well as Documentation and non-public information or material regarding Mark43's legal or business affairs, financing, customers, properties or data, and (b) with respect to Subscriber, any non-public information or material regarding Subscriber's legal or business affairs, financing, customers, properties or data. Notwithstanding any of the foregoing, Confidential Information does not include information which: (i) is or becomes public knowledge without any action by, or involvement of, the party to which the Confidential Information is disclosed (the "**Receiving Party**"); (ii) is documented as being known to the Receiving Party prior to its disclosure by the other party (the "**Disclosing Party**"); (iii) is independently developed by the Receiving Party without reference or access to the Confidential Information of the Disclosing Party and is so documented; or (iv) is obtained by the Receiving Party without restrictions on use or disclosure from a third person who did not receive it, directly or indirectly, from the disclosing party.

7.2 Use and Disclosure of Confidential Information. The Receiving Party will, with respect to any Confidential Information disclosed by the Disclosing Party before or after the Effective Date: (i) use such Confidential Information only in connection with the Receiving Party's performance of this Agreement; (ii) subject to Section 7.4 below, restrict disclosure of such Confidential Information within the Receiving Party's organization to only those of the Receiving Party's employees and independent contractors who have a need to know such Confidential Information in connection with the Receiving Party's performance of this Agreement and (iii) except as provided herein, not disclose such Confidential Information to any third party unless authorized in writing by the Disclosing Party to do so.

7.3 Protection of Confidential Information. The Receiving Party will protect the confidentiality of any Confidential Information disclosed by the Disclosing Party using at least the degree of care that it uses to protect its own confidential information (but no less than a reasonable degree of care).

7.4 Employee and Independent Contractor Compliance. The Receiving Party will, prior to providing any employee or independent contractor access to any Confidential Information of the Disclosing Party, inform such employee or independent contractor of the confidential nature of such Confidential Information and require such employee or independent contractor to comply with the Receiving Party's obligations hereunder with respect to such Confidential Information.

7.5 Compelled Disclosure. A disclosure by one party of Confidential Information of the other party to the extent required by Applicable Law will not be considered a breach of this Agreement, provided the party so compelled promptly provides the other party with prior notice of such compelled disclosure (to the extent legally permitted) and provides reasonable assistance, at the other party's cost, if the other party wishes to contest the disclosure.

7.6 Public Records.

(a) For purposes of this Section 7 (Confidentiality), the term "**Public Records Request**" shall mean any request for the disclosure of records pursuant to a state public records law or "sunshine" law, federal Freedom of Information Act or other comparable law.

(b) To the extent Subscriber is subject to a Public Records Request that seeks the disclosure of any information or materials provided by Mark43 to Subscriber prior to or during the Term (including without limitation this Agreement), Subscriber shall, prior to any disclosure, promptly notify Mark43 of such Public Records Request (to the extent legally permitted to do so) and provide reasonable assistance, at Mark43's cost, if Mark43 wishes to contest the disclosure. Subscriber shall also identify for Mark43 the information or materials it intends to disclose, and provide Mark43 at least ten (10) days to review prior to disclosure, or if such time is not available or permitted under Applicable Law, at least as much time as would be reasonable to allow Mark43

to meaningfully review and seek appropriate relief. For the avoidance of doubt, and without limiting the foregoing, Subscriber hereby acknowledges that Mark43 shall have no implicit or explicit obligation to challenge, oppose or defend against any request described herein.

7.7 CJIS Standards; Employee Background Checks.

(a) Subscriber understands and agrees that Mark43 utilizes third-party vendors (each, a "**Hosting Provider**") to host the SaaS Services.

(b) Subscriber may request reasonable records from Mark43 from time to time to assess Mark43's adherence to requirements of the applicable CJIS Security Policy promulgated by the FBI. For the avoidance of doubt, Subscriber may need the consent of Hosting Provider to obtain any records or information from Hosting Provider.

(c) Subscriber will have the opportunity to run, at Subscriber's expense, reasonable background checks on Mark43 employees that will have direct access to Subscriber Data in Subscriber's production environment (such employees, the "**Covered Employees**"), provided that Mark43 may assume that a Covered Employee has been cleared by Subscriber if Mark43 does not receive an adverse response from Subscriber within thirty (30) days of a submission of a background check request.

8. REPRESENTATIONS AND WARRANTIES.

8.1 Power and Authority. Each party represents and warrants that it has the full right, power and authority to enter into this Agreement and to discharge its obligations hereunder and that the person signing this Agreement on behalf of the party has the authority to bind that party. Subscriber represents and warrants that it has obtained, and shall have, all necessary approvals, consents, and authorizations necessary for procurement under this Agreement and that its obligations under this Agreement do not, and shall not, exceed any budget authority limitations, during the Term of this Agreement.

8.2 Sole Source Procurement. Subscriber represents that it has complied with all state and local laws related to this sole source award to Mark43. In addition, Subscriber represents that it has followed all sole source procedures, including any applicable public notice requirements, related to the award of this Agreement.

8.3 Services Warranty.

(a) Mark43 represents and warrants that the Applications and SaaS Services will be made available to Subscriber in accordance in all material respects with the Documentation. Subscriber's sole remedy and Mark43's sole obligation with respect to a breach of the foregoing warranty is for Mark43, through the Support Services, to use commercially reasonable efforts to remedy the breach within a commercially reasonable amount of time.

(b) Mark43 represents and warrants that the Professional Services will be provided in a professional manner and that for a period of thirty (30) days from Go Live (the "**Warranty Period**"), the Work Product will operate in material accordance with the specifications provided by Mark43 or otherwise agreed between the parties in writing (including in the applicable Statement of Work). Subscriber's sole remedy and Mark43's sole obligation with respect to a breach of the foregoing warranty is for Mark43 to use commercially reasonable efforts to work with Subscriber to resolve the issue causing such breach within a commercially reasonable amount of time. After the Warranty Period, if Subscriber experiences any issue with the Work Product, the parties must enter into a new Statement of Work to address such issues at Mark43's then-current Professional Services pricing. For clarity, Mark43's Support Services do not apply to or provide support for any Professional Services or Work Product.

8.4 Disclaimer. USE OF THE APPLICATIONS IS NOT, AND IS NOT INTENDED TO BE, A SUBSTITUTE FOR THE PROFESSIONAL JUDGMENT OF AUTHORIZED PARTIES, INCLUDING DISPATCHERS, LAW ENFORCEMENT OFFICERS, INVESTIGATORS OR FIRST RESPONDERS. THE APPLICATIONS ARE PROVIDED FOR INFORMATIONAL PURPOSES ONLY AND THE DATA PROVIDED BY MARK43 THEREIN (INCLUDING ANY THIRD-PARTY DATA) SHOULD NOT REPLACE OTHER EMERGENCY INFORMATION AND SHOULD NOT BE EXCLUSIVELY RELIED-UPON IN AN EMERGENCY SCENARIO. SUBSCRIBER SHALL BE RESPONSIBLE FOR ALL ITS OWN ACTIONS OR FAILURE TO ACT IN CONNECTION WITH THE APPLICATIONS, INCLUDING WITH RESPECT TO COMPLIANCE WITH APPLICABLE LAWS, AND MARK43 ASSUMES NO RESPONSIBILITY OR RISK FOR SUBSCRIBER'S USE OR MISUSE OF, OR FAILURE TO USE,

THE INFORMATION PROVIDED THROUGH THE APPLICATIONS. SUBSCRIBER ACKNOWLEDGES THAT THE APPLICATIONS DO NOT PROVIDE LEGAL ADVICE.

EXCEPT FOR THE LIMITED WARRANTIES PROVIDED BY MARK43 IN SECTIONS 8.1 AND 8.3, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, MARK43 MAKES NO WARRANTIES OF ANY KIND, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, AND SPECIFICALLY DISCLAIMS ALL IMPLIED WARRANTIES, INCLUDING ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE WITH RESPECT TO THE APPLICATION. MARK43 DOES NOT WARRANT THAT THE SERVICE WILL BE ERROR FREE OR UNINTERRUPTED OR THAT SUBSCRIBER DATA WILL BE SECURE OR NOT LOST OR DAMAGED. THE LIMITED WARRANTIES PROVIDED HEREIN ARE THE SOLE AND EXCLUSIVE WARRANTIES PROVIDED TO SUBSCRIBER IN CONNECTION WITH THE PROVISION OF THE SERVICES. MARK43 SHALL NOT BE LIABLE FOR DELAYS, INTERRUPTIONS, SERVICE FAILURES OR OTHER PROBLEMS INHERENT IN USE OF THE INTERNET AND ELECTRONIC COMMUNICATIONS OR OTHER SYSTEMS OUTSIDE ITS REASONABLE CONTROL, INCLUDING ANY HARM OR DAMAGES CAUSED BY ITS HOSTING PROVIDERS. MARK43 MAKES NO REPRESENTATIONS OR WARRANTIES WHATSOEVER WITH RESPECT TO ANY THIRD-PARTY DATA, THIRD-PARTY COMPONENT, INTEGRATED APPLICATION, OR ON BEHALF OF ANY INTEGRATED APPLICATION PROVIDER.

9. LIMITATION OF LIABILITY.

9.1 Limitation of Liability. TO THE MAXIMUM EXTENT PERMITTED BY LAW, IN NO EVENT WILL MARK43'S (OR MARK43'S THIRD-PARTY LICENSORS') TOTAL AND AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT, WHETHER IN CONTRACT, TORT OR OTHERWISE, EXCEED THE AGGREGATE AMOUNT OF FEES PAID BY SUBSCRIBER TO MARK43 PURSUANT TO THIS AGREEMENT DURING THE TWELVE (12) MONTH PERIOD IMMEDIATELY PRECEDING THE DATE ON WHICH THE CLAIM ARISES. THE FOREGOING LIMITATION IS CUMULATIVE, WITH ALL PAYMENTS FOR CLAIMS OR DAMAGES BEING AGGREGATED TO DETERMINE SATISFACTION OF THE LIMIT, AND THE EXISTENCE OF ONE OR MORE CLAIMS WILL NOT ENLARGE THAT LIMIT.

9.2 Exclusion of Damages. TO THE MAXIMUM EXTENT PERMITTED BY LAW, IN NO EVENT WILL EITHER PARTY HAVE ANY LIABILITY TO THE OTHER PARTY FOR ANY INDIRECT, SPECIAL, INCIDENTAL, PUNITIVE, CONSEQUENTIAL, PERSONAL INJURY OR PROPERTY DAMAGES, HOWEVER CAUSED, OR FOR ANY LOST PROFITS, LOSS OF USE, LOSS OF DATA, COST OF DATA RECONSTRUCTION OR COST OR PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES, WHETHER IN CONTRACT, TORT OR OTHERWISE, ARISING OUT OF OR RELATED TO THIS AGREEMENT, INCLUDING BUT NOT LIMITED TO THE USE OR INABILITY TO USE THE SERVICES, SOFTWARE OR PROFESSIONAL SERVICES, ANY INTERRUPTION, INACCURACY, ERROR OR OMISSION, EVEN IF THE PARTY FROM WHICH DAMAGES ARE BEING SOUGHT OR SUCH PARTY'S LICENSORS OR SUBCONTRACTORS HAVE BEEN PREVIOUSLY ADVISED OF THE POSSIBILITY OF SUCH LOSS OR DAMAGES.

9.3 Exceptions. NOTWITHSTANDING THE FOREGOING, THE EXCLUSIONS AND LIMITATIONS OF LIABILITY SET FORTH IN SECTION 9.1 AND SECTION 9.2 SHALL NOT APPLY TO DAMAGES ARISING FROM EITHER PARTY'S INDEMNITY OBLIGATIONS UNDER THIS AGREEMENT OR EITHER PARTY'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT.

10. INDEMNIFICATION.

10.1 Indemnification by Mark43. Mark43 shall indemnify Subscriber, and its employees, officers, and directors against any third-party claim alleging that Subscriber's use of the Services in the form provided by Mark43 and when used in accordance with the Documentation and in compliance with this Agreement infringes that third party's U.S. copyright, U.S. patent issued as of the Effective Date, or U.S. trademark, and shall pay the amount of any adverse final judgment or settlement to which Mark43 consents. Mark43 shall have no obligation or liability under this Section 10.1 (Indemnification by Mark43) to the extent the third party claim arises from: (a) Subscriber's or its Affiliates' failure to incorporate a software or other update or upgrade made available by Mark43 that would have avoided the alleged infringement; (b) modification of the Services, any Application, Software or Hardware by anyone other than Mark43; (c) specifications, instructions, features, functions or designs or other elements provided by or requested by Subscriber or its Affiliates; (d) use of the Services, any Application or Software in combination with any other product, service, process or material not provided by Mark43 (including, without limitation, Integrated Applications, Third-Party Data and Subscriber Data); or (e) use of the Services, any Application or Software in a manner not

contemplated by this Agreement. If the Services are (or Mark43 believes are likely to become) the subject of a claim for which Mark43 would be obligated to defend and indemnify pursuant to this Section, then Mark43 may, at its sole option, obtain for Subscriber the right to continue use of the Services or replace or modify the Services, as applicable, provided there is no material loss of functionality. If neither of the foregoing options is reasonably available to Mark43, in its judgment, then use of the Services may be terminated at the option of Mark43 and Mark43's sole liability will be to refund any prepaid fees for the Services applicable to periods following the effective date of termination. The remedies provided in this Section 10.1 (Indemnification by Mark43), are Subscriber's sole and exclusive remedies for any third-party claims of infringement or misappropriation of Intellectual Property Rights by the Services.

10.2 **Indemnification by Subscriber**. To the extent consistent with Applicable Law, Subscriber shall indemnify Mark43, its Affiliates, and their respective employees, officers, and directors against any third-party claim arising out of or related to (a) Subscriber's breach of Section 2.5 (Restrictions on Use), Section 2.6 (Security Obligations) or Section 3.2 (Ownership and Reservation of Rights to Mark43 Intellectual Property); (b) Integrated Applications or Subscriber Data, including any third-party claim alleging that Subscriber Data infringes or misappropriate the rights of a third party or violates any Applicable Law, and shall pay the amount of any adverse final judgment or settlement to which Subscriber consents; and (c) Mark43's disabling a connection to an Integrated Application at Subscriber's request.

10.3 **Procedures**. Each party shall give the other party prompt notice of any claim to which an indemnification obligation under this Section 10 (Indemnification) may apply and shall reasonably cooperate with the indemnifying party, at its expense, in the defense or settlement of any claim. An indemnifying party's payment obligations under this Section 10 (Indemnification) will be diminished to the extent that it is materially prejudiced by the indemnified party's non-compliance with the foregoing procedures.

11. MISCELLANEOUS.

11.1 **Piggybacking**. The parties hereto agree that this Agreement may be referenced to support purchases made within thirty-six (36) months of the Effective Date by other local government entities within the state of Florida. Such purchases will be made pursuant to a direct contract by the local government entity and Mark43 upon the same terms and conditions set forth herein; pricing for the Services shall be determined on a case-by-case basis subject to the volume and scope of the Services being requested by the relevant government entity.

Commented [SRS2]: Subject to the terms being accepted as proposed here.

11.2 **Notices**. Unless otherwise specified herein, all notices and other communications between the parties required or permitted by this Agreement or by Applicable Law, will be deemed properly given, if given by (i) personal service, (ii) registered or certified mail, postage prepaid, return receipt requested, or (iii) nationally recognized private courier service, to the respective addresses of the parties set forth below or such other addresses as the respective parties may designate by like notice from time to time. Notices so given will be effective upon (a) receipt by the party to which notice is given; or (b) on the fifth (5th) business day following mailing, whichever occurs first:

If to Mark43:

Mark43, Inc.
250 Hudson Street
3rd Floor
New York, NY 10013
Attn: CFO
Email: steve.salberta@mark43.com

Copy to:

Mark43, Inc.
250 Hudson Street
3rd Floor
New York, NY 10013
Attn: General Counsel
Email: contractnotices@mark43.com

If to Subscriber:

City of Boynton Beach
100 E Ocean Ave,
Boynton Beach, FL 33435
Attn: Daniel Dugger, City Manager
Email: DuggerD@bbfl.us

Copy to:

11.3 **Assignment.** Neither party may assign or otherwise transfer any of its rights or obligations under this Agreement without the prior, written consent of the other party; provided, however, that a party

may, without the consent of the other party, assign or otherwise transfer this Agreement to any of its Affiliates or to an entity with or into which it is merged or consolidated or to which it sells its stock or other equity interests or all or substantially all of its assets. Any assignment or other transfer in violation of this section will be null and void. Subject to the foregoing, this Agreement will be binding upon and inure to the benefit of the parties hereto and their permitted successors and assigns.

11.4 **Governing Law**. This Agreement will be governed by the internal laws of the state in which Subscriber is geographically located, and any disputes between the parties may be resolved in a state or federal court of competent jurisdiction within such state. EACH PARTY HEREBY WAIVES ANY RIGHT TO A JURY TRIAL IN CONNECTION WITH ANY ACTION OR LITIGATION IN ANY WAY ARISING OUT OF OR RELATED TO THIS AGREEMENT.

11.5 **Dispute Resolution**. Prior to the initiation of any legal proceeding other than one for equitable relief as described in subsection (d) below, the parties shall first attempt to resolve their dispute informally, as follows:

(a) Within five (5) business days following the written request of a party, designated individual(s) from Mark43 and Subscriber shall meet to resolve such dispute.

(b) The representatives referred to in paragraph (a) shall meet as often as the parties reasonably deem necessary in order to gather and furnish to the other all information with respect to the matter at issue that the parties believe to be appropriate and germane in connection with its resolution. The representatives shall discuss the problem and negotiate in good faith in an effort to resolve the dispute without the necessity of formal legal proceedings. The specified format for the discussions will be left to the discretion of the designated representatives, but may include the preparation of agreed upon statements of fact or written statements of position.

(c) If the representatives referred to in paragraph (a) above are unable to resolve the dispute within thirty (30) business days after the dispute is escalated to them, then either party may escalate the dispute to the Chief Operating Officer of Mark43 and the Chief or Sheriff or comparable Subscriber official, for their review and resolution.

(d) The provisions of this Section 11.4 shall not be construed to prevent a party from instituting, and a party is authorized to institute, judicial or other proceedings either to (i) seek injunctive relief or (ii) avoid the expiration of any applicable legal or contractual limitations period.

11.6 **Force Majeure.** Except with respect to failure to pay any amount due under this Agreement, nonperformance of either party will be excused to the extent that performance is rendered impossible by strike, fire, flood, governmental acts that are not caused by or within the control of the nonperforming party, orders or restrictions, failure of suppliers, or any other reason where failure to perform is beyond the control and not caused by the negligence of the non-performing party.

11.7 **No Waiver**. The failure of either party to enforce at any time for any period any provision hereof will not be construed to be a waiver of such provision or of the right of such party thereafter to enforce each such provision, nor shall any single or partial exercise of any right or remedy hereunder preclude any other or further exercise thereof or the exercise of any other right or remedy. No waiver of any rights is to be charged against any party unless such waiver is in writing signed by an authorized representative of the party so charged.

11.8 **Amendment**. No modification, change or amendment to this Agreement shall be effective unless in writing signed by Subscriber and Mark43. No term included in any invoice, estimate, confirmation, acceptance, purchase order or any other similar document in connection with this Agreement will be effective unless expressly stated otherwise in a separate writing signed by Subscriber and Mark43.

11.9 **Relationship of the Parties**. The relationship of the parties established by this Agreement is that of independent contractors and nothing contained herein will be construed to (a) give any party any right or authority to create or assume any obligation of any kind on behalf of any other party or (b) constitute the parties as partners, joint ventures, co-owners or otherwise as participants in a joint or common undertaking.

11.10 **Subcontracting**. Mark43 may draw on the resources of (and subcontract to) its Affiliates and third-party contractors and subcontractors, within or outside of the United States (each, a "**Mark43 Vendor**") for internal, administrative and compliance purposes or in connection with the hosting or provision of the Service and other products and services to be provided by Mark43 pursuant to this Agreement. Subscriber agrees that Mark43 may provide information, data and materials that Mark43 receives in connection with this Agreement (including Subscriber Data) to the Mark43 Vendors for such purposes. Mark43 shall be permitted to subcontract its obligations under this Agreement to the

Mark43 Vendors identified on Schedule E as "Subcontractors" or such other subcontractors as approved in advance by Subscriber (each, a "**Subcontractor**"). Mark43 shall be responsible in accordance with the terms of this Agreement for performance failures by such Subcontractors that cause Mark43 to breach its obligations under this Agreement.

11.11 **Severability**. Any term or provision of this Agreement that is invalid or unenforceable in any jurisdiction will, to the extent the economic benefits conferred thereby to the parties remain substantially unimpaired, be ineffective to the extent of such invalidity or unenforceability without rendering invalid or unenforceable the remaining terms and provisions or affecting the validity or enforceability of any of such terms or provisions in any other jurisdiction.

11.12 **Headings**. The titles and headings contained in this Agreement are for reference purposes only and shall not in any manner limit the construction or interpretation of this Agreement.

11.13 **Counterparts**. This Agreement may be executed, including by electronic signature, in two or more counterparts, each of which shall be an original and all such counterparts together shall constitute one and the same instrument. Electronically executed or electronically transmitted (including via facsimile transmission) signatures have the full force and effect of original signatures.

11.14 **Cumulative Remedies**. All remedies for breach of this Agreement are cumulative, and may be exercised concurrently or separately, and the exercise of any one remedy shall not be deemed an election of such remedy to the exclusion of other remedies.

11.15 **Export Compliance**. In connection with this Agreement, each party will comply with all applicable import, re-import, export, and re-export control laws and regulations, including the Export Administration Regulations, the International Traffic in Arms Regulations, and country-specific economic sanctions programs implemented by the Office of Foreign Assets Control.

11.16 **Compliance with Laws**. Each party shall comply with all Applicable Laws relating or pertaining to the use of the Services. Subscriber shall ensure that its use of all Subscriber Data complies with all Applicable Laws relating to the privacy of third parties or the protection of their personal data promulgated by any governmental, municipal, or legal authority having jurisdiction over Subscriber or the Subscriber Data covered by this Agreement. Each party shall comply with local anti-bribery laws as well as the U.S. Foreign Corrupt Practices Act, as well as any other Applicable Laws and regulations. In connection with its performance under this Agreement, neither party shall directly or indirectly: (A) offer, pay, promise to pay, or authorize the payment of any money, gift or other thing of value to any person who is an official, agent, employee, or representative of any government or instrumentality thereof or to any candidate for political or political party office, or to any other person while knowing or having reason to believe that all or any portion of such money, gift or thing of value will be offered, given, or promised, directly or indirectly, to any such official, agent, employee, or representative of any government or political party, political party official or candidate; (B) offer, promise or give any person working for, or engaged by, the other party a financial or other advantage to (i) induce that person to perform improperly a relevant function or activity; or (ii) reward that person for improper performance of a relevant function or activity; or (C) request, agree to receive or accept any financial or other advantage as an inducement or a reward for improper performance of a relevant function or activity in connection with this Agreement. Each party represents and warrants that it shall be responsible for compliance with this provision by all third parties engaged by it to perform services related to this Agreement and shall require that such third parties agree to comply with all legal requirements required of such party under this Agreement.

11.17 **Entire Agreement**. This Agreement supersedes all previous understandings, agreements and representations between the parties, written or oral and constitutes the entire agreement and understanding between the parties with respect to the subject matter thereof and incorporates all representations, warranties, covenants, commitments and understandings on which they have relied in entering into this Agreement, and, except as provided for herein, neither party makes any covenant or other commitment concerning its future action nor does either party make any promises, representations, conditions, provisions or terms related thereto.

11.18 **Supporting Documents**.

The following documents are, by this reference, expressly incorporated into this Agreement and are collectively referred to herein as the "Supporting Documents:"

- Schedule A: Support Services
- Schedule B: Transition Assistance
- Schedule C: Third-Party Component Terms

- Schedule D: Data Processing Addendum
- Schedule E: Order Form

This Agreement and the Supporting Documents shall be construed to be mutually complementary and supplementary whenever possible. In the event of a conflict that cannot be resolved, the provisions of this Agreement itself shall control over any conflicting provisions in any of the Supporting Documents.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized representatives.

MARK43, INC.	**SUBSCRIBER**
By: _____	By: _____
Name: _____	Name: _____
Title: _____	Title: _____
Date: _____	Date: _____

SCHEDULE A

Support Services

1. Support Services.

a. **Error Reporting**

When reporting a failure of the SaaS Services to perform substantially in conformance with this Agreement (an "**Error**"), Subscriber shall use the phone number, email address, or Mark43 Support Portal URL identified in this Agreement (or otherwise provided to Subscriber by Mark43 from time to time, including by email) during the hours of support set forth herein.

Subscriber personnel submitting support requests must be reasonably trained in the use and functionality of the SaaS Services and familiar with this Agreement and, before submitting a support request to Mark43 hereunder, must use reasonable efforts to ensure a perceived Error is not due to a problem with Subscriber's (or its other third-party providers') equipment, systems, software or connectivity or due to improper, non-conforming or unauthorized use of the SaaS Services by or on behalf of Subscriber.

Subscriber will include with each support request, further detailed in subsection (d) below: (i) Subscriber's initial assessment of the Response Priority (including identification of the Error and the approximate percentage of Authorized Users impacted); (ii) sufficient information to enable Mark43 to identify and replicate the Error; and (iii) contact information for Subscriber personnel familiar with the Error who will be available to Mark43 to assist with resolution of the Error on an ongoing basis until the Error is resolved.

b. **Response Priority Determination**

Mark43 will validate Subscriber's Response Priority designation, or notify Subscriber of its Response Priority designation if it is different than Subscriber's. If requested, Mark43 will provide Subscriber with the basis of its determination. In the event of a conflict regarding the appropriate Response Priority designation, each party shall promptly escalate such conflict for resolution by the parties' management, during which time the parties shall continue to handle the support issue in accordance with the Mark43 Response Priority designation. In the rare case that a conflict requires a management discussion, both parties shall be available within one hour of the escalation.

c. **First Response, Resolution, and Updates**

Upon notification by Subscriber of an Error in accordance with this Schedule and subject to Mark43's identification and replication of the Error, Mark43 will respond to each case in accordance with the First Response Times and Communication Commitments described in the charts below. First Response Time is the period from the time the Error was logged with the Mark43 Support Team until Mark43 responds to Subscriber (and escalates within Mark43, if appropriate). A first response is defined as a non-automatic means where an agent will reach out to gather additional details and may not include a solution or workaround. Because of the widely varying nature of issues, it is not possible to provide specific resolution commitments. Actual resolution time will depend on the nature of the case and the resolution itself. Resolution methods are defined below. A resolution may consist of a fix, workaround, delivery of information, or other commercially reasonable solutions to the issue.

d. **Subscriber's Obligations**

Mark43's provision of the support services described in this Schedule is subject to Subscriber cooperating fully and on a timely basis with reasonable requests of Mark43 for accurate information and access to Subscriber personnel with sufficient availability and knowledge to enable Mark43 to provide the support services, including accurate information and assistance reasonably required to detect, replicate, and correct Errors. In the event Mark43's response, resolution, or update times are negatively impacted by delayed responses by Subscriber personnel or Subscriber's failure to otherwise comply with its obligations under this Schedule, timeframes will be extended.

First Response Commitment

Red	**Orange**	**Yellow**

1 hour 24/7	2 hours 8am - 8pm EST, 7 days	8 hours 8am - 8pm EST M-F

Communication Commitment

	Red	**Orange**	**Yellow**
Status page updates	A status update will be posted as soon as Mark43 is notified and updated every 30 minutes thereafter until resolved.	n/a	n/a
Email/phone updates	After initial Mark43 response, within 1 hour of any additional client questions about the same issue until resolved.	After initial Mark43 response, within 1 business day of any additional client questions until issue is resolved. Client will receive notification via email once the issue fix has been scheduled and again when the issue has been fixed.	After initial Mark43 response, within 2 business days of any additional client questions until issue is resolved. Client will receive notification via email once the issue has been fixed.

Priority Definitions

- *Red* - An Error due to Mark43's systems that results in the inoperability or substantial impairment of a core function for the majority of Subscriber's Authorized Users, provided there is no feasible workaround. Examples include: Authorized Users cannot access the Application; CAD units cannot be dispatched; reports cannot be created.
- *Orange* - An Error due to Mark43's systems that results in the inoperability or substantial impairment of a critical workflow for the majority of Subscriber's Authorized Users, provided there is no feasible workaround. Examples include: significant lagging/slowness; inability to process persons in custody; inability to export reports or cases for same or next day court deadlines; inability to submit reports.
- *Yellow* - An Error due to Mark43's systems for which a reasonable workaround is available.
- *None* - There are a number of low-impact issues, how-to questions, and feature requests that do not fall into one of the categories above and are not subject to the outlined First Response or Communication Commitments.

Issue Escalation & Resolution Methods: Subscriber-reported issues are escalated within Mark43 by a well-defined internal process. Mark43 works to resolve issues based on the issue severity/impact, by employing one or more of the following methods:

- Providing client with a reasonable workaround
- Adjusting system/hosting configurations or setup
- Direct database modifications
- Releasing a fix out-of-cycle (patching)
- Releasing a fix as part of the regular release cycle
- Other commercially reasonable solution

Subscriber will be notified of status changes either through Mark43's status page and/or via email updates in a support ticket.

2. **Service Level Agreement**. Mark43 shall provide the Applications in accordance with the following service levels ("**SLA**").

a. **Monthly Uptime Commitment**.

Following Cutover to the applicable In-Scope Application, Mark43 will use commercially reasonable efforts to make the In-Scope Application available with the Monthly Uptime Percentage corresponding to that Application (the "**Uptime Commitment**"), as follows:

- *RMS Application*: Mark43 will use commercially reasonable efforts to achieve a Monthly Uptime Percentage for the Mark43 RMS Application of no less than 99.90% in any calendar month.

- *CAD Application*: Mark43 will use commercially reasonable efforts to achieve a Monthly Uptime Percentage for the Mark43 CAD Application of no less than 99.95% in any calendar month.

For each In-Scope Application, the "Monthly Uptime Percentage" is calculated as set forth below by subtracting from one hundred percent (100%) the percentage of minutes during the month in which the In-Scope Application experienced Downtime.

Monthly Uptime Percentage = (100) – ((minutes of Downtime * 100) / (total minutes in month))

b. **Service Credit Calculation**.

Subject to the SLA Exclusions, if Mark43 does not achieve the Uptime Commitment in any given month due to Downtime, Subscriber may be eligible for credits as described herein (the "**Service Credits**"), as follows:

- *RMS Application*: If Mark43 does not achieve the Uptime Commitment for the RMS Application, Subscriber will (to the extent legally permitted) be eligible pursuant to the terms of this SLA to receive a credit equal to ten (10) times the amount paid for the RMS Application in respect of the period in which the actual RMS Downtime for the month exceeded the RMS Downtime allowable within the Uptime Commitment, up to a maximum credit of 25% of one month's subscription fee paid in consideration for the RMS Application, as illustrated here:

  RMS Service Credit = (10) * ((1/12) * annual subscription fee) * ((% of Downtime) – (0.10%))

- *CAD Application*: If Mark43 does not achieve the Uptime Commitment for the CAD Application, Subscriber will (to the extent legally permitted) be eligible pursuant to the terms of this SLA to receive a credit equal to ten (10) times the amount paid for the CAD Application in respect of the period in which the actual CAD Downtime for the month exceeded the CAD Downtime allowable within the Uptime Commitment, up to a maximum credit of 25% of one month's subscription fee paid in consideration for the CAD Application, as illustrated here:

  CAD Service Credit = (10) * ((1/12) * annual subscription fee) * ((% of Downtime) – (0.05%))

c. **Requesting Service Credits**.

In order to receive a Service Credit, Subscriber must notify Mark43 in writing at 250 Hudson Street, 3rd Floor, New York, NY 10013, Attn: Accounting, with a copy to accounting@mark43.com, or such other address provided by Mark43 from time to time, within fifteen (15) days following the end of the month in which the Downtime occurred. Claims must include the words "SLA Credit Request" in the subject line; the dates and times of each Downtime incident that Subscriber is claiming occurred; and any documentation to corroborate Subscriber's claim of Downtime, ensuring removal or redaction of any confidential or sensitive information in these logs. All claims are subject to review and verification by Mark43 prior to any Service Credits being granted. Mark43 will acknowledge requests for Service Credits within fifteen (15) business days of receipt and will inform Subscriber whether such claim request is approved or denied.

If Mark43 confirms that the Uptime Commitment has not been met in the applicable calendar month, Subscriber will be issued a Service Credit within one billing cycle following the month in which Subscriber's request is confirmed by Mark43. Subscriber's failure to provide the request and other information as required above will disqualify Subscriber from receiving a Service Credit. Service Credits will not entitle Subscriber to any refund or other payment from Mark43 and are non-transferable. The parties acknowledge and agree that Service Credits are intended as genuine pre-estimates of loss that may be suffered as a result of any failure to achieve Uptime Commitments and will not be deemed to be penalties. To the extent legally permitted, the issuance of a Service Credit by Mark43 hereunder is Subscriber's sole and exclusive remedy for any failure by Mark43 to satisfy the Uptime Commitment.

d. **Additional Definitions**.

"**Downtime**" with respect to any single In-Scope Application means time in which the Application is not accessible or available to Subscriber for reasons other than those resulting directly or indirectly from an SLA Exclusion. For the avoidance of doubt, slow performance does not constitute lack of accessibility or availability and shall not count as Downtime, unless there is a total loss of ability for the substantial majority

of Authorized Users to perform any one of the In-Scope Application Features so as to constitute a total loss of service of that Application, in each case in Mark43's reasonable discretion. The concurrent loss of service of two or more In-Scope Application Features within the same Application will count as a single Downtime event. At the end of each month, Mark43 adds "Downtime" periods together to calculate the overall monthly "Downtime."

"**In-Scope Application**" means the web-accessible Applications identified in subsection (a) above, provided that Subscriber has purchased a subscription for the Applications and signed a valid agreement with Mark43. Under no circumstance shall any reference to an Application that Subscriber has not purchased a subscription and signed an agreement for be construed to entitle Subscriber to use such Application. For the avoidance of doubt, In-Scope Applications do not include mobile versions or Applications that are in beta testing.

"**In-Scope Application Features**" means, in each case:

- For RMS Application: (i) the ability to login to the Mark43 RMS; (ii) the ability to view and edit reports and names, property, and vehicles; (iii) the ability to view and edit cases; and (iv) the ability to search for entities within the RMS.
- For CAD Application: (i) the ability to login to the Mark43 CAD; (ii) the ability to view / edit / clear events; (iii) the ability to view and edit units; (iv) the ability to search for CAD tickets; and (v) the ability to receive real-time updates when actively connected to an internet-enabled network.

"**Monthly Uptime Percentage**" has the meaning set forth in Section 2(a) of this SLA.

"**Scheduled Maintenance**" means scheduled work related to the Mark43 Application or the hosting environment, which may cause inaccessibility or unavailability of the Mark43 Application. Except as set forth below, Mark43 shall provide at least seven (7) days' advance notice of Scheduled Maintenance whenever practicable, and in no circumstances less than three (3) days' advance notice. In the event that Mark43 determines it is appropriate to perform emergency work related to the Mark43 Application or emergency work is performed related to the hosting environment, such work will be deemed Scheduled Maintenance, provided Mark43 uses reasonable efforts under the circumstances to provide Subscriber with notice at least twenty-four (24) hours prior to such emergency work. Notice of Scheduled Maintenance may be provided by email and, in the case of emergency work, may also be provided by telephone. The total amount of Scheduled Maintenance for the CAD Application shall not exceed sixty (60) minutes during any thirty (30)-day period.

e. **SLA Exclusions**. The Uptime Commitment does not apply to any inaccessibility or unavailability of an Application (the "**SLA Exclusions**"):

- That is not an In-Scope Application;
- That occurs prior to Cutover;
- That results from Scheduled Maintenance;
- That results from a suspension or remedial action, as described in this Agreement;
- Caused by factors outside of Mark43's reasonable control, including any force majeure event, Internet access, or problems beyond the demarcation point of the Mark43 cloud environment;
- That results from actions or inactions of Subscriber or any third party;
- That is attributable to Subscriber's own computer equipment or devices, or failure of any software, hardware or service not supplied by Mark43 pursuant to this Agreement, including, without limitation, issues related to network connectivity, internet connectivity or network performance issues at any Subscriber locations, server downtime related to connectivity issues resulting from third-party-managed VPN access to a hosted server or Subscriber's internal network problems, or Software (including interfaces) that is not supplied or maintained by Mark43;
- That results from any Integrated Application, Third-Party Data, or any Subscriber-provided application or program; or
- That results from the failure by Subscriber, its Affiliates, or any Authorized User to incorporate a Software or Services update or upgrade made available by Mark43.

SCHEDULE B

Transition Assistance

1. **Preparation**.
   a. Subscriber will provide the desired cutoff date of the SaaS Services (the "**Cutoff Date**") to Mark43, at which time all existing user accounts will be terminated.
   b. For one (1) year following the Cutoff Date, Mark43 will provide one (1) transition account for Subscriber to access the Applications and retrieve all Subscriber Data as further detailed below
2. **Content**.
   a. Upon Subscriber's request, Mark43 will deliver and make available Subscriber Data to Subscriber within four (4) weeks of the Cutoff Date. Subscriber Data will be delivered as follows:
      - Searchable PDFs: Mark43 will create searchable PDFs of each record (each, a "**Record**") and provide them to the Subscriber for download. Subscriber may request, and Mark43 will consider, other formats in which to create the Records, but the final format of all Records will be determined in Mark43's sole discretion. Records can be uploaded to Subscriber's new system by the Subscriber or its new vendor.
      - Database Export: Subscriber Data will be provided to Subscriber as an export of Mark43's Microsoft SQL Server Data Lake database. To use the data, Subscriber will need to have access to its own Microsoft SQL Server database.
      - Document/File Export: Documents/file attachments stored within the Mark43 system will be provided to the Subscriber in a zipped folder. Within the folder the Subscriber will find all files with a unique ID appended to the filename. A csv file will be provided to relate the unique file ID with the attached entity type and Mark43 ID.

   b. If files are too large for practical internet transmission, an encrypted hard drive will be provided.
3. **Support**.
   a. Mark43 will maintain Subscriber Data in the Mark43 Applications for up to one (1) year following the Cutoff Date.
   b. Mark43 will resolve any issues it deems to be the result of errors in the Mark43 platform or export process for a period of six (6) months after the Cutoff Date.
   c. No less than two (2) years after the Cutoff Date, Mark43 will delete Subscriber Data from all Mark43 online systems (e.g. primary database, replica databases, search databases, application caches, etc.) other than database backups, audit logs and server system logs.
   d. Within six (6) months from the date of deletion of Subscriber Data from all Mark43 online systems, all Subscriber Data will be erased from database backups.
   e. Notwithstanding the foregoing, Mark43 reserves the right to retain Subscriber Data on audit logs and server system logs and in support tickets, support requests and direct communications with Mark43.
4. **Additional Services**.
   a. Ongoing Web Access: Subscriber may elect to purchase a read-only tenant of the Mark43 system. This service enables Subscriber to utilize a single user log-in to view and access data entered into the Mark43 system up to the date of termination or expiration of this Agreement. Under this service, Subscriber will not have permission to change, modify or update any Subscriber Data.
   b. Additional Professional Services: If the Subscriber requires additional Professional Services, these will be billed according to the current market rate for such Services.
5. **Fees**. In the event that any Fees have not been paid as required under this Agreement, Mark43 may decline to provide the support outlined in this Schedule B until such Fees are paid in full.

SCHEDULE C

Third-Party Component Terms

Google: Users are bound by the Google Maps/Google Earth Additional Terms of Service (including the Google Privacy Policy), available by following these links:

Google Maps Terms: https://maps.google.com/help/terms_maps.html
Google Privacy Policy: https://policies.google.com/privacy?hl=en&gl=us
Acceptable Use: https://enterprise.google.com/maps/terms/universal_aup.html

Esri: Users are bound by the following Esri Terms of Service:

To the extent permitted by applicable law, Environmental Systems Research Institute, Inc. ("Esri") and its licensors disclaim liability for any damages or loss of any kind, whether direct, special, indirect, incidental, or consequential, arising from the use of Esri's solution ("Esri Solution") including, but not limited to, liability for use of the Esri Solution in high-risk activities or liability related to any data supplied by Esri.

In the event of any termination of the Agreement, the end user of the Esri Solution ("User") shall (i) cease access and use of the Esri Solution and any data supplied by Esri, and (ii) clear any client-side data cache derived from the Esri Solution or any data supplied by Esri.

User will comply with all relevant export laws and regulations of the United States with respect to the Esri Solution, including, but not limited to, the Export Administration Regulations (EAR), International Traffic in Arms Regulations (ITAR); and the United States Department of Treasury, Office of Foreign Assets Control (OFAC) regulations, and User will not export, reexport, transfer, divert, use, or access, directly or indirectly, the Esri Solution in violation of any United States export laws and regulations.

User will provide Esri with information about User's export and distribution activities as may be required for Esri to meet its obligations under the United States export control laws and regulations.

User shall not remove or obscure any patent, copyright, trademark, proprietary rights notices, or legends contained in or affixed to the Esri Solution or any Esri materials, output, metadata file, or online or hard-copy attribution page of any data supplied by Esri.

Esri and its licensors disclaim all terms in any "click-through" agreements included with the Esri Solution. Esri and its licensors do not warrant that the Esri Solution or any data or materials supplied by Esri will meet User's needs or expectations; that the use thereof will be uninterrupted; or that all nonconformities can or will be corrected. Esri and its licensors are not inviting reliance on data in the Esri Solution, and User should always verify actual data in the Esri Solution. Any warranty offered by Mark43 for Mark43's solution the Services shall only apply between Mark43 and User. Esri does not offer any warranties or indemnities to User for the Esri Solution.

User shall not use the Esri Solution for any revenue-generating activities. The Esri Solution is for the internal use of User only.

User shall not use the Esri Solution independently from the Mark43 solution or in any other product or service.

User shall not store, cache, use, upload, distribute, or sublicense content provided through the Esri Solution in violation of Esri's or a third-party's rights, including intellectual property rights, privacy rights, nondiscrimination laws, export laws, or any other applicable law or regulation.

User's login credentials for the Esri Solution are for User only and may not be shared with other individuals."

Amazon:

Universal Service Terms: https://aws.amazon.com/service-terms/
Acceptable Use: https://aws.amazon.com/aup/

Auth0 (if elected):

Acceptable Use: https://cdn.auth0.com/website/legal/files/aup-19.pdf

RapidSOS (if elected): Subscriber must sign up and accept the terms contained within the following link:

https://info.rapidsos.com/rapidsos-integrations-signup

CommSys (if elected): Subscriber must enter into an end user license agreement directly with CommSys.

SCHEDULE D

Data Processing Addendum

1. **Definitions.** For purposes of this this Data Processing Addendum ("**DPA**"), "**Subprocessor**" means a Mark43 Affiliate or other third party engaged by Mark43 for the purpose of hosting, storing or otherwise processing Subscriber Data as authorized by this Agreement or otherwise in writing by Subscriber. Terms not otherwise defined in this DPA have the meaning set out in this Agreement.

2. **Subscriber Data.** The obligations in this Schedule apply to Subscriber Data in the custody or control of Mark43 and its Subprocessors. They do not apply to Subscriber Data in the custody or control of any other party, including Subscriber Data under Subscriber's custody or control outside of the Services or Subscriber Data maintained by an Integrated Application Provider or transmitted or accessed on or through an Integrated Application.

3. **Disclosure.** Mark43 will not disclose Subscriber Data to any third party except: (i) to Authorized Users; (ii) as permitted under this Agreement; (iii) to its Subprocessors, provided that each Subprocessor agrees to protect Subscriber Data in a manner substantially in accordance with this DPA; or as provided by this DPA with respect to any Disclosure Request. Notwithstanding the foregoing or anything in this DPA to the contrary, Subscriber acknowledges and agrees that (a) Mark43 utilizes major providers of cloud-based services for processing certain Subscriber Data through the Services (each, a "**Cloud Provider**"), (b) each Cloud Provider has its own data protection practices that are applicable to its delivery of services to its customers, and (c) Cloud Providers will not agree to separate data protection practices on a customer-by-customer basis; therefore, Cloud Providers will not be required to comply with the obligations in this DPA to the extent that they are inconsistent with each Cloud Provider's own data protection practices, but Mark43 will use reasonable efforts to assess that each Cloud Provider complies with its own data protection practices, which may include periodic examination of SOC 2 reports or comparable reports made available by Cloud Provider.

4. **Information Security Program.** Mark43 will implement and maintain a written information security program that contains reasonable administrative, technical and physical safeguards intended to protect Subscriber Data from unauthorized access, disclosure, use, modification, loss or destruction.

5. **Access.** Mark43 will maintain appropriate access controls to Subscriber Data, including limiting access to Subscriber Data only to personnel who require such access in order for Mark43 to provide Services to Subscriber or to otherwise exercise Mark43's rights or perform Mark43's obligations under this Agreement. Mark43 will require its personnel to protect Subscriber Data in accordance with the requirements of this DPA and will provide its personnel with appropriate information security training.

6. **Information Security.**
    a. Mark43 maintains its information security program and applicable safeguards at all Mark43 sites at which an information system that stores or otherwise processes Subscriber Data is located.
    b. Mark43 maintains network security using commercially available equipment and industry standard techniques, including firewalls, router access control lists, intrusion detection and/or prevention systems, penetration testing, vulnerability scanning, and patch management tools.
    c. Mark43 will encrypt, using industry-standard encryption tools, all Subscriber Data that Mark43: (i) transmits or sends wirelessly or across public networks; (ii) stores on laptops or removable storage media; and (iii) stores on portable devices. Mark43 will safeguard the confidentiality and availability of all encryption keys associated with encrypted Subscriber Data.
    d. Mark43 installs and maintains endpoint security measures such as anti-virus and malware protection software intended to protect Subscriber Data from malicious code.
    e. Mark43 undertakes appropriate logging and monitoring to enable recording of information security-related actions and identification of anomalous events.
    f. Mark43 develops software used to deliver the Services in accordance with secure software development principles.

7. **Security Incident Management.** Unless otherwise prohibited by law, Mark43 will notify Subscriber promptly (and in any event within seventy-two (72) hours) in the event Mark43 reasonably believes that there has been any unauthorized access, acquisition, disclosure, use, modification, loss or destruction of Subscriber Data ("**Security Incident**"). Mark43 will promptly investigate the Security Incident, will take necessary steps to eliminate or contain the exposure of Subscriber Data, and will keep Subscriber informed of the status of the Security Incident. Mark43 will provide reasonable assistance and cooperation requested

by Subscriber or Subscriber's designated representatives to correct, remediate, or investigate the Security Incident or to mitigate potential damage resulting from it, including any notification that Subscriber may determine appropriate to send to affected individuals, regulators or third parties.

8. **Business Continuity.** Mark43 implements appropriate disaster recovery and business continuity plans and reviews and updates such plans regularly. Back-up copies of critical business information and software are created regularly and tested to verify their integrity.

9. **Audits.** Upon Subscriber's request, Mark43 will make available to Subscriber up to once per year a copy of a third-party assessment, such as a SOC 2 report or comparable report ("**Third-Party Report**"), if Mark43 has obtained such a Third-Party Report for the Services; or if Mark43 has not obtained a Third-Party Report for the Services, Subscriber may provide to Mark43 a security assessment questionnaire related to the Services, which Mark43 will accurately and promptly complete. Such a questionnaire must be reasonable in scope and may include questions seeking verification of compliance with the terms and conditions of this DPA. All Third-Party Reports or information accessed by or otherwise disclosed to Subscriber in connection with any such review will be considered Confidential Information of Mark43.

10. **Return/Disposal.** Upon termination or expiration of this Agreement, Mark43 will cease handling Subscriber Data and will take reasonable steps to return or destroy Subscriber Data according to the timeframes set out in Schedule B of this Agreement. If Mark43 has any legal obligation to retain Subscriber Data beyond the periods otherwise specified by Schedule B, Mark43 will notify Subscriber in writing of that obligation, to the extent permitted by applicable law, and will return or destroy the Subscriber Data in accordance with this DPA as soon as possible after that legally required retention period has ended. If Mark43 disposes of any paper, electronic or other record containing Subscriber Data, Mark43 will take all reasonable steps to do so by: (a) shredding; (b) permanently erasing and deleting; (c) degaussing; or (d) otherwise modifying Subscriber Data in such records to make it unreadable, unreconstructable and indecipherable.

11. **Location of Subscriber Data.** Subscriber Data stored or transmitted through the SaaS Services in Subscriber's user accounts shall be hosted by a Cloud Provider in the United States.

AGENDA ITEM REPORT

November 8, 2023

ITEM NUMBER: 9.

ITEM: Consideration and **Approval** of a Resolution condemning the terrorist attacks against the State of Israel and expressing support for Israel's people. Enclosed is the proposed resolution. Sponsored by Vice Mayor Joshua Fuller.

DESCRIPTION:
On October 7, 2023, the State of Israel endured an unprovoked, tragic, and heinous act of terror orchestrated by the extremist group Hamas. Thousands of innocent men, women and children are being brutally attacked and murdered by Hamas terrorists. The Town has a significant Jewish and Israeli population, many of whom have loved ones currently in harm's way. The Town Council expresses its support for Israel's right to exist peacefully and condemns Hamas' brutal unprovoked war on Israel and her citizens and visitors, and denounces the terrorist actions of Hamas, and opposes hate, extremism, and violence; it strongly supports Israel's right to defend itself and its citizens and visitors against such attacks including, but not limited to, taking all necessary actions against these terrorist organizations, all necessary actions to protect itself and its citizens and visitors, and all appropriate action seeking the safe return of the hostages taken by Hamas and other affiliated terrorist organizations. The Town urges President Joseph R. Biden, Jr., and the United States Congress to reaffirm the United States' commitment to Israel's security and provide emergency resupply and other security, diplomatic, and intelligence support to Israel. The Town Clerk is directed to forward a copy of this Resolution to the Consul General of Israel in Miami, the Greater Jewish Federation of Miami, Miami-Dade County Commission, and all Miami-Dade County municipalities.

RECOMMENDED ACTION:

FINANCIAL ANALYSIS:
There is no fiscal impact.

BUDGET IMPACT:

Submitted By: Yvonne Hamilton, Town Clerk

ATTACHMENTS

1.	Resolution Supporting the State of Israel
2.	North Miami Beach-R2023-110
3.	Hallandale Beach-Reso No. 2023-132 Stand with the Israel Defense Force and the State of Israel
4.	Surfside-Resolution No. 2023-3219-Support for the State of Israel-Condemning Terrorist Attack by Hamas (003)

RESOLUTION NO. _____

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF BAY HARBOR ISLANDS, FLORIDA, CONDEMNING THE TERRORIST ATTACKS AGAINST THE STATE OF ISRAEL AND EXPRESSING SUPPORT FOR ISRAEL'S PEOPLE; PROVIDING FOR INCORPORATION OF RECITALS; PROVIDING FOR DISTRIBUTION; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, on October 7, 2023, the State of Israel endured an unprovoked, tragic, and heinous act of terror orchestrated by the extremist group Hamas; and

WHEREAS, Hamas breached Israel's border and infiltrated and decimated Israeli communities, burning, gunning down and slaughtering innocent babies, children, women, men, entire families, and the elderly – including Holocaust survivors – in their homes, in their cars, and on the streets; gunning down young people celebrating peace at music festival; raping women; mutilating dead bodies; and abducting innocent civilians and tourists of all ages and holding them hostage; and

WHEREAS, thousands of innocent men, women and children are being brutally attacked and murdered by Hamas terrorists; and

WHEREAS, Israel has officially declared a state of war against Hamas; and

WHEREAS, Israel was founded in 1948 as the homeland for the Jewish people and there are over 672,465 Jewish people living in Florida; and

WHEREAS, the Town of Bay Harbor Islands, Florida has a significant Jewish and Israeli population, many of whom have loved ones currently in harm's way; and

WHEREAS, countries world-wide have expressed their unequivocal support of Israel and its right to defend its citizens from these unprovoked and vicious attacks in a manner designed to promptly end such attacks and deter similar attacks in the future, while minimizing the loss of life among civilian non-combatants; and

WHEREAS, the members of the Town Council share Israel's grief for the hundreds of civilians who have been killed or captured in this horrific act of terrorism; and

WHEREAS, the Town of Bay Harbor Islands strongly supports the sovereignty of Israel and recognizes its right to self-defense and to protect its citizens.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF BAY HARBOR ISLANDS, FLORIDA.

Section 1. The foregoing recitals are hereby ratified as true and correct and incorporated herein by reference.

Section 2. The Town Council expresses its support for Israel's right to exist peacefully and condemns Hamas' brutal unprovoked war on Israel and her citizens and visitors, and denounces the terrorist actions of Hamas, and opposes hate, extremism, and violence.

Section 3. The Town strongly supports Israel's right to defend itself and its citizens and visitors against such attacks including, but not limited to, taking all necessary actions against these terrorist organizations, all necessary actions to protect itself and its citizens and visitors, and all appropriate action seeking the safe return of the hostages taken by Hamas and other affiliated terrorist organizations.

Section 4. The Town urges President Joseph R. Biden, Jr., and the United States Congress to reaffirm the United States' commitment to Israel's security and provide emergency resupply and other security, diplomatic, and intelligence support to Israel.

Section 5. The Town Clerk is directed to forward a copy of this Resolution to the Consul General of Israel in Miami, the Greater Jewish Federation of Miami, Miami-Dade County Commission, and all Miami-Dade County municipalities.

Section 6. This Resolution shall become effective immediately upon approval.

APPROVED AND ADOPTED by the Town of Bay Harbor Islands at the regular meeting assembled this **8th day of November, 2023.**

By: _____
Elizabeth Tricoche - Mayor

ATTEST:

_____
Yvonne P. Hamilton
Town Clerk

APPROVED AS TO FORM AND LEGAL SUFFIENCY:

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

RESOLUTION NO. R2023-110

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, SUPPORTING THE STATE OF ISRAEL AND DENOUNCING THE TERRORIST ACTIONS OF HAMAS; PROVIDING FOR DISTRIBUTION; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Nation of Israel and its people are under attack by Hamas, a Designated Foreign Terrorist Organization by the United States Department of State; and

WHEREAS, President Joe Biden officially stated that the United States unequivocally condemns this appalling assault against Israel by Hamas terrorist from Gaza, and that Israel has a right to defend its people; and

WHEREAS, thousands of innocent men, women and children are being brutally attacked and murdered by Hamas terrorists; and

WHEREAS, Israel has officially declared a state of war against Hamas; and

WHEREAS, Israel was founded in 1948 as the homeland for the Jewish people and there are approximately 672,465 Jewish people living in Florida; and

WHEREAS, the City of North Miami Beach, Florida ("City") has a significant Jewish and Israeli population, many of whom have loved ones currently in harm's way; and

WHEREAS, countries world-wide have expressed their unequivocable support of Israel and its right to defend its citizens from these unprovoked and vicious attacks in a manner designed to promptly end such attacks and deter similar attacks in the future; and

WHEREAS, the City strongly supports the sovereignty of Israel, and recognizes its right to self-defense and to protect its citizens.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF NORTH MIAMI BEACH, FLORIDA.

Section 1. The foregoing whereas clauses are true and correct and adopted as the legislative and administrative findings of the City Commission and made a specific part of this Resolution; all exhibits attached hereto are made a specific part of this Resolution.

Section 2. The City Commission expresses its support for Israel's right to exist peacefully and condemns Hamas' brutal unprovoked war on Israel and her citizens and visitors denounces the terrorist actions of Hamas and opposes hate, extremism, and violence.

Section 3. The City strongly supports Israel's right to defend itself and its citizens and visitors against such attacks including, but not limited to, taking all necessary actions against these terrorist organizations, all necessary actions to protect itself and its citizens and visitors, and all appropriate action seeking the safe return of the hostages taken by Hamas and other affiliated terrorist organizations.

Section 4. The City urges President Joseph R. Biden, Jr., and the United States Congress to reaffirm the United States' commitment to Israel's security and provide emergency resupply and other security, diplomatic, and intelligence support to Israel.

Section 5. The City Clerk is directed to forward a copy of this Resolution to the Consul General of Israel in Miami, the Greater Jewish Federation of Miami, Miami-Dade County Commission, and all Miami-Dade County municipalities.

Section 6. This Resolution shall become effective immediately upon approval.

APPROVED AND ADOPTED by the City of North Miami Beach City Commission at the regular meeting assembled this **17th day of October, 2023**.

ATTEST:

ANDRISE BERNARD, MMC
CITY CLERK

(CITY SEAL)

JAY R. CHERNOFF
ACTING MAYOR

APPROVED AS TO FORM AND LEGAL SUFFICIENCY FOR THE USE AND RELIANCE OF THE CITY OF NORTH MIAMI BEACH ONLY:

JOHN R. HERIN, JR.
INTERIM CITY ATTORNEY

Sponsored by: Mayor & Commission

RESOLUTION NO. 2023– 132

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF HALLANDALE BEACH, FLORIDA, EXPRESSING OUR CITY'S COMMITMENT TO STAND WITH THE ISRAELI DEFENSE FORCE AND THE STATE OF ISRAEL AS IT DEFENDS ITSELF AGAINST THE UNPROVOKED ATTACKS BY THE TERRORIST GROUP HAMAS.

WHEREAS, on October 7, 2023, on the Jewish Sabbath and the Jewish holiday of Simchat Torah, Hamas terrorists in Gaza launched a massive, coordinated, unprovoked terror attack on Israel by air, land and sea, including by firing thousands of rockets into Israeli communities, purposefully targeting innocent civilians; and

WHEREAS, this heinous murderous assault took place shortly after the 50th anniversary of the 1973 Yom Kippur War, which was launched against Israel by a coalition of Arab states led by Egypt and Syria; and

WHEREAS, on October 7, 2023, Hamas breached Israel's border and infiltrated and decimated Israeli communities, burning, gunning down and slaughtering innocent babies, children, women, men, entire families, and the elderly – including Holocaust survivors – in their homes, in their cars, and on the streets; decapitating babies; gunning down young people celebrating peace at a music festival; raping women; mutilating dead bodies; and abducting innocent civilians and tourists of all ages and holding them hostage; and

WHEREAS, since October 7, 2023, Hamas terrorists have launched more than 5,000 rockets into Israel, deliberately targeting innocent civilians; and

WHEREAS, since October 7, 2023, Hamas terrorists have killed at least 1,200 Jewish, Chrisitan and Muslim people and injured 2,900 others; and

WHEREAS, since October 7, 2023, Hamas terrorists have killed at least 27 American citizens in Israel and at least 14 American citizens remain unaccounted for; and

WHEREAS, Hamas is a U.S.-designated Foreign Terrorist Organization; and

WHEREAS, Hamas' stated purpose, as reflected in its Charter, is the annihilation of the Jewish State of Israel and the murder of Jews; and

WHEREAS, the atrocities committed by Hamas are acts of pure evil, constituting the worse pogrom against the Jewish people since the Holocaust; and

WHEREAS, the City Commission condemns the abhorrent pro-Hamas protests throughout the country, colleges and universities condoning what is being described as the second Holocaust; and

WHEREAS, the City of Hallandale Beach has a large Jewish-American and Israeli-American community residing in the City who have been affected by the unprovoked Hamas terror on the State of Israel. The City Commission stands in solidarity with the Jewish community; and

WHEREAS, the Israeli citizens and families of the slain, abducted, and injured are imploring people around the world to amplify their voices. The City Commission hereby declares that the City Commission hears them, sees them, and will continue to shed light on this unimaginable horror; and

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND THE CITY COMMISSION OF THE CITY OF HALLANDALE BEACH, FLORIDA:

SECTION 1. That the City of Hallandale Beach stands with Israel as it defends itself against the barbaric, deplorable and unprovoked war launched by Hamas.

SECTION 2. That the City of Hallandale Beach affirms Israel's right and duty to defend herself and to defend and protect its people, as any nation would and should do.

SECTION 3: That the City of Hallandale Beach condemns the pro-Hamas protests throughout the country, colleges and universities.

SECTION 4. That the City of Hallandale Beach unequivocally condemns Hamas for its brutal, evil, and unprovoked attack on Israel.

SECTION 5. That the City of Hallandale Beach calls on Hamas to immediately cease its violence and terrorism and swiftly and safely release all hostages.

SECTION 6. That the City of Hallandale Beach mourns all those who were killed and injured in Hamas' depraved and unprovoked attack on Israel, and extends its sympathy and compassion to all those who have lost loved ones, family and friends.

SECTION 7. This Resolution shall become effective immediately upon its passage and adoption.

APPROVED AND ADOPTED this 18th day of October, 2023.

JOY F. COOPER
MAYOR

SPONSORED BY: VICE MAYOR ANABELLE LIMA-TAUB

ATTEST:

JENORGEN GUILLEN
CITY CLERK

APPROVED AS TO LEGAL SUFFICIENCY
AND FORM

JENNIFER MERINO
CITY ATTORNEY

FINAL VOTE ON ADOPTION

Mayor Cooper	Yes
Vice Mayor Lima-Taub	Yes
Commissioner Adams	Yes
Commissioner Butler	Absent
Commissioner Lazarow	Yes

RESOLUTION NO. 2023 - 3219

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA EXTENDING ITS UNWAVERING SOLIDARITY AND SUPPORT FOR THE STATE OF ISRAEL; CONDEMNING THE TRAGIC TERRORIST ATTACK PERPETRATED BY HAMAS ON OCTOBER 7, 2023, AND AFFIRMING ISRAEL'S RIGHT TO EXIST, DEFEND, AND PROTECT ITS CITIZENS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, in the immediate aftermath of the tragic collapse of Surfside's Champlain Towers South on June 24, 2021, the State of Israel promptly deployed their IDF's highly skilled Home Front Command ISR-1 Search and Rescue Unit, which played an instrumental role in the exhaustive search, rescue, and recovery operations; and

WHEREAS, the dedicated efforts of the Israeli Defense Force's Search and Rescue Unit forged an enduring connection with Surfside, further solidified on September 28, 2022, when the Surfside Commission formally established a Sister City relationship with the region of Shomron, Israel; and

WHEREAS, on October 7, 2023, the State of Israel endured a tragic and heinous act of terror orchestrated by the extremist group Hamas, resulting in the loss of hundreds of innocent civilian lives, injuries to thousands, and the kidnapping and hostage-taking of over a hundred individuals; and

WHEREAS, this act of terror not only constitutes a blatant violation of international law, but also stands in direct contradiction to the principles of peace, stability, and coexistence that the international community upholds; and

WHEREAS, the State of Israel, like any sovereign nation, possesses an inherent right to exist and a fundamental duty to protect and defend its citizens from acts of terror and aggression; and

WHEREAS, recognizing and affirming the right of Israel to safeguard its borders, secure its population, and respond proportionately to threats against its national security

is essential for the maintenance of regional stability and the pursuit of lasting peace in the Middle East; and

WHEREAS, the international community has a moral obligation to condemn acts of terror, irrespective of their perpetrators, and to stand in solidarity with those nations and peoples who are subjected to violence and suffering.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA:

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

Section 2. Solidarity and Support for the State of Israel.

1. The Town Commission vehemently condemns the terror attack perpetrated by Hamas on October 7, 2023, in the state of Israel, which resulted in the loss of hundreds of innocent lives and caused immeasurable suffering to countless families.

2. The Town Commission expresses its deepest condolences to the families of the victims and its solidarity with the people of Israel during this difficult time.

3. The Town Commission recognizes and affirms the right of the state of Israel to exist as a sovereign and independent nation, and acknowledges its duty to protect and defend its citizens from acts of terror and aggression.

4. The Town Commission calls upon the international community to join in the condemnation of the recent terrorist attack in Israel.

Section 3. Transmittal: This resolution shall be transmitted to the Florida League of Cities, Miami-Dade County, Miami-Dade County League of Cities, The Florida Legislative Delegation, all municipalities in Miami-Dade County, the Israeli Embassy, the Shomron Regional Council Israel, the Office of the Florida Governor, the White House,

and appropriate governmental authorities, as well as to relevant international organizations for their consideration and action.

Section 4. **Effective Date.** This resolution shall become effective upon adoption.

PASSED AND ADOPTED this 10th day of October, 2023.

Motion by: Commissioner Landsman
Second by: Vice Mayor Rose

FINAL VOTE ON ADOPTION

Commissioner Fred Landsman	Yes
Commissioner Marianne Meischeid	Yes
Commissioner Nelly Velasquez	Yes
Vice Mayor Jeff Rose	Yes
Mayor Shlomo Danzinger	Yes

Shlomo Danzinger, Mayor

ATTEST:

TOWN OF SURFSIDE INCORPORATED SEAL 1935 DADE COUNTY, FLA.

Sandra N. McCready, MMC
Town Clerk

APPROVED AS TO FORM AND LEGALITY FOR THE USE AND BENEFIT OF THE TOWN OF SURFSIDE ONLY:

Weiss Serota Helfman Cole & Bierman, P.L.
Town Attorney

AGENDA ITEM REPORT

November 8, 2023

ITEM NUMBER: 10.

ITEM: Consideration and **Approval** of a resolution awarding Engineering Consulting Services Continuing contracts for RFQ-5-1005-0-2023/FVR, to 300 Engineering Group, CHA Consulting, Calvin, Giordano, & Associates, Atkins North America, and Chen Moore and Associates. The term of the contracts shall be for two (2) years with the Town's option to extend for up to three (3) additional one (1) year terms. Enclosed are the proposed resolution, agreements, and other supporting documents.

DESCRIPTION:
The advertisement requesting Proposals for Engineering Consulting Services was placed DemandStar on June 7,2023 and posted on the town's website. The closing date for Proposals was July 12,2023 and 18 firms responded.

An evaluation committee was established to review the proposals and select five (5) of the top ranked firms for continuing service contracts with the Town. The Evaluation Committee consisted of the following: Jenice Rosado (Assistant Town Manager), Mike Mesa (Building Official), and Jason Atkinson (Public Works Director).

The committee met on August 25,2023 to go over presentations from the 18 firms. Scores were tallied and the firms were ranked accordingly from 1 to 18, with 1 being the top ranked firm and 18 being the bottom ranked firm. The top 10 firms were selected on a short list for a second presentation. The committee met again on September 14,2023 and ranked the firms from 1 – 10 following the same criteria as before. The top five (5) scores would enter into negotiations with the Town for Engineering Consulting Services Contract. The summary of all of the scores are attached.

The Committee agreed to recommend five (5) firms for continuing service agreements with the Town as follows: 1) 300 Engineering Group, 2) CHA Consulting, 3) Calvin, Giordano, & Associates, 4) Atkins North America, 5) Chen Moore and Associates.

RECOMMENDED ACTION:
Authorize the Town Manager to enter into Engineering Consulting Agreements with the five selected engineering firms.

FINANCIAL ANALYSIS:
The majority of the projects have engineering service fees built into cost estimates that were utilized to form an estimated budget cost. There are some continuous tasks spread amongst the different funds for engineering services. Some of the more prevalent funds that utilize ongoing engineering tasks / professional services include the following:

- General Fund (Public Buildings) - $20,000
- Causeway Fund - $269,000
- Water Fund - $10,000
- Sewer Fund - $230,000
- Stormwater Fund - $50,000

BUDGET IMPACT:

Name	Impact Date	Fund(s)	Account(s)	Project #(s)	Amount Budgeted
Engineering Consulting Services	11/13/2023	General, Causeway, Water, Sewer, Stormwater	401-5415-400031	Multiple	$579,000.00

Submitted By: Yvonne Hamilton, Town Clerk
Jason Atkinson, Public Works Director

ATTACHMENTS

1.	Resolution -RFQ - Continuing Engineering and Architectural Consulting Services Contracts
2.	300 - Complete Agreement
3.	Complete Agreement Atkins
4.	Complete Agreement CHA
5.	Complete Agreement Chen
6.	Complete Agreement Calvin Giordano
7.	Tabulation 2-Presentations
8.	Jason Evaluation 2
9.	Jenice Evaluation 2
10.	Mike Evaluation 2
11.	Request for Qualifications 2

RESOLUTION NO. _____

A RESOLUTION OF TOWN COUNCIL OF THE TOWN OF BAY HARBOR ISLANDS, FLORIDA, AWARDING ENGINEERING AND ARCHITECTURAL CONSULTING SERVICES CONTINUING CONTRACTS FOR RFQ-5-1005-0-2023/FVR TO 300 ENGINEERING GROUP, CHA CONSULTING, CALVIN, GIORDANO & ASSOCIATES, ATKINS NORTH AMERICA, AND CHEN MOORE AND ASSOCIATES; PROVIDING FOR INCORPORATION OF RECITALS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town duly advertised for Request for Qualifications, RFQ-5-1005-0-2023/FVR, for Engineering and Architectural Consulting Continuing Services; and

WHEREAS, 18 sealed proposals were received prior to 3:00 p.m. on July 12, 2023 at the Town Clerk's Office at 9665 Bay Harbor Terrace, Bay Harbor Islands, Florida 33154. Bids were then opened individually and separately read aloud after 3:00 p.m. on July 12, 2023; and

WHEREAS, an Evaluation Committee consisting of Town Staff met in public meetings, evaluated the proposals, and the following firms received the highest rankings: 300 Engineering Group, CHA Consulting, Calvin, Giordano, & Associates, Atkins North America, and Chen Moore Associates; and

WHEREAS, the Town Manager is recommending that these five firms be awarded the continuing services contracts; and

WHEREAS, the Town of Bay Harbor Islands desires to execute the continuing services contracts in a timely manner; and

WHEREAS, the term of the contracts shall be for two (2) years with the Town's option to extend for up to three (3) additional one (1) year terms.

WHEREAS, funds have been allocated in the Fiscal Year 2024 Budget to cover the cost of any related projects that will be undertaken during this fiscal year.

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

Section1. The foregoing recitals are adopted and hereby incorporated as if fully set forth herein.

Section2. The Town Council finds and concludes all Request for Qualifications were duly advertised, received, publicly opened, and approved as being completed for consideration for award in accordance the requirements of Section 287.055, for procuring and contracting of professional architectural, engineering, landscape architectural, or land surveying services by governmental agencies.

Section 3. Award of contracts (copies attached as "Exhibits A through E") for Engineering and Architectural Consulting Continuing Services to 300 Engineering Group, CHA Consulting, Calvin Giordano & Associates, Atkins North America, and Chen Moore and Associates is hereby approved.

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

PASSED and ADOPTED this 8th day of November 2023

_____
ELIZABETH TRICOCHE

ATTEST:

_____
YVONNE P. HAMILTON, TOWN CLERK

APPROVED AS TO FORM:

_____
GREENSPOON MARDER LLP
TOWN ATTORNEYS
BY: Joseph S. Geller, Esq.

AGREEMENT

THIS IS AN AGREEMENT made and entered into this ____day of November 2023, by and between:

Town of Bay Harbor Islands a Florida municipality, (hereinafter referred to as "Town")

and

300 Engineering Group, LLC, a Delaware Corporation, authorized to do business in the state Florida (hereinafter referred to as "CONSULTANT")

WHEREAS, the Town Council of the Town of Bay Harbor Islands Florida at its meeting of November, 2023 authorized by motion the execution of this Agreement between CONSULTANT and Town authorizing the performance of Engineering Continuing Services, RFQ No. 5-1005-23-0-2023/FVR incorporated herein, (the "Agreement"); and

WHEREAS, the CONSULTANT is willing and able to render professional services for such project for the compensation and on the terms hereinafter set forth;

NOW, THEREFORE, in consideration of the mutual covenants, agreements, terms, and conditions contained herein, the Parties hereto, do agree as follows:

ARTICLE 1
DEFINITIONS AND IDENTIFICATIONS

For the purposes of this Agreement and the various covenants, conditions, terms and provisions which follow, the DEFINITIONS and IDENTIFICATIONS set forth below are assumed to be true and correct and are therefore agreed upon by the Parties.

1.1 AGREEMENT: Means this document between the TOWN and CONSULTANT dated _____, and any duly authorized and executed Amendments to Agreement.

1.2 BASIC SERVICES**:** Services performed by CONSULTANT for authorized scope of work for the Project phase described in this Agreement and listed in Exhibit "A," Scope of Services.

1.3 CONSULTANT'S PERIODIC ESTIMATE FOR PAYMENT: A statement by CONSULTANT based on observations at the site and on review of documentation submitted by the Contractor that by its issuance recommends that

TOWN pay identified amounts to the Contractor for services performed by the Contractor at the Project.

1.4 CHANGE ORDER: A written order to the CONSULTANT approved by the TOWN authorizing a revision of this agreement between the TOWN and CONSULTANT that is directly related to the original scope of work or an adjustment in the original Agreement price or the Agreement time directly related to the original scope of work, issued on or after the effective date of this Agreement.

The CONSULTANT may review and make recommendations to the TOWN on any proposed Change Orders, for approval or other appropriate action by the TOWN.

1.5 TOWN: The Town of Bay Harbor Islands, a Florida municipality.

1.6 TOWN MANAGER: The Town Manager of the Town of Bay Harbor Islands, Florida.

1.7 COUNCIL: The Town Council of the Town of Bay Harbor Islands, Florida, which is the governing body of the TOWN government.

1.8 CONSTRUCTION COST: The total construction cost to TOWN of all elements of the Project designed or specified by CONSULTANT.

1.9 CONSTRUCTION COST LIMIT: A maximum construction cost limit established by the TOWN defining the maximum budget amount to which the final construction documents should be designed so as not to exceed.

1.10 CONSTRUCTION DOCUMENTS: Those working drawings and specifications and other writings setting forth in detail and prescribing the work to be done, the materials, workmanship and other requirements for construction of the entire Project, including any bidding information.

1.11 CONSULTANT: **300 Engineering Group, LLC,** the CONSULTANT selected to perform professional services pursuant to this Agreement.

1.12 AGREEMENTADMINISTRATOR: The (Dept. Director) for the Town of Bay Harbor Islands, or his designee. In the administration of this Agreement, as contrasted with matters of policy, all parties may rely upon instructions or determinations made by the Agreement Administrator.

1.13 CONTRACTOR: One or more individuals, firms, corporations or other entities identified as such by a written agreement with TOWN ("Agreement for Construction") to perform the construction services required to complete the Project.

1.14 DEPARTMENT DIRECTOR**:** The (Dept. Director) for the Town of Bay Harbor Islands.

1.15 ERROR: A mistake in design, plans and/or specifications that incorporates into those documents an element that is incorrect and is deficient from the standard of care that a professional engineer in similar circumstances, working on a similar project and location would have exercised. Also includes mistakes in design, plans, specifications and/or shop drawings review that lead to materials and/or equipment being ordered and/or delivered where additional costs are incurred.

1.16 FINAL STATEMENT OF PROBABLE CONSTRUCTION COSTS: A final cost estimate prepared by CONSULTANT during the Final Design Phase of the Project, based upon the final detailed Construction Documents of the Project.

1.17 NOTICE TO PROCEED: A written Notice to Proceed with the Project issued by the Agreement Administrator.

1.18 OMISSION: A scope of work missed by CONSULTANT that is necessary for the Project, including a quantity miscalculation, which was later discovered and added by Change Order and which is deficient from the standard of care that a professional engineer in similar circumstances, working on a similar project and location would have exercised. Also includes design that was wrong, but was corrected after award to the Contractor, but before the construction process was materially affected.

1.19 ORIGINAL AGREEMENTPRICE: The original bid and/or Agreement price as awarded to a Contractor based upon CONSULTANT'S final detailed Construction Documents of the Project.

1.20 PLANS AND SPECIFICATIONS: The documents setting forth the final design plans and specifications of the Project, including architectural, civil, structural, mechanical, electrical, communications and security systems, materials, lighting equipment, site and landscape design, and other essentials as may be appropriate, all as approved by TOWN as provided in this Agreement.

1.21 PRELIMINARY PLANS: The documents prepared by CONSULTANT consisting of preliminary design drawings, renderings and other documents to fix and describe the size and character of the entire Project, and the relationship of Project components to one another and existing features.

1.22 PROJECT: An agreed scope of work for accomplishing a specific plan or development. This may include, but is not limited to, planning, architectural, engineering, and construction support services. The services to be provided by CONSULTANT shall be as defined in this Agreement and further detailed in Task Orders for individual projects or combinations of projects. The Project planning, design and construction may occur in separate phases and Task Orders

at the TOWN's discretion.

1.23 RESIDENT PROJECT REPRESENTATIVE: Individuals or entities selected, employed, compensated by and directed to perform services on behalf of TOWN, in monitoring the Construction Phase of the Project to completion.

1.24 SPECIFICATIONS: The specifications referred to in this agreement are the CONSTRUCTION STANDARDS AND SPECIFICATIONS, Office of the Tow Engineer, Town of Bay Harbor Islands, January 1982, including any revisions.

1.25 STATEMENT OF PROBABLE PROJECT COSTS: A document to be prepared by CONSULTANT that shall reflect a detailed statement of the total probable costs.

1.26 SUBSTANTIAL COMPLETION: The TOWN will consider the work substantially complete when the Contractor submits 100% complete deliverables (i.e. Drawings, Specifications, Reports, Renderings) as described in this Agreement to the satisfaction of the Town.

1.27 TASK ORDER: A document setting forth a negotiated detailed scope of services to be performed by CONSULTANT at fixed Agreement prices in accordance with this Agreement between the TOWN and CONSULTANT.

1.28 TIME OF COMPLETION: Time in which the entire work shall be completed for each Task Order.

ARTICLE 2
PREAMBLE

In order to establish the background, context and frame of reference for this Agreement and to generally express the objectives and intentions of the respective parties hereto, the following statements, representations and explanations shall be accepted as predicates for the undertakings and commitments included within the provisions of this Agreement which follow and may be relied upon by the parties as essential elements of the mutual considerations upon which this Agreement is based.

2.1 Pursuant to Section 287.055, Florida Statutes, TOWN has formed a Committee to evaluate CONSULTANT's statement of qualifications and performance data to ensure that CONSULTANT has met the requirements of the Consultants' Competitive Negotiation Act, as set forth in Section 287.055, Florida Statutes, and has selected CONSULTANT to perform services hereunder.

ARTICLE 3
SCOPE OF SERVICES

3.1 The CONSULTANT shall perform the following professional services: Engineering Continuing Services as more specifically described in Exhibit "A,"

Scope of Services, attached hereto and incorporated herein, and shall include, but not be limited to, services as applicable and authorized by individual Task Orders for the individual projects in accordance with Article 6 herein. CONSULTANT shall provide all services set forth in Exhibit "A" including all necessary, incidental and related activities and services required by the Scope of Services and contemplated in CONSULTANT's level of effort. CONSULTANT will perform the Services in accordance with standard industry practices, with the care, knowledge and skill expected of similar engineering firms. No other warranties, express or implied are made or intended.

3.2 TOWN and CONSULTANT acknowledge that the Scope of Services does not delineate every detail and minor work tasks required to be performed by CONSULTANT to complete the Project. If, during the course of the performance of the services included in this Agreement, CONSULTANT determines that work should be performed to complete the Project which is in CONSULTANT's opinion, outside the level of effort originally anticipated, whether or not the Scope of Services identifies the work items, CONSULTANT shall notify Agreement Administrator and obtain written approval by the TOWN in a timely manner before proceeding with the work. Notice to Agreement Administrator does not constitute authorization or approval by TOWN to perform the work. The TOWN shall not pay for any work that is not approved by the Agreement Administrator in writing. If CONSULTANT proceeds with said work without notifying the Agreement Administrator, said work shall be deemed to be within the original level of effort, whether specifically addressed in the Scope of Services. Notice to Agreement Administrator does not constitute authorization or approval by TOWN to perform the work. Performance of work by CONSULTANT outside the originally anticipated level of effort without prior written TOWN approval is at CONSULTANT's sole risk.

ARTICLE 4
GENERAL PROVISIONS

4.1 Negotiations pertaining to the rates for professional services to be performed by CONSULTANT have been undertaken between CONSULTANT and TOWN representatives pursuant to Section 287.055, Florida Statutes, and this Agreement incorporates the results of such negotiation.

4.2 CONSULTANT shall include TOWN's specific Task Order number as part of the heading on all correspondence, invoices and drawings. All correspondence shall be directed specifically to the Agreement Administrator.

ARTICLE 5
PRIORITY OF PROVISIONS

5.1 The Agreement Documents are intended to include all items necessary for the proper execution and completion of the work by CONSULTANT. Any labor, services, materials, supplies, equipment or documentation that may reasonably be inferred from the Agreement Documents or trade usage from prevailing custom as being required to produce the indicated result will be provided whether or not specifically called for, at no additional cost to TOWN. The Agreement Documents are complementary, and wherever possible the provisions of the Agreement Documents shall be construed in such manner as to avoid conflicts between provisions of the various Agreement Documents. In the event of any inconsistency in the Agreement Documents, where such inconsistency is not clarified by change order, addendum or amendment, the Agreement Documents shall be construed according to the following priorities:

First priority: Approved Change Orders, Addendums or Amendments to all related documents.

Second priority: Specifications (quality) and Drawings (location and quantity) of CONSULTANT.

Third priority: This AGREEMENT.

Fourth priority: Town of Bay Harbor Islands Request for Qualifications RFQ No. 5-1005-23-0-2023/FVR.

Fifth priority: CONSULTANT's response to Town of Bay Harbor Islands Request for Qualifications # RFQ No. 5-1005-23-0-2023/FVR.

5.2 Anything shown on the drawings and not mentioned in the specifications or mentioned in the specifications and now shown on the drawings, shall have the same effect as if shown or mentioned respectively in both. In the event of a conflict among the Agreement Documents, the latest, most stringent, and more technical requirement(s), including, but not limited to, issues of quantities or cost of the Work shall control.

Reference to standard specifications, manuals, rules, regulations, ordinances, laws or codes of any governmental authority, whether such reference be specific or by implication, shall mean the latest standard specification, manual, rule, regulation, ordinance, law or code in effect at the time of permit submittal.

ARTICLE 6
TASK ORDERS

6.1 The Project will be divided into "Tasks."

6.2 Task Orders shall be jointly prepared by the TOWN and CONSULTANT defining

the detailed scope of services to be provided for the particular Project. Each Task Order shall be separately numbered and approved in accordance with this Agreement and all applicable TOWN code requirements.

6.3 Under all Task Orders and Projects, TOWN may require the CONSULTANT, by specific written authorization, and for mutually agreed upon additional compensation, to provide or assist in obtaining one or more of the following special services. These services may include, at the discretion of the TOWN, the following items:

6.3.1 Providing additional copies of reports, Agreement drawings and documents; and

6.3.2 Assisting TOWN with litigation support services arising from the planning, development, or construction.

6.4 Prior to initiating the performance of any services under this Agreement, CONSULTANT must receive a written Notice to Proceed / Purchase Order from the TOWN. The CONSULTANT must receive the approval of the Agreement Administrator or his designee in writing prior to beginning the performance of services in any subsequent Task Order under this Agreement.

6.5 If, in the opinion of the TOWN, the CONSULTANT is improperly performing the services under a specific Task Order, or if at any time the TOWN shall be of the opinion that said Task Order is being unnecessarily delayed and will not be completed within the agreed upon time, the TOWN shall notify the CONSULTANT in writing. The CONSULTANT has within ten (10) working days thereafter to take such measures as will, in the judgment of the TOWN, ensure satisfactory performance and completion of the work. If the CONSULTANT fails to cure within the ten (10) working days, the TOWN may notify the CONSULTANT to discontinue all work under the specified Task Order. The CONSULTANT shall immediately respect said notice and stop said work and cease to have any rights in the possession of the work and shall forfeit the Task Order and any remaining monies. The TOWN may then decide, after Town Council approval, to issue a new Task Order for the uncompleted work to another consultant using the remaining funds. Any excess costs arising therefrom over and above the original Task Order price shall be charged against CONSULTANT, as the original CONSULTANT.

6.6 ARTICLE 7
TERM OF AGREEMENT; TIME FOR PERFORMANCE

7.1 The initial Agreement term shall commence upon final execution of the Agreement by the Town and shall expire Two (2) years from that date. The Town reserves the right to extend the Agreement for Three (3) additional one(1) year terms providing all terms conditions and specifications remain the same, both parties agree to the extension, and such extension is approved by the Town.

In the event services are scheduled to end because of the expiration of this contract, the Contractor shall continue the service upon the request of the Town as authorized by the awarding authority. The Contractor shall be compensated for the service at the rate in effect when this extension clause is invoked by the Town.

7.2 CONSULTANT shall perform the services described in Task Orders within the time periods specified in the Task Order. Said time periods shall commence from the date of the Notice to Proceed for such services.

7.3 Prior to beginning the performance of any services under this Agreement, CONSULTANT must receive a Notice to Proceed. CONSULTANT must receive written approval from the Agreement Administrator prior to beginning the performance of services in any subsequent phases of the Agreement. Prior to granting approval for CONSULTANT to proceed to a subsequent phase, the Agreement Administrator may, at his or her sole option, require CONSULTANT to submit itemized deliverables/documents for the Agreement Administrator's review.

7.4 In the event CONSULTANT is unable to complete any services because of delays resulting from untimely review by TOWN or other governmental authorities having jurisdiction over the Project, and such delays are not the fault of CONSULTANT, or because of delays which were caused by factors outside the control of CONSULTANT, TOWN shall grant a reasonable extension of time for completion of the services. It shall be the responsibility of the CONSULTANT to notify TOWN promptly in writing whenever a delay in approval by a governmental agency is anticipated or experienced, and to inform TOWN of all facts and details related to the delay.

7.5 The time for the performance of services described in assigned Task Orders shall be negotiated by the TOWN and the CONSULTANT as the services are requested and authorized by the TOWN.

ARTICLE 8
COMPENSATION AND METHOD OF PAYMENT

8.1 AMOUNT AND METHOD OF COMPENSATION

8.1.1 Not To Exceed Amount Compensation

TOWN agrees to pay CONSULTANT as compensation for performance of all services as related to each Task Order under the terms of this Agreement a Not to Exceed Amount as agreed upon per Task Order. This compensation does not include Reimbursables as described in Section 8.2. It is agreed that the method of compensation is that of "Not to Exceed Amount" which means that CONSULTANT shall perform all services set

forth in each Task Order for total compensation in the amount of or less than that stated total. The hourly rate-billing schedule to be used in negotiating each Task Order is attached as Exhibit “B” to this Agreement. As described in Section 9.1, no modification, amendment, or alteration to Exhibit “B” shall be effective unless contained in a written document prepared with the same formality as this Agreement and executed by the TOWN and CONSULTANT.

A not to exceed proposal shall be accompanied by the CONSULTANT’s estimate. The estimate shall detail the direct labor costs by categories of employees, work hours, and hourly rate; overhead; direct non-salary expenses including reimbursables; and profit, or as required by individual Task Order.

8.2 REIMBURSABLES

A. Direct non-salary expenses, entitled Reimbursables, directly attributable to the Project will be charged at actual cost. Reimbursable expenses are in addition to the compensation for basic services and include actual expenditures made by the CONSULTANT and the CONSULTANT'S employees directly attributable to the Project and will be charged at actual cost, without reference to the professional service fees above. TOWN shall not withhold retainage from payments for Reimbursable Expenses. CONSULTANT shall be compensated for Reimbursables associated with a particular Task Order only up to the amount allocated for such Task Order. Any reimbursable or portion thereof which, when added to the Reimbursables related to a particular Task Order previously billed, exceeds the amount allocated for such Task Order shall be the responsibility of the CONSULTANT unless otherwise agreed to in writing by the Agreement Administrator. Travel and subsistence expenses for the CONSULTANT, his staff and subconsultants and communication expenses, long distance telephone, courier and express mail between CONSULTANT’s and subconsultants’ various offices are not reimbursable under this Agreement. Reimbursables shall include only the following listed expenses unless authorized in writing by the Agreement Administrator:

B. Cost of reproduction, postage and handling of drawings and specifications which are required to deliver services set forth in this Agreement, excluding reproductions for the office use of the CONSULTANT. Reimbursable printing and photocopying expenses shall include only those prints or photocopies of original documents which are (i) exchanged among CONSULTANT, TOWN and other third parties retained or employed by any of them or (ii) submitted to TOWN for review, approval or further distribution. Documents, which are reproduced for CONSULTANT’s internal drafts, reviews, or other purposes, are not eligible for reimbursement.

C. Identifiable testing costs and special inspections approved by

Agreement Administrator.

D. All permit fees paid to regulatory agencies for approvals directly attributable to the Project. These permit fees do not include those permits required for the construction Contractor.

E. Overnight Delivery/Courier Charges (when TOWN requires/requests this service).

8.2.2 Reimbursable subconsultant expenses are limited to the items described above when the subconsultant agreement provides for reimbursable expenses. A detailed statement of expenses must accompany any request for reimbursement. Local travel to and from the Project site or within the Tri-County Area will not be reimbursed.

8.2.3 It is acknowledged and agreed to by CONSULTANT that the dollar limitation set forth in each Task Order is a limitation upon, and describes the maximum extent of TOWN's obligation to reimburse CONSULTANT for direct, non salary expenses, but does not constitute a limitation, of any sort, upon CONSULTANT's obligation to incur such expenses in the performance of services hereunder. If TOWN or Agreement Administrator requests CONSULTANT to incur expenses not contemplated in the amount for Reimbursables, CONSULTANT shall notify Agreement Administrator in writing before incurring such expenses. Any such expenses shall be reviewed and approved by TOWN prior to incurring such expenses.

8.3 METHOD OF BILLING

8.3.1 Not To Exceed Amount Compensation

CONSULTANT shall submit billings, which are identified by the specific project number on a monthly basis in a timely manner for all salary costs and Reimbursables attributable to the Project. These billings shall identify the nature of the work performed for each phase, subtask, deliverable and item identified in the Exhibit "A" Scope of Services or Task Order, the total hours of work performed and the employee category of the individuals performing same. The statement shall show a summary of salary costs with accrual of the total and credits for portions paid previously. Subconsultant fees must be documented by copies of invoices or receipts, which describe the nature of the expenses and contain a project number or other identifier, which clearly indicates the expense, as identifiable to the Project. Except for meals and travel expenses, it shall be deemed unacceptable for the CONSULTANT to modify the invoice or receipt by adding a project number or other identifier. Internal expenses must be documented by appropriate CONSULTANT's cost accounting forms with a summary of charges by category. When requested, CONSULTANT shall provide backup for past and current invoices that records hours and salary costs by employee category and subconsultant fees on a task basis, so that total hours and

costs by task may be determined.

8.4 METHOD OF PAYMENT

8.4.1 TOWN shall pay CONSULTANT in accordance with the Florida Prompt Payment Act. To be deemed proper, all invoices must comply with the requirements set forth in this Agreement and must be submitted on the form and pursuant to instructions prescribed by Agreement Administrator.

8.4.2 TOWN will review CONSULTANT's invoices and, if inaccuracies or errors are discovered in said invoice, TOWN will inform CONSULTANT within ten (10) working days by fax and/or by email of such inaccuracies or errors and request that revised copies of all such documents be re-submitted by CONSULTANT to TOWN.

8.4.3 Payment are scheduled to be made by TOWN to CONSULTANT by Check.

8.4.4 Payment will be made to CONSULTANT at:

300 Engineering Group, LLC
2222 Ponce De Leon Blvd, Suite 300
Coral Gables, FL 33134

ARTICLE 9
AMENDMENTS AND CHANGES IN SCOPE OF SERVICES

9.1.1 No modification, amendment or alteration in the terms or conditions contained herein shall be effective unless contained in a written Amendment prepared with the same formality as this Agreement and executed by the TOWN and CONSULTANT.

9.1.2 TOWN or CONSULTANT may request changes that would increase, decrease, or otherwise modify the Scope of Services to be provided under a Task Order. Such changes must be contained in a written amendment, executed by the Parties hereto, with the same formality and of equal dignity herewith, prior to any deviation from the terms of the Task Order including the initiation of any additional services. TOWN shall compensate CONSULTANT for such additional services as provided in Article 8.

9.1.3 In the event a dispute between the Agreement Administrator and CONSULTANT arises over whether requested services constitute additional services and such dispute cannot be resolved by the Agreement Administrator and CONSULTANT, such dispute shall be promptly presented to the Town Manager for resolution. The Town Manager's decision shall be final and binding on the Parties for amounts in the aggregate under $100,000. In the event of a dispute in an amount over $100,000, the Parties agree to use their best efforts to settle such dispute. To this effect, they shall consult and negotiate with each other, in good faith and, recognizing their mutual interests, attempt to reach a just and equitable solution satisfactory to both Parties. If they do not reach such solution within a period of sixty (60) days, then upon notice to the other,

either Party may commence litigation to resolve the dispute in Dade County, Florida. Any resolution shall be set forth in a written document in accordance with Section 9.2 above. During the pendency of any dispute, CONSULTANT shall promptly perform the disputed services.

ARTICLE 10
CONSULTANT'S RESPONSIBILITIES

10.1 The CONSULTANT, following the TOWN's approval of the Construction Documents and of the Final Statement of Probable Construction Costs, shall, when so directed and authorized by the TOWN, assist the TOWN in estimating construction costs, reviewing proposals, and assist in awarding contracts for construction. If requested, CONSULTANT shall review and analyze the proposals received by the TOWN and shall make a recommendation for any award based on the Town of Bay Harbor Islands Procurement Ordinance.

10.2 Estimates, opinions of probable construction or implementation costs, financial evaluations, feasibility studies or economic analyses prepared by CONSULTANT will represent its best judgment based on its experience and available information. The TOWN recognizes that CONSULTANT has no control over costs of labor, materials, equipment or services furnished by others or over market conditions or CONSULTANT's methods of determining prices, and that any evaluation of a facility to be constructed or work to be performed is speculative. Accordingly, CONSULTANT does not guarantee that proposals, bids or actual costs will not vary from opinions, evaluations or studies submitted by CONSULTANT.

- In the event that the lowest "best value" bid, as such term is used in the Town of Bay Harbor Islands Procurement Code, excluding any alternate bid items ("base bid"), exceeds the Estimated Construction Cost for a project by more than ten percent (10%), CONSULTANT shall explain, in writing, the reasons why the bids or proposals exceeded the ten percent (10%) factor following the analysis of all base bids. In such a circumstance, the TOWN may at its sole discretion, exercise any one or more of the following options: CONSULTANT shall be required to amend at the sole cost and expense of CONSULTANT, the Construction Drawings, Technical Specifications and Supplemental Conditions to enable the project to conform to a maximum of ten (10%) above the Estimated Construction Costs of the project, such amendments to be subject to the written final acceptance and approval of same by the TOWN;
- CONSULTANT shall be required to provide at the cost and expense of CONSULTANT re-bidding services and related items (including costs associated with regulatory review and approval of revised documents) as many times as requested by the TOWN until the base bid of at least one "best value" bid falls within the factor of ten (10%) of the Estimated Construction Cost of the project;
- The TOWN may approve an increase in the Estimated Construction Cost

of the Project;

- The TOWN may reject all bids or proposals and may authorize re-bidding;
- The TOWN may if permitted, approve a renegotiation of the Project within a reasonable time;
- The TOWN may abandon the project and terminate CONSULTANT's work authorization and Services for the Project; or
- The TOWN may select as many deductive alternatives as may be necessary to bring the award within ten percent (10%) of the Estimated Construction Costs of the Project.

It is expressly understood and agreed that the redesigning services required to keep the Project within 10% of the Estimated Construction Cost shall not be considered additional services and CONSULTANT agrees that it shall not seek compensation from the TOWN for such Services.

10.3 The CONSULTANT may be requested to provide the TOWN with a list of recommended, prospective proposers.

10.4 The CONSULTANT may be asked to attend all pre-bid / proposal conferences.

10.5 The CONSULTANT shall recommend any addenda, through the Agreement Administrator, as appropriate to clarify, correct, or change proposal /bid documents.

10.6 If pre-qualification of proposers is required as set forth in the request for proposal, CONSULTANT shall assist the TOWN, if requested, in developing qualification criteria, review qualifications and recommend acceptance or rejection of the proposers. If requested, CONSULTANT shall evaluate proposals and proposers, and make recommendations regarding any award by the TOWN.

10.7 The TOWN shall make decisions on claims regarding interpretation of the Construction Documents, and on other matters relating to the execution and progress of the work after receiving a recommendation from CONSULTANT .CONSULTANT may also assist in approving progress payments to the Contractor based on each Project Schedule of Values and the percentage of work completed.

10.8 The TOWN shall maintain a record of all Change Orders which shall be categorized according to the various types, causes, etc. that it may be determined are useful or necessary for its purpose. Among those shall be Change Orders identified as architectural/engineering Errors or Omissions.

10.8.1 Unless otherwise agreed by both Parties in writing, it is specifically agreed that any change to the work identified as an Error on the part of CONSULTANT shall be considered for purposes of this Agreement to be an additional cost to the TOWN which would not be incurred without the

Error. Errors on the part of the CONSULTANT shall be rectified by the CONSULTANT with no additional cost to the TOWN.

10.8.2 Unless otherwise agreed by both Parties in writing, it is further specifically agreed for purposes of this Agreement that fifteen percent (15%) of the cost of Change Orders for any item categorized as an Omission shall be considered an additional cost to the TOWN which would not be incurred without the Omission. So long as the total of those two numbers (Change Order costs of Errors plus fifteen percent (15%) of Omissions) remains less than two percent (2%) of the total Construction Cost of the Project, the TOWN shall not look to CONSULTANT for reimbursement for Errors and Omissions.

10.8.3 Should the sum of the two as defined above (cost of Errors plus fifteen percent (15%) of the cost of Omissions) exceed two percent (2%) of the Construction Cost, the TOWN shall recover the full and total additional cost to the TOWN as a result of CONSULTANT's Errors and Omissions from CONSULTANT, that being defined as the cost of Errors plus fifteen percent (15%) of the cost of Omissions above two percent (2%) of the Construction Cost.

10.8.4 To obtain such recovery, the TOWN shall deduct from CONSULTANT's fee a sufficient amount to recover all such additional cost to the TOWN.

10.8.5 In executing this Agreement, CONSULTANT acknowledges acceptance of these calculations and to the TOWN's right to recover same as stated above. The recovery of additional costs to the TOWN under this paragraph shall not limit or preclude recovery for other separate and/or additional damages which the TOWN may otherwise incur.

10.8.6 The Agreement Administrator's decision as to whether a Change Order is caused by an Error or caused by an Omission, taking into consideration industry standards, shall be final and binding on both Parties for amounts in the aggregate under $100,000 per project, subject to Section 9.3. In the event of a dispute in an amount over $100,000, the Parties agree to use their best efforts to settle such dispute. To this effect, they shall consult and negotiate with each other, in good faith and, recognizing their mutual interests, attempt to reach a just and equitable solution satisfactory to both Parties. If they do not reach such solution within a period of sixty (60) days, then upon notice to the other, either Party may commence litigation to resolve the dispute in Dade County, Florida.

ARTICLE 11
TOWN'S RESPONSIBILITIES

11.1 TOWN shall assist CONSULTANT by placing at CONSULTANT's disposal, all

information TOWN has available pertinent to the Project including previous reports and any other data relative to design or construction of the Project.

11.2 TOWN shall arrange for access to, and make all provisions for, CONSULTANT to enter upon public and private property as required for CONSULTANT to perform its services.

11.3 TOWN shall review the itemized deliverables/documents identified per Task Order.

11.4 TOWN shall give prompt written notice to CONSULTANT whenever TOWN observes or otherwise becomes aware of any development that affects the scope or timing of CONSULTANT's services or any defect in the work of the Contractor.

ARTICLE 12
MISCELLANEOUS

12.1 OWNERSHIP OF DOCUMENTS

All documents including, but not limited to, drawings, renderings, models, and specifications prepared or furnished by CONSULTANT, its dependent professional associates and consultants, pursuant to this Agreement shall be owned by the TOWN.

Drawings, specifications, designs, models, photographs, reports, surveys and other data prepared in connection with this Agreement are and shall remain the property of the TOWN whether the Project for which they are made is executed or not, and are subject to reuse by the TOWN in accordance with Section 287.055(10) of the Florida Statutes. They are not intended or represented to be suitable for reuse by the TOWN or others on extensions of this Project or on any other project without appropriate verification or adaptation. Any reuse, except for the specific purpose intended hereunder, will be at the TOWN's sole risk and without liability or legal exposure to CONSULTANT or its subcontractors. This does not, however, relieve CONSULTANT of liability or legal exposure for errors, omissions, or negligent acts made on the part of CONSULTANT in connection with the proper use of documents prepared under this Agreement. Any such verification or adaptation may entitle CONSULTANT to further compensation at rates to be agreed upon by the TOWN and CONSULTANT. This shall not limit the TOWN's reuse of preliminary or developmental plans or ideas incorporated therein, should the Project be suspended or terminated prior to completion.

12.2 TERMINATION

12.2.1 Termination for Cause. It is expressly understood and agreed that the TOWN may terminate this Agreement at any time for cause in the event that the

CONSULTANT (1) violates any provisions of this Agreement or performs same in bad faith or (2) unreasonably delays the performance of the services or does not perform the services in a timely and satisfactory manner upon written notice to the CONSULTANT. Notice of termination shall be provided in accordance with Section 12.27. In the case of termination by the TOWN for cause, the CONSULTANT shall be first granted a 10-working day cure period after receipt of written notice from the TOWN. In the event that the Agreement is terminated, the CONSULTANT shall be entitled to be compensated for the services rendered and accepted by the TOWN from the date of execution of the Agreement up to the time of termination. Such compensation shall be based on the fee as set forth above, wherever possible. For those portions of services rendered to which the applicable fee cannot be applied, payment shall be based upon the appropriate rates for the actual time spent on the Project. In the event that the CONSULTANT abandons this Agreement or through violation of any of the terms and conditions of this Agreement, causes it to be terminated, CONSULTANT shall indemnify the TOWN against any and all loss pertaining to this termination.

All finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs and reports prepared by CONSULTANT shall become the property of TOWN and shall be delivered by CONSULTANT to the TOWN within five (5) days of TOWN's request. Upon payment of such sum by TOWN to CONSULTANT, TOWN shall have no further duties or obligations pursuant to or arising from this Agreement.

This Agreement may also be terminated by TOWN upon such notice as TOWN deems appropriate in the event TOWN or Agreement Administrator determines that termination is necessary to protect the public health, safety, or welfare.

Notice of termination shall be provided in accordance with Section 12.27, NOTICES, except that Agreement Administrator may provide a prior verbal stop work order if the Agreement Administrator deems a stop work order of this Agreement in whole or in part is necessary to protect the public's health, safety, or welfare. A verbal stop work order shall be promptly confirmed in writing as set forth in Section 12.27, NOTICES.

12.2.2 Termination for Convenience. In the event this Agreement is terminated for convenience, CONSULTANT shall be paid for any services performed and accepted by the TOWN to the date the Agreement is terminated. Compensation shall be withheld until all documents specified in Section 11.3 of this Agreement are provided to the TOWN. Upon being notified of TOWN's election to terminate, CONSULTANT shall refrain from performing further services or incurring additional expenses under the terms of this Agreement. Under no circumstances shall TOWN make payment for services which have not been performed.

12.2.3 Termination by CONSULTANT. CONSULTANT shall have the right to

terminate this Agreement upon substantial breach by the TOWN of its obligation under this Agreement as to unreasonable delay in payment or non-payment of undisputed amounts. CONSULTANT shall have no right to terminate this Agreement for convenience of the CONSULTANT.

12.3 AUDIT RIGHT AND RETENTION OF RECORDS

TOWN shall have the right to audit the books, records, and accounts of CONSULTANT that are related to this Project. CONSULTANT shall keep such books, records, and accounts as may be necessary in order to record complete and correct entries related to the Project.

CONSULTANT shall preserve and make available, at reasonable times and upon prior written notice for examination and audit by TOWN all financial records, supporting documents, statistical records, and any other documents pertinent to this Agreement for the required retention period of the Florida Public Records Act (Chapter 119, Florida Statutes), if applicable, or, if the Florida Public Records Act is not applicable, for a minimum of three (3) years after termination of this Agreement. If any audit has been initiated and audit findings have not been resolved at the end of the retention period or three (3) years, whichever is longer, the books, records, and accounts shall be retained until resolution of the audit findings. If the Florida Public Records Act is determined by TOWN to be applicable to CONSULTANT's records, CONSULTANT shall comply with all requirements thereof; however, no confidentiality or non-disclosure requirement of either federal or state law shall be violated by CONSULTANT. Any incomplete or incorrect entry in such books, records, and accounts shall be a basis for TOWN's disallowance and recovery of any payment upon such entry.

12.4 NON-DISCRIMINATION, EQUAL EMPLOYMENT OPPORTUNITY, AND AMERICANS WITH DISABILITIES ACT

CONSULTANT shall not unlawfully discriminate against any person in its operations and activities in its use or expenditure of the funds or any portion of the funds provided by this Agreement and shall affirmatively comply with all applicable provisions of the Americans with Disabilities Act (ADA) in the course of providing any services funded in whole or in part by TOWN, including Titles I and II of the ADA (regarding nondiscrimination or the basis of disability), and all applicable regulations, guidelines, and standards.

CONSULTANT's decisions regarding the delivery of services under this Agreement shall be made without regard to or consideration of race, age, religion, color, gender, sexual orientation, national origin, marital status, physical or mental disability, political affiliation, or any other factor which cannot be lawfully or appropriately used as a basis for service delivery.

CONSULTANT shall comply with Title I of the Americans with Disabilities Act

regarding nondiscrimination on the basis of disability in employment and further shall not discriminate against any employee or applicant for employment because of race, age, religion, color, gender, sexual orientation, national origin, marital status, political affiliation, or physical or mental disability. In addition, CONSULTANT shall take affirmative steps to ensure nondiscrimination in employment against disabled persons. Such actions shall include, but not be limited to, the following: employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff, termination, rates of pay, other forms of compensation, terms and conditions of employment, training (including apprenticeship), and accessibility.

CONSULTANT shall take affirmative action to ensure that applicants are employed, and employees are treated without regard to race, age, religion, color, gender, sexual orientation, national origin, marital status, political affiliation, or physical or mental disability during employment. Such actions shall include, but not be limited to, the following: employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff, termination, rates of pay, other forms of compensation, terms and conditions of employment, training (including apprenticeship), and accessibility.

12.5 MINORITY PARTICIPATION

The CONSULTANT shall make a good faith effort to help the TOWN maintain and encourage MBE/WBE participation levels consistent with such historical levels and market conditions. The CONSULTANT will be required to document all such efforts and supply the TOWN with this documentation at the end of the Project, or in cases where projects are longer than one year, each TOWN fiscal year.

12.6 PUBLIC ENTITY CRIMES ACT

In accordance with the Public Crimes Act, Section 287.133, Florida Statutes, a person or affiliate who is a contractor, consultant or other provider, who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid on a Agreement to provide any goods or services to the Town, may not submit a bid on a Agreement with the Town for the construction or repair of a public building or public work, may not submit bids on leases of real property to the Town, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a Agreement with the Town, and may not transact any business with the Town in excess of the threshold amount provided in Section 287.017, Florida Statutes, for category two purchases for a period of thirty-six (36) months from the date of being placed on the convicted vendor list. Violation of this section by Contractor shall result in cancellation of the Town purchase and may result in Contractor debarment.

12.7 SUBCONSULTANTS

12.7.1 CONSULTANT may sub-Agreement certain items of work to sub-consultant. The parties expressly agree that the CONSULTANT shall submit pertinent information regarding the proposed sub-consultant, including sub-consultant's scope of work and fees, for review and approval by the TOWN prior to sub-consultants proceeding with any work.

12.7.2 CONSULTANT shall utilize the subconsultants identified in the proposal that were a material part of the selection of CONSULTANT to provide the services for this Project. CONSULTANT shall obtain written approval of the Agreement Administrator prior to changing or modifying the list of sub-consultants submitted by CONSULTANT.

The list of subconsultants submitted is as follows:

Ardurra Group, Inc
Bermello Ajamil & Partners
Terracon

12.8 ASSIGNMENT AND PERFORMANCE

Neither this Agreement nor any interest herein shall be assigned, transferred, or encumbered without the written consent of the other P arty, and CONSULTANT shall not sub-Agreement any portion of the work required by this Agreement except as authorized pursuant to Section 12.7.

CONSULTANT represents that all persons delivering the services required by this Agreement have the knowledge and skills, either by training, experience, education, or a combination thereof, to adequately and competently perform the duties, obligations, and services set forth in the Scope of Services and to provide and perform such services to TOWN's satisfaction for the agreed compensation.

CONSULTANT shall perform its duties, obligations, and services under this Agreement in a skillful and respectable manner. The quality of CONSULTANT's performance and all interim and final product(s) provided to or on behalf of TOWN shall meet or exceed all professional standards of the State of Florida.

12.9 INDEMNIFICATION OF TOWN

12.9.1 CONSULTANT shall indemnify and hold harmless TOWN, its officers and employees, from liabilities, damages, losses, and costs, including but not limited to reasonable attorneys' fees, to the extent caused by the negligence, recklessness or intentional misconduct of CONSULTANT and persons employed or utilized by CONSULTANT in the performance of this Agreement. These indemnifications shall survive the term of this Agreement. In the event that any action or proceeding is brought against

TOWN by reason of any such claim or demand, CONSULTANT, shall, upon written notice from TOWN, resist and defend such action or proceeding by counsel approved by the TOWN.

12.9.2 To the extent considered necessary by Agreement Administrator and TOWN, any sums due the CONSULTANT under this Agreement may be retained by TOWN until all of the TOWN's claims for indemnification pursuant to this Agreement have been settled or otherwise resolved, and any amount withheld shall not be subject to payment of interest by TOWN.

12.9.3 The Indemnification provided above shall obligate CONSULTANT to defend at its own expense to and through appellate, supplemental or bankruptcy proceeding, or to provide for such defense, at TOWN's option, any and all claims of liability and all suits and actions of every name and description covered by Section 11.9.1 above that may be brought against TOWN whether performed by CONSULTANT, or persons employed or utilized by CONSULTANT.

12.10 LIMITATION OF TOWN'S LIABILITY

The TOWN desires to enter into this Agreement only if in so doing the TOWN can place a limit on the TOWN's liability for any cause of action arising out of this Agreement, so that the TOWN's liability for any breach never exceeds the sum of
$1,000.00. For other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the CONSULTANT expresses its willingness to enter into this Agreement with the knowledge that the CONSULTANT's recovery from the TOWN to any action or claim arising from the Agreement is limited to a maximum amount of $1,000.00 less the amount of all funds actually paid by the TOWN to the CONSULTANT pursuant to this Agreement. Accordingly, and notwithstanding any other term or condition of this Agreement that may suggest otherwise, the CONSULTANT agrees that the TOWN shall not be liable to the CONSULTANT for damages in an amount in excess of $1,000.00, which amount shall be reduced by the amount actually paid by the TOWN to the CONSULTANT pursuant to this Agreement, for any action or claim arising out of this Agreement. Nothing contained in this paragraph or elsewhere in this Agreement is in any manner intended either to be a waiver of the limitation placed upon the TOWN's liability as set forth in Section 768.28, Florida Statutes, or to extend the TOWN's liability beyond the limits established in said Section 768.28; and no claim or award against the TOWN shall include attorney's fees, investigative costs, extended damages, expert fees, suit costs or pre-judgment interest. Notwithstanding the foregoing, the parties agree and understand that the provisions of this Article 12.10 do not apply to monies owed, if any, for services rendered to CONSULTANT by

the TOWN under the provisions of this Agreement.

12.11 INSURANCE

12.11.1 As a condition precedent to the effectiveness of this Agreement, during the term of this Agreement and during any renewal or extension term of this Agreement, the Contractor, at the Contractor's sole expense, shall provide insurance of such types and with such terms and limits as noted below. Providing proof of and maintaining adequate insurance coverage are material obligations of the Contractor. The Contractor shall provide the Town a certificate of insurance evidencing such coverage. The Contractor's insurance coverage shall be primary insurance for all applicable policies. The limits of coverage under each policy maintained by the Contractor shall not be interpreted as limiting the Contractor's liability and obligations under this Agreement. All insurance policies shall be from insurers authorized to write insurance policies in the State of Florida and that possess an A.M. Best rating of "A-" VII or better. All insurance policies are subject to approval by the Town's Risk Manager.

12.11.2 The coverages, limits, and endorsements required herein protect the interests of the Town, and these coverages, limits, and endorsements may not be relied upon by the Contractor for assessing the extent or determining appropriate types and limits of coverage to protect the Contractor against any loss exposure, whether as a result of this Agreement or otherwise. The requirements contained herein, as well as the Town's review or acknowledgement, are not intended to and shall not in any manner limit or qualify the liabilities and obligations assumed by the Contractor under this Agreement.

12.11.3 The following insurance policies and coverages are required:

Commercial General Liability

Coverage must be afforded under a Commercial General Liability policy with limits not less than:

- $2,000,000 each occurrence and $2,000,000 aggregate for Bodily Injury, Property Damage, and Personal and Advertising Injury
- $2,000,000 each occurrence and $2,000,000 aggregate for Products and Completed Operations

Policy must include coverage for Contractual Liability and Independent Contractors.

The Town and the Town's officers, employees, and volunteers are to be covered as additional insureds with a CG 20 26 04 13 Additional

Insured – Designated Person or Organization Endorsement or similar endorsement providing equal or broader Additional Insured Coverage with respect to liability arising out of activities performed by or on behalf of the Contractor. The coverage shall contain no special limitation on the scope of protection afforded to the Town or the Town's officers, employees, and volunteers.

Business Automobile Liability

Coverage must be afforded for all Owned, Hired, Scheduled, and Non-Owned vehicles for Bodily Injury and Property Damage in an amount not less than $1,000,000 combined single limit each accident

If the Contractor does not own vehicles, the Contractor shall maintain coverage for Hired and Non-Owned Auto Liability, which may be satisfied by way of endorsement to the Commercial General Liability policy or separate Business Auto Liability policy.

Workers' Compensation and Employer's Liability

Coverage must be afforded per Chapter 440, Florida Statutes. Any person or entity performing work for or on behalf of the Town must provide Workers' Compensation insurance. Exceptions and exemptions will be allowed by the Town's Risk Manager, if they are in accordance with Florida Statute.

The Contractor waives, and the Contractor shall ensure that the Contractor's insurance carrier waives, all subrogation rights against the Town and the Town's officers, employees, and volunteers for all losses or damages. The Town requires the policy to be endorsed with WC 00 03 13 Waiver of our Right to Recover from Others or equivalent.

The Contractor must be in compliance with all applicable State and federal workers' compensation laws, including the U.S. Longshore Harbor Workers' Act and the Jones Act, if applicable.

Umbrella/Excess Liability: The Contractor shall provide umbrella/excess coverage with limits of no less than $2,000,000 excess of Commercial General Liability, Automobile Liability and Employer's Liability

12.12.4 Insurance Certificate Requirements

- **a.** The Contractor shall provide the Town with valid Certificates of Insurance (binders are unacceptable) no later than thirty (30) days prior to the start of work contemplated in this Agreement.
- **b.** The Contractor shall provide to the Town a Certificate of Insurance having a thirty (30) day notice of cancellation; ten (10)

days' notice if cancellation is for nonpayment of premium.

c. In the event that the insurer is unable to accommodate the cancellation notice requirement, it shall be the responsibility of the Contractor to provide the proper notice. Such notification will be in writing by registered mail, return receipt requested, and addressed to the certificate holder.

d. In the event the Agreement term goes beyond the expiration date of the insurance policy, the Contractor shall provide the Town with an updated Certificate of Insurance no later than ten (10) days prior to the expiration of the insurance currently in effect. The Town reserves the right to suspend the Agreement until this requirement is met.

e. The Certificate of Insurance shall indicate whether coverage is provided under a claims-made or occurrence form. If any coverage is provided on a claims-made form, the Certificate of Insurance must show a retroactive date, which shall be the effective date of the initial contract or prior.

f. The Town shall be named as an Additional Insured on the general liability policy.

g. The Town shall be granted a Waiver of Subrogation on the Contractor's Workers' Compensation insurance policy.

h. On section "description of operations / locations / vehicles (attach acord 101, additional remarks schedule, if more space is required)" should read as flows:

TOWN OF BAY HARBOR ISLAND. IS INCLUDED AS ADDITIONAL INSURED

The title of the Agreement, Bid/Contract number, event dates, or other identifying reference must be listed on the Certificate of Insurance.

<u>The Certificate Holder should read as follows:</u>
Town of Harbor Islands
Procurement Services
9665 Bay Harbor Terrace
Town of Harbor Islands, FL 33154

The Contractor has the sole responsibility for the payment of all insurance premiums and shall be fully and solely responsible for any costs or expenses as a result of a coverage deductible, co-insurance penalty, or self-insured retention; including any loss not covered because of the operation of such deductible, co-insurance penalty, self-insured retention, or coverage exclusion or limitation. Any costs for adding the Town as an Additional Insured shall be at

the Contractor's expense.

If the Contractor's primary insurance policy/policies do not meet the minimum requirements, as set forth in this Agreement, the Contractor may provide evidence of an Umbrella/Excess insurance policy to comply with this requirement.

The Contractor's insurance coverage shall be primary insurance as applied to the Town and the Town's officers, employees, and volunteers. Any insurance or self-insurance maintained by the Town covering the Town, the Town's officers, employees, or volunteers shall be non-contributory.

Any exclusion or provision in the insurance maintained by the Contractor that excludes coverage for work contemplated in this Agreement shall be unacceptable and shall be considered breach of contract.

All required insurance policies must be maintained until the contract work has been accepted by the Town, or until this Agreement is terminated, whichever is later. Any lapse in coverage shall be considered breach of contract. In addition, Contractor must provide to the Town confirmation of coverage renewal via an updated certificate should any policies expire prior to the expiration of this Agreement. The Town reserves the right to review, at any time, coverage forms and limits of Contractor's insurance policies.

The Contractor shall provide notice of any and all claims, accidents, and any other occurrences associated with this Agreement shall be provided to the Contractor's insurance company or companies and the Town's Risk Management office as soon as practical.

It is the Contractor's responsibility to ensure that any and all of the Contractor's independent contractors and subcontractors comply with these insurance requirements. All coverages for independent contractors and subcontractors shall be subject to all of the applicable requirements stated herein. Any and all deficiencies are the responsibility of the Contractor.

ADDITIONAL COVERAGES REQUIRE

<u>Professional Liability and/or Errors and Omissions</u>

Coverage must be afforded for Wrongful Acts in an amount not less than $1,000,000 each claim and $2,000,000 aggregate.

Contractor must keep insurance in force until the third anniversary of expiration of this Agreement or the third anniversary of acceptance of work by the Town.

12.12 REPRESENTATIVE OF TOWN AND CONSULTANT

12.12.1 The Parties recognize that questions in the day-to-day conduct of the Project will arise. The Agreement Administrator, upon CONSULTANT's request, shall advise CONSULTANT in writing of one (1) or more TOWN employees to whom all communications pertaining to the day-to-day conduct of the Project shall be addressed.

12.12.2 CONSULTANT shall inform the Agreement Administrator in writing of CONSULTANT's representative to whom matters involving the conduct of the Project shall be addressed.

12.13 ALL PRIOR AGREEMENTS SUPERSEDED

This document incorporates and includes all prior negotiations, correspondence, conversations, agreements or understandings applicable to the matters contained herein; and the Parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, the Parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or agreements whether oral or written.

It is further agreed that no modification, amendment or alteration in the terms or conditions contained herein shall be effective unless contained in a written document executed with the same formality and of equal dignityherewith.

12.14 CONSULTANT'S STAFF

CONSULTANT will provide the key staff identified in its proposal for the Project as long as said key staff are in CONSULTANT's employment.

CONSULTANT will obtain prior written approval of Agreement Administrator to change key staff. CONSULTANT shall provide Agreement Administrator with such information as necessary to determine the suitability of any proposed new key staff. Agreement Administrator will be reasonable in evaluating key staff qualifications.

If Agreement Administrator desires to request removal of any of CONSULTANT's staff, Agreement Administrator shall first meet with CONSULTANT and provide reasonable justification for said removal.

12.15 INDEPENDENT CONTRACTOR

CONSULTANT is an independent contractor under this Agreement. Services provided by CONSULTANT shall be subject to the supervision of CONSULTANT. In providing the services, CONSULTANT or its agents shall not be acting and shall

not be deemed as acting as officers, employees, or agents of the TOWN. Personnel policies, tax responsibilities, social security and health insurance, employee benefits, purchasing policies and other similar administrative procedures applicable to services rendered under this Agreement shall be those of CONSULTANT. The Parties expressly acknowledge that it is not their intent to create any rights or obligations in any third person or entity under this Agreement.

12.16 THIRD PARTY BENEFICIARIES

Neither CONSULTANT nor TOWN intends to directly or substantially benefit a third party by this Agreement. Therefore, the parties agree that there are no third-party beneficiaries to this Agreement and that no third party shall be entitled to assert a claim against either of them based upon this Agreement.

12.17 CONFLICTS

Neither CONSULTANT nor its employees shall have or hold any continuing or frequently recurring employment or contractual relationship that is substantially antagonistic or incompatible with CONSULTANT's loyal and conscientious exercise of judgment related to its performance under this Agreement.

CONSULTANT agrees that none of its officers or employees shall, during the term of this Agreement, serve as expert witness against TOWN in any legal or administrative proceeding in which he or she is not a party, unless compelled by court process, nor shall such persons give sworn testimony or issue a report or writing, as an expression of his or her expert opinion, which is adverse or prejudicial to the interests of TOWN or in connection with any such pending or threatened legal or administrative proceeding. The limitations of this Section shall not preclude such person from representing themselves in any action or in any administrative or legal proceeding. In the event CONSULTANT is permitted to utilize subconsultants to perform any services required by this Agreement, CONSULTANT agrees to prohibit such subconsultants, by written contract, from having any conflicts as within the meaning of this Section.

12.18 CONTINGENCY FEE

CONSULTANT warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for CONSULTANT, to solicit or secure this Agreement and that it has not paid or agreed to pay any person, company, corporation, individual or firm, other than a bona fide employee working solely for CONSULTANT, any fee, Council, percentage, gift, or other consideration contingent upon or resulting from the award or making of this Agreement. For a breach or violation of this provision, the TOWN shall have the right to terminate this Agreement without liability at its discretion, or to deduct from the Agreement price or otherwise recover the full amount of such fee, Council, percentage, gift or consideration.

12.19 WAIVER OF BREACH AND MATERIALITY

Failure by TOWN to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement.

TOWN and CONSULTANT agree that each requirement, duty, and obligation set forth herein is substantial and important to the formation of this Agreement and, therefore, is a material term hereof.

12.20 COMPLIANCE WITH LAWS

CONSULTANT shall comply with all applicable federal, state, and local laws, codes, ordinances, rules, and regulations in performing its duties, responsibilities, and obligations related to this Agreement.

12.21 SEVERANCE

In the event this Agreement or a portion of this Agreement is found by a court of competent jurisdiction to be invalid, the remaining provisions shall continue to be effective unless TOWN or CONSULTANT elects to terminate this Agreement. The election to terminate this Agreement based upon this provision shall be made within seven (7) days after the findings by the court become final.

12.22 JOINT PREPARATION

Preparation of this Agreement has been a joint effort of TOWN and CONSULTANT and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than any other.

12.23 PRIORITY OF PROVISIONS

If there is a conflict or inconsistency between any term, statement, requirement, or provision of any exhibit attached hereto, any document or events referred to herein, or any document incorporated into this Agreement by reference and a term, statement, requirement, or provision of this Agreement, the term, statement, requirement, or provision contained in Articles 1-12 of this Agreement shall prevail and be given effect.

12.24 APPLICABLE LAW AND VENUE AND WAIVER OF JURY TRIAL

This Agreement shall be construed in accordance with and governed by the laws of the State of Florida. Venue for any lawsuit by either party against the other party or otherwise arising out of this Agreement and for any other legal proceeding

shall be in Dade County, Florida, or in the event of federal jurisdiction, in the Southern District of Florida. **BY ENTERING INTO THIS AGREEMENT, CONSULTANT AND TOWN EXPRESSLY WAIVE ANY RIGHTS EITHER PARTY MAY HAVE TO A TRIAL BY JURY OF ANY CIVIL LITIGATION RELATED TO, OR ARISING OUT OF THIS AGREEMENT.**

In the event Consultant is a corporation organized under the laws of any province of Canada or is a Canadian federal corporation, the Town may enforce in the United States of America or in Canada or in both countries a judgment entered against CONSULTANT. CONSULTANT waives any and all defenses to the Town's enforcement in Canada of a judgment entered by a court in the United States of America.

12.25 SOLICITATION AND EXHIBITS

The solicitation, CONSULTANT'S response to the solicitation and each exhibit referred to in this Agreement forms an essential part of this Agreement. The solicitation, CONSULTANT'S response, and exhibits, if not physically attached, should be treated as part of this Agreement, and are incorporated herein by reference.

12.26 TWO ORIGINAL AGREEMENTS

This Agreement shall be executed in two (2), signed Agreements, treated as an original.

12.27 NOTICES

Whenever either Party desires to give notice unto the other, it must be given by written notice, sent by certified United States mail, with return receipt requested, addressed to the Party for whom it is intended, at the place last specified, and the place for giving of notice in compliance with the provisions of this paragraph. For the present, the Parties designate the following as the respective places for giving of notice, to-wit:

With a copy to: Town Manager
Town of Bay Harbor Islands
9665 Bay Harbor Terrace, FL 33154
Telephone: (305) 866-6241

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

CONSULTANT: **Franklin A. Torrealba**
300 Engineering Group, LLC
2222 Ponce De Leon Blvd, Suite 300
Coral Gables, FL 33134
reremon@300engineering.com

12.28 ATTORNEY FEES

If TOWN or CONSULTANT incurs any expense in enforcing the terms of this Agreement through litigation, the prevailing party in that litigation shall be reimbursed for all such costs and expenses, including but not limited to court costs, and reasonable attorney fees incurred during litigation.

12.29 PERMITS, LICENSES AND TAXES

CONSULTANT shall, at its own expense, obtain all necessary permits and licenses, pay all applicable fees, and pay all applicable sales, consumer, use and other taxes required to comply with local ordinances, state and federal law. CONSULTANT is responsible for reviewing the pertinent state statutes regarding state taxes and for complying with all requirements therein. Any change in tax laws after the execution of this Agreement will be subject to further negotiation and CONSULTANT shall be responsible for complying with all state tax requirements.

12.30 ENVIRONMENTAL, HEALTH AND SAFETY

CONSULTANT shall maintain a safe working environment during performance of the work. CONSULTANT shall comply, and shall secure compliance by its employees, agents, and subconsultants, with all applicable environmental, health, safety and security laws and regulations, and performance conditions in this Agreement. Compliance with such requirements shall represent the minimum standard required of CONSULTANT. CONSULTANT shall be responsible for examining all requirements and determine whether additional or more stringent environmental, health, safety and security provisions are required for the work. CONSULTANT agrees to utilize protective devices as required by applicable laws, regulations, and any industry or CONSULTANT's health and safety plans and regulations, and to pay the costs and expenses thereof, and warrants that all such persons shall be fit and qualified to carry out the Work.

12.31 STANDARD OF CARE

CONSULTANT represents that he/she/it is qualified to perform the work, that

CONSULTANT and his/her/its subconsultants possess current, valid state and/or local licenses to perform the Work, and that their services shall be performed in a manner consistent with that level of care and skill ordinarily exercised by other qualified consultants under similar circumstances.

12.32 TRUTH-IN-NEGOTIATION CERTIFICATE

Signature of this Agreement by CONSULTANT shall act as the execution of a Truth-in-Negotiation Certificate stating that wage rates and other factual unit costs supporting the compensation of this Agreement are accurate, complete, and current at the time of contracting. The original Agreement price and any additions thereto shall be adjusted to exclude any significant sums, by which the TOWN determines that Agreement price was increased due to inaccurate, incomplete, or non-current wage rates and other factual unit costs. All such Agreement adjustments must be made within 1 year following the end of the contract.

12.33 EVALUATION

The TOWN maintains the right to periodically review the performance of the CONSULTANT. This review will take into account the timely execution of Task Orders, the quality of the work performed, the cost to the TOWN and the good faith efforts made by the CONSULTANT to maintain MBE/WBE participation in TOWN projects. Any deficiencies in performance will be described in writing and an opportunity afforded, where practicable, for the CONSULTANT to address and/or remedy such deficiencies.

12.34 STATUTORY COMPLIANCE

CONSULTANT shall prepare all documents and other materials for the Project in accordance with all applicable rules, laws, ordinances and governmental regulations of the State of Florida, Dade County, the Town of Bay Harbor Islands, Florida, and all governmental agencies having jurisdiction over the services to be provided by CONSULTANT under this Agreement or over any aspect or phase of the Project.

12.35 SCRUTINIZED COMPANIES

Subject to *Odebrecht Construction, Inc., v. Prasad*, 876 F.Supp.2d 1305 (S.D. Fla. 2012), *affirmed*, *Odebrecht Construction, Inc., v. Secretary, Florida Department of Transportation*, 715 F.3d 1268 (11th Cir. 2013), with regard to the "Cuba Amendment," the Contractor certifies that it is not on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, and that it does not have business operations in Cuba or Syria, as provided in Section 287.135, Florida Statutes (2023), as may be amended or revised. The Contractor certifies that it is not on the Scrutinized Companies that Boycott Israel List created pursuant to Section 215.4725, Florida

Statutes (2023), as may be amended or revised, and that it is not engaged in a boycott of Israel. The Town may terminate this Agreement at the Town's option if the Contractor is found to have submitted a false certification as provided under subsection (5) of Section 287.135, Florida Statutes (2023), as may be amended or revised, or been placed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List or the Scrutinized Companies that Boycott Israel List created pursuant to Section 215.4725, Florida Statutes (2023), as may be amended or revised, or is engaged in a boycott of Israel or has been engaged in business operations in Cuba or Syria, as defined in Section 287.135, Florida Statutes (2023), as may be amended or revised.

12.36 PUBLIC RECORDS

Consultant shall:

1. Keep and maintain public records required by the Town in order to perform the service.

2. Upon request from the Town's custodian of public records, provide the Town with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes (2022), as may be amended or revised, or as otherwise provided by law.

3. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the Agreement term and following completion of this Agreement if CONSULTANT does not transfer the records to the Town.

4. Upon completion of the Agreement, transfer, at no cost to the Town, all public records in possession of CONSULTANT or keep and maintain public records required by the Town to perform the service. If CONSULTANT transfers all public records to the Town upon completion of this Agreement, CONSULTANT shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If CONSULTANT keeps and maintains public records upon completion of this Agreement, CONSULTANT shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the Town, upon request from the Town's custodian of public records, in a format that is compatible with the information technology systems of the Town.

12.37 INTELLECTUAL PROPERTY

CONSULTANT shall protect and defend at CONSULTANT's expense, counsel being subject to the Town's approval, and indemnify and hold harmless the Town from and against any and all losses, penalties, fines, damages, settlements, judgments, claims, costs, charges, royalties, expenses, or liabilities, including any award of attorney fees and any award of costs, in connection with or arising directly or indirectly out of any infringement or allegation of infringement of any patent, copyright, or other intellectual property right in connection with the CONSULTANT's or the TOWN's use of any copyrighted, patented or un-patented invention, process, article, material, or device that is manufactured, provided, or used pursuant to this Agreement. If the CONSULTANT uses any design, device, or materials covered by letters, patent or copyright, it is mutually agreed and understood without exception that the bid prices shall include all royalties or costs arising from the use of such design, device, or materials in any way involved in the work.

12.38 RIGHTS IN DOCUMENTS AND WORK

Any and all reports, photographs, surveys, and other data and documents provided or created in connection with this Agreement are and shall remain the property of TOWN; and CONSULTANT disclaims any copyright in such materials. In the event of and upon termination of this Agreement, any reports, photographs, surveys, and other data and documents prepared by CONSULTANT, whether finished or unfinished, shall become the property of Town and shall be delivered by CONSULTANT to the TOWN's Agreement Administrator within seven (7) days of termination of this Agreement by either Party. Any compensation due to CONSULTANT shall be withheld until CONSULTANT delivers all documents to the TOWN as provided herein.

12.39 REPRESENTATION OF AUTHORITY

Each individual executing this Agreement on behalf of a Party hereto hereby represents and warrants that he or she is, on the date he or she signs this Agreement, duly authorized by all necessary and appropriate action to execute this Agreement on behalf of such Party and does so with full legal authority.

12.40 NON-DISCRIMINATION

The CONSULTANT shall not, in any of its activities, including employment, discriminate against any individual on the basis of race, color, national origin, age, disability, religion, creed, sex, disability, sexual orientation, gender, gender identity, gender expression, marital status or any other protected classification as defined by applicable law.

12.41 HOLD HARMLESS AND INDEMNIFICATION.

All Proposers shall hold the Town, its officials, and its employees harmless and covenant not to sue the Town, its officials, and its employees in reference to the Town's decision to reject, award, or not award an RFQ, as applicable. Additionally, the selected Proposer shall indemnify, defend, and save harmless the Town, its officers, agents, and employees, from or on account of any injuries or damages, received or sustained by any person or persons during or on account of the Proposer's performance of its Services under this RFQ, or by or in consequence of any negligence (excluding the sole negligence of the Town), in connection with the same; or by use of any improper materials or by or on account of any act or omission of the said selected Proposer, agents, servants, or employees. The selected Proposer shall indemnify, defend, and hold harmless the Town and their agents or employees from and against all claims, damages, losses, and expenses, including attorneys' fees, arising out of or resulting from the performance of the Services described in the RFQ, provided that any such claim, damage, loss, or expense (a) is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property (other than work itself) including the loss of use resulting wherefrom and (b) is caused in whole or in part by any negligent act or omission of the selected Proposer, anyone directly or indirectly employed by any of them, or anyone for whose acts any of them may be liable, regardless of whether or not it is caused by a party indemnified hereunder

IN WITNESS OF THE FOREGOING, the Parties have set their hands and seals the day and year first written above.

TOWN

TOWN OF BAY HARBOR ISLANDS, a Florida municipal corporation

By: _____
MARIA LASDAY
Town Manager

ATTEST:

By: _____
YVONNE HAMILTON
Town Clerk

APPROVED AS TO FORM AND LEGAL SUFFICIENCY

By:_____
GREENSPOON MARDER LLP
Town Attorney
By: JOSEPH S. GELLER, ESQ

WITNESSES:

300 Engineering Group, LLC, a Foreign Profit Corporation

_____

By: _____

_____

Print Name

Print Name: Franklin Torrealba

Title: President

_____

_____

Print Name

(CORPORATE SEAL)

STATE OF _____:

COUNTY OF _____:

The foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization, this ___ day of _____, 2023, by Franklin Torrealba as President for 300 Engineering Group, LLC., a foreign corporation authorized to conduct business in the State of Florida.

_____

(Signature of Notary Public - State of Florida)

_____

(Print, Type, or Stamp Counciled Name of Notary Public)

Personally Known__ OR Produced Identification_____ Type of Identification Produced: _

EXHIBIT A

SCOPE OF SERVICES

3.1 Purpose

The Town is seeking the services of a qualified consulting firm(s) to provide Professional Services related to a continuing contract for Civil Engineering Consultant Services. The following is a list of services that may be required on an as-needed basis as requested by the Town which will be authorized by individual Task Orders for individual projects. This list shall not be construed as an exclusive list of activities that successful firm(s) may be engaged in. Town shall have the right, in its sole and absolute discretion, to require additional services that are consistent with the scope of services and those activities typically performed by engineers, and surveyors pursuant to Section 287.055 Florida Statutes, and for which the firm(s) are experience, qualified, and able to perform:

3.2 Scope of Services

The Town of Bay Harbor Islands is seeking to establish a pool of pre-qualified consultants in engineering disciplines. Generally, services for projects may include full design and construction contract document development; construction specification development; contract and bidding document development; code analysis; jurisdictional review and permitting assistance; bid/award support and concurrence; negotiation support; construction/contract administration services; construction phase field support services; inspections, construction observation and project progress documentation; post-occupancy surveys and related services; surveying; photographic and video-graphic project support; GIS and CADD project support; other data and information system project support, etc.

Multiple firms selected by the Town will provide professional services to the Town on an as-needed basis based upon work orders to be issued by the Town under the terms of their continuing contracts.

3.3 Work Standards

In providing professional services, Consultant(s) shall take all reasonable care which are industry standards or as defined in Florida Statutes or Florida Administrative Codes. Consultant(s) shall also provide all work product documentation including but not limited to; data, studies, surveys, drawings, maps, models, photographs, reports, designs, calculations, test results, etc., that shall become the property of the Town and shall be delivered to the Town.

3.4 Tasks

The scope of services to be provided by the Consultant in the functional areas listed above shall include, but not be limited to, the following:

a) Prepare engineering designs, calculations, plans and specifications, contract bid documents, and cost estimates, within the functional areas of interest listed in this solicitation.
b) Prepare base maps, preliminary layouts, estimates of probable costs,

engineering analysis and alternatives as requested.

c) Submit construction documents as needed to the Town and other required agencies having an interest or jurisdiction over the project.
d) Review, analyze, and provide recommendations to utility budgets and capital improvement plans.
e) Provide updates on changes or proposed changes to laws/regulations that may impact Town's water resources and supply, treatment, distribution and storage, wastewater collection and treatment
f) Preform flood routing software modelling.
g) Prepare feasibility and conceptual planning documents.
h) Provide research, attendance at meetings, and preparation of presentation materials, reports and correspondence.
i) Prepare and/or assist with the preparation of grant applications and attendance at meetings with grant officials.
j) Assist in the review and development of ordinances.
k) Provide public education/notification assistance.
l) Prepare short and long term planning documents, master plans, or provide input to the Town's master plans, capital improvement program, and maintenance needs.
m) Participate in construction administration as required by the Town.
n) Prepare formal or informal feasibility studies as necessary to assist the Town in responding capital improvement needs.
o) Analysis of existing infrastructure and available capacity to serve proposed capital improvement projects.
p) Prepare legal descriptions, exhibits, and surveys.
q) Provide expert witness testimony.
r) Prepare appropriate permitting documents and obtain and/or assist the Town in obtaining permits from applicable agencies.
s) Represent the Town with regulatory agencies.
t) Prepare periodic project status reports.
u) Prepare and furnish bidding documents and assist the Town in the preparation of other related documents.
v) Attend bid openings, prepare bid tabulation sheets, and assist the Town in the evaluation of bids or proposals.
w) Issue addenda as appropriate to clarify, correct, or change the bidding documents.
x) Participate in pre-construction conference as requested by the Town.
y) Review and determine acceptability of construction submittals, including shop drawings, progress schedule, schedule of values, etc.
z) Review and provide recommendations to request for information, request for changes, and claims to the Town arising during construction activities.
aa) Make periodic construction site visits for the purpose of determining general compliance with the approved drawings, plans, and specifications as requested by the Town.

bb) Review as-built drawings provided by the construction contractor and provide written comments to the Town.
cc) Provide services related to construction management and inspections, and/or specialty inspection.
dd) Provide project management services and act as an extension of the Town's project management staff for the design, bidding, and construction management of municipal projects.
ee) Space Planning
ff) Architectural Design
gg) Interior Design
hh) Landscape Architecture
ii) ADA Analysis and Design
jj) Sustainable Design
kk) Building Performance Analysis
ll) Structural Design

The consultant or its sub consultants shall be familiar with different agency's permitting regulations and requirements and the Town's design criteria, standards and specifications.

3.5 Deliverables

The Town intends to contract with multiple firms. The total amount of compensation will be negotiated with the selected consultant. No minimum amount of work or compensation will be assured to the retained consultant(s). All work products becomes the property of the Town. The Town reserves the right to re-use the work products of the retained consultant and to retain other consultants to provide the same or similar services at its sole discretion.

3.6 Schedule

Consultant recognizes that **TIME IS OF THE ESSENCE**. The Work on each Task Order shall commence immediately upon the Consultants receipt of an executed Task Order.

3.7 Town Infrastructure

a. Bridges – Given the Town's Island condition located in the Intracoastal Waterway, the Town owns and maintains a total of four (4) bridges.
    - The Broad Causeway Bascule Bridge (Connecting the West Island with the Broad Causeway Island)
    - The West Relief Bridge (Connecting the Town with the Town of North Miami)
    - The Waterway Bridge (Connecting the West and East Islands)
    - The Indian Creek Bridge (Connecting the Town with the Town of Surfside and Village of Bal Harbour)

b. Buildings – The Town owns and maintains two (2) buildings.

- The Town Hall Administration Offices at 9665 Bay Harbor Terrace. This building houses the Administration offices, the Building Department, Council Chambers, and the Police Department. This building was built in 1970.
- The Community Center at 1165 95th Street. The Community Center is a recent building that is located on the first floor of the Parking Garage.

c. Parking Facilities – The Town operates a total of seven (7) parking facilities.
    - 1165 95th Street Parking Garage – This is a five-story parking garage building on 95th Street.
    - 103rd Street Surface Parking Lot
    - 100th Street Surface Parking Lot
    - 97th Street Surface Parking Lot
    - Block 11 Parking Lot
    - 95th Street Surface Parking Lot
    - 92nd Street Surface Parking Lot

d. Parks – There are four (4) Parks in the Town, in addition of two (2) passive parks.
    - Tot Lot – 96th Street and West Broadview Drive
    - 98th Street Park
    - 95th Street Park
    - 92nd Street Park

e. Potable Water Infrastructure – The Town is a wholesale customer of the MDWASD. The Town receives its water from a 36-inch transmission main from MDWASD that runs along 96th Street. The distribution lines connected to this transmission line are owned and maintained by the Town. Most of the Town's water lines are PVC material with a diameter that varies between 6-inch to 10-inch.

f. Stormwater Infrastructure – Most of the Town's stormwater system is a gravity system that drains through outfalls to the Bay. A total of 52 outfalls that range on sizes from 8-inch to 30-inch. There is a stormwater injection well on the south side of the West Island with 9,000 gpm pumps. For reference, an Atlas is included as Appendix of this RFQ.

g. Sanitary Sewer Infrastructure – The Town's sanitary sewer system is comprised of gravity mains, manholes, ejector's stations, pump station, force main and air lines. A total of five (5) ejector's stations are location on different areas of the Town, that discharge to the Town' Main Pump

Station D at 9665 Bay Harbor Terrace. The gravity line varies from 8-inch to 18-inch. For Reference, an Atlas is included as Appendix of this RFQ.

3.8 Functional Areas of Interest

The consultant shall identify in their response to this RFQ the functional areas for which it particularly wishes to specialize. Multiple firms will be selected, and multiple firms may be selected for more than one

(1) functional area.

a) Water and wastewater engineering (specifically pipeline and lift-station design)
b) Stormwater engineering
c) Transportation engineering
d) Structural engineering (specifically seawall, dock, and bridge design)
e) Environmental engineering
f) Surveying and mapping services and Geographic Information and mapping services (GIS)
g) Photogrammetry and remote sensing
h) Geotechnical engineering
i) Coastal engineering
j) Water resources engineering
k) Hydrology and hydraulic engineering
l) Mechanical engineering
m) Electrical Engineering
n) Plan Review
o) Architectural Design.

Construction engineering and inspection.

3.9 Quality Assurance/Quality Control

It is the intention of the Town that the design consultant is held responsible for the quality control (QC) of their work and of its sub-consultants. All sub-consultant documents and submittals shall be submitted directly to the consultant for their independent QC review. The Town shall only accept submittals for review and action from the consultant.

The consultant is responsible for the professional quality, technical accuracy and coordination of all pre- design services, designs, drawings, specifications, cost estimates and other services furnished by the consultant and their sub-consultants. It is the consultant's responsibility to independently and continually QC their plans, specifications, and all other project deliverables. Upon Town request, the consultant shall provide the Town with a marked up set of plans and specifications showing the consultant's QC review.

The mark-ups submittals shall include the names of the consultant's staff that performed the QC review for each component or functional area (e.g., structures, roadway, drainage, etc.).

3.10 Document Submittal Format

All documents generated as a result of projects will become the property of the Town of Bay Harbor Islands. All projects documents shall be provided in a digital and hard copy format meeting all Town of Bay Harbor Islands format requirements. The project drawings shall be prepared in AutoCAD, in the version current to the Town Engineering Division at the time that deliverables are due, and shall meet the requirements as set forth in the Town's CADD specifications for project drawings current at the time of award of the project. Plot files shall also be prepared and submitted which meet the stated Town standards.

CCNA- ENGINEERING CONTINUING SERVICES CONTRACT
RFQ-5-1005-23-0-2023/FVR

300 Engineering

	PROPOSE RATES	
CIVIL ENGINEERING SERVICES	Hourly Rates	
Principal Engineer	$	260.00
Senior Engineer / Project Manager	$	220.00
Project Engineer (PE)	$	150.00
Staff Engineer, E.I.	$	135.00
Senior Inspector	$	140.00
Inspector	$	100.00
Senior Designer	$	150.00
Drafts Person/CADD Operator	$	100.00
Clerical/Administrative Staff	$	75.00
Intern	$	65.00
WATER & WASTEWATER ENGINEERING SERVICES		
Principal Engineer	$	260.00
Senior Engineer/Project Manager	$	220.00
Project Engineer (PE)	$	150.00
Staff Engineer, E.I.	$	135.00
Sr. Inspector	$	140.00
Inspector	$	100.00
Drafts Person/CADD Operator	$	100.00
Clerical/Administrative Staff	$	75.00
TRANSPORTATION/BRIDGE ENGINEERING SERVICES		
Principal Engineer	$	260.00
Senior Engineer/Project Manager	$	220.00
Project Engineer (PE)	$	190.00
Staff Engineer, E.I.	$	135.00
Sr. Inspector	$	110.00
Inspector	$	100.00
Drafts Person/CADD Operator	$	105.00
Clerical/Administrative Staff	$	75.00
STRUCTURAL ENGINEERING SERVICES		
Principal Engineer	$	280.00
Senior Engineer/Project Manager	$	220.00
Project Engineer (PE)	$	190.00
Staff Engineer, E.I.	$	145.00
Sr. Inspector	$	150.00
Inspector	$	110.00
Drafts Person/CADD Operator	$	105.00
Clerical/Administrative Staff	$	75.00

Landscape Architecture and Planning Services	
Principal Landscape Architect	$ 220.00
Senior Landscape Architect	$ 170.00
Project Landscape Architect	$ 125.00
Staff Landscape Architect	$ 110.00
Environmental Services / Monitoring	
Sr. Environmental Scientist	$ 170.00
Project Environmental Scientist	$ 140.00
Staff Environmental Scientist	$ 125.00
Field Technician	$ 90.00
Geotechnical Engineering	
A. FIELD SERVICES & TESTING	
TEST	
Standard Penetration Test Borings (ATSM D-1586), Truck Rig or Mud Bug Rig (0-50 Foot Depth Interval)	$ 18.00 l.f
Grout Boreholes	$5.00 l.f
Truck/Mud Bug 0-50 Ft	$300.00 ea
Permeability/Percolations Tests – Field (SFWMD Usual Open Hole Method)	$500.00 ea
SOIL TESTING	
Field Density/Test (five [5] minimum)	$ 40.00 ea
Standard Proctors	$ 100.00 ea
Modified Proctors	$ 155.00 ea
Florida Bearing Value Test	$ 250.00 ea
Limerock Bearing Ratio Test	$ 250.00 ea
Percolation test (open hole)	$ 450.00 ea
Atterberg Limit Test	$ 70.00 ea
SAMPLING & TESTING OF FRESH CONCRETE	
Curing, capping and compressive strength testing of concrete cylinders in Consultant's laboratory set of 5	$ 90.00 set
Field Sampling Fresh Concrete (sampling, molding, slump testing, temperature)	$ 70.00 h.r
CONCRETE & MASONARY MATERIALS	
Concrete Compression test (Min. four [4] cylinders per trip)	$ 85.00 set
- Prepare cylinders & slump test on site, and deliver to lab	$75.00 h.r
Additional Concrete cylinders with slump	$ 30.00 ea
Concrete Compression test only [delivered to lab] & RESULTS	$ 100.00 set
Slump test	$ 60.00 ea
Stand-by (Beyond 1 hour on site)	$ 70.00 h.r
Grout Prism (Six [6] per set) - Includes preparation of Prism on site `	$ 95.00 set
2” x 2” - Includes preparation of Cubes on site	$ 75.00 ea
AGGREGATE TESTING	
Grain size determination:	
A. Full grain size (8 sieves)	$ 70.00 test
B. Wash through (#200)	$ 55.00 test
Sieve Analysis – Course Aggregate	$ 75.00 test

ASPHALT TESTING	
Asphalt Cores (obtaining core samples) (Min. 3)	$ 130.00 set
MISCELLANEUS SERVICES	
Exfiltration Test (SFWMD)	$ 500.00 ea
Install Groundwater Monitoring Well, <25' (per PBCWUD Stds & Details)	$ 750.00 ea
Install Groundwater Monitoring Well, 25' - 50' (per PBCWUD Stds & Details)	$ 945.00 ea
DRILLING EQUIPMENT MOBILIZATION (includes drill rig mileage)	
Truck - Mounted Rig	$ 400.00 ea
FOUNDATION TESTING SERVICES	
Vibration/ Noise Monitoring Equipment - seismograph with geophone or microphone (includes mobilization, equipment and labor)	$ 2,250.00 per day
SITE PREPARATION MONITORING & TESTING	
In-situ Density Tests - Nuclear Gauge Method (ASTM D 2922)	$ 40.00 ea
MONITOR WELL INSTALLATION & TESTING	
Non-Environmental (2-inch diameter)* 0 - 25-ft depth	$ 725.00 test
Environmental (2-inch diameter)* 0 - 25-ft depth	$ 725.00 test
Well sampling *	$ 120.00 test
B. PERSONNEL	
Principal Engineer	$ 175.00
Senior Engineer	$ 155.00
Project Engineer (PE)	$ 125.00
Staff Engineer, E.I.	$ 110.00
Sr. Inspector	$ 100.00
Inspector	$ 85.00
Drafts Person/Cad Operator	$ 80.00
Clerical/Administrative Staff	$ 75.00
Land Surveying & Mapping Services	
Principal Surveyor	$ 195.00
Sr. Professional Land Surveyor	$ 170.00
Professional Land Surveyor	$ 125.00
Survey CADD / GIS Tech	$ 110.00
Field Crew Supervisor	$ 100.00
Survey Crew	$ 200.00
Administrative	$ 75.00
Marine / Coastal Engineering	
Principal Engineer	$ 280.00
Senior Engineer / Project Manager	$ 220.00
Project Engineer (PE)	$ 190.00
Staff Engineer, E.I.	$ 150.00
Sr. Environmental Scientist	$ 150.00
Project Environmental Scientist	$ 125.00
Staff Environmental Scientist	$ 115.00
Senior Designer	$ 100.00
Architectural	
Principal	$ 240.00
Sr. Architect / Project Manager	$ 200.00
Project Architect	$ 190.00

Revit / CAD Operator	$ 110.00
Draftsman	$ 105.00
Clerical	$ 75.00
Subsurface Utility Exploration	
Project Manager/PE/PLS PLS	$ 190.00
Utility Location Manager/Party Chief	$ 125.00
CADD Operator	$ 100.00
Technical Locator/Instrument Op.	$ 85.00
Clerical	$ 75.00
1 Utility Test Hole 0-6' - per hole	$ 700.00
2 Utility Test Holes 0-6' - per hole	$ 650.00
3 or More Utility Test Holes 0-6' - per hole	$ 500.00
Excess Depth (Over 6') - per foot	$ 130.00 ft
Traffic Control – Arrow Board**	$ 125.00 day
MEP Engineering	
Senior Engineer / Project Manager	$ 220.00
Project Engineer (PE)	$ 195.00
Staff Engineer, E.I.	$ 140.00
Drafts Person/CADD Operator	$ 110.00

AGREEMENT

THIS IS AN AGREEMENT made and entered into this ___day of November 2023, by and between:

Town of Bay Harbor Islands a Florida municipality, (hereinafter referred to as "Town")

and

Atkins North America, Inc, a Florida Corporation, authorized to do business in the state Florida (hereinafter referred to as "CONSULTANT")

WHEREAS, the Town Council of the Town of Bay Harbor Islands Florida at its meeting of November, 2023 authorized by motion the execution of this Agreement between CONSULTANT and Town authorizing the performance of Engineering Continuing Services, RFQ No. 5-1005-23-0-2023/FVR incorporated herein, (the "Agreement"); and

WHEREAS, the CONSULTANT is willing and able to render professional services for such project for the compensation and on the terms hereinafter set forth;

NOW, THEREFORE, in consideration of the mutual covenants, agreements, terms, and conditions contained herein, the Parties hereto, do agree as follows:

ARTICLE 1
DEFINITIONS AND IDENTIFICATIONS

For the purposes of this Agreement and the various covenants, conditions, terms and provisions which follow, the DEFINITIONS and IDENTIFICATIONS set forth below are assumed to be true and correct and are therefore agreed upon by the Parties.

1.1 AGREEMENT: Means this document between the TOWN and CONSULTANT dated _____, and any duly authorized and executed Amendments to Agreement.

1.2 BASIC SERVICES**:** Services performed by CONSULTANT for authorized scope of work for the Project phase described in this Agreement and listed in Exhibit "A," Scope of Services.

1.3 CONSULTANT'S PERIODIC ESTIMATE FOR PAYMENT: A statement by CONSULTANT based on observations at the site and on review of documentation submitted by the Contractor that by its issuance recommends that TOWN pay identified amounts to the Contractor for services performed by the Contractor at

the Project.

1.4 CHANGE ORDER: A written order to the CONSULTANT approved by the TOWN authorizing a revision of this agreement between the TOWN and CONSULTANT that is directly related to the original scope of work or an adjustment in the original Agreement price or the Agreement time directly related to the original scope of work, issued on or after the effective date of this Agreement.

The CONSULTANT may review and make recommendations to the TOWN on any proposed Change Orders, for approval or other appropriate action by the TOWN.

1.5 TOWN: The Town of Bay Harbor Islands, a Florida municipality.

1.6 TOWN MANAGER: The Town Manager of the Town of Bay Harbor Islands, Florida.

1.7 COUNCIL: The Town Council of the Town of Bay Harbor Islands, Florida, which is the governing body of the TOWN government.

1.8 CONSTRUCTION COST: The total construction cost to TOWN of all elements of the Project designed or specified by CONSULTANT.

1.9 CONSTRUCTION COST LIMIT: A maximum construction cost limit established by the TOWN defining the maximum budget amount to which the final construction documents should be designed so as not to exceed.

1.10 CONSTRUCTION DOCUMENTS: Those working drawings and specifications and other writings setting forth in detail and prescribing the work to be done, the materials, workmanship and other requirements for construction of the entire Project, including any bidding information.

1.11 CONSULTANT: **Atkins North America, Inc** the CONSULTANT selected to perform professional services pursuant to this Agreement.

1.12 AGREEMENTADMINISTRATOR: The (Dept. Director) for the Town of Bay Harbor Islands, or his designee. In the administration of this Agreement, as contrasted with matters of policy, all parties may rely upon instructions or determinations made by the Agreement Administrator.

1.13 CONTRACTOR: One or more individuals, firms, corporations or other entities identified as such by a written agreement with TOWN ("Agreement for Construction") to perform the construction services required to complete the Project.

1.14 DEPARTMENT DIRECTOR**:** The (Dept. Director) for the Town of Bay Harbor

Islands.

1.15 ERROR: A mistake in design, plans and/or specifications that incorporates into those documents an element that is incorrect and is deficient from the standard of care that a professional engineer in similar circumstances, working on a similar project and location would have exercised. Also includes mistakes in design, plans, specifications and/or shop drawings review that lead to materials and/or equipment being ordered and/or delivered where additional costs are incurred.

1.16 FINAL STATEMENT OF PROBABLE CONSTRUCTION COSTS: A final cost estimate prepared by CONSULTANT during the Final Design Phase of the Project, based upon the final detailed Construction Documents of the Project.

1.17 NOTICE TO PROCEED: A written Notice to Proceed with the Project issued by the Agreement Administrator.

1.18 OMISSION: A scope of work missed by CONSULTANT that is necessary for the Project, including a quantity miscalculation, which was later discovered and added by Change Order and which is deficient from the standard of care that a professional engineer in similar circumstances, working on a similar project and location would have exercised. Also includes design that was wrong, but was corrected after award to the Contractor, but before the construction process was materially affected.

1.19 ORIGINAL AGREEMENTPRICE: The original bid and/or Agreement price as awarded to a Contractor based upon CONSULTANT'S final detailed Construction Documents of the Project.

1.20 PLANS AND SPECIFICATIONS: The documents setting forth the final design plans and specifications of the Project, including architectural, civil, structural, mechanical, electrical, communications and security systems, materials, lighting equipment, site and landscape design, and other essentials as may be appropriate, all as approved by TOWN as provided in this Agreement.

1.21 PRELIMINARY PLANS: The documents prepared by CONSULTANT consisting of preliminary design drawings, renderings and other documents to fix and describe the size and character of the entire Project, and the relationship of Project components to one another and existing features.

1.22 PROJECT: An agreed scope of work for accomplishing a specific plan or development. This may include, but is not limited to, planning, architectural, engineering, and construction support services. The services to be provided by CONSULTANT shall be as defined in this Agreement and further detailed in Task Orders for individual projects or combinations of projects. The Project planning, design and construction may occur in separate phases and Task Orders at the TOWN's discretion.

1.23 RESIDENT PROJECT REPRESENTATIVE: Individuals or entities selected, employed, compensated by and directed to perform services on behalf of TOWN, in monitoring the Construction Phase of the Project to completion.

1.24 SPECIFICATIONS: The specifications referred to in this agreement are the CONSTRUCTION STANDARDS AND SPECIFICATIONS, Office of the Tow Engineer, Town of Bay Harbor Islands, January 1982, including any revisions.

1.25 STATEMENT OF PROBABLE PROJECT COSTS: A document to be prepared by CONSULTANT that shall reflect a detailed statement of the total probable costs.

1.26 SUBSTANTIAL COMPLETION: The TOWN will consider the work substantially complete when the Contractor submits 100% complete deliverables (i.e. Drawings, Specifications, Reports, Renderings) as described in this Agreement to the satisfaction of the Town.

1.27 TASK ORDER: A document setting forth a negotiated detailed scope of services to be performed by CONSULTANT at fixed Agreement prices in accordance with this Agreement between the TOWN and CONSULTANT.

1.28 TIME OF COMPLETION: Time in which the entire work shall be completed for each Task Order.

ARTICLE 2
PREAMBLE

In order to establish the background, context and frame of reference for this Agreement and to generally express the objectives and intentions of the respective parties hereto, the following statements, representations and explanations shall be accepted as predicates for the undertakings and commitments included within the provisions of this Agreement which follow and may be relied upon by the parties as essential elements of the mutual considerations upon which this Agreement is based.

2.1 Pursuant to Section 287.055, Florida Statutes, TOWN has formed a Committee to evaluate CONSULTANT's statement of qualifications and performance data to ensure that CONSULTANT has met the requirements of the Consultants' Competitive Negotiation Act, as set forth in Section 287.055, Florida Statutes, and has selected CONSULTANT to perform services hereunder.

ARTICLE 3
SCOPE OF SERVICES

3.1 The CONSULTANT shall perform the following professional services: Engineering Continuing Services as more specifically described in Exhibit "A," Scope of Services, attached hereto and incorporated herein, and shall include, but not be limited to,

services as applicable and authorized by individual Task Orders for the individual projects in accordance with Article 6 herein. CONSULTANT shall provide all services set forth in Exhibit "A" including all necessary, incidental and related activities and services required by the Scope of Services and contemplated in CONSULTANT's level of effort. CONSULTANT will perform the Services in accordance with standard industry practices, with the care, knowledge and skill expected of similar engineering firms. No other warranties, express or implied are made or intended.

3.2 TOWN and CONSULTANT acknowledge that the Scope of Services does not delineate every detail and minor work tasks required to be performed by CONSULTANT to complete the Project. If, during the course of the performance of the services included in this Agreement, CONSULTANT determines that work should be performed to complete the Project which is in CONSULTANT's opinion, outside the level of effort originally anticipated, whether or not the Scope of Services identifies the work items, CONSULTANT shall notify Agreement Administrator and obtain written approval by the TOWN in a timely manner before proceeding with the work. Notice to Agreement Administrator does not constitute authorization or approval by TOWN to perform the work. The TOWN shall not pay for any work that is not approved by the Agreement Administrator in writing. If CONSULTANT proceeds with said work without notifying the Agreement Administrator, said work shall be deemed to be within the original level of effort, whether specifically addressed in the Scope of Services. Notice to Agreement Administrator does not constitute authorization or approval by TOWN to perform the work. Performance of work by CONSULTANT outside the originally anticipated level of effort without prior written TOWN approval is at CONSULTANT's sole risk.

ARTICLE 4
GENERAL PROVISIONS

4.1 Negotiations pertaining to the rates for professional services to be performed by CONSULTANT have been undertaken between CONSULTANT and TOWN representatives pursuant to Section 287.055, Florida Statutes, and this Agreement incorporates the results of such negotiation.

4.2 CONSULTANT shall include TOWN's specific Task Order number as part of the heading on all correspondence, invoices and drawings. All correspondence shall be directed specifically to the Agreement Administrator.

ARTICLE 5
PRIORITY OF PROVISIONS

5.1 The Agreement Documents are intended to include all items necessary for the proper execution and completion of the work by CONSULTANT. Any labor,

services, materials, supplies, equipment or documentation that may reasonably be inferred from the Agreement Documents or trade usage from prevailing custom as being required to produce the indicated result will be provided whether or not specifically called for, at no additional cost to TOWN. The Agreement Documents are complementary, and wherever possible the provisions of the Agreement Documents shall be construed in such manner as to avoid conflicts between provisions of the various Agreement Documents. In the event of any inconsistency in the Agreement Documents, where such inconsistency is not clarified by change order, addendum or amendment, the Agreement Documents shall be construed according to the following priorities:

First priority: Approved Change Orders, Addendums or Amendments to all related documents.

Second priority: Specifications (quality) and Drawings (location and quantity) of CONSULTANT.

Third priority: This AGREEMENT.

Fourth priority: Town of Bay Harbor Islands Request for Qualifications **RFQ No. 5-1005-23-0-2023/FVR**.

Fifth priority: CONSULTANT's response to Town of Bay Harbor Islands Request for Qualifications # **RFQ No. 5-1005-23-0-2023/FVR**.

5.2 Anything shown on the drawings and not mentioned in the specifications or mentioned in the specifications and now shown on the drawings, shall have the same effect as if shown or mentioned respectively in both. In the event of a conflict among the Agreement Documents, the latest, most stringent, and more technical requirement(s), including, but not limited to, issues of quantities or cost of the Work shall control.

Reference to standard specifications, manuals, rules, regulations, ordinances, laws or codes of any governmental authority, whether such reference be specific or by implication, shall mean the latest standard specification, manual, rule, regulation, ordinance, law or code in effect at the time of permit submittal.

ARTICLE 6
TASK ORDERS

6.1 The Project will be divided into "Tasks."

6.2 Task Orders shall be jointly prepared by the TOWN and CONSULTANT defining the detailed scope of services to be provided for the particular Project. Each Task Order shall be separately numbered and approved in accordance with this

Agreement and all applicable TOWN code requirements.

6.3 Under all Task Orders and Projects, TOWN may require the CONSULTANT, by specific written authorization, and for mutually agreed upon additional compensation, to provide or assist in obtaining one or more of the following special services. These services may include, at the discretion of the TOWN, the following items:

6.3.1 Providing additional copies of reports, Agreement drawings and documents; and

6.3.2 Assisting TOWN with litigation support services arising from the planning, development, or construction.

6.4 Prior to initiating the performance of any services under this Agreement, CONSULTANT must receive a written Notice to Proceed / Purchase Order from the TOWN. The CONSULTANT must receive the approval of the Agreement Administrator or his designee in writing prior to beginning the performance of services in any subsequent Task Order under this Agreement.

6.5 If, in the opinion of the TOWN, the CONSULTANT is improperly performing the services under a specific Task Order, or if at any time the TOWN shall be of the opinion that said Task Order is being unnecessarily delayed and will not be completed within the agreed upon time, the TOWN shall notify the CONSULTANT in writing. The CONSULTANT has within ten (10) working days thereafter to take such measures as will, in the judgment of the TOWN, ensure satisfactory performance and completion of the work. If the CONSULTANT fails to cure within the ten (10) working days, the TOWN may notify the CONSULTANT to discontinue all work under the specified Task Order. The CONSULTANT shall immediately respect said notice and stop said work and cease to have any rights in the possession of the work and shall forfeit the Task Order and any remaining monies. The TOWN may then decide, after Town Council approval, to issue a new Task Order for the uncompleted work to another consultant using the remaining funds. Any excess costs arising therefrom over and above the original Task Order price shall be charged against CONSULTANT, as the original CONSULTANT.

6.6 ARTICLE 7
TERM OF AGREEMENT; TIME FOR PERFORMANCE

7.1 The initial Agreement term shall commence upon final execution of the Agreement by the Town and shall expire Two (2) years from that date. The Town reserves the right to extend the Agreement for Three (3) additional one(1) year terms providing all terms conditions and specifications remain the same, both parties agree to the extension, and such extension is approved by the Town.

In the event services are scheduled to end because of the expiration of this contract, the Contractor shall continue the service upon the request of the Town as

authorized by the awarding authority. The Contractor shall be compensated for the service at the rate in effect when this extension clause is invoked by the Town.

7.2 CONSULTANT shall perform the services described in Task Orders within the time periods specified in the Task Order. Said time periods shall commence from the date of the Notice to Proceed for such services.

7.3 Prior to beginning the performance of any services under this Agreement, CONSULTANT must receive a Notice to Proceed. CONSULTANT must receive written approval from the Agreement Administrator prior to beginning the performance of services in any subsequent phases of the Agreement. Prior to granting approval for CONSULTANT to proceed to a subsequent phase, the Agreement Administrator may, at his or her sole option, require CONSULTANT to submit itemized deliverables/documents for the Agreement Administrator's review.

7.4 In the event CONSULTANT is unable to complete any services because of delays resulting from untimely review by TOWN or other governmental authorities having jurisdiction over the Project, and such delays are not the fault of CONSULTANT, or because of delays which were caused by factors outside the control of CONSULTANT, TOWN shall grant a reasonable extension of time for completion of the services. It shall be the responsibility of the CONSULTANT to notify TOWN promptly in writing whenever a delay in approval by a governmental agency is anticipated or experienced, and to inform TOWN of all facts and details related to the delay.

7.5 The time for the performance of services described in assigned Task Orders shall be negotiated by the TOWN and the CONSULTANT as the services are requested and authorized by the TOWN.

ARTICLE 8
COMPENSATION AND METHOD OF PAYMENT

8.1 AMOUNT AND METHOD OF COMPENSATION

8.1.1 Not To Exceed Amount Compensation

TOWN agrees to pay CONSULTANT as compensation for performance of all services as related to each Task Order under the terms of this Agreement a Not to Exceed Amount as agreed upon per Task Order. This compensation does not include Reimbursables as described in Section 8.2. It is agreed that the method of compensation is that of "Not to Exceed Amount" which means that CONSULTANT shall perform all services set forth in each Task Order for total compensation in the amount of or less than that stated total. The hourly rate-billing schedule to be used in negotiating each Task Order is attached as Exhibit "B" to this Agreement. As described in Section 9.1, no modification, amendment, or alteration to Exhibit "B" shall

be effective unless contained in a written document prepared with the same formality as this Agreement and executed by the TOWN and CONSULTANT.

A not to exceed proposal shall be accompanied by the CONSULTANT's estimate. The estimate shall detail the direct labor costs by categories of employees, work hours, and hourly rate; overhead; direct non-salary expenses including reimbursables; and profit, or as required by individual Task Order.

8.2 REIMBURSABLES

A. Direct non-salary expenses, entitled Reimbursables, directly attributable to the Project will be charged at actual cost. Reimbursable expenses are in addition to the compensation for basic services and include actual expenditures made by the CONSULTANT and the CONSULTANT'S employees directly attributable to the Project and will be charged at actual cost, without reference to the professional service fees above. TOWN shall not withhold retainage from payments for Reimbursable Expenses. CONSULTANT shall be compensated for Reimbursables associated with a particular Task Order only up to the amount allocated for such Task Order. Any reimbursable or portion thereof which, when added to the Reimbursables related to a particular Task Order previously billed, exceeds the amount allocated for such Task Order shall be the responsibility of the CONSULTANT unless otherwise agreed to in writing by the Agreement Administrator. Travel and subsistence expenses for the CONSULTANT, his staff and subconsultants and communication expenses, long distance telephone, courier and express mail between CONSULTANT's and subconsultants' various offices are not reimbursable under this Agreement. Reimbursables shall include only the following listed expenses unless authorized in writing by the Agreement Administrator:

B. Cost of reproduction, postage and handling of drawings and specifications which are required to deliver services set forth in this Agreement, excluding reproductions for the office use of the CONSULTANT. Reimbursable printing and photocopying expenses shall include only those prints or photocopies of original documents which are (i) exchanged among CONSULTANT, TOWN and other third parties retained or employed by any of them or (ii) submitted to TOWN for review, approval or further distribution. Documents, which are reproduced for CONSULTANT's internal drafts, reviews, or other purposes, are not eligible for reimbursement.

C. Identifiable testing costs and special inspections approved by Agreement Administrator.

D. All permit fees paid to regulatory agencies for approvals directly attributable to the Project. These permit fees do not include those permits required for the construction Contractor.

E. Overnight Delivery/Courier Charges (when TOWN requires/requests this service).

8.2.2 Reimbursable subconsultant expenses are limited to the items described above when the subconsultant agreement provides for reimbursable expenses. A detailed statement of expenses must accompany any request for reimbursement. Local travel to and from the Project site or within the Tri-County Area will not be reimbursed.

8.2.3 It is acknowledged and agreed to by CONSULTANT that the dollar limitation set forth in each Task Order is a limitation upon, and describes the maximum extent of TOWN's obligation to reimburse CONSULTANT for direct, non salary expenses, but does not constitute a limitation, of any sort, upon CONSULTANT's obligation to incur such expenses in the performance of services hereunder. If TOWN or Agreement Administrator requests CONSULTANT to incur expenses not contemplated in the amount for Reimbursables, CONSULTANT shall notify Agreement Administrator in writing before incurring such expenses. Any such expenses shall be reviewed and approved by TOWN prior to incurring such expenses.

8.3 METHOD OF BILLING

8.3.1 Not To Exceed Amount Compensation

CONSULTANT shall submit billings, which are identified by the specific project number on a monthly basis in a timely manner for all salary costs and Reimbursables attributable to the Project. These billings shall identify the nature of the work performed for each phase, subtask, deliverable and item identified in the Exhibit "A" Scope of Services or Task Order, the total hours of work performed and the employee category of the individuals performing same. The statement shall show a summary of salary costs with accrual of the total and credits for portions paid previously. Subconsultant fees must be documented by copies of invoices or receipts, which describe the nature of the expenses and contain a project number or other identifier, which clearly indicates the expense, as identifiable to the Project. Except for meals and travel expenses, it shall be deemed unacceptable for the CONSULTANT to modify the invoice or receipt by adding a project number or other identifier. Internal expenses must be documented by appropriate CONSULTANT's cost accounting forms with a summary of charges by category. When requested, CONSULTANT shall provide backup for past and current invoices that records hours and salary costs by employee category and subconsultant fees on a task basis, so that total hours and costs by task may be determined.

8.4 METHOD OF PAYMENT

8.4.1 TOWN shall pay CONSULTANT in accordance with the Florida Prompt Payment Act. To be deemed proper, all invoices must comply with the requirements set forth in this Agreement and must be submitted on the form

and pursuant to instructions prescribed by Agreement Administrator.

8.4.2 TOWN will review CONSULTANT's invoices and, if inaccuracies or errors are discovered in said invoice, TOWN will inform CONSULTANT within ten (10) working days by fax and/or by email of such inaccuracies or errors and request that revised copies of all such documents be re-submitted by CONSULTANT to TOWN.

8.4.3 Payment are scheduled to be made by TOWN to CONSULTANT by Check.

8.4.4 Payment will be made to CONSULTANT at:

Atkins North America, Inc
800 NW 62nd Avenue Suite 700
Miami, FL 33126

ARTICLE 9
AMENDMENTS AND CHANGES IN SCOPE OF SERVICES

9.1.1 No modification, amendment or alteration in the terms or conditions contained herein shall be effective unless contained in a written Amendment prepared with the same formality as this Agreement and executed by the TOWN and CONSULTANT.

9.1.2 TOWN or CONSULTANT may request changes that would increase, decrease, or otherwise modify the Scope of Services to be provided under a Task Order. Such changes must be contained in a written amendment, executed by the Parties hereto, with the same formality and of equal dignity herewith, prior to any deviation from the terms of the Task Order including the initiation of any additional services. TOWN shall compensate CONSULTANT for such additional services as provided in Article 8.

9.1.3 In the event a dispute between the Agreement Administrator and CONSULTANT arises over whether requested services constitute additional services and such dispute cannot be resolved by the Agreement Administrator and CONSULTANT, such dispute shall be promptly presented to the Town Manager for resolution. The Town Manager's decision shall be final and binding on the Parties for amounts in the aggregate under $100,000. In the event of a dispute in an amount over $100,000, the Parties agree to use their best efforts to settle such dispute. To this effect, they shall consult and negotiate with each other, in good faith and, recognizing their mutual interests, attempt to reach a just and equitable solution satisfactory to both Parties. If they do not reach such solution within a period of sixty (60) days, then upon notice to the other, either Party may commence litigation to resolve the dispute in Dade County, Florida. Any resolution shall be set forth in a written document in accordance with Section 9.2 above. During the pendency of any dispute, CONSULTANT shall promptly perform the disputed services.

ARTICLE 10
CONSULTANT'S RESPONSIBILITIES

10.1 The CONSULTANT, following the TOWN's approval of the Construction Documents and of the Final Statement of Probable Construction Costs, shall, when so directed and authorized by the TOWN, assist the TOWN in estimating construction costs, reviewing proposals, and assist in awarding contracts for construction. If requested, CONSULTANT shall review and analyze the proposals received by the TOWN and shall make a recommendation for any award based on the Town of Bay Harbor Islands Procurement Ordinance.

10.2 Estimates, opinions of probable construction or implementation costs, financial evaluations, feasibility studies or economic analyses prepared by CONSULTANT will represent its best judgment based on its experience and available information. The TOWN recognizes that CONSULTANT has no control over costs of labor, materials, equipment or services furnished by others or over market conditions or CONSULTANT's methods of determining prices, and that any evaluation of a facility to be constructed or work to be performed is speculative. Accordingly, CONSULTANT does not guarantee that proposals, bids or actual costs will not vary from opinions, evaluations or studies submitted by CONSULTANT.

- In the event that the lowest "best value" bid, as such term is used in the Town of Bay Harbor Islands Procurement Code, excluding any alternate bid items ("base bid"), exceeds the Estimated Construction Cost for a project by more than ten percent (10%), CONSULTANT shall explain, in writing, the reasons why the bids or proposals exceeded the ten percent (10%) factor following the analysis of all base bids. In such a circumstance, the TOWN may at its sole discretion, exercise any one or more of the following options: CONSULTANT shall be required to amend at the sole cost and expense of CONSULTANT, the Construction Drawings, Technical Specifications and Supplemental Conditions to enable the project to conform to a maximum of ten (10%) above the Estimated Construction Costs of the project, such amendments to be subject to the written final acceptance and approval of same by the TOWN;
- CONSULTANT shall be required to provide at the cost and expense of CONSULTANT re-bidding services and related items (including costs associated with regulatory review and approval of revised documents) as many times as requested by the TOWN until the base bid of at least one "best value" bid falls within the factor of ten (10%) of the Estimated Construction Cost of the project;
- The TOWN may approve an increase in the Estimated Construction Cost of the Project;
- The TOWN may reject all bids or proposals and may authorize re-bidding;
- The TOWN may if permitted, approve a renegotiation of the Project within a reasonable time;
- The TOWN may abandon the project and terminate CONSULTANT's work authorization and Services for the Project; or
- The TOWN may select as many deductive alternatives as may be necessary

to bring the award within ten percent (10%) of the Estimated Construction Costs of the Project.

It is expressly understood and agreed that the redesigning services required to keep the Project within 10% of the Estimated Construction Cost shall not be considered additional services and CONSULTANT agrees that it shall not seek compensation from the TOWN for such Services.

10.3 The CONSULTANT may be requested to provide the TOWN with a list of recommended, prospective proposers.

10.4 The CONSULTANT may be asked to attend all pre-bid / proposal conferences.

10.5 The CONSULTANT shall recommend any addenda, through the Agreement Administrator, as appropriate to clarify, correct, or change proposal /bid documents.

10.6 If pre-qualification of proposers is required as set forth in the request for proposal, CONSULTANT shall assist the TOWN, if requested, in developing qualification criteria, review qualifications and recommend acceptance or rejection of the proposers. If requested, CONSULTANT shall evaluate proposals and proposers, and make recommendations regarding any award by the TOWN.

10.7 The TOWN shall make decisions on claims regarding interpretation of the Construction Documents, and on other matters relating to the execution and progress of the work after receiving a recommendation from CONSULTANT .CONSULTANT may also assist in approving progress payments to the Contractor based on each Project Schedule of Values and the percentage of work completed.

10.8 The TOWN shall maintain a record of all Change Orders which shall be categorized according to the various types, causes, etc. that it may be determined are useful or necessary for its purpose. Among those shall be Change Orders identified as architectural/engineering Errors or Omissions.

10.8.1 Unless otherwise agreed by both Parties in writing, it is specifically agreed that any change to the work identified as an Error on the part of CONSULTANT shall be considered for purposes of this Agreement to be an additional cost to the TOWN which would not be incurred without the Error. Errors on the part of the CONSULTANT shall be rectified by the CONSULTANT with no additional cost to the TOWN.

10.8.2 Unless otherwise agreed by both Parties in writing, it is further specifically agreed for purposes of this Agreement that fifteen percent (15%) of the cost of Change Orders for any item categorized as an Omission shall be considered an additional cost to the TOWN which would not be incurred without the Omission. So long as the total of those two numbers (Change

Order costs of Errors plus fifteen percent (15%) of Omissions) remains less than two percent (2%) of the total Construction Cost of the Project, the TOWN shall not look to CONSULTANT for reimbursement for Errors and Omissions.

10.8.3 Should the sum of the two as defined above (cost of Errors plus fifteen percent (15%) of the cost of Omissions) exceed two percent (2%) of the Construction Cost, the TOWN shall recover the full and total additional cost to the TOWN as a result of CONSULTANT's Errors and Omissions from CONSULTANT, that being defined as the cost of Errors plus fifteen percent (15%) of the cost of Omissions above two percent (2%) of the Construction Cost.

10.8.4 To obtain such recovery, the TOWN shall deduct from CONSULTANT's fee a sufficient amount to recover all such additional cost to the TOWN.

10.8.5 In executing this Agreement, CONSULTANT acknowledges acceptance of these calculations and to the TOWN's right to recover same as stated above. The recovery of additional costs to the TOWN under this paragraph shall not limit or preclude recovery for other separate and/or additional damages which the TOWN may otherwise incur.

10.8.6 The Agreement Administrator's decision as to whether a Change Order is caused by an Error or caused by an Omission, taking into consideration industry standards, shall be final and binding on both Parties for amounts in the aggregate under $100,000 per project, subject to Section 9.3. In the event of a dispute in an amount over $100,000, the Parties agree to use their best efforts to settle such dispute. To this effect, they shall consult and negotiate with each other, in good faith and, recognizing their mutual interests, attempt to reach a just and equitable solution satisfactory to both Parties. If they do not reach such solution within a period of sixty (60) days, then upon notice to the other, either Party may commence litigation to resolve the dispute in Dade County, Florida.

ARTICLE 11
TOWN'S RESPONSIBILITIES

11.1 TOWN shall assist CONSULTANT by placing at CONSULTANT's disposal, all information TOWN has available pertinent to the Project including previous reports and any other data relative to design or construction of the Project.

11.2 TOWN shall arrange for access to, and make all provisions for, CONSULTANT to enter upon public and private property as required for CONSULTANT to perform its services.

11.3 TOWN shall review the itemized deliverables/documents identified per Task Order.

11.4 TOWN shall give prompt written notice to CONSULTANT whenever TOWN observes or otherwise becomes aware of any development that affects the scope or timing of CONSULTANT's services or any defect in the work of the Contractor.

ARTICLE 12
MISCELLANEOUS

12.1 OWNERSHIP OF DOCUMENTS

All documents including, but not limited to, drawings, renderings, models, and specifications prepared or furnished by CONSULTANT, its dependent professional associates and consultants, pursuant to this Agreement shall be owned by the TOWN.

Drawings, specifications, designs, models, photographs, reports, surveys and other data prepared in connection with this Agreement are and shall remain the property of the TOWN whether the Project for which they are made is executed or not, and are subject to reuse by the TOWN in accordance with Section 287.055(10) of the Florida Statutes. They are not intended or represented to be suitable for reuse by the TOWN or others on extensions of this Project or on any other project without appropriate verification or adaptation. Any reuse, except for the specific purpose intended hereunder, will be at the TOWN's sole risk and without liability or legal exposure to CONSULTANT or its subcontractors. This does not, however, relieve CONSULTANT of liability or legal exposure for errors, omissions, or negligent acts made on the part of CONSULTANT in connection with the proper use of documents prepared under this Agreement. Any such verification or adaptation may entitle CONSULTANT to further compensation at rates to be agreed upon by the TOWN and CONSULTANT. This shall not limit the TOWN's reuse of preliminary or developmental plans or ideas incorporated therein, should the Project be suspended or terminated prior to completion.

12.2 TERMINATION

12.2.1 Termination for Cause. It is expressly understood and agreed that the TOWN may terminate this Agreement at any time for cause in the event that the CONSULTANT (1) violates any provisions of this Agreement or performs same in bad faith or (2) unreasonably delays the performance of the services or does not perform the services in a timely and satisfactory manner upon written notice to the CONSULTANT. Notice of termination shall be provided in accordance with Section 12.27. In the case of termination by the TOWN for cause, the CONSULTANT shall be first granted a 10-working day cure period after receipt of written notice from the TOWN. In the event that the Agreement is terminated, the CONSULTANT shall be entitled to be compensated for the services rendered and accepted by the TOWN from the date of execution of the Agreement up to the time of termination. Such compensation shall be based on the fee as set forth above, wherever

possible. For those portions of services rendered to which the applicable fee cannot be applied, payment shall be based upon the appropriate rates for the actual time spent on the Project. In the event that the CONSULTANT abandons this Agreement or through violation of any of the terms and conditions of this Agreement, causes it to be terminated, CONSULTANT shall indemnify the TOWN against any and all loss pertaining to this termination.

All finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs and reports prepared by CONSULTANT shall become the property of TOWN and shall be delivered by CONSULTANT to the TOWN within five (5) days of TOWN's request. Upon payment of such sum by TOWN to CONSULTANT, TOWN shall have no further duties or obligations pursuant to or arising from this Agreement.

This Agreement may also be terminated by TOWN upon such notice as TOWN deems appropriate in the event TOWN or Agreement Administrator determines that termination is necessary to protect the public health, safety, or welfare.

Notice of termination shall be provided in accordance with Section 12.27, NOTICES, except that Agreement Administrator may provide a prior verbal stop work order if the Agreement Administrator deems a stop work order of this Agreement in whole or in part is necessary to protect the public's health, safety, or welfare. A verbal stop work order shall be promptly confirmed in writing as set forth in Section 12.27, NOTICES.

12.2.2 Termination for Convenience. In the event this Agreement is terminated for convenience, CONSULTANT shall be paid for any services performed and accepted by the TOWN to the date the Agreement is terminated. Compensation shall be withheld until all documents specified in Section 11.3 of this Agreement are provided to the TOWN. Upon being notified of TOWN's election to terminate, CONSULTANT shall refrain from performing further services or incurring additional expenses under the terms of this Agreement. Under no circumstances shall TOWN make payment for services which have not been performed.

12.2.3 Termination by CONSULTANT. CONSULTANT shall have the right to terminate this Agreement upon substantial breach by the TOWN of its obligation under this Agreement as to unreasonable delay in payment or non-payment of undisputed amounts. CONSULTANT shall have no right to terminate this Agreement for convenience of the CONSULTANT.

12.3 AUDIT RIGHT AND RETENTION OF RECORDS

TOWN shall have the right to audit the books, records, and accounts of CONSULTANT that are related to this Project. CONSULTANT shall keep such books, records, and accounts as may be necessary in order to record complete and correct entries related to the Project.

CONSULTANT shall preserve and make available, at reasonable times and upon prior written notice for examination and audit by TOWN all financial records, supporting documents, statistical records, and any other documents pertinent to this Agreement for the required retention period of the Florida Public Records Act (Chapter 119, Florida Statutes), if applicable, or, if the Florida Public Records Act is not applicable, for a minimum of three (3) years after termination of this Agreement. If any audit has been initiated and audit findings have not been resolved at the end of the retention period or three (3) years, whichever is longer, the books, records, and accounts shall be retained until resolution of the audit findings. If the Florida Public Records Act is determined by TOWN to be applicable to CONSULTANT's records, CONSULTANT shall comply with all requirements thereof; however, no confidentiality or non-disclosure requirement of either federal or state law shall be violated by CONSULTANT. Any incomplete or incorrect entry in such books, records, and accounts shall be a basis for TOWN's disallowance and recovery of any payment upon such entry.

12.4 NON-DISCRIMINATION, EQUAL EMPLOYMENT OPPORTUNITY, AND AMERICANS WITH DISABILITIES ACT

CONSULTANT shall not unlawfully discriminate against any person in its operations and activities in its use or expenditure of the funds or any portion of the funds provided by this Agreement and shall affirmatively comply with all applicable provisions of the Americans with Disabilities Act (ADA) in the course of providing any services funded in whole or in part by TOWN, including Titles I and II of the ADA (regarding nondiscrimination or the basis of disability), and all applicable regulations, guidelines, and standards.

CONSULTANT's decisions regarding the delivery of services under this Agreement shall be made without regard to or consideration of race, age, religion, color, gender, sexual orientation, national origin, marital status, physical or mental disability, political affiliation, or any other factor which cannot be lawfully or appropriately used as a basis for service delivery.

CONSULTANT shall comply with Title I of the Americans with Disabilities Act regarding nondiscrimination on the basis of disability in employment and further shall not discriminate against any employee or applicant for employment because of race, age, religion, color, gender, sexual orientation, national origin, marital status, political affiliation, or physical or mental disability. In addition, CONSULTANT shall take affirmative steps to ensure nondiscrimination in employment against disabled persons. Such actions shall include, but not be limited to, the following: employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff, termination, rates of pay, other forms of compensation, terms and conditions of employment, training (including apprenticeship), and accessibility.

CONSULTANT shall take affirmative action to ensure that applicants are employed, and employees are treated without regard to race, age, religion, color, gender, sexual orientation, national origin, marital status, political affiliation, or physical or mental disability during employment. Such actions shall include, but not be limited to, the following: employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff, termination, rates of pay, other forms of compensation, terms and conditions of employment, training (including apprenticeship), and accessibility.

12.5 MINORITY PARTICIPATION

The CONSULTANT shall make a good faith effort to help the TOWN maintain and encourage MBE/WBE participation levels consistent with such historical levels and market conditions. The CONSULTANT will be required to document all such efforts and supply the TOWN with this documentation at the end of the Project, or in cases where projects are longer than one year, each TOWN fiscal year.

12.6 PUBLIC ENTITY CRIMES ACT

In accordance with the Public Crimes Act, Section 287.133, Florida Statutes, a person or affiliate who is a contractor, consultant or other provider, who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid on a Agreement to provide any goods or services to the Town, may not submit a bid on a Agreement with the Town for the construction or repair of a public building or public work, may not submit bids on leases of real property to the Town, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a Agreement with the Town, and may not transact any business with the Town in excess of the threshold amount provided in Section 287.017, Florida Statutes, for category two purchases for a period of thirty-six (36) months from the date of being placed on the convicted vendor list. Violation of this section by Contractor shall result in cancellation of the Town purchase and may result in Contractor debarment.

12.7 SUBCONSULTANTS

12.7.1 CONSULTANT may sub-Agreement certain items of work to sub-consultant. The parties expressly agree that the CONSULTANT shall submit pertinent information regarding the proposed sub-consultant, including sub-consultant's scope of work and fees, for review and approval by the TOWN prior to sub-consultants proceeding with any work.

12.7.2 CONSULTANT shall utilize the subconsultants identified in the proposal that were a material part of the selection of CONSULTANT to provide the services for this Project. CONSULTANT shall obtain written approval of the Agreement Administrator prior to changing or modifying the list of sub-consultants submitted by CONSULTANT.

The list of subconsultants submitted is as follows:

Terracon
M.G Vera & Associates, Inc
305 Consulting Engineers , LLC
Media Relations Group, LLC
MFG Consultants

12.8 ASSIGNMENT AND PERFORMANCE

Neither this Agreement nor any interest herein shall be assigned, transferred, or encumbered without the written consent of the other P arty, and CONSULTANT shall not sub-Agreement any portion of the work required by this Agreement except as authorized pursuant to Section 12.7.

CONSULTANT represents that all persons delivering the services required by this Agreement have the knowledge and skills, either by training, experience, education, or a combination thereof, to adequately and competently perform the duties, obligations, and services set forth in the Scope of Services and to provide and perform such services to TOWN's satisfaction for the agreed compensation.

CONSULTANT shall perform its duties, obligations, and services under this Agreement in a skillful and respectable manner. The quality of CONSULTANT's performance and all interim and final product(s) provided to or on behalf of TOWN shall meet or exceed all professional standards of the State of Florida.

12.9 INDEMNIFICATION OF TOWN

12.9.1 CONSULTANT shall indemnify and hold harmless TOWN, its officers and employees, from liabilities, damages, losses, and costs, including but not limited to reasonable attorneys' fees, to the extent caused by the negligence, recklessness or intentional misconduct of CONSULTANT and persons employed or utilized by CONSULTANT in the performance of this Agreement. These indemnifications shall survive the term of this Agreement. In the event that any action or proceeding is brought against TOWN by reason of any such claim or demand, CONSULTANT, shall, upon written notice from TOWN, resist and defend such action or proceeding by counsel approved by the TOWN.

12.9.2 To the extent considered necessary by Agreement Administrator and TOWN, any sums due the CONSULTANT under this Agreement may be retained by TOWN until all of the TOWN's claims for indemnification pursuant to this Agreement have been settled or otherwise resolved, and any amount withheld shall not be subject to payment of interest by TOWN.

12.9.3 The Indemnification provided above shall obligate CONSULTANT to defend at its own expense to and through appellate, supplemental or bankruptcy proceeding, or to provide for such defense, at TOWN's option, any and all claims of liability and all suits and actions of every name and description covered by Section 11.9.1 above that may be brought against TOWN whether performed by CONSULTANT, or persons employed or utilized by CONSULTANT.

12.10 LIMITATION OF TOWN'S LIABILITY

The TOWN desires to enter into this Agreement only if in so doing the TOWN can place a limit on the TOWN's liability for any cause of action arising out of this Agreement, so that the TOWN's liability for any breach never exceeds the sum of $1,000.00. For other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the CONSULTANT expresses its willingness to enter into this Agreement with the knowledge that the CONSULTANT's recovery from the TOWN to any action or claim arising from the Agreement is limited to a maximum amount of $1,000.00 less the amount of all funds actually paid by the TOWN to the CONSULTANT pursuant to this Agreement. Accordingly, and notwithstanding any other term or condition of this Agreement that may suggest otherwise, the CONSULTANT agrees that the TOWN shall not be liable to the CONSULTANT for damages in an amount in excess of $1,000.00, which amount shall be reduced by the amount actually paid by the TOWN to the CONSULTANT pursuant to this Agreement, for any action or claim arising out of this Agreement. Nothing contained in this paragraph or elsewhere in this Agreement is in any manner intended either to be a waiver of the limitation placed upon the TOWN's liability as set forth in Section 768.28, Florida Statutes, or to extend the TOWN's liability beyond the limits established in said Section 768.28; and no claim or award against the TOWN shall include attorney's fees, investigative costs, extended damages, expert fees, suit costs or pre-judgment interest. Notwithstanding the foregoing, the parties agree and understand that the provisions of this Article 12.10 do not apply to monies owed, if any, for services rendered to CONSULTANT by the TOWN under the provisions of this Agreement.

12.11 INSURANCE

12.11.1 As a condition precedent to the effectiveness of this Agreement, during the term of this Agreement and during any renewal or extension term of this Agreement, the Contractor, at the Contractor's sole expense, shall provide insurance of such types and with such terms and limits as noted below. Providing proof of and maintaining adequate insurance coverage are material obligations of the Contractor. The Contractor shall provide the Town a certificate of insurance evidencing such coverage. The

Contractor's insurance coverage shall be primary insurance for all applicable policies. The limits of coverage under each policy maintained by the Contractor shall not be interpreted as limiting the Contractor's liability and obligations under this Agreement. All insurance policies shall be from insurers authorized to write insurance policies in the State of Florida and that possess an A.M. Best rating of "A-" VII or better. All insurance policies are subject to approval by the Town's Risk Manager.

12.11.2 The coverages, limits, and endorsements required herein protect the interests of the Town, and these coverages, limits, and endorsements may not be relied upon by the Contractor for assessing the extent or determining appropriate types and limits of coverage to protect the Contractor against any loss exposure, whether as a result of this Agreement or otherwise. The requirements contained herein, as well as the Town's review or acknowledgement, are not intended to and shall not in any manner limit or qualify the liabilities and obligations assumed by the Contractor under this Agreement.

12.11.3 The following insurance policies and coverages are required:

Commercial General Liability

Coverage must be afforded under a Commercial General Liability policy with limits not less than:

- $2,000,000 each occurrence and $2,000,000 aggregate for Bodily Injury, Property Damage, and Personal and Advertising Injury
- $2,000,000 each occurrence and $2,000,000 aggregate for Products and Completed Operations

Policy must include coverage for Contractual Liability and Independent Contractors.

The Town and the Town's officers, employees, and volunteers are to be covered as additional insureds with a CG 20 26 04 13 Additional Insured – Designated Person or Organization Endorsement or similar endorsement providing equal or broader Additional Insured Coverage with respect to liability arising out of activities performed by or on behalf of the Contractor. The coverage shall contain no special limitation on the scope of protection afforded to the Town or the Town's officers, employees, and volunteers.

Business Automobile Liability

Coverage must be afforded for all Owned, Hired, Scheduled, and Non-Owned vehicles for Bodily Injury and Property Damage in an amount not less than $1,000,000 combined single limit each accident

If the Contractor does not own vehicles, the Contractor shall maintain coverage for Hired and Non-Owned Auto Liability, which may be satisfied by way of endorsement to the Commercial General Liability policy or separate Business Auto Liability policy.

Workers' Compensation and Employer's Liability

Coverage must be afforded per Chapter 440, Florida Statutes. Any person or entity performing work for or on behalf of the Town must provide Workers' Compensation insurance. Exceptions and exemptions will be allowed by the Town's Risk Manager, if they are in accordance with Florida Statute.

The Contractor waives, and the Contractor shall ensure that the Contractor's insurance carrier waives, all subrogation rights against the Town and the Town's officers, employees, and volunteers for all losses or damages. The Town requires the policy to be endorsed with WC 00 03 13 Waiver of our Right to Recover from Others or equivalent.

The Contractor must be in compliance with all applicable State and federal workers' compensation laws, including the U.S. Longshore Harbor Workers' Act and the Jones Act, if applicable.

Umbrella/Excess Liability: The Contractor shall provide umbrella/excess coverage with limits of no less than $2,000,000 excess of Commercial General Liability, Automobile Liability and Employer's Liability

12.12.4 Insurance Certificate Requirements

- **a.** The Contractor shall provide the Town with valid Certificates of Insurance (binders are unacceptable) no later than thirty (30) days prior to the start of work contemplated in this Agreement.
- **b.** The Contractor shall provide to the Town a Certificate of Insurance having a thirty (30) day notice of cancellation; ten (10) days' notice if cancellation is for nonpayment of premium.
- **c.** In the event that the insurer is unable to accommodate the cancellation notice requirement, it shall be the responsibility of the Contractor to provide the proper notice. Such notification will be in writing by registered mail, return receipt requested, and addressed to the certificate holder.
- **d.** In the event the Agreement term goes beyond the expiration date of the insurance policy, the Contractor shall provide the Town with an updated Certificate of Insurance no later than ten (10) days prior to the expiration of the insurance currently in effect. The Town reserves the right to suspend the Agreement until this requirement is met.

e. The Certificate of Insurance shall indicate whether coverage is provided under a claims-made or occurrence form. If any coverage is provided on a claims-made form, the Certificate of Insurance must show a retroactive date, which shall be the effective date of the initial contract or prior.

f. The Town shall be named as an Additional Insured on the general liability policy.

g. The Town shall be granted a Waiver of Subrogation on the Contractor's Workers' Compensation insurance policy.

h. On section "description of operations / locations / vehicles (attach acord 101, additional remarks schedule, if more space is required)" should read as flows:

TOWN OF BAY HARBOR ISLAND. IS INCLUDED AS ADDITIONAL INSURED

The title of the Agreement, Bid/Contract number, event dates, or other identifying reference must be listed on the Certificate of Insurance.

<u>The Certificate Holder should read as follows:</u>
Town of Harbor Islands
Procurement Services
9665 Bay Harbor Terrace
Town of Harbor Islands, FL 33154

The Contractor has the sole responsibility for the payment of all insurance premiums and shall be fully and solely responsible for any costs or expenses as a result of a coverage deductible, co-insurance penalty, or self-insured retention; including any loss not covered because of the operation of such deductible, co-insurance penalty, self-insured retention, or coverage exclusion or limitation. Any costs for adding the Town as an Additional Insured shall be at the Contractor's expense.

If the Contractor's primary insurance policy/policies do not meet the minimum requirements, as set forth in this Agreement, the Contractor may provide evidence of an Umbrella/Excess insurance policy to comply with this requirement.

The Contractor's insurance coverage shall be primary insurance as applied to the Town and the Town's officers, employees, and volunteers. Any insurance or self-insurance maintained by the Town covering the Town, the Town's officers, employees, or volunteers shall be non-contributory.

Any exclusion or provision in the insurance maintained by the Contractor that excludes coverage for work contemplated in this Agreement shall be unacceptable and shall be considered breach of contract.

All required insurance policies must be maintained until the contract work has been accepted by the Town, or until this Agreement is terminated, whichever is later. Any lapse in coverage shall be considered breach of contract. In addition, Contractor must provide to the Town confirmation of coverage renewal via an updated certificate should any policies expire prior to the expiration of this Agreement. The Town reserves the right to review, at any time, coverage forms and limits of Contractor's insurance policies.

The Contractor shall provide notice of any and all claims, accidents, and any other occurrences associated with this Agreement shall be provided to the Contractor's insurance company or companies and the Town's Risk Management office as soon as practical.

It is the Contractor's responsibility to ensure that any and all of the Contractor's independent contractors and subcontractors comply with these insurance requirements. All coverages for independent contractors and subcontractors shall be subject to all of the applicable requirements stated herein. Any and all deficiencies are the responsibility of the Contractor.

ADDITIONAL COVERAGES REQUIRE

Professional Liability and/or Errors and Omissions

Coverage must be afforded for Wrongful Acts in an amount not less than $1,000,000 each claim and $2,000,000 aggregate.

Contractor must keep insurance in force until the third anniversary of expiration of this Agreement or the third anniversary of acceptance of work by the Town.

12.12 REPRESENTATIVE OF TOWN AND CONSULTANT

12.12.1 The Parties recognize that questions in the day-to-day conduct of the Project will arise. The Agreement Administrator, upon CONSULTANT's request, shall advise CONSULTANT in writing of one (1) or more TOWN employees to whom all communications pertaining to the day-to-day conduct of the Project shall be addressed.

12.12.2 CONSULTANT shall inform the Agreement Administrator in writing of CONSULTANT's representative to whom matters involving the conduct of the Project shall be addressed.

12.13 ALL PRIOR AGREEMENTS SUPERSEDED

This document incorporates and includes all prior negotiations, correspondence, conversations, agreements or understandings applicable to the matters contained herein; and the Parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, the Parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or agreements whether oral or written.

It is further agreed that no modification, amendment or alteration in the terms or conditions contained herein shall be effective unless contained in a written document executed with the same formality and of equal dignityherewith.

12.14 CONSULTANT'S STAFF

CONSULTANT will provide the key staff identified in its proposal for the Project as long as said key staff are in CONSULTANT's employment.

CONSULTANT will obtain prior written approval of Agreement Administrator to change key staff. CONSULTANT shall provide Agreement Administrator with such information as necessary to determine the suitability of any proposed new key staff. Agreement Administrator will be reasonable in evaluating key staff qualifications.

If Agreement Administrator desires to request removal of any of CONSULTANT's staff, Agreement Administrator shall first meet with CONSULTANT and provide reasonable justification for said removal.

12.15 INDEPENDENT CONTRACTOR

CONSULTANT is an independent contractor under this Agreement. Services provided by CONSULTANT shall be subject to the supervision of CONSULTANT. In providing the services, CONSULTANT or its agents shall not be acting and shall not be deemed as acting as officers, employees, or agents of the TOWN. Personnel policies, tax responsibilities, social security and health insurance, employee benefits, purchasing policies and other similar administrative procedures applicable to services rendered under this Agreement shall be those of CONSULTANT. The Parties expressly acknowledge that it is not their intent to create any rights or obligations in any third person or entity under this Agreement.

12.16 THIRD PARTY BENEFICIARIES

Neither CONSULTANT nor TOWN intends to directly or substantially benefit a third party by this Agreement. Therefore, the parties agree that there are no third-party beneficiaries to this Agreement and that no third party shall be entitled to assert a claim against either of them based upon this Agreement.

12.17 CONFLICTS

Neither CONSULTANT nor its employees shall have or hold any continuing or frequently recurring employment or contractual relationship that is substantially antagonistic or incompatible with CONSULTANT's loyal and conscientious exercise of judgment related to its performance under this Agreement.

CONSULTANT agrees that none of its officers or employees shall, during the term of this Agreement, serve as expert witness against TOWN in any legal or administrative proceeding in which he or she is not a party, unless compelled by court process, nor shall such persons give sworn testimony or issue a report or writing, as an expression of his or her expert opinion, which is adverse or prejudicial to the interests of TOWN or in connection with any such pending or threatened legal or administrative proceeding. The limitations of this Section shall not preclude such person from representing themselves in any action or in any administrative or legal proceeding. In the event CONSULTANT is permitted to utilize subconsultants to perform any services required by this Agreement, CONSULTANT agrees to prohibit such subconsultants, by written contract, from having any conflicts as within the meaning of this Section.

12.18 CONTINGENCY FEE

CONSULTANT warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for CONSULTANT, to solicit or secure this Agreement and that it has not paid or agreed to pay any person, company, corporation, individual or firm, other than a bona fide employee working solely for CONSULTANT, any fee, Council, percentage, gift, or other consideration contingent upon or resulting from the award or making of this Agreement. For a breach or violation of this provision, the TOWN shall have the right to terminate this Agreement without liability at its discretion, or to deduct from the Agreement price or otherwise recover the full amount of such fee, Council, percentage, gift or consideration.

12.19 WAIVER OF BREACH AND MATERIALITY

Failure by TOWN to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement.

TOWN and CONSULTANT agree that each requirement, duty, and obligation set forth herein is substantial and important to the formation of this Agreement and, therefore, is a material term hereof.

12.20 COMPLIANCE WITH LAWS

CONSULTANT shall comply with all applicable federal, state, and local laws, codes, ordinances, rules, and regulations in performing its duties, responsibilities, and obligations related to this Agreement.

12.21 SEVERANCE

In the event this Agreement or a portion of this Agreement is found by a court of competent jurisdiction to be invalid, the remaining provisions shall continue to be effective unless TOWN or CONSULTANT elects to terminate this Agreement. The election to terminate this Agreement based upon this provision shall be made within seven (7) days after the findings by the court become final.

12.22 JOINT PREPARATION

Preparation of this Agreement has been a joint effort of TOWN and CONSULTANT and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than any other.

12.23 PRIORITY OF PROVISIONS

If there is a conflict or inconsistency between any term, statement, requirement, or provision of any exhibit attached hereto, any document or events referred to herein, or any document incorporated into this Agreement by reference and a term, statement, requirement, or provision of this Agreement, the term, statement, requirement, or provision contained in Articles 1-12 of this Agreement shall prevail and be given effect.

12.24 APPLICABLE LAW AND VENUE AND WAIVER OF JURY TRIAL

This Agreement shall be construed in accordance with and governed by the laws of the State of Florida. Venue for any lawsuit by either party against the other party or otherwise arising out of this Agreement and for any other legal proceeding shall be in Dade County, Florida, or in the event of federal jurisdiction, in the Southern District of Florida. **BY ENTERING INTO THIS AGREEMENT, CONSULTANT AND TOWN EXPRESSLY WAIVE ANY RIGHTS EITHER PARTY MAY HAVE TO A TRIAL BY JURY OF ANY CIVIL LITIGATION RELATED TO, OR ARISING OUT OF THIS AGREEMENT.**

In the event Consultant is a corporation organized under the laws of any province of Canada or is a Canadian federal corporation, the Town may enforce in the United States of America or in Canada or in both countries a judgment entered against CONSULTANT. CONSULTANT waives any and all defenses to the Town's enforcement in Canada of a judgment entered by a court in the United States of America.

12.25 SOLICITATION AND EXHIBITS

The solicitation, CONSULTANT'S response to the solicitation and each exhibit

referred to in this Agreement forms an essential part of this Agreement. The solicitation, CONSULTANT'S response, and exhibits, if not physically attached, should be treated as part of this Agreement, and are incorporated herein by reference.

12.26 TWO ORIGINAL AGREEMENTS

This Agreement shall be executed in two (2), signed Agreements, treated as an original.

12.27 NOTICES

Whenever either Party desires to give notice unto the other, it must be given by written notice, sent by certified United States mail, with return receipt requested, addressed to the Party for whom it is intended, at the place last specified, and the place for giving of notice in compliance with the provisions of this paragraph. For the present, the Parties designate the following as the respective places for giving of notice, to-wit:

With a copy to: Town Manager
Town of Bay Harbor Islands
9665 Bay Harbor Terrace, FL 33154
Telephone: (305) 866-6241

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

CONSULTANT: **Thomas D. Titsworth**
Atkins North America, Inc
800 NW 62nd Avenue, Suite 700
Miami, FL 33126
Charlotte.maddox@atkinsglobal.com

12.28 ATTORNEY FEES

If TOWN or CONSULTANT incurs any expense in enforcing the terms of this Agreement through litigation, the prevailing party in that litigation shall be reimbursed for all such costs and expenses, including but not limited to court costs, and reasonable attorney fees incurred during litigation.

12.29 PERMITS, LICENSES AND TAXES

CONSULTANT shall, at its own expense, obtain all necessary permits and

licenses, pay all applicable fees, and pay all applicable sales, consumer, use and other taxes required to comply with local ordinances, state and federal law. CONSULTANT is responsible for reviewing the pertinent state statutes regarding state taxes and for complying with all requirements therein. Any change in tax laws after the execution of this Agreement will be subject to further negotiation and CONSULTANT shall be responsible for complying with all state tax requirements.

12.30 ENVIRONMENTAL, HEALTH AND SAFETY

CONSULTANT shall maintain a safe working environment during performance of the work. CONSULTANT shall comply, and shall secure compliance by its employees, agents, and subconsultants, with all applicable environmental, health, safety and security laws and regulations, and performance conditions in this Agreement. Compliance with such requirements shall represent the minimum standard required of CONSULTANT. CONSULTANT shall be responsible for examining all requirements and determine whether additional or more stringent environmental, health, safety and security provisions are required for the work. CONSULTANT agrees to utilize protective devices as required by applicable laws, regulations, and any industry or CONSULTANT's health and safety plans and regulations, and to pay the costs and expenses thereof, and warrants that all such persons shall be fit and qualified to carry out the Work.

12.31 STANDARD OF CARE

CONSULTANT represents that he/she/it is qualified to perform the work, that CONSULTANT and his/her/its subconsultants possess current, valid state and/or local licenses to perform the Work, and that their services shall be performed in a manner consistent with that level of care and skill ordinarily exercised by other qualified consultants under similar circumstances.

12.32 TRUTH-IN-NEGOTIATION CERTIFICATE

Signature of this Agreement by CONSULTANT shall act as the execution of a Truth-in-Negotiation Certificate stating that wage rates and other factual unit costs supporting the compensation of this Agreement are accurate, complete, and current at the time of contracting. The original Agreement price and any additions thereto shall be adjusted to exclude any significant sums, by which the TOWN determines that Agreement price was increased due to inaccurate, incomplete, or non-current wage rates and other factual unit costs. All such Agreement adjustments must be made within 1 year following the end of the contract.

12.33 EVALUATION

The TOWN maintains the right to periodically review the performance of the CONSULTANT. This review will take into account the timely execution of Task Orders, the quality of the work performed, the cost to the TOWN and the good faith

efforts made by the CONSULTANT to maintain MBE/WBE participation in TOWN projects. Any deficiencies in performance will be described in writing and an opportunity afforded, where practicable, for the CONSULTANT to address and/or remedy such deficiencies.

12.34 STATUTORY COMPLIANCE

CONSULTANT shall prepare all documents and other materials for the Project in accordance with all applicable rules, laws, ordinances and governmental regulations of the State of Florida, Dade County, the Town of Bay Harbor Islands, Florida, and all governmental agencies having jurisdiction over the services to be provided by CONSULTANT under this Agreement or over any aspect or phase of the Project.

12.35 SCRUTINIZED COMPANIES

Subject to *Odebrecht Construction, Inc., v. Prasad*, 876 F.Supp.2d 1305 (S.D. Fla. 2012), *affirmed*, *Odebrecht Construction, Inc., v. Secretary, Florida Department of Transportation*, 715 F.3d 1268 (11th Cir. 2013), with regard to the "Cuba Amendment," the Contractor certifies that it is not on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, and that it does not have business operations in Cuba or Syria, as provided in Section 287.135, Florida Statutes (2023), as may be amended or revised. The Contractor certifies that it is not on the Scrutinized Companies that Boycott Israel List created pursuant to Section 215.4725, Florida Statutes (2023), as may be amended or revised, and that it is not engaged in a boycott of Israel. The Town may terminate this Agreement at the Town's option if the Contractor is found to have submitted a false certification as provided under subsection (5) of Section 287.135, Florida Statutes (2023), as may be amended or revised, or been placed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List or the Scrutinized Companies that Boycott Israel List created pursuant to Section 215.4725, Florida Statutes (2023), as may be amended or revised, or is engaged in a boycott of Israel or has been engaged in business operations in Cuba or Syria, as defined in Section 287.135, Florida Statutes (2023), as may be amended or revised.

12.36 PUBLIC RECORDS

Consultant shall:

1. Keep and maintain public records required by the Town in order to perform the service.

2. Upon request from the Town's custodian of public records, provide the Town with a copy of the requested records or allow the records to be inspected or

copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes (2022), as may be amended or revised, or as otherwise provided by law.

3. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the Agreement term and following completion of this Agreement if CONSULTANT does not transfer the records to the Town.

4. Upon completion of the Agreement, transfer, at no cost to the Town, all public records in possession of CONSULTANT or keep and maintain public records required by the Town to perform the service. If CONSULTANT transfers all public records to the Town upon completion of this Agreement, CONSULTANT shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If CONSULTANT keeps and maintains public records upon completion of this Agreement, CONSULTANT shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the Town, upon request from the Town's custodian of public records, in a format that is compatible with the information technology systems of the Town.

12.37 INTELLECTUAL PROPERTY

CONSULTANT shall protect and defend at CONSULTANT's expense, counsel being subject to the Town's approval, and indemnify and hold harmless the Town from and against any and all losses, penalties, fines, damages, settlements, judgments, claims, costs, charges, royalties, expenses, or liabilities, including any award of attorney fees and any award of costs, in connection with or arising directly or indirectly out of any infringement or allegation of infringement of any patent, copyright, or other intellectual property right in connection with the CONSULTANT's or the TOWN's use of any copyrighted, patented or un-patented invention, process, article, material, or device that is manufactured, provided, or used pursuant to this Agreement. If the CONSULTANT uses any design, device, or materials covered by letters, patent or copyright, it is mutually agreed and understood without exception that the bid prices shall include all royalties or costs arising from the use of such design, device, or materials in any way involved in the work.

12.38 RIGHTS IN DOCUMENTS AND WORK

Any and all reports, photographs, surveys, and other data and documents provided or created in connection with this Agreement are and shall remain the property of TOWN; and CONSULTANT disclaims any copyright in such materials. In the event of and upon termination of this Agreement, any reports, photographs, surveys, and

other data and documents prepared by CONSULTANT, whether finished or unfinished, shall become the property of Town and shall be delivered by CONSULTANT to the TOWN's Agreement Administrator within seven (7) days of termination of this Agreement by either Party. Any compensation due to CONSULTANT shall be withheld until CONSULTANT delivers all documents to the TOWN as provided herein.

12.39 REPRESENTATION OF AUTHORITY

Each individual executing this Agreement on behalf of a Party hereto hereby represents and warrants that he or she is, on the date he or she signs this Agreement, duly authorized by all necessary and appropriate action to execute this Agreement on behalf of such Party and does so with full legal authority.

12.40 NON-DISCRIMINATION

The CONSULTANT shall not, in any of its activities, including employment, discriminate against any individual on the basis of race, color, national origin, age, disability, religion, creed, sex, disability, sexual orientation, gender, gender identity, gender expression, marital status or any other protected classification as defined by applicable law.

12.41 HOLD HARMLESS AND INDEMNIFICATION.

All Proposers shall hold the Town, its officials, and its employees harmless and covenant not to sue the Town, its officials, and its employees in reference to the Town's decision to reject, award, or not award an RFQ, as applicable. Additionally, the selected Proposer shall indemnify, defend, and save harmless the Town, its officers, agents, and employees, from or on account of any injuries or damages, received or sustained by any person or persons during or on account of the Proposer's performance of its Services under this RFQ, or by or in consequence of any negligence (excluding the sole negligence of the Town), in connection with the same; or by use of any improper materials or by or on account of any act or omission of the said selected Proposer, agents, servants, or employees. The selected Proposer shall indemnify, defend, and hold harmless the Town and their agents or employees from and against all claims, damages, losses, and expenses, including attorneys' fees, arising out of or resulting from the performance of the Services described in the RFQ, provided that any such claim, damage, loss, or expense (a) is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property (other than work itself) including the loss of use resulting wherefrom and (b) is caused in whole or in part by any negligent act or omission of the selected Proposer, anyone directly or indirectly employed by any of them, or anyone for whose acts any of them may be liable, regardless of whether or not it is caused by a party indemnified hereunder

IN WITNESS OF THE FOREGOING, the Parties have set their hands and seals

the day and year first written above.

TOWN

TOWN OF BAY HARBOR ISLANDS, a Florida municipal corporation

By: _____
MARIA LASDAY
Town Manager

ATTEST:

By: _____
YVONNE HAMILTON
Town Clerk

APPROVED AS TO FORM AND LEGAL SUFFICIENCY

By:_____
GREENSPOON MARDER LLP
Town Attorney
By: JOSEPH S. GELLER, ESQ

WITNESSES:

Atkins North America, Inc, a Florida Corporation

_____

By: _____

_____
Print Name

Print Name: Charlotte Maddox

Title: Vice-President

_____

_____
Print Name

(CORPORATE SEAL)

STATE OF _____:

COUNTY OF _____:

The foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization, this ___ day of _____, 2023, by Charlotte Maddox as Vice-President for Atkins North America, Inc., a Flortida corporation authorized to conduct business in the State of Florida.

_____
(Signature of Notary Public - State of Florida)

_____
(Print, Type, or Stamp Counciled Name of Notary Public)

Personally Known__ OR Produced Identification_____ Type of Identification Produced: _

EXHIBIT A

SCOPE OF SERVICES

3.1 Purpose

The Town is seeking the services of a qualified consulting firm(s) to provide Professional Services related to a continuing contract for Civil Engineering Consultant Services. The following is a list of services that may be required on an as-needed basis as requested by the Town which will be authorized by individual Task Orders for individual projects. This list shall not be construed as an exclusive list of activities that successful firm(s) may be engaged in. Town shall have the right, in its sole and absolute discretion, to require additional services that are consistent with the scope of services and those activities typically performed by engineers, and surveyors pursuant to Section 287.055 Florida Statutes, and for which the firm(s) are experience, qualified, and able to perform:

3.2 Scope of Services

The Town of Bay Harbor Islands is seeking to establish a pool of pre-qualified consultants in engineering disciplines. Generally, services for projects may include full design and construction contract document development; construction specification development; contract and bidding document development; code analysis; jurisdictional review and permitting assistance; bid/award support and concurrence; negotiation support; construction/contract administration services; construction phase field support services; inspections, construction observation and project progress documentation; post-occupancy surveys and related services; surveying; photographic and video-graphic project support; GIS and CADD project support; other data and information system project support, etc.

Multiple firms selected by the Town will provide professional services to the Town on an as-needed basis based upon work orders to be issued by the Town under the terms of their continuing contracts.

3.3 Work Standards

In providing professional services, Consultant(s) shall take all reasonable care which are industry standards or as defined in Florida Statutes or Florida Administrative Codes. Consultant(s) shall also provide all work product documentation including but not limited to; data, studies, surveys, drawings, maps, models, photographs, reports, designs, calculations, test results, etc., that shall become the property of the Town and shall be delivered to the Town.

3.4 Tasks

The scope of services to be provided by the Consultant in the functional areas listed above shall include, but not be limited to, the following:

a) Prepare engineering designs, calculations, plans and specifications, contract bid documents, and cost estimates, within the functional areas of interest listed in this solicitation.
b) Prepare base maps, preliminary layouts, estimates of probable costs,

engineering analysis and alternatives as requested.

c) Submit construction documents as needed to the Town and other required agencies having an interest or jurisdiction over the project.
d) Review, analyze, and provide recommendations to utility budgets and capital improvement plans.
e) Provide updates on changes or proposed changes to laws/regulations that may impact Town's water resources and supply, treatment, distribution and storage, wastewater collection and treatment
f) Preform flood routing software modelling.
g) Prepare feasibility and conceptual planning documents.
h) Provide research, attendance at meetings, and preparation of presentation materials, reports and correspondence.
i) Prepare and/or assist with the preparation of grant applications and attendance at meetings with grant officials.
j) Assist in the review and development of ordinances.
k) Provide public education/notification assistance.
l) Prepare short and long term planning documents, master plans, or provide input to the Town's master plans, capital improvement program, and maintenance needs.
m) Participate in construction administration as required by the Town.
n) Prepare formal or informal feasibility studies as necessary to assist the Town in responding capital improvement needs.
o) Analysis of existing infrastructure and available capacity to serve proposed capital improvement projects.
p) Prepare legal descriptions, exhibits, and surveys.
q) Provide expert witness testimony.
r) Prepare appropriate permitting documents and obtain and/or assist the Town in obtaining permits from applicable agencies.
s) Represent the Town with regulatory agencies.
t) Prepare periodic project status reports.
u) Prepare and furnish bidding documents and assist the Town in the preparation of other related documents.
v) Attend bid openings, prepare bid tabulation sheets, and assist the Town in the evaluation of bids or proposals.
w) Issue addenda as appropriate to clarify, correct, or change the bidding documents.
x) Participate in pre-construction conference as requested by the Town.
y) Review and determine acceptability of construction submittals, including shop drawings, progress schedule, schedule of values, etc.
z) Review and provide recommendations to request for information, request for changes, and claims to the Town arising during construction activities.
aa) Make periodic construction site visits for the purpose of determining general compliance with the approved drawings, plans, and specifications as requested by the Town.

bb) Review as-built drawings provided by the construction contractor and provide written comments to the Town.
cc) Provide services related to construction management and inspections, and/or specialty inspection.
dd) Provide project management services and act as an extension of the Town's project management staff for the design, bidding, and construction management of municipal projects.
ee) Space Planning
ff) Architectural Design
gg) Interior Design
hh) Landscape Architecture
ii) ADA Analysis and Design
jj) Sustainable Design
kk) Building Performance Analysis
ll) Structural Design

The consultant or its sub consultants shall be familiar with different agency's permitting regulations and requirements and the Town's design criteria, standards and specifications.

3.5 Deliverables

The Town intends to contract with multiple firms. The total amount of compensation will be negotiated with the selected consultant. No minimum amount of work or compensation will be assured to the retained consultant(s). All work products becomes the property of the Town. The Town reserves the right to re-use the work products of the retained consultant and to retain other consultants to provide the same or similar services at its sole discretion.

3.6 Schedule

Consultant recognizes that **TIME IS OF THE ESSENCE**. The Work on each Task Order shall commence immediately upon the Consultants receipt of an executed Task Order.

3.7 Town Infrastructure

a. Bridges – Given the Town's Island condition located in the Intracoastal Waterway, the Town owns and maintains a total of four (4) bridges.
    - The Broad Causeway Bascule Bridge (Connecting the West Island with the Broad Causeway Island)
    - The West Relief Bridge (Connecting the Town with the Town of North Miami)
    - The Waterway Bridge (Connecting the West and East Islands)
    - The Indian Creek Bridge (Connecting the Town with the Town of Surfside and Village of Bal Harbour)

b. Buildings – The Town owns and maintains two (2) buildings.

- The Town Hall Administration Offices at 9665 Bay Harbor Terrace. This building houses the Administration offices, the Building Department, Council Chambers, and the Police Department. This building was built in 1970.
- The Community Center at 1165 95th Street. The Community Center is a recent building that is located on the first floor of the Parking Garage.

c. Parking Facilities – The Town operates a total of seven (7) parking facilities.
   - 1165 95th Street Parking Garage – This is a five-story parking garage building on 95th Street.
   - 103rd Street Surface Parking Lot
   - 100th Street Surface Parking Lot
   - 97th Street Surface Parking Lot
   - Block 11 Parking Lot
   - 95th Street Surface Parking Lot
   - 92nd Street Surface Parking Lot

d. Parks – There are four (4) Parks in the Town, in addition of two (2) passive parks.
   - Tot Lot – 96th Street and West Broadview Drive
   - 98th Street Park
   - 95th Street Park
   - 92nd Street Park

e. Potable Water Infrastructure – The Town is a wholesale customer of the MDWASD. The Town receives its water from a 36-inch transmission main from MDWASD that runs along 96th Street. The distribution lines connected to this transmission line are owned and maintained by the Town. Most of the Town's water lines are PVC material with a diameter that varies between 6-inch to 10-inch.

f. Stormwater Infrastructure – Most of the Town's stormwater system is a gravity system that drains through outfalls to the Bay. A total of 52 outfalls that range on sizes from 8-inch to 30-inch. There is a stormwater injection well on the south side of the West Island with 9,000 gpm pumps. For reference, an Atlas is included as Appendix of this RFQ.

g. Sanitary Sewer Infrastructure – The Town's sanitary sewer system is comprised of gravity mains, manholes, ejector's stations, pump station, force main and air lines. A total of five (5) ejector's stations are location on different areas of the Town, that discharge to the Town' Main Pump Station D at 9665 Bay Harbor Terrace. The gravity line varies from 8-inch to 18-inch. For Reference, an Atlas is included as Appendix of this RFQ.

3.8 Functional Areas of Interest

The consultant shall identify in their response to this RFQ the functional areas for which it particularly wishes to specialize. Multiple firms will be selected, and multiple firms may be selected for more than one

(1) functional area.

a) Water and wastewater engineering (specifically pipeline and lift-station design)

b) Stormwater engineering

c) Transportation engineering

d) Structural engineering (specifically seawall, dock, and bridge design)

e) Environmental engineering

f) Surveying and mapping services and Geographic Information and mapping services (GIS)

g) Photogrammetry and remote sensing

h) Geotechnical engineering

i) Coastal engineering

j) Water resources engineering

k) Hydrology and hydraulic engineering

l) Mechanical engineering

m) Electrical Engineering

n) Plan Review

o) Architectural Design.

Construction engineering and inspection.

3.9 Quality Assurance/Quality Control

It is the intention of the Town that the design consultant is held responsible for the quality control (QC) of their work and of its sub-consultants. All sub-consultant documents and submittals shall be submitted directly to the consultant for their independent QC review. The Town shall only accept submittals for review and action from the consultant.

The consultant is responsible for the professional quality, technical accuracy and coordination of all pre- design services, designs, drawings, specifications, cost estimates and other services furnished by the consultant and their sub-consultants. It is the consultant's responsibility to independently and continually QC their plans, specifications, and all other project deliverables. Upon Town request, the consultant shall provide the Town with a marked up set of plans and specifications showing the consultant's QC review.

The mark-ups submittals shall include the names of the consultant's staff that performed the QC review for each component or functional area (e.g., structures, roadway, drainage, etc.).

3.10 Document Submittal Format

All documents generated as a result of projects will become the property of the Town

of Bay Harbor Islands. All projects documents shall be provided in a digital and hard copy format meeting all Town of Bay Harbor Islands format requirements. The project drawings shall be prepared in AutoCAD, in the version current to the Town Engineering Division at the time that deliverables are due, and shall meet the requirements as set forth in the Town's CADD specifications for project drawings current at the time of award of the project. Plot files shall also be prepared and submitted which meet the stated Town standards.

CCNA- ENGINEERING CONTINUING SERVICES CONTRACT
RFQ-5-1005-23-0-2023/FVR

Atkins

	PROPOSE RATES	
CIVIL ENGINEERING SERVICES	Hourly Rates	
Principal Engineer	$	260.00
Senior Engineer / Project Manager	$	220.00
Project Engineer (PE)	$	200.00
Staff Engineer, E.I.	$	135.00
Senior Inspector	$	125.00
Inspector	$	100.00
Senior Designer	$	115.00
Drafts Person/CADD Operator	$	105.00
Clerical/Administrative Staff	$	75.00
Intern	$	65.00
WATER & WASTEWATER ENGINEERING SERVICES		
Principal Engineer	$	260.00
Senior Engineer/Project Manager	$	220.00
Project Engineer (PE)	$	200.00
Staff Engineer, E.I.	$	135.00
Sr. Inspector	$	155.00
Inspector	$	110.00
Drafts Person/CADD Operator	$	105.00
Clerical/Administrative Staff	$	75.00
TRANSPORTATION/BRIDGE ENGINEERING SERVICES		
Principal Engineer	$	280.00
Senior Engineer/Project Manager	$	235.00
Project Engineer (PE)	$	200.00
Staff Engineer, E.I.	$	135.00
Sr. Inspector	$	155.00
Inspector	$	110.00
Drafts Person/CADD Operator	$	105.00
Clerical/Administrative Staff	$	75.00
STRUCTURAL ENGINEERING SERVICES		
Principal Engineer	$	280.00
Senior Engineer/Project Manager	$	225.00
Project Engineer (PE)	$	190.00
Staff Engineer, E.I.	$	145.00
Sr. Inspector	$	155.00
Inspector	$	110.00
Drafts Person/CADD Operator	$	105.00
Clerical/Administrative Staff	$	75.00

Landscape Architecture and Planning Services	
Principal Landscape Architect	$ 220.00
Senior Landscape Architect	$ 185.00
Project Landscape Architect	$ 125.00
Staff Landscape Architect	$ 100.00
Environmental Services / Monitoring	
Sr. Environmental Scientist	$ 180.00
Project Environmental Scientist	$ 145.00
Staff Environmental Scientist	$ 110.00
Field Technician	$ 80.00
Geotechnical Engineering	
A. FIELD SERVICES & TESTING	
TEST	
Standard Penetration Test Borings (ATSM D-1586), Truck Rig or Mud Bug Rig (0-50 Foot Depth Interval)	$ 18.00 l.f
Grout Boreholes	$5.00 l.f
Truck/Mud Bug 0-50 Ft	$300.00 ea
Permeability/Percolations Tests – Field (SFWMD Usual Open Hole Method)	$500.00 ea
SOIL TESTING	
Field Density/Test (five [5] minimum)	$ 40.00 ea
Standard Proctors	$ 120.00 ea
Modified Proctors	$ 155.00 ea
Florida Bearing Value Test	$ 250.00 ea
Limerock Bearing Ratio Test	$ 250.00 ea
Percolation test (open hole)	$ 450.00 ea
Atterberg Limit Test	$ 70.00 ea
SAMPLING & TESTING OF FRESH CONCRETE	
Curing, capping and compressive strength testing of concrete cylinders in Consultant's laboratory set of 5	$ 90.00 set
Field Sampling Fresh Concrete (sampling, molding, slump testing, temperature)	$ 70.00 h.r
CONCRETE & MASONARY MATERIALS	
Concrete Compression test (Min. four [4] cylinders per trip)	$ 85.00 set
- Prepare cylinders & slump test on site, and deliver to lab	$75.00 h.r
Additional Concrete cylinders with slump	$ 30.00 ea
Concrete Compression test only [delivered to lab] & RESULTS	$ 100.00 set
Slump test	$ 60.00 ea
Stand-by (Beyond 1 hour on site)	$ 70.00 h.r
Grout Prism (Six [6] per set) - Includes preparation of Prism on site `	$ 95.00 set
2” x 2” - Includes preparation of Cubes on site	$ 75.00 ea
AGGREGATE TESTING	
Grain size determination:	
A. Full grain size (8 sieves)	$ 70.00 test
B. Wash through (#200)	$ 55.00 test

Sieve Analysis – Course Aggregate	$ 75.00 test
ASPHALT TESTING	
Asphalt Cores (obtaining core samples) (Min. 3)	$ 130.00 set
MISCELLANEUS SERVICES	
Exfiltration Test (SFWMD)	$ 500.00 ea
Install Groundwater Monitoring Well, <25' (per PBCWUD Stds & Details)	$ 750.00 ea
Install Groundwater Monitoring Well, 25' - 50' (per PBCWUD Stds & Details)	$ 945.00 ea
DRILLING EQUIPMENT MOBILIZATION (includes drill rig mileage)	
Truck - Mounted Rig	$ 400.00 ea
FOUNDATION TESTING SERVICES	
Vibration/ Noise Monitoring Equipment - seismograph with geophone or microphone (includes mobilization, equipment and labor)	$ 2,250.00 per day
SITE PREPARATION MONITORING & TESTING	
In-situ Density Tests - Nuclear Gauge Method (ASTM D 2922)	$ 40.00 ea
MONITOR WELL INSTALLATION & TESTING	
Non-Environmental (2-inch diameter)* 0 - 25-ft depth	$ 725.00 test
Environmental (2-inch diameter)* 0 - 25-ft depth	$ 725.00 test
Well sampling *	$ 120.00 test
B. PERSONNEL	
Principal Engineer	$ 200.00
Senior Engineer	$ 165.00
Project Engineer (PE)	$ 135.00
Staff Engineer, E.I.	$ 105.00
Sr. Inspector	$ 100.00
Inspector	$ 95.00
Drafts Person/Cad Operator	$ 90.00
Clerical/Administrative Staff	$ 75.00
Land Surveying & Mapping Services	
Principal Surveyor	$ 195.00
Sr. Professional Land Surveyor	$ 170.00
Professional Land Surveyor	$ 125.00
Survey CADD / GIS Tech	$ 110.00
Field Crew Supervisor	$ 100.00
Survey Crew	$ 200.00
Administrative	$ 75.00
Marine / Coastal Engineering	
Principal Engineer	$ 300.00
Senior Engineer / Project Manager	$ 220.00
Project Engineer (PE)	$ 200.00
Staff Engineer, E.I.	$ 155.00
Sr. Environmental Scientist	$ 150.00
Project Environmental Scientist	$ 125.00
Staff Environmental Scientist	$ 115.00
Senior Designer	$ 100.00
Architectural	
Principal	$ 240.00

Sr. Architect / Project Manager	$	200.00
Project Architect	$	190.00
Revit / CAD Operator	$	110.00
Draftsman	$	105.00
Clerical	$	75.00
Subsurface Utility Exploration		
Project Manager/PE/PLS PLS	$	175.00
Utility Location Manager/Party Chief	$	125.00
CADD Operator	$	100.00
Technical Locator/Instrument Op.	$	80.00
Clerical	$	75.00
1 Utility Test Hole 0-6' - per hole	$	700.00
2 Utility Test Holes 0-6' - per hole	$	650.00
3 or More Utility Test Holes 0-6' - per hole	$	500.00
Excess Depth (Over 6') - per foot	$ 130.00 ft	
Traffic Control – Arrow Board**	$ 125.00 day	
MEP Engineering		
Senior Engineer / Project Manager	$	230.00
Project Engineer (PE)	$	195.00
Staff Engineer, E.I.	$	140.00
Drafts Person/CADD Operator	$	105.00

AGREEMENT

THIS IS AN AGREEMENT made and entered into this ___day of November 2023, by and between:

Town of Bay Harbor Islands a Florida municipality, (hereinafter referred to as "Town")

and

CHA Consulting, Inc, a New York Corporation, authorized to do business in the state Florida (hereinafter referred to as "CONSULTANT")

WHEREAS, the Town Council of the Town of Bay Harbor Islands Florida at its meeting of November, 2023 authorized by motion the execution of this Agreement between CONSULTANT and Town authorizing the performance of Engineering Continuing Services, RFQ No. 5-1005-23-0-2023/FVR incorporated herein, (the "Agreement"); and

WHEREAS, the CONSULTANT is willing and able to render professional services for such project for the compensation and on the terms hereinafter set forth;

NOW, THEREFORE, in consideration of the mutual covenants, agreements, terms, and conditions contained herein, the Parties hereto, do agree as follows:

ARTICLE 1
DEFINITIONS AND IDENTIFICATIONS

For the purposes of this Agreement and the various covenants, conditions, terms and provisions which follow, the DEFINITIONS and IDENTIFICATIONS set forth below are assumed to be true and correct and are therefore agreed upon by the Parties.

