



**Town of Surfside
Regular Town Commission Meeting
AGENDA**

Tuesday, November 14, 2023

6:00 PM

Commission Chambers - 9293 Harding Avenue
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 6.06 (a)3 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 this capacity has been reached, people will be asked to watch the meeting from the first floor.

1. Opening
 - 1A. Call to Order
 - 1B. Roll Call of Members
 - 1C. Pledge of Allegiance
 - 1D. Mayor and Commission Remark - Mayor Shlomo Danzinger
 - 1E. Agenda and Order of Business Additions, deletions and linkages
 - 1F. Community Notes - Mayor Shlomo Danzinger
 - 1G. Presentation of the 2023 Public Pension Standards Award for Funding and Administration - Hector Gomez, Town Manager
2. Quasi-Judicial Hearings
3. Consent Agenda

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 by completing a speaker card. They will be recognized to speak prior to the approval of the consent agenda.

- 3A. **Approval of Minutes** - Sandra N. McCready, MMC, Town Clerk
[October 10, 2023 Regular Town Commission Meeting Minutes.pdf](#)
- 3B. **Board and Committee Minutes** - Sandra N. McCready, Town Clerk
[2023-08-31 Special Planning and Zoning Board Meeting Minutes.pdf](#)
- 3C. **Approval of 2023 Meeting Calendar** - Sandra N. McCready, MMC, Town Clerk
[2024 Agenda Deadline Dates.xlsx](#)
- 3D. **Contract Agreement with Deco Bike for Bicycle Rental Services in Public Spaces** - Hector Gomez, Town Manager

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, APPROVING A SECOND AMENDMENT TO THE CONCESSION AGREEMENT WITH DECO BIKE, LLC PROVIDING FOR RENEWAL OF THE AGREEMENT; FINDING THAT THE SERVICES ARE EXEMPT AS ORIGINALLY COMPETITIVELY PROCURED PURSUANT TO CITY OF MIAMI BEACH RFP NO. 44-07/08 AND FINDING A SOLE SOURCE SERVICE PURSUANT TO SECTION 3-13(6) OF THE TOWN CODE; PROVIDING FOR AUTHORIZATION AND IMPLEMENTATION OF THE AMENDMENT; AND PROVIDING FOR AN EFFECTIVE DATE.

[Attachment A - Deco Bike, LLC Concession Agreement](#)
[Attachment B - Ridership Data in 2023](#)
[Attachment C - Sole Source Justification](#)
[Resolution Approving A Second Amendment To A Deco-Bike Agreement](#)
[Redlined - Second Amendment to Deco Bike Agreement](#)

- 3E. Ratification, Approval and Acceptance of Grant Agreement with the State of Florida Department of Environmental Protection (FDEP) for a Town of Surfside Comprehensive Vulnerability Assessment and Town Hall Adaptation Plan - Hector Gomez, Town Manager**

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, RATIFYING THE ACCEPTANCE OF A FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION (FDEP) RESILIENT FLORIDA GRANT FOR THE TOWN COMPREHENSIVE VULNERABILITY ASSESSMENT AND ADAPTATION PLAN AND THE EXECUTION OF A GRANT AGREEMENT RELATING TO THE GRANT; PROVIDING FOR IMPLEMENTATION; AND PROVIDING FOR AN EFFECTIVE DATE.

[Resolution Ratifying Acceptance of FDEP Grant and Execution of Grant Agreement - Vulnerability Assessment.DOCX](#)
[Exhibit A - Town of Surfside Comprehensive Vulnerability Assessment and Adaptation Plan](#)

- 3F. Authorization to Expend Towards Youth Soccer Recreational Programming for Fiscal Year 2024 - Hector Gomez, Town Manager**

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, APPROVING AN AGREEMENT WITH ALVES SPORTS GROUP LLC FOR THE TOWN'S YOUTH SOCCER PROGRAM FOR FISCAL YEAR 2023/2024; FINDING THAT THE SERVICES ARE EXEMPT FROM COMPETITIVE PROCUREMENT PURSUANT TO SECTION 3-13(7)(D) OF THE TOWN CODE; AUTHORIZING EXPENDITURE OF FUNDS; PROVIDING FOR IMPLEMENTATION; AND PROVIDING FOR AN EFFECTIVE DATE.

[Attachment A - 23/24 Alves Sports Youth Agreement](#)
[Resolution Approving Youth Soccer Agreement With Alves Sports Group.DOCX](#)

- 3G. Authorization to Expend Towards Tennis Center Recreational Programming for Fiscal Year 2024 - Hector Gomez, Town Manager**

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, APPROVING AN AGREEMENT WITH GM SPORTS TENNIS, LLC FOR THE TOWN'S YOUTH TENNIS PROGRAM FOR FISCAL YEAR 2023/2024; FINDING THAT THE SERVICES ARE EXEMPT FROM COMPETITIVE PROCUREMENT PURSUANT TO SECTION 3-13(7)(D) OF THE TOWN CODE; AUTHORIZING EXPENDITURE OF FUNDS; PROVIDING FOR IMPLEMENTATION; AND PROVIDING FOR AN EFFECTIVE DATE.

[Attachment A - 23/24 GM Tennis agreement](#)
[Resolution Approving Youth Tennis Agreement With GM Sports Tennis.DOCX](#)

- 3H. Parks and Recreation Special Event Vendor, Premier Bounce N Slide Party Rentals, LLC Contract and Expenditure Approval - Hector Gomez, Town Manager**

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, APPROVING AN AGREEMENT WITH PREMIER BOUNCE N SLIDE PARTY RENTALS, LLC FOR THE TOWN'S PARKS AND RECREATION SPECIAL EVENTS IN AN AMOUNT NOT TO EXCEED \$92,000 FOR FISCAL YEAR 2023/2024; AUTHORIZING THE TOWN MANAGER TO EXECUTE AN AGREEMENT FOR THE SERVICES; FINDING THAT THE SERVICES ARE EXEMPT FROM COMPETITIVE BIDDING PURSUANT TO SECTION 3-13(7)(D) OF THE TOWN CODE; PROVIDING FOR IMPLEMENTATION; AND PROVIDING FOR AN EFFECTIVE DATE.

[Resolution Approving Agreement with Premier Bounce N Slide Party Rentals LLC - FY 2023-2024](#)
[Attachment A - Premier Bounce N Slide LLC Contract](#)

- 3I. Sky Elements, LLC 4th of July Drone Show Contract and Expenditure Approval - Hector Gomez, Town Manager**

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, APPROVING AN AGREEMENT WITH SKY ELEMENTS, LLC FOR FOURTH OF JULY DRONE LIGHT SHOW SERVICES; AUTHORIZING THE TOWN MANAGER TO NEGOTIATE AND ENTER INTO THE AGREEMENT FOR THE SERVICES; FINDING THAT THE SERVICES ARE EXEMPT FROM COMPETITIVE BIDDING PURSUANT TO SECTION 3-13(7)(C) AND 3-13(17)(D) OF THE TOWN CODE; PROVIDING FOR IMPLEMENTATION; AND PROVIDING FOR AN EFFECTIVE DATE.

[Resolution Approving Sky Element for July 4th Drone Show.DOCX](#)
[Exhibit A-Sky Element drone show proposal.pdf](#)
[Exhibit B-Sky Element 3 year agreement.docx](#)
[Exhibit A-Scope of Service to the Agreement-Sky Element drone show proposal.pdf](#)

- 3J. Community Development Block Grant Urban County Qualification - Hector Gomez, Town Manager**

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, APPROVING THE TOWN'S ELECTION TO PARTICIPATE AND THE EXECUTION OF THE URBAN QUALIFICATION COOPERATION AGREEMENT FOR THE MIAMI-DADE COUNTY COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) AND HOME INVESTMENT PARTNERSHIPS PROGRAM FUNDS FOR FISCAL YEARS 2024, 2025, AND 2026; AUTHORIZING THE TOWN MANAGER TO EXECUTE THE AGREEMENT; PROVIDING FOR IMPLEMENTATION AND AN EFFECTIVE DATE.

[Resolution - MD County CDBG Program for FY 2024-2026](#)
[Exhibit A - "Town of Surfside Agreement"](#)

- 3K. Approving and Authorizing the Purchase of Four (4) 2023 Police Vehicles and Equipment Budgeted for Fiscal Year 2024 - Hector Gomez, Town Manager**

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, APPROVING AND AUTHORIZING THE PURCHASE OF FOUR (4) 2023 FORD POLICE INTERCEPTOR UTILITY VEHICLES TOGETHER WITH EMERGENCY LIGHTING EQUIPMENT AND RADIO EQUIPMENT FOR THE POLICE VEHICLES; WAIVING COMPETITIVE BIDDING FOR THE POLICE VEHICLES PURSUANT TO SECTION 3-12 OF THE TOWN CODE; FINDING THAT THE PURCHASE OF THE EMERGENCY LIGHTING EQUIPMENT AND RADIO EQUIPMENT ARE EXEMPT FROM COMPETITIVE BIDDING PURSUANT TO SECTION 3-13(3) OF THE TOWN CODE; PROVIDING FOR IMPLEMENTATION; AND PROVIDING FOR AN EFFECTIVE DATE.

[Exhibit A - Legacy Ford - four \(4\) Police Vehicles](#)

[Exhibit B - HG2 Emergency Lighting - Equipment](#)

[Exhibit C - One \(1\) Vehicle radio - Surfside Police Dept. - \(1\) APX6500](#)

[Mobiles_101923](#)

[Attachment A - Email Garber Ford](#)

[Attachment B - FSA23-VEL31.0](#)

[Resolution Approving Purchase of Police Vehicles Lighting And Radio 2023 - Legacy Ford.DOCX](#)

- 3L. Approval to Expend up to \$75,000 for Continued Grant Administration and Project Management Support Services through In Alignment Consulting - Town Manager Hector Gomez**

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, APPROVING THE EXPENDITURE OF UP TO SEVENTY-FIVE THOUSAND DOLLARS FOR CONTINUED PROFESSIONAL SERVICES AGREEMENT PROVIDED BY IN ALIGNMENT CONSULTING, LLC FOR GRANT ADMINISTRATION AND PROJECT MANAGEMENT SUPPORT SERVICES; AUTHORIZING THE TOWN MANAGER TO EXPEND FUNDS; PROVIDING FOR IMPLEMENTATION; AND PROVIDING FOR AN EFFECTIVE DATE.

[Resolution Approve Second Amendment - In Alignment Consulting - FY 2023 24.DOCX](#)

[Second Amendment to PSA - In Alignment - FY 2023 24.DOCX](#)

- 3M. Authorization to Purchase a Takeuchi Track Skid Steer from ALTA Equipment Company through 2023 Florida Sheriff Bid Pricing - Hector Gomez, Town Manager**

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, APPROVING AND AUTHORIZING THE PURCHASE OF A TAKEUCHI TL12V2-R COMPACT TRACK LOADER AND AUXILIARY ITEMS FROM ALTA CONSTRUCTION EQUIPMENT FLORIDA, LLC; FINDING THAT THE PURCHASE OF THE TRACK LOADER AND AUXILIARY ITEMS ARE EXEMPT FROM COMPETITIVE BIDDING PURSUANT TO SECTION 3-13(7) OF THE TOWN CODE; PROVIDING FOR IMPLEMENTATION; AND PROVIDING FOR AN EFFECTIVE DATE.

[Attachment A - Equipment Cost and Specifications](#)

[Resolution Approving Purchase of PW Track Loader from ALT.DOCX](#)

3N. Approving and Authorizing the Purchase of Nine (9) Motorola Police Radios for the Parking Enforcement Officers - Hector Gomez, Town Manager

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, APPROVING THE PURCHASE OF HANDHELD RADIOS FROM MOTOROLA SOLUTIONS, INC. FOR THE TOWN'S POLICE DEPARTMENT; FINDING THAT THE PURCHASE IS EXEMPT FROM COMPETITIVE BIDDING PURSUANT TO SECTION 3-13(3) OF THE TOWN CODE; PROVIDING FOR AUTHORIZATION; PROVIDING FOR IMPLEMENTATION; AND PROVIDING FOR AN EFFECTIVE DATE.

[Resolution Approving Purchase of Handheld Radios - Motorola - County Contract.DOCX](#)

[Exhibit A - Piggyback Agreement - Motorola Solutions - Handheld Radios for Parking Enforcement - 2023.DOCX](#)

[Exhibit B - \(9\) Motorola Radios - QUOTE](#)

3O. Banking Extension Agreement with Truist Bank for Treasury Banking Services - Hector Gomez, Town Manager

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, APPROVING A BANKING EXTENSION AGREEMENT WITH TRUIST BANK FOR DEPOSITORY AND TREASURY SERVICES; AUTHORIZING THE TOWN MANAGER TO EXECUTE THE EXTENSION AGREEMENT; PROVIDING FOR IMPLEMENTATION; AND PROVIDING FOR AN EFFECTIVE DATE.

[Attachment A - Polk State College Contract Extension 2023 Executed](#)

[Attachment B - Suntrust Treasury Management Existing Agreement - 2019](#)

[Resolution Approving Banking Extension Agreement with Truist Bank - Banking Services.DOCX](#)

[Attachment A - Truist Contract Extension 2023](#)

3P. Design Review and Zoning Fee Schedule - Hector Gomez, Town Manager

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, ADOPTING A PLANNING AND ZONING FEE SCHEDULE FOR DESIGN REVIEW AND RELATED SERVICES; AUTHORIZING THE TOWN MANAGER TO AMEND THE FEE SCHEDULE; PROVIDING FOR IMPLEMENTATION; AND PROVIDING FOR AN EFFECTIVE DATE.

[Resolution Adopting Planning and Zoning Fee Schedule.DOCX](#)

[Attachment A - Proposed Fee Structure](#)

3Q. Authorization to Expend towards Curb Installation and Landscape Removal pertaining to Downtown Walkability Project - Hector Gomez, Town Manager

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, APPROVING AND AUTHORIZING THE EXPENDITURE OF FUNDS IN AN AMOUNT NOT TO EXCEED \$88,000.00 FOR THE DOWNTOWN WALKABILITY PROJECT, CURB INSTALLATION AND LANDSCAPE RENEWAL; PROVIDING FOR IMPLEMENTATION; AND PROVIDING FOR AN EFFECTIVE DATE.

[Attachment A - Downtown Walkability Cost Estimate.pdf](#)

[Attachment B- Downtown Walkability Curb Construction Drawings.pdf](#)
[Attachment C - Concrete Rates](#)
[Resolution Authorizing Expenditure of Funds - Downtown Walkability Project Curb Install & Landscape Renewal](#)
[Attachment A - Downtown Walkability Cost Estimate.pdf](#)

4. Ordinances

Second Reading

- 4A1. Ordinance Amending Citizen Presentation Rules** - Hector Gomez, Town Manager

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA AMENDING THE TOWN OF SURFSIDE CODE OF ORDINANCES BY AMENDING SECTION 2-206 “PUBLIC PARTICIPATION” RELATING TO CITIZENS PRESENTATIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

[Ordinance Amending Sec. 2-206 Re Citizens Presentations - Second Reading](#)

- 4A2. Amending Sec. 14-28. - Issuance of Building Permits and Amending Sec. 62-1. - Garage Sales to Simplify Town Permitting Requirements for Non-Essential Permits** - Hector Gomez, Town Manager

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA AMENDING THE TOWN OF SURFSIDE CODE OF ORDINANCES BY AMENDING SECTION 14-28, “ISSUANCE OF BUILDING PERMITS,” AND SECTION 62-1, “GARAGE SALES,” TO SIMPLIFY AND REVISE THE TOWN’S NON-CRITICAL PERMITTING REQUIREMENTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

[Ordinance Amending Section 14-28 and 62-1 Relating to Low Value Building Permits and Garage Sales](#)

- 4A3. Amending Chapter 72 of the Town Code to Address Utilities Lines Undergrounding for Future Communication Improvements** - Hector Gomez, Town Manager

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, AMENDING THE TOWN OF SURFSIDE CODE OF ORDINANCES BY AMENDING CHAPTER 72 “TELECOMMUNICATIONS”, SECTION 72-28 “DEFINITIONS,” SECTION 72-31 “PLACEMENT OR MAINTENANCE OF A COMMUNICATIONS FACILITY IN PUBLIC RIGHTS-OF-WAY”, AND SECTION 72-35 “EXISTING COMMUNICATIONS FACILITIES IN PUBLIC RIGHTS-OF-WAY” TO REQUIRE UNDERGROUNDING OF ALL NEW COMMUNICATIONS LINES WITHIN THE TOWN’S BOUNDARIES; PROVIDING FOR SEVERABILITY; PROVIDING FOR SEVERABILITY; INCLUSION IN THE CODE; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

[Ordinance Business Impact Estimate Template.pdf](#)

[Ordinance Amending Ch. 72 Telecommunications Right-of-Way Ordinance for Undergrounding](#)

- 4A4. Update to Water Shortage Regulations Section of the Town Code to be Consistent with Miami-Dade County and South Florida Water Management District - Hector Gomez, Town Manager**

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, AMENDING ARTICLE VI. - "WATER SHORTAGE REGULATIONS" OF CHAPTER 78 - "UTILITIES," OF THE TOWN'S CODE OF ORDINANCES TO INCORPORATE APPLICABLE MIAMI-DADE COUNTY PERMANENT YEAR-ROUND LANDSCAPE IRRIGATION RESTRICTIONS AND PROVIDE FOR ENFORCEMENT BY THE TOWN; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

[Attachment A - SFWMD Letter dated July 20 2023](#)

[Attachment B - Sec. 32.8.2 - Permanent year round landscape irrigation restrictions Ordinance Water Use Regulations - 2nd Reading TAv2.DOCX](#)

- 4A5. Creation of New Capital Improvement Projects Chapter within the Town Code - Hector Gomez, Town Manager**

AN ORDINANCE OF THE TOWN OF SURFSIDE, FLORIDA, AMENDING THE CODE OF ORDINANCES BY ADOPTING CHAPTER 73, "CAPITAL IMPROVEMENT PROJECTS," PROVIDING FOR A DEFINITION OF TOWN "CAPITAL IMPROVEMENT PROJECTS"; AND ESTABLISHING THE METHOD FOR PLANNING, BUDGETING, AND IMPLEMENTING SUCH PROJECTS; AND PROVIDING FOR SEVERABILITY, CONFLICTS, CODIFICATION AND AN EFFECTIVE DATE.

[Ordinance Creating Capital Improvement Projects Department](#)

First Reading

- 4B1. Code Amendment for Outdoor Lighting in the Single-Family Residential Districts - Hector Gomez, Town Manager**

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, AMENDING THE TOWN OF SURFSIDE CODE OF ORDINANCES BY AMENDING SECTION 90-62 – "OUTDOOR LIGHTING" TO PROVIDE OUTDOOR LIGHTING REGULATIONS FOR SINGLE-FAMILY RESIDENTIAL DWELLINGS; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

[Ordinance Amending Section 90-62 Outdoor Lighting for Single-Family Dwellings.DOCX](#)

5. Resolutions and Proclamations

If the public wishes to speak on any matters in this section of the agenda, they must inform the Town Clerk by completing a speaker card and they will be

recognized to speak at the beginning of this section.

5A. PUBLIC HEARING ITEM

On Demand Transit Services Through FREEBEE Ride Share

- Hector Gomez, Town Manager

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, ACCEPTING PUBLIC HEARING COMMENTS RELATING TO THE ESTABLISHMENT OF AN ON-DEMAND TRANSIT SERVICE TO REPLACE THE EXISTING TOWN SHUTTLE SERVICE AND USE OF TRANSPORTATION SURTAX PROCEEDS FOR THE SERVICE; CONFIRMING PUBLIC COMMENT PERIOD; AND PROVIDING FOR AN EFFECTIVE DATE.

[Resolution Accepting Public Comments and Providing Comment Period - On-Demand Transit.DOCX](#)

[Attachment A - Public Notice](#)

[Attachment B - Proof of Advertisement](#)

5B. Resolution in Support of SB 172 in Support of Veteran Housing - Commissione Marianne Meisheid

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, URGING THE FLORIDA LEGISLATURE TO ADOPT SB 172, WHICH WOULD REQUIRE THE DEPARTMENT OF REVENUE TO ESTABLISH A PROPERTY TAX EXEMPTION OR DISCOUNT ELIGIBILITY VERIFICATION PROCEDURE FOR CERTAIN DISABLED VETERANS AND SURVIVING SPOUSES BEFORE PURCHASING PROPERTY; PROVIDING FOR TRANSMITTAL; AND PROVIDING FOR AN EFFECTIVE DATE.

[Resolution Urging FL Legislature to Adopt SB 172 Re Verification of Eligibility for Veterans Property Tax Exemption](#)

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

Public comments for subjects or items not on the agenda.

7. Town Manager and Town Attorney Reports

7A. Town Manager's Report - Hector Gomez, Town Manager

[2023-11 November Town Manager's Report](#)

7B. Town Attorney's Report - Lillian Arango, Town Attorney

[Town Attorney Report Nov. 2023.DOCX](#)

8. Unfinished Business and New Business

9. Mayor, Commission and Staff Communications

9A. Permit Fees for Condominium Recertification and Special Assessments - Commissioner Meisheid

9B. Retaining Walls in H30A and H30B - Jeffrey Rose, Vice Mayor

[Attachment A: Miami Beach Code on Retaining Walls](#)

- 9C. Consideration for Town of Surfside donation to Magen David Adom, Israeli's National Services** - Commissioner Fred Landsman
[Magen David Adom - Not-For-Profit Organizations Form \(11-22-19\).pdf](#)
[IRS-letter-confirming-501c3-status-for-AFMDA.pdf](#)
[FL Tax Exempt Cert.pdf](#)
[2021-990-AFMDA-Public-Disclosure.pdf](#)
[The Town of Surfside.pdf](#)
- 9D. Regulation/Prohibitions on Camping on Public and Private Property** - Shlomo Danzinger, Mayor
[Ordinance-Amend Section 70-45 Camping Prohibited to Comply with Joel v City of Orlando.pdf](#)
[Camping Resolution.docx](#)
- 9E. Zoning Code Amendment** - Commissioner Marianne Meischeid

10. Adjournment

Respectfully submitted,

Hector R. Gomez
Town Manager

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.townofsufsidefl.gov.

TWO OR MORE MEMBERS OF THE TOWN COMMISSION AND/OR 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.



MEMORANDUM

ITEM NO. 3A.

To: Honorable Mayor, Vice-Mayor and Members of the Town Commission

From: Sandra N. McCready, MMC, Town Clerk

Date: November 14, 2023

Subject: **Approval of Minutes**

[October 10, 2023 Regular Town Commission Meeting Minutes.pdf](#)



**Town of Surfside
Regular Town Commission Meeting
MINUTES**

October 10, 2023

6:00 PM

Commission Chambers - 9293 Harding Avenue
Surfside, FL 33154

1. Opening

1A. Call to Order

Mayor Danzinger called the meeting to order at 6:06 p.m.

1B. Roll Call of Members

Town Clerk McCready called the roll with the following members present.

Present: Mayor Shlomo Danzinger, Vice Mayor Jeffrey Rose, Commissioner Fred Landsman, Commissioner Marianne Meisheid and Commissioner Nelly Velasquez.

Also Present: Town Attorney Lillian Arango, Town Attorney Tony Recio and Town Manager Hector Gomez

1C. Pledge of Allegiance

Members of the Young Marines provided the pledge of allegiance.

1D. Mayor and Commission Remark - Mayor Shlomo Danzinger

Mayor Danzinger welcomed everyone here today and will save his remarks for Community Notes.

Commissioner Landsman requested a moment of silence for the terrible terrorist attacks in Israel and for all those that were killed and those that have to deal with future trauma. He stated that the Town of Surfside supports Israel. He also stated the following statement into the record: "I stand with Israel! My thoughts and prayers go out to all Israelis affected by the terrorist attack on Saturday. Surfside stands with Israel! On a more local level, I want to thank all of our Town Staff and employees for their hard work and dedication to the Town of Surfside. Special thanks to: Town Manager, Hector Gomez, Town Attorneys, Lillian Arango and Tony Recio, Town Clerks, Sandra McCready and Evelyn Herbello, Town Planner Judith Frankel, Police Chief John Healy. Every day you all go above and beyond to support and enable our town and our residents to move forward and prosper".

Commissioner Meischeid hopes for peace abroad and at home and they are tasked tonight with items before us and they live by the decisions they make. She spoke regarding how quickly the meeting of September 27, 2023 finished and their deliberation and preempted motion to end the debate. She stated they did not have time to cross-examine Damac representatives. She spoke about the discussion that took place regarding that project during the September 27, 2023 meeting.

Commissioner Velasquez thanked everyone for being here tonight and she does stand for Israel and the violence that happened is unacceptable and there are ways to negotiate without acts of terrorists. She thanked Commissioner Meischeid for mentioning last commission meeting and they did not have time to cross examine regarding the project and they were not allowed to ask questions. She spoke regarding the location of the loading dock for the project.

Vice Mayor Rose thanked everyone and his thoughts and prayers to the people in Israel as well as those in Surfside that have connection in Israel. He thanked Commissioner Landsman for his comments made and thanking Town Staff. He thanked Town Manager Gomez, Public Works Director, Assistant Director and staff for the work they have been doing cleaning the beach and the lighting path as well as the projects around Town and all is done inhouse by our Public Works Department and the money they are saving the Town.

1E. Agenda and Order of Business Additions, deletions and linkages

A motion was made by Vice Mayor Rose to move item 9A (Formal Complaints regarding Commissioner Nelly Velasquez) to be heard before item 3 (Consent Agenda), seconded by Commissioner Landsman. The motion carried with a 3-2 vote with Commissioner Velasquez and Commissioner Meischeid voting in opposition.

Town Manager Gomez spoke regarding a walk on item for the purchase of police vehicles and due to some changes that took place they have to do some adjustment to the previously approved resolution. He would like to add it to Section 5 (Resolution and Proclamations).

A motion was made by Vice Mayor Rose to walk on a resolution as new item 5B (Resolution Approving and Authorizing the Purchase of Five (5) 2023 Police Vehicles), seconded by Commissioner Landsman. The motion carried with a 5-0 vote.

Mayor Danzinger would like to move item 1F (Community Notes) at the end of items 1 (Opening), add a resolution in support of Israel after item 1F (Community Notes) to be the new 1K (Resolution in Support of Israel) and add an item (Item 1J) (Coastal Corridor Liaison) to appoint a liaison for the coastal corridor.

A motion was made by Vice Mayor Rose to move item 1F (Community Notes) at the end of items 1 (Opening), add a resolution in support of Israel after item 1F (Community Notes) to be the new 1K (Resolution in Support of Israel) and add an item (Item 1J) (Coastal Corridor Liaison) to appoint a liaison for the coastal corridor, seconded by Commissioner Landsman. The motion carried with a 5-0 vote.

1F. Community Notes - Mayor Shlomo Danzinger

Heard after item 1G (Red Ribbon Week Proclamation).

Mayor Danzinger spoke regarding the different upcoming events in Town. He recognized Town staff anniversaries and congratulated staff. He spoke regarding the rules of decorum and reminded all the public and those on the dais.

Police Chief Healy spoke to the Commission and the residents and stated he will be retiring effective October 13, 2023. He stated that things change in life and spoke regarding his health issues and for that reason he chose to retire. He stated it was his decision and Town Manager Gomez asked him to take some time and think about it and he has decided that he will be retiring. He will not be leaving this Town and nobody has been pushing him to leave which has been going around and that is not correct. This is a decision that he and his wife have decided to take in order to take care of himself. He thanked the Town Manager for being a great mentor.

Mayor Danzinger thanked Chief Healy for his service.

Town Manager Gomez thanked Chief Healy for putting all his heart and soul into this. He stated that Friday, October 13th will be his last day and he has asked Assistant Chief Marciante to be Interim Chief and he has the utmost trust in the department.

Mayor Danzinger echoed some of the words of the commission and spoke regarding the horrible terrorist attack in Israel. He said a prayer to defend the people of Israel in Hebrew.

1G. Red Ribbon Week Proclamation - Mayor Shlomo Danzinger

For the commission to approve the Red Ribbon Week Proclamation as presented.

New Item 1F.

Mayor Danzinger introduced the item and read the proclamation into the record and presented it to the Young Marines and recognizing those that have lost their lives by keeping the drugs off our streets like Kiki Camarana.

A representative from the Young Marines spoke regarding the Kiki Camarana Memorial and thanked him for protecting the country from the incoming of drugs and he has died for that cause.

A motion was made by Vice Mayor Rose to approve the proclamation, seconded by Commissioner Landsman. The motion carried with a 5-0 vote.

[Red Ribbon Week Request - Oct 2023.pdf](#)

[Red Ribbon Week - Oct 2023.pdf](#)

1H. National Community Planning Proclamation - Shlomo Danzinger, Mayor

For the Commission to approve the National Community Planning Proclamation as

presented.

New Item 1G.

Mayor Danzinger introduced the item and thanked our Town Planner and Planning and Zoning Board. He read the proclamation into the record and presented it to Town Planner Judith Frankel and members of the Planning and Zoning Board.

A motion was made by Vice Mayor Rose to approve and present the proclamation, seconded by Commissioner Landsman. The motion carried with a 5-0 vote.

[National Community Planning Month Request - Oct 2023.pdf](#)

[National Community Planning Month - Oct 2023.pdf](#)

1K) Resolution in Support of Israel

Town Clerk McCready read the title of the resolution into the record.

Mayor Danzinger introduced the item.

A motion was made by Commissioner Landsman to approve the resolution, seconded by Vice Mayor Rose.

Mayor Danzinger opened the floor to public comments.

There were no public speakers.

Mayor Danzinger closed the floor to public comments.

Commissioner Landsman thanked Mayor Danzinger for bringing this forward and the Town of Surfside stands hand in hand with the brothers and sisters in Israel.

The motion carried with a 5-0 vote.

1J.) Coastal Corridor Liaison

New Item 1H.

Mayor Danzinger introduced former Mayor Daniel Dietch. He stated Daniel Dietch founded this initiative and they are seeking to have him represent the Town at these meetings.

Town Manager Gomez gave a quick brief of the item and the level of direction being requested.

Former Mayor Dietch spoke regarding this initiative and the importance of this project.

Mayor Danzinger spoke regarding the initiative he spoke about at his last trip to Tallahassee.

Mayor Danzinger passed the gavel and made a motion.

A motion was made by Mayor Danzinger to appoint Daniel Dietch as the Town Liaison/Representative to this Committee, seconded by Commissioner Meisheid. The motion carried with a 5-0 vote.

Commissioner Velasquez asked if this is like a PACE program which is a loan taken out on their house based on the repairs being done.

Mr. Dietch stated correct and explained it provides another option to those that would not qualify for a loan and it is a home equity and that would carry with the sale of the property.

Commissioner Velasquez asked where these meetings would take place and is there a cost to the Town for being a liaison.

Mr. Dietch stated that Bal Harbour usually has the meetings and this one will be hosted by the Village of Biscayne Park. He stated there is no cost.

2. Quasi-Judicial Hearings

3. Consent Agenda

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 by completing a speaker card. They will be recognized to speak prior to the approval of the consent agenda.

Mayor Danzinger opened the floor to public comments.

The following individual from the public spoke:

Tricia Fowley spoke regarding item 3I (Authorization to Execute Project Agreement with Kimley-Horn and Associates, Inc. and Expend Funds for Design and Engineering Services for the Town's Utilities Undergrounding Project).

Mayor Danzinger closed the floor to public comments.

Mayor Danzinger addressed the comments made by the public speaker.

Town Manager Gomez introduced the item and spoke regarding area 3 and how you go into Biscaya and explained the process.

Mayor Danzinger wanted to thank Jose Feliz, IT and Town Manager Gomez on item 3F (Approval of Lease Agreement with Dell Financial Services for Town Operating Desktops,

Laptops & Monitors) for doing their due diligence and saving the Town over \$24,000 on this item alone by going back to the table and renegotiating a better contract. This shows how Town staff continues to look for areas to save our Town money.

Vice Mayor Rose wanted to thank their grant writer Kristina Brown. He stated if they look at the amount of grant funding they are receiving and it is the best decision they have made is to hire her.

Mayor Danzinger stated Kristina has brought a lot of money to the Town and thanked Town Manager Gomez for bringing her on board.

Town Manager Gomez stated that her title is Grants and Procurement Coordinator and she does both for the Town.

Commissioner Velasquez asked regarding item 3G (Ratification of Deductive Change Orders and Authorization to Expend for Additive Change Orders Pertaining to 96 Street Park Construction) and she sees there is a savings from the contract with Lunacon but then this is transposed to the Town purchasing these items themselves and it is a bit confusing to the residents. She stated that it is mentioned that there is a savings by the Town purchasing these and would like for the Town Manager to explain.

Town Manager Gomez provided the explanation. He stated that in their contract they have a certain provision that allows them to do direct purchases as an owner and owner direct purchases. This allows them to buy directly from the manufacturer and not through a contractor. He provided an explanation and how larger purchases will represent savings since they are tax exempt.

Commissioner Velasquez asked regarding item 3H (Supplemental Fees for Architectural and Engineering Services Related to the Tennis Community Center Project) and the increase in square footage and what occurred that caused this and it would probably double the price. She also asked how much space it would occupy of the park. She asked if there was community outreach to see if the residents wanted it.

Town Manager Gomez addressed the comment made and explained as it went through different public and commission engagement it became more like a recreation center and not only a tennis center and it increased the size of the project. There are some fixed fees that did not increase but supplemental fees did increase. He addressed the comments regarding the amount of space it would occupy of the park and it will have a cantilever component and it does have some design limits and the first floor will be bigger. He stated the site plan is on the website.

Mayor Danzinger stated it was an initiative that was brought to the commission at the

budget workshops and public hearing.

Town Manager Gomez stated the Parks and Recreation Committee did participate in this process and there was outreach to the public and it was discussed at the Commission Meeting. He stated it was on the website, a survey was sent out and it was advertised and there was input by residents.

Mayor Danzinger stated that there was public outreach through the Parks and Recreation Committee.

A motion was made by Vice Mayor Rose to approve the consent agenda, seconded by Commissioner Landsman. The motion carried with a 5-0 vote.

3A. Approval of Minutes - Sandra N. McCreedy, MMC, Town Clerk

Approved on consent.

[September 12, 2023 Special Town Commission Meeting Minutes-First Budget Hearing.pdf](#)

[September 12, 2023 Regular Town Commission Meeting Minutes.pdf](#)

[September 27, 2023 Final Budget Hearing-Special Commission Meeting Minutes.pdf](#)

[September 27, 2023 Special Town Commission Meeting-Quasi Judicial Hearing Meeting Minutes.pdf](#)

3B. Board and Committee Minutes - Sandra N. McCreedy, Town Clerk

Approved on consent.

[August 7, 2023 Tourist Board Meeting Minutes.pdf](#)

[August 21, 2023 Parks and Recreation Committee Meeting Minutes.pdf](#)

3C. Approval and Acceptance of a State-funded Grant Agreement between the State of Florida Department of Commerce and the Town of Surfside for the Downtown Alleyway Surfside Project - Hector Gomez, Town Manager

Town Administration recommends approval of the attached resolution.

Approved on consent.

[Resolution Approving Grant from FDOC Downtown Alleyway Surfside Project Exhibit A - Agreement with the FDOC.pdf](#)

3D. FY 2024 Budget Amendment Resolution No. 1 - Hector Gomez, Town Manager

Town Administration recommends approval of Budget Amendment Resolution Number 1

Approved on consent.

[Resolution Approving Budget Amendment No. 1 for FY 2024 Attachment A - FY2024 Budget Amendment No. 1](#)

3E. Resolution authorizing Mutual Aid Agreement between the City of Sweetwater Police Department and the Town of Surfside Police Department. - Hector Gomez, Town Manager

Town Administration recommends approval of the Resolution authorizing the Mutual Aid Agreement between the City of Sweetwater and the Town of Surfside Police Department.

Approved on consent.

[Resolution Approving Mutual Aid Agreement - City of Sweetwater](#)

[Exhibit A - Mutual Aid Agreement - Surfside](#)

3F. Approval of Lease Agreement with Dell Financial Services for Town Operating Desktops, Laptops & Monitors - Hector Gomez, Town Manager

Town Administration recommends approval of the resolution authorizing execution of the attached agreement and to expend required funds.

Approved on consent.

[Reso Approving Lease of Computer Equipment with Dell](#)

[Exhibit A - Dell Financial Services LLC Lease Term Agreement \(Laptops, Desktops & Peripheral Equipment\)](#)

[Exhibit B - State of Florida Dell Original Participating Addendum](#)

[Exhibit B - State of FL Contract Amendment No. 1 thru No. 6](#)

3G. Ratification of Deductive Change Orders and Authorization to Expend for Additive Change Orders Pertaining to 96 Street Park Construction - Hector Gomez, Town Manager

The Town Administration is seeking a ratification of deductive change orders (Change Order # 01 and Change Order # 02) to date pertaining to 96th Street Park construction with Lunacon Construction. Furthermore, the Town Administration is seeking authorization to expend and not to exceed an amount of \$272,829.50 towards additive change orders (Change Order # 03 and Change Order # 04) for the 96th Street Park construction. Between all change orders a total of 31 additional days were added due to design changes and weather delays. Additionally, the Town administration is requesting \$150,000 in contingency allowance in order to mitigate future change orders that may be affiliated with construction and design services.

Approved on consent.

[Resolution Approving Four Change Orders to Lunacon Construction Contract](#)

[Exhibit A - Change Order # 01 \(Executed\)](#)

[Exhibit B - Change Order # 02 \(Executed\)](#)

[Exhibit C - Change Order #3](#)

[Exhibit D - Change Order #4](#)

3H. Supplemental Fees for Architectural and Engineering Services Related to the Tennis Community Center Project - Hector Gomez, Town Manager

Town Administration is requesting Town Commission approval of The Corradino Group, Inc. proposal dated September 5, 2023, (**Attachment A - The Corradino Group Proposal 09/5/2023**) for supplemental services related to the Tennis Community Center project in the amount of \$147,400 in order to cover additional architectural and engineering services that resulted from the approval of schematic phase design provided to the Town Commission during the July 2023 General Town Commission meeting. The approval would be an amendment to the existing contract.

Approved on consent.

[Resolution Approving Additional Service Revision w Corradino for Tennis Center Building Impr Project](#)

[Exhibit A - First Amendment Project Agreement with Corradino Group Inc for Tennis Center Building Improvements Project](#)

[Exhibit B - The Corradino Group Proposal 09/5/2023](#)

[Exhibit C - Fee Breakdown](#)

3I. Authorization to Execute Project Agreement with Kimley-Horn and Associates, Inc. and Expend Funds for Design and Engineering Services for the Town's Utilities Undergrounding Project - Hector Gomez, Town Manager

Town Administration recommends that the Town Commission authorize the Town Manager to execute a Project Agreement with Kimley-Horn and Associates, Inc. for scope of work as outlined in Kimley-Horn and Associates, Inc. proposal dated August 18, 2023, and expend up to \$2,431,400 for scope of work outlined.

Approved on consent.

[Resolution Approving Project Agreement with Kimley Horn for Design Engineering Services - Utilities Undergrounding Project.pdf](#)

[Attachment A - Kimley Horn Design Services Proposal.pdf](#)

[Attachment B - Project Agreement-Design and Engineering for Utilities Undergrounding Project](#)

4. Ordinances

Second Reading

4A1. Pension Ordinance Extending DROP Participation for Non-Union Members from 60 to 72 Months to be Consistent with FOP Benefits - Hector Gomez, Town Manager

The Town Administration recommends approval of the proposed Ordinance.

Town Clerk McCready read the title of the ordinance into the record.

Town Manager Gomez introduced the item he stated it increased the DROP from 5

years to 6 years.

Mayor Danzinger opened the floor to public comments.

There were no public speakers.

Mayor Danzinger closed the floor to public comments.

Commissioner Meischeid says it is fine going from 5 to 6 years at no cost to the town.

Vice Mayor Rose stated it is nice that the employees would like to stay an additional year.

A motion was made by Vice Mayor Rose to approve the ordinance on second reading, seconded by Commissioner Landsman. The motion carried with a 5-0 vote.

[Pension Ordinance - DROP Extension Non-Union.docx](#)

[Attachment A- Actuarial Impact Statement.pdf](#)

4A2. Ordinance Amending Section 90-41 Regulated Uses - Arcades - Hector Gomez, Town Manager

Town Administration finds that decoupling typical arcade games from liquor establishments is appropriate. This alteration to the Code may contribute to the Town's unique cultural, retail, and dining experiences, and may compliment a variety of uses that are vital to the Town's residents, economy, and tourism industry. The Planning and Zoning Board, at their September meeting, recommended approval of this ordinance.

Town Clerk McCready read the title of the ordinance into the record.

Town Manager Gomez introduced the item. He deferred it to the Town Attorney since there was something that was caught from first reading to second reading.

Town Attorney Arango stated there are no changes from first to second reading.

Mayor Danzinger opened the floor to public comments.

The following individual from the public spoke:

Eliana Salzhauer stated there should be prohibition in selling alcohol in this type of venue.

Mayor Danzinger closed the floor to public comments.

Commissioner Landsman stated he is shaking his head because one public speaker said you need to have children and adults separate. He does not understand why parents could not be with their children. This is to separate alcohol from arcade gaming because that is how the code is written correctly now. He stated this is an effort to bring a business to Town and have our children be able to attend.

Commissioner Meisheid has reservations on the liquor license and believes since it is not a restaurant or hotel it will be very difficult to get the license.

Commissioner Velasquez stated she is concerned with this as well. She spoke regarding people possibly having a drink while the children are playing. She stated that someone can put two storefronts to be able to then apply for the liquor license. She stated it is being presented to them as an arcade business by a 13 year old boy that approached Commissioner Landsman.

Mayor Danzinger spoke about politics and misinformation. He stated that the Town code currently requires alcohol in arcades. What Commissioner Landsman is bringing forward is that they can have an arcade game store without serving alcohol. He stated that if you change the Town code you will make Flannigan's an illegal structure and the Town wants to keep Flannigan's.

Vice Mayor Rose thanked Commissioner Landsman for bringing this forward and he supports not serving alcohol in this arcade and supports Flannigan's.

A motion was made by Commissioner Landsman to approve the ordinance on second reading, seconded by Vice Mayor Rose. The motion carried with a 4-1 vote with Commissioner Velasquez voting in opposition.

[Ordinance Amending Section 90-41 Regulated Uses - Arcades](#)

4A3. Business District Setbacks and Lot Standards to Preserve the Integrity of the SD-B40 District - Hector Gomez, Town Manager

The Town Administration aims to protect the neighborhood serving small business and commercial character of the Town's historic SD-B40 district and ensure any residential uses in the district, enabled through the State of Florida's "Live Local Act" are appropriately developed. Therefore, the Town Administration recommends adoption of the proposed ordinance. The Planning and Zoning Board, at their September meeting recommended approval of the ordinance with the exemption language stricken at first reading. The Board would prefer for the Town Commission to have the ability to approve a desired use.

Town Clerk McCready read the title of the ordinance into the record.

Town Manager Gomez introduced the item.

A motion was made by Vice Mayor Rose, seconded by Commissioner Meisheid.

Mayor Danzinger opened the floor to public comments.

The following individuals from the public spoke:

Eliana Salzhauer

Tricia Fowley

George Kousoulas

Mayor Danzinger closed the floor to public comments.

Town Attorney Recio stated that what this commission did was to vote to take the special exemption out and to limit to provide for a maximum lot area and a maximum lot width and imposes a setback above 40 feet in height. He continued providing an explanation of the ordinance.

Commissioner Meischeid spoke regarding the special conception component and the live local and will support this ordinance as is.

Commissioner Velasquez stated that is great to hear that Commissioner Landsman supports this as is and she also supports this ordinance as is without the exception.

Vice Mayor Rose stated he is not in support of 18 stories but is fine with the special exception in the event they have a project in front of them that can benefit from the special exception. He does have a modification and said he was in support of lot aggregation and property aggregation as long as it is under the SDB-40 height limit. He spoke regarding the height limit and possible businesses and his modifications to the motion.

Town Attorney Recio stated that it would be a slight modification without the special exception and it would be something like the following: after line 84, the new line 85 and line 86, it would be "this limitation shall not apply to projects that meets the height, setback and uses allowed in SDB-40 as set forth in the code".

Vice Mayor Rose reiterated what that means and spoke regarding the lot aggregation which would allow a Flannigan's or Grove.

Commissioner Meischeid maintains her original second of approving this ordinance without any modifications.

Town Clerk McCready stated that the original motion fails since Commissioner Meischeid did not second the amendments made.

A motion was made by Vice Mayor Rose to approve the ordinance with the following amendment: Line 85-Limitations should not apply to a project that meets the height, setback and uses allowed in SD-B40 set forth in the Town Code, seconded by Mayor Danzinger.

Mayor Danzinger asked Town Attorney Recio regarding the special exemption was specifically for lot aggregation and stated what they are doing is stopping lot aggregation and gave examples like Flannigan's and the Grove market and unfortunately without the exemption it would not allow the aggregation of lots. He spoke regarding the side effects as well.

Commissioner Landsman asked for a refresher of what the motion on the table is.

Town Clerk McCready stated the motion that is on the table.

Commissioner Meischeid thought they could have discussion and would like this ordinance to be approved without modifications.

Commissioner Velasquez stated they are agreeing with Commissioner Landsman as there will be a new commission in a couple of months and allow that commission to decide this.

Commissioner Landsman asked Town Attorney Recio that this proposed change will allow aggregation and if a project commits to no more than 40 feet then they will not be subjected to the setbacks as we have in the 120 district.

Town Attorney Recio stated that is already in the ordinance they have before them and what this will allow is aggregation specifically as long as the project meets with the height which is 40 feet, the setbacks for the SDB-40 and the uses in SDB-40, which are all the businesses.

Commissioner Landsman asked if the live local act does supersede Town Code and therefore how do they prevent that particular development from going to 120 feet.

Town Attorney Recio stated that the setback provisions (lines 73-76) will require that they meet the H120 setbacks and line 79 in the chart that will continue to comply to anything over 40 feet under this scenario.

Further discussion took place regarding the live local and code.

Vice Mayor Rose addressed the comment made by Commissioner Meischeid and reiterated the specifics and the protection this ordinance provides and the aggregation of lots. He stated this protects us from live local and protects the downtown.

Mayor Danzinger reiterated the ordinance and what the Town code allows.

Commissioner Velasquez asked if the Town has ever been sued for any changes in the zoning code.

Town Attorney Arango stated since she has been here she is not aware of the Town ever being sued over changes to the zoning code and that could probably be due to good legislation and good lawyering.

The motion carried with a 3-2 vote with Commissioner Meischeid and Commissioner Velasquez voting in opposition.

[Ordinance To Preserve SD-B40 Neighborhood - Second Reading Version.DOCX](#)

First Reading

4B1. Creation of New Capital Improvement Projects Chapter within the Town Code

- Hector Gomez, Town Manager

The Town Administration recommends adoption of the proposed ordinance which creates a new Capital Improvement Projects Chapter within the Town Code.

Town Clerk McCready read the title of the ordinance into the record.

Town Manager Gomez introduced the item.

Mayor Danzinger opened the floor to public comments.

The following individuals from the public spoke:

Eliana Salzhauer does not understand the need for this.

