



**Town of Surfside  
Regular Town Commission Meeting  
AGENDA  
July 10, 2018  
7 p.m.**

Town Hall Commission Chambers - 9293 Harding Ave, 2<sup>nd</sup> Floor  
Surfside, FL 33154

*Rule 7.05 Decorum. Any person making impertinent or slanderous remarks or who becomes boisterous while addressing the commission shall be barred from further appearance before the commission by the presiding officer, unless permission to continue or again address the commission is granted by the majority vote of the commission members present. No clapping, applauding, heckling or verbal outbursts in support or opposition to a speaker or his or her remarks shall be permitted. Signs or placards may be disallowed in the commission chamber by the presiding officer. Persons exiting the commission chambers shall do so quietly.*

*Rule 6.05 Agenda. The good and welfare portion of the agenda set for 8:15 p.m. shall be restricted to discussion on subjects not already specifically scheduled on the agenda for discussion and debate. In no event shall this portion of the agenda be allotted more than 45 minutes with each speaker to be given no more than three minutes, unless by vote of a majority of the members of the commission present, it is agreed to extend the time frames. Likewise, commission members shall be restricted to speaking three minutes each unless an extension is granted in the same manner as set forth in the prior sentence.*

*Any person who received compensation, remuneration or expenses for conducting lobbying activities is required to register as a lobbyist with the Town Clerk prior to engaging in lobbying activities per Town Code Sec. 2-235. "Lobbyist" specifically includes the principal, as defined in this section, as well as any agent, officer or employee of a principal, regardless of whether such lobbying activities fall within the normal scope of employment of such agent, officer or employee. The term "lobbyist" specifically excludes any person who only appears as a representative of a not-for-profit community-based organization for the purpose of requesting a grant without special compensation or reimbursement for the appearance; and any person who only appears as a representative of a neighborhood, homeowners or condominium association without compensation for the appearance, whether direct or indirect or contingent, to express support of or opposition to any item.*

*Per Miami Dade County Fire Marshal, the Commission Chambers has a maximum capacity of 99 people. Once reached this capacity, people will be asked to watch the meeting from the first floor.*

*\* Denotes agenda items as "must haves" which means there will be significant impacts if the item is not addressed tonight. If these items have not been heard by 10 p.m., the order of the agenda will be changed to allow them to be heard.*

1. **Opening**
  - A. **Call to Order**
  - B. **Roll Call of Members**
  - C. **Pledge of Allegiance**
  - D. **Mayor and Commission Remarks – Mayor Daniel Dietch**
  - E. **Agenda and Order of Business** Additions, deletions and linkages
  - F. **Community Notes – Mayor Daniel Dietch**
  - G. **The Government Finance Officers Association (GFOA) Budget Presentation Award – Guillermo Olmedillo, Town Manager**
  
2. **Quasi-Judicial Hearings**
  
3. **Consent Agenda** *(Set for approximately 7:30 p.m.) All items on the consent agenda are considered routine or status reports by the Town Commission and will be approved by one motion. Any Commission member may request that an item be removed from the Consent Agenda and discussed separately. If the public wishes to speak on a matter on the consent agenda they must inform the Town Clerk prior to the start of the meeting. They will be recognized to speak prior to the approval of the consent agenda.*  
**Recommended Motion: To approve all consent agenda items as presented below.**
  - A. **Minutes – Sandra Novoa, MMC, Town Clerk**
    - **June 12, 2018 Budget Workshop Minutes**
    - **June 12, 2018 Regular Town Commission Meeting**
  
  - \*B. **Town Manager’s Report – Guillermo Olmedillo, Town Manager**
  
  - \*C. **Town Attorney’s Report – Weiss Serota, Town Attorney**
  
  - D. **Committee Reports – Guillermo Olmedillo, Town Manager**
    - **May 21, 2018 Parks and Recreation Committee Meeting Minutes**
  
  - E. **Property Assessed Clean Energy (PACE) – Guillermo Olmedillo, Town Manager**

**A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, APPROVING PROPERTY ASSESSED CLEAN ENERGY (PACE) PROGRAMS WITH THE FLORIDA GREEN FINANCE AUTHORITY, THE FLORIDA RESILIENCY AND ENERGY DISTRICT, AND THE FLORIDA PACE FUNDING AGENCY; PROVIDING FOR AUTHORIZATION AND INDEMNIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.**

**F. Approval of Town Coin for Freddy Chiche, Former President of the Surfside Urban Gardeners – Mayor Daniel Dietch**

**G. A Resolution to Commemorate the 50<sup>th</sup> Anniversary of Home Rule – Commissioner Tina Paul**

**A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA COMMEMORATING 50 YEARS OF MUNICIPAL HOME RULE IN THE FLORIDA CONSTITUTION AND PROMOTING AWARENESS AND EDUCATION ON THE IMPORTANCE OF LOCAL GOVERNANCE; AND PROVIDING FOR AUTHORIZATION AND IMPLEMENTATION.**

**4. Ordinances**

*(Set for approximately 7:30 p.m.) (Note: Good and Welfare must begin at 8:15)*

**A. Second Reading Ordinances**

**1. Solid Waste Assessment Ordinance – Guillermo Olmedillo, Town Manager**

**AN ORDINANCE OF TOWN OF SURFSIDE, FLORIDA, RELATING TO SOLID WASTE MANAGEMENT SERVICES, INCLUDING COLLECTION, DISPOSAL AND RECYCLING OF RESIDENTIAL SOLID WASTE IN THE TOWN OF SURFSIDE, FLORIDA; AUTHORIZING THE IMPOSITION AND COLLECTION OF ANNUAL SOLID WASTE SERVICE ASSESSMENTS AGAINST RESIDENTIAL PROPERTY THROUGHOUT TOWN OF SURFSIDE, FLORIDA; PROVIDING FOR DEFINITIONS; ESTABLISHING THE PROCEDURES FOR IMPOSING SOLID WASTE SERVICE ASSESSMENTS; PROVIDING THAT SOLID WASTE SERVICE ASSESSMENTS CONSTITUTE A LIEN ON ASSESSED PROPERTY UPON ADOPTION OF ASSESSMENT ROLL; PROVIDING THAT THE LIEN FOR A SOLID WASTE SERVICE ASSESSMENT COLLECTED PURSUANT TO SECTIONS 197.3632 AND 197.3635, FLORIDA STATUTES, UPON PERFECTION SHALL ATTACH TO THE PROPERTY ON THE PRIOR JANUARY 1, THE LIEN DATE FOR AD VALOREM TAXES; PROVIDING THAT A PERFECTED LIEN SHALL BE EQUAL IN RANK AND DIGNITY WITH THE LIENS OF ALL STATE, COUNTY, DISTRICT, OR MUNICIPAL TAXES AND ASSESSMENTS AND SUPERIOR IN DIGNITY TO ALL OTHER PRIOR LIENS, MORTGAGES, TITLES, AND CLAIMS; AUTHORIZING THE**

**IMPOSITION OF INTERIM ASSESSMENTS; PROVIDING PROCEDURES FOR COLLECTION OF SOLID WASTE SERVICE ASSESSMENTS; PROVIDING THAT ALL ORDINANCES AND PARTS OF ORDINANCES AND ALL RESOLUTIONS AND PARTS OF RESOLUTIONS IN CONFLICT HEREWITH BE REPEALED TO THE EXTENT OF SUCH CONFLICT; AND PROVIDING AN EFFECTIVE DATE.**

- 2. Downtown Business District Parking Requirement Waiver – Guillermo Olmedillo, Town Manager**

**AN ORDINANCE OF THE TOWN OF SURFSIDE, FLORIDA AMENDING SECTION 90-77 “OFF-STREET PARKING REQUIREMENTS,” OF “CHAPTER 90 ZONING” OF THE TOWN OF SURFSIDE CODE OF ORDINANCES TO PROVIDE A PARKING EXEMPTION PROGRAM TO ADDRESS VACANCY AND ECONOMIC REVITALIZATION IN THE SD-B40 ZONING DISTRICT; PROVIDING FOR REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; AND PROVIDING FOR AN EFFECTIVE DATE.**

*(Set for approximately   N/A   p.m.) (Note: Good and Welfare must begin at 8:15)*

**B. First Reading Ordinances**

**5. Resolutions and Proclamations**

*(Set for approximately   9:00   p.m.) (Note: Depends upon length of Good and Welfare)*

- A. Dune Survey and Beach Management Plan – Guillermo Olmedillo, Town Manager**

**A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA APPROVING A WORK AUTHORIZATION TO CALVIN GIORDANO & ASSOCIATES, INC. TO PERFORM A DRAINAGE STUDY FOR ABBOTT AVENUE; AUTHORIZING THE TOWN MANAGER TO IMPLEMENT THE TERMS AND CONDITIONS OF THE WORK AUTHORIZATION; AUTHORIZING THE TOWN MANAGER TO EXECUTE THE WORK AUTHORIZATION; AND PROVIDING FOR AN EFFECTIVE DATE**

- B. Approval and Award of Contract to DRC Emergency Services for Emergency Debris Removal via a Piggy Back Bid from the City of Lighthouse Point – Guillermo Olmedillo, Town Manager**

**A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA APPROVING AN AGREEMENT WITH DRC EMERGENCY SERVICES, LLC FOR STORM DEBRIS COLLECTION AND DISPOSAL SERVICES; FINDING THAT THE SERVICES ARE EXEMPT FROM COMPETITIVE PROCUREMENT PURSUANT TO SECTION 3-13(3) OF THE SURFSIDE CODE OF ORDINANCES; AUTHORIZING THE TOWN MANAGER TO EXECUTE THE AGREEMENT; PROVIDING FOR IMPLEMENTATION; AND PROVIDING FOR AN EFFECTIVE DATE.**

- C. Sustainability Subcommittee of the Planning and Zoning Board - Guillermo Olmedillo, Town Manager [LINKED TO ITEM 5D]**

**A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA SUNSETTING AND ABOLISHING THE TOWN OF SURFSIDE SUSTAINABILITY SUBCOMMITTEE OF THE PLANNING AND ZONING BOARD; PROVIDING FOR AUTHORIZATION; AND PROVIDING FOR AN EFFECTIVE DATE.**

- D. Sustainability and Resiliency Committee – Guillermo Olmedillo, Town Manager [LINKED TO ITEM 5C]**

**A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, ESTABLISHING THE TOWN OF SURFSIDE SUSTAINABILITY AND RESILIENCY COMMITTEE TO STUDY AND RECOMMEND POLICIES TO THE TOWN COMMISSION; PROVIDING FOR THE COMMITTEE'S CHARTER AND ORGANIZATION; PROVIDING FOR AUTHORIZATION AND IMPLEMENTATION; AND PROVIDING FOR AN EFFECTIVE DATE.**

- E. Approval to Increase the Parking Meter Rate from 1.50 to 1.75 Per Hour for Off-Street Parking (Municipal Parking Lots) Effective October 1, 2018 - Guillermo Olmedillo, Town Manager**

**A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA APPROVING AN INCREASE OF THE PARKING METER RATE FROM \$1.50 PER HOUR FOR OFF-STREET PARKING SPACES (MUNICIPAL PARKING LOTS); PROVIDING AUTHORIZATION; PROVIDING FOR CONFLICTS, SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.**

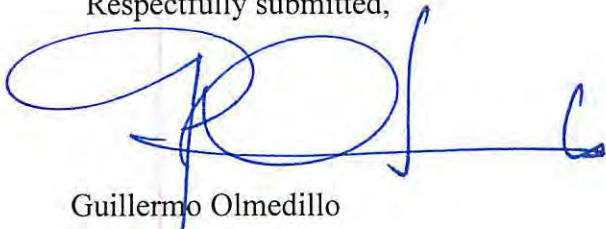
- 6. Good and Welfare (*Set for approximately 8:15 p.m.*)**  
*Public comments for subjects or items not on the agenda. Public comment on agenda items will be allowed when agenda item is discussed by the Commission.*
- 7. Town Manager and Town Attorney Reports**  
Town Manager and Town Attorney Reports have been moved to the Consent Agenda – Item 3.  
*All items on the Consent Agenda are considered routine or status reports by the Town Commission and will be approved by one motion. Any Commission member may request that an item be removed from the consent agenda and discussed separately.*
- 8. Unfinished Business and New Business**
- 9. Mayor, Commission and Staff Communications**
- A. Board and Committee Appointments [*Verbal*]**– Sandra Novoa, MMC, Town Clerk  
**Dissolving the Design Review Board - Guillermo Olmedillo, Town Manager**  
[LINKED TO ITEM 9B]
  - Design Review Board – At Large*
- B. Dissolving the Design Review Board - Guillermo Olmedillo, Town Manager**  
[LINKED TO ITEM 9A]
- C. Comprehensive Annual Financial Report (CAFR) - Guillermo Olmedillo, Town Manager – *Verbal* - [TIME CERTAIN 7:45PM]**
- D. Food and Beverage Concession Services for Surfside Community Center/Pool - Guillermo Olmedillo, Town Manager**
- E. Policy for Contributions to Not-For-Profit Organizations (Policy) – Guillermo Olmedillo, Town Manager**
- F. Municipal Parking Rate Analysis – Mayor Daniel Dietch**

**G. Little Free Library – Mayor Daniel Dietch**

**H. “Share the Road Project” Safety and Walkability Proposal – Update –  
Commissioner Tina Paul**

## 10. Adjournment

Respectfully submitted,



Guillermo Olmedillo  
Town Manager

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THIS MEETING IS OPEN TO THE PUBLIC. IN ACCORDANCE WITH THE AMERICANS WITH DISABILITIES ACT OF 1990, ALL PERSONS THAT ARE DISABLED; WHO NEED SPECIAL ACCOMMODATIONS TO PARTICIPATE IN THIS MEETING BECAUSE OF THAT DISABILITY SHOULD CONTACT THE OFFICE OF THE TOWN CLERK AT 305-861-4863 EXT. 226 NO LATER THAN FOUR DAYS PRIOR TO SUCH PROCEEDING.

IN ACCORDANCE WITH THE PROVISIONS OF SECTION 286.0105, FLORIDA STATUTES, ANYONE WISHING TO APPEAL ANY DECISION MADE BY THE TOWN OF SURFSIDE COMMISSION, WITH RESPECT TO ANY MATTER CONSIDERED AT THIS MEETING OR HEARING, WILL NEED A RECORD OF THE PROCEEDINGS AND FOR SUCH PURPOSE, MAY NEED TO ENSURE THAT A VERBATIM RECORD OF THE PROCEEDINGS IS MADE WHICH RECORD SHALL INCLUDE THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS TO BE BASED.

AGENDA ITEMS MAY BE VIEWED AT THE OFFICE OF THE TOWN CLERK, TOWN OF SURFSIDE TOWN HALL, 9293 HARDING AVENUE. ANYONE WISHING TO OBTAIN A COPY OF ANY AGENDA ITEM SHOULD CONTACT THE TOWN CLERK AT 305-861-4863. A COMPLETE AGENDA PACKET IS ALSO AVAILABLE ON THE TOWN WEBSITE AT [www.townofsurfsidefl.gov](http://www.townofsurfsidefl.gov).

TWO OR MORE MEMBERS OF OTHER TOWN BOARDS MAY ATTEND THIS MEETING.

THESE MEETINGS MAY BE CONDUCTED BY MEANS OF OR IN CONJUNCTION WITH COMMUNICATIONS MEDIA TECHNOLOGY, SPECIFICALLY, A TELEPHONE CONFERENCE CALL. THE LOCATION 9293 HARDING AVENUE, SURFSIDE, FL 33154, WHICH IS OPEN TO THE PUBLIC, SHALL SERVE AS AN ACCESS POINT FOR SUCH COMMUNICATION.



GOVERNMENT FINANCE OFFICERS ASSOCIATION

*Distinguished  
Budget Presentation  
Award*

PRESENTED TO

**Town of Surfside  
Florida**

For the Fiscal Year Beginning

**October 1, 2017**

*Christopher P. Morrill*

Executive Director





**The Government Finance Officers Association  
of the United States and Canada**

*presents this*

**CERTIFICATE OF RECOGNITION FOR BUDGET PREPARATION**

*to*

**Andria Meiri, Budget Officer  
Town of Surfside, Florida**



*The Certificate of Recognition for Budget Preparation is presented by the Government Finance Officers Association to those individuals who have been instrumental in their government unit achieving a Distinguished Budget Presentation Award. The Distinguished Budget Presentation Award, which is the highest award in governmental budgeting, is presented to those government units whose budgets are judged to adhere to program standards.*

Executive Director

*Christopher P. Morill*

Date **May 08, 2018**



**Town of Surfside  
Budget Workshop Meeting  
MINUTES  
June 12, 2018  
6:00 p.m.**

Town Hall Commission Chambers - 9293 Harding Ave, 2<sup>nd</sup> Floor  
Surfside, FL 33154

**1. Opening**

**A. Call to Order**

Mayor Dietch called the meeting to order at 5:05 p.m.

**B. Roll Call of Members**

Town Clerk Novoa called the roll with the following members present: Mayor Daniel Dietch, Commissioner Tina Paul and Commissioner Michael Karukin with Commissioner Barry Cohen and Vice Mayor Daniel Gielchinsky absent.

**C. Pledge of Allegiance**

Police Chief Allen led the Pledge of Allegiance.

**2. Discussion on Upcoming FY 18-19 Budget – Guillermo Olmedillo, Town Manager**

Town Manager Olmedillo provided an overview of what would be discussed.

Vice Mayor Gielchinsky arrived at 5:08pm

Interim Finance Director Wallace provided information to the Town Commission regarding the proposed millage rate and modifications to the budget for FY 18-19.

Discussion ensued amongst the Town Commission and staff regarding the different projects and programs that staff is proposing and how everything would fit in the overall Town budget. Interim Finance Director Wallace stated that the Town Commission will receive a proposed budget sometime after July 1, 2018 when there will be a more solid estimate on the property tax values as well as the State revenue sharing numbers. He also stated that they will definitely receive it before their meeting where the millage rate will be set.

The following items were discussed:

- Non-Contract Professional Services and Special Projects/Excluded Services
- 10-year Water Supply Plan Update
- Florida Green Building Coalition Certification
- Impact Fee Study
- Accountant Position

- Cloud E-mail Services
- Backup Software Upgrade and Cloud Based Back up Services
- Hurricane/Critical Incident Items and Equipment
- Ruth K. Broad K-8 School Overtime Detail
- Tennis Court Resurfacing
- Enhanced Public Information Representative Retainer
- Assistant Building Official
- Alternative Rate Structure Sensitivity Study
- Sewer & Storm water Pump Maintenance
- IT Infrastructure Upgrades
- Network Switch Upgrades
- Police Vehicles
- Police Handheld Radios
- Town Hall Generator
- P&R Administrative Replacement Vehicle
- Police Mobile Laptops

Commissioner Cohen arrived at 6:38pm.

Public Comments were open and Victor May spoke on different subjects.

The Mayor spoke about life circle and the view of the investment and the Town properties without solar panels. Commissioner Karukin felt that this will be a good topic for the upcoming Sustainability and Resiliency Committee.

Conversation took place about the beach path rope and the possibility of investing in enhancing it. Commissioner Paul spoke on this as well and agreed with it.

The Mayor spoke about being mindful of traffic mitigation.

Commissioner Paul spoke about putting more of the blinking lights on the intersections to enhance the safety of the Town.

### 3. Adjournment

The meeting adjourned at 7:00 p.m.

Respectfully submitted,

Accepted this \_\_\_\_\_ day of \_\_\_\_\_, 2018

\_\_\_\_\_  
Daniel Dietch, Mayor

Attest:

\_\_\_\_\_  
Sandra Novoa, MMC  
Town Clerk



**Town of Surfside  
Regular Town Commission Meeting**

**AGENDA**

**June 12, 2018**

**7 p.m.**

Town Hall Commission Chambers - 9293 Harding Ave, 2<sup>nd</sup> Floor  
Surfside, FL 33154

**1. Opening**

**A. Call to Order**

Mayor Dietch called the meeting to order at 7:11 p.m.

**B. Roll Call of Members**

Town Clerk Novoa called the roll with the following members present: Mayor Daniel Dietch, Vice Mayor Daniel Gielchinsky, Commissioner Barry Cohen, Commissioner Tina Paul and Commissioner Michael Karukin.

**C. Pledge of Allegiance**

Executive Assistant to the Police Chief Dina Goldstein led the Pledge of Allegiance.

**D. Mayor and Commission Remarks – Mayor Daniel Dietch**

Commissioner Paul wished all the Dads a great Father's Day and remembered her Dad who would have turn 90 that day.

Commissioner Cohen spoke about the Town and all the great things that the Commission is doing.

Vice Mayor Gielchinsky recognized the Parks and Recreation Department and Mayor Dietch for an amazing Memorial Day event. He also thanked the Chief for his years of service to the Town and his colleagues for their continued professionalism and said it is his pleasure working with them.

**E. Agenda and Order of Business Additions, deletions and linkages**

Commissioner Karukin made a motion to link item 9A and 9C. Vice Mayor Gielchinsky seconded the motion and all voted in favor.

Town Manager Olmedillo announced that there were some corrections made to some of the minutes and the changes are highlighted.

**F. Community Notes – Mayor Daniel Dietch**

Mayor Dietch announced the passing of the wife of Bay Harbor Islands' Manager and asked for a moment of silence in her honor.

He welcomed new Police Lieutenant Marciante to the Town of Surfside family.

The Mayor encouraged residents on the beach to close their blinds at night due to Sea Turtle nesting season. He also spoke about hurricane season and encouraged residents to look on the Town's website for information and reminded them that preparation begins at home.

Mayor Dietch announced the street sweeper schedule and the Fourth of July event along with many more upcoming events that could be found in the Gazette and on the Town's website.

**G. Presentation of Proclamation and Key to the Town to Chief David Allen – Mayor Daniel Dietch**

Mayor Dietch, Vice Mayor Gielchinsky and the members of the Town Commission presented a Proclamation, the Key to the Town and a Challenge Coin to Chief David Allen in recognition of his years of service to the Town. The Town Commission dedicated the Fitness Center to Chief David Allen.

Captain Yero presented Chief Allen with a plaque on behalf of the Town of Surfside Police Department dedicating the Fitness Center as the Chief David Allen Fitness Center.

Commissioner Karukin presented Chief Allen with a bobblehead as a token of his appreciation.

Commissioner Cohen thanked the Chief for his leadership and wanted to make sure that there is always a fitness center with the Chief's name on it.

Commissioner Paul stated that the Chief makes everyone feel very comfortable and that she enjoyed working with him and getting to know him.

Vice Mayor Gielchinsky thanked the Chief for a great reputation and for the legacy he leaves.

Town Manager Olmedillo thanked the Chief for the three years that they worked together.

Chief Allen thanked his command staff, his Executive Assistant Dina Goldstein and the entire Police Department for everything they do and stated that he is proud of them. He also thanked Town Manager Olmedillo and the Department Heads for their professionalism and dedication to the Town of Surfside.

Town Manager Olmedillo announced that on June 11, 2018, the Florida Association of City Clerks voted and swore in the newest South District Director, Surfside Town Clerk Sandra Novoa.

**2. Quasi-Judicial Hearings**

None

**3. Consent Agenda (*Set for approximately 7:30 p.m.*)**

Commissioner Paul pulled pages 3, 5, 6, and 22 of the minutes (which were corrected earlier). Pages 33 and 35 of the Town Manager's Report and item 3F.

Commissioner Karukin pulled page 66 of the Committee Reports.

Commissioner Karukin made a motion to approve the consent agenda minus the pulled items. The motion received a second from Commissioner Paul and all voted in favor.

**A. Minutes – Sandra Novoa, MMC, Town Clerk**

- **April 24, 2018 Town Hall Meeting on Beach Furniture Notes**
- **May 1, 2018 Special Town Commission Meeting Minutes**
- **May 8, 2018 Regular Town Commission Meeting Minutes**

- **May 22, 2018 Special Town Commission Meeting Minutes**
- **May 22, 2018 Town Commission Budget Workshop Minutes**

Commissioner Paul spoke regarding the beach furniture and asked when the new ordinance would be presented.

- \*B. Town Manager's Report** – Guillermo Olmedillo, Town Manager  
Commissioner Paul spoke about the flashing lights and Mayor Dietch explained that the capacitor shorted out due to water intrusion and the company is working on getting it corrected.

Commissioner Paul mentioned page 38, number 13 installing crosswalk on Harding Avenue and the pedestrian crossing missing the yellow flashing lights and how the Town can make that intersection safer.

Item 12, Commissioner Karukin wants clarity on the resurrection of the DVAC. The Town Manager addressed Commissioner Karukin's question regarding the DVAC.

- \*C. Town Attorney's Report** – Weiss Serota, Town Attorney

**D. Committee Reports** – Guillermo Olmedillo, Town Manager

- **March 5, 2018 Tourist Board Meeting Minutes**
- **April 16, 2018 Parks and Recreation Committee Meeting Minutes**
- **May 14, 2018 Tourist Board Meeting Minutes**

- E. Approve After the Fact Resolution to Purchase a 2017 5500 Dodge Ram** – Guillermo Olmedillo, Town Manager

**A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, RESCINDING RESOLUTION 18-2508 RELATING TO THE PURCHASE OF A LIFT TRUCK; RATIFYING AND APPROVING THE PURCHASE OF A 2017 DODGE RAM LIFT TRUCK FOR THE PUBLIC WORKS DEPARTMENT AND EXPENDITURE OF FUNDS IN AN AMOUNT NOT TO EXCEED \$120,000.00 FROM THE FISCAL YEAR 2017/2018 BUDGET; FINDING THAT THE PURCHASE IS EXEMPT FROM PROCUREMENT PURSUANT TO SECTION 3-13(7)E OF THE TOWN CODE; PROVIDING FOR IMPLEMENTATION; AND PROVIDING FOR AN EFFECTIVE DATE.**

Approved on Consent

**\*\* Space Intentionally Left Blank \*\***

**F. Postage Machine Lease – Guillermo Olmedillo, Town Manager**

**A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA APPROVING A SERVICE CONTRACT WITH POSTALOGIC, LLC AND AN EQUIPMENT LEASE AGREEMENT WITH WELLS FARGO VENDOR FINANCIAL SERVICES, LLC FOR MAIL PROCESSING EQUIPMENT; PROVIDING FOR AUTHORIZATION AND IMPLEMENTATION OF THE AGREEMENTS; AND PROVIDING FOR AN EFFECTIVE DATE.**

\*\*Pulled Item

Commissioner Paul mentioned the cost and what the maintenance plan covers and when stated that it does not cover much she asked if the Town needed this maintenance plan.

**G. Downtown Business District LED Lighting Upgrades – Guillermo Olmedillo, Town Manager**

**A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA APPROVING A WORK AUTHORIZATION TO CALVIN GIORDANO & ASSOCIATES, INC. TO PROVIDE ELECTRICAL ENGINEERING SERVICES FOR THE TOWN OF SURFSIDE DOWNTOWN LIGHTING UPGRADE; AUTHORIZING THE TOWN MANAGER TO IMPLEMENT THE TERMS AND CONDITIONS OF THE WORK AUTHORIZATION; AUTHORIZING THE TOWN MANAGER TO EXECUTE THE WORK AUTHORIZATION; AND PROVIDING FOR AN EFFECTIVE DATE**

Approved on Consent

**H. Mutual Aid Agreement between North Bay Village Police Department and the Town of Surfside Police Department - Guillermo Olmedillo, Town Manager**

**A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, APPROVING THE VOLUNTARY COOPERATION AND OPERATIONAL ASSISTANCE MUTUAL AID AGREEMENT BETWEEN THE TOWN OF SURFSIDE, FLORIDA AND NORTH BAY VILLAGE, FLORIDA FOR POLICE VOLUNTARY COOPERATION AND OPERATIONAL ASSISTANCE; PROVIDING FOR AUTHORIZATION AND IMPLEMENTATION; AND PROVIDING FOR AN EFFECTIVE DATE**

Approved on Consent

**I. Mediatech Miami, LLC Professional Services Agreement – Guillermo Olmedillo, Town Manager**

**A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA APPROVING A PROFESSIONAL SERVICES AGREEMENT WITH MEDIATECH MIAMI, LLC FOR PRODUCTION AND FULFILLMENT OF THE TOWN'S NEWSLETTER, THE GAZETTE; PROVIDING FOR AUTHORIZATION AND IMPLEMENTATION OF THE AGREEMENT; AND PROVIDING FOR AN EFFECTIVE DATE.**

Approved on Consent.

**J. Extension of Contract for Debris Monitoring Services by Witt O' Brien's, LLC for Emergency Debris Monitoring via Piggy Back Contract from Indian Creek Village - Guillermo Olmedillo, Town Manager**

**A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA APPROVING A SECOND AMENDMENT FOR DEBRIS MONITORING SERVICES AGREEMENT WITH WITT O'BRIEN'S LLC FOR A TERM EXTENSION; PROVIDING FOR AUTHORIZATION AND IMPLEMENTATION OF THE SECOND AMENDMENT; AND PROVIDING FOR AN EFFECTIVE DATE.**

Approved on Consent.

**K. After-the-Fact Proclamation to Chief David Allen – Mayor Daniel Dietch**

Approved on Consent

**L. Code Enforcement Officers' Appreciation Week Proclamation – Mayor Daniel Dietch**

Approved on Consent.

Mayor Dietch read the Proclamation into the record. Code Compliance Director Graham thanked the Commission and thanked his staff for everything they do.

**M. After-the-Fact Approval of Key to the Town for Chief David Allen- Mayor Daniel Dietch**

Approved on Consent.

Commissioner Karukin made a motion to approve all the pulled items. The motion received a second from Vice Mayor Gielchinsky. The motion carried 4-0 with Commissioner Cohen absent.



**4. Ordinances**

*(Set for approximately 7:30 p.m.) (Note: Good and Welfare must begin at 8:15)*

**A. Second Reading Ordinances**

**1. Town Commission Adoption of the Comprehensive Plan EAR-Based Amendments - Sarah Sinatra, Town Planner**

**AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA AMENDING THE TOWN'S COMPREHENSIVE PLAN BY ADOPTING THE EVALUATION AND APPRAISAL BASED COMPREHENSIVE PLAN AMENDMENTS; AUTHORIZING TRANSMITTAL; PROVIDING FOR SEVERABILITY; CONFLICTS; AND FOR AN EFFECTIVE DATE.**

Town Clerk Novoa read the title of the ordinance.

Commissioner Paul made a motion for discussion purposes. The motion received a second from Commissioner Karukin.

Commissioner Paul made some comments and said she would like the Town to have a satellite survey of the infrastructure of the Town. Mayor Dietch asked Commissioner Paul to bring back that request for discussion and not to attach it to the Comprehensive Plan approval item.

Commissioner Karukin thanked Calvin Giordano and Associates and the Town for putting together a very detailed document.

Mayor Dietch opened the public hearing. No one wished to speak and Mayor Dietch closed the public reading.

Commissioner Paul made a motion to approve. The motion received a second from Commissioner Karukin. The motion carried 5-0.

**\*\* Space Intentionally Left Blank\*\***

(Set for approximately 7:45 p.m.) (Note: Good and Welfare must begin at 8:15)

**B. First Reading Ordinances**

**1. Solid Waste Assessment Ordinance – Guillermo Olmedillo, Town Manager**

**AN ORDINANCE OF TOWN OF SURFSIDE, FLORIDA, RELATING TO SOLID WASTE MANAGEMENT SERVICES, INCLUDING COLLECTION, DISPOSAL AND RECYCLING OF RESIDENTIAL SOLID WASTE IN THE TOWN OF SURFSIDE, FLORIDA; AUTHORIZING THE IMPOSITION AND COLLECTION OF ANNUAL SOLID WASTE SERVICE ASSESSMENTS AGAINST RESIDENTIAL PROPERTY THROUGHOUT TOWN OF SURFSIDE, FLORIDA; PROVIDING FOR DEFINITIONS; ESTABLISHING THE PROCEDURES FOR IMPOSING SOLID WASTE SERVICE ASSESSMENTS; PROVIDING THAT SOLID WASTE SERVICE ASSESSMENTS CONSTITUTE A LIEN ON ASSESSED PROPERTY UPON ADOPTION OF ASSESSMENT ROLL; PROVIDING THAT THE LIEN FOR A SOLID WASTE SERVICE ASSESSMENT COLLECTED PURSUANT TO SECTIONS 197.3632 AND 197.3635, FLORIDA STATUTES, UPON PERFECTION SHALL ATTACH TO THE PROPERTY ON THE PRIOR JANUARY 1, THE LIEN DATE FOR AD VALOREM TAXES; PROVIDING THAT A PERFECTED LIEN SHALL BE EQUAL IN RANK AND DIGNITY WITH THE LIENS OF ALL STATE, COUNTY, DISTRICT, OR MUNICIPAL TAXES AND ASSESSMENTS AND SUPERIOR IN DIGNITY TO ALL OTHER PRIOR LIENS, MORTGAGES, TITLES, AND CLAIMS; AUTHORIZING THE IMPOSITION OF INTERIM ASSESSMENTS; PROVIDING PROCEDURES FOR COLLECTION OF SOLID WASTE SERVICE ASSESSMENTS; PROVIDING THAT ALL ORDINANCES AND PARTS OF ORDINANCES AND ALL RESOLUTIONS AND PARTS OF RESOLUTIONS IN CONFLICT HEREWITH BE REPEALED TO THE EXTENT OF SUCH CONFLICT; AND PROVIDING AN EFFECTIVE DATE.**

Town Clerk Novoa read the title of the ordinance.

Town Manager Olmedillo presented the item and answered some questions asked by the Town Commission.

Commissioner Karukin made a motion to approve. The motion received a second from Commissioner Cohen. The motion carried 4-0 with Mayor Dietch absent.

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**2. Downtown Business District Parking Requirement Waiver – Guillermo Olmedillo, Town Manager**

**AN ORDINANCE OF THE TOWN OF SURFSIDE, FLORIDA AMENDING SECTION 90-77 “OFF-STREET PARKING REQUIREMENTS,” OF “CHAPTER 90 ZONING” OF THE TOWN OF SURFSIDE CODE OF ORDINANCES TO PROVIDE A PARKING EXEMPTION PROGRAM TO ADDRESS VACANCY AND ECONOMIC REVITALIZATION IN THE SD-B40 ZONING DISTRICT; PROVIDING FOR REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; AND PROVIDING FOR AN EFFECTIVE DATE.**

Town Clerk Novoa read the title of the ordinance.

Town Manager Olmedillo presented the item and answered questions asked by the Town Commission.

Commissioner Cohen made a motion to approve. The motion received a second from Vice Mayor Gielchinsky. The motion carried 5-0.

**5. Resolutions and Proclamations**

*(Set for approximately 9:00 p.m.) (Note: Depends upon length of Good and Welfare)*

**A. Award of ITB 2018-01 Harding Avenue Traffic Signal Loops – Guillermo Olmedillo, Town Manager**

**A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA SELECTING AND AWARDED THE BID OF UNDER POWER CORP. FOR THE HARDING AVENUE TRAFFIC SIGNAL MODIFICATIONS PROJECT; AUTHORIZING THE TOWN MANAGER TO ENTER INTO AN AGREEMENT; PROVIDING FOR IMPLEMENTATION; AND PROVIDING FOR AN EFFECTIVE DATE.**

Town Clerk Novoa read the title of the resolution.

Town Manager presented the item.

Commissioner Cohen made a motion to approve. The motion received a second from Vice Mayor Gielchinsky. The motion carried 5-0.

**\*\* Space Intentionally Left Blank\*\***

**B. Abbott Avenue Drainage Study – 90<sup>th</sup> Street to 96<sup>th</sup> Street - Guillermo Olmedillo, Town Manager**

**A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA APPROVING A WORK AUTHORIZATION TO CALVIN GIORDANO & ASSOCIATES, INC. TO PROVIDE ELECTRICAL ENGINEERING SERVICES FOR THE TOWN OF SURFSIDE DOWNTOWN LIGHTING UPGRADE; AUTHORIZING THE TOWN MANAGER TO IMPLEMENT THE TERMS AND CONDITIONS OF THE WORK AUTHORIZATION; AUTHORIZING THE TOWN MANAGER TO EXECUTE THE WORK AUTHORIZATION; AND PROVIDING FOR AN EFFECTIVE DATE**

Town Clerk Novoa read the title of the resolution.

Town Manager Olmedillo presented the item to the Town Commission.

After some discussion, Commissioner Cohen made a motion to approve. The motion received a second from Commissioner Paul. The motion carried 4-0 with Commissioner Cohen absent.

Vice Mayor Gielchinsky posed a question to the Public Works Director on his view of this issue. Director Stokes advised that an engineer is needed.

Commissioner Cohen left the meeting at approximately 8:30p.m.

**6. Good and Welfare (Set for approximately 8:15 p.m.)**

*Public comments for subjects or items not on the agenda. Public comment on agenda items will be allowed when agenda item is discussed by the Commission.*

Public speaker Victor May spoke during Good and Welfare.

**7. Town Manager and Town Attorney Reports**

Town Manager and Town Attorney Reports have been moved to the Consent Agenda – Item 3.

*All items on the Consent Agenda are considered routine or status reports by the Town Commission and will be approved by one motion. Any Commission member may request that an item be removed from the consent agenda and discussed separately.*

**8. Unfinished Business and New Business**

**9. Mayor, Commission and Staff Communications**

**A. Board and Committee Appointments [Verbal]– Sandra Novoa, MMC, Town Clerk**

- *Design Review Board – At Large*
- *Sustainability Subcommittee – Commissioner Karukin*

Mayor Dietch commented on a viable member that was presented and Vice Mayor Gielchinsky stated that he has been unsuccessful in obtaining an Architect to serve on the Design Review Board.

Town Clerk Novoa stated that due to the fact that the Design Review Board still has a slot open which has not yet been filled, the Town was not able to hold a Planning & Zoning Meeting this month and it had to be cancelled. Town Clerk Novoa stated the urgency in appointing a member to the Design Review Board.

Mayor Dietch agreed and agreed to try to find someone and appoint them next month.

**B. 92<sup>nd</sup> Annual FLC Conference Voting Delegate Designation –** Guillermo Olmedillo, Town Manager

Mayor Dietch made a motion to designate Vice Mayor Gielchinsky as the delegate and Commissioner Paul as the alternate. The motion received a second from Commissioner Paul. The motion carried 4-0 with Commissioner Cohen absent.

**C. Establish Sustainability and Resiliency Committee –** Commissioner Michael Karukin – *ITEM AS LINKED TO 9A*

Commissioner Karukin spoke regarding the requests the administration have been receiving regarding the same topical area and the overlap there is and to establish priorities and policies.

Commissioner Karukin will appoint a member to the Sustainability and Resiliency Committee once the direction given to the Town Manager is done.

Commissioner Karukin would like the Town Commission to give direction to the Town Manager to abolish the existing committee and create a new one that reports to the Town Commission. It would keep the Planning & Zoning Board in the loop and have liaisons assigned.

Commissioner Karukin is requesting a motion that all existing members be migrated to the new committee.

Public Speaker George Kousoulas spoke regarding this committee and the importance of it and how it needs engineers.

Commissioner Paul asked the Town Attorney about the Comprehensive Plan and this Committee and if they can keep it as the Sustainability and Resiliency Committee and have it report to the Town Commission instead of the Planning & Zoning Board.

Mayor Dietch objected and stated that this is not a subcommittee but an actual committee and the goals and objectives should stay the same and the memberships should be appropriate to the committee.

The Town Attorney answered Commissioner Paul's question regarding the Comprehensive Plan and the objectives of the committee.

Commissioner Karukin made a motion to sunset the Sustainability Subcommittee of the Planning & Zoning Board and establish the Sustainability and Resiliency Committee of the Town Commission and include a liaison from the Town Commission and the Planning & Zoning Board. The motion received a second from Vice Mayor Gielchinsky. Motion passed 4-0 with Commissioner Cohen absent.

The Town Attorney opined that since the Town Commission is sunsetting the existing subcommittee, they should take up appointments at the next Town Commission Meeting and provide qualifications for the members.

The Town Commission discussed giving the Committee more time to take care of Town business.

**D. 2018 Leaf Workshop – Hurricanes + Our Urban Tree Canopy – report –**  
Commissioner Tina Paul

Commissioner Paul gave a report on the 2018 Leaf Workshop she attended and the importance of more trees and having the correct ones in place.

**10. Adjournment**

There being no further business, Commissioner Karukin made a motion to adjourn. The motion received a second from Commissioner Paul. The meeting adjourned at 9:17 p.m.

Respectfully submitted,

Accepted this \_\_\_\_ day of \_\_\_\_\_, 2018

\_\_\_\_\_  
Daniel Dietch, Mayor

Attest:

\_\_\_\_\_  
Sandra Novoa, MMC  
Town Clerk



## TOWN MANAGER'S REPORT

### JULY 2018

#### COMMUNITY PROGRAMS / INITIATIVES / ENHANCEMENTS

- I. **SEE CLICK FIX REPORT** – See Attachment “A”
- II. **SOCIAL MEDIA REPORT** – See Attachment “B”
- III. **COMMUNITY GARDEN UPDATE**

As of June 1, 2018 there is a new Surfside Urban Gardeners Board as follows:

President - Dalia Blumstein

Treasurer - Michael Cariglio

Secretary - Gregory Castro

Vice President - as there were no candidates, the position remains unfilled.

The Administration has met with the new President and continues to maintain communication on the roles and responsibilities of the Board and the Town as defined by the agreement, as well as the needs of the non-profit and the expectations from the Town.

#### IV. **DOWNTOWN VISION ADVISORY COMMITTEE UPDATE**

Meeting held May 21<sup>st</sup>, 2018. In attendance were Bradley Colmer, Shaun Grenald and Bera Kalhan as owners and operators; Town staff included Guillermo Olmedillo, Duncan Tavares, Lindsay Fast and Frank Trigueros.

Five topics were discussed:

1. Type of business to attract to the Town (National retailers or “Mom and Pop” stores);
2. How to reduce the vacancies;
3. How to increase interest and participation by the DVAC members;
4. The discussion item to be presented to the Town Commission addressing a temporary parking waiver;
5. Research possible short term rental use, such as pop-up shops, art galleries, and similar.

## V. DEVELOPMENT APPLICATIONS STATUS

A. *9116 Harding* – The property has recently been sold and the new owner has added property. The revised site will include pools for the four units. Design Review Group (“DRG”) meeting was held on December 7, 2017 and was scheduled for a Development Impact Committee (“DIC”) meeting on May 24, 2018. A Planning and Zoning Board/Design Review Board meeting was scheduled on June 27, 2018 but has been deferred due to lack of a quorum.

B. *8851 Harding* – The applicant has resubmitted plans for a 28 unit development. The DIC meeting was held on March 26, 2018. A Planning and Zoning Board meeting will be scheduled once the applicant addresses outstanding comments.

C. *8995 Collins* – A site plan was submitted on May 19, 2017. A DRG meeting was held on June 19, 2017. The applicant submitted the revised drawings and a second DRG meeting was held on August 24, 2017. Revisions were required and a third DRG meeting was held on September 28, 2017. The DIC meeting was held on November 16, 2017. The application was heard at the February 22, 2018 Planning and Zoning Board meeting where it was deferred. It was heard on the April 26, 2018 Planning and Zoning Board meeting where it was deferred to the May 31, 2018 meeting to allow the applicant to revise their traffic analysis. This meeting was deferred to June 27, 2018 due to a lack of quorum. The June 27, 2018 meeting was also deferred due to a lack of quorum. The application will be scheduled for a Town Commission meeting, once the Planning and Zoning Board issues its recommendation.

D. *9300 Collins* – A site plan was submitted on May 31, 2018 for a 207 room hotel development. The plans were reviewed by staff and a DRG meeting was held on June 27, 2018. The applicant will need to revise the plans based on staff's comments and resubmit for a second DRG meeting. Once all DRG technical comments are met, a DIC meeting will be scheduled.

## VI. TOWN DEPARTMENTS

### *Code Compliance Division*

A. Code Violation Cases: As of June 20, 2018, the total number of active, open cases being managed is 262; of these cases, 151 cases are still under investigation and are working towards compliance; 4 cases are on-hold; 29 are in the Special Master hearing queue; 11 cases are in post-Special Magistrate action status; and 67 cases have been issued liens and remain unpaid. Properties with unpaid liens are sent reminder letters on a quarterly basis.



**B. Collected Civil Penalty Fines:** Unresolved code compliance cases accrue fines until the code violation is resolved. After the violation is abated, then the property owners are notified to remit the fine amount due. In many cases, the fine amount is either paid, resolved via a settlement agreement, or referred to the Town's Special Master for a hearing and ruling on the fine amount due.

The following is a summary by fiscal year of the fine amounts collected:

- FY 17/18: 62 cases have paid/settled through June 20, 2018 for a total collection of \$20,713.00
- FY 16/17: 117 cases have paid/settled through September 25, 2017 for a total collection of \$40,842.00
- FY 15/16: 152 cases paid/settled for a total of \$137,282.00

### ***Finance Department***

Monthly Budget to Actual Summary as of May 31, 2018 – See Attachment "C"

### ***Police Department***


#### ***A. June 2018 Significant Incidents/Arrests:***

- Battery on Law Enforcement Officer - Simple Battery/Disorderly Conduct/Resisting without violence Arrest - 06/01/2018 at 1345 hours: 9400 Harding Avenue. The subject was arrested.
- Aggravated Assault with Deadly Weapon and Aggravated Assault and Battery on L.E.O. - Arrest 06/07/2018 at 2130 hours: 8900 block of Collins Avenue. The subject was arrested.
- Auto Burglary - 06/10/2018 at 1930 – 06/11/2018 at 1230 hours: 900 block of Abbott Avenue. An unlocked vehicle was burglarized and a firearm was stolen from the vehicle. This case is currently under investigation.
- Aggravated Battery Arrest - 06/12/2018 at 1323 hours: 8800 block of Collins Avenue. The subject was arrested.
- Suspicious Incident - 06/12/2018 at 1730 hours: 92nd Street and Carlyle Avenue. The victim was approached by a vehicle while walking his dogs, the driver asking for directions. A female passenger exited the vehicle and wanted to wish him good luck by wrapping a gold necklace on his wrist. She attempted to remove a Rolex from his wrist which the victim observed. The subjects fled when the victim threatened to call the police. This case is under investigation.
- Suspicious Incident - 06/16/2018 at 1745 hours: 9500 Abbott Avenue. A vehicle with a male, female and a child occupant were stopped and the male attempted to sell jewelry to a pedestrian walking in the vicinity but was unsuccessful. The vehicle description matched the above incident where the parties attempted to steal a Rolex watch. This case is under investigation.

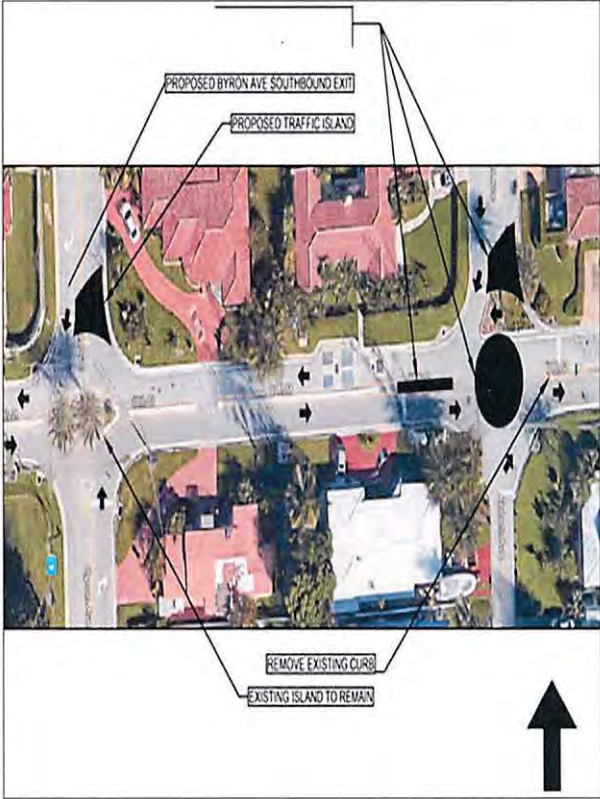
**B. Traffic Mitigation Program Status Report**

Public safety is the number one priority for the Town of Surfside. Along with public safety, quality of life is a focus of the Town. One element that impacts both public safety and quality of life is traffic. Traffic has increased significantly in recent years on Collins Avenue and Harding Avenue regionally as well as locally in Surfside. These roadways are major north/south thoroughfares for vehicles to avoid I-95 and Biscayne Boulevard traffic congestion. Lane closures at developments in Surfside and neighboring jurisdictions add to this traffic overcrowding. Drivers have learned they can avoid the backup on Collins Avenue and Harding Avenue by traveling west into the residential neighborhoods. There are no sidewalks in the single-family home areas of Surfside and with many families and children who play, walk and bike on the streets, traffic mitigation strategies are continuous for the Town Commission and Staff in our goal to keep Surfside safe and enjoyable. In order to accomplish our goals Staff works in partnership with the State of Florida Department of Transportation and Miami-Dade County authorities who have jurisdiction over the roads in Surfside. The following chart illustrates and tracks the progress of this ongoing effort.

#	Timeframe	Initiatives	Status	Update(s)
1	Short Term (0 – 6 months)	95 <sup>th</sup> Street & Harding Avenue (westbound), left Turn lane added.  300 block of 95 <sup>th</sup> Street (eastbound), right turn lane added.	Closed	On 04-27-2017, the traffic lanes in the 200 block of 95 Street, between Collins Avenue and Harding Avenue were modified to improve the traffic flow. New lane pavement markers delineate the new vehicular traffic flow for westbound traffic on 95 Street approaching Harding Avenue. The pavement markings allow vehicles to travel in two lanes west of the alleyway with one lane designated for travel westbound only on 95 Street across Harding Avenue, and the other lane designated as a left turn only lane for vehicles turning southbound onto Harding Avenue. Three parking spaces on the North East side of 95 Street & Harding Avenue have been eliminated to allow for a westbound travel lane.  As of 08-22-2017, the traffic flow in the 300 block of 95th Street, between Abbott Avenue and Harding Avenue, has been altered. The new lane pavement markers delineate the new vehicular traffic flow for eastbound traffic on 95th Street approaching Harding Avenue. The pavement markings allow vehicles to travel in two lanes east of the alleyway with one lane designated for travel eastbound only on 95th Street across Harding Avenue, and the other lane designated as a right turn only lane for vehicles turning southbound onto

				<p>Harding Avenue. The loading zone at this location has been eliminated to allow for a right turn only lane. Please refer to the traffic diagram below.</p> 
		New Stop Signs at all intersections west of Harding Avenue	Closed	<p>Public Works installed stop signs at the following locations:</p> <ul style="list-style-type: none"> <li>• 89<sup>th</sup> Street &amp; Byron Avenue (east-west)</li> <li>• 90<sup>th</sup> Street &amp; Abbott Avenue (east-west)</li> <li>• 90<sup>th</sup> Street &amp; Carlyle Avenue (east-west)</li> <li>• 92<sup>nd</sup> Street &amp; Abbott Avenue (east-west)</li> <li>• 92<sup>nd</sup> Street &amp; Carlyle Avenue (east-west)</li> </ul>
3		New Stop Bar Reflectors	Closed	Installed
4		New Speed Bumps	Closed	<p>New speed bumps have been installed at the following locations:</p> <ul style="list-style-type: none"> <li>• 8900 block of Abbott Avenue</li> <li>• 9100 block of Abbott Avenue</li> <li>• 9300 block of Abbott Avenue</li> <li>• 9500 block of Byron Avenue (second speed bump)</li> </ul>
5		<p>Revisit Street Closure</p> <ul style="list-style-type: none"> <li>○ 94<sup>th</sup> Street / Abbott Avenue</li> </ul>	Closed	Town Commission approved a motion against revisiting this item.

<p>6</p>		<p>New Street Closure</p> <ul style="list-style-type: none"> <li>○ Byron Avenue (northbound) at 88<sup>th</sup> Street</li> </ul>	<p>In progress</p>	<p>Requires study, Miami-Dade County and Miami Beach approval.</p> <p>On 11-29-17, Town Manager, Chief Allen and Public Works Director attended a meeting with Miami-Dade County and City of Miami Beach administration regarding the closure of northbound traffic at 88<sup>th</sup> Street and Byron Avenue.</p> <p>The above meeting resulted in a plan to add curbing to the 88<sup>th</sup> Street median extending it to Abbott Avenue. The result will prohibit drivers from executing illegal U turns disrupting the traffic flow and area residents which has been a continuous problem.</p> <p>The following traffic modification Project has been developed to improve the traffic flow at 88<sup>th</sup> Street and Abbott Avenue.</p>  <p>Public Works completed the installation of the pictured vehicular traffic pattern at 88<sup>th</sup> Street &amp; Abbott Avenue. On March 12, 2018, a 60-day testing period will begin before final approval.</p> <p>The 60-day trial period before final approval continues. There have been no traffic accidents reported and no matters of concern have been brought to the attention of the Police Department.</p> <p>This item will be brought before the Town Commission at the May Commission Meeting for final approval.</p> <p>In a Special Town Commission Meeting held May 22, 2018, the Town Commission approved the</p>
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				<p>below traffic pattern design (Option A) for 88<sup>th</sup> Street and Abbott Avenue. A traffic circle at Abbott Avenue on 88<sup>th</sup> Street will allow traffic to flow east, west and south. Traffic islands on Abbott Avenue and Byron Avenue at 88<sup>th</sup> Street will prevent vehicles from traveling north on those avenues from 88<sup>th</sup> Street.</p>  <p><b><u>Public Works has begun work on the new traffic mitigation design on 88<sup>th</sup> Street &amp; Abbott Avenue. The project is estimated to be completed by mid-July.</u></b></p>
7		Loop Detector Installation	In progress	<p>CGA was authorized to move forward with the preparation of the bid documents for the traffic loops at three signalized intersections along Harding Avenue. CGA will need to provide updated scope of services and fee in order to provide traffic counts and traffic analysis at subject intersections (before and after traffic analysis) per commission request at 05-09-17 meeting.</p> <p>The east Stop Bar at 93 Street &amp; Harding Avenue will be moved back.</p>

			<p>On August 8, 2017, CGA submitted their additional service agreement for completing the before and after traffic analysis at the signalized intersections along Harding Avenue that new traffic loops are being installed. At the Commission meeting where the Post Design Services contract was approved, the Mayor and Commission asked if CGA could do a before and after analysis in order to evaluate the change in traffic operations at these subject intersections. The traffic counts are currently scheduled for the 29th, 30th or 31st of August (second week of regular school).</p> <p>Loop detectors have been approved for Harding Avenue at 88<sup>th</sup>, 93<sup>rd</sup> and 94<sup>th</sup> Streets.</p> <p>On November 3, 2017, CGA submitted for review and approval Work Authorization No. 106 for Surfside Traffic Signal Modification – Traffic Analysis. The scope of the project includes Pre – Post Construction Analysis of four intersections on Harding Avenue at 88<sup>th</sup>, 93<sup>rd</sup>, 94<sup>th</sup> and 95<sup>th</sup> Streets. Total cost not to exceed \$14,200.62.</p> <p>On January 29, 2018, a Traffic Signal Modification Mandatory Pre-Bid Opening was held at 10:30 a.m. The Assistant Town Manager, CGA, Public Works and Police Department representatives attended. No bidders attended.</p> <p>On March 8, 2018, a Traffic Signal Modification Mandatory Pre-Bid Opening was held at 2:00 p.m. The Town has received two bids. The Public Works Department and CGA are evaluating the bids. Once the bids are evaluated and ranked, Town staff will present their recommendation for final bid selection and award to the Town Commission.</p> <p>In a letter dated April 16, 2018, reference Town of Surfside Traffic Signal Modifications ITB No. 2018-01 and CGA Project No. 15-8083, CGA Director of Construction Engineering, Robert McSweeney, provided an analysis of the two bids received for the Surfside Traffic Signal Modification Project and recommendation for award of Contract. Under Power Corp. was the apparent low bidder with a Base Bid of \$109,045.23. Upon review, they found the bid is complete and appropriate for the proposed work. In keeping with the Town to award a Contract to the most responsible and responsive</p>
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				<p>bidder whose bid is in conformance with the Bidding Documents and is in the best interest of the Town, they recommend that the Town of Surfside award the contract for the referenced project to Under Power Corp.</p> <p><b><u>At the June 12<sup>th</sup>, 2018 Commission Meeting, the Town Commission voted to approve the recommendation from CGA awarding the contract to Under Power Corp. The project is moving forward pending CGA Notice to Proceed and required permitting.</u></b></p>
8		Install a centerline curb on 95 <sup>th</sup> Street between Abbott and Byron Avenues	Closed	Public Works installed delineators to deter trucks from traveling west on 95 <sup>th</sup> Street.
9		Eliminate Crosswalks on Collins (north) & Harding (south) Avenues	Closed	FDOT stated that eliminating crosswalks would hinder pedestrian travel and further study would be required before they can agree to that recommendation.
10		<p>Create Vehicular Circulation Plans for New Construction Projects</p> <ul style="list-style-type: none"> <li>o Minimize lane closures</li> </ul>	Closed	MOT's and circulation plans for new construction projects was a primary topic of discussion with FDOT and the surrounding jurisdictions representatives. A plan to improve the coordination of projects and to enhance communication by FDOT providing notice well in advance of all approved MOT's to the three jurisdictions was agreed upon. The early notice system has shown an improvement.
11		Evaluate Sidewalk Options	Open	Town Commission approved a motion to continue to evaluate pedestrian safety options in Surfside.
12		<p>Install traffic light at 96<sup>th</sup> Street &amp; Abbott Avenue</p> <p>Eliminate left hand turn at 96<sup>th</sup> Street &amp; Byron Avenue</p>	Closed	<p>Town Manager Olmedillo, Chief Allen, Captain Yero and Randy Stokes, from the Town and Eric Czerniejewsky from CGA, spent a few hours with Ramon Sierra, FDOT District 6. Several simulations were run, and the result is that the back-up traffic in the east bound direction made congestion worse on 96<sup>th</sup> Street. This will not allow the vehicles turning right from Byron to move, causing a longer back-up on Byron and creating additional congestion on Harding and Collins.</p> <p>FDOT will not eliminate the left turn at 96 Street &amp; Byron Avenue.</p>

13		Install a crosswalk at 90 <sup>th</sup> Street & Harding Avenue (north side)	Open	<p>FDOT agreed to reconsider installing a traffic signal at the location, pending study (count). The Town installed traffic delineators designed to allow a left turn only onto Harding Avenue, preventing vehicles from traveling westbound across the intersection.</p> <p>The 200 block of 90<sup>th</sup> Street has been converted to one-way traffic eastbound only. This new traffic pattern has eliminated the hazard of vehicles traveling west across Harding Avenue at 90<sup>th</sup> Street where a curve hindered line of sight for drivers.</p>
14		<p>Send demand letters to mapping companies</p> <p>Waze – Free Community-based GPS, Maps &amp; Traffic Navigation App</p>	Closed	<p>The Town became a Participating Member of the Connected Citizens Program. This is the Town’s effort to address in real-time reported accidents and improve navigation throughout the Town.</p>
15	<p><b>Intermediate Term</b> <b>(7 – 18 months)</b></p>	<p>Create One-Way Streets</p> <ul style="list-style-type: none"> <li>o 88<sup>th</sup>, 89<sup>th</sup>, 90<sup>th</sup> and 91<sup>st</sup> Street between Collins &amp; Harding Avenues</li> </ul>	Closed	<p>A Town meeting was held July 18<sup>th</sup>, 2017, to present a new traffic pattern plan making 89<sup>th</sup> Street one-way only for westbound vehicular traffic from Collins Avenue to Hawthorne Avenue and 90<sup>th</sup> Street one-way only for eastbound vehicular traffic from Bay Drive to Collins Avenue.</p> <p>The Town Commission approved to conduct a test of a new streetscape design on 89<sup>th</sup> and 90<sup>th</sup> Streets, between Harding and Hawthorne. The test consists of creating a safe pedestrian path and a green area in what is currently the paved area of those streets. Because width of the street will be narrowed during the test, the streets will be changed to a one-way system, with 89<sup>th</sup> Street traffic moving from east to west and 90<sup>th</sup> Street traffic moving from west to east. The streets will be marked with paint to designate the pedestrian area as well as the green/parking area. The test is scheduled to begin in early December and run for a period of 60 days. At the end of the test period, staff will present a report to the Town Commission.</p> <p>The new streetscape testing was initiated December 14, 2018. The testing has gone smoothly with no incidents to report thus far. A main focus has been directed toward providing</p>




				<p>information, answering questions and educating residents and all who travel the area on the details and goals of the project.</p> <p>At the February 13<sup>th</sup>, 2018 Town Commission Meeting the Town Administration was granted time extension of sixty days to the One-Way Street Project in order to survey the streets for ADA compliance in the pedestrian lanes and to acquire more data on traffic counts.</p> <p>A One-Way Streets Town Hall Meeting was held on March 28<sup>th</sup>, 2018. Notifications for the March 28<sup>th</sup> One-Way Streets Town Hall Meeting have been distributed via the following channels:</p> <ul style="list-style-type: none"> <li>• Publicly Noticed Meetings and Agenda Packets (Town Commission &amp; Planning &amp; Zoning)</li> <li>• Letter mailed to residences on 89<sup>th</sup> and 90<sup>th</sup> streets for first meeting held in July (similar to planning &amp; zoning notices)</li> <li>• Door hangers to residences on 89<sup>th</sup> and 90<sup>th</sup> streets</li> <li>• Posted notice at Publix and Starbucks</li> <li>• Multiple e-blasts</li> <li>• Website notices on the calendar and town news</li> <li>• Included in multiple gazette newsletters</li> <li>• Channel 93</li> <li>• Nextdoor postings on the Town’s page</li> <li>• Delivery of meeting notices to residences on 89<sup>th</sup> and 90<sup>th</sup> streets for second meeting held in March</li> <li>• Surveys on Nextdoor and SurveyMonkey</li> </ul> <p>Town collected resident feedback through a number of these channels including emails and phone calls.</p> <p>At the April 10<sup>th</sup>, 2018 Town Commission Meeting, the Town Commission approved a motion to terminate the One-Way Street Project tested on 89<sup>th</sup> Street and 90<sup>th</sup> Street.</p> <p>On April 16<sup>th</sup>, 2018, Public Works returned the traffic pattern on 89<sup>th</sup> Street and 90<sup>th</sup> Street to two-way traffic west of Harding Avenue.</p>
16		Design 91 <sup>st</sup> Street Improvements	Open	Awaiting the study of walkability by FIU.

		<ul style="list-style-type: none"> <li>○ Sidewalk, landscaping and buried utilities</li> </ul>		
17		Road closure of 95 <sup>th</sup> Street and Abbott Avenue	Closed	<p>On November 7, 2017, CGA submitted for review and approval Work Authorization No. 108 for Traffic Feasibility Study for Abbott Avenue and 95<sup>th</sup> Street. The project includes Traffic Analysis and Modeling of the road closure at 95<sup>th</sup> Street and Abbott Avenue. Total cost will not exceed \$20,149.58.</p> <p>On January 29, 2018, the Town Manager held a meeting with CGA Traffic Engineer Eric Czerniejewski, Asst. Town Manager Duncan Tavares, Public Works Director Randy Stokes and Captain Yero to review and discuss the Feasibility Study results.</p>
18	<b>Long Term (19+ months)</b>	Gate the area west of Harding Avenue and create a special taxing district.	Open	This item is provided here as a place holder.

#	Parking / Taxis	Update
1	<p>The Town of Surfside added 18 new single parking spaces and 2 loading zones in the streets that are east of Collins Avenue. These new parking spaces provide additional parking options for residents and visitors to our Town. The additional loading zones provide a safe location for trucks and other vehicles to deliver goods and services to residents.</p> <p>The total number of single parking spaces added is now 12.</p>	<p>The additional parking spaces are located in the following locations:</p> <ul style="list-style-type: none"> <li>• 100 block of 88<sup>th</sup> Street (4 spaces) effective 06-01-2017</li> <li>• 100 block of 90<sup>th</sup> Street (4 spaces) effective upon completion of on-going construction project</li> <li>• 100 block of 92<sup>nd</sup> Street (4 spaces) effective 06-01-2017</li> <li>• 100 block of 96<sup>th</sup> Street (6 spaces) six single pay parking spaces were removed and the area was designated a Tow-Away Zone.</li> </ul> <p>The additional loading zones are located at the following locations:</p> <ul style="list-style-type: none"> <li>• 100 block of 89<sup>th</sup> Street - effective 06-01-2017</li> <li>• 100 block of 94<sup>th</sup> Street - effective 06-01-2017</li> </ul>

<p>2</p>	<p>Taxi Cab Stands added and changed</p>	<ul style="list-style-type: none"> <li>• The Taxi Cab Stand at 94<sup>th</sup> Street &amp; Collins Avenue was reduced from (4) vehicles to (2) vehicles.</li> <li>• 94<sup>th</sup> Street &amp; Harding Avenue (across from Publix) will have a (2) vehicle Taxi Cab Stand. *One metered parking space has been added.</li> <li>• In the 200 block of 92<sup>nd</sup> Street (North side in front of the Marriott) one metered parking space was removed and replaced with a (1) vehicle Taxi Cab Stand.</li> <li>• A (2) vehicle Taxi Cab Stand has been added to the south side of the 200 block of Collins Avenue.</li> </ul> <p>On 11-15-17, Chief Allen met with the management of the Azure Condominium regarding the taxi stand at 94<sup>th</sup> Street and Collins Avenue. They had no complaints regarding the location of the stand and were not aware of complaints or traffic concerns from residents of the condo. The taxis crossing Collins Avenue do not interfere with the exiting of cars from their building. The manager was happy that the stand was reduced from four to two taxis. One person has voiced opposition with the location of the taxi stand being across the street because it is unsightly and wants it moved. Chief Allen next met with the valet manager of the Grand Beach Hotel who said the two taxi stand is working out well and when a taxi is needed they signal for one from the stand. Chief Allen also met with the General Manager of the hotel regarding the concern and asked for one space for a taxi on the hotel property. The GM agreed. The space is just inside the garage and is now opened for taxi use.</p>
<p>3</p>	<p>2018 Parking Permits for the 9400 and 9500 blocks of Byron Avenue</p>	<p>The 2018 Byron Avenue Parking Permits are only for residents and their guests on the 9400 &amp; 9500 blocks of Byron Avenue. The application and the registration process instructions were included in the December 2017 Surfside Gazette. Residents must provide proof of residency and may obtain up to 3 permits per household. Only residents and their guests may park in these areas with the proper permit all other vehicles are subject to being issued a parking citation.</p>

<p>4</p>	<p><b><u>Ride Share Pick-up &amp; Drop Off</u></b></p>	<p><b><u>Background:</u></b> There has been a proliferation of citizens utilizing Ride Share services such as Uber and Lyft which has impacted the efficient flow of traffic in the Town of Surfside. The operators for these services have been observed picking up and dropping off their customers in the Surfside Business District occupying Town parking spaces and double parking while picking up or dropping off customers.</p> <p><b><u>The Surfside Police Department recommends</u></b> that a 90 day “Town of Surfside Ride Share Pick-Up &amp; Drop-Off Trial Program” be conducted in the 300 block of 95th Street on the south-side of the road way encompassing three parking spaces closest to Abbott Avenue. See below picture (Red Box Area).</p>  <p><b><u>Budget Impact:</u></b> There will be a reduction in the Town Parking revenue stream due to three (3) less parking spaces being available for paid parking. There will be incurred costs for procuring signage and possible repainting of the parking spaces.</p>
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*C. Fourth of July*

On Wednesday, July 4<sup>th</sup>, the Town of Surfside Parks and Recreation Department holds the annual 4<sup>th</sup> of July Holiday Celebration featuring live music, activities including arts and crafts, swim races and much more. The event concludes with beachside fireworks exhibition at 9:00 p.m. This event draws hundreds of families and visitors.

Additional police officers will be assigned from 2:00 p.m. to 10:00 p.m. to ensure safety and security at the Community Center, on the beach, during the fireworks set-up and display, for

beach escorts for trucks carrying equipment to the Community Center and on Collins Avenue to assist with pedestrian crossing.

*D. Police Events:*

- The Police Teen Summer Program in conjunction with the Parks and Recreation Teen Camp began on June 14 and concludes on August 2 with a graduation for the teenagers. The presentations for July will include Crime Scene Investigation, U.S. Customs and Borders Marine Interdiction, Miami-Dade Fire Rescue Venom Unit, S.W.A.T. Presentation and a visit to U.S. Customs and Borders at the Homestead Air Force Base.
- A meet and greet with the new Chief of Police will be on July 11<sup>th</sup> at 6:00 p.m. in the Commission Chambers.
- The Surfside Police Department will host a community blood drive on July 12 from 12:00 p.m. – 3:00 p.m. The blood mobile will be in the Town Hall lot.
- The monthly Bike with the Chief is July 25 at Town Hall at 5:00 p.m.
- Coffee with the Cops is July 26 at Starbucks at 10:00 a.m.

Respectfully submitted:

by: \_\_\_\_\_

Guillermo Olmedillo, Town Manager



# Town of Surfside, FL

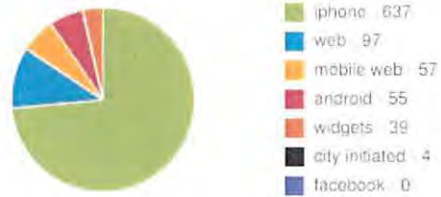
**Between Jan 01, 2014 and Jun 27, 2018**

889 requests were opened

886 requests were closed

The average time to close was 28.1 days.

Requests by Source



REQUEST CATEGORY	OPENED	CLOSED	DAYS TO CLOSE
Other	209	208	23.5
Beach Issue	145	144	24.0
Parking Issue	86	86	3.6
Code Compliance (Violation)	109	109	35.3
Police (Safety Concern)	73	73	8.7
Code Compliance (Safety Concern)	60	60	45.1
Street lights (PW)	40	40	168.8
Construction Issues	31	31	11.4
Utilities (Water/Sewer) (PW)	27	26	11.0
Drainage/Flooding (PW)	18	18	22.9
Solid Waste (Residential) (PW)	16	16	33.9
Dog Stations (P & R)	13	13	5.3
Barking Dog	12	12	20.0
96 Street Park (P & R)	10	10	3.2
Surfside Dog Park (P & R)	8	8	1.1
Community Center (P & R)	7	7	0.1
Solid Waste (Commercial) (PW)	6	6	8.4
Pothole (PW)	5	5	31.7
Hawthorne Tot-Lot (P & R)	5	5	4.8
Beach Patrol	3	3	0.7
Dead Animal	3	3	21.0
Graffiti (PW)	3	3	25.2
Graffiti (in park) (P & R)	0	0	0.0
Veterans Park (P & R)	0	0	0.0



# Town of Surfside, FL

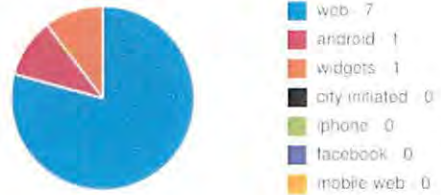
Between Jun 01, 2018 and Jun 27, 2018

9 requests were opened

7 requests were closed

The average time to close was 8.9 days.

Requests by Source



REQUEST CATEGORY	OPENED	CLOSED	DAYS TO CLOSE
Beach Issue	3	3	11.4
Code Compliance (Violation)	2	2	13.0
Other	2	1	0.7
Construction Issues	1	1	1.7
Utilities (Water/Sewer) (PW)	1	0	0.0
96 Street Park (P & R)	0	0	0.0
Barking Dog	0	0	0.0
Beach Patrol	0	0	0.0
Code Compliance (Safety Concern)	0	0	0.0
Community Center (P & R)	0	0	0.0
Dead Animal	0	0	0.0
Dog Stations (P & R)	0	0	0.0
Drainage/Flooding (PW)	0	0	0.0
Graffiti (in park) (P & R)	0	0	0.0
Graffiti (PW)	0	0	0.0
Hawthorne Tot-Lot (P & R)	0	0	0.0
Parking Issue	0	0	0.0
Police (Safety Concern)	0	0	0.0
Pothole (PW)	0	0	0.0
Solid Waste (Commercial) (PW)	0	0	0.0
Solid Waste (Residential) (PW)	0	0	0.0
Street lights (PW)	0	0	0.0
Surfside Dog Park (P & R)	0	0	0.0
Veterans Park (P & R)	0	0	0.0



**TOWN OF SURFSIDE**  
MUNICIPAL BUILDING  
9293 HARDING AVENUE  
SURFSIDE, FLORIDA, 33154-3009  
Telephone (305) 861-4863

**TO: Town Commission**

**FROM: Guillermo Olmedillo, Town Manager**

**DATE: June 22, 2018**

**SUBJECT: June Social Media Report**

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In June, the Town's Public Information Representative drafted a fact sheet on the 88<sup>th</sup> Street and Abbott Avenue traffic calming roadway changes in order to inform residents on the Town's efforts to mitigate traffic. Additionally, the Town's Public Information Representative filmed a video with Mayor Dietch, encouraging residents to proactively update their hurricane kits and make necessary preparations in the event of a major storm. Information on hurricane preparedness was shared during a Town Hall meeting led by the Surfside Police Department and through a number of communication channels including e-blasts, Town website, monthly Gazette, Nextdoor, Channel 93 and community bulletin boards.

The Town's Public Information Representative continued to post updates on Nextdoor (See Exhibit "A").

It is important to reiterate the Nextdoor platform is not a replica of the Town's website and Gazette and should not be viewed as such. To that end, information presented on Nextdoor often refers back to the Town's primary communication tools. The Town encourages residents to find information on the Town's website ([www.townofsurfsidefl.gov](http://www.townofsurfsidefl.gov)) and/or by contacting the Town directly.