1.1 AGREEMENT: Means this document between the TOWN and CONSULTANT dated _____, and any duly authorized and executed Amendments to Agreement.

1.2 BASIC SERVICES**:** Services performed by CONSULTANT for authorized scope of work for the Project phase described in this Agreement and listed in Exhibit "A," Scope of Services.

1.3 CONSULTANT'S PERIODIC ESTIMATE FOR PAYMENT: A statement by CONSULTANT based on observations at the site and on review of documentation submitted by the Contractor that by its issuance recommends that TOWN pay identified amounts to the Contractor for services performed by the Contractor at

the Project.

1.4 CHANGE ORDER: A written order to the CONSULTANT approved by the TOWN authorizing a revision of this agreement between the TOWN and CONSULTANT that is directly related to the original scope of work or an adjustment in the original Agreement price or the Agreement time directly related to the original scope of work, issued on or after the effective date of this Agreement.

The CONSULTANT may review and make recommendations to the TOWN on any proposed Change Orders, for approval or other appropriate action by the TOWN.

1.5 TOWN: The Town of Bay Harbor Islands, a Florida municipality.

1.6 TOWN MANAGER: The Town Manager of the Town of Bay Harbor Islands, Florida.

1.7 COUNCIL: The Town Council of the Town of Bay Harbor Islands, Florida, which is the governing body of the TOWN government.

1.8 CONSTRUCTION COST: The total construction cost to TOWN of all elements of the Project designed or specified by CONSULTANT.

1.9 CONSTRUCTION COST LIMIT: A maximum construction cost limit established by the TOWN defining the maximum budget amount to which the final construction documents should be designed so as not to exceed.

1.10 CONSTRUCTION DOCUMENTS: Those working drawings and specifications and other writings setting forth in detail and prescribing the work to be done, the materials, workmanship and other requirements for construction of the entire Project, including any bidding information.

1.11 CONSULTANT: **CHA Consulting, Inc,** the CONSULTANT selected to perform professional services pursuant to this Agreement.

1.12 AGREEMENTADMINISTRATOR: The (Dept. Director) for the Town of Bay Harbor Islands, or his designee. In the administration of this Agreement, as contrasted with matters of policy, all parties may rely upon instructions or determinations made by the Agreement Administrator.

1.13 CONTRACTOR: One or more individuals, firms, corporations or other entities identified as such by a written agreement with TOWN ("Agreement for Construction") to perform the construction services required to complete the Project.

1.14 DEPARTMENT DIRECTOR**:** The (Dept. Director) for the Town of Bay Harbor

Islands.

1.15 ERROR: A mistake in design, plans and/or specifications that incorporates into those documents an element that is incorrect and is deficient from the standard of care that a professional engineer in similar circumstances, working on a similar project and location would have exercised. Also includes mistakes in design, plans, specifications and/or shop drawings review that lead to materials and/or equipment being ordered and/or delivered where additional costs are incurred.

1.16 FINAL STATEMENT OF PROBABLE CONSTRUCTION COSTS: A final cost estimate prepared by CONSULTANT during the Final Design Phase of the Project, based upon the final detailed Construction Documents of the Project.

1.17 NOTICE TO PROCEED: A written Notice to Proceed with the Project issued by the Agreement Administrator.

1.18 OMISSION: A scope of work missed by CONSULTANT that is necessary for the Project, including a quantity miscalculation, which was later discovered and added by Change Order and which is deficient from the standard of care that a professional engineer in similar circumstances, working on a similar project and location would have exercised. Also includes design that was wrong, but was corrected after award to the Contractor, but before the construction process was materially affected.

1.19 ORIGINAL AGREEMENTPRICE: The original bid and/or Agreement price as awarded to a Contractor based upon CONSULTANT'S final detailed Construction Documents of the Project.

1.20 PLANS AND SPECIFICATIONS: The documents setting forth the final design plans and specifications of the Project, including architectural, civil, structural, mechanical, electrical, communications and security systems, materials, lighting equipment, site and landscape design, and other essentials as may be appropriate, all as approved by TOWN as provided in this Agreement.

1.21 PRELIMINARY PLANS: The documents prepared by CONSULTANT consisting of preliminary design drawings, renderings and other documents to fix and describe the size and character of the entire Project, and the relationship of Project components to one another and existing features.

1.22 PROJECT: An agreed scope of work for accomplishing a specific plan or development. This may include, but is not limited to, planning, architectural, engineering, and construction support services. The services to be provided by CONSULTANT shall be as defined in this Agreement and further detailed in Task Orders for individual projects or combinations of projects. The Project planning, design and construction may occur in separate phases and Task Orders at the TOWN's discretion.

1.23 RESIDENT PROJECT REPRESENTATIVE: Individuals or entities selected, employed, compensated by and directed to perform services on behalf of TOWN, in monitoring the Construction Phase of the Project to completion.

1.24 SPECIFICATIONS: The specifications referred to in this agreement are the CONSTRUCTION STANDARDS AND SPECIFICATIONS, Office of the Tow Engineer, Town of Bay Harbor Islands, January 1982, including any revisions.

1.25 STATEMENT OF PROBABLE PROJECT COSTS: A document to be prepared by CONSULTANT that shall reflect a detailed statement of the total probable costs.

1.26 SUBSTANTIAL COMPLETION: The TOWN will consider the work substantially complete when the Contractor submits 100% complete deliverables (i.e. Drawings, Specifications, Reports, Renderings) as described in this Agreement to the satisfaction of the Town.

1.27 TASK ORDER: A document setting forth a negotiated detailed scope of services to be performed by CONSULTANT at fixed Agreement prices in accordance with this Agreement between the TOWN and CONSULTANT.

1.28 TIME OF COMPLETION: Time in which the entire work shall be completed for each Task Order.

ARTICLE 2
PREAMBLE

In order to establish the background, context and frame of reference for this Agreement and to generally express the objectives and intentions of the respective parties hereto, the following statements, representations and explanations shall be accepted as predicates for the undertakings and commitments included within the provisions of this Agreement which follow and may be relied upon by the parties as essential elements of the mutual considerations upon which this Agreement is based.

2.1 Pursuant to Section 287.055, Florida Statutes, TOWN has formed a Committee to evaluate CONSULTANT's statement of qualifications and performance data to ensure that CONSULTANT has met the requirements of the Consultants' Competitive Negotiation Act, as set forth in Section 287.055, Florida Statutes, and has selected CONSULTANT to perform services hereunder.

ARTICLE 3
SCOPE OF SERVICES

3.1 The CONSULTANT shall perform the following professional services: Engineering Continuing Services as more specifically described in Exhibit "A," Scope of Services, attached hereto and incorporated herein, and shall include, but not be limited to,

services as applicable and authorized by individual Task Orders for the individual projects in accordance with Article 6 herein. CONSULTANT shall provide all services set forth in Exhibit "A" including all necessary, incidental and related activities and services required by the Scope of Services and contemplated in CONSULTANT's level of effort. CONSULTANT will perform the Services in accordance with standard industry practices, with the care, knowledge and skill expected of similar engineering firms. No other warranties, express or implied are made or intended.

3.2 TOWN and CONSULTANT acknowledge that the Scope of Services does not delineate every detail and minor work tasks required to be performed by CONSULTANT to complete the Project. If, during the course of the performance of the services included in this Agreement, CONSULTANT determines that work should be performed to complete the Project which is in CONSULTANT's opinion, outside the level of effort originally anticipated, whether or not the Scope of Services identifies the work items, CONSULTANT shall notify Agreement Administrator and obtain written approval by the TOWN in a timely manner before proceeding with the work. Notice to Agreement Administrator does not constitute authorization or approval by TOWN to perform the work. The TOWN shall not pay for any work that is not approved by the Agreement Administrator in writing. If CONSULTANT proceeds with said work without notifying the Agreement Administrator, said work shall be deemed to be within the original level of effort, whether specifically addressed in the Scope of Services. Notice to Agreement Administrator does not constitute authorization or approval by TOWN to perform the work. Performance of work by CONSULTANT outside the originally anticipated level of effort without prior written TOWN approval is at CONSULTANT's sole risk.

ARTICLE 4
GENERAL PROVISIONS

4.1 Negotiations pertaining to the rates for professional services to be performed by CONSULTANT have been undertaken between CONSULTANT and TOWN representatives pursuant to Section 287.055, Florida Statutes, and this Agreement incorporates the results of such negotiation.

4.2 CONSULTANT shall include TOWN's specific Task Order number as part of the heading on all correspondence, invoices and drawings. All correspondence shall be directed specifically to the Agreement Administrator.

ARTICLE 5
PRIORITY OF PROVISIONS

5.1 The Agreement Documents are intended to include all items necessary for the proper execution and completion of the work by CONSULTANT. Any labor,

services, materials, supplies, equipment or documentation that may reasonably be inferred from the Agreement Documents or trade usage from prevailing custom as being required to produce the indicated result will be provided whether or not specifically called for, at no additional cost to TOWN. The Agreement Documents are complementary, and wherever possible the provisions of the Agreement Documents shall be construed in such manner as to avoid conflicts between provisions of the various Agreement Documents. In the event of any inconsistency in the Agreement Documents, where such inconsistency is not clarified by change order, addendum or amendment, the Agreement Documents shall be construed according to the following priorities:

First priority: Approved Change Orders, Addendums or Amendments to all related documents.

Second priority: Specifications (quality) and Drawings (location and quantity) of CONSULTANT.

Third priority: This AGREEMENT.

Fourth priority: Town of Bay Harbor Islands Request for Qualifications **RFQ No. 5-1005-23-0-2023/FVR**.

Fifth priority: CONSULTANT's response to Town of Bay Harbor Islands Request for Qualifications # **RFQ No. 5-1005-23-0-2023/FVR**.

5.2 Anything shown on the drawings and not mentioned in the specifications or mentioned in the specifications and now shown on the drawings, shall have the same effect as if shown or mentioned respectively in both. In the event of a conflict among the Agreement Documents, the latest, most stringent, and more technical requirement(s), including, but not limited to, issues of quantities or cost of the Work shall control.

Reference to standard specifications, manuals, rules, regulations, ordinances, laws or codes of any governmental authority, whether such reference be specific or by implication, shall mean the latest standard specification, manual, rule, regulation, ordinance, law or code in effect at the time of permit submittal.

ARTICLE 6
TASK ORDERS

6.1 The Project will be divided into "Tasks."

6.2 Task Orders shall be jointly prepared by the TOWN and CONSULTANT defining the detailed scope of services to be provided for the particular Project. Each Task Order shall be separately numbered and approved in accordance with this

Agreement and all applicable TOWN code requirements.

6.3 Under all Task Orders and Projects, TOWN may require the CONSULTANT, by specific written authorization, and for mutually agreed upon additional compensation, to provide or assist in obtaining one or more of the following special services. These services may include, at the discretion of the TOWN, the following items:

6.3.1 Providing additional copies of reports, Agreement drawings and documents; and

6.3.2 Assisting TOWN with litigation support services arising from the planning, development, or construction.

6.4 Prior to initiating the performance of any services under this Agreement, CONSULTANT must receive a written Notice to Proceed / Purchase Order from the TOWN. The CONSULTANT must receive the approval of the Agreement Administrator or his designee in writing prior to beginning the performance of services in any subsequent Task Order under this Agreement.

6.5 If, in the opinion of the TOWN, the CONSULTANT is improperly performing the services under a specific Task Order, or if at any time the TOWN shall be of the opinion that said Task Order is being unnecessarily delayed and will not be completed within the agreed upon time, the TOWN shall notify the CONSULTANT in writing. The CONSULTANT has within ten (10) working days thereafter to take such measures as will, in the judgment of the TOWN, ensure satisfactory performance and completion of the work. If the CONSULTANT fails to cure within the ten (10) working days, the TOWN may notify the CONSULTANT to discontinue all work under the specified Task Order. The CONSULTANT shall immediately respect said notice and stop said work and cease to have any rights in the possession of the work and shall forfeit the Task Order and any remaining monies. The TOWN may then decide, after Town Council approval, to issue a new Task Order for the uncompleted work to another consultant using the remaining funds. Any excess costs arising therefrom over and above the original Task Order price shall be charged against CONSULTANT, as the original CONSULTANT.

6.6 ARTICLE 7
TERM OF AGREEMENT; TIME FOR PERFORMANCE

7.1 The initial Agreement term shall commence upon final execution of the Agreement by the Town and shall expire Two (2) years from that date. The Town reserves the right to extend the Agreement for Three (3) additional one(1) year terms providing all terms conditions and specifications remain the same, both parties agree to the extension, and such extension is approved by the Town.

In the event services are scheduled to end because of the expiration of this contract, the Contractor shall continue the service upon the request of the Town as

authorized by the awarding authority. The Contractor shall be compensated for the service at the rate in effect when this extension clause is invoked by the Town.

7.2 CONSULTANT shall perform the services described in Task Orders within the time periods specified in the Task Order. Said time periods shall commence from the date of the Notice to Proceed for such services.

7.3 Prior to beginning the performance of any services under this Agreement, CONSULTANT must receive a Notice to Proceed. CONSULTANT must receive written approval from the Agreement Administrator prior to beginning the performance of services in any subsequent phases of the Agreement. Prior to granting approval for CONSULTANT to proceed to a subsequent phase, the Agreement Administrator may, at his or her sole option, require CONSULTANT to submit itemized deliverables/documents for the Agreement Administrator's review.

7.4 In the event CONSULTANT is unable to complete any services because of delays resulting from untimely review by TOWN or other governmental authorities having jurisdiction over the Project, and such delays are not the fault of CONSULTANT, or because of delays which were caused by factors outside the control of CONSULTANT, TOWN shall grant a reasonable extension of time for completion of the services. It shall be the responsibility of the CONSULTANT to notify TOWN promptly in writing whenever a delay in approval by a governmental agency is anticipated or experienced, and to inform TOWN of all facts and details related to the delay.

7.5 The time for the performance of services described in assigned Task Orders shall be negotiated by the TOWN and the CONSULTANT as the services are requested and authorized by the TOWN.

ARTICLE 8
COMPENSATION AND METHOD OF PAYMENT

8.1 AMOUNT AND METHOD OF COMPENSATION

8.1.1 Not To Exceed Amount Compensation

TOWN agrees to pay CONSULTANT as compensation for performance of all services as related to each Task Order under the terms of this Agreement a Not to Exceed Amount as agreed upon per Task Order. This compensation does not include Reimbursables as described in Section 8.2. It is agreed that the method of compensation is that of "Not to Exceed Amount" which means that CONSULTANT shall perform all services set forth in each Task Order for total compensation in the amount of or less than that stated total. The hourly rate-billing schedule to be used in negotiating each Task Order is attached as Exhibit "B" to this Agreement. As described in Section 9.1, no modification, amendment, or alteration to Exhibit "B" shall

be effective unless contained in a written document prepared with the same formality as this Agreement and executed by the TOWN and CONSULTANT.

A not to exceed proposal shall be accompanied by the CONSULTANT's estimate. The estimate shall detail the direct labor costs by categories of employees, work hours, and hourly rate; overhead; direct non-salary expenses including reimbursables; and profit, or as required by individual Task Order.

8.2 REIMBURSABLES

A. Direct non-salary expenses, entitled Reimbursables, directly attributable to the Project will be charged at actual cost. Reimbursable expenses are in addition to the compensation for basic services and include actual expenditures made by the CONSULTANT and the CONSULTANT'S employees directly attributable to the Project and will be charged at actual cost, without reference to the professional service fees above. TOWN shall not withhold retainage from payments for Reimbursable Expenses. CONSULTANT shall be compensated for Reimbursables associated with a particular Task Order only up to the amount allocated for such Task Order. Any reimbursable or portion thereof which, when added to the Reimbursables related to a particular Task Order previously billed, exceeds the amount allocated for such Task Order shall be the responsibility of the CONSULTANT unless otherwise agreed to in writing by the Agreement Administrator. Travel and subsistence expenses for the CONSULTANT, his staff and subconsultants and communication expenses, long distance telephone, courier and express mail between CONSULTANT's and subconsultants' various offices are not reimbursable under this Agreement. Reimbursables shall include only the following listed expenses unless authorized in writing by the Agreement Administrator:

B. Cost of reproduction, postage and handling of drawings and specifications which are required to deliver services set forth in this Agreement, excluding reproductions for the office use of the CONSULTANT. Reimbursable printing and photocopying expenses shall include only those prints or photocopies of original documents which are (i) exchanged among CONSULTANT, TOWN and other third parties retained or employed by any of them or (ii) submitted to TOWN for review, approval or further distribution. Documents, which are reproduced for CONSULTANT's internal drafts, reviews, or other purposes, are not eligible for reimbursement.

C. Identifiable testing costs and special inspections approved by Agreement Administrator.

D. All permit fees paid to regulatory agencies for approvals directly attributable to the Project. These permit fees do not include those permits required for the construction Contractor.

E. Overnight Delivery/Courier Charges (when TOWN requires/requests this service).

8.2.2 Reimbursable subconsultant expenses are limited to the items described above when the subconsultant agreement provides for reimbursable expenses. A detailed statement of expenses must accompany any request for reimbursement. Local travel to and from the Project site or within the Tri-County Area will not be reimbursed.

8.2.3 It is acknowledged and agreed to by CONSULTANT that the dollar limitation set forth in each Task Order is a limitation upon, and describes the maximum extent of TOWN's obligation to reimburse CONSULTANT for direct, non salary expenses, but does not constitute a limitation, of any sort, upon CONSULTANT's obligation to incur such expenses in the performance of services hereunder. If TOWN or Agreement Administrator requests CONSULTANT to incur expenses not contemplated in the amount for Reimbursables, CONSULTANT shall notify Agreement Administrator in writing before incurring such expenses. Any such expenses shall be reviewed and approved by TOWN prior to incurring such expenses.

8.3 METHOD OF BILLING

8.3.1 Not To Exceed Amount Compensation

CONSULTANT shall submit billings, which are identified by the specific project number on a monthly basis in a timely manner for all salary costs and Reimbursables attributable to the Project. These billings shall identify the nature of the work performed for each phase, subtask, deliverable and item identified in the Exhibit "A" Scope of Services or Task Order, the total hours of work performed and the employee category of the individuals performing same. The statement shall show a summary of salary costs with accrual of the total and credits for portions paid previously. Subconsultant fees must be documented by copies of invoices or receipts, which describe the nature of the expenses and contain a project number or other identifier, which clearly indicates the expense, as identifiable to the Project. Except for meals and travel expenses, it shall be deemed unacceptable for the CONSULTANT to modify the invoice or receipt by adding a project number or other identifier. Internal expenses must be documented by appropriate CONSULTANT's cost accounting forms with a summary of charges by category. When requested, CONSULTANT shall provide backup for past and current invoices that records hours and salary costs by employee category and subconsultant fees on a task basis, so that total hours and costs by task may be determined.

8.4 METHOD OF PAYMENT

8.4.1 TOWN shall pay CONSULTANT in accordance with the Florida Prompt Payment Act. To be deemed proper, all invoices must comply with the requirements set forth in this Agreement and must be submitted on the form

and pursuant to instructions prescribed by Agreement Administrator.

8.4.2 TOWN will review CONSULTANT's invoices and, if inaccuracies or errors are discovered in said invoice, TOWN will inform CONSULTANT within ten (10) working days by fax and/or by email of such inaccuracies or errors and request that revised copies of all such documents be re-submitted by CONSULTANT to TOWN.

8.4.3 Payment are scheduled to be made by TOWN to CONSULTANT by check.

Payment will be made to CONSULTANT at:

CHA Consulting, Inc
8935 NW 35th Lane Suite 200
Doral, FL 33172

ARTICLE 9
AMENDMENTS AND CHANGES IN SCOPE OF SERVICES

9.1.1 No modification, amendment or alteration in the terms or conditions contained herein shall be effective unless contained in a written Amendment prepared with the same formality as this Agreement and executed by the TOWN and CONSULTANT.

9.1.2 TOWN or CONSULTANT may request changes that would increase, decrease, or otherwise modify the Scope of Services to be provided under a Task Order. Such changes must be contained in a written amendment, executed by the Parties hereto, with the same formality and of equal dignity herewith, prior to any deviation from the terms of the Task Order including the initiation of any additional services. TOWN shall compensate CONSULTANT for such additional services as provided in Article 8.

9.1.3 In the event a dispute between the Agreement Administrator and CONSULTANT arises over whether requested services constitute additional services and such dispute cannot be resolved by the Agreement Administrator and CONSULTANT, such dispute shall be promptly presented to the Town Manager for resolution. The Town Manager's decision shall be final and binding on the Parties for amounts in the aggregate under $100,000. In the event of a dispute in an amount over $100,000, the Parties agree to use their best efforts to settle such dispute. To this effect, they shall consult and negotiate with each other, in good faith and, recognizing their mutual interests, attempt to reach a just and equitable solution satisfactory to both Parties. If they do not reach such solution within a period of sixty (60) days, then upon notice to the other, either Party may commence litigation to resolve the dispute in Dade County, Florida. Any resolution shall be set forth in a written document in accordance with Section 9.2 above. During the pendency of any dispute, CONSULTANT shall promptly perform the disputed services.

ARTICLE 10
CONSULTANT'S RESPONSIBILITIES

10.1 The CONSULTANT, following the TOWN's approval of the Construction Documents and of the Final Statement of Probable Construction Costs, shall, when so directed and authorized by the TOWN, assist the TOWN in estimating construction costs, reviewing proposals, and assist in awarding contracts for construction. If requested, CONSULTANT shall review and analyze the proposals received by the TOWN and shall make a recommendation for any award based on the Town of Bay Harbor Islands Procurement Ordinance.

10.2 Estimates, opinions of probable construction or implementation costs, financial evaluations, feasibility studies or economic analyses prepared by CONSULTANT will represent its best judgment based on its experience and available information. The TOWN recognizes that CONSULTANT has no control over costs of labor, materials, equipment or services furnished by others or over market conditions or CONSULTANT's methods of determining prices, and that any evaluation of a facility to be constructed or work to be performed is speculative. Accordingly, CONSULTANT does not guarantee that proposals, bids or actual costs will not vary from opinions, evaluations or studies submitted by CONSULTANT.

- In the event that the lowest "best value" bid, as such term is used in the Town of Bay Harbor Islands Procurement Code, excluding any alternate bid items ("base bid"), exceeds the Estimated Construction Cost for a project by more than ten percent (10%), CONSULTANT shall explain, in writing, the reasons why the bids or proposals exceeded the ten percent (10%) factor following the analysis of all base bids. In such a circumstance, the TOWN may at its sole discretion, exercise any one or more of the following options: CONSULTANT shall be required to amend at the sole cost and expense of CONSULTANT, the Construction Drawings, Technical Specifications and Supplemental Conditions to enable the project to conform to a maximum of ten (10%) above the Estimated Construction Costs of the project, such amendments to be subject to the written final acceptance and approval of same by the TOWN;
- CONSULTANT shall be required to provide at the cost and expense of CONSULTANT re-bidding services and related items (including costs associated with regulatory review and approval of revised documents) as many times as requested by the TOWN until the base bid of at least one "best value" bid falls within the factor of ten (10%) of the Estimated Construction Cost of the project;
- The TOWN may approve an increase in the Estimated Construction Cost of the Project;
- The TOWN may reject all bids or proposals and may authorize re-bidding;
- The TOWN may if permitted, approve a renegotiation of the Project within a reasonable time;
- The TOWN may abandon the project and terminate CONSULTANT's work authorization and Services for the Project; or
- The TOWN may select as many deductive alternatives as may be necessary

to bring the award within ten percent (10%) of the Estimated Construction Costs of the Project.

It is expressly understood and agreed that the redesigning services required to keep the Project within 10% of the Estimated Construction Cost shall not be considered additional services and CONSULTANT agrees that it shall not seek compensation from the TOWN for such Services.

10.3 The CONSULTANT may be requested to provide the TOWN with a list of recommended, prospective proposers.

10.4 The CONSULTANT may be asked to attend all pre-bid / proposal conferences.

10.5 The CONSULTANT shall recommend any addenda, through the Agreement Administrator, as appropriate to clarify, correct, or change proposal /bid documents.

10.6 If pre-qualification of proposers is required as set forth in the request for proposal, CONSULTANT shall assist the TOWN, if requested, in developing qualification criteria, review qualifications and recommend acceptance or rejection of the proposers. If requested, CONSULTANT shall evaluate proposals and proposers, and make recommendations regarding any award by the TOWN.

10.7 The TOWN shall make decisions on claims regarding interpretation of the Construction Documents, and on other matters relating to the execution and progress of the work after receiving a recommendation from CONSULTANT .CONSULTANT may also assist in approving progress payments to the Contractor based on each Project Schedule of Values and the percentage of work completed.

10.8 The TOWN shall maintain a record of all Change Orders which shall be categorized according to the various types, causes, etc. that it may be determined are useful or necessary for its purpose. Among those shall be Change Orders identified as architectural/engineering Errors or Omissions.

10.8.1 Unless otherwise agreed by both Parties in writing, it is specifically agreed that any change to the work identified as an Error on the part of CONSULTANT shall be considered for purposes of this Agreement to be an additional cost to the TOWN which would not be incurred without the Error. Errors on the part of the CONSULTANT shall be rectified by the CONSULTANT with no additional cost to the TOWN.

10.8.2 Unless otherwise agreed by both Parties in writing, it is further specifically agreed for purposes of this Agreement that fifteen percent (15%) of the cost of Change Orders for any item categorized as an Omission shall be considered an additional cost to the TOWN which would not be incurred without the Omission. So long as the total of those two numbers (Change

Order costs of Errors plus fifteen percent (15%) of Omissions) remains less than two percent (2%) of the total Construction Cost of the Project, the TOWN shall not look to CONSULTANT for reimbursement for Errors and Omissions.

10.8.3 Should the sum of the two as defined above (cost of Errors plus fifteen percent (15%) of the cost of Omissions) exceed two percent (2%) of the Construction Cost, the TOWN shall recover the full and total additional cost to the TOWN as a result of CONSULTANT's Errors and Omissions from CONSULTANT, that being defined as the cost of Errors plus fifteen percent (15%) of the cost of Omissions above two percent (2%) of the Construction Cost.

10.8.4 To obtain such recovery, the TOWN shall deduct from CONSULTANT's fee a sufficient amount to recover all such additional cost to the TOWN.

10.8.5 In executing this Agreement, CONSULTANT acknowledges acceptance of these calculations and to the TOWN's right to recover same as stated above. The recovery of additional costs to the TOWN under this paragraph shall not limit or preclude recovery for other separate and/or additional damages which the TOWN may otherwise incur.

10.8.6 The Agreement Administrator's decision as to whether a Change Order is caused by an Error or caused by an Omission, taking into consideration industry standards, shall be final and binding on both Parties for amounts in the aggregate under $100,000 per project, subject to Section 9.3. In the event of a dispute in an amount over $100,000, the Parties agree to use their best efforts to settle such dispute. To this effect, they shall consult and negotiate with each other, in good faith and, recognizing their mutual interests, attempt to reach a just and equitable solution satisfactory to both Parties. If they do not reach such solution within a period of sixty (60) days, then upon notice to the other, either Party may commence litigation to resolve the dispute in Dade County, Florida.

ARTICLE 11
TOWN'S RESPONSIBILITIES

11.1 TOWN shall assist CONSULTANT by placing at CONSULTANT's disposal, all information TOWN has available pertinent to the Project including previous reports and any other data relative to design or construction of the Project.

11.2 TOWN shall arrange for access to, and make all provisions for, CONSULTANT to enter upon public and private property as required for CONSULTANT to perform its services.

11.3 TOWN shall review the itemized deliverables/documents identified per Task Order.

11.4 TOWN shall give prompt written notice to CONSULTANT whenever TOWN observes or otherwise becomes aware of any development that affects the scope or timing of CONSULTANT's services or any defect in the work of the Contractor.

ARTICLE 12
MISCELLANEOUS

12.1 OWNERSHIP OF DOCUMENTS

All documents including, but not limited to, drawings, renderings, models, and specifications prepared or furnished by CONSULTANT, its dependent professional associates and consultants, pursuant to this Agreement shall be owned by the TOWN.

Drawings, specifications, designs, models, photographs, reports, surveys and other data prepared in connection with this Agreement are and shall remain the property of the TOWN whether the Project for which they are made is executed or not, and are subject to reuse by the TOWN in accordance with Section 287.055(10) of the Florida Statutes. They are not intended or represented to be suitable for reuse by the TOWN or others on extensions of this Project or on any other project without appropriate verification or adaptation. Any reuse, except for the specific purpose intended hereunder, will be at the TOWN's sole risk and without liability or legal exposure to CONSULTANT or its subcontractors. This does not, however, relieve CONSULTANT of liability or legal exposure for errors, omissions, or negligent acts made on the part of CONSULTANT in connection with the proper use of documents prepared under this Agreement. Any such verification or adaptation may entitle CONSULTANT to further compensation at rates to be agreed upon by the TOWN and CONSULTANT. This shall not limit the TOWN's reuse of preliminary or developmental plans or ideas incorporated therein, should the Project be suspended or terminated prior to completion.

12.2 TERMINATION

12.2.1 Termination for Cause. It is expressly understood and agreed that the TOWN may terminate this Agreement at any time for cause in the event that the CONSULTANT (1) violates any provisions of this Agreement or performs same in bad faith or (2) unreasonably delays the performance of the services or does not perform the services in a timely and satisfactory manner upon written notice to the CONSULTANT. Notice of termination shall be provided in accordance with Section 12.27. In the case of termination by the TOWN for cause, the CONSULTANT shall be first granted a 10-working day cure period after receipt of written notice from the TOWN. In the event that the Agreement is terminated, the CONSULTANT shall be entitled to be compensated for the services rendered and accepted by the TOWN from the date of execution of the Agreement up to the time of termination. Such compensation shall be based on the fee as set forth above, wherever

possible. For those portions of services rendered to which the applicable fee cannot be applied, payment shall be based upon the appropriate rates for the actual time spent on the Project. In the event that the CONSULTANT abandons this Agreement or through violation of any of the terms and conditions of this Agreement, causes it to be terminated, CONSULTANT shall indemnify the TOWN against any and all loss pertaining to this termination.

All finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs and reports prepared by CONSULTANT shall become the property of TOWN and shall be delivered by CONSULTANT to the TOWN within five (5) days of TOWN's request. Upon payment of such sum by TOWN to CONSULTANT, TOWN shall have no further duties or obligations pursuant to or arising from this Agreement.

This Agreement may also be terminated by TOWN upon such notice as TOWN deems appropriate in the event TOWN or Agreement Administrator determines that termination is necessary to protect the public health, safety, or welfare.

Notice of termination shall be provided in accordance with Section 12.27, NOTICES, except that Agreement Administrator may provide a prior verbal stop work order if the Agreement Administrator deems a stop work order of this Agreement in whole or in part is necessary to protect the public's health, safety, or welfare. A verbal stop work order shall be promptly confirmed in writing as set forth in Section 12.27, NOTICES.

12.2.2 Termination for Convenience. In the event this Agreement is terminated for convenience, CONSULTANT shall be paid for any services performed and accepted by the TOWN to the date the Agreement is terminated. Compensation shall be withheld until all documents specified in Section 11.3 of this Agreement are provided to the TOWN. Upon being notified of TOWN's election to terminate, CONSULTANT shall refrain from performing further services or incurring additional expenses under the terms of this Agreement. Under no circumstances shall TOWN make payment for services which have not been performed.

12.2.3 Termination by CONSULTANT. CONSULTANT shall have the right to terminate this Agreement upon substantial breach by the TOWN of its obligation under this Agreement as to unreasonable delay in payment or non-payment of undisputed amounts. CONSULTANT shall have no right to terminate this Agreement for convenience of the CONSULTANT.

12.3 AUDIT RIGHT AND RETENTION OF RECORDS

TOWN shall have the right to audit the books, records, and accounts of CONSULTANT that are related to this Project. CONSULTANT shall keep such books, records, and accounts as may be necessary in order to record complete and correct entries related to the Project.

CONSULTANT shall preserve and make available, at reasonable times and upon prior written notice for examination and audit by TOWN all financial records, supporting documents, statistical records, and any other documents pertinent to this Agreement for the required retention period of the Florida Public Records Act (Chapter 119, Florida Statutes), if applicable, or, if the Florida Public Records Act is not applicable, for a minimum of three (3) years after termination of this Agreement. If any audit has been initiated and audit findings have not been resolved at the end of the retention period or three (3) years, whichever is longer, the books, records, and accounts shall be retained until resolution of the audit findings. If the Florida Public Records Act is determined by TOWN to be applicable to CONSULTANT's records, CONSULTANT shall comply with all requirements thereof; however, no confidentiality or non-disclosure requirement of either federal or state law shall be violated by CONSULTANT. Any incomplete or incorrect entry in such books, records, and accounts shall be a basis for TOWN's disallowance and recovery of any payment upon such entry.

12.4 NON-DISCRIMINATION, EQUAL EMPLOYMENT OPPORTUNITY, AND AMERICANS WITH DISABILITIES ACT

CONSULTANT shall not unlawfully discriminate against any person in its operations and activities in its use or expenditure of the funds or any portion of the funds provided by this Agreement and shall affirmatively comply with all applicable provisions of the Americans with Disabilities Act (ADA) in the course of providing any services funded in whole or in part by TOWN, including Titles I and II of the ADA (regarding nondiscrimination or the basis of disability), and all applicable regulations, guidelines, and standards.

CONSULTANT's decisions regarding the delivery of services under this Agreement shall be made without regard to or consideration of race, age, religion, color, gender, sexual orientation, national origin, marital status, physical or mental disability, political affiliation, or any other factor which cannot be lawfully or appropriately used as a basis for service delivery.

CONSULTANT shall comply with Title I of the Americans with Disabilities Act regarding nondiscrimination on the basis of disability in employment and further shall not discriminate against any employee or applicant for employment because of race, age, religion, color, gender, sexual orientation, national origin, marital status, political affiliation, or physical or mental disability. In addition, CONSULTANT shall take affirmative steps to ensure nondiscrimination in employment against disabled persons. Such actions shall include, but not be limited to, the following: employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff, termination, rates of pay, other forms of compensation, terms and conditions of employment, training (including apprenticeship), and accessibility.

CONSULTANT shall take affirmative action to ensure that applicants are employed, and employees are treated without regard to race, age, religion, color, gender, sexual orientation, national origin, marital status, political affiliation, or physical or mental disability during employment. Such actions shall include, but not be limited to, the following: employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff, termination, rates of pay, other forms of compensation, terms and conditions of employment, training (including apprenticeship), and accessibility.

12.5 MINORITY PARTICIPATION

The CONSULTANT shall make a good faith effort to help the TOWN maintain and encourage MBE/WBE participation levels consistent with such historical levels and market conditions. The CONSULTANT will be required to document all such efforts and supply the TOWN with this documentation at the end of the Project, or in cases where projects are longer than one year, each TOWN fiscal year.

12.6 PUBLIC ENTITY CRIMES ACT

In accordance with the Public Crimes Act, Section 287.133, Florida Statutes, a person or affiliate who is a contractor, consultant or other provider, who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid on a Agreement to provide any goods or services to the Town, may not submit a bid on a Agreement with the Town for the construction or repair of a public building or public work, may not submit bids on leases of real property to the Town, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a Agreement with the Town, and may not transact any business with the Town in excess of the threshold amount provided in Section 287.017, Florida Statutes, for category two purchases for a period of thirty-six (36) months from the date of being placed on the convicted vendor list. Violation of this section by Contractor shall result in cancellation of the Town purchase and may result in Contractor debarment.

12.7 SUBCONSULTANTS

12.7.1 CONSULTANT may sub-Agreement certain items of work to sub-consultant. The parties expressly agree that the CONSULTANT shall submit pertinent information regarding the proposed sub-consultant, including sub-consultant's scope of work and fees, for review and approval by the TOWN prior to sub-consultants proceeding with any work.

12.7.2 CONSULTANT shall utilize the subconsultants identified in the proposal that were a material part of the selection of CONSULTANT to provide the services for this Project. CONSULTANT shall obtain written approval of the Agreement Administrator prior to changing or modifying the list of sub-consultants submitted by CONSULTANT.

The list of subconsultants submitted is as follows:

Longitude Surveyors, LLC
V3 Architectural Group, Inc
Geosol, Inc
Media Relations Group, LLC

12.8 ASSIGNMENT AND PERFORMANCE

Neither this Agreement nor any interest herein shall be assigned, transferred, or encumbered without the written consent of the other P arty, and CONSULTANT shall not sub-Agreement any portion of the work required by this Agreement except as authorized pursuant to Section 12.7.

CONSULTANT represents that all persons delivering the services required by this Agreement have the knowledge and skills, either by training, experience, education, or a combination thereof, to adequately and competently perform the duties, obligations, and services set forth in the Scope of Services and to provide and perform such services to TOWN's satisfaction for the agreed compensation.

CONSULTANT shall perform its duties, obligations, and services under this Agreement in a skillful and respectable manner. The quality of CONSULTANT's performance and all interim and final product(s) provided to or on behalf of TOWN shall meet or exceed all professional standards of the State of Florida.

12.9 INDEMNIFICATION OF TOWN

12.9.1 CONSULTANT shall indemnify and hold harmless TOWN, its officers and employees, from liabilities, damages, losses, and costs, including but not limited to reasonable attorneys' fees, to the extent caused by the negligence, recklessness or intentional misconduct of CONSULTANT and persons employed or utilized by CONSULTANT in the performance of this Agreement. These indemnifications shall survive the term of this Agreement. In the event that any action or proceeding is brought against TOWN by reason of any such claim or demand, CONSULTANT, shall, upon written notice from TOWN, resist and defend such action or proceeding by counsel approved by the TOWN.

12.9.2 To the extent considered necessary by Agreement Administrator and TOWN, any sums due the CONSULTANT under this Agreement may be retained by TOWN until all of the TOWN's claims for indemnification pursuant to this Agreement have been settled or otherwise resolved, and any amount withheld shall not be subject to payment of interest by TOWN.

12.9.3 The Indemnification provided above shall obligate CONSULTANT to defend at its own expense to and through appellate, supplemental or bankruptcy proceeding, or to provide for such defense, at TOWN's option, any and all claims of liability and all suits and actions of every name and description covered by Section 11.9.1 above that may be brought against TOWN whether performed by CONSULTANT, or persons employed or utilized by CONSULTANT.

12.10 LIMITATION OF TOWN'S LIABILITY

The TOWN desires to enter into this Agreement only if in so doing the TOWN can place a limit on the TOWN's liability for any cause of action arising out of this Agreement, so that the TOWN's liability for any breach never exceeds the sum of $1,000.00. For other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the CONSULTANT expresses its willingness to enter into this Agreement with the knowledge that the CONSULTANT's recovery from the TOWN to any action or claim arising from the Agreement is limited to a maximum amount of $1,000.00 less the amount of all funds actually paid by the TOWN to the CONSULTANT pursuant to this Agreement. Accordingly, and notwithstanding any other term or condition of this Agreement that may suggest otherwise, the CONSULTANT agrees that the TOWN shall not be liable to the CONSULTANT for damages in an amount in excess of $1,000.00, which amount shall be reduced by the amount actually paid by the TOWN to the CONSULTANT pursuant to this Agreement, for any action or claim arising out of this Agreement. Nothing contained in this paragraph or elsewhere in this Agreement is in any manner intended either to be a waiver of the limitation placed upon the TOWN's liability as set forth in Section 768.28, Florida Statutes, or to extend the TOWN's liability beyond the limits established in said Section 768.28; and no claim or award against the TOWN shall include attorney's fees, investigative costs, extended damages, expert fees, suit costs or pre-judgment interest. Notwithstanding the foregoing, the parties agree and understand that the provisions of this Article 12.10 do not apply to monies owed, if any, for services rendered to CONSULTANT by the TOWN under the provisions of this Agreement.

12.11 INSURANCE

12.11.1 As a condition precedent to the effectiveness of this Agreement, during the term of this Agreement and during any renewal or extension term of this Agreement, the Contractor, at the Contractor's sole expense, shall provide insurance of such types and with such terms and limits as noted below. Providing proof of and maintaining adequate insurance coverage are material obligations of the Contractor. The Contractor shall provide the Town a certificate of insurance evidencing such coverage. The Contractor's insurance coverage shall be primary insurance for all

applicable policies. The limits of coverage under each policy maintained by the Contractor shall not be interpreted as limiting the Contractor's liability and obligations under this Agreement. All insurance policies shall be from insurers authorized to write insurance policies in the State of Florida and that possess an A.M. Best rating of "A-" VII or better. All insurance policies are subject to approval by the Town's Risk Manager.

12.11.2 The coverages, limits, and endorsements required herein protect the interests of the Town, and these coverages, limits, and endorsements may not be relied upon by the Contractor for assessing the extent or determining appropriate types and limits of coverage to protect the Contractor against any loss exposure, whether as a result of this Agreement or otherwise. The requirements contained herein, as well as the Town's review or acknowledgement, are not intended to and shall not in any manner limit or qualify the liabilities and obligations assumed by the Contractor under this Agreement.

12.11.3 The following insurance policies and coverages are required:

Commercial General Liability

Coverage must be afforded under a Commercial General Liability policy with limits not less than:

- $2,000,000 each occurrence and $2,000,000 aggregate for Bodily Injury, Property Damage, and Personal and Advertising Injury
- $2,000,000 each occurrence and $2,000,000 aggregate for Products and Completed Operations

Policy must include coverage for Contractual Liability and Independent Contractors.

The Town and the Town's officers, employees, and volunteers are to be covered as additional insureds with a CG 20 26 04 13 Additional Insured – Designated Person or Organization Endorsement or similar endorsement providing equal or broader Additional Insured Coverage with respect to liability arising out of activities performed by or on behalf of the Contractor. The coverage shall contain no special limitation on the scope of protection afforded to the Town or the Town's officers, employees, and volunteers.

Business Automobile Liability

Coverage must be afforded for all Owned, Hired, Scheduled, and Non-Owned vehicles for Bodily Injury and Property Damage in an amount not less than $1,000,000 combined single limit each accident

If the Contractor does not own vehicles, the Contractor shall maintain coverage for Hired and Non-Owned Auto Liability, which may be satisfied by way of endorsement to the Commercial General Liability policy or separate Business Auto Liability policy.

Workers' Compensation and Employer's Liability

Coverage must be afforded per Chapter 440, Florida Statutes. Any person or entity performing work for or on behalf of the Town must provide Workers' Compensation insurance. Exceptions and exemptions will be allowed by the Town's Risk Manager, if they are in accordance with Florida Statute.

The Contractor waives, and the Contractor shall ensure that the Contractor's insurance carrier waives, all subrogation rights against the Town and the Town's officers, employees, and volunteers for all losses or damages. The Town requires the policy to be endorsed with WC 00 03 13 Waiver of our Right to Recover from Others or equivalent.

The Contractor must be in compliance with all applicable State and federal workers' compensation laws, including the U.S. Longshore Harbor Workers' Act and the Jones Act, if applicable.

Umbrella/Excess Liability: The Contractor shall provide umbrella/excess coverage with limits of no less than $2,000,000 excess of Commercial General Liability, Automobile Liability and Employer's Liability

12.12.4 Insurance Certificate Requirements

- **a.** The Contractor shall provide the Town with valid Certificates of Insurance (binders are unacceptable) no later than thirty (30) days prior to the start of work contemplated in this Agreement.
- **b.** The Contractor shall provide to the Town a Certificate of Insurance having a thirty (30) day notice of cancellation; ten (10) days' notice if cancellation is for nonpayment of premium.
- **c.** In the event that the insurer is unable to accommodate the cancellation notice requirement, it shall be the responsibility of the Contractor to provide the proper notice. Such notification will be in writing by registered mail, return receipt requested, and addressed to the certificate holder.
- **d.** In the event the Agreement term goes beyond the expiration date of the insurance policy, the Contractor shall provide the Town with an updated Certificate of Insurance no later than ten (10) days prior to the expiration of the insurance currently in effect. The Town reserves the right to suspend the Agreement until this requirement is met.

e. The Certificate of Insurance shall indicate whether coverage is provided under a claims-made or occurrence form. If any coverage is provided on a claims-made form, the Certificate of Insurance must show a retroactive date, which shall be the effective date of the initial contract or prior.

f. The Town shall be named as an Additional Insured on the general liability policy.

g. The Town shall be granted a Waiver of Subrogation on the Contractor's Workers' Compensation insurance policy.

h. On section "description of operations / locations / vehicles (attach acord 101, additional remarks schedule, if more space is required)" should read as flows:

TOWN OF BAY HARBOR ISLAND. IS INCLUDED AS ADDITIONAL INSURED

The title of the Agreement, Bid/Contract number, event dates, or other identifying reference must be listed on the Certificate of Insurance.

<u>The Certificate Holder should read as follows:</u>
Town of Harbor Islands
Procurement Services
9665 Bay Harbor Terrace
Town of Harbor Islands, FL 33154

The Contractor has the sole responsibility for the payment of all insurance premiums and shall be fully and solely responsible for any costs or expenses as a result of a coverage deductible, co-insurance penalty, or self-insured retention; including any loss not covered because of the operation of such deductible, co-insurance penalty, self-insured retention, or coverage exclusion or limitation. Any costs for adding the Town as an Additional Insured shall be at the Contractor's expense.

If the Contractor's primary insurance policy/policies do not meet the minimum requirements, as set forth in this Agreement, the Contractor may provide evidence of an Umbrella/Excess insurance policy to comply with this requirement.

The Contractor's insurance coverage shall be primary insurance as applied to the Town and the Town's officers, employees, and volunteers. Any insurance or self-insurance maintained by the Town covering the Town, the Town's officers, employees, or volunteers shall be non-contributory.

Any exclusion or provision in the insurance maintained by the Contractor that excludes coverage for work contemplated in this Agreement shall be unacceptable and shall be considered breach of contract.

All required insurance policies must be maintained until the contract work has been accepted by the Town, or until this Agreement is terminated, whichever is later. Any lapse in coverage shall be considered breach of contract. In addition, Contractor must provide to the Town confirmation of coverage renewal via an updated certificate should any policies expire prior to the expiration of this Agreement. The Town reserves the right to review, at any time, coverage forms and limits of Contractor's insurance policies.

The Contractor shall provide notice of any and all claims, accidents, and any other occurrences associated with this Agreement shall be provided to the Contractor's insurance company or companies and the Town's Risk Management office as soon as practical.

It is the Contractor's responsibility to ensure that any and all of the Contractor's independent contractors and subcontractors comply with these insurance requirements. All coverages for independent contractors and subcontractors shall be subject to all of the applicable requirements stated herein. Any and all deficiencies are the responsibility of the Contractor.

ADDITIONAL COVERAGES REQUIRE

Professional Liability and/or Errors and Omissions

Coverage must be afforded for Wrongful Acts in an amount not less than $1,000,000 each claim and $2,000,000 aggregate.

Contractor must keep insurance in force until the third anniversary of expiration of this Agreement or the third anniversary of acceptance of work by the Town.

12.12 REPRESENTATIVE OF TOWN AND CONSULTANT

12.12.1 The Parties recognize that questions in the day-to-day conduct of the Project will arise. The Agreement Administrator, upon CONSULTANT's request, shall advise CONSULTANT in writing of one (1) or more TOWN employees to whom all communications pertaining to the day-to-day conduct of the Project shall be addressed.

12.12.2 CONSULTANT shall inform the Agreement Administrator in writing of CONSULTANT's representative to whom matters involving the conduct of the Project shall be addressed.

12.13 ALL PRIOR AGREEMENTS SUPERSEDED

This document incorporates and includes all prior negotiations, correspondence, conversations, agreements or understandings applicable to the matters contained herein; and the Parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, the Parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or agreements whether oral or written.

It is further agreed that no modification, amendment or alteration in the terms or conditions contained herein shall be effective unless contained in a written document executed with the same formality and of equal dignityherewith.

12.14 CONSULTANT'S STAFF

CONSULTANT will provide the key staff identified in its proposal for the Project as long as said key staff are in CONSULTANT's employment.

CONSULTANT will obtain prior written approval of Agreement Administrator to change key staff. CONSULTANT shall provide Agreement Administrator with such information as necessary to determine the suitability of any proposed new key staff. Agreement Administrator will be reasonable in evaluating key staff qualifications.

If Agreement Administrator desires to request removal of any of CONSULTANT's staff, Agreement Administrator shall first meet with CONSULTANT and provide reasonable justification for said removal.

12.15 INDEPENDENT CONTRACTOR

CONSULTANT is an independent contractor under this Agreement. Services provided by CONSULTANT shall be subject to the supervision of CONSULTANT. In providing the services, CONSULTANT or its agents shall not be acting and shall not be deemed as acting as officers, employees, or agents of the TOWN. Personnel policies, tax responsibilities, social security and health insurance, employee benefits, purchasing policies and other similar administrative procedures applicable to services rendered under this Agreement shall be those of CONSULTANT. The Parties expressly acknowledge that it is not their intent to create any rights or obligations in any third person or entity under this Agreement.

12.16 THIRD PARTY BENEFICIARIES

Neither CONSULTANT nor TOWN intends to directly or substantially benefit a third party by this Agreement. Therefore, the parties agree that there are no third-party beneficiaries to this Agreement and that no third party shall be entitled to assert a claim against either of them based upon this Agreement.

12.17 CONFLICTS

Neither CONSULTANT nor its employees shall have or hold any continuing or frequently recurring employment or contractual relationship that is substantially antagonistic or incompatible with CONSULTANT's loyal and conscientious exercise of judgment related to its performance under this Agreement.

CONSULTANT agrees that none of its officers or employees shall, during the term of this Agreement, serve as expert witness against TOWN in any legal or administrative proceeding in which he or she is not a party, unless compelled by court process, nor shall such persons give sworn testimony or issue a report or writing, as an expression of his or her expert opinion, which is adverse or prejudicial to the interests of TOWN or in connection with any such pending or threatened legal or administrative proceeding. The limitations of this Section shall not preclude such person from representing themselves in any action or in any administrative or legal proceeding. In the event CONSULTANT is permitted to utilize subconsultants to perform any services required by this Agreement, CONSULTANT agrees to prohibit such subconsultants, by written contract, from having any conflicts as within the meaning of this Section.

12.18 CONTINGENCY FEE

CONSULTANT warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for CONSULTANT, to solicit or secure this Agreement and that it has not paid or agreed to pay any person, company, corporation, individual or firm, other than a bona fide employee working solely for CONSULTANT, any fee, Council, percentage, gift, or other consideration contingent upon or resulting from the award or making of this Agreement. For a breach or violation of this provision, the TOWN shall have the right to terminate this Agreement without liability at its discretion, or to deduct from the Agreement price or otherwise recover the full amount of such fee, Council, percentage, gift or consideration.

12.19 WAIVER OF BREACH AND MATERIALITY

Failure by TOWN to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement.

TOWN and CONSULTANT agree that each requirement, duty, and obligation set forth herein is substantial and important to the formation of this Agreement and, therefore, is a material term hereof.

12.20 COMPLIANCE WITH LAWS

CONSULTANT shall comply with all applicable federal, state, and local laws, codes, ordinances, rules, and regulations in performing its duties, responsibilities, and obligations related to this Agreement.

12.21 SEVERANCE

In the event this Agreement or a portion of this Agreement is found by a court of competent jurisdiction to be invalid, the remaining provisions shall continue to be effective unless TOWN or CONSULTANT elects to terminate this Agreement. The election to terminate this Agreement based upon this provision shall be made within seven (7) days after the findings by the court become final.

12.22 JOINT PREPARATION

Preparation of this Agreement has been a joint effort of TOWN and CONSULTANT and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than any other.

12.23 PRIORITY OF PROVISIONS

If there is a conflict or inconsistency between any term, statement, requirement, or provision of any exhibit attached hereto, any document or events referred to herein, or any document incorporated into this Agreement by reference and a term, statement, requirement, or provision of this Agreement, the term, statement, requirement, or provision contained in Articles 1-12 of this Agreement shall prevail and be given effect.

12.24 APPLICABLE LAW AND VENUE AND WAIVER OF JURY TRIAL

This Agreement shall be construed in accordance with and governed by the laws of the State of Florida. Venue for any lawsuit by either party against the other party or otherwise arising out of this Agreement and for any other legal proceeding shall be in Dade County, Florida, or in the event of federal jurisdiction, in the Southern District of Florida. **BY ENTERING INTO THIS AGREEMENT, CONSULTANT AND TOWN EXPRESSLY WAIVE ANY RIGHTS EITHER PARTY MAY HAVE TO A TRIAL BY JURY OF ANY CIVIL LITIGATION RELATED TO, OR ARISING OUT OF THIS AGREEMENT.**

In the event Consultant is a corporation organized under the laws of any province of Canada or is a Canadian federal corporation, the Town may enforce in the United States of America or in Canada or in both countries a judgment entered against CONSULTANT. CONSULTANT waives any and all defenses to the Town's enforcement in Canada of a judgment entered by a court in the United States of America.

12.25 SOLICITATION AND EXHIBITS

The solicitation, CONSULTANT'S response to the solicitation and each exhibit

referred to in this Agreement forms an essential part of this Agreement. The solicitation, CONSULTANT'S response, and exhibits, if not physically attached, should be treated as part of this Agreement, and are incorporated herein by reference.

12.26 TWO ORIGINAL AGREEMENTS

This Agreement shall be executed in two (2), signed Agreements, treated as an original.

12.27 NOTICES

Whenever either Party desires to give notice unto the other, it must be given by written notice, sent by certified United States mail, with return receipt requested, addressed to the Party for whom it is intended, at the place last specified, and the place for giving of notice in compliance with the provisions of this paragraph. For the present, the Parties designate the following as the respective places for giving of notice, to-wit:

With a copy to: Town Manager
Town of Bay Harbor Islands
9665 Bay Harbor Terrace, FL 33154
Telephone: (305) 866-6241

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

CONSULTANT: **Thomas D. Titsworth**
CHA Consulting, Inc
8935 NW 35th Lane, Suite 200
Doral, FL 33172
aleon@chacompanies.com

12.28 ATTORNEY FEES

If TOWN or CONSULTANT incurs any expense in enforcing the terms of this Agreement through litigation, the prevailing party in that litigation shall be reimbursed for all such costs and expenses, including but not limited to court costs, and reasonable attorney fees incurred during litigation.

12.29 PERMITS, LICENSES AND TAXES

CONSULTANT shall, at its own expense, obtain all necessary permits and

licenses, pay all applicable fees, and pay all applicable sales, consumer, use and other taxes required to comply with local ordinances, state and federal law. CONSULTANT is responsible for reviewing the pertinent state statutes regarding state taxes and for complying with all requirements therein. Any change in tax laws after the execution of this Agreement will be subject to further negotiation and CONSULTANT shall be responsible for complying with all state tax requirements.

12.30 ENVIRONMENTAL, HEALTH AND SAFETY

CONSULTANT shall maintain a safe working environment during performance of the work. CONSULTANT shall comply, and shall secure compliance by its employees, agents, and subconsultants, with all applicable environmental, health, safety and security laws and regulations, and performance conditions in this Agreement. Compliance with such requirements shall represent the minimum standard required of CONSULTANT. CONSULTANT shall be responsible for examining all requirements and determine whether additional or more stringent environmental, health, safety and security provisions are required for the work. CONSULTANT agrees to utilize protective devices as required by applicable laws, regulations, and any industry or CONSULTANT's health and safety plans and regulations, and to pay the costs and expenses thereof, and warrants that all such persons shall be fit and qualified to carry out the Work.

12.31 STANDARD OF CARE

CONSULTANT represents that he/she/it is qualified to perform the work, that CONSULTANT and his/her/its subconsultants possess current, valid state and/or local licenses to perform the Work, and that their services shall be performed in a manner consistent with that level of care and skill ordinarily exercised by other qualified consultants under similar circumstances.

12.32 TRUTH-IN-NEGOTIATION CERTIFICATE

Signature of this Agreement by CONSULTANT shall act as the execution of a Truth-in-Negotiation Certificate stating that wage rates and other factual unit costs supporting the compensation of this Agreement are accurate, complete, and current at the time of contracting. The original Agreement price and any additions thereto shall be adjusted to exclude any significant sums, by which the TOWN determines that Agreement price was increased due to inaccurate, incomplete, or non-current wage rates and other factual unit costs. All such Agreement adjustments must be made within 1 year following the end of the contract.

12.33 EVALUATION

The TOWN maintains the right to periodically review the performance of the CONSULTANT. This review will take into account the timely execution of Task Orders, the quality of the work performed, the cost to the TOWN and the good faith

efforts made by the CONSULTANT to maintain MBE/WBE participation in TOWN projects. Any deficiencies in performance will be described in writing and an opportunity afforded, where practicable, for the CONSULTANT to address and/or remedy such deficiencies.

12.34 STATUTORY COMPLIANCE

CONSULTANT shall prepare all documents and other materials for the Project in accordance with all applicable rules, laws, ordinances and governmental regulations of the State of Florida, Dade County, the Town of Bay Harbor Islands, Florida, and all governmental agencies having jurisdiction over the services to be provided by CONSULTANT under this Agreement or over any aspect or phase of the Project.

12.35 SCRUTINIZED COMPANIES

Subject to *Odebrecht Construction, Inc., v. Prasad*, 876 F.Supp.2d 1305 (S.D. Fla. 2012), *affirmed*, *Odebrecht Construction, Inc., v. Secretary, Florida Department of Transportation*, 715 F.3d 1268 (11th Cir. 2013), with regard to the "Cuba Amendment," the Contractor certifies that it is not on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, and that it does not have business operations in Cuba or Syria, as provided in Section 287.135, Florida Statutes (2023), as may be amended or revised. The Contractor certifies that it is not on the Scrutinized Companies that Boycott Israel List created pursuant to Section 215.4725, Florida Statutes (2023), as may be amended or revised, and that it is not engaged in a boycott of Israel. The Town may terminate this Agreement at the Town's option if the Contractor is found to have submitted a false certification as provided under subsection (5) of Section 287.135, Florida Statutes (2023), as may be amended or revised, or been placed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List or the Scrutinized Companies that Boycott Israel List created pursuant to Section 215.4725, Florida Statutes (2023), as may be amended or revised, or is engaged in a boycott of Israel or has been engaged in business operations in Cuba or Syria, as defined in Section 287.135, Florida Statutes (2023), as may be amended or revised.

12.36 PUBLIC RECORDS

Consultant shall:

1. Keep and maintain public records required by the Town in order to perform the service.

2. Upon request from the Town's custodian of public records, provide the Town with a copy of the requested records or allow the records to be inspected or

copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes (2022), as may be amended or revised, or as otherwise provided by law.

3. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the Agreement term and following completion of this Agreement if CONSULTANT does not transfer the records to the Town.

4. Upon completion of the Agreement, transfer, at no cost to the Town, all public records in possession of CONSULTANT or keep and maintain public records required by the Town to perform the service. If CONSULTANT transfers all public records to the Town upon completion of this Agreement, CONSULTANT shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If CONSULTANT keeps and maintains public records upon completion of this Agreement, CONSULTANT shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the Town, upon request from the Town's custodian of public records, in a format that is compatible with the information technology systems of the Town.

12.37 INTELLECTUAL PROPERTY

CONSULTANT shall protect and defend at CONSULTANT's expense, counsel being subject to the Town's approval, and indemnify and hold harmless the Town from and against any and all losses, penalties, fines, damages, settlements, judgments, claims, costs, charges, royalties, expenses, or liabilities, including any award of attorney fees and any award of costs, in connection with or arising directly or indirectly out of any infringement or allegation of infringement of any patent, copyright, or other intellectual property right in connection with the CONSULTANT's or the TOWN's use of any copyrighted, patented or un-patented invention, process, article, material, or device that is manufactured, provided, or used pursuant to this Agreement. If the CONSULTANT uses any design, device, or materials covered by letters, patent or copyright, it is mutually agreed and understood without exception that the bid prices shall include all royalties or costs arising from the use of such design, device, or materials in any way involved in the work.

12.38 RIGHTS IN DOCUMENTS AND WORK

Any and all reports, photographs, surveys, and other data and documents provided or created in connection with this Agreement are and shall remain the property of TOWN; and CONSULTANT disclaims any copyright in such materials. In the event of and upon termination of this Agreement, any reports, photographs, surveys, and

other data and documents prepared by CONSULTANT, whether finished or unfinished, shall become the property of Town and shall be delivered by CONSULTANT to the TOWN's Agreement Administrator within seven (7) days of termination of this Agreement by either Party. Any compensation due to CONSULTANT shall be withheld until CONSULTANT delivers all documents to the TOWN as provided herein.

12.39 REPRESENTATION OF AUTHORITY

Each individual executing this Agreement on behalf of a Party hereto hereby represents and warrants that he or she is, on the date he or she signs this Agreement, duly authorized by all necessary and appropriate action to execute this Agreement on behalf of such Party and does so with full legal authority.

12.40 NON-DISCRIMINATION

The CONSULTANT shall not, in any of its activities, including employment, discriminate against any individual on the basis of race, color, national origin, age, disability, religion, creed, sex, disability, sexual orientation, gender, gender identity, gender expression, marital status or any other protected classification as defined by applicable law.

12.41 HOLD HARMLESS AND INDEMNIFICATION.

All Proposers shall hold the Town, its officials, and its employees harmless and covenant not to sue the Town, its officials, and its employees in reference to the Town's decision to reject, award, or not award an RFQ, as applicable. Additionally, the selected Proposer shall indemnify, defend, and save harmless the Town, its officers, agents, and employees, from or on account of any injuries or damages, received or sustained by any person or persons during or on account of the Proposer's performance of its Services under this RFQ, or by or in consequence of any negligence (excluding the sole negligence of the Town), in connection with the same; or by use of any improper materials or by or on account of any act or omission of the said selected Proposer, agents, servants, or employees. The selected Proposer shall indemnify, defend, and hold harmless the Town and their agents or employees from and against all claims, damages, losses, and expenses, including attorneys' fees, arising out of or resulting from the performance of the Services described in the RFQ, provided that any such claim, damage, loss, or expense (a) is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property (other than work itself) including the loss of use resulting wherefrom and (b) is caused in whole or in part by any negligent act or omission of the selected Proposer, anyone directly or indirectly employed by any of them, or anyone for whose acts any of them may be liable, regardless of whether or not it is caused by a party indemnified hereunder

IN WITNESS OF THE FOREGOING, the Parties have set their hands and seals

the day and year first written above.

TOWN

TOWN OF BAY HARBOR ISLANDS, a Florida municipal corporation

By: _____
MARIA LASDAY
Town Manager

ATTEST:

By: _____
YVONNE HAMILTON
Town Clerk

APPROVED AS TO FORM AND LEGAL SUFFICIENCY

By:_____
GREENSPOON MARDER LLP
Town Attorney
By: JOSEPH S. GELLER, ESQ

WITNESSES:

CHA Consulting, Inc, a Foreign Profit Corporation

_____

By: _____

_____
Print Name

Print Name: Thomas D. Titsworth

Title: Vice-President

_____

_____
Print Name

(CORPORATE SEAL)

STATE OF _____:

COUNTY OF _____:

The foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization, this ___ day of _____, 2023, by Thomas D. Titsworth as Vice-President for CHA Consulting, Inc., a Foreign corporation authorized to conduct business in the State of Florida.

_____
(Signature of Notary Public - State of Florida)

_____
(Print, Type, or Stamp Counciled Name of Notary Public)

Personally Known__ OR Produced Identification_____ Type of Identification Produced: _

EXHIBIT A

SCOPE OF SERVICES

3.1 Purpose

The Town is seeking the services of a qualified consulting firm(s) to provide Professional Services related to a continuing contract for Civil Engineering Consultant Services. The following is a list of services that may be required on an as-needed basis as requested by the Town which will be authorized by individual Task Orders for individual projects. This list shall not be construed as an exclusive list of activities that successful firm(s) may be engaged in. Town shall have the right, in its sole and absolute discretion, to require additional services that are consistent with the scope of services and those activities typically performed by engineers, and surveyors pursuant to Section 287.055 Florida Statutes, and for which the firm(s) are experience, qualified, and able to perform:

3.2 Scope of Services

The Town of Bay Harbor Islands is seeking to establish a pool of pre-qualified consultants in engineering disciplines. Generally, services for projects may include full design and construction contract document development; construction specification development; contract and bidding document development; code analysis; jurisdictional review and permitting assistance; bid/award support and concurrence; negotiation support; construction/contract administration services; construction phase field support services; inspections, construction observation and project progress documentation; post-occupancy surveys and related services; surveying; photographic and video-graphic project support; GIS and CADD project support; other data and information system project support, etc.

Multiple firms selected by the Town will provide professional services to the Town on an as-needed basis based upon work orders to be issued by the Town under the terms of their continuing contracts.

3.3 Work Standards

In providing professional services, Consultant(s) shall take all reasonable care which are industry standards or as defined in Florida Statutes or Florida Administrative Codes. Consultant(s) shall also provide all work product documentation including but not limited to; data, studies, surveys, drawings, maps, models, photographs, reports, designs, calculations, test results, etc., that shall become the property of the Town and shall be delivered to the Town.

3.4 Tasks

The scope of services to be provided by the Consultant in the functional areas listed above shall include, but not be limited to, the following:

a) Prepare engineering designs, calculations, plans and specifications, contract bid documents, and cost estimates, within the functional areas of interest listed in this solicitation.
b) Prepare base maps, preliminary layouts, estimates of probable costs,

engineering analysis and alternatives as requested.

c) Submit construction documents as needed to the Town and other required agencies having an interest or jurisdiction over the project.
d) Review, analyze, and provide recommendations to utility budgets and capital improvement plans.
e) Provide updates on changes or proposed changes to laws/regulations that may impact Town's water resources and supply, treatment, distribution and storage, wastewater collection and treatment
f) Preform flood routing software modelling.
g) Prepare feasibility and conceptual planning documents.
h) Provide research, attendance at meetings, and preparation of presentation materials, reports and correspondence.
i) Prepare and/or assist with the preparation of grant applications and attendance at meetings with grant officials.
j) Assist in the review and development of ordinances.
k) Provide public education/notification assistance.
l) Prepare short and long term planning documents, master plans, or provide input to the Town's master plans, capital improvement program, and maintenance needs.
m) Participate in construction administration as required by the Town.
n) Prepare formal or informal feasibility studies as necessary to assist the Town in responding capital improvement needs.
o) Analysis of existing infrastructure and available capacity to serve proposed capital improvement projects.
p) Prepare legal descriptions, exhibits, and surveys.
q) Provide expert witness testimony.
r) Prepare appropriate permitting documents and obtain and/or assist the Town in obtaining permits from applicable agencies.
s) Represent the Town with regulatory agencies.
t) Prepare periodic project status reports.
u) Prepare and furnish bidding documents and assist the Town in the preparation of other related documents.
v) Attend bid openings, prepare bid tabulation sheets, and assist the Town in the evaluation of bids or proposals.
w) Issue addenda as appropriate to clarify, correct, or change the bidding documents.
x) Participate in pre-construction conference as requested by the Town.
y) Review and determine acceptability of construction submittals, including shop drawings, progress schedule, schedule of values, etc.
z) Review and provide recommendations to request for information, request for changes, and claims to the Town arising during construction activities.
aa) Make periodic construction site visits for the purpose of determining general compliance with the approved drawings, plans, and specifications as requested by the Town.

bb) Review as-built drawings provided by the construction contractor and provide written comments to the Town.
cc) Provide services related to construction management and inspections, and/or specialty inspection.
dd) Provide project management services and act as an extension of the Town's project management staff for the design, bidding, and construction management of municipal projects.
ee) Space Planning
ff) Architectural Design
gg) Interior Design
hh) Landscape Architecture
ii) ADA Analysis and Design
jj) Sustainable Design
kk) Building Performance Analysis
ll) Structural Design

The consultant or its sub consultants shall be familiar with different agency's permitting regulations and requirements and the Town's design criteria, standards and specifications.

3.5 Deliverables

The Town intends to contract with multiple firms. The total amount of compensation will be negotiated with the selected consultant. No minimum amount of work or compensation will be assured to the retained consultant(s). All work products becomes the property of the Town. The Town reserves the right to re-use the work products of the retained consultant and to retain other consultants to provide the same or similar services at its sole discretion.

3.6 Schedule

Consultant recognizes that **TIME IS OF THE ESSENCE**. The Work on each Task Order shall commence immediately upon the Consultants receipt of an executed Task Order.

3.7 Town Infrastructure

a. Bridges – Given the Town's Island condition located in the Intracoastal Waterway, the Town owns and maintains a total of four (4) bridges.
    - The Broad Causeway Bascule Bridge (Connecting the West Island with the Broad Causeway Island)
    - The West Relief Bridge (Connecting the Town with the Town of North Miami)
    - The Waterway Bridge (Connecting the West and East Islands)
    - The Indian Creek Bridge (Connecting the Town with the Town of Surfside and Village of Bal Harbour)

b. Buildings – The Town owns and maintains two (2) buildings.

- The Town Hall Administration Offices at 9665 Bay Harbor Terrace. This building houses the Administration offices, the Building Department, Council Chambers, and the Police Department. This building was built in 1970.
- The Community Center at 1165 95th Street. The Community Center is a recent building that is located on the first floor of the Parking Garage.

c. Parking Facilities – The Town operates a total of seven (7) parking facilities.
   - 1165 95th Street Parking Garage – This is a five-story parking garage building on 95th Street.
   - 103rd Street Surface Parking Lot
   - 100th Street Surface Parking Lot
   - 97th Street Surface Parking Lot
   - Block 11 Parking Lot
   - 95th Street Surface Parking Lot
   - 92nd Street Surface Parking Lot

d. Parks – There are four (4) Parks in the Town, in addition of two (2) passive parks.
   - Tot Lot – 96th Street and West Broadview Drive
   - 98th Street Park
   - 95th Street Park
   - 92nd Street Park

e. Potable Water Infrastructure – The Town is a wholesale customer of the MDWASD. The Town receives its water from a 36-inch transmission main from MDWASD that runs along 96th Street. The distribution lines connected to this transmission line are owned and maintained by the Town. Most of the Town's water lines are PVC material with a diameter that varies between 6-inch to 10-inch.

f. Stormwater Infrastructure – Most of the Town's stormwater system is a gravity system that drains through outfalls to the Bay. A total of 52 outfalls that range on sizes from 8-inch to 30-inch. There is a stormwater injection well on the south side of the West Island with 9,000 gpm pumps. For reference, an Atlas is included as Appendix of this RFQ.

g. Sanitary Sewer Infrastructure – The Town's sanitary sewer system is comprised of gravity mains, manholes, ejector's stations, pump station, force main and air lines. A total of five (5) ejector's stations are location on different areas of the Town, that discharge to the Town' Main Pump Station D at 9665 Bay Harbor Terrace. The gravity line varies from 8-inch to 18-inch. For Reference, an Atlas is included as Appendix of this RFQ.

3.8 Functional Areas of Interest

The consultant shall identify in their response to this RFQ the functional areas for which it particularly wishes to specialize. Multiple firms will be selected, and multiple firms may be selected for more than one

(1) functional area.

a) Water and wastewater engineering (specifically pipeline and lift-station design)
b) Stormwater engineering
c) Transportation engineering
d) Structural engineering (specifically seawall, dock, and bridge design)
e) Environmental engineering
f) Surveying and mapping services and Geographic Information and mapping services (GIS)
g) Photogrammetry and remote sensing
h) Geotechnical engineering
i) Coastal engineering
j) Water resources engineering
k) Hydrology and hydraulic engineering
l) Mechanical engineering
m) Electrical Engineering
n) Plan Review
o) Architectural Design.

Construction engineering and inspection.

3.9 Quality Assurance/Quality Control

It is the intention of the Town that the design consultant is held responsible for the quality control (QC) of their work and of its sub-consultants. All sub-consultant documents and submittals shall be submitted directly to the consultant for their independent QC review. The Town shall only accept submittals for review and action from the consultant.

The consultant is responsible for the professional quality, technical accuracy and coordination of all pre- design services, designs, drawings, specifications, cost estimates and other services furnished by the consultant and their sub-consultants. It is the consultant's responsibility to independently and continually QC their plans, specifications, and all other project deliverables. Upon Town request, the consultant shall provide the Town with a marked up set of plans and specifications showing the consultant's QC review.

The mark-ups submittals shall include the names of the consultant's staff that performed the QC review for each component or functional area (e.g., structures, roadway, drainage, etc.).

3.10 Document Submittal Format

All documents generated as a result of projects will become the property of the Town

of Bay Harbor Islands. All projects documents shall be provided in a digital and hard copy format meeting all Town of Bay Harbor Islands format requirements. The project drawings shall be prepared in AutoCAD, in the version current to the Town Engineering Division at the time that deliverables are due, and shall meet the requirements as set forth in the Town's CADD specifications for project drawings current at the time of award of the project. Plot files shall also be prepared and submitted which meet the stated Town standards.

CCNA- ENGINEERING CONTINUING SERVICES CONTRACT
RFQ-5-1005-23-0-2023/FVR

CHA Consulting

	PROPOSE RATES	
CIVIL ENGINEERING SERVICES	Hourly Rates	
Principal Engineer	$	260.00
Senior Engineer / Project Manager	$	220.00
Project Engineer (PE)	$	200.00
Staff Engineer, E.I.	$	135.00
Senior Inspector	$	125.00
Inspector	$	100.00
Senior Designer	$	115.00
Drafts Person/CADD Operator	$	105.00
Clerical/Administrative Staff	$	75.00
Intern	$	65.00
WATER & WASTEWATER ENGINEERING SERVICES		
Principal Engineer	$	260.00
Senior Engineer/Project Manager	$	220.00
Project Engineer (PE)	$	200.00
Staff Engineer, E.I.	$	135.00
Sr. Inspector	$	155.00
Inspector	$	110.00
Drafts Person/CADD Operator	$	105.00
Clerical/Administrative Staff	$	75.00
TRANSPORTATION/BRIDGE ENGINEERING SERVICES		
Principal Engineer	$	280.00
Senior Engineer/Project Manager	$	235.00
Project Engineer (PE)	$	200.00
Staff Engineer, E.I.	$	135.00
Sr. Inspector	$	155.00
Inspector	$	110.00
Drafts Person/CADD Operator	$	105.00
Clerical/Administrative Staff	$	75.00
STRUCTURAL ENGINEERING SERVICES		
Principal Engineer	$	280.00
Senior Engineer/Project Manager	$	225.00
Project Engineer (PE)	$	190.00
Staff Engineer, E.I.	$	145.00
Sr. Inspector	$	155.00
Inspector	$	110.00
Drafts Person/CADD Operator	$	105.00
Clerical/Administrative Staff	$	75.00

Landscape Architecture and Planning Services	
Principal Landscape Architect	$ 220.00
Senior Landscape Architect	$ 185.00
Project Landscape Architect	$ 125.00
Staff Landscape Architect	$ 100.00
Environmental Services / Monitoring	
Sr. Environmental Scientist	$ 180.00
Project Environmental Scientist	$ 145.00
Staff Environmental Scientist	$ 110.00
Field Technician	$ 80.00
Geotechnical Engineering	
A. FIELD SERVICES & TESTING	
TEST	
Standard Penetration Test Borings (ATSM D-1586), Truck Rig or Mud Bug Rig (0-50 Foot Depth Interval)	$ 18.00 l.f
Grout Boreholes	$5.00 l.f
Truck/Mud Bug 0-50 Ft	$300.00 ea
Permeability/Percolations Tests – Field (SFWMD Usual Open Hole Method)	$500.00 ea
SOIL TESTING	
Field Density/Test (five [5] minimum)	$ 40.00 ea
Standard Proctors	$ 120.00 ea
Modified Proctors	$ 155.00 ea
Florida Bearing Value Test	$ 250.00 ea
Limerock Bearing Ratio Test	$ 250.00 ea
Percolation test (open hole)	$ 450.00 ea
Atterberg Limit Test	$ 70.00 ea
SAMPLING & TESTING OF FRESH CONCRETE	
Curing, capping and compressive strength testing of concrete cylinders in Consultant's laboratory set of 5	$ 90.00 set
Field Sampling Fresh Concrete (sampling, molding, slump testing, temperature)	$ 70.00 h.r
CONCRETE & MASONARY MATERIALS	
Concrete Compression test (Min. four [4] cylinders per trip)	$ 85.00 set
- Prepare cylinders & slump test on site, and deliver to lab	$75.00 h.r
Additional Concrete cylinders with slump	$ 30.00 ea
Concrete Compression test only [delivered to lab] & RESULTS	$ 100.00 set
Slump test	$ 60.00 ea
Stand-by (Beyond 1 hour on site)	$ 70.00 h.r
Grout Prism (Six [6] per set) - Includes preparation of Prism on site `	$ 95.00 set
2” x 2” - Includes preparation of Cubes on site	$ 75.00 ea
AGGREGATE TESTING	
Grain size determination:	
A. Full grain size (8 sieves)	$ 70.00 test
B. Wash through (#200)	$ 55.00 test

Sieve Analysis – Course Aggregate	$ 75.00 test
ASPHALT TESTING	
Asphalt Cores (obtaining core samples) (Min. 3)	$ 130.00 set
MISCELLANEUS SERVICES	
Exfiltration Test (SFWMD)	$ 500.00 ea
Install Groundwater Monitoring Well, <25' (per PBCWUD Stds & Details)	$ 750.00 ea
Install Groundwater Monitoring Well, 25' - 50' (per PBCWUD Stds & Details)	$ 945.00 ea
DRILLING EQUIPMENT MOBILIZATION (includes drill rig mileage)	
Truck - Mounted Rig	$ 400.00 ea
FOUNDATION TESTING SERVICES	
Vibration/ Noise Monitoring Equipment - seismograph with geophone or microphone (includes mobilization, equipment and labor)	$ 2,250.00 per day
SITE PREPARATION MONITORING & TESTING	
In-situ Density Tests - Nuclear Gauge Method (ASTM D 2922)	$ 40.00 ea
MONITOR WELL INSTALLATION & TESTING	
Non-Environmental (2-inch diameter)* 0 - 25-ft depth	$ 725.00 test
Environmental (2-inch diameter)* 0 - 25-ft depth	$ 725.00 test
Well sampling *	$ 120.00 test
B. PERSONNEL	
Principal Engineer	$ 200.00
Senior Engineer	$ 165.00
Project Engineer (PE)	$ 135.00
Staff Engineer, E.I.	$ 105.00
Sr. Inspector	$ 100.00
Inspector	$ 95.00
Drafts Person/Cad Operator	$ 90.00
Clerical/Administrative Staff	$ 75.00
Land Surveying & Mapping Services	
Principal Surveyor	$ 195.00
Sr. Professional Land Surveyor	$ 170.00
Professional Land Surveyor	$ 125.00
Survey CADD / GIS Tech	$ 110.00
Field Crew Supervisor	$ 100.00
Survey Crew	$ 200.00
Administrative	$ 75.00
Marine / Coastal Engineering	
Principal Engineer	$ 300.00
Senior Engineer / Project Manager	$ 220.00
Project Engineer (PE)	$ 200.00
Staff Engineer, E.I.	$ 155.00
Sr. Environmental Scientist	$ 150.00
Project Environmental Scientist	$ 125.00
Staff Environmental Scientist	$ 115.00
Senior Designer	$ 100.00
Architectural	
Principal	$ 240.00
Sr. Architect / Project Manager	$ 200.00

Project Architect	$	190.00
Revit / CAD Operator	$	110.00
Draftsman	$	105.00
Clerical	$	75.00
Subsurface Utility Exploration		
Project Manager/PE/PLS PLS	$	175.00
Utility Location Manager/Party Chief	$	125.00
CADD Operator	$	100.00
Technical Locator/Instrument Op.	$	80.00
Clerical	$	75.00
1 Utility Test Hole 0-6' - per hole	$	700.00
2 Utility Test Holes 0-6' - per hole	$	650.00
3 or More Utility Test Holes 0-6' - per hole	$	500.00
Excess Depth (Over 6') - per foot	$ 130.00 ft	
Traffic Control – Arrow Board**	$ 125.00 day	
MEP Engineering		
Senior Engineer / Project Manager	$	230.00
Project Engineer (PE)	$	195.00
Staff Engineer, E.I.	$	140.00
Drafts Person/CADD Operator	$	105.00

AGREEMENT

THIS IS AN AGREEMENT made and entered into this ___day of November 2023, by and between:

Town of Bay Harbor Islands a Florida municipality, (hereinafter referred to as "Town")

and

Chen Moore and Associates, Inc, a Florida Corporation, authorized to do business in the State Florida (hereinafter referred to as "CONSULTANT")

WHEREAS, the Town Council of the Town of Bay Harbor Islands Florida at its meeting of November, 2023 authorized by motion the execution of this Agreement between CONSULTANT and Town authorizing the performance of Engineering Continuing Services, RFQ No. 5-1005-23-0-2023/FVR incorporated herein, (the "Agreement"); and

WHEREAS, the CONSULTANT is willing and able to render professional services for such project for the compensation and on the terms hereinafter set forth;

NOW, THEREFORE, in consideration of the mutual covenants, agreements, terms, and conditions contained herein, the Parties hereto, do agree as follows:

ARTICLE 1
DEFINITIONS AND IDENTIFICATIONS

For the purposes of this Agreement and the various covenants, conditions, terms and provisions which follow, the DEFINITIONS and IDENTIFICATIONS set forth below are assumed to be true and correct and are therefore agreed upon by the Parties.

1.1 AGREEMENT: Means this document between the TOWN and CONSULTANT dated _____, and any duly authorized and executed Amendments to Agreement.

1.2 BASIC SERVICES**:** Services performed by CONSULTANT for authorized scope of work for the Project phase described in this Agreement and listed in Exhibit "A," Scope of Services.

1.3 CONSULTANT'S PERIODIC ESTIMATE FOR PAYMENT: A statement by CONSULTANT based on observations at the site and on review of documentation submitted by the Contractor that by its issuance recommends that TOWN pay identified amounts to the Contractor for services performed by the Contractor at

the Project.

1.4 CHANGE ORDER: A written order to the CONSULTANT approved by the TOWN authorizing a revision of this agreement between the TOWN and CONSULTANT that is directly related to the original scope of work or an adjustment in the original Agreement price or the Agreement time directly related to the original scope of work, issued on or after the effective date of this Agreement.

The CONSULTANT may review and make recommendations to the TOWN on any proposed Change Orders, for approval or other appropriate action by the TOWN.

1.5 TOWN: The Town of Bay Harbor Islands, a Florida municipality.

1.6 TOWN MANAGER: The Town Manager of the Town of Bay Harbor Islands, Florida.

1.7 COUNCIL: The Town Council of the Town of Bay Harbor Islands, Florida, which is the governing body of the TOWN government.

1.8 CONSTRUCTION COST: The total construction cost to TOWN of all elements of the Project designed or specified by CONSULTANT.

1.9 CONSTRUCTION COST LIMIT: A maximum construction cost limit established by the TOWN defining the maximum budget amount to which the final construction documents should be designed so as not to exceed.

1.10 CONSTRUCTION DOCUMENTS: Those working drawings and specifications and other writings setting forth in detail and prescribing the work to be done, the materials, workmanship and other requirements for construction of the entire Project, including any bidding information.

1.11 CONSULTANT: **Chen Moore and Associates, Inc,** the CONSULTANT selected to perform professional services pursuant to this Agreement.

1.12 AGREEMENTADMINISTRATOR: The (Dept. Director) for the Town of Bay Harbor Islands, or his designee. In the administration of this Agreement, as contrasted with matters of policy, all parties may rely upon instructions or determinations made by the Agreement Administrator.

1.13 CONTRACTOR: One or more individuals, firms, corporations or other entities identified as such by a written agreement with TOWN ("Agreement for Construction") to perform the construction services required to complete the Project.

1.14 DEPARTMENT DIRECTOR**:** The (Dept. Director) for the Town of Bay Harbor

Islands.

1.15 ERROR: A mistake in design, plans and/or specifications that incorporates into those documents an element that is incorrect and is deficient from the standard of care that a professional engineer in similar circumstances, working on a similar project and location would have exercised. Also includes mistakes in design, plans, specifications and/or shop drawings review that lead to materials and/or equipment being ordered and/or delivered where additional costs are incurred.

1.16 FINAL STATEMENT OF PROBABLE CONSTRUCTION COSTS: A final cost estimate prepared by CONSULTANT during the Final Design Phase of the Project, based upon the final detailed Construction Documents of the Project.

1.17 NOTICE TO PROCEED: A written Notice to Proceed with the Project issued by the Agreement Administrator.

1.18 OMISSION: A scope of work missed by CONSULTANT that is necessary for the Project, including a quantity miscalculation, which was later discovered and added by Change Order and which is deficient from the standard of care that a professional engineer in similar circumstances, working on a similar project and location would have exercised. Also includes design that was wrong, but was corrected after award to the Contractor, but before the construction process was materially affected.

1.19 ORIGINAL AGREEMENTPRICE: The original bid and/or Agreement price as awarded to a Contractor based upon CONSULTANT'S final detailed Construction Documents of the Project.

1.20 PLANS AND SPECIFICATIONS: The documents setting forth the final design plans and specifications of the Project, including architectural, civil, structural, mechanical, electrical, communications and security systems, materials, lighting equipment, site and landscape design, and other essentials as may be appropriate, all as approved by TOWN as provided in this Agreement.

1.21 PRELIMINARY PLANS: The documents prepared by CONSULTANT consisting of preliminary design drawings, renderings and other documents to fix and describe the size and character of the entire Project, and the relationship of Project components to one another and existing features.

1.22 PROJECT: An agreed scope of work for accomplishing a specific plan or development. This may include, but is not limited to, planning, architectural, engineering, and construction support services. The services to be provided by CONSULTANT shall be as defined in this Agreement and further detailed in Task Orders for individual projects or combinations of projects. The Project planning, design and construction may occur in separate phases and Task Orders at the TOWN's discretion.

1.23 RESIDENT PROJECT REPRESENTATIVE: Individuals or entities selected, employed, compensated by and directed to perform services on behalf of TOWN, in monitoring the Construction Phase of the Project to completion.

1.24 SPECIFICATIONS: The specifications referred to in this agreement are the CONSTRUCTION STANDARDS AND SPECIFICATIONS, Office of the Tow Engineer, Town of Bay Harbor Islands, January 1982, including any revisions.

1.25 STATEMENT OF PROBABLE PROJECT COSTS: A document to be prepared by CONSULTANT that shall reflect a detailed statement of the total probable costs.

1.26 SUBSTANTIAL COMPLETION: The TOWN will consider the work substantially complete when the Contractor submits 100% complete deliverables (i.e. Drawings, Specifications, Reports, Renderings) as described in this Agreement to the satisfaction of the Town.

1.27 TASK ORDER: A document setting forth a negotiated detailed scope of services to be performed by CONSULTANT at fixed Agreement prices in accordance with this Agreement between the TOWN and CONSULTANT.

1.28 TIME OF COMPLETION: Time in which the entire work shall be completed for each Task Order.

ARTICLE 2
PREAMBLE

In order to establish the background, context and frame of reference for this Agreement and to generally express the objectives and intentions of the respective parties hereto, the following statements, representations and explanations shall be accepted as predicates for the undertakings and commitments included within the provisions of this Agreement which follow and may be relied upon by the parties as essential elements of the mutual considerations upon which this Agreement is based.

2.1 Pursuant to Section 287.055, Florida Statutes, TOWN has formed a Committee to evaluate CONSULTANT's statement of qualifications and performance data to ensure that CONSULTANT has met the requirements of the Consultants' Competitive Negotiation Act, as set forth in Section 287.055, Florida Statutes, and has selected CONSULTANT to perform services hereunder.

ARTICLE 3
SCOPE OF SERVICES

3.1 The CONSULTANT shall perform the following professional services: Engineering Continuing Services as more specifically described in Exhibit "A," Scope of Services, attached hereto and incorporated herein, and shall include, but not be limited to,

services as applicable and authorized by individual Task Orders for the individual projects in accordance with Article 6 herein. CONSULTANT shall provide all services set forth in Exhibit "A" including all necessary, incidental and related activities and services required by the Scope of Services and contemplated in CONSULTANT's level of effort. CONSULTANT will perform the Services in accordance with standard industry practices, with the care, knowledge and skill expected of similar engineering firms. No other warranties, express or implied are made or intended.

3.2 TOWN and CONSULTANT acknowledge that the Scope of Services does not delineate every detail and minor work tasks required to be performed by CONSULTANT to complete the Project. If, during the course of the performance of the services included in this Agreement, CONSULTANT determines that work should be performed to complete the Project which is in CONSULTANT's opinion, outside the level of effort originally anticipated, whether or not the Scope of Services identifies the work items, CONSULTANT shall notify Agreement Administrator and obtain written approval by the TOWN in a timely manner before proceeding with the work. Notice to Agreement Administrator does not constitute authorization or approval by TOWN to perform the work. The TOWN shall not pay for any work that is not approved by the Agreement Administrator in writing. If CONSULTANT proceeds with said work without notifying the Agreement Administrator, said work shall be deemed to be within the original level of effort, whether specifically addressed in the Scope of Services. Notice to Agreement Administrator does not constitute authorization or approval by TOWN to perform the work. Performance of work by CONSULTANT outside the originally anticipated level of effort without prior written TOWN approval is at CONSULTANT's sole risk.

ARTICLE 4
GENERAL PROVISIONS

4.1 Negotiations pertaining to the rates for professional services to be performed by CONSULTANT have been undertaken between CONSULTANT and TOWN representatives pursuant to Section 287.055, Florida Statutes, and this Agreement incorporates the results of such negotiation.

4.2 CONSULTANT shall include TOWN's specific Task Order number as part of the heading on all correspondence, invoices and drawings. All correspondence shall be directed specifically to the Agreement Administrator.

ARTICLE 5
PRIORITY OF PROVISIONS

5.1 The Agreement Documents are intended to include all items necessary for the proper execution and completion of the work by CONSULTANT. Any labor,

services, materials, supplies, equipment or documentation that may reasonably be inferred from the Agreement Documents or trade usage from prevailing custom as being required to produce the indicated result will be provided whether or not specifically called for, at no additional cost to TOWN. The Agreement Documents are complementary, and wherever possible the provisions of the Agreement Documents shall be construed in such manner as to avoid conflicts between provisions of the various Agreement Documents. In the event of any inconsistency in the Agreement Documents, where such inconsistency is not clarified by change order, addendum or amendment, the Agreement Documents shall be construed according to the following priorities:

First priority: Approved Change Orders, Addendums or Amendments to all related documents.

Second priority: Specifications (quality) and Drawings (location and quantity) of CONSULTANT.

Third priority: This AGREEMENT.

Fourth priority: Town of Bay Harbor Islands Request for Qualifications **RFQ No. 5-1005-23-0-2023/FVR**.

Fifth priority: CONSULTANT's response to Town of Bay Harbor Islands Request for Qualifications # **RFQ No. 5-1005-23-0-2023/FVR**.

5.2 Anything shown on the drawings and not mentioned in the specifications or mentioned in the specifications and now shown on the drawings, shall have the same effect as if shown or mentioned respectively in both. In the event of a conflict among the Agreement Documents, the latest, most stringent, and more technical requirement(s), including, but not limited to, issues of quantities or cost of the Work shall control.

Reference to standard specifications, manuals, rules, regulations, ordinances, laws or codes of any governmental authority, whether such reference be specific or by implication, shall mean the latest standard specification, manual, rule, regulation, ordinance, law or code in effect at the time of permit submittal.

ARTICLE 6
TASK ORDERS

6.1 The Project will be divided into "Tasks."

6.2 Task Orders shall be jointly prepared by the TOWN and CONSULTANT defining the detailed scope of services to be provided for the particular Project. Each Task Order shall be separately numbered and approved in accordance with this

Agreement and all applicable TOWN code requirements.

6.3 Under all Task Orders and Projects, TOWN may require the CONSULTANT, by specific written authorization, and for mutually agreed upon additional compensation, to provide or assist in obtaining one or more of the following special services. These services may include, at the discretion of the TOWN, the following items:

6.3.1 Providing additional copies of reports, Agreement drawings and documents; and

6.3.2 Assisting TOWN with litigation support services arising from the planning, development, or construction.

6.4 Prior to initiating the performance of any services under this Agreement, CONSULTANT must receive a written Notice to Proceed / Purchase Order from the TOWN. The CONSULTANT must receive the approval of the Agreement Administrator or his designee in writing prior to beginning the performance of services in any subsequent Task Order under this Agreement.

6.5 If, in the opinion of the TOWN, the CONSULTANT is improperly performing the services under a specific Task Order, or if at any time the TOWN shall be of the opinion that said Task Order is being unnecessarily delayed and will not be completed within the agreed upon time, the TOWN shall notify the CONSULTANT in writing. The CONSULTANT has within ten (10) working days thereafter to take such measures as will, in the judgment of the TOWN, ensure satisfactory performance and completion of the work. If the CONSULTANT fails to cure within the ten (10) working days, the TOWN may notify the CONSULTANT to discontinue all work under the specified Task Order. The CONSULTANT shall immediately respect said notice and stop said work and cease to have any rights in the possession of the work and shall forfeit the Task Order and any remaining monies. The TOWN may then decide, after Town Council approval, to issue a new Task Order for the uncompleted work to another consultant using the remaining funds. Any excess costs arising therefrom over and above the original Task Order price shall be charged against CONSULTANT, as the original CONSULTANT.

6.6 ARTICLE 7
TERM OF AGREEMENT; TIME FOR PERFORMANCE

7.1 The initial Agreement term shall commence upon final execution of the Agreement by the Town and shall expire Two (2) years from that date. The Town reserves the right to extend the Agreement for Three (3) additional one(1) year terms providing all terms conditions and specifications remain the same, both parties agree to the extension, and such extension is approved by the Town.

In the event services are scheduled to end because of the expiration of this contract, the Contractor shall continue the service upon the request of the Town as

authorized by the awarding authority. The Contractor shall be compensated for the service at the rate in effect when this extension clause is invoked by the Town.

7.2 CONSULTANT shall perform the services described in Task Orders within the time periods specified in the Task Order. Said time periods shall commence from the date of the Notice to Proceed for such services.

7.3 Prior to beginning the performance of any services under this Agreement, CONSULTANT must receive a Notice to Proceed. CONSULTANT must receive written approval from the Agreement Administrator prior to beginning the performance of services in any subsequent phases of the Agreement. Prior to granting approval for CONSULTANT to proceed to a subsequent phase, the Agreement Administrator may, at his or her sole option, require CONSULTANT to submit itemized deliverables/documents for the Agreement Administrator's review.

7.4 In the event CONSULTANT is unable to complete any services because of delays resulting from untimely review by TOWN or other governmental authorities having jurisdiction over the Project, and such delays are not the fault of CONSULTANT, or because of delays which were caused by factors outside the control of CONSULTANT, TOWN shall grant a reasonable extension of time for completion of the services. It shall be the responsibility of the CONSULTANT to notify TOWN promptly in writing whenever a delay in approval by a governmental agency is anticipated or experienced, and to inform TOWN of all facts and details related to the delay.

7.5 The time for the performance of services described in assigned Task Orders shall be negotiated by the TOWN and the CONSULTANT as the services are requested and authorized by the TOWN.

ARTICLE 8
COMPENSATION AND METHOD OF PAYMENT

8.1 AMOUNT AND METHOD OF COMPENSATION

8.1.1 Not To Exceed Amount Compensation

TOWN agrees to pay CONSULTANT as compensation for performance of all services as related to each Task Order under the terms of this Agreement a Not to Exceed Amount as agreed upon per Task Order. This compensation does not include Reimbursables as described in Section 8.2. It is agreed that the method of compensation is that of "Not to Exceed Amount" which means that CONSULTANT shall perform all services set forth in each Task Order for total compensation in the amount of or less than that stated total. The hourly rate-billing schedule to be used in negotiating each Task Order is attached as Exhibit "B" to this Agreement. As described in Section 9.1, no modification, amendment, or alteration to Exhibit "B" shall

be effective unless contained in a written document prepared with the same formality as this Agreement and executed by the TOWN and CONSULTANT.

A not to exceed proposal shall be accompanied by the CONSULTANT's estimate. The estimate shall detail the direct labor costs by categories of employees, work hours, and hourly rate; overhead; direct non-salary expenses including reimbursables; and profit, or as required by individual Task Order.

8.2 REIMBURSABLES

A. Direct non-salary expenses, entitled Reimbursables, directly attributable to the Project will be charged at actual cost. Reimbursable expenses are in addition to the compensation for basic services and include actual expenditures made by the CONSULTANT and the CONSULTANT'S employees directly attributable to the Project and will be charged at actual cost, without reference to the professional service fees above. TOWN shall not withhold retainage from payments for Reimbursable Expenses. CONSULTANT shall be compensated for Reimbursables associated with a particular Task Order only up to the amount allocated for such Task Order. Any reimbursable or portion thereof which, when added to the Reimbursables related to a particular Task Order previously billed, exceeds the amount allocated for such Task Order shall be the responsibility of the CONSULTANT unless otherwise agreed to in writing by the Agreement Administrator. Travel and subsistence expenses for the CONSULTANT, his staff and subconsultants and communication expenses, long distance telephone, courier and express mail between CONSULTANT's and subconsultants' various offices are not reimbursable under this Agreement. Reimbursables shall include only the following listed expenses unless authorized in writing by the Agreement Administrator:

B. Cost of reproduction, postage and handling of drawings and specifications which are required to deliver services set forth in this Agreement, excluding reproductions for the office use of the CONSULTANT. Reimbursable printing and photocopying expenses shall include only those prints or photocopies of original documents which are (i) exchanged among CONSULTANT, TOWN and other third parties retained or employed by any of them or (ii) submitted to TOWN for review, approval or further distribution. Documents, which are reproduced for CONSULTANT's internal drafts, reviews, or other purposes, are not eligible for reimbursement.

C. Identifiable testing costs and special inspections approved by Agreement Administrator.

D. All permit fees paid to regulatory agencies for approvals directly attributable to the Project. These permit fees do not include those permits required for the construction Contractor.

E. Overnight Delivery/Courier Charges (when TOWN requires/requests this service).

8.2.2 Reimbursable subconsultant expenses are limited to the items described above when the subconsultant agreement provides for reimbursable expenses. A detailed statement of expenses must accompany any request for reimbursement. Local travel to and from the Project site or within the Tri-County Area will not be reimbursed.

8.2.3 It is acknowledged and agreed to by CONSULTANT that the dollar limitation set forth in each Task Order is a limitation upon, and describes the maximum extent of TOWN's obligation to reimburse CONSULTANT for direct, non salary expenses, but does not constitute a limitation, of any sort, upon CONSULTANT's obligation to incur such expenses in the performance of services hereunder. If TOWN or Agreement Administrator requests CONSULTANT to incur expenses not contemplated in the amount for Reimbursables, CONSULTANT shall notify Agreement Administrator in writing before incurring such expenses. Any such expenses shall be reviewed and approved by TOWN prior to incurring such expenses.

8.3 METHOD OF BILLING

8.3.1 Not To Exceed Amount Compensation

CONSULTANT shall submit billings, which are identified by the specific project number on a monthly basis in a timely manner for all salary costs and Reimbursables attributable to the Project. These billings shall identify the nature of the work performed for each phase, subtask, deliverable and item identified in the Exhibit "A" Scope of Services or Task Order, the total hours of work performed and the employee category of the individuals performing same. The statement shall show a summary of salary costs with accrual of the total and credits for portions paid previously. Subconsultant fees must be documented by copies of invoices or receipts, which describe the nature of the expenses and contain a project number or other identifier, which clearly indicates the expense, as identifiable to the Project. Except for meals and travel expenses, it shall be deemed unacceptable for the CONSULTANT to modify the invoice or receipt by adding a project number or other identifier. Internal expenses must be documented by appropriate CONSULTANT's cost accounting forms with a summary of charges by category. When requested, CONSULTANT shall provide backup for past and current invoices that records hours and salary costs by employee category and subconsultant fees on a task basis, so that total hours and costs by task may be determined.

8.4 METHOD OF PAYMENT

8.4.1 TOWN shall pay CONSULTANT in accordance with the Florida Prompt Payment Act. To be deemed proper, all invoices must comply with the requirements set forth in this Agreement and must be submitted on the form

and pursuant to instructions prescribed by Agreement Administrator.

8.4.2 TOWN will review CONSULTANT's invoices and, if inaccuracies or errors are discovered in said invoice, TOWN will inform CONSULTANT within ten (10) working days by fax and/or by email of such inaccuracies or errors and request that revised copies of all such documents be re-submitted by CONSULTANT to TOWN.

8.4.3 Payment are scheduled to be made by TOWN to CONSULTANT by Check.

8.4.4 Payment will be made to CONSULTANT at:

Chen Moore and Associates, Inc
3150 SW 38th Ave, Suite 950
Miami, FL 33146

ARTICLE 9
AMENDMENTS AND CHANGES IN SCOPE OF SERVICES

9.1.1 No modification, amendment or alteration in the terms or conditions contained herein shall be effective unless contained in a written Amendment prepared with the same formality as this Agreement and executed by the TOWN and CONSULTANT.

9.1.2 TOWN or CONSULTANT may request changes that would increase, decrease, or otherwise modify the Scope of Services to be provided under a Task Order. Such changes must be contained in a written amendment, executed by the Parties hereto, with the same formality and of equal dignity herewith, prior to any deviation from the terms of the Task Order including the initiation of any additional services. TOWN shall compensate CONSULTANT for such additional services as provided in Article 8.

9.1.3 In the event a dispute between the Agreement Administrator and CONSULTANT arises over whether requested services constitute additional services and such dispute cannot be resolved by the Agreement Administrator and CONSULTANT, such dispute shall be promptly presented to the Town Manager for resolution. The Town Manager's decision shall be final and binding on the Parties for amounts in the aggregate under $100,000. In the event of a dispute in an amount over $100,000, the Parties agree to use their best efforts to settle such dispute. To this effect, they shall consult and negotiate with each other, in good faith and, recognizing their mutual interests, attempt to reach a just and equitable solution satisfactory to both Parties. If they do not reach such solution within a period of sixty (60) days, then upon notice to the other, either Party may commence litigation to resolve the dispute in Dade County, Florida. Any resolution shall be set forth in a written document in accordance with Section 9.2 above. During the pendency of any dispute, CONSULTANT shall promptly perform the disputed services.

ARTICLE 10
CONSULTANT'S RESPONSIBILITIES

10.1 The CONSULTANT, following the TOWN's approval of the Construction Documents and of the Final Statement of Probable Construction Costs, shall, when so directed and authorized by the TOWN, assist the TOWN in estimating construction costs, reviewing proposals, and assist in awarding contracts for construction. If requested, CONSULTANT shall review and analyze the proposals received by the TOWN and shall make a recommendation for any award based on the Town of Bay Harbor Islands Procurement Ordinance.

10.2 Estimates, opinions of probable construction or implementation costs, financial evaluations, feasibility studies or economic analyses prepared by CONSULTANT will represent its best judgment based on its experience and available information. The TOWN recognizes that CONSULTANT has no control over costs of labor, materials, equipment or services furnished by others or over market conditions or CONSULTANT's methods of determining prices, and that any evaluation of a facility to be constructed or work to be performed is speculative. Accordingly, CONSULTANT does not guarantee that proposals, bids or actual costs will not vary from opinions, evaluations or studies submitted by CONSULTANT.

- In the event that the lowest "best value" bid, as such term is used in the Town of Bay Harbor Islands Procurement Code, excluding any alternate bid items ("base bid"), exceeds the Estimated Construction Cost for a project by more than ten percent (10%), CONSULTANT shall explain, in writing, the reasons why the bids or proposals exceeded the ten percent (10%) factor following the analysis of all base bids. In such a circumstance, the TOWN may at its sole discretion, exercise any one or more of the following options: CONSULTANT shall be required to amend at the sole cost and expense of CONSULTANT, the Construction Drawings, Technical Specifications and Supplemental Conditions to enable the project to conform to a maximum of ten (10%) above the Estimated Construction Costs of the project, such amendments to be subject to the written final acceptance and approval of same by the TOWN;
- CONSULTANT shall be required to provide at the cost and expense of CONSULTANT re-bidding services and related items (including costs associated with regulatory review and approval of revised documents) as many times as requested by the TOWN until the base bid of at least one "best value" bid falls within the factor of ten (10%) of the Estimated Construction Cost of the project;
- The TOWN may approve an increase in the Estimated Construction Cost of the Project;
- The TOWN may reject all bids or proposals and may authorize re-bidding;
- The TOWN may if permitted, approve a renegotiation of the Project within a reasonable time;
- The TOWN may abandon the project and terminate CONSULTANT's work authorization and Services for the Project; or
- The TOWN may select as many deductive alternatives as may be necessary

to bring the award within ten percent (10%) of the Estimated Construction Costs of the Project.

It is expressly understood and agreed that the redesigning services required to keep the Project within 10% of the Estimated Construction Cost shall not be considered additional services and CONSULTANT agrees that it shall not seek compensation from the TOWN for such Services.

10.3 The CONSULTANT may be requested to provide the TOWN with a list of recommended, prospective proposers.

10.4 The CONSULTANT may be asked to attend all pre-bid / proposal conferences.

10.5 The CONSULTANT shall recommend any addenda, through the Agreement Administrator, as appropriate to clarify, correct, or change proposal /bid documents.

10.6 If pre-qualification of proposers is required as set forth in the request for proposal, CONSULTANT shall assist the TOWN, if requested, in developing qualification criteria, review qualifications and recommend acceptance or rejection of the proposers. If requested, CONSULTANT shall evaluate proposals and proposers, and make recommendations regarding any award by the TOWN.

10.7 The TOWN shall make decisions on claims regarding interpretation of the Construction Documents, and on other matters relating to the execution and progress of the work after receiving a recommendation from CONSULTANT .CONSULTANT may also assist in approving progress payments to the Contractor based on each Project Schedule of Values and the percentage of work completed.

10.8 The TOWN shall maintain a record of all Change Orders which shall be categorized according to the various types, causes, etc. that it may be determined are useful or necessary for its purpose. Among those shall be Change Orders identified as architectural/engineering Errors or Omissions.

10.8.1 Unless otherwise agreed by both Parties in writing, it is specifically agreed that any change to the work identified as an Error on the part of CONSULTANT shall be considered for purposes of this Agreement to be an additional cost to the TOWN which would not be incurred without the Error. Errors on the part of the CONSULTANT shall be rectified by the CONSULTANT with no additional cost to the TOWN.

10.8.2 Unless otherwise agreed by both Parties in writing, it is further specifically agreed for purposes of this Agreement that fifteen percent (15%) of the cost of Change Orders for any item categorized as an Omission shall be considered an additional cost to the TOWN which would not be incurred without the Omission. So long as the total of those two numbers (Change

Order costs of Errors plus fifteen percent (15%) of Omissions) remains less than two percent (2%) of the total Construction Cost of the Project, the TOWN shall not look to CONSULTANT for reimbursement for Errors and Omissions.

10.8.3 Should the sum of the two as defined above (cost of Errors plus fifteen percent (15%) of the cost of Omissions) exceed two percent (2%) of the Construction Cost, the TOWN shall recover the full and total additional cost to the TOWN as a result of CONSULTANT's Errors and Omissions from CONSULTANT, that being defined as the cost of Errors plus fifteen percent (15%) of the cost of Omissions above two percent (2%) of the Construction Cost.

10.8.4 To obtain such recovery, the TOWN shall deduct from CONSULTANT's fee a sufficient amount to recover all such additional cost to the TOWN.

10.8.5 In executing this Agreement, CONSULTANT acknowledges acceptance of these calculations and to the TOWN's right to recover same as stated above. The recovery of additional costs to the TOWN under this paragraph shall not limit or preclude recovery for other separate and/or additional damages which the TOWN may otherwise incur.

10.8.6 The Agreement Administrator's decision as to whether a Change Order is caused by an Error or caused by an Omission, taking into consideration industry standards, shall be final and binding on both Parties for amounts in the aggregate under $100,000 per project, subject to Section 9.3. In the event of a dispute in an amount over $100,000, the Parties agree to use their best efforts to settle such dispute. To this effect, they shall consult and negotiate with each other, in good faith and, recognizing their mutual interests, attempt to reach a just and equitable solution satisfactory to both Parties. If they do not reach such solution within a period of sixty (60) days, then upon notice to the other, either Party may commence litigation to resolve the dispute in Dade County, Florida.

ARTICLE 11
TOWN'S RESPONSIBILITIES

11.1 TOWN shall assist CONSULTANT by placing at CONSULTANT's disposal, all information TOWN has available pertinent to the Project including previous reports and any other data relative to design or construction of the Project.

11.2 TOWN shall arrange for access to, and make all provisions for, CONSULTANT to enter upon public and private property as required for CONSULTANT to perform its services.

11.3 TOWN shall review the itemized deliverables/documents identified per Task Order.

11.4 TOWN shall give prompt written notice to CONSULTANT whenever TOWN observes or otherwise becomes aware of any development that affects the scope or timing of CONSULTANT's services or any defect in the work of the Contractor.

ARTICLE 12
MISCELLANEOUS

12.1 OWNERSHIP OF DOCUMENTS

All documents including, but not limited to, drawings, renderings, models, and specifications prepared or furnished by CONSULTANT, its dependent professional associates and consultants, pursuant to this Agreement shall be owned by the TOWN.

Drawings, specifications, designs, models, photographs, reports, surveys and other data prepared in connection with this Agreement are and shall remain the property of the TOWN whether the Project for which they are made is executed or not, and are subject to reuse by the TOWN in accordance with Section 287.055(10) of the Florida Statutes. They are not intended or represented to be suitable for reuse by the TOWN or others on extensions of this Project or on any other project without appropriate verification or adaptation. Any reuse, except for the specific purpose intended hereunder, will be at the TOWN's sole risk and without liability or legal exposure to CONSULTANT or its subcontractors. This does not, however, relieve CONSULTANT of liability or legal exposure for errors, omissions, or negligent acts made on the part of CONSULTANT in connection with the proper use of documents prepared under this Agreement. Any such verification or adaptation may entitle CONSULTANT to further compensation at rates to be agreed upon by the TOWN and CONSULTANT. This shall not limit the TOWN's reuse of preliminary or developmental plans or ideas incorporated therein, should the Project be suspended or terminated prior to completion.

12.2 TERMINATION

12.2.1 Termination for Cause. It is expressly understood and agreed that the TOWN may terminate this Agreement at any time for cause in the event that the CONSULTANT (1) violates any provisions of this Agreement or performs same in bad faith or (2) unreasonably delays the performance of the services or does not perform the services in a timely and satisfactory manner upon written notice to the CONSULTANT. Notice of termination shall be provided in accordance with Section 12.27. In the case of termination by the TOWN for cause, the CONSULTANT shall be first granted a 10-working day cure period after receipt of written notice from the TOWN. In the event that the Agreement is terminated, the CONSULTANT shall be entitled to be compensated for the services rendered and accepted by the TOWN from the date of execution of the Agreement up to the time of termination. Such compensation shall be based on the fee as set forth above, wherever

possible. For those portions of services rendered to which the applicable fee cannot be applied, payment shall be based upon the appropriate rates for the actual time spent on the Project. In the event that the CONSULTANT abandons this Agreement or through violation of any of the terms and conditions of this Agreement, causes it to be terminated, CONSULTANT shall indemnify the TOWN against any and all loss pertaining to this termination.

All finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs and reports prepared by CONSULTANT shall become the property of TOWN and shall be delivered by CONSULTANT to the TOWN within five (5) days of TOWN's request. Upon payment of such sum by TOWN to CONSULTANT, TOWN shall have no further duties or obligations pursuant to or arising from this Agreement.

This Agreement may also be terminated by TOWN upon such notice as TOWN deems appropriate in the event TOWN or Agreement Administrator determines that termination is necessary to protect the public health, safety, or welfare.

Notice of termination shall be provided in accordance with Section 12.27, NOTICES, except that Agreement Administrator may provide a prior verbal stop work order if the Agreement Administrator deems a stop work order of this Agreement in whole or in part is necessary to protect the public's health, safety, or welfare. A verbal stop work order shall be promptly confirmed in writing as set forth in Section 12.27, NOTICES.

12.2.2 Termination for Convenience. In the event this Agreement is terminated for convenience, CONSULTANT shall be paid for any services performed and accepted by the TOWN to the date the Agreement is terminated. Compensation shall be withheld until all documents specified in Section 11.3 of this Agreement are provided to the TOWN. Upon being notified of TOWN's election to terminate, CONSULTANT shall refrain from performing further services or incurring additional expenses under the terms of this Agreement. Under no circumstances shall TOWN make payment for services which have not been performed.

12.2.3 Termination by CONSULTANT. CONSULTANT shall have the right to terminate this Agreement upon substantial breach by the TOWN of its obligation under this Agreement as to unreasonable delay in payment or non-payment of undisputed amounts. CONSULTANT shall have no right to terminate this Agreement for convenience of the CONSULTANT.

12.3 AUDIT RIGHT AND RETENTION OF RECORDS

TOWN shall have the right to audit the books, records, and accounts of CONSULTANT that are related to this Project. CONSULTANT shall keep such books, records, and accounts as may be necessary in order to record complete and correct entries related to the Project.

CONSULTANT shall preserve and make available, at reasonable times and upon prior written notice for examination and audit by TOWN all financial records, supporting documents, statistical records, and any other documents pertinent to this Agreement for the required retention period of the Florida Public Records Act (Chapter 119, Florida Statutes), if applicable, or, if the Florida Public Records Act is not applicable, for a minimum of three (3) years after termination of this Agreement. If any audit has been initiated and audit findings have not been resolved at the end of the retention period or three (3) years, whichever is longer, the books, records, and accounts shall be retained until resolution of the audit findings. If the Florida Public Records Act is determined by TOWN to be applicable to CONSULTANT's records, CONSULTANT shall comply with all requirements thereof; however, no confidentiality or non-disclosure requirement of either federal or state law shall be violated by CONSULTANT. Any incomplete or incorrect entry in such books, records, and accounts shall be a basis for TOWN's disallowance and recovery of any payment upon such entry.

12.4 NON-DISCRIMINATION, EQUAL EMPLOYMENT OPPORTUNITY, AND AMERICANS WITH DISABILITIES ACT

CONSULTANT shall not unlawfully discriminate against any person in its operations and activities in its use or expenditure of the funds or any portion of the funds provided by this Agreement and shall affirmatively comply with all applicable provisions of the Americans with Disabilities Act (ADA) in the course of providing any services funded in whole or in part by TOWN, including Titles I and II of the ADA (regarding nondiscrimination or the basis of disability), and all applicable regulations, guidelines, and standards.

CONSULTANT's decisions regarding the delivery of services under this Agreement shall be made without regard to or consideration of race, age, religion, color, gender, sexual orientation, national origin, marital status, physical or mental disability, political affiliation, or any other factor which cannot be lawfully or appropriately used as a basis for service delivery.

CONSULTANT shall comply with Title I of the Americans with Disabilities Act regarding nondiscrimination on the basis of disability in employment and further shall not discriminate against any employee or applicant for employment because of race, age, religion, color, gender, sexual orientation, national origin, marital status, political affiliation, or physical or mental disability. In addition, CONSULTANT shall take affirmative steps to ensure nondiscrimination in employment against disabled persons. Such actions shall include, but not be limited to, the following: employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff, termination, rates of pay, other forms of compensation, terms and conditions of employment, training (including apprenticeship), and accessibility.

CONSULTANT shall take affirmative action to ensure that applicants are employed, and employees are treated without regard to race, age, religion, color, gender, sexual orientation, national origin, marital status, political affiliation, or physical or mental disability during employment. Such actions shall include, but not be limited to, the following: employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff, termination, rates of pay, other forms of compensation, terms and conditions of employment, training (including apprenticeship), and accessibility.

12.5 MINORITY PARTICIPATION

The CONSULTANT shall make a good faith effort to help the TOWN maintain and encourage MBE/WBE participation levels consistent with such historical levels and market conditions. The CONSULTANT will be required to document all such efforts and supply the TOWN with this documentation at the end of the Project, or in cases where projects are longer than one year, each TOWN fiscal year.

12.6 PUBLIC ENTITY CRIMES ACT

In accordance with the Public Crimes Act, Section 287.133, Florida Statutes, a person or affiliate who is a contractor, consultant or other provider, who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid on a Agreement to provide any goods or services to the Town, may not submit a bid on a Agreement with the Town for the construction or repair of a public building or public work, may not submit bids on leases of real property to the Town, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a Agreement with the Town, and may not transact any business with the Town in excess of the threshold amount provided in Section 287.017, Florida Statutes, for category two purchases for a period of thirty-six (36) months from the date of being placed on the convicted vendor list. Violation of this section by Contractor shall result in cancellation of the Town purchase and may result in Contractor debarment.

12.7 SUBCONSULTANTS

12.7.1 CONSULTANT may sub-Agreement certain items of work to sub-consultant. The parties expressly agree that the CONSULTANT shall submit pertinent information regarding the proposed sub-consultant, including sub-consultant's scope of work and fees, for review and approval by the TOWN prior to sub-consultants proceeding with any work.

12.7.2 CONSULTANT shall utilize the subconsultants identified in the proposal that were a material part of the selection of CONSULTANT to provide the services for this Project. CONSULTANT shall obtain written approval of the Agreement Administrator prior to changing or modifying the list of sub-consultants submitted by CONSULTANT.

The list of subconsultants submitted is as follows:

Caltran Engineering Group, Inc
C & W Engineering, Inc
MUEngineering, Inc
Longitude Surveyors, LLC
Cummins Cedeberg, Inc
Carty Architecture, LLC
PanGeo Consultants, LLC

12.8 ASSIGNMENT AND PERFORMANCE

Neither this Agreement nor any interest herein shall be assigned, transferred, or encumbered without the written consent of the other P arty, and CONSULTANT shall not sub-Agreement any portion of the work required by this Agreement except as authorized pursuant to Section 12.7.

CONSULTANT represents that all persons delivering the services required by this Agreement have the knowledge and skills, either by training, experience, education, or a combination thereof, to adequately and competently perform the duties, obligations, and services set forth in the Scope of Services and to provide and perform such services to TOWN's satisfaction for the agreed compensation.

CONSULTANT shall perform its duties, obligations, and services under this Agreement in a skillful and respectable manner. The quality of CONSULTANT's performance and all interim and final product(s) provided to or on behalf of TOWN shall meet or exceed all professional standards of the State of Florida.

12.9 INDEMNIFICATION OF TOWN

12.9.1 CONSULTANT shall indemnify and hold harmless TOWN, its officers and employees, from liabilities, damages, losses, and costs, including but not limited to reasonable attorneys' fees, to the extent caused by the negligence, recklessness or intentional misconduct of CONSULTANT and persons employed or utilized by CONSULTANT in the performance of this Agreement. These indemnifications shall survive the term of this Agreement. In the event that any action or proceeding is brought against TOWN by reason of any such claim or demand, CONSULTANT, shall, upon written notice from TOWN, resist and defend such action or proceeding by counsel approved by the TOWN.

12.9.2 To the extent considered necessary by Agreement Administrator and TOWN, any sums due the CONSULTANT under this Agreement may be retained by TOWN until all of the TOWN's claims for indemnification

pursuant to this Agreement have been settled or otherwise resolved, and any amount withheld shall not be subject to payment of interest by TOWN.

12.9.3 The Indemnification provided above shall obligate CONSULTANT to defend at its own expense to and through appellate, supplemental or bankruptcy proceeding, or to provide for such defense, at TOWN's option, any and all claims of liability and all suits and actions of every name and description covered by Section 11.9.1 above that may be brought against TOWN whether performed by CONSULTANT, or persons employed or utilized by CONSULTANT.

12.10 LIMITATION OF TOWN'S LIABILITY

The TOWN desires to enter into this Agreement only if in so doing the TOWN can place a limit on the TOWN's liability for any cause of action arising out of this Agreement, so that the TOWN's liability for any breach never exceeds the sum of $1,000.00. For other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the CONSULTANT expresses its willingness to enter into this Agreement with the knowledge that the CONSULTANT's recovery from the TOWN to any action or claim arising from the Agreement is limited to a maximum amount of $1,000.00 less the amount of all funds actually paid by the TOWN to the CONSULTANT pursuant to this Agreement. Accordingly, and notwithstanding any other term or condition of this Agreement that may suggest otherwise, the CONSULTANT agrees that the TOWN shall not be liable to the CONSULTANT for damages in an amount in excess of $1,000.00, which amount shall be reduced by the amount actually paid by the TOWN to the CONSULTANT pursuant to this Agreement, for any action or claim arising out of this Agreement. Nothing contained in this paragraph or elsewhere in this Agreement is in any manner intended either to be a waiver of the limitation placed upon the TOWN's liability as set forth in Section 768.28, Florida Statutes, or to extend the TOWN's liability beyond the limits established in said Section 768.28; and no claim or award against the TOWN shall include attorney's fees, investigative costs, extended damages, expert fees, suit costs or pre-judgment interest. Notwithstanding the foregoing, the parties agree and understand that the provisions of this Article 12.10 do not apply to monies owed, if any, for services rendered to CONSULTANT by the TOWN under the provisions of this Agreement.

12.11 INSURANCE

12.11.1 As a condition precedent to the effectiveness of this Agreement, during the term of this Agreement and during any renewal or extension term of this Agreement, the Contractor, at the Contractor's sole expense, shall provide insurance of such types and with such terms and limits as noted below. Providing proof of and maintaining adequate insurance coverage

are material obligations of the Contractor. The Contractor shall provide the Town a certificate of insurance evidencing such coverage. The Contractor's insurance coverage shall be primary insurance for all applicable policies. The limits of coverage under each policy maintained by the Contractor shall not be interpreted as limiting the Contractor's liability and obligations under this Agreement. All insurance policies shall be from insurers authorized to write insurance policies in the State of Florida and that possess an A.M. Best rating of "A-" VII or better. All insurance policies are subject to approval by the Town's Risk Manager.

12.11.2 The coverages, limits, and endorsements required herein protect the interests of the Town, and these coverages, limits, and endorsements may not be relied upon by the Contractor for assessing the extent or determining appropriate types and limits of coverage to protect the Contractor against any loss exposure, whether as a result of this Agreement or otherwise. The requirements contained herein, as well as the Town's review or acknowledgement, are not intended to and shall not in any manner limit or qualify the liabilities and obligations assumed by the Contractor under this Agreement.

12.11.3 The following insurance policies and coverages are required:

Commercial General Liability

Coverage must be afforded under a Commercial General Liability policy with limits not less than:

- $2,000,000 each occurrence and $2,000,000 aggregate for Bodily Injury, Property Damage, and Personal and Advertising Injury
- $2,000,000 each occurrence and $2,000,000 aggregate for Products and Completed Operations

Policy must include coverage for Contractual Liability and Independent Contractors.

The Town and the Town's officers, employees, and volunteers are to be covered as additional insureds with a CG 20 26 04 13 Additional Insured – Designated Person or Organization Endorsement or similar endorsement providing equal or broader Additional Insured Coverage with respect to liability arising out of activities performed by or on behalf of the Contractor. The coverage shall contain no special limitation on the scope of protection afforded to the Town or the Town's officers, employees, and volunteers.

Business Automobile Liability

Coverage must be afforded for all Owned, Hired, Scheduled, and Non-Owned vehicles for Bodily Injury and Property Damage in an amount

not less than $1,000,000 combined single limit each accident

If the Contractor does not own vehicles, the Contractor shall maintain coverage for Hired and Non-Owned Auto Liability, which may be satisfied by way of endorsement to the Commercial General Liability policy or separate Business Auto Liability policy.

Workers' Compensation and Employer's Liability

Coverage must be afforded per Chapter 440, Florida Statutes. Any person or entity performing work for or on behalf of the Town must provide Workers' Compensation insurance. Exceptions and exemptions will be allowed by the Town's Risk Manager, if they are in accordance with Florida Statute.

The Contractor waives, and the Contractor shall ensure that the Contractor's insurance carrier waives, all subrogation rights against the Town and the Town's officers, employees, and volunteers for all losses or damages. The Town requires the policy to be endorsed with WC 00 03 13 Waiver of our Right to Recover from Others or equivalent.

The Contractor must be in compliance with all applicable State and federal workers' compensation laws, including the U.S. Longshore Harbor Workers' Act and the Jones Act, if applicable.

Umbrella/Excess Liability: The Contractor shall provide umbrella/excess coverage with limits of no less than $2,000,000 excess of Commercial General Liability, Automobile Liability and Employer's Liability

12.12.4 Insurance Certificate Requirements

- **a.** The Contractor shall provide the Town with valid Certificates of Insurance (binders are unacceptable) no later than thirty (30) days prior to the start of work contemplated in this Agreement.
- **b.** The Contractor shall provide to the Town a Certificate of Insurance having a thirty (30) day notice of cancellation; ten (10) days' notice if cancellation is for nonpayment of premium.
- **c.** In the event that the insurer is unable to accommodate the cancellation notice requirement, it shall be the responsibility of the Contractor to provide the proper notice. Such notification will be in writing by registered mail, return receipt requested, and addressed to the certificate holder.
- **d.** In the event the Agreement term goes beyond the expiration date of the insurance policy, the Contractor shall provide the Town with an updated Certificate of Insurance no later than ten (10) days prior to the expiration of the insurance currently in effect. The Town

reserves the right to suspend the Agreement until this requirement is met.

e. The Certificate of Insurance shall indicate whether coverage is provided under a claims-made or occurrence form. If any coverage is provided on a claims-made form, the Certificate of Insurance must show a retroactive date, which shall be the effective date of the initial contract or prior.

f. The Town shall be named as an Additional Insured on the general liability policy.

g. The Town shall be granted a Waiver of Subrogation on the Contractor's Workers' Compensation insurance policy.

h. On section "description of operations / locations / vehicles (attach acord 101, additional remarks schedule, if more space is required)" should read as flows:

TOWN OF BAY HARBOR ISLAND. IS INCLUDED AS ADDITIONAL INSURED

The title of the Agreement, Bid/Contract number, event dates, or other identifying reference must be listed on the Certificate of Insurance.

<u>The Certificate Holder should read as follows:</u>
Town of Harbor Islands
Procurement Services
9665 Bay Harbor Terrace
Town of Harbor Islands, FL 33154

The Contractor has the sole responsibility for the payment of all insurance premiums and shall be fully and solely responsible for any costs or expenses as a result of a coverage deductible, co-insurance penalty, or self-insured retention; including any loss not covered because of the operation of such deductible, co-insurance penalty, self-insured retention, or coverage exclusion or limitation. Any costs for adding the Town as an Additional Insured shall be at the Contractor's expense.

If the Contractor's primary insurance policy/policies do not meet the minimum requirements, as set forth in this Agreement, the Contractor may provide evidence of an Umbrella/Excess insurance policy to comply with this requirement.

The Contractor's insurance coverage shall be primary insurance as applied to the Town and the Town's officers, employees, and volunteers. Any insurance or self-insurance maintained by the Town covering the Town, the Town's

officers, employees, or volunteers shall be non-contributory.

Any exclusion or provision in the insurance maintained by the Contractor that excludes coverage for work contemplated in this Agreement shall be unacceptable and shall be considered breach of contract.

All required insurance policies must be maintained until the contract work has been accepted by the Town, or until this Agreement is terminated, whichever is later. Any lapse in coverage shall be considered breach of contract. In addition, Contractor must provide to the Town confirmation of coverage renewal via an updated certificate should any policies expire prior to the expiration of this Agreement. The Town reserves the right to review, at any time, coverage forms and limits of Contractor's insurance policies.

The Contractor shall provide notice of any and all claims, accidents, and any other occurrences associated with this Agreement shall be provided to the Contractor's insurance company or companies and the Town's Risk Management office as soon as practical.

It is the Contractor's responsibility to ensure that any and all of the Contractor's independent contractors and subcontractors comply with these insurance requirements. All coverages for independent contractors and subcontractors shall be subject to all of the applicable requirements stated herein. Any and all deficiencies are the responsibility of the Contractor.

ADDITIONAL COVERAGES REQUIRE

Professional Liability and/or Errors and Omissions

Coverage must be afforded for Wrongful Acts in an amount not less than $1,000,000 each claim and $2,000,000 aggregate.

Contractor must keep insurance in force until the third anniversary of expiration of this Agreement or the third anniversary of acceptance of work by the Town.

12.12 REPRESENTATIVE OF TOWN AND CONSULTANT

12.12.1 The Parties recognize that questions in the day-to-day conduct of the Project will arise. The Agreement Administrator, upon CONSULTANT's request, shall advise CONSULTANT in writing of one (1) or more TOWN employees to whom all communications pertaining to the day-to-day conduct of the Project shall be addressed.

12.12.2 CONSULTANT shall inform the Agreement Administrator in writing of CONSULTANT's representative to whom matters involving the conduct of the Project shall be addressed.

12.13 ALL PRIOR AGREEMENTS SUPERSEDED

This document incorporates and includes all prior negotiations, correspondence, conversations, agreements or understandings applicable to the matters contained herein; and the Parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, the Parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or agreements whether oral or written.

It is further agreed that no modification, amendment or alteration in the terms or conditions contained herein shall be effective unless contained in a written document executed with the same formality and of equal dignity herewith.

12.14 CONSULTANT'S STAFF

CONSULTANT will provide the key staff identified in its proposal for the Project as long as said key staff are in CONSULTANT's employment.

CONSULTANT will obtain prior written approval of Agreement Administrator to change key staff. CONSULTANT shall provide Agreement Administrator with such information as necessary to determine the suitability of any proposed new key staff. Agreement Administrator will be reasonable in evaluating key staff qualifications.

If Agreement Administrator desires to request removal of any of CONSULTANT's staff, Agreement Administrator shall first meet with CONSULTANT and provide reasonable justification for said removal.

12.15 INDEPENDENT CONTRACTOR

CONSULTANT is an independent contractor under this Agreement. Services provided by CONSULTANT shall be subject to the supervision of CONSULTANT. In providing the services, CONSULTANT or its agents shall not be acting and shall not be deemed as acting as officers, employees, or agents of the TOWN. Personnel policies, tax responsibilities, social security and health insurance, employee benefits, purchasing policies and other similar administrative procedures applicable to services rendered under this Agreement shall be those of CONSULTANT. The Parties expressly acknowledge that it is not their intent to create any rights or obligations in any third person or entity under this Agreement.

12.16 THIRD PARTY BENEFICIARIES

Neither CONSULTANT nor TOWN intends to directly or substantially benefit a third party by this Agreement. Therefore, the parties agree that there are no third-party beneficiaries to this Agreement and that no third party shall be entitled to assert a claim against either of them based upon this Agreement.

12.17 CONFLICTS

Neither CONSULTANT nor its employees shall have or hold any continuing or frequently recurring employment or contractual relationship that is substantially antagonistic or incompatible with CONSULTANT's loyal and conscientious exercise of judgment related to its performance under this Agreement.

CONSULTANT agrees that none of its officers or employees shall, during the term of this Agreement, serve as expert witness against TOWN in any legal or administrative proceeding in which he or she is not a party, unless compelled by court process, nor shall such persons give sworn testimony or issue a report or writing, as an expression of his or her expert opinion, which is adverse or prejudicial to the interests of TOWN or in connection with any such pending or threatened legal or administrative proceeding. The limitations of this Section shall not preclude such person from representing themselves in any action or in any administrative or legal proceeding. In the event CONSULTANT is permitted to utilize subconsultants to perform any services required by this Agreement, CONSULTANT agrees to prohibit such subconsultants, by written contract, from having any conflicts as within the meaning of this Section.

12.18 CONTINGENCY FEE

CONSULTANT warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for CONSULTANT, to solicit or secure this Agreement and that it has not paid or agreed to pay any person, company, corporation, individual or firm, other than a bona fide employee working solely for CONSULTANT, any fee, Council, percentage, gift, or other consideration contingent upon or resulting from the award or making of this Agreement. For a breach or violation of this provision, the TOWN shall have the right to terminate this Agreement without liability at its discretion, or to deduct from the Agreement price or otherwise recover the full amount of such fee, Council, percentage, gift or consideration.

12.19 WAIVER OF BREACH AND MATERIALITY

Failure by TOWN to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement.

TOWN and CONSULTANT agree that each requirement, duty, and obligation set forth herein is substantial and important to the formation of this Agreement and, therefore, is a material term hereof.

12.20 COMPLIANCE WITH LAWS

CONSULTANT shall comply with all applicable federal, state, and local laws,

codes, ordinances, rules, and regulations in performing its duties, responsibilities, and obligations related to this Agreement.

12.21 SEVERANCE

In the event this Agreement or a portion of this Agreement is found by a court of competent jurisdiction to be invalid, the remaining provisions shall continue to be effective unless TOWN or CONSULTANT elects to terminate this Agreement. The election to terminate this Agreement based upon this provision shall be made within seven (7) days after the findings by the court become final.

12.22 JOINT PREPARATION

Preparation of this Agreement has been a joint effort of TOWN and CONSULTANT and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than any other.

12.23 PRIORITY OF PROVISIONS

If there is a conflict or inconsistency between any term, statement, requirement, or provision of any exhibit attached hereto, any document or events referred to herein, or any document incorporated into this Agreement by reference and a term, statement, requirement, or provision of this Agreement, the term, statement, requirement, or provision contained in Articles 1-12 of this Agreement shall prevail and be given effect.

12.24 APPLICABLE LAW AND VENUE AND WAIVER OF JURY TRIAL

This Agreement shall be construed in accordance with and governed by the laws of the State of Florida. Venue for any lawsuit by either party against the other party or otherwise arising out of this Agreement and for any other legal proceeding shall be in Dade County, Florida, or in the event of federal jurisdiction, in the Southern District of Florida. **BY ENTERING INTO THIS AGREEMENT, CONSULTANT AND TOWN EXPRESSLY WAIVE ANY RIGHTS EITHER PARTY MAY HAVE TO A TRIAL BY JURY OF ANY CIVIL LITIGATION RELATED TO, OR ARISING OUT OF THIS AGREEMENT.**

In the event Consultant is a corporation organized under the laws of any province of Canada or is a Canadian federal corporation, the Town may enforce in the United States of America or in Canada or in both countries a judgment entered against CONSULTANT. CONSULTANT waives any and all defenses to the Town's enforcement in Canada of a judgment entered by a court in the United States of America.

12.25 SOLICITATION AND EXHIBITS

The solicitation, CONSULTANT'S response to the solicitation and each exhibit referred to in this Agreement forms an essential part of this Agreement. The solicitation, CONSULTANT'S response, and exhibits, if not physically attached, should be treated as part of this Agreement, and are incorporated herein by reference.

12.26 TWO ORIGINAL AGREEMENTS

This Agreement shall be executed in two (2), signed Agreements, treated as an original.

12.27 NOTICES

Whenever either Party desires to give notice unto the other, it must be given by written notice, sent by certified United States mail, with return receipt requested, addressed to the Party for whom it is intended, at the place last specified, and the place for giving of notice in compliance with the provisions of this paragraph. For the present, the Parties designate the following as the respective places for giving of notice, to-wit:

With a copy to: Town Manager
Town of Bay Harbor Islands
9665 Bay Harbor Terrace, FL 33154
Telephone: (305) 866-6241

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

CONSULTANT: **Peter Moore**
Chen Moore and Associates, Inc
3150 SW 38th Ave, Suite 950
Miami, FL 33146
pmoore @chenmoore.com

12.28 ATTORNEY FEES

If TOWN or CONSULTANT incurs any expense in enforcing the terms of this Agreement through litigation, the prevailing party in that litigation shall be reimbursed for all such costs and expenses, including but not limited to court costs, and reasonable attorney fees incurred during litigation.

12.29 PERMITS, LICENSES AND TAXES

CONSULTANT shall, at its own expense, obtain all necessary permits and licenses, pay all applicable fees, and pay all applicable sales, consumer, use and other taxes required to comply with local ordinances, state and federal law. CONSULTANT is responsible for reviewing the pertinent state statutes regarding state taxes and for complying with all requirements therein. Any change in tax laws after the execution of this Agreement will be subject to further negotiation and CONSULTANT shall be responsible for complying with all state tax requirements.

12.30 ENVIRONMENTAL, HEALTH AND SAFETY

CONSULTANT shall maintain a safe working environment during performance of the work. CONSULTANT shall comply, and shall secure compliance by its employees, agents, and subconsultants, with all applicable environmental, health, safety and security laws and regulations, and performance conditions in this Agreement. Compliance with such requirements shall represent the minimum standard required of CONSULTANT. CONSULTANT shall be responsible for examining all requirements and determine whether additional or more stringent environmental, health, safety and security provisions are required for the work. CONSULTANT agrees to utilize protective devices as required by applicable laws, regulations, and any industry or CONSULTANT's health and safety plans and regulations, and to pay the costs and expenses thereof, and warrants that all such persons shall be fit and qualified to carry out the Work.

12.31 STANDARD OF CARE

CONSULTANT represents that he/she/it is qualified to perform the work, that CONSULTANT and his/her/its subconsultants possess current, valid state and/or local licenses to perform the Work, and that their services shall be performed in a manner consistent with that level of care and skill ordinarily exercised by other qualified consultants under similar circumstances.

12.32 TRUTH-IN-NEGOTIATION CERTIFICATE

Signature of this Agreement by CONSULTANT shall act as the execution of a Truth-in-Negotiation Certificate stating that wage rates and other factual unit costs supporting the compensation of this Agreement are accurate, complete, and current at the time of contracting. The original Agreement price and any additions thereto shall be adjusted to exclude any significant sums, by which the TOWN determines that Agreement price was increased due to inaccurate, incomplete, or non-current wage rates and other factual unit costs. All such Agreement adjustments must be made within 1 year following the end of the contract.

12.33 EVALUATION

The TOWN maintains the right to periodically review the performance of the CONSULTANT. This review will take into account the timely execution of Task Orders, the quality of the work performed, the cost to the TOWN and the good faith efforts made by the CONSULTANT to maintain MBE/WBE participation in TOWN projects. Any deficiencies in performance will be described in writing and an opportunity afforded, where practicable, for the CONSULTANT to address and/or remedy such deficiencies.

12.34 STATUTORY COMPLIANCE

CONSULTANT shall prepare all documents and other materials for the Project in accordance with all applicable rules, laws, ordinances and governmental regulations of the State of Florida, Dade County, the Town of Bay Harbor Islands, Florida, and all governmental agencies having jurisdiction over the services to be provided by CONSULTANT under this Agreement or over any aspect or phase of the Project.

12.35 SCRUTINIZED COMPANIES

Subject to *Odebrecht Construction, Inc., v. Prasad*, 876 F.Supp.2d 1305 (S.D. Fla. 2012), *affirmed*, *Odebrecht Construction, Inc., v. Secretary, Florida Department of Transportation*, 715 F.3d 1268 (11th Cir. 2013), with regard to the "Cuba Amendment," the Contractor certifies that it is not on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, and that it does not have business operations in Cuba or Syria, as provided in Section 287.135, Florida Statutes (2023), as may be amended or revised. The Contractor certifies that it is not on the Scrutinized Companies that Boycott Israel List created pursuant to Section 215.4725, Florida Statutes (2023), as may be amended or revised, and that it is not engaged in a boycott of Israel. The Town may terminate this Agreement at the Town's option if the Contractor is found to have submitted a false certification as provided under subsection (5) of Section 287.135, Florida Statutes (2023), as may be amended or revised, or been placed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List or the Scrutinized Companies that Boycott Israel List created pursuant to Section 215.4725, Florida Statutes (2023), as may be amended or revised, or is engaged in a boycott of Israel or has been engaged in business operations in Cuba or Syria, as defined in Section 287.135, Florida Statutes (2023), as may be amended or revised.

12.36 PUBLIC RECORDS

Consultant shall:

1. Keep and maintain public records required by the Town in order to perform the service.

2. Upon request from the Town's custodian of public records, provide the Town with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes (2022), as may be amended or revised, or as otherwise provided by law.

3. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the Agreement term and following completion of this Agreement if CONSULTANT does not transfer the records to the Town.

4. Upon completion of the Agreement, transfer, at no cost to the Town, all public records in possession of CONSULTANT or keep and maintain public records required by the Town to perform the service. If CONSULTANT transfers all public records to the Town upon completion of this Agreement, CONSULTANT shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If CONSULTANT keeps and maintains public records upon completion of this Agreement, CONSULTANT shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the Town, upon request from the Town's custodian of public records, in a format that is compatible with the information technology systems of the Town.

12.37 INTELLECTUAL PROPERTY

CONSULTANT shall protect and defend at CONSULTANT's expense, counsel being subject to the Town's approval, and indemnify and hold harmless the Town from and against any and all losses, penalties, fines, damages, settlements, judgments, claims, costs, charges, royalties, expenses, or liabilities, including any award of attorney fees and any award of costs, in connection with or arising directly or indirectly out of any infringement or allegation of infringement of any patent, copyright, or other intellectual property right in connection with the CONSULTANT's or the TOWN's use of any copyrighted, patented or un-patented invention, process, article, material, or device that is manufactured, provided, or used pursuant to this Agreement. If the CONSULTANT uses any design, device, or materials covered by letters, patent or copyright, it is mutually agreed and understood without exception that the bid prices shall include all royalties or costs arising from the use of such design, device, or materials in any way involved in the work.

12.38 RIGHTS IN DOCUMENTS AND WORK

Any and all reports, photographs, surveys, and other data and documents provided

or created in connection with this Agreement are and shall remain the property of TOWN; and CONSULTANT disclaims any copyright in such materials. In the event of and upon termination of this Agreement, any reports, photographs, surveys, and other data and documents prepared by CONSULTANT, whether finished or unfinished, shall become the property of Town and shall be delivered by CONSULTANT to the TOWN's Agreement Administrator within seven (7) days of termination of this Agreement by either Party. Any compensation due to CONSULTANT shall be withheld until CONSULTANT delivers all documents to the TOWN as provided herein.

12.39 REPRESENTATION OF AUTHORITY

Each individual executing this Agreement on behalf of a Party hereto hereby represents and warrants that he or she is, on the date he or she signs this Agreement, duly authorized by all necessary and appropriate action to execute this Agreement on behalf of such Party and does so with full legal authority.

12.40 NON-DISCRIMINATION

The CONSULTANT shall not, in any of its activities, including employment, discriminate against any individual on the basis of race, color, national origin, age, disability, religion, creed, sex, disability, sexual orientation, gender, gender identity, gender expression, marital status or any other protected classification as defined by applicable law.

12.41 HOLD HARMLESS AND INDEMNIFICATION.

All Proposers shall hold the Town, its officials, and its employees harmless and covenant not to sue the Town, its officials, and its employees in reference to the Town's decision to reject, award, or not award an RFQ, as applicable. Additionally, the selected Proposer shall indemnify, defend, and save harmless the Town, its officers, agents, and employees, from or on account of any injuries or damages, received or sustained by any person or persons during or on account of the Proposer's performance of its Services under this RFQ, or by or in consequence of any negligence (excluding the sole negligence of the Town), in connection with the same; or by use of any improper materials or by or on account of any act or omission of the said selected Proposer, agents, servants, or employees. The selected Proposer shall indemnify, defend, and hold harmless the Town and their agents or employees from and against all claims, damages, losses, and expenses, including attorneys' fees, arising out of or resulting from the performance of the Services described in the RFQ, provided that any such claim, damage, loss, or expense (a) is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property (other than work itself) including the loss of use resulting wherefrom and (b) is caused in whole or in part by any negligent act or omission of the selected Proposer, anyone directly or indirectly employed by any of them, or anyone for whose acts any of them may be liable, regardless of whether

or not it is caused by a party indemnified hereunder

IN WITNESS OF THE FOREGOING, the Parties have set their hands and seals the day and year first written above.

TOWN

TOWN OF BAY HARBOR ISLANDS, a Florida municipal corporation

By: _____
MARIA LASDAY
Town Manager

ATTEST:

By: _____
YVONNE HAMILTON
Town Clerk

APPROVED AS TO FORM AND LEGAL SUFFICIENCY

By:_____
GREENSPOON MARDER LLP
Town Attorney
By: JOSEPH S. GELLER, ESQ

WITNESSES:

Chen Moore and Associates, Inc, a Florida Corporation

_____

By: _____

_____
Print Name

Print Name: Peter Moore

Title: President

_____

_____
Print Name

(CORPORATE SEAL)

STATE OF _____:

COUNTY OF _____:

The foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization, this ___ day of _____, 2023, by Peter Moore as President for Chen Moore and Associates, Inc., a Florida corporation authorized to conduct business in the State of Florida.

_____
(Signature of Notary Public - State of Florida)

_____
(Print, Type, or Stamp Counciled Name of Notary Public)

Personally Known__ OR Produced Identification_____ Type of Identification Produced: _

EXHIBIT A

SCOPE OF SERVICES

3.1 Purpose

The Town is seeking the services of a qualified consulting firm(s) to provide Professional Services related to a continuing contract for Civil Engineering Consultant Services. The following is a list of services that may be required on an as-needed basis as requested by the Town which will be authorized by individual Task Orders for individual projects. This list shall not be construed as an exclusive list of activities that successful firm(s) may be engaged in. Town shall have the right, in its sole and absolute discretion, to require additional services that are consistent with the scope of services and those activities typically performed by engineers, and surveyors pursuant to Section 287.055 Florida Statutes, and for which the firm(s) are experience, qualified, and able to perform:

3.2 Scope of Services

The Town of Bay Harbor Islands is seeking to establish a pool of pre-qualified consultants in engineering disciplines. Generally, services for projects may include full design and construction contract document development; construction specification development; contract and bidding document development; code analysis; jurisdictional review and permitting assistance; bid/award support and concurrence; negotiation support; construction/contract administration services; construction phase field support services; inspections, construction observation and project progress documentation; post-occupancy surveys and related services; surveying; photographic and video-graphic project support; GIS and CADD project support; other data and information system project support, etc.

Multiple firms selected by the Town will provide professional services to the Town on an as-needed basis based upon work orders to be issued by the Town under the terms of their continuing contracts.

3.3 Work Standards

In providing professional services, Consultant(s) shall take all reasonable care which are industry standards or as defined in Florida Statutes or Florida Administrative Codes. Consultant(s) shall also provide all work product documentation including but not limited to; data, studies, surveys, drawings, maps, models, photographs, reports, designs, calculations, test results, etc., that shall become the property of the Town and shall be delivered to the Town.

3.4 Tasks

The scope of services to be provided by the Consultant in the functional areas listed above shall include, but not be limited to, the following:

a) Prepare engineering designs, calculations, plans and specifications,

contract bid documents, and cost estimates, within the functional areas of interest listed in this solicitation.

b) Prepare base maps, preliminary layouts, estimates of probable costs, engineering analysis and alternatives as requested.
c) Submit construction documents as needed to the Town and other required agencies having an interest or jurisdiction over the project.
d) Review, analyze, and provide recommendations to utility budgets and capital improvement plans.
e) Provide updates on changes or proposed changes to laws/regulations that may impact Town's water resources and supply, treatment, distribution and storage, wastewater collection and treatment
f) Preform flood routing software modelling.
g) Prepare feasibility and conceptual planning documents.
h) Provide research, attendance at meetings, and preparation of presentation materials, reports and correspondence.
i) Prepare and/or assist with the preparation of grant applications and attendance at meetings with grant officials.
j) Assist in the review and development of ordinances.
k) Provide public education/notification assistance.
l) Prepare short and long term planning documents, master plans, or provide input to the Town's master plans, capital improvement program, and maintenance needs.
m) Participate in construction administration as required by the Town.
n) Prepare formal or informal feasibility studies as necessary to assist the Town in responding capital improvement needs.
o) Analysis of existing infrastructure and available capacity to serve proposed capital improvement projects.
p) Prepare legal descriptions, exhibits, and surveys.
q) Provide expert witness testimony.
r) Prepare appropriate permitting documents and obtain and/or assist the Town in obtaining permits from applicable agencies.
s) Represent the Town with regulatory agencies.
t) Prepare periodic project status reports.
u) Prepare and furnish bidding documents and assist the Town in the preparation of other related documents.
v) Attend bid openings, prepare bid tabulation sheets, and assist the Town in the evaluation of bids or proposals.
w) Issue addenda as appropriate to clarify, correct, or change the bidding documents.
x) Participate in pre-construction conference as requested by the Town.
y) Review and determine acceptability of construction submittals,

including shop drawings, progress schedule, schedule of values, etc.

z) Review and provide recommendations to request for information, request for changes, and claims to the Town arising during construction activities.

aa) Make periodic construction site visits for the purpose of determining general compliance with the approved drawings, plans, and specifications as requested by the Town.

bb) Review as-built drawings provided by the construction contractor and provide written comments to the Town.

cc) Provide services related to construction management and inspections, and/or specialty inspection.

dd) Provide project management services and act as an extension of the Town's project management staff for the design, bidding, and construction management of municipal projects.

ee) Space Planning

ff) Architectural Design

gg) Interior Design

hh) Landscape Architecture

ii) ADA Analysis and Design

jj) Sustainable Design

kk) Building Performance Analysis

ll) Structural Design

The consultant or its sub consultants shall be familiar with different agency's permitting regulations and requirements and the Town's design criteria, standards and specifications.

3.5 Deliverables

The Town intends to contract with multiple firms. The total amount of compensation will be negotiated with the selected consultant. No minimum amount of work or compensation will be assured to the retained consultant(s). All work products becomes the property of the Town. The Town reserves the right to re-use the work products of the retained consultant and to retain other consultants to provide the same or similar services at its sole discretion.

3.6 Schedule

Consultant recognizes that **TIME IS OF THE ESSENCE**. The Work on each Task Order shall commence immediately upon the Consultants receipt of an executed Task Order.

3.7 Town Infrastructure

a. Bridges – Given the Town's Island condition located in the Intracoastal Waterway, the Town owns and maintains a total of four (4) bridges.

- The Broad Causeway Bascule Bridge (Connecting the West Island with the Broad Causeway Island)
- The West Relief Bridge (Connecting the Town with the Town of North Miami)
- The Waterway Bridge (Connecting the West and East Islands)
- The Indian Creek Bridge (Connecting the Town with the Town of Surfside and Village of Bal Harbour)

b. Buildings – The Town owns and maintains two (2) buildings.
   - The Town Hall Administration Offices at 9665 Bay Harbor Terrace. This building houses the Administration offices, the Building Department, Council Chambers, and the Police Department. This building was built in 1970.
   - The Community Center at 1165 95th Street. The Community Center is a recent building that is located on the first floor of the Parking Garage.

c. Parking Facilities – The Town operates a total of seven (7) parking facilities.
   - 1165 95th Street Parking Garage – This is a five-story parking garage building on 95th Street.
   - 103rd Street Surface Parking Lot
   - 100th Street Surface Parking Lot
   - 97th Street Surface Parking Lot
   - Block 11 Parking Lot
   - 95th Street Surface Parking Lot
   - 92nd Street Surface Parking Lot

d. Parks – There are four (4) Parks in the Town, in addition of two (2) passive parks.
   - Tot Lot – 96th Street and West Broadview Drive
   - 98th Street Park
   - 95th Street Park
   - 92nd Street Park

e. Potable Water Infrastructure – The Town is a wholesale customer of the MDWASD. The Town receives its water from a 36-inch transmission main from MDWASD that runs along 96th Street. The distribution lines connected to this transmission line are owned and maintained by the Town. Most of the Town's water lines are PVC material with a diameter that varies between 6-inch to 10-inch.
f. Stormwater Infrastructure – Most of the Town's stormwater system is a gravity system that drains through outfalls to the Bay. A total of 52 outfalls

that range on sizes from 8-inch to 30-inch. There is a stormwater injection well on the south side of the West Island with 9,000 gpm pumps. For reference, an Atlas is included as Appendix of this RFQ.

g. Sanitary Sewer Infrastructure – The Town's sanitary sewer system is comprised of gravity mains, manholes, ejector's stations, pump station, force main and air lines. A total of five (5) ejector's stations are location on different areas of the Town, that discharge to the Town' Main Pump Station D at 9665 Bay Harbor Terrace. The gravity line varies from 8-inch to 18-inch. For Reference, an Atlas is included as Appendix of this RFQ.

3.8 Functional Areas of Interest

The consultant shall identify in their response to this RFQ the functional areas for which it particularly wishes to specialize. Multiple firms will be selected, and multiple firms may be selected for more than one
(1) functional area.

a) Water and wastewater engineering (specifically pipeline and lift-station design)
b) Stormwater engineering
c) Transportation engineering
d) Structural engineering (specifically seawall, dock, and bridge design)
e) Environmental engineering
f) Surveying and mapping services and Geographic Information and mapping services (GIS)
g) Photogrammetry and remote sensing
h) Geotechnical engineering
i) Coastal engineering
j) Water resources engineering
k) Hydrology and hydraulic engineering
l) Mechanical engineering
m) Electrical Engineering
n) Plan Review
o) Architectural Design.

Construction engineering and inspection.

3.9 Quality Assurance/Quality Control

It is the intention of the Town that the design consultant is held responsible for the quality control (QC) of their work and of its sub-consultants. All sub-consultant documents and submittals shall be submitted directly to the consultant for their independent QC review. The Town shall only accept

submittals for review and action from the consultant.

The consultant is responsible for the professional quality, technical accuracy and coordination of all pre- design services, designs, drawings, specifications, cost estimates and other services furnished by the consultant and their sub-consultants. It is the consultant's responsibility to independently and continually QC their plans, specifications, and all other project deliverables. Upon Town request, the consultant shall provide the Town with a marked up set of plans and specifications showing the consultant's QC review.
The mark-ups submittals shall include the names of the consultant's staff that performed the QC review for each component or functional area (e.g., structures, roadway, drainage, etc.).

3.10 Document Submittal Format

All documents generated as a result of projects will become the property of the Town of Bay Harbor Islands. All projects documents shall be provided in a digital and hard copy format meeting all Town of Bay Harbor Islands format requirements. The project drawings shall be prepared in AutoCAD, in the version current to the Town Engineering Division at the time that deliverables are due, and shall meet the requirements as set forth in the Town's CADD specifications for project drawings current at the time of award of the project. Plot files shall also be prepared and submitted which meet the stated Town standards.

CCNA- ENGINEERING CONTINUING SERVICES CONTRACT
RFQ-5-1005-23-0-2023/FVR

Chen Moore

	PROPOSE RATES
CIVIL ENGINEERING SERVICES	Hourly Rates
Principal Engineer	$ 240.00
Senior Engineer / Project Manager	$ 215.00
Project Engineer (PE)	$ 150.00
Staff Engineer, E.I.	$ 120.00
Senior Inspector	$ 140.00
Inspector	$ 100.00
Senior Designer	$ 150.00
Drafts Person/CADD Operator	$ 100.00
Clerical/Administrative Staff	$ 75.00
Intern	$ 65.00
WATER & WASTEWATER ENGINEERING SERVICES	
Principal Engineer	$ 240.00
Senior Engineer/Project Manager	$ 200.00
Project Engineer (PE)	$ 140.00
Staff Engineer, E.I.	$ 110.00
Sr. Inspector	$ 140.00
Inspector	$ 100.00
Drafts Person/CADD Operator	$ 95.00
Clerical/Administrative Staff	$ 75.00
TRANSPORTATION/BRIDGE ENGINEERING SERVICES	
Principal Engineer	$ 240.00
Senior Engineer/Project Manager	$ 235.00
Project Engineer (PE)	$ 190.00
Staff Engineer, E.I.	$ 135.00
Sr. Inspector	$ 155.00
Inspector	$ 110.00
Drafts Person/CADD Operator	$ 105.00
Clerical/Administrative Staff	$ 75.00
STRUCTURAL ENGINEERING SERVICES	
Principal Engineer	$ 250.00
Senior Engineer/Project Manager	$ 190.00
Project Engineer (PE)	$ 160.00
Staff Engineer, E.I.	$ 150.00
Sr. Inspector	$ 125.00
Inspector	$ 110.00
Drafts Person/CADD Operator	$ 105.00

Clerical/Administrative Staff	$ 75.00
Landscape Architecture and Planning Services	
Principal Landscape Architect	$ 220.00
Senior Landscape Architect	$ 150.00
Project Landscape Architect	$ 125.00
Staff Landscape Architect	$ 110.00
Environmental Services / Monitoring	
Sr. Environmental Scientist	$ 190.00
Project Environmental Scientist	$ 155.00
Staff Environmental Scientist	$ 125.00
Field Technician	$ 90.00
Geotechnical Engineering	
A. FIELD SERVICES & TESTING	
TEST	
Standard Penetration Test Borings (ATSM D-1586), Truck Rig or Mud Bug Rig (0-50 Foot Depth Interval)	$ 18.00 l.f
Grout Boreholes	$5.00 l.f
Truck/Mud Bug 0-50 Ft	$300.00 ea
Permeability/Percolations Tests – Field (SFWMD Usual Open Hole Method)	$500.00 ea
SOIL TESTING	
Field Density/Test (five [5] minimum)	$ 40.00 ea
Standard Proctors	$ 100.00 ea
Modified Proctors	$ 155.00 ea
Florida Bearing Value Test	$ 250.00 ea
Limerock Bearing Ratio Test	$ 250.00 ea
Percolation test (open hole)	$ 450.00 ea
Atterberg Limit Test	$ 70.00 ea
SAMPLING & TESTING OF FRESH CONCRETE	
Curing, capping and compressive strength testing of concrete cylinders in Consultant's laboratory set of 5	$ 75.00 set
Field Sampling Fresh Concrete (sampling, molding, slump testing, temperature)	$ 65.00 h.r
CONCRETE & MASONARY MATERIALS	
Concrete Compression test (Min. four [4] cylinders per trip)	$ 75.00 set
- Prepare cylinders & slump test on site, and deliver to lab	$65.00 h.r
Additional Concrete cylinders with slump	$ 30.00 ea
Concrete Compression test only [delivered to lab] & RESULTS	$ 100.00 set
Slump test	$ 40.00 ea
Stand-by (Beyond 1 hour on site)	$ 70.00 h.r
Grout Prism (Six [6] per set) - Includes preparation of Prism on site	$ 95.00 set
2” x 2” - Includes preparation of Cubes on site	$ 75.00 ea
AGGREGATE TESTING	
Grain size determination:	
A. Full grain size (8 sieves)	$ 70.00 test

B. Wash through (#200)	$ 60.00 test
Sieve Analysis – Course Aggregate	$ 75.00 test
ASPHALT TESTING	
Asphalt Cores (obtaining core samples) (Min. 3)	$ 100.00 set
MISCELLANEUS SERVICES	
Exfiltration Test (SFWMD)	$ 500.00 ea
Install Groundwater Monitoring Well, <25' (per PBCWUD Stds & Details)	$ 750.00 ea
Install Groundwater Monitoring Well, 25' - 50' (per PBCWUD Stds & Details)	$ 945.00 ea
DRILLING EQUIPMENT MOBILIZATION (includes drill rig mileage)	
Truck - Mounted Rig	$ 400.00 ea
FOUNDATION TESTING SERVICES	
Vibration/ Noise Monitoring Equipment - seismograph with geophone or microphone (includes mobilization, equipment and labor)	$ 2,250.00 per day
SITE PREPARATION MONITORING & TESTING	
In-situ Density Tests - Nuclear Gauge Method (ASTM D 2922)	$ 40.00 ea
MONITOR WELL INSTALLATION & TESTING	
Non-Environmental (2-inch diameter)* 0 - 25-ft depth	$ 725.00 test
Environmental (2-inch diameter)* 0 - 25-ft depth	$ 725.00 test
Well sampling *	$ 120.00 test
B. PERSONNEL	
Principal Engineer	$ 150.00
Senior Engineer	$ 135.00
Project Engineer (PE)	$ 115.00
Staff Engineer, E.I.	$ 110.00
Sr. Inspector	$ 80.00
Inspector	$ 75.00
Drafts Person/Cad Operator	$ 75.00
Clerical/Administrative Staff	$ 75.00
Land Surveying & Mapping Services	
Principal Surveyor	$ 195.00
Sr. Professional Land Surveyor	$ 170.00
Professional Land Surveyor	$ 125.00
Survey CADD / GIS Tech	$ 110.00
Field Crew Supervisor	$ 100.00
Survey Crew	$ 200.00
Administrative	$ 75.00
Marine / Coastal Engineering	
Principal Engineer	$ 280.00
Senior Engineer / Project Manager	$ 220.00
Project Engineer (PE)	$ 190.00
Staff Engineer, E.I.	$ 150.00
Sr. Environmental Scientist	$ 190.00
Project Environmental Scientist	$ 140.00
Staff Environmental Scientist	$ 110.00
Senior Designer	$ 130.00
Architectural	
Principal	$ 225.00

Sr. Architect / Project Manager	$	180.00
Project Architect	$	175.00
Revit / CAD Operator	$	95.00
Draftsman	$	90.00
Clerical	$	75.00
Subsurface Utility Exploration		
Project Manager/PE/PLS PLS	$	175.00
Utility Location Manager/Party Chief	$	125.00
CADD Operator	$	100.00
Technical Locator/Instrument Op.	$	80.00
Clerical	$	75.00
1 Utility Test Hole 0-6' - per hole	$	700.00
2 Utility Test Holes 0-6' - per hole	$	650.00
3 or More Utility Test Holes 0-6' - per hole	$	550.00
Excess Depth (Over 6') - per foot	$ 130.00 ft	
Traffic Control – Arrow Board**	$ 125.00 day	
MEP Engineering		
Senior Engineer / Project Manager	$	220.00
Project Engineer (PE)	$	180.00
Staff Engineer, E.I.	$	135.00
Drafts Person/CADD Operator	$	90.00

AGREEMENT

THIS IS AN AGREEMENT made and entered into this ___day of November 2023, by and between:

Town of Bay Harbor Islands a Florida municipality, (hereinafter referred to as "Town")

and

Calvin Giordano & Associates, Inc, a Florida Corporation, authorized to do business in the State Florida (hereinafter referred to as "CONSULTANT")

WHEREAS, the Town Council of the Town of Bay Harbor Islands Florida at its meeting of November, 2023 authorized by motion the execution of this Agreement between CONSULTANT and Town authorizing the performance of Engineering Continuing Services, RFQ No. 5-1005-23-0-2023/FVR incorporated herein, (the "Agreement"); and

WHEREAS, the CONSULTANT is willing and able to render professional services for such project for the compensation and on the terms hereinafter set forth;

NOW, THEREFORE, in consideration of the mutual covenants, agreements, terms, and conditions contained herein, the Parties hereto, do agree as follows:

ARTICLE 1
DEFINITIONS AND IDENTIFICATIONS

For the purposes of this Agreement and the various covenants, conditions, terms and provisions which follow, the DEFINITIONS and IDENTIFICATIONS set forth below are assumed to be true and correct and are therefore agreed upon by the Parties.

1.1 AGREEMENT: Means this document between the TOWN and CONSULTANT dated _____, and any duly authorized and executed Amendments to Agreement.

1.2 BASIC SERVICES**:** Services performed by CONSULTANT for authorized scope of work for the Project phase described in this Agreement and listed in Exhibit "A," Scope of Services.

1.3 CONSULTANT'S PERIODIC ESTIMATE FOR PAYMENT: A statement by CONSULTANT based on observations at the site and on review of documentation submitted by the Contractor that by its issuance recommends that TOWN pay identified amounts to the Contractor for services performed by the Contractor at

the Project.

1.4 CHANGE ORDER: A written order to the CONSULTANT approved by the TOWN authorizing a revision of this agreement between the TOWN and CONSULTANT that is directly related to the original scope of work or an adjustment in the original Agreement price or the Agreement time directly related to the original scope of work, issued on or after the effective date of this Agreement.

The CONSULTANT may review and make recommendations to the TOWN on any proposed Change Orders, for approval or other appropriate action by the TOWN.

1.5 TOWN: The Town of Bay Harbor Islands, a Florida municipality.

1.6 TOWN MANAGER: The Town Manager of the Town of Bay Harbor Islands, Florida.

1.7 COUNCIL: The Town Council of the Town of Bay Harbor Islands, Florida, which is the governing body of the TOWN government.

1.8 CONSTRUCTION COST: The total construction cost to TOWN of all elements of the Project designed or specified by CONSULTANT.

1.9 CONSTRUCTION COST LIMIT: A maximum construction cost limit established by the TOWN defining the maximum budget amount to which the final construction documents should be designed so as not to exceed.

1.10 CONSTRUCTION DOCUMENTS: Those working drawings and specifications and other writings setting forth in detail and prescribing the work to be done, the materials, workmanship and other requirements for construction of the entire Project, including any bidding information.

1.11 CONSULTANT: **Calvin Giordano & Associates, Inc,** the CONSULTANT selected to perform professional services pursuant to this Agreement.

1.12 AGREEMENTADMINISTRATOR: The (Dept. Director) for the Town of Bay Harbor Islands, or his designee. In the administration of this Agreement, as contrasted with matters of policy, all parties may rely upon instructions or determinations made by the Agreement Administrator.

1.13 CONTRACTOR: One or more individuals, firms, corporations or other entities identified as such by a written agreement with TOWN ("Agreement for Construction") to perform the construction services required to complete the Project.

1.14 DEPARTMENT DIRECTOR**:** The (Dept. Director) for the Town of Bay Harbor

Islands.

1.15 ERROR: A mistake in design, plans and/or specifications that incorporates into those documents an element that is incorrect and is deficient from the standard of care that a professional engineer in similar circumstances, working on a similar project and location would have exercised. Also includes mistakes in design, plans, specifications and/or shop drawings review that lead to materials and/or equipment being ordered and/or delivered where additional costs are incurred.

1.16 FINAL STATEMENT OF PROBABLE CONSTRUCTION COSTS: A final cost estimate prepared by CONSULTANT during the Final Design Phase of the Project, based upon the final detailed Construction Documents of the Project.

1.17 NOTICE TO PROCEED: A written Notice to Proceed with the Project issued by the Agreement Administrator.

1.18 OMISSION: A scope of work missed by CONSULTANT that is necessary for the Project, including a quantity miscalculation, which was later discovered and added by Change Order and which is deficient from the standard of care that a professional engineer in similar circumstances, working on a similar project and location would have exercised. Also includes design that was wrong, but was corrected after award to the Contractor, but before the construction process was materially affected.

1.19 ORIGINAL AGREEMENTPRICE: The original bid and/or Agreement price as awarded to a Contractor based upon CONSULTANT'S final detailed Construction Documents of the Project.

1.20 PLANS AND SPECIFICATIONS: The documents setting forth the final design plans and specifications of the Project, including architectural, civil, structural, mechanical, electrical, communications and security systems, materials, lighting equipment, site and landscape design, and other essentials as may be appropriate, all as approved by TOWN as provided in this Agreement.

1.21 PRELIMINARY PLANS: The documents prepared by CONSULTANT consisting of preliminary design drawings, renderings and other documents to fix and describe the size and character of the entire Project, and the relationship of Project components to one another and existing features.

1.22 PROJECT: An agreed scope of work for accomplishing a specific plan or development. This may include, but is not limited to, planning, architectural, engineering, and construction support services. The services to be provided by CONSULTANT shall be as defined in this Agreement and further detailed in Task Orders for individual projects or combinations of projects. The Project planning, design and construction may occur in separate phases and Task Orders at the TOWN's discretion.

1.23 RESIDENT PROJECT REPRESENTATIVE: Individuals or entities selected, employed, compensated by and directed to perform services on behalf of TOWN, in monitoring the Construction Phase of the Project to completion.

1.24 SPECIFICATIONS: The specifications referred to in this agreement are the CONSTRUCTION STANDARDS AND SPECIFICATIONS, Office of the Tow Engineer, Town of Bay Harbor Islands, January 1982, including any revisions.

1.25 STATEMENT OF PROBABLE PROJECT COSTS: A document to be prepared by CONSULTANT that shall reflect a detailed statement of the total probable costs.

1.26 SUBSTANTIAL COMPLETION: The TOWN will consider the work substantially complete when the Contractor submits 100% complete deliverables (i.e. Drawings, Specifications, Reports, Renderings) as described in this Agreement to the satisfaction of the Town.

1.27 TASK ORDER: A document setting forth a negotiated detailed scope of services to be performed by CONSULTANT at fixed Agreement prices in accordance with this Agreement between the TOWN and CONSULTANT.

1.28 TIME OF COMPLETION: Time in which the entire work shall be completed for each Task Order.

ARTICLE 2
PREAMBLE

In order to establish the background, context and frame of reference for this Agreement and to generally express the objectives and intentions of the respective parties hereto, the following statements, representations and explanations shall be accepted as predicates for the undertakings and commitments included within the provisions of this Agreement which follow and may be relied upon by the parties as essential elements of the mutual considerations upon which this Agreement is based.

2.1 Pursuant to Section 287.055, Florida Statutes, TOWN has formed a Committee to evaluate CONSULTANT's statement of qualifications and performance data to ensure that CONSULTANT has met the requirements of the Consultants' Competitive Negotiation Act, as set forth in Section 287.055, Florida Statutes, and has selected CONSULTANT to perform services hereunder.

ARTICLE 3
SCOPE OF SERVICES

3.1 The CONSULTANT shall perform the following professional services: Engineering Continuing Services as more specifically described in Exhibit "A," Scope of Services, attached hereto and incorporated herein, and shall include, but not be limited to,

services as applicable and authorized by individual Task Orders for the individual projects in accordance with Article 6 herein. CONSULTANT shall provide all services set forth in Exhibit "A" including all necessary, incidental and related activities and services required by the Scope of Services and contemplated in CONSULTANT's level of effort. CONSULTANT will perform the Services in accordance with standard industry practices, with the care, knowledge and skill expected of similar engineering firms. No other warranties, express or implied are made or intended.

3.2 TOWN and CONSULTANT acknowledge that the Scope of Services does not delineate every detail and minor work tasks required to be performed by CONSULTANT to complete the Project. If, during the course of the performance of the services included in this Agreement, CONSULTANT determines that work should be performed to complete the Project which is in CONSULTANT's opinion, outside the level of effort originally anticipated, whether or not the Scope of Services identifies the work items, CONSULTANT shall notify Agreement Administrator and obtain written approval by the TOWN in a timely manner before proceeding with the work. Notice to Agreement Administrator does not constitute authorization or approval by TOWN to perform the work. The TOWN shall not pay for any work that is not approved by the Agreement Administrator in writing. If CONSULTANT proceeds with said work without notifying the Agreement Administrator, said work shall be deemed to be within the original level of effort, whether specifically addressed in the Scope of Services. Notice to Agreement Administrator does not constitute authorization or approval by TOWN to perform the work. Performance of work by CONSULTANT outside the originally anticipated level of effort without prior written TOWN approval is at CONSULTANT's sole risk.

ARTICLE 4
GENERAL PROVISIONS

4.1 Negotiations pertaining to the rates for professional services to be performed by CONSULTANT have been undertaken between CONSULTANT and TOWN representatives pursuant to Section 287.055, Florida Statutes, and this Agreement incorporates the results of such negotiation.

4.2 CONSULTANT shall include TOWN's specific Task Order number as part of the heading on all correspondence, invoices and drawings. All correspondence shall be directed specifically to the Agreement Administrator.

ARTICLE 5
PRIORITY OF PROVISIONS

5.1 The Agreement Documents are intended to include all items necessary for the proper execution and completion of the work by CONSULTANT. Any labor,

services, materials, supplies, equipment or documentation that may reasonably be inferred from the Agreement Documents or trade usage from prevailing custom as being required to produce the indicated result will be provided whether or not specifically called for, at no additional cost to TOWN. The Agreement Documents are complementary, and wherever possible the provisions of the Agreement Documents shall be construed in such manner as to avoid conflicts between provisions of the various Agreement Documents. In the event of any inconsistency in the Agreement Documents, where such inconsistency is not clarified by change order, addendum or amendment, the Agreement Documents shall be construed according to the following priorities:

First priority: Approved Change Orders, Addendums or Amendments to all related documents.

Second priority: Specifications (quality) and Drawings (location and quantity) of CONSULTANT.

Third priority: This AGREEMENT.

Fourth priority: Town of Bay Harbor Islands Request for Qualifications **RFQ No. 5-1005-23-0-2023/FVR**.

Fifth priority: CONSULTANT's response to Town of Bay Harbor Islands Request for Qualifications # **RFQ No. 5-1005-23-0-2023/FVR**.

5.2 Anything shown on the drawings and not mentioned in the specifications or mentioned in the specifications and now shown on the drawings, shall have the same effect as if shown or mentioned respectively in both. In the event of a conflict among the Agreement Documents, the latest, most stringent, and more technical requirement(s), including, but not limited to, issues of quantities or cost of the Work shall control.

Reference to standard specifications, manuals, rules, regulations, ordinances, laws or codes of any governmental authority, whether such reference be specific or by implication, shall mean the latest standard specification, manual, rule, regulation, ordinance, law or code in effect at the time of permit submittal.

ARTICLE 6
TASK ORDERS

6.1 The Project will be divided into "Tasks."

6.2 Task Orders shall be jointly prepared by the TOWN and CONSULTANT defining the detailed scope of services to be provided for the particular Project. Each Task Order shall be separately numbered and approved in accordance with this

Agreement and all applicable TOWN code requirements.

6.3 Under all Task Orders and Projects, TOWN may require the CONSULTANT, by specific written authorization, and for mutually agreed upon additional compensation, to provide or assist in obtaining one or more of the following special services. These services may include, at the discretion of the TOWN, the following items:

6.3.1 Providing additional copies of reports, Agreement drawings and documents; and

6.3.2 Assisting TOWN with litigation support services arising from the planning, development, or construction.

6.4 Prior to initiating the performance of any services under this Agreement, CONSULTANT must receive a written Notice to Proceed / Purchase Order from the TOWN. The CONSULTANT must receive the approval of the Agreement Administrator or his designee in writing prior to beginning the performance of services in any subsequent Task Order under this Agreement.

6.5 If, in the opinion of the TOWN, the CONSULTANT is improperly performing the services under a specific Task Order, or if at any time the TOWN shall be of the opinion that said Task Order is being unnecessarily delayed and will not be completed within the agreed upon time, the TOWN shall notify the CONSULTANT in writing. The CONSULTANT has within ten (10) working days thereafter to take such measures as will, in the judgment of the TOWN, ensure satisfactory performance and completion of the work. If the CONSULTANT fails to cure within the ten (10) working days, the TOWN may notify the CONSULTANT to discontinue all work under the specified Task Order. The CONSULTANT shall immediately respect said notice and stop said work and cease to have any rights in the possession of the work and shall forfeit the Task Order and any remaining monies. The TOWN may then decide, after Town Council approval, to issue a new Task Order for the uncompleted work to another consultant using the remaining funds. Any excess costs arising therefrom over and above the original Task Order price shall be charged against CONSULTANT, as the original CONSULTANT.

6.6 ARTICLE 7
TERM OF AGREEMENT; TIME FOR PERFORMANCE

7.1 The initial Agreement term shall commence upon final execution of the Agreement by the Town and shall expire Two (2) years from that date. The Town reserves the right to extend the Agreement for Three (3) additional one(1) year terms providing all terms conditions and specifications remain the same, both parties agree to the extension, and such extension is approved by the Town.

In the event services are scheduled to end because of the expiration of this contract, the Contractor shall continue the service upon the request of the Town as

authorized by the awarding authority. The Contractor shall be compensated for the service at the rate in effect when this extension clause is invoked by the Town.

7.2 CONSULTANT shall perform the services described in Task Orders within the time periods specified in the Task Order. Said time periods shall commence from the date of the Notice to Proceed for such services.

7.3 Prior to beginning the performance of any services under this Agreement, CONSULTANT must receive a Notice to Proceed. CONSULTANT must receive written approval from the Agreement Administrator prior to beginning the performance of services in any subsequent phases of the Agreement. Prior to granting approval for CONSULTANT to proceed to a subsequent phase, the Agreement Administrator may, at his or her sole option, require CONSULTANT to submit itemized deliverables/documents for the Agreement Administrator's review.

7.4 In the event CONSULTANT is unable to complete any services because of delays resulting from untimely review by TOWN or other governmental authorities having jurisdiction over the Project, and such delays are not the fault of CONSULTANT, or because of delays which were caused by factors outside the control of CONSULTANT, TOWN shall grant a reasonable extension of time for completion of the services. It shall be the responsibility of the CONSULTANT to notify TOWN promptly in writing whenever a delay in approval by a governmental agency is anticipated or experienced, and to inform TOWN of all facts and details related to the delay.

7.5 The time for the performance of services described in assigned Task Orders shall be negotiated by the TOWN and the CONSULTANT as the services are requested and authorized by the TOWN.

ARTICLE 8
COMPENSATION AND METHOD OF PAYMENT

8.1 AMOUNT AND METHOD OF COMPENSATION

8.1.1 Not To Exceed Amount Compensation

TOWN agrees to pay CONSULTANT as compensation for performance of all services as related to each Task Order under the terms of this Agreement a Not to Exceed Amount as agreed upon per Task Order. This compensation does not include Reimbursables as described in Section 8.2. It is agreed that the method of compensation is that of "Not to Exceed Amount" which means that CONSULTANT shall perform all services set forth in each Task Order for total compensation in the amount of or less than that stated total. The hourly rate-billing schedule to be used in negotiating each Task Order is attached as Exhibit "B" to this Agreement. As described in Section 9.1, no modification, amendment, or alteration to Exhibit "B" shall

be effective unless contained in a written document prepared with the same formality as this Agreement and executed by the TOWN and CONSULTANT.

A not to exceed proposal shall be accompanied by the CONSULTANT's estimate. The estimate shall detail the direct labor costs by categories of employees, work hours, and hourly rate; overhead; direct non-salary expenses including reimbursables; and profit, or as required by individual Task Order.

8.2 REIMBURSABLES

A. Direct non-salary expenses, entitled Reimbursables, directly attributable to the Project will be charged at actual cost. Reimbursable expenses are in addition to the compensation for basic services and include actual expenditures made by the CONSULTANT and the CONSULTANT'S employees directly attributable to the Project and will be charged at actual cost, without reference to the professional service fees above. TOWN shall not withhold retainage from payments for Reimbursable Expenses. CONSULTANT shall be compensated for Reimbursables associated with a particular Task Order only up to the amount allocated for such Task Order. Any reimbursable or portion thereof which, when added to the Reimbursables related to a particular Task Order previously billed, exceeds the amount allocated for such Task Order shall be the responsibility of the CONSULTANT unless otherwise agreed to in writing by the Agreement Administrator. Travel and subsistence expenses for the CONSULTANT, his staff and subconsultants and communication expenses, long distance telephone, courier and express mail between CONSULTANT's and subconsultants' various offices are not reimbursable under this Agreement. Reimbursables shall include only the following listed expenses unless authorized in writing by the Agreement Administrator:

B. Cost of reproduction, postage and handling of drawings and specifications which are required to deliver services set forth in this Agreement, excluding reproductions for the office use of the CONSULTANT. Reimbursable printing and photocopying expenses shall include only those prints or photocopies of original documents which are (i) exchanged among CONSULTANT, TOWN and other third parties retained or employed by any of them or (ii) submitted to TOWN for review, approval or further distribution. Documents, which are reproduced for CONSULTANT's internal drafts, reviews, or other purposes, are not eligible for reimbursement.

C. Identifiable testing costs and special inspections approved by Agreement Administrator.

D. All permit fees paid to regulatory agencies for approvals directly attributable to the Project. These permit fees do not include those permits required for the construction Contractor.

E. Overnight Delivery/Courier Charges (when TOWN requires/requests this service).

8.2.2 Reimbursable subconsultant expenses are limited to the items described above when the subconsultant agreement provides for reimbursable expenses. A detailed statement of expenses must accompany any request for reimbursement. Local travel to and from the Project site or within the Tri-County Area will not be reimbursed.

8.2.3 It is acknowledged and agreed to by CONSULTANT that the dollar limitation set forth in each Task Order is a limitation upon, and describes the maximum extent of TOWN's obligation to reimburse CONSULTANT for direct, non salary expenses, but does not constitute a limitation, of any sort, upon CONSULTANT's obligation to incur such expenses in the performance of services hereunder. If TOWN or Agreement Administrator requests CONSULTANT to incur expenses not contemplated in the amount for Reimbursables, CONSULTANT shall notify Agreement Administrator in writing before incurring such expenses. Any such expenses shall be reviewed and approved by TOWN prior to incurring such expenses.

8.3 METHOD OF BILLING

8.3.1 Not To Exceed Amount Compensation

CONSULTANT shall submit billings, which are identified by the specific project number on a monthly basis in a timely manner for all salary costs and Reimbursables attributable to the Project. These billings shall identify the nature of the work performed for each phase, subtask, deliverable and item identified in the Exhibit "A" Scope of Services or Task Order, the total hours of work performed and the employee category of the individuals performing same. The statement shall show a summary of salary costs with accrual of the total and credits for portions paid previously. Subconsultant fees must be documented by copies of invoices or receipts, which describe the nature of the expenses and contain a project number or other identifier, which clearly indicates the expense, as identifiable to the Project. Except for meals and travel expenses, it shall be deemed unacceptable for the CONSULTANT to modify the invoice or receipt by adding a project number or other identifier. Internal expenses must be documented by appropriate CONSULTANT's cost accounting forms with a summary of charges by category. When requested, CONSULTANT shall provide backup for past and current invoices that records hours and salary costs by employee category and subconsultant fees on a task basis, so that total hours and costs by task may be determined.

8.4 METHOD OF PAYMENT

8.4.1 TOWN shall pay CONSULTANT in accordance with the Florida Prompt Payment Act. To be deemed proper, all invoices must comply with the requirements set forth in this Agreement and must be submitted on the form

and pursuant to instructions prescribed by Agreement Administrator.

8.4.2 TOWN will review CONSULTANT's invoices and, if inaccuracies or errors are discovered in said invoice, TOWN will inform CONSULTANT within ten (10) working days by fax and/or by email of such inaccuracies or errors and request that revised copies of all such documents be re-submitted by CONSULTANT to TOWN.

8.4.3 Payment are scheduled to be made by TOWN to CONSULTANT by check.

8.4.4 Payment will be made to CONSULTANT at:

Calvin Giordano & Associates, Inc
2103 Coral Way, Suite 810
Miami, FL 33148

ARTICLE 9
AMENDMENTS AND CHANGES IN SCOPE OF SERVICES

9.1.1 No modification, amendment or alteration in the terms or conditions contained herein shall be effective unless contained in a written Amendment prepared with the same formality as this Agreement and executed by the TOWN and CONSULTANT.

9.1.2 TOWN or CONSULTANT may request changes that would increase, decrease, or otherwise modify the Scope of Services to be provided under a Task Order. Such changes must be contained in a written amendment, executed by the Parties hereto, with the same formality and of equal dignity herewith, prior to any deviation from the terms of the Task Order including the initiation of any additional services. TOWN shall compensate CONSULTANT for such additional services as provided in Article 8.

9.1.3 In the event a dispute between the Agreement Administrator and CONSULTANT arises over whether requested services constitute additional services and such dispute cannot be resolved by the Agreement Administrator and CONSULTANT, such dispute shall be promptly presented to the Town Manager for resolution. The Town Manager's decision shall be final and binding on the Parties for amounts in the aggregate under $100,000. In the event of a dispute in an amount over $100,000, the Parties agree to use their best efforts to settle such dispute. To this effect, they shall consult and negotiate with each other, in good faith and, recognizing their mutual interests, attempt to reach a just and equitable solution satisfactory to both Parties. If they do not reach such solution within a period of sixty (60) days, then upon notice to the other, either Party may commence litigation to resolve the dispute in Dade County, Florida. Any resolution shall be set forth in a written document in accordance with Section 9.2 above. During the pendency of any dispute, CONSULTANT shall promptly perform the disputed services.

ARTICLE 10
CONSULTANT'S RESPONSIBILITIES

10.1 The CONSULTANT, following the TOWN's approval of the Construction Documents and of the Final Statement of Probable Construction Costs, shall, when so directed and authorized by the TOWN, assist the TOWN in estimating construction costs, reviewing proposals, and assist in awarding contracts for construction. If requested, CONSULTANT shall review and analyze the proposals received by the TOWN and shall make a recommendation for any award based on the Town of Bay Harbor Islands Procurement Ordinance.

10.2 Estimates, opinions of probable construction or implementation costs, financial evaluations, feasibility studies or economic analyses prepared by CONSULTANT will represent its best judgment based on its experience and available information. The TOWN recognizes that CONSULTANT has no control over costs of labor, materials, equipment or services furnished by others or over market conditions or CONSULTANT's methods of determining prices, and that any evaluation of a facility to be constructed or work to be performed is speculative. Accordingly, CONSULTANT does not guarantee that proposals, bids or actual costs will not vary from opinions, evaluations or studies submitted by CONSULTANT.

- In the event that the lowest "best value" bid, as such term is used in the Town of Bay Harbor Islands Procurement Code, excluding any alternate bid items ("base bid"), exceeds the Estimated Construction Cost for a project by more than ten percent (10%), CONSULTANT shall explain, in writing, the reasons why the bids or proposals exceeded the ten percent (10%) factor following the analysis of all base bids. In such a circumstance, the TOWN may at its sole discretion, exercise any one or more of the following options: CONSULTANT shall be required to amend at the sole cost and expense of CONSULTANT, the Construction Drawings, Technical Specifications and Supplemental Conditions to enable the project to conform to a maximum of ten (10%) above the Estimated Construction Costs of the project, such amendments to be subject to the written final acceptance and approval of same by the TOWN;
- CONSULTANT shall be required to provide at the cost and expense of CONSULTANT re-bidding services and related items (including costs associated with regulatory review and approval of revised documents) as many times as requested by the TOWN until the base bid of at least one "best value" bid falls within the factor of ten (10%) of the Estimated Construction Cost of the project;
- The TOWN may approve an increase in the Estimated Construction Cost of the Project;
- The TOWN may reject all bids or proposals and may authorize re-bidding;
- The TOWN may if permitted, approve a renegotiation of the Project within a reasonable time;
- The TOWN may abandon the project and terminate CONSULTANT's work authorization and Services for the Project; or
- The TOWN may select as many deductive alternatives as may be necessary

to bring the award within ten percent (10%) of the Estimated Construction Costs of the Project.

It is expressly understood and agreed that the redesigning services required to keep the Project within 10% of the Estimated Construction Cost shall not be considered additional services and CONSULTANT agrees that it shall not seek compensation from the TOWN for such Services.

10.3 The CONSULTANT may be requested to provide the TOWN with a list of recommended, prospective proposers.

10.4 The CONSULTANT may be asked to attend all pre-bid / proposal conferences.

10.5 The CONSULTANT shall recommend any addenda, through the Agreement Administrator, as appropriate to clarify, correct, or change proposal /bid documents.

10.6 If pre-qualification of proposers is required as set forth in the request for proposal, CONSULTANT shall assist the TOWN, if requested, in developing qualification criteria, review qualifications and recommend acceptance or rejection of the proposers. If requested, CONSULTANT shall evaluate proposals and proposers, and make recommendations regarding any award by the TOWN.

10.7 The TOWN shall make decisions on claims regarding interpretation of the Construction Documents, and on other matters relating to the execution and progress of the work after receiving a recommendation from CONSULTANT .CONSULTANT may also assist in approving progress payments to the Contractor based on each Project Schedule of Values and the percentage of work completed.

10.8 The TOWN shall maintain a record of all Change Orders which shall be categorized according to the various types, causes, etc. that it may be determined are useful or necessary for its purpose. Among those shall be Change Orders identified as architectural/engineering Errors or Omissions.

10.8.1 Unless otherwise agreed by both Parties in writing, it is specifically agreed that any change to the work identified as an Error on the part of CONSULTANT shall be considered for purposes of this Agreement to be an additional cost to the TOWN which would not be incurred without the Error. Errors on the part of the CONSULTANT shall be rectified by the CONSULTANT with no additional cost to the TOWN.

10.8.2 Unless otherwise agreed by both Parties in writing, it is further specifically agreed for purposes of this Agreement that fifteen percent (15%) of the cost of Change Orders for any item categorized as an Omission shall be considered an additional cost to the TOWN which would not be incurred without the Omission. So long as the total of those two numbers (Change

Order costs of Errors plus fifteen percent (15%) of Omissions) remains less than two percent (2%) of the total Construction Cost of the Project, the TOWN shall not look to CONSULTANT for reimbursement for Errors and Omissions.

10.8.3 Should the sum of the two as defined above (cost of Errors plus fifteen percent (15%) of the cost of Omissions) exceed two percent (2%) of the Construction Cost, the TOWN shall recover the full and total additional cost to the TOWN as a result of CONSULTANT's Errors and Omissions from CONSULTANT, that being defined as the cost of Errors plus fifteen percent (15%) of the cost of Omissions above two percent (2%) of the Construction Cost.

10.8.4 To obtain such recovery, the TOWN shall deduct from CONSULTANT's fee a sufficient amount to recover all such additional cost to the TOWN.

10.8.5 In executing this Agreement, CONSULTANT acknowledges acceptance of these calculations and to the TOWN's right to recover same as stated above. The recovery of additional costs to the TOWN under this paragraph shall not limit or preclude recovery for other separate and/or additional damages which the TOWN may otherwise incur.

10.8.6 The Agreement Administrator's decision as to whether a Change Order is caused by an Error or caused by an Omission, taking into consideration industry standards, shall be final and binding on both Parties for amounts in the aggregate under $100,000 per project, subject to Section 9.3. In the event of a dispute in an amount over $100,000, the Parties agree to use their best efforts to settle such dispute. To this effect, they shall consult and negotiate with each other, in good faith and, recognizing their mutual interests, attempt to reach a just and equitable solution satisfactory to both Parties. If they do not reach such solution within a period of sixty (60) days, then upon notice to the other, either Party may commence litigation to resolve the dispute in Dade County, Florida.

ARTICLE 11
TOWN'S RESPONSIBILITIES

11.1 TOWN shall assist CONSULTANT by placing at CONSULTANT's disposal, all information TOWN has available pertinent to the Project including previous reports and any other data relative to design or construction of the Project.

11.2 TOWN shall arrange for access to, and make all provisions for, CONSULTANT to enter upon public and private property as required for CONSULTANT to perform its services.

11.3 TOWN shall review the itemized deliverables/documents identified per Task Order.

11.4 TOWN shall give prompt written notice to CONSULTANT whenever TOWN observes or otherwise becomes aware of any development that affects the scope or timing of CONSULTANT's services or any defect in the work of the Contractor.

ARTICLE 12
MISCELLANEOUS

12.1 OWNERSHIP OF DOCUMENTS

All documents including, but not limited to, drawings, renderings, models, and specifications prepared or furnished by CONSULTANT, its dependent professional associates and consultants, pursuant to this Agreement shall be owned by the TOWN.

Drawings, specifications, designs, models, photographs, reports, surveys and other data prepared in connection with this Agreement are and shall remain the property of the TOWN whether the Project for which they are made is executed or not, and are subject to reuse by the TOWN in accordance with Section 287.055(10) of the Florida Statutes. They are not intended or represented to be suitable for reuse by the TOWN or others on extensions of this Project or on any other project without appropriate verification or adaptation. Any reuse, except for the specific purpose intended hereunder, will be at the TOWN's sole risk and without liability or legal exposure to CONSULTANT or its subcontractors. This does not, however, relieve CONSULTANT of liability or legal exposure for errors, omissions, or negligent acts made on the part of CONSULTANT in connection with the proper use of documents prepared under this Agreement. Any such verification or adaptation may entitle CONSULTANT to further compensation at rates to be agreed upon by the TOWN and CONSULTANT. This shall not limit the TOWN's reuse of preliminary or developmental plans or ideas incorporated therein, should the Project be suspended or terminated prior to completion.

12.2 TERMINATION

12.2.1 Termination for Cause. It is expressly understood and agreed that the TOWN may terminate this Agreement at any time for cause in the event that the CONSULTANT (1) violates any provisions of this Agreement or performs same in bad faith or (2) unreasonably delays the performance of the services or does not perform the services in a timely and satisfactory manner upon written notice to the CONSULTANT. Notice of termination shall be provided in accordance with Section 12.27. In the case of termination by the TOWN for cause, the CONSULTANT shall be first granted a 10-working day cure period after receipt of written notice from the TOWN. In the event that the Agreement is terminated, the CONSULTANT shall be entitled to be compensated for the services rendered and accepted by the TOWN from the date of execution of the Agreement up to the time of termination. Such compensation shall be based on the fee as set forth above, wherever

possible. For those portions of services rendered to which the applicable fee cannot be applied, payment shall be based upon the appropriate rates for the actual time spent on the Project. In the event that the CONSULTANT abandons this Agreement or through violation of any of the terms and conditions of this Agreement, causes it to be terminated, CONSULTANT shall indemnify the TOWN against any and all loss pertaining to this termination.

All finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs and reports prepared by CONSULTANT shall become the property of TOWN and shall be delivered by CONSULTANT to the TOWN within five (5) days of TOWN's request. Upon payment of such sum by TOWN to CONSULTANT, TOWN shall have no further duties or obligations pursuant to or arising from this Agreement.

This Agreement may also be terminated by TOWN upon such notice as TOWN deems appropriate in the event TOWN or Agreement Administrator determines that termination is necessary to protect the public health, safety, or welfare.

Notice of termination shall be provided in accordance with Section 12.27, NOTICES, except that Agreement Administrator may provide a prior verbal stop work order if the Agreement Administrator deems a stop work order of this Agreement in whole or in part is necessary to protect the public's health, safety, or welfare. A verbal stop work order shall be promptly confirmed in writing as set forth in Section 12.27, NOTICES.

12.2.2 Termination for Convenience. In the event this Agreement is terminated for convenience, CONSULTANT shall be paid for any services performed and accepted by the TOWN to the date the Agreement is terminated. Compensation shall be withheld until all documents specified in Section 11.3 of this Agreement are provided to the TOWN. Upon being notified of TOWN's election to terminate, CONSULTANT shall refrain from performing further services or incurring additional expenses under the terms of this Agreement. Under no circumstances shall TOWN make payment for services which have not been performed.

12.2.3 Termination by CONSULTANT. CONSULTANT shall have the right to terminate this Agreement upon substantial breach by the TOWN of its obligation under this Agreement as to unreasonable delay in payment or non-payment of undisputed amounts. CONSULTANT shall have no right to terminate this Agreement for convenience of the CONSULTANT.

12.3 AUDIT RIGHT AND RETENTION OF RECORDS

TOWN shall have the right to audit the books, records, and accounts of CONSULTANT that are related to this Project. CONSULTANT shall keep such books, records, and accounts as may be necessary in order to record complete and correct entries related to the Project.

CONSULTANT shall preserve and make available, at reasonable times and upon prior written notice for examination and audit by TOWN all financial records, supporting documents, statistical records, and any other documents pertinent to this Agreement for the required retention period of the Florida Public Records Act (Chapter 119, Florida Statutes), if applicable, or, if the Florida Public Records Act is not applicable, for a minimum of three (3) years after termination of this Agreement. If any audit has been initiated and audit findings have not been resolved at the end of the retention period or three (3) years, whichever is longer, the books, records, and accounts shall be retained until resolution of the audit findings. If the Florida Public Records Act is determined by TOWN to be applicable to CONSULTANT's records, CONSULTANT shall comply with all requirements thereof; however, no confidentiality or non-disclosure requirement of either federal or state law shall be violated by CONSULTANT. Any incomplete or incorrect entry in such books, records, and accounts shall be a basis for TOWN's disallowance and recovery of any payment upon such entry.

12.4 NON-DISCRIMINATION, EQUAL EMPLOYMENT OPPORTUNITY, AND AMERICANS WITH DISABILITIES ACT

CONSULTANT shall not unlawfully discriminate against any person in its operations and activities in its use or expenditure of the funds or any portion of the funds provided by this Agreement and shall affirmatively comply with all applicable provisions of the Americans with Disabilities Act (ADA) in the course of providing any services funded in whole or in part by TOWN, including Titles I and II of the ADA (regarding nondiscrimination or the basis of disability), and all applicable regulations, guidelines, and standards.

CONSULTANT's decisions regarding the delivery of services under this Agreement shall be made without regard to or consideration of race, age, religion, color, gender, sexual orientation, national origin, marital status, physical or mental disability, political affiliation, or any other factor which cannot be lawfully or appropriately used as a basis for service delivery.

CONSULTANT shall comply with Title I of the Americans with Disabilities Act regarding nondiscrimination on the basis of disability in employment and further shall not discriminate against any employee or applicant for employment because of race, age, religion, color, gender, sexual orientation, national origin, marital status, political affiliation, or physical or mental disability. In addition, CONSULTANT shall take affirmative steps to ensure nondiscrimination in employment against disabled persons. Such actions shall include, but not be limited to, the following: employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff, termination, rates of pay, other forms of compensation, terms and conditions of employment, training (including apprenticeship), and accessibility.

CONSULTANT shall take affirmative action to ensure that applicants are employed, and employees are treated without regard to race, age, religion, color, gender, sexual orientation, national origin, marital status, political affiliation, or physical or mental disability during employment. Such actions shall include, but not be limited to, the following: employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff, termination, rates of pay, other forms of compensation, terms and conditions of employment, training (including apprenticeship), and accessibility.

12.5 MINORITY PARTICIPATION

The CONSULTANT shall make a good faith effort to help the TOWN maintain and encourage MBE/WBE participation levels consistent with such historical levels and market conditions. The CONSULTANT will be required to document all such efforts and supply the TOWN with this documentation at the end of the Project, or in cases where projects are longer than one year, each TOWN fiscal year.

12.6 PUBLIC ENTITY CRIMES ACT

In accordance with the Public Crimes Act, Section 287.133, Florida Statutes, a person or affiliate who is a contractor, consultant or other provider, who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid on a Agreement to provide any goods or services to the Town, may not submit a bid on a Agreement with the Town for the construction or repair of a public building or public work, may not submit bids on leases of real property to the Town, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a Agreement with the Town, and may not transact any business with the Town in excess of the threshold amount provided in Section 287.017, Florida Statutes, for category two purchases for a period of thirty-six (36) months from the date of being placed on the convicted vendor list. Violation of this section by Contractor shall result in cancellation of the Town purchase and may result in Contractor debarment.

12.7 SUBCONSULTANTS

12.7.1 CONSULTANT may sub-Agreement certain items of work to sub-consultant. The parties expressly agree that the CONSULTANT shall submit pertinent information regarding the proposed sub-consultant, including sub-consultant's scope of work and fees, for review and approval by the TOWN prior to sub-consultants proceeding with any work.

12.7.2 CONSULTANT shall utilize the subconsultants identified in the proposal that were a material part of the selection of CONSULTANT to provide the services for this Project. CONSULTANT shall obtain written approval of the Agreement Administrator prior to changing or modifying the list of sub-consultants submitted by CONSULTANT.

The list of subconsultants submitted is as follows:

Bliss & Nyitray, Inc
Arehna Engineering, Inc
Nation Traffic Data, LLC
US Utility Potholding & Air Exacution

12.8 ASSIGNMENT AND PERFORMANCE

Neither this Agreement nor any interest herein shall be assigned, transferred, or encumbered without the written consent of the other P arty, and CONSULTANT shall not sub-Agreement any portion of the work required by this Agreement except as authorized pursuant to Section 12.7.

CONSULTANT represents that all persons delivering the services required by this Agreement have the knowledge and skills, either by training, experience, education, or a combination thereof, to adequately and competently perform the duties, obligations, and services set forth in the Scope of Services and to provide and perform such services to TOWN's satisfaction for the agreed compensation.

CONSULTANT shall perform its duties, obligations, and services under this Agreement in a skillful and respectable manner. The quality of CONSULTANT's performance and all interim and final product(s) provided to or on behalf of TOWN shall meet or exceed all professional standards of the State of Florida.

12.9 INDEMNIFICATION OF TOWN

12.9.1 CONSULTANT shall indemnify and hold harmless TOWN, its officers and employees, from liabilities, damages, losses, and costs, including but not limited to reasonable attorneys' fees, to the extent caused by the negligence, recklessness or intentional misconduct of CONSULTANT and persons employed or utilized by CONSULTANT in the performance of this Agreement. These indemnifications shall survive the term of this Agreement. In the event that any action or proceeding is brought against TOWN by reason of any such claim or demand, CONSULTANT, shall, upon written notice from TOWN, resist and defend such action or proceeding by counsel approved by the TOWN.

12.9.2 To the extent considered necessary by Agreement Administrator and TOWN, any sums due the CONSULTANT under this Agreement may be retained by TOWN until all of the TOWN's claims for indemnification pursuant to this Agreement have been settled or otherwise resolved, and any amount withheld shall not be subject to payment of interest by TOWN.

12.9.3 The Indemnification provided above shall obligate CONSULTANT to defend at its own expense to and through appellate, supplemental or bankruptcy proceeding, or to provide for such defense, at TOWN's option, any and all claims of liability and all suits and actions of every name and description covered by Section 11.9.1 above that may be brought against TOWN whether performed by CONSULTANT, or persons employed or utilized by CONSULTANT.

12.10 LIMITATION OF TOWN'S LIABILITY

The TOWN desires to enter into this Agreement only if in so doing the TOWN can place a limit on the TOWN's liability for any cause of action arising out of this Agreement, so that the TOWN's liability for any breach never exceeds the sum of $1,000.00. For other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the CONSULTANT expresses its willingness to enter into this Agreement with the knowledge that the CONSULTANT's recovery from the TOWN to any action or claim arising from the Agreement is limited to a maximum amount of $1,000.00 less the amount of all funds actually paid by the TOWN to the CONSULTANT pursuant to this Agreement. Accordingly, and notwithstanding any other term or condition of this Agreement that may suggest otherwise, the CONSULTANT agrees that the TOWN shall not be liable to the CONSULTANT for damages in an amount in excess of $1,000.00, which amount shall be reduced by the amount actually paid by the TOWN to the CONSULTANT pursuant to this Agreement, for any action or claim arising out of this Agreement. Nothing contained in this paragraph or elsewhere in this Agreement is in any manner intended either to be a waiver of the limitation placed upon the TOWN's liability as set forth in Section 768.28, Florida Statutes, or to extend the TOWN's liability beyond the limits established in said Section 768.28; and no claim or award against the TOWN shall include attorney's fees, investigative costs, extended damages, expert fees, suit costs or pre-judgment interest. Notwithstanding the foregoing, the parties agree and understand that the provisions of this Article 12.10 do not apply to monies owed, if any, for services rendered to CONSULTANT by the TOWN under the provisions of this Agreement.

12.11 INSURANCE

12.11.1 As a condition precedent to the effectiveness of this Agreement, during the term of this Agreement and during any renewal or extension term of this Agreement, the Contractor, at the Contractor's sole expense, shall provide insurance of such types and with such terms and limits as noted below. Providing proof of and maintaining adequate insurance coverage are material obligations of the Contractor. The Contractor shall provide the Town a certificate of insurance evidencing such coverage. The Contractor's insurance coverage shall be primary insurance for all

applicable policies. The limits of coverage under each policy maintained by the Contractor shall not be interpreted as limiting the Contractor's liability and obligations under this Agreement. All insurance policies shall be from insurers authorized to write insurance policies in the State of Florida and that possess an A.M. Best rating of "A-" VII or better. All insurance policies are subject to approval by the Town's Risk Manager.

12.11.2 The coverages, limits, and endorsements required herein protect the interests of the Town, and these coverages, limits, and endorsements may not be relied upon by the Contractor for assessing the extent or determining appropriate types and limits of coverage to protect the Contractor against any loss exposure, whether as a result of this Agreement or otherwise. The requirements contained herein, as well as the Town's review or acknowledgement, are not intended to and shall not in any manner limit or qualify the liabilities and obligations assumed by the Contractor under this Agreement.

12.11.3 The following insurance policies and coverages are required:

Commercial General Liability

Coverage must be afforded under a Commercial General Liability policy with limits not less than:

- $2,000,000 each occurrence and $2,000,000 aggregate for Bodily Injury, Property Damage, and Personal and Advertising Injury
- $2,000,000 each occurrence and $2,000,000 aggregate for Products and Completed Operations

Policy must include coverage for Contractual Liability and Independent Contractors.

The Town and the Town's officers, employees, and volunteers are to be covered as additional insureds with a CG 20 26 04 13 Additional Insured – Designated Person or Organization Endorsement or similar endorsement providing equal or broader Additional Insured Coverage with respect to liability arising out of activities performed by or on behalf of the Contractor. The coverage shall contain no special limitation on the scope of protection afforded to the Town or the Town's officers, employees, and volunteers.

Business Automobile Liability

Coverage must be afforded for all Owned, Hired, Scheduled, and Non-Owned vehicles for Bodily Injury and Property Damage in an amount not less than $1,000,000 combined single limit each accident

If the Contractor does not own vehicles, the Contractor shall maintain coverage for Hired and Non-Owned Auto Liability, which may be satisfied by way of endorsement to the Commercial General Liability policy or separate Business Auto Liability policy.

Workers' Compensation and Employer's Liability

Coverage must be afforded per Chapter 440, Florida Statutes. Any person or entity performing work for or on behalf of the Town must provide Workers' Compensation insurance. Exceptions and exemptions will be allowed by the Town's Risk Manager, if they are in accordance with Florida Statute.

The Contractor waives, and the Contractor shall ensure that the Contractor's insurance carrier waives, all subrogation rights against the Town and the Town's officers, employees, and volunteers for all losses or damages. The Town requires the policy to be endorsed with WC 00 03 13 Waiver of our Right to Recover from Others or equivalent.

The Contractor must be in compliance with all applicable State and federal workers' compensation laws, including the U.S. Longshore Harbor Workers' Act and the Jones Act, if applicable.

Umbrella/Excess Liability: The Contractor shall provide umbrella/excess coverage with limits of no less than $2,000,000 excess of Commercial General Liability, Automobile Liability and Employer's Liability

12.12.4 Insurance Certificate Requirements

- **a.** The Contractor shall provide the Town with valid Certificates of Insurance (binders are unacceptable) no later than thirty (30) days prior to the start of work contemplated in this Agreement.
- **b.** The Contractor shall provide to the Town a Certificate of Insurance having a thirty (30) day notice of cancellation; ten (10) days' notice if cancellation is for nonpayment of premium.
- **c.** In the event that the insurer is unable to accommodate the cancellation notice requirement, it shall be the responsibility of the Contractor to provide the proper notice. Such notification will be in writing by registered mail, return receipt requested, and addressed to the certificate holder.
- **d.** In the event the Agreement term goes beyond the expiration date of the insurance policy, the Contractor shall provide the Town with an updated Certificate of Insurance no later than ten (10) days prior to the expiration of the insurance currently in effect. The Town reserves the right to suspend the Agreement until this requirement is met.

e. The Certificate of Insurance shall indicate whether coverage is provided under a claims-made or occurrence form. If any coverage is provided on a claims-made form, the Certificate of Insurance must show a retroactive date, which shall be the effective date of the initial contract or prior.

f. The Town shall be named as an Additional Insured on the general liability policy.

g. The Town shall be granted a Waiver of Subrogation on the Contractor's Workers' Compensation insurance policy.

h. On section "description of operations / locations / vehicles (attach acord 101, additional remarks schedule, if more space is required)" should read as flows:

TOWN OF BAY HARBOR ISLAND. IS INCLUDED AS ADDITIONAL INSURED

The title of the Agreement, Bid/Contract number, event dates, or other identifying reference must be listed on the Certificate of Insurance.

<u>The Certificate Holder should read as follows:</u>
Town of Harbor Islands
Procurement Services
9665 Bay Harbor Terrace
Town of Harbor Islands, FL 33154

The Contractor has the sole responsibility for the payment of all insurance premiums and shall be fully and solely responsible for any costs or expenses as a result of a coverage deductible, co-insurance penalty, or self-insured retention; including any loss not covered because of the operation of such deductible, co-insurance penalty, self-insured retention, or coverage exclusion or limitation. Any costs for adding the Town as an Additional Insured shall be at the Contractor's expense.

If the Contractor's primary insurance policy/policies do not meet the minimum requirements, as set forth in this Agreement, the Contractor may provide evidence of an Umbrella/Excess insurance policy to comply with this requirement.

The Contractor's insurance coverage shall be primary insurance as applied to the Town and the Town's officers, employees, and volunteers. Any insurance or self-insurance maintained by the Town covering the Town, the Town's officers, employees, or volunteers shall be non-contributory.

Any exclusion or provision in the insurance maintained by the Contractor that excludes coverage for work contemplated in this Agreement shall be unacceptable and shall be considered breach of contract.

All required insurance policies must be maintained until the contract work has been accepted by the Town, or until this Agreement is terminated, whichever is later. Any lapse in coverage shall be considered breach of contract. In addition, Contractor must provide to the Town confirmation of coverage renewal via an updated certificate should any policies expire prior to the expiration of this Agreement. The Town reserves the right to review, at any time, coverage forms and limits of Contractor's insurance policies.

The Contractor shall provide notice of any and all claims, accidents, and any other occurrences associated with this Agreement shall be provided to the Contractor's insurance company or companies and the Town's Risk Management office as soon as practical.

It is the Contractor's responsibility to ensure that any and all of the Contractor's independent contractors and subcontractors comply with these insurance requirements. All coverages for independent contractors and subcontractors shall be subject to all of the applicable requirements stated herein. Any and all deficiencies are the responsibility of the Contractor.

ADDITIONAL COVERAGES REQUIRE

Professional Liability and/or Errors and Omissions

Coverage must be afforded for Wrongful Acts in an amount not less than $1,000,000 each claim and $2,000,000 aggregate.

Contractor must keep insurance in force until the third anniversary of expiration of this Agreement or the third anniversary of acceptance of work by the Town.

12.12 REPRESENTATIVE OF TOWN AND CONSULTANT

12.12.1 The Parties recognize that questions in the day-to-day conduct of the Project will arise. The Agreement Administrator, upon CONSULTANT's request, shall advise CONSULTANT in writing of one (1) or more TOWN employees to whom all communications pertaining to the day-to-day conduct of the Project shall be addressed.

12.12.2 CONSULTANT shall inform the Agreement Administrator in writing of CONSULTANT's representative to whom matters involving the conduct of the Project shall be addressed.

12.13 ALL PRIOR AGREEMENTS SUPERSEDED

This document incorporates and includes all prior negotiations, correspondence, conversations, agreements or understandings applicable to the matters contained herein; and the Parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, the Parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or agreements whether oral or written.

It is further agreed that no modification, amendment or alteration in the terms or conditions contained herein shall be effective unless contained in a written document executed with the same formality and of equal dignityherewith.

12.14 CONSULTANT'S STAFF

CONSULTANT will provide the key staff identified in its proposal for the Project as long as said key staff are in CONSULTANT's employment.

CONSULTANT will obtain prior written approval of Agreement Administrator to change key staff. CONSULTANT shall provide Agreement Administrator with such information as necessary to determine the suitability of any proposed new key staff. Agreement Administrator will be reasonable in evaluating key staff qualifications.

If Agreement Administrator desires to request removal of any of CONSULTANT's staff, Agreement Administrator shall first meet with CONSULTANT and provide reasonable justification for said removal.

12.15 INDEPENDENT CONTRACTOR

CONSULTANT is an independent contractor under this Agreement. Services provided by CONSULTANT shall be subject to the supervision of CONSULTANT. In providing the services, CONSULTANT or its agents shall not be acting and shall not be deemed as acting as officers, employees, or agents of the TOWN. Personnel policies, tax responsibilities, social security and health insurance, employee benefits, purchasing policies and other similar administrative procedures applicable to services rendered under this Agreement shall be those of CONSULTANT. The Parties expressly acknowledge that it is not their intent to create any rights or obligations in any third person or entity under this Agreement.

12.16 THIRD PARTY BENEFICIARIES

Neither CONSULTANT nor TOWN intends to directly or substantially benefit a third party by this Agreement. Therefore, the parties agree that there are no third-party beneficiaries to this Agreement and that no third party shall be entitled to assert a claim against either of them based upon this Agreement.

12.17 CONFLICTS

Neither CONSULTANT nor its employees shall have or hold any continuing or frequently recurring employment or contractual relationship that is substantially antagonistic or incompatible with CONSULTANT's loyal and conscientious exercise of judgment related to its performance under this Agreement.

CONSULTANT agrees that none of its officers or employees shall, during the term of this Agreement, serve as expert witness against TOWN in any legal or administrative proceeding in which he or she is not a party, unless compelled by court process, nor shall such persons give sworn testimony or issue a report or writing, as an expression of his or her expert opinion, which is adverse or prejudicial to the interests of TOWN or in connection with any such pending or threatened legal or administrative proceeding. The limitations of this Section shall not preclude such person from representing themselves in any action or in any administrative or legal proceeding. In the event CONSULTANT is permitted to utilize subconsultants to perform any services required by this Agreement, CONSULTANT agrees to prohibit such subconsultants, by written contract, from having any conflicts as within the meaning of this Section.

12.18 CONTINGENCY FEE

CONSULTANT warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for CONSULTANT, to solicit or secure this Agreement and that it has not paid or agreed to pay any person, company, corporation, individual or firm, other than a bona fide employee working solely for CONSULTANT, any fee, Council, percentage, gift, or other consideration contingent upon or resulting from the award or making of this Agreement. For a breach or violation of this provision, the TOWN shall have the right to terminate this Agreement without liability at its discretion, or to deduct from the Agreement price or otherwise recover the full amount of such fee, Council, percentage, gift or consideration.

12.19 WAIVER OF BREACH AND MATERIALITY

Failure by TOWN to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement.

TOWN and CONSULTANT agree that each requirement, duty, and obligation set forth herein is substantial and important to the formation of this Agreement and, therefore, is a material term hereof.

12.20 COMPLIANCE WITH LAWS

CONSULTANT shall comply with all applicable federal, state, and local laws, codes, ordinances, rules, and regulations in performing its duties, responsibilities, and obligations related to this Agreement.

12.21 SEVERANCE

In the event this Agreement or a portion of this Agreement is found by a court of competent jurisdiction to be invalid, the remaining provisions shall continue to be effective unless TOWN or CONSULTANT elects to terminate this Agreement. The election to terminate this Agreement based upon this provision shall be made within seven (7) days after the findings by the court become final.

12.22 JOINT PREPARATION

Preparation of this Agreement has been a joint effort of TOWN and CONSULTANT and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than any other.

12.23 PRIORITY OF PROVISIONS

If there is a conflict or inconsistency between any term, statement, requirement, or provision of any exhibit attached hereto, any document or events referred to herein, or any document incorporated into this Agreement by reference and a term, statement, requirement, or provision of this Agreement, the term, statement, requirement, or provision contained in Articles 1-12 of this Agreement shall prevail and be given effect.

12.24 APPLICABLE LAW AND VENUE AND WAIVER OF JURY TRIAL

This Agreement shall be construed in accordance with and governed by the laws of the State of Florida. Venue for any lawsuit by either party against the other party or otherwise arising out of this Agreement and for any other legal proceeding shall be in Dade County, Florida, or in the event of federal jurisdiction, in the Southern District of Florida. **BY ENTERING INTO THIS AGREEMENT, CONSULTANT AND TOWN EXPRESSLY WAIVE ANY RIGHTS EITHER PARTY MAY HAVE TO A TRIAL BY JURY OF ANY CIVIL LITIGATION RELATED TO, OR ARISING OUT OF THIS AGREEMENT.**

In the event Consultant is a corporation organized under the laws of any province of Canada or is a Canadian federal corporation, the Town may enforce in the United States of America or in Canada or in both countries a judgment entered against CONSULTANT. CONSULTANT waives any and all defenses to the Town's enforcement in Canada of a judgment entered by a court in the United States of America.

12.25 SOLICITATION AND EXHIBITS

The solicitation, CONSULTANT'S response to the solicitation and each exhibit

referred to in this Agreement forms an essential part of this Agreement. The solicitation, CONSULTANT'S response, and exhibits, if not physically attached, should be treated as part of this Agreement, and are incorporated herein by reference.

12.26 TWO ORIGINAL AGREEMENTS

This Agreement shall be executed in two (2), signed Agreements, treated as an original.

12.27 NOTICES

Whenever either Party desires to give notice unto the other, it must be given by written notice, sent by certified United States mail, with return receipt requested, addressed to the Party for whom it is intended, at the place last specified, and the place for giving of notice in compliance with the provisions of this paragraph. For the present, the Parties designate the following as the respective places for giving of notice, to-wit:

With a copy to: Town Manager
Town of Bay Harbor Islands
9665 Bay Harbor Terrace, FL 33154
Telephone: (305) 866-6241

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

CONSULTANT: **Chris Giordano**
Calvin Giordano & Associates, Inc
2103 Coral Way, Suite 810
Miami, FL 33148
cgiordano @cgasolutions.com

12.28 ATTORNEY FEES

If TOWN or CONSULTANT incurs any expense in enforcing the terms of this Agreement through litigation, the prevailing party in that litigation shall be reimbursed for all such costs and expenses, including but not limited to court costs, and reasonable attorney fees incurred during litigation.

12.29 PERMITS, LICENSES AND TAXES

CONSULTANT shall, at its own expense, obtain all necessary permits and

licenses, pay all applicable fees, and pay all applicable sales, consumer, use and other taxes required to comply with local ordinances, state and federal law. CONSULTANT is responsible for reviewing the pertinent state statutes regarding state taxes and for complying with all requirements therein. Any change in tax laws after the execution of this Agreement will be subject to further negotiation and CONSULTANT shall be responsible for complying with all state tax requirements.

12.30 ENVIRONMENTAL, HEALTH AND SAFETY

CONSULTANT shall maintain a safe working environment during performance of the work. CONSULTANT shall comply, and shall secure compliance by its employees, agents, and subconsultants, with all applicable environmental, health, safety and security laws and regulations, and performance conditions in this Agreement. Compliance with such requirements shall represent the minimum standard required of CONSULTANT. CONSULTANT shall be responsible for examining all requirements and determine whether additional or more stringent environmental, health, safety and security provisions are required for the work. CONSULTANT agrees to utilize protective devices as required by applicable laws, regulations, and any industry or CONSULTANT's health and safety plans and regulations, and to pay the costs and expenses thereof, and warrants that all such persons shall be fit and qualified to carry out the Work.

12.31 STANDARD OF CARE

CONSULTANT represents that he/she/it is qualified to perform the work, that CONSULTANT and his/her/its subconsultants possess current, valid state and/or local licenses to perform the Work, and that their services shall be performed in a manner consistent with that level of care and skill ordinarily exercised by other qualified consultants under similar circumstances.

12.32 TRUTH-IN-NEGOTIATION CERTIFICATE

Signature of this Agreement by CONSULTANT shall act as the execution of a Truth-in-Negotiation Certificate stating that wage rates and other factual unit costs supporting the compensation of this Agreement are accurate, complete, and current at the time of contracting. The original Agreement price and any additions thereto shall be adjusted to exclude any significant sums, by which the TOWN determines that Agreement price was increased due to inaccurate, incomplete, or non-current wage rates and other factual unit costs. All such Agreement adjustments must be made within 1 year following the end of the contract.

12.33 EVALUATION

The TOWN maintains the right to periodically review the performance of the CONSULTANT. This review will take into account the timely execution of Task Orders, the quality of the work performed, the cost to the TOWN and the good faith

efforts made by the CONSULTANT to maintain MBE/WBE participation in TOWN projects. Any deficiencies in performance will be described in writing and an opportunity afforded, where practicable, for the CONSULTANT to address and/or remedy such deficiencies.

12.34 STATUTORY COMPLIANCE

CONSULTANT shall prepare all documents and other materials for the Project in accordance with all applicable rules, laws, ordinances and governmental regulations of the State of Florida, Dade County, the Town of Bay Harbor Islands, Florida, and all governmental agencies having jurisdiction over the services to be provided by CONSULTANT under this Agreement or over any aspect or phase of the Project.

12.35 SCRUTINIZED COMPANIES

Subject to *Odebrecht Construction, Inc., v. Prasad*, 876 F.Supp.2d 1305 (S.D. Fla. 2012), *affirmed*, *Odebrecht Construction, Inc., v. Secretary, Florida Department of Transportation*, 715 F.3d 1268 (11th Cir. 2013), with regard to the "Cuba Amendment," the Contractor certifies that it is not on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, and that it does not have business operations in Cuba or Syria, as provided in Section 287.135, Florida Statutes (2023), as may be amended or revised. The Contractor certifies that it is not on the Scrutinized Companies that Boycott Israel List created pursuant to Section 215.4725, Florida Statutes (2023), as may be amended or revised, and that it is not engaged in a boycott of Israel. The Town may terminate this Agreement at the Town's option if the Contractor is found to have submitted a false certification as provided under subsection (5) of Section 287.135, Florida Statutes (2023), as may be amended or revised, or been placed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List or the Scrutinized Companies that Boycott Israel List created pursuant to Section 215.4725, Florida Statutes (2023), as may be amended or revised, or is engaged in a boycott of Israel or has been engaged in business operations in Cuba or Syria, as defined in Section 287.135, Florida Statutes (2023), as may be amended or revised.

12.36 PUBLIC RECORDS

Consultant shall:

1. Keep and maintain public records required by the Town in order to perform the service.

2. Upon request from the Town's custodian of public records, provide the Town with a copy of the requested records or allow the records to be inspected or

copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes (2022), as may be amended or revised, or as otherwise provided by law.

3. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the Agreement term and following completion of this Agreement if CONSULTANT does not transfer the records to the Town.

4. Upon completion of the Agreement, transfer, at no cost to the Town, all public records in possession of CONSULTANT or keep and maintain public records required by the Town to perform the service. If CONSULTANT transfers all public records to the Town upon completion of this Agreement, CONSULTANT shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If CONSULTANT keeps and maintains public records upon completion of this Agreement, CONSULTANT shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the Town, upon request from the Town's custodian of public records, in a format that is compatible with the information technology systems of the Town.

12.37 INTELLECTUAL PROPERTY

CONSULTANT shall protect and defend at CONSULTANT's expense, counsel being subject to the Town's approval, and indemnify and hold harmless the Town from and against any and all losses, penalties, fines, damages, settlements, judgments, claims, costs, charges, royalties, expenses, or liabilities, including any award of attorney fees and any award of costs, in connection with or arising directly or indirectly out of any infringement or allegation of infringement of any patent, copyright, or other intellectual property right in connection with the CONSULTANT's or the TOWN's use of any copyrighted, patented or un-patented invention, process, article, material, or device that is manufactured, provided, or used pursuant to this Agreement. If the CONSULTANT uses any design, device, or materials covered by letters, patent or copyright, it is mutually agreed and understood without exception that the bid prices shall include all royalties or costs arising from the use of such design, device, or materials in any way involved in the work.

12.38 RIGHTS IN DOCUMENTS AND WORK

Any and all reports, photographs, surveys, and other data and documents provided or created in connection with this Agreement are and shall remain the property of TOWN; and CONSULTANT disclaims any copyright in such materials. In the event of and upon termination of this Agreement, any reports, photographs, surveys, and

other data and documents prepared by CONSULTANT, whether finished or unfinished, shall become the property of Town and shall be delivered by CONSULTANT to the TOWN's Agreement Administrator within seven (7) days of termination of this Agreement by either Party. Any compensation due to CONSULTANT shall be withheld until CONSULTANT delivers all documents to the TOWN as provided herein.

12.39 REPRESENTATION OF AUTHORITY

Each individual executing this Agreement on behalf of a Party hereto hereby represents and warrants that he or she is, on the date he or she signs this Agreement, duly authorized by all necessary and appropriate action to execute this Agreement on behalf of such Party and does so with full legal authority.

12.40 NON-DISCRIMINATION

The CONSULTANT shall not, in any of its activities, including employment, discriminate against any individual on the basis of race, color, national origin, age, disability, religion, creed, sex, disability, sexual orientation, gender, gender identity, gender expression, marital status or any other protected classification as defined by applicable law.

12.41 HOLD HARMLESS AND INDEMNIFICATION.

All Proposers shall hold the Town, its officials, and its employees harmless and covenant not to sue the Town, its officials, and its employees in reference to the Town's decision to reject, award, or not award an RFQ, as applicable. Additionally, the selected Proposer shall indemnify, defend, and save harmless the Town, its officers, agents, and employees, from or on account of any injuries or damages, received or sustained by any person or persons during or on account of the Proposer's performance of its Services under this RFQ, or by or in consequence of any negligence (excluding the sole negligence of the Town), in connection with the same; or by use of any improper materials or by or on account of any act or omission of the said selected Proposer, agents, servants, or employees. The selected Proposer shall indemnify, defend, and hold harmless the Town and their agents or employees from and against all claims, damages, losses, and expenses, including attorneys' fees, arising out of or resulting from the performance of the Services described in the RFQ, provided that any such claim, damage, loss, or expense (a) is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property (other than work itself) including the loss of use resulting wherefrom and (b) is caused in whole or in part by any negligent act or omission of the selected Proposer, anyone directly or indirectly employed by any of them, or anyone for whose acts any of them may be liable, regardless of whether or not it is caused by a party indemnified hereunder

IN WITNESS OF THE FOREGOING, the Parties have set their hands and seals

the day and year first written above.

TOWN

TOWN OF BAY HARBOR ISLANDS, a Florida municipal corporation

By: _____
MARIA LASDAY
Town Manager

ATTEST:

By: _____
YVONNE HAMILTON
Town Clerk

APPROVED AS TO FORM AND LEGAL SUFFICIENCY

By:_____
GREENSPOON MARDER LLP
Town Attorney
By: JOSEPH S. GELLER, ESQ

WITNESSES:

Calvin Giordano & Associates, Inc, a Florida Corporation

_____

By: _____

_____
Print Name

Print Name: Chris Giordano

Title: President

_____

_____
Print Name

(CORPORATE SEAL)

STATE OF _____:

COUNTY OF _____:

The foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization, this ___ day of _____, 2023, by Chris Giordano as President for Calvin Giordano & Associates, Inc., a Florida corporation authorized to conduct business in the State of Florida.

_____
(Signature of Notary Public - State of Florida)

_____
(Print, Type, or Stamp Counciled Name of Notary Public)

Personally Known__ OR Produced Identification_____ Type of Identification Produced: _

EXHIBIT A

SCOPE OF SERVICES

3.1 Purpose

The Town is seeking the services of a qualified consulting firm(s) to provide Professional Services related to a continuing contract for Civil Engineering Consultant Services. The following is a list of services that may be required on an as-needed basis as requested by the Town which will be authorized by individual Task Orders for individual projects. This list shall not be construed as an exclusive list of activities that successful firm(s) may be engaged in. Town shall have the right, in its sole and absolute discretion, to require additional services that are consistent with the scope of services and those activities typically performed by engineers, and surveyors pursuant to Section 287.055 Florida Statutes, and for which the firm(s) are experience, qualified, and able to perform:

3.2 Scope of Services

The Town of Bay Harbor Islands is seeking to establish a pool of pre-qualified consultants in engineering disciplines. Generally, services for projects may include full design and construction contract document development; construction specification development; contract and bidding document development; code analysis; jurisdictional review and permitting assistance; bid/award support and concurrence; negotiation support; construction/contract administration services; construction phase field support services; inspections, construction observation and project progress documentation; post-occupancy surveys and related services; surveying; photographic and video-graphic project support; GIS and CADD project support; other data and information system project support, etc.

Multiple firms selected by the Town will provide professional services to the Town on an as-needed basis based upon work orders to be issued by the Town under the terms of their continuing contracts.

3.3 Work Standards

In providing professional services, Consultant(s) shall take all reasonable care which are industry standards or as defined in Florida Statutes or Florida Administrative Codes. Consultant(s) shall also provide all work product documentation including but not limited to; data, studies, surveys, drawings, maps, models, photographs, reports, designs, calculations, test results, etc., that shall become the property of the Town and shall be delivered to the Town.