George Kousoulas spoke in support of the ordinance and explained what this department does.

Mayor Danzinger closed the floor to public comments.

Mayor Danzinger explained what this item entails and this position will bring someone inhouse to manage the projects and will save the Town money.

Commissioner Landsman stated this is a brilliant idea and they need someone that will take control inhouse and it will save us money.

A motion was made by Vice Mayor Rose to approve the ordinance on first reading, seconded by Commissioner Landsman.

Commissioner Meischeid stated she does believe it is a great idea and this is exactly what they need and have it inhouse.

Commissioner Velasquez supports this and thanked the Town Manager for being proactive.

Vice Mayor Rose stated he fully supports this and with all the projects underway, it is needed.

The motion carried with a 5-0 vote.

[Ordinance Creating Capital Improvement Projects Department](#)

4B2. Update to Water Shortage Regulations Section of the Town Code to be Consistent with Miami-Dade County and South Florida Water Management District - Hector Gomez, Town Manager

Town Administration recommends approval of the proposed ordinance to be consistent with Miami-Dade County Code and in compliance with South Florida Water Management District (SFWMD) based on their letter dated July 20, 2023. Refer to **Attachment A** - *South Florida Water Management District Letter dated July 20, 2023*.

Town Clerk McCready read the title of the ordinance into the record.

Town Manager Gomez introduced the item and what the South Florida Water District stated in their letter and what the Town has to do to be in compliance and explained what that was and the requirements the Town has to abide by.

Mayor Danzinger opened the floor to public comments.

There were no public speakers.

Mayor Danzinger closed the floor to public comments.

A motion was made by Commissioner Landsman to approve the ordinance on first reading, seconded by Commissioner Meisheid.

Mayor Danzinger explained why this item is coming forward and it is because the County is requiring it and spoke regarding the different violations and fees. He asked for the motion maker to amend and modify the violation provisions. He stated that the first violation should be a warning and any subsequent violation should be a \$25.00 fine.

Town Manager Gomez asked if they have any recommendations.

Mayor Danzinger reiterated his recommendation that along with the fee there should be educational materials.

Commissioner Landsman is fine with the amendment.

Commissioner Meisheid stated she does not have a problem with the warning but believes \$25.00 is a bit low and does not believe the individuals will really pay attention.

Mayor Danzinger continued explaining the stringent fines by the County.

Commissioner Meisheid agrees with the amendment.

Further discussion took place among the commission regarding the violations, fees and amendments to the ordinance.

A motion was made by Commissioner Landsman to approve the ordinance on first reading with the amendment that the first violation will be a warning, \$25.00 fee for second violation and subsequent violations and take out the word "prison", seconded by Commissioner Meisheid. The motion carried with a 5-0 vote.

[Ordinance Amending Section 78-100 Adopting Enforcement of MDC 32-8.2](#)

[TAv2.DOCX](#)

[Attachment A - SFWMD Letter dated July 20 2023](#)

[Attachment B - Sec. 32.8.2 - Permanent year round landscape irrigation restrictions](#)

4B3. Ordinance Amending Citizen Presentation Rules - Hector Gomez, Town Manager

Consider the proposed ordinance on second reading.

Town Clerk McCready read the title of the ordinance into the record.

Town Manager Gomez introduced the item.

A motion was made by Vice Mayor Rose to approve the ordinance on first reading, seconded by Commissioner Landsman.

Mayor Danzinger opened the floor to public comments.

The following individuals from the public spoke:

George Kousoulas stated he does not believe this ordinance needs to happen and the system has not been abused.

Eliana Salzhauer spoke against this ordinance.

Trisha Fowley spoke against this ordinance.

Mandyf Davonpour spoke in support of this ordinance.

Mayor Danzinger closed the floor to public comments.

Vice Mayor Rose would like to make a modification. He stated that he spoke with the Town Attorney and possible language modification to this ordinance that the Town Attorney made which was needing written approval from 3 or more of the members of the commission and cleaning up lines between lines 45 and 51 and asked for the Town Attorney to explain it.

Town Attorney Recio stated that after looking at the ordinance and discussing it with the Vice Mayor he stated they can tighten the language up and the concept at the time was to say that if 3 or more members of the commission would sponsor it then it would get on the agenda and then the citizen can make the presentation as long as it gets 3 sponsors and explained that the citizen would have to go to 3 of the commissioners to obtain sponsorship. He stated this would entail tightening the language in lines 47-49 which would state "additional citizen presentation by the same citizen in the same calendar year would require written sponsorship by 3 or more members of the town commission by the agenda deadline to place the citizen on the citizens presentation portion of the agenda" and that would be the end of the inquiry and the citizen would be on the agenda no questions asked.

Commissioner Velasquez asked if they are stating that 3 commissioners, but the only way to go to the commissioner is on the dais and the person would have to come back twice. She stated that they have always said that they could not get commission approval outside these meetings so how would that take place without violating sunshine and other laws that would pertain to these situations.

Town Attorney Recio provided an example like when she put Mr. Burkett on the agenda, he obtained sponsorship from her and Commissioner Velasquez sent an email to the Town Clerk requesting his presentation to be placed on the commission agenda. He stated the same thing would happen, the only difference is that Mr. Burkett would now have to email all 5 of the commissioners to obtain sponsorship of at least 3 of the commissioner to place his presentation on the agenda. It is the same thing he did with Commissioner Velasquez, he would have to do with two more commissioners. The Commissioners do not have to check with each other because that would be a violation.

Commissioner Velasquez asked if people could actually do that and go ask the commissioners individually and get back and get approval.

Town Attorney Arango stated it is the same process she did with Mr. Burkett, the only difference is he would have to get sponsorship by 2 more commissioners.

Commissioner Velasquez continued stating she has a hard time understanding getting two more commissioners approval without going to a meeting.

Town Attorney Recio stated that is not what they are saying at all. He stated that what they are saying is the same way she sponsored Mr. Burkett's citizen presentation and placed it on the agenda, that is the same way it will continue to be done with the difference that the individual wanting to do a presentation must obtain not only 1 but 3 total commissioners to agree and sponsor their presentation to be placed on the agenda. This is if that citizen is requesting an additional presentation in the same calendar year. If the clerk receives 3 separate requests to add the individual on the agenda, then it can be done.

Vice Mayor Rose stated he is fine with that language and wanted to know if Commissioner Landsman being the seconder of the motion is fine with the amended language.

Commissioner Landsman stated he is fine with the amendment made.

Commissioner Meischeid stated this would violate the freedom of speech of residents and puts other complicated additives and it is clearly a violation of freedom of speech and does not agree with this ordinance.

Commissioner Landsman stated if they would be trying to do away with the good and welfare section of their agenda, then she would have a point in violating the freedom of speech but that is not what they are doing with this ordinance. He stated that anyone that comes to the meetings can speak under good and welfare and explained the process. He stated the citizen's presentation is something different and could be violated and abused during campaign season and explained how that could happen.

Vice Mayor Rose stated he agrees with Commissioner Landsman and he pointed out some great points and they are here to fix the ambiguities and loopholes in the code and this is one of them. He stated that their citizen's presentation had no rules for this and agrees with what Commissioner Landsman stated and they are not here to campaign and use this loophole for that. This still protects residents free speech.

Commissioner Velasquez stated this is unbelievable and to try and suppress free speech is wrong and the only time this happened was one presentation that Mr. Burkett did which was how the former Town Manager was fired and then the second one was regarding a question that they still have not received an answer about. She stated that in March there will be a new commission and they will turn over all this disgusting violation of freedom of speech. She does not support this ordinance.

Mayor Danzinger asked our Town Attorney that a comment was made that this would be a violation of free speech and he wanted the Town Attorney to clarify that misstatement and would something like this violate freedom of speech.

Town Attorney Arango stated that these public meetings are limited public forums meaning that you do not get to speak unlimited on anything you want, as long as you want and there is free speech provided here, every item has public discussion and public comment and there is also the good and welfare section like Commissioner Landsman indicated that you can talk about any topic you would like that is not on the agenda, so no this does not violate the first amendment free speech.

Mayor Danzinger thanked the Town Attorney and addressed some of the comments made here and the system is broken and we saw this happen. They are creating a system and they are not removing citizen presentation but some have turned it into a political platform and they abused it and this is some people ruining it for everyone. We want to get back to Town business and if there is something they have to say that is valid they can get 3 commissioners to support it.

The motion carried with a 3-2 vote with Commissioner Meischeid and Commissioner Velasquez voting in opposition.

Commissioner Meischeid left the dais and meeting at 9:33 p.m.

[Ordinance Amending Sec. 2-206 Re Citizens Presentations](#)

4B4. Amending Sec. 14-28. - Issuance of Building Permits and Amending Sec. 62-1. - Garage Sales to Simplify Town Permitting Requirements for Non-Essential Permits - Hector Gomez, Town Manager

Town administration recommends adopting the proposed Code change of Section 14-28 and Section 62-1.

Town Clerk McCready read the title of the ordinance into the record.

Town Manager Gomez introduced the item.

A motion was made by Vice Mayor Rose to approve the ordinance on first reading, seconded by Commissioner Landsman.

Mayor Danzinger opened the floor to public comments.

The following individual from the public spoke:

Eliana Salzhauer spoke in support of the ordinance but to make sure they are not starving the building department because these fees is what sustains the building department.

Mayor Danzinger closed the floor to public comments.

Commissioner Landsman stated this is going in the right direction and agrees with this ordinance. He stated that \$500 or higher projects makes more sense and it will help residents. He agrees being more liberal with garage sales.

Commissioner Velasquez thinks this is a good way to help residents to not have to

get permits for everything especially when it is something minor.

Vice Mayor Rose asked the Building Official if they have enough funds and if the \$500 is the right amount or should it be higher.

Building Official McGuinness addressed the comment made and thanked them for streamlining the permits especially the garage sales but they need to at least email them with their intent. He does have a issue with the \$500 and it should be the highest they can go without obtaining a permit and explained the reasoning. Also, only allow this for single family and not commercial. He stated that the Building Department funds are healthy.

Commissioner Velasquez asked regarding the \$3 million dollars going into the general fund from the permit fees.

Town Manager Gomez addressed the comments made by Commissioner Velasquez and the information she is stating is incorrect and explained the correct information. He stated that comments like that is not appreciated because they still do not know how much that building will be built at.

Mayor Danzinger thanked Town Manager Gomez for standing up for himself and town staff. He further stated that to make things like small repairs for the residents more accessible and expand on compliance in town. He would like to add that certain roof repairs that are nonstructural in nature specific to leak repairs up to a certain square footage to ensure that nobody is doing their roof entirely.

Town Manager Gomez stated he would like to consult with the Building Official.

Building Official McGuinness stated that his recommendation is to protect the structure and believes a figure for single family homes is 100 square feet and possibly placing fascia as well.

Town Manager Gomez suggested letting them evaluate and bring it back with the information for second reading.

Mayor Danzinger stated that he would recommend that.

Vice Mayor Rose stated he is good with 100 square feet and 100 linear feet for the fascia.

Commissioner Landsman is fine with the amendment.

A motion was made by Vice Mayor Rose to approve the ordinance on first reading with the amendment that roof repairs for non-structural (leaks) 100 square feet and specifics to be determined by the Town Manager Gomez, seconded by Commissioner Landsman. The motion carried with a 4-0 vote.

[Ordinance Amending Section 14-28 and 62-1 Relating to Low Value Building Permits and Garage Sales](#)

4B5. Amending Chapter 72 of the Town Code to Address Utilities Lines Undergrounding for Future Communication Improvements - Hector Gomez, Town Manager

Town administration is recommending the Town Code be amended to incorporate new definitions in Chapter 72 in order to further differentiate communication lines. Additionally, Town administration is recommending Town Code changes in order to make it requirement for communication provider to underground all future communication lines within the Town boundaries.

Town Clerk McCready read the title of the ordinance into the record.

Town Manager Gomez introduced the item and it is a component to the utilities undergrounding. This will start being enforced with their communication companies.

A motion was made by Vice Mayor Rose to approve the ordinance on first reading, seconded by Commissioner Landsman.

Mayor Danzinger opened the floor to public comments.

There were no public speakers.

Mayor Danzinger closed the floor to public comments.

Mayor Danzinger stated this project has been going on for so long and this is a very important component to this project and without this item and you underground it, a utility company can come at a later time and install poles and this will not allow the utility companies to do so.

Commissioner Velasquez totally supports this item and thank you for being proactive.

The motion carried with a 4-0 vote.

[Ordinance Amending Ch. 72 Telecommunications Right-of-Way Ordinance for Undergrounding](#)

5. Resolutions and Proclamations

If the public wishes to speak on any matters in this section of the agenda, they must inform the Town Clerk by completing a speaker card and they will be recognized to speak at the beginning of this section.

Mayor Danzinger opened the floor to public comments for all items under item 5 (Resolutions and Proclamations).

There were no public speakers.

Mayor Danzinger closed the floor to public comments.

5A. Town Legislative Priorities for Florida Legislative Session - Hector Gomez, Town Manager

Town Administration recommends the Town Commission review, discussion and approval of legislative priorities to be submitted to Town lobbyist for the upcoming legislative session. Previous submittal list is provided in order to track previously submitted priorities and supplement discussion.

Town Clerk McCready read the title of the resolution into the record.

Town Manager Gomez introduced the item and provided the legislative priorities list.

A motion was made by Commissioner Landsman to approve the resolution, seconded by Mayor Danzinger.

Mayor Danzinger stated they reviewed this list last year and many of these items have been on this list for many years. He has been fortunate to see how this actually works in Tallahassee and he has worked with some of the lobbyist in Tallahassee on these items and it is always good to put a face to the item. He stated that State Representatives can only bring 7 bills forward and they represent other municipalities. He explained the process and the amount of work that goes into passing a bill. He stated his fear is you overloading the list. His recommendation is to pick the top ones that will make it easier for the bills to get passed by giving directive to the lobbyist.

Commissioner Landsman stated that one thing that may be put on there is the reversal of live local.

Mayor Danzinger stated he was up there last month and explained the background of the live local and what is taking place in Tallahassee and he is working on a possible exemption for smaller municipalities. He suggested turning this from a wish list to an actual objective list of what could go through.

Further discussion took place among the commission regarding the different legislative priorities and those that other municipalities are affected as well.

Commissioner Velasquez stated she does not know how a lot of these got here and many should be taken off. She suggested adding more funding for town wide flooding project.

Mayor Danzinger stated number 6 technically takes care of that but possibly rewording to specify it down to our project that is coming forward.

Vice Mayor Rose suggested removing the language of funding for raising homes and other initiatives and leave the last part of it.

Mayor Danzinger also suggested removing the language on number 6 "designed to mitigate sea level rise" because that will not happen and possibly reword it to say "designed to mitigate flooding".

Vice Mayor Rose suggested rewording/reworking the numbers but he does not want to get rid of the Tourist Resort Tax Protection since they are one of the few municipalities that still have it. He went over some other priorities and spoke regarding them.

Town Manager Gomez addressed some of the comments made by the commissioners and gave them an explanation of the priorities.

Vice Mayor Rose asked if they should reorder them.

Town Manager Gomez explained what he is looking for tonight is having a resolution to submit with the appropriations and suggested making a list with just appropriations.

Mayor Danzinger stated that time is of the essence. He suggested going item by item and coming up with a list.

The commission as a whole went over each item, provided their suggestions and agreed on the following: Remove item 4; remove item 5; item 6 reword to focus on infrastructure projects that are geared towards mitigation and will feed the narrative of the application to get some money for storm water; item 7 is out; item 8 stays because it is very important; item 9 is out; item 10 is not a Town of Surfside initiative so it is out; item 11 is out; item 12 some can be grants and it is not an appropriation or something that the state funds and the Mayor will ask again when he is in Tallahassee so for now remove it; item 13 stays on; item 14 this is not a Town of Surfside and the Mayor stated he has something in bill draft and they can see if it will go through so since it is not something the Town of Surfside should ask for, they will leave it on but there is no guarantee.

The motion was amended with the new list of priorities (Remove item 4; remove item 5; item 6 reword to focus on infrastructure projects that are geared towards mitigation and will feed the narrative of the application to get some money for storm water; item 7 is out; item 8 stays because it is very important; item 9 is out; item 10 is not a Town of Surfside initiative so it is out; item 11 is out; item 12 some can be grants and it is not an appropriation or something that the state funds and the Mayor will ask again when he is in Tallahassee so for now remove it; item 13 stays on; item 14 this is not a Town of Surfside and the Mayor stated he has something in bill draft and they can see if it will go through so since it is not something the Town of Surfside should ask for, they will leave it on but there is no guarantee.). Commissioner Landsman and Mayor Danzinger accept the amendment.

The motion carried with a 4-0 vote.

[Resolution Approving Legislative Priorities 2024](#)

[Attachment A - Legislative priorities FY2024](#)

5B.) Amending Resolution No. 2023-2962 to Approve and Authorize the Purchase of Five (5) 2023 Ford Interceptor Utility Vehicles

Town Clerk McCready read the title of the resolution into the record and advised the

Commission that the resolution was placed on the dais for everyone.

Town Manager Gomez introduced the item and apologized for bringing this as a walk on and stated the difficulty in finding and ordering these vehicles. He explained what took place and the process.

A motion was made by Commissioner Landsman to approve the resolution, seconded by Vice Mayor Rose.

Mayor Danzinger opened the floor to public comments.

There were no public speakers.

Mayor Danzinger closed the floor to public comments.

Mayor Danzinger stated it is pretty straight forward and there is a savings.

The motion carried with a 4-0 vote.

6. Good and Welfare (Set for approximately 8:15 p.m.)
Public comments for subjects or items not on the agenda.

Mayor Danzinger opened the floor to public comments.

The following individuals from the public spoke:

Eliana Salzhauer stated it is shameful that they are having this meeting because of what happened in Israel.

George Kousoulas spoke regarding the lighting of a home in the Town and the delay on the ordinance that would address this issue.

Mandyf Davopour stated her rights are not taken away and she attended the rally and was still able to attend the meeting. She spoke regarding repainting the business district. She spoke about possibly having canopy trees in the residential area like Bal Harbour. She also spoke about former elected officials taking the meetings sidetracked and not allowing business to be handled.

Tricia Fowley spoke regarding the CTS monument and the building that will be built. She also spoke regarding people slipping on the business area and they need to be power washed and it is dirty.

Mayor Danzinger closed the floor to public comments.

Mayor Danzinger stated at the last meeting there was a commissioner that spoke for almost 13 minutes straight and the Town Code allows the commission to respond and gives everyone 3 minutes to respond that way they are not here all night. He just wants to get a consensus from the commission if they should be timing the responses. This was something he had stopped doing but he feels that since last meeting that was abused and he would like to keep this meeting moving forward.

Consensus was reached to keep the Commission responses to 3 minutes.

Commissioner Landsman responded to Ms. Salzhauer's comments and most of what she says all the time is that the sky is falling and that is why it is hard to pay attention to what she says. He personally attended two events in the last 24 hours to support our loved ones and friends and family of Israel. He stated that she cannot say that they are offering empty words and it is shameful of what she said and she should use her words carefully. He responded to Mr. Kousoulas' comments and the ordinance should be coming before the commission in November. He addressed the comments regarding the downtown streets more secure and more trees. He addressed the comments made by Ms. Fowley and there has been many mischaracterizations.

Commissioner Meischeid responded to a comment made regarding residents using the police gym and maybe they can look into that. She responded regarding the outdoor lighting and it came in June and it was supposed to have been on the August agenda and they did not get to that one and approved it in September and it is not in October and she is surprised and believes it is a very simple request. She spoke regarding the downtown area and how slippery the sidewalks get. She also addressed the comments made regarding 88th street and the memorial.

Commissioner Velasquez spoke regarding the gym and believes it is great idea for residents to be able to use it as well. She spoke regarding the residential lighting and was also surprised that it was not in the October agenda. She spoke regarding more trees and beautifying the streets. She addressed the comments made regarding 88th street and the memorial.

Vice Mayor Rose responded to Commissioner Meischeid's comments and he does support the lighting ordinance and stated it should be on both one and two story homes. He spoke regarding the live local act comments. He stated that he supports Ms. Salzhauer's comments and she should leave the meeting and go to the rally. He responded to the comments made by Mr. Kousoulas on the lighting ordinance and stated that there was no Planning and Zoning Board Meeting in October and therefore the ordinance would still have to come back to the Commission after the Planning and Zoning Board has it on their agenda. He addressed the comments made by Ms. Davepour as it relates to the downtown sidewalks and they will be redoing downtown and the homeless is an issue. He spoke regarding decorum and all they are trying to do is that decorum is being adhered to by residents and commissioners. He stated the Mayor has shown a lot of leniency. He stated more trees is always good. He thanked Commissioner Landsman to relocate the loading dock on Collins Avenue and nobody here wants more than what zoning allows.

Mayor Danzinger stated that access to the gym by residents is not practical and the

Commission has approved a project to have a gym for residents that will be coming forward soon. He address the comments made regarding the lighting ordinance and there is a process and respect that process. He takes offense of a comment made by a speaker who referred to the Town as a "sausage factory". He stated that is offensive in so many levels. He spoke regarding the downtown improvement project. He spoke regarding the shade trees and they will explore it with the walkability study. He addressed the comments made regarding the homeless issue in Town and the legislation that was passed. He spoke regarding the CTS construction.

A motion was made by Vice Mayor Rose to take a 5 minute recess at 8:42 p.m., seconded by Commissioner Landsman. The motion carried with a 5-0 vote.

The meeting resumed at 8:57 p.m. with all members of the commission present.

7. Town Manager and Town Attorney Reports

7A. Town Manager's Report - Hector Gomez, Town Manager

Town Manager Gomez provided his Town Manager's Report. He stated that on October 24, 2023 will be the last concrete pour at the 96th Street Park and there will be a topping off party once that is done and it will be scheduled sometime in November.

Mayor Danzinger opened the floor to public comments.

There were no public speakers.

Mayor Danzinger closed the floor to public comments.

Commissioner Velasquez asked regarding the Abbott Avenue drainage project.

Town Manager Gomez provided an update on the Abbott Avenue drainage project and it is in an expedited process.

Vice Mayor Rose asked regarding the town wide traffic study. He asked regarding the Collins Avenue water main design and permitting and if the revenue bond ballot question if that would cover this type of program.

Town Manager Gomez stated there will be resident input in November and by December the recommendations. He addressed the comment made regarding Collins Avenue water main design and permitting and a ballot question like that would assist in this type of project.

Commissioner Velasquez asked why they have to wait to become an emergency to then go and ask to place the question on a ballot. She stated that what is on the ballot it is for emergency and/or infrastructure project.

A motion was made by Vice Mayor Rose to approve the Town Manager's Report,

seconded by Commissioner Landsman. The motion carried with a 4-0 vote.
[2023-10 October Town Manager's Report.pdf](#)

7B. Town Attorney's Report

Town Attorney Arango provided her Town Attorney's Report and update on the litigation cases. She stated they removed the Shannon Gallagher appeal from the report and the Victor May appeal and those items have been concluded. She stated the Town prevailed in the Solimar case but it has been appealed and that appeal appears on page 363 and Solimar's deadline to file a brief is November 8th and the Town will then file their answer to the brief.

Mayor Danzinger stated if Solimar is successful it would open up the door to any other condominium to file something similar. He thanked the Town Attorneys for their work.

Commissioner Velasquez asked regarding an email that was sent yesterday.

Town Attorney Arango spoke regarding the email she sent regarding the cases being handled by FMIT and what they handle and the case update is on the report she sent yesterday. She stated Commissioner Velasquez asked regarding the Barry Cohen case and the Town has submitted for summary judgement but the Court has not ruled yet.

Mayor Danzinger opened the floor to public comments.

There were no public speakers.

Mayor Danzinger closed the floor to public comments.

A motion was made by Vice Mayor Rose to approve the Town Attorney's Report, seconded by Commissioner Landsman. The motion carried with a 4-0 vote.

[October 2023 Town Attorney Report](#)

8. Unfinished Business and New Business

9. Mayor, Commission and Staff Communications

9A. Formal Complaints regarding Commissioner Nelly Velasquez - Hector Gomez, Town Manager

Town Administration is seeking direction from the Town Commission at the October 10, 2023, Town Commission Meeting to address the complaints filed. This includes specifically the authority to engage and perform an independent investigation and authority to expend funds for the same.

This item was moved up and heard before item 3 (Consent Agenda).

Town Manager Gomez introduced the item and stated there were two memos that were circulated to the Commission and the information in both of those memos is

exempt from public records. He stated they are seeking three things. He spoke regarding the Town's policy and handbook and requesting direction and approval from the Commission to move forward with a third party independent agency to conduct an investigation into both complaints against Commissioner Velasquez and authorization to expend the funds not to exceed \$15,000. He stated they are following the policy as per the employee handbook.

Mayor Danzinger reminded everyone in the public and the Commission that the information provided in the complaints is exempt from public records as per Florida Statutes 119.071 (2)(g). He asked they to refrain from stating any names in the complaint and doing so is an ethical violation. He asked anyone from the public from doing the same.

Mayor Danzinger opened the floor to public comments.

The following individual from the public spoke:

George Kousoulas stated that the one thing interesting in this process, he understands it is written in the code that way, but precisely that the commission would not have everything in front of them when making a decision on this item. He stated the third party will investigate and rule on this issue. You have two pieces of evidence, a complaint and at the moment testimony by another commissioner, a he said she said and a video. He stated the video could be exempt and believes that without that video can you really weight in on this and should it move forward. He stated that he would suggest that the Town proceed without the commission action and if they do act to see the video.

Mayor Danzinger closed the floor to public comment.

Commissioner Landsman asked input from the Town Attorney and asked for some guardrails to the investigation and procedurally how this information comes back. He stated it is very important to discuss this since there were two complaints against one of the elected officials and it must be taken seriously and get to the facts. He spoke regarding using a third party to investigate and allocate funds and this team will look at the evidence and come back with recommendations as to the next steps. He asked the Town Attorney if there is anything they need to do to set up a scope.

Town Attorney Arango stated that this is the process that is required as it is stated in the procedure employee manual and the commission is doing just that, following the manual. She also stated that they do need to provide some direction as to the scope of services to be provided by the third party investigator. She stated it could be for the third party investigator to determine if there was some sort of violation of town policy, law or Florida law.

Commissioner Meischeid stated she feels that this has to stop and the atmosphere up here is corrosive and the conduct abusive. Commissioner Velasquez can be loud, she can be quick to express herself but far too long she has been demarginalized and derided by my colleagues. A Vice Mayor who sits with his back to her, who smirks at every comment she makes, the camera sees this behavior month after month. A Mayor whose actions inflame the situation sometimes even goading her to the inevitable reaction. The remaining Commissioner is a gentleman up here by all

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too often is passive and silent when action is required. Many have noticed this acrimony spreading in my direction. The pattern is clear if you are not on board with the Mayor's agenda you become a target and your voice is silenced. There will always be opposing views to issues, there will always be personalities but neither is an excuse for the attacks up here. Responsibility falls plainly on the mayor, a mayor who silences debate, a mayor who is abusive to commissioners with different views, a mayor who is quick to have the police remove our residents. Tonight we are asked to weigh in on an incident from September 27th. We have a complaint filed by a staff member, we have a contemporize account from the Commissioner. The evidence that would tell us more, the video of the encounter, is being withheld from us. Under these circumstances this matter should be dismissed. We certainly can not give it any direction. Unfortunately, three of us will likely vote to proceed because it has been clear for months their objective is to silence the commissioner. I will have nothing to do with this. Produce the tape to the commission first. Thank you.

Commissioner Velasquez stated the following: Thank you very much Commissioner Meisheid, I echo your words as they are completely true. There is a lot of noise surrounding this issue and yes it is political. This is just to parade me here for political purposes. It is very simple, the facts are the facts and the truth is the truth and I am not afraid of either. Fact Number 1. As soon as I returned to the dais that night I told the entire story and in detail, while I was still very upset. Fact Number 2. Our Town Clerks are very afraid to interrupt, are not, are never afraid to interrupt the commission with information that they believe is important related to the conversation that is underway. Fact Number 3. Both Town Clerks remained completely silent not only while I was going into detail about what had just occurred but at but for the entire meeting and never once objected to the word I was that I was that I just spoke. Fact Number 4. Two days later a written complaint was filed against me which is creative which creates a series of fabrications. Fact Number 5. There is a video camera in the hallway where this incident took place. The camera footage is very is the very best evidence to show the world exactly what happened followed my contemporaneous statement at the meeting. The Town Manager has told me he has the video, that he has reviewed the video, but has not and he will not release the video. He has also not provided the legal authority that he that he is relying on to withhold the video from those who wish to view it. I want the Town Manager to know now read it into the record the precise language he is relying on to deny our residents the ability to view the video which I believe will not only tell the whole story but vindict a series of events I described at the meeting immediately following the incident. I too want to see this video and this video should have been shown to us before we come here and like Mr. Kousoulas suggested it should have been each one individually show us the video so you are asking us here to make a determination on spending taxpayer dollars on political claims, because this is really political. I mean its really terrible the situation to come around and ask us to approve this. I also want to read Title 7 protects employees and job applications from employment discrimination based on race, color, religion, sex and national origin. Physical appearance, height, weight and/or degree of attractiveness is not a protective class. So I don't see where this discrimination is coming from. Cause I never discriminated anyone either here on this dais or in any part of this building. So I also feel that until I see this video, this should not be brought to the commission and this is something that should have been showed to us prior to parading this around like this. Thank you.

Vice Mayor Rose first wanted to apology to Town Staff for my colleagues comments because I unequivocally stand by you and support you guys as does most of this commission. If you made these complaints I trust you did it after contemplating a lot of thought and I support you bringing this forward and we are not the people here to decide this. It is going to be a third party investigation. If you want to make this political, I will go and make it political real simple for you. I would never be walking around campaigning handing out flyers but I will make this a little political since that is what two of my colleagues wanted to do. This employee handbook we are talking about it has come to my attention that this was added to the employee handbook about charter officers and elected officials being investigated potential complaints against them. He asked the Town Manager when that was added to the employee handbook.

Town Manager Gomez stated he does not want to get to the extent of this but it was added recently.

Vice Mayor Rose asked if it was under the last commission in 2020-2021.

Town Manager Gomez stated it was added in 2021.

Vice Mayor Rose asked if it was under former mayor Burkett. He stated he will state the facts since people up here want to play politics. He also asked under Mr. Burkett was there ever an investigation by an elected official or somebody that was in that position recently. In 2021 was it ever added because it was brought to his attention that we weren't there and there was an investigation after this happened. If you guys want to play politics we will play politics up here. This is not about politics this is about standing behind the employees, this is about doing what you did, which was the right action Mr. Town Manager in bringing this forward and I support you in the decisions you've made by doing this and I without a doubt I stand by our Town employees and without a doubt I think the commissioner would want to clear her name by an independent third party and nobody here that would have a bias against you. So for me I fully support this for that reason and this is not controversial and unfortunately it has been made controversial and anybody who would be against this, we know where you stand.

Mayor Danzinger stated that the commission input is required since there is a request for expenditure of funds and that comes before the commission. He stated that they are not the investigators or the judges on the case and it is not for them to discuss the details of the complaints. He stated there has been two formal complaints by Town staff through human resources and it goes through a process. He stated that per the Town's employee handbook and policy has created this process unfortunately since a couple of years ago which requires a third party investigation and it is not for them to investigate. That is why they do not see the video, they are not the judges and they are not involved in this at all. He stated these are serious allegations with discriminatory comments, hostile work environment and if they do not do what they are supposed to do through out town's policies and procedures we are subjecting ourselves to liability of a lawsuit. They are going to follow that process and allow the process to play out. He asked for the scope of the investigation, Commissioner Landsman if they could be specific, you are asking for

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the investigation if a violation of a town policies or laws and other applicable laws happened/occurred and a request for recommendations by this third party. He reiterated that they do not want to be the judges or deciding factors in this.

Commissioner Landsman stated he was the second and Vice Mayor Rose was the motion maker.

Vice Mayor Rose is fine with the conditions and that is what he is looking for.

Commissioner Landsman stated he is fine with the added conditions.

Commissioner Velasquez asked how much would it cost to do this investigation which is using taxpayer dollars.

Vice Mayor Rose stated probably less than a lawsuit.

Commissioner Velasquez stated this is taxpayer dollars and the residents would like to know how much money will be spent on this.

Town Manager Gomez stated previous investigation was \$12,000 and they feel comfortable not to exceed \$15,000.

Mayor Danzinger asked Town Attorney Arango if she could give them an estimate of what a lawsuit settlement would be if the Town did not pursue and follow the Town's policies and procedures when a couple of employees have filed complaints.

Town Attorney Arango stated there could be significant liability to the Town if we did not follow our own procedures and do some due diligence and be responsible and investigating a complaint.

Mayor Danzinger asked if it is safe to say it would far exceed \$12,000.

Town Attorney Arango stated she believes so.

A motion was made by Vice Mayor Rose to approve moving forward with a third party independent agency to conduct an investigation against Commissioner Velasquez as per Town policy, Florida laws and any applicable laws and provide to the Commission its recommendations and approval of expending funds not to exceed \$15,000, seconded by Commissioner Landsman. The motion carried with a 3-2 vote with Commissioner Velasquez and Commissioner Meischeid voting in opposition.

Mayor Danzinger reiterated that they are following town policies and procedures and it is very difficult for the Town Manager to handle this administratively when the commission is his boss.

9B. Tourism Board Approved Collins Avenue Monument Sign for Town Commission Review and Approval - Hector Gomez, Town Manager

The Administration is seeking direction on whether to move forward with a new

monument sign for Collins Avenue and 88th Street funded by the Tourist Board.

Town Manager Gomez introduced the item and the Tourist Board has recommended a new entrance sign and what proposals they are suggesting. He provided a presentation of the different sign options.

A motion was made by Vice Mayor Rose for purposes of discussion, seconded by Mayor Danzinger.

Mayor Danzinger, as the Tourist Board liaison, spoke regarding this project and what the Tourist Board suggested and their initiative to make the sign better.

Vice Mayor Rose spoke regarding the presentation and the first one is the one that the Tourist Board recommended. He is fine with number 1.

Mayor Danzinger is also with number 1.

Commissioner Velasquez stated she likes either or with the logo on the top or bottom corner.

Mayor Danzinger opened the floor to public comments.

There were no public speakers.

Mayor Danzinger closed the floor to public comments.

Town Manager Gomez stated it is bigger than the one that is there currently.

A motion was made by Vice Mayor Rose to move forward with the Tourist Board recommendations, seconded by Commissioner Landsman. The motion carried with a 4-0 vote.

[Attachment A - Tourist Board Selection, Monument Sign](#)

[Attachment B - Monument Sign Proposal Plus Town Seal](#)

[Attachment C - Don Bell Updated Estimate](#)

[Attachment D - Additional Sign Designs](#)

[Attachment E - Estimate for Additional Designs](#)

9C. Dune Resiliency Project Update - Hector Gomez, Town Manager

Town Manager Gomez provided an update on the project and provided a presentation of the project, materials and equipment for enhancement.

Mayor Danzinger opened the floor to public comments.

The following individual from the public spoke:

There were no public speakers.

Mayor Danzinger closed the floor to public comments.

Commissioner Velasquez asked regarding the diverter dunes and is that going to be a sitting area.

Town Manager Gomez stated that it would be roped off.

Mayor Danzinger stated they are made to maintain a certain form.

Commissioner Velasquez asked regarding a way to get to the beach.

Town Manager Gomez stated that ADA mats are in place and they do not have to add those diverted dunes everywhere. He provided a picture of the whole beach and continued with the presentation.

Further discussion took place among the Commission and Town Manager Gomez regarding the project and specifics.

A motion was made by Vice Mayor Rose to extend the meeting an additional 15 minutes at 10:58 pm., seconded by Commissioner Landsman. The motion carried with a 4-0 vote.

Vice Mayor Rose stated he liked bench number 1.

Commissioner Velasquez also likes bench number 1.

Mayor Danzinger stated there is not much symmetry and he would like to see more consistency like Bal Harbour. He stated he likes the first bench as well and likes the solid concrete. He also spoke about people sleeping on the benches and if they can incorporate something more that is for sitting and discouraging people from sleeping and to keep it in mind when they do the design portion of this project.

Town Manager Gomez asked if they would like 4 benches.

The Commission as a whole agreed to have 4 benches.

[Attachment A - Presentation](#)

9E. Village of Indian Creek Septic to Sewer Conversion Project - Hector Gomez, Town Manager

Town Manager Gomez introduced the item.

Mayor Danzinger opened the floor to public comments.

There were no public speakers.

Mayor Danzinger closed the floor to public comments.

Vice Mayor Rose asked when this would start and if it would impact the 91st Street project.

Town Manager Gomez stated they would have to incorporate it into our existing project. The goal is to work in conjunction and together so we only have to go down 91st Street once.

Mayor Danzinger stated they are seeking to approve construction permits so they can go ahead and submit the documentation. There are some things they have as part of the conversation. Number 1, fiscal compensation for the hardship that the residents will incur during the project; number 2 they should have to pay some form of impact fees associated with the hardship the town incurs; number 3 should be the two lots that are there and one of the fears is that the lots are Indian Creeks and they are subject to their own height restrictions and zoning and what he wants them to agree to is to ensure that they will commit to is abide by our zoning for those 2 lots.

Town Manager Gomez stated those two lots are the jurisdiction of the Village and they are bound by their zoning. He will discuss it with the Town Attorneys.

Mayor Danzinger stated to have the conversation with the Town Attorneys. He stated also dedication of police officers for traffic management within town.

Town Manager Gomez stated this is a project they are undergoing as a village and there is an opportunity of items to discuss between elected officials of our town and their village.

Mayor Danzinger asked how soon they will see the rest of the project coming forward.

Town Manager Gomez stated they did most of the work and some of the work that is already in the design aspect and he will provide a timeline to the commission.

A motion was made by Vice Mayor Rose to have the following: construction permits for this project, hardship-impact fees; commit those properties to abide by the Town of Surfside Code and dedication of police officers from their Department for mitigation of traffic, seconded by Commissioner Landsman. The motion carried with a 4-0 vote.

10. Adjournment

There being no further business to discuss before the commission, a motion was made by Commissioner Landsman to adjourn the meeting at 11:18 p.m.

Accepted this _____ day of _____, 2023.

Shlomo Danzinger, Mayor

Attest:

Sandra N. McCready, MPA, MMC
Town Clerk



Town of Surfside
Special Planning and Zoning Board Meeting
MINUTES
August 31, 2023
5:00 PM
Commission Chambers

1. Call to Order/Roll Call

The meeting was called to order by Chair Baumel at 5:00 p.m.

Deputy Town Clerk Herbello called the roll with the following members present:

Present: Chair Carolyn Baumel, Vice Chair David Forbes, Board Member Ruben Bravo, Board Member Lindsay Lecour, Board Member Jonathan Edderai, Alternate Board Member Michael Szafranski and Alternate Board Member Andrew Bales.

Also Present: Town Attorney Tony Recio, Commission Liaison Commissioner Fred Landsman, Town Planner Judith Frankel, Consultant Town Planner Walter Keller, Building Official James McGuinness and Town Manager Hector Gomez.

Chair Baumel introduced new board member, Andrew Bales.

2. Ordinances

2.A Carport Allowances in H30A and H30B - Judith Frankel AICP, Town Planner

Town Administration recommends the consideration of this ordinance to allow additional material types for carport canopies. It is further recommended that the Town Planner have the ability to refer any design review of a carport to the Planning & Zoning Board for final review and approval in the case of uncertain compatibility.

Deputy Town Clerk Herbello read the title of the ordinance into the record.

Town Planner Frankel gave an overview of the ordinance as it pertains to carport canopies.

Chair Baumel asked Building Official McGuinness regarding compliance with wind load.

Building Official McGuinness addressed the comments and provided his recommendations.

Minutes
Special Planning and Zoning Board Meeting
Thursday, August 31, 2023

Chair Baumel opened the floor to public comments.

The following individuals from the public spoke:
George Kousoulas

Chair Baumel closed the floor to public comments.

Chair Baumel addressed the comments made and provided her input regarding the different carport structures.

Town Planner Frankel responded to the comments made by Chair Baumel.

Town Attorney Recio stated the carports in this ordinance are the ones in the setback and is different from of an open garage that would not be in the setbacks.

Board Member Bravo asked on page 3 line 75 it should be Miami Dade County Notice of Acceptance and on page 4 are they eliminating Miami Dade Fire Marshal accountability and asked if they have any accountability.

Town Planner Frankel addressed the comments made and stated that the material has to be non flammable. She stated they can continue to have the language if they choose.

Board Member Bravo asked regarding making the change on line 75 and keep the fire marshal language.

Building Official McGuinness provided his language.

Town Attorney Recio stated the amendment to "pursuant to the Florida Building Code, Florida Product Approval and Miami Dade County Notice of Acceptance and will it loop in the fire marshal and put it back in and add "if applicable".

A motion was made by Board Member Bravo to recommend to the Town Commission to approve the ordinance on second reading as amended, seconded by Vice Chair Forbes. The motion carried with a 5-0 vote.

[Ordinance Carport Allowances.doc](#)

2.B Average Setbacks in H30A and H30B Zoning Districts - Judith Frankel AICP,
Town Planner

Town Administration recommends consideration of this ordinance change to allow for additional options in the design of new single-family homes and the potential for increased ground floor setbacks.

Deputy Town Clerk Herbello read the title of the ordinance into the record.

Town Planner Frankel introduced the item and provided an overview of the ordinance, and she said it does not result in any larger homes. She provided a presentation with the proposed change: total structure average setbacks.

Board Member Lecour asked if it would not be counted as average setback.

Town Planner Frankel responded to her comment and it would count towards the square footage.

Chair Baumel likes the creativity and the options.

Chair Baumel opened the floor to public comments.

The following individuals from the public spoke:
George Kousoulas

Chair Baumel closed the floor to public comments.

Board Member Lecour asked regarding the covering and a possible loophole.

A motion was made by Board Member Bravo to recommend to the Town Commission to approve the ordinance on second reading, seconded by Vice Chair Forbes. The motion carried with a 5-0 vote.

[Ordinance Amending 90-45 H30 Average Setbacks FAR.doc](#)

2.C Harding Avenue Front Yard Paving Allowance - Judith Frankel AICP, Town Planner

Town Administration recommends consideration of this ordinance to allow Harding Avenue homeowners in H30B and H30C districts additional paved parking space to encourage the beautification of their front yards.

Deputy Town Clerk Herbello read the title of the ordinance into the record.

Town Planner Frankel introduced the item and provided an overview of the ordinance.

Chair Baumel opened the floor to public comments.

There were no public speakers.

Chair Baumel closed the floor to public comments.

Chair Baumel believes this is an important piece for Harding Avenue.

Board Member Bravo asked what is going on with H30A on Harding Avenue and are these houses being affected by this.

Town Attorney Recio stated that they will not be affected.

Town Planner Frankel stated those houses do not face Harding Avenue.

Town Attorney Recio stated that there is a corridor of 3.

Board Member Lecour spoke regarding the design guidelines and one of the things identified is community priority lots on Harding Avenue and minimizing car garages and understands the need for additional parking but would like to see if they can ask for something in return to treat these community lots like an additional street tree.

Chair Baumel stated it could become an obstruction and the maintenance of that tree. She asked how many street trees are required on Harding.

Town Planner Frankel stated the new homes would be required to have 2 trees.

Discussion took place among the Board Members and staff regarding the landscaping requirements, pick up and drop off of the vehicles traveling on Harding Avenue as well as the vehicular traffic.

A motion was made by Vice Chair Forbes to recommend to the Town Commission to approve the ordinance on second reading, seconded by Board Member Edderai. The motion failed with a 2-3 vote with Board Member Bravo, Board Member Lecour and Chair Baumel voting in opposition.

A motion was made by Board Member Bravo to recommend to the Town Commission to approve the ordinance on second reading as amended to include H30A on Harding Avenue, seconded by Vice Chair Forbes. The motion carried with a 4-1 vote with Board Member Lecour voting in opposition.

[Ordinance Amending 90-61 Harding Avenue Front Yard Paving Allowance .doc](#)

2.D Smoke Shops as Conditional Use in SD-B40 - Judith Frankel AICP, Town Planner

Town Administration recommends approval of the ordinance to grant the Town Commission the ability to review proposed "Smoke Shops" for compatibility with Town character as a conditional use in the SD-B40 district.

Deputy Town Clerk Herbello read the title of the ordinance into the record.

Town Planner Frankel introduced the ordinance and provided an overview of the ordinance.

Chair Baumel opened the floor to public comments.

There were no public comments.

Chair Baumel closed the floor to public comments.

A motion was made by Vice Chair Forbes to recommend to the Town Commission to approve the ordinance on second reading, seconded by Board Member Bravo. The motion carried with a 5-0 vote.

[Ordinance Amending 90-41 to Allow Smoke Shops in CU in SD-B40.doc](#)

3. Applications

Town Attorney Recio read the quasi-judicial statement into the record.

Deputy Town Clerk Herbello swore in all applicants and individuals from the public that would like to speak.

Town Attorney Recio polled the Board Members.

No other members of the Board had any communication with any of the applicants.

3.A 9540 Harding Avenue - Wall Sign - Judith Frankel AICP, Town Planner

Town Administration finds that the application generally meets the Zoning Code requirements for wall signs and recommends approval with the condition that the rear property sign comply with the following code requirements:

1. Sign lettering must be individually-mounted utilizing one of the four options listed in Sec. 90-73.
2. Signs shall be off-set from the wall a minimum of one quarter inch to a maximum of two inches to permit rain water to flow down the face of the wall.
3. External Illumination must be directed solely at the sign.

Town Planner Frankel introduced the item, provided staff recommendations.

Chair Baumel opened the floor to public comments.

The following individuals from the public spoke:

There were no public comments.

Chair Baumel closed the floor to public comments.

_____, applicant was present to answer any questions.

A motion was made by Board Member Lecour to approve the application with staff recommendations, seconded by Board Member Edderai. The motion carried with a 5-0 vote.

[Attachment A: Existing Conditions and Code Standards
9540 Harding Avenue Agenda Packet.pdf](#)

3.B 8949 Harding Avenue - Roof Materials - Judith Frankel AICP, Town Planner

Town Administration recommends review of the application by the Planning and Zoning Board for consistency with the character of Surfside.

Town Planner Frankel introduced the item, provided staff recommendations.

Chair Baumel opened the floor to public comments.

There were no public comments.

Chair Baumel closed the floor to public comments.

Angel Cisneros, contractor representing the applicant provided an overview of the application.

Chair Baumel asked if this was brought as a repair and not a reroof.

Mr. Cisneros stated they are removing the damaged shingles and replacing the damaged material.

Board Member Bravo asked if they are using the same materials and color.

Mr. Cisneros stated yes they would be.

A motion was made by Board Member Bravo to approve the application with staff recommendations, seconded by Vice Chair Forbes. The motion carried with a 5-0 vote.

[8949 Harding Agenda Packet.pdf](#)

[8949 HARDING AVE. - Survey](#)

3.C 9431 Harding Avenue - Wall Sign - Judith Frankel AICP, Town Planner

Town Administration finds the proposed sign design meets the Zoning Code requirements subject to the following conditions:

1. Sign lettering must be individually-mounted utilizing one of the four options listed in Sec. 90-73
2. Signs shall be off-set from the wall a minimum of one quarter inch to a maximum of two inches to permit rainwater to flow down the face of the wall.
3. External Illumination must be directed solely at the sign.