**NEXTDOOR POSTS**

**5/31: Join Visit Surfside for First Fridays beach party on Fri., June 1**

Surfside's tourism bureau is proud to bring back the much-anticipated First Fridays beach parties, starting with tomorrow's Summer of Love themed gathering. Guests are encouraged to rock their favorite tie-dye T-shirts and bell-bottom jeans, sing along to 'imagine all the people,' put flowers in their hair and make daisy chains -- everyone is going retro during this groovy beach affair.

First Fridays Summer of Love will feature eco-friendly food brands, conservation awareness activities, and a beach cleanup contest for children. Beach-goers can also enjoy mini-massages courtesy of the Carillon Miami Wellness Resort.

The Summer of Love Beach Picnic is scheduled from 4:00 to 7:00 p.m. on Friday, June 1, 2018, directly on the beach behind Surfside's oceanfront Community Center, located at 9301 Collins Avenue. It is free and open to the public.

RSVP at <https://surfsidebeachparty.eventbrite.com>. This is the first of a series of four events, which will be held every first Friday of the month, from June through September. Save the date for additional events: Summer Harvest (July 6); Savasana on the Sand (August 3); Endless Summer (September 7.)

**6/4: 2018 Hurricane Season is here...**

Hurricane season is officially here. We strongly encourage residents to stock up on hurricane supplies and to make evacuation and preparation plans well in advance. The Town will host a hurricane preparation meeting at 6 p.m. on Monday, June 11 and all Surfsiders are encouraged to attend this informative session, which will cover everything you need to know in the event of a major storm.

For further tips on how you can prepare, be sure to refer to the June Gazette, which is mailed to every residence and can also be found online on the Town website at [www.townofsurfsidefl.gov](http://www.townofsurfsidefl.gov). Also, sign-up for Town news updates so you can stay informed this hurricane season.

**6/5: Community Updates**

Please note the beach shower at the end of 96th Street has been repaired and is now operational.

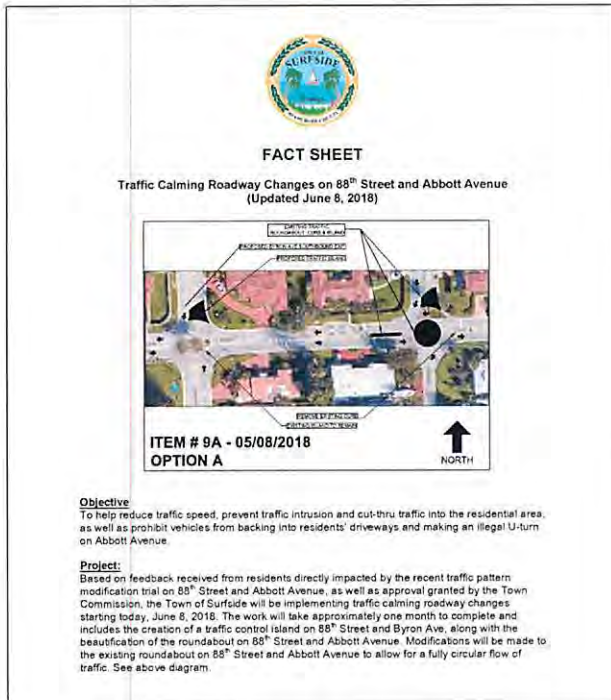
Also, the Town of Surfside is trying out a Summer Lap Swim at the Community Center. Residents are invited to swim laps between 6:30 a.m. and 9:00 a.m. from June 11 to August 31, 2018. For more information, contact the Parks & Recreation Department at (305) 866-3635.

**6/8: Traffic calming roadway changes on 88th Street and Abbott Avenue**

Based on feedback received from residents directly impacted by the recent traffic pattern modification trial on 88th Street and Abbott Avenue, as well as approval by the Town Commission, the Town of Surfside is implementing traffic calming roadway changes starting today, June 8, 2018.

The work will take approximately one month to complete and includes the creation of a traffic control island on 88th Street and Byron Ave, along with the beautification of the roundabout on 88th Street and Abbott Avenue. Modifications will be made to the existing roundabout on 88th

Street and Abbott Avenue to allow for a fully circular flow of traffic. For further information, please refer to the attached fact sheet. Thank you.



**6/11: Message from Mayor Dietch / Hurricane Preparedness meeting tonight at 6 p.m.**  
Surfsiders,

I trust this note finds you well.

The 2018 Hurricane Season has officially begun, and I want to share with you the link to Flood and Hurricane Preparedness Information on the Town of Surfside website:

<https://townofsurfsidefl.gov/how-do-i/hurricane-and-flood-information>

There, you will also find the application for Miami-Dade County's Emergency and Evacuation Assistance Program, which is specifically designed for individuals living at home who need assistance with evacuation and sheltering.

While the Town is well coordinated with the County, State and Federal Emergency Management Teams, please remember that hurricane preparedness starts at home.

To learn more, the Town of Surfside is hosting a Hurricane Preparedness and Emergency Operations Center Community Information Meeting tonight, June 11, 2018 at 6:00 p.m. in the Surfside Town Hall Commission Chambers (see the attached flyer.)

I also want to remind you to sign up for automated e-mail news bulletins on the Town of Surfside website:

<https://townofsurfsidefl.gov/news-and-events/subscribe>

I look forward to seeing you at this evening's event and around Town.

Be prepared and be safe,

Daniel

=====

Daniel E. Dietch  
Mayor  
Town of Surfside

**6/12: Tonight: Regular Town Commission Meeting and Fiscal Year 2018-2019 Town Budget Workshop**

The Town of Surfside will host its regular Town Commission meeting at 6 p.m. tonight in the 2<sup>nd</sup> floor Commission Chambers, located at 9293 Harding Avenue. Prior to the Commission meeting, the Town will hold a 5 p.m. budget workshop for fiscal year 2018-2019. For an agenda packet, visit

<https://www.townofsurfsidefl.gov/departments-services/town-clerk/public-records/commission-agendas>

**6/13: Mosquito prevention tips**

It's hot and sticky outside, which means South Florida is breeding ground for mosquitoes. Not to mention, new research shows that rising temperatures and longer warming periods due to climate change could greatly increase the hazards and length of mosquito season.

When it comes to protecting yourself against pesky mosquitoes, Zika and other mosquito-borne viruses, be sure to take these important steps:

- Use insect repellent with DEET
- Wear long-sleeved shirts and pants outside
- Use screens on your windows and doors
- Remove and/or cover any objects that collect standing water, such as old tires, buckets, flowerpots, bird feeders, trash containers, etc.
- Clean clogged gutters
- Fill-in low-lying areas on your property that collect water
- Repair leaks and cracks in your home
- Keep your swimming pool clean
- Try to avoid going outdoors during the early morning hours or at dusk, which are peak mosquito times

You'll also find a flyer attached from the CDC. Stay safe and mosquito-free this summer!

[https://www.cdc.gov/chikungunya/pdfs/fs\\_mosquito\\_bite\\_prevention\\_us.pdf](https://www.cdc.gov/chikungunya/pdfs/fs_mosquito_bite_prevention_us.pdf)

**6/13: Community Awareness Flyer from Surfside Police Department**

Please see the attached flyer detailing a recent incident on the 9200 block of Carlyle Avenue. Remember to report any suspicious activity to the Surfside Police Department at 305-861-4862.



Flyer: 18-27

Date: 06/13/2018

## COMMUNITY AWARENESS FLYER

On Tuesday, 06/12/2018, at 5:30 P.M., a resident walking his dogs was approached by a couple in a newer model black Yukon in the 9200 block of Carlyle Avenue. The driver of the vehicle was a white male (not Hispanic), approximately 40 years old, with a European accent and black hair described as well groomed, with a colorful tattoo on his left forearm. Two small children were in the back seat of the vehicle. The male subject asked the resident for directions to the nearest hospital, which he provided. After receiving directions to the hospital, the female passenger exited the vehicle and approached the resident. The female was described as slim, approximately 5'2", middle eastern with black hair and wearing "gypsy garments" with a Jade carved medallion. The female told him she was from Dubai and said that it was her father's birthday. She produced a gold chain which she described as being a good luck charm and began to wrap the residents left wrist with the chain while unbuckling his Rolex watch. The resident realized the female removed the watch from his wrist and immediately grabbed it back and threatened to call police. The female got back in the vehicle and the subjects fled the area.

- ❑ Be cautious and alert when approached by strangers.
- ❑ Immediately report any suspicious person(s) or vehicles in your neighborhood, including solicitors knocking on doors.
- ❑ If you are not sure who is at your door, don't open it! Immediately call police if you have doubts about their legitimacy.
- ❑ If you leave on vacation, call the police department to request a watch order and officers will check your property daily.

Please remember to report any suspicious activity to the Surfside Police Department at 305-861-4862.

### PUBLIC FLYER

SURFSIDE POLICE DEPARTMENT  
9293 HARDING AVENUE, SURFSIDE, FLORIDA 33154  
OFFICE (305) 861-4862 • FAX (305) 861-8960

### **6/18: Mobile DMV in Surfside this Thurs., June 21**

Community Outreach Specialists from the Department of Highway Safety and Motor Vehicles will set-up a mobile DMV at Town Hall from 10 a.m. until 2 p.m. in the Commission Chambers. For more information, please contact Dina Goldstein at (305) 861-4862 or [dgoldstein@townofsurfsidefl.gov](mailto:dgoldstein@townofsurfsidefl.gov).

### **6/21: Bike with the Police Chief at 5 p.m. on Wed., June 27**

Save the date for the next Bike with the Police Chief on Wednesday, June 27! The monthly bike ride leaves from Town Hall at 5 p.m. and is an excellent way to learn about public safety, while taking a spin around Surfside with Chief David Allen, who will be retiring at the end of this month.

Additionally, residents can sip on their favorite cup of Joe with Surfside police during Coffee with the Cops at the Starbucks in Surfside at 10 a.m. on Thursday, June 28.

For further details about either event, please contact Dina Goldstein at (305) 861-4862 or [dgoldstein@townofsurfsidefl.gov](mailto:dgoldstein@townofsurfsidefl.gov).

***6/26: July 4<sup>th</sup> celebration at Surfside Community Center***

Join your friends and neighbors for the ultimate Independence Day celebration, featuring live music, swim races, arts & crafts and much more. Festivities will begin at 2 p.m. at the Surfside Community Center, located at 9301 Collins Avenue. The pool will be open from 9 a.m. to 8 p.m. on July 4th. Fireworks will start at 9 p.m. beachside. Residents can enjoy the party for FREE with their Surfside ID or Picture ID with current address. Non-residents must pay a \$5 fee and be accompanied by a Surfside resident.

For more information, call (305) 866-3635 or visit the Town website: [www.townofsurfsidefl.gov](http://www.townofsurfsidefl.gov)

***6/29: Special tribute to Police Chief David Allen who retires this month***

We wish to congratulate outgoing Police Chief David Allen on his retirement. After 40 years in law enforcement, Chief Allen is stepping down to spend valuable time with his family and grandkids and plans to do a lot of fishing.

Chief Allen says his time in Surfside has been the highlight of his career. We wish Chief Allen best of luck in his retirement and thank him for his unwavering commitment to keep our community safe and for his years of service.

While we will greatly miss Chief Allen, he is leaving the department in outstanding hands with Captain Julio Yero, who has been a member of Surfside's Police Department for nearly four years. Captain Yero will take the helm as Surfside's new Police Chief on July 1, 2018.

**TOWN OF SURFSIDE, FLORIDA**  
**MONTHLY BUDGET TO ACTUAL SUMMARY**  
**FISCAL YEAR 2017/2018**

**AS OF** **May 31, 2018**  
**67% OF YEAR EXPIRED (BENCHMARK)**

Agenda Item # Page 1 of 3

Agenda Date: July 10, 2018

	ACTUAL	ANNUAL BUDGETED	% BUDGET
<b>GOVERNMENTAL FUNDS</b>			
<b>GENERAL FUND</b>			
REVENUE	\$ 12,929,745	\$14,598,096	89%
EXPENDITURES	8,221,375	\$14,598,096	56%
Net Change in Fund Balance	4,708,370		
Fund Balance-September 30, 2017 (Audited)	8,635,263 <sup>A</sup>		
Fund Balance-May 31, 2018 (Reserves)	<u>\$ 13,343,633</u>		
<b>TOURIST RESORT FUND</b>			
REVENUE	\$ 719,010 <sup>B</sup>	\$1,081,553	66%
EXPENDITURES	800,298	\$1,081,553	74%
Net Change in Fund Balance	(81,288)		
Fund Balance-September 30, 2017 (Audited)	469,880		
Fund Balance-May 31, 2018 (Reserves)	<u>\$ 388,592</u>		
<b>POLICE FORFEITURE FUND</b>			
REVENUE	\$ 27,446	\$78,192	35%
EXPENDITURES	24,597	\$78,192	31%
Net Change in Fund Balance	\$ 2,849		
Fund Balance-September 30, 2017 (Audited)	164,933		
Fund Balance-May 31, 2018 (Reserves)	<u>\$ 167,782</u>		
<b>TRANSPORTATION SURTAX FUND</b>			
REVENUE	\$ 164,125	\$434,250	38%
EXPENDITURES	226,240	\$434,250	52%
Net Change in Fund Balance	(62,115)		
Fund Balance-September 30, 2017 (Audited)	388,363		
Fund Balance-May 31, 2018 (Reserves)	<u>\$ 326,248</u>		
<b>BUILDING FUND</b>			
REVENUE	\$ 1,804,626	\$1,657,000	109%
EXPENDITURES	667,003	\$1,657,000	40%
Net Change in Fund Balance	1,137,623		
Fund Balance-September 30, 2017 (Audited)	1,743,093		
Fund Balance-May 31, 2018 (Reserves)	<u>\$ 2,880,716</u>		
<b>CAPITAL PROJECTS FUND</b>			
REVENUE	\$ 962,643	\$1,552,911	62%
EXPENDITURES	72,164	\$1,552,911	5%
Net Change in Fund Balance	890,479		
Fund Balance-September 30, 2017 (Audited)	576,122		
Fund Balance-May 31, 2018 (Reserves)	<u>\$ 1,466,601</u>		

**NOTES:**  
 \* Many revenues for May 2018 are received in subsequent months (timing difference) and are recorded on a cash basis in the month received.

- A. Includes \$2,000,000 available for hurricane/emergencies. The balance of \$6,635,263 is unassigned fund balance (reserves).
- B. Resort Tax Revenues total collected through May 2018 is \$2,099,471 (\$719,010 is the Tourist Resort Fund and \$1,380,461. is the General Fund).

ENTERPRISE FUNDS	ACTUAL	ANNUAL BUDGETED	% BUDGET
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**WATER & SEWER FUND**

REVENUE	\$ 2,659,054	\$3,677,158	72%
EXPENDITURES	1,726,732	\$3,677,158	47%
Change in Net Position	932,322		
Unrestricted Net Position-September 30, 2017 (Audited)	(3,048,579)		
Restricted Net Position-September 30, 2017 (Audited)	1,765,319		
Unrestricted Net Position-May 31, 2018 (Reserves)	<u>\$ (350,938) C1</u>		

**MUNICIPAL PARKING FUND**

REVENUE	\$ 656,169	\$1,203,158	71%
EXPENDITURES	588,633	\$1,203,158	50%
Change in Net Position	257,536		
Unrestricted Net Position-September 30, 2017 (Audited)	811,013		
Restricted Net Position-September 30, 2017 (Audited)	25,500		
Unrestricted Net Position-May 31, 2018 (Reserves)	<u>\$ 1,094,049</u>		

**SOLID WASTE FUND**

REVENUE	\$ 1,325,137	\$1,767,886	75%
EXPENDITURES	1,094,855	\$1,767,886	62%
Change in Net Position	230,282		
Unrestricted Net Position-September 30, 2017 (Audited)	429,743		
Restricted Net Position-September 30, 2017 (Audited)	-		
Unrestricted Net Position-May 31, 2018 (Reserves)	<u>\$ 660,025</u>		

**STORMWATER FUND**

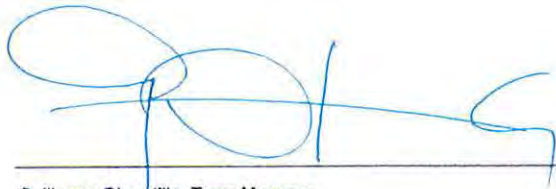
REVENUE	\$ 422,123	\$691,330	61%
EXPENDITURES	256,564	\$691,330	37%
Change in Net Position	165,559		
Unrestricted Net Position-September 30, 2017 (Audited)	3,264,379		
Restricted Net Position-September 30, 2017 (Audited)	347,140		
Unrestricted Net Position-May 31, 2018 (Reserves)	<u>\$ 3,777,078</u>		

**NOTES:(con't)**

C1. The reserves balance of (\$350,938) is the result of a change in current net position as of May 2018 of \$932,322, net position as of September 30, 2017 (Audited) of (\$3,048,579), and Restricted Net Position of \$1,765,319.



Christopher Wallace, Interim Finance Director



Guillermo Olmedillo, Town Manager

**Town of Surfside  
Fund Balance (Reserves)  
5/31/2018**

FUND	9/30/2015	9/30/2016	9/30/2017	5/31/2018
General	\$ 5,905,726	\$ 7,368,408	\$ 8,635,263	\$ 13,343,633
Tourist Resort	339,396	363,407	469,880	388,592
Police Forfeiture	113,431	141,755	164,933	167,782
Transportation Surtax	440,662	354,264	388,363	326,248
Building	-	-	1,743,093	2,880,716
Capital Projects	182,903	1,154,352	576,122	1,466,601
Water & Sewer	(2,705,871)	(2,827,890)	(1,283,260)	(350,938)
Municipal Parking	1,089,165	1,111,941	836,513	1,094,049
Solid Waste	340,391	245,941	429,743	660,025
Stormwater	4,051,768	3,392,370	3,611,519	3,777,078
<b>Total</b>	<b>\$ 9,757,571</b>	<b>\$ 11,304,548</b>	<b>\$ 15,572,169</b>	<b>\$ 23,753,786</b>





**TOWN OF SURFSIDE  
Office of the Town Attorney  
MUNICIPAL BUILDING  
9293 HARDING AVENUE  
SURFSIDE, FLORIDA 33154-3009  
Telephone (305) 993-1065**

**TO: Town Commission**  
**FROM: Lillian M. Arango, Town Attorney**  
**CC: Guillermo Olmedillo, Town Manager**  
**DATE: July 10, 2018**  
**SUBJECT: Office of the Town Attorney Report for July 10, 2018**

---

**This Office attended/prepared and/or rendered advice for the following Public Meetings:**

June 12, 2018 - Budget Workshop and Town Commission Meeting  
June 4, 2018 - Tourist Board Meeting  
June 27, 2018 - DRG Meeting  
June 27, 2018 - Planning & Zoning Board Meeting  
June 26, 2018 - Selection Committee RFP Concession Services  
June 28, 2018 - Selection Committee RFP Tourist Bureau Marketing Services

Members of the firm drafted the resolutions and ordinances for these meetings in addition to drafting or assisting with the preparation of a number of the communications and reviewing, revising and, as appropriate, negotiating the legal requirements of the relative agreements and supporting documents.

**Commission support:**

Attorneys of the firm have worked with members of the Town Commission to address concerns and research specific issues and are always available, either in the office or by phone or email. We appreciate your support as we continue to work in transitioning the office, fine-tune schedules, evaluate and adjust prior practices. Transitions are always challenging, but often a time to make improvements or adjustments which will improve quality and service.

**Staff support:**

Members of the firm have met with and provided extensive support to staff, boards and committees with application review, contract and agreement review, negotiation and preparation, unsolicited proposal for public-private partnership (P3) process and Statute. procurement and purchasing (including staff workshop on procurement issues), Request for Proposals for Community Center Food Concession and Marketing Services for the Tourist Bureau, bid documents for traffic improvements, code enforcement and interpretation, attend Code Enforcement Hearings, building permit and enforcement issues, subpoenas, public records requests, research, document review, legal review of various issues, oversight and case management for litigation, and Town Code interpretation and application.

**Key issues:**

The workload has been diverse and has included specific issue support to every department. Key issues have included:

- Negotiation and document drafting for several interlocal issues
- Various development and quasi-judicial applications
- Agreement for Interim Finance Director Services
- Unsolicited Proposal (P3) – Abbott Lot and Town Hall Site
- Code of Ethics and Lobbying Code
- Roof Height Ordinance
- Freeboard Ordinance
- Sign Code Amendment Ordinance
- Various Urging Resolutions

- Amendments to the Town's Purchasing Code and Cone of Silence
- Anti-Semitic Ordinance
- Pension Board Ordinance
- Tree Planting and Mulch in the Public Right Away Ordinance
- Ethics Ordinance
- Driveway Modifications
- Ordinance Banning Plastic Straws and Resolution Establishing Fees/Fines for Violations
- Solar Panel Permitting Ordinance and Resolution Providing for Waiver of Fees and Expediting of Permit Process
- Ordinance Lifting Prohibition on Surfboards
- Ordinance on Building Lengths and Building Separations
- Ordinance Revising Development Application Procedures
- Ordinance on Marine Turtle Lighting
- Ordinance on Development Approvals Procedures
- Ordinance on Cone of Silence Procurement Process
- Sensible Gun Reform Resolution
- Plastic Bag Ban Legislation and Analysis
- Tourist Board Agreements and Procurement
- Public Records and Subpoena Requests for Documents
- Sustainability Initiatives and Legislation
- Firearm Preemption Lawsuit
- Beach Furniture Ordinance and Regulations
- Comprehensive Plan Amendments
- Parking Waiver Ordinance for Business District
- Solid Waste Service Assessment Ordinance
- PACE District Agreements
- Debris Collection and Disposal Agreements

**Litigation:**

Victor May v. Sandra Novoa, Daniel Edward Dietch, Daniel Gielchinsky, Barry Richard Cohen, Michael Karukin, Tina Paul, Guillermo Olmedillo, Weiss Serota Helfman Cole & Bierman, P.L., Alexander Boksner, Christina White, Miami-Dade County Supervisor of Elections, et al. Case No. 2018 – 13373-CA-01, Circuit Court, Eleventh Judicial Circuit, Miami-Dade County, Florida. On April 25, 2018, the County Court (Case No. 2018-04205-CC-05) entered an order granting Defendants', Sandra Novoa's and Christina White's Motions to Dismiss the first election challenge case for lack of subject matter jurisdiction. On April 27, 2018, Plaintiff Victor May filed a new lawsuit in Circuit Court seeking to challenge the March 20, 2018 general election alleging election code breaches, and adding various counts or claims including, Misfeasance in Code Compliance, Transparency Act Violations, Water Billing Overcharge and Outside Employment Bonds. On May 24, 2018, the Court entered an Order denying various motions filed by Plaintiff May, including Motion to stop, delay or otherwise cease the government of Surfside, Motion to suspend attorneys, Motion for default, Motion to stop obstruction or delay by attorneys, and entered an Order in favor of Defendants granting a protective order in part. On June 11, 2018, Appellant May filed an appeal of the Circuit Court's Order with the Third District Court of Appeal, Case No. 3D18-1133. On July 3, 2018, the Third District Court of Appeals granted the Town Appellee's motion to dismiss the appeal for lack of jurisdiction and dismissed the appeal from the Circuit Court. The case is pending before the Circuit Court.

**Special Matters:** Continued monitoring of new case law and legislation from Federal, State and County. Matters which we will continue to work on, some of which you may anticipate in the upcoming months, include issues related to evaluation of unsolicited proposals for the Abbot Lot and Town Hall Parcel, sign code revisions, conceptual parking strategies, freeboard regulations and ordinances, ordinance providing for revisions to development application procedures, ordinance on building length and separations, ordinance on marine turtle lighting regulations, ordinance on cone of silence procurement procedures, ordinances and resolutions addressing solar panels and plastic straws, interlocal agreements for shuttle services, recycling ordinance, short term rental provisions, sustainability initiatives and legislation, beach furniture regulations and policies, and various procurements.



## Town of Surfside

### PARKS & RECREATION COMMITTEE MEETING MINUTES

**May 21, 2018 – 7:00 p.m.**

Surfside Community Center  
9301 Collins Avenue  
Surfside, FL 33154

#### 1. Call to Order/Roll Call

The meeting was called to order by Chair Logan at 7:03 p.m.

The following were present: Chair Retta Logan  
Vice Chair Eliana Salzhauer  
Committee Member Louisa Agresti

Absent: Committee Member Shlomo Danzinger  
Committee Member Zoya P. Javier

Also present: Tim Milian, Parks and Recreation Director  
Tina Paul, Town Commission Liaison  
Elora Riera, Deputy Town Clerk

#### 2. Approval of Minutes: April 16, 2018

Committee Member Agresti made a motion to approve the minutes. The motion was seconded by Vice Chair Salzhauer and all voted in favor.

#### 3. Higher Education Scholarship

Parks & Recreation Director Milian commented that he only received one application. He distributed the application for the Committee's review. By consensus, the Committee agreed to award one of the scholarships to Jorge Cortes.

The Committee discussed two options for the remaining scholarship funds such as extending the scholarship deadline and whether the remaining funds could be rolled over to the next fiscal year.

After some discussion, Vice Chair Salzhauer made a motion to extend the application deadline to August 1<sup>st</sup> and award the remaining funds to a qualified applicant being that the Committee receives more qualified applications and if there are no other applications, the Committee directs Commissioner Paul to inquire if the remaining funds could be rolled over to the next fiscal year. The motion was seconded by Committee Member Agresti and all voted in favor.

#### 4. Memorial Day Event

Parks & Recreation Director Milian commented that the Memorial Day event will be taking place at Veterans' Park on May 28<sup>th</sup> at 10:00 a.m. The Girl Scouts will be burying the ashes of flags in a biodegradable urn.

**5. Summer Camp Registration Update**

Parks & Recreation Director Milian commented that the teen camp has 7 open spaces left and is almost at capacity. Session 1 and 2 are full and the extended camp is on a waiting list. He encouraged the Committee Members to spread the word on summer camp registration.

Discussion ensued regarding the kids use of electronics during the camp. This item will be placed on the agenda for the following year for discussion.

**6. Lifeguard Stand Update**

Parks & Recreation Director Milian commented that the lifeguard stand is officially up. It will soon be painted and the windows have been ordered and should be delivered at the end of May. The lightning detection system has been installed and the guards are very happy with the stand. This stand could possibly be used as the permanent stand. He stated that FEMA will be reimbursing the Town for a portion of the stand.

**7. Public Comments**

Vice Chair Salzhauer inquired about the 96<sup>th</sup> Street Park. Parks & Recreation Director Milian responded that it is in the works to being renovated.

Parks & Recreation Director Milian and Deputy Town Clerk Riera reminded the Committee that the purpose of public comments is for the general public and not the Committee Members. If the Committee Members have questions or would like to add an item to the agenda, they may contact Parks & Recreation Director Milian before the meeting or make a motion at the beginning of the meeting to add an item to the agenda.

**8. Adjournment**

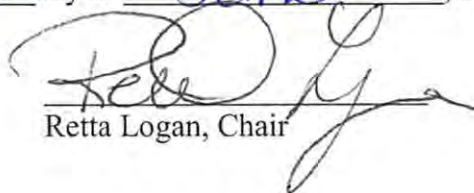
Passing the gavel, Chair Logan made a motion to adjourn the meeting at 7:45 p.m. The motion received a second from Committee Member Agresti and all voted in favor.

Respectfully submitted:

Accepted this 18<sup>th</sup> day of June, 2018

Attest:

  
\_\_\_\_\_  
Elora Riera, CMC  
Deputy Town Clerk

  
Retta Logan, Chair



## Town of Surfside Commission Communication

**Agenda Item #** 3E

**Agenda Date:** July 10, 2018

**Subject:** Property Assessed Clean Energy

**Background:** Surfside joined Bay Harbor Islands and the Village of Biscayne Park in an interlocal agreement to create a Clean Energy Coastal Corridor in August 2013 (Attachment A), per the requirements of Florida Statute 163.08, for the creation of a Property Assessed Clean Energy (PACE) Program. Ygrene was designated to act as the administrator for that original PACE program.

Generally, PACE programs provide a way to finance a range of upgrades that save energy, conserve water, harness renewable energy, and protect against natural disasters such as hurricanes and earthquakes.

Property owners can secure 100% financing based on available equity in their property and ability to pay, among other factors. The amount financed, plus interest and any applicable fees, is then added to the property owner's property taxes and paid over time – on an annual or semi-annual property tax bill, or via escrow as part of a monthly mortgage payment. PACE financing is secured with a continuing lien on the property.

Since the Town joined the original PACE Program, the State of Florida has revised the legislation to permit other organizations to create and implement other PACE programs. Each of these programs offers their own financing, rate and fee structures, but operates in the same way as the original program, allowing homeowners long-term financing that can be tied to their mortgage or property taxes.

The Town was approached by one of the new program vendors (Attachment B) and we have reached out to the other two primary vendors. Staff has not evaluated or compared the vendors or their programs. These are essentially commercial loan services which any homeowner would research and evaluate to determine which program offers the best opportunity to meet the homeowner's specific needs.

In order for each of these additional programs to be available to our Town residents, the Town must enter into an agreement with the Program. The Town's agreement essentially joins the Town to an existing PACE Program agreement which that entity is operating. In addition, each of the PACE programs is operated by a third-party administrator. At our attorney's request, each of the third party administrators have agreed to indemnify the Town for all actions arising out of their administration of the respective PACE Program they are implementing. The table below identifies the three new PACE programs which the Town can make available, the underlying PACE Program creation agreement, and

the third party administrator for each Program. The attached Resolution approves all three new PACE Programs, authorizing the Town to enter into an Agreement with the entity for participation in the new program and into an indemnification agreement with the respective third party administrators. All documents for the new Programs (1. Town agreement for participation in each new PACE Program; 2. Underlying agreement which created each of the new PACE Programs; and 3. Indemnification protection for the Town from the third party administrator for each new PACE Program) are attached to the Resolution.

<b>NEW PACE PROGRAM PROVIDERS</b>			
	<b>PACE Program Entity with whom the Town is entering into agreement (title of Agreement in parenthesis)</b>	<b>Underlying PACE Agreement that the Town is joining</b>	<b>Third Party Administrator</b>
<b>A</b>	Florida Green Finance Authority (Resolution Attachment A-1: "Party Membership Agreement to the Florida Green Finance Authority")	Resolution Attachment A-2: Second Amended and Restated Interlocal Agreement Forming the Florida Green Finance Authority (2016)	Renew Financial Group Resolution Attachment A-3: Renew Financial Group Indemnification
<b>B</b>	Florida PACE Funding Agency (Resolution Attachment B-1: "Non-exclusive Interlocal Subscription Agreement Relating to the Funding and Financing of Qualifying Improvements by the Florida Pace Funding Agency")	Resolution Attachment B-2: Amended and Restated Interlocal Agreement Relating To the Establishment of the Florida Pace Funding Agency	Counterpointe Energy Solutions (FL) LLC Resolution Attachment B-3: Counterpointe Indemnification
<b>C</b>	Florida Resiliency Energy District (Resolution Attachment C-1: "Limited Purpose Party Membership Agreement Between the Florida Resiliency And Energy District and the Town of Surfside")	Resolution Attachment C-2: Interlocal Agreement Relating to the Creation of the Florida Resiliency and Energy District, A Property Assessed Clean Energy District, and Authorizing Financing Pursuant Thereto (2016)	Florida Development and Finance Corporation Resolution Attachment C-3: FDFC Indemnification
<b>*</b>	<b>EXISTING PACE PROGRAM Attachment A to this memo –</b> Interlocal Agreement Between the Town of Bay Harbor Islands, Florida, The Village of Biscayne Park, Florida and the Town of Surfside, Florida	Interlocal Agreement Between the Town of Bay Harbor Islands, Florida, and the Village of Biscayne Park and Other Municipalities to Join the Corridor (part of Attachment A to this Memo including Resolution 13-2170)	Ygrene Energy Fund, Florida, LLC

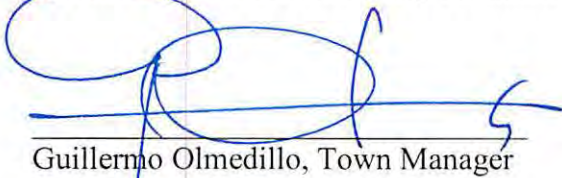
**Analysis:** By authorizing the addition of the three additional new PACE Program providers, residential and commercial property owners in Surfside will have more options from which to choose a financing option.



**Budget Impact:** None.

**Staff Impact:** None.

**Recommendation:** The Administration recommends approving the accompanying resolutions authorizing Florida Green Finance Authority, Florida PACE Funding Agency, and Florida Resiliency and Energy District to offer their services to the residential and commercial property owners in Surfside and authorizing the Town Manager to enter into each of the respective Agreements and the indemnification agreements with the third party administrators.



Guillermo Olmedillo, Town Manager



DT

**RESOLUTION 1148**

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF BAY HARBOR ISLANDS, FLORIDA, CREATING THE CLEAN ENERGY COASTAL CORRIDOR PROPERTY ASSESSED CLEAN ENERGY DISTRICT IN ACCORDANCE WITH SECTION 163.08, FLORIDA STATUTES; ADOPTING AN INTERLOCAL AGREEMENT PURSUANT TO SECTION 163.01, FLORIDA STATUTES BETWEEN THE TOWN OF BAY HARBOR ISLANDS AND OTHER MUNICIPALITIES RELATING TO THE NORTH-DADE CORRIDOR PROPERTY ASSESSED CLEAN ENERGY (PACE) DISTRICT; PROVIDING FOR AUTHORIZATION; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, in 2010, the Florida Legislature adopted HB 7179 (Section 163.08, F.S.) (the "Bill"), which allows local governments to create Property Assessed Clean Energy (PACE) programs in order to provide the upfront financing for energy conservation and efficiency (i.e. energy-efficient heating, cooling, or ventilation systems), renewable energy (i.e. solar panels), and wind resistance (i.e. impact resistant windows) improvements (the "Qualifying Improvements"); and

WHEREAS, PACE programs not only assist residents and business owners in reducing their carbon footprint and energy costs, but also stimulate the local economy by the creation of needed construction jobs; and

WHEREAS, the Bill authorizes local governments that create PACE programs to enter into a partnership in order to provide more affordable financing for the installation of the Qualifying Improvements; and

WHEREAS, given the wide spread energy and economic benefits of PACE programs, the Town Council desires to create the Clean Energy Coastal Corridor PACE District in order to provide the upfront financing to property owners for Qualifying Improvements and to enter into an interlocal with other municipalities for the purpose of financing such improvements; and

WHEREAS, the Town Council finds that this Resolution is in the best interest and welfare of the residents of the Town of Bay Harbor Islands.

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

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

**Section 2. Creation of PACE District.** The Town Council hereby creates the Clean Energy Coastal Corridor PACE District pursuant to Section 163.08, Florida, for the purpose of providing upfront financing to property owners for Qualifying Improvements.

**Section 3. Adoption of Inter-local Agreement.** The Town Council hereby approves the Interlocal Agreement pursuant to Section 163.01, Florida Statutes between the Town of Bay Harbor Islands and other municipalities, in substantially the form attached hereto as Exhibit "A," relating to the Clean Energy Coastal Corridor PACE District (the "Interlocal Agreement").

**Section 4. Authorization.** The Town Manager or designee is hereby authorized to transmit the Interlocal Agreement to other municipalities and request that such municipalities join the PACE District.

**Section 5. Effective Date.** This Resolution shall take effect immediately upon adoption.

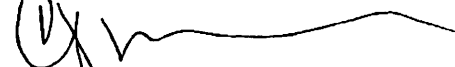
PASSED and ADOPTED this 14th day of January, 2013

  
\_\_\_\_\_  
Mayor Isaac Salver

Attest:

  
\_\_\_\_\_  
Marlene Marante, Town Clerk

APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY:

  
\_\_\_\_\_  
Town Attorney

ATTEST:

Village of Biscayne Park, a municipal  
corporation of the State of Florida

BY: Maria C. Camara  
Maria C. Camara, Village Clerk

BY: Ana M. Garcia  
Ana M. Garcia, Village Manager

(Affix Seal)

Approved by Village Attorney  
as to form and legal sufficiency

John J. Hearn  
John J. Hearn, Village Attorney

1  
2  
3 **RESOLUTION NO. 2013-14**  
4

5 **A RESOLUTION OF THE VILLAGE COMMISSION OF**  
6 **THE VILLAGE OF BISCAYNE PARK, FLORIDA,**  
7 **CREATING A PROPERTY ASSESSED CLEAN ENERGY**  
8 **PROGRAM AND JOINING THE TOWN OF BAY**  
9 **HARBOR ISLANDS IN THE CLEAN ENERGY**  
10 **COASTAL CORRIDOR PROGRAM IN ACCORDANCE**  
11 **WITH SECTION 163.08, FLORIDA STATUTES;**  
12 **ADOPTING AN INTERLOCAL AGREEMENT**  
13 **PURSUANT TO SECTION 163.01, FLORIDA STATUTES**  
14 **RELATING TO THE CORRIDOR; PROVIDING FOR**  
15 **AUTHORIZATION; AND PROVIDING FOR AN**  
16 **EFFECTIVE DATE.**

17  
18 **WHEREAS,** in 2010, the Florida Legislature adopted HB 7179 (Fla. Stat. §163.08) (the  
19 "Bill"), which allows local governments to create Property Assessed Clean Energy (PACE)  
20 programs in order to provide the upfront financing for energy conservation and efficiency (i.e.  
21 energy-efficient heating, cooling, or ventilation systems), renewable energy (i.e. solar panels),  
22 wind resistance (i.e. impact resistant windows) and other improvements that are not inconsistent  
23 with state law (the "Qualifying Improvements"); and,  
24

25 **WHEREAS,** PACE programs not only assist residents and business owners in reducing  
26 their carbon footprint and energy costs, but also stimulate the local economy by the creation of  
27 needed construction jobs; and,  
28

29 **WHEREAS,** the Bill authorizes local governments that create PACE programs to enter  
30 into a partnership in order to provide more affordable financing for the installation of the  
31 Qualifying Improvements; and,  
32

33 **WHEREAS,** given the wide spread energy and economic benefits of PACE programs,  
34 the Commission of the Village of Biscayne Park desires to join the Town of Bay Harbor Islands  
35 in creating the Clean Energy Coastal Corridor in order to provide the upfront financing to  
36 property owners for Qualifying Improvements and to enter into an interlocal with other  
37 municipalities for the purpose of financing such improvements; and,  
38

39 **WHEREAS,** the Commission finds that this Resolution is in the best interest and  
40 welfare of the residents of the Village of Biscayne Park and its inhabitants.  
41

42 **NOW, THEREFORE, BE IT RESOLVED BY THE COMMISSION OF THE**  
43 **VILLAGE OF BISCAYNE PARK, FLORIDA, AS FOLLOWS:**  
44

45 **Section 1.** Recitals. The above recitals are true and correct and are incorporated  
46 herein by this reference.  
47

48 **Section 2.** Creation of PACE Program. The Commission hereby creates a PACE  
49 Program pursuant to Fla. Stat. §163.08 for the purpose of providing upfront financing to  
50 property owners for Qualifying Improvements.  
51

52 **Section 3.** Adoption of Interlocal Agreement. The Commission hereby approves an  
53 interlocal agreement pursuant to Fla. Stat. §163.01 between the Town of Bay Harbor Islands and

1 other municipalities, in substantially the form attached hereto as Exhibit "A," relating to the  
2 Clean Energy Coastal Corridor (the "Interlocal Agreement").  
3

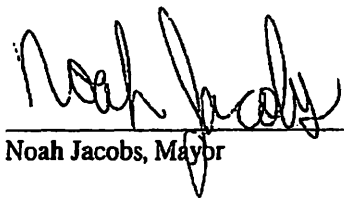
4 **Section 4.** Authorization. The Village Manager or designee is hereby authorized to  
5 execute the Interlocal Agreement.  
6

7 **Section 5.** Effective Date. This Resolution shall take effect immediately upon  
8 adoption.  
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11 PASSED AND ADOPTED this 2<sup>nd</sup> day of April, 2013.  
12

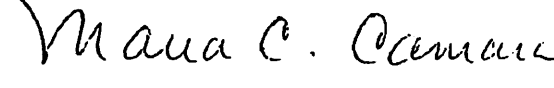
**The foregoing resolution upon being  
put to a vote, the vote was as follows:**

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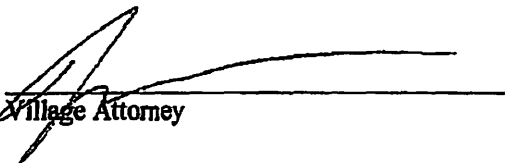
  
\_\_\_\_\_  
Noah Jacobs, Mayor

Mayor Jacobs: Yes  
Vice Mayor Cooper: Absent  
Commissioner Anderson: Yes  
Commissioner Ross: Yes  
Commissioner Watts: Yes

Attest:

  
\_\_\_\_\_  
Maria C. Camara, Village Clerk

Approved as to form:

  
\_\_\_\_\_  
Village Attorney

RESOLUTION 13 – 2170

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA (TOWN), CREATING A PROPERTY ASSESSED CLEAN ENERGY PROGRAM AND JOINING THE TOWN OF BAY HARBOR ISLANDS AND THE VILLAGE OF BISCAYNE PARK IN CREATING THE CLEAN ENERGY COASTAL CORRIDOR PROGRAM IN ACCORDANCE WITH SECTION 163.08, FLORIDA STATUTES; ADOPTING AN INTERLOCAL AGREEMENT PURSUANT TO SECTION 163.01, FLORIDA STATUTES RELATING TO THE CORRIDOR; PROVIDING FOR AUTHORIZATION; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, in 2010, the Florida Legislature adopted HB 7179 (Section 163.08, F.S.) (the “Bill”), which allows local governments to create Property Assessed Clean Energy (PACE) programs in order to provide the upfront financing for energy conservation and efficiency (i.e. energy-efficient heating, cooling, or ventilation systems), renewable energy (i.e. solar panels), wind resistance (i.e. impact resistant windows) and other improvements that are not inconsistent with state law (the “Qualifying Improvements”); and

WHEREAS, PACE programs not only assist residents and business owners in reducing their carbon footprint and energy costs, but also stimulate the local economy by the creation of needed construction jobs; and

WHEREAS, the Bill authorizes local governments that create PACE programs to enter into a partnership in order to provide more affordable financing for the installation of the Qualifying Improvements; and

WHEREAS, given the wide spread energy and economic benefits of PACE programs, the Commission desires to join the Town of Bay Harbor Islands and The Village of Biscayne Park in creating the Clean Energy Coastal Corridor in order to provide the upfront financing to property owners for Qualifying Improvements and to enter into an Interlocal Agreement with other municipalities for the purpose of financing such improvements; and

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

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, AS FOLLOWS:

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

**Section 2. Creation of PACE Program.** The Town Commission hereby creates a PACE Program pursuant to Section 163.08, Florida Statute, for the purpose of providing upfront financing to property owners for Qualifying Improvements.

**Section 3. Adoption of Interlocal Agreement.** The Commission hereby approves an interlocal agreement pursuant to Section 163.01, Florida Statutes, the Town of Surfside, the Town of Bay Harbor Islands and The Village of Biscayne Park, in substantially the form attached hereto as Exhibit "A," relating to the Clean Energy Coastal Corridor (the "Interlocal Agreement").

**Section 4. Authorization.** The Town Manager or designee is hereby authorized to execute and implement the terms of the Interlocal Agreement.

**Section 5. Effective Date.** This Resolution shall take effect immediately upon adoption.


PASSED and ADOPTED on this 11<sup>th</sup> day of June, 2013

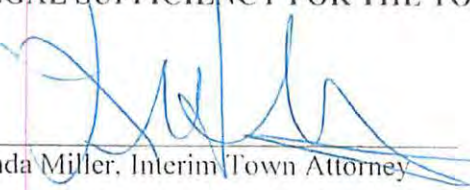
Motion by Commissioner Graubart, second by Commissioner Kligman.

**FINAL VOTE ON ADOPTION**

Commissioner Joseph Graubart	<u>YES</u>
Commissioner Michelle Kligman	<u>YES</u>
Commissioner Marta Olehyk	<u>YES</u>
Vice Mayor Michael Karukin	<u>YES</u>
Mayor Daniel Dietch	<u>YES</u>

  
\_\_\_\_\_  
Daniel Dietch, Mayor

ATTEST:  
  
\_\_\_\_\_  
Sandra Novoa, CMC  
Town Clerk

APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY FOR THE TOWN OF SURFSIDE ONLY:  
  
\_\_\_\_\_  
Linda Miller, Interim Town Attorney



CLERK OF DISTRICT COURT  
OF THE 13TH JUDICIAL CIRCUIT  
RECORDED 09/20/2012 10:19:20  
LARRY BROWN, CLERK OF COURT  
MIAMI-DADE COUNTY, FLORIDA

**EXHIBIT "A"**

**INTERLOCAL AGREEMENT BETWEEN  
THE TOWN OF BAY HARBOR ISLANDS, FLORIDA, AND THE VILLAGE OF  
BISCAYNE PARK AND OTHER MUNICIPALITIES TO JOIN THE CORRIDOR,**

This Interlocal Agreement is entered into between the Town of Bay Harbor Islands, Florida, a Florida municipal corporation, hereinafter referred to as "the Town;" and the Village of Biscayne Park, Florida, a Florida municipal corporation, hereinafter referred to as the "Coastal Corridor." (Collectively, the "Parties")

**RECITALS**

**WHEREAS**, Section 163.01, Florida Statutes, the "Florida Interlocal Cooperation Act of 1969," authorizes local government units to enter into interlocal agreements for the mutual benefit of governmental units; and

**WHEREAS**, Section 163.01(7), Florida Statutes, allows for the creation of a "separate legal entity" constituted pursuant to the terms of the interlocal agreement to carry out the purposes of the interlocal agreement for the mutual benefit of the governmental units; and

**WHEREAS**, the Parties desire to enter into an interlocal agreement creating a separate legal entity entitled the Clean Energy Coastal Corridor, hereinafter referred to as the "Authority;" and

**WHEREAS**, Section 166.021, Florida Statutes, authorizes the Parties to exercise any power for municipal purposes, except when expressly prohibited by law; and

**WHEREAS**, Section 163.08, Florida Statutes, provides that a "local government," defined as a county, municipality, a dependent special district as defined in Section 189.403, Florida Statutes, or a separate legal entity created pursuant to Section 163.01(7), Florida Statutes may finance energy related "qualifying improvements" through voluntary assessments; and

**WHEREAS**, Section 163.08, Florida Statutes, provides that improved property that has been retrofitted with energy-related qualifying improvements receives the special benefit of alleviating the property's burden from energy consumption and assists in the fulfillment of the state's energy and hurricane mitigation policies; and

**WHEREAS**, Section 163.08(5), Florida Statutes, provides that local governments may enter into a partnership with one or more local governments for the purpose of providing and financing qualifying improvements; and

**WHEREAS**, the Parties to this Interlocal Agreement have expressed a desire to enter into this Interlocal Agreement in order to authorize the establishment of the Authority as a means of implementing and financing a qualifying improvements program within the Authority; and



**WHEREAS**, the Parties have determined that it is necessary and appropriate to create the Authority and to clarify various obligations for future cooperation between the Parties related to the financing of qualifying improvements within the Authority; and

**WHEREAS**, the Parties have determined that it shall serve the public interest to enter into this Interlocal Agreement to make the most efficient use of their powers by enabling them to cooperate on a basis of mutual advantage to provide for the financing of qualifying improvements within the Authority.

**NOW, THEREFORE**, in consideration of the terms and conditions, promises and covenants hereinafter set forth, the Parties agree as follows:

**Section 1. Recitals Incorporated.** The above recitals are true and correct and incorporated herein.

**Section 2. Purpose.** The purpose of this Interlocal Agreement is to consent to and authorize the creation of the Authority, pursuant to Section 163.08, Florida Statutes in order to facilitate the financing of qualifying improvements for property owners within the Authority. The Authority shall be a separate legal entity, pursuant to Section 163.01(7), Florida Statutes.

**Section 3. Qualifying Improvements.** The Authority shall allow the financing of qualifying improvements as defined in Section 163.08, Florida Statutes in addition to any other improvements or services not inconsistent with state law.

**Section 4. Enabling Ordinance or Resolution.** The Parties to this Interlocal Agreement agree to approve and keep in effect such resolutions and ordinances as may be necessary to approve, create and maintain the Authority. Said ordinances and resolutions shall include all of the provisions as provided for in Sections 163.01 and 163.08, Florida Statutes, for the creation of a partnership between local governments as a separate legal entity. The Authority shall be created upon the execution of this Interlocal Agreement by the Parties hereto and the adoption of an ordinance or resolution of support by the Parties establishing the Authority. Additional local governments may join in and enter into this Interlocal Agreement by approval of the Board (as defined in Section 6 below), execution of this Interlocal Agreement and adoption of an ordinance or resolution of support establishing the Authority.

**Section 5. Authority Boundaries.** The boundaries of the Authority shall be the legal boundaries of the local governments that are Parties to this Interlocal Agreement. As contemplated in this Interlocal Agreement, the Authority will levy voluntary assessments on the benefitted properties within the boundaries of the Authority to help finance the costs of qualifying improvements for those individual properties. Upon petition by the landowners of individual properties desiring to be benefitted, those properties receiving financing for qualifying improvements shall be assessed from time to time, in accordance with the applicable law. Notwithstanding a Parties termination of participation within this Interlocal Agreement, those properties that have received financing for qualifying improvements shall continue to be a part of the Authority, until such time that all outstanding debt has been satisfied.

**Section 6. Governing Board of the Authority.** The Authority shall be governed by a governing board (the "Board") which shall be comprised of property owners within the jurisdictional boundaries of the Parties to this Interlocal Agreement and one at large property owner from within the Authority. The maximum number of members of the Board serving at any given time shall be no more than seven (7) and the minimum number of members shall be not less than three (3), except for the initial Board meeting, which may consist of two (2) members and shall be held for the sole purpose of initiating the bond validation proceeding and ratifying the assignment of the Third Party Administrator agreement. Notwithstanding the foregoing, the maximum number of members on the Board may be increased by a majority vote of the Board. The initial Board shall serve for an initial four (4) year term and shall consist of one (1) representative appointed by each of the Parties from within their jurisdictional boundaries. The initial at large member of the Board shall be appointed by a majority vote of the Board. All subsequent renewal terms shall be for four (4) years. In the event a Board member is no longer eligible to serve on the Board, that Party to this Interlocal Agreement shall appoint a replacement to fulfill the remaining term of that member. The Board's administrative duties shall include all duties necessary for the conduct of the Board's business and the exercise of the powers of the Authority as provided in Section 11.

**Section 7. Decisions of the Board.** Decisions of the Board shall be made by majority vote of the Board. The Board may adopt rules of procedure. In the absence of the adoption of such rules of procedure, the fundamental parliamentary procedures of Roberts Rules of Order shall apply.

**Section 8. Authority Staff and Attorney.** The Town of Bay Harbor Islands Manager shall serve as the staff to the Authority and the Town of Bay Harbor Islands Attorney shall serve as the counsel to the Authority, unless otherwise determined by the Board.

**Section 9. Financing Agreement.** The Parties agree that the Authority shall enter into a financing agreement, pursuant to Section 163.08(8), Florida Statutes, with property owner(s) who obtain financing through the Authority.

**Section 10. Procurement.** The Parties agree and understand that the Town has selected Ygrene Energy Fund, Florida, LLC as the initial Third Party Administrator for the Authority (the "TPA"). The Parties further agree and understand that the selection of the TPA is exempt from competitive solicitation as the TPA was competitively procured, awarded and contracted by the Town of Cutler Bay, Florida (Request for Proposal 10-05). The Town will enter into an agreement with the TPA, which will be assigned to the Authority and ratified by the Board.

**Section 11. Powers of the Authority.** The Authority shall exercise any or all of the powers granted under Sections 163.01 and 163.08, Florida Statutes, as may be amended from time to time, which include, without limitation, the following:

- a. To finance qualifying improvements within the Authority boundaries;
- b. In its own name to make and enter into contracts;
- c. To employ agencies, employees, or consultants;

- d. To acquire, construct, manage, maintain, or operate buildings, works, or improvements;
- e. To acquire, hold, or dispose of property;
- f. To incur debts, liabilities, or obligations which do not constitute the debts, liabilities, or obligations of any of the Parties to this Interlocal Agreement;
- g. To adopt resolutions and policies prescribing the powers, duties, and functions of the officers of the Authority, the conduct of the business of the Authority, and the maintenance of records and documents of the Authority;
- h. To maintain an office at such place or places as it may designate within the Authority or within the boundaries of a Party to this Interlocal Agreement;
- i. To cooperate with or contract with other governmental agencies as may be necessary, convenient, incidental, or proper in connection with any of the powers, duties, or purposes authorized by Section 163.08, Florida Statutes, and to accept funding from local and state agencies;
- j. To exercise all powers necessary, convenient, incidental, or proper in connection with any of the powers, duties, or purposes authorized in Section 163.08, Florida Statutes; and
- k. To apply for, request, receive and accept gifts, grants, or assistance funds from any lawful source to support any activity authorized under this Agreement.

**Section 12. Quarterly Reports.** Upon the first financing agreement being funded by the Authority, a quarterly report of the Authority shall be completed in accordance with generally accepted Government Auditing Standards by an independent certified public accountant. At a minimum, the quarterly report shall include a balance sheet, statement of revenues, expenditures and changes in fund equity and combining statements prepared in accordance with generally accepted accounting principles. All records such as, but not limited to, construction, financial, correspondence, instructions, memoranda, bid estimate sheets, proposal documentation, back charge documentation, canceled checks, reports and other related records produced and maintained by the Authority, its employees and consultants shall be deemed public records, and shall be made available for audit, review or copying by a Party to this Interlocal Agreement upon reasonable notice.

**Section 13. Term.** This Interlocal Agreement shall remain in full force and effect from the date of its execution; provided, however, that prior to commencement of legal proceedings to validate the Authority program, any Party may terminate its involvement in the Authority and its participation in this Interlocal Agreement upon ten (10) days' written notice to the other Parties. Should a Party terminate its participation in this Interlocal Agreement, be dissolved, abolished, or otherwise cease to exist, the Authority and this Interlocal Agreement shall continue until such time as all remaining Parties agree to terminate. Thereafter, the Authority and this Interlocal Agreement, shall continue for a period of seven years and shall automatically renew for successive seven (7) year terms. After the initial term, any Party may terminate its involvement in the Authority and its participation in this Interlocal Agreement upon 90 days notice.

**Section 14. Consent.** This Interlocal Agreement and any required resolution or ordinance of an individual Party shall be considered the Parties' consent to the creation of the Authority as required by Sections 163.01 and 163.08, Florida Statutes.

**Section 15. Liability.** The Parties hereto shall each be individually and separately liable and responsible for the actions of its officers, agents and employees in the performance of their respective obligations under this Interlocal Agreement. Except as specified herein, the Parties shall each individually defend any action or proceeding brought against their respective agency pursuant to this Interlocal Agreement and shall be individually responsible for all of their respective costs, attorneys' fees, expenses and liabilities incurred as a result of any such claims, demands, suits, actions, damages and causes of action, including the investigation or the defense thereof, and from and against any orders, judgments or decrees which may be entered as a result thereof. For any action or proceeding brought against the Authority pursuant to this Interlocal Agreement, the Parties shall each contribute equally for all costs, attorneys' fees, expenses and liabilities incurred as a result of any such claims, demands, suits, actions, damages and causes of action, including the investigation or the defense thereof, and from and against any orders, judgments or decrees which may be entered as a result thereof. The Parties shall each individually maintain throughout the term of this Interlocal Agreement any and all applicable insurance coverage required by Florida law for governmental entities. Nothing in this Agreement shall be construed to affect in any way the Parties' rights, privileges, and immunities, including the monetary limitations of liability set forth therein, under the doctrine of "sovereign immunity" and as set forth in Section 768.28 of the Florida Statutes.

**Section 16. Notices.** Any notices to be given hereunder shall be in writing and shall be deemed to have been given if sent by hand delivery, recognized overnight courier (such as Federal Express), or it must be given by written certified U.S. mail, with return receipt requested, addressed to the Party for whom it is intended, at the place specified. For the present, the Parties designate the following as the respective places for notice purposes:

If to Town:	Ronald J. Wasson Town Manager 9665 Bay Harbor Terrace Bay Harbor Islands, FL 33154
With a Copy to:	Craig B. Sherman, Esq. Sherman & Sherman, P.A. Town Attorney Bank of America Building 2000 Glades Road, Suite 204 Boca Raton, FL 33431
If to Village:	Ana M. Garcia, Village Manager Village of Biscayne Park 640 NE 114th Street Biscayne Park, Florida 33161

With a Copy to: John Hearn  
Village Attorney  
1917 NW 81st Ave #100  
Coral Springs, FL 33071

**Section 17. Amendments.** It is further agreed that no modification, amendment or alteration in the terms or conditions herein shall be effective unless contained in a written document executed by the Parties hereto and the Authority.

**Section 18. Filing.** It is agreed that this Interlocal Agreement shall be recorded as required by Section 163.01(11), Florida Statutes.

**Section 19. Joint Effort.** The preparation of this Interlocal Agreement has been a joint effort of the Parties hereto and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the Parties than the other.

**Section 20. Merger.** This Interlocal Agreement incorporates and includes all prior negotiations, correspondence, 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 Interlocal 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 change, amendment, alteration or modification in the terms and conditions contained herein shall be effective unless contained in a written document executed with the same formality and of equal dignity herewith by all Parties to this Interlocal Agreement.

**Section 21. Assignment.** The respective obligations of the Parties set forth in this Interlocal Agreement shall not be assigned, in whole or in part, without the written consent of the other Parties hereto.

**Section 22. Records.** The Parties shall each maintain their own respective records and documents associated with this Interlocal Agreement in accordance with the requirements for records retention set forth in Chapter 119, Florida Statutes.

**Section 23. Governing Law and Venue.** This Interlocal Agreement shall be governed, construed and controlled according to the laws of the State of Florida. Venue for any claim,

objection or dispute arising out of the terms of this Interlocal Agreement shall be proper exclusively in Miami-Dade County, Florida.

**Section 24. Severability.** In the event a portion of this Interlocal Agreement is found by a court of competent jurisdiction to be invalid, the remaining provisions shall continue to be effective.

**Section 25. Effective Date.** This Interlocal Agreement shall become effective upon the execution by the Parties hereto and the recordation of the Agreement within the applicable county.

[Remainder of page intentionally left blank.]

IN WITNESS WHEREOF, the Parties hereto have made and executed this Interlocal Agreement on this 12<sup>th</sup> day of August, 2013.


ATTEST:

Town of Bay Harbor Islands, a municipal corporation of the State of Florida

BY:  BY:   
Town Clerk Town Manager

(Affix Seal)

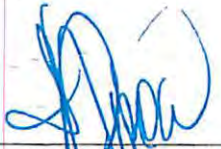
Approved by Town Attorney  
as to form and legal sufficiency

  
Town Attorney

IN WITNESS WHEREOF, the Parties hereto have made and executed this Interlocal Agreement on this 26<sup>th</sup> day of August, 2013.


ATTEST:

Town of Surfside, a municipal corporation of the State of Florida

BY:   
Town Clerk  
(Affix Seal)

BY:   
Town Manager

Approved by Town Attorney  
as to form and legal sufficiency

  
Town Attorney



Florida  
**PACE**  
Funding Agency

Information Statement

August 28, 2017

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## Introduction

The Florida PACE Funding Agency (the "Agency") presents a statewide uniform and scalable platform for the funding and financing of energy conservation, renewable energy and wind resistance improvements repaid through the imposition of voluntary special assessments against the real property benefitted by the improvements. This type of financing program – known as PACE which stands for "property assessed clean energy" - is entirely voluntary and allows interested private property owners an alternative to other types of financing. Unlike PACE programs in other states, the Florida statute also importantly allows for the financing of storm hardening and wind resistance improvements.

## PACE Overview

PACE programs offer a wide range of benefits, not only for the property owner who decides to obtain financing for qualifying improvements to the owner's property, but also for the broader public and the state and local governments involved in achieving what the Legislature describes as a compelling state interest. PACE programs can play an important role in hardening Florida buildings against [hurricane events](#), reducing local [greenhouse gas](#) emissions, promoting [energy efficiency](#) improvements in its buildings, making the shift to [renewable](#) sources of [energy](#) more affordable, reducing [energy](#) costs for residents and businesses, and, perhaps most notably, [encouraging local](#) private sector [economic activity](#) and [job creation](#).

Since development and attempted implementation of early PACE programs prior to 2011 in California and Colorado, the concept gained widespread attention and has been accepted at all levels of government with at least thirty-three (33) states, including Florida, adopting legislation expressly authorizing PACE financing. In Florida, qualifying improvements include renewable energy, energy efficiency and wind resistance improvements for buildings and improved properties. The funding is repaid in annual installments over a period of years (which should not exceed the useful life of the improvements) through a special assessment collected on the annual property tax bill. The acquisition of the improvements and the financing thereof through a special assessment is completely voluntary and only initiated upon the application and written consent of interested property owners. The yearly savings in utility costs resulting from energy-related improvements can exceed the amount of the annual assessment payment, which incentivizes property owners to seek the improvements; but is dependent upon disciplined use once installed. Wind resistance improvements can be an attractive means to avoid windstorm repair costs or lower casualty insurance premiums. Rebates and credits may also be available which reduce the overall cost and increase the appeal of making the improvements.

The fact that the amount financed is repaid through a special assessment is fundamental for several reasons. The assessment is secured by the property and is not

subject to acceleration by the Agency upon sale or transfer of the property, which can enable a new property owner to merely step into the place of the previous owner and assume responsibility for making the annual payment.<sup>1</sup> Special assessments are on parity with property taxes. The lien arising by virtue of the assessment is by general law co-equal with the lien of city and county property taxes and senior to all other liens and titles, including mortgages. This seniority status diminishes the risk of non-payment to the issuing local government involved, and is therefore attractive to the credit markets.

In a typical special assessment financing, the issuing local government charges for interest and costs associated with the amount financed to offset its borrowing costs and expenses incurred in administering the financing. With respect to a PACE assessment, the interest rate may be higher or lower than one otherwise available from a bank or commercial lending institution. More importantly, an interested property owner may simply be unable to find residential or commercial financing at all, or the retail rates and/or terms available may be such that the improvements are not economically feasible. The concept of PACE assessments presents an alternative to private property owners, which is why the relevant general law authority in the Florida Statutes is entitled "Supplemental Authority for Improvements to Real Property" or the "Supplemental Act" for short. In fact, the terms "property assessed clean energy" or "PACE" do not appear in the statute.

Florida local governments arguably possess home rule authority to develop and offer PACE programs, in the same way they possess home rule authority to levy and collect any other special assessment (e.g., assessments imposed to fund infrastructure and services related to roads, storm water, water, sewer, fire protection, etc.). However, the Florida legislature was smart to nonetheless adopt specific enabling legislation that by general law expressly authorizes PACE financing and intentionally addresses and resolves statewide the issues and mechanics that have hampered the success of programs in other states.

### **Florida PACE Legislation**

In 2010, Florida enacted Section 163.08, Florida Statutes (the "Supplemental Act"), to provide general law authority to use special assessments to finance "qualifying improvements" to real property. The Supplemental Act sets forth several state policy objectives related to energy efficiency and wind resistance improvements, and provides legislative determinations concerning the burdens relieved or special benefits conveyed to the assessed property by the delivery and financing of qualifying improvements. The act is by its terms "additional and supplemental to county and municipal home rule authority and not in derogation of such authority or a limitation upon such authority." Section 163.08(16), Florida Statutes. The exemplary list of qualifying improvements set forth in the Supplemental Act is extensive (not exhaustive) and includes not only energy efficiency and renewable energy improvements but also wind resistance improvements in recognition of the heightened risk of property damage presented by the state's high wind potential. Section 163.08(2)(b), Florida Statutes. The Supplemental Act has created and authorized the opportunity for a non-exclusive, uniform, scalable and statewide

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<sup>1</sup> Lenders to prospective buyers or the buyers themselves may require prepayment upon sale. The FHFA, which is the conservator of Fannie Mae and Freddie Mac, will not permit those agencies to buy mortgages if there is a PACE assessment on the property.

program pursuant to general law that may easily be accessed by property owners throughout Florida.

The drafters of the Supplemental Act undertook a careful analysis of PACE programs elsewhere around the country to capitalize on successes and avoid missteps in other jurisdictions. The text of the Supplemental Act includes many important and unique general law features and safeguards for the Florida program:

- Provides that special assessments imposed thereunder are by definition "non-ad valorem assessments" which may only be collected on the annual property tax bill in accordance with Section 197.3632, Florida Statutes.
- Provides for the execution of financing agreements with private property owners which evidence due process and provide constructive recorded notice and document both the terms and conditions pursuant to which qualifying improvements are financed and the property owner's consent to the imposition of the assessment.
- Establishes specific eligibility and credit limits and imposes limits for assessment amounts that cannot be exceeded without an energy audit demonstrating energy savings commensurate with the increased assessment amount.
- Renders unenforceable, as a matter of public policy, any provision in any agreement between a mortgagee and a property owner that allows for acceleration of payment of the mortgage or other unilateral modification solely as a result of entering into a financing agreement for a qualifying improvement.
- Provides that the mortgage escrow, if any, can be increased to include the annual assessment as part of the owner's monthly mortgage payment, which effectively converts the annual cost to a monthly cost.
- Addresses property owner eligibility for financing which requires (1) a record of on-time payment of property taxes, (2) no involuntary liens, judgments or similar involuntary liens, (3) demonstration that all mortgages have been paid timely and are current, (4) a 30-day prior notice to the mortgage holder (so the mortgage holder could increase the escrow, if applicable), and (5) the execution and recording of a financing agreement which evidences details and the existence of the assessment in the Official Records.
- Authorizes the issuance of bonds or other forms of indebtedness for funding qualifying improvements, payable from revenues received from the improved property, or any other available revenue source authorized by law.
- Allows for coordination or partnership with one or more local governments for the purpose of providing funding and financing of qualifying improvements.
- Authorizes administration by a for-profit entity or a not-for-profit organization on behalf of and at the discretion of the local government.
- Deliberately and expressly allows for a separate legal entity like the Florida PACE Funding Agency to act as a special purpose local government and provide its funding and financing services statewide.

The express authority to collaborate with other local governments and to engage third party administration expertise allows the Florida program to avoid various practical and economic disadvantages experienced by cities and counties around the country which have undertaken individual, localized programs with less than robust success. An

ad hoc, jurisdiction-by-jurisdiction approach has resulted in a lack of uniformity of standards from one local government to another, redundant expenditures of resources for startup and implementation costs and, depending on the size, population and interest level of property owners in a given community, an inability to create sufficient demand to attract significant funding at favorable and cost-efficient terms. Accordingly, individual local or small regional PACE programs have experienced very limited success.

A statewide program is more advantageous for and attractive to potential vendor participants because it offers a uniform set of standards with respect to construction or installation of the improvements and program administration. The breadth and scope of a statewide program can more effectively attract capital markets and large scale private sector administration, foster origination partnerships among commercial and industrial groups, educators, energy auditors, contractors, suppliers and installers – and naturally facilitate the creation of local private sector jobs and economic activity. The origination process is complex and requires marketing and consumer protection considerations driven by extraordinary concerns in emerging credit markets – all not well suited to local government skills and budgets.

Recognizing these advantages, the Florida PACE Funding Agency was specifically structured to take advantage of general law provisions to remove liability from local governments for implementation, provide uniform program parameters which are designed to be attractive to national credit markets and improvement vendors alike, develop economies of scale and scalable program attributes that allow for easy and cooperative embrace by local governments so that property owners desiring to avail themselves of PACE programs efficiently underwrite the entire cost of those programs as opposed to the general taxpayers. The Agency also provides an avenue to carefully implement the Supplemental Act and advance the 'compelling state interests' and statewide policy objectives set forth therein. Of more important note, the Agency has learned that available funding must be matched by consumer protection compliance, contractor education and focused outreach to achieve its service mission.

### **Florida PACE Funding Agency**

The Florida PACE Funding Agency was created in June 2011 through an interlocal agreement, as amended, between Flagler County and the City of Kissimmee (the "Charter Agreement") for purposes of capitalizing on the advantages of a statewide approach to PACE financing. The Agency and its statewide platform is the result of the effort by local governments with the needs of local governments in mind. A recorded copy of the most recently updated Charter Agreement is included on the Agency's website. Flagler County and the City of Kissimmee effectively are the 'incorporators' of this separate and focused legal entity. Creation of an entity of this nature is expressly authorized by Section 163.01, Florida Statutes, the Florida Interlocal Cooperation Act. The Agency's mission is to facilitate the implementation, planning, development, funding, financing, marketing and management of a uniform statewide platform so that counties and cities can easily and economically take advantage of a scalable program for their residential and commercial property-owning constituents. The Agency is authorized to and has entered into an indenture allowing for up to \$800 million in issuance of bonds to provide funds with which to finance qualifying improvements and to make available its funding program throughout Florida. The Agency is ready to provide this funding and

financing service to property owners statewide, and always seeks to coordinate and communicate with interested general purpose local governments (cities and counties) to advance this compelling state interest.

The Agency has carefully modified its approach to make it easier to encourage general purpose local governments (cities or counties) to be more accepting of its immediately available, uniform program to provide immediate positive local impact without cost or liability to the taxpayer base. The intended constituency of the Agency, in many respects, is both private property owners and general purpose local governments to create local markets with little or no cost to local government treasuries. This allows a city or county without any expenditure or liability to embrace or consent to interlocal activity with a completely separate special purpose local government which specializes in providing this financing the Legislature encourages and describes as compelling state interest. This Agency platform allows local governments to obtain the advantages of a PACE program and access capital markets without having to assemble extensive subject matter expertise, implement or deploy individual programs or individually seek or back-stop capital for their constituents. There are now at least three other separate legal entities that have formed to issue debt to provide such funding. As a matter of policy, the Agency embraces an open or non-exclusive approach, desires competitive choices for interested property owners and wants to provide its services and functions along with the several other PACE issuers in any and every jurisdiction. The Agency's objective is to be the best PACE program available.

In most every instance, all the Agency seeks is documentation of municipal acceptance or acknowledgment of its presence as a completely separate specialized local government serving under general law authority provided in the Supplemental Act. That can be accomplished in several ways. The easiest is a simple resolution of the municipality. The use, form and purpose of an interlocal agreement approach by the Agency has also been judicially validated and approved. The Agency will not require, but prefers a simple interlocal agreement documenting, clearly stating the general purpose local government has no liability emanating from the Agency – ever. A typical interlocal agreement does that and includes a friendly covenant to professionally cooperate and communicate with a county or municipality served. The Agency simply presents an attractive non-exclusive means to achieve the compelling state interest described in Section 163.08(1), Florida Statutes.

One of the most important advantages of the program offered by the Agency is limited liability for all the local governments relative to the Agency's Program. No other program in Florida can boast of the same degree of express protections provided by the Agency in this regard. Both the Charter Agreement of the Agency and any interlocal agreement will emphasize that any other local government is not responsible for actions or liabilities incurred by the Florida PACE Funding Agency. As well, each interlocal agreement the Agency employs expressly documents this insulation of liability provided pursuant to general law and validated by the court. All the foregoing is in addition to the status of any local government and the Florida PACE Funding Agency, as each also possesses sovereign immunity, which is not waived. All parties dealing with the Florida PACE Funding Agency will be notified in writing that the actions, debts, obligations and responsibilities of the Florida PACE Funding Agency are those of the Agency and no

other local government. These layered limitations of liability were also uniquely and expressly plead by the Agency and judicially validated and confirmed.

The Agency has been established by a charter, adopted a master bond resolution and successfully validated its ability to separately and independently issue bonds to fund the various voluntary financing agreements with interested property owners entered into pursuant to the general law authority of the Supplemental Act, together with a litany of matters and issues associated with the statutorily authorized non-ad valorem assessments which will comprise all or substantially all of the revenues to repay any bonds issued by the Agency.

### **Implementation**

Implementation of the Agency's program necessarily requires the appointment and selection of officials and consultants with a wide range of professional backgrounds.

**Board of Directors:** On November 7, 2011, the incorporators of the Agency appointed Cheryl Grieb, Barbara Revels, and Edward Marquez to serve on the Board of Directors for the Agency, each of whom possess a wealth of local government, real estate and financial experience. Mr. Marquez, the Deputy Mayor of Miami-Dade County, has since resigned and the Agency filled this seat with Jim Ley. Ms. Grieb and Ms. Revels were reappointed to subsequent terms. Mr. Ley is the well-known former County Administrator of Sarasota County, Florida. The Agency is currently undergoing a search to expand its Board from three (3) to five (5) members.

**Cheryl L. Grieb** then served as Vice Mayor and Commissioner of the City of Kissimmee City Commission, and was subsequently elected to the Osceola County Commission. Concurrently since 2000, Ms. Grieb has been the Owner/Manager of Olde Kissimmee Investments, Inc., specializing in commercial and residential real estate.

**Barbara S. Revels** served as a Commissioner on the Flagler County Board of County Commissioners from 2008 to 2016. She is a general contractor who serves as the president and owner of Coquina Real Estate & Construction, Inc., a full service real estate company and general contracting firm. Ms. Revels has previously served as the President of the Florida Homebuilders Association.

**Jim Ley** is engaged in private consulting. He is well-recognized in Florida local government circles having served as the Sarasota County, Florida, administrator for fourteen years, and previously as the Clark County, Nevada, administrator for several years. He recently was appointed to the Sarasota County Public Facilities Financing Advisory Board.