3.4 Tasks

The scope of services to be provided by the Consultant in the functional areas listed above shall include, but not be limited to, the following:

a) Prepare engineering designs, calculations, plans and specifications, contract bid documents, and cost estimates, within the functional areas of interest listed in this solicitation.
b) Prepare base maps, preliminary layouts, estimates of probable costs,

engineering analysis and alternatives as requested.

c) Submit construction documents as needed to the Town and other required agencies having an interest or jurisdiction over the project.
d) Review, analyze, and provide recommendations to utility budgets and capital improvement plans.
e) Provide updates on changes or proposed changes to laws/regulations that may impact Town's water resources and supply, treatment, distribution and storage, wastewater collection and treatment
f) Preform flood routing software modelling.
g) Prepare feasibility and conceptual planning documents.
h) Provide research, attendance at meetings, and preparation of presentation materials, reports and correspondence.
i) Prepare and/or assist with the preparation of grant applications and attendance at meetings with grant officials.
j) Assist in the review and development of ordinances.
k) Provide public education/notification assistance.
l) Prepare short and long term planning documents, master plans, or provide input to the Town's master plans, capital improvement program, and maintenance needs.
m) Participate in construction administration as required by the Town.
n) Prepare formal or informal feasibility studies as necessary to assist the Town in responding capital improvement needs.
o) Analysis of existing infrastructure and available capacity to serve proposed capital improvement projects.
p) Prepare legal descriptions, exhibits, and surveys.
q) Provide expert witness testimony.
r) Prepare appropriate permitting documents and obtain and/or assist the Town in obtaining permits from applicable agencies.
s) Represent the Town with regulatory agencies.
t) Prepare periodic project status reports.
u) Prepare and furnish bidding documents and assist the Town in the preparation of other related documents.
v) Attend bid openings, prepare bid tabulation sheets, and assist the Town in the evaluation of bids or proposals.
w) Issue addenda as appropriate to clarify, correct, or change the bidding documents.
x) Participate in pre-construction conference as requested by the Town.
y) Review and determine acceptability of construction submittals, including shop drawings, progress schedule, schedule of values, etc.
z) Review and provide recommendations to request for information, request for changes, and claims to the Town arising during construction activities.
aa) Make periodic construction site visits for the purpose of determining general compliance with the approved drawings, plans, and specifications as requested by the Town.

bb) Review as-built drawings provided by the construction contractor and provide written comments to the Town.
cc) Provide services related to construction management and inspections, and/or specialty inspection.
dd) Provide project management services and act as an extension of the Town's project management staff for the design, bidding, and construction management of municipal projects.
ee) Space Planning
ff) Architectural Design
gg) Interior Design
hh) Landscape Architecture
ii) ADA Analysis and Design
jj) Sustainable Design
kk) Building Performance Analysis
ll) Structural Design

The consultant or its sub consultants shall be familiar with different agency's permitting regulations and requirements and the Town's design criteria, standards and specifications.

3.5 Deliverables

The Town intends to contract with multiple firms. The total amount of compensation will be negotiated with the selected consultant. No minimum amount of work or compensation will be assured to the retained consultant(s). All work products becomes the property of the Town. The Town reserves the right to re-use the work products of the retained consultant and to retain other consultants to provide the same or similar services at its sole discretion.

3.6 Schedule

Consultant recognizes that **TIME IS OF THE ESSENCE**. The Work on each Task Order shall commence immediately upon the Consultants receipt of an executed Task Order.

3.7 Town Infrastructure

a. Bridges – Given the Town's Island condition located in the Intracoastal Waterway, the Town owns and maintains a total of four (4) bridges.
    - The Broad Causeway Bascule Bridge (Connecting the West Island with the Broad Causeway Island)
    - The West Relief Bridge (Connecting the Town with the Town of North Miami)
    - The Waterway Bridge (Connecting the West and East Islands)
    - The Indian Creek Bridge (Connecting the Town with the Town of Surfside and Village of Bal Harbour)

b. Buildings – The Town owns and maintains two (2) buildings.

- The Town Hall Administration Offices at 9665 Bay Harbor Terrace. This building houses the Administration offices, the Building Department, Council Chambers, and the Police Department. This building was built in 1970.
- The Community Center at 1165 95th Street. The Community Center is a recent building that is located on the first floor of the Parking Garage.

c. Parking Facilities – The Town operates a total of seven (7) parking facilities.
   - 1165 95th Street Parking Garage – This is a five-story parking garage building on 95th Street.
   - 103rd Street Surface Parking Lot
   - 100th Street Surface Parking Lot
   - 97th Street Surface Parking Lot
   - Block 11 Parking Lot
   - 95th Street Surface Parking Lot
   - 92nd Street Surface Parking Lot

d. Parks – There are four (4) Parks in the Town, in addition of two (2) passive parks.
   - Tot Lot – 96th Street and West Broadview Drive
   - 98th Street Park
   - 95th Street Park
   - 92nd Street Park

e. Potable Water Infrastructure – The Town is a wholesale customer of the MDWASD. The Town receives its water from a 36-inch transmission main from MDWASD that runs along 96th Street. The distribution lines connected to this transmission line are owned and maintained by the Town. Most of the Town's water lines are PVC material with a diameter that varies between 6-inch to 10-inch.

f. Stormwater Infrastructure – Most of the Town's stormwater system is a gravity system that drains through outfalls to the Bay. A total of 52 outfalls that range on sizes from 8-inch to 30-inch. There is a stormwater injection well on the south side of the West Island with 9,000 gpm pumps. For reference, an Atlas is included as Appendix of this RFQ.

g. Sanitary Sewer Infrastructure – The Town's sanitary sewer system is comprised of gravity mains, manholes, ejector's stations, pump station, force main and air lines. A total of five (5) ejector's stations are location on different areas of the Town, that discharge to the Town' Main Pump Station D at 9665 Bay Harbor Terrace. The gravity line varies from 8-inch to 18-inch. For Reference, an Atlas is included as Appendix of this RFQ.

3.8 Functional Areas of Interest

The consultant shall identify in their response to this RFQ the functional areas for which it particularly wishes to specialize. Multiple firms will be selected, and multiple firms may be selected for more than one

(1) functional area.

a) Water and wastewater engineering (specifically pipeline and lift-station design)
b) Stormwater engineering
c) Transportation engineering
d) Structural engineering (specifically seawall, dock, and bridge design)
e) Environmental engineering
f) Surveying and mapping services and Geographic Information and mapping services (GIS)
g) Photogrammetry and remote sensing
h) Geotechnical engineering
i) Coastal engineering
j) Water resources engineering
k) Hydrology and hydraulic engineering
l) Mechanical engineering
m) Electrical Engineering
n) Plan Review
o) Architectural Design.

Construction engineering and inspection.

3.9 Quality Assurance/Quality Control

It is the intention of the Town that the design consultant is held responsible for the quality control (QC) of their work and of its sub-consultants. All sub-consultant documents and submittals shall be submitted directly to the consultant for their independent QC review. The Town shall only accept submittals for review and action from the consultant.

The consultant is responsible for the professional quality, technical accuracy and coordination of all pre- design services, designs, drawings, specifications, cost estimates and other services furnished by the consultant and their sub-consultants. It is the consultant's responsibility to independently and continually QC their plans, specifications, and all other project deliverables. Upon Town request, the consultant shall provide the Town with a marked up set of plans and specifications showing the consultant's QC review.

The mark-ups submittals shall include the names of the consultant's staff that performed the QC review for each component or functional area (e.g., structures, roadway, drainage, etc.).

3.10 Document Submittal Format

All documents generated as a result of projects will become the property of the Town

of Bay Harbor Islands. All projects documents shall be provided in a digital and hard copy format meeting all Town of Bay Harbor Islands format requirements. The project drawings shall be prepared in AutoCAD, in the version current to the Town Engineering Division at the time that deliverables are due, and shall meet the requirements as set forth in the Town's CADD specifications for project drawings current at the time of award of the project. Plot files shall also be prepared and submitted which meet the stated Town standards.

CCNA- ENGINEERING CONTINUING SERVICES CONTRACT
RFQ-5-1005-23-0-2023/FVR

Calvin Giordano & Associates, Inc

	PROPOSE RATES
CIVIL ENGINEERING SERVICES	Hourly Rates
Principal Engineer	$ 225.00
Senior Engineer / Project Manager	$ 179.00
Project Engineer (PE)	$ 150.00
Staff Engineer, E.I.	$ 120.00
Senior Inspector	$ 125.00
Inspector	$ 100.00
Senior Designer	$ 140.00
Drafts Person/CADD Operator	$ 105.00
Clerical/Administrative Staff	$ 75.00
Intern	$ 65.00
WATER & WASTEWATER ENGINEERING SERVICES	
Principal Engineer	$ 225.00
Senior Engineer/Project Manager	$ 179.00
Project Engineer (PE)	$ 150.00
Staff Engineer, E.I.	$ 110.00
Sr. Inspector	$ 130.00
Inspector	$ 100.00
Drafts Person/CADD Operator	$ 105.00
Clerical/Administrative Staff	$ 75.00
TRANSPORTATION/BRIDGE ENGINEERING SERVICES	
Principal Engineer	$ 225.00
Senior Engineer/Project Manager	$ 179.00
Project Engineer (PE)	$ 160.00
Staff Engineer, E.I.	$ 135.00
Sr. Inspector	$ 125.00
Inspector	$ 110.00
Drafts Person/CADD Operator	$ 105.00
Clerical/Administrative Staff	$ 75.00
STRUCTURAL ENGINEERING SERVICES	
Principal Engineer	$ 225.00
Senior Engineer/Project Manager	$ 175.00
Project Engineer (PE)	$ 150.00
Staff Engineer, E.I.	$ 120.00
Sr. Inspector	$ 135.00
Inspector	$ 95.00
Drafts Person/CADD Operator	$ 105.00

Clerical/Administrative Staff	$ 75.00
Landscape Architecture and Planning Services	
Principal Landscape Architect	$ 220.00
Senior Landscape Architect	$ 180.00
Project Landscape Architect	$ 125.00
Staff Landscape Architect	$ 110.00
Environmental Services / Monitoring	
Sr. Environmental Scientist	$ 160.00
Project Environmental Scientist	$ 125.00
Staff Environmental Scientist	$ 115.00
Field Technician	$ 110.00
Geotechnical Engineering	
A. FIELD SERVICES & TESTING	
TEST	
Standard Penetration Test Borings (ATSM D-1586), Truck Rig or Mud Bug Rig (0-50 Foot Depth Interval)	$ 18.00 l.f
Grout Boreholes	$5.00 l.f
Truck/Mud Bug 0-50 Ft	$300.00 ea
Permeability/Percolations Tests – Field (SFWMD Usual Open Hole Method)	$500.00 ea
SOIL TESTING	
Field Density/Test (five [5] minimum)	$ 40.00 ea
Standard Proctors	$ 100.00 ea
Modified Proctors	$ 130.00 ea
Florida Bearing Value Test	$ 250.00 ea
Limerock Bearing Ratio Test	$ 300.00 ea
Percolation test (open hole)	$ 390.00 ea
Atterberg Limit Test	$ 70.00 ea
SAMPLING & TESTING OF FRESH CONCRETE	
Curing, capping and compressive strength testing of concrete cylinders in Consultant's laboratory set of 5	$ 75.00 set
Field Sampling Fresh Concrete (sampling, molding, slump testing, temperature)	$ 65.00 h.r
CONCRETE & MASONARY MATERIALS	
Concrete Compression test (Min. four [4] cylinders per trip)	$ 90.00 set
- Prepare cylinders & slump test on site, and deliver to lab	$65.00 h.r
Additional Concrete cylinders with slump	$ 30.00 ea
Concrete Compression test only [delivered to lab] & RESULTS	$ 100.00 set
Slump test	$ 60.00 ea
Stand-by (Beyond 1 hour on site)	$ 70.00 h.r
Grout Prism (Six [6] per set) - Includes preparation of Prism on site	$ 95.00 set
2” x 2” - Includes preparation of Cubes on site	$ 120.00 set
AGGREGATE TESTING	
Grain size determination:	
A. Full grain size (8 sieves)	$ 70.00 test

B. Wash through (#200)	$ 60.00 test
Sieve Analysis – Course Aggregate	$ 75.00 test
ASPHALT TESTING	
Asphalt Cores (obtaining core samples) (Min. 3)	$ 100.00 set
MISCELLANEUS SERVICES	
Exfiltration Test (SFWMD)	$ 500.00 ea
Install Groundwater Monitoring Well, <25' (per PBCWUD Stds & Details)	$ 750.00 ea
Install Groundwater Monitoring Well, 25' - 50' (per PBCWUD Stds & Details)	$ 945.00 ea
DRILLING EQUIPMENT MOBILIZATION (includes drill rig mileage)	
Truck - Mounted Rig	$ 400.00 ea
FOUNDATION TESTING SERVICES	
Vibration/ Noise Monitoring Equipment - seismograph with geophone or microphone (includes mobilization, equipment and labor)	$ 715.00 per week
SITE PREPARATION MONITORING & TESTING	
In-situ Density Tests - Nuclear Gauge Method (ASTM D 2922)	$ 40.00 ea
MONITOR WELL INSTALLATION & TESTING	
Non-Environmental (2-inch diameter)* 0 - 25-ft depth	$ 725.00 test
Environmental (2-inch diameter)* 0 - 25-ft depth	$ 725.00 test
Well sampling *	$ 120.00 test
B. PERSONNEL	
Principal Engineer	$ 210.00
Senior Engineer	$ 165.00
Project Engineer (PE)	$ 135.00
Staff Engineer, E.I.	$ 110.00
Sr. Inspector	$ 95.00
Inspector	$ 75.00
Drafts Person/Cad Operator	$ 105.00
Clerical/Administrative Staff	$ 75.00
Land Surveying & Mapping Services	
Principal Surveyor	$ 195.00
Sr. Professional Land Surveyor	$ 170.00
Professional Land Surveyor	$ 125.00
Survey CADD / GIS Tech	$ 110.00
Field Crew Supervisor	$ 100.00
Survey Crew	$ 175.00
Administrative	$ 75.00
Marine / Coastal Engineering	
Principal Engineer	N/A
Senior Engineer / Project Manager	N/A
Project Engineer (PE)	N/A
Staff Engineer, E.I.	N/A
Sr. Environmental Scientist	N/A
Project Environmental Scientist	N/A
Staff Environmental Scientist	N/A
Senior Designer	N/A
Architectural	
Principal	N/A

Sr. Architect / Project Manager	N/A
Project Architect	N/A
Revit / CAD Operator	N/A
Draftsman	N/A
Clerical	N/A
Subsurface Utility Exploration	
Project Manager/PE/PLS PLS	$ 115.50
Utility Location Manager/Party Chief	$ 75.00
CADD Operator	N/A
Technical Locator/Instrument Op.	$ 80.00
Clerical	$ 60.00
1 Utility Test Hole 0-6' - per hole	$ 750.00
2 Utility Test Holes 0-6' - per hole	$ 700.00
3 or More Utility Test Holes 0-6' - per hole	$ 600.00
Excess Depth (Over 6') - per foot	N/A
Traffic Control – Arrow Board**	$ 125.00 day
MEP Engineering	
Senior Engineer / Project Manager	$ 220.00
Project Engineer (PE)	$ 180.00
Staff Engineer, E.I.	$ 135.00
Drafts Person/CADD Operator	$ 90.00

RFP EVALUATION COMMITTEE TABULATION - PRESENTATIONS

RFQ# RFQ-5-1005-23-0-2023/FVR
TITLE: ENGINEERING AND CONSULTING SERVICES CONTINUING CONTRACT
DATE: 9/14/2023

	Rater #1 - Jason Atkinson												
	Qualifications of firm			Qualification of Project Team			Approach to Scope of Work			References			
PROPOSING FIRM	Weight Factor	Ranking	Point Subtotal	Weight Factor	Ranking	Point Subtotal	Weight Factor	Ranking	Point Subtotal	Weight Factor	Ranking	Point Subtotal	**Total Points Awarded**
300 Engineering Group, LLC	0.35	1	0.35	0.20	2	0.40	0.25	2	0.50	0.20	1	0.20	**1.45**
Atkins North America, Inc	0.35	4	1.40	0.20	4	0.80	0.25	3	0.75	0.20	4	0.80	**3.75**
BCC Engineering, LLC	0.35	7	2.45	0.20	7	1.40	0.25	6	1.50	0.20	7	1.40	**6.75**
Calvin Giordano & Associates, Inc	0.35	3	1.05	0.20	3	0.60	0.25	4	1.00	0.20	3	0.60	**3.25**
CHA Consulting, Inc	0.35	2	0.70	0.20	1	0.20	0.25	1	0.25	0.20	2	0.40	**1.55**
Chen Moore and Associates	0.35	6	2.10	0.20	6	1.20	0.25	7	1.75	0.20	6	1.20	**6.25**
Hazen and Sawyer	0.35	5	1.75	0.20	5	1.00	0.25	5	1.25	0.20	5	1.00	**5.00**
Kimley-Horn	0.35	10	3.50	0.20	10	2.00	0.25	9	2.25	0.20	10	2.00	**9.75**
Snubbs Consulting, Inc. (SNUBBS)	0.35	9	3.15	0.20	9	1.80	0.25	8	2.00	0.20	8	1.60	**8.55**
WSP USA Inc	0.35	8	2.80	0.20	8	1.60	0.25	10	2.50	0.20	9	1.80	**8.70**

	Rater #2 - Jenice Rosado												
	Qualifications of firm			Qualification of Project Team			Approach to Scope of Work			References			
PROPOSING FIRM	Weight Factor	Ranking	Point Subtotal	Weight Factor	Ranking	Point Subtotal	Weight Factor	Ranking	Point Subtotal	Weight Factor	Ranking	Point Subtotal	**Total Points Awarded**
300 Engineering Group, LLC	0.35	2	0.70	0.20	2	0.40	0.25	2	0.50	0.20	2	0.40	**2.00**
Atkins North America, Inc	0.35	1	0.35	0.20	1	0.20	0.25	1	0.25	0.20	1	0.20	**1.00**
BCC Engineering, LLC	0.35	9	3.15	0.20	9	1.80	0.25	9	2.25	0.20	9	1.80	**9.00**
Calvin Giordano & Associates, Inc	0.35	3	1.05	0.20	3	0.60	0.25	3	0.75	0.20	3	0.60	**3.00**
CHA Consulting, Inc	0.35	4	1.40	0.20	4	0.80	0.25	4	1.00	0.20	4	0.80	**4.00**
Chen Moore and Associates	0.35	5	1.75	0.20	5	1.00	0.25	5	1.25	0.20	5	1.00	**5.00**
Hazen and Sawyer	0.35	10	3.50	0.20	10	2.00	0.25	10	2.50	0.20	10	2.00	**10.00**
Kimley-Horn	0.35	6	2.10	0.20	6	1.20	0.25	6	1.50	0.20	6	1.20	**6.00**
Snubbs Consulting, Inc. (SNUBBS)	0.35	7	2.45	0.20	7	1.40	0.25	7	1.75	0.20	7	1.40	**7.00**
WSP USA Inc	0.35	8	2.80	0.20	8	1.60	0.25	8	2.00	0.20	8	1.60	**8.00**

	Rater #3 - Mike Mesa															
	Qualifications of firm			Qualification of Project Team			Approach to Scope of Work			References						
PROPOSING FIRM	Weight Factor	Ranking	Point Subtotal	Weight Factor	Ranking	Point Subtotal	Weight Factor	Ranking	Point Subtotal	Weight Factor	Ranking	Point Subtotal	**Total Points Awarded**	**Average Points Awarded**	**Total Combined Points**	**FINAL RANKING**
300 Engineering Group, LLC	0.35	3	1.05	0.20	3	0.60	0.25	3	0.75	0.20	3	0.60	**3.00**	2.15	6.45	1
Atkins North America, Inc	0.35	6	2.10	0.20	6	1.20	0.25	6	1.50	0.20	6	1.20	**6.00**	3.58	10.75	4
BCC Engineering, LLC	0.35	7	2.45	0.20	7	1.40	0.25	7	1.75	0.20	7	1.40	**7.00**	7.58	22.75	8
Calvin Giordano & Associates, Inc	0.35	2	0.70	0.20	2	0.40	0.25	2	0.50	0.20	2	0.40	**2.00**	2.75	8.25	3
CHA Consulting, Inc	0.35	1	0.35	0.20	1	0.20	0.25	1	0.25	0.20	1	0.20	**1.00**	2.18	6.55	2
Chen Moore and Associates	0.35	8	2.80	0.20	8	1.60	0.25	8	2.00	0.20	8	1.60	**8.00**	6.42	19.25	5
Hazen and Sawyer	0.35	5	1.75	0.20	5	1.00	0.25	5	1.25	0.20	5	1.00	**5.00**	6.67	20.00	6
Kimley-Horn	0.35	9	3.15	0.20	9	1.80	0.25	9	2.25	0.20	9	1.80	**9.00**	8.25	24.75	9
Snubbs Consulting, Inc. (SNUBBS)	0.35	10	3.50	0.20	10	2.00	0.25	10	2.50	0.20	10	2.00	**10.00**	8.52	25.55	10
WSP USA Inc	0.35	4	1.40	0.20	4	0.80	0.25	4	1.00	0.20	4	0.80	**4.00**	6.90	20.70	7

FINANCE DEPARTMENT
RFQ EVALUATION COMMITTEE SCORING SHEET

RFQ#: RFQ-5-1005-0-2023/FVR **RFQ TITLE:** Engineering Consulting Services Continuing Contract

FIRM EVALUATED: 300

COMMITTEE MEMBER: Jason Atkinson

Criteria	**Ranking**
Qualifications of the Firm	1
Qualifications of the Project Team	2
Approach to Scope Of Work	2
Previous Similar Project References	1

Ranking Instructions
Highest ranked proposer receives ranking of 1
Next highest ranked proposer receives ranking of 2
Next highest ranked proposer receives ranking of 3, etc…
Tie scores are not allowed, except for pricing

Comments: Multiple contracts for multiple coastal cities. Meets all of the needs of the Town. Local company with the backing of a national engineering firm Advurra. 200 pump station projects in last 10 years. Amazing Approach - Ejector Pump Stations: Great Size? to handle workload: 150 I'd I very good with assistance. Work with existing? Force main?
Able to assist with parking garage. Traffic calming capabilities and experience. Floodplain Manager Coral Gables

Committee Member Signature: _____ **Date:** 9/14/23

FINANCE DEPARTMENT
RFQ EVALUATION COMMITTEE SCORING SHEET

RFQ#: RFQ-5-1005-0-2023/FVR **RFQ TITLE:** Engineering Consulting Services Continuing Contract

FIRM EVALUATED: Atkins

COMMITTEE MEMBER: Jason Atkinson

Criteria	Ranking
Qualifications of the Firm	4
Qualifications of the Project Team	4
Approach to Scope Of Work	3
Previous Similar Project References	4

Ranking Instructions
Highest ranked proposer receives ranking of 1
Next highest ranked proposer receives ranking of 2
Next highest ranked proposer receives ranking of 3, etc…
Tie scores are not allowed, except for pricing

Comments: 250 people in Miami. Large staff. PM worked in City of Miami. Mainly Drainage and Roadway. Good electrical, plumbing, and mechanical. Grants manager with plenty of experience. Large group. Approach to scope: Not specific to Bay Harbor. Very generalized. Good media subconsultant currently working with Town. Multiple projects and CS contracts, but just Virginia Key Masterplan? Mainly above ground. Miami, Hollywood & NMB as Coastal cities Experience with Subgeous force main.

Committee Member Signature: _____ **Date:** 9/14/23

FINANCE DEPARTMENT
RFQ EVALUATION COMMITTEE SCORING SHEET

RFQ#: RFQ-5-1005-0-2023/FVR **RFQ TITLE:** Engineering Consulting Services Continuing Contract

FIRM EVALUATED: BCC

COMMITTEE MEMBER: Jason Atkinson

Criteria	**Ranking**
Qualifications of the Firm	7
Qualifications of the Project Team	7
Approach to Scope Of Work	6
Previous Similar Project References	7

Ranking Instructions
Highest ranked proposer receives ranking of 1
Next highest ranked proposer receives ranking of 2
Next highest ranked proposer receives ranking of 3, etc…
Tie scores are not allowed, except for pricing

Comments: Very large firm. Pumpstation experience in presentation is moderate, Very good for structural and bridges. Performed structural assessments in the Town. Approach: Very Generic, Not much information about utilities. Contract managed currently has a 30% discrepancy. Stormwater pump stations, water quality measures? Answer was adequate.

Committee Member Signature: _____ **Date:** 9/14/23

FINANCE DEPARTMENT
RFQ EVALUATION COMMITTEE SCORING SHEET

RFQ#: RFQ-5-1005-0-2023/FVR **RFQ TITLE:** Engineering Consulting Services Continuing Contract

FIRM EVALUATED: CGA

COMMITTEE MEMBER: Jason Atkinson

Criteria	**Ranking**
Qualifications of the Firm	3
Qualifications of the Project Team	3
Approach to Scope Of Work	4
Previous Similar Project References	3

Ranking Instructions
Highest ranked proposer receives ranking of 1
Next highest ranked proposer receives ranking of 2
Next highest ranked proposer receives ranking of 3, etc…
Tie scores are not allowed, except for pricing

Comments: Worked for Bay Harbor for over 20 years. Very familiar with Town. Coastal Cities: Bay Harbor, Hallandale - Water, Sewer, SW & Reuse. Very experienced with projects that the Town will be taking on. CEI for Ft. Lauderdale. Performs traffic data collection. Full-Service. Excellent engineering firm. SW Pump Stations? Projects within timelines and overages? Very little Change orders. Generators? Very familiar. 2 certified flood plain managers

Committee Member Signature: _____ **Date:** 9/14/23

FINANCE DEPARTMENT
RFQ EVALUATION COMMITTEE SCORING SHEET

RFQ#: RFQ-5-1005-0-2023/FVR **RFQ TITLE:** Engineering Consulting Services Continuing Contract

FIRM EVALUATED: CHA

COMMITTEE MEMBER: Jason Atkinson

Criteria	Ranking
Qualifications of the Firm	2
Qualifications of the Project Team	1
Approach to Scope Of Work	1
Previous Similar Project References	2

Ranking Instructions
Highest ranked proposer receives ranking of 1
Next highest ranked proposer receives ranking of 2
Next highest ranked proposer receives ranking of 3, etc…
Tie scores are not allowed, except for pricing

Comments: 1 LEED employees in SoFla. Multiple Awards. Good project team. Very good discipline presentations. Excellent approach to work. Many large projects and able to handle. Has CEI Services and grant services. City of Miami SW Program Manager. Top notch presentation tailored towards BHI.

* Speed hump traffic engineering study?
* Larger projects; Are you the lead?
* Coral Springs & Doral; how many staff in each location for this contract?
* Elaborate on opening Pump Station slide.

Committee Member Signature: _____ **Date:** 9/14/23

FINANCE DEPARTMENT

RFQ EVALUATION COMMITTEE SCORING SHEET

RFQ#: RFQ-5-1005-0-2023/FVR **RFQ TITLE:** Engineering Consulting Services Continuing Contract

FIRM EVALUATED: Chen Moore

COMMITTEE MEMBER: Jason Atkinson

Criteria	**Ranking**
Qualifications of the Firm	6
Qualifications of the Project Team	6
Approach to Scope Of Work	7
Previous Similar Project References	6

Ranking Instructions
Highest ranked proposer receives ranking of 1
Next highest ranked proposer receives ranking of 2
Next highest ranked proposer receives ranking of 3, etc…
Tie scores are not allowed, except for pricing

Comments: 37 years in business. 6 years serving BHI. Not many staff in the Miami area. Many continuing services contracts. Project team: 10 years serving Bay Harbor. Other than utilities, they primarily use subs. Heavy utility work. Performs Design/Build work. Do both grant writing and grant management. Did you recommend replacement of VCP? They only did cost estimation. No recommendation. What method of communication is preferred? Emails due to being busy.

Committee Member Signature: _____ **Date:** 9-14-23

FINANCE DEPARTMENT

RFQ EVALUATION COMMITTEE SCORING SHEET

RFQ#: RFQ-5-1005-0-2023/FVR **RFQ TITLE:** Engineering Consulting Services Continuing Contract

FIRM EVALUATED: Hazen

COMMITTEE MEMBER: Jason Atkinson

Criteria	**Ranking**
Qualifications of the Firm	5
Qualifications of the Project Team	5
Approach to Scope Of Work	5
Previous Similar Project References	5

Ranking Instructions
Highest ranked proposer receives ranking of 1
Next highest ranked proposer receives ranking of 2
Next highest ranked proposer receives ranking of 3, etc…
Tie scores are not allowed, except for pricing

Comments: Local company - Primary Water, sewer, SW. 3 staff in Coral Gables. In BHI since 2009, Regulatory Compliance and Hydraulic modeling. Has recent experience in high-end residential for pump station design and force main installation. Good amount of people in Coral Gables and Hollywood. Tasked with ejector replacement? Never tasked Hydraulic Modeling & Compliance Cost of Cocoplum Pump Station?

Committee Member Signature: _____ **Date:** 9/14/23

FINANCE DEPARTMENT

RFQ EVALUATION COMMITTEE SCORING SHEET

RFQ#: RFQ-5-1005-0-2023/FVR **RFQ TITLE:** Engineering Consulting Services Continuing Contract

FIRM EVALUATED: Kimley Horn

COMMITTEE MEMBER: Jason Atkinson

Criteria	**Ranking**
Qualifications of the Firm	10
Qualifications of the Project Team	10
Approach to Scope Of Work	9
Previous Similar Project References	10

Ranking Instructions
Highest ranked proposer receives ranking of 1
Next highest ranked proposer receives ranking of 2
Next highest ranked proposer receives ranking of 3, etc...
Tie scores are not allowed, except for pricing

Comments: PM - Marissa Moring Knowledge of system due to continuing services agreement.
How long have you served the Town? Since 1997-98
What has been your recommendation in the past for inflow issues?
Have you assisted the Town with SW grant funding?
Have you ever had projects that have been tasked and not been completed Or permitted?
Permitted for design, Funds not available to complete.

Committee Member Signature: _____ **Date:** 9/14/23

FINANCE DEPARTMENT

RFQ EVALUATION COMMITTEE SCORING SHEET

RFQ#: RFQ-5-1005-0-2023/FVR **RFQ TITLE:** Engineering Consulting Services Continuing Contract

FIRM EVALUATED: Stubbs

COMMITTEE MEMBER: Jason Atkinson

Criteria	**Ranking**
Qualifications of the Firm	9
Qualifications of the Project Team	9
Approach to Scope Of Work	8
Previous Similar Project References	8

Ranking Instructions
Highest ranked proposer receives ranking of 1
Next highest ranked proposer receives ranking of 2
Next highest ranked proposer receives ranking of 3, etc...
Tie scores are not allowed, except for pricing

Comments: Tom Ruiz is the PM. Many different disciplines, local and experienced staff. Stormwater on large 395 Construction project. Grant writer on staff.

Transportation - traffic calming studies? They've performed them. What do you think our WW Collection systems biggest challenge is? I & I

Committee Member Signature: _____ **Date:** 9/14/23

FINANCE DEPARTMENT

RFQ EVALUATION COMMITTEE SCORING SHEET

RFQ#: RFQ-5-1005-0-2023/FVR **RFQ TITLE:** Engineering Consulting Services Continuing Contract

FIRM EVALUATED: WSP

COMMITTEE MEMBER: Jason Atkinson

Criteria	**Ranking**
Qualifications of the Firm	8
Qualifications of the Project Team	8
Approach to Scope Of Work	10
Previous Similar Project References	9

Ranking Instructions
Highest ranked proposer receives ranking of 1
Next highest ranked proposer receives ranking of 2
Next highest ranked proposer receives ranking of 3, etc...
Tie scores are not allowed, except for pricing

Comments: Global company. 70K employees. Miami office. Judeen is a former NMB PW Director, Alan is the PM. States that we have limited funding. Good grant management. Comprehensive team.

What are the pros and cons of our ejector stations? Didn't display knowledge of our system.

How do you improve water quality. Didn't ask

Continuing services agreements? At least 5

Committee Member Signature: _____ **Date:** 9/14/23

FINANCE DEPARTMENT
RFQ EVALUATION COMMITTEE SCORING SHEET

RFQ#: RFQ-5-1005-0-2023/FVR **RFQ TITLE:** Engineering Consulting Services Continuing Contract

FIRM EVALUATED: 300 Engineering

COMMITTEE MEMBER: Jenice Rosado

Criteria	**Ranking**
Qualifications of the Firm	2
Qualifications of the Project Team	2
Approach to Scope Of Work	2
Previous Similar Project References	2

Ranking Instructions
Highest ranked proposer receives ranking of 1
Next highest ranked proposer receives ranking of 2
Next highest ranked proposer receives ranking of 3, etc…
Tie scores are not allowed, except for pricing

Comments: Similar projects, great experience lots of Drainage exp. understands our CIP.

Committee Member Signature: _____ **Date:** 9/14/23

FINANCE DEPARTMENT
RFQ EVALUATION COMMITTEE SCORING SHEET

RFQ#: RFQ-5-1005-0-2023/FVR **RFQ TITLE:** Engineering Consulting Services Continuing Contract

FIRM EVALUATED: Atkins

COMMITTEE MEMBER: Jenice Kosado

Criteria	Ranking
Qualifications of the Firm	1
Qualifications of the Project Team	1
Approach to Scope Of Work	1
Previous Similar Project References	1

Ranking Instructions
Highest ranked proposer receives ranking of 1
Next highest ranked proposer receives ranking of 2
Next highest ranked proposer receives ranking of 3, etc…
Tie scores are not allowed, except for pricing

Comments: good compliance + grant dpt. great media relations. good staffing great rep.

Committee Member Signature: _____ **Date:** 9/14/23

FINANCE DEPARTMENT
RFQ EVALUATION COMMITTEE SCORING SHEET

RFQ#: RFQ-5-1005-0-2023/FVR **RFQ TITLE:** Engineering Consulting Services Continuing Contract

FIRM EVALUATED: BCC

COMMITTEE MEMBER: Jenice Rosado

Criteria	**Ranking**
Qualifications of the Firm	9
Qualifications of the Project Team	9
Approach to Scope Of Work	9
Previous Similar Project References	9

Ranking Instructions
Highest ranked proposer receives ranking of 1
Next highest ranked proposer receives ranking of 2
Next highest ranked proposer receives ranking of 3, etc...
Tie scores are not allowed, except for pricing

Comments: good exp. but ~~[redacted]~~ not much on past funded projects. good for structural.

Committee Member Signature: [signature] **Date:** 9/14/23

FINANCE DEPARTMENT
RFQ EVALUATION COMMITTEE SCORING SHEET

RFQ#: RFQ-5-1005-0-2023/FVR **RFQ TITLE:** Engineering Consulting Services Continuing Contract

FIRM EVALUATED: CGA

COMMITTEE MEMBER: Jenice Rosado

Criteria	**Ranking**
Qualifications of the Firm	3
Qualifications of the Project Team	3
Approach to Scope Of Work	3
Previous Similar Project References	3

Ranking Instructions
Highest ranked proposer receives ranking of 1
Next highest ranked proposer receives ranking of 2
Next highest ranked proposer receives ranking of 3, etc...
Tie scores are not allowed, except for pricing

Comments: Great amt of experience, local exp. Good grant exp. Familiar with our CIP. flood plain exp.

Committee Member Signature: [signature] **Date:** 9/11/23

FINANCE DEPARTMENT
RFQ EVALUATION COMMITTEE SCORING SHEET

RFQ#: RFQ-5-1005-0-2023/FVR **RFQ TITLE:** Engineering Consulting Services Continuing Contract

FIRM EVALUATED: CHA

COMMITTEE MEMBER: Jenice Rosado

Criteria	Ranking
Qualifications of the Firm	4
Qualifications of the Project Team	4
Approach to Scope Of Work	4
Previous Similar Project References	4

Ranking Instructions
Highest ranked proposer receives ranking of 1
Next highest ranked proposer receives ranking of 2
Next highest ranked proposer receives ranking of 3, etc…
Tie scores are not allowed, except for pricing

Comments: Funding Assistance exp. good general experience & team. good grant report exp.

Committee Member Signature: _____ **Date:** 9/14/23

FINANCE DEPARTMENT

RFQ EVALUATION COMMITTEE SCORING SHEET

RFQ#: RFQ-5-1005-0-2023/FVR **RFQ TITLE:** Engineering Consulting Services Continuing Contract

FIRM EVALUATED: CHA.

COMMITTEE MEMBER: Jenice Loscalzo

Criteria	**Ranking**
Qualifications of the Firm	5
Qualifications of the Project Team	5
Approach to Scope Of Work	5
Previous Similar Project References	5

Ranking Instructions
Highest ranked proposer receives ranking of 1
Next highest ranked proposer receives ranking of 2
Next highest ranked proposer receives ranking of 3, etc…
Tie scores are not allowed, except for pricing

Comments: Good Sub's, good rep, great input turnaround resource availability.

Committee Member Signature: _____ **Date:** 9/14/23

FINANCE DEPARTMENT

RFQ EVALUATION COMMITTEE SCORING SHEET

RFQ#: RFQ-5-1005-0-2023/FVR **RFQ TITLE:** Engineering Consulting Services Continuing Contract

FIRM EVALUATED: Hazen + Sawyer.

COMMITTEE MEMBER: Jenice Rosado

Criteria	**Ranking**
Qualifications of the Firm	10
Qualifications of the Project Team	10
Approach to Scope Of Work	10
Previous Similar Project References	10

Ranking Instructions
Highest ranked proposer receives ranking of 1
Next highest ranked proposer receives ranking of 2
Next highest ranked proposer receives ranking of 3, etc…
Tie scores are not allowed, except for pricing

Comments: dedicated to water not so diversified exp.

Committee Member Signature: _____ **Date:** 9/14/23

FINANCE DEPARTMENT

RFQ EVALUATION COMMITTEE SCORING SHEET

RFQ#: RFQ-5-1005-0-2023/FVR **RFQ TITLE:** Engineering Consulting Services Continuing Contract

FIRM EVALUATED: Kimley Horn

COMMITTEE MEMBER: Jenice Rosado

Criteria	**Ranking**
Qualifications of the Firm	6
Qualifications of the Project Team	6
Approach to Scope Of Work	6
Previous Similar Project References	6

Ranking Instructions
Highest ranked proposer receives ranking of 1
Next highest ranked proposer receives ranking of 2
Next highest ranked proposer receives ranking of 3, etc…
Tie scores are not allowed, except for pricing

Comments: Good experience, media relations + grant support in house, lots of local municipal exp. long term town exp.

Committee Member Signature: _____ **Date:** 9/14/23

FINANCE DEPARTMENT

RFQ EVALUATION COMMITTEE SCORING SHEET

RFQ#: RFQ-5-1005-0-2023/FVR **RFQ TITLE:** Engineering Consulting Services Continuing Contract

FIRM EVALUATED: Snubbs Consulting

COMMITTEE MEMBER: Jenice Rosado

Criteria	**Ranking**
Qualifications of the Firm	7
Qualifications of the Project Team	7
Approach to Scope Of Work	7
Previous Similar Project References	7

Ranking Instructions
Highest ranked proposer receives ranking of 1
Next highest ranked proposer receives ranking of 2
Next highest ranked proposer receives ranking of 3, etc…
Tie scores are not allowed, except for pricing

Comments: great Snubbs, Town of Bedley local municipality, & Is. grants + media involvement.

Committee Member Signature: _____ **Date:** 9/14/23

FINANCE DEPARTMENT

RFQ EVALUATION COMMITTEE SCORING SHEET

RFQ#: RFQ-5-1005-0-2023/FVR **RFQ TITLE:** Engineering Consulting Services Continuing Contract

FIRM EVALUATED: WSP

COMMITTEE MEMBER: Janice Rosado

Criteria	**Ranking**
Qualifications of the Firm	8
Qualifications of the Project Team	8
Approach to Scope Of Work	8
Previous Similar Project References	8

Ranking Instructions
Highest ranked proposer receives ranking of 1
Next highest ranked proposer receives ranking of 2
Next highest ranked proposer receives ranking of 3, etc…
Tie scores are not allowed, except for pricing

Comments: good local rep., grant + public relations involvement.

Committee Member Signature: _____ **Date:** 9/14/23

FINANCE DEPARTMENT
RFQ EVALUATION COMMITTEE SCORING SHEET

RFQ#: RFQ-5-1005-0-2023/FVR **RFQ TITLE:** Engineering Consulting Services Continuing Contract

FIRM EVALUATED: 300 Engineering

COMMITTEE MEMBER: Mike Mesa

Criteria	**Ranking**
Qualifications of the Firm	3
Qualifications of the Project Team	3
Approach to Scope Of Work	3
Previous Similar Project References	3

Ranking Instructions
Highest ranked proposer receives ranking of 1
Next highest ranked proposer receives ranking of 2
Next highest ranked proposer receives ranking of 3, etc...
Tie scores are not allowed, except for pricing

Comments: Local Firm Aqvired by ~~AWWA~~ National Firm. Experience with over 200 Pump Station Projects. Infiltration & Inflow Experience. Pump Station Hardening. NPDS Experience. Storm Water Experience. Audubon Transportation & Bridge Experience. 150 Staff.

Committee Member Signature: _____ **Date:** 9/14/23

FINANCE DEPARTMENT
RFQ EVALUATION COMMITTEE SCORING SHEET

RFQ#: RFQ-5-1005-0-2023/FVR **RFQ TITLE:** Engineering Consulting Services Continuing Contract

FIRM EVALUATED: ATKINS

COMMITTEE MEMBER: [redacted] Mike Mesa

Criteria	**Ranking**
Qualifications of the Firm	6
Qualifications of the Project Team	6
Approach to Scope Of Work	6
Previous Similar Project References	6

Ranking Instructions
Highest ranked proposer receives ranking of 1
Next highest ranked proposer receives ranking of 2
Next highest ranked proposer receives ranking of 3, etc…
Tie scores are not allowed, except for pricing

Comments: Large Firm with a lot of experience. Architectural in house Grant management. media relations as part of the sub-contractors.

Committee Member Signature: [signature] **Date:** 9/14/23

FINANCE DEPARTMENT
RFQ EVALUATION COMMITTEE SCORING SHEET

RFQ#: RFQ-5-1005-0-2023/FVR **RFQ TITLE:** Engineering Consulting Services Continuing Contract

FIRM EVALUATED: BCC Engineering

COMMITTEE MEMBER: Mike Mesa

Criteria	Ranking
Qualifications of the Firm	7
Qualifications of the Project Team	7
Approach to Scope Of Work	7
Previous Similar Project References	7

Ranking Instructions
Highest ranked proposer receives ranking of 1
Next highest ranked proposer receives ranking of 2
Next highest ranked proposer receives ranking of 3, etc...
Tie scores are not allowed, except for pricing

Comments: experience with B+I. no Grant management experience. structural experience.

Committee Member Signature: M **Date:** 9/14/23

FINANCE DEPARTMENT
RFQ EVALUATION COMMITTEE SCORING SHEET

RFQ#: RFQ-5-1005-0-2023/FVR **RFQ TITLE:** Engineering Consulting Services Continuing Contract

FIRM EVALUATED: CGA

COMMITTEE MEMBER: Mike Mesa

Criteria	Ranking
Qualifications of the Firm	2
Qualifications of the Project Team	2
Approach to Scope Of Work	2
Previous Similar Project References	2

Ranking Instructions
Highest ranked proposer receives ranking of 1
Next highest ranked proposer receives ranking of 2
Next highest ranked proposer receives ranking of 3, etc...
Tie scores are not allowed, except for pricing

Comments: GIS, Grant management. Full service firm with a lot of experience. Past experience with the Town.

Committee Member Signature: [signature] **Date:** 9/14/23

FINANCE DEPARTMENT
RFQ EVALUATION COMMITTEE SCORING SHEET

RFQ#: RFQ-5-1005-0-2023/FVR **RFQ TITLE:** Engineering Consulting Services Continuing Contract

FIRM EVALUATED: CHA

COMMITTEE MEMBER: Mike Mesa

Criteria	**Ranking**
Qualifications of the Firm	1
Qualifications of the Project Team	1
Approach to Scope Of Work	1
Previous Similar Project References	1

Ranking Instructions
Highest ranked proposer receives ranking of 1
Next highest ranked proposer receives ranking of 2
Next highest ranked proposer receives ranking of 3, etc…
Tie scores are not allowed, except for pricing

Comments: Large Firm, about 160 Local employees. Broad experience. Grant management & writing in house. good Project Team & approach.

Committee Member Signature: [signature] **Date:** 2/14/23

FINANCE DEPARTMENT

RFQ EVALUATION COMMITTEE SCORING SHEET

RFQ#: RFQ-5-1005-0-2023/FVR **RFQ TITLE:** Engineering Consulting Services Continuing Contract

FIRM EVALUATED: Mike Mesa

COMMITTEE MEMBER: Chen Moore & Associate

Criteria	**Ranking**
Qualifications of the Firm	8
Qualifications of the Project Team	8
Approach to Scope Of Work	8
Previous Similar Project References	8

Ranking Instructions
Highest ranked proposer receives ranking of 1
Next highest ranked proposer receives ranking of 2
Next highest ranked proposer receives ranking of 3, etc…
Tie scores are not allowed, except for pricing

Comments: 120 employees statewide. About 12 employees in the Miami office. Smaller footprint locally than other firms. Staff in other offices should Florida could be used for some projects.

Committee Member Signature: _____ **Date:** 9/14/23

FINANCE DEPARTMENT

RFQ EVALUATION COMMITTEE SCORING SHEET

RFQ#: RFQ-5-1005-0-2023/FVR **RFQ TITLE:** Engineering Consulting Services Continuing Contract

FIRM EVALUATED: Hazen

COMMITTEE MEMBER: Mike Mesa

Criteria	Ranking
Qualifications of the Firm	5
Qualifications of the Project Team	5
Approach to Scope Of Work	5
Previous Similar Project References	5

Ranking Instructions
Highest ranked proposer receives ranking of 1
Next highest ranked proposer receives ranking of 2
Next highest ranked proposer receives ranking of 3, etc…
Tie scores are not allowed, except for pricing

Comments: WATER/WASTED WATER & STORM WATER - 100%. SERVING THE TOWN FOR 14 YEARS. I/I EXPERIENCE.

Committee Member Signature: [signature] **Date:** 9/14/23

FINANCE DEPARTMENT

RFQ EVALUATION COMMITTEE SCORING SHEET

RFQ#: RFQ-5-1005-0-2023/FVR **RFQ TITLE:** Engineering Consulting Services Continuing Contract

FIRM EVALUATED: Kimley Horn

COMMITTEE MEMBER: Mike Mesa

Criteria	Ranking
Qualifications of the Firm	9
Qualifications of the Project Team	9
Approach to Scope Of Work	9
Previous Similar Project References	9

Ranking Instructions
Highest ranked proposer receives ranking of 1
Next highest ranked proposer receives ranking of 2
Next highest ranked proposer receives ranking of 3, etc…
Tie scores are not allowed, except for pricing

Comments: 100+ Employees Plantation office. Guest management of writing in House. experience. experience with I/I. servicing the TOWN since approximately 1998. VERTICAL. Past Unfinished Projects in the TOWN.

Committee Member Signature: [signature] **Date:** 9/14/23

FINANCE DEPARTMENT

RFQ EVALUATION COMMITTEE SCORING SHEET

RFQ#: RFQ-5-1005-0-2023/FVR **RFQ TITLE:** Engineering Consulting Services Continuing Contract

FIRM EVALUATED: SNUBBS consulting.

COMMITTEE MEMBER: Mike Mesa

Criteria	**Ranking**
Qualifications of the Firm	10
Qualifications of the Project Team	10
Approach to Scope Of Work	10
Previous Similar Project References	10

Ranking Instructions
Highest ranked proposer receives ranking of 1
Next highest ranked proposer receives ranking of 2
Next highest ranked proposer receives ranking of 3, etc…
Tie scores are not allowed, except for pricing

Comments: ~~[illegible]~~ smaller firm with 2 local offices. Limited experience to the Town of Medley.

Committee Member Signature: [signature] **Date:** 9/14/23

FINANCE DEPARTMENT

RFQ EVALUATION COMMITTEE SCORING SHEET

RFQ#: RFQ-5-1005-0-2023/FVR **RFQ TITLE:** Engineering Consulting Services Continuing Contract

FIRM EVALUATED: WSP

COMMITTEE MEMBER: Mike Mesa

Criteria	**Ranking**
Qualifications of the Firm	4
Qualifications of the Project Team	4
Approach to Scope Of Work	4
Previous Similar Project References	4

Ranking Instructions
Highest ranked proposer receives ranking of 1
Next highest ranked proposer receives ranking of 2
Next highest ranked proposer receives ranking of 3, etc…
Tie scores are not allowed, except for pricing

Comments: 70,000 + employees worldwide. WRite & manage grants. Broad experience. office in Miami. Grant writting & managing capabilities.

Committee Member Signature: M **Date:** 9/14/23

TOWN OF BAY HARBOR ISLANDS

Request for Qualifications

RFQ -5-1004-23

ENGINEERING CONSULTING SERVICES CONTINUING CONTRACT

Pursuant to Section 287.055 Consultants' Competitive Negotiation Act (CCNA)

1.INTRODUCTION

1.1 Purpose

The Town of Bay Harbor Islands is actively seeking qualified, experienced, and licensed firm(s) to provide **Engineering Consulting Services Continuing Contract**, as further described in Section III – Scope of Services. Those firms who are interested in submitting Statements of Qualification (SOQ) in response to this Request for Qualifications (RFQ) shall comply with Section IV– Submittal Requirements.

1.2 Submission Deadline

Sealed responses shall be delivered during the Town's normal business hours in a sealed envelope and addressed to the Town of Bay Harbor Islands Clerk's Office, 9665 Bay Harbor Terrace, Town of Bay Harbor Islands, FL 33154 (Town Hall) no later than **June 22, 2023**, at **3:00 p.m EST** (the deadline), at which time and place the responses will be publicly opened and the names of the firms will be read. After the deadline, responses will not be accepted. Firms are responsible for making certain that their proposal is received at the location specified by the due date and time. The Town of Town of Bay Harbor Islands is not responsible for delays caused by any mail, package or courier service, including the U.S. mail, or caused by any other occurrence or condition. The Town's normal business hours are Monday through Friday, 9:00 a.m. through 5:00p.m. excluding holidays observed by the Town.

All bids will be opened by the Town Clerk's Office.

1.3 Pre-Proposal Meeting

A Pre-proposal meeting is not currently scheduled for this solicitation.

1.4 DEMANDSTAR

The Town of Bay Harbor Islands uses DEMANDSTAR (www.DEMANDSTAR.com) to administer the competitive solicitation process, including but not limited to soliciting responses, issuing addenda, posting results and issuing notification of an intended decision. There is no charge to register and download the RFQ from DEMANDSTAR. Offerors are strongly encouraged to read the various vendor Guides and Tutorials available in DEMANDSTAR well in advance of their intention of submitting a response to ensure familiarity with the use of DEMANDSTAR. The Town shall not be responsible for an Offeror's inability to submit a response by the end date and time for any reason, including issues arising from the use of DEMANDSTAR.

1.5 Point of Contact

All inquiries concerning this RFQ, questions, and requests for additional information shall be sent via email to:

Attn: Fausto Vargas, Procurement Officer
9665 Bay Harbor Terrace, Town of Bay Harbor Islands, FL 33154
Phone: (305) 455-7108
E-mail: fvargasreyes@bayharborislands-fl.gov

Questions of a material nature must be received prior to the cut-off date specified in the RFP Schedule. Material changes, if any, to the scope of services or bidding procedures will only be transmitted by written addendum. (See addendum section of DEMANDSTAR Site). Consultants, please note: Proposals shall be submitted as stated in PART IV – Submittal Requirements. No part of your proposal can be submitted via FAX.No variation in price or conditions shall be permitted based upon a claim of ignorance. Submission of a proposal will be considered evidence that the Consultant has familiarized themselves with the nature and extent of the work, and the equipment, materials, and labor required. The entire proposal must be submitted per all specifications in this solicitation. The questions and answers submitted in DEMANDSTAR shall become part of any contract that is created from this RFP.

1.6 Debarred or Suspended Bidders or Proposers

The bidder or proposer certifies, by submission of a response to this solicitation, that neither it nor its principals and sub-consultants are presently debarred or suspended by any Federal department or agency.

1.7 Scrutinized Companies List

Subject to *Odebrecht Construction, Inc., v. Prasad*, 876 F.Supp.2d 1305 (S.D. Fla. 2012), *affirmed*, *Odebrecht Construction, Inc., v. Secretary, Florida Department of Transportation*, 715 F.3d 1268 (11th Cir. 2013), with regard to the "Cuba Amendment," the Contractor certifies that it is not on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List or the Scrutinized Companies that Boycott Israel List created pursuant to Section 215.4725, Florida Statutes (2020), that it is not engaged in a boycott of Israel, and that it does not have business operations in Cuba or Syria, as provided in section 287.135, Florida Statutes (2020), as may be amended or revised. The Town may terminate this Agreement at the Town's option if the Contractor is found to have submitted a false certification as provided under subsection (5) of section 287.135, Florida Statutes (2020), as may be amended or revised, or been placed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List or the Scrutinized Companies that Boycott Israel List created pursuant to Section 215.4725, Florida Statutes (2020), or is engaged in a boycott of Israel or has been engaged in business operations in Cuba or Syria, as defined in Section 287.135, Florida Statutes (2020), as may be amended or revised.

By submitting a bid, SOQ or response, the company, principals, or owners certify that they are not listed on the Scrutinized Companies with Activities in Sudan List or listed on the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List or is engaged in business operations in Cuba or Syria.

2.General Terms and Conditions

2.1 Addenda, Changes, and Interpretations

It is the sole responsibility of each firm to notify the point of contact by email and request modification or clarification of any ambiguity, conflict, discrepancy, omission or other error discovered in this competitive solicitation. Requests for clarification, modification, interpretation, or changes must be received prior to the Question and Answer (Q & A) Deadline. Requests received after this date may not be addressed. Material changes, if any, to the scope of services or the solicitation process will only be transmitted by official written addendum issued by the Town and uploaded to DEMANDSTAR as a separate addendum to the RFQ. Under no circumstances shall an oral explanation given by any Town official, officer, staff, or agent be binding upon the Town and should be disregarded. All addenda are a part of the competitive solicitation documents and each firm will be bound by such addenda. It is the responsibility of each to read and comprehend all addenda issued.

2.2 Changes and Alterations

Consultant may change or withdraw a SOQ at any time prior to SOQ submission deadline; however, no oral modifications will be allowed. Modifications shall not be allowed following the SOQ deadline.

2.3 Consultants' Costs

The Town shall not be liable for any costs incurred by consultants in responding to this RFQ, including costs incurred in connection with evaluation and award proceedings.

2.4 Mistakes

The consultant shall examine this RFQ carefully. The submission of a SOQ shall be prima facie evidence that the consultant has full knowledge of the scope, nature, and quality of the work to be performed; the detailed requirements of the specifications; and the conditions under which the work is to be performed. Ignorance of the requirements will not relieve the consultant from liability and obligations under the Contract.

2.5 Acceptance of Responses / Minor Irregularities

2.5.1 The Town reserves the right to accept or reject any or all responses, part of responses, and to waive minor irregularities or variances to specifications contained in responses which do not make the response conditional in nature, and minor irregularities in the solicitation process. A minor irregularity shall be a variation from the solicitation that does not affect the price of the contract or does not give a respondent an advantage or benefit not enjoyed by other respondents, does not adversely impact the interests of other firms or, does not affect the fundamental fairness of the solicitation process. The Town also reserves the right to reissue a Request for Qualifications.

2.5.2 The Town reserves the right to disqualify Consultant during any phase of the competitive solicitation process and terminate for cause any resulting

contract upon evidence of collusion with intent to defraud or other illegal practices on the part of the Consultant.

2.6 Responsiveness

In order to be considered responsive to the solicitation, the firm's response shall fully conform in all material respects to the solicitation and all of its requirements, including all form and substance.

2.7 Responsibility

In order to be considered as a responsible firm, firm shall be fully capable to meet all of the requirements of the solicitation and subsequent contract, must possess the full capability, including financial and technical, to perform as contractually required, and must be able to fully document the ability to provide good faith performance.

2.8 Minimum Qualifications

Firms shall be registered as engineering firms licensed with the state of Florida and must possess sufficient financial support, equipment and organizational resources, to ensure that it can satisfactorily perform the services if awarded a Contract. Firms must demonstrate that they, or the principals assigned to the project, have successfully provided services with similar magnitude to those specified in the scope of services to at least one Town similar in size and complexity to the Town of Bay Harbor Islands or can demonstrate they have the experience with large scale private sector clients and the managerial and financial ability to successfully perform the work.

Firms shall satisfy each of the following requirements cited below. Failure to do so may result in the SOQ being deemed non-responsive.

2.8.1 Proposer or principals must have a minimum of five (5) years relevant experience providing Genera Engineering Consulting Services. Individual(s) assigned to the work must have a minimum of five (5) years' experience. Project manager assigned to the work must have at least a minimum of five (5) years' experience in General Engineering Consulting Services and have served as project manager on at least three (3) previous projects of similar size and scope.

2.8.2 Before awarding a contract, the Town reserves the right to require that a firm submit such evidence of his/her qualifications as the Town may deem necessary. Further, the Town may consider any evidence of the financial, technical, and other qualifications and abilities of a firm or principals, including previous experiences of same with the Town and performance evaluation for services, in making the award in the best interest of the Town.

2.8.3 Firm or principals shall have no record of judgments, pending lawsuits against the Town or criminal activities involving moral turpitude and not have any conflicts of interest that have not been waived by the Town Commission.

2.8.4 Neither Firm nor any principal, officer, or stockholder shall be in arrears or

in default of any debt or contract involving the Town, (as a party to a contract, or otherwise); nor have failed to perform faithfully on any previous contract with the Town.

2.8.5 Consultant(s) must be appropriately licensed and registered in the State of Florida in the required field of service.

2.9 Protest Procedure

2.9.1 Any Proposer who is not recommended for award of a contract and who alleges a failure by the town to follow the town's procurement ordinance or any applicable law, may follow the protest procedure as found in the town's procurement ordinance within five (5) days after a notice of intent to award is posted on the town's web site.

2.10 Sub-Consultants

2.10.1 A Sub-Consultant is an individual or firm contracted by the Consultant or Consultant's firm to assist in the performance of services required under this RFQ. A Sub-Consultant shall be paid through Consultant or Consultant's firm and not paid directly by the Town. Sub- Consultants are permitted by the Town in the performance of the services pursuant to the Agreement. Consultant must clearly reflect in its SOQ the major Sub-Consultant(s) to be utilized in the performance of required services. The Town retains the right to accept or reject any Sub-Consultant proposed in the response of Successful Consultant(s) or prior to contract execution. Any and all liabilities regarding the use of a Sub-Consultant shall be borne solely by the successful consultant and insurance for each Sub-Consultant must be maintained in good standing and approved by the Town throughout the duration of the Contract. Neither Successful Consultant nor any of its Sub-Consultants are considered to be employees or agents of the Town. Failure to list all Sub-Consultants and provide the required information may disqualify any proposed Sub-Consultant from performing work under this RFQ.

Consultants shall include in their responses the requested Sub-Consultant information and include all relevant information required of the Consultant. In addition, within five (5) working days after the identification of the award to the successful Consultant(s), the Consultant shall provide a list confirming the Sub-Consultant(s) that the successful Consultant intends to utilize in the Contract, if applicable. The list shall include, at a minimum, the name, and location of the place of business for each Sub-Consultant, the services Sub-Consultant will provide relative to any contract that may result from this RFQ, Sub-consultants hourly rates or fees, any applicable licenses, insurance, references, ownership, and other information required of Consultant.

2.11 Insurance Requirements

2.11.1 As a condition precedent to the effectiveness of this Agreement, during the term of this Agreement and during any renewal or extension term of this

Agreement, the Contractor, at the Contractor's sole expense, shall provide insurance of such types and with such terms and limits as noted below. Providing proof of and maintaining adequate insurance coverage are material obligations of the Contractor. The Contractor shall provide the Town a certificate of insurance evidencing such coverage. The Contractor's insurance coverage shall be primary insurance for all applicable policies. The limits of coverage under each policy maintained by the Contractor shall not be interpreted as limiting the Contractor's liability and obligations under this Agreement. All insurance policies shall be from insurers authorized to write insurance policies in the State of Florida and that possess an A.M. Best rating of "A-" VII or better. All insurance policies are subject to approval by the Town's Risk Manager.

2.11.2 The coverages, limits, and endorsements required herein protect the interests of the Town, and these coverages, limits, and endorsements may not be relied upon by the Contractor for assessing the extent or determining appropriate types and limits of coverage to protect the Contractor against any loss exposure, whether as a result of this Agreement or otherwise. The requirements contained herein, as well as the Town's review or acknowledgement, are not intended to and shall not in any manner limit or qualify the liabilities and obligations assumed by the Contractor under this Agreement.

2.11.3 The following insurance policies and coverages are required:

Commercial General Liability

Coverage must be afforded under a Commercial General Liability policy with limits not less than:

- $2,000,000 each occurrence and $2,000,000 aggregate for Bodily Injury, Property Damage, and Personal and Advertising Injury
- $2,000,000 each occurrence and $2,000,000 aggregate for Products and Completed Operations

Policy must include coverage for Contractual Liability and Independent Contractors.

The Town and the Town's officers, employees, and volunteers are to be covered as additional insureds with a CG 20 26 04 13 Additional Insured – Designated Person or Organization Endorsement or similar endorsement providing equal or broader Additional Insured Coverage with respect to liability arising out of activities performed by or on behalf of the Contractor. The coverage shall contain no special limitation on the scope of protection afforded to the Town or the Town's officers, employees, and volunteers.

Business Automobile Liability

Coverage must be afforded for all Owned, Hired, Scheduled, and Non-Owned vehicles for Bodily Injury and Property Damage in an amount not less than $1,000,000 combined single limit each accident

If the Contractor does not own vehicles, the Contractor shall maintain coverage for Hired and Non-Owned Auto Liability, which may be satisfied by way of endorsement to the Commercial General Liability policy or separate Business Auto Liability policy.

Workers' Compensation and Employer's Liability

Coverage must be afforded per Chapter 440, Florida Statutes. Any person or entity performing work for or on behalf of the Town must provide Workers' Compensation insurance. Exceptions and exemptions will be allowed by the Town's Risk Manager, if they are in accordance with Florida Statute.

The Contractor waives, and the Contractor shall ensure that the Contractor's insurance carrier waives, all subrogation rights against the Town and the Town's officers, employees, and volunteers for all losses or damages. The Town requires the policy to be endorsed with WC 00 03 13 Waiver of our Right to Recover from Others or equivalent.

The Contractor must be in compliance with all applicable State and federal workers' compensation laws, including the U.S. Longshore Harbor Workers' Act and the Jones Act, if applicable.

Umbrella/Excess Liability: The Contractor shall provide umbrella/excess coverage with limits of no less than $2,000,000 excess of Commercial General Liability, Automobile Liability and Employer's Liability

2.12.1 Insurance Certificate Requirements

- **a.** The Contractor shall provide the Town with valid Certificates of Insurance (binders are unacceptable) no later than thirty (30) days prior to the start of work contemplated in this Agreement.
- **b.** The Contractor shall provide to the Town a Certificate of Insurance having a thirty (30) day notice of cancellation; ten (10) days' notice if cancellation is for nonpayment of premium.
- **c.** In the event that the insurer is unable to accommodate the cancellation notice requirement, it shall be the responsibility of the Contractor to provide the proper notice. Such notification will be in writing by registered mail, return receipt requested, and addressed to the certificate holder.
- **d.** In the event the Agreement term goes beyond the expiration date of the insurance policy, the Contractor shall provide the Town with an updated Certificate of Insurance no later than ten (10) days prior to the expiration of the insurance currently in effect. The Town reserves the right to suspend the Agreement until this requirement is met.
- **e.** The Certificate of Insurance shall indicate whether coverage is provided under a claims-made or occurrence form. If any coverage is provided on a claims-made form, the Certificate of Insurance must show a retroactive date, which shall be the effective date of the initial contract or prior.
- **f.** The Town shall be named as an Additional Insured on the general liability policy.

g. The Town shall be granted a Waiver of Subrogation on the Contractor's Workers' Compensation insurance policy.

h. On section "description of operations / locations / vehicles (attach acord 101, additional remarks schedule, if more space is required)" should read as flows:

TOWN OF BAY HARBOR ISLAND. IS INCLUDED AS ADDITIONAL INSURED

The title of the Agreement, Bid/Contract number, event dates, or other identifying reference must be listed on the Certificate of Insurance.

The Certificate Holder should read as follows:
Town of Harbor Islands
Procurement Services
9665 Bay Harbor Terrace
Town of Harbor Islands, FL 33154

2.12.1 The Contractor has the sole responsibility for the payment of all insurance premiums and shall be fully and solely responsible for any costs or expenses as a result of a coverage deductible, co-insurance penalty, or self-insured retention; including any loss not covered because of the operation of such deductible, co-insurance penalty, self-insured retention, or coverage exclusion or limitation. Any costs for adding the Town as an Additional Insured shall be at the Contractor's expense.

2.12.2 If the Contractor's primary insurance policy/policies do not meet the minimum requirements, as set forth in this Agreement, the Contractor may provide evidence of an Umbrella/Excess insurance policy to comply with this requirement.

2.12.3 The Contractor's insurance coverage shall be primary insurance as applied to the Town and the Town's officers, employees, and volunteers. Any insurance or self-insurance maintained by the Town covering the Town, the Town's officers, employees, or volunteers shall be non-contributory.

2.12.4 Any exclusion or provision in the insurance maintained by the Contractor that excludes coverage for work contemplated in this Agreement shall be unacceptable and shall be considered breach of contract.

2.12.5 All required insurance policies must be maintained until the contract work has been accepted by the Town, or until this Agreement is terminated, whichever is later. Any lapse in coverage shall be considered breach of contract. In addition, Contractor must provide to the Town confirmation of coverage renewal via an updated certificate should any policies expire prior to the expiration of this Agreement.

The Town reserves the right to review, at any time, coverage forms and limits of Contractor's insurance policies.

2.12.6 The Contractor shall provide notice of any and all claims, accidents, and any other occurrences associated with this Agreement shall be provided to the Contractor's insurance company or companies and the Town's Risk Management office as soon as practical.

2.12.7 It is the Contractor's responsibility to ensure that any and all of the Contractor's independent contractors and subcontractors comply with these insurance requirements. All coverages for independent contractors and subcontractors shall be subject to all of the applicable requirements stated herein. Any and all deficiencies are the responsibility of the Contractor.

2.12.8 ADDITIONAL COVERAGES REQUIRE

Professional Liability and/or Errors and Omissions

Coverage must be afforded for Wrongful Acts in an amount not less than $1,000,000 each claim and $2,000,000 aggregate.

Contractor must keep insurance in force until the third anniversary of expiration of this Agreement or the third anniversary of acceptance of work by the Town.

2.13 Contract Term

The initial contract term shall commence upon final execution of the contract by the Town and shall expire Two (2) years from that date or the day after the current contract expires, whichever is later. The Town reserves the right to extend the contract for three (3) additional one (1) year terms providing all terms conditions and specifications remain the same, both parties agree to the extension, and such extension is approved by the Town.

In the event services are scheduled to end because of the expiration of this contract, the Contractor shall continue the service upon the request of the Town as authorized by the awarding authority. The extension period shall not extend for more than ninety (90) days beyond the expiration date of the existing contract. The Contractor shall be compensated for the service at the rate in effect when this extension clause is invoked by the Town.

By submitting a SOQ each firm is confirming that the firm has not been placed on the convicted vendors list as described in Florida Statue §287.133 (2) (a).

2.14 Award of Contract

A Contract (the "Agreement") will be awarded in accordance with Florida Statues, by the Town Commission. The Town reserves the right to execute or not execute, as applicable, a contract with the Consultant(s) that is determined to be in the Town's best interests. The draft agreement is provided herein as an attachment to this RFQ. The Town reserves the right to award a contract to more than one Consultant as is in the Town's best interest.

2.15 Unauthorized Work

The Successful Consultant(s) shall not begin work until a Contract has been awarded by the Town Commission and a notice to proceed has been issued. Consultant(s) agree and understand that the issuance of a Purchase Order and/or Task Order shall be issued and provided to the Consultant(s) following Commission award; however, receipt of a purchase order and/or task order shall not prevent the Consultant(s) from commencing the work once the Town Commission has awarded the contract and notice to proceed is issued.

2.16 Prohibition Against Contingent Fees

The engineer (or registered surveyor and mapper or professional engineer, as applicable) warrants that he or she has not and will not employ or retain any company or person other than a bona fide employee working solely for the engineer (or registered surveyor and mapper, or professional engineer, as applicable) to solicit or secure an agreement pursuant to this competitive solicitation and that he or she has not and will not pay or agree to pay any person, company, corporation, individual, or firm, other than a bona fide employee working solely for the engineer (or registered surveyor and mapper or professional engineer, as applicable) any fee, commission, percentage, gift, or another consideration contingent upon or resulting from an award or making of an agreement pursuant to this competitive solicitation.

2.17 Substitution of Personnel

It is the intention of the Town that the Contractor's personnel proposed for the contract will be available for the contract term. In the event the Contractor wishes to substitute personnel, he shall propose personnel of equal or higher qualifications and all replacement personnel are subject to Town approval. In the event substitute personnel are not satisfactory to the Town and the matter cannot be resolved to the satisfaction of the Town, the Town reserves the right to cancel the Contract for cause. See Section 5.09 General Conditions.

2.18 Ownership of Work

The Town shall have full ownership and the right to copyright, otherwise limit, reproduce, modify, sell, or use all of the work or product produced under this contract without payment of any royalties or fees to the Contractor above the agreed hourly rates and related costs.

2.19 Modification of Services

2.19.1 While this contract is for services provided to the department referenced in this Request for Proposals, the Town may require similar work for other Town departments. Successful Proposer agrees to take on such work unless such work would not be considered reasonable or become an undue burden to the Successful Proposer.

2.19.2 The Town reserves the right to delete any portion of the work at any time without cause, and if such right is exercised by the Town, the total fee shall be reduced in the same ratio as the estimated cost of the work deleted bears to the estimated cost of the work originally planned. If work has already been accomplished and approved by the Town on any portion of a contract resulting from this RFP, the Successful Proposer shall be paid for the work completed on the basis of the estimated

percentage of completion of such portion to the total project cost.

2.19.3 The Town may require additional items or services of a similar nature, but not specifically listed in the contract. The Successful Proposer agrees to provide such items or services, and shall provide the Town prices on such additional items or services. If the price(s) offered are not acceptable to the Town, and the situation cannot be resolved to the satisfaction of the Town, the Town reserves the right to procure those items or services from other vendors, or to cancel the contract upon giving the Successful Proposer thirty (30) days written notice.

2.19.4 If the Successful Proposer and the Town agree on modifications or revisions to the task elements, after the Town has approved work to begin on a particular task or project, and a budget has been established for that task or project, the Successful Proposer will submit a revised budget to the Town for approval prior to proceeding with the work.

2.20 Invoices/Payment

Each invoice shall fully detail the related costs and shall specify the status of the particular task or project as of the date of the invoice with regard to the accepted schedule for that task or project. Payment will be made within forty-five (45) days after receipt of an invoice acceptable to the Town, in accordance with the Florida Local Government Prompt Payment Act. If, at any time during the contract, the Town shall not approve or accept the Contractor's work product, and agreement cannot be reached between the Town and the Contractor to resolve the problem to the Town's satisfaction, the Town shall negotiate with the Contractor on a payment for the work completed and usable to the Town.

2.21 Cone of Silence

The Cone of Silence prohibits any communication regarding a competitive bid or solicitation for including, but not limited to, a particular RFP, RFQ, solicitation or bid, between:

(1) A potential respondent, vendor, service provider, proposer, bidder, lobbyist, or consultant; and

(2) The Town Council Members, Town Staff, including but not limited to, the Town Manager and his or her staff, or any member of the Town’s Selection Committee or Evaluation Committee.

The Cone of Silence shall be imposed upon this RFQ upon advertisement of the RFQ. The Cone of Silence shall terminate at the beginning of the Town Council meeting at which time the Town Manager makes his or her written recommendation to the Town Council Members. However, if the Town Council refers the Town Manager's recommendation back to the Town Manager or staff for further review, the Cone of Silence shall be re-imposed until the meeting at which the Town Manager’s subsequent recommendation is before the Town Commission.

The Cone of Silence shall not apply to:

(1) Oral communications at pre-bid conferences;

(2) Oral presentations before selection or evaluation committees:

(3) Public presentations made to the Town Council Members during any duly noticed public meeting;

(4) Written communications at any time with any Town employee, unless specifically prohibited by the applicable solicitation documents. The respondent, bidder or proposer shall file a copy of any written communication with the Town Clerk. The Town Clerk shall make copies available to any person upon request;

(5) Written communications regarding a particular solicitation between a potential respondent, vendor, service provider, proposer, bidder, lobbyist or consultant and the Town's purchasing agent or Town employee designated responsible for administering the procurement process for such solicitation, provided the communication is limited strictly to matters of process or procedure already contained in the corresponding solicitation document;

(6) Communications with the Town Attorney and his or her staff;

2.22 Hold Harmless and Indemnification.

All Proposers shall hold the Town, its officials, and its employees harmless and covenant not to sue the Town, its officials, and its employees in reference to the Town's decision to reject, award, or not award an RFQ, as applicable. Additionally, the selected Proposer shall indemnify, defend, and save harmless the Town, its officers, agents, and employees, from or on account of any injuries or damages, received or sustained by any person or persons during or on account of the Proposer's performance of its Services under this RFQ, or by or in consequence of any negligence (excluding the sole negligence of the Town), in connection with the same; or by use of any improper materials or by or on account of any act or omission of the said selected Proposer, agents, servants, or employees. The selected Proposer shall indemnify, defend, and hold harmless the Town and their agents or employees from and against all claims, damages, losses, and expenses, including attorneys' fees, arising out of or resulting from the performance of the Services described in the RFQ, provided that any such claim, damage, loss, or expense (a) is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property (other than work itself) including the loss of use resulting wherefrom and (b) is caused in whole or in part by any negligent act or omission of the selected Proposer, anyone directly or indirectly employed by any of them, or anyone for whose acts any of them may be liable, regardless of whether or not it is caused by a party indemnified hereunder.

3.Scope of Services

3.1 Purpose

The Town is seeking the services of a qualified consulting firm(s) to provide Professional Services related to a continuing contract for Civil Engineering Consultant Services. The following is a list of services that may be required on an as-needed basis as requested by the Town which will be authorized by individual Task Orders for individual projects. This list shall not be construed as an exclusive list of activities that successful firm(s) may be engaged in. Town shall have the right, in its sole and absolute discretion, to require additional services that are consistent with the scope of services and those activities typically performed by engineers, and surveyors pursuant to Section 287.055 Florida Statutes, and for which the firm(s) are experience, qualified, and able to perform:

3.2 Scope of Services

The Town of Bay Harbor Islands is seeking to establish a pool of pre-qualified consultants in engineering disciplines. Generally, services for projects may include full design and construction contract document development; construction specification development; contract and bidding document development; code analysis; jurisdictional review and permitting assistance; bid/award support and concurrence; negotiation support; construction/contract administration services; construction phase field support services; inspections, construction observation and project progress documentation; post-occupancy surveys and related services; surveying; photographic and video-graphic project support; GIS and CADD project support; other data and information system project support, etc.

Multiple firms selected by the Town will provide professional services to the Town on an as-needed basis based upon work orders to be issued by the Town under the terms of their continuing contracts.

3.3 Work Standards

In providing professional services, Consultant(s) shall take all reasonable care which are industry standards or as defined in Florida Statutes or Florida Administrative Codes. Consultant(s) shall also provide all work product documentation including but not limited to; data, studies, surveys, drawings, maps, models, photographs, reports, designs, calculations, test results, etc., that shall become the property of the Town and shall be delivered to the Town.

3.4 Tasks

The scope of services to be provided by the Consultant in the functional

areas listed above shall include, but not be limited to, the following:

a) Prepare engineering designs, calculations, plans and specifications, contract bid documents, and cost estimates, within the functional areas of interest listed in this solicitation.
b) Prepare base maps, preliminary layouts, estimates of probable costs, engineering analysis and alternatives as requested.
c) Submit construction documents as needed to the Town and other required agencies having an interest or jurisdiction over the project.
d) Review, analyze, and provide recommendations to utility budgets and capital improvement plans.
e) Provide updates on changes or proposed changes to laws/regulations that may impact Town's water resources and supply, treatment, distribution and storage, wastewater collection and treatment
f) Preform flood routing software modelling.
g) Prepare feasibility and conceptual planning documents.
h) Provide research, attendance at meetings, and preparation of presentation materials, reports and correspondence.
i) Prepare and/or assist with the preparation of grant applications and attendance at meetings with grant officials.
j) Assist in the review and development of ordinances.
k) Provide public education/notification assistance.
l) Prepare short and long term planning documents, master plans, or provide input to the Town's master plans, capital improvement program, and maintenance needs.
m) Participate in construction administration as required by the Town.
n) Prepare formal or informal feasibility studies as necessary to assist the Town in responding capital improvement needs.
o) Analysis of existing infrastructure and available capacity to serve proposed capital improvement projects.
p) Prepare legal descriptions, exhibits, and surveys.
q) Provide expert witness testimony.
r) Prepare appropriate permitting documents and obtain and/or assist the Town in obtaining permits from applicable agencies.
s) Represent the Town with regulatory agencies.
t) Prepare periodic project status reports.
u) Prepare and furnish bidding documents and assist the Town in the preparation of other related documents.
v) Attend bid openings, prepare bid tabulation sheets, and assist the Town in the evaluation of bids or proposals.
w) Issue addenda as appropriate to clarify, correct, or change the bidding documents.
x) Participate in pre-construction conference as requested by the Town.
y) Review and determine acceptability of construction submittals, including

shop drawings, progress schedule, schedule of values, etc.

z) Review and provide recommendations to request for information, request for changes, and claims to the Town arising during construction activities.

aa) Make periodic construction site visits for the purpose of determining general compliance with the approved drawings, plans, and specifications as requested by the Town.

bb) Review as-built drawings provided by the construction contractor and provide written comments to the Town.

cc) Provide services related to construction management and inspections, and/or specialty inspection.

dd) Provide project management services and act as an extension of the Town's project management staff for the design, bidding, and construction management of municipal projects.

ee) Space Planning

ff) Architectural Design

gg) Interior Design

hh) Landscape Architecture

ii) ADA Analysis and Design

jj) Sustainable Design

kk) Building Performance Analysis

ll) Structural Design

The consultant or its sub consultants shall be familiar with different agency's permitting regulations and requirements and the Town's design criteria, standards and specifications.

3.5 Deliverables

The Town intends to contract with multiple firms. The total amount of compensation will be negotiated with the selected consultant. No minimum amount of work or compensation will be assured to the retained consultant(s). All work products becomes the property of the Town. The Town reserves the right to re-use the work products of the retained consultant and to retain other consultants to provide the same or similar services at its sole discretion.

3.6 Schedule

Consultant recognizes that **TIME IS OF THE ESSENCE**. The Work on each Task Order shall commence immediately upon the Consultants receipt of an executed Task Order.

3.7 Town Infrastructure

a. Bridges – Given the Town's Island condition located in the Intracoastal Waterway, the Town owns and maintains a total of four (4) bridges.
    - The Broad Causeway Bascule Bridge (Connecting the West Island with the Broad Causeway Island)

- The West Relief Bridge (Connecting the Town with the Town of North Miami)
- The Waterway Bridge (Connecting the West and East Islands)
- The Indian Creek Bridge (Connecting the Town with the Town of Surfside and Village of Bal Harbour)

b. Buildings – The Town owns and maintains two (2) buildings.
   - The Town Hall Administration Offices at 9665 Bay Harbor Terrace. This building houses the Administration offices, the Building Department, Council Chambers, and the Police Department. This building was built in 1970.
   - The Community Center at 1165 95th Street. The Community Center is a recent building that is located on the first floor of the Parking Garage.

c. Parking Facilities – The Town operates a total of seven (7) parking facilities.
   - 1165 95th Street Parking Garage – This is a five-story parking garage building on 95th Street.
   - 103rd Street Surface Parking Lot
   - 100th Street Surface Parking Lot
   - 97th Street Surface Parking Lot
   - Block 11 Parking Lot
   - 95th Street Surface Parking Lot
   - 92nd Street Surface Parking Lot

d. Parks – There are four (4) Parks in the Town, in addition of two (2) passive parks.
   - Tot Lot – 96th Street and West Broadview Drive
   - 98th Street Park
   - 95th Street Park
   - 92nd Street Park

e. Potable Water Infrastructure – The Town is a wholesale customer of the MDWASD. The Town receives its water from a 36-inch transmission main from MDWASD that runs along 96th Street. The distribution lines connected to this transmission line are owned and maintained by the Town. Most of the Town's water lines are PVC material with a diameter that varies between 6-inch to 10-inch.
f. Stormwater Infrastructure – Most of the Town's stormwater system is a gravity system that drains through outfalls to the Bay. A total of 52 outfalls that range on sizes from 8-inch to 30-inch. There is a stormwater injection

well on the south side of the West Island with 9,000 gpm pumps. For reference, an Atlas is included as Appendix of this RFQ.

g. Sanitary Sewer Infrastructure – The Town's sanitary sewer system is comprised of gravity mains, manholes, ejector's stations, pump station, force main and air lines. A total of five (5) ejector's stations are location on different areas of the Town, that discharge to the Town' Main Pump Station D at 9665 Bay Harbor Terrace. The gravity line varies from 8-inch to 18-inch. For Reference, an Atlas is included as Appendix of this RFQ.

3.8 Functional Areas of Interest

The consultant shall identify in their response to this RFQ the functional areas for which it particularly wishes to specialize. Multiple firms will be selected, and multiple firms may be selected for more than one (1) functional area.

a) Water and wastewater engineering (specifically pipeline and lift-station design)
b) Stormwater engineering
c) Transportation engineering
d) Structural engineering (specifically seawall, dock, and bridge design)
e) Environmental engineering
f) Surveying and mapping services and Geographic Information and mapping services (GIS)
g) Photogrammetry and remote sensing
h) Geotechnical engineering
i) Coastal engineering
j) Water resources engineering
k) Hydrology and hydraulic engineering
l) Mechanical engineering
m) Electrical Engineering
n) Plan Review
o) Architectural Design.

Construction engineering and inspection.

3.9 Quality Assurance/Quality Control

It is the intention of the Town that the design consultant is held responsible for the quality control (QC) of their work and of its sub-consultants. All sub-consultant documents and submittals shall be submitted directly to the consultant for their independent QC review. The Town shall only accept submittals for review and action from the consultant.

The consultant is responsible for the professional quality, technical accuracy and coordination of all pre- design services, designs, drawings, specifications,

cost estimates and other services furnished by the consultant and their sub-consultants. It is the consultant's responsibility to independently and continually QC their plans, specifications, and all other project deliverables. Upon Town request, the consultant shall provide the Town with a marked up set of plans and specifications showing the consultant's QC review.

The mark-ups submittals shall include the names of the consultant's staff that performed the QC review for each component or functional area (e.g., structures, roadway, drainage, etc.).

3.10 Document Submittal Format

All documents generated as a result of projects will become the property of the Town of Bay Harbor Islands. All projects documents shall be provided in a digital and hard copy format meeting all Town of Bay Harbor Islands format requirements. The project drawings shall be prepared in AutoCAD, in the version current to the Town Engineering Division at the time that deliverables are due, and shall meet the requirements as set forth in the Town's CADD specifications for project drawings current at the time of award of the project. Plot files shall also be prepared and submitted which meet the stated Town standards.

4.Submittal Requirements

4.1 Instructions

4.1.1 Although proposals are accepted 'hard copy' The Town of Bay Harbor Islands uses DEMADSTAR (www.Demadstar.com) to administer the competitive solicitation process, including but not limited to soliciting responses, issuing addenda, posting results and issuing notification of an intended decision. There is no charge to register and download the RFQ from DEMADSTAR. Offerors are strongly encouraged to read the various vendor Guides and Tutorials available in DEMADSTAR well in advance of their intention of submitting a response to ensure familiarity with the use of DEMADSTAR. The Town shall not be responsible for an Offeror's inability to submit a response by the end date and time for any reason, including issues arising from the use of DEMADSTAR.

4.1.2 Careful attention must be given to all requested items contained in this RFQ. Consultants are invited to submit responses in accordance with the requirements of this RFQ. Please read entire solicitation before submitting a SOQ. Consultants must provide a response to each requirement of the RFQ. Responses should be prepared in a concise manner with an emphasis on completeness and clarity. Consultant's notes, exceptions, and comments may be rendered on an attachment, provided the same format of this RFQ text is followed.

4.1.3 All information submitted by Offeror shall be typewritten or provided as otherwise instructed to in the RFQ. Offerors shall use and submit any applicable or required forms provided by the Town and attach such to their response. Failure to use the forms may cause the response to be rejected and deemed non-responsive.

4.1.4 Responses shall be submitted by an authorized representative of the firm. Responses must be submitted in the business entities name by the President, Partner, Officer or Representative authorized to contractually bind the business entity. Responses shall include an attachment evidencing that the individual submitting the response, does in fact have the required authority stated herein.

4.1.5 All responses will become the property of the Town. In the event of Contract award, all documentation produced as part of the Contract shall become the exclusive property of the Town. All proposals will become the property of the

Town. The Proposer's response to the RFP is a public record pursuant to Florida law, which is subject to disclosure by the Town under the State of Florida Public Records Law, Florida Statutes Chapter 119.07 ("Public Records Law"). The Town shall permit public access to all documents, papers, letters or other material submitted in connection with this RFP and the Contract to be executed for this RFP, subject to the provisions of Chapter 119.07 of the Florida Statutes. Any language contained in the Proposer's response to the RFP purporting to require confidentiality of any portion of the Proposer's response to the RFP, except to the extent that certain information is in the Town's opinion a Trade Secret pursuant to Florida law, shall be void. If a Proposer submits any documents or other information to the Town which the Proposer claims is Trade Secret information and exempt from Florida Statutes Chapter 119.07 ("Public Records Laws"), the Proposer shall clearly designate that it is a Trade Secret and that it is asserting that the document or information is exempt. The Proposer must specifically identify the exemption being claimed under Florida Statutes119.07. The Town shall be the final arbiter of whether any information contained in the Proposer's response to the RFP constitutes a Trade Secret. The Town's determination of whether an exemption applies shall be final, and the Proposer agrees to defend, indemnify, and hold harmless the Town and the Town's officers, employees, and agent, against any loss or damages incurred by any person or entity as a result of the Town's treatment of records as public records. In the event of Contract award, all documentation produced as part of the Contract shall become the exclusive property of the Town

Contractor shall:

1. Keep and maintain public records that ordinarily and necessarily would be required by the Town in order to perform the service.

2. Upon request from the Town's custodian of public records, provide the Town with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes (2018), as may be amended or revised, or as otherwise provided by law.

3. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of this contract if the Contractor does not transfer the records to the Town.

4. Upon completion of the Contract, transfer, at no cost, to the Town all public records in possession of the Contractor or keep and maintain public records required by the Town to perform the service. If the Contractor transfers all public records to the Town upon completion of this Contract, the Contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Contractor keeps and maintains public records upon completion of this Contract, the Contractor shall meet all

applicable requirements for retaining public records. All records stored electronically must be provided to the Town, upon request from the Town's custodian of public records, in a format that is compatible with the information technology systems of the Town.

4.1.6 One (1) original and two (2) copies plus four (4) electronic (soft) copies (Flash Drive) of your SOQ, shall be delivered by the due date and time (deadline) to the address specified in Section I, 1.2 – Submission Deadline. It is the sole responsibility of the respondent to ensure their SOQs are received on or before the date and time stated, in the specified number of copies and in the format stated herein.

4.2 Contents of the Statement of Qualification

The Town deems certain documentation and information important in the determination of responsiveness and for the purpose of evaluating responses. Responses should seek to avoid information in excess of that requested, must be concise, and must specifically address the issues of this RFQ. The Town prefers that responses be no more than fifty (50) pages double- sided, be bound in a soft cover binder, and utilize recyclable and recycled-content materials as much as practical. Elaborate binders are neither necessary nor desired. Please place the labeled thumb drives in an envelope. The responses shall be organized and divided into the sections indicated herein. These are not inclusive of all the information that may be necessary to properly evaluate the response and meet the requirements of the scope of work and/or specifications. Additional documents and information should be provided as deemed appropriate by the respondent in response to specific requirements stated herein or through the RFQ.

Note: Do not include pricing - Compensation will be requested and considered only during the competitive negotiations process.

4.2.1 Table of Contents

The table of contents should outline in sequential order the major areas of the submittal, including enclosures. All pages should be consecutively numbered and correspond to the Table of Contents.

4.2.2 Executive Summary

Each Offeror must submit an executive summary that identifies the business entity, its background, main office(s), and office location that will service this contract. Identify the officers, principals, supervisory staff and key individuals who will be directly involved with the work and their office locations. The executive summary should also summarize the key elements of the SOQ.

4.2.3 Firm Qualifications and Experience

Respondents must submit and provide any other documentation that demonstrates their ability to satisfy all of the minimum qualification requirements. Indicate the firm's number of years of experience in providing the professional services as it relates the work contemplated. Indicate the firm's initiatives towards its own sustainable business practices that demonstrate a commitment to conservation. Indicate

business structure, Corp., Partnership, LLC. Firm should be registered as a legal entity in the State of Florida; Minority or Woman owned Business (if applicable); company address, phone number, fax number, e-mail address, web site, contact person(s), etc. Relative size of the firm, including management, technical and support staff; licenses and any other pertinent information shall be submitted.

4.2.4 Organizational Profile and Project Team

This section shall include a detailed profile of the organization and identify the project team Providing this information on an organizational chart is recommended. This section shall also include resumes of the project team. Lastly this section shall include details of how each project team member will contribute to the project, in what capacity, and the level of involvement they will have. Provide a comprehensive summary of the experience and qualifications of the individual(s) who will be selected to serve as the project manager(s) for the Town.

4.2.6 Approach to Scope of Work

Provide in concise narrative form, your understanding of the Town's needs, goals and objectives as they relate to the project, and your overall approach to accomplishing the solicitation. Give an overview on your proposed vision, ideas and methodology Also provide information on your firm's current workload and how this project will fit into your workload. Describe available facilities, technological capabilities and other available resources you offer for the project.

4.2.7 References

Provide at least three references, preferably government agencies, for projects with similar scope as listed in this RFQ. Information shall include:

- Client Name, address, contact person telephone number and e-mail addresses.
- Description of work.
- Year the project was completed.
- Total cost of the construction; estimated and actual.
- Value engineering or value-added efforts.

4.3 By submitting a SOQ, each firm is confirming that the firm has not been placed on the convicted vendors list as described in Section §287.133 (2) (a) Florida Statues.

4.4 Before awarding a contract, the Town reserves the right to require that a firm submit such evidence of his/her qualifications as the Town may deem necessary. Further, the Town may consider any evidence of the financial, technical, and other qualifications and abilities of a firm or principals, including previous experiences of same with the Town and performance evaluation for services, in making the award in the best interest of the Town.

5.Evaluation and Award

5.1 Evaluation Procedure

5.1.1 Evaluation of the submittals will be conducted by an Evaluation Committee, consisting of a minimum of three members of Town Staff, or other persons selected by the Town Manager or designee. All committee members must be present at scheduled evaluation meetings. Submittals shall be evaluated based upon the information and references contained in the SOQ's as submitted. Evaluation procedures shall be regulated by F.S. § 287.055, referred to as Consultant's Competitive Negotiations Act (CCNA). Any firm(s) involved in a joint venture in its SOQ will be evaluated individually, as each firm of the joint venture would have to stand on its own merits.

5.1.2 The committee shall short list no less than three (3) submittals, assuming that three submittals have been received, that it deems best satisfy the weighted criteria set forth herein and attempt to select the best qualified firm(s) for the particular discipline. The committee shall then hold discussions, conduct interviews, and/or require oral presentations with all short-listed firms. The committee shall then re-rank the short-listed firms based upon the information provided in interviews and/or presentations, the materials presented, the firm's responses to the RFQ, and deliberations of the Evaluation Committee at publically advertised Evaluation Meetings. The Town may request and the firm shall provide additional information deemed necessary by the evaluation committee to conduct evaluations.

5.1.3 The final ranking and the Evaluation Committee's recommendation shall be reported to the Town Commission through and with the concurrence of the Town Manager, who shall request the Town Commission approve the final ranking and authorize staff to commence negotiations with the top ranked proposer(s).

5.1.4 If the Town manager or his/her designee is unable to negotiate a satisfactory contract with the first ranked firm, negotiations with that firm shall be formally terminated. Upon termination of said negotiations,

negotiations shall then be undertaken with the second ranked firm, with this process being repeated until an agreement is reached which is then recommended and formally approved by the Town Commission or until the short-list is exhausted in which case a new Request for Qualifications may be undertaken.

5.2 Evaluation Criteria

5.2.1 Pre Florida Statute 287.055, in determining whether a firm is qualified, the agency shall consider such factors as the ability of professional personnel; whether a firm is a certified minority business enterprise; past performance; willingness to meet time and budget requirements; location; recent, current, and projected workloads of the firms; and the volume of work previously awarded to each firm by the agency, with the object of effecting an equitable distribution of contracts among qualified firms, provided such distribution does not violate the principle of selection of the most highly qualified firms. The agency may request, accept, and consider proposals for the compensation to be paid under the contract only during competitive negotiations.

5.2.2 The Town uses a mathematical formula to determine the scoring for each individual responsive and responsible firm based on the weighted criteria stated herein. Each evaluation committee member will rank each firm by criteria, giving their first ranked firm as number 1, the second ranked firm a number 2, and so on. The Town shall average the ranking for each criterion, for all evaluation committee members, and then multiply that average ranking by the weighted criteria identified herein. The lowest average final ranking score will determine the recommendation by the evaluation committee to the Town Manager.

5.2.3	**Weighted Criteria**	**Percentage**
	Qualifications of firm: To include years of experience, licenses, Insurance, other pertinent information.	**35**
	Qualification of Project Team: To include personnel used for the project, project manager, Subconsultants , joint ventures.	**20**
	Approach to Scope of Work	**25**
	Previous Similar Projects; References	**20**
	TOTAL	**100%**

5.2.4 Florida Statute 287.055 Certified Minority Business Enterprise Certification

In accordance with Florida Statute 287.055 Acquisition of professional

architectural, engineering, landscape architectural, or surveying and mapping services; definitions; procedures; contingent fees prohibited; penalties; Section 2. (d): if the Proposing firm is a certified minority business enterprise as defined by the Florida Small and Minority Business Assistance Act, **the firm must submit proof of a valid certification from the Florida Department of Management Services Office of Supplier Diversity, this firm will receive minus two and a half (2.5) percentage for this criterion.** The submitted certification will be validated using the Certified Vendor Directory from the Florida Department of Management Services Office of Supplier Diversity website: https://osd.dms.myflorida.com/directories.

5.3 Contract Award

5.3.1 The Town reserves the right to award multiple contract(s) to more than one Consultant(s) who will best serve the interest of the Town. The Town reserves the right, based upon its deliberations and in its opinion, to accept or reject any or all submittals. The Town also reserves the right to waive minor irregularities or variations of the submittal requirements and RFQ process.

5.3.2 Upon award of Contract(s) by the Town Commission, the Town Manager is authorized to execute the Contract(s) on behalf of the Town.

5.3.3 The Town Manager shall appoint a contract administrator or project manager for contract(s) to assure compliance with the contract and applicable law. The contract administrator or project manager shall review all pay requests or deny same as required prior to approval by the Town Manager.

AGENDA ITEM REPORT

November 8, 2023

ITEM NUMBER: 11.

ITEM: Consideration and **Approval** of resolution awarding a contract to V Engineering for Invitation to Bid (ITB) No. -5-1009-PW-0-2023/FVR – Seawall Replacement pertaining to Project Number BC-163-Seawall Replacement Project, at a cost of $240,000.00. Enclosed are the proposed resolution and other supporting documents.

DESCRIPTION:
This Project is located at 9600 W. Bay Harbor Drive in the Town of Bay Harbor Islands. The work includes, but is not limited to, remove and dispose of approximately (75) linear feet of existing seawall cap and installing approximately (75) linear feet of concrete seawall – concrete piles, wall panels and seawall cap.

RECOMMENDED ACTION:

FINANCIAL ANALYSIS:
$500,000 has been allocated in Fiscal Year 2023-2024 adopted budget for the to the **Project Number BC-163 Seawall Replacement Project** within the Capital Projects Fund Line Item 401.5415.400063.00.

The amount of $240,025.00 being requested for the **Seawall Replacement** Project referenced above will reduce the total project budget to $259,975.00.

BUDGET IMPACT:

Name	Impact Date	Fund(s)	Account(s)	Project #(s)	Amount Budgeted
Seawall Replacement 9600 West Bay Harbor Drive	11/08/2023	Causeway Fund (401)	401.5415.400063.000	Seawall Replacement 9600 West Bay Harbor Drive	$500,000.00

Submitted By: Yvonne Hamilton, Town Clerk
Rodney Carrero-Santana, Town Engineer

ATTACHMENTS

1.	Resolution - V Engineering Corp-9600 WBH Drive Seawall Replacement Project
2.	Seawall Replacement Agreement

RESOLUTION NO. _____

A RESOLUTION OF TOWN COUNCIL OF THE TOWN OF BAY HARBOR ISLANDS, AWARDING THE CONTRACT FOR INVITATION TO BID NO.-5-1009-PW-0-2023/FVR-SEAWALL REPLACEMENT TO V ENGINEERING CORP, THE LOWEST RESPONSIBLE AND RESPONSIVE BIDDER, AUTHORIZING EXPENDITURE OF FUNDS; PROVIDING FOR INCORPORATION OF RECITALS; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town duly advertised for competitive bids for the seawall replacement project at 9600 West Bay Harbor Drive, Invitation to Bid, ITB NO.-5-1009-PW-0-2023/FVR-Sewall Replacement; and

WHEREAS, four (4) sealed bids were received prior to 3:00 p.m. on August 22, 2023 at the Town Clerk's Office at 9665 Bay Harbor Terrace, Bay Harbor Islands, Florida 33154. Bids were then opened individually and separately read aloud after 3:00 p.m. on August 22, 2023; and

WHEREAS, Town Staff has reviewed the bids, and the Town Manager is recommending that the contract be awarded to V Engineering Corp, the lowest responsible and responsive bidder; and

WHEREAS, the Town of Bay Harbor Islands desires to execute a construction contract agreement in a timely manner; and

WHEREAS, funds have been allocated in the Fiscal Year 2024 Budget for this project.

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

Section1. The foregoing recitals are adopted and hereby incorporated as if fully set forth herein.

Section2. The Town Council finds and concludes all bids were duly advertised, received, publicly opened, and approved as being completed for consideration for award pursuant to competitive bidding requirements.

Section 3. The contract in substantially the form attached hereto as "Exhibit A" for the 9600 West Bay Harbor Drive Seawall Replacement Project is hereby awarded to V Engineering Corp, the lowest responsible and responsive bidder, in the amount of $240,000.

Section 4. If any provision, section, phrase, or word of this Resolution is declared

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

PASSED and ADOPTED this 8th day of November 2023

_____
ELIZABETH TRICOCHE, MAYOR

ATTEST:

_____
YVONNE P. HAMILTON, TOWN CLERK

APPROVED AS TO FORM:

_____
GREENSPOON MARDER LLP TOWN ATTORNEYS
BY: Joseph S. Geller, Esq.

TOWN OF BAY HARBOR ISLANDS
CONSTRUCTION AGREEMENT

THIS Agreement made and entered into this _____ day of _____, 2023, by and between the Town of Bay Harbor Islands, a Florida municipal corporation ("Town") and **V Engineering Corp**, a Florida company/corporation ("Contractor"), ("Party" or collectively "Parties");

WHEREAS, the Town desires to retain a contractor for the Project as expressed in its Invitation to Bid No. ITB-5-1009-PW--0-2023/FVR, Project Number **BC-163**, which was opened on August 18, 2023; and

WHEREAS, the Contractor has expressed its willingness and capability to perform the necessary work to accomplish the Project;

NOW, THEREFORE, the Town and the Contractor, in consideration of the mutual covenants and conditions contained herein and for other good and valuable consideration, the receipt and sufficiency is hereby acknowledged, agree as follows:

ARTICLE 1 – DEFINITIONS

Whenever used in this Agreement or in other Contract Documents, the following terms have the meanings indicated which are applicable to both the singular and plural forms:

1.1 Agreement – This written Agreement between the Town and the Contractor covering the work to be performed including other Contract Documents that are attached to or incorporated in the Agreement.

1.2 Application for Payment – The form accepted by the Town which is to be used by the Contractor in requesting progress or final payment and which is to include such supporting documentation as is required by the Contract Documents.

1.3 Approve – The word approve is defined to mean review of the material, equipment or methods for general compliance with design concepts and with the information given in the Contract Documents. It does not imply a responsibility on the part of the Town to verify in every detail conformance with plans and specifications.

1.4 Bid – The offer or Bid of the Contractor submitted on the prescribed form setting forth the total prices for the Work to be performed.

1.5 Bid Documents – Advertisement for Invitation to Bids, the Instructions to Bidders, the Bid Form (with supplemental affidavits and sample agreements), the Contract Forms, General Conditions, the Supplementary Conditions, the Specifications, and the Plans, which documents all become an integral part of the Contract Documents.

1.6 Certificate of Substantial Completion - Certificate provided by the Town certifying that all Work, excluding the punch list items, has been completed, inspected, and accepted by the Town.

1.7 Change Order - A written document executed by both Parties ordering a change in the Contract Price or Contract Time or a material change in the Work.

1.8 Town – The Town of Bay Harbor Islands, Florida, including but not limited to its employees, agents, officials, representatives, contractors, subcontractors, volunteers, successors and assigns, with whom the Contractor has entered into the Agreement and for whom the Work is to be provided.

1.9 Contract Documents – The Contract Documents shall consist of this Agreement, Exhibits to this Agreement, Public Construction Bond, Performance Bond, Payment Bond and Certificates of Insurance, Notice of Award and Notice to Proceed, General Conditions, Special Conditions, Technical Specifications, Plans/Drawings, Addenda, Bid Form and supplement Affidavits and Agreements, all applicable provisions of State and Federal Law and any modification, including Change Orders or written amendments duly delivered after execution of Agreement, Invitation to Bid, Instructions to Bidders and Bid Bond, Contractor's response to the Town's Invitation to Bid, Schedule of Completion, Schedule of Values, all amendments, modifications and supplements, work directive changes issued on or after the Effective Date of the Agreement, as well as any additional documents that are required to be submitted under the Agreement.

Permits on file with the Town and/or those permits to be obtained shall be considered directive in nature and will be considered a part of this Agreement. A copy of all permits shall be given to the Town for inclusion in the Contract Documents. Terms of permits shall be met prior to acceptance of the Work and release of the final payment.

1.10 Contract Price – The amount established in the bid submittal and award by the Town's Town Council, as may be amended by Change Order.

1.11 Contract Time – The number of calendar days stated in the Agreement for the completion of the Work. The dates on which the work shall be started and shall be completed as stated in the Notice to Proceed.

1.12 Contractor – The person, firm, company, or corporation with whom the Town has entered into the Agreement, including but not limited to its employees, agents, representatives, contractors, subcontractors, their subcontractors and their other successors and assigns.

1.13 Day – A calendar day of twenty-four (24) hours ending at midnight.

1.14 Defective – When modifying the word "Work" refers to work that is unsatisfactory, faulty, or deficient, or does not conform to the Contract Documents or does not meet the requirements of any inspection, test or approval referred to in the Contract Documents, or has been damaged prior to the Project Manager's recommendation of final payment.

1.15 Effective Date of the Agreement – The effective date of the Agreement shall be the date the Town Council approves the work.

1.16 Final Completion Date – The date the Work is completed, including completion of the final punch list, and delivered along with those items specified in the Contract Documents and is accepted by the Town.

1.17 Hazardous Materials (HAZMAT) - Any solid, liquid, or gaseous material that is toxic, flammable, radioactive, corrosive, chemically reactive, or unstable upon prolonged storage in quantities that could pose a threat to life, property, or the environment defined in Section 101(14) of Comprehensive Environmental Response, Compensation and Liability Act of 1980 and in 40 CFR 300.6. Also defined by 49 CFR 171.8 as a substance or material designated by the Secretary of Transportation to be capable of posing an unreasonable risk to health, safety, and property when transported in commerce and which has been so designated.

1.18 Hazardous Substance - As defined by Section 101(14) of the Comprehensive Environmental Response, Compensation and Liability Act; any substance designated pursuant to Section 311(b) (2) (A) of the Clean Water Act; any element, compound, mixture, solution or substance designated pursuant to Section 102 identified under or listed pursuant to Section 3001 of the Solid Waste Disposal Act {but not including any waste listed under Section 307[a] of the Clean Water Act}; any hazardous air pollutant listed under Section 112 of the Clean Air Act; and any imminently hazardous chemical substance or mixture pursuant to Section 7 of the Toxic Substances Control Act. The term does not include petroleum, including crude oil or any fraction thereof, which is not otherwise specifically listed or designated as a hazardous substance in the first sentence of this paragraph, and the term does not include natural gas, natural gas liquids, liquefied natural gas, or synthetic gas usable for fuel (or mixtures of natural gas and such synthetic gas).

1.19 Hazardous Waste - Those solid wastes designated by OSHA in accordance with 40 CFR 261 due to the properties of ignitability, corrosivity, reactivity, or toxiTown. Any material that is subject to the Hazardous Waste Manifest requirements of the EPA specified in 40 CFR Part 262.

1.20 Holidays - Those designated non-workdays as established by the Town Council of the Town of Bay Harbor Islands.

1.21 Inspection – The term “inspection” and the act of inspecting as used in this Agreement is defined to mean the examination of construction to ensure that it conforms to the design concept expressed in the plans and specifications. This term shall not be construed to mean supervision, superintending and/or overseeing.

1.22 Notice of Award - The written notice by Town to the Contractor stating that upon compliance by the Contractor with the condition’s precedent enumerated therein, within the time specified that the Town will sign and deliver this Agreement.

1.23 Notice to Proceed – A written notice to Contractor authorizing the commencement of the activities identified in the notice or as described in the Contract Documents.

1.24 Plans - The official graphic representations of this Project that are a part of the Contract Documents.

1.25 Premises (otherwise known as Site or Work Site) – means the land, buildings, facilities, etc. upon which the Work is to be performed.

1.26 Project – The construction project described in the Contract Documents, including the Work described therein.

1.27 Project Manager - The employee of the Town, or other designated individual who is herein referred to as the Project Manager, will assume all duties and responsibilities and will have the rights and authorities assigned to the Project Manager in the Contract Documents in connection with completion of the Work in accordance with this Agreement. The Project Manager, or designee, shall be the authorized agent for the Town unless otherwise specified.

1.28 Punch List - The Town's list of Work yet to be done or be corrected by the Contractor, before the Final Completion date can be determined by the Town.

1.29 Record Documents - A complete set of all specifications, drawings, addenda, modifications, shop drawings, submittals and samples annotated to show all changes made during the construction process.

1.30 Record Drawings or "As-Builts" - A set of drawings which show significant changes in the work made during construction and which are usually based on drawings marked up in the field and other data furnished by the Contractor. These documents will be signed and sealed by a Professional Engineer, or a Professional Land Surveyor licensed in the State of Florida and employed by the Contractor at no cost to the Town.

1.31 Substantially Completed Date – A date when written notice is provided by the Town to the Contractor stating that the Work is substantially completed. If, at the time of inspection, it is determined the project is substantially completed, the Town will also issue a letter of Substantial Completion along with a punch list of incomplete or deficient items to be completed prior to requesting a Final Completion inspection.

1.32 Work – The construction and services required by the Contract Documents, whether completed or partially completed, and includes all labor, materials, equipment, and services provided or to be provided by Contractor to fulfill Contractor's obligations. The Work may constitute the whole or a part of the Project.

ARTICLE 2 – SCOPE OF WORK

2.1 The Contractor shall complete all Work as specified or indicated in the Contract Documents. The Project for which the Work under the Contract Documents may be the whole or only part is generally described as follows:

SEAWALL REPLACEMENT
ITB-5-1009-PW-0-2023/FVR-PROJECT BC-163

2.2 All Work for the Project shall be constructed in accordance with the approved plans and Specifications. The Work generally involves:

PROJECT DESCRIPTION

This Project is located at 9600 W. Bay Harbor Drive in the Town of Bay Harbor Islands. The work includes, but is not limited to, Remove and dispose approximately (75) linear feet of existing seawall cap and Installing approximately (75) linear feet of concrete seawall concrete piles, wall panels and seawall cap

2.3 Within ten (10) days of the execution of this Agreement, the Contractor shall submit a Construction Schedule, Schedule of Values and a listing of all personnel employed. The general sequence of the Work shall be submitted by the Contractor and approved by the Town before any work commences. The Town reserves the right to issue construction directives necessary to facilitate the Work or to minimize any conflict with operations.

ARTICLE 3 – PROJECT MANAGER

3.1 The Project Manager is hereby designated by the Town as Rodney Carrero-Santana P.E, whose address is 9665 Bay Harbor Terrace, Bay Harbor Islands, FL 33154, telephone number: (305)455-7275, and email address is rcarrerosantana@bayharborislands-fl.gov. The Project Manager will assume all duties and responsibilities and will have the rights and authorities assigned to the Project Manager in the Contract Documents in connection with completion of the Work in accordance with this Agreement.

ARTICLE 4 – CONTRACT DOCUMENTS

The Contract Documents, which comprise the entire Agreement between the Town and Contractor, are incorporated herein and attached to this Agreement, and consist of the following:

4.1 This Agreement.

4.2 Exhibits to this Agreement: (Plans sheets [1] to [8] inclusive).

4.3 Public Construction Bond, Performance Bond, Payment Bond and Certificates of Insurance.

4.4 Notice of Award and Notice to Proceed.

4.5 General Conditions and Special Conditions.

4.6 Technical Specifications.

4.7 Plans/Drawings.

4.8 Addenda number 1 through 1 , inclusive.

4.9 Bid Form and supplement Affidavits and Agreements.

4.10 All applicable provisions of State and Federal Law.

4.11 Invitation to Bid No. ITB-5-1009-PW-0-2023/FVR, Instructions to Bidders, and Bid Bond.

4.12 Contractor's response to the Town's Invitation to Bid No. ITB-5-1009-PW-0-2023/FVR, dated August 18, 20323.

4.13 Schedule of Completion.

4.14 All amendments, modifications and supplements, change orders and work directive changes, issued on or after the Effective Date of the Agreement.

4.15 Any additional documents that are required to be submitted under the Agreement.

4.16 Permits on file with the Town and or those permits to be obtained shall be considered directive in nature and will be considered a part of this Agreement.

In the event of any conflict between the documents or any ambiguity or missing specification or instruction, the following priority is established:

a. Approved change orders, addenda or amendments.

b. Specifications and Drawings.

c. Special Conditions.

d. General Conditions.

e. This Agreement dated _____, and any attachments.

f. Invitation to Bid No. ITB-5-1009-PW-0-2023/FVR, and the specifications prepared by the Town.

g. Contractor's response to the Town's Invitation to Bid No. ITB-5-1009-PW-0-2023/FVR, dated August 18, 20323.

h. Schedule of Values.

i. Schedule of Completion.

If during the performance of the Work, Contractor finds a conflict, error or discrepancy in the Contract Documents, Contractor shall so report to the Project Manager, in writing, within five (5) calendar days, and before proceeding with the Work affected shall obtain a written interpretation or clarification from the Town.

Any Work that may reasonably be inferred from the specifications or plans as being required to produce the intended result shall be supplied whether or not it is specifically called for. When words which have a well-known technical or trade meaning are used to describe Work, materials, or equipment, such works shall be interpreted in accordance with such meaning. Reference to standard specifications, manuals or codes of any technical society, organization or associations, or to the code of any governmental authority whether such reference be specific or implied, shall mean the latest standard specification, manual or code in effect as of the Effective Date of this Agreement, except as may be otherwise specifically stated. However, no provision of any referenced standard specification, manual or code (whether or not specifically incorporated by reference in the Contract Documents) shall change the duties and responsibilities of the Town, the Contractor, or any of their agents or employees from those set forth in the Contract Documents.

ARTICLE 5 – CONTRACT TIME

5.1 The Contractor recognizes that **TIME IS OF THE ESSENCE**. The Work shall commence within 30 calendar days of the date of the Notice to Proceed.

5.2 The Work shall be Substantially Completed within 60 calendar days after the date when the Contract Time commences to run as provided in the Notice to Proceed.

5.3 The Work shall be finally completed on the Final Completion Date and ready for final payment in accordance with this Agreement within 81 calendar days after the Substantial Completion date.

ARTICLE 6 – CONTRACT PRICE

6.1 Town shall pay Contractor for performance of the Work in accordance with Article 7, subject to additions and deletions by Change Order, as provided for in this Agreement.

6.2 The Parties expressly agree that the Contract Price, which shall not exceed the amount of **$240,025.00**, constitutes the total maximum compensation payable to Contractor for performing the Work, plus any Work done pursuant to a Change Order. The Contract Price is in accordance with the line items unit prices listed in the Bid. Line items are based on a unit price cost multiplied by a defined quantity. Any additional duties, responsibilities and obligations assigned to or undertaken by Contractor shall be at Contractor's expense without change to the Contract Price.

6.3 The Contract Price constitutes the compensation payable to Contractor for performing the Work plus any Work done pursuant to a Change Order. All duties, responsibilities and obligations assigned to or undertaken by Contractor shall be at Contractor's expense without change in the Contract Price.

ARTICLE 7 – PAYMENT

7.1 Contractor shall submit Applications for Payment in accordance with the Contract Documents. Applications for Payment will be processed by Town as provided for in the General Conditions.

7.2 Progress Payments. Town shall make progress payments on account of the Contract Price on the basis of Contractor's monthly Applications for Payment, which shall be submitted by the Contractor between the first (1st) and the tenth (10th) day after the end of each calendar month for which payment is requested. All progress payments will be made on the basis of the progress of the Work completed.

7.3 Prior to Final Completion, progress payments will be made in an amount equal to ninety-five percent (95%) of the value of Work completed less in each case the aggregate of payments previously made.

7.4 Final Payment. Upon final completion of the Work in accordance with the General Conditions, as may be supplemented, the Town shall pay Contractor an amount sufficient to increase total payments to one hundred percent (100%) of the Contract Price. However, not less than five percent (5%) of the Contract Price shall be retained until Record Drawings (as-builts), specifications, addenda, modifications, and shop drawings, including all manufacturers' instructional and parts manuals are delivered to and accepted by the Town.

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

7.5.1 Defective work not remedied.
7.5.2 Claims filed or reasonable evidence indicating probable filing of claims by other parties against Contractor or Town because of Contractor's performance.
7.5.3 Failure of Contractor r to make payments properly to subcontractors or for material or labor.
7.5.4 Damage to another contractor not remedied.
7.5.5 Liquidated damages and costs incurred by Contractor for extended construction administration, if applicable.
7.5.6 Failure of Contractor to provide any and all documents required by the Contract Documents.

When the above grounds are removed or resolved satisfactory to the Project Manager, payment shall be made in whole or in part.

7.6 The Town shall make payment to the Contractor in accordance with the Florida Prompt Payment Act, Section 218.70, Florida Statutes (2022), as amended or revised, provided, however, complete and error free pay application is submitted.

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7.7 The Town shall make payment to the Contractor by check.

7.8 Payment Card Industry (PCI) Compliance

Contractor agrees to comply with all applicable state, federal and international laws, as well as industry best practices, governing the collection, access, use, disclosure, safeguarding and destruction of Protected Information.

Contractor and/or any subcontractor that handles credit card data must be, and remain, PCI compliant under the current standards and will provide documentation confirming compliance upon request by the Town of Bay Harbor Islands. Failure to produce documentation could result in termination of the contract.

ARTICLE 8 – CONTRACTOR'S REPRESENTATIONS

In order to induce the Town to enter into this Agreement, Contractor makes the following representations upon which the Town has relied:

8.1 Contractor is qualified in the field of public construction and in particular to perform the Work and services set forth in this Agreement.

8.2 Contractor has visited the Work Site, has conducted extensive tests, examinations and investigations and represents and warrants a thorough familiarization with the nature and extent of the Contract Documents, the Work, locality, soil conditions, water table condition, moisture conditions and all year-round local weather and climate conditions (past and present), and examination and investigations conducted by Contractor and the Contractor's experts, has determined that no conditions exist that would in any manner affect the Bid Price and that the project can be completed for the Bid Price submitted within the Contract Time as defined in this Agreement.

Furthermore, Contractor warrants and confirms that it is totally familiar with, understands and obligates Contractor to comply with all federal, state and local laws, ordinances, rules, regulations and all market conditions that affect or may affect the cost and price of materials and labor needed to fulfill all provisions of this Agreement or that in any manner may affect cost, progress or performance of the Work.

8.3 The Contractor has satisfied itself as to the nature and location of the Work under the Contract Documents, the general and local conditions of the Project, particularly those bearing upon availability of transportation, disposal, handling and storage of materials, availability of labor, water, electric power, and roads, the conformation and conditions at the ground based on Town provided reports, the type of equipment and facilities needed preliminary to and during the prosecution of the Work and all other matters which can in any way affect the Work or the cost thereof under the Contract Documents.

8.4 The Contractor has also studied on its own, investigations and tests of subsurface and latent physical conditions at the site or otherwise affecting cost, progress or performance of the Works, and finds and has further determined that no conditions exist that would in any manner affect the Bid Price and that the Project can be completed for the Bid Price submitted.

8.5 Contractor has made or caused to be made, examinations, investigations, tests and studies of such reports and related data in addition to those referred to in Paragraphs 8.2, 8.3 and 8.4 above as it deems necessary for the performance of the Work at the Contract Prices, within the Contract Time and in accordance with the other terms and conditions of the Contract Documents; and no additional examinations, investigations, tests, reports or similar data are, or will be, required by Contractor for such purposes.

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

8.7 Contractor has given Town written notice of all conflicts, errors or discrepancies that it has discovered in the Contract Documents and the written resolution by Town is acceptable to the Contractor.

8.8 <u>Labor</u>

8.8.1 The Contractor shall provide competent, suitable qualified personnel to survey and lay out the Work and perform construction as required by the Contract Documents. The Contractor shall at all times maintain good discipline and order at the site.

8.8.2 The Contractor shall, at all times, have a competent superintendent, capable of reading and thoroughly understanding the drawings and specifications, as the Contractor's agent on the Work, who shall, as the Contractor's agent, supervise, direct and otherwise conduct the Work.

8.8.3 The Contractor shall designate the superintendent on the job to the Town, in writing, immediately after receipt of the Notice to Proceed. The Contractor understands and agrees that the superintendent's physical presence on the job site is indispensable to the successful completion of the Work. If the superintendent is frequently absent from the job site, the Project Manager may deliver written notice to the Contractor to stop work or terminate the Agreement in accordance with Article 17.

8.8.4 Where required and necessary, the Contractor shall, at all times, have a certified "competent person" assigned to the job site. The Contractor shall assign personnel to the job site that have successfully completed training programs related to trench safety, confined space work, and maintenance of traffic (MOT). Personnel certified by the International Municipal Signal Associations with Florida Department of Transportation qualifications are required relative to MOT. Any other certifications that may be required by applicable permitting agencies for the Work shall also be complied with by the Contractor. Failure to pursue the Work with the properly certified supervisory staff may result in notice to stop work or terminate the Agreement in accordance with Article 17.

8.9 Materials:

8.9.1 The Contractor shall furnish all materials, equipment, labor, transportation, construction equipment and machinery, tools, appliances, fuel, power, light, heat, telephone, water and sanitary facilities and all other facilities and incidentals necessary for the execution, testing, initial operation and completion of Work.

8.9.2 All materials and equipment shall be of good quality and new, except as otherwise provided in the Contract Documents. Suppliers shall be selected and paid by the Contractor; the Town reserves the right to approve all suppliers and materials.

8.10 Work Hours: Except in connection with the safety or protection of persons, or the Work, or property at the site or adjacent thereto, and except as otherwise indicated in the Supplementary Conditions, all work at the site shall be performed during regular working hours between 9 a.m. and 4:30 p.m., Monday through Friday.

Unless approved by the Town in advance, the Contractor will not perform work on Saturday, Sunday or any legal holiday (designated by the Town of Bay Harbor Islands) without the Project Manager's written consent at least seventy-two (72) hours in advance of starting such work. For any overtime inspection required by Town personnel, the Contractor shall pay for the additional charges to the Town with respect to such overtime work. Such additional charges shall be a subsidiary obligation of the Contractor and no extra payment shall be made to the Contractor for overtime work. **It shall be noted that the Town's Inspector work hours are from 9:00 a.m. to 4:30 p.m., Monday through Friday, and any work requiring inspection oversight being performed outside of this timeframe shall be paid for by the Contractor as Inspector overtime at a rate of $100.00 per hour.** The cost to the Contractor to

reimburse the Town for overtime inspection is established at direct-labor and overtime costs for each person or inspector required. Incidental overtime costs for engineering, testing and other related services will also be charged to the Contractor at the actual rate accrued.

8.11 Patent Fee and Royalties: The Contractor shall pay all license fees and royalties and assume all costs incident to the use in the performance of the Work or the incorporation in the Work, of any invention, design, process, product or device which is the subject of patent rights or copyrights held by others. The Contractor hereby expressly binds itself to indemnify and hold harmless the Town from all such claims and fees and from any and all suits and action of every name and description that may be brought against Town on account of any such claims, fees, royalties, or costs for any such invention or patent, and from any and all suits or actions that may be brought against said Town for the infringement of any and all patents or patent rights claimed by any person, firm corporation or other entity.

8.12 Permits: The Contractor shall obtain and pay for all permits and licenses. There shall be no allowance for Contractor markup, overhead or profit for permits and licenses.

The Contractor shall pay all government charges which are applicable at the time of opening of bids. It shall be the responsibility of the Contractor to secure and pay for all necessary licenses and permits of a temporary nature necessary for the prosecution of Work.

8.13 Law and Regulations: The Contractor shall give all notices and comply with all laws, ordinances, rules and regulations applicable to the Work. If the Contractor observes that the specifications or plans are in conflict, the Contractor shall give the Project Manager prompt written notice thereof within five (5) calendar days, and any necessary changes shall be adjusted by any appropriate modifications. If the Contractor performs any work knowing or having reason to know that it is contrary to such laws, ordinances, rules, standards, specifications and regulations, and without such notice to the Project Manager, the Contractor shall bear all costs arising therefrom.

8.14 Taxes: The Contractor shall pay all sales, consumer, use and other similar taxes required to be paid by him in accordance with the laws of the Town of Bay Harbor Islands, County of Dade, and the State of Florida.

8.15 Contractor Use of Premises: The Contractor shall confine construction equipment, the storage of materials and equipment and the operations of workmen to areas permitted by law, ordinances, permits and/or the requirements of the Contract Documents, and shall not unreasonably encumber the premises with construction equipment or other materials or equipment.

The Contractor shall not enter upon private property for any purpose without first securing the permission of the property owner in writing and furnishing the Project Manager with a copy of said permission. This requirement will be strictly enforced, particularly with regard to such vacant properties as may be utilized for storage or staging by the Contractor.

The Contractor shall conduct its work in such a manner as to avoid damage to adjacent private or public property. Any damage to existing structures of work of any kind,

including permanent reference markers or property corner markers, or the interruption of a utility service, shall be repaired or restored promptly at no expense to the Town or property owner.

The Contractor will preserve and protect all existing vegetation such as trees, shrubs and grass on or adjacent to the site which do not reasonably interfere with the construction, as determined by the Project Manager. The Contractor will be responsible for repairing or replacing any trees, shrubs, lawns and landscaping that may be damaged due to careless operation of equipment, stockpiling of materials, tracking of grass by equipment or other construction activity. The Contractor will be liable for or will be required to replace or restore at no expense to the Town all properties and areas not protected or preserved as required herein that may be destroyed or damaged.

During the progress of the Work, the Contractor shall keep the premises free from accumulation of waste materials, rubbish and debris resulting from the Work. At the completion of the Work, the Contractor shall remove all waste materials, rubbish and debris from and about the premises as well as all tools, appliances, construction equipment and machinery, and surplus materials and shall leave the site clean and ready for occupancy by the Town. The Contractor shall restore to their original condition those portions of the site not designated for alteration by the Contract Documents at no cost to the Town.

8.16 Project Coordination: The Contractor shall provide for the complete coordination of the construction effort. This shall include, but not necessarily be limited to, coordination of the following:

8.16.1 Flow of material and equipment from suppliers.
8.16.2 The interrelated work with affected utility companies.
8.16.3 The interrelated work with the Town where tie-ins to existing facilities are required.
8.16.4 The effort of independent testing agencies.
8.16.5 Notice to affected property owners as may be directed by the Project Manager.
8.16.6 Coordination with and scheduling of all required inspections from all permitting agencies.

8.17 Project Record Documents and Final As-Builts (Record Drawings): Contractor shall be responsible for maintaining up-to-date redline as-built drawings, on site, at all times during construction. All as-built information shall be surveyed and verified by a professional land surveyor registered in the State of Florida. Contractor shall provide the Town with a minimum of three (3) sets of signed and sealed record drawings (Final As-Builts) and a CD of the electronic drawings files created in AutoCad 2014 or later. All costs associated with survey work required for construction layout and as-built preparation shall be the responsibility of the Contractor.

8.18 Safety and Protection:

8.18.1 The Contractor shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the Work. The Contractor shall take all necessary precautions for the safety of, and shall provide the necessary protection to prevent damage, injury or loss to:

8.18.1.1 All employees working on the project and other persons who may be affected thereby.

8.18.1.2 All the Work and all materials or equipment to be incorporated therein, whether in storage on or off the site.

8.18.1.3 Other property at the site or adjacent thereto, including trees, shrubs, lawns, walks, pavements, roadways, structures and utilities not designated for removal, relocation or replacement in the course of construction.

8.18.2 The Contractor shall comply with all applicable laws, ordinances, rules, regulations and orders of any public body having jurisdiction for the safety of persons or property or to protect them from damage, injury or loss; and shall erect and maintain all necessary safeguards for such safety and protection. The Contractor shall notify owners of adjacent property and utilities when execution of the Work may affect them at least seventy-two (72) hours in advance (unless otherwise required). All damage, injury or loss to any property caused, directly or indirectly, in whole or in part by the Contractor, any subcontractor or anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, shall be remedied by the Contractor. The Contractor's dutiesand responsibilities for safety and protection of the Work shall continue until such time as all the Work is completed and accepted by the Town.

8.19 Emergencies: In emergencies affecting the safety or protection of persons or the Work or property at the site or adjacent thereto, the Contractor, without special instruction or authorization from the Town, is obligated to act to prevent threatened damage, injury or loss. The Contractor shall give the Project Manager prompt written notice of any significant changes in the Work or deviations from the Contract Documents caused thereby.

8.20 Risk of Loss: The risk of loss, injury or destruction shall be on the Contractor until acceptance of the Work by the Town. Title to the Work shall pass to the Town upon acceptance of the Work by the Town.

8.21 Environmental: The Contractor has fully inspected the Premises and agrees, except as to the presence of any asbestos, to accept the Premises in an "as is" physical condition, without representation or warranty by the Town of any kind, including, without limitation, any and all existing environmental claims or obligations that may arise from the presence of any "contamination" on, in or about the Premises. Further, Contractor and all entitles claiming by, through or under the Contractor, releases and discharges the Town from any claim, demand, or cause of action arising out of or relating to the Contractor's use, handling, storage, release, discharge, treatment, removal, transport, decontamination, cleanup, disposal and/or presence of any hazardous substances including asbestos on, under, from or about the Premises. The Contractor shall have no liability for any pre-existing claims or "contamination" on the Premises.

The Contractor shall not use, handle, store, discharge, treat, remove, transport, or dispose of Hazardous Substances including asbestos at, in, upon, under, to or from the Premises until receipt of instructions from the Town. At such time, a Town approved Change Order, which shall not include any profit, shall authorize the Contractor to perform such services.

The Contractor shall immediately deliver to the Project Manager complete copies of all notices, demands, or other communications received by the Contractor from any governmental or quasi-governmental authority or any insurance company or board of fire underwriters or like or similar entities regarding in any way alleged violations or potential violations of any Environmental Law or otherwise asserting the existence or potential existence of any condition or activity on the Premises which is or could be dangerous to life, limb, property, or the environment.

For other and additional consideration, the Contractor hereby agrees, at its sole cost and expense, to indemnify and protect, defend, and hold harmless the Town and its respective employees, agents, officials, officers, representatives, contractors and subcontractors, successors, and assigns (hereafter the "Town") from and against any and all claims, demands, losses, damages, costs, expenses, including but not limited to mitigation, restoration, and natural restoration expenses, liabilities, assessments, fines, penalties charges, administrative and judicial proceedings and orders, judgments, causes of action, in law or in equity, remedial action requirements and/or enforcement actions of any kind (including, without limitation, attorneys' fees and costs) directly or indirectly arising out of or attributable to, in whole or in part, the Contractor's use, handling, storage, release, threatened release, discharge, treatment, removal, transport, decontamination, cleanup, disposal and/or presence of a Hazardous Substance (excluding asbestos) on, under, from, to or about the Premises or any other activity carried on or undertaken on or off the Premises by the Contractor or its employees, agents or subcontractors, in connection with the use, handling, storage, release, threatened release, discharge, treatment, mitigation, natural resource restoration, removal, transport, decontamination, cleanup, disposal and/or presence or any Hazardous Substance including asbestos located, transported, or present on, under, from, to, or about the Premises. This indemnity is intended to be operable under 42 U.S.C. Section 9607, as amended or revised, and any successor section.

The scope of the indemnity obligations includes, but is not limited to: (a) all consequential damages; (b) the cost of any required or necessary repair, cleanup, or detoxification of the applicable real estate and the preparation and implementation of any closure, remedial or other required plan, including without limitation; (i) the costs of removal or remedial action incurred by the United States government or the State of Florida or response costs incurred by any other person, or damages from injury to destruction of, or loss of, natural resources, including the cost of assessing such injury, destruction, or loss, incurred pursuant to the Comprehensive Environmental Response, Compensation and Liability Act, as amended; (ii) the clean-up costs, fines, damages, or penalties incurred pursuant to any applicable provisions of Florida law; and (iii) the cost and expenses of abatement, correction or cleanup, fines, damages, response costs, or penalties which arise from the provisions of any other statute, law, regulation, code ordinance, or legal requirement state or federal; and (c) liability for personal injury or property damage arising under any statutory or common law tort theory, including damages assessed for the maintenance of a public private nuisance, response costs, or for the carrying on of an abnormally dangerous activity.

8.22 No Extended Damages: For other and additional good and valuable consideration the receipt and sufficiency of which is hereby acknowledged, the Contractor covenants and agrees that in the event of any delay of construction or for any other reason or allegation or claim, and notwithstanding the reason of the delay, reason, claim or allegation or who

caused them or the construction delay or whether they were caused by the Town, that there will be no entitlement to Contractor to or for any direct or indirect financial damages or losses for extended corporate overhead impact, extended project overhead impacts, project support services, mobilization or demobilization or by whatever other label or legal concept or theory and types of names or labels or basis such claims may have, or any business damages or losses of whatever type or nature, and Contractor hereby waives any right to make any such claim or claims. This provision will also have application and effect when construction delays are anticipated and agreed upon by both the Town and the Contractor.

8.23 No Liens: If any subcontractor, supplier, laborer, or materialmen of Contractor or any other person directly or indirectly acting for or through Contractor files or attempts to file a mechanic's or construction lien against the real property on which the Work is performed or any part or against any personal property or improvements or claim against any monies due or to become due from the Town to Contractor or from Contractor to a subcontractor, for or on account of any work, labor, services, material, equipment, or other items furnished in connection with the Work or any Change Order, Contractor agrees to satisfy, remove, or discharge such lien or claim at its own expense by bond, payment, or otherwise within twenty (20) days of the filing or from receipt of written notice from the Town.

Additionally, until such time as such lien or claim is satisfied, removed or discharged by Contractor, all monies due to Contractor, or that become due to Contractor before the lien or claim is satisfied, removed or otherwise discharged, shall be held by Town as security for the satisfaction, removal and discharge of such lien and any expense that may be incurred while obtaining such. If Contractor shall fail to do so, Town shall have the right, in addition to all other rights and remedies provided by this Agreement or by law, to satisfy, remove, or discharge such lien or claim by whatever means Town chooses at the entire and sole cost and expense of Contractor which costs and expenses shall, without limitation, include attorney's fees, litigation costs, fees and expenses and all court costs and assessments.

8.24 Weather Emergencies: Upon issuance of a hurricane watch by the National Weather Service, the Contractor shall submit to the Town a plan to secure the work area in the event a hurricane warning is issued. The plan shall detail how the Contractor will secure the Premises, equipment and materials in a manner as to prevent damage to the Work and prevent materials and equipment from becoming a hazard to persons and property on and around the Premises. The plan shall include a time schedule required to accomplish the hurricane preparations and a list of emergency contacts that will be available, and in the Town before, during and immediately after the storm.

Upon issuance of a hurricane warning by the National Weather Service, if the Contractor has not already done so, the Contractor shall implement its hurricane preparedness plan. Cost of development and implementation of the hurricane preparedness plan shall be considered as incidental to construction. Cost of any clean up and rework required after the storm will be considered normal construction risk within Florida and shall not entitle the Contractor to any additional compensation. Contractor shall be entitled to request an extension in time for completion of the Work, in accordance with the provisions of Article 15 of this Agreement, equal to the time it is shut down for implementation of the preparedness plan, the duration of the storm and a reasonable period to restore the Premises.

8.25 Force Majeure: No Party shall hold the other responsible for damages or for delays in performance caused by force majeure, acts of God, or other acts or circumstances beyond the control of the other Party or that could not have been reasonably foreseen and prevented. For this purpose, such acts or circumstances shall include, but not be limited to weather conditions affecting performance, floods, epidemics, pandemics, war, act of Governmental Authority, state of emergency, riots, strikes, lockouts, or other industrial disturbances, or protest demonstrations. Should such acts or circumstances occur, the Parties shall use their best efforts to overcome the difficulties arising therefrom and to resume the Work as soon as reasonably possible with the normal pursuit of the Work.

Inclement weather, continuous rain for less than three (3) days or the acts or omissions of subcontractors, third-party contractors, materialmen, suppliers, or their sub-contractors, shall not be considered acts of force majeure.

No Party shall be liable for its failure to carry out its obligations under the Agreement during a period when such Party is rendered unable by force majeure to carry out its obligation, but the obligation of the Party or Parties relying on such force majeure shallbe suspended only during the continuance of the inability and for no longer period than the unexpected or uncontrollable event.

The Contractor further agrees and stipulates, that its right to excuse its failure to perform by reason of force majeure shall be conditioned upon giving written notice of its assertion that a Force Majeure delay has commenced within ninety-six (96) hours after such an occurrence. The Contractor shall use its reasonable efforts to minimize such delays. The Contractor shall promptly provide an estimate of the anticipated additional time required to complete the Project.

ARTICLE 9 – TOWN'S RESPONSIBILITIES

9.1 The Town shall furnish the data required of the Town under the Contract Documents promptly and shall make payments to the Contractor promptly after they are due as provided in Article 7.

9.2 The Town shall provide public rights-of-way and easement, where available, for the installation of conduits, transformers pads and related appurtenances only.

9.3 Technical Clarifications and Interpretations:

9.3.1 The Town shall issue, with reasonable promptness, such written clarifications or interpretations of the Contract Documents as it may determine necessary, which shall be consistent with or reasonably inferable from the overall intent of the Contract Documents. Should the Contractor fail to request interpretation of questionable items in the Contract Documents, the Town shall not entertain any excuse for failure to execute the Work in a satisfactory manner.

9.3.2 The Town shall interpret and decide matters concerning performance under the requirements of the Contract Documents, and shall make decisions on all claims, disputes or other matters in question. Written notice of each claim, dispute or other matter will be delivered by claimant to the other Party but in no event later than five (5) days after the occurrence of event and written supporting data will be submitted to the other Party within five (5) days after such occurrence. All written decisions of the Town on any claim or dispute will be final and binding.

9.4 The Contractor shall perform all Work to the reasonable satisfaction of the Town in accordance with the Contract Documents. In cases of disagreement or ambiguity, the Town shall decide all questions, difficulties, and disputes of whatever nature, which may arise under or by reason of this Agreement or the quality, amount and value of the Work, and the Town's decisions on all claims, questions and determination are final.

9.5 Cancellation for Unappropriated Funds**:** The obligation of the Town for payment to a Contractor is limited to the availability of funds appropriated in a current fiscal period, and continuation of the Agreement into a subsequent fiscal period is subject to appropriation of funds, unless otherwise authorized by law.

ARTICLE 10 – BONDS AND INSURANCE

10.1 Public Construction and Other Bonds: The Contractor shall furnish Public Construction or Performance and Payment Bonds ("Bond"), each in an amount at least equal to the Contract Price as security for the faithful performance and payment of all the Contractor's obligations under the Contract Documents. These Bonds shall remain in effect until at least one (1) year after the date of final payment, except as otherwise provided by law. All Bonds shall be furnished and provided by the surety and shall be in substantially the same form as prescribed by the Contract Documents and be executed by such sureties as (i) are licensed to conduct business in the State of Florida, and (ii) are named in the current list of Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies as published in Circular 570 (amended) by the Audit Staff Bureau of Accounts, U.S. Treasury Department and (iii) otherwise meet the requirements set forth herein that apply to sureties. All Bonds signed by an agent must be accompanied by a certified copy of the authority to act.

10.1.1 Performance Bond: The Contractor shall execute and record in the public records of Dade County, Florida, a payment and performance bond in an amount at least equal to the Contract Price with a surety insurer authorized to do business in the State of Florida as surety, ("Bond"), in accordance with Section 255.05, Florida Statutes (2022), as may be amended or revised, as security for the faithful performance and payment of all of the Contractor's obligations under the Contract Documents.

A Corporate Surety Bond legally issued, meeting the approval of, and running to the Town in an amount not less than the Contract Price of such improvements, conditioned that the Contractor shall maintain and make all repairs to the improvements constructed by the Contractor at their own expense and free of charge to the Town, for the period of one (1) year after the date of acceptance of the Work within such period by reason of any imperfection of the material used

or by reason of any defective workmanship, or any improper, imperfect or defective preparation of the base upon which any such improvement shall be laid.

10.2 Disqualification of Surety: If the Surety on any Bond furnished by the Contractor is declared bankrupt or becomes insolvent or its right to do business is terminated in the State of Florida or it ceases to meet the requirements of clauses (i) and (ii) of Paragraph 10.1, the Contractor shall within five (5) days thereafter substitute another Bond and Surety, both of which shall be acceptable to the Town.

10.3 Insurance

As a condition precedent to the effectiveness of this Agreement, during the term of this Agreement and during any renewal or extension term of this Agreement, the Contractor, at its sole expense, shall provide insurance of such types and with such terms and limits as noted below. Providing proof of and maintaining adequate insurance coverage are material obligations of the Contractor. The Contractor shall provide the Town a certificate of insurance evidencing such coverage. The Contractor's insurance coverage shall be primary insurance for all applicable policies. The limits of coverage under each policy maintained by the Contractor shall not be interpreted as limiting the Contractor's liability and obligations under this Agreement. All insurance policies shall be through insurers authorized or eligible to write policies in the State of Florida and possess an A.M. Best rating of A-, VII or better, subject to approval by the Town's Risk Manager.

The coverages, limits, and/or endorsements required herein protect the interests of the Town, and these coverages, limits, and/or endorsements shall in no way be relied upon by the Contractor for assessing the extent or determining appropriate types and limits of coverage to protect the Contractor against any loss exposures, whether as a result of this Agreement or otherwise. The requirements contained herein, as well as the Town's review or acknowledgement, are not intended to and shall not in any manner limit or qualify the liabilities and obligations assumed by the Contractor under this Agreement.

The following insurance policies and coverages are required:

Commercial General Liability
Coverage must be afforded under a Commercial General Liability policy with limits not less than:
-$2,000,000 each occurrence and $2,000,000 aggregate for Bodily Injury, Property Damage, and Personal and Advertising Injury
-$2,000,000 each occurrence and $2,000,000 aggregate for Products and Completed Operations

Policy must include coverage for contractual liability and independent contractors.

The Town, a Florida municipal corporation, its officials, employees, and volunteers are to be covered as an additional insured with a CG 20 26 04 13 Additional Insured – Designated Person or Organization Endorsement or similar endorsement providing equal or broader Additional Insured Coverage with respect to liability arising out of activities performed by or on behalf of the Contractor. The coverage shall contain no special limitation on the scope of protection afforded to the Town, its officials, employees, and volunteers.

Business Automobile Liability
Coverage must be afforded for all Owned, Hired, Scheduled, and Non-Owned vehicles for Bodily Injury and Property Damage in an amount not less than $1,000,000 combined single limit each accident.

If the Contractor does not own vehicles, the Contractor shall maintain coverage for Hired and Non-Owned Auto Liability, which may be satisfied by way of endorsement to the Commercial General Liability policy or separate Business Auto Liability policy.

Workers' Compensation and Employer's Liability

Coverage must be afforded per Chapter 440, Florida Statutes. Any person or entity performing work for or on behalf of the Town must provide Workers' Compensation insurance. Exceptions and exemptions will be allowed by the Town's Risk Manager, if they are in accordance with Florida Statute.

The Contractor waives, and the Contractor shall ensure that the Contractor's insurance carrier waives, all subrogation rights against the Town, its officials, employees, and volunteers for all losses or damages. The Town requires the policy to be endorsed with WC 00 03 13 Waiver of our Right to Recover from Others or equivalent.

The Contractor must be in compliance with all applicable State and federal workers' compensation laws, including the U.S. Longshore Harbor Workers' Act and the Jones Act, if applicable.

Insurance Certificate Requirements

a. The Contractor shall provide the Town with valid Certificates of Insurance (binders are unacceptable) no later than ten (10) days prior to the start of work contemplated in this Agreement.
b. The Contractor shall provide to the Town a Certificate of Insurance having a thirty (30) day notice of cancellation; ten (10) days' notice if cancellation is for nonpayment of premium.
c. In the event that the insurer is unable to accommodate the cancellation notice requirement, it shall be the responsibility of the Contractor to provide the proper notice. Such notification will be in writing by registered mail, return receipt requested, and addressed to the certificate holder.
d. In the event the Agreement term or any surviving obligation of the Contractor following expiration or early termination of the Agreement goes beyond the expiration date of the insurance policy, the Contractor shall provide the Town with an updated Certificate of Insurance no later than ten (10) days prior to the expiration of the insurance currently in effect. The Town reserves the right to suspend the Agreement until this requirement is met.
e. The Certificate of Insurance shall indicate whether coverage is provided under a claims-made or occurrence form. If any coverage is provided on a claims-made form, the Certificate of Insurance must show a retroactive date, which shall be the effective date of the initial contract or prior.
f. The Town shall be named as an Additional Insured on all liability policies, with the exception of Workers' Compensation.
g. The Town shall be granted a Waiver of Subrogation on the Contractor's Workers' Compensation insurance policy.
h. The title of the Agreement, Bid/Contract number, event dates, or other identifying reference must be listed on the Certificate of Insurance.

Watercraft Liability

Coverage must be afforded in an amount not less than $1,000,000 per occurrence and must cover the utilization of watercraft, including Bodily Injury and Property Damage arising out of ownership, maintenance, or use of any watercraft, including owned, non-owned, and hired.

Coverage may be provided in the form of an endorsement to the Commercial General Liability policy, or in the form of a separate policy covering Watercraft Liability or Protection and Indemnity for Bodily Injury and Property Damage.

The Certificate Holder should read as follows:
Town of Bay Harbor Islands
9665 Bay Harbor Terrace
Bay Harbor Islands, FL 33154

The Contractor has the sole responsibility for all insurance premiums and shall be fully and solely responsible for any costs or expenses as a result of a coverage deductible, co-insurance penalty, or self-insured retention; including any loss not covered because of the operation of such deductible, co-insurance penalty, self-insured retention, or coverage exclusion or limitation. Any costs for adding the Town as an Additional Insured shall be at the Contractor's expense.

If the Contractor's primary insurance policy/policies do not meet the minimum requirements, as set forth in this Agreement, the Contractor may provide evidence of an Umbrella/Excess insurance policy to comply with this requirement.

The Contractor's insurance coverage shall be primary insurance as respects to the Town, a Florida municipal corporation, its officials, employees, and volunteers. Any insurance or self-insurance maintained by the Town, a Florida municipal corporation, its officials, employees, or volunteers shall be non-contributory.

Any exclusion or provision in any insurance policy maintained by the Contractor that excludes coverage required in this Agreement shall be deemed unacceptable and shall be considered breach of contract.

All required insurance policies must be maintained until the contract work has been accepted by the Town, or until this Agreement is terminated, whichever is later. Any lapse in coverage shall be considered breach of contract. In addition, Contractor must provide to the Town confirmation of coverage renewal via an updated certificate should any policies expire prior to the expiration of this Agreement. The Town reserves the right to review, at any time, coverage forms and limits of Contractor's insurance policies.

The Contractor shall provide notice of any and all claims, accidents, and any other occurrences associated with this Agreement to the Contractor's insurance company or companies and the Town's Risk Management office, as soon as practical.

It is the Contractor's responsibility to ensure that any and all of the Contractor's independent contractors and subcontractors comply with these insurance requirements. All coverages for independent contractors and subcontractors shall be subject to all of the applicable requirements stated herein. Any and all deficiencies are the responsibility of the Contractor.

NOTE: TOWN PROJECT NUMBER, PROJECT NAME AND BID NUMBER MUST APPEAR ON EACH CERTIFICATE, AND THE TOWN OF BAY HARBOR ISLANDS MUST BE NAMED ON THE CERTIFICATE AS AN "ADDITIONAL INSURED" ON REQUIRED LIABILITY POLICIES.

ARTICLE 11- WARRANTY AND GUARANTEE, TESTS AND INSPECTIONS, CORRECTION, REMOVAL OR ACCEPTANCE OF DEFECTIVE WORK

11.1 Warranty: The Contractor warrants and guarantees to the Town that all Work will be in accordance with the Contract Documents and will not be defective. Prompt notice of all defects shall be given to the Contractor. All defective work, whether or not in place, may be rejected, corrected or accepted as provided in this Article.

11.1.1 Warranty of Title: The Contractor warrants to the Town that it possesses good, clear and marketable title to all equipment and materials provided and that there are no pending liens, claims or encumbrances against the equipment and materials.

11.1.2 Warranty of Specifications: The Contractor warrants that all equipment, materials and workmanship furnished, whether furnished by the Contractor, its subcontractors or suppliers, will comply with the specifications, drawings and other descriptions supplied or adopted and that all services will be performed in a workmanlike manner.

11.1.3 Warranty of Merchantability: The Contractor warrants that any and all equipment to be supplied pursuant to this Agreement is merchantable, free from defects, whether patent or latent in material or workmanship, and fit for the ordinary purposes for which it is intended.

11.2 Tests and Inspections: Contractor shall retain the services of an independent, certified, testing lab to perform all testing as required by the specifications, contract drawings, and any applicable permitting agency. Contractor shall provide evidence of certification to the Town before the work and testing is done. Testing results shall be submitted to the Project Manager for review and approval at the time the results are provided to the Contractor. The Contractor shall give the Project Manager and Town Inspector a minimum of twenty-four (24) hours' advanced notice of readiness of the Work for all required inspections, tests, or approvals and shall notify all applicable permitting agencies in a timely manner based on requirements set forth in the permit documents.

11.2.1 Neither observations by the Project Manager nor inspections, tests or approvals by others shall relieve the Contractor from its obligations to perform the Work in accordance with the Contract Documents.

11.3 Uncovering Work: If any work that is to be inspected, tested or approved is covered without approval or consent of the Project Manager, it must, if requested by the Project Manager, be uncovered for observation and/or testing. Such uncovering and replacement shall be at the Contractor's sole expense unless the Contractor has given the Project Manager timely notice of the Contractor's intention to cover such Work and the Project Manager has not acted with reasonable promptness in response to such notice.

11.3.1 If the Project Manager considers it necessary or advisable that Work covered in accordance with Paragraphs 11.2.1 be observed by the Town or inspected or tested by others, the Contractor at the Town's request, shall uncover, expose or otherwise make available for observation, inspection or testing as the Project Manager may require, that portion of the Work in question, furnishing all necessary labor, material and equipment. If it is found that such Work is defective, the Contractor shall bear all the expenses of such uncovering, exposure, observation, inspection and testing and of satisfactory reconstruction, including compensation for additional professional services, and an appropriate deductive Change Order shall be issued. If, however, such work is not found to be defective, the Contractor shall be allowed an increase in the Contract Price or an extension of the Contract Time, or both, directly attributable to such uncovering, exposure, observation, inspection testing and reconstruction if it makes a claim therefore as provided in Articles 14 and 15.

11.4 Town May Stop the Work: If the Work is defective, or the Contractor fails to supply sufficient skilled supervisory personnel or workmen or suitable materials or equipment or the work area is deemed unsafe, the Town may order the Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, this right of the Town to stop the Work shall not give rise to any duty on the part of the Town to exercise this right for the benefit of the Contractor or any other Party. The Town will not award any increase in Contract Price or Contract Time if the Work is stopped due to the circumstances described herein.

11.5 Correction or Removal of Defective Work Before Final Payment: If required by the Project Manager, the Contractor shall promptly, without cost to the Town and as specified by the Project Manager, either correct any defective Work, whether or not fabricated, installed or completed, or if the Work has been rejected by the Town remove it from the site and replace it with non-defective Work.

11.6 One Year Correction Period After Final Payment: If within one (1) year after the date of final acceptance, or such longer period of time as may be prescribed by law or by the terms of any applicable special guarantee required by the Contract Documents, any work is found to be defective, the Contractor shall promptly, without cost to the Town and in accordance with the Town's written instructions, either correct such defective Work, or, if it has been rejected by the Town, remove it from the site and replace it with non-defective Work.

If the Contractor does not promptly comply with the terms of such instructions or in an emergency where delay would cause serious risk of loss or damage, the Town may have the defective Work corrected or the rejected Work removed and replaced, and all direct and indirect costs for such removal and replacement, including compensation for additional professional services, shall be paid by the Contractor.

11.7 Acceptance of Defective Work, Deductions: If, instead of requiring correction or removal and replacement of defective Work, the Town, at the Town's sole option, prefers to accept it, the Town may do so. In such a case, if acceptance occurs prior to the Project Manager's recommendation of final payments, a Change Order shall be issued incorporating the necessary revisions in the Contract's Documents, including appropriate reduction in the Contract Price; or if the acceptance occurs after such recommendation, an appropriate amount shall be paid by the Contractor to the Town.

11.8 Town May Correct Defective Work: If the Contractor fails within a reasonable time after written notice of the Project Manager to proceed to correct defective Work or to remove and replace rejected Work as required by the Project Manager in accordance with Paragraph 11.5, or if the Contractor fails to perform the Work in accordance with the Contract Documents, the Town may, after seven (7) days' written notice to the Contractor, correct and remedy any such deficiency. In exercising its rights under this paragraph, the Town shall proceed expeditiously. To the extent necessary to complete corrective and remedial action, the Town may exclude the Contractor from all or part of the site, take possession of all or part of the Work, suspend the Contractor's services related thereto and take possession of the Contractor's tools, construction equipment and materials stored at the site or elsewhere. The Contractor shall allow the Town's representative agents and employees such access to the site as may be necessary to enable the Town to exercise its rights under this paragraph. All direct and indirect costs of the Town in exercising such rights shall be charged against the Contractor in an amount verified by the Project Manager, and a Change Order shall be issued

incorporating the necessary revisions in the Contract Documents and a reduction in the Contract Price. Such direct and indirect costs shall include, in particular but without limitation, compensation for additional professional services required and costs of repair and replacement of work of others destroyed or damaged by correction, removal or replacement of the Contractor's defective Work. The Contractor shall not be allowed an extension of the Contract Time because of any delay in performance of the Work attributable to the exercise by the Town of the Town's right hereunder.

ARTICLE 12 – INDEMNIFICATION

12.1 Disclaimer of Liability: The Town shall not at any time, be liable for injury or damage occurring to any person or property from any cause, whatsoever, arising out of Contractor's construction and fulfillment of this Agreement.

12.2 Indemnification: For other, additional good valuable consideration, the receipt and sufficiency of which is hereby acknowledged:

12.2.1 Contractor shall, at its sole cost and expense, indemnify and hold harmless the Town, its representatives, employees and elected and appointed officials from or on account of all claims, damages, losses, liabilities and expenses, direct, indirect or consequential including but not limited to fees and charges of engineers, architects, attorneys, consultants and other professionals and court costs arising out of or in consequence of the performance of this Agreement at all trial and appellate levels. Indemnification shall specifically include but not be limited to claims, damages, losses, liabilities and expenses arising out of or from (a) the negligent or defective design of the project and Work of this Agreement; (b) any act, omission or default of the Contractor, its subcontractors, agents, suppliers, employees or laborers; (c) any and all bodily injuries, sickness, disease or death; (d) injury to or destruction of tangible property, including any resulting loss of use; (e) other such damages, liabilities, or losses received or sustained by any person or persons during or on account of any operations connected with the construction of this Project including the warranty period; (f) the use of any improper materials; (g) any construction defect including both patent and latent defects; (h) failure to timely complete the work; (i) the violation of any federal, state, county or Town laws, ordinances or regulations by Contractor, its subcontractors, agents, servants, independent contractors or employees; (j) the breach or alleged breach by Contractor of any term of the Agreement, including the breach or alleged breach of any warranty or guarantee.

12.2.2 Contractor agrees to indemnify, defend, and hold harmless the Town, its officers, agents and employees, from all damages, liabilities, losses, claims, fines and fees, and from any and all suits and actions of every name and description that may be brought against Town, its officers, agents and employees, on account of any claims, fees, royalties, or costs for any invention or patent and/or for the infringement of any and all copyrights or patent rights claimed by any person, firm, or corporation.

12.2.3 Contractor shall pay all claims, losses, liens, settlements or judgments of any nature in connection with the foregoing indemnifications including, but not limited to, reasonable attorney's fees and costs for trials and appeals.

12.2.4 If any subcontractor, supplier, laborer, or materialmen of Contractor or any other person directly or indirectly acting for or through Contractor files or attempts to file a mechanic's or construction lien against the real property on which the work is performed or any part or against any personal property or improvements thereon or make a claim against any monies due or to become due from the Town to Contractor or from Contractor to a subcontractor, for or on account of any work, labor, services, material, equipment, or other items furnished in connection with the Work or any change order, Contractor agrees to satisfy, remove, or dischargesuch lien or claim at its own expense by bond, payment, or otherwise within five (5) days of the filing or from receipt of written notice from the Town.

Additionally, until such time as such lien or claim is satisfied, removed or discharged by Contractor, all monies due to Contractor, or that become due to Contractor before the lien or claim is satisfied, removed or otherwise discharged, shall be held by Town as security for the satisfaction, removal and discharge of such lien and any expense that may be incurred while obtaining the discharge. If Contractor shall fail to do so, Town shall have the right, in addition to all other rights and remedies provided by this Agreement or by law, to satisfy, remove, or discharge such lien or claim by whatever means Town chooses at the entire and sole cost and expense of Contractor which costs and expenses shall, without limitation, include attorney's fees, litigation costs, fees and expenses and all court costs and assessments, and which shall be deducted from any amount owing to Contractor. In the event the amount due Contractor is less than the amount required to satisfy Contractor's obligation under this, or any other article, paragraph or section of this Agreement, the Contractor shall be liable for the deficiency due the Town.

12.2.5 The Contractor and the Town agree that Section 725.06(2), Florida Statutes (2022), as may be amended or revised, controls the extent and limits of the indemnification and hold harmless provisions of this Agreement, if any, and that the Parties waive any defects in the wording of this Article that runs afoul of said statutory section.

ARTICLE 13 – CHANGES IN THE WORK

13.1 Without invalidating this Agreement, the Town may, at any time or from time-to-time order additions, deletions or revisions in the Work through the issuance of Change Orders. Upon receipt of a fully executed Change Order, the Contractor shall proceed with the Work involved. All Work shall be executed under the applicable conditions of the Contract Documents. If any Change Order causes an increase or decrease in the Contract Price or an extension or shortening of the Contract Time, an equitable adjustment will be made as provided in Article 14 or Article 15 on the basis of a claim made by either Party.

13.2 The Project Manager may authorize minor changes in the Work not involving an adjustment in the Contract Price or the Contract Time, which are consistent with the overall intent of the Contract Documents. Such changes must be in writing and signed by the Town and the Contractor.

13.3 If notice of any change affecting the general scope of the Work or change in the Contract Price is required by the provisions of any Bond to be given to the Surety, it will be the

Contractor's responsibility to so notify the Surety, and the amount of each applicable Bond shall be adjusted accordingly. The Contractor shall furnish proof of such adjustment to the Town.

ARTICLE 14 – CHANGE OF CONTRACT PRICE

Change of Contract Price, approved by Town, shall be computed as follows:

14.1 Cost of the Work: The term "Cost of the Work" means the sum of all direct costs necessarily incurred and paid by Contractor in the proper performance of the Work. Except as otherwise may be agreed to in writing by the Town, these costs shall be in amounts no higher than those prevailing in the Town and shall include only the following items and shall not include any of the costs itemized in Paragraph 14.3:

14.1.1 Payroll costs for employees in the direct employ of the Contractor in the performance of the Work under schedules of job classifications agreed upon by the Town and the Contractor. Payroll costs for employees not employed full time on the Work shall be apportioned on the basis of their time spent on the Work.

Payroll costs shall include, but not be limited to, salaries and wages plus cost of fringe benefits which shall include social security contributions, unemployment, excise and payroll taxes, worker's compensation, health and retirement benefits, bonuses, sick leave, vacation and applicable holiday pay.

14.1.2 Cost of all materials and equipment furnished and incorporated in the Work, including costs of transportation and storage, and required suppliers and field services. All cash discounts, rebates and refunds and all returns from sale of surplus materials and equipment shall accrue to the Town, and the Contractor shall make provisions so that they may be obtained.

14.1.3 Supplemental costs including the following:

14.1.3.1 Cost, including transportation and maintenance of all materials, supplies, equipment, machinery, appliances, office and temporary facilities at the site and hand tools not owned by the workers, which are consumed in the performance of the Work.

14.1.3.2 Rentals of all construction equipment and machinery and the parts whether rented from the Contractor or others in accordance with rental agreements approved by the Town, and the costs of transporting, loading, unloading, installation, dismantling and removal. The rental of any such equipment, machinery or parts shall cease when the use is no longer necessary for the Work.

14.1.3.3 Sales, consumer, use or similar taxes related to the Work and for which the Contractor is liable, imposed by laws and regulations.

14.1.3.4 Royalty payments and fees for permits and licenses.

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

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

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

14.2 The Contract Price may only be increased by an approved and fully executed Change Order when Work is modified in accordance with Article 13 and approved by the Town in writing. Any claim for an increase in the Contract Price resulting from a Change Order shall be based on written notice delivered to the Project Manager within ten (10) days of the occurrence of the Change Order giving rise to the claim. Notice of the amount of the claim with supporting data shall be included in the Change Order and delivered within twenty (20) days of such occurrence unless Project Manager allows an additional period of time to ascertain accurate cost data. Any change in the Contract Price resulting from any such claim shall be incorporated in the Change Order. **IT IS EXPRESSLY AND SPECIFICALLY AGREED THAT ANY AND ALL CLAIMS FOR CHANGES TO THE CONTRACT PRICE SHALL BE WAIVED IF NOT SUBMITTED IN STRICT ACCORDANCE WITH THE REQUIREMENTS OF THIS SECTION.**

14.3 Not Included in the Cost of the Work: The term "Cost of the Work" shall not include any of the following:

14.3.1 Payroll costs and other compensation of the Contractor's officers' executives, principals (of partnership and sole proprietorships), general managers, engineers, architects, estimators, attorneys, auditor, accountants, purchasing and contracting agents, expediters, timekeepers, clerks and other personnel employed by the Contractor whether at the site or in the Contractor's principal or branch office for general administration of the work and not specifically included in the agreed upon schedule of job classifications referred to in Paragraph 14.1.1, all of which are to be considered administrative costs covered by the Contractor's fee.

14.3.2 Expenses of the Contractor's principal and branch offices other than the Contractor's office at the site.

14.3.3 Any part of the Contractor's capital expenses, including interest on the Contractor's capital employed for the Work and charges against the Contractor for delinquent payments.

14.3.4 Cost of premiums for all bonds and for all insurance whether or not the Contractor is required by the Contract Documents to purchase and maintain the same.

14.3.5 Costs due to the negligence of the Contractor, any subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable, including but not limited to, the correction of defective Work, disposal of materials or equipment wrongly supplied and making good any damage to property.

14.3.6 Other overhead or general expense costs of any kind and the costs of any item not specifically and expressly included in Paragraph 14.1.

14.4 Basis of Compensation: The Contractor's compensation, allowed to the Contractor for overhead and profit, shall be determined as follows:

14.4.1 A mutually acceptable negotiated fee:

14.4.1.1 For costs incurred under Paragraphs 14.1.1 and 14.1.2, the Contractor's fee shall not exceed five percent (5%).

14.4.1.2 No fee shall be payable on the basis of costs itemized under Paragraphs 14.1.3.1, 14.1.3.2, 14.1.3.3, 14.1.3.4, 14.1.3.5, 14.1.3.6, 14.1.3.7, 14.3.1, 14.3.2, 14.3.3, 14.3.4, 14.3.5 and 14.3.6.

14.4.1.3 The amount of credit to be allowed by the Contractor to the Town for any such change which results in a net decrease plus a deduction in the Contractor's fee by an amount equal to five percent (5%) for the net decrease.

14.4.1.4 When both additions and credits are involved in any one change the combined overhead and profit shall be figured on the basis of net increase if any, however, not to exceed five percent (5%) of the agreed compensation. Profit will not be paid on any Work not performed.

14.5 Cost Breakdown Required: Whenever the cost of any Work is to be determined pursuant to this Article, the Contractor will submit in form acceptable to the Town an itemized cost breakdown together with supporting documentation. Whenever a change in the Work is to be based upon mutual acceptance of a lump sum, whether the amount is an addition, credit, or no-charge-in-cost, the Contractor shall submit an estimate substantiated by a complete itemized breakdown:

14.5.1 The breakdown shall list quantities and unit prices for materials, labor, equipment and other items of cost.

14.5.2 Whenever a change involves the Contractor and one (1) or more subcontractors and the change is an increase in the agreed compensation, the overhead and profit percentage for the Contractor and each subcontractor shall be itemized separately.

ARTICLE 15 – CHANGE OF THE CONTRACT TIME

15.1 The Contract Time may only be changed by an approved and fully executed Change Order. Any claim for an extension in the Contract Time shall be based on written notice delivered to the Project Manager within five (5) days of the occurrence of the event giving rise to the claim. Any change in the Contract Time resulting from any such claim shall be incorporated in a Change Order.

15.2 The Contract Time will be extended in an amount equal to time lost due to delays beyond the control of the Contractor if a claim is made therefore as provided in Paragraph 15.1. Such delays shall include but not be limited to, acts or neglect by the Town, or to fires, floods, labor disputes, epidemics, abnormal weather conditions, pandemics, act of Governmental Authority, state of emergency, or acts of God.

15.3 All time limits stated in the Contract Documents are of the essence. The provisions of this Article 15 shall not exclude recovery for damages for delay by the Contractor.

15.4 Delays caused by or resulting from entities, contractors or subcontractors who are not affiliated with the Contractor (non-affiliated Contractors) shall not give rise to a claim by the Contractor for damages for increases in material and/or labor costs. Such entities, contractors and subcontractors include, but are not limited to, the Town's contractors and subcontractors, Florida Power and Light Company, AT&T and Florida East Coast Railway, LLC.

15.5 Rights of Various Interests: Whenever work being done by Town's forces or by other contractors is contiguous to or within the limits of work covered by this Agreement, the respective rights of the various interests involved shall be established by the Project Manager to secure the completion of the various portions of the Work in general harmony.

ARTICLE 16 – LIQUIDATED DAMAGES

16.1 Upon failure of the Contractor to complete the Work within the time specified for completion, the Contractor shall pay to the Town the sum of **One Thousand Dollars ($1000.00)** for each and every calendar day that the completion of the Work is delayed beyond the time specified in this Agreement for completion, as fixed and agreed liquidated damages and not as a penalty, so long as the delay Is caused by the Contractor. Should an act of God or the acts or omissions of the Town, its agents or representatives, in derogation to the terms of this Agreement cause the delay, the Contractor shall not be responsible for the delay nor liquidated damages. Liquidated damages are fixed and agreed upon between the Parties, recognizing the impossibility of precisely ascertaining the amount of damages that will be sustained by the Town as a consequence of such delay and both Parties desiring to obviate any question of dispute concerning the amount of damages and the cost and effect of the failure of the Contractor to complete the Work on time. Liquidated damages shall apply separately to each portion of the Work for which a time of completion is given. The Town shall have the right to deduct from or retain any compensation which may be due or which may become due and payable to the Contractor the amount of liquidated damages, and if the amount retained by the Town is insufficient to pay in full such liquidated damages, the Contractor shall pay all liquidated damages in full. The Contractor shall be responsible for reimbursing the Town, in addition to liquidated damages or other damages for delay, for all costs of engineering, architectural fees, and inspection and other costs incurred in administering the construction of the Project beyond the completion date specified or beyond an approved extension of time granted to the Contractor whichever is later. Delays caused by or resulting from entities, contractors or subcontractors who are not affiliated with the Contractor shall not give rise to a claim by Contractor for damages for increase in material and/or labor costs. Such entities, contractors and subcontractors include, but are not limited to, the Town's contractors and subcontractors, Florida Power and Light Company, AT&T, and Florida East Coast Railway, LLC.

16.2 No Extended Damages: For other and additional good and valuable consideration the receipt and sufficiency of which is hereby acknowledged, the Contractor covenants and agrees that in the event of any delay of construction or for any reason, allegation or claim, and notwithstanding the reason of the delay, reason, claim or allegation or who caused them or the construction delay or whether they were caused by the Town, that there will be no entitlement to Contractor to or for any direct or indirect financial damages

or losses for extended corporate overhead impact, extended project overhead impacts, project support services, mobilization or demobilization or by whatever other label or legal concept or theory and types of names or labels or basis such claims may have, or any business damages or losses of whatever type or nature, and Contractor hereby waives any right to make any such claim or claims. This provision will also have application and effect when construction delays are anticipated and agreed upon by both the Town and the Contractor.

ARTICLE 17 – SUSPENSION OF WORK AND TERMINATION

17.1 Town May Suspend Work: The Town may, at any time and without cause, suspend the Work or any portion of the Work for a period of not more than ninety (90) days by notice in writing to the Contractor which shall fix the date on which Work shall be resumed. The Contractor shall resume the Work on the date fixed. The Contractor will be allowed an increase in the Contract Price or an extension of the Contract Time, or both, directly attributable to any suspension, if the Contractor makes a claim as provided in Articles 14 and 15.

17.2 Town's Right to Terminate Contract: The Town may terminate this Agreement upon fifteen (15) calendar days' written notice upon the occurrence of any one or more of the following events:

17.2.1 If the Contractor makes a general assignment for the benefit of creditors.

17.2.2 If a trustee, receiver, custodian or agent of the Contractor is appointed under applicable law or under Agreement, whose appointment or authority to take charge of property of the Contractor is for the purpose of enforcing a lien against such property or for the purpose of general administration of such property for the benefit of the Contractor's creditors.

17.2.3 If Contractor fails to begin the Work within fifteen (15) calendar days after the date set forth in the Notice to Proceed, or fails to perform the Work with sufficient workers and equipment or with sufficient materials to ensure the prompt completion of the Work, or shall perform the Work unsuitably, or cause it to be rejected as defective and unsuitable, or shall discontinue the prosecution of the Work pursuant to the accepted schedule or if Contractor shall fail to perform any material term set forth in the Contract Documents, or from any other cause whatsoever shall not carry on the Work in an acceptable manner, Project Manager may give notice in writing to Contractor and its Surety of such delay, neglect or default, specifying the same.

17.2.4 If the Contractor repeatedly fails to make prompt payments to subcontractors or for labor, material or equipment.

17.2.5 If the Contractor repeatedly disregards proper safety procedures.

17.2.6 If the Contractor disregards any local, state or federal laws or regulations.

17.2.7 If the Contactor otherwise violates any provisions of this Agreement.

17.3 If Contractor, within a period of ten (10) calendar days after such notice, shall not proceed in accordance therewith, the Town may exclude the Contractor from the Work site and take the prosecution of the Work out of the hands of the Contractor, and take possession of the Work and all of the Contractor's tools, appliances, construction equipment and machinery at the site and use them without liability to the Town for trespass or conversion, incorporate in the Work all materials and equipment stored at the site or for which the Town has paid the Contractor but which are stored elsewhere, and finish the Work as the Town may deem expedient. In this instance, the Contractor shall not be entitled to receive any further compensation until the Work is finished.

17.3.1 If after notice of termination of Contractor's notice to proceed, it is determined for any reason that Contractor was not in default, the rights and obligations of Town and Contractor shall be the same as if the notice of termination had been issued pursuant to the Termination for Convenience clause as set forth below in Section 17.4

17.3.2 Upon receipt of Notice of Termination pursuant to Sections 17.2 or 17.4, Contractor shall promptly discontinue all affected work unless the Notice of Termination directs otherwise and deliver or otherwise make available to Town all data, drawings, specifications, reports, estimates, summaries and such other information as may have been required by the Contract Documents whether completed or in process.

17.4 Termination for Convenience: This Agreement may be terminated for convenience in writing by Town upon thirty (30) days' written notice to Contractor (delivered by certified mail, return receipt requested) by overnight courier of intent to terminate and the date on which such termination becomes effective. In such case, Contractor shall be paid for all work executed and accepted by the Town and costs reasonably incurred by Contractor relating to commitments which had become firm prior to the termination. No payment shall be made for profit for work/services which have not been performed or accepted.

17.5 Where the Contractor's service has been so terminated by the Town, the termination shall not affect any rights of the Town against the Contractor then existing or which may thereafter accrue. Any retention or payment of moneys due the Contractor by the Town will not release the Contractor from liability.

17.6 The Contractor has no right, authority or ability to terminate the Work except for the wrongful withholding of any payments due the Contractor from the Town.

ARTICLE 18 – DISPUTE RESOLUTION

18.1 Resolution of Disputes: Questions, claims, difficulties and disputes of whatever nature which may arise relative to the technical interpretation of the Contract Documents and fulfillment of this Agreement as to the character, quality, amount and value of any work done and materials furnished, or proposed to be done or furnished under, or by reason of, the Contract Documents which cannot be resolved by mutual agreement of Town Project Manager and Contractor shall be submitted to the Town Manager or his designee and Contractor's representative for resolution. Prior to any litigation being commenced (other than for equitable or injunctive relief), for any disputes which remain

unresolved, within sixty (60) days after final completion of the Work, the Parties shall participate in mediation to address all unresolved disputes to a mediator agreed upon by the Parties. Should any objection not be resolved in mediation, the Parties retain all their legal rights and remedies provided under the laws of Florida.

18.1.1 All non-technical administrative disputes (such as billing and payment) shall be determined by the Project Manager.

18.1.2 During the pendency of any dispute and after a determination thereof, Contractor and the Project Manager shall act in good faith to mitigate any potential damages including utilization of construction schedule changes and alternate means of construction. During the pendency of any dispute arising under this Agreement, other than termination herein, Contractor shall carry on the Work and adhere to the progress schedule. The Work shall not be delayed or postponed pending resolution of any disputes or disagreements.

18.1.3 For any disputes which remain unsolved, within sixty (60) calendar days after Final Completion of the Work, the Parties shall participate in mediation to address all unresolved disputes. A mediator shall be mutually agreed upon by the Parties. Should any objection not be resolved in mediation, the Parties retain all their legal rights and remedies under applicable law.

ARTICLE 19 – NOTICES

19.1 All notices required by any of the Contract Documents shall be in writing and shall be deemed delivered upon mailing by certified mail, return receipt requested to the following:

To the Town:

Rodney Carrero-Santana P.E
Project Manager
Town of Bay Harbor Islands
9665 Bay Harbor Terrace
Bay Harbor Islands, Florida 33154
Telephone: (305)455-7275
E-mail: rcarrerosantana@bayharborislands-fl.gov with copies to:

Town Manager and Town Attorney
Town of Bay Harbor Islands
9665 Bay Harbor Terrace
Bay Harbor Islands, Florida 33154
Telephone: (305)455-7275
E-mail: City Manager mlasday@bayharborislands-fl.gov
E-mail: City Attorney joseph.geller@gmlaw.com

To the Contractor:

V Engineering Corp,
Felix G. Valdes (President)
275 Alhambra Circle, Suite 113

Coral Gables, FL 33134
Telephone: (305) 342-5568
E-mail: felix@veccorp.net

ARTICLE 20 – LIMITATION OF LIABILITY

20.1 The Town desires to enter into this Agreement only if in so doing the Town can place a limit on the Town's liability for any cause of action arising out of this Agreement, so that the Town's liability for any breach never exceeds the sum of $1,000. For other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Contractor expresses its willingness to enter into this Agreement with the knowledge that the Contractor's recovery from the Town to any action or claim arising from the Agreement is limited to a maximum amount of $1,000, which amount shall be reduced by the amount actually paid by the Town to the Contractor pursuant to this Agreement, for any action or claim arising out of this Agreement. Nothing contained in this paragraph or elsewhere in this Agreement is in any way intended either to be a waiver of the limitation placed upon the Town's liability as set forth in Section 768.28, Florida Statutes (2022), as may be amended or revised, or to extend the Town's liability beyond the limits established in said Section 768.28, Florida Statutes (2022), as may be amended or revised; and no claim or award against the Town shall include attorney's fees, investigative costs, expert fees, suit costs or pre-judgment interest; nor is anything in this Agreement intended in any way to waive or limit any common law protection against liability which the Town may have by reason of sovereign immunity.

20.2 No Extended Damages: For other and additional good and valuable consideration the receipt and sufficiency of which is hereby acknowledged, the Contractor covenants and agrees that in the event of any delay of construction or for any reason, allegation or claim, and notwithstanding the reason of the delay, reason, claim or allegation or who caused them or the construction delay or whether they were caused by the Town, that there will be no entitlement to Contractor to or for any direct or indirect financial damages or losses for extended corporate overhead impact, extended project overhead impacts, project support services, mobilization or demobilization or by whatever other label or legal concept or theory and types of names or labels or basis such claims may have, or any business damages or losses of whatever type or nature, and Contractor hereby waives any right to make any such claim or claims. This provision will also have application and effect when construction delays are anticipated and agreed upon by both the Town and the Contractor.

ARTICLE 21 – GOVERNING LAW; WAIVER OF JURY TRIAL

21.1 The Agreement shall be interpreted and construed in accordance with, and governed by, the laws of the state of Florida. The Parties agree that the exclusive venue for any lawsuit arising from, related to, or in connection with this Agreement shall be in the state courts of the Eleventh Judicial Circuit in and for Dade County, Florida. If any claims arising from, related to, or in connection with this Agreement must be litigated in federal court, the Parties agree that the exclusive venue for any such lawsuit shall be in the United States District Court or United States Bankruptcy Court for the Southern District of Florida. **BY ENTERING INTO THIS AGREEMENT, THE PARTIES HEREBY EXPRESSLY WAIVE ANY AND ALL RIGHTS EITHER PARTY MIGHT HAVE TO A**

TRIAL BY JURY OF ANY ISSUES RELATED TO THIS AGREEMENT. IF A PARTY FAILS TO WITHDRAW A REQUEST FOR A JURY TRIAL IN A LAWSUIT ARISING OUT OF THIS AGREEMENT AFTER WRITTEN NOTICE BY THE OTHER PARTY OF VIOLATION OF THIS SECTION, THE PARTY MAKING THE REQUEST FOR JURY TRIAL SHALL BE LIABLE FOR THE REASONABLE ATTORNEYS' FEES AND COSTS OF THE OTHER PARTY IN CONTESTING THE REQUEST FOR JURY TRIAL, AND SUCH AMOUNTS SHALL BE AWARDED BY THE COURT IN ADJUDICATING THE MOTION.

ARTICLE 22 – MISCELLANEOUS

22.1 The duties and obligations imposed by this Agreement and the rights and remedies available to the Parties and, in particular but without limitation, the warranties, guaranties and obligations imposed upon the Contractor and all of the rights and remedies available to the Town, are in addition to, and are not to be construed in any way as a limitation of, any rights and remedies available to any or all of them which are otherwise imposed or available by laws or regulations, by special warranty or guarantee or by other provisions of the Contract Documents, and the provisions of this Paragraph will be as effective as if repeated specifically in the Contract Documents, and the provisions of this Paragraph will survive final payment and termination or completion of this Agreement.

22.2 The Contractor shall not assign or transfer this Agreement or its rights, title or interests. The obligations undertaken by the Contractor pursuant to this Agreement shall not be delegated or assigned to any other person or firm. Violation of the terms of this Paragraph shall constitute a material breach of Agreement by the Contractor and the Town may, at its discretion, cancel this Agreement and all rights, title and interest of the Contractor which shall immediately cease and terminate.

22.3 The Contractor and its employees, volunteers and agents shall be and remain as independent contractor and not agents or employees of the Town with respect to all of the acts and services performed by and under the terms of this Agreement. This Agreement shall not in any way be construed to create a partnership, association or any other kind of joint undertaking or venture between the Parties.

22.4 The Town reserves the right to audit the records of the Contractor relating in any way to the Work to be performed pursuant to this Agreement at any time during the performance and term of this Agreement and for a period of three (3) years after completion and acceptance by the Town. If required by the Town, the Contractor agrees to submit to an audit by an independent certified public accountant selected by the Town. The Contractor shall allow the Town to inspect, examine and review the records of the Contractor at any and all times during normal business hours during the term of this Agreement.

22.5 The remedies expressly provided in this Agreement to the Town shall not be deemed to be exclusive but shall be cumulative and in addition to all other remedies in favor of the Town now or later existing at law or in equity.

22.6 Should any part, term or provisions of this Agreement be decided by the courts to be invalid, illegal or in conflict with any state or federal law, the validity of the remaining portion or provision shall not be affected.

22.7 Prohibition Against Contracting With Scrutinized Companies: Subject to *Odebrecht Construction, Inc., v. Prasad*, 876 F.Supp.2d 1305 (S.D. Fla. 2012), *affirmed*, *Odebrecht Construction, Inc., v. Secretary, Florida Department of Transportation*, 715 F.3d 1268 (11th Cir. 2013), with regard to the "Cuba Amendment," the Contractor certifies that it is not on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, and that it does not have business operations in Cuba or Syria, as provided in Section 287.135, Florida Statutes (2022), as may be amended or revised. The Contractor certifies that it is not on the Scrutinized Companies that Boycott Israel List created pursuant to Section 215.4725, Florida Statutes (2022), as may be amended or revised, and that it is not engaged in a boycott of Israel. The Town may terminate this Agreement at the Town's option if the Contractor is found to have submitted a false certification as provided under subsection (5) of Section 287.135, Florida Statutes (2022), as may be amended or revised, or been placed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List or the Scrutinized Companies that Boycott Israel List created pursuant to Section 215.4725, Florida Statutes (2022), as may be amended or revised, or is engaged in a boycott of Israel or has been engaged in business operations in Cuba or Syria, as defined in Section 287.135, Florida Statutes (2022), as may be amended or revised.

By submitting a bid or response, the company, principals, or owners certify that it is not listed on the Scrutinized Companies with Activities in Sudan List or listed on the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List or is engaged in business operations in Cuba or Syria.

22.8 Public Entity Crimes: In accordance with the Public Crimes Act, Section 287.133, Florida Statutes (2022), as may be amended or revised, a person or affiliate who is a contractor, consultant or other provider, who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid on a contract to provide any goods or services to the Town, may not submit a bid on a contract with the Town for the construction or repair of a public building or public work, may not submit bids on leases of real property to the Town, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with the Town, and may not transact any business with the Town in excess of the threshold amount provided in Section 287.017, Florida Statutes (2022), as may be amended or revised, for category two purchases for a period of thirty-six (36) months from the date of being placed on the convicted vendor list. Violation of this section by Contractor shall result in cancellation of the Town purchase and may result in Contractor debarment.

22.9 Attorney Fees: If Town or Contractor incurs any expense in enforcing the terms of this Agreement through litigation, the prevailing Party in that litigation shall be reimbursed for all reasonable costs and expenses, including but not limited to court costs, and reasonable attorney fees incurred during litigation.

22.10 Public Records

Contractor shall:

1. Keep and maintain public records required by the Town in order to perform the service.

2. Upon request from the Town's custodian of public records, provide the Town with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes (2022), as may be amended or revised, or as otherwise provided by law. The Contractor shall in all respects comply with Florida Public Records Act laws and regulations, and shall allow public inspection and copying of all records related to this Agreement, by the public, as would be allowed if these records were maintained by the Town as public records, since the Contractor is acting on behalf of the Town in regards to these records.

3. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of this Agreement if the Contractor does not transfer the records to the Town.

4. Upon completion of the Agreement, transfer, at no cost, to the Town all public records in possession of the Contractor or keep and maintain public records required by the Town to perform the service. If the Contractor transfers all public records to the Town upon completion of this Agreement, the Contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Contractor keeps and maintains public records upon completion of this Agreement, the Contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the Town, upon request from the Town's custodian of public records, in a format that is compatible with the information technology systems of the Town.

22.11 Non-Discrimination

The Contractor shall not discriminate against its employees based on the employee's race, color, religion, gender, gender identity, gender expression, marital status, sexual orientation, national origin, age, disability, or any other protected classification as defined by applicable law.

1. The Contractor certifies and represents that the Contractor offers the same health benefits to the domestic partners of its employees as are offered its employees' spouses or offers its employees the cash equivalent of such health benefits because it is unable to provide health benefits to its employees' domestic partners, and that the Contractor will comply with Section 2-187, Code of Ordinances of the Town of Bay Harbor Islands, Florida, as may be amended or revised, ("Section 2-187"), during the entire term of this Agreement.

2. The failure of the Contractor to comply with Section 2-187 shall be deemed to be a material breach of this Agreement, entitling the Town to pursue any remedy stated below or any remedy provided under applicable law.

3. The Town may terminate this Agreement if the Contractor fails to comply with Section 2-187.

4. The Town may retain all monies due or to become due until the Contractor complies with Section 2-187.

5. The Contractor may be subject to debarment or suspension proceedings. Such proceedings will be consistent with the procedures in Section 2-183 of the Code of Ordinances of the Town of Bay Harbor Islands, Florida.

22.13 E-Verify As a condition precedent to the effectiveness of this Agreement, pursuant to Section 448.095, Florida Statutes (2022), as may be amended or revised, the Contractor and its subcontractors shall register with and use the E-Verify system to electronically verify the employment eligibility of newly hired employees.

1. The Contractor shall require each of its subcontractors, if any, to provide the Contractor with an affidavit stating that the subcontractor does not employ, contract with, or subcontract with an unauthorized alien. The Contractor shall maintain a copy of the subcontractor's affidavit for the duration of this Agreement and in accordance with the public records requirements of this Agreement.

2. The Town, the Contractor, or any subcontractor who has a good faith belief that a person or entity with which it is contracting has knowingly violated Section 448.09(1), Florida Statutes (2022), as may be amended or revised, shall terminate the Agreement with the person or entity.

3. The Town, upon good faith belief that a subcontractor knowingly violated the provisions of Section 448.095(2), Florida Statutes (2022), as may be amended or revised, but that the Contractor otherwise complied with Section 448.095(2), Florida Statutes (2022), as may be amended or revised, shall promptly notify Contractor and order the Contractor to immediately terminate the contract with the subcontractor, and the Contractor shall comply with such order.

4. An Agreement terminated under Sections 448.095(2)(c)1. or 2., Florida Statutes (2022), as may be amended or revised, is not a breach of contract and may not be considered as such. If the Town terminates this Agreement under Section448.095(2)(c), Florida Statutes (2022), as may be amended or revised, the Contractor may not be awarded a public contract for at least one year after the date on which the Agreement was terminated. The Contractor is liable for any additional costs incurred by the Town as a result of termination of this Agreement.

5. Contractor shall include in each of its subcontracts, if any, the requirements set forth in this Section, including this subparagraph, requiring any and all subcontractors, as defined in Section 448.095(1)(j), Florida Statutes (2022), as maybe amended or revised, to include all of the requirements of this Section in its subcontracts. Contractor shall be responsible for compliance by any and all subcontractors, as defined in Section 448.095(1)(j), Florida Statutes (2022), as maybe amended or revised, with the requirements of Section 448.095, Florida Statutes (2022), as may be amended or revised.

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TOWN

IN WITNESS OF THE FOREGOING, the Parties have set their hands and seals the day and year first written above.

TOWN OF BAY HARBOR ISLANDS, a Florida municipal corporation

By: _____
MARIA LASDAY
Town Manager

Date: _____

ATTEST:

By: _____
YVONNE HAMILTON
Town Clerk

APPROVED AS TO FORM AND LEGAL SUFFICIENCY

By:_____
GREENSPOON MARDER LLP
Town Attorney
By: JOSEPH S. GELLER, ESQ

CONTRACTOR

WITNESSES:

CONTRACTOR.,
a Florida corporation.

_____ By:_____

_____ Print Name:_____
Print Name

Title:_____

ATTEST:

_____

_____
Print Name

By:_____
Secretary

(CORPORATE SEAL)

STATE OF _____:

COUNTY OF _____:

The foregoing instrument was acknowledged before me by means of ❑ physical presence or ❑ online notarization, this _____ day of _____, 2023, by _____, Felix G. Valdes as President , for V Engineering Corp, a Florida Corporation.

_____
(Signature of Notary Public - State of Florida)

_____
(Print, Type, or Stamp Commissioned Name of Notary Public)

Personally Known_____ OR Produced Identification_____
Type of Identification Produced: _____

BID/PROPOSAL CERTIFICATION

Please Note: It is the sole responsibility of the bidder to ensure that his bid is submitted before prior to the bid opening date and time listed. All fields below must be completed. If the field does not apply to you, please note N/A in that field.

If you are a foreign corporation, you may be required to obtain a certificate of authority from the department of state, in accordance with Florida Statute §607.1501 (visit http://www.dos.state.fl.us/).

Company: (Legal Registration) VEngineering Corp. EIN (Optional): 87-3911074

Address: 275 Alhambra Circle Suite 113

City: Coral Gables State: FL Zip: 33134

Telephone No.: 305-342-5568 FAX No.: Email: felix@veccorp.net

---

Check box if your firm qualifies for MBE / SBE / WBE **(section 1.09 of General Conditions)**:

ADDENDUM ACKNOWLEDGEMENT - Proposer acknowledges that the following addenda have been received and are included in the proposal:

Addendum No.	Date Issued	Addendum No.	Date Issued	Addendum No.	Date Issued
1	8/14/23				

The below signatory hereby agrees to furnish the following article(s) or services at the price(s) and terms stated subject to all instructions, conditions, specifications addenda, legal advertisement, and conditions contained in the bid/proposal.

I have read all attachments including the specifications and fully understand what is required. By submitting this signed proposal, I will accept a contract if approved by the City and such acceptance covers all terms, conditions, and specifications of this bid/proposal. The below signatory also hereby agrees, by virtue of submitting or attempting to submit a response, that in no event shall the City's liability for respondent's direct, indirect, incidental, consequential, special or exemplary damages, expenses, or lost profits arising out of this competitive solicitation process, including but not limited to public advertisement, bid conferences, site visits, evaluations, oral presentations, or award proceedings exceed the amount of Five Hundred Dollars ($500.00). This limitation shall not apply to claims arising under any provision of indemnification or the City's protest ordinance contained in this competitive solicitation.

Submitted by:

Felix Valdes
Name (printed)

Signature

8/18/2023
Date

Secretary.
Title

Bid Form

Project Name: Seawall Replacement Project for the Town of Bay Harbor Islands

Project Address: 9600 W. Bay Harbor Dr., Bay Harbor Islands, FL 33154

Project Description

- Demolition:
  - Remove and dispose approximately (75) linear feet of existing seawall cap
  - Remove and dispose of existing partially collapsed concrete dock
  - Remove and dispose of existing concrete dock
  - Remove and dispose of chain link fence
- Installation:
  - Install approximately (75) linear feet of concrete seawall – concrete piles, wall panels and seawall cap
  - Install (1) outfall extension
- Site Restoration:
  - Clean-up and dispose of any/all construction debris, equipment, material, etc.

Basis of Bid

Bidder will complete the Work in accordance with the Plans for the following price(s):

1. General					
Item No.	Description	Unit	Estimated Quantity	Bid Unit Price	Bid Price
1.1	Obtain Building Permit (Does not include City Permit Fees)	LS	1	$ 750.00	$ 750.00
1.2	Mobilization/ Demobilization	LS	1	$ 20,000.00	$ 20,000.00
1.3	Standard Turbidity Containment (As Per Permit Requirements)	LS	1	$ 5,000.00	$ 5,000.00
			Sub Total - General	$ 25,750.00	

2. Demolition					
Item No.	Description	Unit	Estimated Quantity	Bid Unit Price	Bid Price
2.1	Removal & Disposal of Existing Seawall Cap (includes chain link fence attached to cap)	LF	75	$ 250.00	$ 18,750.00
2.2	Removal & Disposal of Existing Partially Collapsed Concrete Dock	LS	1	$ 2,500.00	$ 2,500.00
2.3	Removal & Disposal of Concrete Dock	LS	1	$ 5,000.00	$ 5,000.00
			Sub Total - Demolition		$

3. Construction - Furnish & Install					
Item No.	Description	Unit	Estimated Quantity	Bid Unit Price	Bid Price
3.1	14" Sq. Concrete King Pile (26-ft pile length)	EA	11	$ 5,000.00	$ 55,000.00
3.2	14" Sq. Concrete Batter Pile (26-ft pile length)	EA	10	$ 4,750.00	$ 47,500.00
3.3	Pre-Cast GFRP Reinforced 8" concrete panels with grout and filter fabric at joints	EA	9	$ 4,500.00	$ 40,500.00
3.4	Cast-in-Place GFRP Reinforced 8" concrete panel, at outfall location	EA	1	$ 3,000.00	$ 3,000.00
3.5	Tremie Seal at Seawall Terminations	LS	1	$ 5,000.00	$ 5,000.00
3.6	36" x 24" GFRP Reinforced Concrete cap (includes expansion joints and control joints per drawings)	LF	75	$ 250.00	$ 18,750.00
3.7	Backfill voids with #57 stone	CY	10	$ 125.00	$ 1,250.00
3.8	Rip rap, approx. 1 to 3-foot diameter boulders	CY	19	$ 175.00	$ 3,325.00
3.9	Install Outfall Extension Tideflex® Check Valve or Approved Equivalent	LS	1	$ 2,600.00	$ 2,600.00
			Sub Total - Construction - Furnish & Install		$ 176,925.00

4. Construction - Monitoring					
Item No.	Description	Unit	Estimated Quantity	Bid Unit Price	Bid Price
4.1	Vibration Monitoring (for all days of pile driving)	LS	1	$ 4,000.00	$ 4,000.00
4.2	Pile Installation Logs (blows/ft, pile tip elev., etc.)	LS	1	$ 1,000.00	$ 1,000.00
4.3	Concrete sampling and testing (for each pour, no less than every 50 CY)	LS	1	$ 2,500.00	$ 2,500.00
	Sub Total - Construction - Monitoring			$	7,500.00

5. Post-Construction					
Item No.	Description	Unit	Estimated Quantity	Bid Unit Price	Bid Price
5.1	Site Restoration (Upland debris, materials, etc.)	LS	1	$ 3,600.00	$ 3,600.00
	Sub Total - Post-Construction			$	3,600.00
	Total Bid			$	240,025.00

6. Payment & Performance Bond					
Item No.	Description	Unit	Estimated Quantity	Bid Unit Price	Bid Price
6.1	Payment & Performance Bond 3 %	LS	1	$ 7,200.00	$ 7,200.00
	Sub Total - Payment & Performance Bond			$	7,200.00

BID TOTAL shall include all labor, materials, equipment, overhead, profit, insurance, taxes and contingencies to complete the Project as per Plans entitled *"Seawall Replacement Project for the Town of Bay Harbor Islands"*. Bidder acknowledges estimated quantities are not guaranteed and are solely for the purpose of comparison of Bids. Any revisions to the Plans subsequent to Bid submittal which constitute a Bid adjustment will be negotiated and agreed upon with the selected Contractor. Should an acceptable price adjustment not be agreeable to either party, an alternate Contractor may be selected.

Bidder Acknowledgement: FV
Initials

Time of Completion

Mobilization to the site after issuance of City Building Permit: 30 Days
Calendar Days

Substantial Completion of the Work after mobilization to the site: 60 Days
Calendar Days

Final Completion of the Work after mobilization to the site: 81 Days.
Calendar Days

Subcontractors

Bidder shall use the following subcontractors to complete the Work as applicable. Bidder shall specify which components the listed Subcontractor will be responsible for:

1. South Boat Lifts

2.

3.

Provide 3 samples of Recent Projects and References of Similar Scope and Magnitude (include project, name of the project manager or contact person, phone number, email address, and cost of the project.

1. 245 Atlantic Blvd. Key Largo, FL.
65 LF of Seawall Replacement $187,000.00
Maylene Cruz.

2. 508 Caribbean Dr. Key Largo, FL.
55 LF of Seawall Repairs
Lazaro Gimenez

3. 136 Palermo Dr. Islamorada, FL. 33036
55 LF of Seawall Replacement $147,500.00
Ernesto Ruiz

ANTI-KICKBACK AFFIDAVIT

STATE OF FLORIDA)
)
COUNTY OF Dade)

I, the undersigned, hereby duly sworn and deposed say that no portion of this sum herein Bid will be paid to any employees of the Town of Bay Harbor Islands or its elected officials as a commission, kickback, reward or gift, directly or indirectly by me or any member of my firm or by an officer of the corporation.

By: _____

Title: Secretary

The foregoing instrument was acknowledged before me this 18 day of, 2023, by Felix Valdes [name of person], as Secretary [type of authority], for V Engineering [name of party on behalf of whom instrument was executed].

AFFIX NOTARY STAMP HERE:

Notary Public State of Florida
Felix R Clavelo Lopez
My Commission HH 320488
Expires 10/10/2026

_____
Notary Public – State of Florida

Felix Clavelo
Print or Type Commissioned Name

Personally Known V OR Produced Identification _____ Type of Identification Produced _____





E-VERIFY AFFIRMATION STATEMENT

RFQ/Bid /Contract No: ITB-5-1009-PW-O-2023/FVR

Project Description: Seawall Replacement Project BC-163

Contractor/Proposer/Bidder acknowledges and agrees to utilize the U.S. Department of Homeland Security's E- Verify System to verify the employment eligibility of,

(a) all persons employed by Contractor/Proposer/Bidder to perform employment duties within Florida during the term of the Contract, and,

(b) all persons (including subcontractors/vendors) assigned by Contractor/Proposer/Bidder to perform work pursuant to the Contract.

The Contractor/Proposer/Bidder acknowledges and agrees that use of the U.S. Department of Homeland Security's E-Verify System during the term of the Contract is a condition of the Contract.

Contractor/Proposer/ Bidder Company Name: V Engineering Corp.

Authorized Company Person's Signature:

Authorized Company Person's Title: Secretary

Date: 8/18/2023

E-Verify

E-VERIFY IS A SERVICE OF DHS AND SSA

Company ID Number: 2214197

Approved by:

Employer	
V ENGINEERING CORP.	
Name (Please Type or Print) FELIX VALDES	**Title**
Signature Electronically Signed	**Date** 07/20/2023
Department of Homeland Security – Verification Division	
Name (Please Type or Print) USCIS Verification Division	**Title**
Signature Electronically Signed	**Date** 07/20/2023

DISPUTE DISCLOSURE FORM

Answer the following questions by placing a "X" after "Yes" or "No". If you answer "Yes", please explain in the space provided, or on a separate sheet attached to this form.

1. Has your firm or any of its officers, received a reprimand of any nature or been suspended by the Department of Professional Regulations or any other regulatory agency or professional associations within the last five (5) years?

YES _____ NO V

2. Has your firm, or any member of your firm, been declared in default, terminated or removed from a contract or job related to the services your firm provides in the regular course of business within the last five (5) years?

YES _____ NO V

3. Has your firm had against it or filed any requests for equitable adjustment, contract claims, Bid protests, or litigation in the past five (5) years that is related to the services your firm provides in the regular course of business?

YES _____ NO V If yes, state the nature of the request for equitable adjustment, contract claim, litigation, or protest, and state a brief description of the case, the outcome or status of the suit and the monetary amounts of extended contract time involved.

I hereby certify that all statements made are true and agree and understand that any misstatement or misrepresentation of falsification of facts shall be cause for forfeiture of rights for further consideration of this Bid for the Town of Bay Harbor Islands.

V Engineering Corp.
Firm

8/18/2023
Date

Authorized Signature

Felix Valdes / Secretary
Print or Type Name and Title

NON-COLLUSION STATEMENT

By signing this offer, the vendor/contractor certifies that this offer is made independently and free from collusion. Vendor shall disclose below any Town of Bay Harbor Islands, FL officer or employee, or any relative of any such officer or employee who is an officer or director of, or has a material interest in, the vendor's business, who is in a position to influence this procurement. Any Town of Bay Harbor Islands, FL officer or employee who has any input into the writing of specifications or requirements, solicitation of offers, decision to award, evaluation of offers, or any other activity pertinent to this procurement is presumed, for purposes hereof, to be in a position to influence this procurement. For purposes hereof, a person has a material interest if they directly or indirectly own more than 5 percent of the total assets or capital stock of any business entity, or if they otherwise stand to personally gain if the contract is awarded to this vendor.

Town employees may not contract with the Town through any corporation or business entity in which they or their immediate family members hold a controlling financial interest (e.g. ownership of five (5) percent or more). Immediate family members (spouse, parents and children) are also prohibited from contracting with the Town subject to the same general rules. Failure of a vendor to disclose any relationship described herein shall be reason for debarment.

Name	Relationships
N/A	N/A

In the event the vendor does not indicate any names, the Town shall interpret this to mean that the vendor has indicated that no such relationships exist.

Town of Bay Harbor islands
9665 Bay Harbor Terrace
(305) 866-6241

ITB-5-1009-PW-0-2023/FVR

Seawall Replacement Project BC-163

ADDENDUM NO. 1

ISSUED: August 14, 2023

This Addendum is being issued to provide the following information. It is hereby made a part of the Plans and Specifications and shall be included with all contract documents.

1. Miami -Dade General Engineering Contractor license and Marine Contractor license will be approved for this project.

2. Questions:

Dear sirs, Is there 19 CY of rip-rap on site to use?

All the contractors that are pending to place a proposal for this contract must estimate all quantities or estimates of quantities are responsibility of the bidders. In specific reference to this item identified as 3.8 in the basis of bid it shows to be " Rip rap, approx. 1 to 3-foot of diameter boulders for the estimated amount of 19 CY." This only an estimate for comparison purposes.

Good morning, On plans its shows existing upland concrete to remain, at meeting they said it was to be demolished. does it stay or go?

Is new cap same EL as adjacent property bulkhead cap?

The construction documents on CM-1.4, demolition plan; detail A and detail B clearly indicate and specify the demolition to be performed.

ADDENDUM #1

Good Afternoon, Just one more question, Its shows on plans #6 bars for the stirrups, could this be a typo? the biggest bar they will bend is a #5

The stirrups bar size is not a typo. The proposed reinforced concrete design consists of GFRP bars; noted on General Notes - sheet 2 of 8. Per the AASHTO design manual, bends are allowed for up to #10 bars during manufacturing – field bending or straightening is not permitted. It is possible the contractor is assuming the proposed design is for steel reinforcement, otherwise please provide the GFRP manufacturer the contractor is proposing to use

Can the Bidder use a Miami Dade County General Engineering License as per the following Miami Dade County Code?

A Miami -Dade General Engineering Contractor is authorized to contract for, and take out permits for the work authorized by the scope of the general contractor license for this contract."

Dear Sirs, Good afternoon.

a)Are there any surveys required. (As-Built)?

b)Is contractor responsible to replace electrical?

c)Is contractor responsible to replace plumbing?

d)Is parking lot going to be replaced? And is it ok to drive heavy equipment on existing lot?

e)Is a Marine Contractor license OK for this project?

a)This is part of the specifications general conditions and is addressed in GC – 18.

b)This is part of the specifications general conditions and is addressed in GC – 20.

c)This is part of the specifications general conditions and is addressed in GC – 20.

d)This is addressed in the plans general note 1.3.

e)A contractor with a valid Marine Contractor License is authorized to contract and to take out permits for the work authorized by the scope of the for this contract.

Fausto Vargas
Procurement Officer

Company Name:_____
(please print)

Bidder's Signature: _____

Date:_____

TOWN OF BAY HARBOR ISLANDS
CONTRACT AND SPECIFICATIONS PACKAGE

PROJECT NO. BC-163

SEAWALL REPLACEMENT

FAUSTO VARGAS
PROCUREMENT OFFICER
Telephone: (786) 202-6012 E-mail: fvargasreyes@bayharborislands-fl.gov

INVITATION TO BID

Sealed bids will be received until **3:00 p.m.**, local time, on **Friday, August 18, 2023,** and opened immediately thereafter in the Town Clerk's Office, City Hall, 9665 Bay Harbor Terrace, Town of Bay Harbor Islands, Florida 33154, for **BID NO., ITB-5-1009-PW-0-2023/FVR, Seawall Replacement.**

This Project is located at 9600 W. Bay Harbor Drive in the Town of Bay Harbor Islands. The work includes, but is not limited to, Remove and dispose approximately (75) linear feet of existing seawall cap and Installing approximately (75) linear feet of concrete seawall – concrete piles, wall panels and seawall cap.

Drawing Plans: This Project consists of 8 sheets. Drawing plans may be obtained **free of charge** at DEMANDSTAR.COM.

Licensing Requirements: Possession of a General Contractor Licensed in the State of Florida is required for this Project.

NOTE: Payment on this contract will be made by Check

Pre-Bid Meeting/Site visit: A pre-bid meeting and/or site visit will be held on Wednesday, August 2, 2023 9:00 am, local time, at 9600 W. Bay Harbor Dr., Bay Harbor Islands, Florida 33154.

While attendance is not mandatory, it is strongly suggested that all contractors attend the pre-proposal conference. It will be the sole responsibility of the bidder to inspect the City's location and become familiar with the scope of the City's requirements and systems before submitting a proposal. No variation in price or conditions shall be permitted based upon a claim of ignorance. Submission of a proposal will be considered evidence that the proposer has familiarized himself with the nature and extent of the work, equipment, materials, and labor required.

However, it will be the sole responsibility of the bidder to inspect the City's location(s)/facilities and become familiar with the scope of the City's requirements and systems before submitting a proposal. No variation in price or conditions shall be permitted based upon a claim of ignorance. Submission of a proposal will be considered evidence that the proposer has familiarized himself with the nature and extent of the work, equipment, materials, and labor required.

Bid Security: A certified check, cashier's check, bank officer's check or bid bond for **FIVE** percent **(5%)** of the bid amount, made payable to the Town of Bay Harbor Islands, Florida, shall accompany each offer.

Bid Bonds:

Bidders can submit bid bonds for projects in **two** different ways.

1) Bidders can **hand deliver** their bid bond in a sealed envelope to the Finance Department, Procurement 9665 Bay Harbor Terrace, Town of Bay Harbor Islands, Florida 33154, before time of bid opening, with the company name, bid number and title clearly indicated on the envelope.

2) Bidders can **mail** their bid bond to the Finance Department, Procurement Services, 9665 Bay Harbor Terrace, Town of Bay Harbor Islands, Florida

33154, before time of bid opening, with the company name, bid number and title clearly indicated on the envelope. NOTE: Bond must be received at the time stamped before bid opening.

It will be the sole responsibility of the bidder to ensure that his bid is submitted before the bid opening date and time listed.

Certified Checks, Cashier's Checks and Bank Drafts:
These **CANNOT** be submitted via DEMANDSTAR, nor are their images allowed to be uploaded and submitted with your electronic bid. These forms of securities, as well as hard copy bid bonds, must be received on or before the Invitation to Bid (ITB) opening date and time, at the Town Clerk's Office, 9665 Bay Harbor Terrace, Bay Harbor Islands, Florida 33154, with the bid number and title clearly indicated on the envelope.

It is the bidder's sole responsibility to ensure that the Town Clerk's Office receives his bid bond or other bid security before the time of bid opening. Failure to adhere to this requirement may be grounds to consider the bid non-responsive.

The Town of Bay Harbor Islands reserves the right to waive any informality in any or all bids and to reject any or all bids. For all inquiries or questions of a material nature must be received prior to the cut-off date specified in the solicitation. Material changes, if any, to the scope of services or bidding procedures, will only be transmitted by written addendum. (See addendum section of DEMANDSTAR Site). concerning this RFQ, questions, and requests for additional information shall be sent via email to:

Attn: Fausto Vargas, Procurement Officer
9665 Bay Harbor Terrace, Town of Bay Harbor Islands, FL 33154
Phone: (305) 455-7108
E-mail: fvargasreyes@bayharborislands-fl.gov

No part of your bid can be submitted via FAX. No variation in price or conditions shall be permitted based upon a claim of ignorance. Submission of a bid will be considered evidence that the bidder has familiarized himself with the nature and extent of the work, equipment, materials, and labor required. The entire bid response must be submitted in accordance with all specifications contained in this solicitation.

NOTE: This project will follow and apply Davis Bacon Act.

a. This section applies to all construction contracts in excess of $2,000.
b. In accordance with the requirements of the Davis Bacon Act (40 U.S.C. §§ 3141-3144 and 3146-3148) as supplemented by Department of Labor regulations at 29 C.F.R. Part 5 (Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction), the contractor shall pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, the contractor shall pay wages not less than once a week.
c. Award of this contract to the contractor is conditioned upon the contractor's acceptance of the current prevailing wage determination issued by the Department of Labor as provided in the solicitation for this contract.

INSTRUCTIONS TO BIDDERS

The following instructions are given for the purpose of guiding bidders in properly preparing their bids or proposals. These directions have equal force and weight with the specifications, and strict compliance is required with all of these provisions.

QUALIFICATIONS OF BIDDERS – No proposal will be accepted from, nor will any contract be awarded to, any person who is in arrears to the Town of Bay Harbor Islands, upon any debt or contract, or who has defaulted, as surety or otherwise, upon any obligation to the Town, or who is deemed irresponsible or unreliable by the Town Commission of Bay Harbor Islands.

CONCERNING SUB-CONTRACTORS, SUPPLIERS, AND OTHERS - The amount of work that is sublet by the Bidder shall be limited by the condition that the Bidder shall, with his own organization, perform at least forty percent (40%) of the total dollar amount of the Work to be performed under the Agreement.

PERSONAL INVESTIGATION - Bidders shall satisfy themselves by personal investigation, and by such other means as they may think necessary or desirable, as to the conditions affecting the proposed work and the cost. No information derived from maps, plans, specifications, or from the Engineer, Town Manager, or their assistants shall relieve the Contractor from any risk or from fulfilling all terms of the contract.

INCONSISTENCIES – Any seeming inconsistency between different provisions of the plans, specifications, proposal or contract, or any point requiring explanation must be inquired by the bidder, in writing, at least ten (10) days prior to the time set for opening proposals. After proposals are opened, the bidders shall abide by the decision of the Engineer as to such interpretation.

ADDENDA AND INTERPRETATIONS - No interpretations of the meaning of the plans, specifications or other contract documents will be made orally to any bidder. Prospective bidders must request such interpretation in writing as instructed in the bid package. To be considered, such request must be received by the Questions and Answers deadline as indicated in DEMANDSTAR.COM. Material changes, if any, to the scope of services or bidding procedures will only be transmitted by written addendum. **It is the bidder's responsibility to verify if addenda have been issued in DEMANDSTAR.COM.** Failure of any bidder to receive any such addenda or interpretation shall not relieve any bidder from any obligation under his bid as submitted. All addenda so issued shall become a part of the contract document. **Bidder** shall verify **in DEMANDSTAR.COM** that he has all addenda before submitting a bid.

LEGAL CONDITIONS - Bidders are notified to familiarize themselves with the provisions of the laws of the State of Florida relating to hours of labor on municipal work, and with the provisions of the laws of the State of Florida and the Charter and the ordinances of the Town of Town of Bay Harbor Islands.

PUBLIC ENTITY CRIMES - A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid on a contract to provide any goods or services to a public entity, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids on leases of real property to a public entity, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity, and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017, Florida Statutes, for Category Two for a period of thirty-six (36) months from the date of being placed on the convicted vendor list.

FORMS OF PROPOSALS - Each proposal and its accompanying statements must be made on the blanks provided. THE FORMS MUST BE SUBMITTED WITH THE BID, and must show the name of the bidder and a statement as to its contents.

The proposal must be signed by one duly authorized to do so, and in case signed by a deputy or subordinate, the principal's properly written authority to such deputy or subordinate must accompany the proposal. No proposal will be accepted, for any reason whatsoever, which is not submitted to the Town as stated above, within the specified time.

INSURANCE - Contractor shall provide and shall require all of its sub-contractors to provide, pay for, and maintain in force at all times during the term of the Agreement, such insurance, including Property Insurance (Builder's Risk), Commercial General Liability Insurance, Business Automobile Liability Insurance, Workers' Compensation Insurance, Employer's Liability Insurance, and Umbrella/Excess Liability, as stated below. Such policy or policies shall be issued by companies authorized to do business in the State of Florida and having agents upon whom service of process may be made in the State of Florida.

BID BOND - A certified check, cashier's check or bank officer's check made payable to the Town of Bay Harbor Islands, or a bid bond in favor of the Town of Bay Harbor Islands shall accompany each bid as evidence of the good faith and responsibility of the bidder. The amount of the check or bond shall be retained by the Town as liquidated damages in the event the bidder whose bid is accepted refuses to or fails to enter into a contract for the execution of the work solicited in this Invitation to Bid.

The bid bond or check shall be a guarantee that the successful bidder will promptly execute a contract satisfactory to the Town for the work solicited in this Invitation to Bid and furnish good and sufficient bonds.

Following the full execution of a contract for the work solicited in this Invitation to Bid and the successful bidder's provision of good and sufficient bonds, in the event bid security was provided by check, the amount of the bid security accompanying the successful bidder's bid will be refunded to the successful bidder, or in the event bid security was provided by a bond, the bond accompanying the successful bidder's bid will be returned to the successful bidder. In the event the successful bidder fails to enter into, execute, and deliver a contract and furnish the required bonds within ten (10) days after the Town provides notice to the successful bidder to deliver the executed contract and the required bonds, the bid bond shall immediately be payable to the Town of Town of Bay Harbor Islands or in the case of a check, the Town shall retain the amount of the check, as liquidated damages. The Town's retention of such amount shall not be construed as a penalty or for feature.

FILLING IN BIDS - All prices must be submitted in the proposal pages, and all proposals must fully cover all items for which proposals are asked and no other. Where more than one person is interested, it is required that all persons interested or their legal representative make all verification and subscribe to the proposal.

PRICES QUOTED: Deduct any discount offered and quote firm net unit prices. In the case of a discrepancy in computing the amount of the bid, the unit price quoted will govern. All prices quoted shall be F.O.B. destination, freight prepaid (Bidder pays and bears freight charges, Bidder owns goods in transit and files any claims), unless otherwise stated in Special Conditions. Each item must be bid separately. No attempt shall be made to tie any item or items contained in the ITB with any other business with the Town.

BIDS FIRM FOR ACCEPTANCE: Bidder warrants, by virtue of bidding, that his bid and the prices quoted in his bid will be firm for acceptance by the Town for a period of one hundred and twenty (120) days from the date of bid opening unless otherwise stated in the ITB. The Town shall award contract within this time period or shall request to the recommended awarded vendor an extension to hold pricing, until products/services have been awarded.

ADDITIONAL ITEMS OR SERVICES: The Town may require additional items or services of a similar nature, but not specifically listed in the contract. The Contractor agrees to provide such items or services, and shall provide the Town prices on such additional items or services. If the price(s) offered are not acceptable to the Town, and the situation cannot be resolved to the satisfaction of the Town, the Town reserves the right to procure those items or services from other vendors, or to cancel the contract upon giving the Contractor thirty (30) days written notice.

DELETION OR MODIFICATION OF SERVICES: The Town reserves the right to delete any portion of the Contract at any time without cause, and if such right is exercised by the Town, the total fee shall be reduced in the same ratio as the estimated cost of the work deleted bears to the estimated cost of the work originally planned. If work has already been accomplished on the portion of the Contract to be deleted, the Contractor shall be paid for the deleted portion on the basis of the estimated percentage of completion of such portion.

If the Contractor and the Town agree on modifications or revisions to the task elements, after the Town has approved work to begin on a particular task or project, and a budget has been established for that task or project, the Contractor will submit a revised budget to the Town for approval prior to proceeding with the work.

CANCELLATION FOR UNAPPROPRIATED FUNDS**:** The obligation of the Town for payment to a Contractor is limited to the availability of funds appropriated in a current fiscal period, and continuation of the contract into a subsequent fiscal period is subject to appropriation of funds, unless otherwise authorized by law.

CAUSES FOR REJECTION - No proposal will be canvassed, considered or accepted which, in the opinion of the Town Commission, is informal or unbalanced, or contains inadequate or unreasonable prices for any items; each item must carry its own proportion of the cost as nearly as is practicable. Any alteration, erasure, interlineation, or failure to specify bids for all items called for in the schedule shall render the proposal informal.

REJECTION OF BIDS - The Town reserves the right to reject any bid if the evidence submitted by the bidder, or if the investigation of such bidder, fails to satisfy the Town that such bidder is properly qualified to carry out the obligations and to complete the work contemplated. Any or all proposals will be rejected, if there is reason to believe that collusion exists among bidders. A proposal will be considered irregular and may be rejected, if it shows serious omissions, alterations in form, additions not called for, conditions or unauthorized alternates, or irregularities of any kind. The Town reserves the right to reject any or all proposals and to waive such technical errors as may be deemed best for the interests of the Town.

BID PROTEST PROCEDURE: Any proposer or bidder who is not recommended for award of a contract and who alleges a failure by the Town to follow the Town's procurement ordinance or any applicable law may protest to the Procurement Division by delivering a letter of protest within five (5) days after a Notice of Intent to award is posted on the Town's website

WITHDRAWALS - Any bidder may, without prejudice to himself, withdraw his proposal at any time prior to the expiration of the time during which proposals may be submitted. Such request for withdrawal must be in writing and signed in the same manner and by the same person who signed the proposal. After expiration of the period for receiving proposals, no proposal can be withdrawn, modified, or explained.

CONTRACT - The bidder to whom award is made shall execute a written contract to do the work and maintain the same in good repair until final acceptance by the proper authorities, and shall furnish good and sufficient bonds as specified within ten (10) days after receiving such contract for execution. If the bidder to whom the first award is made fails to enter into a contract as provided, the award may be annulled and the contract let to the next lowest bidder who is reliable, responsible, and responsive in the opinion of the Town Commission, and that bidder shall fulfill every stipulation and obligation as if such bidder were the original party to whom award was made.

The contract shall provide that the Contractor agrees to correct any defective or faulty work or material, which may appear within one (1) year after completion of the work and receipt of final payment.

ENFORCEMENT OF SPECIFICATIONS - Copies of the specifications will be placed in the hands of all the assistants to the Engineer and Inspectors employed on the Work, who shall enforce each and every requirement of the contract. Such assistants shall have no authority to vary from such requirements.

DRAWING PLANS - Drawing plans may be obtained **free of charge** at DEMANDSTAR.COM.

SURETY BOND – The Contractor shall execute and record in the public records of Dade County, Florida, a payment and performance bond in an amount at least equal to the Contract Price with a surety insurer authorized to do business in the State of Florida as surety, ("Bond"), in accordance with Section 255.05, Florida Statutes (2021), as may be amended or revised, as security for the faithful performance and payment of all of the Contractor's obligations under the Contract Documents.

The successful bidder shall furnish a performance and payment bond in compliance with Section 255.05, Florida Statutes (2021), written by a Corporate Surety company, holding a Certificate of Authority from the Secretary of the Treasury of the United States as acceptable sureties on federal bonds, in an amount equal to the total amount payable by the terms of the contract, executed and issued by a Resident Agent licensed by and having an office in the State of Florida, representing such Corporate Surety, conditioned for the due and faithful performance of the work, and providing in addition to all other conditions, that if the Contractor, or his or its subcontractors, fail to duly pay for any labor, materials, or other supplies used or consumed by such Contractor, or his or its subcontractor or subcontractors, in performance of the work contracted to be done, the Surety will pay the same in the amount not exceeding the sum provided in such bonds, together with interest at the rate of fifteen percent (15%) per annum, and that they shall indemnify and hold harmless the Town of Bay Harbor Islands to the extent of any and all payments in connection with carrying out of the contract, which the Town may be required to make under the law.The Contractor is required at all times to have a valid surety bond in force covering the work being performed. A failure to have such bond in force at any time shall constitute a default on the part of the Contractor. A bond written by a surety, which becomes disqualified to do business in the

State of Florida, shall automatically constitute a failure on the part of the Contractor to meet the above requirements.

Such bond shall continue in effect for one (1) year after completion and acceptance of the work with liability equal to at least twenty-five percent (25%) of contract price, or an additional bond shall be conditioned that the Contractor will correct any defective or faulty work or material which appear within one (1) year after completion of the contract, upon notification by the Town, except in contracts which are concerned solely with demolition work, in which cases twenty-five percent (25%) liability will not be applicable.

AUDIT OF CONTRACTOR'S RECORDS - Upon execution of the Contract, the Town reserves the right to conduct any necessary audit of the Contractor's records. Such an audit, or audits, may be conducted by the Town or its representatives at any time prior to final payment, or thereafter, for a period up to three (3) years. The Town may also require submittal of the records from either the Contractor, the Subcontractor, or both. For the purpose of this Section, records shall include all books of account, supporting documents and papers deemed necessary by the Town to assure compliance with the contract provisions.

Failure of the Contractor or Subcontractor to comply with these requirements may result in disqualification or suspension from bidding for future contracts or disapproval as a Subcontractor at the option of the Town.

The Contractor shall assure that each of its Subcontractors will provide access to its records pertaining to the project upon request by the Town.

PERIODIC ESTIMATE FOR PARTIAL PAYMENT - After the Contractor has submitted a periodic estimate for partial payment, approved and certified by the Public Works Department, the Town shall make payment in the manner provided in the Contract Documents and in accordance with Florida's Prompt Payment Act, Section 218, Florida Statutes.

RESERVATION FOR AWARD AND REJECTION OF BIDS - The Town reserves the right to accept or reject any or all bids, part of bids, and to waive minor irregularities or variations to specifications contained in bids, and minor irregularities in the bidding process. The Town also reserves the right to award the contract on a split order basis, lump sum basis, individual item basis, or such combination as shall best serve the interest of the Town. The Town reserves the right to make an award to the responsive and responsible bidder whose product or service meets the terms, conditions, and specifications of the ITB and whose bid is considered to best serve the Town's interest. In determining the responsiveness of the offer and the responsibility of the Bidder, the following shall be considered when applicable: the ability, capacity and skill of the Bidder to perform as required; whether the Bidder can perform promptly, or within the time specified, without delay or interference; the character, integrity, reputation, judgment, experience and efficiency of the Bidder; the quality of past performance by the Bidder; the previous and existing compliance by the Bidder with related laws and ordinances; the sufficiency of the Bidder's financial resources; the availability, quality and adaptability of the Bidder's supplies or services to the required use; the ability of the Bidder to provide future maintenance, service or parts; the number and scope of conditions attached to the bid.

DEBARRED OR SUSPENDED BIDDERS OR PROPOSERS - The bidder or proposer certifies, by submission of a response to this solicitation, that neither it nor its principals and subcontractors are presently debarred or suspended by any Federal department or agency.

GENERAL CONDITIONS

GC - 01 - DEFINITIONS - The following words and expressions, or pronouns used in their stead, shall wherever they appear in the Contract and the Contract Documents, be construed as follows:

"Addendum" or "Addenda" - shall mean the additional Contract provisions issued in writing, by the Engineer, prior to the receipt of bids.

"Bid" – shall mean the offer or proposal of the Bidder submitted on the prescribed form setting forth the prices for the Work to be performed.

"Bidder" – shall mean any person, firm, company, corporation or entity submitting a bid for the Work.

"Bonds" –shall mean bid, performance and payment bonds and other instruments of security, furnished by Contractor and his surety in accordance with the Contract Documents.

"Consultant" – shall mean a person, firm, company, corporation or other entity employed by the Town to perform the professional services for the project.

“Contractor” – shall mean the successful Bidder who has been employed by the Town to perform the construction and related services for the project.

“Contract Work” - shall mean everything expressed or implied to be required to be furnished and furnished by the Contractor by any one or more of the parts of the Contract Documents referred to in the Contract hereof. In the case of any inconsistency in or between any parts of this Contract, the Project Manager shall determine which shall prevail.

“Design Documents” – shall mean the construction plans and specifications included as part of a Bid/Proposal Solicitation prepared either by the Town or by the Consultant under a separate Agreement with the Town.

“Engineer” - shall include the terms “professional engineer” and “licensed engineer” and means a person who is licensed to engage in the practice of engineering under Florida Statute, Chapter 471. An Engineer may be a Town employee or a consultant hired by the Town.

"Extra Work" - shall mean work other than that required by the Contract.

"Inspector" – shall mean an authorized representative of the Town assigned to make necessary inspections of materials furnished by Contractor and of the Work performed by Contractor.

"Notice" - shall mean written notice sent by certified United States mail, return receipt requested, or sent by commercial express carrier with acknowledgement of delivery, or via fax or email, or by hand delivery with a request for a written receipt of acknowledgment of delivery and shall be served upon the Contractor either personally or to its place of business listed in the Bid.

“Owner” - shall mean the Town of Bay Harbor Islands.

“Project Manager” - shall mean a professional designated by the Town to manage the Project under the supervision and direction of the Public Works Director or designee.

"Public Works Director" – shall mean the Public Works Director of the Town of Bay Harbor Islands.

"Site" - shall mean the area upon or in which the Contractor's operations are carried out and such other areas adjacent thereto as may be designated as such by the Project Manager.

"Sub-contractor" - shall mean any person, firm, company, corporation or other entity, other than employees of the Contractor, who or which contracts with the contractor, to furnish, or actually furnishes labor and materials, or labor and equipment, or labor, materials and equipment at the site.

"Surety" - shall mean any corporation or entity that executes, as Surety, the Contractor's performance and payment bond securing the performance of this Contract.

“Town” – shall mean the Town of Bay Harbor Islands, Florida, a Florida municipal corporation. In the event the Town exercises its regulatory authority as a government body, the exercise of such regulatory authority and the enforcement of any rules, regulations, codes, laws and ordinances shall be deemed to have occurred pursuant to Town’s authority as a governmental body and shall not be attributable in any manner to the Town as a party to this Contract.

GC - 02 - SITE INVESTIGATION AND REPRESENTATION - The Contractor acknowledges that it has satisfied itself as to the nature and location of the Work under the Contract Documents, the general and local conditions of the Site, particularly those bearing upon availability of transportation, disposal, handling and storage of materials, availability of labor, water, electric power, and roads, field conditions, the type of equipment and facilities needed preliminary to and during the prosecution of the Work and all other matters which can in any way affect the Work or the cost thereof under the Contract Documents.

The Contractor acknowledges that it has conducted extensive tests, examinations and investigations and represents and warrants a thorough familiarization with the nature and extent of the Contract Documents, the Work, locality, soil conditions, moisture conditions and all year-round local weather and climate conditions (past and present), and, in reliance on such tests, examination and investigations conducted by Contractor and the Contractor’s experts, has determined that no conditions exist that would in any manner affect the Bid Price and that the project can be completed for the Bid Price submitted.

Any failure by the Contractor to acquaint itself with all the Site conditions shall not relieve Contractor from responsibility for properly estimating the difficulty or cost thereof under the Contract Documents.

GC - 03 - SUBSTITUTIONS - If the Contractor desires to use materials and/or products of manufacturer's names different from those specified in the Contract Documents, the Bidder requesting the substitution shall make written application as described herein. The burden of proving the equality of the proposed substitution rests on the Contractor making the request. To be acceptable, the proposed substitution shall meet or exceed all expressed requirements of the Contract Documents and shall be submitted upon the Contractor's letterhead. The following requirements shall be met in order for the substitution to be considered:

1. Requests for substitution shall be accompanied by such technical data, as the party making the request desires to submit. The Project Manager will consider reports from reputable independent testing laboratories, verified experience records from previous users and other written information valid in the circumstances; and

2. Requests for substitution shall completely and clearly indicate in what respects the materials and/or products differ from those indicated in the Contract Documents; and

3. Requests for substitution shall be accompanied by the manufacturer's printed recommendations clearly describing the installation, use and care, as applicable, of the proposed substitutions; and

4. Requests for substitution shall be accompanied by a complete schedule of changes in the Contract Documents, if any, which must be made to permit the use of the proposed substitution.

If a proposed substitution is approved by the Project Manager, an addendum will be issued to prospective bidders not less than three (3) working days prior to the date set for opening of bids. Unless substitutions are received and approved as described above, the successful Bidder shall be responsible for furnishing materials and products in strict accordance with the Contract Documents.

GC- 04 – CONSTRUCTION RESOURCES – Contractor shall provide all labor and equipment necessary to complete the installation within a timely manner. Contractor shall provide details as to manpower and equipment to be dedicated to the project in its Work Plan. Contractor is responsible for making arrangements, obtaining and purchasing construction water services if required to complete the work.

GC - 05 - CONTROL OF THE WORK - The Project Manager shall have full control and direction of the Work in all respects. The Project Manager and/or his authorized designee(s) shall, at all times, have the right to inspect the Work and materials. The Contractor shall furnish all reasonable facilities for obtaining such information, as the Project Manager may desire respecting the quality of the Work and materials and the manner of conducting the Work. Should the Contractor be permitted to perform night Work, or to vary the period which work is ordinarily carried on in the daytime, he shall give ample notice to the Project Manager so that proper and adequate inspection may be provided. Such Work shall be done only under such regulations as are furnished in writing by the Project Manager, and no extra compensation shall be allowed to the Contractor therefore. In the event of night work, the Contractor shall furnish such light, satisfactory to the Project Manager, as will ensure proper inspection. Nothing herein contained shall relieve the Contractor from compliance with any and all Town ordinances relating to noise or Work during prohibited hours.

GC - 06 - SUB-CONTRACTOR - The Contractor shall not sublet, in whole or any part of the Work without the written consent and approval of the Project Manager. Within ten (10) days after official notification of starting date, the Contractor must submit in writing, to the Project Manager, a list of all Sub-contractors. No Work shall be done by any sub-contractor until such Sub-contractor has been officially approved by the Project Manager. A sub-contractor not appearing on the original list will not be approved without written request submitted to the Project Manager and approved by the Public Works Director. In all cases, the Contractor shall give his personal attention to the Work of the Sub-contractors and the Sub-contractor is liable to be discharged by the Contractor, at the direction of the Project Manager, for neglect of duty, incompetence or misconduct.

Acceptance of any sub-contractor, other person, or organization by the Project Manager shall not constitute a waiver of any right of Project Manager to reject defective Work or Work not in conformance with the Contract Documents.

Contractor shall be fully responsible for all acts and omissions of its Sub-contractors and of persons and organizations directly or indirectly employed by them and of persons and organizations for whose acts any of them may be liable to the same extent that he is responsible for the acts and omissions of persons directly employed by him. Nothing in the Contract Documents shall create any contractual relationship between Town and any sub-contractor or other person or organization having a direct contract with Contractor, nor shall it create any obligation on the part of Town to pay or to see to the payment of any moneys due to any sub-contractor or other person, or organization, except as may otherwise be required by law.

GC - 07 - QUANTITIES - Contractor recognizes and agrees that the quantities shown on plans and Bid/Price Schedule are estimates only and may vary during actual construction. No change shall be made involving any departure from the general scheme of the Work and that no such change involving a material change in cost, either to the Town or Contractor, shall be made, except upon written permission of the Town. However, the Project Manager shall have the right to make minor alternations in the line, grade, plan, form or materials of the Work herein contemplated any time before the completion of the same. That if such alterations shall diminish the quantity of the Work to be done, such alterations shall not constitute a claim for damages or anticipated profits. That if such alterations increase the amount of the Work to be done, such increase shall be paid for according to the quantity actually performed and at the unit price or prices stipulated therefore in the Contract. The Town shall, in all cases of dispute, determine the amount or quantity of the several kinds of Work which are to be paid for under this Contract, and shall decide all questions relative to the execution of the same, and such estimates and decisions shall be final and binding.

Any Work not herein specified, which might be fairly implied as included in the Contract, of which the Town shall judge, shall be done by the Contractor without extra charge. However, such cost increases shall be authorized either by the Public Works Director or designee, or the Town Commission based upon the purchasing threshold amounts.

GC - 08 - NO ORAL CHANGES - Except to the extent expressly set forth in the Contract, no change in, or modification, termination or discharge of the Contract in any form whatsoever, shall be valid or enforceable unless it is in writing and signed by the parties charged, therewith or their duly authorized representative.

GC - 09 - PERMITS AND PROTECTION OF PUBLIC – Permits on file with the Town and/or those permits to be obtained by the Contractor, shall be considered directive in nature, and will be considered a part of this Contract. A copy of all permits shall be given to the Town and become part of the Contract Documents. Terms of permits shall be met prior to acceptance of the Work and release of the final payment.

Contractor shall secure all permits and licenses required for completing the Project. Contractor will obtain the necessary State, County, and Town construction/work permits if required.

The Contractor shall comply with all applicable Codes, Standards, Specifications, etc. related to all aspects of the Project.

Where there are telephones, light or power poles, water mains, conduits, pipes or drains or other construction, either public or private, in or on the streets or alleys, the Work shall be so conducted that no interruption or delay will be caused in the operation or use of the same. Proper written notice shall be given to all affected parties prior to proceeding with the Work.

The Contractor shall not be permitted to interfere with public travel and convenience by grading or tearing up streets indiscriminately, but the Work of constructing the various items in this contract shall proceed in an orderly, systematic and progressive manner.

GC - 10 - DISEASE REGULATIONS - The Contractor shall enforce all sanitary regulations and take all precautions against infectious diseases as the Project Manager may deem necessary. Should any infectious or contagious diseases occur among his employees, he shall arrange for the immediate removal of the employee from the Site and isolation of all persons connected with the Work.

GC - 11 - CONTRACTOR TO CHECK PLANS, SPECIFICATIONS, AND DATA - The Contractor shall verify all dimensions, quantities, and details shown on the plans, supplementary drawings, schedules, and shall notify the Project Manager of all errors, omissions, conflicts and discrepancies found therein within three (3) working days of discovery. Failure to discover or correct errors, conflictions, or discrepancies shall not relieve the Contractor of full responsibility for unsatisfactory Work, faulty construction, or improper operation resulting therefrom nor from rectifying such condition at its own expense.

GC - 12 - MATERIALS AND WORKMANSHIP - All material shall be new and the workmanship shall, in every respect, be in conformity with approved modern practice and with prevailing standards of performance and quality. In the event of a dispute, the Project Manager's decision shall be final. Wherever the Plans, Specifications, Contract Documents, or the directions of the Project Manager are unclear as to what is permissible and/or fail to note the quality of any Work, that interpretation will be made by the Project Manager, which is in accordance with approved modern practice, to meet the particular requirements of the Contract.