Town Planner Frankel introduced the item, provided staff recommendations.

Chair Baumel opened the floor to public comments.

The following individuals from the public spoke:

There were no public comments.

Chair Baumel closed the floor to public comments.

Melissa Weatherwet, representing applicant provided an overview of the application.

A motion was made by Board Member Lecour to approve the application with staff recommendations, seconded by Board Member Bravo. The motion carried with a 5-0 vote.

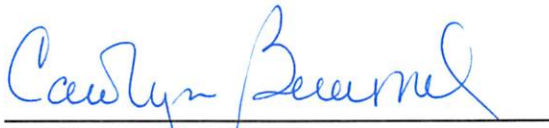
[Attachment A: Existing Conditions and Code Standards](#)

[9431 Harding Avenue Agenda Packet.pdf](#)

4. Adjournment

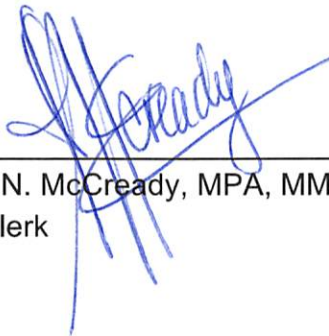
There being no further business to discuss before the Board, a motion was made by Vice Chair Forbes to adjourn the meeting at 5:55 p.m., seconded by Board Member Bravo. The motion carried with a 5-0 vote.

Accepted this 28th day of September, 2023.



Carolyn Baumel, Chair

Attest:



Sandra N. McCreedy, MPA, MMC
Town Clerk



MEMORANDUM

ITEM NO. 3C

To: Honorable Mayor, Vice-Mayor and Members of the Town Commission

From: Sandra N. McCready, MMC, Town Clerk

Date: November 14, 2023

Subject: **Approval of 2023 Meeting Calendar**

The attached are the 2024 meeting dates with the corresponding deadlines to the Town Attorneys and the Town Clerk. This calendar assists the Town Commission and Town staff with preparing and submitting agenda items in timely manner.

[2024 Agenda Deadline Dates.xlsx](#)

2024

Agenda Deadline Dates

	Deadline - Items To	Agenda Deadline - All Completed Items To	Agenda Distribution	Commission Meeting
MONTH	Town Attorney	Town Clerk	Date	Date
January 2024	12/15/2023	12/29/2023	1/3/2024	1/9/2024
February 2024	1/19/2024	2/2/2024	2/7/2024	2/13/2024
March 2024	2/16/2024	3/1/2024	3/6/2024	3/12/2024
April 2024	3/15/2024	3/29/2024	4/3/2024	4/9/2024
May 2024	4/19/2024	5/3/2024	5/8/2024	5/14/2024
June 2024	5/24/2024	6/7/2024	6/12/2024	6/18/2024*
July 2024	6/14/2024	6/28/2024	7/3/2024	7/9/2024
August 2024	7/19/2024	8/2/2024	8/7/2024	8/13/2024
September 2024	8/16/2024	8/30/2024	9/4/2024	9/10/2024
October 2024	9/13/2024	9/27/2024	10/2/2024	10/8/2024
November 2024	10/18/2024	11/1/2024	11/6/2024	11/12/2024
December 2024	11/15/2024	11/29/2024	12/4/2024	12/10/2024
January 2025	12/20/2024	1/3/2025	1/8/2025	1/14/2025

*Meeting changed to 6/18/2024 in observance of Shavuot



MEMORANDUM

ITEM NO. 3D.

To: Honorable Mayor, Vice-Mayor and Members of the Town Commission

From: Hector Gomez, Town Manager

Date: November 14, 2023

Subject: **Contract Agreement with Deco Bike for Bicycle Rental Services in Public Spaces**

Town administration recommends the approval of an amendment to the Deco Bike Agreement that provides bicycle sharing and ridership services within the Town's Right of Way. The amendment is for an additional three-year term.

Self-service bicycle sharing programs continue to offer the public a quick and cost-efficient method of transportation. Bicycle sharing programs promote a healthy active lifestyle while alleviating parking and vehicular congestion. Surfside's Citibike sharing program, managed by Deco Bike, has been widely used since its introduction in 2011 when the Town piggybacked off a contract with the City of Miami Beach to launch the service. Please refer to Attachment A - "Deco Bike LLC Surfside Concession Agreement" for the original agreement. The program authorizes Deco Bike to operate automated bicycle concession within the Town's Right of Way and provides for a cost sharing opportunity for the Town to receive compensation.

Currently, the Town operates four stations at the following locations:

- 88th Street and Harding Avenue "*Tennis Center*"
- Collins Avenue and 93rd Street "*Town Hall*"
- 94th Street and Harding Avenue "*Downtown Surfside*"
- 96th Street and Beach "*Beach Entry*"

The Table provided in **Attachment B** - "*Ridership Data in 2023*" shows the demand and use of the service per station.

The original agreement between the Town of Surfside and Deco Bike had a one-time amendment which expired on March 30, 2023 after exhausting all renewable terms. Deco Bike is currently the lone vendor offering such bike sharing station programs within the regional market; therefore, has been determined a Sole Source provider (see Attachment C - "Sole

Source Justification").

[Attachment A - Deco Bike, LLC Concession Agreement](#)

[Attachment B - Ridership Data in 2023](#)

[Attachment C - Sole Source Justification](#)

[Resolution Approving A Second Amendment To A Deco-Bike Agreement](#)

[Redlined - Second Amendment to Deco Bike Agreement](#)

EXHIBIT A

Deco Bike, LLC.
Town of Surfside

Concession Agreement
for a Self-Service Bicycle Rental &
Sharing Program

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**CONCESSION AGREEMENT BETWEEN
TOWN OF SURFSIDE, FLORIDA AND
DECO BIKE, LLC.
FOR THE
IMPLEMENTATION, MANAGEMENT AND
OPERATION OF A SELF-SERVICE BICYCLE SHARING PROGRAM
PURSUANT TO REQUEST FOR PROPOSALS NO. 44-07/08.**

THIS AGREEMENT made on November 8, 2011 (Effective Date), between the **TOWN OF SURFSIDE**, a municipal corporation of the State of Florida, having its principal address at 9293 Harding Avenue, Surfside, Florida, 33154 (hereinafter called "Town"), and **DECO BIKE, LLC.**, a Florida corporation, with offices at 3301 NE 1st Avenue LPH-6, Miami, Florida 33137 (hereinafter called "Concessionaire").

WITNESSETH

WHEREAS, self-service bicycle sharing programs are revolutionizing the way residents and tourists commute within cities in Europe and North America, and a self-service bicycle sharing program with public access has been determined by the Town to be a desirable and valuable mode of alternative public transportation for the community; and

WHEREAS, a self-service bicycle sharing program serves as a great health benefit to residents and tourists, alleviates parking and vehicular traffic congestion, and reduces vehicle emissions and reliance on fossil fuels, serving as a vital and integral part of the community; and

WHEREAS, a self-service bicycle sharing program will generate revenues for the Town; and

WHEREAS, on September 10, 2008, the Miami Beach City Commission authorized the issuance of a Request for Proposals No. 44-07/08 to solicit proposals for the City-wide implementation, management and operation of a self-service bicycle rental program available to the public (the RFP); and

WHEREAS, the Mayor and Town Commission, at its November 8, 2011 meeting, passed and adopted Resolution No.11-2058 which accepted the recommendation of the Town Manager, pursuant to the RFP; and authorized the Administration to enter into negotiations with Concessionaire as the top-ranked responsive proposer; and

WHEREAS, accordingly, the Town and Concessionaire have negotiated the following Agreement for the implementation, management and operation of an exclusive Town-wide self-service bicycle sharing program (the "program").

NOW THEREFORE, in consideration of the premises and the mutual covenants and conditions herein contained and other good and valuable consideration, the receipt and adequacy of which are hereby conclusively acknowledged, it is agreed by the parties hereto as follows:

The Town hereby grants to the Concessionaire, and the Concessionaire hereby accepts from the Town, the right to operate the following described concession within the Town limits (hereinafter called the Concession Service Zone) and upon the Concession Areas (as defined herein) in conformance with the purposes and for the period stated herein and subject to all the terms and conditions herein contained and fairly implied by the terms hereinafter set forth.

SECTION 1. TERM.

1.1 The initial term of this Agreement shall be for five (5) years, commencing on the date of Operational Rollout. The "Operational Rollout" date shall be defined as the earlier of: (i.) the first date that access to bicycles in the program is available to the public; or (ii.) seven (7) months from the Effective Date (as set forth on p. 4 hereof).

Concessionaire shall provide the Town Manager or his designee with written notice of the Operational Rollout date no later than thirty (30) days prior to the commencement of said date.

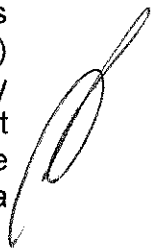
1.1.1 The collection of security deposits (if any) by Concessionaire prior to the Operational Rollout date, as a part of the member subscription registration process for the program or any free public demonstration periods, shall not be used in determining the Operational Rollout date.

1.1.2 The Operational Rollout date may be extended by the Town Manager, in writing, at his sole discretion, upon written request from Concessionaire, which notice shall state the reason for the request and the anticipated period of time requested.

1.1.3 Pursuant to section 13.6 herein, this Agreement may be terminated by the Town, without cause, by providing the Concessionaire written notice thereof by certified mail, return receipt requested, or by hand delivery, to be effective sixty (60) days from receipt of said notice.

1.2 At the Town's sole discretion, and provided further that the Concessionaire is not in default, commencing upon written notice from Concessionaire to the Town, which notice shall be given in the fifth contract year of the initial term (and then no later than ninety (90) days prior to expiration of said term), the Town may extend the term of this Agreement, for one (1) additional five (5) year renewal term.

As a condition to such renewal, the Town may require Concessionaire to purchase new Equipment (as defined herein), if the Town Manager deems necessary. Concessionaire shall deliver to Town, no later than ninety (90) days prior to the expiration of the initial term: (i.) a schedule of any Equipment which was replaced during the initial term; and (ii.) an itemized list of proposed replacement Equipment. The schedule and list shall be delivered to, reviewed, and approved by the Town Manager prior to, and as a condition of, the Town's consideration and approval of the renewal term.



- 1.3 For purposes of this Agreement, a "Contract Year" shall be defined as that certain 365 day period commencing on the date of Operational Rollout.

SECTION 2. CONCESSION AREA(S) AND CONCESSION SERVICE ZONE.

The Town hereby grants to the Concessionaire the right, during the Term of this Agreement, to operate the concession, as described herein, generally, in the following Concession Service Zone and, specifically, upon the following Concession Areas (hereinafter such areas shall be referred to individually as a Concession Area, or collectively as the Concession Areas):

2.1 Concession Service Zone.

The Concession Service Zone shall be defined as the geographical scope of the program, which is deemed to be Town-wide, and shall include all the Concession Areas (as defined below and in Exhibit 2.2) within the town limits of Surfside.

2.2 Concession Area (s).

The Concession Areas are the actual physical site locations for the program rental kiosks, as delineated on the Site List, which lists shall be approved by the Town Manager or his designee, in writing, and attached and incorporated as Exhibit 2.2 to this Agreement, no later than thirty (30) days prior to the Operational Rollout date. In selecting the Concession Areas for this Agreement, the parties shall give consideration to minimizing the impact upon the available number of public parking areas/spaces in the Town.

- 2.2.1 In the event that a Concession Area(s) indicated on the approved Site Plan and Site List is subsequently found to be unsuitable for a kiosk location, Concessionaire and the Town shall use reasonable efforts in mutually cooperating to find a replacement Concession Area, within a distance equal to one (1) town block, within thirty (30) days, and the approved Site Plan and Site List (in Exhibit 2.2) shall be amended accordingly. The same procedure shall be followed for the addition of new Concession Areas.

2.2.2 Underutilized Concession Area (s).

The Town Manager may deem a Concession Area an "Underutilized" Concession Area upon written request by Concessionaire to the Town Manager and upon Concessionaire presenting usage data for that Concession Area which indicates that the quantity of daily rentals or member uses originating from or returning to that Concession Area falls 50% below the Average Program Usage (as defined below); or as may otherwise be reasonably demonstrated by Concessionaire to the satisfaction of the Town Manager. The "Average Program Usage" ("APU") shall be defined as the average number of bicycle trips/uses

per day per kiosk operating in the program during a given calendar month. In the event the Town Manager determines that a Concession Area is an Underutilized Concession Area, the Town shall use reasonable efforts to cooperate with Concessionaire to transfer to or create a new Concession Area, and shall amend Site List (Exhibit 2.2) accordingly.

2.2.3 High-Risk Concession Area (s).

The Town Manager may deem a Concession Area a "High-Risk" Concession Area, upon written request by Concessionaire to the Town Manager, when its incidence of theft and/or vandalism is 50% higher than the Average Theft-Vandalism Rate; or as may otherwise be reasonably demonstrated by Concessionaire to the Town Manager. The "Average Theft-Vandalism Rate" ("ATVR") shall be defined as the average number of acts of theft or vandalism per kiosk operating in the program within a given calendar month. The Concessionaire shall present usage data for the Concession Area in question which indicates that the rate of theft and/or vandalism is 50% higher than the Average Theft/Vandalism. In the event that the Town Manager determines that a Concession Area is a High-Risk Concession Area, the Town shall use reasonable efforts to cooperate with Concessionaire to transfer to or create a new Concession Area and shall amend the Site List (Exhibit 2.2) accordingly.

SECTION 3. USE(S).

The Concessionaire is hereby authorized to conduct the following kind(s) of program related businesses and provide the following kind(s) of program related services within the Concession Area(s), all at its sole cost and expense:

3.1 Bicycle Rental Services

Concessionaire shall provide bicycle rentals at automated, self-service kiosks in the Concession Areas, on a short-term and subscription basis. The Town herein approves the: (i.) types of bicycles, as set forth in Exhibit 3.1, attached hereto; and (ii.) prices for rental and/or subscriptions for same, as set forth in Exhibit 3.2.1, attached hereto. Any amendments to Exhibits 3.1 and/or 3.2.1, whether as to type of bicycles to be rented, or as to changes in prices, must be approved in writing by the Town Manager or his designee prior to such changes being implemented within the Concession Area(s), and the respective exhibit(s) will be amended accordingly.

The Concessionaire agrees to maintain an adequate supply of bicycles necessary to accommodate demand. Bicycle rental and subscription services shall be offered daily to patrons at all times during the Concession Area(s) hours of operation, as set forth in Section 9 hereof.

Concessionaire and/or the Town may desire to add new technologies or equipment which may be developed in the future and are not contemplated under the Agreement.

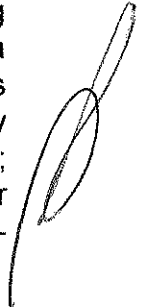
In the event Concessionaire determines new equipment or technology should be used in the program, Concessionaire shall make a request, in writing, to the Town Manager which outlines the proposed new equipment or technologies and the advantages resulting from their implementation. The Town Manager shall use reasonable efforts to approve or deny such request within thirty (30) days. In the event such a request is denied, the Town Manager shall provide a detailed explanation stating why such changes to the program equipment or technology should not be made.

Concessionaire shall integrate any approved new equipment and/or technology at Concessionaire's sole cost and responsibility and at no cost to the Town.

- 3.1.1 Intentionally Omitted.
- 3.1.2 All respective equipment within an individual Concession Area including, without limitation, the rental kiosks, bicycle racks, and bicycles (all of which may be hereinafter referred to collectively as the Equipment) shall be placed substantially in accordance with the approved Site Plan and Site List in Exhibit 2.2. Concessionaire shall not materially deviate from the approved Site Plan and Site List without the prior written consent of the Town Manager or his designee.
- 3.1.3 It is the Town's intent, and Concessionaire hereby agrees and acknowledges, to develop and promote a world class bicycle rental and sharing program that is comparable to those found at other world class communities similar to the Town of Surfside. The condition and quality of Concessionaire's Equipment shall at all times adhere to the highest responsible ongoing maintenance standards, in a manner that is consistent with the afore stated standards.

Concessionaire shall maintain its bicycles in good working order and repair and useable condition. At a minimum, this shall require the following: chain in good working order and free of rust; all moving components lubed; bicycle frame and fork structurally sound and in a clean condition; lights and reflectors functioning as designed; pedals in functional order; brakes functioning properly; handlebars properly attached and functional; tires inflated and free of excessive wear; wheels/spokes functional and free of excessive wear; seat in proper working order; all bolts and nuts properly secured; and all RFP-required accessories present and functioning as designed.

Concessionaire shall maintain the rental kiosks and bicycle racks in the Concession Areas in a good, clean working order and repair, including without limitation, keeping them free of graffiti.



In the event that a kiosk or rack is damaged for any reason, Concessionaire shall, at a minimum, commence repairs within forty-eight (48) hours, and, in any event, complete repairs or (if irreparable) replace the damaged kiosk or rack so that same is fully operational, no later than ten (10) days from the date Concessionaire first becomes aware (or should be aware) of the damage.

In the event that a bicycle is damaged for any reason, Concessionaire shall, at a minimum, commence repairs within forty-eight (48) hours and, in any event, complete repairs or (if irreparable) replace the damaged bicycle(s) within ten (10) days from the first date of removal (at which time the fully repaired bicycle or a replacement bicycle shall be put back into service).

Following the Effective Date, the Town may, at its option, request that Concessionaire provide it with a full inventory of all program Equipment, including types and numbers (per item); dates of lease and/or purchase; and initial condition (established as of the date of inventory). Thereafter, Town and Concessionaire may jointly prepare a plan and schedule for the ongoing replacement and/or updating of Equipment throughout the Term of this Agreement.

Many small/light maintenance items may be done on-site by Concessionaire and/or its subcontractors to eliminate or minimize unit downtime, while moderate to heavy maintenance may require Equipment to be removed from circulation and serviced at Concessionaire's repair center.

The quality of Equipment offered in the program will be first-rate and comparable to similar bike sharing programs in world-class communities (similar to the Town of Surfside).

3.2 Intentionally Omitted.

3.3 Rental Kiosks and Bicycle Racks

Concessionaire shall erect, install, operate, and maintain, at its sole cost and expense, and at no cost to the Town, all program rental kiosks and bicycle racks within the Concession Areas contemplated in Exhibit 2.2.

Concessionaire shall not erect, install, operate, and maintain additional kiosks and bicycle racks (unless Concessionaire is undertaking the repair or replacement of an existing kiosk or bicycle rack in an approved Concession Area), nor identify additional or alternate locations for same (other than as identified in Exhibit 2.2), without the prior written approval of the Town Manager or his designee.

Concessionaire shall provide, at its sole cost and expense, any and all design services including, but not limited to, architectural and engineering

services, as reasonably required for the design of the kiosks and bicycle racks. This shall include, without limitation, the following (as may be required by the Town): preparation of schematic design documents consisting of drawings, site plans, elevations, samples as required to show the scale and relationship of the components and the design concept as a whole; and, based upon the schematic design documents, as approved by the Town, design development documents which may consist of, but not be limited to, drawings, outline specifications and other documents necessary to fix and describe the size and character of the kiosks and bicycle racks in terms of architectural, structural (if any), and electrical (if any) systems, construction finish materials, and such other elements as the Town may deem reasonably necessary and appropriate.

With regard to the design of the kiosks and bicycle racks, the Concessionaire may be required to participate in a number of public presentations, workshops, community meetings, etc., as required for review and approval from regulatory bodies, and as may otherwise be deemed necessary by the Town Manager, in his reasonable discretion, for community and public involvement. This shall include, without limitation, meeting with the staff of the Town's Planning Department to determine whether the kiosks and bicycle racks will require Design Review and Historic Preservation Board approvals. If so required, Concessionaire shall be responsible for securing all final, non-appealable approvals from any and all such regulatory boards, at Concessionaire's sole cost and expense; provided, however, that the Town (as the owner of the land for the Concession Areas) shall reasonably cooperate with Concessionaire in assisting with the timely submittal of any owner's affidavits (and/or such other documents that may be required by the Town, as owner of the land).

The Concessionaire herein warrants and represents to the Town that any architects utilized by Concessionaire shall be duly licensed and admitted to practice architecture in the State of Florida pursuant to Chapter 481, Florida Statutes, and additionally possess the requisite occupational licenses from the Town and the County. Any and all engineers required herein shall also be duly licensed and certified by the State of Florida to engage in the practice of engineering in Florida.

The Concessionaire shall, at its sole cost and expense, fabricate, construct, and install (or cause to be fabricated, constructed, and installed) the kiosks and bicycle racks, based on the approved design (and subject to the conditions, if any, or any regulatory board orders). Concessionaire shall be responsible for preparation of any and all plans and specifications for same, and shall be responsible for obtaining all required governmental approvals and permits prior to fabrication/construction/installation.

In the event any notice or claim of lien shall be asserted against the interest of the Town on account of or arising from any work done by or for Concessionaire, or any person claiming by, through or under Concessionaire, or for improvements or work, the cost of which is the



responsibility of Concessionaire, Concessionaire agrees to have such notice or claim of lien cancelled and discharged within fifteen (15) days after notice to Concessionaire by Town. In the event Concessionaire fails to do so, Town may terminate this Agreement for cause without liability to Town.

Town shall not be liable for any claims, losses or damages suffered by third parties arising from Concessionaire's or its officers, agents, employees or contractors; fabrication, construction, and installation of the kiosks and bicycle racks, unless caused by Town's gross negligence or willful misconduct. In addition to the preceding sentence, Concessionaire shall maintain, or require that its contractor(s) maintain, worker's compensation insurance in at least the minimum amounts required by Florida law, and shall provide to Town a certificate evidencing such coverage.

3.3.1 Project Schedule / Project Implementation Launch

Concessionaire shall implement the following program phases:

Phase I:

Station #1 at 93rd Street and Collins Avenue (Municipal Complex).

Station #2 at 94th Street and Harding Avenue (Publix).

Subsequent Phases:

To be determined.

Concessionaire shall first commence the program with the setup and implementation of Phase I. Phase I shall be installed and implemented no later than the Operational Rollout date.

Upon Concessionaire notifying the Town Manager, in writing, that Phase I is installed, functioning properly, and operating as designed, and acceptance of the same, in writing, by the Town Manager or his designee may provide written notice to Concessionaire that it can proceed with the setup and implementation of subsequent Phases to be determined.

The procedure for implementation, set up, and Town acceptance of additional Phases shall be the same as for Phase I.

For purposes of the completion dates above, no Phase shall be deemed "installed and implemented" unless it has been accepted by the Town Manager, in writing, on or prior to such date.

3.3.1.1 Project Schedule

Within thirty (30) days from the Commencement Date, Concessionaire and Town shall mutually agree upon a detailed schedule for the fabrication, construction, and installation of the kiosks and bicycle racks, specifying the design and permitting phases; fabrication time; commencement and completion of construction; commencement and completion of installation; and implementation and set-up date (up to the Operational Rollout date); and including, without limitation, specific milestones; timelines, etc. Said schedule, when completed, shall be attached and incorporated as Exhibit 3.3.1.1 to this Agreement (the Project Schedule).

The Project Schedule, or specific dates thereon, may be extended by the Town Manager, in writing, at his sole discretion, upon written request from the Concessionaire, which notice shall state the reason for the request and the anticipated period of time requested.

3.3.1.2 Intentionally Omitted.

3.4 Operational Ceiling for Program

3.4.1 "Operational Ceiling" shall be defined as the maximum number of bicycles permitted to be operating and available to the public at any time.

3.4.2 The Operational Ceiling shall be 50 bicycles initially for all Phases combined upon the implementation Town-wide. Additional bicycles subject to Town Manager approval.

3.4.3 Intentionally Omitted.

3.4.4 Intentionally Omitted.

3.4.5 The Town Manager or his designee may authorize an increase in the Operational Ceiling on a temporary basis for special events or conventions, specifying the number of additional bicycles permitted to be in operation and the dates for which the increase applies to. Such increases shall be authorized in writing by the Town Manager or his designee prior to allowing any additional bicycles.

3.4.7 Intentionally Omitted.

3.5 Hurricane Evacuation Plan.

Concessionaire agrees that any and all Equipment not permanently affixed, must be removed within twelve (12) hours from the issuance of a Hurricane Warning by the Miami-Dade County Office of Emergency Management, and stored at a private, off-site storage facility. Prior to the Commencement Date,



Concessionaire shall provide the Town Manager or his designee with a hurricane preparedness/evacuation plan, which shall include the location and proof of ownership and/or control by Concessionaire (either through a deed, lease or other document satisfactory to the Town Manager or his designee) of the afore stated off-site storage facility; both of which shall be referenced in Exhibit 3.4, attached hereto. Concessionaire shall begin to restock the fleet into the Concession Areas only upon receiving verbal or written notice to do so from the Town Manager or his designee, and said restocking shall be completed within four (4) business days.

3.6 Intentionally Omitted.

SECTION 4. CONCESSION FEES.

4.1 Percentage of Gross Sales (PG):

Commencing with the Operational Rollout date, an amount equal to 12% percent of gross sales (PG), based on Concessionaire's gross sales receipts up to \$2,999,999.99, shall become due and payable by Concessionaire to the Town within fifteen (15) days following the end of each calendar month (during each contract year throughout the Term).

Commencing with the Operational Rollout date, an amount equal to 15% PG, based on Concessionaire's gross sales receipts surpassing \$3,000,000, shall become due and payable by Concessionaire to the Town within fifteen (15) days following the end of each calendar month (during each contract year throughout the Term).

Commencing with the first contract year following the Operational Rollout date, an amount equal to 25% PG of Concessionaire's gross sales receipts derived from Concessionaire's Bicycle Kiosk and Basket Sponsorship Program, shall become due and payable by Concessionaire to the Town within fifteen (15) days following the end of each calendar month, (during each contract throughout the Term).

The term "gross sales receipts" is understood to mean "all income retained or accrued as a result of sales activity, derived by the Concessionaire under the privileges granted by this Agreement, including without limitation, Concessionaire's short-term bicycle rentals, bicycle subscription program, and membership sales, excluding amounts of any Federal, State, or Town sales tax, or other tax, governmental imposition, assessment, charge or expense of any kind, collected by the Concessionaire from customers and required by law to be remitted to the taxing or other governmental authority." Any sales which result in credit card chargebacks where the customer's credit card company refuses or denies payment on transactions shall not be calculated as a part of any revenues subject to revenue sharing.

- 4.2 Interest for Late Payment.
Any payment which Concessionaire is required to make to Town which is not paid on or before the respective date provided for in this Agreement shall be subject to interest at the rate of twelve (12%) percent per annum, or the maximum interest allowable pursuant to Florida law, whichever is greater, from the due date of payment until such time as payment is actually received by the Town.
- 4.3 Sales and Use Tax.
Any required Florida State Sales and Use Tax shall be paid by Concessionaire directly or added to payments and forwarded to the Town as part of said payments. It is the Town's intent that it is to receive all payments due from Concessionaire as net of such Florida State Sales and Use Tax.
- 4.4 Intentionally Omitted.

SECTION 5. MAINTENANCE AND EXAMINATION OF RECORDS.

Concessionaire shall maintain current, accurate, and complete financial records (on an accrual basis) related to its operations herein. Systems and procedures used to maintain these records shall include a system of internal controls and all accounting records shall be maintained in accordance with generally accepted accounting principles and shall be open to inspection and audit by the Town Manager or his designee, upon reasonable prior notice, whether verbal or written, and during normal business hours. Such records and accounts shall include, at a minimum, a breakdown of gross receipts, expenses, and profit and loss statements. In the event Concessionaire accepts cash as a form of payment, it shall maintain accurate receipt-printing cash registers or the like which will record and show the payment for every sale made or service provided in the Concession Areas; and such other records shall be maintained as would be required by an independent CPA in order to audit a statement of annual gross receipts and profit and loss statement pursuant to generally accepted accounting principles.

A monthly report of gross receipts must be submitted to the Town, through the Finance Department's Revenue Supervisor, to be received no later than thirty (30) days after the close of each month (during each contract year throughout the Term).

SECTION 6. INSPECTION AND AUDIT.

Concessionaire shall maintain its financial records pertaining to its operations herein for a period of three (3) years after the expiration or other termination of this Agreement, and such records shall be open and available to the Town Manager or his designee, as deemed necessary by them. Concessionaire shall maintain all such records at its principal office, currently located at 3301 NE 1st Ave. LPH-6, Miami, Florida, 33137, or, if moved to another location, all such records shall be relocated, at Concessionaire's expense, to a location in Surfside, within ten (10) days' notice (written or verbal) from the Town.

The Town Manager or his designee shall be entitled to audit Concessionaire's records pertaining to its operations, as often as he deems reasonably necessary throughout the Term of this Agreement, and three (3) times within the three (3) year period following

termination of the Agreement (regardless of whether such termination results from the natural expiration of the Term or for any other reason). The Town shall be responsible for paying all costs associated with such audits, unless the audit(s) reveals a deficiency of five (5%) percent or more in Concessionaire's statement of gross receipts for any year or years audited, in which case Concessionaire shall pay to the Town, within thirty (30) days of the audit being deemed final by the Town, the cost of the audit and a sum equal to the amount of the deficiency revealed by the audit, plus interest. These audits are in addition to periodic audits by the Town of Surfside Resort Tax collections and payments, which are performed separately. Nothing contained within this Section shall preclude the Town's audit rights for Resort Tax collection purposes.

Concessionaire shall submit at the end of each contract year (throughout the Term), an annual statement of gross receipts, in a form consistent with generally accepted accounting principles. Additionally, such statement shall be accompanied by a report from an independent CPA firm.

It is Concessionaire's intent to stay informed of comments and suggestions by the Town regarding Concessionaire's performance under the Agreement. Within thirty (30) days after the end of each contract year, Concessionaire shall meet with the Town Manager or his designee to review Concessionaire's performance under the Agreement for the previous contract year. At the meeting, Concessionaire and Town may discuss quality, operational, maintenance and any other issues regarding Concessionaire's performance under the Agreement.

SECTION 7. TAXES, ASSESSMENTS.

7.1 Concessionaire agrees and shall pay before delinquency all taxes (including but not limited to Resort Taxes) and assessments of any kind levied or assessed upon a Concession Area or the Concession Areas, and/or on Concessionaire by reason of this Agreement, or by reason of Concessionaire's business and/or operations within a Concession Area or Areas. Concessionaire will have the right, at its own expense, to contest the amount or validity, in whole or in part, of any tax by appropriate proceedings diligently conducted in good faith. Concessionaire may refrain from paying a tax to the extent it is contesting the imposition of same in a manner that is in accordance with law. However, if, as a result of such contest, additional delinquency charges become due, Concessionaire shall be responsible for such delinquency charges, in addition to payment of the contested tax, if so ordered.

Concessionaire shall also be solely responsible (at its sole cost and expense) for obtaining and maintaining current any applicable licenses or permits, as required for the operations contemplated in this Agreement including, without limitation, any occupational licenses required by law for the proposed uses contemplated in Section 3 and for each Concession Area (if required).

7.2 Procedure If Ad Valorem Taxes Assessed.

If ad valorem taxes are assessed against a Concession Area or the Concession Areas (or any portion thereof) by reason of Concessionaire's business and/or operations thereon, Concessionaire shall be solely responsible for prompt and timely payment of same.

SECTION 8. EMPLOYEES AND INDEPENDENT CONTRACTORS.

8.1 Concessionaire's Employees/Independent Contractors.

8.1.1 Concessionaire shall select, train and employ such number of employees as is necessary or appropriate for Concessionaire to satisfy its responsibilities hereunder. The Concessionaire, including its employees, is an independent Contractor and shall be treated as such for all purposes. Nothing contained in this agreement or any action of the parties shall be construed to constitute or to render the Concessionaire an employee, partner, agent, shareholder, officer or in any other capacity other than as an independent Contractor other than those obligations which have been or shall have been undertaken by the Town. Concessionaire shall be responsible for any and all of its own expenses in performing its duties as contemplated under this agreement. The Town shall not be responsible for any expense incurred by the Concessionaire. The Town shall have no duty to withhold any Federal income taxes or pay Social Security services and that such obligations shall be that of the Concessionaire other than those set forth in this agreement. Concessionaire shall furnish its own transportation, office and other supplies as it determines necessary in carrying out its duties under this agreement.

8.1.2 Concessionaire shall designate a competent full-time employee to oversee the day-to-day operations, and who shall act as the contract administrator for the program and serve as Concessionaire's primary point-person with the Town. This individual shall have the requisite amount of experience in operating, managing, and maintaining the program and operations contemplated herein. The employee shall be accessible to the Town Manager or his designee at all reasonable times during normal business hours to discuss the management, operation and maintenance of the program, and within a reasonable time frame during non-business hours in the event of emergency. Consistent failure by the employee to be accessible shall be reported to Concessionaire's principal(s), and if not rectified, shall be grounds for replacement of the employee.

8.2 Concessionaire's employees and/or contractors shall wear identification badges and uniforms approved by the Town Manager or his designee, during all hours of operation when such employee or contractor is acting within the scope of such employment or such contractor relationship. All employees and/or contractors shall observe all the graces of personal grooming. The Concessionaire shall hire people to work in its operation who are neat, clean, well groomed, and who shall comport themselves in a professional and courteous manner. The Concessionaire and any persons hired or otherwise



retained by Concessionaire, shall never have been convicted of a felony.

- 8.3 Concessionaire shall make good faith efforts to hire employees and/or contractors for the program from among unemployed workers in the Town of Surfside workforce.

SECTION 9. HOURS OF OPERATION.

All Concession Areas and operations thereon shall be open every day of the year, weather or events of force majeure permitting, and shall be open to the public 24 hours per day, 365 days per year.

SECTION 10. IMPROVEMENTS, MAINTENANCE, REPAIR and OPERATION.

The Concessionaire accepts the use of any and all Concession Areas provided in this Agreement "AS IS," "WHERE IS," and "WITH ALL FAULTS," existing of at the Commencement Date.

Concessionaire assumes sole responsibility and expense for maintenance of the Concession Areas and all Equipment thereon.

10.1 Improvements.

- 10.1.1 In addition to the specific procedures set forth in Section 3.3 for the design, fabrication, construction, and installation of the kiosks and bicycle racks, Concessionaire shall also be solely responsible (including cost) and shall pay for the design, fabrication, construction, and installation of any and all other improvements to a Concession Area or Areas. Any plans for such improvements shall be submitted to the Town Manager or his designee for the Town's written approval.

All improvements (including any made pursuant to Section 3.3) intended to be permanent and fixed shall remain the property of the Town upon termination and/or expiration of this Agreement. Upon termination and/or expiration of this Agreement, all personal property and non-permanent trade fixtures may be removed from the Concession Areas by Concessionaire.

Concessionaire will permit no liens to attach to the Concession Areas arising from, connected with, or related to the design, fabrication, construction, and installation of any improvements. Moreover, any permitted construction shall be accomplished through the use of licensed, reputable contractors who are acceptable to the Town. Any and all approvals, permits, and or licenses required for the design, construction, and/or installation of improvements shall be the sole cost and responsibility of Concessionaire.

- 10.1.2 Upon termination and/or expiration of this Agreement any and all improvements erected or installed in the Concession Areas (not

intended to be permanent or fixed, but subject to the Town's election in immediately following sentence) shall be removed by Concessionaire, at its sole cost and expense, in accordance with Subsection 13.7 hereof. Additionally, Concessionaire may also be required to remove any permanent or fixed improvements at the Town Manager's sole discretion, upon written request from the Town Manager or his designee. Any such improvements shall be promptly removed by Concessionaire, at its sole cost and expense, and Concessionaire shall restore the Concession Area or Areas to its/their original condition prior to the improvements being made.

10.2

Maintenance/Repair.

The Concessionaire shall maintain, at its sole cost and expense, the Concession Areas and any Equipment thereon (as required to operate the program).

- 10.2.1 Concessionaire shall be solely responsible for the day to day operation, maintenance and repair of all Concession Areas. Concessionaire shall maintain the Concession Areas and any Equipment thereon in good working order and condition. Concessionaire shall keep all Equipment free of graffiti.
- 10.2.2 All damage of any kind to a Concession Area and any Equipment thereon shall be the sole obligation of Concessionaire, and shall be repaired, restored or replaced promptly by Concessionaire, at its sole cost and expense, to the reasonable satisfaction of the Town Manager or his designee. In the event any Equipment is lost, stolen, or damaged, it shall be promptly replaced or repaired by Concessionaire no later than ten (10) days from the date of loss, theft, or damage.
- 10.2.3 All of the aforesaid repairs, restorations and replacements shall be in quality and class equal to or better than the original work (or Equipment) and shall be done in good and workmanlike manner.
- 10.2.4 If Concessionaire fails to make such repairs, restorations and/or replacements to a Concession Area and/or to any particular Equipment thereon, the same may be made by the Town, at the Town's sole option and discretion, but not its obligation. Concessionaire shall be responsible for any costs associated therewith, and shall reimburse the Town within ten (10) days after rendition of a bill or statement.
- 10.2.5 It shall be Concessionaire's sole obligation to insure that any renovations, repairs and/or improvements made by Concessionaire to the Concession Areas comply with all applicable building codes and life safety codes of governmental authorities having jurisdiction.



10.3

Orderly Operation.

The Concessionaire shall have a neat and orderly operation at all times and shall be solely responsible for the necessary housekeeping services to properly maintain the Concession Areas and any Equipment thereon. The Concessionaire shall make available all Equipment within a Concession Area for examination by the Town Manager or his authorized representative, upon reasonable verbal and/or written notice from the Town.

10.3.1

Concessionaire agrees, also at its sole cost and expense to pay for all garbage disposal generated by its operations.

10.4

No Dangerous Materials.

The Concessionaire agrees not to use or permit the storage and/or use of gasoline, fuel oils, diesel, illuminating oils, oil lamps, combustible powered electric own producing generators, turpentine, benzene, naphtha, propane, natural gas, or other similar substances, combustible materials, or explosives of any kind, or any substance or thing prohibited in the standard policies of fire insurance companies in the State of Florida, on or within any of the Concession Areas, or on any Town property and/or right of way.

Concessionaire shall indemnify and hold Town harmless from any loss, damage, cost, or expense of the Town, including, without limitation, reasonable attorney's fees, incurred as a result of, arising from, or connected with the placement by Concessionaire of any "hazardous substance" or "petroleum products" on, under, in or upon the Concession Areas as those terms are defined by applicable Federal and State Statute, or any environmental rules and environmental regulations promulgated thereunder; provided, however, Concessionaire shall have no liability in the event of the willful misconduct or gross negligence of the Town, its agents, servants or employees. The provisions of this Subsection 10.5 shall survive the termination or earlier expiration of this Agreement.

10.5

Security.

The Concessionaire shall be responsible, at its sole option, to employ or provide reasonable security measures, as it may deem necessary to protect the Concession Area and any Equipment thereon. Under no circumstances shall the Town be responsible for any stolen or damaged Equipment, nor shall Town be responsible for any stolen or damaged personal property of Concessionaire's employees, contractors, agents, patrons, guests, invitees, and/or other third parties.

Notwithstanding the preceding paragraph, Concessionaire shall not be obligated to have a duty to provide security services (whether manned or automated) to patrons using the program, as the program is contemplated as an unattended self-service and automated system. Concessionaire shall not employ any recorded video surveillance without the approval of the Town Manager or his designee.

Town and Concessionaire understand that bicycle theft has been identified

as a problem in other bicycle sharing programs. One of the potential causes for theft may be that the locking mechanism may leave inexperienced users of these types of bike sharing programs unsure of whether their bicycle is properly locked. Accordingly, in order to deter theft, Concessionaire shall prominently disclose on each kiosk, in visible, plain, easy to read/understand language and/or symbols, the proper procedure(s) for safely docking and locking a bike into the bike docking station. Similarly, Concessionaire shall utilize a locking system that clearly indicates to users when a bicycle has been fully and properly locked. It is highly recommended that Concessionaire utilize a mechanism that is fully incorporated into the bicycle design, so that it should be impossible to remove the lock without breaking the bicycle.

Concessionaire shall also place a clearly visible, legible disclaimer on kiosks, and on patron/customer receipts, advising users that program bikes do not come equipped with individual locks and that neither Town nor Concessionaire shall be liable or otherwise responsible to users if the bicycle is stolen while in use (including bicycles that are not properly locked at the conclusion of use).

10.6 Intentionally Omitted.

10.7 Inspection.

The Concessionaire agrees that the any Concession Area (including, without limitation, any Equipment thereon) may be inspected at any time by the Town Manager or his designee, or by any other municipal, County, State officer, or officers of any other agency(ies) having responsibility and/or jurisdiction for inspections of such operations. The Concessionaire hereby waives all claims against the Town for compensation for loss or damage sustained by reason of any interference with the concession operation as a result of inspection by any public agency(ies) or officials, (including, without limitation, by reason of any such public agency or official in enforcing any laws, ordinances, or regulations as a result thereof). Any such interference shall not relieve the Concessionaire from any obligation hereunder.

SECTION 11. INSURANCE.

Concessionaire shall maintain, at its sole cost and expense, the following types of insurance coverage at all times throughout the Term of this Agreement:

- a. Comprehensive General Liability in the minimum amount of One Million (\$1,000,000.00) Dollars per occurrence for bodily injury and property damage. This policy must also contain coverage for premises operations, products and contractual liability.
- b. Workers Compensation Insurance shall be required in accordance with the laws of the State of Florida.
- c. Automobile Insurance shall be provided covering all owned, leased, and hired vehicles and non-ownership liability for not less than the following



limits:

Bodily Injury	\$1,000,000 per person
Bodily Injury	\$1,000,000 per accident
Property Damage	\$1,000,000 per accident

The policies of insurance referred to above shall not be subject to cancellation or changing coverage except upon at least thirty (30) days prior written notice to the Town, and then only subject to the prior written approval of the Town Manager or his designee. Prior to the Commencement Date of this Agreement, Concessionaire shall provide Town with a Certificate of Insurance for each such policy. ALL POLICIES SHALL NAME THE TOWN OF SURFSIDE FLORIDA AS AN ADDITIONAL NAMED INSURED. All such policies shall be obtained from companies authorized to do business in the State of Florida with an A.M. Best's Insurance Guide (latest edition) rating acceptable to the Town's Risk Manager, and any replacement or substitute company shall also be subject to the approval of the Town's Risk Manager.

Should Concessionaire fail to obtain, maintain or renew the policies of insurance referred to above, in the required amounts, the Town may, at its sole discretion, obtain such insurance, and any sums expended by Town in obtaining said insurance, shall be repaid by Concessionaire to Town, plus ten (10%) percent of the amount of premiums paid to compensate Town for its administrative costs. If Concessionaire fails to repay Town's expenditures within fifteen (15) days of demand such failure shall be deemed an event of default, and the total sum owed shall accrue interest at the rate of twelve (12%) percent until paid.

SECTION 12. INDEMNITY.

- 12.1 Concessionaire shall defend, indemnify, and hold harmless the Town, its officers, agents, and employees, from and against any and all demands, claims, losses, suits, liabilities, causes of action, judgment or damages, including legal fees and costs, arising out of or, related to, or in any way connected with Concessionaire's performance or non-performance of this Contract. Concessionaire shall defend, indemnify, and hold the Town harmless from all losses, injuries, or damages and wages or overtime compensation due its employees in rendering services pursuant to this Contract, including payment of reasonable attorneys' fees and costs in the defense of any claim made under the Fair Labor Standards Act, Title VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act, the Americans with Disabilities Act or any employment related litigation or workers' compensation claims under federal or state law. The provisions of this section shall survive termination of this Contract.
- 12.2 For other and additional good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Concessionaire, including but not limited to the Concessionaire's officers, officials, employees, representatives, agents, contractors officers, etc., subcontractors and their officers, etc. (hereinafter Concessionaire) hereby agrees to indemnify, hold

harmless and defend the Town of Surfside, including but not limited to its officers, agents, subcontractors, officers, officials, representatives, volunteers, employees and all those others acting on the Town's behalf (hereinafter TOWN) against any and all liability, loss, cost, damages, expenses, claims or actions of whatever type or nature, including but not limited to attorney and expert fees and suit cost, for trials and appeals, that the Town may pay, sustain, or incur arising wholly or in part due to any negligent or deliberate act, error or omission of Concessionaire in the execution, performance or non-performance or failure to adequately perform Concessionaire's obligation pursuant to this Agreement.

12.3 Subsections 12.1 and 12.2 shall survive the termination or expiration of this Agreement.

12.4 Subrogation.
The terms of insurance policies referred to in Section 11 shall preclude subrogation claims against Concessionaire, the Town and their respective officers, employees, contractors, agents, and servants.

12.5 Force Majeure.
Neither party shall be obligated to perform hereunder and neither party shall be deemed to be in default if performance is prevented by:

- a. Any act or chain of related acts resulting in Equipment destruction, vandalism or theft which renders at least fifty (50%) percent of the Concessionaire Areas in the Concession Service Zone unusable at any one point in time and which is not caused by negligence of Concessionaire;
- b. earthquake; hurricane; flood; act of God; direct act of terrorism; or civil commotion occurring which renders at least fifty (50%) percent of the Concession Areas in the Concession Service Zone unusable.
- c. any law, ordinance, rule, regulation or order of any public or military authority stemming from the existence of economic or energy controls, hostilities, or war which renders at least fifty (50%) percent of the Concession Areas in the Concession Service Zone unusable.

12.6 Intentionally Omitted.

12.7 Waiver of Loss from Hazards.
The Concessionaire hereby expressly waives all claims against the Town for loss or damage sustained by the Concessionaire resulting from any Force Majeure contemplated in Subsection 12.5 and Labor Dispute in Subsection 12.6 above, and the Concessionaire hereby expressly waives all rights, claims, and demands against the Town and forever releases and discharges the Town of Surfside, Florida, from all demands, claims, actions and causes of action arising from any of the aforesaid causes.

12.8 Intentionally Omitted.

SECTION 13. DEFAULT AND TERMINATION.

Subsections 13.1 through 13.3 shall constitute events of default under this Agreement. An event of default by Concessionaire shall entitle Town to exercise any and all remedies described as Town's remedies under this Agreement, including but not limited to those set forth in Subsection 13.4 and Section 14.

13.1 Bankruptcy.

If either the Town or Concessionaire shall be adjudged bankrupt or insolvent, or if any receiver or trustee of all or any part of the business property of either party shall be appointed, or if any receiver of all or any part of the business property shall be appointed and shall not be discharged within sixty (60) days after appointment, or if either party shall make an assignment of its property for the benefit of creditors, or shall file a voluntary petition in bankruptcy, or insolvency, or shall apply for reorganization or arrangement with its creditors under the bankruptcy or insolvency laws now in force or hereinafter enacted, Federal, State, or otherwise, or if such petitions shall be filed against either party and shall not be dismissed within sixty (60) days after such filing, then the other party may immediately, or at any time thereafter, and without further demand or notice, terminate this Agreement without being prejudiced as to any remedies which may be available to it for breach of contract.