**Executive Director and General Counsel:** Mike Steigerwald serves as Executive Director and Don Smallwood serves as General Counsel and Assistant Secretary to the Agency. Mike Steigerwald is the City Manager of the City of Kissimmee, and Don Smallwood is the City Attorney for the City of Kissimmee.

**Counsel:** The Agency has engaged Mark G. Lawson, P.A., to provide special or program counsel services to the Agency, and Akerman LLP to provide bond counsel services to the Agency.



**Financial Advisors:** The Agency, through a public procurement process, has selected the PFM Group, FirstSouthwest and Hilltop Securities, LLC (formerly Southeastern Investments) to serve as co-financial advisors to the Agency.

**Separation of Administration and Financial Service Providers:** Since inception the Agency and its incorporators have been careful to separate and keep the contract administration and funding party contractual arrangements segregated. This policy aspect serves the Agency well and continues.

**Third Party Administrator:** Pursuant to an RFP process, the Agency initially selected and contracted with an entity now known Leidos Engineering, LLC (NYSE: LDOS) ("LDOS") to provide third party administration services and Partners Reinsurance (NYSE: PRE) ("PRE") as the Agency's initial funding party. Industry-wide the origination and financing process has proven challenging on a large scale; however, in 2016 the Agency made good progress attracting a well-informed successor to LDOS as the Agency's program administrator pursuant to the Agency's financing indentures. This now fully-completed transition was professional, congenially implemented by all parties involved, and applauded by the Agency. By approval of the Agency, the successor third party administrator is Counterpointe Energy Solutions (FL) LLC ("CESFL"), composed of the same expertise and principals as the party that served as the investor servicer for PRE, and accordingly, well familiar with the (1) the Agency, (2) Florida, and (3) the operations of LDOS and PRE. The Counterpointe family of corporate entities operates in multiple states under the AllianceNRG Program banner for residential property owners and the CounterpointeSRE Program banner for commercial property owners and brings, among other things, to the Agency (1) more specialized energy securitization expertise, as well as (2) an extraordinary, tested, and working internet-driven origination platform which interfaces seamlessly with the Agency. CESFL has also moved its headquarters offices to Boca Raton, Florida, and recently opened administrative offices in Maitland, Florida.

**Financial Services Providers:** From December 2011 through most of 2013, the Agency and its financial advisors investigated, solicited, considered and received numerous financing and funding proposals and options from every reasonably imaginable source. From 2014 to 2016 an initial funding partnership with PRE and its investor servicer, Counterpointe Energy Solutions, provided the initial funding to the Agency to fund its Program well into early 2016. As a part of the acquisition of PRE by EXOR N.V., one of Europe's leading investment companies, announced in 2015, the Agency and its advisors successfully worked with CounterPointe Energy Solutions to structure alternative residential and commercial funding sources. The currently operative bond indenture and overall financing closed on April 26, 2016. Funding is now being provided through two separate sources by approval of the Agency: (1) CounterPointe Energy Solutions Residential, LLC ("CESR") which is a separately structured compendium of residential PACE financing providers, and (2) CounterPointe Sustainable Real Estate LLC ("CSRE") which is working jointly with Hannon Armstrong Sustainable Infrastructure Capital, Inc. (NYSE: HASI) ("HASI"), a Maryland based real estate investment trust which focuses on energy efficiency markets. HASI has specific interest in being a funding party for commercial PACE projects nationwide. The strong PACE Program put in place by the Agency, now coupled with (a) a more diverse and competitive funding

approach, and (b) a stream-lined Internet origination solution facilitated by Counterpointe Energy Solutions and its affiliates, further assists the Agency in better serving property owners interested in this new market and to carefully spur local economic activity in communities throughout Florida.

With the careful reset of program administration consultants and professionals complete, the Agency is in a better position to share and engage in standard and brief interlocal agreements with interested local governments and commence a much more focused outreach to local contractors immediately. Bringing the focus of the Agency to any city or county can now be done by simple resolution of the governing body of any local government.

### **Validation**

The Agency, as one of its initial fundamental actions, filed its Validation Complaint in July 2011 seeking judicial approval to issue as much as 2 billion dollars in bonds to be issued from time to time as funds are needed. The dollar amount was premised upon a conservative economic analysis that there are at least 3,132,600 buildings which are over twenty (20) years old in Florida and likely candidates for retrofit or energy-related or wind resistant improvements. The economic analysis was performed by Real Estate Research Consultants, Inc., of Orlando, Florida (now GAI Consultants), and was based upon the assumption that if only five percent (5%) of the owners of such estimated number of buildings voluntarily apply for such retrofit improvements over the next several years, the necessity for potential aggregate of bonds issued in several series on an as needed basis could easily equal or exceed 2.35 billion dollars.

At the conclusion of the bond validation proceeding on August 25, 2011, the Circuit Court in and for Leon County, Florida, issued its Final Judgment validating and confirming the authority of the Agency to issue the bonds, the Charter Agreement creating the Agency, the validity of the financing agreements entered into with property owners, the Supplemental Act and the non-ad valorem assessments imposed thereunder, the execution and validity of interlocal agreements with local governments throughout Florida and all matters connected therewith. A copy of the Final Judgment is included on the Agency's website. The validation process resolves with finality the Agency's authority to administer its statewide program and clarified the unique prerequisites and provisions in the Supplemental Act that more closely follow guidelines then provided by the Office of the Controller of the Currency, which had suggested pragmatic guidance to its regulated banks for PACE related programs nationwide. The validation was not appealed and is final. Its effect is statewide.

## **Enforcement and Collection of Assessments**

The following material provides a detailed description of the enforcement mechanism for special assessments (including those levied under the authority of the Supplemental Act) which are collected pursuant to the uniform method set forth in Section 197.3632, Florida Statutes. Assessments collected thereunder are not enforced through foreclosure or similar courtroom proceedings, but rather through the statutory tax certificate/tax deed process administered by the county tax collector on behalf of the local government (in this case, the Agency) imposing the assessment. This is markedly more fair to the property owner.

The Supplemental Act provides that special assessments imposed thereunder shall be collected by the uniform method set forth in Section 197.3632, Florida Statutes, which provides that the assessments must be collected in the same manner and at the same time as county and municipal ad valorem taxes.<sup>2</sup> The statutes in Chapter 197 relating to enforcement of property taxes provide that such taxes become due and payable on November 1 of the year when assessed and constitute a lien upon the land from the previous January 1 of such year. The county tax collector is to bill such taxes together with all other ad valorem taxes and non-ad valorem assessments and landowners are required to pay all such taxes without preference in payment of any particular increment of the tax bill, such as the increment owing for the special assessments. Upon receipt of moneys from the tax collector, such moneys are typically deposited into whatever account or fund has been established to ensure timely repayment of any bonds or loans secured by the special assessments.

All county, municipal, school and special district taxes, assessments and voter-approved ad valorem taxes levied to pay principal of and interest on bonds, including any PACE-related special assessments, are payable at one time. If a taxpayer does not make complete payment, he cannot designate specific line items on his tax bill as deemed paid in full. In such cases, the tax collector cannot by law accept such partial payment and the partial payment is returned to the taxpayer. Accordingly, in order to pay the property taxes when due, a property owner must by law also pay all non-ad valorem assessments due. This feature is obviously attractive to credit markets who seek pledged revenues in the form of non-ad valorem assessments.

If the tax bill is paid during November when due or during the following three months, the taxpayer is granted a variable discount equal to 4% in November and decreasing 1% per month to 1% in February. All unpaid taxes become delinquent on April 1 of the year following assessment, and the tax collector is required to collect taxes prior to April 1 and after that date to institute statutory procedures upon delinquency to collect assessed taxes. Delay in the mailing of tax notices to taxpayers may result in a delay throughout this process. It is important to note that assessments imposed pursuant to the

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<sup>2</sup> While some Tax Collectors and Property Appraisers in the various counties initially suggested that they may disagree with the PACE concept on a policy basis, the validity of a non-ad valorem assessment is exclusively the responsibility of the local government imposing the assessment. Local Tax Collectors and Property Appraisers have a ministerial duty to collect the assessment, regardless of their individual view on the policy behind the assessment. *Escambia Cnty. v. Bell*, 717 So. 2d 85 (Fla. 1st DCA 1998). The Florida Department of Revenue has also confirmed this axiom in several informal advisories.

Supplemental Act are not subject to the early payment discount. See Section 163.08(4), Florida Statutes.

Collection of delinquent taxes is based upon the sale by the tax collector of "tax certificates" and remittance of the proceeds of such sale to the local government for payment of the amounts due. In the event of a delinquency in the payment of taxes, the landowner may, prior to the sale of tax certificates, pay delinquent taxes plus an interest charge of 18% per annum on the amount of delinquent taxes. If the landowner does not act, the tax collector is to sell tax certificates to the person who pays the taxes owing and interest thereon and certain costs, and who accepts the lowest interest rate to be borne by the certificates (but not more than 18%). If there are no bidders, the county is to hold, but not pay for, tax certificates with respect to the property, bearing interest at the maximum legal rate of interest. The county may sell such certificates to the public at any time at the principal amount thereof plus interest at the rate of not more than 18% per annum and a fee. The demand for such certificates is dependent upon various factors that include the rate of interest which can be earned by ownership of such certificates and the value of the land which is the subject of such certificates and which may be subject to sale at the demand of the certificate holder.

Any tax certificate in the hands of a person other than the county may be redeemed and canceled by the person owning or claiming an interest in the underlying land, or a creditor thereof, so long as such redemption occurs prior to the time a tax deed is issued. The person effecting such redemption must pay the face amount of the certificate and interest at the rate borne by the certificate plus costs and other charges. Regardless of the interest rate borne by the certificates, persons redeeming tax certificates must pay a minimum interest rate of 5%, unless the rate borne by the certificates is zero percent. The proceeds of such redemption are paid to the tax collector who transmits to the holder of the tax sale certificate such proceeds less service charges, and the certificate is canceled. Redemption of tax sales certificates held by the county is effectuated by purchase of such certificates from the county, as described in the preceding paragraph.

The private holder of a tax sale certificate which has not been redeemed has seven years from the date of issuance in which to act against the property. After an initial period of two years has passed, during which time action against the land is held in abeyance to allow for sales and redemptions of tax sale certificates, such holders may apply for a tax deed. The applicant is required to pay to the tax collector all amounts required to redeem outstanding tax certificates covering the land not held by him, and any omitted taxes or delinquent taxes, plus interest. If the county holds a tax certificate and has not succeeded in selling it, the county must apply for a tax deed after the county's ownership of such certificate for two years. The county pays costs and fees to the tax collector but not any amount to redeem other outstanding certificates covering the land. Thereafter, the property is advertised for public sale.

In any such public sale, the private holder of the tax certificate who is seeking a tax deed for non-homestead property is deemed to submit a minimum bid equal to the amount required to redeem the tax certificate, and charges for cost of sale, redemption or other tax certificates on the land, and the amounts paid by such holder in applying for the tax deed, plus interest thereon. In the case of homestead property, the minimum bid must

include, in addition to the amount of money required for the opening bid on non-homestead property, an amount equal to one-half of the assessed value of the homestead. If there are no other bidders, the holder receives title to the land, and the amounts paid for the certificate and in applying for a tax deed are credited toward the purchase price. If there are other bidders, the holder may enter the bidding. The highest bidder is awarded title to the land. If there are no bidders, the county may purchase the land within ninety (90) days of the offering for public sale for the minimum bid. After ninety (90) days have passed, any person may purchase the land by paying the minimum bid to the county. Taxes and assessments accruing after the date of public sale do not require repetition of this process but are added to the minimum bid. The portion of proceeds of such sale needed to redeem the tax sale certificate (and all other amounts paid by such person in applying for a tax deed) are forwarded to the holder thereof or credited to such holder if he is the successful bidder. Excess proceeds are distributed first to satisfy governmental liens against the property and then to the former titleholder of the property (less service charges). Seven (7) years after the date of public sale of the tax certificate, unsold lands escheat to the county in which they are located and all tax certificates and liens against the property are canceled and a deed is executed vesting title in the county commissioners.

The Agency does not give any assurance to the holders of the bonds (1) that past experience in a particular county with regard to tax and special assessment delinquencies is applicable in any way to special assessments levied pursuant to financing agreements, (2) that landowners who have executed financing agreements will pay or timely pay the special assessments, (3) that a market may exist in the future for the aforementioned tax certificates in the event of sale of such certificates, and (4) that eventual sale of tax certificates for real property subject to a financing agreement will be for an amount sufficient to pay amounts due under the financing agreement to discharge the lien of special assessments and all other liens that are coequal therewith. However, because of the nature of qualifying improvements (substantial improvements to existing improved properties, likely wide dispersal of participating properties, statutory underwriting guidelines, and required constructive notice), the uniform collection process should be quite attractive to mortgage and credit markets alike.

### **Encouragement by Cities and Counties**

Any general purpose local government (city or county) desiring to make available a PACE funding program to properties within its boundaries can easily attract the focus of the uniform program offered by the Florida PACE Funding Agency by interlocal agreement. Such an interlocal agreement sets forth the details of the professional interlocal coordination and communication involved. The Agency is authorized by general law to levy the assessments directly and enter into the financing agreements with participating property owners. The Agency is non-exclusive in its approach and any city or county may also undertake its own PACE program, or entertain any or all the other PACE programs at any time. The very limited role to obtain the focus of the Agency's Program is for any general purpose local government to adopt a resolution and/or interlocal agreement. Both of which can be prepared and shared with any interested community by contacting the Agency. All the other ministerial actions and activities and documentation (e.g., interface between interested property owners and qualified vendors, determining compliance with all legal requirements for a valid

financing agreement, recording, assessment roll extension) will be independently handled by the Agency as a separate and distinct local government through its third party administrator. Any interested local government may choose to provide additional marketing, public relations, or even seek to buy down or to fund assessments or program aspects within their communities, but is not required to do so.

This approach is designed to allow general purpose local governments (cities and counties) to participate in the advantages of PACE programs locally and access capital markets for private property owners, without having to assemble subject matter expertise, open themselves to liability, and expend significant taxpayer resources to implement or deploy individual programs or individually seek capital for only some of their constituents. It is the Agency that receives applications and works with each voluntary private property owner to levy and impose the assessments, not the city or county.

Although not required by the Agency, such an interlocal agreement confirms or provides for (a) attracting the Agency to act, provide its funding and associated financing services; (b) bringing a well thought out organizational process to each community to work with interested property owners and vendors; (c) the Agency, not the city or county, executes financing agreements which impose and provide for the collection of non-ad valorem assessments pursuant to general law; (d) the issuance of bonds of the Agency (not the city or county) to fund and finance qualifying improvements; (e) the proceeds of such non-ad valorem assessments and collection of the non-ad valorem assessments to be handled by the Agency's Trustee (an independent banking institution with trust powers and duties); (f) allows for termination at any time and reasonably protects the holders of any bonds of the Agency in such event; (g) gives disclosures about the services and activities of the Agency; and (h) provides professional coordination and interlocal communication covenants reasonably necessary and mutually agreed to by the parties to carry out the purpose and mission of the Agency.

Important features of this supplemental interlocal agreement approach are summarized as follows:

- The Agency seeks to establish interlocal communication and coordination with local governments prior to operating within the boundary of a city or county.
- The Agency's program approach is 'open' or 'non-exclusive'. That means any city or county local government can allow or bring in another PACE funding providers, and/or start their own local program at any time. The Agency embraces competition, seeks to be the best program and best cost alternative for the local constituents, and is simply a transparent and accountable alternative designed to serve, spur economic development, jobs, provide expertise in achieving the funding and financing of energy savings and wind resistant improvements for those private property owners who choose to do so.
- The Agency's platform allows for city or county local governments to take a benign approach or actively encourage the scalable and uniform advantages of the Agency's PACE program to secure the focused attention of capital markets, without having to implement or deploy individual programs or individually seek or pay for capital for their constituents.

- A city or county local government can take advantage of the Agency's subject matter expertise and program platform designed for local governments by local governments, giving any city or county local government the opportunity to better leverage any desired contribution by incentivizing alternative PACE program choices and by avoiding the funding of start-up costs.
- The Agency program immediately brings subject matter expertise and leverages the Agency's accumulated skill, innovation, and uniformity to the advantage of all Florida counties or city local governments in a collective fashion.
- The Charter Agreement, Agency Final Judgment, and any interlocal agreements with local governments make it clear that no other local government is responsible for the actions or liabilities incurred by the Agency, thus providing and confirming the insulation of liability pursuant to the Agency's structure and general law to any city or county local government.
- The Agency has strong partners for third-party administration and origination of both residential and commercial PACE financing under the AllianceNRG Program and CounterpointeSRE Program brands, respectively.
- CES also has developed an extraordinary "pipeline" approach to engaging and educating local contractors.
- The Florida PACE Funding Agency is funding in numerous communities statewide, and has financing capacity – right now. Its origination and consumer protection platforms are in place. It is headquartered in Florida, and ready to focus on additional communities. Upon adoption of a simple resolution accepting the Agency's presence, and/or authorizing execution of an interlocal agreement, origination outreach and the financing of qualifying projects can begin immediately.

General Law and the Agency's validation expressly considered the use of interlocal agreements. However, the Agency does not seek any more than some documentation of local acceptance, as it is empowered to act statewide, by general law.

**RESOLUTION NO. 2018- \_\_\_\_\_**

**A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, APPROVING PROPERTY ASSESSED CLEAN ENERGY (PACE) PROGRAMS WITH THE FLORIDA GREEN FINANCE AUTHORITY, THE FLORIDA RESILIENCY AND ENERGY DISTRICT, AND THE FLORIDA PACE FUNDING AGENCY; PROVIDING FOR AUTHORIZATION AND INDEMNIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, Section 163.08, *Florida Statutes* (the "Supplemental Act"), authorizes counties, municipalities and certain separate local government entities to establish and administer financing programs, commonly known as Property Assessed Clean Energy (PACE) Programs ("PACE Programs"), in order to provide the up-front financing for energy conservation and efficiency, renewable energy and wind resistance improvements ("Qualifying Improvements"), and repay such funding through voluntary special assessments, sometimes referred to as non-ad valorem assessments ("Special Assessments"), levied upon the improved property pursuant to financing agreements between the property owner and the local government ("Financing Agreements"); and

**WHEREAS**, on June 11, 2013, the Town of Surfside ("Town") Commission adopted Resolution No. 13-2170 authorizing the creation of a PACE Program and agreeing to join the Clean Energy Coastal Corridor ("Corridor"); and

**WHEREAS**, the Florida Green Finance Authority, the Florida Resiliency and Energy District, and the Florida PACE Funding Agency (collectively, the "Agencies") are currently three (3) separate legal entities and units of local government within the State of Florida which were established by separate interlocal agreements for the express purpose of providing PACE Programs in scalable and uniform platforms to facilitate the financing of Qualifying Improvements throughout Florida; and

**WHEREAS**, the Agencies would like to offer their PACE Programs within the Town; and

**WHEREAS**, each of the Agencies contracts with a third-party charged with administering their PACE Program. Specifically, the third party administrator for Florida Green Finance Authority is Renew Financial Group, LLC; the third party administrator for Florida PACE Funding Agency is Counterpointe Energy Solutions (FL) LLC; and the third party administrator for Florida Resiliency and Energy District is Florida Development and Finance Corporation (collectively, the "Administrators"); and



**WHEREAS**, the Administrators have agreed to indemnify the Town for acts during the administration of each of the respective PACE Programs; and

**WHEREAS**, the Town Commission finds that this Resolution is in the best interest and welfare of the residents of the Town.

**NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, AS FOLLOWS:**

**Section 1.**     **Recitals.** Each of the above-stated recitals are hereby adopted, confirmed, and incorporated herein.

**Section 2.**     **Approval.** The Town approves the Agencies to operate PACE Programs within the Town.

**Section 3.**     **Authorization.** The Town Manager is hereby authorized to negotiate and enter into agreements for participation in the PACE Programs and indemnification from the Administrators with (a) the Florida Green Finance Authority and Renew Financial Group, (b) Florida PACE Funding Agency and Counterpointe Energy Solutions (FL) LLC, and (c) the Florida Resiliency Energy District and Florida Development and Finance Corporation in substantially the forms attached hereto as Exhibits “A,” “B,” and “C,” subject to approval by the Town Attorney as to form, content, and legal sufficiency.

**Section 4.**     **Effective Date.** That this Resolution shall be effective immediately upon adoption.

**PASSED AND ADOPTED** this \_\_\_\_ day of \_\_\_\_\_, 2018.

Motion by \_\_\_\_\_.

Second by \_\_\_\_\_.

**FINAL VOTE ON ADOPTION**

Commissioner Barry Cohen	_____
Commissioner Michael Karukin	_____
Commissioner Tina Paul	_____
Vice Mayor Daniel Gielchinsky	_____
Mayor Daniel Dietch	_____

\_\_\_\_\_  
Daniel Dietch, Mayor

**ATTEST:**

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Sandra Novoa, MMC,  
Town Clerk

**APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY FOR THE TOWN OF SURFSIDE ONLY:**

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Weiss Serota Helfman Cole & Bierman, P.L.  
Town Attorney

**EXHIBIT "A"**  
**FLORIDA GREEN FINANCE AUTHORITY**

**A-1**  
**PARTY MEMBERSHIP AGREEMENT**  
**WITH**  
**FLORIDA GREEN FINANCE AUTHORITY**

**A-2**  
**SECOND AMENDED AND RESTATED INTERLOCAL AGREEMENT**  
**FORMING THE FLORIDA GREEN FINANCE AUTHORITY**

**A-3**  
**INDEMNIFICATION AGREEMENT**  
**BETWEEN**  
**RENEW FINANCIAL GROUP, LLC,**  
**ADMINISTRATOR FOR THE FLORIDA GREEN FINANCIAL AUTHORITY,**  
**AND THE TOWN OF SURFSIDE, FLORIDA**

**Party Membership Agreement  
To The Florida Green Finance Authority**

**WHEREAS**, Section 163.01, F.S., the “Florida Interlocal Cooperation Act of 1969,” authorizes local government units to enter into interlocal agreements for their mutual benefit; and

**WHEREAS**, the Town of Lantana, Florida, a Florida municipal corporation (“Lantana”) and the Town of Mangonia Park, Florida, a Florida municipal corporation, (“Mangonia Park”) entered into an Interlocal Agreement, dated June 11, 2012, first amended on August 11, 2014 and second amended on April 7, 2016 with document execution May 9, 2016 (“Interlocal Agreement”), establishing the Florida Green Finance Authority (“Authority”) as a means of implementing and financing a qualifying improvements program for energy and water conservation and efficiency, renewable energy and wind-resistance improvements, and to provide additional services consistent with law (“Program”); and

**WHEREAS**, the Town of Surfside (“Surfside”) desires to become a member of the Authority in order for the Authority to provide its non-exclusive Program for properties located within Surfside.

**NOW, THEREFORE**, it is agreed as follows:

1. The Interlocal Agreement between the Florida Green Finance Authority, the Town of Lantana and the Town of Mangonia Park, entered into on June 11, 2012 and as amended on August 11, 2014 and April 7, 2016 with document execution May 9, 2016 (the “Interlocal Agreement”), for the purpose of facilitating the financing of qualifying improvements for properties located within the Authority’s jurisdiction via the levy and collection of voluntary non-ad valorem assessments on improved property, is hereby supplemented and amended on the date last signed below by this Party Membership Agreement, which is hereby fully incorporated into the Interlocal Agreement, to include the Town of Surfside.
2. The Florida Green Finance Authority, together with its member Parties, and Town of Surfside, with the intent to be bound thereto, hereby agree that the Town of Surfside shall become a Party to the Interlocal Agreement together with all of the rights and obligations of Parties to the Interlocal Agreement.
3. The Service Area of the Florida Green Finance Authority shall include the legal boundaries of the Town of Surfside, as the same may be more specifically designated by the Town of Surfside or amended from time to time.
4. The Authority recognizes that some lenders may require full repayment of the Program’s special assessments upon resale or refinancing of a property subject to the Program’s special assessments. The Authority agrees to provide written disclosure of this matter to all Town property owners that may utilize the Program.
5. The Authority may not allow or charge residential prepayment penalties.

6. The Town of Surfside designates the following as the respective place for any notices to be given pursuant to the Interlocal Agreement Section 27:

Town of Surfside:                      Attn: Guillermo Olmedillo, Town Manager  
9293 Harding Avenue  
Surfside, FL 33254

With a copy to:                              Town Attorney  
Weiss Serota Helfman Cole & Bierman, P.L.  
2525 Ponce de Leon Blvd., Suite 700  
Coral Gables, FL 33134

7. This Party Membership Agreement shall be recorded by the Authority with the Clerk of the Court in the Public Records of Palm Beach County as an amendment to the Interlocal Agreement and recorded in the public records of the Town of Surfside, in accordance with Section 163.01(11), Florida Statutes.

8. Termination of this Agreement may occur with thirty (30) days written notice, and at the end of the 30-day period, this Agreement shall be automatically terminated and the Authority will not accept any new applications. Any projects related to applications received before the end of the 30-day period shall be permitted to be completed.

**IN WITNESS WHEREOF**, the Parties hereto subscribe their names to this Agreement by their duly authorized officers.

ATTEST:    **The Florida Green Finance Authority**, a separate legal entity established pursuant to Section 163.01(7), Florida Statutes

By: \_\_\_\_\_  
Secretary of the Authority

By: \_\_\_\_\_  
Chair of the Authority

Approved by Authority Attorney  
as to form and legal sufficiency

\_\_\_\_\_  
Authority Attorney

ATTEST:  
  
\_\_\_\_\_  
Sandra Novoa, MMC  
Town Clerk

**Town of Surfside**, through its  
Town Commission  
  
By: \_\_\_\_\_  
Guillermo Olmedillo  
Town Manager

Town of Surfside, Florida

\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

{SEAL}

Approved as to form and legality:

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Town Attorney

**SECOND AMENDED AND RESTATED INTERLOCAL AGREEMENT  
FORMING THE FLORIDA GREEN FINANCE AUTHORITY**

This Interlocal Agreement (the "Agreement") is entered into between the Town of Lantana, Florida, a Florida municipal corporation ("Lantana") the Town of Mangonia Park, Florida, a Florida municipal corporation, ("Mangonia Park") (together the "Originating Parties") and those additional cities and counties that have and hereafter execute a Party Membership Agreement as defined herein, (the "Additional Parties") and that altogether comprise the Florida Green Finance Authority (the "Authority").

**RECITALS**

**WHEREAS**, Section 163.01, F.S., the "Florida Interlocal Cooperation Act of 1969," authorizes local government units to enter into interlocal agreements for their mutual benefit; and

**WHEREAS**, Lantana and Mangonia Park with the Additional Parties desire to enter into this Interlocal Agreement in order to establish the Florida Green Finance Authority as a means of implementing and financing a qualifying improvements program for energy conservation and efficiency improvements, and to provide additional services consistent with law; and

**WHEREAS**, Section 163.08, F.S., provides that a local government may finance "qualifying improvements," including the type of improvements sought to be provided through this Agreement, via the levy and collection of voluntary non-ad valorem assessments on improved property; and

**WHEREAS**, Sections 170.01, and 170.201, F.S. provide for supplemental and alternative methods of making local municipal improvements, including the type of "qualifying improvements" sought to be provided by this Agreement; and

**WHEREAS**, pursuant to Sections 163.08, 170.01, and 170.201, F.S. and this Agreement, Lantana has created a "qualifying improvements" program entitled "RenewPACE"; and

**WHEREAS**, Section 163.01(7), F.S., allows for the creation of a "separate legal or administrative entity" to carry out the purposes of an interlocal agreement for the mutual benefit of the governmental units, and provide for parties to the agreement to administer the agreement; and

**WHEREAS**, pursuant to Section 163.01(4), F.S. a public agency of this state may exercise jointly with any other public agency of the state, any power, privilege or authority which such agencies share in common and which each might exercise separately, and the Parties to this Agreement have legislative authority over property within their jurisdictional boundaries; and

**WHEREAS**, Section 166.021, F.S., authorizes municipalities to exercise any power for municipal purposes, except when expressly prohibited by law, and Section 125.01 F.S. grants

counties the power to carry on county government to the extent not inconsistent with general or special law; and

**WHEREAS**, Section 163.08, F.S., provides that property retrofitted with energy-related “qualifying improvements” receives a special benefit from reduced energy consumption, benefits from the reduced potential for wind damage and assists in the fulfillment of the state’s energy and hurricane mitigation policies; and

**WHEREAS**, Lantana and Mangonia Park together with the Additional Parties have determined that it is necessary and appropriate to establish various obligations for future cooperation between themselves and the Authority related to the financing of qualifying improvements within the Authority; and

**WHEREAS**, this Agreement shall be administered pursuant to the terms and conditions herein; and

**WHEREAS**, Lantana, Mangonia Park and the Additional Parties have determined that it shall serve the public interest to enter into this Agreement to make the most efficient use of their powers by enabling them to cooperate on a basis of mutual advantage to provide for the financing of qualifying improvements within the Authority.

**NOW, THEREFORE**, in consideration of the terms and conditions, promises and covenants hereinafter set forth, the Originating Parties agree as follows:

**Section 1.** Recitals Incorporated. The above recitals are true and correct and are hereby incorporated herein.

**Section 2.** Purpose. The purpose of this Agreement is to provide the most economic and efficient means of implementing a financing program for qualifying improvements on property owners’ lands within the Authority’s Service Area and to provide additional services consistent with state law.

**Section 3.** Creation of the Authority. By execution of this Interlocal Agreement there is hereby created, pursuant to Section 163.01, F.S. and Section 163.08, F.S., the Florida Green Finance Authority (“the Authority”), a separate legal entity and public body with all of the powers and privileges as defined herein.

**Section 4.** Legal Authority/Consent to Serve the Authority. The Authority shall have all the powers, privileges and authority as set forth below and as provided by Chapter 163, F.S., as necessary to accomplish the purposes set forth in this Agreement. By resolution of the governing bodies of the Originating Parties and as subsequently resolved by the Additional Parties, all powers available to the Authority under this Agreement and general law, including but not limited to, Chapters 125, 163, 166, 170, 189 and 197, F.S. may be implemented by the Authority within the jurisdictional boundaries of all Parties. The Parties do hereby consent and agree to levy and collect voluntary non-ad valorem assessments on properties, either individually or collectively through the Authority as permitted by law, as may be more specifically



designated from time-to-time within their respective jurisdictions in accordance with the purposes of this Agreement and applicable law, to be repaid to the Authority. The Parties may also delegate the power to the Authority to levy and collect voluntary non-ad valorem assessments on properties within their jurisdictions as permitted by law. The Authority shall not act, provide its services or conduct its activities within any Party's jurisdiction without the execution of this Agreement and passage of a Resolution within that jurisdiction.

**Section 5.**     Definitions.

- a.     **“Additional Parties”** includes all cities and counties who execute a Party Membership Agreement to become part of the Authority.
- b.     **“Authority Board”** shall be the governing body of the Authority, comprised of representatives from all Parties as defined herein.
- c.     **“RenewPACE Program”** is the qualifying improvements program authorized by Section 163.08, F.S., developed by the third party administrator for Lantana and other Parties who elect to participate.
- d.     **“Interlocal Agreement”** or **“Agreement”** is defined as this Agreement including any amendments and supplements executed in accordance with the terms herein.
- e.     **“Originating Parties”** include the Florida local governments (as defined by Section 163.08, F.S.) that are the original signatories to this Agreement. These are the Towns of Lantana and Mangonia Park.
- f.     **“Participating Property Owner”** is defined as a property owner whose property is located within the Service Area of the Authority and has voluntarily acquired financing from the Authority.
- g.     **“Parties”** are any Florida local government (as defined by Section 163.08, F. S.) having the power to enter into interlocal agreements and which may, subject to the provisions of this Agreement, join in the efforts and activities provided for by this Agreement pursuant to Section 163.01, F.S. Any local government joining these efforts after the initial execution of this Agreement shall be known as an “Additional Party” or simply a “Party”. To become a Party to this Agreement, a local government shall execute a Party Membership Agreement to the Florida Green Finance Authority in substantially similar form as the attached Exhibit B and passage of a Resolution within that jurisdiction.
- h.     **“Qualifying Improvements”** are as defined in Section 163.08, F.S. in addition to any other improvements or services not inconsistent with state law.
- i.     **“Service Area”** shall mean the geographic area comprising all of the jurisdictional boundaries of the Parties, except as such jurisdictional boundaries may be limited, expanded or more specifically designated, in writing with notice provided, from time to time by such Party or Parties, within the Florida Green Finance Authority as that area may be expanded or contracted in accordance with the provisions of this Agreement and the laws of the State of Florida.

**Section 6.**     Representation on the Authority Board. The Originating Parties, and all Additional Parties upon joining the Authority through execution of this Agreement, shall be represented by a member of the Authority Board as provided in Section 10 of this Agreement.

**Section 7.** Authority Boundaries and Service Area. The boundaries of the Authority shall be the legal boundaries of the local governments that are Parties to this Agreement, which boundaries may be limited, expanded or more specifically designated, in writing with notice provided, from time to time by a Party. This is also the Authority's Service Area.

**Section 8.** Role of the Authority. As contemplated in this Agreement, the Authority will uniformly facilitate and assist the Parties with any necessary actions to levy and collect voluntary non-ad valorem assessments, or other legally authorized form of collection, on the benefitted properties within the Authority's Service Area and with securing the repayment of costs of qualifying improvements for those individual properties participating in the RenewPACE Program. Upon approval by the Authority of an application by a landowner desiring to benefit their property, those properties receiving financing for Qualifying Improvements shall be assessed from time to time, in accordance with the applicable law and/or financing documents. Notwithstanding a local government's termination of participation within this Agreement, those properties that have received financing for Qualifying Improvements shall continue to be a part of the Authority, until such time that all outstanding debt has been satisfied and the special assessments shall continue to be levied until paid in full for the applicable benefitted property.

**Section 9.** Powers of the Authority. The Authority shall exercise any or all of the powers granted under Sections 163.01, and 163.08, F.S., as well as powers, privileges or authorities which each local government might exercise separately, as may be amended from time to time, which include, without limitation, the following:

- a. To finance qualifying improvements within the Authority Service Area and to facilitate additional improvements or services consistent with law; including, but not limited to, acquiring, constructing, managing, maintaining or operating buildings, works or improvements;
- b. To make and enter into contracts in its own name;
- c. To enter into any interlocal agreement as necessary to exercise powers conferred by law;
- d. To appoint committees to assist with implementation of this Agreement;
- e. To employ agencies, employees, or consultants;
- f. To acquire, hold, lease or dispose of real or personal property;
- g. To borrow money, incur debts, liabilities, or obligations which shall not constitute the debts, liabilities, or obligations of the Originating Parties or any of the Parties to this Agreement;
- h. To levy and collect assessments, or assist in the levy and collection of assessments, either as the Authority or on behalf of a Party as permitted by law;
- i. To adopt resolutions and policies prescribing the powers, duties, and functions of the officers of the Authority, the conduct of the business of the Authority, and the maintenance of records and documents of the Authority;
- j. To maintain an office at such place or places as it may designate within the Service Area of the Authority or within the boundaries of a Party;
- k. To cooperate with or contract with other governmental agencies as may be necessary, convenient, incidental, or proper in connection with any of the powers,

duties, or purposes authorized by Section 163.08, F.S., and to accept funding from local and state agencies;

- l. To exercise all powers necessary, convenient, incidental, or proper in connection with any of the powers, duties, or purposes authorized in Section 163.08, F. S.;
- m. To create and adopt any and all necessary operating procedures, policies, manuals or bylaws;
- n. To maintain insurance as the Authority deems appropriate;
- o. To apply for, request, receive and accept gifts, grants, or assistance funds from any lawful source to support any activity authorized under this Agreement; and
- p. To exercise any powers or duties necessary to address carbon or renewable energy credits, or any other similar commodity that may come into existence, for the public benefits of the program.

**Section 10.** Authority Board. The Authority shall be governed by a seven (7) member Board of Directors. Only Parties, through their governing bodies, may appoint representatives to serve as an Authority Board Director.

- a. Initial Board Composition. The Initial Board shall be comprised of one Director appointed by the governing body of each Originating Party plus five (5) additional Directors to be appointed by the governing bodies of Additional Parties that join the Authority pursuant to paragraph b.1) below. Upon expiration of their terms as set forth in subparagraph c. of this section, the Initial Board seats shall be filled in the manner set forth below in subparagraph b. of this section.
- b. Rules of Appointment. To encourage broad geographical and diverse jurisdictional representation across the State, the Authority desires Directors from local governments both large and small, including cities and counties representative of the diverse participating regions from throughout the State of Florida. To the extent that their application is practical, in terms of being able to establish a quorum of Directors to conduct Authority business and in terms of the actual breadth of the Authority's Party membership at any given time, the following rules of appointment shall apply to the selection of Directors:
  - 1) Geographic Diversity. To the extent that the Authority has party members in each such boundary area, and to the extent practical, one (1) Director shall be appointed from among the Parties located within the boundaries of each of the five (5) water management districts as defined in Chapter 373, F.S. Additionally, following the expiration of the Initial Board term limit, and to the extent practical, no more than three Directors from Parties located within the same water management district boundary should be seated to serve at the same time.
  - 2) Population Diversity. To the extent practical, the Board shall include one Director from a Party having a population of 500,000 or more residents. To the extent practical, the Board shall also include one Director from a Party having a population of less than 20,000 residents.

- 3) City and County Representation. To the extent practical, the Board shall be comprised of Directors representing at least three (3) cities and representing at least three (3) counties.
- 4) Originating Party Directors; At Large Directors. Each Originating Party is entitled to a permanent Director seat at all times. In the event that an Originating Party does not appoint its Director, such seat shall become an "at-large" seat. The Board may include up to two (2) At Large Directors. When an at-large Director seat is established and becomes available, any Party that does not already have a representative on the Board may nominate a representative to be considered for an At Large Director seat. At Large Director seats shall each be filled by majority vote of the other five (5) Directors. When selecting an At Large Director from among the representative nominees, the Board shall consider the geographic, population, and county/municipal factors stated in the Rules of Appointment, together with the Order of Appointment set forth in paragraph b.5) as well as any other factors that they believe to be relevant in order to achieve and/or maintain diversity on the Board.
- 5) Order of Appointment. As Additional Parties join the Authority, their governing body receives the right (but not the obligation) to appoint a Board member on a "first come-first served" basis, within the parameters of paragraphs b.1) through b.4) above. A Party who has a sitting Director may substitute that Director for another one from that local government jurisdiction any time upon notification to the Authority to serve out the remainder of a term. Each Party's right resets either after expiration of their Board Term, or after the Party is given the option of appointing a representative to the Board and chooses not to do so except for the Originating Party Directors as specified in paragraph b.4)..
- 6) Expertise of Directors. Parties shall strive to appoint Directors with expertise in finance, administration and/or special assessments.

c. Director Term Limits. All Board of Director terms shall be three (3) years. However, in the event that successor Directors are not appointed to serve pursuant to the parameters of paragraphs b.1) through b.4) above, then the term limited Director may serve additional terms until a successor is appointed at the end of any such additional term.

d. Officers. The Board shall be governed by a Chair, a Vice Chair, a Secretary and a Treasurer. The Chair shall preside at meetings of the Authority, and shall be recognized as head of the Authority for service of process, execution of contracts and other documents as approved by the Authority. The Vice Chair shall act as Chair during the absence or disability of the Chair. The Secretary, which officer role may be delegated to a member of Staff, shall keep all meeting minutes and a record of all proceedings and acts of the Board and shall be responsible for ensuring that Board meeting minutes are distributed to all Directors and Parties in

a reasonable time period after the subject meeting. The Treasurer, which officer role may be delegated to a member of Staff, shall be responsible for managing and presenting the Authority Budget. The Chair and Vice-Chair shall be elected from the current Board membership and all officer terms shall be set as one (1) year terms and shall commence on October 1<sup>st</sup> of each year. The Board shall re-organize no later than September 30 for the subsequent fiscal year.

e. Board Powers and Duties. The Authority Board shall act as the governing body of the Authority and shall have, in addition to all other powers and duties described herein, the following powers and duties:

- 1) To fix the time, and determine policies and orders of business for meetings, the place or places at which its meeting shall be held, and as set forth herein, to call and hold special meetings as may be necessary.
- 2) To make and pass policies, regulations, resolutions and orders not inconsistent with the Constitution of the United States or of the State of Florida, or the provisions of this Agreement, as may be necessary for the governance and management of the affairs of the Authority, for the execution of the powers, obligations and responsibilities vested in the Authority, and for carrying into effect the provisions of this Agreement.
- 3) To adopt bylaws or rules of procedure, or amend those initially adopted by the Originating Parties.
- 4) To fix the location of the principal place of business of the Authority and the location of all offices maintained thereunder.
- 5) To create any and all necessary offices in addition to Chair, Vice-Chair, Secretary and Treasurer; to establish the powers, duties and compensation of all employees or contractors; and to require and fix the amount of all non-ad valorem assessments and/or fees necessary to operate the RenewPACE Program.
- 6) To select and employ such employees and executive officers as the Authority Board deems necessary or desirable, and to set their compensation and duties.
- 7) To employ or hire such attorneys as it deems appropriate to provide legal advice and/or legal services to the Authority, and to employ and hire such other consultants as it deems appropriate through any procedure not inconsistent with law.
- 8) As applicable and available, nothing herein shall limit the Authority's ability to pursue actions or remedies pursuant to Chapter 120, F.S.

f. Resignation. Any Director may resign from service upon providing at least thirty (30) days written notice pursuant to Section 27 of this Agreement, to the Authority Board Secretary. Such notice shall state the date said resignation shall take effect. Additionally, any Authority Board Director who is absent for three (3) Authority Board meetings within any given year, unless excused by majority vote of the Board, may, at the discretion of the Board, be deemed to have resigned

from the Authority Board. Any Director who resigns shall be replaced in accordance with the Rules of Appointment set forth in subparagraph (b) above. Any resigning Director shall immediately turn over and deliver to the Authority Board Secretary all records, books, documents or other Authority property in their possession or under their control. If extenuating circumstances require appointment of an interim Director necessary to enable the Authority to operate, an interim Director may be appointed by majority vote of the Authority Board until such time as a permanent successor can be seated.

- g. Board Compensation; Expenses. Authority Board Directors, as representatives of the local government Parties to this Agreement, shall serve without compensation. Reasonable travel or Authority-related expenses for Authority Board Directors shall be reimbursable as permitted by Florida law.

**Section 11.** Meetings of the Authority Board.

- a. Within thirty (30) calendar days of the creation of the Authority, or sooner if feasible, the Originating Parties shall hold an organizational meeting to appoint officers and perform other duties as required under this Agreement.
- b. There shall be an Annual Meeting of the Authority. The annual statements shall be presented, and any other such matter as the Authority Board deems appropriate may be considered.
- c. The Authority Board shall have regular, noticed, quarterly meetings at such times and places as the Authority Board may designate or prescribe. In addition, special meetings may be called, from time to time, by the Authority Board Chair, or by a majority vote of the Authority Board. A minimum of 24 hours notice to the public and all Authority Board Directors shall be given for any special meetings.
- d. In the absence of specific rules of procedure adopted by the Authority Board for the conduct of its meetings, the fundamental principles of parliamentary procedure shall be relied upon for the orderly conduct of all Authority Board meetings.

**Section 12.** Decisions of the Authority Board. A quorum of the Authority Board shall be required to be present at any meeting in order for official action to be taken by the Board. A majority of all Authority Board Directors shall constitute a quorum. A quorum may be established by both in person attendance and attendance through communications media technology, as allowed by state law, and pursuant to policy adopted by the Board. It is the desire and intent of this Agreement that decisions made by the Authority Board shall be by consensus of the Board. However, if a consensus is not achievable in any particular instance, then a majority vote of the quorum of the Authority Board shall be required to adopt any measure or approve any action, unless otherwise provided herein.

**Section 13.** Authority Staff and Attorney. The Authority's administrative functions shall be carried out on a day-to-day basis by the Third-Party Administrator and its subcontractors in accordance with the Administration Services Agreement attached as Exhibit A, as it may be updated and amended from time to time noticed to all Parties to this Agreement. The Third-Party Administrator shall be delegated with all duties necessary for the conduct of the

Authority's business and be delegated with the exercise of the powers of the Authority as provided in Section 163.01 and Section 163.08, F.S. The Authority may also hire legal counsel to serve as its General Counsel.

**Section 14.** Authorized Official. The Authority Board Chair or its designee shall serve as the local official or designee who is authorized to enter into a financing agreement, pursuant to Section 163.08(8), F.S., with property owner(s) who obtain financing through the Authority.

**Section 15.** Additional Parties. With the express goal of expanding to offer services to all Florida local governments, the Originating Parties to this Agreement support and encourage the participation of Additional Parties as contemplated herein.

**Section 16.** Funding the Initial Program. Funding for the Authority shall initially be from grant funds or other funds acquired by the Originating Parties and/or Additional Parties. For the initial establishment of the Authority, contributions can be made to the Authority as permitted by law.

**Section 17.** Debts of the Authority are Not Obligations of any Parties. Pursuant to Section 163.01(7), F.S. the Authority may exercise all powers in connection with the authorization, issuance, and sale of bonds or other legally authorized mechanisms of finance. Any debts, liabilities, or obligations of the Authority do not constitute debts, liabilities or obligations of the Originating Parties or any Additional Party to this Agreement. Neither this Agreement nor the bonds issued to further the program shall be deemed to constitute a general debt, liability, or obligation of or a pledge of the faith and credit of any other Party to this Agreement. The issuance of bonds as contemplated by this Agreement shall not directly, indirectly, or contingently obligate any Party to this Agreement to levy or to pledge any form of taxation whatsoever therefore, or to make any appropriation for their payment.

**Section 18.** Annual Budget.

- a. Prior to the beginning of the Authority's fiscal year, the Authority Board will adopt an annual budget. Such budget shall be prepared in the manner and within the time period required for the adoption of a tentative and final budget for state governmental agencies pursuant to general law. The Authority's annual budget shall contain an estimate of receipts by source and an itemized estimation of expenditures anticipated to be incurred to meet the financial needs and obligations of the Authority.
- b. The adopted Budget shall be the operating and fiscal guide for the Authority for the ensuing Fiscal Year.
- c. The Board may from time to time amend the Budget at any duly called regular or special meeting.

**Section 19.** Reports.

- a. **Financial reports:** The Authority shall provide financial reports in such form and in such manner as prescribed pursuant to this Agreement and Chapter 218,

F.S. Both quarterly and annual financial reports of the Authority shall be completed in accordance with generally accepted Government Auditing Standards by an independent certified public accountant. At a minimum, the quarterly and annual reports shall include a balance sheet, a statement of revenues, expenditures and changes in fund equity and combining statements prepared in accordance with generally accepted accounting principles.

- b. Operational reports:** The Authority Board shall cause to be made at least once every year a comprehensive report of its operations including all matters relating to fees, costs, projects financed and status of all funds and accounts.
- c. Audits:** The Authority shall be subject to, and shall cause to be conducted: (i) an independent financial audit and (ii) an independent performance audit performed in accordance with generally accepted accounting practices and as applicable by state law.
- d. Reports to be public records:** All reports, as well as supporting documentation such as, but not limited to, construction, financial, correspondence, instructions, memoranda, bid estimate sheets, proposal documentation, back charge documentation, canceled checks, and other related records produced and maintained by the Authority, its employees and consultants shall be deemed public records pursuant to Chapter 119, F.S., and shall be made available for audit, review or copying by any person upon reasonable notice.

**Section 20.** Bonds. The Authority Board is authorized to provide, from time to time, for the issuance of bonds, or other legally authorized form of finance, to pay all or part of the cost of qualifying improvements in accordance with law.

**Section 21.** Schedule of Rates and Fees.

- a.** Upon the creation of the Authority as set forth in this Agreement, the Authority Board shall establish a schedule of rates, fees or other charges for the purpose of making the Authority a self-sustaining district. There shall not be any obligation on the part of the Originating Parties or any Additional Parties for financing contributions. The Authority shall not be authorized to create or distribute a profit. This shall not, however, prevent the Authority from establishing reserves for unanticipated expenses or for future projects in keeping with sound, prudent and reasonable operation of the Program within industry standards or from fulfilling any other requirements imposed by bond financings, other financial obligations or law. Nor shall this prevent the Authority from incurring costs such as professional fees and other costs necessary to accomplish its purpose. The Authority Board shall fix the initial schedule of rates, fees or other charges for the use of and the services to operate the RenewPACE Program to be paid by each participating property owner consistent with Section 163.08(4), F.S.
- b.** The Authority Board may revise the schedule of rates, fees or other charges from time to time; provided however, that such rates, fees or charges shall be so fixed and revised so as to provide sums, which with other funds available for such purposes, shall be sufficient at all times to pay the expenses of operating and maintaining the RenewPACE Program. This shall include any required reserves



for such purposes, the principal of and interest on bonds, or other financing method, as the same shall become due, and to provide a margin of safety over and above the total amount of any such payments, and to comply fully with any covenants contained in the proceedings authorizing the issuance of any bonds or other obligations of the Authority.

- c. The rates, fees or other charges set pursuant to this section shall be just and equitable and uniform for users and, where appropriate, may be based upon the size and scope of the financial obligation undertaken by a Participating Property Owner. All such rates, fees or charges shall be applied in a non-discretionary manner with respect to the Participating Property Owner's geographical location within the Authority's Service Area. No rates, fees or charges shall be fixed or subsequently amended under the foregoing provisions until after a public hearing at which all the potential participants in the Program, and other interested persons, shall have an opportunity to be heard concerning the proposed rates, fees or other charges. Notice of such public hearing setting forth the proposed schedule or schedules of rates, fees or other charges shall be provided in accordance with Chapter 163 and Chapter 197, F.S.
- d. The Authority shall charge and collect such rates, fees or other charges so fixed or revised, and such rates, fees and other charges shall not be subject to the supervision or regulation by any other commission, board, bureau, agency or other political subdivision or agency of the county or state.
- e. In the event that any assessed fees, rates or other charges for the services and financing provided by the Authority to Participating Property Owners shall not be paid as and when due, any unpaid balance thereof, and all interest accruing thereon, shall be a lien on any parcel or property affected or improved thereby. Pursuant to Section 163.08(8), F.S., such lien shall constitute a lien of equal dignity to county taxes and assessments from the date of recordation. In the event that any such fee, rate or charge shall not be paid as and when due and shall be in default for thirty (30) days or more, the unpaid balance thereof, and all interest accrued thereon, together with attorney's fees and costs, may be recovered by the Authority in a civil action, and any such lien and accrued interest may be foreclosed and otherwise enforced by the Authority by action or suit in equity as for the foreclosure of a mortgage on real property.

**Section 22.** Disbursements. Disbursements made on behalf of the Authority shall be made by checks drawn on the accounts of the Authority.

**Section 23.** Procurement; Program Implementation and Administration. The Authority shall be administered and operated by a Third Party Administrator ("TPA") who shall be responsible for providing services to the Authority for the design, implementation and administration of the RenewPACE Program. The Originating Parties and all Additional Parties understand and acknowledge, and the Town of Lantana represents and warrants that, the procurement for the initial TPA was performed in accordance with its adopted procurement procedures. Pursuant to said procurement procedures, "EcoCity Partners, L3C" was hired as the TPA. The "Florida Green Energy Works Program Administration Services Agreement" between Lantana and EcoCity Partners, L3C is attached hereto as Exhibit 1 and is hereby incorporated by

reference. The initial Florida Green Energy Works Program Administration Services Agreement, as amended, was assigned by the Authority to Renewable Funding LLC on March 10, 2016..

**Section 24.** Term. This Interlocal Agreement shall remain in full force and effect from the date of its execution by the Originating Parties until such time as there is unanimous agreement of the Authority Board to dissolve the Authority. Notwithstanding the foregoing, dissolution of the Authority cannot occur unless and until any and all outstanding obligations are repaid; provided, however, that any Party may terminate its involvement and its participation in this Interlocal Agreement upon thirty (30) days' written notice to the other Parties. Should a Party terminate its participation in this Interlocal Agreement, be dissolved, abolished, or otherwise cease to exist, this Interlocal Agreement shall continue until such time as all remaining Parties agree to dissolve the Authority and all special assessments levied upon Participating Property Owners properties have been paid in full.

**Section 25.** Consent. The execution of this Interlocal Agreement, as authorized by the government body of the Originating Parties and any Additional Party shall be considered the Parties' consent to the creation of the Authority as required by Sections 163.01 and 163.08, F.S.

**Section 26.** Limits of Liability.

- a. All of the privileges and immunities from liability and exemptions from law, ordinances and rules which apply to municipalities and counties of this state pursuant to Florida law shall equally apply to the Authority. Likewise, all of the privileges and immunities from liability; exemptions from laws, ordinances and rules which apply to the activity of officers, agents, or employees of counties and municipalities of this state pursuant to Florida law shall equally apply to the officers, agents or employees of the Authority.
- b. The Originating Parties and all Additional Parties to this Agreement shall each be individually and separately liable and responsible for the actions of their own officers, agents and employees in the performance of their respective obligations under this Agreement pursuant to Chapters 768 and 163, F.S. and any other applicable law. The Parties may not be held jointly or severally liable for the actions of officer or employees of the Authority or by any other action by the Authority or another member of the Authority and the Authority shall be solely liable for the actions of its officers, employees or agents to the extent of the waiver of sovereign immunity or limitation on liability provided by Chapter 768, F.S. Except as may be otherwise specified herein, the Parties shall each individually defend any action or proceeding brought against their respective agency under this Agreement, and they shall be individually responsible for all of their respective costs, attorneys' fees, expenses and liabilities incurred as a result of any such claims, demands, suits, actions, damages and causes of action, including the investigation or the defense thereof, and from and against any orders, judgments or decrees which may be entered as a result thereof. The Parties shall each individually maintain throughout the term of this Agreement any and all applicable insurance coverage required by Florida law for

governmental entities. Such liability is subject to the provisions of law, including the limits included in Section 768.28, F.S., which sets forth the partial waiver of sovereign immunity to which governmental entities are subject. It is expressly understood that this provision shall not be construed as a waiver of any right or defense that the parties have under Section 768.28, F.S. or any other statute.

**Section 27.** Notices. Any notices to be given pursuant to this Interlocal Agreement shall be in writing and shall be deemed to have been given if sent by hand delivery, recognized overnight courier (such as Federal Express), or certified U.S. mail, return receipt requested, addressed to the Party for whom it is intended, at the place specified. The Originating Parties designate the following as the respective places for notice purposes:

Lantana: Town Manager  
Town of Lantana  
500 Greynolds Circle  
Lantana, Florida 33462

With a Copy to: Lohman Law Group, P.A.  
601 Heritage Drive, Suites 232-232A  
Jupiter, FL 33458  
Attn: R. Max Lohman, Esq.

Mangonia Park: Town Manager  
Town of Mangonia Park  
1755 East Tiffany Drive  
Mangonia Park, Florida 33407

With a Copy to: Corbett, White, Davis and Ashton, P.A.  
1111 Hypoluxo Road, Suite 207  
Lantana, FL 33462  
Attn: Keith W. Davis, Esq.

**Section 28.** Filing. It is agreed that this Interlocal Agreement shall be filed with the Clerk of the Circuit Court of Palm Beach County, as required by Section 163.01(11), F.S., and may be filed in subsequent jurisdictions pursuant to the appropriate process of public-record filing in that particular jurisdiction.

**Section 29.** Joint Effort. The preparation of this Interlocal Agreement has been a joint effort of the Parties hereto and the resulting document shall not, as a matter of judicial construction, be construed more severely against any one party as compared to another.

**Section 30.** Execution in Counterparts. This Interlocal Agreement may be executed in counterparts which shall be in original form all of which, collectively, shall comprise the entire Interlocal Agreement.

**Section 31.** Merger, Amendments. This Agreement incorporates and includes all prior negotiations, correspondence, 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 change, amendment, alteration or modification in the terms and conditions contained in this Interlocal Agreement shall be effective unless contained in a written document that is ratified or approved by at least seventy-five (75%) of the Parties to this Interlocal Agreement, which ratification or approval shall be expressed in writing by such Party and delivered to the Authority in a form upon which the Authority can rely, and the Authority has made a finding to that effect in the manner specified in Section 12 of this Interlocal Agreement.

**Section 32.** Assignment. The respective obligations of the Parties set forth in this Interlocal Agreement shall not be assigned, in whole or in part, without the written consent of the other Parties hereto.

**Section 33.** Records. The Parties shall each maintain their own respective records and documents associated with this Interlocal Agreement in accordance with the requirements for records retention set forth in Florida law.

**Section 34.** Compliance with Laws. In the performance of this Agreement, the Parties hereto shall comply in all material respects with all applicable federal and state laws and regulations and all applicable county and municipal ordinances and regulations.

**Section 35.** Governing Law and Venue. This Interlocal Agreement shall be governed, construed and controlled according to the laws of the State of Florida. Venue for any claim, objection or dispute arising out of the terms of this Interlocal Agreement shall be proper exclusively in Palm Beach County, Florida.

**Section 36.** Severability. In the event a portion of this Interlocal Agreement is found by a court of competent jurisdiction to be invalid, the remaining provisions shall continue to be effective to the extent possible.

**Section 37.** Effective Date and Joinder by Authority. This Interlocal Agreement shall become effective upon its execution by the Originating Parties. It is agreed that, upon the formation of the Authority, the Authority shall thereafter join this Interlocal Agreement and that the Authority shall thereafter be deemed a Party to this Interlocal Agreement.

**Section 38.** No Third Party Rights. No provision in this Agreement shall provide to any person that is not a party to this Agreement any remedy, claim, or cause of action, or create any third-party beneficiary rights against any Party to this Agreement.

**Section 39.** Access and Audits. Palm Beach County has established the Office of Inspector General in Article VIII of the Charter of Palm Beach County, as may be amended, which is authorized and empowered to review past, present and proposed county or municipal

contracts, transactions, accounts and records. The Inspector General has the power to subpoena witnesses, administer oaths and require the production of records, and audit, investigate, monitor, and inspect the activities of Palm Beach County, its officers, agents, employees, and lobbyists, as well as the activities of all municipalities in the county, and their officers, agents, employees, and lobbyists, in order to ensure compliance with contract requirements and detect corruption and fraud. Failure to cooperate with the Inspector General or interference or impeding any investigation shall be in violation of Chapter 2, Article XIII of the Palm Beach County Code of Ordinances.

[Remainder of page intentionally left blank.]

IN WITNESS WHEREOF, the Originating Parties hereto have made and executed this Interlocal Agreement on this 9<sup>th</sup> day of May, 2016.

ATTEST:



Town of Lantana, a municipal corporation of the State of Florida

BY: [Signature]  
Town Clerk

BY: [Signature]  
Town Manager

(Affix Town Seal)

Approved by Town Attorney as to form and legal sufficiency

[Signature]  
Town Attorney

ATTEST:

Town of Mangonia Park, a municipal corporation of the State of Florida

BY: [Signature]  
Town Clerk

BY: [Signature]  
Town Manager

(Affix Town Seal)

Approved by Town Attorney as to form and legal sufficiency

[Signature]  
Town Attorney

**INDEMNIFICATION AGREEMENT  
BETWEEN  
RENEW FINANCIAL GROUP, LLC,  
ADMINISTRATOR FOR THE FLORIDA GREEN FINANCE AUTHORITY,  
AND THE TOWN OF SURFSIDE, FLORIDA**

This Agreement (the “Agreement”) is entered into this \_\_\_\_ day of \_\_\_\_\_, 2018 by and between Renew Financial Group, LLC (“Renew Financial”), the administrator of the Florida Green Finance Authority (the “Authority”), and the Town of Surfside, a municipal corporation of the State of Florida (the "Town") (collectively, the “Parties”).

WHEREAS, the Town and the Authority have proposed to enter into an agreement to authorize the Authority to operate within the boundaries of the Town for the purposes of providing a Property Assessed Clean Energy (PACE) program; and

WHEREAS, Renew Financial is the Authority’s administrator and will be operating on behalf of the Agency within the Town; and

WHEREAS, the Authority is a separate legal entity and public body and unit of local government, established pursuant to Section 163.01(7)(g), Florida Statutes; and

WHEREAS, Renew Financial has agreed to provide the Town with a separate indemnification agreement for the benefit of the Town.

NOW, THEREFORE, the Town and Renew Financial, hereby enter into the following Agreement:

1. The foregoing recitals are incorporated into this Agreement and approved.
2. To the extent applicable by law, Renew Financial shall indemnify and hold harmless the Town and its officers, employees, agents, and instrumentalities from any and all liability, losses or damages, including attorneys' fees and costs of defense, which the Town or its officers, employees, agents or instrumentalities may incur as a result of claims, demands, suits, causes of actions or proceedings of any kind or nature arising out of, relating to or resulting from the performance of this Agreement and Renew Financial’s administration of the Authority’s PACE Program by Renew Financial or its employees, agents, servants, partners, principals, administrators, subcontractors, or agents. Renew Financial shall pay all claims and losses in connection therewith and shall investigate and defend all claims, suits or actions of any kind or nature in the name of the Town, where applicable, including appellate proceedings, and shall pay all costs, judgments, and attorney's fees which may issue thereon. Renew Financial expressly understands and agrees that any insurance protection shall in no way limit the responsibility to indemnify, keep and save harmless and defend the Town or its officers, employees, agents and

instrumentalities as herein provided.

3. This Agreement shall be interpreted and construed in accordance with and governed by the laws of the state of Florida. The Parties agree that the exclusive venue for any lawsuit arising from, related to, or in connection with this Agreement shall be in the state courts of the Eleventh Judicial Circuit in and for Miami-Dade County, Florida, the United States District Court for the Southern District of Florida or United States Bankruptcy Court for the Southern District of Florida, as appropriate.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date first written above.

**RENEW FINANCIAL GROUP, LLC**

Attest:

\_\_\_\_\_  
By: \_\_\_\_\_

\_\_\_\_\_  
By: \_\_\_\_\_

Approved as to form and legality:

By: \_\_\_\_\_

**THE TOWN OF SURFSIDE, FLORIDA**

Attest:

\_\_\_\_\_  
Sandra Novoa, MMC  
Town Clerk

\_\_\_\_\_  
Guillermo Olmedillo  
Town Manager

Approved as to form and legality:

\_\_\_\_\_  
Weiss Serota Helfman Cole & Bierman, P.L.  
Town Attorneys



**EXHIBIT “B”  
FLORIDA PACE FUNDING AGENCY**

**B-1  
NON-EXCLUSIVE INTERLOCAL SUBSCRIPTION AGREEMENT  
RELATING TO THE FUNDING AND FINANCING  
OF QUALIFYING IMPROVEMENTS BY THE  
FLORIDA PACE FUNDING AGENCY**

**B-2  
CHARTER AGREEMENT**

**B-3  
INDEMNIFICATION AGREEMENT  
BETWEEN  
COUNTERPOINTE ENERGY SOLUTIONS (FL) LLC,  
ADMINISTRATOR FOR THE FLORIDA PACE FUNDING AUTHORITY,  
AND THE TOWN OF SURFSIDE, FLORIDA**

**NON-EXCLUSIVE INTERLOCAL SUBSCRIPTION AGREEMENT  
RELATING TO THE FUNDING AND FINANCING  
OF QUALIFYING IMPROVEMENTS BY THE  
FLORIDA PACE FUNDING AGENCY**

**THIS NON-EXCLUSIVE INTERLOCAL SUBSCRIPTION AGREEMENT** is made and entered into as of \_\_\_\_\_, 2018 (this "Subscription Agreement"), by and between the Town of Surfside, Florida (the "Subscriber"), and the Florida PACE Funding Agency, a separate legal entity and public body and unit of local government, established pursuant to Section 163.01(7)(g), Florida Statutes, (the "Agency"), by and through their respective governing bodies. The purpose of the Subscription Agreement is to secure, in an efficient and uniform manner, for the Property Owners (as hereinafter defined) within the jurisdiction and boundaries of the Subscriber the privileges, benefits, powers and terms provided for herein and by law, and particularly by Section 163.08, Florida Statutes, as amended (the "Supplemental Act"), relating to the voluntary determination by affected property owners to obtain and finance certain improvements to property for energy efficiency, renewable energy or wind resistance.

**WITNESSETH:**

**NOW, THEREFORE**, in consideration of the mutual covenants herein contained and for other good and valuable consideration each to the other, receipt of which is hereby acknowledged by each party, the Subscriber and the Agency hereby agree, stipulate and covenant as follows:

**ARTICLE I  
DEFINITIONS AND CONSTRUCTION**

**SECTION 1.01. DEFINITIONS.** As used in this Agreement, the following terms shall have the meanings as defined unless the context requires otherwise:

**"Board of Directors"** means the governing body of the Agency.

**"Agency Charter Agreement"** or **"Charter"** means, unless the context otherwise requires, the separate interlocal agreement which created and established the Agency, including any amendments and supplements hereto executed and delivered in accordance with the terms thereof.

**"Financing Agreement"** means the agreement authorized hereunder and by the Act (specifically including section 163.08(4) thereof) between the Agency and a Property Owner providing for the funding to finance Qualifying Improvements and the imposition of a non-ad valorem Special Assessment against the Property Owner's assessed property.

**"Financing Documents"** shall mean the resolution or resolutions duly adopted by the Agency, as well as any indenture of trust, trust agreement, interlocal agreement or other instrument relating to the issuance or security of any bond or Obligations of the Agency and any

agreement between the Agency and the Subscriber, pursuant to which the Subscriber and Property Owners obtain access to funds provided by the Agency.

**“Obligations”** shall mean a series of bonds, obligations or other evidence of indebtedness, including, but not limited to, notes, commercial paper, certificates or any other obligations of the Agency issued hereunder or pursuant hereto, or under any general law provisions, and pursuant to the Financing Documents. The term shall also include any lawful obligation committed to by the Agency or pursuant to an interlocal agreement with another governmental body or agency and/or warrants issued for services rendered or administrative expenses.

**“Program”** means the program operated by the Agency to provide financing for Qualifying Improvements undertaken within the jurisdiction of the Subscriber. Unless determined otherwise by the Subscriber, the Agency’s Program will be non-exclusive; and, the Subscriber may embrace or authorize any similar program under the Act as the Subscriber sees fit and in the interest of the public.

**“Property Owner”** means, collectively, all of the record owners of real property subject to a Financing Agreement.

**“Qualifying Improvements”** means those improvements for energy efficiency, renewable energy, or wind resistance described in the Supplemental Act authorized to be affixed and/or installed by the record owner of an affected property. The term does not include similar improvements underwritten or financed by local, state or federal programs including, but not limited to State Housing Initiatives Partnership or SHIP Program, which are not secured by a special or non-ad valorem assessment.

**“Special Assessments”** means the non-ad valorem assessments authorized by the Supplemental Act and levied by the Agency on property owned by participating property owner who has entered into a Financing Agreement with the Agency to fund the costs of Qualifying Improvements.

## **SECTION 1.02 CONSTRUCTION.**

(A) Words importing the singular number shall include the plural in each case and vice versa, and words importing persons shall include firms and corporations. The terms “herein,” “hereunder,” “hereby,” “hereto,” “hereof,” and any similar terms, shall refer to this Subscription Agreement; the term “heretofore” shall mean before the date this Subscription Agreement is executed; and the term “hereafter” shall mean after the date this Subscription Agreement is executed.

(B) Each recital, covenant, agreement, representation and warranty made by a party herein shall be deemed to have been material and to have been relied on by the other party to this Subscription Agreement. Both parties have independently reviewed this Subscription Agreement with their own counsel and covenant that the provisions hereof shall not be construed for or against either the Subscriber or the Agency by reason of authorship.

**SECTION 1.03. SECTION HEADINGS.** Any headings preceding the texts of the several Articles and Sections of this Subscription Agreement and any table of contents or

marginal notes appended to copies hereof shall be solely for convenience of reference and shall neither constitute a part of this Subscription Agreement nor affect its meaning, construction or effect.

**SECTION 1.04. FINDINGS.** It is hereby ascertained, determined and declared that:

(A) The State has declared it the public policy of the State to develop energy management programs aimed at promoting energy conservation and wind resistance or 'hardening' programs achieving hurricane and wind damage mitigation.

(B) The State Legislature has determined there is a compelling state interest in enabling property owners to voluntarily finance Qualifying Improvements with local government assistance. The actions authorized by the Supplemental Act, including the financing of Qualifying Improvements through the execution of Financing Agreements and the related imposition of a Special Assessment, are reasonable and are necessary for the prosperity and welfare of the State, the Subscriber and its property owners and inhabitants.

(C) The Agency has secured a binding final judgment, binding and only advantageous to the Agency, which has statewide effect. Such judgment carefully relieves the Subscriber from cost and liability associated with implementation of the Agency's Program.

(D) The Agency has provided evidence to the Subscriber that: (1) the Agency's Program has assembled, at the Agency's sole cost and expense, open public governance and oversight, staffing in the form of qualified third-party administration, active funding provider servicing oversight, dedicated Program counsel, and an independent institutional trustee, (2) that the Agency is immediately ready to commence origination of Special Assessments for Qualifying Improvements, and (3) that the Agency presently has large scale funding in place and available under an executed bond purchase agreement and trust indenture.

(E) The availability of the non-exclusive Program offered by the Agency (without cost to, assumption of liability by or demand upon the credit of the Subscriber) and the voluntary participation in the Program by Property Owners will provide an alternative financing option to finance and repay the costs to provide and install Qualifying Improvements.

(F) This Agreement provides an alternative, supplemental and non-exclusive means to achieve, *inter alia*, immediate and careful local economic development, commerce and job creation, as well as the compelling State interests and public purposes described in the Supplemental Act.

**ARTICLE II  
SUBSCRIPTION**

**SECTION 2.01. AUTHORITY.**

(A) The execution hereof has been duly authorized by the resolution of the governing bodies of each party hereto.

(B) The Agency by this Subscription Agreement is hereby authorized to act to provide its services, and conduct its affairs, within the boundaries of the Subscriber's jurisdiction.

(C) The execution of this Subscription Agreement evidences the express authority and concurrent transfer of all necessary powers to the Agency, and the covenant to reasonably cooperate by the Subscriber, so that the Agency may facilitate, administer, implement and provide Qualifying Improvements, facilitate Financing Agreements and non-ad valorem assessments only on properties subjected to same by the record owners thereof, develop markets, structures and procedures to finance same, and to take any actions associated therewith or necessarily resulting there from, as contemplated by the Supplemental Act as the same may be amended from time to time.

(D) By resolution of the governing bodies of each of the parties and as implemented pursuant by this Subscription Agreement, all power and authority available to the Agency under its Charter and general law, including without limitation, Chapters 163, 189 and 197, Florida Statutes, shall be deemed to be authorized and may be implemented by the Agency within the boundaries of the Subscriber.

(E) This Subscription Agreement may be amended only by written amendment hereto.

**SECTION 2.02. CREATION OF STATE, COUNTY OR MUNICIPAL DEBTS PROHIBITED.**

The Agency shall not be empowered or authorized in any manner to create a debt as against the State, county, or any municipality, and may not pledge the full faith and credit of the State, any county, or any municipality. All revenue bonds or debt obligations of the Agency shall contain on the face thereof a statement to the effect that the State, county or any municipality shall not be obligated to pay the same or the interest and that they are only payable from Agency revenues or the portion thereof for which they are issued and that neither the full faith and credit nor the taxing power of the State or of any political subdivision thereof is pledged to the payment of the principal of or the interest on such bonds. The issuance of revenue or refunding bonds under the provisions of law, the Charter Agreement, or this Subscription Agreement shall not directly or indirectly or contingently obligate the State, or any county or municipality to levy or to pledge any form of ad valorem taxation whatever therefore or to make any appropriation for their payment.

**SECTION 2.03. ADOPTION OF RATES, FEES AND CHARGES.**

(A) The Board of Directors may adopt from time to time by resolution such rates, fees or other charges for the provision of the services of the Agency to be paid by the record owner of any property, pursuant to a Financing Agreement described in the Supplemental Act.

(B) Such rates, fees and charges shall be adopted and revised so as to provide moneys, which, with other funds available for such purposes, shall be at least sufficient at all times to pay the expenses of administering, managing, and providing for the services and administration of the activities of the Agency, to pay costs and expenses provided for by law or the Charter Agreement and the Financing Documents, and to pay the principal and interest on the Obligations as the same shall become due and reserves therefore, and to provide for necessary administration and reasonable margin of safety over and above the total amount of such payments. Notwithstanding any other provision in the Charter Agreement or this Subscription Agreement, such rates, fees and charges shall always be sufficient to comply fully with any covenants contained in the Financing Documents.

(C) Such rates, fees and charges may vary from jurisdiction to jurisdiction, but shall be just and equitable and uniform at the time of imposition for the record owners in the same class of or within each subscribing local governmental jurisdiction electing to enter into any Financing Agreement described in the Supplemental Act and may be based upon or computed upon any factor (including, by way of example and not limitation, competitive or market conditions, distinguishing between residential and non-residential properties or uses, distinguishing between variable costs of administrative services over time) or combination of factors affecting the demand or cost of the services furnished or provided to administer the services and affairs of the Agency as may be determined by the Board of Directors from time to time.

(D) Notwithstanding anything in this Subscription Agreement to the contrary, the Agency may establish a general fund and/or performance assurance account into which moneys may be deposited from an annual surcharge upon the Special Assessments imposed, pledged to or collected by the Agency. Any moneys deposited to such general fund account from such a surcharge shall be considered legally available for any lawful purpose approved by the Board of Directors. Moneys in such general fund and/or performance assurance account may be used to pay for or reimburse initial costs and expenses advanced or associated with start-up costs, feasibility studies, economic analysis, financial advisory services, program development or implementation costs or enhancements, public education, energy audits, administration, quality control, vendor procurement, and any other purpose associated with the purpose or mission of the Agency approved by the Board of Directors.