GC - 13 - SAFEGUARDING MARKS - The Contractor shall safeguard all points, stakes, grade marks, monuments, and benchmarks made or established on the Work, bear the cost of re-establishing same if disturbed, or bear the entire expense of rectifying Work improperly installed due to not maintaining or protecting or for removing without authorization, such established points, stakes and marks. The Contractor shall safeguard all existing and known property corners, monuments and marks not related to the Work and, if required, shall bear the cost of having them re-established by a licensed Professional surveyor registered in the State of Florida if disturbed or destroyed during the course of construction.

GC - 14 - RESTROOM FACILITIES - Contractor shall provide portable toilet facilities for employee's use at a location within the Work site to be determined by the Town.

GC - 15 - PROGRESS MEETINGS - Weekly Status meetings will be conducted with representatives from the Town and the Contractor. Contractor shall budget time to participate in such meetings. A well-run Project should result in short meetings.

GC - 16 - ISSUE RESOLUTION - Should Contractor become engaged in a dispute with a resident or a Town employee, the Contractor shall report the situation to the Project Manager immediately. It shall be mandatory that the Town participate in any dispute resolution. Failure of Contractor personnel to notify the Town shall obligate Contractor to replace the offending employee immediately if requested by the Town.

GC - 17 - TOWN SECURITY-CONTRACTOR AND SUBCONTRACTOR EMPLOYEE INFORMATION - Prior to commencing work, Contractor shall provide to the Town a list of all personnel and sub-contractors on site. The list will include the name, address, birth date and driver's license number for all personnel. All personnel and subcontractors on site will have on their person a company photo ID during all stages of the construction. Contractor shall provide standard required personal information per current Town procedures.

GC - 18 - POST-CONSTRUCTION SURVEY - The Contractor shall provide as-built survey, sealed and signed by a registered surveyor in the State of Florida, as a condition of final payment.

GC – 19 - KEY PERSONNEL - Contractor shall provide as part of the Work Plan, resumes for all key project personnel providing supervision and project management functions. Resumes shall include work history and years of experience performing this type of work.

GC - 20 - EXISTING UTILITY SERVICE - All existing utility service shall be maintained with a minimum of interruption at the expense of the Contractor.

GC - 21 - ACCIDENTS - The Contractor shall provide such equipment and facilities as are necessary and/or required, in the case of accidents, for first aide services to be provided to a person who may be injured during the project duration. The Contractor shall also comply with the OSHA requirements as defined in the United States Labor Code 29 CFR 1926.50.

In addition, the Contractor must report immediately to the Project Manager every accident to persons or damage to property, and shall furnish in writing full information, including testimony of witnesses regarding any and all accidents.

GC - 22 - SAFETY PRECAUTIONS - Contractor must adhere to the applicable environmental protection guidelines for the duration of a project. If hazardous waste materials are used, detected or generated at any time, the Project Manager must be immediately notified of each and every occurrence. The Contractor shall comply with all codes, ordinances, rules, orders and other legal requirements of public authorities (including OSHA, EPA, DERM, the Town, Dade County, State of Florida, and Florida Building Code), which bear on the performance of the Work.

The Contractor shall take the responsibility to ensure that all Work is performed using adequate safeguards, including but not limited to: proper safe rigging, safety nets, fencing, scaffolding, barricades, chain link fencing, railings, barricades, steel plates, safety lights, and ladders that are necessary for the protection of its employees, as well as the public and Town employees. All riggings and scaffolding shall be constructed with good sound materials, of adequate dimensions for their intended use, and substantially braced, tied or secured to ensure absolute safety for those required to use it, as well as those in the vicinity. All riggings, scaffolding, platforms, equipment guards, trenching, shoring, ladders and similar actions or equipment shall be OSHA approved, as applicable, and in accordance with all Federal, State and local regulations.

GC - 23 - DUST PREVENTION - The Contractor shall, by means of a water spray, or temporary asphalt pavement, take all necessary precautions to prevent or abate a dust nuisance arising from dry weather or Work in an incomplete stage. All costs of this Work shall be included in the cost of other parts of the Work.

Should the Contractor fail to abate a dust nuisance the Project Manager may stop the Work until the issue is resolved to the Town’s satisfaction.

GC - 24 - SITE CLEANUP AND RESTORATION – The Contractor shall remove all debris and unused or discarded materials from the work site daily. Contractor shall clean the work site to remove all directional drilling "Driller's Mud" materials. No "Driller's Mud" residue shall be allowed to remain in the soil or on the surface of the land or vegetation. All debris and drilling materials must be disposed of offsite at an approved location.

The Contractor shall promptly restore all areas disturbed that are outside the Project limits in equal or better condition at no additional cost to the Town.

GC - 25 - COURTEOUS BEHAVIOR AND RESPECT FOR RESIDENTS AND PROPERTY – The Contractor and its employees, associates and sub-contractors shall maintain courteous behavior at all times and not engage in yelling, loud music, or other such activities. Contractor's employees shall not leave trash or other discarded items at the Work Site, especially on any private property. In the event complaints arise, Contractor shall immediately remove such offending employees from the project if requested to do so by the Project Manager. Contractor's employees shall not trespass on any private property unless necessary to complete the work but with prior permission from the owner.

Contractor shall notify and obtain permission from the residents 24 hours in advance when planning to work within the resident's property. In addition, Contractor shall notify the resident prior to entering their property to perform work or inspect/investigate the work site. Contractor shall not block residents' driveways unnecessarily. Contractor shall not park equipment on landscaped areas when the vehicle is not needed for the current construction activities. Contractor shall be responsible for repair and/or replacement of all damaged landscaping within 48 hours including repairing vehicle wheel impressions, irrigation systems, lighting systems, structures, or any other items of resident's property. Contractor shall not destroy, damage, remove, or otherwise negatively impact any landscaping within or outside the right-of-way without prior approval from the Project Manager.

GC - 26 - PLACING BARRICADES AND WARNING LIGHTS - The Contractor shall furnish and place, at Contractor's own expense, all barricades, warning lights, automatic blinker lights and such devices necessary to properly protect the work and vehicular and pedestrian traffic. Should the Contractor fail to erect or maintain such barricades, warning lights, etc., the Project Manager may, after 24 hours' notice to the Contractor, proceed to have such barricades and warning lights placed and maintained by Town or other forces and all costs incurred thereof charged to the Contractor and may be retained by the Town from any monies due, or to become due, to the Contractor.

GC - 27 - TRAFFIC CONTROL - The Contractor shall coordinate all Work and obtain, through the Town's Engineering Department,, as applicable, any permits required to detour traffic or close any street before starting to work in the road.

All traffic control devices, flashing lights, signs and barricades shall be maintained in working condition at all times and conform to Manual of Uniform Traffic Control Devices (MUTCD), latest edition.

GC - 28 - COORDINATION - The Contractor shall notify all utilities, Engeering department, etc., in writing, with a copy to the Project Manager before construction is started and shall coordinate its Work with them. The Contractor shall cooperate with the owners of any underground or overhead utility lines in their removal, construction and rearrangement operations in order that services rendered by these parties will not be unnecessarily interrupted.

The Contractor shall arrange its Work and dispose of its materials so as to not interfere with the operation of other contractors engaged upon adjacent work, and to join its Work to that of others in a proper manner, and to perform its Work in the proper sequence in relation to that of other contractors as may be directed by the Project Manager.

Each Contractor shall be responsible for any damage done by it or its agents to the work performed by another contractor.

SPECIAL CONDITIONS

01. PURPOSE

The Town of Bay Harbor Islands, Florida (Town) is seeking bids from qualified bidders, for construction services in accordance with the terms, conditions, and specifications contained in this Invitation To Bid (ITB).

02. DEMANDSTAR

The Town uses Demandstar (www.demandstar.com.) to distribute and receive bids and proposals. There is no charge to vendors/contractors to register and participate in the solicitation process, nor will any fees be charged to the awarded contractor.

03. SUBMISSION OF BIDS

The Town of Bay Harbor Islands uses Demandstar (www.Demandstar.com) to administer the competitive solicitation process, including but not limited to soliciting proposals and issuing addenda. There is no charge to register and download the ITB from Demandstar. Bidders are strongly encouraged to read the various vendor Guides and Tutorials available in Demandstar well in advance of their intention of submitting a proposal to ensure familiarity with the use of Demandstar. The Town shall not be responsible for a Bidder's inability to submit a Proposal by the end date and time for any reason, including issues arising from the use of Demandstar.

Sealed responses shall be delivered during the Town's normal business hours in a sealed envelope and addressed to the Town of Bay Harbor Islands Clerk's Office, 9665 Bay Harbor Terrace, Town of Bay Harbor Islands, FL 33154 (Town Hall) no later than **Friday August 18, 2023**, at **3:00 p.m EST** (the deadline), at which time and place the responses will be publicly opened and the names of the firms will be read. After the deadline, responses will not be accepted. Firms are responsible for making certain that their proposal is received at the location specified by the due date and time. The Town of Town of Bay Harbor Islands is not responsible for delays caused by any mail, package or courier service, including the U.S. mail, or caused by any other occurrence or condition. The Town's normal business hours are Monday through Friday, 9:00 a.m. through 5:00p.m. excluding holidays observed by the Town.

All bids will be opened by the Town Clerk's Office.

04. INFORMATION OR CLARIFICATION

For information concerning procedures for responding to this solicitation, contact **Fausto Vargas Procurement Officer**, at (786) 202-6012 or email at fvargasreyes@bayharborislands-fl.gov. Such contact shall be for clarification purposes only.

For information concerning technical specifications please utilize the Question/Answer platform provided by Demandstar at www.demandstar.com. Questions of a material nature must be received prior to the cut-off date specified in the solicitation. Material changes, if any, to the scope of services or bidding procedures will only be transmitted by

written addendum. (See addendum section of Demandstar site). **Bidders please note**: No part of your bid can be submitted via FAX. No variation in price or conditions shall be permitted based upon a claim of ignorance. Submission of a bid will be considered evidence that the bidder has familiarized himself with the nature and extent of the work, and the equipment, materials, and labor required. The entire bid response must be submitted in accordance with all specifications contained in this solicitation. The questions and answers submitted in Demandstar shall become part of any contract that is created from this ITB.

05. CONTRACT TIME

5.1 The Contractor recognizes that TIME IS OF THE ESSENCE. The Work shall commence within 30 calendar days of the date of the Notice to Proceed.

5.2 The Work shall be Substantially Completed within 60 calendar days after the date when the Contract Time commences to run as provided in the Notice to Proceed.

5.3 The Work shall be finally completed on the Final Completion Date and ready for final payment in accordance with this Agreement within 81 calendar days after the date when the Contract Time commences to run as provided in the Notice to Proceed.

06. BID SECURITY

A certified check, cashier's check, bank officer's check or bid bond for **FIVE percent (5%)** of the bid amount, made payable to the Town of Bay Harbor Islands, shall accompany each offer.

07. REQUIRED LICENSES/CERTIFICATIONS

Contractor must possess the following licenses/certifications to be considered for award:

General Contractor Licensed in the State of Florida

Note: Contractor must have proper licensing and shall submit evidence of same with its bid response.

08. SPECIFIC EXPERIENCE REQUIRED

The following expertise is required to be considered for this Contract. Specific references attesting to this expertise must be submitted with the bid response.

The contractor shall have at least five (5) years previous construction experience in constructing additions/modifications to existing public buildings in the State of Florida. Bidder shall submit proof of construction experience for a minimum of three (3) projects

of similar scope and scale (or larger) and shall, for each project listed, identify location; dates of construction; project name and overall scope; scope of work that was self-performed by Contractor; and client's name, address, telephone number and e-mail address.

By signing this bid solicitation, contractor is affirming that this expertise will be provided for this Contract at no additional charge.

9. INSURANCE REQUIREMENTS *(See Article 10, Bonds and Insurance, of the Contract for details)*

INSURANCE

As a condition precedent to the effectiveness of this Agreement, during the term of this Agreement and during any renewal or extension term of this Agreement, the Contractor, at its sole expense, shall provide insurance of such types and with such terms and limits as noted below. Providing proof of and maintaining adequate insurance coverage are material obligations of the Contractor. The Contractor shall provide the Town a certificate of insurance evidencing such coverage. The Contractor's insurance coverage shall be primary insurance for all applicable policies. The limits of coverage under each policy maintained by the Contractor shall not be interpreted as limiting the Contractor's liability and obligations under this Agreement. All insurance policies shall be through insurers authorized or eligible to write policies in the State of Florida and possess an A.M. Best rating of A-, VII or better, subject to approval by the Town's Risk Manager.

The coverages, limits, and/or endorsements required herein protect the interests of the Town, and these coverages, limits, and/or endorsements shall in no way be relied upon by the Contractor for assessing the extent or determining appropriate types and limits of coverage to protect the Contractor against any loss exposures, whether as a result of this Agreement or otherwise. The requirements contained herein, as well as the Town's review or acknowledgement, are not intended to and shall not in any manner limit or qualify the liabilities and obligations assumed by the Contractor under this Agreement.

The following insurance policies and coverages are required:

Commercial General Liability
Coverage must be afforded under a Commercial General Liability policy with limits not less than:
-$2,000,000 each occurrence and $2,000,000 aggregate for Bodily Injury, Property Damage, and Personal and Advertising Injury
-$2,000,000 each occurrence and $2,000,000 aggregate for Products and Completed Operations

Policy must include coverage for contractual liability and independent contractors.

The Town, a Florida municipal corporation, its officials, employees, and volunteers are to be covered as an additional insured with a CG 20 26 04 13 Additional Insured – Designated Person or Organization Endorsement or similar endorsement providing equal or broader Additional Insured Coverage with respect to liability arising out of activities

performed by or on behalf of the Contractor. The coverage shall contain no special limitation on the scope of protection afforded to the Town, its officials, employees, and volunteers.

Business Automobile Liability

Coverage must be afforded for all Owned, Hired, Scheduled, and Non-Owned vehicles for Bodily Injury and Property Damage in an amount not less than $1,000,000 combined single limit each accident.

If the Contractor does not own vehicles, the Contractor shall maintain coverage for Hired and Non-Owned Auto Liability, which may be satisfied by way of endorsement to the Commercial General Liability policy or separate Business Auto Liability policy.

Workers' Compensation and Employer's Liability

Coverage must be afforded per Chapter 440, Florida Statutes. Any person or entity performing work for or on behalf of the Town must provide Workers' Compensation insurance. Exceptions and exemptions will be allowed by the Town's Risk Manager, if they are in accordance with Florida Statute.

The Contractor waives, and the Contractor shall ensure that the Contractor's insurance carrier waives, all subrogation rights against the Town, its officials, employees, and volunteers for all losses or damages. The Town requires the policy to be endorsed with WC 00 03 13 Waiver of our Right to Recover from Others or equivalent.

The Contractor must be in compliance with all applicable State and federal workers' compensation laws, including the U.S. Longshore Harbor Workers' Act and the Jones Act, if applicable.

Insurance Certificate Requirements

a. The Contractor shall provide the Town with valid Certificates of Insurance (binders are unacceptable) no later than ten (10) days prior to the start of work contemplated in this Agreement.

b. The Contractor shall provide to the Town a Certificate of Insurance having a thirty (30) day notice of cancellation; ten (10) days' notice if cancellation is for nonpayment of premium.

c. In the event that the insurer is unable to accommodate the cancellation notice requirement, it shall be the responsibility of the Contractor to provide the proper notice. Such notification will be in writing by registered mail, return receipt requested, and addressed to the certificate holder.

d. In the event the Agreement term or any surviving obligation of the Contractor following expiration or early termination of the Agreement goes beyond the expiration date of the insurance policy, the Contractor shall provide the Town with an updated Certificate of Insurance no later than ten (10) days prior to the expiration of the insurance currently in effect. The Town reserves the right to suspend the Agreement until this requirement is met.

e. The Certificate of Insurance shall indicate whether coverage is provided under a claims-made or occurrence form. If any coverage is provided on a claims-made form, the Certificate of Insurance must show a retroactive date, which shall be the effective date of the initial contract or prior.

f. The Town shall be named as an Additional Insured on all liability policies, with the exception of Workers' Compensation.

g. The Town shall be granted a Waiver of Subrogation on the Contractor's Workers' Compensation insurance policy.
h. The title of the Agreement, Bid/Contract number, event dates, or other identifying reference must be listed on the Certificate of Insurance.

Watercraft Liability
Coverage must be afforded in an amount not less than $1,000,000 per occurrence and must cover the utilization of watercraft, including Bodily Injury and Property Damage arising out of ownership, maintenance, or use of any watercraft, including owned, non-owned, and hired.

Coverage may be provided in the form of an endorsement to the Commercial General Liability policy, or in the form of a separate policy covering Watercraft Liability or Protection and Indemnity for Bodily Injury and Property Damage.

The Certificate Holder should read as follows:
Town of Bay Harbor Islands
9665 Bay Harbor Terrace
Bay Harbor Islands, FL 33154

The Contractor has the sole responsibility for all insurance premiums and shall be fully and solely responsible for any costs or expenses as a result of a coverage deductible, co-insurance penalty, or self-insured retention; including any loss not covered because of the operation of such deductible, co-insurance penalty, self-insured retention, or coverage exclusion or limitation. Any costs for adding the Town as an Additional Insured shall be at the Contractor's expense.

If the Contractor's primary insurance policy/policies do not meet the minimum requirements, as set forth in this Agreement, the Contractor may provide evidence of an Umbrella/Excess insurance policy to comply with this requirement.

The Contractor's insurance coverage shall be primary insurance as respects to the Town, a Florida municipal corporation, its officials, employees, and volunteers. Any insurance or self-insurance maintained by the Town, a Florida municipal corporation, its officials, employees, or volunteers shall be non-contributory.

Any exclusion or provision in any insurance policy maintained by the Contractor that excludes coverage required in this Agreement shall be deemed unacceptable and shall be considered breach of contract.

All required insurance policies must be maintained until the contract work has been accepted by the Town, or until this Agreement is terminated, whichever is later. Any lapse in coverage shall be considered breach of contract. In addition, Contractor must provide to the Town confirmation of coverage renewal via an updated certificate should any policies expire prior to the expiration of this Agreement. The Town reserves the right to review, at any time, coverage forms and limits of Contractor's insurance policies.

The Contractor shall provide notice of any and all claims, accidents, and any other occurrences associated with this Agreement to the Contractor's insurance company or companies and the Town's Risk Management office, as soon as practical.

It is the Contractor's responsibility to ensure that any and all of the Contractor's independent contractors and subcontractors comply with these insurance requirements. All coverages for independent contractors and subcontractors shall be subject to all of the applicable requirements stated herein. Any and all deficiencies are the responsibility of the Contractor.

NOTE: TOWN PROJECT NUMBER, PROJECT NAME AND BID NUMBER MUST APPEAR ON EACH CERTIFICATE, AND THE TOWN OF BAY HARBOR ISLANDS MUST BE NAMED ON THE CERTIFICATE AS AN "ADDITIONAL INSURED" ON REQUIRED LIABILITY POLICIES.

A Sample Insurance Certificate shall be included with the proposal to demonstrate the firm's ability to comply with insurance requirements. Provide a previous certificate or other evidence listing the insurance companies' names for all required coverage, and the dollar amounts of the coverage.

10. PERFORMANCE AND PAYMENT BOND: 100%

11. TOWN PROJECT MANAGER

The Town hereby designates the Project Manager as Rodney Carrero-Santana P.E whose address is 9665 Bay Harbor Terrace, Town of Bay Harbor Islands, Florida 33154, telephone number: (305)455-7275, and e-mail address is rcarrerosantana@bayharborislands-fl.gov The Project Manager will assume all duties and responsibilities and will have the rights and authorities assigned to the Project Manager in the Contract Documents in connection with the completion of the Work in accordance with this Agreement.

12. LIQUIDATED DAMAGES

Upon failure of the Contractor to complete the Work within the time specified for completion, the Contractor shall pay to the Town the sum of **One Thousand Dollars ($1000.00)** for each and every calendar day that the completion of the Work is delayed beyond the time specified in this Agreement for completion, as fixed and agreed liquidated damages and not as a penalty, so long as the Contractor causes the delay.

13. PAYMENT

Payment on this Contract will be made by check.

14. WORK SCHEDULE (including overtime hours):
Regular work hours: **9:00 am to 5:00 pm, Monday through Friday.**
Town Inspector Hours: **9:00 am to 4:30 pm, Monday through Friday.**
Any inspection requested by the contractor outside those hours will be considered overtime to be paid by the Contractor.

15. INSPECTION OVERTIME COST: $150/hr.

TOWN OF BAY HARBOR ISLANDS
CONSTRUCTION AGREEMENT

THIS Agreement made and entered into this _____ day of _____, 20 , by and between the Town of Bay Harbor Islands, a Florida municipal corporation ("Town") and _____, a Florida company/corporation ("Contractor"), ("Party" or collectively "Parties");

WHEREAS, the Town desires to retain a contractor for the Project as expressed in its Invitation to Bid No. _____, Project Number _____, which was opened on _____; and

WHEREAS, the Contractor has expressed its willingness and capability to perform the necessary work to accomplish the Project;

NOW, THEREFORE, the Town and the Contractor, in consideration of the mutual covenants and conditions contained herein and for other good and valuable consideration, the receipt and sufficiency is hereby acknowledged, agree as follows:

ARTICLE 1 – DEFINITIONS

Whenever used in this Agreement or in other Contract Documents, the following terms have the meanings indicated which are applicable to both the singular and plural forms:

1.1 Agreement – This written Agreement between the Town and the Contractor covering the work to be performed including other Contract Documents that are attached to or incorporated in the Agreement.

1.2 Application for Payment – The form accepted by the Town which is to be used by the Contractor in requesting progress or final payment and which is to include such supporting documentation as is required by the Contract Documents.

1.3 Approve – The word approve is defined to mean review of the material, equipment or methods for general compliance with design concepts and with the information given in the Contract Documents. It does not imply a responsibility on the part of the Town to verify in every detail conformance with plans and specifications.

1.4 Bid – The offer or Bid of the Contractor submitted on the prescribed form setting forth the total prices for the Work to be performed.

1.5 Bid Documents – Advertisement for Invitation to Bids, the Instructions to Bidders, the Bid Form (with supplemental affidavits and sample agreements), the Contract Forms, General Conditions, the Supplementary Conditions, the Specifications, and the Plans, which documents all become an integral part of the Contract Documents.

1.6 Certificate of Substantial Completion - Certificate provided by the Town certifying that all Work, excluding the punch list items, has been completed, inspected, and accepted by the Town.

SAMPLE AGREEMENT

1.7 Change Order - A written document executed by both Parties ordering a change in the Contract Price or Contract Time or a material change in the Work.

1.8 Town – The Town of Bay Harbor Islands, Florida, including but not limited to its employees, agents, officials, representatives, contractors, subcontractors, volunteers, successors and assigns, with whom the Contractor has entered into the Agreement and for whom the Work is to be provided.

1.9 Contract Documents – The Contract Documents shall consist of this Agreement, Exhibits to this Agreement, Public Construction Bond, Performance Bond, Payment Bond and Certificates of Insurance, Notice of Award and Notice to Proceed, General Conditions, Special Conditions, Technical Specifications, Plans/Drawings, Addenda, Bid Form and supplement Affidavits and Agreements, all applicable provisions of State and Federal Law and any modification, including Change Orders or written amendments duly delivered after execution of Agreement, Invitation to Bid, Instructions to Bidders and Bid Bond, Contractor's response to the Town's Invitation to Bid, Schedule of Completion, Schedule of Values, all amendments, modifications and supplements, work directive changes issued on or after the Effective Date of the Agreement, as well as any additional documents that are required to be submitted under the Agreement.

Permits on file with the Town and/or those permits to be obtained shall be considered directive in nature and will be considered a part of this Agreement. A copy of all permits shall be given to the Town for inclusion in the Contract Documents. Terms of permits shall be met prior to acceptance of the Work and release of the final payment.

1.10 Contract Price – The amount established in the bid submittal and award by the Town's Town Commission, as may be amended by Change Order.

1.11 Contract Time – The number of calendar days stated in the Agreement for the completion of the Work. The dates on which the work shall be started and shall be completed as stated in the Notice to Proceed.

1.12 Contractor – The person, firm, company, or corporation with whom the Town has entered into the Agreement, including but not limited to its employees, agents, representatives, contractors, subcontractors, their subcontractors and their other successors and assigns.

1.13 Day – A calendar day of twenty-four (24) hours ending at midnight.

1.14 Defective – When modifying the word "Work" refers to work that is unsatisfactory, faulty, or deficient, or does not conform to the Contract Documents or does not meet the requirements of any inspection, test or approval referred to in the Contract Documents, or has been damaged prior to the Project Manager's recommendation of final payment.

1.15 Effective Date of the Agreement – The effective date of the Agreement shall be the date the Town Commission approves the work.

1.16 Final Completion Date – The date the Work is completed, including completion of the final punch list, and delivered along with those items specified in the Contract Documents and is accepted by the Town.

SAMPLE AGREEMENT

1.17 Hazardous Materials (HAZMAT) - Any solid, liquid, or gaseous material that is toxic, flammable, radioactive, corrosive, chemically reactive, or unstable upon prolonged storage in quantities that could pose a threat to life, property, or the environment defined in Section 101(14) of Comprehensive Environmental Response, Compensation and Liability Act of 1980 and in 40 CFR 300.6. Also defined by 49 CFR 171.8 as a substance or material designated by the Secretary of Transportation to be capable of posing an unreasonable risk to health, safety, and property when transported in commerce and which has been so designated.

1.18 Hazardous Substance - As defined by Section 101(14) of the Comprehensive Environmental Response, Compensation and Liability Act; any substance designated pursuant to Section 311(b) (2) (A) of the Clean Water Act; any element, compound, mixture, solution or substance designated pursuant to Section 102 identified under or listed pursuant to Section 3001 of the Solid Waste Disposal Act {but not including any waste listed under Section 307[a] of the Clean Water Act}; any hazardous air pollutant listed under Section 112 of the Clean Air Act; and any imminently hazardous chemical substance or mixture pursuant to Section 7 of the Toxic Substances Control Act. The term does not include petroleum, including crude oil or any fraction thereof, which is not otherwise specifically listed or designated as a hazardous substance in the first sentence of this paragraph, and the term does not include natural gas, natural gas liquids, liquefied natural gas, or synthetic gas usable for fuel (or mixtures of natural gas and such synthetic gas).

1.19 Hazardous Waste - Those solid wastes designated by OSHA in accordance with 40 CFR 261 due to the properties of ignitability, corrosivity, reactivity, or toxiTown. Any material that is subject to the Hazardous Waste Manifest requirements of the EPA specified in 40 CFR Part 262.

1.20 Holidays - Those designated non-workdays as established by the Town Commission of the Town of Bay Harbor Islands.

1.21 Inspection – The term “inspection” and the act of inspecting as used in this Agreement is defined to mean the examination of construction to ensure that it conforms to the design concept expressed in the plans and specifications. This term shall not be construed to mean supervision, superintending and/or overseeing.

1.22 Notice of Award - The written notice by Town to the Contractor stating that upon compliance by the Contractor with the condition’s precedent enumerated therein, within the time specified that the Town will sign and deliver this Agreement.

1.23 Notice to Proceed – A written notice to Contractor authorizing the commencement of the activities identified in the notice or as described in the Contract Documents.

1.24 Plans - The official graphic representations of this Project that are a part of the Contract Documents.

1.25 Premises (otherwise known as Site or Work Site) – means the land, buildings, facilities, etc. upon which the Work is to be performed.

1.26 Project – The construction project described in the Contract Documents, including the Work described therein.

SAMPLE AGREEMENT

1.27 Project Manager - The employee of the Town, or other designated individual who is herein referred to as the Project Manager, will assume all duties and responsibilities and will have the rights and authorities assigned to the Project Manager in the Contract Documents in connection with completion of the Work in accordance with this Agreement. The Project Manager, or designee, shall be the authorized agent for the Town unless otherwise specified.

1.28 Punch List - The Town's list of Work yet to be done or be corrected by the Contractor, before the Final Completion date can be determined by the Town.

1.29 Record Documents - A complete set of all specifications, drawings, addenda, modifications, shop drawings, submittals and samples annotated to show all changes made during the construction process.

1.30 Record Drawings or "As-Builts" - A set of drawings which show significant changes in the work made during construction and which are usually based on drawings marked up in the field and other data furnished by the Contractor. These documents will be signed and sealed by a Professional Engineer, or a Professional Land Surveyor licensed in the State of Florida and employed by the Contractor at no cost to the Town.

1.31 Substantially Completed Date – A date when written notice is provided by the Town to the Contractor stating that the Work is substantially completed. If, at the time of inspection, it is determined the project is substantially completed, the Town will also issue a letter of Substantial Completion along with a punch list of incomplete or deficient items to be completed prior to requesting a Final Completion inspection.

1.32 Work – The construction and services required by the Contract Documents, whether completed or partially completed, and includes all labor, materials, equipment, and services provided or to be provided by Contractor to fulfill Contractor's obligations. The Work may constitute the whole or a part of the Project.

ARTICLE 2 – SCOPE OF WORK

2.1 The Contractor shall complete all Work as specified or indicated in the Contract Documents. The Project for which the Work under the Contract Documents may be the whole or only part is generally described as follows:

PROJECT NAME
ITB # PROJECT #

2.2 All Work for the Project shall be constructed in accordance with the approved plans and Specifications. The Work generally involves:

PROJECT DESCRIPTION

[Need brief description of project (provided by the Dept.) including but not limited to:

- **Location**
- **Components**

SAMPLE AGREEMENT

- **Intent**

And DELETE this note before placing in Bid Documents]

2.3 Within ten (10) days of the execution of this Agreement, the Contractor shall submit a Construction Schedule, Schedule of Values and a listing of all personnel employed. The general sequence of the Work shall be submitted by the Contractor and approved by the Town before any work commences. The Town reserves the right to issue construction directives necessary to facilitate the Work or to minimize any conflict with operations.

ARTICLE 3 – PROJECT MANAGER

3.1 The Project Manager is hereby designated by the Town as _____, whose address is 9665 Bay Harbor Terrace, Bay Harbor Islands, FL 33154, telephone number: _____, and email address is _____@bayharborislands-fl.gov. The Project Manager will assume all duties and responsibilities and will have the rights and authorities assigned to the Project Manager in the Contract Documents in connection with completion of the Work in accordance with this Agreement.

ARTICLE 4 – CONTRACT DOCUMENTS

The Contract Documents, which comprise the entire Agreement between the Town and Contractor, are incorporated herein and attached to this Agreement, and consist of the following:

4.1 This Agreement.

4.2 Exhibits to this Agreement: (Plans sheets [ ] to [ ] inclusive).

4.3 Public Construction Bond, Performance Bond, Payment Bond and Certificates of Insurance.

4.4 Notice of Award and Notice to Proceed.

4.5 General Conditions and Special Conditions.

4.6 Technical Specifications.

4.7 Plans/Drawings.

4.8 Addenda number _____ through _____, inclusive.

4.9 Bid Form and supplement Affidavits and Agreements.

4.10 All applicable provisions of State and Federal Law.

4.11 Invitation to Bid No. _____, Instructions to Bidders, and Bid Bond.

4.12 Contractor's response to the Town's Invitation to Bid No. _____, dated _____.

SAMPLE AGREEMENT

4.13 Schedule of Completion.

4.14 All amendments, modifications and supplements, change orders and work directive changes, issued on or after the Effective Date of the Agreement.

4.15 Any additional documents that are required to be submitted under the Agreement.

4.16 Permits on file with the Town and or those permits to be obtained shall be considered directive in nature and will be considered a part of this Agreement.

In the event of any conflict between the documents or any ambiguity or missing specification or instruction, the following priority is established:

a. Approved change orders, addenda or amendments.

b. Specifications and Drawings.

c. Special Conditions.

d. General Conditions.

e. This Agreement dated _____, and any attachments.

f. Invitation to Bid No. _____, and the specifications prepared by the Town.

g. Contractor's response to the Town's Invitation to Bid No. _____, dated _____.

h. Schedule of Values.

i. Schedule of Completion.

If during the performance of the Work, Contractor finds a conflict, error or discrepancy in the Contract Documents, Contractor shall so report to the Project Manager, in writing, within five (5) calendar days, and before proceeding with the Work affected shall obtain a written interpretation or clarification from the Town.

Any Work that may reasonably be inferred from the specifications or plans as being required to produce the intended result shall be supplied whether or not it is specifically called for. When words which have a well-known technical or trade meaning are used to describe Work, materials, or equipment, such works shall be interpreted in accordance with such meaning. Reference to standard specifications, manuals or codes of any technical society, organization or associations, or to the code of any governmental authority whether such reference be specific or implied, shall mean the latest standard specification, manual or code in effect as of the Effective Date of this Agreement, except as may be otherwise specifically stated. However, no provision of any referenced standard specification, manual or code (whether or not specifically incorporated by reference in the Contract Documents) shall change the duties and responsibilities of the Town, the Contractor, or any of their agents or employees from those set forth in the Contract Documents.

SAMPLE AGREEMENT

ARTICLE 5 – CONTRACT TIME

5.1 The Contractor recognizes that **TIME IS OF THE ESSENCE**. The Work shall commence within _____ calendar days of the date of the Notice to Proceed.

5.2 The Work shall be Substantially Completed within _____ calendar days after the date when the Contract Time commences to run as provided in the Notice to Proceed.

5.3 The Work shall be finally completed on the Final Completion Date and ready for final payment in accordance with this Agreement within _____ calendar days after the Substantial Completion date.

ARTICLE 6 – CONTRACT PRICE

6.1 Town shall pay Contractor for performance of the Work in accordance with Article 7, subject to additions and deletions by Change Order, as provided for in this Agreement.

6.2 The Parties expressly agree that the Contract Price, which shall not exceed the amount of $_____, constitutes the total maximum compensation payable to Contractor for performing the Work, plus any Work done pursuant to a Change Order. The Contract Price is in accordance with the line items unit prices listed in the Bid. Line items are based on a unit price cost multiplied by a defined quantity. Any additional duties, responsibilities and obligations assigned to or undertaken by Contractor shall be at Contractor's expense without change to the Contract Price.

6.3 The Contract Price constitutes the compensation payable to Contractor for performing the Work plus any Work done pursuant to a Change Order. All duties, responsibilities and obligations assigned to or undertaken by Contractor shall be at Contractor's expense without change in the Contract Price.

ARTICLE 7 – PAYMENT

7.1 Contractor shall submit Applications for Payment in accordance with the Contract Documents. Applications for Payment will be processed by Town as provided for in the General Conditions.

7.2 Progress Payments. Town shall make progress payments on account of the Contract Price on the basis of Contractor's monthly Applications for Payment, which shall be submitted by the Contractor between the first (1st) and the tenth (10th) day after the end of each calendar month for which payment is requested. All progress payments will be made on the basis of the progress of the Work completed.

7.3 Prior to Final Completion, progress payments will be made in an amount equal to ninety-five percent (95%) of the value of Work completed less in each case the aggregate of payments previously made.

SAMPLE AGREEMENT

7.4 Final Payment. Upon final completion of the Work in accordance with the General Conditions, as may be supplemented, the Town shall pay Contractor an amount sufficient to increase total payments to one hundred percent (100%) of the Contract Price. However, not less than five percent (5%) of the Contract Price shall be retained until Record Drawings (as-builts), specifications, addenda, modifications, and shop drawings, including all manufacturers' instructional and parts manuals are delivered to and accepted by the Town.

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

7.5.1 Defective work not remedied.
7.5.2 Claims filed or reasonable evidence indicating probable filing of claims by other parties against Contractor or Town because of Contractor's performance.
7.5.3 Failure of Contractor to make payments properly to subcontractors or for material or labor.
7.5.4 Damage to another contractor not remedied.
7.5.5 Liquidated damages and costs incurred by Consultant for extended construction administration, if applicable.
7.5.6 Failure of Contractor to provide any and all documents required by the Contract Documents.

When the above grounds are removed or resolved satisfactory to the Project Manager, payment shall be made in whole or in part.

7.6 The Town shall make payment to the Contractor in accordance with the Florida Prompt Payment Act, Section 218.70, Florida Statutes (2022), as amended or revised, provided, however, complete and error free pay application is submitted.

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7.7 The Town shall make payment to the Contractor by check.

SAMPLE AGREEMENT

7.8 Payment Card Industry (PCI) Compliance

Contractor agrees to comply with all applicable state, federal and international laws, as well as industry best practices, governing the collection, access, use, disclosure, safeguarding and destruction of Protected Information.

Contractor and/or any subcontractor that handles credit card data must be, and remain, PCI compliant under the current standards and will provide documentation confirming compliance upon request by the Town of Bay Harbor Islands. Failure to produce documentation could result in termination of the contract.

ARTICLE 8 – CONTRACTOR'S REPRESENTATIONS

In order to induce the Town to enter into this Agreement, Contractor makes the following representations upon which the Town has relied:

8.1 Contractor is qualified in the field of public construction and in particular to perform the Work and services set forth in this Agreement.

8.2 Contractor has visited the Work Site, has conducted extensive tests, examinations and investigations and represents and warrants a thorough familiarization with the nature and extent of the Contract Documents, the Work, locality, soil conditions, water table condition, moisture conditions and all year-round local weather and climate conditions (past and present), and examination and investigations conducted by Contractor and the Contractor's experts, has determined that no conditions exist that would in any manner affect the Bid Price and that the project can be completed for the Bid Price submitted within the Contract Time as defined in this Agreement.

Furthermore, Contractor warrants and confirms that it is totally familiar with, understands and obligates Contractor to comply with all federal, state and local laws, ordinances, rules, regulations and all market conditions that affect or may affect the cost and price of materials and labor needed to fulfill all provisions of this Agreement or that in any manner may affect cost, progress or performance of the Work.

8.3 The Contractor has satisfied itself as to the nature and location of the Work under the Contract Documents, the general and local conditions of the Project, particularly those bearing upon availability of transportation, disposal, handling and storage of materials, availability of labor, water, electric power, and roads, the conformation and conditions at the ground based on Town provided reports, the type of equipment and facilities needed preliminary to and during the prosecution of the Work and all other matters which can in any way affect the Work or the cost thereof under the Contract Documents.

8.4 The Contractor has also studied on its own, investigations and tests of subsurface and latent physical conditions at the site or otherwise affecting cost, progress or performance of the Works, and finds and has further determined that no conditions exist that would in any manner affect the Bid Price and that the Project can be completed for the Bid Price submitted.

SAMPLE AGREEMENT

8.5 Contractor has made or caused to be made, examinations, investigations, tests and studies of such reports and related data in addition to those referred to in Paragraphs 8.2, 8.3 and 8.4 above as it deems necessary for the performance of the Work at the Contract Prices, within the Contract Time and in accordance with the other terms and conditions of the Contract Documents; and no additional examinations, investigations, tests, reports or similar data are, or will be, required by Contractor for such purposes.

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

8.7 Contractor has given Town written notice of all conflicts, errors or discrepancies that it has discovered in the Contract Documents and the written resolution by Town is acceptable to the Contractor.

8.8 Labor

8.8.1 The Contractor shall provide competent, suitable qualified personnel to survey and lay out the Work and perform construction as required by the Contract Documents. The Contractor shall at all times maintain good discipline and order at the site.

8.8.2 The Contractor shall, at all times, have a competent superintendent, capable of reading and thoroughly understanding the drawings and specifications, as the Contractor's agent on the Work, who shall, as the Contractor's agent, supervise, direct and otherwise conduct the Work.

8.8.3 The Contractor shall designate the superintendent on the job to the Town, in writing, immediately after receipt of the Notice to Proceed. The Contractor understands and agrees that the superintendent's physical presence on the job site is indispensable to the successful completion of the Work. If the superintendent is frequently absent from the job site, the Project Manager may deliver written notice to the Contractor to stop work or terminate the Agreement in accordance with Article 17.

8.8.4 Where required and necessary, the Contractor shall, at all times, have a certified "competent person" assigned to the job site. The Contractor shall assign personnel to the job site that have successfully completed training programs related to trench safety, confined space work, and maintenance of traffic (MOT). Personnel certified by the International Municipal Signal Associations with Florida Department of Transportation qualifications are required relative to MOT. Any other certifications that may be required by applicable permitting agencies for the Work shall also be complied with by the Contractor. Failure to pursue the Work with the properly certified supervisory staff may result in notice to stop work or terminate the Agreement in accordance with Article 17.

SAMPLE AGREEMENT

8.9 Materials:

8.9.1 The Contractor shall furnish all materials, equipment, labor, transportation, construction equipment and machinery, tools, appliances, fuel, power, light, heat, telephone, water and sanitary facilities and all other facilities and incidentals necessary for the execution, testing, initial operation and completion of Work.

8.9.2 All materials and equipment shall be of good quality and new, except as otherwise provided in the Contract Documents. Suppliers shall be selected and paid by the Contractor; the Town reserves the right to approve all suppliers and materials.

8.10 Work Hours: Except in connection with the safety or protection of persons, or the Work, or property at the site or adjacent thereto, and except as otherwise indicated in the Supplementary Conditions, all work at the site shall be performed during regular working hours between 8 a.m. and 5:00 p.m., Monday through Friday.

Unless approved by the Town in advance, the Contractor will not perform work on Saturday, Sunday or any legal holiday (designated by the Town of Bay Harbor Islands) without the Project Manager's written consent at least seventy-two (72) hours in advance of starting such work. For any overtime inspection required by Town personnel, the Contractor shall pay for the additional charges to the Town with respect to such overtime work. Such additional charges shall be a subsidiary obligation of the Contractor and no extra payment shall be made to the Contractor for overtime work. **It shall be noted that the Town's Inspector work hours are from 8:00 a.m. to 4:30 p.m., Monday through Friday, and any work requiring inspection oversight being performed outside of this timeframe shall be paid for by the Contractor as Inspector overtime at a rate of $100.00 per hour.** The cost to the Contractor to reimburse the Town for overtime inspection is established at direct-labor and overtime costs for each person or inspector required. Incidental overtime costs for engineering, testing and other related services will also be charged to the Contractor at the actual rate accrued.

8.11 Patent Fee and Royalties: The Contractor shall pay all license fees and royalties and assume all costs incident to the use in the performance of the Work or the incorporation in the Work, or any invention, design, process, product or device which is the subject of patent rights or copyrights held by others. The Contractor hereby expressly binds itself to indemnify and hold harmless the Town from all such claims and fees and from any and all suits and action of every name and description that may be brought against Town on account of any such claims, fees, royalties, or costs for any such invention or patent, and from any and all suits or actions that may be brought against said Town for the infringement of any and all patents or patent rights claimed by any person, firm corporation or other entity.

8.12 Permits: The Contractor shall obtain and pay for all permits and licenses. There shall be no allowance for Contractor markup, overhead or profit for permits and licenses.

The Contractor shall pay all government charges which are applicable at the time of opening of bids. It shall be the responsibility of the Contractor to secure and pay for all necessary licenses and permits of a temporary nature necessary for the prosecution of Work.

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8.13 Law and Regulations: The Contractor shall give all notices and comply with all laws, ordinances, rules and regulations applicable to the Work. If the Contractor observes that the specifications or plans are in conflict, the Contractor shall give the Project Manager prompt written notice thereof within five (5) calendar days, and any necessary changes shall be adjusted by any appropriate modifications. If the Contractor performs any work knowing or having reason to know that it is contrary to such laws, ordinances, rules, standards, specifications and regulations, and without such notice to the Project Manager, the Contractor shall bear all costs arising therefrom.

8.14 Taxes: The Contractor shall pay all sales, consumer, use and other similar taxes required to be paid by him in accordance with the laws of the Town of Bay Harbor Islands, County of Dade, and the State of Florida.

8.15 Contractor Use of Premises: The Contractor shall confine construction equipment, the storage of materials and equipment and the operations of workmen to areas permitted by law, ordinances, permits and/or the requirements of the Contract Documents, and shall not unreasonably encumber the premises with construction equipment or other materials or equipment.

The Contractor shall not enter upon private property for any purpose without first securing the permission of the property owner in writing and furnishing the Project Manager with a copy of said permission. This requirement will be strictly enforced, particularly with regard to such vacant properties as may be utilized for storage or staging by the Contractor.

The Contractor shall conduct its work in such a manner as to avoid damage to adjacent private or public property. Any damage to existing structures of work of any kind, including permanent reference markers or property corner markers, or the interruption of a utility service, shall be repaired or restored promptly at no expense to the Town or property owner.

The Contractor will preserve and protect all existing vegetation such as trees, shrubs and grass on or adjacent to the site which do not reasonably interfere with the construction, as determined by the Project Manager. The Contractor will be responsible for repairing or replacing any trees, shrubs, lawns and landscaping that may be damaged due to careless operation of equipment, stockpiling of materials, tracking of grass by equipment or other construction activity. The Contractor will be liable for or will be required to replace or restore at no expense to the Town all properties and areas not protected or preserved as required herein that may be destroyed or damaged.

During the progress of the Work, the Contractor shall keep the premises free from accumulation of waste materials, rubbish and debris resulting from the Work. At the completion of the Work, the Contractor shall remove all waste materials, rubbish and debris from and about the premises as well as all tools, appliances, construction equipment and machinery, and surplus materials and shall leave the site clean and ready for occupancy by the Town. The Contractor shall restore to their original condition those portions of the site not designated for alteration by the Contract Documents at no cost to the Town.

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8.16 Project Coordination: The Contractor shall provide for the complete coordination of the construction effort. This shall include, but not necessarily be limited to, coordination of the following:

8.16.1 Flow of material and equipment from suppliers.
8.16.2 The interrelated work with affected utility companies.
8.16.3 The interrelated work with the Town where tie-ins to existing facilities are required.
8.16.4 The effort of independent testing agencies.
8.16.5 Notice to affected property owners as may be directed by the Project Manager.
8.16.6 Coordination with and scheduling of all required inspections from all permitting agencies.

8.17 Project Record Documents and Final As-Builts (Record Drawings): Contractor shall be responsible for maintaining up-to-date redline as-built drawings, on site, at all times during construction. All as-built information shall be surveyed and verified by a professional land surveyor registered in the State of Florida. Contractor shall provide the Town with a minimum of three (3) sets of signed and sealed record drawings (Final As-Builts) and a CD of the electronic drawings files created in AutoCad 2014 or later. All costs associated with survey work required for construction layout and as-built preparation shall be the responsibility of the Contractor.

8.18 Safety and Protection:

8.18.1 The Contractor shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the Work. The Contractor shall take all necessary precautions for the safety of, and shall provide the necessary protection to prevent damage, injury or loss to:

8.18.1.1 All employees working on the project and other persons who may be affected thereby.

8.18.1.2 All the Work and all materials or equipment to be incorporated therein, whether in storage on or off the site.

8.18.1.3 Other property at the site or adjacent thereto, including trees, shrubs, lawns, walks, pavements, roadways, structures and utilities not designated for removal, relocation or replacement in the course of construction.

8.18.2 The Contractor shall comply with all applicable laws, ordinances, rules, regulations and orders of any public body having jurisdiction for the safety of persons or property or to protect them from damage, injury or loss; and shall erect and maintain all necessary safeguards for such safety and protection. The Contractor shall notify owners of adjacent property and utilities when execution of the Work may affect them at least seventy-two (72) hours in advance (unless otherwise required). All damage, injury or loss to any property caused, directly or indirectly, in whole or in part by the Contractor, any subcontractor or anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, shall be remedied by the Contractor. The Contractor's duties

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and responsibilities for safety and protection of the Work shall continue until such time as all the Work is completed and accepted by the Town.

8.19 Emergencies: In emergencies affecting the safety or protection of persons or the Work or property at the site or adjacent thereto, the Contractor, without special instruction or authorization from the Town, is obligated to act to prevent threatened damage, injury or loss. The Contractor shall give the Project Manager prompt written notice of any significant changes in the Work or deviations from the Contract Documents caused thereby.

8.20 Risk of Loss: The risk of loss, injury or destruction shall be on the Contractor until acceptance of the Work by the Town. Title to the Work shall pass to the Town upon acceptance of the Work by the Town.

8.21 Environmental: The Contractor has fully inspected the Premises and agrees, except as to the presence of any asbestos, to accept the Premises in an "as is" physical condition, without representation or warranty by the Town of any kind, including, without limitation, any and all existing environmental claims or obligations that may arise from the presence of any "contamination" on, in or about the Premises. Further, Contractor and all entitles claiming by, through or under the Contractor, releases and discharges the Town from any claim, demand, or cause of action arising out of or relating to the Contractor's use, handling, storage, release, discharge, treatment, removal, transport, decontamination, cleanup, disposal and/or presence of any hazardous substances including asbestos on, under, from or about the Premises. The Contractor shall have no liability for any pre-existing claims or "contamination" on the Premises.

The Contractor shall not use, handle, store, discharge, treat, remove, transport, or dispose of Hazardous Substances including asbestos at, in, upon, under, to or from the Premises until receipt of instructions from the Town. At such time, a Town approved Change Order, which shall not include any profit, shall authorize the Contractor to perform such services.

The Contractor shall immediately deliver to the Project Manager complete copies of all notices, demands, or other communications received by the Contractor from any governmental or quasi-governmental authority or any insurance company or board of fire underwriters or like or similar entities regarding in any way alleged violations or potential violations of any Environmental Law or otherwise asserting the existence or potential existence of any condition or activity on the Premises which is or could be dangerous to life, limb, property, or the environment.

For other and additional consideration, the Contractor hereby agrees, at its sole cost and expense, to indemnify and protect, defend, and hold harmless the Town and its respective employees, agents, officials, officers, representatives, contractors and subcontractors, successors, and assigns (hereafter the "Town") from and against any and all claims, demands, losses, damages, costs, expenses, including but not limited to mitigation, restoration, and natural restoration expenses, liabilities, assessments, fines, penalties charges, administrative and judicial proceedings and orders, judgments, causes of action, in law or in equity, remedial action requirements and/or enforcement actions of any kind (including, without limitation, attorneys' fees and costs) directly or indirectly arising out of or attributable to, in whole or in part, the Contractor's use, handling, storage, release, threatened release, discharge, treatment, removal,

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transport, decontamination, cleanup, disposal and/or presence of a Hazardous Substance (excluding asbestos) on, under, from, to or about the Premises or any other activity carried on or undertaken on or off the Premises by the Contractor or its employees, agents or subcontractors, in connection with the use, handling, storage, release, threatened release, discharge, treatment, mitigation, natural resource restoration, removal, transport, decontamination, cleanup, disposal and/or presence or any Hazardous Substance including asbestos located, transported, or present on, undue, from, to, or about the Premises. This indemnity is intended to be operable under 42 U.S.C. Section 9607, as amended or revised, and any successor section.

The scope of the indemnity obligations includes, but is not limited to: (a) all consequential damages; (b) the cost of any required or necessary repair, cleanup, or detoxification of the applicable real estate and the preparation and implementation of any closure, remedial or other required plan, including without limitation; (i) the costs of removal or remedial action incurred by the United States government or the State of Florida or response costs incurred by any other person, or damages from injury to destruction of, or loss of, natural resources, including the cost of assessing such injury, destruction, or loss, incurred pursuant to the Comprehensive Environmental Response, Compensation and Liability Act, as amended; (ii) the clean-up costs, fines, damages, or penalties incurred pursuant to any applicable provisions of Florida law; and (iii) the cost and expenses of abatement, correction or cleanup, fines, damages, response costs, or penalties which arise from the provisions of any other statute, law, regulation, code ordinance, or legal requirement state or federal; and (c) liability for personal injury or property damage arising under any statutory or common law tort theory, including damages assessed for the maintenance of a public private nuisance, response costs, or for the carrying on of an abnormally dangerous activity.

8.22 No Extended Damages: For other and additional good and valuable consideration the receipt and sufficiency of which is hereby acknowledged, the Contractor covenants and agrees that in the event of any delay of construction or for any other reason or allegation or claim, and notwithstanding the reason of the delay, reason, claim or allegation or who caused them or the construction delay or whether they were caused by the Town, that there will be no entitlement to Contractor to or for any direct or indirect financial damages or losses for extended corporate overhead impact, extended project overhead impacts, project support services, mobilization or demobilization or by whatever other label or legal concept or theory and types of names or labels or basis such claims may have, or any business damages or losses of whatever type or nature, and Contractor hereby waives any right to make any such claim or claims. This provision will have application and effect when construction delays are anticipated and agreed upon by both the Town and the Contractor.

8.23 No Liens: If any subcontractor, supplier, laborer, or materialmen of Contractor or any other person directly or indirectly acting for or through Contractor files or attempts to file a mechanic's or construction lien against the real property on which the Work is performed or any part or against any personal property or improvements or claim against any monies due or to become due from the Town to Contractor or from Contractor to a subcontractor, for or on account of any work, labor, services, material, equipment, or other items furnished in connection with the Work or any Change Order, Contractor agrees to satisfy, remove, or discharge such lien or claim at its own expense by bond, payment, or otherwise within twenty (20) days of the filing or from receipt of written notice from the Town.

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Additionally, until such time as such lien or claim is satisfied, removed or discharged by Contractor, all monies due to Contractor, or that become due to Contractor before the lien or claim is satisfied, removed or otherwise discharged, shall be held by Town as security for the satisfaction, removal and discharge of such lien and any expense that may be incurred while obtaining such. If Contractor shall fail to do so, Town shall have the right, in addition to all other rights and remedies provided by this Agreement or by law, to satisfy, remove, or discharge such lien or claim by whatever means Town chooses at the entire and sole cost and expense of Contractor which costs and expenses shall, without limitation, include attorney's fees, litigation costs, fees and expenses and all court costs and assessments.

8.24 Weather Emergencies: Upon issuance of a hurricane watch by the National Weather Service, the Contractor shall submit to the Town a plan to secure the work area in the event a hurricane warning is issued. The plan shall detail how the Contractor will secure the Premises, equipment and materials in a manner as to prevent damage to the Work and prevent materials and equipment from becoming a hazard to persons and property on and around the Premises. The plan shall include a time schedule required to accomplish the hurricane preparations and a list of emergency contacts that will be available, and in the Town before, during and immediately after the storm.

Upon issuance of a hurricane warning by the National Weather Service, if the Contractor has not already done so, the Contractor shall implement its hurricane preparedness plan. Cost of development and implementation of the hurricane preparedness plan shall be considered as incidental to construction. Cost of any clean up and rework required after the storm will be considered normal construction risk within Florida and shall not entitle the Contractor to any additional compensation. Contractor shall be entitled to request an extension in time for completion of the Work, in accordance with the provisions of Article 15 of this Agreement, equal to the time it is shut down for implementation of the preparedness plan, the duration of the storm and a reasonable period to restore the Premises.

8.25 Force Majeure: No Party shall hold the other responsible for damages or for delays in performance caused by force majeure, acts of God, or other acts or circumstances beyond the control of the other Party or that could not have been reasonably foreseen and prevented. For this purpose, such acts or circumstances shall include, but not be limited to weather conditions affecting performance, floods, epidemics, pandemics, war, act of Governmental Authority, state of emergency, riots, strikes, lockouts, or other industrial disturbances, or protest demonstrations. Should such acts or circumstances occur, the Parties shall use their best efforts to overcome the difficulties arising therefrom and to resume the Work as soon as reasonably possible with the normal pursuit of the Work.

Inclement weather, continuous rain for less than three (3) days or the acts or omissions of subcontractors, third-party contractors, materialmen, suppliers, or their sub-contractors, shall not be considered acts of force majeure.

No Party shall be liable for its failure to carry out its obligations under the Agreement during a period when such Party is rendered unable by force majeure to carry out its obligation, but the obligation of the Party or Parties relying on such force majeure shall

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be suspended only during the continuance of the inability and for no longer period than the unexpected or uncontrollable event.

The Contractor further agrees and stipulates, that its right to excuse its failure to perform by reason of force majeure shall be conditioned upon giving written notice of its assertion that a Force Majeure delay has commenced within ninety-six (96) hours after such an occurrence. The Contractor shall use its reasonable efforts to minimize such delays. The Contractor shall promptly provide an estimate of the anticipated additional time required to complete the Project.

8.26 Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assisted Contracts: The recipient shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any DOT-assisted contract or in the administration of its DBE program or the requirements of 49 CFR Part 26. The recipient shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure nondiscrimination in the award and administration of DOT-assisted contracts. The recipient's DBE program, as required by 49 CFR Part 26 and as approved by DOT, is incorporated by reference in this Agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this Agreement. Upon notification to the recipient of its failure to carry out its approved program, the Department may impose sanctions as provided for under Part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 *et seq.*).

Additionally, the Contractor assures that it, the sub-recipient or its subcontractors shall not discriminate on the basis of race, color, national origin, or sex in the performance of this Agreement. The Contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the Contractor to carry out these requirements is a material breach of this Agreement, which may result in the termination of this Agreement or such other remedy as the recipient deems appropriate. This additional language must be included in each subcontract the prime Contractor signs with a subcontractor.

ARTICLE 9 – TOWN'S RESPONSIBILITIES

9.1 The Town shall furnish the data required of the Town under the Contract Documents promptly and shall make payments to the Contractor promptly after they are due as provided in Article 7.

9.2 The Town shall provide public rights-of-way and easement, where available, for the installation of conduits, transformers pads and related appurtenances only.

9.3 Technical Clarifications and Interpretations:

9.3.1 The Town shall issue, with reasonable promptness, such written clarifications or interpretations of the Contract Documents as it may determine necessary, which shall be consistent with or reasonably inferable from the overall intent of the Contract Documents. Should the Contractor fail to request interpretation of questionable items in the Contract Documents, the Town shall not entertain any excuse for failure to execute the Work in a satisfactory manner.

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9.3.2 The Town shall interpret and decide matters concerning performance under the requirements of the Contract Documents, and shall make decisions on all claims, disputes or other matters in question. Written notice of each claim, dispute or other matter will be delivered by claimant to the other Party but in no event later than five (5) days after the occurrence of event and written supporting data will be submitted to the other Party within five (5) days after such occurrence. All written decisions of the Town on any claim or dispute will be final and binding.

9.4 The Contractor shall perform all Work to the reasonable satisfaction of the Town in accordance with the Contract Documents. In cases of disagreement or ambiguity, the Town shall decide all questions, difficulties, and disputes of whatever nature, which may arise under or by reason of this Agreement or the quality, amount and value of the Work, and the Town's decisions on all claims, questions and determination are final.

9.5 Cancellation for Unappropriated Funds**:** The obligation of the Town for payment to a Contractor is limited to the availability of funds appropriated in a current fiscal period, and continuation of the Agreement into a subsequent fiscal period is subject to appropriation of funds, unless otherwise authorized by law.

ARTICLE 10 – BONDS AND INSURANCE

10.1 Public Construction and Other Bonds: The Contractor shall furnish Public Construction or Performance and Payment Bonds ("Bond"), each in an amount at least equal to the Contract Price as security for the faithful performance and payment of all the Contractor's obligations under the Contract Documents. These Bonds shall remain in effect until at least one (1) year after the date of final payment, except as otherwise provided by law. All Bonds shall be furnished and provided by the surety and shall be in substantially the same form as prescribed by the Contract Documents and be executed by such sureties as (i) are licensed to conduct business in the State of Florida, and (ii) are named in the current list of Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies as published in Circular 570 (amended) by the Audit Staff Bureau of Accounts, U.S. Treasury Department and (iii) otherwise meet the requirements set forth herein that apply to sureties. All Bonds signed by an agent must be accompanied by a certified copy of the authority to act.

10.1.1 Performance Bond: The Contractor shall execute and record in the public records of Dade County, Florida, a payment and performance bond in an amount at least equal to the Contract Price with a surety insurer authorized to do business in the State of Florida as surety, ("Bond"), in accordance with Section 255.05, Florida Statutes (2022), as may be amended or revised, as security for the faithful performance and payment of all of the Contractor's obligations under the Contract Documents.

A Corporate Surety Bond legally issued, meeting the approval of, and running to the Town in an amount not less than the Contract Price of such improvements, conditioned that the Contractor shall maintain and make all repairs to the improvements constructed by the Contractor at their own expense and free of charge to the Town, for the period of one (1) year after the date of acceptance of the Work within such period by reason of any imperfection of the material used

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or by reason of any defective workmanship, or any improper, imperfect or defective preparation of the base upon which any such improvement shall be laid.

10.2 Disqualification of Surety: If the Surety on any Bond furnished by the Contractor is declared bankrupt or becomes insolvent or its right to do business is terminated in the State of Florida or it ceases to meet the requirements of clauses (i) and (ii) of Paragraph 10.1, the Contractor shall within five (5) days thereafter substitute another Bond and Surety, both of which shall be acceptable to the Town.

10.3 Insurance

INSERT INSURANCE VERBIAGE FROM RISK MANAGEMENT HERE

_____
_____

NOTE: TOWN PROJECT NUMBER, PROJECT NAME AND BID NUMBER MUST APPEAR ON EACH CERTIFICATE, AND THE TOWN OF BAY HARBOR ISLANDS MUST BE NAMED ON THE CERTIFICATE AS AN "ADDITIONAL INSURED" ON REQUIRED LIABILITY POLICIES.

A Sample Insurance Certificate shall be included with the bid to demonstrate the firm's ability to comply with insurance requirements. Provide a previous certificate or other evidence listing the insurance companies' names for all required coverage, and the dollar amounts of the coverage.

ARTICLE 11- WARRANTY AND GUARANTEE, TESTS AND INSPECTIONS, CORRECTION, REMOVAL OR ACCEPTANCE OF DEFECTIVE WORK

11.1 Warranty: The Contractor warrants and guarantees to the Town that all Work will be in accordance with the Contract Documents and will not be defective. Prompt notice of all defects shall be given to the Contractor. All defective work, whether or not in place, may be rejected, corrected or accepted as provided in this Article.

11.1.1 Warranty of Title: The Contractor warrants to the Town that it possesses good, clear and marketable title to all equipment and materials provided and that there are no pending liens, claims or encumbrances against the equipment and materials.

11.1.2 Warranty of Specifications: The Contractor warrants that all equipment, materials and workmanship furnished, whether furnished by the Contractor, its subcontractors or suppliers, will comply with the specifications, drawings and other descriptions supplied or adopted and that all services will be performed in a workmanlike manner.

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11.1.3 Warranty of Merchantability: The Contractor warrants that any and all equipment to be supplied pursuant to this Agreement is merchantable, free from defects, whether patent or latent in material or workmanship, and fit for the ordinary purposes for which it is intended.

11.2 Tests and Inspections: Contractor shall retain the services of an independent, certified, testing lab to perform all testing as required by the specifications, contract drawings, and any applicable permitting agency. Contractor shall provide evidence of certification to the Town before the work and testing is done. Testing results shall be submitted to the Project Manager for review and approval at the time the results are provided to the Contractor. The Contractor shall give the Project Manager and Town Inspector a minimum of twenty-four (24) hours' advanced notice of readiness of the Work for all required inspections, tests, or approvals and shall notify all applicable permitting agencies in a timely manner based on requirements set forth in the permit documents.

11.2.1 Neither observations by the Project Manager nor inspections, tests or approvals by others shall relieve the Contractor from its obligations to perform the Work in accordance with the Contract Documents.

11.3 Uncovering Work: If any work that is to be inspected, tested or approved is covered without approval or consent of the Project Manager, it must, if requested by the Project Manager, be uncovered for observation and/or testing. Such uncovering and replacement shall be at the Contractor's sole expense unless the Contractor has given the Project Manager timely notice of the Contractor's intention to cover such Work and the Project Manager has not acted with reasonable promptness in response to such notice.

11.3.1 If the Project Manager considers it necessary or advisable that Work covered in accordance with Paragraphs 11.2.1 be observed by the Town or inspected or tested by others, the Contractor at the Town's request, shall uncover, expose or otherwise make available for observation, inspection or testing as the Project Manager may require, that portion of the Work in question, furnishing all necessary labor, material and equipment. If it is found that such Work is defective, the Contractor shall bear all the expenses of such uncovering, exposure, observation, inspection and testing and of satisfactory reconstruction, including compensation for additional professional services, and an appropriate deductive Change Order shall be issued. If, however, such work is not found to be defective, the Contractor shall be allowed an increase in the Contract Price or an extension of the Contract Time, or both, directly attributable to such uncovering, exposure, observation, inspection testing and reconstruction if it makes a claim therefore as provided in Articles 14 and 15.

11.4 Town May Stop the Work: If the Work is defective, or the Contractor fails to supply sufficient skilled supervisory personnel or workmen or suitable materials or equipment or the work area is deemed unsafe, the Town may order the Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, this right of the Town to stop the Work shall not give rise to any duty on the part of the Town to exercise this right for the benefit of the Contractor or any other Party. The Town will not award any increase in Contract Price or Contract Time if the Work is stopped due to the circumstances described herein.

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11.5 Correction or Removal of Defective Work Before Final Payment: If required by the Project Manager, the Contractor shall promptly, without cost to the Town and as specified by the Project Manager, either correct any defective Work, whether or not fabricated, installed or completed, or if the Work has been rejected by the Town remove it from the site and replace it with non-defective Work.

11.6 One Year Correction Period After Final Payment: If within one (1) year after the date of final acceptance, or such longer period of time as may be prescribed by law or by the terms of any applicable special guarantee required by the Contract Documents, any work is found to be defective, the Contractor shall promptly, without cost to the Town and in accordance with the Town's written instructions, either correct such defective Work, or, if it has been rejected by the Town, remove it from the site and replace it with non-defective Work.

If the Contractor does not promptly comply with the terms of such instructions or in an emergency where delay would cause serious risk of loss or damage, the Town may have the defective Work corrected or the rejected Work removed and replaced, and all direct and indirect costs for such removal and replacement, including compensation for additional professional services, shall be paid by the Contractor.

11.7 Acceptance of Defective Work, Deductions: If, instead of requiring correction or removal and replacement of defective Work, the Town, at the Town's sole option, prefers to accept it, the Town may do so. In such a case, if acceptance occurs prior to the Project Manager's recommendation of final payments, a Change Order shall be issued incorporating the necessary revisions in the Contract's Documents, including appropriate reduction in the Contract Price; or if the acceptance occurs after such recommendation, an appropriate amount shall be paid by the Contractor to the Town.

11.8 Town May Correct Defective Work: If the Contractor fails within a reasonable time after written notice of the Project Manager to proceed to correct defective Work or to remove and replace rejected Work as required by the Project Manager in accordance with Paragraph 11.5, or if the Contractor fails to perform the Work in accordance with the Contract Documents, the Town may, after seven (7) days' written notice to the Contractor, correct and remedy any such deficiency. In exercising its rights under this paragraph, the Town shall proceed expeditiously. To the extent necessary to complete corrective and remedial action, the Town may exclude the Contractor from all or part of the site, take possession of all or part of the Work, suspend the Contractor's services related thereto and take possession of the Contractor's tools, construction equipment and materials stored at the site or elsewhere. The Contractor shall allow the Town's representative agents and employees such access to the site as may be necessary to enable the Town to exercise its rights under this paragraph. All direct and indirect costs of the Town in exercising such rights shall be charged against the Contractor in an amount verified by the Project Manager, and a Change Order shall be issued incorporating the necessary revisions in the Contract Documents and a reduction in the Contract Price. Such direct and indirect costs shall include, in particular but without limitation, compensation for additional professional services required and costs of repair and replacement of work of others destroyed or damaged by correction, removal or replacement of the Contractor's defective Work. The Contractor shall not be allowed an extension of the Contract Time because of any delay in performance of the Work attributable to the exercise by the Town of the Town's right hereunder.

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ARTICLE 12 – INDEMNIFICATION

12.1 Disclaimer of Liability: The Town shall not at any time, be liable for injury or damage occurring to any person or property from any cause, whatsoever, arising out of Contractor's construction and fulfillment of this Agreement.

12.2 Indemnification: For other, additional good valuable consideration, the receipt and sufficiency of which is hereby acknowledged:

12.2.1 Contractor shall, at its sole cost and expense, indemnify and hold harmless the Town, its representatives, employees and elected and appointed officials from or on account of all claims, damages, losses, liabilities and expenses, direct, indirect or consequential including but not limited to fees and charges of engineers, architects, attorneys, consultants and other professionals and court costs arising out of or in consequence of the performance of this Agreement at all trial and appellate levels. Indemnification shall specifically include but not be limited to claims, damages, losses, liabilities and expenses arising out of or from (a) the negligent or defective design of the project and Work of this Agreement; (b) any act, omission or default of the Contractor, its subcontractors, agents, suppliers, employees or laborers; (c) any and all bodily injuries, sickness, disease or death; (d) injury to or destruction of tangible property, including any resulting loss of use; (e) other such damages, liabilities, or losses received or sustained by any person or persons during or on account of any operations connected with the construction of this Project including the warranty period; (f) the use of any improper materials; (g) any construction defect including both patent and latent defects; (h) failure to timely complete the work; (i) the violation of any federal, state, county or Town laws, ordinances or regulations by Contractor, its subcontractors, agents, servants, independent contractors or employees; (j) the breach or alleged breach by Contractor of any term of the Agreement, including the breach or alleged breach of any warranty or guarantee.

12.2.2 Contractor agrees to indemnify, defend, and hold harmless the Town, its officers, agents and employees, from all damages, liabilities, losses, claims, fines and fees, and from any and all suits and actions of every name and description that may be brought against Town, its officers, agents and employees, on account of any claims, fees, royalties, or costs for any invention or patent and/or for the infringement of any and all copyrights or patent rights claimed by any person, firm, or corporation.

12.2.3 Contractor shall pay all claims, losses, liens, settlements or judgments of any nature in connection with the foregoing indemnifications including, but not limited to, reasonable attorney's fees and costs for trials and appeals.

12.2.4 If any subcontractor, supplier, laborer, or materialmen of Contractor or any other person directly or indirectly acting for or through Contractor files or attempts to file a mechanic's or construction lien against the real property on which the work is performed or any part or against any personal property or improvements thereon or make a claim against any monies due or to become due from the Town to Contractor or from Contractor to a subcontractor, for or on account of any work, labor, services, material, equipment, or other items furnished in connection with the Work or any change order, Contractor agrees to satisfy, remove, or discharge

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such lien or claim at its own expense by bond, payment, or otherwise within five (5) days of the filing or from receipt of written notice from the Town.

Additionally, until such time as such lien or claim is satisfied, removed or discharged by Contractor, all monies due to Contractor, or that become due to Contractor before the lien or claim is satisfied, removed or otherwise discharged, shall be held by Town as security for the satisfaction, removal and discharge of such lien and any expense that may be incurred while obtaining the discharge. If Contractor shall fail to do so, Town shall have the right, in addition to all other rights and remedies provided by this Agreement or by law, to satisfy, remove, or discharge such lien or claim by whatever means Town chooses at the entire and sole cost and expense of Contractor which costs and expenses shall, without limitation, include attorney's fees, litigation costs, fees and expenses and all court costs and assessments, and which shall be deducted from any amount owing to Contractor. In the event the amount due Contractor is less than the amount required to satisfy Contractor's obligation under this, or any other article, paragraph or section of this Agreement, the Contractor shall be liable for the deficiency due the Town.

12.2.5 The Contractor and the Town agree that Section 725.06(2), Florida Statutes (2022), as may be amended or revised, controls the extent and limits of the indemnification and hold harmless provisions of this Agreement, if any, and that the Parties waive any defects in the wording of this Article that runs afoul of said statutory section.

ARTICLE 13 – CHANGES IN THE WORK

13.1 Without invalidating this Agreement, the Town may, at any time or from time-to-time order additions, deletions or revisions in the Work through the issuance of Change Orders. Upon receipt of a fully executed Change Order, the Contractor shall proceed with the Work involved. All Work shall be executed under the applicable conditions of the Contract Documents. If any Change Order causes an increase or decrease in the Contract Price or an extension or shortening of the Contract Time, an equitable adjustment will be made as provided in Article 14 or Article 15 on the basis of a claim made by either Party.

13.2 The Project Manager may authorize minor changes in the Work not involving an adjustment in the Contract Price or the Contract Time, which are consistent with the overall intent of the Contract Documents. Such changes must be in writing and signed by the Town and the Contractor.

13.3 If notice of any change affecting the general scope of the Work or change in the Contract Price is required by the provisions of any Bond to be given to the Surety, it will be the Contractor's responsibility to so notify the Surety, and the amount of each applicable Bond shall be adjusted accordingly. The Contractor shall furnish proof of such adjustment to the Town.

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ARTICLE 14 – CHANGE OF CONTRACT PRICE

Change of Contract Price, approved by Town, shall be computed as follows:

14.1 Cost of the Work: The term "Cost of the Work" means the sum of all direct costs necessarily incurred and paid by Contractor in the proper performance of the Work. Except as otherwise may be agreed to in writing by the Town, these costs shall be in amounts no higher than those prevailing in the Town and shall include only the following items and shall not include any of the costs itemized in Paragraph 14.3:

14.1.1 Payroll costs for employees in the direct employ of the Contractor in the performance of the Work under schedules of job classifications agreed upon by the Town and the Contractor. Payroll costs for employees not employed full time on the Work shall be apportioned on the basis of their time spent on the Work.

Payroll costs shall include, but not be limited to, salaries and wages plus cost of fringe benefits which shall include social security contributions, unemployment, excise and payroll taxes, worker's compensation, health and retirement benefits, bonuses, sick leave, vacation and applicable holiday pay.

14.1.2 Cost of all materials and equipment furnished and incorporated in the Work, including costs of transportation and storage, and required suppliers and field services. All cash discounts, rebates and refunds and all returns from sale of surplus materials and equipment shall accrue to the Town, and the Contractor shall make provisions so that they may be obtained.

14.1.3 Supplemental costs including the following:

14.1.3.1 Cost, including transportation and maintenance of all materials, supplies, equipment, machinery, appliances, office and temporary facilities at the site and hand tools not owned by the workers, which are consumed in the performance of the Work.

14.1.3.2 Rentals of all construction equipment and machinery and the parts whether rented from the Contractor or others in accordance with rental agreements approved by the Town, and the costs of transporting, loading, unloading, installation, dismantling and removal. The rental of any such equipment, machinery or parts shall cease when the use is no longer necessary for the Work.

14.1.3.3 Sales, consumer, use or similar taxes related to the Work and for which the Contractor is liable, imposed by laws and regulations.

14.1.3.4 Royalty payments and fees for permits and licenses.

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

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

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

14.2 The Contract Price may only be increased by an approved and fully executed Change Order when Work is modified in accordance with Article 13 and approved by the Town in writing. Any claim for an increase in the Contract Price resulting from a Change Order shall be based on written notice delivered to the Project Manager within ten (10) days of the occurrence of the Change Order giving rise to the claim. Notice of the amount of the claim with supporting data shall be included in the Change Order and delivered within twenty (20) days of such occurrence unless Project Manager allows an additional period of time to ascertain accurate cost data. Any change in the Contract Price resulting from any such claim shall be incorporated in the Change Order. **IT IS EXPRESSLY AND SPECIFICALLY AGREED THAT ANY AND ALL CLAIMS FOR CHANGES TO THE CONTRACT PRICE SHALL BE WAIVED IF NOT SUBMITTED IN STRICT ACCORDANCE WITH THE REQUIREMENTS OF THIS SECTION.**

14.3 Not Included in the Cost of the Work: The term "Cost of the Work" shall not include any of the following:

14.3.1 Payroll costs and other compensation of the Contractor's officers' executives, principals (of partnership and sole proprietorships), general managers, engineers, architects, estimators, attorneys, auditor, accountants, purchasing and contracting agents, expediters, timekeepers, clerks and other personnel employed by the Contractor whether at the site or in the Contractor's principal or branch office for general administration of the work and not specifically included in the agreed upon schedule of job classifications referred to in Paragraph 14.1.1, all of which are to be considered administrative costs covered by the Contractor's fee.

14.3.2 Expenses of the Contractor's principal and branch offices other than the Contractor's office at the site.

14.3.3 Any part of the Contractor's capital expenses, including interest on the Contractor's capital employed for the Work and charges against the Contractor for delinquent payments.

14.3.4 Cost of premiums for all bonds and for all insurance whether or not the Contractor is required by the Contract Documents to purchase and maintain the same.

14.3.5 Costs due to the negligence of the Contractor, any subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable, including but not limited to, the correction of defective Work, disposal of materials or equipment wrongly supplied and making good any damage to property.

14.3.6 Other overhead or general expense costs of any kind and the costs of any item not specifically and expressly included in Paragraph 14.1.

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14.4 Basis of Compensation: The Contractor's compensation, allowed to the Contractor for overhead and profit, shall be determined as follows:

14.4.1 A mutually acceptable negotiated fee:

14.4.1.1 For costs incurred under Paragraphs 14.1.1 and 14.1.2, the Contractor's fee shall not exceed five percent (5%).

14.4.1.2 No fee shall be payable on the basis of costs itemized under Paragraphs 14.1.3.1, 14.1.3.2, 14.1.3.3, 14.1.3.4, 14.1.3.5, 14.1.3.6, 14.1.3.7, 14.3.1, 14.3.2, 14.3.3, 14.3.4, 14.3.5 and 14.3.6.

14.4.1.3 The amount of credit to be allowed by the Contractor to the Town for any such change which results in a net decrease plus a deduction in the Contractor's fee by an amount equal to five percent (5%) for the net decrease.

14.4.1.4 When both additions and credits are involved in any one change the combined overhead and profit shall be figured on the basis of net increase if any, however, not to exceed five percent (5%) of the agreed compensation. Profit will not be paid on any Work not performed.

14.5 Cost Breakdown Required: Whenever the cost of any Work is to be determined pursuant to this Article, the Contractor will submit in form acceptable to the Town an itemized cost breakdown together with supporting documentation. Whenever a change in the Work is to be based upon mutual acceptance of a lump sum, whether the amount is an addition, credit, or no-charge-in-cost, the Contractor shall submit an estimate substantiated by a complete itemized breakdown:

14.5.1 The breakdown shall list quantities and unit prices for materials, labor, equipment and other items of cost.

14.5.2 Whenever a change involves the Contractor and one (1) or more subcontractors and the change is an increase in the agreed compensation, the overhead and profit percentage for the Contractor and each subcontractor shall be itemized separately.

ARTICLE 15 – CHANGE OF THE CONTRACT TIME

15.1 The Contract Time may only be changed by an approved and fully executed Change Order. Any claim for an extension in the Contract Time shall be based on written notice delivered to the Project Manager within five (5) days of the occurrence of the event giving rise to the claim. Any change in the Contract Time resulting from any such claim shall be incorporated in a Change Order.

15.2 The Contract Time will be extended in an amount equal to time lost due to delays beyond the control of the Contractor if a claim is made therefore as provided in Paragraph 15.1. Such delays shall include but not be limited to, acts or neglect by the Town, or to fires, floods, labor disputes, epidemics, abnormal weather conditions, pandemics, act of Governmental Authority, state of emergency, or acts of God.

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15.3 All time limits stated in the Contract Documents are of the essence. The provisions of this Article 15 shall not exclude recovery for damages for delay by the Contractor.

15.4 Delays caused by or resulting from entities, contractors or subcontractors who are not affiliated with the Contractor (non-affiliated Contractors) shall not give rise to a claim by the Contractor for damages for increases in material and/or labor costs. Such entities, contractors and subcontractors include, but are not limited to, the Town's contractors and subcontractors, Florida Power and Light Company, AT&T and Florida East Coast Railway, LLC.

15.5 Rights of Various Interests: Whenever work being done by Town's forces or by other contractors is contiguous to or within the limits of work covered by this Agreement, the respective rights of the various interests involved shall be established by the Project Manager to secure the completion of the various portions of the Work in general harmony.

ARTICLE 16 – LIQUIDATED DAMAGES

16.1 Upon failure of the Contractor to complete the Work within the time specified for completion, the Contractor shall pay to the Town the sum of _____ **Hundred/Thousand Dollars ($_.00)** for each and every calendar day that the completion of the Work is delayed beyond the time specified in this Agreement for completion, as fixed and agreed liquidated damages and not as a penalty, so long as the delay Is caused by the Contractor. Should an act of God or the acts or omissions of the Town, its agents or representatives, in derogation to the terms of this Agreement cause the delay, the Contractor shall not be responsible for the delay nor liquidated damages. Liquidated damages are fixed and agreed upon between the Parties, recognizing the impossibility of precisely ascertaining the amount of damages that will be sustained by the Town as a consequence of such delay and both Parties desiring to obviate any question of dispute concerning the amount of damages and the cost and effect of the failure of the Contractor to complete the Work on time. Liquidated damages shall apply separately to each portion of the Work for which a time of completion is given. The Town shall have the right to deduct from or retain any compensation which may be due or which may become due and payable to the Contractor the amount of liquidated damages, and if the amount retained by the Town is insufficient to pay in full such liquidated damages, the Contractor shall pay all liquidated damages in full. The Contractor shall be responsible for reimbursing the Town, in addition to liquidated damages or other damages for delay, for all costs of engineering, architectural fees, and inspection and other costs incurred in administering the construction of the Project beyond the completion date specified or beyond an approved extension of time granted to the Contractor whichever is later. Delays caused by or resulting from entities, contractors or subcontractors who are not affiliated with the Contractor shall not give rise to a claim by Contractor for damages for increase in material and/or labor costs. Such entities, contractors and subcontractors include, but are not limited to, the Town's contractors and subcontractors, Florida Power and Light Company, AT&T, and Florida East Coast Railway, LLC.

16.2 No Extended Damages: For other and additional good and valuable consideration the receipt and sufficiency of which is hereby acknowledged, the Contractor covenants and agrees that in the event of any delay of construction or for any reason, allegation or claim, and notwithstanding the reason of the delay, reason, claim or allegation or who caused them or the construction delay or whether they were caused by the Town, that

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there will be no entitlement to Contractor to or for any direct or indirect financial damages or losses for extended corporate overhead impact, extended project overhead impacts, project support services, mobilization or demobilization or by whatever other label or legal concept or theory and types of names or labels or basis such claims may have, or any business damages or losses of whatever type or nature, and Contractor hereby waives any right to make any such claim or claims. This provision will have application and effect when construction delays are anticipated and agreed upon by both the Town and the Contractor.

ARTICLE 17 – SUSPENSION OF WORK AND TERMINATION

17.1 Town May Suspend Work: The Town may, at any time and without cause, suspend the Work or any portion of the Work for a period of not more than ninety (90) days by notice in writing to the Contractor which shall fix the date on which Work shall be resumed. The Contractor shall resume the Work on the date fixed. The Contractor will be allowed an increase in the Contract Price or an extension of the Contract Time, or both, directly attributable to any suspension, if the Contractor makes a claim as provided in Articles 14 and 15.

17.2 Town's Right to Terminate Contract: The Town may terminate this Agreement upon fifteen (15) calendar days' written notice upon the occurrence of any one or more of the following events:

17.2.1 If the Contractor makes a general assignment for the benefit of creditors.

17.2.2 If a trustee, receiver, custodian or agent of the Contractor is appointed under applicable law or under Agreement, whose appointment or authority to take charge of property of the Contractor is for the purpose of enforcing a lien against such property or for the purpose of general administration of such property for the benefit of the Contractor's creditors.

17.2.3 If Contractor fails to begin the Work within fifteen (15) calendar days after the date set forth in the Notice to Proceed, or fails to perform the Work with sufficient workers and equipment or with sufficient materials to ensure the prompt completion of the Work, or shall perform the Work unsuitably, or cause it to be rejected as defective and unsuitable, or shall discontinue the prosecution of the Work pursuant to the accepted schedule or if Contractor shall fail to perform any material term set forth in the Contract Documents, or from any other cause whatsoever shall not carry on the Work in an acceptable manner, Project Manager may give notice in writing to Contractor and its Surety of such delay, neglect or default, specifying the same.

17.2.4 If the Contractor repeatedly fails to make prompt payments to subcontractors or for labor, material or equipment.

17.2.5 If the Contractor repeatedly disregards proper safety procedures.

17.2.6 If the Contractor disregards any local, state or federal laws or regulations.

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17.2.7 If the Contactor otherwise violates any provisions of this Agreement.

17.3 If Contractor, within a period of ten (10) calendar days after such notice, shall not proceed in accordance therewith, the Town may exclude the Contractor from the Work site and take the prosecution of the Work out of the hands of the Contractor, and take possession of the Work and all of the Contractor's tools, appliances, construction equipment and machinery at the site and use them without liability to the Town for trespass or conversion, incorporate in the Work all materials and equipment stored at the site or for which the Town has paid the Contractor but which are stored elsewhere, and finish the Work as the Town may deem expedient. In this instance, the Contractor shall not be entitled to receive any further compensation until the Work is finished.

17.3.1 If after notice of termination of Contractor's notice to proceed, it is determined for any reason that Contractor was not in default, the rights and obligations of Town and Contractor shall be the same as if the notice of termination had been issued pursuant to the Termination for Convenience clause as set forth below in Section 17.5.

17.3.2 Upon receipt of Notice of Termination pursuant to Sections 17.2 or 17.5, Contractor shall promptly discontinue all affected work unless the Notice of Termination directs otherwise and deliver or otherwise make available to Town all data, drawings, specifications, reports, estimates, summaries and such other information as may have been required by the Contract Documents whether completed or in process.

17.4 If the Contractor commits a default due to its insolvency or bankruptcy, the following shall apply:

17.4.1 Should this Agreement be entered into and fully executed by the Parties, funds released and the Contractor (Debtor) files for bankruptcy, the following shall occur:

17.4.1.1 In the event the Contactor files a voluntary petition under 11 U.S.C. 301 or 302, or an order for relief is entered under 11 U.S.C. 303, the Contractor shall acknowledge the extent, validity, and priority of the lien recorded in favor of the Town. The Contractor further agrees that in the event of this default, the Town shall, at its option, be entitled to seek relief from the automatic stay pursuant to 11 U.S.C. 362. The Town shall be entitled to relief from the automatic stay pursuant to 11 U.S.C. 362(d) (1) or (d) (2), and the Contactor agrees to waive the notice provisions in effect pursuant to 11 U.S.C. 362 and any applicable Local Rules of the United States Bankruptcy Court. The Contactor acknowledges that such waiver is done knowingly and voluntarily.

17.4.1.2 Alternatively, in the event the Town does not seek stay relief, or if stay relief is denied, the Town shall be entitled to monthly adequate protection payments within the meaning of 11 U.S.C. 361. The monthly adequate protection payments shall each be in an amount determined in accordance with the Note and Mortgage executed by the Contractor in favor of the Town.

17.4.1.3 In the event the Contractor files for bankruptcy under Chapter 13 of Title 11, United States Code in additional to the foregoing provisions, the

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Contractor agrees to cure any amounts in arrears over a period not to exceed twenty-four (24) months from the date of the confirmation order, and such payments shall be made in addition to the regular monthly payments required by the Note and mortgage. Additionally, the Contractor shall agree that the Town is over secured and, therefore, entitled to interest and attorney's fees pursuant to 11 U.S.C. 506(b). Such fees shall be allowed and payable as an administrative expense. Further, in the event the Contractor has less than five (5) years of payments remaining on the Note, the Contractor agrees that the treatment afforded to the claim of the Town under any confirmed plan of reorganization shall provide that the remaining payments shall be satisfied in accordance with the Note, and that the remaining payments or claim shall not be extended or amortized over a longer period than the time remaining under the Note.

17.4.2 Should this Agreement be entered into and fully executed by the Parties, and the funds have not been forwarded to Contractor, the following shall occur:

17.4.2.1 In the event the Contractor files a voluntary petition pursuant to 11 U.S.C. 301 or 302, or an order for relief is entered under 11 U.S.C. 303., the Contractor acknowledges that the commencement of a bankruptcy proceeding constitutes an event of default under the terms of this Agreement. Further, the Contractor acknowledges that this Agreement constitutes an executory contract within the meaning of 11 U.S.C. 365. The Contractor acknowledges that this Agreement is not capable of being assumed pursuant to 11 U.S.C. 365(c)(2), unless the Town expressly consents in writing to the assumption. In the event the Town consents to the assumption, the Contractor agrees to file a motion to assume this Agreement within ten (10) days after receipt of written consent from the Town, regardless of whether the bankruptcy proceeding is pending under Chapter 7, 11, or 13 of Title 11 of the United States Code. The Contractor further acknowledges that this Agreement is not capable of being assigned pursuant to 11 U.S.C. 365(b)(1).

17.5 Termination for Convenience: This Agreement may be terminated for convenience in writing by Town upon thirty (30) days' written notice to Contractor (delivered by certified mail, return receipt requested) of intent to terminate and the date on which such termination becomes effective. In such case, Contractor shall be paid for all work executed and accepted by the Town and costs reasonably incurred by Contractor relating to commitments which had become firm prior to the termination. No payment shall be made for profit for work/services which have not been performed or accepted.

17.6 Where the Contractor's service has been so terminated by the Town, the termination shall not affect any rights of the Town against the Contractor then existing or which may thereafter accrue. Any retention or payment of moneys due the Contractor by the Town will not release the Contractor from liability.

17.7 The Contractor has no right, authority or ability to terminate the Work except for the wrongful withholding of any payments due the Contractor from the Town.

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ARTICLE 18 – DISPUTE RESOLUTION

18.1 Resolution of Disputes: Questions, claims, difficulties and disputes of whatever nature which may arise relative to the technical interpretation of the Contract Documents and fulfillment of this Agreement as to the character, quality, amount and value of any work done and materials furnished, or proposed to be done or furnished under, or by reason of, the Contract Documents which cannot be resolved by mutual agreement of Town Project Manager and Contractor shall be submitted to the Town Manager or his designee and Contractor's representative for resolution. Prior to any litigation being commenced, for any disputes which remain unresolved, within sixty (60) days after final completion of the Work, the Parties shall participate in mediation to address all unresolved disputes to a mediator agreed upon by the Parties. Should any objection not be resolved in mediation, the Parties retain all their legal rights and remedies provided under the laws of Florida. Failure by a Party to comply in strict accordance with the requirements of this Article, then said Party specifically waives all of its rights provided hereunder, including its rights and remedies under the laws of Florida.

18.1.1 All non-technical administrative disputes (such as billing and payment) shall be determined by Contract Administrator.

18.1.2 During the pendency of any dispute and after a determination thereof, Contractor and Contract Administrator shall act in good faith to mitigate any potential damages including utilization of construction schedule changes and alternate means of construction. During the pendency of any dispute arising under this Agreement, other than termination herein, Contractor shall carry on the Work and adhere to the progress schedule. The Work shall not be delayed or postponed pending resolution of any disputes or disagreements.

18.1.3 For any disputes which remain unsolved, within sixty (60) calendar days after Final Completion of the Work, the Parties shall participate in mediation to address all unresolved disputes. A mediator shall be mutually agreed upon by the Parties. Should any objection not be resolved in mediation, the Parties retain all their legal rights and remedies under applicable law. If a Party objecting to a determination, fails to comply in strict accordance with the requirements of this Article, said Party specifically waives all of its rights provided hereunder, including its rights and remedies under applicable law.

ARTICLE 19 – NOTICES

19.1 All notices required by any of the Contract Documents shall be in writing and shall be deemed delivered upon mailing by certified mail, return receipt requested to the following:

To the Town:

_____

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Project Manager
Town of Bay Harbor Islands
9665 Bay Harbor Terrace
Bay Harbor Islands, Florida 33154
Telephone: _____
E-mail: _____with copies to:

Town Manager and Town Attorney
Town of Bay Harbor Islands
9665 Bay Harbor Terrace
Bay Harbor Islands, Florida 33154
Telephone: _____

To the Contractor:

_____
_____
_____
Telephone: _____
E-mail: _____

ARTICLE 20 – LIMITATION OF LIABILITY

20.1 The Town desires to enter into this Agreement only if in so doing the Town can place a limit on the Town's liability for any cause of action arising out of this Agreement, so that the Town's liability for any breach never exceeds the sum of $1,000. For other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Contractor expresses its willingness to enter into this Agreement with the knowledge that the Contractor's recovery from the Town to any action or claim arising from the Agreement is limited to a maximum amount of $1,000, which amount shall be reduced by the amount actually paid by the Town to the Contractor pursuant to this Agreement, for any action or claim arising out of this Agreement. Nothing contained in this paragraph or elsewhere in this Agreement is in any way intended either to be a waiver of the limitation placed upon the Town's liability as set forth in Section 768.28, Florida Statutes (2022), as may be amended or revised, or to extend the Town's liability beyond the limits established in said Section 768.28, Florida Statutes (2022), as may be amended or revised; and no claim or award against the Town shall include attorney's fees, investigative costs, expert fees, suit costs or pre-judgment interest.

20.2 No Extended Damages: For other and additional good and valuable consideration the receipt and sufficiency of which is hereby acknowledged, the Contractor covenants and agrees that in the event of any delay of construction or for any reason, allegation or claim, and notwithstanding the reason of the delay, reason, claim or allegation or who caused them or the construction delay or whether they were caused by the Town, that there will be no entitlement to Contractor to or for any direct or indirect financial damages or losses for extended corporate overhead impact, extended project overhead impacts, project support services, mobilization or demobilization or by whatever other label or legal concept or theory and types of names or labels or basis such claims may have, or any business damages or losses of whatever type or nature, and Contractor hereby

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waives any right to make any such claim or claims. This provision will have application and effect when construction delays are anticipated and agreed upon by both the Town and the Contractor.

ARTICLE 21 – GOVERNING LAW; WAIVER OF JURY TRIAL

21.1 The Agreement shall be interpreted and construed in accordance with, and governed by, the laws of the state of Florida. The Parties agree that the exclusive venue for any lawsuit arising from, related to, or in connection with this Agreement shall be in the state courts of the Seventeenth Judicial Circuit in and for Dade County, Florida. If any claims arising from, related to, or in connection with this Agreement must be litigated in federal court, the Parties agree that the exclusive venue for any such lawsuit shall be in the United States District Court or United States Bankruptcy Court for the Southern District of Florida. **BY ENTERING INTO THIS AGREEMENT, THE PARTIES HEREBY EXPRESSLY WAIVE ANY AND ALL RIGHTS EITHER PARTY MIGHT HAVE TO A TRIAL BY JURY OF ANY ISSUES RELATED TO THIS AGREEMENT. IF A PARTY FAILS TO WITHDRAW A REQUEST FOR A JURY TRIAL IN A LAWSUIT ARISING OUT OF THIS AGREEMENT AFTER WRITTEN NOTICE BY THE OTHER PARTY OF VIOLATION OF THIS SECTION, THE PARTY MAKING THE REQUEST FOR JURY TRIAL SHALL BE LIABLE FOR THE REASONABLE ATTORNEYS' FEES AND COSTS OF THE OTHER PARTY IN CONTESTING THE REQUEST FOR JURY TRIAL, AND SUCH AMOUNTS SHALL BE AWARDED BY THE COURT IN ADJUDICATING THE MOTION.**

ARTICLE 22 – MISCELLANEOUS

22.1 The duties and obligations imposed by this Agreement and the rights and remedies available to the Parties and, in particular but without limitation, the warranties, guaranties and obligations imposed upon the Contractor and all of the rights and remedies available to the Town, are in addition to, and are not to be construed in any way as a limitation of, any rights and remedies available to any or all of them which are otherwise imposed or available by laws or regulations, by special warranty or guarantee or by other provisions of the Contract Documents, and the provisions of this Paragraph will be as effective as if repeated specifically in the Contract Documents, and the provisions of this Paragraph will survive final payment and termination or completion of this Agreement.

22.2 The Contractor shall not assign or transfer this Agreement or its rights, title or interests. The obligations undertaken by the Contractor pursuant to this Agreement shall not be delegated or assigned to any other person or firm. Violation of the terms of this Paragraph shall constitute a material breach of Agreement by the Contractor and the Town any, at its discretion, cancel this Agreement and all rights, title and interest of the Contractor which shall immediately cease and terminate.

22.3 The Contractor and its employees, volunteers and agents shall be and remain as independent contractor and not agents or employees of the Town with respect to all of the acts and services performed by and under the terms of this Agreement. This Agreement shall not in any way be constructed to create a partnership, association or any other kind of joint undertaking or venture between the Parties.

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22.4 The Town reserves the right to audit the records of the Contractor relating in any way to the Work to be performed pursuant to this Agreement at any time during the performance and term of this Agreement and for a period of three (3) years after completion and acceptance by the Town. If required by the Town, the Contractor agrees to submit to an audit by an independent certified public accountant selected by the Town. The Contractor shall allow the Town to inspect, examine and review the records of the Contractor at any and all times during normal business hours during the term of this Agreement.

22.5 The remedies expressly provided in this Agreement to the Town shall not be deemed to be exclusive but shall be cumulative and in addition to all other remedies in favor of the Town now or later existing at law or in equity.

22.6 Should any part, term or provisions of this Agreement be decided by the courts to be invalid, illegal or in conflict with any state or federal law, the validity of the remaining portion or provision shall not be affected.

22.7 Prohibition Against Contracting With Scrutinized Companies: Subject to *Odebrecht Construction, Inc., v. Prasad*, 876 F.Supp.2d 1305 (S.D. Fla. 2012), *affirmed*, *Odebrecht Construction, Inc., v. Secretary, Florida Department of Transportation*, 715 F.3d 1268 (11th Cir. 2013), with regard to the "Cuba Amendment," the Contractor certifies that it is not on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, and that it does not have business operations in Cuba or Syria, as provided in Section 287.135, Florida Statutes (2022), as may be amended or revised. The Contractor certifies that it is not on the Scrutinized Companies that Boycott Israel List created pursuant to Section 215.4725, Florida Statutes (2022), as may be amended or revised, and that it is not engaged in a boycott of Israel. The Town may terminate this Agreement at the Town's option if the Contractor is found to have submitted a false certification as provided under subsection (5) of Section 287.135, Florida Statutes (2022), as may be amended or revised, or been placed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List or the Scrutinized Companies that Boycott Israel List created pursuant to Section 215.4725, Florida Statutes (2022), as may be amended or revised, or is engaged in a boycott of Israel or has been engaged in business operations in Cuba or Syria, as defined in Section 287.135, Florida Statutes (2022), as may be amended or revised.

By submitting a bid or response, the company, principals, or owners certify that it is not listed on the Scrutinized Companies with Activities in Sudan List or listed on the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List or is engaged in business operations in Cuba or Syria.

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22.8 Public Entity Crimes: In accordance with the Public Crimes Act, Section 287.133, Florida Statutes (2022), as may be amended or revised, a person or affiliate who is a contractor, consultant or other provider, who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid on a contract to provide any goods or services to the Town, may not submit a bid on a contract with the Town for the construction or repair of a public building or public work, may not submit bids on leases of real property to the Town, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with the Town, and may not transact any business with the Town in excess of the threshold amount provided in Section 287.017, Florida Statutes (2022), as may be amended or revised, for category two purchases for a period of thirty-six (36) months from the date of being placed on the convicted vendor list. Violation of this section by Contractor shall result in cancellation of the Town purchase and may result in Contractor debarment.

22.9 Attorney Fees: If Town or Contractor incurs any expense in enforcing the terms of this Agreement through litigation, the prevailing Party in that litigation shall be reimbursed for all such costs and expenses, including but not limited to court costs, and reasonable attorney fees incurred during litigation.

22.10 Public Records

IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES (2022), TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT PRRCONTRACT@FORTLAUDERDALE.GOV, 954-828-5002, TOWN CLERK'S OFFICE, 100 N. ANDREWS AVENUE, BAY HARBOR ISLANDS, FLORIDA 33301.

Contractor shall:

1. Keep and maintain public records required by the Town in order to perform the service.

2. Upon request from the Town's custodian of public records, provide the Town with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes (2022), as may be amended or revised, or as otherwise provided by law.

3. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of this Agreement if the Contractor does not transfer the records to the Town.

4. Upon completion of the Agreement, transfer, at no cost, to the Town all public records in possession of the Contractor or keep and maintain public records required by the Town to perform the service. If the Contractor transfers all public records to the Town upon completion of this Agreement, the Contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure

SAMPLE AGREEMENT

requirements. If the Contractor keeps and maintains public records upon completion of this Agreement, the Contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the Town, upon request from the Town's custodian of public records, in a format that is compatible with the information technology systems of the Town.

22.11 Non-Discrimination

The Contractor shall not discriminate against its employees based on the employee's race, color, religion, gender, gender identity, gender expression, marital status, sexual orientation, national origin, age, disability, or any other protected classification as defined by applicable law.

1. The Contractor certifies and represents that the Contractor offers the same health benefits to the domestic partners of its employees as are offered its employees' spouses or offers its employees the cash equivalent of such health benefits because it is unable to provide health benefits to its employees' domestic partners, and that the Contractor will comply with Section 2-187, Code of Ordinances of the Town of Bay Harbor Islands, Florida, as may be amended or revised, ("Section 2-187"), during the entire term of this Agreement.

2. The failure of the Contractor to comply with Section 2-187 shall be deemed to be a material breach of this Agreement, entitling the Town to pursue any remedy stated below or any remedy provided under applicable law.

3. The Town may terminate this Agreement if the Contractor fails to comply with Section 2-187.

4. The Town may retain all monies due or to become due until the Contractor complies with Section 2-187.

5. The Contractor may be subject to debarment or suspension proceedings. Such proceedings will be consistent with the procedures in Section 2-183 of the Code of Ordinances of the Town of Bay Harbor Islands, Florida.

22.13 E-VerifyAs a condition precedent to the effectiveness of this Agreement, pursuant to Section 448.095, Florida Statutes (2022), as may be amended or revised, the Contractor and its subcontractors shall register with and use the E-Verify system to electronically verify the employment eligibility of newly hired employees.

1. The Contractor shall require each of its subcontractors, if any, to provide the Contractor with an affidavit stating that the subcontractor does not employ, contract with, or subcontract with an unauthorized alien. The Contractor shall maintain a copy of the subcontractor's affidavit for the duration of this Agreement and in accordance with the public records requirements of this Agreement.

2. The Town, the Contractor, or any subcontractor who has a good faith belief that a person or entity with which it is contracting has knowingly violated Section 448.09(1), Florida Statutes (2022), as may be amended or revised, shall terminate the Agreement with the person or entity.

SAMPLE AGREEMENT

3. The Town, upon good faith belief that a subcontractor knowingly violated the provisions of Section 448.095(2), Florida Statutes (2022), as may be amended or revised, but that the Contractor otherwise complied with Section 448.095(2), Florida Statutes (2022), as may be amended or revised, shall promptly notify Contractor and order the Contractor to immediately terminate the contract with the subcontractor, and the Contractor shall comply with such order.

4. An Agreement terminated under Sections 448.095(2)(c)1. or 2., Florida Statutes (2022), as may be amended or revised, is not a breach of contract and may not be considered as such. If the Town terminates this Agreement under Section448.095(2)(c), Florida Statutes (2022), as may be amended or revised, the Contractor may not be awarded a public contract for at least one year after the date on which the Agreement was terminated. The Contractor is liable for any additional costs incurred by the Town as a result of termination of this Agreement.

5. Contractor shall include in each of its subcontracts, if any, the requirements set forth in this Section, including this subparagraph, requiring any and all subcontractors, as defined in Section 448.095(1)(j), Florida Statutes (2022), as maybe amended or revised, to include all of the requirements of this Section in its subcontracts. Contractor shall be responsible for compliance by any and all subcontractors, as defined in Section 448.095(1)(j), Florida Statutes (2022), as maybe amended or revised, with the requirements of Section 448.095, Florida Statutes (2022), as may be amended or revised.

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SAMPLE AGREEMENT

TOWN

IN WITNESS OF THE FOREGOING, the Parties have set their hands and seals the day and year first written above.

TOWN OF BAY HARBOR ISLANDS, a Florida municipal corporation

By: _____
MARIA LASDAY
Town Manager

Date: _____

ATTEST:

By: _____
YVONNE HAMILTON
Town Clerk

By:_____

Town Attorney

SAMPLE AGREEMENT

CONTRACTOR

WITNESSES:

CONTRACTOR.,
a Florida company/corporation.

_____ By:_____

_____ Print Name:_____
Print Name

Title:_____

ATTEST:

_____

_____
Print Name

By:_____
Secretary

(CORPORATE SEAL)

STATE OF _____:

COUNTY OF _____:

The foregoing instrument was acknowledged before me by means of ❑ physical presence or ❑ online notarization, this _____ day of _____, 2023, by _____, (NAME OF AUTHORIZED OFFICER) as _____ (TITLE OF AUTHORIZED OFFICER), for _____ (NAME OF COMPANY), a Florida _____(TYPE OF COMPANY).

_____
(Signature of Notary Public - State of Florida)

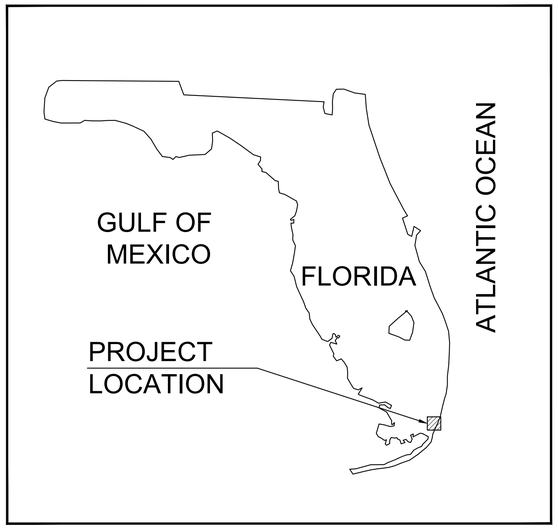
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(Print, Type, or Stamp Commissioned Name of Notary Public)

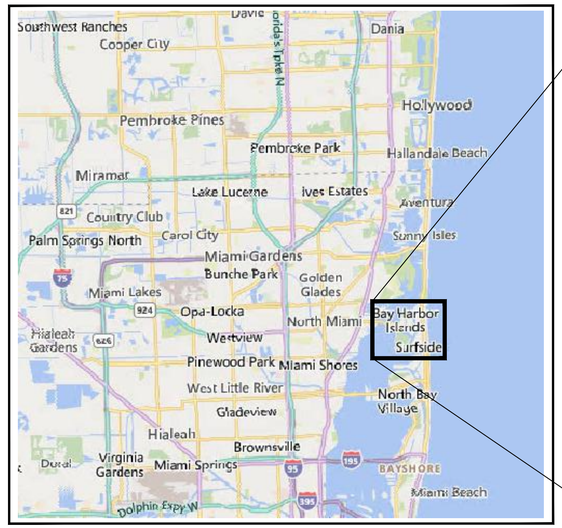
Personally Known_____ OR Produced Identification_____
Type of Identification Produced: _____

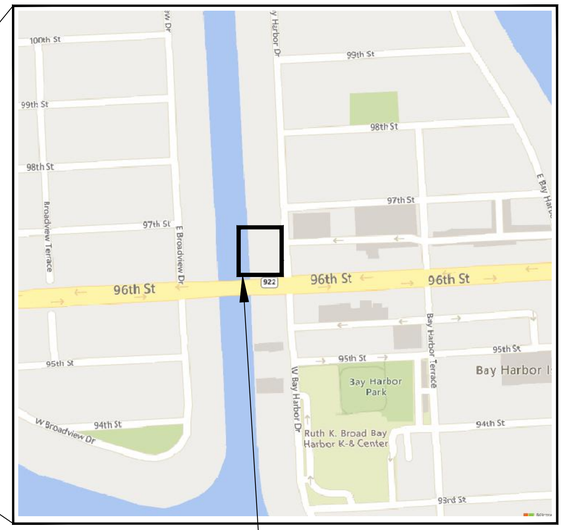
SAMPLE AGREEMENT

SEAWALL REPLACEMENT PROJECT FOR THE TOWN OF BAY HARBOR ISLANDS

9600 W. BAY HARBOR DR.
BAY HARBOR ISLANDS, MIAMI, FL.







PROJECT LOCATION

N

INDEX OF DRAWINGS	
SHEET	DESCRIPTION
CM-1.0	COVER SHEET
CM-1.1	GENERAL NOTES
CM-1.2	GEOTECHNICAL REPORT
CM-1.3	SURVEY/ EXISTING CONDITIONS
CM-1.4	DEMOLITION PLAN & SECTIONS
CM-2.0	PROPOSED PLAN & SECTIONS
CM-2.1	PARTIAL PLANS & DETAILS
CM-2.2	DETAILS & SECTIONS

OWNER:

THE TOWN OF BAY HARBOR ISLANDS
96000 W. BAY HARBOR DR.
BAY HARBOR ISLANDS, MIAMI FL.

ENGINEER:

CUMMINS | CEDERBERG
Coastal & Marine Engineering
MIAMI • FORT LAUDERDALE • JUPITER
TALLAHASSEE • ST. PETERSBURG
TEL: +1 305-741-6155 FAX: 305-974-1969
WWW.CUMMINSCEDERBERG.COM

CLIENT:

CHEN MOORE AND ASSOC.
3150 SW. 38th AVE., STE 950
MIAMI, FLORIDA 33146

CONTRACTOR:

CONSTRUCTION DRAWINGS - 06/30/2023

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J:\Projects\57002 9600 W Bay Harbor Dr\03 - Drawings\Construction\Working\57002- 9600 W Bay Harbor Dr.dwg

1. GENERAL

1.1. THE WORK CONSISTS OF PROVIDING ALL CONSTRUCTION, LABOR, EQUIPMENT, MATERIAL AND OPERATIONS IN CONNECTION WITH THE REPLACEMENT OF THE SEAWALL AND RELATED IMPROVEMENTS AS SHOWN ON THESE DRAWINGS.
1.2. ANY DISCREPANCIES IN THE PLANS WITH THE FIELD CONDITIONS SHALL BE BROUGHT TO THE IMMEDIATE ATTENTION OF THE ENGINEER. CONSTRUCTION SHALL NOT CONTINUE UNTIL THE ENGINEER HAS ADDRESSED THE DISCREPANCIES.
1.3. THE CONTRACTOR SHALL TAKE ALL NECESSARY PRECAUTIONS TO PROTECT EXISTING STRUCTURES IN THE PROJECT VICINITY. ANY DAMAGE TO PRIVATE OR PUBLIC PROPERTY WITHIN THE PROJECT VICINITY, INCLUDING STAGING SITES, WORK AND ACCESS AREAS SHALL BE REPAIRED PROMPTLY BY THE CONTRACTOR. ANY DAMAGE AS A RESULT OF THE CONTRACTOR'S OPERATIONS SHALL BE REPAIRED AT NO COST TO THE OWNER. ALL ACCESS AND STAGING AREAS SHALL BE KEPT NEAT, ORDERLY AND IN A SAFE MANNER. ALL ACCESS AND STAGING AREAS SHALL BE RESTORED TO THE PRE-CONSTRUCTION CONDITION UPON PROJECT COMPLETION AT THE COST OF THE CONTRACTOR. THE SITE SHALL BE RESTORED BY REMOVING AND FINISHING ALL EVIDENCE FOR CONSTRUCTION. IN THE EVENT INFRASTRUCTURE (SUCH AS WALKWAYS, SIDEWALKS, FENCES, VEGETATION, ETC.) IS TEMPORARILY REMOVED OR RELOCATED OR THERE IS UNAUTHORIZED DAMAGE TO VEGETATION AND/OR FACILITIES BY THE CONTRACTOR, THE CONTRACTOR SHALL RESTORE ALL DAMAGE TO STRUCTURES AND NATURAL FEATURES TO PRE-CONSTRUCTION CONDITIONS OR BETTER.
1.4. UTILITIES ARE NOT SHOWN IN THE PLANS. CONTRACTOR IS RESPONSIBLE FOR LOCATING ALL PRESENT UTILITIES PRIOR TO CONSTRUCTION.
1.5. CONTRACTOR IS RESPONSIBLE FOR PROVIDING PROPER CLEARANCE AND PROTECTION TO ALL OVERHEAD WIRES AND OBSTRUCTIONS.
1.6. THE CONTRACTOR SHALL EXCLUDE THE PUBLIC FROM THE WORK AREAS IN THE IMMEDIATE VICINITY OF OPERATIONS. CONTRACTOR SHALL PROVIDE APPROPRIATE SAFETY MEASURES TO PROTECT THE PUBLIC.
1.7. ALL NEW STRUCTURAL WORK INCLUDING CONCRETE AND REINFORCEMENT SHALL BE ACCURATELY FIELD MEASURED AND DIMENSIONS VERIFIED BY THE CONTRACTOR PRIOR TO ORDERING MATERIALS. CONTRACTOR SHALL BE PREPARED TO MAKE FIELD ADJUSTMENTS TO ACCURATELY FIT THE NEW WORK TO EXISTING CONDITIONS.
1.8. NO CONSTRUCTION SHALL COMMENCE UNTIL ALL REQUIRED PERMITS AND APPROVALS HAVE BEEN SECURED AND THE CONTRACTOR HAS BEEN ISSUED NOTICE TO PROCEED.
1.9. ATTENTION IS DIRECTED TO THE FACT THAT THESE PLANS MAY HAVE BEEN CHANGED IN SIZE BY REPRODUCTION. THIS SHOULD BE CONSIDERED WHEN OBTAINING SCALED DATA.
1.10. CONSTRUCTION WORK SHALL BE EXECUTED IN ACCORDANCE WITH ALL LOCAL, STATE, AND NATIONAL BUILDING CODES AND GOVERNING REGULATIONS.FDEP, USACE, AND MIAMI-DADE COUNTY. CONTRACTOR SHALL ADHERE TO ALL CONDITIONS OF THE PERMITS AND EXEMPTIONS.

2. LAYOUT AND TESTING

2.1. ALL CONSTRUCTION STAKEOUT SHALL BE PERFORMED BY AND PAID FOR BY THE CONTRACTOR UNDER THE SUPERVISION OF A SURVEYOR REGISTERED IN THE STATE OF FLORIDA. ALL TESTING AND INSPECTION FOR CONCRETE MATERIALS SHALL BE IN ACCORDANCE WITH FDOT SPECIFICATIONS AND SHALL BE PERFORMED BY AN INDEPENDENT TESTING LABORATORY.

3. DEMOLITION

3.1. CONTRACTOR SHALL VERIFY THE EXTENTS, LOCATION AND QUANTITIES OF EXISTING ELEMENTS TO BE REMOVED.
3.2. ALL DEBRIS WITHIN THE LIMITS OF THE PROJECT SITE SHALL HAULED OFF SITE BY THE CONTRACTOR, AS DIRECTED BY THE OWNER, AND DISPOSED OF AT AN APPROPRIATE FACILITY.
3.3. CONTRACTOR SHALL NOT DAMAGE ANY STRUCTURAL COMPONENTS BEYOND THE DEMOLITION REQUIREMENTS DEPICTED IN THESE DRAWINGS. ANY DAMAGE SHALL BE REPAIRED AT THE CONTRACTOR'S EXPENSE.
3.4. ALL MATERIAL DISCARDED INTO THE WATER SHALL BE IMMEDIATELY REMOVED BY THE CONTRACTOR.

4. SURVEY

4.1. BOUNDARY AND TOPOGRAPHICAL SURVEY BY LONGITUDE SURVEYORS, DATED 11/08/22.

5. DESIGN CODES & STANDARDS

5.1. FBC 2020
5.2. ACI 440-1R-15
5.3. AASHTO LFRD BRIDGE DESIGN GUIDE SPECIFICATIONS FOR GFRP - REINFORCED CONCRETE 2018
5.4. ACI 318-19
5.5. FDOT STANDARD SPECIFICATIONS FOR ROAD & BRIDGE CONSTRUCTION

6. DESIGN LOADS
6.1. BULKHEAD SURCHARGE LL = 100 PSF

7. CONCRETE

7.1. FORMS FOR THIS WORK SHALL BE MADE OF EITHER WOOD OR METAL. THEY SHALL BE STRAIGHT AND FREE OF WARP OR BENDS. THEY SHALL HAVE SUFFICIENT STRENGTH AND RIGIDITY, WHEN STAKED, TO RESIST THE PRESSURE OF THE CONCRETE WITHOUT SPRINGING. IF WOODEN FORMS ARE USED, THEY SHALL BE OF ADEQUATE SECTION AND SHALL HAVE A FLAT SURFACE ON TOP. FORMS SHALL HAVE A DEPTH AT LEAST EQUAL TO THE VERTICAL DIMENSIONS FOR THE DEPTH OF THE CONCRETE BEING DEPOSITED AGAINST THEM. WHEN READY FOR THE CONCRETE TO BE DEPOSITED, THEY SHALL NOT VARY FROM THE APPROVED LINE AND GRADE, AND SHALL BE KEPT SO UNTIL THE CONCRETE HAS SET.
7.2. JUST PRIOR TO PLACING THE CONCRETE ANY WOODEN FORMS SHALL BE MOISTENED AND ALL REINFORCING SHALL BE RINSED WITH FRESH WATER. THE CONCRETE SHALL BE PLACED IN THE FORMS AND TAMPED IN PLACE SO THAT ALL HONEYCOMBS WILL BE ELIMINATED AND SUFFICIENT MORTAR BROUGHT TO A SMOOTH EVEN FINISH BY MEANS OF A FLOAT.
7.3. CONTRACTOR SHALL BE PREPARED TO PLACE CONCRETE OF LOWER MEMBERS OF THE MARINE STRUCTURES IN SUBMERGED CONDITIONS UTILIZING TREMIE METHODS AT NO ADDITIONAL COST.
7.4. NO CONCRETE SHALL BE POURED DURING UNFAVORABLE WEATHER OR SEA CONDITIONS.
7.5. CAST-IN-PLACE CONCRETE SHALL BE A MINIMUM OF 5,500 PSI COMPRESSIVE STRENGTH AT 28 DAYS. WATER CEMENT RATIO (W/C) SHALL BE LESS THAN OR EQUAL TO 0.4. PROVIDE MIX DESIGN FOR A CLASS IV CONCRETE FOR AN EXTREMELY AGGRESSIVE (MARINE) ENVIRONMENT IN ACCORDANCE WITH FDOT SPECIFICATIONS. CONTRACTOR SHALL PROVIDE MIX DESIGN TO ENGINEER FOR APPROVAL 10 DAYS PRIOR TO CONCRETE PLACEMENT.
7.6. NO WATER SHALL BE ADDED TO CONCRETE AT THE JOB SITE UNLESS AUTHORIZED BY THE ENGINEER OR SPECIAL INSPECTOR.
7.7. WHEN SURFACE FINISHING IS COMPLETED, THE STRUCTURE SHALL BE PROTECTED AGAINST WAVE SPLASH FOR TWO DAYS AND CURED PER APPLICABLE PARAGRAPHS OF SECTION 400-16 OF THE FDOT STANDARD SPECIFICATIONS. CURING SHALL OCCUR FOR AT LEAST 7 DAYS.
7.8. A SURFACE PENETRANT SEALER OF ALKYL-ALKOXY SILANE CLASSIFICATION, SUCH AS BASF MASTERPROTECT H 400, OR APPROVED EQUAL SHALL BE APPLIED ALL EXPOSED CONCRETE.
7.9. APPLY SIKA ARMATEC 110 BONDING AGENT, OR APPROVED EQUAL, AT CONSTRUCTION JOINTS PRIOR TO PLACEMENT OF NEW CONCRETE.
7.10. COMPONENTS NOT CONSTRUCTED ACCORDING TO THESE SPECIFICATIONS SHALL BE REMOVED AND REPLACED PROPERLY AT THE EXPENSE OF THE CONTRACTOR.
7.11. THE FACES OF THE FINISHED STRUCTURES SHALL BE TRUE, STRAIGHT, AND OF UNIFORM WIDTH, FREE FROM HUMPS, SAGS, OR OTHER IRREGULARITIES EXCEPT AS SPECIFIED IN THE PLANS. THE CONTRACTOR SHALL REPLACE ANY DEFICIENT SEGMENTS.
7.12. CONCRETE FORMWORKERS AND FINISHERS:
7.12.1. THE CONTRACTOR SHALL SUPPLY A SUFFICIENT NUMBER OF EXPERIENCED CONCRETE FORMWORKERS AND FINISHERS IN ORDER TO COMPLETE THE WORK. A CONCRETE FOREMAN WHO HAS A THOROUGH UNDERSTANDİNG OF THE PLANS, SPECIFICATIONS, AND REFERENCED SPECIFICATIONS SHALL SUPERVISE ALL FORMWORKERS AND FINISHERS. NO SUB-STANDARD WORKMANSHIP WILL BE ACCEPTED.
7.13. CONCRETE TRANSPORTATION:
7.13.1. CONCRETE DELIVERED FROM A READY MIX PLANT SHALL BE TRANSPORTED IN ACCORDANCE TO FDOT SECTION 345-13. CONCRETE THAT IS NOT PLACED IN THE FORM WITHIN THE SPECIFIED TIME LIMITS WILL BE REJECTED AND NOT INCLUDED IN THE WORK. CONTRACTOR SHALL BEAR ALL COSTS FOR REJECTED CONCRETE. CONCRETE SHALL NOT BE PLACED IN THE FORMS UNTIL THE REINFORCING STEEL PLACEMENT HAS BEEN APPROVED BY THE ENGINEER.
7.14. REINFORCED CONCRETE MATERIALS TESTING:
7.14.1. THE CONTRACTOR SHALL HAVE AN INDEPENDENT TESTING LABORATORY TEST THE CONCRETE USED IN THE WORK. THE TEST SHALL INCLUDE 7, 14, AND 28 DAY COMPRESSIVE STRENGTH TESTS. THE RESULTS SHALL BE SUPPLIED TO THE ENGINEER. THE TESTS SHALL BE IN ACCORDANCE WITH ASTM C31, C39, AND C617.
7.15. ADHESIVE BONDED DOWELS SHALL BE INSTALLED IN ACCORDANCE WITH FDOT SECTION 416.

8. PRECAST PILING

8.1. 14" SQUARE PRESTRESSED CONCRETE PILES SHALL BE WITH EIGHT (8) 0.6" DIAMETER STRANDS, GRADE 270 L.R.S.
8.2. PILES MAY BE PRE-PUNCHED BUT SHALL BE DRIVEN TO FINAL TIP ELEVATION.
8.3. CONCRETE TO BE MINIMUM 6,000 PSI, AND FOLLOW FDOT CLASS-V CONCRETE SPECIFICATIONS. MINIMUM COVER TO INTERNAL REINFORCEMENT SHALL BE 3" ON ALL SIDES.
8.4. PILES SHALL BE DRIVEN TO THE TIP ELEVATION SHOWN IN THE DRAWINGS. NOTIFY ENGINEER IF PRACTICAL REFUSAL IS ENCOUNTERED PRIOR.
8.5. INDICATOR PILE LOG(S) SHALL BE SUBMITTED TO EOR FOR CONFIRMATION OF PRODUCTION PILE LENGTH AND MINIMUM BEARING CAPACITY.
8.6. 14" SQUARE PRESTRESSED CONCRETE PILES SHALL PROVIDE A MINIMUM BEARING CAPACITY OF 40 TONS/PILE.
8.7. PILE LOGS SHALL BE RECORDED FOR ALL DRIVEN PILES BY THE CONTRACTOR.
8.8. PILES SHALL BE CUT OFF AS SHOWN ON THE PLANS AND SECTIONS HEREIN ONLY AFTER ENGINEER'S APPROVAL.
8.9. CONTRACTOR TO SUBMIT SHOP DRAWINGS FOR CONCRETE PILES.

9. GLASS FIBER REINFORCED POLYMER (GFRP) REINFORCEMENT

9.1. GLASS FIBER REINFORCED POLYMER (GFRP) PER FDOT SPECIFICATIONS, SECTIONS 932-3, APPLICABLE TO PRECAST CONCRETE PANEL AND ALL CIP COMPONENTS EXCEPT PILING.
9.2. GLASS FIBER REINFORCED POLYMER SHALL BE NEW AND ROUND CONFORMING TO ASTM D7957 AND MEET MINIMUM TENSILE MODULUS OF ELASTICITY OF 8700 KSI.

10.TIDAL DATA

10.1. CONTRACTOR MAY NEED TO ADJUST HIS WORK PLAN TO ACCOUNT FOR ACTUAL WATER LEVELS AND CHANGING WATER LEVELS. THE SITE MAY BE SUBJECT TO VARIABLE WAVE AND SURGE CONDITIONS AND IT IS THE RESPONSIBILITY OF THE CONTRACTOR TO PROVIDE TEMPORARY SUPPORT FOR MARINE STRUCTURES AND SHORELINE DURING CONSTRUCTION. TIDAL DATA OBTAINED FROM BAKER'S HAULOVER INLET SIDE, FLORIDA STATION ID 8723073.

11.TURBIDITY CONTROL

11.1. TURBIDITY BARRIERS SHALL BE AS REQUIRED BY PERMITS. IF REQUIRED, TURBIDITY BARRIERS SHALL REMAIN IN PLACE UNTIL TURBIDITY LEVELS FALL WITHIN STATE AND COUNTY STANDARDS ABOVE BACKGROUND.

12.SUBMITTALS

12.1. REVIEW OF SUBMITTALS BY THE STRUCTURAL ENGINEER IS FOR GENERAL CONFORMANCE WITH THE DESIGN CONCEPT AS PRESENTED BY THE CONTRACT DOCUMENTS. NO DETAILED CHECK OF QUANTITIES OR DIMENSIONS WILL BE MADE.
12.2. ALL SHOP DRAWINGS MUST BEAR EVIDENCE OF THE CONTRACTOR'S APPROVAL PRIOR TO SUBMITTING TO EOR.
12.3. THE FOLLOWING MINIMUM SUBMITTALS SHALL BE PREPARED BY THE CONTRACTOR AND SUBMITTED TO THE ENGINEER FOR REVIEW AND APPROVAL PRIOR TO RELATED CONSTRUCTION ACTIVITY:

12.3.1. SCHEDULE FOR COMPLETION OF WORK WITH TASKS AND DURATIONS DEFINED
12.3.2. CONCRETE MIX
12.3.3. REINFORCING
12.3.4. PRESTRESSED PILING
12.3.5. OUTFALL CHECK VALVE
12.3.6. GFRP REINFORCEMENT

RER - NATURAL RESOURCES DIVISION
PRELIMINARY APPROVAL
NAME Ashley Dominguez
DATE 07/05/2023

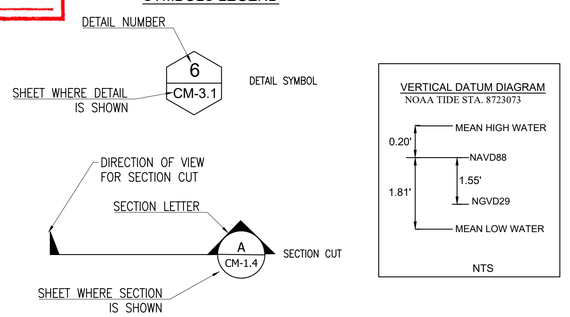
13. ROCK

13.1. PROPOSED ROCK SOURCE(S) MUST BE APPROVED FOR USE BY THE ENGINEER PRIOR TO THE COMMENCEMENT OF THE WORK. ONCE THE SOURCE(S) FOR ROCK ARE APPROVED, THE CONTRACTOR SHALL NOT USE MATERIAL FROM ANOTHER SOURCE WITHOUT REPEATING THE ACCEPTANCE AND TEST PROCEDURES TO QUALIFY THE OTHER SOURCE(S).
13.2. ALL ROCK SHALL MEET THE FOLLOWING MINIMUM REQUIREMENTS. CONTRACTOR SHALL BE RESPONSIBLE FOR PROVIDING QUARRY CERTIFICATIONS AND PERFORMING QUALITY TESTS ON ALL ROCK.
13.3. CLEAN, SOUND, AND DURABLE, AND FREE FROM FRACTURES, INCLUSIONS, VOIDS, OR OTHER DEFECTS. FREE OF EARTH, CLAY, REFUSE, OR ADHERENT COATINGS.
13.3.1. MINIMUM SPECIFIC GRAVITY OF 2.25 (140.5 PCF).
13.3.2. SOUNDNESS 15% MAX LOSS (ASTM C88)
13.3.3. SUCH CHARACTER THAT IT WILL NOT DISINTEGRATE FROM THE ACTION OF AIR, WATER, OR THE CONDITIONS OF HANDLING AND PLACING. MAXIMUM ABRASION LOSS OF 50% (ASTM C131)
13.3.4. ROUGH ANGULAR QUARRIED MATERIAL WITH A SHAPE THAT ASSURES INTERLOCKING WITH ADJACENT ROCK.
13.4. ALL ROCK WILL BE SUBJECT TO ON-SITE RANDOM SAMPLING AND TESTING (INCLUDING RANDOM DROP TESTS). ROCK THAT DOES NOT CONFORM IN SPECIFIC GRAVITY, STRUCTURE AND OTHER CHARACTERISTIC REQUIREMENTS WILL BE REJECTED. THE PRESENCE OF UNSATISFACTORY ROCK OR OBJECTIONABLE FOREIGN MATERIAL IN ANY OF CONTRACTOR PROVIDED ROCK WILL BE DEEMED SUFFICIENT REASON FOR REJECTION OF THE ENTIRE LOAD OF ROCK. ANY SUCH LOAD OF ROCK SHALL BE IMMEDIATELY REMOVED FROM THE SITE AT THE CONTRACTOR'S EXPENSE.

ABBREVIATIONS

ACI	AMERICAN CONCRETE INSTITUTE
ASTM	AMERICAN SOCIETY FOR TESTING AND MATERIALS
C.I.P.	CAST-IN-PLACE
CLR	CLEAR
CONT	CONTINUOUS
CONC.	CONCRETE
CONT'D	CONTINUED
CY	CUBIC YARD
DEMO.	DEMOLISHED
ELEV/EL.	ELEVATION
EF	EACH FACE
EA	EACH
FDEP	FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION
FDOT	FLORIDA DEPARTMENT OF TRANSPORTATION
GFRP	GLASS FIBER REINFORCED POLYMER
H	HORIZONTAL
EMBED.	EMBEDMENT
KSI	KIPS PER SQUARE INCH
L.F.	LINEAR FEET
MAX	MAXIMUM
MIN.	MINIMUM
MHW	MEAN HIGH WATER
MIN	MINIMUM
MLW	MEAN LOW WATER
NAVD	NORTH AMERICAN VERTICAL DATUM
NAVD	NATIONAL GEODETIC VERTICAL DATUM
O.D.	OUTSIDE DIAMETER
PERA	PERMITTING, ENVIRONMENT, AND REGULATORY AFFAIRS
PSI	POUNDS PER SQUARE INCH
PSPC	PRESTRESSED PRECAST
REINF	REINFORCEMENT
SQ	SQUARE
SPEC.	SPECIFICATION
STD.	STANDARD
TYP	TYPICAL
U.N.O.	UNLESS NOTED OTHERWISE
USACE	UNITED STATES ARMY CORPS OF ENGINEERS
V	VERTICAL
W/C	WATER/CEMENT RATIO

SYMBOLS LEGEND



VERTICAL DATUM DIAGRAM
NOAA TIDE STA. 8723073

NTS

Leonard A Barrera Allen 2023-06-30 15:19:10

PROJECT:
SEAWALL REPLACEMENT PROJECT FOR THE TOWN OF BAY HARBOR ISLANDS

ADDRESS:
9600 W. BAY HARBOR DR.
BAY HARBOR ISLANDS, MIAMI, FL.

CLIENT:
CHEN MOORE AND ASSOC.

ADDRESS:
3150 SW 38th AVE. STE. 950
MIAMI, FLORIDA 33146

ENGINEER:
CUMMINS CEDERBERG
COASTAL & MARINE ENGINEERING
201 ALHAMBRA CIRCLE, SUITE 601
CORAL GABLES, FL 33134
TEL: +1 305 741-6155 FAX: +1 305-974-1969
WWW.CUMMINSCEDERBERG.COM
COA # 29062

THIS ITEM HAS BEEN DIGITALLY SIGNED AND SEALED BY LEONARD BARRERA ALLEN ON THE DATE ADJACENT TO THE SIGNATURE.

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LEONARD BARRERA ALLEN, P.E. #90872

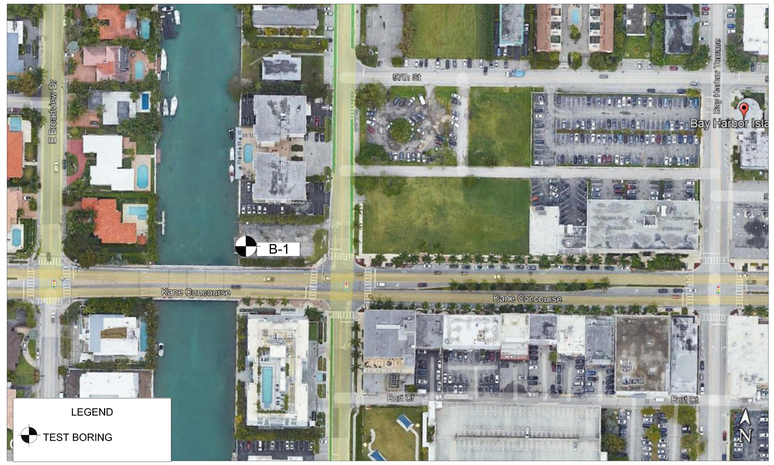
ISSUE	DATE	CONSTRUCTION DRAWINGS SUBMISSION / REVISION
	06/30/2023	

CC PROJECT NO:	57002
DRAWN	SV
CHECKED	KC
SCALE	AS SHOWN

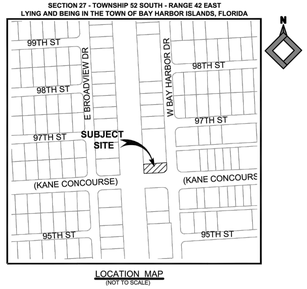
SHEET TITLE
GENERAL NOTES

SHEET 2 OF 8
CM-1.1

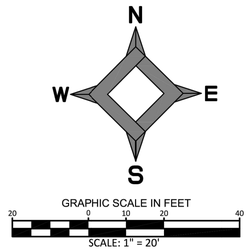
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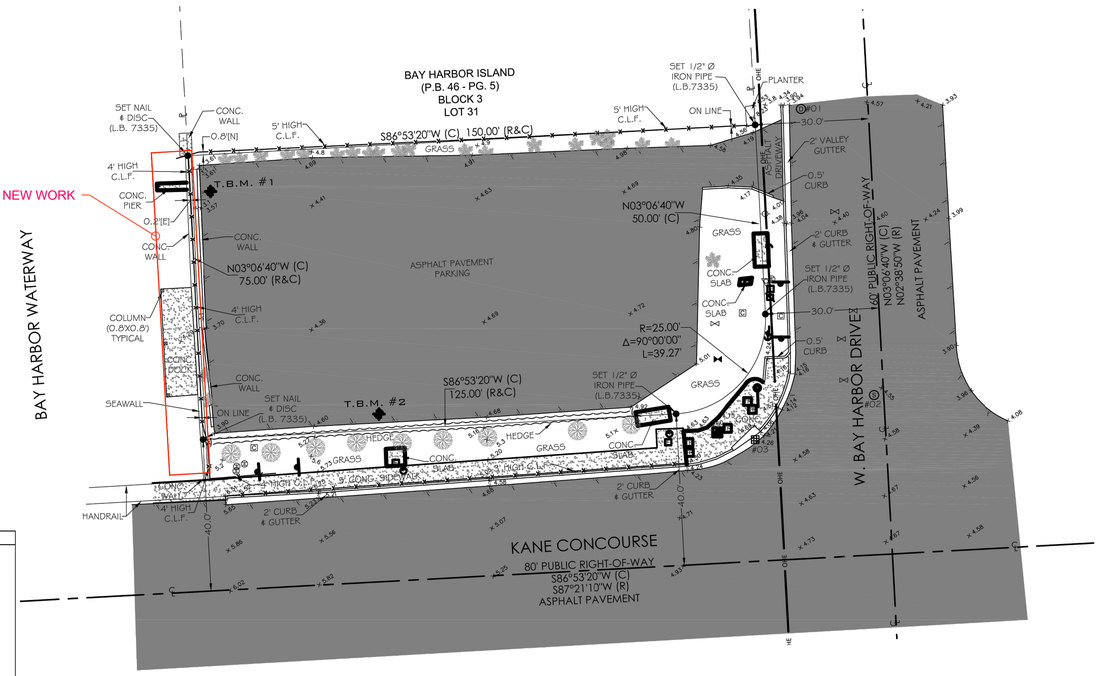

B-1
Kane Concourse
Kane Concourse
Bay Harbor Islands
Bay Harbor Islands
Bay Harbor Islands

MAP OF BOUNDARY AND TOPOGRAPHIC SURVEY



RER - NATURAL RESOURCES DIVISION
PRELIMINARY APPROVAL
NAME Ashley Dominguez
DATE 07/05/2023





LEGEND AND ABBREVIATIONS

- PALM TREE
- TREE
- TEMPORARY SITE BENCHMARK
- BACK FLOW PREVENTER
- WATER VALVE
- PG. = PAGE
- LB = LICENSE BUSINESS
- OHE = EXISTING OVERHEAD
- R/W = RIGHT-OF-WAY
- P.B. = PLAT BOOK
- ℄ = CENTERLINE
- P = PROPERTY LINE
- IRRIGATION VALVE
- FIRE HYDRANT
- STORM MANHOLE
- COMMUNICATION BOX
- SIGN
- CONCRETE LIGHT POLE
- ELECTRIC BOX
- TRAFFIC SIGNAL BOX
- PEDESTRIAN SIGNAL
- TRAFFIC SIGNAL MAST ARM
- GUY ANCHOR
- CATCH BASIN
- SANITARY MANHOLE

ASPHALT | CONCRETE

TEMPORARY BENCHMARK / CONTROL POINT TABLE

NAME	NORTHING	EASTING	POINT ELEVATION	DESCRIPTION
T.B.M. #1	565,526.976'	940,953.162'	3.81'	SET MAG NAIL & DISC (L.B. 7335)
T.B.M. #2	565,468.264'	940,997.566'	4.76'	SET MAG NAIL & DISC (L.B. 7335)

STRUCTURES TABLE

NUMBER	STRUCTURE	RIM ELEVATION	DIRECTION	TYPE	SIZE	INVERT	BOTTOM ELEVATION	SEDIMENT ELEVATION	NOTE
1	SANITARY MANHOLE	4.05'	N	RCP	18"	-0.50'	-2.55'		FULL OF WATER
			W	BAFFLE					
2	SANITARY MANHOLE	4.58'	N	C.I.P.P.LINER	12"	-0.70'			
			S1	C.I.P.P.LINER	8"	-0.52'			
			S2	C.I.P.P.LINER	6"	1.18'			
			S3	C.I.P.P.LINER	6"	1.13'			
3	CURB INLET	4.06'	W	RCP	15"	-0.27'	-1.29'		FULL OF WATER

LEGAL DESCRIPTION:

LOT 32, BLOCK 3 OF "BAY HARBOR ISLAND', ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 46, PAGE 5, OF MIAMI-DADE COUNTY PUBLIC RECORDS, FLORIDA.

SURVEYOR'S NOTES:

DATE OF FIELD SURVEY:

The date of completion of the original field Survey was on May 25, 2022.

PROPERTY INFORMATION:

Property Address: 9600 West Bay Harbor Drive Bay Harbor Islands, FL 33154
Folio No.: 13-2227-001-0790

Containing 10,938 sq. ft. or 0.25 acres, more or less, by calculations.

ACCURACY:

The accuracy obtained by field measurement methods and office calculations of closed geometric figures meets and exceeds the Standards of Practice requirement for Suburban Area (Linear: 1 foot in 7,500 feet).

The elevations as shown are based on a closed level run between the two benchmarks noted on this survey.

The Vertical Accuracy obtained on this "Boundary and Topographic Survey" exceeds the calculated value of closure in feet of plus or minus 0.05 feet times the square root of the distance in miles a commonly value accepted in the construction and surveying industry.

Elevations of well identified features as depicted on the Survey Map were measured to an estimated vertical position accuracy of 1/100 of a foot on hard surfaces and 1/10 of a foot on ground surfaces.

Well identified features as depicted on the Survey Map were measured to an estimated horizontal position accuracy of 1/10 of a foot.

This Map of Survey is intended to be displayed at a scale of One inch equals Twenty feet or smaller.

DATA SOURCES USED FOR SURVEY:

North arrow and bearings as shown hereon are based upon the Centerline of Kane Concourse with an assumed bearing of S86°53'20"W, said line to be considered a well established and monumented line.

This project area appears to be located in Flood Zone "AE", with a Base Flood Elevation being "8 Feet", as per Federal Emergency Management Agency (FEMA) Community-Panel Number 120637 (Town of Bay Harbor Islands), Map No. 12086C0144, Suffix L, Map Revised Date: September 11, 2009.

For Vertical Control:

All elevations shown hereon are based on the National Geodetic Vertical Datum of 1929 (N.G.V.D. '29), and Benchmark(s) supplied by the Public Works and Waste Management Department of Miami-Dade County, Florida.

Benchmark: R-243 Elevation: +6.61' (N.G.V.D. '29)
Loc1----------96 ST (KANE CONCOURSE) --- 5' NORTH OF NORTH CURB LINE
Loc2----------E BROADVIEW DRIVE --- 150'+- EAST OF C/L
DESCRIPTION: US C & G BRASS DISC IN TOP OF GUARD RAIL BASE AT NW CORNER OF BRIDGE OVER BAY HARBOR WATERWAY.

Benchmark: S-243 Elevation: +11.77' (N.G.V.D. '29)
Loc1----------96 ST (KANE CONCOURSE)--- 5.5' SOUTH OF SOUTH CURB
Loc2----------BAY DRIVE --- 225'+- WEST OF INTERSECTION
DESCRIPTION: US C & G BRASS DISC IN SIDEWALK AT SE CORNER OF BRIDGE OVER INDIAN CREEK.

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

Special Warranty Deed recorded on May 31, 1994, in Official Records Book or Deed Book 16381 at Page 3727 of the Public Records of Miami-Dade County, Florida.

LIMITATIONS:

Since no other information were furnished other than that is cited under data sources, the Client is hereby advised that there may be legal restrictions on the Subject Property that are not shown on the Survey Map that may be found in the Public Records of Miami-Dade County.

The Surveyor makes no representation as to ownership or possession of the Subject Property by any entity or individual that may appear on the Public Records of this County.

No excavation or determination was made as to how the Subject Property is served by utilities.

No improvements were located, other than those shown. No underground foundations, improvements and/or utilities were located or shown hereon.

PURPOSE OF SURVEY:

The purpose of this survey is for design.

CLIENT INFORMATION:

This Boundary and Topographic Survey was prepared at the insistence of and certified to:

-Town of Bay Harbor Islands

SURVEYOR'S CERTIFICATE:

I hereby certify; That this "Boundary and Topographic Survey" and the Survey Map consisting of two sheets was performed under my direction and is true and correct to the best of my knowledge and belief and further, that said "Boundary and Topographic Survey" meets the intent of the applicable provisions of the Standards of Practice for Land Surveying in the State of Florida, pursuant to Rule 5J-17 of the Florida Administrative Code and its implementing law, Chapter 472.027 of the Florida Statutes.

LONGITUDE SURVEYORS LLC., a Florida Limited Liability Company
Florida Certificate of Authorization Number LB7335

Eduardo M. Suarez, PSM
Professional Surveyor and Mapper LS6313
State of Florida

NOTICE: Not valid without the digital signature and seal and/or the signature and original raised seal of a Florida Licensed Surveyor and Mapper. Additions and deletions to this map of Survey by other than the signing party are prohibited without the written consent of the signing party.

BOUNDARY AND TOPOGRAPHICAL SURVEY BY LONGITUDE SURVEYORS, DATED 11/08/22. SHOWN HERE FOR INFORMATIONAL PURPOSES ONLY.

LONGITUDE SURVEYORS
7769 NW 48th STREET
SUITE 375
DORAL, FLORIDA
33166
PH: (305) 463-0912
FAX: (305) 513-5680
FLORIDA CERTIFICATE OF AUTHORIZATION
LB 7335
WWW.LONGITUDESURVEYORS.COM

RECORD OF REVISION

No.:	Date:	Description	By:
1	11/08/22	Add Bathymetric Survey	JG

Project Name: **BAY HARBOR ISLANDS**
9600 West Bay Harbor Drive, Bay Harbor Islands, FL 33154

Type of Project: **BOUNDARY/TOPOGRAPHIC SURVEY**

THE OFFICIAL RECORD OF THIS SHEET IS THE ELECTRONIC FILE DIGITALLY SIGNED AND SEALED UNDER RULE 5J-17.062, F.A.C.

Scale:	AS SHOWN
Drawn By:	JC
Checked By:	EMS
Managed By:	DR
Date:	Nov 14, 2022
Project No.:	22129.1.01

Sheet 1 of 2

Leonard A Barrera Allen 2023-06-30 15:20:59

PROJECT:
SEAWALL REPLACEMENT PROJECT FOR THE TOWN OF BAY HARBOR ISLANDS

ADDRESS:
9600 W. BAY HARBOR DR.
BAY HARBOR ISLANDS, MIAMI, FL.

CLIENT:
CHEN MOORE AND ASSOC.

ADDRESS:
3150 SW 38th AVE. STE. 950
MIAMI, FLORIDA 33146

ENGINEER:
CUMMINS CEDERBERG
COASTAL & MARINE ENGINEERING
201 ALHAMBRA CIRCLE, SUITE 601
CORAL GABLES, FL 33134
TEL: +1 305 741-6155 FAX: +1 305-974-1969
WWW.CUMMINSCEDERBERG.COM
COA # 29062

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LEONARD BARRERA ALLEN, P.E. #90872

06/30/2023	CONSTRUCTION DRAWINGS SUBMISSION / REVISION
ISSUE	DATE

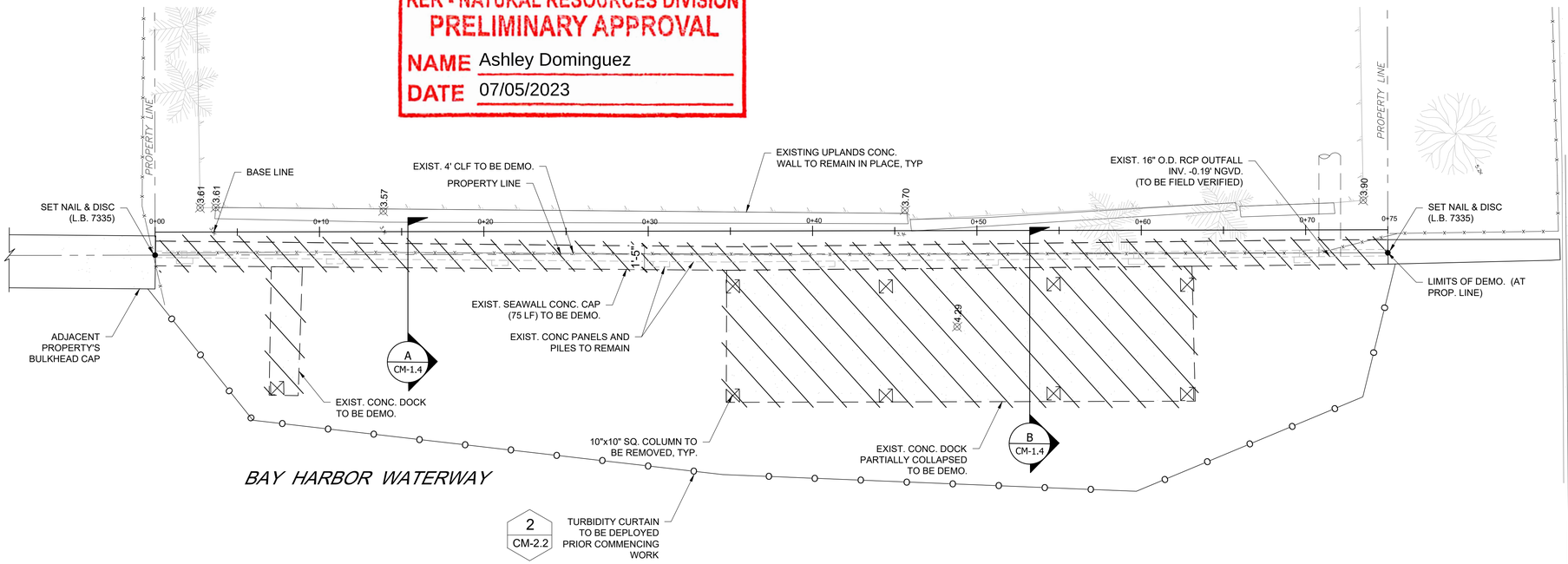
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DRAWN	SV
CHECKED	KC
SCALE	AS SHOWN

SHEET TITLE
SURVEY/ EXISTING CONDITIONS

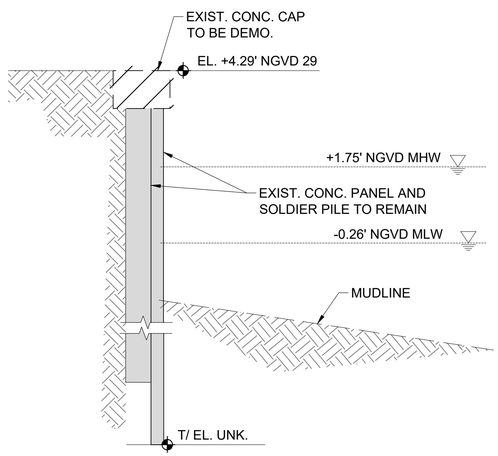
SHEET 4 OF 8
CM-1.3

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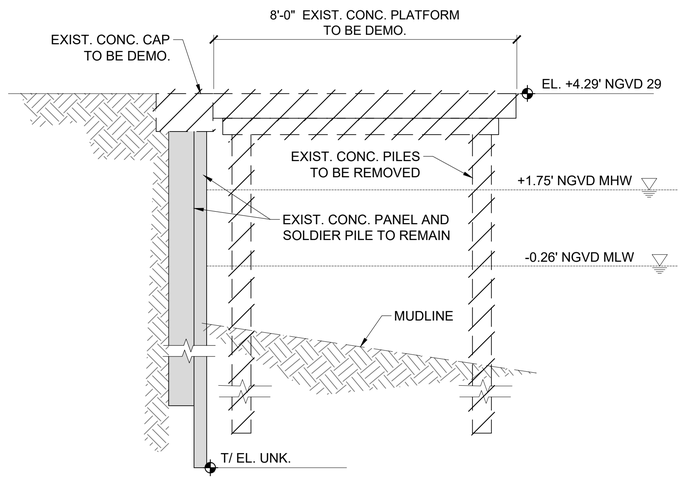
RER - NATURAL RESOURCES DIVISION
PRELIMINARY APPROVAL
NAME Ashley Dominguez
DATE 07/05/2023



DEMOLITION PLAN 1 CM-1.4
SCALE: 22x34: 1" = 4'
11x17: 1" = 8'



EXISTING SECTION A CM-1.4
SCALE: 22x34: 1" = 2'
11x17: 1" = 4'



EXISTING SECTION B CM-1.4
SCALE: 22x34: 1" = 2'
11x17: 1" = 4'

DEMOLITION QUANTITIES

BULKHEAD & CAP:	APPROX. 75 LF
CONCRETE DOCK:	246 S.F.

0 4 8
GRAPHIC SCALE
(22X34) 1" = X'
(11X17) 1" = X'

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SEAWALL REPLACEMENT PROJECT FOR THE TOWN OF BAY HARBOR ISLANDS

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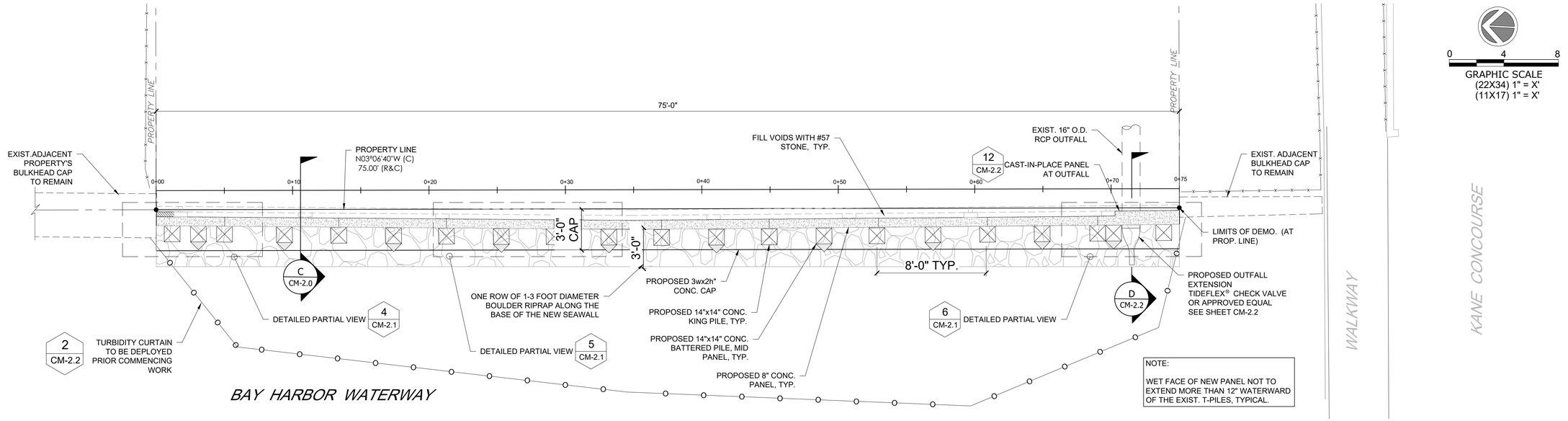
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	06/30/2023	CONSTRUCTION DRAWINGS

CC PROJECT NO:	57002
DRAWN	SV
CHECKED	KC
SCALE	AS SHOWN

SHEET TITLE
DEMOLITION PLAN & SECTIONS

SHEET 5 OF 8
CM-1.4

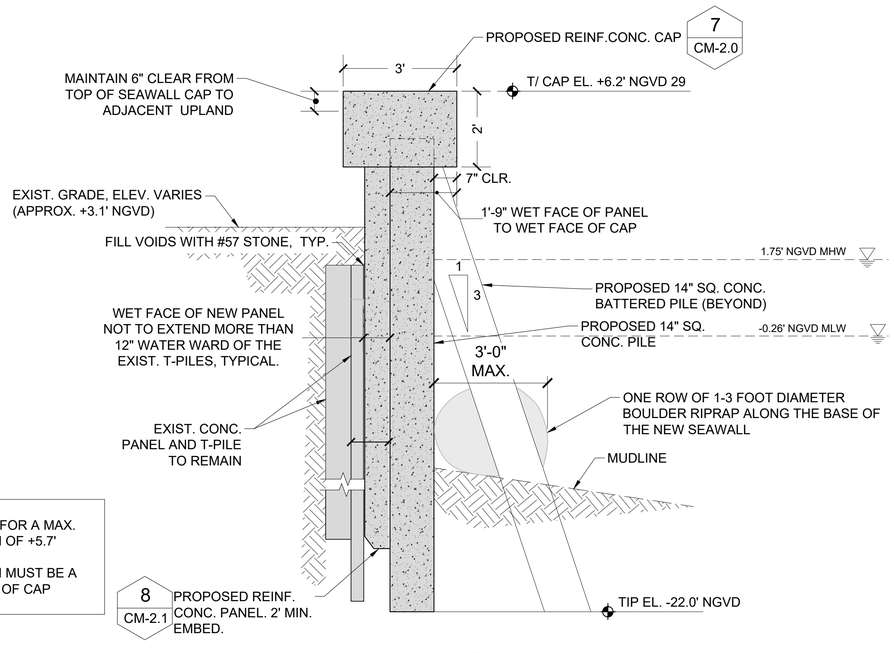
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PROPOSED PLAN 3 CM-2.0
SCALE: 22x34: 1" = 4'
11x17: 1" = 8'

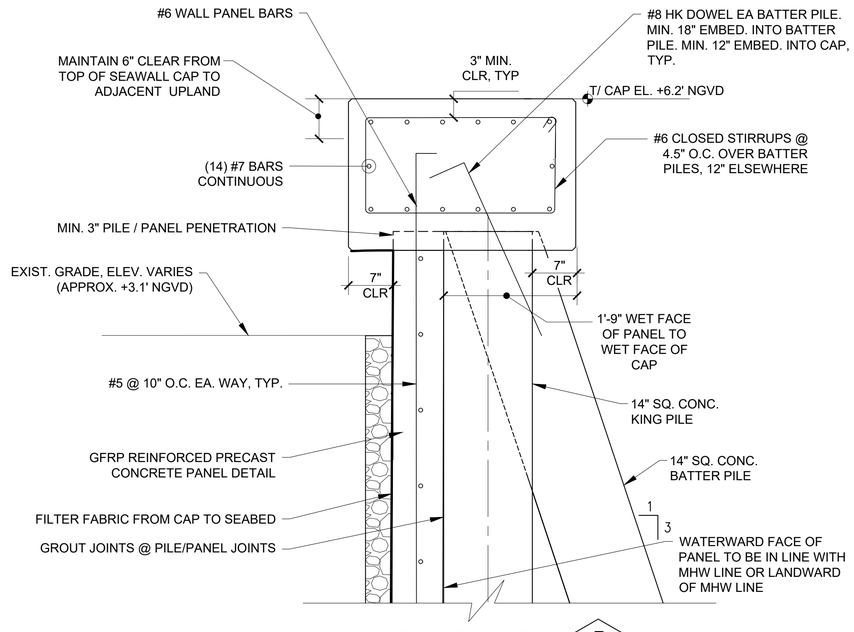
PROPOSED QUANTITY TABLE		
ITEM	QUANTITY	UNIT
CONCRETE CAP	75	LF
CONCRETE PANELS	10	EA
BATTERED PILES	10	EA
KING PILES	11	EA
RIPRAP ON SITE	19	CY

RER - NATURAL RESOURCES DIVISION
PRELIMINARY APPROVAL
NAME Ashley Dominguez
DATE 07/05/2023



NOTES:
1. SEAWALL DESIGN ALLOWS FOR A MAX. UPLAND GRADE ELEVATION OF +5.7' NGVD.
2. UPLAND GRADE ELEVATION MUST BE A MIN. OF 6" BELOW THE TOP OF CAP ELEVATION.

PROPOSED SECTION C CM-2.0
SCALE: 22x34: 1" = 2'
11x17: 1" = 4'



BULKHEAD GFRP REINF. DETAIL 7 CM-2.0
SCALE: 22x34: 1" = 1'
11x17: 1" = 2'

0 4 8
GRAPHIC SCALE
(22X34) 1" = X'
(11X17) 1" = X'

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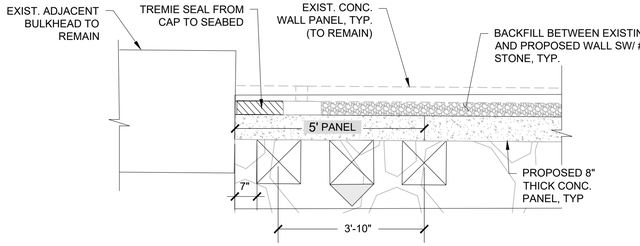
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DRAWN	SV
CHECKED	KC
SCALE	AS SHOWN

SHEET TITLE
PROPOSED PLAN & SECTIONS

SHEET 6 OF 8

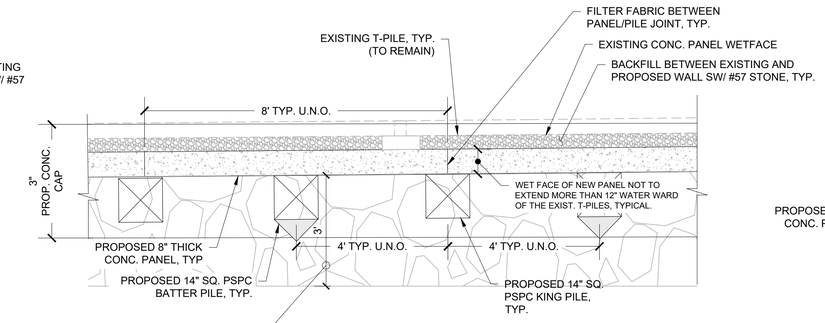
CM-2.0

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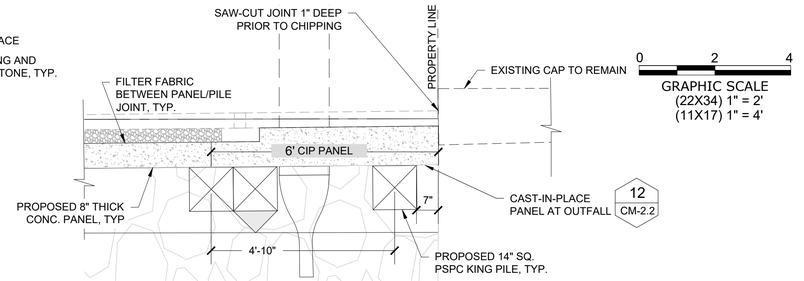
NORTH TERMINATION DETAIL 4 / CM-2.0

SCALE: 22x34: 1" = 2'
11x17: 1" = 4'



BULKHEAD PARTIAL PLAN 5 / CM-2.0

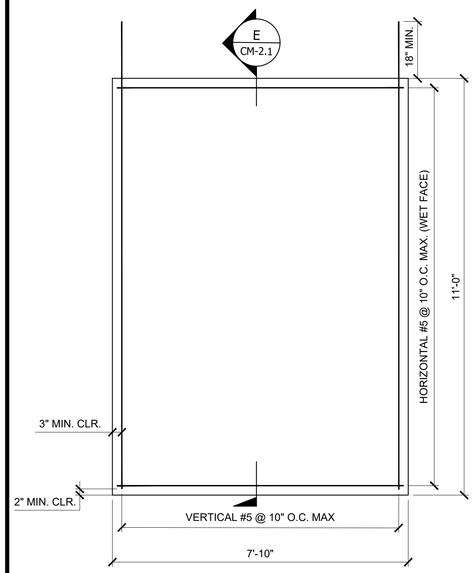
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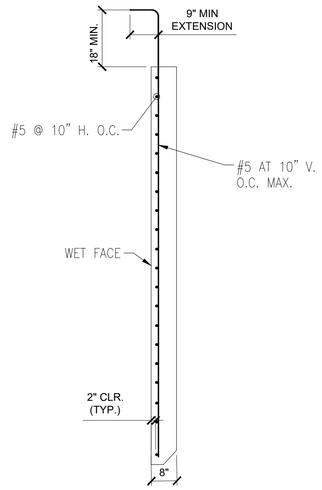


SOUTH TERMINATION DETAIL 6 / CM-2.0

SCALE: 22x34: 1" = 2'
11x17: 1" = 4'

0 2 4
GRAPHIC SCALE
(22X34) 1" = 2'
(11X17) 1" = 4'

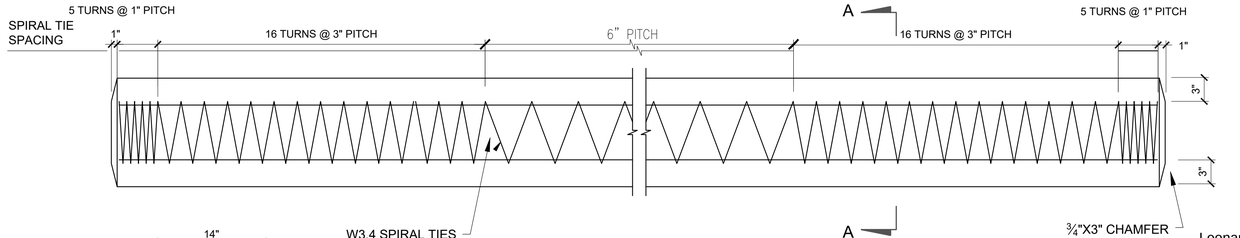


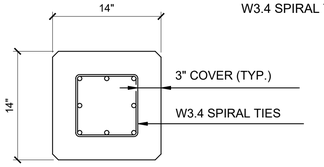


CROSS SECTION E / CM-2.1

GFRP REINFORCED PRECAST CONCRETE PANEL DETAIL 8 / CM-2.0

SCALE: 1" = 2" (22x34)





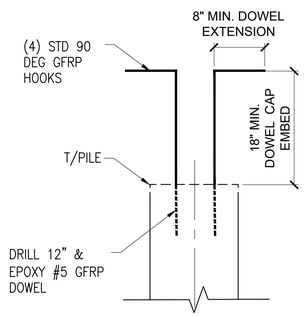
SECTION A-A

14" CONCRETE PILE DETAIL 9 / CM-2.1

SCALE: 1" = 2" (22x34)

14"x14" PILE SPECIFICATION:

1. Fc' = 6,000 PSI (MIN)
2. (8) 0.6" DIA, GRADE 270 LRS
3. MIN. 3" COVER ON ALL REIN.
4. ALL PILINGS TO FDOT CONCR. CLASS V SPEC.
5. CONTRACTOR TO MAINTAIN PILE LOGS. LOGS SHALL BE SUBMITTED TO ENGINEER FOR PILE CAPACITY REVIEW.
6. PILES SHALL BE FROM A FDOT CERTIFIED FACILITY OF PRESTRESSED CONCRETE PRODUCTS.



PILE DOWEL EMBED. DETAIL 10 / CM-2.1

SCALE: 1" = 1" (22x34)

RER - NATURAL RESOURCES DIVISION
PRELIMINARY APPROVAL
NAME Ashley Dominguez
DATE 07/05/2023

PROJECT:
SEAWALL REPLACEMENT PROJECT FOR THE TOWN OF BAY HARBOR ISLANDS

ADDRESS:
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BAY HARBOR ISLANDS, MIAMI, FL.

CLIENT:
CHEN MOORE AND ASSOC.

ADDRESS:
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MIAMI, FLORIDA 33146

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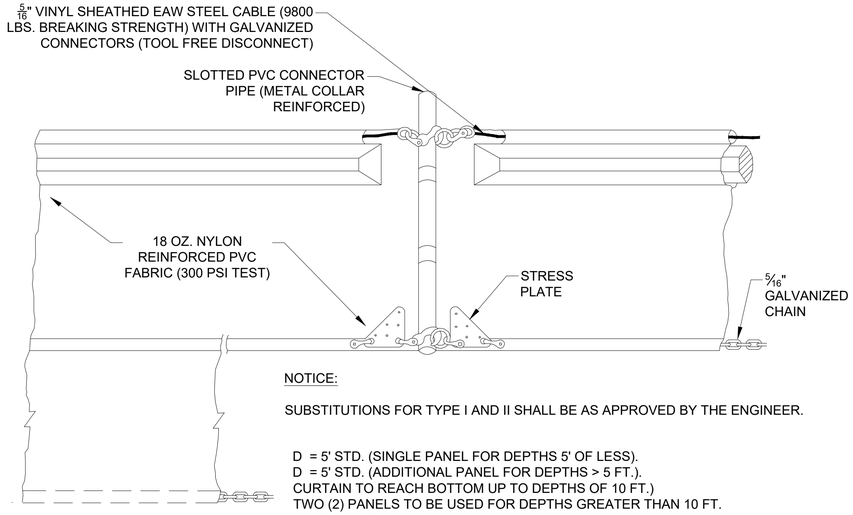
ISSUE	DATE
CONSTRUCTION DRAWINGS SUBMISSION / REVISION	06/30/2023

CC PROJECT NO:	57002
DRAWN	SV
CHECKED	KC
SCALE	AS SHOWN

SHEET TITLE
PARTIAL PLANS & DETAILS

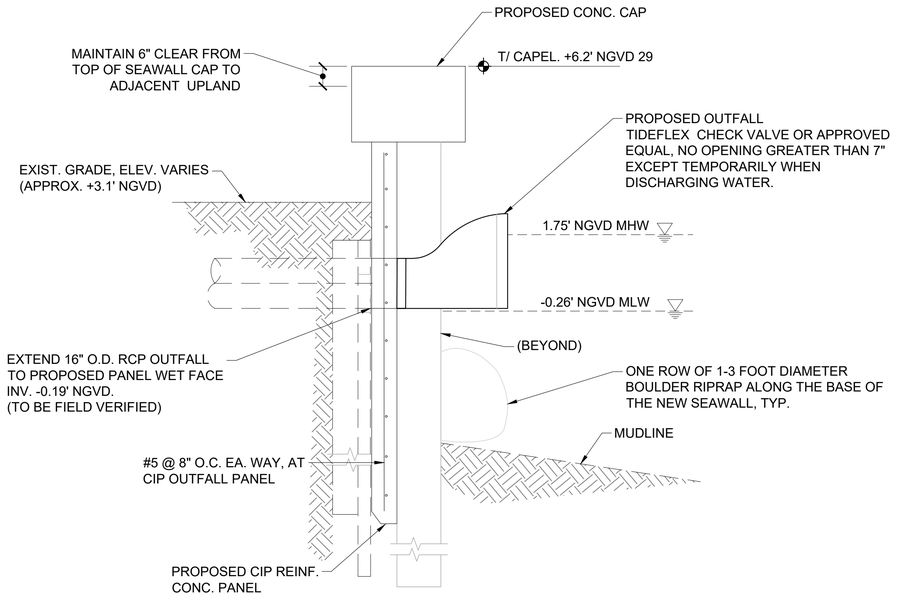
SHEET 7 OF 8
CM-2.1

J:\Projects\57002 9600 W Bay Harbor Dr\03 - Drawings\Construction\Working\57002 - 9600 W Bay Harbor Dr.dwg



2 / CM-1.4 FLOATING TURBIDITY CURTAIN DETAIL

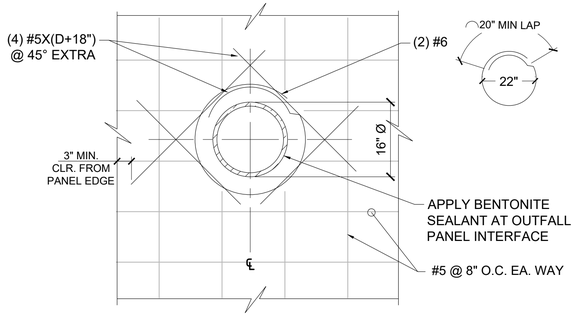
N.T.S.



PROPOSED SECTION @ OUTFALL — D / CM-2.0

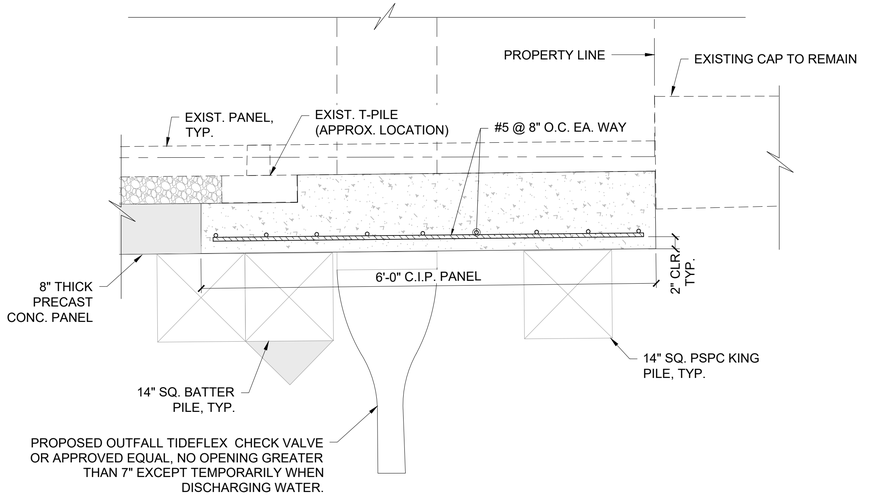
SCALE: 22x34: 1" = 2'
11x17: 1" = 4'

RER - NATURAL RESOURCES DIVISION
PRELIMINARY APPROVAL
NAME Ashley Dominguez
DATE 07/05/2023



11 / CM-2.2 PIPE PENETRATION DETAIL

N.T.S.



12 / CM-2.2 C.I.P. CONC. PANEL @ OUTFALL DETAIL

SCALE: 22x34: 1" = 1'
11x17: 1" = 2'

Leonard A Barrera Allen 2023-06-30 15:27:15

PROJECT:
SEAWALL REPLACEMENT PROJECT FOR THE TOWN OF BAY HARBOR ISLANDS

ADDRESS:
9600 W. BAY HARBOR DR.
BAY HARBOR ISLANDS, MIAMI, FL.

CLIENT:
CHEN MOORE AND ASSOC.

ADDRESS:
3150 SW 38th AVE. STE. 950
MIAMI, FLORIDA 33146

ENGINEER:
CUMMINS CEDERBERG
COASTAL & MARINE ENGINEERING
201 ALHAMBRA CIRCLE, SUITE 601
CORAL GABLES, FL 33134
TEL: +1 305 741-6155 FAX: +1 305-974-1969
WWW.CUMMINSCEDERBERG.COM
COA # 29062

THIS ITEM HAS BEEN DIGITALLY SIGNED AND SEALED BY LEONARD BARRERA ALLEN ON THE DATE ADJACENT TO THE SIGNATURE.

PRINTED COPIES OF THIS DOCUMENT ARE NOT CONSIDERED SIGNED NOR SEALED. THE SIGNATURE MUST BE VERIFIED ON ANY ELECTRONIC COPIES.

SEAL:
LEONARD BARRERA ALLEN LICENSE No. 90872 STATE OF FLORIDA PROFESSIONAL ENGINEER

LEONARD BARRERA ALLEN, P.E. #90872

ISSUE	DATE	CONSTRUCTION DRAWINGS SUBMISSION / REVISION
	06/30/2023	

CC PROJECT NO:	57002
DRAWN	SV
CHECKED	KC
SCALE	AS SHOWN

SHEET TITLE
DETAILS & SECTIONS

SHEET 8 OF 8
CM-2.2

J:\Projects\57002 9600 W Bay Harbor Dr\03 - Drawings\Construction\Working\57002 - 9600 W Bay Harbor Dr.dwg

9600 W Bay Harbor Dr Existing Conditions

Project Information

Project Name: Seawall Replacement Project for Town of Bay Harbor Islands
Address: 9600 W Bay Harbor Dr, Bay Harbor Islands, Miami FL



Cummins | Cederberg
Miami ▪ Fort Lauderdale ▪ Jupiter ▪ St Petersburg ▪ Tallahassee
Phone: +1 305 741 6155 ▪ Fax: +1 305 974 1969
info@CumminsCederberg.com ▪ www.CumminsCederberg.com









BID/PROPOSAL CERTIFICATION

Please Note: It is the sole responsibility of the bidder to ensure that his bid is submitted before prior to the bid opening date and time listed. All fields below must be completed. If the field does not apply to you, please note N/A in that field.

If you are a foreign corporation, you may be required to obtain a certificate of authority from the department of state, in accordance with Florida Statute §607.1501 (visit http://www.dos.state.fl.us/).

Company: (Legal Registration) _____ EIN (Optional): _____

Address: _____

City: _____ State: _____ Zip: _____

Telephone No.: _____ FAX No.: _____ Email: _____

Check box if your firm qualifies for MBE / SBE / WBE **(section 1.09 of General Conditions)**:

ADDENDUM ACKNOWLEDGEMENT - Proposer acknowledges that the following addenda have been received and are included in the proposal:

Addendum No.	Date Issued	Addendum No.	Date Issued	Addendum No.	Date Issued

---

The below signatory hereby agrees to furnish the following article(s) or services at the price(s) and terms stated subject to all instructions, conditions, specifications addenda, legal advertisement, and conditions contained in the bid/proposal.

I have read all attachments including the specifications and fully understand what is required. By submitting this signed proposal, I will accept a contract if approved by the City and such acceptance covers all terms, conditions, and specifications of this bid/proposal. The below signatory also hereby agrees, by virtue of submitting or attempting to submit a response, that in no event shall the City's liability for respondent's direct, indirect, incidental, consequential, special or exemplary damages, expenses, or lost profits arising out of this competitive solicitation process, including but not limited to public advertisement, bid conferences, site visits, evaluations, oral presentations, or award proceedings exceed the amount of Five Hundred Dollars ($500.00). This limitation shall not apply to claims arising under any provision of indemnification or the City's protest ordinance contained in this competitive solicitation.

Submitted by:

_____ _____

Name (printed) Signature

_____ _____

Date Title

Bid Form

Project Name: Seawall Replacement Project for the Town of Bay Harbor Islands

Project Address: 9600 W. Bay Harbor Dr., Bay Harbor Islands, FL 33154

Project Description

- Demolition:
  - Remove and dispose approximately (75) linear feet of existing seawall cap
  - Remove and dispose of existing partially collapsed concrete dock
  - Remove and dispose of existing concrete dock
  - Remove and dispose of chain link fence
- Installation:
  - Install approximately (75) linear feet of concrete seawall – concrete piles, wall panels and seawall cap
  - Install (1) outfall extension
- Site Restoration:
  - Clean-up and dispose of any/all construction debris, equipment, material, etc.

Basis of Bid

Bidder will complete the Work in accordance with the Plans for the following price(s):

1. General					
Item No.	Description	Unit	Estimated Quantity	Bid Unit Price	Bid Price
1.1	Obtain Building Permit (Does not include City Permit Fees)	LS	1	$	$
1.2	Mobilization/ Demobilization	LS	1	$	$
1.3	Standard Turbidity Containment (As Per Permit Requirements)	LS	1	$	$
			Sub Total - General	$	

2. Demolition					
Item No.	Description	Unit	Estimated Quantity	Bid Unit Price	Bid Price
2.1	Removal & Disposal of Existing Seawall Cap (includes chain link fence attached to cap)	LF	75	$	$
2.2	Removal & Disposal of Existing Partially Collapsed Concrete Dock	LS	1	$	$
2.3	Removal & Disposal of Concrete Dock	LS	1	$	$
			Sub Total - Demolition	$	

3. Construction - Furnish & Install					
Item No.	Description	Unit	Estimated Quantity	Bid Unit Price	Bid Price
3.1	14” Sq. Concrete King Pile (26-ft pile length)	EA	11	$	$
3.2	14” Sq. Concrete Batter Pile (26-ft pile length)	EA	10	$	$
3.3	Pre-Cast GFRP Reinforced 8” concrete panels with grout and filter fabric at joints	EA	9	$	$
3.4	Cast-in-Place GFRP Reinforced 8” concrete panel, at outfall location	EA	1	$	$
3.5	Tremie Seal at Seawall Terminations	LS	1	$	$
3.6	36” x 24” GFRP Reinforced Concrete cap (includes expansion joints and control joints per drawings)	LF	75	$	$
3.7	Backfill voids with #57 stone	CY	10	$	$
3.8	Rip rap, approx. 1 to 3-foot diameter boulders	CY	19	$	$
3.9	Install Outfall Extension Tideflex® Check Valve or Approved Equivalent	LS	1	$	$
			Sub Total - Construction - Furnish & Install	$	

4. Construction - Monitoring					
Item No.	Description	Unit	Estimated Quantity	Bid Unit Price	Bid Price
4.1	Vibration Monitoring (for all days of pile driving)	LS	1	$	$
4.2	Pile Installation Logs (blows/ft, pile tip elev., etc.)	LS	1	$	$
4.3	Concrete sampling and testing (for each pour, no less than every 50 CY)	LS	1	$	$
			Sub Total - Construction - Monitoring	$	

5. Post-Construction					
Item No.	Description	Unit	Estimated Quantity	Bid Unit Price	Bid Price
5.1	Site Restoration (Upland debris, materials, etc.)	LS	1	$	$
			Sub Total - Post-Construction	$	
			Total Bid	$	
6. Payment & Performance Bond					
Item No.	Description	Unit	Estimated Quantity	Bid Unit Price	Bid Price
6.1	Payment & Performance Bond _____%	LS	1	$	$
			Sub Total - Payment & Performance Bond	$	

BID TOTAL shall include all labor, materials, equipment, overhead, profit, insurance, taxes and contingencies to complete the Project as per Plans entitled *"Seawall Replacement Project for the Town of Bay Harbor Islands"*. Bidder acknowledges estimated quantities are not guaranteed and are solely for the purpose of comparison of Bids. Any revisions to the Plans subsequent to Bid submittal which constitute a Bid adjustment will be negotiated and agreed upon with the selected Contractor. Should an acceptable price adjustment not be agreeable to either party, an alternate Contractor may be selected.

Bidder Acknowledgement: _____
Initials

Time of Completion

Mobilization to the site after issuance of City Building Permit: _____
Calendar Days

Substantial Completion of the Work after mobilization to the site: _____
Calendar Days

Final Completion of the Work after mobilization to the site: _____
Calendar Days

Subcontractors

Bidder shall use the following subcontractors to complete the Work as applicable. Bidder shall specify which components the listed Subcontractor will be responsible for:

1. _____

_____

2. _____

_____

3. _____

_____

Provide 3 samples of Recent Projects and References of Similar Scope and Magnitude (include project, name of the project manager or contact person, phone number, email address, and cost of the project.

1. _____

_____

_____

2. _____

_____

_____

3. _____

_____

_____

ANTI-KICKBACK AFFIDAVIT

STATE OF FLORIDA)
)
COUNTY OF _____)

I, the undersigned, hereby duly sworn and deposed say that no portion of this sum herein Bid will be paid to any employees of the Town of Bay Harbor Islands or its elected officials as a commission, kickback, reward or gift, directly or indirectly by me or any member of my firm or by an officer of the corporation.

By: _____

Title: _____

The foregoing instrument was acknowledged before me this _____day of, 2023, by_____ [name of person], as _____[type of authority], for _____ [name of party on behalf of whom instrument was executed].

AFFIX NOTARY STAMP HERE:

_____
Notary Public – State of Florida

_____
Print or Type Commissioned Name

Personally Known _____ OR Produced Identification _____ Type of Identification Produced _____

E-VERIFY AFFIRMATION STATEMENT

RFQ/Bid /Contract No:

Project Description:

Contractor/Proposer/Bidder acknowledges and agrees to utilize the U.S. Department of Homeland Security's E- Verify System to verify the employment eligibility of,

(a) all persons employed by Contractor/Proposer/Bidder to perform employment duties within Florida during the term of the Contract, and,

(b) all persons (including subcontractors/vendors) assigned by Contractor/Proposer/Bidder to perform work pursuant to the Contract.

The Contractor/Proposer/Bidder acknowledges and agrees that use of the U.S. Department of Homeland Security's E-Verify System during the term of the Contract is a condition of the Contract.

Contractor/Proposer/ Bidder Company Name:

Authorized Company Person's Signature:

Authorized Company Person's Title:

Date:

DISPUTE DISCLOSURE FORM

Answer the following questions by placing a "X" after "Yes" or "No". If you answer "Yes", please explain in the space provided, or on a separate sheet attached to this form.

1. Has your firm or any of its officers, received a reprimand of any nature or been suspended by the Department of Professional Regulations or any other regulatory agency or professional associations within the last five (5) years?

YES _____ NO _____

2. Has your firm, or any member of your firm, been declared in default, terminated or removed from a contract or job related to the services your firm provides in the regular course of business within the last five (5) years?

YES _____ NO _____

3. Has your firm had against it or filed any requests for equitable adjustment, contract claims, Bid protests, or litigation in the past five (5) years that is related to the services your firm provides in the regular course of business?

YES _____ NO _____If yes, state the nature of the request for equitable adjustment, contract claim, litigation, or protest, and state a brief description of the case, the outcome or status of the suit and the monetary amounts of extended contract time involved.

I hereby certify that all statements made are true and agree and understand that any misstatement or misrepresentation of falsification of facts shall be cause for forfeiture of rights for further consideration of this Bid for the Town of Bay Harbor Islands.

_____ _____

Firm Date

_____ _____

Authorized Signature Print or Type Name and Title

NON-COLLUSION STATEMENT

By signing this offer, the vendor/contractor certifies that this offer is made independently and free from collusion. Vendor shall disclose below any Town of Bay Harbor Islands, FL officer or employee, or any relative of any such officer or employee who is an officer or director of, or has a material interest in, the vendor's business, who is in a position to influence this procurement. Any Town of Bay Harbor Islands, FL officer or employee who has any input into the writing of specifications or requirements, solicitation of offers, decision to award, evaluation of offers, or any other activity pertinent to this procurement is presumed, for purposes hereof, to be in a position to influence this procurement. For purposes hereof, a person has a material interest if they directly or indirectly own more than 5 percent of the total assets or capital stock of any business entity, or if they otherwise stand to personally gain if the contract is awarded to this vendor.

Town employees may not contract with the Town through any corporation or business entity in which they or their immediate family members hold a controlling financial interest (e.g. ownership of five (5) percent or more). Immediate family members (spouse, parents and children) are also prohibited from contracting with the Town subject to the same general rules. Failure of a vendor to disclose any relationship described herein shall be reason for debarment.

Name	Relationships
_____	_____
_____	_____

In the event the vendor does not indicate any names, the Town shall interpret this to mean that the vendor has indicated that no such relationships exist.

Town of Bay Harbor islands
9665 Bay Harbor Terrace
(305) 866-6241

ITB-5-1009-PW-0-2023/FVR

Seawall Replacement Project BC-163

ADDENDUM NO. 1

ISSUED: August 14, 2023

This Addendum is being issued to provide the following information. It is hereby made a part of the Plans and Specifications and shall be included with all contract documents.

1. Miami -Dade General Engineering Contractor license and Marine Contractor license will be approved for this project.

2. Questions:

Dear sirs, Is there 19 CY of rip-rap on site to use?

All the contractors that are pending to place a proposal for this contract must estimate all quantities or estimates of quantities are responsibility of the bidders. In specific reference to this item identified as 3.8 in the basis of bid it shows to be " Rip rap, approx. 1 to 3-foot of diameter boulders for the estimated amount of 19 CY." This only an estimate for comparison purposes.

Good morning, On plans its shows existing upland concrete to remain, at meeting they said it was to be demolished. does it stay or go?

Is new cap same EL as adjacent property bulkhead cap?

The construction documents on CM-1.4, demolition plan; detail A and detail B clearly indicate and specify the demolition to be performed.

ADDENDUM #1

Good Afternoon, Just one more question, Its shows on plans #6 bars for the stirrups, could this be a typo? the biggest bar they will bend is a #5

The stirrups bar size is not a typo. The proposed reinforced concrete design consists of GFRP bars; noted on General Notes - sheet 2 of 8. Per the AASHTO design manual, bends are allowed for up to #10 bars during manufacturing – field bending or straightening is not permitted. It is possible the contractor is assuming the proposed design is for steel reinforcement, otherwise please provide the GFRP manufacturer the contractor is proposing to use

Can the Bidder use a Miami Dade County General Engineering License as per the following Miami Dade County Code?

A Miami -Dade General Engineering Contractor is authorized to contract for, and take out permits for the work authorized by the scope of the general contractor license for this contract."

Dear Sirs, Good afternoon.

a)Are there any surveys required. (As-Built)?

b)Is contractor responsible to replace electrical?

c)Is contractor responsible to replace plumbing?

d)Is parking lot going to be replaced? And is it ok to drive heavy equipment on existing lot?

e)Is a Marine Contractor license OK for this project?

a)This is part of the specifications general conditions and is addressed in GC – 18.

b)This is part of the specifications general conditions and is addressed in GC – 20.

c)This is part of the specifications general conditions and is addressed in GC – 20.

d)This is addressed in the plans general note 1.3.

e)A contractor with a valid Marine Contractor License is authorized to contract and to take out permits for the work authorized by the scope of the for this contract.

Fausto Vargas
Procurement Officer

Company Name:_____
(please print)

Bidder's Signature: _____

Date:_____

AGENDA ITEM REPORT

November 8, 2023

ITEM NUMBER: 12.

ITEM: Consideration and **Approval** of a resolution authorizing the Town Manager to execute Grant Agreement LPA0459 with the State of Florida Department of Environmental Protection for receipt of $250,000 in grant funding for the Town's Ejector Pump/Manhole Replacement Project. Enclosed are the proposed resolution and the grant agreement.

DESCRIPTION:

The Town Council approved the Manhole Frame and Cover Replacement Project during the May 2023 Council Meeting.

This item is for engineering services to replace Sewer Ejector Station "A" with a pump station that will have greater pumping capabilities and be able to handle peak flows. Both projects are required to be implemented by DERM as part of the Town's Temporary Moratorium Remedial Action Plan.

In the plan, the Town gave assurances to DERM that water-tight manhole frames and covers would be installed to prevent inflow (rainwater entering the wastewater collection system through the top of the manhole). The Town also stated that it would begin replacing the ejector stations in areas that are most prone to sanitary sewer overflows (SSO's). The Grant Work Plan states that it would be used for the replacement of one ejector station and sanitary sewer manhole frames and covers. The Town also purchased water-tight manhole frames and covers to install in locations within "Basin A" that are most prone to inflow.

A grant was applied for with FDEP to assist the Town with expenditures related to the necessary enhancements for the wastewater collection system. FDEP approved a grant to be given to the Town in the amount of $250,000. Staff is recommending the Town Council to authorize the Town Manager to execute Grant Agreement LPA0459 with FDEP.

RECOMMENDED ACTION:

Staff recommends that the Town Council authorize the Town Manager to execute Grant Agreement LPA0459 with FDEP.

FINANCIAL ANALYSIS:

The Town budgeted $1,680,000 for Wastewater Collection System Capital Projects in the Sewer Enterprise Fund. The $250,000 grant will go towards funding that has been appropriated for the Manhole Frame & Cover Replacement Project and the Sewer Ejector Station Replacement Project.

BUDGET IMPACT:

Name	Impact Date	Fund(s)	Account(s)	Project #(s)	Amount Budgeted

Grant Agreement LPA0459	11/13/2023	Sewer Fund	402-5250-400063	BHI-252, BHI-254	$650,000

Submitted By: Jason Atkinson, Public Works Director
Jason Atkinson, Public Works Director

ATTACHMENTS

1.	Resolution -FDEP Grant for Ejector Pump-Mahnole Covers-$250,000
2.	FDEP Grant - Manholes & Ejector Stations - LPA0459 Full Agreement Ready for Grantee Signature

RESOLUTION NO._____

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF BAY HARBOR ISLANDS, FLORIDA, AUTHORIZING THE TOWN MANAGER TO EXECUTE A GRANT AGREEMENT WITH THE STATE OF FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION (FDEP) FOR THE TOWN TO RECEIVE $250,000 IN GRANT FUNDING FOR THE EJECTOR PUMP/MANHOLE REPLACEMENT PROJECT; PROVIDING FOR INCORPORATION OF RECITALS; PROVIDING FOR IMPLEMENTATION; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town applied for a grant from the State of Florida Department of Environmental Protection (FDEP) to assist with expenditures related to the necessary enhancements for the wastewater collection system; and

WHEREAS, FDEP approved a grant to be given to the Town in the amount of $250,000; and

WHEREAS, the Town received FDEP Grant No. LPA0459 Agreement, a copy of which is attached as Exhibit A; and

WHEREAS, Staff has recommended that the Town Council authorize the Town Manager to execute the agreement with FDEP to receive the funding for the Ejector Pump/Manhole Replacement Project.

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

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

Section 2. Approval. The Town Council hereby authorizes the Town Manager to enter into an agreement, in substantially the form attached hereto as Exhibit "A", upon approval by the Town Attorney as to form and legal sufficiency, with FDEP to receive funding for the Town's Ejection Pump/Manhole Replacement Project in an amount of $250,000.00.

Section 3. Implementation. The Town Manager, Town Attorney, and Town Clerk are hereby authorized to take such actions as may be necessary to implement the provision of this Resolution.

Section 4. Effective Date. This Resolution shall take effect immediately upon adoption.

APPROVED AND ADOPTED by the Town of Bay Harbor Islands at the regular meeting assembled this **8th day of November, 2023.**

By: _____
Elizabeth Tricoche - Mayor

ATTEST:

_____
Yvonne P. Hamilton
Town Clerk

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

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

STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION
Standard Grant Agreement

This Agreement is entered into between the Parties named below, pursuant to section 215.971, Florida Statutes:

1. Project Title (Project): **Bay Harbor Islands Ejector Pumps/ Manhole Replacements**
Agreement Number: **LPA0459**

2. Parties: **State of Florida Department of Environmental Protection, 3900 Commonwealth Boulevard Tallahassee, Florida 32399-3000** (Department)
Grantee Name: **Town of Bay Harbor Islands** Entity Type: **Local Government**
Grantee Address: **9665 Bay Harbor Terrace, Bay Harbor, FL 33154** FEID: **59-6000273** (Grantee)

3. Agreement Begin Date: **Upon Execution**
Date of Expiration: **October 31, 2025**

4. Project Number: *(If different from Agreement Number)*
Project Location(s): **Lat/Long: (25.8894, -80.1369)**
Project Description: **The Grantee will design and construct a new sewer injector station and install new lockable manhole lids.**

5. Total Amount of Funding: **$ 250,000.00**

Funding Source?	Award #s or Line-Item Appropriations:	Amount per Source(s):
☑ State ☐Federal	**LP, GAA, LI 17505A, FY 23-24, GR**	$ **250,000.00**
☐ State ☐Federal		$
☐ Grantee Match		$
	Total Amount of Funding + Grantee Match, if any:	$ **250,000.00**

6. Department's Grant Manager
Name: **Kevin Eckel** or successor
Address: **Florida Dept. of Environmental Protection**, **3900 Commonwealth Blvd.**, **Tallahassee, FL 32399-3000**
Phone: **850-245-2876**
Email: **Kevin.Eckel@FloridaDEP.gov**

Grantee's Grant Manager
Name: **Sandra Siefken** or successor
Address: **Town of Bay Harbor Islands**, **9665 Bay Harbor Terrace**, **Bay Harbor, FL 33154**
Phone: **305-866-6241**
Email: **sssiefken@bayharborislands-fl.gov**

7. The Parties agree to comply with the terms and conditions of the following attachments and exhibits which are hereby incorporated by reference:

☑ Attachment 1: Standard Terms and Conditions Applicable to All Grants Agreements
☑ Attachment 2: Special Terms and Conditions
☑ Attachment 3: Grant Work Plan
☑ Attachment 4: Public Records Requirements
☑ Attachment 5: Special Audit Requirements
☐ Attachment 6: Program-Specific Requirements
☐ Attachment 7: Grant Award Terms (Federal) *Copy available at https://facts.fldfs.com, in accordance with section 215.985, F.S.
☐ Attachment 8: Federal Regulations and Terms (Federal)
☐ Additional Attachments (if necessary):
☑ Exhibit A: Progress Report Form
☐ Exhibit B: Property Reporting Form
☑ Exhibit C: Payment Request Summary Form
☐ Exhibit D: Quality Assurance Requirements
☐ Exhibit E: Advance Payment Terms and Interest Earned Memo
☐ Exhibit F: Common Carrier or Contracted Carrier Attestation Form PUR1808 (State)
☐ Exhibit H: Non-Profit Organization Compensation Form (State)

☐ Additional Exhibits (if necessary):	
8. The following information applies to Federal Grants only and is identified in accordance with 2 CFR 200.331 (a) (1):	
Federal Award Identification Number(s) (FAIN):	
Federal Award Date to Department:	
Total Federal Funds Obligated by this Agreement:	
Federal Awarding Agency:	
Award R&D?	☐ Yes ☐N/A

IN WITNESS WHEREOF, this Agreement shall be effective on the date indicated by the Agreement Begin Date unless another date is specified in the grant documents.

Town of Bay Harbor Islands **GRANTEE**

Grantee Name

By _____ _____

(*Authorized Signature)* Date Signed

Mary Lasday, Town Manager

Print Name and Title of Person Signing

State of Florida Department of Environmental Protection **DEPARTMENT**

By _____ _____

Secretary or Designee Date Signed

Angela Knecht, Director, Division of Water Restoration Assistance

Print Name and Title of Person Signing

☑ Additional signatures attached on separate page.

DWRA Additional Signatures

_____

Kevin Eckel, DEP Grant Manager

_____

Kathleen Downey, DEP QC Reviewer

STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION
STANDARD TERMS AND CONDITIONS
APPLICABLE TO GRANT AGREEMENTS

ATTACHMENT 1

1. Entire Agreement.

This Grant Agreement, including any Attachments and Exhibits referred to herein and/or attached hereto (Agreement), constitutes the entire agreement between the parties with respect to the subject matter hereof and supersedes all prior agreements, whether written or oral, with respect to such subject matter. Any terms and conditions included on Grantee's forms or invoices shall be null and void.

2. Grant Administration.

a. Order of Precedence. If there are conflicting provisions among the documents that make up the Agreement, the order of precedence for interpretation of the Agreement is as follows:
   i. Standard Grant Agreement
   ii. Attachments other than Attachment 1, in numerical order as designated in the Standard Grant Agreement
   iii. Attachment 1, Standard Terms and Conditions
   iv. The Exhibits in the order designated in the Standard Grant Agreement

b. All approvals, written or verbal, and other written communication among the parties, including all notices, shall be obtained by or sent to the parties' Grant Managers. All written communication shall be by electronic mail, U.S. Mail, a courier delivery service, or delivered in person. Notices shall be considered delivered when reflected by an electronic mail read receipt, a courier service delivery receipt, other mail service delivery receipt, or when receipt is acknowledged by recipient. If the notice is delivered in multiple ways, the notice will be considered delivered at the earliest delivery time.

c. If a different Grant Manager is designated by either party after execution of this Agreement, notice of the name and contact information of the new Grant Manager will be submitted in writing to the other party and maintained in the respective parties' records. A change of Grant Manager does not require a formal amendment or change order to the Agreement.

d. This Agreement may be amended, through a formal amendment or a change order, only by a written agreement between both parties. A formal amendment to this Agreement is required for changes which cause any of the following:
   (1) an increase or decrease in the Agreement funding amount;
   (2) a change in Grantee's match requirements;
   (3) a change in the expiration date of the Agreement; and/or
   (4) changes to the cumulative amount of funding transfers between approved budget categories, as defined in Attachment 3, Grant Work Plan, that exceeds or is expected to exceed twenty percent (20%) of the total budget as last approved by Department.
   A change order to this Agreement may be used when:
   (1) task timelines within the current authorized Agreement period change;
   (2) the cumulative transfer of funds between approved budget categories, as defined in Attachment 3, Grant Work Plan, are less than twenty percent (20%) of the total budget as last approved by Department;
   (3) changing the current funding source as stated in the Standard Grant Agreement; and/or
   (4) fund transfers between budget categories for the purposes of meeting match requirements.
   This Agreement may be amended to provide for additional services if additional funding is made available by the Legislature.

e. All days in this Agreement are calendar days unless otherwise specified.

3. Agreement Duration.

The term of the Agreement shall begin and end on the dates indicated in the Standard Grant Agreement, unless extended or terminated earlier in accordance with the applicable terms and conditions. The Grantee shall be eligible for reimbursement for work performed on or after the date of execution through the expiration date of this Agreement, unless otherwise specified in Attachment 2, Special Terms and Conditions. However, work performed prior to the execution of this Agreement may be reimbursable or used for match purposes if permitted by the Special Terms and Conditions.

4. Deliverables.

The Grantee agrees to render the services or other units of deliverables as set forth in Attachment 3, Grant Work Plan. The services or other units of deliverables shall be delivered in accordance with the schedule and at the pricing outlined in the Grant Work Plan. Deliverables may be comprised of activities that must be completed prior to Department making payment on that deliverable. The Grantee agrees to perform in accordance with the terms and conditions set forth in this Agreement and all attachments and exhibits incorporated by the Standard Grant Agreement.

5. Performance Measures.

The Grantee warrants that: (1) the services will be performed by qualified personnel; (2) the services will be of the kind and quality described in the Grant Work Plan; (3) the services will be performed in a professional and workmanlike manner in accordance with industry standards and practices; (4) the services shall not and do not knowingly infringe upon the intellectual property rights, or any other proprietary rights, of any third party; and (5) its employees, subcontractors, and/or subgrantees shall comply with any security and safety requirements and processes, if provided by Department, for work done at the Project Location(s). The Department reserves the right to investigate or inspect at any time to determine whether the services or qualifications offered by Grantee meet the Agreement requirements. Notwithstanding any provisions herein to the contrary, written acceptance of a particular deliverable does not foreclose Department's remedies in the event deficiencies in the deliverable cannot be readily measured at the time of delivery.

6. Acceptance of Deliverables.

a. Acceptance Process. All deliverables must be received and accepted in writing by Department's Grant Manager before payment. The Grantee shall work diligently to correct all deficiencies in the deliverable that remain outstanding, within a reasonable time at Grantee's expense. If Department's Grant Manager does not accept the deliverables within 30 days of receipt, they will be deemed rejected.

b. Rejection of Deliverables. The Department reserves the right to reject deliverables, as outlined in the Grant Work Plan, as incomplete, inadequate, or unacceptable due, in whole or in part, to Grantee's lack of satisfactory performance under the terms of this Agreement. The Grantee's efforts to correct the rejected deliverables will be at Grantee's sole expense. Failure to fulfill the applicable technical requirements or complete all tasks or activities in accordance with the Grant Work Plan will result in rejection of the deliverable and the associated invoice. Payment for the rejected deliverable will not be issued unless the rejected deliverable is made acceptable to Department in accordance with the Agreement requirements. The Department, at its option, may allow additional time within which Grantee may remedy the objections noted by Department. The Grantee's failure to make adequate or acceptable deliverables after a reasonable opportunity to do so shall constitute an event of default.

7. Financial Consequences for Nonperformance.

a. Withholding Payment. In addition to the specific consequences explained in the Grant Work Plan and/or Special Terms and Conditions, the State of Florida (State) reserves the right to withhold payment when the Grantee has failed to perform/comply with provisions of this Agreement. None of the financial consequences for nonperformance in this Agreement as more fully described in the Grant Work Plan shall be considered penalties.

b. Invoice reduction

If Grantee does not meet a deadline for any deliverable, the Department will reduce the invoice by 1% for each day the deadline is missed, unless an extension is approved in writing by the Department.

c. Corrective Action Plan. If Grantee fails to correct all the deficiencies in a rejected deliverable within the specified timeframe, Department may, in its sole discretion, request that a proposed Corrective Action Plan (CAP) be submitted by Grantee to Department. The Department requests that Grantee specify the outstanding deficiencies in the CAP. All CAPs must be able to be implemented and performed in no more than sixty (60) calendar days.

   i. The Grantee shall submit a CAP within ten (10) days of the date of the written request from Department. The CAP shall be sent to the Department's Grant Manager for review and approval. Within ten (10) days of receipt of a CAP, Department shall notify Grantee in writing whether the CAP proposed has been accepted. If the CAP is not accepted, Grantee shall have ten (10) days from receipt of Department letter rejecting the proposal to submit a revised proposed CAP. Failure to obtain Department approval of a CAP as specified above may result in Department's termination of this Agreement for cause as authorized in this Agreement.

   ii. Upon Department's notice of acceptance of a proposed CAP, Grantee shall have ten (10) days to commence implementation of the accepted plan. Acceptance of the proposed CAP by Department does not relieve Grantee of any of its obligations under the Agreement. In the event the CAP fails to correct or eliminate performance deficiencies by Grantee, Department shall retain the right to

require additional or further remedial steps, or to terminate this Agreement for failure to perform. No actions approved by Department or steps taken by Grantee shall preclude Department from subsequently asserting any deficiencies in performance. The Grantee shall continue to implement the CAP until all deficiencies are corrected. Reports on the progress of the CAP will be made to Department as requested by Department's Grant Manager.

iii. Failure to respond to a Department request for a CAP or failure to correct a deficiency in the performance of the Agreement as specified by Department may result in termination of the Agreement.

8. Payment.

a. Payment Process. Subject to the terms and conditions established by the Agreement, the pricing per deliverable established by the Grant Work Plan, and the billing procedures established by Department, Department agrees to pay Grantee for services rendered in accordance with section 215.422, Florida Statutes (F.S.).

b. Taxes. The Department is exempted from payment of State sales, use taxes and Federal excise taxes. The Grantee, however, shall not be exempted from paying any taxes that it is subject to, including State sales and use taxes, or for payment by Grantee to suppliers for taxes on materials used to fulfill its contractual obligations with Department. The Grantee shall not use Department's exemption number in securing such materials. The Grantee shall be responsible and liable for the payment of all its FICA/Social Security and other taxes resulting from this Agreement.

c. Maximum Amount of Agreement. The maximum amount of compensation under this Agreement, without an amendment, is described in the Standard Grant Agreement. Any additional funds necessary for the completion of this Project are the responsibility of Grantee.

d. Reimbursement for Costs. The Grantee shall be paid on a cost reimbursement basis for all eligible Project costs upon the completion, submittal, and approval of each deliverable identified in the Grant Work Plan. Reimbursement shall be requested on Exhibit C, Payment Request Summary Form. To be eligible for reimbursement, costs must be in compliance with laws, rules, and regulations applicable to expenditures of State funds, including, but not limited to, the Reference Guide for State Expenditures, which can be accessed at the following web address: https://www.myfloridacfo.com/docs-sf/accounting-and-auditing-libraries/state-agencies/reference-guide-for-state-expenditures.pdf.

e. Rural Communities and Rural Areas of Opportunity. If Grantee is a county or municipality that qualifies as a "rural community" or "rural area of opportunity" (RAO) as defined in subsection 288.0656(2), F.S., such Grantee may request from the Department that all invoice payments (i.e., cost reimbursement) under this Agreement be directed to the relevant county or municipality or to the RAO itself. The Department will agree to Grantee's request if:

i. Grantee demonstrates that it is a county or municipality that qualifies as a "rural community" or "rural area of opportunity" under subsection 288.0656(2), F.S.;

ii. Grantee demonstrates current financial hardship using one (1) or more of the "economic distress" factors defined in subsection 288.0656(2)(c), F.S.;

iii. Grantee's performance has been verified by the Department, which has determined that Grantee is eligible for cost reimbursement and that Grantee's performance has been completed in accordance with this Agreement's terms and conditions; and

iv. Applicable federal and state law(s), rule(s) and regulation(s) allow for such payments.

This subsection may not be construed to alter or limit any other applicable provisions of federal or state law, rule, or regulation. A current list of Florida's designated RAOs can be accessed at the following web address: https://floridajobs.org/community-planning-and-development/rural-community-programs/rural-areas-of-opportunity.

f. Invoice Detail. All charges for services rendered or for reimbursement of expenses authorized by Department pursuant to the Grant Work Plan shall be submitted to Department in sufficient detail for a proper pre-audit and post-audit to be performed. The Grantee shall only invoice Department for deliverables that are completed in accordance with the Grant Work Plan.

g. State Funds Documentation. Pursuant to section 216.1366, F.S., if Contractor meets the definition of a non-profit organization under section 215.97(2)(m), F.S., Contractor must provide the Department with documentation that indicates the amount of state funds:

i. Allocated to be used during the full term of the contract or agreement for remuneration to any member of the board of directors or an officer of Contractor.

ii. Allocated under each payment by the public agency to be used for remuneration of any member of the board of directors or an officer of the Contractor.

The documentation must indicate the amounts and recipients of the remuneration. Such information must be posted on the State's the contract tracking system and maintained pursuant to section 215.985, F.S., and must be posted on the Contractor's website, if Contractor maintains a website.

h. Interim Payments. Interim payments may be made by Department, at its discretion, if the completion of deliverables to date have first been accepted in writing by Department's Grant Manager.

i. Final Payment Request. A final payment request should be submitted to Department no later than sixty (60) days following the expiration date of the Agreement to ensure the availability of funds for payment. However, all work performed pursuant to the Grant Work Plan must be performed on or before the expiration date of the Agreement.

j. Annual Appropriation Contingency. The State's performance and obligation to pay under this Agreement is contingent upon an annual appropriation by the Legislature. This Agreement is not a commitment of future appropriations. Authorization for continuation and completion of work and any associated payments may be rescinded, with proper notice, at the discretion of Department if the Legislature reduces or eliminates appropriations.

k. Interest Rates. All interest rates charged under the Agreement shall be calculated on the prevailing rate used by the State Board of Administration. To obtain the applicable interest rate, please refer to: https://www.myfloridacfo.com/division/aa/local-governments/judgement-interest-rates.

l. Refund of Payments to the Department. Any balance of unobligated funds that have been advanced or paid must be refunded to Department. Any funds paid in excess of the amount to which Grantee or subgrantee is entitled under the terms of the Agreement must be refunded to Department. If this Agreement is funded with federal funds and the Department is required to refund the federal government, the Grantee shall refund the Department its share of those funds.

9. Documentation Required for Cost Reimbursement Grant Agreements and Match.

If Cost Reimbursement or Match is authorized in Attachment 2, Special Terms and Conditions, the following conditions apply. Supporting documentation must be provided to substantiate cost reimbursement or match requirements for the following budget categories:

a. Salary/Wages. Grantee shall list personnel involved, position classification, direct salary rates, and hours spent on the Project in accordance with Attachment 3, Grant Work Plan in their documentation for reimbursement or match requirements.

b. Overhead/Indirect/General and Administrative Costs. If Grantee is being reimbursed for or claiming match for multipliers, all multipliers used (i.e., fringe benefits, overhead, indirect, and/or general and administrative rates) shall be supported by audit. If Department determines that multipliers charged by Grantee exceeded the rates supported by audit, Grantee shall be required to reimburse such funds to Department within thirty (30) days of written notification. Interest shall be charged on the excessive rate.

c. Contractual Costs (Subcontractors). Match or reimbursement requests for payments to subcontractors must be substantiated by copies of invoices with backup documentation identical to that required from Grantee. Subcontracts which involve payments for direct salaries shall clearly identify the personnel involved, salary rate per hour, and hours spent on the Project. All eligible multipliers used (i.e., fringe benefits, overhead, indirect, and/or general and administrative rates) shall be supported by audit. If Department determines that multipliers charged by any subcontractor exceeded the rates supported by audit, Grantee shall be required to reimburse such funds to Department within thirty (30) days of written notification. Interest shall be charged on the excessive rate. Nonconsumable and/or nonexpendable personal property or equipment costing $5,000 or more purchased for the Project under a subcontract is subject to the requirements set forth in chapters 273 and/or 274, F.S., and Chapter 69I-72, Florida Administrative Code (F.A.C.) and/or Chapter 69I-73, F.A.C., as applicable. The Grantee shall be responsible for maintaining appropriate property records for any subcontracts that include the purchase of equipment as part of the delivery of services. The Grantee shall comply with this requirement and ensure its subcontracts issued under this Agreement, if any, impose this requirement, in writing, on its subcontractors.

    i. For fixed-price (vendor) subcontracts, the following provisions shall apply: The Grantee may award, on a competitive basis, fixed-price subcontracts to consultants/contractors in performing the work described in Attachment 3, Grant Work Plan. Invoices submitted to Department for fixed-price subcontracted activities shall be supported with a copy of the subcontractor's invoice and a copy of the tabulation form for the competitive procurement process (e.g., Invitation to Bid, Request for Proposals, or other similar competitive procurement document) resulting in the fixed-price subcontract. The Grantee may request approval from Department to award a fixed-price subcontract resulting from procurement methods other than those identified above. In this instance, Grantee shall request the advance written approval from Department's Grant Manager of the fixed price

negotiated by Grantee. The letter of request shall be supported by a detailed budget and Scope of Services to be performed by the subcontractor. Upon receipt of Department Grant Manager's approval of the fixed-price amount, Grantee may proceed in finalizing the fixed-price subcontract.

ii. If the procurement is subject to the Consultant's Competitive Negotiation Act under section 287.055, F.S. or the Brooks Act, Grantee must provide documentation clearly evidencing it has complied with the statutory or federal requirements.

d. Travel. All requests for match or reimbursement of travel expenses shall be in accordance with section 112.061, F.S.

e. Direct Purchase Equipment. For the purposes of this Agreement, Equipment is defined as capital outlay costing $5,000 or more. Match or reimbursement for Grantee's direct purchase of equipment is subject to specific approval of Department, and does not include any equipment purchased under the delivery of services to be completed by a subcontractor. Include copies of invoices or receipts to document purchases, and a properly completed Exhibit B, Property Reporting Form**.**

f. Rental/Lease of Equipment. Match or reimbursement requests for rental/lease of equipment must include copies of invoices or receipts to document charges.

g. Miscellaneous/Other Expenses. If miscellaneous or other expenses, such as materials, supplies, non-excluded phone expenses, reproduction, or mailing, are reimbursable or available for match or reimbursement under the terms of this Agreement, the documentation supporting these expenses must be itemized and include copies of receipts or invoices. Additionally, independent of Grantee's contract obligations to its subcontractor, Department shall not reimburse any of the following types of charges: cell phone usage; attorney's fees or court costs; civil or administrative penalties; or handling fees, such as set percent overages associated with purchasing supplies or equipment.

h. Land Acquisition. Reimbursement for the costs associated with acquiring interest and/or rights to real property (including access rights through ingress/egress easements, leases, license agreements, or other site access agreements; and/or obtaining record title ownership of real property through purchase) must be supported by the following, as applicable: Copies of Property Appraisals, Environmental Site Assessments, Surveys and Legal Descriptions, Boundary Maps, Acreage Certification, Title Search Reports, Title Insurance, Closing Statements/Documents, Deeds, Leases, Easements, License Agreements, or other legal instrument documenting acquired property interest and/or rights. If land acquisition costs are used to meet match requirements, Grantee agrees that those funds shall not be used as match for any other Agreement supported by State or Federal funds.

10. Status Reports.

The Grantee shall submit status reports quarterly, unless otherwise specified in the Attachments, on Exhibit A, Progress Report Form**,** to Department's Grant Manager describing the work performed during the reporting period, problems encountered, problem resolutions, scheduled updates, and proposed work for the next reporting period. Quarterly status reports are due no later than twenty (20) days following the completion of the quarterly reporting period. For the purposes of this reporting requirement, the quarterly reporting periods end on March 31, June 30, September 30 and December 31. The Department will review the required reports submitted by Grantee within thirty (30) days.

11. Retainage.

The following provisions apply if Department withholds retainage under this Agreement:

a. The Department reserves the right to establish the amount and application of retainage on the work performed under this Agreement up to the maximum percentage described in Attachment 2, Special Terms and Conditions. Retainage may be withheld from each payment to Grantee pending satisfactory completion of work and approval of all deliverables.

b. If Grantee fails to perform the requested work or fails to perform the work in a satisfactory manner, Grantee shall forfeit its right to payment of the retainage associated with the work. Failure to perform includes, but is not limited to, failure to submit the required deliverables or failure to provide adequate documentation that the work was actually performed. The Department shall provide written notification to Grantee of the failure to perform that shall result in retainage forfeiture. If the Grantee does not correct the failure to perform within the timeframe stated in Department's notice, the retainage will be forfeited to Department.

c. No retainage shall be released or paid for incomplete work while this Agreement is suspended.

d. Except as otherwise provided above, Grantee shall be paid the retainage associated with the work, provided Grantee has completed the work and submits an invoice for retainage held in accordance with the invoicing procedures under this Agreement.

12. Insurance.

a. Insurance Requirements for Sub-Grantees and/or Subcontractors. The Grantee shall require its sub-grantees and/or subcontractors, if any, to maintain insurance coverage of such types and with such terms and limits as described in this Agreement. The Grantee shall require all its sub-grantees and/or subcontractors, if any, to make compliance with the insurance requirements of this Agreement a condition of all contracts that are related to this Agreement. Sub-grantees and/or subcontractors must provide proof of insurance upon request.
b. Deductibles. The Department shall be exempt from, and in no way liable for, any sums of money representing a deductible in any insurance policy. The payment of such deductible shall be the sole responsibility of the Grantee providing such insurance.
c. Proof of Insurance. Upon execution of this Agreement, Grantee shall provide Department documentation demonstrating the existence and amount for each type of applicable insurance coverage ***prior to*** performance of any work under this Agreement. Upon receipt of written request from Department, Grantee shall furnish Department with proof of applicable insurance coverage by standard form certificates of insurance, a self-insured authorization, or other certification of self-insurance.
d. Duty to Maintain Coverage. In the event that any applicable coverage is cancelled by the insurer for any reason, or if Grantee cannot get adequate coverage, Grantee shall immediately notify Department of such cancellation and shall obtain adequate replacement coverage conforming to the requirements herein and provide proof of such replacement coverage within ten (10) days after the cancellation of coverage.
e. Insurance Trust. If the Grantee's insurance is provided through an insurance trust, the Grantee shall instead add the Department of Environmental Protection, its employees, and officers as an additional covered party everywhere the Agreement requires them to be added as an additional insured.

13. Termination.

a. Termination for Convenience. When it is in the State's best interest, Department may, at its sole discretion, terminate the Agreement in whole or in part by giving 30 days' written notice to Grantee. The Department shall notify Grantee of the termination for convenience with instructions as to the effective date of termination or the specific stage of work at which the Agreement is to be terminated. The Grantee must submit all invoices for work to be paid under this Agreement within thirty (30) days of the effective date of termination. The Department shall not pay any invoices received after thirty (30) days of the effective date of termination.
b. Termination for Cause. The Department may terminate this Agreement if any of the events of default described in the Events of Default provisions below occur or in the event that Grantee fails to fulfill any of its other obligations under this Agreement. If, after termination, it is determined that Grantee was not in default, or that the default was excusable, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of Department. The rights and remedies of Department in this clause are in addition to any other rights and remedies provided by law or under this Agreement.
c. Grantee Obligations upon Notice of Termination. After receipt of a notice of termination or partial termination unless as otherwise directed by Department, Grantee shall not furnish any service or deliverable on the date, and to the extent specified, in the notice. However, Grantee shall continue work on any portion of the Agreement not terminated. If the Agreement is terminated before performance is completed, Grantee shall be paid only for that work satisfactorily performed for which costs can be substantiated. The Grantee shall not be entitled to recover any cancellation charges or lost profits.
d. Continuation of Prepaid Services. If Department has paid for any services prior to the expiration, cancellation, or termination of the Agreement, Grantee shall continue to provide Department with those services for which it has already been paid or, at Department's discretion, Grantee shall provide a refund for services that have been paid for but not rendered.
e. Transition of Services Upon Termination, Expiration, or Cancellation of the Agreement. If services provided under the Agreement are being transitioned to another provider(s), Grantee shall assist in the smooth transition of Agreement services to the subsequent provider(s). This requirement is at a minimum an affirmative obligation to cooperate with the new provider(s), however additional requirements may be outlined in the Grant Work Plan. The Grantee shall not perform any services after Agreement expiration or termination, except as necessary to complete the transition or continued portion of the Agreement, if any.

14. Notice of Default.

If Grantee defaults in the performance of any covenant or obligation contained in the Agreement, including, any of the events of default, Department shall provide notice to Grantee and an opportunity to cure that is reasonable under the circumstances. This notice shall state the nature of the failure to perform and provide a time certain for correcting the failure. The notice will also provide that, should the Grantee fail to perform within the time provided, Grantee will be found in default, and Department may terminate the Agreement effective as of the date of receipt of the default notice.

15. Events of Default.

Provided such failure is not the fault of Department or outside the reasonable control of Grantee, the following non-exclusive list of events, acts, or omissions, shall constitute events of default:

a. The commitment of any material breach of this Agreement by Grantee, including failure to timely deliver a material deliverable, failure to perform the minimal level of services required for a deliverable, discontinuance of the performance of the work, failure to resume work that has been discontinued within a reasonable time after notice to do so, or abandonment of the Agreement;
b. The commitment of any material misrepresentation or omission in any materials, or discovery by the Department of such, made by the Grantee in this Agreement or in its application for funding;
c. Failure to submit any of the reports required by this Agreement or having submitted any report with incorrect, incomplete, or insufficient information;
d. Failure to honor any term of the Agreement;
e. Failure to abide by any statutory, regulatory, or licensing requirement, including an entry of an order revoking the certificate of authority granted to the Grantee by a state or other licensing authority;
f. Failure to pay any and all entities, individuals, and furnishing labor or materials, or failure to make payment to any other entities as required by this Agreement;
g. Employment of an unauthorized alien in the performance of the work, in violation of Section 274 (A) of the Immigration and Nationality Act;
h. Failure to maintain the insurance required by this Agreement;
i. One or more of the following circumstances, uncorrected for more than thirty (30) days unless, within the specified 30-day period, Grantee (including its receiver or trustee in bankruptcy) provides to Department adequate assurances, reasonably acceptable to Department, of its continuing ability and willingness to fulfill its obligations under the Agreement:
    i. Entry of an order for relief under Title 11 of the United States Code;
    ii. The making by Grantee of a general assignment for the benefit of creditors;
    iii. The appointment of a general receiver or trustee in bankruptcy of Grantee's business or property; and/or
    iv. An action by Grantee under any state insolvency or similar law for the purpose of its bankruptcy, reorganization, or liquidation.

16. Suspension of Work.

The Department may, in its sole discretion, suspend any or all activities under the Agreement, at any time, when it is in the best interest of the State to do so. The Department shall provide Grantee written notice outlining the particulars of suspension. Examples of reasons for suspension include, but are not limited to, budgetary constraints, declaration of emergency, or other such circumstances. After receiving a suspension notice, Grantee shall comply with the notice. Within 90 days, or any longer period agreed to by the parties, Department shall either: (1) issue a notice authorizing resumption of work, at which time activity shall resume; or (2) terminate the Agreement. If the Agreement is terminated after 30 days of suspension, the notice of suspension shall be deemed to satisfy the thirty (30) days' notice required for a notice of termination for convenience. Suspension of work shall not entitle Grantee to any additional compensation.

17. Force Majeure.

The Grantee shall not be responsible for delay resulting from its failure to perform if neither the fault nor the negligence of Grantee or its employees or agents contributed to the delay and the delay is due directly to acts of God, wars, acts of public enemies, strikes, fires, floods, or other similar cause wholly beyond Grantee's control, or for any of the foregoing that affect subcontractors or suppliers if no alternate source of supply is available to Grantee. In case of any delay Grantee believes is excusable, Grantee shall notify Department in writing of the delay or potential delay and describe the cause of the delay either (1) within ten days after the cause that creates or will create the delay first arose, if Grantee could reasonably foresee that a delay could occur as a result; or (2) if delay is not reasonably foreseeable, within five days after the date Grantee first had reason to believe that a delay could result. **THE FOREGOING SHALL CONSTITUTE THE GRANTEE'S SOLE REMEDY OR EXCUSE WITH RESPECT TO DELAY**. Providing notice in strict accordance with this paragraph is a condition precedent to such remedy. No claim for damages, other than for an extension of time, shall be asserted against Department. The Grantee shall not be entitled to an increase in the Agreement price or payment of any kind from Department for direct, indirect, consequential, impact or other costs, expenses or damages, including but not limited to costs of acceleration or inefficiency, arising because of delay, disruption, interference, or hindrance from any cause whatsoever. If performance is suspended or delayed, in whole or in part, due to any of the causes described in this paragraph, after the causes have ceased to exist Grantee shall perform at no increased cost, unless Department determines, in its sole

discretion, that the delay will significantly impair the value of the Agreement to Department, in which case Department may: (1) accept allocated performance or deliveries from Grantee, provided that Grantee grants preferential treatment to Department with respect to products subjected to allocation; (2) contract with other sources (without recourse to and by Grantee for the related costs and expenses) to replace all or part of the products or services that are the subject of the delay, which purchases may be deducted from the Agreement quantity; or (3) terminate Agreement in whole or in part.

18. Indemnification.

a. The Grantee shall be fully liable for the actions of its agents, employees, partners, or subcontractors and shall fully indemnify, defend, and hold harmless Department and its officers, agents, and employees, from suits, actions, damages, and costs of every name and description arising from or relating to:
    i. personal injury and damage to real or personal tangible property alleged to be caused in whole or in part by Grantee, its agents, employees, partners, or subcontractors; provided, however, that Grantee shall not indemnify for that portion of any loss or damages proximately caused by the negligent act or omission of Department;
    ii. the Grantee's breach of this Agreement or the negligent acts or omissions of Grantee.

b. The Grantee's obligations under the preceding paragraph with respect to any legal action are contingent upon Department giving Grantee: (1) written notice of any action or threatened action; (2) the opportunity to take over and settle or defend any such action at Grantee's sole expense; and (3) assistance in defending the action at Grantee's sole expense. The Grantee shall not be liable for any cost, expense, or compromise incurred or made by Department in any legal action without Grantee's prior written consent, which shall not be unreasonably withheld.

c. Notwithstanding sections a. and b. above, the following is the sole indemnification provision that applies to Grantees that are governmental entities: Each party hereto agrees that it shall be solely responsible for the negligent or wrongful acts of its employees and agents. However, nothing contained herein shall constitute a waiver by either party of its sovereign immunity or the provisions of section 768.28, F.S. Further, nothing herein shall be construed as consent by a state agency or subdivision of the State to be sued by third parties in any matter arising out of any contract or this Agreement.

d. No provision in this Agreement shall require Department to hold harmless or indemnify Grantee, insure or assume liability for Grantee's negligence, waive Department's sovereign immunity under the laws of Florida, or otherwise impose liability on Department for which it would not otherwise be responsible. Any provision, implication or suggestion to the contrary is null and void.

19. Limitation of Liability.

The Department's liability for any claim arising from this Agreement is limited to compensatory damages in an amount no greater than the sum of the unpaid balance of compensation due for goods or services rendered pursuant to and in compliance with the terms of the Agreement. Such liability is further limited to a cap of $100,000.

20. Remedies.

Nothing in this Agreement shall be construed to make Grantee liable for force majeure events. Nothing in this Agreement, including financial consequences for nonperformance, shall limit Department's right to pursue its remedies for other types of damages under the Agreement, at law or in equity. The Department may, in addition to other remedies available to it, at law or in equity and upon notice to Grantee, retain such monies from amounts due Grantee as may be necessary to satisfy any claim for damages, penalties, costs and the like asserted by or against it.

21. Waiver.

The delay or failure by Department to exercise or enforce any of its rights under this Agreement shall not constitute or be deemed a waiver of Department's right thereafter to enforce those rights, nor shall any single or partial exercise of any such right preclude any other or further exercise thereof or the exercise of any other right.

22. Statutory Notices Relating to Unauthorized Employment and Subcontracts.

a. The Department shall consider the employment by any Grantee of unauthorized aliens a violation of Section 274A(e) of the Immigration and Nationality Act. If Grantee/subcontractor knowingly employs unauthorized aliens, such violation shall be cause for unilateral cancellation of this Agreement. The Grantee shall be responsible for including this provision in all subcontracts with private organizations issued as a result of this Agreement.

b. Pursuant to sections 287.133, 287.134, and 287.137 F.S., the following restrictions apply to persons placed on the convicted vendor list, discriminatory vendor list, or the antitrust violator vendor list:
    i. Public Entity Crime. A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may

not submit bids, proposals, or replies on leases of real property to a public entity; may not be awarded or perform work as a Grantee, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity in excess of the threshold amount provided in section 287.017, F.S., for CATEGORY TWO for a period of 36 months following the date of being placed on the convicted vendor list.

ii. Discriminatory Vendors. An entity or affiliate who has been placed on the discriminatory vendor list may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity.

iii. Antitrust Violator Vendors. A person or an affiliate who has been placed on the antitrust violator vendor list following a conviction or being held civilly liable for an antitrust violation may not submit a bid, proposal, or reply on any contract to provide any good or services to a public entity; may not submit a bid, proposal, or reply on any contract with a public entity for the construction or repair of a public building or public work; may not submit a bid, proposal, or reply on leases of real property to a public entity; may not be awarded or perform work as a Grantee, supplier, subcontractor, or consultant under a contract with a public entity; and may not transact new business with a public entity.

iv. Notification. The Grantee shall notify Department if it or any of its suppliers, subcontractors, or consultants have been placed on the convicted vendor list, the discriminatory vendor list, or antitrust violator vendor list during the life of the Agreement. The Florida Department of Management Services is responsible for maintaining the discriminatory vendor list and the antitrust violator vendor list and posts the list on its website. Questions regarding the discriminatory vendor list or antitrust violator vendor list may be directed to the Florida Department of Management Services, Office of Supplier Diversity, at (850) 487-0915.

23. Compliance with Federal, State and Local Laws.

a. The Grantee and all its agents shall comply with all federal, state and local regulations, including, but not limited to, nondiscrimination, wages, social security, workers' compensation, licenses, and registration requirements. The Grantee shall include this provision in all subcontracts issued as a result of this Agreement.

b. No person, on the grounds of race, creed, color, religion, national origin, age, gender, or disability, shall be excluded from participation in; be denied the proceeds or benefits of; or be otherwise subjected to discrimination in performance of this Agreement.

c. This Agreement shall be governed by and construed in accordance with the laws of the State of Florida.

d. Any dispute concerning performance of the Agreement shall be processed as described herein. Jurisdiction for any damages arising under the terms of the Agreement will be in the courts of the State, and venue will be in the Second Judicial Circuit, in and for Leon County. Except as otherwise provided by law, the parties agree to be responsible for their own attorney fees incurred in connection with disputes arising under the terms of this Agreement.

24. Build America, Buy America Act (BABA) - Infrastructure Projects with Federal Funding.

This provision does not apply to Agreements that are wholly funded by Coronavirus State and Local Fiscal Recovery Funds under the American Rescue Plan Act. Also, this provision does not apply where there is a valid waiver in place. However, the provision may apply to funds expended before the waiver or after expiration of the waiver.

If applicable, Recipients or Subrecipients of an award of Federal financial assistance from a program for infrastructure are required to comply with the Build America, Buy America Act (BABA), including the following provisions:

a. All iron and steel used in the project are produced in the United States--this means all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States;

b. All manufactured products used in the project are produced in the United States-this means the manufactured product was manufactured in the United States; and the cost of the components of the manufactured product that are mined, produced, or manufactured in the United States is greater than 55 percent of the total cost of all components of the manufactured product, unless another standard for determining the minimum amount of domestic content of the manufactured product has been established under applicable law or regulation; and

c. All construction materials are manufactured in the United States-this means that all manufacturing processes for the construction material occurred in the United States.

The Buy America preference only applies to articles, materials, and supplies that are consumed in, incorporated into, or affixed to an infrastructure project. As such, it does not apply to tools, equipment, and supplies, such as temporary scaffolding, brought to the construction site and removed at or before the completion of the infrastructure project. Nor does a Buy America preference apply to equipment and furnishings, such as movable chairs, desks, and portable computer equipment, that are used at or within the finished infrastructure project but are not an integral part of the structure or permanently affixed to the infrastructure project.

25. Investing in America

Grantees of an award for construction projects in whole or in part by the Bipartisan Infrastructure Law or the Inflation Reduction Act, including the following provision:

a. Signage Requirements

a. Investing in America Emblem: The recipient will ensure that a sign is placed at construction sites supported in whole or in part by this award displaying the official Investing in America emblem and must identify the project as a "project funded by President Biden's Bipartisan Infrastructure Law" or "project funded by President Biden's Inflation Reduction Act" as applicable. The sign must be placed at construction sites in an easily visible location that can be directly linked to the work taking place and must be maintained in good condition throughout the construction period.

The recipient will ensure compliance with the guidelines and design specifications provided by EPA for using the official Investing in America emblem available at: https://www.epa.gov/invest/investing-america-signage.

b. Procuring Signs: Consistent with section 6002 of RCRA, 42 U.S.C. 6962, and 2 CFR 200.323, recipients are encouraged to use recycled or recovered materials when procuring signs. Signage costs are considered an allowable cost under this assistance agreement provided that the costs associated with signage are reasonable. Additionally, to increase public awareness of projects serving communities where English is not the predominant language, recipients are encouraged to translate the language on signs (excluding the official Investing in America emblem or EPA logo or seal) into the appropriate non-English language(s). The costs of such translation are allowable, provided the costs are reasonable.