13.2 Default in Payment.

In the event Concessionaire fails to submit any payment within five (5) days of its due date, there shall be a late charge of Fifty (\$50.00) Dollars per day for such late payment, in addition to interest at the highest rate allowable by law. If any payment and accumulated penalties are not received within fifteen (15) days after the payment due date, and such failure continues seven (7) days after written notice thereof, then the Town may, without further demand or notice, terminate this Concession Agreement without being prejudiced as to any remedies which may be available to it for breach of contract; and may begin procedures to collect the Performance Bond required in Section 14 herein.

13.3 Non-Monetary Default.

In the event that Concessionaire or the Town fails to reasonably perform or observe the non-monetary covenants, terms or provisions under this Agreement, and such failure continues thirty (30) days after written notice thereof from the other party hereto, such non-defaulting party may immediately or at any time thereafter, and without further demand or notice, terminate this Agreement without being prejudiced as to any remedies which may be available to it for breach of contract. In the event that a default is not reasonably susceptible to being cured within such period, the defaulting party shall not be considered in default if it shall, within such period, commence with due diligence and dispatch to cure such default and thereafter completes with dispatch and due diligence the curing of such default, but in

no event shall such extended cure period exceed ninety (90) days from the date of written notice thereof. In the event Concessionaire cures any default pursuant to this subsection, it shall promptly provide the Town Manager with written notice of same.

13.4 Town's Remedies for Concessionaire's Default.

If any of the events of default, as set forth in this Section, shall occur, the Town may, after expiration of the cure periods, as provided above, at its sole option and discretion, institute such proceedings as in its opinion are necessary to cure such defaults and to compensate Town for damages resulting from such defaults, including but not limited to the right to give to Concessionaire a notice of termination of this Agreement. If such notice is given, the term of this Agreement shall terminate upon the date specified in such notice from Town to Concessionaire. On the date so specified, Concessionaire shall then quit and surrender the Concession Area(s) to Town pursuant to the provisions of Subsection 13.7. Upon the termination of this Agreement, all rights and interest of Concessionaire in and to the Concession Area(s) and to this Agreement, and every part thereof, shall cease and terminate and Town may, in addition to any other rights and remedies it may have, retain all sums paid to it by Concessionaire under this Agreement, including but not limited to, the Performance Bond in Section 14 herein.

In addition to the rights set forth above, the Town shall have the rights to pursue any and all of the following:

- a. the right to injunction or other similar relief available to it under Florida law against Concessionaire; and or
- b. the right to maintain any and all actions at law or suits in equity or other proper proceedings to obtain damages resulting from Concessionaire's default.

13.5 If an event of default by the Town shall occur, the Concessionaire may, after expiration of the cure periods, as provided above, terminate this Agreement upon written notice to the Town. Said termination shall become effective upon receipt of a written notice of termination by the Town, but in no event shall Concessionaire specify a termination date that is less than sixty (60) days from the date of the written termination notice. On the date specified in the notice, Concessionaire shall quit and surrender the Concession Area(s) to Town pursuant to the provisions of Subsection 13.7.

13.6 Termination for Convenience. This Agreement may be terminated by the Town, without cause, by providing the Concessionaire written notice thereof by certified mail, return receipt requested, or by hand delivery, to be effective sixty (60) days from receipt of said notice.

13.7 Surrender of Concession Areas / Removal by Concessionaire of Equipment/Improvements.

Upon expiration, or earlier termination of this Agreement, Concessionaire shall surrender the Concession Areas in the same condition as the Concession Areas were prior to the Commencement Date, reasonable wear and tear excepted. Concessionaire shall, at its sole expense and at no charge to the Town, remove all Equipment from the Areas, (as well as any other permanent or fixed improvements if so requested by the Town Manager or his designee) no later than sixty (60) days after the conclusion of the Term, (or from the date of other termination of this Agreement) unless a longer time period is agreed to, in writing, by the Town Manager).

Concessionaire's obligation to observe or perform this covenant shall survive the expiration or other termination of this Agreement. Continued occupancy of any Concession Areas after termination of the Agreement shall constitute trespass by the Concessionaire, and may be prosecuted as such. In addition, the Concessionaire shall pay to the Town One Thousand (\$1,000.00) Dollars per day per Area as liquidated damages for such trespass and holding over.

13.8 Intentionally Omitted.

13.9 Substitute Performance

In the event that the Concessionaire fails to properly perform the removal of any Equipment and restoration of the Concession Areas to their original condition in accordance with the terms of the Agreement, then the Town shall have the right to undertake and/or purchase, as the Town Manager deems appropriate, any such supplies, materials, services, etc., covered herein and to charge Concessionaire for all actual costs thereby incurred by the Town. Concessionaire shall be responsible for paying all of said costs.

SECTION 14. PERFORMANCE BOND OR ALTERNATE SECURITY.

Concessionaire shall, on or before the Operational Rollout date, furnish to the Town Manager or his designee a Performance Bond in the penal sum stated below for the payment of which Concessionaire shall bind itself for the faithful performance of the terms and conditions of this Agreement. A Performance Bond, in the amount of One Hundred Thousand (\$100,000.00) Dollars, shall be provided by the Concessionaire in faithful observance of this Agreement. A cash deposit, irrevocable letter of credit, or certificate of deposit may also suffice, as determined by the Town Manager or his designee, in his sole and reasonable discretion. The form of the Performance Bond or alternate security shall be approved by the Town's Chief Financial Officer. In the event that a Certificate of Deposit is approved, it shall be a Two Thousand Five Hundred (\$2,500.00) Dollar one-year Certificate of Deposit in favor of the Town per kiosk location, which shall be automatically renewed, the original of which shall be held by the Town's Chief Financial Officer. Concessionaire shall be so required to maintain said Performance Bond or alternate security in full force and effect throughout the Term of this Agreement. Concessionaire shall have an affirmative duty to notify the Town Manager or his designee, in writing, in the event said Performance Bond or alternate security lapses or otherwise expires. All interest that accrues in connection with any financial instrument or sum of money referenced above shall be the property of Concessionaire, except in an event of default, in which case the Town shall be entitled to all interest that accrues after the date of default.



SECTION 15. ASSIGNMENT.

Concessionaire shall not assign all or any portion of its costs or obligations under this Agreement without the prior written consent of the Town Manager, which shall not be unreasonably withheld. Concessionaire shall notify the Town Manager of any proposed assignment, in writing, at least sixty (60) days prior to the proposed effective date of such assignment. In the event that any such assignment is approved by the Town Manager, the assignee shall agree to be bound by all the covenants of this Agreement required of Concessionaire.

SECTION 16. SPONSORSHIPS.

16.1 The Town reserves unto itself all present and future rights to negotiate all forms of endorsement and/or sponsorship agreements based on the marketing value of any Town trademark, property, brand, logo and/or reputation. Any and all benefits derived from an endorsement and/or sponsorship agreement based on the marketing value of a Town trademark property, brand, logo and/or reputation, shall belong exclusively to the Town. Concessionaire shall be specifically prohibited from entering into, or otherwise creating any, sponsorships and/or endorsements with third parties which are based solely or in any part on the marketing value of a Town trademark, property, brand, logo and/or reputation. The prohibition on Concessionaire entering into such sponsorship and/or endorsement Agreements utilizing the Town's property, trademark, logo, brand and reputation, as defined above in this Section, shall not be interpreted to include nor prohibit the Concessionaire's right to sell, rent, or use, exclusively, any particular brand or product that would be permitted for use, sale, or rental pursuant to this Agreement. Moreover, the Town will not limit Concessionaire's ability to negotiate a reduced rate for purchase, from any vendor, whose product(s) Concessionaire uses or offers for sale or rent pursuant to this Agreement.

It is further acknowledged that the name, likeness, equipment, concepts, logos, designs and other intellectual property rights of Deco Bike, LLC. shall remain in the exclusive possession and control of Concessionaire at all times; provided, however, that Concessionaire hereby grants Town an irrevocable license to use any DecoBike, LLC trademark, brand, and/or logo, for purposes of the Town's promotion of the program and including, without limitation, the right to use such trademarks, brand, and/or logo in all media (for such public marketing purposes) whether now existing or as may exist in the future.

16.2 Advertisements

The Town acknowledges that Concessionaire may display limited commercial advertising material through the sale by Concessionaire of sponsorship placements upon bicycle kiosks and baskets in the program (the

Bicycle Kiosk and Basket Sponsorship Program). The Bicycle Kiosk and Basket Sponsorship Program is described in, and shall be subject to, the requirements in Exhibit 16.2, attached hereto.

Any Advertisements displayed on kiosks and bicycles shall comply with all Federal, State, Miami-Dade County, and Town of Surfside laws, rules, regulations, ordinances, and codes, including, but not limited to, those pertaining to and/or related to billboards, outdoor advertisements, and signage, as applicable. In addition, the construction, materials, content and appearance of any Advertisements to be installed on the kiosks and bicycles must be allowable and, if allowed, shall comply with such other and future requirements as Federal, State, County, and Town authorities may from time to time impose, including, but not limited to, public safety, zoning, building, and aesthetic requirements.

Accordingly, any unauthorized Advertisements on kiosks and bicycles (or on other Equipment, or within any Concession Area), or any Advertisements failing to comply with any applicable Federal, State, County, and Town provisions shall and must be removed by Concessionaire, at its sole cost and expense, within forty-eight (48) hours from receipt of written notice from the Town Manager or his designee. In the event such Advertisements are not removed within said time period, the Town may, at its sole option and discretion, terminate this Agreement for cause, without further notice to Concessionaire, and without liability to Town.

Concessionaire herein acknowledges that the Town reserves the right to impose such additional requirements for the installation and display of the Advertisements, at any time, at its sole option and discretion; provided that the Town Manager or his designee shall provide Concessionaire with written notice of such additional requirements and such requirements do not frustrate the purpose and intent of this Agreement.

The permissible content of Advertisements shall not include firearms, alcohol or tobacco products, or be of a sexually offensive nature.

SECTION 17. NO IMPROPER USE.

The Concessionaire will not use, nor suffer or permit any person to use in any manner whatsoever, any Concession Areas or improvements on equipment thereon, for any illegal, improper, immoral or offensive purpose, or for any other purpose in violation of any Federal, State, County, or municipal ordinance, rule, order or regulation, or of any governmental rule or regulation now in effect or hereafter enacted or adopted. The Concessionaire will protect, indemnify, and forever save and keep harmless the Town, its officials, employees, contractors, and agents from and against damage, penalty, fine, judgment, expense or charge suffered, imposed, assessed or incurred for any violation, or breach of any law, ordinance, rule, order or regulation occasioned by any act, neglect or omission of the Concessionaire, or any official, director, agent, contractor, or servant regarding the concession. In the event of any violation by the Concessionaire, or if the Town or its authorized representative shall deem any conduct on the part of the

Concessionaire to be objectionable or improper, the Town shall have the right to suspend concession operation should the Concessionaire fail to correct any such violation, conduct, or practice to the satisfaction of the Town Manager or his designee within twenty-four (24) hours following written notice of the nature and extent of such violation, conduct, or practice. Such suspension to continue until the violation is cured to the satisfaction from the Town Manager or his designee.

SECTION 18. PRICE SCHEDULES.

Concessionaire agrees that prices charged for bicycle rentals and membership subscriptions will be consistent with the price schedule(s) (herein submitted by the Concessionaire and approved by the Town), in Exhibit 3.2.1 hereto. All subsequent price approvals and changes must be approved in writing by the Town Manager or his designee. The Town shall have the final right of approval for all such price changes, but said approval shall not be arbitrarily or unreasonably exercised.

SECTION 19. NOTICES.

All notices from the Town to the Concessionaire shall be deemed duly served upon receipt, if mailed by registered or certified mail with a return receipt to the Concessionaire at the following address:


Deco Bike, LLC.
3301 NE 1st Avenue, Suite LPH-6
Miami, FL 33137
Attn: Ricardo Pierdant

With copies to:

Ozzie Schindler, Esq.
Greenberg & Traurig, LLP.
1221 Brickell Avenue
Miami, FL 33131

All notices from the Concessionaire to the Town shall be deemed duly served upon receipt, if mailed by registered or certified mail return receipt requested to the Town of Surfside at the following addresses:

Town Manager
Town of Surfside
9293 Harding Avenue
Surfside, FL 33154
Attn: Roger Carlton



With copy to:

Town Attorney
Town of Surfside
9293 Harding Avenue

Surfside, FL 33154
Attn: Lynn M. Dannheisser

The Concessionaire and the Town may change the above mailing address at any time upon giving the other party written notification. All notices under this Concession Agreement must be in writing.

SECTION 20. LAWS.

20.1 Compliance.
Concessionaire shall comply with all applicable Town, County, State, and Federal ordinances, statutes, rules and regulations, including but not limited to all applicable environmental Town, County, State, and Federal ordinances, statutes, rules and regulations.

20.2 Governing Law.
The validity of this Agreement and the interpretation and performance of all of its terms shall be construed and enforced in accordance with the laws of the State of Florida, without regard to principles of conflict of laws thereof. The location of any action or proceeding commenced under or pursuant to this Agreement shall be in Miami-Dade County, in the State of Florida.

20.3 Intentionally Omitted.

20.4 No Discrimination/Equal Employment Opportunity.
The Concessionaire agrees to comply with all local and state civil rights ordinances and with Title VI of the Civil Rights Act of 1964 as amended, Title VIII of the Civil Rights Act of 1968 as amended, Title I of the Housing and Community Development Act of 1974 as amended, Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990, the Age Discrimination Act of 1975, Executive Order 11063, and with Executive Order 11248 as amended by Executive Orders 11375 and 12086. The Concessionaire will not discriminate against any employee or applicant for employment because of race, color, creed, religion, ancestry, national origin, sex, disability or other handicap, age, marital/family status, or status with regard to public assistance. The Concessionaire will take affirmative action to insure that all employment practices are free from such discrimination. Such employment practices include but are not limited to the following: hiring, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff, termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The Concessionaire agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Town setting forth the provisions of this non-discrimination clause. The Concessionaire agrees to comply with any Federal regulations issued pursuant to compliance with Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 708), which prohibits discrimination against the handicapped in any Federally assisted program.

20.4.1 Intentionally Omitted.

20.4.2 Conflict Of Interest:

The Concessionaire agrees to adhere to and be governed by the Miami-Dade County Conflict of Interest Ordinance Section 2-11.1, as amended; and by Town of Surfside Ordinance No.07-1474, which are incorporated by reference herein as if fully set forth herein, in connection with the Agreement conditions hereunder. Concessionaire covenants that it presently has no interest and shall not acquire any interest, direct or indirectly that should conflict in any manner or degree with the performance of the services.

CONCESSIONAIRE, BY ITS EXECUTION OF THIS AGREEMENT, HEREBY ACKNOWLEDGES AND AGREES TO BE BOUND BY THE PROVISIONS OF THE ORDINANCE, AS SAME MAY BE AMENDED FROM TIME TO TIME.

SECTION 21. MISCELLANEOUS.

21.1 No Partnership.

Nothing contained in this Agreement shall constitute or be construed to be or create a partnership or joint venture between the Town and Concessionaire.

21.2 Modifications.

This Agreement cannot be changed or modified except by Agreement in writing executed by all parties hereto. Concessionaire acknowledges that no modification to this Agreement may be agreed to by the Town unless approved by the Mayor and Town Commission except where such authority has been expressly provided herein to the Town Manager or his designee.

21.3 Complete Agreement.

This Agreement, together with all exhibits incorporated hereto, constitutes all the understandings and Agreements of whatsoever nature or kind existing between the parties with respect to Concessionaire's operations, as contemplated herein.

21.4 Headings.

The section, subsection and paragraph headings contained herein are for convenience of reference only and are not intended to define, limit, or describe the scope or intent of any provision of this Agreement.

21.5 Binding Effect.

This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and permitted assigns.

21.6 Clauses.

The illegality or invalidity of any term or any clause of this Agreement shall not affect the validity of the remainder of the Agreement, and the Agreement shall remain in full force and effect as if such illegal or invalid term or clause were not contained herein unless the elimination of such provision detrimentally reduces the consideration that either party is to receive under this Agreement or materially affects the continuing operation of this Agreement.

21.7 Severability.

If any provision of this Agreement or any portion of such provision or the application thereof to any person or circumstance shall be held to be invalid or unenforceable, or shall become a violation of any local, State, or Federal laws, then the same as so applied shall no longer be a part of this Agreement but the remainder of the Agreement, such provisions and the application thereof to other persons or circumstances, shall not be affected thereby and this Agreement as so modified shall.

21.8 Right of Entry.

The Town, at the direction of the Town Manager, shall at all times during hours of operation, have the right to enter into and upon any and all parts of the Concession Area(s) for the purposes of examining the same for any reason relating to the obligations of parties to this Agreement.

21.9 Not a Lease.

It is expressly understood and agreed that no part, parcel, building, facility, equipment or space is leased to the Concessionaire, that it is a concessionaire and not a lessee; that the Concessionaire's right to operate the concession shall continue only so long as this Agreement remains in effect.

21.10 Signage.

Concessionaire shall provide, at its sole cost and expense, any signs utilized for its program. All advertising, signage and postings shall be approved by the Town, and shall be in accordance with all applicable Municipal, County, State and Federal laws and regulations. Any signage posted by Concessionaire shall be subject to the prior approval of the Town as to size, shape and placement of same, and no such approvals will be unreasonably withheld.

Town shall be responsible to provide, at its sole cost and expense, and as (or if) it deems necessary in its sole and reasonable judgment and discretion, any traffic, regulatory or public safety signs, whether related directly or indirectly to the program.

21.11 Procedure for Approvals and/or Consents.

In each instance in which the approval or consent of the Town Manager or his designee is allowed or required in this Agreement, it is acknowledged that such authority has been expressly provided herein to the Town Manager or his designee by the Mayor and Town Commission of the Town. In each

instance in which the approval or consent of the Town Manager or his designee is allowed or required in this Agreement, Concessionaire shall send to the Town Manager a written request for approval or consent (the "Approval Request"). The Town Manager or his designee shall use reasonable efforts to provide written notice to Concessionaire approving of consent to, or disapproving of the request, within thirty (30) days from the date of Approval Request (or within such other time period as may be expressly set forth for a particular approval or consent under this Agreement). However, the Town Manager or his designee's failure to consider such request within this time provided shall not be deemed a waiver, nor shall Concessionaire assume that the request is automatically approved and consented to. The Town Manager or his designee shall not unreasonably withhold such approval or consent. This Subsection shall not apply to approvals required herein by the Mayor and Town Commission.

21.12 Most Favored Nation.

The Concessionaire agrees that if, after the Effective Date of this Agreement, it enters into an agreement for the same or substantially similar scope of services with another local government in Florida which contains a term or condition, including fees, charges or costs, that are more favorable than the terms in the Agreement, the Town may provide Concessionaire with written notice explaining how the new agreement is for the same or substantially similar services and how the new agreement contains terms or conditions that are more favorable than the terms in the Agreement, and requesting to negotiate an amendment to the Agreement (a "New Agreement Notice"). The parties shall act in good faith to negotiate an amendment to the Agreement that addresses, in a manner that is fair and equitable to both parties, the matters raised by the Town in the New Agreement Notice. If the parties fail to reach agreement upon an amendment within 90 days of the New Agreement Notice, then the Town shall have the right to terminate this Agreement without penalty or early termination fee, subject to the terms and conditions of Section 3.3 of the Agreement, by providing 30 days advance written notice to the Vendor, such notice to be given no later than 100 days from the New Agreement Notice.

21.13 No Waiver.

21.13.1 It is mutually covenanted and agreed by and between the parties hereto that the failure of the Town to insist upon the strict performance of any of the conditions, covenants, terms or provisions of this Agreement, or to exercise any option herein conferred, will not be considered or construed as a waiver or relinquishment for the future of any such conditions, covenants, terms, provisions or options but the same shall continue and remain in full force and effect.

21.13.2 A waiver of any term expressed herein shall not be implied by any neglect of the Town to declare a forfeiture on account of the violation

of such term if such violation by continued or repeated subsequently and any express waiver shall not affect any term other than the one specified in such waiver and that one only for the time and in the manner specifically stated.

21.13.3 The receipt of any sum paid by Concessionaire to the Town after breach of any condition, covenant, term or provision herein contained shall not be deemed a waiver of such breach, but shall be taken, considered and construed as payment for use and occupation, and not as rent, unless such breach be expressly waived in writing by the Town.

21.14 No Third Party Beneficiary.
Nothing in this Agreement shall confer upon any person or entity, including, but not limited to sub concessionaires, other than the parties hereto and their respective successors and permitted assigns, any rights or remedies by reason of this Agreement.

21.15 Proposal Documents
"Proposal Documents" shall mean Request For Proposals No. 44-07/08 For a Self-Service Bicycle Rental Program, issued by the City of Miami Beach in contemplation of this Agreement, together with all amendments thereto, if any, and the Consultant's proposal in response thereto (Proposal), which is incorporated by reference in this Agreement and made a part hereof; provided, however, that in the event of an express conflict between the Proposal Documents and this Agreement, this Agreement shall prevail.

SECTION 22. Intentionally Omitted.

SECTION 23. VENUE.

This Agreement shall be deemed to have been made and shall be construed and interpreted in accordance with the laws of the State of Florida. This Agreement shall be enforceable in Miami-Dade County, Florida, and if legal action is necessary by either party with respect to the enforcement of any and all the terms or conditions herein, exclusive venue for the enforcement of same shall lie in Miami-Dade County, Florida. **TOWN AND CONCESSIONAIRE HEREBY KNOWINGLY AND INTENTIONALLY WAIVE THE RIGHT TO TRIAL BY JURY IN ANY ACTION OR PROCEEDING THAT TOWN AND CONCESSIONAIRE MAY HEREIN AFTER INSTITUTE AGAINST EACH OTHER WITH RESPECT TO ANY MATTER ARISING OUT OF OR RELATED TO THIS AGREEMENT OR THE CONCESSION AREA(S).**

SECTION 24 TOWN'S CONTRIBUTION TO PROGRAM.

The Town agrees to provide Concessionaire with the following forms of assistance for the program:

1. Banner and link for program on Town's websites;
2. Monthly feature in Surfside Gazette (PSA's, Editorials and/or other placements)

Exhibit 2.2 (a)
Concession Area Site Plan

Surfside Town Limits

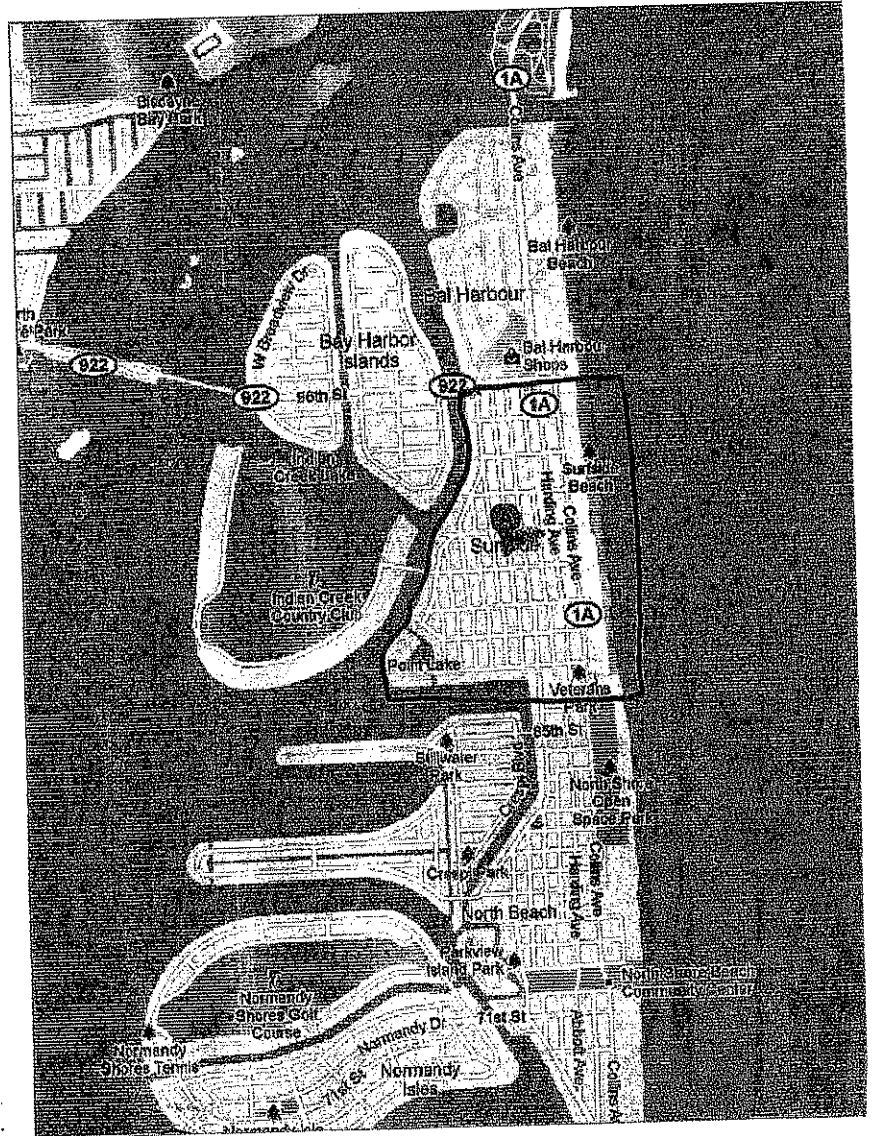


Exhibit 2.2 (b)
Concession Area Site List

Surfside		Closest Crossroads	
Station #:	Phase:	Street:	Avenue:
1	1	93 rd Street	Collins
2	1	94 th Street	Collins

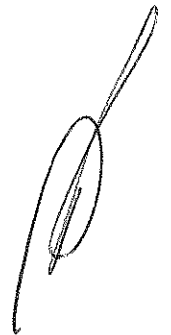


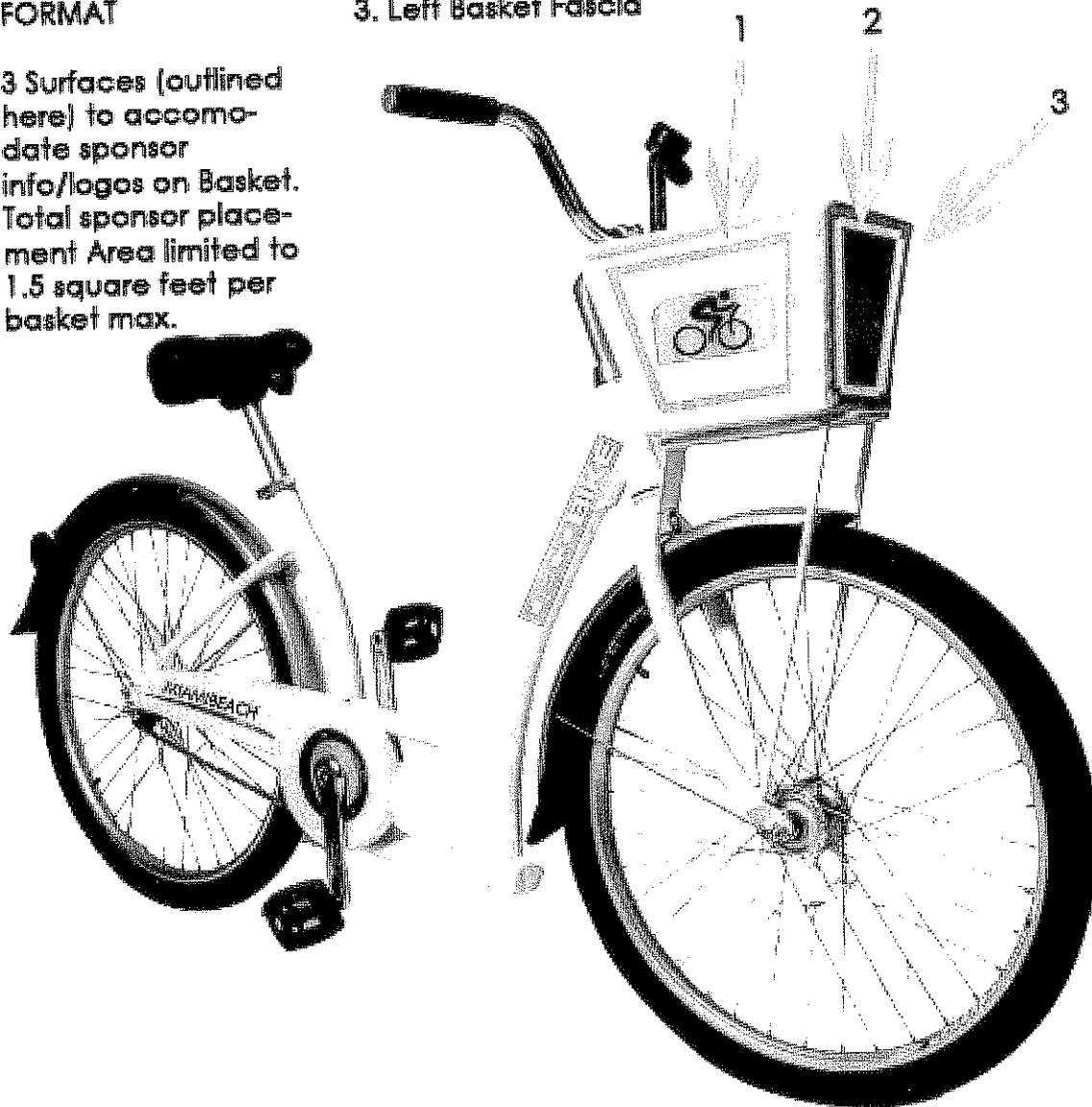
Exhibit 3.1

Program Equipment: Bicycle Image & Specs
Base Unit/Stock Image Shown, Subject to Modifications.
Will feature all equipment required by the RFP.

**DECO BIKE BASKET
SPONSORSHIP
FORMAT**

1. Right Basket Fascia
2. Front Basket Fascia
3. Left Basket Fascia

3 Surfaces (outlined here) to accommodate sponsor info/logos on Basket. Total sponsor placement Area limited to 1.5 square feet per basket max.



Deco Bike Custom Cruiser	26" Coaster Brake Model
Frame	6061 PG Aluminum (T4/T6) H/T:50*44*34x132
Fork	CS-9101 Hi Tensile Steel, Integrated Style Crown, Curved Legs with Double Eyelets 28.6x1.4T
Headset	Alloy, 25.4-44-30, Semi Integrated Bearings
Handlebar	Custom, Alloy & Steel
Stem	Alloy, 180mm Quill x 90mm Extension x 30 Degree Rise 25.4mm Barbore
Grips	Black/Grey, 130mm Length
Seat Binder	Alloy Seat Clamp with Quick Release, w/Locking Mech.
Seat Post	Alloy w/Integrated Clamp, 31.8mm x 400mm , Accommodates Riders 5'-6'3"
Saddle	Cionlli 7257 with Chromoly Rails and Elastomer Suspension
Cranks	Alloy 3-Piece Crank with PVC Disc Cover-Grey, 170mm, 42T Steel Ring
Chainring	Steel, 42T x 1/2" x 1/8"
BB	Steel, BC1.37" x 24T. Double Sealed Bearings (Shimano Tool Compatible)
Chain	K.M.C. Z410 Rust Buster, 1/2" x 1/8"
Chain Guard	Steel or alloy
Pedals	VP-LED1, Boron Axle, 9/16"
F-Hub	DH-3N20NT Dynamo Front Hub 12G x 36H, Nuted
R-Hub	Shimano Internal Coaster Brake, 12G x 36H x 3/8" x 150mm Axle
Sprocket / Freewheel	20T x 1/2" x 1/8"
Rims	26" x 1.95"/2.125" x 36H x 12G, Alloy
Spokes	12G Stainless Steel with Brass Nipples
Tires	CST 26 x 1.95"
Tubes	Tubes with Puncture Sealant, American Schrader Valves,
Kickstand	Alloy
Lighting	Active Front and Rear
Fenders	PC Fender Set. Rear Fender Must have 2 Struts instead of 1 Fender Must also have SW-803G Fender Protector or similar
Bell	Alloy Bell with Plastic Base
Basket	Stainless Steel or Alloy Custom Integrated Basket Structure
Reflectors	4 pieces to Meet CPSC Standards
Bike Weight	36-38 Pounds, Based on Custom Specs
Note	Specs Subject to Change and Modification



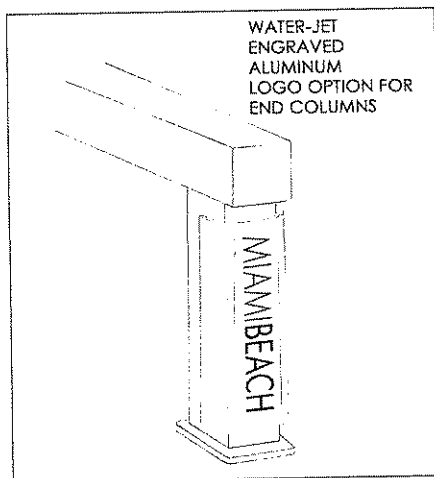
**Exhibit 3.1.1
Program Equipment: Kiosk Station Image**

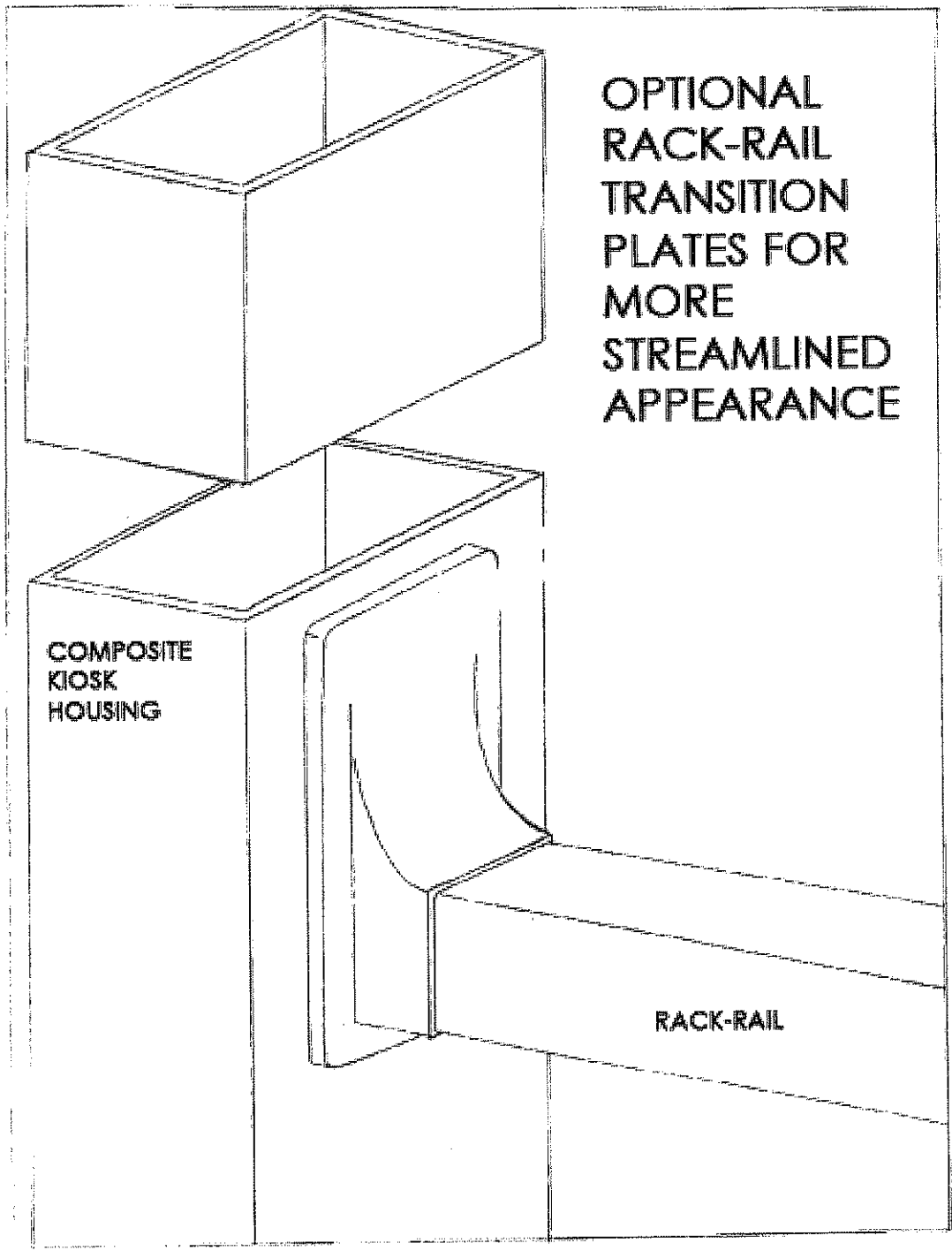
For Informational Purposes Only, Subject to Planning/Zoning Approval and modification as necessary.

DECORBIKE



 MIAMIBEACH





COMPOSITE
KIOSK
HOUSING

OPTIONAL
RACK-RAIL
TRANSITION
PLATES FOR
MORE
STREAMLINED
APPEARANCE

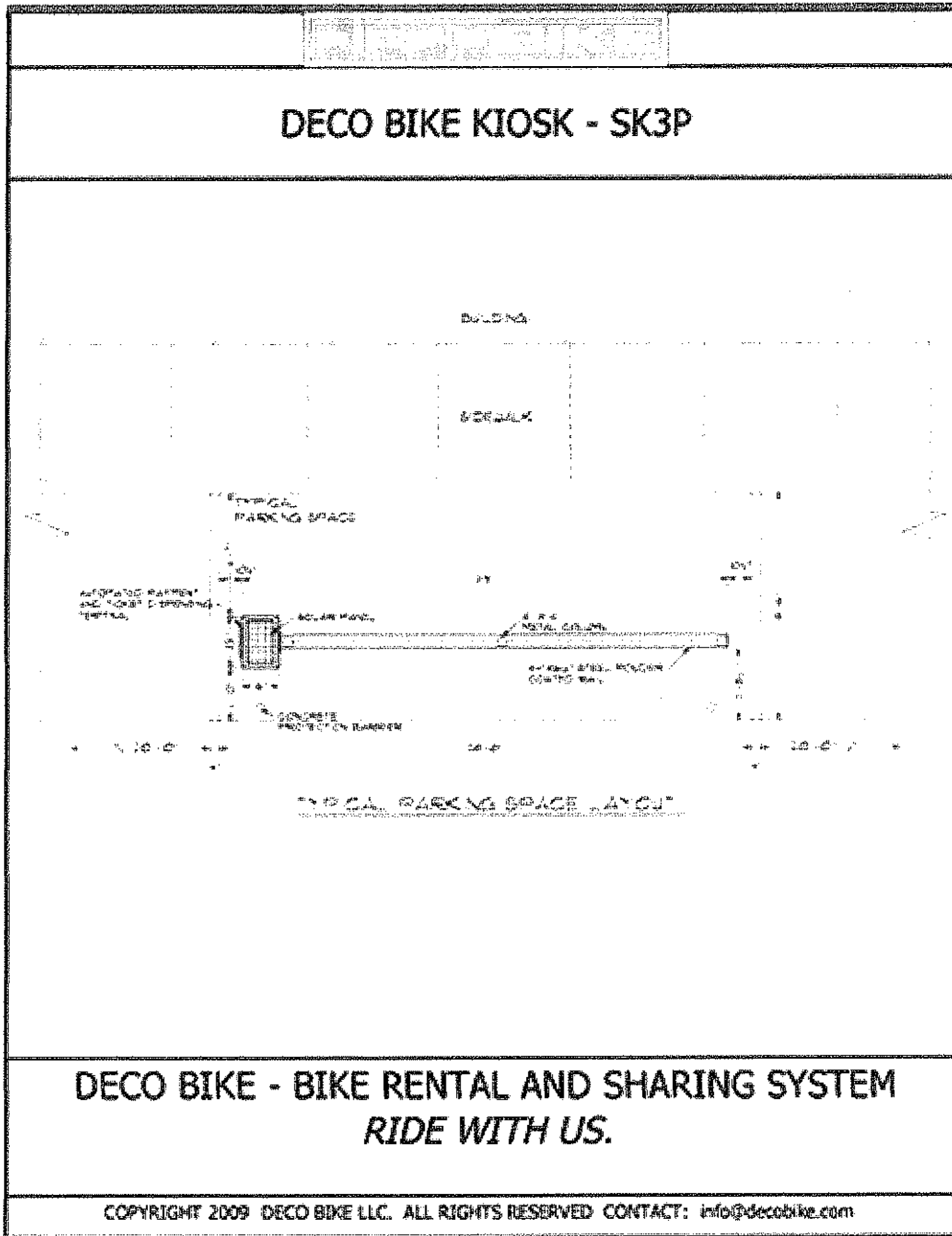
RACK-RAIL



Exhibit 3.1.2

Program Equipment: Typical Site Plan & Elevations

For Informational Purposes Only, Subject to Planning/Zoning Approval and modification as necessary.



**EXHIBIT 3.2.1
PRICE SCHEDULE
(Subject To Change)**

Short-Term Bicycle Rentals:

- \$1.95 per half-hour to \$3.50 per half-hour
- \$3.95 per hour to \$6.95 per hour
- Benefits: All short-term bicycle rentals provide the user access to any bike available in the program at any location. A member can pickup and return a bicycle to and/or from any kiosk location with docking space or inventory available. All members will enjoy the amount of time contracted for. Should a member not return their bicycle to a rack within that time, their credit card will continue to be charged in the same increments in which they chose to rent.
- Acceptable Forms of payment: Credit Card

Membership Subscriptions:

- Monthly - \$9 per month to \$16 per month
- Weekly - \$12 to \$14
- Benefits: All membership subscriptions provide the user access to any bike available in the program at any location. A member can pickup and return a bicycle to and/or from any kiosk location with docking space or inventory available. All members will enjoy an unlimited amount of daily trips up to thirty (30) minutes in length each. If the 30 minute time limit is exceeded, escalating late fees will be assessed to insure prompt returns.
- The following free period and fees apply:
 - **Free 1st half-hour**
 - \$2 2nd half-hour
 - \$4 3rd half-hour
 - \$6 4th half-hour and each half-hour thereafter
- Acceptable Forms of payment: Credit Card and/or checks and money orders

Patrons are required to operate the bicycles at their own risk while checked out. In the event of bicycle theft while a patron has a bicycle checked out, such should be reported to the police and patrons shall be required to obtain a police report. Concessionaire may, at its sole option, choose to refund all or part of any patron's security deposit or rental fees it deems necessary on a case-by-case basis.



Exhibit 3.4
Hurricane Plan Documents

Contained herein is a copy of the following documents applicable to the hurricane preparedness plan in Section 3.4:

- Warranty Deed for Warehouse/Storage/Parking
- Authorization Letter from Owner

Concessionaire also intends to lease an additional warehouse facilities capable of accommodating the bulk of the program's equipment.

Alejandro Diaz

March 1, 2009

To: Deco Bike, LLC.
3301 NE 1st Avenue
Miami, FL 33137


Re: Hurricane Storage
Miami Beach Bicycle Rental Program

To whom it may concern:

I hereby authorize Deco Bike, LLC, to utilize my warehouse, parking and storage facilities (in addition to their own premises) in the event of a hurricane so that they may store equipment as needed to protect it from the adverse weather conditions.

Attached you will find a copy of my deed. Should you have any questions, please feel free to contact me at 305-742-7333.

Regards,


Alejandro Diaz
Property Owner
13321 SW 135th Avenue
Miami, FL 33185



THIS WARRANTY DEED made and executed this October 31, 2003 by LUCIANO R. MACHADO, a married man, hereinafter called the grantor, to ALEJANDRO DIAZ, a single man, whose post office address is 13265 S.W. 147th Street, Miami, FL 33186, hereinafter called the grantee:

WITNESSETH: That the grantor, for and in consideration of the sum of \$10.00 and other valuable considerations, receipt whereof is hereby acknowledged, by these presents does grant, bargain, sell, alien, remise, release, convey and confirm unto the grantee, all that certain land situated in Miami-Dade County, Florida, viz:

Condominium Unit 11, Building 1, of EAGLE WEST CONDOMINIUM, a Condominium according to the Declaration of Condominium thereof, as recorded in Official Records Book 19233, Page 522, of the public records of Miami-Dade County, Florida.

SUBJECT TO:

- 1. Taxes for the year 2003 and subsequent years, not yet due and payable.
2. Easements, conditions, restrictions, and covenants contained in the underlying plat of subject

This instrument was prepared by And is to be returned to Carmen Wango, Esq., CA Gold Leaf Title Company 2720 Coral Way, 4th Floor Miami, Florida 33145

WARRANTY DEED

Property Appraiser Parcel Identification (Folio) Number(s): 36.591407.01.0

- 5. Zoning, restrictions, prohibitions, and other requirements imposed by us at the direction of any governmental authority.
6. Public utility easements of record.

3. Terms, provisions, covenants, liens, conditions, encumbrances and options contained in, and rights and easements established by, the Declaration of Condominium recorded in Official Records Book 19233, Page 522, of the public records of Miami-Dade County.

STATE OF FLORIDA COUNTY OF MIAMI-DADE

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State aforesaid and in the County aforesaid to take acknowledgments, personally appeared Luciano R.A. Machado, who is personally known to me to be the person described in said who executed the foregoing instrument or who has produced as identification and who swore and acknowledged before me that he/she executed the same.

WITNESS my hand and official seal in the County and State last aforesaid this 31st day of October, A.D. 2003.

Notary Public, State of Florida, Lilian Correa, Commission #DD25840, My Commission Expires: Nov 01, 2005

HP 15 2003 B 1308T HP 138888T FM

And the said grantor hereby fully warrant the title to said land, and will defend the same against the lawful claims of all persons whomsoever.

Grantor affirms that said property does not constitute the homestead of the Grantor. Grantor resides at RUA CANARIAS 750 APDO 141 - MUJUNA - SAO PAULO - SP - CEP 04730-000 - BRAZIL

IN WITNESS WHEREOF, The said party of the first part has hereunto set its hand and seal the day and year first above written.

Signed, sealed and delivered in the presence of: Carmen Wango, Esq., Notary Name: Carmen Wango Esq.

Signature of Luciano R.A. Machado, Notary Name: LUCIANO R.A. MACHADO

Handwritten signature of Lilian Correa

**Exhibit 16.2
Bicycle Basket Sponsorship Format**

The maximum sponsor placement surface area shall be limited to a total of 1.5 square feet per bicycle, regardless of shape or form. Such sponsor placements shall only appear on bicycles in the program and not upon other structures in the Concession Areas.

**DECO BIKE BASKET
SPONSORSHIP
FORMAT**

3 Surfaces (outlined here) to accommodate sponsor info/logos on Basket. Total sponsor placement Area limited to 1.5 square feet per basket max.