**SECTION 2.04. FINANCING AGREEMENTS.**

(A) The Agency shall prepare and provide to each participating property owner the form of the Financing Agreement which complies with the Supplemental Act and is in accordance with the Financing Documents as designated by the Board of Directors from time to time.

(B) The Agency, not the Subscriber, shall be solely responsible for all matters associated with origination, funding, financing, collection and administration of each of the Agency's authorized non-ad valorem assessments.

**SECTION 2.05. IMPOSITION OF SPECIAL ASSESSMENTS PURSUANT TO FINANCING AGREEMENTS.**

(A) Upon execution by the record owners and the Agency, the Financing Agreement or a summary or memorandum thereof shall be recorded by the Agency within five (5) days of execution as required by Section 163.08(8), Florida Statutes. The recorded Financing Agreement, or summary or memorandum thereof, provides constructive notice that the non-ad valorem assessment to be levied on the subject property constitutes a lien of equal dignity to ad valorem taxes and assessments from the date of recordation.

(B) In a reasonably cooperative and uniform manner the Agency is authorized to and shall provide a digital copy to the property appraiser or tax collector of the recorded Financing Agreement or summary thereof, the most recent property identification number and annual amount of the non-ad valorem assessment along with such other efficient and reasonable information necessary for the tax collector to collect such amounts on behalf of the Agency pursuant to Sections 197.3632 and 163.08, Florida Statutes, as a non-ad valorem assessment.

**SECTION 2.06. COLLECTION OF SPECIAL ASSESSMENTS.**

(A) The Agency shall be solely responsible for professionally coordinating all interface with the tax collector or property appraiser, and minimize to the greatest extent reasonably possible the time, effort and attention of these public officials to accomplish the public purposes and direction of the Supplemental Act subscribed to by the Subscriber. Subscriber hereby respectfully requests and encourages the tax collector or property appraiser to only impose, charge, or deduct the minimum amount allowed by general law for the collection or handling of the Special Assessments which are the subject of this Subscription Agreement.

(B) To advance Program acceptance and to minimize Program participation costs, and because each Property Owner is voluntarily undertaking to achieve and underwrite the unique and compelling State interests described in the Supplemental Act, the Subscriber urges either the waiver of such fees by the tax collector and property appraiser or a flat five dollar (\$5) fee per year per tax parcel for such purposes which shall be paid by the Agency via deduction, by the institutional trustee required by the Financing Documents, or as otherwise reasonably agreed to by the Agency and these parties.

**SECTION 2.07. PLEDGE OF PROCEEDS FROM NON AD VALOREM ASSESSMENTS.**

(A) The Agency will take such actions as are necessary for the lawful levy of the Special Assessments against all lands and properties specially benefitted by the acquisition, construction and financing of Qualifying Improvements. If any assessment made with respect to any property shall be either in whole or in part annulled, vacated or set aside by the judgment of any court, or if the Agency or Subscriber shall be satisfied that any such assessment is so irregular or defective

that the same cannot be enforced or collected, the Agency is authorized to take all necessary steps to cause a new assessment to be made for the whole or any part of any Qualifying Improvements or against any property specially benefitted by such improvement, to the extent and in the manner provided by law.

(B) Pursuant to the Financing Documents and this Subscription Agreement, the Agency shall irrevocably pledge and, to the fullest extent permitted by law, pledge and assign any and all revenues derived from Special Assessments to the repayment of any debt obligation issued by the Agency pursuant to the Financing Documents.

(C) The Subscriber shall not incur or ever be requested to authorize any obligations secured by Special Assessments associated with Qualifying Improvements imposed by the Agency.

(D) Each series of Financing Documents shall be secured forthwith equally and ratably by a pledge of and lien upon the Special Assessments. The obligations of the Agency under and pursuant to the Financing Documents shall not be or constitute general obligations or an indebtedness of the Subscriber as "bonds" within the meaning of the Constitution of Florida, but shall be payable from and secured solely by a lien upon and pledge of the Special Assessments as provided herein. Neither the Agency nor any holder of any debt obligation issued by the Agency pursuant to the Financing Documents shall ever have the right to compel the exercise of the ad valorem taxing power of the Subscriber or taxation in any form of property therein to pay any amount due under any Financing Documents or any Special Assessment. The Financing Documents shall not constitute a lien upon any property of or in the Subscriber except as to the respective Special Assessments in the manner provided herein and by law.

**SECTION 2.08. CARBON OR SIMILAR CREDITS.** The form of Financing Agreement in each instance shall provide for the transfer of any carbon or similar mitigation credits derived from Qualifying Improvements to the Agency, with such revenues therefrom, if any ever materialize, to be used by the Agency to underwrite generally its operation, mission and purpose. By execution hereof any such interest in mitigation credits shall be assigned by the Subscriber to the Agency without any future action by the parties. Provided, however, the Subscriber shall upon request from time to time execute and deliver all such documents as may be reasonably required to further evidence the assignment and transfer of such interests to the Agency. Such credits expressly exclude investment tax credits available under the Internal Revenue Code or monetary rebates available to the Property Owner.

**SECTION 2.09 RESALE OR REFINANCING OF A PROPERTY.** The Agency recognizes that some lenders may require full repayment of the Program's special assessments upon resale or refinancing of a property subject to the Program's special assessments. The Agency agrees to provide written disclosure of this matter to all Town property owners that may utilize the Program.

**SECTION 2.10 PREPAYMENT PENALTIES.** The Agency may not allow or charge residential prepayment penalties.



**ARTICLE III  
GENERAL PROVISIONS**

**SECTION 3.01. INTERLOCAL AGREEMENT PROVISIONS.** This Subscription Agreement constitutes a joint exercise of power, privilege or authority by and between the Subscriber and the Agency and shall be deemed to be an “interlocal agreement” within the meaning of the Florida Interlocal Cooperation Act of 1969, as amended. This Subscription Agreement shall be filed by the Agency with the Clerk of the Circuit Court of the county in which the Subscriber is located.

**SECTION 3.02. DISCLOSURE.**

(A) The Agency has provided a copy of (1) the Supplemental Act, (2) the Agency’s Charter Agreement, (3) the Final Judgment in *Fla. PACE Funding Agency v. State*, No. 2011-CA-1824 (Fla. 2d Cir. Ct. 2011), and (4) other relevant disclosure information and background materials to the Subscriber prior to execution hereof. Subscriber, through its own staff and advisors, has independently reviewed and considered the foregoing and other relevant information of its choosing.

(B) The objective of the Agency’s mission is to offer a uniform, standardized and scalable approach that provides efficiencies and economies of scale intended to attract voluntary financing of Qualifying Improvements and stimulate a substantial and meaningful flow of private sector economic activity and new job creation. In doing so, each subscribing local government by entering into a subscription agreement of this nature authorizes the availability of the Agency’s uniform program to property owners in the subscribing jurisdiction. Accordingly, the Agency has engaged, and may engage in the future, various advisors, consultants, attorneys or other professionals or firms with recognized expertise necessary to accomplish the Agency’s mission.

(C) Each of the various advisors, consultants, attorneys or other professionals engaged by the Agency has been, and shall in the future be, disclosed to the Subscriber. The Subscriber and Agency recognize, consider and acknowledge the fact or possibility that one or more of the various professionals or firms may serve as the advisor to the Agency in its mission, and to the Subscriber or another client in providing other similar professional services, outside of the provision, funding and financing of Qualifying Improvements. Such circumstance is acceptable and will not be construed as a conflict, be objected to unreasonably, nor be used as the basis for its disqualification of such professionals or firms from any continued or future representation of either party hereto which can otherwise be resolved by a reasonable waiver.

**SECTION 3.03. TERM OF AGREEMENT; DURATION OF AGREEMENT; EXCLUSIVITY.**

(A) This Subscription Agreement shall commence as of the date first above written, and shall remain in effect until terminated as herein provided. Either party (the “non-breaching

party”) may terminate this Subscription Agreement by providing the other party (the “breaching party”) 10 days prior written notice (“Termination Notice”) in the event the breaching party breaches this Subscription Agreement and such breach is not cured to the reasonable satisfaction of the non-breaching party within a reasonable period of time following notice of such breach. Beginning on the date the Agency receives from, or gives to, the Subscriber a Termination Notice (“Termination Date”), the Agency shall not approve any new applications affecting property within the legal boundaries of the Subscriber. Provided, however either party may unilaterally terminate this Agreement prior to any Financing Agreements being executed or, if earlier, the issuance of any Obligations of the Agency secured by pledged revenues derived from within the jurisdiction or boundaries of the Subscriber.

(B) In the event of any termination hereunder, and so long as the Agency has Obligations outstanding which are secured by pledged revenues derived from Financing Agreements relating to any properties within the jurisdiction or boundaries of the Subscriber, or the Agency has projects for Qualified Improvements underway therein, the applicable provisions, authority and responsibility under this Agreement reasonably necessary to carry out the remaining aspects of the Program and responsibilities of Agency then underway, shall remain in effect and survive such termination until such time as those obligations and all associated remaining Program responsibilities are fulfilled (including, but not limited to the collection of assessments in due course).

#### **SECTION 3.04. AMENDMENTS AND WAIVERS.**

(A) Except as otherwise provided herein, no amendment, supplement, modification or waiver of this Subscription Agreement shall be binding unless executed in writing by the Subscriber and Agency.

(B) To the extent the Agency has no outstanding bonds, Obligations or other evidence of indebtedness, this Subscription Agreement may be amended or modified or provisions hereto waived upon the written consent of all parties hereto.

(C) To the extent the Agency has outstanding bonds, Obligations or other evidence of indebtedness arising from Financing Agreements relating to properties within the jurisdiction or boundaries of the Subscriber, this Subscription Agreement may not be amended or modified in any way that is materially adverse to holders of such bonds, Obligations or other evidence of indebtedness without the consent in writing of the holders of at least two-thirds (2/3) or more in principal amount of such bonds, Obligations or other evidence of indebtedness (exclusive of any warrants issued by the Agency) then outstanding, or any insurer duly authorized to provide such consent on behalf of such holders.

#### **SECTION 3.05. NOTICES.**

(A) All notices, certificates or other communications hereunder shall be sufficiently given and shall be deemed given when hand delivered (or confirmed electronic facsimile transmission) or mailed by registered or certified mail, postage prepaid, or sent by nationally recognized overnight courier (with delivery instructions for “next business day” service) to the parties at the following addresses:

Subscriber: The Town of Surfside  
Guillermo Olmedillo,  
Office of the Town Manager  
9293 Harding Avenue  
Surfside, Florida 33154

With a copy to: Town Attorney  
Weiss Serota Helfman Cole & Bierman, P.L.  
2525 Ponce de Leon Boulevard, Suite 700  
Coral Gables, Florida 33134

Agency: Executive Director  
Florida PACE Funding Agency  
c/o City of Kissimmee  
101 North Church Street, Fifth Floor  
Kissimmee, Florida 34741

With a copy to: Program Counsel for the Florida PACE Funding Agency  
P.O. Box 14043  
Tallahassee, Florida 32317-4043

(B) Any of the parties may, by notice in writing given to the other, designate any further or different addresses to which subsequent notices, certificates or other communications shall be sent. Any notice shall be deemed given on the date such notice is delivered by hand (or confirmed electronic facsimile transmission) or three days after the date mailed.

**SECTION 3.06. QUALITY CONTROL AND COMMUNICATION.** For quality control purposes the Agency and Subscriber desire, and the Agency covenants to develop, implement and employ policies, systems and procedures which are within industry standards; with such standards being reasonably expected to change and evolve over time. An ongoing positive and informal line of communication between staff and agents for the parties is encouraged. At any time, notwithstanding lack of default or lack of material breach hereunder, the Subscriber is encouraged to objectively and specifically communicate to the Agency in writing as provided for herein any concerns, suggestions or disapproval with performance, policies, systems or procedures being employed by the Agency. The Agency through its administrator, Executive Director, or a duly authorized designee, will promptly respond in writing to all such communications (reasonably within fifteen (15) days of receipt of any such written communication, but sooner if necessary) and follow-up accordingly; and, also promptly communicate any such response, follow-up, and all related communication to the Board of Directors for review.

**SECTION 3.07. IMMUNITY; LIMITED LIABILITY.**

(A) All of the privileges and immunities from liability and exemptions from laws, ordinances and rules which apply to the activity of officials, officers, agents or employees of the parties shall apply to the officials, officers, agents or employees thereof when performing their respective functions and duties under the provisions of this Subscription Agreement.

(B) The Subscriber and Agency are and shall be subject to Sections 768.28 and 163.01(9)(c), Florida Statutes, and any other provisions of Florida law governing sovereign immunity. Pursuant to Section 163.01(5)(o), Florida Statutes, and this covenant of the parties hereto, the local governments who are either or both the incorporators or members of the Agency shall not be held jointly liable for the torts of the officers or employees of the Agency, or any other tort attributable to the Agency, and that the Agency alone shall be liable for any torts attributable to it or for torts of its officers, employees or agents, and then only to the extent of the waiver of sovereign immunity or limitation of liability as specified in Section 768.28, Florida Statutes. The Subscriber and Agency acknowledge and agree that the Agency shall have all of the privileges and immunities from liability and exemptions from laws, ordinances, rules and common law which apply to the municipalities and counties of the State. Nothing in this Subscription Agreement is intended to inure to the benefit of any third-party for the purpose of allowing any claim, which would otherwise be barred under the doctrine of sovereign immunity or by operation of law.

(C) Neither the Subscriber, nor the local governments who are either or both the incorporators or members of the Agency, nor any subsequently subscribing or participating local government in the affairs of the Agency shall in any manner be obligated to pay any debts, obligations or liabilities arising as a result of any actions of the Agency, the Board of Directors or any other agents, employees, officers or officials of the Agency, except to the extent otherwise mutually and expressly agreed upon, and neither the Agency, the Board of Directors or any other agents, employees, officers or officials of the Agency have any authority or power to otherwise obligate either the Subscriber, the local governments who are either or both the incorporators or members of the Agency, nor any subsequently subscribing or participating local government in the affairs of the Agency in any manner.

**SECTION 3.08. BINDING EFFECT.** This Subscription Agreement shall be binding upon the parties, their respective successors and assigns and shall inure to the benefit of the parties, their respective successors and assigns.

**SECTION 3.09. SEVERABILITY** In the event any provision of this Subscription Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

**SECTION 3.10. EXECUTION IN COUNTERPARTS.** This Subscription Agreement may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

**SECTION 3.11. APPLICABLE LAW.** The exclusive venue of any legal or equitable action that arises out of or relates to this Subscription Agreement shall be the

appropriate state court in Miami-Dade County. In any such action, Florida law shall apply and the parties waive any right to jury trial.

**SECTION 3.12. ENTIRE AGREEMENT.** This Subscription Agreement constitutes the entire agreement among the parties pertaining to the subject matter hereof, and supersedes all prior and contemporaneous agreements, understandings, negotiations and discussions of the parties, whether oral or written, and there are no warranties, representations or other agreements among the parties in connection with the subject matter hereof, except as specifically set forth herein.

[Remainder of page intentionally left blank.]

IN WITNESS WHEREOF, the undersigned have caused this Subscription Agreement to be duly executed and entered into as of the date first above written.

**THE TOWN OF SURFSIDE**

(SEAL)

By: \_\_\_\_\_  
Guillermo Olmedillo, Town Manager

Attest:

Approved as to form:

\_\_\_\_\_  
Sandra Novoa, MMC, Town Clerk

\_\_\_\_\_  
Weiss Serota Helfman Cole & Bierman, P.L.  
Town Attorney

IN WITNESS WHEREOF, the undersigned have caused this Subscription Agreement to be duly executed and entered into as of the date first above written.

**THE FLORIDA PACE FUNDING AGENCY**

(SEAL)

By: \_\_\_\_\_  
Michael H. Steigerwald, Executive Director

ATTEST:

\_\_\_\_\_  
Donald T. Smallwood, Assistant Secretary

**AMENDED AND RESTATED  
INTERLOCAL AGREEMENT  
RELATING TO THE ESTABLISHMENT OF THE  
FLORIDA PACE FUNDING AGENCY**



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**AMENDED AND RESTATED  
INTERLOCAL AGREEMENT RELATING TO THE ESTABLISHMENT OF  
THE FLORIDA PACE FUNDING AGENCY**

**THIS AMENDED AND RESTATED OF THE INTERLOCAL AGREEMENT** is made and entered into as of the last date of execution hereof by the Incorporators (hereinafter the "Charter Agreement" or "Charter"), by and among the local governments acting as Incorporators hereof (each an "Incorporator", and collectively, the "Incorporators") as evidenced by their execution hereof, by and through their respective governing bodies. This amendment and restatement concerns the Interlocal Agreement recorded at Official Record Book 4143, at Page 2562, as amended at Official Record Book 4210, at Page 2544 in the Official Records of Osceola County, Florida, and in Record Book 1821 at Page 1493, as amended at Official Record Book, at Page 1843, page 415 in the Official Records of Flagler County, Florida (the "Interlocal Agreement"). The purpose of the Interlocal Agreement was to create and establish a separate legal entity, public body and unit of local government, pursuant to Section 163.01(7)(g), Florida Statutes, with all of the privileges, benefits, powers and terms provided for therein and by law.

**WITNESSETH:**

**NOW, THEREFORE**, in consideration of the mutual covenants herein contained and for other good and valuable consideration each to the other, receipt of which is hereby acknowledged by each Incorporator and the Agency, the parties hereby update, amend, codify and restate the Interlocal Agreement, and agree, stipulate and covenant as follows:

**ARTICLE I**  
**DEFINITIONS AND CONSTRUCTION**

**SECTION 1.01. DEFINITIONS.** As used in this Charter Agreement, the following terms shall have the meanings as defined unless the context requires otherwise:

**"Agency"** means the Florida PACE Funding Agency, a separate legal entity and public body created pursuant to the provisions of the Interlocal Agreement, and as updated, amended, codified and restated by this Charter Agreement. The name or acronym PACE is derived from the concept commonly referred to as 'property assessed clean energy' and relates hereto to the provisions of general law related to funding and financing energy efficiency, renewable energy, and/or wind resistance improvements encouraged and authorized by Section 163.08, Florida Statutes.

**"Charter Agreement"** or **"Charter"** means this Charter Agreement which updates, amends, codifies as a single document, and restates the Interlocal Agreement in its entirety and confirms the establishment of the Agency, including any amendments and supplements hereto executed and delivered in accordance with the terms hereof.

**"Financing Documents"** shall mean the resolution or resolutions duly adopted by the Agency, as well as any indenture of trust, trust agreement, interlocal agreement or other instrument relating to the issuance or security of any bond or debt obligations of the Agency, or the lending or provision of the proceeds thereof to a Subscribing Local Government.

**"Incorporator" and "Incorporators"** shall mean those local governments executing the Interlocal Agreement and this Charter Agreement, acting as the Incorporators of the Agency, and any future constituent local government member of the Agency who may join in to this Charter Agreement.

**"Obligations"** shall mean a series of bonds, obligations or any other evidence of indebtedness, including, but not limited to, notes, commercial paper, certificates or any other obligations of the Agency issued under the Interlocal Agreement or hereunder, or under any general law provisions, and pursuant to the Financing Documents. The term shall also include any lawful debt obligation committed to by the Agency pursuant to an interlocal agreement with another governmental body or agency and/or warrants issued for services rendered or administration expenses.

**"Pledged Funds"** shall mean (A) the revenues derived from non-ad valorem special assessments levied in association with Qualified Improvements by a local government or the Agency and other moneys received by the Agency or its designee

relating to some portion thereof, (B) until applied in accordance with the terms of the Financing Documents, all moneys in the funds, accounts and sub-accounts established thereby, including investments therein, and (C) such other property, assets and moneys of the Agency as shall be pledged pursuant to the Financing Documents; in each case to the extent provided by the Board of Directors pursuant to the Financing Documents. The Pledged Funds pledged to one series of Obligations may be different than the Pledged Funds pledged to other series of Obligations. Pledged Funds shall not include any general or performance assurance fund or account of the Agency.

**"Qualifying Improvement"** means those improvements for energy efficiency, renewable energy, and/or wind resistance or any such similar purposes described or authorized in the Supplemental Act or any amendment thereto, to be affixed or installed by the record owner of an affected property. Until subsequently determined by the Board of Directors of the Agency once the Agency's programs have become established, Qualifying Improvements shall not include improvements completed before the property has received an initial certificate of occupancy.

**"Serve", "service" or the "provision of service"** as such terms are used herein relate to a governmental function or purpose identified by law, which serve and achieve what the Legislature has determined as a compelling state interest necessary for the prosperity and welfare of the state and its property owners and inhabitants, and shall include and mean all actions authorized by the Supplemental Act and this Charter, including, but not limited to, the funding and financing of Qualifying Improvements through the execution of financing agreements and the related imposition of voluntary non-ad valorem assessments to finance facilities on behalf of private property owners within or outside of any Incorporator, all of which have been authorized and declared by the Legislature to benefit the people of the state, increase their commerce and prosperity, improve their health and living conditions, and to allow for the performance of essential governmental functions by the Agency.

**"Subscribing Local Government" or "Subscriber"** shall mean any municipality, county or other government permitted by the Supplemental Act to enter into financing agreements as provided for therein which elects to participate in the Agency's financing program for Qualifying Improvements by entering into a Subscription Agreement with the Agency.

**"Subscription Agreement"** means a separate interlocal agreement between the Agency and any municipality, county or other government permitted by general law to finance Qualifying Improvements or permitted by the Supplemental Act to enter into financing agreements as provided for therein. At a minimum, such Subscription Agreement shall provide for (1) the request or confirmation of authority of the Agency to

act, provide its services, and conduct its affairs in cooperation with and/or within the subscribing government's area of service or boundaries; (2) the Agency or local government to facilitate by law the voluntary acquisition, delivery, installation or any other manner of provision of Qualifying Improvements to record owners desiring such improvements who are willing to enter into financing agreements as provided for in the Supplemental Act and agree to impose non-ad valorem assessments which shall run with the land on their respective properties; (3) the Agency or local government to levy, impose and collect non-ad valorem assessments pursuant to such financing agreements; (4) the issuance of Obligations of the Agency to fund and finance the Qualifying Improvements; (5) the proceeds of such non-ad valorem assessments to be timely and faithfully paid to the Agency or its bondholders; (6) the withdrawal from, discontinuance of, or termination of the Subscription Agreement by either party upon reasonable notice in a manner not detrimental to the holders of any Obligations of the Agency or inconsistent with general law or any Financing Documents; (7) such disclosures, consents or waivers reasonably necessary to concurrently use or employ the service and activities of the Agency; and (8) such other covenants or provisions deemed necessary and mutually agreed to by the parties in respect of general law to carry out the purpose and mission of the Agency.

"**Supplemental Act**" means the provisions of, and additional and supplemental authority described in, Section 163.08, Florida Statutes, and as may be amended from time to time and contemporaneously in effect.

#### **SECTION 1.02      CONSTRUCTION.**

A) Words importing the singular number shall include the plural in each case and vice versa, and words importing persons shall include firms and corporations. The terms "herein," "hereunder," "hereby," "hereto," "hereof," and any similar terms, shall refer to this Charter Agreement; the term "heretofore" shall mean before the date this Charter Agreement is entered into; and the term "hereafter" shall mean after the date this Charter Agreement is entered into.

B) Each recital, covenant, agreement, representation and warranty made by a party herein shall be deemed to have been material and to have been relied on by the other party to this Charter Agreement. Each Incorporator has reviewed and desires to enter into this Charter Agreement; the Agency is a successor to such Incorporators and a beneficiary thereof, and the provisions hereof shall not be construed for or against any Incorporator or the Agency by reason of authorship or incorporation.

**SECTION 1.03.      SECTION HEADINGS.** Any headings preceding the texts of the several Articles and Sections of this Charter Agreement and any table of contents

or marginal notes appended to copies hereof shall be solely for convenience of reference and shall neither constitute a part of this Charter Agreement nor affect its meaning, construction or effect.

**SECTION 1.04. FINDINGS.** It is hereby ascertained, determined and declared that:

(A) The Legislature has determined that all energy consuming improvements to property that are not using energy conservation strategies contribute to the burden resulting from fossil fuel energy production. This comports with the declared public policy of the State to play a leading role in developing and instituting energy management programs to promote energy conservation, energy security, and the reduction of greenhouse gases, in addition to establishing policies to promote the use of renewable energy.

(B) The Legislature has also determined that improved properties not protected from wind damage by wind-resistant improvements contribute to the burden resulting from potential wind damage; and, the installation and operation of Qualifying Improvements not only benefit the affected properties for which the improvements are made, but also assist in fulfilling the goals of the State's energy and hurricane mitigation policies.

(C) In the Supplemental Act, the Legislature finds that there is a compelling State interest in enabling property owners to voluntarily finance such improvements with local government facilitative assistance.

(D) In the Supplemental Act, the Legislature makes it clear that the financing of Qualifying Improvements through the execution of financing agreements and related imposition of voluntary assessments is reasonable and necessary for the prosperity and welfare of the State and its property owners and inhabitants.

(E) The Supplemental Act also expressly allows for, but does not require, local governments to enter into partnerships with one or more local governments for the purpose of providing and financing Qualifying Improvements. Such provision allows among other things for innovation in carrying out service and the compelling state interest described in the Supplemental Act.

(F) Although, in theory, assessments for Qualifying Improvements could be imposed under home rule authority, the Legislature felt it necessary and desirable to provide supplemental authority and encouragement which provides a framework for local, regional, and even state-wide approaches to service. The Supplemental Act

provides guidelines, safeguards and clarifies necessary aspects of implementation. The concept that each landowner voluntarily subjects their land as security for payment of the non-ad valorem assessments through an individual financing agreement is unique and fundamental to reasonably attracting funding secured by assessments for Qualifying Improvements which include energy efficiency, renewable energy, wind resistant improvements.

(G) A simplified and standardized state-wide program offers efficiencies, economies of scale, and uniformity that can efficiently attract a stream of financing and uniform program implementation and avoid administrative burdens and inefficient expenditures by local governments throughout Florida. The approach embodied in this Charter Agreement allows the local governments executing this Charter Agreement to act initially as 'incorporators' to create a focused single legal entity which minimizes their involvement and exposure in a manner like that of an incorporator in the corporate sense. The Legislature has expressly determined that the Agency shall be defined as a local government in the Supplemental Act and is independently authorized by law to impose these types of voluntary assessments for energy efficiency, renewable energy or wind resistant Qualifying Improvements.

(H) The Agency achieves local economic development, the hardening of building stock and creates local jobs by bringing owners and contractors together to facilitate the provision, funding, and financing of Qualifying Improvements. As a separate legal entity, the Agency is expressly authorized by general law to finance facilities on behalf of any person relating to a governmental function or purpose which may serve populations within or outside of the members of the entity.

(I) This approach requires a match of demand by individual property owners, both residential and commercial, to the reservoir of qualified labor, tradesmen and vendors in communities throughout Florida. The Agency presents *inter alia* a focused governmental function of attracting and educating qualified labor, tradesman and vendors in how to effectively serve a new market. Facilitation by creating uniform and standardized approaches, careful disclosure to interested private property owners, and developing financing underwritten voluntarily by individual property owners not only addresses energy efficiency, renewable energy, and/or wind resistance burdens and benefits, but will stimulate a substantial and meaningful flow of private sector economic activity and new job creation.

(J) The creation and establishment of the Florida PACE Funding Agency serves to minimize duplication of effort and unnecessary government exposure or involvement, and by law accomplishes a compelling state interest through the provision of service by making available uniform, competitive and credible funding and financing

for individual property owners wishing to participate. The increased availability of funding and financing service by the Florida PACE Funding Agency serves to convert a resource of unused trade and construction skill-sets into productive new private sector job markets, naturally creates local employment, and carefully complies with relevant industry guidelines, safeguards and implementation authorization provided by the Legislature in the Supplemental Act.

(K) This Charter Agreement serves to expressly address and conform to a change in general law subsequent to the execution and effective date of the Interlocal Agreement in order to more broadly serve and provide competitive opportunities to communities, labor markets, material markets, populations, and persons and help to improve properties throughout Florida in order to assist property owners in voluntarily achieving the compelling state interest and fulfilling the goal of the state's energy and hurricane policies articulated in the Supplemental Act.

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**ARTICLE II  
THE AGENCY**

**SECTION 2.01. ESTABLISHMENT AND CREATION.**

(A) Creation and establishment of the "Florida PACE Funding Agency," a separate legal entity and public body and unit of local government with all of the privileges, benefits, powers and terms provided for herein and by law, and as defined herein as the "Agency", by the Interlocal Agreement is ratified and confirmed.

(B) Initial membership in and the Incorporators of the Agency consists of those local governments executing the Interlocal Agreement and this Charter Agreement as Incorporators. To the extent permitted by Section 163.01, Florida Statutes, additional members may be included or deleted by amendment hereto approved by all member local governments of the Agency and the governing body of the Agency. As a condition to membership in the Agency, each member shall be a municipality or county, or other government permitted by the Supplemental Act to enter into financing agreements as provided for therein.

(C) The boundaries or non-exclusive jurisdiction of the Agency shall embrace the territory of any county or municipality throughout the state within which any person owning a property therein determines to enter into a financing agreement evidencing the levy and imposition of a non-ad valorem assessment for a Qualifying Improvement funded or financed by the Agency.

(D) A municipality or county or other government permitted by the Supplemental Act to enter into financing agreements as provided for therein need not be a local government member in or of the Agency, and by law need not otherwise enter into a Subscription Agreement, nor undertake any exclusive relationship with the Agency, nor otherwise take any action to acquiesce, encourage or request the Agency to act, provide its services, or conduct its affairs within the local governments' boundaries.

(E) The Agency is created for purposes set forth in Section 163.01(7)(g), Florida Statutes, and this Charter Agreement as the same may be amended from time to time, in order to facilitate, administer, implement and assist in providing funding and financing for Qualifying Improvements, enter into Subscription Agreements and other agreements, and otherwise serve or provide its services to facilitate financing agreements and non-ad valorem assessments only on properties subjected to same by the record owners thereof, develop funding and financing markets, develop structures and procedures to finance Qualifying Improvements, and to take any actions associated therewith or necessarily resulting therefrom, as contemplated by the Supplemental Act and general law.

(F) The Agency charter created by this Charter Agreement may be amended only by written amendment hereto, or by special act of the Legislature, upon the consent by resolution of the governing bodies of the then members of the Agency.

(G) The mission of the Agency shall be to aspire to and undertake, cause and/or perform all such acts as shall be necessary to provide an independent, uniform and efficient local platform capable of serving private property owners in Florida, by securing economies of scale, market-based competition and uniform implementation on a state-wide basis as authorized by general law and this Charter to facilitate the provision of service, and the funding and financing of Qualifying Improvements to only interested property owners desiring to voluntarily achieve the compelling state interests expressed in the Supplemental Act.

(H) The Agency's mission fundamentally includes a judicially-confirmed structure which eliminates responsibility or liability for the Agency's actions with regard to any other governmental official or entity, while benefitting local commerce, fulfilling the state's energy and hurricane mitigation policies, and allows for cooperation and sharing information with general purpose local governments; and, shall focus upon education of interested and participating property owners, along with providing for direct written disclosure and constructive notice which meets and exceeds relevant industry standards and the extraordinary direct and constructive notice provided by the Supplemental Act.

(I) The Agency, pursuant to general law and by judicial determination, is (1) a legal entity separate and distinct from its Incorporators or members, and (2) a valid and legally existing public body corporate and politic within the State of Florida created pursuant to the Interlocal Agreement and other general law. The Agency is not and cannot be characterized as a dependent special district under section 189.012, Florida Statutes. Accordingly, for providing a status statement and substantial compliance with section 189.03, Florida Statutes and its predecessor in function, as previously requested by the Department of Economic Opportunity, the status of the Agency is "independent." Such status is consistent with the determination of the Department of Economic Opportunity.

**SECTION 2.02. AUTHORITY TO ADMINISTER THE PROVISION OF SERVICE, FUNDING AND FINANCING OF QUALIFYING IMPROVEMENTS.** By this Charter, the provisions of section 163.01(7)(g), Florida Statutes, the Supplemental Act, or by resolution of the governing bodies of a general purpose local government affected and as implemented pursuant to a Subscription Agreement, collectively, alternatively, or supplementally, all power and authority available to the Agency under this Charter Agreement, and general law, including without limitation, Chapters 163, 189

and 197, Florida Statutes, shall be deemed to be authorized and may be implemented by the Agency to serve populations within and outside of the members of the Agency.

**SECTION 2.03. GOVERNANCE.**

(A) The governing body of the Agency shall consist of a number of persons equal to one (1) member of the Agency's Board of Directors appointed by each Incorporator, and due to the event of an even number of Incorporators, one (1) member of the Agency's Board of Directors shall be selected jointly by all Incorporators, each of whom shall serve a staggered term of three (3) years commencing on October 1. To immediately broaden geographic and insightful participation in governance, until the Agency attains a total of four (4) local government members (including the initial Incorporators) as provided for in the preceding sentence, the Board of Directors of the Agency is directed and authorized to appoint Board Director No. 4 and Board Director No. 5 using substantially the process as provided in subsection (C) of this Section. However, any person so appointed by the Board of Directors concerning Board Director No. 4 or Board Director No. 5 shall be appointed for the unexpired term. Each Director shall hold office until his or her successor has been appointed, qualified and taken an oath of office. The procedure for appointment of members of the Board of Directors and their initial terms of office shall be as follows:

(1) Board Director No. 1, Barbara Revels, is hereby confirmed and appointed by the Board of County Commissioners of Flagler County and accepted to serve a second term ending on September 30, 2019.

(2) Board Director No. 2, Cheryl Grieb, is hereby confirmed and appointed by the City Commission of the City of Kissimmee and accepted to serve a second term ending on September 30, 2017.

(3) Board Director No. 3, Jim Ley, is hereby jointly confirmed and appointed, due to the event of an even number of initial Board of Directors appointed by the Incorporators, and accepted to serve a first term ending September 30, 2018.

(4) Board Director No. 4, as soon as reasonably practicable, shall be appointed as provided herein or as otherwise directed and authorized to an initial term ending on September 30, 2019.

(5) Board Director No. 5, as soon as reasonably practicable, shall be appointed as provided herein or as otherwise directed and authorized to an initial term ending on September 30, 2018.

(6) All members of the Board of Directors shall be qualified electors of the State of Florida.

To the extent necessary, if at all, and without assumption of any liability therefore by the Incorporators, all actions of the Incorporators, the Agency's Board of Directors, and their duly authorized officers and agents, beginning with the inception of the Agency through execution hereof, are hereby ratified and confirmed. This confirmation and ratification provision serves the purpose of a savings clause for the avoidance of doubt in favor of the public interest, and for purposes of repose in the conduct of orderly public affairs.

(B) Members of the Board of Directors shall serve no more than three (3) consecutive three (3) year terms, not including any initial term of less than three (3) years. Provided, however, they shall continue to hold office for the terms for which they were appointed until their successors are chosen, qualified and taken an oath or office.

(C) Upon the occasion of a vacancy for any reason in the term of office of a member of the Board of Directors, which vacancy occurs prior to the replacement of the Board member by appointment and which remains unfilled for thirty (30) days after such vacancy due to inaction or the failure of the respective Incorporator's governing body to duly appoint a successor who is a qualified elector of the State as provided in subsection (A) hereof or otherwise, a successor shall be appointed by a majority of a quorum of the remaining Board of Directors at a meeting held for such purposes. Except as specifically provided on an interim basis in subsection (A) concerning Board Director No. 4 and Board Director No. 5, any person so appointed to fill a vacancy shall be appointed to serve only for the unexpired term or until a successor is duly appointed.

(D) The Board of Directors shall elect a Chairperson, Vice-Chairperson, Secretary, Assistant Secretary and such other officers of the Agency as may be hereafter designated and authorized by the Board of Directors, each of whom shall serve for one (1) year commencing as soon as practicable after October 1 and until their successor is chosen. The Chairperson, the Vice-Chairperson, or the Secretary shall conduct the meetings of the Agency and perform such other functions as herein provided. The Chairperson and Vice-Chairperson shall take such actions, and have all such powers and sign all documents on behalf of the Agency in furtherance of this Charter Agreement or as may be approved by resolution of the Board of Directors adopted at a duly called meeting. The Vice-Chairperson, in the Chairperson's absence, shall preside at all meetings. The Secretary, or the Secretary's designee, shall keep minutes of all meetings, proceedings and acts of the Board of Directors, but such minutes need not be verbatim. Copies of all minutes of the meetings of the Agency shall promptly be sent by the Secretary, or the Secretary's designee, to all members of the Board of Directors and to each general purpose local government which is an Incorporator or Subscribing Local

Government. The Secretary and any Assistant Secretary may also attest to the execution of documents. The Secretary and any Assistant Secretary, or other person duly designated by resolution of the Board, shall have such other powers as may be approved by resolution of the Board of Directors adopted at a duly called meeting.

(E) The Board of Directors shall have those administrative duties set forth in this Charter Agreement and Chapter 189, Florida Statutes, as the same may be amended from time to time. Any certificate, resolution or instrument signed by the Chairperson, Vice-Chairperson or such other person on behalf of the Agency as may hereafter be designated and authorized by resolution of the Board of Directors shall be evidence of the action of the Agency and any such certificate, resolution or other instrument so signed shall be conclusively presumed to be authentic.

(F) Except as provided in this subsection, the members of the Board of Directors shall receive no compensation for their services. Each member of the Board of Directors may be reimbursed for expenses as provided in Section 112.061, Florida Statutes, or, as an alternative, receive a per diem to compensate each member for the inconvenience of travel and associated expenses not to exceed \$350 per calendar day or as otherwise approved by the Board of Directors for travel on Agency business. Provided, however, such expenses or per diem shall not be construed as a salary, and accrue and only be payable as, if and when funds to pay same are available to the Agency.

(G) A majority of the Board of Directors shall constitute a quorum for the transaction of business of the Agency. The affirmative vote of the majority of the members of the Board of Directors present and voting (exclusive of any member having a conflict) shall be necessary to transact business.

(H) By the Interlocal Agreement, prior to the appointment of the entire Board of Directors and the first organizational meeting thereof, the affairs of the Agency were governed by joint resolution of the Incorporators and the then members of the Agency. In such interim period, however long, such acts were necessarily made on behalf of and shall be binding upon the Agency by joint resolution of said Incorporators and the then members. Such acts shall be deemed actions of the governing body of the Agency. In this context, "joint resolution" shall mean any one or a set of resolutions adopting concurrent direction and authorization under the provisions of the Interlocal Agreement or the Charter, and may be evidenced by resolutions executed separately, jointly or with counterpart or other similar provisions, and do not require the joint meeting of the Incorporators. Such actions shall be exclusively on behalf of the Agency, and no liability or responsibility therefor shall be imputed to said Incorporators or the then members. Such acts may include any power or authority otherwise available to the Agency and shall include, among other things, approval of such Financing Documents as were

deemed advisable to file all necessary validation or other pleadings, and undertake appellate matters if necessary, in order to obtain validation of the authority for the Agency to undertake its purpose and mission and issue its Obligations associated there with, the retention of counsel, the procurement of other professional services and all other reasonable acts to initiate and validate the purpose, mission and authority of the Agency, with the cost thereof accruing exclusively to and only payable by the Agency as, if and when funds from or associated with the programs of the Agency become available. All such actions taken or instruments executed on behalf of the Agency are ratified and confirmed and shall continue to be valid and binding in every respect upon the Agency as if duly executed by the Chairman on behalf of the Board of Directors or any other person authorized by the Board of Directors to execute same.

**SECTION 2.04. MEETINGS; NOTICE.** Unless determined otherwise by the Board of Directors, the Board of Directors shall hold meetings pursuant to Section 189.015, Florida Statutes. Notice of meetings and the adoption of the annual budget shall be promulgated on the Agency's website, and notice concerning same shall be published in newspapers of general circulation in the counties of the Incorporators and members of the Agency. Meetings may be noticed and conducted in any reasonable manner in any lawful location within the State.

**SECTION 2.05. REPORTS; BUDGETS; AUDITS.** Unless determined otherwise by the Board of Directors, the Agency shall prepare and submit reports, budgets and audits as provided in Sections 189.016, Florida Statutes.

**SECTION 2.06. POWERS, FUNCTIONS AND DUTIES.**

(A) The Agency shall have all powers to carry out the purposes of this Charter Agreement and the functions and duties provided for herein, including the following powers which shall be in addition to and supplementing any other privileges, benefits and powers granted by this Charter Agreement or by law:

(1) To execute all contracts and other documents, adopt all proceedings and perform all acts determined by the Board of Directors as necessary or advisable to carry out the purpose or mission of the Agency, the purposes of the Interlocal Agreement or this Charter Agreement or any Subscription Agreement with a local government. Unless otherwise provided for herein or authorized by the Board of Directors, the Chairperson or Vice-Chairperson shall execute contracts and other documents on behalf of the Board of Directors.

(2) To plan and provide for the provision, funding, and financing of Qualified Improvements in any manner or means determined by the Board of Directors.

(3) To contract for the service of administrators, accountants, attorneys and any other experts, advisors, or consultants, and such other professionals, agents and employees as the Board of Directors may require or deem appropriate from time to time.

(4) To contract for such services, costs, goods, facilities, or other costs or expenses on a contingent, at risk or deferred basis with the providers, purveyors, or vendors thereof with the express understanding that payment therefore may be evidenced by warrants only due or payable from the Agency (and absolutely no other person, entity or Incorporator) as, if and when identified funds to pay same are available to the Agency.

(5) To reimburse any Incorporator for actual and verifiable costs and expenses reasonably associated with the creation and establishment of the Agency, if any, as, if and when identified funds to repay same are available to the Agency.

(6) To adopt all necessary rules, regulations, procedures, or standards by resolution.

(7) To exercise jurisdiction, control and supervision over the provision, funding, and financing of Qualified Improvements and to make and enforce such rules, procedures and regulations applicable thereto as may be, in the judgment of the Board of Directors, necessary or desirable for the efficient operation of the Agency in accomplishing the purpose and mission of the Agency, and purposes of this Charter Agreement.

(8) To enter into interlocal agreements or join with any other special purpose or general purpose local governments, public agencies or authorities in the exercise of common powers.

(9) To contract with private or public entities or persons.

(10) Subject to such provisions and restrictions as may be set forth in any Financing Document, to enter into contracts with the government of the United States or any agency or instrumentality thereof, the State, or with any municipality, county, district, authority, political subdivision, private corporation, partnership, association or individual providing for or relating to the provision, funding, or financing of Qualifying Improvements and any other matters relevant

thereto or otherwise necessary to effect the purpose and mission of the Agency and purposes of this Charter Agreement.

(11) To receive and accept from any federal or State agency, grants or loans for or in aid of the planning, administration, provision or financing of Qualifying Improvements, and to receive and accept aid or contributions or loans from any other source of either money, labor or other things of value, to be held, used and applied only for the purpose for which such grants, contributions or loans may be made.

(12) To purchase, finance, assume the ownership of, lease, operate, manage and/or control of any administrative facilities, including all equipment or personal property deemed necessary by the Board of Directors to achieve the purpose or mission of the Agency.

(13) To appoint advisory boards and committees to assist the Board of Directors in the exercise and performance of the powers and duties provided in this Charter Agreement.

(14) To sue and be sued in the name of the Agency and participate as a party in any civil, administrative or other action.

(15) To provide or contract for record retention and public records administration.

(16) To adopt and use a seal and authorize the use of a facsimile thereof.

(17) To employ or contract with any public or private entity or person to administer, manage, operate or provide professional services or other efforts associated with any Agency activity, program or facilities, or any portion thereof, including project or program management or similar plans, upon such terms as the Board of Directors deems appropriate.

(18) Subject to such provisions and restrictions as may be set forth in any Financing Document, to own, use, manage or otherwise dispose of any administrative facilities, equipment or personal property, or any portion thereof, upon such terms as the Board of Directors deems appropriate.

(19) Subject to such provisions and restrictions as may be set forth in any Financing Document, to acquire, own, manage, or otherwise dispose of carbon, renewable energy or similar credits upon such terms as the Board of



Directors deems appropriate; and use the proceeds of same, if any materialize, to underwrite start-up or on-going program costs, payment to professionals for deferred or contingent fee or other work or retainers, the advancement of educational programs, deposit into any general or performance assurance fund and/or payment of other reasonable costs or expenditure to advance the mission and purpose of the Agency.

(20) To acquire, by purchase, gift, devise, tax sale certificate or otherwise, and to dispose of, real or personal property, or any estate therein in the course of the purpose or mission of the Agency.

(21) To make and execute contracts or other instruments necessary or convenient to the exercise of its powers.

(22) To maintain an office or offices within the State at such place or places as the Board of Directors may designate from time to time.

(23) To utilize and employ technology and innovation to the maximum extent possible, unless otherwise inconstant with general law, in conducting the meetings and affairs of the Agency.

(24) To lease, as lessor or lessee, to or from any person, firm, corporation, association or body, public or private, facilities or property of any nature to carry out any of the purposes authorized by law or this Charter Agreement.

(25) To borrow money and issue bonds, certificates, warrants, notes, obligations or other evidence of indebtedness of any kind.

(26) To independently act, assist, serve or provide service within the bounds of any general purpose local government to fund, finance, assess, levy, impose, collect and enforce non-ad valorem assessments authorized by Section 163.08, Florida Statutes, as expressly authorized to do so by either the Legislature and this Charter or by the general purpose local government in which the lands assessed are located. Such non-ad valorem assessments may only be to fund and finance Qualifying Improvements.

(27) To contract, apply for and accept grants, loans, assignments and subsidies from any governmental entity for the provision, funding and financing of Qualifying Improvements, and to comply with all requirements and conditions imposed in connection therewith.

(28) To the extent allowed by law and to the extent required to effectuate the purposes of this Charter Agreement, to have and exercise all privileges, immunities and exemptions accorded municipalities and counties of the State under the provisions of the constitution and laws of the State.

(29) To adopt investment policies from time to time and/or invest its moneys in such investments as directed by the Board of Directors in a manner which shall be consistent in all instances with the applicable provisions of the Financing Documents and State law.

(30) To purchase such insurance, bonds, sureties, contracts of indemnity, or similar facilities of any kind or nature as it deems appropriate.

(31) To do all acts and to exercise all of the powers necessary, convenient, incidental, implied or proper, in connection with any of the powers, duties, obligations or purposes authorized by this Charter Agreement or by law.

(B) The Board of Directors may appoint or contract with one or more persons or entities to act as the third party administrator for the Agency having such functions, duties, and responsibilities to implement the services and affairs of the Agency as the Board of Directors may prescribe.

(C) The Board of Directors may appoint or contract with a person or entity to act as executive director of the Agency having such official title, functions, duties, and powers as the chief administrative officer of the Agency as the Board of Directors may prescribe. The Board of Directors shall appoint a person or entity to act as the legal counsel for the Agency. The executive director and legal counsel shall each answer directly to the Board of Directors. The third party administrator shall answer to the executive director, unless otherwise directed by the Board of Directors. Neither the executive director, the third party administrator, legal counsel, nor any other employee of the Agency shall be a member of the Board of Directors.

(D) The Board of Directors (or the executive director prior to the first meeting of Board of Directors) may use or employ any procurement procedures or approach not otherwise inconsistent with general law.

(E) The Board of Directors (or the executive director prior to the first meeting of Board of Directors) may request proposals, or receive unsolicited proposals; provided, however, a courtesy notice thereof shall be provided to the chief administrative officer of each then Incorporator or member of the Agency.

(F) The executive director shall be authorized to execute and deliver on behalf of the Agency such documents and to take such actions as shall be authorized from time to time by the governing body of the Agency. The executive director, or other person or entity otherwise specifically directed to do so, is hereby directed and authorized to undertake such reasonable actions to request proposals, receive unsolicited proposals or employ any procurement procedures necessary to reasonably and timely advance the mission and purpose of the Agency, and thereafter make recommendations to the Board of Directors.

(G) In exercising the powers conferred by this Charter Agreement, the Board of Directors shall act by resolution or motion made and adopted at duly noticed and publicly held meetings in conformance with applicable law.

(H) The provisions of Chapter 120, Florida Statutes, shall not apply to the Agency.

(I) However, nothing herein shall affect the ability of the Agency to engage in or pursue any civil or administrative action or remedies, including but not limited to any proceeding or remedy available under Chapter 120, Florida Statutes, or its successor in function.

**SECTION 2.07. CREATION OF STATE, COUNTY OR MUNICIPAL DEBTS PROHIBITED.** The Agency shall not be empowered or authorized in any manner to create a debt as against the State, any county or any municipality, and may not pledge the full faith and credit of the State, any county, or any municipality. All revenue bonds or debt obligations shall contain on the face thereof a statement to the effect that the state, county or any municipality shall not be obligated to pay the same or interest thereon and that they are only payable from Agency revenues or the portion thereof for which they are issued and that neither the full faith and credit nor the taxing power of the state or of any political subdivision thereof is pledged to the payment of the principal of or the interest on such bonds. The issuance of revenue or refunding bonds under the provisions of law or this Charter Agreement shall not directly or indirectly or contingently obligate the state, or any county or municipality to levy or to pledge any form of taxation whatever therefor or to make any appropriation for their payment.

**SECTION 2.08. ADOPTION OF RATES, FEES AND CHARGES.**

(A) The Board of Directors may adopt from time to time by resolution such rates, fees or other charges for the provision of the services of the Agency to be paid by the record owner of any property, pursuant to a financing agreement described in the Supplemental Act.

(B) Such rates, fees and charges shall be adopted and revised so as to provide moneys, which, together with other funds available for such purposes, shall be at least sufficient at all times to pay the expenses of administering, managing, and providing for the services and administration of the activities of the Agency, to pay costs and expenses provided for by law or this Charter Agreement and the Financing Documents (including the funding of any financing or operating reserves deemed advisable by the Agency), and to pay the principal and interest on the Obligations as the same shall become due and reserves therefor, and to provide a reasonable margin of safety over and above the total amount of such payments. Notwithstanding any other provision in this Charter Agreement, such rates, fees and charges shall always be sufficient to comply fully with any covenants contained in the Financing Documents. The Agency shall charge and collect such rates, fees and charges so adopted and revised, and such rates, fees and charges shall not be subject to supervision or regulation by any other commission, board, bureau, agency or other political subdivision of the State.

(C) Such rates, fees and charges may vary from jurisdiction to jurisdiction, but shall be just and equitable and uniform at the time of imposition for the record owners (within each community served or subscribing local governmental jurisdiction) electing to enter into any financing agreement described in the Supplemental Act within the same class, and may be based upon or computed upon any factor (including, by way of example and not limitation, distinguishing between residential and non-residential customers or uses, distinguishing between variable costs of administrative services, the degree of local cooperation, assistance from and coordination with local officials, underwriting or market factors over time) or combination of factors affecting the demand or cost of the service furnished by the Agency or provided to administer the affairs of the Agency and provision of service as may be determined or approved by the Board of Directors from time to time.

(D) Notwithstanding anything in this Charter Agreement to the contrary, the Agency may establish a general fund and/or performance assurance account into which moneys may be deposited from an annual surcharge not to exceed one percent (1%) upon any assessments, or any rates, fees and charges imposed, pledged to or collected by the Agency. Any moneys deposited to such general fund account from such a surcharge represent a fair and reasonable cost of administration and shall be considered legally available for any lawful purpose approved by the Board of Directors. Moneys in such general fund and/or performance assurance account may be used to pay for or reimburse initial costs and expenses advanced or associated with start-up costs, feasibility studies, economic analysis, financial advisory services, program development or implementation costs or enhancements, public education, administration, quality control, vendor procurement, and any other lawful purpose approved by the Board of Directors.

**SECTION 2.09. BONDS AND OBLIGATIONS.**

(A) The Board of Directors shall have the power and it is hereby authorized to provide pursuant to the Financing Documents, at one time or from time to time in one or more series, for the issuance of Obligations of the Agency, or notes in anticipation thereof, for one or more of the following purposes:

- (1) Paying all or part of the cost of one or more Qualifying Improvements,
- (2) Refunding any bonds or other indebtedness of the Agency,
- (3) Assuming or repaying the indebtedness relating to Qualifying Improvements,
- (4) Setting aside moneys in a reserve or performance assurance account,
- (5) Funding a debt service reserve account,
- (6) Capitalizing interest on the Obligations,
- (7) Paying costs of issuance relating to the Obligations, and
- (8) Any other purpose relating to the purpose or mission of the Agency or this Charter Agreement.

(B) The principal of and the interest on each series of Obligations shall be payable from the Pledged Funds, all as determined pursuant to the Financing Documents. The Agency may grant a lien upon and pledge the Pledged Funds in favor of the holders of each series of Obligations in the manner and to the extent provided in the Financing Documents. Such Pledged Funds shall immediately be subject to such lien without any physical delivery thereof and such lien shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the Agency.

(C) The Obligations of each series shall be dated, shall bear interest and such rate or rates, shall mature at such time or times not exceeding forty (40) years from their date or dates, may be made redeemable before maturity, at the option of the Agency, at such price or prices and under such terms and conditions, all as shall be determined by the Board of Directors pursuant to the Financing Documents. The Board of Directors shall determine the form of the Obligations, the manner of executing such Obligations, and shall fix the denomination of such Obligations and the place of payment of the principal

and interest, which may be at any bank or trust company within or without the State. In case any officer whose signature or facsimile of whose signature shall appear on any Obligations shall cease to be such officer before the delivery of such Obligations, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes the same as if such officer had remained in office until delivery. The Board of Directors may sell Obligations in such manner and for such price as it may determine to be in the best interest of the Agency in accordance with the terms of the Financing Documents. In addition to the Pledged Funds, the Obligations may be secured by such credit enhancement as the Board of Directors determines to be appropriate pursuant to the Financing Documents. The Obligations may be issued as capital appreciation bonds, current interest bonds, term bonds, serial bonds, variable bonds or any combination thereof, all as shall be determined pursuant to the Financing Documents.

(D) Prior to the preparation of definitive Obligations of any series, the Board of Directors may issue interim receipts, interim certificates or temporary Obligations, exchangeable for definitive Obligations when such Obligations have been executed and are available for delivery. The Board of Directors may also provide for the replacement of any Obligations which shall become mutilated, or be destroyed or lost. Obligations may be issued without any other proceedings or the happening of any other conditions or things than those proceedings, conditions or things which are specifically required by this Charter Agreement, the Financing Documents or other applicable laws.

(E) The Board of Directors may enter into such swap, hedge or other similar arrangements relating to any Obligations as it deems appropriate.

(F) The proceeds of any series of Obligations shall be used for such purposes, and shall be disbursed in such manner and under such restrictions, if any, as the Board of Directors may provide pursuant to the Financing Documents.

(G) The Financing Documents may also contain such limitations upon the issuance of additional Obligations as the Board of Directors may deem appropriate, and such additional Obligations shall be issued under such restrictions and limitations as may be prescribed by such Financing Documents. The Financing Documents may contain such provisions and terms in relation to the Obligations and the Pledged Funds as the Board of Directors deems appropriate and which shall not be inconsistent herewith.

(H) Obligations shall not be deemed to constitute a general obligation debt of the Agency or a pledge of the faith and credit of the Agency, but such Obligations shall be payable solely from the Pledged Funds and any moneys received from the credit enhancers of the Obligations, in accordance with the terms of the Financing Documents. The issuance of Obligations shall not directly or indirectly or contingently obligate the

Agency to levy or to pledge any form of ad valorem taxation whatsoever therefor. No holder of any such Obligations shall ever have the right to compel any exercise of the ad valorem taxing power on the part of the Agency or any incorporating local government or subscribing local government to pay any such Obligations or the interest thereon or the right to enforce payment of such Obligations, or the interest thereon, against any property of the Agency, nor shall such Obligations constitute a charge, lien or encumbrance, legal or equitable, upon any property of the Agency, except the Pledged Funds in accordance with the terms of the Financing Documents.

(I) All Pledged Funds shall be deemed to be trust funds, to be held and applied solely as provided in the Financing Documents. Such Pledged Funds may be invested by the Agency in such manner as provided in the Financing Documents.

(J) Any holder of Obligations, except to the extent the rights herein given may be restricted by the Financing Documents, may, either at law or in equity, by suit, action, mandamus or other proceeding, protect and enforce any and all rights under the laws of the State or granted hereunder or under the Financing Documents, and may enforce and compel the performance of all agreements or covenants required by this Charter Agreement, or by such Financing Documents, to be performed by the Agency or by any officer thereof.

(K) From time to time the Agency may issue warrants, payable not from Pledged Funds, but as, if and when other legally available funds become available; or as otherwise authorized under the Financing Documents.

(L) Obligations may be validated, at the sole discretion of the Board of Directors, pursuant to Chapter 75, Florida Statutes. Obligations may be issued pursuant to and secured by a resolution of the Board of Directors. Provided, however, the Agency's power and authority to issue its Obligations for proper, legal, and paramount public purposes in the amount not to exceed \$2,000,000,000 in revenue bonds (various series), together with the validity of the Interlocal Agreement, and all of its terms, provisions and powers, the Pledged Funds, the power and authority of the Agency and any subscribing local government to enter into a Subscription Agreement, the provision, funding, and financing of Qualifying Improvements, the power and authority for local governments to enter into financing agreements and impose non-ad valorem assessments and the status of such non-ad valorem assessments as a lien of equal dignity to taxes and assessments as described in the Supplemental Act, and all matters associated therewith were required to be and were validated pursuant to Chapter 75, Florida Statutes, as soon as practicable after the execution of the Interlocal Agreement.

(M) In addition to the other provisions and requirements of this Charter Agreement, any Financing Documents may contain such provisions as the Board of Directors deems appropriate.

(N) All Obligations issued hereunder shall not be invalid for any irregularity or defect in the proceedings for the issuance and sale thereof and shall be incontestable in the hands of bona fide purchasers for value. No proceedings in respect to the issuance of such Obligations shall be necessary except such as are required by law, this Charter Agreement or the Financing Documents. The provisions of the Financing Documents shall constitute an irrevocable contract between the Agency and the holders of the Obligations issued pursuant to the provisions thereof.

(O) Holders of Obligations shall be considered third party beneficiaries hereunder and may enforce the provisions of this Charter Agreement or general law.

**SECTION 2.10. MERGER; DISSOLUTION.**

(A) In no event shall a merger involving the Agency be permitted, unless otherwise approved by resolution of the local governments which are then members of the Agency pursuant to this Charter Agreement.

(B) The dissolution of the Agency shall occur by law and transfer the title to all property owned by the Agency in a manner consistent with Chapter 189, Florida Statutes, unless (1) the Agency is merged into an independent special district as acknowledged herein, (2) this Charter Agreement is terminated pursuant to Section 3.02 hereof, or (3) as otherwise provided in a dissolution plan approved and adopted by resolution of the local governments which are then members of the Agency pursuant to this Charter Agreement.

**SECTION 2.11. ENFORCEMENT AND PENALTIES.** The Board of Directors or any aggrieved person may have recourse to such remedies in law and equity as may be necessary to ensure compliance with the provisions of this Charter Agreement, including injunctive relief to mandate compliance with or enjoin or restrain any person violating the provisions of this Charter Agreement and any bylaws, resolutions, regulations, rules, codes, and orders adopted under this Charter Agreement, and the court shall, upon proof of such failure of compliance or violation, have the duty to issue forthwith such temporary and permanent injunctions as are necessary to mandate compliance with or prevent such further violations thereof.

**SECTION 2.12. TAX EXEMPTION.** As the exercise of the powers conferred by this Charter Agreement to effect the purposes of this Charter Agreement constitute



the performance of essential public functions, and as the programs of the Agency constitute public purposes as more particularly articulated in the Supplemental Act, all assets and properties of the Agency and all Obligations issued hereunder and interest paid thereon and all assessment proceeds, rates, fees, charges, and other revenues derived by the Agency from the activities, services, and programs provided for by this Charter Agreement or otherwise shall be exempt from all taxes by the State or any political subdivision, agency, or instrumentality thereof, except that this exemption shall not apply to interest earnings subject to taxation under Chapter 220, Florida Statutes.

[Remainder of page intentionally left blank.]

### ARTICLE III GENERAL PROVISIONS

**SECTION 3.01. INTERLOCAL AGREEMENT PROVISIONS.** This Charter Agreement constitutes a joint exercise of power, privilege or authority by and between the Incorporators and shall be deemed to be an "interlocal agreement" within the meaning of the Florida Interlocal Cooperation Act of 1969, as amended. This Charter Agreement shall be filed with the applicable clerk of the circuit court as provided by Section 163.01(11), Florida Statutes.

**SECTION 3.02. TERM OF AGREEMENT; DURATION OF AGREEMENT.**

(A) The term of this Charter Agreement shall commence as of the date first above written, and shall continue for so long as the Agency shall exist.

(B) The Agency shall continue to exist so long as the Agency has Obligations outstanding. At such time as no Obligations are outstanding, the Agency may dissolve by a majority vote of the Board of Directors in a manner provided for herein.

(C) So long as the Agency has Obligations outstanding, the members of the Agency covenant not to undertake any act or action to withdraw from or otherwise terminate this Charter Agreement; and any such action shall not be effective if such action would leave less than two (2) members.

**SECTION 3.03. AMENDMENTS AND WAIVERS.**

(A) Except as otherwise provided herein, no amendment, supplement, modification or waiver of this Charter Agreement shall be binding unless executed in writing by the Agency and the local governments which are then members of the Agency pursuant to this Charter Agreement.

(B) To the extent the Agency has no outstanding bonds, Obligations or other evidence of indebtedness, this Charter Agreement may be amended or modified or provisions hereto waived upon the written consent of all the then members of the Agency as more particularly described in Section 2.01(B) hereof.

(C) This Charter Agreement is fairly determined as not materially adverse to the holders of any Agency Obligations. Notwithstanding any other provision herein interpreted to the contrary, to the extent the Agency has outstanding Obligations or other evidence of indebtedness, this Charter Agreement may not be amended or modified in any way that is materially adverse to holders of such Obligations or other evidence of indebtedness without the consent in writing of the holders of at least two-thirds (2/3) or

more in principal amount of such Obligations or other evidence of indebtedness then outstanding, or any trustee or insurer duly authorized to provide such consent on behalf of such holders.

**SECTION 3.04. NOTICES.**

(A) All notices, certificates or other communications hereunder shall be sufficiently given and shall be deemed given when hand delivered (or confirmed electronic facsimile transmission) or mailed by registered or certified mail, postage prepaid, or sent by nationally recognized overnight courier (with delivery instructions for "next business day" service) to the Incorporators at the addresses appearing on their respective signature page.

(B) Upon execution hereof all notices shall also be sent to the Agency, to the attention of its Chair, with a separate copy to the legal counsel and registered agent of the Agency.

(C) Any of the Incorporators (including the Agency after execution hereof by the Incorporators) may, by notice in writing given to the others, designate any further or different addresses to which subsequent notices, certificates or other communications shall be sent. Any notice shall be deemed given on the date such notice is delivered by hand (or confirmed electronic facsimile transmission) or three days after the date mailed.

**SECTION 3.05. IMMUNITY; LIMITED LIABILITY.**

(A) All of the privileges and immunities from liability and exemptions from laws, ordinances and rules which apply to the activity of officials, officers, agents or employees of the general purpose local governments incorporating or by law deemed members of the Agency shall apply to the officials, officers, agents or employees of the Agency when performing their respective functions and duties under the provisions of this Charter Agreement.

(B) The Agency and the general purpose local governments incorporating or by law deemed members of the Agency are and shall be subject to Sections 768.28 and 163.01(9)(c), Florida Statutes, and any other provisions of Florida law governing sovereign immunity. Pursuant to Section 163.01(5)(o), Florida Statutes, such local governments may not be held jointly or severally liable for the torts of the officers or employees of the Agency, or any other tort attributable to the Agency or another member of the Agency, and that the Agency alone shall be liable for any torts attributable to it or for torts of its officers, employees or agents, and then only to the extent of the waiver of sovereign immunity or limitation of liability as specified in Section 768.28, Florida

Statutes. The general purpose local governments incorporating or by law deemed members of the Agency intend that the Agency shall have all of the privileges and immunities from liability and exemptions from laws, ordinances, rules and common law which apply to the municipalities and counties of the State. Nothing in this Charter Agreement is intended to inure to the benefit of any third-party for the purpose of allowing any claim, which would otherwise be barred under the doctrine of sovereign immunity or by operation of law.

(C) Neither any Incorporator nor any subsequent Subscribing Local Government shall in any manner be obligated to pay any debts, obligations or liabilities arising as a result of any actions of the Agency, the Board of Directors or any other agents, employees, officers or officials of the Agency, except to the extent otherwise mutually and expressly agreed upon, and neither the Agency, the Board of Directors nor any other agents, employees, officers or officials of the Agency have any authority or power to otherwise obligate one or more of the Incorporators or Members of the Agency, nor any subsequently Subscribing Local Government in any manner.

**SECTION 3.06. BINDING EFFECT.** All actions of the Agency heretofore are acknowledged and ratified as to effect. To the extent provided herein, this Charter Agreement shall be binding upon the parties, their respective successors and assigns and shall inure to the benefit of the parties, their respective successors and assigns.

**SECTION 3.07. SEVERABILITY.** In the event any provision of this Charter Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable the Interlocal Agreement otherwise or any other provision hereof.

**SECTION 3.08. EXECUTION IN COUNTERPARTS.** This Charter Agreement may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

**SECTION 3.09. APPLICABLE LAW.** This Charter Agreement shall be governed by and construed in accordance with the laws of the State of Florida.

**SECTION 3.10. ENTIRE AGREEMENT.** This Charter Agreement constitutes the entire updated, amended, codified and restated agreement among the parties pertaining to the subject matter hereof, and there are no warranties, representations or other agreements among the parties in connection with the subject matter hereof, except as specifically set forth herein.

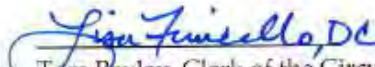
*Incorporator Signature Page*

IN WITNESS WHEREOF, the undersigned have caused this Charter Agreement to be duly executed and entered into as of this date.

BOARD OF COUNTY COMMISSIONERS  
OF FLAGLER COUNTY, FLORIDA

By:   
Nate McLaughlin, Chair

ATTEST:

  
Tom Bexley, Clerk of the Circuit Court  
and Comptroller

APPROVED AS TO FORM:

  
Al Hadeed, County Attorney

*Incorporator Signature Page*

**IN WITNESS WHEREOF**, the undersigned have caused this Charter Agreement to be duly executed and entered into as of this date.



**THE CITY COMMISSION OF THE  
CITY OF KISSIMMEE, FLORIDA**

By: \_\_\_\_\_  
Mayor

A handwritten signature in blue ink, written over a horizontal line.

ATTEST:

A handwritten signature in blue ink, written over a horizontal line.  
City Clerk

*Agency Acknowledgment Page*

IN WITNESS WHEREOF, the undersigned on behalf of the Agency hereby accepts and acknowledges this Charter Agreement and the provisions set forth herein.

FLORDIA PACE FUNDING AGENCY



(SEAL)

By: Barbara J. Reels  
Chair

ATTEST:

[Signature]  
Executive Director

**INDEMNIFICATION AGREEMENT  
BETWEEN  
COUNTERPOINTE ENERGY SOLUTIONS (FL) LLC,  
ADMINISTRATOR FOR THE FLORIDA PACE FUNDING AGENCY,  
AND THE TOWN OF SURFSIDE, FLORIDA**

This Agreement (the “Agreement”) is entered into this \_\_\_\_ day of \_\_\_\_\_, 2018 by and between Counterpointe Energy Solutions (FL) LLC (“Counterpointe”), the administrator of the Florida PACE Funding Agency (the “Agency”), and the Town of Surfside, a municipal corporation of the State of Florida (the "Town") (collectively, the “Parties”).

WHEREAS, the Town and the Agency have proposed to enter into an agreement to authorize the Agency to operate within the boundaries of the Town for the purposes of providing a Property Assessed Clean Energy (PACE) program; and

WHEREAS, Counterpointe is the Agency’s administrator and will be operating on behalf of the Agency within the Town; and

WHEREAS, the Agency is a separate legal entity and public body and unit of local government, established pursuant to Section 163.01(7)(g), Florida Statutes; and

WHEREAS, Counterpointe has agreed to provide the Town with a separate indemnification agreement for the benefit of the Town.

NOW, THEREFORE, the Town and Counterpointe, hereby enter into the following Agreement:

1. The foregoing recitals are incorporated into this Agreement and approved.
2. To the extent applicable by law, Counterpointe shall indemnify and hold harmless the Town and its officers, employees, agents, and instrumentalities from any and all liability, losses or damages, including attorneys' fees and costs of defense, which the Town or its officers, employees, agents or instrumentalities may incur as a result of claims, demands, suits, causes of actions or proceedings of any kind or nature arising out of, relating to or resulting from the performance of this Agreement and Counterpointe’s administration of the Agency’s PACE Program by Counterpointe or its employees, agents, servants, partners, principals, administrators, subcontractors, or agents. Counterpointe shall pay all claims and losses in connection therewith and shall investigate and defend all claims, suits or actions of any kind or nature in the name of the Town, where applicable, including appellate proceedings, and shall pay all costs, judgments, and attorney's fees which may issue thereon. Counterpointe expressly understands and agrees that any insurance protection shall in no way limit the responsibility to indemnify, keep and save harmless and defend the Town or its officers, employees, agents and instrumentalities as herein provided.



3. This Agreement shall be interpreted and construed in accordance with and governed by the laws of the state of Florida. The Parties agree that the exclusive venue for any lawsuit arising from, related to, or in connection with this Agreement shall be in the state courts of the Eleventh Judicial Circuit in and for Miami-Dade County, Florida, the United States District Court for the Southern District of Florida or United States Bankruptcy Court for the Southern District of Florida, as appropriate.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date first written above.

**COUNTERPOINTE ENERGY SOLUTIONS (FL) LLC**

Attest:

\_\_\_\_\_  
By: \_\_\_\_\_

\_\_\_\_\_  
By: \_\_\_\_\_

**THE TOWN OF SURFSIDE, FLORIDA**

Attest:

\_\_\_\_\_  
Sandra Novoa, MMC  
Town Clerk

\_\_\_\_\_  
Guillermo Olmedillo  
Town Manager

Approved as to form and legality:

\_\_\_\_\_  
Weiss Serota Helfman Cole & Bierman, P.L.  
Town Attorneys

**EXHIBIT “C”  
FLORIDA RESILIENCY AND ENERGY DISTRICT**

**C-1  
LIMITED PURPOSE PARTY MEMBERSHIP AGREEMENT  
BETWEEN  
THE FLORIDA RESILIENCY AND ENERGY DISTRICT  
AND  
THE TOWN OF SURFSIDE**

**C-2  
INTERLOCAL AGREEMENT RELATING TO THE  
CREATION OF THE FLORIDA RESILIENCY AND ENERGY  
DISTRICT, A PROPERTY ASSESSED CLEAN ENERGY DISTRICT,  
AND AUTHORIZING FINANCING PURSUANT THERETO**

**C-3  
INDEMNIFICATION AGREEMENT  
BETWEEN  
FLORIDA DEVELOPMENT AND FINANCE CORPORATION,  
ADMINISTRATOR FOR THE FLORIDA RESILIENCY ENERGY DISTRICT,  
AND THE TOWN OF SURFSIDE, FLORIDA**

This instrument was prepared by or under the supervision of (and after recording should be returned to):

Joseph P. Stanton  
Broad & Cassel  
Bank of America Center  
390 North Orange Avenue  
Suite 1400  
Orlando, FL 32801-4961

(SPACE reserved for Clerk of Court)

**LIMITED PURPOSE PARTY MEMBERSHIP AGREEMENT  
BETWEEN THE FLORIDA RESILIENCY AND ENERGY DISTRICT  
AND  
THE TOWN OF SURFSIDE**

This Limited Purpose Party Membership Agreement (the "Agreement") is entered into this \_\_\_\_ day of \_\_\_\_\_, 2018 by and between the **FLORIDA RESILIENCY AND ENERGY DISTRICT ("FRED")**, a public body corporate and politic created as a separate legal entity pursuant to Section 163.01(7), Florida Statutes, and **TOWN OF SURFSIDE (the "TOWN")**, a political subdivision of the State of Florida (collectively, the "Parties") for the purpose of providing a Property Assessed Clean Energy ("PACE") program within the legal boundaries of the TOWN.

**W I T N E S S E T H**

**WHEREAS**, pursuant to Section 163.08(1), Florida Statutes, the legislature determined that access to financing for certain renewable energy, energy efficiency and conservation and wind resistance improvements ("Qualifying Improvements") through voluntary assessment programs such as the PACE program provides a special benefit to real property by alleviating the property's burden from energy consumption and/or reducing the property's burden from potential wind damage; and

**WHEREAS**, in order to make such Qualifying Improvements more affordable and assist property owners who wish to undertake such improvements, the legislature also determined that there is a compelling state interest in enabling property owners to voluntarily finance such Qualifying Improvements with the assistance of local governments, through the execution of financing agreements and the related imposition of voluntary, non-ad valorem special assessments; and

**WHEREAS**, an Interlocal Agreement, dated September 6, 2016, as amended and supplemented from time to time (the "Interlocal Agreement") was entered into between the Town of Lake Clarke Shores, the City of Fernandina Beach, and any subsequent parties thereto (the "Public Agencies") and, in the limited capacity described therein, the Florida Development Finance Corporation ("FDFC" and, together with the Public Agencies, the "Parties"), for the purpose of facilitating the financing of Qualifying Improvements for

properties located within FRED's aggregate legal boundaries via the levy and collection of voluntary non-ad valorem special assessments on improved property; and

**WHEREAS**, the TOWN agrees with such legislative determinations and finds that the financing of Qualifying Improvements through the PACE program provides a special benefit to participating real property within its legal boundaries; and

**WHEREAS**, the Parties to this Agreement desire to supplement the Interlocal Agreement to include the TOWN as a Limited Member, as such term is defined in the Interlocal Agreement, on the date last signed below.