26. Scrutinized Companies.

a. Grantee certifies that it is not on the Scrutinized Companies that Boycott Israel List or engaged in a boycott of Israel. Pursuant to section 287.135, F.S., the Department may immediately terminate this Agreement at its sole option if the Grantee is found to have submitted a false certification; or if the Grantee is placed on the Scrutinized Companies that Boycott Israel List or is engaged in the boycott of Israel during the term of the Agreement.

b. If this Agreement is for more than one million dollars, the Grantee certifies that it is also not on the Scrutinized Companies with Activities in Sudan, Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or engaged with business operations in Cuba or Syria as identified in section 287.135, F.S. Pursuant to section 287.135, F.S., the Department may immediately terminate this Agreement at its sole option if the Grantee is found to have submitted a false certification; or if the Grantee is placed on the Scrutinized Companies with Activities in Sudan List, or Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or engaged with business operations in Cuba or Syria during the term of the Agreement.

c. As provided in subsection 287.135(8), F.S., if federal law ceases to authorize these contracting prohibitions, then they shall become inoperative.

27. Lobbying and Integrity.

The Grantee agrees that no funds received by it under this Agreement will be expended for the purpose of lobbying the Legislature or a State agency pursuant to section 216.347, F.S., except that pursuant to the requirements of section 287.058(6), F.S., during the term of any executed agreement between Grantee and the State, Grantee may lobby the executive or legislative branch concerning the scope of services, performance, term, or compensation regarding that agreement. The Grantee shall comply with sections 11.062 and 216.347, F.S.

28. Record Keeping.

The Grantee shall maintain books, records and documents directly pertinent to performance under this Agreement in accordance with United States generally accepted accounting principles (US GAAP) consistently applied. The Department, the State, or their authorized representatives shall have access to such records for audit purposes during

the term of this Agreement and for five (5) years following the completion date or termination of the Agreement. In the event that any work is subcontracted, Grantee shall similarly require each subcontractor to maintain and allow access to such records for audit purposes. Upon request of Department's Inspector General, or other authorized State official, Grantee shall provide any type of information the Inspector General deems relevant to Grantee's integrity or responsibility. Such information may include, but shall not be limited to, Grantee's business or financial records, documents, or files of any type or form that refer to or relate to Agreement. The Grantee shall retain such records for the longer of: (1) three years after the expiration of the Agreement; or (2) the period required by the General Records Schedules maintained by the Florida Department of State (available at: http://dos.myflorida.com/library-archives/records-management/general-records-schedules/).

29. Audits.

a. Inspector General. The Grantee understands its duty, pursuant to section 20.055(5), F.S., to cooperate with the inspector general in any investigation, audit, inspection, review, or hearing. The Grantee will comply with this duty and ensure that its sub-grantees and/or subcontractors issued under this Agreement, if any, impose this requirement, in writing, on its sub-grantees and/or subcontractors, respectively.

b. Physical Access and Inspection. Department personnel shall be given access to and may observe and inspect work being performed under this Agreement, with reasonable notice and during normal business hours, including by any of the following methods:
    i. Grantee shall provide access to any location or facility on which Grantee is performing work, or storing or staging equipment, materials or documents;
    ii. Grantee shall permit inspection of any facility, equipment, practices, or operations required in performance of any work pursuant to this Agreement; and,
    iii. Grantee shall allow and facilitate sampling and monitoring of any substances, soils, materials or parameters at any location reasonable or necessary to assure compliance with any work or legal requirements pursuant to this Agreement.

c. Special Audit Requirements. The Grantee shall comply with the applicable provisions contained in Attachment 5, Special Audit Requirements. Each amendment that authorizes a funding increase or decrease shall include an updated copy of Exhibit 1, to Attachment 5. If Department fails to provide an updated copy of Exhibit 1 to include in each amendment that authorizes a funding increase or decrease, Grantee shall request one from the Department's Grants Manager. The Grantee shall consider the type of financial assistance (federal and/or state) identified in Attachment 5, Exhibit 1 and determine whether the terms of Federal and/or Florida Single Audit Act Requirements may further apply to lower tier transactions that may be a result of this Agreement. For federal financial assistance, Grantee shall utilize the guidance provided under 2 CFR §200.331 for determining whether the relationship represents that of a subrecipient or vendor. For State financial assistance, Grantee shall utilize the form entitled "Checklist for Nonstate Organizations Recipient/Subrecipient vs Vendor Determination" (form number DFS-A2-NS) that can be found under the "Links/Forms" section appearing at the following website: https:\\apps.fldfs.com\fsaa.

d. Proof of Transactions. In addition to documentation provided to support cost reimbursement as described herein, Department may periodically request additional proof of a transaction to evaluate the appropriateness of costs to the Agreement pursuant to State guidelines (including cost allocation guidelines) and federal, if applicable. Allowable costs and uniform administrative requirements for federal programs can be found under 2 CFR 200. The Department may also request a cost allocation plan in support of its multipliers (overhead, indirect, general administrative costs, and fringe benefits). The Grantee must provide the additional proof within thirty (30) days of such request.

e. No Commingling of Funds. The accounting systems for all Grantees must ensure that these funds are not commingled with funds from other agencies. Funds from each agency must be accounted for separately. Grantees are prohibited from commingling funds on either a program-by-program or a project-by-project basis. Funds specifically budgeted and/or received for one project may not be used to support another project. Where a Grantee's, or subrecipient's, accounting system cannot comply with this requirement, Grantee, or subrecipient, shall establish a system to provide adequate fund accountability for each project it has been awarded.
    i. If Department finds that these funds have been commingled, Department shall have the right to demand a refund, either in whole or in part, of the funds provided to Grantee under this Agreement for non-compliance with the material terms of this Agreement. The Grantee, upon such written notification from Department shall refund, and shall forthwith pay to Department, the amount of money demanded by Department. Interest on any refund shall be calculated based on the prevailing rate used by the State Board of Administration. Interest shall be calculated from the date(s) the

original payment(s) are received from Department by Grantee to the date repayment is made by Grantee to Department.

ii. In the event that the Grantee recovers costs, incurred under this Agreement and reimbursed by Department, from another source(s), Grantee shall reimburse Department for all recovered funds originally provided under this Agreement and interest shall be charged for those recovered costs as calculated on from the date(s) the payment(s) are recovered by Grantee to the date repayment is made to Department.

iii. Notwithstanding the requirements of this section, the above restrictions on commingling funds do not apply to agreements where payments are made purely on a cost reimbursement basis.

30. Conflict of Interest.

The Grantee covenants that it presently has no interest and shall not acquire any interest which would conflict in any manner or degree with the performance of services required.

31. Independent Contractor.

The Grantee is an independent contractor and is not an employee or agent of Department.

32. Subcontracting.

a. Unless otherwise specified in the Special Terms and Conditions, all services contracted for are to be performed solely by Grantee.

b. The Department may, for cause, require the replacement of any Grantee employee, subcontractor, or agent. For cause, includes, but is not limited to, technical or training qualifications, quality of work, change in security status, or non-compliance with an applicable Department policy or other requirement.

c. The Department may, for cause, deny access to Department's secure information or any facility by any Grantee employee, subcontractor, or agent.

d. The Department's actions under paragraphs b. or c. shall not relieve Grantee of its obligation to perform all work in compliance with the Agreement. The Grantee shall be responsible for the payment of all monies due under any subcontract. The Department shall not be liable to any subcontractor for any expenses or liabilities incurred under any subcontract and Grantee shall be solely liable to the subcontractor for all expenses and liabilities incurred under any subcontract.

e. The Department will not deny Grantee's employees, subcontractors, or agents access to meetings within the Department's facilities, unless the basis of Department's denial is safety or security considerations.

f. The Department supports diversity in its procurement program and requests that all subcontracting opportunities afforded by this Agreement embrace diversity enthusiastically. The award of subcontracts should reflect the full diversity of the citizens of the State. A list of minority-owned firms that could be offered subcontracting opportunities may be obtained by contacting the Office of Supplier Diversity at (850) 487-0915.

g. The Grantee shall not be liable for any excess costs for a failure to perform, if the failure to perform is caused by the default of a subcontractor at any tier, and if the cause of the default is completely beyond the control of both Grantee and the subcontractor(s), and without the fault or negligence of either, unless the subcontracted products or services were obtainable from other sources in sufficient time for Grantee to meet the required delivery schedule.

33. Guarantee of Parent Company.

If Grantee is a subsidiary of another corporation or other business entity, Grantee asserts that its parent company will guarantee all of the obligations of Grantee for purposes of fulfilling the obligations of Agreement. In the event Grantee is sold during the period the Agreement is in effect, Grantee agrees that it will be a requirement of sale that the new parent company guarantee all of the obligations of Grantee.

34. Survival.

The respective obligations of the parties, which by their nature would continue beyond the termination or expiration of this Agreement, including without limitation, the obligations regarding confidentiality, proprietary interests, and public records, shall survive termination, cancellation, or expiration of this Agreement.

35. Third Parties.

The Department shall not be deemed to assume any liability for the acts, failures to act or negligence of Grantee, its agents, servants, and employees, nor shall Grantee disclaim its own negligence to Department or any third party. This Agreement does not and is not intended to confer any rights or remedies upon any person other than the parties. If Department consents to a subcontract, Grantee will specifically disclose that this Agreement does not create any third-party rights. Further, no third parties shall rely upon any of the rights and obligations created under this Agreement.

36. Severability.

If a court of competent jurisdiction deems any term or condition herein void or unenforceable, the other provisions are severable to that void provision, and shall remain in full force and effect.

37. Grantee's Employees, Subcontractors and Agents.

All Grantee employees, subcontractors, or agents performing work under the Agreement shall be properly trained technicians who meet or exceed any specified training qualifications. Upon request, Grantee shall furnish a copy of technical certification or other proof of qualification. All employees, subcontractors, or agents performing work under Agreement must comply with all security and administrative requirements of Department and shall comply with all controlling laws and regulations relevant to the services they are providing under the Agreement.

38. Assignment.

The Grantee shall not sell, assign, or transfer any of its rights, duties, or obligations under the Agreement, or under any purchase order issued pursuant to the Agreement, without the prior written consent of Department. In the event of any assignment, Grantee remains secondarily liable for performance of the Agreement, unless Department expressly waives such secondary liability. The Department may assign the Agreement with prior written notice to Grantee of its intent to do so.

39. Compensation Report.

If this Agreement is a sole-source, public-private agreement or if the Grantee, through this agreement with the State, annually receive 50% or more of their budget from the State or from a combination of State and Federal funds, the Grantee shall provide an annual report, including the most recent IRS Form 990, detailing the total compensation for the entities' executive leadership teams. Total compensation shall include salary, bonuses, cashed-in leave, cash equivalents, severance pay, retirement benefits, deferred compensation, real-property gifts, and any other payout. The Grantee must also inform the Department of any changes in total executive compensation between the annual reports. All compensation reports must indicate what percent of compensation comes directly from the State or Federal allocations to the Grantee.

40. Execution in Counterparts and Authority to Sign.

This Agreement, any amendments, and/or change orders related to the Agreement, may be executed in counterparts, each of which shall be an original and all of which shall constitute the same instrument. In accordance with the Electronic Signature Act of 1996, electronic signatures, including facsimile transmissions, may be used and shall have the same force and effect as a written signature. Each person signing this Agreement warrants that he or she is duly authorized to do so and to bind the respective party to the Agreement.

STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION
Special Terms and Conditions
AGREEMENT NO. LPA0459

ATTACHMENT 2

These Special Terms and Conditions shall be read together with general terms outlined in the Standard Terms and Conditions, Attachment 1. Where in conflict, these more specific terms shall apply.

1. Scope of Work.
The Project funded under this Agreement is Bay Harbor Islands Ejector Pumps/ Manhole Replacements. The Project is defined in more detail in Attachment 3, Grant Work Plan.

2. Duration.
a. Reimbursement Period. The reimbursement period for this Agreement begins on July 1, 2023 and ends at the expiration of the Agreement.
b. Extensions. There are extensions available for this Project.
c. Service Periods. Additional service periods are not authorized under this Agreement.

3. Payment Provisions.
a. Compensation. This is a cost reimbursement Agreement. The Grantee shall be compensated under this Agreement as described in Attachment 3.
b. Invoicing. Invoicing will occur as indicated in Attachment 3.
c. Advance Pay. Advance Pay is not authorized under this Agreement.

4. Cost Eligible for Reimbursement or Matching Requirements.
Reimbursement for costs or availability for costs to meet matching requirements shall be limited to the following budget categories, as defined in the Reference Guide for State Expenditures, as indicated:

Reimbursement	Match	Category
☐	☐	Salaries/Wages
		Overhead/Indirect/General and Administrative Costs:
☐	☐	a. Fringe Benefits, N/A.
☐	☐	b. Indirect Costs, N/A.
☒	☐	Contractual (Subcontractors)
☐	☐	Travel, in accordance with Section 112, F.S.
☐	☐	Equipment
☐	☐	Rental/Lease of Equipment
☐	☐	Miscellaneous/Other Expenses
☐	☐	Land Acquisition

5. Equipment Purchase.
No Equipment purchases shall be funded under this Agreement.

6. Land Acquisition.
There will be no Land Acquisitions funded under this Agreement.

7. Match Requirements
There is no match required on the part of the Grantee under this Agreement.

8. Insurance Requirements

Required Coverage. At all times during the Agreement the Grantee, at its sole expense, shall maintain insurance coverage of such types and with such terms and limits described below. The limits of coverage under each policy maintained by the Grantee shall not be interpreted as limiting the Grantee's liability and obligations under the Agreement. All insurance policies shall be through insurers licensed and authorized to issue policies in Florida, or alternatively, Grantee may provide coverage through a self-insurance program established and operating under the laws of Florida. Additional insurance requirements for this Agreement may be required elsewhere in this Agreement, however the minimum insurance requirements applicable to this Agreement are:

a. Commercial General Liability Insurance.
The Grantee shall provide adequate commercial general liability insurance coverage and hold such liability insurance at all times during the Agreement. The Department, its employees, and officers shall be named as an additional insured on any general liability policies. The minimum limits shall be $250,000 for each occurrence and $500,000 policy aggregate.

b. Commercial Automobile Insurance.
If the Grantee's duties include the use of a commercial vehicle, the Grantee shall maintain automobile liability, bodily injury, and property damage coverage. Insuring clauses for both bodily injury and property damage shall provide coverage on an occurrence basis. The Department, its employees, and officers shall be named as an additional insured on any automobile insurance policy. The minimum limits shall be as follows:

$200,000/300,000	Automobile Liability for Company-Owned Vehicles, if applicable
$200,000/300,000	Hired and Non-owned Automobile Liability Coverage

c. Workers' Compensation and Employer's Liability Coverage.
The Grantee shall provide workers' compensation, in accordance with Chapter 440, F.S. and employer liability coverage with minimum limits of $100,000 per accident, $100,000 per person, and $500,000 policy aggregate. Such policies shall cover all employees engaged in any work under the Grant.

d. Other Insurance. None.

9. Quality Assurance Requirements.

There are no special Quality Assurance requirements under this Agreement.

10. Retainage.

No retainage is required under this Agreement.

11. Subcontracting.

The Grantee may subcontract work under this Agreement without the prior written consent of the Department's Grant Manager except for certain fixed-price subcontracts pursuant to this Agreement, which require prior approval. The Grantee shall submit a copy of the executed subcontract to the Department prior to submitting any invoices for subcontracted work. Regardless of any subcontract, the Grantee is ultimately responsible for all work to be performed under this Agreement.

12. State-owned Land.

The work will not be performed on State-owned land.

13. Office of Policy and Budget Reporting.

The Grantee will identify the expected return on investment for this project and provide this information to the Governor's Office of Policy and Budget (OPB) within three months of execution of this Agreement. For each full calendar quarter thereafter, the Grantee will provide quarterly update reports directly to OPB, no later than 20 days after the end of each quarter, documenting the positive return on investment to the state that results from the Grantee's project and its use of funds provided under this Agreement. Quarterly reports will continue until the Grantee is instructed by OPB that no further reports are needed, or until the end of this Agreement, whichever occurs first. All reports shall be submitted electronically to OPB at env.roi@laspbs.state.fl.us, and a copy shall also be submitted to the Department at legislativeaffairs@floridaDEP.gov.

14. Common Carrier.

a. Applicable to contracts with a common carrier – firm/person/corporation that as a regular business transports people or commodities from place to place. If applicable, Contractor must also fill out and return PUR 1808 before contract execution] If Contractor is a common carrier pursuant to section 908.111(1)(a), Florida Statutes, the Department will terminate this contract immediately if Contractor is found to be in violation of the law or the attestation in PUR 1808.

b. Applicable to solicitations for a common carrier – Before contract execution, the winning Contractor(s) must fill out and return PUR 1808, and attest that it is not willfully providing any service in furtherance of transporting a person into this state knowing that the person unlawfully present in the United States according to the terms of the federal Immigration and Nationality Act, 8 U.S.C. ss. 1101 et seq. The Department will terminate a contract immediately if Contractor is found to be in violation of the law or the attestation in PUR 1808

15. Additional Terms.

None.

ATTACHMENT 3
GRANT WORK PLAN

PROJECT TITLE: Bay Harbor Islands Ejector Pumps/Manhole Replacements

PROJECT LOCATION: The Project will be located in the Town of Bay Harbor Islands within Dade County; Lat/Long (25.8894, -80.1369).

PROJECT BACKGROUND: The Town of Bay Harbor Islands (Grantee) experiences sanitary sewer overflows (SSO's) from increased rain events and king tides. Additionally, the Grantee's wastewater collection system is prone to surcharging and the sewer manhole lids are susceptible to stormwater inflow. This Project will improve water quality by installing infrastructure to help prevent SSO's and inflow to the sewer system that eventually discharges through outfalls into Biscayne Bay.

PROJECT DESCRIPTION: The Grantee will design and construct a new sewer ejector pump station, electrical infrastructure, and a new meter. The Grantee will also replace the existing sanitary sewer manholes with lockable manholes that have a rubber seal to prevent inflow.

TASKS: All documentation should be submitted electronically unless otherwise indicated.

Task 1: Design and Permitting

Deliverables: The Grantee will complete the design of the sewer ejector pump station and sewer manhole lids for the Bay Harbor Islands Ejector Pumps/Manhole Replacement Project and obtain all necessary permits for construction of the Project.

Documentation: The Grantee will submit: 1) a signed acceptance of the completed work to date, as provided in the Grantee's Certification of Payment Request; and 2) a summary of activities to date, indicating the percentage of design completion for the time period covered in the payment request. For the final documentation, the Grantee will also submit a copy of the design completed with the funding provided for this task and a list of all required permits identifying issue dates and issuing authorities.

Performance Standard: The Department's Grant Manager will review the documentation to verify that the deliverables have been completed as described above. Upon review and written acceptance by the Department's Grant Manager, the Grantee may proceed with payment request submittal.

Payment Request Schedule: The Grantee may submit a payment request for cost reimbursement no more frequently than monthly.

Task 2: Construction

Deliverables: The Grantee will construct the Bay Harbor Islands Ejector Pumps/Manhole Replacements Project in accordance with the construction contract documents.

Documentation: The Grantee will submit: 1) a copy of the final design; 2) a signed acceptance of the completed work to date, as provided in the Grantee's Certification of Payment Request; and 3) a signed Engineer's Certification of Payment Request.
Performance Standard: The Department's Grant Manager will review the documentation to verify that the deliverables have been completed as described above. Upon review and written acceptance by the Department's Grant Manager, the Grantee may proceed with payment request submittal.

Payment Request Schedule: The Grantee may submit a payment request for cost reimbursement no more frequently than monthly.

PROJECT TIMELINE & BUDGET DETAIL: The tasks must be completed by, and all documentation received by, the corresponding task end date. Cost reimbursable grant funding must not exceed the budget amounts as indicated below.

Task No.	Task Title	Budget Category	Grant Amount	Task Start Date	Task End Date
1	Design and Permitting	Contractual Services	$30,000	07/01/2023	04/30/2025
2	Construction	Contractual Services	$220,000	07/01/2023	04/30/2025
		Total:	$250,000		

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STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION
Public Records Requirements

Attachment 4

1. **Public Records.**

a. If the Agreement exceeds $35,000.00, and if Grantee is acting on behalf of Department in its performance of services under the Agreement, Grantee must allow public access to all documents, papers, letters, or other material, regardless of the physical form, characteristics, or means of transmission, made or received by Grantee in conjunction with the Agreement (Public Records), unless the Public Records are exempt from section 24(a) of Article I of the Florida Constitution or section 119.07(1), F.S.

b. The Department may unilaterally terminate the Agreement if Grantee refuses to allow public access to Public Records as required by law.

2. **Additional Public Records Duties of Section 119.0701, F.S., If Applicable.**
For the purposes of this paragraph, the term "contract" means the "Agreement." If Grantee is a "contractor" as defined in section 119.0701(1)(a), F.S., the following provisions apply and the contractor shall:

a. Keep and maintain Public Records required by Department to perform the service.

b. Upon request, provide Department with a copy of requested Public Records or allow the Public Records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, F.S., or as otherwise provided by law.

c. A contractor who fails to provide the Public Records to Department within a reasonable time may be subject to penalties under section 119.10, F.S.

d. Ensure that Public Records that are exempt or confidential and exempt from Public Records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of the contract if the contractor does not transfer the Public Records to Department.

e. Upon completion of the contract, transfer, at no cost, to Department all Public Records in possession of the contractor or keep and maintain Public Records required by Department to perform the service. If the contractor transfers all Public Records to Department upon completion of the contract, the contractor shall destroy any duplicate Public Records that are exempt or confidential and exempt from Public Records disclosure requirements. If the contractor keeps and maintains Public Records upon completion of the contract, the contractor shall meet all applicable requirements for retaining Public Records. All Public Records stored electronically must be provided to Department, upon request from Department's custodian of Public Records, in a format specified by Department as compatible with the information technology systems of Department. These formatting requirements are satisfied by using the data formats as authorized in the contract or Microsoft Word, Outlook, Adobe, or Excel, and any software formats the contractor is authorized to access.

f. **IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, F.S., TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THE CONTRACT, CONTACT THE DEPARTMENT'S CUSTODIAN OF PUBLIC RECORDS AT:**

Telephone: **(850) 245-2118**
Email: public.services@floridadep.gov
Mailing Address: **Department of Environmental Protection**
ATTN: Office of Ombudsman and Public Services
Public Records Request
3900 Commonwealth Boulevard, MS 49
Tallahassee, Florida 32399

STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION
Special Audit Requirements
(State and Federal Financial Assistance)

Attachment 5

The administration of resources awarded by the Department of Environmental Protection *(which may be referred to as the "Department", "DEP", "FDEP" or "Grantor", or other name in the agreement*) to the recipient *(which may be referred to as the "Recipient", "Grantee" or other name in the agreement)* may be subject to audits and/or monitoring by the Department of Environmental Protection, as described in this attachment.

MONITORING

In addition to reviews of audits conducted in accordance with 2 CFR Part 200, Subpart F-Audit Requirements, and Section 215.97, F.S., as revised (see "AUDITS" below), monitoring procedures may include, but not be limited to, on-site visits by DEP Department staff, limited scope audits as defined by 2 CFR 200.425, or other procedures. By entering into this Agreement, the recipient agrees to comply and cooperate with any monitoring procedures/processes deemed appropriate by the Department of Environmental Protection. In the event the Department of Environmental Protection determines that a limited scope audit of the recipient is appropriate, the recipient agrees to comply with any additional instructions provided by the Department to the recipient regarding such audit. The recipient further agrees to comply and cooperate with any inspections, reviews, investigations, or audits deemed necessary by the Chief Financial Officer (CFO) or Auditor General.

AUDITS

PART I: FEDERALLY FUNDED

This part is applicable if the recipient is a State or local government or a non-profit organization as defined in 2 CFR §200.330

1. A recipient that expends $750,000 or more in Federal awards in its fiscal year, must have a single or program-specific audit conducted in accordance with the provisions of 2 CFR Part 200, Subpart F. EXHIBIT 1 to this Attachment indicates Federal funds awarded through the Department of Environmental Protection by this Agreement. In determining the federal awards expended in its fiscal year, the recipient shall consider all sources of federal awards, including federal resources received from the Department of Environmental Protection. The determination of amounts of federal awards expended should be in accordance with the guidelines established in 2 CFR 200.502-503. An audit of the recipient conducted by the Auditor General in accordance with the provisions of 2 CFR Part 200.514 will meet the requirements of this part.

2. For the audit requirements addressed in Part I, paragraph 1, the recipient shall fulfill the requirements relative to auditee responsibilities as provided in 2 CFR 200.508-512.

3. A recipient that expends less than $750,000 in federal awards in its fiscal year is not required to have an audit conducted in accordance with the provisions of 2 CFR Part 200, Subpart F-Audit Requirements. If the recipient expends less than $750,000 in federal awards in its fiscal year and elects to have an audit conducted in accordance with the provisions of 2 CFR 200, Subpart F-Audit Requirements, the cost of the audit must be paid from non-federal resources (i.e., the cost of such an audit must be paid from recipient resources obtained from other federal entities.

4. The recipient may access information regarding the Catalog of Federal Domestic Assistance (CFDA) via the internet at https://sam.gov/content/assistance-listings.

PART II: STATE FUNDED

This part is applicable if the recipient is a nonstate entity as defined by Section 215.97(2), Florida Statutes.

1. In the event that the recipient expends a total amount of state financial assistance equal to or in excess of $750,000 in any fiscal year of such recipient (for fiscal years ending June 30, 2017, and thereafter), the recipient must have a State single or project-specific audit for such fiscal year in accordance with Section 215.97, F.S.; Rule Chapter 69I-5, F.A.C., State Financial Assistance; and Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General. EXHIBIT 1 to this form lists the state financial assistance awarded through the Department of Environmental Protection by this agreement. In determining the state financial assistance expended in its fiscal year, the recipient shall consider all sources of state financial assistance, including state financial assistance received from the Department of Environmental Protection, other state agencies, and other nonstate entities. State financial assistance does not include federal direct or pass-through awards and resources received by a nonstate entity for Federal program matching requirements.

2. In connection with the audit requirements addressed in Part II, paragraph 1; the recipient shall ensure that the audit complies with the requirements of Section 215.97(8), Florida Statutes. This includes submission of a financial reporting package as defined by Section 215.97(2), Florida Statutes, and Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General.

3. If the recipient expends less than $750,000 in state financial assistance in its fiscal year (for fiscal year ending June 30, 2017, and thereafter), an audit conducted in accordance with the provisions of Section 215.97, Florida Statutes, is not required. In the event that the recipient expends less than $750,000 in state financial assistance in its fiscal year, and elects to have an audit conducted in accordance with the provisions of Section 215.97, Florida Statutes, the cost of the audit must be paid from the non-state entity's resources (i.e., the cost of such an audit must be paid from the recipient's resources obtained from other than State entities).

4. For information regarding the Florida Catalog of State Financial Assistance (CSFA), a recipient should access the Florida Single Audit Act website located at https://apps.fldfs.com/fsaa for assistance. In addition to the above websites, the following websites may be accessed for information: Legislature's Website at http://www.leg.state.fl.us/Welcome/index.cfm, State of Florida's website at http://www.myflorida.com/, Department of Financial Services' Website at http://www.fldfs.com/and the Auditor General's Website at http://www.myflorida.com/audgen/.

PART III: OTHER AUDIT REQUIREMENTS

(NOTE: This part would be used to specify any additional audit requirements imposed by the State awarding entity that are solely a matter of that State awarding entity's policy (i.e., the audit is not required by Federal or State laws and is not in conflict with other Federal or State audit requirements). Pursuant to Section 215.97(8), Florida Statutes, State agencies may conduct or arrange for audits of State financial assistance that are in addition to audits conducted in accordance with Section 215.97, Florida Statutes. In such an event, the State awarding agency must arrange for funding the full cost of such additional audits.)

PART IV: REPORT SUBMISSION

1. Copies of reporting packages for audits conducted in accordance with 2 CFR Part 200, Subpart F-Audit Requirements, and required by PART I of this form shall be submitted, when required by 2 CFR 200.512, by or on behalf of the recipient directly to the Federal Audit Clearinghouse (FAC) as provided in 2 CFR 200.36 and 200.512

   A. The Federal Audit Clearinghouse designated in 2 CFR §200.501(a) (the number of copies required by 2 CFR §200.501(a) should be submitted to the Federal Audit Clearinghouse), at the following address:

By Mail:

Federal Audit Clearinghouse
Bureau of the Census
1201 East 10th Street
Jeffersonville, IN 47132

Submissions of the Single Audit reporting package for fiscal periods ending on or after January 1, 2008, must be submitted using the Federal Clearinghouse's Internet Data Entry System which can be found at http://harvester.census.gov/facweb/

2. Copies of financial reporting packages required by PART II of this Attachment shall be submitted by or on behalf of the recipient directly to each of the following:

A. The Department of Environmental Protection at one of the following addresses:

By Mail:
Audit Director
Florida Department of Environmental Protection
Office of Inspector General, MS 40
3900 Commonwealth Boulevard
Tallahassee, Florida 32399-3000

Electronically:
FDEPSingleAudit@dep.state.fl.us

B. The Auditor General's Office at the following address:

Auditor General
Local Government Audits/342
Claude Pepper Building, Room 401
111 West Madison Street
Tallahassee, Florida 32399-1450

The Auditor General's website (http://flauditor.gov/) provides instructions for filing an electronic copy of a financial reporting package.

3. Copies of reports or management letters required by PART III of this Attachment shall be submitted by or on behalf of the recipient directly to the Department of Environmental Protection at one of the following addresses:

By Mail:
Audit Director
Florida Department of Environmental Protection
Office of Inspector General, MS 40
3900 Commonwealth Boulevard
Tallahassee, Florida 32399-3000

Electronically:
FDEPSingleAudit@dep.state.fl.us

4. Any reports, management letters, or other information required to be submitted to the Department of Environmental Protection pursuant to this Agreement shall be submitted timely in accordance with 2 CFR 200.512, section 215.97, F.S., and Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General, as applicable.

5. Recipients, when submitting financial reporting packages to the Department of Environmental Protection for audits done in accordance with 2 CFR 200, Subpart F-Audit Requirements, or Chapters 10.550 (local governmental entities) and 10.650 (non and for-profit organizations), Rules of the Auditor General, should indicate the date and the reporting package was delivered to the recipient correspondence accompanying the reporting package.

PART V: RECORD RETENTION

The recipient shall retain sufficient records demonstrating its compliance with the terms of the award and this Agreement for a period of **five (5)** years from the date the audit report is issued, and shall allow the Department of Environmental Protection, or its designee, Chief Financial Officer, or Auditor General access to such records upon request. The recipient shall ensure that audit working papers are made available to the Department of Environmental Protection, or its designee, Chief Financial Officer, or Auditor General upon request for a period of **three (3)** years from the date the audit report is issued, unless extended in writing by the Department of Environmental Protection.

EXHIBIT – 1

FUNDS AWARDED TO THE RECIPIENT PURSUANT TO THIS AGREEMENT CONSIST OF THE FOLLOWING:

Note: If the resources awarded to the recipient represent more than one federal program, provide the same information shown below for each federal program and show total federal resources awarded

Federal Resources Awarded to the Recipient Pursuant to this Agreement Consist of the Following:					
Federal Program A	Federal Agency	CFDA Number	CFDA Title	Funding Amount	State Appropriation Category
				$	
Federal Program B	Federal Agency	CFDA Number	CFDA Title	Funding Amount	State Appropriation Category
				$	

Note: Of the resources awarded to the recipient represent more than one federal program, list applicable compliance requirements for each federal program in the same manner as shown below:

Federal Program A	First Compliance requirement: i.e.: (what services of purposes resources must be used for)	
	Second Compliance requirement: i.e.:(eligibility requirement for recipients of the resources)	
	Etc.	
	Etc.	
Federal Program B	First Compliance requirement: i.e.: (what services of purposes resources must be used for)	
	Second Compliance requirement: i.e.: (eligibility requirement for recipients of the resources)	
	Etc.	
	Etc.	

Note: If the resources awarded to the recipient for matching represent more than one federal program, provide the same information shown below for each federal program and show total state resources awarded for matching.

State Resources Awarded to the Recipient Pursuant to this Agreement Consist of the Following Matching Resources for Federal Programs:					
Federal Program A	Federal Agency	CFDA	CFDA Title	Funding Amount	State Appropriation Category
Federal Program B	Federal Agency	CFDA	CFDA Title	Funding Amount	State Appropriation Category

Note: If the resources awarded to the recipient represent more than one state project, provide the same information shown below for each state project and show total state financial assistance awarded that is subject to section 215.97, F.S.

State Resources Awarded to the Recipient Pursuant to this Agreement Consist of the Following Resources Subject to Section 215.97, F.S.:						
State Program A	State Awarding Agency	State Fiscal Year[1]	CSFA Number	CSFA Title or Funding Source Description	Funding Amount	State Appropriation Category
Original Agreement	Florida Department of Environmental Protection	2023-2024	37.039	Statewide Water Quality Restoration Projects – LI 17505A	$250,000	140047
State Program B	State Awarding Agency	State Fiscal Year[2]	CSFA Number	CSFA Title or Funding Source Description	Funding Amount	State Appropriation Category

Total Award	$250,000	

Note: List applicable compliance requirement in the same manner as illustrated above for federal resources. For matching resources provided by the Department for DEP for federal programs, the requirements might be similar to the requirements for the applicable federal programs. Also, to the extent that different requirements pertain to different amount for the non-federal resources, there may be more than one grouping (i.e. 1, 2, 3, etc.) listed under this category.

For each program identified above, the recipient shall comply with the program requirements described in the Catalog of Federal Domestic Assistance (CFDA) [https://sam.gov/content/assistance-listings] and/or the Florida Catalog of State Financial Assistance (CSFA) [https://apps.fldfs.com/fsaa/searchCatalog.aspx], and State Projects Compliance Supplement (Part Four: State Projects Compliance Supplement [https://apps.fldfs.com/fsaa/state_project_compliance.aspx]. The services/purposes for which the funds are to be used are included in the Agreement's Grant Work Plan. Any match required by the Recipient is clearly indicated in the Agreement.

[1] Subject to change by Change Order.
[2] Subject to change by Change Order.

STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION

Exhibit A
Progress Report Form

DEP Agreement No.:	LPA0459
Project Title:	Bay Harbor Islands Ejector Pumps/ Manhole Replacements
Grantee Name:	Town of Bay Harbor Islands
Grantee's Grant Manager:	Sandra Siefken
Reporting Period:	Select Quarter - Select Year

Provide the following information for all tasks identified in the Grant Work Plan:
Summarize the work completed within each task for the reporting period, provide an update on the estimated completion date for each task, and identify any anticipated delays or problems encountered. Use the format provided below and use as many pages as necessary to cover all tasks. Each quarterly progress report is due no later than twenty (20) days following the completion of the quarterly reporting period.

Task 1: Design and Permitting

- **Progress for this reporting period**:
- **Identify delays or problems encountered**:

Task 2: Construction

- **Progress for this reporting period**:
- **Identify delays or problems encountered**:

Completion Status for Tasks:
Indicate the completion status for the following tasks, if included in the Grant Work Plan. For construction, the estimated completion percentage should represent the work being funded under this Agreement.

Design (Plans/Submittal): 30% ☐, 60% ☐, 90% ☐, 100% ☐

Permitting (Completed): Yes ☐, No ☐

Construction (Estimated): _____ %

This report is submitted in accordance with the reporting requirements of the above DEP Agreement number and accurately reflects the activities associated with the project.

Signature of Grantee's Grant Manager
(***Original Ink or Digital Timestamp***)

Date

STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION

Exhibit C
Payment Request Summary Form

The **Payment Request Summary Form** for this grant can be found on our website at this link:

https://floridadep.gov/wra/wra/documents/payment-request-summary-form

Please use the most current form found on the website, linked above, for each payment request.

AGENDA ITEM REPORT

November 8, 2023

ITEM NUMBER: 13.

ITEM: Consideration of a resolution approving a proposal from Calvin Giordano & Associates, under the CCNA-Engineering Consulting Services Continuing Contract, to provide engineering services for the Community Center/ Parking Garage electrical upgrades and generator installation in the amount of $71,340. Enclosed are the proposed resolution and proposal.

DESCRIPTION:

During the process of evaluating the Town Hall Demolition Project, it was determined that the Town Hall servers would need to be moved from Town Hall to the 95th Street Parking Garage. During the electrical evaluation of the Parking Garage, it was determined that an additional electrical panel would need to be installed to provide power to the servers, and there was no generator serving the Parking Garage or the Community Center. The Town must have a generator to supply power to the servers in case of a power outage. There is a generator in the garage that provides power to Miami-Dade Fire Rescue, but the generator is exclusively and sized only for Miami-Dade Fire Rescue.

An onsite meeting was held with Calvin Giordano & Associates (CGA) and an additional Electrical Engineer performing consulting services. It was determined in the meeting that the proposed project was feasible and that CGA would put together a cost proposal. The Town has an active agreement with CGA for Engineering Consulting Services, and CGA has been chosen as one of the five Engineering Firms for the new Engineering Consulting Services Agreement that is on the November 2023 Council Agenda.

The Town has also sought out a grant in the amount of $800,000 for the purchase and installation of three new generators to be installed in the Town. One of the three generators is the generator involved with this project. The generator will likely be a 250KW generator that will be powered by natural gas. Miami-Dade Fire Rescue utilizes a natural gas generator.

Staff looked for electrical plans that could be utilized as part of the submittal for an electrical permit. The plans were not located despite efforts to retrieve them from Miami-Dade County, Tri-City Electric, and Stantec. The time and cost to generate plans as required for an electrical permit is substantial. CGA will create these plans with the assistance of Estenoz Engineering, Inc. and submit them to the appropriate agencies for permits. During the process of creating the electrical plans, CGA will provide a size recommendation for the purchase of a new natural gas-powered generator.

Staff recommends that the Town Council approve the attached proposal from CGA in the amount of $71,340.

RECOMMENDED ACTION:

Approve the proposal from CGA in the amount of $71,340.

FINANCIAL ANALYSIS:
The Town budgeted $250,000 for the Community Center / Parking Garage generator and electrical upgrades to be supplemented with an additional $530,000 budgeted for the other two generators. Staff expects an $800,000 grant to be issued and go towards the replacement of the generators with associated engineering and electrical costs. The proposal cost of $71,340 is budgeted for as part of the overall project.

BUDGET IMPACT:

Name	Impact Date	Fund(s)	Account(s)	Project #(s)	Amount Budgeted
Community Center / Parking Garage Electrical Upgrades and Generator Installation	11/13/2023	General Fund	001-5190-400064	BHI-243	$250,000

Submitted By: Jason Atkinson, Public Works Director
Jason Atkinson, Public Works Director
Roberto Gonzalez, I.S. Manager

ATTACHMENTS

1.	Resolution approving engineering services -Calvin Giordano & Associates
2.	CGA - Proposal_BHI Community Center Generator

RESOLUTION NO. _____

A RESOLUTION OF TOWN COUNCIL OF THE TOWN OF BAY HARBOR ISLANDS, FLORIDA, APPROVING A PROPOSAL FROM CALVIN, GIORDANO & ASSOCIATES, INC., UNDER THE CCNA-ENGINEERING CONSULTING SERVICES CONTINUING CONTRACT, TO PROVIDE ENGINEERING SERVICES FOR THE COMMUNITY CENTER/PARKING GARAGE ELECTRICAL UPGRADES AND GENERATOR INSTALLATION; PROVIDING FOR INCORPORATION OF RECITALS; AUTHORIZING THE TOWN MANAGER TO CARRY OUT THE AIMS OF THIS RESOLUTION; PROVIDING FOR INCORPORATION OF RECITALS AND AN EFFECTIVE DATE.

WHEREAS, during the process of evaluating the Town Hall Demolition Project, it was determined that the Town requires engineering services for the Community Center/Parking Garage electrical upgrades and generator installation; and

WHEREAS, the Town has an active continuing services agreement with Calvin, Giordano & Associates, Inc. (CGA) for Engineering Consulting Services, and CGA has been chosen as one of the five Engineering firms for the new Engineering Consulting Services Agreements that is on the November 8, 2023 Council Meeting Agenda.; and

WHEREAS, an onsite meeting was held with ("CGA") and an additional Electrical Engineer performing consulting services, and staff determined that the proposed project was feasible and that CGA would submit a cost proposal; and

WHEREAS, CGA submitted a proposal in the amount of $71,340 for the engineering services for the Community Center/Parking Garage electrical upgrades and generator installation project; and

WHEREAS, the Town Council hereby finds it is advantageous and in the best interest of the Town to approve this proposal.

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

Section1. The foregoing recitals are adopted and hereby incorporated as if fully set forth herein.

Section 2. The Town Council hereby approves the proposal from CGA in the amount of $71,340, in substantially the form attached hereto as "Exhibit A".

Section 3. 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.

Section 4. The Town Manager is hereby authorized to do all things necessary to carry out the aims of the Resolution.

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

PASSED and ADOPTED this 8th day of November 2023.

_____
ELIZABETH TRICOCHE, MAYOR

ATTEST:

_____
YVONNE P. HAMILTON, TOWN CLERK

APPROVED AS TO FORM:

_____
GREENSPOON MARDER LLP
TOWN ATTORNEYS
BY: Joseph S. Geller, Esq.

Calvin, Giordano & Associates, Inc.
A SAFEbuilt COMPANY

Proposal for Professional Services

Date:	October 13, 2023
RE:	**Community Center Generator**
Client:	BAY HARBOR ISLANDS 9665 Bay Harbor Terrace, Annex Building Bay Harbor Islands, FL 33154
Attention:	Jason Atkinson, Director of Public Works
CGA Project No:	23-7649.2

The Town of Bay Harbor Islands (BHI) is currently moving their IT/data servers from Town Hall to the Electrical Room on the second floor of the 95th Street Parking Garage. The IT/data servers will require a generator backup to power both the servers and the HVAC for the Electrical Room during a power outage. Additionally, BHI is requesting that the Community Center, which is part of the 95th St Parking Garage structure, also be backed up by this new generator. The new generator will be powered by natural gas via new plumbing and is to be installed adjacent to an existing generator on the first-floor ramp inside the garage. This will require an elevated concrete slab. The generator will have a remote annunciator to notify BHI Staff when it is running. A separate panel, submeter, and transformer are required for the data servers and HVAC in the Electrical Room. Additional receptacles are to be provided inside of the Electrical Room for the data servers. The new main disconnect and automatic transfer switch is to be installed in the greenspace on the east side of the parking garage adjacent to the existing FPL meter and transformer. The new appurtenances will be sized to accommodate a larger HVAC should BHI ever need to replace the one currently serving the Electrical Room.

Calvin, Giordano & Associates, Inc. (CGA) is pleased to submit this proposal for professional services regarding this project. CGA shall subcontract the Electrical, Plumbing, and Structural scope to Estenoz Engineering, Inc. (EEI). Therefore, CGA shall provide limited topographic survey, peer review, and project management services to supplement EEI's scope. The specific scope of services for this proposal is further detailed in the subsequent sections.

Building Code Services
Civil Engineering / Roadway & Highway Design
Coastal Engineering
Code Enforcement
Construction Engineering & Inspection (CEI)
Construction Services
Data Technologies & Development
Electrical Engineering
Engineering
Environmental Services
Facilities Management
Grant Management & Writing
Geographic Information Systems (GIS)
Governmental Services
Indoor Air Quality (IAQ)
Landscape Architecture
Planning
Project Management
Redevelopment & Urban Design
Surveying & Mapping
Transportation & Mobility
Transportation Planning
Water / Utilities Engineering
Website Development

1800 Eller Drive
Suite 600
Fort Lauderdale, FL 33316
Tel: 954.921.7781
Fax: 954.921.8807

www.cgasolutions.com

I. DESIGN

I.1 Topographic Survey (see Exhibit B for limits)

I.1.1 Identify platted rights-of-way (including bearing and distances for centerline) lot numbers, house addresses, ownership lines, block numbers, and platted easements within the Survey Limits.

I.1.2 All above ground improvements within the Survey Limits will be field collected, with horizontal locations and vertical elevations being provided for such items as edge-of-pavement, sidewalks, driveways, access points / curb cuts, and visible above ground utilities. Visible above ground utilities refer to the visible structures (e.g., manholes, valve boxes, inlets, etc.) typically associated with stormwater, sanitary sewer, potable water, electric, gas, telephone, and cable television.

I.1.3 Data for pipe sizes, type of material, direction of flow and invert elevations will be obtained for any accessible manholes of storm and sewer manholes / inlets within the Survey Limits including the next structure in the line of flow outside of the Survey Limits.

I.1.4 All trees within the Survey Limits, with at least a 3-inch caliper or greater, will be located and identified on the survey with unique tree symbol for each common name tree species and tree diameter.

I.1.5 Location with color and type of any above-ground paint marks identifying underground utility demarcation as completed by others within the Survey Limits.

I.1.6 Survey data will be referenced vertically to National Geodetic Vertical Datum of 1929 (NGVD29) and horizontally to Florida State Plane Coordinates, North American Datum 83/90 (NAD 83/90).

I.1.7 The topographic survey will be prepared in accordance with the Standards of Practice requirements for Surveying and Mapping in the State of Florida as set forth by Chapter 5J-17 of the Florida Administrative Code, pursuant to Florida Statues Chapter 472.027.

I.2 Review historical power consumption data and available record drawings for the data servers, Community Center, and the 95th Street Parking Garage.

I.3 Determine the size of the new generator and advise BHI so that BHI can procure it while the plans are being finalized.

I.4 Utilizing the topographic survey, determine the design flood elevation for the proposed generator and panel elevations in accordance with ASCE 24.

I.5 Provide plans showing the proposed location for the new generator, load calculations, automatic transfer switch, new generator panel, and Electrical Room plan. Plans shall also include a means for a backup portable generator to power the data servers and HVAC via a manual transfer switch.

I.6 Conduct a peer review of EEI's deliverables. Refine deliverables, as needed, and provide to BHI for review.

I.7 Attend one meeting with BHI to review the plans and address comments or questions, as needed.

II. PERMITTING

II.1 Submit to BHI's Building Department for a dry-run review of the design plans and address comments, as needed.

III. BIDDING

III.1 Advance the design plans to bid documents and provide them to BHI for advertisement.

III.2 Attend one pre-bid meeting.

III.3 Address Bidder Requests for Information (RFIs) related to the design plans. These include responses to written questions and revised plans or technical specifications, if required.

III.4 Assist BHI in determining the lowest, most responsive, and most responsible Bidder. This shall include contacting and verifying Bidder references.

IV. CONSTRUCTION

IV.1 Provide a conformed set of construction plans to both BHI and the Contractor.

IV.2 Attend one preconstruction meeting.

IV.3 Review required shop drawing submittals.

IV.4 Address Contractor RFIs as they pertain to the construction plans.

IV.5 Attend one miscellaneous site meeting to help address any unforeseen issues or questions presented by the Contractor.

IV.6 Perform routine inspections and observations of construction activities to determine compliance with the construction plans.

IV.7 Oversee the generator startup testing.

IV.8 Attend one substantial completion inspection and one final completion inspection. Prepare a punch list for each inspection.

IV.9 Assist BHI in reviewing monthly payment applications.

IV.10 Review as-builts provided by the Contractor.

V. ASSUMPTIONS AND EXCLUSIONS

V.1 It is assumed that the required design specific to the relocation of the IT/data servers and any associated design requirements (Architectural, Electrical, Mechanical, Plumbing, Structural, etc.) will be provided by others.

V.2 BHI to provide the past year's FPL billings and the monthly power consumption summaries so that the new generator and appurtenances can be properly sized.

V.3 Civil Engineering, Architectural, Mechanical, technical specifications, front-end bidding documents, or any other discipline/activity/deliverable not specifically listed is excluded.

V.4 The only permitting that is included is a dry-run review by BHI's Building Department. It is assumed that they offer this service being a BHI-funded project.

V.5 CGA shall not be responsible for preparing front-end bid documents, bid forms, bid advertisement, coordinating pre-bid meetings, nor receiving bid submittals. CGA's scope during bidding is limited to addressing any technical questions from prospective Bidders. BHI shall coordinate and handle the majority of bidding.

VI. BASIS OF PROPOSAL

VI.1 Any opinion of the construction cost prepared by CGA represents its judgment as a design professional and is supplied for the general guidance of BHI since CGA has no control over the cost of labor and material, or over competitive bidding or market conditions. CGA does not guarantee the accuracy of such opinions as compared to contractor bids or actual cost to BHI.

VI.2 Any outside engineering services, studies, or laboratory testing not specifically mentioned in the proposal will be the responsibility of others. All municipal, permit, and agency fees as well as Title Certificates will be paid by others.

VI.3 CGA is performing the consultant services set forth in this proposal strictly as a professional consultant to BHI. Nothing contained in this proposal shall create any contractual relationship between CGA and any contractor or subcontractor performing construction activities on the project, or any of BHI's other professional consultants.

VI.4 CGA shall not be responsible for the contractor's schedules or failure to carry out the construction in accordance with the construction documents. CGA shall not

have control over or charge of acts or omissions of the contractor, subcontractors, or their agents or employees, or of any other persons performing portions of the construction.

VI.5 CGA will require that all consultants carry proper insurance, including professional liability insurance, if appropriate.

VII. REIMBURSABLE EXPENSES

VII.1 CGA and its consultants will be reimbursed for the printing of drawings and specifications, deliveries, Federal Express services, required travel time and travel expenses, long distance telephone calls, fax transmittals, postage, fees paid for securing approval of authorities having jurisdiction over the project, renderings, models, and mock-ups required by BHI, as required. Reimbursable expenses will be billed directly to BHI at a multiplier of 1.25.

VIII. MEETING ATTENDANCE

VIII.1 Due to the difficulties of predicting the number or duration of meetings, no meetings other than those listed above are included. Preparation for and meeting attendance, as necessary, will be provided on a time and materials basis and will be billed at the standard hourly rates in accordance with the attached Professional Fee Schedule (Exhibit C).

IX. TERMS OF THE AGREEMENT

IX.1 CGA and BHI agree by their signatures on this document that each party will not hire or attempt to hire any staff from the other party while under contract together.

IX.2 CGA is preparing and providing drawings, plans, specifications, or other documents as outlined in the proposal for use in the bidding of this project, based upon design and construction criteria prepared and provided by others, including but not limited to BHI and BHI's consultants. CGA is not responsible for any errors and omissions in the aforesaid design and construction criteria provided by others.

IX.3 BHI agrees to indemnify, hold harmless and, at CGA's option, defend or pay for an attorney selected by CGA, to defend CGA, its officers, agents, servants, and employees against any and all claims, losses, liabilities, and expenditures of any kind, including attorney fees, any appellate attorney costs, court costs, and expenses, caused by, arising from, or related to any acts, omissions or negligence of BHI or its consultants.

IX.4 BHI agrees to limit CGA's liability for any and all claims that BHI may assert on its own behalf or on behalf of another, including but not limited to claims for breach of contract or breach of warranty, to the amount of fees paid to CGA, pursuant to this Agreement.

IX.5 Drawings, specifications, and other documents and electronic data furnished by CGA in connection with this project are instruments of service. All original instruments of service shall be retained by CGA and will remain their property, with all common law, statutory and other reserved rights, including copyright, in those instruments. This information provided in the instruments of service is proprietary and will not be shared with others without prior written consent. BHI may request reproducible copies, and all original documents upon payment of all outstanding invoices, and expenses.

IX.6 Invoices for work accomplished to date will be submitted monthly and are payable within thirty (30) days. BHI will pay invoices upon receipt and understands interest charges of 1.5% per month will be applied to any unpaid balance past thirty (30) days. CGA may elect to stop work until payment is received. If work is stopped for thirty (30) days or more, CGA may request compensation for start-up costs when work resumes.

IX.7 PURSUANT TO SECTION 558.0035, FLORIDA STATUTES, AN INDIVIDUAL EMPLOYEE OR AGENT OF CALVIN, GIORDANO & ASSOCIATES, INC. MAY NOT BE HELD INDIVIDUALLY LIABLE IN NEGLIGENCE FOR ANY CLAIMS, DAMAGES, LOSSES, OR DISPUTES ARISING OUT OF OR SUBJECT TO THE CONTRACT.

IX.8 BHI or their representative shall be available to meet with CGA and provide decisions in a timely manner throughout the course of the project. BHI will provide all plans and other pertinent information, which are necessary for CGA to provide complete professional services as outlined in this proposal.

IX.9 The terms of proposal shall be valid for BHI's acceptance for a period of thirty (30) days from the date of execution by CGA after which time this contract offer becomes null and void if not accepted formally (evidenced by receipt of an executed copy of this document). All rates and fees quoted in this document shall be effective for a period of six (6) months, after which time they may be renegotiated with BHI.

X. MISCELLANEOUS PROVISIONS

X.1 BHI and CGA, respectively, bind themselves, their partners, successors, assigns, and legal representatives to the other party to this Agreement and to the partners, successors, assigns, and legal representatives of such other party with respect to all covenants of this Agreement. Neither BHI nor CGA shall assign this Agreement without written consent of the other.

X.2 This Agreement represents the entire and integrated agreement between BHI and CGA and supersedes all prior negotiations, representations, or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both CGA and BHI.

X.3 Unless otherwise provided, this Agreement shall be governed by the law of the place where the project is located.

XI. TERMINATION OF THE AGREEMENT

XI.1 This Agreement may be terminated by either party upon not less than seven (7) days written notice should the other party fail substantially to perform in accordance with the terms of this Agreement through no fault of the party initiating the termination. Failure of BHI to make payments to CGA, in accordance with this Agreement, shall be considered substantial nonperformance and cause for termination.

XI.2 In the event of termination in accordance with this Agreement or termination not the fault of CGA, CGA shall be compensated for services properly performed prior to receipt of notice of termination, together with Reimbursable Expenses then due.

AUTHORIZATION

We appreciate the opportunity to submit this proposal. Calvin, Giordano & Associates, Inc. is prepared with the required team to proceed with the proposed scope of services upon receipt of the executed authorization. Our personnel are committed to completing the project in a timely manner. Please indicate your acceptance of this proposal by signing below and returning one executed copy of the contract to this office. We look forward to working with you to make this project a success.

By: _____	By: _____
Jason Atkinson Director of Public Works Bay Harbor Islands	Jenna Martinetti, PE Director of Engineering Calvin, Giordano & Associates, Inc.
Date: _____	Date: _____

EXHIBIT A – PROJECT FEE SCHEDULE

CGA (Engineering Support and Survey)	**EEI** (Structural, Plumbing, and Electrical)
$16,670.00	$54,670.00
$71,340.00	

EXHIBIT B – PROJECT LOCATION EXHIBIT



EXHIBIT C – PROFESSIONAL FEE SCHEDULE

Calvin, Giordano & Associates, Inc.
A SAFEbuilt COMPANY

PROFESSIONAL FEE SCHEDULE

Building Code Services
Civil Engineering / Roadway & Highway Design
Coastal Engineering
Code Enforcement
Construction Engineering & Inspection (CEI)
Construction Services
Data Technologies & Development
Electrical Engineering
Engineering
Environmental Services
Facilities Management
Grant Management & Writing
Geographic Information Systems (GIS)
Governmental Services
Indoor Air Quality (IAQ)
Landscape Architecture
Planning
Project Management
Redevelopment & Urban Design
Surveying & Mapping
Transportation & Mobility
Transportation Planning
Water / Utilities Engineering
Website Development

1800 Eller Drive
Suite 600
Fort Lauderdale, FL 33316
Tel: 954.921.7781
Fax: 954.921.8807

www.cgasolutions.com

Principal	252.00
Contract Administrator	232.00
Project Coordinator	117.00
Executive Assistant / Clerical	86.00
ENGINEERING	
Associate/Director, Engineering	225.00
Sr. Project Manager	196.00
Project Manager	179.00
Project Engineer	157.00
Engineer	133.00
Jr. Engineer	117.00
Senior CADD Tech	135.00
CADD Technician	115.00
Permit Administrator	109.00
Engineering Site Plan Review	179.00
LANDSCAPE ARCHITECT	
Associate/Director, Landscape Architect	225.00
Senior Landscape Architect/Urbanist	180.00
Environmental Administrator	150.00
Environmental Specialist	125.00
Environmental Assistant	115.00
Landscape Architect/Urbanist	165.00
Senior CADD Tech	135.00
CADD Technician	115.00
Landscape Inspector/Arborist	125.00
Landscape Site Plan Reviewer	170.00
Jr. Landscape Architect/Urbanist	150.00
Landscape Designer	125.00
Jr. Landscape Designer	110.00
Landscape Analyst	80.00
PLANNING	
Associate/Director, Planning	225.00
Planning Administrator	183.00
Principal Planner	178.00
Planning Manager	178.00
Senior Planner	152.00
Planner	128.00
Assistant Planner	111.00
Planning Technician	86.00
Grants Administrator	183.00
Grants Coordinator	128.00
EXPERT WITNESS	
Principal/Associate	398.00
Registered Engineer/Surveyor	337.00
Project Engineer	276.00

CONSTRUCTION	
Associate, Construction	225.00
Senior Project Engineer (CEI)	202.00
Project Administrator (CEI)	202.00
Construction Management Director	167.00
Construction Manager	152.00
Senior Inspector	125.00
Inspector	113.00
Inspector Aide	113.00
Construction Coordinator	113.00
Resident Compliance Specialist	113.00
GOVERNMENT SERVICES	
Associate, VP	225.00
Director of Code Enforcement	176.00
Director of Building Code	176.00
Project Manager	179.00
Code Enforcement Field Supervisor	133.00
Code Enforcement Field Inspector	113.00
Building Official	138.00
Building Plans Reviewer	119.00
Building Inspector	113.00
Permit Processor	90.00
SURVEYING	
Associate/Director, Surveying	225.00
Senior Registered Surveyor	178.00
Survey Crew	164.00
Registered Surveyor	159.00
Survey Coordinator	128.00
CADD Technician	115.00
3D Laser Scanner	451.00
G.P.S Survey Crew	198.00
DATA TECH DEVELOPMENT	
Associate, Data Tech Dev.	225.00
GIS Coordinator	178.00
GIS Specialist	152.00
Multi-Media 3D Developer	135.00
GIS Technician	117.00
Sr. Applications Developer	225.00
Applications Developer	167.00
Network Administrator	187.00
System Support Specialist	135.00
IT Support Specialist	102.00
INDOOR AIR QUALITY SERVICES	
Sr. Environmental Scientist	150.00
Environmental Scientist	125.00

In addition to the hourly rates listed above, charges will include direct out-of-pocket expenses such as reproduction, overnight mail, and other reimbursables billed at a multiplier of 1.25.

Effective July 17, 2023

FORT LAUDERDALE MIAMI-DADE WEST PALM BEACH CLEARWATER / TAMPA ESTERO PORT ST. LUCIE

AGENDA ITEM REPORT

November 8, 2023

ITEM NUMBER: 14.

ITEM: Consideration of a Resolution ratifying and approving a contract with AlliedBean Demolition, Inc. for demolition of Town Hall Facilities (Police Department Building, the Annex Building, and the Public Works Dome) at a cost of $231,400.54 with an additional contingency of $50,000.00 related to Engineering from a Town Council approved engineering company and other ancillary expenses regarding demolition of Town Hall, under the piggyback purchase provision pursuant to Section 2-1.2(6) of the Town Code, which allows for use of contracts from another governmental agency that has been through a competitive bidding process for similar items/services. Enclosed are the proposed resolution and agreement. Sponsored by Council Member Stephanie Bruder.

DESCRIPTION:

Ratification of Approval of a contract with AlliedBean Demolition, Inc. for demolition of Town Hall Facilities (Police Department Building, the Annex Building, and the Public Works Dome). The service is being piggyback off the contract between AlliedBean Demolition, Inc. and the City of Fort Lauderdale for demolition services, through the City of Fort Lauderdale Invitation to Bid No. 12471-813 ("Resolution No. 12471-813") dated April 20, 2021.

The Town of Bay Harbor Islands requires the complete demolition of buildings and sites within the Town and this work is outside the current capabilities of Town personnel to perform. Therefore, a Contractor is needed to provide demolition, disposal and other related services. These services include and incorporate the demolition and disposal of the main structure and accessory structures, removal of footings, slabs, asphalt, concrete pavement or brick paver driveways, walkways, or slabs including the lime rock base, fences, debris and other undesirable objects.

Staff recommends approval of a contract with AlliedBean Demolition, Inc. for demolition of Town Hall Facilities (Police Department Building, the Annex Building, and the Public Works Dome) at a cost of $231,400.54 with an additional contingency of $50,000.00 related to Engineering from a Town Council approved engineering company and other ancillary expenses regarding demolition of Town Hall, under the piggyback purchase provision pursuant to Section 2-1.2(6) of the Town Code, which allows for use of contracts from another governmental agency that has been through a competitive bidding process for similar items/services.

RECOMMENDED ACTION:

FINANCIAL ANALYSIS:

$500,000 has been allocated in Fiscal Year 2023-2024 adopted budget for the Town Hall

Demolition Project within the Capital Projects Fund Line Item 301.5190.400062.000.
The amount of $281,400.54 being requested for the demolition of the structures referenced above will reduce the total project budget to $218,599.46.

BUDGET IMPACT:

Name	Impact Date	Fund(s)	Account(s)	Project #(s)	Amount Budgeted
Demolition of Town Hall Facilities (Police Department Building, the Annex Building, and the Public Works Dome)	11/08/2023	Capital Projects (301)	301.5190.400062.00	Demolition of Town Hall Facilities (Police Department Building, the Annex Building, and the Public Works Dome)	$500,000.00

Submitted By: Maria Lasday, Town Manager
Maria Lasday, Town Manager

ATTACHMENTS

1.	Resolution-AlliedBean - Demolition of Town Hall-(55852074.1)
2.	AlliedBean Demolition Inc. Agreement

RESOLUTION NO._____

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF BAY HARBOR ISLANDS, FLORIDA, RATIFYING AND APPROVING A CONTRACT WITH ALLIEDBEAN DEMOLITION, INC., UNDER THE PIGGYBACK PURCHASE PROVISION, PURSUANT TO SECTION 2-1.2(6) OF THE TOWN CODE, FOR DEMOLITION OF TOWN HALL FACILITIES; AUTHORIZING THE TOWN MANAGER TO CARRY OUT THE AIMS OF THIS RESOLUTION; PROVIDING FOR INCORPORATION OF RECITALS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, on April 10, 2023, at a Regular Meeting, the Town Council discussed the future of Town Hall (and related Facilities) at 9665 Bay Harbor Terrace, including the Police Department, the Annex Building, and the Public Works Dome; and

WHEREAS, after discussion and deliberation the Town Council determined that the Town Hall was past its useful life and needed to be replaced; and

WHEREAS, upon Staff's recommendation and the information presented, it was the consensus of the Town Council that the Town Hall Building (and related Facilities), including the Police Department, the Annex Building, and the Public Works Dome, be demolished; and

WHEREAS, demolition services are being procured pursuant to an agreement between the City of Fort Lauderdale and AlliedBean Demolition, Inc., Bid No. 12471-813 ("Resolution No. 12471-813") dated April 20, 2021, pursuant to the piggy-back purchase provision in accordance with Section 2-1.2(6) of the Town Code, which allows for use of contracts from other governmental agencies which have been arrived at through a competitive bidding process; and

WHEREAS, the Town of Bay Harbor Islands will enter into a contract with AlliedBeam Demolition, Inc., utilizing the pricing structure of the Fort Lauderdale agreement, and the Town has budgeted $231,400.54 plus a contingency of $50,000.00 for the services to be rendered.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF BAY HARBOR ISLANDS, FLORIDA.

Section 1. The foregoing recitals are true and correct and adopted as the legislative and administrative findings of the Town Council and made a specific part of this Resolution.

Section 2. The contract with AlliedBean Demolition, Inc. for the demolition of Town Hall Facilities, in substantially the form attached hereto as Exhibit A, is hereby authorized and approved.

Section 3. The Town Manager is authorized to take any necessary action to carry out the aims of this Resolution.

Section 4. This Resolution shall become effective immediately upon approval.

APPROVED AND ADOPTED by the Town of Bay Harbor Islands at the regular meeting assembled this **8th day of November 2023.**

By: _____
Elizabeth Tricoche - Mayor

ATTEST:

_____
Yvonne P. Hamilton
Town Clerk

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

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

AGREEMENT FOR
DEMOLITION SERVICES

This Agreement made and entered into this _____ day of _____, 2023, by and between the Town of Bay Harbor Islands, a Florida municipal corporation ("Town") and **AlliedBean Demolition, Inc**, a Florida company/corporation ("Contractor"), ("Party" or collectively "Parties");

WHEREAS, the Town needs demolition services of existing Town Facilities ("Project") located at 9665 Bay Harbor Terrace, Bay Harbor Islands, Florida; and

WHEREAS, the Contractor has expressed its willingness and capability to perform the necessary work to accomplish the services / projects on an "as-needed" basis; and

WHEREAS, the Town and the Contractor wish to enter into an Agreement for DEMOLITION SERVICES in accordance with the City of Fort Lauderdale Agreement in response to Invitation to Bid No. 12471-813 between the Contractor and the City of Fort Lauderdale ("Resolution No. 12471-813") dated April 20, 2021.

NOW, THEREFORE, the Town and the Contractor, in consideration of the mutual covenants and conditions contained herein and for other good and valuable consideration, the receipt and sufficiency is hereby acknowledged, agree as follows:

ARTICLE 1 – DEFINITIONS

Whenever used in this Agreement or in other Contract Documents, the following terms have the meanings indicated which are applicable to both the singular and plural forms:

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

1.2 Agreement – This written Agreement between the Town and the Contractor covering the work to be performed including other Contract Documents that are attached to or incorporated in the Agreement.

1.3 Application for Payment – The form accepted by the Town which is to be used by the Contractor in requesting progress or final payment and which is to include such supporting documentation as is required by the Contract Documents.

1.4 Approve – The word approve is defined to mean review of the material, equipment or methods for general compliance with design concepts and with the information given in the Contract Documents. It does not imply a responsibility on the part of the Town to verify in every detail conformance with plans and specifications.

1.5 Bid – The offer or Bid of the Contractor submitted on the prescribed form setting forth the total prices for the Work to be performed.

1.6 Bid Documents – Advertisement for Invitation to Bids, the Instructions to Bidders, the Bid Form (with supplemental affidavits and sample agreements), the Contract Forms, General Conditions, the Supplementary Conditions, the Specifications, and the Plans, which documents all become an integral part of the Contract Documents.

1.7 Certificate of Substantial Completion - Certificate provided by the Town certifying that all Work, excluding the punch list items, has been completed, inspected, and accepted by the Town.

1.8 Change Order - A written document executed by both Parties ordering a change in the Contract Price or Contract Time or a material change in the Work.

1.9 Town – The Town of Bay Harbor Islands, Florida, including but not limited to its employees, agents, officials, representatives, contractors, subcontractors, volunteers, successors and assigns, with whom the Contractor has entered into the Agreement and for whom the Work is to be provided.

1.10 Contract Documents – The Contract Documents shall consist of this Agreement, Exhibits to this Agreement, Public Construction Bond, Performance Bond, Payment Bond and Certificates of Insurance, Notice of Award and Notice to Proceed, General Conditions, Special Conditions, Technical Specifications, Plans/Drawings, Addenda, Bid Form and supplement Affidavits and Agreements, all applicable provisions of State and Federal Law and any modification, including Change Orders or written amendments duly delivered after execution of Agreement, Invitation to Bid, Instructions to Bidders and Bid Bond, Contractor's response to the Town's Invitation to Bid, Schedule of Completion, Schedule of Values, all amendments, modifications and supplements, work directive changes issued on or after the Effective Date of the Agreement, as well as any additional documents that are required to be submitted under the Agreement.

Permits on file with the Town and/or those permits to be obtained shall be considered directive in nature and will be considered a part of this Agreement. A copy of all permits shall be given to the Town for inclusion in the Contract Documents. Terms of permits shall be met prior to acceptance of the Work and release of the final payment.

1.11 Contract Price – The amount established in the bid submittal and award by the Town's Town Council, as may be amended by Change Order.

1.12 Contract Time – The number of calendar days stated in the Agreement for the completion of the Work. The dates on which the work shall be started and shall be completed as stated in the Notice to Proceed.

1.13 Contractor – The person, firm, company, or corporation with whom the Town has entered into the Agreement, including but not limited to its employees, agents, representatives, contractors, subcontractors, their subcontractors and their other successors and assigns.

1.14 Day – A calendar day of twenty-four (24) hours ending at midnight.

1.15 Defective – When modifying the word "Work" refers to work that is unsatisfactory, faulty, or deficient, or does not conform to the Contract Documents or does not meet the requirements of any inspection, test or approval referred to in the Contract Documents, or has been damaged prior to the Project Manager's recommendation of final payment.

1.16 Effective Date of the Agreement – The effective date of the Agreement shall be the date the Town Council approves the work.

1.17 Final Completion Date – The date the Work is completed, including completion of the final punch list, and delivered along with those items specified in the Contract Documents and is accepted by the Town.

1.18 Hazardous Materials (HAZMAT) - Any solid, liquid, or gaseous material that is toxic, flammable, radioactive, corrosive, chemically reactive, or unstable upon prolonged storage in quantities that could pose a threat to life, property, or the environment defined in Section 101(14) of Comprehensive Environmental Response, Compensation and Liability Act of 1980 and in 40 CFR 300.6. Also defined by 49 CFR 171.8 as a substance or material designated by the Secretary of Transportation to be capable of posing an unreasonable risk to health, safety, and property when transported in commerce and which has been so designated.

1.19 Hazardous Substance - As defined by Section 101(14) of the Comprehensive Environmental Response, Compensation and Liability Act; any substance designated pursuant to Section 311(b) (2) (A) of the Clean Water Act; any element, compound, mixture, solution or substance designated pursuant to Section 102 identified under or listed pursuant to Section 3001 of the Solid Waste Disposal Act {but not including any waste listed under Section 307[a] of the Clean Water Act}; any hazardous air pollutant listed under Section 112 of the Clean Air Act; and any imminently hazardous chemical substance or mixture pursuant to Section 7 of the Toxic Substances Control Act. The term does not include petroleum, including crude oil or any fraction thereof, which is not otherwise specifically listed or designated as a hazardous substance in the first sentence of this paragraph, and the term does not include natural gas, natural gas liquids, liquefied natural gas, or synthetic gas usable for fuel (or mixtures of natural gas and such synthetic gas).

1.20 Hazardous Waste - Those solid wastes designated by OSHA in accordance with 40 CFR 261 due to the properties of ignitability, corrosivity, reactivity, or toxiTown. Any material that is subject to the Hazardous Waste Manifest requirements of the EPA specified in 40 CFR Part 262.

1.21 Holidays - Those designated non-workdays as established by the Town Council of the Town of Bay Harbor Islands.

1.22 Inspection – The term “inspection” and the act of inspecting as used in this Agreement is defined to mean the examination of construction to ensure that it conforms to the design concept expressed in the plans and specifications. This term shall not be construed to mean supervision, superintending and/or overseeing.

1.23 Notice of Award - The written notice by Town to the Contractor stating that upon compliance by the Contractor with the condition’s precedent enumerated therein, within the time specified that the Town will sign and deliver this Agreement.

1.24 Notice to Proceed – A written notice to Contractor authorizing the commencement of the activities identified in the notice or as described in the Contract Documents.

1.25 Plans - The official graphic representations of the services that are a part of the Contract Documents.

1.26 Premises (otherwise known as Site or Work Site) – means the land, buildings, facilities, etc. upon which the Work is to be performed.

1.27 Project – The construction project described in the Contract Documents, including the Work described therein.

1.28 Project Manager - The employee of the Town, or other designated individual who is herein referred to as the Project Manager, will assume all duties and responsibilities and will have the rights and authorities assigned to the Project Manager in the Contract Documents in connection with completion of the Work in accordance with this Agreement. The Project Manager, or designee, shall be the authorized agent for the Town unless otherwise specified.

1.29 Punch List - The Town's list of Work yet to be done or be corrected by the Contractor, before the Final Completion date can be determined by the Town.

1.30 Record Documents - A complete set of all specifications, drawings, addenda, modifications, shop drawings, submittals and samples annotated to show all changes made during the construction process.

1.31 Record Drawings or "As-Builts" - A set of drawings which show significant changes in the work made during construction and which are usually based on drawings marked up in the field and other data furnished by the Contractor. These documents will be signed and sealed by a Professional Engineer, or a Professional Land Surveyor licensed in the State of Florida and employed by the Contractor at no cost to the Town.

1.32 Substantially Completed Date – A date when written notice is provided by the Town to the Contractor stating that the Work is substantially completed. If, at the time of inspection, it is determined the project is substantially completed, the Town will also issue a letter of Substantial Completion along with a punch list of incomplete or deficient items to be completed prior to requesting a Final Completion inspection.

1.33 Task Order - A document setting forth a negotiated detailed scope of services to be performed by CONTRACTOR.at fixed contract prices in accordance with this Agreement between the TOWN and CONTRACTOR..

1.34 Work – The construction and services required by the Contract Documents, whether completed or partially completed, and includes all labor, materials, equipment, and services provided or to be provided by Contractor to fulfill Contractor's obligations. The Work may constitute the whole or a part of the Project.

ARTICLE 2 – SCOPE OF WORK

2.1 The contractor shall submit a proposal for demolition services of existing Town Facilities.The Proposal shall utilize **Unit Contract Pricing** noted in the City of Fort Lauderdale Agreement per Invitation to Bid No. 12471-813 Documents. Quantities may fluctuate, but unit pricing shall remain in effect per contract terms. The Contractor shall complete all Work as specified or indicated in the proposal. The Project / Services for which the Work under the Contract Documents may be the whole or only part is generally described as follows:

2.2 All Work for the Project shall be constructed in accordance with the approved plans and Specifications. The Work generally involves:

PROJECT / SERVICE DESCRIPTION

The Town of Bay Harbor Islands periodically requires the complete demolition of buildings and sites within the Town and this work is outside the current capabilities of Town personnel to perform. Therefore, a Contractor is needed to provide demolition, disposal and other related services. These services include and incorporate the demolition and disposal of the main structure and accessory structures, removal of footings, slabs, asphalt, concrete pavement or brick paver driveways, walkways, or slabs including the lime rock base, fences, debris and other undesirable objects. Installation of ground cover on the lot after the demolition may also be required. Services may also include removal of asbestos and hazardous waste as required. The successful contractor shall provide all materials, permits, equipment and labor as required for the demolition of the designated site, and disposal of debris generated while providing contracted services.

.

2.3 Within ten (10) days of the execution of this Agreement, the Contractor shall submit a Construction Schedule, Schedule of Values and a listing of all personnel employed. The general sequence of the Work shall be submitted by the Contractor and approved by the Town before any work commences. The Town reserves the right to issue construction directives necessary to facilitate the Work or to minimize any conflict with operations.

ARTICLE 3 – PROJECT MANAGER

3.1 The Project Manager is hereby designated by the Town as Rodney CarreroSantana, whose address is 9665 Bay Harbor Terrace, Bay Harbor Islands, FL 33154, telephone number: (305)455-7275, and email address is rcarrerosantana@bayharborislands-fl.gov.. The Project Manager will assume all duties and responsibilities and will have the rights and authorities assigned to the Project Manager in the Contract Documents in connection with completion of the Work in accordance with this Agreement.

ARTICLE 4 – CONTRACT DOCUMENTS

The Contract Documents, which comprise the entire Agreement between the Town and Contractor, are incorporated herein and attached to this Agreement, and consist of the following:

4.1 This Agreement.

4.2 Public Construction Bond, Performance Bond, Payment Bond and Certificates of Insurance.

4.3 Notice of Award and Notice to Proceed.

4.4 General Conditions and Special Conditions.

4.5 Invitation to Bid No. PWE22-008, and the specifications prepared by the City of Fort Lauderdale.

4.6 Technical Specifications.

4.7 Plans/Drawings.

4.8 All applicable provisions of State and Federal Law.

4.9 Permits on file with the Town and or those permits to be obtained shall be considered directive in nature and will be considered a part of this Agreement.

In the event of any conflict between the documents or any ambiguity or missing specification or instruction, the following priority is established:

a. Approved change orders, addenda or amendments.

b. Specifications and Drawings.

c. Special Conditions.

d. General Conditions.

e. This Agreement dated _____, and any attachments and/or any related Task Orders.

f. Invitation to Bid No. 12471-813, and the specifications prepared by the City of Fort Lauderdale.

g. Schedule of Values.

h. Schedule of Completion.

If during the performance of the Work, Contractor finds a conflict, error or discrepancy in the Contract Documents, Contractor shall so report to the Project Manager, in writing, within five (5) calendar days, and before proceeding with the Work affected shall obtain a written interpretation or clarification from the Town.

Any Work that may reasonably be inferred from the specifications or plans as being required to produce the intended result shall be supplied whether or not it is specifically called for. When words which have a well-known technical or trade meaning are used to describe Work, materials, or equipment, such works shall be interpreted in accordance with such meaning. Reference to standard specifications, manuals or codes of any technical society, organization or associations, or to the code of any governmental authority whether such reference be specific or implied, shall mean the latest standard specification, manual or code in effect as of the Effective Date of this Agreement, except as may be otherwise specifically stated. However, no provision of any referenced standard specification, manual or code (whether or not specifically incorporated by reference in the Contract Documents) shall change the duties and

responsibilities of the Town, the Contractor, or any of their agents or employees from those set forth in the Contract Documents.

ARTICLE 5 – CONTRACT TIME

5.1 The initial contract term shall commence upon the date specified in the Notice To Proceed given by the Town and shall expire One (1) years from that date. The Town reserves the right to extend the contract for two (2) additional one (1) year terms, providing all terms, conditions and specifications remain the same, both parties agree to the extension, and such extension is approved by the Town.

5.2 The Contractor recognizes that TIME IS OF THE ESSENCE. The Work on each Task Order shall commence immediately upon the Contractor's receipt of an executed Task Order.

5.3 The Contractor shall mobilize to the project site and begin construction activities within seven (7) calendar days of receipt of the executed Task Order or by the specific date noted within the Task Order (whichever applies).

5.4 The Work on each Task Order shall be substantially completed within the timeframe agreed upon and noted in each executed Task Order

5.5 The Work on each Task Order shall be finally completed on or before the Final Completion Date and ready for final payment in accordance with Final Completion Date agreed upon and noted in each executed Task Order.

5.6 In the event services are scheduled to end because of the expiration of this contract, the Contractor shall continue the service upon the request of the Town as authorized by the awarding authority. The extension period shall not extend for more than one hundred and eighty (180) days beyond the expiration date of the existing contract. The Contractor shall be compensated for the service at the rate in effect when this extension clause is invoked by the Town. No new Task Orders will be assigned after the contract's expiration nor will any new work be performed after that date.

5.7 The termination date for issuance of Task Orders shall be when the funds are depleted or One (1) year from effective date of the agreement, whichever comes first. All task orders issued before the contract termination must be completed under this contract even if the contract has expired.

ARTICLE 6 - TASK ORDERS

6.1 The Project will be divided into "Tasks."

6.2 Task Orders shall be jointly prepared by the TOWN and CONTRACTOR defining the detailed scope of services to be provided for the particular Project. Each Task Order shall be separately numbered and approved in accordance with this Agreement and all applicable TOWN code requirements.

6.3 Under all Task Orders and Projects, TOWN may require the CONTRACTOR, by

specific written authorization, and for mutually agreed upon additional compensation, to provide or assist in obtaining one or more of the following special services. These services may include, at the discretion of the TOWN, the following items:

6.3.1 Providing additional copies of reports, contract drawings and documents; and

6.3.2 Assisting TOWN with litigation support services arising from the planning, development, or construction.

6.4 Prior to initiating the performance of any services under this Agreement, the CONTRACTOR must receive a written Notice to Proceed / Purchase Order from the TOWN and also a first Task Order for the beginning work under this agreement. The CONTRACTOR must receive the approval of the Contract Administrator or his designee in writing prior to beginning the performance of services in any subsequent Task Order under this Agreement.

6.5 If, in the opinion of the TOWN, the CONTRACTOR is improperly performing the services under a specific Task Order, or if at any time the TOWN shall be of the opinion that said Task Order is being unnecessarily delayed and will not be completed within the agreed upon time, the TOWN shall notify the CONTRACTOR in writing. The CONTRACTOR has within ten (10) working days thereafter to take such measures as will, in the judgment of the TOWN, ensure satisfactory performance and completion of the work. If the CONTRACTOR fails to cure within the ten (10) working days, the TOWN may notify the CONTRACTOR to discontinue all work under the specified Task Order. The CONTRACTOR shall immediately respect said notice and stop said work and cease to have any rights in the possession of the work and shall forfeit the Task Order and any remaining monies. The TOWN may then decide, after Town Commission approval, to issue a new Task Order for the uncompleted work to another consultant using the remaining funds. Any excess costs arising therefrom over and above the original Task Order price shall be charged against CONTRACTOR, as the original CONTRACTOR.

ARTICLE 7 – CONTRACT PRICE

7.1 Town shall pay Contractor for performance of the Work in accordance with Article 8, subject to additions and deletions by Change Order, as provided for in this Agreement.

7.2 The Parties expressly agree that the Contract Price, which shall not exceed the amount of **$231,400.54**, constitutes the total maximum compensation payable to Contractor for performing the Work, plus any Work done pursuant to a Change Order. The Contract Price is in accordance with the line items unit prices listed in the Bid. Line items are based on a unit price cost multiplied by a defined quantity. Any additional duties, responsibilities and obligations assigned to or undertaken by Contractor shall be at Contractor's expense without change to the Contract Price.

ARTICLE 8 – PAYMENT

8.1 Contractor shall submit Applications for Payment in accordance with the Contract Documents. Applications for Payment will be processed by Town as provided for in the General Conditions.

8.2 Progress Payments. Town shall make progress payments on account of the Contract Price on the basis of Contractor's monthly Applications for Payment, which shall be submitted by the Contractor between the first (1st) and the tenth (10th) day after the end of each calendar month for which payment is requested. All progress payments will be made on the basis of the progress of the Work completed.

8.3 Prior to Final Completion, progress payments will be made in an amount equal to ninety-five percent (95%) of the value of Work completed less in each case the aggregate of payments previously made.

8.4 Final Payment. Upon final completion of the Work in accordance with the General Conditions, as may be supplemented, the Town shall pay Contractor an amount sufficient to increase total payments to one hundred percent (100%) of the Contract Price. However, not less than five percent (5%) of the Contract Price shall be retained until Record Drawings (as-builts), specifications, addenda, modifications, and shop drawings, including all manufacturers' instructional and parts manuals are delivered to and accepted by the Town.

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

8.5.1 Defective work not remedied.
8.5.2 Claims filed or reasonable evidence indicating probable filing of claims by other parties against Contractor or Town because of Contractor's performance.
8.5.3 Failure of Contractor r to make payments properly to subcontractors or for material or labor.
8.5.4 Damage to another contractor not remedied.
8.5.5 Liquidated damages and costs incurred by Contractor for extended construction administration, if applicable.
8.5.6 Failure of Contractor to provide any and all documents required by the Contract Documents.

When the above grounds are removed or resolved satisfactory to the Project Manager, payment shall be made in whole or in part.

8.6 The Town shall make payment to the Contractor in accordance with the Florida Prompt Payment Act, Section 218.70, Florida Statutes (2022), as amended or revised, provided, however, complete and error free pay application is submitted.

8.7 The Town shall make payment to the Contractor by check.

8.8 Payment Card Industry (PCI) Compliance

Contractor agrees to comply with all applicable state, federal and international laws, as well as industry best practices, governing the collection, access, use, disclosure, safeguarding and destruction of Protected Information.

Contractor and/or any subcontractor that handles credit card data must be, and remain, PCI compliant under the current standards and will provide documentation confirming compliance upon request by the Town of Bay Harbor Islands. Failure to produce documentation could result in termination of the contract.

ARTICLE 9 – CONTRACTOR'S REPRESENTATIONS

In order to induce the Town to enter into this Agreement, Contractor makes the following representations upon which the Town has relied:

9.1 Contractor is qualified in the field of public construction and in particular to perform the Work and services set forth in this Agreement.

9.2 Contractor has visited the Work Site, has conducted extensive tests, examinations and investigations and represents and warrants a thorough familiarization with the nature and extent of the Contract Documents, the Work, locality, soil conditions, water table condition, moisture conditions and all year-round local weather and climate conditions (past and present), and examination and investigations conducted by Contractor and the Contractor's experts, has determined that no conditions exist that would in any manner affect the Bid Price and that the project can be completed for the Bid Price submitted within the Contract Time as defined in this Agreement.

Furthermore, Contractor warrants and confirms that it is totally familiar with, understands and obligates Contractor to comply with all federal, state and local laws, ordinances, rules, regulations and all market conditions that affect or may affect the cost and price of materials and labor needed to fulfill all provisions of this Agreement or that in any manner may affect cost, progress or performance of the Work.

9.3 The Contractor has satisfied itself as to the nature and location of the Work under the Contract Documents, the general and local conditions of the Project, particularly those bearing upon availability of transportation, disposal, handling and storage of materials, availability of labor, water, electric power, and roads, the conformation and conditions at the ground based on Town provided reports, the type of equipment and facilities needed preliminary to and during the prosecution of the Work and all other matters which can in any way affect the Work or the cost thereof under the Contract Documents.

9.4 The Contractor has also studied on its own, investigations and tests of subsurface and latent physical conditions at the site or otherwise affecting cost, progress or performance of the Works, and finds and has further determined that no conditions exist that would in any manner affect the Bid Price and that the Project can be completed for the Bid Price submitted.

9.5 Contractor has made or caused to be made, examinations, investigations, tests and studies of such reports and related data in addition to those referred to in Paragraphs 9.2, 9.3 and 9.4 above as it deems necessary for the performance of the Work at the Contract Prices, within the Contract Time and in accordance with the other terms and conditions of the Contract Documents; and no additional examinations, investigations, tests, reports or similar data are, or will be, required by Contractor for such purposes.

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

9.7 Contractor has given Town written notice of all conflicts, errors or discrepancies that it has discovered in the Contract Documents and the written resolution by Town is acceptable to the Contractor.

9.8 Labor

9.8.1 The Contractor shall provide competent, suitable qualified personnel to survey and lay out the Work and perform construction as required by the Contract Documents. The Contractor shall at all times maintain good discipline and order at the site.

9.8.2 The Contractor shall, at all times, have a competent superintendent, capable of reading and thoroughly understanding the drawings and specifications, as the Contractor's agent on the Work, who shall, as the Contractor's agent, supervise, direct and otherwise conduct the Work.

9.8.3 The Contractor shall designate the superintendent on the job to the Town, in writing, immediately after receipt of the Notice to Proceed. The Contractor understands and agrees that the superintendent's physical presence on the job site is indispensable to the successful completion of the Work. If the superintendent is frequently absent from the job site, the Project Manager may deliver written notice to the Contractor to stop work or terminate the Agreement in accordance with Article 17.

9.8.4 Where required and necessary, the Contractor shall, at all times, have a certified "competent person" assigned to the job site. The Contractor shall assign personnel to the job site that have successfully completed training programs related to trench safety, confined space work, and maintenance of traffic (MOT). Personnel certified by the International Municipal Signal Associations with Florida Department of Transportation qualifications are required relative to MOT. Any other certifications that may be required by applicable permitting agencies for the Work shall also be complied with by the Contractor. Failure to pursue the Work with the properly certified supervisory staff may result in notice to stop work or terminate the Agreement in accordance with Article 17.

9.9 Materials:

9.9.1 The Contractor shall furnish all materials, equipment, labor, transportation, construction equipment and machinery, tools, appliances, fuel, power, light, heat, telephone, water and sanitary facilities and all other facilities and incidentals necessary for the execution, testing, initial operation and completion of Work.

9.9.2 All materials and equipment shall be of good quality and new, except as otherwise provided in the Contract Documents. Suppliers shall be selected and paid by the Contractor; the Town reserves the right to approve all suppliers and materials.

9.10 Work Hours: Except in connection with the safety or protection of persons, or the Work, or property at the site or adjacent thereto, and except as otherwise indicated in the Supplementary Conditions, all work at the site shall be performed during regular working hours between 9 a.m. and 4:30 p.m., Monday through Friday.

Unless approved by the Town in advance, the Contractor will not perform work on Saturday, Sunday or any legal holiday (designated by the Town of Bay Harbor Islands) without the Project Manager's written consent at least seventy-two (72) hours in advance of starting such work. For any overtime inspection required by Town personnel,

the Contractor shall pay for the additional charges to the Town with respect to such overtime work. Such additional charges shall be a subsidiary obligation of the Contractor and no extra payment shall be made to the Contractor for overtime work. **It shall be noted that the Town's Inspector work hours are from 9:00 a.m. to 4:30 p.m., Monday through Friday, and any work requiring inspection oversight being performed outside of this timeframe shall be paid for by the Contractor as Inspector overtime at a rate of $100.00 per hour.** The cost to the Contractor to reimburse the Town for overtime inspection is established at direct-labor and overtime costs for each person or inspector required. Incidental overtime costs for engineering, testing and other related services will also be charged to the Contractor at the actual rate accrued.

9.11 Patent Fee and Royalties: The Contractor shall pay all license fees and royalties and assume all costs incident to the use in the performance of the Work or the incorporation in the Work, of any invention, design, process, product or device which is the subject of patent rights or copyrights held by others. The Contractor hereby expressly binds itself to indemnify and hold harmless the Town from all such claims and fees and from any and all suits and action of every name and description that may be brought against Town on account of any such claims, fees, royalties, or costs for any such invention or patent, and from any and all suits or actions that may be brought against said Town for the infringement of any and all patents or patent rights claimed by any person, firm corporation or other entity.

9.12 Permits: The Contractor shall obtain and pay for all permits and licenses. There shall be no allowance for Contractor markup, overhead or profit for permits and licenses. There is no fee for Town Right-of-Way Permits issued for Town-related work.

The Contractor shall pay all government charges which are applicable at the time of opening of bids. It shall be the responsibility of the Contractor to secure and pay for all necessary licenses and permits of a temporary nature necessary for the prosecution of Work.

9.13 Law and Regulations: The Contractor shall give all notices and comply with all laws, ordinances, rules and regulations applicable to the Work. If the Contractor observes that the specifications or plans are in conflict, the Contractor shall give the Project Manager prompt written notice thereof within five (5) calendar days, and any necessary changes shall be adjusted by any appropriate modifications. If the Contractor performs any work knowing or having reason to know that it is contrary to such laws, ordinances, rules, standards, specifications and regulations, and without such notice to the Project Manager, the Contractor shall bear all costs arising therefrom.

9.14 Taxes: The Contractor shall pay all sales, consumer, use and other similar taxes required to be paid by him in accordance with the laws of the Town of Bay Harbor Islands, County of Dade, and the State of Florida.

9.15 Contractor Use of Premises: The Contractor shall confine construction equipment, the storage of materials and equipment and the operations of workmen to areas permitted by law, ordinances, permits and/or the requirements of the Contract Documents, and shall not unreasonably encumber the premises with construction equipment or other materials or equipment. All questions regarding this matter shall be directed to the Project Manager.

The Contractor shall not enter upon private property for any purpose without first securing the permission of the property owner in writing and furnishing the Project Manager with a copy of said permission. This requirement will be strictly enforced, particularly with regard to such vacant properties as may be utilized for storage or staging by the Contractor.

The Contractor shall conduct its work in such a manner as to avoid damage to adjacent private or public property. Any damage to existing structures of work of any kind, including permanent reference markers or property corner markers, or the interruption of a utility service, shall be repaired or restored promptly at no expense to the Town or property owner.

The Contractor will preserve and protect all existing vegetation such as trees, shrubs and grass on or adjacent to the site which do not reasonably interfere with the construction, as determined by the Project Manager. The Contractor will be responsible for repairing or replacing any trees, shrubs, lawns and landscaping that may be damaged due to careless operation of equipment, stockpiling of materials, tracking of grass by equipment or other construction activity. The Contractor will be liable for or will be required to replace or restore at no expense to the Town all properties and areas not protected or preserved as required herein that may be destroyed or damaged.

During the progress of the Work, the Contractor shall keep the premises free from accumulation of waste materials, rubbish and debris resulting from the Work. At the completion of the Work, the Contractor shall remove all waste materials, rubbish and debris from and about the premises as well as all tools, appliances, construction equipment and machinery, and surplus materials and shall leave the site clean and ready for occupancy by the Town. The Contractor shall restore to their original condition those portions of the site not designated for alteration by the Contract Documents at no cost to the Town.

9.16 Project Coordination: The Contractor shall provide for the complete coordination of the construction effort. This shall include, but not necessarily be limited to, coordination of the following:

9.16.1 Flow of material and equipment from suppliers.
9.16.2 The interrelated work with affected utility companies.
9.16.3 The interrelated work with the Town where tie-ins to existing facilities are required.
9.16.4 The effort of independent testing agencies.
9.16.5 Notice to affected property owners as may be directed by the Project Manager.
9.16.6 Coordination with and scheduling of all required inspections from all permitting agencies.

9.17 Project Record Documents and Final As-Builts (Record Drawings): Contractor shall be responsible for maintaining up-to-date redline as-built drawings, on site, at all times during construction. All as-built information shall be surveyed and verified by a professional land surveyor registered in the State of Florida. Contractor shall provide the Town with a minimum of three (3) sets of signed and sealed record drawings (Final As-Builts) and a CD of the electronic drawings files created in AutoCad 2014 or later. All costs associated with survey work required for construction layout and as-built preparation shall be the responsibility of the Contractor.

9.18 Safety and Protection:

9.18.1 The Contractor shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the Work. The Contractor shall take all necessary precautions for the safety of, and shall provide the necessary protection to prevent damage, injury or loss to:

9.18.1.1 All employees working on the project and other persons who may be affected thereby.

9.18.1.2 All the Work and all materials or equipment to be incorporated therein, whether in storage on or off the site.

9.18.1.3 Other property at the site or adjacent thereto, including trees, shrubs, lawns, walks, pavements, roadways, structures and utilities not designated for removal, relocation or replacement in the course of construction.

9.18.2 The Contractor shall comply with all applicable laws, ordinances, rules, regulations and orders of any public body having jurisdiction for the safety of persons or property or to protect them from damage, injury or loss; and shall erect and maintain all necessary safeguards for such safety and protection. The Contractor shall notify owners of adjacent property and utilities when execution of the Work may affect them at least seventy-two (72) hours in advance (unless otherwise required). All damage, injury or loss to any property caused, directly or indirectly, in whole or in part by the Contractor, any subcontractor or anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, shall be remedied by the Contractor. The Contractor's dutiesand responsibilities for safety and protection of the Work shall continue until such time as all the Work is completed and accepted by the Town.

9.19 Emergencies: In emergencies affecting the safety or protection of persons or the Work or property at the site or adjacent thereto, the Contractor, without special instruction or authorization from the Town, is obligated to act to prevent threatened damage, injury or loss. The Contractor shall give the Project Manager prompt written notice of any significant changes in the Work or deviations from the Contract Documents caused thereby.

9.20 Risk of Loss: The risk of loss, injury or destruction shall be on the Contractor until acceptance of the Work by the Town. Title to the Work shall pass to the Town upon acceptance of the Work by the Town.

9.21 Environmental: The Contractor has fully inspected the Premises and agrees, except as to the presence of any asbestos, to accept the Premises in an "as is" physical condition, without representation or warranty by the Town of any kind, including, without limitation, any and all existing environmental claims or obligations that may arise from the presence of any "contamination" on, in or about the Premises. Further, Contractor and all entitles claiming by, through or under the Contractor, releases and discharges the Town from any claim, demand, or cause of action arising out of or relating to the Contractor's use, handling, storage, release, discharge, treatment, removal, transport, decontamination,

cleanup, disposal and/or presence of any hazardous substances including asbestos on, under, from or about the Premises. The Contractor shall have no liability for any pre-existing claims or "contamination" on the Premises.

The Contractor shall not use, handle, store, discharge, treat, remove, transport, or dispose of Hazardous Substances including asbestos at, in, upon, under, to or from the Premises until receipt of instructions from the Town. At such time, a Town approved Change Order, which shall not include any profit, shall authorize the Contractor to perform such services.

The Contractor shall immediately deliver to the Project Manager complete copies of all notices, demands, or other communications received by the Contractor from any governmental or quasi-governmental authority or any insurance company or board of fire underwriters or like or similar entities regarding in any way alleged violations or potential violations of any Environmental Law or otherwise asserting the existence or potential existence of any condition or activity on the Premises which is or could be dangerous to life, limb, property, or the environment.

For other and additional consideration, the Contractor hereby agrees, at its sole cost and expense, to indemnify and protect, defend, and hold harmless the Town and its respective employees, agents, officials, officers, representatives, contractors and subcontractors, successors, and assigns (hereafter the "Town") from and against any and all claims, demands, losses, damages, costs, expenses, including but not limited to mitigation, restoration, and natural restoration expenses, liabilities, assessments, fines, penalties charges, administrative and judicial proceedings and orders, judgments, causes of action, in law or in equity, remedial action requirements and/or enforcement actions of any kind (including, without limitation, attorneys' fees and costs) directly or indirectly arising out of or attributable to, in whole or in part, the Contractor's use, handling, storage, release, threatened release, discharge, treatment, removal, transport, decontamination, cleanup, disposal and/or presence of a Hazardous Substance (excluding asbestos) on, under, from, to or about the Premises or any other activity carried on or undertaken on or off the Premises by the Contractor or its employees, agents or subcontractors, in connection with the use, handling, storage, release, threatened release, discharge, treatment, mitigation, natural resource restoration, removal, transport, decontamination, cleanup, disposal and/or presence or any Hazardous Substance including asbestos located, transported, or present on, under, from, to, or about the Premises. This indemnity is intended to be operable under 42 U.S.C. Section 9607, as amended or revised, and any successor section.

The scope of the indemnity obligations includes, but is not limited to: (a) all consequential damages; (b) the cost of any required or necessary repair, cleanup, or detoxification of the applicable real estate and the preparation and implementation of any closure, remedial or other required plan, including without limitation; (i) the costs of removal or remedial action incurred by the United States government or the State of Florida or response costs incurred by any other person, or damages from injury to destruction of, or loss of, natural resources, including the cost of assessing such injury, destruction, or loss, incurred pursuant to the Comprehensive Environmental Response, Compensation and Liability Act, as amended; (ii) the clean-up costs, fines, damages, or penalties incurred pursuant to any applicable provisions of Florida law; and (iii) the cost and expenses of abatement, correction or cleanup, fines, damages, response costs, or penalties which arise from the provisions of any other statute, law, regulation, code ordinance, or legal requirement state or federal; and (c) liability for personal injury or

property damage arising under any statutory or common law tort theory, including damages assessed for the maintenance of a public private nuisance, response costs, or for the carrying on of an abnormally dangerous activity.

9.22 No Extended Damages: For other and additional good and valuable consideration the receipt and sufficiency of which is hereby acknowledged, the Contractor covenants and agrees that in the event of any delay of construction or for any other reason or allegation or claim, and notwithstanding the reason of the delay, reason, claim or allegation or who caused them or the construction delay or whether they were caused by the Town, that there will be no entitlement to Contractor to or for any direct or indirect financial damages or losses for extended corporate overhead impact, extended project overhead impacts, project support services, mobilization or demobilization or by whatever other label or legal concept or theory and types of names or labels or basis such claims may have, or any business damages or losses of whatever type or nature, and Contractor hereby waives any right to make any such claim or claims. This provision will also have application and effect when construction delays are anticipated and agreed upon by both the Town and the Contractor.

9.23 No Liens: If any subcontractor, supplier, laborer, or materialmen of Contractor or any other person directly or indirectly acting for or through Contractor files or attempts to file a mechanic's or construction lien against the real property on which the Work is performed or any part or against any personal property or improvements or claim against any monies due or to become due from the Town to Contractor or from Contractor to a subcontractor, for or on account of any work, labor, services, material, equipment, or other items furnished in connection with the Work or any Change Order, Contractor agrees to satisfy, remove, or discharge such lien or claim at its own expense by bond, payment, or otherwise within twenty (20) days of the filing or from receipt of written notice from the Town.

Additionally, until such time as such lien or claim is satisfied, removed or discharged by Contractor, all monies due to Contractor, or that become due to Contractor before the lien or claim is satisfied, removed or otherwise discharged, shall be held by Town as security for the satisfaction, removal and discharge of such lien and any expense that may be incurred while obtaining such. If Contractor shall fail to do so, Town shall have the right, in addition to all other rights and remedies provided by this Agreement or by law, to satisfy, remove, or discharge such lien or claim by whatever means Town chooses at the entire and sole cost and expense of Contractor which costs and expenses shall, without limitation, include attorney's fees, litigation costs, fees and expenses and all court costs and assessments.

9.24 Weather Emergencies: Upon issuance of a hurricane watch by the National Weather Service, the Contractor shall submit to the Town a plan to secure the work area in the event a hurricane warning is issued. The plan shall detail how the Contractor will secure the Premises, equipment and materials in a manner as to prevent damage to the Work and prevent materials and equipment from becoming a hazard to persons and property on and around the Premises. The plan shall include a time schedule required to accomplish the hurricane preparations and a list of emergency contacts that will be available, and in the Town before, during and immediately after the storm.

Upon issuance of a hurricane warning by the National Weather Service, if the Contractor has not already done so, the Contractor shall implement its hurricane preparedness

plan. Cost of development and implementation of the hurricane preparedness plan shall be considered as incidental to construction. Cost of any clean up and rework required after the storm will be considered normal construction risk within Florida and shall not entitle the Contractor to any additional compensation. Contractor shall be entitled to request an extension in time for completion of the Work, in accordance with the provisions of Article 15 of this Agreement, equal to the time it is shut down for implementation of the preparedness plan, the duration of the storm and a reasonable period to restore the Premises.

9.25 Force Majeure: No Party shall hold the other responsible for damages or for delays in performance caused by force majeure, acts of God, or other acts or circumstances beyond the control of the other Party or that could not have been reasonably foreseen and prevented. For this purpose, such acts or circumstances shall include, but not be limited to weather conditions affecting performance, floods, epidemics, pandemics, war, act of Governmental Authority, state of emergency, riots, strikes, lockouts, or other industrial disturbances, or protest demonstrations. Should such acts or circumstances occur, the Parties shall use their best efforts to overcome the difficulties arising therefrom and to resume the Work as soon as reasonably possible with the normal pursuit of the Work.

Inclement weather, continuous rain for less than three (3) days or the acts or omissions of subcontractors, third-party contractors, materialmen, suppliers, or their sub-contractors, shall not be considered acts of force majeure.

No Party shall be liable for its failure to carry out its obligations under the Agreement during a period when such Party is rendered unable by force majeure to carry out its obligation, but the obligation of the Party or Parties relying on such force majeure shallbe suspended only during the continuance of the inability and for no longer period than the unexpected or uncontrollable event.

The Contractor further agrees and stipulates, that its right to excuse its failure to perform by reason of force majeure shall be conditioned upon giving written notice of its assertion that a Force Majeure delay has commenced within ninety-six (96) hours after such an occurrence. The Contractor shall use its reasonable efforts to minimize such delays. The Contractor shall promptly provide an estimate of the anticipated additional time required to complete the Project.

ARTICLE 10 – TOWN'S RESPONSIBILITIES

10.1 The Town shall furnish the data required of the Town under the Contract Documents promptly and shall make payments to the Contractor promptly after they are due as provided in Article 7.

10.2 The Town shall provide public rights-of-way and easement, where available, for the installation of conduits, transformers pads and related appurtenances only.

10.3 Technical Clarifications and Interpretations:

10.3.1 The Town shall issue, with reasonable promptness, such written clarifications or interpretations of the Contract Documents as it may determine necessary, which

shall be consistent with or reasonably inferable from the overall intent of the Contract Documents. Should the Contractor fail to request interpretation of questionable items in the Contract Documents, the Town shall not entertain any excuse for failure to execute the Work in a satisfactory manner.

10.3.2 The Town shall interpret and decide matters concerning performance under the requirements of the Contract Documents, and shall make decisions on all claims, disputes or other matters in question. Written notice of each claim, dispute or other matter will be delivered by claimant to the other Party but in no event later than five (5) days after the occurrence of event and written supporting data will be submitted to the other Party within five (5) days after such occurrence. All written decisions of the Town on any claim or dispute will be final and binding.

10.4 The Contractor shall perform all Work to the reasonable satisfaction of the Town in accordance with the Contract Documents. In cases of disagreement or ambiguity, the Town shall decide all questions, difficulties, and disputes of whatever nature, which may arise under or by reason of this Agreement or the quality, amount and value of the Work, and the Town's decisions on all claims, questions and determination are final.

10.5 Cancellation for Unappropriated Funds**:** The obligation of the Town for payment to a Contractor is limited to the availability of funds appropriated in a current fiscal period, and continuation of the Agreement into a subsequent fiscal period is subject to appropriation of funds, unless otherwise authorized by law.

ARTICLE 11 – BONDS AND INSURANCE

11.1 Public Construction and Other Bonds: The Contractor shall furnish Public Construction or Performance and Payment Bonds ("Bond"), each in an amount at least equal to the Contract Price as security for the faithful performance and payment of all the Contractor's obligations under the Contract Documents. These Bonds shall remain in effect until at least one (1) year after the date of final payment, except as otherwise provided by law. All Bonds shall be furnished and provided by the surety and shall be in substantially the same form as prescribed by the Contract Documents and be executed by such sureties as (i) are licensed to conduct business in the State of Florida, and (ii) are named in the current list of Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies as published in Circular 570 (amended) by the Audit Staff Bureau of Accounts, U.S. Treasury Department and (iii) otherwise meet the requirements set forth herein that apply to sureties. All Bonds signed by an agent must be accompanied by a certified copy of the authority to act.

Performance Bond: The Contractor shall execute and record in the public records of Dade County, Florida, a payment and performance bond in an amount at least equal to the Contract Price with a surety insurer authorized to do business in the State of Florida as surety, ("Bond"), in accordance with Section 255.05, Florida Statutes (2022), as may be amended or revised, as security for the faithful performance and payment of all of the Contractor's obligations under the Contract Documents.

A Corporate Surety Bond legally issued, meeting the approval of, and running to the Town in an amount not less than the Contract Price of such improvements, conditioned that the Contractor shall maintain and make all repairs to the

improvements constructed by the Contractor at their own expense and free of charge to the Town, for the period of one (1) year after the date of acceptance of the Work within such period by reason of any imperfection of the material usedor by reason of any defective workmanship, or any improper, imperfect or defective preparation of the base upon which any such improvement shall be laid.

11.2 Disqualification of Surety: If the Surety on any Bond furnished by the Contractor is declared bankrupt or becomes insolvent or its right to do business is terminated in the State of Florida or it ceases to meet the requirements of clauses (i) and (ii) of Paragraph 11.1, the Contractor shall within five (5) days thereafter substitute another Bond and Surety, both of which shall be acceptable to the Town.

11.3 Insurance

As a condition precedent to the effectiveness of this Agreement, during the term of this Agreement and during any renewal or extension term of this Agreement, the Contractor, at its sole expense, shall provide insurance of such types and with such terms and limits as noted below. Providing proof of and maintaining adequate insurance coverage are material obligations of the Contractor. The Contractor shall provide the Town a certificate of insurance evidencing such coverage. The Contractor's insurance coverage shall be primary insurance for all applicable policies. The limits of coverage under each policy maintained by the Contractor shall not be interpreted as limiting the Contractor's liability and obligations under this Agreement. All insurance policies shall be through insurers authorized or eligible to write policies in the State of Florida and possess an A.M. Best rating of A-, VII or better, subject to approval by the Town's Risk Manager.

The coverages, limits, and/or endorsements required herein protect the interests of the Town, and these coverages, limits, and/or endorsements shall in no way be relied upon by the Contractor for assessing the extent or determining appropriate types and limits of coverage to protect the Contractor against any loss exposures, whether as a result of this Agreement or otherwise. The requirements contained herein, as well as the Town's review or acknowledgement, are not intended to and shall not in any manner limit or qualify the liabilities and obligations assumed by the Contractor under this Agreement.

The following insurance policies and coverages are required:

Commercial General Liability
Coverage must be afforded under a Commercial General Liability policy with limits not less than:
-$2,000,000 each occurrence and $2,000,000 aggregate for Bodily Injury, Property Damage, and Personal and Advertising Injury
-$2,000,000 each occurrence and $2,000,000 aggregate for Products and Completed Operations

Policy must include coverage for contractual liability and independent contractors.

The Town, a Florida municipal corporation, its officials, employees, and volunteers are to be covered as an additional insured with a CG 20 26 04 13 Additional Insured – Designated Person or Organization Endorsement or similar endorsement providing equal or broader Additional Insured Coverage with respect to liability arising out of activities performed by or on behalf of the Contractor. The coverage shall contain no

special limitation on the scope of protection afforded to the Town, its officials, employees, and volunteers.

Business Automobile Liability
Coverage must be afforded for all Owned, Hired, Scheduled, and Non-Owned vehicles for Bodily Injury and Property Damage in an amount not less than $1,000,000 combined single limit each accident.

If the Contractor does not own vehicles, the Contractor shall maintain coverage for Hired and Non-Owned Auto Liability, which may be satisfied by way of endorsement to the Commercial General Liability policy or separate Business Auto Liability policy.

Workers' Compensation and Employer's Liability
Coverage must be afforded per Chapter 440, Florida Statutes. Any person or entity performing work for or on behalf of the Town must provide Workers' Compensation insurance. Exceptions and exemptions will be allowed by the Town's Risk Manager, if they are in accordance with Florida Statute.

The Contractor waives, and the Contractor shall ensure that the Contractor's insurance carrier waives, all subrogation rights against the Town, its officials, employees, and volunteers for all losses or damages. The Town requires the policy to be endorsed with WC 00 03 13 Waiver of our Right to Recover from Others or equivalent.

The Contractor must be in compliance with all applicable State and federal workers' compensation laws, including the U.S. Longshore Harbor Workers' Act and the Jones Act, if applicable.

Insurance Certificate Requirements
a. The Contractor shall provide the Town with valid Certificates of Insurance (binders are unacceptable) no later than ten (10) days prior to the start of work contemplated in this Agreement.
b. The Contractor shall provide to the Town a Certificate of Insurance having a thirty (30) day notice of cancellation; ten (10) days' notice if cancellation is for nonpayment of premium.
c. In the event that the insurer is unable to accommodate the cancellation notice requirement, it shall be the responsibility of the Contractor to provide the proper notice. Such notification will be in writing by registered mail, return receipt requested, and addressed to the certificate holder.
d. In the event the Agreement term or any surviving obligation of the Contractor following expiration or early termination of the Agreement goes beyond the expiration date of the insurance policy, the Contractor shall provide the Town with an updated Certificate of Insurance no later than ten (10) days prior to the expiration of the insurance currently in effect. The Town reserves the right to suspend the Agreement until this requirement is met.
e. The Certificate of Insurance shall indicate whether coverage is provided under a claims-made or occurrence form. If any coverage is provided on a claims-made form, the Certificate of Insurance must show a retroactive date, which shall be the effective date of the initial contract or prior.
f. The Town shall be named as an Additional Insured on all liability policies, with the exception of Workers' Compensation.

g. The Town shall be granted a Waiver of Subrogation on the Contractor's Workers' Compensation insurance policy.
h. The title of the Agreement, Bid/Contract number, event dates, or other identifying reference must be listed on the Certificate of Insurance.

Coverage may be provided in the form of an endorsement to the Commercial General Liability policy, or in the form of a separate policy covering Watercraft Liability or Protection and Indemnity for Bodily Injury and Property Damage.

The Certificate Holder should read as follows:
Town of Bay Harbor Islands
9665 Bay Harbor Terrace
Bay Harbor Islands, FL 33154

The Contractor has the sole responsibility for all insurance premiums and shall be fully and solely responsible for any costs or expenses as a result of a coverage deductible, co-insurance penalty, or self-insured retention; including any loss not covered because of the operation of such deductible, co-insurance penalty, self-insured retention, or coverage exclusion or limitation. Any costs for adding the Town as an Additional Insured shall be at the Contractor's expense.

If the Contractor's primary insurance policy/policies do not meet the minimum requirements, as set forth in this Agreement, the Contractor may provide evidence of an Umbrella/Excess insurance policy to comply with this requirement.

The Contractor's insurance coverage shall be primary insurance as respects to the Town, a Florida municipal corporation, its officials, employees, and volunteers. Any insurance or self-insurance maintained by the Town, a Florida municipal corporation, its officials, employees, or volunteers shall be non-contributory.

Any exclusion or provision in any insurance policy maintained by the Contractor that excludes coverage required in this Agreement shall be deemed unacceptable and shall be considered breach of contract.

All required insurance policies must be maintained until the contract work has been accepted by the Town, or until this Agreement is terminated, whichever is later. Any lapse in coverage shall be considered breach of contract. In addition, Contractor must provide to the Town confirmation of coverage renewal via an updated certificate should any policies expire prior to the expiration of this Agreement. The Town reserves the right to review, at any time, coverage forms and limits of Contractor's insurance policies.

The Contractor shall provide notice of any and all claims, accidents, and any other occurrences associated with this Agreement to the Contractor's insurance company or companies and the Town's Risk Management office, as soon as practical.

It is the Contractor's responsibility to ensure that any and all of the Contractor's independent contractors and subcontractors comply with these insurance requirements. All coverages for independent contractors and subcontractors shall be subject to all of the applicable requirements stated herein. Any and all deficiencies are the responsibility of the Contractor.

NOTE: TOWN PROJECT NUMBER, PROJECT NAME AND BID NUMBER MUST APPEAR ON EACH CERTIFICATE, AND THE TOWN OF BAY HARBOR ISLANDS MUST BE NAMED ON THE CERTIFICATE AS AN "ADDITIONAL INSURED" ON REQUIRED LIABILITY POLICIES.

ARTICLE 12- WARRANTY AND GUARANTEE, TESTS AND INSPECTIONS, CORRECTION, REMOVAL OR ACCEPTANCE OF DEFECTIVE WORK

12.1 Warranty: The Contractor warrants and guarantees to the Town that all Work will be in accordance with the Contract Documents and will not be defective. Prompt notice of all defects shall be given to the Contractor. All defective work, whether or not in place, may be rejected, corrected or accepted as provided in this Article.

12.1.1 Warranty of Title: The Contractor warrants to the Town that it possesses good, clear and marketable title to all equipment and materials provided and that there are no pending liens, claims or encumbrances against the equipment and materials.

12.1.2 Warranty of Specifications: The Contractor warrants that all equipment, materials and workmanship furnished, whether furnished by the Contractor, its subcontractors or suppliers, will comply with the specifications, drawings and other descriptions supplied or adopted and that all services will be performed in a workmanlike manner.

12.1.3 Warranty of Merchantability: The Contractor warrants that any and all equipment to be supplied pursuant to this Agreement is merchantable, free from defects, whether patent or latent in material or workmanship, and fit for the ordinary purposes for which it is intended.

12.2 Tests and Inspections: Contractor shall retain the services of an independent, certified, testing lab to perform all testing as required by the specifications, contract drawings, and any applicable permitting agency. Contractor shall provide evidence of certification to the Town before the work and testing is done. Testing results shall be submitted to the Project Manager for review and approval at the time the results are provided to the Contractor. The Contractor shall give the Project Manager and Town Inspector a minimum of twenty-four (24) hours' advanced notice of readiness of the Work for all required inspections, tests, or approvals and shall notify all applicable permitting agencies in a timely manner based on requirements set forth in the permit documents.

12.2.1 Neither observations by the Project Manager nor inspections, tests or approvals by others shall relieve the Contractor from its obligations to perform the Work in accordance with the Contract Documents.

12.3 Uncovering Work: If any work that is to be inspected, tested or approved is covered without approval or consent of the Project Manager, it must, if requested by the Project Manager, be uncovered for observation and/or testing. Such uncovering and replacement shall be at the Contractor's sole expense unless the Contractor has given the Project Manager timely notice of the Contractor's intention to cover such Work and the Project Manager has not acted with reasonable promptness in response to such notice.

12.3.1 If the Project Manager considers it necessary or advisable that Work covered in accordance with Paragraphs 12.2 and 12.3 be observed by the Town or inspected or tested by others, the Contractor at the Town's request, shall uncover, expose or otherwise make available for observation, inspection or testing as the Project Manager may require, that portion of the Work in question, furnishing all necessary labor, material and equipment. If it is found that such Work is defective, the Contractor shall bear all the expenses of such uncovering, exposure, observation, inspection and testing and of satisfactory reconstruction, including compensation for additional professional services, and an appropriate deductive Change Order shall be issued. If, however, such work is not found to be defective, the Contractor shall be allowed an increase in the Contract Price or an extension of the Contract Time, or both, directly attributable to such uncovering, exposure, observation, inspection testing and reconstruction if it makes a claim therefore as provided in Articles 15 and 16.

12.4 Town May Stop the Work: If the Work is defective, or the Contractor fails to supply sufficient skilled supervisory personnel or workmen or suitable materials or equipment or the work area is deemed unsafe, the Town may order the Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, this right of the Town to stop the Work shall not give rise to any duty on the part of the Town to exercise this right for the benefit of the Contractor or any other Party. The Town will not award any increase in Contract Price or Contract Time if the Work is stopped due to the circumstances described herein.

12.5 Correction or Removal of Defective Work Before Final Payment: If required by the Project Manager, the Contractor shall promptly, without cost to the Town and as specified by the Project Manager, either correct any defective Work, whether or not fabricated, installed or completed, or if the Work has been rejected by the Town remove it from the site and replace it with non-defective Work.

12.6 One Year Correction Period After Final Payment: If within one (1) year after the date of final acceptance, or such longer period of time as may be prescribed by law or by the terms of any applicable special guarantee required by the Contract Documents, any work is found to be defective, the Contractor shall promptly, without cost to the Town and in accordance with the Town's written instructions, either correct such defective Work, or, if it has been rejected by the Town, remove it from the site and replace it with non-defective Work.

If the Contractor does not promptly comply with the terms of such instructions or in an emergency where delay would cause serious risk of loss or damage, the Town may have the defective Work corrected or the rejected Work removed and replaced, and all direct and indirect costs for such removal and replacement, including compensation for additional professional services, shall be paid by the Contractor.

12.7 Acceptance of Defective Work, Deductions: If, instead of requiring correction or removal and replacement of defective Work, the Town, at the Town's sole option, prefers to accept it, the Town may do so. In such a case, if acceptance occurs prior to the Project Manager's recommendation of final payments, a Change Order shall be issued incorporating the necessary revisions in the Contract's Documents, including appropriate reduction in the Contract Price; or if the acceptance occurs after such recommendation, an appropriate amount shall be paid by the Contractor to the Town.

12.8 Town May Correct Defective Work: If the Contractor fails within a reasonable time after written notice of the Project Manager to proceed to correct defective Work or to remove and replace rejected Work as required by the Project Manager in accordance with Paragraph 12.5, or if the Contractor fails to perform the Work in accordance with the Contract Documents, the Town may, after seven (7) days' written notice to the Contractor, correct and remedy any such deficiency. In exercising its rights under this paragraph, the Town shall proceed expeditiously. To the extent necessary to complete corrective and remedial action, the Town may exclude the Contractor from all or part of the site, take possession of all or part of the Work, suspend the Contractor's services related thereto and take possession of the Contractor's tools, construction equipment and materials stored at the site or elsewhere. The Contractor shall allow the Town's representative agents and employees such access to the site as may be necessary to enable the Town to exercise its rights under this paragraph. All direct and indirect costs of the Town in exercising such rights shall be charged against the Contractor in an amount verified by the Project Manager, and a Change Order shall be issued incorporating the necessary revisions in the Contract Documents and a reduction in the Contract Price. Such direct and indirect costs shall include, in particular but without limitation, compensation for additional professional services required and costs of repair and replacement of work of others destroyed or damaged by correction, removal or replacement of the Contractor's defective Work. The Contractor shall not be allowed an extension of the Contract Time because of any delay in performance of the Work attributable to the exercise by the Town of the Town's right hereunder.

ARTICLE 13 – INDEMNIFICATION

13.1 Disclaimer of Liability: The Town shall not at any time, be liable for injury or damage occurring to any person or property from any cause, whatsoever, arising out of Contractor's construction and fulfillment of this Agreement.

13.2 Indemnification: For other, additional good valuable consideration, the receipt and sufficiency of which is hereby acknowledged:

13.2.1 Contractor shall, at its sole cost and expense, indemnify and hold harmless the Town, its representatives, employees and elected and appointed officials from or on account of all claims, damages, losses, liabilities and expenses, direct, indirect or consequential including but not limited to fees and charges of engineers, architects, attorneys, consultants and other professionals and court costs arising out of or in consequence of the performance of this Agreement at all trial and appellate levels. Indemnification shall specifically include but not be limited to claims, damages, losses, liabilities and expenses arising out of or from (a) the negligent or defective design of the project and Work of this Agreement; (b) any act, omission or default of the Contractor, its subcontractors, agents, suppliers, employees or laborers; (c) any and all bodily injuries, sickness, disease or death; (d) injury to or destruction of tangible property, including any resulting loss of use; (e) other such damages, liabilities, or losses received or sustained by any person or persons during or on account of any operations connected with the construction of this Project including the warranty period; (f) the use of any improper materials; (g) any construction defect including both patent and latent defects; (h) failure to timely complete the work; (i) the violation of any federal, state, county or Town laws, ordinances or regulations by Contractor, its subcontractors, agents, servants, independent contractors or employees; (j) the

breach or alleged breach by Contractor of any term of the Agreement, including the breach or alleged breach of any warranty or guarantee.

13.2.2 Contractor agrees to indemnify, defend, and hold harmless the Town, its officers, agents and employees, from all damages, liabilities, losses, claims, fines and fees, and from any and all suits and actions of every name and description that may be brought against Town, its officers, agents and employees, on account of any claims, fees, royalties, or costs for any invention or patent and/or for the infringement of any and all copyrights or patent rights claimed by any person, firm, or corporation.

13.2.3 Contractor shall pay all claims, losses, liens, settlements or judgments of any nature in connection with the foregoing indemnifications including, but not limited to, reasonable attorney's fees and costs for trials and appeals.

13.2.4 If any subcontractor, supplier, laborer, or materialmen of Contractor or any other person directly or indirectly acting for or through Contractor files or attempts to file a mechanic's or construction lien against the real property on which the work is performed or any part or against any personal property or improvements thereon or make a claim against any monies due or to become due from the Town to Contractor or from Contractor to a subcontractor, for or on account of any work, labor, services, material, equipment, or other items furnished in connection with the Work or any change order, Contractor agrees to satisfy, remove, or discharge such lien or claim at its own expense by bond, payment, or otherwise within twenty (20) days of the filing or from receipt of written notice from the Town.

Additionally, until such time as such lien or claim is satisfied, removed or discharged by Contractor, all monies due to Contractor, or that become due to Contractor before the lien or claim is satisfied, removed or otherwise discharged, shall be held by Town as security for the satisfaction, removal and discharge of such lien and any expense that may be incurred while obtaining the discharge. If Contractor shall fail to do so, Town shall have the right, in addition to all other rights and remedies provided by this Agreement or by law, to satisfy, remove, or discharge such lien or claim by whatever means Town chooses at the entire and sole cost and expense of Contractor which costs and expenses shall, without limitation, include attorney's fees, litigation costs, fees and expenses and all court costs and assessments, and which shall be deducted from any amount owing to Contractor. In the event the amount due Contractor is less than the amount required to satisfy Contractor's obligation under this, or any other article, paragraph or section of this Agreement, the Contractor shall be liable for the deficiency due the Town.

13.2.5 The Contractor and the Town agree that Section 725.06(2), Florida Statutes (2022), as may be amended or revised, controls the extent and limits of the indemnification and hold harmless provisions of this Agreement, if any, and that the Parties waive any defects in the wording of this Article that runs afoul of said statutory section.

ARTICLE 14 – CHANGES IN THE WORK

14.1 Without invalidating this Agreement, the Town may, at any time or from time-to-time order additions, deletions, or revisions in the Work through the issuance of Change Orders. Upon receipt of a fully executed Change Order, the Contractor shall proceed with the Work involved. All Work shall be executed under the applicable conditions of the Contract Documents. If any Change Order causes an increase or decrease in the Contract Price or an extension or shortening of the Contract Time, an equitable adjustment will be made as provided in Article 14 or Article 15 on the basis of a claim made by either Party.

14.2 The Project Manager may authorize minor changes in the Work not involving an adjustment in the Contract Price or the Contract Time, which are consistent with the overall intent of the Contract Documents. Such changes must be in writing and signed by the Town and the Contractor.

14.3 If notice of any change affecting the general scope of the Work or change in the Contract Price is required by the provisions of any Bond to be given to the Surety, it will be the Contractor's responsibility to so notify the Surety, and the amount of each applicable Bond shall be adjusted accordingly. The Contractor shall furnish proof of such adjustment to the Town.

ARTICLE 15 – CHANGE OF CONTRACT PRICE

Change of Contract Price, approved by Town, shall be computed as follows:

15.1 Cost of the Work: The term "Cost of the Work" means the sum of all direct costs necessarily incurred and paid by Contractor in the proper performance of the Work. Except as otherwise may be agreed to in writing by the Town, these costs shall be in amounts no higher than those prevailing in the Town and shall include only the following items and shall not include any of the costs itemized in Paragraph 15.3.

15.1.1 Payroll costs for employees in the direct employment of the Contractor in the performance of the Work under schedules of job classifications agreed upon by the Town and the Contractor. Payroll costs for employees not employed full time on the Work shall be apportioned on the basis of their time spent on the Work.

15.1.2 Payroll costs shall include, but not be limited to, salaries and wages plus cost of fringe benefits which shall include social security contributions, unemployment, excise and payroll taxes, worker's compensation, health and retirement benefits, bonuses, sick leave, vacation and applicable holiday pay.

15.1.3 Cost of all materials and equipment furnished and incorporated in the Work, including costs of transportation and storage, and required suppliers and field services. All cash discounts, rebates and refunds and all returns from sale of surplus materials and equipment shall accrue to the Town, and the Contractor shall make provisions so that they may be obtained.

15.1.4 Supplemental costs including the following:

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

facilities at the site and hand tools not owned by the workers, which are consumed in the performance of the Work.

15.1.4.2 Rentals of all construction equipment and machinery and the parts whether rented from the Contractor or others in accordance with rental agreements approved by the Town, and the costs of transporting, loading, unloading, installation, dismantling and removal. The rental of any such equipment, machinery or parts shall cease when the use is no longer necessary for the Work.

15.1.4.3 Sales, consumer, use or similar taxes related to the Work and for which the Contractor is liable, imposed by laws and regulations.

15.1.4.4 Royalty payments and fees for permits and licenses.

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

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

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

15.2 The Contract Price may only be increased by an approved and fully executed Change Order when Work is modified in accordance with Article 14 and approved by the Town in writing. Any claim for an increase in the Contract Price resulting from a Change Order shall be based on written notice delivered to the Project Manager within ten (10) days of the occurrence of the Change Order giving rise to the claim. Notice of the amount of the claim with supporting data shall be included in the Change Order and delivered within twenty (20) days of such occurrence unless Project Manager allows an additional period of time to ascertain accurate cost data. Any change in the Contract Price resulting from any such claim shall be incorporated in the Change Order. **IT IS EXPRESSLY AND SPECIFICALLY AGREED THAT ANY AND ALL CLAIMS FOR CHANGES TO THE CONTRACT PRICE SHALL BE WAIVED IF NOT SUBMITTED IN STRICT ACCORDANCE WITH THE REQUIREMENTS OF THIS SECTION.**

15.3 Not Included in the Cost of the Work: The term “Cost of the Work” shall not include any of the following:

15.3.1 Payroll costs and other compensation of the Contractor’s officers’ executives, principals (of partnership and sole proprietorships), general managers, engineers, architects, estimators, attorneys, auditor, accountants, purchasing and contracting agents, expediters, timekeepers, clerks and other personnel employed by the Contractor whether at the site or in the Contractor’s principal or branch office for general administration of the work and not specifically included in the agreed upon schedule of job classifications referred to in Paragraph 15.1.1, all of which are to be considered administrative costs covered by the Contractor’s fee.

15.3.2 Expenses of the Contractor’s principal and branch offices other than the Contractor’s office at the site.

15.3.3 Any part of the Contractor's capital expenses, including interest on the Contractor's capital employed for the Work and charges against the Contractor for delinquent payments.

15.3.4 Cost of premiums for all bonds and for all insurance whether or not the Contractor is required by the Contract Documents to purchase and maintain the same.

15.3.5 Costs due to the negligence of the Contractor, any subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable, including but not limited to, the correction of defective Work, disposal of materials or equipment wrongly supplied and making good any damage to property.

15.3.6 Other overhead or general expense costs of any kind and the costs of any item not specifically and expressly included in Paragraph 15.1.

15.4 Basis of Compensation: The Contractor's compensation, allowed to the Contractor for overhead and profit, shall be determined as follows:

15.4.1 A mutually acceptable negotiated fee:

15.4.1.1 For costs incurred under Paragraphs 14.1.1 and 14.1.2, the Contractor's fee shall not exceed five percent (5%).

15.4.1.2 No fee shall be payable on the basis of costs itemized under Paragraphs 15.1.4.1, 15.1.4.2, 15.1.4.3, 15.1.4.4, 15.1.4.5, 15.1.4.6, 15.1.4.7, 15.3.1, 15.3.2, 15.3.3, 15.3.4, 15.3.5 and 15.3.6.

15.4.1.3 The amount of credit to be allowed by the Contractor to the Town for any such change which results in a net decrease plus a deduction in the Contractor's fee by an amount equal to five percent (5%) for the net decrease.

14.5.1.4 When both additions and credits are involved in any one change the combined overhead and profit shall be figured on the basis of net increase if any, however, not to exceed five percent (5%) of the agreed compensation. Profit will not be paid on any Work not performed.

15.5 Cost Breakdown Required: Whenever the cost of any Work is to be determined pursuant to this Article, the Contractor will submit in form acceptable to the Town an itemized cost breakdown together with supporting documentation. Whenever a change in the Work is to be based upon mutual acceptance of a lump sum, whether the amount is an addition, credit, or no-charge-in-cost, the Contractor shall submit an estimate substantiated by a complete itemized breakdown:

15.5.1 The breakdown shall list quantities and unit prices for materials, labor, equipment and other items of cost.

15.5.2 Whenever a change involves the Contractor and one (1) or more subcontractors and the change is an increase in the agreed compensation, the overhead and

profit percentage for the Contractor and each subcontractor shall be itemized separately.

ARTICLE 16 – CHANGE OF THE CONTRACT TIME

16.1 The Contract Time may only be changed by an approved and fully executed Change Order. Any claim for an extension in the Contract Time shall be based on written notice delivered to the Project Manager within five (5) days of the occurrence of the event giving rise to the claim. Any change in the Contract Time resulting from any such claim shall be incorporated in a Change Order.

16.2 The Contract Time will be extended in an amount equal to time lost due to delays beyond the control of the Contractor if a claim is made therefore as provided in Paragraph 16.1. Such delays shall include but not be limited to, acts or neglect by the Town, or to fires, floods, labor disputes, epidemics, abnormal weather conditions, pandemics, act of Governmental Authority, state of emergency, or acts of God.

16.3 All time limits stated in the Contract Documents are of the essence. The provisions of this Article 15 shall not exclude recovery for damages for delay by the Contractor.

16.4 Delays caused by or resulting from entities, contractors or subcontractors who are not affiliated with the Contractor (non-affiliated Contractors) shall not give rise to a claim by the Contractor for damages for increases in material and/or labor costs. Such entities, contractors and subcontractors include, but are not limited to, the Town's contractors and subcontractors, Florida Power and Light Company, AT&T and Florida East Coast Railway, LLC.

16.5 Rights of Various Interests: Whenever work being done by Town's forces or by other contractors is contiguous to or within the limits of work covered by this Agreement, the respective rights of the various interests involved shall be established by the Project Manager to secure the completion of the various portions of the Work in general harmony.

ARTICLE 17 – LIQUIDATED DAMAGES

17.1 Upon failure of the Contractor to complete the Work as specified in any Task Order within the time specified for completion, the Contractor shall pay to the Town the sum of **One Thousand Dollars ($1000.00)** for each and every calendar day that the completion of the Work is delayed beyond the time specified in this Agreement for completion, as fixed and agreed liquidated damages and not as a penalty, so long as the delay Is caused by the Contractor. Should an act of God or the acts or omissions of the Town, its agents or representatives, in derogation to the terms of this Agreement cause the delay, the Contractor shall not be responsible for the delay nor liquidated damages. Liquidated damages are fixed and agreed upon between the Parties, recognizing the impossibility of precisely ascertaining the amount of damages that will be sustained by the Town as a consequence of such delay and both Parties desiring to obviate any question of dispute concerning the amount of damages and the cost and effect of the failure of the Contractor to complete the Work on time. Liquidated damages shall apply separately to each portion of the Work for which a time of completion is given. The Town shall have the right to deduct from or retain any compensation which may be due or which may become due and payable to the Contractor the amount of liquidated damages, and if the amount retained by the Town is insufficient to pay in full such

liquidated damages, the Contractor shall pay all liquidated damages in full. The Contractor shall be responsible for reimbursing the Town, in addition to liquidated damages or other damages for delay, for all costs of engineering, architectural fees, and inspection and other costs incurred in administering the construction of the Project beyond the completion date specified or beyond an approved extension of time granted to the Contractor whichever is later. Delays caused by or resulting from entities, contractors or subcontractors who are not affiliated with the Contractor shall not give rise to a claim by Contractor for damages for increase in material and/or labor costs. Such entities, contractors and subcontractors include, but are not limited to, the Town's contractors and subcontractors, Florida Power and Light Company, AT&T, and Florida East Coast Railway, LLC.

17.2 No Extended Damages: For other and additional good and valuable consideration the receipt and sufficiency of which is hereby acknowledged, the Contractor covenants and agrees that in the event of any delay of construction or for any reason, allegation or claim, and notwithstanding the reason of the delay, reason, claim or allegation or who caused them or the construction delay or whether they were caused by the Town, that there will be no entitlement to Contractor to or for any direct or indirect financial damages or losses for extended corporate overhead impact, extended project overhead impacts, project support services, mobilization or demobilization or by whatever other label or legal concept or theory and types of names or labels or basis such claims may have, or any business damages or losses of whatever type or nature, and Contractor hereby waives any right to make any such claim or claims. This provision will also have application and effect when construction delays are anticipated and agreed upon by both the Town and the Contractor.

ARTICLE 18 – SUSPENSION OF WORK AND TERMINATION

18.1 Town May Suspend Work: The Town may, at any time and without cause, suspend the Work or any portion of the Work for a period of not more than ninety (90) days by notice in writing to the Contractor which shall fix the date on which Work shall be resumed. The Contractor shall resume the Work on the date fixed. The Contractor will be allowed an increase in the Contract Price or an extension of the Contract Time, or both, directly attributable to any suspension, if the Contractor makes a claim as provided in Articles 15 and 16.

18.2 Town's Right to Terminate Contract: The Town may terminate this Agreement upon fifteen (15) calendar days' written notice upon the occurrence of any one or more of the following events:

18.2.1 If the Contractor makes a general assignment for the benefit of creditors.

18.2.2 If a trustee, receiver, custodian, or agent of the Contractor is appointed under applicable law or under Agreement, whose appointment or authority to take charge of property of the Contractor is for the purpose of enforcing a lien against such property or for the purpose of general administration of such property for the benefit of the Contractor's creditors.

18.2.3 If Contractor fails to begin the Work within fifteen (15) calendar days after the date set forth in the Notice to Proceed, or fails to perform the Work with sufficient workers and equipment or with sufficient materials to ensure the prompt

completion of the Work, or shall perform the Work unsuitably, or cause it to be rejected as defective and unsuitable, or shall discontinue the prosecution of the Work pursuant to the accepted schedule or if Contractor shall fail to perform any material term set forth in the Contract Documents, or from any other cause whatsoever shall not carry on the Work in an acceptable manner, Project Manager may give notice in writing to Contractor and its Surety of such delay, neglect or default, specifying the same.

18.2.4 If the Contractor repeatedly fails to make prompt payments to subcontractors or for labor, material or equipment.

18.2.5 If the Contractor repeatedly disregards proper safety procedures.

18.2.6 If the Contractor disregards any local, state or federal laws or regulations.

18.2.7 If the Contactor otherwise violates any provisions of this Agreement.

18.3 If Contractor, within a period of ten (10) calendar days after such notice, shall not proceed in accordance therewith, the Town may exclude the Contractor from the Work site and take the prosecution of the Work out of the hands of the Contractor, and take possession of the Work and all of the Contractor's tools, appliances, construction equipment and machinery at the site and use them without liability to the Town for trespass or conversion, incorporate in the Work all materials and equipment stored at the site or for which the Town has paid the Contractor but which are stored elsewhere, and finish the Work as the Town may deem expedient. In this instance, the Contractor shall not be entitled to receive any further compensation until the Work is finished.

18.3.1 If after notice of termination of Contractor's notice to proceed, it is determined for any reason that Contractor was not in default, the rights and obligations of Town and Contractor shall be the same as if the notice of termination had been issued pursuant to the Termination for Convenience clause as set forth below in Section 18.4.

18.3.2 Upon receipt of Notice of Termination pursuant to Sections 18.2 or 18.4, Contractor shall promptly discontinue all affected work unless the Notice of Termination directs otherwise and deliver or otherwise make available to Town all data, drawings, specifications, reports, estimates, summaries and such other information as may have been required by the Contract Documents whether completed or in process.

18.4 Termination for Convenience: This Agreement may be terminated for convenience in writing by Town upon thirty (30) days' written notice to Contractor (delivered by certified mail, return receipt requested, or nationally recognized overnight courier, to addresses provided herein or in accordance with this agreement) of intent to terminate and the date on which such termination becomes effective. In such case, Contractor shall be paid for all work executed and accepted by the Town and costs reasonably incurred by Contractor relating to commitments which had become firm prior to the termination. No payment shall be made for profit for work/services which have not been performed or accepted.

18.5 Where the Contractor's service has been terminated by the Town, the termination shall not affect any rights of the Town against the Contractor than existing or which may

thereafter accrue. Any retention or payment of money due the Contractor by the Town will not release the Contractor from liability.

18.6 The Contractor has no right, authority or ability to terminate the Work except for the wrongful withholding of any payments due to the Contractor from the Town.

ARTICLE 19 – DISPUTE RESOLUTION

19.1 Resolution of Disputes: Questions, claims, difficulties and disputes of whatever nature which may arise relative to the technical interpretation of the Contract Documents and fulfillment of this Agreement as to the character, quality, amount and value of any work done and materials furnished, or proposed to be done or furnished under, or by reason of, the Contract Documents which cannot be resolved by mutual agreement of Town Project Manager and Contractor shall be submitted to the Town Manager or his designee and Contractor's representative for resolution. Prior to any litigation being commenced (other than for equitable or injunctive relief), for any disputes which remain unresolved, within sixty (60) days after final completion of the Work, the Parties shall participate in mediation to address all unresolved disputes to a mediator agreed upon by the Parties. Should any objection not be resolved in mediation, the Parties retain all their legal rights and remedies provided under the laws of Florida.

19.1.1 All non-technical administrative disputes (such as billing and payment) shall be determined by the Project Manager.

19.1.2 During the pendency of any dispute and after a determination thereof, Contractor and the Project Manager shall act in good faith to mitigate any potential damages including utilization of construction schedule changes and alternate means of construction. During the pendency of any dispute arising under this Agreement, other than termination herein, Contractor shall carry on the Work and adhere to the progress schedule. The Work shall not be delayed or postponed pending resolution of any disputes or disagreements.

19.1.3 For any disputes which remain unsolved, within sixty (60) calendar days after Final Completion of the Work, the Parties shall participate in mediation to address all unresolved disputes. A mediator shall be mutually agreed upon by the Parties. Should any objection not be resolved in mediation, the Parties retain all their legal rights and remedies under applicable law.

ARTICLE 20 – NOTICES

20.1 All notices required by any of the Contract Documents shall be in writing and shall be deemed delivered upon mailing by certified mail, return receipt requested to the following:

To the Town:

Rodney CarreroSantana
Project Manager
Town of Bay Harbor Islands
9665 Bay Harbor Terrace
Bay Harbor Islands, Florida 33154

Telephone: (305)455-7275
E-mail: rcarrerosantana @bayharborislands-fl.gov with copies to:

Town Manager and Town Attorney
Town of Bay Harbor Islands
9665 Bay Harbor Terrace
Bay Harbor Islands, Florida 33154
Telephone: (305)455-7275
E-mail: City Manager mlasday@bayharborislands-fl.gov
E-mail: City Attorney joseph.geller@gmlaw.com

To the Contractor:

AlliedBean Demolition, Inc
Robert Cox (Vice President)
500 East Broward Blvd, Suite 1710
Fort Lauderdale, Florida 33394
Telephone: (954) 998 2806
E-mail: Robert@alliedbean.com

ARTICLE 21 – LIMITATION OF LIABILITY

21.1 The Town desires to enter into this Agreement only if in so doing the Town can place a limit on the Town's liability for any cause of action arising out of this Agreement, so that the Town's liability for any breach never exceeds the sum of $1,000. For other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Contractor expresses its willingness to enter into this Agreement with the knowledge that the Contractor's recovery from the Town to any action or claim arising from the Agreement is limited to a maximum amount of $1,000, which amount shall be reduced by the amount actually paid by the Town to the Contractor pursuant to this Agreement, for any action or claim arising out of this Agreement. Nothing contained in this paragraph or elsewhere in this Agreement is in any way intended either to be a waiver of the limitation placed upon the Town's liability as set forth in Section 768.28, Florida Statutes (2022), as may be amended or revised, or to extend the Town's liability beyond the limits established in said Section 768.28, Florida Statutes (2022), as may be amended or revised; and no claim or award against the Town shall include attorney's fees, investigative costs, expert fees, suit costs or pre-judgment interest; nor is anything in this Agreement intended in any way to waive or limit any common law protection against liability which the Town may have by reason of sovereign immunity.

21.2 No Extended Damages: For other and additional good and valuable consideration the receipt and sufficiency of which is hereby acknowledged, the Contractor covenants and agrees that in the event of any delay of construction or for any reason, allegation or claim, and notwithstanding the reason of the delay, reason, claim or allegation or who caused them or the construction delay or whether they were caused by the Town, that there will be no entitlement to Contractor to or for any direct or indirect financial damages or losses for extended corporate overhead impact, extended project overhead impacts, project support services, mobilization or demobilization or by whatever other label or legal concept or theory and types of names or labels or basis such claims may have, or any business damages or losses of whatever type or nature, and Contractor hereby

waives any right to make any such claim or claims. This provision will also have application and effect when construction delays are anticipated and agreed upon by both the Town and the Contractor.

ARTICLE 22 – GOVERNING LAW; WAIVER OF JURY TRIAL

22.1 The Agreement shall be interpreted and construed in accordance with, and governed by, the laws of the state of Florida. The Parties agree that the exclusive venue for any lawsuit arising from, related to, or in connection with this Agreement shall be in the state courts of the Eleventh Judicial Circuit in and for Dade County, Florida. If any claims arising from, related to, or in connection with this Agreement must be litigated in federal court, the Parties agree that the exclusive venue for any such lawsuit shall be in the United States District Court or United States Bankruptcy Court for the Southern District of Florida. **BY ENTERING INTO THIS AGREEMENT, THE PARTIES HEREBY EXPRESSLY WAIVE ANY AND ALL RIGHTS EITHER PARTY MIGHT HAVE TO A TRIAL BY JURY OF ANY ISSUES RELATED TO THIS AGREEMENT. IF A PARTY FAILS TO WITHDRAW A REQUEST FOR A JURY TRIAL IN A LAWSUIT ARISING OUT OF THIS AGREEMENT AFTER WRITTEN NOTICE BY THE OTHER PARTY OF VIOLATION OF THIS SECTION, THE PARTY MAKING THE REQUEST FOR JURY TRIAL SHALL BE LIABLE FOR THE REASONABLE ATTORNEYS' FEES AND COSTS OF THE OTHER PARTY IN CONTESTING THE REQUEST FOR JURY TRIAL, AND SUCH AMOUNTS SHALL BE AWARDED BY THE COURT IN ADJUDICATING THE MOTION.**

ARTICLE 23 – MISCELLANEOUS

23.1 The duties and obligations imposed by this Agreement and the rights and remedies available to the Parties and, in particular but without limitation, the warranties, guaranties and obligations imposed upon the Contractor and all of the rights and remedies available to the Town, are in addition to, and are not to be construed in any way as a limitation of, any rights and remedies available to any or all of them which are otherwise imposed or available by laws or regulations, by special warranty or guarantee or by other provisions of the Contract Documents, and the provisions of this Paragraph will be as effective as if repeated specifically in the Contract Documents, and the provisions of this Paragraph will survive final payment and termination or completion of this Agreement.

23.2 The Contractor shall not assign or transfer this Agreement or its rights, title or interests. The obligations undertaken by the Contractor pursuant to this Agreement shall not be delegated or assigned to any other person or firm. Violation of the terms of this Paragraph shall constitute a material breach of Agreement by the Contractor and the Town may, at its discretion, cancel this Agreement and all rights, title and interest of the Contractor which shall immediately cease and terminate.

23.3 The Contractor and its employees, volunteers and agents shall be and remain as independent contractor and not agents or employees of the Town with respect to all of the acts and services performed by and under the terms of this Agreement. This Agreement shall not in any way be construted to create a partnership, association or any other kind of joint undertaking or venture between the Parties.

23.4 The Town reserves the right to audit the records of the Contractor relating in any way to the Work to be performed pursuant to this Agreement at any time during the performance and term of this Agreement and for a period of three (3) years after completion and acceptance by the Town. If required by the Town, the Contractor agrees to submit to an audit by an independent certified public accountant selected by the Town. The Contractor shall allow the Town to inspect, examine and review the records of the Contractor at any and all times during normal business hours during the term of this Agreement.

23.5 The remedies expressly provided in this Agreement to the Town shall not be deemed to be exclusive but shall be cumulative and in addition to all other remedies in favor of the Town now or later existing at law or in equity.

23.6 Should any part, term or provisions of this Agreement be decided by the courts to be invalid, illegal or in conflict with any state or federal law, the validity of the remaining portion or provision shall not be affected.

23..7 Prohibition Against Contracting With Scrutinized Companies: Subject to *Odebrecht Construction, Inc., v. Prasad*, 876 F.Supp.2d 1305 (S.D. Fla. 2012), *affirmed*, *Odebrecht Construction, Inc., v. Secretary, Florida Department of Transportation*, 715 F.3d 1268 (11th Cir. 2013), with regard to the "Cuba Amendment," the Contractor certifies that it is not on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, and that it does not have business operations in Cuba or Syria, as provided in Section 287.135, Florida Statutes (2022), as may be amended or revised. The Contractor certifies that it is not on the Scrutinized Companies that Boycott Israel List created pursuant to Section 215.4725, Florida Statutes (2022), as may be amended or revised, and that it is not engaged in a boycott of Israel. The Town may terminate this Agreement at the Town's option if the Contractor is found to have submitted a false certification as provided under subsection (5) of Section 287.135, Florida Statutes (2022), as may be amended or revised, or been placed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List or the Scrutinized Companies that Boycott Israel List created pursuant to Section 215.4725, Florida Statutes (2022), as may be amended or revised, or is engaged in a boycott of Israel or has been engaged in business operations in Cuba or Syria, as defined in Section 287.135, Florida Statutes (2022), as may be amended or revised.

By submitting a bid or response, the company, principals, or owners certify that it is not listed on the Scrutinized Companies with Activities in Sudan List or listed on the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List or is engaged in business operations in Cuba or Syria.

23.8 Public Entity Crimes: In accordance with the Public Crimes Act, Section 287.133, Florida Statutes (2022), as may be amended or revised, a person or affiliate who is a contractor, consultant or other provider, who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid on a contract to provide any goods or services to the Town, may not submit a bid on a contract with the Town for the construction or repair of a public building or public work, may not submit bids on leases of real property to the Town, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with the Town, and may not transact any business with the Town in excess of the threshold amount provided

in Section 287.017, Florida Statutes (2022), as may be amended or revised, for category two purchases for a period of thirty-six (36) months from the date of being placed on the convicted vendor list. Violation of this section by Contractor shall result in cancellation of the Town purchase and may result in Contractor debarment.

23.9 Attorney Fees: If Town or Contractor incurs any expense in enforcing the terms of this Agreement through litigation, the prevailing Party in that litigation shall be reimbursed for all reasonable costs and expenses, including but not limited to court costs, and reasonable attorney fees incurred during litigation.

23.10 Public Records

Contractor shall:

1. Keep and maintain public records required by the Town in order to perform the service.

2. Upon request from the Town's custodian of public records, provide the Town with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes (2022), as may be amended or revised, or as otherwise provided by law. The Contractor shall in all respects comply with Florida Public Records Act laws and regulations and shall allow public inspection and copying of all records related to this Agreement, by the public, as would be allowed if these records were maintained by the Town as public records, since the Contractor is acting on behalf of the Town in regards to these records.

3. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of this Agreement if the Contractor does not transfer the records to the Town.

4. Upon completion of the Agreement, transfer, at no cost, to the Town all public records in possession of the Contractor or keep and maintain public records required by the Town to perform the service. If the Contractor transfers all public records to the Town upon completion of this Agreement, the Contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Contractor keeps and maintains public records upon completion of this Agreement, the Contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the Town, upon request from the Town's custodian of public records, in a format that is compatible with the information technology systems of the Town.

23.11 E-Verify

As a condition precedent to the effectiveness of this Agreement, pursuant to Section 448.095, Florida Statutes (2022), as may be amended or revised, the Contractor and its subcontractors shall register with and use the E-Verify system to electronically verify the employment eligibility of newly hired employees.

1. The Contractor shall require each of its subcontractors, if any, to provide the Contractor with an affidavit stating that the subcontractor does not employ, contract with, or subcontract with an unauthorized alien. The Contractor shall maintain a copy of the subcontractor's affidavit for the duration of this Agreement and in accordance with the public records requirements of this Agreement.

2. The Town, the Contractor, or any subcontractor who has a good faith belief that a person or entity with which it is contracting has knowingly violated Section 448.09(1), Florida Statutes (2022), as may be amended or revised, shall terminate the Agreement with the person or entity.

3. The Town, upon good faith belief that a subcontractor knowingly violated the provisions of Section 448.095(2), Florida Statutes (2022), as may be amended or revised, but that the Contractor otherwise complied with Section 448.095(2), Florida Statutes (2022), as may be amended or revised, shall promptly notify Contractor and order the Contractor to immediately terminate the contract with the subcontractor, and the Contractor shall comply with such order.

4. An Agreement terminated under Sections 448.095(2)(c)1. or 2., Florida Statutes (2022), as may be amended or revised, is not a breach of contract and may not be considered as such. If the Town terminates this Agreement under Section448.095(2)(c), Florida Statutes (2022), as may be amended or revised, the Contractor may not be awarded a public contract for at least one year after the date on which the Agreement was terminated. The Contractor is liable for any additional costs incurred by the Town as a result of termination of this Agreement.

5. Contractor shall include in each of its subcontracts, if any, the requirements set forth in this Section, including this subparagraph, requiring any and all subcontractors, as defined in Section 448.095(1)(j), Florida Statutes (2022), as maybe amended or revised, to include all of the requirements of this Section in its subcontracts. Contractor shall be responsible for compliance by any and all subcontractors, as defined in Section 448.095(1)(j), Florida Statutes (2022), as maybe amended or revised, with the requirements of Section 448.095, Florida Statutes (2022), as may be amended or revised.

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TOWN

IN WITNESS OF THE FOREGOING, the Parties have set their hands and seals the day and year first written above.

TOWN OF BAY HARBOR ISLANDS, a Florida municipal corporation

By: _____
MARIA LASDAY
Town Manager

Date: _____

ATTEST:

By: _____
YVONNE HAMILTON
Town Clerk

APPROVED AS TO FORM AND LEGAL SUFFICIENCY

By:_____
GREENSPOON MARDER LLP
Town Attorney
By: JOSEPH S. GELLER, ESQ

CONTRACTOR

WITNESSES:

CONTRACTOR., **AlliedBean Demolition, Inc.,** a Florida corporation.

_____ By:_____

_____ Print Name:_____
Print Name

Title:_____

ATTEST:

_____

_____
Print Name

By:_____
Secretary

(CORPORATE SEAL)

STATE OF _____:

COUNTY OF _____:

The foregoing instrument was acknowledged before me by means of ❑ physical presence or ❑ online notarization, this _____ day of _____, 2023, by _____ , Robert Cox as Vice-President , for AlliedBean Demolition Inc a Florida Corporation.

_____
(Signature of Notary Public - State of Florida)

_____
(Print, Type, or Stamp Commissioned Name of Notary Public)

Personally Known_____ OR Produced Identification_____
Type of Identification Produced: _____

TOWN OF BAY HARBOR ISLANDS
GENERAL CONDITIONS for PIGGYBACK AND CO-OP CONTRACTS

These conditions are standard for all piggyback, local, state, or national cooperative procurement organization, federal General Services Administration, and State of Florida contracts for the purchase of goods or services by the Town of Bay Harbor Islands.

PART I CONDITIONS:

1.01 DELIVERY: Time will be of the essence for any orders placed as a result of this Invitation To Bid. The Town reserves the right to cancel any orders, or part thereof, without obligation if delivery is not made in accordance with the schedule specified by the Bidder and accepted by the Town.

1.02 PACKING SLIPS: It will be the responsibility of the Contractor to attach all packing slips to the OUTSIDE of each shipment. Packing slips must provide a detailed description of what is to be received and reference the Town of Bay Harbor Islands purchase order number that is associated with the shipment. Failure to provide a detailed packing slip attached to the outside of shipment may result in refusal of shipment at Contractor's expense.

1.03 PAYMENT TERMS AND CASH DISCOUNTS: Payment terms will be net 45 days after the date of satisfactory delivery at the place of acceptance and receipt of correct invoice at the office specified, whichever occurs last.

1.04 SCRUTINIZED COMPANIES
As a condition precedent to the effectiveness of any contract for goods or services of $1 million or more and as a condition precedent to the renewal of any contract for goods or services of $1 million or more, subject to *Odebrecht Construction, Inc., v. Prasad*, 876 F.Supp.2d 1305 (S.D. Fla. 2012), *affirmed*, *Odebrecht Construction, Inc., v. Secretary, Florida Department of Transportation*, 715 F.3d 1268 (11th Cir. 2013), with regard to the "Cuba Amendment," the Contractor certifies that it is not on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, and that it does not have business operations in Cuba or Syria, as provided in Section 287.135, Florida Statutes (2020), as may be amended or revised. As a condition precedent to any contract for goods or services of any amount and as a condition precedent to the renewal of any contract for goods or services of any amount, the Contractor certifies that it is not on the Scrutinized Companies that Boycott Israel List created pursuant to Section 215.4725, Florida Statutes (2020), as may be amended or revised, and that it is not engaged in a boycott of Israel. The Town may terminate this Agreement at the Town's option if the Contractor is found to have submitted a false certification as provided under subsection (5) of Section 287.135, Florida Statutes (2020), as may be amended or revised, or been placed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List or the Scrutinized Companies that Boycott Israel List created pursuant to Section 215.4725, Florida Statutes (2020), as may be amended or

revised, or is engaged in a boycott of Israel, or has been engaged in business operations in Cuba or Syria, as defined in Section 287.135, Florida Statutes (2020), as may be amended or revised.

1.05 DEBARRED OR SUSPENDED CONTRACTORS
The Contractor certifies that neither it nor any of its principals or subcontractors are presently debarred or suspended by any federal department or agency.

Part II TAXES:

2.01 TAXES: The Town of Bay Harbor Islands is exempt from Federal Excise and Florida Sales taxes on direct purchase of tangible property. Exemption number for EIN is 59-6000319, and State Sales tax exemption number is 85-8013875578C-1.

PART III BONDS AND INSURANCE

3.01 PERFORMANCE BOND: If a performance bond is required by the Agreement, as a condition precedent to the effectiveness of the Agreement, the Contractor shall within fifteen (15) working days after the commencement date of the Agreement, furnish to the Town a Performance Bond, payable to the Town of Bay Harbor Islands, Florida, in the face amount specified in the Agreement as surety for faithful performance under the terms and conditions of the Agreement. If the bond is on an annual coverage basis, renewal for each succeeding year shall be submitted to the Town thirty (30) days prior to the termination date of the existing Performance Bond. The Performance Bond must be executed by a surety company of recognized standing, authorized to do business in the State of Florida and having a resident agent.

Acknowledgement and agreement is given by both parties that the amount herein set for the Performance Bond is not intended to be nor shall be deemed to be in the nature of liquidated damages nor is it intended to limit the liability of the Contractor to the Town in the event of a material breach of this Agreement by the Contractor.

3.02 INSURANCE: The Contractor shall assume full responsibility and expense to obtain all necessary insurance as required by Town or specified in the Agreement.

The Contractor shall provide to the Procurement Services Division original certificates of coverage and receive notification of approval of those certificates by the Town's Human Resources Manager prior to engaging in any activities under this Agreement. The Contractor's insurance is subject to the approval of the Town's Risk Manager. The certificates must list the Town as an ADDITIONAL INSURED for General Liability Insurance, and shall have no less than thirty (30) days written notice of cancellation or material change. Further modification of the insurance requirements may be made at the sole discretion of the Town's Human Resources Managerif circumstances change or adequate protection of the Town is not presented. The Contractor agrees to abide by such modifications.

PART IV PURCHASE ORDER AND AGREEMENT TERMS:

4.01 COMPLIANCE WITH SPECIFICATIONS, LATE DELIVERIES/PENALTIES: Items offered may be tested for compliance with contract specifications. Items delivered which do not conform to Agreement specifications may be rejected and returned at Contractor's expense. Any violation resulting in contract termination for cause or delivery of items not conforming to specifications, or late delivery may also result in:

- Contractor's name being removed from the Town's bidder's mailing list for a specified period and Contractor will not be recommended for any contract during that period.
- All Town Departments being advised to refrain from doing business with the Contractor.
- All other remedies in law or equity.

4.02 ACCEPTANCE, CONDITION, AND PACKAGING: The material delivered pursuant to the Agreement shall remain the property of the Seller until a physical inspection is made and the material accepted to the satisfaction of the Town. The material must comply fully with the terms of the Agreement, be of the required quality, new, and the latest model. All containers shall be suitable for storage and shipment by common carrier, and all prices shall include standard commercial packaging. The Town will not accept substitutes of any kind. Any substitutes or material not meeting specifications will be returned at the Bidder's expense. Payment will be made only after Town receipt and acceptance of materials or services.

4.03 SAFETY STANDARDS: All manufactured items and fabricated assemblies shall comply with applicable requirements of the Occupation Safety and Health Act of 1970 as amended.

4.04 ASBESTOS STATEMENT: All material supplied must be 100% asbestos free. Contractor certifies that Contractor will supply only material or equipment that is 100% asbestos free.

4.05 VERBAL INSTRUCTIONS PROCEDURE: No negotiations, decisions, or actions shall be initiated or executed by the Contractor as a result of any discussions with any Town employee. Only those communications which are in writing from an authorized Town representative may be considered. Only written communications from Contractors, which are signed by a person designated as authorized to bind the Contractor, will be recognized by the Town as duly authorized expressions on behalf of Contractors.

4.06 INDEPENDENT CONTRACTOR: The Contractor is an independent contractor under this Agreement. Personal services provided by the Contractor shall be by employees of the Contractor and subject to supervision by the Contractor, and not as officers, employees, or agents of the Town. Personnel policies, tax responsibilities, social security, health insurance, employee benefits, procurement policies unless otherwise

stated in the Agreement, and other similar administrative procedures applicable to services rendered under this Agreement shall be those of the Contractor.

4.07 INDEMNITY/HOLD HARMLESS AGREEMENT: Contractor shall protect and defend at Contractor's expense, counsel being subject to the Town's approval, and indemnify and hold harmless the Town and the Town's officers, employees, volunteers, and agents from and against any and all losses, penalties, fines, damages, settlements, judgments, claims, costs, charges, expenses, or liabilities, including any award of attorney fees and any award of costs, in connection with or arising directly or indirectly out of any act or omission by the Contractor or by any officer, employee, agent, invitee, subcontractor, or sublicensee of the Contractor. Without limiting the foregoing, any and all such claims, suits, or other actions relating to personal injury, death, damage to property, defects in materials or workmanship, actual or alleged violations of any applicable statute, ordinance, administrative order, rule or regulation, or decree of any court shall be included in the indemnity hereunder.

4.08 TERMINATION FOR CAUSE: If, through any cause, the Contractor shall fail to fulfill in a timely and proper manner its obligations under this Agreement, or if the Contractor shall violate any of the provisions of this Agreement, the Town may upon written notice to the Contractor terminate the right of the Contractor to proceed under this Agreement, or with such part or parts of the Agreement as to which there has been default, and may hold the Contractor liable for any damages caused to the Town by reason of such default and termination. In the event of such termination, any completed services performed by the Contractor under this Agreement shall, at the option of the Town, become the Town's property and the Contractor shall be entitled to receive equitable compensation for any work completed to the satisfaction of the Town. The Contractor, however, shall not be relieved of liability to the Town for damages sustained by the Town by reason of any breach of the Agreement by the Contractor, and the Town may withhold any payments to the Contractor for the purpose of setoff until such time as the amount of damages due to the Town from the Contractor can be determined.

4.09 TERMINATION FOR CONVENIENCE: The Town reserves the right, in the Town's best interest as determined by the Town, to cancel the Agreement by giving written notice to the Contractor thirty (30) days prior to the effective date of such cancellation.

4.10 CANCELLATION FOR UNAPPROPRIATED FUNDS: The obligation of the Town for payment to a Contractor is limited to the availability of funds appropriated in a current fiscal period, and continuation of the Agreement into a subsequent fiscal period is subject to appropriation of funds, unless otherwise authorized by law.

4.11 RECORDS/AUDIT: The Contractor shall maintain during the term of the contract all books of account, reports and records in accordance with generally accepted accounting practices and standards for records directly related to this Agreement. The Contractor agrees to make available to the Finance Director or the Town Finance Director's designee, during normal business hours and in Broward, Miami-Dade or Palm Beach Counties, all books of account, reports, and records relating to this Agreement.

The Contractor shall retain all books of account, reports, and records relating to this Agreement for the duration of the Agreement and for three years after the final payment under this Agreement, until all pending audits, investigations or litigation matters relating to the Agreement are closed, or until expiration of the records retention period prescribed by Florida law or the records retention schedules adopted by the Division of Library and Information Services of the Florida Department of State, whichever is later.

4.12 PERMITS, TAXES, LICENSES: The successful Contractor shall, at Contractor's own expense, obtain all necessary permits, pay all licenses, fees and taxes, required to comply with all local ordinances, state and federal laws, rules and regulations applicable to business to be carried out under this Agreement.

4.13 LAWS/ORDINANCES: The Contractor shall observe and comply with all federal, state, local and municipal laws, ordinances rules and regulations that would apply to this Agreement.

4.14 NON-DISCRIMINATION: The Contractor shall not, in any of its activities, including employment, discriminate against any individual on the basis of race, color, age, national origin, religion, creed, sex, disability, sexual orientation, gender, gender identity, gender expression, or marital status.

4.15 UNUSUAL CIRCUMSTANCES: If during a contract term where costs to the Town are to remain firm or adjustments are restricted by a percentage or CPI cap, unusual circumstances that could not have been foreseen by either party of the Agreement occur, and those circumstances significantly affect the Contractor's cost in providing the required prior items or services, then the Contractor may request adjustments to the costs to the Town to reflect the changed circumstances. The circumstances must be beyond the control of the Contractor, and the requested adjustments must be fully documented. The Town may, after examination, refuse to accept the adjusted costs if they are not properly documented, increases are considered to be excessive, or decreases are considered to be insufficient. In the event the Town does not wish to accept the adjusted costs and the matter cannot be resolved to the satisfaction of the Town, the Town will reserve the following options:

1. The Agreement can be canceled by the Town upon giving thirty (30) days written notice to the Contractor with no penalty to the Town or Contractor. The Contractor shall fill all Town requirements submitted to the Contractor until the termination date contained in the notice.

2. The Town requires the Contractor to continue to provide the items and services at the firm fixed (non-adjusted) cost until the termination of the contract term then in effect.

3. If the Town, in its interest and in its sole opinion, determines that the Contractor in a capricious manner attempted to use this section of the Agreement to relieve Contractor of a legitimate obligation under the Agreement, and no unusual circumstances had occurred, the Town reserves the right to take any and all action under law or equity. Such

action shall include, but not be limited to, declaring the Contractor in default and disqualifying Contractor from receiving any business from the Town for a stated period of time.

If the Town does agree to adjusted costs, these adjusted costs shall not be invoiced to the Town until the Contractor receives notice in writing signed by a person authorized to bind the Town in such matters.

4.16 ELIGIBILITY: If applicable, the Contractor must first register with the Florida Department of State in accordance with Florida Statutes, prior to entering into a contract with the Town.

4.17 PATENTS AND ROYALTIES: The Contractor, without exception, shall defend, indemnify, and hold harmless the Town and the Town's employees, officers, employees, volunteers, and agents from and against liability of any nature and kind, including cost and expenses for or on account of any copyrighted, patented or un-patented invention, process, or article manufactured or used in the performance of the Agreement, including their use by the Town. If the Contractor uses any design, device, or materials covered by letters, patent or copyright, it is mutually agreed and understood without exception that the bid prices shall include any and all royalties or costs arising from the use of such design, device, or materials in any way involved in the work.

4.18 ASSIGNMENT: Contractor shall not transfer or assign the performance required by the Agreement without the prior written consent of the Town. The Agreement and the monies which may become due hereunder are not assignable except with the prior written approval of the Town Commission or the Town Manager or Town Manager's designee, depending on original approval.

4.19 GOVERNING LAW; VENUE; WAIVER OF JURY TRIAL: The Agreement shall be interpreted and construed in accordance with, and governed by, the laws of the state of Florida. The Parties agree that the exclusive venue for any lawsuit arising from, related to, or in connection with this Agreement shall be in the state courts of the Eleventh Judicial Circuit in and for Miami Dade County, Florida. If any claims arising from, related to, or in connection with this Agreement must be litigated in federal court, the Parties agree that the exclusive venue for any such lawsuit shall be in the United States District Court or United States Bankruptcy Court for the Southern District of Florida. BY ENTERING INTO THIS AGREEMENT, THE PARTIES HEREBY EXPRESSLY WAIVE ANY AND ALL RIGHTS EITHER PARTY MIGHT HAVE TO A TRIAL BY JURY OF ANY ISSUES RELATED TO THIS AGREEMENT. IF A PARTY FAILS TO WITHDRAW A REQUEST FOR A JURY TRIAL IN A LAWSUIT ARISING OUT OF THIS AGREEMENT AFTER WRITTEN NOTICE BY THE OTHER PARTY OF VIOLATION OF THIS SECTION, THE PARTY MAKING THE REQUEST FOR JURY TRIAL SHALL BE LIABLE FOR THE REASONABLE ATTORNEYS' FEES AND COSTS OF THE OTHER PARTY IN CONTESTING THE REQUEST FOR JURY TRIAL, AND SUCH AMOUNTS SHALL BE AWARDED BY THE COURT IN ADJUDICATING THE MOTION.

4.20 PUBLIC RECORDS

Contractor shall comply with public records laws, and Contractor shall:

1. Keep and maintain public records required by the Town to perform the service.

2. Upon request from the Town's custodian of public records, provide the Town with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes (2020), as may be amended or revised, or as otherwise provided by law.

3. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the Agreement term and following completion of the Agreement if the Contractor does not transfer the records to the Town.

4. Upon completion of the Agreement, transfer, at no cost, to the Town all public records in possession of the Contractor or keep and maintain public records required by the Town to perform the service. If the Contractor transfers all public records to the Town upon completion of the Agreement, the Contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Contractor keeps and maintains public records upon completion of the Agreement, the Contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the Town, upon request from the Town's custodian of public records, in a format that is compatible with the information technology systems of the Town.

4.21 WARRANTIES OF USAGE: Any quantities listed in this Agreement are estimates. No warranty or guarantee of quantities is given or implied. It is understood that the Contractor will furnish the Town's needs as they arise.

ALLIED BEAN DEMOLITION CONTRACTORS

PRICING SHEET

COMPANY:		Submittal Date:	**10/10/23**
ATTENTION:	**Fausto Vargas**		
JOB NAME:	**City Hall Demolition Bay Harbor**	AlliedBean Job #:	**4910**
ADDRESS:	**9665 Bay Harbor Ter**	Property #:	
DESCRIPTION:	**Demolish and Remove Condemned Commercial Structure**		

#	DESCRIPTION:	QTY	RATE	UNIT	PRICE
1	CBS Structures for 0-1500 SF		$3.55	/SF	$0.00
2	CBS Structures for 1501-3000 SF		$3.55	/SF	$0.00
3	CBS Structures for 3001-6000 SF		$3.25	/SF	$0.00
4	CBS Structures over 6000 SF	32,556	$3.25	/SF	$105,807.00
5	Wood Structures for 0-1500 SF		$3.52	/SF	$0.00
6	Wood Structures for 1501-3000 SF		$3.52	/SF	$0.00
7	Wood Structures for 3001-6000 SF		$3.52	/SF	$0.00
8	Wood Structures over 6000 SF		$2.20	/SF	$0.00
9	24 Hour Emergency Services		$5,000.00	/EA	$0.00
10	3 Day Emergency Services		$2,500.00	/EA	$0.00
11	Removal and Disposal of Excess Debris	2,312	$35.75	/CY	$82,654.00
12	Pump out and Dispose of Septic Tanks		$253.00	/EA	$0.00
13	Dispose of Underground Storage Tanks	2	$2,500.00	/EA	$5,000.00
14	Tank Closure Reports	1	$11,000.00	/EA	$11,000.00
15	Rat Free Certification		$165.00	/EA	$0.00
16	Misc. Structures		$11.00	/EA	$0.00
17	Asphalt Slabs	16,988	$0.17	/SF	$2,887.96
18	Concrete Slabs and Brick Pavers	6,428	$0.17	/SF	$1,092.76
19	Sub-grade Base Material		$0.77	/CY	$0.00
20	Fencing	1,090	$10.25	/LF	$11,172.50
21	HVAC Refrigerant Recovery		$10.67	/LB	$0.00
22	Concrete Walls	1,848	$2.59	/SF	$4,786.32
23	Hazardous Waste		$55.00	/CY	$0.00
24	Crane Rental	1	$3,500.00	/SF	$3,500.00
25	Saw Cutting	1	$3,500.00	/EA	$3,500.00
26	Swimming Pools/Spas		$11.00	/SF	$0.00

Total for Above Property: **$231,400.54**

Approval and Notice to Proceed:

Printed Name of Authorized City Representative: _____ Date:

AGREEMENT FOR
DEMOLITION SERVICES

THIS AGREEMENT, made this 20th day of April 2021, is by and between the **City of Fort Lauderdale**, **a Florida municipality** ("City" or "Parties"), whose address is 100 North Andrews Avenue, Fort Lauderdale, Florida 33301-1016, and **AlliedBean Demolition, Inc., a Florida corporation** ("Contractor," "Company" or "Parties"), whose address and phone number are **500 East Broward Boulevard, Fort Lauderdale, Florida 33301, Phone: 954-610-4439, Email: jermaine@alliedbean.com.**

NOW THEREFORE, for and in consideration of the mutual promises and covenants set forth herein and other good and valuable consideration, the City and the Contractor covenant and agree as follows:

WITNESSETH:

I. DOCUMENTS

The following documents (collectively "Contract Documents") are hereby incorporated into and made part of this Agreement:

(1) **Invitation to Bid No. 12471-813, Demolition Services,** including any and all addenda, prepared by the City of Fort Lauderdale ("**ITB**" or "Exhibit A").

(2) The Contractor's response to the **ITB**, dated **January 13, 2021** ("Exhibit B").

All Contract Documents may also be collectively referred to as the "Documents." In the event of any conflict between or among the Documents or any ambiguity or missing specifications or instruction, the following priority is established:

A. First, this Agreement dated April 20, 2021, and any attachments.
B. Second, Exhibit A.
C. Third, Exhibit B.

II. SCOPE

The Contractor shall perform the work under the general direction of the City as set forth in the Contract Documents.

Unless otherwise specified herein, the Contractor shall perform all work identified in this Agreement. The Parties agree that the scope of services is a description of Contractor's obligations and responsibilities, and is deemed to include preliminary considerations and prerequisites, and all labor, materials, equipment, and tasks which are such an inseparable part of the Work described that exclusion would render performance by Contractor impractical, illogical, or unconscionable.

Contractor acknowledges and agrees that the City's Contract Administrator has no authority to make changes that would increase, decrease, or otherwise modify the Scope of Services to be provided under this Agreement.

By signing this Agreement, the Contractor represents that it thoroughly reviewed the documents incorporated into this Agreement by reference and that it accepts the description of the Work and the conditions under which the Work is to be performed.

III. TERM OF AGREEMENT

The initial contract period shall commence on **April 20, 2021 and shall end on April 19, 2023. The City reserves the right to extend the contract for two additional one-year terms,** providing all terms conditions and specifications remain the same, both Parties agree to the extension, and such extension is approved by the City. In the event the term of this Agreement extends beyond the end of any fiscal year of City, to wit, September 30th, the continuation of this Agreement beyond the end of such fiscal year shall be subject to both the appropriation and the availability of funds.

IV. COMPENSATION

The Contractor agrees to provide the services and/or materials as specified in the Contract Documents at the cost specified in Exhibit B. It is acknowledged and agreed by Contractor that this amount is the maximum payable and constitutes a limitation upon City's obligation to compensate Contractor for Contractor's services related to this Agreement. This maximum amount, however, does not constitute a limitation of any sort upon Contractor's obligation to perform all items of work required by or which can be reasonably inferred from the Scope of Services. Except as otherwise provided in the solicitation, no amount shall be paid to Contractor to reimburse Contractor's expenses.

V. METHOD OF BILLING AND PAYMENT

Contractor may submit invoices for compensation no more often than monthly, but only after the services for which the invoices are submitted have been completed. An original invoice plus one copy are due within fifteen (15) days of the end of the month except the final invoice which must be received no later than sixty (60) days after this Agreement expires. Invoices shall designate the nature of the services performed and/or the goods provided.

City shall pay Contractor within forty-five (45) days of receipt of Contractor's proper invoice, as provided in the Florida Local Government Prompt Payment Act.

To be deemed proper, all invoices must comply with the requirements set forth in this Agreement and must be submitted on the form and pursuant to instructions prescribed by the City's Contract Administrator. Payment may be withheld for failure of Contractor to comply with a term, condition, or requirement of this Agreement.

Notwithstanding any provision of this Agreement to the contrary, City may withhold, in whole or in part, payment to the extent necessary to protect itself from loss on account of inadequate or defective work that has not been remedied or resolved in a manner satisfactory to the City's Contract

Administrator or failure to comply with this Agreement. The amount withheld shall not be subject to payment of interest by City.

VI. GENERAL CONDITIONS

A. Indemnification

Contractor shall protect and defend at Contractor's expense, counsel being subject to the City's approval, and indemnify and hold harmless the City and the City's officers, employees, volunteers, and agents from and against any and all losses, penalties, fines, damages, settlements, judgments, claims, costs, charges, expenses, or liabilities, including any award of attorney fees and any award of costs, in connection with or arising directly or indirectly out of any act or omission by the Contractor or by any officer, employee, agent, invitee, subcontractor, or sublicensee of the Contractor. The provisions and obligations of this section shall survive the expiration or earlier termination of this Agreement. To the extent considered necessary by the City Manager, any sums due Contractor under this Agreement may be retained by City until all of City's claims for indemnification pursuant to this Agreement have been settled or otherwise resolved, and any amount withheld shall not be subject to payment of interest by City.

B. Intellectual Property

Contractor shall protect and defend at Contractor's expense, counsel being subject to the City's approval, and indemnify and hold harmless the City from and against any and all losses, penalties, fines, damages, settlements, judgments, claims, costs, charges, royalties, expenses, or liabilities, including any award of attorney fees and any award of costs, in connection with or arising directly or indirectly out of any infringement or allegation of infringement of any patent, copyright, or other intellectual property right in connection with the Contractor's or the City's use of any copyrighted, patented or un-patented invention, process, article, material, or device that is manufactured, provided, or used pursuant to this Agreement. If the Contractor uses any design, device, or materials covered by letters, patent or copyright, it is mutually agreed and understood without exception that the bid prices shall include all royalties or costs arising from the use of such design, device, or materials in any way involved in the Work.

C. Termination for Cause

The aggrieved party may terminate this Agreement for cause if the party in breach has not corrected the breach within ten (10) days after written notice from the aggrieved party identifying the breach. The City Manager may also terminate this Agreement upon such notice as the City Manager deems appropriate under the circumstances in the event the City Manager determines that termination is necessary to protect the public health or safety. The Parties agree that if the City erroneously, improperly or unjustifiably terminates for cause, such termination shall be deemed a termination for convenience, which shall be effective thirty (30) days after such notice of termination for cause is provided.

This Agreement may be terminated for cause for reasons including, but not limited to, Contractor's repeated (whether negligent or intentional) submission for payment of false

or incorrect bills or invoices, failure to perform the Work to the City's satisfaction; or failure to continuously perform the Work in a manner calculated to meet or accomplish the objectives as set forth in this Agreement.

D. Termination for Convenience

The City reserves the right, in its best interest as determined by the City, to cancel this Agreement for convenience by giving written notice to the Contractor at least thirty (30) days prior to the effective date of such cancellation. In the event this Agreement is terminated for convenience, Contractor shall be paid for any services performed to the City's satisfaction pursuant to the Agreement through the termination date specified in the written notice of termination. Contractor acknowledges and agrees that he/she/it has received good, valuable and sufficient consideration from City, the receipt and adequacy of which are hereby acknowledged by Contractor, for City's right to terminate this Agreement for convenience.

E. Cancellation for Unappropriated Funds

The City reserves the right, in its best interest as determined by the City, to cancel this Agreement for unappropriated funds or unavailability of funds by giving written notice to the Contractor at least thirty (30) days prior to the effective date of such cancellation. The obligation of the City for payment to a Contractor is limited to the availability of funds appropriated in a current fiscal period, and continuation of the Agreement into a subsequent fiscal period is subject to appropriation of funds, unless otherwise provided by law.

F. Insurance

As a condition precedent to the effectiveness of this Agreement, during the term of this Agreement and during any renewal or extension term of this Agreement, the Contractor, at the Contractor's sole expense, shall provide insurance of such types and with such terms and limits as noted below. Providing proof of and maintaining adequate insurance coverage are material obligations of the Contractor. The Contractor shall provide the City a certificate of insurance evidencing such coverage. The Contractor's insurance coverage shall be primary insurance for all applicable policies. The limits of coverage under each policy maintained by the Contractor shall not be interpreted as limiting the Contractor's liability and obligations under this Agreement. All insurance policies shall be from insurers authorized to write insurance policies in the State of Florida and that possess an A.M. Best rating of A-, VII or better. All insurance policies are subject to approval by the City's Risk Manager.

The coverages, limits, and endorsements required herein protect the interests of the City, and these coverages, limits, and endorsements may not be relied upon by the Contractor for assessing the extent or determining appropriate types and limits of coverage to protect the Contractor against any loss exposure, whether as a result of this Agreement or otherwise. The requirements contained herein, as well as the City's review or acknowledgement, are not intended to and shall not in any manner limit or qualify the liabilities and obligations assumed by the Contractor under this Agreement.

The following insurance policies and coverages are required:

Commercial General Liability
Coverage must be afforded under a Commercial General Liability policy with limits not less than:

- $1,000,000 each occurrence and $2,000,000 aggregate for Bodily Injury, Property Damage, and Personal and Advertising Injury
- $1,000,000 each occurrence and $2,000,000 aggregate for Products and Completed Operations

Policy must include coverage for Contractual Liability and Independent Contractors.

The City and the City's officers, employees, and volunteers are to be covered as additional insureds with a CG 20 26 04 13 Additional Insured – Designated Person or Organization Endorsement or similar endorsement providing equal or broader Additional Insured Coverage with respect to liability arising out of activities performed by or on behalf of the Contractor. The coverage shall contain no special limitation on the scope of protection afforded to the City or the City's officers, employees, and volunteers.

Business Automobile Liability
Coverage must be afforded for all Owned, Hired, Scheduled, and Non-Owned vehicles for Bodily Injury and Property Damage in an amount not less than $1,000,000 combined single limit each accident.

If the Contractor does not own vehicles, the Contractor shall maintain coverage for Hired and Non-Owned Auto Liability, which may be satisfied by way of endorsement to the Commercial General Liability policy or separate Business Auto Liability policy.

Pollution and Remediation Legal Liability (Hazardous Materials)
For the purpose of this section, the term "hazardous materials" includes all materials and substances that are designated or defined as hazardous by Florida or federal law or by the rules or regulations of Florida or any federal agency. If work being performed involves hazardous materials, the Contractor shall procure and maintain any or all of the following coverage, which will be specifically addressed upon review of exposure.

Contractors Pollution Liability Coverage
For sudden and gradual occurrences and in an amount not less than $1,000,000 per claim arising out of this Agreement, including but not limited to, all hazardous materials identified under the Agreement.

Asbestos Liability Coverage
For sudden and gradual occurrences and in an amount not less than $1,000,000 per claim arising out of work performed under this Agreement.

Disposal Coverage

The Contractor shall designate the disposal site and furnish a Certificate of Insurance from the disposal facility for Environmental Impairment Liability Insurance, covering liability for sudden and accidental occurrences in an amount not less than $1,000,000 per claim and shall include liability for non-sudden occurrences in an amount not less than $1,000,000 per claim.

Hazardous Waste Transportation Coverage

The Contractor shall designate the hauler and furnish a Certificate of Insurance from the hauler for Automobile Liability insurance with Endorsement MCS90 for liability arising out of the transportation of hazardous materials in an amount not less than $1,000,000 per claim limit and provide a valid EPA identification number.

Workers' Compensation and Employer's Liability

Coverage must be afforded per Chapter 440, Florida Statutes. Any person or entity performing work for or on behalf of the City must provide Workers' Compensation insurance. Exceptions and exemptions will be allowed by the City's Risk Manager, if they are in accordance with Florida Statute.

The Contractor waives, and the Contractor shall ensure that the Contractor's insurance carrier waives, all subrogation rights against the City and the City's officers, employees, and volunteers for all losses or damages. The City requires the policy to be endorsed with WC 00 03 13 Waiver of our Right to Recover from Others or equivalent.

The Contractor must be in compliance with all applicable State and federal workers' compensation laws, including the U.S. Longshore Harbor Workers' Act and the Jones Act, if applicable.

Insurance Certificate Requirements

a. The Contractor shall provide the City with valid Certificates of Insurance (binders are unacceptable) no later than thirty (30) days prior to the start of work contemplated in this Agreement.
b. The Contractor shall provide to the City a Certificate of Insurance having a thirty (30) day notice of cancellation; ten (10) days' notice if cancellation is for nonpayment of premium.
c. In the event that the insurer is unable to accommodate the cancellation notice requirement, it shall be the responsibility of the Contractor to provide the proper notice. Such notification will be in writing by registered mail, return receipt requested, and addressed to the certificate holder.
d. In the event the Agreement term goes beyond the expiration date of the insurance policy, the Contractor shall provide the City with an updated Certificate of Insurance no later than ten (10) days prior to the expiration of the insurance currently in effect. The City reserves the right to suspend the Agreement until this requirement is met.
e. The Certificate of Insurance shall indicate whether coverage is provided under a claims-made or occurrence form. If any coverage is provided on a claims-made form,

the Certificate of Insurance must show a retroactive date, which shall be the effective date of the initial Agreement or prior.

f. The City shall be named as an Additional Insured on all liability policies, with the exception of Workers' Compensation.
g. The City shall be granted a Waiver of Subrogation on the Contractor's Workers' Compensation insurance policy.
h. The title of the Agreement, Bid/Contract number, event dates, or other identifying reference must be listed on the Certificate of Insurance.

The Certificate Holder should read as follows:
City of Fort Lauderdale
Procurement Services Division
100 North Andrews Avenue
Fort Lauderdale, FL 33301

The Contractor has the sole responsibility for the payment of all insurance premiums and shall be fully and solely responsible for any costs or expenses as a result of a coverage deductible, co-insurance penalty, or self-insured retention; including any loss not covered because of the operation of such deductible, co-insurance penalty, self-insured retention, or coverage exclusion or limitation. Any costs for adding the City as an Additional Insured shall be at the Contractor's expense.

If the Contractor's primary insurance policy/policies do not meet the minimum requirements, as set forth in this Agreement, the Contractor may provide evidence of an Umbrella/Excess insurance policy to comply with this requirement.

The Contractor's insurance coverage shall be primary insurance as applied to the City and the City's officers, employees, and volunteers. Any insurance or self-insurance maintained by the City covering the City, the City's officers, employees, or volunteers shall be non-contributory.

Any exclusion or provision in the insurance maintained by the Contractor that excludes coverage for work contemplated in this Agreement shall be unacceptable and shall be considered breach of contract.

All required insurance policies must be maintained until the contract work has been accepted by the City, or until this Agreement is terminated, whichever is later. Any lapse in coverage shall be considered breach of contract. In addition, Contractor must provide to the City confirmation of coverage renewal via an updated certificate should any policies expire prior to the expiration of this Agreement. The City reserves the right to review, at any time, coverage forms and limits of Contractor's insurance policies.

The Contractor shall provide notice of any and all claims, accidents, and any other occurrences associated with this Agreement shall be provided to the Contractor's insurance company or companies and the City's Risk Management office as soon as practical.

It is the Contractor's responsibility to ensure that any and all of the Contractor's independent contractors and subcontractors comply with these insurance requirements. All coverages for independent contractors and subcontractors shall be subject to all of the applicable requirements stated herein. Any and all deficiencies are the responsibility of the Contractor.

G. Environmental, Health and Safety

Contractor shall place the highest priority on health and safety and shall maintain a safe working environment during performance of the Work. Contractor shall comply, and shall secure compliance by its employees, agents, and subcontractors, with all applicable environmental, health, safety and security laws and regulations, and performance conditions in this Agreement. Compliance with such requirements shall represent the minimum standard required of Contractor. Contractor shall be responsible for examining all requirements and determine whether additional or more stringent environmental, health, safety and security provisions are required for the Work. Contractor agrees to utilize protective devices as required by applicable laws, regulations, and any industry or Contractor's health and safety plans and regulations, and to pay the costs and expenses thereof, and warrants that all such persons shall be fit and qualified to carry out the Work.

H. Standard of Care

Contractor represents that he/she/it is qualified to perform the Work, that Contractor and its subcontractors possess current, valid state and/or local licenses to perform the Work, and that their services shall be performed in a manner consistent with that level of care and skill ordinarily exercised by other qualified contractors under similar circumstances.

I. Rights in Documents and Work

Any and all reports, photographs, surveys, and other data and documents provided or created in connection with this Agreement are and shall remain the property of City; and Contractor disclaims any copyright in such materials. In the event of and upon termination of this Agreement, any reports, photographs, surveys, and other data and documents prepared by Contractor, whether finished or unfinished, shall become the property of City and shall be delivered by Contractor to the City's Contract Administrator within seven (7) days of termination of this Agreement by either Party. Any compensation due to Contractor shall be withheld until Contractor delivers all documents to the City as provided herein.

J. Audit Right and Retention of Records

City shall have the right to audit the books, records, and accounts of Contractor and Contractor's subcontractors that are related to this Agreement. Contractor shall keep, and Contractor shall cause Contractor's subcontractors to keep, such books, records, and accounts as may be necessary in order to record complete and correct entries related to this Agreement. All books, records, and accounts of Contractor and Contractor's subcontractors shall be kept in written form, or in a form capable of conversion into written form within a reasonable time, and upon request to do so, Contractor or Contractor's subcontractor, as applicable, shall make same available at no cost to City in written form.

Contractor and Contractor's subcontractors shall preserve and make available, at reasonable times for examination and audit by City in Broward County, Florida, all financial records, supporting documents, statistical records, and any other documents pertinent to this Agreement for the required retention period of the Florida public records law, Chapter 119, Florida Statutes, as may be amended from time to time, if applicable, or, if the Florida Public Records Act is not applicable, for a minimum period of three (3) years after termination of this Agreement. If any audit has been initiated and audit findings have not been resolved at the end of the retention period or three (3) years, whichever is longer, the books, records, and accounts shall be retained until resolution of the audit findings. If the Florida public records law is determined by City to be applicable to Contractor and Contractor's subcontractors' records, Contractor and Contractor's subcontractors shall comply with all requirements thereof; however, Contractor and Contractor's subcontractors shall violate no confidentiality or non-disclosure requirement of either federal or state law. Any incomplete or incorrect entry in such books, records, and accounts shall be a basis for City's disallowance and recovery of any payment upon such entry.

Contractor shall, by written contract, require Contractor's subcontractors to agree to the requirements and obligations of this Section.

The Contractor shall maintain during the term of the Agreement all books of account, reports and records in accordance with generally accepted accounting practices and standards for records directly related to this Agreement.

K. Public Entity Crime Act

Contractor represents that the execution of this Agreement will not violate the Public Entity Crime Act, Section 287.133, Florida Statutes, as may be amended from time to time, which essentially provides that a person or affiliate who is a contractor, consultant, or other provider and who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid on a contract to provide any goods or services to City, may not submit a bid on a contract with City for the construction or repair of a public building or public work, may not submit bids on leases of real property to City, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with City, and may not transact any business with City in excess of the threshold amount provided in Section 287.017, Florida Statutes, as may be amended from time to time, for category two purchases for a period of 36 months from the date of being placed on the convicted vendor list. Violation of this section shall result in termination of this Agreement and recovery of all monies paid by City pursuant to this Agreement and may result in debarment from City's competitive procurement activities.

L. Independent Contractor

Contractor is an independent contractor under this Agreement. Services provided by Contractor pursuant to this Agreement shall be subject to the supervision of the Contractor. In providing such services, neither Contractor nor Contractor's agents shall act as officers, employees, or agents of City. No partnership, joint venture, or other joint relationship is

created hereby. City does not extend to Contractor or Contractor's agents any authority of any kind to bind City in any respect whatsoever.

M. Inspection and Non-Waiver

Contractor shall permit the representatives of CITY to inspect and observe the Work at all times.

The failure of the City to insist upon strict performance of any other terms of this Agreement or to exercise any rights conferred by this Agreement shall not be construed by Contractor as a waiver of the City's right to assert or rely on any such terms or rights on any future occasion or as a waiver of any other terms or rights.

N. Assignment and Performance

Neither this Agreement nor any right or interest herein shall be assigned, transferred, or encumbered without the written consent of the other Party. In addition, Contractor shall not subcontract any portion of the Work required by this Agreement, except as provided in the Schedule of Subcontractor Participation. City may terminate this Agreement, effective immediately, if there is any assignment, or attempted assignment, transfer, or encumbrance, by Contractor of this Agreement or any right or interest herein without City's prior written consent.

Contractor represents that each person who will render services pursuant to this Agreement is duly qualified to perform such services by all appropriate governmental authorities, where required, and that each such person is reasonably experienced and skilled in the area(s) for which he or she will render his or her services.

Contractor shall perform Contractor's duties, obligations, and services under this Agreement in a skillful and respectable manner. The quality of Contractor's performance and all interim and final product(s) provided to or on behalf of City shall be comparable to the best local and national standards.

In the event Contractor engages any subcontractor in the performance of this Agreement, Contractor shall ensure that all of Contractor's subcontractors perform in accordance with the terms and conditions of this Agreement. Contractor shall be fully responsible for all of Contractor's subcontractors' performance, and liable for any of Contractor's subcontractors' non-performance and all of Contractor's subcontractors' acts and omissions. Contractor shall defend at Contractor's expense, counsel being subject to City's approval or disapproval, and indemnify and hold City and City's officers, employees, and agents harmless from and against any claim, lawsuit, third party action, fine, penalty, settlement, or judgment, including any award of attorney fees and any award of costs, by or in favor of any of Contractor's subcontractors for payment for work performed for City by any of such subcontractors, and from and against any claim, lawsuit, third party action, fine, penalty, settlement, or judgment, including any award of attorney fees and any award of costs, occasioned by or arising out of any act or omission by any of Contractor's subcontractors or by any of Contractor's subcontractors' officers, agents, or employees. Contractor's use of subcontractors in connection with this Agreement shall be subject to City's prior written approval, which approval City may revoke at any time.

O. Conflicts

Neither Contractor nor any of Contractor's employees shall have or hold any continuing or frequently recurring employment or contractual relationship that is substantially antagonistic or incompatible with Contractor's loyal and conscientious exercise of judgment and care related to Contractor's performance under this Agreement.

Contractor further agrees that none of Contractor's officers or employees shall, during the term of this Agreement, serve as an expert witness against City in any legal or administrative proceeding in which he, she, or Contractor is not a party, unless compelled by court process. Further, Contractor agrees that such persons shall not give sworn testimony or issue a report or writing, as an expression of his or her expert opinion, which is adverse or prejudicial to the interests of City in connection with any such pending or threatened legal or administrative proceeding unless compelled by court process. The limitations of this section shall not preclude Contractor or any persons in any way from representing themselves, including giving expert testimony in support thereof, in any action or in any administrative or legal proceeding.

In the event Contractor is permitted pursuant to this Agreement to utilize subcontractors to perform any services required by this Agreement, Contractor agrees to require such subcontractors, by written contract, to comply with the provisions of this section to the same extent as Contractor.

P. Schedule and Delays

Time is of the essence in this Agreement. By signing, Contractor affirms that it believes the schedule to be reasonable; provided, however, the parties acknowledge that the schedule might be modified as the City directs.

Q. Materiality and Waiver of Breach

City and Contractor agree that each requirement, duty, and obligation set forth herein was bargained for at arm's-length and is agreed to by the Parties in exchange for *quid pro quo*, that each is substantial and important to the formation of this Agreement and that each is, therefore, a material term hereof.

City's failure to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement. A waiver of any breach of a provision of this Agreement shall not be deemed a waiver of any subsequent breach and shall not be construed to be a modification of the terms of this Agreement.

R. Compliance With Laws

Contractor shall comply with all applicable federal, state, and local laws, codes, ordinances, rules, and regulations in performing Contractor's duties, responsibilities, and obligations pursuant to this Agreement.

S. Severance

In the event a portion of this Agreement is found by a court of competent jurisdiction to be invalid or unenforceable, the provisions not having been found by a court of competent jurisdiction to be invalid or unenforceable shall continue to be effective.

T. Limitation of Liability

The City desires to enter into this Agreement only if in so doing the City can place a limit on the City's liability for any cause of action for money damages due to an alleged breach by the City of this Agreement, so that its liability for any such breach never exceeds the sum of $1,000. Contractor hereby expresses its willingness to enter into this Agreement with Contractor's recovery from the City for any damage action for breach of contract or for any action or claim arising from this Agreement to be limited to a maximum amount of $1,000 less the amount of all funds actually paid by the City to Contractor pursuant to this Agreement.

Accordingly, and notwithstanding any other term or condition of this Agreement, Contractor hereby agrees that the City shall not be liable to Contractor for damages in an amount in excess of $1,000 which amount shall be reduced by the amount actually paid by the City to Contractor pursuant to this Agreement, for any action for breach of contract or for any action or claim arising out of this Agreement. Nothing contained in this paragraph or elsewhere in this Agreement is in any way intended to be a waiver of the limitation placed upon City's liability as set forth in Section 768.28, Florida Statutes.

U. Jurisdiction, Venue, Waiver, Waiver of Jury Trial

This Agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. Venue for any lawsuit by either Party against the other Party or otherwise arising out of this Agreement, and for any other legal proceeding, shall be in the Seventeenth Judicial Circuit in and for Broward County, Florida, or in the event of federal jurisdiction, in the Southern District of Florida, Fort Lauderdale Division. **THE PARTIES EXPRESSLY AGREE TO WAIVE ALL RIGHTS TO A TRIAL BY JURY OF ALL ISSUES SO TRIABLE UNDER THIS AGREEMENT.**

In the event Contractor is a corporation organized under the laws of any province of Canada or is a Canadian federal corporation, the City may enforce in the United States of America or in Canada or in both countries a judgment entered against the Contractor. The Contractor waives any and all defenses to the City's enforcement in Canada of a judgment entered by a court in the United States of America.

V. Amendments

No modification, amendment, or alteration in the terms or conditions contained herein shall be effective unless contained in a written document prepared with the same or similar formality as this Agreement and executed by the Mayor-Commissioner and/or City Manager, as determined by City Charter and Ordinances, and Contractor or others delegated authority to or otherwise authorized to execute same on their behalf.

W. Prior Agreements

This document represents the final and complete understanding of the Parties and incorporates or supersedes all prior negotiations, correspondence, conversations, agreements, and understandings applicable to the matters contained herein. The Parties agree that there is no commitment, agreement, or understanding concerning the subject matter of this Agreement that is not contained in this written document. Accordingly, the Parties agree that no deviation from the terms hereof shall be predicated upon any prior representation or agreement, whether oral or written.

X. Payable Interest

Except as required and provided for by the Florida Local Government Prompt Payment Act, City shall not be liable for interest for any reason, whether as prejudgment interest or for any other purpose, and in furtherance thereof Contractor waives, rejects, disclaims and surrenders any and all entitlement it has or may have to receive interest in connection with a dispute or claim based on or related to this Agreement.

Y. Representation of Authority

Each individual executing this Agreement on behalf of a party hereto hereby represents and warrants that he or she is, on the date he or she signs this Agreement, duly authorized by all necessary and appropriate action to execute this Agreement on behalf of such party and does so with full legal authority.

Z. Uncontrollable Circumstances ("Force Majeure")

The City and Contractor will be excused from the performance of their respective obligations under this Agreement when and to the extent that their performance is delayed or prevented by any circumstances beyond their control including, fire, flood, explosion, strikes or other labor disputes, act of God or public emergency, war, riot, civil commotion, malicious damage, act or omission of any governmental authority, delay or failure or shortage of any type of transportation, equipment, or service from a public utility needed for their performance, provided that:

1. The non-performing party gives the other party prompt written notice describing the particulars of the Force Majeure including, but not limited to, the nature of the occurrence and its expected duration, and continues to furnish timely reports with respect thereto during the period of the Force Majeure;

2. The excuse of performance is of no greater scope and of no longer duration than is required by the Force Majeure;

3. No obligations of either party that arose before the Force Majeure causing the excuse of performance are excused as a result of the Force Majeure; and

4. The non-performing party uses its best efforts to remedy its inability to perform. Notwithstanding the above, performance shall not be excused under this Section for a

period in excess of two (2) months, provided that in extenuating circumstances, the City may excuse performance for a longer term. Economic hardship of the Contractor will not constitute Force Majeure. The term of the Agreement shall be extended by a period equal to that during which either party's performance is suspended under this Section.

AA. Scrutinized Companies

The Contractor certifies that it is not on the Scrutinized Companies that Boycott Israel List created pursuant to Section 215.4725, Florida Statutes (2020), and that it is not engaged in a boycott of Israel. The City may terminate this Agreement at the City's option if the Contractor is found to have submitted a false certification as provided under subsection (5) of Section 287.135, Florida Statutes (2020), as may be amended or revised, or been placed on the Scrutinized Companies that Boycott Israel List created pursuant to Section 215.4725, Florida Statutes (2020), as may be amended or revised, or is engaged in a boycott of Israel.

BB. Public Records

IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT CITY CLERK'S OFFICE, 100 N. ANDREWS AVENUE, FORT LAUDERDALE, FLORIDA 33301, EMAIL: PRRCONTRACT@FORTLAUDERDALE.GOV, PHONE: 954-828-5002.

Contractor shall comply with public records laws, and Contractor shall:

1. Keep and maintain public records required by the City to perform the service.

2. Upon request from the City's custodian of public records, provide the City with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes (2020), as may be amended or revised, or as otherwise provided by law.

3. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the Agreement term and following completion of the Agreement if the Contractor does not transfer the records to the City.

4. Upon completion of the Agreement, transfer, at no cost, to the City all public records in possession of the Contractor or keep and maintain public records required by the City to perform the service. If the Contractor transfers all public records to the City upon completion of the Agreement, the Contractor shall destroy any duplicate public records

that are exempt or confidential and exempt from public records disclosure requirements. If the Contractor keeps and maintains public records upon completion of the Agreement, the Contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the City, upon request from the City's custodian of public records, in a format that is compatible with the information technology systems of the City.

CC. Non-Discrimination

The Contractor shall not, in any of its activities, including employment, discriminate against any individual on the basis of race, color, national origin, religion, creed, sex, disability, sexual orientation, gender, gender identity, gender expression, or marital status.

1. The Contractor certifies and represents that it will comply with Section 2-187, Code of Ordinances of the City of Fort Lauderdale, Florida, (2020), as may be amended or revised, ("Section 2-187").

2. The failure of the Contractor to comply with Section 2-187 shall be deemed to be a material breach of this Agreement, entitling the City to pursue any remedy stated below or any remedy provided under applicable law.

3. The City may terminate this Agreement if the Contractor fails to comply with Section 2-187.

4. The City may retain all monies due or to become due until the Contractor complies with Section 2-187.

5. The Contractor may be subject to debarment or suspension proceedings. Such proceedings will be consistent with the procedures in Section 2-183 of the Code of Ordinances of the City of Fort Lauderdale, Florida.

IN WITNESS WHEREOF, the City and the Contractor execute this Agreement as follows:

ATTEST:

Jeffrey A. Modarelli, City Clerk

CITY OF FORT LAUDERDALE

By: _____
Christopher J. Lagerbloom, ICMA-CM
City Manager

Date: 4-20-2021

Approved as to form:
ALAIN E. BOILEAU, CITY ATTORNEY

By: _____
Rhonda Montoya Hasan
Assistant City Attorney

WITNESSES:

_____
Signature
Laurie Alvarez
Print Name

_____
Signature
Samuel Jennings
Print Name

ALLIEDBEAN DEMOLITION, INC.

By: _____
Kevin Bean, Director

(CORPORATE SEAL)

STATE OF FLORIDA:
COUNTY OF BROWARD:

The foregoing instrument was acknowledged before me by means of ☑ physical presence or ☐ online notarization, this 14th day of April, 2021, by **Kevin Bean** as **Director** for **Alliedbean Demolition, Inc.**, a **Florida corporation.**

_____
(Signature of Notary Public – State of Florida)

_____
Print, Type or Stamp Commissioned Name of Notary Public)

Notary Public State of Florida
Stuart Roberts
My Commission GG 209668
Expires 06/16/2022

Personally Known ✓ OR Produced Identification ____
Type of Identification Produced_____

Solicitation 12471-813

Demolition Services

Bid Designation: Public

CITY OF FORT LAUDERDALE

City of Fort Lauderdale

Bid 12471-813
Demolition Services

Bid Number	**12471-813**
Bid Title	**Demolition Services**
Bid Start Date	**Dec 4, 2020 3:03:02 PM EST**
Bid End Date	**Jan 13, 2021 2:00:00 PM EST**
Question & Answer End Date	**Jan 6, 2021 5:00:00 PM EST**
Bid Contact	**Laurie D Platkin, CPPB** **Senior Procurement Specialist** **Finance - Procurement Division** **954-828-5138** **lplatkin@fortlauderdale.gov**
Contract Duration	**2 years**
Contract Renewal	**2 annual renewals**
Prices Good for	**120 days**
Bid Comments	**The City of Fort Lauderdale, Florida (City) is seeking bids from qualified, experienced and licensed firm(s), hereinafter referred to as the Contractor or Bidder, to provide the complete demolition of buildings and sites for the City, in accordance with the terms, conditions, and specifications contained in this Invitation to Bid (ITB).** **For further information, go to www.bidsync.com .** **Added on Jan 4, 2021:** **ADDENDUM 1** **This addendum is being issued to make the following change(s):** **1. Updated Technical Specifications/Scope of Services.** **2. Added Section 3.7.10: Additional Fees for Asbestos Surveys and Asbestos Filing Fees: Proposer will add $25,000 to bid for additional fees related to asbestos surveys and filing fees.** **3. Additional line item 12471-813-01-37 added** **All other terms, conditions, and specifications remain unchanged.** **Added on Jan 5, 2021:** **ADDENDUM 2** **Bid Opening: This is a public meeting that is open to the general public via Zoom.** **When it's time, you may join the Zoom meeting by pasting the following link in your browser:** **Meeting Link: https://fortlauderdale.zoomgov.com/j/16164468578?pwd=QmhReVhDcFA5N3FWQ0Vqb3lpcFVPUT09** **Meeting ID: 161 6446 8578** **Password: 12471**

Join by phone
For higher quality, dial a number based on your current location.
US: +1 669 254 5252 or +1 646 828 7666

For comments or questions contact Laurie Platkin, Procurement Specialist, at (954) 828-5138 or email: lplatkin@fortlauderdale.gov.

Item Response Form

Item	**12471-813--01-01 - CBS Structures for 0-1500 sq. ft.**
Quantity	**7000 square foot**
Unit Price	
Delivery Location	**City of Fort Lauderdale**
	No Location Specified
	Qty 7000

Description
Provide a rate per square foot to furnish all material, labor, and equipment to demolish and dispose of designated CBS structures ranging from 0 - 1500 sq. ft. This rate is to include all costs for use of WET demolition. The quoted rate will include the removal of the debris generated from demolishing the structure. Estimated 7,000 square feet annually.

Item	**12471-813--01-02 - CBS Structures for 1501-300 sq.ft.**
Quantity	**6000 square foot**
Unit Price	
Delivery Location	**City of Fort Lauderdale**
	No Location Specified
	Qty 6000

Description
Provide a rate per square foot to furnish all material, labor, and equipment to demolish and dispose of designated CBS structures ranging from 1501 - 3000 sq. ft. This rate is to include all costs for use of WET demolition. The quoted rate will include the removal of the debris generated from demolishing the structure. Estimated 6,000 square feet annually.

Item	**12471-813--01-03 - CBS Structures for 3001-6000 sq. ft.**
Quantity	**6000 square foot**
Unit Price	
Delivery Location	**City of Fort Lauderdale**
	No Location Specified
	Qty 6000

Description
Provide a rate per square foot to furnish all material, labor, and equipment to demolish and dispose of designated CBS structures ranging from 3001 - 6000 sq. ft. This rate is to include all costs for use of WET demolition. The quoted rate will include the removal of the debris generated from demolishing the structure. Estimated 6,000 square feet annually.

Item **12471-813--01-04 - CBS Structures for 6001+ sq. ft.**

Quantity **6000 square foot**

Unit Price

Delivery Location **City of Fort Lauderdale**

No Location Specified

Qty 6000

Description
Provide a rate per square foot to furnish all material, labor, and equipment to demolish and dispose of designated CBS structures ranging from 6001+ sq. ft. This rate is to include all costs for use of WET demolition. The quoted rate will include the removal of the debris generated from demolishing the structure. Estimated 6,000 square feet annually.

Item **12471-813--01-05 - Wood Structures for 0-1500 sq. ft.**

Quantity **7000 square foot**

Unit Price

Delivery Location **City of Fort Lauderdale**

No Location Specified

Qty 7000

Description
Provide a rate per square foot to furnish all material, labor, and equipment to demolish and dispose of designated wood frame structures ranging from 0-1500 sq. ft. This rate is to include all costs for use of WET demolition. The quoted rate will include the removal of the debris generated from demolishing the structure. Estimated 7,000 square feet annually.

Item **12471-813--01-06 - Wood Structures for 1501-3000 sq. ft.**

Quantity **6000 square foot**

Unit Price

Delivery Location **City of Fort Lauderdale**

No Location Specified

Qty 6000

Description
Provide a rate per square foot to furnish all material, labor, and equipment to demolish and dispose of designated wood frame structures ranging from 1501-3000 sq. ft. This rate is to include all costs for use of WET demolition. The quoted rate will include the removal of the debris generated from demolishing the structure. Estimated 6,000 square feet annually.

Item **12471-813--01-07 - Wood Structures for 3001-6000 sq. ft.**

Quantity **6000 square foot**

Unit Price

Delivery Location **City of Fort Lauderdale**

No Location Specified

Qty 6000

Description
Provide a rate per square foot to furnish all material, labor, and equipment to demolish and dispose of designated wood frame structures ranging from 3001-6000 sq. ft. This rate is to include all costs for use of WET demolition. The quoted rate will include the removal of the debris generated from demolishing the structure. Estimated 6,000 square feet annually.

Item **12471-813--01-08 - Wood Structures for 6001+ sq. ft.**

Quantity **6000 square foot**

Unit Price

Delivery Location **City of Fort Lauderdale**

No Location Specified

Qty 6000

Description
Provide a rate per square foot to furnish all material, labor, and equipment to demolish and dispose of designated wood frame structures ranging from 6001+ sq. ft. This rate is to include all costs for use of WET demolition. The quoted rate will include the removal of the debris generated from demolishing the structure. Estimated 6,000 square feet annually.

Item **12471-813--01-09 - 24 Hour Emergency Services**

Quantity **1 each**

Unit Price

Delivery Location **City of Fort Lauderdale**

No Location Specified

Qty 1

Description
Provide an ADDITIONAL FLAT RATE FEE to be paid in an emergency situation, when the Contractor is required by the City to commence work within 24 hours of notification. Estimated 1 annually.

Item **12471-813--01-10 - 3 Day Emergency Services**

Quantity **2 each**

Unit Price

Delivery Location **City of Fort Lauderdale**

No Location Specified

Qty 2

Description
Provide an ADDITIONAL FLAT RATE FEE to be paid in an emergency situation, when the Contractor is required by the City to commence work within three calendar days of notification. Estimated 2 annually.

Item **12471-813--01-11 - Removal and Disposal of Excess Debris**

Quantity **300 cubic yard**

Unit Price

Delivery Location **City of Fort Lauderdale**

No Location Specified

Qty 300

Description
Removal and Disposal of Excess Debris: Provide a rate per cubic yard to remove and dispose of all trash and debris found on the job site that is not part of the debris developed in providing demolition services. The City estimates that three hundred (300) cubic yards will be processed annually. Estimated 300 cubic yards annually.

Item **12471-813--01-12 - Pump Out, Disposal Rates: Septic Tanks**

Quantity **10 each**

Unit Price

Delivery Location **City of Fort Lauderdale**
No Location Specified

Qty 10

Description
Pump Out, Disposal of Septic Tanks: Provide a flat rate per structure to pump-out, remove and dispose of a septic tank and to backfill the excavated area with fill. This rate is to include all costs should an outside Contractor be required. The quoted rate will include the removal of the debris generated from demolishing the tank. The City estimates that this service will be required on ten (10) structures annually.

Item **12471-813--01-13 - Pump-Out, Disposal Rates: Grease Traps**

Quantity **10 each**

Unit Price

Delivery Location **City of Fort Lauderdale**
No Location Specified

Qty 10

Description
Pump Out, Disposal of Grease Traps: Provide a flat rate per structure to pump-out, remove and dispose of a grease trap and to backfill the excavated area with fill. This rate is to include all costs should an outside Contractor be required. The quoted rate will include the removal of the debris generated from demolishing the trap. The City estimates that this service will be required on ten (10) structures annually.

Item **12471-813--01-14 - Capping Sewer Lines**

Quantity **40 each**

Unit Price

Delivery Location **City of Fort Lauderdale**
No Location Specified

Qty 40

Description
Capping Sewer Lines: Provide a flat rate per structure to cap sewer lines from the structure to the main sewer system. This rate is to include all costs should an outside Contractor be required. The quoted rate will include the removal of the debris generated from capping the sewer lines. The City estimates that this service will be required for forty (40) structures annually.

Item **12471-813--01-15 - Rat Free Certification**

Quantity **50 each**

Unit Price

Delivery Location **City of Fort Lauderdale**
No Location Specified

Qty 50

Description
Rat Free Certification: Provide a flat rate per structure to provide a certification letter from an extermination or pest control company that the premises being serviced are free of rodents. It is estimated that this service will be required for fifty (50) structures annually.

Item **12471-813--01-16 - Removal of Miscellaneous Structures**

Quantity **20 each**

Unit Price

Delivery Location **City of Fort Lauderdale**
No Location Specified

Qty 20

Description
Removal of Miscellaneous Structures: Provide a flat rate for the removal and disposal of small, accessory type structures, such as carports, sheds, etc., that may be found on the site. The quoted rate will include the removal of the debris generated from demolishing the structure. The City estimates that this service will be required for twenty (20) structures annually.

Item **12471-813--01-17 - Asphalt Slabs**

Quantity **10000 square foot**

Unit Price

Delivery Location **City of Fort Lauderdale**
No Location Specified

Qty 10000

Description
Asphalt Slabs: Provide a rate per square foot for the removal and disposal of any asphalt pavement. The quoted rate will include the removal of the debris generated from demolishing all driveways, walkways, paths and or parking lots. The City estimates that this service will be required for twenty (20) structures annually or approximately 10,000 square feet annually.

Item **12471-813--01-18 - Concrete Slabs and Brick Pavers**

Quantity **10000 square foot**

Unit Price

Delivery Location **City of Fort Lauderdale**
No Location Specified

Qty 10000

Description
Concrete Slabs and Brick Pavers: Provide a rate per square foot for the removal and disposal of any concrete slab or pavers on grade; examples of such are, concrete driveways, walkways, stoops, patios, and any other stand-alone slabs. The quoted rate will include the removal of the debris generated from demolishing these slabs. The City estimates that this service will be required for twenty (20) structures annually or approximately 10,000 square feet annually.

Item **12471-813--01-19 - Removal of Paved Surfaces Sub-Grade Base Material**

Quantity **2500 cubic yard**

Unit Price

Delivery Location **City of Fort Lauderdale**
No Location Specified

Qty 2500

Description
Removal of Paved Surfaces Sub-Grade Base Material: Provide a rate per cubic yard for the removal and disposal of paved sub-grade base material to a level of 1' below all paved surfaces. The City estimates that this service will be required for 2,500 cubic yards annually.

Item **12471-813--01-20 - Removal of Fencing**

Quantity **1000 linear foot**

Unit Price

Delivery Location **City of Fort Lauderdale**
No Location Specified

Qty 1000

Description
Removal of Fencing: Provide a rate per linear foot for the removal and disposal of fencing. Fencing shall include all materials associated with the following types; wood, aluminum, vinyl and PVC from 4 feet to 8 feet in height. The City estimates that this service will be required for one thousand (1,000) linear feet annually.

Item **12471-813--01-21 - HVAC Refrigerant Recovery**

Quantity **20 pound**

Unit Price

Delivery Location **City of Fort Lauderdale**
No Location Specified

Qty 20

Description
HVAC Refrigerant Recovery: Provide a flat rate per pound per ton (assuming 1 pound per ton) to recover, remove or recycle all refrigerants and provide all documentation required by any permitting agencies. This rate is to include all costs should an outside Contractor be required. The City estimates that that this service will be required for twenty (20) units annually.

Item **12471-813--01-22 - Concrete Walls**

Quantity **2000 square foot**

Unit Price

Delivery Location **City of Fort Lauderdale**
No Location Specified

Qty 2000

Description
Concrete Walls: Provide a rate to furnish all material, labor, and equipment to demolish and dispose of designated concrete walls including footer if applicable. This rate is to include all costs for use of WET demolition. It is estimated that this service shall be required for 2,000 square feet annually.

Item **12471-813--01-23 - Removal and Disposal of Hazardous Waste**

Quantity **50 cubic yard**

Unit Price

Delivery Location **City of Fort Lauderdale**
No Location Specified

Qty 50

Description
Removal and Disposal of Hazardous Waste: Provide a rate per cubic yard to remove and properly dispose of all hazardous waste found on the job site. It is estimated that fifty (50) cubic yards shall be processed annually.

Item **12471-813--01-24 - Docks**

Quantity **100 square foot**

Unit Price

Delivery Location **City of Fort Lauderdale**
No Location Specified

Qty 100

Description
Docks: Provide a rate to furnish all material, labor, and equipment to demolish and dispose of designated wood docks. It is estimated that this service shall be required for 100 square feet annually.

Item **12471-813--01-25 - Dock Pilings**

Quantity **8 each**

Unit Price

Delivery Location **City of Fort Lauderdale**
No Location Specified

Qty 8

Description
Dock Pilings: Provide a rate to furnish all material, labor, and equipment to demolish and dispose of designated dock pilings. It is estimated that this service shall be required for 8 pilings annually.

Item **12471-813--01-26 - Swimming Pools / Spas**

Quantity **2500 square foot**

Unit Price

Delivery Location **City of Fort Lauderdale**
No Location Specified

Qty 2500

Description
Swimming Pools / Spas: Provide a rate to furnish all material, labor, and equipment to demolish and dispose of designated swimming pool / spa structures. It is estimated that this service shall be required for 2,500 square feet annually (or an average of 3 pools).

Item **12471-813--01-27 - Clean Fill**

Quantity **70 cubic yard**

Unit Price

Delivery Location **City of Fort Lauderdale**
No Location Specified

Qty 70

Description
Clean Fill: Provide a rate to furnish all material, labor, and equipment to provide clean fill where necessary to backfill the swimming pool / spa to the existing grade. It is estimated that this service shall be required for 70 cubic yards annually (or an average of 3 pools).

Item **12471-813--01-28 - Removal of Asbestos Related to Floor Tiles as Asbestos Containing Material (ACM)**

Quantity **400 square foot**

Unit Price

Delivery Location **City of Fort Lauderdale**

No Location Specified

Qty 400

Description
Removal of Asbestos Related to Floor Tiles as Asbestos Containing Material (ACM): Proposer will provide per square foot rate for certified and trained personnel and asbestos workers, furnish all required or necessary equipment and supplies, and provide insurance and transportation for all workers and material as an all-inclusive rate. For tabulation purposes, an estimate of 400 square feet will be used.

Item **12471-813--01-29 - Removal of Floor Tile and Mastic as ACM**

Quantity **400 square foot**

Unit Price

Delivery Location **City of Fort Lauderdale**

No Location Specified

Qty 400

Description
Removal of Floor Tile and Mastic as Asbestos Containing Material (ACM): Proposer will provide a per square foot rate for certified and trained personnel and asbestos workers, furnish all required or necessary equipment and supplies, and provide insurance and transportation for all workers and material as an all-inclusive rate. For tabulation purposes, an estimate of 400 square feet will be used.

Item **12471-813--01-30 - Removal of Vinyl as ACM**

Quantity **400 square foot**

Unit Price

Delivery Location **City of Fort Lauderdale**

No Location Specified

Qty 400

Description
Removal of Vinyl as Asbestos Containing Material (ACM): Proposer will provide a per square foot rate for certified and trained personnel and asbestos workers, furnish all required or necessary equipment and supplies, and provide insurance and transportation for all workers and material as an all-inclusive rate. For tabulation purposes, an estimate of 400 square feet will be used.

Item **12471-813--01-31 - Removal of Carpet as ACM**

Quantity **400 square foot**

Unit Price

Delivery Location **City of Fort Lauderdale**

No Location Specified

Qty 400

Description
Removal of Carpet as as Asbestos Containing Material (ACM): Proposer will provide a per square foot rate for certified and trained personnel and asbestos workers, furnish all required or necessary equipment and supplies, and provide insurance and transportation for all workers and material as an all-inclusive rate. For tabulation purposes, an estimate of 400 square feet will be used.

Item **12471-813--01-32 - Removal of Roofing Material as ACM**

Quantity **400 square foot**

Unit Price

Delivery Location **City of Fort Lauderdale**

No Location Specified

Qty 400

Description
Removal of Roofing Material as Asbestos Containing Material (ACM): Proposer will provide a per square foot rate for certified and trained personnel and asbestos workers, furnish all required or necessary equipment and supplies, and provide insurance and transportation for all workers and material as an all-inclusive rate. For tabulation purposes, an estimate of 400 square feet will be used.

Item **12471-813--01-33 - Removal of Surfacing Material as ACM**

Quantity **400 square foot**

Unit Price

Delivery Location **City of Fort Lauderdale**

No Location Specified

Qty 400

Description
Removal of Surfacing Material as Asbestos Containing Material (ACM): Proposer will provide a per square foot rate for certified and trained personnel and asbestos workers, furnish all required or necessary equipment and supplies, and provide insurance and transportation for all workers and material as an all-inclusive rate. Materials applied by spray or trowels are classified as surfacing materials. Examples would be fireproofing, textured ceilings or acoustic plaster ceilings. For tabulation purposes, an estimate of 400 square feet will be used.

Item **12471-813--01-34 - Removal of Ceiling Tile as ACM**

Quantity **400 square foot**

Unit Price

Delivery Location **City of Fort Lauderdale**

No Location Specified

Qty 400

Description
Removal of Ceiling Tile as Asbestos Containing Material (ACM): Proposer will provide a per square foot rate for certified and trained personnel and asbestos workers, furnish all required or necessary equipment and supplies, and provide insurance and transportation for all workers and material as an all-inclusive rate. For tabulation purposes, an estimate of 400 square feet will be used.

Item **12471-813--01-35 - Cementitious Composite as ACM**

Quantity **400 square foot**

Unit Price

Delivery Location **City of Fort Lauderdale**

No Location Specified

Qty 400

Description
Cementitious Composite as Asbestos Containing Material (ACM): Proposer will provide a per square foot rate for certified and trained personnel and asbestos workers, furnish all required or necessary equipment and supplies, and provide insurance and transportation for all workers and material as an all-inclusive rate. Examples include roof drain piping; water piping, sanitary sewer piping, HVAC ducts and transit panels. For tabulation purposes, an estimate of 400 square feet will be used.

Item **12471-813--01-36 - Thermal System Insulation Material (TSI) as ACM**

Quantity **400 square foot**

Unit Price

Delivery Location **City of Fort Lauderdale**
No Location Specified

Qty 400

Description
Thermal System Insulation Material (TSI) as Asbestos Containing Material (ACM) Proposer will provide a per square foot rate for certified and trained personnel and asbestos workers, furnish all required or necessary equipment and supplies, and provide insurance and transportation for all workers and material as an all-inclusive rate. Examples of such would be, insulation materials that contain asbestos that are generally found in boiler rooms and chillers rooms and in pipe chases in walls. This includes ACM adhesives. For tabulation purposes, an estimate of 400 square feet will be used.

Item **12471-813--01-37 - Additional Fees for Asbestos Surveys and Asbestos Filing Fees**

Quantity **1 lump sum**

Unit Price

Delivery Location **City of Fort Lauderdale**
No Location Specified

Qty 1

Expected Expenditure $25,000.00

Description
Proposer will add $25,000 to bid for additional fees related to asbestos surveys and filing fees.

City of Fort Lauderdale
Demolition Services
ITB # 12471-813

SECTION I – INTRODUCTION AND INFORMATION

1.1 Purpose

The City of Fort Lauderdale, Florida (City) is seeking bids from qualified, experienced and licensed firm(s), hereinafter referred to as the Contractor or Bidder, to provide the complete demolition of buildings and sites for the City, in accordance with the terms, conditions, and specifications contained in this Invitation to Bid (ITB).

1.2 BidSync

The City of Fort Lauderdale uses BidSync (www.bidsync.com) to administer the competitive solicitation process, including but not limited to soliciting proposals, issuing addenda, posting results and issuing notification of an intended decision. There is no charge to register and download the ITB from BidSync. Proposers are strongly encouraged to read the various vendor Guides and Tutorials available in BidSync well in advance of their intention of submitting a proposal to ensure familiarity with the use of BidSync. The City shall not be responsible for a Proposers inability to submit a Proposal by the end date and time for any reason, including issues arising from the use of BidSync.

It is the sole responsibility of the Bidder to ensure that their bid is submitted electronically through BidSync at www.bidsync.com no later than the time and date specified in this solicitation. PAPER BID SUBMITTALS WILL NOT BE ACCEPTED. BIDS MUST BE SUBMITTED ELECTRONICALLY VIA WWW.BIDSYNC.COM.

1.3 Electronic Bid Openings

Please be advised that effective immediately, and until further notice, all Invitation to Bids, Request For Proposals, Request For Qualifications, and other solicitations led by the City of Fort Lauderdale will be opened electronically via BIDSYNC.COM at the date and time indicated on the solicitation. All openings will be held on the BIDSYNC.COM platform.

Anyone requesting assistance or having further inquiry in this matter must contact the Procurement Specialist indicated on the solicitation, via the question and Answer forum on Bidsync.com before the Last Day for Questions indicated in the Solicitation.

1.4 Point of Contact

For information concerning procedures for responding to this solicitation, contact Senior Procurement Specialist, Laurie Platkin, CPPB at (954) 828-5138 or email at lplatkin@fortlauderdale.gov. Such contact shall be for clarification purposes only.

For information concerning technical specifications, please utilize the question / answer feature provided by BidSync at www.bidsync.com. Questions of a material nature must be received prior to the cut-off date specified in the ITB schedule. Material changes, if any, to the scope of services or bidding procedures will only be transmitted by written addendum. (See addendum section of BidSync Site). Bidders please note: No part of your bid can be submitted via FAX. No variation in price or conditions shall be permitted based upon a claim of ignorance. Submission of a bid will be considered evidence that the Bidder has familiarized themselves with the nature and extent of the work, and the equipment, materials, and labor required. The entire bid response must be submitted in accordance with all specifications contained in this solicitation. The questions and answers submitted in BidSync shall become part of any contract that is created from this ITB.

1.5 Pre-bid Conference and/or Site Visit

There will not be a pre-bid conference or site visit for this ITB.

It will be the sole responsibility of the Bidder to become familiar with the scope of the City's requirements and systems prior to submitting a bid. No variation in price or conditions shall be permitted based upon a claim of ignorance. Submission of a bid will be considered evidence that the Bidder has familiarized themselves with the nature and extent of the work, equipment, materials, and labor required.

END OF SECTION

SECTION II - SPECIAL TERMS AND CONDITIONS

2.1 General Conditions

ITB General Conditions (Form G-107, Rev. 09/20) are included and made a part of this ITB.

2.2 Addenda, Changes, and Interpretations

It is the sole responsibility of each firm to notify the Procurement Specialist utilizing the question / answer feature provided by BidSync and request modification or clarification of any ambiguity, conflict, discrepancy, omission or other error discovered in this competitive solicitation. Requests for clarification, modification, interpretation, or changes must be received prior to the Question and Answer (Q & A) Deadline. Requests received after this date may not be addressed. Questions and requests for information that would not materially affect the scope of services to be performed or the solicitation process will be answered within the question / answer feature provided by BidSync and shall be for clarification purposes only. Material changes, if any, to the scope of services or the solicitation process will only be transmitted by official written addendum issued by the City and uploaded to BidSync as a separate addendum to the ITB. Under no circumstances shall an oral explanation given by any City official, officer, staff, or agent be binding upon the City and should be disregarded. All addenda are a part of the competitive solicitation documents and each firm will be bound by such addenda. It is the responsibility of each to read and comprehend all addenda issued.

2.3 Changes and Alterations

Bidder may change or withdraw a Bid at any time prior to Bid submission deadline; however, no oral modifications will be allowed. Modifications shall not be allowed following the Bid deadline.

2.4 Bidder's Costs

The City shall not be liable for any costs incurred by Bidders in responding to this ITB.

2.5 Pricing/Delivery

All pricing should be identified on the Cost page provided in this ITB. No additional costs may be accepted, other than the costs stated on the Cost page. Failure to use the City's Cost page and provide costs as requested in this ITB may deem your bid non-responsive.

Bidder shall quote a firm, fixed price for all services stated in the ITB. All costs including travel shall be included in your cost. The City shall not accept any additional costs including any travel associated with coming to the City of Fort Lauderdale.

2.6 Price Validity

Prices provided in this Invitation to bid (ITB) shall be valid for at least One-Hundred and Twenty (120) days from time of ITB opening unless otherwise extended and agreed upon by the City and Bidder. The City shall award contract within this time period or shall request to the recommended awarded vendor an extension to hold pricing, until products/services have been awarded.

2.7 Invoices/Payment

The City will accept invoices no more frequently than once per month. Each invoice shall fully detail the related costs and shall specify the status of the particular task or project as of the date of the invoice with regard to the accepted schedule for that task or project. Payment will be made within forty-five (45) days after receipt of an invoice acceptable to the City, in accordance with the Florida Local Government Prompt Payment Act. If, at any time during the contract, the City shall not approve or accept the Contractor's work product, and agreement cannot be reached between the City and the Contractor to resolve the problem to the City's satisfaction, the City shall negotiate with the Contractor on a payment for the work completed and usable to the City.

2.8 Related Expenses/Travel Expenses

All costs including travel are to be included in your bid. The City will not accept any additional costs.

2.9 Payment Method

The City of Fort Lauderdale has implemented a Procurement Card (P-Card) program which changes how payments are remitted to its vendors. The City has transitioned from traditional paper checks to payment by credit card via MasterCard or Visa. This allows you as a vendor of the City of Fort Lauderdale to receive your payment fast and safely. No more waiting for checks to be printed and mailed. Payments will be made utilizing the City's P-Card (MasterCard or Visa). Accordingly, firms must presently have the ability to accept credit card payment or take whatever steps necessary to implement acceptance of a credit card before the commencement of a contract. See Contract Payment Method form attached.

2.10 Mistakes

The Bidder shall examine this ITB carefully. The submission of a bid shall be prima facie evidence that the Bidder has full knowledge of the scope, nature, and quality of the work to be performed; the detailed requirements of the specifications; and the conditions under which the work is to be performed. Ignorance of the requirements will not relieve the Bidder from liability and obligations under the Contract.

2.11 Acceptance of Bids / Minor Irregularities

2.11.1 The City reserves the right to accept or reject any or all bids, part of bids, and to waive minor irregularities or variances to specifications contained in bids which do not make the bid conditional in nature and minor irregularities in the solicitation process. A minor irregularity shall be a variation from the solicitation that does not affect the price of the contract or does not give a bidder an advantage or benefit not enjoyed by other bidders, does not adversely impact the interests of other firms or, does not affect the fundamental fairness of the solicitation process. The City also reserves the right to reissue an ITB.

2.11.2 The City reserves the right to disqualify Bidder during any phase of the competitive solicitation process and terminate for cause any resulting contract upon evidence of collusion with intent to defraud or other illegal practices on the part of the Bidder.

2.12 Modification of Services

2.12.1 While this contract is for services provided to the department referenced in this ITB, the City may require similar work for other City departments. Successful Bidder agrees to take on such work unless such work would not be considered reasonable or become an undue burden to the Successful Bidder.

2.12.2 The City reserves the right to delete any portion of the work at any time without cause, and if such right is exercised by the City, the total fee shall be reduced in the same ratio as the estimated cost of the work deleted bears to the estimated cost of the work originally planned. If work has already been accomplished and approved by the City on any portion of a contract resulting from this ITB, the Successful Bidder shall be paid for the work completed on the basis of the estimated percentage of completion of such portion to the total project cost.

2.12.3 The City may require additional items or services of a similar nature, but not specifically listed in the contract. The Successful Bidder agrees to provide such items or services and shall provide the City prices on such additional items or services. If the price(s) offered are not acceptable to the City, and the situation cannot be resolved to the

satisfaction of the City, the City reserves the right to procure those items or services from other vendors, or to cancel the contract upon giving the Successful Bidder thirty (30) days written notice.