1. Right Basket Fascia
2. Front Basket Fascia
3. Left Basket Fascia

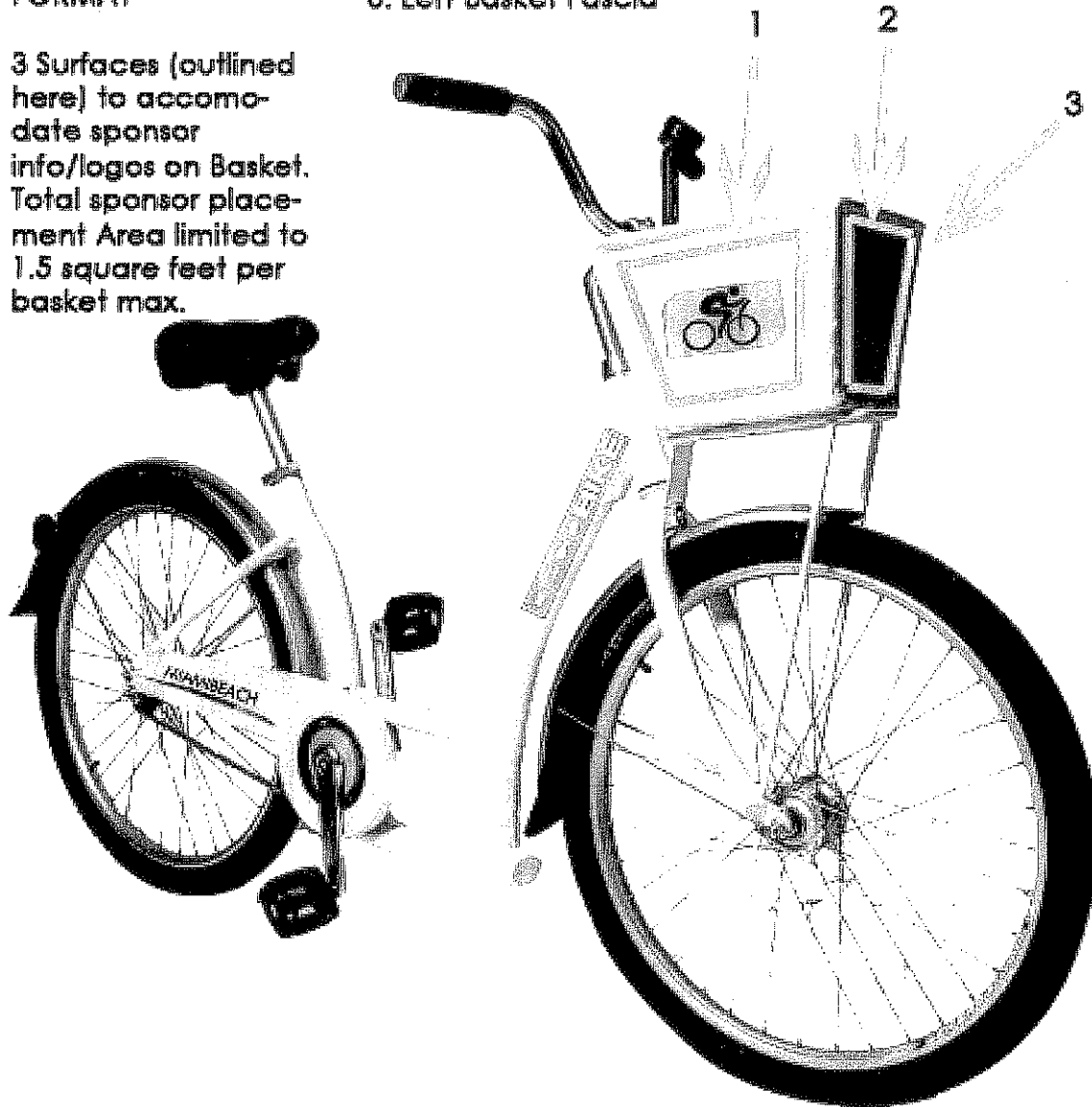
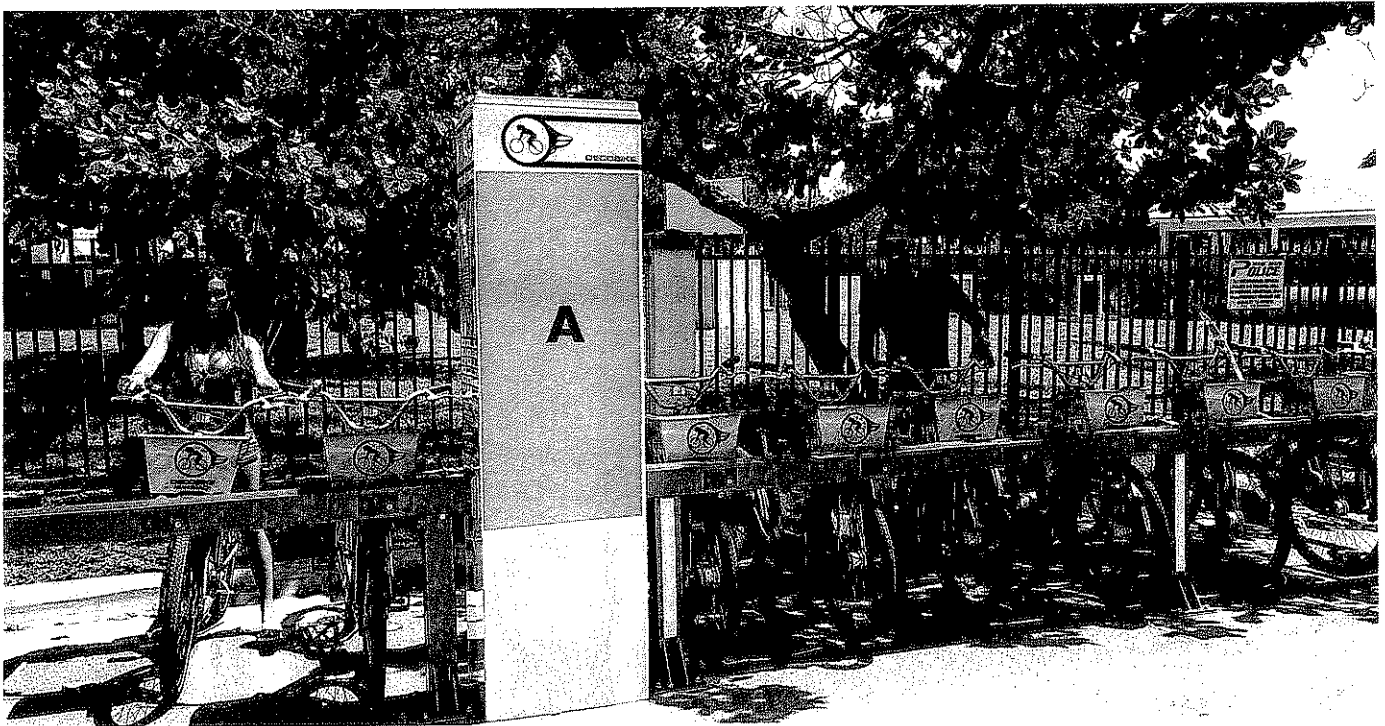


Exhibit 16.3
Kiosk Sponsorship Format

DECOBIKE AD SPACE ON BASKETS



1 SURFACE (A) TO ACCOMODATE SPONSOR INFO/LOGO ON KIOSK.

AREA LIMITED TO 9 SQUARE FEET PER BASKET.

ADDENDUM

The Concessionaire agrees to the following in addition to the above
Concession Agreement:

1. The base of each kiosk will match the ground cover at each location as best possible in color and/or similar paving to the existing surface pending approval by Town Manager or designee.
2. All kiosks located in Surfside to be painted in "Surfside Blue" with Town Logo.
3. List local businesses on kiosks pro bono for a period of time. Town Manager or designee to assist Concessionaire with selection of businesses and accompanying pro bono time frame.
4. Kiosk advertisements of Surfside businesses only or businesses owned and operated by Surfside residents. Approval of advertisements by Town Manager or designee required.
5. Option for the Town to place advertisements on the kiosks to promote events (etc.). Advertisements will be pro bono or at a substantially reduced rate.
6. Installation of a kiosk at 94th Street and Harding Avenue is pending a site survey and the securing of any necessary easement from Publix.
7. All site locations subject to securing Town Building Permits prior to installation.
8. Commitment to work with the Surfside Police Department on educational and training initiatives regarding bike safety.





Surfside Ridership Data Aug 2022 to Aug 2023

Stations	Aug-22	Sep-22	Oct-22	Nov-22	Dec-22	Jan-23	Feb-23	Mar-23	Apr-23	May-23	Jun-23	Jul-23	Aug-23	Total
401	251	176	271	280	266	417	422	490	409	401	358	545	315	4601
402	253	133	187	190	213	537	403	304	207	392	259	252	143	3330
403	230	157	202	299	276	602	510	324	281	289	186	270	160	3626
405	503	295	472	606	786	1260	1160	1122	895	750	563	579	877	8991
													Total	20548

- 401 - 88th Street & Harding Ave
- 402- Collins Ave & 93rd Street
- 403- 94th Street & Harding Ave
- 405- 96th Street Entrance to the beach



SOLE/SINGLE SOURCE JUSTIFICATION FORM

INSTRUCTIONS

Pursuant to Town of Surfside Code, a sole/single source purchase of goods/services may be done by the Town whenever there is only one source for the required supply, brand, service, or construction item capable of fulfilling the needs of the Town. A Sole/Single Source Justification Form shall be submitted to the Town Manager by the requesting department for consideration and approval of a sole/single source purchase prior to submitting a requisition to Finance.

The Town employee completing and signing this form shall read carefully the form before signing and submitting this form.

Goods/Services to be Sole/Single Sourced: Bike Sharing Rental Program

Name of Manufacture of Goods/Services: Citibike

Name of Sole/Single Source Provider: Deco Bike, LLC

Town Equipment/Software (if applicable):

MARK ALL APPLICABLE JUSTIFICATION(S)

- Exclusive Rights:** Item under patent or copyright held by a single vendor and item possesses functions or capabilities critical to use. *
- Exclusive Design:** Item possesses a unique function or capability critical in the research or use of the item and not available from any other source. The requester shall have done thorough market research to certify the uniqueness of the item and attach available supporting documentation.
- Enhancement of Existing Equipment:** The purchase is for accessories needed for enhancement of existing equipment where compatibility with equipment from original manufacturer is paramount to proper functionality.
- Replacement Equipment:** The purchase is for equipment associated with use of existing equipment where compatibility is essential for integrity of results. Please indicate if requester identified this potential need when the original equipment was purchased:
 - YES NO
- Technical Service:** The purchase is for technical services associated with the assembly, installation or servicing of equipment of a highly technical or specialized nature. The requester shall have done thorough market research to certify the service provider is the only capable & knowledgeable provider.
- Continuation or Prior Work:** Additional item, service or work required, but **not known to have been needed** when the original order was placed with vendor.
- Preservation of Warranty:** The vendor will only honor warranty if equipment is serviced by them. This option must be accompanied by a justification by the requester as to the benefit, in cost and time, in preserving warranty of equipment. Also, a letter from the vendor verifying its position shall be attached hereto.
- No dealer or distributor:** The item is manufactured or produced by entity, or entity that holds exclusive rights to item, and entity solely transacts (sells) direct to the customer. *
- Sole authorized dealers/distributors:** The item is manufactured or produced by entity, or entity that holds exclusive rights to item, and entity solely distributes the item through only one dealer/distributor in the world, United States, region, or identified market area. *
- Other:** _____

ADDITIONAL DOCUMENTATION

* Must attach letter from manufacturer, producer or rights holder signed and dated within sixty (60) days of submission. A letter from the sole/single source vendor, unless also the manufacture, producer or rights holder, will **not** be acceptable.

SOLE/SINGLE SOURCE JUSTIFICATION FORM

NOTES

**See attached
letter**

REQUEST

I understand all the information contained herein and that the information herein is all true and correct to the best of my knowledge as of the date this document was signed.

Signature of Department Director: Cindy Reyes Date: 10/3/23

Printed Name & Title: Cindy Reyes

APPROVED **REJECTED**

Town Manager's Approval: [Signature] Date: 10/03/2023



MEMORANDUM

Date: October 2, 2023
 To: Town of Surfside
 From: Cycloshare LLC
 RE: Proprietary Exclusive Design, Operations, Service & Interoperability of
 the Cycloshare Dock-Based Bikeshare System

Dear Town of Surfside Staff:

Please be advised of the following regarding the Citi Bike / Deco Bike programs as they relate to our Cycloshare bikeshare systems:

1. **Exclusive Design:** DecoBike LLC is the sole authorized operator of the Cycloshare bikeshare hardware and software system which is a proprietary equipment and software system that is not interoperable with bikes from other manufacturers or operators. Only DecoBike/Citi Bike's bicycles can park/dock and function at Citi Bike stations in Surfside and surrounding municipalities. This unique interoperability allows only Citi Bikes from other municipalities to park/dock in Surfside, and also only allows Surfside residents/visitors to park Citi Bikes in other surrounding municipalities that host Citi Bike stations.
2. **Technical Service:** DecoBike LLC is the sole authorized operator and servicing entity for the proprietary Cycloshare bikeshare equipment/hardware and software system.
3. **Sole authorized dealers/distributors:** DecoBike LLC is the sole authorized dealer/distributor, end user, and operator for the proprietary Cycloshare bikeshare equipment/hardware and software system for all venues in Miami-Dade County.

Please let us know if you have any questions.

Regards,

Ricardo Pierdant
 President

Email: info@cycloshare.com

RESOLUTION NO. 2023-_____

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, APPROVING A SECOND AMENDMENT TO THE CONCESSION AGREEMENT WITH DECO BIKE, LLC PROVIDING FOR RENEWAL OF THE AGREEMENT; FINDING THAT THE SERVICES ARE EXEMPT AS ORIGINALLY COMPETITIVELY PROCURED PURSUANT TO CITY OF MIAMI BEACH RFP NO. 44-07/08 AND FINDING A SOLE SOURCE SERVICE PURSUANT TO SECTION 3-13(6) OF THE TOWN CODE; PROVIDING FOR AUTHORIZATION AND IMPLEMENTATION OF THE AMENDMENT; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, on November 8, 2011, the Town Commission of the Town of Surfside (the “Town”) adopted Resolution No. 11-2058, which approved a concession agreement with Deco Bike, LLC (“Deco Bike”) for the implementation, management, and operation of a self-service bicycle sharing program pursuant to City of Miami Beach Request for Proposal (RFP) No. 44-07/08 (the “Bicycle Sharing Program”); and

WHEREAS, on November 8, 2011, the Town entered into a Concession Agreement with Deco Bike for the Bicycle Sharing Program (the “Agreement”); and

WHEREAS, on December 13, 2017, the Town Commission adopted Resolution No. 17-2472, which approved a First Amendment to the Agreement in order to extend the term of the Agreement for an additional three (3) year term, with the option to renew for one (1) additional three (3) year term (the “First Amendment”); and

WHEREAS, the Agreement was subsequently renewed for an additional three (3) year term by mutual agreement of the parties; and

WHEREAS, the Town and Deco Bike desire to further renew the Agreement for an additional three (3) year term pursuant to the Second Amendment to the Agreement, attached hereto as Exhibit “A” (the “Second Amendment”), in order to extend the term of

the Agreement for a three (3) year term, with such term commencing retroactively on March 31, 2023; and

WHEREAS, the Town Commission desires to approve the Second Amendment with Deco Bike for the Bicycle Sharing Program and authorize the Town Manager to execute the Second Amendment on behalf of the Town; and

WHEREAS, in addition to the competitive solicitation relied upon from the City of Miami Beach Request for Proposal (RFP) No. 44-07/08, the Town finds that the Bicycle Sharing Program provided by Deco Bike is a sole source pursuant to Section 3-13(6) of the Town Code, and exempt from bidding requirements, based on the exclusive design, technical service, and sole authorized dealer and distributor, as documented in the agenda item accompanying this Resolution; and

WHEREAS, the Town Commission finds that this Resolution is in the best interest and welfare 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; Sole Source. The Town Commission hereby approves the Second Amendment with Deco Bike for the Bicycle Sharing Program, in substantially the form attached hereto as Exhibit "A", renewing the terms and conditions of the Agreement for a three (3) year term. The Town Commission further confirms the findings of the Town staff that the Bicycle Sharing Program provided by Deco Bike is a sole source service pursuant to Section 3-13(6) of the Town Code, and exempt from bidding requirements,

based on the exclusive design, technical service, and sole authorized dealer and distributor.

Section 3. Authorization. The Town Manager is hereby authorized to execute the Second Amendment attached hereto as Exhibit "A" with Deco Bike, subject to final approval by the Town Manager and Town Attorney as to form, content, and legal sufficiency.

Section 4. Implementation. The Town Manager and Town Officials are hereby authorized to take any and all actions which are necessary to implement the purposes of this Resolution.

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

PASSED AND ADOPTED this 14th day of November, 2023.

Motion By: _____
Second By: _____

FINAL VOTE ON ADOPTION:
Commissioner Fred Landsman _____
Commissioner Marianne Meischeid _____
Commissioner Nelly Velasquez _____
Vice Mayor Jeffrey Rose _____
Mayor Shlomo Danzinger _____

Shlomo Danzinger, Mayor

ATTEST:

Sandra McCready, MMC
Town Clerk

**APPROVED AS TO FORM AND LEGALITY FOR THE USE
AND BENEFIT OF THE TOWN OF SURFSIDE ONLY:**

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

**SECOND AMENDMENT TO THE CONCESSION AGREEMENT BETWEEN THE
TOWN OF SURFSIDE, FLORIDA AND DECO BIKE, LLC FOR THE
IMPLEMENTATION, MANAGEMENT, AND OPERATION OF A SELF-SERVICE
BICYCLE SHARING PROGRAM**

This **Second Amendment to the Concession Agreement (“Second Amendment”)** is made and entered into this ___ day of _____, 2023, by and between the **TOWN OF SURFSIDE, FLORIDA**, a Florida municipal corporation, having its principal office at 9293 Harding Avenue, Surfside, FL 33154 (“Town”), and **DECO BIKE, LLC**, a Florida limited liability company, having its principal address at 41 NE 17 Terrace, Miami, FL 33132 (“Concessionaire”).

RECITALS

WHEREAS, on November 8, 2011, Concessionaire entered into a Concession Agreement (the “Agreement”) with the Town for the delivery and operation of a self-service bicycle rental fleet for public use to be stationed in the public right-of-way (the “Services) pursuant to the City of Miami Beach Request for Proposals (RFP) No. 44-07/08; and

WHEREAS, the Agreement required Concessionaire to implement a program which would enable the public to self-rent bicycles from any or a number of locations and return them to another location, on a 24 hour, 365 day a year basis; and

WHEREAS, on January 18, 2018, pursuant to Resolution No. 17-2472, the Town entered into a First Amendment to the Agreement with the Concessionaire, which renewed the Agreement for an additional three (3) year term, with the option to renew for (1) one additional three (3) year term (the “First Amendment”); and

WHEREAS, the Agreement was further extended for an additional three (3) year term; and

WHEREAS, the Town further finds that the Services are a sole source, based on exclusive design, technical service and sole authorized dealer and distributor; and

WHEREAS, the Town and Concessionaire desire to further amend the Agreement based upon the terms and conditions set forth herein in order to extend the term of the Agreement for an additional three (3) year renewal term (the “Second Amendment”); and

NOW THEREFORE, in consideration of the mutual promises, covenants and agreements herein contained, and other good and valuable consideration, in receipt and adequacy of which are hereby acknowledged, the Town and Concessionaire hereby agree and amend the Agreement as follows:

1. **Recitals Adopted.** The aforesaid recitals are true and correct and incorporated by reference herein.
2. **Terms Defined.** Unless otherwise expressly stated herein, all capitalized terms shall have the respective meaning ascribed in the Agreement.
3. **Section 1. Term.** Section 1.1 is hereby deleted in its entirety and replaced as follows:

1.1 Following (i) the Town Commission's approval of Resolution No. 2023- on November 14, 2023; and (ii) the Town and Concessionaire's execution of this Second Amendment to the Agreement, the term of the Agreement shall be extended for one (1) additional three (3) year renewal term; with such term commencing retroactively as of April 1, 2023, and ending on March 31, 2026.

1.1.1 The aforesaid amended contract term shall hereinafter be referred to as the "Renewal Term."

1.1.2 For purposes of this Agreement, a "Contract Year" shall be defined as that certain 365-day period commencing on the commencement date of the Renewal Term.

4. **Ratification of Agreement.** Except as amended herein, all other terms and conditions of the Agreement shall remain unchanged and in full force and effect and are hereby ratified.

[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK; SIGNATURE PAGES TO FOLLOW]

IN WITNESS WHEREOF, the parties have executed this Second Amendment as of the date first set forth above.

TOWN:

TOWN OF SURFSIDE, a Florida municipal corporation

By: _____
Hector Gomez, Town Manager

Date Executed: _____

Attest:

Sandra McCready, MMC
Town Clerk

Approved as to Legal Form and
Legal Sufficiency:

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

IN WITNESS WHEREOF, the parties have executed this Second Amendment as of the date first set forth above.

CONSULTANT:

Witnesses:

DECO BIKE, LLC

By: _____

Print Name: _____

Name: _____

Title: _____

Date Executed: _____

Print Name: _____



MEMORANDUM

ITEM NO. 3E.

To: Honorable Mayor, Vice-Mayor and Members of the Town Commission

From: Hector Gomez, Town Manager

Date: November 14, 2023

Subject: **Ratification, Approval and Acceptance of Grant Agreement with the State of Florida Department of Environmental Protection (FDEP) for a Town of Surfside Comprehensive Vulnerability Assessment and Town Hall Adaptation Plan**

The Town Administration recommends Town Commission to ratify the acceptance and approval of a grant agreement with FDEP for the Town of Surfside Comprehensive Vulnerability Assessment and Town Hall Adaptation Plan.

The Florida Department of Environmental Protection has awarded the Town a grant in the total amount of \$300,000. The purpose of the grant is to conduct a comprehensive Vulnerability Assessment pursuant to Section 380.093, Florida Statutes, as well as develop an Adaptation Plan for the Town Hall. This grant does not require a match from the Town. As per the State Funded Agreement, the funding source is federal requiring federal compliance.

[Resolution Ratifying Acceptance of FDEP Grant and Execution of Grant Agreement - Vulnerability Assessment.DOCX](#)

[Exhibit A - Town of Surfside Comprehensive Vulnerability Assessment and Adaptation Plan](#)

RESOLUTION NO. 2023-_____

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, RATIFYING THE ACCEPTANCE OF A FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION (FDEP) RESILIENT FLORIDA GRANT FOR THE TOWN COMPREHENSIVE VULNERABILITY ASSESSMENT AND ADAPTATION PLAN AND THE EXECUTION OF A GRANT AGREEMENT RELATING TO THE GRANT; PROVIDING FOR IMPLEMENTATION; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town of Surfside (“Town”) submitted a Resilient Florida Program grant application to the Florida Department of Environmental Protection (“FDEP”) for the development of a Town Comprehensive Vulnerability Assessment and Adaptation Plan (the “Plan”); and

WHEREAS, the Plan will identify all critical Town assets and assess their vulnerability to various hazards, including sea level rise, floods, and storm surges, among other hazardous scenarios; and

WHEREAS, FDEP awarded the Town a Resilient Florida Program grant for development of the Plan in the amount of \$300,000 (the “Grant”); and

WHEREAS, in order to timely accept the Grant, the Town Manager executed the Grant Agreement attached hereto as Exhibit “A” (the “Grant Agreement”) to meet the grant acceptance deadline; and

WHEREAS, the Town Commission desires to ratify the acceptance of the Grant from FDEP for the development of the Plan and the execution of the Grant Agreement attached hereto as Exhibit “A”; and

WHEREAS, the Town Commission finds that the Grant Agreement and this Resolution are in the best interest and welfare 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-stated recitals are true and correct and are incorporated herein by this reference.

Section 2. Ratification and Approval. That the Town Commission hereby ratifies and approves the acceptance of the Grant from FDEP for the development of the Plan in the amount of \$300,000.00 and the execution of the Grant Agreement attached hereto as Exhibit "A."

Section 3. Implementation. That the Town Manager and Town Officials are hereby authorized to take any and all actions which are necessary to implement the purposes of this Resolution and the Grant Agreement, including the execution of any amendments and/or renewals thereto, subject to the approval as to form, content, and legal sufficiency by the Town Manager and Town Attorney.

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

PASSED AND ADOPTED this 14th day of November, 2023.

Motion By: _____
Second By: _____

FINAL VOTE ON ADOPTION:

Commissioner Fred Landsman	_____
Commissioner Marianne Meisheid	_____
Commissioner Nelly Velasquez	_____
Vice Mayor Jeffrey Rose	_____
Mayor Shlomo Danzinger	_____

Shlomo Danzinger, Mayor

ATTEST:

Sandra McCready, MMC
Town Clerk

**APPROVED AS TO FORM AND LEGALITY FOR THE USE
AND BENEFIT OF THE TOWN OF SURFSIDE ONLY:**

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

8.	The following information applies to Federal Grants only and is identified in accordance with 2 CFR 200.331 (a) (1):	
Federal Award Identification Number(s) (FAIN):		
Federal Award Date to Department:		
Total Federal Funds Obligated by this Agreement:		
Federal Awarding Agency:		
Award R&D?	<input type="checkbox"/> Yes <input type="checkbox"/> N/A	

IN WITNESS WHEREOF, this Agreement shall be effective on the date indicated by the Agreement Begin Date unless another date is specified in the grant documents.

GRANTEE

By _____
(Authorized Signature) Date Signed

 Print Name and Title of Person Signing

State of Florida Department of Environmental Protection **DEPARTMENT**

By _____
 Secretary or Designee Date Signed

 Print Name and Title of Person Signing

Additional signatures attached on separate page.

ORCP Additional Signatures

DEP Grant Manager, Charles Neuhauser

DEP QC Reviewer, Hanna Tillotson

Grantee may add additional signatures below, if needed.

**STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION
STANDARD TERMS AND CONDITIONS
APPLICABLE TO GRANT AGREEMENTS**

ATTACHMENT 1

1. Entire Agreement.

This Grant Agreement, including any Attachments and Exhibits referred to herein and/or attached hereto (Agreement), constitutes the entire agreement between the parties with respect to the subject matter hereof and supersedes all prior agreements, whether written or oral, with respect to such subject matter. Any terms and conditions included on Grantee's forms or invoices shall be null and void.

2. Grant Administration.

- a. Order of Precedence. If there are conflicting provisions among the documents that make up the Agreement, the order of precedence for interpretation of the Agreement is as follows:
 - i. Standard Grant Agreement
 - ii. Attachments other than Attachment 1, in numerical order as designated in the Standard Grant Agreement
 - iii. Attachment 1, Standard Terms and Conditions
 - iv. The Exhibits in the order designated in the Standard Grant Agreement
- b. All approvals, written or verbal, and other written communication among the parties, including all notices, shall be obtained by or sent to the parties' Grant Managers. All written communication shall be by electronic mail, U.S. Mail, a courier delivery service, or delivered in person. Notices shall be considered delivered when reflected by an electronic mail read receipt, a courier service delivery receipt, other mail service delivery receipt, or when receipt is acknowledged by recipient. If the notice is delivered in multiple ways, the notice will be considered delivered at the earliest delivery time.
- c. If a different Grant Manager is designated by either party after execution of this Agreement, notice of the name and contact information of the new Grant Manager will be submitted in writing to the other party and maintained in the respective parties' records. A change of Grant Manager does not require a formal amendment or change order to the Agreement.
- d. This Agreement may be amended, through a formal amendment or a change order, only by a written agreement between both parties. A formal amendment to this Agreement is required for changes which cause any of the following:
 - (1) an increase or decrease in the Agreement funding amount;
 - (2) a change in Grantee's match requirements;
 - (3) a change in the expiration date of the Agreement; and/or
 - (4) changes to the cumulative amount of funding transfers between approved budget categories, as defined in Attachment 3, Grant Work Plan, that exceeds or is expected to exceed twenty percent (20%) of the total budget as last approved by Department.A change order to this Agreement may be used when:
 - (1) task timelines within the current authorized Agreement period change;
 - (2) the cumulative transfer of funds between approved budget categories, as defined in Attachment 3, Grant Work Plan, are less than twenty percent (20%) of the total budget as last approved by Department;
 - (3) changing the current funding source as stated in the Standard Grant Agreement; and/or
 - (4) fund transfers between budget categories for the purposes of meeting match requirements.This Agreement may be amended to provide for additional services if additional funding is made available by the Legislature.
- e. All days in this Agreement are calendar days unless otherwise specified.

3. Agreement Duration.

The term of the Agreement shall begin and end on the dates indicated in the Standard Grant Agreement, unless extended or terminated earlier in accordance with the applicable terms and conditions. The Grantee shall be eligible for reimbursement for work performed on or after the date of execution through the expiration date of this Agreement, unless otherwise specified in Attachment 2, Special Terms and Conditions. However, work performed prior to the execution of this Agreement may be reimbursable or used for match purposes if permitted by the Special Terms and Conditions.

4. Deliverables.

The Grantee agrees to render the services or other units of deliverables as set forth in Attachment 3, Grant Work Plan. The services or other units of deliverables shall be delivered in accordance with the schedule and at the pricing outlined in the Grant Work Plan. Deliverables may be comprised of activities that must be completed prior to Department making payment on that deliverable. The Grantee agrees to perform in accordance with the terms and conditions set forth in this Agreement and all attachments and exhibits incorporated by the Standard Grant Agreement.

5. Performance Measures.

The Grantee warrants that: (1) the services will be performed by qualified personnel; (2) the services will be of the kind and quality described in the Grant Work Plan; (3) the services will be performed in a professional and workmanlike manner in accordance with industry standards and practices; (4) the services shall not and do not knowingly infringe upon the intellectual property rights, or any other proprietary rights, of any third party; and (5) its employees, subcontractors, and/or subgrantees shall comply with any security and safety requirements and processes, if provided by Department, for work done at the Project Location(s). The Department reserves the right to investigate or inspect at any time to determine whether the services or qualifications offered by Grantee meet the Agreement requirements. Notwithstanding any provisions herein to the contrary, written acceptance of a particular deliverable does not foreclose Department's remedies in the event deficiencies in the deliverable cannot be readily measured at the time of delivery.

6. Acceptance of Deliverables.

- a. Acceptance Process. All deliverables must be received and accepted in writing by Department's Grant Manager before payment. The Grantee shall work diligently to correct all deficiencies in the deliverable that remain outstanding, within a reasonable time at Grantee's expense. If Department's Grant Manager does not accept the deliverables within 30 days of receipt, they will be deemed rejected.
- b. Rejection of Deliverables. The Department reserves the right to reject deliverables, as outlined in the Grant Work Plan, as incomplete, inadequate, or unacceptable due, in whole or in part, to Grantee's lack of satisfactory performance under the terms of this Agreement. The Grantee's efforts to correct the rejected deliverables will be at Grantee's sole expense. Failure to fulfill the applicable technical requirements or complete all tasks or activities in accordance with the Grant Work Plan will result in rejection of the deliverable and the associated invoice. Payment for the rejected deliverable will not be issued unless the rejected deliverable is made acceptable to Department in accordance with the Agreement requirements. The Department, at its option, may allow additional time within which Grantee may remedy the objections noted by Department. The Grantee's failure to make adequate or acceptable deliverables after a reasonable opportunity to do so shall constitute an event of default.

7. Financial Consequences for Nonperformance.

- a. Withholding Payment. In addition to the specific consequences explained in the Grant Work Plan and/or Special Terms and Conditions, the State of Florida (State) reserves the right to withhold payment when the Grantee has failed to perform/comply with provisions of this Agreement. None of the financial consequences for nonperformance in this Agreement as more fully described in the Grant Work Plan shall be considered penalties.
- b. Invoice reduction
If Grantee does not meet a deadline for any deliverable, the Department will reduce the invoice by 1% for each day the deadline is missed, unless an extension is approved in writing by the Department.
- c. Corrective Action Plan. If Grantee fails to correct all the deficiencies in a rejected deliverable within the specified timeframe, Department may, in its sole discretion, request that a proposed Corrective Action Plan (CAP) be submitted by Grantee to Department. The Department requests that Grantee specify the outstanding deficiencies in the CAP. All CAPs must be able to be implemented and performed in no more than sixty (60) calendar days.
 - i. The Grantee shall submit a CAP within ten (10) days of the date of the written request from Department. The CAP shall be sent to the Department's Grant Manager for review and approval. Within ten (10) days of receipt of a CAP, Department shall notify Grantee in writing whether the CAP proposed has been accepted. If the CAP is not accepted, Grantee shall have ten (10) days from receipt of Department letter rejecting the proposal to submit a revised proposed CAP. Failure to obtain Department approval of a CAP as specified above may result in Department's termination of this Agreement for cause as authorized in this Agreement.
 - ii. Upon Department's notice of acceptance of a proposed CAP, Grantee shall have ten (10) days to commence implementation of the accepted plan. Acceptance of the proposed CAP by Department does not relieve Grantee of any of its obligations under the Agreement. In the event the CAP fails to correct or eliminate performance deficiencies by Grantee, Department shall retain the right to

require additional or further remedial steps, or to terminate this Agreement for failure to perform. No actions approved by Department or steps taken by Grantee shall preclude Department from subsequently asserting any deficiencies in performance. The Grantee shall continue to implement the CAP until all deficiencies are corrected. Reports on the progress of the CAP will be made to Department as requested by Department's Grant Manager.

- iii. Failure to respond to a Department request for a CAP or failure to correct a deficiency in the performance of the Agreement as specified by Department may result in termination of the Agreement.

8. Payment.

- a. Payment Process. Subject to the terms and conditions established by the Agreement, the pricing per deliverable established by the Grant Work Plan, and the billing procedures established by Department, Department agrees to pay Grantee for services rendered in accordance with section 215.422, Florida Statutes (F.S.).
- b. Taxes. The Department is exempted from payment of State sales, use taxes and Federal excise taxes. The Grantee, however, shall not be exempted from paying any taxes that it is subject to, including State sales and use taxes, or for payment by Grantee to suppliers for taxes on materials used to fulfill its contractual obligations with Department. The Grantee shall not use Department's exemption number in securing such materials. The Grantee shall be responsible and liable for the payment of all its FICA/Social Security and other taxes resulting from this Agreement.
- c. Maximum Amount of Agreement. The maximum amount of compensation under this Agreement, without an amendment, is described in the Standard Grant Agreement. Any additional funds necessary for the completion of this Project are the responsibility of Grantee.
- d. Reimbursement for Costs. The Grantee shall be paid on a cost reimbursement basis for all eligible Project costs upon the completion, submittal, and approval of each deliverable identified in the Grant Work Plan. Reimbursement shall be requested on Exhibit C, Payment Request Summary Form. To be eligible for reimbursement, costs must be in compliance with laws, rules, and regulations applicable to expenditures of State funds, including, but not limited to, the Reference Guide for State Expenditures, which can be accessed at the following web address: <https://www.myfloridacfo.com/docs-sf/accounting-and-auditing-libraries/state-agencies/reference-guide-for-state-expenditures.pdf>.
- e. Rural Communities and Rural Areas of Opportunity. If Grantee is a county or municipality that qualifies as a "rural community" or "rural area of opportunity" (RAO) as defined in subsection 288.0656(2), F.S., such Grantee may request from the Department that all invoice payments (i.e., cost reimbursement) under this Agreement be directed to the relevant county or municipality or to the RAO itself. The Department will agree to Grantee's request if:
 - i. Grantee demonstrates that it is a county or municipality that qualifies as a "rural community" or "rural area of opportunity" under subsection 288.0656(2), F.S.;
 - ii. Grantee demonstrates current financial hardship using one (1) or more of the "economic distress" factors defined in subsection 288.0656(2)(c), F.S.;
 - iii. Grantee's performance has been verified by the Department, which has determined that Grantee is eligible for cost reimbursement and that Grantee's performance has been completed in accordance with this Agreement's terms and conditions; and
 - iv. Applicable federal and state law(s), rule(s) and regulation(s) allow for such payments.This subsection may not be construed to alter or limit any other applicable provisions of federal or state law, rule, or regulation. A current list of Florida's designated RAOs can be accessed at the following web address: <https://floridajobs.org/community-planning-and-development/rural-community-programs/rural-areas-of-opportunity>.
- f. Invoice Detail. All charges for services rendered or for reimbursement of expenses authorized by Department pursuant to the Grant Work Plan shall be submitted to Department in sufficient detail for a proper pre-audit and post-audit to be performed. The Grantee shall only invoice Department for deliverables that are completed in accordance with the Grant Work Plan.
- g. State Funds Documentation. Pursuant to section 216.1366, F.S., if Contractor meets the definition of a non-profit organization under section 215.97(2)(m), F.S., Contractor must provide the Department with documentation that indicates the amount of state funds:
 - i. Allocated to be used during the full term of the contract or agreement for remuneration to any member of the board of directors or an officer of Contractor.
 - ii. Allocated under each payment by the public agency to be used for remuneration of any member of the board of directors or an officer of the Contractor.

The documentation must indicate the amounts and recipients of the remuneration. Such information must be posted on the State's the contract tracking system and maintained pursuant to section 215.985, F.S., and must be posted on the Contractor's website, if Contractor maintains a website.

- h. Interim Payments. Interim payments may be made by Department, at its discretion, if the completion of deliverables to date have first been accepted in writing by Department's Grant Manager.
- i. Final Payment Request. A final payment request should be submitted to Department no later than sixty (60) days following the expiration date of the Agreement to ensure the availability of funds for payment. However, all work performed pursuant to the Grant Work Plan must be performed on or before the expiration date of the Agreement.
- j. Annual Appropriation Contingency. The State's performance and obligation to pay under this Agreement is contingent upon an annual appropriation by the Legislature. This Agreement is not a commitment of future appropriations. Authorization for continuation and completion of work and any associated payments may be rescinded, with proper notice, at the discretion of Department if the Legislature reduces or eliminates appropriations.
- k. Interest Rates. All interest rates charged under the Agreement shall be calculated on the prevailing rate used by the State Board of Administration. To obtain the applicable interest rate, please refer to: <https://www.myfloridacfo.com/division/aa/local-governments/judgement-interest-rates>.
- l. Refund of Payments to the Department. Any balance of unobligated funds that have been advanced or paid must be refunded to Department. Any funds paid in excess of the amount to which Grantee or subgrantee is entitled under the terms of the Agreement must be refunded to Department. If this Agreement is funded with federal funds and the Department is required to refund the federal government, the Grantee shall refund the Department its share of those funds.

9. Documentation Required for Cost Reimbursement Grant Agreements and Match.

If Cost Reimbursement or Match is authorized in Attachment 2, Special Terms and Conditions, the following conditions apply. Supporting documentation must be provided to substantiate cost reimbursement or match requirements for the following budget categories:

- a. Salary/Wages. Grantee shall list personnel involved, position classification, direct salary rates, and hours spent on the Project in accordance with Attachment 3, Grant Work Plan in their documentation for reimbursement or match requirements.
- b. Overhead/Indirect/General and Administrative Costs. If Grantee is being reimbursed for or claiming match for multipliers, all multipliers used (i.e., fringe benefits, overhead, indirect, and/or general and administrative rates) shall be supported by audit. If Department determines that multipliers charged by Grantee exceeded the rates supported by audit, Grantee shall be required to reimburse such funds to Department within thirty (30) days of written notification. Interest shall be charged on the excessive rate.
- c. Contractual Costs (Subcontractors). Match or reimbursement requests for payments to subcontractors must be substantiated by copies of invoices with backup documentation identical to that required from Grantee. Subcontracts which involve payments for direct salaries shall clearly identify the personnel involved, salary rate per hour, and hours spent on the Project. All eligible multipliers used (i.e., fringe benefits, overhead, indirect, and/or general and administrative rates) shall be supported by audit. If Department determines that multipliers charged by any subcontractor exceeded the rates supported by audit, Grantee shall be required to reimburse such funds to Department within thirty (30) days of written notification. Interest shall be charged on the excessive rate. Nonconsumable and/or nonexpendable personal property or equipment costing \$5,000 or more purchased for the Project under a subcontract is subject to the requirements set forth in chapters 273 and/or 274, F.S., and Chapter 69I-72, Florida Administrative Code (F.A.C.) and/or Chapter 69I-73, F.A.C., as applicable. The Grantee shall be responsible for maintaining appropriate property records for any subcontracts that include the purchase of equipment as part of the delivery of services. The Grantee shall comply with this requirement and ensure its subcontracts issued under this Agreement, if any, impose this requirement, in writing, on its subcontractors.
 - i. For fixed-price (vendor) subcontracts, the following provisions shall apply: The Grantee may award, on a competitive basis, fixed-price subcontracts to consultants/contractors in performing the work described in Attachment 3, Grant Work Plan. Invoices submitted to Department for fixed-price subcontracted activities shall be supported with a copy of the subcontractor's invoice and a copy of the tabulation form for the competitive procurement process (e.g., Invitation to Bid, Request for Proposals, or other similar competitive procurement document) resulting in the fixed-price subcontract. The Grantee may request approval from Department to award a fixed-price subcontract resulting from procurement methods other than those identified above. In this instance, Grantee shall request the advance written approval from Department's Grant Manager of the fixed price

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negotiated by Grantee. The letter of request shall be supported by a detailed budget and Scope of Services to be performed by the subcontractor. Upon receipt of Department Grant Manager's approval of the fixed-price amount, Grantee may proceed in finalizing the fixed-price subcontract.

- ii. If the procurement is subject to the Consultant's Competitive Negotiation Act under section 287.055, F.S. or the Brooks Act, Grantee must provide documentation clearly evidencing it has complied with the statutory or federal requirements.
- d. Travel. All requests for match or reimbursement of travel expenses shall be in accordance with section 112.061, F.S.
- e. Direct Purchase Equipment. For the purposes of this Agreement, Equipment is defined as capital outlay costing \$5,000 or more. Match or reimbursement for Grantee's direct purchase of equipment is subject to specific approval of Department, and does not include any equipment purchased under the delivery of services to be completed by a subcontractor. Include copies of invoices or receipts to document purchases, and a properly completed Exhibit B, Property Reporting Form.
- f. Rental/Lease of Equipment. Match or reimbursement requests for rental/lease of equipment must include copies of invoices or receipts to document charges.
- g. Miscellaneous/Other Expenses. If miscellaneous or other expenses, such as materials, supplies, non-excluded phone expenses, reproduction, or mailing, are reimbursable or available for match or reimbursement under the terms of this Agreement, the documentation supporting these expenses must be itemized and include copies of receipts or invoices. Additionally, independent of Grantee's contract obligations to its subcontractor, Department shall not reimburse any of the following types of charges: cell phone usage; attorney's fees or court costs; civil or administrative penalties; or handling fees, such as set percent overages associated with purchasing supplies or equipment.
- h. Land Acquisition. Reimbursement for the costs associated with acquiring interest and/or rights to real property (including access rights through ingress/egress easements, leases, license agreements, or other site access agreements; and/or obtaining record title ownership of real property through purchase) must be supported by the following, as applicable: Copies of Property Appraisals, Environmental Site Assessments, Surveys and Legal Descriptions, Boundary Maps, Acreage Certification, Title Search Reports, Title Insurance, Closing Statements/Documents, Deeds, Leases, Easements, License Agreements, or other legal instrument documenting acquired property interest and/or rights. If land acquisition costs are used to meet match requirements, Grantee agrees that those funds shall not be used as match for any other Agreement supported by State or Federal funds.

10. Status Reports.

The Grantee shall submit status reports quarterly, unless otherwise specified in the Attachments, on Exhibit A, Progress Report Form, to Department's Grant Manager describing the work performed during the reporting period, problems encountered, problem resolutions, scheduled updates, and proposed work for the next reporting period. Quarterly status reports are due no later than twenty (20) days following the completion of the quarterly reporting period. For the purposes of this reporting requirement, the quarterly reporting periods end on March 31, June 30, September 30 and December 31. The Department will review the required reports submitted by Grantee within thirty (30) days.

11. Retainage.

The following provisions apply if Department withholds retainage under this Agreement:

- a. The Department reserves the right to establish the amount and application of retainage on the work performed under this Agreement up to the maximum percentage described in Attachment 2, Special Terms and Conditions. Retainage may be withheld from each payment to Grantee pending satisfactory completion of work and approval of all deliverables.
- b. If Grantee fails to perform the requested work or fails to perform the work in a satisfactory manner, Grantee shall forfeit its right to payment of the retainage associated with the work. Failure to perform includes, but is not limited to, failure to submit the required deliverables or failure to provide adequate documentation that the work was actually performed. The Department shall provide written notification to Grantee of the failure to perform that shall result in retainage forfeiture. If the Grantee does not correct the failure to perform within the timeframe stated in Department's notice, the retainage will be forfeited to Department.
- c. No retainage shall be released or paid for incomplete work while this Agreement is suspended.
- d. Except as otherwise provided above, Grantee shall be paid the retainage associated with the work, provided Grantee has completed the work and submits an invoice for retainage held in accordance with the invoicing procedures under this Agreement.

12. Insurance.

- a. Insurance Requirements for Sub-Grantees and/or Subcontractors. The Grantee shall require its sub-grantees and/or subcontractors, if any, to maintain insurance coverage of such types and with such terms and limits as described in this Agreement. The Grantee shall require all its sub-grantees and/or subcontractors, if any, to make compliance with the insurance requirements of this Agreement a condition of all contracts that are related to this Agreement. Sub-grantees and/or subcontractors must provide proof of insurance upon request.
- b. Deductibles. The Department shall be exempt from, and in no way liable for, any sums of money representing a deductible in any insurance policy. The payment of such deductible shall be the sole responsibility of the Grantee providing such insurance.
- c. Proof of Insurance. Upon execution of this Agreement, Grantee shall provide Department documentation demonstrating the existence and amount for each type of applicable insurance coverage *prior to* performance of any work under this Agreement. Upon receipt of written request from Department, Grantee shall furnish Department with proof of applicable insurance coverage by standard form certificates of insurance, a self-insured authorization, or other certification of self-insurance.
- d. Duty to Maintain Coverage. In the event that any applicable coverage is cancelled by the insurer for any reason, or if Grantee cannot get adequate coverage, Grantee shall immediately notify Department of such cancellation and shall obtain adequate replacement coverage conforming to the requirements herein and provide proof of such replacement coverage within ten (10) days after the cancellation of coverage.
- e. Insurance Trust. If the Grantee's insurance is provided through an insurance trust, the Grantee shall instead add the Department of Environmental Protection, its employees, and officers as an additional covered party everywhere the Agreement requires them to be added as an additional insured.

13. Termination.

- a. Termination for Convenience. When it is in the State's best interest, Department may, at its sole discretion, terminate the Agreement in whole or in part by giving 30 days' written notice to Grantee. The Department shall notify Grantee of the termination for convenience with instructions as to the effective date of termination or the specific stage of work at which the Agreement is to be terminated. The Grantee must submit all invoices for work to be paid under this Agreement within thirty (30) days of the effective date of termination. The Department shall not pay any invoices received after thirty (30) days of the effective date of termination.
- b. Termination for Cause. The Department may terminate this Agreement if any of the events of default described in the Events of Default provisions below occur or in the event that Grantee fails to fulfill any of its other obligations under this Agreement. If, after termination, it is determined that Grantee was not in default, or that the default was excusable, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of Department. The rights and remedies of Department in this clause are in addition to any other rights and remedies provided by law or under this Agreement.
- c. Grantee Obligations upon Notice of Termination. After receipt of a notice of termination or partial termination unless as otherwise directed by Department, Grantee shall not furnish any service or deliverable on the date, and to the extent specified, in the notice. However, Grantee shall continue work on any portion of the Agreement not terminated. If the Agreement is terminated before performance is completed, Grantee shall be paid only for that work satisfactorily performed for which costs can be substantiated. The Grantee shall not be entitled to recover any cancellation charges or lost profits.
- d. Continuation of Prepaid Services. If Department has paid for any services prior to the expiration, cancellation, or termination of the Agreement, Grantee shall continue to provide Department with those services for which it has already been paid or, at Department's discretion, Grantee shall provide a refund for services that have been paid for but not rendered.
- e. Transition of Services Upon Termination, Expiration, or Cancellation of the Agreement. If services provided under the Agreement are being transitioned to another provider(s), Grantee shall assist in the smooth transition of Agreement services to the subsequent provider(s). This requirement is at a minimum an affirmative obligation to cooperate with the new provider(s), however additional requirements may be outlined in the Grant Work Plan. The Grantee shall not perform any services after Agreement expiration or termination, except as necessary to complete the transition or continued portion of the Agreement, if any.