**NOW, THEREFORE**, in consideration of the above recitals, terms and conditions, promises and covenants hereinafter set forth, the Parties agree as follows:

**SECTION 1. DEFINITIONS.** Any capitalized terms used in this Agreement, but not otherwise defined herein, shall have the meaning specified for such term in the Interlocal Agreement.

**SECTION 2. PURPOSE.** The purpose of this Agreement is to facilitate the financing of Qualifying Improvements through a PACE program, in accordance with Section 163.08, Florida Statutes, and provide an efficient process for real property owners within the legal boundaries of the TOWN to access the PACE program and permit FRED to administer the PACE program within such legal boundaries.

**SECTION 3. RIGHTS OF PARTIES.** FRED, together with its member Parties, and the TOWN, with the intent to be bound thereto, hereby agree that the TOWN shall become a Party to the Interlocal Agreement together with only those rights and obligations of Parties to the Interlocal Agreement as are necessary to fulfill the purposes described in this Agreement, including access to financing and processing of non-ad valorem special assessments by FRED, within the legal boundaries of the TOWN, as more specifically described below, and in accordance with federal, state, and local laws, rules, regulations, ordinances, and all operational program standards of the TOWN.

**SECTION 4. INCORPORATION OF RECITALS AND LEVY OF SPECIAL ASSESSMENTS.** The Parties hereby acknowledge and agree with each recital to this Agreement and incorporate such findings herein as their own. The non-ad valorem special assessments arising from a property owner's voluntary participation in the PACE program shall be levied by FRED on properties within the legal boundaries the TOWN and the receipt and distribution of any non-ad valorem special assessments imposed by FRED are purely ministerial acts.

**SECTION 5. QUALIFYING IMPROVEMENTS.** FRED may provide access to financing for Qualifying Improvements to real property within the legal

boundaries of the TOWN, in accordance with Section 163.08, Florida Statutes, and subject to the terms of this Agreement, as well as applicable federal, state, and TOWN law.

**SECTION 6. FINANCING AGREEMENT.** Before extending any financing or subjecting any participating real property within the legal boundaries of the TOWN to the non-ad valorem special assessment authorized therein, FRED and FDFC, through their designees, shall, on a non-exclusive basis pursuant to the Section 163.08, Florida Statutes and this Agreement, enter into a financing agreement (the "Financing Agreement") with property owner(s) within the legal boundaries of the TOWN who qualify for financing through FRED. The Financing Agreement shall include a thorough explanation of the PACE financing process and specify at what point in the process the special assessment will be added to the real property's owner's property tax bills (after completion of the project(s), permit approval, and approval by the property owner).

**SECTION 7. BOUNDARIES OF THE PACE PROGRAM.** For the limited purposes of administering the PACE program and imposing non-ad valorem special assessments as described in this Agreement, the legal boundaries of FRED shall include the legal boundaries of the TOWN, which legal boundaries may be limited, expanded to reflect annexation, or more specifically designated from time to time by the TOWN by providing written notice to FRED. Upon execution of this Agreement and written request thereafter, the TOWN agrees to provide FRED the current legal description of the legal boundaries of the TOWN.

**SECTION 8. ELIGIBLE PROPERTIES.** Within the legal boundaries of the TOWN, improved real property, including any residential, commercial, agricultural and industrial use may be eligible for participation in the PACE program within the limits otherwise prescribed in Section 163.08, Florida Statutes.

**SECTION 9. SURVIVAL OF SPECIAL ASSESSMENTS.** During the term of this Agreement, FRED may levy voluntary non-ad valorem special assessments on participating properties within the legal boundaries of the TOWN to help secure the financing of costs of Qualifying Improvements constructed or acquired on such properties based on the finding of special benefit by the TOWN incorporated into Section 3 hereof. Those properties receiving financing for Qualifying Improvements shall be assessed by FRED until such time as the financing for such Qualified Improvement is repaid in full, in accordance with Section 163.08, Florida Statutes, and other applicable law. Notwithstanding termination of this Agreement or notice of a change in the legal boundaries of the TOWN as provided for herein, those properties that have received financing for Qualifying Improvements shall continue to be a part of FRED, until such time that all outstanding debt has been satisfied.

**SECTION 10. TERM.** This Agreement shall remain in full force and effect from the date of its execution by both Parties. Any Party may terminate this Agreement for convenience upon ninety (90) days' prior written notice ("Termination Notice") in

accordance with the terms of the Interlocal Agreement. Beginning on the date FRED receives a Termination Notice from the TOWN ("Termination Date"), FRED shall not approve any new applications affecting property within the legal boundaries of the TOWN referenced in the Termination Notice. Notwithstanding termination of this Agreement, however, property owners whose applications were approved prior to the Termination Date, and who received funding through the PACE program, shall continue to be a part of FRED, for the sole purpose of FRED imposing assessments for the repayment of such property's outstanding debt, until such time that all outstanding debt has been satisfied.

**SECTION 11. CONSENT.** This Agreement, together with the resolution by the governing board of the TOWN approving this Agreement, shall be considered the Parties' consent to authorize FRED to administer the PACE program within the legal boundaries of the TOWN, as required by Section 163.08, Florida Statutes.

**SECTION 12. TOWN COORDINATOR.** The Office of the Town Manager shall serve as the TOWN's primary point of contact and coordinator. The TOWN will advise FRED of any changes to the TOWN's primary contact and coordinator within thirty (30) days of such changes.

**SECTION 13. CARBON OR SIMILAR CREDITS.** To the extent permitted by law, in the event that the Financing Agreement or any other PACE agreement with the property owner provides for the transfer of any carbon or similar mitigation credits derived from Qualifying Improvements to FRED, any such carbon or similar mitigation credits derived from properties within the legal boundaries of the TOWN, shall be shared in equal parts between FRED and the TOWN.

**SECTION 14. RESALE OR REFINANCING OF A PROPERTY.** FRED recognizes that some lenders may require full repayment of the PACE program's special assessments upon resale or refinancing of a property subject to the PACE program's special assessments. FRED agrees to provide written disclosure of this matter to all Town property owners that may utilize the PACE program.

**SECTION 15. PREPAYMENT PENALTIES.** FRED may not allow or charge residential prepayment penalties.

**SECTION 16. LIMITED OBLIGATIONS.** Neither FRED nor FDFC is authorized to issue bonds, or any other form of debt, on behalf of the TOWN without a separate interlocal agreement or other authority provided by State law. To the extent that FRED or FDFC issues PACE-related bonds under its own authority in connection with this Agreement, the security for such bonds may be secured by non-ad valorem special assessments imposed by FRED on participating properties within the legal boundaries of the TOWN. The issuance of such bonds shall not directly or indirectly or contingently obligate the TOWN to levy or to pledge any form of taxation whatever, or to levy ad valorem taxes on any property within their territorial limits to pay the bonds, and the bonds

shall not constitute a lien upon any property owned by the TOWN. For any such bonds, the bond disclosure document, if any, shall include references to the fact that the TOWN is not an obligated party, and also adequately disclose material attendant risks with PACE programs.

**SECTION 17. LIABILITY, INDEMNIFICATION AND SOVEREIGN IMMUNITY.**

(A) TOWN and FRED are and shall be subject to Sections 768.28 and 163.01(9)(c), Florida Statutes, and any other provisions of Florida law governing sovereign immunity. Pursuant to Section 163.01(5)(0), Florida Statutes, and this covenant of the parties hereto, the local governments who are either or both the founders or members of FRED shall not be held jointly liable for the torts of the officers or employees of the FRED, or any other tort attributable to FRED, and that FRED alone shall be liable for any torts attributable to it or for torts of its officers, employees or agents, and then only to the extent of the waiver of sovereign immunity or limitation of liability as specified in Section 768.28, Florida Statutes. TOWN and FRED acknowledge and agree that FRED shall have all of the applicable privileges and immunities from liability and exemptions from laws, ordinances, rules and common law which apply to the municipalities and counties of the State. TOWN is completely independent of FRED. To the extent provided by law, FRED shall indemnify, defend and hold harmless TOWN from any and all damages, claims, and liability arising from the negligence or intentional misconduct of FRED relating to operation of the PACE program. Nothing in this Agreement is intended to inure to the benefit of any third-party for the purpose of allowing any claim, which would otherwise be barred under the doctrine of sovereign immunity or by operation of law.

(B) Neither TOWN, nor the local governments who are either or both the founders or members of the Agency, nor any subsequently joining or participating local government as members of FRED shall in any manner be obligated to pay any debts, obligations or liabilities arising as a result of any actions of FRED, the governing board of FRED or any other agents, employees, officers or officials of FRED, except to the extent otherwise mutually and expressly agreed upon, and neither FRED, the governing board of FRED or any other agents, employees, officers or officials of FRED have any authority or power to otherwise obligate either TOWN, the local governments who are either or both the founders or members of FRED, nor any subsequently subscribing or participating local government in the business of FRED in any manner.

(C) All of the privileges and immunities from liability and exemptions from laws, ordinances and rules which apply to the activity of officials, officers, agents or employees of the parties shall apply to the officials, officers, agents or employees thereof when performing their respective functions and duties under the provisions of this Agreement.

**SECTION 18. AGREEMENTS WITH TAX COLLECTOR AND PROPERTY APPRAISER.** This Agreement shall be subject to the express condition

precedent that FRED enter into separate agreement(s) with the tax collector and the property appraiser having jurisdiction over the legal boundaries of the TOWN, which shall provide for the collection of any non-ad valorem special assessments imposed by FRED within the legal boundaries of the TOWN. If required by the tax collector and property appraiser, the TOWN agrees to enter into those agreements as a third-party to facilitate the collection of the non-ad valorem special assessments imposed by FRED.

**SECTION 19. OPINION OF BOND COUNSEL.** FRED warrants, based on counsel's review of the bond validation judgment and the underlying bond documents that the FDFC PACE program's structure complies with the bond validation judgment and the underlying bond documents.

**SECTION 20. AGENTS OF FRED.** FRED shall ensure that its agents, administrators, subcontractors, successors and assigns are, at all times, in compliance with the terms of this Agreement and applicable TOWN, state and federal laws.

**SECTION 21. NOTICES.** Any notices to be given hereunder shall be in writing and shall be deemed to have been given if sent by hand delivery, recognized overnight courier (such as Federal Express), or by written certified U.S. mail, with return receipt requested, or by electronic mail, addressed to the Party for whom it is intended, at the place specified. For the present, the Parties designate the following as the respective places for notice purposes:

**If to FRED:**

The Florida Resiliency and Energy District  
c/o Florida Development Finance Corporation  
William "Bill" F. Spivey, Jr.  
Executive Director  
156 Tuskawilla Road, Suite 2340  
Winter Springs, FL 32708  
[bspivey@fdfebonds.com](mailto:bspivey@fdfebonds.com)

and Issuer's Counsel with Broad and Cassel  
Joseph Stanton, Esq.  
Bank of America Center  
390 North Orange Avenue  
Suite 1400  
Orlando, FL 32801-4961  
407.839.4200 (t)  
[jstanton@broadandcassel.com](mailto:jstanton@broadandcassel.com)

**If to Town of Surfside:**



The Town of Surfside  
Guillermo Olmedillo,  
Office of the Town Manager  
9293 Harding Avenue  
Surfside, Florida 33154

Town Attorney  
Weiss Serota Helfman Cole & Bierman, P.L.  
2525 Ponce de Leon Boulevard, Suite 700  
Coral Gables, Florida 33134

**SECTION 22. 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 TOWN and FRED or other delegated authority authorized to execute same on their behalf.

**SECTION 23. JOINT EFFORT.** The preparation of this Agreement has been a joint effort of the Parties hereto and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the Parties than the other.

**SECTION 24. MERGER.** This Agreement represents the final and complete understanding of the Parties regarding the subject matter hereof and supersedes all prior and contemporaneous negotiations, correspondence, 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.

**SECTION 25. ASSIGNMENT.** The respective obligations of the Parties set forth in this Agreement shall not be assigned, in whole or in part, without the written consent of the other Party hereto.

**SECTION 26. THIRD PARTY BENEFICIARIES.** None of the Parties intend to directly or substantially benefit a third party by this Agreement. Therefore, the Parties acknowledge that there are no third party beneficiaries to this Agreement and that no third party shall be entitled to assert a right or claim against either of them based upon this Agreement; provided, however, that counsel to the Parties may rely on this Agreement for purposes of providing any legal opinions required by the issuance of debt to finance the Qualifying Improvements.

**SECTION 27. RECORDS.** The Parties shall each maintain their own respective records and documents associated with this Agreement in accordance with the requirements for records retention set forth in Chapter 119, Florida Statutes.

**SECTION 28. RECORDING.** This Limited Purpose Party Membership Agreement shall be filed by FRED with the Clerk of the Circuit Court in the Public Records of MIAMI-DADE COUNTY and recorded in the public records of the TOWN as an interlocal agreement, in accordance with Section 163.01(11), Florida Statutes.

**SECTION 29. SEVERABILITY.** In the event a portion of this Agreement is found to be unenforceable by a court of competent jurisdiction, that part shall be deemed severed from this Agreement and the remaining provisions of this Agreement shall remain in full force and effect.

**SECTION 30. EFFECTIVE DATE.** This Agreement shall become effective upon the execution by both Parties hereto.

**SECTION 31. LAW, JURISDICTION, AND VENUE.** This Agreement shall be interpreted and construed in accordance with and governed by the laws of the state of Florida. The Parties agree that the exclusive venue for any lawsuit arising from, related to, or in connection with this Agreement shall be in the state courts of the Eleventh Judicial Circuit in and for MIAMI-DADE COUNTY, Florida, the United States District Court for the SOUTHERN District of Florida or United States Bankruptcy Court for the SOUTHERN District of Florida, as appropriate.

[SIGNATURE PAGES FOLLOW]

[SIGNATURE PAGE TO LIMITED PURPOSE PARTY MEMBERSHIP AGREEMENT]

IN WITNESS WHEREOF, the Parties hereto have made and executed this Agreement on this \_\_\_\_ day of \_\_\_\_\_, 2018.

TOWN OF SURFSIDE, FLORIDA

By: \_\_\_\_\_  
Guillermo Olmedillo  
Town Manager

For the Town of Surfside, Florida

Attest:

By: \_\_\_\_\_ Date \_\_\_\_\_  
Sandra Novoa, MMC  
Town Clerk

STATE OF FLORIDA  
COUNTY OF \_\_\_\_\_

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2018, by \_\_\_\_\_, \_\_\_\_\_ of the Town of Surfside, Florida, who is personally known to me/has produced \_\_\_\_\_ as identification.

(SEAL)

\_\_\_\_\_  
Printed/Typed Name: \_\_\_\_\_  
Notary Public-State of Florida  
Commission Number:

[SIGNATURE PAGE TO LIMITED PURPOSE PARTY MEMBERSHIP AGREEMENT]

WITNESS:

\_\_\_\_\_

\_\_\_\_\_

FLORIDA DEVELOPMENT FINANCE  
CORPORATION on behalf of FLORIDA  
RESILIENCY AND ENERGY DISTRICT

By:

\_\_\_\_\_

WITNESS:

William "Bill" F. Spivey, Jr.  
Executive Director

\_\_\_\_\_

\_\_\_\_\_

STATE OF FLORIDA  
COUNTY OF \_\_\_\_\_

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2018, by William "Bill" F. Spivey, Jr., Executive Director of the Florida Development Finance Corporation, who is personally known to me/has produced \_\_\_\_\_ as identification.

(SEAL)

\_\_\_\_\_  
Printed/Typed Name: \_\_\_\_\_  
Notary Public-State of Florida  
Commission Number:

This instrument was prepared by or under the supervision  
of (and after recording should be returned to):

[ISSUER COUNSEL]  
[ADDRESS 1]  
[ADDRESS 2]  
[CITY/STATE/ZIP]

(SPACE reserved for Clerk of Court)

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**INTERLOCAL AGREEMENT RELATING TO THE  
CREATION OF THE FLORIDA RESILIENCY AND ENERGY  
DISTRICT, A PROPERTY ASSESSED CLEAN ENERGY  
DISTRICT, AND AUTHORIZING FINANCING PURSUANT  
THERE TO**

**BY AND AMONG**

**THE TOWN OF LAKE CLARKE SHORES, FLORIDA, AND**

**THE CITY OF FERNANDINA BEACH, FLORIDA, AND**

**THE FLORIDA DEVELOPMENT FINANCE CORPORATION, FLORIDA, IN ITS**

**LIMITED CAPACITY DESCRIBED HEREIN**

**AND ANY SUBSEQUENT PARTIES HERETO**

**DATED AS OF SEPTEMBER 6, 2016**

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**INTERLOCAL AGREEMENT RELATING TO THE CREATION OF  
THE FLORIDA RESILIENCY AND ENERGY DISTRICT, A  
PROPERTY ASSESSED CLEAN ENERGY DISTRICT, AND  
AUTHORIZING FINANCING THERETO**

**THIS INTERLOCAL AGREEMENT** (“Interlocal Agreement”) is made and entered into as of September 6, 2016, by and among the government units executing the Interlocal Agreement, each one constituting a public agency or legal entity under Part I, Chapter 163, Florida Statutes, , comprising the Town of Lake Clarke Shores, a municipality and local government of the State of Florida and the City of Fernandina Beach, a municipality and local government of the State of Florida (the “Public Agency” or “Public Agencies”) and, in the limited capacity described herein, the Florida Development Finance Corporation, a public body corporate and politic, a public instrumentality and a public agency organized and existing under the laws of the State of Florida (“FDFC”) and, together collective referred to herein as the “Parties” .

**W I T N E S S E T H:**

**WHEREAS**, pursuant to Section 163.08, Florida Statutes, as amended (the “Florida PACE Act”), the Florida Legislature found that in order to make qualifying renewable energy, energy efficiency and conservation and wind resistance improvements more affordable and assist real property owners who wish to undertake such improvements, there is a compelling State of Florida (“State”) interest in enabling property owners to voluntarily finance such improvements with local government assistance; and

**WHEREAS**, under the Florida PACE Act, the Florida Legislature determined that the actions authorized under the Florida PACE Act, including, but not limited to, the financing of qualifying improvements through the execution of financing agreements between property owners and local governments and the resulting imposition of voluntary non-ad valorem assessments are reasonable and necessary to serve and achieve a compelling state interest and are necessary for the prosperity and welfare of the State and its property owners and inhabitants; and

**WHEREAS**, the Town of Lake Clarke Shores, Florida, and the City of Fernandina Beach, Florida, wish to create an entity to finance PACE projects for themselves and for other local governments pursuant to Section 163.08(2)(a); and

**WHEREAS**, the Town of Lake Clarke Shores pursuant to Resolution 16-15 enacted August 23, 2016, approved the form and authorized the execution of this Interlocal Agreement; and

**WHEREAS**, the City of Fernandina Beach, pursuant to Resolution 2016-107, enacted on September 6, 2016, approved the form and authorized the execution of this

Interlocal Agreement; and

**WHEREAS**, the Town of Lake Clarke Shores and the City of Fernandina Beach desire to enter into an agreement under Section 163.01(7), Florida Statutes, to create a special district that constitutes (1) a separate legal entity within the meaning of Section 163.01, Florida Statutes, also known as the Florida Interlocal Cooperation Act of 1969 (the “Interlocal Act”) and (2) a “local government” within the meaning of the Florida PACE Act and (3) a special district in furtherance of the objectives of the Florida PACE Act; and

**WHEREAS**, the separate legal entity created under this Interlocal Agreement shall be known as the Florida Resiliency and Energy District (“the District” or “FRED”) which may, pursuant to section 163.08(2)(a), finance energy related or wind-resistant “qualifying improvements” through voluntary assessments; and

**WHEREAS**, the “Interlocal Act” also permits the FDFC and FRED, as public agencies under the Interlocal Act, to enter into interlocal agreements with each other to provide for the performance of service functions to cooperate on a basis of mutual benefit in the best interest of the real property owners within the boundaries of FRED; and

**WHEREAS**, FDFC has determined that there is a substantial need within the State for a financing program which can provide funds to property owners to enable them to finance qualifying improvements under the Florida PACE Act on a cost-effective basis; and

**WHEREAS**, the Florida Legislature determined that FDFC has the authority to issue revenue bonds for the purpose of financing said qualifying improvements pursuant to Section 288.9606(7), Florida Statutes; and

**WHEREAS**, FDFC acts as a special development financing authority that specializes in providing financing support to fund capital projects that support economic development and job creation on a state-wide basis; and

**WHEREAS**, the Florida PACE Act is an economic development tool that provides communities with an additional option for financing, stimulates production of qualifying products, promotes competition, seeks to increase property values, lower energy consumption, mitigate wind damage, and create jobs; and

**WHEREAS**, on December 4, 2015, the FDFC Board of Directors adopted Resolution No. 15-09, as amended and supplemented from time to time (the “Bond Resolution”), authorizing the issuance of revenue bonds (“Bonds”) in order to finance qualifying improvements under the Florida PACE Act, which revenue bonds shall be secured by and payable from the proceeds of voluntary non-ad valorem assessments levied against the real properties that are benefitted by such qualifying improvements (the “Assessments”), all in accordance with the provisions of the Florida PACE Act and other



applicable provisions of law and in accordance with FDFC's Property Assessed Clean Energy ("PACE") Program (the "FDFC PACE Program"); and

**WHEREAS**, on July 18, 2014, in accordance with Chapter 75, Florida Statutes, the Circuit Court of the Second Judicial Circuit in and for Leon County, Florida issued an Amended Final Judgment validating the issuance of the Bonds by FDFC and on October 15, 2015, the Supreme Court of the State of Florida affirmed such Final Judgment; and

**WHEREAS**, on December 4, 2015, the FDFC Board of Directors adopted Resolution No. 15-10 setting forth its policies and procedures relating to the FDFC PACE Program; and

**WHEREAS**, on December 4, 2015, the FDFC Board of Directors adopted Resolution No. 15-11 approving Renovate America, Inc. ("Renovate America") as its first PACE administrator for the FDFC PACE Program; and

**WHEREAS**, FDFC anticipates adding other PACE providers as PACE residential and commercial administrators to provide a competitive marketplace in Florida for any potential residential and commercial property owners interested in the FDFC PACE Program; and

**WHEREAS**, FRED and FDFC agree, pursuant to Section 163.01(14), that FRED, as a separate legal entity authorized to facilitate PACE financing pursuant to Section 163.08, Florida Statutes, may contract with FDFC to serve the financing function of the District and therefore serve the property owners of within the District; and

**WHEREAS**, under this Interlocal Agreement, the Parties agree to have the FDFC PACE Program serve as the administrator for the District PACE program; and

**WHEREAS**, the District will utilize the FDFC PACE Program to implement PACE exclusively on behalf of the District and take on all costs and responsibilities for administering and operating the program; and

**WHEREAS**, FDFC will utilize its authority under law to provide, authorize, and issue revenue bonds to finance PACE improvements within and on behalf of property owners within the District; and

**WHEREAS**, FRED will have immediate access to a turnkey FDFC PACE Program which includes \$2,000,000,000 in judicially validated bonding authority for PACE financing and a trained PACE program staff; and

**NOW THEREFORE, THE PARTIES TO THIS INTERLOCAL AGREEMENT AGREE AS FOLLOWS:**

**SECTION 1. AUTHORITY FOR INTERLOCAL AGREEMENT.** This Interlocal Agreement is adopted pursuant to the provisions of the Interlocal Act, the Florida PACE Act, and other applicable provisions of law. At all times prior to and during the term of this Interlocal Agreement, the Town of Lake Clarke Shores, Florida, and the City of Fernandina Beach, Florida, constitute local governments as that term is defined in the Florida PACE Act and the Interlocal Act and the Florida Finance and Development Corporation constitutes a “public agency” as that term is defined in the Florida Interlocal Act. That portion of this Agreement creating the separate legal entity pursuant to Section 163.01(7), Florida Statutes, is among and between the Founding Members, and that portion of the Agreement allowing the FDFC PACE Program to provide the financing duties of the District is pursuant to Section 163.01(14), Florida Statutes.

**SECTION 2. DEFINITIONS.** The following definitions shall govern the interpretation of this Interlocal Agreement:

**"Annual Assessment Resolution" or "Assessment Resolution"** means a resolution or resolutions adopted by the District that (A) imposes new Assessments against those property owners entering into financing agreements with the FDFC under the FDFC PACE Program since adoption of the last Annual Resolution or Assessment Resolution, and (B) approves an electronic assessment roll to be submitted to the Tax Collector for the next tax bill containing the required collection information for all property owners with outstanding Assessments under the FDFC PACE Program, in each case limited to those property owners within the boundaries of the local governments that comprise the District.

**"Assessments"** means the non-ad valorem assessments levied by the District against the properties that are benefitted by the qualifying improvements in accordance with the Florida PACE Act and the FDFC PACE Program.

**"Bond Resolution"** means Resolution No. 15-09 of the FDFC adopted on December 4, 2015 relating to the Bonds and the FDFC PACE Program, as amended and supplemented from time to time.

**"Bonds"** means bonds that are issued by FDFC from time to time pursuant to the Bond Resolution.

**"Contracted FDFC services"** means the services provided by FDFC pursuant to this Interlocal Agreement.

**"District" or "FRED"** means the Florida Resiliency and Energy District (FRED), a Property Assessed Clean Energy special district, and local government formed pursuant to the Interlocal Act, the Florida PACE Act and this Interlocal Agreement.

**“FDFC”** means Florida Development Finance Corporation, a public body corporate and politic, a public instrumentality and a local agency organized and existing under the laws of the State of Florida.

**“FDFC PACE Program”** means the FDFC’s Property Assessed Clean Energy (PACE) Program adopted pursuant to the Bond Resolution and its Policies and Procedures.

**“Florida PACE Act”** means Section 163.08, Florida Statutes, as may be amended from time to time.

**“Founding Members”** means the Town of Lake Clarke Shores, Florida, and the City of Fernandina Beach, Florida. The term does not include FDFC.

**“Interlocal Act”** means Section 163.01, Florida Statutes, as amended.

**“Interlocal Agreement”** means this Interlocal Agreement Relating to the creation of the Florida Resiliency and Energy District, a Property Assessed Clean Energy District, including any amendments or supplements hereto, executed and delivered in accordance with the terms hereof.

**“Limited Purpose Party Membership Agreement”** means an agreement between a Subsequent Party and the District defining the terms and conditions of membership within the District.

**“Party” or “Parties”** means the Town of Lake Clarke Shores, Florida, and the City of Fernandina Beach, and the Florida Development Finance Corporation Florida, and their respective assigns; provided, however, the FDFC is a party only for the contracted FDFC services

**“Property Appraiser”** means the county property appraiser for real property within the boundaries of each Founding Member or Subsequent Party.

**“Public Agency”** means cities or counties of the State of Florida, or any Subsequent Party.

**“Resolution of Enactment”** means Resolution No. 16-\_\_\_\_ adopted by the Town of Lake Clarke Shores, and Resolution No. \_\_\_\_ adopted by the City of Fernandina Beach, authorizing the creation of a PACE program within its boundaries and authorizing the creation of a PACE District by Interlocal Agreement with FDFC finding that the PACE Program provides a special benefit to residential property within its boundaries and authorizing the levy of special assessments on benefited property consistent with the common powers provided in the Interlocal Agreement.

**“Resolution of Intent”** means a resolution adopted by the District pursuant to the

Uniform Assessment Collection Act providing notice to all owners of real property within the boundaries of District that non-ad valorem assessments may be imposed pursuant to the Florida PACE Act and will be collected pursuant to the Uniform Assessment Collection Act, Sections 197.3632 and 197.3635, Florida Statutes, if the property owner chooses to utilize the FDFC PACE Program and any FDFC approved PACE administrator to finance qualifying improvements.

**“State”** means the State of Florida.

**“Subsequent Party”** or **“Subsequent Parties”** means additional government units constituting Public Agencies under the Interlocal Act and local governments as defined under the Florida PACE Act which join the District upon application to the District and the affirmative vote of a majority of the Board of Directors for the District and upon execution of a Limited Purpose Party Membership Agreement between the District and a Subsequent Party.

**“Tax Collector”** means the county tax collector for real property within the boundaries of each Founding Member or Subsequent Party.

**“Uniform Assessment Collection Act”** means Sections 197.3632 and 197.3635, Florida Statutes, as amended and supplemented from time to time.

**SECTION 3. INTERPRETATION.** Words importing the singular number shall include the plural in each case and vice versa, and words importing persons shall include firms and corporations. The terms “herein,” “hereunder,” “hereby,” “hereto,” “hereof,” and any similar terms, shall refer to this Interlocal Agreement; the term “heretofore” shall mean before the effective date of this Interlocal Agreement; and the term “hereafter” shall mean after the effective date of this Interlocal Agreement. This Interlocal Agreement shall not be construed more strongly against any party regardless that such party, or its counsel, drafted this Interlocal Agreement.

**SECTION 4. PURPOSE.** The purpose of this Interlocal Agreement is for the Founding Members to create the District known as the Florida Resiliency and Energy District (“the District” or “FRED”), pursuant to the Interlocal Act and the Florida PACE Act, and, by also agreeing to contract with the Florida Development Finance Corporation and its FDFC PACE Program, the Resolution of Enactment and the Florida PACE Act to facilitate the financing of qualifying improvements for property owners within the District. The District shall be a separate legal entity, pursuant to Section 163.01(7), Florida Statutes and a local government within the meaning of the Florida PACE Act.

**SECTION 5. QUALIFYING IMPROVEMENTS.** The District shall allow the financing of qualifying improvements by and through the FDFC PACE Program as defined in Section 163.08, Florida Statutes, under authority of Section 163.01(14), Florida Statutes.

**SECTION 6. ENABLING ORDINANCE OR RESOLUTION.**

The Founding Members and Subsequent Parties to this Interlocal Agreement agree to approve and keep in effect such resolutions and ordinances as may be necessary to approve, create and maintain the District. Said ordinances and resolutions shall include all of the provisions as may be required or desirable under the Interlocal Act and the Florida PACE Act for the creation and operation of FRED as a separate legal entity and a local government. The District shall be created upon the execution and delivery of this Interlocal Agreement by the Parties.

**SECTION 7. DISTRICT BOUNDARIES; DISTRICT ADMISSION.**

(A). The boundaries of the District shall initially be the legal boundaries of the Founding Members, and shall be expanded to include all areas within the legal boundaries of, or service area designated by the Limited Purpose Party Membership Agreement entered into by each local government (the “jurisdictional boundaries”) that becomes a Subsequent Party to this Interlocal Agreement. As contemplated in this Interlocal Agreement, the District shall levy voluntary assessments on the benefitted properties within the jurisdictional boundaries of the District in order for the FDFC PACE Program to finance the costs of qualifying improvements for those benefitted properties. Upon petition by the landowners of individual residential or commercial properties desiring to be benefitted, those properties receiving financing for qualifying improvements shall be assessed from time to time, in accordance with the applicable law. Notwithstanding a Founding Member’s termination of participation in this Interlocal Agreement, or Subsequent Party’s termination of participation, those properties that have received financing for qualifying improvements shall continue to be a part of the District, until such time that all outstanding debt has been satisfied.

(B). To the extent permitted by the Interlocal Act, the District may admit any public agency or local government (as such terms are defined in the Interlocal Act and the Florida PACE Act, respectively) as a Subsequent Party to the District upon application of each public agency or local government to the District and the affirmative vote of a majority of the Board of Directors for the District. This Interlocal Agreement need not be amended to admit any such public agency or local government, and the approval of the respective governing boards of the existing Parties to the District shall not be required to admit a Subsequent Party. Each Subsequent Party shall execute, deliver, duly authorize, and record in the public records of each Subsequent Party a Limited Purpose Party Membership Agreement as a precondition to membership in the District.

**SECTION 8. GOVERNING BOARD OF THE DISTRICT.** The District shall be governed by a governing board (the “Board,”) which shall at a minimum be comprised of three (3) individuals, all of whom are elected officials, city managers, or their designees, of the Founding Members, and each representing an individual local government within the jurisdictional boundaries of the Parties to this Interlocal

Agreement. The next Subsequent Party to join the District (of, if they decline, the next Subsequent Party), shall have the option to request to become a member of the Board and replace one member of the [City Commission/City Council/County Commission] that has 2 members on the Board until only one member of each [City Commission/City Council/County Commission] remains on the Board. Notwithstanding the foregoing, the maximum number of members on the Board may be increased by a majority vote of the Board to a maximum of 5 members, with the proviso that as much as possible the composition of Board membership reflect the geographic regions of the state of Florida. After the Board is constituted, the Executive Director may recommend procedures for setting terms, Board qualifications and responsibilities, and the means of appointment of members to the Board. In the event a Board member is no longer eligible or able to serve on the Board, the Public Agency represented by the Board member, so long as it continues to be a Party to this Interlocal Agreement, shall have the right to request appointment of a replacement to fulfill the remaining term of that member. FDFC shall have no right to appoint any member of the Board.

**SECTION 9. DECISIONS OF THE BOARD.** Decisions of the Board shall be made by majority vote of the Board. The Board, upon recommendation of the Executive Director, may adopt rules of procedure for the Board. In the absence of the adoption of such rules of procedure, the most current version of Roberts Rules of Order shall apply to the extent it is not inconsistent with Florida law.

**SECTION 10. DISTRICT ADMINISTRATION; DISTRICT STAFF AND ATTORNEY; ADMINISTRATORS**

(A). Financing. As a condition of this Interlocal Agreement, the Founding Members, and any Party joining the District consents to FDFC and FDFC PACE Program financing for the District, and FDFC as the PACE Program Sponsor agrees to provide a turnkey PACE program for each jurisdiction that is a Party to this Interlocal Agreement. Notwithstanding any other section of this Interlocal Agreement, the Executive Director of FDFC or his or her appointee shall also be the Executive Director of FRED. The Executive Director shall have sole authority to appoint staff, counsel, professionals, consultants, and all other positions to fulfill the functions of the District per the PACE Act for the District, and all costs and expenses shall be borne by FDFC and the District.

(B). Additional Administrators. The Program Development Period, which serves as a soft launch period for the FDFC PACE Program, will end on July 1, 2017, whereby additional qualified administrators for residential PACE programs may be presented to the District. Within 30 days after execution of this Interlocal Agreement, FDFC may present to the District qualified administrators for commercial PACE programs that will be available to serve jurisdictions that are a Party to this Interlocal Agreement. All PACE administrators (“PACE Administrators” or “Administrators”) must undergo a vetting process by the FDFC. Once vetted, the PACE Administrators must be presented to the FDFC Board and approved by resolution. In order for an approved PACE provider to

provide administrator services through the FDFC PACE Program, it must execute a PACE Administration Agreement. Each member of the District shall receive notice of all approved PACE Administrators (except for residential PACE Providers during the “soft launch” period above). Notwithstanding any of the foregoing, the only authorized FDFC PACE residential Program Administrator for the District shall be Renovate America until July 1, 2017.

**SECTION 11. FINANCING AGREEMENT.** The Parties agree that FDFC and FRED, and their designees, may enter into financing agreements, pursuant to Section 163.08(8), Florida Statutes, with property owner(s) who obtain financing through the District.

**SECTION 12. POWERS OF THE DISTRICT.** With the approval of a majority vote of the Board, the District may exercise any or all of the powers granted to the District under the Interlocal Act and the Florida PACE Act, which include, without limitation, the following:

- (A). To finance qualifying improvements through contracts with property owners in the District, and the District shall impose and levy assessments as a local government in accordance with Section 163.08 to repay the financing received; provided, however, i) FDFC shall provide the form of the financing agreement and ii) that FDFC shall, have independent discretionary authority to authorize and approve the issuance of revenue bonds to finance such improvements without further approval or authorization from the District, and subject to Section 10, to select and approve Program Administrators for the District;
- (B). In its own name to make and enter into contracts on behalf of the District;
- (C). Subject to Section 10(a), to employ agencies, employees, or consultants for the District;
- (D). To acquire, construct, manage, maintain, or operate buildings, works, or improvements for the District;
- (E) To acquire, hold, or dispose of property for the District;
- (F) To incur debts, liabilities, or obligations, provided, however, that such debts, liabilities, or obligations shall not constitute debts, liabilities, or obligations of the State, FDFC, the Founding Members, or any Subsequent Party to this Interlocal Agreement;
- (G) To adopt resolutions and policies prescribing the powers, duties, and functions of the officers of the District, the conduct of the business of the District, and the maintenance of records and documents of the District;

- (H) To maintain an office at such place or places as it may designate within the District or within the boundaries of a Party to this Interlocal Agreement;
- (I) To cooperate with or contract with other governmental agencies as may be necessary, convenient, incidental, or proper in connection with any of the powers, duties, or purposes authorized by the Florida PACE Act, and to accept funding from local, state and federal agencies;
- (J) To exercise all powers necessary, convenient, incidental, or proper in connection with any of the powers, duties, or purposes authorized in the Florida PACE Act or Florida statutes governing the District; and
- (K) To apply for, request, receive and accept gifts, grants, or assistance funds from any lawful source to support any activity authorized under Florida Statutes and this Interlocal Agreement.

**SECTION 13. TERM.**

(A). This Interlocal Agreement shall remain in full force and effect from the date of its execution; provided, however, that any Party may terminate its involvement in the District and its participation in this Interlocal Agreement upon ten (10) days' written notice to the other Parties. Should a Party terminate its participation in this Interlocal Agreement, be dissolved, abolished, or otherwise cease to exist, the District and this Interlocal Agreement shall continue until such time as all remaining Parties agree to terminate this Interlocal Agreement.

(B). At its discretion, and with reasonable notice, FDFC may terminate its role as FDFC PACE Program Sponsor for the District.

(C). Notwithstanding a Party's termination of participation in this Interlocal Agreement, to ensure continued collection of Assessments for qualifying improvements acquired within the service area of the terminating Party, such terminating Party shall enter into a written agreement with the District for such Party to consent to the levy of annual Assessments by the District or for such party to levy annual Assessments on those properties that have received financing for qualifying improvements within the legal boundaries of the terminating Party, until such time that all outstanding debt related to such qualifying improvements has been satisfied. The proceeds of the Assessments shall be paid to the designee of the District pursuant to such written agreement.

**SECTION 14. CONSENT.** This Interlocal Agreement and any required resolution or ordinance of an individual Party shall be considered the Party's consent to the creation of the District as required by the Interlocal Act and the Florida PACE Act.



**SECTION 15. NOTICE OF INTENT; IMPOSITION OF SPECIAL ASSESSMENTS; COORDINATION.**

(A) In accordance with the Uniform Assessment Collection Act and the Florida PACE Act, the District hereby agrees to impose Assessments within its jurisdictional boundaries and to utilize the Uniform Assessment Collection Act for collection of such Assessments from each property owner that voluntarily enters into a financing agreement pursuant to the Florida PACE Act and the FDFC PACE Program. Specifically, the District shall:

(1) advertise a public hearing to consider adoption of a Resolution of Intent, thus providing notice to the owners of real property within the jurisdictional boundaries of the District that non-ad valorem assessments may be imposed pursuant to the Florida PACE Act and may be collected pursuant to the Uniform Assessment Collection Act, and such advertisement to be substantially in the form and within the timing requirements set forth in EXHIBIT A attached hereto;

(2) after holding the public hearing referred to in (1) above, adopt a Resolution of Intent, substantially in the form attached hereto as EXHIBIT B, and mail an executed copy to FDFC, the Tax Collector and the Property Appraiser;

(3) enter into a written agreement with the Tax Collector and the Property Appraiser regarding costs associated with use of the Uniform Assessment Collection Act, to the extent such agreement is not already in place;

(4) prior to September 15 of each calendar year, or as frequently as needed adopt an Annual Assessment Resolution or Assessment Resolutions, substantially in the form attached hereto as EXHIBIT C, which imposes new Assessments against those property owners entering into financing agreements with FDFC and FRED since adoption of the last Annual Resolution, and certifies an electronic assessment roll to be submitted to the Tax Collector for the next tax bill, in each case based on information provided by FDFC;

(5) remit Assessment proceeds received on behalf of the District from the Tax Collector directly to the District, FDFC or its designee;

(6) take all actions necessary to enforce collection of the Assessments pursuant to the Uniform Assessment Collection Act; and

(7) on its own behalf and at the request of FDFC, re-impose the Assessments as necessary to the extent required by changes in State law or subsequent judicial decisions.

(B) Each approved Administrator shall be responsible for all other actions required by the Florida PACE Act and their Administration Agreement with FDFC

under the FDFC PACE Program, including but not limited to:

(1) assisting each Party to the Interlocal Agreement with preparing all documents required for the District to impose the Assessments pursuant to the Florida PACE Act and the Uniform Assessment Collection Act, including finalization of the documents attached as exhibits hereto and assistance with the written agreement with the Tax Collector and Property Appraiser, if requested by each Party;

(2) providing a copy of the Resolution of Intent, together with any other documents required by the Florida PACE Act or the Uniform Assessment Collection Act, to the Florida Department of Revenue;

(3) ensuring that each property owner that voluntarily enters into a financing agreement with FDFC has met all of the financial and other requirements provided for by the Florida PACE Act and the FDFC PACE Program;

(4) providing the requisite notifications to all real property owners participating in the District;

(5) recording a summary or memorandum of the financing agreement with the property owner in accordance with the Florida PACE Act;

(6) tracking payment information for each property owner participating in the District and maintaining the related assessment rolls for all such participating parcels within the boundaries of the District;

(7) working with the District to ensure the submission of the electronic assessment roll relating to the District each year to the Tax Collector; and

(8) administering all other aspects of the District including the payment of Bonds with proceeds derived from the Assessments,

(C) The District shall fully cooperate and coordinate with the Tax Collector and Property Appraiser with respect to the levying and collection of assessments and comply with all other requirements of the Florida PACE Act and the Uniform Assessment Collection Act.

## **SECTION 16. UNDERLYING POWERS; SEPARATE INTERLOCAL AGREEMENTS.**

(A) For purposes of this Interlocal Agreement and the District, the Parties acknowledge that FDFC currently does not have the power to levy the Assessments. FDFC shall not be a member of the District. FDFC shall be a party to this Interlocal

Agreement solely for the purpose of providing turn-key financial and administrative services through the FDFC PACE Program. The levy of the Assessments within the District is an exercise of the sovereign powers of the Founding Members and Subsequent Parties to this Interlocal Agreement.

(B) In order to maintain the integrity of the Assessments imposed by the District, the FDFC may, at its sole option, terminate its participation in this Interlocal Agreement and enter into a separate Interlocal Agreement or contract which provides the services described herein related to the FDFC PACE Program.

**SECTION 17. FEES AND COSTS.**

(A) All fees and costs related to the recording of this Interlocal Agreement, the Resolution of Intent process and any other fees and costs incurred by any Party with respect to the Assessments and the FDFC PACE Program will be paid for solely by FDFC and reimbursed to FDFC through the FDFC PACE Program by the respective FDFC-approved PACE Administrator(s).

(B) To advance the purposes of the Florida PACE Act, to minimize participation costs, and because each property owner is voluntarily undertaking to achieve and underwrite the compelling State interests described in the Florida PACE Act, the District shall seek either (i) the waiver or reduction by the Tax Collector and Property Appraiser of their fees or (b) a flat \_\_\_\_\_dollar (\$.00) fee per year per tax parcel for such purposes which shall be paid by the District and reimbursed to the District through the FDFC PACE Program by the respective FDFC-approved PACE administrator.

**SECTION 18. FILING.** A copy of this Interlocal Agreement shall be filed by the District for record with the Clerk of the Circuit Court in and for such jurisdictions as may be required by Section 163.01(11), Florida Statutes.

**SECTION 19. LIMITED LIABILITY.**

(A) To the extent permitted by Florida Law and subject to the limitations of Section 768.28, Florida Statutes, FDFC shall defend, indemnify and hold each other Party to this Interlocal Agreement, and its directors, officials, officers, employees and agents free and harmless from any and all claims, demands, causes of action, costs, expenses, liabilities, losses, damages or injuries of any kind, in law or equity, to property or persons, including wrongful death, to the extent arising out of the willful misconduct or gross negligence of FDFC or its directors, officials, officers, employees and agents in connection with the FDFC PACE Program, including without limitation, the payment of expert witness fees and attorneys' fees and other related costs and expenses, but excluding payment of consequential damages. Each Party other than FDFC, shall defend, indemnify and hold FDFC and its directors, officials, officers, employees and agents free and harmless from any and all claims, demands, causes of action, costs, expenses,

liabilities, losses, damages or injuries of any kind, in law or equity, to property or persons, including wrongful death, to the extent arising out of the willful misconduct or grossly negligent acts of such Party or its directors, officials, officers, employees and agents in connection with its obligations under this Interlocal Agreement, including without limitation, the payment of expert witness fees and attorneys' fees and other related costs and expenses, but excluding payment of consequential damages. In no event shall any Party's officials, officers or employees be held directly liable for any damages or liability resulting from this Interlocal Agreement. All Subsequent Party or Subsequent Parties' liabilities shall be governed by the Limited Purpose Party Membership Agreement.

(B) No Party or any agent, board member, officer, official, advisor or employee of such Party shall be liable for any action taken pursuant to this Interlocal Agreement in good faith or for any omission, except to the extent provided in Section 19(A) above, or for any act of omission or commission by any other Party hereto or its agents, officers, officials or employees. The terms of this Section 19 shall survive termination or expiration of this Interlocal Agreement.

(C) Neither this Interlocal Agreement nor any Bonds issued by FDFC on behalf of the District under the FDFC PACE Program shall be deemed to constitute a general debt, liability, or obligation of or a pledge of the faith and credit of FRED, FDFC, or any Party, the State of Florida, or any political subdivision or agency thereof. The issuance of any Bonds by FDFC on behalf of the FDFC PACE Program shall not directly, indirectly, or contingently obligate any Party, FDFC, the State of Florida, or any political subdivision or agency thereof to levy or to pledge any form of taxation whatsoever therefor, or to make any appropriation for their payment.

(D) The District, FDFC, and each Party are and shall be subject to Sections 768.28 and 163.01(9), Florida Statutes, and any other provisions of Florida law governing sovereign immunity. Nothing in this Interlocal Agreement is intended to inure to the benefit of any third-party for the purpose of allowing any claim, which would otherwise be barred under the doctrine of sovereign immunity or by operation of law.

**SECTION 20. INDEMNIFICATION.** To the extent permitted by Florida Law and subject to the limitations of Section 768.28, Florida Statutes, the Parties agree that the Limited Purpose Party Membership Partnership Agreement for the District shall always indemnify and hold harmless FDFC, the Parties, and the District. The Parties understand and acknowledge that the indemnification provisions included in the Administrative Agreement between FDFC and its approved Administrators extend to each Party and Subsequent Party which are members of the District.

**SECTION 21. AMENDMENTS.** This Interlocal Agreement may be amended only by a writing approved by each Party.

**SECTION 22. ASSIGNMENT.** This Interlocal Agreement may be assigned,

in whole or in part, by any Party at any time with the prior written consent of each other Party hereto, which consent shall not unreasonably be withheld.

**SECTION 23. EXECUTION IN COUNTERPARTS.** This Interlocal Agreement may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute one and the same instrument.

**SECTION 24. SEVERABILITY.** In the event that any provision of this Interlocal Agreement shall, for any reason, be determined invalid, illegal or unenforceable in any respect by a court of competent jurisdiction, the other provisions of this Interlocal Agreement shall remain in full force and effect.

**SECTION 25. APPLICABLE LAW.** This Interlocal Agreement shall be governed by and construed in accordance with the laws of the State of Florida.

**SECTION 26. JOINT EFFORT.** The preparation of this Interlocal Agreement has been a joint effort of the Parties hereto and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the Parties than the other.

**SECTION 27. EFFECTIVE DATE.** This Interlocal Agreement shall become effective on the later of (A) the date hereof, or (B) the date the last Founding Member and FDFC executes this Interlocal Agreement and the filing requirements of Section 17 hereof are satisfied.

[SIGNATURE PAGES FOLLOW]

2. FRED hereby determines that the levy of the PACE Assessments is needed to fund the cost of qualifying renewable energy, energy efficiency and conservation and wind resistance improvements for those property owners who wish to undertake such improvements within its jurisdictional boundaries.

3. Pursuant to Section 163.08(4), Florida Statutes, the property appraiser(s) and the tax collector(s) serving the area within the jurisdictional boundaries of FRED have agreed that FRED may have until August 15, 20[17] to adopt this Resolution, such agreements being attached hereto as Exhibit B and incorporated herein by reference.]

4. Upon adoption, the Secretary of FRED is hereby directed to send a copy of this Resolution by United States mail to the Florida Department of Revenue, the applicable tax collector, and the applicable property appraiser by [August 15, 20[17]].

5. This Resolution shall be effective upon adoption.

DULY ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 20[16].

[PUBLIC AGENCY SIGNATURE PAGE TO INTERLOCAL AGREEMENT]

IN WITNESS WHEREOF, this Interlocal Agreement has been executed by and on behalf of the Town of Lake Clarke Shores, Florida by its Mayor, its seal affixed hereto, as attested by its Clerk as of the 31<sup>st</sup> day of August, 2016.

ATTEST:

By: Mary Pinkerman



TOWN OF LAKE CLARKE SHORES, FLORIDA


By: [Signature]  
Robert M.W. Shalhoub, its Mayor

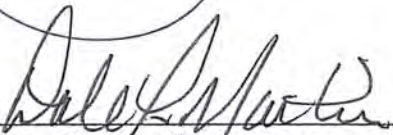
APPROVED AS TO FORM

By: [Signature]  
Charles F. Schoech, Town Attorney

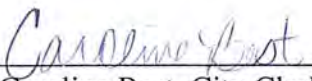
**IN WITNESS WHEREOF**, this Interlocal Agreement has been executed by and on behalf of the City of Fernandina Beach, Florida by its Mayor and City Manager, its seal affixed hereto, as attested by its City Clerk as of the 6<sup>th</sup> day of September, 2016.

**CITY OF FERNANDINA BEACH, FLORIDA**

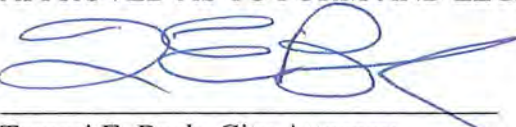
  
\_\_\_\_\_  
John A. Miller  
Mayor/Commissioner

  
\_\_\_\_\_  
Dale L. Martin, City Manager

ATTEST:

  
\_\_\_\_\_  
Caroline Best, City Clerk

APPROVED AS TO FORM AND LEGALITY:


  
\_\_\_\_\_  
Tammi E. Bach, City Attorney



[FDFC SIGNATURE PAGE TO INTERLOCAL AGREEMENT]

**IN WITNESS WHEREOF**, this Interlocal Agreement has been executed by and on behalf of the FDFC by the authorized signatory identified below.

**FLORIDA DEVELOPMENT FINANCE CORPORATION**

By:   
Name: BILL SPIVEY  
Title: EXECUTIVE DIRECTOR

**INDEMNIFICATION AGREEMENT  
BETWEEN  
FLORIDA DEVELOPMENT AND FINANCE CORPORATION,  
ADMINISTRATOR FOR THE FLORIDA RESILIENCY AND ENERGY DISTRICT,  
AND THE TOWN OF SURFSIDE, FLORIDA**

This Agreement (the "Agreement") is entered into this \_\_\_\_ day of \_\_\_\_\_, 2018 by and between The Florida Development and Finance Corporation ("FDFC"), the administrator of the Florida Resiliency and Energy District ("FRED"), and the Town of Surfside, a municipal corporation of the State of Florida (the "Town") (collectively, the "Parties").

WHEREAS, the Town and FDFC/FRED have proposed to enter into an agreement to authorize FDFC/FRED to operate within the boundaries of the Town for the purposes of providing a Property Assessed Clean Energy (PACE) program; and

WHEREAS, FDFC is the administrator for FRED and the FDFC Pace Program will be operating on behalf of FRED within the Town; and

WHEREAS, FDFC is a Florida public body, corporate and politic, authorized by Chapter 288, Part X, Florida Statutes; and

WHEREAS, FDFC has agreed to provide the Town with a separate indemnification agreement for the benefit of the Town.

NOW, THEREFORE, the Town and FDFC, hereby enter into the following Agreement:

1. The foregoing recitals are incorporated into this Agreement and approved.
2. To the extent applicable by law, FDFC shall indemnify and hold harmless the Town and its officers, employees, agents, and instrumentalities from any and all liability, losses or damages, including attorneys' fees and costs of defense, which the Town or its officers, employees, agents or instrumentalities may incur as a result of claims, demands, suits, causes of actions or proceedings of any kind or nature arising out of, relating to or resulting from the performance of this Agreement and FDFC's administration of FRED's PACE Program by FDFC or its employees, agents, servants, partners, principals, administrators, subcontractors, or agents. FDFC shall pay all claims and losses in connection therewith and shall investigate and defend all claims, suits or actions of any kind or nature in the name of the Town, where applicable, including appellate proceedings, and shall pay all costs, judgments, and attorney's fees which may issue thereon. FDFC expressly understands and agrees that any insurance protection shall in no way limit the responsibility to indemnify, keep and save harmless and defend the Town or its officers, employees, agents and instrumentalities as herein provided.
3. This Agreement shall be interpreted and construed in accordance with and governed by the laws of the state of Florida. The Parties agree that the exclusive venue for any lawsuit arising from, related to, or in connection with this Agreement shall be in the state courts of the Eleventh Judicial Circuit in and for Miami-Dade County, Florida, the United States District Court for the

Southern District of Florida or United States Bankruptcy Court for the Southern District of Florida, as appropriate.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date first written above.

THE FLORIDA DEVELOPMENT AND  
FINANCE CORPORATION

Attest:

By: \_\_\_\_\_

By: \_\_\_\_\_

Approved as to form and legality:

By: \_\_\_\_\_

THE TOWN OF SURFSIDE, FLORIDA

Attest:

\_\_\_\_\_  
Sandra Novoa, MMC  
Town Clerk

\_\_\_\_\_  
Guillermo Olmedillo  
Town Manager

Approved as to form and legality:

\_\_\_\_\_  
Weiss Serota Helfman Cole & Bierman, P.L.  
Town Attorneys



# TOWN OF SURFSIDE PROCLAMATION, CERTIFICATE, COIN AND KEY TO THE TOWN REQUEST FORM OFFICE OF THE TOWN CLERK

Request for: Proclamation  **Certificate**  Key  Brick  **Coin** *(check one)*

Date of Request: June 21, 2018

Name of Requestor: Daniel Dietch

Organization: Town of Surfside

Address: 9293 Harding Avenue, Surfside, FL 33154

Phone / E-Mail: (305) 861-4863 / ddietch@townofsurfsidefl.gov

Name of Individual / Organization to be honored:

Freddy Chiche, Former President, Surfside Urban Gardeners

Title for Proclamation or Certificate:

Certificate of Appreciation for his service as President of Surfside Urban Gardeners

Date of Recognition: July 10, 2018

Reason for Recognition (*Please attach 4 – 6 “whereas clauses” as draft text for a Proclamation*):

Document is to be:

- Presented at a Commission Meeting in July 2018 *(month / year)*
- Presented at the following event \_\_\_\_\_ *(Please attach event information to the request form)*
- Picked up by \_\_\_\_\_ on \_\_\_\_\_ *(date)*

**Administrative Use Only**

Proclamation \_\_\_\_\_ Certificate \_\_\_\_\_ Key \_\_\_\_\_ Coin \_\_\_\_\_

Approved: Yes \_\_\_\_\_ No \_\_\_\_\_ If no, state reason: \_\_\_\_\_

Approved Date: \_\_\_\_\_

Date Submitted for Mayor's Signature: \_\_\_\_\_

Date Issued: \_\_\_\_\_

Completed by: \_\_\_\_\_



**Town of Surfside  
Town Commission Meeting**

Town Hall Commission Chambers - 9293 Harding Ave, 2<sup>nd</sup> Floor  
Surfside, FL 33154

**DISCUSSION ITEM MEMORANDUM**

**Agenda #:** 3G

**Date:** June 28, 2018

**From:** Commissioner Tina Paul

**Subject:** A Resolution to Commemorate the 50<sup>th</sup> Anniversary of Home Rule

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**Objective** – To commemorate 50 Years of Home Rule.

**Consideration** – Florida is made up of 412 Cities, Towns and Villages. The government closest to the people governs best. Home Rule enables municipalities to decide what is best for the Community on a local level to better serve the needs of its constituents.

Home Rule powers benefits our community through resolutions already adopted including: to Reduce Gun Violence in America, to Retain NOAA Fisheries Headquarters, to allow Foreign Sand Use In Beach Nourishment, Urging Florida Legislature & Florida Public Service Commission to Require the Expeditious Conversion of Overhead Electric, and Water Quality Criteria.

Home Rule powers benefits our community through ordinances tailored to address local issues and needs, including: Plastic Straw Ban, Anti Semitism and Hate Crimes in Enforcing Law, Prohibited Noises, Maintenance of Vacant Lots, and Beach Sand Quality.

As the current political climate in the Florida Legislature attempts to erode Home Rule authority, it is essential to protect the tradition of local decision-making in Florida. Home Rule provides each municipality the ability to preserve and enhance the characteristics that make each one uniquely special, and that maintains its quality of life.

**Recommendation** – To pass the resolution commemorating 50 Years of Home Rule, and promote community awareness and education in the importance of local governance.

**RESOLUTION NO. 2018- \_\_\_\_**

**A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA COMMEMORATING 50 YEARS OF MUNICIPAL HOME RULE IN THE FLORIDA CONSTITUTION AND PROMOTING AWARENESS AND EDUCATION ON THE IMPORTANCE OF LOCAL GOVERNANCE; AND PROVIDING FOR AUTHORIZATION AND IMPLEMENTATION.**

**WHEREAS**, Florida’s voters approved and placed municipal Home Rule powers into the Florida Constitution on November 5, 1968, during the regular elections as an amendment to Article VIII; and

**WHEREAS**, this power has enabled each city, town and village across the Sunshine State to consider, adopt, revise or remove its own laws without the need to seek legislative permission from the state and has further served as the foundation upon which every municipality builds its governmental structure; and

**WHEREAS**, the political climate within the Florida Legislature has recently included many attempts to limit home rule powers; and

**WHEREAS**, grassroots measures opposing such attempts and declaring that municipal decisions be made at the local level by local officials must continue so that all legislators clearly understand Florida’s Home Rule as a constitutional power and one upheld in state statutes; and

**WHEREAS**, the Town of Surfside (“Town”) desires to commemorate the 50th anniversary and continue to support the Home Rule Powers of municipalities by promoting community awareness and educating citizens about the Florida Constitution and the importance of local governance, so that all Floridians may continue to receive the many benefits of Home Rule.

**NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, AS FOLLOWS:**

**Section 1. Recitals.** The above recitals are true and correct and incorporated into this Resolution by this reference.

**Section 2. Commemorating and Supporting.** That the Town desires to commemorate 50 years of Municipal Home Rule Powers and finds that the tradition of local decision-making in Florida is essential to protect, preserve and enhance the myriad characteristics that make each one uniquely special and that maintains its quality of life. Additionally, the Town finds that this anniversary presents an opportunity to promote community awareness and educate

all citizens about Florida's Constitution, municipal government and Home Rule authority, and the importance of local governance.

**Section 3. Authorization and Implementation.** That the Town Manager and/or his designee is authorized to take all actions necessary to implement the terms and intent of this Resolution.

**Section 4. Effective Date.** That this Resolution shall take effect immediately upon adoption.

PASSED AND ADOPTED this \_\_\_\_\_ day of July, 2018.

Motion By: \_\_\_\_\_

Second By: \_\_\_\_\_

**FINAL VOTE ON ADOPTION**

Commissioner Barry Cohen \_\_\_\_\_  
Commissioner Michael Karukin \_\_\_\_\_  
Commissioner Tina Paul \_\_\_\_\_  
Vice Mayor Daniel Gielchinsky \_\_\_\_\_  
Mayor Daniel Dietch \_\_\_\_\_

\_\_\_\_\_  
Daniel Dietch, Mayor

Attest:

\_\_\_\_\_  
Sandra Novoa, MMC  
Town Clerk

Approved as to Form and Legal Sufficiency:

\_\_\_\_\_  
Weiss Serota Helfman Cole & Bierman, P.L.  
Town Attorney



**Town of Surfside**  
9293 Harding Ave, 2<sup>nd</sup> Floor  
Surfside, FL 33154

## **COMMISSION COMMUNICATION**

**Agenda Item #** – 4A1

**Date** – July 10, 2018

**Subject** – Solid Waste Assessment Ordinance (Second Reading)

**Background** – This ordinance will provide the legal framework for the FY2019 Solid Waste Assessment and will codify the language into the Town’s Code of Ordinances. The ordinance brings current the Town’s solid waste assessment on residential properties. Upon adoption of the Ordinance, an initial assessment resolution (IAR) for FY2019 will be presented. As part of the adoption of the IAR, the Town will initially establish its solid waste assessment rates for FY2019.

**Budget Impact** –The ordinance requires a legal advertisement that is expected to cost less than \$500.00

**Staff Impact** –N/A

**Recommendation** – We recommend approving the solid waste assessment ordinance in order to authorize and enable the assessment program. If not adopted, the Town will be required to bill and collect these assessments itself, which will increase our costs significantly. If the solid waste assessment ordinance is approved, the next step would to bring an Initial Rate Resolution to the Commission for consideration of the assessment methodology and rates for solid waste services.

  
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Guillermo Olmedillo, Town Manager

CW/ RS/ FD



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**TOWN OF SURFSIDE, FLORIDA**

**SOLID WASTE MANAGEMENT SERVICES  
ASSESSMENT ORDINANCE**

**FIRST READING JUNE 12, 2018**

**SECOND READING AND ADOPTION JULY 10, 2018**

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ORDINANCE NO. 2018 \_\_\_\_\_

AN ORDINANCE OF TOWN OF SURFSIDE, FLORIDA, RELATING TO SOLID WASTE MANAGEMENT SERVICES, INCLUDING COLLECTION, DISPOSAL AND RECYCLING OF RESIDENTIAL SOLID WASTE IN THE TOWN OF SURFSIDE, FLORIDA; AUTHORIZING THE IMPOSITION AND COLLECTION OF ANNUAL SOLID WASTE SERVICE ASSESSMENTS AGAINST RESIDENTIAL PROPERTY THROUGHOUT TOWN OF SURFSIDE, FLORIDA; PROVIDING FOR DEFINITIONS; ESTABLISHING THE PROCEDURES FOR IMPOSING SOLID WASTE SERVICE ASSESSMENTS; PROVIDING THAT SOLID WASTE SERVICE ASSESSMENTS CONSTITUTE A LIEN ON ASSESSED PROPERTY UPON ADOPTION OF ASSESSMENT ROLL; PROVIDING THAT THE LIEN FOR A SOLID WASTE SERVICE ASSESSMENT COLLECTED PURSUANT TO SECTIONS 197.3632 AND 197.3635, FLORIDA STATUTES, UPON PERFECTION SHALL ATTACH TO THE PROPERTY ON THE PRIOR JANUARY 1, THE LIEN DATE FOR AD VALOREM TAXES; PROVIDING THAT A PERFECTED LIEN SHALL BE EQUAL IN RANK AND DIGNITY WITH THE LIENS OF ALL STATE, COUNTY, DISTRICT, OR MUNICIPAL TAXES AND ASSESSMENTS AND SUPERIOR IN DIGNITY TO ALL OTHER PRIOR LIENS, MORTGAGES, TITLES, AND CLAIMS; AUTHORIZING THE IMPOSITION OF INTERIM ASSESSMENTS; PROVIDING PROCEDURES FOR COLLECTION OF SOLID WASTE SERVICE ASSESSMENTS; PROVIDING THAT ALL ORDINANCES AND PARTS OF ORDINANCES AND ALL RESOLUTIONS AND PARTS OF RESOLUTIONS IN CONFLICT HEREWITH BE REPEALED TO THE EXTENT OF SUCH CONFLICT; AND PROVIDING AN EFFECTIVE DATE.

**BE IT ORDAINED BY THE TOWN COMMISSION OF TOWN OF SURFSIDE, FLORIDA:**

**ARTICLE I**

**INTRODUCTION**

**SECTION 1.01. DEFINITIONS.** As used in this Ordinance, the following words and terms shall have the following meanings, unless the context clearly otherwise requires:

**"Annual Rate Resolution"** means the resolution described in Section 2.08 hereof, establishing the rate at which a Solid Waste Service Assessment for a specific Fiscal Year will be computed. The Final Assessment Resolution shall constitute the Annual Rate Resolution for the initial Fiscal Year in which a Solid Waste Residential Service Assessment is imposed or reimposed.

**"Apartment"** means a rental Dwelling Unit located within the same Building as other Dwelling Units.

**"Assessed Property"** means all parcels of Residential Property included on the Assessment Roll that receive a special benefit from the delivery of the Solid Waste collection, disposal and recycling services, programs or facilities identified in the Initial Assessment Resolution or a subsequent Preliminary Rate Resolution.

**"Assessment Roll"** means the special assessment roll relating to a Solid Waste Service Assessment approved by a Final Assessment Resolution pursuant to Section 2.06 hereof or an Annual Rate Resolution pursuant to Section 2.08 hereof.

**"Biohazardous Waste"** means any Solid Waste which may present a threat of infection to humans. The term includes, but is not limited to, non-liquid human tissue and body parts, laboratory and veterinary waste which contains human disease-causing agents, used disposable sharps, human blood, and human blood products and body fluids, and

other materials which represent a significant risk of infection to persons outside of the generating facility.

**"Building"** means any structure, whether temporary or permanent, built for support, shelter or enclosure of persons, chattel, or property of any kind. This term shall include mobile homes or any vehicles serving in any way the function of a Building.

**"Bulk Trash"** means any vegetative large items of various types which cannot be cut for placement in a garbage container. Bulk Trash shall not include White Goods, automobiles and automotive components, internal combustion engines or Construction Debris. Bulk Trash shall include carpeting of any diameter if folded, tied and rolled or bundled and cut in lengths of six (6) feet or less.

**"Certificate of Occupancy"** means the written certification issued by the Town that a Building is ready for occupancy for its intended use. For the purposes of this Ordinance, a set up or tie down permit or its equivalent issued for a mobile home shall be considered a Certificate of Occupancy.

**"Commercial Collection Service"** means the collection and transportation of Solid Waste from Commercial Property by the Town or its Franchisee to a Solid Waste disposal facility.

**"Commercial Property"** means all Improved Property other than Residential Property.

**"Construction Debris"** means materials generally not water soluble and nonhazardous in nature, including, but not limited to, steel, glass, brick, concrete, or roofing material, pipe, gypsum wallboard, and lumber. Construction Debris shall include materials from the construction or destruction of a structure as part of a construction or demolition

project, and including rocks, soils, stumps, and other vegetative matter which normally results from land clearing or land development operations for a construction or home improvement project.

**"Dwelling Unit"** means a Building, or a portion thereof, which is located upon Residential Property and lawfully used for residential purposes, consisting of one or more rooms arranged, designed, used, or intended to be used as living quarters for one family only.

**"Final Assessment Resolution"** means the resolution described in Section 2.06 hereof which shall confirm, modify, or repeal the Initial Assessment Resolution and which shall be the final proceeding for the initial imposition of Solid Waste Service Assessments.

**"Fiscal Year"** means that period commencing October 1st of each year and continuing through the next succeeding September 30th, or such other period as may be prescribed by law as the fiscal year for the Town.

**"Franchisee"** means an entity granted a franchise by the Town to collect, transport and dispose of Solid Waste within the Town.

**"Garbage"** means every refuse accumulation of animal, fruit, vegetable, or organic matter that attends the preparation, use, cooking and dealing in, or storage of, meats, fish, fowl, fruit or vegetables, and decay, putrefaction and the generation of noxious or offensive gases or odors, or which, during or after decay, may serve as breeding or feeding material for flies or other germ carrying insects.

**"Government Property"** means Residential Property owned by the United States of America or any agency thereof, a sovereign state or nation, the State of Florida or any agency thereof, a county, a special district or a municipal corporation.

**"Hazardous Waste"** means Solid Waste, or a combination of Solid Wastes, which, because of its quantity, concentration, or physical, chemical, or infectious characteristics, may cause, or significantly contribute to, an increase in mortality or an increase in serious irreversible or incapacitating reversible illness or may pose a substantial present or potential hazard to human health or the environment when improperly transported, disposed of, stored, treated, or otherwise managed.

**"Improved Property"** means all property within the incorporated area of the Town on which a Building or other improvements have been placed or constructed, which improvements result in such property generating Solid Waste or being capable of generating Solid Waste.

**"Initial Assessment Resolution"** means the resolution described in Section 2.02 hereof which shall be the initial proceeding for the identification of the Solid Waste Cost for which an assessment is to be made and for the imposition of a Solid Waste Service Assessment.

**"Ordinance"** means this Solid Waste Service Assessment Ordinance.

**"Owner"** shall mean the Person reflected as the owner of Assessed Property on the Tax Roll.

**"Person"** means any individual, partnership, firm, organization, corporation, association, or any other legal entity, whether singular or plural, masculine or feminine, as the context may require.

**"Preliminary Rate Resolution"** means the resolution described in Section 2.08 hereof initiating the annual process for updating the Assessment Roll and directing the reimposition of Solid Waste Service Assessments pursuant to an Annual Rate Resolution.

**"Property Appraiser"** means the Miami-Dade County Property Appraiser.

**"Prohibited Waste"** means any Hazardous Waste, Biohazardous Waste, or Special Waste.

**"Recyclable Materials"** means those materials which are capable of being recycled and which would otherwise be processed or disposed of as Solid Waste such as:

- (a) newspapers, including the normal percentage of rotogravure and colored sections, but not including phone books, magazines, and any paper other than newspaper;
- (b) aluminum beverage cans, commingled with ferrous food containers;
- (c) high density polyethylene plastics ("HDPE") commingled with polyethylene terephthalate plastics ("PET");
- (d) clear glass;
- (e) brown glass; and
- (f) green glass.

Recyclable Materials shall not include Prohibited Waste, white office paper, aerosol cans, pharmaceutical glass containers, medical waste containers, pesticide containers or containers originally containing Prohibited Waste.

**"Residential Property"** means all Improved Property used as single-family Dwelling Units, Apartments or condominiums, except for Improved Property provided with commercial container service by an authorized commercial collection service provider at the time the Annual Assessment Resolution is adopted.



**"Solid Waste"** includes Garbage, Yard Trash, Bulk Trash, White Goods, or other discarded material resulting from normal housekeeping activities, and shall exclude Prohibited Waste.

**"Solid Waste Service Assessment"** means a special assessment lawfully imposed by the Town against Assessed Property to fund all or any portion of the cost of the provision of Solid Waste management services, including collection, disposal and recycling services, facilities, or programs providing a special benefit to property as a consequence of possessing a logical relationship to the value, use, or characteristics of the Assessed Property.

**"Solid Waste Cost"** means the amount necessary to fund the Solid Waste management services, including collection, disposal and recycling activities of the Town allocable to Assessed Property during a Fiscal Year and shall include, but not be limited to:

- (A) the cost, whether direct or indirect, of all services, programs or facilities provided by the Town, or through contractual arrangements with the Town relating to Solid Waste management and disposal activities;
- (B) the cost of any indemnity or surety bonds and premiums for insurance;
- (C) the cost of salaries, volunteer pay, workers' compensation insurance, or other employment benefits;
- (D) the cost of computer services, data processing, and communications;
- (E) the cost of training, travel and per diem;
- (F) the recovery of unpaid or delinquent fees or charges advanced by the Town and due for Solid Waste management and disposal services, programs or facilities allocable to specific parcels;
- (G) the cost of engineering, financial, legal or other professional services;
- (H) all costs associated with the structure, implementation, collection, and enforcement of the Solid Waste Service Assessments or a prior year's assessment for a comparable service,

facility or program, including any service charges of the Tax Collector or Property Appraiser; (I) all other costs and expenses necessary or incidental to the acquisition, provision, or delivery of the services, programs or facilities funded by the Solid Waste Service Assessment, and such other expenses as may be necessary or incidental to any related financing authorized by the Town Commission; (J) a reasonable amount for contingency and anticipated delinquencies and uncollectible Solid Waste Service Assessments; and (K) reimbursement to the Town or any other Person for any monies advanced for any costs incurred by the Town or such Person in connection with any of the foregoing items of Solid Waste Cost.

**"Special Waste"** means Solid Waste that requires special handling and management, including, but not limited to, asbestos, whole tires, used tires, used oil, lead-acid batteries, and Biohazardous Wastes and shall include items that exceed any size limitations for Yard Trash and Bulk Trash.

**"Tax Collector"** means the Miami-Dade County Tax Collector.

**"Tax Roll"** means the real property ad valorem tax assessment roll maintained by the Property Appraiser for the purpose of the levy and collection of ad valorem taxes.

**"Town"** means Town of Surfside, Florida.

**"Town Commission"** means the governing body of Town of Surfside, Florida.

**"Town Manager"** means the chief administrative officer of the Town, designated by the Town Commission to be responsible for coordinating Solid Waste Service Assessments, or such person's designee.

**"Uniform Assessment Collection Act"** means sections 197.3632 and 197.3635, Florida Statutes, or any successor statutes authorizing the collection of non-ad valorem

assessments on the same bill as ad valorem taxes, and any applicable regulations promulgated thereunder.