2.12.4 If the Successful Bidder and the City agree on modifications or revisions to the task elements, after the City has approved work to begin on a particular task or project, and a budget has been established for that task or project, the Successful Bidder will submit a revised budget to the City for approval prior to proceeding with the work.

2.13 No Exclusive Contract

Bidder agrees and understands that the contract shall not be construed as an exclusive arrangement and further agrees that the City may, at any time, secure similar or identical services from another vendor at the City's sole option.

2.14 Sample Contract Agreement

A sample of the formal agreement template, which may be required to be executed by the awarded vendor can be found at our website:
https://www.fortlauderdale.gov/home/showdocument?id=1212

2.15 Responsiveness

In order to be considered responsive to the solicitation, the firm's bid shall fully conform in all material respects to the solicitation and all of its requirements, including all form and substance.

2.16 Responsibility

In order to be considered as a responsible firm, firm shall be fully capable to meet all of the requirements of the solicitation and subsequent contract, must possess the full capability, including financial and technical, to perform as contractually required, and must be able to fully document the ability to provide good faith performance.

2.17 Minimum Qualifications

To be eligible for award of a contract in response to this solicitation, the Bidder must demonstrate that they have successfully completed services, as specified in the Technical Specifications / Scope of Services section of this solicitation, are normally and routinely engaged in performing such services, and are properly and legally licensed to perform such work. In addition, the Bidder must have no conflict of interest with regard to any other work performed by the Bidder for the City of Fort Lauderdale.

To be eligible for award of a contract in response to this solicitation, the Bidder must possess at time of bid submittal a State of Florida Certified General Contractor license or equivalent Broward County Contractor license, certificate of competency, or other license that meets or exceeds those specified herein.

2.17.1 Firm or principals shall have no record of judgments, pending lawsuits against the City or criminal activities involving moral turpitude and not have any conflicts of interest that have not been waived by the City Commission.

2.17.2 Neither firm nor any principal, officer, or stockholder shall be in arrears or in default of any debt or contract involving the City, (as a party to a contract, or otherwise); nor have failed to perform faithfully on any previous contract with the City.

2.18 Lobbying Activities

ALL CONTRACTORS PLEASE NOTE: Any contractor submitting a response to this solicitation must comply, if applicable, with City of Fort Lauderdale Ordinance No. C-11-42 & Resolution No. 07-101, Lobbying Activities. Copies of Ordinance No. C-11-42 and Resolution No. 07-101 may be obtained from the City Clerk's Office on the 7th Floor of City Hall, 100 N. Andrews Avenue, Fort Lauderdale, Florida. The ordinance may also be viewed on the City's website at http://www.fortlauderdale.gov/home/showdocument?id=6036.

2.19 Local Business Preference

2.19.1 Section 2-186, Code of Ordinances of the City of Fort Lauderdale, provides for a local business preference. In order to be considered for a local business preference, a proposer must include the Local Business Preference Certification Statement of this ITB, as applicable to the local business preference class claimed at the time of Bid submittal:

2.19.2 Upon formal request of the City, based on the application of a Local Business Preference the Proposer shall within ten (10) calendar days submit the following documentation to the Local Business Preference Class claimed:

a. Copy of City of Fort Lauderdale current year business tax receipt, or Broward County current year business tax receipt, and

b. List of the names of all employees of the proposer and evidence of employees' residence within the geographic bounds of the City of Fort Lauderdale or Broward County, as the case may be, such as current Florida driver license, residential utility bill (water, electric, telephone, cable television), or other type of similar documentation acceptable to the City.

2.19.3 Failure to comply at time of Proposal submittal shall result in the Proposer being found ineligible for the local business preference.

2.19.4 The complete local business preference ordinance may be found on the City's web site at the following link:
https://library.municode.com/fl/fort_lauderdale/codes/code_of_ordinances?nodeId=COOR_CH2AD_ARTVFI_DIV2PR_S2-186LOBUPRPR

2.19.5 Definitions

a. The term "Class A business" shall mean any business that has established and agrees to maintain a permanent place of business located in a non-residential zone, staffed with full-time employees within the limits of the city, and shall maintain a staffing level for the proposed work of at least fifty percent (50%) who are residents of the City of Fort Lauderdale.

b. The term "Class B business" shall mean any business that has established and agrees to maintain a permanent place of business located in a non-residential zone, staffed with full-time employees within the limits of the city, or shall maintain a staffing level for the proposed work of at least fifty percent (50%) who are residents of the City of Fort Lauderdale.

c. The term "Class C business" shall mean any business that has established and agrees to maintain a permanent place of business located in a non-residential zone, staffed with full-time employees within the limits of Broward County.

d. The term "Class D business" shall mean any business that does not qualify as a Class A, Class B, or Class C business.

2.20 Protest Procedure

2.20.1 Any Bidder who is not recommended for award of a contract and who alleges a failure by the city to follow the city's procurement ordinance or any applicable law, may follow the protest procedure as found in the city's procurement ordinance within five (5) days after a notice of intent to award is posted on the city's web site at the following link: http://www.fortlauderdale.gov/departments/finance/procurement-services/notices-of-intent-to-award.

2.20.2 The complete protest ordinance may be found on the city's web site at the following link: https://library.municode.com/fl/fort_lauderdale/codes/code_of_ordinances?nodeId=COOR_CH2AD_ARTVFI_DIV2PR_S2-182DIREPR

2.21 Public Entity Crimes

Bidder, by submitting a bid, certifies that neither the Bidder nor any of the Bidder's principals has been placed on the convicted vendor list as defined in Section 287.133, Florida Statutes (2018), as may be amended or revised. A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity in excess of the threshold amount provided in s. 287.017 for CATEGORY TWO for a period of 36 months following the date of being placed on the convicted vendor list.

2.22 Sub-Contractors

2.22.1 If the Contractor proposes to use sub-contractors in the course of providing these services to the City, this information shall be a part of the bid response. Such information shall be subject to review, acceptance and approval of the City, prior to any contract award. The City reserves the right to approve or disapprove of any sub-contractor candidate in its best interest and to require Contractor to replace sub-contractor with one that meets City approval.

2.22.2 Contractor shall ensure that all of Contractor's sub-contractors perform in accordance with the terms and conditions of this Contract. Contractor shall be fully responsible for all of Contractor's sub-contractors' performance, and liable for any of Contractor's sub-contractor's non-performance and all of Contractor's sub-contractors' acts and omissions. Contractor shall defend, at Contractor's expense, counsel being subject to the City's approval or disapproval, and indemnify and hold harmless the City and the City's officers, employees, and agents from and against any claim, lawsuit, third-party action, or judgment, including any award of attorney fees and any award of costs, by or in favor of any Contractor's sub-contractors for payment for work performed for the City.

2.22.3 Contractor shall require all of its sub-contractors to provide the required insurance coverage as well as any other coverage that the Contractor may consider necessary, and any deficiency in the coverage or policy limits of said sub-contractors will be the sole responsibility of the Contractor.

2.23 Bid Security – N/A
2.24 Payment and Performance Bond – N/A

2.25 Insurance Requirements

2.25.1 As a condition precedent to the effectiveness of this Agreement, during the term of this Agreement and during any renewal or extension term of this Agreement, the Contractor, at the Contractor's sole expense, shall provide insurance of such types and with such terms and limits as noted below. Providing proof of and maintaining adequate insurance coverage are material obligations of the Contractor. The Contractor shall provide the City a certificate of insurance evidencing such coverage. The Contractor's insurance coverage shall be primary insurance for all applicable policies. The limits of coverage under each policy maintained by the Contractor shall not be interpreted as limiting the Contractor's liability and obligations under this Agreement. All insurance policies shall be from insurers authorized to write insurance policies in the State of Florida and that possess an A.M. Best rating of "A-" VII or better. All insurance policies are subject to approval by the City's Risk Manager.

2.25.2 The coverages, limits, and endorsements required herein protect the interests of the City, and these coverages, limits, and endorsements may not be relied upon by the Contractor for assessing the extent or determining appropriate types and limits of coverage to protect the Contractor against any loss exposure, whether as a result of this Agreement or otherwise. The requirements contained herein, as well as the City's review or acknowledgement, are not intended to and shall not in any manner limit or qualify the liabilities and obligations assumed by the Contractor under this Agreement.

2.25.3 The following insurance policies and coverages are required:

Commercial General Liability
Coverage must be afforded under a Commercial General Liability policy with limits not less than:

- $1,000,000 each occurrence and $2,000,000 aggregate for Bodily Injury, Property Damage, and Personal and Advertising Injury
- $1,000,000 each occurrence and $2,000,000 aggregate for Products and Completed Operations

Policy must include coverage for contractual liability and independent contractors.

The City, a Florida municipal corporation, its officials, employees, and volunteers are to be covered as an additional insured with a CG 20 26 04 13 Additional Insured – Designated Person or Organization Endorsement or similar endorsement providing equal or broader Additional Insured Coverage with respect to liability arising out of activities performed by or on behalf of the Contractor. The coverage shall contain no special limitation on the scope of protection afforded to the City, its officials, employees, and volunteers.

Business Automobile Liability
Coverage must be afforded for all Owned, Hired, Scheduled, and Non-Owned vehicles for Bodily Injury and Property Damage in an amount not less than $1,000,000 combined single limit each accident.

If the Contractor does not own vehicles, the Contractor shall maintain coverage for Hired and Non-Owned Auto Liability, which may be satisfied by way of endorsement to the Commercial General Liability policy or separate Business Auto Liability policy.

Pollution and Remediation Legal Liability (Hazardous Materials)
For the purpose of this section, the term "hazardous materials" includes all materials and substances that are designated or defined as hazardous by Florida or federal law or by the rules or regulations of Florida or any federal agency. If work being performed involves hazardous materials, the Contractor shall procure and maintain any or all of the following coverage, which will be specifically addressed upon review of exposure.

Contractors Pollution Liability Coverage
For sudden and gradual occurrences and in an amount not less than $1,000,000 per claim arising out of this Agreement, including but not limited to, all hazardous materials identified under the Agreement.

Asbestos Liability Coverage
For sudden and gradual occurrences and in an amount not less than $1,000,000 per claim arising out of work performed under this Agreement.

Disposal Coverage
The Contractor shall designate the disposal site and furnish a Certificate of Insurance from the disposal facility for Environmental Impairment Liability Insurance, covering liability for sudden and accidental occurrences in an amount not less than $1,000,000 per claim and shall include liability for non-sudden occurrences in an amount not less than $1,000,000 per claim.

Hazardous Waste Transportation Coverage
The Contractor shall designate the hauler and furnish a Certificate of Insurance from the hauler for Automobile Liability insurance with Endorsement MCS90 for liability arising out of the transportation of hazardous materials in an amount not less than $1,000,000 per claim limit and provide a valid EPA identification number.

Workers' Compensation and Employer's Liability
Coverage must be afforded per Chapter 440, Florida Statutes. Any person or entity performing work for or on behalf of the City must provide Workers' Compensation insurance. Exceptions and exemptions will be allowed by the City's Risk Manager, if they are in accordance with Florida Statute.

The Contractor waives, and the Contractor shall ensure that the Contractor's insurance carrier waives, all subrogation rights against the City, its officials, employees, and volunteers for all losses or damages. The City requires the

policy to be endorsed with WC 00 03 13 Waiver of our Right to Recover from Others or equivalent.

The Contractor must be in compliance with all applicable State and federal workers' compensation laws, including the U.S. Longshore Harbor Workers' Act and the Jones Act, if applicable.

2.25.4 Insurance Certificate Requirements

- **a.** The Contractor shall provide the City with valid Certificates of Insurance (binders are unacceptable) no later than thirty (30) days prior to the start of work contemplated in this Agreement.
- **b.** The Contractor shall provide to the City a Certificate of Insurance having a thirty (30) day notice of cancellation; ten (10) days' notice if cancellation is for nonpayment of premium.
- **c.** In the event that the insurer is unable to accommodate the cancellation notice requirement, it shall be the responsibility of the Contractor to provide the proper notice. Such notification will be in writing by registered mail, return receipt requested, and addressed to the certificate holder.
- **d.** In the event the Agreement term goes beyond the expiration date of the insurance policy, the Contractor shall provide the City with an updated Certificate of Insurance no later than ten (10) days prior to the expiration of the insurance currently in effect. The City reserves the right to suspend the Agreement until this requirement is met.
- **e.** The Certificate of Insurance shall indicate whether coverage is provided under a claims-made or occurrence form. If any coverage is provided on a claims-made form, the Certificate of Insurance must show a retroactive date, which shall be the effective date of the initial contract or prior.
- **f.** The City shall be named as an Additional Insured on the general liability policy.
- **g.** The City shall be granted a Waiver of Subrogation on the Contractor's Workers' Compensation insurance policy.
- **h.** The title of the Agreement, Bid/Contract number, event dates, or other identifying reference must be listed on the Certificate of Insurance.

The Certificate Holder should read as follows:
City of Fort Lauderdale
Procurement Services Division
100 N. Andrews Avenue
Fort Lauderdale, FL 33301

2.25.5 The Contractor has the sole responsibility for the payment of all insurance premiums and shall be fully and solely responsible for any costs or expenses as a result of a coverage deductible, co-insurance penalty, or self-insured retention; including any loss not covered because of the operation of such deductible, co-insurance penalty, self-insured retention, or coverage exclusion or limitation. Any costs for adding the City as an Additional Insured shall be at the Contractor's expense.

2.25.6 If the Contractor's primary insurance policy/policies do not meet the minimum requirements, as set forth in this Agreement, the Contractor may provide evidence of an Umbrella/Excess insurance policy to comply with this requirement.

2.25.7 The Contractor's insurance coverage shall be primary insurance as applied to the City and the City's officers, employees, and volunteers. Any insurance or self-insurance maintained by the City covering the City, the City's officers, employees, or volunteers shall be non-contributory.

2.25.8 Any exclusion or provision in the insurance maintained by the Contractor that excludes coverage for work contemplated in this Agreement shall be unacceptable and shall be considered breach of contract.

2.25.9 All required insurance policies must be maintained until the contract work has been accepted by the City, or until this Agreement is terminated, whichever is later. Any lapse in coverage shall be considered breach of contract. In addition, Contractor must provide to the City confirmation of coverage renewal via an updated certificate should any policies expire prior to the expiration of this Agreement. The City reserves the right to review, at any time, coverage forms and limits of Contractor's insurance policies.

2.25.10 The Contractor shall provide notice of any and all claims, accidents, and any other occurrences associated with this Agreement shall be provided to the Contractor's insurance company or companies and the City's Risk Management office as soon as practical.

2.25.11 It is the Contractor's responsibility to ensure that any and all of the Contractor's independent contractors and subcontractors comply with these insurance requirements. All coverages for independent contractors and subcontractors shall be subject to all of the applicable requirements stated herein. Any and all deficiencies are the responsibility of the Contractor.

2.26 Insurance – Sub-Contractors

Contractor shall require all of its Sub-Contractors to provide the aforementioned coverage as well as any other coverage that the Contractor may consider necessary, and any deficiency in the coverage or policy limits of said Sub-Contractors will be the sole responsibility of the Contractor.

2.27 Insurance for Collection of Credit Card Payments – N/A

2.28 Award of Contract

Award may be in the aggregate, or by line Item, or by group, whichever is determined to be in the best interest of the City. Award will be made to the responsive and responsible bidder, quoting the lowest price, for that product/service that will best serve the needs of the City of Fort Lauderdale.

The City also reserves the right to accept or reject any or all bids, part of bids, and to waive minor irregularities or variations to specifications contained in bids, and minor irregularities in the bidding process. The City also reserves the right to award the contract on a split order basis, lump sum basis, individual item basis, or such combination as shall best serve the interest of the City.

A Contract (the "Agreement") may be awarded by the City Commission. The City reserves the right to execute or not execute, as applicable, a contract with the Bidder(s) that is determined to be in the City's best interests. The City reserves the right to award a contract to more than one Bidder, at the sole and absolute discretion of the in the City.

2.29 Damage to Public or Private Property

Extreme care shall be taken to safeguard all existing facilities, site amenities, irrigation systems, vehicles, etc. on or around the job site. Damage to public and/or private property shall be the responsibility of the Contractor and shall be repaired and/or replaced at no additional cost to the City.

2.30 Safety

The Contractor(s) shall adhere to the Florida Department of Transportation's Uniform manual on Traffic Control for construction and maintenance work zones when working on or near a roadway. It will be the sole responsibility of the Contractor to make themselves and their employees fully aware of these provisions, especially those applicable to safety.

2.31 Uncontrollable Circumstances ("Force Majeure")

The City and Contractor will be excused from the performance of their respective obligations under this agreement when and to the extent that their performance is delayed or prevented by any circumstances beyond their control including, fire, flood, explosion, strikes or other labor disputes, act of God or public emergency, war, riot, civil commotion, malicious damage, act or omission of any governmental authority, delay or failure or shortage of any type of transportation, equipment, or service from a public utility needed for their performance, provided that:

2.31.1 The non-performing party gives the other party prompt written notice describing the particulars of the Force Majeure including, but not limited to, the nature of the occurrence and its expected duration, and continues to furnish timely reports with respect thereto during the period of the Force Majeure;

2.31.2 The excuse of performance is of no greater scope and of no longer duration than is required by the Force Majeure;

2.31.3 No obligations of either party that arose before the Force Majeure causing the excuse of performance are excused as a result of the Force Majeure; and

2.31.4 The non-performing party uses its best efforts to remedy its inability to perform. Notwithstanding the above, performance shall not be excused under this Section for a period in excess of two (2) months, provided that in extenuating circumstances, the City may excuse performance for a longer term. Economic hardship of the Contractor will not constitute Force Majeure. The term of the agreement shall be extended by a period equal to that during which either party's performance is suspended under this Section.

2.32 Canadian Companies

In the event Contractor is a corporation organized under the laws of any province of Canada or is a Canadian federal corporation, the City may enforce in the United States of America or in Canada or in both countries a judgment entered against the Contractor. The Contractor waives any and all defenses to the City's enforcement in Canada, of a judgment entered by a court in the United States of America. All monetary amounts set forth in this Contract are in United States dollars.

2.33 News Releases/Publicity

News releases, publicity releases, or advertisements relating to this contract or the tasks or projects associated with the project shall not be made without prior City approval.

2.34 Approved Equal or Alternative Product Bids

The Technical Specifications contained in this solicitation are to be used as a reference only and are not to be considered of a proprietary nature. These specifications represent a level of quality and features that are desired by the City of Fort Lauderdale. The City is receptive to any product that would be considered by qualified City personnel as an approved equal.

The Contractor must state clearly in their bid pages any variance to the specifications. If proposing an approved equal or alternate product, it will be the Contractor's responsibility to provide adequate information in their proposal to enable the City to ensure that the Contractor meets the required criteria. If adequate information is not submitted with the bid, it may be rejected.

The City of Fort Lauderdale will be the sole judge in determining if the product proposed qualifies as approved equal. The City reserves the right to award to that Contractor which will best serve the interest of the City as determined by the City. The City further reserves the right to waive minor variations to specifications and in the bidding process.

2.35 Contract Period

The initial contract term shall commence upon date of award by the City or April 20. 2021, whichever is later, and shall expire two (2) years from that date. The City reserves the right to extend the contract for two (2), additional one-year terms, providing all terms conditions and specifications remain the same, both parties agree to the extension, and such extension is approved by the City.

In the event services are scheduled to end because of the expiration of this contract, the Contractor shall continue the service upon the request of the City as authorized by the awarding authority. The extension period shall not extend for more than 180 days beyond the expiration date of the existing contract. The Contractor shall be compensated for the service at the rate in effect when this extension clause is invoked by the City.

2.36 Cost Adjustments

Prices quoted shall be firm for the initial contract term of two (2) year(s). No cost increases shall be accepted in this initial contract term. Please consider this when providing pricing for this request for proposal.

Thereafter, any extensions which may be approved by the City shall be subject to the following: costs for any extension terms shall be subject to an adjustment only if increases or decreases occur in the industry. Such adjustment shall be based on the latest yearly percentage increase in the All Urban Consumers Price Index (CPI-U) as published by the Bureau of Labor Statistics, U.S. Dep't. of Labor and shall not exceed five percent (5%).

The yearly increase or decrease in the CPI shall be that latest Index published and available for the calendar year ending 12/31, prior to the end of the contract year then in effect, as compared to the index for the comparable month, one-year prior.

Any requested adjustment shall be fully documented and submitted to the City at least ninety (90) days prior to the contract anniversary date. Any approved cost adjustments shall become effective on the beginning date of the approved contract extension.

The City may, after examination, refuse to accept the adjusted costs if they are not properly documented, or considered to be excessive, or if decreases are considered to be insufficient. In the event the City does not wish to accept the adjusted costs and the matter cannot be

resolved to the satisfaction of the City, the Contract will be considered cancelled on the scheduled expiration date.

2.37 Service Test Period

If the Contractor has not previously performed the services to the city, the City reserves the right to require a test period to determine if the Contractor can perform in accordance with the requirements of the contact, and to the City's satisfaction. Such test period can be from thirty to ninety days, and will be conducted under all specifications, terms and conditions contained in the contract. This trial period will then become part of the initial contract period.

A performance evaluation will be conducted prior to the end of the test period and that evaluation will be the basis for the City's decision to continue with the Contractor or to select another Contractor (if applicable).

2.38 Contract Coordinator

The City may designate a Contract Coordinator whose principal duties shall be:

Liaison with Contractor.
Coordinate and approve all work under the contract.
Resolve any disputes.
Assure consistency and quality of Contractor's performance.
Schedule and conduct Contractor performance evaluations and document findings.
Review and approve for payment all invoices for work performed or items delivered.

2.39 Contractor Performance Reviews and Ratings

The City Contract Coordinator may develop a Contractor performance evaluation report. This report shall be used to periodically review and rate the Contractor's performance under the contract with performance rating as follows:

Excellent	Far exceeds requirements.
Good	Exceeds requirements
Fair	Just meets requirements.
Poor	Does not meet all requirements and contractor is subject to penalty provisions under the contact.
Non-compliance	Either continued poor performance after notice or a performance level that does not meet a significant portion of the requirements. This rating makes the Contractor subject to the default or cancellation for cause provisions of the contract.

The report shall also list all discrepancies found during the review period. The Contractor shall be provided with a copy of the report and may respond in writing if he takes exception to the report or wishes to comment on the report. Contractor performance reviews and subsequent reports will be used in determining the suitability of contract extension.

2.40 Substitution of Personnel

It is the intention of the City that the Contractor's personnel proposed for the contract will be available for the contract term. In the event the Contractor wishes to substitute personnel, he shall propose personnel of equal or higher qualifications and all replacement personnel are subject to City approval. In the event substitute personnel are not satisfactory to the City and the matter cannot be resolved to the satisfaction of the City, the City reserves the right to cancel the Contract for cause. See Section 5.09 General Conditions.

2.41 Ownership of Work

The City shall have full ownership and the right to copyright, otherwise limit, reproduce, modify, sell, or use all of the work or product produced under this contract without payment of any royalties or fees to the Contractor above the agreed hourly rates and related costs.

2.42 Condition of Trade-In Equipment – N/A

2.43 Conditions of Trade-In Shipment and Purchase Payment – N/A

2.44 Verification of Employment Status

Any Contractor/Consultant assigned to perform responsibilities under its contract with a State agency is required to utilize the US Department of Homeland Security's E-Verify system (per Executive Order Number 11-02) to verify the employment eligibility of: (a) all persons employed during the contract term by the Contractor to perform employment duties within Florida; and (b) all persons (including subcontractors) assigned by the Contractor to perform work pursuant to the contract with the State agency.

E-VERIFY Affirmation Statement should be completed and submitted with Proposer's response to this ITB.

2.45 Service Organization Controls – N/A

2.46 Warranties of Usage

Any estimated quantities listed are for information and tabulation purposes only. No warranty or guarantee of quantities needed is given or implied. It is understood that the Contractor will furnish the City's needs as they arise.

2.47 Rules and Submittals of Bids

The signer of the bid must declare that the only person(s), company or parties interested in the proposal as principals are named therein; that the bid is made without collusion with any other person(s), company or parties submitting a bid; that it is in all respects fair and in good faith, without collusion or fraud; and that the signer of the bid has full authority to bind the principal bidder.

2.48 Bid Tabulations/Intent to Award

Notice of Intent to Award Contract/Bid, resulting from the City's Formal solicitation process may be found at: http://www.fortlauderdale.gov/departments/finance/procurement-services/notices-of-intent-to-award. Tabulations of receipt of those parties responding to a formal solicitation may be found at: http://www.fortlauderdale.gov/departments/finance/procurement-services/bid-results, or any interested party may call the Procurement Services Division at 954-828-5933.

2.49 Public Records

All bids will become the property of the City. The Bidder's response to the ITB is a public record pursuant to Florida law, which is subject to disclosure by the City under the State of Florida Public Records Law, Florida Statutes Chapter 119.07 ("Public Records Law"). The City shall permit public access to all documents, papers, letters or other material submitted in connection with this ITB and any resulting Contract to be executed for this ITB, subject to the provisions of Chapter 119.07 of the Florida Statutes. Any language contained in the Bidder's response to the ITB purporting to require confidentiality of any portion of the Bidder's response to the ITB, except to the extent that certain information is in the City's opinion a Trade Secret pursuant to Florida law, shall be void. If a Bidder submits any documents or other information to the City which the Bidder claims is Trade Secret information and exempt from Florida Statutes Chapter 119.07 ("Public Records Laws"), the Bidder shall clearly designate that it is a Trade Secret and that it

is asserting that the document or information is exempt. The Bidder must specifically identify the exemption being claimed under Florida Statutes 119.07. The City shall be the final arbiter of whether any information contained in the Bidder's response to the ITB constitutes a Trade Secret. The city's determination of whether an exemption applies shall be final, and the Bidder agrees to defend, indemnify, and hold harmless the city and the city's officers, employees, and agent, against any loss or damages incurred by any person or entity as a result of the city's treatment of records as public records. In the event of Contract award, all documentation produced as part of the Contract shall become the exclusive property of the City.

IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT PRRCONTRACT@FORTLAUDERDALE.GOV, 954-828-5002, CITY CLERK'S OFFICE, 100 N. ANDREWS AVENUE, FORT LAUDERDALE, FLORIDA 33301.

Contractor shall:

1. Keep and maintain public records required by the City in order to perform the service.

2. Upon request from the City's custodian of public records, provide the City with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes (2017), as may be amended or revised, or as otherwise provided by law.

3. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of this contract if the Contractor does not transfer the records to the City.

4. Upon completion of the Contract, transfer, at no cost, to the City all public records in possession of the Contractor or keep and maintain public records required by the City to perform the service. If the Contractor transfers all public records to the City upon completion of this Contract, the Contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Contractor keeps and maintains public records upon completion of this Contract, the Contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the City, upon request from the City's custodian of public records, in a format that is compatible with the information technology systems of the City.

2.50 PCI (Payment Card Industry) Compliance – N/A

END OF SECTION

SECTION III - TECHNICAL SPECIFICATIONS/SCOPE OF SERVICES

3.1 Project Definition and Objective

The City of Fort Lauderdale periodically requires the complete demolition of buildings and sites within the City and this work is outside the current capabilities of City personnel to perform. Therefore, a Contractor is needed to provide demolition, disposal and other related services. These services include and incorporate the demolition and disposal of the main structure and accessory structures, removal of footings, slabs, asphalt, concrete pavement or brick paver driveways, walkways, or slabs including the lime rock base, fences, debris and other undesirable objects. Installation of ground cover on the lot after the demolition may also be required. Services may also include removal of asbestos and hazardous waste as required. The successful contractor shall provide all materials, permits, equipment and labor as required for the demolition of the designated site, and disposal of debris generated while providing contracted services.

3.2 Scope of Services

The following is a list of general specifications that when incorporated with other specified conditions, comprise the requirements and scope of services of this contract.

3.2.1 No work at any designated site shall begin until the Contractor receives a “Notice to Proceed” from the City.

3.2.2 The Contractor will ensure that the premises being serviced are free of rodents, prior to beginning the demolition. This work may be accomplished by an extermination or pest control company, who shall provide a certification letter attesting that the site is free of rodents.

3.2.3 The Contractor shall provide sufficient manpower so as to perform work safely and expeditiously with all equipment plainly marked with the company name.

3.2.4 All equipment shall comply with and be used in accordance with all pertinent safety regulations including ladders, hoists, planks, and similar items. Do not proceed with installation until any unsatisfactory conditions are corrected. Comply with manufacturer’s warranty and guaranty instructions for installation. Make all adjustments for alignment and operation. Clean all surfaces and remove excess sealant and lubricants.

3.2.5 The Contractor will provide a qualified foreman who will be present on the site at all times, and as a fully authorized agent of the Contractor, the foreman must be capable of making on-site decisions. The foreman shall be well versed in reading and understanding plans and the technical aspects of the project.

3.2.6 All work shall be performed in accordance with City Ordinance, Chapter 17, and Hours for Construction. Exceptions to this schedule can only be made with the prior approval of the City.

3.2.7 The Contractor may be responsible for the removal and disposal of some types of asbestos containing materials from structures, businesses, and residences if the need should arise. The Contractor must, therefore, be prepared to provide certified and trained supervisory personnel and asbestos workers, furnish all required or necessary equipment and supplies, and provide insurance and transportation as required if the need arises.

3.2.8 It shall be the responsibility of the Contractor to remove from the job site and properly dispose of all residues at the end of each and every workday. Materials and equipment left on site overnight shall be well marked and identified as to ensure public safety. No materials or equipment are to be left on site over a weekend, unless arrangements have been made with, and prior approval obtained from, applicable City personnel. The Contractor is fully responsible for its security of all materials and/or equipment left on site. Any loss of materials or equipment due to theft, vandalism, etc., shall be the total responsibility of the Contractor.

3.2.9 The Contractor will contact all required utility companies to disconnect their facilities and/or services from the structures to be demolished, as well as secure any required documentation to be submitted to the City at the time of permit submittal.

3.2.10 The Contractor will obtain any and all permits and licenses that are lawfully required to perform work as detailed herein.

3.2.11 The Contractor will disconnect and cap all sanitary sewer lines connected to street sewer main lines.

3.2.12 The Contractor will pump out septic tanks and/or grease traps until empty, remove and dispose of tanks/traps and fill in void with clean fill.

3.2.13 The Contractor will notify the City of the presence of any asbestos or other hazardous type materials found in structures scheduled for demolition, in compliance with Federal, State and Local laws and Codes.

3.2.14 The Contractor will coordinate his work with other Contractors or City departments performing work at the site or adjacent areas.

3.2.15 The Contractor will protect and preserve all trees on the property except those designated by the City's tree inspector for removal. When removal is necessary, the Contractor shall provide fill and bring the excavated site to a fine level grade even with the surrounding area. The Contractor will bring the site to a smooth, fine level grade which is even with the surrounding areas and properties. The property will be left in a neat clean condition.

3.2.16 The Contractor will remove and dispose of all excess material, debris and trash developed during the course of providing the contracted services. No material may be burned or buried on site.

3.2.17 The Contractor will remove all tools and equipment immediately after the completion of the work.

3.3 Permits

The Contractor will obtain, at his own expense, all necessary permits required for this type of work by the City of Fort Lauderdale from the City's Building Permits Division, 700 NW 19 Avenue, Fort Lauderdale, FL 33311. The cost of any permit will be reimbursed by the City upon proof of payment, which shall be submitted with the Contractor's invoice for each assigned project.

3.4 Ownership of Salvaged Materials

All salvageable materials and items that can reasonably be considered to have been a physical part of the structure or the site, or used in its construction, shall become the property of the Contractor. This shall include the value of all scrap materials developed during the demolition process and any such materials found on the property. Items of personal property having title of ownership such as automobiles or items having significant exchange value such as precious gems, currency, etc., as determined by the Sustainable Development department, are not considered as salvageable. Such items will be protected from damage or loss when and if encountered during the progress of work and shall be turned over immediately to the City.

3.5 Pricing Structure

To determine the contracted rate for the demolition of a specific structure, the Contractor and a City representative shall meet at the subject site. They shall calculate the total square footage of the building(s) under consideration for demolition. This will be obtained by measuring the outside dimensions of the outside walls of the structure, excluding the roof overhang. If the structure consists of more than one story, the area of each additional story will be obtained in this same manner. Utilizing the total square footage agreed upon by both parties and multiplying it by the contracted unit price for each item of work shall determine the total square foot demolition cost for a specific location. The total square footage figure and all additional fees to be charged for the demolition pursuant to this contract shall be reviewed and agreed upon by both the Contractor and the City representative before any work commences.

3.6 Estimated Quantities of Work

3.6.1 CBS Structures: Provide a rate per square foot to furnish all material, labor, and equipment to demolish and dispose of designated CBS structures. This rate is to include all costs for use of WET demolition. The quoted rate will include the removal of the debris generated from demolishing the structure. The City estimates the need to demolish approximately twenty-five (25) structures or 25,000 square feet annually.

3.6.2 Wood Frame Structures: Provide a rate per square foot to furnish all material, labor, and equipment to demolish and dispose of designated wood frame structures. This rate is to include all costs for use of WET demolition. The quoted rate will include the removal of the debris generated from demolishing the structure. The City estimates the need to demolish approximately twenty-five (25) structures or 25,000 square feet annually.

3.6.3 Emergency Services: Provide two additional flat rate fees to be paid in emergency situations. One of them is when the Contractor is required by the City to commence work within 24 hours of notification and the other is to commence work within three (3) calendar days of notification. The City will pay these fees in addition to any per square foot rate charge. The City estimates there will be one (1) of the first type and two (2) of the second type of emergency projects annually.

3.6.4 Removal and Disposal of Excess Debris: Provide a rate per cubic yard to remove and dispose of all trash and debris found on the job site that is not part of the debris developed in providing demolition services. The City estimates that three hundred (300) cubic yards will be processed annually.

3.6.5 Pump Out, Disposal of Septic Tanks: Provide a flat rate per structure to pump-out, remove and dispose of a septic tank and to backfill the excavated area with fill. This rate is to include all costs should an outside Contractor be required. The quoted rate will include the removal

of the debris generated from demolishing the tank. The City estimates that this service will be required on ten (10) structures annually.

3.6.6 Pump Out, Disposal of Grease Traps: Provide a flat rate per structure to pump-out, remove and dispose of a grease trap and to backfill the excavated area with fill. This rate is to include all costs should an outside Contractor be required. The quoted rate will include the removal of the debris generated from demolishing the trap. The City estimates that this service will be required on ten (10) structures annually.

3.6.7 Capping Sewer Lines: Provide a flat rate per structure to cap sewer lines from the structure to the main sewer system. This rate is to include all costs should an outside Contractor be required. The quoted rate will include the removal of the debris generated from capping the sewer lines. The City estimates that this service will be required for forty (40) structures annually.

3.6.8 Rat Free Certification: Provide a flat rate per structure to provide a certification letter from an extermination or pest control company that the premises being serviced are free of rodents. It is estimated that this service will be required for fifty (50) structures annually.

3.6.9 Removal of Miscellaneous Structures: Provide a flat rate for the removal and disposal of small, accessory type structures, such as carports, sheds, etc., that may be found on the site. The quoted rate will include the removal of the debris generated from demolishing the structure. The City estimates that this service will be required for twenty (20) structures annually.

3.6.10 Asphalt Slabs: Provide a rate per square foot for the removal and disposal of any asphalt pavement. The quoted rate will include the removal of the debris generated from demolishing all driveways, walkways, paths and or parking lots. The City estimates that this service will be required for twenty (20) structures annually or approximately 10,000 square feet annually.

3.6.11 Concrete Slabs and Brick Pavers: Provide a rate per square foot for the removal and disposal of any concrete slab or pavers on grade; examples of such are, concrete driveways, walkways, stoops, patios, and any other stand-alone slabs. The quoted rate will include the removal of the debris generated from demolishing these slabs. The City estimates that this service will be required for twenty (20) structures annually or approximately 10,000 square feet annually.

3.6.12 Removal of Paved Surfaces Sub-Grade Base Material: Provide a rate per cubic yard for the removal and disposal of paved sub-grade base material to a level of 1’ below all paved surfaces. The City estimates that this service will be required for 2,500 cubic yards annually.

3.6.13 Removal of Fencing: Provide a rate per linear foot for the removal and disposal of fencing. Fencing shall include all materials associated with the following types; wood, aluminum, vinyl and PVC from 4 feet to 8 feet in height. The City estimates that this service will be required for one thousand (1,000) linear feet annually.

3.6.14 HVAC Refrigerant Recovery: Provide a flat rate per pound per ton (assuming 1 pound per ton) to recover, remove or recycle all refrigerants and provide all documentation

required by any permitting agencies. This rate is to include all costs should an outside Contractor be required. The City estimates that that this service will be required for twenty (20) units annually.

3.6.15 Concrete Walls: Provide a rate to furnish all material, labor, and equipment to demolish and dispose of designated concrete walls including footer if applicable. This rate is to include all costs for use of WET demolition. It is estimated that this service shall be required for 2,000 square feet annually.

3.6.16 Removal and Disposal of Hazardous Waste: Provide a rate per cubic yard to remove and properly dispose of all hazardous waste found on the job site. It is estimated that fifty (50) cubic yards shall be processed annually.

3.6.17 Docks: Provide a rate to furnish all material, labor, and equipment to demolish and dispose of designated wood docks. It is estimated that this service shall be required for 100 square feet annually.

3.6.18 Dock Pilings: Provide a rate to furnish all material, labor, and equipment to demolish and dispose of designated dock pilings. It is estimated that this service shall be required for 8 pilings annually.

3.6.19 Swimming Pools / Spas: Provide a rate to furnish all material, labor, and equipment to demolish and dispose of designated swimming pool / spa structures. It is estimated that this service shall be required for 2,500 square feet annually (or an average of 3 pools).

3.6.20 Clean Fill: Provide a rate to furnish all material, labor, and equipment to provide clean fill where necessary to backfill the swimming pool / spa to the existing grade. It is estimated that this service shall be required for 70 cubic yards annually (or an average of 3 pools).

3.7 Asbestos Removal

In the event that asbestos-related materials need to be removed from a structure of site, Proposers will quote a price per each item listed below.

3.7.1 Removal of Asbestos Related to Floor Tiles as Asbestos Containing Material (ACM): Proposer will provide per square foot rate for certified and trained personnel and asbestos workers, furnish all required or necessary equipment and supplies, and provide insurance and transportation for all workers and material as an all-inclusive rate. For tabulation purposes, an estimate of 400 square feet will be used.

3.7.2 Removal of Floor Tile and Mastic as ACM: Proposer will provide a per square foot rate for certified and trained personnel and asbestos workers, furnish all required or necessary equipment and supplies, and provide insurance and transportation for all workers and material as an all-inclusive rate. For tabulation purposes, an estimate of 400 square feet will be used.

3.7.3 Removal of Vinyl as ACM: Proposer will provide a per square foot rate for certified and trained personnel and asbestos workers, furnish all required or necessary equipment and supplies, and provide insurance and transportation for all workers and material as an all-inclusive rate. For tabulation purposes, an estimate of 400 square feet will be used.

3.7.4 Removal of Carpet as ACM: Proposer will provide a per square foot rate for certified and trained personnel and asbestos workers, furnish all required or necessary equipment and supplies, and provide insurance and transportation for all workers and material as an all-inclusive rate. For tabulation purposes, an estimate of 400 square feet will be used.

3.7.5 Removal of Roofing Material as ACM: Proposer will provide a per square foot rate for certified and trained personnel and asbestos workers, furnish all required or necessary equipment and supplies, and provide insurance and transportation for all workers and material as an all-inclusive rate. For tabulation purposes, an estimate of 400 square feet will be used.

3.7.6 Removal of Surfacing Material as ACM: Proposer will provide a per square foot rate for certified and trained personnel and asbestos workers, furnish all required or necessary equipment and supplies, and provide insurance and transportation for all workers and material as an all-inclusive rate. Materials applied by spray or trowels are classified as surfacing materials. Examples would be fireproofing, textured ceilings or acoustic plaster ceilings. For tabulation purposes, an estimate of 400 square feet will be used.

3.7.7 Removal of Ceiling Tile as ACM: Proposer will provide a per square foot rate for certified and trained personnel and asbestos workers, furnish all required or necessary equipment and supplies, and provide insurance and transportation for all workers and material as an all-inclusive rate. For tabulation purposes, an estimate of 400 square feet will be used.

3.7.8 Cementitious Composite as ACM: Proposer will provide a per square foot rate for certified and trained personnel and asbestos workers, furnish all required or necessary equipment and supplies, and provide insurance and transportation for all workers and material as an all-inclusive rate. Examples include roof drain piping; water piping, sanitary sewer piping, HVAC ducts and transit panels. For tabulation purposes, an estimate of 400 square feet will be used.

3.7.9 Thermal System Insulation Material (TSI) as ACM: Proposer will provide a per square foot rate for certified and trained personnel and asbestos workers, furnish all required or necessary equipment and supplies, and provide insurance and transportation for all workers and material as an all-inclusive rate. Examples of such would be, insulation materials that contain asbestos that are generally found in boiler rooms and chillers rooms and in pipe chases in walls. This includes ACM adhesives. For tabulation purposes, an estimate of 400 square feet will be used.

3.7.10 Additional Fees for Asbestos Surveys and Asbestos Filing Fees: Proposer will add $25,000 to bid for additional fees related to asbestos surveys and filing fees.

3.8 Tipping Fees

The Contractor is responsible for the payment of all tipping fees for the disposal of any debris generated under this contract. Proposer shall structure their bid prices accordingly.

3.9 Assignment of Work

All work assigned by the City of Fort Lauderdale, shall be initiated through the use of a written Work Order. A Work Order may be for one or more structures at the same or different locations.

This Work Order notification form will be given to the Contractor detailing the date, time, address, and legal description of the property or properties at which the structures are to be demolished. This Work Order form shall be the authorization to commence work.

The Contractor shall commence the demolition within ten (10) calendar days of receipt of Work Order. The exception shall be for any project declared by the City of Fort Lauderdale as an EMERGENCY SITUATION. When this condition is declared, the Contractor shall commence the demolition work within either 24 hours or three (3) calendar days of receipt of this notification.

During the course of the initial site inspection between the Contractor and City personnel, the project completion time shall also be discussed and shall be agreed upon by both parties and shall be specified in the Work Order. This completion time shall NOT be modified unless unfavorable weather or other allowable but unforeseeable conditions occur. The completion time for any single project, containing single or multiple structures shall not exceed seven (7) working days.

Should the structure(s) designated for demolition be situated on a septic tank and/or active gas service is present, this seven- (7) day completion term will not commence until after the pump out and removal of the septic tank and/or disconnection of the gas source.

3.10 Damage to Public and Or Private Property

Extreme care shall be taken to safeguard all existing facilities to include but not limited to all nearby or adjoining properties, site amenities, sidewalks, sprinkler systems, trees, shrubs, windows, and all vehicles on or around the job site. Damage to public and/or private property shall be the responsibility of the Contractor and shall be replaced or repaired by the Contractor at no additional cost to the City.

If the Contractor has not repaired or replaced damaged property within 24 hours' notice by the City, the City reserves the right to correct the situation and deduct all charges from the Contractor's invoice. It is the Contractor's responsibility to ensure that his equipment is free from any fluid leaks while located in any serviced areas. The City, under reasonable suspicion of any such leaking equipment, can require that such equipment be immediately removed from the premises and repaired and/or replaced before it can resume operation in any serviced areas.

3.11 Liquidated Damages

Failure of the Contractor to perform as described, or not complete all activities as required and as provided herein, may be just cause for the assessment of damages, as described below, and such damages shall be considered as liquidated damages.

If the Contractor delays in either starting or finishing the project at the agreed upon time the actual damages to the City for any delay or shut down will be difficult or impossible to determine. Therefore, in lieu of actual damages, the Contractor may be subject to a reduction from the next monthly invoice of $250 per day as fixed, agreed, and liquidated damages. Such deductions will continue until said service is properly performed or the contract is cancelled.

These charges are intended to act as an incentive for the Contractor to perform in full compliance with the specifications. Acknowledgment and agreement are given by both parties that the amount herein above set is not intended to be, nor shall be deemed to be in the nature of a penalty.

END OF SECTION

QUESTIONNAIRE

Bidder certifies the truth and accuracy of all statements and the answers contained herein. Failure to answer each question could result in the disqualification of your bid.

Company Name:

Contact Name:
Contact Phone:
Contact Email:

1. Provide complete information of three references for which you have performed these services.

   Entity name:
   Address:
   Contact Name:
   Telephone Number:

   Entity name:
   Address:
   Contact Name:
   Telephone Number:

   Entity name:
   Address:
   Contact Name:
   Telephone Number:

2. Number of years experience you have had in providing similar services.

3. Have you ever failed to complete work awarded to you? If so, where and why?
   Yes ☐ No ☐

4. Have you included copies of all appropriate licenses with your bid submittal?
   Yes ☐ No ☐

   License/Certification/Registration # Years

5. Have you included proof of insurance, including General Liability, Auto Liability and Worker's Compensation with your bid submittal?

General Liability	Yes ☐	No ☐
Auto Liability	Yes ☐	No ☐
Worker's Comp	Yes ☐	No ☐

6. Describe the last project of this nature that you completed.

The bidder understands that the information contained in these bid pages is to be relied upon by the City in awarding the proposed contract, and such information is warranted by the bidder to be true. The bidder agrees to furnish such additional information, prior to acceptance of any contract relating to the qualifications of the bidder, as may be required by the City.

Please review the questionnaire to make sure all questions have been answered. Attach additional sheets if necessary. **Failure to answer each question could result in the disqualification of your bid.**

CITY OF FORT LAUDERDALE
GENERAL CONDITIONS

These instructions and conditions are standard for all contracts for commodities or services issued through the City of Fort Lauderdale Procurement Services Division. The City may delete, supersede, or modify any of these standard instructions for a particular contract by indicating such change in the Invitation to Bid (ITB) Special Conditions, Technical Specifications, Instructions, Proposal Pages, Addenda, and Legal Advertisement. In this general conditions document, Invitation to Bid (ITB), Request for Qualifications (RFQ), and Request for Proposal (RFP) are interchangeable.

PART I BIDDER PROPOSAL PAGE(S) CONDITIONS:

1.01 **BIDDER ADDRESS**: The City maintains automated vendor address lists that have been generated for each specific Commodity Class item through our bid issuing service, BidSync. Notices of Invitations to Bid (ITB'S) are sent by e-mail to the selection of bidders who have fully registered with BidSync or faxed (if applicable) to every vendor on those lists, who may then view the bid documents online. Bidders who have been informed of a bid's availability in any other manner are responsible for registering with BidSync in order to view the bid documents. There is no fee for doing so. If you wish bid notifications be provided to another e-mail address or fax, please contact BidSync. If you wish purchase orders sent to a different address, please so indicate in your bid response. If you wish payments sent to a different address, please so indicate on your invoice.

1.02 **DELIVERY:** Time will be of the essence for any orders placed as a result of this ITB. The City reserves the right to cancel any orders, or part thereof, without obligation if delivery is not made in accordance with the schedule specified by the Bidder and accepted by the City.

1.03 **PACKING SLIPS:** It will be the responsibility of the awarded Contractor, to attach all packing slips to the OUTSIDE of each shipment. Packing slips must provide a detailed description of what is to be received and reference the City of Fort Lauderdale purchase order number that is associated with the shipment. Failure to provide a detailed packing slip attached to the outside of shipment may result in refusal of shipment at Contractor's expense.

1.04 **PAYMENT TERMS AND CASH DISCOUNTS:** Payment terms, unless otherwise stated in this ITB, will be considered to be net 45 days after the date of satisfactory delivery at the place of acceptance and receipt of correct invoice at the office specified, whichever occurs last. Bidder may offer cash discounts for prompt payment but they will not be considered in determination of award. If a Bidder offers a discount, it is understood that the discount time will be computed from the date of satisfactory delivery, at the place of acceptance, and receipt of correct invoice, at the office specified, whichever occurs last**.**

1.05 **TOTAL BID DISCOUNT:** If Bidder offers a discount for award of all items listed in the bid, such discount shall be deducted from the total of the firm net unit prices bid and shall be considered in tabulation and award of bid**.**

1.06 **BIDS FIRM FOR ACCEPTANCE:** Bidder warrants, by virtue of bidding, that the bid and the prices quoted in the bid will be firm for acceptance by the City for a period of one hundred twenty (120) days from the date of bid opening unless otherwise stated in the ITB**.**

1.07 **VARIANCES:** For purposes of bid evaluation, Bidder's must indicate any variances, no matter how slight, from ITB General Conditions, Special Conditions, Specifications or Addenda in the space provided in the ITB. No variations or exceptions by a Bidder will be considered or deemed a part of the bid submitted unless such variances or exceptions are listed in the bid and referenced in the space provided on the bidder proposal pages. If variances are not stated, or referenced as required, it will be assumed that the product or service fully complies with the City's terms, conditions, and specifications**.**

By receiving a bid, City does not necessarily accept any variances contained in the bid. All variances submitted are subject to review and approval by the City. If any bid contains material variances that, in the City's sole opinion, make that bid conditional in nature, the City reserves the right to reject the bid or part of the bid that is declared by the City as conditional.

1.08 **NO BIDS:** If you do not intend to bid please indicate the reason, such as insufficient time to respond, do not offer product or service, unable to meet specifications, schedule would not permit, or any other reason, in the space provided in this ITB. Failure to bid or return no bid comments prior to the bid due and opening date and time, indicated in this ITB, may result in your firm being deleted from our Bidder's registration list for the Commodity Class Item requested in this ITB.

1.09 **MINORITY AND WOMEN BUSINESS ENTERPRISE PARTICIPATION AND BUSINESS DEFINITIONS:** The City of Fort Lauderdale wants to increase the participation of Minority Business Enterprises (MBE), Women Business Enterprises (WBE), and Small Business Enterprises (SBE) in its procurement activities. If your firm qualifies in accordance with the below definitions please indicate in the space provided in this ITB.

Minority Business Enterprise (MBE) "A Minority Business" is a business enterprise that is owned or controlled by one or more socially or economically disadvantaged persons. Such disadvantage may arise from cultural, racial, chronic economic circumstances or background or other similar cause. Such persons include, but are not limited to: Blacks, Hispanics, Asian Americans, and Native Americans.

The term "Minority Business Enterprise" means a business at least 51 percent of which is owned by minority group members or, in the case of a publicly owned business, at least 51 percent of the stock of which is owned by minority group members. For the purpose of the preceding sentence, minority group members are citizens of the United States who include, but are not limited to: Blacks, Hispanics, Asian Americans, and Native Americans.

Women Business Enterprise (WBE) a "Women Owned or Controlled Business" is a business enterprise at least 51 percent of which is owned by females or, in the case of a publicly owned business, at least 51 percent of the stock of which is owned by females.

Small Business Enterprise (SBE) "Small Business" means a corporation, partnership, sole proprietorship, or other legal entity formed for the purpose of making a profit, which is independently owned and operated, has either fewer than 100 employees or less than $1,000,000 in annual gross receipts.

BLACK, which includes persons having origins in any of the Black racial groups of Africa.

WHITE, which includes persons whose origins are Anglo-Saxon and Europeans and persons of Indo-European decent including Pakistani and East Indian.
HISPANIC, which includes persons of Mexican, Puerto Rican, Cuban, Central and South American, or other Spanish culture or origin, regardless of race.
NATIVE AMERICAN, which includes persons whose origins are American Indians, Eskimos, Aleuts, or Native Hawaiians.
ASIAN AMERICAN, which includes persons having origin in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent, or the Pacific Islands.

1.10 MINORITY-WOMEN BUSINESS ENTERPRISE PARTICIPATION

It is the desire of the City of Fort Lauderdale to increase the participation of minority (MBE) and women-owned (WBE) businesses in its contracting and procurement programs. While the City does not have any preference or set aside programs in place, it is committed to a policy of equitable participation for these firms. Proposers are requested to include in their proposals a narrative describing their past accomplishments and intended actions in this area. If proposers are considering minority or women owned enterprise participation in their proposal, those firms, and their specific duties have to be identified in the proposal. If a proposer is considered for award, he or she will be asked to meet with City staff so that the intended MBE/WBE participation can be formalized and included in the subsequent contract.

1.11 SCRUTINIZED COMPANIES

As to any contract for goods or services of $1 million or more and as to the renewal of any contract for goods or services of $1 million or more, subject to *Odebrecht Construction, Inc., v. Prasad*, 876 F.Supp.2d 1305 (S.D. Fla. 2012), *affirmed*, *Odebrecht Construction, Inc., v. Secretary, Florida Department of Transportation*, 715 F.3d 1268 (11th Cir. 2013), with regard to the "Cuba Amendment," the Contractor certifies that it is not on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, and that it does not have business operations in Cuba or Syria, as provided in section 287.135, Florida Statutes (2019), as may be amended or revised. As to any contract for goods or services of any amount and as to the renewal of any contract for goods or services of any amount, the Contractor certifies that it is not on the Scrutinized Companies that Boycott Israel List created pursuant to Section 215.4725, Florida Statutes (2019), and that it is not engaged in a boycott of Israel. The City may terminate this Agreement at the City's option if the Contractor is found to have submitted a false certification as provided under subsection (5) of section 287.135, Florida Statutes (2019), as may be amended or revised, or been placed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List or the Scrutinized Companies that Boycott Israel List created pursuant to Section 215.4725, Florida Statutes (2019), or is engaged in a boycott of Israel, or has been engaged in business operations in Cuba or Syria, as defined in Section 287.135, Florida Statutes (2019), as may be amended or revised.

1.12 DEBARRED OR SUSPENDED BIDDERS OR PROPOSERS

The bidder or proposer certifies, by submission of a response to this solicitation, that neither it nor its principals and subcontractors are presently debarred or suspended by any Federal department or agency.

Part II DEFINITIONS/ORDER OF PRECEDENCE:

2.01 BIDDING DEFINITIONS The City will use the following definitions in its general conditions, special conditions, technical specifications, instructions to bidders, addenda and any other document used in the bidding process:

INVITATION TO BID (ITB) The solicitation document used for soliciting competitive sealed bids for goods or services.
INVITATION TO NEGOTIATE (ITN) All solicitation documents, regardless of medium, whether attached to or incorporated by reference in solicitations for responses from firms that invite proposals from interested and qualified firms so the city may enter into negotiations with the firm(s) determined most capable of providing the required goods or services.
REQUEST FOR PROPOSALS (RFP) A solicitation method used for soliciting competitive sealed proposals to determine the best value among proposals for goods or services for which price may not be the prevailing factor in award of the contract, or the scope of work, specifications or contract terms and conditions may be difficult to define. Such solicitation will consider the qualifications of the proposers along with evaluation of each proposal using identified and generally weighted evaluation criteria. RFPs may include price criteria whenever feasible, at the discretion of the city.
REQUEST FOR QUALIFICATIONS (RFQ) A solicitation method used for requesting statements of qualifications in order to determine the most qualified proposer for professional services.
BID – a price and terms quote received in response to an ITB.
PROPOSAL – a proposal received in response to an RFP.
BIDDER – Person or firm submitting a Bid.
PROPOSER – Person or firm submitting a Proposal.
RESPONSIVE BIDDER – A firm who has submitted a bid, offer, quote, or response which conforms in all material respects to the competitive solicitation document and all of its requirements.
RESPONSIBLE BIDDER – A firm who is fully capable of meeting all requirements of the solicitation and subsequent contract. The respondent must possess the full capability, including financial and technical, ability, business judgment, experience, qualifications, facilities, equipment, integrity, capability, and reliability, in all respects to perform fully the contract requirements and assure good faith performance as determined by the city.
FIRST RANKED PROPOSER – That Proposer, responding to a City RFP, whose Proposal is deemed by the City, the most advantageous to the City after applying the evaluation criteria contained in the RFP.
SELLER – Successful Bidder or Proposer who is awarded a Purchase Order or Contract to provide goods or services to the City.
CONTRACTOR – Any firm having a contract with the city. Also referred to as a "Vendor".
CONTRACT – All types of agreements, including purchase orders, for procurement of supplies, services, and construction, regardless of what these agreements may be called.
CONSULTANT – A firm providing professional services for the city.

2.02 **SPECIAL CONDITIONS:** Any and all Special Conditions contained in this ITB that may be in variance or conflict with these General Conditions shall have precedence over these General Conditions. If no changes or deletions to General Conditions are made in the Special Conditions, then the General Conditions shall prevail in their entirety,

PART III BIDDING AND AWARD PROCEDURES:

3.01 **SUBMISSION AND RECEIPT OF BIDS:** To receive consideration, bids must be received prior to the bid opening date and time. Unless otherwise specified, Bidders should use the proposal forms provided by the City. These forms may be duplicated, but failure to use the forms may cause the bid to be rejected. Any erasures or corrections on the bid must be made in ink and initialed by Bidder in ink. All information submitted by the Bidder shall be printed, typewritten or filled in with pen and ink. Bids shall be signed in ink. Separate bids must be submitted for each ITB issued by the City in separate sealed envelopes properly marked. When a particular ITB or RFP requires multiple copies of bids or proposals they may be included in a single envelope or package properly sealed and identified. Only send bids via facsimile transmission (FAX) if the ITB specifically states that bids sent via FAX will be considered. If such a statement is not included in the ITB, bids sent via FAX will be rejected. Bids will be publicly opened in the Procurement Office, or other designated area, in the presence of Bidders, the public, and City staff. Bidders and the public are invited and encouraged to attend bid openings. Bids will be tabulated and made available for review by Bidder's and the public in accordance with applicable regulations.

3.02 **MODEL NUMBER CORRECTIONS:** If the model number for the make specified in this ITB is incorrect, or no longer available and replaced with an updated model with new specifications, the Bidder shall enter the correct model number on the bidder proposal page. In the case of an updated model with new specifications, Bidder shall provide adequate information to allow the City to determine if the model bid meets the City's requirements.

3.03 **PRICES QUOTED:** Deduct trade discounts, and quote firm net prices. Give both unit price and extended total. In the case of a discrepancy in computing the amount of the bid, the unit price quoted will govern. All prices quoted shall be F.O.B. destination, freight prepaid (Bidder pays and bears freight charges, Bidder owns goods in transit and files any claims), unless otherwise stated in Special Conditions. Each item must be bid separately. No attempt shall be made to tie any item or items contained in the ITB with any other business with the City.

3.04 **TAXES:** The City of Fort Lauderdale is exempt from Federal Excise and Florida Sales taxes on direct purchase of tangible property. Exemption **number for EIN is 59-6000319, and State Sales tax exemption number is 85-8013875578C-1.**

3.05 **WARRANTIES OF USAGE:** Any quantities listed in this ITB as estimated or projected are provided for tabulation and information purposes only. No warranty or guarantee of quantities is given or implied. It is understood that the Contractor will furnish the City's needs as they arise.

3.06 **APPROVED EQUAL:** When the technical specifications call for a brand name, manufacturer, make, model, or vendor catalog number with acceptance of APPROVED EQUAL, it shall be for the purpose of establishing a level of quality and features desired and acceptable to the City. In such cases, the City will be receptive to any unit that would be considered by qualified City personnel as an approved equal. In that the specified make and model represent a level of quality and features desired by the City, the Bidder must state clearly in the bid any variance from those specifications. It is the Bidder's responsibility to provide adequate information, in the bid, to enable the City to ensure that the bid meets the required criteria. If adequate information is not submitted with the bid, it may be rejected. The City will be the sole judge in determining if the item bid qualifies as an approved equal.

3.07 **MINIMUM AND MANDATORY TECHNICAL SPECIFICATIONS:** The technical specifications may include items that are considered minimum, mandatory, or required. If any Bidder is unable to meet or exceed these items, and feels that the technical specifications are overly restrictive, the bidder must notify the Procurement Services Division immediately. Such notification must be received by the Procurement Services Division prior to the deadline contained in the ITB, for questions of a material nature, or prior to five (5) days before bid due and open date, whichever occurs first. If no such notification is received prior to that deadline, the City will consider the technical specifications to be acceptable to all bidders.

3.08 **MISTAKES:** Bidders are cautioned to examine all terms, conditions, specifications, drawings, exhibits, addenda, delivery instructions and special conditions pertaining to the ITB. Failure of the Bidder to examine all pertinent documents shall not entitle the bidder to any relief from the conditions imposed in the contract.

3.09 **SAMPLES AND DEMONSTRATIONS:** Samples or inspection of product may be requested to determine suitability. Unless otherwise specified in Special Conditions, samples shall be requested after the date of bid opening, and if requested should be received by the City within seven (7) working days of request. Samples, when requested, must be furnished free of expense to the City and if not used in testing or destroyed, will upon request of the Bidder, be returned within thirty (30) days of bid award at Bidder's expense. When required, the City may request full demonstrations of units prior to award. When such demonstrations are requested, the Bidder shall respond promptly and arrange a demonstration at a convenient location. Failure to provide samples or demonstrations as specified by the City may result in rejection of a bid.

3.10 **LIFE CYCLE COSTING**: If so specified in the ITB, the City may elect to evaluate equipment proposed on the basis of total cost of ownership. In using Life Cycle Costing, factors such as the following may be considered: estimated useful life, maintenance costs, cost of supplies, labor intensity, energy usage, environmental impact, and residual value. The City reserves the right to use those or other applicable criteria, in its sole opinion that will most accurately estimate total cost of use and ownership.

3.11 **BIDDING ITEMS WITH RECYCLED CONTENT:** In addressing environmental concerns, the City of Fort Lauderdale encourages Bidders to submit bids or alternate bids containing items with recycled content. When submitting bids containing items with recycled content, Bidder shall provide documentation adequate for the City to verify the recycled content. The City prefers packaging consisting of materials that are degradable or able to be recycled. When specifically stated in the ITB, the City may give preference to bids containing items manufactured with recycled material or packaging that is able to be recycled.

3.12 **USE OF OTHER GOVERNMENTAL CONTRACTS:** The City reserves the right to reject any part or all of any bids received and utilize other available governmental contracts, if such action is in its best interest**.**

3.13 **QUALIFICATIONS/INSPECTION:** Bids will only be considered from firms normally engaged in providing the types of commodities/services specified herein. The City reserves the right to inspect the Bidder's facilities, equipment, personnel, and organization at any time, or to take any other action necessary to determine Bidder's ability to perform. The Procurement Director reserves the right to reject bids where evidence or evaluation is determined to indicate inability to perform**.**

3.14 **BID SURETY:** If Special Conditions require a bid security, it shall be submitted in the amount stated. A bid security can be in the form of a bid bond or cashier's check. Bid security will be returned to the unsuccessful bidders as soon as practicable after opening of bids. Bid security will be returned to the successful bidder after acceptance of the performance bond, if required; acceptance of insurance coverage, if required; and full execution of contract documents, if required; or conditions as stated in Special Conditions**.**

3.15 **PUBLIC RECORDS/TRADE SECRETS/COPYRIGHT:** The Proposer's response to the RFP is a public record pursuant to Florida law, which is subject to disclosure by the City under the State of Florida Public Records Law, Florida Statutes Chapter 119.07 ("Public Records Law"). The City shall permit public access to all documents, papers, letters or other material submitted in connection with this RFP and the Contract to be executed for this RFP, subject to the provisions of Chapter 119.07 of the Florida Statutes.

Any language contained in the Proposer's response to the RFP purporting to require confidentiality of any portion of the Proposer's response to the RFP, except to the extent that certain information is in the City's opinion a Trade Secret pursuant to Florida law, shall be void. If a Proposer submits any documents or other information to the City which the Proposer claims is Trade Secret information and exempt from Florida Statutes Chapter 119.07 ("Public Records Laws"), the Proposer shall clearly designate that it is a Trade Secret and that it is asserting that the document or information is exempt. The Proposer must specifically identify the exemption being claimed under Florida Statutes 119.07. The City shall be the final arbiter of whether any information contained in the Proposer's response to the RFP constitutes a Trade Secret. The city's determination of whether an exemption applies shall be final, and the proposer agrees to defend, indemnify, and hold harmless the City and the City's officers, employees, and agents, against any loss or damages incurred by any person or entity as a result of the City's treatment of records as public records. In addition, the proposer agrees to defend, indemnify, and hold harmless the City and the City's officers, employees, and agents, against any loss or damages incurred by any person or entity as a result of the City's treatment of records as exempt from disclosure or confidential. Proposals bearing copyright symbols or otherwise purporting to be subject to copyright protection in full or in part may be rejected. The proposer authorizes the City to publish, copy, and reproduce any and all documents submitted to the City bearing copyright symbols or otherwise purporting to be subject to copyright protection.

EXCEPT FOR CLEARLY MARKED PORTIONS THAT ARE BONA FIDE TRADE SECRETS PURSUANT TO FLORIDA LAW, DO NOT MARK YOUR RESPONSE TO THE RFP AS PROPRIETARY OR CONFIDENTIAL. DO NOT MARK YOUR RESPONSE TO THE RFP OR ANY PART THEREOF AS COPYRIGHTED.

3.16 **PROHIBITION OF INTEREST:** No contract will be awarded to a bidding firm who has City elected officials, officers or employees affiliated with it, unless the bidding firm has fully complied with current Florida State Statutes and City Ordinances relating to this issue. Bidders must disclose any such affiliation. Failure to disclose any such affiliation will result in disqualification of the Bidder and removal of the Bidder from the City's bidder lists and prohibition from engaging in any business with the City**.**

3.17 **RESERVATIONS FOR AWARD AND REJECTION OF BIDS:** The City reserves the right to accept or reject any or all bids, part of bids, and to waive minor irregularities or variations to specifications contained in bids, and minor irregularities in the bidding process. The City also reserves the right to award the contract on a split order basis, lump sum basis, individual item basis, or such combination as shall best serve the interest of the City. The City reserves the right to make an award to the responsive and responsible bidder whose product or service meets the terms, conditions, and specifications of the ITB and whose bid is considered to best serve the City's interest. In determining the responsiveness of the offer and the responsibility of the Bidder, the following shall be considered when applicable: the ability, capacity and skill of the Bidder to perform as required; whether the Bidder can perform promptly, or within the time specified, without delay or interference; the character, integrity, reputation, judgment, experience and efficiency of the Bidder; the quality of past performance by the Bidder; the previous and existing compliance by the Bidder with related laws and ordinances; the sufficiency of the Bidder's financial resources; the availability, quality and adaptability of the Bidder's supplies or services to the required use; the ability of the Bidder to provide future maintenance, service or parts; the number and scope of conditions attached to the bid**.**

If the ITB provides for a contract trial period, the City reserves the right, in the event the selected bidder does not perform satisfactorily, to award a trial period to the next ranked bidder or to award a contract to the next ranked bidder, if that bidder has successfully provided services to the City in the past. This procedure to continue until a bidder is selected or the contract is re-bid, at the sole option of the City.

3.18 **LEGAL REQUIREMENTS:** Applicable provisions of all federal, state, county laws, and local ordinances, rules and regulations, shall govern development, submittal and evaluation of all bids received in response hereto and shall govern any and all claims and disputes which may arise between person(s) submitting a bid response hereto and the City by and through its officers, employees and authorized representatives, or any other person, natural or otherwise; and lack of knowledge by any bidder shall not constitute a cognizable defense against the legal effect thereof**.**

3.19 **BID PROTEST PROCEDURE:** Any proposer or bidder who is not recommended for award of a contract and who alleges a failure by the city to follow the city's procurement ordinance or any applicable law may protest to the chief procurement officer, by delivering a letter of protest to the director of finance within five (5) days after a notice of intent to award is posted on the city's web site at the following url: https://www.fortlauderdale.gov/departments/finance/procurement-services/notices-of-intent-to-award

The complete protest ordinance may be found on the city's web site at the following url: https://library.municode.com/fl/fort_lauderdale/codes/code_of_ordinances?nodeid=coor_ch2ad_artvfi_div2pr_s2-182direpr

PART IV BONDS AND INSURANCE

4.01 **PERFORMANCE BOND:** If a performance bond is required in Special Conditions, the Contractor shall within fifteen (15) working days after notification of award, furnish to the City a Performance Bond, payable to the City of Fort Lauderdale, Florida, in the face amount specified in Special Conditions as surety for faithful

performance under the terms and conditions of the contract. If the bond is on an annual coverage basis, renewal for each succeeding year shall be submitted to the City thirty (30) days prior to the termination date of the existing Performance Bond. The Performance Bond must be executed by a surety company of recognized standing, authorized to do business in the State of Florida and having a resident agent.

Acknowledgement and agreement is given by both parties that the amount herein set for the Performance Bond is not intended to be nor shall be deemed to be in the nature of liquidated damages nor is it intended to limit the liability of the Contractor to the City in the event of a material breach of this Agreement by the Contractor**.**

4.02 **INSURANCE:** The Contractor shall assume full responsibility and expense to obtain all necessary insurance as required by City or specified in Special Conditions**.**

The Contractor shall provide to the Procurement Services Division original certificates of coverage and receive notification of approval of those certificates by the City's Risk Manager prior to engaging in any activities under this contract. The Contractor's insurance is subject to the approval of the City's Risk Manager. The certificates must list the City as an ADDITIONAL INSURED for General Liability Insurance and shall have no less than thirty (30) days written notice of cancellation or material change. Further modification of the insurance requirements may be made at the sole discretion of the City's Risk Manager if circumstances change or adequate protection of the City is not presented. Bidder, by submitting the bid, agrees to abide by such modifications**.**

PART V PURCHASE ORDER AND CONTRACT TERMS:

5.01 **COMPLIANCE WITH SPECIFICATIONS, LATE DELIVERIES/PENALTIES:** Items offered may be tested for compliance with bid specifications. Items delivered which do not conform to bid specifications may be rejected and returned at Contractor's expense. Any violation resulting in contract termination for cause or delivery of items not conforming to specifications, or late delivery may also result in:

- Bidder's name being removed from the City's bidder's mailing list for a specified period and Bidder will not be recommended for any award during that period.
- All City Departments being advised to refrain from doing business with the Bidder.
- All other remedies in law or equity.

5.02 **ACCEPTANCE, CONDITION, AND PACKAGING:** The material delivered in response to ITB award shall remain the property of the Seller until a physical inspection is made and the material accepted to the satisfaction of the City. The material must comply fully with the terms of the ITB, be of the required quality, new, and the latest model. All containers shall be suitable for storage and shipment by common carrier, and all prices shall include standard commercial packaging. The City will not accept substitutes of any kind. Any substitutes or material not meeting specifications will be returned at the Bidder's expense. Payment will be made only after City receipt and acceptance of materials or services.

5.03 **SAFETY STANDARDS:** All manufactured items and fabricated assemblies shall comply with applicable requirements of the Occupation Safety and Health Act of 1970 as amended.

5.04 **ASBESTOS STATEMENT:** All material supplied must be 100% asbestos free. Bidder, by virtue of bidding, certifies that if awarded any portion of the ITB the bidder will supply only material or equipment that is 100% asbestos free.

5.05 **OTHER GOVERNMENTAL ENTITIES:** If the Bidder is awarded a contract as a result of this ITB, the bidder may, if the bidder has sufficient capacity or quantities available, provide to other governmental agencies, so requesting, the products or services awarded in accordance with the terms and conditions of the ITB and resulting contract. Prices shall be F.O.B. delivered to the requesting agency.

5.06 **VERBAL INSTRUCTIONS PROCEDURE:** No negotiations, decisions, or actions shall be initiated or executed by the Contractor as a result of any discussions with any City employee. Only those communications which are in writing from an authorized City representative may be considered. Only written communications from Contractors, which are assigned by a person designated as authorized to bind the Contractor, will be recognized by the City as duly authorized expressions on behalf of Contractors.

5.07 **INDEPENDENT CONTRACTOR:** The Contractor is an independent contractor under this Agreement. Personal services provided by the Proposer shall be by employees of the Contractor and subject to supervision by the Contractor, and not as officers, employees, or agents of the City. Personnel policies, tax responsibilities, social security, health insurance, employee benefits, procurement policies unless otherwise stated in this ITB, and other similar administrative procedures applicable to services rendered under this contract shall be those of the Contractor.

5.08 **INDEMNITY/HOLD HARMLESS AGREEMENT:** Contractor shall protect and defend at Contractor's expense, counsel being subject to the City's approval, and indemnify and hold harmless the City and the City's officers, employees, volunteers, and agents from and against any and all losses, penalties, fines, damages, settlements, judgments, claims, costs, charges, expenses, or liabilities, including any award of attorney fees and any award of costs, in connection with or arising directly or indirectly out of any act or omission by the Contractor or by any officer, employee, agent, invitee, subcontractor, or sublicensee of the Contractor. Without limiting the foregoing, any and all such claims, suits, or other actions relating to personal injury, death, damage to property, defects in materials or workmanship, actual or alleged violations of any applicable statute, ordinance, administrative order, rule or regulation, or decree of any court shall be included in the indemnity hereunder.

5.09 **TERMINATION FOR CAUSE:** If, through any cause, the Contractor shall fail to fulfill in a timely and proper manner its obligations under this Agreement, or if the Contractor shall violate any of the provisions of this Agreement, the City may upon written notice to the Contractor terminate the right of the Contractor to proceed under this Agreement, or with such part or parts of the Agreement as to which there has been default, and may hold the Contractor liable for any damages caused to the City by reason of such default and termination. In the event of such termination, any completed services performed by the Contractor under this Agreement shall, at the option of the City, become the City's property and the Contractor shall be entitled to receive equitable compensation for any work completed to the satisfaction of

the City. The Contractor, however, shall not be relieved of liability to the City for damages sustained by the City by reason of any breach of the Agreement by the Contractor, and the City may withhold any payments to the Contractor for the purpose of setoff until such time as the amount of damages due to the City from the Contractor can be determined.

5.10 TERMINATION FOR CONVENIENCE: The City reserves the right, in the City's best interest as determined by the City, to cancel any contract by giving written notice to the Contractor thirty (30) days prior to the effective date of such cancellation.

5.11 CANCELLATION FOR UNAPPROPRIATED FUNDS: The obligation of the City for payment to a Contractor is limited to the availability of funds appropriated in a current fiscal period, and continuation of the contract into a subsequent fiscal period is subject to appropriation of funds, unless otherwise authorized by law.

5.12 RECORDS/AUDIT: The Contractor shall maintain during the term of the contract all books of account, reports and records in accordance with generally accepted accounting practices and standards for records directly related to this contract. The Contractor agrees to make available to the City Auditor or the City Auditor's designee, during normal business hours and in Broward, Miami-Dade or Palm Beach Counties, all books of account, reports, and records relating to this contract. The Contractor shall retain all books of account, reports, and records relating to this contract for the duration of the contract and for three years after the final payment under this Agreement, until all pending audits, investigations or litigation matters relating to the contract are closed, or until expiration of the records retention period prescribed by Florida law or the records retention schedules adopted by the Division of Library and Information Services of the Florida Department of State, whichever is later.

5.13 PERMITS, TAXES, LICENSES: The successful Contractor shall, at his/her/its own expense, obtain all necessary permits, pay all licenses, fees and taxes, required to comply with all local ordinances, state and federal laws, rules and regulations applicable to business to be carried out under this contract.

5.14 LAWS/ORDINANCES: The Contractor shall observe and comply with all Federal, state, local and municipal laws, ordinances rules and regulations that would apply to this contract.

NON-DISCRIMINATION: The Contractor shall not, in any of its activities, including employment, discriminate against any individual on the basis of race, color, national origin, age, religion, creed, sex, disability, sexual orientation, gender, gender identity, gender expression, marital status, or any other protected classification as defined by applicable law.

1. The Contractor certifies and represents that the Contractor will comply with Section 2-187, Code of Ordinances of the City of Fort Lauderdale, Florida, (2019), as may be amended or revised, ("Section 2-187"), during the entire term of this Agreement.
2. The failure of the Contractor to comply with Section 2-187 shall be deemed to be a material breach of this Agreement, entitling the City to pursue any remedy stated below or any remedy provided under applicable law.
3. The City may terminate this Agreement if the Contractor fails to comply with Section 2-187.
4. The City may retain all monies due or to become due until the Contractor complies with Section 2-187.
5. The Contractor may be subject to debarment or suspension proceedings. Such proceedings will be consistent with the procedures in section 2-183 of the Code of Ordinances of the City of Fort Lauderdale, Florida.

5.15 UNUSUAL CIRCUMSTANCES: If during a contract term where costs to the City are to remain firm or adjustments are restricted by a percentage or CPI cap, unusual circumstances that could not have been foreseen by either party of the contract occur, and those circumstances significantly affect the Contractor's cost in providing the required prior items or services, then the Contractor may request adjustments to the costs to the City to reflect the changed circumstances. The circumstances must be beyond the control of the Contractor, and the requested adjustments must be fully documented. The City may, after examination, refuse to accept the adjusted costs if they are not properly documented, increases are considered to be excessive, or decreases are considered to be insufficient. In the event the City does not wish to accept the adjusted costs and the matter cannot be resolved to the satisfaction of the City, the City will reserve the following options:

1. The contract can be canceled by the City upon giving thirty (30) days written notice to the Contractor with no penalty to the City or Contractor. The Contractor shall fill all City requirements submitted to the Contractor until the termination date contained in the notice.

2. The City requires the Contractor to continue to provide the items and services at the firm fixed (non-adjusted) cost until the termination of the contract term then in effect.

3. If the City, in its interest and in its sole opinion, determines that the Contractor in a capricious manner attempted to use this section of the contract to relieve Contractor of a legitimate obligation under the contract, and no unusual circumstances had occurred, the City reserves the right to take any and all action under law or equity. Such action shall include, but not be limited to, declaring the Contractor in default and disqualifying Contractor from receiving any business from the City for a stated period of time.

If the City does agree to adjusted costs, these adjusted costs shall not be invoiced to the City until the Contractor receives notice in writing signed by a person authorized to bind the City in such matters.

5.16 ELIGIBILITY: If applicable, the Contractor must first register with the Florida Department of State in accordance with Florida Statutes, prior to entering into a contract with the City.

5.17 PATENTS AND ROYALTIES: The Contractor, without exception, shall defend, indemnify, and hold harmless the City and the City's employees, officers, employees, volunteers, and agents from and against liability of any nature and kind, including cost and expenses for or on account of any copyrighted, patented or un-patented invention, process, or article manufactured or used in the performance of the contract, including their use by the City. If the Contractor uses any design, device, or materials covered by letters, patent or copyright, it is mutually agreed and understood without exception that the bid prices shall include any and all royalties or costs arising from the use of such design, device, or materials in any way involved in the work.

5.18 **ASSIGNMENT:** Contractor shall not transfer or assign the performance required by this ITB without the prior written consent of the City. Any award issued pursuant to this ITB, and the monies, which may become due hereunder, are not assignable except with the prior written approval of the City Commission or the City Manager or City Manager's designee, depending on original award approval.

5.19 **GOVERNING LAW; VENUE:** The Contract shall be governed by and construed in accordance with the laws of the State of Florida. Venue for any lawsuit by either party against the other party or otherwise arising out of the Contract, and for any other legal proceeding, shall be in the courts in and for Broward County, Florida, or in the event of federal jurisdiction, in the Southern District of Florida.

5.20 **PUBLIC RECORDS:**

IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT PRRCONTRACT@FORTLAUDERDALE.GOV, 954-828-5002, CITY CLERK'S OFFICE, 100 N. ANDREWS AVENUE, FORT LAUDERDALE, FLORIDA 33301.

Contractor shall comply with public records laws, and Contractor shall:

1. Keep and maintain public records required by the City to perform the service.

2. Upon request from the City's custodian of public records, provide the City with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes (2019), as may be amended or revised, or as otherwise provided by law.

3. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of the contract if the Contractor does not transfer the records to the City.

4. Upon completion of the Contract, transfer, at no cost, to the City all public records in possession of the Contractor or keep and maintain public records required by the City to perform the service. If the Contractor transfers all public records to the City upon completion of the Contract, the Contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Contractor keeps and maintains public records upon completion of the Contract, the Contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the City, upon request from the City's custodian of public records, in a format that is compatible with the information technology systems of the City.

NON-COLLUSION STATEMENT:

By signing this offer, the vendor/contractor certifies that this offer is made independently and *free* from collusion. Vendor shall disclose below any City of Fort Lauderdale, FL officer or employee, or any relative of any such officer or employee who is an officer or director of, or has a material interest in, the vendor's business, who is in a position to influence this procurement.

Any City of Fort Lauderdale, FL officer or employee who has any input into the writing of specifications or requirements, solicitation of offers, decision to award, evaluation of offers, or any other activity pertinent to this procurement is presumed, for purposes hereof, to be in a position to influence this procurement.

For purposes hereof, a person has a material interest if they directly or indirectly own more than 5 percent of the total assets or capital stock of any business entity, or if they otherwise stand to personally gain if the contract is awarded to this vendor.

In accordance with City of Fort Lauderdale, FL Policy and Standards Manual, 6.10.8.3,

> 3.3. City employees may not contract with the City through any corporation or business entity in which they or their immediate family members hold a controlling financial interest (e.g. ownership of five (5) percent or more).
>
> 3.4. Immediate family members (spouse, parents and children) are also prohibited from contracting with the City subject to the same general rules.

Failure of a vendor to disclose any relationship described herein shall be reason for debarment in accordance with the provisions of the City Procurement Code.

NAME	RELATIONSHIPS

In the event the vendor does not indicate any names, the City shall interpret this to mean that the vendor has indicated that no such relationships exist.

Authorized Signature

Title

Name (Printed)

Date

CONTRACTOR'S CERTIFICATE OF COMPLIANCE WITH NON-DISCRIMINATION PROVISIONS OF THE CONTRACT

The completed and signed form should be returned with the Contractor's submittal. If not provided with submittal, the Contractor must submit within three business days of City's request. Contractor may be deemed non-responsive for failure to fully comply within stated timeframes.

Pursuant to City Ordinance Sec. 2-187(c), bidders must certify compliance with the Non-Discrimination provision of the ordinance.

The Contractor shall not, in any of his/her/its activities, including employment, discriminate against any individual on the basis of race, color, national origin, religion, creed, sex, disability, sexual orientation, gender, gender identity, gender expression, or marital status.

1. The Contractor certifies and represents that he/she/it will comply with Section 2-187, Code of Ordinances of the City of Fort Lauderdale, Florida, as amended by Ordinance C-18-33 (collectively, "Section 2-187").

2. The failure of the Contractor to comply with Section 2-187 shall be deemed to be a material breach of this Agreement, entitling the City to pursue any remedy stated below or any remedy provided under applicable law.

3. The City may terminate this Agreement if the Contractor fails to comply with Section 2-187.

4. The City may retain all monies due or to become due until the Contractor complies with Section 2-187.

5. The Contractor may be subject to debarment or suspension proceedings. Such proceedings will be consistent with the procedures in section 2-183 of the Code of Ordinances of the City of Fort Lauderdale, Florida.

Authorized Signature

Print Name and Title

Date

CONTRACT PAYMENT METHOD

The City of Fort Lauderdale has implemented a Procurement Card (P-Card) program which changes how payments are remitted to its vendors. The City has transitioned from traditional paper checks to credit card payments via MasterCard or Visa as part of this program.

This allows you as a vendor of the City of Fort Lauderdale to receive your payments fast and safely. No more waiting for checks to be printed and mailed.

In accordance with the contract, payments on this contract will be made utilizing the City's P-Card (MasterCard or Visa). Accordingly, bidders must presently have the ability to accept these credit cards or take whatever steps necessary to implement acceptance of a card before the start of the contract term, or contract award by the City.

All costs associated with the Contractor's participation in this purchasing program shall be borne by the Contractor. The City reserves the right to revise this program as necessary.

By signing below you agree with these terms.

Please indicate which credit card payment you prefer:

- ☐ MasterCard
- ☐ Visa

Company Name

Name (Printed)

Signature

Date

Title

LOCAL BUSINESS PREFERENCE

Section 2-199.2, Code of Ordinances of the City of Fort Lauderdale, (Ordinance No. C-12-04), provides for a local business preference.

In order to be considered for a local business preference, a bidder must include the Local Business Preference Certification Statement of this bid/proposal, as applicable to the local business preference class claimed **at the time of bid submittal.**

Upon formal request of the City, based on the application of a Local Business Preference the Bidder shall, within ten (10) calendar days, submit the following documentation to the Local Business Preference Class claimed:

A) Copy of City of Fort Lauderdale current year business tax receipt, **or** Broward County current year business tax receipt, **and**

B) List of the names of all employees of the bidder and evidence of employees' residence within the geographic bounds of the City of Fort Lauderdale or Broward County, as the case may be, such as current Florida driver license, residential utility bill (water, electric, telephone, cable television), or other type of similar documentation acceptable to the City.

Failure to comply at time of bid submittal shall result in the bidder being found ineligible for the local business preference.

THE COMPLETE LOCAL BUSINESS PREFERENCE ORDINANCE MAY BE FOUND ON THE CITY'S WEB SITE AT THE FOLLOWING LINK: https://library.municode.com/fl/fort_lauderdale/codes/code_of_ordinances?nodeId=COOR_CH2AD_ARTVFI_DIV2PR_S2-186LOBUPRPR

Definitions: The term "Business" shall mean a person, firm, corporation or other business entity which is duly licensed and authorized to engage in a particular work in the State of Florida. Business shall be broken down into four (4) types of classes:

1. Class A Business – shall mean any Business that has established and agrees to maintain a permanent place of business located in a non-residential zone and staffed with full-time employees within the limits of the City **and** shall maintain a staffing level of the prime contractor for the proposed work of at least fifty percent (50%) who are residents of the City.
2. Class B Business - shall mean any Business that has established and agrees to maintain a permanent place of business located in a non-residential zone and staffed with full-time employees within the limits of the City **or** shall maintain a staffing level of the prime contractor for the proposed work of at least fifty percent (50%) who are residents of the City.
3. Class C Business - shall mean any Business that has established and agrees to maintain a permanent place of business located in a non-residential zone **and** staffed with full-time employees within the limits of Broward County.
4. Class D Business – shall mean any Business that does not qualify as either a Class A, Class B, or Class C business.

LOCAL BUSINESS PREFERENCE CERTIFICATION STATEMENT

The Business identified below certifies that it qualifies for the local business preference classification as indicated herein, and further certifies and agrees that it will re-affirm its local preference classification annually no later than thirty (30) calendar days prior to the anniversary of the date of a contract awarded pursuant to this ITB. Violation of the foregoing provision may result in contract termination.

(1) _____ Business Name is a **Class A** Business as defined in City of Fort Lauderdale Ordinance No. C-17-26, Sec.2-186. A copy of the City of Fort Lauderdale current year Business Tax Receipt **and** a complete list of full-time employees and evidence of their addresses shall be provided within 10 calendar days of a formal request by the City.

(2) _____ Business Name is a **Class B** Business as defined in the City of Fort Lauderdale Ordinance No. C-17-26, Sec.2-186. A copy of the Business Tax Receipt **or** a complete list of full-time employees and evidence of their addresses shall be provided within 10 calendar days of a formal request by the City.

(3) _____ Business Name is a **Class C** Business as defined in the City of Fort Lauderdale Ordinance No. C-17-26, Sec.2-186. A copy of the Broward County Business Tax Receipt shall be provided within 10 calendar days of a formal request by the City.

(4) _____ Business Name requests a **Conditional Class A** classification as defined in the City of Fort Lauderdale Ordinance No. C-17-26, Sec.2-186. Written certification of intent shall be provided within 10 calendar days of a formal request by the City.

requests a **Conditional Class B** classification as defined in the City of Fort Lauderdale

(5) _____
Business Name

(6) _____
Business Name

Ordinance No. C-17-26, Sec.2-186. Written certification of intent shall be provided within 10 calendar days of a formal request by the City.

is considered a **Class D** Business as defined in the City of Fort Lauderdale Ordinance No. C-17-26, Sec.2-186 and does not qualify for Local Preference consideration.

BIDDER'S COMPANY: _____

AUTHORIZED COMPANY PERSON: _____ _____

PRINTED NAME TITLE

SIGNATURE: _____ DATE: _____

E-VERIFY AFFIRMATION STATEMENT

RFP/Bid /Contract No:

Project Description:

Contractor/Proposer/Bidder acknowledges and agrees to utilize the U.S. Department of Homeland Security's E-Verify System to verify the employment eligibility of,

(a) all persons employed by Contractor/Proposer/Bidder to perform employment duties within Florida during the term of the Contract, and,

(b) all persons (including subcontractors/vendors) assigned by Contractor/Proposer/Bidder to perform work pursuant to the Contract.

The Contractor/Proposer/Bidder acknowledges and agrees that use of the U.S. Department of Homeland Security's E-Verify System during the term of the Contract is a condition of the Contract.

Contractor/Proposer/ Bidder Company Name:

Authorized Company Person's Signature:

Authorized Company Person's Title:

Date:

9/15/2020

BID/PROPOSAL CERTIFICATION

Please Note: It is the sole responsibility of the bidder to ensure that his bid is submitted electronically through www.BidSync.com prior to the bid opening date and time listed. Paper bid submittals will not be accepted. All fields below must be completed. If the field does not apply to you, please note N/A in that field.

If you are a foreign corporation, you may be required to obtain a certificate of authority from the department of state, in accordance with Florida Statute §607.1501 (visit http://www.dos.state.fl.us/).

Company: (Legal Registration) EIN (Optional):

Address:

City: State: Zip:

Telephone No.: FAX No.: Email:

Delivery: Calendar days after receipt of Purchase Order **(section 1.02 of General Conditions)**:

Total Bid Discount **(section 1.05 of General Conditions)**:

Check box if your firm qualifies for MBE / SBE / WBE **(section 1.09 of General Conditions)**:

ADDENDUM ACKNOWLEDGEMENT - Proposer acknowledges that the following addenda have been received and are included in the proposal:

Addendum No.	Date Issued	Addendum No.	Date Issued	Addendum No.	Date Issued

---

VARIANCES: If you take exception or have variances to any term, condition, specification, scope of service, or requirement in this competitive solicitation you must specify such exception or variance in the space provided below or reference in the space provided below all variances contained on other pages within your response. Additional pages may be attached if necessary. No exceptions or variances will be deemed to be part of the response submitted unless such is listed and contained in the space provided below. The City does not, by virtue of submitting a variance, necessarily accept any variances. If no statement is contained in the below space, it is hereby implied that your response is in full compliance with this competitive solicitation. If you do not have variances, simply mark N/A. **You must also click the "Take Exception" button.**

The below signatory hereby agrees to furnish the following article(s) or services at the price(s) and terms stated subject to all instructions, conditions, specifications addenda, legal advertisement, and conditions contained in the bid/proposal.

I have read all attachments including the specifications and fully understand what is required. By submitting this signed proposal, I will accept a contract if approved by the City and such acceptance covers all terms, conditions, and specifications of this bid/proposal. The below signatory also hereby agrees, by virtue of submitting or attempting to submit a response, that in no event shall the City's liability for respondent's direct, indirect, incidental, consequential, special or exemplary damages,

expenses, or lost profits arising out of this competitive solicitation process, including but not limited to public advertisement, bid conferences, site visits, evaluations, oral presentations, or award proceedings exceed the amount of Five Hundred Dollars ($500.00). This limitation shall not apply to claims arising under any provision of indemnification or the City's protest ordinance contained in this competitive solicitation.

Submitted by:

Name (printed)	Signature
Date	Title

Revised 4/28/2020

City of Fort Lauderdale • Procurement Services Division
100 N. Andrews Avenue, 619 • Fort Lauderdale, Florida 33301
954-828-5933 Fax 954-828-5576
purchase@fortlauderdale.gov

ADDENDUM NO. 1

ITB No. 12471-813
TITLE: Demolition Services

ISSUED: January 4, 2021

This addendum is being issued to make the following change(s):

1. Updated Technical Specifications/Scope of Services.

2. Section 3.7.10 added:
   Additional Fees for Asbestos Surveys and Asbestos Filing Fees: Proposer will add $25,000 to bid for additional fees related to asbestos surveys and filing fees.

3. Additional line item 12471-813-01-37 added

All other terms, conditions, and specifications remain unchanged.

Laurie Platkin, CPPB
Senior Procurement Specialist

Company Name: _____
(please print)

Bidder's Signature: _____

Date: _____

Question and Answers for Bid #12471-813 - Demolition Services

Overall Bid Questions

Question 1

How do you want line item amounts submitted? The spreadsheet does not give columns for such and the place offer key on the line items sheet is not seeming to work.

Do you want to include line items for: asbestos survey; asbestos survey filing fee; and miscellaneous protection?

If we do not accept credit card, can you pay invoices via check or ACH? **(Submitted: Jan 1, 2021 10:29:20 AM EST)**

Answer

- A) How do you want line item amounts submitted? The spreadsheet does not give columns for such and the place offer key on the line items sheet is not seeming to work.
Answer: Please reach out to BidSync.com directly if you are experiencing challenges submitting your bid pricing.

B) Do you want to include line items for: asbestos survey; asbestos survey filing fee; and miscellaneous protection?
Answer: See Addendum 1

C) If we do not accept credit card, can you pay invoices via check or ACH?
Answer: No, the City will not pay for these services via check or ACH. The contractor will need to make arrangements to accept either Visa or Mastercard credit card payments. **(Answered: Jan 4, 2021 11:32:15 AM EST)**

Alliedbean Demolition

Bid Contact **Bob Pagano**
jermaine@alliedbean.com
Ph 954-296-4152

Address **500 East Broward Blvd**
Suiet 1710
Fort Lauderdale, FL 33394

Qualifications **WBE**

Item #	Line Item	Notes	Unit Price	Qty/Unit		Attch.	Docs
12471-813--01-01	CBS Structures for 0-1500 sq. ft.	**Supplier Product Code:**	**First Offer - $3.55**	7000 / square foot	**$24,850.00**	**Y**	**Y**
12471-813--01-02	CBS Structures for 1501-300 sq.ft.	**Supplier Product Code:**	**First Offer - $3.55**	6000 / square foot	**$21,300.00**		**Y**
12471-813--01-03	CBS Structures for 3001-6000 sq. ft.	**Supplier Product Code:**	**First Offer - $3.25**	6000 / square foot	**$19,500.00**		**Y**
12471-813--01-04	CBS Structures for 6001+ sq. ft.	**Supplier Product Code:**	**First Offer - $3.25**	6000 / square foot	**$19,500.00**		**Y**
12471-813--01-05	Wood Structures for 0-1500 sq. ft.	**Supplier Product Code:**	**First Offer - $3.52**	7000 / square foot	**$24,640.00**		**Y**
12471-813--01-06	Wood Structures for 1501-3000 sq. ft.	**Supplier Product Code:**	**First Offer - $3.52**	6000 / square foot	**$21,120.00**		**Y**
12471-813--01-07	Wood Structures for 3001-6000 sq. ft.	**Supplier Product Code:**	**First Offer - $3.52**	6000 / square foot	**$21,120.00**		**Y**
12471-813--01-08	Wood Structures for 6001+ sq. ft.	**Supplier Product Code:**	**First Offer - $2.20**	6000 / square foot	**$13,200.00**		**Y**
12471-813--01-09	24 Hour Emergency Services	**Supplier Product Code:**	**First Offer - $5,000.00**	1 / each	**$5,000.00**		**Y**
12471-813--01-10	3 Day Emergency Services	**Supplier Product Code:**	**First Offer - $2,500.00**	2 / each	**$5,000.00**		**Y**

12471-813--01-11	Removal and Disposal of Excess Debris	**Supplier Product Code:**	**First Offer - $35.75**	300 / cubic yard	**$10,725.00**	**Y**
12471-813--01-12	Pump Out, Disposal Rates: Septic Tanks	**Supplier Product Code:**	**First Offer - $253.00**	10 / each	**$2,530.00**	**Y**
12471-813--01-13	Pump-Out, Disposal Rates: Grease Traps	**Supplier Product Code:**	**First Offer - $825.00**	10 / each	**$8,250.00**	**Y**
12471-813--01-14	Capping Sewer Lines	**Supplier Product Code:**	**First Offer - $423.50**	40 / each	**$16,940.00**	**Y**
12471-813--01-15	Rat Free Certification	**Supplier Product Code:**	**First Offer - $165.00**	50 / each	**$8,250.00**	**Y**
12471-813--01-16	Removal of Miscellaneous Structures	**Supplier Product Code:**	**First Offer - $11.00**	20 / each	**$220.00**	**Y**
12471-813--01-17	Asphalt Slabs	**Supplier Product Code:**	**First Offer - $0.17**	10000 / square foot	**$1,700.00**	**Y**
12471-813--01-18	Concrete Slabs and Brick Pavers	**Supplier Product Code:**	**First Offer - $0.17**	10000 / square foot	**$1,700.00**	**Y**
12471-813--01-19	Removal of Paved Surfaces Sub-Grade Base Material	**Supplier Product Code:**	**First Offer - $0.77**	2500 / cubic yard	**$1,925.00**	**Y**
12471-813--01-20	Removal of Fencing	**Supplier Product Code:**	**First Offer - $6.95**	1000 / linear foot	**$6,950.00**	**Y**
12471-813--01-21	HVAC Refrigerant Recovery	**Supplier Product Code:**	**First Offer - $10.67**	20 / pound	**$213.40**	**Y**
12471-813--01-22	Concrete Walls	**Supplier Product Code:**	**First Offer - $2.59**	2000 / square foot	**$5,180.00**	**Y**
12471-813--01-23	Removal and Disposal	**Supplier**	**First Offer - $55.00**	50 / cubic yard	**$2,750.00**	**Y**

	of Hazardous Waste	**Product Code:**				
12471-813--01-24	Docks	**Supplier Product Code:**	**First Offer - $7.92**	100 / square foot	**$792.00**	**Y**
12471-813--01-25	Dock Pilings	**Supplier Product Code:**	**First Offer - $88.00**	8 / each	**$704.00**	**Y**
12471-813--01-26	Swimming Pools / Spas	**Supplier Product Code:**	**First Offer - $11.00**	2500 / square foot	**$27,500.00**	**Y**
12471-813--01-27	Clean Fill	**Supplier Product Code:**	**First Offer - $22.00**	70 / cubic yard	**$1,540.00**	**Y**
12471-813--01-28	Removal of Asbestos Related to Floor Tiles as Asbestos Containing Material (ACM)	**Supplier Product Code:**	**First Offer - $1.71**	400 / square foot	**$684.00**	**Y**
12471-813--01-29	Removal of Floor Tile and Mastic as ACM	**Supplier Product Code:**	**First Offer - $2.20**	400 / square foot	**$880.00**	**Y**
12471-813--01-30	Removal of Vinyl as ACM	**Supplier Product Code:**	**First Offer - $1.71**	400 / square foot	**$684.00**	**Y**
12471-813--01-31	Removal of Carpet as ACM	**Supplier Product Code:**	**First Offer - $1.60**	400 / square foot	**$640.00**	**Y**
12471-813--01-32	Removal of Roofing Material as ACM	**Supplier Product Code:**	**First Offer - $3.30**	400 / square foot	**$1,320.00**	**Y**
12471-813--01-33	Removal of Surfacing Material as ACM	**Supplier Product Code:**	**First Offer - $7.43**	400 / square foot	**$2,972.00**	**Y**
12471-813--01-34	Removal of Ceiling Tile as ACM	**Supplier Product Code:**	**First Offer - $3.74**	400 / square foot	**$1,496.00**	**Y**
12471-813--01-35	Cementitious Composite as ACM	**Supplier Product**	**First Offer - $3.25**	400 / square foot	**$1,300.00**	**Y**

		Code:				
12471-813--01-36	Thermal System Insulation Material (TSI) as ACM	**Supplier Product Code:**	**First Offer - $9.63**	400 / square foot	**$3,852.00**	**Y**
12471-813--01-37	Additional Fees for Asbestos Surveys and Asbestos Filing Fees	**Supplier Product Code:**	**First Offer - $25,000.00**	1 / lump sum	**$25,000.00**	**Y**

Supplier Total **$311,927.40**

Alliedbean Demolition

Item: **CBS Structures for 0-1500 sq. ft.**

Attachments

License Documents.pdf

ALLIDEM-01 RHOHNE

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY) 1/13/2021

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

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

PRODUCER	CONTACT NAME:	
Kore Insurance Holdings, LLC P.O. Box 473 354 Eisenhower Parkway, Plaza 1 Livingston, NJ 07039	PHONE (A/C, No, Ext): (973) 577-8627	FAX (A/C, No):
	E-MAIL ADDRESS: rhohne@koreins.com	
	INSURER(S) AFFORDING COVERAGE	NAIC #
	INSURER A : Clear Blue Specialty Insurance Company	37745
INSURED	INSURER B : Admiral Insurance Company	24856
Alliedbean Demolition, Inc. 500 East Broward Blvd. Fort Lauderdale, FL 33394	INSURER C : Golden Bear Insurance Company	39861
	INSURER D :	
	INSURER E :	
	INSURER F :	

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

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

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	X COMMERCIAL GENERAL LIABILITY						EACH OCCURRENCE	$ 1,000,000
	CLAIMS-MADE X OCCUR			WCCO-CGL-0000090-01	4/10/2020	4/10/2021	DAMAGE TO RENTED PREMISES (Ea occurrence)	$ 100,000
							MED EXP (Any one person)	$
							PERSONAL & ADV INJURY	$ 1,000,000
	GEN'L AGGREGATE LIMIT APPLIES PER:						GENERAL AGGREGATE	$ 2,000,000
	POLICY X PRO-JECT X LOC						PRODUCTS - COMP/OP AGG	$ 2,000,000
	OTHER:							$
	AUTOMOBILE LIABILITY						COMBINED SINGLE LIMIT (Ea accident)	$
	ANY AUTO						BODILY INJURY (Per person)	$
	OWNED AUTOS ONLY / SCHEDULED AUTOS						BODILY INJURY (Per accident)	$
	HIRED AUTOS ONLY / NON-OWNED AUTOS ONLY						PROPERTY DAMAGE (Per accident)	$
								$
B	UMBRELLA LIAB X OCCUR						EACH OCCURRENCE	$ 5,000,000
	X EXCESS LIAB CLAIMS-MADE			BEX09603621-01	4/10/2020	4/10/2021	AGGREGATE	$ 5,000,000
	DED X RETENTION $ 0							$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY Y/N						PER STATUTE / OTH-ER	
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH)	N/A					E.L. EACH ACCIDENT	$
	If yes, describe under DESCRIPTION OF OPERATIONS below						E.L. DISEASE - EA EMPLOYEE	$
							E.L. DISEASE - POLICY LIMIT	$
C	Excess $5M x/o $5M			GBX32773	4/10/2020	4/10/2021	Excess	5,000,000

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

CERTIFICATE HOLDER

Allied Bean Demolition, Inc.
500 East Broward Blvd, Suite 1710
Fort Lauderdale, FL 33394

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

ACORD 25 (2016/03) © 1988-2015 ACORD CORPORATION. All rights reserved.
The ACORD name and logo are registered marks of ACORD

THIS ENDORSEMENT CHANGES/MODIFIES THE POLICY. PLEASE READ IT CAREFULLY.

PRIMARY AND NON-CONTRIBUTING INSURANCE

This endorsement changes/modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE FORM
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE FORM

To the extent that this insurance is afforded to any additional insured under this policy, **SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS, 4. Other Insurance**, is deleted in its entirety and replaced with the following condition:

4. Other Insurance

If all of the other insurance permits contribution by equal shares, we will follow this method unless the insured is required by written contract signed by both parties, to provide insurance that is primary and non-contributory, and the "insured contract" is executed prior to any loss. Where required by a written contract signed by both parties, this insurance will be primary and non-contributing only when and to the extent as required by that contract.

However, under the contributory approach each insurer contributes equal amounts until it has paid its applicable limit of insurance or none of the loss remains, whichever comes first. If any of the other insurance does not permit contribution by equal shares, we will contribute by limits. Under this method, each insurer's share is based on the ratio of its applicable limit of insurance to the total applicable limits of insurance of all insurers.

ALL OTHER TERMS AND CONDITIONS OF THE POLICY REMAIN UNCHANGED.

This endorsement is attached to and forms a part of the Policy as listed in the Declarations Page or Declarations Extension Schedule, effective on the inception date of the Policy unless otherwise stated herein.

(The following information is required only when this endorsement is issued subsequent to preparation of the Policy.)

Endorsement effective date: Policy No.: WCCO-CGL-0000090 - 01 Endorsement No.:

Named Insured:

Authorized Representative _____

WCIS CGL 4026 12 15

POLICY NUMBER: WCCO-CGL-0000090-01 COMMERCIAL GENERAL LIABILITY

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

CG 20 10 11 85

ADDITIONAL INSURED--OWNERS, LESSEES OR CONTRACTORS (FORM B)

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART.

SCHEDULE:

Name of Person or Organization:

Any person or organization, if required by a written contract

(If no entry appears above, information required to complete this endorsement will be shown in the Declarations as applicable to this endorsement.)

WHO IS AN INSURED (Section II) is amended to include as an insured the person or organization shown in the Schedule, but only with respect to liability arising out of "your work" for that insured by or for you.

POLICY NUMBER: WCCO-CGL-0000090 - 01

COMMERCIAL GENERAL LIABILITY
CG 24 04 05 09

WAIVER OF TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART

SCHEDULE

Name Of Person Or Organization: As required by written contract signed by both parties and the insured contract is executed prior to any loss
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

The following is added to Paragraph **8. Transfer Of Rights Of Recovery Against Others To Us** of **Section IV – Conditions:**

We waive any right of recovery we may have against the person or organization shown in the Schedule above because of payments we make for injury or damage arising out of your ongoing operations or "your work" done under a contract with that person or organization and included in the "products-completed operations hazard". This waiver applies only to the person or organization shown in the Schedule above.

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CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY): 01/08/2021

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

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

PRODUCER	CONTACT NAME: Daniel Rubin	
Frank H. Furman, Inc. 1314 East Atlantic Blvd. P. O. Box 1927 Pompano Beach FL 33061	PHONE (A/C, No, Ext): (954) 943-5050	FAX (A/C, No): (954) 942-6310
	E-MAIL ADDRESS: danny@furmaninsurance.com	
	INSURER(S) AFFORDING COVERAGE	NAIC #
	INSURER A: Progressive Express Ins Co	10193
INSURED Alliedbean Demolition 500 E. Broward Blvd. Suite 1710. Ft. Lauderdale FL 33394	INSURER B :	
	INSURER C :	
	INSURER D :	
	INSURER E :	
	INSURER F :	

COVERAGES **CERTIFICATE NUMBER:** 20 - 21 BA **REVISION NUMBER:**

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

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
	COMMERCIAL GENERAL LIABILITY						EACH OCCURRENCE	$
	☐ CLAIMS-MADE ☐ OCCUR						DAMAGE TO RENTED PREMISES (Ea occurrence)	$
							MED EXP (Any one person)	$
							PERSONAL & ADV INJURY	$
	GEN'L AGGREGATE LIMIT APPLIES PER:						GENERAL AGGREGATE	$
	☐ POLICY ☐ PRO-JECT ☐ LOC						PRODUCTS - COMP/OP AGG	$
	☐ OTHER:							$
A	AUTOMOBILE LIABILITY						COMBINED SINGLE LIMIT (Ea accident)	$ 1,000,000
	☐ ANY AUTO						BODILY INJURY (Per person)	$
	☐ OWNED AUTOS ONLY ☒ SCHEDULED AUTOS			02990409-4	04/25/2020	04/25/2021	BODILY INJURY (Per accident)	$
	☒ HIRED AUTOS ONLY ☒ NON-OWNED AUTOS ONLY						PROPERTY DAMAGE (Per accident)	$
							PIP-Basic	$ 10,000
	☐ UMBRELLA LIAB ☐ OCCUR						EACH OCCURRENCE	$
	☐ EXCESS LIAB ☐ CLAIMS-MADE						AGGREGATE	$
	☐ DED ☐ RETENTION $							$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY Y/N						☐ PER STATUTE ☐ OTH-ER	
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? ☐ N/A (Mandatory in NH)						E.L. EACH ACCIDENT	$
	If yes, describe under DESCRIPTION OF OPERATIONS below						E.L. DISEASE - EA EMPLOYEE	$
							E.L. DISEASE - POLICY LIMIT	$

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

REF: Proof of Coverage

CERTIFICATE HOLDER

"Proof of Coverage"

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE



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PROGRESSIVE
PO BOX 94739
CLEVELAND, OH 44101

Policy Holder:

ALLIEDBEAN DEMOLITION
INC.
3275 W HILLSBORO BLV
DEERFIELD BEACH FL 33442

The attached endorsements listed below applies to policy number: 029904094

Form 2366 (02/11) Blanket Additional Insured Endorsement
Form 2367 (06/10) Blanket Waiver of Subrogation Endorsement

Endorsement effective: April 25, 2020

Endorsements listed above are effective until policy cancellation date. Fees will be waived on your current policy term.

Form 2366 (02/11) M_CL

Blanket Additional Insured Endorsement

This endorsement modifies insurance provided by the Commercial Auto Policy, Motor Truck Cargo Legal Liability Coverage Endorsement, and/or Commercial General Liability Coverage Endorsement, as appears on the **declarations page**. All terms and conditions of the policy apply unless modified by this endorsement.

If **you** pay the fee for this Blanket Additional Insured Endorsement, **we** agree with **you** that any person or organization with whom **you** have executed a written agreement prior to any **loss** is added as an additional **insured** with respect to such liability coverage as is afforded by the **policy**, but this insurance applies to such additional **insured** only as a person or organization liable for **your** operations and then only to the extent of that liability. This endorsement does not apply to acts, omissions, products, work, or operations of the additional **insured**.

Regardless of the provisions of paragraph a. and b. of the "Other Insurance" clause of this policy, if the person or organization with whom **you** have executed a written agreement has other insurance under which it is the first named **insured** and that insurance also applies, then this insurance is primary to and non-contributory with that other insurance when the written contract or agreement between **you** and that person or organization, signed and executed by **you** before the **bodily injury** or **property damage** occurs and in effect during the policy period, requires this insurance to be primary and non-contributory.

In no way does this endorsement waive the "Other Insurance" clause of the policy, nor make this policy primary to third parties hired by the **insured** to perform work for the **insured** or on the **insured's** behalf.

ALL OTHER TERMS, LIMITS, AND PROVISIONS OF THE POLICY REMAIN UNCHANGED.

Form 2367 (06/10) M_CL

Blanket Waiver of Subrogation Endorsement

This endorsement modifies insurance provided by the Commercial Auto Policy, Motor Truck Cargo Legal Liability Coverage Endorsement, and/or Commercial General Liability Coverage Endorsement, as appears on the **declarations page**. All terms and conditions of the policy apply unless modified by this endorsement.

If you pay the fee for this Blanket Waiver of Subrogation Endorsement, we agree to waive any and all subrogation claims against any person or organization with whom a written waiver agreement has been executed by the named insured, as required by written contract, prior to the occurrence of any loss.

ALL OTHER TERMS, LIMITS AND PROVISIONS OF THE POLICY REMAIN UNCHANGED.

ACORD®

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY): 12/30/2020

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

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

PRODUCER Bouchard Insurance for WBS - TG PO Box 6090 Clearwater, FL 33758-6090	**CONTACT NAME:** Todd George **PHONE (A/C, No, Ext):** (866) 293-3600 ext. 623 **FAX (A/C, No):** **E-MAIL ADDRESS:**
INSURED Workforce Business Services, Inc. Alt. Emp: Alliedbean Demolition Inc 1401 Manatee Ave. West Ste 600 Bradenton, FL 34205-6708	**INSURER(S) AFFORDING COVERAGE** / **NAIC #** **INSURER A:** Zurich-American Insurance Company 16535 **INSURER B:** **INSURER C:** **INSURER D:** **INSURER E:** **INSURER F:**

COVERAGES **CERTIFICATE NUMBER:** 20FL079981917 **REVISION NUMBER:**

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

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
	COMMERCIAL GENERAL LIABILITY						EACH OCCURRENCE	$
	☐ CLAIMS-MADE ☐ OCCUR						DAMAGE TO RENTED PREMISES (Ea occurrence)	$
							MED EXP (Any one person)	$
							PERSONAL & ADV INJURY	$
	GEN'L AGGREGATE LIMIT APPLIES PER:						GENERAL AGGREGATE	$
	☐ POLICY ☐ PRO-JECT ☐ LOC						PRODUCTS - COMP/OP AGG	$
	☐ OTHER:							$
	AUTOMOBILE LIABILITY						COMBINED SINGLE LIMIT (Ea accident)	$
	☐ ANY AUTO						BODILY INJURY (Per person)	$
	☐ OWNED AUTOS ONLY ☐ SCHEDULED AUTOS						BODILY INJURY (Per accident)	$
	☐ HIRED AUTOS ONLY ☐ NON-OWNED AUTOS ONLY						PROPERTY DAMAGE (Per accident)	$
								$
	☐ UMBRELLA LIAB ☐ OCCUR						EACH OCCURRENCE	$
	☐ EXCESS LIAB ☐ CLAIMS-MADE						AGGREGATE	$
	☐ DED ☐ RETENTION $							$
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) Y/N: Y If yes, describe under DESCRIPTION OF OPERATIONS below	N/A		WC 90-00-818-10	12/31/2020	12/31/2021	X PER STATUTE ☐ OTH-ER	
							E.L. EACH ACCIDENT	$ 1,000,000
							E.L. DISEASE - EA EMPLOYEE	$ 1,000,000
							E.L. DISEASE - POLICY LIMIT	$ 1,000,000
	Kevin Bean and Liliana Alvarez are not included in WC coverage.			**Location Coverage Period:**	12/31/2020	12/31/2021	**Client#** 054840	

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

Coverage is provided for only those co-employees of, but not subcontractors to:
Alliedbean Demolition Inc
500 East Broward Blvd Suite 1710
Fort Lauderdale, FL 33394

CERTIFICATE HOLDER

Alliedbean Demolition Inc
500 East Broward Blvd
Suite 1710
Fort Lauderdale, FL 33394

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

Todd George

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QUESTIONNAIRE

Bidder certifies the truth and accuracy of all statements and the answers contained herein. Failure to answer each question could result in the disqualification of your bid.

Company Name: **AlliedBean Demolition**

Contact Name: **Jermaine Jennings**
Contact Phone: **9546104439**
Contact Email: **jermaine@alliedbean.com**

1. Provide complete information of three references for which you have performed these services.

   Entity name: **City of Ft Lauderdale**
   Address: **100 N Andrews Ave Ft Lauderdale**
   Contact Name: **Tasha Williams**
   Telephone Number: **954-828-5082**

   Entity name:
   Address:
   Contact Name:
   Telephone Number:

   Entity name:
   Address:
   Contact Name:
   Telephone Number:

2. Number of years experience you have had in providing similar services.
   8

3. Have you ever failed to complete work awarded to you? If so, where and why?
   Yes ☐ No ☑

4. Have you included copies of all appropriate licenses with your bid submittal?
   Yes ☑ No ☐

   License/Certification/Registration # Years

5. Have you included proof of insurance, including General Liability, Auto Liability and Worker's Compensation with your bid submittal?

General Liability	Yes ☑	No ☐
Auto Liability	Yes ☑	No ☐
Worker's Comp	Yes ☑	No ☐

6. Describe the last project of this nature that you completed.
Ft Lauderdale warehouse demo & fire station demo

The bidder understands that the information contained in these bid pages is to be relied upon by the City in awarding the proposed contract, and such information is warranted by the bidder to be true. The bidder agrees to furnish such additional information, prior to acceptance of any contract relating to the qualifications of the bidder, as may be required by the City.

Please review the questionnaire to make sure all questions have been answered. Attach additional sheets if necessary. **Failure to answer each question could result in the disqualification of your bid.**

CITY OF FORT LAUDERDALE
GENERAL CONDITIONS

These instructions and conditions are standard for all contracts for commodities or services issued through the City of Fort Lauderdale Procurement Services Division. The City may delete, supersede, or modify any of these standard instructions for a particular contract by indicating such change in the Invitation to Bid (ITB) Special Conditions, Technical Specifications, Instructions, Proposal Pages, Addenda, and Legal Advertisement. In this general conditions document, Invitation to Bid (ITB), Request for Qualifications (RFQ), and Request for Proposal (RFP) are interchangeable.

PART I BIDDER PROPOSAL PAGE(S) CONDITIONS:

1.01 **BIDDER ADDRESS**: The City maintains automated vendor address lists that have been generated for each specific Commodity Class item through our bid issuing service, BidSync. Notices of Invitations to Bid (ITB'S) are sent by e-mail to the selection of bidders who have fully registered with BidSync or faxed (if applicable) to every vendor on those lists, who may then view the bid documents online. Bidders who have been informed of a bid's availability in any other manner are responsible for registering with BidSync in order to view the bid documents. There is no fee for doing so. If you wish bid notifications be provided to another e-mail address or fax, please contact BidSync. If you wish purchase orders sent to a different address, please so indicate in your bid response. If you wish payments sent to a different address, please so indicate on your invoice.

1.02 **DELIVERY:** Time will be of the essence for any orders placed as a result of this ITB. The City reserves the right to cancel any orders, or part thereof, without obligation if delivery is not made in accordance with the schedule specified by the Bidder and accepted by the City.

1.03 **PACKING SLIPS:** It will be the responsibility of the awarded Contractor, to attach all packing slips to the OUTSIDE of each shipment. Packing slips must provide a detailed description of what is to be received and reference the City of Fort Lauderdale purchase order number that is associated with the shipment. Failure to provide a detailed packing slip attached to the outside of shipment may result in refusal of shipment at Contractor's expense.

1.04 **PAYMENT TERMS AND CASH DISCOUNTS:** Payment terms, unless otherwise stated in this ITB, will be considered to be net 45 days after the date of satisfactory delivery at the place of acceptance and receipt of correct invoice at the office specified, whichever occurs last. Bidder may offer cash discounts for prompt payment but they will not be considered in determination of award. If a Bidder offers a discount, it is understood that the discount time will be computed from the date of satisfactory delivery, at the place of acceptance, and receipt of correct invoice, at the office specified, whichever occurs last**.**

1.05 **TOTAL BID DISCOUNT:** If Bidder offers a discount for award of all items listed in the bid, such discount shall be deducted from the total of the firm net unit prices bid and shall be considered in tabulation and award of bid**.**

1.06 **BIDS FIRM FOR ACCEPTANCE:** Bidder warrants, by virtue of bidding, that the bid and the prices quoted in the bid will be firm for acceptance by the City for a period of one hundred twenty (120) days from the date of bid opening unless otherwise stated in the ITB**.**

1.07 **VARIANCES:** For purposes of bid evaluation, Bidder's must indicate any variances, no matter how slight, from ITB General Conditions, Special Conditions, Specifications or Addenda in the space provided in the ITB. No variations or exceptions by a Bidder will be considered or deemed a part of the bid submitted unless such variances or exceptions are listed in the bid and referenced in the space provided on the bidder proposal pages. If variances are not stated, or referenced as required, it will be assumed that the product or service fully complies with the City's terms, conditions, and specifications**.**

By receiving a bid, City does not necessarily accept any variances contained in the bid. All variances submitted are subject to review and approval by the City. If any bid contains material variances that, in the City's sole opinion, make that bid conditional in nature, the City reserves the right to reject the bid or part of the bid that is declared by the City as conditional.

1.08 **NO BIDS:** If you do not intend to bid please indicate the reason, such as insufficient time to respond, do not offer product or service, unable to meet specifications, schedule would not permit, or any other reason, in the space provided in this ITB. Failure to bid or return no bid comments prior to the bid due and opening date and time, indicated in this ITB, may result in your firm being deleted from our Bidder's registration list for the Commodity Class Item requested in this ITB.

1.09 **MINORITY AND WOMEN BUSINESS ENTERPRISE PARTICIPATION AND BUSINESS DEFINITIONS:** The City of Fort Lauderdale wants to increase the participation of Minority Business Enterprises (MBE), Women Business Enterprises (WBE), and Small Business Enterprises (SBE) in its procurement activities. If your firm qualifies in accordance with the below definitions please indicate in the space provided in this ITB.

Minority Business Enterprise (MBE) "A Minority Business" is a business enterprise that is owned or controlled by one or more socially or economically disadvantaged persons. Such disadvantage may arise from cultural, racial, chronic economic circumstances or background or other similar cause. Such persons include, but are not limited to: Blacks, Hispanics, Asian Americans, and Native Americans.

The term "Minority Business Enterprise" means a business at least 51 percent of which is owned by minority group members or, in the case of a publicly owned business, at least 51 percent of the stock of which is owned by minority group members. For the purpose of the preceding sentence, minority group members are citizens of the United States who include, but are not limited to: Blacks, Hispanics, Asian Americans, and Native Americans.

Women Business Enterprise (WBE) a "Women Owned or Controlled Business" is a business enterprise at least 51 percent of which is owned by females or, in the case of a publicly owned business, at least 51 percent of the stock of which is owned by females.

Small Business Enterprise (SBE) "Small Business" means a corporation, partnership, sole proprietorship, or other legal entity formed for the purpose of making a profit, which is independently owned and operated, has either fewer than 100 employees or less than $1,000,000 in annual gross receipts.

BLACK, which includes persons having origins in any of the Black racial groups of Africa.

WHITE, which includes persons whose origins are Anglo-Saxon and Europeans and persons of Indo-European decent including Pakistani and East Indian.
HISPANIC, which includes persons of Mexican, Puerto Rican, Cuban, Central and South American, or other Spanish culture or origin, regardless of race.
NATIVE AMERICAN, which includes persons whose origins are American Indians, Eskimos, Aleuts, or Native Hawaiians.
ASIAN AMERICAN, which includes persons having origin in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent, or the Pacific Islands.

1.10 MINORITY-WOMEN BUSINESS ENTERPRISE PARTICIPATION

It is the desire of the City of Fort Lauderdale to increase the participation of minority (MBE) and women-owned (WBE) businesses in its contracting and procurement programs. While the City does not have any preference or set aside programs in place, it is committed to a policy of equitable participation for these firms. Proposers are requested to include in their proposals a narrative describing their past accomplishments and intended actions in this area. If proposers are considering minority or women owned enterprise participation in their proposal, those firms, and their specific duties have to be identified in the proposal. If a proposer is considered for award, he or she will be asked to meet with City staff so that the intended MBE/WBE participation can be formalized and included in the subsequent contract.

1.11 SCRUTINIZED COMPANIES

As to any contract for goods or services of $1 million or more and as to the renewal of any contract for goods or services of $1 million or more, subject to *Odebrecht Construction, Inc., v. Prasad*, 876 F.Supp.2d 1305 (S.D. Fla. 2012), *affirmed*, *Odebrecht Construction, Inc., v. Secretary, Florida Department of Transportation*, 715 F.3d 1268 (11th Cir. 2013), with regard to the "Cuba Amendment," the Contractor certifies that it is not on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, and that it does not have business operations in Cuba or Syria, as provided in section 287.135, Florida Statutes (2019), as may be amended or revised. As to any contract for goods or services of any amount and as to the renewal of any contract for goods or services of any amount, the Contractor certifies that it is not on the Scrutinized Companies that Boycott Israel List created pursuant to Section 215.4725, Florida Statutes (2019), and that it is not engaged in a boycott of Israel. The City may terminate this Agreement at the City's option if the Contractor is found to have submitted a false certification as provided under subsection (5) of section 287.135, Florida Statutes (2019), as may be amended or revised, or been placed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List or the Scrutinized Companies that Boycott Israel List created pursuant to Section 215.4725, Florida Statutes (2019), or is engaged in a boycott of Israel, or has been engaged in business operations in Cuba or Syria, as defined in Section 287.135, Florida Statutes (2019), as may be amended or revised.

1.12 DEBARRED OR SUSPENDED BIDDERS OR PROPOSERS

The bidder or proposer certifies, by submission of a response to this solicitation, that neither it nor its principals and subcontractors are presently debarred or suspended by any Federal department or agency.

Part II DEFINITIONS/ORDER OF PRECEDENCE:

2.01 BIDDING DEFINITIONS The City will use the following definitions in its general conditions, special conditions, technical specifications, instructions to bidders, addenda and any other document used in the bidding process:

INVITATION TO BID (ITB) The solicitation document used for soliciting competitive sealed bids for goods or services.
INVITATION TO NEGOTIATE (ITN) All solicitation documents, regardless of medium, whether attached to or incorporated by reference in solicitations for responses from firms that invite proposals from interested and qualified firms so the city may enter into negotiations with the firm(s) determined most capable of providing the required goods or services.
REQUEST FOR PROPOSALS (RFP) A solicitation method used for soliciting competitive sealed proposals to determine the best value among proposals for goods or services for which price may not be the prevailing factor in award of the contract, or the scope of work, specifications or contract terms and conditions may be difficult to define. Such solicitation will consider the qualifications of the proposers along with evaluation of each proposal using identified and generally weighted evaluation criteria. RFPs may include price criteria whenever feasible, at the discretion of the city.
REQUEST FOR QUALIFICATIONS (RFQ) A solicitation method used for requesting statements of qualifications in order to determine the most qualified proposer for professional services.
BID – a price and terms quote received in response to an ITB.
PROPOSAL – a proposal received in response to an RFP.
BIDDER – Person or firm submitting a Bid.
PROPOSER – Person or firm submitting a Proposal.
RESPONSIVE BIDDER – A firm who has submitted a bid, offer, quote, or response which conforms in all material respects to the competitive solicitation document and all of its requirements.
RESPONSIBLE BIDDER – A firm who is fully capable of meeting all requirements of the solicitation and subsequent contract. The respondent must possess the full capability, including financial and technical, ability, business judgment, experience, qualifications, facilities, equipment, integrity, capability, and reliability, in all respects to perform fully the contract requirements and assure good faith performance as determined by the city.
FIRST RANKED PROPOSER – That Proposer, responding to a City RFP, whose Proposal is deemed by the City, the most advantageous to the City after applying the evaluation criteria contained in the RFP.
SELLER – Successful Bidder or Proposer who is awarded a Purchase Order or Contract to provide goods or services to the City.
CONTRACTOR – Any firm having a contract with the city. Also referred to as a "Vendor".
CONTRACT – All types of agreements, including purchase orders, for procurement of supplies, services, and construction, regardless of what these agreements may be called.
CONSULTANT – A firm providing professional services for the city.

2.02 **SPECIAL CONDITIONS:** Any and all Special Conditions contained in this ITB that may be in variance or conflict with these General Conditions shall have precedence over these General Conditions. If no changes or deletions to General Conditions are made in the Special Conditions, then the General Conditions shall prevail in their entirety,

PART III BIDDING AND AWARD PROCEDURES:

3.01 **SUBMISSION AND RECEIPT OF BIDS:** To receive consideration, bids must be received prior to the bid opening date and time. Unless otherwise specified, Bidders should use the proposal forms provided by the City. These forms may be duplicated, but failure to use the forms may cause the bid to be rejected. Any erasures or corrections on the bid must be made in ink and initialed by Bidder in ink. All information submitted by the Bidder shall be printed, typewritten or filled in with pen and ink. Bids shall be signed in ink. Separate bids must be submitted for each ITB issued by the City in separate sealed envelopes properly marked. When a particular ITB or RFP requires multiple copies of bids or proposals they may be included in a single envelope or package properly sealed and identified. Only send bids via facsimile transmission (FAX) if the ITB specifically states that bids sent via FAX will be considered. If such a statement is not included in the ITB, bids sent via FAX will be rejected. Bids will be publicly opened in the Procurement Office, or other designated area, in the presence of Bidders, the public, and City staff. Bidders and the public are invited and encouraged to attend bid openings. Bids will be tabulated and made available for review by Bidder's and the public in accordance with applicable regulations.

3.02 **MODEL NUMBER CORRECTIONS:** If the model number for the make specified in this ITB is incorrect, or no longer available and replaced with an updated model with new specifications, the Bidder shall enter the correct model number on the bidder proposal page. In the case of an updated model with new specifications, Bidder shall provide adequate information to allow the City to determine if the model bid meets the City's requirements.

3.03 **PRICES QUOTED:** Deduct trade discounts, and quote firm net prices. Give both unit price and extended total. In the case of a discrepancy in computing the amount of the bid, the unit price quoted will govern. All prices quoted shall be F.O.B. destination, freight prepaid (Bidder pays and bears freight charges, Bidder owns goods in transit and files any claims), unless otherwise stated in Special Conditions. Each item must be bid separately. No attempt shall be made to tie any item or items contained in the ITB with any other business with the City.

3.04 **TAXES:** The City of Fort Lauderdale is exempt from Federal Excise and Florida Sales taxes on direct purchase of tangible property. Exemption **number for EIN is 59-6000319, and State Sales tax exemption number is 85-8013875578C-1.**

3.05 **WARRANTIES OF USAGE:** Any quantities listed in this ITB as estimated or projected are provided for tabulation and information purposes only. No warranty or guarantee of quantities is given or implied. It is understood that the Contractor will furnish the City's needs as they arise.

3.06 **APPROVED EQUAL:** When the technical specifications call for a brand name, manufacturer, make, model, or vendor catalog number with acceptance of APPROVED EQUAL, it shall be for the purpose of establishing a level of quality and features desired and acceptable to the City. In such cases, the City will be receptive to any unit that would be considered by qualified City personnel as an approved equal. In that the specified make and model represent a level of quality and features desired by the City, the Bidder must state clearly in the bid any variance from those specifications. It is the Bidder's responsibility to provide adequate information, in the bid, to enable the City to ensure that the bid meets the required criteria. If adequate information is not submitted with the bid, it may be rejected. The City will be the sole judge in determining if the item bid qualifies as an approved equal.

3.07 **MINIMUM AND MANDATORY TECHNICAL SPECIFICATIONS:** The technical specifications may include items that are considered minimum, mandatory, or required. If any Bidder is unable to meet or exceed these items, and feels that the technical specifications are overly restrictive, the bidder must notify the Procurement Services Division immediately. Such notification must be received by the Procurement Services Division prior to the deadline contained in the ITB, for questions of a material nature, or prior to five (5) days before bid due and open date, whichever occurs first. If no such notification is received prior to that deadline, the City will consider the technical specifications to be acceptable to all bidders.

3.08 **MISTAKES:** Bidders are cautioned to examine all terms, conditions, specifications, drawings, exhibits, addenda, delivery instructions and special conditions pertaining to the ITB. Failure of the Bidder to examine all pertinent documents shall not entitle the bidder to any relief from the conditions imposed in the contract.

3.09 **SAMPLES AND DEMONSTRATIONS:** Samples or inspection of product may be requested to determine suitability. Unless otherwise specified in Special Conditions, samples shall be requested after the date of bid opening, and if requested should be received by the City within seven (7) working days of request. Samples, when requested, must be furnished free of expense to the City and if not used in testing or destroyed, will upon request of the Bidder, be returned within thirty (30) days of bid award at Bidder's expense. When required, the City may request full demonstrations of units prior to award. When such demonstrations are requested, the Bidder shall respond promptly and arrange a demonstration at a convenient location. Failure to provide samples or demonstrations as specified by the City may result in rejection of a bid.

3.10 **LIFE CYCLE COSTING**: If so specified in the ITB, the City may elect to evaluate equipment proposed on the basis of total cost of ownership. In using Life Cycle Costing, factors such as the following may be considered: estimated useful life, maintenance costs, cost of supplies, labor intensity, energy usage, environmental impact, and residual value. The City reserves the right to use those or other applicable criteria, in its sole opinion that will most accurately estimate total cost of use and ownership.

3.11 **BIDDING ITEMS WITH RECYCLED CONTENT:** In addressing environmental concerns, the City of Fort Lauderdale encourages Bidders to submit bids or alternate bids containing items with recycled content. When submitting bids containing items with recycled content, Bidder shall provide documentation adequate for the City to verify the recycled content. The City prefers packaging consisting of materials that are degradable or able to be recycled. When specifically stated in the ITB, the City may give preference to bids containing items manufactured with recycled material or packaging that is able to be recycled.

3.12 **USE OF OTHER GOVERNMENTAL CONTRACTS:** The City reserves the right to reject any part or all of any bids received and utilize other available governmental contracts, if such action is in its best interest**.**

3.13 **QUALIFICATIONS/INSPECTION:** Bids will only be considered from firms normally engaged in providing the types of commodities/services specified herein. The City reserves the right to inspect the Bidder's facilities, equipment, personnel, and organization at any time, or to take any other action necessary to determine Bidder's ability to perform. The Procurement Director reserves the right to reject bids where evidence or evaluation is determined to indicate inability to perform**.**

3.14 **BID SURETY:** If Special Conditions require a bid security, it shall be submitted in the amount stated. A bid security can be in the form of a bid bond or cashier's check. Bid security will be returned to the unsuccessful bidders as soon as practicable after opening of bids. Bid security will be returned to the successful bidder after acceptance of the performance bond, if required; acceptance of insurance coverage, if required; and full execution of contract documents, if required; or conditions as stated in Special Conditions**.**

3.15 **PUBLIC RECORDS/TRADE SECRETS/COPYRIGHT:** The Proposer's response to the RFP is a public record pursuant to Florida law, which is subject to disclosure by the City under the State of Florida Public Records Law, Florida Statutes Chapter 119.07 ("Public Records Law"). The City shall permit public access to all documents, papers, letters or other material submitted in connection with this RFP and the Contract to be executed for this RFP, subject to the provisions of Chapter 119.07 of the Florida Statutes.

Any language contained in the Proposer's response to the RFP purporting to require confidentiality of any portion of the Proposer's response to the RFP, except to the extent that certain information is in the City's opinion a Trade Secret pursuant to Florida law, shall be void. If a Proposer submits any documents or other information to the City which the Proposer claims is Trade Secret information and exempt from Florida Statutes Chapter 119.07 ("Public Records Laws"), the Proposer shall clearly designate that it is a Trade Secret and that it is asserting that the document or information is exempt. The Proposer must specifically identify the exemption being claimed under Florida Statutes 119.07. The City shall be the final arbiter of whether any information contained in the Proposer's response to the RFP constitutes a Trade Secret. The city's determination of whether an exemption applies shall be final, and the proposer agrees to defend, indemnify, and hold harmless the City and the City's officers, employees, and agents, against any loss or damages incurred by any person or entity as a result of the City's treatment of records as public records. In addition, the proposer agrees to defend, indemnify, and hold harmless the City and the City's officers, employees, and agents, against any loss or damages incurred by any person or entity as a result of the City's treatment of records as exempt from disclosure or confidential. Proposals bearing copyright symbols or otherwise purporting to be subject to copyright protection in full or in part may be rejected. The proposer authorizes the City to publish, copy, and reproduce any and all documents submitted to the City bearing copyright symbols or otherwise purporting to be subject to copyright protection.

EXCEPT FOR CLEARLY MARKED PORTIONS THAT ARE BONA FIDE TRADE SECRETS PURSUANT TO FLORIDA LAW, DO NOT MARK YOUR RESPONSE TO THE RFP AS PROPRIETARY OR CONFIDENTIAL. DO NOT MARK YOUR RESPONSE TO THE RFP OR ANY PART THEREOF AS COPYRIGHTED.

3.16 **PROHIBITION OF INTEREST:** No contract will be awarded to a bidding firm who has City elected officials, officers or employees affiliated with it, unless the bidding firm has fully complied with current Florida State Statutes and City Ordinances relating to this issue. Bidders must disclose any such affiliation. Failure to disclose any such affiliation will result in disqualification of the Bidder and removal of the Bidder from the City's bidder lists and prohibition from engaging in any business with the City**.**

3.17 **RESERVATIONS FOR AWARD AND REJECTION OF BIDS:** The City reserves the right to accept or reject any or all bids, part of bids, and to waive minor irregularities or variations to specifications contained in bids, and minor irregularities in the bidding process. The City also reserves the right to award the contract on a split order basis, lump sum basis, individual item basis, or such combination as shall best serve the interest of the City. The City reserves the right to make an award to the responsive and responsible bidder whose product or service meets the terms, conditions, and specifications of the ITB and whose bid is considered to best serve the City's interest. In determining the responsiveness of the offer and the responsibility of the Bidder, the following shall be considered when applicable: the ability, capacity and skill of the Bidder to perform as required; whether the Bidder can perform promptly, or within the time specified, without delay or interference; the character, integrity, reputation, judgment, experience and efficiency of the Bidder; the quality of past performance by the Bidder; the previous and existing compliance by the Bidder with related laws and ordinances; the sufficiency of the Bidder's financial resources; the availability, quality and adaptability of the Bidder's supplies or services to the required use; the ability of the Bidder to provide future maintenance, service or parts; the number and scope of conditions attached to the bid**.**

If the ITB provides for a contract trial period, the City reserves the right, in the event the selected bidder does not perform satisfactorily, to award a trial period to the next ranked bidder or to award a contract to the next ranked bidder, if that bidder has successfully provided services to the City in the past. This procedure to continue until a bidder is selected or the contract is re-bid, at the sole option of the City.

3.18 **LEGAL REQUIREMENTS:** Applicable provisions of all federal, state, county laws, and local ordinances, rules and regulations, shall govern development, submittal and evaluation of all bids received in response hereto and shall govern any and all claims and disputes which may arise between person(s) submitting a bid response hereto and the City by and through its officers, employees and authorized representatives, or any other person, natural or otherwise; and lack of knowledge by any bidder shall not constitute a cognizable defense against the legal effect thereof**.**

3.19 **BID PROTEST PROCEDURE:** Any proposer or bidder who is not recommended for award of a contract and who alleges a failure by the city to follow the city's procurement ordinance or any applicable law may protest to the chief procurement officer, by delivering a letter of protest to the director of finance within five (5) days after a notice of intent to award is posted on the city's web site at the following url: https://www.fortlauderdale.gov/departments/finance/procurement-services/notices-of-intent-to-award

The complete protest ordinance may be found on the city's web site at the following url: https://library.municode.com/fl/fort_lauderdale/codes/code_of_ordinances?nodeid=coor_ch2ad_artvfi_div2pr_s2-182direpr

PART IV BONDS AND INSURANCE

4.01 **PERFORMANCE BOND:** If a performance bond is required in Special Conditions, the Contractor shall within fifteen (15) working days after notification of award, furnish to the City a Performance Bond, payable to the City of Fort Lauderdale, Florida, in the face amount specified in Special Conditions as surety for faithful

performance under the terms and conditions of the contract. If the bond is on an annual coverage basis, renewal for each succeeding year shall be submitted to the City thirty (30) days prior to the termination date of the existing Performance Bond. The Performance Bond must be executed by a surety company of recognized standing, authorized to do business in the State of Florida and having a resident agent.

Acknowledgement and agreement is given by both parties that the amount herein set for the Performance Bond is not intended to be nor shall be deemed to be in the nature of liquidated damages nor is it intended to limit the liability of the Contractor to the City in the event of a material breach of this Agreement by the Contractor**.**

4.02 **INSURANCE:** The Contractor shall assume full responsibility and expense to obtain all necessary insurance as required by City or specified in Special Conditions**.**

The Contractor shall provide to the Procurement Services Division original certificates of coverage and receive notification of approval of those certificates by the City's Risk Manager prior to engaging in any activities under this contract. The Contractor's insurance is subject to the approval of the City's Risk Manager. The certificates must list the City as an ADDITIONAL INSURED for General Liability Insurance and shall have no less than thirty (30) days written notice of cancellation or material change. Further modification of the insurance requirements may be made at the sole discretion of the City's Risk Manager if circumstances change or adequate protection of the City is not presented. Bidder, by submitting the bid, agrees to abide by such modifications**.**

PART V PURCHASE ORDER AND CONTRACT TERMS:

5.01 **COMPLIANCE WITH SPECIFICATIONS, LATE DELIVERIES/PENALTIES:** Items offered may be tested for compliance with bid specifications. Items delivered which do not conform to bid specifications may be rejected and returned at Contractor's expense. Any violation resulting in contract termination for cause or delivery of items not conforming to specifications, or late delivery may also result in:

- Bidder's name being removed from the City's bidder's mailing list for a specified period and Bidder will not be recommended for any award during that period.
- All City Departments being advised to refrain from doing business with the Bidder.
- All other remedies in law or equity.

5.02 **ACCEPTANCE, CONDITION, AND PACKAGING:** The material delivered in response to ITB award shall remain the property of the Seller until a physical inspection is made and the material accepted to the satisfaction of the City. The material must comply fully with the terms of the ITB, be of the required quality, new, and the latest model. All containers shall be suitable for storage and shipment by common carrier, and all prices shall include standard commercial packaging. The City will not accept substitutes of any kind. Any substitutes or material not meeting specifications will be returned at the Bidder's expense. Payment will be made only after City receipt and acceptance of materials or services.

5.03 **SAFETY STANDARDS:** All manufactured items and fabricated assemblies shall comply with applicable requirements of the Occupation Safety and Health Act of 1970 as amended.

5.04 **ASBESTOS STATEMENT:** All material supplied must be 100% asbestos free. Bidder, by virtue of bidding, certifies that if awarded any portion of the ITB the bidder will supply only material or equipment that is 100% asbestos free.

5.05 **OTHER GOVERNMENTAL ENTITIES:** If the Bidder is awarded a contract as a result of this ITB, the bidder may, if the bidder has sufficient capacity or quantities available, provide to other governmental agencies, so requesting, the products or services awarded in accordance with the terms and conditions of the ITB and resulting contract. Prices shall be F.O.B. delivered to the requesting agency.

5.06 **VERBAL INSTRUCTIONS PROCEDURE:** No negotiations, decisions, or actions shall be initiated or executed by the Contractor as a result of any discussions with any City employee. Only those communications which are in writing from an authorized City representative may be considered. Only written communications from Contractors, which are assigned by a person designated as authorized to bind the Contractor, will be recognized by the City as duly authorized expressions on behalf of Contractors.

5.07 **INDEPENDENT CONTRACTOR:** The Contractor is an independent contractor under this Agreement. Personal services provided by the Proposer shall be by employees of the Contractor and subject to supervision by the Contractor, and not as officers, employees, or agents of the City. Personnel policies, tax responsibilities, social security, health insurance, employee benefits, procurement policies unless otherwise stated in this ITB, and other similar administrative procedures applicable to services rendered under this contract shall be those of the Contractor.

5.08 **INDEMNITY/HOLD HARMLESS AGREEMENT:** Contractor shall protect and defend at Contractor's expense, counsel being subject to the City's approval, and indemnify and hold harmless the City and the City's officers, employees, volunteers, and agents from and against any and all losses, penalties, fines, damages, settlements, judgments, claims, costs, charges, expenses, or liabilities, including any award of attorney fees and any award of costs, in connection with or arising directly or indirectly out of any act or omission by the Contractor or by any officer, employee, agent, invitee, subcontractor, or sublicensee of the Contractor. Without limiting the foregoing, any and all such claims, suits, or other actions relating to personal injury, death, damage to property, defects in materials or workmanship, actual or alleged violations of any applicable statute, ordinance, administrative order, rule or regulation, or decree of any court shall be included in the indemnity hereunder.

5.09 **TERMINATION FOR CAUSE:** If, through any cause, the Contractor shall fail to fulfill in a timely and proper manner its obligations under this Agreement, or if the Contractor shall violate any of the provisions of this Agreement, the City may upon written notice to the Contractor terminate the right of the Contractor to proceed under this Agreement, or with such part or parts of the Agreement as to which there has been default, and may hold the Contractor liable for any damages caused to the City by reason of such default and termination. In the event of such termination, any completed services performed by the Contractor under this Agreement shall, at the option of the City, become the City's property and the Contractor shall be entitled to receive equitable compensation for any work completed to the satisfaction of

the City. The Contractor, however, shall not be relieved of liability to the City for damages sustained by the City by reason of any breach of the Agreement by the Contractor, and the City may withhold any payments to the Contractor for the purpose of setoff until such time as the amount of damages due to the City from the Contractor can be determined.

5.10 TERMINATION FOR CONVENIENCE: The City reserves the right, in the City's best interest as determined by the City, to cancel any contract by giving written notice to the Contractor thirty (30) days prior to the effective date of such cancellation.

5.11 CANCELLATION FOR UNAPPROPRIATED FUNDS: The obligation of the City for payment to a Contractor is limited to the availability of funds appropriated in a current fiscal period, and continuation of the contract into a subsequent fiscal period is subject to appropriation of funds, unless otherwise authorized by law.

5.12 RECORDS/AUDIT: The Contractor shall maintain during the term of the contract all books of account, reports and records in accordance with generally accepted accounting practices and standards for records directly related to this contract. The Contractor agrees to make available to the City Auditor or the City Auditor's designee, during normal business hours and in Broward, Miami-Dade or Palm Beach Counties, all books of account, reports, and records relating to this contract. The Contractor shall retain all books of account, reports, and records relating to this contract for the duration of the contract and for three years after the final payment under this Agreement, until all pending audits, investigations or litigation matters relating to the contract are closed, or until expiration of the records retention period prescribed by Florida law or the records retention schedules adopted by the Division of Library and Information Services of the Florida Department of State, whichever is later.

5.13 PERMITS, TAXES, LICENSES: The successful Contractor shall, at his/her/its own expense, obtain all necessary permits, pay all licenses, fees and taxes, required to comply with all local ordinances, state and federal laws, rules and regulations applicable to business to be carried out under this contract.

5.14 LAWS/ORDINANCES: The Contractor shall observe and comply with all Federal, state, local and municipal laws, ordinances rules and regulations that would apply to this contract.

NON-DISCRIMINATION: The Contractor shall not, in any of its activities, including employment, discriminate against any individual on the basis of race, color, national origin, age, religion, creed, sex, disability, sexual orientation, gender, gender identity, gender expression, marital status, or any other protected classification as defined by applicable law.

1. The Contractor certifies and represents that the Contractor will comply with Section 2-187, Code of Ordinances of the City of Fort Lauderdale, Florida, (2019), as may be amended or revised, ("Section 2-187"), during the entire term of this Agreement.
2. The failure of the Contractor to comply with Section 2-187 shall be deemed to be a material breach of this Agreement, entitling the City to pursue any remedy stated below or any remedy provided under applicable law.
3. The City may terminate this Agreement if the Contractor fails to comply with Section 2-187.
4. The City may retain all monies due or to become due until the Contractor complies with Section 2-187.
5. The Contractor may be subject to debarment or suspension proceedings. Such proceedings will be consistent with the procedures in section 2-183 of the Code of Ordinances of the City of Fort Lauderdale, Florida.

5.15 UNUSUAL CIRCUMSTANCES: If during a contract term where costs to the City are to remain firm or adjustments are restricted by a percentage or CPI cap, unusual circumstances that could not have been foreseen by either party of the contract occur, and those circumstances significantly affect the Contractor's cost in providing the required prior items or services, then the Contractor may request adjustments to the costs to the City to reflect the changed circumstances. The circumstances must be beyond the control of the Contractor, and the requested adjustments must be fully documented. The City may, after examination, refuse to accept the adjusted costs if they are not properly documented, increases are considered to be excessive, or decreases are considered to be insufficient. In the event the City does not wish to accept the adjusted costs and the matter cannot be resolved to the satisfaction of the City, the City will reserve the following options:

1. The contract can be canceled by the City upon giving thirty (30) days written notice to the Contractor with no penalty to the City or Contractor. The Contractor shall fill all City requirements submitted to the Contractor until the termination date contained in the notice.

2. The City requires the Contractor to continue to provide the items and services at the firm fixed (non-adjusted) cost until the termination of the contract term then in effect.

3. If the City, in its interest and in its sole opinion, determines that the Contractor in a capricious manner attempted to use this section of the contract to relieve Contractor of a legitimate obligation under the contract, and no unusual circumstances had occurred, the City reserves the right to take any and all action under law or equity. Such action shall include, but not be limited to, declaring the Contractor in default and disqualifying Contractor from receiving any business from the City for a stated period of time.

If the City does agree to adjusted costs, these adjusted costs shall not be invoiced to the City until the Contractor receives notice in writing signed by a person authorized to bind the City in such matters.

5.16 ELIGIBILITY: If applicable, the Contractor must first register with the Florida Department of State in accordance with Florida Statutes, prior to entering into a contract with the City.

5.17 PATENTS AND ROYALTIES: The Contractor, without exception, shall defend, indemnify, and hold harmless the City and the City's employees, officers, employees, volunteers, and agents from and against liability of any nature and kind, including cost and expenses for or on account of any copyrighted, patented or un-patented invention, process, or article manufactured or used in the performance of the contract, including their use by the City. If the Contractor uses any design, device, or materials covered by letters, patent or copyright, it is mutually agreed and understood without exception that the bid prices shall include any and all royalties or costs arising from the use of such design, device, or materials in any way involved in the work.

5.18 **ASSIGNMENT:** Contractor shall not transfer or assign the performance required by this ITB without the prior written consent of the City. Any award issued pursuant to this ITB, and the monies, which may become due hereunder, are not assignable except with the prior written approval of the City Commission or the City Manager or City Manager's designee, depending on original award approval.

5.19 **GOVERNING LAW; VENUE:** The Contract shall be governed by and construed in accordance with the laws of the State of Florida. Venue for any lawsuit by either party against the other party or otherwise arising out of the Contract, and for any other legal proceeding, shall be in the courts in and for Broward County, Florida, or in the event of federal jurisdiction, in the Southern District of Florida.

5.20 **PUBLIC RECORDS:**

IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT PRRCONTRACT@FORTLAUDERDALE.GOV, 954-828-5002, CITY CLERK'S OFFICE, 100 N. ANDREWS AVENUE, FORT LAUDERDALE, FLORIDA 33301.

Contractor shall comply with public records laws, and Contractor shall:

1. Keep and maintain public records required by the City to perform the service.

2. Upon request from the City's custodian of public records, provide the City with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes (2019), as may be amended or revised, or as otherwise provided by law.

3. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of the contract if the Contractor does not transfer the records to the City.

4. Upon completion of the Contract, transfer, at no cost, to the City all public records in possession of the Contractor or keep and maintain public records required by the City to perform the service. If the Contractor transfers all public records to the City upon completion of the Contract, the Contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Contractor keeps and maintains public records upon completion of the Contract, the Contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the City, upon request from the City's custodian of public records, in a format that is compatible with the information technology systems of the City.

NON-COLLUSION STATEMENT:

By signing this offer, the vendor/contractor certifies that this offer is made independently and *free* from collusion. Vendor shall disclose below any City of Fort Lauderdale, FL officer or employee, or any relative of any such officer or employee who is an officer or director of, or has a material interest in, the vendor's business, who is in a position to influence this procurement.

Any City of Fort Lauderdale, FL officer or employee who has any input into the writing of specifications or requirements, solicitation of offers, decision to award, evaluation of offers, or any other activity pertinent to this procurement is presumed, for purposes hereof, to be in a position to influence this procurement.

For purposes hereof, a person has a material interest if they directly or indirectly own more than 5 percent of the total assets or capital stock of any business entity, or if they otherwise stand to personally gain if the contract is awarded to this vendor.

In accordance with City of Fort Lauderdale, FL Policy and Standards Manual, 6.10.8.3,

> 3.3. City employees may not contract with the City through any corporation or business entity in which they or their immediate family members hold a controlling financial interest (e.g. ownership of five (5) percent or more).
>
> 3.4. Immediate family members (spouse, parents and children) are also prohibited from contracting with the City subject to the same general rules.

Failure of a vendor to disclose any relationship described herein shall be reason for debarment in accordance with the provisions of the City Procurement Code.

NAME	RELATIONSHIPS

In the event the vendor does not indicate any names, the City shall interpret this to mean that the vendor has indicated that no such relationships exist.

Jermaine Jennings Authorized Signature	**Estimator** Title
Jermaine Jennings Name (Printed)	**1-13-2021** Date

CONTRACTOR'S CERTIFICATE OF COMPLIANCE WITH NON-DISCRIMINATION PROVISIONS OF THE CONTRACT

The completed and signed form should be returned with the Contractor's submittal. If not provided with submittal, the Contractor must submit within three business days of City's request. Contractor may be deemed non-responsive for failure to fully comply within stated timeframes.

Pursuant to City Ordinance Sec. 2-187(c), bidders must certify compliance with the Non-Discrimination provision of the ordinance.

The Contractor shall not, in any of his/her/its activities, including employment, discriminate against any individual on the basis of race, color, national origin, religion, creed, sex, disability, sexual orientation, gender, gender identity, gender expression, or marital status.

1. The Contractor certifies and represents that he/she/it will comply with Section 2-187, Code of Ordinances of the City of Fort Lauderdale, Florida, as amended by Ordinance C-18-33 (collectively, "Section 2-187").

2. The failure of the Contractor to comply with Section 2-187 shall be deemed to be a material breach of this Agreement, entitling the City to pursue any remedy stated below or any remedy provided under applicable law.

3. The City may terminate this Agreement if the Contractor fails to comply with Section 2-187.

4. The City may retain all monies due or to become due until the Contractor complies with Section 2-187.

5. The Contractor may be subject to debarment or suspension proceedings. Such proceedings will be consistent with the procedures in section 2-183 of the Code of Ordinances of the City of Fort Lauderdale, Florida.

Jermaine Jennings
Authorized Signature

Jermaine Jennings
Print Name and Title

1-13-2021
Date

CONTRACT PAYMENT METHOD

The City of Fort Lauderdale has implemented a Procurement Card (P-Card) program which changes how payments are remitted to its vendors. The City has transitioned from traditional paper checks to credit card payments via MasterCard or Visa as part of this program.

This allows you as a vendor of the City of Fort Lauderdale to receive your payments fast and safely. No more waiting for checks to be printed and mailed.

In accordance with the contract, payments on this contract will be made utilizing the City's P-Card (MasterCard or Visa). Accordingly, bidders must presently have the ability to accept these credit cards or take whatever steps necessary to implement acceptance of a card before the start of the contract term, or contract award by the City.

All costs associated with the Contractor's participation in this purchasing program shall be borne by the Contractor. The City reserves the right to revise this program as necessary.

By signing below you agree with these terms.

Please indicate which credit card payment you prefer:

- [x] MasterCard
- [x] Visa

AlliedBean Demolition
Company Name

Jermaine Jennings
Name (Printed)

Jermaine Jennings
Signature

1-13-2021
Date

Estimator
Title

LOCAL BUSINESS PREFERENCE

Section 2-199.2, Code of Ordinances of the City of Fort Lauderdale, (Ordinance No. C-12-04), provides for a local business preference.

In order to be considered for a local business preference, a bidder must include the Local Business Preference Certification Statement of this bid/proposal, as applicable to the local business preference class claimed **at the time of bid submittal.**

Upon formal request of the City, based on the application of a Local Business Preference the Bidder shall, within ten (10) calendar days, submit the following documentation to the Local Business Preference Class claimed:

A) Copy of City of Fort Lauderdale current year business tax receipt, **or** Broward County current year business tax receipt, **and**

B) List of the names of all employees of the bidder and evidence of employees' residence within the geographic bounds of the City of Fort Lauderdale or Broward County, as the case may be, such as current Florida driver license, residential utility bill (water, electric, telephone, cable television), or other type of similar documentation acceptable to the City.

Failure to comply at time of bid submittal shall result in the bidder being found ineligible for the local business preference.

THE COMPLETE LOCAL BUSINESS PREFERENCE ORDINANCE MAY BE FOUND ON THE CITY'S WEB SITE AT THE FOLLOWING LINK:
https://library.municode.com/fl/fort_lauderdale/codes/code_of_ordinances?nodeId=COOR_CH2AD_ARTVFI_DIV2PR_S2-186LOBUPRPR

Definitions: The term "Business" shall mean a person, firm, corporation or other business entity which is duly licensed and authorized to engage in a particular work in the State of Florida. Business shall be broken down into four (4) types of classes:

1. Class A Business – shall mean any Business that has established and agrees to maintain a permanent place of business located in a non-residential zone and staffed with full-time employees within the limits of the City **and** shall maintain a staffing level of the prime contractor for the proposed work of at least fifty percent (50%) who are residents of the City.
2. Class B Business - shall mean any Business that has established and agrees to maintain a permanent place of business located in a non-residential zone and staffed with full-time employees within the limits of the City **or** shall maintain a staffing level of the prime contractor for the proposed work of at least fifty percent (50%) who are residents of the City.
3. Class C Business - shall mean any Business that has established and agrees to maintain a permanent place of business located in a non-residential zone **and** staffed with full-time employees within the limits of Broward County.
4. Class D Business – shall mean any Business that does not qualify as either a Class A, Class B, or Class C business.

LOCAL BUSINESS PREFERENCE CERTIFICATION STATEMENT

The Business identified below certifies that it qualifies for the local business preference classification as indicated herein, and further certifies and agrees that it will re-affirm its local preference classification annually no later than thirty (30) calendar days prior to the anniversary of the date of a contract awarded pursuant to this ITB. Violation of the foregoing provision may result in contract termination.

(1)	**AlliedBean Demolition** Business Name	is a **Class A** Business as defined in City of Fort Lauderdale Ordinance No. C-17-26, Sec.2-186. A copy of the City of Fort Lauderdale current year Business Tax Receipt **and** a complete list of full-time employees and evidence of their addresses shall be provided within 10 calendar days of a formal request by the City.
(2)	Business Name	is a **Class B** Business as defined in the City of Fort Lauderdale Ordinance No. C-17-26, Sec.2-186. A copy of the Business Tax Receipt **or** a complete list of full-time employees and evidence of their addresses shall be provided within 10 calendar days of a formal request by the City.
(3)	Business Name	is a **Class C** Business as defined in the City of Fort Lauderdale Ordinance No. C-17-26, Sec.2-186. A copy of the Broward County Business Tax Receipt shall be provided within 10 calendar days of a formal request by the City.
(4)	Business Name	requests a **Conditional Class A** classification as defined in the City of Fort Lauderdale Ordinance No. C-17-26, Sec.2-186. Written certification of intent shall be provided within 10 calendar days of a formal request by the City.
(5)	Business Name	requests a **Conditional Class B** classification as defined in the City of Fort Lauderdale Ordinance No. C-17-26, Sec.2-186. Written certification of intent shall be provided within 10 calendar days of a formal request by the City.
(6)	Business Name	is considered a **Class D** Business as defined in the City of Fort Lauderdale Ordinance No. C-17-26, Sec.2-186 and does not qualify for Local Preference consideration.

BIDDER'S COMPANY: **AlliedBean Demolition**

AUTHORIZED PERSON: COMPANY **Jermaine Jennings** **Estimator**

PRINTED NAME TITLE

SIGNATURE: **Jermaine Jennings** DATE: **1-13-2021**

E-VERIFY AFFIRMATION STATEMENT

RFP/Bid /Contract No:

Project Description:

Contractor/Proposer/Bidder acknowledges and agrees to utilize the U.S. Department of Homeland Security's E-Verify System to verify the employment eligibility of,

(a) all persons employed by Contractor/Proposer/Bidder to perform employment duties within Florida during the term of the Contract, and,

(b) all persons (including subcontractors/vendors) assigned by Contractor/Proposer/Bidder to perform work pursuant to the Contract.

The Contractor/Proposer/Bidder acknowledges and agrees that use of the U.S. Department of Homeland Security's E-Verify System during the term of the Contract is a condition of the Contract.

Contractor/Proposer/ Bidder Company Name: **AlliedBean Demolition**

Authorized Company Person's Signature: **Jermaine Jennings**

Authorized Company Person's Title: **Estimating**

Date: **1-13-2021**

9/15/2020

BID/PROPOSAL CERTIFICATION

Please Note: It is the sole responsibility of the bidder to ensure that his bid is submitted electronically through www.BidSync.com prior to the bid opening date and time listed. Paper bid submittals will not be accepted. All fields below must be completed. If the field does not apply to you, please note N/A in that field.

If you are a foreign corporation, you may be required to obtain a certificate of authority from the department of state, in accordance with Florida Statute §607.1501 (visit http://www.dos.state.fl.us/).

Company: (Legal Registration) **AlliedBean Demolition**EIN (Optional):

Address: **500 E Broward Blvd**

City: **Ft Lauderdale**State: **Fl** Zip: **33301**

Telephone No.: **954-610-4439**FAX No.: **954-610-4439**Email: **jermaine@alliedbean.com**

Delivery: Calendar days after receipt of Purchase Order **(section 1.02 of General Conditions)**: **10 days**

Total Bid Discount **(section 1.05 of General Conditions)**:

Check box if your firm qualifies for MBE / SBE / WBE **(section 1.09 of General Conditions)**: ☑

ADDENDUM ACKNOWLEDGEMENT - Proposer acknowledges that the following addenda have been received and are included in the proposal:

Addendum No.	Date Issued	Addendum No.	Date Issued	Addendum No.	Date Issued
Addendum 1	**Jan 4 2021**				
Addendum 2	**Jan 5 2021**				

VARIANCES: If you take exception or have variances to any term, condition, specification, scope of service, or requirement in this competitive solicitation you must specify such exception or variance in the space provided below or reference in the space provided below all variances contained on other pages within your response. Additional pages may be attached if necessary. No exceptions or variances will be deemed to be part of the response submitted unless such is listed and contained in the space provided below. The City does not, by virtue of submitting a variance, necessarily accept any variances. If no statement is contained in the below space, it is hereby implied that your response is in full compliance with this competitive solicitation. If you do not have variances, simply mark N/A. **You must also click the "Take Exception" button.**

N/A

The below signatory hereby agrees to furnish the following article(s) or services at the price(s) and terms stated subject to all instructions, conditions, specifications addenda, legal advertisement, and conditions contained in the bid/proposal.

I have read all attachments including the specifications and fully understand what is required. By submitting this signed proposal, I will accept a contract if approved by the City and such acceptance covers all terms, conditions, and specifications of this bid/proposal. The below signatory also hereby agrees, by virtue of submitting or attempting to submit a response, that in no event shall the City's liability for respondent's direct, indirect, incidental, consequential, special or exemplary damages, expenses, or lost profits arising out of this competitive solicitation process, including but not limited to public advertisement, bid conferences, site visits, evaluations, oral presentations, or award proceedings exceed the amount of Five Hundred Dollars ($500.00). This limitation shall not apply to claims arising under any provision of indemnification or the City's protest ordinance contained in this competitive solicitation.

Submitted by:

Jermaine Jennings Name (printed)	**Jermaine Jennings** Signature
1-13-2021 Date	**Estimator** Title

Revised 4/28/2020

December 12, 2016

Allied Bean
500 East Broward Blvd., Suite 1710
Fort Lauderdale, FL 33394
Attention: Michael Cummings

Re: The Norton Museum Demolition Project

Dear Michael:

I just wanted to thank you and your team for your efforts in the demolition of the Norton Museum.

When we started this work, you realized very quickly that safety and vibration issues were high on our list of concerns. Your team understood that the Museum would remain open while the selective and mass demolition would happen. The need for a stability engineer and a structured manner to do the demolition on a building that has been added onto from 1945 to 2000 separated you from the other demolition contractors we were considering.

The unique and imaginative way you preceded has allowed us to start work in other areas while the major demolition continued. All aspects related to the high security requirements demanded by the client were met and any issues that did come up were dealt with quickly and quietly.

It has been a great project and we would certainly consider using Allied Bean again in the future.

Regards,

Michael Bird
Project Executive

Ron DeSantis, Governor

Halsey Beshears, Secretary

Florida dbpr

STATE OF FLORIDA
DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

CONSTRUCTION INDUSTRY LICENSING BOARD

THE GENERAL CONTRACTOR HEREIN IS CERTIFIED UNDER THE
PROVISIONS OF CHAPTER 489, FLORIDA STATUTES

WACKES, ALAN C

ALLIEDBEAN DEMOLITION, INC.
500 E BROWARD BLVD SUITE 1710
FORT LAUDERDALE FL 33394

LICENSE NUMBER: CGCA14105

EXPIRATION DATE: AUGUST 31, 2022

Always verify licenses online at MyFloridaLicense.com

Do not alter this document in any form.

This is your license. It is unlawful for anyone other than the licensee to use this document.

BROWARD COUNTY LOCAL BUSINESS TAX RECEIPT

115 S. Andrews Ave., Rm. A-100, Ft. Lauderdale, FL 33301-1895 – 954-831-4000

VALID OCTOBER 1, 2020 THROUGH SEPTEMBER 30, 2021

DBA:
Business Name: ALLIED BEAN DEMOLITION INC

Receipt #: 377-293694
Business Type: OFFICE/SALES/BUSINESS/ADMIN (ADMIN OFFICE)

Owner Name: KEVIN BEAN
Business Location: 4611 LYONS TECHNOLOGY PKWY #1
COCONUT CREEK
Business Phone: 9548482806

Business Opened: 10/04/2018
State/County/Cert/Reg:
Exemption Code:

Rooms	Seats	Employees	Machines	Professionals

For Vending Business Only
Number of Machines: Vending Type:

Tax Amount	Transfer Fee	NSF Fee	Penalty	Prior Years	Collection Cost	Total Paid
45.00	0.00	0.00	0.00	0.00	0.00	45.00

THIS RECEIPT MUST BE POSTED CONSPICUOUSLY IN YOUR PLACE OF BUSINESS

THIS BECOMES A TAX RECEIPT

WHEN VALIDATED

This tax is levied for the privilege of doing business within Broward County and is non-regulatory in nature. You must meet all County and/or Municipality planning and zoning requirements. This Business Tax Receipt must be transferred when the business is sold, business name has changed or you have moved the business location. This receipt does not indicate that the business is legal or that it is in compliance with State or local laws and regulations.

Mailing Address:

ALLIED BEAN DEMOLITION
500 E BROWARD BLVD #1710
FORT LAUDERDALE, FL 33394

Receipt #WWW-19-00214615
Paid 09/23/2020 45.00

2020 - 2021

BROWARD COUNTY LOCAL BUSINESS TAX RECEIPT

115 S. Andrews Ave., Rm. A-100, Ft. Lauderdale, FL 33301-1895 – 954-831-4000

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State/County/Cert/Reg:
Exemption Code:

Rooms	Seats	Employees	Machines	Professionals

Signature

For Vending Business Only
Number of Machines: Vending Type:

Tax Amount	Transfer Fee	NSF Fee	Penalty	Prior Years	Collection Cost	Total Paid
45.00	0.00	0.00	0.00	0.00	0.00	45.00

Receipt #WWW-19-00214615
Paid 09/23/2020 45.00

BROWARD COUNTY
FLORIDA
OFFICE OF ECONOMIC AND SMALL BUSINESS DEVELOPMENT
Governmental Center Annex
115 S. Andrews Avenue, Room A680 • Fort Lauderdale, Florida 33301 • 954-357-6400 • FAX 954-357-5674

June 3, 2020

Mr. Kevin Bean
ALLIEDBEAN DEMOLITION, INC.
500 E. Broward Blvd., Suite 1710
Fort Lauderdale, Florida 33394

Dear Mr. Bean:

The Broward County Office of Economic and Small Business Development (OESBD) is pleased to announce that your firm's **County Business Enterprise (CBE)** has been renewed.

Your firm's certifications are continuing from your anniversary date but are contingent upon the firm verifying its eligibility annually through this office. You will be notified in advance of your obligation to continue eligibility in a timely fashion. However, the responsibility to ensure continued certification is yours. Failure to document your firm's continued eligibility for the CBE and SBE programs within **thirty (30) days** from your anniversary may result in the expiration of your firm's certifications. Should you continue to be interested in certification after it has expired, you will need to submit a new application, and all required supporting documentation for review.

To review current Broward County Government bid opportunities, visit: www.broward.org/Purchasing and click on "Current Solicitations and Results." Also, from this website, you can log into your firm's profile in BidSync to ensure you have added all appropriate classification codes. Bid opportunities over $3,500 will be advertised to vendors via e-mail and according to classification codes, so please ensure that both the Purchasing Division and OESBD are apprised of your current e-mail address.

Your primary certification group is: **Construction Services.** This is also how your listing in our directory will read. You may access your firm's listing by visiting the Office of Economic and Small Business Development Directory, located on the internet at: www.broward.org/EconDev and click on "Certified Firm Directories."

Your firm may compete for, and perform work on Broward County projects in the following area:

NAICS CODE: 238910

We look forward to working with you to achieve greater opportunities for your business through county procurement.

Sincerely,

Sandy-Michael McDonald, Director
Office of Economic and Small Business Development

Cert Agency: BC-CBE
ANNIVERSARY DATE: May 7th

BROWARD COUNTY
FLORIDA

Office of Economic and Small Business Development

Governmental Center Annex
115 S. Andrews Avenue, Room A680 • Fort Lauderdale, Florida 33301 • 954-357-6400 • FAX 954-357-5674 • TTY 954-357-5664

This Certificate is Awarded to:

ALLIEDBEAN DEMOLITION, INC.

As set forth in the Broward County Business Opportunity Act of 2012, the certification requirements have been met for:

County Business Enterprise
Anniversary Date: MAY 7TH

Authorized Representative

The Office of Economic and Small Business Development must be notified within 30 days of any material changes in the business which may affect ownership and control. Failure to do so may result in the revocation of this certificate and/or imposition of other sanctions.

A Service of the Broward County Board of County Commissioners
www.broward.org/smallbusiness

© GOES 912

LITHO IN U.S.A.

AGENDA ITEM REPORT

November 8, 2023

ITEM NUMBER: 15.

ITEM: Consideration and **Approval** of an ordinance on First Reading amending Section 23-12 of the Town Code entitled "General Provisions" by revising Section 23-12(26) to add padel ball to the outdoor recreational game court facilities allowed in the Town, modifying fencing regulations and providing for noise mitigation to accommodate this sport. Sponsored by Vice Mayor Fuller and Council Member Stephanie Bruder. Enclosed is the proposed ordinance.

DESCRIPTION:
The proposed ordinance seeks to amend Section 23-12 of the Town Code to permit padel ball court among the list of outdoor recreational game court facilities allowed in the Town. It modifies fencing regulations regarding height and location, screening to mitigate noise, and prohibits pickleball courts and use of any court facility for pickleball.

RECOMMENDED ACTION:
Council's Discretion

FINANCIAL ANALYSIS:
There is no financial impact regarding this ordinance amendment.

BUDGET IMPACT:

Submitted By: Yvonne Hamilton, Town Clerk

ATTACHMENTS

1.	BHI TC Staff Report Rec Game Court Rev Nov 3 2023
2.	BHI LDR Rev Recreational Ct Draft #2 Ord Sept 11 2023_BRFLT Rev3 no comments
3.	Residential Padel Court
4.	Padel court dimensions and concept images 6.14.2023

MICHAEL MILLER PLANNING ASSOCIATES, INC.
Land Design Municipal Planning Services Transportation Planning

TOWN OF BAY HARBOR ISLANDS COMMUNITY DEVELOPMENT MEMORANDUM

To: Mayor and Town Councilmembers
Town of Bay Harbor Islands

CC: Maria Lasday - Town Manager
Yvonne P. Hamilton, CMC - Town Clerk
Joseph S. Geller, Town Attorney

From: Michael J. Miller, AICP
Consultant Town Planner

Date: October 4th, 2023 / Updated November 3rd, 2023

Subject: Town of Bay Harbor Islands
Proposed Land Development Code Amendments
Outdoor Recreational Game Courts (Add Padel Ball Courts)
MMPA Acct. No. 01-0702-0500

RECOMMENDATION:

MMPA recommends the Town Council review this staff report, the attached latest revised draft Ordinance (10/27/23) and the attached table summarizing the regulations of similar municipalities in Miami-Dade, Broward and Palm Beach Counties which specifically address the allowance, construction and operation of accessory recreational game courts in single-family Zoning Districts. Prior to 2009 the Town did not have any Code requirements. Prior to 2009 the Town reviewed / approved individual variances to allow tennis courts in the single-family areas.

ISSUE:

Recently the Town received a request from a resident to allow for the installation of a so-called "Padel court" which is a slightly smaller version of a tennis court as an accessory use / structure to a single-family home located in the Town's RD - Single Family Zoning District. The fencing surrounding such facilities is apparently somewhat different than a standard tennis court (clear glass / similar at the ends and shorter segments along the sides near the ends of a court vs. chain-link fencing) and the fence height at the ends of the court must be somewhat taller at 4 meters (13'-1.5") to meet the FIP league criteria (Town Code limit is now 10 feet). The Town has also received a few inquiries about pickleball courts (smaller courts / solid paddles & solid hard balls resulting in noisier use). While popular, some communities are more severely regulating pickleball court locations and hours of operation. As reported in the news, these uses are commonly restricted more to HOA recreational complexes or larger governmental parks.

As requested by the Town, MMPA prepared a draft Ordinance and research table (for original 2009 Code) which summarizes the zoning regulations of seven (7) municipalities located in Miami-Dade, Broward and Palm Beach Counties which specifically address the construction and operation of tennis / other courts in single-family areas. MMPA's research was not limited to these cities; however, of the cities researched these were the only municipalities which had adopted regulations specifically addressing the construction of tennis / other courts in single-family areas. The initial draft Ordinance was presented at the August 8th, 2023 Town Council meeting but the motion to move forward on 1st reading failed 1-6 so the matter died. The Town was informed by the law firm representing the landowners that typically the chain-link fences surrounding "Padel ball courts" (other than the glass ends) are not clad (black / green plastic) as the Town normally requires for this type of fencing for aesthetic reasons. It is not clear if this is a FIP "rule" or just common – MMPA recommends all chain-link fencing be clad for aesthetics.

In early September 2023 MMPA was approached by VM Fuller and received an email copy from CM Bruder to bring the matter back but delete "Pickleball" but allow "Padel" and try to further study / address screening and noise. On September 11th, 2023 MMPA forwarded a new draft Ordinance to the Town's administrative staff for review and comment. We understand a few of the councilmembers traveled to some local park facilities that had "Padel" courts to see them in person / observe operations. Based on that research, and urged by the law firm (Bercow) that represents the landowners seeking to install a "padel court", further research was done and several modifications to the earlier draft Ordinances was proffered by attorney Matt Amster. It is my understanding the latest draft Ordinance submitted by Mr. Amster (Oct. 27th, 2023) has been found generally acceptable to bring forward for consideration. MMPA reviewed the draft Oct. 27th, 2023 Ordinance and discovered some unintended Code section numbering errors occurred in the computer drafting – we cleaned this up (no text changes) to match the current Code section numbering.

Again, recreational game courts are not a small physical improvement, as they take up a great deal of land area and they can create impacts on drainage / stormwater, not to mention noise and light impacts to neighbors. This is why adequate setbacks, screening, lighting, and operational hours are important to consider.

As requested, MMPA did some research and analyzed the setback / buffering issues again. I feel the setbacks could be the same for either Tennis or Padel courts (25' street / 10' sides & rear) as it has been for many years for tennis courts. Since a Tennis court is much larger than a Padel court there should be much less of a footprint and easily meet the larger setbacks. A Tennis court itself (striped area) is 78' long x 36' wide but with the out of bounds area such courts are typically 120' long x 60' wide. A Padel court itself is 66' long x 33' wide but with the out of bounds area such courts are typically 70' long x 37' wide. According to the information we researched the balls used for either sport is the same, but the Padel racquets are apparently a solid composite material with perforations (holes) – not strings like a tennis racquet – so there could be more noise. As requested by VM Fuller the latest revised Code text now expressly prohibits "Pickleball" courts / activity townwide and improved screening language was added. As requested by CM Bruder we added a requirement for a fabric visual screen for the court fencing and expanded on the hedges. The hours of operation & lights stayed the same.

Hopefully between Mr. Amster / Town staff / MMPA we revised the latest draft to include what the Town Council members want – easy to modify. See the attached revised draft Ordinance.

ORDINANCE NO. _____

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF BAY HARBOR ISLANDS, FLORIDA, AMENDING THE TOWN'S ZONING AND PLANNING CODE BY AMENDING SECTION 23-12 ENTITLED GENERAL PROVISIONS; AMENDING SECTION 23-12(26) RELATED TO OUTDOOR RECREATIONAL GAME COURT FACILITIES TO CLARIFY AND EXPAND THE TYPES OF GAME COURT FACILITIES ALLOWED AND TO MODIFY FENCING ALLOWANCES; PROVIDING FOR INCORPORATION OF RECITALS; PROVIDING FOR CONFLICT AND REPEALER; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

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

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

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

WHEREAS, in 2009 the Town Council adopted land development regulations for outdoor recreational game court facilities such as tennis courts, racquetball, handball, basketball, shuffleboard, children's multi-purpose and similar facilities; and

WHEREAS, the Town Council desires to amend the Town's Zoning and Planning Code to modify those land development regulations to address other types of courts; and

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

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

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

Section 2: That the Town of Bay Harbor Islands Zoning and Planning Code is hereby amended to modify Section 23-12(26) entitled Outdoor Recreational Game Court Facilities to modify certain provisions related to the types of game courts allowed and modify the applicable fencing allowances for certain types of court facilities, as more fully set forth in the attached Exhibit "A", and by reference are made a part hereof.

Section 3: That if any section, paragraph, sentence or word of this Ordinance or the application thereof to any person or circumstance is held invalid, that the invalidity shall not affect the other sections, paragraphs, sentences, words or application of this Ordinance.

Section 4: That it is the intention of the Town Council of the Town of Bay Harbor Islands, and it is therefore ordained, that the provisions of the Ordinance shall become and be made a part of the Town of Bay Harbor Islands' Code of Ordinances, that sections of this Ordinance may be re-numbered or re-lettered to accomplish such intentions, and that the word "Ordinance" shall be changed to "Section" or other appropriate word.

Section 5: That all Ordinances, parts of Ordinances, Resolutions or parts of Resolutions in conflict herewith be and the same are hereby repealed to the extent of such conflict.

Section 6: That this Ordinance shall be in full force and take effect immediately upon its passage and adoption.

PASSED on First Reading this ___ day of _____, 2023.

PASSED on Second Reading this ___ day of _____, 2023.

_____
ELIZABETH TRICOCHE
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.

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

Sec. 23-12. General Provisions

(26) *Outdoor recreational game court facilities.* The following regulations shall apply to all recreational game court facilities, including but not limited to tennis, **padel ~~ball~~,** racquetball, handball, basketball, shuffleboard, children's multipurpose and similar facilities, or any combination thereof**, except that pickleball courts and use of any court facility for pickleball is expressly prohibited in the entire Town**:

a) In the RD district the only outdoor recreational game court facilities permitted are tennis, **padel ~~ball~~,** basketball and/or children's multipurpose facilities. Such facilities may be approved by the town subject to site plan approval by the design review board, except for a permanent or portable basketball pole installed in accordance with the provisions listed herein.

b) In all other zoning districts any individual or combination of recreational game court facilities may be approved by the town subject to site plan approval by the design review board.

*Tennis and p**adel ~~ball~~ courts.*

i) *Fencing **and Screening**.* The maximum height allowed for a tennis court fence shall be ten feet. **For padel ~~ball~~ courts, the fence height at the narrow ends of the court may be extended up to 4 meters (13'-1.5") to meet International Padel Federation (FIP) league guidelines.** Any such **chain-link** tennis or **padel ~~ball~~** court fencing shall be clad with either black or green vinyl on all posts and fence surfaces. **Notwithstanding the above, for padel ~~ball~~ courts only, the fencing does not require cladding and the narrow ends and sides near the narrow ends of the court may be clear glass or equivalent to meet FIP league guidelines. Any court netting provided must be either black or dark green colored (no bright colors)**. Any fencing over five feet in height must be placed so as to comply with the minimum setback requirements within the district in which the tennis court **or padel ~~ball~~** court is proposed.

ii) Playing surface location. Within the RD district the playing surface of a tennis **or padel ~~ball~~** court may not be placed within 25 feet of a property line abutting a street or ten feet to either an interior side or rear property line. Within any other zoning district, the playing surface of a tennis court may not be placed within the minimum base setback for the district in which the facility is proposed. The town council may consider variations to the above criteria for odd-shaped lots, corner lots or other special instances on a case-by-case basis through the submission of a variance application.

ii) *Hours of operation.* The hours of operation of a tennis or p**adel ~~ball~~** court shall be between the hours of 9:00 a.m. and 10:00 p.m. during all days of the week. If any accessory lighting is provided the light fixtures shall **only be operated when the court is actively used and shall** not be illuminated outside of the hours of play specified herein. All such lighting shall be equipped with a timer switch to ensure the lighting will be controlled to operate in the specified time period listed herein. The town manager may authorize the temporary use of a tennis or **padel ~~ball~~** court and/or lighting for special occasions outside of the times listed herein on a case-by-case basis after a written request to do so is submitted to the town and approved by the town in writing.

iv) *Lighting.* If any accessory lighting is provided, the lighting fixtures shall not produce more than one-half foot-candle at any property line nor more than 75 foot-candles overall. All such lighting shall be equipped with a timer switch to ensure the lighting will be controlled to operate within the specified time period listed herein. The color of any lighting fixture or pole shall match the fence color. No portion of an exterior lighting fixture may exceed ten feet in a required yard area nor a maximum of 18.5 feet in height in the RD district nor more than 25 feet in any other zoning district and shall be aimed and/or provided with cutoffs so that the light source is directed to the outdoor recreational play court facility so as to minimize negative impacts to adjoining properties.

iii) *Screening requirements.* Sufficient landscaping (trees and/or hedges) shall be approved as part of the site plan, installed when the facility is constructed, and maintained to opaquely screen the fence and all activities from view **from outside the property from ground level and to help mitigate noise**. The **hedges used for** landscaping **screening** shall be at least six feet in height at the time of planting and equal to and maintained at the height of the fence **or equivalent line of site from outside the property when viewed from ground level** within one year of the installation**, unless otherwise fully screened from view by other structures. Tree heights shall comply with the minimum criteria in Sec. 24-16.**

vi) *Miscellaneous requirements.*

1) No portion of an exterior wall surface, **except the narrow ends of padel ~~ball~~ courts only**, shall be used for a backboard or rebound wall or structure.

2) If multiple platted lots, or portions thereof, are required to allow for the principal structure as well as any accessory uses and structures, including recreational game courts, a unity of title declaration acceptable to the town attorney shall be provided and recorded in the public records prior to the issuance of building permits. This provision shall not be interpreted to prohibit a freestanding recreational game court as a principal use, provided the lands upon which the recreational game court is proposed are adequate "as is" to accommodate the use (i.e. setbacks /

screening) or a unity of title declaration acceptable to the town attorney is provided and recorded in the public records prior to the issuance of building permits.

3) In determining the percentage of coverage of a lot by buildings the area of a recreational game court shall not be provided in such computation. Notwithstanding the above, sufficient drainage shall be provided on-site so as not to negatively affect adjoining properties or public roads.

4) Any recreational game court facilities constructed on the rooftop of a principal or accessory structure shall comply with the provisions contained in subsection (25).

Basketball.

i) Outdoor basketball poles, ….

(No changes proposed)

Other game court facilities.

i) No other type of outdoor recreational game court facilities ….

(No changes proposed)

Nonconforming pre-existing game court facilities. As to any outdoor recreational game court facilities that existed as of the date this subsection was adopted (November 9th, 2009) ….

(No changes proposed)

Residential Padel Court



Residential Padel Court



Residential Padel Court



Residential Padel Court



Residential Padel Court



Residential Padel Court



Residential Padel Court



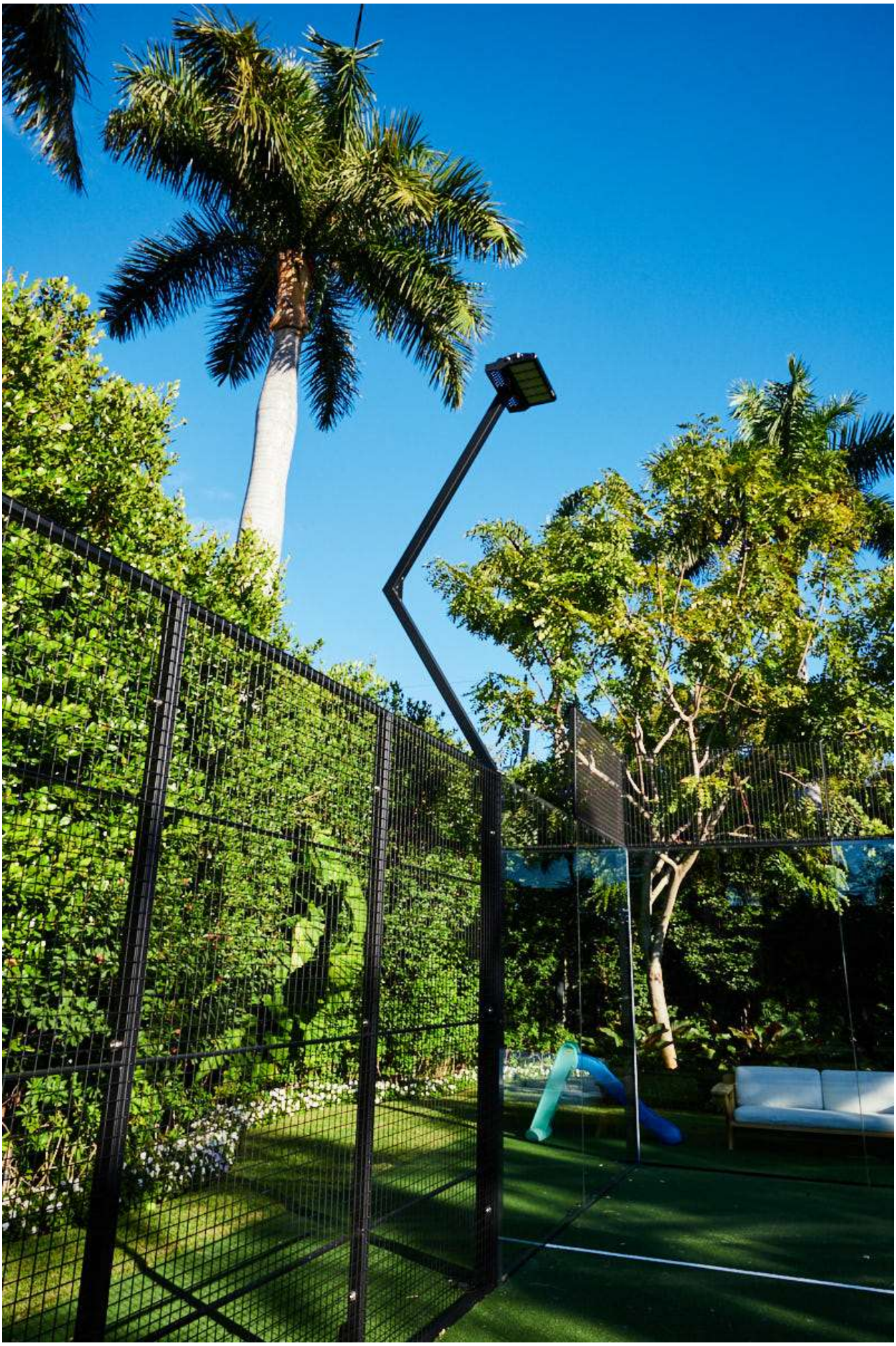
Residential Padel Court



Residential Padel Court



Residential Padel Court



Residential Padel Court

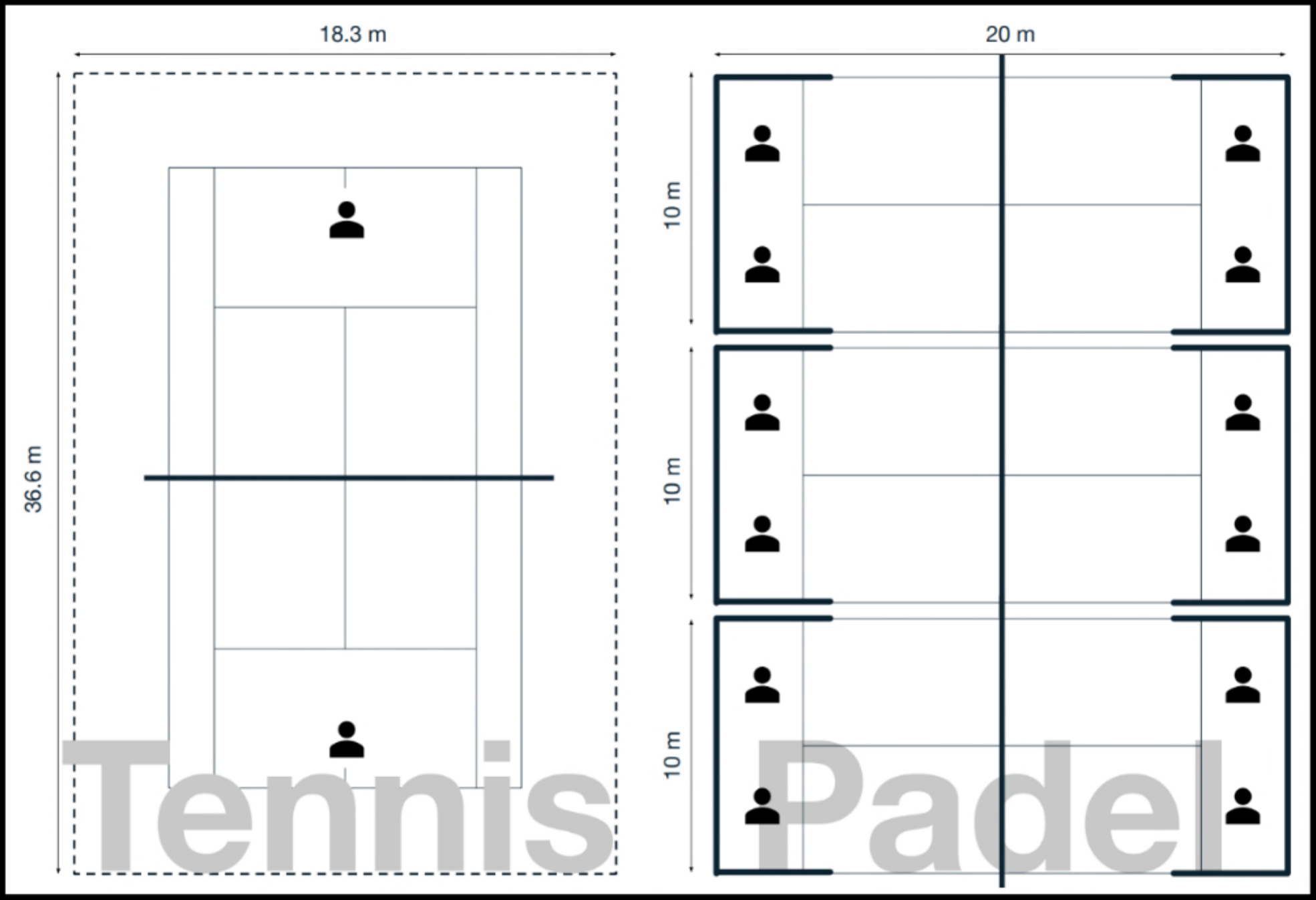


Residential Padel Court

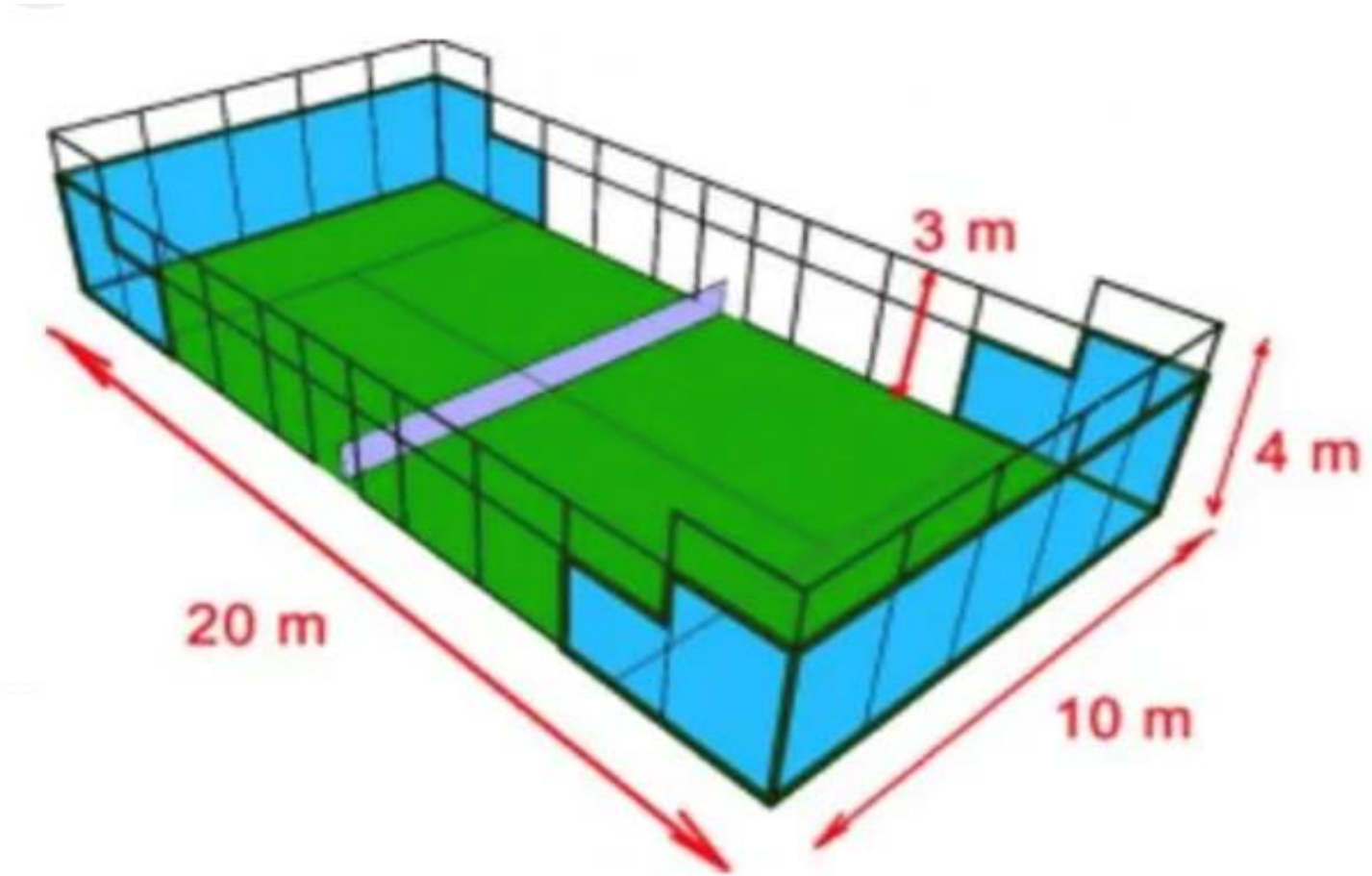


Residential Padel Court




18.3 m
36.6 m
20 m
10 m
10 m
10 m
Tennis
Padel

Padel Court Dimensions



Turf on court surface

Glass walls (3 m tall)

Padel Court
At 1260-1270 98 Street



Padel Court
At 1260-1270 98 Street



Padel Court
At 1260-1270 98 Street



Padel Court
At 1260-1270 98 Street



AGENDA ITEM REPORT

November 8, 2023

ITEM NUMBER: 16.

ITEM:

Approval of the following Council Meeting Minutes:
A. Regular Council Meeting - April 10, 2023
B. Special Council Meeting - May 1, 2023
C. Regular Council Meeting - May 10, 2023

DESCRIPTION:

RECOMMENDED ACTION:

FINANCIAL ANALYSIS:
There is no budget impact.

BUDGET IMPACT:

Submitted By: Yvonne Hamilton, Town Clerk

ATTACHMENTS
None

AGENDA ITEM REPORT

November 8, 2023

ITEM NUMBER: 17.

ITEM: Consideration and **Approval** of a private Transfer of Development Rights (TDR) transaction for three (3) dwelling units from 9110 West Bay Harbor Drive to the future Origin Multifamily Development to be located at 9740-9760 West Bay Harbor Drive. Enclosed are the Town Planner's Staff Report, application, Site Development Plans, and other supporting documents.

DESCRIPTION:

The Town received a Transfer of Development Rights (TDR) application for a private TDR transaction of five (5) dwelling units.

The Receiving site (Proposed Origin MFR) was granted a Site Development Plan approval by the Town's Design Review Board (DRB) on October 18th, 2022, for a total of 27 DU. The survey submitted for the project shows that the 2-lot site comprises 22,500 sq. ft. / .52 acres. Therefore, the allowable base zoning density of 34 DUA would allow for 18 DU on the receiving site (.52 acres X 34 DUA= 17.56 or 18 DU). Since the proposed project includes 27 total dwelling units this requires the acquisition of 9 TDR units to construct the project. The current property owner *I* developer, Bay Harbor Investment, Inc., submitted a Site Development Plan application to the Town in mid-2022 to allow for the construction of a twenty-seven (27) dwelling unit mid-rise residential development.

Town Planner's suggested Condition - TDR allocations are meant for site specific allocations and the intention is the development will move forward in a timely manner. TDR units cannot be "banked" by a party. Once a Site Development Plan is approved by the Town a building permit must be requested by a time certain (1 year) but extensions may be granted. Michael Miller PA, Town Planner, (MMPA) suggests the Town Resolution include a "reverter" clause that provides that if the project does not proceed within a specified time period, or the TDR sale does not close prior to the issuance of building permits, which is necessary to finalize\or a 'building permit for 27 DU, the Town's approval is null and void.

Donor Site: 9110 West Bay Harbor Drive
Receiving Site: 9740-9760 West Bay Harbor Drive
Number of units to be transferred: 3

All required information was submitted as required by Section 23-22.2 of the Town Code.

If the Town Council approves the private TDR Transaction Staff recommends the Town Attorney prepare a resolution setting forth the approval and/or recommendations.

RECOMMENDED ACTION:

Council's Discretion

FINANCIAL ANALYSIS:
There is no fiscal impact.

BUDGET IMPACT:

Submitted By: Yvonne Hamilton, Town Clerk

ATTACHMENTS

1.	BHI Private TDR App - 9740-60- WBHD - TC Straff Report Oct 23 2023
2.	TDR23-000010 Application (3 Private TDRs) Packet
3.	Courtesy Notice -Seawall-19-002044 9110 WBHD 3.8.22
4.	Seawall letter 9110WBHD 3.19 (1)
5.	Code Compliance - Seawall Repair

MICHAEL MILLER PLANNING ASSOCIATES, INC.
Land Design Municipal Planning Services Transportation Planning

TOWN OF BAY HARBOR ISLANDS COMMUNITY DEVELOPMENT MEMORANDUM

To: Yvonne P. Hamilton, CMC – Town Clerk
Ayanidys Martinez, CEP – Building & Zoning Supervisor
Town of Bay Harbor Islands

CC: Maria Lasday – Town Manager
Mike Mesa – Town Building Official
Joseph S. Geller, Esq. – Town Attorney

From: Michael J. Miller, AICP
Consultant Town Planner

Date: October 23rd, 2023

Subject: Transfer of Development Rights (TDR) Application
Origin Multifamily Development – 27 DU
9740-9760 West Bay Harbor Drive
TDR Donor Location – 9110 West Bay Harbor Drive (Private)
Bay Harbor Islands Acct. No.: TDR23-000010
MMPA Acct. No. 01-0702-1135

ISSUE

TDR Request – Three (3) Private Dwelling Units (DU)

Donor: 9110 W. Bay Harbor Drive (Approved 9 DU Multifamily Complex)

Receiving Site: 9740-9760 W. Bay Harbor Drive / Lots 25 & 26 of Block 3 (Future Origin MFR)

In response to the Town's request for our firm's analysis of the lands proposed to be involved with the above referenced TDR application requesting approval of the transfer of three (3) private TDR units, following is our analysis.

Our records indicate the **RECEIVING** site (Proposed Origin MFR) was granted a Site Development Plan approval by the Town's Design Review Board (DRB) on October 18th, 2022, for a total of 27 DU. The survey submitted for the project shows that the 2-lot site comprises 22,500 sq. ft. / .52 acres. Therefore, the allowable base zoning density of 34 DUA would allow for 18 DU on the receiving site (.52 acres X 34 DUA = 17.56 or 18 DU). Since the proposed project includes 27 total dwelling units this requires the acquisition of 9 TDR units to construct the project.

To date, the developer has not acquired any TDR units but is desirous of obtaining all of the necessary TDRs to proceed with the development. The Town recently received two (2) TDR applications for this future development site – one private (this application for 3 TDR units) and one public (Town for 6 TDR units). MMPA will provide a separate staff report for both TDR applications (private / public).

DONOR SITE - The site is currently developed with a 2-story / 10 DU multifamily complex built in 1953 according to the MDPA website (Bay Harbor Apartment Condominium); however, in July 2022 a Site Development Plan application was made to the Town by another developer for an eleven (11) unit multifamily complex on this site. A related rezoning also occurred for a 20' wide strip of land within the site, as it was discovered the 20' wide land parcel was zoned RM-3 while Lot 29 was zoned RM-1. The Town officially rezoned the 20' wide parcel to RM-1 – so the entire site is zoned the same, and to better facilitate the redevelopment of the property under a common set of land development regulations. Also, it was discovered a Town-owned drainage pipe had existed for decades between WBHD and the Indian Creek that crosses over a portion of the 20' wide parcel with no easement. As part of the 2022 Town approvals the developer agreed to grant a drainage easement to the Town over the outfall pipe (Res. #2274). It was agreed this will be completed prior to the issuance of building permits. The Town's DRB approved the 11 DU Site Development Plan on October 18th, 2022. Subsequently the site was sold to another party. The new developer wanted a higher-end development project, so they worked with the project architect (Kobi Karp) on some refinements, including lowering the number of DU from 11 to 9, making the units larger and more luxurious, and requesting some exterior façade revisions. The new plans indicate the dwelling units will be quite large, ranging in size from about 3,218 to 5,167 square feet of A/C space. The proposed building still shows seven (7) floors used for residential purposes over one level (at grade) used as an enclosed parking garage. The 2nd Level will have one (1) residential unit, administrative offices, and most building core areas. The 3rd and 4th Levels will have two (2) residential units. The two (2) residential units proposed for the 5th and 6th Levels are 2-stories with interior staircases. The 7th and 8th Levels will have only one (1) residential unit each (total of 9 DU). The existing building and other improvements will be demolished shortly. Building permit review is now underway. The proposed northern driveway is an inbound only / one-way driveway from West Bay Harbor Drive into the building parking garage on the north side of the building while the proposed southern driveway is an outbound-only / one-way driveway from the south side of the building that will connect to West Bay Harbor Drive. Across the front of the site is a circular one-way 12' wide driveway for the lobby drop-off / deliveries.

The survey lists the lot area to be 15,047 square feet / 0.345 acres in size. During the 2022 project review it was discovered the front 11' of the site was deeded to the Town for on-street parking many years ago, but this land has now been deeded back to the site. The survey indicates that no portion of the 20' sliver of Tract "A" was ever conveyed to the Town. Based on the current land area this would allow a maximum of twelve (12) DU on the property at the maximum allowable base density (34 DUA). The developer is now proposing to build only nine (9) DU. Therefore, three (3) TDR units are available (12 DU - 9 DU = 3 TDR DU).

If the three (3) TDR units requested is approved, the donor site will have zero (0) TDR units available. It is noted for informational purposes the TDR sale price listed in the Agreement to Purchase TDR Rights is $110,000 per DU.

RECEIVING SITE - The current property owner / developer, Bay Harbor Investment, Inc., submitted a Site Development Plan application to the Town in mid-2022 to allow for the construction of a twenty-seven (27) dwelling unit mid-rise residential development. The proposed dwelling units range from 1,491 to 2,328 square feet of A/C space plus balconies, etc. The proposed site design incorporates one (1) square-shaped building on top of a 2-story parking garage structure that is at grade (lowest level). The site design proposes 2 two-way driveway connections to West Bay Harbor Drive – one at the northern portion of the site and the other at the southern portion of the site. The southern driveway provides access to two (2) guest parking spaces (one is ADA space) in the front yard area as well as the lower level of the parking garage. The northern driveway provides access to the second level of the parking garage. A guest parking space will serve as the lobby drop-off area per Sec. 23-24(d)(5) as well a guest / delivery space.

On the building rooftop is a recreational facility with a swimming pool, spa, bar, pool cabanas, outside dining areas, men's and women's restrooms. The proposed new building is 7-stories in height; five (5) floors of residential use over two (2) floor of parking / common areas / building lobby @ 65-feet above BFE + 1' FBC Freeboard. It is noted the 2nd Level includes both parking garage areas (west) and the building lobby / offices / amenities / service areas (east).

According to the survey submitted, both lots are currently vacant. Town records indicate that the lots were previously developed with a duplex (2 DU) and an eight (8) DU residential complex for a total of 10 DU. Therefore, the net increase would be seventeen (17) DU. The survey indicates the total lot area is 22,500 square feet / 0.517 acres in size. This would allow a maximum of eighteen (18) dwelling units on the property at the maximum allowable base density (34 DUA). The proposal is to build twenty-seven (27) dwelling units (57.7 DUA) which would require the developer to acquire nine (9) TDR units. It appears from the survey that no right-of-way (11') for on-street parking was ever dedicated to the Town, so the lots are "full" lots.

If the Town Council approves this request for three (3) private TDR units an additional six (6) TDR units will be necessary to build the project. As mentioned, a companion TDR application was filed to acquire the remaining six (6) TDR units from the Town. MMPA will provide a separate staff report for the Town TDR sale.

Our office was not requested to perform any inspections of the donor site to determine if the site complies with Town Codes or has any Code violations. Other Town staff members typically perform those tasks in conformance with the Town TDR Code requirements. As noted above, the current 10 DU multifamily complex will be demolished shortly in anticipation of redevelopment; therefore, there is really no need for an inspection in this instance. The Bldg. Dept. / Code Enforcement staff will provide information on this situation.

OPTIONS / ACTIONS

Review the contents of this staff report and, if the Town Council agrees to the request, favorably consider the applicant's request to acquire three (3) private TDR units from the 9110 West Bay Harbor Drive donor site. Conversely, if the Town Council does not like the project, deny the request.

TDR BACKGROUND INFORMATION

The Town established its Transfer of Development Rights (TDR) program in 2004-05 via the adoption of the Phase I EAR-Based Comprehensive Plan to the Future Land Use Element. This system was necessary and required by the State (DCA) to ensure a method was in place to regulate the equitable allocation of dwellings units to individual building sites in the Town. The Town's original 1988 Comprehensive Plan included major errors in calculating existing residential densities by utilizing an "average" block-by-block analysis (34 DUA overall average), even though individual project densities ranged from 7 DUA (duplex) to over 70 per acre (highrise).

Over 1/3 of the original existing developments had densities over 34 DUA in 2004-05 when the TDR program was established. Conversely, many properties are "underdeveloped" with villas / duplexes / triplexes / etc., and while 8-9 DU could be built, the original developer chose not to build that many DU. However, those properties are entitled to build more DU if they desire to redevelop the sites. The Town's TDR system ensures that all property owners have the right to build to at least the base density (34 DUA). If a developer desires to build to a higher density than 34 DUA, and they can meet all the Town's land development criteria, the Town approves the site design, and the Town Council likes the design and approves TDR allocations (case-by-case basis) the project can be built to include additional DU.

On Nov. 12th, 2013, the Town amended its Zoning Code to establish maximum multifamily residential density limits per Zoning District. Lots zoned RM-1 Multiple Family Residential District (Waterfront lots) now allow for a maximum overall density (includes base density / TDR units) of 70 dwelling units per acre. Lots zoned RM-2 Multiple Family Residential District (non-waterfront lots) now allow for a maximum overall density (includes base density / TDR units) of 60 dwelling units per acre. Lots zoned RM-3 Multiple Family Residential District now allow for a maximum overall density (includes base density / TDR units) of 80 dwelling units per acre. If the Town approves a development in the RM-3 Zoning District with a height exceeding 75 feet in accordance with the Town Charter / Code provisions, the maximum density is determined at the time of Site Development Plan / TDR approval.

At the April 7th, 2014 Town Council meeting a Resolution was adopted setting a 50% "rule" (acquire 50% private TDRs first / 50% public TDR second) for TDR units assigned to projects. This was meant to help preserve the remaining Town-owned TDR units over a longer period of time, since there is a much larger number of privately owned TDR units. At the Sept. 14th, 2022 Town Council meeting a new Resolution (2275) related to this matter was adopted setting a 25% "rule" (acquire 75% private TDRs first / 25% public TDR second) - again meant to help preserve the remaining Town-owned TDR units. Resolution 2275 continues to include a provision, as did the original limiting Town-owned TDR Resolution 2006 for smaller development projects seeking 5 or fewer TDR units, that allows an applicant to request up to 100% of the required TDR units from the Town. While this is not encouraged the option exists. In this case, the developer is seeking to acquire a total of nine (9) TDR units to build their 27 DU complex. This application for three (3) private TDR units results in 33% of the required TDR units. A separate but related TDR application was filed with the Town to acquire the remaining six (6) TDR units from the Town (66%). As this development is seeking a total of nine (9) TDR units, they are not normally entitled to request more than 25%. However, Res. 2275 also allows the Town Council discretion to sell more than the specified % limits - based on a demonstrated need (substantial efforts are made to acquire private TDRs but were unsuccessful.

In the earlier years of the Town's TDR program (2004-06+/-) about 40% of the new redevelopment projects requested some TDR units. After the so-called Great Recession (2007-2010) some developers sought higher densities with more moderate DU sizes. In more recent years many of the projects are being designed or redesigned as luxury developments with less DU. Mostly the larger multi-lot developments on water seek some additional density. The initial price of publically-owned TDR units was $75,000 for waterfront sites and $45,000 for non-waterfront sites, which was based on actual real estate sales at that time. However, due to the real estate market collapse (2006-10) only two (2) TDR allocations were consummated from that time period (total of 13 TDR units). Both TDR transactions were done via private sales for values just below $70,000 per DU. Both were for waterfront locations and only one was built (Millennium West / Riva). Due to limited development inactivity and the cost of appraisal updates the Town did not update the TDR values for several years. In April 2011 due to a perceived increase in development activity the Town requested the original Appraiser firm (Quinlivan) to update the TDR values of publically-owned TDR units. Several price adjustments have been made since April 2011. The current Town-owned TDR values set by Resolution No. 2276 on September 14th, 2022 are $125,000 for waterfront sites and $100,000 for non-waterfront sites.

In the last few years there have been numerous Town-owned TDR allocations approved by the Town Council. At the August 8th, 2023 Town Council meeting, despite the 25% Town-owned TDR "cap", two developers were allowed to acquire 100% of their required TDRs from the Town-owned account (15 DU & 36 DU = 51 TDRs). As of October 2023, our records note the Town has now committed to sell 275 of the 330 available Town-owned TDR units (East Island multi-family area). Due to voluntary density reductions by some developers the Town may be poised to regain control over a number of the previously "sold" TDR units. There have also been many "sales" of TDR units approved by the Town from private property owners. Our records reflect these private "sales" total 213 TDR units from private parties to date. Some have been approved by the Town but not closed as yet.

SUMMARY

On October 18th, 2022, a Site Development Plan was approved by the Design Review Board (DRB) for the proposed "Origin" multifamily development located at 9740-9760 West Bay Harbor Drive, for a total of 27 DU. The allowable base zoning density of 34 DUA would allow 18 DU on the receiving site (.517 acres X 34 DUA = 17.58 or 18 DU). Since the proposed project includes 27 total dwelling units this requires the acquisition of 9 TDR units to construct the project. To date, the developer has not acquired any TDR units. The Town has recently received two (2) TDR applications for this proposed development. This subject application is for three (3) private TDR units. The companion TDR application seeks to acquire six (6) public TDR from the Town. If the Town Council approves both of the TDR applications, the developer will have enough DU to build the project as designed.

Suggested Condition - TDR allocations are meant for site specific allocations and the intention is the development will move forward in a timely manner. TDR units cannot be "banked" by a party. Once a Site Development Plan is approved by the Town a building permit must be requested by a time certain (1 year) but extensions may be granted. MMPA suggests the Town Resolution include a "reverter" clause that provides that if the project does not proceed within a specified time period, or the TDR sale does not close prior to the issuance of building permits, which is necessary to finalize for a building permit for 27 DU, the Town's approval is null and void.

akerman

Kristofer D. Machado

Akerman LLP
Three Brickell City Centre
98 Southeast Seventh Street
Suite 1100
Miami, FL 33131

T: 305 982 5658
kristofer.machado@akerman.com

October 13, 2023

VIA EMAIL & HAND DELIVERY

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

RE: Request for TDR Transfer Approval
Origin Residences Bay Harbor
9740 & 9760 West Bay Harbor Drive

Manager Lasday:

On behalf of Bay Harbour Investment, Inc, the owner of 9740 & 9760 West Bay Harbor Drive (the "Property"), we enclose a complete application for the purchase of three Transfer of Development Rights units ("TDRs") from LDC WBHD Property Owner, LLC, the owner of 9110 West Bay Harbor Drive.

As you may recall, on October 18, 2022, the Town's Design Review Board approved our client's site plan for the development of a new 7-story, 27-unit project at the Property. The project requires nine TDRs to achieve the proposed residential density.

We would be grateful if you would calendar the enclosed application for approval by the Town Council, pursuant to Section 23-22.2 of the Town Code, at its November 2023 meeting.

Thank you.

Sincerely,

Kristofer D. Machado

Enclosures

cc (via e-mail): Yvonne P. Hamilton, Town Clerk

TOWN OF BAY HARBOR ISLANDS
MIAMI-DADE COUNTY, FL
RECEIVED
OCT 13 2023
By

INDEX

EXHIBIT A	TDR APPLICATION
EXHIBIT B	PURCHASE AND SALE AGREEMENT
EXHIBIT C	DONOR PARCEL DEED
EXHIBIT D	RECEIVING PARCEL DEEDS
EXHIBIT E	DONOR PARCEL SURVEY
EXHIBIT F	RECEIVING PARCEL SURVEY

EXHIBIT A

TDR APPLICATION

Application Fee: $1,000 Private Transaction - $500 Town Owned Units

(For official use only)	
DATE RECEIVED: _____	TDR UNIT COST: $_____
TDR UNITS REQUESTED_____	PROJECT TOTAL UNITS _____
APPROVAL DATE :_____	APPROVED BY:_____ _____

TOWN OF BAY HARBOR ISLANDS
APPLICATION FORM
TRANSFER OF DEVELOPMENT RIGHTS

APPLICANT INFORMATION

Name Bay Harbour Investment, Inc		
Phone (305) 982-5658	e-mail kristofer.machado@akerman.com	Fax ( )
Address c/o Kristofer D. Machado, Esq., Akerman LLP, 98 SE 7th Street, Suite 1100		
City and State Miami, FL		Zip Code 33131
Relationship to Property: Owner		

RECEIVER SITE INFORMATION

Owner's Name Bay Harbour Investment, Inc		
Phone (305) 982-5658	e-mail kristofer.machado@akerman.com	Fax ( )
Address c/o Kristofer D. Machado, Esq., Akerman LLP, 98 SE 7th Street, Suite 1100		
City and State Miami, FL		Zip Code 33131
Property Address/Location 9740 & 9760 West Bay Harbor Drive		
Legal Description: LOT(S) 25 & 26 BLOCK 3		
Folio Number 13-2227-001-0720 & -0730	Current Zoning RM-1	
Property size +/- 22,500 SF (0.52 acres)	Purchase date 10/8/2021	
Existing use of the property Vacant land		
Describe Existing Structure on Property N/A		
Dwelling units to be received 3		
Total Dwelling units including TDR 27		

HAS SITE PLAN FOR RECEIVING PROPERTY BEEN APPROVED?
☒ Yes ☐ No

If Yes, then provide date of approval 10/18/2022 (Resolution No. 2283)
If Not, then attach preliminary site plan.

ARE TDRs BEING REQUESTED FROM THE TOWN? Yes ☐ No ☒

If Yes, skip the donor site portion
If Not, then fill in the donor site portion.

DONOR SITE INFORMATION, IF APPLICABLE

Owner's Name LDC WBHD Property Owner, LLC		
Phone (410) 528-5548	e-mail DachsJ@ballardspahr.com	Fax ( )
Address c/o Jacob Dachs, Esq., Ballard Spahr LLP, 111 S. Calvert Street, 27th Floor		
City and State Baltimore, MD		Zip Code 21202
Property Address/Location 9110 West Bay Harbor Drive, Bay Harbor Islands, FL 33154		
Legal Description: LOT(S) 29 BLOCK 2		
Folio Number 13-2227-087-0010	Current Zoning RM-1	Year built 1953
Property size +/- 15,047 sf	Purchase date 9/14/2022	
Existing use of the property Multifamily condominium		
Describe Existing Structure on Property The existing 10-unit multifamily condominium will be		
demolished to make way for a new 9-unit multifamily development.		
Dwelling units to be transferred to TDR Bank 3		
Units permitted 12 DUs allowed; 9 DUs proposed for development (3 TDRs available for transfer)		

APPRAISAL INFORMATION - IF APPLICABLE
(Appraiser must be approved by the Town)
(Only fill this portion out if purchasing TDRs from the Town and if the amount set by the Town is not accepted by you.)

Name:		
Phone ( )	e-mail	Fax ( )
Address		
City and State		Zip Code
Date of Appraisal / /	Appraisal Value of TDR unit $	
Proposed TDR Unit Value $		

SURVEY COMPANY INFORMATION - (provide survey's for both receiver and donor sites)
Survey must be current (no more than 6 months old)

Name of Surveyor Receiver Site: Royal Point Land Surveyors		
Address 6175 NW 153rd Street, Suite 321, Miami Lakes, FL 33014		
Phone (305) 822-6062	e-mail info@royalpointls.com	Fax (305) 827-9669

Name of Surveyor Donor Site: Leiter, Perez & Associates, Inc.		
Address 6175 NW 153rd Street, Suite 321, Miami, FL 33169		
Phone (305) 652-5133	e-mail office@leiterperez.com	Fax (305) 652-0411

PROPERTY CODE INSPECTION RESULTS - (Donor Site)

The Town requires, as a condition of permitting any transfer or development rights, that the donor parcel and/or receiving parcel improve the site to meet as many current day code requirements as possible, as determined by the Town. This may include the Town's land development code such as zoning, landscaping, signage and property maintenance. It may also include Building Code and Life Safety Code improvements.

□ **Building must have obtained 40 or 50 Year Certification - If Applicable**
□ **Outstanding Liens or Code Violations must be cured and/or paid - If Applicable**

Other inspections to be performed may include, but are not limited to, the following items:

□ Exterior paint □Windows □ Doors □ Elevators
□ Steps □ Railings □ Landscaping □ Parking area
□ Pool/Recreation facilities □ Fences/Walls □ Plumbing
□ Electrical System □ A/C equipment □ Roof mounted equipment/screening
□ Roofing

I hereby certify that:

1) The information furnished on this application and the attachments is true.

2) I am the owner(s) of record of the property described in this application.

3) If the application, as modified or amended during the review and approval process, is granted, I agree, in consideration therefore, to indemnify and hold harmless, and promise not to sue, the Town of Bay Harbor Islands, include its officers and employees, in connection with any claims or other actions arising out of said review and approval.

A Contract for Sale and Purchase of Development Rights and Deed of Transfer of Development Rights shall be required as part of the approval of a TDR transfer. The deed transferring the development rights shall be recorded in the public records prior to the issuance of a development permit.

RECEIVER SITE

Signature of Owner (Applicant) — Date: 10/12/23

Signature of Owner (Co-Applicant) — Date

STATE OF FLORIDA
COUNTY OF MIAMI-DADE

The foregoing instrument was acknowledged before me this 12 day of October, 20 23, by ~~Mauricio Moya as President~~ Sergio Guzman as Authorized Signatory on behalf of BAY HARBOUR INVESTMENT, INC, a Florida (corporation) (partnership) (Other:).) He/She is personally known to me or has produced (type of identification produced) as identification and did take an oath.

My Commission Expires:

CAIO FELIPE LEGARRETA
MY COMMISSION # HH 172106
EXPIRES: September 1, 2025
Bonded Thru Notary Public Underwriters

Notary Public, State of Florida

Print Name: Caio Legarreta

DONOR SITE

Signature of Owner (Applicant) — Date: 10/10/23

Signature of Owner (Co-Applicant) — Date

STATE OF ~~FLORIDA~~ New York
COUNTY OF ~~MIAMI-DADE~~ New York

The foregoing instrument was acknowledged before me this 10 day of October, 20 23, by Dovid Chaim Lowinger as Authorized Signatory on behalf of LDC WBHD PROPERTY OWNER, LLC, a ~~Florida~~ (corporation) (partnership) (Other: Delaware limited liability company.) He/She is personally known to me or has produced (type of identification produced) as identification and did take an oath.

My Commission Expires:

YAEL LOWINGER
Notary Public - State of New York
NO. 01LO0012929
Qualified in New York County
My Commission Expires Aug 30, 2027

Notary Public, State of ~~Florida~~ New York

Print Name: Yael Lowinger

EXHIBIT B

PURCHASE AND SALE AGREEMENT

PURCHASE AND SALE AGREEMENT FOR TRANSFER OF DEVELOPMENT RIGHTS

This PURCHASE AND SALE AGREEMENT FOR TRANSFER OF DEVELOPMENT RIGHTS ("**Agreement**") is entered into on this 30th day of September 2023 ("**Effective Date**") by and between LDC WBHD PROPERTY OWNER, LLC, a Delaware limited liability company, ("**Seller**"), and BAY HARBOUR INVESTMENT, INC, a Florida corporation ("**Buyer**").

RECITALS

A. Seller owns the real property located at 9110 West Bay Harbor Drive, Bay Harbor Islands, Florida 33154, more particularly described in Exhibit "A" attached hereto (the "**Donor Parcel**").

B. Seller, by virtue of its ownership of the Donor Parcel, owns three (3) transfer of development rights units (the "**TDR Units**") in accordance with Section 23-22.2 of the Code of Ordinances (the "**TDR Ordinance**") of the Town of Bay Harbor Islands, Florida (the **"Town**").

C. Buyer owns the real property located at 9740 and 9760 West Bay Harbor Drive, Bay Harbor Islands, Florida 33154, more particularly described in Exhibit "B" attached hereto (the "**Receiving Parcel**").

D. Buyer intends to develop the Receiving Parcel with a multi-story residential building, generally in accordance with the site plan approved by the Town's Design Review Board in Resolution No. 2283, dated October 18, 2022 (the "**Approved Site Plan**").

E. The Approved Site Plan requires Buyer to acquire nine (9) TDR Units pursuant to the Town's TDR Ordinance.

F. Buyer desires to purchase three (3) TDR Units from Seller, and Seller desires to sell all three (3) of its TDR Units to Buyer, upon the terms and conditions set forth below.

NOW, **THEREFORE**, in consideration of the foregoing and the representations, warranties, covenants, and agreements set forth below, and other good and valuable consideration, the receipt and sufficiency of which are acknowledged, the Parties agree as follows:

TERMS AND CONDITIONS

1. Purchase of TDR Units. Seller hereby agrees to sell to Buyer, and Buyer hereby agrees to purchase from Seller, the TDR Units upon the terms and conditions set forth in this Agreement.

2. Purchase Price and Deposit.

(a) The purchase price for the three (3) TDR Units is Three Hundred Thirty Thousand and 00/100 Dollars ($330,000.00) (the "**Purchase Price**"), being One Hundred Ten Thousand and 00/100 Dollars ($110,000.00) per TDR Unit. The entire Purchase Price, less the amount of the Deposit (defined below), subject to any adjustments

as provided in this Agreement, shall be due and payable in immediately available funds, by wire transfer, at Closing (defined below).

(b) Within five (5) business days after the Effective Date, Buyer shall deposit in escrow with Akerman LLP, located at Three Brickell City Centre, 98 SE 7th Street, Suite 1100, Miami, FL 33131 ("**Escrow Agent**") the sum of Fifty Thousand and 00/100 Dollars ($50,000.00) as an earnest money deposit and advance of the Purchase Price (the "**Deposit**"). The Deposit will be delivered to Seller at Closing and applied as a credit against the Purchase Price, and will otherwise be held, refunded, or disbursed by Escrow Agent as provided in this Agreement.

3. Closing; Brokers.

(a) **Closing Date.** Subject to satisfaction of all Closing Conditions (defined below), the closing of the purchase and sale of the TDR Units under this Agreement (the "**Closing**") will take place on the following date (the "**Closing Date**"): (i) three (3) business days after the date on which all of Buyer's Closing Conditions have been satisfied or waived by Buyer in writing, or (ii) on such other date as Buyer and Seller agree. The Closing will occur as an escrow closing by wire transfer of funds and delivery of executed documents to Escrow Agent pursuant to escrow instructions mutually acceptable to the parties.

(b) **Closing Costs.** Closing costs will be allocated as follows: (i) Buyer will pay the cost of recording the Deed (defined below) and documentary stamps and surtax assessed thereon, if any; (ii) Seller will pay the application fee charged by the Town for approving the TDR transfer (currently $1,000); (iii) Seller will pay for the cost of recording the Deed Restriction (defined below), if applicable; (iv) Buyer will pay the cost of any escrow or closing fees charged by the Escrow Agent; and (v) each Party is solely responsible for the fees and other costs charged by its attorneys and its other consultants associated with the preparation and negotiation of this Agreement and the transaction contemplated herein.

(c) **No Brokers.** Each party represents and warrants to the other that it has not dealt with any broker, salesman, or finder (collectively, "**Broker**"), and that no commission, finder's fee, or other compensation is or shall be due or payable to any Broker in connection with this Agreement or the transactions contemplated herein. Seller hereby agrees to indemnify, defend, and hold harmless Buyer and Buyer's affiliates, employees, agents, and representatives from and against all liabilities, damages, claims, costs, fees, and expenses whatsoever (including reasonable attorneys' fees and court costs at trial and all appellate levels) arising in connection with any claim by any Broker claiming through or under Seller. Buyer hereby agrees to indemnify, defend, and hold harmless Seller and Seller's affiliates, employees, agents, and representatives from and against all liabilities, damages, claims, costs, fees, and expenses whatsoever (including reasonable attorney's fees and court costs at trial and all appellate levels) arising in connection with any claim by any Broker claiming through or under Buyer. The provisions of this Section 3(c) shall survive the Closing and any earlier termination of this Agreement.

4. Representations and Warranties.

(a) By Seller. Seller hereby represents and warrants to Buyer as follows: (i) Subject to obtaining the Town Council Resolution (defined herein), Seller has good, valid, and marketable title to all of the TDR Units, free and clear of any and all liens, encumbrances, charges, mortgages, security agreements, financing statements, and adverse claims of any and every nature ("**Marketable Title**") other than a first-lien mortgage held by a lender from which Seller will obtain an appropriate joinder, consent, or partial release at or prior to Closing; (ii) Seller has not transferred, assigned, sold, conveyed, hypothecated, or otherwise alienated any of the TDR Units; (iii) Seller has all requisite power and authority, and has taken all actions required by its organizational documents, to enter into this Agreement and perform in accordance with its terms; (iv) all of the individuals executing this Agreement and all other documents and instruments to be executed by Seller pursuant to this Agreement have the legal power, right, and actual authority to bind Seller to the terms and conditions hereof and thereof; and (v) Seller has submitted a complete application to the Town for a demolition permit for the demolition of all buildings, structures, and improvements on the Donor Parcel, and Seller anticipates that the Town will issue such permit on or prior to September 29, 2023.

(b) By Buyer. Buyer hereby represents and warrants to Seller that (i) the Receiving Parcel is eligible as a receiving parcel pursuant to Section 23-22.2(f) of the TDR Ordinance, (ii) Buyer has all requisite power and authority, and has taken all actions required by its organizational documents, to enter into this Agreement and perform in accordance with its terms, (iii) all of the individuals executing this Agreement and all other documents and instruments to be executed by Buyer pursuant to this Agreement have the legal power, right, and actual authority to bind Buyer to the terms and conditions hereof and thereof, and (iv) to Buyer's actual knowledge, without inquiry or investigation, there is no development or building moratorium affecting the Receiving Parcel as of the Effective Date.

(c) Survival. The representations and warranties in this Section must be true and correct at all times, from the Effective Date through and including the Closing, and will survive the Closing.

5. Seller's Covenants. Seller hereby covenants with Buyer as follows:

(a) Within seven (7) business days after the Effective Date, Seller will submit an application to the Town, requesting that the Town Manager or his or her designee issue a written determination, as provided in the TDR Ordinance, that the TDR Units are legally available to be transferred from the Donor Parcel (the "**TDR Determination**").

(b) Seller will fully cooperate with Buyer's reasonable efforts to obtain a formal resolution from the Town Council approving the transfer of the TDR Units from the Donor Parcel to the Receiving Parcel (the "**Town Council Resolution**"), including, without limitation, by executing and/or delivering to Buyer any and all

applications, consents, instruments, and other documents and information that the Town may reasonably require to approve the transfer of the TDR Units to Buyer.

(c) Seller will satisfy the provisions of the TDR Ordinance on Seller's part to be satisfied, including, without limitation, by submitting the Donor Parcel to an inspection by the Town and entering into an escrow agreement with the Town, if required; provided however, that in no event shall Seller be obligated to make any physical repairs or improvements to the Donor Parcel in excess of Twenty Thousand and 00/100 Dollars ($20,000.00) (the "**Repair Cap**"). If the Town requires physical repairs or improvements to the Donor Parcel in excess of the Repair Cap, and Seller refuses to make such repairs or improvements, then Buyer shall have the right to terminate this Agreement and receive a full and immediate refund of its Deposit.

(d) Seller will promptly obtain all approvals, consents, joinders, releases, and other authorizations from any lender, condominium association, or other party having an interest in the Donor Parcel as may be required to comply with the TDR Ordinance and/or to deliver Marketable Title to the TDR Units to Buyer.

6. Closing Conditions. Buyer's obligation to consummate the Closing is expressly conditioned upon the fulfillment or satisfaction of each of the following conditions precedent on or before the Closing Date (each a "**Closing Condition**"), any of which may be waived in writing by Buyer in its sole and absolute discretion:

(a) Seller has fully performed each covenant and agreement to be performed by Seller under this Agreement, and each representation and warranty made in this Agreement by Seller is complete, true, and accurate in all material respects when made and as of the Closing Date;

(b) The Town Council Resolution, authorizing the transfer of the TDR Units from the Donor Parcel to the Receiving Parcel, has been fully and finally approved; and

(c) There is no development or building moratorium affecting the Receiving Parcel as of the Closing Date.

As used in this Agreement, "fully and finally approved" means the issuance of the corresponding permit or approval with no conditions (or with conditions that are acceptable to Buyer in its sole discretion) and with all appeal periods having expired with no appeals having been taken (or with all appeals having been disposed of to Buyer's satisfaction).

7. Buyer's Obligations at Closing. Buyer shall do the following at the Closing:

(a) Execute and deliver a PDF of a closing statement setting forth the Purchase Price and the closing adjustments and prorations, if any, in form and substance satisfactory to Buyer and Seller (the "**Closing Statement**");

(b) Fund the balance of the Purchase Price (less the Deposit);

(c) Execute and deliver an original "bring-down" certificate stating that all of Buyer's representations and warranties contained in this Agreement are complete, true, and accurate as of the Closing Date; and

(d) Execute and deliver any other documents expressly required to be delivered or furnished pursuant to any other provisions of this Agreement or reasonably required to carry out the purpose and intent of this Agreement.