14. Notice of Default.

If Grantee defaults in the performance of any covenant or obligation contained in the Agreement, including, any of the events of default, Department shall provide notice to Grantee and an opportunity to cure that is reasonable under the circumstances. This notice shall state the nature of the failure to perform and provide a time certain for correcting the failure. The notice will also provide that, should the Grantee fail to perform within the time provided, Grantee will be found in default, and Department may terminate the Agreement effective as of the date of receipt of the default notice.

15. Events of Default.

Provided such failure is not the fault of Department or outside the reasonable control of Grantee, the following non-exclusive list of events, acts, or omissions, shall constitute events of default:

- a. The commitment of any material breach of this Agreement by Grantee, including failure to timely deliver a material deliverable, failure to perform the minimal level of services required for a deliverable, discontinuance of the performance of the work, failure to resume work that has been discontinued within a reasonable time after notice to do so, or abandonment of the Agreement;
- b. The commitment of any material misrepresentation or omission in any materials, or discovery by the Department of such, made by the Grantee in this Agreement or in its application for funding;
- c. Failure to submit any of the reports required by this Agreement or having submitted any report with incorrect, incomplete, or insufficient information;
- d. Failure to honor any term of the Agreement;
- e. Failure to abide by any statutory, regulatory, or licensing requirement, including an entry of an order revoking the certificate of authority granted to the Grantee by a state or other licensing authority;
- f. Failure to pay any and all entities, individuals, and furnishing labor or materials, or failure to make payment to any other entities as required by this Agreement;
- g. Employment of an unauthorized alien in the performance of the work, in violation of Section 274 (A) of the Immigration and Nationality Act;
- h. Failure to maintain the insurance required by this Agreement;
- i. One or more of the following circumstances, uncorrected for more than thirty (30) days unless, within the specified 30-day period, Grantee (including its receiver or trustee in bankruptcy) provides to Department adequate assurances, reasonably acceptable to Department, of its continuing ability and willingness to fulfill its obligations under the Agreement:
 - i. Entry of an order for relief under Title 11 of the United States Code;
 - ii. The making by Grantee of a general assignment for the benefit of creditors;
 - iii. The appointment of a general receiver or trustee in bankruptcy of Grantee's business or property; and/or
 - iv. An action by Grantee under any state insolvency or similar law for the purpose of its bankruptcy, reorganization, or liquidation.

16. Suspension of Work.

The Department may, in its sole discretion, suspend any or all activities under the Agreement, at any time, when it is in the best interest of the State to do so. The Department shall provide Grantee written notice outlining the particulars of suspension. Examples of reasons for suspension include, but are not limited to, budgetary constraints, declaration of emergency, or other such circumstances. After receiving a suspension notice, Grantee shall comply with the notice. Within 90 days, or any longer period agreed to by the parties, Department shall either: (1) issue a notice authorizing resumption of work, at which time activity shall resume; or (2) terminate the Agreement. If the Agreement is terminated after 30 days of suspension, the notice of suspension shall be deemed to satisfy the thirty (30) days' notice required for a notice of termination for convenience. Suspension of work shall not entitle Grantee to any additional compensation.

17. Force Majeure.

The Grantee shall not be responsible for delay resulting from its failure to perform if neither the fault nor the negligence of Grantee or its employees or agents contributed to the delay and the delay is due directly to acts of God, wars, acts of public enemies, strikes, fires, floods, or other similar cause wholly beyond Grantee's control, or for any of the foregoing that affect subcontractors or suppliers if no alternate source of supply is available to Grantee. In case of any delay Grantee believes is excusable, Grantee shall notify Department in writing of the delay or potential delay and describe the cause of the delay either (1) within ten days after the cause that creates or will create the delay first arose, if Grantee could reasonably foresee that a delay could occur as a result; or (2) if delay is not reasonably foreseeable, within five days after the date Grantee first had reason to believe that a delay could result. **THE FOREGOING SHALL CONSTITUTE THE GRANTEE'S SOLE REMEDY OR EXCUSE WITH RESPECT TO DELAY.** Providing notice in strict accordance with this paragraph is a condition precedent to such remedy. No claim for damages, other than for an extension of time, shall be asserted against Department. The Grantee shall not be entitled to an increase in the Agreement price or payment of any kind from Department for direct, indirect, consequential, impact or other costs, expenses or damages, including but not limited to costs of acceleration or inefficiency, arising because of delay, disruption, interference, or hindrance from any cause whatsoever. If performance is suspended or delayed, in whole or in part, due to any of the causes described in this paragraph, after the causes have ceased to exist Grantee shall perform at no increased cost, unless Department determines, in its sole

discretion, that the delay will significantly impair the value of the Agreement to Department, in which case Department may: (1) accept allocated performance or deliveries from Grantee, provided that Grantee grants preferential treatment to Department with respect to products subjected to allocation; (2) contract with other sources (without recourse to and by Grantee for the related costs and expenses) to replace all or part of the products or services that are the subject of the delay, which purchases may be deducted from the Agreement quantity; or (3) terminate Agreement in whole or in part.

18. Indemnification.

- a. The Grantee shall be fully liable for the actions of its agents, employees, partners, or subcontractors and shall fully indemnify, defend, and hold harmless Department and its officers, agents, and employees, from suits, actions, damages, and costs of every name and description arising from or relating to:
 - i. personal injury and damage to real or personal tangible property alleged to be caused in whole or in part by Grantee, its agents, employees, partners, or subcontractors; provided, however, that Grantee shall not indemnify for that portion of any loss or damages proximately caused by the negligent act or omission of Department;
 - ii. the Grantee's breach of this Agreement or the negligent acts or omissions of Grantee.
- b. The Grantee's obligations under the preceding paragraph with respect to any legal action are contingent upon Department giving Grantee: (1) written notice of any action or threatened action; (2) the opportunity to take over and settle or defend any such action at Grantee's sole expense; and (3) assistance in defending the action at Grantee's sole expense. The Grantee shall not be liable for any cost, expense, or compromise incurred or made by Department in any legal action without Grantee's prior written consent, which shall not be unreasonably withheld.
- c. Notwithstanding sections a. and b. above, the following is the sole indemnification provision that applies to Grantees that are governmental entities: Each party hereto agrees that it shall be solely responsible for the negligent or wrongful acts of its employees and agents. However, nothing contained herein shall constitute a waiver by either party of its sovereign immunity or the provisions of section 768.28, F.S. Further, nothing herein shall be construed as consent by a state agency or subdivision of the State to be sued by third parties in any matter arising out of any contract or this Agreement.
- d. No provision in this Agreement shall require Department to hold harmless or indemnify Grantee, insure or assume liability for Grantee's negligence, waive Department's sovereign immunity under the laws of Florida, or otherwise impose liability on Department for which it would not otherwise be responsible. Any provision, implication or suggestion to the contrary is null and void.

19. Limitation of Liability.

The Department's liability for any claim arising from this Agreement is limited to compensatory damages in an amount no greater than the sum of the unpaid balance of compensation due for goods or services rendered pursuant to and in compliance with the terms of the Agreement. Such liability is further limited to a cap of \$100,000.

20. Remedies.

Nothing in this Agreement shall be construed to make Grantee liable for force majeure events. Nothing in this Agreement, including financial consequences for nonperformance, shall limit Department's right to pursue its remedies for other types of damages under the Agreement, at law or in equity. The Department may, in addition to other remedies available to it, at law or in equity and upon notice to Grantee, retain such monies from amounts due Grantee as may be necessary to satisfy any claim for damages, penalties, costs and the like asserted by or against it.

21. Waiver.

The delay or failure by Department to exercise or enforce any of its rights under this Agreement shall not constitute or be deemed a waiver of Department's right thereafter to enforce those rights, nor shall any single or partial exercise of any such right preclude any other or further exercise thereof or the exercise of any other right.

22. Statutory Notices Relating to Unauthorized Employment and Subcontracts.

- a. The Department shall consider the employment by any Grantee of unauthorized aliens a violation of Section 274A(e) of the Immigration and Nationality Act. If Grantee/subcontractor knowingly employs unauthorized aliens, such violation shall be cause for unilateral cancellation of this Agreement. The Grantee shall be responsible for including this provision in all subcontracts with private organizations issued as a result of this Agreement.
- b. Pursuant to sections 287.133, 287.134, and 287.137 F.S., the following restrictions apply to persons placed on the convicted vendor list, discriminatory vendor list, or the antitrust violator vendor list:
 - i. Public Entity Crime. A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may

not submit bids, proposals, or replies on leases of real property to a public entity; may not be awarded or perform work as a Grantee, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity in excess of the threshold amount provided in section 287.017, F.S., for CATEGORY TWO for a period of 36 months following the date of being placed on the convicted vendor list.

- ii. Discriminatory Vendors. An entity or affiliate who has been placed on the discriminatory vendor list may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity.
- iii. Antitrust Violator Vendors. A person or an affiliate who has been placed on the antitrust violator vendor list following a conviction or being held civilly liable for an antitrust violation may not submit a bid, proposal, or reply on any contract to provide any good or services to a public entity; may not submit a bid, proposal, or reply on any contract with a public entity for the construction or repair of a public building or public work; may not submit a bid, proposal, or reply on leases of real property to a public entity; may not be awarded or perform work as a Grantee, supplier, subcontractor, or consultant under a contract with a public entity; and may not transact new business with a public entity.
- iv. Notification. The Grantee shall notify Department if it or any of its suppliers, subcontractors, or consultants have been placed on the convicted vendor list, the discriminatory vendor list, or antitrust violator vendor list during the life of the Agreement. The Florida Department of Management Services is responsible for maintaining the discriminatory vendor list and the antitrust violator vendor list and posts the list on its website. Questions regarding the discriminatory vendor list or antitrust violator vendor list may be directed to the Florida Department of Management Services, Office of Supplier Diversity, at (850) 487-0915.

23. Compliance with Federal, State and Local Laws.

- a. The Grantee and all its agents shall comply with all federal, state and local regulations, including, but not limited to, nondiscrimination, wages, social security, workers' compensation, licenses, and registration requirements. The Grantee shall include this provision in all subcontracts issued as a result of this Agreement.
- b. No person, on the grounds of race, creed, color, religion, national origin, age, gender, or disability, shall be excluded from participation in; be denied the proceeds or benefits of; or be otherwise subjected to discrimination in performance of this Agreement.
- c. This Agreement shall be governed by and construed in accordance with the laws of the State of Florida.
- d. Any dispute concerning performance of the Agreement shall be processed as described herein. Jurisdiction for any damages arising under the terms of the Agreement will be in the courts of the State, and venue will be in the Second Judicial Circuit, in and for Leon County. Except as otherwise provided by law, the parties agree to be responsible for their own attorney fees incurred in connection with disputes arising under the terms of this Agreement.

24. Build America, Buy America Act (BABA) - Infrastructure Projects with Federal Funding.

This provision does not apply to Agreements that are wholly funded by Coronavirus State and Local Fiscal Recovery Funds under the American Rescue Plan Act. Also, this provision does not apply where there is a valid waiver in place. However, the provision may apply to funds expended before the waiver or after expiration of the waiver.

If applicable, Recipients or Subrecipients of an award of Federal financial assistance from a program for infrastructure are required to comply with the Build America, Buy America Act (BABA), including the following provisions:

- a. All iron and steel used in the project are produced in the United States--this means all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States;
- b. All manufactured products used in the project are produced in the United States--this means the manufactured product was manufactured in the United States; and the cost of the components of the manufactured product that are mined, produced, or manufactured in the United States is greater than 55 percent of the total cost of all components of the manufactured product, unless another standard for determining the minimum amount of domestic content of the manufactured product has been established under applicable law or regulation; and

- c. All construction materials are manufactured in the United States-this means that all manufacturing processes for the construction material occurred in the United States.

The Buy America preference only applies to articles, materials, and supplies that are consumed in, incorporated into, or affixed to an infrastructure project. As such, it does not apply to tools, equipment, and supplies, such as temporary scaffolding, brought to the construction site and removed at or before the completion of the infrastructure project. Nor does a Buy America preference apply to equipment and furnishings, such as movable chairs, desks, and portable computer equipment, that are used at or within the finished infrastructure project but are not an integral part of the structure or permanently affixed to the infrastructure project.

25. Investing in America

Grantees of an award for construction projects in whole or in part by the Bipartisan Infrastructure Law or the Inflation Reduction Act, including the following provision:

- a. Signage Requirements

- a. Investing in America Emblem: The recipient will ensure that a sign is placed at construction sites supported in whole or in part by this award displaying the official Investing in America emblem and must identify the project as a “project funded by President Biden’s Bipartisan Infrastructure Law” or “project funded by President Biden’s Inflation Reduction Act” as applicable. The sign must be placed at construction sites in an easily visible location that can be directly linked to the work taking place and must be maintained in good condition throughout the construction period.

- The recipient will ensure compliance with the guidelines and design specifications provided by EPA for using the official Investing in America emblem available at:

- <https://www.epa.gov/invest/investing-america-signage>.

- b. Procuring Signs: Consistent with section 6002 of RCRA, 42 U.S.C. 6962, and 2 CFR 200.323, recipients are encouraged to use recycled or recovered materials when procuring signs. Signage costs are considered an allowable cost under this assistance agreement provided that the costs associated with signage are reasonable. Additionally, to increase public awareness of projects serving communities where English is not the predominant language, recipients are encouraged to translate the language on signs (excluding the official Investing in America emblem or EPA logo or seal) into the appropriate non-English language(s). The costs of such translation are allowable, provided the costs are reasonable.

26. Scrutinized Companies.

- a. Grantee certifies that it is not on the Scrutinized Companies that Boycott Israel List or engaged in a boycott of Israel. Pursuant to section 287.135, F.S., the Department may immediately terminate this Agreement at its sole option if the Grantee is found to have submitted a false certification; or if the Grantee is placed on the Scrutinized Companies that Boycott Israel List or is engaged in the boycott of Israel during the term of the Agreement.
- b. If this Agreement is for more than one million dollars, the Grantee certifies that it is also not on the Scrutinized Companies with Activities in Sudan, Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or engaged with business operations in Cuba or Syria as identified in section 287.135, F.S. Pursuant to section 287.135, F.S., the Department may immediately terminate this Agreement at its sole option if the Grantee is found to have submitted a false certification; or if the Grantee is placed on the Scrutinized Companies with Activities in Sudan List, or Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or engaged with business operations in Cuba or Syria during the term of the Agreement.
- c. As provided in subsection 287.135(8), F.S., if federal law ceases to authorize these contracting prohibitions, then they shall become inoperative.

27. Lobbying and Integrity.

The Grantee agrees that no funds received by it under this Agreement will be expended for the purpose of lobbying the Legislature or a State agency pursuant to section 216.347, F.S., except that pursuant to the requirements of section 287.058(6), F.S., during the term of any executed agreement between Grantee and the State, Grantee may lobby the executive or legislative branch concerning the scope of services, performance, term, or compensation regarding that agreement. The Grantee shall comply with sections 11.062 and 216.347, F.S.

28. Record Keeping.

The Grantee shall maintain books, records and documents directly pertinent to performance under this Agreement in accordance with United States generally accepted accounting principles (US GAAP) consistently applied. The Department, the State, or their authorized representatives shall have access to such records for audit purposes during

the term of this Agreement and for five (5) years following the completion date or termination of the Agreement. In the event that any work is subcontracted, Grantee shall similarly require each subcontractor to maintain and allow access to such records for audit purposes. Upon request of Department's Inspector General, or other authorized State official, Grantee shall provide any type of information the Inspector General deems relevant to Grantee's integrity or responsibility. Such information may include, but shall not be limited to, Grantee's business or financial records, documents, or files of any type or form that refer to or relate to Agreement. The Grantee shall retain such records for the longer of: (1) three years after the expiration of the Agreement; or (2) the period required by the General Records Schedules maintained by the Florida Department of State (available at: <http://dos.myflorida.com/library-archives/records-management/general-records-schedules/>).

29. Audits.

- a. **Inspector General.** The Grantee understands its duty, pursuant to section 20.055(5), F.S., to cooperate with the inspector general in any investigation, audit, inspection, review, or hearing. The Grantee will comply with this duty and ensure that its sub-grantees and/or subcontractors issued under this Agreement, if any, impose this requirement, in writing, on its sub-grantees and/or subcontractors, respectively.
- b. **Physical Access and Inspection.** Department personnel shall be given access to and may observe and inspect work being performed under this Agreement, with reasonable notice and during normal business hours, including by any of the following methods:
 - i. Grantee shall provide access to any location or facility on which Grantee is performing work, or storing or staging equipment, materials or documents;
 - ii. Grantee shall permit inspection of any facility, equipment, practices, or operations required in performance of any work pursuant to this Agreement; and,
 - iii. Grantee shall allow and facilitate sampling and monitoring of any substances, soils, materials or parameters at any location reasonable or necessary to assure compliance with any work or legal requirements pursuant to this Agreement.
- c. **Special Audit Requirements.** The Grantee shall comply with the applicable provisions contained in Attachment 5, Special Audit Requirements. Each amendment that authorizes a funding increase or decrease shall include an updated copy of Exhibit 1, to Attachment 5. If Department fails to provide an updated copy of Exhibit 1 to include in each amendment that authorizes a funding increase or decrease, Grantee shall request one from the Department's Grants Manager. The Grantee shall consider the type of financial assistance (federal and/or state) identified in Attachment 5, Exhibit 1 and determine whether the terms of Federal and/or Florida Single Audit Act Requirements may further apply to lower tier transactions that may be a result of this Agreement. For federal financial assistance, Grantee shall utilize the guidance provided under 2 CFR §200.331 for determining whether the relationship represents that of a subrecipient or vendor. For State financial assistance, Grantee shall utilize the form entitled "Checklist for Nonstate Organizations Recipient/Subrecipient vs Vendor Determination" (form number DFS-A2-NS) that can be found under the "Links/Forms" section appearing at the following website: <https://apps.fldfs.com/fsaa>.
- d. **Proof of Transactions.** In addition to documentation provided to support cost reimbursement as described herein, Department may periodically request additional proof of a transaction to evaluate the appropriateness of costs to the Agreement pursuant to State guidelines (including cost allocation guidelines) and federal, if applicable. Allowable costs and uniform administrative requirements for federal programs can be found under 2 CFR 200. The Department may also request a cost allocation plan in support of its multipliers (overhead, indirect, general administrative costs, and fringe benefits). The Grantee must provide the additional proof within thirty (30) days of such request.
- e. **No Commingling of Funds.** The accounting systems for all Grantees must ensure that these funds are not commingled with funds from other agencies. Funds from each agency must be accounted for separately. Grantees are prohibited from commingling funds on either a program-by-program or a project-by-project basis. Funds specifically budgeted and/or received for one project may not be used to support another project. Where a Grantee's, or subrecipient's, accounting system cannot comply with this requirement, Grantee, or subrecipient, shall establish a system to provide adequate fund accountability for each project it has been awarded.
 - i. If Department finds that these funds have been commingled, Department shall have the right to demand a refund, either in whole or in part, of the funds provided to Grantee under this Agreement for non-compliance with the material terms of this Agreement. The Grantee, upon such written notification from Department shall refund, and shall forthwith pay to Department, the amount of money demanded by Department. Interest on any refund shall be calculated based on the prevailing rate used by the State Board of Administration. Interest shall be calculated from the date(s) the

original payment(s) are received from Department by Grantee to the date repayment is made by Grantee to Department.

- ii. In the event that the Grantee recovers costs, incurred under this Agreement and reimbursed by Department, from another source(s), Grantee shall reimburse Department for all recovered funds originally provided under this Agreement and interest shall be charged for those recovered costs as calculated on from the date(s) the payment(s) are recovered by Grantee to the date repayment is made to Department.
- iii. Notwithstanding the requirements of this section, the above restrictions on commingling funds do not apply to agreements where payments are made purely on a cost reimbursement basis.

30. Conflict of Interest.

The Grantee covenants that it presently has no interest and shall not acquire any interest which would conflict in any manner or degree with the performance of services required.

31. Independent Contractor.

The Grantee is an independent contractor and is not an employee or agent of Department.

32. Subcontracting.

- a. Unless otherwise specified in the Special Terms and Conditions, all services contracted for are to be performed solely by Grantee.
- b. The Department may, for cause, require the replacement of any Grantee employee, subcontractor, or agent. For cause, includes, but is not limited to, technical or training qualifications, quality of work, change in security status, or non-compliance with an applicable Department policy or other requirement.
- c. The Department may, for cause, deny access to Department's secure information or any facility by any Grantee employee, subcontractor, or agent.
- d. The Department's actions under paragraphs b. or c. shall not relieve Grantee of its obligation to perform all work in compliance with the Agreement. The Grantee shall be responsible for the payment of all monies due under any subcontract. The Department shall not be liable to any subcontractor for any expenses or liabilities incurred under any subcontract and Grantee shall be solely liable to the subcontractor for all expenses and liabilities incurred under any subcontract.
- e. The Department will not deny Grantee's employees, subcontractors, or agents access to meetings within the Department's facilities, unless the basis of Department's denial is safety or security considerations.
- f. The Department supports diversity in its procurement program and requests that all subcontracting opportunities afforded by this Agreement embrace diversity enthusiastically. The award of subcontracts should reflect the full diversity of the citizens of the State. A list of minority-owned firms that could be offered subcontracting opportunities may be obtained by contacting the Office of Supplier Diversity at (850) 487-0915.
- g. The Grantee shall not be liable for any excess costs for a failure to perform, if the failure to perform is caused by the default of a subcontractor at any tier, and if the cause of the default is completely beyond the control of both Grantee and the subcontractor(s), and without the fault or negligence of either, unless the subcontracted products or services were obtainable from other sources in sufficient time for Grantee to meet the required delivery schedule.

33. Guarantee of Parent Company.

If Grantee is a subsidiary of another corporation or other business entity, Grantee asserts that its parent company will guarantee all of the obligations of Grantee for purposes of fulfilling the obligations of Agreement. In the event Grantee is sold during the period the Agreement is in effect, Grantee agrees that it will be a requirement of sale that the new parent company guarantee all of the obligations of Grantee.

34. Survival.

The respective obligations of the parties, which by their nature would continue beyond the termination or expiration of this Agreement, including without limitation, the obligations regarding confidentiality, proprietary interests, and public records, shall survive termination, cancellation, or expiration of this Agreement.

35. Third Parties.

The Department shall not be deemed to assume any liability for the acts, failures to act or negligence of Grantee, its agents, servants, and employees, nor shall Grantee disclaim its own negligence to Department or any third party. This Agreement does not and is not intended to confer any rights or remedies upon any person other than the parties. If Department consents to a subcontract, Grantee will specifically disclose that this Agreement does not create any third-party rights. Further, no third parties shall rely upon any of the rights and obligations created under this Agreement.

36. Severability.

If a court of competent jurisdiction deems any term or condition herein void or unenforceable, the other provisions are severable to that void provision, and shall remain in full force and effect.

37. Grantee's Employees, Subcontractors and Agents.

All Grantee employees, subcontractors, or agents performing work under the Agreement shall be properly trained technicians who meet or exceed any specified training qualifications. Upon request, Grantee shall furnish a copy of technical certification or other proof of qualification. All employees, subcontractors, or agents performing work under Agreement must comply with all security and administrative requirements of Department and shall comply with all controlling laws and regulations relevant to the services they are providing under the Agreement.

38. Assignment.

The Grantee shall not sell, assign, or transfer any of its rights, duties, or obligations under the Agreement, or under any purchase order issued pursuant to the Agreement, without the prior written consent of Department. In the event of any assignment, Grantee remains secondarily liable for performance of the Agreement, unless Department expressly waives such secondary liability. The Department may assign the Agreement with prior written notice to Grantee of its intent to do so.

39. Compensation Report.

If this Agreement is a sole-source, public-private agreement or if the Grantee, through this agreement with the State, annually receive 50% or more of their budget from the State or from a combination of State and Federal funds, the Grantee shall provide an annual report, including the most recent IRS Form 990, detailing the total compensation for the entities' executive leadership teams. Total compensation shall include salary, bonuses, cashed-in leave, cash equivalents, severance pay, retirement benefits, deferred compensation, real-property gifts, and any other payout. The Grantee must also inform the Department of any changes in total executive compensation between the annual reports. All compensation reports must indicate what percent of compensation comes directly from the State or Federal allocations to the Grantee.

40. Execution in Counterparts and Authority to Sign.

This Agreement, any amendments, and/or change orders related to the Agreement, may be executed in counterparts, each of which shall be an original and all of which shall constitute the same instrument. In accordance with the Electronic Signature Act of 1996, electronic signatures, including facsimile transmissions, may be used and shall have the same force and effect as a written signature. Each person signing this Agreement warrants that he or she is duly authorized to do so and to bind the respective party to the Agreement.

**STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION
Special Terms and Conditions
AGREEMENT NO. 23PLN90**

ATTACHMENT 2

These Special Terms and Conditions shall be read together with general terms outlined in the Standard Terms and Conditions, Attachment 1. Where in conflict, these more specific terms shall apply.

1. Scope of Work.

The Project funded under this Agreement is Town of Surfside Comprehensive Vulnerability Assessment and Adaptation Plan. The Project is defined in more detail in Attachment 3, Grant Work Plan.

2. Duration.

- a. Reimbursement Period. The reimbursement period for this Agreement is the same as the term of the Agreement.
- b. Extensions. There are extensions available for this Project.
- c. Service Periods. Additional service periods may be added in accordance with 2.a above and are contingent upon proper and satisfactory technical and administrative performance by the Grantee and the availability of funding.

3. Payment Provisions.

- a. Compensation. This is a cost reimbursement Agreement. The Grantee shall be compensated under this Agreement as described in Attachment 3.
- b. Invoicing. Invoicing will occur as indicated in Attachment 3.
- c. Advance Pay. Advance Pay is not authorized under this Agreement.

4. Cost Eligible for Reimbursement or Matching Requirements.

Reimbursement for costs or availability for costs to meet matching requirements shall be limited to the following budget categories, as defined in the Reference Guide for State Expenditures, as indicated:

<u>Reimbursement</u>	<u>Match</u>	<u>Category</u>
<input type="checkbox"/>	<input type="checkbox"/>	Salaries/Wages
		Overhead/Indirect/General and Administrative Costs:
<input type="checkbox"/>	<input type="checkbox"/>	a. Fringe Benefits, N/A.
<input type="checkbox"/>	<input type="checkbox"/>	b. Indirect Costs, N/A.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Contractual (Subcontractors)
<input type="checkbox"/>	<input type="checkbox"/>	Travel, in accordance with Section 112, F.S.
<input type="checkbox"/>	<input type="checkbox"/>	Equipment
<input type="checkbox"/>	<input type="checkbox"/>	Rental/Lease of Equipment
<input type="checkbox"/>	<input type="checkbox"/>	Miscellaneous/Other Expenses
<input type="checkbox"/>	<input type="checkbox"/>	Land Acquisition

5. Equipment Purchase.

No Equipment purchases shall be funded under this Agreement.

6. Land Acquisition.

There will be no Land Acquisitions funded under this Agreement.

7. Match Requirements

There is no match required on the part of the Grantee under this Agreement.

8. Insurance Requirements

Required Coverage. At all times during the Agreement the Grantee, at its sole expense, shall maintain insurance coverage of such types and with such terms and limits described below. The limits of coverage under each policy maintained by the Grantee shall not be interpreted as limiting the Grantee’s liability and obligations under the Agreement. All insurance policies shall be through insurers licensed and authorized to issue policies in Florida, or alternatively, Grantee may provide coverage through a self-insurance program established and operating under the laws of Florida. Additional insurance requirements for this Agreement may be required elsewhere in this Agreement, however the minimum insurance requirements applicable to this Agreement are:

- a. Commercial General Liability Insurance.
The Grantee shall provide adequate commercial general liability insurance coverage and hold such liability insurance at all times during the Agreement. The Department, its employees, and officers shall be named as an additional insured on any general liability policies. The minimum limits shall be \$250,000 for each occurrence and \$500,000 policy aggregate.
- b. Commercial Automobile Insurance.
If the Grantee’s duties include the use of a commercial vehicle, the Grantee shall maintain automobile liability, bodily injury, and property damage coverage. Insuring clauses for both bodily injury and property damage shall provide coverage on an occurrence basis. The Department, its employees, and officers shall be named as an additional insured on any automobile insurance policy. The minimum limits shall be as follows:

\$200,000/300,000	Automobile Liability for Company-Owned Vehicles, if applicable
\$200,000/300,000	Hired and Non-owned Automobile Liability Coverage
- c. Workers’ Compensation and Employer’s Liability Coverage.
The Grantee shall provide workers’ compensation, in accordance with Chapter 440, F.S. and employer liability coverage with minimum limits of \$100,000 per accident, \$100,000 per person, and \$500,000 policy aggregate. Such policies shall cover all employees engaged in any work under the Grant.
- d. Other Insurance. None.

9. Quality Assurance Requirements.

There are no special Quality Assurance requirements under this Agreement.

10. Retainage.

No retainage is required under this Agreement.

11. Subcontracting.

The Grantee may subcontract work under this Agreement without the prior written consent of the Department’s Grant Manager except for certain fixed-price subcontracts pursuant to this Agreement, which require prior approval. The Grantee shall submit a copy of the executed subcontract to the Department prior to submitting any invoices for subcontracted work. Regardless of any subcontract, the Grantee is ultimately responsible for all work to be performed under this Agreement.

12. State-owned Land.

The work will not be performed on State-owned land.

13. Office of Policy and Budget Reporting.

There are no special Office of Policy and Budget reporting requirements for this Agreement.

14. Common Carrier.

- a. Applicable to contracts with a common carrier – firm/person/corporation that as a regular business transports people or commodities from place to place. If applicable, Contractor must also fill out and return PUR 1808 before contract execution. If Contractor is a common carrier pursuant to section 908.111(1)(a), Florida Statutes, the Department will terminate this contract immediately if Contractor is found to be in violation of the law or the attestation in PUR 1808.
- b. Applicable to solicitations for a common carrier – Before contract execution, the winning Contractor(s) must fill out and return PUR 1808, and attest that it is not willfully providing any service in furtherance of transporting a person into this state knowing that the person unlawfully present in the United States

according to the terms of the federal Immigration and Nationality Act, 8 U.S.C. ss. 1101 et seq. The Department will terminate a contract immediately if Contractor is found to be in violation of the law or the attestation in PUR 1808.

15. Additional Terms.

Documentary Evidence Requirement for Subcontractor(s). If any work associated with this Agreement is completed by a subcontractor(s), the Grantee shall require that such subcontractor(s) submit documentary evidence (e.g., workshop agendas; meeting recordings) to Grantee demonstrating that the subcontractor(s) has fully performed its Project obligation(s). The Grantee shall forward copies of all such documentary evidence to the Department with the Grantee's relevant deliverable(s), using the approved Project Timeline set forth in Attachment 3 to this Agreement (Grant Work Plan).

**STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION
GRANT WORK PLAN
AGREEMENT NO. 23PLN90**

ATTACHMENT 3

PROJECT TITLE: Town of Surfside Comprehensive Vulnerability Assessment and Adaptation Plan

PROJECT LOCATION: The Project is located in the Town of Surfside within Miami-Dade County, Florida.

PROJECT DESCRIPTION:

The Town of Surfside (Grantee) will complete the Town of Surfside Comprehensive Vulnerability Assessment and Adaptation Plan Project (Project) to include a comprehensive Vulnerability Assessment (VA) pursuant to Section 380.093, Florida Statutes (F.S.), as well as the development of the Town Hall's Emergency Operations Center (EOC) Adaptation Plan (AP).

TASKS AND DELIVERABLES:

Task 1: Acquire Background Data

Description: The Grantee will research and compile the data needed to perform the VA based on the requirements as defined in Section 380.093, F.S. Three main categories of data are required to perform a VA: 1) critical and regionally significant asset inventory, 2) topographic data, and 3) flood scenario-related data. GIS metadata should incorporate a layer for each of the four asset classes as defined in paragraphs 380.093(2)(a)1-4, F.S. GIS files and associated metadata must adhere to the Resilient Florida Program's GIS Data Standards (Exhibit I), and raw data sources shall be defined within the associated metadata. Sea level rise projection data shall include the 2017 National Oceanic and Atmospheric Administration (NOAA) intermediate-high and intermediate-low projections for 2040 and 2070, at a minimum. Other projections can be used at the Grantees discretion. Storm surge data used must be equal to or exceed the 100-year return period (1% annual chance) flood event. In the process of researching background data, the Grantee shall identify data gaps, where missing data or low-quality information may limit the VA's extent or reduce the accuracy of the results. The Grantee shall rectify any gaps of necessary data.

Deliverables: The Grantee will provide the following:

- **1.1:** A technical report to outline the data compiled and findings of the gap analysis;
- **1.2:** A summary report to include recommendations to address the identified data gaps and actions taken to rectify them, if applicable; and
- **1.3:** GIS files with appropriate metadata of the data compiled, to include locations of critical assets owned or maintained by the Grantee as well as regionally significant assets that are classified and as defined in paragraphs 380.093(2)(a)1-4, F.S.

Task 2: Exposure Analysis

Description: The Grantee will perform an exposure analysis to identify the depth of water caused by each sea level rise, storm surge, and/or flood scenario. The water surface depths (i.e. flood scenarios) used to evaluate assets shall include the following data: tidal flooding, current and future storm surge flooding, rainfall-induced flooding, and compound flooding, all as applicable, as well as the scenarios and standards used for the exposure analysis shall be pursuant to s. 380.093, F.S. GIS files and associated metadata must

adhere to the Resilient Florida Program’s GIS Data Standards (Exhibit I), and raw data sources shall be defined within the associated metadata.

Deliverables: The Grantee will provide the following:

- **2.1:** A draft VA report that provides details on the modeling process, type of models utilized, and resulting tables and maps illustrating flood depths for each flood scenario; and
- **2.2:** GIS files with results of the exposure analysis for each flood scenario as well as the appropriate metadata that identifies the methods used to create the flood layers.

Task 3: Sensitivity Analysis

Description: The Grantee will perform the sensitivity analysis to measure the impact of flooding on assets and to apply the data from the exposure analysis to the inventory of critical assets created in the Acquire Background Data Task. The sensitivity analysis should include an evaluation of the impact of flood severity on each asset class and at each flood scenario and assign a risk level based on percentages of land area inundated and number of critical assets affected.

Deliverables: The Grantee will provide the following:

- **3.1:** An updated draft VA report that provides details on the findings of the exposure analysis and the sensitivity analysis, and includes visual presentation of the data via maps and tables, based on the statutorily-required scenarios and standards; and
- **3.2:** An initial list of critical and regionally significant assets that are impacted by flooding. The list of critical and regionally significant assets must be prioritized by area or immediate need and must identify which flood scenario(s) impacts each asset.

Task 4: Final Vulnerability Assessment Report, Maps, and Tables

Description: The Grantee will finalize the VA report pursuant to the requirements in s. 380.093, F.S. The final VA must include all results from the exposure and sensitivity analyses, as well as a summary of identified risks. It should contain a list of critical and regionally significant assets that are impacted by flooding and sea-level rise, specifying for each asset the flood scenario(s) impacting the asset. GIS files and associated metadata must adhere to the Resilient Florida Program’s GIS Data Standards (Exhibit I), and raw data sources shall be defined within the associated metadata.

Deliverables: The Grantee will provide the following:

- **4.1:** Final VA Report that provides details on the results and conclusions, including illustrations via maps and tables, based on the statutorily-required scenarios and standards in s. 380.093, F.S.;
- **4.2:** A final list of critical and regionally significant assets that are impacted by flooding. The list of critical and regionally significant assets must be prioritized by area or immediate need and must identify which flood scenario(s) impacts each asset.;
- **4.3:** All electronic mapping data used to illustrate flooding and sea level rise impacts identified in the VA, to include the geospatial data in an electronic file format and GIS metadata; and
- **4.4** A signed Vulnerability Assessment Compliance Checklist Certification.

Task 5: Adaptation Plan for Town Hall EOC

Description: The Grantee will complete an AP for the Town Hall EOC that is consistent with the Florida Adaptation Planning Guidebook and includes the following: assessment of adaptive capacities, prioritization of adaptation needs, and identification of adaptation strategies. The Grantee may also include

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optional subtasks such as identifying adaptation action areas, stakeholder engagement, and integrating the proposed AP into existing APs. The AP will also include a list of prioritized Town Hall EOC projects for each asset class as defined in subsection 380.093(2), F.S., for consideration and implementation.

Deliverables: The Grantee will provide the final Town Hall EOC Adaptation Plan or Report.

PERFORMANCE MEASURES: The Grantee will submit all deliverables for each task to the Department's Grant Manager on or before the Task Due Date listed in the Project Timeline. The Department's Grant Manager will review the deliverable(s) to verify that they meet the specifications in the Grant Work Plan and the task description, to include any work being performed by any subcontractor(s), and will provide written acceptance or denial of the deliverable(s) to the Grantee within thirty (30) calendar days. Tasks may include multiple deliverables to be completed. The Department will accept partial and full deliverables. Incomplete deliverables will not be accepted. A "partial deliverable" is defined as a deliverable consisting of one (1) or more (but not all) subcomponents listed in the deliverable list for a single task, where such subcomponent(s) are delivered to the Department at one hundred percent (100%) completion. A "full deliverable" is defined as a deliverable comprising all subcomponents listed in the deliverable list for a single task, all delivered to the Department at one hundred percent (100%) completion. An "incomplete deliverable" is defined as a deliverable for which one hundred percent (100%) completion has not been achieved for any of the subcomponents listed in the deliverable list for a single task. A task is considered one hundred percent (100%) complete upon the Department's receipt and approval of all deliverable(s) listed within the task and the Department's approval provided by the Deliverable Acceptance Letter.

CONSEQUENCES FOR NON-PERFORMANCE: For each task deliverable not received by the Department at one hundred percent (100%) completion and by the specified due date listed in the Agreement's most recent Project Timeline, the Department will reduce the relevant Task Funding Amount(s) paid to Grantee in proportion to the percentage of the deliverable(s) not fully completed and/or submitted to the Department in a timely manner.

PAYMENT REQUEST SCHEDULE: Following the Grantee's full or partial completion of a task's deliverable(s) and acceptance by the Department's Grant Manager, the Grantee may submit a payment request for cost reimbursement using the Exhibit C, Payment Request Summary Form. All payment requests must be accompanied by the Deliverable Acceptance Letter; the Exhibit A, Progress Report Form, detailing all progress made in the invoice period; and supporting fiscal documentation including match, if applicable. Interim payments will not be accepted. Upon the Department's receipt of the aforementioned documents and supporting fiscal documentation, the Department's Grant Manager will have ten (10) working days to review and approve or deny the payment request.

PROJECT TIMELINE AND BUDGET DETAIL: The tasks must be completed by, and all deliverables received by, the corresponding task due date listed in the table below. Cost-reimbursable grant funding must not exceed the budget amounts indicated below. Requests for any change(s) must be submitted prior to the current task due date listed in the Project Timeline. Requests are to be sent via email to the Department's Grant Manager, with the details of the request and the reason for the request made clear.

Task No.	Task Title	Budget Category	DEP Amount	Match Amount	Total Amount	Task Start Date	Task Due Date
1	Acquire Background Data	Contractual Services	\$15,000	\$0.00	\$15,000	Upon Execution	6/30/2026
2	Exposure Analysis	Contractual Services	\$25,000	\$0.00	\$25,000	Upon Execution	6/30/2026
3	Sensitivity Analysis	Contractual Services	\$25,000	\$0.00	\$25,000	Upon Execution	6/30/2026
4	Final Vulnerability Assessment Report, Maps, and Tables	Contractual Services	\$180,000	\$0.00	\$180,000	Upon Execution	6/30/2026
5	Adaptation Plan for Town Hall EOC	Contractual Services	\$55,000	\$0.00	\$55,000	Upon Execution	6/30/2026
Total:			\$300,000	\$0.00	\$300,000		

**STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION
Public Records Requirements**

Attachment 4

1. Public Records.

- a. If the Agreement exceeds \$35,000.00, and if Grantee is acting on behalf of Department in its performance of services under the Agreement, Grantee must allow public access to all documents, papers, letters, or other material, regardless of the physical form, characteristics, or means of transmission, made or received by Grantee in conjunction with the Agreement (Public Records), unless the Public Records are exempt from section 24(a) of Article I of the Florida Constitution or section 119.07(1), F.S.
- b. The Department may unilaterally terminate the Agreement if Grantee refuses to allow public access to Public Records as required by law.

2. Additional Public Records Duties of Section 119.0701, F.S., If Applicable.

For the purposes of this paragraph, the term “contract” means the “Agreement.” If Grantee is a “contractor” as defined in section 119.0701(1)(a), F.S., the following provisions apply and the contractor shall:

- a. Keep and maintain Public Records required by Department to perform the service.
- b. Upon request, provide Department with a copy of requested Public Records or allow the Public Records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, F.S., or as otherwise provided by law.
- c. A contractor who fails to provide the Public Records to Department within a reasonable time may be subject to penalties under section 119.10, F.S.
- d. Ensure that Public Records that are exempt or confidential and exempt from Public Records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of the contract if the contractor does not transfer the Public Records to Department.
- e. Upon completion of the contract, transfer, at no cost, to Department all Public Records in possession of the contractor or keep and maintain Public Records required by Department to perform the service. If the contractor transfers all Public Records to Department upon completion of the contract, the contractor shall destroy any duplicate Public Records that are exempt or confidential and exempt from Public Records disclosure requirements. If the contractor keeps and maintains Public Records upon completion of the contract, the contractor shall meet all applicable requirements for retaining Public Records. All Public Records stored electronically must be provided to Department, upon request from Department’s custodian of Public Records, in a format specified by Department as compatible with the information technology systems of Department. These formatting requirements are satisfied by using the data formats as authorized in the contract or Microsoft Word, Outlook, Adobe, or Excel, and any software formats the contractor is authorized to access.

f. IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, F.S., TO THE CONTRACTOR’S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THE CONTRACT, CONTACT THE DEPARTMENT’S CUSTODIAN OF PUBLIC RECORDS AT:

Telephone: (850) 245-2118
Email: public.services@floridadep.gov
Mailing Address: Department of Environmental Protection
ATTN: Office of Ombudsman and Public Services
Public Records Request
3900 Commonwealth Boulevard, MS 49
Tallahassee, Florida 32399

**STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION
Special Audit Requirements
(State and Federal Financial Assistance)**

Attachment 5

The administration of resources awarded by the Department of Environmental Protection (*which may be referred to as the "Department", "DEP", "FDEP" or "Grantor", or other name in the agreement*) to the recipient (*which may be referred to as the "Recipient", "Grantee" or other name in the agreement*) may be subject to audits and/or monitoring by the Department of Environmental Protection, as described in this attachment.

MONITORING

In addition to reviews of audits conducted in accordance with 2 CFR Part 200, Subpart F-Audit Requirements, and Section 215.97, F.S., as revised (see "AUDITS" below), monitoring procedures may include, but not be limited to, on-site visits by DEP Department staff, limited scope audits as defined by 2 CFR 200.425, or other procedures. By entering into this Agreement, the recipient agrees to comply and cooperate with any monitoring procedures/processes deemed appropriate by the Department of Environmental Protection. In the event the Department of Environmental Protection determines that a limited scope audit of the recipient is appropriate, the recipient agrees to comply with any additional instructions provided by the Department to the recipient regarding such audit. The recipient further agrees to comply and cooperate with any inspections, reviews, investigations, or audits deemed necessary by the Chief Financial Officer (CFO) or Auditor General.

AUDITS

PART I: FEDERALLY FUNDED

This part is applicable if the recipient is a State or local government or a non-profit organization as defined in 2 CFR §200.330

1. A recipient that expends \$750,000 or more in Federal awards in its fiscal year, must have a single or program-specific audit conducted in accordance with the provisions of 2 CFR Part 200, Subpart F. EXHIBIT 1 to this Attachment indicates Federal funds awarded through the Department of Environmental Protection by this Agreement. In determining the federal awards expended in its fiscal year, the recipient shall consider all sources of federal awards, including federal resources received from the Department of Environmental Protection. The determination of amounts of federal awards expended should be in accordance with the guidelines established in 2 CFR 200.502-503. An audit of the recipient conducted by the Auditor General in accordance with the provisions of 2 CFR Part 200.514 will meet the requirements of this part.
2. For the audit requirements addressed in Part I, paragraph 1, the recipient shall fulfill the requirements relative to auditee responsibilities as provided in 2 CFR 200.508-512.
3. A recipient that expends less than \$750,000 in federal awards in its fiscal year is not required to have an audit conducted in accordance with the provisions of 2 CFR Part 200, Subpart F-Audit Requirements. If the recipient expends less than \$750,000 in federal awards in its fiscal year and elects to have an audit conducted in accordance with the provisions of 2 CFR 200, Subpart F-Audit Requirements, the cost of the audit must be paid from non-federal resources (i.e., the cost of such an audit must be paid from recipient resources obtained from other federal entities).
4. The recipient may access information regarding the Catalog of Federal Domestic Assistance (CFDA) via the internet at <https://sam.gov/content/assistance-listings>.

PART II: STATE FUNDED

This part is applicable if the recipient is a nonstate entity as defined by Section 215.97(2), Florida Statutes.

1. In the event that the recipient expends a total amount of state financial assistance equal to or in excess of \$750,000 in any fiscal year of such recipient (for fiscal years ending June 30, 2017, and thereafter), the recipient must have a State single or project-specific audit for such fiscal year in accordance with Section 215.97, F.S.; Rule Chapter 69I-5, F.A.C., State Financial Assistance; and Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General. EXHIBIT 1 to this form lists the state financial assistance awarded through the Department of Environmental Protection by this agreement. In determining the state financial assistance expended in its fiscal year, the recipient shall consider all sources of state financial assistance, including state financial assistance received from the Department of Environmental Protection, other state agencies, and other nonstate entities. State financial assistance does not include federal direct or pass-through awards and resources received by a nonstate entity for Federal program matching requirements.
2. In connection with the audit requirements addressed in Part II, paragraph 1; the recipient shall ensure that the audit complies with the requirements of Section 215.97(8), Florida Statutes. This includes submission of a financial reporting package as defined by Section 215.97(2), Florida Statutes, and Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General.
3. If the recipient expends less than \$750,000 in state financial assistance in its fiscal year (for fiscal year ending June 30, 2017, and thereafter), an audit conducted in accordance with the provisions of Section 215.97, Florida Statutes, is not required. In the event that the recipient expends less than \$750,000 in state financial assistance in its fiscal year, and elects to have an audit conducted in accordance with the provisions of Section 215.97, Florida Statutes, the cost of the audit must be paid from the non-state entity's resources (i.e., the cost of such an audit must be paid from the recipient's resources obtained from other than State entities).
4. For information regarding the Florida Catalog of State Financial Assistance (CSFA), a recipient should access the Florida Single Audit Act website located at <https://apps.fldfs.com/fsaa> for assistance. In addition to the above websites, the following websites may be accessed for information: Legislature's Website at <http://www.leg.state.fl.us/Welcome/index.cfm>, State of Florida's website at <http://www.myflorida.com/>, Department of Financial Services' Website at <http://www.fldfs.com/> and the Auditor General's Website at <http://www.myflorida.com/audgen/>.