**"White Goods"** means discarded refrigerators, washing machines, dryers, ranges, water heaters, freezers, air conditioning units, and other similar large appliances.

**"Yard Trash"** means vegetative matter resulting from normal yard and landscaping maintenance and shall include materials such as tree and shrub trimmings, grass clippings, palm fronds or small tree branches that shall not exceed four feet in length and four inches in diameter.

**SECTION 1.02. INTERPRETATION.** Unless the context indicates otherwise, words importing the singular number include the plural number, and vice versa; the terms "hereof," "hereby," "herein," "hereto," "hereunder" and similar terms refer to this Ordinance; and the term "hereafter" means after, and the term "heretofore" means before, the effective date of this Ordinance. Words of any gender include the correlative words of the other genders, unless the sense indicates otherwise.

**SECTION 1.03. FINDINGS.** The Town Commission hereby declares:

(A) Pursuant to Article VIII, section 2(b), Florida Constitution, and sections 166.021 and 166.041, Florida Statutes, the Town Commission has all powers of local self-government to perform municipal functions and to render municipal services except when prohibited by law, and such power may be exercised by the enactment of legislation in the form of Town ordinances.

(B) The Town Commission may exercise any governmental, corporate, or proprietary power for a municipal purpose except when expressly prohibited by law, and the Town Commission may legislate on any subject matter on which the Florida Legislature

may act, except those subjects described in (a), (b), (c), and (d) of section 166.021(3), Florida Statutes. The subject matter of paragraphs (a), (b), (c), and (d) of section 166.021(3), Florida Statutes, are not relevant to the imposition of assessments related to Solid Waste collection, disposal and recycling services, facilities or programs of the Town.

(C) The purpose of this Ordinance is to (1) provide procedures and standards for the imposition of annual Solid Waste Service Assessments under the general home rule powers of a municipality to impose special assessments; (2) authorize a procedure for the funding of Solid Waste management services, including collection, disposal and recycling services, facilities, or programs providing special benefits to property within the Town; and (3) legislatively determine the special benefit provided to Assessed Property from the provision of Solid Waste collection, disposal and recycling services by the Town.

(D) Pursuant to section 403.706(1), Florida Statutes, the Town has the general responsibility and authority to provide for the collection, transport and recycling of Solid Waste generated within its incorporated area to appropriate Solid Waste disposal facilities.

(E) In fulfilling its responsibilities, the Town currently provides the Solid Waste collection, disposal and recycling services in-house or provides the services itself, up to and including multi-family properties within the Town. The Town bills and collects the cost of such solid waste collection, disposal and recycling services and programs from owners of such Residential Property. The Town may elect at any time in the future to enter into an agreement with a Franchisee for the furnishing of Solid Waste collection, disposal and recycling services and programs within the Town. Pursuant to such agreement, the Town would pay the Franchisee for such services provided to Residential Property and, in turn, separately bill the respective Owners of such Residential Property. Due to widely varied

production of Solid Waste among the many and varied types of Commercial Property, the Franchisee bills and collects directly from Owners of Commercial Property.

(F) The existence of any Building or other improvement on Improved Property results in such property generating Solid Waste or being capable of generating Solid Waste.

(G) Whether imposed throughout the entire Town or a portion thereof, the imposition of a recurring annual Solid Waste Service Assessment is an alternative, equitable and efficient method to fairly and reasonably apportion and recover the Solid Waste management and disposal costs experienced by the Town among the parcels of Residential Property within the area assessed.

(H) The use of the uniform method of collection authorized by the Uniform Assessment Collection Act provides a mechanism to equitably and efficiently collect Solid Waste Service Assessments, as well as address payment delinquencies and recover unpaid fees, charges, or assessments advanced for Solid Waste management and disposal services, programs, and facilities allocable to specific parcels of Assessed Property.

(I) The annual Solid Waste Service Assessments to be imposed pursuant to this Ordinance shall constitute non-ad valorem assessments within the meaning and intent of the Uniform Assessment Collection Act.

(J) The Solid Waste Service Assessment imposed pursuant to this Ordinance is imposed by the Town Commission, not the Miami-Dade County Board of County Commissioners, Property Appraiser or Tax Collector. Any activity of the Property Appraiser or Tax Collector under the provisions of this Ordinance shall be construed as ministerial.

**SECTION 1.04. LEGISLATIVE DETERMINATIONS OF SPECIAL BENEFIT.**

The Town Commission hereby declares that the Solid Waste services, facilities, and programs of the Town provide a special benefit to property within the Town that is improved by the existence of a Dwelling Unit or Building based upon the following legislative determinations:(A) Solid Waste collection, disposal and recycling services, facilities, and programs furnished by the Town possess a logical relationship to the use and enjoyment of Residential Property by providing: (1) the required use of Solid Waste collection, disposal and recycling services, facilities, and programs by the Owners and occupants of Residential Property to properly, safely, and cost effectively dispose of Solid Waste generated on such property, (2) better service to Owners and tenants, (3) the enhancement of environmentally responsible use and enjoyment of Residential Property, and (4) the protection of property values and the health and safety of the Owners and occupants of Residential Property resulting from the uniform delivery and availability of such services, facilities, and programs.

(B) The provision of comprehensive and mandatory Solid Waste collection, recycling and disposal services and programs furnished by or through the Town to Residential Property enhances and strengthens the relationship of such services and programs to the use and enjoyment of Residential Property within the Town.

## ARTICLE II

### ANNUAL SOLID WASTE COLLECTION, DISPOSAL AND RECYCLING ASSESSMENTS

#### SECTION 2.01. GENERAL AUTHORITY.

(A) The Town Commission is hereby authorized to impose an annual Solid Waste Service Assessment to fund all or any portion of the Solid Waste Cost upon benefitted property at a rate of assessment based on the special benefit accruing to such property from the Town's provision of Solid Waste collection, disposal and recycling services, facilities, or programs. All Solid Waste Service Assessments shall be imposed in conformity with the procedures set forth in this Article II.

(B) The amount of the Solid Waste Service Assessment imposed in a Fiscal Year against a parcel of Assessed Property shall be determined pursuant to an apportionment methodology based upon a classification of property designed to provide a fair and reasonable apportionment of the Solid Waste Cost among properties on a basis reasonably related to the special benefit provided by Solid Waste collection and disposal services, facilities, or programs funded with assessment proceeds.

(C) Any unpaid or delinquent fees, charges, or assessments due the Town for Solid Waste management and disposal services or facilities which are allocable to specific parcels of Assessed Property may be included in the annual Solid Waste Service Assessment for such parcels. In such an event, any existing lien on each affected parcel for unpaid or delinquent fees, charges, or assessments shall be supplanted by the lien resulting from the inclusion of such unpaid or delinquent fees, charges, or assessments in the amount of the Solid Waste Service Assessment.

**SECTION 2.02. INITIAL PROCEEDINGS.** The initial proceeding for the imposition of a Solid Waste Service Assessment shall be the adoption of an Initial Assessment Resolution by the Town Commission (A) containing a brief and general description of the Solid Waste collection, disposal and recycling services, facilities, or programs to be provided; (B) determining the Solid Waste Cost to be assessed; (C) describing the method of apportioning the Solid Waste Cost and the computation of the Solid Waste Service Assessment for specific properties; (D) providing a summary description of the parcels of property (conforming to the description contained on the Tax Roll) located within the Town that receive a special benefit from the provision of Solid Waste collection, disposal and recycling services, facilities, or programs or describing a specific geographic area in which such service, facility, or program will be provided; (E) establishing an estimated assessment rate for the upcoming Fiscal Year; and (F) directing the Town Manager to (1) prepare the initial Assessment Roll, as required by Section 2.03 hereof, (2) publish the notice required by Section 2.04 hereof, and (3) mail the notice required by Section 2.05 hereof using information then available from the Tax Roll.

**SECTION 2.03. INITIAL ASSESSMENT ROLL.**

(A) The Town Manager shall prepare, or direct the preparation of, the initial Assessment Roll, which shall contain the following:

(1) A summary description of all Assessed Property conforming to the description contained on the Tax Roll.

(2) The name of the Owner of the Assessed Property.

(3) The amount of the Solid Waste Service Assessment to be imposed against each such parcel of Assessed Property.



(B) The initial Assessment Roll shall be retained by the Town Manager and shall be open to public inspection. The foregoing shall not be construed to require that the Assessment Roll be in printed form if the amount of the Solid Waste Service Assessment for each parcel of property can be determined by use of a computer terminal available to the public.

**SECTION 2.04. NOTICE BY PUBLICATION.** Upon completion of the initial Assessment Roll, the Town Manager shall publish, or direct the publication of, once in a newspaper of general circulation within the Town a notice stating that at a meeting of the Town Commission on a certain day and hour, not earlier than 20 calendar days from such publication, which meeting shall be a regular, adjourned, or special meeting, the Town Commission will hear objections of all interested persons to the Final Assessment Resolution which shall establish the rate of assessment and approve the aforementioned initial Assessment Roll. The published notice shall conform to the requirements set forth in the Uniform Assessment Collection Act. Such notice shall include (A) a geographic depiction of the property subject to the Solid Waste Residential Service Assessment; (B) a brief and general description of the Solid Waste collection and disposal services, facilities, or programs to be provided; (C) the rate of assessment; (D) notification that unpaid or delinquent fees, charges, or assessments due the Town for Solid Waste collection, disposal and recycling services allocable to specific parcels will be additionally included in the annual Solid Waste Service Assessment; (E) the procedure for objecting provided in Section 2.06 hereof; (F) the method by which the Solid Waste Service Assessment will be collected; and (G) a statement that the initial Assessment Roll is available for inspection at

the office of the Town Manager and all interested persons may ascertain the amount to be assessed against a parcel of Assessed Property at the office of the Town Manager.

**SECTION 2.05. NOTICE BY MAIL.** In addition to the published notice required by Section 2.04, the Town Manager shall provide notice, or direct the provision of notice, of the proposed Solid Waste Service Assessment by first class mail to the Owner of each parcel of property subject to the Solid Waste Service Assessment. Such notice shall include (A) the purpose of the Solid Waste Service Assessment; (B) the rate of assessment to be levied against each parcel of property; (C) the unit of measurement applied to determine the Solid Waste Service Assessment; (D) the number of such units contained in each parcel of property; (E) the total revenue to be collected by the Town from the Solid Waste Service Assessment; (F) a statement that failure to pay the Solid Waste Service Assessment will cause a tax certificate to be issued against the property or foreclosure proceedings to be instituted, either of which may result in a loss of title to the property; (G) notification that unpaid or delinquent fees, charges, or assessments due the Town for Solid Waste management and disposal services allocable to specific parcels will be additionally included in the Solid Waste Service Assessment; (H) a statement that all affected Owners have a right to appear at the hearing and to file written objections with the Town Commission within 20 days of the notice; and (I) the date, time, and place of the hearing. The mailed notice shall conform to the requirements set forth in the Uniform Assessment Collection Act. Notice shall be mailed at least 20 calendar days prior to the hearing to each Owner at such address as is shown on the Tax Roll. Notice shall be deemed mailed upon delivery thereof to the possession of the United States Postal Service. The Town Manager may provide proof of such notice by affidavit. Failure of the

Owner to receive such notice due to mistake or inadvertence, shall not affect the validity of the Assessment Roll nor release or discharge any obligation for payment of a Solid Waste Service Assessment imposed by the Town Commission pursuant to this Ordinance.

**SECTION 2.06. ADOPTION OF FINAL ASSESSMENT RESOLUTION.** At the time named in such notice, or to which an adjournment or continuance may be taken by the Town Commission, the Town Commission shall receive any written objections of interested persons and may then, or at any subsequent meeting of the Town Commission adopt the Final Assessment Resolution which shall (A) confirm, modify, or repeal the Initial Assessment Resolution with such amendments, if any, as may be deemed appropriate by the Town Commission; (B) establish the rate of assessment to be imposed in the upcoming Fiscal Year; (C) approve the inclusion of any unpaid or delinquent fees, charges, or assessments due the Town for Solid Waste management and disposal services; (D) approve the initial Assessment Roll, with such amendments as it deems just and right; and (E) determine the method of collection. The adoption of the Final Assessment Resolution by the Town Commission shall constitute a legislative determination that all parcels assessed derive a special benefit from the Solid Waste collection, disposal and recycling services, facilities, or programs to be provided and a legislative determination that the Solid Waste Service Assessments are fairly and reasonably apportioned among the properties that receive the special benefit. All objections to the Final Assessment Resolution shall be made in writing, and filed with the Town Manager at or before the time or adjourned time of such hearing. The Final Assessment Resolution shall constitute the Annual Rate Resolution for the initial Fiscal Year in which Solid Waste Residential Service Assessments are imposed or reimposed hereunder.

**SECTION 2.07. EFFECT OF FINAL ASSESSMENT RESOLUTION.** The Solid Waste Service Assessments for the initial Fiscal Year shall be established upon adoption of the Final Assessment Resolution. The adoption of the Final Assessment Resolution shall be the final adjudication of the issues presented (including, but not limited to, the determination of special benefit and fair apportionment to the Assessed Property, the method of apportionment and assessment, the initial rate of assessment, the initial Assessment Roll, and the levy and lien of the Solid Waste Service Assessments), unless proper steps shall be initiated in a court of competent jurisdiction to secure relief within 20 days from the date of the Town Commission action on the Final Assessment Resolution. The initial Assessment Roll, as approved by the Final Assessment Resolution, shall be delivered to the Tax Collector, as required by the Uniform Assessment Collection Act, or if the alternative method described in Section 3.02 hereof is used to collect the Solid Waste Service Assessments, such other official as the Town Commission by resolution shall designate.

**SECTION 2.08. ADOPTION OF ANNUAL RATE RESOLUTION.**

(A) The Town Commission shall adopt an Annual Rate Resolution during its budget adoption process for each Fiscal Year following the initial Fiscal Year for which a Solid Waste Service Assessment is imposed hereunder.

(B) The initial proceedings for the adoption of an Annual Rate Resolution shall be the adoption of a Preliminary Rate Resolution by the Town Commission (1) containing a brief and general description of the Solid Waste collection, disposal and recycling services, facilities, or programs to be provided; (2) determining the Solid Waste Cost to be assessed for the upcoming Fiscal Year; (3) establishing the estimated assessment rate for the

upcoming Fiscal Year; (4) authorizing the date, time, and place of a public hearing to receive and consider comments from the public and consider the adoption of the Annual Rate Resolution for the upcoming Fiscal Year; and (5) directing the Town Manager to (a) update the Assessment Roll, (b) provide notice by publication and first class mail to affected Owners in the event circumstances described in subsection (F) of this Section so require, and (c) direct and authorize any supplemental or additional notice deemed proper, necessary or convenient by the Town.

(C) The Annual Rate Resolution shall (1) establish the rate of assessment to be imposed in the upcoming Fiscal Year and (2) approve the Assessment Roll for the upcoming Fiscal Year with such adjustments as the Town Commission deems just and right. The Assessment Roll shall be prepared in accordance with the method of apportionment set forth in the Initial Assessment Resolution, or any subsequent Preliminary Rate Resolution, together with modifications, if any, that are provided and confirmed in the Final Assessment Resolution or any subsequent Annual Rate Resolution.

(D) Nothing herein shall preclude the Town Commission from providing annual notification to all Owners of Assessed Property in the manner provided in either or both Sections 2.04 or 2.05 hereof.

(E) Nothing herein shall preclude the Town Commission from establishing by resolution a maximum rate of assessment provided that notice of such maximum assessment rate is provided pursuant to Sections 2.04 and 2.05 hereof.

(F) In the event (1) the proposed Solid Waste Residential Service Assessment for any Fiscal Year exceeds the maximum rate of assessment adopted by the Town Commission and included in the notice previously provided to the Owners of Assessed

Property pursuant to Sections 2.04 and 2.05 hereof, (2) the purpose for which the Solid Waste Service Assessment is imposed or the use of the revenue from the Solid Waste Service Assessment is substantially changed from that represented by the notice previously provided to the Owners of Assessed Property pursuant to Sections 2.04 and 2.05 hereof, (3) Assessed Property is reclassified or the method of apportionment is revised or altered resulting in an increased Solid Waste Service Assessment from that represented by the notice previously provided to the Owners of Assessed Property pursuant to Sections 2.04 and 2.05 hereof, or (4) an Assessment Roll contains Assessed Property that was not included on the Assessment Roll approved for the prior Fiscal Year, notice shall be provided by publication and first class mail to the Owners of such Assessed Property. Such notice shall substantially conform with the notice requirements set forth in Sections 2.04 and 2.05 hereof and inform the Owner of the date, time, and place for the adoption of the Annual Rate Resolution. The failure of the Owner to receive such notice due to mistake or inadvertence, shall not affect the validity of the Assessment Roll nor release or discharge any obligation for payment of a Solid Waste Service Assessment imposed by the Town Commission pursuant to this Ordinance.

(G) As to any Assessed Property not included on an Assessment Roll approved by the adoption of the Final Assessment Resolution or a prior year's Annual Rate Resolution, the adoption of the succeeding Annual Rate Resolution shall be the final adjudication of the issues presented as to such Assessed Property (including, but not limited to, the determination of special benefit and fair apportionment to the Assessed Property, the method of apportionment and assessment, the rate of assessment, the Assessment Roll, and the levy and lien of the Solid Waste Service Assessments), unless

proper steps shall be initiated in a court of competent jurisdiction to secure relief within 20 days from the date of the Town Commission action on the Annual Rate Resolution. Nothing contained herein shall be construed or interpreted to affect the finality of any prior fee, charge, or assessment imposed by the Town or any Solid Waste Service Assessment not challenged within the required 20-day period for those Solid Waste Service Assessments previously imposed against Assessed Property by the inclusion of the Assessed Property on an Assessment Roll approved in the Final Assessment Resolution or any subsequent Annual Rate Resolution.

(H) The Assessment Roll, as approved by the Annual Rate Resolution, shall be delivered to the Tax Collector as required by the Uniform Assessment Collection Act, or if the alternative method described in Section 3.02 hereof is used to collect the Solid Waste Service Assessments, such other official as the Town Commission by resolution shall designate. If the Solid Waste Service Assessment against any property shall be sustained, reduced, or abated by any court, an adjustment shall be made on the Assessment Roll.

**SECTION 2.09. LIEN OF SOLID WASTE SERVICE ASSESSMENTS.** Upon the adoption of the Assessment Roll, all Solid Waste Service Assessments shall constitute a lien against such property equal in rank and dignity with the liens of all state, county, district, or municipal taxes and special assessments. Except as otherwise provided by law, such lien shall be superior in dignity to all other prior liens, mortgages, titles, and claims, until paid. The lien for a Solid Waste Service Assessment shall be deemed perfected upon adoption by the Town Commission of the Final Assessment Resolution or the Annual Rate Resolution, whichever is applicable. The lien for a Solid Waste Service Assessment collected under the Uniform Assessment Collection Method shall attach to the property

included on the Assessment Roll as of the prior January 1, the lien date for ad valorem taxes imposed under the Tax Roll. The lien for a Solid Waste Service Assessment collected under the alternative method of collection provided in Section 3.02 shall be deemed perfected upon adoption by the Town Commission of the Final Assessment Resolution or the Annual Rate Resolution, whichever is applicable, and shall attach to the property on such date of adoption.

**SECTION 2.10. REVISIONS TO SOLID WASTE SERVICE ASSESSMENTS.** If any Solid Waste Service Assessment made under the provisions of this Ordinance is either in whole or in part annulled, vacated, or set aside by the judgment of any court, or if the Town Commission is satisfied that any such Solid Waste Service Assessment is so irregular or defective that the same cannot be enforced or collected, or if the Town Commission has omitted any property on the Assessment Roll which property should have been so included, the Town Commission may take all necessary steps to impose a new Solid Waste Service Assessment against any property benefited by the Solid Waste Costs, following as nearly as may be practicable, the provisions of this Ordinance and in case such second Solid Waste Service Assessment is annulled, vacated, or set aside, the Town Commission may obtain and impose other Solid Waste Service Assessments until a valid Solid Waste Service Assessment is imposed.

**SECTION 2.11. PROCEDURAL IRREGULARITIES.** Any informality or irregularity in the proceedings in connection with the levy of any Solid Waste Service Assessment under the provisions of this Ordinance shall not affect the validity of the same after the approval thereof, and any Solid Waste Service Assessment as finally approved shall be competent and sufficient evidence that such Solid Waste Service Assessment was



duly levied, that the Solid Waste Service Assessment was duly made and adopted, and that all other proceedings adequate to such Solid Waste Service Assessment were duly had, taken, and performed as required by this Ordinance; and no variance from the directions hereunder shall be held material unless it be clearly shown that the party objecting was materially injured thereby. Notwithstanding the provisions of this section, any party objecting to a Solid Waste Service Assessment imposed pursuant to this Ordinance must file an objection with a court of competent jurisdiction within the time periods prescribed herein.

**SECTION 2.12. CORRECTION OF ERRORS AND OMISSIONS.**

(A) No act of error or omission on the part of the Property Appraiser, Tax Collector, Town Manager, Town Commission, or their deputies or employees, shall operate to release or discharge any obligation for payment of a Solid Waste Service Assessment imposed by the Town Commission under the provision of this Ordinance.

(B) When it shall appear that any Solid Waste Service Assessment should have been imposed under this Ordinance against a parcel of property specially benefited by the provision of Solid Waste collection, disposal and recycling services, facilities, or programs, but that such property was omitted from the Assessment Roll or was not listed on the Tax Roll as an individual parcel of property as of the effective date of the Assessment Roll approved by the Annual Rate Resolution for any upcoming Fiscal Year, the Town Commission may, upon provision of a notice by mail provided to the Owner of the omitted parcel in the manner and form provided in Section 2.05, impose the applicable Solid Waste Service Assessment for the Fiscal Year in which such error is discovered, in addition to the applicable Solid Waste Service Assessment due for the prior two Fiscal Years. Such Solid

Waste Service Assessment shall constitute a lien against such property equal in rank and dignity with the liens of all state, county, district, or municipal taxes and special assessments, and superior in rank and dignity to all other prior liens, mortgages, titles, and claims in and to or against the real property involved, shall be collected as provided in Article III hereof, and shall be deemed perfected on the date of adoption of the resolution imposing the omitted or delinquent assessments.

(C) Prior to the delivery of the Assessment Roll to the Tax Collector in accordance with the Uniform Assessment Collection Act, the Town Manager shall have the authority at any time, upon his or her own initiative or in response to a timely filed petition from the Owner of any property subject to a Solid Waste Service Assessment, to reclassify property based upon presentation of competent and substantial evidence, and correct any error in applying the Solid Waste Service Assessment apportionment method to any particular parcel of property not otherwise requiring the provision of notice pursuant to the Uniform Assessment Collection Act. Any such correction shall be considered valid ab initio and shall in no way affect the enforcement of the Solid Waste Service Assessment imposed under the provisions of this Ordinance. All requests from affected property owners for any such changes, modifications or corrections shall be referred to, and processed by, the Town Manager and not the Property Appraiser or Tax Collector.

(D) After the Assessment Roll has been delivered to the Tax Collector in accordance with the Uniform Assessment Collection Act, any changes, modifications, or corrections thereto shall be made in accordance with the procedures applicable to correcting errors and insolvencies on the Tax Roll upon timely written request and direction of the Town Manager.

**SECTION 2.13. INTERIM ASSESSMENTS.** An interim Solid Waste Service Assessment shall be imposed against all property for which a Certificate of Occupancy is issued after adoption of the Annual Rate Resolution. The amount of the interim Solid Waste Service Assessment shall be calculated upon a monthly rate, which shall be one-twelfth of the annual rate for such property computed in accordance with the Annual Rate Resolution for the Fiscal Year in which the Certificate of Occupancy is issued. Such monthly rate shall be imposed for each full calendar month remaining in the Fiscal Year. In addition to the monthly rate, the interim Solid Waste Service Assessment shall also include an estimate of the subsequent Fiscal Years Solid Waste Service Assessment. No Certificate of Occupancy shall be issued until full payment of the interim Solid Waste Service Assessment is received by the Town. Issuance of the Certificate of Occupancy by mistake or inadvertence, and without the payment in full of the interim Solid Waste Service Assessment, shall not relieve the Owner of such property of the obligation of full payment. For the purpose of this provision, such interim Solid Waste Service Assessment shall be deemed due and payable on the date the Certificate of Occupancy was issued and shall constitute a lien against such property as of that date. Said lien shall be equal in rank and dignity with the liens of all state, county, district or municipal taxes and special assessments, and superior in rank and dignity to all other liens, encumbrances, titles and claims in and to or against the real property involved and shall be deemed perfected upon the issuance of the Certificate of Occupancy.

## **ARTICLE III**

### **COLLECTION AND USE OF SOLID WASTE SERVICE ASSESSMENTS**

#### **SECTION 3.01. METHOD OF COLLECTION.**

(A) Unless otherwise directed by the Town Commission, the Solid Waste Service Assessments shall be collected pursuant to the uniform method provided in the Uniform Assessment Collection Act, and the Town shall comply with all applicable provisions of the Uniform Assessment Collection Act. Any hearing or notice required by this Ordinance may be combined with any other hearing or notice required by the Uniform Assessment Collection Act.

(B) The amount of a Solid Waste Service Assessment to be collected using the uniform method pursuant to the Uniform Assessment Collection Act for any specific parcel of benefitted property may include an amount equivalent to the payment delinquency, delinquency fees and recording costs for a prior year's assessment for a comparable service, facility, or program provided, (1) the collection method used in connection with the prior year's assessment did not employ the use of the uniform method of collection authorized by the Uniform Assessment Collection Act, (2) notice is provided to the Owner as required under the Uniform Assessment Collection Act, and (3) any lien on the affected parcel for the prior year's assessment is supplanted and transferred to such Solid Waste Service Assessment upon certification of a non-ad valorem roll to the Tax Collector by the Town.

**SECTION 3.02. ALTERNATIVE METHOD OF COLLECTION.** In lieu of utilizing the Uniform Assessment Collection Act, the Town may elect to collect the Solid Waste

Service Assessments by any other method which is authorized by law or under the alternative collection method provided by this Section:

(A) The Town shall provide Solid Waste Service Assessment bills by first class mail to the Owner of each affected parcel of property. The bill or accompanying explanatory material shall include (1) a brief explanation of the Solid Waste Service Assessment, (2) a description of the unit of measurement used to determine the amount of the Solid Waste Service Assessment, (3) the number of units contained within the parcel, (4) the total amount of the Solid Waste Service Assessment imposed against the parcel for the appropriate period, (5) the location at which payment will be accepted, (6) the date on which the Solid Waste Service Assessment is due, and (7) a statement that the Solid Waste Service Assessment constitutes a lien against assessed property equal in rank and dignity with the liens of all state, county, district or municipal taxes and other non-ad valorem assessments.

(B) The Town may provide for early payment and discount of the Solid Waste Service Assessment.

(C) A general notice of the lien resulting from imposition of the Solid Waste Service Assessments shall be recorded in the Official Records of the County. Nothing herein shall be construed to require that individual liens or releases be filed in the Official Records.

(D) The Town shall have the right to foreclose and collect all delinquent Solid Waste Service Assessments in the manner provided by law for the foreclosure of mortgages on real property or appoint or retain an agent to institute such foreclosure and collection proceedings. A Solid Waste Service Assessment shall become delinquent if it is

not paid within 30 days from the date any installment is due. The Town or its agent shall notify any property owner who is delinquent in payment of his or her Solid Waste Service Assessment within 60 days from the date such assessment was due. Such notice shall state in effect that the Town or its agent will either (1) initiate a foreclosure action or suit in equity and cause the foreclosure of such property subject to a delinquent Solid Waste Service Assessment in a method now or hereafter provided by law for foreclosure of mortgages on real property, or (2) cause an amount equivalent to the delinquent Solid Waste Service Assessment, not previously subject to collection using the uniform method under the Uniform Assessment Collection Act, to be collected on the tax bill for a subsequent year.

(E) All costs, fees and expenses, including reasonable attorney fees and title search expenses, related to any foreclosure action as described herein shall be included in any judgment or decree rendered therein. At the sale pursuant to decree in any such action, the Town may be the purchaser to the same extent as any Person. The Town or its agent may join in one foreclosure action the collection of Solid Waste Service Assessments against any or all property assessed in accordance with the provisions hereof. All delinquent Owners whose property is foreclosed shall be liable for an apportioned amount of reasonable costs and expenses incurred by the Town and its agents, including reasonable attorney fees and title search expenses, in collection of such delinquent Solid Waste Service Assessments and any other costs incurred by the Town as a result of such delinquent Solid Waste Service Assessments and the same shall be collectible as a part of or in addition to, the costs of the action.

(F) In lieu of foreclosure, any delinquent Solid Waste Service Assessment and the costs, fees and expenses attributable thereto, may be collected pursuant to the Uniform Assessment Collection Act; provided however, that (1) notice is provided to the Owner in the manner required by the Uniform Assessment Collection Act and this Ordinance, and (2) any existing lien of record on the affected parcel for the delinquent Solid Waste Service Assessment is supplanted by the lien resulting from certification of the Assessment Roll, as applicable, to the Tax Collector.

(G) Notwithstanding the Town's use of an alternative method of collection, the Town Manager shall have the same power and authority to correct errors and omissions as provided to him or her or other county officials in Section 2.12 hereof.

(H) Any Town Commission action required in the collection of Solid Waste Service Assessments may be by resolution.

**SECTION 3.03. GOVERNMENT PROPERTY.**

(A) If Solid Waste Service Assessments are imposed against Government Property, the Town shall provide Solid Waste Service Assessment bills by first class mail to the Owner of each affected parcel of Government Property. The bill or accompanying explanatory material shall include (1) a brief explanation of the Solid Waste Service Assessment, (2) a description of the unit of measurement used to determine the amount of the Solid Waste Service Assessment, (3) the number of units contained within the parcel, (4) the total amount of the parcel's Solid Waste Service Assessment for the appropriate period, (5) the location at which payment will be accepted, and (6) the date on which the Solid Waste Service Assessment is due.

(B) Solid Waste Service Assessments imposed against Government Property shall be due on the same date as all other Solid Waste Service Assessments and, if applicable, shall be subject to the same discounts for early payment.

(C) A Solid Waste Service Assessment shall become delinquent if it is not paid within 30 days from the date any installment is due. The Town shall notify the Owner of any Government Property that is delinquent in payment of its Solid Waste Service Assessment within 60 days from the date such assessment was due. Such notice shall state that the Town will initiate a mandamus or other appropriate judicial action to compel payment.

(D) All costs, fees and expenses, including reasonable attorney fees and title search expenses, related to any mandamus or other action as described herein shall be included in any judgment or decree rendered therein. All delinquent Owners of Government Property against which a mandamus or other appropriate action is filed shall be liable for an apportioned amount of reasonable costs and expenses incurred by the Town, including reasonable attorney fees and title search expenses, in collection of such delinquent Solid Waste Service Assessments and any other costs incurred by the Town as a result of such delinquent Solid Waste Service Assessments and the same shall be collectible as a part of or in addition to, the costs of the action.

(E) As an alternative to the foregoing, a Solid Waste Service Assessment imposed against Government Property may be collected as a surcharge on a utility bill provided to such Government Property in installments with a remedy of a mandamus action in the event of non-payment. The Town Commission may contract for such billing services with any utility, whether or not such utility is owned by the Town.



## ARTICLE IV

### GENERAL PROVISIONS

**SECTION 4.01. APPLICABILITY.** This Ordinance and the Town's authority to impose assessments pursuant hereto shall be applicable throughout the Town.

**SECTION 4.02. ALTERNATIVE METHOD.**

(A) This Ordinance shall be deemed to provide an additional and alternative method for the doing of the things authorized hereby and shall be regarded as supplemental and additional to powers conferred by other laws, and shall not be regarded as in derogation of any powers now existing or which may hereafter come into existence. This Ordinance, being necessary for the welfare of the inhabitants of the Town, shall be liberally construed to effect the purposes hereof.

(B) Nothing herein shall preclude the Town Commission from directing and authorizing, by resolution, the combination with each other of (1) any supplemental or additional notice deemed proper, necessary, or convenient by the Town, (2) any notice required by this Ordinance, or (3) any notice required by law, including the Uniform Assessment Collection Act.

**SECTION 4.03. SEVERABILITY.** The provisions of this Ordinance are severable; and if any section, subsection, sentence, clause or provision is held invalid by any court of competent jurisdiction, the remaining provisions of this Ordinance shall not be affected thereby.

**SECTION 4.04. CONFLICTS.** All ordinances or parts of ordinances and all resolutions or parts of resolutions in conflict herewith are hereby repealed to the extent of such conflict.

**SECTION 4.05. INCLUSION IN CODE.** It is the intention of the Town Commission and it is hereby ordained that the provisions of this Ordinance shall become and made a part of the Code of Town of Surfside, Florida, that the Sections of the Ordinance may be renumbered or relettered to accomplish such intentions, and that the word "Ordinance" may be changes to "Section" or other appropriate word.

**SECTION 4.06. EFFECTIVE DATE.** This Ordinance shall be effective immediately upon adoption on the second reading.

**PASSED AND ADOPTED** on First Reading on this 12th day of June, 2018.

**PASSED AND ADOPTED** on Second and Final Reading on this 10th day of July, 2018.

On Final Reading Moved by: \_\_\_\_\_

On Final Reading Second by: \_\_\_\_\_

**FINAL VOTE ON ADOPTION**

Commissioner Barry Cohen \_\_\_\_\_  
Commissioner Michael Karukin \_\_\_\_\_  
Commissioner Tina Paul \_\_\_\_\_  
Vice Mayor Daniel Gielchinsky \_\_\_\_\_  
Mayor Daniel Dietch \_\_\_\_\_

\_\_\_\_\_  
Daniel Dietch, Mayor

**ATTEST:**

\_\_\_\_\_  
Sandra Novoa, 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



## Town of Surfside Commission Communication

**Agenda Item #** 4A2

**Agenda Date:** July 10, 2018

**Subject:** Downtown Business District Parking Requirement Waiver

**Background:** At the May 8, 2018 Town Commission meeting there was a discussion item on providing a parking waiver for new retail or restaurant businesses filling existing vacancies downtown. The Administration received direction to return with an ordinance that facilitates the waiver (4:1 vote in favor). At the June 12, 2018 Town Commission meeting the ordinance was approved on first reading (5:0 vote in favor). The Planning & Zoning Board recommended moving forward with the ordinance at their June 27, 2018 meeting.

**Analysis:** While there are probably many factors affecting the vacancies downtown, this waiver addresses the property owners' stated issue of the parking requirement being the foremost issue in filling their vacancies.

In a good faith effort to address their stated view, and to reinvigorate the economic development of downtown, the Administration is proposing a waiver of the parking requirement with the following restrictions:

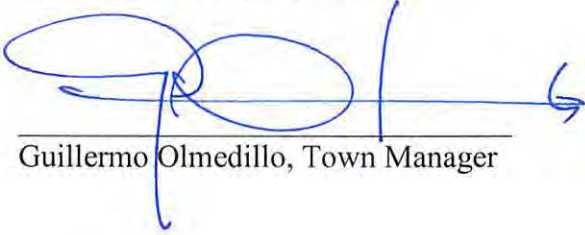
- The waiver would sunset after one year unless extended by the Town Commission. This is a change from the two-year waiver discussed on May 8, 2018 due to the desire to spur a more immediate economic resurgence
- The waiver would only apply to new businesses locating in existing vacant store fronts at the time of the ordinance adoption. An inventory of the existing vacancies will be conducted. Vacancy inventory attached (Attachment A)
- Businesses would be defined as retail or restaurant only for waiver eligibility

**Budget Impact:** While there is potential loss of Parking Fund revenue, this can only be determined if the waiver achieves its projected effect of filling the downtown vacancies and by the type of new businesses that open. This may not in effect be a valid "loss" as these businesses are not presently locating in Surfside.

New tenants, especially restaurants, can have a positive effect on Resort Tax Revenue. This could counteract any loss of payments to the Parking Fund. Filling vacancies can enhance the downtown experience and improve the desirability and marketability of the area. Thus, potentially resulting in increased patronage downtown and to all food and beverage establishments.

**Staff Impact:** The Tourist Bureau will assist with the outreach to the property owners and will monitor the venture. The Planning and Building operations will provide the waiver to applicable businesses when reviewed as part of a site plan, building permit or Certificate of Use issuance (whichever is the earliest).

**Recommendation:** The Administration is recommending the adoption of the accompanying ordinance on second reading as presented.



Guillermo Olmedillo, Town Manager



DT

**ORDINANCE NO. 18 - \_\_\_\_\_**

**AN ORDINANCE OF THE TOWN OF SURFSIDE, FLORIDA AMENDING SECTION 90-77 “OFF-STREET PARKING REQUIREMENTS,” OF “CHAPTER 90 ZONING” OF THE TOWN OF SURFSIDE CODE OF ORDINANCES TO PROVIDE A PARKING EXEMPTION PROGRAM TO ADDRESS VACANCY AND ECONOMIC REVITALIZATION IN THE SD-B40 ZONING DISTRICT; PROVIDING FOR REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; AND PROVIDING FOR AN EFFECTIVE DATE.**

1           **WHEREAS**, the Town Commission of the Town of Surfside, Florida, recognizes that  
2 changes to the adopted Code of Ordinances are periodically necessary in order to ensure that the  
3 Town’s regulations are current and consistent with the Town’s planning and regulatory needs;  
4 and

5           **WHEREAS**, the Town has worked with downtown businesses and property owners to  
6 improve the economic health and vitality of the downtown and analyze and address operational  
7 issues, vacancy, and economic growth; and

8           **WHEREAS**, the Town has conducted an inventory of downtown ground floor vacancies,  
9 attached hereto and incorporated herein as the “2018 Downtown Vacancy Inventory”; and

10           **WHEREAS**, the large number of vacancies has reduced the vibrancy and economic  
11 vitality of the Town’s Downtown; and

12           **WHEREAS**, the Town desires to take positive action to avoid the onset of blight and  
13 restore the economic health and welfare of its crucial commercial district; and

14           **WHEREAS**, economic vitality and restoration can be enhanced with proactive policy  
15 interventions designed to improve economic viability, therein fostering new business activity,  
16 productivity and operational feasibility; and

17           **WHEREAS**, parking, and the limited availability of land may impact redevelopment,  
18 changes of use and occupancy; and

19           **WHEREAS**, in order to help reduce vacancy, improve aesthetics, and restore the  
20 pedestrian experience and downtown vitality, the Town desires to develop a temporary Parking  
21 Exemption Program; and

22           **WHEREAS**, the Town Commission held its first public hearing on these regulations on  
23 June 12, 2018; and

24           **WHEREAS**, the Planning and Zoning Board, sitting as the Local Planning Agency, has  
25 reviewed the revisions to the Code for consistency with the Town’s Comprehensive Plan at a  
26 duly noticed hearing on \_\_\_\_\_, 2018; and

27           **WHEREAS**, the Town Commission has conducted a second duly noticed public hearing  
28 on these regulations as required by law on \_\_\_\_\_; and

29  
30           **WHEREAS**, the Town Commission hereby finds and declares that adoption of this  
31 Ordinance is necessary, appropriate, and advances the public interest.  
32

33           **NOW THEREFORE, BE IT ORDAINED BY THE TOWN COMMISSION OF**  
34 **THE TOWN OF SURFSIDE, FLORIDA, AS FOLLOWS:**

35           **Section 1. Recitals.** Each of the above stated recitals is true and correct and the recitals are  
36 incorporated herein by this reference.

37           **Section 2. Code Amendment.** The Code of Ordinances of the Town of Surfside,  
38 Section 90-77 “Off-street parking requirements “ of Chapter 90 “Zoning” is hereby amended as  
39 follows<sup>1</sup>:

40           **Sec. 90-77. - Off-street parking requirements.**

41           (a) Except as otherwise provided herein, when any building or structure is hereafter constructed;  
42 or structurally altered so as to increase the number of dwelling units or hotel rooms to  
43 increase its total commercial floor area, including provision of outdoor seating; or when any  
44 building or structure is hereafter converted to any of the uses listed in subsection 90-77(c),  
45 off- street parking spaces shall be provided in accordance with the requirements of  
46 subsection 90-77(c), or as required in subsequent sections of this article. The requirement for  
47 an increase in the number of required parking spaces shall be provided on the basis of the  
48 enlargement or change of use.

49           (b) Parking compliance for properties and uses located in SD-B40 zoning district and for  
50 religious places of public assembly in other areas of the town.

51           (1) Off-street parking applicability. This section applies to:

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<sup>1</sup> Additions to text are shown in underline. Deletions to text are shown in ~~strikethrough~~.

- 52 a. Uses within the SD-B40 zoning district where changes of use from service  
53 businesses to restaurant or retail occur; and
- 54 b. Religious places of public assembly located within the area depicted on the Public  
55 Assembly Places as set forth in subsection 90-41(d)(23) hereinabove.
- 56 (2) Options to satisfy parking requirements for uses specified in (1) above. Satisfaction of  
57 the off-street parking requirements may be achieved with the permission of the town  
58 commission through compliance with any combination of the following options:
- 59 a. On site provision of required parking spaces as more specifically set forth in  
60 subsection 90-77(c);
- 61 b. Tandem parking as more specifically set forth in subsection 90-77(d);
- 62 c. Joint use and off-site facilities as more specifically described in section 90-80. If  
63 parking is satisfied by agreement with a private third party, the town shall require  
64 an agreement in writing for an effective period of no less than five years. No less  
65 than 60 days prior to the expiration of such agreement, either a new agreement shall  
66 be in place or the owner of the property for which the parking is being provided  
67 shall receive the town's approval of the employment of one of the other prescribed  
68 options contained in this subsection. Failure to secure the town's approval of one or  
69 a combination of the prescribed options shall result in revocation of the owner's  
70 certificate of occupancy and certificate of use;
- 71 d. Shared parking; or
- 72 e. Payment of parking trust fee that can be used to finance the provision of parking  
73 whether through the purchase, construction or modification of parking facilities or  
74 to otherwise provide for additional parking as more specifically set forth in  
75 subsection 90-77(b)(4).
- 76 (3) *Modification of parking requirements.* In tandem with the use of options (2)c—e to  
77 satisfy parking requirements, requests may be made for a reduction in the minimum  
78 parking requirements which may be considered by the town upon receipt of an  
79 application from the owner of the site seeking a reduction as follows:
- 80 a. Minor reductions. Requests for a reduction of one to three required parking spaces  
81 may be approved by the town manager in consultation with the town planner as a  
82 de minimus reduction upon a finding that the applicant has utilized the options  
83 available in subsection 90-77(b)2) above, to the greatest extent feasible. If the  
84 request is denied by the town manager, that decision may be appealed to the town  
85 commission.
- 86 b. Major reductions. The planning and zoning board shall hear requests for reductions  
87 in parking in excess of the town manager's authority under subsection (3)a  
88 hereinabove. Such requests shall be accompanied by a report prepared by the town  
89 manager and town planner and approved for legal sufficiency by the town attorney,  
90 analyzing existing and future parking demands, the availability of underutilized  
91 public parking spaces, and traffic circulation. The report prepared by the town  
92 manager and town planner and approved for legal sufficiency by the town attorney

93 will be based upon an independent study completed by a professional traffic  
94 engineer licensed in the State of Florida.

95 c. Criteria for approval of major or minor reduction. Requests for reduction may be  
96 approved, in whole or in part, upon a finding that there is sufficient available  
97 parking that is open to the public and is judged adequate to accommodate the  
98 parking reduction request within 300 feet of the subject property along a practical  
99 and usable pedestrian route excluding residential districts.

100 If the request is denied by the planning and zoning board, that decision may be  
101 appealed to the town commission.

102 (4) Parking exemption. There is hereby created a "Parking Exemption Program".

103 a. Program. For the period from [July 10, 2018 - Effective date of this Ordinance]  
104 to [July 10, 2019 - 1 year from the effective date of this Ordinance], first floor  
105 properties in the SD-B40 zoning district which are vacant as of [July 10, 2018 -  
106 Effective date of this Ordinance] shall not be required to provide parking spaces,  
107 beyond those currently provided for the property, for any additional parking  
108 spaces required by the following:

109 1. The development of currently vacant existing first floor square footage for a  
110 change of use to retail or restaurant use which creates a requirement for  
111 additional parking spaces;

112 2. The development of a new sidewalk café in conjunction with a new retail or  
113 restaurant occupancy in currently vacant space;

114 3. The development of second floor square footage for a change of use to retail  
115 or restaurant use which creates a requirement for additional parking spaces  
116 provided the second floor area is an integral part of and accessed solely from  
117 the interior of a connected first floor space.

118 b. Application required. To qualify for the Parking Exemption Program, a parking  
119 exemption application must be submitted, in a form to be approved by the Town,  
120 with all supporting documentation as required by the application.

121 c. Eligibility for Program.

122 1. Only properties vacant as of July 10, 2018 as identified by Town inventory  
123 dated July 10, 2018 are eligible for the Program.

124 2. The application for a parking exemption, and all supporting documents,  
125 including any applicable certificate of use, building permit or development  
126 approval applications, shall have been submitted and deemed to be complete  
127 by the Town prior to the Program expiration, and all required permits received



128 and the retail or restaurant space subsequently built and opened to the public  
129 within one year from approval of parking exemptions.

130 3. Eligibility is limited to first floor square footage which was existing and  
131 vacant as of July 10, 2018, which is changing use and will be utilized for  
132 retail, restaurant, or new sidewalk café space in conjunction with the new  
133 retail or restaurant occupancy of currently vacant space, or the occupancy of  
134 existing vacant second floor space for retail or restaurant use in conjunction  
135 with, and which is an integral part of and accessed solely from, the interior of  
136 a currently vacant connected first floor space.

137 d. Program guidelines.

138 1. Program duration. The Parking Exemption Program shall last for a period of  
139 one year, from July 10, 2018, to July 10, 2019. Notwithstanding the  
140 foregoing, the Town Commission, may, for any reason and in its sole  
141 discretion, discontinue this Parking Exemption Program at any point during  
142 the duration of the Program.

143 2. This Program does not allow the elimination of any existing parking spaces  
144 and exemptions cannot be obtained to replace existing parking.

145 3. This Program may not be used for new construction, expanded building area  
146 or for independently accessed, stand-alone second floor square footage.

147 4. Once parking exemptions are awarded, failure to complete construction and  
148 open to the public within one year of approval of any parking exemptions  
149 shall result in forfeiture of any parking exemptions obtained.

150 5. Status following end of Program.

151 i. Nonconforming. At the end of the Parking Exemption Program, all retail,  
152 restaurant, and sidewalk café area built under the Parking Exemption  
153 Program will become nonconforming use as to parking, and shall be  
154 subject to the requirements of the nonconforming use provisions of the  
155 Town's Code of Ordinances. Notwithstanding the foregoing, retail,  
156 restaurant and sidewalk café uses which were granted parking exemptions  
157 under this Program may be completely remodeled or rebuilt without  
158 providing additional parking, as originally permitted through the Parking  
159 Exemption Program, as long as it is the same business and use and the  
160 retail floor area or restaurant seating capacity is not increased. If floor  
161 area or seating capacity are increased, compliance with the parking  
162 requirements in effect at that time is required for the new floor area or

163 seating capacity, through a mechanism available in the Code then in  
164 effect.

165 ii. Availability of exemptions to successor businesses. Parking exemptions  
166 are granted to a specific business for a specific use and are not assignable  
167 or transferable to another business, use, or property.

168 \* \* \*

169 (c) *Required parking table.* The number of off-street parking spaces that shall be required to  
170 serve each building or structure and use shall be determined in accordance with the  
171 following table:

Type of Residential Unit/Type of Use	Minimum Space Requirements
* * *	* * *
Grocery, fruit or meat market	1 space each 250 gross floor area
Retail store or Personal service establishment	1 space each 300 gross floor area
Office or Professional services use, except Financial institutions	1 space each 400 gross floor area
Medical or Dental uses	1 space each 300 gross floor area
Restaurants or other establishments for the consumption of food and beverages on the premises	1 space for every 4 seats
Financial institutions	1 space each 300 gross floor area
* * *	* * *

172 \* \* \*

173 **Section 3. Severability.** If any section, subsection, clause or provision of this Ordinance is  
174 declared invalid or unconstitutional by a court of competent jurisdiction, the remainder shall not be  
175 affected by such invalidity.

176 **Section 4. Conflict.** All sections or parts of sections of the Town of Surfside Code of  
177 Ordinances in conflict herewith are intended to be repealed to the extent of such conflict.

178 **Section 5. Inclusion in the Code of Ordinances.** It is the intention of the Town  
179 Commission, and it is hereby ordained that the provisions of this Ordinance shall become and made  
180 a part of the Town of Surfside Code of Ordinances, that the sections of this Ordinance may be  
181 renumbered or re-lettered to accomplish such intentions; and the word "Ordinance" may be changed  
182 to "Section" or other appropriate word.

183 **Section 6. Effective Date.** This Ordinance shall be effective upon final adoption on  
184 second reading.

185

186 **PASSED** on first reading this 12th day of June, 2018.

187 **PASSED** and **ADOPTED** on second reading this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

188

189 On Final Reading Moved by: \_\_\_\_\_

190 On Final Reading Second by: \_\_\_\_\_

191

192 **FINAL VOTE ON ADOPTION**

193 Commissioner Barry Cohen \_\_\_\_\_  
194 Commissioner Michael Karukin \_\_\_\_\_  
195 Commissioner Tina Paul \_\_\_\_\_  
196 Vice Mayor Daniel Gielchinsky \_\_\_\_\_  
197 Mayor Daniel Dietch \_\_\_\_\_

198

199 \_\_\_\_\_  
200 Daniel Dietch, Mayor

201

202 **ATTEST:**

203

204 \_\_\_\_\_  
205 Sandra Novoa, MMC, Town Clerk

206

207 **APPROVED AS TO FORM AND LEGALITY FOR THE USE**  
208 **AND BENEFIT OF THE TOWN OF SURFSIDE ONLY:**

209

210

211 

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Weiss Serota Helfman Cole & Bierman, P.L.,

212 Town Attorney

213



## Town of Surfside Commission Communication

**Agenda Item #:** 5A

**Agenda Date:** July 10, 2018

**Subject:** Dune Survey and Beach Management Plan

**Background:** The beach and ocean are the Town's iconic natural resources and provide an enhanced quality of life for residents and visitors. With the expected increase in sea level rise, a comprehensive Beach Management Plan is needed to address the issues affecting the beach. This survey and plan were requested by the Planning and Zoning Board based on a recommendation from the Sustainability Subcommittee.

**Analysis:** To assist the Town in a better understanding of existing conditions, and in protecting the adjacent beach resource system, Calvin, Giordano & Associates will create a Beach Plan to include a beach nourishment history and future proposals; current ownership and management structure; applicable regulatory structure; dune functions and best management practices; flora and fauna considerations, beach use Best Management Practices (BMP) and identifying and/or surveying the bulkhead line, the Coastal Construction Control Line (CCCL) and the Erosion Control Line (ECL) demarcation. A vertical elevation model of the Towns environs with street, beach and dune elevations for sea level rise analysis and the affect thereof will also be created.

The Town has determined there is a sufficient need for this information and it will be the basis for decisions to be made in the future to address resiliency and quality of life issues.

**Budget Impact:** The not to exceed amount of \$36,287.79 for this survey and plan are not budgeted in the adopted FY2017/2018 budget. It will be funded from the General Fund.

**Staff Impact:** N/A.

**Recommendation:** It is recommended that the Town Commission approve the accompanying Resolution and Work Authorization #110 for Calvin Giordano & Associates to prepare a Dune Survey and Beach Management Plan as presented.



Guillermo Olmedillo, Town Manager

**RESOLUTION NO. 2018- \_\_\_\_**

**A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA APPROVING THE PROPOSAL AND WORK AUTHORIZATION WITH CALVIN GIORDANO & ASSOCIATES, INC. TO PERFORM A DUNE SURVEY AND BEACH MANAGEMENT PLAN; AUTHORIZING THE TOWN MANAGER TO EXECUTE THE WORK AUTHORIZATION; AUTHORIZING THE TOWN MANAGER AND TOWN OFFICIALS TO IMPLEMENT THE TERMS AND CONDITIONS OF THE WORK AUTHORIZATION; AND PROVIDING FOR AN EFFECTIVE DATE**

**WHEREAS**, pursuant to Section 287.055, Florida Statutes (“Consultants’ Competitive Negotiation Act), the Town of Surfside (“Town”) entered into a Continuing Professional Services Agreement (the “Agreement”) with Calvin Giordano & Associates, Inc. (“Consultant”) for professional general architectural, engineering, and surveying and mapping services on October 6, 2014; and

**WHEREAS**, in accordance with the provisions of the Agreement, Consultant and the Town have agreed to enter into a Work Authorization (“Work Authorization”), in accordance with the Proposal of Consultant attached hereto as Exhibit “A”, authorizing the Consultant to perform a dune survey and create a beach management plan for the Town (the “Services”); and

**WHEREAS**, the Consultant’s Proposal attached as Exhibit “A” provides for a scope of services detailing the Services to be provided by Consultant, as well as compensation for the Services in an amount not to exceed \$36,287.79; and

**WHEREAS**, Consultant has agreed to provide the Services described in the Proposal and Work Authorization to be entered into with the Town; and

**WHEREAS**, the Town Commission finds that approval of the Proposal and Work Authorization between Consultant and the Town is in the best interest of the Town.

**NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, AS FOLLOWS:**

**Section 1. Recitals.** The above recitals are true and correct and incorporated into this Resolution by this reference.

**Section 2. Approval of Proposal and Work Authorization.** The Proposal of the Consultant to provide the Services attached hereto as Exhibit “A,” together with a Work Authorization to be entered into in accordance with the Proposal, as may be acceptable to the Town Manager and approved as to form and legality by the Town Attorney, is approved. The Town Manager is authorized to execute a Work Authorization in accordance with the Proposal attached hereto as Exhibit “A” on behalf of the Town.

**Section 3. Authorization of Town Officials.** The Town Manager and/or his designee are authorized to take all actions necessary to implement the terms and conditions of the Work Authorization.

**Section 4. Effective Date.** This Resolution shall take effect immediately upon adoption.

PASSED AND ADOPTED this 10<sup>th</sup> day of July, 2018.

Motion By: \_\_\_\_\_

Second By: \_\_\_\_\_

**FINAL VOTE ON ADOPTION**

Commissioner Barry Cohen	_____
Commissioner Michael Karukin	_____
Commissioner Tina Paul	_____
Vice Mayor Daniel Gielchinsky	_____
Mayor Daniel Dietch	_____

Attest

\_\_\_\_\_  
Daniel Dietch, Mayor

\_\_\_\_\_  
Sandra Novoa, MMC  
Town Clerk

Approved as to Form and Legal Sufficiency:

\_\_\_\_\_  
Weiss Serota Helfman Cole & Bierman, P.L.  
Town Attorney





**Calvin, Giordano & Associates, Inc.**  
EXCEPTIONAL SOLUTIONS™

July 2, 2018

Mr. Guillermo Olmedillo  
Town Manager  
**TOWN OF SURFSIDE**  
9293 Harding Avenue  
Surfside, FL 33154

**RE: Work Authorization No. 110**  
**Dune Survey & Beach Management Plan**  
**CGA Proposal No. 18-9942**

Dear Mr. Olmedillo,

Enclosed for your review and approval is Work Authorization No. 110 for Dune Survey & Beach Management Plan. The scope of the project includes Planning, Survey & Environmental.

The Scope of Services to be furnished under this Work Authorization includes Environmental, Planning and Surveying as shown on the attached Work Authorization.

The Basis of Compensation is hourly based upon the established rates pursuant to the Professional Services Agreement between the Town and CGA, plus reimbursables, for a total not to exceed \$36,287.79.

Sincerely,

**CALVIN, GIORDANO & ASSOCIATES, INC.**

Dennis J. Giordano  
President

- Building Code Services
- Civil Engineering / Roadway & Highway Design
- Coastal Engineering
- Code Compliance
- Construction Engineering & Inspection (CEI)
- Construction Services
- Data Technologies & Development
- Electrical Engineering
- Engineering
- Environmental Services
- Facilities Management
- Geographic Information Systems (GIS)
- Governmental Services
- Landscape Architecture
- Planning
- Project Management
- Redevelopment & Urban Design
- Surveying & Mapping
- Traffic Engineering
- Transportation Planning
- Water / Utilities Engineering
- Website Development

1800 Eller Drive  
Suite 600  
Fort Lauderdale, FL  
33316  
954.921.7781 phone  
954.921.8807 fax

[www.cgasolutions.com](http://www.cgasolutions.com)

## **TOWN OF SURFSIDE**

### **Dune Survey & Beach Management Plan**

#### **PROJECT DESCRIPTION**

#### **1. SCOPE OF SERVICES**

Calvin, Giordano & Associates, Inc. will perform the following services based on our understanding of the project requirements:

##### **I. Professional Environmental Services**

- A.** To assist the Town in better understanding and protecting their adjacent beach resource system, CGA will, create a Beach Plan to include the following topics: beach renourishment history and future proposals; current ownership and management structure; current applicable regulatory structure; dune functions and bests management practices; flora and fauna considerations; and beach use BPMs and regulations.
- B.** Coordinate reviews of draft plan with the Town and Miami-Dade County.
- C.** Coordinate in the creation of a graphic delineating the erosion control line, the bulkhead line and the CCCL line over a current aerial photograph.
- D.** Attend one (1) Sustainability Committee meeting, one (1) Planning and Zoning meeting, and two (2) Commission meetings.

##### **II. Professional Planning Services**

- A.** Project coordination for presentation at Sustainability Committee, Planning & Zoning Board and Town Commission.

##### **III. Professional Surveying Services**

- A.** Dune Height Survey
  - 1.** The Town of Surfside has been provided an elevation data set of topographic and hydrographic survey information from Degrove Surveyor's Inc. prepared for U.S. Army Corps of Engineers, Jacksonville District dated April, 2018. CGA will incorporate this data set into our base file for inclusion in the survey drawing deliverable.
- B.** Town Elevation Grid
  - 1.** Spot elevations will be obtained at all of the street centerline intersections of public rights-of-way within the Town of Surfside's municipal limits
- C.** Elevation data will be referenced vertically to North American Vertical Datum 1988 (NAVD88) and horizontally to Florida State Plane Coordinates, North

American Datum 83/90 (NAD 83/90) via survey measurements to the three National Geodetic Survey (NGS) control monuments that exists within the Town of Surfside.

**D. Property Line Base Map and Topographic Survey**

1. CGA will prepare a Base Map of the twenty-seven (27) individual properties within the Town between Collins Avenue and the Atlantic Ocean depicting the Coastal Construction Control Line (CCCL), Bulkhead Line and Erosion Control Line (ECL) in relation to the property lines. The ECL and the Bulkhead Line will be established per P.B. 105, Page 62, M.D.C.R and the CCCL will be established per P.B. 74, Page 25, M.D.C.R..
2. The initial base map property layer will be compiled from surveys submitted as part of any DRC or Site Plan review submittal packages. Additional ownership information pertaining to folio numbers, recorded plats, rights-of-way and property deeds will be obtained from the Miami Dade County Property Appraiser and Clerk of the Courts websites.
3. Any recoverable property corner monuments, Department of Natural Recourse (DNR) monuments or other survey control within the area will be located with GPS to establish Florida State Plane Coordinates, North American Datum 83/90 (NAD 83/90) on found survey control.
4. The base map will be rectified to Florida State Plane coordinates via the recovered survey control and an aerial photography backdrop will be overlaid on the base map.
5. Additional Base Map information will include each parcel's folio number, ownership information, lot, block and plat names with plat recordation data.
6. The elevation data will be overlaid onto a current aerial photograph with additional information to include the location of the Bulkhead line, the Erosion Control Line (ECL) and the Coastal Construction Control Line (CCCL).
7. A Map of Topographic Survey will be prepared incorporating the elevation data and the Property Line base map into an overall survey drawing file.
8. The Map of 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 Statutes Chapter 472.027.

**2. BASIS OF COMPENSATION:**

Hourly rates with an estimated fee of \$34,559.80 plus reimbursables at \$1,727.99 with a total not to exceed amount of \$36,287.79. Payments to be made monthly.

**3. TIME OF PERFORMANCE:**

The services identified within this Work Authorization will be completed within 120 days of a Notice to Proceed.

**4. SUBMITTED**

Submitted by: \_\_\_\_\_

Dennis J. Giordano

Date: \_\_\_\_\_

7/2/18

**5. APPROVAL**

Approved by: \_\_\_\_\_

Guillermo Olmedillo,  
Town Manager

Date: \_\_\_\_\_

**TOWN OF SURFSIDE  
 WORK AUTHORIZATION ESTIMATE DATE**

**WORK AUTHORIZATION NO.** 110  
**PROJECT NAME** Dune Survey & Beach Management Plan  
 CGA Proposal No. 18-9942  
**DESCRIPTION** Planning, Survey & Environmental

<b>TITLE</b>	<b>RATE</b>	<b>HOURS/UNITS</b>	<b>COST</b>
Associate Planning	\$159.14	8	\$1,273.12
Clerical	\$83.57	8	\$668.56
Environmental Administrator	\$116.70	56	\$6,535.20
Environmental Specialist	\$95.48	10	\$954.80
Sr. Registered Surveyor	\$137.92	16	\$2,206.72
Sr. Registered Surveyor	\$155.23	40	\$6,209.20
Survey CADD Technician	\$84.87	16	\$1,357.92
Survey CADD Technician	\$95.52	48	\$4,584.96
Survey Crew	\$132.61	36	\$4,773.96
Survey Crew	\$149.26	16	\$2,388.16
Survey File Compilation	\$90.18	40	\$3,607.20
			<b>\$34,559.80</b>

<b>SUB-CONSULTANTS</b>	<b>COST</b>
------------------------	-------------

<b>LABOR SUBTOTAL</b>	<b>\$34,559.80</b>
<b>REIMBURSABLE SUBTOTAL</b>	<b>\$1,727.99</b>
<b>TOTAL</b>	<b>\$36,287.79</b>

Reviewed by: \_\_\_\_\_  
 Guillermo Olmedillo, Town Manager



## Town of Surfside Commission Communication

**Agenda Item:** 5B

**Date:** July 10, 2018

**Subject:** Approval and award of contract to DRC Emergency Services for Emergency debris removal via a piggy back bid from the City of Lighthouse Point.

**Background:** The Town of Surfside has developed a Federal Emergency Management Agency (FEMA) approved Debris Management Plan which includes debris removal and disposal from an outside source. The key component of the plan requires that the Town have in place a firm to do the emergency debris removal and disposal when needed. This firm will be on stand by and have the responsibility to clean up the Town's right of way (R-O-W), streets, and alleys from falling tree branches and any debris that has fallen into the ROW after a storm event. The City of Lighthouse Point has entered into an agreement with DRC on May 2018 and the agreement is in full effect until May 31, 2021.

Emergency Debris Removal services by the Town with DRC have been ongoing. Having previously worked with this company, staff is comfortable that the Town will receive the highest quality of service it needs during an emergency event.

**Analysis:** In order to be in compliance with FEMA and the requirements associated with the Emergency Debris Management Plan, it is imperative that a contract be in place.

**Budget Impact:** In the event that DRC Emergency Services were to be activated, charges will be based on contractual rates.

**Staff Impact:** The Public Works Department will oversee project management responsibilities.

**Recommendation:** Staff recommends the Town Commission adopt a resolution accepting the piggy back agreement for Emergency Debris Removal from DRC via the City of Lighthouse Point contract for three additional years from June 1, 2018 to May 31, 2021 and is to be renewed at the same terms and conditions.

  
Guillermo Olmedillo, Town Manager

RS/HG/FD

**RESOLUTION NO. 18 - \_\_\_\_\_**

**A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA APPROVING AN AGREEMENT WITH DRC EMERGENCY SERVICES, LLC FOR STORM DEBRIS COLLECTION AND DISPOSAL SERVICES; FINDING THAT THE SERVICES ARE EXEMPT FROM COMPETITIVE PROCUREMENT PURSUANT TO SECTION 3-13(3) OF THE SURFSIDE CODE OF ORDINANCES; AUTHORIZING THE TOWN MANAGER TO EXECUTE THE AGREEMENT; PROVIDING FOR IMPLEMENTATION; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, it is the responsibility of the Town of Surfside (Town”) to provide emergency assistance and debris collection and disposal services to its residents and business owners in the event of a storm event or natural disaster (the “Services”); and

**WHEREAS**, the City of Lighthouse Point, Florida issued a Request for Proposal (“RFP”) No. 2018-001 for Storm Debris Collection and Disposal in order to obtain competitive procurement of services and prices for debris collection and disposal services, selected the proposal of DRC Emergency Services, LLC (“Contractor”), and entered into an agreement dated June 1, 2018 for the Services (the “City of Lighthouse Point Agreement”); and

**WHEREAS**, in accordance with Section 3-13(3) of the Town of Code, the Town elects to utilize the terms and pricing obtained by the City of Lighthouse Point through the competitive procurement process under RFP No. 2018-001 and the existing City of Lighthouse Point Agreement; and

**WHEREAS**, the Town desires to enter into an agreement with the Contractor for the Services in substantially the form attached hereto as Exhibit “A” (the “Agreement”), including or adopting the terms and pricing set forth in the City of Lighthouse Point Agreement; and

**WHEREAS**, the Town Council wishes to engage the Contractor to provide the Services pursuant to Section 3-13(3) of the Town Code authorizing contracts procured through other governmental entities where the contract resulted from a formal competitive process; and

**WHEREAS**, the Town Commission wishes to authorize the Town Manager to enter into an Agreement with the Contractor for the Services, substantially in the form attached hereto as Exhibit “A” (the “Agreement”), subject to final approval as to form, content, and legal sufficiency by the Town Manager and Town Attorney; and

**WHEREAS**, the Town Commission finds that it is in the best interest of the Town to approve the Agreement with the Contractor for the Services, and proceed as indicated in this Resolution.

**NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, AS FOLLOWS:**

**Section 1. Recitals Adopted.** Each of the above stated recitals are hereby adopted, confirmed and incorporated herein.

**Section 2. Town Manager Authorized; Agreement Authorized.** The Town Manager is hereby authorized to enter into the Agreement with the Contractor for the Services, substantially in the form attached hereto as Exhibit “A”, including and adopting the terms and pricing set forth in the City of Lighthouse Point Agreement, subject to final approval as to form, content, and legal sufficiency by the Town Manager and Town Attorney.

**Section 3. Implementation of Agreement.** The Town Manager and Town Officials are authorized to take any and all necessary action to implement the Services, the Agreement and the purposes of this Resolution.



**Section 4.** **Effective Date.** This Resolution shall be effective immediately upon adoption.

PASSED AND ADOPTED this 10th day of July, 2018.

Motion By: \_\_\_\_\_

Second By: \_\_\_\_\_

**FINAL VOTE ON ADOPTION**

Commissioner Barry Cohen \_\_\_\_\_  
Commissioner Michael Karukin \_\_\_\_\_  
Commissioner Tina Paul \_\_\_\_\_  
Vice Mayor Daniel Gielchinsky \_\_\_\_\_  
Mayor Daniel Dietch \_\_\_\_\_

**AGREEMENT FOR STORM DEBRIS COLLECTION AND DISPOSAL**

**TOWN OF SURFSIDE, FLORIDA**

**AND**

**DRC EMERGENCY SERVICES , LLC**

**THIS AGREEMENT FOR STROM DEBRIS COLLECTION AND DISPOSAL** (this "Agreement") is made effective as of July 1, 2018 (the "Effective Date"), by and between the **TOWN OF SURFSIDE, FLORIDA**, a Florida municipal corporation, with an address of 9293 Harding Avenue, Surfside, Florida 33154 (hereinafter the "Town"), and **DRC EMERGENCY SERVICES, LLC**, aa Alabama Limited Liability Company, with an address of 110 Veterans Memorial Blvd., Suite 515, Metairie, LA 70005 (hereinafter the "Contractor").

**RECITALS**

**WHEREAS**, the City of Lighthouse Point, Florida issued a Request for Proposals No. 2018-001 ("RFP"), Emergency Push and Storm Debris Collection and Disposal ("Project"), which was advertised on February 28, 2018, in order to obtain competitive procurement of services and prices for storm debris collection and disposal services, selected the proposal of Contractor for the Project, and entered into an Agreement dated June 1, 2018 for the Project services (the "Lighthouse Point Agreement") attached hereto and incorporated herein as Exhibit "A"; and

**WHEREAS**, pursuant to Section 3-13(3) of the Town's Procurement Code, the Project services are exempt from competitive procurement or bidding procedures as a purchase made under governmental contracts or competitive bids with other governmental agencies, authorizing the Town to piggyback onto and rely upon the terms and pricing of the existing Lighthouse Point Agreement, including approval of the Unit Pricing provided in the RFP and the Lighthouse Point Agreement; and

**WHEREAS**, the Unit Prices for the Project services, are set forth in Exhibit "B" attached hereto, and were submitted by the Contractor as part of the RFP and agreed to and included in the Lighthouse Point Agreement; and

**WHEREAS**, the Town wishes to enter into this Agreement with the Contractor for the Project services, and substantially adopt the terms and pricing of the Lighthouse Point Agreement, and the Contractor has agreed to provide the Project services to the Town in accordance with the terms and conditions of the Lighthouse Point Agreement and this Agreement.

**NOW, THEREFORE**, in consideration of the mutual covenants and conditions contained herein, the Contractor and the Town agree as follows:

1. **Recitals Adopted.** The preceding recitals are true and correct and are incorporated into this Contract by reference.

2. **Adoption and Incorporation of City of Lighthouse Point Agreement.** The terms and pricing of the Lighthouse Point Agreement attached hereto as Exhibit "A" are hereby adopted by the parties and incorporated herein as the agreement of the parties for the Project services, subject to the amendments set forth and agreed to in this Agreement. The following Definitions in Article 2 of the Lighthouse Point Agreement are hereby amended and replaced as follows:

2.1. **Owner Representative.** Any references in the Lighthouse Point Agreement to the "Owner Representative" or "City Administration" shall mean and be amended to "Town Manager and/or designee."

2.4 **City.** Any references in the Lighthouse Point Agreement to the "City of Lighthouse Point" or "City" shall mean and be amended to the "Town of Surfside" or "Town." Any references in the Lighthouse Point Agreement to the "City Commission" shall mean and be amended to "Town Commission."

2.7. **Contractor Representative.** Contractor's Representative shall be JAY GUNTER or designee, who shall have such duties and responsibilities as provided herein.

3. **Contract Period.** Section 5.1 of the Lighthouse Point Agreement is hereby amended and replaced with the following: "The initial contract period is for three (3) years beginning on July 1, 2018 and expiring on June 30, 2021. The Agreement may be extended for three (3) additional one (1) year periods with the written approval of the Town Manager and the Contractor executed no less than sixty (60) days prior to the expiration date. The Town Manager can negotiate and approve any reasonable price adjustments in the subsequent contract years as long as acceptable within FEMA guidelines."

4. **Contract Price and Payment.** Section 6.0 of the Lighthouse Point Agreement is hereby amended and replaced with the following: "The Town agrees to pay Contractor unit pricing for the faithful performance of this Agreement. Prices for work, completed by the Contractor are reflected in Contractor's Proposal included as part of the RFP submitted to the City of Lighthouse Point. Mobilization, stand-by costs, and reduction in productivity are included in the Contract Price. Contractor will be paid Unit Pricing for the work as reflected in the Unit Pricing Sheets attached hereto as Exhibit "B." All work will be paid on unit prices and in accordance with the Unit Pricing Sheets attached hereto as Exhibit "B." Payment will be made only for work that FEMA determines eligible for reimbursement. Payments will be made pursuant to Article 17 of the Agreement."

5. **Public Records.** Section 13.0 of the Lighthouse Point Agreement is hereby amended to replace the Town Clerk as follows:

IF THE COMPANY HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE COMPANY'S DUTY TO

PROVIDE PUBLIC RECORDS RELATING TO THE PROJECT, CONTACT THE CUSTODIAN OF THE PUBLIC RECORDS AT:

Sandra Novoa, MMC Town Clerk  
Town of Surfside  
9293 Harding Avenue  
Surfside, Florida 33154  
Telephone: (305) 861-4863 Ext. 226  
[snovoa@townofsurfsidefl.gov](mailto:snovoa@townofsurfsidefl.gov)

6. **Termination of Agreement.** The first sentence of Section 18.3 of the Lighthouse Point Agreement is hereby amended and replaced with the following: “Upon seven (7) calendar days written notice to Contractor, the Town Manager may, without cause and without prejudice to any other right or remedy, terminate this Agreement for Town’s convenience, without any reason and at anytime, whenever Town determines that such termination is in the best interests of Town.”

7. **Notice; Computation of Time.** Section 19.0 of the Lighthouse Point Agreement is hereby amended and replaced with the following: All notices required by any of the Contract Documents shall be in writing and shall be deemed delivered if transmitted by hand-delivery, by registered or certified mail with postage prepaid return receipt requested, or by a private postal service, addressed to the parties (or their successors) at the following addresses:

For the Town: Town Manager  
Town of Surfside  
9293 Harding Avenue  
Surfside, Florida 33154

With a copy to: Town Attorney  
Weiss Serota Helfman Cole & Bierman, P.L.  
2525 Ponce de Leon Blvd., Suite 700  
Coral Gables, Florida 33134

For The Contractor: DRC Emergency Services, LLC  
Attention: Lisa Walsh  
110 Veterans Memorial Blvd., Suite 515  
Metairie, LA 70005

8. **Attorneys’ Fees; Prevailing Party.** The Lighthouse Point Agreement is hereby amended to add the following provision as Section 20.10: “In the event of any litigation arising out of this Agreement, the prevailing party shall be entitled to recover its attorneys' fees and costs, including the fees and expenses of any paralegals, law clerks and legal assistants, and including fees and expenses charged for representation at both the trial and appellate levels.”