8. Seller's Obligations at Closing. Seller shall execute and deliver the following at the Closing:

(a) A duly signed PDF of the Closing Statement;

(b) A duly signed original of that certain Special Warranty Deed for Transfer of Development Rights, in the form attached hereto and incorporated herein as Exhibit "C" (the **"Deed**");

(c) A duly signed original Deed Restriction affecting the Donor Parcel, in recordable form, as required by Section 23-22.2(e) of the TDR Ordinance, in form and content acceptable to the Town Attorney (the "**Deed Restriction**");

(d) A duly signed original Certificate of Non-Foreign Status of Seller, as required by Section 1445 of the Internal Revenue Code;

(e) Such proof of Seller's authority and authorization to enter into the transactions contemplated by this Agreement as may be reasonably required by Buyer;

(f) A duly signed original "bring-down" certificate stating that all of Seller's representations and warranties contained in this Agreement are complete, true, and accurate as of the Closing Date; and

(g) Any other documents expressly required to be delivered or furnished pursuant to any other provisions of this Agreement or reasonably required to carry out the purpose and intent of this Agreement.

9. Escrow Provisions. Buyer and Seller expressly consent to and agree to be bound by the "Conditions of Escrow" that are attached hereto as Exhibit "D" and are incorporated into this Agreement, and agree that the Deposit shall be held in escrow and disbursed by Escrow Agent according to such "Conditions of Escrow." If required by Escrow Agent, the parties agree to negotiate and execute a separate escrow agreement that, once executed, will supersede and replace in full the Conditions of Escrow contained in Exhibit "D." The parties agree that this Agreement shall be effective and in full force and effect upon the execution and delivery of the Agreement by Seller and Buyer, notwithstanding that the Escrow Agent has not yet executed the Agreement as Escrow Agent.

10. Termination. Each of the following constitutes a "**Termination Event**" under this Agreement:

(a) If the Town Manager does not issue the TDR Determination on or before November 1, 2023;

(b) If the Town Council Resolution is not fully and finally approved on or before December 1, 2023; and

(c) If the Closing does not occur on or before January 15, 2024.

The above deadlines are subject to tolling in response to a Force Majeure Event, as provided in Section 13 below. Buyer may, in its sole and absolute discretion, terminate this Agreement by written Notice to Seller upon the occurrence of Termination Event (a), (b), and/or (c) above. Seller may, in its sole and absolute discretion, terminate this Agreement by written Notice to Buyer upon the occurrence of Termination Event (c) above. Upon such termination, the Deposit will immediately be returned to Buyer and the parties will be released from all further obligations and liabilities under this Agreement, except for those obligations and liabilities that expressly survive termination. Notwithstanding the foregoing, if the failure to meet any of the above deadlines is due to a Default by either party, then, in addition to the termination right provided in this paragraph, the terminating party may pursue any additional remedies available to it under this Agreement for such Default.

11. Default and Cure.

(a) Seller Default. If Seller Defaults, then Buyer may, at its option, in addition to all other remedies available to Buyer at law or in equity, elect to (i) bring an action to enforce specific performance of this Agreement against Seller, or (ii) terminate this Agreement and receive a full and immediate refund of the Deposit, upon which termination the Deposit will immediately be returned to Buyer and the parties will be released from all further obligations and liabilities under this Agreement, except for those obligations and liabilities that expressly survive termination.

(b) Buyer Default. If Buyer Defaults, then Seller shall, as its sole and exclusive remedy and as an election of remedies, have the right to terminate this Agreement and receive the Deposit from the Escrow Agent as liquidated damages and in full settlement of all claims against Buyer. Buyer and Seller acknowledge the difficulty of ascertaining the actual damages in the event of a Buyer Default, that it is impossible to more precisely estimate the damages to be suffered by Seller upon such a Default, that the retention of the Deposit by Seller is intended not as a penalty but as full liquidated damages and that such amount constitutes a good-faith estimate of the potential damages to Seller arising from such Buyer Default.

(c) Cure Period. A party will be in default of this Agreement (each, a "**Default**") if (i) such party fails to perform or observe any term or condition of this Agreement on such party's part to be performed or observed, or (ii) any of such party's representations and warranties is or becomes false or incorrect, and, in either case,

such Default continues uncured for three (3) business days after the other party's delivery of a written notice of default to the defaulting party (such period, the "**Cure Period**"). If the Default is susceptible to cure but cannot reasonably be cured during the Cure Period, and the defaulting party has promptly commenced and is making diligent and commercially reasonable efforts during the Cure Period to cure such Default, but is unable by reason of the nature of the Default to cure the same within the Cure Period, then the Cure Period will be reasonably extended for so long as the defaulting party is making diligent and commercially reasonable efforts to complete such cure, but in no event shall the total Cure Period, with all extensions, run longer than thirty (30) calendar days from the date of the other party's delivery of the initial notice of default to the defaulting party for such Default. Notwithstanding the foregoing, a party's failure to close on the Closing Date as required by this Agreement shall constitute an immediate Default and shall not be subject to any opportunity to cure.

12. **No Third-Party Beneficiaries.** This Agreement does not and is not intended to confer any rights or remedies upon any person other than the Buyer and Seller.

13. **Force Majeure.** The performance by either party to this Agreement of its obligations (except the obligation to deliver the Deposit or pay other sums of money) shall be excused by delays attributable to Force Majeure Events for a period of time that is sufficient for the party to perform its obligations after the cessation of the applicable Force Majeure Event, acting in a diligent, commercially reasonable manner. "**Force Majeure Events**" include, but are not limited to, acts of God (including reasonable preparation therefor), war, civil commotion, labor disputes, strikes, fires, floods, hurricanes, or other casualty, pandemics (other than COVID-19), power failures, labor shortages, governmental regulation or restriction (including delays in the issuance of any permits or approvals for the Project and the time required to defend against legal challenges brought by third parties), and the declaration of a state of emergency by the President of the United States, the Governor of Florida, or any other competent authority affecting Miami-Dade County, Florida. Force Majeure Events do not include changes in economic or market conditions, financial or internal problems of the non-performing party, or problems that can be satisfied by the payment of money. Notwithstanding the foregoing, if a Force Majeure Event delays a party's performance of its obligations under this Agreement for more than thirty (30) calendar days, whether in one instance or in the aggregate for all Force Majeure Events claimed under this Agreement, the other party may terminate this Agreement by giving written Notice to the party claiming to be affected by the Force Majeure Event, in which case the Deposit shall be refunded to the Buyer, regardless of which party claimed to be affected by the Force Majeure Event.

14. **WAIVER OF JURY TRIAL.** TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, THE PARTIES EACH HEREBY KNOWINGLY, VOLUNTARILY, AND INTENTIONALLY WAIVE ANY RIGHT (WHETHER ARISING UNDER THE CONSTITUTION OF THE UNITED STATES OR THE STATE OF FLORIDA OR UNDER ANY FOREIGN JURISDICTION, UNDER ANY STATUTES REGARDING OR RULES OF CIVIL PROCEDURE APPLICABLE IN ANY STATE, FEDERAL, OR FOREIGN LEGAL PROCEEDING, UNDER COMMON

LAW, OR OTHERWISE) TO DEMAND OR HAVE A TRIAL BY JURY OF ANY CLAIM, DEMAND, ACTION, OR CAUSE OF ACTION ARISING UNDER THIS AGREEMENT OR IN ANY WAY CONNECTED WITH OR RELATED TO OR INCIDENTAL TO THE DISCUSSIONS, DEALINGS, OR ACTIONS OF SUCH PERSONS OR ANY OF THEM (WHETHER ORAL OR WRITTEN) WITH RESPECT THERETO, OR TO THE TRANSACTIONS RELATED THERETO, IN EACH CASE WHETHER NOW EXISTING OR HEREAFTER ARISING, AND WHETHER SOUNDING IN CONTRACT, TORT OR OTHERWISE; AND EACH PARTY AGREES AND CONSENTS THAT ANY SUCH CLAIM, DEMAND, ACTION OR CAUSE OF ACTION SHALL BE DECIDED BY TRIAL COURT WITHOUT A JURY, AND THAT ANY OTHER PARTY TO THIS AGREEMENT MAY FILE AN ORIGINAL COUNTERPART OR A COPY OF THIS AGREEMENT WITH ANY COURT AS WRITTEN EVIDENCE OF SUCH WAIVER OF RIGHT TO TRIAL BY JURY. THE PARTIES ACKNOWLEDGE AND AGREE THAT THEY HAVE RECEIVED FULL AND SUFFICIENT CONSIDERATION FOR THIS PROVISION (AND EACH OTHER PROVISION OF EACH OTHER RELATED DOCUMENT TO WHICH THEY ARE A PARTY) AND THAT THIS PROVISION IS A MATERIAL INDUCEMENT FOR EACH PARTY'S ACCEPTING THIS AGREEMENT. BY WAIVING A JURY TRIAL, THE PARTIES INTEND CLAIMS AND DISPUTES TO BE RESOLVED BY A JUDGE ACTING WITHOUT A JURY IN ORDER TO AVOID THE DELAYS, EXPENSES, AND RISKS OF MISTAKEN INTERPRETATIONS, WHICH EACH PARTY ACKNOWLEDGES TO BE GREATER WITH JURY TRIALS THAN WITH NON-JURY TRIALS.

15. Miscellaneous.

(a) ***Governing Law.*** This Agreement is governed by and must be construed and enforced in accordance with the laws of the State of Florida, without regard to conflict-of-laws principles that would require the application of any other law.

(b) ***Notices.*** All notices or other communications required or allowed by this Agreement (each, a "**Notice**") must be delivered in writing, through one of the methods specified below, at the following addresses or to such other addresses as either party may from time to time specify by Notice to the other:

To Buyer:	Bay Harbour Investment, Inc 201 Alhambra Circle, Suite 802 Coral Gables, FL 33134 Attn: Mauricio Moya Email: mmoya@vda.cl
With a copy to:	Akerman LLP Three Brickell City Centre 98 SE 7th Street, Suite 1100 Miami, FL 33131 Attn: Kristofer D. Machado, Esq. Email: kristofer.machado@akerman.com

To Seller:	LDC WBHD Property Owner, LLC 105 Madison Avenue, 2nd Floor New York, NY 10016 Attn: Jonathan Landau Email: jlandau@landauproperties.com
With a copy to:	Ballard Spahr LLP 111 S. Calvert Street, 27th Floor Baltimore, MD 21202-6174 Attn: Jacob Dachs, Esq. Email: dachsj@ballardspahr.com
To Escrow Agent:	Akerman LLP Three Brickell City Centre 98 SE 7th Street, Suite 1100 Miami, FL 33131 Attn: Kristofer D. Machado, Esq. Email: kristofer.machado@akerman.com

Any Notice (i) mailed by certified mail, postage prepaid, return receipt requested shall be deemed effectively given or received on the third (3rd) business day following the postmark date of such Notice by the United States Postal Service, (ii) sent by overnight courier (such as FedEx or UPS) or by hand delivery shall be deemed effectively given or received upon receipt or refusal, as the case may be, and (iii) sent by electronic mail shall be deemed effectively given or received on the day of transmission of such Notice, unless the sender receives an automated message that the message has not been delivered due to an error in transmission (rather than an "out-of-office" reply or similar response indicating the temporary unavailability of the recipient). Any Notice communication given in any manner provided above by counsel for either party shall be deemed to be Notice or such other communication from the party represented by such counsel.

(c) ***Attorney's Fees and Costs.*** In the event of any litigation or other action or proceeding concerning or arising under this Agreement, the Prevailing Party shall be entitled to recover such attorney's fees, court costs, and expenses incurred (including, without limitation, all such fees, costs, and expenses incident to pre-trial, trial, appellate, bankruptcy, post judgment, and alternative dispute resolution proceedings), in addition to any other relief to which the Prevailing Party is entitled as determined by the court or other authority. Attorney's fees include, without limitation, paralegal fees, investigative fees, expert witness fees, administrative costs, and all other charges billed by the attorney to the Prevailing Party. The term "**Prevailing Party**" means the party who receives substantially the relief sought upon final disposition, whether by judgment, settlement, compromise, or otherwise.

(d) ***Headings.*** The captions and headings in this Agreement are for convenience and reference only and in no way define or limit the scope or content of this Agreement or in any way affect its provisions.

(e) ***Assignment by Buyer.*** Buyer has the right to assign this Agreement at any time without the prior written consent of Seller.

(f) ***Counterparts; Signatures.*** This Agreement may be executed in a number of identical counterparts, each of which for all purposes will be deemed an original, and all of which shall constitute collectively one agreement. Signatures to this Agreement may be transmitted via facsimile, scanned and e-mailed, or made electronically or digitally, and delivery by any such method shall be deemed sufficient for all purposes to the same extent as would delivery of an original signature.

(g) ***Binding Effect.*** This Agreement is binding upon and inures to the benefit of the parties hereto and their respective successors and permitted assigns.

(h) ***Time Periods.*** If the Closing Date or the final date of any time period set forth in this Agreement falls on a Saturday, Sunday, or legal holiday under the laws of the United States or the State of Florida, then the time of such period or the Closing Date, as the case may be, shall be extended to the next date that is not a Saturday, Sunday, or legal holiday.

(i) ***Waiver.*** The enforcement of the terms and conditions of this Agreement is at the reasonable discretion of the aggrieved party. No delay in exercising any right, remedy, or privilege under this Agreement will constitute a waiver thereof, and no waiver will be effective unless it is in writing and signed by the party against whom it is asserted. A waiver will only be applicable to the specific instance to which it relates and will not be deemed a continuing or future waiver.

(j) ***Severability.*** If any term or provision of this Agreement shall be deemed to be invalid or unenforceable to any extent, the remainder of this Agreement shall not be affected thereby, and each remaining term and provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

[*Signatures follow*]

IN WITNESS WHEREOF, Seller and Buyer have caused this Agreement to be executed as of the Effective Date.

SELLER

LDC WBHD PROPERTY OWNER, LLC,
a Delaware limited liability company

By: _____
Name: Dovid Chaim Lowinger
Title: Authorized Signatory

BUYER

BAY HARBOUR INVESTMENT, INC,
a Florida corporation

By: _____
Name: Mauricio Moya
Title: President

The undersigned hereby agrees to act as Escrow Agent under this Agreement in accordance with the terms of Section 9 and Exhibit "D" hereof.

ESCROW AGENT

AKERMAN LLP,
a Delaware limited liability partnership,
solely as Escrow Agent

By: _____
Name: Kristofer D. Machado
Title: Partner

Exhibit "A"

LEGAL DESCRIPTION — DONOR PARCEL

LOT 29, BLOCK 2 OF BAY HARBOR ISLAND, LESS THE NORTHEAST 11 FEET FRONTING ON WEST BAY HARBOR DRIVE, OF SAID LOT 29. IN BLOCK 2, OF BAY HARBOR ISLAND, A SUBDIVISION ACCORDING TO THE PLAT THEREOF, RECORDED IN PLAT BOOK 46, PAGE 5, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA.

TOGETHER WITH ALL RIGHT, TITLE INTEREST, RESERVATION AND RIGHT OF RESERVATION IN AND TO SAID NORTHEAST 11 FEET FRONTING ON WEST BAY HARBOR DRIVE EXCEPTED FROM SAID LOT 29;

AND

THE NORTHWESTERLY 20 FEET OF TRACT "A" OF BAY HARBOR ISLAND, ACCORDING TO THE PLAT THEREOF, RECORDED IN PLAT BOOK 46, PAGE 5, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA, SAID PORTION OF TRACT "A" BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS.

BEGINNING AT THE MOST NORTHWESTERLY CORNER OF TRACT "A" OF BAY HARBOR ISLAND, ACCORDING TO THE PLAT THEREOF, RECORDED IN PLAT BOOK 46, PAGE 5, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA, SAID POINT OF BEGINNING ON A CIRCULAR CURVE WHOSE CENTER BEARS NORTH 6°12'01" EAST THEREFROM; THENCE RUN IN AN EASTERLY DIRECTION ALONG THE NORTH BOUNDARY OF SAID TRACT "A" AND ALONG SAID CIRCULAR CURVE HAVING A RADIUS OF 85 FEET THROUGH A CENTRAL ANGLE OF 6°12'01" FOR AN ARC DISTANCE OF 9.20 FEET TO THE END OF SAID CURVE WHOSE CENTER BEARS DUE NORTH THEREFROM; THENCE RUN DUE EAST ALONG THE NORTH BOUNDARY OF SAID TRACT "A" FOR A DISTANCE OF 17.83 FEET TO A POINT; THENCE RUN SOUTH 43°18'53" WEST FOR A DISTANCE OF 185.34 FEET TO A POINT ON THE SOUTHWESTERLY BOUNDARY LINE OF SAID TRACT "A"; THENCE RUN NORTH 46°41'07" WEST ALONG THE SOUTHWESTERLY BOUNDARY LINE OF SAID TRACT "A" FOR A DISTANCE OF 20 FEET TO THE MOST WESTERLY CORNER OF SAID TRACT "A"; THENCE RUN NORTH 43°18'53" EAST ALONG THE NORTHWESTERLY BOUNDARY OF SAID TRACT "A" FOR A DISTANCE OF 167.17 FEET TO THE POINT OF THE BEGINNING OF THE TRACT OF LAND HEREIN DESCRIBED.

TOGETHER WITH

THE NORTHEAST ELEVEN FEET FRONTING WEST BAY HARBOR DRIVE OF LOT 29, BLOCK 2, BAY HARBOR ISLANDS, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 46, PAGE 5 OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA

Address: 9110 W. Bay Harbor Drive, Bay Harbor Islands, Fl 33154

Folio: 13-2227-087-0010

Exhibit "B"

LEGAL DESCRIPTION — RECEIVING PARCEL

Lots 25 and 26, Block 3, of BAY HARBOR ISLAND, according to the Plat thereof, as recorded in Plat Book 46, at Page 5, of the Public Records of Miami-Dade County, Florida

Address: 9740 & 9760 W. Bay Harbor Drive, Bay Harbor Islands, Florida 33154

Folios: 13-2227-001-0720 and 13-2227-001-0730

Exhibit "C"

FORM OF DEED

PREPARED BY AND, UPON RECORDATION, RETURN TO: _____ _____ _____ Attention: [NATURAL PERSON] PROPERTY TAX FOLIO NOS. _____	(*Space above for recording*)

SPECIAL WARRANTY DEED FOR TRANSFER OF DEVELOPMENT RIGHTS

THIS SPECIAL WARRANTY DEED FOR TRANSFER OF DEVELOPMENT RIGHTS ("Deed") is entered into this ____ day of _____, 2023, by **LDC WBHD PROPERTY OWNER, LLC,** a Delaware limited liability company whose address is _____ ("Grantor"), in favor of **BAY HARBOUR INVESTMENT, INC**, a Florida corporation whose address is _____ ("Grantee"). (the terms "Grantor" and "Grantee" include all parties to this instrument and the heirs, legal representatives and assigns of individuals, and the successors and assigns of limited liability companies and corporations)

BACKGROUND

WHEREAS, Grantor and Grantee entered into that certain Purchase and Sale Agreement for Transfer of Development Rights dated _____ ___, 2023 (the "Purchase Agreement"), whereby Grantor has agreed to transfer to Grantee its interest in three (3) transfer of development rights units currently appurtenant to Grantor's land in the Town of Bay Harbor Islands, Miami-Dade County, Florida (the "Town"), more particularly described on **Exhibit "A"** attached hereto (the "TDR Units");

WHEREAS, the Town has approved Grantor's transfer of the TDR Units to Grantee, pursuant to Section 23-22.2 of the Town's Code of Ordinances, as memorialized in the Town Council Resolution that is attached to this Deed;

NOW, THEREFORE, GRANTOR, for and in consideration of the sum of $10.00 and other valuable consideration, the receipt whereof is hereby acknowledged, does hereby sell, assign, grant, bargain, and convey unto Grantee and Grantee's heirs, successors, and assigns forever, the three (3) TDR Units;

TO HAVE AND TO HOLD the same forever.

The three (3) TDR Units are and shall be appurtenant to Grantee's land in the Town of Bay Harbor Islands, Miami-Dade County, Florida, more particularly described on **Exhibit "B"** attached hereto, unless and until Grantee subsequently sells, assigns, grants, bargains, or conveys such TDR Units to others.

GRANTOR hereby covenants with and represents and warrants to Grantee that Grantor has the full right and authority to execute and deliver this Deed to Grantee and to sell, assign, grant, bargain, and convey the three (3) TDR Units to Grantee, that Grantor hereby fully warrants the title to said TDR Units, that Grantor will defend the same against the lawful claims of all persons claiming by, through or under said Grantor, but against none other, and that the TDR Units are free of all encumbrances.

This Deed is governed by and must be construed in accordance with the laws of the State of Florida, and is binding upon and inures to the benefit of the parties hereto, their heirs, executors, administrators, successors, and assigns.

Grantor agrees to cooperate with Grantee and to execute such other documents, instruments, and writings as may be reasonably requested by Grantee or that are necessary or desirable to further document or effect the intent of this Deed.

IN WITNESS WHEREOF, this Deed is executed as of the date first above written.

WITNESSES:

Signed, sealed, and delivered
in the presence of

_____

Print Name:_____

_____

Print Name:_____

SELLER:

LDC WBHD PROPERTY OWNER, LLC,
a Delaware limited liability company

By:_____
Name:
Title:

STATE OF _____)

COUNTY OF _____)

The foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization, this _____ day of _____ 202__, by _____, as _____ of LDC WBHD PROPERTY OWNER, LLC, a Delaware limited liability company, who is personally known to me or has produced _____ as identification.

_____
Notary Public, State of _____

Exhibit "D"

CONDITIONS OF ESCROW

1. Generally

(a) Escrow Agent shall hold the Deposit in escrow in a non-interest-bearing account at Wells Fargo Bank, Truist Bank, or another major U.S. financial institution selected by Escrow Agent, until the Closing or sooner termination of the agreement to which these Conditions of Escrow are attached (the "**Agreement**"), and shall pay over or apply the Deposit in accordance with the terms of this paragraph. If Buyer is entitled to a return of the Deposit pursuant to the terms of the Agreement, Escrow Agent shall pay the Deposit to Buyer. If the Closing occurs or Seller is entitled to the Deposit pursuant to the terms of the Agreement due to a Buyer Default, Escrow Agent shall pay the Deposit to Seller.

(b) If for any reason the Closing does not occur pursuant to the terms of the Agreement and either party ("**Demand Party**") makes a written demand upon Escrow Agent for payment of the Deposit ("**Demand Notice**"), Escrow Agent shall give written notice ("**Escrow Agent Notice**") to the other party ("**Non-Demand Party**") of such demand together with a copy of the Demand Notice. It is a condition precedent to Escrow Agent's release of the Deposit that the Demand Notice to Escrow Agent be in writing.

(c) If Escrow Agent does not receive a written objection ("**Objection Notice**") from the Non-Demand Party to the proposed disbursement of the Deposit within ten (10) days after the date Escrow Agent gives the Escrow Agent Notice to the Non-Demand Party, Escrow Agent is hereby authorized to make such disbursement of the Deposit to the Demand Party.

(d) If (i) Escrow Agent receives an Objection Notice from the Non-Demand Party within such ten (10) day period, or if for any other reason Escrow Agent in good faith elects not to make such disbursement of the Deposit, or (ii) a dispute arises as to the rights of the parties in and to, or the disposition of, the Deposit, then Escrow Agent shall have the right to (A) hold and retain all or any part of the Deposit until Escrow Agent: (1) receives a written notice from the Non-Demand Party withdrawing the Objection Notice, (2) receives a written notice signed by both parties directing disposition of the Deposit or (3) such dispute is settled or finally determined by litigation, arbitration, or as otherwise evidenced in a writing delivered to Escrow Agent, or (B) deposit the Deposit in an appropriate court of law, following which Escrow Agent shall thereafter be relieved and released from any liability or obligation under the Agreement, or (C) institute an action in interpleader or other similar action in an appropriate court in the State of Florida, or (D) interplead any of the parties in any action or proceeding which may be brought to determine the rights of the parties to all or any part of the Deposit. In the event Escrow Agent elects to file an action in interpleader to resolve the dispute, then upon filing such action, Escrow Agent shall thereafter be relieved and released from any liability or obligation under the Agreement. Escrow Agent shall be fully indemnified for all costs and reasonable attorneys' fees, including those for appellate and post judgment matters and for paralegals and similar persons, incurred in its capacity as Escrow Agent in connection with any such interpleader action and the court shall award such attorneys' fees, including those for appellate and post judgment matters and for paralegals and similar persons, to Escrow Agent from the losing party. Escrow Agent shall be fully protected in

suspending all or part of its activities under the Agreement until such dispute is settled or finally determined by litigation, arbitration, or otherwise.

(e) Any notice to or demand upon Escrow Agent must be in writing, must be delivered at the address set forth in the Agreement for Escrow Agent, and will be sufficient only if received by Escrow Agent within the applicable time period set forth above. Notices from Escrow Agent to Seller or Buyer shall be given pursuant to the terms of the Section of the Agreement applicable to the giving of notices to and from the parties.

2. Limitation of Liability

(a) Escrow Agent may (i) act in reliance upon any writing or instrument or signature which Escrow Agent in good faith believes to be genuine; (ii) assume the validity and accuracy of any statement or assertion contained in such a writing or instrument; and (iii) assume that any person purporting to give any writing, notice, advice, or instructions in connection with the provisions of the Agreement has been duly authorized to do so. Escrow Agent shall not be liable in any manner for the sufficiency or correctness as to form, manner of execution, or validity of any instrument deposited in escrow, nor as to the identity, authority, or right of any person executing any instrument.

(b) Escrow Agent shall not be bound in any way by any other contract or understanding between the parties, whether or not Escrow Agent has knowledge thereof or consents thereto unless such consent is given in writing.

(c) Escrow Agent's sole duties and responsibilities are to hold and disburse the Deposit in accordance with the Agreement provided, however, that Escrow Agent has no responsibility for the clearing or collection of any check(s) representing the Deposit.

(d) Escrow Agent shall not be liable for any action taken or omitted by Escrow Agent in good faith and believed by Escrow Agent to be authorized or within its rights or powers conferred upon it by the Agreement, except for damage caused by the gross negligence or willful misconduct of Escrow Agent.

(e) Upon the disbursement of the Deposit in accordance with the Agreement, Escrow Agent shall thereafter be relieved and released from any liability or obligation under the Agreement.

(f) Escrow Agent may resign at any time upon at least ten (10) days' prior written notice to the parties. If, prior to the effective date of such resignation, the parties shall all have approved, in writing, a successor escrow agent, then upon the resignation of Escrow Agent, Escrow Agent shall deliver the Deposit to such successor escrow agent. From and after such resignation and the delivery of the Deposit to such successor escrow agent, Escrow Agent shall be fully relieved of all of its duties, responsibilities and obligations under the Agreement, all of which duties, responsibilities and obligations shall be performed by the appointed successor escrow agent. If for any reason the parties shall not approve a successor escrow agent within such period, Escrow Agent may bring an appropriate action or proceeding for leave to deposit the Deposit with a court of competent jurisdiction, pending the approval of a successor escrow agent, and upon such

deposit Escrow Agent shall be fully relieved of all of its duties, responsibilities and obligations under the Agreement.

(g) Seller and Buyer hereby agree to, jointly and severally, indemnify, defend, and hold Escrow Agent harmless from and against any liabilities, damages, losses, costs or expenses incurred by, or claims or charges made against, Escrow Agent (including counsel fees, whether of outside counsel or of Escrow Agent's counsel, and court costs) by reason of Escrow Agent's acting or failing to act in connection with any of the matters contemplated by the Agreement or in carrying out the terms of the Agreement, except as a result of Escrow Agent's gross negligence or willful misconduct. To the extent that Escrow Agent holds the Deposit under the terms of the Agreement, the parties agree that Escrow Agent may charge the Deposit with any such attorneys' fees, court costs and expenses as they are incurred by Escrow Agent. Escrow Agent may consult with counsel of its own choice, including counsel within its own firm, and shall have full and complete authorization and protection in accordance with the opinion of such counsel.

(h) Without limitation, Escrow Agent shall not be liable for any loss or damage resulting from the following: (i) the financial status or insolvency of any other party, or any misrepresentation made by any other party; (ii) any legal effect, insufficiency or undesirability of any instrument deposited with or delivered by or to Escrow Agent or exchanged by the parties, whether or not Escrow Agent prepared such instrument; (iii) the default, error, action or omission of any other party or any actions taken by Escrow Agent in good faith, except for Escrow Agent's gross negligence or willful misconduct; (iv) any loss or impairment of the Deposit that has been deposited in escrow while the Deposit is in the course of collection or while the Deposit is on deposit in a financial institution if such loss or impairment results from the failure, insolvency or suspension of a financial institution, or any loss or impairment of the Deposit due to the invalidity of any draft, check, document or other negotiable instrument delivered to Escrow Agent; (v) any loss or impairment of the Deposit arising from any insufficiency of FDIC insurance coverage (up to $250,000) for funds held in a financial institution (vi) the expiration of any time limit or other consequence of delay, unless a properly executed settlement instruction, accepted by Escrow Agent, has instructed the Escrow Agent to comply with said time limit; and (vii) Escrow Agent's compliance with any legal process, subpoena, writ, order, judgment, or decree of any court, whether issued with or without jurisdiction and whether or not subsequently vacated, modified, set aside, or reversed.

(i) The parties acknowledge that Escrow Agent is acting solely as a stakeholder at their request and for their convenience, that Escrow Agent shall not be deemed to be an agent of either party, except for Escrow Agent's representation of Buyer in connection with the Agreement and the transaction contemplated in the Agreement.

(j) The parties represent that prior to the negotiation and execution of the Agreement they were advised that Escrow Agent is the law firm representing Buyer as its attorney in connection with the Agreement and the transaction referred to in the Agreement. The parties covenant that they shall not object, on the grounds of conflict of interest or otherwise, to Escrow Agent's continuing to act as Buyer's attorney in connection with the Agreement and the transaction contemplated therein. In the event of a dispute between the parties, the parties consent to Escrow

Agent continuing to represent Buyer, notwithstanding that Escrow Agent shall continue to have the duties provided for in the Agreement.

3. Miscellaneous

(a) The parties acknowledge that the disbursement of the Deposit may require a completed W-8 or W-9 form and any other documentation required to satisfy Section 326 of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 ("**USA PATRIOT Act**"). The parties agree to execute such documents as are required to satisfy such governmental requirements.

(b) Escrow Agent undertakes to perform only such duties as are expressly set forth in the Agreement. Escrow Agent shall not be deemed to have any implied duties or obligations under or related to the Agreement.

(c) The terms and provisions of these Conditions of Escrow shall create no right in any person, firm, or corporation other than the parties and their respective successors and permitted assigns and no third party shall have the right to enforce or benefit from the terms hereof.

(d) In the event Escrow Agent holds the Deposit for a period exceeding twelve (12) months following the Effective Date of the Agreement, Escrow Agent shall thereafter have the right, in its sole discretion, to terminate the escrow in which event it shall either deposit such Deposit with a court or deposit the Deposit with a third party mutually agreeable to parties. Escrow Agent shall give the parties not less than ten (10) days' prior notice of such election.

(e) Except for the delivery of Form 1099's, the Escrow Agent shall have no duty to prepare or file any Federal or state tax return or report with respect to any funds held under the Agreement or any earnings thereon. With respect to the preparation and delivery of Form 1099's and all matters pertaining to the reporting of earnings on funds held under the Agreement, the Escrow Agent shall be entitled to request and receive written instructions from the Seller and Buyer and the Escrow Agent shall be entitled to rely conclusively and without further inquiry on such written instructions. Any taxes payable on income earned from the investment of any sums held in escrow under the Agreement shall be paid by the party entitled to receive such income, whether or not the income was distributed by the Escrow Agent to such party during any particular year, as and to the extent required under the provisions of the Internal Revenue Code.

4. Deposit of Funds

The Deposit will be processed for collection in the normal course of business. No disbursement will be made until the Deposit has been irrevocably credited to Escrow Agent's account. Escrow Agent may commingle the Deposit received in escrow with escrow deposits of others, and may, at its option, deposit such Deposit in its custodial or trust accounts. Unless otherwise indicated in the Agreement, Escrow Agent shall be under no obligation to invest the Deposit on behalf of any depositor, nor shall it be accountable for any earnings or incidental benefit attributable to the Deposit which may be received by Escrow Agent while it holds the Deposit. If, in accordance with the Agreement, the Deposit is to be invested in interest-bearing investments, the interest shall be disbursed as, and shall be deemed included in, the Deposit except as may be

otherwise specified in the Agreement, and the party entitled to the interest shall furnish its taxpayer identification number to Escrow Agent.

5. Closing of Escrow

Signed approval of the Closing Statement or other settlement statements or statements of account by the Seller and Buyer shall constitute mutual instructions to Escrow Agent and authority to disburse funds as shown thereon. Upon completion of the disbursement of funds and delivery of instruments at Closing, Escrow Agent shall thereafter be relieved and released from any liability or obligation under the Agreement.

6. Electronic Execution

The parties agree that Escrow Agent shall be entitled to rely upon approvals for the closing of escrow and upon other communications by the parties transmitted by electronic means, including but not limited to facsimile telephone transmission and/or email transmission of data and signatures. Escrow Agent shall not be required to rely upon electronic data, which it determines, in its sole discretion, to be unreliable. Any notice or other communication given in the manner provided above by counsel for any party shall be deemed to be notice of such notice or other communication from the party represented by such counsel.

7. Binding Effect

By signing the Agreement to which these Conditions of Escrow are attached, each party consents to and agrees to be bound by the foregoing Conditions of Escrow.

EXHIBIT C

DONOR PARCEL DEED

CFN: 20220732344 BOOK 33389 PAGE 1008
DATE:09/19/2022 12:34:00 PM
DEED DOC 51,000.00
SURTAX 38,250.00
HARVEY RUVIN, CLERK OF COURT, MIA-DADE CTY

Prepared by:
Dvora Weinreb, Esq.
Law Offices of Dvora M. Weinreb, PA
20283 State Road 7, Suite 400
Boca Raton, FL 33498
dvora@dwpalaw.com
Record and Return to:
Kensington Vanguard National Land Services, LLC
39 W 37th Street, 3rd fl, New York, NY 10018

Parcel Identification No. 13-2227-087-0010; 13-2227-087-0020; 13-2227-087-0030; 13-2227-087-0040; 13-2227-087-0050; 13-2227-087-0060; 13-2227-087-0070; 13-2227-087-0080; 13-2227-087-0090; 13-2227-087-0100

[Space Above This Line For Recording Data]

WARRANTY DEED

(STATUTORY FORM – SECTION 689.02, F.S.)

This indenture made the 14th **day of September, 2022** between **9525 BH LLC, a Florida limited liability company,** whose post office address is **10010 W. Broadview Drive, Bay Harbor Islands, FL 33154**, Grantors, to **LDC WBHD Property Owner, LLC, a Delaware limited liability company**, of 3306 Labyrinth Road, Baltimore, MD 21215, Grantee:

Witnesseth, that said Grantors, for and in consideration of the sum of EIGHT MILLION, FIVE HUNDRED THOUSAND DOLLARS AND 00/100 CENTS (U.S.$8,500,000.00) and other good and valuable considerations to said Grantors in hand paid by said Grantee, the receipt whereof is hereby acknowledged, has granted, bargained, and sold to the said Grantee, and Grantee's heirs and assigns forever, the following described land, situate, lying and being in Miami-Dade County, Florida, to-wit:

Condominium Unit Numbers 1 through 10, all of BAY HARBOR APARTMENTS CONDOMINIUM, together with an undivided interest in the common elements appurtenant thereto, according to the Declaration of Condominium thereof, as recorded in Official Records Book 13505, Page 817, of the Public Records of Miami-Dade County, Florida.

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

Subject to taxes for 2022 and subsequent years, not yet due and payable; covenants, restrictions, easements, reservations and limitations of record, if any.

TO HAVE AND TO HOLD the same in fee simple forever.

And Grantors hereby covenant with the Grantee that the Grantors are lawfully seized of said land in fee simple, that Grantors have good right and lawful authority to sell and convey said land and that the Grantors hereby fully warrant the title to said land and will defend the same against the lawful claims of all persons whomsoever.

In Witness Whereof, Grantors have hereunto set Grantors' hand and seal the day and year first above written.

Signed, sealed and delivered in our presence:

9525 BH LLC, a Florida limited liability company

WITNESS
PRINT NAME: Dvora Weinreb

BY: Menachem Kranz, Manager

WITNESS
PRINT NAME: Tammy Clarke

STATE OF FLORIDA)
COUNTY OF Palm Beach

The foregoing instrument was acknowledged before me by means of (x) physical presence or ( ) online notarization this 14th day of September, 2022, by **Menachem Kranz, as Manager of 9525 BH LLC, a Florida limited liability company.**

Signature of Notary Public
Print, Type/Stamp Name of Notary

Personally Known: ✓ OR Produced Identification:_____
Type of Identification
Produced:_____

NOTARY PUBLIC STATE OF FLORIDA
DVORA WEINREB
MY COMMISSION # HH 005576
EXPIRES: September 30, 2024
Bonded Thru Notary Public Underwriters

CERTIFICATE OF APPROVAL

OF

BAY HARBOR APARTMENTS CONDOMINIUM

ASSOCIATION, INC.

THIS IS TO CERTIFY THAT

LDC WBHD LLC

has been approved as Purchaser of the following described real property in Miami-Dade County Florida:

Condominium Unit Numbers 1 through 10, all of BAY HARBOR APARTMENTS CONDOMINIUM, together with an undivided interest in the common elements appurtenant thereto, according to the Declaration of Condominium thereof, as recorded in Official Records Book 13505, Page 817, of the Public Records of Miami-Dade County, Florida.

Such approval has been given pursuant to and in accordance with the Declaration of Condominium and Bylaws.

Dated this 23rd day of August, 2022.

BAY HARBOR APARTMENTS CONDOMINIUM ASSOCIATION, INC.

By: _____
Menachem Kranz, President

State of Florida
County of Palm Beach
The foregoing instrument was acknowledged before me by means of physical presence this 23rd day of August, 2022, by MENACHEM KRANZ, as President of Bay Harbor Apartments Condominium Association, Inc., who produced Personally Known as identification.

DVORA WEINREB
MY COMMISSION # HH 005576
EXPIRES: September 30, 2024
Bonded Thru Notary Public Underwriters

_____
DVORA WEINREB

1987 DEC 10 PM 4:24 87R466449

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BAY HARBOR APARTMENTS CONDOMINIUM

FILING BINDER

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2. By-Laws
3. Articles of Incorporation
4. Estimated Operating Budget

DECLARATION OF CONDOMINIUM

FOR

BAY HARBOR APARTMENTS CONDOMINIUM

DECLARATION OF CONDOMINIUM

FOR

BAY HARBOR APARTMENTS CONDOMINIUM

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DECLARATION OF CONDOMINIUM

FOR

BAY HARBOR APARTMENTS CONDOMINIUM

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FOR

BAY HARBOR APARTMENTS CONDOMINIUM

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DECLARATION OF CONDOMINIUM FOR BAY HARBOR APARTMENTS CONDOMINIUM

LEE J. SOFFERIN, SADIE COHN, GEORGE SEYBURN and FLORENCE SEYBURN, GLADYS BEZNOS, BEN BUTEN and DOROTHY BUTEN and ALEX SPECTOR, do hereby declare as follows:

ARTICLE I
DEFINITIONS

The following terms when used in this Declaration and its exhibits, and as they may hereafter be amended, shall have the meanings stated as follows, except where the context requires otherwise:

A. "Act" means the Florida Condominium Act (Chapter 718, Florida Statutes), as it exists on the date hereof.

B. "Articles" or "Articles of Incorporation" means the Articles of Incorporation of the Association, as same may be amended from time to time.

C. "Assessment" means a share of the funds required for payment of Common Expenses, which from time to time is charged to the Unit Owner(s).

D. "Assigns" means any person to whom some or all rights of a Unit Owner have been validly transferred by sale, lease, mortgage or otherwise.

E. "Association" or "Condominium Association" means Bay Harbor Apartments Condominium Association, Inc., a not-for-profit Florida corporation, which is the entity responsible for the operation of the Condominium.

F. "Board of Administration" or "Board" or "Administrators" means the board of directors responsible for administration of the Association.

G. "By-Laws" means the by-laws of the Association, as they exist from time to time.

H. "Common Elements" means the portions of the Condominium Property which are not included in the Units, and includes without limitation the following:

1. easements through Units for conduits, ducts, plumbing, wiring and other facilities for the furnishing of utility services to Units and the Common Elements;

2. an easement of support in every portion of a Unit which contributes to the support of a building;

3. the property and installations required for the furnishing of utilities and other services to more than one Unit or to the Common Elements;

4. any other parts of the Condominium Property designated as Common Elements in this Declaration.

I. "Common Expenses" means all expenses and assessments properly incurred by the Association for the Condominium, including without limitation:

1. expenses of operation, maintenance, repair or replacement of Common Elements;

2. costs of carrying out the powers and duties of the Association; and

3. any other expenses designated as Common by the Condominium Act, this Declaration or the By-Laws.

J. "Common Interest" means the proportionate undivided interest in fee simple in the Common Elements and the Common Surplus appurtenant to a Unit as expressed in the Declaration.

K. "Common Receipts" means the following items collected by the Association on behalf of the Condominium:

1. rent and other charges derived from leasing or licensing the use of the Common Elements or Condominium Property;

2. funds collected from Unit Owners for payment of Common Expenses or otherwise; and

3. receipts designated as Common by law, this Declaration or the By-Laws.

L. "Common Surplus" means the excess of all Common Receipts over Common Expenses.

M. "The Condominium" means the the Bay Harbor Apartments Condominium, which is a form of ownership of real property created pursuant to the Act and under this Declaration providing for ownership by one or more persons or entities of improvements together with an undivided interest in Common Elements appurtenant to each such Unit.

N. "Condominium Property" means the land and personal property that are subject to Condominium ownership under this Declaration, all improvements on the land, and all easements and rights appurtenant thereto which are intended for use in connection with the Condominium.

O. "Declaration of Condominium" or "this Declaration" means this instrument, as it may be amended or supplemented from time to time.

P. "Developer" means Lee J. Sofferin, Sadie Cohn, George Seyburn and Florence Seyburn, Gladys Beznos, Ben Buten and Dorothy Buten and Alex Spector, their successors and assigns.

Q. "Institutional Lender" means a bank, savings and loan association, insurance company, real estate or mortgage investment trust, pension fund, agency of the United States Government, mortgage banker or any other lender generally recognized as an institutional type lender, or other entity which holds a mortgage on a Unit.

R. "Limited Common Elements" means those Common Elements which are for the use of one or more specified Units to the exclusion of other Units.

S. "Member of the Association" means the owner or co-owner of a Unit.

T. "Person" means an individual, firm, corporation, partnership, association, trust or other legal entity, or any combination thereof.

U. "Rules and Regulations" means guidelines adopted by the Association concerning the use of the Condominium, as they may be amended from time to time.

V. "Special Assessment" means any assessment levied against any Unit Owner(s) other than the assessments provided for in the annual budget.

W. "Unit" means a part of the Condominium Property which is subject to exclusive ownership and which includes a proportionate undivided interest in the Common Elements and Common Surplus appurtenant thereto as set forth in this Declaration of Condominium or any amendment thereof.

X. "Unit Deed" or "Warranty Deed" means a deed of conveyance of a Unit in recordable form.

Y. "Unit Owner" means the person(s) owning a Unit in fee simple.

Z. "Voting Certificate" means a document which designates one of the record title owners or the corporate partnership or entity representative who

is authorized to vote on behalf of a Unit owned by more than one owner or by any entity.

AA. "Voting Interest" means the voting rights distributed to the members of the Association pursuant to the Act.

ARTICLE II
CREATION OF CONDOMINIUM

Developer hereby submits to Condominium ownership the Condominium Property situate in the County of Dade, State of Florida, as more particularly described in Exhibit A attached hereto, including all appurtenant improvements, and hereby declares the same to be a Condominium known and identified as "Bay Harbor Apartments Condominium."

ARTICLE III
DESCRIPTION OF CONDOMINIUM

A. Survey and Plans. Attached hereto and made a part hereof as Exhibit B, consisting of four (4) pages, are a survey of the land and graphic description and plot plans of the improvements constituting the Condominium identifying the Units and Common Elements and their respective locations and approximate dimensions. Each Unit is identified by specific numerical designation on Exhibit B.

B. Description of Buildings and Units. The Condominium includes one (1) building containing a total of ten (10) residential Units, as are more particularly shown and described in the floor plans which are attached hereto as part of Exhibit B.

C. Description of Other Improvements. In addition to the previously described residential building and previously defined Common Elements, the Condominium Property shall include paved automobile parking areas, walkways and grass and landscaped areas.

D. Unit Boundaries. Each unit shall include that part of the Building containing the Unit that lies within the boundaries of the Unit which boundaries are as follows:

1. Upper and Lower Boundaries. The upper and lower boundaries of the Unit shall be the following boundaries extended to an intersection with the following perimetrical boundaries:

(a) Upper Boundaries. The plane of the lowest surfaces of the unfinished structural ceiling(s). In a Unit in which any part of the ceiling is raised above the level of the ceiling of the rest of the Unit, the ceiling shall include the vertical slab or wall connecting the raised ceiling with the ceiling of the remaining portion of the Unit and the upper boundary shall include the plane of the unfinished structural surface of the vertical slab or wall that joins the planes of the lowest surface of the unfinished horizontal portions of the structural ceiling(s).

(b) Lower Boundaries. The plane of the unfinished highest surfaces of the floor slab(s). In a Unit in which any part of the floor is raised above the level of the floor in the rest of the Unit, the floor slab shall include the vertical slab or wall connecting the raised floor with the floor of the remaining portion of the Unit and the lower boundary shall include the plane of the unfinished surface of the vertical slab that joins the plane of the highest surfaces of the unfinished horizontal portions of the floor slabs.

2. Perimetrical Boundaries. The perimetrical boundaries of the Unit shall be the vertical planes of the unfinished interior of the walls bounding the Unit extending to intersections with each other and with the upper and lower boundaries with the following exceptions: When the vertical planes of the unfinished interior do not intersect with each other or with the unfinished interior surfaces of the bounding walls or within an intervening partition, the vertical planes of the unfinished interior surfaces of the bounding walls shall be extended to intersect with the

plane of the center line of the intervening partition and that plane shall be one of the perimetrical boundaries of the Unit.

E. Description of Appurtenances. Each Unit shall be deemed to include the following items (even though all or a portion thereof may not be located within the Unit):

1. all interior walls and partitions which are not load-bearing;

2. the inner decorated or finished surfaces of all walls, floors and ceilings including plaster, gypsum board, ceramic tile, marble, paint, wallpaper and floor covering;

3. all appliances and built-in features;

4. air-conditioning and heating systems;

5. plumbing system;

6. all utility meters not owned by the public utility or agency supplying service; and

7. all electrical wires and fixtures.

No Unit shall be deemed to include any pipes, wires, conduits, security systems, lines, television cables or other utility lines running through such Unit which are utilized for more than one Unit, the same being deemed Common Elements.

F. Limited Common Elements. The following appurtenances to each Unit shall be Limited Common Elements, all as shown in Exhibit B: storm shutters (if, as and when duly installed); and two (2) parking spaces in the common parking area.

G. Surveyor's Certificate. As of the date hereof, the construction of the building is substantially completed.

ARTICLE IV
OWNERSHIP OF UNITS AND COMMON ELEMENTS

A. Fee Simple. Each Unit shall be conveyed as individual property in fee simple ownership. Included in fee title to each Unit shall be an undivided interest in the Common Elements and in the Common Surplus. The respective shares of ownership and obligation shall be eight percent (8%) for each one-bedroom Unit and thirteen percent (13%) for each two-bedroom Unit.

B. Ownership and Conveyance of Undivided Interest in the Common Elements and in the Common Surplus. The undivided interest of each Unit in the Common Elements and in the Common Surplus is deemed to be conveyed or encumbered with its respective Unit, even though the description in the instrument of conveyance or encumbrance may refer only to the fee title to the Unit.

C. Change of Undivided Interest. The undivided interest appurtenant to each Unit shall not be changed except with the unanimous consent of the Unit Owners.

D. Voting Rights of Unit Owners. On all matters on which the Unit Owners shall be entitled to vote, there shall be only one (1) voting interest (or vote) for each Unit in the Condominium, which vote may be cast by the owner of each Unit or the person designated in the Voting Certificate for the Unit. Should any person own more than one Unit, such person shall be entitled to cast one (1) vote for each Unit owned.

E. Distribution of Common Surplus. The Common Surplus shall be held and distributed by the Association in the manner and subject to the terms, provisions and conditions thereof. Except for distribution of any insurance indemnity herein provided or termination of the Condominium, any distribution of Common Surplus which may be made from time to time shall be made to the then Unit Owners in accordance with their respective Common Interests.

ARTICLE V
UTILIZATION; RESTRICTIONS

A. Residential Purposes. All Units shall be used for single-family residential purposes only. Occupancy for each Unit shall be limited to not more than two (2) persons for each bedroom contained in such Unit. A Unit Owner may keep not more than one (1) cat or one (1) dog, which pet shall weigh not more than fifty (50) pounds full grown and shall be kept, transported and walked in accordance with the Rules and Regulations, and shall not, at any time, create or constitute a nuisance. A Unit Owner also may keep tropical fish and small caged birds. Other than as expressly provided by this Section, no pets shall be permitted in the Condominium.

B. Ownership by Corporations or Other Business Entities. Whenever any Unit is owned by a corporation or other business entity (hereinafter collectively referred to as "corporation" or "corporate member"), such corporation shall permit use thereof only by its principal officers, directors or other guests; provided, however, that such corporation shall deliver to the Association a written statement designating the name of the person(s) entitled to use such Unit together with a written covenant by such person(s) to the Association, agreeing to comply with the provisions of this Declaration, the By-Laws and the Rules and Regulations, and acknowledging that the right of such person(s) to use such Unit shall exist only so long as the corporation shall continue to be a member of the Association. Upon demand by the Association to any corporate member to remove any person(s) using such corporation's Unit for failure of such user to comply with the provisions of this Declaration, the By-Laws and/or the Rules and Regulations or for any other reason, the corporate member shall forthwith cause such user to be removed; failing which, the Association, as agent of the corporate member, may take such action as it may deem appropriate to accomplish such removal. All such action by the Association shall be at the cost and expense of such corporation which shall reimburse the Association therefor upon demand, together with any attorneys' fees the Association may have incurred for such removal.

C. General Restrictions. The Units and the Common Elements (including Limited Common Elements) shall be subject to the restrictions, easements, conditions and covenants prescribed and established in this Declaration, the By-Laws and the Rules and Regulations, governing the use of the Units and Common Elements and setting forth the obligations and responsibilities incident to ownership of each Unit.

D. Prohibited Uses. No immoral, improper, offensive or unlawful use shall be made of any Unit or of the Common Elements, or any part thereof. No Unit Owner shall permit or suffer anything to be done or kept in his Unit or the Common Elements which would: (1) increase the rate of insurance on the Condominium; (2) obstruct or interfere with the rights of other occupants of the Condominium; (3) annoy other occupants by unreasonable noises or otherwise create a nuisance; (4) interfere with the peaceful possession and proper use of any other Unit or of the Common Elements; or (5) violate any governmental law, ordinance or regulation. No item of any kind shall be affixed or attached to or permanently placed on the Common Elements (including Limited Common Elements) without the prior written consent of the Board. No boats, trailers, trucks, uncovered motorcycles, mobile homes, campers, recreational vehicles or commercial vehicles may be parked in the Condominium Property except for commercial vehicles at the Condominium for service calls or owned by the Association.

E. Leases. Each Unit shall be leasable, but only in its entirety and not any portion less than its entirety. All leases shall be on forms approved by the Association and shall grant the Association the right to terminate the lease upon the tenant's default under the provisions of this Declaration, the Articles of Incorporation, the By-Laws, the Rules and Regulations and/or any other applicable provisions of any agreement, document or instrument governing the Condominium. Leasing of Units also shall be subject to the Association's prior written approval, which approval may be withheld on any reasonable grounds. No lease shall be for a term of less than one (1) year; in no event shall any Unit have more than two (2) leases within any calendar year. No tenant shall be allowed to keep any pet of any kind in the Unit he occupies. The Unit Owner shall be liable, jointly and severally with the tenant, to the Association for any costs and expenses of repairing such damages resulting from the tenant's acts or omissions.

F. Prohibition of Subdivision of Units. No Unit shall be subdivided or broken into smaller parts than as shown in Exhibit B, nor shall any Unit or portion thereof be added to or incorporated into any other Unit.

G. Prohibition of Separation of Common Elements, Common Interests or Easements from Units. Any attempt to separate the fee title to a Unit from the undivided interest in the Common Elements and/or in the Common Surplus appurtenant to such Unit or from the easements appurtenant to such Unit shall be null and void. No Unit Owner may assign, hypothecate or transfer in any manner his share in the funds and assets of the Association as an appurtenance to his Unit.

ARTICLE VI
EASEMENTS

A. Easement in Common Elements. Except for those portions which are reserved for exclusive use as Limited Common Elements, the Common Elements shall be subject to a non-exclusive easement in favor of each Unit Owner for his use and the use of his immediate family, guests and invitees for all proper and normal purposes, including the furnishing of services and facilities. Such easement shall run with each Unit. A non-exclusive easement shall exist for ingress and egress over, through and across streets, common parking areas and walkways for the purpose of going from one portion of the Condominium Property to another. Nothing contained herein shall be construed to allow any person or entity to enter upon the Condominium Property unless it is upon an area specifically designated for such traffic and necessary for such ingress and egress as described above. Under no circumstances shall such traffic be allowed through any Unit.

B. Utility Services; Drainage; Maintenance. Easements are reserved under, through and over the Condominium Property as may be required for utility services and drainage serving the Condominium. The Board of Administration (and its designees) shall have the right of access to each Unit and its Limited Common Elements to inspect, install, maintain, repair or replace all equipment, pipes, wires, ducts, vents, cables, conduits and other utility service facilities and Common Elements contained in the Unit or elsewhere in the Condominium Property and to remove any improvements interfering with or impairing the utility services or easements herein reserved. The Association shall have the following rights, provided that such rights do not prevent or unreasonably interfere with use of the Units for proper purposes: (1) to establish, grant or create additional electric, gas, water, sewer, telephone, burglar alarm, drainage, cable television, master antenna or other utility easements; (2) to relocate any access easements concerning such utility easements; (3) to install, maintain and inspect lines and appurtenances for public or private water, sewer, telephone, burglar alarm, drainage, cable television, master antenna and other utility services; (4) to tap into or connect with and make use of wires, pipes, conduits, flues, ducts, television cables, master antenna, sewers, burglar alarm lines, water lines, drainage lines or other utility lines located in the Condominium Property; and (5) to dedicate any or all of such utility easements to any governmental body, public benefit corporation or utility company if the Association shall deem it necessary or desirable for the proper operation and maintenance of the Condominium Property or any portion thereof, or for the general health or welfare of any Unit Owner, provided that such additional utilities or the relocation of existing utilities will not prevent or unreasonably interfere with the proper use of any Unit. No Unit Owner shall commit or allow to be committed any act within or without his Unit which would interfere with or impair any of the utility services using the easements granted herein.

C. Encroachment Easements. In the event that any Unit shall encroach upon any portion of the Common Elements for any reason not caused by the purposeful or negligent act of the Unit Owner(s) or agent(s) of such owner(s), then an easement appurtenant to such Unit shall exist for the continuance of such encroachment for so long as such encroachment naturally shall exist. In the event that any portion of the Common Elements shall encroach upon any Unit, then an easement appurtenant to the Common Elements shall exist for the continuance of such encroachment for so long as such encroachment naturally shall exist.

D. Employees' Easements. Easements of ingress, egress, passage and entry for the Condominium Property are granted to employees of the Association. Any utility company or public benefit corporation furnishing services to the Condominium Property and the employees and agents of any such company or corporation, shall have the right to access all Units and the Common Elements, provided such rights are exercised in a manner not to unreasonably interfere with the use of any Unit or the Common Elements.

E. Airspace Easements. Each Unit Owner shall have an exclusive easement for the use of the airspace occupied by the Unit as it exists at any particular time and as the Unit may lawfully be altered or reconstructed from time to time, which easement shall be terminated automatically in any airspace which is vacated.

ARTICLE VII
CONDOMINIUM ASSOCIATION

A. Incorporation; Operation. Developer shall create a Condominium Association to be known as Bay Harbor Apartments Condominium Association, Inc., which shall be a not-for-profit Florida corporation and which shall operate the Condominium and undertake and perform all acts and duties incident thereto in accordance with the terms of the Articles of Incorporation and By-Laws (copies of which are annexed hereto as Exhibits D and E, respectively), the Declaration and the Act. In the event of conflict concerning the powers and duties of the Association as set forth in the Act, the Declaration, Articles of Incorporation and By-Laws, the Act shall control the Declaration, the Declaration shall control the Articles of Incorporation and By-Laws and the Articles of Incorporation shall control the By-Laws.

B. Automatic Membership. Every Unit Owner automatically shall be a member of the Association upon becoming the owner of such Unit and shall remain a member until his ownership ceases for any reason, at which time his membership shall cease automatically. Other than as an incident to a transfer of title to a Unit, membership in the Association shall not be transferable and any attempted transfer shall be null and void. No person, firm or corporation holding any lien, mortgage or other encumbrance upon any Unit shall be entitled, by virtue of such lien, mortgage or other encumbrance to membership in the Association, or to any of the rights or privileges of such membership.

C. Limitation Upon Liability of the Association. Notwithstanding its duty to maintain and repair the Condominium Property, the Association shall not be liable to Unit Owners for injury or damage, other than the cost of maintenance and repair caused by latent conditions of the Condominium Property. Further, the Association shall not be liable for any such injury or damage caused by defects in design or workmanship or any other reason connected with any additions, alterations or improvements made by or on behalf of any Unit Owner(s).

D. Assessments. The Board shall have the power to fix, determine and collect from all Unit Owners, as provided in the By-Laws, the sums necessary and adequate to provide for the Common Expenses of the Condominium and such other expenses as are specifically provided for in this Declaration and the By-Laws. The Board shall furnish prompt notice to Unit Owners of all assessments payable.

1. Allocation. Unless otherwise stipulated, all assessments shall be levied in proportion to each Unit Owner's Common Interest. Should the Association be the owner of any Unit(s), the assessment which otherwise would be due and payable to the Association on such Unit(s), shall be levied ratably among all of the Unit Owners excluding the Association, based upon their Common Interests, reduced by any income derived from the leasing of such Unit(s) by the Association.

2. Special Assessments. Should the assessments prove to be insufficient to pay the costs of operation of the Condominium, or should any emergency arise, the Board shall have the authority to levy such additional assessment(s) as it may deem necessary, subject to obtaining the Association Membership's approval of such Special Assessment by majority vote at a duly called meeting of the Association at which a quorum is present. The specific purpose(s) of any Special Assessment shall be set

forth in a written notice of such assessment sent or delivered to each Unit Owner. The funds collected pursuant to a Special Assessment shall be used only for the specific purpose(s) set forth in such notice or returned to the Unit Owners; provided, however, that upon completion of such specific purpose(s), any excess funds shall be considered Common Surplus.

3. Certificate of Unpaid Assessments. Within fifteen (15) days after request by a Unit Owner or Unit mortgagee, the Association shall provide a certificate stating all assessments and other monies owed to the Association by the Unit Owner with respect to the Unit. Any person other than the Unit Owner who relies upon such certificate shall be protected thereby.

4. Payment; Default. The assessments levied against each Unit Owner shall be payable at the main office of the Association in such installments and at such time as may be determined by the Board of Administration as provided in the By-Laws. The payment of any such assessment shall be in default if it is not paid to the Association on or before its due date.

5. Application of Proceeds in Event of Default. In the event that a Unit is to be sold, leased or mortgaged at a time when payment of any assessment by the Unit Owner shall be in default (whether or not a notice of lien has been recorded by the Association), then the rent or proceeds of such purchase or mortgage shall be applied by the lessee, purchaser or mortgagee first to payments of any then delinquent assessment or installments thereof due to the Association before the payment to the Unit Owner in default.

6. Liens; Enforcement.

(a) The assessments shall be levied against each Unit Owner who is bound to pay them. Common Expenses and assessments shall constitute a lien against each Unit and shall have the priority afforded by law. Actions to enforce such claims shall be in conformity with law. Each Unit Owner also shall be liable personally to the Association for the payment of all such assessments and for interest on any delinquent payment and for all costs of collecting such payment and interest thereon, including reasonable attorneys' fees. No Unit Owner may exempt himself from liability for any assessment levied against him by waiver of the use or enjoyment of any of the Common Elements, or by abandonment of the Unit or in any other way. Assessments which are unpaid after the due date shall bear interest at the maximum rate of interest chargeable to an individual as permitted by the laws of the State of Florida. Once interest has accrued, any subsequent payment shall be applied first to payment of interest and collection costs and then to the payment of the assessment first due.

(b) Each such lien shall secure: (i) all advances for taxes, payments on account or superior mortgages, liens or encumbrances and any other payments which the Association may pay in order to preserve and protect its lien; and (ii) all costs and expenses, including reasonable attorneys' fees, which may be incurred by the Association in enforcing the lien upon the Unit.

(c) Each lien herein granted to the Association shall be effective upon recording a notice of lien in the Public Records of Dade County, Florida. A notice of lien shall state the description of the Unit encumbered thereby, the name of the record owner, the amount due and the date when due. No lien shall continue for a period longer than one (1) year after the claim of lien shall have been recorded, unless within that time an action to enforce the lien shall be commenced in a court of competent jurisdiction. The claim of lien shall secure all unpaid assessments, interest, costs and attorneys' fees which are due and which may accrue subsequent to the recording of the claim of lien and prior to entry of a final judgment of foreclosure. Such claim of lien shall be signed and verified by an officer or agent of the Association. Upon full payment of all sums secured by such lien, the same shall be satisfied of record.

(d) The Association, acting through the Board, shall have the right to assign to any Unit Owner(s) or third party its lien rights for the recovery of any unpaid assessments.

(e) A lien granted to the Association may be foreclosed. No foreclosure action may be filed until at least thirty (30) days after the Condominium Association gives written notice to the Unit Owner of its intention to foreclose its lien to collect the unpaid assessments. If this notice is not given at least thirty (30) days before the foreclosure action is filed and if the unpaid assessments, including those coming due after the claim of lien is recorded, are paid before the entry of a final judgment of foreclosure, the Association shall not recover attorneys' fees or costs. The notice must be delivered personally to the Unit Owner or mailed and delivered by registered or certified mail, return receipt requested. If, after diligent search and inquiry, the Association cannot find the Unit Owner or a mailing address at which the Unit Owner will receive the notice, the notice shall be given as required by law. The notice requirements of this subsection are satisfied if the Unit records a notice of contest of lien as provided in the Act.

(f) If the Unit Owner remains in possession of the Unit and the claim of lien is foreclosed, the court, in its discretion, may require the Unit Owner to pay taxes and prior encumbrances and interest thereon, all as provided above. Such notice of lien shall be signed and verified by an officer or agent of the Association. Upon full payment of all sums secured by such lien, the same shall be satisfied of record.

(g) Institution of a suit at law to collect payment of any delinquent assessment shall not prevent the Association from thereafter seeking enforcement of the collection by foreclosure of any sums then owing to it. Proceeding by foreclosure to effect such collection shall not preclude the institution of a suit at law to collect any sum then owing to it.

(h) A Unit Owner, regardless of how title is acquired, including a purchaser at a judicial sale, shall be liable for all assessments coming due while he is the Unit Owner and shall be subject to all of the provisions of this Declaration, the By-Laws, the Rules and Regulations and applicable law. In a voluntary conveyance, the grantee shall be jointly and severally liable with the grantor for all unpaid assessments against the grantor for his share of the Common Expenses up to the time of the conveyance, without prejudice to any right the grantee may have to recover from the grantor the amounts paid by grantee.

(i) When an Institutional Lender of record, or other purchaser of a Unit shall obtain title to a Unit by a purchase at the public sale resulting from the Institutional Lender's foreclosure judgment in a foreclosure suit in which the Association shall have been properly named as a defendant junior lienholder, or as a result of a deed given in lieu of foreclosure, such acquirer of title, its successors and assigns shall not be liable for the share of Common Expenses or assessments attributable to the Unit or chargeable to the former Unit Owner of the Unit which became due prior to such acquisition of title unless the share shall be secured by a claim of lien for assessments recorded prior to the recording of the foreclosed mortgage. The unpaid share of Common Expenses or assessments shall be Common Expenses collectible from all of the Unit Owners, including such acquirer, its successors and assigns. An Institutional Lender acquiring title to a Unit by foreclosure or deed in lieu of foreclosure shall not, during the period of its ownership of the Unit, whether or not the Unit is unoccupied, be excused from the payment of some or all of the Common Expenses coming due during the period of such ownership.

E. Budget and Accounting. The Board shall adopt a budget for each fiscal year. Such budget shall contain estimates of all costs and expenses for the proper operation, management and maintenance of the Condominium, including a reasonable allowance for contingencies and reserves, and shall take into account the projected income which is to be applied in reduction of the

amounts required to be collected as an assessment each year. Common Expenses also shall include the cost of maintaining leaseholds, memberships and other possessory or use interests in lands and facilities to provide enjoyment, recreation or other use or benefit to Unit Owners, all as acquired by lease or agreement in form and content, satisfactory to the Board. Assessments shall be established based upon such budget. Upon adoption of the budget, a copy of same shall be delivered to each Unit Owner, although failure to deliver a copy of the budget to each Unit Owner shall not affect the liability of any Unit Owner for such assessment. The Association shall maintain accounting records which shall be open to inspection by Unit Owners or their authorized representatives at reasonable times. Written summaries of such accounting records shall be furnished to Unit Owners or their representatives at least annually.

F. Reserves. Each annual budget may include:

1. General Operating Reserve. A sum to be collected and maintained as a general operating reserve, which sum may be used to meet deficiencies from time to time existing as a result of delinquent payment of assessments by Unit Owners or as a result of emergencies or to pay other costs or expenses placing financial stress upon the Association. The amount to be allocated to such operating reserve and collected therefor shall not exceed ten percent (10%) of the current annual assessment levied against all of the Unit Owners. Upon accrual in the operating reserve of a sum equal to thirty percent (30%) of the current annual assessment, no further payments shall be collected, unless such operating reserve shall be reduced below the thirty percent (30%) level, in which event, contributions to such operating reserve shall be included in the annual assessment so as to restore the operating reserve to thirty percent (30%) of the current annual assessment.

2. Reserves for Capital Expenditures and Deferred Maintenance. Each annual budget shall include sums to be collected and maintained as reserves to be used for capital expenditures and deferred maintenance. These accounts shall include, but not be limited to, roof replacement, building painting and pavement resurfacing. The amount to be reserved shall be computed by the Board by means of a formula which is based upon estimated life and estimated replacement cost of each reserve item. Such reserves may be waived or reduced for a fiscal year by the affirmative vote of the majority of the members present at a duly called meeting of the Association. If such a meeting shall have been called and the necessary vote for waiver or reduction shall not have been attained or a quorum shall not have been obtained, the reserves as set forth in the budget shall go into effect.

G. Collections. All monies collected by the Association shall be treated as the separate property of the Association. Such monies may be applied by the Association to the payment of any expense of operating the Condominium, or to the proper undertaking of all acts and duties imposed upon it by virtue of this Declaration, the Articles of Incorporation and the By-Laws. Monies for any assessment paid to the Association by any Unit Owner may be commingled with monies paid to the Association by the other Unit Owners. Although all funds and the Common Surplus shall be held for the benefit of the members of the Association, no member shall have the right to assign, hypothecate, pledge or in any manner transfer his interest therein, except as an appurtenance to his Unit. When a Unit Owner shall cease to be a member of the Association, the Association shall not be required to account to him for any share of the funds or assets of the Association, or for any sums which he may have paid to the Association.

H. Alterations.

1. By Unit Owners. No Unit Owner shall make or cause to be made any structural alteration, addition or improvement to his Unit or any structural or non-structural alterations, additions or improvements to the Common Elements, including Limited Common Elements ("alterations") without the Association's prior written consent. If the alteration sought by the Unit Owner shall involve the removal of any permanent interior partition, the Association shall have the right to permit such removal so long as such partition shall not be load-bearing and its removal would not affect or interfere with the furnishing of utility or other services. The Board shall have the obligation to answer (i.e., approve, disapprove or request

further information) any written request sent certified mail, return receipt requested, by a Unit Owner for approval of a proposed alteration in such Unit Owner's Unit or appurtenant Limited Common Element(s) within thirty (30) days after such request is received. All alterations by the Unit Owners shall be made in compliance with all applicable laws, rules and ordinances and regulations and this Declaration. A Unit Owner making or causing to be made any alterations agrees, and shall be deemed to have agreed, to hold the Association and all other Unit Owners harmless from any liability arising therefrom.

2. By the Association. The Association shall have the right, with Board approval, to make or cause to be made alterations to the Common Elements costing in the aggregate not more than $5,000 in a calendar year without the approval of the Unit Owners or Institutional Lenders. Alterations to the Common Elements costing in excess of $5,000 for a calendar year shall require the prior approval of both: (a) a majority of Unit Owners voting at a meeting at which a quorum is present; and (b) the institutional lender holding the greatest dollar volume of mortgages on Units. No alterations shall prejudice the rights of any Unit Owner in the use and enjoyment of his Unit. The cost of alterations shall be a Common Expense.

I. Maintenance and Repair.

1. By Unit Owners. Each Unit Owner agrees to: (a) maintain in good condition and repair his Unit, including front and rear yards and appurtenances and interior surfaces such as walls, ceilings and floors, and screens, windows and doors, and to replace such items, when necessary; and (b) maintain, repair and replace, if necessary, the fixtures and equipment within the Unit. The Condominium Association shall have the right, at its discretion, to make such maintenance or repair, if the Unit Owner fails to do so following ten (10) days' written notice, or written or oral notice of a shorter duration in the event of an emergency situation, and to charge the Unit Owner for the costs of same. A Unit Owner shall be liable for the expense of any maintenance, repair or replacement made necessary by his act or negligence or by that of any member of his family or his or their guests, invitees, employees, agents or lessees, but only to the extent that expense is not met by the proceeds of insurance carried by the Condominium Association and then, conditioned on the extent of the right of subrogation of the Association's insurer.

2. By the Association. The Association shall be responsible for the maintenance, repair and replacement of all of the Common Elements including those portions which contribute to the support of the building, and all conduits, ducts, plumbing, wiring and other facilities for the furnishing of utility and other services. Should any incidental damage be caused to any Unit by virtue of any work which may be done or caused to be done by the Association in the maintenance, repair or replacement of any Common Elements, the Association, shall, at its expense, repair such incidental damage. The costs of such maintenance on the Common Elements (including Limited Common Elements) shall be apportioned in equal shares among the Unit Owners affected. However, to the extent such maintenance, repairs or replacements are necessitated by the negligence, misuse or neglect of a Unit Owner, his family, guests or invitees, such costs shall be assessed against his Unit and paid by the Unit Owner. In the event of any dispute among the Unit Owners regarding the costs of repair, maintenance or restoration of the Common Elements, the Unit Owner hereby designates the Administration as arbiters of such dispute, whose decision shall be binding and conclusive upon them. In the event that one of such Unit Owners is an Administrator, he shall stand down from such office during the hearing and decision on the dispute. Whenever it is necessary to enter any Unit for maintenance, alteration or repair to any portion of the Common Elements, each Unit Owner shall permit other Unit Owners or their representatives, or the Association's duly constituted and authorized agent, to enter such Unit for such purpose, provided that such entry shall be made only at reasonable times and with reasonable notice.

J. Emergency Entry. In case of any emergency originating in or threatening any Unit, regardless of whether the Unit Owner is present at the time of such emergency, the Board or any other person authorized by it shall have the immediate right to enter such Unit for the purpose of remedying or abating the cause of such emergency. To facilitate entry in the event of any

such emergency, each Unit Owner, if required by the Association, shall deposit a key to such Unit with the Association.

ARTICLE VIII
RIGHTS TO SELL, LEASE AND MORTGAGE

No Unit Owner may sell or lease his Unit or any interest therein, except by complying with the following provisions:

A. Notice of Outside Offer, Association's Right of First Refusal. Any Unit Owner who receives a bona fide written offer (hereinafter called "the outside offer") which he intends to accept for either the purchase or lease of his Unit shall: (1) give notice to the Association, by registered or certified mail, return receipt requested, of such offer and intention, together with the name, address, business, occupation or employment, if any, of the proposed purchaser or lessee and the terms of the proposed transaction and shall enclose with such notice an executed copy of the outside offer; and (2) offer to sell or lease such Unit to the Association or its designee, on the same terms and conditions as contained in the outside offer.

Such notice shall constitute a representation and warranty to the Association, that such Unit Owner believes the outside offer to be bona fide. Within thirty (30) days after receipt of such notice, the Association may elect, by notice to such Unit Owner by registered or certified mail, return receipt requested, to purchase or lease such Unit, or to cause the same to be purchased or leased by its designee, on the same terms and conditions as contained in the outside offer.

B. Association's Election to Purchase or Lease. In the event the Association shall elect to purchase such Unit or to lease such Unit, or to cause the same to be purchased or leased by its designee, title shall close or the lease shall be executed at a place chosen by the Association within forty-five (45) days after the date of the Association's notice of its election to accept such offer, or within the time specified in the outside offer, whichever period is greater. If, pursuant to the outside offer, the outside offeror was to assume or take title to the Unit subject to the Unit Owner's existing mortgage(s), the Association (or its designee) shall purchase the Unit and take title to the Unit subject to said existing mortgage(s). If such Unit is to be sold, the Unit Owner shall convey the same to the Association or to its designee by statutory warranty deed, with all documentary stamps affixed at the expense of the Unit Owner, who shall also pay all other taxes arising out of such sale. If such Unit is to be leased, the Unit Owner shall execute and deliver to the Association or to its designee a lease between the Unit Owner, as landlord, and the Association or its designee, as tenant, covering the Unit for the rental and term contained in the outside offer. The Association shall not exercise any option to purchase or lease any Unit as hereinabove set forth without prior approval of a majority of the Unit Owners voting at a meeting at which a quorum is present.

C. Association's Failure to Make Election. In the event the Association or its designee shall fail to accept such offer within twenty (20) days of receiving proper notice thereof, the Unit Owner shall be free to contract to sell or lease such Unit on the terms and conditions of the outside offer, within sixty (60) days after: (1) notice of refusal is sent; or (2) the expiration of the period in which the Condominium Association or its designee might have accepted such offer, as the case may be. In the event the Unit Owner shall not consummate the transaction within the said sixty (60) day period, the Unit Owner shall be required to again comply with all terms and provisions of this Article.

D. Subsequent Offers. In the event that the Unit Owner shall not consummate the contract to sell or lease pursuant to all of the terms and conditions set forth in his notice to the Association, then should such Unit Owner thereafter elect to sell or lease such Unit to the same or another outside offeror on the same or other terms and conditions, the Unit Owner shall be required again to comply with all of the provisions of this Article.

E. Application of Condominium Documents to Grantee or Lessee. Every deed to an outside offeror shall provide that the acceptance thereof by the grantee shall constitute an assumption of the provisions of this Declaration, the By-Laws and the Rules and Regulations. Every such lease shall provide:

(1) that such Unit may not be sublet without the prior written approval of the Association; (2) that the lessee shall comply with and abide by all of the provisions of this Declaration, the By-Laws and the Rules and Regulations; (3) that the lease may not be modified, amended, extended or assigned, without the prior written consent of the Association; and (4) that the Association shall have power to terminate such lease or to bring summary proceedings to evict the tenant in the name of the landlord thereunder, in the event of default by the tenant in the performance of such lease. The lease shall be for a term of not less than one (1) year. Should any lease not comply with such covenants, then the Association shall have the right to cancel and terminate such lease, all without any obligation to the Unit Owner, and in such respect, the Association shall be regarded as the Unit Owner's agent, fully authorized to take such steps as may be necessary to effect the cancellation and termination of such lease.

F. Unit Owner's Continuing Liability on Lease. The liability of the Unit Owner under this Declaration shall continue, notwithstanding the fact that he may have entered into a lease as provided herein.

G. Unauthorized Transactions. Any sale or lease not authorized pursuant to the terms of this Article shall be null and void unless subsequently approved by the Association; provided, however, that in the event a deed or lease shall be duly recorded in the Public Records of Dade County, Florida and the Association shall not have notified the selling or leasing Unit Owner of such violation within one (1) year after the date of such recording, then the aforesaid transaction shall be deemed approved by the Association.

H. Restrictions on and Exceptions to Right of First Refusal. The right of first refusal shall not apply to any of the following:

1. the foreclosure or other judicial sale of a Unit, although the purchaser's title derived from any foreclosure or judicial sale shall thereafter be subject to the right of first refusal granted to the Association pertaining to the lease or sale of such Unit, unless such purchaser otherwise shall be excepted from the right of first refusal under the provisions of this Section H;

2. the conveyance made by the Unit Owner to an Institutional Lender in lieu of foreclosure;

3. any lease, sale or conveyance of any Unit by: (a) the Unit Owner thereof to his spouse, adult children, parents, parents-in-law, adult siblings or to any one or more of them; (b) the Condominium Association; (c) any proper officer conducting the sale of a Unit in connection with the foreclosure of a mortgage or other lien covering such Unit or delivering a deed in lieu of foreclosure; or (d) any Institutional Lender (or its assigns) deriving title by virtue of foreclosure; and

4. any Unit Owner shall be free to convey or transfer his Unit by gift, to devise his Unit by will, or to have his Unit pass by intestacy. Each succeeding Unit Owner shall be bound by, and the Unit subject to the provisions of this Article.

I. Certification of Termination of Right of First Refusal. A certificate executed and acknowledged by the secretary of the Condominium Association stating that the right of first refusal contained therein has been duly released or waived by the Association and that, consequently, the rights of the Association thereunder have terminated, shall be conclusive upon the Association and the Unit Owners in favor of all persons who rely on such certificate in good faith. The Board shall furnish such certificate upon request to the affected Unit Owner. No fee in excess of the expenditures reasonably required for same shall be charged by the Association for furnishing such certificate, and this expense shall not exceed any maximum amount allowed under the Act. No charge shall be made in connection with an extension or renewal of a lease.

J. Financing of Purchase of Units by the Condominium Association. The purchase of any Unit by the Association shall be on behalf of all Unit Owners. If the available funds of the Association are insufficient to effectuate any such purchase, the Board, in its discretion, may levy an assessment against each Unit Owner in proportion to his share of the Common Expenses, and/or finance all or part of the acquisition of such Unit, provided, however, that

no such financing may be secured by an encumbrance or hypothecation of any portion of the Condominium property other than the Unit to be purchased.

K. Mortgage of Units. Each Unit Owner shall have the right to mortgage his Unit without restriction.

ARTICLE IX
INSURANCE AND RECONSTRUCTION

A. Unit Owner's Casualty Insurance. Each Unit Owner shall bear the risk of loss and damage to his Unit and any and all furniture, personal effects and other personal property belonging to him or carried on his person which property is located either in the Unit or in or on the Common Elements. The foregoing shall not apply: (1) to any property constituting a portion of the Common Elements; or (2) to fixtures, installations or additions covered by the Association's casualty policy as described in Article IX, Section E. Each Unit Owner may, at his own expense, obtain insurance coverage for loss of or damage to his Unit and personal property.

B. Unit Owner's Liability Insurance. Each Unit Owner shall be liable for injuries or damages resulting from an accident in his own Unit, to the same extent that a homeowner would be liable for an accident occurring within his house. Each Unit Owner may, at his own expense, obtain insurance coverage against personal liability for injury to the person or property of another while within such owner's Unit or upon the Common Elements. No Unit Owner shall be liable personally for any damages caused by the Association in connection with the use of the Common Elements.

C. Requirements Concerning Unit Owner's Insurance. All such insurance obtained by any Unit Owner shall, wherever available, state that the insurer waives its right of subrogation as to any claims against: (1) other Unit Owners; (2) the Association; and (3) the respective servants, agents and guests of other Unit Owners.

D. Reconstruction of Unit. In the event of loss or damage to a Unit, the Unit Owner, with all due diligence, shall repair, replace and restore such damaged or destroyed portions of the Unit to a condition as good as that before such loss or damage: (1) in accordance with the original plans and specifications for the building; or (2) as the building was last constructed; or (3) in accordance with plans approved by the Board of Administration. If the Unit Owner shall refuse or fail to commence, repair, replace or restore his Unit within thirty (30) days, or to complete such work within six (6) months, the Association may repair, replace or restore the Unit and charge the Unit Owner for the cost of such work. The Association shall have a lien on the Unit to secure such cost.

E. Association's Casualty Insurance. The Association shall maintain casualty insurance covering all buildings, including fixtures, installations or additions comprising parts of the buildings within the unfinished interior surfaces of the perimeter walls, floors and ceilings of the individual Units initially installed or replacements thereof, in accordance with the original plans and specifications, together with all service machinery contained therein, in an amount not less than 100% of the replacement value thereof (subject to reasonable deductible clauses), excluding foundation and excavation costs, all as determined annually by the Board. Such coverage shall afford protection against: (1) loss or damage by fire and other hazards covered by a standard extended coverage endorsement; and (2) such other risks as from time to time shall be customarily covered with respect to buildings similar in construction, location and use, including but not limited to vandalism and malicious mischief. Coverage shall not include floor coverings, wall coverings or ceiling coverings. With respect to the coverage provided in this Section, the Unit Owners shall be considered additional insureds under each policy. All policies of physical damage insurance shall contain waivers of subrogation and waivers of any defense based on co-insurance or other insurance or of invalidity arising from any acts of the insured and of pro rata reduction of liability, and shall provide that such policies may not be canceled or substantially modified without at least ten (10) days' prior written notice to all of the insureds, including all mortgagees of Units. Duplicate originals of all policies of physical damage insurance and of all renewals thereof, together with proof of payment of premiums, shall be delivered to all Institutional Lenders at least ten (10) days prior to the expiration of the

current policies. Prior to obtaining any policy of fire insurance or any renewal thereof, the Board shall obtain an appraisal from a fire insurance company or otherwise of the full replacement value of the buildings (exclusive of foundation), including all of the Units and all of the Common Elements therein, without deduction for depreciation, for the purpose of determining the amount of fire insurance to be obtained pursuant to this Article.

F. Association's Liability Insurance. The Association shall maintain comprehensive general public liability and automobile liability insurance covering loss or damage resulting from accidents or occurrences on or about or in connection with the Condominium Property or adjoining driveways and walkways, or any work, matters or things related to the Condominium Property or to this Declaration and its exhibits, with such coverage as shall be required by the Board, but with combined single limit liability of not less than $1,000,000 for each accident or occurrence, $300,000 per person and $50,000 property damage, and with cross liability endorsement to cover liabilities of the Unit Owners as a group to a Unit Owner and vice versa.

G. Association's Workers' Compensation Insurance. The Association shall maintain workers' compensation insurance to meet the requirements of law.

H. Other Types of Insurance. The Association also shall maintain:

1. flood insurance;

2. fidelity insurance covering all officers and employees of the Association and the Management Company;

3. directors' (Administrators') liability insurance, if obtainable, with limits of $300,000;

4. such other insurance as the Board shall determine from time to time to be necessary and proper.

I. Insurer's Waiver. When appropriate and obtainable each of the foregoing policies shall waive the insurer's right to: (1) subrogation against the Association and against the Unit Owners individually and as a group; (2) the pro rata clause that reserves the insurer the right to pay only a fraction of any loss if other insurance carriers have issued coverage upon the same risk; and (3) avoid liability for a loss that is caused by an act of the Board or by an Administrator or by one or more Unit Owners.

J. Purchase of Association's Insurance. All authorized insurance for the Condominium shall be purchased by the Association. The cost of the insurance shall be a Common Expense, as shall be any other fees and expenses incurred which may be necessary or incidental to carrying out the provisions hereof, except that the amount of increase in any premium occasioned by misuse, occupancy or abandonment of a Unit or its appurtenances by a Unit Owner shall be assessed against such Unit Owner. Each policy shall be issued by an insurance company authorized to do business in Florida and with an office or agent located in Dade County.

K. Named Insured. The named insured shall be the Condominium Association individually and as agent for Unit Owners and their mortgagees covered by the policy, without naming them.

L. Custody of Policies and Payment of Proceeds. All policies shall provide that the insurer's payments for losses shall be made to the Insurance Trustee, and that all policies and endorsements shall be deposited with the Insurance Trustee.

M. Mortgagees. Each insurance policy, the agency and company issuing the policy and the Insurance Trustee shall be subject to the approval of the Institutional Lender then holding the greatest dollar volume of Unit mortgages. One copy of each insurance policy or a certificate evidencing same, and all endorsements thereon, shall be furnished by the Condominium Association to each mortgagee included in the mortgagee register. Copies or certificates shall be furnished not less than ten (10) days prior to the beginning of the term of the policy or not less than ten (10) days prior to the expiration of each preceding policy that is being renewed or replaced, whichever date shall occur first.

N. Insurance Trustee; Proceeds. All insurance policies of the Association shall be for the benefit of the Association and the Unit Owners and their mortgagees, as their interests may appear, and shall provide that all proceeds covering property losses shall be paid to the Insurance Trustee, as designated by the Board, which shall be any bank, savings and loan or trust company in Florida with trust powers and with its principal place of business in Dade County, Florida. The Insurance Trustee shall not be liable for payment of premiums or for the renewal or the sufficiency of policies, or for the failure to collect any insurance proceeds. The Insurance Trustee's duty shall be to receive such proceeds as are paid and to hold the same in trust for the Unit Owners and their respective mortgagees in the following shares (which shares need not be set forth in the Insurance Trustee's records):

1. Damage to Common Elements. An undivided share of the proceeds shall be held for each Unit Owner in proportion to his Unit's Common Interest.

2. Damage to Units.

(a) When a building is to be restored, an undivided share of the proceeds shall be held for each Unit Owner in such building in the proportion that the cost of repairing the damage sustained by each Unit, as determined by the Association, bears to the total proceeds received.

(b) When a building is not to be restored, an undivided share of the proceeds shall be held for each Unit Owner in proportion to his Unit's Common Interest.

O. Assessments Where Proceeds are Insufficient. If it shall appear that the insurance proceeds covering casualty loss or damage are insufficient to pay for the repair, replacement or reconstruction of the loss or damage sustained by the Common Elements, then the Association shall deposit with the Insurance Trustee a sum which, together with the insurance proceeds, will be sufficient to completely pay for the repair, replacement or reconstruction of such loss or damage. The monies so deposited by the Association may be drawn from the replacements reserve fund. If the sum in such fund is insufficient, then the Association shall levy and collect an assessment proportionally against all the Unit Owners, in the amount needed to pay for such repair, replacement or reconstruction.

P. Distribution of Proceeds. Proceeds of insurance policies received by the Insurance Trustee shall be distributed in the following manner:

1. Expenses of the Trust. All expenses of the Insurance Trustee shall be first paid or provision made therefor.

2. Reconstruction or Repair. If the damage shall be repaired or reconstructed, the remaining proceeds shall be paid to defray the costs thereof. Any proceeds remaining after defraying such costs shall be distributed according to Common Interests to the Unit Owners and their mortgagees, being payable jointly to them.

3. Failure to Reconstruct or Repair. If it is determined that the damage shall not be reconstructed or repaired, the remaining proceeds shall be divided among all the Unit Owners in proportion to their respective Common Interests, provided, however, that no payment shall be made to a Unit Owner until all liens on his Unit have been satisfied from his share of the fund by distributing first to the Institutional Lender in an amount sufficient to satisfy and pay its mortgages in full, and the balance, if any, to the Unit Owner with the provision that remittances to the Unit Owner and his mortgagee shall be payable jointly to them.

4. Certificate. In making distribution to Unit Owners and their mortgagees, the Insurance Trustee may rely upon a certificate of the Association executed by its president and secretary as to the names of the Unit Owners, their mortgagees and their respective shares of the distribution.

Q. Mortgagees. Certain provisions in this Article are for the benefit of the mortgagees of Units and may be enforced by such mortgagees. No mortgagee shall have any right to apply or have applied to the reduction of a

mortgage debt any insurance proceeds except distributions thereof made pursuant to this Article. No mortgagee shall have any right to determine or participate in the determination as to whether or not any damaged property shall be reconstructed or repaired.

R. Association as Agent. The Condominium Association is hereby irrevocably appointed agent for each Unit Owner, mortgagee and owner of any other interest in the Condominium Property to adjust all claims arising under insurance policies purchased by the Association and to execute and deliver releases upon the payment of claims.

S. Determination to Reconstruct or Repair. The Association shall be responsible for reconstruction and repair after casualty loss or damage to the Condominium. Except in the case of termination of the Condominium, the Board shall arrange for necessary repairs and reconstruction either within sixty (60) days from the date the Insurance Trustee notifies the Board that it holds proceeds of insurance on account of such damage or destruction sufficient to pay the estimated cost of such work or within ninety (90) days after the Insurance Trustee notifies the Board that such proceeds of insurance are insufficient to pay said estimated costs of such work. Such reconstruction and repairs shall apply to all damaged Units and shall include bathroom and kitchen fixtures as initially installed, but shall not include furniture, furnishings, and other personal property supplied or installed by any Unit Owner or tenant. The Insurance Trustee shall disburse the proceeds of all insurance policies to the contractors engaged in such repair and restoration in appropriate progress payments.

T. Termination in Lieu of Reconstruction. In the event of the destruction of at least 75% of the total value of the improvements and buildings of the Condominium Property (as determined by the Board), then this Declaration and Condominium shall terminate, unless at a meeting of the Association, held within thirty (30) days from the date the damage was sustained, Unit Owners owning at least two-thirds (2/3) of the Units agree that the Condominium shall be reconstructed.

If this Declaration is to be terminated, then a certificate of resolution of the Board to such effect and notice of cancellation and termination shall be executed by the president and secretary of the Association in recordable form and recorded in the Public Records of Dade County, Florida. Upon such termination, all Unit Owners shall be tenants in common as to ownership of the Common Elements and the Common Surplus in the proportions of their Common Interests. The lien of any mortgage or other encumbrance upon each Unit shall attach, in the same order or priority, to the percentage of undivided interest of the Unit Owner. Upon termination of this Declaration and within sixty (60) days from the date of recording of the certificate of resolution, the owner(s) of all Units still habitable shall deliver possession of their respective Unit(s) to the Association. Upon termination of this Declaration, the Insurance Trustee shall distribute the insurance proceeds from any casualty insurance coverage to the Unit Owners and their mortgagees, as their respective interests may appear, in accordance with their Common Interests. The assets of the Association, upon termination, shall be distributed to all of the Unit Owners and their mortgagees, as their respective interests may appear, in the same manner as provided for the distribution of any final insurance proceeds.

The Insurance Trustee may rely upon a certificate of the Condominium Association executed by its president and secretary to determine whether or not the damaged property is to be reconstructed or repaired.

U. Plans and Specifications. Any reconstruction or repair must either be: (1) substantially in accordance with the original plans and specifications for the original improvements; or (2) according to plans and specifications approved by the Board. If the damaged property is a building containing Units, then the plans and specifications must be approved by the owners owning at least two-thirds (2/3) of the Units, including the owners of all Units (and their respective mortgagees) which are to be altered by virtue of such plans and specifications.

V. Contracts for Repair. The Association shall obtain reliable and detailed estimates of the cost to rebuild or repair damage. The estimate shall be obtained immediately after a determination is made to rebuild or

repair. Before they may become binding, all contracts for repair, replacement or reconstruction of loss or damage shall be approved by the Board.

W. The Construction Fund. The construction fund shall consist of: (i) insurance proceeds collected by the Insurance Trustee as a result of casualty loss or damage; and (ii) the Association's assessments and/or reserve funds to be deposited with the Insurance Trustee in the event insurance proceeds are insufficient to cover the cost of necessary repair, replacement and reconstruction. Construction funds shall be disbursed in the following manner and order:

1. Minor Damage. If the amount of the estimated costs of reconstruction, replacement and repair is less than $5,000, then the construction fund shall be disbursed in payment of such costs upon the order of the Board, unless a mortgagee of a damaged Unit notifies the Insurance Trustee of such mortgagee's objection(s), in which case such funds shall be disbursed in the manner provided for disbursements for major damage.

2. Major Damage. If the amount of the estimated costs of reconstruction and repair is more than $5,000, then the construction fund shall be disbursed in payment of such costs upon the order of the Board together with the approval of an architect qualified to practice in Florida and employed by the Association to supervise the work.

3. Distribution of Excess Proceeds. If the proceeds in the construction fund are in excess of all paid costs of repair, replacement and reconstruction, then such excess proceeds shall be applied first to the Association's reserve funds to the extent that the Association deposited reserve funds with the Insurance Trustee and the remainder shall be to Unit Owners to the extent of special assessments by the Association and any further amount shall be distributed pursuant to Article IX, Section P(2).

4. Certificate. The Insurance Trustee may rely upon a duly executed certificate of the Association as to all of the following matters: (a) whether Association assessment and reserve funds shall be deposited with the Insurance Trustee; (b) whether an architect's approval shall be necessary for disbursement from the construction fund; (c) whether any disbursement shall be made from the construction fund; (d) names of payees and amounts to be paid; and (e) whether all costs have been paid, leaving excess proceeds for distribution.

ARTICLE X
CONDEMNATION: EMINENT DOMAIN

A. Deposit of Awards with Insurance Trustee. The taking of Condominium Property by condemnation or eminent domain ("the taking") shall be deemed to be a casualty, and the awards for that taking shall be treated as insurance proceeds and shall be deposited with the Insurance Trustee. Even though the awards may be payable to Unit Owners, the Unit Owners shall deposit the awards with the Insurance Trustee; in the event any Unit Owner fails to do so, the Board may make a special assessment against the defaulting Unit Owner in the amount of his award and/or the amount of that award shall be set off against the sums thereafter made payable to the Unit Owner.

B. Determination Whether to Continue Condominium. Whether the Condominium will be continued after the taking will be determined in the manner provided in this Declaration for determining whether damaged property will be reconstructed and repaired after casualty.

C. Disbursement of Funds. If the Condominium is terminated after the taking, the proceeds of the awards and special assessments shall be deemed to be Condominium Property and shall be owned and distributed in the manner provided for distribution of insurance proceeds after a casualty. If the Condominium is not so terminated, the size of the Condominium shall be reduced and the owners of taken Units will be made whole and the property damaged by the taking will be made usable in the manner provided below. The proceeds of the awards and special assessments shall be used for these purposes and shall be disbursed in the manner provided in this Declaration for disbursements of funds by the Insurance Trustee after a casualty.

D. Unit(s) Reduced but Habitable. If the taking reduces the size of a Unit and the remaining portion of the Unit can be made habitable, the award for the taking of a portion of the Unit shall be used as follows:

1. Restoration of a Unit. If possible, the Unit shall be made habitable. If the cost of the restoration exceeds the amount of the award, the additional funds required shall be assessed against the Unit Owner.

2. Distribution of Surplus. Any surplus balance of the award shall be distributed to the Unit Owner and to each mortgagee of the Unit, if any, the remittance being made payable jointly to the owner and mortgagee(s).

3. Adjustment of Common Interests. If the floor area of any Unit is reduced by the taking, the Common Interest of all Unit Owners shall be recomputed whereby each Common Interest shall be a fraction whose numerator is the number of square feet of floor space in the Unit and whose denominator is the number of square feet of the aggregate of all of the remaining Units.

E. Uninhabitable Unit(s). If the taking is of the entire Unit or so much of the Unit as to render it uninhabitable, then the award shall be used as follows:

1. Payment of Award. The award shall be divided among those Unit Owners whose Units are uninhabitable in proportion to their Common Interests; provided however, that no payment shall be made to a Unit Owner until all liens upon his Unit have been satisfied from his share of the funds.

2. Addition to Common Elements. The remaining portion of any uninhabitable Unit shall become part of the Common Elements and shall be renovated to be usable by all Unit Owners in a manner approved by the Board.

3. Adjustment of Common Interests. Recomputation of the remaining Unit Owners' Common Interests shall be pursuant to the procedure set forth in Section D(3) of this Article.

F. Taking of Common Elements. Awards for the taking of Common Elements shall be used to make the remaining portion of the Common Elements usable in the manner approved by the Board.

G. Amendment. Changes in the Condominium caused by the taking shall be evidenced in an amendment to the Declaration, which amendment shall require the approval only of a majority of the Board.

ARTICLE XI
INSTITUTIONAL LENDERS

A. Rights. So long as any Institutional Lender(s) shall hold any mortgage(s) upon any Unit(s) or shall be the owner(s) of any Unit(s), such Institutional Lender(s) shall have the following rights which may be exercised by written notice to the Association:

1. to be furnished, within ninety (90) days following the end of each fiscal year, with a copy of the Association's annual financial statement and report prepared by a certified public accountant designated by the Association, including a detailed statement of annual carrying charges or income collected and operating expenses;

2. to be given notice by the Association of any membership meeting;

3. to inspect the books and records maintained by the Association upon not less than five (5) days' advance written notice to the Association, which inspection shall take place at the office of the Association during the Association's normal business hours;

4. to receive written notice of default concerning any Unit encumbered by a mortgage held by such lender;

5. to receive prompt notice of any substantial damage to the Common Elements or any Unit on which it holds a mortgage without being required to provide the Association with a written request for this information.

B. Notice. Any Institutional Lender seeking to come within the provisions of this Article shall serve written notice of its intention upon the Association, by registered or certified mail, return receipt requested, which notice shall: (1) identify the Unit(s) upon which each such Institutional Lender holds any mortgage(s); (2) identify any Unit(s) owned by such lender together with sufficient pertinent facts to identify the mortgage(s) on such Unit(s); and (3) designate the place to which notices are to be given by the Association to such Institutional Lender.

ARTICLE XII
COMPLIANCE; DEFAULT

A. Compliance, Generally. Each owner, tenant and occupant of a Unit shall comply with the provisions of this Declaration, the Articles of Incorporation and the By-Laws of the Association. Failure to comply therewith shall be grounds for relief sought by the Association which may include an action for damages, injunctive relief, foreclosure of lien or any combination of the foregoing.

B. Unit Owner's Liability. Each Unit Owner shall be liable for the expense of any maintenance, repair or replacement rendered necessary by his act, neglect or carelessness, or by the act of any member of his family, any guest, employee, agent or tenant, but only to the extent that such expense is not met by the insurance proceeds paid to the Association. Such liability shall include any increase in fire insurance rates occasioned by use, misuse, occupancy or abandonment of a Unit or its appurtenances. Nothing herein, however, shall be construed so as to modify any waiver by insurance companies of rights of subrogation. The Association shall be entitled to recover its costs where judicial proceedings are involved in establishing liability, including reasonable attorneys' fees. In no event shall any Unit Owner be entitled to attorneys' fees.

C. No Waiver. The failure of the Association or of a Unit Owner to enforce any rights, provisions, covenant or condition which may be granted by this Declaration or other Condominium documents shall not constitute a waiver to enforce such rights, provisions, covenants or conditions in the future.

D. Cumulative Remedies. All rights, remedies and privileges granted to the Association or the Unit Owners pursuant to any terms, provisions, covenants or conditions of this Declaration or other Condominium documents shall be deemed to be cumulative, and the exercise of any one or more shall not be deemed to constitute an election of remedies, nor shall it preclude the party thus exercising the same from exercising such other and additional rights, remedies or privileges as may be available at law or in equity.

ARTICLE XIII
OFFICIAL RECORDS

A. Itemization. From the inception of the Association, the Association shall maintain a copy of each of the following, where applicable, which shall constitute the official records of the Association:

1. The plans, permits, warranties and other items provided by Developer pursuant to the Act.

2. A photocopy of the recorded Declaration and all amendments thereto.

3. A photocopy of the recorded By-Laws and all amendments thereto.

4. A certified copy of the Articles of Incorporation and all amendments thereto.

5. A copy of the current Rules of the Association.

6. A book or books containing the minutes of all meetings of the Association and the Board, which minutes shall be retained for a period of not less than seven (7) years.

7. A current roster of all Unit Owners, their mailing addresses, Unit identifications, voting certifications, and if known, telephone numbers. In the event of the sale or other transfer of any Unit to a third party, the purchaser or transferee shall notify the Association in writing of his interest in such Unit, together with such recording information as shall be pertinent to identify the instrument by which such purchaser or transferee has acquired his interest in any Unit. Further, each Unit Owner shall immediately notify the Association of each and every mortgage on the Unit, the mortgagee(s), the amount of each mortgage and all pertinent recording information. The mortgagees(s) for any Unit may notify the Association of the existence of any such mortgage(s). Upon receipt of such notice, the Association shall register in its records all pertinent information.

8. All current insurance policies of the Association.

9. A current copy of any management agreement, lease or other contract to which the Association is a party or under which the Association or the Unit Owners have an obligation or responsibility.

10. Bills of sale or transfer for all property owned by the Association.

11. Accounting records of the Association prepared according to good accounting practices, which accounting records shall be maintained for a period of not less than seven (7) years. The accounting records shall include, but not be limited to:

a. Accurate, itemized and detailed records of all receipts and expenditures.

b. A current account and a monthly, bimonthly or quarterly statement of the account for each Unit designating the name of the Unit Owner, the due date and amount of each assessment, the amount paid upon the account and the balance due.

c. All audits, reviews, accounting statements and financial reports of the Association.

d. All contracts for work to be performed. Bids for work to be performed shall also be considered official records and shall be maintained for a period of one (1) year.

12. Voting proxies, which shall be maintained for a period of one (1) year from the date of the meeting for which the proxy was given.

13. All rental records where the Association is acting as agent for the rental of Units.

B. Inspection. The official records of the Association shall be maintained in Dade County and shall be open to inspection by any member or the authorized representative of such member at all reasonable times.

ARTICLE XIV
TERMINATION OF CONDOMINIUM

A. Termination, Generally. Except in the event of termination as a result of the partial or total destruction or a taking of this Condominium, this Condominium may be terminated only by the unanimous consent of the Unit Owners and the holders of mortgages, liens or other encumbrances against such Units. Such election to terminate shall be executed in writing by all of the aforesaid parties, and such instrument(s) shall be recorded in the Public Records of Dade County, Florida.

B. Effect. Upon such termination, the Condominium Property shall be owned in common by the Unit Owners in the same undivided shares as each owner previously owned in the Common Elements, and the Condominium Property shall be

subject to an action for partition by any Unit Owner or mortgagee. The net proceeds of such a partition shall be divided among all Unit Owners in proportion to their Common Interests; provided that no payment shall be made to a Unit Owner until all liens against his Unit have been satisfied out of his share of the proceeds in order of their priority.

C. Creation of New Condominium. The termination of this Condominium shall not bar the creation of another condominium affecting all or any portion of the same property.

ARTICLE XV
AMENDMENTS

A. Proposal. Amendment(s) to this Declaration may be proposed by: (1) the Board acting upon a majority vote; or (2) members owning at least one-third (1/3) of the Voting Interests in the Condominium. Such proposals shall contain the full text of the provision(s) to be amended; new words shall be inserted in the text underlined; and words deleted shall be lined through with hyphens; provided, however, that if the proposed change shall be so extensive that this procedure would hinder, rather than assist, the proposed amendment, it shall not be necessary to use underlinings and hyphens as indicators of words added and deleted, but, instead, a notation shall be inserted immediately preceding the proposed amendment in substantially the following language: "Substantial rewording of Declaration. See provision _____ for present text." Such proposed amendment(s) shall be transmitted to the president of the Association (or other officer in the president's absence) who shall thereupon call a special meeting of the members of the Association for a date not sooner than twenty (20) days nor later than sixty (60) days from receipt by him of the proposed amendment(s).

B. Notice. The secretary shall give each member written notice of such special meeting, stating the time and place thereof, and reciting the proposed amendment(s) in reasonably detailed form, which notice shall be mailed not less than ten (10) days nor more than thirty (30) days before the date set for such special meeting. Any member may waive such notice in writing and such waiver, when filed in the records of the Association, whether before or after the meeting, shall be deemed equivalent to the giving of such notice to such member.

C. Adoption by Members. At such meeting, an affirmative vote of not less than seventy-five percent (75%) of the Voting Interests shall be required for the adoption of any proposed amendment(s). Thereupon, such amendment(s) shall be transcribed and certified by the president and secretary as having been duly adopted. The original or an executed copy thereof, certified and ~~executed with the same formalities as a deed~~, shall be recorded in the Public Records of Dade County, Florida, within ten (10) days from the effective date of such amendment(s). No provision of this Declaration shall be amended by reference only to its title or number. The certificate of amendment(s) shall set forth the change in the manner provided in Article XV, Section A and shall refer specifically to the recording data identifying this Declaration. Thereafter, a copy of such amendment(s) in recorded form shall be delivered to all of the Unit Owners, but such delivery shall not be a condition precedent to the effectiveness of such amendment(s). A member may submit his written vote in lieu of either attending such meeting or being represented by proxy, provided that such written vote is delivered to the secretary of the Association prior to such meeting or at such meeting. Nonmaterial errors or omissions in the amendment process shall not invalidate an otherwise properly promulgated amendment.

D. Prohibition of Certain Amendments. Anything herein to the contrary notwithstanding, the following matters shall not be amended without the prior written consent of all Unit Owners and their respective mortgagees: (1) the Common Interest appurtenant to each Unit; (2) the basis for sharing Common Expenses and other apportionment of assessments which may be levied by the Association; (3) the basis of ownership of Common Surplus; and (4) voting rights. No amendment creating time-share estates shall be permitted without the prior written consent of all Unit Owners and their respective mortgagees. Notwithstanding anything herein to the contrary, the rights and privileges granted and reserved hereunder in favor of Institutional Lenders shall not be amended without the prior written consent of all Institutional Lenders holding

mortgages on Units. The provisions of this Article XV, Section D shall not be amended.

ARTICLE XVI
MISCELLANEOUS PROVISIONS

A. Covenants Running with the Land. The restrictions and burdens imposed by this Declaration shall constitute covenants running with the land, and shall constitute an equitable servitude upon each Unit. This Declaration shall be binding upon Developer and all parties who become Unit Owners in the Condominium, and their respective heirs, legal representatives, successors and assigns.

B. Limitation on Warranties and Representations. Other than as set forth in Section 718.618, Florida Statutes, Developer specifically disclaims any intent to have made any warranty or representation in connection with the Condominium Property or the Condominium documents, except as specifically set forth therein, and no person shall rely upon any warranty or representation not so specifically made therein. Any estimates of Common Expenses, taxes or other charges are deemed accurate, but no warranty or guaranty is made or intended, nor may one be relied on.

C. Governing Law. Should any dispute or litigation arise between any of the parties whose rights or duties are affected or determined by this Declaration, the exhibits annexed hereto or the rules and regulations, such dispute or litigation shall be governed by the laws of the State of Florida and all litigation shall originate in the appropriate court in Dade County, Florida.

D. No Waiver. No provisions contained in this Declaration shall be deemed to have been waived by reason of any failure to enforce the same, irrespective of the number of violations or breaches which may occur.

E. Ratification. Each Unit Owner, by reason of having acquired ownership (whether by purchase, gift, operation of law, or otherwise) shall be deemed to have agreed that all the provisions of this Declaration, and the exhibits attached hereto, as they may be amended, are fair and reasonable in all material respects.

F. Severability. In the event that any of the terms, provisions or covenants of this Declaration are held to be invalid or unenforceable for any reason whatsoever, such holding shall not affect, alter, modify or impair in any manner any of the other terms, provisions or covenants hereof or the remaining portions of any terms, provisions or covenants.

G. Interpretation of Content. Whenever the context so requires, the use of any gender shall be deemed to include all genders, and the use of the singular shall include the plural, and plural shall include the singular. The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the operation of the Condominium.

H. Captions. The captions in this Declaration and exhibits annexed hereto are inserted solely as a matter of convenience and shall not be used in construing the effect of meaning of any of the text of this Declaration or exhibits.

I. Notices. Unless otherwise provided, whenever notices are required to be sent hereunder, the same may be delivered to Unit Owners, either personally or by mail, addressed to such Unit Owners at their places of residence in the Condominium Property. Proof of such mailing or personal delivery by the Association shall be given by the affidavit of the person mailing or delivering said notices. Notices to the Association shall be sent by certified mail, return receipt requested, to the office of the Association at: 9110 West Bay Harbor Drive, Miami Beach, Florida 33134. All notices shall be deemed given when mailed. Any party may change his mailing address by written notice duly receipted for. Notices required to be given to the personal representative of a deceased owner, or devisee when there is not a personal representative, may be delivered either personally or by mail to such party at his or its address appearing in the records of the court wherein the estate of such deceased owner is being administered.

J. Schedule of Exhibits. Exhibits attached hereto and made a part hereof are the following:

Exhibit A - Legal Description;

Exhibit B - Survey, Graphic Description and Plot Plans and Floor Plans;

Exhibit C - Articles of Incorporation of Bay Harbor Apartments Condominium Association, Inc.;

Exhibit D - By-Laws of Bay Harbor Apartments Condominium Association, Inc.; and

Exhibit E - Estimated Operating Budget for First Year of Operation for Bay Harbor Apartments Condominium.

IN WITNESS WHEREOF, Developer has caused this Declaration to be duly executed this _____ day of _____ 198___.

Witness

_____ Signature appears on Page 25
_____ LEE J. SOFFERIN

_____ Signature appears on Page 26
_____ SADIE COHN

_____ Signature appears on Page 27
_____ GEORGE SEYBURN

_____ Signature appears on Page 27
_____ FLORENCE SEYBURN

_____ Signature appears on Page 28
_____ GLADYS BEZNOS

_____ Signature appears on Page 29
_____ BEN BUTEN

_____ Signature appears on Page 29
_____ DOROTHY BUTEN

_____ Signature appears on Page 30
_____ ALEX SPECTOR

SIGNATURE PAGE
TO
DECLARATION OF CONDOMINIUM
FOR
BAY HARBOR APARTMENTS CONDOMINIUM

Witness

Dorothy Butler

LEE J. SOFFERIN

STATE OF Florida)
) SS:
COUNTY OF Dade)

I hereby certify that on this day, before me, an officer duly authorized in the state aforesaid and in the county aforesaid to take acknowledgments, personally appeared LEE J. SOFFERIN, to me known to be the person described in and who executed the foregoing instrument and acknowledged before me that he executed the same for the purposes therein expressed.

WITNESS my hand and official seal in the county and state last aforesaid this 22 day of September 1986.

Notary Public

S. LUTLI NOTARY PUBLIC STATE OF FLORIDA AT LARGE

My Commission Expires:

NOTARY PUBLIC STATE OF FLORIDA
MY COMMISSION EXPIRES SEPT 9 1987
BONDED THRU GENERAL INSURANCE UNDT

SIGNATURE PAGE
TO
DECLARATION OF CONDOMINIUM
FOR
BAY HARBOR APARTMENTS CONDOMINIUM

Witness

Marie N. Primo
Marie N. Primo
William L. Pantalone
William L. Pantalone

Sadie Cohn
SADIE COHN

STATE OF MICHIGAN)
) SS:
COUNTY OF WAYNE)

I hereby certify that on this day, before me, an officer duly authorized in the state aforesaid and in the county aforesaid to take acknowledgments, personally appeared SADIE COHN to me known to be the person described in and who executed the foregoing instrument and acknowledged before me that she executed the same for the purposes therein expressed.

WITNESS my hand and official seal in the county and state last aforesaid this 18th day of September 198___.

William L. Pantalone
Notary Public

My Commission Expires:

WILLIAM L. PANTALONE
NOTARY PUBLIC - WAYNE COUNTY MICH.
MY COMMISSION EXPIRES 5-12-91

SIGNATURE PAGE
TO
DECLARATION OF CONDOMINIUM
FOR
BAY HARBOR APARTMENTS CONDOMINIUM

Witness

Florence J. Fuehrer
Bill Seyburn

George Seyburn
GEORGE SEYBURN

Florence J. Fuehrer
Buck Seyburn

Florence Seyburn
FLORENCE SEYBURN

STATE OF Michigan)
) SS:
COUNTY OF Oakland)

I hereby certify that on this day, before me, an officer duly authorized in the state aforesaid and in the county aforesaid to take acknowledgments, personally appeared GEORGE SEYBURN and FLORENCE SEYBURN to me known to be the persons described in and who executed the foregoing instrument and acknowledged before me that they executed the same for the purposes therein expressed.

WITNESS my hand and official seal in the county and state last aforesaid this 30 day of Sept. 1987.

Florence J. Fuehrer
Notary Public

My Commission Expires:

FLORENCE J. FUEHRER
Notary Public Oakland County, Michigan
My Commission Expires June 22, 1988

SIGNATURE PAGE
TO
DECLARATION OF CONDOMINIUM
FOR
BAY HARBOR APARTMENTS CONDOMINIUM

Witness

RICHARD H. KELLER

Barbara H. Claudio
BARBARA H. CLAUDIO

GLADYS BEZNOS

STATE OF)
) SS:
COUNTY OF)

I hereby certify that on this day, before me, an officer duly authorized in the state aforesaid and in the county aforesaid to take acknowledgments, personally appeared GLADYS BEZNOS to me known to be the person described in and who executed the foregoing instrument and acknowledged before me that she executed the same for the purposes therein expressed.

WITNESS my hand and official seal in the county and state last aforesaid this 29th day of SEPTEMBER 1986.

Barbara H. Claudio
Notary Public

My Commission Expires:

BARBARA M. CLAUDIO
Notary Public, Oakland County, MI
My Commission Expires Nov. 29, 1986

SIGNATURE PAGE
TO
DECLARATION OF CONDOMINIUM
FOR
BAY HARBOR APARTMENTS CONDOMINIUM

Witness

Sharon Kassis
Karen Peacock
Lynn B. Coe
Sandra D. McLaughlin

BEN BUTEN

Dorothy Buten
DOROTHY BUTEN

STATE OF)
) SS:
COUNTY OF)

I hereby certify that on this day, before me, an officer duly authorized in the state aforesaid and in the county aforesaid to take acknowledgments, personally appeared BEN BUTEN and DOROTHY BUTEN to me known to be the persons described in and who executed the foregoing instrument and acknowledged before me that they executed the same for the purposes therein expressed.

WITNESS my hand and official seal in the county and state last aforesaid this 19th day of September 1986.

Dorothy Janet May
Notary Public

My Commission Expires:

NOTARY PUBLIC STATE OF FLORIDA
MY COMMISSION EXP JUNE 27,1988
BONDED THRU GENERAL INS. UND.

SIGNATURE PAGE
TO
DECLARATION OF CONDOMINIUM
FOR
BAY HARBOR APARTMENTS CONDOMINIUM

Witness

Bonnie Dogsell
Alex Spector

ALEX SPECTOR

STATE OF)
) SS:
COUNTY OF)

I hereby certify that on this day, before me, an officer duly authorized in the state aforesaid and in the county aforesaid to take acknowledgments, personally appeared ALEX SPECTOR to me known to be the person described in and who executed the foregoing instrument and acknowledged before me that he executed the same for the purposes therein expressed.

WITNESS my hand and official seal in the county and state last aforesaid this 17 day of Sept. 1986.

Ellen L. Krauss
Notary Public

My Commission Expires:

NOTARY PUBLIC STATE OF FLORIDA
MY COMMISSION EXP. MAY 9, 1989
BONDED THRU GENERAL INS. UND.

NOTARY PUBLIC STATE OF FLORIDA

OFF REC 13505 PG 853

CONSENT OF CONDOMINIUM ASSOCIATION

Bay Harbor Apartments Condominium Association, Inc., a Florida not-for-profit corporation, having a vested interest in the parcel of real property described in the foregoing Declaration of Condominium, hereby consents to and joins in the filing of the Declaration of Condominium of the Bay Harbor Apartments Condominium.

This Consent of Condominium Association is executed at Miami, Florida, this 2 day of Dec 1987.

ATTEST:

ALEX P. SPECTOR, Secretary

BAY HARBOR APARTMENTS CONDOMINIUM ASSOCIATION, INC., a Florida not-for-profit corporation

BY: BEN B. BUTEN, President

(Corporate Seal)

STATE OF FLORIDA)
) SS.
COUNTY OF DADE)

BEFORE ME personally appeared BEN B. BUTEN and ALEX P. SPECTOR to me well known and known to me to be the individuals described in and who executed the foregoing instrument as President and Secretary of Bay Harbor Apartments Condominium Association, Inc., a Florida not-for-profit corporation, and severally acknowledged to and before me that they executed such instrument as such President and Secretary, respectively, of said corporation, and that the seal affixed to the foregoing instrument is the corporate seal of said corporation and that it was affixed to said instrument by due and regular corporate authority, and that said instrument is the free act and deed of said corporation.

WITNESS, my hand and official seal, this 2nd day of December 1987.

NOTARY PUBLIC, State of Florida

My Commission Expires: NOTARY PUBLIC STATE OF FLORIDA MY COMMISSION EXP. NOV 9, 1989 BONDED THRU GENERAL INS. UND.

NOTARY PUBLIC STATE OF FLORIDA

EXHIBIT A

LEGAL DESCRIPTION

Lot 29, in Block 2, of BAY HARBOR ISLAND, less the Northeast 11 feet fronting on West Bay Harbor Drive, measured at right angles to the margin of West Bay Harbor Drive, of said Lot 29, in Block 2, of BAY HARBOR ISLAND, a subdivision according to the Plat thereof, recorded in Plat Book 46, at Page 5, of the Public Records of Dade County, Florida;

Together with all right, title, interest, reservations and right of reversion in and to said Northeast 11 feet fronting on West Bay Harbor Drive excepted from said Lot 29;

and

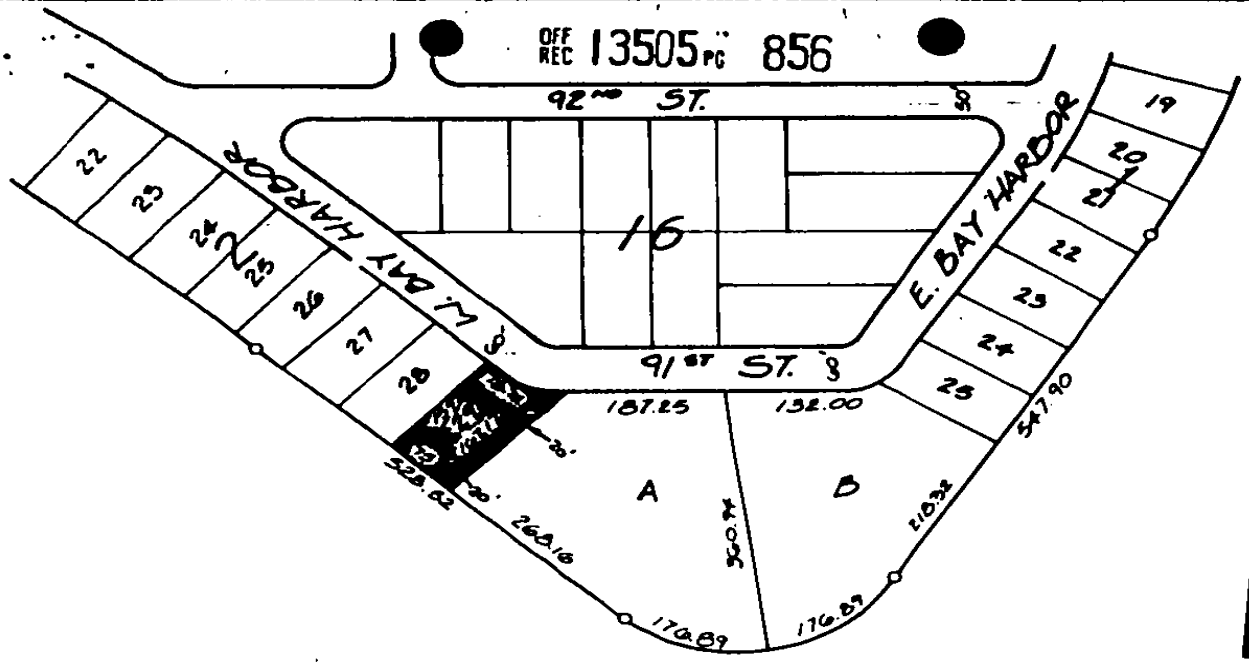
The Northwesterly 20 feet of Tract "A" of BAY HARBOR ISLAND, according to the Plat thereof, recorded in Plat Book 46, at Page 5, of the Public Records of Dade County, Florida, said portion of Tract "A" being more particularly described as follows:

Begin at the most Northwesterly corner of Tract "A" of BAY HARBOR ISLAND, according to the Plat thereof, recorded in Plat Book 46, at Page 5, of the Public Records of Dade County, Florida, said point of beginning being on a circular curve whose center bears North 6°12'01" East therefrom; thence run in an Easterly direction along the North boundary of said Tract "A" and along said circular curve having a radius of 85 feet through a central angel of 6°12'01" for an arc distance of 9.20 feet to the end of said curve whose center bears due North therefrom; thence run due east along the North boundary of said Tract "A" for a distance of 17.83 feet to a point; thence run South 43°18'53" West for a distance of 185.34 feet to a point on the Southwesterly boundary line of said Tract "A"; thence run North 46°41'07" West along the Southwesterly boundary line of said Tract "A" for a distance of 20 feet to the most Westerly corner of said Tract "A"; thence run North 43°18'53" East along the Northwesterly boundary of said Tract "A" for a distance of 167.17 feet to the point of beginning of the tract of land herein described.

EXHIBIT B

Survey, Graphic Description and Plot Plans
and Floor Plans

OFF REC 13505 PG 856



LOCATION SKETCH

CLERK NOTE:
FOR DECLARATION OF CONDOMINIUM
SEE OFFICIAL RECORD BK 13505 PG. 817

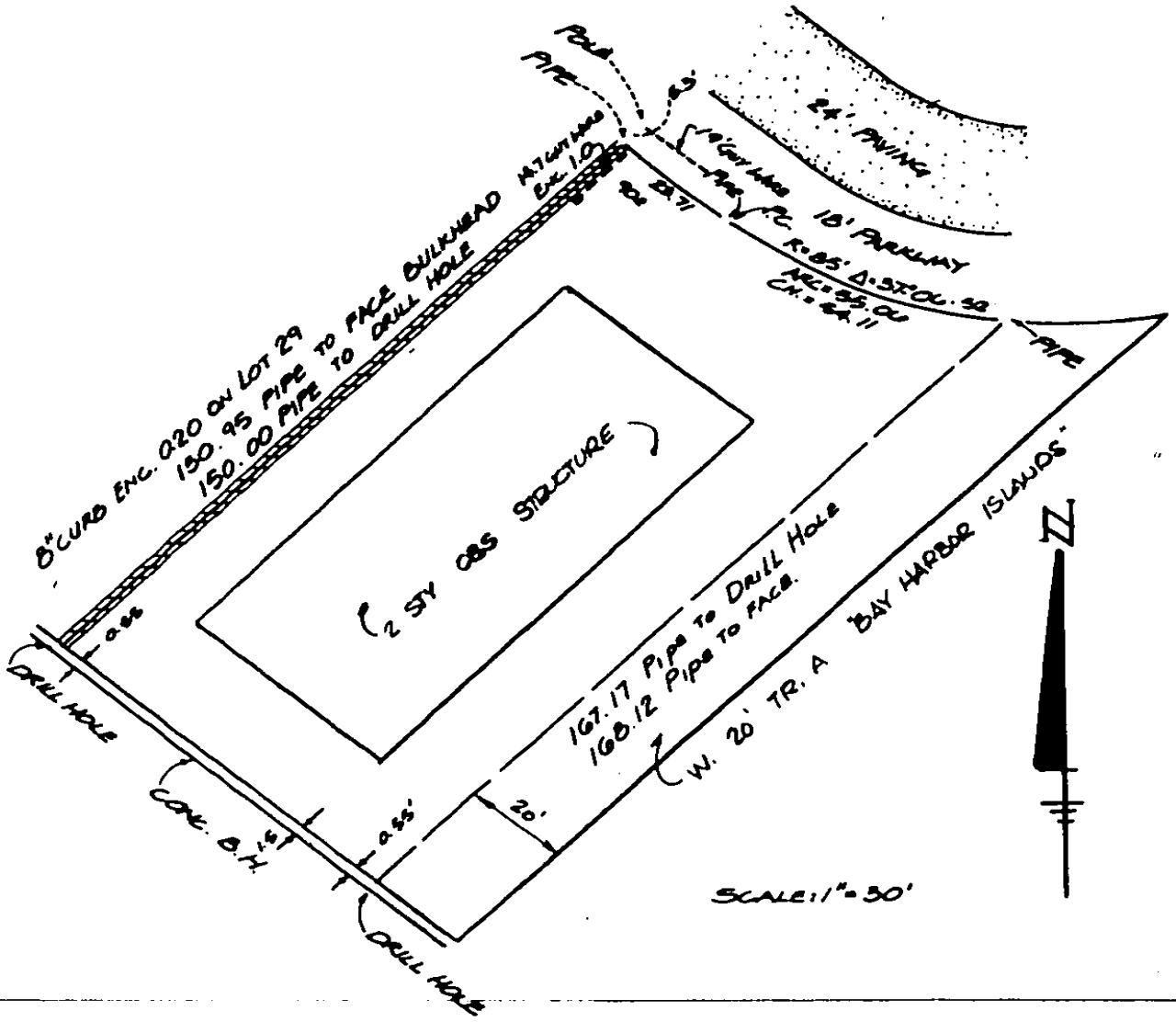
WE HEREBY CERTIFY THAT THE CONSTRUCTION OF THE IMPROVEMENTS IS SUBSTANTIALLY COMPLETE SO THAT THIS EXHIBIT & TOGETHER WITH THE PROVISIONS OF THE DECLARATION DESCRIBING THE CONDOMINIUM PROPERTY IS AN ACCURATE REPRESENTATION OF THE LOCATION AND DIMENSIONS OF THE IMPROVEMENTS, AND THAT THE IDENTIFICATION, LOCATION AND DIMENSIONS OF EACH UNIT AND THE COMMON ELEMENTS CAN BE DETERMINED THEREFROM.

29 May 1985

BY _____
RALPH SWERDLOFF, P.L.S.
REGISTERED LAND SURVEYOR NO. 3411
STATE OF FLORIDA

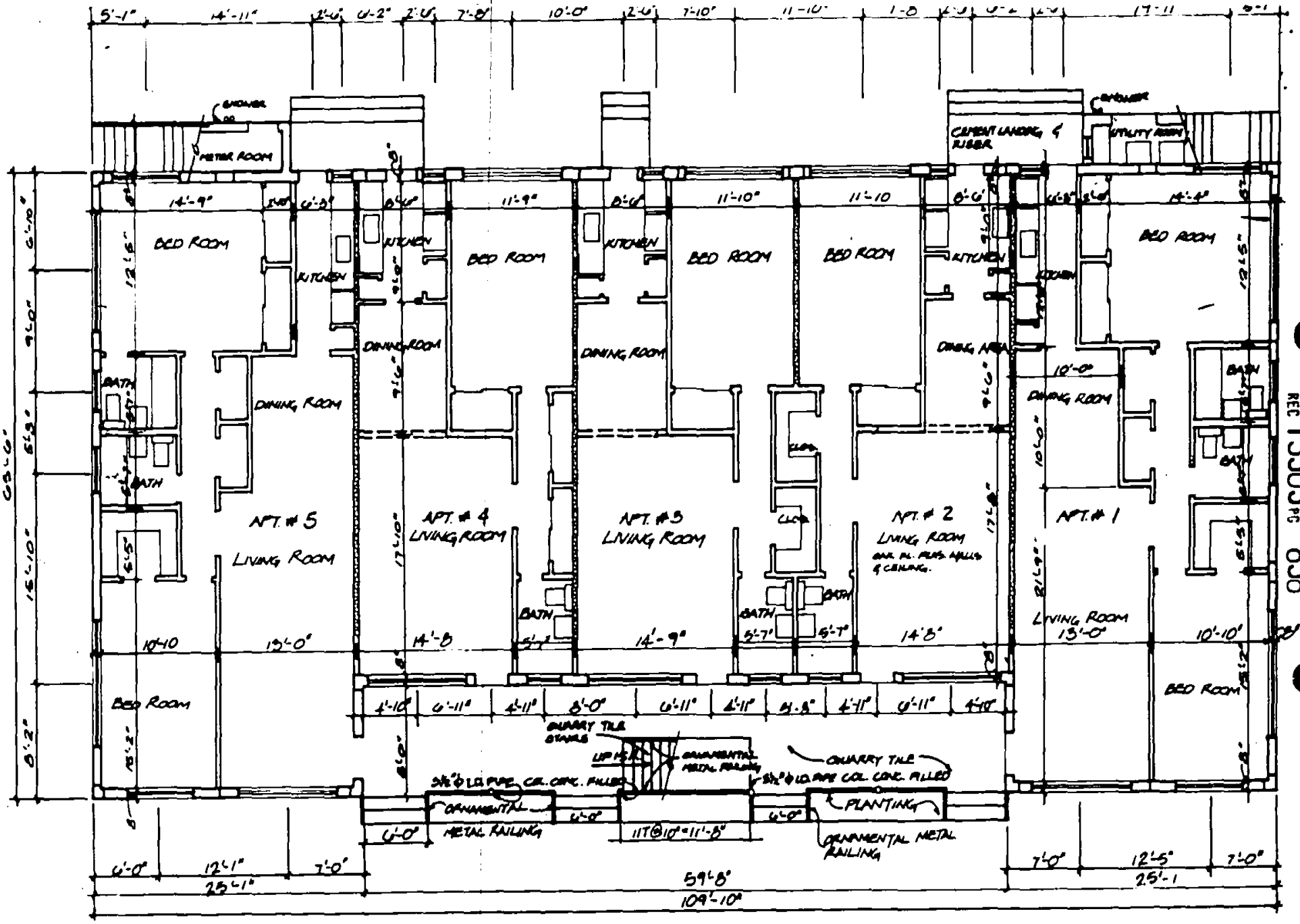
CERTIFICATE No. 3411 STATE OF FLORIDA

OFF REC 13505 PG 857



PLOT PLAN

SHT. 2 OF 4

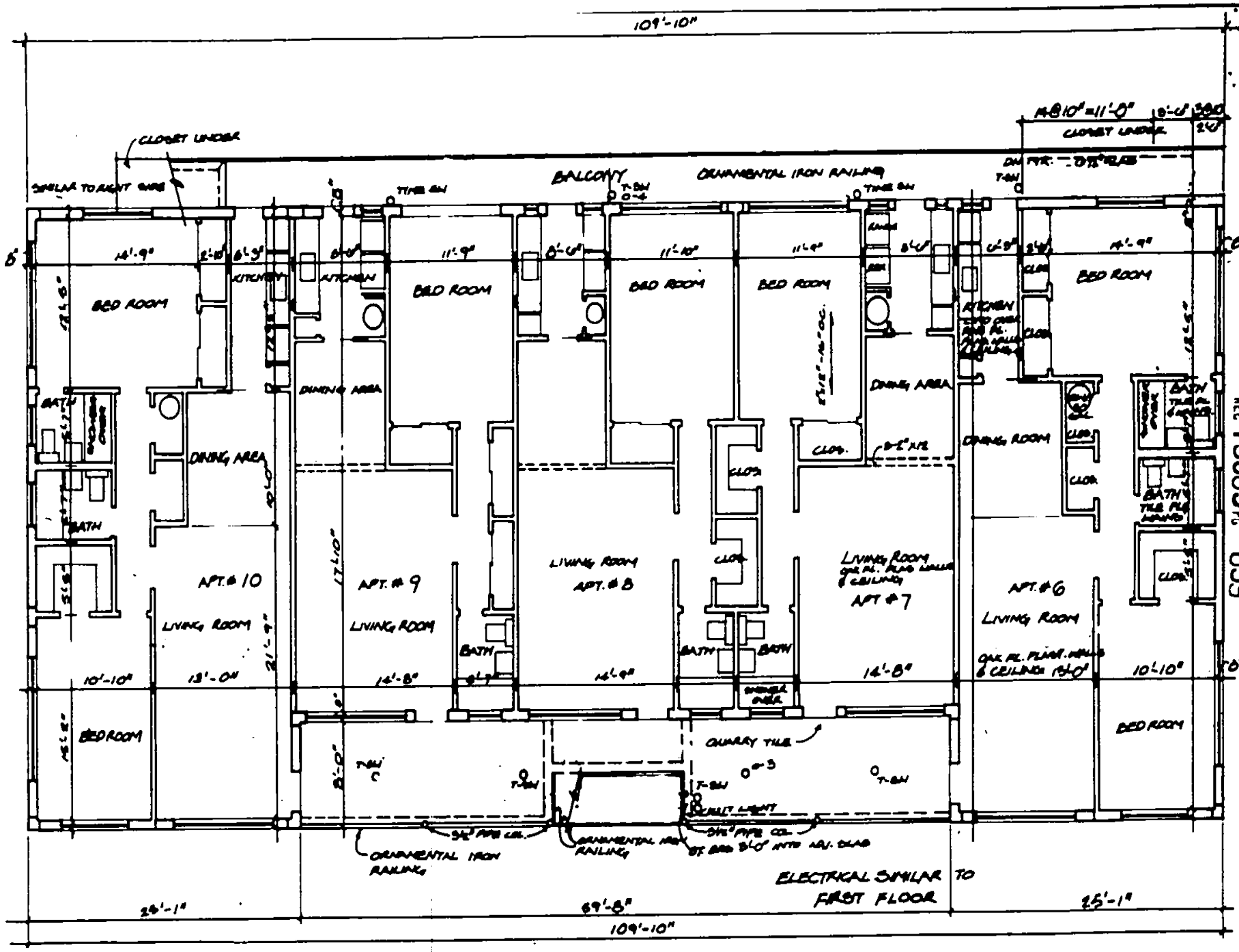


FIRST FLOOR PLAN

SCALE: 1/4" = 1'-0"

OFF REC 13505 PG 858

SHT. 8 OF 9



SECOND FLOOR PLAN

OFF REC 13505 PG 859

SHT. 4 OF 4

EXHIBIT C

ARTICLES OF INCORPORATION OF BAY HARBOR APARTMENTS CONDOMINIUM ASSOCIATION, INC.

ARTICLES OF INCORPORATION OF BAY HARBOR APARTMENTS CONDOMINIUM ASSOCIATION, INC.

The undersigned Subscribers associate themselves for the purpose of forming a corporation, not for profit, pursuant to the laws of the State of Florida, and hereby adopt the following Articles of Incorporation:

ARTICLE 1
NAME

The name of the corporation shall be the BAY HARBOR APARTMENTS CONDOMINIUM ASSOCIATION, INC. For convenience, the corporation shall be referred to in this instrument as the "Association," these Articles of Incorporation as "these Articles," and the By-Laws of the Association as "the By-Laws."

ARTICLE 2
PURPOSE

The purpose of the Association is to provide for the operation of that certain Condominium located in Dade County, Florida, known as BAY HARBOR APARTMENTS CONDOMINIUM ("the Condominium").

ARTICLE 3
DEFINITIONS

The terms used in these Articles shall have the same definitions and meanings as those set forth in the Declaration of Condominium for BAY HARBOR APARTMENTS CONDOMINIUM ("the Declaration") unless herein provided to the contrary, or unless the context otherwise requires.

ARTICLE 4
POWERS

4.1 General. The Association shall have all of the powers and privileges granted under the Florida Not-For-Profit Corporation Law and all of the powers and privileges which may be granted under any other applicable laws of the State of Florida, including the Florida Condominium Act, reasonably necessary to effectuate and implement the purposes of the Association, including the following:

(a) To make and collect assessments and other charges against members as unit owners, and to use the proceeds thereof in the exercise of its powers and duties;

(b) To buy, own, operate, lease, sell and trade real and/or personal property as may be necessary or convenient in the administration of the Condominium;

(c) To maintain, repair, replace, reconstruct, add to and operate the Condominium Property and other property acquired or leased by the Association for use by unit owners;

(d) To purchase insurance upon the Condominium Property and its recreation areas, and insurance for the protection of the Association, its officers, administrators, and members as unit owners;

(e) To make, adopt and amend reasonable rules and regulations for the maintenance, conservation and use of the Condominium Property and for the health, comfort, safety and welfare of the unit owners;

(f) To approve or disapprove the leasing, transferring, mortgaging, ownership and possession of units as may be provided by the Declaration;

(g) To enforce by legal means the provisions of the Act, the Declaration, these Articles, the By-Laws and the rules and regulations for the use of the Condominium Property; and

(h) To contract for the management of the Condominium and maintenance of the Condominium Property including the Common Elements and any and all of the equipment, machinery, elevators, air conditioning units and other such items, and any facilities used by the unit owners.

4.3 Condominium Property. All funds and titles of all properties acquired by the Association and their proceeds shall be held for the benefit and use of the members in accordance with the provisions of the Declaration, these Articles and the By-Laws.

4.4 Distribution of Income. The Association shall make no distribution of income to its members, administrators or officers.

4.5 Limitation. The powers of the Association shall be subject to and shall be exercised in accordance with the provisions of the Declaration and the By-Laws.

ARTICLE 5
TERM OF EXISTENCE

The Association shall have perpetual existence.

ARTICLE 6
SUBSCRIBERS

The names and addresses of the Subscribers to these Articles are as follows:

EDGAR LEWIS	111 N.E. First Street Miami, Florida 33132;
JOHN R. ALLISON, III	111 N.E. First Street Miami, Florida 33132;
TERRY V. HAUSER	111 N. E. First Street Miami, Florida 33132.

ARTICLE 7
MEMBERS

7.1 Membership. The members of the Association shall consist of all of the record owners of units in the Condominium.

7.2 Assignment. The member's share of the funds and any assets of the Association shall not be assigned, hypothecated or transferred in any manner except as an appurtenance to the member's unit.

7.3 Voting. On all matters upon which the membership shall be entitled to vote, there shall be only one vote for each unit, which vote shall be exercised or cast in the manner provided by the Declaration and By-Laws. Any person or entity owning more than one unit shall be entitled to one vote for each unit owned.

7.4 Meetings. The By-Laws shall provide for an annual meeting of members, and may make provision for regular and special meetings of members other than the annual meeting.

ARTICLE 8
BOARD OF ADMINISTRATION

8.1 Number and Qualification. The property, business and affairs of the Association shall be managed by a Board consisting of the number of administrators determined by the By-Laws, but which shall consist of not fewer than

three (3) administrators. Except for administrators appointed by Developer, at least a majority of the administrators must be members of the Association.

8.2 Duties and Powers. All of the duties and powers of the Association existing under the Act, the Declaration, these Articles and the By-Laws shall be exercised exclusively by the Board, its agents, contractors or employees, subject only to approval by unit owners when such approval is specifically required.

8.3 Election; Removal. Administrators shall be elected at the annual meeting of the members in the manner determined by the By-Laws. Administrators may be removed and vacancies on the Board shall be filled in the manner provided by the By-Laws.

8.4 Term of Developer's Administrators. Developer shall appoint the first Board of Administration who shall hold office for the periods described in the By-Laws.

8.5 First Administrators. The names and addresses of the first Board who shall hold office until their successors are elected and have qualified are as follows:

BEN B. BUTEN	9110 West Bay Harbor Drive Miami Beach, Florida 33134;
ALEX SPECTOR	9110 West Bay Harbor Drive Miami Beach, Florida 33134;
GEORGE D. SEYBURN	9110 West Bay Harbor Drive Miami Beach, Florida 33134.

ARTICLE 9
OFFICERS

The affairs of the Association shall be administered by the officers designated in the By-Laws. The officers shall be elected by the Board at its first meeting following each annual meeting of the members of the Association and they shall serve at the pleasure of the Board. The By-Laws may provide for the removal of officers, for filling vacancies and for the duties of the officers. The names and addresses of the officers who shall serve until their successors are designated by the Board are as follows:

President	BEN B. BUTEN;
Vice President and Assistant Secretary	ALEX SPECTOR;
Secretary	GEORGE D. SEYBURN;
Treasurer	BEN B. BUTEN.

ARTICLE 10
INDEMNIFICATION

10.1 In General. The Association shall indemnify any person who was or is a party or is threatened to be made a party to any proceedings, whether civil, criminal, administrative or investigative (other than an action by or in the right of the Association) by reason of the fact that he is or was an administrator, employee, officer or agent of the Association. The Association's indemnification of each such person shall be for expenses (including attorneys' fees and appellate attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by him in connection with such legal action, suit or proceeding if he acted in good faith and in a manner reasonably believed to be in or not opposed to the best interest of the Association, and, with respect to any criminal action or proceeding, had no reasonable cause to believe his conduct was unlawful, except that no indemnification shall be made in respect of any claim, issue or matter as to which such person

shall have been adjudged to be liable for gross negligence or willful misfeasance or malfeasance in the performance of his duty to the Association unless and only to the extent that the court in which such action or suit was brought shall determine upon application, that despite the adjudication of liability but in view of all circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expenses which such court shall deem proper. The termination of any action, suit or proceeding by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent, shall not, of itself, create a presumption that the person did not act in good faith and in a manner which he reasonably believed to be in or not opposed to the best interest of the Association, and with respect to any criminal action or proceeding, had reasonable cause to believe that his conduct was unlawful.

10.2 Expenses. To the extent that an administrator, officer, employee or agent of the Association has been successful on the merits or otherwise in defense of an action, suit or proceeding referred to in Section 10.1 or in defense of any claim, issue or matter herein, he shall be indemnified against expenses (including attorneys' fees and appellate attorneys' fees) actually and reasonably incurred by him in connection therewith, which expenses shall be repaid forthwith.

10.3 Approval. Any indemnification under Section 10.1 (unless ordered by a court) shall be made by the Association only as authorized in the specific case upon a determination that indemnification of the administrator, officer, employee or agent is proper in the circumstances because he has met the applicable standard of conduct set forth in Section 10.1. Such determination shall be made: (a) by a majority vote of a quorum of the Board consisting of administrators who were not parties to such action, suit or proceeding; or (b) if such quorum is not obtainable, or, even if obtainable and a quorum of disinterested administrators so directs, by independent legal counsel in a written opinion, or by a majority of the members.

10.4 Advances. Expenses incurred in defending a civil or criminal action, suit or proceeding may be paid by the Association in advance of the final disposition of such action, suit or proceeding as authorized by the Board in a specific case.

10.5 Miscellaneous. The indemnification provided by this Article shall not be deemed exclusive of any other rights to which those seeking indemnification may be entitled under any By-Law, agreement, vote of members or otherwise. The indemnification shall pertain to the individual while in office after he is no longer an administrator, officer, employee and/or agent and shall inure to the benefit of the heirs and personal representative of said person.

10.6 Insurance. The Association shall have the power to purchase and maintain insurance on behalf of any person who is or was an administrator, officer, employee or agent of the Association, or is or was serving at the request of the Association as an administrator, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise against any liability asserted against him and incurred by him in any such capacity, or arising out of his status as such, whether or not the Association would have the power to indemnify him against such liability under the provisions of this Article.

ARTICLE 11
BY-LAWS

The first By-Laws of the Association shall be adopted by the Board designated herein. Thereafter, the By-Laws may be altered, amended or rescinded by the administrators and members in the manner provided by the By-Laws.

ARTICLE 12
AMENDMENTS

Amendments to these Articles shall be proposed and adopted in the following manner:

12.1 Notice. Notice of the subject matter of a proposed amendment shall be included in the notice of any meeting at which the proposed amendment is to be considered.

12.2 Adoption. A resolution for the adoption of a proposed amendment may be proposed either by a majority of the Board or by not less than one-third (1/3) of the voting members of the Association. Administrators and members not present in person or by proxy at the meeting considering the amendment may express their approval in writing, providing the approval is delivered to the secretary at or prior to the meeting. The approvals must be either:

(a) by not less than one-third (1/3) of the voting members of the Association and by not less than a majority of the Board; or

(b) by not less than a majority of the voting members of the Association.

12.3 Limitation. Anything herein to the contrary notwithstanding, no amendment shall make any changes in the qualifications for membership or in the voting rights or property rights of members, or any changes in Sections 4.3, 4.4 and 4.5 of Article 4, entitled "Powers," without approval in writing by all members and the joinder of all record owners of the mortgages upon units. No amendment shall be made that is in conflict with the Act or Declaration, nor shall any amendments make any changes which would in any way affect any of the rights, privileges, powers or position in favor of or reserved by Developer, or any institutional first mortgagee, or an affiliate of Developer, unless Developer, such mortgagee or affiliate shall join in the execution of the amendment.

12.4 Recording. A copy of each amendment shall be filed with the Secretary of State pursuant to the provisions of the applicable Florida Statutes, and a copy certified by the Secretary of State shall be recorded in the Public Records of Dade County, Florida.

ARTICLE 13
REGISTERED AGENT

The name and street address of the first registered agent authorized to accept service of process within Florida for the Association is:

TERRY V. HAUSER
111 N.E. First Street
Miami, Florida 33132.

ACKNOWLEDGMENT AND CONSENT OF REGISTERED AGENT

Having been named to accept service of process for BAY HARBOR APARTMENTS CONDOMINIUM ASSOCIATION, INC., at the place designated in these Articles, I hereby agree to act in this capacity, and I further agree to comply with the provisions of all statutes relative to the proper and complete performance of my duties.

TERRY V. HAUSER

IN WITNESS WHEREOF, the Subscribers have affixed their signatures this 9th day of September 1986.

EDGAR LEWIS

JOHN B. ALLISON III

TERRY V. HAUSER

STATE OF FLORIDA)
)SS:
COUNTY OF DADE)

Before me personally appeared EDGAR LEWIS, JOHN R. ALLISON III, and TERRY V. HAUSER, to me well known and known to me to be the persons described in and who executed the foregoing instrument, and acknowledged to and before me that they executed said instrument for the purposes therein expressed.

WITNESS my hand and official seal, this 9th day of September 1986.

Notary Public, State of Florida at Large

My Commission Expires:

NOTARY PUBLIC STATE OF FLORIDA
MY COMMISSION EXP. DEC. 8,1989
BONDED THRU GENERAL INS. UND.

EXHIBIT D

BY-LAWS
BAY HARBOR APARTMENTS CONDOMINIUM ASSOCIATION, INC.

BY-LAWS
OF
BAY HARBOR APARTMENTS
CONDOMINIUM ASSOCIATION, INC.

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BY-LAWS
OF
BAY HARBOR APARTMENTS
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BY-LAWS

OF

BAY HARBOR APARTMENTS

CONDOMINIUM ASSOCIATION, INC.

ARTICLE I: IDENTITY

A. Scope.

These By-Laws shall apply to Bay Harbor Apartments Condominium Association, Inc. ("the Association"), a corporation not for profit under the laws of the State of Florida, organized for the purpose of administering that certain condominium located in Dade County, Florida, and known as Bay Harbor Apartments Condominium ("the Condominium"). These By-Laws expressly are subject to the terms, provisions, conditions and authorizations contained in the Articles of Incorporation and in the Declaration of Condominium ("the Declaration"). All of the terms used in these By-Laws shall have the same definitions and meanings as those set forth in the Declaration, unless herein provided to the contrary, or unless the context otherwise requires. Whenever the context so permits, the singular shall include the plural, the plural shall include the singular and the use of any gender shall be deemed to include all genders.

B. Compliance.

Each present and future owner and tenant, guest, licensee, servant, agent, employee and any other person who shall be permitted to use the facilities of the Condominium or a unit shall comply strictly with these By-Laws and the Rules and Regulations issued by the Association and with the covenants, conditions and restrictions set forth in the Declaration and the deed to the unit. Ownership, rental or occupancy of any unit conclusively shall be deemed to mean that the owner, tenant or occupant has accepted and ratified these By-Laws and the Rules and Regulations of the Association and will comply with them. Failure to comply with any of the same shall be grounds for a civil action to recover sums due for damages or injunctive relief, or both, maintainable by the Association on behalf of the unit owners.

C. Principal Office.

The principal office of the Association shall be 9110 West Bay Harbor Drive, Miami Beach, Florida 33154, or at such other place as may be subsequently designated by the Board of Administration. All books and records of the Association shall be kept at its principal office.

D. Seal.

The seal of the Association shall bear the name of the Association, the word "Florida," the words "Corporation Not for Profit," and the year of incorporation. An impression of the Seal is as follows:

E. Fiscal Year.

The fiscal year of the Association shall be the calendar year.

ARTICLE II: MEMBERS

A. In General.

The requirements and procedures for admission, voting and termination of membership set forth in the Articles of Incorporation are incorporated herein by reference.

B. Voting.

1. Number of Votes. In any meeting of members, the members shall be entitled to cast one voting interest ("vote") for each unit owned. The vote of a unit shall not be divisible. Should two (2) or more units be used by a single owner as one (1) dwelling unit, by combining the same in a manner approved by the Board or as otherwise provided in the Declaration, such use shall not in any manner affect or destroy the separateness of such units for voting purposes.

2. Majority Vote. The acts approved by a majority of the votes at a meeting at which a quorum shall be present, shall be binding upon all members for all purposes except where otherwise provided by law, the Declaration, the Articles or these By-Laws. The terms "majority of the members" or "majority of the Voting Interests" shall mean those members having more than fifty percent (50%) of the total authorized votes of all members voting at any meeting of the members at which a quorum shall be present.

3. Designation of Voting Member. If a unit is owned by more than one person, or is under lease, the person entitled to cast the vote for the unit shall be designated by a Voting Certificate signed by all of the record owners of that unit according to the roster of members and filed with the Secretary of the Association. If a unit is owned by a corporation, the person entitled to cast the vote for the unit shall be designated by a Voting Certificate signed by the president or vice-president and attested by the secretary or assistant secretary of the corporation and filed with the Secretary of the Association. The person so designated to cast the vote of the unit shall be known as the "voting member." If such a Voting Certificate is not on file with the Secretary for a unit owned by more than one person or one business entity, the vote of the unit concerned shall not be considered in determining the requirement for a quorum, or for any purpose requiring the approval of a person entitled to cast the vote for the unit, except to such unit as owned by a husband and wife. Such Voting Certificate shall be valid until revoked or superseded by a subsequent Voting Certificate, or until a change in the ownership of the unit concerned.

A husband and wife owning a unit jointly shall have the following options:

a. They may designate a voting member.

b. If they do not designate a voting member and both are present at a meeting and are unable to concur in their decision upon any subject requiring a vote, they shall lose their right to vote on that subject at that meeting.

c. If they do not designate a voting member and only one is present at a meeting, the spouse who is present may cast the unit vote without establishing the concurrence of the absent spouse.

d. If both spouses are present at a meeting and concur either one may cast the unit vote.

4. Quorum. Members holding the voting interests for at least forty percent (40%) of the units shall constitute a quorum.

5. Proxies. Votes may be cast in person or by proxy. A proxy may be made by any person entitled to vote and shall be effective only for the specific meeting for which originally given and any lawfully adjourned meetings thereof. No proxy shall be valid for a period longer than ninety (90) days after the date of the first meeting for which it was given. Every proxy shall be revocable at any time at the pleasure of the member executing it. A proxy must be written, signed by the voting member generating the proxy and filed with the Secretary before the appointed time of the meeting.

C. Meetings.

1. Annual Meetings. The annual meetings of the members shall be held on the date and at the time as determined by the Board from time to time, provided that there shall be an annual meeting every calendar year and not later than thirteen (13) months after the last preceding annual

meeting. The purpose of the meeting shall be to elect Administrators and to transact any other business which properly comes before the meeting.

2. Special Meetings. Special meetings of the members shall be held whenever called by the President or by a majority of the Board. A special meeting must be called by the President if a majority of the members file a written request with the Secretary. The business conducted at a special meeting shall be limited to that stated in the notice of the meeting.

3. Location of Meetings. All annual and special meetings shall be held at the principal office of the Association or at such other suitable and convenient place as may from time to time be fixed by the Board and designated in the notices of such meetings.

4. Notices of Meetings. Notices of meetings of members stating the time and place and the objects for which the meeting is called shall be given by the President or Secretary. A copy of the notice shall be posted at a conspicuous place on the Condominium property and a copy shall be delivered or mailed to each member entitled to attend the meeting. The notice of the annual meeting shall be posted in a conspicuous place on the Condominium Property at least fourteen (14) days but not more than sixty (60) days prior to the annual meeting and also shall be sent by mail to each member unless the member waives the right to receive such notice, in writing. The delivery or mailing shall be to the address of the member as it appears on the roster of members. The Secretary shall provide an affidavit, to be included in the Official Records of the Association, affirming that notices of meetings were mailed or hand-delivered as required herein to each unit owner at the address appearing on the roster. Any member may waive in writing notice of any specific meeting; such waiver, when filed in the records of the Association, shall be deemed equivalent to the receipt of such notice by such member. If any meeting cannot be organized because a quorum has not attended, or because the greater percentage of the membership required to constitute a quorum for particular purposes has not attended (whenever the latter percentage of attendance may be required as set forth in the Articles of Incorporation, these By-Laws or the Declaration), the members who are present, either in person or by proxy, may adjourn the meeting from time to time until a quorum is present.

D. Conduct of Meetings.

1. The President, or in his absence, the Vice President, shall preside at all meetings; in the absence of both of them, the presiding officer shall be the officer designated by the Board.

2. The order of business at annual meetings and, as far as practical, at other meetings shall be:

a. Call to order by President;

b. Election of chairman of the meeting;

c. Calling of the roll and certifying of proxies;

d. Proof of notice of the meeting or waiver of notice;

e. Reading and disposal of any unapproved minutes;

f. Reports of officers;

g. Reports of committees;

h. Appointment of inspectors of election;

i. Determination of number of Administrators;

j. Election of Administrators;

k. Unfinished business;

l. New business;

m. Adjournment.

E. Limitations of Membership.

Except as otherwise provided, membership in the Association shall be limited to the unit owners or co-owners. In the event that a member shall lease or permit another to occupy his unit, the tenant or occupant shall not vote in the affairs of the Association except as the member shall permit the tenant or occupant to exercise the proxy vote of the member. Every transfer of title to the member's unit, in accordance with the Declaration and the Condominium Act, shall include membership in the Association, and upon making such transfer, the previous owner's membership shall terminate automatically. Except as herein provided, membership in the Association may not be assigned or transferred and any attempted assignment or transfer thereof shall be void and of no effect.

ARTICLE III: BOARD OF ADMINISTRATION

A. Authority and Composition.

The affairs of the Association shall be governed by a Board of Administration consisting of three (3) persons, at least two (2) of whom shall be members of the Association.

B. Election Procedures, Generally.

All Administrators shall be elected at the annual meeting of the members of the Association. Administrators shall be elected in the following manner:

1. A nominating committee of three (3) members shall be appointed by the Board not less than thirty (30) days prior to the annual meeting of the members. The committee may nominate one or more persons for each available position. Members also may be nominated from the floor at the annual meeting.

2. The election shall be by ballot (unless dispensed with by unanimous consent) and by a plurality of the votes cast. Each person voting shall be entitled to cast his votes for each of as many nominees as there are vacancies to be filled. There shall be no cumulative voting.

C. Vacancies.

Vacancies in the Board may be filled, until the date of the next annual meeting, by selections by the remaining Administrators.

D. Terms of Office.

The term of office of each Administrator shall be for one (1) year, expiring at the next annual meeting of the membership, or when successors are duly elected and qualified, or any shorter period in the event of removal in the manner provided herein or by law.

E. Removals.

Any Administrator may be removed, with or without cause, at any time by a vote of a majority of the members at any special meeting called for such purpose by at least ten percent (10%) of the Voting Interests. If the recall is approved, the recall shall be effective immediately, and the recalled Administrator(s) shall turn over to the Board any and all records of the Association in his (their) possession within seventy-two (72) hours after the meeting. Such replacement of Administrators shall be made by written instrument delivered to any officer of the Association, specifying the name of each person designated as successor to each Administrator so removed.

F. Meetings.

1. Organizational Meeting. The organizational meeting of a newly elected Board shall be held within ten (10) days of their election at such time and at such place as shall be fixed at the meeting at which they were elected. No further notice of the organizational meeting shall be necessary, provided a quorum shall be present.

2. Regular Meetings. Regular meetings of the Board may be held at such time and place as shall be determined from time to time by a majority of the Board. Notice of regular meetings shall be given to each Administrator personally or by mail, telephone or telegram, at least three (3) days prior to the day specified for such meeting.

3. Special Meetings. Special meetings of the Board may be called by the President, and must be called by the Secretary at the written request of any two (2) Administrators. Not less than three (3) days' notice of any meeting shall be given to each Administrator, personally or by mail, telephone or telegram, which notice shall state the time, place and purpose of the meeting.

4. Waiver of Notice. Any Administrator may waive notice of a meeting and such waiver shall be deemed equivalent to the receipt of notice by each such Administrator. Attendance by an Administrator at a meeting shall constitute a waiver of notice of such meeting, except when his attendance is for the express purpose of objecting at the beginning of the meeting to the transaction of business because the meeting is not lawfully called.

5. Meetings Open to Members. All meetings of the Board, whether regular or special, shall be open to members. Adequate notice of all meetings shall be posted conspicuously on the Condominium Property at least forty-eight (48) hours in advance of each meeting, except in an emergency. Notice of any meeting in which assessments against members are to be considered for any reason shall specifically contain a statement that assessments will be considered and the nature of any such assessments.

6. Quorum. A quorum at a Board meeting shall consist of the Administrators entitled to cast a majority of the votes of the entire Board. Matters approved by a majority of the votes present at a meeting in which a quorum is present shall constitute acts of the Board, except as specifically provided otherwise in the Articles of Incorporation, these By-Laws or the Declaration. If any meeting cannot be organized because a quorum has not attended, the Administrators who are present may adjourn the meeting from time to time until a quorum is present. At any adjourned meeting, business which might have been transacted at the meeting as originally called may be transacted without further notice. Administrators may join by written concurrence in any action taken at a meeting of the Board, but such concurrence may not be used for the purposes of creating a quorum.

7. Conduct of Meetings. The Chairman of the Board, if one has been elected, shall preside over all Board meetings; otherwise the President shall preside. In the absence of the presiding officer, the Administrators present shall designate one of their number to preside. The order of business at Board meetings shall be:

a. Calling of roll;

b. Proof of due notice of meeting;

c. Reading and disposal of any unapproved minutes;

d. Reports of officers and committees;

e. Election of officers;

f. Unfinished business;

g. New business;

h. Adjournment.

G. Compensation.

Compensation of the Administrators, if any, shall be determined by the members of the Association.

H. Powers and Duties.

All of the powers and duties of the Association shall be exercised by the Board, including those existing under the common law and statutes, the Articles of Incorporation of the Association, these By-Laws and the Declaration. Such powers and duties shall include the following:

1. To determine, make, levy and collect assessments from members to defray the costs of the Condominium, and to use the proceeds of such assessments in the exercise of the powers and duties granted to the Association;

2. To maintain, repair, replace, operate and manage the Condominium and the Condominium Property wherever the same is required to be done and accomplished by the Association for the benefit of its members;

3. To reconstruct improvements after any casualty, and to further improve the property, real and personal;

4. To make, amend and enforce regulations governing the use of the property, real and personal, in the Condominium, so long as such regulations or amendments thereto do not conflict with the restrictions and limitations placed upon the use of such property under the terms of the Articles of Incorporation and the Declaration;

5. To maintain bank accounts for the Association;

6. To purchase, sell, lease or otherwise acquire or convey units in the name of the Association or its designee(s);

7. To obtain and review insurance for the Association;

8. To acquire and enter into leases and agreements of every nature, whereby the Association acquires leaseholds, memberships and other possessory or use interests in lands or facilities, including recreational and communal facilities, whether or not contiguous to the lands of the Condominium, to provide enjoyment, recreation, or other use or benefit to the members, or as may be deemed by the Board to be in the best interests of the Association.

I. First Board of Administration.

The first Board shall be comprised of three (3) persons designated to act and serve as Administrators in the Articles of Incorporation, who shall serve until their successors are elected at the first annual meeting of the members of the Association called after the Declaration has been duly recorded. The undertakings and contracts authorized by the first Board shall be binding upon the Association in the same manner as though such had been authorized by the first duly elected Board, so long as such undertakings and contracts are within the scope, powers and duties which may be exercised by the Board in accordance with all applicable Condominium documents. Should any member of the first Board be unable to serve for any reason, the remaining members of the Board shall have the right to designate a party to act and serve as Administrator for the unexpired term of the Administrator unable to serve.

ARTICLE IV: OFFICERS

A. Enumeration.

The Board shall elect a President, Secretary and Treasurer, and as many Vice Presidents, Assistant Secretaries and Assistant Treasurers as the Board shall determine. The President shall be elected from among the membership of the Board and shall be an Administrator, but no other officer need be a member or Administrator. The same person may hold two offices, except for the following combinations: (1) President and Vice President; (2) President and Secretary or Assistant Secretary.

B. Election.

The officers shall be elected annually by the Board at the organizational meeting of each new Board and shall hold office until their successors have been elected and qualified.

C. The President.

The President shall be the chief executive officer of the Association. He shall have all of the powers and duties which are usually vested in the office of President of an association, including, but not limited to, the power to appoint committees from among the members from time to time, as he may in his discretion determine appropriate, to assist in the conduct of the affairs of the Association.

D. The Vice President.

The Vice President shall, in the absence or disability of the President, exercise the powers and perform the duties of President. He also generally shall assist the President and exercise such other powers and perform such other duties as shall be prescribed by the Board.

E. The Secretary and Assistant Secretary.

The Secretary shall: (1) keep the minutes of all proceedings of the Administrators and the members; (2) attend to the giving and serving of all notices to the members and Administrators, and such other notices required by law; (3) maintain custody of the seal of the Association and affix the same to instruments requiring a seal when duly signed; (4) keep the records of the Association, except those of the Treasurer; and (5) perform all other duties incident to the office of Secretary and as may be required by the Administrators or President. The Assistant Secretary shall perform the duties of Secretary when the Secretary is absent. The minutes of all meetings of members and the Board shall be kept by the Secretary in a book which shall be available for inspection by members (or their authorized representatives), and the Administrators at any reasonable time. The Association shall retain these minutes for a period of not less than seven (7) years.

F. The Treasurer.

The Treasurer shall: (1) have custody of all of the property of the Association, including funds, securities and evidences of indebtedness; (2) keep the assessment rolls and accounts of the members; (3) keep the books of the Association in accordance with good accounting practices; and (4) perform all other duties incident to the office of the Treasurer.

G. Compensation.

The compensation of all officers and employees of the Association shall be fixed by the Board. This provision shall not preclude the Board from employing an Administrator as an employee or from contracting with Administrators for the management of the Condominium.

H. Removal.

Any officer may be removed from office at any time, with or without cause, by a majority vote of the Board.

ARTICLE V: FINANCE

A. Bank Accounts.

The depository of the Association shall be such bank as is designated from time to time by the Board. Withdrawal of monies from accounts shall be only by checks signed by such persons as are authorized by the Board.

B. Fiscal Year.

The fiscal year shall be the calendar year.

C. Budget.

The Board shall adopt a budget for each fiscal year which shall contain cost estimates, including without limitation the following items: (1) maintenance and operation of the Common Elements; (2) landscaping streets and walkways; (3) office expenses; (4) management and administration; (5) utility services; (6) casualty and liability insurance; (7) operating and replacement

reserves; (8) leaseholds, membership and other interests in lands or facilities to provide enjoyment, recreation or other use or benefit to unit owners; and (9) reserve accounts for capital expenditures and deferred maintenance. A copy of the proposed budget, together with proposed assessments payable by each member, and written notice of the time and place of the meeting to consider the budget shall be submitted to each member at least fourteen (14) days prior to the meeting at which the budget will be considered. The meeting shall be open to all members. If the budget is amended before the assessments are made, a copy of the amended budget shall be furnished to each member. Failure to deliver a copy of any budget or amended budget to each member shall not affect the liability of any member for any such assessment, nor shall delivery be a condition precedent to the effectiveness of the budget and assessments levied pursuant thereto. Nothing herein contained shall be construed as restricting the right of the Board, at any time, in its sole discretion, to levy any additional assessment if the budget originally adopted shall appear to be insufficient to pay costs and expenses of operation and management or if required by any emergencies.

D. Reviews.

A review of the accounts of the Association shall be made annually. If the Board so designates, such review shall be made by a certified public accountant, and a copy of such accountant's report shall be furnished to each member not later than March 15th of the year following the year for which the report is made.

E. Assessments.

Assessments against the members for their share of the items of the budget shall be made for the calendar year annually in advance on or before December 20th, preceding the year for which the assessments are made. Such assessments shall be due in equal monthly installments, payable in advance on the first day of each month of the applicable year. If an annual assessment is not made as required, an assessment shall be presumed to have been made in the amount of the last prior assessment, and monthly installments on such assessments shall be due upon each installment date until changed by an amended assessment. In the event the annual assessment proves to be insufficient, the budget and assessments may be amended at any time by the Board. Charges by the Association against members for other than common expenses also shall be payable in advance. Charges for other than common expenses may be made only after approval of the members or when expressly provided for in the Declaration or Exhibits annexed thereto. Such charges may include charges for the use of the Condominium Property or recreation area, maintenance services furnished at the expense of a member and other services furnished for the benefit of a member. Assessments for common expenses or emergencies that ~~cannot be paid from the annual assessment shall be due only after thirty (30)~~ days' notice is given to the members concerned, and shall be paid in such manner as the Board may require. If a member shall be in default in the payment of an installment upon an assessment, the Board may accelerate the remaining installments of the assessments upon notice to the member, and the then unpaid balance of the assessment shall be due upon the date stated in the notice, but not less than five (5) days after delivery of the notice to the member, or not less than ten (10) days after the mailing of such notice to him by certified mail or certificate of mailing, whichever shall first occur.

F. Fidelity Bonds.

Fidelity bonds shall be required by the Board for all officers and employees of the Association and for any contractor handling or responsible for Association funds. The amount of each such bond shall be determined by the Board but shall be at least the amount of the total annual assessments against members for common expenses. The premiums on such bonds shall be paid by the Association.

ARTICLE VI: INDEMNIFICATION OF ADMINISTRATORS AND OFFICERS

Every Administrator and every officer shall be indemnified by the Association against all expenses and liabilities, including counsel fees, reasonably incurred by or imposed upon him in connection with any proceedings to which he may be a party, or in which he may become involved by reason of his being or having been an officer or Administrator, or any settlement thereof, whether or

not he is an Administrator or officer at the time of incurring such expenses or liabilities, except in such cases wherein the Administrator or officer is adjudged guilty of willful misfeasance or malfeasance in the performance of his duties, provided that in the event of a settlement, the indemnification shall apply only when the Board approves such settlement and reimbursement as being in the best interest of the Association. The foregoing right of indemnification shall be in addition to all other rights to which such officer or Administrator may be entitled.

ARTICLE VII: ARBITRATION

Voluntary binding arbitration of internal disputes arising from the operation of the Condominium among the unit owners, Association, their agents and assigns, shall be provided in accordance with Section 718.112(4), Florida Statutes, and the rules promulgated pursuant thereto.

ARTICLE VIII: PARLIAMENTARY RULES

Roberts Rules of Order (latest edition) shall govern the conduct of corporate proceedings when not in conflict with the Articles of Incorporation and these By-Laws or with the laws of the State of Florida.

ARTICLE IX: RULES AND REGULATIONS

Annexed hereto and made a part hereof are rules and regulations concerning the use of the Condominium. The Board may from time to time modify, amend or add to such rules and regulations, except that owners of a majority of the units present and voting at a meeting at which a quorum is present may overrule the Board with respect to any such modification, amendment or addition. Copies of such modified, amended or additional rules and regulations shall be furnished by the Board to each member at least thirty (30) days prior to the effective date hereof.

ARTICLE X: AMENDMENTS

A. Proposal. Amendments to these By-Laws may be proposed by the Board acting upon majority vote or by members owning at least one-third (1/3) of the Voting Interests in the Condominium, whether meeting as members or by a writing signed by them.

B. Text of Proposed Amendments. No By-Law shall be amended by reference to its title or number only. Proposals to amend ~~existing By-Laws shall contain~~ the full text of the By-Laws to be amended; new words shall be inserted in the text underlined, and words to be deleted shall be lined through with hyphens. However, if the proposed change is so extensive that this procedure would hinder, rather than assist the understanding of the proposed amendment, it is not necessary to use underlining and hyphens as indicators of words added or deleted, but, instead, a notation must be inserted immediately preceding the proposed amendment in substantially the following language: "Substantial rewording of By-Law. See By-Law _____ for present text."

C. Special Meeting. Such proposed amendment(s) shall be transmitted to the President (or other officer in the absence of the President) who shall thereupon call a special joint meeting of the Board and the membership for a date not sooner than twenty (20) days nor later than sixty (60) days from receipt of such officer of the proposed amendment(s). The Secretary shall give to each member written notice of such meeting in the same form and in the same manner as notice of the call of a special meeting of the members is required as herein set forth.

D. Approval and Recordation. In order for such amendment(s) to become effective, the same must be approved by an affirmative vote of at least two-thirds (2/3) of the Voting Interests in the Condominium. Thereupon such amendments) shall be transcribed, certified by the President and Secretary, and a copy thereof recorded in the Public Records of Dade County, Florida, within ten (10) days from the date of approval of such amendment(s) by the members.

E. Written Votes. At any meeting held to consider such amendment(s), the

written vote of any member shall be recognized even if such member is neither in attendance nor represented by proxy, provided that such written vote is delivered to the Secretary at or prior to such meeting.

F. Writing in Lieu of Meeting. In the event that the members holding the Voting Interests necessary to pass any amendment(s) shall execute any instrument amending these By-Laws, the same shall constitute a valid amendment and it shall not be necessary for the meeting otherwise prescribed above to be held. A copy of such amendment(s), bearing the signature of the member(s), and certified by the President and the Secretary as being the amendment(s) so adopted by such members, shall be recorded in the Public Records of Dade County, Florida, within ten (10) days from the date of approval of such amendment(s).

G. Nonmaterial Errors. Non-material errors or omissions in the amendment process shall not invalidate an otherwise properly promulgated amendment.

THE FOREGOING was adopted as the By-Laws of Bay Harbor Apartments Condominium Association, Inc., a corporation not for profit under the laws of the State of Florida, on the 1 day of Dec., 198 7.

ATTEST:

ALEX P. SPECTOR, Secretary

APPROVED:

BEN B. BUTEN, President

RULES AND REGULATIONS
FOR
BAY HARBOR APARTMENTS CONDOMINIUM

1. The sidewalks, entrances, passages, patios, stairways, and like portions of the Common Elements or Limited Common Elements shall not be obstructed and shall not be used for any purpose other than ingress and egress; nor shall carts, carriages, bicycles, chairs, tables, or any other similar objects be stored therein. Children shall not be permitted to play or loiter in stairways, sidewalks or other common areas.

2. The personal property of unit owners must be stored in their respective units and assigned storage areas.

3. No garbage cans, supplies, milk bottles, or other articles shall be placed in or on the patios, balconies or staircase landings, nor shall any linens, cloths, clothing, curtains, rugs, mops, or laundry of any kind, or other articles, be shaken or hung from any of the windows, doors, patios or balconies.

4. No unit owner shall permit anything to fall from a window or balcony of a unit, or sweep or throw from the unit any dirt or other substance into any of the sidewalks, patios or Common Elements.

5. All garbage must be deposited in bags with all other refuse in areas designated for such purpose.

6. Parking areas may be used only for the purposes permitted by the Declaration; no skateboarding or bicycle riding shall be permitted in the parking areas.

7. Employees of the Association may not be sent by unit owners for personal errands. The Board of Administration shall be solely responsible for supervising Association employees.

8. No vehicle which cannot operate under its own power or which has no auto tags or which has expired auto tags shall remain on the Condominium Property for more than twenty-four (24) hours; no waxing or washing of motor vehicles shall be allowed on the Condominium Property, and, except in emergencies, no repairs shall be allowed.

9. No unit owner shall make or permit any disruptive noises or noxious fumes in the buildings, or permit any conduct of any persons that will interfere with the rights, comforts or conveniences of other residents. No unit owner shall play or permit to be played any musical instrument, or operate or permit to be operated a phonograph, television, radio or sound amplifier in his unit, porch, balcony or patio in such a manner as to disturb or annoy other residents. No unit owner shall conduct or permit to be conducted vocal or instrumental instruction at any time which disturbs other residents.

10. No radio or television installation shall be permitted in a unit, balcony or patio which interferes with the television or radio reception of another unit. No antenna or aerial may be erected or installed by a unit owner on the roof or exterior walls of the buildings. If same is erected or installed, it may be removed, without notice, by the Board at the cost of the unit owner installing same. Citizens band and ham radio installations shall be prohibited.

11. No sign, advertisement, notice or other lettering, except signs used by Developer, shall be exhibited, displayed, inscribed, printed or affixed in, on or upon any part of a unit which may be seen from the common areas. No awning, canopy, shutter, storm shutter or other projection shall be attached to or placed upon the outside walls, balconies, patios or roof of the buildings unless approved by the Board.

12. No cooking shall be permitted on any patio or balcony of a unit.

13. No flammable, combustible, or explosive fluids, chemicals or substances shall be kept in any unit, balcony or patio, except as may be required for normal household or permitted business use.

14. A unit owner who plans to be absent during the hurricane season must prepare his unit prior to his departure by:

(a) Removing all furniture, plants and other objects from his patio(s) and balcony; and

(b) Designating a responsible firm or individual, subject to Association approval, to care for his unit, porch, balcony and patio(s), should the unit and/or its patio(s) or balcony suffer hurricane damage, and furnishing the Association with the name of each such firm or individual, which firm or individual shall contact the Association for permission to install or remove hurricane shutters.

15. Food and beverages may not be consumed outside of a unit and its appurtenant patio(s) or balcony except in designated areas.

16. A unit owner shall not cause anything to be affixed or attached to, hung, displayed or placed on the roofs exterior walls, patios, patio walls and fences or fence gates, doors, balconies or windows of the buildings, nor shall any unit owner screen or otherwise enclose his balcony or patio without the written consent of the Board.

17. Nothing other than balcony-type furniture and plants may be kept on patios or balconies.

18. Dogs and cats may be walked only in designated areas.

19. No drilling of floors, patios, exterior walls, or ceilings is allowed for attachment or hanging of any material, including without limitation planters and hammocks without prior written approval of the Board.

20. No boats, trailers, campers or recreational vehicles of any sort shall be kept overnight anywhere in the Condominium Property.

21. No door mats may be placed outside of a unit and no ornaments or decorations may be hung on the exterior walls, gates or fences of the patios or balconies.

22. No commercial or business purpose shall be conducted or solicited in any unit.

23. No unit owner may install or permit to be installed any window air conditioning unit in his unit or in the Common Elements.

24. No unit owner may schedule the moving of furniture or furnishings into or out of the Condominium unless the move has been scheduled with Developer or the Management Company, as the case may be, in order to assure availability of parking and access.

25. A unit owner shall not attach any film or sun-reflective device or matter to the glass windows and glass doors of a unit, except with the Board's prior written approval.

26. No plantings in a balcony or patio which can be observed over the horizontal or vertical planes of patio walls, fences and gates is permitted, except ivy which has been approved by the Management Company or the Board.

EXHIBIT E

Estimated Operating Budget for First Year
of Operation for

BAY HARBOR APARTMENTS CONDOMINIUM

ESTIMATED OPERATING BUDGET
FOR FIRST YEAR OF OPERATION OF
BAY HARBOR APARTMENTS CONDOMINIUM
(10 UNITS)

	Yearly	Monthly
1. Expenses for the Association and Condominium:		
A. Administration and Personnel:		
Bookkeeper/Secretary	0.00	0.00
Manager	0.00	0.00
Maintenance Men (independent contractors for gardening & exterminating)	3,000.00	250.00
Payroll Taxes	0.00	0.00
Group Insurance	0.00	0.00
Workers' Compensation	0.00	0.00
B. Office Expenses:		
Accounting Review and Fees	250.00	20.83
Legal	250.00	20.83
Licenses and Permits	0.00	0.00
Postage	25.00	2.08
Stationery/Printing	25.00	2.08
Supplies	25.00	2.08
Telephone (Local)	25.00	2.09
C. Management Fee		NOT APPLICABLE
D. Maintenance:		
Maintenance Supplies	150.00	12.50
Equipment Maintenance/Rental	0.00	0.00
Signs	0.00	0.00
Painting Supplies	0.00	0.00
Hardware	0.00	0.00
Fire Extinguishers	100.00	8.34
Janitorial Supplies	100.00	8.34
Waste Removal	Provided by Bay Harbor Islands Solid Waste	
E. Rent for Recreational and Other Commonly Used Facilities:		NOT APPLICABLE
F. Taxes upon Association Property:		NOT APPLICABLE
G. Insurance:	3,000.00	250.00
H. Security Provisions:		NOT APPLICABLE
I. Other Expenses:		
Utilities	2,700.00	225.00
J. Operating Capital:		NOT APPLICABLE
K. Reserves:* **		
Roof	600.00	50.00
Painting	600.00	50.00
Paving	545.00	45.41
Seawall	600.00	50.00
L. Fees Payable to the Division (10 Units)	5.00	0.42
2. Expenses for a Unit Owner:		
A. Rent for the Unit, if Subject to a Lease.		NOT APPLICABLE
B. Rent Payable by the Unit Owner Directly to the Lessor or Agent Under any Recreational Lease or Lease for the Commonly Used Facilities:		NOT APPLICABLE
TOTAL:	$12,000.00	$1,000.00
TOTAL PER UNIT:	$ 1,200.00	$ 100.00

* The Association, by a majority vote of the members present at a duly called meeting, may determine for any fiscal year to reduce reserves or provide for no reserves at all.

**

Items Covered by Reserves	Estimated Life (Years)	Estimated Replacement Cost	Estimated Remaining Useful Life (Years)	Current Account Balance
Roof	20	$12,500	14	$0.00
Painting	6	3,500	4	0.00
Paving	10	800	8	0.00
Seawall	20	5,000	15	0.00

CLERK NOTE:
FOR CONDOMINIUM PLANS SEE OFFICIAL RECORDS CONDOMINIUM PLANS BK. 89 PAGE 11

RECORDED IN OFFICIAL RECORDS BOOK OF DADE COUNTY, FLORIDA.
RECORD VERIFIED
RICHARD P. BRINKER
CLERK CIRCUIT COURT

RICHARD P. BRINKER, CLERK
CIRCUIT & COUNTY COURT
BY

EXHIBIT D

RECEIVING PARCEL DEEDS

CFN: 20210870052 BOOK 32858 PAGE 4496
DATE:11/18/2021 02:14:49 PM
DEED DOC 27,000.00
SURTAX 20,250.00
HARVEY RUVIN, CLERK OF COURT, MIA-DADE CTY

This instrument prepared by:

Andrew S. Atkins, Esq.
SHEVLIN & ATKINS, Attorneys at Law
1111 Kane Concourse, Suite 619
Bay Harbor Islands, Florida 33154

After recording return to:

Grisel Morales, Esq.
Law Offices of Grisel Morales, P.A.
7355 SW 87th Avenue, Suite 200
Miami, Florida 33173

Parcel ID# 13-2227-001-0720

WARRANTY DEED

THIS INDENTURE, made this 8th day of October 2021, between **SINA, LLC, a Florida limited liability company,** whose address is 7657 N.W. 50th Street, Miami, Florida 33166, hereinafter referred to as **GRANTOR**, and **BAY HARBOUR INVESTMENT, INC., a Florida corporation,** whose address is 3350 SW 148th Avenue, Suite 134, Miramar, Florida 33027, hereinafter referred to as **GRANTEE**.

WITNESSETH, that the **GRANTOR**, for and in consideration of the sum of Ten Dollars and 00/100 ($10.00) and other good and valuable consideration to **GRANTOR** in hand paid by **GRANTEE**, the receipt of whereof is hereby acknowledged, has granted, bargained and sold to the said **GRANTEE** and **GRANTEE'S** heirs and assigns forever, the following described land, situate, lying and being in the County of **Miami-Dade, State of Florida** to wit:

> **Lot 25, Block 3, BAY HARBOR ISLAND, according to the plat thereof as recorded in Plat Book 46, Page 5, Public Records of Miami-Dade County, Florida.**
>
> Subject to taxes for the year 2021 and subsequent years which are not yet due and payable and restrictions, limitations, easements and zoning regulations of record, without seeking to re-impose same.

TOGETHER WITH all the tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining.

TO HAVE AND TO HOLD, the same in fee simple forever.

AND, the GRANTOR hereby covenants with said GRANTEE that GRANTOR is lawfully seized of said property in fee simple, that the GRANTOR has good right and lawful authority to sell and convey said property; and that the GRANTOR hereby fully warrants the title to said property and will defend same against the lawful claims of all persons whomsoever.

[remainder of page intentionally left blank]

[signature, witnesses and notary appear on next page]

Signed, sealed and delivered in our presence:

Witnesses:

Print Name: Jessica Shemin

Print Name:

Sam Sami, Manager
Sadaf, LLC, a Florida limited liability company,
the Manager of SINA, LLC, a Florida limited
liability company

STATE OF FLORIDA)
COUNTY OF MIAMI-DADE)

Sworn to and subscribed before me by means of [X] physical presence or [___] online notarization, this 5th day of October 2021, by Sam Sami, as manager of Sadaf, LLC, a Florida limited liability company, as manager of Sina, LLC, a Florida limited liability company, who is personally known to me or who has produced _____ as identification.

NOTARY PUBLIC STATE OF FLORIDA

PRINTED NAME

My Commission Expires:

JOSEFINA A. MENDEZ
Notary Public - State of Florida
Commission # GG 308467
My Comm. Expires Jun 3, 2023
Bonded through National Notary Assn.

CFN: 20210907428 BOOK 32882 PAGE 4591
DATE:12/03/2021 10:55:06 AM
DEED DOC 27,000.00
SURTAX 20,250.00
HARVEY RUVIN, CLERK OF COURT, MIA-DADE CTY

Prepared by:
Mayrelys Iglesias, Paralegal
Law Office of Valeria Schvartzman, P.A.
12550 Biscayne Boulevard Suite 406
North Miami, FL 33181
File No. RE21457

Return to:
Law Offices of Grisel Morales, P.A.
7355 SW 87th Avenue, Suite 200
Miami, FL 33173
File No. 40770

[Space Above This Line For Recording Data]

Warranty Deed

This Warranty Deed made this 8th day of October, 2021 between **9740 W BAY HARBOR DR, LLC, a Delaware limited liability company** whose post office address is **12550 Biscayne Blvd., Suite 406, North Miami, FL 33181**, grantor, and **BAY HARBOUR INVESTMENT, INC, a Florida Corporation** whose post office address is **3350 SW 148TH AVE, SUITE 134, Miramar, FL 33027**, grantee:

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

Witnesseth, that said grantor, for and in consideration of the sum of TEN AND NO/100 DOLLARS ($10.00) and other good and valuable considerations to said grantor in hand paid by said grantee, the receipt whereof is hereby acknowledged, has granted, bargained, and sold to the said grantee, and grantee's heirs and assigns forever, the following described land, situate, lying and being in **Miami-Dade County, Florida** to-wit:

Lot 26, Block 3, BAY HARBOR ISLAND, according to the plat thereof as recorded in Plat Book 46, Page 5, Public Records of Miami-Dade County, Florida.

Parcel Identification Number: 13-2227-001-0730

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

To Have and to Hold, the same in fee simple forever.

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

In Witness Whereof, grantor has hereunto set grantor's hand and seal the day and year first above written.

Signed, sealed and delivered in our presence:

Witness Name: Mayrelys Iglesias

Witness Name: Jessica Arias

9740 W BAY HARBOR DR, LLC, a Delaware limited liability company

By: _____
Elias Sabbagh, Authorized Member

State of Florida
County of Miami-Dade

The foregoing instrument was acknowledged before me by means of [X] physical presence or [_] online notarization, this 4 day of Oct, 2021 by Elias Sabbagh, as Authorized Member of 9740 W BAY HARBOR DR, LLC, a Delaware limited liability company, on behalf of the company, who [_] is personally known to me or [X] has produced a driver's license as identification.

[Notary Seal]

MAYRELYS IGLESIAS
MY COMMISSION # GG 209909
EXPIRES: April 22, 2022
Bonded Thru Notary Public Underwriters

Notary Public

Printed Name: Mayrelys Iglesias

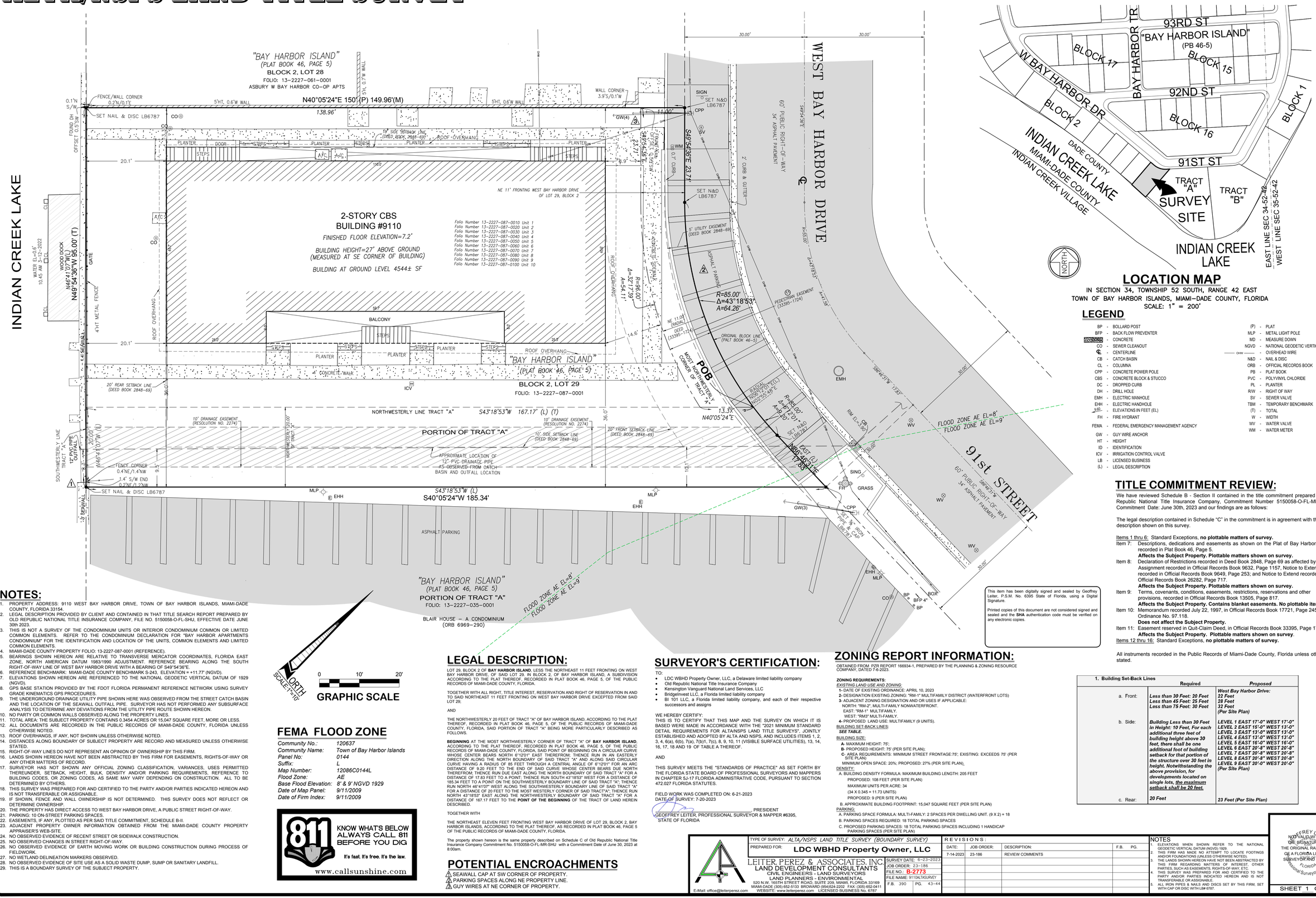
My Commission Expires: _____

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EXHIBIT E

DONOR PARCEL SURVEY

ALTA/NSPS LAND TITLE SURVEY



LOCATION MAP

IN SECTION 34, TOWNSHIP 52 SOUTH, RANGE 42 EAST
TOWN OF BAY HARBOR ISLANDS, MIAMI-DADE COUNTY, FLORIDA
SCALE: 1" = 200'

LEGEND

BP	-	BOLLARD POST
BFP	-	BACK FLOW PREVENTER
	-	CONCRETE
CO	-	SEWER CLEANOUT
℄	-	CENTERLINE
CB	-	CATCH BASIN
CL	-	COLUMNA
CPP	-	CONCRETE POWER POLE
CBS	-	CONCRETE BLOCK & STUCCO
DC	-	DROPPED CURB
DH	-	DRILL HOLE
EMH	-	ELECTRIC MANHOLE
EHH	-	ELECTRIC HANDHOLE
9.90	-	ELEVATIONS IN FEET (EL)
FH	-	FIRE HYDRANT
FEMA	-	FEDERAL EMERGENCY MANAGEMENT AGENCY
GW	-	GUY WIRE ANCHOR
HT	-	HEIGHT
ID	-	IDENTIFICATION
ICV	-	IRRIGATION CONTROL VALVE
LB	-	LICENSED BUSINESS
(L)	-	LEGAL DESCRIPTION
(P)	-	PLAT
MLP	-	METAL LIGHT POLE
MD	-	MEASURE DOWN
NGVD	-	NATIONAL GEODETIC VERTICAL DATUM 1929
OHW	-	OVERHEAD WIRE
N&D	-	NAIL & DISC
ORB	-	OFFICIAL RECORDS BOOK
PB	-	PLAT BOOK
PVC	-	POLYVINYL CHLORIDE
PL	-	PLANTER
R/W	-	RIGHT OF WAY
SV	-	SEWER VALVE
TBM	-	TEMPORARY BENCHMARK
(T)	-	TOTAL
W	-	WIDTH
WV	-	WATER VALVE
WM	-	WATER METER

NOTES:

1. PROPERTY ADDRESS: 9110 WEST BAY HARBOR DRIVE, TOWN OF BAY HARBOR ISLANDS, MIAMI-DADE COUNTY, FLORIDA 33154.
2. LEGAL DESCRIPTION PROVIDED BY CLIENT AND CONTAINED IN THAT TITLE SEARCH REPORT PREPARED BY OLD REPUBLIC NATIONAL TITLE INSURANCE COMPANY, FILE NO. 5150058-O-FL-SHU, EFFECTIVE DATE JUNE 30th 2023.
3. THIS IS NOT A SURVEY OF THE CONDOMINIUM UNITS OR INTERIOR CONDOMINIUM COMMON OR LIMITED COMMON ELEMENTS. REFER TO THE CONDOMINIUM DECLARATION FOR "BAY HARBOR APARTMENTS CONDOMINIUM" FOR THE IDENTIFICATION AND LOCATION OF THE UNITS, COMMON ELEMENTS AND LIMITED COMMON ELEMENTS.
4. MIAMI-DADE COUNTY PROPERTY FOLIO: 13-2227-087-0001 (REFERENCE).
5. BEARINGS SHOWN HEREON ARE RELATIVE TO TRANSVERSE MERCATOR COORDINATES, FLORIDA EAST ZONE, NORTH AMERICAN DATUM 1983/1990 ADJUSTMENT. REFERENCE BEARING ALONG THE SOUTH RIGHT-OF-WAY LINE OF WEST BAY HARBOR DRIVE WITH A BEARING OF S49°54'36"E.
6. REFERENCE BENCHMARK: MIAMI-DADE COUNTY BENCHMARK S-243, ELEVATION = +11.77' (NGVD).
7. ELEVATIONS SHOWN HEREON ARE REFERENCED TO THE NATIONAL GEODETIC VERTICAL DATUM OF 1929 (NGVD).
8. GPS BASE STATION PROVIDED BY THE FDOT FLORIDA PERMANENT REFERENCE NETWORK USING SURVEY GRADE KINEMATICS GPS PROCEDURES.
9. THE UNDERGROUND DRAINAGE UTILITY PIPE SHOWN HERE WAS OBSERVED FROM THE STREET CATCH BASIN AND THE LOCATION OF THE SEAWALL OUTFALL PIPE. SURVEYOR HAS NOT PERFORMED ANY SUBSURFACE ANALYSIS TO DETERMINE ANY DEVIATIONS FROM THE UTILITY PIPE ROUTE SHOWN HEREON.
10. NO PARTY OR COMMON WALLS OBSERVED ALONG THE PROPERTY LINES.
11. TOTAL AREA: THE SUBJECT PROPERTY CONTAINS 0.3454 ACRES OR 15,047 SQUARE FEET, MORE OR LESS.
12. ALL DOCUMENTS ARE RECORDED IN THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA UNLESS OTHERWISE NOTED.
13. ROOF OVERHANGS, IF ANY, NOT SHOWN UNLESS OTHERWISE NOTED.
14. DISTANCES ALONG BOUNDARY OF SUBJECT PROPERTY ARE RECORD AND MEASURED UNLESS OTHERWISE STATED.
15. RIGHT-OF-WAY LINES DO NOT REPRESENT AN OPINION OF OWNERSHIP BY THIS FIRM.
16. LANDS SHOWN HEREON HAVE NOT BEEN ABSTRACTED BY THIS FIRM FOR EASEMENTS, RIGHTS-OF-WAY OR ANY OTHER MATTERS OF RECORD.
17. SURVEYOR HAS NOT SHOWN ANY OFFICIAL ZONING CLASSIFICATION; VARIANCES, USES PERMITTED THEREUNDER, SETBACK, HEIGHT, BULK, DENSITY AND/OR PARKING REQUIREMENTS, REFERENCE TO BUILDING CODES; OR ZONING CODES, AS SAME MAY VARY DEPENDING ON CONSTRUCTION. ALL TO BE DETERMINED BY OTHERS.
18. THIS SURVEY WAS PREPARED FOR AND CERTIFIED TO THE PARTY AND/OR PARTIES INDICATED HEREON AND IS NOT TRANSFERABLE OR ASSIGNABLE.
19. IF SHOWN, FENCE AND WALL OWNERSHIP IS NOT DETERMINED. THIS SURVEY DOES NOT REFLECT OR DETERMINE OWNERSHIP.
20. THE PROPERTY HAS DIRECT ACCESS TO WEST BAY HARBOR DRIVE, A PUBLIC STREET RIGHT-OF-WAY.
21. PARKING: 10 ON-STREET PARKING SPACES.
22. EASEMENTS, IF ANY, PLOTTED AS PER SAID TITLE COMMITMENT, SCHEDULE B-II.
23. ADJACENT PROPERTY OWNER INFORMATION OBTAINED FROM THE MIAMI-DADE COUNTY PROPERTY APPRAISER'S WEB-SITE.
24. NO OBSERVED EVIDENCE OF RECENT STREET OR SIDEWALK CONSTRUCTION.
25. NO OBSERVED CHANGES IN STREET RIGHT-OF-WAY.
26. NO OBSERVED EVIDENCE OF EARTH MOVING WORK OR BUILDING CONSTRUCTION DURING PROCESS OF FIELDWORK.
27. NO WETLAND DELINEATION MARKERS OBSERVED.
28. NO OBSERVED EVIDENCE OF SITE USE AS A SOLID WASTE DUMP, SUMP OR SANITARY LANDFILL.
29. THIS IS A BOUNDARY SURVEY OF THE SUBJECT PROPERTY.

FEMA FLOOD ZONE

Community No.:	*120637*
Community Name:	*Town of Bay Harbor Islands*
Panel No:	*0144*
Suffix:	*L*
Map Number:	*12086C0144L*
Flood Zone:	*AE*
Base Flood Elevation:	*8' & 9' NGVD 1929*
Date of Map Panel:	*9/11/2009*
Date of Firm Index:	*9/11/2009*

811 KNOW WHAT'S BELOW ALWAYS CALL 811 BEFORE YOU DIG
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www.callsunshine.com

LEGAL DESCRIPTION:

LOT 29, BLOCK 2 OF **BAY HARBOR ISLAND**, LESS THE NORTHEAST 11 FEET FRONTING ON WEST BAY HARBOR DRIVE, OF SAID LOT 29. IN BLOCK 2, OF BAY HARBOR ISLAND, A SUBDIVISION ACCORDING TO THE PLAT THEREOF, RECORDED IN PLAT BOOK 46, PAGE 5, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA.

TOGETHER WITH ALL RIGHT, TITLE INTEREST, RESERVATION AND RIGHT OF RESERVATION IN AND TO SAID NORTHEAST 11 FEET FRONTING ON WEST BAY HARBOR DRIVE EXCEPTED FROM SAID LOT 29;

AND

THE NORTHWESTERLY 20 FEET OF TRACT "A" OF BAY HARBOR ISLAND, ACCORDING TO THE PLAT THEREOF, RECORDED IN PLAT BOOK 46, PAGE 5, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA, SAID PORTION OF TRACT "A" BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS.

BEGINNING AT THE MOST NORTHWESTERLY CORNER OF TRACT "A" OF **BAY HARBOR ISLAND**, ACCORDING TO THE PLAT THEREOF, RECORDED IN PLAT BOOK 46, PAGE 5, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA, SAID POINT OF BEGINNING ON A CIRCULAR CURVE WHOSE CENTER BEARS NORTH 6°12'01" EAST THEREFROM; THENCE RUN IN AN EASTERLY DIRECTION ALONG THE NORTH BOUNDARY OF SAID TRACT "A" AND ALONG SAID CIRCULAR CURVE HAVING A RADIUS OF 85 FEET THROUGH A CENTRAL ANGLE OF 6°12'01" FOR AN ARC DISTANCE OF 9.20 FEET TO THE END OF SAID CURVE WHOSE CENTER BEARS DUE NORTH THEREFROM; THENCE RUN DUE EAST ALONG THE NORTH BOUNDARY OF SAID TRACT "A" FOR A DISTANCE OF 17.83 FEET TO A POINT; THENCE RUN SOUTH 43°18'53" WEST FOR A DISTANCE OF 185.34 FEET TO A POINT ON THE SOUTHWESTERLY BOUNDARY LINE OF SAID TRACT "A"; THENCE RUN NORTH 46°41'07" WEST ALONG THE SOUTHWESTERLY BOUNDARY LINE OF SAID TRACT "A" FOR A DISTANCE OF 20 FEET TO THE MOST WESTERLY CORNER OF SAID TRACT"A"; THENCE RUN NORTH 43°18'53" EAST ALONG THE NORTHWESTERLY BOUNDARY OF SAID TRACT "A" FOR A DISTANCE OF 167.17 FEET TO THE **POINT OF THE BEGINNING** OF THE TRACT OF LAND HEREIN DESCRIBED.

TOGETHER WITH

THE NORTHEAST ELEVEN FEET FRONTING WEST BAY HARBOR DRIVE OF LOT 29, BLOCK 2, BAY HARBOR ISLANDS, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 46, PAGE 5 OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA.

The property shown hereon is the same property described on Schedule C of Old Republic National Title Insurance Company Commitment No. 5150058-O-FL-MR-SHU with a Commitment Date of June 30, 2023 at 8:00am.

POTENTIAL ENCROACHMENTS

⚠ SEAWALL CAP AT SW CORNER OF PROPERTY.
⚠ PARKING SPACES ALONG NE PROPERTY LINE.
⚠ GUY WIRES AT NE CORNER OF PROPERTY.

SURVEYOR'S CERTIFICATION:

TO:

- LDC WBHD Property Owner, LLC, a Delaware limited liability company
- Old Republic National Title Insurance Company
- Kensington Vanguard National Land Services, LLC
- BridgeInvest LLC, a Florida limited liability company
- BI 101 LLC, a Florida limited liability company, and each of their respective successors and assigns

WE HEREBY CERTIFY:
THIS IS TO CERTIFY THAT THIS MAP AND THE SURVEY ON WHICH IT IS BASED WERE MADE IN ACCORDANCE WITH THE "2021 MINIMUM STANDARD DETAIL REQUIREMENTS FOR ALTA/NSPS LAND TITLE SURVEYS", JOINTLY ESTABLISHED AND ADOPTED BY ALTA AND NSPS, AND INCLUDES ITEMS 1, 2, 3, 4, 6(a), 6(b), 7(a), 7(b)1, 7(c), 8, 9, 10, 11 (VISIBLE SURFACE UTILITIES), 13, 14, 16, 17, 18 AND 19 OF TABLE A THEREOF.

AND

THIS SURVEY MEETS THE "STANDARDS OF PRACTICE" AS SET FORTH BY THE FLORIDA STATE BOARD OF PROFESSIONAL SURVEYORS AND MAPPERS IN CHAPTER 5J-17 FLORIDA ADMINISTRATIVE CODE, PURSUANT TO SECTION 472.027 FLORIDA STATUTES.

FIELD WORK WAS COMPLETED ON: 6-21-2023
DATE OF SURVEY: 7-20-2023

_____, PRESIDENT
GEOFFREY LEITER, PROFESSIONAL SURVEYOR & MAPPER #6395,
STATE OF FLORIDA

ZONING REPORT INFORMATION:

OBTAINED FROM .PZR REPORT 166934-1, PREPARED BY THE PLANNING & ZONING RESOURCE COMPANY, DATED 7-8-2023.

ZONING REQUIREMENTS:
EXISTING LAND USE AND ZONING:
1- DATE OF EXISTING ORDINANCE: APRIL 10, 2023
2- DESIGNATION EXISTING ZONING: "RM-1" MULTIFAMILY DISTRICT (WATERFRONT LOTS)
3- ADJACENT ZONING DESIGNATION AND OR USES IF APPLICABLE:
NORTH: "RM-2", MULTI-FAMILY NONWATERFRONT.
EAST: "RM-1" MULTIFAMILY
WEST: "RMO" MULTI-FAMILY.
4- PROPOSED LAND USE: MULTIFAMILY (9 UNITS).

BUILDING SET-BACK LINES:
SEE TABLE.

BUILDING SIZE:
A- MAXIMUM HEIGHT: 75';
B- PROPOSED HEIGHT: 75' (PER SITE PLAN);
C- AREA REQUIREMENTS: MINIMUM STREET FRONTAGE:75'; EXISTING: EXCEEDS 75' (PER SITE PLAN)
MINIMUM OPEN SPACE: 20%; PROPOSED: 27% (PER SITE PLAN),

DENSITY:
A. BUILDING DENSITY FORMULA: MAXIMUM BUILDING LENGTH: 205 FEET
PROPOSED: 108 FEET (PER SITE PLAN)
MAXIMUM UNITS PER ACRE: 34
(34 X 0.345 = 11.73 UNITS)
PROPOSED: 9 (PER SITE PLAN)
B. APPROXIMATE BUILDING FOOTPRINT: 15,047 SQUARE FEET (PER SITE PLAN)

PARKING:
A. PARKING SPACE FORMULA: MULTI-FAMILY: 2 SPACES PER DWELLING UNIT. (9 X 2) = 18
B. PARKING SPACES REQUIRED: 18 TOTAL PARKING SPACES
C. PROPOSED PARKING SPACES: 18 TOTAL PARKING SPACES INCLUDING 1 HANDICAP PARKING SPACES (PER SITE PLAN)

1. Building Set-Back Lines	Required	Proposed
a. Front:	***Less than 30 Feet: 20 Feet*** ***Less than 45 Feet: 25 Feet*** ***Less than 75 Feet: 30 Feet***	***West Bay Harbor Drive:*** ***22 Feet*** ***28 Feet*** ***32 Feet*** ***(Per Site Plan)***
b. Side:	***Building Less than 30 Feet in Height: 10 Feet, For each additional three feet of building height above 30 feet, there shall be one additional foot of building setback for that portion of the structure over 30 feet in height. Notwithstanding the above provision, for developments located on single lots, the maximum setback shall be 20 feet.***	***LEVEL 1 EAST 17'-0" WEST 17'-0"*** ***LEVEL 2 EAST 15'-0" WEST 13'-0"*** ***LEVEL 3 EAST 13'-0" WEST 13'-0"*** ***LEVEL 4 EAST 13'-0" WEST 13'-0"*** ***LEVEL 5 EAST 16'-0" WEST 16'-0"*** ***LEVEL 6 EAST 20'-8" WEST 20'-8"*** ***LEVEL 7 EAST 20'-8" WEST 20'-8"*** ***LEVEL 8 EAST 20'-8" WEST 20'-8"*** ***LEVEL 9 EAST 20'-0" WEST 20'-0"*** ***(Per Site Plan)***
c. Rear:	***20 Feet***	***23 Feet (Per Site Plan)***

This item has been digitally signed and sealed by Geoffrey Leiter, P.S.M. No. 6395 State of Florida, using a Digital Signature.

Printed copies of this document are not considered signed and sealed and the **SHA** authentication code must be verified on any electronic copies.

TITLE COMMITMENT REVIEW:

We have reviewed Schedule B - Section II contained in the title commitment prepared by Old Republic National Title Insurance Company, Commitment Number 5150058-O-FL-MR-SHU, Commitment Date: June 30th, 2023 and our findings are as follows:

The legal description contained in Schedule "C" in the commitment is in agreement with the legal description shown on this survey.

Items 1 thru 6: Standard Exceptions, **no plottable matters of survey.**
Item 7: Descriptions, dedications and easements as shown on the Plat of Bay Harbor Island, recorded in Plat Book 46, Page 5.
Affects the Subject Property. Plottable matters shown on survey.
Item 8: Declaration of Restrictions recorded in Deed Book 2848, Page 69 as affected by: the Assignment recorded in Official Records Book 9632, Page 1157, Notice to Extend recorded in Official Records Book 9649, Page 253; and Notice to Extend recorded in Official Records Book 26282, Page 717.
Affects the Subject Property. Plottable matters shown on survey.
Item 9: Terms, covenants, conditions, easements, restrictions, reservations and other provisions, recorded in Official Records Book 13505, Page 817.
Affects the Subject Property. Contains blanket easements. No plottable items.
Item 10: Memorandum recorded July 22, 1997, in Official Records Book 17721, Page 2454, of Ordinance No. 97.118.
Does not affect the Subject Property.
Item 11: Easement reserved in Quit-Claim Deed, in Official Records Book 33395, Page 1724.
Affects the Subject Property. Plottable matters shown on survey.
Items 12 thru 16: Standard Exceptions, **no plottable matters of survey.**

All instruments recorded in the Public Records of Miami-Dade County, Florida unless otherwise stated.

E-Mail: office@leiterperez.com
TYPE OF SURVEY: *ALTA/NSPS LAND TITLE SURVEY (BOUNDARY SURVEY)*
PREPARED FOR: **LDC WBHD Property Owner, LLC**
LEITER, PEREZ & ASSOCIATES, INC.
LAND DEVELOPMENT CONSULTANTS
CIVIL ENGINEERS - LAND SURVEYORS
LAND PLANNERS - ENVIRONMENTAL
520 N.W. 165TH STREET ROAD, SUITE 209, MIAMI, FLORIDA 33169
MIAMI-DADE (305) 652-5133 BROWARD (954)524-2202 FAX: (305) 652-0411
WEBSITE: www.leiterperez.com LICENSED BUSINESS No. 6787

SURVEY DATE: 6-23-2023
JOB ORDER: 23-186
FILE NO.: B-2773
FILE NAME: 9110ALTASURVEY
F.B. 390 PG. 43-44

REVISIONS:			
DATE:	JOB ORDER:	DESCRIPTION:	F.B. PG.
7-14-2023	23-186	REVIEW COMMENTS	

NOTES
1. ELEVATIONS WHEN SHOWN REFER TO THE NATIONAL GEODETIC VERTICAL DATUM (NGVD) 1929.
2. THIS FIRM HAS MADE NO ATTEMPT TO LOCATE FOOTINGS AND/OR FOUNDATIONS (UNLESS OTHERWISE NOTED).
3. THE LANDS SHOWN HEREON HAVE NOT BEEN ABSTRACTED BY THIS FIRM REGARDING MATTERS OF INTEREST, OTHER PARTIES, SUCH AS EASEMENTS, RIGHTS-OF-WAY, ETC.
4. THIS SURVEY WAS PREPARED FOR AND CERTIFIED TO THE PARTY AND/OR PARTIES INDICATED HEREON AND IS NOT TRANSFERABLE OR ASSIGNABLE.
5. ALL IRON PIPES & NAILS AND DISCS SET BY THIS FIRM, SET WITH CAP OR DISC WITH LB# 6787.

NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER. GEOFFREY LEITER STATE OF FLORIDA PROFESSIONAL SURVEYOR AND MAPPER

SHEET 1 OF 1

FILE: C:\Projects\Incoming\23-186 9110 West Bay Bay Harbor Drive ALTA Survey\23-186 9110 West Bay Harbor Dr Survey ALTA Survey 7-20-2023.dwg
DATE: Jul 20, 2023 - 3:15pm EST

EXHIBIT F

RECEIVING PARCEL SURVEY

GRAPHIC SCALE

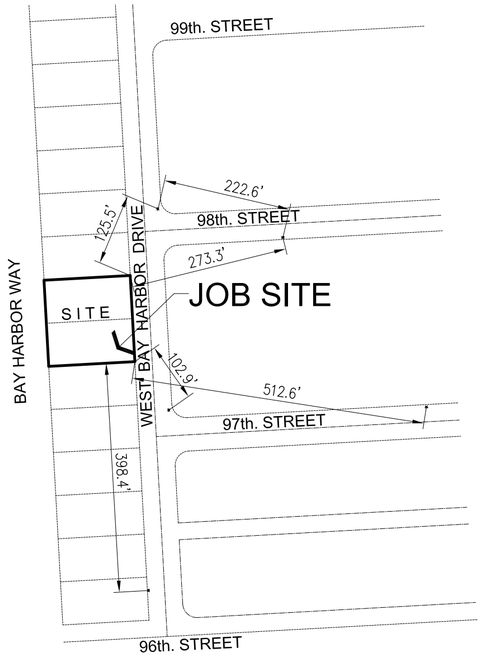
20' 0 10' 20' 40' 80'

(IN FEET)
1 inch = 20 ft.



TREE TABULATION:

TREE ID #	TYPE (COMMON NAME)	DIAMETER (IN) @ 4.5' (BREAST HEIGHT)	HEIGHT (OAH) FT	CANOPY (CAO) FT
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95	PALM	3	20	5
96	PALM	4	20	5
97	PALM	3	20	5
98	PALM	3	20	5
99	TREE	7	20	15
100	PALM	12	15	15
101	PALM	12	15	15
102	TREE	7	18	15
103	PINE	32	60	15
104	PALM	21	18	15
105	PALM	18	18	15
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115	PALM	6	15	5
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121	PALM	3	10	5
122	PALM	3	8	5
123	PALM	3	8	5
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125	COCONUT	6	20	15
126	COCONUT	11	30	15
127	COCONUT	9	25	15
128	COCONUT	10	15	15
129	COCONUT	11	15	15
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VICINITY MAP/ FIRE HYDRANT LOCATION

NOT TO SCALE
PORTION SECTION 27-52S-42E

SURVEYOR'S NOTES:

1- The Legal Description was provided by the Client from most recent County Records available.

2- This is not a Certification of Title, Zoning, Easements, or Freedom of Encumbrances. ABSTRACT NOT REVIEWED.

3- There may be additional Restrictions not shown on this survey that may be found in the Public Records of this County, Examination of ABSTRACT OF TITLE will have to be made to determine recorded instruments, if any affecting this property.

4- No attempt was made by this firm to locate underground utilities, foundations and/or footings of buildings, walls or fences, except as shown hereon, if any.

5- Underground utilities are not depicted hereon, contact the appropriate authority prior to any design work or construction on the property herein described. Surveyor shall be notified as to any deviation from utilities shown hereon.

6- Contact the appropriate authority prior to any design work on the herein - described parcel for Building and Zoning information.

7- The surveyor does not determine fence and/or wall ownership.

8- Accuracy:
The Horizontal positional accuracy of well-defined improvement on this survey is +/-0.2'.
The Vertical accuracy of elevations of well-defined improvement on this survey is +/-0.1'

9- All measurements shown hereon are made in accordance with the United States Standard Feet.

10- Type of survey SKETCH OF SURVEY.

11- North arrow direction is based on an assumed meridian as shown on the aforementioned Plat.

12- Elevations shown hereon are relative to National Geodetic Vertical Datum (1929 Mean Sea Level)

13- Benchmark Used: Miami-Dade County Benchmark #R-243. Elevation = +6.61'.

14- Flood Zone Data: Community/ Panel #120637/0144/L Dated: 9/11/09 Flood Zone: "AE" Base Flood Elevation = +8.0'

15- This SURVEY has been prepared for the exclusive use of the entities named hereon. The Certificate does not extend to any unnamed party:

- BAY HARBOR INVESTMENT INC.

LEGEND

- OH — OH — Overhead Wire Line
- // — // — Wood Fence
- x — x — Chain Link Fence
- Iron Fence
- Monument Line
- Centerline
- PL Property Line

A = Arc
BRG = Bearing
CH = Chord
Δ = Delta
L = Length
R = Radius
T = Tangent
Ø = Diameter

x 0.00' = Existing Elevations
CB = Catch Basin
W = Water Meter
E = Electric Box
S = Sanitary Manhole
SP = Sprinkler Pump
= Wood Pole
= Conc. Pole
= Light Pole
= Fire Hydrant
= Water Valve
= Inlet
TV = Cable Tv Box
EM = Electric Meter Box
= Traffic Signal Box
= Gas Valve
= Monitoring Valve
M = Manhole

A/C = Air Conditioner
Conc. = Concrete
C.B.S. = Concrete Block & Stucco
(D) = Deed
D.E. = Drainage Easement
D.M.E. = Drainage Maintenance Easement
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PROPERTY ADDRESS:

9740-9760 W BAY HARBOR DRIVE, BAY HARBOR ISLANDS, FL 33154
Folio# 13-2227-001-0730, 13-2227-001-0720

LEGAL DESCRIPTION

Lots 25 and 26, in Block 3, of "BAY HARBOR ISLAND", according to the Plat thereof, as recorded in Plat Book 46, Page 5, of the Public Records of Miami-Dade County, Florida.

SURVEYOR'S CERTIFICATE:

I HEREBY CERTIFY:
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Not valid without the signature and the original raised seal of a Florida Licensed Surveyor and Mapper. Additions or deletions to this survey by other than the signing party are prohibited without written consent of the signing party.

For the Firm Royal Point Land Surveyors, Inc LB# 7282

☐ JACOB GOMIS, PROFESSIONAL SURVEYOR AND MAPPER LS# 6231 STATE OF FLORIDA

☐ PABLO J. ALFONSO, PROFESSIONAL SURVEYOR AND MAPPER LS# 5880 STATE OF FLORIDA

This Document is not full and complete without all Sheets, Containing a total of (1) Sheets

NO.	DATE	DESCRIPTION	BY	APP.

RECORD OF REVISIONS

ROYAL POINT
LAND SURVEYORS, INC. L.B.# 7282
info@RoyalPointLS.com
6175 NW 153rd STREET, SUITE 321, MIAMI LAKES, FL. 33014 *** TEL: 305-822-6062 *** FAX.305-827-9669

TYPE OF SURVEY: SKETCH OF SURVEY

PREPARED FOR: BAY HARBOR INVESTMENT INC.

DRAWN: MEB.
CHECKED: P.J.A.
SCALE: AS NOTED
FIELD DATE: 04/07/2023
JOB No.:RP23-0413

SHEET: 1 OF 1 SHEET

F:\DRAWING\9740-9760 W BAY HARBOR DRIVE_FIRE HYDRANTS_RP23-0413.dwg 4/10/2023

GRAPHIC SCALE

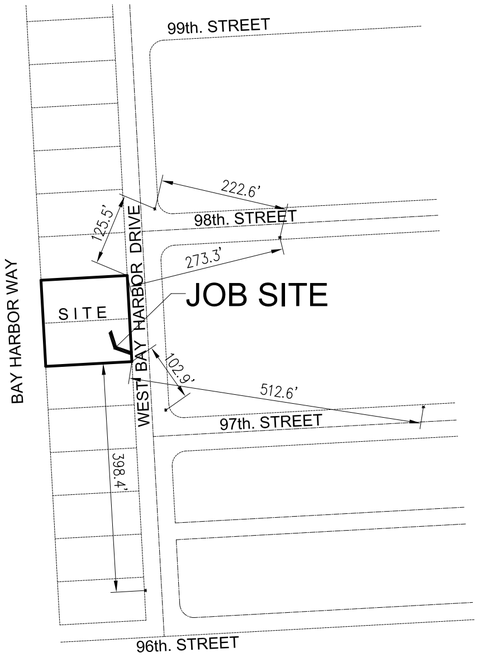
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NOT TO SCALE

PORTION SECTION 27-52S-42E

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Folio# 13-2227-001-0730, 13-2227-001-0720

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NO.	DATE	DESCRIPTION	BY	APP.

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LAND SURVEYORS, INC. L.B.# 7282
6175 NW 153rd STREET, SUITE 321, MIAMI LAKES, FL. 33014 *** TEL: 305-822-6062 *** FAX.305-827-9669
info@RoyalPointLS.com

TYPE OF SURVEY: SKETCH OF SURVEY

PREPARED FOR: BAY HARBOR INVESTMENT INC.

DRAWN: MEB.

CHECKED: P.J.A.

SCALE: AS NOTED

FIELD DATE: 08/14/2023

JOB No.:RP23-1054

SHEET: 1

OF 1 SHEET

F:\DRAWING\9740-9760 W BAY HARBOR DRIVE_UPDATE_RP23-1054.dwg 8/15/2023

TOWN OF BAY HARBOR ISLANDS
CODE COMPLIANCE DIVISION
9665 BAY HARBOR TERRACE
BAY HARBOR ISLANDS, FL 33154
Phone: (305) 993-1786

COURTESY NOTICE

Date: March 08, 2022 Officer's Name: Evelyn Merizalde
File Number: 19-002044
Property Address: 9110 West Bay Harbor Drive

After a recent inspection of your property we have observed a code violation(s) and we are asking you to please correct them on or before the **9th day of May, 2022**. If you have any questions please contact our office at 305-993-1786. Office hours are Monday thru Friday from 8:00 a.m. to 3:30 p.m. **Failure to address this Notice will result in the issuance of a Notice of Violation. Notice of Violations not corrected within the time allotted will result in fines accruing daily.**

The following code violations were observed:

The Town hired Chen, Moore & Associates to inspect all the seawalls and found the seawall in poor condition. The inspection took place in April 2018

Code: Sec. 23-12(11)
Violation: It shall be unlawful and a public nuisance for any property owner in the town to permit, or to fail to repair or reconstruct, any failed seawall upon his property. It is further declared unlawful and a public nuisance for any property owner to fail to remove from his property or an adjacent body of water the debris and rubble of any failed seawall. Daily Penalty $50.00

Corrective Action: Please review the attached 2018 Seawall Resiliency Report. Hire a licensed contractor to repair the seawall, permit required. Contact the Building Department at (305) 993-1786 for questions or concerns regarding the permit process.

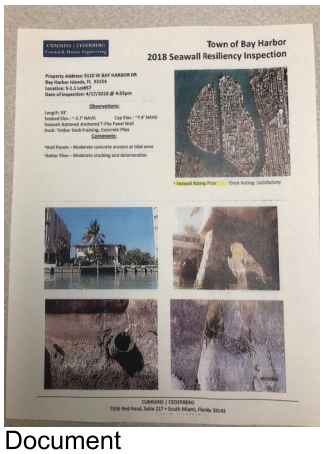
Please be aware that a building permit may be required for some of the repairs noted above. Contact the Building Department (305) 993-1786 to inquire. Doing work without a permit is also a violation punishable by the Town Code.

Thank you in advance for your cooperation.



Evelyn Merizalde
Code Compliance Supevisor
(786) 256-4347
emerizalde@bayharborislands-fl.gov

ADDENDUM



Town of Bay Harbor
2018 Seawall Resiliency Inspection

Property Address: 9110 W BAY HARBOR DR
Bay Harbor Islands, FL 33154
Location: S-3.1 Lot#27
Date of Inspection: 4/17/2018 @ 4:55pm

Observations:

Length: 93'
Seabed Elev.: ~-3.7' NAVD Cap Elev.: ~7.4' NAVD
Seawall: Battered Anchored T-Pile Panel Wall
Dock: Timber Dock Framing, Concrete Piles

Comments:

•Wall Panels – Moderate concrete erosion at tidal zone
•Batter Piles – Moderate cracking and deterioration

•Seawall Rating Poor •Dock Rating: Satisfactory

CUMMINS | CEDERBERG
7550 Red Road, Suite 217 • South Miami, Florida 33143

Document
Evelyn Merizalde
Mar 08, 2022

CUMMINS | CEDERBERG
Coastal & Marine Engineering

Town of Bay Harbor
2018 Seawall Resiliency Inspection

Property Address: 9110 W BAY HARBOR DR
Bay Harbor Islands, FL 33154
Location: S-1.1 Lot#57
Date of Inspection: 4/17/2018 @ 4:55pm



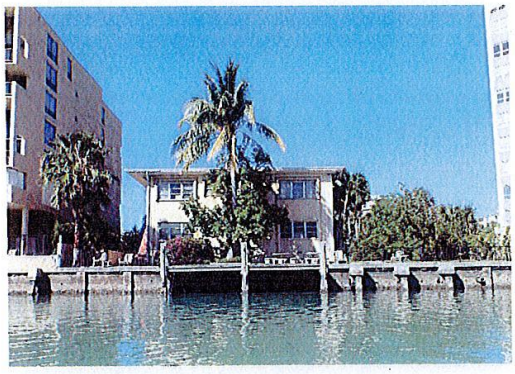
Observations:

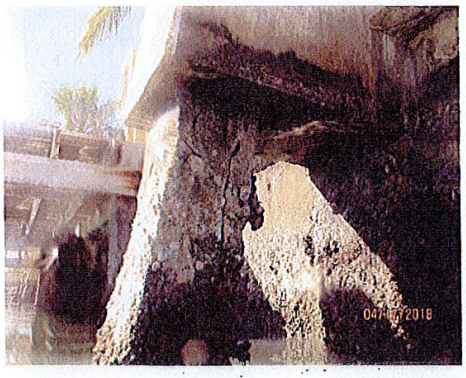
Length: 93'
Seabed Elev.: ~-3.7' NAVD Cap Elev.: ~7.4' NAVD
Seawall: Battered Anchored T-Pile Panel Wall
Dock: Timber Dock Framing, Concrete Piles

Comments:

- Wall Panels – Moderate concrete erosion at tidal zone
- Batter Piles – Moderate cracking and deterioration

- Seawall Rating: Poor
- Dock Rating: Satisfactory









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info@CumminsCederberg.com • www.CumminsCederberg.com

Yvonne Hamilton

From: Evelyn Merizalde
Sent: Monday, October 16, 2023 10:15 AM
To: Ayanidys Martinez; Scherrie Griffin
Subject: RE: TDR23-000010 / 9110 West Bay Harbor Drive
Attachments: seawall letter 9110WBHD 3.19 (1).pdf

GOOD MORNING,

BELOW IS A PENDING COURTESY NOTICE FOR THE SEAWALL AT 9110 WEST BAY HARBOR DRIVE.

FILE #: 19-002044
9110 WEST BAY HARBOR DRIVE BAY HARBOR ISLANDS FL 33154-0000
THE TOWN HIRED CHEN, MOORE & ASSOCIATES TO INSPECT ALL THE SEAWALLS AND FOUND THE SEAWALL IN POOR CONDITION. THE INSPECTION TOOK PLACE IN APRIL 2018

19-002044	Open	03/08/2022		Sec. 23-12(11)	Failure to repair a fai

Thank you,

Evelyn Merizalde
Code Compliance Supervisor
Town of Bay Harbor Islands
9665 Bay Harbor Terrace 2nd Floor
Bay Harbor Islands, FL 33154
Office: (305) 993-1786
Mobile: (786) 256-4347
emerizalde@bayharborislands-fl.gov
www.bayharborislands-fl.gov

Please note: Florida has a very broad public records law. Most written communications to or from public agencies regarding government business are considered to be public records and will be made available to the public and the media upon request. Therefore, your e-mail message is subject to public disclosure.

From: Ayanidys Martinez <amartinez@bayharborislands-fl.gov>
Sent: Monday, October 16, 2023 9:21 AM
To: Evelyn Merizalde <emerizalde@bayharborislands-fl.gov>; Scherrie Griffin <sgriffin@bayharborislands-fl.gov>
Subject: TDR23-000010 / 9110 West Bay Harbor Drive

Evelyn / Scherrie

We are in receipt of a TDR application for the donor site 9110 West Bay Harbor Drive. The building department has an application for this property to be demolish. No inspections will be required from the building department.

Please advise if Code Compliance has any open violations , fines, etc. pending for this property.

Thank you.

Ayanidys J Martinez, CEP
Building and Zoning Supervisor
Town of Bay Harbor Islands
9665 Bay Harbor Terrace, 2nd Floor

Bay Harbor Islands, Florida 33154
Office: (305) 993-1786
Mobile: (786) 256-3011
Office Hours: Monday thru Friday
8:00am thru 3:30pm
Website: https://www.bayharborislands-fl.gov
Email: amartinez@bayharborislands-fl.gov

Please note: Florida has a very broad public records law. Most written communications to or from public agencies regarding government business are considered to be public records and will be made available to the public and the media upon request. Therefore, your e-mail message is subject to public disclosure.

AGENDA ITEM REPORT

November 8, 2023

ITEM NUMBER: 18.

ITEM: Consideration and **Approval** of a TDR transaction for the transfer of six (6) TDR units from the Town-owned "pool" of TDR units to the future Origin Multifamily Development project to be located at 9740-9760 West Bay Harbor Drive. Enclosed are the Town Planner's Staff Report, the TDR application package, and applicant's Letter of Intent.

DESCRIPTION:
The Receiving site (Proposed Origin MFR) was granted a Site Development Plan approval by the Town's Design Review Board (DRB) on October 18, 2022, for a total of 27 DU. The survey submitted for the project shows that the 2-lot site comprises 22,500 sq. ft. / .52 acres. Therefore, the allowable base zoning density of 34 DUA would allow for 18 DU on the receiving site (.52 acres X 34 DUA= 17.56 or 18 DU). Since the proposed project includes 27 total dwelling units, this requires the acquisition of 9 TDR units to construct the project.

Michael Miller, PA (MMPA), Town Planner, recommends the Town Council think seriously about the long-term consequences of large quantity public TDR sales and consider not approving the applicant's TDR request as submitted, despite their obvious efforts. There is an abundance of private TDRs available - in our opinion the Town should not keep selling the remaining short supply of Town-owned TDRs just because it is difficult to acquire private TDR units at this time, and despite the Town's current need for funds for major capital expenditures. Once the public TDRs are sold, unless the State *I* RPC approves otherwise and the Comprehensive Plan / Code is changed, only private TDRs will remain. Others have been successful in acquiring their required TDRs from private landowners. If this request is allowed, our records show only 49 remaining Town-owned TDRs will be left in the East Island MFR account.

Town Planner's Suggested Condition - TDR allocations are meant for site specific allocations and the intention is the development will move forward in a timely manner. TDR units cannot be "banked" by a party. Once a Site Development Plan is approved by the Town, a building permit must be requested by a time certain (1 year) but extensions may be granted. MMPA suggests the Town Resolution include a "reverter" clause that provides that if the project does not proceed within a specified time period, or the TDR sale does not close prior to the issuance of building permits, which is necessary to finalize for a building permit for 27 DU, the Town's approval is null and void.

Donor: Town of Bay Harbor Islands
Receiving Site: 9740-9760 West Bay Harbor Drive
Number of units to be transferred: 6

All required information was submitted as required by Section 23-22.2 of the Town Code.

If the Town Council approves the private TDR Transaction Staff recommends the Town Attorney prepare a resolution setting forth the approval and/or recommendations.

RECOMMENDED ACTION:

Council's Discretion

FINANCIAL ANALYSIS:
The transfer of six (6) Developmental Rights (TDR) units from the Town-owned "pool" of TDR units to the future Origin Multi-Family Development project will produce $750,000.00 (6@$125,000) of TDR revenues for the Town coffers. These revenues were not budgeted for FY 2023-2024, and the Budget Amendment might be necessary at the end of the Fiscal Year.

BUDGET IMPACT:

Submitted By: Yvonne Hamilton, Town Clerk

ATTACHMENTS

1.	BHI Public TDR App - 9740-60 WBHD- TC Staff Report Oct 23 2023 (003)
2.	TDR23-000011 Application (3 Town TDRs) Packet (004)

MICHAEL MILLER PLANNING ASSOCIATES, INC.
Land Design Municipal Planning Services Transportation Planning

TOWN OF BAY HARBOR ISLANDS COMMUNITY DEVELOPMENT MEMORANDUM

To: Yvonne Hamilton, CMC – Town Clerk
Ayanidys Martinez, CEP – Building & Zoning Supervisor
Town of Bay Harbor Islands

CC: Maria Lasday – Town Manager
Mike Mesa - Town Building Official
Joseph S. Geller, Esq. – Town Attorney

From: Michael J. Miller, AICP
Consultant Town Planner MJM

Date: October 23rd, 2023

Subject: Transfer of Development Rights (TDR) Application
Origin Multifamily Development – 27 Total DU
9740-9760 West Bay Harbor Drive
TDR Donor – Town of Bay Harbor Islands (Public)
Bay Harbor Islands Acct. No.: TDR23-000011
MMPA Acct. No. 01-0702-1135

ISSUE

TDR Request – Six (6) Public "Town-Owned" Dwelling Units (DU)

Donor: Town of Bay Harbor Islands

Receiving Site: 9740-97600 W. Bay Harbor Drive / Lots 25 & 26 of Block 3 (Future Origin MFR)

In response to the Town's request for our firm's analysis of the lands proposed to be involved with the above referenced TDR application requesting approval of the transfer (sale) of six (6) public TDR units, following is our analysis.

Our records indicate the **RECEIVING** site (Proposed Origin MFR) was granted a Site Development Plan approval by the Town's Design Review Board (DRB) on October 18th, 2022, for a total of 27 DU. The survey submitted for the project shows that the 2-lot site comprises 22,500 sq. ft. / .517 acres. Therefore, the allowable base zoning density of 34 DUA would allow for 18 DU on the receiving site (.52 acres X 34 DUA = 17.56 or 18 DU). Since the proposed project includes 27 total dwelling units this requires the acquisition of 9 TDR units to construct the project.

To date, the developer has not acquired any TDR units but is desirous of obtaining all of the necessary TDRs to proceed with the development. The Town recently received two (2) TDR applications for this future development site – one public (this application for 6 Town-owned TDR units) and one private (for 3 private TDR units). MMPA will be providing separate TDR staff reports for each of the TDR applications.

DONOR – Town of Bay Harbor Islands East Island Multifamily Residential TDR "Account".

Town TDR Price = $125,000 each DU / total = $750,000

RECEIVING SITE - The current property owner / developer, Bay Harbor Investment, Inc., submitted a Site Development Plan application to the Town in mid-2022 to allow for the construction of a twenty-seven (27) dwelling unit mid-rise residential development. The proposed dwelling units range from 1,491 to 2,328 square feet of A/C space plus balconies, etc. The proposed site design incorporates one (1) square-shaped building on top of a 2-story parking garage structure that is at grade (lowest level). The site design proposes 2 two-way driveway connections to West Bay Harbor Drive – one at the northern portion of the site and the other at the southern portion of the site. The southern driveway provides access to two (2) guest parking spaces (one is ADA space) in the front yard area as well as the lower level of the parking garage. The northern driveway provides access to the second level of the parking garage. A guest parking space will serve as the lobby drop-off area per Sec. 23-24(d)(5) as well a guest / delivery space.