PART III: OTHER AUDIT REQUIREMENTS

(NOTE: This part would be used to specify any additional audit requirements imposed by the State awarding entity that are solely a matter of that State awarding entity's policy (i.e., the audit is not required by Federal or State laws and is not in conflict with other Federal or State audit requirements). Pursuant to Section 215.97(8), Florida Statutes, State agencies may conduct or arrange for audits of State financial assistance that are in addition to audits conducted in accordance with Section 215.97, Florida Statutes. In such an event, the State awarding agency must arrange for funding the full cost of such additional audits.)

PART IV: REPORT SUBMISSION

1. Copies of reporting packages for audits conducted in accordance with 2 CFR Part 200, Subpart F-Audit Requirements, and required by PART I of this form shall be submitted, when required by 2 CFR 200.512, by or on behalf of the recipient directly to the Federal Audit Clearinghouse (FAC) as provided in 2 CFR 200.36 and 200.512
 - A. The Federal Audit Clearinghouse designated in 2 CFR §200.501(a) (the number of copies required by 2 CFR §200.501(a) should be submitted to the Federal Audit Clearinghouse), at the following address:

By Mail:

Federal Audit Clearinghouse
Bureau of the Census
1201 East 10th Street
Jeffersonville, IN 47132

Submissions of the Single Audit reporting package for fiscal periods ending on or after January 1, 2008, must be submitted using the Federal Clearinghouse's Internet Data Entry System which can be found at <http://harvester.census.gov/facweb/>

2. Copies of financial reporting packages required by PART II of this Attachment shall be submitted by or on behalf of the recipient directly to each of the following:

A. The Department of Environmental Protection at one of the following addresses:

By Mail:

Audit Director

Florida Department of Environmental Protection
Office of Inspector General, MS 40
3900 Commonwealth Boulevard
Tallahassee, Florida 32399-3000

Electronically:

FDEPSingleAudit@dep.state.fl.us

B. The Auditor General's Office at the following address:

Auditor General
Local Government Audits/342
Claude Pepper Building, Room 401
111 West Madison Street
Tallahassee, Florida 32399-1450

The Auditor General's website (<http://flauditor.gov/>) provides instructions for filing an electronic copy of a financial reporting package.

3. Copies of reports or management letters required by PART III of this Attachment shall be submitted by or on behalf of the recipient directly to the Department of Environmental Protection at one of the following addresses:

By Mail:

Audit Director

Florida Department of Environmental Protection
Office of Inspector General, MS 40
3900 Commonwealth Boulevard
Tallahassee, Florida 32399-3000

Electronically:

FDEPSingleAudit@dep.state.fl.us

4. Any reports, management letters, or other information required to be submitted to the Department of Environmental Protection pursuant to this Agreement shall be submitted timely in accordance with 2 CFR 200.512, section 215.97, F.S., and Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General, as applicable.

Attachment 5

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5. Recipients, when submitting financial reporting packages to the Department of Environmental Protection for audits done in accordance with 2 CFR 200, Subpart F-Audit Requirements, or Chapters 10.550 (local governmental entities) and 10.650 (non and for-profit organizations), Rules of the Auditor General, should indicate the date and the reporting package was delivered to the recipient correspondence accompanying the reporting package.

PART V: RECORD RETENTION

The recipient shall retain sufficient records demonstrating its compliance with the terms of the award and this Agreement for a period of **five (5)** years from the date the audit report is issued, and shall allow the Department of Environmental Protection, or its designee, Chief Financial Officer, or Auditor General access to such records upon request. The recipient shall ensure that audit working papers are made available to the Department of Environmental Protection, or its designee, Chief Financial Officer, or Auditor General upon request for a period of **three (3)** years from the date the audit report is issued, unless extended in writing by the Department of Environmental Protection.

EXHIBIT – 1

FUNDS AWARDED TO THE RECIPIENT PURSUANT TO THIS AGREEMENT CONSIST OF THE FOLLOWING:

Note: If the resources awarded to the recipient represent more than one federal program, provide the same information shown below for each federal program and show total federal resources awarded

Federal Resources Awarded to the Recipient Pursuant to this Agreement Consist of the Following:					
Federal Program	Federal Agency	CFDA Number	CFDA Title	Funding Amount	State Appropriation Category
Federal Program A	U.S. Department of Treasury	21.027	SLFRP0125	\$300,000.00	197-H23
Federal Program B	Federal Agency	CFDA Number	CFDA Title	Funding Amount	State Appropriation Category
				\$	

Note: Of the resources awarded to the recipient represent more than one federal program, list applicable compliance requirements for each federal program in the same manner as shown below:

Federal Program A	First Compliance requirement: i.e.: (what services of purposes resources must be used for)
	Second Compliance requirement: i.e.: (eligibility requirement for recipients of the resources)
	Etc.
	Etc.
Federal Program B	First Compliance requirement: i.e.: (what services of purposes resources must be used for)
	Second Compliance requirement: i.e.: (eligibility requirement for recipients of the resources)
	Etc.
	Etc.

Note: If the resources awarded to the recipient for matching represent more than one federal program, provide the same information shown below for each federal program and show total state resources awarded for matching.

State Resources Awarded to the Recipient Pursuant to this Agreement Consist of the Following Matching Resources for Federal Programs:					
Federal Program	Federal Agency	CFDA	CFDA Title	Funding Amount	State Appropriation Category
Federal Program A					
Federal Program B					

Note: If the resources awarded to the recipient represent more than one state project, provide the same information shown below for each state project and show total state financial assistance awarded that is subject to section 215.97, F.S.

State Resources Awarded to the Recipient Pursuant to this Agreement Consist of the Following Resources Subject to Section 215.97, F.S.:						
State Program	State Awarding Agency	State Fiscal Year ¹	CSFA Number	CSFA Title or Funding Source Description	Funding Amount	State Appropriation Category
State Program A						
State Program B						
Total Award					\$300,000.00	

Note: List applicable compliance requirement in the same manner as illustrated above for federal resources. For matching resources provided by the Department for DEP for federal programs, the requirements might be similar to the requirements for the applicable federal programs. Also, to the extent that different requirements pertain to different amount for the non-federal resources, there may be more than one grouping (i.e. 1, 2, 3, etc.) listed under this category.

For each program identified above, the recipient shall comply with the program requirements described in the Catalog of Federal Domestic Assistance (CFDA) [<https://sam.gov/content/assistance-listings>] and/or the Florida Catalog of State Financial Assistance (CSFA) [<https://apps.fldfs.com/fsaa/searchCatalog.aspx>], and State Projects Compliance Supplement (Part Four: State Projects Compliance Supplement [https://apps.fldfs.com/fsaa/state_project_compliance.aspx]). The services/purposes for which the funds are to be used are included in the Agreement's Grant Work Plan. Any match required by the Recipient is clearly indicated in the Agreement.

¹ Subject to change by Change Order.
² Subject to change by Change Order.

**STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION
PROGRAM-SPECIFIC REQUIREMENTS
RESILIENT FLORIDA PROGRAM**

ATTACHMENT 6

1. Sea Level Impact Projection Study Requirement. If the project is within the designated area, pursuant to Section 161.551, F.S. and Chapter 62S-7, *Florida Administrative Code*, the Grantee is responsible for performing a Sea Level Impact Projection (SLIP) study and submitting the resulting report to the Department. The SLIP study report must be received by the Department, approved by the Department, and be published on the Department’s website for at least thirty (30) days before construction can commence. This rule went into effect July 1, 2021, and applies to certain state-funded construction projects located in the coastal building zone as defined in the rule.
2. Permits. The Grantee acknowledges that receipt of this grant does not imply nor guarantee that a federal, state, or local permit will be issued for a particular activity. The Grantee agrees to ensure that all necessary permits are obtained prior to implementation of any grant-funded activity that may fall under applicable federal, state, or local laws. Further, the Grantee shall abide by all terms and conditions of each applicable permit for any grant-funded activity. Upon request, the Grantee must provide a copy of all acquired and approved permits for the project.
3. Attachment 3, Grant Work Plan, Performance Measures. All deliverables and reports submitted to the Department should be submitted electronically and must be compliant with the Americans with Disabilities Act, also known as “508 Compliant,” in all formats provided.
4. Copyright, Patent and Trademark. The Department reserves a royalty-free, nonexclusive, and irrevocable license to reproduce, publish or otherwise use, and to authorize others to use, for state government purposes:
 - a. The copyright in any work developed under this Agreement; and
 - b. Any rights or copyright to which the Grantee or subcontractor purchases ownership with grant support.
5. Grant funds may not be used to support ongoing efforts to comply with legal requirements, including permit conditions, mitigation, and settlement agreements.
6. Funding Source. With the exception of audiovisuals not intended for presentation to the general public that are produced either as research instruments or for documenting experimentation or findings (unless otherwise required under the special terms of this Agreement), Grantee agrees to include the Department’s logo (which can be found on the Department’s website at: <https://floridadep.gov> or by contacting the Grant Manager for a copy) on all publications, printed reports, maps, audiovisuals (including videos, slides, and websites), and similar materials, as well as the following language:

“This work was funded in part through a grant agreement from the Florida Department of Environmental Protection’s Office of Resilience and Coastal Protection Resilient Florida Program. The views, statements, findings, conclusions, and recommendations expressed herein are those of the author(s) and do not necessarily reflect the views of the State of Florida or any of its subagencies.”

The next printed line must identify the month and year of the publication.

7. Final Project Report. The Grantee must submit Exhibit F, Final Project Report Form, prior to requesting final payment. The Final Project Report may be submitted in lieu of the final quarterly status report, only in instances where the next quarterly report falls after the project’s completion date.

8. Project Photos. The Grantee must submit Exhibit G, Photo Release Form, with the first submission of deliverables and reports (Exhibit A and F) that include photos.
9. Contractual Services. For all grant agreements that include Contractual Services as an expenditure category, the Grantee must submit Exhibit H, Contractual Services Certification, and all required supporting documentation for all contractors conducting work under the grant agreement, prior to requesting payment that includes contractual services.
10. Vulnerability Assessments. For all Planning grant agreements (Resilient Florida Grant Program and Regional Resilience Entities), the Grantee must submit Exhibit I, Vulnerability Assessment Compliance Checklist Certification, with the final grant deliverable(s).
11. Geographic Information System (GIS) files and associated metadata. All GIS files and associated metadata must adhere to the Resilient Florida Program's GIS Data Standards (found on the Resilient Florida Program website: <https://floridadep.gov/rcp/resilient-florida-program/documents/resilient-florida-program-gis-data-standards>), and raw data sources shall be defined within the associated metadata.
12. State and Local Fiscal Recovery Funds. For all grant agreements funded with the Coronavirus State and Local Fiscal Recovery Funds (SLFRF) under the American Rescue Plan Act, the Grantee must submit the SLFRF Reporting Requirements Form upon execution of the grant agreement.

ATTACHMENT 8
Contract Provisions for Coronavirus State and Local Fiscal Recovery Funds
(SLFRF) Agreements

The Department, as a Non-Federal Entity as defined by 2 CFR §200.69, shall comply with the following provisions, where applicable. For purposes of this Grant Agreement between the Department and the Grantee, the term “Recipient” shall mean “Grantee.”

Further, the Department, as a pass-through entity, also requires the Grantee to pass on these requirements to all lower tier subrecipients/contractors, and to comply with the provisions of the award, the SLFRF implementing regulation, including applicable provisions of the OMB Uniform Guidance (2 CFR Part 200), and all associated terms and conditions. Therefore, Grantees must include these requirements in all related subcontracts and/or sub-awards. Grantees can include these requirements by incorporating this Attachment in the related subcontract and/or sub-awards, however for all such subcontracts and sub-awards, the Grantee shall assume the role of the Non-Federal Entity and the subrecipients shall assume the role of the Recipient.

2 CFR PART 200 APPENDIX 2 REQUIREMENTS

1. Administrative, Contractual, and Legal Remedies

The following provision is required if the Agreement is for more than \$150,000. In addition to any of the remedies described elsewhere in the Agreement, if the Recipient materially fails to comply with the terms and conditions of this Contract, including any Federal or State statutes, rules, or regulations, applicable to this Contract, the Non-Federal Entity may take one or more of the following actions.

- A. Temporarily withhold payments pending correction of the deficiency by the Recipient.
- B. Disallow (that is, deny both use of funds and any applicable matching credit for) all or part of the cost of the activity or action not in compliance.
- C. Wholly or partly suspend or terminate this Contract.
- D. Take other remedies that may be legally available.

The remedies identified above, do not preclude the Recipient from being subject to debarment and suspension under Presidential Executive Orders 12549 and 12689. The Non-Federal entity shall have the right to demand a refund, either in whole or part, of the funds provided to the Recipient for noncompliance with the terms of this Agreement.

2. Termination for Cause and Convenience

Termination for Cause and Convenience are addressed elsewhere in the Agreement.

3. Equal Opportunity Clause

The following provision applies if the agreement meets the definition of “federally assisted construction contract” as defined by 41 CFR Part 60-1.3:

During the performance of this Agreement, the Recipient agrees as follows:

- A. The Recipient will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The Recipient 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, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following:
 - i. 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 Recipient 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.
- B. The Recipient will, in all solicitations or advertisements for employees placed by or on behalf of the Recipient, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.
- C. The Recipient will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's

essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the Recipient's legal duty to furnish information.

- D. The Recipient will send to each labor union or representative of workers with which he has a collective bargaining agreement or other Agreement or understanding, a notice to be provided advising the said labor union or workers' representatives of the Recipient's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- E. The Recipient 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.
- F. The Recipient 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.
- G. In the event of the Recipient's noncompliance with the nondiscrimination clauses of this Agreement or with any of the said rules, regulations, or orders, this Agreement may be canceled, terminated, or suspended in whole or in part and the Recipient 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 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.
- H. The Recipient will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (8) 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 Recipient will take such action with respect to any subcontractor purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance.

4. Contract Work Hours and Safety Standards Act

Where applicable, if the Agreement is in excess of \$100,000 and involves the employment of mechanics or laborers, the Recipient must comply with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each Recipient must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

5. Rights to Inventions Made Under Agreement

If the Federal award meets the definition of "funding agreement" under 37 CFR §401.2 (a) and the Non-Federal Entity or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that "funding agreement," the Non-Federal Entity or subrecipient must comply with the requirements of 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.

6. Clean Air Act (42 U.S.C. 7401-7671q.), the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), and EPA Regulations

If the Agreement is in excess of \$100,000, the Recipient shall comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control

Attachment 8

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Act as amended (33 U.S.C. 1251-1387), and by the EPA (40 CFR Part 15). Violations must be reported to the Federal Awarding Agency and the Regional Office of the Environmental Protection Agency (EPA).

- i. The Grantee shall include these requirements for the Clean Air Act and the Federal Water Pollution Act in each subcontract exceeding \$100,000 financed in whole or in part with SLFRF funds.

7. Debarment and Suspension (Executive Orders 12549 and 12689)

The Recipient certifies that it is not listed on the governmentwide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 and 2 CF 1200 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), “Debarment and Suspension.”

8. Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)

The Recipient certifies 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. If applicable, the Recipient shall disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award, using form SF-LLL, available at:

https://apply07.grants.gov/apply/forms/sample/SFLLL_1_2_P-V1.2.pdf.

- i. Grantees 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.

9. Procurement of Recovered Materials

The Recipient must comply with Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act as described in 2 CFR part 200.322.

10. Prohibition on Certain Telecommunications and Video Surveillance Services or Equipment

The Recipients and subrecipients are prohibited from obligating or expending loan or grant funds to procure or obtain; extend or renew a contract to procure or obtain; or enter into a contract (or extend or renew a contract) to procure or obtain equipment, services, or systems that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. See Section 889 of Public Law 115-232 (National Defense Authorization Act 2019). Also, see 2 CFR 200.216 and 200.471.

11. Domestic Preferences for Procurement

The Recipients and subrecipients must, to the greatest extent practical, give preference to the purchase, acquisition, or use of goods, products, or materials produced in the United States in accordance with 2 CFR 200.322.

ADMINISTRATIVE

1. General Federal Regulations

Recipients shall comply with the regulations listed in 2 CFR 200, 48 CFR 31, and 40 U.S.C. 1101 *et seq.*

2. Rights to Patents and Inventions Made Under a Contract or Agreement

Rights to inventions made under this assistance agreement are subject to federal patent and licensing regulations, which are codified at Title 37 CFR Part 401 and Title 35 U.S.C. 200 through 212.

3. Compliance with the Trafficking Victims Protection Act of 2000 (2 CFR Part 175)

Recipients, their employees, subrecipients under this award, and subrecipients' employees may not:

- A. Engage in severe forms of trafficking in persons during the period of time that the award is in effect;
- B. Procure a commercial sex act during the period of time that the award is in effect; or
- C. Use forced labor in the performance of the award or subawards under the award.

4. Whistleblower Protection

Recipients shall comply with U.S.C. §4712, Enhancement of Recipient and Subrecipient Employee Whistleblower Protection. This requirement applies to all awards issued after July 1, 2013 and effective December 14, 2016 has been permanently extended (Public Law (P.L.) 114-261).

Attachment 8

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- A. This award, related subawards, and related contracts over the simplified acquisition threshold and all employees working on this award, related subawards, and related contracts over the simplified acquisition threshold are subject to the whistleblower rights and remedies in the pilot program on award recipient employee whistleblower protections established at 41 U.S.C. 4712 by section 828 of the National Defense Authorization Act for Fiscal Year 2013 (P.L. 112-239).
- B. Recipients, their subrecipients, and their contractors awarded contracts over the simplified acquisition threshold related to this award, shall inform their employees in writing, in the predominant language of the workforce, of the employee whistleblower rights and protections under 41 U.S.C. 4712.
- C. The Recipient shall insert this clause, including this paragraph C, in all subawards and in contracts over the simplified acquisition threshold related to this award; best efforts should be made to include this clause, including this paragraph C in any subawards and contracts awarded prior to the effective date of this provision.

5. Notification of Termination (2 CFR § 200.340)

In accordance with 2 CFR § 200.340, in the event that the Agreement is terminated prior to the end of the period of performance due to the Recipient’s or subcontractor’s material failure to comply with Federal statutes, regulations or the terms and conditions of this Agreement or the Federal award, the termination shall be reported to the Office of Management and Budget (OMB)-designated integrity and performance system, accessible through System for Award Management (SAM) currently the Federal Awardee Performance and Integrity Information System (FAPIIS). The Non-Federal Entity will notify the Recipient of the termination and the Federal requirement to report the termination in FAPIIS. See 2 CFR § 200.340 for the requirements of the notice and the Recipient’s rights upon termination and following termination.

6. Additional Lobbying Requirements

- A. The Recipient certifies that no funds provided under this Agreement have been used or will be used to engage in the lobbying of the Federal Government or in litigation against the United States unless authorized under existing law.
- B. The Lobbying Disclosure Act of 1995, as amended (2 U.S.C. §1601 et seq.), prohibits any organization described in Section 501(c)(4) of the Internal Revenue Code, from receiving federal funds through an award, grant (and/or subgrant) or loan unless such organization warrants that it does not, and will not engage in lobbying activities prohibited by the Act as a special condition of such an award, grant (and/or subgrant), or loan. This restriction does not apply to loans made pursuant to approved revolving loan programs or to contracts awarded using proper procurement procedures.
- C. Pursuant to 2 CFR §200.450 and 2 CFR §200.454(e), the Recipient is hereby prohibited from using funds provided by this Agreement for membership dues to any entity or organization engaged in lobbying activities.

7. Increasing Seat Belt Use in the United States

Pursuant to Executive Order 13043, 62 FR 19217 (Apr. 18, 1997), Grantee is encouraged to adopt and enforce on-the-job seat belt policies and programs for its employees when operating company-owned, rented or personally owned vehicles.

8. Reducing Text Messaging While Driving

Pursuant to Executive Order 13513, 74 FR 51225 (Oct. 6, 2009), Grantee is encouraged to adopt and enforce policies that ban text messaging while driving and establish workplace safety policies to decrease accidents caused by distracted drivers.

9. Uniform Relocation Assistance and Real Property Acquisitions Act of 1970

Where applicable, 42 U.S.C. §§ 4601-4655 and implementing regulations apply to this Agreement.

COMPLIANCE WITH ASSURANCES

1. Assurances

Recipients shall comply with all applicable assurances made by the Department or the Recipient to the Federal Government during the Grant application process.

FEDERAL REPORTING REQUIREMENTS

1. FFATA

Grant Recipients awarded a new Federal grant greater than or equal to \$30,000 awarded on or after October 1, 2015, are subject to the FFATA the Federal Funding Accountability and Transparency Act (“FFATA”) of 2006. The FFATA legislation requires that information on federal awards (federal financial assistance and expenditures) be made available to the public via a single, searchable website, which is www.USASpending.gov.

The Grantee agrees to provide the information necessary, within one (1) month of execution, for the Department to comply with this requirement.

DEPARTMENT OF TREASURY-SPECIFIC

1. Civil Rights Compliance

Recipients of Federal financial assistance from the Treasury are required to meet legal requirements relating to nondiscrimination and nondiscriminatory use of Federal funds. Those requirements include ensuring that entities receiving Federal financial assistance from the Treasury do not deny benefits or services or otherwise discriminate on the basis of race, color, national origin, (including limited English proficiency), disability, age, or sex (including sexual orientation and gender identity), in accordance with the following: Title VI of Civil Rights Acts of 1973 (Section 504), Public Law 93-112, as amended by Public Law 93-516, 29 U.S.C. 794; Title IX of the Education Amendments of 1972 (Title IX), 20 U.S.C. 1681 et seq., and the Department's implementing regulations, 31 CFR 28; Age Discrimination Act of 1975, Public Law 94-135, 42 U.S.C. 6101 et seq., and the Department of Treasury implementing regulations at 31 CFR part 23.

The Department of Treasury will request information on recipients' compliance with Title VI of the Civil Rights Act of 1964, as applicable, on an annual basis. This information may include a narrative describing the recipient's compliance with Title VI, along with other questions and assurances.

SLFRF-SPECIFIC

1. Period of Performance

All funds from SLFRF must be obligated by December 31, 2024 and expended by December 31, 2026.

2. Equipment and Real Property Management

Any purchase of equipment or real property with SLFRF funds must be consistent with the Uniform Guidance at 2 CFR Part 200, Subpart D. Equipment and real property acquired under this program must be used for the originally authorized purpose. Consistent with 2 CFR 200.311 and 2 CFR 200.313, any equipment or real property acquired using SLFRF funds shall vest in the non-Federal entity. Any acquisition and maintenance of equipment or real property must also be in compliance with relevant laws and regulations.

SLFRF INFRASTRUCTURE PROJECTS

For all infrastructure projects, the Grantee shall provide the following project information on a quarterly basis to the Department:

- i. Projected/actual construction start date (month/year)
- ii. Projected/actual initiation of operation date (month/year)
- iii. Location details

SLFRF INFRASTRUCTURE PROJECTS OVER \$10 MILLION

For infrastructure projects over \$10 million, the following provisions apply:

1. Wage Certification

Grantees may provide a certification that all laborers and mechanics employed by Grantee in the performance of such project are paid wages at the rates not less than those prevailing, as determined by the U.S. Secretary of Labor in accordance with the Davis-Bacon Act, for the corresponding classes of laborers and mechanics employed projected of a character similar to the contract work in the civil subdivision of Florida in which the work is to be performed. If the Grantee does not provide such certification, the Grantee must provide a project employment and local impact report detailing:

- i. The number of employees of contractors and sub-contractors working on the project;
- ii. The number of employees on the project hired directly and hired through a third party;
- iii. The wages and benefits of workers on the project by classification; and
- iv. Whether those wages are at rates less than those prevailing.

Grantee must maintain sufficient records to substantiate this information upon request.

2. Project Labor Agreements

Grantees may provide a certification that the project includes a project labor agreement, meaning a pre-hire collective bargaining agreement consistent with the section 8(f) of the National Labor Relations Act (29 U.S.C. 158(f)). If the Grantee does not provide such certification, the Grantee must provide a project

Attachment 8

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workforce continuity plan, detailing:

- i. How the Grantee will ensure the project has ready access to a sufficient supply of appropriately skilled and unskilled labor to ensure high-quality construction throughout the life of the project;
 - ii. How the Grantee will minimize risks of labor disputes and disruptions that would jeopardize timeliness and cost-effectiveness of the project;
 - iii. How the Grantee will provide a safe and healthy workplace that avoids delays and costs associated with workplace illnesses, injuries, and fatalities;
 - iv. Whether workers on the project will receive wages and benefits that will secure and appropriately skilled workforce in the context of the local or regional labor market; and
 - v. Whether the project has completed a labor agreement.
3. Other Reporting Requirements

Grantees must report whether the project prioritizes local hires and whether the project has Community Benefit Agreement, with a description of any such agreement, if applicable.

SLFRF WATER & SEWER PROJECTS

For water and sewer projects, Grantees shall provide the following information to the Department once the project starts, as applicable:

- i. National Pollutant Discharge Elimination System (NPDES) Permit Number, for projects aligned with the Clean Water State Revolving Fund
- ii. Public Water System (PWS) ID number, for projects aligned with the Drinking Water State Revolving Fund.

**STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION
RESILIENT FLORIDA GRANT PROGRAM
EXHIBIT A
PROGRESS REPORT FORM**

The current **Exhibit A, Progress Report Form** for the Resilient Florida Program grant agreements can be found on the Department's website at the link below. Each payment request must be submitted on the current form. The Department will notify grantees of any substantial changes to Exhibit A that occur during the grant agreement period.

<https://floridadep.gov/Resilient-Florida-Program/Grants>

**STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION
RESILIENT FLORIDA GRANT PROGRAM
EXHIBIT C
PAYMENT REQUEST SUMMARY FORM**

The current **Exhibit C, Payment Request Summary Form** for the Resilient Florida Program grant agreements can be found on the Department's website at the link below. Each payment request must be submitted on the current form. The Department will notify grantees of any substantial changes to Exhibit C that occur during the grant agreement period.

<https://floridadep.gov/Resilient-Florida-Program/Grants>

EXHIBIT F
DEP AGREEMENT NO. 23PLN90

**TOWN OF SURFSIDE COMPREHENSIVE VULNERABILITY ASSESSMENT AND ADAPTATION
PLAN**

Town of Surfside

Final Project Report



Insert Month & Year

This report is funded in part through a grant agreement from the Florida Department of Environmental Protection. The views, statements, findings, conclusions, and recommendations expressed herein are those of the author(s) and do not necessarily reflect the views of the State of Florida or any of its subagencies.

Part I. Executive Summary

Part II. Methodology

Part III. Outcome

Include the following: 1) evaluation of project's ability to meet goals and expected performance measures and provide explanation for why goals were not met, if applicable; 2) identify successful outcomes, areas for improvement, and quantifiable metrics (including the assigned metric in Exhibit A, if applicable) as a result of the project; and 3) final project photos, if an implementation construction project.

Part IV. Further Recommendations

Instructions for completing Exhibit F Final Project Report Form:

DEP AGREEMENT NO.: This is the number on your grant agreement.

GRANTEE NAME: Enter the name of the grantee's agency.

PROJECT TITLE: Enter the title shown on the first page of the grant agreement.

MONTH & YEAR: Enter month and year of publication

The final Project Report must contain the following sections: Executive Summary, Methodology, Outcome, and Further Recommendations. The Final Project Report must comply with the publication requirements in the grant agreement. Please limit the final project report to no more than five (5) pages. One electronic copy shall be submitted to the Department's Grant Manager for approval. Final payment will be held until receipt and approval of the Final Project Report.

Questions regarding completion of the Final Project Report should be directed to the Department's Grant Manager, identified in paragraph 18 of this agreement.



Florida Department of Environmental Protection

EXHIBIT G

PHOTOGRAPHER RELEASE FORM
FOR PHOTOGRAPHS, VIDEOS, AUDIO RECORDINGS AND ARTWORKS

DEP AGREEMENT NO: 23PLN90

RELEASE FORM FOR PHOTOGRAPHS, VIDEOS, AUDIO RECORDINGS AND ARTWORKS

Owner/Submitter's Name: _____

Address: _____

City: _____ State: _____ Zip: _____

Phone Number: () _____ Email: _____

License and Indemnification

I certify that I am the owner of the photograph(s), video(s), audio recording(s) and/or artwork(s) being submitted and am eighteen (18) years of age or older.

I hereby grant to the Florida Department of Environmental Protection the royalty-free and non-exclusive right to distribute, publish and use the photograph(s), video(s), audio recording(s) and art work(s) submitted herewith (the "Work") to promote the Florida Department of Environmental Protection. Uses may include, but are not limited to:

- 1. Promotion of FDEP (including, but limited to publications, websites, social media venues, advertisements, etc.); and
2. Distribution to the media; and
3. Use in commercial products.

The Florida Department of Environmental Protection reserves the right to use/not use any Work as deemed appropriate by the Florida Department of Environmental Protection. No Work will be returned once submitted.

I hereby acknowledge that the Florida Department of Environmental Protection shall bear no responsibility whatsoever for protecting the Work against third-party infringement of my copyright interest or other intellectual property rights or other rights I may hold in such Work, and in no way shall be responsible for any losses I may suffer as a result of any such infringement; and I hereby represent and warrant that the Work does not infringe the rights of any other individual or entity.

I hereby unconditionally release, hold harmless and indemnify the Florida Department of Environmental Protection, its employees, volunteers, and representatives of and from all claims, liabilities and losses arising out of or in connection with the Florida Department of Environmental Protection's use of the Work. This release and indemnification shall be binding upon me, and my heirs, executors, administrators and assigns.

I have read and understand the terms of this release.

Owner signature: _____ Date: _____

Photo/video/audio/artwork/recording file name(s): _____

Location of photo/video/audio recording/artwork: _____

Name of person accepting Work submission _____

**STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION
RESILIENT FLORIDA GRANT PROGRAM
CONTRACTUAL SERVICES CERTIFICATION**

Exhibit H

Required for all grant agreements that include Contractual Services as an expenditure category.

DEP Agreement Number:

Project Title:

Grantee:

Prior to making a request for payment of contractual services, the Grantee must provide the following to the Department Grant Manager then responsible for the Grantee's Resilient Florida Grant Program grant agreement:

1. Documentation of the Grantee's procurement process, as consistent with Attachment 1, Paragraph 9(c) and Attachment 2, Paragraph 11;
2. A list of all subcontractor quote and/or bid amounts (as applicable), including the company name and address for each subcontractor;
3. An explanation of how and why the Grantee made their determination(s) for the subcontractor(s) selected to perform certain task(s) under the Grantee's relevant grant agreement; and
4. This Exhibit H, signed and dated by the Grantee's own (non-Departmental) grant manager.

By signing below, I certify that, on behalf of the Grantee, I have provided all the information required by items 1. through 3. of this exhibit, as stated above, to the Department Grant Manager currently responsible for the Grantee's Resilient Florida Grant Program grant agreement. I also certify that the procurement process the Grantee utilized follows all of said Grantee's non-Departmental policies and procedures for subcontractors.

Grantee's Grant Manager Signature

Print Name

Date

**STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION
RESILIENT FLORIDA GRANT PROGRAM
VULNERABILITY ASSESSMENT COMPLIANCE CHECKLIST CERTIFICATION**

Exhibit I

Required for all planning grant agreements.

DEP Agreement Number: _____

Project Title: _____

Grantee: _____

In accordance with subsection 380.093(3), F.S., the following components, scenarios, data, and information are required for a comprehensive Vulnerability Assessment (VA). The checklist must be completed and submitted with the final VA Report deliverable, pursuant to Attachment 3, Grant Work Plan. The Grantee must abide by the Department’s GIS Data Standards found on the Resilient Florida Program webpage at the link below:

<https://floridadep.gov/rcp/resilient-florida-program/documents/resilient-florida-program-gis-data-standards>

Part 1 – Subparagraph 380.093(3)(c)2., F.S.

Item ID	Check if Included	Item Description	Page Reference in VA Report (if applicable)
a	<input type="checkbox"/>	Final Vulnerability Assessment Report that provides details on the results and conclusions, including illustrations via maps and tables.	
All electronic mapping data used to illustrate flooding and sea level rise impacts that are identified in the VA must be provided in the format consistent with the Department’s GIS Data Standards and include the following three (3) items:			
b	<input type="checkbox"/>	Geospatial data in an electronic file format.	
c		GIS metadata.	
d	<input type="checkbox"/>	List of critical assets for each jurisdiction, including regionally significant assets, that are impacted by flooding and sea level rise. The list must be prioritized by area or immediate need and must identify which flood scenario(s) impacts each asset	

Part 2 – Subparagraphs 380.093(3)(d)1. and 380.093(3)(d)2., F.S.

Item ID	Check if Included	Item Description	Page Reference in VA Report (if applicable)
e	<input type="checkbox"/>	Peril of Flood Compliance Plan amendments developed that address paragraph 163.3178(2)(f), F.S., if applicable.	

Exhibit I

		<input type="checkbox"/> Not applicable <input type="checkbox"/> Already in compliance	
f	<input type="checkbox"/>	Depth of tidal flooding, including future high tide flooding, using thresholds published and provided by the Department.	
g	<input type="checkbox"/>	To the extent practicable, analysis geographically displays the number of tidal flood days expected for each scenario and planning horizon. <i>(optional)</i>	
h	<input type="checkbox"/>	Depth of current and future storm surge flooding using publicly available NOAA or FEMA storm surge data. <i>(check one)</i> <input type="checkbox"/> NOAA data <input type="checkbox"/> FEMA data	
i	<input type="checkbox"/>	Initial storm surge event equals or exceeds current 100-year flood event.	
j	<input type="checkbox"/>	Higher frequency storm analyzed for exposure of a critical asset. <i>(optional, but must provide additional detail if included)</i>	
k	<input type="checkbox"/>	To the extent practicable, rainfall-induced flooding was considered using spatiotemporal analysis or existing hydrologic and hydraulic modeling results. <i>(required if item e is not applicable)</i>	
l	<input type="checkbox"/>	Future boundary conditions have been modified to consider sea level rise and high tide conditions. <i>(optional)</i>	
m	<input type="checkbox"/>	Depth of rainfall-induced flooding for 100-year storm and 500-year storm event. <i>(required if item e is not applicable)</i>	
n	<input type="checkbox"/>	To the extent practicable, compound flooding or the combination of tidal, storm surge, and rainfall-induced flooding. <i>(optional)</i>	

Part 3 – Subparagraph 380.093(3)(d)3., F.S.

Item ID	Check if Included	Item Description	Page Reference in VA Report (if applicable)
o	<input type="checkbox"/>	All analyses performed in North American Vertical Datum of 1988.	
p	<input type="checkbox"/>	Includes at least two local sea level rise scenarios, which must include the 2017 NOAA intermediate-low and intermediate-high sea level rise projections.	
q	<input type="checkbox"/>	Includes at least two planning horizons, which must include years 2040 and 2070.	
r	<input type="checkbox"/>	Utilizes local sea level data that has been interpolated between the two closest NOAA tide gauges.	
s	<input type="checkbox"/>	Local, publicly available, sea level data was taken from one of the two closest NOAA tide gauges, which must be the gauge with the highest mean sea level <i>(if so, provide Department approval)</i> .	

**COMMON CARRIER OR CONTRACTED CARRIER ATTESTATION
FORM
(PUR 1808)**

Exhibit J

This form must be completed by a Common Carrier or contracted carrier and submitted to the Governmental Entity with which a Contract being is executed, amended, or renewed. Capitalized terms used herein have the definitions ascribed in section 908.111, F.S.

_____ is not willfully providing and will not willfully provide any service during the Contract term in furtherance of transporting a person into this state knowing that the person is an Unauthorized Alien, except to facilitate the detention, removal, or departure of the person from this state or the United States.

Under penalties of perjury, I declare that I have read the foregoing statement and that the facts stated in it are true.

Printed Name:

Title:

Signature:

Date:



MEMORANDUM

ITEM NO. 3F.

To: Honorable Mayor, Vice-Mayor and Members of the Town Commission

From: Hector Gomez, Town Manager

Date: November 14, 2023

Subject: **Authorization to Expend Towards Youth Soccer Recreational Programming for Fiscal Year 2024**

Town Administration is requesting approval to enter into an Agreement with Alves Sports Group, for a total of \$55,000 for youth soccer programming services fiscal year 2024 as approved in the adopted FY 2024 Town budget.

The Town of Surfside, Parks and Recreation Department, has previously arranged each year for the professional coaching and instruction for Youth Sports Program participants with contractual sports coaching services. Over the past 16 years Alves Sports group (Formerly known as Cyclone Soccer) have provided high quality Soccer Coaching for the Town's Parks and Recreation Youth Sports Programs. Alves Sports group holds Certifications and License from United States Soccer Federation, United States Amateur Soccer Association.

Youth Soccer runs annually for 3 seasons, Fall, Winter and Spring. Each Soccer Season runs 3 days a week for 10 weeks and competitive games are played off site on weekends. The professional coaching and instruction provided by this organization over the years have contributed to the long-time successful operation of the Youth Sports Program. The Youth Soccer Programs are at maximum enrollment capacity during the course of the year. Youth Soccer is budgeted under Parks and Recreation (Other Contractual Service) for the full amount of \$55,000 (Per **Attachment A - 23/24 Alves Sports Youth Agreement**) to operate the programs annually.

The Town of Surfside, Parks and Recreation Department, has utilized this organization from the start of the Youth Soccer program. The cost associated with the professional coaching is consistent with other outside organizations. Per the Town's purchasing code Sec 3-13.7 (d) this item is exempt from the competitive bidding policy.

Attachment A - 23/24 Alves Sports Youth Agreement

Resolution Approving Youth Soccer Agreement With Alves Sports Group.DOCX

**TOWN OF SURFSIDE
CONTRACTUAL SERVICES AGREEMENT**

Soccer Programs

This Contractual Services Agreement (the “Agreement”) is made and entered into as of this 1st day of October, 2023, by and between **Alves Sports Group, LLC**, a Florida Limited Liability Company, its Successors and/or Assigns (hereinafter “Provider”), with a principal address of 1001 91st Street #607 Bay Harbor, FL 33154 and the **Town of Surfside, Florida**, a Florida municipal corporation (hereinafter “Town”), with a principal address of 9293 Harding Avenue, Surfside, Florida 33154.

WHEREAS, Town agrees to allow Provider to conduct Soccer Programs at Town Parks and Recreation facilities, including the Town’s Community Center (“Town Facilities”), throughout the Town for youth summer camp or aquatic recreational and instructional programs (“Services” or “Soccer Programs”); and

WHEREAS, Provider is willing to provide proof of required insurance, release, and indemnify the Town from any liability related to the conduct of the Soccer Programs.

NOW, THEREFORE, in exchange for the mutual promises contained herein, the Town agrees as follows:

1. **RECITALS**: The recitals are incorporated herein and made part of this Agreement.
2. **RELEASE, HOLD HARMLESS AND INDEMNIFICATION**:
 - a. Provider releases the Town, its commissioners, officers, employees, agents, contractors, and volunteers from any and all costs damages, and expenses, including any attorney’s fees arising from any claims, damages, and liabilities by Provider and any third parties arising from, related to, and connected with the Services provided pursuant to this Agreement and Provider’s use of the Town’s facilities.
 - b. Provider shall defend, indemnify, and hold harmless the Town, its officers, agents, and employees, from and against any and all demands, claims, losses, suits, liabilities, causes of action, judgment or damages, including legal fees and costs, arising out of or, related to, or in any way connected with the Services provided pursuant to this Agreement and Provider’s use of Town facilities in conducting Soccer Programs. For other and additional good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Provider, including but not limited to the Provider’s officers, officials, employees, representatives, agents, contractors officers, subcontractors and their officers, and all those others providing the Services, against any and all liability, loss, cost, damages, expenses, claims or actions of whatever type or nature, including but not limited to attorney and

expert fees and suit costs, for trials and appeals, that the Town may pay, sustain, or incur arising wholly or in part due to any negligent or deliberate act, error or omission of Provider in the execution, performance or non-performance or failure to adequately perform the Services and Provider's obligation pursuant to this Agreement. This Section 2 shall survive the termination or expiration of this Agreement.

3. **SOVEREIGN IMMUNITY**: Nothing in this Agreement shall be deemed or otherwise interpreted as waiving the Town's sovereign immunity protections existing under the laws of the State of Florida, or as increasing the limits of liability as set forth in Section 768.28, Florida Statutes.
4. **TERMINATION FOR CONVENIENCE**: This Agreement may be terminated by the Town, without cause or for convenience, by providing Provider with written notice thereof by certified mail, return receipt requested, or by hand delivery, to be effective ten (10) days from the date of said notice. This Agreement may be terminated by Provider, without cause, by providing Town written notice thereof by certified mail, return receipt requested, or by hand delivery, to be effective sixty (60) days from the date of said notice.
5. **ASSIGNMENT**: Provider shall not assign all or any portion of this Agreement, or its obligations under this Agreement, without the prior written consent of the Town Manager, in the Town Manager's sole and absolute discretion. Provider shall notify the Town Manager of any proposed assignment, in writing, at least sixty (60) days prior to the proposed effective date of such assignment. In the event that any such assignment is approved by the Town Manager, the assignee shall agree to be bound by all the terms, covenants and obligation of this Agreement required of Provider.
6. **NO DISCRIMINATION/EQUAL OPPORTUNITY EMPLOYER**: Provider agrees to comply with all local and state civil rights ordinances and with Title VI of the Civil Rights Act of 1964 as amended, Title VIII of the Civil Rights Act of 1968 as amended, Title I of the Housing and Community Development Act of 1974 as amended, Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990, the Age Discrimination Act of 1975, Executive Order 11063, and with Executive Order 11248 as amended by Executive Orders 11375 and 12086. Provider will not discriminate against any employee or applicant for employment because of race, color, creed, religion, ancestry, national origin, sex, disability or other handicap, age, marital/family status, or status with regard to public assistance. Provider will take affirmative action to ensure that all employment practices are free from such discrimination. Such employment practices include but are not limited to the following: hiring, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff, termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. Provider agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions

of this non-discrimination clause. Provider agrees to comply with any Federal regulations issued pursuant to compliance with Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 708), which prohibits discrimination against the handicapped in any Federally assisted program.

7. **DISCRETION OF TOWN:** Provider agrees to consult, review and receive prior approval on every aspect of the Soccer Programs with the Town before implementing. Any matter not expressly provided for herein dealing with the Town or decisions of the Town pertaining to this Agreement shall be within the exercise of the reasonable professional discretion of the Town Manager or his Designee/Director Parks and Recreation.
8. **INDEPENDENT CONTRACTOR RELATIONSHIP:** Provider and its employees, volunteers, and agents shall be and remain independent from, and not an agent or employee of the Town with respect to all Services performed and all activities of Provider. This Agreement shall not in any way be construed to create a partnership, association or any other kind of joint undertaking, enterprise or venture between the parties. Provider, including its employees and agents, is an independent Provider and shall be treated as such for all purposes. Nothing contained in this Agreement or any action of the parties shall be construed to constitute or to render Provider an employee, partner, agent, shareholder, officer or in any other capacity other than as an independent contractor other than those obligations, which have been or shall have been undertaken by the Town. Provider shall be responsible for any and all of its own expenses in performing its duties as contemplated under this Agreement. The Town shall not be responsible for any expense incurred by Provider. The Town shall have no duty to withhold any Federal income taxes or pay Social Security services and that such obligations shall be that of Provider other than those set forth in this Agreement. Provider shall furnish its own transportation, office and other supplies as it determines necessary in carrying out its duties under this Agreement.
9. **COSTS: FEE/HOURS OF SERVICE:**
Provider shall receive no other (than listed below) compensation or benefits from the Town. Provider shall pay all of its own expenses incurred in performing the Services except that the Town shall reimburse Provider for expenses pre-approved in writing by the Town Manager. Town shall pay an hourly base fee of **\$100.00/Head Coach per class, \$50.00/ First Assistant Coach per class and \$30.00/Second Assistant Coach per class (not to exceed \$55,000.00 in Fiscal Year 2024)** to Provider for Services as provided hereinabove. Provider shall submit an invoice once monthly to the Town as determined by the Services provided. Provider shall be responsible for the payment of all taxes and withholdings in connection with earnings. Town will report fees earned by Provider to the Internal Revenue Service on IRS Form 1099, as may be required.
10. **PROOF OF INSURANCE:** Provider shall, at its sole cost and expense, during the period of the Soccer Programs being conducted under this

Agreement, procure and maintain the following minimum insurance coverages to protect the Town and Provider against all loss, claims, damage and liabilities caused by Provider, its employees and agents, as indicated below:

Comprehensive General Liability (“CGL”) insurance, with minimum limits of One Million Dollars (\$1,000,000) per occurrence, combined single limit for Bodily Injury Liability and Property Damage Liability, and Two Million Dollars (\$2,000,000) aggregate.

Worker’s Compensation for all employees, as required by law, and which policy must include Employer’s Liability with minimum limits of \$1,000,000.00.

Business Automobile Liability which shall include coverage for all business owned and business hired vehicles for minimum limits of not less than One Million Dollars (\$1,000,000) per occurrence, One Million Dollars (\$1,000,000) per accident for bodily injury and One Million Dollars (\$1,000,000) per accident for property damage.

Insurance required of Provider shall be primary to, and not contribute with, any insurance or self-insurance maintained by the Town. Such insurance shall not diminish Provider’s indemnification and obligations hereunder. The insurance policy (ies) shall be issued by companies authorized to do business under the laws of the State of Florida and acceptable to the Town with a minimum A.M. Best rating of A-Excellent. Before any Services under this Agreement are performed, and at any time upon request, Provider shall furnish to the Town certificates of insurance evidencing the minimum required coverage and shall be appropriately endorsed for contractual liability, with the Town named as additional insured. All policies shall contain a waiver of subrogation endorsement. All policies and certificates shall be in forms and issued by insurance companies acceptable to the Town. All insurance policies and certificates of insurance shall provide that the policies may not be canceled or altered without thirty (30) days prior written notice to the Town. The Town reserves the right from time to time to change the insurance coverage and limits of liability required to be maintained by Provider hereunder. Provider shall also require and ensure that each of its subcontractors, if any, providing Services hereunder (if any) procures and maintains, until the completion of the services, insurance of the types and to the limits specified herein. ANY EXCEPTIONS TO THE INSURANCE REQUIREMENTS IN THIS SECTION MUST BE APPROVED IN WRITING BY THE TOWN.

11. **BACKGROUND CHECK:** Provider agrees that based upon the type of Services to be provided, the Agreement is conditioned upon successful completion of current criminal and other background checks, including any or all of the following; drug screening, criminal, credit check, reference check, past employment verification, and proof of education.