10. **Insurance.** Section 10 of the Lighthouse Point Agreement is hereby amended to provide that this Agreement must appear on each Certificate of Insurance and/or listing the Town as Additional Insured to read as follows:

Town of Surfside  
9293 Harding Avenue  
Surfside, Florida 33154  
Agreement for Storm Debris Collection and Disposal

On or before execution of this Agreement and before performing any services, Contractor shall deliver to the Town, a Certificate of Insurance evidencing that the required coverages are in effect as well as naming the Town of Surfside as an Additional Insured. An Additional Insured Endorsement must accompany the Certificate of Insurance. Such coverage will not be canceled or materially changed without thirty (30) days written notice.

11. **Counterparts.** The Lighthouse Point Agreement is hereby amended to add the following provision as Section 20.11: “This Agreement may be executed in several counterparts, each of which shall be deemed an original and such counterparts shall constitute one and the same instrument. Each party represents and warrants that the representative signing this Agreement on its behalf has all right and authority to bind and commit that party to the terms and conditions of this Agreement.”

12. **Effect of this Agreement on City of Lighthouse Point Agreement.** Except as expressly amended or modified by the terms of this Agreement, all terms and pricing of the Lighthouse Point Agreement shall remain in full force and effect. In the event of a conflict between the terms of this Agreement and the Lighthouse Point Agreement, the terms of this Agreement shall prevail and control.

[REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK]

**IN WITNESS WHEREOF**, the parties hereto have executed this Agreement as of the Effective Date written above.

**TOWN:**

**TOWN OF SURFSIDE, FLORIDA a  
Florida municipal corporation**

By: \_\_\_\_\_  
Guillermo Olmedillo, Manager

Date Executed: \_\_\_\_\_

Attest: \_\_\_\_\_  
Sandra Novoa, MMC, Town Clerk

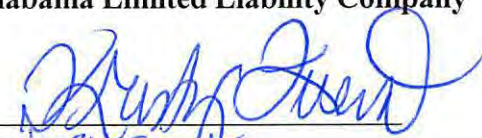
Approved as to Form and Legal Sufficiency:

\_\_\_\_\_  
Weiss Serota Helfman Cole & Bierman, P.L.,  
Town Attorney

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the Effective Date written above.

**CONTRACTOR:**

**DRC EMERGENCY SERVICES, LLC,  
an Alabama Limited Liability Company**

By: 

Name: Erin Foyles

Title: V.P. Secretary & treasurer

Date Executed: 7/2/2018

**EXHIBIT "A"**

**(ATTACH CITY OF LIGHTHOUSE POINT AGREEMENT)**



**AGREEMENT****Storm Debris Collection and Disposal**

THIS IS AN AGREEMENT, dated the 1<sup>st</sup> day of JUNE 2018,  
between:

CITY OF LIGHTHOUSE POINT, a Florida municipal corporation, hereinafter "CITY,"  
and  
DRC EMERGENCY SERVICES, a Florida corporation, hereinafter "CONTRACTOR."

**WITNESSETH:**

**WHEREAS**, Request for Proposals, Project No. RFP No. 2018-001, Emergency Push and Storm Debris Collection and Disposal ("Project") was advertised on February 28, 2018, and advised that sealed bids would be received at the City Clerk's Office until March 29, 2018 at 2:00 p.m.; and,

**WHEREAS**, the sealed bids that were received were opened and read aloud in the City Hall, at 2200 N.E. 38<sup>th</sup> Street, Lighthouse Point, Florida; and,

**WHEREAS**, a Selection Committee met and reviewed and evaluated the bids received; and,

**WHEREAS**, CONTRACTOR has been determined to be a responsible and responsive bidder for the Project; and,

**WHEREAS**, the City Commission deems it to be in the best interest of the residents and citizens to accept the proposal from DRC Emergency Services as a secondary CONTRACTOR to perform Emergency Push and Storm Debris Collection and Disposal, in the event of a storm; and,

**WHEREAS**, CITY has determined that entering into this Agreement with CONTRACTOR for the Project contemplated by this Agreement is in the best interests of the health, safety, and welfare of the citizens and residents of the CITY; and,

**WHEREAS**, CITY and the CONTRACTOR have determined that it is in the best interests of the parties hereto to enter into this Agreement for Storm Debris Collection and Disposal from the potential of storms affecting the CITY and thereby causing storm debris throughout the CITY that require collection and disposal at approved disposal sites (hereafter referred to as the "Project").

**NOW, THEREFORE, IN CONSIDERATION** of the mutual covenants and undertakings and other good and valuable consideration the receipt and sufficiency of which is hereby acknowledged, the parties do mutually covenant and agree as follows:

**1.0 Recitals.** The foregoing "WHEREAS" clauses are true and correct and are hereby ratified by the parties.

**2.0 Definitions** Wherever used in this Agreement or in the other Contract Documents the following terms have the meanings indicated which are applicable to both the singular and plural thereof:

2.1 Owner Representative - John D. Lavisky, City Administrator, or his designee, who shall have such duties and responsibilities as provided herein and by law. If he shall cease to hold the position, it shall be the person so designated by the Mayor of the CITY.

2.2 Agreement - The written agreement between the CITY and CONTRACTOR covering the Work to be performed for the Project, including other Contract Documents that are attached to the Agreement or made a part thereof.

2.3 Contract Time - A time frame after the storm when the debris collection and removal should be reasonable be performed and concluded.

2.4 CITY - The CITY and its assigns, with which CONTRACTOR has entered into the Agreement and for whom the Work is to be provided.

2.5 Contract Documents - The Contract Documents, to be completed by the parties through this

Agreement, include this Agreement, Notice to Proceed, Certificate(s) of Insurance, additional documents which are required to be submitted under this Agreement, and all Written Amendments, Field Orders, and Work Directives issued on or after the effective date of the Contract. Also included in entirety is RFP 2018-001, and CONTRACTOR'S Proposal except as may be inconsistent with the terms of this Agreement.

2.6 Defective - An adjective which when modifying the 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, reference standard, test or approval referred to in the Contract Documents, or has been damaged prior to final payment.

2.7 CONTRACTOR Representative - \_\_\_\_\_ or his designee, who shall have such duties and responsibilities as provided herein.

2.8 Effective Date of the Agreement - The date indicated in the Agreement on which it becomes effective, but if no such date is indicated it means the date on which the Agreement is signed and delivered by the last of the two parties to sign and deliver.

2.9 Field Order - A written order issued by City Administrator, or his designee, which orders minor changes in the Work but which does not involve a change in Unit Price.

2.10 Contract Price - The unit price tables identified in Exhibit A.

2.11 Notice to Proceed - A written notice given by CITY to CONTRACTOR fixing the date on which the Contract Time will commence to run and on which CONTRACTOR shall start to perform CONTRACTOR obligations under the Contract Documents. A notice to proceed is issued for each storm event before work commences.

2.12 Specifications - Those portions of the Contract Documents consisting of written technical descriptions of materials, equipment, construction systems, standards and workmanship as applied to the Work and certain administrative details applicable thereto. FEMA guidelines are considered specifications.

2.13 Subcontractor - An individual, firm or corporation having a direct Contract with CONTRACTOR or with any other Subcontractor for the performance of a part of the Work at the site.

2.14 Supplier - A manufacturer, fabricator, supplier, distributor, material man, or vendor.

2.15 Unit Price - An amount stated in the Contract as a price per unit measurement for the Work as described in the Contract Documents.

2.16 Work - Work is the result of performing services, specifically, including but not limited to, furnishing labor, equipment and materials, used or incorporated in the work as required by the Contract Documents.

2.17 Work Directive - A written directive to CONTRACTOR issued on or after the Effective Date of the Agreement and signed by the City Administrator or his designee ordering an addition, deletion, or revision in the Work. A Work directive shall not change the Unit Price included in Exhibit A, but, it can add additional unit pricing for additional resources needed that were not anticipated when the Agreement was executed. Work Directives can be issued for unforeseen circumstances in the best interests of the health, safety, and welfare of the citizens and residents of the CITY.

2.18 Written Amendment - A written amendment of the Contract Documents, approved by the CITY Commission and signed by CITY and CONTRACTOR on or after the Effective Date of the Agreement that adds significant work or changes to terms and conditions.

2.19 Written Notice - Shall be deemed to be duly served if delivered in person to the individual or to an officer of the Corporation for whom it is intended, if delivered at or sent by certified mail, return receipt requested, to the last business address known to him who gives notice. Facsimile, electronic or telephonic transmission shall not be considered as written notice.



### 3.0 Contract Documents

3.1 The Contract Documents, incorporated herewith, comprise the entire Agreement between CITY and CONTRACTOR and consists of elements, to be completed by the parties through this Agreement, include the Notice to Proceed, Certificate(s) of Insurance, and any additional documents which are required to be submitted under this Agreement, and all Written Amendments, Field Orders, and Work Directives. RFP 2018-001, Emergency Push and Storm Collection and Disposal, FEMA Super Circular "2 CFR Chapter 2, Part 200 et al, and the CONTRACTORS proposal, are incorporated in their entirety into this Agreement. **Compliance with FEMA Super Circular "2 CFR Chapter 2, Part 200 et al." is required. Following link to the FEMA Super Circular: <https://www.gpo.gov/fdsys/granule/CFR-2016-title2-vol1/CFR-2016-title2-vol1-part200/content-detail.html>**

3.2 This Agreement and the Contract Documents listed in Paragraph 3.1 comprise the entire agreement between CITY and CONTRACTOR concerning the Work. The Contract Documents are complimentary; what is called for by one is as binding as if called for by all. The Contract Documents will be construed in accordance with the law of the State of Florida.

3.3 The intent of the Agreement is to describe a functionally complete Project, to be completed in accordance with the Contract Documents. Any Work, materials or equipment that may reasonably be inferred from the Contract Documents as being required to produce the intended result will be supplied whether or not specifically called for. When words which have a well-known technical or trade meaning are used to describe Work, materials or equipment such words shall be interpreted in accordance with that meaning. Reference to standard specifications, manuals or codes of any technical society, organization or association, or to the laws or regulations of any governmental authority, whether such reference be specific or by implication, shall mean the latest standard specification, manual, code or laws or regulations in effect at the time of contract award, 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 be effective to change the duties and responsibilities of CITY, CONTRACTOR, or any of their consultants, agents or employees from those set forth in the Contract Documents.

3.4 CITY will not modify the terms and conditions to the Contract Documents except in a manner allowed by the Agreement. CONTRACTOR covenants and agrees that CITY shall not be responsible for the costs above those set forth herein unless the same are set forth in a Written Amendment or Work Directive approved pursuant to the terms of this Agreement. Any and all modifications to terms and conditions issued by the authority of an entity not a party to this Agreement shall not be compensated by CITY.

3.5 The requirements of the Contract Documents may be supplemented and minor variations and deviations in the Work may be authorized by the City Administrator, or his designee, by a written interpretation or clarification, or Field Order.

3.6 Execution of the Contract by the CONTRACTOR is a representation that CONTRACTOR has visited the site and become familiar with the local conditions under which the Work is to be performed.

### 4.0 Scope of Work

4.1 When activated upon sole discretion of the CITY, CONTRACTOR is required to assist the CITY recover after a major storm event where vegetative and construction and demolition debris are located in the CITY rights-of-way. CONTRACTOR must follow all Federal Emergency Management Agency (hereinafter referred to as "FEMA") guidelines to reasonably assure CITY receives reimbursement for debris disposal services. The CITY has an established goal of clearing at least one (1) lane of traffic on every CITY street within twenty-four (24) hours after the storm event. The storm debris will be arranged for accessibility to heavy equipment so the debris can be loaded into trucks and removed to a disposal site. The CONTRACTOR shall furnish all of the materials, tools, supplies, heavy equipment, vehicles and labor necessary to perform the work. Depending on the storm as determined by the CITY, the materials, tools, supplies, equipment, vehicles, and labor for the emergency push must be pre-positioned or in close proximity to the City prior to the storm. In the event the CITY is evacuated prior to the storm, the assets do not need to be prepositioned, but must be readily available within four (4) hours after the storm. The CONTRACTOR will bear all costs associated with the Project. **Compliance with FEMA Super Circular "2 CFR Chapter 2, Part 200 et al." is required. Following link to the FEMA Super Circular: <https://www.gpo.gov/fdsys/granule/CFR-2016-title2-vol1/CFR-2016-title2-vol1-part200/content-detail.html>**



4.2 CONTRACTOR shall provide all expertise, personnel, tools, materials, equipment, transportation, supervision and all other services and facilities of any nature necessary to execute, complete and deliver the timely removal and lawful disposal of all eligible storm-generated debris. The term "eligible," as used herein, means qualifying for emergency funding under the standards promulgated by FEMA. The term, "debris," as used herein, includes all forms of disaster-generated debris, such as vegetative, demolition, construction, household goods (hereinafter "white goods"), hazardous and industrial waste materials.

4.3 Contracted services will include clearing of roadways and access routes, (herein after "the emergency push"), remove and haul hurricane debris in the rights of way, clearing and removal of hangers, leaners, and stumps, and other Right of Entry services when determined as necessary to:

- 4.3.1 Eliminate immediate threats to life, public health, and safety.
- 4.3.2 Eliminate immediate threats of significant damage to improved public or private property.
- 4.3.3 Ensure the economic recovery of the affected community for the benefit of the community at large.

Pre-event

- 4.3.4 Participate in meetings, workshops, training sessions and the refinement of the CITY Disaster Debris Management Plan.
- 4.3.5 Visit the CITY-designated temporary debris management sites.
- 4.3.6 When requested by CITY, provide the necessary staff at the City Emergency Operations Center (EOC) to assist in the planning process.
- 4.3.7 Pre-positioning of equipment and personnel in close proximity to CITY prior to the storm for immediate use after the storm.

Post Event

- 4.3.8. Provide technical advice to the CITY.
- 4.3.9 Emergency push/road clearance in coordination with debris monitoring firm(s).
- 4.3.10 Debris collection and hauling to City-designated locations.
- 4.3.11 Provide other as-requested field services.
- 4.3.12 Provide collection tickets and reports in electronic or hard copy format, as determined by CITY, compatible to the debris monitoring firm(s) and City systems.
- 4.3.13 Begin immediate emergency push of vegetative and construction and demolition debris from CITY streets.
- 4.3.14 Objective to clear at least one (1) lane of traffic on every CITY street within twenty-four (24) hours.
- 4.3.15 Vegetative and construction and demolition debris collection and disposal.
- 4.3.16 Follow FEMA policies for vehicle and equipment certification and collection and disposal procedures.
- 4.3.17 Maintain documentation necessary for verification for services rendered as necessary for



FEMA reimbursements to City.

4.4 These contracted services shall provide for the cost effective and efficient removal and lawful disposal of debris on all public streets, roads, and other rights-of-way, including any other locally-owned facility or site as may be directed by the CITY, and in accordance with Federal requirements. Contract services will only be performed when requested and as designated by the CITY, by approved Work Authorization issued by the CITY. CONTRACTOR shall load and haul the debris from within the legal boundaries of the CITY to a site(s) specified by the CITY. CONTRACTOR shall use mechanical equipment to load and reasonably compact debris into the trucks and trailers.

4.5 CONTRACTOR is the CITY'S secondary contractor for storm debris collection and disposal and is expected to provide sufficient resources after the storm to perform the work. However, this is not a guarantee of work. CITY reserves the right to assign work to various contractors, at its sole discretion. Depending on the intensity of the storm, CONTRACTOR'S ability to provide sufficient manpower and equipment after a storm, and the performance of the CONTRACTOR, the CITY reserves the right to utilize one or more other contractors determined solely by the CITY. This approach will provide the CITY with the maximum flexibility to adequately react to the unknown variables of the storm events.

4.6 CITY reserves the right to approve all subcontractors hired by the CONTRACTOR and/or to require the CONTRACTOR to dismiss a subcontractor upon request.

4.7 CONTRACTOR shall load and haul all eligible debris to an approved and certified temporary debris management site (TDMS) or other disposal destination, as specified by the CITY. All collection and hauling will be consistent with Federal and state requirements applicable to the disaster event. The CONTRACTOR will ensure compliance with instructions from the CITY regarding the collection, hauling and disposal of hazardous wastes and/or other categories of debris.

4.8 Payment will be made to CONTRACTOR based on verification of the load tickets and verification that the debris was handled in accordance with FEMA requirements.

4.9 CONTRACTOR shall invoice CITY for debris handling regularly and for no more than thirty (30) day periods.

4.10 It is understood that the CITY'S intent is to have the work performed and paid for in a manner consistent with FEMA reimbursement regulations. Payment will only be made for debris that FEMA determines eligible. In addition, payments based upon time and material costs are limited to work performed during the first seventy (70) hours of work, or for a period as determined by FEMA rules, of actual work following a disaster event.

4.11 CONTRACTOR agrees to perform contracted services in a professional and workmanlike manner and in compliance with all applicable laws, ordinances, rules, regulations, and permits. Only the highest quality workmanship will be acceptable. Services, equipment and workmanship not conforming to the intent of Agreement or meeting the approval of the CITY may be rejected. Replacements and/or rework, as required, will be accomplished on a timely basis at no additional cost to the CITY. CONTRACTOR shall ensure that its workers, and those of its subcontractors, if any, are sufficiently trained on the scope of work, and the work to be done in order for the CITY to be reimbursed for eligible debris removal.

4.12 CONTRACTOR shall provide a copy of the CONTRACTOR'S General Operations Plan within seven (7) days following the execution of the Agreement with the CITY. The CITY will approve the General Operations Plan prior to its implementation within the CITY. The CONTRACTOR shall have the authority to implement all actions required to begin the performance of contracted services as set out in this Agreement and CONTRACTOR'S General Operations Plan.

4.13 When a Notice to Proceed is given to the CONTRACTOR prior to a storm event, the CONTRACTOR is expected to pre-position equipment and labor in close proximity to the CITY for immediate use after the storm winds subside to a safe level and begin the emergency push. CONTRACTOR will make all necessary arrangements to mobilize a minimum of 50% of the required resources for the emergency push within two (2) hours and 100% of the required resources within eight (8) hours for the emergency push. CONTRACTOR will make all necessary arrangements to mobilize a minimum of 50% of the required resources within seventy-two (72) hours and 100% of the required resources within one hundred and twenty (120) hours to commence and conduct the storm debris collection and removal. The CITY may take actions as necessary to address the failure of the CONTRACTOR to mobilize resources on the schedule required by the



CITY.

4.14 All Work shall be scheduled through the City Public Works Director or designee. CONTRACTOR will begin the emergency push immediately after the storm.

4.15 The CONTRACTOR shall preserve from damage all property adjacent to the Work sites. The CONTRACTOR shall erect and maintain all necessary barricades, suitable and sufficient red lights, danger signals, signs, and flagmen, and shall take all necessary precautions for the protection of the Work and safety of the public. The CONTRACTOR is required to repair or replace any damages made to public and private property.

4.16 CONTRACTOR shall provide a safe and clean working environment for performing the services pursuant to this Agreement.

4.17 CONTRACTOR means and method of debris collection will be performed in a manner that does not produce a mess on the streets. A combination of front end loaders and clam shell trucks will be used for debris removal. Immediately after storm debris piles are removed by large equipment, CONTRACTOR will ensure that the remains of the piles are also collected and hauled away. CONTRACTOR shall not leave a mess in the rights of way.

4.18 CONTRACTOR is not employed by or affiliated with the CITY'S Storm Debris Collection Monitoring Contractor.

## **5.0 Contract Period**

5.1 The initial contract period is for three (3) years beginning on June 1, 2018 and expiring on May 31, 2021. The Agreement can be extended for three (3) additional one (1) year periods with the written approval of the City Administrator and CONTRACTOR executed no less than sixty (60) days prior to the expiration date. City Administrator can negotiate and approve reasonable price adjustments in the subsequent Contract years as long as acceptable within FEMA guidelines.

5.2 CONTRACTOR agrees that all Work shall be prosecuted regularly, diligently and uninterrupted at such rate of progress as will ensure full completion thereof within a time specified. Failure to achieve timely, substantial and/or final completion shall be regarded as a breach of this Agreement and subject to the appropriate remedies. A specific time limit on the period of performance for the work to be done will be identified for each storm event depending on the amount of debris that needs to be collected and disposed of. The City Administrator will issue a written notice to proceed for each storm event.

## **6.0 Contract Price and Payment**

The CITY hereby agrees to pay CONTRACTOR unit pricing for the faithful performance of this Agreement. Prices for work completed by the CONTRACTOR are reflected in CONTRACTOR'S proposal dated \_\_\_\_\_. Mobilization, stand-by costs, and reduction in productivity are included in the contract price. CONTRACTOR will be paid unit pricing for Work as reflected in CONTRACTOR'S Proposal attached as Exhibit B. All work will be paid on unit prices. Payment will be made only for Work that FEMA determines eligible. Payments will be made pursuant to Article 17 of this Agreement.

## **7.0 CONTRACTOR Responsibilities**

In addition to those responsibilities enumerated in Article 4.0 above, the CONTRACTOR shall be responsible for the following:

7.1 CONTRACTOR shall bear all of its own operating costs and is responsible for all permit and license fees, and maintenance of its own trucks and equipment to keep such property in a condition and manner adequate to accomplish contracted services. Upon receipt and acceptance of full documentation of the performance of services and an accurate invoice as specified by the CITY, the CONTRACTOR shall be reimbursed on a unit price basis as specified in the Agreement.

7.2 In addition, all costs related to labor, materials, and equipment shall be fair, reasonable, and consistent with costs set forth in the most current version of the FEMA Schedule of Equipment Rates, to be applied at all times for implementation of the Agreement. The CITY will not pay higher costs than the FEMA approved rate, or in a manner inconsistent with FEMA reimbursement regulations, regardless of what is identified in the proposal or Agreement.

7.3 The CONTRACTOR shall develop a system of cost control for the Work, including regular monitoring of actual costs for activities in progress and estimates for uncompleted tasks and proposed changes. CONTRACTOR will be



required to provide debris volume estimates in support of proposed costs. CONTRACTOR will provide hard copies of volume estimates and all supporting documentation in order to determine if the methodology that the CONTRACTOR used to estimate debris was an acceptable and reasonable methodology.

7.4 As an inducement for CITY to enter into this Agreement, CONTRACTOR has represented an expertise in storm debris collection and removal following FEMA guidelines for approved collection methods, record keeping, and reimbursement by FEMA for the Work. In reliance upon those representations, CITY hired CONTRACTOR to provide storm debris collection and removal construction services. CONTRACTOR shall be liable for any negligence, strict liability or breach of other legal duty to the extent and in the manner as hereinafter set forth.

7.5 CONTRACTOR shall supervise and direct the Work competently and efficiently, devoting such attention thereto and applying CONTRACTOR'S best skill, attention and expertise. In coordination with the CITY, CONTRACTOR shall be responsible for and have control over the means, methods, techniques, sequences and procedures of construction. CONTRACTOR shall be responsible to see that the finished Work complies with FEMA guidelines.

7.6 During the progress of on-site work, CONTRACTOR shall provide full-time competent project supervision and any necessary assistants. The CONTRACTOR may, with the permission of the City Administrator, or his designee, schedule prosecution of the Work during times not otherwise allowable for work within the CITY as restricted by CITY ordinance.

7.7 The day-to-day management of the Project's Subcontractors schedules and requests for payment shall be by a competent project manager. The project manager will regularly coordinate with the City Administrator or designee and the CITY'S debris collection monitor.

7.8 CONTRACTOR shall provide and pay for competent, suitably qualified personnel to perform the Work. CONTRACTOR shall not permit employment of unfit persons or persons not skilled in tasks assigned to them. CONTRACTOR shall at all times maintain good discipline and order at the site.

7.9 CONTRACTOR shall furnish, pay for and assume full responsibility for all materials, equipment, transportation, machinery, tools, appliances, water, heat, utilities and all other facilities and services necessary for the furnishing, performance, testing, start-up, mobilization, and proper completion of the Work.

7.10 CONTRACTOR shall be fully responsible to CITY for all acts and omissions of the CONTRACTOR'S employees, Subcontractors, suppliers and other persons directly or indirectly employed by his Subcontractors, suppliers and of persons for whose acts any of them may be liable and any other persons and organizations performing or furnishing of the Work under a direct or indirect Contract with CONTRACTOR. Nothing in the Contract Documents shall create any Contractual relationship between CITY and any such Subcontractor, supplier or other person or organization, nor shall it create any obligation on the part of CITY to pay or to see to the payment of any monies due any such Subcontractor, supplier or other person or organization except as may otherwise be required by laws and regulations.

7.11 All Work performed for CONTRACTOR by a Subcontractor will be pursuant to an appropriate agreement between CONTRACTOR and the Subcontractor which specifically binds the Subcontractor to the applicable terms and conditions of the Contract Documents for the benefit of CITY, and consistent with the Subcontract Plan. CONTRACTOR must submit a subcontract plan including a clear description of the percentage of the work the CONTRACTOR may subcontract out and a list of subcontractors the CONTRACTOR plans to use.

7.12 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.

7.13 CONTRACTOR shall comply with and give all notices required by laws, ordinances, rules, regulations and lawful orders of public authorities applicable to the performance of the Work. CITY shall not be responsible for monitoring CONTRACTOR'S compliance with any laws and regulations.

7.14 CONTRACTOR shall pay all sales, consumer, use and other similar taxes required to be paid in accordance with the laws and regulations of the State of Florida and its political subdivisions. CONTRACTOR is responsible for reviewing the pertinent State Statutes involving such taxes and complying with all requirements. CITY shall pay all tipping or disposal fees assessed, incurred, or charged at the temporary debris management site (TDMS) if any TDMS is used by the CITY, or other disposal destination that is specified by the CITY.



7.15 CONTRACTOR shall confine equipment, the storage of materials and equipment and the operations of workers to the Project site and shall not unreasonably encumber the premises or adjacent areas with equipment or other materials, particularly on private property. CONTRACTOR shall assume full responsibility for any damage to any such land or area, or to the owner or occupant thereof or of any land or areas contiguous thereto, resulting from the performance of the Work. Should any claim be made against CITY by any such owner or occupant because of the performance of the Work, CONTRACTOR shall promptly attempt to settle with such other party by agreement or otherwise resolve the claim. The general indemnification provided elsewhere in this Contract specifically applies to claims arising out of CONTRACTOR'S use of the premises and adjacent areas.

7.16 CONTRACTOR shall be responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the Work to prevent damage, injury, or loss to all employees on the work site and other persons and organizations who may be affected thereby; all the Work and materials and equipment to be incorporated therein, whether in storage on or off the site; and other property at the site or adjacent thereto. CONTRACTOR shall provide a safe and clean working environment.

7.17 CONTRACTOR shall comply with all applicable laws and regulations of any public body having jurisdiction for the safety of persons or property or to protect them from damage, injury or loss.

7.18 If required by CITY, CONTRACTOR shall promptly, as directed, either correct all defective Work or, if the Work has been rejected by CITY, remove it from the site and replace it with non-defective Work. CONTRACTOR shall bear all direct costs of such correction or removal (including but not limited to fees and charges of engineers, architects and other professionals) made necessary thereby.

7.19 CONTRACTOR will provide all necessary cooperation with the CITY'S Storm Debris Monitoring Firm ("Monitoring Firm"). CONTRACTOR understands that CITY may be seeking reimbursement from FEMA for the Work, and that FEMA and the Monitoring Firm will require specific reporting and documentation from the CONTRACTOR. The CONTRACTOR shall participate in all monitoring by FEMA and/or the CITY'S Monitoring Firm, and provide all documentation requested by FEMA and/or the CITY'S Monitoring Firm for CITY'S reimbursement for payments for the Work. In the event the CITY'S reimbursement is denied solely as a result of CONTRACTOR'S failure to comply with this paragraph, CITY shall have a right to recover all such non-reimbursed payments from CONTRACTOR.

7.20 In the event of post-event payment reviews and/or audits by any governmental entity that reimbursed the CITY for storm collection and disposal services and/or collection monitoring services, CONTRACTOR shall provide all required documentation in its possession related to such review and/or audit.

## **8.0 Defective Work**

If the Work is defective, or CONTRACTOR fails to supply sufficient skilled workers or suitable materials or equipment, or fails to furnish or perform the Work in such a way that the completed Work will conform to the Contract Documents, CITY may order CONTRACTOR to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, this right of CITY to stop the Work shall not give rise to any duty on the part of CITY to exercise this right for the benefit of CONTRACTOR or any other party.

## **9.0 CITY Administrator Responsibilities**

9.1 CITY Administrator, or his designee, such designation to be made in writing, will be CITY'S contact person during the work period and until final close-out of the Project.

9.2 CITY Administrator, or his designee, will make visits to the work sites to observe the progress and quality of the executed Work and to determine, in general, if the Work is proceeding in accordance with the Contract Documents. CITY Administrator's, or his designee's, efforts will be directed toward providing for CITY a greater degree of confidence that the completed Work will conform with FEMA guidelines and Contract Documents.

9.3 CITY Administrator, or his designee, will issue, with reasonable promptness, such written clarifications or interpretations of the technical requirements of the Contract Documents as CITY Administrator or his designee may determine necessary, which shall be consistent with or reasonably inferable from the overall intent of the Contract Documents. Should CONTRACTOR fail to request interpretation of questionable items in the Contract Documents, CITY will thereafter not entertain any excuse for failure to execute the Work in a satisfactory manner, or for payment of work claimed by CONTRACTOR that is not authorized by the terms of this Agreement.





9.4 CITY Administrator, or his designee, will interpret and decide matters concerning performance under the requirements of the Contract Documents upon written request of either CITY or CONTRACTOR. CITY Administrator, or his designee, will make initial decisions on all claims, disputes or other matters in question between CITY and CONTRACTOR. Written notice of each such claim, dispute or other matter will be delivered by claimant to CITY Administrator, or his designee, and the other party but in no event later than ten (10) calendar days after the occurrence of the event giving rise thereto, together with written supporting data.

9.5 In the event CITY and CONTRACTOR disagree upon whether CONTRACTOR is entitled to be paid for Work required by CITY, or in the event of any other disagreements over the scope of Work included within the Contract Price, CITY and CONTRACTOR agree to negotiate in good faith to resolve the issue amicably. As part of the negotiation process, CONTRACTOR shall furnish CITY with a good faith estimate of the costs to perform the disputed Work in accordance with CITY'S interpretations. If the parties are unable to agree, and CITY expects CONTRACTOR to perform the Work in accordance with CITY'S interpretations, CONTRACTOR shall proceed to perform the disputed Work, conditioned upon CITY issuing a written order to CONTRACTOR directing CONTRACTOR to proceed and specifying CITY'S interpretation of the Work that is to be performed.

9.6 CITY Administrator is authorized to make Field Orders and execute Work Directives in the best interests of the health, safety, and welfare of the citizens and residents of the CITY.

## 10.0 Insurance

**UPON EXECUTION OF THE AGREEMENT, THE CONTRACTOR SHALL SUBMIT CERTIFICATE(S) OF INSURANCE EVIDENCING THE REQUIRED COVERAGES AND SPECIFICALLY PROVIDING THAT THE CITY OF LIGHTHOUSE POINT IS AN ADDITIONAL NAMED INSURED OR ADDITIONAL INSURED WITH RESPECT TO THE REQUIRED COVERAGE AND THE OPERATIONS OF THE CONTRACTOR UNDER THE CONTRACT.**

10.1 The Certificates of Insurance shall not only name the types of policies provided, but shall also specifically refer to this Agreement and shall state that such insurance is as required by Article 10 and its subparts of this Agreement. CONTRACTOR shall not commence work under this Agreement until after CONTRACTOR has obtained all of the minimum insurance herein described and the policies of such insurance detailing the provisions of coverage have been received and approved by CITY. CONTRACTOR shall not permit any Subcontractor to begin work until after similar minimum insurance to cover Subcontractor has been obtained and approved. In the event the insurance certificate provided indicates that the insurance shall terminate and lapse during the term of this Agreement, then in that event, CONTRACTOR shall furnish a renewed Certificate of Insurance as proof that equal and like coverage and extension hereunder is in effect. CONTRACTOR shall not continue to perform the services required by this Agreement unless all required insurance remains in full force and effect.

10.2 Insurance Companies selected must be acceptable to the CITY. All of the policies of insurance so required to be purchased and maintained shall contain a provision or endorsement that the coverage afforded shall not be canceled, or renewal refused until at least thirty (30) calendar days written notice has been given to CITY by regular mail.

10.2.1 Worker's Compensation Insurance for statutory obligations imposed by Worker's Compensation or Occupational Disease Laws, United States Longshoremen's and Harbor Worker's Act, the Federal Employer's Liability Act, and the Homes Act shall be provided with a minimum of One Million dollars (\$1,000,000) limit, and One Hundred Thousand dollars (\$100,000) per accident. CONTRACTOR agrees to be responsible for the employment, conduct and control of its employees and for any injury sustained by such employees in the course of their employment.

10.2.2 Comprehensive Automobile Liability Insurance for all owned, non-owned and hired automobiles and other vehicles used by the CONTRACTOR in the performance of the work with the following minimum limits of liability:

\$1,000,000 Combined Single Limit, Bodily Injury and Property Damage Liability, per occurrence.

10.2.3 Comprehensive General Liability Insurance (occurrence form) with the following minimum limits of liability:

\$1,000,000 Combined Single Limit, Bodily Injury and Property Damage Liability, per occurrence and \$2,000,000 annual aggregate Comprehensive General Liability coverage. CITY shall be named as an additional insured.

10.2.4 Coverage must be offered in a form no more restrictive than the latest edition of the



Comprehensive General Liability Policy without restrictive endorsements, as filed by the Insurance Services Office and shall specifically include the following with minimum limits not less than those required for Bodily Injury Liability and Property Damage Liability:

- 10.2.4.1 Premises and Operations;
- 10.2.4.2 Independent Contractors;
- 10.2.4.3 Product and Completed Operations Liability;
- 10.2.4.4 Broad Form Property Damage;
- 10.2.4.5 Broad Form Contractual Coverage applicable to Contract;
- 10.2.4.6 Personal Injury Coverage;
- 10.2.4.7 Explosion, collapse, underground coverage (XC-U)

10.3 The required insurance coverage shall be issued by an insurance company authorized and licensed to do business in the State of Florida, with the following minimum rating of B+ to A+, in accordance with the latest edition of A.M. Best's Insurance Guide.

10.4 All required insurance policies shall preclude any underwriter's rights of recovery or subrogation against CITY with the express intention of the parties being that the required insurance coverage protects both parties as the primary coverage for any and all losses covered by the above described insurance.

10.5 The CONTRACTOR shall ensure that any company issuing insurance to cover the requirements contained in this Contract agrees that they shall have no recourse against CITY for payment or assessments in any form on any policy of insurance.

10.6 The clauses "Other Insurance Provisions" and "Insurers Duties in the Event of an Occurrence, Claim or Suit" as it may appear in any policy of insurance in which CITY is named as an additional named insured shall not apply to CITY. CITY shall provide written notice of occurrence within fifteen (15) business days of CITY'S actual notice of such an event.

10.7 The CONTRACTOR agrees to perform the Work under the Contract as an independent CONTRACTOR, and not as a Subcontractor, agent or employee of CITY.

10.8 CONTRACTOR shall require each of its Subcontractors of any tier to maintain the insurance required herein for each category, and CONTRACTOR shall provide verification thereof to CITY upon request of CITY.

10.9 Violation of the terms of this Article and its subparts, including without limitation, a lapse or cancellation of any required insurance, shall constitute a breach of the Contract and CITY, at its sole discretion, may cancel the Contract and all rights, title and interest of the CONTRACTOR shall thereupon cease and terminate.

10.10 CITY shall not be responsible for purchasing and maintaining any insurance to protect the interests of CONTRACTOR, Subcontractors or others on the Work; provided that should the insurance outlined above be canceled for any reason, the CITY shall have the right to purchase equivalent insurance and charge the cost of that insurance against any amount due the CONTRACTOR under the terms of this Contract, or find the CONTRACTOR in default and terminate this Contract; provided, that CITY specifically reserves all statutory and common law rights and immunities and nothing herein is intended to limit or waive same including, but not limited to, the procedural and substantive provisions of Section 768.28, Florida Statutes and Section 95.11, Florida Statutes.

#### **11.0 Performance and Payment Bonds**

CONTRACTOR shall execute and furnish to CITY a Performance Bond and a Payment Bond when issued a Notice to Proceed for a storm event, each written by a corporate surety, having a resident agent in the State of Florida. The surety company shall have at least the following minimum qualification in accordance with the latest edition of A.M. Best's Insurance Guide, published by Alfred M. Best Company, Inc., Ambest Road, Oldwick, New Jersey 08858: A to A+. The penal sum stated in each Bond shall be the amount equal to the total one hundred and twenty-five percent (125%) of the amount payable under the terms of the contract. The Performance Bond shall be conditioned that the CONTRACTOR perform the Work in the time and manner prescribed in the Agreement. The Payment Bond shall be conditioned that the CONTRACTOR promptly make payments to all persons who supply the successful bidder with labor, materials and supplies used directly or indirectly the prosecution of the Work. Pursuant to the requirements of Section 255.05(1)(a), Florida Statutes, it shall be the duty of the CONTRACTOR to record the aforesaid Performance and Payment Bonds in the public records of Broward County, with the successful bidder to pay all recording costs.



**12.0 Warranties; Tests; Inspections; and Correction of Defective Work**

12.1 The CONTRACTOR warrants that all services will be performed in a workmanlike manner.

12.2 CONTRACTOR warrants to the CITY that it will comply with all applicable federal, state and local laws, regulations, and orders, including without limitation those issued by FEMA in carrying out its obligations under the Contract.

12.3 CONTRACTOR warrants to the CITY that it is not insolvent, it is not in bankruptcy proceedings or receivership, nor is it engaged in or threatened with any litigation, arbitration or other legal or administrative proceedings or investigations of any kind which would have an adverse effect on its ability to perform its obligations under the Contract.

12.4 CONTRACTOR warrants to the CITY that the consummation of the Work provided for in the Contract Documents will not result in the breach of any term or provision of, or constitute a default under any indenture, mortgage, contract, or agreement to which the CONTRACTOR is a party.

12.5 No warranty, either express or implied, may be modified, excluded or disclaimed in any way by CONTRACTOR. All warranties shall remain in full force and effect, notwithstanding acceptance and payment by CITY.

**13.0 Public Records**

The Company shall keep and maintain public records required by the Property Owner to perform the Project. Upon request from the Property Owner, Company shall provide the Property Owner 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 by law. The Company shall 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 Company does not transfer the records to the public agency. Upon completion of the Project, transfer, at no cost, to the Property Owner all public records in possession of the contractor or keep and maintain public records required by the Property Owner to perform the service. If the Company transfers all public records to the Property Owner upon completion of the Project, the Company shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Company keeps and maintains public records upon completion of the Project, the Company shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the Property Owner, upon request from the Property Owner's custodian of public records, in a format that is compatible with the information technology systems of the Property Owner.

**IF THE COMPANY HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE COMPANY'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS PROJECT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT**

**CITY CLERK  
City of Lighthouse Point  
2200 N.E. 38th Street  
Lighthouse Point, FL 33064  
(954) 943-6500**

**14.0 Changes in Work**

14.1 CITY, without invalidating this Agreement, may order additions, deletions or revisions to the Work. Such additions, deletions or revisions shall be authorized by a Written Amendment, or Work Directive executed by the CITY Administrator. All contract amendments and modifications will be in writing.

14.2 No claim against CITY for extra Work in furtherance of such Written Amendment or Work Directive shall be allowed.

**15.0 CONTRACTOR Indemnification**

15.1 The CONTRACTOR agrees to protect, defend, indemnify, and hold harmless the CITY, its officers, employees, and agents from and against any and all lawsuits, penalties, damages, settlements, judgments, decrees, costs, charges, and other expenses or liabilities of every kind in connection with or arising directly out of the work agreed to be performed herein, to the extent caused by the negligence, recklessness, or intentional wrongful misconduct of CONTRACTOR, its employees, servants, agents, and subcontractors. Without limiting the foregoing, any and all such



claims, suits, etc., relating to personal injury, death, damage to property, defects in materials or workmanship, actual or alleged infringement of any patent, trademark, copyright or of any other tangible or intangible personal or property right, or any actual or alleged violation of any applicable statute, ordinance, administrative order, rule or regulation or decree of any court, is included in the indemnity. CONTRACTOR further agrees to investigate, handle, respond to, provide defense for, and defend any such claims, etc., at his sole expense and agrees to bear all other costs and expenses related thereto, even if the claim(s) is groundless, false, or fraudulent. In case of injury to persons, animals, or property, real or personal, by reason of failure to erect or maintain proper and necessary barricades, safeguards, and signals or by reason of any negligence of any CONTRACTOR, or any of the CONTRACTOR'S agents, servants, or employees during the performance of the work before the estimates have become due under this AGREEMENT, the CITY may, through its officials, withhold such payments as long as it may deem necessary for the indemnity of the CITY as Owner, provided that the failure to pay the same shall not be construed or considered as a waiver of the indemnity as hereinabove set forth.

15.2 The parties recognize that various provisions of this AGREEMENT, including but not necessarily limited to this Section, provide for indemnification by the CONTRACTOR and that Section 725.06, Florida Statutes, requires a specific consideration be given thereof. The parties therefore agree that the sum of Ten Dollars (\$10.00), receipt of which is hereby acknowledged, is the specific consideration for such indemnities, and the providing of such indemnities is deemed to be part of the specifications with respect to the services to be provided by CONTRACTOR. Furthermore, the parties understand and agree that the covenants and representations relating to this indemnification provision shall serve the term of this AGREEMENT and continue in full force and effect as to the party's responsibility to indemnify.

**16.0 Contracting with Small and Minority businesses, Women's Business Enterprises, and Labor Surplus Area Firms**

The CONTRACTOR must take all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible Requiring the prime CONTRACTOR, if subcontracts are to be let, to take the affirmative steps listed in paragraphs (1) through (5) of this section. Affirmative steps must include:

16.1 Placing qualified small and minority businesses and women's business enterprises on solicitation lists;

16.2 Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;

16.3 Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises;

16.4 Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises;

16.5 Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce.

**17.0 Payments and Completion of Work**

17.1 CONTRACTOR may requisition payments for Work completed during the Project at intervals of not more than once a month, with each invoice covering a period of no more than thirty (30) days. The CONTRACTOR'S requisition shall show a complete breakdown of the Project components, the quantities completed and the amount due, together with a certification by the CONTRACTOR that the CONTRACTOR has disbursed to all Subcontractors and suppliers their pro-rata shares of the payment out of previous progress payments received by the CONTRACTOR for all Work completed and materials furnished in the previous period or properly executed releases of liens by all Subcontractors, suppliers and materialmen who were included in the CONTRACTOR'S previous applications for payment, and any other supporting documentation as may be required by the City Administrator or his designee or Contract Documents. Each requisition shall be submitted in duplicate to the City Administrator, or his designee, for approval; CITY shall have fifteen (15) business days to approve or disapprove the requisition. If the requisition is not approved, the reasons therefor shall be stated with particularity. The CITY shall make payment to the CONTRACTOR within fifteen (15) calendar days after approval by the City Administrator, or his designee, of the CONTRACTOR'S requisition for payment.



17.2 The final application for payment shall be accompanied by: (1) complete and legally effective releases or waivers of all liens arising out of or filed in connection with the Work; or (2) CONTRACTOR'S receipts in full covering all labor, materials and equipment for which a lien or claim could be filed; or (3) a final affidavit stating that all laborers, materialmen, suppliers and subcontractors who worked for CONTRACTOR under this Contract have been paid in full or if the fact be otherwise, identifying the name of each lienor/claimant who has not been paid in full and the amount due or to become due each for labor, services or materials furnished. If any Subcontractor or supplier fails to furnish a release or receipt in full, CONTRACTOR may furnish a bond satisfactory to CITY to indemnify CITY against any lien or claim.

17.3 If, on the basis of City Administrator's, or his designee's, observation of the Work during debris collection and removal and final inspection, and City Administrator's, or his designee's, review of the final Application for Payment and accompanying documentation, City Administrator, or his designee, is satisfied that the Work has been completed in accordance with the Contract Documents and CONTRACTOR'S other obligations under the Contract Documents have been fulfilled, City Administrator, or his designee, will, present the Application to CITY for payment. Otherwise, City Administrator, or his designee, will return the Application to CONTRACTOR, indicating in writing the reasons for refusing to recommend final payment, in which case CONTRACTOR shall make the necessary corrections and resubmit the Application. Fifteen (15) calendar days after presentation to CITY of the Application and accompanying documentation, in appropriate form and substance, the amount recommended by City Administrator, or his designee, will become due and will be paid by CITY to CONTRACTOR.

17.4 Final payment, constituting the entire unpaid balance of the Contract Price shall be paid by the CITY to the CONTRACTOR when the Work has been completed in accordance with the Contract Documents, this Agreement fully performed, and a final certificate for payment has been issued by the City Administrator, or his designee. The making of final payment shall constitute a waiver of claims by CITY except those arising from:

17.4.1 Liens, claims, security interests or encumbrances arising out of this Agreement and unsettled.

17.4.2 Faulty or defective Work and latent defects discovered after acceptance.

17.4.3 Failure of the Work to comply with the requirements of the Contract Documents.

17.4.4 Terms of special warranties required by the Contract Documents.

17.4.5 Any of CONTRACTOR'S continuing obligations, including without limitation warranties, under this Agreement.

17.5 The acceptance of final payment by CONTRACTOR or the Subcontractor for materials and supplies shall constitute a waiver of claims by that payee except those previously made in writing and identified by payee as unsettled at the time of final application for payment.

17.6 The CITY may withhold in whole or in part, final payment or any progress payment to such extent as may be necessary to protect itself from loss on account of:

17.6.1 Defective Work not remedied.

17.6.2 Claims filed or reasonable evidence indicating the probable filing of claims by other parties against the CONTRACTOR.

17.6.3 Failure of the CONTRACTOR to make payment to Subcontractors or suppliers for materials or labor.

17.6.4 Damage to another contractor not remedied.

17.6.5 Failure to carry out the Work in accordance with the Contract Documents.

17.7 When the above issues are removed or resolved or the CONTRACTOR provides a surety bond or a consent of surety satisfactory to the CITY which will protect the CITY in the amount withheld, payment may be made in whole or in part.



**18.0 CITY'S Termination of Contract**

18.1 It is expressly understood and agreed that the CITY may terminate this AGREEMENT, in total or in part, at any time for cause or convenience without penalty. In that event, the CITY'S sole obligation to the CONTRACTOR shall be payment for services for work previously authorized and performed. Such payment shall be determined on the basis of the hours or percentage of work performed by the CONTRACTOR up to the time of termination. Upon such termination, the CITY may, without penalty or other obligation to the CONTRACTOR, elect to employ other persons to perform the same or similar services. CITY may terminate the Agreement upon the occurrence of any one or more of the following events:

18.1.1 If CONTRACTOR commences a voluntary case under any chapter of the Bankruptcy Code as now or hereafter in effect, or if CONTRACTOR takes any equivalent or similar action by filing a petition or otherwise under any other federal or state law in effect at such time relating to the bankruptcy or insolvency.

18.1.2 If a petition is filed against CONTRACTOR under any chapter of the Bankruptcy Code as now or hereafter in effect at the time of filing, or if a petition is filed seeking any such equivalent or similar relief against CONTRACTOR under any other federal or state law in effect at the time relating to bankruptcy or insolvency.

18.1.3 If CONTRACTOR makes a general assignment for the benefit of creditors.

18.1.4 If a trustee, receiver, custodian or agent of CONTRACTOR is appointed under applicable law or under Contract, whose appointment or authority to take charge of property of 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 CONTRACTOR'S creditors.

18.1.5 If CONTRACTOR admits in writing an inability to pay its debts generally as they become due.

18.1.6 If CONTRACTOR persistently fails to perform the Work in accordance with the Contract Documents (including but not limited to, failure to supply sufficient skilled workers or suitable materials or equipment or failure to adhere to the progress schedule as same may be revised from time to time).

18.1.7 If CONTRACTOR disregards laws or regulations of any public body having jurisdiction, state and FEMA guidelines, or acceptable safety practices.

18.1.8 If CONTRACTOR otherwise violates in any substantial way any provisions of the Contract Documents.

18.2 CITY reserves the right to terminate this Contract immediately for unsatisfactory performance. In such case CONTRACTOR shall not be entitled to receive any further payment for additional work performed.

18.3 Upon seven (7) calendar days written notice to CONTRACTOR, CITY may, through a resolution of the CITY Commission, without cause and without prejudice to any other right or remedy, terminate this agreement for CITY'S convenience, without any reason and at anytime, whenever CITY determines that such termination is in the best interests of CITY. Where the Agreement is terminated for the convenience of CITY, the notice of termination to CONTRACTOR must state that the Contract is being terminated for the convenience of CITY under the termination clause, the effective date of the termination and the extent of termination. Upon receipt of the notice of termination for convenience, CONTRACTOR shall promptly discontinue all Work at the time and to the extent indicated on the notice of termination, terminate all outstanding Subcontractors to the extent that they relate to the terminated portion of the Contract, and refrain from placing further orders and Subcontracts. Except as set forth below, CONTRACTOR shall not be paid on account of loss of anticipated profits or revenue or other economic loss arising out of or resulting from such termination.

**19.0 Notice, Computation of Time**

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:



For CITY: John D. Lavisky, City Administrator  
City of Lighthouse Point  
2200 NE 38<sup>th</sup> Street  
Lighthouse Point, Florida 33064  
Telephone: 954-943-6500  
Facsimile: 954-784-3446

Copy to: Michael D. Cirullo, Jr., City Attorney  
3099 East Commercial Blvd. Suite 200  
Fort Lauderdale, Florida 33308  
Telephone: 954-771-4500  
Facsimile: 954-771-4923

For CONTRACTOR: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Notice by facsimile shall not be deemed received until the party receiving notice receives a copy of such notice through certified mail, return receipt requested.

19.2 When any period of time is referred to in the Contract Documents by days, it will be computed to exclude the first and include the last day of such period. If the last day of any such period falls on a Saturday or Sunday or on a day made a legal holiday by the law of the applicable jurisdiction, such day will be omitted from the computation. A calendar day of twenty-four (24) hours measured from midnight to the next midnight shall constitute a day.

**20.0 Miscellaneous**

20.1 The duties and obligations imposed by the Contract Documents and the rights and remedies available hereunder to the parties hereto, and, in particular but without limitation, the warranties, guaranties and obligations imposed upon CONTRACTOR and all of the rights and remedies available to CITY thereunder, 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 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 the Agreement.

20.2 CONTRACTOR shall not assign or transfer the Contract or its rights, title or interests therein without CITY'S prior written approval as evidenced by a resolution duly adopted by the CITY Commission, which may be withheld for any or no reason. The obligations undertaken by CONTRACTOR pursuant to the Contract shall not be delegated or assigned to any other person or firm unless CITY shall first consent in writing to the assignment. Violation of the terms of this Paragraph shall constitute a breach of Contract by CONTRACTOR and the CITY may, at its discretion, cancel the Contract and all rights, title and interest of CONTRACTOR shall thereupon cease and terminate.

20.3 CONTRACTOR and its employees, volunteers, subcontractors, and agents shall be and remain an independent contractors and not agents or employees of CITY 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 hereto.

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

20.5 The validity, construction and effect of this Contract shall be governed by the laws of the State of Florida. Subject to provisions hereof relating to arbitration, any claim, objection or dispute arising out of this Agreement shall be litigated in the Seventeenth Judicial Circuit in and for Broward County, Florida. Parties agree to waive their rights to trial by jury.

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



20.7 Neither party, nor its employees, shall have or hold any continuing or frequently recurring employment or contractual relationship, or have any adverse claim against the other party, that is substantially antagonistic or incompatible with that party's loyal and conscientious exercise or judgment related to its performance under this Agreement. This provision shall also apply to all of CONTRACTOR'S Subcontractors used for the work.

20.8 This Agreement may not be amended or modified except in writing, approved and executed by the parties with the same formalities and dignity as the initial Agreement.

20.9 The CITY reserves the right to assign work to various contractors, at its sole discretion, and this contract is not to be construed as a guarantee for work.

#### **21.0 Nondiscrimination and Equal Opportunity Employment**

During the performance of this contract, CONTRACTOR agrees as follows:

21.1 The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

21.2 CONTRACTOR will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive considerations for employment without regard to race, color, religion, sex, or national origin.

23.3 CONTRACTOR will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

23.4 CONTRACTOR will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

23.5 CONTRACTOR will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

23.6 In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions as may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

23.7 CONTRACTOR will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: Provided, however, That in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency the contractor may request the United States to enter into such litigation to protect the interests





of the United States.

#### **24.0 Compliance with the Copeland "Anti-Kickback" Act**

24.1 CONTRACTOR shall comply with 18 U.S.C. § 874, 40 U.S.C. § 3145, and the requirements of 29 C.F.R. pt. 3 as may be applicable, which are incorporated by reference into this contract.

24.2 Subcontracts. The CONTRACTOR or subcontractor shall insert in any subcontracts the clause above and such other clauses as the FEMA may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all of these contract clauses.

24.3 Breach. A breach of the contract clauses above may be grounds for termination of the contract, and for debarment as a contractor and subcontractor as provided in 29 C.F.R. § 5.12.

#### **25.0 Compliance with the Contract Work Hours and Safety Standards Act**

25.1 Overtime requirements. No CONTRACTOR or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

25.2 Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (1) of this section the CONTRACTOR and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1) of this section.

25.3 Withholding for unpaid wages and liquidated damages. The (write in the name of the Federal agency or the loan or grant recipient) shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such CONTRACTOR or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2) of this section.

25.4 Subcontracts. CONTRACTOR or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime CONTRACTOR shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1) through (4) of this section.

#### **26.0 Clean Air Act**

26.1 CONTRACTOR agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq.

26.2 CONTRACTOR agrees to report each violation to the (name of the state agency or local or Indian tribal government) and understands and agrees that the (name of the state agency or local or Indian tribal government) will, in turn, report each violation as required to assure notification to the (name of recipient), Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.

26.3 CONTRACTOR agrees to include these requirements in each subcontract exceeding \$100,000



financed in whole or in part with Federal assistance provided by FEMA.

#### **27.0 Federal Water Pollution Control Act**

27.1 CONTRACTOR agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq.

27.2 CONTRACTOR agrees to report each violation to the (name of the state agency or local or Indian tribal government) and understands and agrees that the (name of the state agency or local or Indian tribal government) will, in turn, report each violation as required to assure notification to the (name of recipient), Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.

27.3 CONTRACTOR agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided by FEMA.

#### **28.0 Suspension and Debarment**

28.1 This contract is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such the CONTRACTOR is required to verify that none of the contractor, its principals (defined at 2 C.F.R. § 180.995), or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).

28.2 The CONTRACTOR must comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.

28.3 This certification is a material representation of fact relied upon by (insert name of subrecipient). If it is later determined that the contractor did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to (name of state agency serving as recipient and name of subrecipient), the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.

28.4 CONTRACTOR agrees to comply with the requirements of 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The CONTRACTOR further agrees to include a provision requiring such compliance in its lower tier covered transactions.

#### **29.0 Byrd Anti-Lobbying Amendment, 31 U.S.C. § 1352 (as amended)**

Contractors who apply or bid for an award of \$100,000 or more shall file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient.

#### **30.0 Maximum use of products containing recovered materials**

30.1 In the performance of this contract, CONTRACTOR shall make maximum use of products containing recovered materials that are EPA- designated items unless the product cannot be acquired; (i) Competitively within a timeframe providing for compliance with the contract performance schedule; (ii) Meeting contract performance requirements; or (iii) at a reasonable price.

30.2 Information about this requirement is available at EPA's Comprehensive Procurement Guidelines web site, <http://www.epa.gov/cpg/>. The list of EPA-designate items is available at <http://www.epa.gov/cpg/products.htm>.



**31.0 Access to Records**

31.1 CONTRACTOR agrees to provide (insert name of state agency or local or Indian tribal government), (insert name of recipient), the FEMA Administrator, the Comptroller General of the United States, or any of their authorized representatives access to any books, documents, papers, and records of the CONTRACTOR which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts, and transcriptions.

31.2 CONTRACTOR agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.

31.3 CONTRACTOR agrees to provide the FEMA Administrator or his authorized representatives access to construction or other work sites pertaining to the work being completed under the contract.

**32.0 Compliance with Federal Law, Regulations, and Executive Orders**

This is an acknowledgement that FEMA financial assistance will be used to fund the contract only. CONTRACTOR will comply with all applicable federal law, regulations, executive orders, FEMA policies, procedures, and directives.

**33.0 No Obligation by Federal Government**

The Federal Government is not a party to this contract and is not subject to any obligations or liabilities to the non-Federal entity, CONTRACTOR, or any other party pertaining to any matter resulting from the contract.

**34.0 Program Fraud and False or Fraudulent Statements or Related Acts**

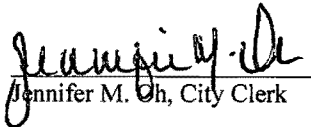
CONTRACTOR acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the CONTRACTOR'S actions pertaining to this contract.

IN WITNESS WHEREOF, CITY and CONTRACTOR have signed this Agreement, in duplicate.

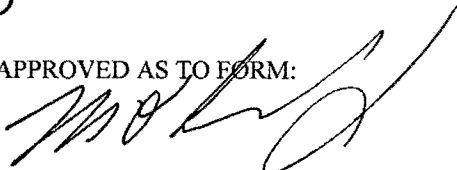
**CITY OF LIGHTHOUSE POINT, FLORIDA**

BY:   
Glenn Troast, Mayor

ATTEST:

  
Jennifer M. Oh, City Clerk

APPROVED AS TO FORM:

  
City Attorney



CONTRACTOR INC.

WITNESS:

[Signature]

Signature of Witness

USA WALSH

Printed Name of Witness

[Signature]

Signature of Corporate President

Kristy Fuentes

Printed Name of Corporate President

[Signature]

Signature of Corporate Secretary

Kristy Fuentes

Printed Name of Corporate Secretary

(Corporate Seal)

STATE OF <sup>LOUISIANA</sup> FLORIDA )  
~~PARISH~~ ) SS:  
COUNTY OF Jeffers )

BEFORE ME, an officer duly authorized by law to administer oaths and take acknowledgments, personally appeared Kristy Fuentes and [Signature] as Vice President and [Signature], respectively, of DC Emergency Services a Florida corporation, and acknowledged they executed the foregoing AGREEMENT as the proper officials of DC Emergency Services LLC for the use and purposes mentioned in the AGREEMENT and affixed the official seal of the corporation, and that the instrument is the act and deed of that corporation.

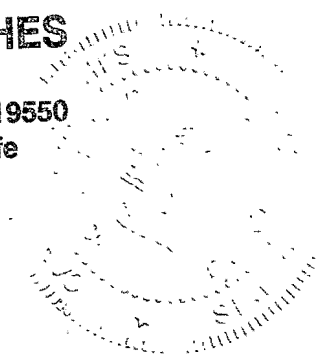
IN WITNESS OF THE FOREGOING, I have set my hand and official seal at in the State and County aforesaid on this 4<sup>th</sup> day of May, 2018.

Notary Seal

[Signature]  
Signature of Notary Public

Printed Name of Notary Public

**JARY A. DES ROCHES**  
**NOTARY PUBLIC**  
State of Louisiana, Bar No. 19550  
Commission is for life





**P.O Box 17017, Galveston, TX 77552**  
**TTY: 888-721-4DRC • Phone: 504-482-2848 • Fax: 504-482-2852**  
**www.drcusa.com**

**DRC Contact List**

**DRC Corporate Address:**

P.O. Box 17017  
Galveston, TX 77558

**DRC Local Address:**

500 S. Australian Ave. Suite 600  
West Palm Beach, Florida 33401  
Office: 561.820.4877

**DRC Mailing Address:**

110 Veterans Blvd., Suite 515  
Metairie, LA 70005

**DRC Physical Address:**

6702 Broadway Blvd.  
Galveston, TX 77554

**Primary Contact:**

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Regional Manager  
DRC Emergency Services, LLC  
Email: [JGunter@drcusa.com](mailto:JGunter@drcusa.com)  
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**Additional DRC Contacts:**

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Vice President  
Administration &  
Compliance  
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Vice President of Operations  
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**John Sullivan**  
President  
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Cell: 832.731.8234

**EXHIBIT "B"**

**(ATTACH UNIT PRICING SHEETS)**

<b>DRC Emergency Services, LLC</b>	
<b>City of Lighthouse Point, FL. RFP 2018-001 Emergency Push &amp; Storm Debris Collection &amp; Disposal</b>	
<b>Hourly Pricing Schedule</b>	
<b>EQUIPMENT TYPE</b>	<b>EQUIPMENT HOURLY RATE</b>
Air Curtain Pit Burner	\$225.00
Air Curtain Refractory Incinerator	\$245.00
Bobcat Loader	\$135.00
Bucket Truck w/Operator	\$245.00
Chipper/Mulcher (8" throat)	\$245.00
Chipper/Mulcher (12" throat)	\$265.00
Crash Truck w/Impact Attenuator	\$185.00
Dozer, Tracked, D5 or similar	\$220.00
Dozer, Tracked, D6 or similar	\$340.00
Dozer, Tracked, D7 or similar	\$450.00
Dozer, Tracked, D8 or similar	\$500.00
Dump Truck, 18 CY-20 CY	\$120.00
Dump Truck, 21 CY-30 CY	\$130.00
Generator and Lighting	\$100.00
Grader w/12' Blade	\$260.00
Hydraulic Excavator, 1.5 CY	\$180.00
Hydraulic Excavator, 2.5 CY	\$190.00
Knuckleboom Loader	\$270.00
Lowboy Trailer w/Tractor	\$150.00
Log Skidder	\$250.00
Mobile Crane (Adequate for hanging limbs/leaning trees)	\$245.00
Pickup Truck, 1/2 Ton unmanned	\$40.00
Soil Compactor 81 HP+	\$195.00
Soil Compactor 80 HP	\$175.00
Soil Compactor, Towed Unit	\$125.00
Stump Grinder 30" diameter or less	\$225.00
Stump Grinder greater than 30" diameter	\$265.00
Traffic Control, Temporary Single Lane Closure	\$245.00
Tub Grinder, 800 to 1,000 HP	\$645.00
Waste Collection Rear Loader Truck	\$245.00
Water Truck	\$135.00
Wheel Loader, 2.5 CY, 950 or similar	\$185.00
Wheel Loader, 3.5 - 4.0 CY, 966 or similar	\$195.00
Wheel Loader, 4.5 CY, 980 or similar	\$205.00
Wheel Loader-Backhoe, 1.0 - 1.5 CY	\$175.00
Weighing Scales, Truck, Portable and Certified	\$250.00
<b>LABOR TYPE</b>	<b>EQUIPMENT HOURLY RATE</b>
Project Manager with Cell Phone and Vehicle	\$80.00
Operations Manager with Cell Phone and vehicle	\$90.00
Crew Foreman with Cell Phone and Vehicle	\$75.00

Tree Climber with Chainsaw and Gear		\$90.00
Laborer with Chainsaw		\$45.00
Laborer with small tools, traffic control or flag person		\$45.00
Bonded and Certified Security Personnel		\$85.00
<b>DESCRIPTION</b>	<b>UNITS</b>	<b>UNIT PRICE</b>
<b>Dehumidifier Equipment</b>		
Dehumidifiers	DAY	\$ 150.00
Large Dehumidifiers	DAY	\$ 250.00
Air Movers	DAY	\$ 55.00
<b>VEHICLES/TRANSPORTATION</b>		
PICKUP TRUCK	DAY	\$ 350.00
PICKUP TRUCK EXTENDED CAB	DAY	\$ 350.00
PICKUP TRUCK 4 X 4	DAY	\$ 400.00
PICKUP TRUCK 1 TON	DAY	\$ 450.00
BOX TRUCK	DAY	\$ 650.00
PASSENGER CAR	DAY	\$ 300.00
20' RESPONSE TRAILER	DAY	\$ 595.00
36' RESPONSE TRAILER	DAY	\$ 695.00
OFFICE TRAILER	DAY	\$ 650.00
FLATBED TRAILER	DAY	\$ 250.00
VEHICLE USE- PICKUPS, VANS, CARS	MILE	\$ 3.50
VEHICLE USE- TRAILERS, HEAVY TRUCKS	MILE	\$ 4.50
12' WORK BOAT W/MOTOR	DAY	\$ 450.00
12' WORK BOAT W/O MOTOR	DAY	\$ 400.00
VACUUM TRUCK 3500 GALLON	DAY	\$ 2,980.00
<b>PERSONAL PROTECTIVE EQUIPMENT (PPE)</b>		
LEVEL A EMPLOYEE FULLY ENCAPSULATED SUIT, SCBA, 1 SCBA BOTTLE, GLOVES AND BOOTS (DOES NOT INCLUDE SUIT, GLOVE, OR BOOT REPLACEMENT)	DAY	\$ 758.00
LEVEL B EMPLOYEE PROTECTIVE COVERALL, SCBA OR AIRLINE RESPIRATOR, GLOVES, BOOTS, AND HARD HATS (DOES NOT INCLUDE COVERALL OR GLOVE REPLACE.)	DAY	\$ 380.00
LEVEL C EMPLOYEE PROTECTIVE COVERALL, HALF OR FULL FACE RESPIRATOR, CARTRIDGES, GLOVES, BOOTS, AND HARD HATS (DOES NOT INCLUDE COVERALL, CARTRIDGE, OR GLOVE REPLACEMENT)	DAY	\$ 235.00
SCBA BOTTLES REFILL- AFTER THE FIRST INCLUDED IN LEVEL A & B CHARGE ABOVE	EACH	\$ 57.00
CASCADE AIR SYSTEM PER EMPLOYEE	DAY	\$ 119.00
AIR FILTRATION PANAL	DAY	\$ 230.00
AIRLINE RESPIRATOR EACH INCLUDES 150 FEET OF AIRLINE	DAY	\$ 100.00
RESPIRATOR AIRLINE 50' SECTION	EACH	\$ 20.50
RESPIRATOR CARTRIDGES	PAIR	\$ 40.00
LEVEL A SUIT- KAPPLER RESPONDER OR EQUAL	EACH	\$ 995.00
LEVEL B SUIT- KAPPLER RESPONDER OR EQUAL	EACH	\$ 610.00
TYVEK	EACH	\$ 7.95
PROSHIELD	EACH	\$ 12.60
SARANEX	EACH	\$ 23.80
ACID SUIT	EACH	\$ 144.00
RAIN SUIT	EACH	\$ 147.80
NEOPRENE GLOVES	PAIR	\$ 19.00
NITRILE GLOVES	PAIR	\$ 22.40
SILVERSHIELD GLOVES	PAIR	\$ 40.25
PVC GLOVES	PAIR	\$ 12.80
COTTON OR LATEX GLOVES	PAIR	\$ 3.20



LEATHER WORK GLOVES	PAIR	\$ 19.10
PVC BOOTS (HAZMAX)	PAIR	\$ 29.92
BOOT COVERS	PAIR	\$ 10.92
HEARING PROTECTION	PAIR	\$ 3.17
HIGH HAZARD PERSONNEL DECONTAMINATION	DAY	\$ 515.00
LOW HAZARD PERSONNEL DECONTAMINATION	DAY	\$ 280.00
PORTABLE EYEWASH STATION	DAY	\$ 56.00
FIRST AID STATION	DAY	\$ 30.50
PERSONNEL RETRIEVAL SYSTEM	DAY	\$ 450.00
PERSONNEL RETRIEVAL HARNESS	DAY	\$ 98.00
<b>MONITORING/SAMPLING EQUIPMENT</b>		
COMBUSTIBLE GAS INDICATOR	DAY	\$ 105.00
TOXIC GAS DETECTOR	DAY	\$ 95.00
PHOTOIONIZATION DETECTOR	DAY	\$ 160.00
HAZCAT KIT	DAY	\$ 80.00
DETECTOR TUBES	TEN PACK	\$ 80.00
PH PAPER	PACK	\$ 15.90
SPILL CLASSIFIER	STRIP	\$ 35.00
PERSONNEL AIR SAMPLING PUMP	DAY	\$ 65.00
ASBESTOS BULK SAMPLE	EACH	\$ 39.50
HAND AUGER STAINLESS STEEL	DAY	\$ 56.00
<b>RECOVERY EQUIPMENT</b>		
HAND OPERATED TRANSFER PUMP	DAY	\$ 1,000.00
1" DIAPHRAGM PUMP	DAY	\$ 1,600.00
2" DIAPHRAGM PUMP	DAY	\$ 2,150.00
2" DIAPHRAGM PUMP S. S.	DAY	\$ 3,100.00
3" DIAPHRAGM PUMP	DAY	\$ 2,800.00
1" SUCTION OR DISCHARGE HOSE	DAY	\$ 720.00
2" SUCTION OR DISCHARGE HOSE	DAY	\$ 950.00
3" SUCTION OR DISCHARGE HOSE	DAY	\$ 1,500.00
2" CHEMICAL SUCTION OR DISCHARGE HOSE	DAY	\$ 2,800.00
3" CHEMICAL SUCTION OR DISCHARGE HOSE	DAY	\$ 5,950.00
SMALL COMPRESSOR	DAY	\$ 950.00
185 CFM COMPRESSOR	DAY	\$ 590.00
AIRHOSE SECTION	DAY	\$ 310.00
<b>MISCELLANEOUS EQUIPMENT</b>		
SPIKE BAR	DAY	\$ 58.00
AIRLESS SPRAYER	DAY	\$ 170.00
PRESSURE WASHER	DAY	\$ 152.00
WATER HOSE SECTION (GARDEN)	EACH	\$ 73.00
CUTTING TORCH	DAY	\$ 105.00
WIRE WELDER	DAY	\$ 157.00
AIR BLOWER	DAY	\$ 90.00
HEPA VAC	DAY	\$ 145.00
BARREL CART	DAY	\$ 74.00
WHEELBARROW	DAY	\$ 63.00
OIL DRY SPREADER	DAY	\$ 73.00
TRAFFIC CONTROL VESTS, CONESS, FLAGS, BARRELS, ETC. (one crew)	DAY	\$ 335.00
DRILL WITH BITS	DAY	\$ 65.00
GROUNDING CABLE AND ROD	DAY	\$ 113.00
CIRCULAR SAW	DAY	\$ 85.00
HAND TOOLS PER EMPLOYEE SHOVELS, SCOOPS, BROOMS, RAKES, HOES, ETC.	DAY	\$ 90.00
TOOL KIT HAMMERS, PLIERS, SCREWDRIVERS, ETC.	DAY	\$ 120.00
WRENCH KIT BUNG WRENCH, SPEED WRENCH, PIPE WRENCH, SOCKETS, CHANNEL LOCKS	DAY	\$ 120.00

STEP LADDERS	DAY	\$ 65.00
EXTENSION LADDERS	DAY	\$ 90.00
PHOTOGRAPHIC EQUIPMENT	DAY	\$ 95.00
FLASHLIGHTS	EACH	\$ 25.00
HANDHELD RADIOS	DAY	\$ 325.00
<b>MATERIALS/DISPOSABLES</b>		
5' X 10' ABSORBENT BOOM- PETROLEUM	EACH	\$ 78.00
8' X 10' ABSORBENT BOOM- PETROLEUM	EACH	\$ 135.00
3' X 12' ABSORBENT BOOM- UNIVERSAL	EACH	\$ 48.00
ABSORBENT PADS BUNDLE- PETROLEUM	EACH	\$ 140.00
ABSORBENT PADS BUNDLE- UNIVERSAL	EACH	\$ 190.00
ABSORBENT CLAY BAG	EACH	\$ 15.00
OIL DRY	EACH	\$ 10.00
PEAT MOSS	EACH	\$ 16.00
VERMICULITE	EACH	\$ 25.00
SODA ASH BAG	EACH	\$ 15.00
4 MIL 20 X 100 POLYETHYLENE	EACH	\$ 63.00
6 MIL 20 X 100 POLYETHYLENE	ROLL	\$ 88.00
6 MIL BAGS	EACH	\$ 2.00
DUCT TAPE	ROLL	\$ 11.00
55-GALLON DRUMS	EACH	\$ 72.00
55-GALLON DRUM LINERS 10 MIL	EACH	\$ 55.00
FIBER DRUMS	EACH	\$ 45.00
30-GALLON OVERPACK	EACH	\$ 150.00
95-GALLON POLY OVERPACK	EACH	\$ 350.00
DOT HAZARDOUS WASTE LABELS	EACH	\$ 3.00
FIRE EXTINGUISHER	EACH	\$ 64.00
CAUTION/HAZARD TAPE	EACH	\$ 48.00
RESPIRATOR WIPES	EACH	\$ 4.00
KAPPLER TAPE	ROLL	\$ 72.00
High Volume Diesel Powered suction lift trash pump with speed adjustment 4X4	per Month	\$ 7,400.00
High Volume Diesel Powered suction lift trash pump with speed adjustment 6X6	per Month	\$ 11,025.00
High Volume Diesel Powered suction lift trash pump with speed adjustment 8X8	per Month	\$ 15,425.00
High Volume Diesel Powered suction lift trash pump with speed adjustment 12X12	per Month	\$ 19,350.00
Composite Quick Connect Suction Hose, 8 ft length, 20psi 4 inch	per Month	\$ 1,160.00
Composite Quick Connect Suction Hose, 8 ft length, 20psi 6 inch	per Month	\$ 1,440.00
Composite Quick Connect Suction Hose, 8 ft length, 20psi 8 inch	per Month	\$ 1,840.00
Composite Quick Connect Suction Hose, 8 ft length, 20psi 126 inch	per Month	\$ 2,360.00
Quick Connect Discharge Hose, 50 ft length, 50psi 4 inch	per Month	\$ 1,160.00
Quick Connect Discharge Hose, 50 ft length, 50psi 6 inch	per Month	\$ 1,320.00
Quick Connect Discharge Hose, 50 ft length, 50psi 8 inch	per Month	\$ 2,240.00
Quick Connect Rigid Piping, 10 ft length, 175psi, 4 inch	per Month	\$ 1,000.00
Quick Connect Rigid Piping, 10 ft length, 175psi, 6 inch	per Month	\$ 1,400.00
Quick Connect Rigid Piping, 10 ft length, 175psi, 8 inch	per Month	\$ 1,800.00
Quick Connect Rigid Piping, 10 ft length, 175psi, 12 inch	per Month	\$ 2,600.00

DRC Emergency Services, LLC							
City of Lighthouse Point, FL RFP 2018-001 Emergency Push & Storm Debris Collection & Disposal							
Generator Pricing Schedule							
Equipment	KW	Hourly	Daily	Weekly	Monthly	Delivery/Set Up: 1 time fee	Monthly Maintenance Price Per Month
Generator	up to 25	\$ 51.00	\$ 510.00	\$ 2,805.00	\$ 9,817.50	\$ 51.00	\$ 510.00
Generator	56	\$ 60.00	\$ 600.00	\$ 3,300.00	\$ 11,550.00	\$ 60.00	\$ 600.00
Generator	100	\$ 72.00	\$ 720.00	\$ 3,960.00	\$ 13,860.00	\$ 72.00	\$ 720.00
Generator	175	\$ 145.50	\$ 1,455.00	\$ 8,002.50	\$ 28,008.75	\$ 145.50	\$ 1,455.00
Generator	250	\$ 207.00	\$ 2,070.00	\$ 11,385.00	\$ 39,847.50	\$ 207.00	\$ 2,070.00
Generator	500	\$ 367.50	\$ 3,675.00	\$ 20,212.50	\$ 70,743.75	\$ 367.50	\$ 3,675.00
Generator	800	\$ 540.00	\$ 5,400.00	\$ 29,700.00	\$ 103,950.00	\$ 540.00	\$ 5,400.00
Generator	1000	\$ 696.00	\$ 6,960.00	\$ 38,280.00	\$ 133,980.00	\$ 696.00	\$ 6,960.00
Generator	1500	\$ 1,059.00	\$ 10,590.00	\$ 58,245.00	\$ 203,857.50	\$ 1,059.00	\$ 10,590.00

**DRC Emergency Services, LLC**

**City of Lighthouse Point, FL RFP 2018-001 Emergency Push & Storm Debris Collection & Disposal**

**Logistical Services Fee Schedule**

**SATELLITE COMMUNICATIONS** - The Proposer shall furnish satellite equipment on a rental basis and service. The preferable term is a weekly rental as a minimum. Unit prices shall include all labor, equipment, materials, transportation, service and all other incidental fees to complete the services

EQUIPMENT/LABOR DESCRIPTION	UOM	WEEKLY MAXIMUM CEILING UNIT PRICE	MONTHLY MAXIMUM CEILING UNIT PRICE
Rental of Equipment – Capability of calling nationwide from Florida – no additional roaming or long distance charges	Per Unit	\$ 250.00	\$ 950.00
Per Minute Charge for Usage	Per Minute	\$ 1.50	

**TEMPORARY SANITARY/HOUSING FACILITIES** - The Proposer shall furnish temporary sanitary facilities on a rental basis and service for maintenance. The preferable term is a weekly rental as a minimum. Unit prices shall include all labor, equipment, materials, transportation, service and all other incidental fees to complete the services.