On the building rooftop is a recreational facility with a swimming pool, spa, bar, pool cabanas, outside dining areas, men's and women's restrooms. The proposed new building is 7-stories in height; five (5) floors of residential use over two (2) floor of parking / common areas / building lobby @ 65-feet above BFE + 1' FBC Freeboard. It is noted the 2nd Level includes both parking garage areas (west) and the building lobby / offices / amenities / service areas (east).

According to the survey submitted, both lots are currently vacant. Town records indicate that the lots were previously developed with a duplex (2 DU) and an eight (8) DU residential complex for a total of 10 DU. Therefore, the net increase would be seventeen (17) DU. The survey indicates the total lot area is 22,500 square feet / 0.517 acres in size. This would allow a maximum of eighteen (18) dwelling units on the property at the maximum allowable base density (34 DUA). The proposal is to build twenty-seven (27) dwelling units (57.7 DUA) which would require the developer to acquire nine (9) TDR units. It appears from the survey that no right-of-way (11') for on-street parking was ever dedicated to the Town, so the lots are "full" lots.

If the Town Council approves this request for six (6) public TDR units an additional three (3) TDR units will be necessary to build the project. As mentioned, a companion TDR application was filed to acquire the remaining three (3) TDR units from a private property owner (9110 WBHD). MMPA will provide a separate staff report for the private TDR sale.

As related to public Town TDR applications no site inspections are necessary.

OPTIONS / ACTIONS

Review the contents of this staff report and, if the Town Council agrees to the request, favorably consider the applicant's request to acquire six (6) public TDR units from the Town. Conversely, if the Town Council does not like the project or does not want to sell its TDR units, deny the request. It is noted this request seeks an exception from the Town's 25% limit for Town-owned TDR units, based on the applicant's argument that substantial efforts were made to acquire privately owned TDR units over an extended time period, albeit unsuccessfully.

TDR BACKGROUND INFORMATION

The Town established its Transfer of Development Rights (TDR) program in 2004-05 via the adoption of the Phase I EAR-Based Comprehensive Plan to the Future Land Use Element. This system was necessary and required by the State (DCA) to ensure a method was in place to regulate the equitable allocation of dwellings units to individual building sites in the Town. The Town's original 1988 Comprehensive Plan included major errors in calculating existing residential densities by utilizing an "average" block-by-block analysis (34 DUA overall average), even though individual project densities ranged from 7 DUA (duplex) to over 70 per acre (high-rise).

Over 1/3 of the original existing developments had densities over 34 DUA in 2004-05 when the TDR program was established. Conversely, many properties are "underdeveloped" with villas / duplexes / triplexes / etc., and while 8-9 DU could be built, the original developer chose not to build that many DU. However, those properties are entitled to build more DU if they desire to redevelop the sites. The Town's TDR system ensures that all property owners have the right to build to at least the base density (34 DUA). If a developer desires to build to a higher density than 34 DUA, and they can meet all the Town's land development criteria, the Town approves the site design, and the Town Council likes the design and approves TDR allocations (case-by-case basis) the project can be built to include additional DU.

On Nov. 12th, 2013, the Town amended its Zoning Code to establish maximum multifamily residential density limits per Zoning District. Lots zoned RM-1 Multiple Family Residential District (Waterfront lots) now allow for a maximum overall density (includes base density / TDR units) of 70 dwelling units per acre. Lots zoned RM-2 Multiple Family Residential District (non-waterfront lots) now allow for a maximum overall density (includes base density / TDR units) of 60 dwelling units per acre. Lots zoned RM-3 Multiple Family Residential District now allow for a maximum overall density (includes base density / TDR units) of 80 dwelling units per acre. If the Town approves a development in the RM-3 Zoning District with a height exceeding 75 feet in accordance with the Town Charter / Code provisions, the maximum density is determined at the time of Site Development Plan / TDR approval.

At the April 7th, 2014 Town Council meeting a Resolution was adopted setting a 50% "rule" (acquire 50% private TDRs first / 50% public TDR second) for TDR units assigned to projects. This was meant to help preserve the remaining Town-owned TDR units over a longer period of time, since there is a much larger number of privately owned TDR units. At the Sept. 14th, 2022 Town Council meeting a new Resolution (#2275) related to this matter was adopted setting a 25% "rule" (acquire 75% private TDRs first / 25% public TDR second) - again meant to help preserve the remaining Town-owned TDR units. Resolution #2275 continues to include a provision, as did the original

limiting Town-owned TDR sales (Resolution #2006) for smaller development projects seeking 5 or fewer TDR units, that allows an applicant to request up to 100% of the required TDR units from the Town. While this is not encouraged the option exists. In this case, the developer is seeking to acquire a total of nine (9) TDR units to build their 27 DU complex. Applying the Town's current 25% criteria this property owner is entitled to request up to 2 TDR units (9 DU x .25 = 2.25 DU). This application for six (6) Town-owned public TDR units results in 66% of the required TDR units. A separate but related TDR application was filed with the Town to acquire the remaining three (3) TDR units from a private property owner (9110 WBHD) (33%). As this development is seeking a total of nine (9) TDR units, they are not normally entitled to request more than 25%. However, Resolution #2275 also allows the Town Council discretion to sell more than the specified % limits - based on a demonstrated need (substantial efforts are made to acquire private TDRs but were unsuccessful). The applicant has submitted documentation of alleged concerted efforts over the last 2+/- years to contact and acquire private TDR units. Apparently, a mailing list was prepared for sites that may have TDR units and individual letters were sent to the various property owners. The applicant states that very few responses occurred.

In the earlier years of the Town's TDR program (2004-06+/-) about 40% of the new redevelopment projects requested some TDR units. After the so-called Great Recession (2007-2010) some developers sought higher densities with more moderate DU sizes. In more recent years many of the projects are being designed or redesigned as luxury developments with less DU. Mostly the larger multi-lot developments on water seek some additional density. The initial price of publically-owned TDR units was $75,000 for waterfront sites and $45,000 for non-waterfront sites, which was based on actual real estate sales at that time. However, due to the real estate market collapse (2006-10) only two (2) TDR allocations were consummated from that time period (total of 13 TDR units). Both TDR transactions were done via private sales for values just below $70,000 per DU. Both were for waterfront locations and only one was built (Millennium West / Riva). Due to limited development inactivity and the cost of appraisal updates the Town did not update the TDR values for several years. In April 2011 due to a perceived increase in development activity the Town requested the original Appraiser firm (Quinlivan) to update the TDR values of publically-owned TDR units. Several price adjustments have been made since April 2011. **The current Town-owned TDR values set by Resolution No. 2276 on September 14th, 2022 are $125,000 for waterfront sites and $100,000 for non-waterfront sites.**

In the last few years there have been numerous Town-owned TDR allocations approved by the Town Council. At the August 8th, 2023 Town Council meeting, despite the 25% Town-owned TDR "cap", two developers were allowed to acquire 100% of their required TDRs from the Town-owned account (15 DU & 36 DU = 51 TDRs). As of October 2023, our records note the Town has now committed to sell 275 of the 330 available Town-owned TDR units (East Island multi-family area). After the August 2023 Town-owned TDR sales we believe there are 55 remaining public Town-owned TDRs. If this request is allowed 49 remaining Town-owned TDRs will be left in the East Island MFR account. Due to voluntary density reductions by some developers the Town may be poised to regain control over a number of the previously "sold" TDR units. There have also been many "sales" of TDR units approved by the Town from private property owners. Our records reflect these private "sales" total 213 TDR units from private parties to date. Some have been approved by the Town but not closed as yet.

SUMMARY / RECOMMENDATION

On October 18th, 2022, a Site Development Plan was approved by the Design Review Board (DRB) for the proposed 9740-9760 West Bay Harbor Drive multifamily development, for a total of 27 DU. The allowable base zoning density of 34 DUA would allow 18 DU on the receiving site (.517 acres X 34 DUA = 17.58 or 18 DU). Since the proposed project includes 27 total dwelling units this requires the acquisition of 9 TDR units to construct the project. To date, the developer has not acquired any TDR units. The Town has recently received two (2) TDR applications for this proposed development. This subject application is for six (6) public TDR units. The companion TDR application seeks to acquire three (3) private TDR from a proposed 9 DU midrise complex located at 9110 WBHD. If the Town Council approves both of the TDR applications, the developer will have enough DU to build the project as designed.

MMPA recommends the Town Council think seriously about the long-term consequences of large quantity public TDR sales and consider not approving the applicant's TDR request as submitted, despite their obvious efforts. There is an abundance of private TDRs available – in our opinion the Town should not keep selling the remaining short supply of Town-owned TDRs just because it is difficult to acquire private TDR units at this time, and despite the Town's current need for funds for major capital expenditures. Once the public TDRs are sold, unless the State / RPC approves otherwise and the Comprehensive Plan / Code is changed, only private TDRs will remain. Others have been successful in acquiring their required TDRs from private landowners. If this request is allowed, our records show only 49 remaining Town-owned TDRs will be left in the East Island MFR account.

Suggested Condition - TDR allocations are meant for site specific allocations and the intention is the development will move forward in a timely manner. TDR units cannot be "banked" by a party. Once a Site Development Plan is approved by the Town a building permit must be requested by a time certain (1 year) but extensions may be granted. MMPA suggests the Town Resolution include a "reverter" clause that provides that if the project does not proceed within a specified time period, or the TDR sale does not close prior to the issuance of building permits, which is necessary to finalize for a building permit for 27 DU, the Town's approval is null and void.

akerman

Kristofer D. Machado

Akerman LLP
Three Brickell City Centre
98 Southeast Seventh Street
Suite 1100
Miami, FL 33131

T: 305 982 5658
kristofer.machado@akerman.com

October 13, 2023

VIA EMAIL & HAND DELIVERY

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

TOWN OF BAY HARBOR ISLANDS
MIAMI-DADE COUNTY, FL
RECEIVED
OCT 13 2023
BY

RE: Request to Purchase Town TDRs
Origin Residences Bay Harbor
9740 & 9760 West Bay Harbor Drive

Manager Lasday:

On behalf of our client, Bay Harbour Investment, Inc, the owner and developer of 9740 and 9760 West Bay Harbor Drive, Bay Harbor Islands, Florida ("Property"), we enclose a complete application for Town Council approval of the purchase of six Transfer of Development Rights units ("TDRs") from the Town's bank. The TDRs are needed to allow our client to proceed with the construction of the *Origin Residences Bay Harbor* project.

Approved Project

The Property is a waterfront site with frontage on West Bay Harbor Drive. Our client is in process of developing a 7-story, 27-unit multifamily residential condominium at the Property, known as *Origin Residences Bay Harbor* (the "Project"). Designed by Revuelta Architecture International, the Project includes generously sized dwellings of 2, 3, and 4 bedrooms that are intended to attract families. The building's beautiful design, with lush landscaping and open spaces, respects the Town's step-backs and setbacks to minimize the building's massing when perceived from the street while opening up towards the waterfront, favoring western views toward the bay.

The Project has been reviewed and approved by the Town's Development Review Committee (July 13, 2022; August 11, 2022), by the Town's Design Review Board (October 18, 2022), and by the Miami-Dade County Biscayne Bay Shoreline Development Review Committee (July 14, 2023). The Project's building permit application is under review by the Town.

Transfer of Development Rights

To achieve the proposed density, the Project requires the purchase of nine TDRs, as permitted by the Town Code. Since February 14, 2022, nearly two years ago, our client has been working actively and diligently to purchase the required TDRs from the private market. We have succeeding in entering into a contract for the purchase of three of the nine required TDRs from a private seller. A companion application for the Town Council's approval of the transfer of the three private TDRs is being submitted to your office together with this application.

Unfortunately, however, despite our client's exhaustive efforts over nearly the past two years, we have been unable to secure the remaining six TDRs. Those efforts have included, among others, extensive discussions and negotiations with property owners, real estate brokers, architects, attorneys, and other real estate professionals who are active in the Town, as well as outreach to the Town Clerk's office, the Town Planner, the Town Building Official, the Town Attorney, and other staff members. When those efforts failed, we mailed letters to all property owners on the Town's East Island, based on a list provided to us by the Town Clerk's office. The mailout, completed earlier this year, involved delivering two hundred eighty-three (283) letters to property owners throughout the Town, expressing our client's interest in purchasing TDRs. Several property owners contacted us in response to our letters, primarily out of curiosity or wanting to learn more about the TDR process, but the owners who contacted us do not have TDRs available to sell. Having exhausted all efforts, we are requesting to purchase the remaining six TDRs from the Town's bank.

We understand that the Town's current policy is to sell only 25% of the TDRs required for a project, with the Town Council retaining discretion to sell a greater number if the applicant shows that it has made substantial efforts over a period of several months to purchase TDRs from private property owners but has not succeeded. The enclosures, including postmarked envelopes of the two hundred eighty-three (283) letters that we mailed, show conclusively the exhaustive efforts our client has made to secure the required TDRs from the private market.

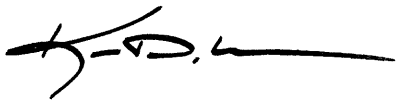
It is also important to consider that the Town's longstanding policy for nearly a decade — from 2014 to 2022 — had been to sell from the Town's bank at least half (50%) of the TDRs required for a new project. That policy was in effect when our client acquired the Property, when our client hired architects and other professionals at great expense to prepare and prosecute the Project's plans, when our client submitted its proposed site plan for the Town's approval, and, indeed, when the Project received DRC approval. It was only on September 14, 2022, after our client had made a substantial investment in good-faith reliance on the then-existing policy, after the Project had received DRC approval following multiple rounds of reviews, and after the Project had been scheduled to be heard by the DRB at a public hearing, that the Town changed course and implemented the current 25% policy. Under the policy existing at the time of the Project's DRC approval, our client would be eligible to purchase five (5) TDRs from the Town's bank, and only the final TDR would require a showing of substantial unsuccessful efforts. Principles of equitable estoppel and fairness urge the Town Council's approval of this application.

Request

We would be grateful if you would calendar this item for consideration by the Town Council at its November 2023 meeting.

Thank you for your attention and consideration.

Sincerely,



Kristofer D. Machado

Enclosures

cc (via e-mail): Yvonne P. Hamilton, Town Clerk

INDEX

EXHIBIT A TDR APPLICATION

EXHIBIT B RECEIVING PARCEL DEEDS

EXHIBIT C RECEIVING PARCEL SURVEY

EXHIBIT D DRC/DRB APPROVAL HISTORY

EXHIBIT E TDR POLICY DOCUMENTS

EXHIBIT F PRIVATE TDR EFFORTS

EXHIBIT A

TDR APPLICATION

Application Fee: $1,000 Private Transaction - $500 Town Owned Units

(For official use only)	
DATE RECEIVED: _____	TDR UNIT COST: $_____
TDR UNITS REQUESTED_____	PROJECT TOTAL UNITS _____
APPROVAL DATE :_____	APPROVED BY:_____ _____

TOWN OF BAY HARBOR ISLANDS
APPLICATION FORM
TRANSFER OF DEVELOPMENT RIGHTS

APPLICANT INFORMATION

Name Bay Harbour Investment, Inc		
Phone (305) 982-5658	e-mail kristofer.machado@akerman.com	Fax ( )
Address c/o Kristofer D. Machado, Esq., Akerman LLP, 98 SE 7th Street, Suite 1100		
City and State Miami, Florida		Zip Code 33131
Relationship to Property: Owner		

RECEIVER SITE INFORMATION

Owner's Name Bay Harbour Investment, Inc		
Phone (305) 982-5658	e-mail kristofer.machado@akerman.com	Fax ( )
Address c/o Kristofer D. Machado, Esq., Akerman LLP, 98 SE 7th Street, Suite 1100		
City and State Miami, Florida		Zip Code 33131
Property Address/Location 9740 & 9760 W. Bay Harbor Drive, Bay Harbor Islands, FL 33154		
Legal Description: LOT(S) 25 & 26 BLOCK 3		
Folio Number 13-2227-001-0720 & -0730	Current Zoning RM-1	
Property size +/- 22,500 sf	Purchase date 10/8/2021	
Existing use of the property Vacant Land (Previously Multifamily)		
Describe Existing Structure on Property Vacant Land (Previously Multifamily)		
Dwelling units to be received 6 (as part of this TDR application)		
Total Dwelling units including TDR 27 in new building approved by the DRB on 10/18/2022		

HAS SITE PLAN FOR RECEIVING PROPERTY BEEN APPROVED?
☒ Yes ☐ No

If Yes, then provide date of approval 10/18/2022 (Resolution No. 2283)
If Not, then attach preliminary site plan.

ARE TDRs BEING REQUESTED FROM THE TOWN? Yes ☒ No ☐

If Yes, skip the donor site portion
If Not, then fill in the donor site portion.

DONOR SITE INFORMATION, IF APPLICABLE

Owner's Name		
Phone ( )	e-mail	Fax ( )
Address		
City and State		Zip Code
Property Address/Location		
Legal Description: LOT(S) BLOCK		
Folio Number	Current Zoning	Year built
Property size	Purchase date	
Existing use of the property		
Describe Existing Structure on Property		
Dwelling units to be transferred to TDR Bank		
Units permitted		

APPRAISAL INFORMATION - IF APPLICABLE
(Appraiser must be approved by the Town)
(Only fill this portion out if purchasing TDRs from the Town and if the amount set by the Town is not accepted by you.)

Name:		
Phone ( )	e-mail	Fax ( )
Address		
City and State		Zip Code
Date of Appraisal / /	Appraisal Value of TDR unit $	
Proposed TDR Unit Value $		

SURVEY COMPANY INFORMATION - (provide survey's for both receiver and donor sites)
Survey must be current (no more than 6 months old)

Name of Surveyor Receiver Site: Royal Point Land Surveyors, Inc.		
Address 6175 NW 153rd Street, Suite 321, Miami Lakes, FL 33014		
Phone (305) 822-6062	e-mail info@royalpointls.com	Fax (305) 827-9669

Name of Surveyor		
Address		
Phone ( )	e-mail	Fax ( )

PROPERTY CODE INSPECTION RESULTS - (Donor Site)

The Town requires, as a condition of permitting any transfer or development rights, that the donor parcel and/or receiving parcel improve the site to meet as many current day code requirements as possible, as determined by the Town. This may include the Town's land development code such as zoning, landscaping, signage and property maintenance. It may also include Building Code and Life Safety Code improvements.

□ **Building must have obtained 40 or 50 Year Certification - If Applicable**
□ **Outstanding Liens or Code Violations must be cured and/or paid - If Applicable**

Other inspections to be performed may include, but are not limited to, the following items:

□ Exterior paint	□Windows	□ Doors	□ Elevators
□ Steps	□ Railings	□ Landscaping	□ Parking area
□ Pool/Recreation facilities		□ Fences/Walls	□ Plumbing
□ Electrical System	□ A/C equipment	□ Roof mounted equipment/screening	
□ Roofing			

I hereby certify that:

1) The information furnished on this application and the attachments is true.

2) I am the owner(s) of record of the property described in this application.

3) If the application, as modified or amended during the review and approval process, is granted, I agree, in consideration therefore, to indemnify and hold harmless, and promise not to sue, the Town of Bay Harbor Islands, include its officers and employees, in connection with any claims or other actions arising out of said review and approval.

A Contract for Sale and Purchase of Development Rights and Deed of Transfer of Development Rights shall be required as part of the approval of a TDR transfer. The deed transferring the development rights shall be recorded in the public records prior to the issuance of a development permit.

RECEIVER SITE

_____ 10/12/23
Signature of Owner (Applicant) Date

_____ _____
Signature of Owner (Co-Applicant) Date

STATE OF FLORIDA
COUNTY OF MIAMI-DADE

The foregoing instrument was acknowledged before me this 12 day of October, 20 23, by Sergio Guzman as Authorized Signatory on behalf of BAY HARBOUR INVESTMENT, INC, a Florida (corporation) (partnership) (Other: _____.) He/She is personally known to me or has produced _____ (type of identification produced) as identification and did take an oath.

My Commission Expires:

_____
Notary Public, State of Florida

Print Name: Caio Legarreta

CAIO FELIPE LEGARRETA
MY COMMISSION # HH 172106
EXPIRES: September 1, 2025
Bonded Thru Notary Public Underwriters

DONOR SITE

_____ _____
Signature of Owner (Applicant) Date

_____ _____
Signature of Owner (Co-Applicant) Date

STATE OF FLORIDA
COUNTY OF MIAMI-DADE

The foregoing instrument was acknowledged before me this _____ day of _____, 20____, by _____ on behalf of _____, a Florida (corporation) (partnership) (Other: _____.) He/She is personally known to me or has produced _____ (type of identification produced) as identification and did take an oath.

My Commission Expires:

_____
Notary Public, State of Florida

Print Name: _____

EXHIBIT B

RECEIVING PARCEL DEEDS

CFN: 20210870052 BOOK 32858 PAGE 4496
DATE:11/18/2021 02:14:49 PM
DEED DOC 27,000.00
SURTAX 20,250.00
HARVEY RUVIN, CLERK OF COURT, MIA-DADE CTY

This instrument prepared by:

Andrew S. Atkins, Esq.
SHEVLIN & ATKINS, Attorneys at Law
1111 Kane Concourse, Suite 619
Bay Harbor Islands, Florida 33154

After recording return to:

Grisel Morales, Esq.
Law Offices of Grisel Morales, P.A.
7355 SW 87th Avenue, Suite 200
Miami, Florida 33173

Parcel ID# 13-2227-001-0720

WARRANTY DEED

THIS INDENTURE, made this 8th day of October 2021, between **SINA, LLC, a Florida limited liability company,** whose address is 7657 N.W. 50th Street, Miami, Florida 33166, hereinafter referred to as **GRANTOR**, and **BAY HARBOUR INVESTMENT, INC., a Florida corporation,** whose address is 3350 SW 148th Avenue, Suite 134, Miramar, Florida 33027, hereinafter referred to as **GRANTEE**.

WITNESSETH, that the **GRANTOR**, for and in consideration of the sum of Ten Dollars and 00/100 ($10.00) and other good and valuable consideration to **GRANTOR** in hand paid by **GRANTEE**, the receipt of whereof is hereby acknowledged, has granted, bargained and sold to the said **GRANTEE** and **GRANTEE'S** heirs and assigns forever, the following described land, situate, lying and being in the County of **Miami-Dade, State of Florida** to wit:

> **Lot 25, Block 3, BAY HARBOR ISLAND, according to the plat thereof as recorded in Plat Book 46, Page 5, Public Records of Miami-Dade County, Florida.**
>
> Subject to taxes for the year 2021 and subsequent years which are not yet due and payable and restrictions, limitations, easements and zoning regulations of record, without seeking to re-impose same.

TOGETHER WITH all the tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining.

TO HAVE AND TO HOLD, the same in fee simple forever.

AND, the GRANTOR hereby covenants with said GRANTEE that GRANTOR is lawfully seized of said property in fee simple, that the GRANTOR has good right and lawful authority to sell and convey said property; and that the GRANTOR hereby fully warrants the title to said property and will defend same against the lawful claims of all persons whomsoever.

[remainder of page intentionally left blank]

[signature, witnesses and notary appear on next page]

Signed, sealed and delivered in our presence:

Witnesses:

Print Name: Jessica Shemin

Print Name:

Sam Sami, Manager
Sadaf, LLC, a Florida limited liability company,
the Manager of SINA, LLC, a Florida limited
liability company

STATE OF FLORIDA)
COUNTY OF MIAMI-DADE)

Sworn to and subscribed before me by means of [X] physical presence or [___] online notarization, this 5th day of October 2021, by Sam Sami, as manager of Sadaf, LLC, a Florida limited liability company, as manager of Sina, LLC, a Florida limited liability company, who is personally known to me or who has produced _____ as identification.

NOTARY PUBLIC STATE OF FLORIDA

PRINTED NAME

My Commission Expires:

JOSEFINA A. MENDEZ
Notary Public - State of Florida
Commission # GG 308467
My Comm. Expires Jun 3, 2023
Bonded through National Notary Assn.

CFN: 20210907428 BOOK 32882 PAGE 4591
DATE:12/03/2021 10:55:06 AM
DEED DOC 27,000.00
SURTAX 20,250.00
HARVEY RUVIN, CLERK OF COURT, MIA-DADE CTY

Prepared by:
Mayrelys Iglesias, Paralegal
Law Office of Valeria Schvartzman, P.A.
12550 Biscayne Boulevard Suite 406
North Miami, FL 33181
File No. RE21457

Return to:
Law Offices of Grisel Morales, P.A.
7355 SW 87th Avenue, Suite 200
Miami, FL 33173
File No. 40770

[Space Above This Line For Recording Data]

Warranty Deed

This Warranty Deed made this 8th day of October, 2021 between **9740 W BAY HARBOR DR, LLC, a Delaware limited liability company** whose post office address is **12550 Biscayne Blvd., Suite 406, North Miami, FL 33181**, grantor, and **BAY HARBOUR INVESTMENT, INC, a Florida Corporation** whose post office address is **3350 SW 148TH AVE, SUITE 134, Miramar, FL 33027**, grantee:

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

Witnesseth, that said grantor, for and in consideration of the sum of TEN AND NO/100 DOLLARS ($10.00) and other good and valuable considerations to said grantor in hand paid by said grantee, the receipt whereof is hereby acknowledged, has granted, bargained, and sold to the said grantee, and grantee's heirs and assigns forever, the following described land, situate, lying and being in **Miami-Dade County, Florida** to-wit:

Lot 26, Block 3, BAY HARBOR ISLAND, according to the plat thereof as recorded in Plat Book 46, Page 5, Public Records of Miami-Dade County, Florida.

Parcel Identification Number: 13-2227-001-0730

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

To Have and to Hold, the same in fee simple forever.

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

In Witness Whereof, grantor has hereunto set grantor's hand and seal the day and year first above written.

Signed, sealed and delivered in our presence:

Witness Name: Mayrelys Iglesias

Witness Name: Jessica Arias

9740 W BAY HARBOR DR, LLC, a Delaware limited liability company

By: _____
Elias Sabbagh, Authorized Member

State of Florida
County of Miami-Dade

The foregoing instrument was acknowledged before me by means of [X] physical presence or [_] online notarization, this 4 day of Oct, 2021 by Elias Sabbagh, as Authorized Member of 9740 W BAY HARBOR DR, LLC, a Delaware limited liability company, on behalf of the company, who [_] is personally known to me or [X] has produced a driver's license as identification.

[Notary Seal]

MAYRELYS IGLESIAS
MY COMMISSION # GG 209909
EXPIRES: April 22, 2022
Bonded Thru Notary Public Underwriters

Notary Public

Printed Name: Mayrelys Iglesias

My Commission Expires: _____

DoubleTime®

EXHIBIT C

RECEIVING PARCEL SURVEY

GRAPHIC SCALE

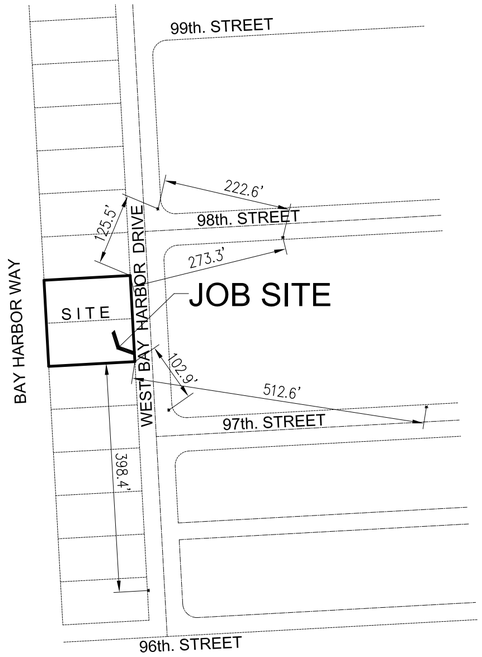
20' 0 10' 20' 40' 80'

(IN FEET)
1 inch = 20 ft.



TREE TABULATION:

TREE ID #	TYPE (COMMON NAME)	DIAMETER (IN) @ 4.5' (BREAST HEIGHT)	HEIGHT (OAH) FT	CANOPY (CAO) FT
55	TREE	9	25	15
56	TREE	8	25	15
57	TREE	7	25	15
58	TREE	6	25	15
59	TREE	10	25	15
60	TREE	7	25	15
61	TREE	5	25	15
62	TREE	5	25	15
63	TREE	3	25	15
64	TREE	3	25	15
65	TREE	9	20	10
66	TREE	5	15	10
69	ROYAL PALM	18	30	15
70	PALM	4	20	5
71	PALM	4	20	5
72	PALM	3	15	5
73	TREE	12	20	15
74	PALM	7	15	5
75-78	PALM	3	15	5
79	PALM	4	15	5
80	TREE	6	18	15
81	PALM	6	18	5
82	UMBRELLA	6	18	10
83	PALM	14	15	10
84	PALM	3	15	5
85	PALM	3	15	5
86	PALM	4	15	5
87	COCONUT	10	25	15
88	PALM	3	20	5
89	ROYAL PALM	18	40	15
90	ROYAL PALM	18	40	15
91	PALM	11	15	10
92	TREE	11	20	25
93	PALM	3	20	5
94	PALM	3	20	5
95	PALM	3	20	5
96	PALM	4	20	5
97	PALM	3	20	5
98	PALM	3	20	5
99	TREE	7	20	15
100	PALM	12	15	15
101	PALM	12	15	15
102	TREE	7	18	15
103	PINE	32	60	15
104	PALM	21	18	15
105	PALM	18	18	15
113	COCONUT	9	25	15
114	COCONUT	9	25	15
115	PALM	6	15	5
116	COCONUT	11	20	15
117	COCONUT	11	25	15
118	COCONUT	10	25	15
119	COCONUT	9	18	15
120	PALM	4	18	5
121	PALM	3	10	5
122	PALM	3	8	5
123	PALM	3	8	5
124	COCONUT	6	20	15
125	COCONUT	6	20	15
126	COCONUT	11	30	15
127	COCONUT	9	25	15
128	COCONUT	10	15	15
129	COCONUT	11	15	15
130	COCONUT	9	20	15
131	PALM	3	10	5
132	PALM	3	10	5



VICINITY MAP/ FIRE HYDRANT LOCATION

NOT TO SCALE
PORTION SECTION 27-52S-42E

SURVEYOR'S NOTES:

1- The Legal Description was provided by the Client from most recent County Records available.

2- This is not a Certification of Title, Zoning, Easements, or Freedom of Encumbrances. ABSTRACT NOT REVIEWED.

3- There may be additional Restrictions not shown on this survey that may be found in the Public Records of this County, Examination of ABSTRACT OF TITLE will have to be made to determine recorded instruments, if any affecting this property.

4- No attempt was made by this firm to locate underground utilities, foundations and/or footings of buildings, walls or fences, except as shown hereon, if any.

5- Underground utilities are not depicted hereon, contact the appropriate authority prior to any design work or construction on the property herein described. Surveyor shall be notified as to any deviation from utilities shown hereon.

6- Contact the appropriate authority prior to any design work on the herein - described parcel for Building and Zoning information.

7- The surveyor does not determine fence and/or wall ownership.

8- Accuracy:
The Horizontal positional accuracy of well-defined improvement on this survey is +/-0.2'.
The Vertical accuracy of elevations of well-defined improvement on this survey is +/-0.1'

9- All measurements shown hereon are made in accordance with the United States Standard Feet.

10- Type of survey SKETCH OF SURVEY.

11- North arrow direction is based on an assumed meridian as shown on the aforementioned Plat.

12- Elevations shown hereon are relative to National Geodetic Vertical Datum (1929 Mean Sea Level)

13- Benchmark Used: Miami-Dade County Benchmark #R-243. Elevation = +6.61'.

14- Flood Zone Data: Community/ Panel #120637/0144/L Dated: 9/11/09 Flood Zone: "AE" Base Flood Elevation = +8.0'

15- This SURVEY has been prepared for the exclusive use of the entities named hereon. The Certificate does not extend to any unnamed party:

- BAY HARBOR INVESTMENT INC.

LEGEND

- OH — OH — Overhead Wire Line
- // — // — Wood Fence
- x — x — Chain Link Fence
- Iron Fence
- Monument Line
- Centerline
- PL Property Line

A = Arc
BRG = Bearing
CH = Chord
Δ = Delta
L = Length
R = Radius
T = Tangent
Ø = Diameter

x 0.00' = Existing Elevations
CB = Catch Basin
W = Water Meter
E = Electric Box
S = Sanitary Manhole
SP = Sprinkler Pump
= Wood Pole
= Conc. Pole
= Light Pole
= Fire Hydrant
= Water Valve
= Inlet
TV = Cable Tv Box
EM = Electric Meter Box
= Traffic Signal Box
= Gas Valve
= Monitoring Valve
M = Manhole

A/C = Air Conditioner
Conc. = Concrete
C.B.S. = Concrete Block & Stucco
(D) = Deed
D.E. = Drainage Easement
D.M.E. = Drainage Maintenance Easement
F.D.H. = Found Drill Hole
F.F.E. = Finish Floor Elevation
F.I.P. = Found Iron Pipe/Pin
F.I.R. = Found Iron Rebar
F.N. = Found Nail
F.N&D = Found Nail & Disc
F.P.L. = Florida Power Light
H = Height
L.M.E. = Lake Maintenance Easement
(M) = Measured
(P) = Platted
P.O.B. = Point of Beginning
P.O.C. = Point of Commencement
(R) = Record
Res. = Residence
SIP/R = Set Iron Pin/Rebar
S = Spread
U.E. = Utility Easement

PROPERTY ADDRESS:

9740-9760 W BAY HARBOR DRIVE, BAY HARBOR ISLANDS, FL 33154
Folio# 13-2227-001-0730, 13-2227-001-0720

LEGAL DESCRIPTION

Lots 25 and 26, in Block 3, of "BAY HARBOR ISLAND", according to the Plat thereof, as recorded in Plat Book 46, Page 5, of the Public Records of Miami-Dade County, Florida.

SURVEYOR'S CERTIFICATE:

I HEREBY CERTIFY:
That this Survey meets the intent of the required Standards of Practice as set forth by the Florida Board of Professional Surveyors and Mappers in Chapter 5J-17.051, Florida Administrative Code, pursuant to Section 472.027, Florida Statutes.

Not valid without the signature and the original raised seal of a Florida Licensed Surveyor and Mapper. Additions or deletions to this survey by other than the signing party are prohibited without written consent of the signing party.

For the Firm Royal Point Land Surveyors, Inc LB# 7282

☐ JACOB GOMIS, PROFESSIONAL SURVEYOR AND MAPPER LS# 6231 STATE OF FLORIDA

☐ PABLO J. ALFONSO, PROFESSIONAL SURVEYOR AND MAPPER LS# 5880 STATE OF FLORIDA

This Document is not full and complete without all Sheets, Containing a total of (1) Sheets

NO.	DATE	DESCRIPTION	BY	APP.

RECORD OF REVISIONS

ROYAL POINT
LAND SURVEYORS, INC. L.B.# 7282
info@RoyalPointLS.com
6175 NW 153rd STREET, SUITE 321, MIAMI LAKES, FL. 33014 *** TEL: 305-822-6062 *** FAX.305-827-9669

TYPE OF SURVEY: SKETCH OF SURVEY

PREPARED FOR: BAY HARBOR INVESTMENT INC.

DRAWN: MEB.
CHECKED: P.J.A.
SCALE: AS NOTED
FIELD DATE: 04/07/2023
JOB No.:RP23-0413

SHEET: 1 OF 1 SHEET

F:\DRAWING\9740-9760 W BAY HARBOR DRIVE_FIRE HYDRANTS_RP23-0413.dwg 4/10/2023

EXHIBIT D

DRC/DRB APPROVAL HISTORY

RESOLUTION NO. 2283

A RESOLUTION OF THE DESIGN REVIEW BOARD OF THE TOWN OF BAY HARBOR ISLANDS, FLORIDA, APPROVING THE SITE DEVELOPMENT PLAN APPLICATION SUBMITTED BY BAY HARBOUR INVESTMENT, INC. FOR PROPERTY LOCATED AT 9740-9760 WEST BAY HARBOR DRIVE; PROVIDING FOR INCORPORATION OF RECITALS AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Bay Harbour Investment, Inc. (hereinafter the "Applicant") filed an application for site development plan approval of a set of plans dated August 15, 2022 ("Site Plan") to construct a seven (7) story, twenty-seven (27) dwelling unit midrise building with five (5) floors of residential use over two (2) floors of parking with common areas and building lobby at the property located at 9740 and 9760 West Bay Harbor Drive, legally described as:

> Lots 25 and 26, Block 3, "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;

WHEREAS, a site development plan for new construction requires approval by the Town's Design Review Board (hereinafter the "DRB") pursuant to Section 5-23.1(a) of the Town of Bay Harbor Islands' Code of Ordinances (hereinafter the "Code");

WHEREAS, on October 18, 2022, the DRB approved the Site Plan, pursuant to Section 5-23.1(a) and Section 23-11(B1) 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. Findings. The DRB finds that the Site Plan dated August 15, 2022, is consistent with the criteria set forth in Section 5-23.1 and Section 23-11(B1) of the Code and approves the Site Plan with the following specific findings and approvals, and subject to the below conditions of approval.

A. Approval of the proposed increased density (18 Base DU/9 TDR Units = 27 DU) "fits" within the building envelope without alterations or variances.

B. Approval of the Applicant's request to not fully enclose the sides/rear of the above grade parking garage as specified in §23-24(d)(4) by providing angled metal louvers for portions of the exterior building façades in lieu thereof.

C. Approval of the Applicant's request to allow narrower front yard driveway widths from the street pavement to the guest spaces (southern driveway 22' vs. 23') and for the 2nd level garage entrance (northern driveway 20' vs. 23') to increase front yard landscaping pursuant to §23-30(c). A justification letter from the Applicant's professional engineer was provided.

D. Approval of the Applicant's request to provide an alternative parking lot design arrangement by utilizing ten (10) tandem parking spaces in the parking garage pursuant to §23-30(f), due to the need to provide the required number of parking spaces in a secure enclosed structure.

3. Conditions of Approval:

1. This approval is based on the Site Plan prepared by Revuelta Architecture International, dated August 15, 2022, with the following two modifications: (1) the building color will not be chalk white, and (2) the lower front façade treatment will consist of vertical aluminum elements rather than porcelain tile, as approved by the DRB at the October 18, 2022, hearing. Any substantial changes desired after the DRB's approval may require separate approvals from the Town staff and/or the DRB as specified by the Code.

2. The DRB finds the proposed increased density (18 Base DU/9 TDR Units = 27 DU) fits within the building envelope without alterations or variances. If the Town Council does not approve the necessary number of TDR units, the project must be modified to comply with the Code and/or an alternative design approved by the Town.

3. The DRB approves the Applicant's request to not fully enclose the sides/rear of the above grade parking garage as specified in §23-24(d)(4) by providing angled metal louvers for portions of the exterior building facades in lieu thereof.

4. The DRB approves the Applicant's request to allow narrower front-yard driveway widths from the street pavement to the guest spaces (southern driveway 22' vs 23') and for the 2nd level garage entrance (northern driveway 20' vs 23') to increase front-yard landscaping pursuant to Section 23-30(c) of the Code.

5. The DRB approves the Applicant's request to provide an alternative parking lot design arrangement by utilizing ten (10) tandem parking spaces in the underbuilding parking garage, pursuant to Section 23-30(f) of the Code.

6. Outdoor Lighting Plan – The preliminary Photometric Lighting Plan shows general compliance with the Town's Exterior Lighting Code's requirements found in Section 23-19 of the Code. At the time of Building Permit review the Town will ensure the final lighting plan complies with the Code's footcandle limitations/requirements.

7. Impact Fees – 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.

8. Public School Concurrency – Prior to the issuance of a Building Permit, the Applicant shall obtain and present a concurrency determination demonstrating that the Project meets school concurrency requirements. Applicant shall coordinate with the Miami-Dade County School Board's staff through the town staff (Building Department) to provide calculations and address any deficiencies at public schools that serve the Town. If impact fees/mitigation is required, an agreement, including any payment, must be finalized prior to the issuance of Building Permits.

9. When the Miami-Dade Fire Department formally reviews the Project, if any material changes are required, a re-approval of the Site Plan shall be required by staff and/or the DRB, as specified by the Code.

10. Miami-Dade Biscayne Bay Shoreline Protection Committee Approval – As this site adjoins a portion of a waterway connected to Biscayne Bay, Miami-Dade County must review/approve this project prior to redevelopment and will likely require mitigation fees due to noncompliance with their Code requirements. Confirmation of Miami-Dade Biscayne Bay Shoreline Protection Committee approval and evidence of payment of any mitigation fees is required prior to issuance of Building Permits.

11. 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.

12. Prior to the issuance of Building Permits a Unity of Title document to tie the multiple lot areas together as one legal building site must be prepared/recorded, after review and approval by the Town Attorney. The Unity of Title recorded in Book 33395, Page 3594, of the Public Records of Miami-Dade County, satisfies this requirement.

13. All FPL transformers/backflow preventers/exposed utility facilities must be substantially screened/hidden with landscaping/fences/painted to match.

14. Installation of conduit for future undergrounding of overhead utilities as opposed to the removal of all existing overhead lines and placement underground due to FPL's objection to incremental undergrounding as allowed in Section 18-22(c).

4. 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.

5. Effective Date. This Resolution shall become effective immediately upon its adoption unless a timely appeal is filed with the Town Council.

PASSED this 18th day of October 2022.

DESIGN REVIEW BOARD
TOWN OF BAY HARBOR ISLANDS

By: Steven Hurwitz
Steven Hurwitz, Chairperson

ATTEST:

Yvonne P. Hamilton, Town Clerk

APPROVED AS TO FORM:

Greenspoon Marder, LLP
Town Attorneys
By: Joseph S. Geller, Esq.

MICHAEL MILLER PLANNING ASSOCIATES, INC.
Land Design Municipal Planning Services Transportation Planning

TOWN OF BAY HARBOR ISLANDS COMMUNITY DEVELOPMENT MEMORANDUM

To: Design Review Board (DRB)
Town of Bay Harbor Islands

From: Michael J. Miller, AICP MJM
Consultant Town Planner

Date: September 21st, 2022

Subject: Site Development Plan Application – Redevelopment
27 DU Multi-family Residential Complex
9740-60 West Bay Harbor Drive
Bay Harbor Islands Acct. No. SP22-000017
MMPA Acct. No. 01-0702-1135

RECOMMENDED ACTION

MMPA recommends the Design Review Board (DRB) review the most recent revised plans dated revised July 27th, 2022, and if found acceptable **APPROVE** the proposed Site Development Plan application, subject to the suggested conditions listed in the summary section of this report, and a finding by the Board of the following:

1. The Board finds the proposed increased density (18 Base DU / 9 TDR Units = 27 DU) "fits" within the building envelope without alterations or variances.

2. The Board approves the applicant's request to not fully close-in the sides / rear of the above grade parking garage as specified in §23-24(d)(4) by providing angled metal louvers for portions of the exterior building facades in lieu thereof.

3. The Board approves the applicant's request to allow narrower front yard driveway widths from the street pavement to the guest spaces (southern driveway - 22' vs. 23') and for the 2nd level garage entrance (northern driveway - 20' vs. 23') to increase front yard landscaping pursuant to §23-30(c). An applicant justification letter is provided.

4. The Board approves the applicant's request to provide an alternative parking lot design arrangement by utilizing ten (10) tandem parking spaces in the parking garage pursuant to §23-30(f), due to the need to provide the required number of parking spaces in a secure enclosed structure.

GENERAL PROJECT INFORMATION

Land Use Designation:	MH – Medium-High Density Residential
Zoning District:	RM-1 Multiple Family District
General Location:	9740-60 W. Bay Harbor Drive
Legal Description:	Lots 25 and 26 of Block 3, "Bay Harbor Island" Subdivision according to the plat thereof, as recorded in Plat Book 46, at Page 5 of the Public Records of M-D County.

PROJECT DESCRIPTION

The project architect, Luis O. Revuelta., as agent for the current property owner, Bay Harbor Investment, Inc., has submitted a Site Development Plan application to allow for the construction of a twenty-seven (27) dwelling unit mid-rise residential development located at 9740-60 W. Bay Harbor Drive.

A former project called AKUA (30 DU) proposed for this site received P&Z Board approval on Feb. 16th, 2016, but they did not file for building permits / no extensions requested / project expired. A re-application for the same project was filed in 2019 that was reviewed by the DRC staff – but the application never moved forward to the Board at the request of the developer.

The proposed dwelling units range from 1,491 to 2,328 square feet of A/C space plus balconies, etc. The proposed site design incorporates one (1) square-shaped building on top of a 2-story parking garage structure that is at grade (lowest level). The site design proposes 2 two-way driveway connections to W. Bay Harbor Drive. The northern driveway width is shown as 20' and the southern driveway width is shown as 22' in width (23' width reqd. by Code unless the board approves otherwise at the time of site plan review). The southern driveway provides access to two (2) guest parking spaces (one is ADA space) in the front yard area as well as the lower level of the parking garage. The northern driveway provides access to the second level of the parking garage. Guest parking space #2 will serve as the lobby drop-off area per Sec. 23-24(d)(5) as well a guest / delivery space. Finally, the project indicates preliminary locations for Fire Department staging area(s) - which must be confirmed by the MDFD (not allowed in landscaped swale).

On the building rooftop is a recreational facility with a swimming pool, spa, bar, pool cabanas, outside dining areas, men's and women's restrooms. The proposed new building is 7-stories in height; five (5) floors of residential use over two (2) floor of parking / common areas / building lobby @ 65-feet above BFE + 1' FBC Freeboard. It is noted the 2nd Level includes both parking garage areas (west) and the building lobby / offices / amenities / service areas (east).

According to the survey submitted, both lots are currently vacant. Town records indicate that the lots were previously developed with a duplex (2 DU) and an eight (8) DU residential complex for a total of 10 DU. Therefore, the net increase would be seventeen (17) DU. The survey indicates the total lot area is 22,500 square feet / 0.52 acres in size. This would allow a maximum of eighteen (18) dwelling units on the property at the maximum allowable base density (34 DUA). The proposal is to build twenty-seven (27) dwelling units (57.7 DUA) which would require the developer to acquire nine (9) TDR units. It appears from the survey that no right-of-way (11') for on-street parking was ever dedicated to the Town, so the lots are "full" lots.

The adjoining / nearby development sites currently include the 7-story Guildford House condominium complex @ 72 DU / 70 DUA to the immediate north. To the immediate south is the 2-story Bay Harbor Townhouses condominium complex @ 8 DU / 30.8 DUA. To the east across West Bay Harbor Drive is a one-story duplex @ 2 DU / 7.7 DUA and a Town-owned surface parking lot at 97th Street. To the west across the 150-foot-wide Bay Harbor Waterway are a mixture of one-story and two-story single-family homes. This area of the Town is predominated by a mixture of low-rise residential complexes (1-3 stories) and mid-rise residential complexes (5-7 stories). The Town's 2002 Community Vision Master Plan identifies this area for mid-rise residential complexes (7+/- stories). Therefore, the proposed development is deemed generally consistent with the Town's future vision for this area.

BACKGROUND INFORMATION

The Town completed major amendments to its adopted Comprehensive Plan and Land Development Regulations (LDRs) in the last 20+/- years. The former RE zoned lands located on waterfront lots were rezoned into the RM-1 District, while interior (non-waterfront lots) are zoned RM-2. The Town also adopted numerous other modifications to many other code provisions that affect yard encroachments, parking lot designs, building height limits and exceptions, building design standards, landscaping and other provisions. The RM-1 lots fronting on the Bay Harbor Waterway are limited to 65' in height versus 75' in height allowed in other RM-1 zoned areas.

COMPREHENSIVE PLAN / ZONING

Comprehensive Plan – The property has a Future Land Use Map (FLUM) designation of "Medium-High Density Residential". The maximum allowable base density is 34 DUA. Additional dwelling units may be acquired to increase the base density if approved by the Town Council. The developer is seeking to build 27 DU in the current design. As eighteen (18) units are allowed via the base residential density, nine (9) additional TDR units are required. If the Town Council approves the 9 TDR units, the proposed development will be consistent with the applicable FLUM designation of the property. For informational purposes, it is noted the Town recently modified their rules for acquiring Town-Owned TDR units – no more than 25% of the required number of TDR units can now be requested form the Town. Finally, the cost of acquiring Town-Owned TDR units was adjusted to be more reflective of the current real estate market conditions. As the Code requires the Town periodically obtains updated appraisals to monitor the real estate conditions

Land Development Regulations / Zoning Code – The property has a Zoning District classification of RM-1 Multiple Family Zoning District. The maximum building height allowed in this area of the Town is 65 feet (measured from BFE + 1' FBC Freeboard to the top of main roof deck). The proposed use of the property is consistent with this zoning classification. The most recent revised site design was modified to meet minimum Code requirements, subject to the DRB approving the requested waivers as listed herein.

PLATTING

The site will not require re-platting, as the site is currently platted as described above. A Unity of Title document will be required to legally tie the two (2) lots together prior to the issuance of building permits.

RIGHT-OF-WAY, OFF-STREET PARKING AND ACCESS DESCRIPTION

As stated above, the Site Development Plan depicts access to the site from two (2) driveway connections to W. Bay Harbor Drive. The northern proposed driveway is 20' in width and the southern driveway width is 22'. The standard Code required driveway width is a min. of 23'; however, the Town has the ability to allow somewhat narrower driveway widths for areas where no vehicle maneuvering occurs, or unusually tight areas occur. A written request with engineering backup is required and was provided by the applicant (see attached Traf Tech letter dated Aug. 11, 2022). If the DRB does not approve this request the driveway widths need to be revised. The southern driveway provides access to two (2) guest parking spaces / lobby drop-off space (one is ADA space) in the front yard area as well as the lower level of the parking garage. The northern driveway provides access to the second level of the parking garage. Based on 27 DU the Code requires at least fifty-four (54) parking spaces which includes two (2) guest spaces. Fifty-six (56) parking spaces are provided with 44 standard spaces / 2 ADA spaces and 10 tandem spaces (5 x 2 = 10). As this is a two-lot development, two (2) guest spaces are required as well as a drop-off area near the lobby entrance. These spaces are provided for in the front yard area. As a matter of information no reduction in the 10' landscape strip adjoining W. Bay Harbor Drive is requested.

A stated above the plans show preliminary Fire Department staging area within the roadways adjoining the site. The applicant should meet with the Miami-Dade Fire Department staff as soon as possible to verify the proposed staging area, as this may affect the site design. The roadway swale cannot serve fully as the staging area – that area is primarily for stormwater drainage / vehicle swerving recovery area / landscaping (Street Trees / grass).

BUILDING DESIGN / BUILDING LENGTH / BREEZEWAY

The building design is typical Tropical South Florida Modern with clean / modern decorative perforated metal screening panels and an aluminum and glass railing system, as well as an abundant use of glass. A type of decorative brick / stone is show on the ground level building facades. The architectural design has abundant articulation of its facades due to the use of the Flex Setback allowances with both vertical and horizontal features. See Sheet A-008 for the proposed exterior facade materials.

The building does not exceed one hundred twenty (120) feet in length; therefore, no "breezeway" is required.

SUGGESTED CONDITIONS OF APPROVAL / SITE PLAN COMMENTS

Following are our suggested conditions of approval and/or comments based on the most recent revised plans dated July 28th, 2022, submitted to the Town for consideration:

1. This approval is based on the Site Development Plans prepared by Revuelta Architecture International, signed-off by the DRC on August 11th, 2022, as well as any required modifications stated herein, and any modifications required by the Design Review Board (DRB). Any substantial changes desired after the DRB's approval may require separate approvals from the Town staff and/or DRB as specified by the Code.

2. The DRB finds the proposed increased density (18 Base DU / 9 TDR Units = 27 DU) "fits" within the building envelope without alterations or variances. If the DRB does not approve this request and/or the Town Council does not approve the necessary number of TDR units, the project must be modified to comply with the Town Code and/or an alternative design approved by the Town.

3. The DRB approves the applicant's request to not fully close-in the sides / rear of the above grade parking garage as specified in §23-24(d)(4) by providing angled metal louvers for portions of the exterior building facades in lieu thereof. If the DRB does not approve this request the project must be redesigned to comply with the Town Code and/or an alternative design approved by the DRB.

4. The DRB approves the applicant's request to allow narrower front yard driveway widths from the street pavement to the guest spaces (southern driveway - 22' vs. 23') and for the 2nd level garage entrance (northern driveway - 20' vs. 23') to increase front yard landscaping pursuant to §23-30(c). If the DRB does not approve this request the project must be redesigned to comply with the Town Code and/or an alternative design approved by the DRB.

5. This approval is based on the DRB's approval of the applicant's request to provide an alternative parking lot design arrangement by utilizing ten (10) tandem parking spaces in the underbuilding parking garage pursuant to §23-30(f). If the DRB does not approve the requested alternative parking lot design, the design must be modified to comply with the Town Code and/or an alternative design approved by the DRB.

6. Outdoor Lighting Plan - The preliminary Photometric Lighting Plan shows general compliance with the Town's Exterior Lighting Code requirements found in Sec. 23-19. At the time of building permit review the Town will ensure the final lighting plan complies with the Code footcandle limitations / requirements. Subsequent to the redevelopment being completed Code Enforcement action will ensure compliance with excessive light emissions.

7. Park Impact Fees – Applicable Miami-Dade County & Town park impact fees must to be paid / satisfied at time of building permits.

8. Public School Concurrency - Coordinate with the Miami-Dade County School Board staff through the Town staff (Building Dept.) to address any deficiencies at public schools that serve the Town. If impact fees / mitigation is required, an agreement / payment must be finalized prior to the issuance of building permits.

9. Miami-Dade County Fire Department approval of the Fire Truck staging areas shown on the plans is required at the time on building permit review. Any significant changes required by the M-D Fire Department subsequent to the Town's site plan approval may cause the plans to be re-submitted to the DRC / DRB.

10. Miami-Dade Biscayne Bay Shoreline Protection Committee Approval – As this site adjoins a portion of a waterway connected to Biscayne Bay, Miami-Dade County must review / approve this project prior to redevelopment and will likely require mitigation fees due to noncompliance with their Code requirements. Confirmation of Miami-Dade Biscayne Bay Shoreline Protection Committee approval and evidence of payment of any mitigation fees is required prior to the issuance of building permits.

11. Prior to the issuance of building permits a Unity of Title document to tie the multiple lot areas together as one legal building site must be prepared / recorded, after review and approval by the Town Attorney.

12. All FPL transformers / backflow preventers / exposed utility facilities must be substantially screened / hidden with landscaping / fences / painted to match.

13. Installation of conduit for future undergrounding of overhead utilities as opposed to the removal of all existing overhead lines and placement underground due to FPL's objection to incremental undergrounding as allowed in §18-22(c).

MICHAEL MILLER PLANNING ASSOCIATES, INC.
Land Design Municipal Planning Services Transportation Planning

TOWN OF BAY HARBOR ISLANDS COMMUNITY DEVELOPMENT MEMORANDUM

To: Town of Bay Harbor Islands
Development Review Committee

From: Michael J. Miller, AICP
Consultant Town Planner

Date: August 11th, 2022

Subject: Site Development Plan Application – Redevelopment - 2nd Submittal
27 DU Multi-family Residential Complex
9740-60 West Bay Harbor Drive
Bay Harbor Islands Acct. No. SP22-000017
MMPA Acct. No. 01-0702-1135

RECOMMENDED ACTION

MMPA recommends the Development Review Committee (DRC) **APPROVE** the proposed Site Development Plan application at this time, subject to the few minor remaining corrections being made to the plans, and a revised DRC check set of plans be submitted for final sign-off.

GENERAL PROJECT INFORMATION

Land Use Designation:	MH – Medium-High Density Residential
Zoning District:	RM-1 Multiple Family District
General Location:	9740-60 W. Bay Harbor Drive
Legal Description:	Lots 25 and 26 of Block 3, "Bay Harbor Island" Subdivision according to the plat thereof, as recorded in Plat Book 46, at Page 5 of the Public Records of M-D County.

PROJECT DESCRIPTION

The project architect, Luis O. Revuelta., as agent for the current property owner, Bay Harbor Investment, Inc., has submitted a Site Development Plan application to allow for the construction of a twenty-seven (27) dwelling unit mid-rise residential development located at 9740-60 W. Bay Harbor Drive. A former project called AKUA (30 DU) received P&Z Board approval on Feb. 16th, 2016, but they did not file for building permits / no extensions requested / project expired.

The proposed dwelling units range from 1,491 to 2,328 square feet of A/C space plus balconies, etc. The proposed site design incorporates one (1) square-shaped building on top of a 2-story parking garage structure that is at grade (lowest level). The site design proposes 2 two-way driveway connections to W. Bay Harbor Drive. The northern driveway width is shown as 20' and the southern driveway width is shown as 22' in width (23' min. width reqd. by Code). The southern driveway provides access to two (2) guest parking spaces (one is ADA space) in the front yard area as well as the lower level of the parking garage. The northern driveway provides access to the second level of the parking garage. The current design does not appear to include a separate lobby drop-off driveway as per Sec. 23-24(d)(5). Finally, the project does not indicate any proposed locations for Fire Department staging area(s) - which are required (not in swale).

On the building rooftop is a recreational facility with a swimming pool, spa, bar, pool cabanas, outside dining areas, men's and women's restrooms. The proposed new building is 7-stories in height; five (5) floors of residential use over two (2) floor of parking / common areas / building lobby @ 65-feet above BFE. It is noted the 2nd Level includes both parking garage areas (west) and the building lobby / offices / amenities / service areas (east).

According to the survey submitted, both lots are currently vacant. Town records indicate that the lots were previously developed with a duplex (2 DU) and an eight (8) DU residential complex for a total of 10 DU. **Therefore, the net increase would be seventeen (17) DU.** The survey indicates the total lot area is 22,500 square feet / 0.52 acres in size. This would allow a maximum of eighteen (18) dwelling units on the property at the maximum allowable base density (34 DUA). **The proposal is to build twenty-seven (27) dwelling units (57.7 DUA) which would require the developer to acquire 9 TDR units.** It appears from the survey that no right-of-way for on-street parking was ever dedicated to the Town, so the lots are "full" lots.

The adjoining / nearby development sites currently include the 7-story Guildford House condominium complex @ 72 DU / 70 DUA to the immediate north. To the immediate south is the 2-story Bay Harbor Townhouses condominium complex @ 8 DU / 30.8 DUA. To the east across West Bay Harbor Drive is a one-story duplex @ 2 DU / 7.7 DUA and a Town-owned surface parking lot at 97th Street. To the west across the 150-foot-wide Bay Harbor Waterway are a mixture of one-story and two-story single-family homes. This area of the Town is predominated by a mixture of low-rise residential complexes (1-3 stories) and mid-rise residential complexes (5-7 stories). The Town's 2002 Community Vision Master Plan identifies this area for mid-rise residential complexes (7+/- stories). Therefore, the proposed development is deemed generally consistent with the Town's future vision for this area.

BACKGROUND INFORMATION

The Town completed major amendments to its adopted Comprehensive Plan and Land Development Regulations (LDRs) in the last 20+/- years. The former RE zoned lands located on waterfront lots were rezoned into the RM-1 District, while interior (non-waterfront lots) are zoned RM-2. The Town also adopted numerous other modifications to many other code provisions that affect yard encroachments, parking lot designs, building height limits and exceptions, building design standards, landscaping and other provisions. The submittal package has a few minor design / Code compliance issues at this time.

COMPREHENSIVE PLAN / ZONING

Comprehensive Plan – The property has a Future Land Use Map (FLUM) designation of "Medium-High Density Residential". The maximum allowable base density is 34 DUA. Additional dwelling units may be acquired to increase the base density if approved by the Town Commission. The developer is seeking to build 27 DU via the base density. Therefore, **9 additional TDR units are required**. If the Town Commission approves the 9 TDR units, the proposed development will be consistent with the applicable FLUM designation of the property.

Land Development Regulations / Zoning Code – The property has a Zoning District classification of RM-1 Multiple Family Zoning District. The maximum building height allowed in this area is 65 feet (measured from BFE + 1' FBC Freeboard to the top of main roof deck). The proposed use of the property is consistent with this zoning classification; however, the proposed site design is not consistent with some provisions of the Code at present.

PLATTING

The site will not require re-platting, as the site is currently platted as described above. A Unity of Title document will be required to legally tie the two (2) lots together prior to the issuance of building permits.

RIGHT-OF-WAY, OFF-STREET PARKING AND ACCESS DESCRIPTION

As stated above, the Site Development Plan depicts access to the site from two (2) driveway connections to W. Bay Harbor Drive. The northern proposed driveway is 20' in width and the southern driveway width is 22'. The Code required driveway width is a min. of 23'. The Town has the ability to allow somewhat narrower driveway widths for areas where no vehicle maneuvering occurs, or unusually tight areas occur. A written request with engineering backup is required. Otherwise, these driveway widths need to be revised. The southern driveway provides access to two (2) guest parking spaces (one is ADA space) in the front yard area as well as the lower level of the parking garage. The northern driveway provides access to the second level of the parking garage. The current design does not appear to include a mandatory lobby drop-off driveway as per Sec. 23-24(d)(5). The ADA space / guest spaces do not serve as the lobby drop-off driveway. Based on 27 DU the Code requires at least fifty-four (54) parking spaces which includes two (2) guest spaces. Fifty-six (56) parking spaces are provided with 4 tandem spaces / 44 standard spaces / 2 ADA spaces. As this is a two-lot development, two (2) guest spaces are required as well as a drop-off area near the lobby entrance.

It is presumed typical Fire Department staging area are required but not shown on the plans. The applicant should meet with the Miami-Dade Fire Department staff as soon as possible to verify the proposed staging area, as this may affect the site design. The roadway swale cannot serve fully as the staging area – that area is primarily for stormwater drainage / vehicle swerving recovery area / landscaping (Street Trees / grass).

BUILDING DESIGN / BUILDING LENGTH / BREEZEWAY

The building design is typical Tropical South Florida Modern with clean / modern decorative perforated metal screening panels and an aluminum and glass railing system, as well as an abundant use of glass. Some type of decorative brick / stone is show on the ground level building facades. The architectural design has abundant articulation of its facades due to the use of the Flex Setback allowances with both vertical and horizontal features. No preliminary exterior material information was included in the initial plans set as required.

The building does not exceed one hundred twenty (120) feet in length; therefore, no "breezeway" is required.

SITE PLAN COMMENTS

Following are comments based on the revised plans signed by the architect on July 28th, 2022 submitted to the Town for consideration:

1) **Original MMPA Comment 7/13/22** - As stated above Sec. 23-30(c) requires all driveway to be at least 23' in width. The Town has the ability to allow somewhat narrower driveway widths in areas where no vehicle maneuvering occurs, or unusually tight areas occur. A written request with engineering backup is required. Otherwise, these driveway widths need to be revised.

   ***Updated Comment 8/11/22** – The applicant provided a response narrative addressing the previous MMPA / other DRC staff comments. An explanation was given as to the reason for the narrower driveways, but the response states a letter from an engineer will be provided. No letter from an engineer was submitted – will need that for DRB backup. Please provide the engineer letter ASAP.

MICHAEL MILLER PLANNING ASSOCIATES, INC.
Land Design Municipal Planning Services Transportation Planning

TOWN OF BAY HARBOR ISLANDS COMMUNITY DEVELOPMENT MEMORANDUM

To: Town of Bay Harbor Islands
Development Review Committee

From: Michael J. Miller, AICP
Consultant Town Planner

Date: July 13th, 2022

Subject: Site Development Plan Application – Redevelopment
27 DU Multi-family Residential Complex
9740-60 West Bay Harbor Drive
Bay Harbor Islands Acct. No. SP22-000017
MMPA Acct. No. 01-0702-1135

RECOMMENDED ACTION

MMPA recommends the Development Review Committee (DRC) **DEFER** action on the proposed Site Development Plan application at this time, subject to the applicant's design team addressing / modifying the plans to address the listed comment. The submittal package has design / Code violation issues, some of the plans are inadequate / missing a few other items need to be completed.

GENERAL PROJECT INFORMATION

Land Use Designation: MH – Medium-High Density Residential
Zoning District: RM-2 Multiple Family District
General Location: 9740-60 W. Bay Harbor Drive
Legal Description: Lots 25 and 26 of Block 3, "Bay Harbor Island" Subdivision according to the plat thereof, as recorded in Plat Book 46, at Page 5 of the Public Records of M-D County.

PROJECT DESCRIPTION

The project architect, Luis O. Revuelta., as agent for the current property owner, Bay Harbor Investment, Inc., has submitted a Site Development Plan application to allow for the construction of a twenty-seven (27) dwelling unit mid-rise residential development located at 9740-60 W. Bay Harbor Drive. A former project called AKUA (30 DU) received P&Z Board approval on Feb. 16th, 2016, but they did not file for building permits / no extensions requested / project expired.

The proposed dwelling units range from 1,491 to 2,328 square feet of A/C space plus balconies, etc. The proposed site design incorporates one (1) square-shaped building on top of a 2-story parking garage structure that is at grade (lowest level). The site design proposes 2 two-way driveway connections to W. Bay Harbor Drive. The northern driveway width is shown as 20' and the southern driveway width is shown as 22' in width (23' min. width reqd. by Code). The southern driveway provides access to two (2) guest parking spaces (one is ADA space) in the front yard area as well as the lower level of the parking garage. The northern driveway provides access to the second level of the parking garage. The current design does not appear to include a separate lobby drop-off driveway as per Sec. 23-24(d)(5). Finally, the project does not indicate any proposed locations for Fire Department staging area(s) - which are required (not in swale).

On the building rooftop is a recreational facility with a swimming pool, spa, bar, pool cabanas, outside dining areas, men's and women's restrooms. The proposed new building is 7-stories in height; five (5) floors of residential use over two (2) floor of parking / common areas / building lobby @ 65-feet above BFE. It is noted the 2nd Level includes both parking garage areas (west) and the building lobby / offices / amenities / service areas (east).

According to the survey submitted, both lots are currently vacant. Town records indicate that the lots were previously developed with a duplex (2 DU) and an eight (8) DU residential complex for a total of 10 DU. **Therefore, the net increase would be twenty (20) DU.** The survey indicates the total lot area is 22,500 square feet / 0.52 acres in size. This would allow a maximum of eighteen (18) dwelling units on the property at the maximum allowable base density (34 DUA). **The proposal is to build twenty-seven (27) dwelling units (57.7 DUA) which would require the developer to acquire 9 TDR units.** It appears from the survey that no right-of-way for on-street parking was ever dedicated to the Town, so the lots are "full" lots.

The adjoining / nearby development sites currently include the 7-story Guildford House condominium complex @ 72 DU / 70 DUA to the immediate north. To the immediate south is the 2-story Bay Harbor Townhouses condominium complex @ 8 DU / 30.8 DUA. To the east across West Bay Harbor Drive is a one-story duplex @ 2 DU / 7.7 DUA and a Town-owned surface parking lot at 97th Street. To the west across the 150-foot-wide Bay Harbor Waterway are a mixture of one-story and two-story single-family homes. This area of the Town is predominated by a mixture of low-rise residential complexes (1-3 stories) and mid-rise residential complexes (5-7 stories). The Town's 2002 Community Vision Master Plan identifies this area for mid-rise residential complexes (7+/- stories). Therefore, the proposed development is deemed generally consistent with the Town's future vision for this area.

BACKGROUND INFORMATION

The Town completed major amendments to its adopted Comprehensive Plan and Land Development Regulations (LDRs) in the last 20+/- years. The former RE zoned lands located on waterfront lots were rezoned into the RM-1 District, while interior (non-waterfront lots) are zoned RM-2. The Town also adopted numerous other modifications to many other code provisions that affect yard encroachments, parking lot designs, building height limits and exceptions, building design standards, landscaping and other provisions. The submittal package has a few minor design / Code compliance issues at this time.

COMPREHENSIVE PLAN / ZONING

Comprehensive Plan – The property has a Future Land Use Map (FLUM) designation of "Medium-High Density Residential". The maximum allowable base density is 34 DUA. Additional dwelling units may be acquired to increase the base density if approved by the Town Commission. The developer is seeking to build 27 DU via the base density. Therefore, **9 additional TDR units are required**. If the Town Commission approves the 9 TDR units, the proposed development will be consistent with the applicable FLUM designation of the property.

Land Development Regulations / Zoning Code – The property has a Zoning District classification of RM-1 Multiple Family Zoning District. The maximum building height allowed in this area is 65 feet (measured from BFE + 1' FBC Freeboard to the top of main roof deck). The proposed use of the property is consistent with this zoning classification; however, the proposed site design is not consistent with some provisions of the Code at present.

PLATTING

The site will not require re-platting, as the site is currently platted as described above. A Unity of Title document will be required to legally tie the two (2) lots together prior to the issuance of building permits.

RIGHT-OF-WAY, OFF-STREET PARKING AND ACCESS DESCRIPTION

As stated above, the Site Development Plan depicts access to the site from two (2) driveway connections to W. Bay Harbor Drive. The northern proposed driveway is 20' in width and the southern driveway width is 22'. The Code required driveway width is a min. of 23'. The Town has the ability to allow somewhat narrower driveway widths for areas where no vehicle maneuvering occurs, or unusually tight areas occur. A written request with engineering backup is required. Otherwise, these driveway widths need to be revised. The southern driveway provides access to two (2) guest parking spaces (one is ADA space) in the front yard area as well as the lower level of the parking garage. The northern driveway provides access to the second level of the parking garage. The current design does not appear to include a mandatory lobby drop-off driveway as per Sec. 23-24(d)(5). The ADA space / guest spaces do not serve as the lobby drop-off driveway. Based on 27 DU the Code requires at least fifty-four (54) parking spaces which includes two (2) guest spaces. Fifty-six (56) parking spaces are provided with 4 tandem spaces / 44 standard spaces / 2 ADA spaces. As this is a two-lot development, two (2) guest spaces are required as well as a drop-off area near the lobby entrance.

It is presumed typical Fire Department staging area are required but not shown on the plans. The applicant should meet with the Miami-Dade Fire Department staff as soon as possible to verify the proposed staging area, as this may affect the site design. The roadway swale cannot serve fully as the staging area – that area is primarily for stormwater drainage / vehicle swerving recovery area / landscaping (Street Trees / grass).

BUILDING DESIGN / BUILDING LENGTH / BREEZEWAY

The building design is typical Tropical South Florida Modern with clean / modern decorative perforated metal screening panels and an aluminum and glass railing system, as well as an abundant use of glass. Some type of decorative brick / stone is show on the ground level building facades. The architectural design has abundant articulation of its facades due to the use of the Flex Setback allowances with both vertical and horizontal features. No preliminary exterior material information was included in the initial plans set as required.

The building does not exceed one hundred twenty (120) feet in length; therefore, no "breezeway" is required.

SITE PLAN COMMENTS

Following are comments based on the plans dated by the architect on July 28th, 2022 submitted to the Town for consideration:

1) On Sheet A-002 along the waterfront, the plans show several hardscape patios / walkways including access the seawall / dock facilities. Some of these areas are too large / too wide and do not meet Code allowances. Adjoining the seawall, a min. 5' wide continuous landscape strip is required for landscaping but more importantly for drainage per the FDEP NPDES permit to capture runoff from storms / pool overflow that could pollute Biscayne Bay (chlorine / fertilizer / other). Also, all walkway widths are limited to 5' in width. This sheet is not consistent with other similar plan sheets – but in all cases the setbacks / widths violate the Codes (Sheets A-100 / A-101 / others). It is suggested that a few walkway connections be included from the patios to the seawall / docks to avoid future damage to landscaping. Revise the plans to comply with Code allowances.

2) The landscape buffer strip along West Bay Harbor Drive is required to be a minimum of 10' per Sec. 23-24(d)(1). The site plan shows some very narrow landscape strips that are un-dimensioned – but scale to about 4'-6". The DRB has the ability to approve reductions for the front yard landscape strip to no less than 7' per the M-D Landscape Code due to the provision of lobby drop-off / guest spaces in the narrow setback. Please revise and provide an explanation of why the normal landscape width cannot be provided. The Town's zoning criteria takes precedent – if the building footprint is too large reduce it to comply.

3) As stated above Sec. 23-30(c) requires all driveway to be at least 23' in width. The Town has the ability to allow somewhat narrower driveway widths in areas where no vehicle maneuvering occurs, or unusually tight areas occur. A written request with engineering backup is required. Otherwise, these driveway widths need to be revised.

4) Show the proposed location Fire Department staging areas. These will need to be agreed to by the Miami-Dade Fire Department, as this could affect the design. They may not be more than slightly encroaching onto the roadway landscaping / drainage swale areas. Within the driveway pavement is preferred.

5) As required by Sec. 5-20(e) proposed building materials and colors are required as part of the submission (specify on the color renderings / boards and color chips). Please provide.

6) The tenant storage areas are required to be a min. of 25 sq. ft. each as required by §23-9(6). Please clearly label the storage areas for each unit and include the sq. ft. & 7' ceiling hgt.

7) Sheet A-101 has two parking space labeled as #14. Please correct.

8) All backflow preventers / exposed utility facilities must be substantially screened / hidden with landscaping / fences / painted to match. The Town has agreement with the M-D Fire Dept. / FPL to adequately screen their facilities, as long as reasonable access is provided. Where they are shown on the PZB plans is where they are required to be built – no relocations without prior Town approval.

9) The Town Code requires any existing overhead lines to be undergrounded / poles removed at the time of redevelopment; however, FPL has objected to incremental undergrounding. The Town will require conduit for future undergrounding. All utility connections from the source must be placed underground from the pole to the building.

10) From information MMPA has on file related to the location of Town infrastructure (pipes / pumps / etc.) there appears to be an existing 18-inch underground stormwater outfall pipe along the north property line. This must be specifically located, preserved, and protected. There may be no existing easement as it is not shown on the survey – now required. The Town Engineer / Public Works staff should be contacted to coordinate this effort. It may be located on the property line or to one side (subject site / Guildford House Condo to north).

11) The plans appear to show the parking garage facades are not fully enclosed as required by Sec. 23-24(d)(4). The DRB can approve alternative designs provided full screening is used. Some good examples we have seen include metal louvered systems for noise / visual.

12) A Development Impact Analysis Report (IAR) is required to submitted with this application. See the attached Town IAR form. For trip generation use ITE data for Midrise Residential (5.44 TPD per DU / .36 AMPH trips per DU / .44 PMPH trips per DU).

13) Landscaping Plans:

    a) The Town's Landscape Plan Table shown on Sheet L-1 is an older version and is missing some items. For example, the supplemental table that requires taller trees for taller buildings is completely missing. See the attached current table. Revise the plans as necessary to comply with Code requirements (Sec. 24-16).

    b) No exotic landscaping is permitted within the road right-of-way of West Bay Harbor Drive. Only sod is permitted and Street Trees per M-D Ch. 18B and Town Sec. 24-16. Please revise to remove all but the above landscaping.

c) The required Street Tree species for this site is Pink Tabebuia / Trumpet Tree per the Town's adopted Street Master Plan (alternative shorter species due to FPL OH lines @ 15' tall at planting). The plans show unspecified trees and refer to the Town Master Plan. Also, Street Trees are required to be planted in the "street" swales – not on the lot. As mentioned earlier M-D Fire Truck staging areas cannot be totally on the roadway swale – it is for drainage / landscaping / motorist safety. A minor encroachment may be acceptable. Due to the wider 60' right-of-way width of WBHD more swale area is available. Revise the plans to place the Street Trees in the street swale and change the table to identify the correct tree species. Street Trees should be spaced equally at 35' on center to keep the Town's desired streetscape regiment appearance.

d) Per Sec. 24-16 the minimum required height for any shrubs at time of planting is 24 inches. Some of the plant specification in the Table on Sheet LA-2.0 show lesser shrub heights. Revise the table to spec correct hgt.

e) As stated previously the Landscape Plan is unfortunately based on a site plan that cannot be built - as the street frontage landscape strip widths are too narrow. Once the landscape strips are widened to an acceptable width the Landscape Plan can be revised.

f) Due to the existing 18-inch Town street drainage outfall pipe located along the north property line (exact location to be determined) the trees / shrubs shown may have to be modified to not interfere with the pipe.

Town of Bay Harbor Islands, Florida
Landscape Requirements Legend (Worksheet)

Multi-Family Residential / Townhouse Sites (RM-1, RM-2, RM-3)
Town Landscape Code (Sec. 24-16) & Miami-Dade Landscape Code (Chapter 18A)

Site Address _____ **Legal Description** _____

Net Lot Area _____ **Acres /** _____**SF**

	Required	Provided
I. Open Space Requirement		
1. Net Lot Area = _____SF x 20% = _____SF (BHI – Sec. 23-11)	20% /_____SF	___% /_____SF
2. Maximum Lawn Area Allowed (MDC – Sec. 18A-6(A)(5)) a. Req. open space _____SF x 60% = _____SF	60% Max / _____SF	___% /_____SF
II. Shade Trees		
A. Required		
1. 28 shade trees/acre: 28 x _____acres = _____ (Min. 12' in height / 4' clear wood / 2 ½" caliper) (Palm trees substituted at a 3:1 ratio; max. 25% of required shade trees) (MDC – Sec. 18A-6(C)(5)) and BHI Sec. 24-16	_____	_____
2. Native Species Required - 50% Min. # of shade trees req. _____x 50% = _____ (BHI – Sec. 24-16(a)(2))	_____	_____
3. Drought Tolerant and Low Maintenance Species Require – 50% Min. # of shade trees req. _____x 50% = _____ (MDC – Sec. 18A-6(C)(11)(b))	_____	_____
B. Tree Species		
1. Number of shade trees required (from Sec. (II)(A)(1) above)	_____	
2. Number of shade tree species required (BHI – Sec. 24-16(a)(2)) *See Following Table.	_____	_____

Number of Different Tree Species based on Quantity

1-5 required shade trees	2 shade tree species
6-10 required shade trees	3 shade tree species
11-15 required shade trees	4 shade tree species
16-20 required shade trees	5 shade tree species
21-30 required shade trees	6 shade tree species
31 or more required shade trees	7 shade tree species

C. Tree Heights

1. Number of Stories of building _____

2. Number of shade trees required _____
(from Sec. (II)(A)(1) above)

3. Shade tree heights required: 12 ft. - _____% or _____ shade trees

14-16 ft. -_____% or _____ shade trees

16-18 ft. - _____% or _____ shade trees

18-20 ft. - _____% or _____ shade trees

Size of Tree Species in Relationship to Building Height

No. Stories	Min. Shade Tree Height (ft.)	Min. Spread (ft.)	Palm Height (ft.)
1-2	12	5	14-18
3	50% min. req.	5	14-18
	50% 14-16	6	18-22
4	50% min. req.	5	14-18
	25% 14-16	6	18-22
	25% 16-18	7	22-28
5 plus	25% min. req.	5	14-18
	50% 16-18	7	22-28
	25% 18-20	8	22-28

(BHI – Sec. 24-16(a)(2)

III. Street Trees **Required** **Provided**

1. Street Trees @ 1:35' _____ _____
Width of lot _____ / 35' = _____
(15' min height / 6' clear wood / 2 ½" caliper)
(Street tree species determined by Street Tree Master Plan)
(Street trees do not count toward required on site shade trees)
(BHI – Sec. 24-16(a)(2)(a))

IV. Shrubs Required	Required	Provided
1. 10 shrubs required per shade tree (Min. 24" in height / visual screen min. 36" in height / max 24" on center) (BHI – Sec. 24-16(a)(2)(d))	_____	_____
2. Native Species Required - 30% Min. (MDC – Sec. 18A-6(D)(1)(a))	_____	_____
3. Drought Tolerant and Low Maintenance Species Required – 50% Min. (MDC – Sec. 18A-6(D)(1)(b))	_____	_____

V. Buffers (If applicable)
(BHI – Sec. 24-16)

1. Parking Lot from ROW	_____ (yes / no)	_____ (yes / no)
2. Dissimilar Uses	_____ (yes / no)	_____ (yes / no)

VI. Parking Lot Landscaping (If applicable)	Required	Provided
1. 10 SF / parking space: 10 x _____ spaces = _____SF (MDC – Sec. 18A-6(J))	_____	_____
2. Shade Trees Required (MDC – Sec. 18A-6(J))	_____	_____
3. Shrubs Required (MDC – Sec. 18A-6(I))	_____	_____

VII. Right Tree Right Place
(BHI – Sec. 24-16(a)(2)(f))

1. Number of trees near power lines (See attached FPL guidelines)	_____

VIII. Florida Friendly Landscaping
(MDC – Sec. 18A-2(A))

All landscaping shall promote Florida Friendly landscaping principles through the use of drought-tolerant plant species, grouping of plant material by water requirements, the use of irrigation systems that conserve the use of potable and non-potable water supplies and restrictions on the amount of lawn areas. Florida Friendly landscape principles also promote planting the right plant in the right place and appropriate fertilization and mulching.

EXHIBIT E

TDR POLICY DOCUMENTS

RESOLUTION NO. 2006

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF BAY HARBOR ISLANDS ESTABLISHING THE PERCENTAGE OF TOWN BANK TRANSFER DEVELOPMENT RIGHTS THAT MAY BE ALLOCATED TO EACH PROJECT PURSUANT TO SECTION 23-22.2 OF THE TOWN'S CODE OF ORDINANCES.

WHEREAS, Section 23-22.2 of the Town's Code of Ordinances ("Code") establishes a transfer of development rights ("TDRs") and a TDR reserve bank owned by the Town;

WHEREAS, Section 23-22.2 of the Code permits the Town to sell its TDRs to Town property owners;

WHEREAS, Section 23-22.2 of the Code permits Town property owners to sell their TDRs to other Town property owners, and as a condition thereto, the seller is required to use the proceeds of the TDR sale to improve its property and bring its property into Code compliance, which may also include the Town's land development codes such as zoning, landscaping, signage, and property maintenance.

WHEREAS, the Town Council encourages the sale of TDRs among Town property owners so that the sale of TDRs will be used to bring the Seller's property into Code compliance including, landscaping, signage, and property maintenance.

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

1. The Town shall limit the TDRs that it sells to a Town property owner to no more than fifty percent (50%) of the required TDRs needed by the property owner or developer to develop its land pursuant to its Site Development Plan approval or otherwise.

2. The Town Council retains its discretion to sell a Town property owner more than fifty percent (50%) of the required TDRs needed by the private property owner or developer to develop its land pursuant to its Site Development Plan approval or otherwise, upon the presentation of record evidence by the property owner or developer that:

    a. Substantial efforts were made over a period of several months to purchase TDRs from many other Town property owners; and

    b. Notwithstanding such substantial efforts and time, the property owner or developer was unable to purchase at least fifty percent (50%) of its required TDRs from other Town property owners.

3. Sections one (1) and two (2) above shall apply only when an approved Site Development Plan requires the applicant/property owner to obtain six (6) or more TDRs. When an approved Site Development Plan requires the applicant/property owner to obtain five (5) or less TDRs, the applicant/property owner may submit an application to the Town to purchase one hundred percent (100%) of its required TDRs from the Town. The Town Council retains discretion whether to sell its TDR's to the applicant/property owner subject to a number of factors, including the following factors:

a. Substantial efforts were made to purchase TDRs from many other Town property owners; and

b. Notwithstanding such substantial efforts, the property owner or developer was unable to purchase all of its required TDRs from other Town property owners.

PASSED AND ADOPTED this 7th day of April, 2014.

TOWN OF BAY HARBOR ISLANDS

By:_____
MAYOR

ATTEST:

_____
TOWN CLERK

RESOLUTION NO. 2275

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.

WHEREAS, Section 23-22.2 of the Town's Code of Ordinances ("Code") establishes a transfer of development rights ("TDR") and a TDR reserve bank owned by the Town; and

WHEREAS, Section 23-22.2 of the Code permits the Town to sell its TDRs to Town property owners; and

WHEREAS, Section 23-22.2 of the Code permits Town property owners to sell their TDRs to other Town property owners, and as a condition thereto, the seller is required to use the proceeds of the TDR sale to improve its property and bring its property into Code compliance, which may also include the Town's land development codes such as zoning, landscaping, signage, and property maintenance; and

WHEREAS, the Town Council encourages the sale of TDRs among Town property owners so that the funds generated from the sale of TDRs will be used, at least in part, to bring the Seller's property into Code compliance including buildings, parking facilities, landscaping, signage and property maintenance, and.

WHEREAS, on April 14th, 2014, the Town Council adopted Resolution No. 2006 that established a limitation on the quantity of Town-Owned TDRs that could be allocated to an individual land development project to no more than 50% of the required TDRs necessary to build a land development project that needs 6 or more TDR units, unless special circumstances exist that can be demonstrated to the Town Council, or the land development project needs 5 or less TDR units, in which case a request can be made to acquire 100% of the required TDR units from the Town, and

WHEREAS, the Town has a finite limited supply of Town-Owned TDR units, and the Town has already allocated a substantial number of Town-Owned TDR units over the years to various land development projects which has significantly depleted the number of remaining available Town-Owned TDR units, and the Town Council is concerned that the remaining bank of Town-Owned TDR units will not be adequate or available for the Town's desired growth management and redevelopment objectives, locations and patterns, and wishes to modify the previous 2014 TDR allocation limitations to help preserve the remaining bank of Town-Owned TDR units, and

WHEREAS, the private property owners within the Town own and control a substantial number of available Privately-Owned TDR units that could be acquired by others seeking new development in lieu of obtaining TDR units from the Town.

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

1. The Town shall limit the TDRs that it sells to a Town property owner to no more than twenty-five percent (25%) of the required TDRs needed by the private property owner or developer to develop its land pursuant to its Site Development Plan approval or otherwise.
2. The Town Council retains its discretion to sell a Town property owner more than twenty-five percent (25%) of the required TDRs needed by the private property owner or developer to develop its land pursuant to its Site Development Plan approval or otherwise, upon the presentation of record evidence by the property owner or developer that:
    a. Substantial efforts were made over a period of several months to purchase TDRs from many other Town property owners; and
    b. Notwithstanding such substantial efforts and time, the property owner or developer was unable to purchase at least seventy-five percent (75%) of its required TDRs from other Town property owners.
3. Sections one (1) and two (2) above shall apply only when an approved Site Development Plan requires the applicant / property owner to obtain six (6) or more TDRs. When an approved Site Development Plan requires the applicant / property owner to obtain five (5) or less TDRs, the applicant / property owner may submit an application to the Town to purchase one hundred percent (100%) of its required TDRs from the Town. The Town Council retains discretion whether to sell its TDRs to the applicant / property owner subject to a number of factors, including the following factors:
    a. Substantial efforts were made to purchase from many other Town property owners; and
    b. Notwithstanding such substantial efforts, the property owner or developer was unable to purchase all of its required TDRs from other Town property owners.

PASSED AND ADOPTED this 14th day of September , 2022.

TOWN OF BAY HARBOR ISLANDS

By: _____
Joshua D. Fuller - Mayor

ATTEST:

_____
Yvonne P. Hamilton - Town Clerk

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

_____
Greenspoon Marder LLP - Town Attorney
By: Joseph S. Geller, Esq.

EXHIBIT F

PRIVATE TDR EFFORTS

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

May 2, 2023

Re: Transfer of Development Rights ("TDRs")

Dear Property Owner:

As you may know, Section 23-22.2 of the Code of Ordinances of Bay Harbor Islands allows property owners to sell their unused residential development rights, known as TDRs, to other property owners in the Town for the development of new residential projects.

Our law firm represents a property owner who is interested in purchasing TDRs to achieve the residential density contemplated for its approved multifamily development. Our client's project has been fully approved by the Town's Design Review Board and is ready to proceed with the purchase of the TDRs, allowing for a fast closing.

Your property may have unused TDRs that can be sold to our client through the Town's TDR program. Property owners often find the sale of TDRs to be a convenient and simple way to raise significant funds, including to complete repairs or make other improvements to their properties.

If you own TDRs, or would like to determine if you do, and you are interested in discussing a potential sale to our client, please contact our office by phone at (305) 982-5658 or via email at kristofer.machado@akerman.com and cecilia.torres-toledo@akerman.com.

Thank you.

Sincerely,

Kristofer D. Machado

cc: Cecilia Torres-Toledo, Esq.

GRAPHIC SCALE

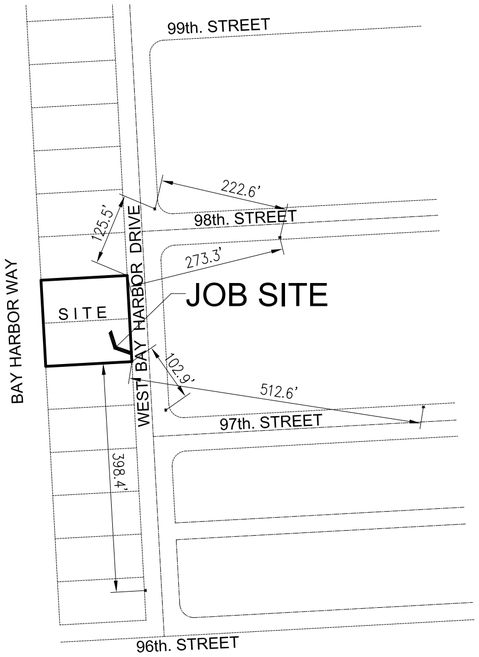
20' 0 10' 20' 40' 80'

(IN FEET)
1 inch = 20 ft.



TREE TABULATION:

TREE ID #	TYPE (COMMON NAME)	DIAMETER (IN) @ 4.5' (BREAST HEIGHT)	HEIGHT (OAH) FT	CANOPY (CAO) FT
55	TREE	9	25	15
56	TREE	8	25	15
57	TREE	7	25	15
58	TREE	6	25	15
59	TREE	10	25	15
60	TREE	7	25	15
61	TREE	5	25	15
62	TREE	5	25	15
63	TREE	3	25	15
64	TREE	3	25	15
65	TREE	9	20	10
66	TREE	5	15	10
69	ROYAL PALM	18	30	15
70	PALM	4	20	5
71	PALM	4	20	5
72	PALM	3	15	5
73	TREE	12	20	15
74	PALM	7	15	5
75-78	PALM	3	15	5
79	PALM	4	15	5
80	TREE	6	18	15
81	PALM	6	18	5
82	UMBRELLA	6	18	10
83	PALM	14	15	10
84	PALM	3	15	5
85	PALM	3	15	5
86	PALM	4	15	5
87	COCONUT	10	25	15
88	PALM	3	20	5
89	ROYAL PALM	18	40	15
90	ROYAL PALM	18	40	15
91	PALM	11	15	10
92	TREE	11	20	25
93	PALM	3	20	5
94	PALM	3	20	5
95	PALM	3	20	5
96	PALM	4	20	5
97	PALM	3	20	5
98	PALM	3	20	5
99	TREE	7	20	15
100	PALM	12	15	15
101	PALM	12	15	15
102	TREE	7	18	15
103	PINE	32	60	15
104	PALM	21	18	15
105	PALM	18	18	15
113	COCONUT	9	25	15
114	COCONUT	9	25	15
115	PALM	6	15	5
116	COCONUT	11	20	15
117	COCONUT	11	25	15
118	COCONUT	10	25	15
119	COCONUT	9	18	15
120	PALM	4	18	5
121	PALM	3	10	5
122	PALM	3	8	5
123	PALM	3	8	5
124	COCONUT	6	20	15
125	COCONUT	6	20	15
126	COCONUT	11	30	15
127	COCONUT	9	25	15
128	COCONUT	10	15	15
129	COCONUT	11	15	15
130	COCONUT	9	20	15
131	PALM	3	10	5
132	PALM	3	10	5



VICINITY MAP/ FIRE HYDRANT LOCATION

NOT TO SCALE

PORTION SECTION 27-52S-42E

SURVEYOR'S NOTES:

1- The Legal Description was provided by the Client from most recent County Records available.

2- This is not a Certification of Title, Zoning, Easements, or Freedom of Encumbrances. ABSTRACT NOT REVIEWED.

3- There may be additional Restrictions not shown on this survey that may be found in the Public Records of this County, Examination of ABSTRACT OF TITLE will have to be made to determine recorded instruments, if any affecting this property.

4- No attempt was made by this firm to locate underground utilities, foundations and/or footings of buildings, walls or fences, except as shown hereon, if any.

5- Underground utilities are not depicted hereon, contact the appropriate authority prior to any design work or construction on the property herein described. Surveyor shall be notified as to any deviation from utilities shown hereon.

6- Contact the appropriate authority prior to any design work on the herein - described parcel for Building and Zoning information.

7- The surveyor does not determine fence and/or wall ownership.

8- Accuracy:
The Horizontal positional accuracy of well-defined improvement on this survey is +/-0.2'.
The Vertical accuracy of elevations of well-defined improvement on this survey is +/-0.1'

9- All measurements shown hereon are made in accordance with the United States Standard Feet.

10- Type of survey SKETCH OF SURVEY.

11- North arrow direction is based on an assumed meridian as shown on the aforementioned Plat.

12- Elevations shown hereon are relative to National Geodetic Vertical Datum (1929 Mean Sea Level)

13- Benchmark Used: Miami-Dade County Benchmark #R-243. Elevation = +6.61'.

14- Flood Zone Data: Community/ Panel #120637/0144/L Dated: 9/11/09 Flood Zone: "AE" Base Flood Elevation = +8.0'

15- This SURVEY has been prepared for the exclusive use of the entities named hereon. The Certificate does not extend to any unnamed party:

- BAY HARBOR INVESTMENT INC.

LEGEND

OH — OH	Overhead Wire Line
// — //	Wood Fence
X — X	Chain Link Fence
	Iron Fence
M — — —	Monument Line
℄ — — —	Centerline
PL	Property Line

A = Arc
BRG = Bearing
CH = Chord
Δ = Delta
L = Length
R = Radius
T = Tangent
Ø = Diameter

+ 0.00' = Existing Elevations
CB = Catch Basin
W = Water Meter
E = Electric Box
S = Sanitary Manhole
= Sprinkler Pump
= Wood Pole
= Conc. Pole
= Light Pole
= Fire Hydrant
= Water Valve
= Inlet
TV = Cable Tv Box
EM = Electric Meter Box
= Traffic Signal Box
= Gas Valve
= Monitoring Valve
M = Manhole

A/C = Air Conditioner
Conc. = Concrete
C.B.S. = Concrete Block & Stucco
(D) = Deed
D.E. = Drainage Easement
D.M.E. = Drainage Maintenance Easement
F.D.H. = Found Drill Hole
F.F.E. = Finish Floor Elevation
F.I.P. = Found Iron Pipe/Pin
F.I.R. = Found Iron Rebar
F.N. = Found Nail
F.N&D = Found Nail & Disc
F.P.L. = Florida Power Light
H = Height
L.M.E. = Lake Maintenance Easement
(M) = Measured
(P) = Platted
P.O.B. = Point of Beginning
P.O.C. = Point of Commencement
(R) = Record
Res. = Residence
SIP/R = Set Iron Pin/Rebar
S = Spread
U.E. = Utility Easement

PROPERTY ADDRESS:

9740-9760 W BAY HARBOR DRIVE, BAY HARBOR ISLANDS, FL 33154
Folio# 13-2227-001-0730, 13-2227-001-0720

LEGAL DESCRIPTION

Lots 25 and 26, in Block 3, of "BAY HARBOR ISLAND", according to the Plat thereof, as recorded in Plat Book 46, Page 5, of the Public Records of Miami-Dade County, Florida.

SURVEYOR'S CERTIFICATE:

I HEREBY CERTIFY:
That this Survey meets the intent of the required Standards of Practice as set forth by the Florida Board of Professional Surveyors and Mappers in Chapter 5J-17.051, Florida Administrative Code, pursuant to Section 472.027, Florida Statutes.

Not valid without the signature and the original raised seal of a Florida Licensed Surveyor and Mapper. Additions or deletions to this survey by other than the signing party are prohibited without written consent of the signing party.

For the Firm Royal Point Land Surveyors, Inc LB# 7282

☐ JACOB GOMIS, PROFESSIONAL SURVEYOR AND MAPPER LS# 6231 STATE OF FLORIDA

☐ PABLO J. ALFONSO, PROFESSIONAL SURVEYOR AND MAPPER LS# 5880 STATE OF FLORIDA

This Document is not full and complete without all Sheets, Containing a total of (1) Sheets

NO.	DATE	DESCRIPTION	BY	APP.

RECORD OF REVISIONS

RECORD OF REVISIONS

ROYAL POINT
LAND SURVEYORS, INC. L.B.# 7282
6175 NW 153rd STREET, SUITE 321, MIAMI LAKES, FL. 33014 *** TEL: 305-822-6062 *** FAX.305-827-9669
info@RoyalPointLS.com

TYPE OF SURVEY: SKETCH OF SURVEY

PREPARED FOR: BAY HARBOR INVESTMENT INC.

DRAWN: MEB.

CHECKED: P.J.A.

SCALE: AS NOTED

FIELD DATE: 08/14/2023

JOB No.:RP23-1054

SHEET: 1

OF 1 SHEET

F:\DRAWING\9740-9760 W BAY HARBOR DRIVE_UPDATE_RP23-1054.dwg 8/15/2023

Name	Address	City	State	Zip	Country
ANTONY GARDENS LLC	PO BOX 57019	LIMASSOL 3311 9999			CYPRUS
DOMINIC MUSITANO	14 COMO PLACE	HAMILTON ON L8N 1G4			CANADA
PENTA CAPITAL V INVESTMENTS LP	2828 BATHURST ST STE 400	TORONTO ON M6B 3A7			CANADA
RON VINEBERG CARLA S VINEBERG	2 WESTMOUNT SQUARE #506	WESTMOUNT QC H3Z 2S4			CANADA
VICKY VALKANAS	11702 RUE JAMES MORRICE	MONTREAL QC H3M 2E8			CANADA
0 706 LLC	1111 KANE CONCOURSE 305	BAY HARBOR ISLANDS	FL	33154	USA
1000 99TH STREET LLC	121 E 23 ST APT 18C	NEW YORK	NY	10010	USA
1065 2 BAY HARBOR LLC	1903 FERDINAND ST	CORAL GABLES	FL	33134	USA
303 BHO LLC	21500 BISCAYNE BLVD 401	AVENTURA	FL	33180	USA
304 BHO LLC	21500 BISCAYNE BLVD 4001	AVENTURA	FL	33180	USA
403 BHO LLC	21500 BISCAYNE BLVD 401	AVENTURA	FL	33180	USA
501 BHO LLC	21500 BISCAYNE BLVD 401	AVENTURA	FL	33180	USA
503 BHO LLC	21500 BISCAYNE BLVD 401	AVENTURA	FL	33180	USA
504 E BAY HARBOR LLC	18660 CASSANDRA POINTE LN	BOCA RATON	FL	33496	USA
802 BHO LLC	21500 BISCAYNE BLVD STE 401	AVENTURA	FL	33180	USA
815 80TH ST LLC	1231 96 ST #1105	BAY HARBOR ISLANDS	FL	33154	USA
905 BAY HARBOR INC	444 BRICKELL AVE 760	MIAMI	FL	33131	USA
9660 W BAY HARBOR LLC	9901 E BAY HARBOR DR #PH1 PH3	BAY HARBOR ISLANDS	FL	33154	USA
9901 E BAY HARBOR LLC	9901 E BAY HARBOR DR PH1	BAY HARBOR ISLANDS	FL	33154	USA
9950 E BAY HARBOR DR BH LLC	20200 W DIXIE HWY	AVENTURA	FL	33180	USA
9955 BAY HARBOR DEVELOPMENT LLC	18101 COLLINS AVE #3908	SUNNY ISLES BEACH	FL	33160	USA
AGUSTIN GOITY MAGDALENA LERCHUNDI	10101 E BAY HARBOR DR APT 506	BAY HARBOR ISLANDS	FL	33154-1202	USA
ALEMI LLC	9240 DICKENS AVE	SURFSIDE	FL	33154	USA
ALEXANDER I RYSHAWY JENNIFER S RYSHAWY	1140 101 ST #601-B	BAY HARBOR ISLANDS	FL	33154	USA
ALEXANDER RANGEL IRINA ZABELINA	10101 E BAY HARBOR DR #306	BAY HARBOR ISLANDS	FL	33154	USA
ALEXEI BAEV OLENA BAEV	10072 E BAY HARBOR DR 72D	BAY HARBOR ISLANDS	FL	33154	USA
ALON NELSON ADI NELSON	10072 E BAY HARBOR DR 72B	BAY HARBOR ISLANDS	FL	33154	USA
ALVARO ARENAS LE MARIA LUISA ARENAS LE REM ALVARO MARTIN ARENAS	1065 98 ST #3	BAY HARBOR ISLANDS	FL	33154	USA
AMERICAS PURCHASING SERVICES LLC	20201 NE 29 CT D 107	MIAMI	FL	33180	USA
ANALIA MARIEL BOGDAN MARTIN FREIRE	1120 99 ST 204	BAY HARBOR ISLANDS	FL	33154	USA
ANASTASIA TAPLINA	10000 BAY HARBOR TER 401-A	BAY HARBOR ISLANDS	FL	33154	USA
ANDREY MARKOV	1645 SW 4 AVE	BOCA RATON	FL	33432	USA
ANGELA MARIA RIZZI TRS ANGELA RIZZI LIVING TRUST	101 CRANDON BLVD 276 AND 281	KEY BISCAYNE	FL	33149	USA
ANGELICA ANDREOZZI	1101 98 ST #7	BAY HARBOR ISLANDS	FL	33154-1749	USA
ANN MCCAULEY ROBERT F FRANKEL	212 WINSLOW ROAD	WABAN	MA	02468	USA
ANNE MARIE FORTIER JTRS & ISABEL JOAO DE OLIVEIRA JTRS	1125 99 ST #12	BAY HARBOR ISLANDS	FL	33154	USA
ARELYS ROMERO LE REM LUIS ANDRES PIZARRO	9821 E BAY HARBOR DR UNIT 602	BAY HARBOR ISLANDS	FL	33154	USA
ARIELLE GRUBER	1055 99 ST	BAY HARBOR ISLANDS	FL	33154	USA
AUSBOR LLC	2450 NE MIAMI GARDENS DR 2 FLR	MIAMI	FL	33180	USA
AUSTRABOREA LLC	2450 NE MIAMI GARDENS DR 2 FLR	MIAMI	FL	33180	USA
BARBARA J MONROE JTRS TERRY MONROE JTRS	10101 E BAY HARBOR DR UNIT 202	BAY HARBOR ISLANDS	FL	33154	USA
BAY HARBOR 204 LLC	9273 COLLINS AVE 802	SURFSIDE	FL	33154	USA
BAY HARBOR 705 LLC	3839 NW BOCA RATON BLVD 100	BOCA RATON	FL	33431	USA
BAY HARBOR 706 LLC	3839 NW BOCA RATON BLVD 100	BOCA RATON	FL	33431	USA
BAY HARBOR 804 LLC	3839 NW BOCA RATON BLVD 100	BOCA RATON	FL	33431	USA
BAY HARBOR 805 LLC	3839 NW BOCA RATON BLVD 100	BOCA RATON	FL	33431	USA
BAY HARBOR ISLAND	9665 BAY HARBOR TERR	BAY HARBOR ISLANDS	FL	33154	USA

BAY HARBOR ISLAND I LLC	1395 BRICKELL AVE 14 FLR-FAP	MIAMI	FL	33131	USA
BAY HARBOR ISLAND TOWNHOUSES ASSOCIATION INC	7665 NW 50 STREET	MIAMI	FL	33166	USA
BAY HARBOR LLC	9821 E BAY HARBOR DR 605	BAY HARBOR ISLANDS	FL	33154	USA
BAY HARBOR ONE 302 LLC	1612 NW 84 AVE	DORAL	FL	33126	USA
BAY HARBOR TH 1 LLC	1395 BRICKELL AVE 14 FLR FAP	MIAMI	FL	33131	USA
BAY PALMS INVESTMENTS LLC	4440 VISTA LN	LYNN HAVEN	FL	32444	USA
BAY PALMS INVESTMENTS LLC	3401 SW 160 AVE STE 330	MIRAMAR	FL	33027	USA
BAYHARBOR TRADING CORP	2251 NE 201 ST	MIAMI	FL	33180	USA
BEACH ISLAND PROPERTIES LLC	3389 SHERIDAN ST #181	HOLLYWOOD	FL	33021	USA
BEBETO INVESTMENT LLC	10031 PINES BLVD 228	PEMBROKE PINES	FL	33024	USA
BEN HARBOR LLC	9901 E BAY HARBOR DR 502	BAY HARBOR ISLANDS	FL	33154	USA
BH STR LLC	20900 NE 30 AVE STE 915	MIAMI	FL	33180-2166	USA
BLANCA MARYNA RODRIGUEZ TRS BLANCA MARYNA RODRIGUEZ REV TR	5511 SW 132 AVE	MIAMI	FL	33175	USA
BLANCA R GONZALEZ BARLETTA LE MARIO A BARLETTA LE REM VERONICA ANDREA BARLETTA	10101 E BAY HARBOR DR #509	BAY HARBOR ISLANDS	FL	33154	USA
BOLDER CORPORATE LLC	1100 100 ST 406	BAY HARBOR ISLANDS	FL	33154	USA
BORIS LEVITAS	566 MCLAWS ST	SAVANNAH	GA	31405	USA
BRENT S PALMER	1000 99 ST UNIT 2	BAY HARBOR ISLANDS	FL	33154-1879	USA
BRIAN MCCLISH	112 22ND AVE N	SAINT PETERSBURG	FL	33704	USA
BRICKSAVE BH CLUB APT 306 LLC C/O MARIE BUFFIERE	750 THIRD AVE 9TH FLR	NEW YORK	NY	10017	USA
BULIMBA INVESTMENT LLC	21500 BISCAYNE BLVD STE 401	AVENTURA	FL	33180	USA
CAPPANOG INC	1395 BRICKELL AVE 1380	MIAMI	FL	33131	USA
CARL ASHQAR SAYRA ASHQAR	1035 99 ST	BAY HARBOR ISLANDS	FL	33154	USA
CHRISTIAN ALEXE	9970 E BAY HARBOR DR	BAY HARBOR ISLANDS	FL	33154	USA
CHRISTOPHER HOPKINS HAMILTON STEPHEN KINGSBURY HAMILTON	60 MONTICELLO DR	HILTON HEAD	SC	29926-1297	USA
CLAIRE LOEW HAUSMAN TRS GERALD LOEW TRS CLAIRE LOEW HAUSMAN	1120 99 ST #403	BAY HARBOR ISLANDS	FL	33154	USA
CLAUDIA CARAMIAN	10090 BAY HARBOR TER	BAY HARBOR ISLANDS	FL	33154	USA
CLAUDIA MENDEZ	1120 99 ST 304	BAY HARBOR ISLANDS	FL	33154	USA
CLIFFORD M SIMON COLETTE L SIMON	3414 FAY AVE	CULVER CITY	CA	90232	USA
CONRAD DAHLSON &W DIANA B DAHLSON	10101 E BAY HARBOR DR #407	BAY HARBOR ISLANDS	FL	33154-1201	USA
CONSTANZA SONCINI	1120 99 ST UNIT 206	BAY HARBOR ISLANDS	FL	33154	USA
DAMIAN RATTAGAN MARCELA C VACCARI	9901 E BAY HARBOR DR 811	BAY HARBOR ISLANDS	FL	33154	USA
DANIEL ANDAI ANNE CHICHEPORTICHE	10101 E BAY HARBOR DR 404	BAY HARBOR ISLANDS	FL	33154	USA
DANIEL MC KEOWN	3908 CENTRAL AVE	WESTERN SPRINGS	IL	60558	USA
DANIELA INMACULADA FRIAS BOTTA	10078 E BAY HARBOR DR #78D	BAY HARBOR ISLANDS	FL	33154	USA
DANTE CHIABRA &W BRENDA L	10101 E BAY HARBOR DR UNIT 502	BAY HARBOR ISLANDS	FL	33154-1201	USA
DARRIN NORWOOD	PO BOX 5331	ALPHARETTA	GA	30023	USA
DAVID F ANDERSON NELLY E ANDERSON	10101 E BAY HARBOR DR 201	BAY HARBOR ISLANDS	FL	33154	USA
DAVID F ANDERSON NELLY E ANDERSON	10101 E BAY HARBOR DR 706	BAY HARBOR ISLANDS	FL	33154	USA
DAVID F ANDERSON LE NELLY E ANDERSON LE REM DAVID ANDREW ANDERSON	10101 E BAY HARBOR DR #309	BAY HARBOR ISLANDS	FL	33154	USA
DAVID HERSKOWITZ	9821 E BAY HARBOR DR 504	BAY HARBOR ISLANDS	FL	33154	USA
DEVORAH WIEDER ADINAH WIEDER	31 ASTOR PLACE	MONSEY	NY	10952	USA
DORTMUND HOLDINGS INC	1430 S DIXIE HWY 321	CORAL GABLES	FL	33146	USA
DR RC LLC	9821 E BAY HARBOR DR 404	BAY HARBOR ISLANDS	FL	33154	USA
DRAGANI GROUP LLC	1150 KANE CONCOURSE 2ND FLR	BAY HARBOR ISLANDS	FL	33154	USA
EDWARD R KIRSH MYRIAM KOLINKA	10023 BAY HARBOR TER	BAY HARBOR ISLANDS	FL	33154	USA
ELENA H HAYES	10000 BAY HARBOR TERR UNIT 504A	BAY HARBOR ISLANDS	FL	33154-1570	USA
ELEVEN DESIGN STUDIO LLC	9064 BYRON AVE	SURFSIDE	FL	33154	USA
ELISA HIDALGO GARCIA &W AURELIO	2830 SW 22 AVE	MIAMI	FL	33133-3949	USA

ELIZABETH ANN NESTLER	31 WELLINGTON CIR	LEBANON	NH	03766	USA
ELIZABETH MARTINEZ	1120 99 ST #501	BAY HARBOR ISLANDS	FL	33154	USA
ELLIOT BAKER	6755 N LOCKWOOD AVE	LINCOLNWOOD	IL	60712	USA
EMILIA C CABRERA	10078 E BAY HARBOR DR #C	BAY HARBOR ISLANDS	FL	33154-1540	USA
ERASTO BORETTI DE ALMEIDA JR TATIANA CNEIO ALVES	10101 E BAY HARBOR DR #307	BAY HARBOR ISLANDS	FL	33154	USA
ERNESTO PATAKY	10067 BAY HARBOR TERR	BAY HARBOR ISLANDS	FL	33154-1509	USA
ESPERANZA PICO	103 VICTORY BLVD	STATEN ISLAND	NY	10301	USA
ESTEBAN MARCHESE MARCELA GUARRACINO	10101 E BAY HARBOR DR 602	BAY HARBOR ISLANDS	FL	33154	USA
FABRIZIO SCIORIO TRS FABRIZIO SCIORIO REVOC LIV TR	9660 W BAY HARBOR DR 7D	BAY HARBOR ISLANDS	FL	33154	USA
FAST LOGIC LLC	1395 BRICKELL AVE 14 FLR	MIAMI	FL	33131	USA
FEROZ BHAMANI	11731 SW 108 LN	MIAMI	FL	33186	USA
FIRST SAVINGS MORTGAGE CORP INC C/O ALTERMAN LAW PA	6810 N STATE RD 7 STE 130	COCONUT CREEK	FL	33073	USA
FL2SEYCAN LLC	8661 NE MIAMI CT	EL PORTAL	FL	33138	USA
FLORIDA PARADISE HOLDINGS LLC	7735 NW 146 ST STE 205	MIAMI LAKES	FL	33016	USA
FLORIDA PARADISE HOLDINGS LLC	7735 NW 146 ST STE 206	MIAMI LAKES	FL	33016	USA
FLORIDA PARADISE HOLDINGS LLC	10101 E BAY HARBOR DR APT 601	BAY HARBOR ISLANDS	FL	33154	USA
FRANCIS JAMES MOONEY JOHN MATTHEW TARRO	76 SEAVIEW AVE	CRANSTON	RI	02905	USA
FRANCIS PALOUMBIS LLC	1120 99 ST #404	BAY HARBOR ISLANDS	FL	33154	USA
FULHAM DEVELOPMENT LLC	1001 BRICKELL BAY DR STE 2406	MIAMI	FL	33131	USA
G2R LLC	1110 BRICKELL AVE STE 310	MIAMI	FL	33131	USA
GEORGE LAUGHLIN	10001 E BAY HARBOR DR #2N	BAY HARBOR ISLANDS	FL	33154-1539	USA
GEORGES JAEGER &W MICHELLE	10043 BAY HARBOR TERR	BAY HARBOR ISLANDS	FL	33154-1509	USA
GERBERA GROUP USA CORP C/O ERIKA LITVAK	333 SE 2 AVE 4400	MIAMI	FL	33131	USA
GHASSAN DAGHER NOUHAD NADER	10101 E BAY HARBOR DR 606	BAY HARBOR ISLANDS	FL	33154	USA
GIANNINA WILD	57 ORCHARD PL	MAYWOOD	NJ	07607	USA
GINA LIBUTTI	10011 BAY HARBOR TERR	BAY HARBOR ISLANDS	FL	33154-1509	USA
GIOVANNINA PILAR PALOUMBIS	1120 99 ST UNIT 404	BAY HARBOR ISLANDS	FL	33154	USA
GOODHEART VENTURES INCORPORATED	PO BOX 409	PRINCETON	NJ	08540	USA
GRAYBAY PROPERTIES LLC	9533 BAY DR	SURFSIDE	FL	33154	USA
GUILLERMO BRUGADA	20200 W DIXIE HWY #1205	AVENTURA	FL	33180	USA
GVE RE INVESTMENT OF FLORIDA LLC	20650 NE 25 PL	MIAMI	FL	33180	USA
HAROLD R TALISMAN	9901 E BAY HARBOR DR 701	BAY HARBOR ISLANDS	FL	33154	USA
INITIUM FUTURA ASSETS LLC	900 BRICKELL KEY BLVD 1703	MIAMI	FL	33131	USA
INTERHOUSE GROUP LLC	9821 E BAY HARBOR DR 502	BAY HARBOR ISLANDS	FL	33154	USA
IOAV MOSHE BACH	1085 99 ST #3	BAY HARBOR ISLANDS	FL	33154	USA
ISAAC & ZOILA LAGARI	1065 98 ST #4	BAY HARBOR ISLANDS	FL	33154-1764	USA
ISAAC KLEINBART	1710 54 ST	BROOKLYN	NY	11204	USA
JACQUELINE DANZER TRS DANZER DESTINY LIVING TRU	2241 NE 38 ST	POMPANO BEACH	FL	33064	USA
JAMES THURSTON LYNCH	10101 E BAY HARBOR DR #205	BAY HARBOR ISLANDS	FL	33154	USA
JAVIER DAVID ANDREU	10101 E BAY HARBOR DR 608	BAY HARBOR ISLANDS	FL	33154	USA
JBLEMOS CORPORATION	9821 E BAY HARBOR DR 604	BAY HARBOR ISLANDS	FL	33154	USA
JBPS LLC	10001 E BAY HARBOR DR UNIT 1-S	BAY HARBOR ISLANDS	FL	33154	USA
JO B MILLER	400 DIPLOMAT PKWY APT 805	HALLANDLE BEACH	FL	33009-3732	USA
JOANNE LYNN KATZ JTRS SETH A KRAINES HOFFMAN JTRS	9141 FROUDE AVE	SURFSIDE	FL	33154-3115	USA
JOAQUIN DE OLIVEIRA	10101 E BAY HARBOR DR #301	BAY HARBOR ISLANDS	FL	33154-1201	USA
JOCELINA PINTO REZENDE	11 SAINT JOHN ST	BOSTON	MA	02130	USA
JOEL BAUM &W LESLIE BAUM	10101 E BAY HARBOR DR #609	BAY HARBOR ISLANDS	FL	33154-1202	USA
JOHNNY L AGUILAR CABALLERO YADIRA LOPEZ	5131 TYLER ST	HOLLYWOOD	FL	33021	USA

JONATHAN DADESHO	1100 100 ST UNIT 401	BAY HARBOR ISLANDS	FL	33154	USA
JONATHAN MORGINSTIN TAI MORGINSTIN	1140 101 ST UNIT 502 B	BAY HARBOR ISLANDS	FL	33154	USA
JORGE LUIS MARTINEZ KRISTYNA ROSE BORDEN	1120 99 ST 505	BAY HARBOR ISLANDS	FL	33154	USA
JOSE F & NIDIA F SUAREZ	2621 DEEP CANYON DR	BEVERLY HILLS	CA	90210	USA
JOSE I RODRIGUEZ DENNIS WILLIAMS	1120 99 ST 504	BAY HARBOR ISLANDS	FL	33154	USA
JOSEPH C MAC EACHERN &W MICHELE P	1931 NE 186 DR	N MIAMI BEACH	FL	33179-4343	USA
JOSEPH ZUCKERMAN LE REM PETER ZUCKERMAN	10000 BAY HARBOR TER 503A	BAY HARBOR ISLANDS	FL	33154	USA
JUAN FERNANDO GUERRERO MARCIA C ELIZALDE	345 NE 152 ST	MIAMI	FL	33162	USA
JUAN SUTIL &W YAEL LANIADO	1140 101 ST UNIT 201B	BAY HARBOR ISLANDS	FL	33154-1591	USA
JUANA MPATSIOS	3567 NE 168 ST	NORTH MIAMI BEACH	FL	33160	USA
JULIANA PINTO REZENDE	1120 99 ST 502	BAY HARBOR ISLANDS	FL	33154	USA
K 9 CONNECTIONS LTD	1075 98 ST	BAY HARBOR ISLANDS	FL	33154	USA
KIA LYNN BAZON MOSHE BAZON	9901 E BAY HARBOR DR PH1-PH3	BAY HARBOR ISLANDS	FL	33154	USA
KIMBERLY MARTINES MALO GLADYS MARTINEZ MALO	10101 E BAY HARBOR DR 702	BAY HARBOR ISLANDS	FL	33154	USA
LAUREN MONZON	1085 99 ST 4	BAY HARBOR ISLANDS	FL	33154	USA
LAWRENCE R SCHRAM MONICA T SCHRAM	16850 COLLINS AVE STE 112 499	SUNNY ISLES BEACH	FL	33160	USA
LESLEY VISSER KANUTH	10001 E BAY HARBOR DR UNIT 2S	BAY HARBOR ISLANDS	FL	33154	USA
LINCE GROUP LLC	33 MORNING GLORY LN	EDISON	NJ	08820	USA
LINDA BURGOS DEVELOPERS LLC	1085 98 ST	BAY HARBOR ISLANDS	FL	33154	USA
LINDA J CHESNIK	1101 98 ST UNIT 1	BAY HARBOR ISLANDS	FL	33154-1749	USA
LUIS GUZMAN PEREZ	2750 NE 183 ST APT 408	AVENTURA	FL	33160	USA
LYSANDRA GIBREAL	10101 E BAY HARBOR DR 605	BAY HARBOR ISLANDS	FL	33154	USA
M A S HOME LLC	750 E SAMPLE RD BLDG 6 STE 5	POMPANO BEACH	FL	33064	USA
MALIBU PROPERTIES I LLC	60 EDGEWATER DR 16D	CORAL GABLES	FL	33133	USA
MALIMONT INVESTMENTS LLC	900 BRICKELL KEY BLVD 1703	MIAMI	FL	33131	USA
MANUEL ACOSTA	1120 99 ST #303	BAY HARBOR ISLANDS	FL	33154-1702	USA
MARCELO ADDARIO TRS MARCELO ADDARIO REVOCABLE TR	8020 EAST DR 315	NORTH BAY VILLAGE	FL	33141	USA
MARCELO NEGRO MUNIZ JOSE MARIA NEGRO MUNIZ	16850 COLLINS AVE #187	SUNNY ISLES BEACH	FL	33160	USA
MARCO FILIPE DIAS LINHARES ALEXANDRE DIAS LINHARES	1125 99 ST #10	BAY HARBOR ISLANDS	FL	33154	USA
MARCY JURKOWITZ	10101 E BAY HARBOR DR #507	BAY HARBOR ISLANDS	FL	33154-1202	USA
MARGERY GORDON	1140 101 STREET #501-B	BAY HARBOR ISLANDS	FL	33154	USA
MARIA DEL MAR VELASCO	10101 E BAY HARBOR DR #302	BAY HARBOR ISLANDS	FL	33154	USA
MARININ QUINTERO	10072 E BAY HARBOR DR UNIT 72C	BAY HARBOR ISLANDS	FL	33154-1530	USA
MARJORY FUTTERMAN	9901 E BAY HARBOR DR 802	BAY HARBOR ISLANDS	FL	33154-1536	USA
MARLENE ESPINOZA	1120 99 ST #205	BAY HARBOR ISLANDS	FL	33154-3818	USA
MARTIN HANDLER	2800 BRUCKER BLVD STE 201	BRONX	NY	10465	USA
MAYER PREGER HENYA PREGER	861 WOODMERE PL	WOODMERE	NY	11598	USA
MEGAN BRESNAHAN	10101 E BAY HARBOR DR 701	BAY HARBOR ISLANDS	FL	33154	USA
MICHAEL J ANDERSON	1065 98 ST #9	BAY HARBOR ISLANDS	FL	33154-1764	USA
MICHAEL MAILEY	10001 E BAY HARBOR DR 3S	BAY HARBOR ISLANDS	FL	33154	USA
MICHAEL P DEVLIN EDIVANE S DEVLIN	9 BREWSTER LN	EAST SANDWICH	MA	02537	USA
MICHAEL SHERWIN	9821 E BAY HARBOR DR 401	BAY HARBOR ISLANDS	FL	33154	USA
MICHAEL T BRADY ANA M CASTILLERO BRADY	1085 99 ST #1	BAY HARBOR ISLANDS	FL	33154	USA
MILANO STEP TWO CORP	220 SW 2 ST	BOCA RATON	FL	33432	USA
MITCHELL A FELDMAN &W RAVIT	1930 NE 119 RD	NORTH MIAMI	FL	33181	USA
MITTIE F SIMMONS JTRS MARY M SIMMONS JTRS	10001 E BAY HARBOR DR #1N	BAY HARBOR ISLANDS	FL	33154	USA
MONICA ORTEGA	1120 99 ST 405	BAY HARBOR ISLANDS	FL	33154	USA
MONTHAKARN DEEA-ARD(JTRS) DAVID BOCKER (JTRS)	1199 NE 99 ST	MIAMI SHORES	FL	33138	USA

MORDECHAI WERDE CHANA ZELDA WERDE	9901 E BAY HARBOR DR 603	BAY HARBOR ISLANDS	FL	33154	USA
MRMD INVESTMENTS LLC	9289 EMERSON AVE	SURFSIDE	FL	33154	USA
MRMD TRUST LLC	9289 EMERSON AVE	SURFSIDE	FL	33154	USA
MYDAVE LLC	10295 COLLINS AVE 2407	BAL HARBOUR	FL	33154	USA
NANCY SACK TRS SACK NORTON REVOCABLE TRUST MITCHELL SACK TRS	4750 25 STREET	SAN FRANCISCO	CA	94114	USA
NANCY SCHAFER	PO BOX 6111	ORLANDO	FL	32802	USA
NASPI LLC	17611 SW 48 ST	WESTON	FL	33331	USA
NEIL NISSAN	9821 E BAY HARBOR DR UNIT 805	BAY HARBOR ISLANDS	FL	33154	USA
NESTOR MIGUEL TORRES	10101 E BAY HARBOR DR #208	BAY HARBOR ISLANDS	FL	33154-1201	USA
NICK G DURIS	1140 101 ST UNIT 401B	BAY HARBOR ISLANDS	FL	33154-1590	USA
NICOBOY LLC	10031 PINES BLVD #228	PEMBROKE PINES	FL	33024	USA
NINA RASS	9381 E BAY HARBOR DR 604N	BAY HARBOR ISLANDS	FL	33154	USA
OLGA BENAL EST OF	10074 E BAY HARBOR DR UNIT 74C	BAY HARBOR ISLANDS	FL	33154-1529	USA
OPHEPER LLC	2450 NE MIAMI GARDENS DR 2ND FL	MIAMI	FL	33180	USA
OSCAR LOVERA LISA NIETO	10101 E BAY HARBOR DR #305	BAY HARBOR ISLANDS	FL	33154	USA
PABLO & GUIDO I LLC	1065 98 ST #5	BAY HARBOR ISLANDS	FL	33154	USA
PALM VILLAS UNIT 13 LLC	5612 ROSA GARDEN RD UNIT 201	CAPE CORAL	FL	33914	USA
PAOLA STOLFI LE REM MARZIA LAVINIA DI PIETRO	336 NE 98 ST	MIAMI SHORES	FL	33138	USA
PATRICIA BRUNO	1140 101 ST UNIT 301B	BAY HARBOR ISLANDS	FL	33154-1591	USA
PATRICIO ROBERTO GUZMAN SALINAS VIRGINIA ESTELA ROJAS MORALES	1600 SW 1 AVE 606	MIAMI	FL	33129	USA
PAUL L MADEIRA & BECKY S CAMPBELL	1101 98 ST UNIT 6	BAY HARBOR ISLANDS	FL	33154-1749	USA
PAUL ROBERT DOERNTE &W CLARICE	6760 STILLMEADOW DR	CUMMING	GA	33040	USA
PAULA ARAGONE TRS FPA LIVING TRUST FACUNDO ARAGONE TRS	9821 E BAY HARBOR DR 405	BAY HARBOR ISLANDS	FL	33154	USA
PEDRO & FRANCISCA LEDESMA	6450 COLLINS AVE 502	MIAMI BEACH	FL	33154	USA
PERRY LANAWAY TRACEY M HANCOCK	10101 E BAY HARBOR DR #402	BAY HARBOR ISLANDS	FL	33154	USA
PETER D JORDAN	57 LINCOLN RD	LONGMEADOW	MA	01106	USA
PRESTON BIRCHER	1073 98 ST UNIT 1073	BAY HARBOR ISLANDS	FL	33154-1706	USA
PROPERTY INVESTORS 56 LLC	212 S MAIN AVENUE STE 131	SIOUX FALLS	SD	57104	USA
RAFAEL G SEGREDO &W ROSE A	10275 COLLINS AVE #710	BAL HARBOUR	FL	33154	USA
RAGA PROPERTIES LLC	9901 E BAY HARBOR DR 803	BAY HARBOR ISLANDS	FL	33154	USA
RAJA WAHAB LE GHADA WAHAB LE REM DANA WAHAB	9901 E BAY HARBOR DR 401	BAY HARBOR ISLANDS	FL	33154	USA
RANDI ALICIA STUBACK TRS RANDI ALICIA STUBACK REV TRUST	10101 E BAY HARBOR DR 501	BAY HARBOR ISLANDS	FL	33154	USA
RAR 82 LLC	1120 99 ST 404	BAY HARBOR ISLANDS	FL	33154	USA
RENATO FERNANDO RAMIREZ DONDERS	9821 E BAY HARBOR DR 402	BAY HARBOR ISLANDS	FL	33154	USA
RESIDENCES 806 LLC	8385 NW 68 ST	MIAMI	FL	33166	USA
REX 1101 99 LLC	1101 99 ST UNIT 8	BAY HARBOR ISLANDS	FL	33154	USA
REXLEIGH APARTMENTS INC	9881 E BAY HARBOR DR	BAY HARBOR ISLANDS	FL	33154-3808	USA
RICARDO F CABRERA JESSICA J CABRERA	1120 99 ST 306	BAY HARBOR ISLANDS	FL	33154	USA
ROBERT D SABATINO LE REM JAVIER RODRIGUEZ	9980 E BAY HARBOR DR C	BAY HARBOR ISLANDS	FL	33154	USA
ROBERTO DORFMAN TR ROBERTO DORFMAN	10019 BAY HARBOR TERR	BAY HARBOR ISLANDS	FL	33154	USA
ROGERIO M SANTANA MARCIA A SANTANA	9821 E BAY HARBOR DR 406	BAY HARBOR ISLANDS	FL	33154	USA
ROLANDO EPSTEIN VIOLETA HORNE	1101 99 ST 5	BAY HARBOR ISLANDS	FL	33154	USA
RONIT COHEN	10101 E BAY HARBOR DR #610	BAY HARBOR ISLANDS	FL	33154	USA
ROYI HAZAN	9821 E BAY HARBOR DR 304	BAY HARBOR ISLANDS	FL	33154	USA
RTS INT LLC	1120 99 STREET #503	BAY HARBOR ISLANDS	FL	33154	USA
RUSSILL JAMES RAFTIS JOHN JOSEPH RAFTIS	1100 100 ST 505	BAY HARBOR ISLANDS	FL	33154	USA
SALOMON CRESPIN TRS SALOMON CRESPIN AND LUNA CRESPIN FAMILY REVOCABLE LIVING TRUST	10101 E BAY HARBOR DR 603	BAY HARBOR ISLANDS	FL	33154	USA
SAMANTHA ROSE STELLA	1120 99 ST UNIT 301	BAY HARBOR ISLANDS	FL	33154	USA

SANTIBOY LLC	10031 PINES BLVD 228	PEMBROKE PINES	FL	33024	USA
SARINA MIRIAM ABRAMOWITZ LE PERLA ABRAMOWITZ LE JAY ABRAMOWITZ LE	1101 99 ST #6	BAY HARBOR ISLANDS	FL	33154	USA
SASS HOMES LLC	757 SE 17 ST UNIT 1008	FORT LAUDERDALE	FL	33316	USA
SEBASTIAN OSUALDO LASCHERA PAULA LORENA VANIA	1120 99 ST 201	BAY HARBOR ISLANDS	FL	33154	USA
SHOLOM BORUCH GURVITSCH	9821 E BAY HARBOR DR 906	BAY HARBOR ISLANDS	FL	33154	USA
SILVIA GALVIS LUNDSTROM	PO BOX 546821	SURFSIDE	FL	33154	USA
SILVIA O SANTAMARINA	10101 E BAY HARBOR DR UNIT 403	BAY HARBOR ISLANDS	FL	33154-1201	USA
SILVIA STOLFI	10076 E BAY HARBOR DR 76B	BAY HARBOR ISLANDS	FL	33154	USA
SIMON CHOCRON DESIREE RAQUEL AQUININ	10027 BAY HARBOR TER	BAY HARBOR ISLANDS	FL	33154	USA
SOFGAB LLC	10000 BAY HARBOR TER 201 A	BAY HARBOR ISLANDS	FL	33154	USA
STAY HARBOR LLC	300 OREGON ST 306	HOLLYWOOD	FL	33019	USA
STAY HARBOR LLC C/O OREN LIEBER ESQ	2800 BISCAYNE BLVD STE 500	MIAMI	FL	33137	USA
STEVEN INERFELD &W REBECCA	10101 E BAY HARBOR DR #310	BAY HARBOR ISLANDS	FL	33154-1201	USA
STUART D ROTE	8835 ABBOTT AVE	SURFSIDE	FL	33154	USA
SUNSET BAY LLC	6700 INDIAN CREEK DR 1207	MIAMI BEACH	FL	33141	USA
SUSAN MATA	9976 E BAY HARBOR DR	BAY HARBOR ISLANDS	FL	33154	USA
SUSANA GRACIELA CELIA TRS SUSANA GRACIELA CELIA REV TR	10000 BAY HARBOR TER 301	BAY HARBOR ISLANDS	FL	33154	USA
SUSANNE BAK MORTENSEN TRUSTEE THE SUSANNE BAK MORTSEN LIVING TR	1025 99 STREET	BAY HARBOR ISLANDS	FL	33154	USA
TANGO CERO UNO LLC	3951 194 TRAIL	SUNNY ISLES BEACH	FL	33160	USA
TATIANA TINOCO	1101 99 ST #7	BAY HARBOR ISLANDS	FL	33154	USA
TEN45 HOLDINGS LLC	301 ARTHUR GODFREY RD 302	MIAMI BEACH	FL	33140	USA
TEODORA PETEVA PETROVA	4276 ALTON RD	MIAMI BEACH	FL	33140	USA
THAIRY QUINTANA	1065 98 STREET #7	BAY HARBOR ISLANDS	FL	33154	USA
THE PALMERINA LLC	3401 SW 160 AVE #330	MIRAMAR	FL	33027	USA
THOMAS A BRUDER &W KATHLEEN R	600 REED ROAD SUITE 212	BROOMALL	PA	19008	USA
THOMAS P GILI TRS THOMAS P GILI AND DONNA C MAHEADY REVOCABLE TRUST	13019 COASTAL CIR	PALM BEACH GARDENS	FL	33410	USA
TIMOTHY M ROMMEL RAND HAKIM ROMMEL	6610 CONNOR RD	EAST AMHERST	NY	14051	USA
TITOK LLC	10000 BAY HARBOR TER UNIT 301	BAY HARBOR ISLANDS	FL	33154	USA
TOP REAL ESTATE GROUP LLC	856 EVERGREEN DR	WEST HEMPSTEAD	NY	11552	USA
TRACY LEE KRAMER	10101 E BAY HARBOR DR 207	BAY HARBOR ISLANDS	FL	33154	USA
TRURU FLORIDA LLC	9608 SW 117 AVE	MIAMI	FL	33186	USA
VAGANOA CORP	1000 99 ST TH12	BAY HARBOR ISLANDS	FL	33154	USA
VICKY ANN SALAZAR	10070 E BAY HARBOR DR #70A	BAY HARBOR ISLANDS	FL	33154-1531	USA
VICTOR MANUEL SAMANAMUD	10076 E BAY HARBOR DR #76D	BAY HARBOR ISLANDS	FL	33154-1541	USA
VICTORY HOLDINGS INVESTMENTS LLC	1111 KANE CONCOURSE 619	BAY HARBOR ISLANDS	FL	33154	USA
VITALY ESHTOKIN OLGA ESHTOKINA	10047 BAY HARBOR TER	BAY HARBOR ISLANDS	FL	33154	USA
VIVIAN OLTI ROBERT ANDAI	8877 COLLINS AVE #606	SURFSIDE	FL	33154	USA
VLD HARBOR LLC	150 SE 2 AVE SUITE 1408	MIAMI	FL	33131	USA
VS 3 INVESTMENT HOLDINGS LLC C/O LANDA POSADA	2030 S DOUGLAS RD STE 107	CORAL GABLES	FL	33134	USA
YANIV YOSEF	1065 99 ST	BAY HARBOR ISLANDS	FL	33154	USA
YARIV GILAT ILANA S GILAT	1140 101 ST 402 B	BAY HARBOR ISLANDS	FL	33154	USA

ANTONY GARDENS LLC
PO BOX 57019
LIMASSOL 3311 9999
CYPRUS

DOMINIC MUSITANO
14 COMO PLACE
HAMILTON ON L8N 1G4
CANADA

PENTA CAPITAL V INVESTMENTS LP
2828 BATHURST ST STE 400
TORONTO ON M6B 3A7
CANADA

RON VINEBERG
CARLA S VINEBERG
2 WESTMOUNT SQUARE #506
WESTMOUNT QC H3Z 2S4
CANADA

VICKY VALKANAS
11702 RUE JAMES MORRICE
MONTREAL QC H3M 2E8
CANADA

0 706 LLC
1111 KANE CONCOURSE 305
BAY HARBOR ISLANDS, FL 33154

1000 99TH STREET LLC
121 E 23 ST APT 18C
NEW YORK, NY 10010

1065 2 BAY HARBOR LLC
1903 FERDINAND ST
CORAL GABLES, FL 33134

303 BHO LLC
21500 BISCAYNE BLVD 401
AVENTURA, FL 33180

304 BHO LLC
21500 BISCAYNE BLVD 4001
AVENTURA, FL 33180

403 BHO LLC
21500 BISCAYNE BLVD 401
AVENTURA, FL 33180

501 BHO LLC
21500 BISCAYNE BLVD 401
AVENTURA, FL 33180

503 BHO LLC
21500 BISCAYNE BLVD 401
AVENTURA, FL 33180

504 E BAY HARBOR LLC
18660 CASSANDRA POINTE LN
BOCA RATON, FL 33496

802 BHO LLC
21500 BISCAYNE BLVD STE 401
AVENTURA, FL 33180

815 80TH ST LLC
1231 96 ST #1105
BAY HARBOR ISLANDS, FL 33154

905 BAY HARBOR INC
444 BRICKELL AVE 760
MIAMI, FL 33131

9660 W BAY HARBOR LLC
9901 E BAY HARBOR DR #PH1 PH3
BAY HARBOR ISLANDS, FL 33154

9901 E BAY HARBOR LLC
9901 E BAY HARBOR DR PH1
BAY HARBOR ISLANDS, FL 33154

9950 E BAY HARBOR DR BH LLC
20200 W DIXIE HWY
AVENTURA, FL 33180

9955 BAY HARBOR DEVELOPMENT LLC
18101 COLLINS AVE #3908
SUNNY ISLES BEACH, FL 33160

AGUSTIN GOITY
MAGDALENA LERCHUNDI
10101 E BAY HARBOR DR APT 506
BAY HARBOR ISLANDS, FL 33154-1202

ALEMI LLC
9240 DICKENS AVE
SURFSIDE, FL 33154

ALEXANDER I RYSHAWY
JENNIFER S RYSHAWY
1140 101 ST #601-B
BAY HARBOR ISLANDS, FL 33154

ALEXANDER RANGEL
IRINA ZABELINA
10101 E BAY HARBOR DR #306
BAY HARBOR ISLANDS, FL 33154

ALEXEI BAEV
OLENA BAEV
10072 E BAY HARBOR DR 72D
BAY HARBOR ISLANDS, FL 33154

ALON NELSON
ADI NELSON
10072 E BAY HARBOR DR 72B
BAY HARBOR ISLANDS, FL 33154

ALVARO ARENAS LE
MARIA LUISA ARENAS LE
REM ALVARO MARTIN ARENAS
1065 98 ST #3
BAY HARBOR ISLANDS, FL 33154

AMERICAS PURCHASING SERVICES LLC
20201 NE 29 CT D 107
MIAMI, FL 33180

ANALIA MARIEL BOGDAN
MARTIN FREIRE
1120 99 ST 204
BAY HARBOR ISLANDS, FL 33154

ANASTASIA TAPLINA
10000 BAY HARBOR TER 401-A
BAY HARBOR ISLANDS, FL 33154

ANDREY MARKOV
1645 SW 4 AVE
BOCA RATON, FL 33432

ANGELA MARIA RIZZI TRS
ANGELA RIZZI LIVING TRUST
101 CRANDON BLVD 276 AND 281
KEY BISCAYNE, FL 33149

ANGELICA ANDREOZZI
1101 98 ST #7
BAY HARBOR ISLANDS, FL 33154-1749

ANN MCCAULEY
ROBERT F FRANKEL
212 WINSLOW ROAD
WABAN, MA 02468

ANNE MARIE FORTIER JTRS &
ISABEL JOAO DE OLIVEIRA JTRS
1125 99 ST #12
BAY HARBOR ISLANDS, FL 33154

ARELYS ROMERO LE
REM LUIS ANDRES PIZARRO
9821 E BAY HARBOR DR UNIT 602
BAY HARBOR ISLANDS, FL 33154

ARIELLE GRUBER
1055 99 ST
BAY HARBOR ISLANDS, FL 33154

AUSBOR LLC
2450 NE MIAMI GARDENS DR 2 FLR
MIAMI, FL 33180

AUSTRABOREA LLC
2450 NE MIAMI GARDENS DR 2 FLR
MIAMI, FL 33180

BARBARA J MONROE JTRS
TERRY MONROE JTRS
10101 E BAY HARBOR DR UNIT 202
BAY HARBOR ISLANDS, FL 33154

BAY HARBOR 204 LLC
9273 COLLINS AVE 802
SURFSIDE, FL 33154

BAY HARBOR 705 LLC
3839 NW BOCA RATON BLVD 100
BOCA RATON, FL 33431

BAY HARBOR 706 LLC
3839 NW BOCA RATON BLVD 100
BOCA RATON, FL 33431

BAY HARBOR 804 LLC
3839 NW BOCA RATON BLVD 100
BOCA RATON, FL 33431

BAY HARBOR 805 LLC
3839 NW BOCA RATON BLVD 100
BOCA RATON, FL 33431

BAY HARBOR ISLAND
9665 BAY HARBOR TERR
BAY HARBOR ISLANDS, FL 33154

BAY HARBOR ISLAND I LLC
1395 BRICKELL AVE 14 FLR-FAP
MIAMI, FL 33131

BAY HARBOR ISLAND TOWNHOUSES
ASSOCIATION INC
7665 NW 50 STREET
MIAMI, FL 33166

BAY HARBOR LLC
9821 E BAY HARBOR DR 605
BAY HARBOR ISLANDS, FL 33154

BAY HARBOR ONE 302 LLC
1612 NW 84 AVE
DORAL, FL 33126

BAY HARBOR TH 1 LLC
1395 BRICKELL AVE 14 FLR FAP
MIAMI, FL 33131

BAY PALMS INVESTMENTS LLC
4440 VISTA LN
LYNN HAVEN, FL 32444

BAY PALMS INVESTMENTS LLC
3401 SW 160 AVE STE 330
MIRAMAR, FL 33027

BAYHARBOR TRADING CORP
2251 NE 201 ST
MIAMI, FL 33180

BEACH ISLAND PROPERTIES LLC
3389 SHERIDAN ST #181
HOLLYWOOD, FL 33021

BEBETO INVESTMENT LLC
10031 PINES BLVD 228
PEMBROKE PINES, FL 33024

BEN HARBOR LLC
9901 E BAY HARBOR DR 502
BAY HARBOR ISLANDS, FL 33154

BH STR LLC
20900 NE 30 AVE STE 915
MIAMI, FL 33180-2166

BLANCA MARYNA RODRIGUEZ TRS
BLANCA MARYNA RODRIGUEZ REV TR
5511 SW 132 AVE
MIAMI, FL 33175

BLANCA R GONZALEZ BARLETTA LE
MARIO A BARLETTA LE
REM VERONICA ANDREA BARLETTA
10101 E BAY HARBOR DR #509
BAY HARBOR ISLANDS, FL 33154

BOLDER CORPORATE LLC
1100 100 ST 406
BAY HARBOR ISLANDS, FL 33154

BORIS LEVITAS
566 MCLAWS ST
SAVANNAH, GA 31405

BRENT S PALMER
1000 99 ST UNIT 2
BAY HARBOR ISLANDS, FL 33154-1879

BRIAN MCCLISH
112 22ND AVE N
SAINT PETERSBURG, FL 33704

BRICKSAVE BH CLUB APT 306 LLC
C/O MARIE BUFFIERE
750 THIRD AVE 9TH FLR
NEW YORK, NY 10017

BULIMBA INVESTMENT LLC
21500 BISCAYNE BLVD STE 401
AVENTURA, FL 33180

CAPPANOG INC
1395 BRICKELL AVE 1380
MIAMI, FL 33131

CARL ASHQAR
SAYRA ASHQAR
1035 99 ST
BAY HARBOR ISLANDS, FL 33154

CHRISTIAN ALEXE
9970 E BAY HARBOR DR
BAY HARBOR ISLANDS, FL 33154

CHRISTOPHER HOPKINS HAMILTON
STEPHEN KINGSBURY HAMILTON
60 MONTICELLO DR
HILTON HEAD, SC 29926-1297

CLAIRE LOEW HAUSMAN TRS
GERALD LOEW TRS
CLAIRE LOEW HAUSMAN
1120 99 ST #403
BAY HARBOR ISLANDS, FL 33154

CLAUDIA CARAMIAN
10090 BAY HARBOR TER
BAY HARBOR ISLANDS, FL 33154

CLAUDIA MENDEZ
1120 99 ST 304
BAY HARBOR ISLANDS, FL 33154

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COLETTE L SIMON
3414 FAY AVE
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DIANA B DAHLSON
10101 E BAY HARBOR DR #407
BAY HARBOR ISLANDS, FL 33154-1201

CONSTANZA SONCINI
1120 99 ST UNIT 206
BAY HARBOR ISLANDS, FL 33154

DAMIAN RATTAGAN
MARCELA C VACCARI
9901 E BAY HARBOR DR 811
BAY HARBOR ISLANDS, FL 33154

DANIEL ANDAI
ANNE CHICHEPORTICHE
10101 E BAY HARBOR DR 404
BAY HARBOR ISLANDS, FL 33154

DANIEL MC KEOWN
3908 CENTRAL AVE
WESTERN SPRINGS, IL 60558

DANIELA INMACULADA FRIAS BOTTA
10078 E BAY HARBOR DR #78D
BAY HARBOR ISLANDS, FL 33154

DANTE CHIABRA &W BRENDA L
10101 E BAY HARBOR DR UNIT 502
BAY HARBOR ISLANDS, FL 33154-1201

DARRIN NORWOOD
PO BOX 5331
ALPHARETTA, GA 30023

DAVID F ANDERSON
NELLY E ANDERSON
10101 E BAY HARBOR DR 201
BAY HARBOR ISLANDS, FL 33154

DAVID F ANDERSON
NELLY E ANDERSON
10101 E BAY HARBOR DR 706
BAY HARBOR ISLANDS, FL 33154

DAVID F ANDERSON LE
NELLY E ANDERSON LE
REM DAVID ANDREW ANDERSON
10101 E BAY HARBOR DR #309
BAY HARBOR ISLANDS, FL 33154

DAVID HERSKOWITZ
9821 E BAY HARBOR DR 504
BAY HARBOR ISLANDS, FL 33154

DEVORAH WIEDER
ADINAH WIEDER
31 ASTOR PLACE
MONSEY, NY 10952

DORTMUND HOLDINGS INC
1430 S DIXIE HWY 321
CORAL GABLES, FL 33146

DR RC LLC
9821 E BAY HARBOR DR 404
BAY HARBOR ISLANDS, FL 33154

DRAGANI GROUP LLC
1150 KANE CONCOURSE 2ND FLR
BAY HARBOR ISLANDS, FL 33154

EDWARD R KIRSH
MYRIAM KOLINKA
10023 BAY HARBOR TER
BAY HARBOR ISLANDS, FL 33154

ELENA H HAYES
10000 BAY HARBOR TERR UNIT 504A
BAY HARBOR ISLANDS, FL 33154-1570

ELEVEN DESIGN STUDIO LLC
9064 BYRON AVE
SURFSIDE, FL 33154

ELISA HIDALGO GARCIA &W AURELIO
2830 SW 22 AVE
MIAMI, FL 33133-3949

ELIZABETH ANN NESTLER
31 WELLINGTON CIR
LEBANON, NH 03766

ELIZABETH MARTINEZ
1120 99 ST #501
BAY HARBOR ISLANDS, FL 33154

ELLIOT BAKER
6755 N LOCKWOOD AVE
LINCOLNWOOD, IL 60712

EMILIA C CABRERA
10078 E BAY HARBOR DR #C
BAY HARBOR ISLANDS, FL 33154-1540

ERASTO BORETTI DE ALMEIDA JR
TATIANA CNEIO ALVES
10101 E BAY HARBOR DR #307
BAY HARBOR ISLANDS, FL 33154

ERNESTO PATAKY
10067 BAY HARBOR TERR
BAY HARBOR ISLANDS, FL 33154-1509

ESPERANZA PICO
103 VICTORY BLVD
STATEN ISLAND, NY 10301

ESTEBAN MARCHESE
MARCELA GUARRACINO
10101 E BAY HARBOR DR 602
BAY HARBOR ISLANDS, FL 33154

FABRIZIO SCIORIO TRS
FABRIZIO SCIORIO REVOC LIV TR
9660 W BAY HARBOR DR 7D
BAY HARBOR ISLANDS, FL 33154

FAST LOGIC LLC
1395 BRICKELL AVE 14 FLR
MIAMI, FL 33131

FEROZ BHAMANI
11731 SW 108 LN
MIAMI, FL 33186

FIRST SAVINGS MORTGAGE CORP INC
C/O ALTERMAN LAW PA
6810 N STATE RD 7 STE 130
COCONUT CREEK, FL 33073

FL2SEYCAN LLC
8661 NE MIAMI CT
EL PORTAL, FL 33138

FLORIDA PARADISE HOLDINGS LLC
7735 NW 146 ST STE 205
MIAMI LAKES, FL 33016

FLORIDA PARADISE HOLDINGS LLC
7735 NW 146 ST STE 206
MIAMI LAKES, FL 33016

FLORIDA PARADISE HOLDINGS LLC
10101 E BAY HARBOR DR APT 601
BAY HARBOR ISLANDS, FL 33154

FRANCIS JAMES MOONEY
JOHN MATTHEW TARRO
76 SEAVIEW AVE
CRANSTON, RI 02905

FRANCIS PALOUMBIS LLC
1120 99 ST #404
BAY HARBOR ISLANDS, FL 33154

FULHAM DEVELOPMENT LLC
1001 BRICKELL BAY DR STE 2406
MIAMI, FL 33131

G2R LLC
1110 BRICKELL AVE STE 310
MIAMI, FL 33131

GEORGE LAUGHLIN
10001 E BAY HARBOR DR #2N
BAY HARBOR ISLANDS, FL 33154-1539

GEORGES JAEGER &W MICHELLE
10043 BAY HARBOR TERR
BAY HARBOR ISLANDS, FL 33154-1509

GERBERA GROUP USA CORP
C/O ERIKA LITVAK
333 SE 2 AVE 4400
MIAMI, FL 33131

GHASSAN DAGHER
NOUHAD NADER
10101 E BAY HARBOR DR 606
BAY HARBOR ISLANDS, FL 33154

GIANNINA WILD
57 ORCHARD PL
MAYWOOD, NJ 07607

GINA LIBUTTI
10011 BAY HARBOR TERR
BAY HARBOR ISLANDS, FL 33154-1509

GIOVANNINA PILAR PALOUMBIS
1120 99 ST UNIT 404
BAY HARBOR ISLANDS, FL 33154

GOODHEART VENTURES INCORPORATED
PO BOX 409
PRINCETON, NJ 08540

GRAYBAY PROPERTIES LLC
9533 BAY DR
SURFSIDE, FL 33154

GUILLERMO BRUGADA
20200 W DIXIE HWY #1205
AVENTURA, FL 33180

GVE RE INVESTMENT OF FLORIDA LLC
20650 NE 25 PL
MIAMI, FL 33180

HAROLD R TALISMAN
9901 E BAY HARBOR DR 701
BAY HARBOR ISLANDS, FL 33154

INITIUM FUTURA ASSETS LLC
900 BRICKELL KEY BLVD 1703
MIAMI, FL 33131

INTERHOUSE GROUP LLC
9821 E BAY HARBOR DR 502
BAY HARBOR ISLANDS, FL 33154

IOAV MOSHE BACH
1085 99 ST #3
BAY HARBOR ISLANDS, FL 33154

ISAAC & ZOILA LAGARI
1065 98 ST #4
BAY HARBOR ISLANDS, FL 33154-1764

ISAAC KLEINBART
1710 54 ST
BROOKLYN, NY 11204

JACQUELINE DANZER TRS
DANZER DESTINY LIVING TRU
2241 NE 38 ST
POMPANO BEACH, FL 33064

JAMES THURSTON LYNCH
10101 E BAY HARBOR DR #205
BAY HARBOR ISLANDS, FL 33154

JAVIER DAVID ANDREU
10101 E BAY HARBOR DR 608
BAY HARBOR ISLANDS, FL 33154

JBLEMOS CORPORATION
9821 E BAY HARBOR DR 604
BAY HARBOR ISLANDS, FL 33154

JBPS LLC
10001 E BAY HARBOR DR UNIT 1-S
BAY HARBOR ISLANDS, FL 33154

JO B MILLER
400 DIPLOMAT PKWY APT 805
HALLANDLE BEACH, FL 33009-3732

JOANNE LYNN KATZ JTRS
SETH A KRAINES HOFFMAN JTRS
9141 FROUDE AVE
SURFSIDE, FL 33154-3115

JOAQUIN DE OLIVEIRA
10101 E BAY HARBOR DR #301
BAY HARBOR ISLANDS, FL 33154-1201

JOCELINA PINTO REZENDE
11 SAINT JOHN ST
BOSTON, MA 02130

JOEL BAUM &W
LESLIE BAUM
10101 E BAY HARBOR DR #609
BAY HARBOR ISLANDS, FL 33154-1202

JOHNNY L AGUILAR CABALLERO
YADIRA LOPEZ
5131 TYLER ST
HOLLYWOOD, FL 33021

JONATHAN DADESHO
1100 100 ST UNIT 401
BAY HARBOR ISLANDS, FL 33154

JONATHAN MORGINSTIN
TAI MORGINSTIN
1140 101 ST UNIT 502 B
BAY HARBOR ISLANDS, FL 33154

JORGE LUIS MARTINEZ
KRISTYNA ROSE BORDEN
1120 99 ST 505
BAY HARBOR ISLANDS, FL 33154

JOSE F & NIDIA F SUAREZ
2621 DEEP CANYON DR
BEVERLY HILLS, CA 90210

JOSE I RODRIGUEZ
DENNIS WILLIAMS
1120 99 ST 504
BAY HARBOR ISLANDS, FL 33154

JOSEPH C MAC EACHERN &W MICHELE P
1931 NE 186 DR
N MIAMI BEACH, FL 33179-4343

JOSEPH ZUCKERMAN LE
REM PETER ZUCKERMAN
10000 BAY HARBOR TER 503A
BAY HARBOR ISLANDS, FL 33154

JUAN FERNANDO GUERRERO
MARCIA C ELIZALDE
345 NE 152 ST
MIAMI, FL 33162

JUAN SUTIL &W YAEL LANIADO
1140 101 ST UNIT 201B
BAY HARBOR ISLANDS, FL 33154-1591

JUANA MPATSIOS
3567 NE 168 ST
NORTH MIAMI BEACH, FL 33160

JULIANA PINTO REZENDE
1120 99 ST 502
BAY HARBOR ISLANDS, FL 33154

K 9 CONNECTIONS LTD
1075 98 ST
BAY HARBOR ISLANDS, FL 33154

KIA LYNN BAZON
MOSHE BAZON
9901 E BAY HARBOR DR PH1-PH3
BAY HARBOR ISLANDS, FL 33154

KIMBERLY MARTINES MALO
GLADYS MARTINEZ MALO
10101 E BAY HARBOR DR 702
BAY HARBOR ISLANDS, FL 33154

LAUREN MONZON
1085 99 ST 4
BAY HARBOR ISLANDS, FL 33154

LAWRENCE R SCHRAM
MONICA T SCHRAM
16850 COLLINS AVE STE 112 499
SUNNY ISLES BEACH, FL 33160

LESLEY VISSER KANUTH
10001 E BAY HARBOR DR UNIT 2S
BAY HARBOR ISLANDS, FL 33154

LINCE GROUP LLC
33 MORNING GLORY LN
EDISON, NJ 08820

LINDA BURGOS DEVELOPERS LLC
1085 98 ST
BAY HARBOR ISLANDS, FL 33154

LINDA J CHESNIK
1101 98 ST UNIT 1
BAY HARBOR ISLANDS, FL 33154-1749

LUIS GUZMAN PEREZ
2750 NE 183 ST APT 408
AVENTURA, FL 33160

LYSANDRA GIBREAL
10101 E BAY HARBOR DR 605
BAY HARBOR ISLANDS, FL 33154

M A S HOME LLC
750 E SAMPLE RD BLDG 6 STE 5
POMPANO BEACH, FL 33064

MALIBU PROPERTIES I LLC
60 EDGEWATER DR 16D
CORAL GABLES, FL 33133

MALIMONT INVESTMENTS LLC
900 BRICKELL KEY BLVD 1703
MIAMI, FL 33131

MANUEL ACOSTA
1120 99 ST #303
BAY HARBOR ISLANDS, FL 33154-1702

MARCELO ADDARIO TRS
MARCELO ADDARIO REVOCABLE TR
8020 EAST DR 315
NORTH BAY VILLAGE, FL 33141

MARCELO NEGRO MUNIZ
JOSE MARIA NEGRO MUNIZ
16850 COLLINS AVE #187
SUNNY ISLES BEACH, FL 33160

MARCO FILIPE DIAS LINHARES
ALEXANDRE DIAS LINHARES
1125 99 ST #10
BAY HARBOR ISLANDS, FL 33154

MARCY JURKOWITZ
10101 E BAY HARBOR DR #507
BAY HARBOR ISLANDS, FL 33154-1202

MARGERY GORDON
1140 101 STREET #501-B
BAY HARBOR ISLANDS, FL 33154

MARIA DEL MAR VELASCO
10101 E BAY HARBOR DR #302
BAY HARBOR ISLANDS, FL 33154

MARININ QUINTERO
10072 E BAY HARBOR DR UNIT 72C
BAY HARBOR ISLANDS, FL 33154-1530

MARJORY FUTTERMAN
9901 E BAY HARBOR DR 802
BAY HARBOR ISLANDS, FL 33154-1536

MARLENE ESPINOZA
1120 99 ST #205
BAY HARBOR ISLANDS, FL 33154-3818

MARTIN HANDLER
2800 BRUCKER BLVD STE 201
BRONX, NY 10465

MAYER PREGER
HENYA PREGER
861 WOODMERE PL
WOODMERE, NY 11598

MEGAN BRESNAHAN
10101 E BAY HARBOR DR 701
BAY HARBOR ISLANDS, FL 33154

MICHAEL J ANDERSON
1065 98 ST #9
BAY HARBOR ISLANDS, FL 33154-1764

MICHAEL MAILEY
10001 E BAY HARBOR DR 3S
BAY HARBOR ISLANDS, FL 33154

MICHAEL P DEVLIN
EDIVANE S DEVLIN
9 BREWSTER LN
EAST SANDWICH, MA 02537

MICHAEL SHERWIN
9821 E BAY HARBOR DR 401
BAY HARBOR ISLANDS, FL 33154

MICHAEL T BRADY
ANA M CASTILLERO BRADY
1085 99 ST #1
BAY HARBOR ISLANDS, FL 33154

MILANO STEP TWO CORP
220 SW 2 ST
BOCA RATON, FL 33432

MITCHELL A FELDMAN &W RAVIT
1930 NE 119 RD
NORTH MIAMI, FL 33181

MITTIE F SIMMONS JTRS
MARY M SIMMONS JTRS
10001 E BAY HARBOR DR #1N
BAY HARBOR ISLANDS, FL 33154

MONICA ORTEGA
1120 99 ST 405
BAY HARBOR ISLANDS, FL 33154

MONTHAKARN DEEA-ARD(JTRS)
DAVID BOCKER (JTRS)
1199 NE 99 ST
MIAMI SHORES, FL 33138

MORDECHAI WERDE
CHANA ZELDA WERDE
9901 E BAY HARBOR DR 603
BAY HARBOR ISLANDS, FL 33154

MRMD INVESTMENTS LLC
9289 EMERSON AVE
SURFSIDE, FL 33154

MRMD TRUST LLC
9289 EMERSON AVE
SURFSIDE, FL 33154

MYDAVE LLC
10295 COLLINS AVE 2407
BAL HARBOUR, FL 33154

NANCY SACK TRS
SACK NORTON REVOCABLE TRUST
MITCHELL SACK TRS
4750 25 STREET
SAN FRANCISCO, CA 94114

NANCY SCHAFER
PO BOX 6111
ORLANDO, FL 32802

NASPI LLC
17611 SW 48 ST
WESTON, FL 33331

NEIL NISSAN
9821 E BAY HARBOR DR UNIT 805
BAY HARBOR ISLANDS, FL 33154

NESTOR MIGUEL TORRES
10101 E BAY HARBOR DR #208
BAY HARBOR ISLANDS, FL 33154-1201

NICK G DURIS
1140 101 ST UNIT 401B
BAY HARBOR ISLANDS, FL 33154-1590

NICOBOY LLC
10031 PINES BLVD #228
PEMBROKE PINES, FL 33024

NINA RASS
9381 E BAY HARBOR DR 604N
BAY HARBOR ISLANDS, FL 33154

OLGA BENAL EST OF
10074 E BAY HARBOR DR UNIT 74C
BAY HARBOR ISLANDS, FL 33154-1529

OPHEPER LLC
2450 NE MIAMI GARDENS DR 2ND FL
MIAMI, FL 33180

OSCAR LOVERA
LISA NIETO
10101 E BAY HARBOR DR #305
BAY HARBOR ISLANDS, FL 33154

PABLO & GUIDO I LLC
1065 98 ST #5
BAY HARBOR ISLANDS, FL 33154

PALM VILLAS UNIT 13 LLC
5612 ROSA GARDEN RD UNIT 201
CAPE CORAL, FL 33914

PAOLA STOLFI LE
REM MARZIA LAVINIA DI PIETRO
336 NE 98 ST
MIAMI SHORES, FL 33138

PATRICIA BRUNO
1140 101 ST UNIT 301B
BAY HARBOR ISLANDS, FL 33154-1591

PATRICIO ROBERTO GUZMAN SALINAS
VIRGINIA ESTELA ROJAS MORALES
1600 SW 1 AVE 606
MIAMI, FL 33129

PAUL L MADEIRA &
BECKY S CAMPBELL
1101 98 ST UNIT 6
BAY HARBOR ISLANDS, FL 33154-1749

PAUL ROBERT DOERNTE &W CLARICE
6760 STILLMEADOW DR
CUMMING, GA 33040

PAULA ARAGONE TRS
FPA LIVING TRUST
FACUNDO ARAGONE TRS
9821 E BAY HARBOR DR 405
BAY HARBOR ISLANDS, FL 33154

PEDRO & FRANCISCA LEDESMA
6450 COLLINS AVE 502
MIAMI BEACH, FL 33154

PERRY LANAWAY
TRACEY M HANCOCK
10101 E BAY HARBOR DR #402
BAY HARBOR ISLANDS, FL 33154

PETER D JORDAN
57 LINCOLN RD
LONGMEADOW, MA 01106

PRESTON BIRCHER
1073 98 ST UNIT 1073
BAY HARBOR ISLANDS, FL 33154-1706

PROPERTY INVESTORS 56 LLC
212 S MAIN AVENUE STE 131
SIOUX FALLS, SD 57104

RAFAEL G SEGREDO &W ROSE A
10275 COLLINS AVE #710
BAL HARBOUR, FL 33154

RAGA PROPERTIES LLC
9901 E BAY HARBOR DR 803
BAY HARBOR ISLANDS, FL 33154

RAJA WAHAB LE
GHADA WAHAB LE
REM DANA WAHAB
9901 E BAY HARBOR DR 401
BAY HARBOR ISLANDS, FL 33154

RANDI ALICIA STUBACK TRS
RANDI ALICIA STUBACK REV TRUST
10101 E BAY HARBOR DR 501
BAY HARBOR ISLANDS, FL 33154

RAR 82 LLC
1120 99 ST 404
BAY HARBOR ISLANDS, FL 33154

RENATO FERNANDO RAMIREZ DONDERS
9821 E BAY HARBOR DR 402
BAY HARBOR ISLANDS, FL 33154

RESIDENCES 806 LLC
8385 NW 68 ST
MIAMI, FL 33166

REX 1101 99 LLC
1101 99 ST UNIT 8
BAY HARBOR ISLANDS, FL 33154

REXLEIGH APARTMENTS INC
9881 E BAY HARBOR DR
BAY HARBOR ISLANDS, FL 33154-3808

RICARDO F CABRERA
JESSICA J CABRERA
1120 99 ST 306
BAY HARBOR ISLANDS, FL 33154

ROBERT D SABATINO LE
REM JAVIER RODRIGUEZ
9980 E BAY HARBOR DR C
BAY HARBOR ISLANDS, FL 33154

ROBERTO DORFMAN TR
ROBERTO DORFMAN
10019 BAY HARBOR TERR
BAY HARBOR ISLANDS, FL 33154

ROGERIO M SANTANA
MARCIA A SANTANA
9821 E BAY HARBOR DR 406
BAY HARBOR ISLANDS, FL 33154

ROLANDO EPSTEIN
VIOLETA HORNE
1101 99 ST 5
BAY HARBOR ISLANDS, FL 33154

RONIT COHEN
10101 E BAY HARBOR DR #610
BAY HARBOR ISLANDS, FL 33154

ROYI HAZAN
9821 E BAY HARBOR DR 304
BAY HARBOR ISLANDS, FL 33154

RTS INT LLC
1120 99 STREET #503
BAY HARBOR ISLANDS, FL 33154

RUSSILL JAMES RAFTIS
JOHN JOSEPH RAFTIS
1100 100 ST 505
BAY HARBOR ISLANDS, FL 33154

SALOMON CRESPIN TRS
SALOMON CRESPIN AND LUNA CRESPIN
FAMILY REVOCABLE LIVING TRUST
10101 E BAY HARBOR DR 603
BAY HARBOR ISLANDS, FL 33154

SAMANTHA ROSE STELLA
1120 99 ST UNIT 301
BAY HARBOR ISLANDS, FL 33154

SANTIBOY LLC
10031 PINES BLVD 228
PEMBROKE PINES, FL 33024

SARINA MIRIAM ABRAMOWITZ LE
PERLA ABRAMOWITZ LE
JAY ABRAMOWITZ LE
1101 99 ST #6
BAY HARBOR ISLANDS, FL 33154

SASS HOMES LLC
757 SE 17 ST UNIT 1008
FORT LAUDERDALE, FL 33316

SEBASTIAN OSUALDO LASCHERA
PAULA LORENA VANIA
1120 99 ST 201
BAY HARBOR ISLANDS, FL 33154

SHOLOM BORUCH GURVITSCH
9821 E BAY HARBOR DR 906
BAY HARBOR ISLANDS, FL 33154

SILVIA GALVIS LUNDSTROM
PO BOX 546821
SURFSIDE, FL 33154

SILVIA O SANTAMARINA
10101 E BAY HARBOR DR UNIT 403
BAY HARBOR ISLANDS, FL 33154-1201

SILVIA STOLFI
10076 E BAY HARBOR DR 76B
BAY HARBOR ISLANDS, FL 33154

SIMON CHOCRON
DESIREE RAQUEL AQUININ
10027 BAY HARBOR TER
BAY HARBOR ISLANDS, FL 33154

SOFGAB LLC
10000 BAY HARBOR TER 201 A
BAY HARBOR ISLANDS, FL 33154

STAY HARBOR LLC
300 OREGON ST 306
HOLLYWOOD, FL 33019

STAY HARBOR LLC
C/O OREN LIEBER ESQ
2800 BISCAYNE BLVD STE 500
MIAMI, FL 33137

STEVEN INERFELD &W REBECCA
10101 E BAY HARBOR DR #310
BAY HARBOR ISLANDS, FL 33154-1201

STUART D ROTE
8835 ABBOTT AVE
SURFSIDE, FL 33154

SUNSET BAY LLC
6700 INDIAN CREEK DR 1207
MIAMI BEACH, FL 33141

SUSAN MATA
9976 E BAY HARBOR DR
BAY HARBOR ISLANDS, FL 33154

SUSANA GRACIELA CELIA TRS
SUSANA GRACIELA CELIA REV TR
10000 BAY HARBOR TER 301
BAY HARBOR ISLANDS, FL 33154

SUSANNE BAK MORTENSEN TRUSTEE
THE SUSANNE BAK MORTSEN LIVING TR
1025 99 STREET
BAY HARBOR ISLANDS, FL 33154

TANGO CERO UNO LLC
3951 194 TRAIL
SUNNY ISLES BEACH, FL 33160

TATIANA TINOCO
1101 99 ST #7
BAY HARBOR ISLANDS, FL 33154

TEN45 HOLDINGS LLC
301 ARTHUR GODFREY RD 302
MIAMI BEACH, FL 33140

TEODORA PETEVA PETROVA
4276 ALTON RD
MIAMI BEACH, FL 33140

THAIRY QUINTANA
1065 98 STREET #7
BAY HARBOR ISLANDS, FL 33154

THE PALMERINA LLC
3401 SW 160 AVE #330
MIRAMAR, FL 33027

THOMAS A BRUDER &W KATHLEEN R
600 REED ROAD SUITE 212
BROOMALL, PA 19008

THOMAS P GILI TRS
THOMAS P GILI AND DONNA C
MAHEADY REVOCABLE TRUST
13019 COASTAL CIR
PALM BEACH GARDENS, FL 33410

TIMOTHY M ROMMEL
RAND HAKIM ROMMEL
6610 CONNOR RD
EAST AMHERST, NY 14051

TITOK LLC
10000 BAY HARBOR TER UNIT 301
BAY HARBOR ISLANDS, FL 33154

TOP REAL ESTATE GROUP LLC
856 EVERGREEN DR
WEST HEMPSTEAD, NY 11552

TRACY LEE KRAMER
10101 E BAY HARBOR DR 207
BAY HARBOR ISLANDS, FL 33154

TRURU FLORIDA LLC
9608 SW 117 AVE
MIAMI, FL 33186

VAGANOA CORP
1000 99 ST TH12
BAY HARBOR ISLANDS, FL 33154

VICKY ANN SALAZAR
10070 E BAY HARBOR DR #70A
BAY HARBOR ISLANDS, FL 33154-1531

VICTOR MANUEL SAMANAMUD
10076 E BAY HARBOR DR #76D
BAY HARBOR ISLANDS, FL 33154-1541

VICTORY HOLDINGS INVESTMENTS LLC
1111 KANE CONCOURSE 619
BAY HARBOR ISLANDS, FL 33154

VITALY ESHTOKIN
OLGA ESHTOKINA
10047 BAY HARBOR TER
BAY HARBOR ISLANDS, FL 33154

VIVIAN OLTI
ROBERT ANDAI
8877 COLLINS AVE #606
SURFSIDE, FL 33154

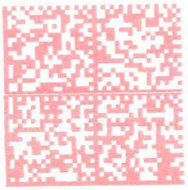
VLD HARBOR LLC
150 SE 2 AVE SUITE 1408
MIAMI, FL 33131

VS 3 INVESTMENT HOLDINGS LLC
C/O LANDA POSADA
2030 S DOUGLAS RD STE 107
CORAL GABLES, FL 33134

YANIV YOSEF
1065 99 ST
BAY HARBOR ISLANDS, FL 33154

YARIV GILAT
ILANA S GILAT
1140 101 ST 402 B
BAY HARBOR ISLANDS, FL 33154

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403 BHO LLC
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BOLDER CORPORATE LLC
1100 100 ST 406
BAY HARBOR ISLANDS, FL 33154

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BARBARA J MONROE JTRS
TERRY MONROE JTRS
10101 E BAY HARBOR DR UNIT 202
BAY HARBOR ISLANDS, FL 33154

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AUSTRABOREA LLC
2450 NE MIAMI GARDENS DR 2 FLR
MIAMI, FL 33180

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AUSBOR LLC
2450 NE MIAMI GARDENS DR 2 FLR
MIAMI, FL 33180

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GINA LIBUTTI
10011 BAY HARBOR TERR
BAY HARBOR ISLANDS, FL 33154-1509

akerman



ERASTO BORETTI DE ALMEIDA JR
TATIANA CNEIO ALVES
10101 E BAY HARBOR DR #307
BAY HARBOR ISLANDS, FL 33154

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ELLIOT BAKER
6755 N LOCKWOOD AVE
LINCOLNWOOD, IL 60712

akerman



ELIZABETH MARTINEZ
1120 99 ST #501
BAY HARBOR ISLANDS, FL 33154

akerman



BLANCA R GONZALEZ BARLETTA LE
MARIO A BARLETTA LE
REM VERONICA ANDREA BARLETTA
10101 E BAY HARBOR DR #509
BAY HARBOR ISLANDS, FL 33154

akerman



BLANCA MARYNA RODRIGUEZ TRS
BLANCA MARYNA RODRIGUEZ REV TR
5511 SW 132 AVE
MIAMI, FL 33175

akerman



BH STR LLC
20900 NE 30 AVE STE 915
MIAMI, FL 33180-2166

akerman



BEN HARBOR LLC
9901 E BAY HARBOR DR 502
BAY HARBOR ISLANDS, FL 33154

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BEBETO INVESTMENT LLC
10031 PINES BLVD 228
PEMBROKE PINES, FL 33024

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BEACH ISLAND PROPERTIES LLC
3389 SHERIDAN ST #181
HOLLYWOOD, FL 33021

akerman



BAYHARBOR TRADING CORP
2251 NE 201 ST
MIAMI, FL 33180

akerman



BAY PALMS INVESTMENTS LLC
3401 SW 160 AVE STE 330
MIRAMAR, FL 33027

akerman



BAY PALMS INVESTMENTS LLC
4440 VISTA LN
LYNN HAVEN, FL 32444

akerman



BAY HARBOR TH 1 LLC
1395 BRICKELL AVE 14 FLR FAP
MIAMI, FL 33131

akerman



BAY HARBOR ONE 302 LLC
1612 NW 84 AVE
DORAL, FL 33126

akerman



BAY HARBOR LLC
9821 E BAY HARBOR DR 605
BAY HARBOR ISLANDS, FL 33154

akerman



BAY HARBOR ISLAND TOWNHOUSES
ASSOCIATION INC
7665 NW 50 STREET
MIAMI, FL 33166

akerman



BAY HARBOR ISLAND I LLC
1395 BRICKELL AVE 14 FLR-FAP
MIAMI, FL 33131

akerman



BAY HARBOR 805 LLC
3839 NW BOCA RATON BLVD 100
BOCA RATON, FL 33431

akerman



BAY HARBOR ISLAND
9665 BAY HARBOR TERR
BAY HARBOR ISLANDS, FL 33154

akerman



BAY HARBOR 804 LLC
3839 NW BOCA RATON BLVD 100
BOCA RATON, FL 33431

akerman



BAY HARBOR 706 LLC
3839 NW BOCA RATON BLVD 100
BOCA RATON, FL 33431

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BAY HARBOR 705 LLC
3839 NW BOCA RATON BLVD 100
BOCA RATON, FL 33431

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BAY HARBOR 204 LLC
9273 COLLINS AVE 802
SURFSIDE, FL 33154

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ANALIA MARIEL BOGDAN
MARTIN FREIRE
1120 99 ST 204
BAY HARBOR ISLANDS, FL 33154

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AMERICAS PURCHASING SERVICES LLC
20201 NE 29 CT D 107
MIAMI, FL 33180

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ALVARO ARENAS LE
MARIA LUISA ARENAS LE
REM ALVARO MARTIN ARENAS
1065 98 ST #3
BAY HARBOR ISLANDS, FL 33154

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DANTE CHIABRA &W BRENDA L
10101 E BAY HARBOR DR UNIT 502
BAY HARBOR ISLANDS, FL 33154-1201

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DANIELA INMACULADA FRIAS BOTTA
10078 E BAY HARBOR DR #78D
BAY HARBOR ISLANDS, FL 33154

akerman



DANIEL MC KEOWN
3908 CENTRAL AVE
WESTERN SPRINGS, IL 60558

akerman



DANIEL ANDAI
ANNE CHICHEPORTICHE
10101 E BAY HARBOR DR 404
BAY HARBOR ISLANDS, FL 33154

akerman



DAMIAN RATTAGAN
MARCELA C VACCARI
9901 E BAY HARBOR DR 811
BAY HARBOR ISLANDS, FL 33154

akerman



CONSTANZA SONCINI
1120 99 ST UNIT 206
BAY HARBOR ISLANDS, FL 33154

akerman



CONRAD DAHLSON &W
DIANA B DAHLSON
10101 E BAY HARBOR DR #407
BAY HARBOR ISLANDS, FL 33154-1201

akerman



CLIFFORD M SIMON
COLETTE L SIMON
3414 FAY AVE
CULVER CITY, CA 90232

akerman



CLAUDIA MENDEZ
1120 99 ST 304
BAY HARBOR ISLANDS, FL 33154

akerman



CHRISTIAN ALEXE
9970 E BAY HARBOR DR
BAY HARBOR ISLANDS, FL 33154

akerman



CARL ASHQAR
SAYRA ASHQAR
1035 99 ST
BAY HARBOR ISLANDS, FL 33154

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CAPPANOG INC
1395 BRICKELL AVE 1380
MIAMI, FL 33131

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BULIMBA INVESTMENT LLC
21500 BISCAYNE BLVD STE 401
AVENTURA, FL 33180

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BRICKSAVE BH CLUB APT 306 LLC
C/O MARIE BUFFIERE
750 THIRD AVE 9TH FLR
NEW YORK, NY 10017

akerman



BRIAN MCCLISH
112 22ND AVE N
SAINT PETERSBURG, FL 33704

akerman



BRENT S PALMER
1000 99 ST UNIT 2
BAY HARBOR ISLANDS, FL 33154-1879

akerman



BORIS LEVITAS
566 MCLAWS ST
SAVANNAH, GA 31405

akerman



ANDREY MARKOV
1645 SW 4 AVE
BOCA RATON, FL 33432

akerman



ELIZABETH ANN NESTLER
31 WELLINGTON CIR
LEBANON, NH 03766

akerman



ANGELA MARIA RIZZI TRS
ANGELA RIZZI LIVING TRUST
101 CRANDON BLVD 276 AND 281
KEY BISCAYNE, FL 33149

akerman



ANGELICA ANDREOZZI
1101 98 ST #7
BAY HARBOR ISLANDS, FL 33154-1749

akerman



ANN MCCAULEY
ROBERT F FRANKEL
212 WINSLOW ROAD
WABAN, MA 02468

akerman



EMILIA C CABRERA
10078 E BAY HARBOR DR #C
BAY HARBOR ISLANDS, FL 33154-1540

akerman



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FIRST-CLASS MAIL
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$000.60 0
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VICKY VALKANAS
11702 RUE JAMES MORRICE
MONTREAL QC H3M 2E8
CANADA

akerman



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ESPERANZA PICO
103 VICTORY BLVD
STATEN ISLAND, NY 10301

akerman



RON VINEBERG
CARLA S VINEBERG
2 WESTMOUNT SQUARE #506
WESTMOUNT QC H3Z 2S4
CANADA

akerman



PENTA CAPITAL V INVESTMENTS LP
2828 BATHURST ST STE 400
TORONTO ON M6B 3A7
CANADA

akerman



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FIRST-CLASS MAIL
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$000.60 9
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DOMINIC MUSITANO
14 COMO PLACE
HAMILTON ON L8N 1G4
CANADA

akerman



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FRANCIS PALOUMBIS LLC
1120 99 ST #404
BAY HARBOR ISLANDS, FL 33154

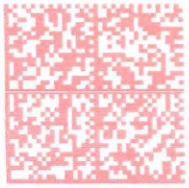
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FRANCIS JAMES MOONEY
JOHN MATTHEW TARRO
76 SEAVIEW AVE
CRANSTON, RI 02905

akerman



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FIRST-CLASS MAIL
IMI
$000.60 0
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FLORIDA PARADISE HOLDINGS LLC
10101 E BAY HARBOR DR APT 601
BAY HARBOR ISLANDS, FL 33154

akerman



FLORIDA PARADISE HOLDINGS LLC
7735 NW 146 ST STE 205
MIAMI LAKES, FL 33016

akerman



FLORIDA PARADISE HOLDINGS LLC
7735 NW 146 ST STE 206
MIAMI LAKES, FL 33016

akerman



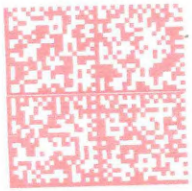
FL2SEYCAN LLC
8661 NE MIAMI CT
EL PORTAL, FL 33138

akerman



FIRST SAVINGS MORTGAGE CORP INC
C/O ALTERMAN LAW PA
6810 N STATE RD 7 STE 130
COCONUT CREEK, FL 33073

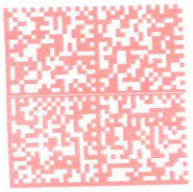
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quadient
FIRST-CLASS MAIL
IMI
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05/03/2023 ZIP 33131
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US POSTAGE

ARIELLE GRUBER
1055 99 ST
BAY HARBOR ISLANDS, FL 33154

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$000.60 0
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US POSTAGE

ARELYS ROMERO LE
REM LUIS ANDRES PIZARRO
9821 E BAY HARBOR DR UNIT 602
BAY HARBOR ISLANDS, FL 33154

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ANNE MARIE FORTIER JTRS &
ISABEL JOAO DE OLIVEIRA JTRS
1125 99 ST #12
BAY HARBOR ISLANDS, FL 33154

akerman



ANTONY GARDENS LLC
PO BOX 57019
LIMASSOL 3311 9999
CYPRUS

akerman



ESTEBAN MARCHESE
MARCELA GUARRACINO
10101 E BAY HARBOR DR 602
BAY HARBOR ISLANDS, FL 33154

akerman



ERNESTO PATAKY
10067 BAY HARBOR TERR
BAY HARBOR ISLANDS, FL 33154-1509

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FIRST-CLASS MAIL
IMI
$000.60 0
05/03/2023 ZIP 33131
043M31230267
US POSTAGE

GIANNINA WILD
57 ORCHARD PL
MAYWOOD, NJ 07607

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05/03/2023 ZIP 33131
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US POSTAGE

GHASSAN DAGHER
NOUHAD NADER
10101 E BAY HARBOR DR 606
BAY HARBOR ISLANDS, FL 33154

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GERBERA GROUP USA CORP
C/O ERIKA LITVAK
333 SE 2 AVE 4400
MIAMI, FL 33131

akerman



GEORGES JAEGER &W MICHELLE
10043 BAY HARBOR TERR
BAY HARBOR ISLANDS, FL 33154-1509

akerman



GEORGE LAUGHLIN
10001 E BAY HARBOR DR #2N
BAY HARBOR ISLANDS, FL 33154-1539

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G2R LLC
1110 BRICKELL AVE STE 310
MIAMI, FL 33131

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FIRST-CLASS MAIL
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US POSTAGE

FULHAM DEVELOPMENT LLC
1001 BRICKELL BAY DR STE 2406
MIAMI, FL 33131

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US POSTAGE

ALON NELSON
ADI NELSON
10072 E BAY HARBOR DR 72B
BAY HARBOR ISLANDS, FL 33154

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ALEXEI BAEV
OLENA BAEV
10072 E BAY HARBOR DR 72D
BAY HARBOR ISLANDS, FL 33154

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ALEXANDER RANGEL
IRINA ZABELINA
10101 E BAY HARBOR DR #306
BAY HARBOR ISLANDS, FL 33154

akerman



ALEXANDER I RYSHAWY
JENNIFER S RYSHAWY
1140 101 ST #601-B
BAY HARBOR ISLANDS, FL 33154

akerman



ALEMI LLC
9240 DICKENS AVE
SURFSIDE, FL 33154

akerman



AGUSTIN GOITY
MAGDALENA LERCHUNDI
10101 E BAY HARBOR DR APT 506
BAY HARBOR ISLANDS, FL 33154-1202

akerman



9955 BAY HARBOR DEVELOPMENT LLC
18101 COLLINS AVE #3908
SUNNY ISLES BEACH, FL 33160

akerman



9950 E BAY HARBOR DR BH LLC
20200 W DIXIE HWY
AVENTURA, FL 33180

akerman



9901 E BAY HARBOR LLC
9901 E BAY HARBOR DR PH1
BAY HARBOR ISLANDS, FL 33154

akerman



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FIRST-CLASS MAIL
IMI
$000.60 9
05/03/2023 ZIP 33131
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9660 W BAY HARBOR LLC
9901 E BAY HARBOR DR #PH1 PH3
BAY HARBOR ISLANDS, FL 33154

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$000.60 9
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US POSTAGE

905 BAY HARBOR INC
444 BRICKELL AVE 760
MIAMI, FL 33131

akerman



ANASTASIA TAPLINA
10000 BAY HARBOR TER 401-A
BAY HARBOR ISLANDS, FL 33154

akerman



0 706 LLC
1111 KANE CONCOURSE 305
BAY HARBOR ISLANDS, FL 33154

akerman



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FIRST-CLASS MAIL
IMI
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05/03/2023 ZIP 33131
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US POSTAGE

JACQUELINE DANZER TRS
DANZER DESTINY LIVING TRU
2241 NE 38 ST
POMPANO BEACH, FL 33064

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IMI
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US POSTAGE

FAST LOGIC LLC
1395 BRICKELL AVE 14 FLR
MIAMI, FL 33131

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IMI
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US POSTAGE

FABRIZIO SCIORIO TRS
FABRIZIO SCIORIO REVOC LIV TR
9660 W BAY HARBOR DR 7D
BAY HARBOR ISLANDS, FL 33154

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FIRST-CLASS MAIL
IMI
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US POSTAGE

FEROZ BHAMANI
11731 SW 108 LN
MIAMI, FL 33186

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IMI
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05/03/2023 ZIP 33131
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US POSTAGE

ELISA HIDALGO GARCIA &W AURELIO
2830 SW 22 AVE
MIAMI, FL 33133-3949

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IMI
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05/03/2023 ZIP 33131
043M31230267
US POSTAGE

ELEVEN DESIGN STUDIO LLC
9064 BYRON AVE
SURFSIDE, FL 33154

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FIRST-CLASS MAIL
IMI
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05/03/2023 ZIP 33131
043M31230267
US POSTAGE

ELENA H HAYES
10000 BAY HARBOR TERR UNIT 504A
BAY HARBOR ISLANDS, FL 33154-1570

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FIRST-CLASS MAIL
IMI
$000.60 9
05/03/2023 ZIP 33131
043M31230267
US POSTAGE

CLAUDIA CARAMIAN
10090 BAY HARBOR TER
BAY HARBOR ISLANDS, FL 33154

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CLAIRE LOEW HAUSMAN TRS
GERALD LOEW TRS
CLAIRE LOEW HAUSMAN
1120 99 ST #403
BAY HARBOR ISLANDS, FL 33154

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CHRISTOPHER HOPKINS HAMILTON
STEPHEN KINGSBURY HAMILTON
60 MONTICELLO DR
HILTON HEAD, SC 29926-1297

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EDWARD R KIRSH
MYRIAM KOLINKA
10023 BAY HARBOR TER
BAY HARBOR ISLANDS, FL 33154

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IMI
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US POSTAGE

DRAGANI GROUP LLC
1150 KANE CONCOURSE 2ND FLR
BAY HARBOR ISLANDS, FL 33154

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IMI
$000.60 0
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US POSTAGE

DR RC LLC
9821 E BAY HARBOR DR 404
BAY HARBOR ISLANDS, FL 33154

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IMI
$000.60 0
05/03/2023 ZIP 33131
043M31230267
US POSTAGE

DORTMUND HOLDINGS INC
1430 S DIXIE HWY 321
CORAL GABLES, FL 33146

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IMI
$000.60 0
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US POSTAGE

DEVORAH WIEDER
ADINAH WIEDER
31 ASTOR PLACE
MONSEY, NY 10952

akerman



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$000.60 0
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US POSTAGE

DAVID HERSKOWITZ
9821 E BAY HARBOR DR 504
BAY HARBOR ISLANDS, FL 33154

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DAVID F ANDERSON LE
NELLY E ANDERSON LE
REM DAVID ANDREW ANDERSON
10101 E BAY HARBOR DR #309
BAY HARBOR ISLANDS, FL 33154

akerman



DAVID F ANDERSON
NELLY E ANDERSON
10101 E BAY HARBOR DR 706
BAY HARBOR ISLANDS, FL 33154

akerman



DAVID F ANDERSON
NELLY E ANDERSON
10101 E BAY HARBOR DR 201
BAY HARBOR ISLANDS, FL 33154

akerman



DARRIN NORWOOD
PO BOX 5331
ALPHARETTA, GA 30023

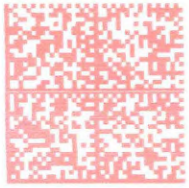
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05/03/2023 ZIP 33131
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US POSTAGE

802 BHO LLC
21500 BISCAYNE BLVD STE 401
AVENTURA, FL 33180

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FIRST-CLASS MAIL
IMI
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05/03/2023 ZIP 33131
043M31230267
US POSTAGE

815 80TH ST LLC
1231 96 ST #1105
BAY HARBOR ISLANDS, FL 33154

akerman



504 E BAY HARBOR LLC
18660 CASSANDRA POINTE LN
BOCA RATON, FL 33496

akerman



503 BHO LLC
21500 BISCAYNE BLVD 401
AVENTURA, FL 33180

akerman

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FIRST-CLASS MAIL
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05/03/2023 ZIP 33131
043M31230267
US POSTAGE

501 BHO LLC
21500 BISCAYNE BLVD 401
AVENTURA, FL 33180

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FIRST-CLASS MAIL
IMI
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05/03/2023 ZIP 33131
043M31230267
US POSTAGE

304 BHO LLC
21500 BISCAYNE BLVD 4001
AVENTURA, FL 33180

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303 BHO LLC
21500 BISCAYNE BLVD 401
AVENTURA, FL 33180

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1065 2 BAY HARBOR LLC
1903 FERDINAND ST
CORAL GABLES, FL 33134

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$000.60 0
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JOCELINA PINTO REZENDE
11 SAINT JOHN ST
BOSTON, MA 02130

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US POSTAGE

JOAQUIN DE OLIVEIRA
10101 E BAY HARBOR DR #301
BAY HARBOR ISLANDS, FL 33154-1201

akerman



JAMES THURSTON LYNCH
10101 E BAY HARBOR DR #205
BAY HARBOR ISLANDS, FL 33154

akerman



INITIUM FUTURA ASSETS LLC
900 BRICKELL KEY BLVD 1703
MIAMI, FL 33131

akerman

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FIRST-CLASS MAIL
IMI
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05/03/2023 ZIP 33131
043M31230267
US POSTAGE

JO B MILLER
400 DIPLOMAT PKWY APT 805
HALLANDLE BEACH, FL 33009-3732

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FIRST-CLASS MAIL
IMI
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043M31230267
US POSTAGE

JAVIER DAVID ANDREU
10101 E BAY HARBOR DR 608
BAY HARBOR ISLANDS, FL 33154

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FIRST-CLASS MAIL
IMI
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05/03/2023 ZIP 33131
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US POSTAGE

GOODHEART VENTURES INCORPORATED
PO BOX 409
PRINCETON, NJ 08540

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IMI
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05/03/2023 ZIP 33131
043M31230267
US POSTAGE

GUILLERMO BRUGADA
20200 W DIXIE HWY #1205
AVENTURA, FL 33180

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IMI
$000.60 0
05/03/2023 ZIP 33131
043M31230267
US POSTAGE

GIOVANNINA PILAR PALOUMBIS
1120 99 ST UNIT 404
BAY HARBOR ISLANDS, FL 33154

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IMI
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05/03/2023 ZIP 33131
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US POSTAGE

GVE RE INVESTMENT OF FLORIDA LLC
20650 NE 25 PL
MIAMI, FL 33180

akerman



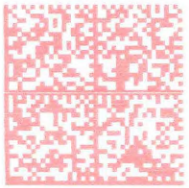
INTERHOUSE GROUP LLC
9821 E BAY HARBOR DR 502
BAY HARBOR ISLANDS, FL 33154

akerman



ISAAC & ZOILA LAGARI
1065 98 ST #4
BAY HARBOR ISLANDS, FL 33154-1764

akerman



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FIRST-CLASS MAIL
IMI
$000.60 0
05/03/2023 ZIP 33131
043M31230267
US POSTAGE

ISAAC KLEINBART
1710 54 ST
BROOKLYN, NY 11204

akerman



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FIRST-CLASS MAIL
IMI
$000.60 0
05/03/2023 ZIP 33131
043M31230267
US POSTAGE

JBPS LLC
10001 E BAY HARBOR DR UNIT 1-S
BAY HARBOR ISLANDS, FL 33154

akerman



JOANNE LYNN KATZ JTRS
SETH A KRAINES HOFFMAN JTRS
9141 FROUDE AVE
SURFSIDE, FL 33154-3115

akerman



JBLEMOS CORPORATION
9821 E BAY HARBOR DR 604
BAY HARBOR ISLANDS, FL 33154

akerman



quadient
FIRST-CLASS MAIL
IMI
$000.60 0
05/03/2023 ZIP 33131
043M31230267
US POSTAGE

IOAV MOSHE BACH
1085 99 ST #3
BAY HARBOR ISLANDS, FL 33154

akerman



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FIRST-CLASS MAIL
IMI
$000.60 0
05/03/2023 ZIP 33131
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US POSTAGE

HAROLD R TALISMAN
9901 E BAY HARBOR DR 701
BAY HARBOR ISLANDS, FL 33154

akerman



GRAYBAY PROPERTIES LLC
9533 BAY DR
SURFSIDE, FL 33154

akerman



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FIRST-CLASS MAIL
IMI
$000.60 0
05/03/2023 ZIP 33131
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US POSTAGE

JUAN SUTIL &W YAEL LANIADO
1140 101 ST UNIT 201B
BAY HARBOR ISLANDS, FL 33154-1591

akerman



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FIRST-CLASS MAIL
IMI
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05/03/2023 ZIP 33131
043M31230267
US POSTAGE

JULIANA PINTO REZENDE
1120 99 ST 502
BAY HARBOR ISLANDS, FL 33154

akerman



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FIRST-CLASS MAIL
IMI
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US POSTAGE

JUAN FERNANDO GUERRERO
MARCIA C ELIZALDE
345 NE 152 ST
MIAMI, FL 33162

akerman



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FIRST-CLASS MAIL
IMI
$000.60 0
05/03/2023 ZIP 33131
043M31230267
US POSTAGE

JOSEPH ZUCKERMAN LE
REM PETER ZUCKERMAN
10000 BAY HARBOR TER 503A
BAY HARBOR ISLANDS, FL 33154

akerman

quadient
FIRST-CLASS MAIL
IMI
$000.60 9
05/03/2023 ZIP 33131
043M31230267
US POSTAGE

JOSEPH C MAC EACHERN &W MICHELE P
1931 NE 186 DR
N MIAMI BEACH, FL 33179-4343

akerman

quadient
FIRST-CLASS MAIL
IMI
$000.60 9
05/03/2023 ZIP 33131
043M31230267
US POSTAGE

JOSE F & NIDIA F SUAREZ
2621 DEEP CANYON DR
BEVERLY HILLS, CA 90210

akerman

quadient
FIRST-CLASS MAIL
IMI
$000.60 9
05/03/2023 ZIP 33131
043M31230267
US POSTAGE

JORGE LUIS MARTINEZ
KRISTYNA ROSE BORDEN
1120 99 ST 505
BAY HARBOR ISLANDS, FL 33154

akerman

quadient
FIRST-CLASS MAIL
IMI
$000.60 9
05/03/2023 ZIP 33131
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US POSTAGE

JONATHAN MORGINSTIN
TAI MORGINSTIN
1140 101 ST UNIT 502 B
BAY HARBOR ISLANDS, FL 33154

akerman

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FIRST-CLASS MAIL
IMI
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05/03/2023 ZIP 33131
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US POSTAGE

JONATHAN DADESHO
1100 100 ST UNIT 401
BAY HARBOR ISLANDS, FL 33154

akerman

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FIRST-CLASS MAIL
IMI
$000.60 º
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043M31230267
US POSTAGE

JOEL BAUM &W
LESLIE BAUM
10101 E BAY HARBOR DR #609
BAY HARBOR ISLANDS, FL 33154-1202

akerman

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FIRST-CLASS MAIL
IMI
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05/03/2023 ZIP 33131
043M31230267
US POSTAGE

JOSE I RODRIGUEZ
DENNIS WILLIAMS
1120 99 ST 504
BAY HARBOR ISLANDS, FL 33154

akerman

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IMI
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05/03/2023 ZIP 33131
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US POSTAGE

JOHNNY L AGUILAR CABALLERO
YADIRA LOPEZ
5131 TYLER ST
HOLLYWOOD, FL 33021

akerman



MEGAN BRESNAHAN
10101 E BAY HARBOR DR 701
BAY HARBOR ISLANDS, FL 33154

akerman



MICHAEL J ANDERSON
1065 98 ST #9
BAY HARBOR ISLANDS, FL 33154-1764

akerman



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FIRST-CLASS MAIL
IMI
$000.60 0
05/03/2023 ZIP 33131
043M31230267
US POSTAGE

MANUEL ACOSTA
1120 99 ST #303
BAY HARBOR ISLANDS, FL 33154-1702

akerman



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FIRST-CLASS MAIL
IMI
$000.60 0
05/03/2023 ZIP 33131
043M31230267
US POSTAGE

MALIMONT INVESTMENTS LLC
900 BRICKELL KEY BLVD 1703
MIAMI, FL 33131

akerman



MALIBU PROPERTIES I LLC
60 EDGEWATER DR 16D
CORAL GABLES, FL 33133

akerman



M A S HOME LLC
750 E SAMPLE RD BLDG 6 STE 5
POMPANO BEACH, FL 33064

akerman



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FIRST-CLASS MAIL
IMI
$000.60 0
05/03/2023 ZIP 33131
043M31230267
US POSTAGE

LUIS GUZMAN PEREZ
2750 NE 183 ST APT 408
AVENTURA, FL 33160

akerman



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FIRST-CLASS MAIL
IMI
$000.60 0
05/03/2023 ZIP 33131
043M31230267
US POSTAGE

LYSANDRA GIBREAL
10101 E BAY HARBOR DR 605
BAY HARBOR ISLANDS, FL 33154

akerman

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FIRST-CLASS MAIL
IMI
$000.60 0
05/03/2023 ZIP 33131
043M31230267
US POSTAGE

LINDA J CHESNIK
1101 98 ST UNIT 1
BAY HARBOR ISLANDS, FL 33154-1749

akerman

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FIRST-CLASS MAIL
IMI
$000.60 0
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043M31230267
US POSTAGE

LINDA BURGOS DEVELOPERS LLC
1085 98 ST
BAY HARBOR ISLANDS, FL 33154

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IMI
$000.60 0
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US POSTAGE

LINCE GROUP LLC
33 MORNING GLORY LN
EDISON, NJ 08820

akerman



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IMI
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043M31230267
US POSTAGE

LESLEY VISSER KANUTH
10001 E BAY HARBOR DR UNIT 2S
BAY HARBOR ISLANDS, FL 33154

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FIRST-CLASS MAIL
IMI
$000.60 0
05/03/2023 ZIP 33131
043M31230267
US POSTAGE

LAUREN MONZON
1085 99 ST 4
BAY HARBOR ISLANDS, FL 33154

akerman



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FIRST-CLASS MAIL
IMI
$000.60 0
05/03/2023 ZIP 33131
043M31230267
US POSTAGE

LAWRENCE R SCHRAM
MONICA T SCHRAM
16850 COLLINS AVE STE 112 499
SUNNY ISLES BEACH, FL 33160

akerman

quadient
FIRST-CLASS MAIL
IMI
$000.60 0
05/03/2023 ZIP 33131
043M31230267
US POSTAGE

KIA LYNN BAZON
MOSHE BAZON
9901 E BAY HARBOR DR PH1-PH3
BAY HARBOR ISLANDS, FL 33154

akerman

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FIRST-CLASS MAIL
IMI
$000.60 0
05/03/2023 ZIP 33131
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US POSTAGE

KIMBERLY MARTINES MALO
GLADYS MARTINEZ MALO
10101 E BAY HARBOR DR 702
BAY HARBOR ISLANDS, FL 33154

akerman



JUANA MPATSIOS
3567 NE 168 ST
NORTH MIAMI BEACH, FL 33160

akerman



K 9 CONNECTIONS LTD
1075 98 ST
BAY HARBOR ISLANDS, FL 33154

akerman

MAYER PREGER
HENYA PREGER
861 WOODMERE PL
WOODMERE, NY 11598



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FIRST-CLASS MAIL
IMI
$000.60 0
05/03/2023 ZIP 33131
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US POSTAGE

akerman

MARLENE ESPINOZA
1120 99 ST #205
BAY HARBOR ISLANDS, FL 33154-3818



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FIRST-CLASS MAIL
IMI
$000.60 0
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043M31230267
US POSTAGE

akerman

MARININ QUINTERO
10072 E BAY HARBOR DR UNIT 72C
BAY HARBOR ISLANDS, FL 33154-1530

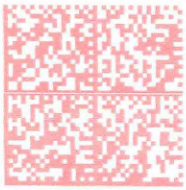


akerman

MARJORY FUTTERMAN
9901 E BAY HARBOR DR 802
BAY HARBOR ISLANDS, FL 33154-1536



akerman



quadient
FIRST-CLASS MAIL
IMI
$000.60 0
05/03/2023 ZIP 33131
043M31230267
US POSTAGE

MARIA DEL MAR VELASCO
10101 E BAY HARBOR DR #302
BAY HARBOR ISLANDS, FL 33154

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FIRST-CLASS MAIL
IMI
$000.60 0
05/03/2023 ZIP 33131
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US POSTAGE

MARGERY GORDON
1140 101 STREET #501-B
BAY HARBOR ISLANDS, FL 33154

akerman

quadient
FIRST-CLASS MAIL
IMI
$000.60 0
05/03/2023 ZIP 33131
043M31230267
US POSTAGE

MARCO FILIPE DIAS LINHARES
ALEXANDRE DIAS LINHARES
1125 99 ST #10
BAY HARBOR ISLANDS, FL 33154

akerman

quadient
FIRST-CLASS MAIL
IMI
$000.60 0
05/03/2023 ZIP 33131
043M31230267
US POSTAGE

MARCY JURKOWITZ
10101 E BAY HARBOR DR #507
BAY HARBOR ISLANDS, FL 33154-1202

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MARCELO NEGRO MUNIZ
JOSE MARIA NEGRO MUNIZ
16850 COLLINS AVE #187
SUNNY ISLES BEACH, FL 33160

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MICHAEL MAILEY
10001 E BAY HARBOR DR 3S
BAY HARBOR ISLANDS, FL 33154

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MARTIN HANDLER
2800 BRUCKER BLVD STE 201
BRONX, NY 10465

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MARCELO ADDARIO TRS
MARCELO ADDARIO REVOCABLE TR
8020 EAST DR 315
NORTH BAY VILLAGE, FL 33141

akerman



REX 1101 99 LLC
1101 99 ST UNIT 8
BAY HARBOR ISLANDS, FL 33154

akerman



RENATO FERNANDO RAMIREZ DONDERS
9821 E BAY HARBOR DR 402
BAY HARBOR ISLANDS, FL 33154

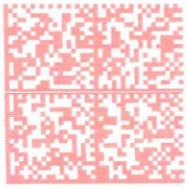
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PROPERTY INVESTORS 56 LLC
212 S MAIN AVENUE STE 131
SIOUX FALLS, SD 57104

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RESIDENCES 806 LLC
8385 NW 68 ST
MIAMI, FL 33166

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RAFAEL G SEGREDO &W ROSE A
10275 COLLINS AVE #710
BAL HARBOUR, FL 33154

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RAGA PROPERTIES LLC
9901 E BAY HARBOR DR 803
BAY HARBOR ISLANDS, FL 33154

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RAJA WAHAB LE
GHADA WAHAB LE
REM DANA WAHAB
9901 E BAY HARBOR DR 401
BAY HARBOR ISLANDS, FL 33154

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RANDI ALICIA STUBACK TRS
RANDI ALICIA STUBACK REV TRUST
10101 E BAY HARBOR DR 501
BAY HARBOR ISLANDS, FL 33154

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NASPI LLC
17611 SW 48 ST
WESTON, FL 33331

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NANCY SCHAFER
PO BOX 6111
ORLANDO, FL 32802

akerman



NANCY SACK TRS
SACK NORTON REVOCABLE TRUST
MITCHELL SACK TRS
4750 25 STREET
SAN FRANCISCO, CA 94114

akerman



MYDAVE LLC
10295 COLLINS AVE 2407
BAL HARBOUR, FL 33154

akerman



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PRESTON BIRCHER
1073 98 ST UNIT 1073
BAY HARBOR ISLANDS, FL 33154-1706

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PETER D JORDAN
57 LINCOLN RD
LONGMEADOW, MA 01106

akerman



PERRY LANAWAY
TRACEY M HANCOCK
10101 E BAY HARBOR DR #402
BAY HARBOR ISLANDS, FL 33154

akerman



OLGA BENAL EST OF
10074 E BAY HARBOR DR UNIT 74C
BAY HARBOR ISLANDS, FL 33154-1529

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PEDRO & FRANCISCA LEDESMA
6450 COLLINS AVE 502
MIAMI BEACH, FL 33154

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NINA RASS
9381 E BAY HARBOR DR 604N
BAY HARBOR ISLANDS, FL 33154

akerman



NICOBOY LLC
10031 PINES BLVD #228
PEMBROKE PINES, FL 33024

akerman



NICK G DURIS
1140 101 ST UNIT 401B
BAY HARBOR ISLANDS, FL 33154-1590

akerman

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NESTOR MIGUEL TORRES
10101 E BAY HARBOR DR #208
BAY HARBOR ISLANDS, FL 33154-1201

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NEIL NISSAN
9821 E BAY HARBOR DR UNIT 805
BAY HARBOR ISLANDS, FL 33154

akerman



OPHEPER LLC
2450 NE MIAMI GARDENS DR 2ND FL
MIAMI, FL 33180

akerman



RAR 82 LLC
1120 99 ST 404
BAY HARBOR ISLANDS, FL 33154

akerman



OSCAR LOVERA
LISA NIETO
10101 E BAY HARBOR DR #305
BAY HARBOR ISLANDS, FL 33154

akerman



MRMD TRUST LLC
9289 EMERSON AVE
SURFSIDE, FL 33154

akerman



MRMD INVESTMENTS LLC
9289 EMERSON AVE
SURFSIDE, FL 33154

akerman



MORDECHAI WERDE
CHANA ZELDA WERDE
9901 E BAY HARBOR DR 603
BAY HARBOR ISLANDS, FL 33154

akerman



MONTHAKARN DEEA-ARD(JTRS)
DAVID BOCKER (JTRS)
1199 NE 99 ST
MIAMI SHORES, FL 33138

akerman



MONICA ORTEGA
1120 99 ST 405
BAY HARBOR ISLANDS, FL 33154

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MITTIE F SIMMONS JTRS
MARY M SIMMONS JTRS
10001 E BAY HARBOR DR #1N
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MITCHELL A FELDMAN &W RAVIT
1930 NE 119 RD
NORTH MIAMI, FL 33181

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MILANO STEP TWO CORP
220 SW 2 ST
BOCA RATON, FL 33432

akerman



MICHAEL T BRADY
ANA M CASTILLERO BRADY
1085 99 ST #1
BAY HARBOR ISLANDS, FL 33154

akerman



MICHAEL SHERWIN
9821 E BAY HARBOR DR 401
BAY HARBOR ISLANDS, FL 33154

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MICHAEL P DEVLIN
EDIVANE S DEVLIN
9 BREWSTER LN
EAST SANDWICH, MA 02537

akerman

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PAULA ARAGONE TRS
FPA LIVING TRUST
FACUNDO ARAGONE TRS
9821 E BAY HARBOR DR 405
BAY HARBOR ISLANDS, FL 33154

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PAUL ROBERT DOERNTE &W CLARICE
6760 STILLMEADOW DR
CUMMING, GA 33040

akerman



PAUL L MADEIRA &
BECKY S CAMPBELL
1101 98 ST UNIT 6
BAY HARBOR ISLANDS, FL 33154-1749

akerman



PATRICIO ROBERTO GUZMAN SALINAS
VIRGINIA ESTELA ROJAS MORALES
1600 SW 1 AVE 606
MIAMI, FL 33129

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PATRICIA BRUNO
1140 101 ST UNIT 301B
BAY HARBOR ISLANDS, FL 33154-1591

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PAOLA STOLFI LE
REM MARZIA LAVINIA DI PIETRO
336 NE 98 ST
MIAMI SHORES, FL 33138

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PALM VILLAS UNIT 13 LLC
5612 ROSA GARDEN RD UNIT 201
CAPE CORAL, FL 33914

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PABLO & GUIDO I LLC
1065 98 ST #5
BAY HARBOR ISLANDS, FL 33154

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SUNSET BAY LLC
6700 INDIAN CREEK DR 1207
MIAMI BEACH, FL 33141

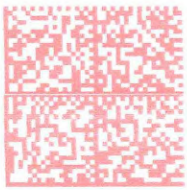
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STUART D ROTE
8835 ABBOTT AVE
SURFSIDE, FL 33154

akerman



STEVEN INERFELD &W REBECCA
10101 E BAY HARBOR DR #310
BAY HARBOR ISLANDS, FL 33154-1201

akerman



STAY HARBOR LLC
C/O OREN LIEBER ESQ
2800 BISCAYNE BLVD STE 500
MIAMI, FL 33137

akerman



STAY HARBOR LLC
300 OREGON ST 306
HOLLYWOOD, FL 33019

akerman



SOFGAB LLC
10000 BAY HARBOR TER 201 A
BAY HARBOR ISLANDS, FL 33154

akerman



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SIMON CHOCRON
DESIREE RAQUEL AQUININ
10027 BAY HARBOR TER
BAY HARBOR ISLANDS, FL 33154

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SILVIA STOLFI
10076 E BAY HARBOR DR 76B
BAY HARBOR ISLANDS, FL 33154

akerman



SILVIA O SANTAMARINA
10101 E BAY HARBOR DR UNIT 403
BAY HARBOR ISLANDS, FL 33154-1201

akerman



SILVIA GALVIS LUNDSTROM
PO BOX 546821
SURFSIDE, FL 33154

akerman



SHOLOM BORUCH GURVITSCH
9821 E BAY HARBOR DR 906
BAY HARBOR ISLANDS, FL 33154

akerman



SEBASTIAN OSUALDO LASCHERA
PAULA LORENA VANIA
1120 99 ST 201
BAY HARBOR ISLANDS, FL 33154

akerman



SASS HOMES LLC
757 SE 17 ST UNIT 1008
FORT LAUDERDALE, FL 33316

akerman



SARINA MIRIAM ABRAMOWITZ LE
PERLA ABRAMOWITZ LE
JAY ABRAMOWITZ LE
1101 99 ST #6
BAY HARBOR ISLANDS, FL 33154

akerman



SANTIBOY LLC
10031 PINES BLVD 228
PEMBROKE PINES, FL 33024

akerman



SAMANTHA ROSE STELLA
1120 99 ST UNIT 301
BAY HARBOR ISLANDS, FL 33154

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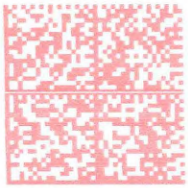
SALOMON CRESPIN TRS
SALOMON CRESPIN AND LUNA CRESPIN
FAMILY REVOCABLE LIVING TRUST
10101 E BAY HARBOR DR 603
BAY HARBOR ISLANDS, FL 33154

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RUSSILL JAMES RAFTIS
JOHN JOSEPH RAFTIS
1100 100 ST 505
BAY HARBOR ISLANDS, FL 33154

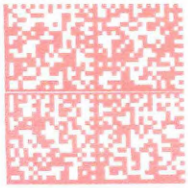
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RTS INT LLC
1120 99 STREET #503
BAY HARBOR ISLANDS, FL 33154

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ROYI HAZAN
9821 E BAY HARBOR DR 304
BAY HARBOR ISLANDS, FL 33154

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RONIT COHEN
10101 E BAY HARBOR DR #610
BAY HARBOR ISLANDS, FL 33154

akerman



ROLANDO EPSTEIN
VIOLETA HORNE
1101 99 ST 5
BAY HARBOR ISLANDS, FL 33154

akerman



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ROGERIO M SANTANA
MARCIA A SANTANA
9821 E BAY HARBOR DR 406
BAY HARBOR ISLANDS, FL 33154

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ROBERTO DORFMAN TR
ROBERTO DORFMAN
10019 BAY HARBOR TERR
BAY HARBOR ISLANDS, FL 33154

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ROBERT D SABATINO LE
REM JAVIER RODRIGUEZ
9980 E BAY HARBOR DR C
BAY HARBOR ISLANDS, FL 33154

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RICARDO F CABRERA
JESSICA J CABRERA
1120 99 ST 306
BAY HARBOR ISLANDS, FL 33154

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REXLEIGH APARTMENTS INC
9881 E BAY HARBOR DR
BAY HARBOR ISLANDS, FL 33154-3808

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VS 3 INVESTMENT HOLDINGS LLC
C/O LANDA POSADA
2030 S DOUGLAS RD STE 107
CORAL GABLES, FL 33134

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VLD HARBOR LLC
150 SE 2 AVE SUITE 1408
MIAMI, FL 33131

akerman



VIVIAN OLTI
ROBERT ANDAI
8877 COLLINS AVE #606
SURFSIDE, FL 33154

akerman



VITALY ESHTOKIN
OLGA ESHTOKINA
10047 BAY HARBOR TER
BAY HARBOR ISLANDS, FL 33154

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VICTORY HOLDINGS INVESTMENTS LLC
1111 KANE CONCOURSE 619
BAY HARBOR ISLANDS, FL 33154

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VICTOR MANUEL SAMANAMUD
10076 E BAY HARBOR DR #76D
BAY HARBOR ISLANDS, FL 33154-1541

akerman



VICKY ANN SALAZAR
10070 E BAY HARBOR DR #70A
BAY HARBOR ISLANDS, FL 33154-1531

akerman



VAGANOA CORP
1000 99 ST TH12
BAY HARBOR ISLANDS, FL 33154

akerman



TRURU FLORIDA LLC
9608 SW 117 AVE
MIAMI, FL 33186

akerman



TRACY LEE KRAMER
10101 E BAY HARBOR DR 207
BAY HARBOR ISLANDS, FL 33154

akerman



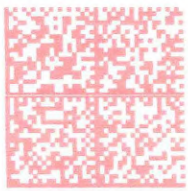
TOP REAL ESTATE GROUP LLC
856 EVERGREEN DR
WEST HEMPSTEAD, NY 11552

akerman



TITOK LLC
10000 BAY HARBOR TER UNIT 301
BAY HARBOR ISLANDS, FL 33154

akerman



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TIMOTHY M ROMMEL
RAND HAKIM ROMMEL
6610 CONNOR RD
EAST AMHERST, NY 14051

akerman



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THOMAS P GILI TRS
THOMAS P GILI AND DONNA C
MAHEADY REVOCABLE TRUST
13019 COASTAL CIR
PALM BEACH GARDENS, FL 33410

akerman



THOMAS A BRUDER &W KATHLEEN R
600 REED ROAD SUITE 212
BROOMALL, PA 19008

akerman



THE PALMERINA LLC
3401 SW 160 AVE #330
MIRAMAR, FL 33027

akerman



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THAIRY QUINTANA
1065 98 STREET #7
BAY HARBOR ISLANDS, FL 33154

akerman



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TEODORA PETEVA PETROVA
4276 ALTON RD
MIAMI BEACH, FL 33140

akerman



TEN45 HOLDINGS LLC
301 ARTHUR GODFREY RD 302
MIAMI BEACH, FL 33140

akerman



TATIANA TINOCO
1101 99 ST #7
BAY HARBOR ISLANDS, FL 33154

akerman

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TANGO CERO UNO LLC
3951 194 TRAIL
SUNNY ISLES BEACH, FL 33160

akerman

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SUSANNE BAK MORTENSEN TRUSTEE
THE SUSANNE BAK MORTSEN LIVING TR
1025 99 STREET
BAY HARBOR ISLANDS, FL 33154

akerman



SUSANA GRACIELA CELIA TRS
SUSANA GRACIELA CELIA REV TR
10000 BAY HARBOR TER 301
BAY HARBOR ISLANDS, FL 33154

akerman



SUSAN MATA
9976 E BAY HARBOR DR
BAY HARBOR ISLANDS, FL 33154

akerman

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1000 99TH STREET LLC
121 E. 23 ST APT 18C
NEW YORK, NY 10010

AGENDA ITEM REPORT

November 8, 2023

ITEM NUMBER: 19.

ITEM: Consideration and Approval of a Resolution designating a weekday for Early Voting. Enclosed is the proposed Resolution.

DESCRIPTION:
At a Regular Meeting on June 14, 2023 the Town Council adopted Ordinance No. 1087 amending Section 6-4 of the Charter of the Town of Bay Harbor Islands authorizing two (2) days of Early Voting as follows:

1. Either Tuesday, Wednesday, or Thursday of the week prior to the election from 9:00 a.m. to 6:00 p.m.; the day to be selected by the Town Council by resolution, no later than 60 days prior to the date of the election.
2. The Saturday prior to the date of the election from 9:00 a.m. to 6:00 p.m.
3. Early voting shall be held in the same location as regular voting.

The purpose of this item is to add a weekday with Saturday to provide for the two (2) days of Early Voting.

RECOMMENDED ACTION:
Council's Discretion

FINANCIAL ANALYSIS:
The cost for two days of early voting has been estimated at a maximum cost of $18,190.15; this amount has been appropriated in the FY 2024 Budget.

BUDGET IMPACT:

Submitted By: Yvonne Hamilton, Town Clerk

ATTACHMENTS

1.	Resolution-Designating Weekday for Early Voting
2.	1087 - Early Voting

RESOLUTION NO. _____

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF BAY HARBOR ISLANDS, FLORIDA, DESIGNATING THE WEEKDAY FOR EARLY VOTING FOR THE APRIL 2, 2024 GENERAL ELECTION; AUTHORIZING THE TOWN CLERK TO CARRY OUT THE AIMS OF THIS RESOLUTION; PROVIDING FOR INCORPORATION OF RECITALS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Section 100.3605, Florida Statutes allows municipalities to provide Early Voting in municipal elections that are not held in conjunction with County or State elections, and

WHEREAS, the Town Council of the Town of Bay Harbor Islands, Florida, determined it is in the best interest of the Town and its citizens to conduct Early Voting for the General Election to be held on April 2, 2024, plus all future elections; and

WHEREAS, at a Regular Meeting held on August 8, 2023 the Town Council adopted Ordinance No. 1087 authorizing Early Voting as follows:

A. Either Tuesday, Wednesday, or Thursday of the week prior to the election from 9:00 a.m. to 6:00 p.m.; the day to be selected by the Town Council by resolution, no later than 60 days prior to the date of the election.

B. The Saturday prior to the date of the election from 9:00 a.m. to 6:00 p.m.

C. Early voting shall be held in the same location as regular voting.

WHEREAS, the purpose of this Resolution is to select the weekday for Early Voting.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF BAY HARBOR ISLANDS, FLORIDA.

Section 1. The foregoing clauses are true and correct and adopted as the legislative and administrative findings of the Town Council and made a specific part of this Resolution.

Section 2. The Town Council hereby designates the Thursday prior to the date of the election for Early Voting.

Section 3. The Town Clerk is authorized to do any and all things necessary things to carry out the aims of the Resolution.

Section 4. This Resolution shall become effective immediately upon approval.

APPROVED AND ADOPTED by the Town of Bay Harbor Islands at the regular meeting assembled this **8th day of November, 2023.**

By: _____
Elizabeth Tricoche - Mayor

ATTEST:

_____
Yvonne P. Hamilton
Town Clerk

APPROVED AS TO FORM AND LEGAL SUFFIENCY:

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

ORDINANCE NO. 1087

AN ORDINANCE OF THE TOWN OF BAY HARBOR ISLANDS, FLORIDA, AMENDING SECTION 6-4 OF THE TOWN CODE PROVIDING EARLY VOTING FOR MUNICIPAL ELECTIONS, PURSUANT TO SECTION 100.3605, FLORIDA STATUTES; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCORPORATION OF RECITALS; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR CONFLICT AND REPEALER; AND AN EFFECTIVE DATE.

WHEREAS, Section 101.657, Florida Statutes, provides for early voting in various locations throughout the State of Florida; and

WHEREAS, no county, state, or federal elections other than the general and special municipal elections are scheduled April 2, 2024; and

WHEREAS, Section 100.3605, Florida Statutes, allows for a municipality to conduct early voting at times determined by the municipality so long as the early voting activities do not conflict with the Florida Election Code; and

WHEREAS, the Town Council has determined that it is in the best interest of the Town and its residents to conduct early voting on the date set forth herein.

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**. Sections 6-4 of the Town Code entitled "No Early Voting" is hereby amended as indicated by ~~deletion~~ and addition as underlining:

Sec. 6-4. ~~No~~ Early voting.

Pursuant to F.S. § 100.3605(1), it is hereby provided that commencing with the April ~~2005~~, 2024, municipal election for the Town Council, ~~all council elections are hereby fully exempted from the provisions of F.S. § 101.657 concerning early voting.~~ early voting shall ~~not~~ be provided for municipal elections, special elections, or town charter amendment elections as follows:

A. Either Tuesday, Wednesday, or Thursday of the week prior to the election from 9:00 a.m. to 6:00 p.m.; the day to be selected by the Town Council by resolution, no later than 60 days prior to the date of the election.

B. The Saturday prior to the date of the election from 9:00 a.m. to 6:00 p.m.

C. Early voting shall be held in the same location as regular voting.

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 as far 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.

PASSED on First Reading this 14th day of June 2023.

PASSED AND ADOPTED on Second Reading this 8th day of August 2023.

By: _____
Elizabeth Tricoche, Mayor

ATTEST:

_____
Yvonne P. Hamilton
Town Clerk

APPROVED AS TO FORM:

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

AGENDA ITEM REPORT

November 8, 2023

ITEM NUMBER: 20.

ITEM: Consideration and **Approval** of a Resolution adopting Town Council Public Comment Rules of Procedure and Decorum. Enclosed is the proposed resolution. Sponsored by Council Member Robert Yaffe.

DESCRIPTION:
The proposed resolution will implement the following rules of procedure and decorum during Town Council Meetings:

1. For members of the public who would like to address the Town Council, a request form is available from the Town Clerk or Deputy Town Clerk; please fill it in and return it prior to the start of the meeting. Speakers should come to the podium in the front and clearly state their name and address for the record. All request forms must be submitted no later than the conclusion of the "Public Comment" section of the agenda for anyone wishing to speak during "Public Comment" or on any agenda item.
2. 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.
3. Please mute or turn off your cell phone or other electronic devices at the start of the meeting. Failure to do so may result in being barred from the meeting. Persons exiting the Chambers shall do so quietly.
4. 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 where Public Comment is permitted. Your cooperation is appreciated in observing these time rules. Please contact the Town Manager or appropriate administrative official in advance to arrange a meeting for matters that would require more than three minutes. Speakers should come forward to the podium, give their name and address, and the name and address of the organization they are representing if any.
5. On specific agenda items, speakers must stay on topic i.e., the specific subject matter, the specific contract, ordinance, or resolution in question. Speakers who go off topic may be interrupted and have their comment time concluded.
6. Members of the public may not submit forms for comment on individual agenda items after the close of the Public Comment section of the agenda. Exceptions may be permitted at the discretion of the Presiding Officer.
7. The Presiding Officer has the authority to stop or interrupt any speaker who violates the rules, and to otherwise enforce these rules. If necessary, the Presiding Officer may have someone removed from the meeting. While individuals have a guaranteed right to address the Town Council, that right is tempered by the Town Council's obligation to conduct business and get through the agenda, for the benefit of the Town and its residents.

RECOMMENDED ACTION:

Council's Discretion

FINANCIAL ANALYSIS:
There is no fiscal impact.

BUDGET IMPACT:

Submitted By: Yvonne Hamilton, Town Clerk

ATTACHMENTS

1.	Resolution - Town Council Public Comment Rules of Procedure Decorum

RESOLUTION NO. _____

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF BAY HARBOR ISLANDS, FLORIDA, ADOPTING TOWN COUNCIL PUBLIC COMMENT RULES OF PROCEDURE AND DECORUM; PROVIDING FOR INCORPORATION OF RECITALS AND AN EFFECTIVE DATE.

WHEREAS, the public has a right to address the Town Council on matters of public importance and concerning public business, and the Town Council encourages and welcomes public input; and,

WHEREAS, the Town Council also has a responsibility to ensure the orderly and efficient transaction of the public's business, in order to protect the rights of the public to have a functioning government; and,

WHEREAS, the presiding officer of the Town Council has a particular responsibility to balance the rights of the public to be heard with the need of the Town Council to transact the Public's business.

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

Section1. The foregoing recitals are adopted and hereby incorporated as if fully set forth herein.

Section 2. The Town Council hereby approves and adopts the following Public Comment Rules of Procedure and Decorum, attached hereto as Exhibit A, which may be amended by the Town Council from time to time as it deems appropriate.

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

PASSED AND ADOPTED this ___ day of November 2023.

By: _____
Elizabeth Tricoche - Mayor

ATTEST:

_____

Yvonne P. Hamilton
Town Clerk

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

_____

Greenspoon Marder LLP
Town Attorneys
By: Joseph S. Geller, Esq.

EXHIBIT A

PUBLIC COMMENT RULES OF PROCEDURE AND DECORUM

1. For members of the public who would like to address the Town Council, a request form is available from the Town Clerk or Deputy Town Clerk; please fill it in and return it prior to the start of the meeting. Speakers should come to the podium in the front and clearly state their name and address for the record. All request forms must be submitted no later than the conclusion of the "Public Comment" section of the agenda for anyone wishing to speak during "Public Comment" or on any agenda item.
2. 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.
3. Please mute or turn off your cell phone or other electronic devices at the start of the meeting. Failure to do so may result in being barred from the meeting. Persons exiting the Chambers shall do so quietly.
4. 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 where Public Comment is permitted. Your cooperation is appreciated in observing these time rules. Please contact the Town Manager or appropriate administrative official in advance to arrange a meeting for matters that would require more than three minutes. Speakers should come forward to the podium, give their name and address, and the name and address of the organization they are representing if any.
5. On specific agenda items, speakers must stay on topic i.e., the specific subject matter, the specific contract, ordinance, or resolution in question. Speakers who go off topic may be interrupted and have their comment time concluded.
6. Members of the public may not submit forms for comment on individual agenda items after the close of the Public Comment section of the agenda. Exceptions may be permitted at the discretion of the Presiding Officer.
7. The Presiding Officer has the authority to stop or interrupt any speaker who violates the rules, and to otherwise enforce these rules. If necessary, the Presiding Officer may have someone removed from the meeting. While individuals have a guaranteed right to address the Town Council, that right is tempered by the Town Council's obligation to conduct business and get through the agenda, for the benefit of the Town and its residents.

AGENDA ITEM REPORT

November 8, 2023

ITEM NUMBER: 21.

ITEM: Discussion and **Possible** action regarding a resolution considering a recommendation by ATKINSREALIS and determining the Preferred Alternative for replacement of the Broad Causeway Bridge. Enclosed is a copy of the resolution.

DESCRIPTION:

RECOMMENDED ACTION:
Council's Discretion

FINANCIAL ANALYSIS:
$2,800,000 has been allocated in Fiscal Year 2023-2024 adopted budget for Project Replacement of Broad Causeway Bridge-PD&E Study, within the Casueway Fund Line Item 401.5415.400063.000.

BUDGET IMPACT:

Submitted By: Maria Lasday, Town Manager

ATTACHMENTS

1.	Resolution -Broad Causeway Bridge Town Preferred Alternative

RESOLUTION NO. _____

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF BAY HARBOR ISLANDS, FLORIDA, CONSIDERING THE PROPOSAL FROM ATKINSREALIS FOR THE RECOMMENDATION OF THE BROAD CAUSEWAY BRIDGE REPLACEMENT PREFERRED ALTERANATIVE; AUTHORIZING THE TOWN MANAGER TO CARRY OUT THE AIMS OF THIS RESOLUTION; PROVIDING FOR INCORPORATION OF RECITALS; AND AN EFFECTIVE DATE.

WHEREAS, the Town Council has determined it is in the best interest of the safety and mobility of residents of the Town, traveling public, and users of the Intracoastal Waterway to replace the Broad Causeway Bridge; and

WHEREAS, the Town of Bay Harbor Islands is committed to providing a safe and functional bridge; and

WHEREAS, the Town solicited Request for Qualifications (RFPs) for the Broad Causeway Bridge Replacement Project PD&E Study, and ATKINSREALIS (previously ATKINS North America), was the highest ranked firm and was awarded the contract for the Project; and

WHEREAS, the Town of Bay Harbor Islands is conducting a Project Development & Environment (PD&E) Study for the Broad Causeway Bridge, also known as the Shepard Broad Causeway Bridge, Replacement. The drawbridge is part of the Broad Causeway and connects the Town of Bay Harbor Islands with the City of North Miami. The study limits are from Causeway Island to east of West Broadview Drive. The project is located in the Town of Bay Harbor Islands in Miami-Dade County; and

WHEREAS, the primary objective of this study is to replace the aging Broad Causeway Bridge with a new structure that meets current design standards and is consistent with the United States Coast Guard regulatory requirements. The new bridge will include provisions for dedicated bicycle lanes and sidewalks to comply with Americans with Disabilities Act (ADA) requirements along with guardrails for pedestrian safety; provide safe access for multi-modal transportation and improve east-west access from the mainland of Miami-Dade County to the Town of Bay Harbor Islands, Village of Bal Harbour, and the Town of Surfside; and

WHEREAS, based on the engineering and environmental considerations and the project constraints, the Town of Bay Harbor Islands developed three proposed alternatives:

- No Build Alternative
- Alternative 1, 65-foot High-Level Fixed Bridge
- Alternative 2, 40-foot Mid-Level Movable Bridge

The No Build Alternative would keep the existing bridge in place and not construct a new bridge. Although there would be no construction or impacts to environmental resources with the No Build Alternative, the bridge would: have substandard lane widths and sidewalks, continue to deteriorate and extensive periodic repairs and maintenance would be conducted to keep the bridge safe, and have potential for bridge closures and detours due to machinery failure at any time. Open at the same frequency as it does now. Once the existing bridge has reached the end of the remaining estimated 25-year lifespan, it will have to be demolished.

Alternatives 1 and 2 are on a southern alignment. Both alternatives will provide ADA compliant pedestrian accommodations on the roadway, bridge, and causeway island. The roadway lane widths will be widened to 11 feet and will have a barrier in the median separating traffic. Some of the advantages of Alternative 1, the High-Level Fixed Bridge, is that there will be no drawbridge openings and it has the lowest cost ($225.2 million dollars) between the two build alternatives. The disadvantages are that there will be steeper slopes for vehicles and the multi-use path and potential visual impacts, since it is a higher bridge. Advantages of Alternative 2, the Mid-Level Movable Bridge, are that it is not as high and therefore would have average slopes and less visual impacts, but it would still have drawbridge openings for large vessels and in emergency evacuation circumstances, slightly higher impacts to the environment, and the highest cost (estimated at $424.2 million dollars); and

WHEREAS, the Town Council and ATKINSREALIS held in-person and virtual Alternatives Public Workshops on September 26, 2023 and September 28, 2023 for the purpose of obtaining public input; and

WHEREAS, the 10-day Public Voting results are as follows:

- 1. No Build = 9 votes (does not meet Purpose and Need)
- 2. Build = 12 votes (Fixed = 7 votes, Movable = 5 votes)
- Evaluation Matrix needed in PER and for 11/8 Meeting
- Town employees were excluded from voting.

WHEREAS, the Town and Town Council have reviewed the public input received during the Alternatives Public Workshops' comment period and information provided in the alternatives evaluation matrix that summarizes the analysis of environmental impacts, constructability, and life-cycle costs for all proposed alternatives; and

WHEREAS, based on public input, environmental impacts, constructability, and life-cycle costs, ATKINSREALIS has recommended Alternative 1, the 65-foot High-Level Fixed Bridge, as the Preferred Alternative; and

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF BAY HARBOR ISLANDS THAT:

1. The foregoing recitals are hereby ratified as true and correct and incorporated herein by reference.

2. The Town Council finds it is in the best interest of the safety and mobility of residents of the Town, traveling public, and users of the Intracoastal Waterway to select_____ as the Preferred Alternative.

3. This Resolution shall take effect upon its adoption.

PASSED AND ADOPTED this 8th day of November 2023.

_____
Elizabeth Tricoche
Mayor

ATTEST:

_____
Yvonne P. Hamilton, CMC
Town Clerk

APPROVED AS TO FORM:

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