EQUIPMENT/LABOR DESCRIPTION	DAILY MAXIMUM CEILING UNIT PRICE	WEEKLY MAXIMUM CEILING UNIT PRICE	MONTHLY MAXIMUM CEILING UNIT PRICE	MAXIMUM CEILING UNIT PRICE PER SERVICE
Portable Toilet Units	\$ 510.00	\$ 510.00	\$ 2,040.00	N/A
Portable Toilet Units (ADA accessible)	\$ 625.00	\$ 625.00	\$ 2,500.00	N/A
Hand Wash Stations, self contained, free standing, single basin, cold water and hand soap dispenser	\$ 510.00	\$ 510.00	\$ 2,040.00	N/A
Hand Wash Stations, self contained, free standing, single basin, cold water and hand soap dispenser, ADA accessible	\$ 650.00	\$ 650.00	\$ 2,600.00	N/A
Shower/Rest Room Container Unit or Trailer Unit, Mens/Womens section, minimum 2 shower stalls per side, dressing area, 1 sink per side, hot/cold water, heated/air conditioned.	\$ 10,750.00	\$ 15,430.00	\$ 61,720.00	N/A
Shower Unit, Single, ADA accessible	\$ 10,750.00	\$ 15,430.00	\$ 61,720.00	N/A
Bunk House, Climate Controlled, minimum 6 people	\$ 23,750.00	\$ 23,750.00	\$ 95,000.00	
Laundry Unit, minimum 4 each washer and dryers, self-contained with cold/hot water and climate control, folding table (preferred)	\$ 24,500.00	\$ 24,500.00	\$ 98,000.00	

If required, licensed electrician will make all required connections.

**REEFER & REFRIGERATED CONTAINERS & ICE DELIVERY** - The Proposer shall furnish freezer and refrigerator containers on a rental basis, maintenance and repair. The preferable term is a weekly rental as a minimum. Unit prices shall include all labor, equipment, materials, transportation, service and all other incidental fees to complete the services. Labor and fuel for fueling the fuel powered unit shall be in accordance with Hourly Pricing Schedule.

EQUIPMENT/LABOR DESCRIPTION	INDICATE MINIMUM SIZE OF UNITS	MAXIMUM UNIT PRICE	WEEKLY MAXIMUM CEILING UNIT PRICE	MONTHLY MAXIMUM CEILING UNIT PRICE
Refrigeration Containers - 1 temperature setting (refrigerate or freeze)	53' - 3675 CF capacity - 15,000 lb capacity		\$ 5,000.00	\$ 20,000.00
Indicate minimum size of unit: 1) # feet long and Cubic Foot Capacity				
Refrigeration Containers - Dual temperature settings (refrigerate and freeze)	53' - 3675 CF capacity - 15,000 lb capacity		\$ 5,500.00	\$ 22,000.00
Indicate minimum size of unit: 1) # feet long and Cubic Foot Capacity				
Reefer Container - normally a tractor trailer, fuel powered	53' - 3675 CF capacity - 15,000 lb capacity		\$ 5,500.00	\$ 22,000.00
Indicate minimum size of unit: 1) # feet long and Cubic Foot Capacity				
Bagged Ice, cubed and made of potable water, 5 to 10 pound bags, palletized - UNIT PRICE PER BAG	7 pound bag - varies by supplier	\$ 4.20		
Indicate # pounds per bag and #bags per pallet				

If required, licensed electrician will make all required connections.

**POTABLE WATER TRUCK AND DRINKING WATER** - The Proposer shall furnish POTABLE WATER TRUCK equipment on a rental basis, maintenance and repair and bottled water. Labor for refilling trucks shall be compensated based on Hourly Pricing Schedule. The preferable term is a weekly rental as a minimum. Unit prices shall include all labor, equipment, materials, transportation, service and all other incidental fees to complete the services

EQUIPMENT/LABOR DESCRIPTION	INDICATE MINIMUM SIZE OF UNITS	DAILY MAXIMUM CEILING UNIT PRICE	WEEKLY MAXIMUM CEILING UNIT PRICE	MONTHLY MAXIMUM CEILING UNIT PRICE
Potable Water Tank	500 Gallon	\$ 750.00	\$ 5,250.00	\$ 21,000.00
State the minimum gallon capacity of unt proposed				
			MAXIMUM CEILING UNIT PRICE	
Refilling of Potable Water Tanks - PRICE PER GALLON			\$ 3.00	
Bottled Water Delivery, size 16 - 24 oz plastic bottles, palletized - Price per bottle	16.9 Oz Bottles - 72 cases per		\$ 12.00	

State the minimum ounce per bottle and number of bottles per pallet

72 cases per pallet

12.77

POWERING AND/OR DISPENSING NEEDS, IF ANY TO OPERATE AND DISPENSE WATER FROM TANK WILL BE MANUAL

**MOBILE FLEET REPAIR FACILITIES/ASSISTANCE** - The Proposer shall furnish equipment and portable facility on a rental basis, maintenance and repair. Labor, parts and materials for fleet repair services shall be compensated based on this schedule. The preferable term is a weekly rental as a minimum. Unit prices shall include all labor, equipment, materials, transportation, service and all other incidental fees to complete the services

EQUIPMENT/LABOR DESCRIPTION		DAILY MAXIMUM CEILING UNIT PRICE	WEEKLY MAXIMUM CEILING UNIT PRICE	MONTHLY MAXIMUM CEILING UNIT PRICE
Mobile Fleet Repair Unit inclusive of all required equipment, self contained and self powered to perform fleet repair services		\$ 1,500.00	\$ 10,500.00	\$ 42,000.00
Mechanic/Technician/ Price per man hour		\$ 750.00	\$ 5,250.00	\$ 21,000.00
Mobile Mechanic with truck and tools		\$ 850.00	\$ 5,950.00	\$ 23,800.00
Minimum discount for Materials & Parts (i.e. supplies, oil, etc) from List or Mfg Retail	0%			

Contractor shall have mechanics available at secure location. Roving mechanic with truck will be available as needed.

**TEMPORARY SIGNAGE & TRAFFIC CONTROL** - The Proposer shall furnish traffic signage and control equipment on a rental basis, maintenance and repair. The preferable term is a weekly rental as a minimum. Unit prices shall include all labor, equipment, materials, transportation, service and all other incidental fees to complete the services

EQUIPMENT/LABOR DESCRIPTION	UOM	DAILY MAXIMUM CEILING UNIT PRICE	WEEKLY MAXIMUM CEILING UNIT PRICE	MONTHLY MAXIMUM CEILING UNIT PRICE
Safety Cade Type II Barricades with flashing lights inclusive of maintenance and battery replacement	each	\$ 175.00	\$ 1,225.00	\$ 4,900.00
DOT Black Base 36" traffic cones with two (2) each reflective bands	each	\$ 80.00	\$ 560.00	\$ 2,240.00
Diamond Grade 8 gauge Aluminum 36" x 36" Stop signs	each	\$ 150.00	\$ 1,050.00	\$ 4,200.00
A-Frame stands for 36" signs	each	\$ 100.00	\$ 700.00	\$ 2,800.00

**CANTEEN, TENTS, FURNISHINGS** - The Proposer shall furnish equipment and portable facilities and furnishings on a rental basis, maintenance and repair of equipment furnished and set up. Labor for staffing shall be compensated based on Hourly Pricing Schedule. The preferable term is a weekly rental as a minimum. Unit prices shall include all labor, equipment, materials, transportation, service and all other incidental fees to complete the services

EQUIPMENT/LABOR DESCRIPTION	UOM	DAILY MAXIMUM CEILING UNIT PRICE	WEEKLY MAXIMUM CEILING UNIT PRICE	MONTHLY MAXIMUM CEILING UNIT PRICE
Canopy, pole type or pop up without sides, 10' x 10'	each	\$ 500.00	\$ 500.00	\$ 2,000.00
Canopy, pole type or pop up without sides, 20' x 20'	each	\$ 1,000.00	\$ 1,000.00	\$ 4,000.00
Canopy, pole type or pop up without sides, 30' x 30'	each	\$ 6,000.00	\$ 6,000.00	\$ 24,000.00
Tent, pole type or pop up with sides, 15 x 15	each	\$ 1,500.00	\$ 1,500.00	\$ 6,000.00
Tent, pole type or pop up with sides, 20 x 20	each	\$ 2,500.00	\$ 2,500.00	\$ 10,000.00
Tent, pole type or pop up with sides, 20 x 40	each	\$ 5,000.00	\$ 5,000.00	\$ 20,000.00
Canteen Tents for eating purposes, pole type or frame type with sides and equipped with tables and chairs, 20' x 40'	each equipped unit	\$ 12,500.00	\$ 12,500.00	\$ 50,000.00
Canteen Tents for eating purposes, pole type or frame type with sides and equipped with tables and chairs, 30' x 40'	each equipped unit	\$ 19,500.00	\$ 19,500.00	\$ 78,000.00
Canteen Tent fully equipped with tables, chairs, cooking equipment and cooking utensils to included, but not be limited to, stove refrigeration, hot food serving table and equipment, cold food serving table, pots/pans and cooking utensils, 20' x 40'	each equipped unit	\$ 35,000.00	\$ 35,000.00	\$ 140,000.00
Canteen Tent fully equipped with tables, chairs, cooking equipment and cooking utensils to included, but not be limited to, stove refrigeration, hot food serving table and equipment, cold food serving table, pots/pans and cooking utensils, 30' x 40'	each equipped unit	\$ 45,000.00	\$ 45,000.00	\$ 180,000.00
Evaporative Cooling Systems, minimum 24" cooler with cycle control, battery or electric operated, water source shall be from a water tank, self contained, indoor.	each	\$ 5,000.00	\$ 5,000.00	\$ 20,000.00
Evaporative Cooling Systems, minimum 24" cooler with cycle control, battery or electric operated, water source shall be either from hose or water tank, outdoor.	each	\$ 4,500.00	\$ 4,500.00	\$ 18,000.00

Contractor not responsible for sitework or leveling of site. Price does not include bringing in gas, power, water to City provided site

**PORTABLE LIGHTING** - The Proposer shall furnish portable lighting equipment on a rental basis, maintenance and repair. The preferable term is a weekly rental as a minimum. Unit prices shall include all labor, equipment, materials, transportation, service, parts and all other incidental fees to complete the services

EQUIPMENT/LABOR DESCRIPTION	UOM	DAILY MAXIMUM CEILING UNIT PRICE	WEEKLY MAXIMUM CEILING UNIT PRICE	MONTHLY MAXIMUM CEILING UNIT PRICE
Portable Power Light Towers with the following minimum requirements: - four (4) 1000 watt metal halide fixtures in a NEMA 6 design - 3-section telescoping mast extends 12 - 30 ft - 360° rotation capability - outriggers and jacks for stability - low oil/high temperature auto shut down system - built-in circuit breakers for the lights	EACH	\$ 1,000.00	\$ 5,000.00	\$ 12,500.00
Generator for light tower will be provided				





## Town of Surfside Commission Communication

**Agenda Item # 5C**

**Agenda Date:** July 10, 2018

**Subject:** Sustainability Subcommittee of the Planning and Zoning Board

**Background:** At the June 12, 2018, Town Commission meeting the Administration was directed to sunset and abolish the Sustainability Subcommittee to the Planning and Zoning Board (Subcommittee), established June 14, 2016, and to establish a new Sustainability and Resiliency Committee (Committee) to serve in an advisory capacity to the Town Commission.

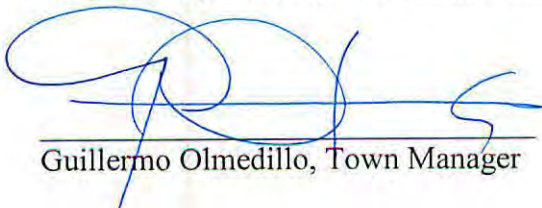
**Analysis:** The new Committee will comprise of members with expert knowledge and experience on the issues of sustainability and resiliency for coastal municipalities.

The accompanying resolution sunsets and abolishes the Subcommittee.

**Budget Impact:** It is anticipated that this new Committee will require more staff time and an increased 'cost of doing business' than was budgeted for the Subcommittee. Besides accounting for the direct costs of hosting the meetings (labor, materials, technology etc.), any other requests from the Committee cannot be anticipated and / or budgeted at this time including subject matter expert input.

**Staff Impact:** Considerable staff time will be required to manage this new Committee and provide the information needed / requested.

**Recommendation:** Upon Town Commission adoption of the accompanying Resolution, the Sustainability Subcommittee to the Planning and Zoning Board will sunset and be abolished.

  
Guillermo Olmedillo, Town Manager

  
DT

**RESOLUTION NO. 18- \_\_\_\_\_**

**A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA SUNSETTING AND ABOLISHING THE TOWN OF SURFSIDE SUSTAINABILITY SUBCOMMITTEE OF THE PLANNING AND ZONING BOARD; PROVIDING FOR AUTHORIZATION; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, pursuant to Resolution No. 16-2378, the Town of Surfside (“Town”) Commission established the Sustainability Subcommittee (“Subcommittee”) to study and recommend policies and programs that strengthen the resiliency of our community, improve natural and engineered resources, prevent harm to the natural and built environment for the benefit of the social, economic and environmental wellbeing of the community; and

**WHEREAS**, the Town Commission finds that the Subcommittee has fulfilled its objectives and tasks as set forth in Resolution No. 2378; and

**WHEREAS**, pursuant to Section 2-204 of the Town Code, and the establishing resolution, the Town Commission desires to sunset and abolish the Subcommittee and finds that such is in the best interest of the Town.

**NOW, THEREFORE, THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA HEREBY RESOLVES AS FOLLOWS:**

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

**Section 2. Sunsetting and Abolishment of Sustainability Subcommittee of the Planning and Zoning Board.** The Town Commission hereby sunsets and abolishes the Subcommittee upon finding that the Subcommittee has completed its stated objectives and tasks.

**Section 3. Authorization and Implementation.** That the Town Clerk and Town Manager are hereby authorized and directed to take any and all action required to implement the terms of this Resolution.

**Section 4. Effective Date.** This Resolution shall take effect immediately upon its adoption

**PASSED AND ADOPTED** this 10<sup>th</sup> day of July, 2018.

Motion by \_\_\_\_\_.

Second by \_\_\_\_\_.

**FINAL VOTE ON ADOPTION**

Commissioner Barry Cohen \_\_\_\_\_

Commissioner Michael Karukin \_\_\_\_\_

Commissioner Tina Paul \_\_\_\_\_

Vice Mayor Daniel Gielchinsky \_\_\_\_\_

Mayor Daniel Dietch \_\_\_\_\_

\_\_\_\_\_  
Daniel Dietch, Mayor

**ATTEST:**

\_\_\_\_\_  
Sandra Novoa, MMC,  
Town Clerk

**APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY FOR THE TOWN OF SURFSIDE ONLY:**

\_\_\_\_\_  
Weiss Serota Helfman Cole & Bierman, P.L.  
Town Attorney



## Town of Surfside Commission Communication

**Agenda Item #** 5D

**Agenda Date:** July 10, 2018

**Subject:** Sustainability and Resiliency Committee

**Background:** At the June 12, 2018, Town Commission meeting the Administration was directed to sunset and abolish the Sustainability Subcommittee to the Planning and Zoning Board (Subcommittee), established June 14, 2016, and to establish a new Sustainability and Resiliency Committee (Committee) to serve in an advisory capacity to the Town Commission.

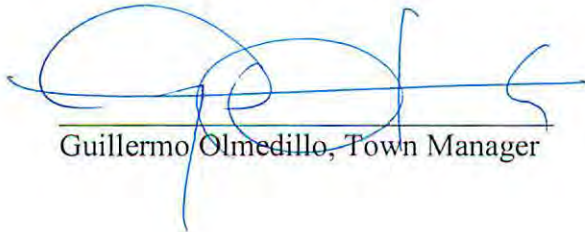
**Analysis:** The new Committee will comprise of members with expert knowledge and experience on the issues of sustainability and resiliency for coastal municipalities.

The accompanying resolution establishes the Sustainability and Resiliency Committee.

**Budget Impact:** It is anticipated that this new Committee will require more staff time and an increased 'cost of doing business' than was budgeted for the Subcommittee. Besides accounting for the direct costs of hosting the meetings (labor, materials, technology etc.), any other requests from the Committee cannot be anticipated and / or budgeted at this time including subject matter expert input.

**Staff Impact:** Considerable staff time will be required to manage this new Committee and provide the information needed / requested.

**Recommendation:** Upon Town Commission adoption of the accompanying Resolution, the Sustainability and Resiliency Committee will be established.



Guillermo Olmedillo, Town Manager



DT

**RESOLUTION NO. 18 - \_\_\_\_\_**

**A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, ESTABLISHING THE TOWN OF SURFSIDE SUSTAINABILITY AND RESILIENCY COMMITTEE TO STUDY AND RECOMMEND POLICIES TO THE TOWN COMMISSION; PROVIDING FOR THE COMMITTEE'S CHARTER AND ORGANIZATION; PROVIDING FOR AUTHORIZATION AND IMPLEMENTATION; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the Town of Surfside ("Town") is a coastal municipality that abuts the ocean and Biscayne Bay along much of its borders; and

**WHEREAS**, sea level rise, climate change and other environmental issues are a concern for the sustainability and resiliency of the Town; and

**WHEREAS**, the Town desires to be proactive and address such issues by implementing polices or programs that promote efficient, cost effective building and infrastructure improvements and policies that protect and mitigate any damage to the Town's beaches, buildings, infrastructure and environment; and

**WHEREAS**, on June 14, 2016, by Resolution No. 2378, the Town Commission established the Sustainability Subcommittee advisory to the Planning & Zoning Board to study and recommend policies and programs to strengthen resiliency and tasked the Subcommittee to address sea level rise as an element in Comprehensive Plan; and

**WHEREAS**, having completed its purpose and tasks, the Town Commission has simultaneously elected to sunset or abolish the existing Sustainability Subcommittee and establish a new Sustainability and Resiliency Committee ("Committee") to serve in an advisory capacity to the Town Commission as provided for herein; and

**WHEREAS**, a committee with expert knowledge and experience on the issue of sustainability and resiliency for coastal municipalities will produce the best and most effective policies; and

**WHEREAS**, the Town Commission desires to adopt the best policies and practices regarding sustainability; and

**WHEREAS**, pursuant to Article II, Section 31 of the Charter, the Town Commission may appoint boards and commissions to be composed of citizens who are

registered qualified electors of Miami-Dade County Florida, whose legal residence is in the Town of Surfside; and

**WHEREAS**, the Town Commission finds that it is necessary to establish the Committee to study and recommend policies and programs that strengthen the resiliency of our community, improve natural and engineered resources, prevent harm to the natural and built environment, and benefit the social, economic and environmental wellbeing of the community for present and future generations; and

**WHEREAS**, the Committee shall identify, study and propose policies for the Town Commission's consideration for the purpose of implementing sustainable and resilient policies, as further detailed in the Charter attached hereto as Exhibit "A"; and

**WHEREAS**, the Town Commission finds that establishing the Committee is in the best interest of the Town.

**NOW, THEREFORE, THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA HEREBY RESOLVES AS FOLLOWS:**

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

**Section 2. Establishment of Sustainability and Resiliency Committee.** The Town Commission hereby establishes the Sustainability and Resiliency Committee as a continuing committee that will serve in an advisory capacity to the Town Commission in order to study and recommend sustainability and resiliency policies, programs, and improvements for consideration and implementation by the Town Commission. The Committee shall comply with Section 2-204 of the Town Code and shall be subject to Florida's Government-in-the-Sunshine and Public Records Laws and the State of Florida, Miami-Dade County and Town of Surfside Code of Ethics.

**Section 3. Charter; Organization.** The Town Commission hereby approves and adopts the Committee's Charter, attached hereto as Exhibit "A." The Committee shall identify, study, review and recommend policies, programs, and initiatives to the Town Commission for the implementation of sustainable and resilient policies.

**Section 4. Authorization and Implementation.** That the Town Clerk and Town Manager are hereby authorized and directed to take any and all such action as may be required to implement the Committee and the purposes of this Resolution.

**Section 5. Effective Date.** This Resolution shall take effect immediately upon its adoption.

**PASSED AND ADOPTED** this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

Motion by \_\_\_\_\_.

Second by \_\_\_\_\_.

**FINAL VOTE ON ADOPTION**

Commissioner Barry Cohen \_\_\_\_\_

Commissioner Michael Karukin \_\_\_\_\_

Commissioner Tina Paul \_\_\_\_\_

Vice Mayor Daniel Gielchinsky \_\_\_\_\_

Mayor Daniel Dietch \_\_\_\_\_

\_\_\_\_\_  
Daniel Dietch, Mayor

**ATTEST:**

\_\_\_\_\_  
Sandra Novoa, MMC,  
Town Clerk

**APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY FOR THE TOWN OF SURFSIDE ONLY:**

\_\_\_\_\_  
Weiss Serota Helfman Cole & Bierman, P.L.  
Town Attorney

**Attachment "A"**  
**Sustainability and Resiliency Committee Charter**

The Sustainability and Resiliency Committee (“Committee”) Charter establishes the objectives, goals and purposes of the Committee as an advisory and continuing committee to the Town Commission, and the organizational structure of the Committee:

**A. Objective and Goals:** To study, identify and recommend policies to the Town Commission for adoption and implementation by the Town of Surfside (“Town”) to address future risk and economic losses associated with climate change, sea level rise and flooding, and foster sustainable growth patterns, transit, and the use of sustainable building techniques with the goal of:

1. Adapting and mitigating to climate change and sea level rise;
2. Promoting green and sustainable building, construction and operations;
3. Protecting, restoring, optimizing and creating green spaces;
4. Improving alternative transportation and mobility; and
5. Increased environmental awareness and stewardship of ecosystems; and
6. Improving design, construction, maintenance of buildings and infrastructure.

**B. Purpose:** The purpose of the Committee is to identify, study, and recommend policies and programs that strengthen the sustainability and resiliency of our community. The Committee shall provide its expert input and adopt recommendations to the Town Commission.

**C. Composition, Appointment, and Qualifications:**

The Committee shall consist of five (5) voting members and two (2) non-voting liaison members from the Town Commission and the Planning and Zoning Board. The five (5) voting members shall be comprised of the following:

1. One (1) member shall possess expertise in engineering, with a focus on infrastructure.
2. One (1) member shall possess expertise in community and real estate development.
3. One (1) member shall possess expertise in one or more of the following areas: environmental, climatology; geophysics; coastal management, oceanography or coastal ocean science.
4. One (1) member shall possess expertise in emergency management.
5. One (1) member shall possess expertise in economics.



Members shall be appointed as follows:

1. Each of the five (5) Town Mayor and Commissioners shall appoint one (1) person to serve as a voting member of the Committee.
2. One (1) non-voting member shall be a Town Commissioner appointed by the Town Commission and shall serve as a liaison member.
3. One (1) non-voting member shall be a Planning and Zoning Board member appointed by the Planning and Zoning Board and shall serve as a liaison member.

**D. Organization:** The Committee shall meet a minimum of once per month and provide quarterly recommendations, or a report, to the Town Commission. The chair of the Committee shall have the ability to call additional meetings, upon an affirmative vote of the Committee. The Committee shall comply with Section 2-204 of the Town Code and shall be subject to Florida's Government-in-the-Sunshine and Public Records Laws and the State of Florida, Miami-Dade County and Town of Surfside Code of Ethics.



## Town of Surfside Commission Communication

**Agenda Item #** 5E

**Agenda Date:** July 10, 2018

**Subject:** Approval to Increase the Parking Meter Rate from \$1.50 to \$1.75 per hour for off-street parking (Municipal Parking Lots) effective October 1, 2018.

**Background:** Due to increased operation and maintenance costs incurred, the Town is seeking approval to increase the parking meter rate for all off-street (Municipal Parking Lots) parking spaces.

**Analysis:** The current Parking Meter Rate for the Town of Surfside is \$1.50 per hour for off-street parking. This rate has been in effect since October 1, 2015, when the Parking Meter Rate for off-street parking was increased from \$1.25 to \$1.50 per hour.

For comparison purposes, local jurisdictions charge the following rates per hour for off-street parking:

- Sunny Isles: \$2.00/hr. to \$3.00/hr.
- Bal Harbour: \$2.00/hr. (All Municipal lots are currently closed)
- Miami Beach: \$2.00/hr.
- Coral Gables: \$1.50/hr. to \$3.00/hr.
- South Miami: \$2.00/hr.

**Budget Impact:** Positive impact on budget due to increased revenue stream.

**Staff Impact:** N/A

**Recommendation:** Staff recommends a motion to approve a resolution to authorize the increase of the parking meter rate for off-street parking (Municipal Parking Lots) to \$1.75 per hour effective October 1, 2018.

David Allen, Chief of Police

Guillermo Olmedillo, Town Manager

**RESOLUTION NO. 18- \_\_\_\_\_**

**A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA APPROVING AN INCREASE OF THE PARKING METER RATE FROM \$1.50 TO \$1.75 PER HOUR FOR OFF-STREET PARKING SPACES (MUNICIPAL PARKING LOTS); PROVIDING AUTHORIZATION; PROVIDING FOR CONFLICTS, SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, on September 8, 2015, the Town Commission approved Resolution No. 15-2317 setting parking meter rates at \$1.50 per hour; and

**WHEREAS**, the Town has experienced increased parking operation and maintenance costs; and

**WHEREAS**, in order to address the increased costs the Town Commission desires to increase the rate for off-street parking from \$1.50 to \$1.75 per space, per hour; and

**WHEREAS**, the Town Commission finds that increasing the hourly cost of off-street parking spaces to off-set operation and maintenance costs is in the best interest of the Town.

**NOW, THEREFORE, THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA HEREBY RESOLVES AS FOLLOWS:**

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

**Section 2. Approval.** The Town Commission hereby approves the increase of the parking rates from \$1.50 to \$1.75 per hour for all off-street (municipal parking lot) parking spaces.

**Section 3. Authorization and Implementation.** The Town Manager is hereby authorized and directed to take any and all such actions as are required to implement the terms of this Resolution.

**Section 4. Effective Date.** This Resolution shall take effect immediately upon its adoption

**PASSED AND ADOPTED** this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

Motion by \_\_\_\_\_.

Second by \_\_\_\_\_.

**FINAL VOTE ON ADOPTION**

Commissioner Barry Cohen \_\_\_\_\_

Commissioner Michael Karukin \_\_\_\_\_

Commissioner Tina Paul \_\_\_\_\_

Vice Mayor Daniel Gielchinsky \_\_\_\_\_

Mayor Daniel Dietch \_\_\_\_\_

\_\_\_\_\_  
Daniel Dietch, Mayor

**ATTEST:**

\_\_\_\_\_  
Sandra Novoa, MMC,  
Town Clerk

**APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY FOR THE TOWN OF SURFSIDE ONLY:**

\_\_\_\_\_  
Weiss Serota Helfman Cole & Bierman, P.L.  
Town Attorney



## Town of Surfside Commission Communication

**Agenda Item:** 9B  
**Agenda Date:** July 10, 2018  
**Subject:** Dissolving the Design Review Board  
**From:** Sarah Sinatra Gould, AICP, Town Planner

**Background:** The Design Review Board (DRB) has had numerous quorum challenges. There are two members of DRB, meaning that one must be present at each meeting to make a quorum. The original intent of DRB was to include a registered architect. It was consistently difficult to find an architect to serve and therefore, the requirements have been modified multiple times. The requirements are now broad and allow a planner, an interior designer, an engineer, a contractor, a developer or an attorney. There is no longer an architect on the Board, which was the original intent. Nor have any of the applicants that have submitted qualifications been architects.

The DRB was dissolved in October 2012 and the functions were moved to the Planning & Zoning Board (PZ). Because the board qualifications for membership were not modified, there were continued challenges with appointing members and the DRB was ultimately reinstated.

At the Planning and Zoning Board meeting of June 27, 2018, the Board asked the Commission Liaison, Vice-Mayor Gielchinsky, to report to the Commission that there was consensus for the Planning and Zoning Board to absorb DRB's functions. The recommendation is to move the design review functions under the Planning and Zoning Board and dissolve the Design Review Board. This will also require modifications to the membership requirements to ensure there are not additional challenges when appointing new members. The Design Review Board has not met since April 26, 2018. There are numerous applications, including signs, single family permits and site plans, which have not been able to be reviewed.

**Staff Recommendation:** Direct staff to prepare an ordinance to dissolve DRB and combine the functions into the Planning & Zoning Board, based on the direction by the Planning & Zoning Board.

**Attachments:**

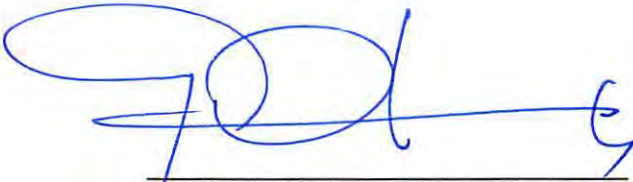
Ordinance 2013-1598

Ordinance 2014-1618



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Sarah Sinatra Gould, AICP,  
Town Planner



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Guillermo Olmedillo, Town Manager



**Town of Surfside**  
9293 Harding Ave, 2<sup>nd</sup> Floor  
Surfside, FL 33154

## **COMMISSION COMMUNICATION**

**Agenda Item #** – 9D

**Date** – July 10, 2018

**Subject** – Food and Beverage Concession Services for Surfside Community Center/Pool

**Background** – The Community Center Concession closed on December 1, 2017. The Town issued a Request for Proposals (RFP No. 2018-03) to seek a qualified vendor to operate the Concession. The RFP closed on May 18, 2018 at 2:00 pm. Only one proposal was received.

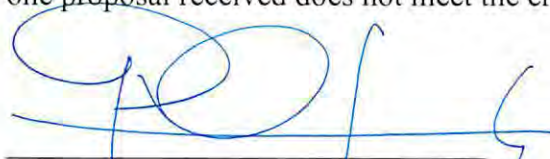
Review of the proposal was conducted through the Selection Committee. The Committee consisted of three residents and two Town employees. The purpose of the Committee was to review the proposal and to determine if the proposer met the criteria and requirements of the RFP. After the Committee met on June 26, 2018, the consensus was that the proposal was non-responsible and non-responsive and did not meet the criteria and requirements of the RFP.

**Analysis** – Since the Concession has been closed, the Parks and Recreation Department altered the original guidelines to allow outside food (with some restrictions) in designated areas into the Community Center. During this six-month period, the Community Center operations and the Parks and Recreation programming have not been affected, continuing normal day-to-day operations including winter camp, spring camp, summer camp and special events.

**Budget Impact** – Loss of monthly rental for the Concession, at \$500 per month, is \$3,500 as of July 1, 2018.

**Staff Impact** – Existing staff have been able to adapt and provide food and beverage services for camps and programs when needed.

**Conclusion** – The Town administration is seeking policy direction from the Commission, as the one proposal received does not meet the criteria and requirements of the RFP.



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Guillermo Olmedillo, Town Manager

TM



**Town of Surfside**  
9293 Harding Ave, 2<sup>nd</sup> Floor  
Surfside, FL 33154

### COMMISSION COMMUNICATION

**Agenda Item # 9E**

**Date:** July 10, 2018

**Subject:** Policy for Contributions to Not-For-Profit Organizations (Policy)


**Background:** The Town of Surfside (“Town”) is committed to assisting and encouraging local not-for-profit charitable organizations (“NFPs”) in their mission, public purpose, and continued success. Occasionally, the Town may find it necessary to contribute money, goods, or services in assistance to these NFPs and to further the community goals of the Town. To provide guidance for this purpose, the Administration is presenting for Town Commission consideration a formal Policy that will govern the decision to provide assistance to NFPs. Upon review of the documents related to the existing policy, as part of the process to formalize a policy, it was determined that a more streamlined policy and application process were necessary.

**Analysis:** The attached Policy establishes written procedures for the Town to evaluate and provide donations or funding to include direct monetary contributions, in-kind services, waiver of fees, or contributions or use of goods or services provided or owned by the Town to NFPs. The attached, more streamlined Policy and application, would replace the existing policy.

**Budget Impact:** The Policy will have a direct budgetary impact. Each contribution will require Town Commission approval and concomitant budgetary review and authority.

**Staff Impact:** Staff, through the Town Manager and applicable departments, will review and process all applications for donations and funding, for ultimate consideration by the Town Commission.

**Recommendation:** It is recommended that the Town Commission adopt the Resolution rescinding the existing policy and approving a formalized *Policy for Contributions to Not-For-Profit Charitable Organizations*.



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Guillermo Olmedillo, Town Manager

CW / DT



**Town Commission  
Policy for Contributions To  
Not-For-Profit Charitable Organizations**

**Background:** The Town of Surfside (“Town”) is committed to assisting and encouraging local not-for-profit charitable organizations (“NFPs”) that benefit the community in their mission and serve a public purpose. Occasionally, the Town may find it necessary to donate or contribute money, goods, or services in assistance to these NFPs and to further the community goals of the Town. To provide guidance for this purpose, the Town is establishing a formal *Policy for Contributions to Not-For-Profit Charitable Organizations* (Policy).

I. that will guide the Town Commission’s decision to donate or provide money, goods or services to NFPs.

**II. Purpose:** The purpose of this Policy is to set forth the procedures of the Town for donations and funding to non-profit charitable organizations. This includes direct monetary contributions, in-kind services, waiver of fees, or contributions or use of goods or services provided or owned by the Town, to NFP organizations. This Policy does not apply to requests for donations or funding that are less than \$250 in non-monetary assistance.

**III. Definition:** A not-for-profit charitable organization is defined as an organization that falls within Section 501 (c)(3) or Section 501(a) of the Internal Revenue Code, and which also has an active not-for-profit corporation registered with the State of Florida.

**IV. Procedures: Administration**

- a. Any not-for-profit charitable organization wishing to apply for funding from the Town must complete and file an application for funding with the Town. Application forms are available from the Town’s Finance Department or online at the Town’s website: [www.townofsurfsidefl.gov](http://www.townofsurfsidefl.gov).
- b. The information provided by the applicant will be reviewed by the Town’s Finance Department for completeness. If it is determined that the applicant has supplied all the necessary information, the application will be referred to the appropriate Town Department(s) for further input. If the application is deficient, the Town Manager will return the application to the applicant with an explanation.
- c. The reviewed and complete application will be forwarded to the Town Manager for inclusion in a Town Commission agenda packet.
- d. The Town Commission reserves the right to waive any part of this Policy or procedure at any time. The application will be provided to the Town Commission for consideration and/or approval

- e. Funding by the Town to an NFP shall not impose or create any future obligation by the Town for ongoing support or donations.
- f. If the application is rejected by the Town Commission, the Town Manager will notify the applicant of the Town Commission's rejection and the reason for such rejection. The applicant may resubmit the application after addressing any deficiencies raised by the Town Manager or Town Commission. In all cases, the decision of the Town Commission shall be final and non-appealable, but without prejudice if the Town Commission rejected the application and stated curable deficiencies that may come back to the Town Commission for further evaluation and approval.

**V. Submission Requirements:**

- a. All applicants are required to submit applications in the format required by the Town.
- b. Incomplete applications will not be considered.
- c. Applicants may submit additional information related to the funding request.
- d. The Town Manager or Town Commission may impose conditions and/or additional requirements in connection with any donation or funding approval. This may include an agreement between the Town and NFP in form and substance acceptable to and prepared by the Town Attorney.
- e. Any donation or funding approved and provided by the Town shall require that the NFP comply with all applicable laws and regulations.

**Application By Not-For-Profit Charitable Organization For Contributions  
(Financial or In-Kind Assistance) From the Town of Surfside**

**Legal Name of Applicant:**

**Year Established in Florida:**

**Business Address:**

**Business Phone Number:**

**Contact Name and Phone Number:**

**Contact email address:**

**Business Website URL:**

**Describe the services you will provide to the Town of Surfside Residents or Businesses with the assistance you will receive from the Town:**

**What assistance do you need from the Town:**

**Who will be the person in your organization accountable for the assistance the Town provides your organization:**

**How will you measure and report to the Town how well the assistance was used by your organization:**

**If you have provided the intended services to other communities or organizations, please briefly describe them below or attach them to this application:**

**If you are not awarded the assistance you are requesting, what do you think it will mean to the community and the Town:**

**Please detail any known relationship (familial, business, friendship, etc.), no matter how distant, that your organization has with any elected official or employee of the Town of Surfside:**

**Documents to be submitted with applications from not-for-profit organizations:**


- State of Florida Certificate of Status, Non-Profit Corporation
- IRS Ruling or Determination Letter of your charitable status
- Your most recent annual information return (Form 990 or 990-EZ) or a determination letter stating your organization is exempt from the annual return requirement
- A letter from the applicant that is signed by an individual authorized to make the request of the Town stating that the application has been authorized by the organization



**Town of Surfside  
Town Commission Meeting  
July 10, 2018  
7:00pm**

Town Hall Commission Chambers - 9293 Harding Avenue, 2<sup>nd</sup> Floor  
Surfside, FL 33154

**DISCUSSION ITEM MEMORANDUM**

**Agenda #:** 9F  
**Date:** June 22, 2018  
**From:** Daniel Dietch, Mayor   
**Subject:** Municipal Parking Rate Analysis

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**Objective:** To analyze the benefits and impacts of using differential parking rates for our municipal parking lots and on-street parking spaces to optimize our municipal parking program.

**Consideration:** Using different usage rates at our municipal parking lots and on-street parking spaces can be a useful tool to influence behaviors. For example, it could serve to promote non-motorized travel to and within Surfside. This concept could also be used to address burdens on our municipal resources that are created when additional visitors drive to Surfside to access the public beach. Using a higher parking rate at our municipal parking lots and on-street parking spaces closest to the beach will generate additional revenue to off-set the additional costs associated with maintaining the parking lots/spaces and surrounding areas.


**Recommendation:** To direct the Town Manager to analyze the costs, benefits and impacts of using differential parking rates in our municipal parking lots and on-street parking spaces to optimize our municipal parking program.



**Town of Surfside  
Town Commission Meeting  
July 10, 2018  
7:00pm**

Town Hall Commission Chambers - 9293 Harding Avenue, 2<sup>nd</sup> Floor  
Surfside, FL 33154

**DISCUSSION ITEM MEMORANDUM**

**Agenda #:** 9G  
**Date:** June 22, 2018  
**From:** Daniel Dietch, Mayor   
**Subject:** Little Free Library

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**Objective:** To provide the Town Commission with background information on the Little Free Library Program and determine if there is sufficient interest in joining the Program.

**Consideration:** The loss of our local library still resonates in Surfside despite making accommodations to reimburse residents who purchase a County Library Card. I recently learned about the Little Free Library Program. The Little Free Library is a “take a book, return a book” free book exchange. Little Free Libraries come in many shapes and sizes, but the most common version is a small wooden box of books where anyone may take a book or bring a book to share. Currently, there are more than 70,000 registered Little Free Library book-sharing boxes in 85 countries worldwide. I encourage you to visit the Little Free Library Website to learn more: <https://littlefreelibrary.org/>.

This initiative could follow the same approach as we have previously implemented with the Sea Level Awareness Pole Project, Community Garden and Community Dog Park. Accordingly, if the Town Commission is interested, I suggest that we identify and engage a resident who would serve as the Little Free Library Steward; I have already secured one volunteer. The Little Free Library Steward would work with the Town Administration to identify and recommend a location, develop a plan to construct the Little Free Library, and to lead the operations, including an appropriate public engagement program. No funds are being requested at this time.

**Recommendation:** To proceed with developing a Little Free Library Program in Surfside.



**Town of Surfside  
Town Commission Meeting**

Town Hall Commission Chambers - 9293 Harding Ave, 2<sup>nd</sup> Floor  
Surfside, FL 33154

**DISCUSSION ITEM MEMORANDUM**

**Agenda #:** 9H

**Date:** June 28, 2018

**From:** Commissioner Tina Paul

**Subject:** "Share The Road Project" safety and walkability proposal - Update

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**Objective** – To implement a cost-effective, artistic, Safety and Walkability concept that will enhance our neighborhood streets, resulting in slowed traffic, through use of visual communications for our communal roads.

**Consideration** – Share The Road Project, concept by Oliver Sanchez, resident and renowned artist, was presented at the May 8, 2018 Commission meeting. The Town Manager was directed to obtain Miami-Dade County guidelines for implementation of this project, while a cost estimation was requested from Mr. Sanchez for implementing a trial plan.

Share The Road Project aims to emphasize the importance of safety on our residential streets. By stenciling graphics that represent the spectrum of users of our streets, Share The Road serves as a constant passive reminder on how to coexist responsibly. Using durable paint on asphalt these graphics will be placed at key locations such as intersections and where all manner of traffic converges. This light-hearted and cost-effective approach has the potential to strengthen the underlayment of community for a more inclusive and considerate cooperation among all traffic; pedestrians, cyclists, pet walkers and vehicles.

At a recent tour of West Palm Beach Brightline station and warehouse district, West Palm Beach Director of Economic Development Chris Roog highlighted their "Road Tattoo" art project, affirming that "cars slow down when you paint the road."

Recommendations from the Surfside DVAC Steering Committee included Art in Public Places, Crosswalk Art and 3D effects to slow traffic. Share The Road aims at safety in the residential neighborhood with a potential to expand. Mr. Sanchez work is endorsed by Art In Public Places, Miami-Dade County Department of Cultural Affairs.

**Recommendation** – Approval to move forward with the trial implementation of this project.

OLIVER SANCHEZ  
9140 EMERSON AVE.  
SURFSIDE, FL 33154

JUNE 28, 2018

TO:  
TOWN OF SURFSIDE, FL  
ATTENTION: COMMISSIONER TINA PAUL

RE: SHARE THE ROAD CREATIVE CROSSWALKS PROJECT

**COST ESTIMATION**

**TRIAL PLAN IMPLEMENTATION**

CONCEPT DEVELOPMENT .....	1. (Waived)
GRAPHIC DESIGN .....	1,500. (Set of six icons)
STENCIL PRODUCTION .....	3,500. (500 EACH)
MATERIALS AND SUPPLIES .....	1,200. (Four applications)
VOLUNTEERS / INTERNS .....	500. (Stipend for youth aids)
DATA COLLECTION PLAN .....	(Pending)
MAINTENANCE PLAN .....	(Re-paint schedule)

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BUDGET TOTAL ..... **\$ 6,701.**

**COMPREHENSIVE PLAN**

PENDING.

TO BE DEVELOPED IN ACCORDANCE WITH RESPONSE DATA  
COMPILED DURING TRIAL PLAN.





By Oliver Sanchez  
05/2018

## Creative Visual Communications



Share The Road Project aims to remind everyone of the importance of safety on our residential streets. Most folks are familiar with the effectiveness of simple icons to communicate ideas and instructions on how to cooperate with others as we share our public commons.

Artist Rendering of Typical Intersection

## Typical Proposed Graphics for Crosswalks



By stenciling graphics that represent the spectrum of users of our streets, Share the Road serves as a constant passive reminder to all on how to better coexist in a responsible manner. Using durable paint on asphalt these graphics will be placed at key locations such as intersections and where all manner of traffic converge.

## Stages of Development



- Trial Plan Proposal
- Review of Icons
- Community Participation
- Stencil, Vendor RFQs
- Comprehensive Plan Review and Implementation

## Share the Road



With this light-hearted and cost effective approach we can strengthen the underlayment of community for a more inclusive and considerate cooperation among all traffic; pedestrians, cyclists, pet-walkers, vehicles and trucks.

RE: Share the Road proposal

✕ DELETE   ← REPLY   ⇐ REPLY ALL   → FORWARD   ⋮



Sanfilippo, Amanda (CUA) <Amanda.Sanfilippo@miamidade.gov>

Mark as unread

Wed 6/6/2018 4:31 PM

To: 'Oliver Sanchez' <olisan321@gmail.com>; Infante, Sonia (DTPW) <Sonia.Infante@miamidade.gov>;

Cc: Daniel Dietch; Tina Paul; vlago@coralgables.com; Guillermo Olmedillo;

Bing Maps

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Kind greetings,

I am delighted to enthusiastically recommend Mr. Sanchez's creative work in the community in support of his "share the road" proposal. Congratulations on a terrific creative concept for public safety, Oli!

Please find a profile of Mr. Sanchez as named as one of the 2017 Miami New Times Masterminds Awardees [here](#).

Please do not hesitate to contact me further regarding this item.

With warm regards,

Amanda

AMANDA SANFILIPPO  
CURATOR + ARTIST MANAGER  
ART IN PUBLIC PLACES  
MIAMI-DADE COUNTY DEPARTMENT OF CULTURAL AFFAIRS  
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[amandas@miamidade.gov](mailto:amandas@miamidade.gov)  
[www.miamidadepublicart.org](http://www.miamidadepublicart.org)  
[South Florida Cultural Consortium Grant for Artists](#)  
[Public Art Opportunities for Artists](#)

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*Miami-Dade County is a public entity subject to Chapter 119 of the Florida Statutes concerning public records. E-mail messages are covered under such laws and thus subject to disclosure.*

**From:** Oliver Sanchez [mailto:olisan321@gmail.com]  
**Sent:** Wednesday, June 6, 2018 11:40 AM  
**To:** Infante, Sonia (DTPW) <Sonia.Infante@miamidade.gov>  
**Cc:** Sanfilippo, Amanda (CUA) <Amanda.Sanfilippo@miamidade.gov>;  
DDietch@townofsurfsidefl.gov; tpaul@townofsurfsidefl.gov; vlag@coralgables.com;  
golmedillo@townofsurfsidefl.gov  
**Subject:** Share the Road proposal

---



**Oliver Sanchez** <olisan321@gmail.com>

Wed 6/6/2018 11:41 AM

Inbox



Mark as unread

1 attachment



Ms. Infante,

Recently you received a note from the Town of Surfside, Manager Guillermo Olmedillo, requesting your departmental review of a proposal called Share The Road Project that was presented to the town commission for their consideration.

You may know that Mayor Dietch and Commissioner Paul have expressed support for this initiative as many residents are eager to find effective solutions for our public safety concerns.

Share The Road addresses the increased concern for walkability in our residential streets. It aims to raise awareness among those who share the roads by using creative visual communication forms such as crosswalks and iconography.

Share the Road Project is a light-hearted and cost effective approach that aims to strengthen the underlayment of community for more inclusive and considerate cooperation among all manner of traffic; pedestrians, cyclists, pet-walkers, vehicles and trucks.

As we seek to solve our own traffic woes in Surfside, we also may serve as an example for other neighborhoods on how to best coexist when sharing our streets. This project also mirrors other communities efforts to successfully instruct the public and enhance the public good and welfare.

I urge you to consider this project development and implementation and look forward to your thoughts and recommendations.

I have copied colleague Amanda Sanfilippo at M-D Department of Cultural Affairs so she may best inform on my civic engagement as a longtime professional artist residing in Miami.

Sincerely,

Oliver Sanchez

9140 Emerson Ave.

Surfside, FL 33154

# Check out this \$260,000 'road tattoo' that could color West Palm street

**LOCAL** By [Tony Doris](#) - Palm Beach Post Staff Writer



The mural would help make Rosemary a Main Street of sorts by connecting the Historic Northwest to CityPlace. (Bruce R. Bennett / The Palm Beach Post)

Posted: 12:59 p.m. Friday, March 09, 2018

**WEST PALM BEACH** — We're getting a big tattoo. A road tattoo, or street mural, that is.

The city on Monday approved a \$260,000 mural by artist Steed Taylor that will stretch down Rosemary Avenue, from CityPlace to as far north as 11th Street in the Historic Northwest area.

Originally proposed by CityPlace, to link the development to Clematis Street, the Community Redevelopment Agency proposed extending the project to also lower the psychological barrier between downtown and less affluent neighborhoods north of Banyan Boulevard. Public input meetings will be held to finalize the project plans.

**WEST PALM READERS:** Sign up for [The Post's weekly West Palm Beach newsletter here](#)

West Palm Beach's Community Redevelopment Agency has been working on projects to revive the Historic Northwest, which has long struggled with poverty, drugs and street violence. The mural will be part of that effort, a way to link the two areas by helping make Rosemary a Main Street of sorts, one that draws a line from the downtown retail and entertainment venue to the neighborhood, near the revival's soon-to-be renovated focal point, the 1930's-era Sunset Lounge jazz club.

City officials say the road tattoo, dubbed "Genii Loci," loosely translated as "the protective spirits of a place," will help accomplish goals identified by urban planning consultants [Gehl Studio](#) in a 2017 study that recommended using art to create an attractive path to the Northwest and a safer crossing at Rosemary and Banyan, while also using traffic-calming measures.

The CRA would contribute \$160,000 to the project, the city's Art in Public Places program, \$10,000, and CityPlace owners Related Cos. would provide \$90,000. Related has been adding colorful murals to CityPlace in various spots, including on one of its garages and the former Macy's. The road tattoo would run the length of the complex, starting at Okeechobee Boulevard and Rosemary.

Mayor Jeri Muoio questioned the wisdom of spending \$160,000 on what is considered a temporary project that eventually will wear away.

"I think it's an interesting exercise and a good use of funding," CRA Executive Director Jon Ward replied.

According to the agenda for the CRA meeting, the road tattoo design will consist of "two color patterns of highly stylized Florida native flowers, in what the artist states is an 'act of blooming or a period of success,'" reflecting the city's emergence. A Celtic symbol will weave throughout the design.

The work, though painted with high gloss latex mixed with traffic paint, is considered temporary as it is expected to break down over time because of weather and cars.

"Road tattoos explore the expression of loss and longing within public space," Steed Taylor says on his website. "Commemorative, site-specific, community-based, tattoo-inspired, public artworks on roads, they repurpose a common, yet much loved and romanticized public space with additional meaning and significance.

"If roads are the skin of a community, they have a similar relationship to the public body as skin does to the private body. As people mark their skin as a means of commemoration, communication and ritual, then a road can be marked for the same reasons."



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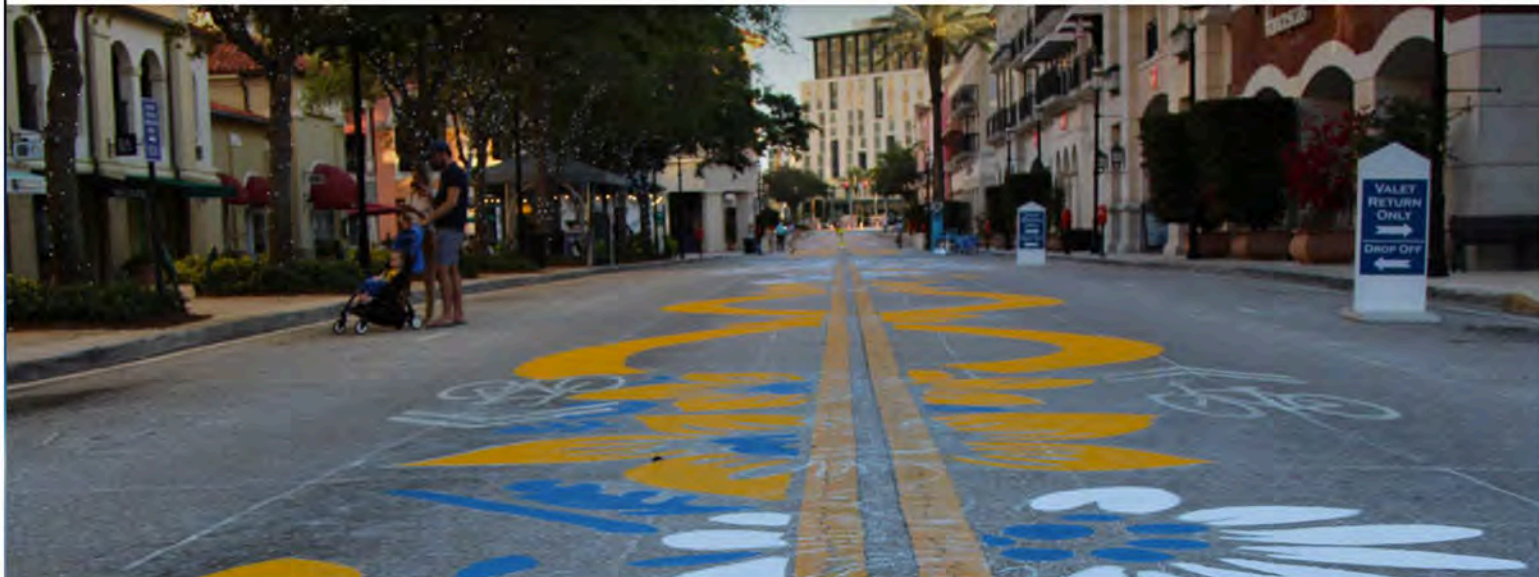
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## Steed Taylor's Road Tattoo Genii Loci in WPB, the Nation's Longest Road Tattoo

The piece Taylor painted in West Palm Beach runs over a mile along the heart of Rosemary Avenue. The installation is the longest continuous road tattoo in the world. It engaged local artists, organizations, students and community groups who also painted a portion of the project.

By [Sandra Schulman](#) (Arts & Entertainment Writer)

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The newest mural in town is also the nation's longest road tattoo installation! Artist Steed Taylor's mile long "road tattoo" was dedicated at a ceremony May 1 at the block along Rosemary Avenue that borders West Palm Beach Police Station. In attendance were people who make public art happen in West Palm Beach including Mayor Jeri Muoio, Art in Public Place's Sybille Welter, Gopal Rajegowda, Senior VP at Related Companies, Raphael Clemente, Downtown Development Authority (DDA) Executive Director, and many more.

"Steed just said to me 'I heard you like art'", said Mayor Muoio. "I said yes I like art that bridges communities together, and this project does just that by stretching Rosemary Ave. from the heart of downtown up to the Northwest area by the Sunset Lounge."

Before the ceremony started, Taylor was seen finishing painting names of dozens of members of the area into the mural, those who had contributed to the ecological and conservation history of South Florida as his mural pays homage to them in flowers and plants native to the area. The northwest part of the mural uses music notes from the song Round Midnight by [Thelonious Monk](#).

Also at the dedication ceremony was Ricky Aiken of [Inner City Innovators, Inc.](#), a Florida non-profit organization committed to breaking the perpetual cycle of youth delinquency and gun violence in inner cities.

Aiken read from a powerful statement that said in part "Today we gather under the unified purpose of celebrating Genii Loci, a symbol of hope for our city...but before we can embrace the hope for a brighter future we must acknowledge and release the pain of our collective past..., now the foundation of our hope for progress in creating a more equitable future. We acknowledge the effort to create an integrated economy as opposed to a gentrified community. Though progress is inevitable, we're grateful that our leaders have made it inclusive."

Once the mural is complete, it will remain on the street until it wears away, a process that may take up to two years.

"This exciting initiative is one of many that will allow the community to interact with arts and culture in a new way – we feel it's crucial to the redevelopment and unification of Downtown West Palm Beach," Gopal Rajegowda said.

Roads are long, connecting isolated communities in a myriad of ways. This thought struck and captivated artist [Steed Taylor](#) when he was on residency in Maine years ago and gave him the idea to lay down public art installations he calls 'Road Tattoos'.

"I wanted to find a common public space for art and take possession of the roadways," Taylor said by phone before arriving to West Palm Beach in April. "The first one I ever did was dedicated to a lady that had passed away and that gave me the idea to embed her name into the work and to include the community. That's why now I paint peoples' names into the design but then cover it up so it's part of it but underneath the surface, like how tattoos get under the skin."

Steed Taylor's Road Tattoo Genii in West Palm Beach runs over a mile along the heart of Rosemary Avenue. The painted street mural, coined by the artist as the 'skin' of the community, features three elements – a twisty rope of local native flowers, Celtic knots emphasizing the power of community, and music notations for the Jazz standard Round Midnight by Thelonious Monk where the mural winds up—as a nod to the [historic Sunset Lounge](#) and its unique history.

The installation is the longest continuous road tattoo in the world. It engaged local artists, organizations, students and community groups who also painted a portion of the project.



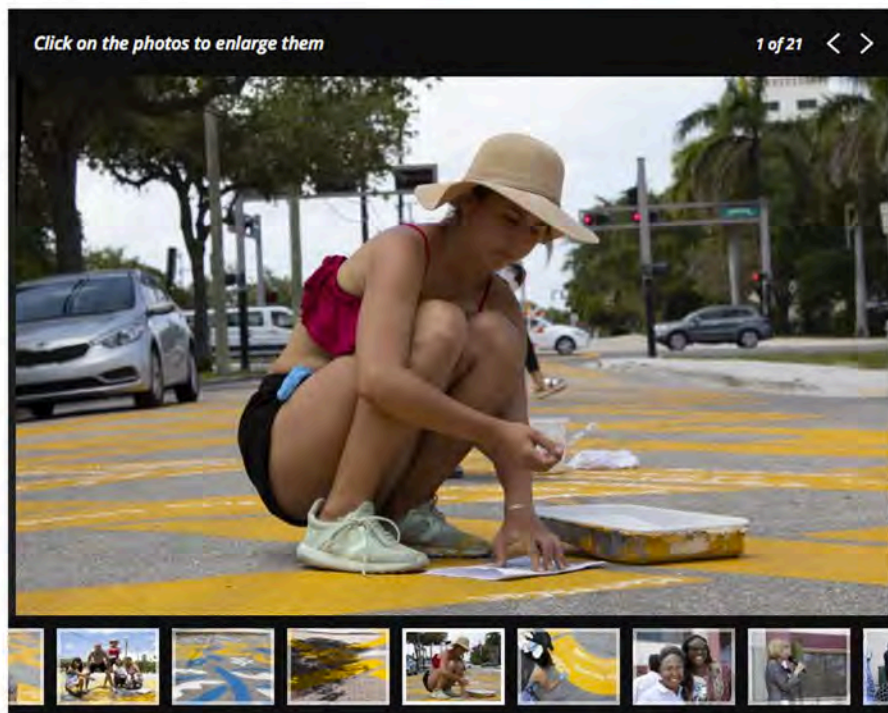
The artist while at work, April 18, 2018 / Photo WPB Magazine



"I used students from [Dreyfoos School](#) to help research the names to be painted into it," Taylor says. "I wanted the piece to honor the eco system and environment, particularly the people who fight to protect those resources in this unique state. Beyond the beaches and fun-in-the-sun ethos, what has always fascinated me about Florida is the abundance of unique waterways, flora, fauna and history not found anywhere else in our country. When I was approached to do a road tattoo in West Palm Beach, I knew this was exactly what I wanted it to be about. I'm excited about the length of it also because a car going 30 mph takes only about 5 seconds so a 200-foot piece won't be seen very long. This one is lengthy and also in a walking area so the view will be longer."

Taylor explained to WPB Magazine the deeper meaning of it all saying "Road tattoos explore the expression of loss and longing within public space. Commemorative, site-specific, community-based, tattoo-inspired, public artworks on roads, they repurpose a common, yet much loved and romanticized public space with additional meaning and significance. If roads are the 'skin' of a community, they have a similar relationship to the public body as skin does to the private body. As people mark their skin as a means of commemoration, communication and ritual, then a road can be marked for the same reasons. Road tattoos are based on cultural designs previously appropriated to mark skin and are sited in relation to their specific meanings."

**WPB Magazine Photo Gallery** – Photos by [Rolando Chang Barrero](#).



Names, or other information, were painted within the design, a nondenominational prayer commissioned for the piece was said and the design was painted in, covering over this information."

"The emotional connection to art in a city is essential, and with Rosemary Avenue being a major North-South corridor in Downtown West Palm Beach, it serves as the appropriate canvas for this inspirational piece," said Rajegowda. "Art has the potential transform a city and its residents, and we believe this collaborative public artwork has the potential to unite our residents to create something ambitious with both meaning and beauty."

Affectionately titled [Genii Loci](#), Latin for the protective spirits of a place, Steed Taylor's Road Tattoo is a few inches away from the traffic lines and markers.

Taylor is known for his public artwork as well as his work in galleries. Born near Fayetteville, North Carolina and educated at the University of North Carolina at Chapel Hill. His road tattoos have been inked into cities like Chicago, IL, Washington, D.C., Arlington, VA and New Orleans, LA.



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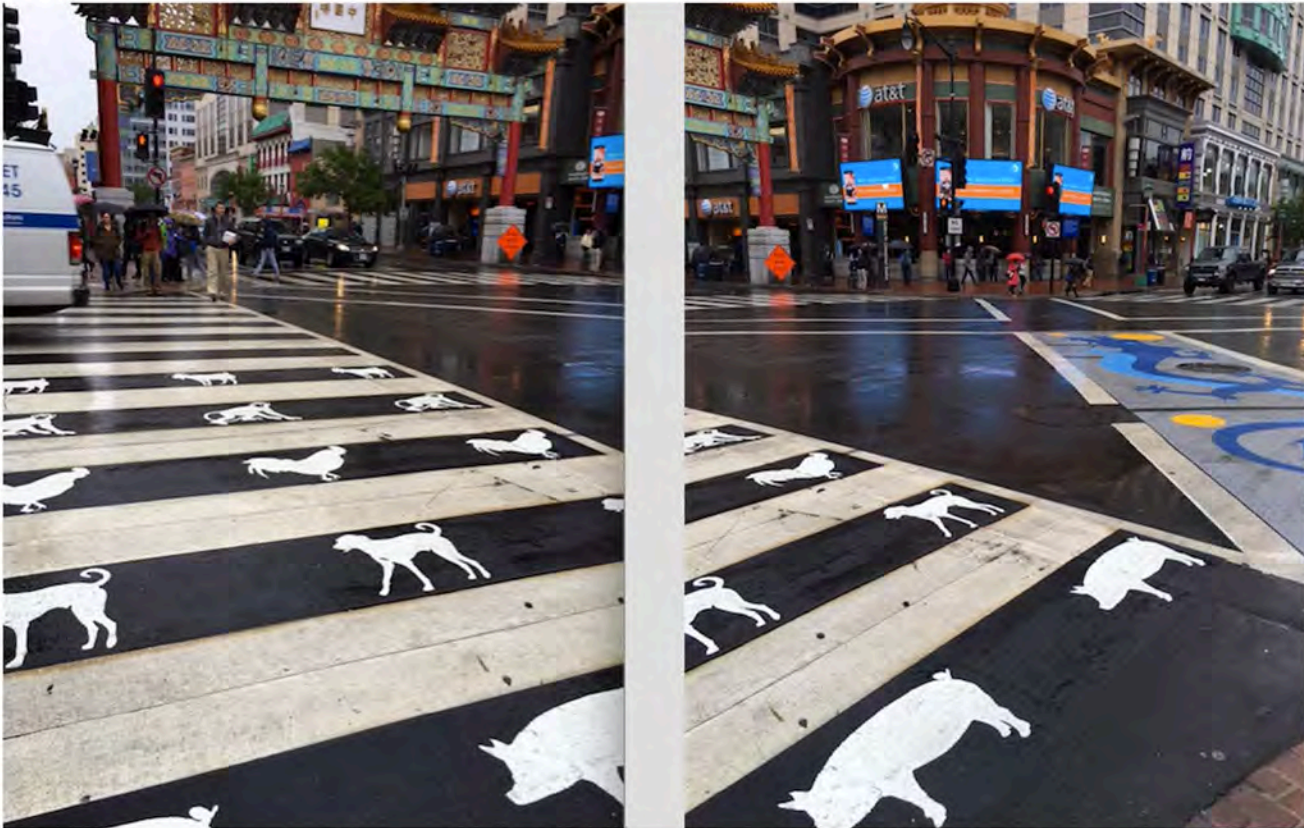
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## Barnes Dance Public Art Project

Certified Applicator Name: Alternative Paving Concepts  
Products Used: TrafficScapes®

In May of 2015 the DC Commission on the Arts and Humanities (DCCAH), the DC office of Planning (DCOP), and the Office on Asian and Pacific Islander Affairs (OAPIA) came together "to announce a Call to Artists: Request for Proposals *Chinatown Barnes Dance Public Art Project*" (**Public Art 1**). This public initiative was to be created in order to redesign a crosswalk at 7<sup>th</sup> and H Streets NW as a centerpiece to Washington DC's Chinatown district. With the winner(s) receiving a budget of \$30,000, artists and teams of artists were asked, "to submit up to three original two-dimensional design proposals for the crosswalk" (**Public Art 1**).



The new design allows for pedestrians to continue moving as traffic does with a green light, "but they will also get the chance to cross in any direction during a 29-second period when traffic is completely stopped" (**Krouse 1**). In 2009 35 vehicle accidents resulted in four pedestrians suffering from injuries in the intersection and the hopes were that the new design would help decrease incidents. A team from Charles Bergen Studios was selected for their design work. Ennis-Flint® Certified Applicator, Alternative Paving Concepts was hired to perform the installation of their TrafficPatterns® material.

In June of 2016 application of the material was completed. Charles Bergen, the winner of the commission, researched ideas that would resonate throughout the community. He decided that the traditional Chinese New Year Dragons and signs of the zodiac would adorn his vision of the intersection. Choosing the material to use in the intersection would prove to be a challenge. "Bergen had originally conceived of doing it all in paint, but had to reject that idea because it would not have been durable enough for the side crosswalks" (**Pickering 1**). Ennis-Flint's TrafficPatterns® Preformed Thermoplastic proved meet the durability challenges that were presented.

Going into further detail, Bergen went on to say; "The long curves, colorful scales and expressive heads of the dragon lead the pedestrians from one corner across to the other. The twelve lunar zodiac symbols are placed in gaps between the crosswalk bands. Here in the perpendicular crosswalks they forever reenact the race across the wild river that determined their sequence in the lunar calendar and allowed them to become zodiac signs forever" (**Landau 1**).



Works Cited:

- Public Art, DC Creates. "CALL TO ARTISTS: Request for Proposals Chinatown Barnes Dance Public Art Project." [Http://dcarts.dc.gov](http://dcarts.dc.gov). DC Arts, 1 June 2015. Web.
- Krouse, Sarah. "D.C. to Test New Crosswalk Pattern in Chinatown." Washington Business Journal. N.p., 7 May 2010. Web.
- Brock, Laetitia. "New Chinese Zodiac Sign Crosswalk in Chinatown." French Twist DC. N.p., 29 June 2016. Web.
- Bergen, Charles. "Chinatown DC Barnes Dance Artwork." RSS. N.p., 14 July 2005. Web.
- Pickering, Victoria. "Dc Focused | Chinatown's New Art Nears Completion." Dc Focused. N.p., 16 June 2016. Web.
- Landau, Lauren. "Do the Barnes Dance: New Art Adorns A Chinatown Crosswalk." DCist. N.p., 30 June 2016. Web.



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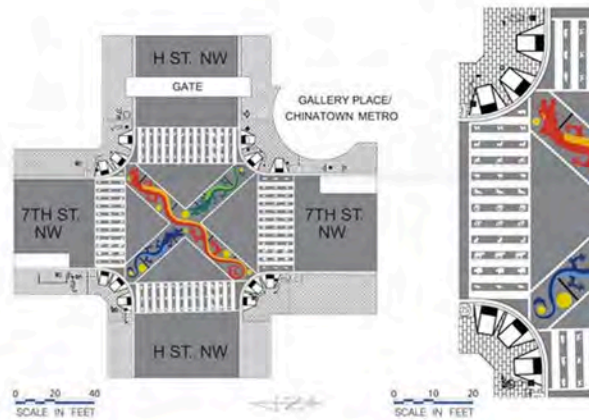
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# Dragons and zodiac symbols will decorate Chinatown's streets

WALKING By [Canaan Merchant](#) (Contributor) May 10, 2016 39

Six years ago, the intersection of 7th and H Streets NW, in Chinatown, became a Barnes Dance— an intersection where the traffic lights in all directions turn red at the same time so people can cross the street at any angle they want. It continues to make walking in Chinatown a bit easier, and it's about to get an unusually decorative paint job.



*New designs coming to the Barnes Dance in Chinatown. Image from Charles Bergen Studios.*

The name “Barnes Dance” comes from Henry Barnes, a traffic engineer who popularized the concept in the USA in the 1940s. Also called [Pedestrian Scrambles](#), Barnes Dances can be found all over the world. There were a number of them in DC until the late 1980s, when they were replaced with normal intersections. In 2010, the Barnes Dance returned to DC, at 7th and H.

Last year, the city decided to commission an artist to paint the diagonal lines that connect the four corners of intersection to be more distinct and unique. The city picked a design by [Charles Bergen Studios](#) that features dragons and lamps that allude to the neighborhood's history of hosting parades for Chinese New Year, along with the 12 animals used as symbols for the Chinese Zodiac. They'll go in on the crosswalk in the next few weeks.

All this got me thinking: Does work that will make the diagonal crossings more visible mean that the Barnes Dance hasn't been working like it should? Is our Barnes Dance unique? Who uses DC's Barnes Dance, and might we get another in the future?

According to District Department of Transportation [Pedestrian Program Coordinator](#) George Branyan, 7th and H itself sees a lot of pedestrians. Its busiest time is in the afternoon, when the 4000 or so pedestrians who cross each hour outnumber cars two

According to District Department of Transportation [Pedestrian Program Coordinator](#) George Branyan, 7th and H itself sees a lot of pedestrians. Its busiest time is in the afternoon, when the 4000 or so pedestrians who cross each hour outnumber cars two to one.

According to Branyan, a key difference between DC's Barnes Dance and others around the world is that crossing the street on foot with a green light isn't prohibited. Restricting crossing like that, which he said is common, would overcrowd the sidewalks and lead to delays for pedestrians in Chinatown.



DDOT's pedestrian count data doesn't actually suss out who is crossing diagonally versus who is crossing purely north-south or east-west. Branyan said that his own observations made him think about 10-20% of people do cross diagonally when available.

### **Chinatown is it for now**

When I asked Branyan whether DDOT has any plans for future Barnes Dance intersections, he said his agency has looked at a few other possible locations, but that there aren't any specific plans. He said the reason was that for a Barnes Dance to work properly, conditions have to be "just right," like an intersection that doesn't have all that many cars that want to make turns and enough people on foot who want to go in different directions, for example. Otherwise, you run the risk of delaying things for everyone.



*DC Barnes Dance intersection. Screenshot from Google Maps by author.*

It looks like the Barnes Dance in Chinatown is working like it's supposed to, but that's it for now. If you have any good candidates for where the Washington area's next Barnes Dance should, list them in the comments!