Provider shall be responsible for maintaining current background checks on all employees involved in the performance of the Agreement. Background checks must be performed prior to the performance of any Services by the employee under this Agreement. Written verification of all background checks must be provided to the Town Manager prior to the performance of any Services by the Provider and employee under this Agreement. Provider acknowledges that in the performance of the Services contemplated in this Agreement, Provider and its employees may have contact with children. Accordingly, no employees shall be assigned to perform Services for the Town under this Agreement whose background check reveals behavior which would prohibit such contact. Documentation of required certification and insurance must be provided to the Town prior to commencement of any instructional services by either Provider or instructors hired by Provider.

12. TERMS AND CONDITIONS OF THE Agreement:

- a. **Duration:** October 1st, 2023 through September 30th, 2024.
- b. **Days/Hours of Operations:** Tuesdays & Thursdays
- c. **Time of Operation:** 4:00PM – 7:00PM
- d. **Anticipated attendance:** Maximum 20 Participants per class. Minimum 10 Participants to run.
- e. **Student to Instructor Ratio:** 20 to 1
- f. **Reservation:** Town reserves the right to move Provider to another location/building in the Town when necessary to run a Town program.
- g. **Town will provide:**
 - i. Production and distribution of marketing materials
 - ii. Field
 - iii. Custodial staff for sanitizing and disinfecting
 - iv. All necessary equipment and first aid supplies
- h. **Provider will be responsible for:**
 - i. Repair or replacement of any damaged or missing Town equipment
 - ii. Proof of all insurance with endorsements as outlined in Section 10 above.
 - iii. Proof of current background checks as required in Section 11 above.
 - iv. Compliance with all applicable local, state and federal laws and regulations, including all current licenses and certifications required to perform the Services.

13. FORCE MAJEURE: Neither party will be liable to the other or be deemed to be in breach of this Agreement for any failure or delay in rendering performance arising out of causes beyond its reasonable control and without its fault or negligence. Such causes may include, but are not limited to, acts of God or the public enemy, terrorism, significant fires, floods, earthquakes, epidemics, quarantine restrictions, strikes, freight embargoes, unusually severe weather, or governmental authorities approval delays which are not caused by any act or omission by Provider. The party whose performance is

affected shall request an extension of time to perform its obligations stated in this Agreement by notifying the other party, which it is obligated within ten (10) days following the event. If the notified party agrees that the event was the cause of the delay, the time to perform the obligations stated in this Agreement shall be extended by the number of days of delay caused by the event. If the required notice is not given by the delayed party, no time extension shall be granted.

14. **VENUE**: The validity of this Agreement and the interpretation and performance of all of its terms shall be construed and enforced in accordance with the laws of the State of Florida. The venue or location of any action or proceeding commenced under or pursuant to this Agreement shall be in Miami-Dade County, in the State of Florida.
15. **PREVAILING PARTY COST AND ATTORNEY'S FEES/WAIVER OF JURY TRIAL**:
 - a. If either the Town or the Provider is required to enforce the terms of this Agreement by court proceedings or otherwise, whether or not formal legal action is required, the prevailing party shall be entitled to recover from the other party all costs, expenses, and reasonable attorney's fees in accordance with the laws of the State of Florida.
 - b. In the event of any litigation arising out of this Agreement, each party hereby knowingly, irrevocably, voluntarily and intentionally waives its right to trial by jury.
16. **SEVERABILITY**: The Parties to this Agreement expressly agree that it is not their intention to violate any public policy, statutory or common law rules, regulations, or decisions of any governmental or regulatory body, If any provision of this Agreement is judicially or administratively interpreted or construed as being in violation of any such policy, rule, regulation, or decision, the provision, sections, sentence, word, clause, or combination thereof causing such violation will be inoperative (and in lieu thereof there will be inserted such provision, section, sentence, word, clause, or combination thereof as may be valid and consistent with the intent of the Parties under this Agreement) and the remainder of this Agreement, as amended, will remain binding upon the Parties, unless the inoperative provision would cause enforcement of the remainder of this Agreement to be inequitable under the circumstances.
17. **ENTIRE AGREEMENT**: This Agreement shall constitute the entire agreement and understanding of the parties relating to the subject matter hereof superseding all prior communications between the parties whether oral or written, and this Agreement may not be altered, modified or otherwise changed nor may any of the terms hereof be waived, except by a written instrument executed by both parties and approved by the Town Attorney. Nothing in this Agreement is intended or should be construed as in any way creating or establishing the relationship of partners or joint ventures between the Town and Provider.

18. **COMPLIANCE WITH LAWS:** Provider shall comply with all applicable laws, ordinances, rules, regulations, and lawful orders of public authorities in carrying out the Services and all activities for the Soccer Programs and while occupying the Town's Facilities. Provider shall obtain all required permits from all jurisdictional agencies, including the Town, to perform any Services related to its Soccer Programs. Provider shall conduct its operations so as not to interfere with or close any other activities scheduled at Town Facilities, without the written consent of the Town or governing jurisdiction and in compliance with all local, state, and federal regulations, certifications, permits, and requirements.

19. **Ownership and Access to Records and Audits.**

- a. Provider agrees to keep and maintain public records in Provider's possession or control in connection with Provider's performance under this Agreement. The Town Manager or her designee shall, during the term of this Agreement and for a period of three (3) years from the date of termination of this Agreement, have access to and the right to examine and audit any records of the Provider involving transactions related to this Agreement. Provider additionally agrees to comply specifically with the provisions of Section 119.0701, Florida Statutes. Provider 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 Agreement, and following completion of the Agreement until the records are transferred to the Town.
- b. Upon request from the Town's custodian of public records, Provider shall provide the Town with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided by Chapter 119, Florida Statutes, or as otherwise provided by law.
- c. Unless otherwise provided by law, any and all records, including but not limited to reports, other data and documents provided or created in connection with this Agreement are and shall remain the property of the Town.
- d. Upon completion of this Agreement or in the event of termination by either party, any and all public records relating to the Agreement in the possession of the Provider shall be delivered by the Provider to the Town Manager, at no cost to the Town, within seven (7) days. All such records stored electronically by Provider shall be delivered to the Town in a format that is compatible with the Town's information technology systems. Once the public records have been delivered upon completion or termination of this Agreement, the Provider shall

destroy any and all duplicate public records that are exempt or confidential and exempt from public records disclosure requirements.

- e. Any compensation due to Provider shall be withheld until all records are received as provided herein.
- f. Provider's failure or refusal to comply with the provisions of this section shall result in the immediate termination of this Agreement by the Town.
- g. **Notice Pursuant to Section 119.0701(2)(a), Florida Statutes. IF**

IF THE PROVIDER HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE PROVIDER'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS.

Custodian of Records: Sandra McCready, MMC

**Mailing address: 9293 Harding Avenue
Surfside, FL 33154**

Telephone number: 305-861-4863

Email: smccready@townofsurfsidefl.gov

The undersigned have executed this Agreement on the ____ day of August, 2023.

**TOWN OF SURFSIDE,
FLORIDA,** A Florida Municipal
Corporation

Hector Gomez
Town Manager
Town of Surfside
9293 Harding Avenue
Surfside, Florida 33154
Miami-Dade: (305) 861-4863

Attest:

Sandra McCready, MMC, Town Clerk

**APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:**

Town Attorney

Alves Sports Group, LLC, a
Florida Limited Liability Company

Eduardo Gabriel Alves
1001 91st Street #607
Bay Harbor, FL 33154

E-VERIFY AFFIDAVIT

In accordance with Executive Order 11-116, and Section 448.095 of the Florida Statutes, the Town requires all contractors doing business with the Town to register with and use the E-Verify system to verify the work authorization status of all newly hired employees. The Town will not enter into a contract unless each party to the contract registers with and uses the E-Verify system.

The contracting entity must provide of its proof of enrollment in E-Verify. For instructions on how to provide proof of the contracting entity’s participation/enrollment in E-Verify, please visit: <https://www.e-verify.gov/faq/how-do-i-provide-proof-of-my-participationenrollment-in-e-verify>

By signing below, the contracting entity acknowledges that it has read Section 448.095, Florida Statutes and will comply with the E-Verify requirements imposed by it, including but not limited to obtaining E-Verify affidavits from subcontractors.

Check here to confirm proof of enrollment in E-Verify has been attached to this Affidavit.

In the presence of:

Signed, sealed and delivered by:

Witness #1 Print Name: _____

Print Name: _____

Witness #2 Print Name: _____

Title: _____

Entity Name: _____

ACKNOWLEDGMENT

State of Florida
County of _____

The foregoing instrument was acknowledged before me by means of physical presence or online notarization, this . day of _____, 20____, by _____ (name of person) as _____ (type of authority) for _____ (name of party on behalf of whom instrument is executed).

Notary Public (Print, Stamp, or Type as Commissioned)

Personally known to me; or

Produced identification (Type of Identification: _____
_____)

Did take an oath; or

Did not take an oath

RESOLUTION NO. 2023-_____

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, APPROVING AN AGREEMENT WITH ALVES SPORTS GROUP LLC FOR THE TOWN'S YOUTH SOCCER PROGRAM FOR FISCAL YEAR 2023/2024; FINDING THAT THE SERVICES ARE EXEMPT FROM COMPETITIVE PROCUREMENT PURSUANT TO SECTION 3-13(7)(D) OF THE TOWN CODE; AUTHORIZING EXPENDITURE OF FUNDS; PROVIDING FOR IMPLEMENTATION; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town of Surfside ("Town") Parks and Recreation Department has historically contracted with coaches and instructors for the Town's Youth Soccer Program (the "Services"); and

WHEREAS, Alves Sports Group LLC ("Alves Sports") has agreed to perform the Services necessary to operate the Town's Youth Soccer Program pursuant to the Contractual Services Agreement attached hereto as Attachment "A," (the "Agreement") in an amount not to exceed \$55,000 for Fiscal Year 2023/2024; and

WHEREAS, Section 3-13(7)(d) of the Town Code of Ordinances (the "Code") provides that contracts for recreational and sports providers, as approved by the Town Manager when deemed in the Town's best interests, for the benefit of the citizens of Surfside and the general public at any town sanctioned activity, are exempt from the competitive bidding procedures of the Town Code; and

WHEREAS, the Town Commission finds that the proposed services under the Agreement are exempt from competitive bidding pursuant to Section 3-13(7)(d) of the Town Code; and

WHEREAS, the Town Commission desires to approve the Agreement with Alves Sports, in substantially the form attached hereto as Attachment “A,” and authorize the expenditure of funds for the Services for Fiscal Year 2023/2024; 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 Commission hereby approves the Agreement with Alves Sports, in substantially the form attached hereto as Attachment “A.” Pursuant to Section 3-13(7)(d) of the Town’s Code, the Town Commission finds that the Services provided under the Agreement are exempt from competitive bidding.

Section 3. Authorization and Implementation. The Town Commission hereby authorizes the Town Manager to execute the Agreement with Alves Sports in substantially the form attached hereto as Attachment “A,” together with such non-substantive changes as may be approved by the Town Manager, subject to approval by the Town Attorney as to form and legality, and to take any action which is reasonably necessary to implement the purposes of this Resolution.

Section 4. Authorization to Expend Funds. The Town Manager is authorized to expend funds in an amount not to exceed \$55,000 for the Services for Fiscal Year 2023/2024.

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

PASSED AND ADOPTED on this ____ day of November, 2023.

Motion By: _____

Second By: _____

FINAL VOTE ON ADOPTION:

Commissioner Fred Landsman _____
Commissioner Marianne Meisheid _____
Commissioner Nelly Velasquez _____
Vice Mayor Jeff Rose _____
Mayor Shlomo Danzinger _____

Shlomo Danzinger, Mayor

Attest:

Sandra McCready, MMC
Town Clerk

Approved as to Form and Legal Sufficiency:

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



MEMORANDUM

ITEM NO. 3G.

To: Honorable Mayor, Vice-Mayor and Members of the Town Commission

From: Hector Gomez, Town Manager

Date: November 14, 2023

Subject: **Authorization to Expend Towards Tennis Center Recreational Programming for Fiscal Year 2024**

Town Administration is requesting approval of the Agreement with GM Sports for youth tennis services in an amount not to exceed \$50,000 per FY 2024 adopted budget.

The Town of Surfside has previously arranged each year for the professional coaching and instruction for Youth and Adult Sports Program participants with contractual sports coaching services. Over the past 9 years GM Sports has provided high quality Tennis Instruction for the Town's Parks and Recreation Youth and Adult Sports Programs. GM Sports holds Certifications from United States Professional Tennis Association, and United States Professional Tennis Registry.

Tennis programs run annually for 3 seasons, Fall, Winter and Spring. Tennis runs 6 days a week for 8 weeks per session. The professional coaching and instruction provided by this organization over the years have contributed to the long-time successful operations of the Tennis Sports Programs. The Tennis Programs are at maximum enrollment capacity during the course of the year. Tennis is budgeted under Tourist Resort Tax for the full amount of \$50,000.00 (Per **Attachment A - 23/24 GM Tennis agreement**) to operate the program annually.

The Town of Surfside has utilized this organization from the start of the Tennis program. The cost associated with the professional coaching is consistent with other outside organizations. Per the Town's purchasing code Sec 3-13.7 (d) this item is exempt from the competitive bidding policy.

Attachment A - 23/24 GM Tennis agreement

Resolution Approving Youth Tennis Agreement With GM Sports Tennis.DOCX

**TOWN OF SURFSIDE
CONTRACTUAL SERVICES AGREEMENT**

Tennis Programs

This Contractual Services Agreement (the “Agreement”) is made and entered into as of this 1st day of October, 2023, by and between **GM Sports Tennis, LLC**, a Florida Limited Liability Company, its Successors and/or Assigns (hereinafter “Provider”), with a principal address of 8900 Collins Avenue Apt.404 Surfside, FL 33154 and the **Town of Surfside, Florida**, a Florida municipal corporation (hereinafter “Town”), with a principal address of 9293 Harding Avenue, Surfside, Florida 33154.

WHEREAS, Town agrees to allow Provider to conduct Tennis Programs at Town Parks and Recreation facilities, including the Town’s Community Center (“Town Facilities”), throughout the Town for youth summer camp or aquatic recreational and instructional programs (“Services” or “Tennis Programs”); and

WHEREAS, Provider is willing to provide proof of required insurance, release, and indemnify the Town from any liability related to the conduct of the Tennis Programs.

NOW, THEREFORE, in exchange for the mutual promises contained herein, the Town agrees as follows:

1. **RECITALS**: The recitals are incorporated herein and made part of this Agreement.
2. **RELEASE, HOLD HARMLESS AND INDEMNIFICATION**:
 - a. Provider releases the Town, its commissioners, officers, employees, agents, contractors, and volunteers from any and all costs damages, and expenses, including any attorney’s fees arising from any claims, damages, and liabilities by Provider and any third parties arising from, related to, and connected with the Services provided pursuant to this Agreement and Provider’s use of the Town’s facilities.
 - b. Provider shall defend, indemnify, and hold harmless the Town, its officers, agents, and employees, from and against any and all demands, claims, losses, suits, liabilities, causes of action, judgment or damages, including legal fees and costs, arising out of or, related to, or in any way connected with the Services provided pursuant to this Agreement and Provider’s use of Town facilities in conducting Tennis Programs. For other and additional good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Provider, including but not limited to the Provider’s officers, officials, employees, representatives, agents, contractors officers, subcontractors and their officers, and all those others providing the Services, against any and all liability, loss, cost, damages, expenses, claims or actions of whatever type or nature, including but not limited to attorney and

expert fees and suit costs, for trials and appeals, that the Town may pay, sustain, or incur arising wholly or in part due to any negligent or deliberate act, error or omission of Provider in the execution, performance or non-performance or failure to adequately perform the Services and Provider's obligation pursuant to this Agreement. This Section 2 shall survive the termination or expiration of this Agreement.

3. **SOVEREIGN IMMUNITY**: Nothing in this Agreement shall be deemed or otherwise interpreted as waiving the Town's sovereign immunity protections existing under the laws of the State of Florida, or as increasing the limits of liability as set forth in Section 768.28, Florida Statutes.
4. **TERMINATION FOR CONVENIENCE**: This Agreement may be terminated by the Town, without cause or for convenience, by providing Provider with written notice thereof by certified mail, return receipt requested, or by hand delivery, to be effective ten (10) days from the date of said notice. This Agreement may be terminated by Provider, without cause, by providing Town written notice thereof by certified mail, return receipt requested, or by hand delivery, to be effective sixty (60) days from the date of said notice.
5. **ASSIGNMENT**: Provider shall not assign all or any portion of this Agreement, or its obligations under this Agreement, without the prior written consent of the Town Manager, in the Town Manager's sole and absolute discretion. Provider shall notify the Town Manager of any proposed assignment, in writing, at least sixty (60) days prior to the proposed effective date of such assignment. In the event that any such assignment is approved by the Town Manager, the assignee shall agree to be bound by all the terms, covenants and obligation of this Agreement required of Provider.
6. **NO DISCRIMINATION/EQUAL OPPORTUNITY EMPLOYER**: Provider agrees to comply with all local and state civil rights ordinances and with Title VI of the Civil Rights Act of 1964 as amended, Title VIII of the Civil Rights Act of 1968 as amended, Title I of the Housing and Community Development Act of 1974 as amended, Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990, the Age Discrimination Act of 1975, Executive Order 11063, and with Executive Order 11248 as amended by Executive Orders 11375 and 12086. Provider will not discriminate against any employee or applicant for employment because of race, color, creed, religion, ancestry, national origin, sex, disability or other handicap, age, marital/family status, or status with regard to public assistance. Provider will take affirmative action to ensure that all employment practices are free from such discrimination. Such employment practices include but are not limited to the following: hiring, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff, termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. Provider agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions

of this non-discrimination clause. Provider agrees to comply with any Federal regulations issued pursuant to compliance with Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 708), which prohibits discrimination against the handicapped in any Federally assisted program.

7. **DISCRETION OF TOWN:** Provider agrees to consult, review and receive prior approval on every aspect of the Tennis Programs with the Town before implementing. Any matter not expressly provided for herein dealing with the Town or decisions of the Town pertaining to this Agreement shall be within the exercise of the reasonable professional discretion of the Town Manager or his Designee/Director Parks and Recreation.
8. **INDEPENDENT CONTRACTOR RELATIONSHIP:** Provider and its employees, volunteers, and agents shall be and remain independent from, and not an agent or employee of the Town with respect to all Services performed and all activities of Provider. This Agreement shall not in any way be construed to create a partnership, association or any other kind of joint undertaking, enterprise or venture between the parties. Provider, including its employees and agents, is an independent Provider and shall be treated as such for all purposes. Nothing contained in this Agreement or any action of the parties shall be construed to constitute or to render Provider an employee, partner, agent, shareholder, officer or in any other capacity other than as an independent contractor other than those obligations, which have been or shall have been undertaken by the Town. Provider shall be responsible for any and all of its own expenses in performing its duties as contemplated under this Agreement. The Town shall not be responsible for any expense incurred by Provider. The Town shall have no duty to withhold any Federal income taxes or pay Social Security services and that such obligations shall be that of Provider other than those set forth in this Agreement. Provider shall furnish its own transportation, office and other supplies as it determines necessary in carrying out its duties under this Agreement.
9. **COSTS: FEE/HOURS OF SERVICE:**
Provider shall receive no other (than listed below) compensation or benefits from the Town. Provider shall pay all of its own expenses incurred in performing the Services except that the Town shall reimburse Provider for expenses pre-approved in writing by the Town Manager. Town shall pay an hourly base fee of **\$60.00 per class (not to exceed \$50,000.00 in Fiscal Year 2024)** to Provider for Services as provided hereinabove. Provider shall submit an invoice once monthly to the Town as determined by the Services provided. Provider shall be responsible for the payment of all taxes and withholdings in connection with earnings. Town will report fees earned by Provider to the Internal Revenue Service on IRS Form 1099, as may be required.
10. **PROOF OF INSURANCE:** Provider shall, at its sole cost and expense, during the period of the Tennis Programs being conducted under this Agreement, procure and maintain the following minimum insurance coverages to protect the Town and Provider against all loss, claims, damage

and liabilities caused by Provider, its employees and agents, as indicated below:

Comprehensive General Liability (“CGL”) insurance, with minimum limits of One Million Dollars (\$1,000,000) per occurrence, combined single limit for Bodily Injury Liability and Property Damage Liability, and Two Million Dollars (\$2,000,000) aggregate.

Worker’s Compensation for all employees, as required by law, and which policy must include Employer’s Liability with minimum limits of \$1,000,000.00.

Business Automobile Liability which shall include coverage for all business owned and business hired vehicles for minimum limits of not less than One Million Dollars (\$1,000,000) per occurrence, One Million Dollars (\$1,000,000) per accident for bodily injury and One Million Dollars (\$1,000,000) per accident for property damage.

Insurance required of Provider shall be primary to, and not contribute with, any insurance or self-insurance maintained by the Town. Such insurance shall not diminish Provider’s indemnification and obligations hereunder. The insurance policy (ies) shall be issued by companies authorized to do business under the laws of the State of Florida and acceptable to the Town with a minimum A.M. Best rating of A-Excellent. Before any Services under this Agreement are performed, and at any time upon request, Provider shall furnish to the Town certificates of insurance evidencing the minimum required coverage and shall be appropriately endorsed for contractual liability, with the Town named as additional insured. All policies shall contain a waiver of subrogation endorsement. All policies and certificates shall be in forms and issued by insurance companies acceptable to the Town. All insurance policies and certificates of insurance shall provide that the policies may not be canceled or altered without thirty (30) days prior written notice to the Town. The Town reserves the right from time to time to change the insurance coverage and limits of liability required to be maintained by Provider hereunder. Provider shall also require and ensure that each of its subcontractors, if any, providing Services hereunder (if any) procures and maintains, until the completion of the services, insurance of the types and to the limits specified herein. ANY EXCEPTIONS TO THE INSURANCE REQUIREMENTS IN THIS SECTION MUST BE APPROVED IN WRITING BY THE TOWN.

11. **BACKGROUND CHECK:** Provider agrees that based upon the type of Services to be provided, the Agreement is conditioned upon successful completion of current criminal and other background checks, including any or all of the following; drug screening, criminal, credit check, reference check, past employment verification, and proof of education.

Provider shall be responsible for maintaining current background checks on all employees involved in the performance of the Agreement. Background checks must be performed prior to the performance of any Services by the employee under this Agreement. Written verification of all background checks must be provided to the Town Manager prior to the performance of any Services by the Provider and employee under this Agreement. Provider acknowledges that in the performance of the Services contemplated in this Agreement, Provider and its employees may have contact with children. Accordingly, no employees shall be assigned to perform Services for the Town under this Agreement whose background check reveals behavior which would prohibit such contact. Documentation of required certification and insurance must be provided to the Town prior to commencement of any instructional services by either Provider or instructors hired by Provider.

12. TERMS AND CONDITIONS OF THE Agreement:

- a. **Duration:** October 1st, 2023 through September 30th, 2024.
- b. **Days/Hours of Operations:** Monday through Saturday
- c. **Time of Operation:** Monday – Friday 4:00PM – 8:00PM, Saturday 9:00AM – 12:00PM
- d. **Anticipated attendance:** Maximum 6 Participants per class. Minimum 4 Participants to run.
- e. **Student to Instructor Ratio:** 6 to 1
- f. **Reservation:** Town reserves the right to move Provider to another location/building in the Town when necessary to run a Town program.
- g. **Town will provide:**
 - i. Production and distribution of marketing materials
 - ii. Field/Courts
 - iii. Custodial staff for sanitizing and disinfecting
 - iv. All necessary equipment and first aid supplies
- h. **Provider will be responsible for:**
 - i. Repair or replacement of any damaged or missing Town equipment
 - ii. Proof of all insurance with endorsements as outlined in Section 10 above.
 - iii. Proof of current background checks as required in Section 11 above.
 - iv. Compliance with all applicable local, state and federal laws and regulations, including all current licenses and certifications required to perform the Services.

13. FORCE MAJEURE: Neither party will be liable to the other or be deemed to be in breach of this Agreement for any failure or delay in rendering performance arising out of causes beyond its reasonable control and without its fault or negligence. Such causes may include, but are not limited to, acts of God or the public enemy, terrorism, significant fires, floods, earthquakes, epidemics, quarantine restrictions, strikes, freight embargoes, unusually severe weather, or governmental authorities approval delays which are not caused by any act or omission by Provider. The party whose performance is

affected shall request an extension of time to perform its obligations stated in this Agreement by notifying the other party, which it is obligated within ten (10) days following the event. If the notified party agrees that the event was the cause of the delay, the time to perform the obligations stated in this Agreement shall be extended by the number of days of delay caused by the event. If the required notice is not given by the delayed party, no time extension shall be granted.

14. **VENUE**: The validity of this Agreement and the interpretation and performance of all of its terms shall be construed and enforced in accordance with the laws of the State of Florida. The venue or location of any action or proceeding commenced under or pursuant to this Agreement shall be in Miami-Dade County, in the State of Florida.

15. **PREVAILING PARTY COST AND ATTORNEY'S FEES/WAIVER OF JURY TRIAL**:

- a. If either the Town or the Provider is required to enforce the terms of this Agreement by court proceedings or otherwise, whether or not formal legal action is required, the prevailing party shall be entitled to recover from the other party all costs, expenses, and reasonable attorney's fees in accordance with the laws of the State of Florida.
- b. In the event of any litigation arising out of this Agreement, each party hereby knowingly, irrevocably, voluntarily and intentionally waives its right to trial by jury.

16. **SEVERABILITY**: The Parties to this Agreement expressly agree that it is not their intention to violate any public policy, statutory or common law rules, regulations, or decisions of any governmental or regulatory body, If any provision of this Agreement is judicially or administratively interpreted or construed as being in violation of any such policy, rule, regulation, or decision, the provision, sections, sentence, word, clause, or combination thereof causing such violation will be inoperative (and in lieu thereof there will be inserted such provision, section, sentence, word, clause, or combination thereof as may be valid and consistent with the intent of the Parties under this Agreement) and the remainder of this Agreement, as amended, will remain binding upon the Parties, unless the inoperative provision would cause enforcement of the remainder of this Agreement to be inequitable under the circumstances.

17. **ENTIRE AGREEMENT**: This Agreement shall constitute the entire agreement and understanding of the parties relating to the subject matter hereof superseding all prior communications between the parties whether oral or written, and this Agreement may not be altered, modified or otherwise changed nor may any of the terms hereof be waived, except by a written instrument executed by both parties and approved by the Town Attorney. Nothing in this Agreement is intended or should be construed as in any way creating or establishing the relationship of partners or joint ventures between the Town and Provider.

18. **COMPLIANCE WITH LAWS:** Provider shall comply with all applicable laws, ordinances, rules, regulations, and lawful orders of public authorities in carrying out the Services and all activities for the Tennis Programs and while occupying the Town's Facilities. Provider shall obtain all required permits from all jurisdictional agencies, including the Town, to perform any Services related to its Tennis Programs. Provider shall conduct its operations so as not to interfere with or close any other activities scheduled at Town Facilities, without the written consent of the Town or governing jurisdiction and in compliance with all local, state, and federal regulations, certifications, permits, and requirements.

19. **Ownership and Access to Records and Audits.**

- a. Provider agrees to keep and maintain public records in Provider's possession or control in connection with Provider's performance under this Agreement. The Town Manager or her designee shall, during the term of this Agreement and for a period of three (3) years from the date of termination of this Agreement, have access to and the right to examine and audit any records of the Provider involving transactions related to this Agreement. Provider additionally agrees to comply specifically with the provisions of Section 119.0701, Florida Statutes. Provider 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 Agreement, and following completion of the Agreement until the records are transferred to the Town.
- b. Upon request from the Town's custodian of public records, Provider shall provide the Town with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided by Chapter 119, Florida Statutes, or as otherwise provided by law.
- c. Unless otherwise provided by law, any and all records, including but not limited to reports, other data and documents provided or created in connection with this Agreement are and shall remain the property of the Town.
- d. Upon completion of this Agreement or in the event of termination by either party, any and all public records relating to the Agreement in the possession of the Provider shall be delivered by the Provider to the Town Manager, at no cost to the Town, within seven (7) days. All such records stored electronically by Provider shall be delivered to the Town in a format that is compatible with the Town's information technology systems. Once the public records have been delivered upon completion or termination of this Agreement, the Provider shall

destroy any and all duplicate public records that are exempt or confidential and exempt from public records disclosure requirements.

- e. Any compensation due to Provider shall be withheld until all records are received as provided herein.
- f. Provider's failure or refusal to comply with the provisions of this section shall result in the immediate termination of this Agreement by the Town.
- g. **Notice Pursuant to Section 119.0701(2)(a), Florida Statutes. IF**

IF THE PROVIDER HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE PROVIDER'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS.

Custodian of Records: Sandra McCready, MMC

**Mailing address: 9293 Harding Avenue
Surfside, FL 33154**

Telephone number: 305-861-4863

Email: smccready@townofsurfsidefl.gov

The undersigned have executed this Agreement on the ____ day of August, 2023.

**TOWN OF SURFSIDE,
FLORIDA,** A Florida Municipal
Corporation

Hector Gomez
Town Manager
Town of Surfside
9293 Harding Avenue
Surfside, Florida 33154
Miami-Dade: (305) 861-4863

Attest:

Sandra McCready, MMC, Town Clerk

**APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:**

Town Attorney

GM Sports Tennis, LLC, a Florida
Limited Liability Company

Cristian Garcia
8900 Collins Avenue, Apt. 404
Surfside, FL 33154

E-VERIFY AFFIDAVIT

In accordance with Executive Order 11-116, and Section 448.095 of the Florida Statutes, the Town requires all contractors doing business with the Town to register with and use the E-Verify system to verify the work authorization status of all newly hired employees. The Town will not enter into a contract unless each party to the contract registers with and uses the E-Verify system.

The contracting entity must provide of its proof of enrollment in E-Verify. For instructions on how to provide proof of the contracting entity’s participation/enrollment in E-Verify, please visit: <https://www.e-verify.gov/faq/how-do-i-provide-proof-of-my-participationenrollment-in-e-verify>

By signing below, the contracting entity acknowledges that it has read Section 448.095, Florida Statutes and will comply with the E-Verify requirements imposed by it, including but not limited to obtaining E-Verify affidavits from subcontractors.

Check here to confirm proof of enrollment in E-Verify has been attached to this Affidavit.

In the presence of:

Signed, sealed and delivered by:

Witness #1 Print Name: _____

Print Name: _____

Witness #2 Print Name: _____

Title: _____

Entity Name: _____

ACKNOWLEDGMENT

State of Florida
County of _____

The foregoing instrument was acknowledged before me by means of physical presence or online notarization, this . day of _____, 20____, by _____ (name of person) as _____ (type of authority) for _____ (name of party on behalf of whom instrument is executed).

Notary Public (Print, Stamp, or Type as Commissioned)

_____ Personally known to me; or
_____ Produced identification (Type of Identification: _____)
_____ Did take an oath; or
_____ Did not take an oath

RESOLUTION NO. 2023-_____

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, APPROVING AN AGREEMENT WITH GM SPORTS TENNIS, LLC FOR THE TOWN'S YOUTH TENNIS PROGRAM FOR FISCAL YEAR 2023/2024; FINDING THAT THE SERVICES ARE EXEMPT FROM COMPETITIVE PROCUREMENT PURSUANT TO SECTION 3-13(7)(D) OF THE TOWN CODE; AUTHORIZING EXPENDITURE OF FUNDS; PROVIDING FOR IMPLEMENTATION; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town of Surfside ("Town") Parks and Recreation Department has historically contracted with coaches and instructors for the Town's Youth Tennis Program (the "Services"); and

WHEREAS, GM Sports Tennis, LLC ("GM Sports") has agreed to perform the Services necessary to operate the Town's Youth Tennis Program pursuant to the contractual services agreement attached hereto as Attachment "A" (the "Agreement") in an amount not to exceed \$50,000 for Fiscal Year 2023/2024; and

WHEREAS, Section 3-13(7)(d) of the Town Code of Ordinances (the "Code") provides that contracts for recreational and sports providers, as approved by the Town Manager when deemed in the Town's best interests, for the benefit of the citizens of Surfside and the general public at any town sanctioned activity, are exempt from the competitive bidding procedures of the Town Code; and

WHEREAS, the Town Commission finds that the proposed services under the Agreement are exempt from competitive bidding pursuant to Section 3-13(7)(d) of the Town Code; and

WHEREAS, the Town Commission desires to approve the Agreement with GM Sports, in substantially the form attached hereto as Attachment “A,” and authorize the expenditure of funds for the Services for Fiscal Year 2023/2024; 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 Commission hereby approves the Agreement with GM Sports, in substantially the form attached hereto as Attachment “A.” Pursuant to Section 3-13(7)(d) of the Town’s Code, the Town Commission finds that the Services provided under the Agreement are exempt from competitive bidding.

Section 3. Authorization and Implementation. The Town Commission hereby authorizes the Town Manager to execute the Agreement with GM Sports, in substantially the form attached hereto as Attachment “A,” together with such non-substantive changes as may be approved by the Town Manager, subject to approval by the Town Attorney as to form and legality, and to take any action which is reasonably necessary to implement the purposes of this Resolution.

Section 4. Authorization to Expend Funds. The Town Manager is authorized to expend funds in an amount not to exceed \$50,000 for the Services for Fiscal Year 2023/2024.

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

PASSED AND ADOPTED on this ____ day of November, 2023.

Motion By: _____

Second By: _____

FINAL VOTE ON ADOPTION:

Commissioner Fred Landsman	_____
Commissioner Marianne Meisheid	_____
Commissioner Nelly Velasquez	_____
Vice Mayor Jeff Rose	_____
Mayor Shlomo Danzinger	_____

Shlomo Danzinger, Mayor

Attest:

Sandra McCready, MMC
Town Clerk

Approved as to Form and Legal Sufficiency:

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



MEMORANDUM

ITEM NO. 3H.

To: Honorable Mayor, Vice-Mayor and Members of the Town Commission

From: Hector Gomez, Town Manager

Date: November 14, 2023

Subject: **Parks and Recreation Special Event Vendor, Premier Bounce N Slide Party Rentals, LLC Contract and Expenditure Approval**

Town Administration is seeking Town Commission authorization to expend up to \$92,000 in fiscal year 2024 and to contract with Premier Bounce N Slide Party Rentals for Parks and Recreation events. The funds were approved in the 2024 adopted budget.

Premier Bounce N Slide Party Rentals are a “one stop shop” for all event planning needs. They own and operate a catering division, interactive entertainment, inflatables, mechanical rides, tents, tables and chairs and more. The Town has previously worked with Premier Bounce N Slide Party Rentals for events such as Halloween Spooktacular, Winter Wonderland, Family Fun Day, and the 4th of July festivities. They have provided new interactive rides, food catering and have been professional and responsive. Each event has seen a record attendance over the past year.

Each year the Parks and Recreation Department looks for ways to enhance each event with new ideas and attractions for the community. The Town Administration is planning a grand re-opening event for 96th Street Park which will take place this current fiscal year. In order to operate all the events, Town administration is seeking to expend up to \$92,000.00 for fiscal year 2024. Please note, the funds have been budgeted for FY 2024 and approved through the budget process. Please refer to **Attachment A - Premier Bounce N Slide LLC Contract** for a breakdown of the scope of services. The funding source for these events are General Fund and Tourism Surtax funds.

Per Town Code Section 3.13(7)(d), the contract is exempt from competitive procurement since it is a "Performing artists, event organizers, and entertainment, recreational and sports providers, as approved by the town manager when deemed in the town's best interests, for the benefit of the citizens of Surfside and the general public at any town sanctioned activity."

[Resolution Approving Agreement with Premier Bounce N Slide Party Rentals LLC - FY 2023-2024](#)

RESOLUTION NO. 2023-_____

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, APPROVING AN AGREEMENT WITH PREMIER BOUNCE N SLIDE PARTY RENTALS, LLC FOR THE TOWN'S PARKS AND RECREATION SPECIAL EVENTS IN AN AMOUNT NOT TO EXCEED \$92,000 FOR FISCAL YEAR 2023/2024; AUTHORIZING THE TOWN MANAGER TO EXECUTE AN AGREEMENT FOR THE SERVICES; FINDING THAT THE SERVICES ARE EXEMPT FROM COMPETITIVE BIDDING PURSUANT TO SECTION 3-13(7)(D) OF THE TOWN CODE; PROVIDING FOR IMPLEMENTATION; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town of Surfside (the "Town") desires certain event production services for the Town's Parks and Recreation special events for attractions, activities and food during each event (the "Services"); and

WHEREAS, the Parks and Recreation Department (the "Department") conducted a thorough search of event production vendors and selected Premier Bound N Slide Party Rentals, LLC (the "Contractor") for the Services; and

WHEREAS, the Department recommends that the Town Commission approve the agreement with the Contractor, attached hereto as Attachment "A," in an amount not to exceed \$92,000 for the Services in Fiscal Year 2023/2024 (the "Agreement"); and

WHEREAS, pursuant to Section 3-13(7)(d) of the Town Code of Ordinances (the "Code"), contractual services for event organizers and entertainment providers, as approved by the Town Manager when deemed to be in the best interests of the Town, for the benefit of the citizens of Surfside and the general public at any town sanctioned activity, are exempt from competitive bidding; and

WHEREAS, in accordance with the Department's recommendation, the Town Commission desires to approve the Agreement with the Contractor, in substantially the

form attached hereto as Attachment “A,” in an amount not to exceed \$92,000 for the Services in Fiscal Year 2023/2024, and authorize the Town Manager to execute the Agreement; and

WHEREAS, the Town Commission finds that the Agreement for the Services and this Resolution are in the best interests and welfare 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-stated recitals are true and correct and are incorporated herein by this reference.

Section 2. Approval of Agreement. The Town Commission hereby approves the Agreement with the Contractor, in substantially the form attached hereto as Attachment “A,” in an amount not to exceed \$92,000 for the Services in Fiscal Year 2023/2024.

Section 3. Authorization to Execute Agreement. The Town Manager is hereby authorized to execute the Agreement with the Contractor, in substantially the form attached hereto as Attachment “A,” subject to the approval as to form, content, and legal sufficiency by the Town Manager and Town Attorney.

Section 4. Exemption from Competitive Bidding. The Town Commission finds that, pursuant to Section 3-13(7)(d) of the Town’s Code, the Services are exempt from competitive bidding.

Section 5. Implementation. That the Town Manager and Town Officials are hereby authorized to take any and all actions which are necessary to implement the Services, the Agreement, and the purposes of this Resolution.

Section 6. Effective Date. This Resolution shall become effective immediately upon adoption.

PASSED AND ADOPTED this ____ day of November, 2023.

Motion By: _____
Second By: _____

FINAL VOTE ON ADOPTION:

Commissioner Fred Landsman _____
Commissioner Marianne Meisheid _____
Commissioner Nelly Velasquez _____
Vice Mayor Jeffrey Rose _____
Mayor Shlomo Danzinger _____

Shlomo Danzinger, Mayor

ATTEST:

Sandra McCready, MMC
Town Clerk

**APPROVED AS TO FORM AND LEGALITY FOR THE USE
AND BENEFIT OF THE TOWN OF SURFSIDE ONLY:**

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

**SPECIAL EVENT PRODUCTION SERVICES AGREEMENT
BETWEEN
THE TOWN OF SURFSIDE
AND
PREMIER BOUNCE N SLIDE PARTY RENTALS, LLC**

THIS AGREEMENT (this “Agreement”) is made effective as of the October 1, 2023 (the “Effective Date”), by and between the **TOWN OF SURFSIDE, FLORIDA**, a Florida municipal corporation, (hereinafter the “Town”), and **PREMIER BOUNCE N SLIDE PARTY RENTALS, LLC**, a Florida Limited Liability Company (hereinafter, the “Contractor”).

WHEREAS, the Town desires certain event production services for the Town’s Parks and Recreation annual events (the “Services”); and

WHEREAS, the Contractor has agreed to provide the Services on a non-exclusive basis in accordance with the Scope of Services, attached hereto as Exhibit “A” and

WHEREAS, the Contractor and Town, through mutual negotiation, have agreed upon a not to exceed total amount for Fiscal Year 2023/2024 for the Services; and

WHEREAS, the Town desires to engage the Contractor to perform the Services and provide the deliverables as specified below.

NOW, THEREFORE, in consideration of the mutual covenants and conditions contained herein, the Contractor and the Town agree as follows:

1. Scope of Services.

1.1. Contractor shall provide the Services for Parks and Recreation Events as directed by the Town, which may include, but are not limited to, Halloween, Winter Wonderland, Family Fun Day, Spring Egg Hunt, 4th of July events (each an “Event”) in accordance with the Scope of Services attached hereto as Exhibit “A” incorporated herein by reference.

1.2. Contractor shall furnish all goods, services, reports, documents, and information obtained pursuant to this Agreement, and recommendations during the term of this Agreement (hereinafter “Deliverables”) to the Town.

2. Term/Commencement Date.

2.1. The Term of this Agreement shall be from the Effective Date through September 30th, 2024, unless earlier terminated in accordance with Paragraph 8.

2.2. Contractor agrees that time is of the essence and Contractor shall complete the Services within the term of this Agreement, unless extended by the Town Manager.

3. Compensation and Payment.

- 3.1.** Total compensation to the Contractor for the Services shall not exceed \$92,000 for the Term or Fiscal Year 2023/2024. The fees and costs for each Event shall be as agreed upon by the Town and Contractor.
- 3.2.** In the event inclement or severe weather is impending, or is forecasted to affect the Event site, the Town reserves the right to cancel or reschedule the Event and the Town and Contractor agree to reschedule the cancelled Event within one (1) year of the date the Event was scheduled.
- 3.2.1.** If the Town cancels the Event at least seven (7) days before the Event due to inclement or severe weather, the Contractor shall not receive compensation for the Event.
- 3.2.2.** If the Town cancels the Event between six (6) and two (2) days before the Event due to inclement or severe weather, the Contractor shall be refunded for any Event expenses incurred in an amount not to exceed fifty percent (50%) of Event compensation.
- 3.2.3.** If the Town cancels the Event on the day before the Event due to inclement or severe weather, the Contractor shall be refunded for any Event expenses incurred in an amount not to exceed ninety percent (90%) of Event compensation.
- 3.2.4.** Contractor shall provide receipts for all paid and incurred expenses through the date of Event cancellation. Failure to provide receipts for all paid and incurred expenses may result in delay of refund payments or rejection of the refund.
- 3.3.** Contractor shall deliver an invoice to Town no more often than once per month detailing Services completed and the amount due to Contractor under this Agreement. Fees shall be paid in arrears each month, pursuant to Contractor's invoice, which shall be based upon the percentage of work completed for each task invoiced. The Town shall pay the Contractor in accordance with the Florida Prompt Payment Act after approval and acceptance of the Services by the Town Manager.
- 3.4.** Contractor's invoices must contain the following information for prompt payment:
- 3.4.1.** Name and address of the Contractor;
- 3.4.2.** Purchase Order number;
- 3.4.3.** Date of invoice;
- 3.4.4.** Invoice number (Invoice numbers cannot be repeated. Repeated invoice numbers will be rejected);

- 3.4.5. Name and type of Services;
- 3.4.6. Timeframe covered by the invoice; and
- 3.4.7. Total value of invoice.

Failure to include the above information will result in the delay of payment or rejection of the invoice.

4. Subcontractors.

- 4.1. The Contractor shall be responsible for all payments to any subcontractors and/or vendors and shall maintain responsibility for all work related to the Services.
- 4.2. Contractor may only utilize the services of a particular subcontractor or vendor with the prior written approval of the Town Manager or his designee, which approval may be granted or withheld in the Town Manager or his designee's sole and absolute discretion.

5. Town's Responsibilities.

- 5.1. Town shall make available any information, maps, plans, existing studies, reports, staff and representatives, and other data pertinent to the Services and in possession of the Town, and provide criteria requested by Contractor to assist Contractor in performing the Services.
- 5.2. Upon Contractor's request, Town shall reasonably cooperate in arranging access to public information that may be required for Contractor to perform the Services.

6. Contractor's Responsibilities; Representations and Warranties.

- 6.1. The Contractor shall exercise the same degree of care, skill and diligence in the performance of the Services as is ordinarily provided by a Contractor under similar circumstances. If at any time during the term of this Agreement or within two (2) years from the completion of this Agreement, it is determined that the Contractor's Deliverables or Services are incorrect, not properly rendered, defective, or fail to conform to Town requests, the Contractor shall at Contractor's sole expense, immediately correct its Deliverables or Services.
- 6.2. The Contractor hereby warrants and represents that at all times during the term of this Agreement it shall maintain in good standing all required licenses, certifications and permits required under Federal, State and local laws applicable to and necessary to perform the Services for Town as an independent contractor of the Town. Contractor further warrants and represents that it has the required knowledge, expertise, and experience to perform the Services and carry out its obligations under this Agreement in a professional and first class manner.

6.3. The Contractor represents that is an entity validly existing and in good standing under the laws of Florida. The execution, delivery and performance of this Agreement by Contractor have been duly authorized, and this Agreement is binding on Contractor and enforceable against Contractor in accordance with its terms. No consent of any other person or entity to such execution, delivery and performance is required.

7. Conflict of Interest.

7.1. To avoid any conflict of interest or any appearance thereof, Contractor shall not, for the term of this Agreement, provide any consulting services to any private sector entities (developers, corporations, real estate investors, etc.), with any current, or foreseeable, adversarial issues in the Town.

8. Termination.

8.1. The Town Manager, without cause, may terminate this Agreement upon five (5) calendar days written notice to the Contractor, or immediately with cause.

8.2. Upon receipt of the Town's written notice of termination, Contractor shall immediately stop work on the project unless directed otherwise by the Town Manager.

8.3. In the event of termination by the Town, the Contractor shall be paid for all work accepted by the Town Manager up to the date of termination, provided that the Contractor has first complied with the provisions of Paragraph 8.4.

8.4. The Contractor shall transfer all books, records, reports, working drafts, documents, maps, and data pertaining to the Services and the project to the Town, in a hard copy and electronic format within fourteen (14) days from the date of the written notice of termination or the date of expiration of this Agreement.

9. Insurance.

9.1. Contractor shall secure and maintain throughout the duration of this agreement insurance of such types and in such amounts not less than those specified below as satisfactory to Town, naming the Town as an Additional Insured, underwritten by a firm rated A-X or better by A.M. Best and qualified to do business in the State of Florida. The insurance coverage shall be primary insurance with respect to the Town, its officials, employees, agents, and volunteers naming the Town as additional insured. Any insurance maintained by the Town shall be in excess of the Contractor's insurance and shall not contribute to the Contractor's insurance. The insurance coverages shall include at a minimum the amounts set forth in this section and may be increased by the Town as it deems necessary or prudent.

9.1.1. Commercial General Liability coverage with limits of liability of not less than a \$1,000,000 per Occurrence combined single limit for Bodily Injury and Property Damage. This Liability Insurance shall also include Completed

Operations and Product Liability coverages and eliminate the exclusion with respect to property under the care, custody and control of Contractor. The General Aggregate Liability limit and the Products/Completed Operations Liability Aggregate limit shall be in the amount of \$2,000,000 each.

9.1.2. Workers Compensation and Employer's Liability insurance, to apply for all employees for statutory limits as required by applicable State and Federal laws. The policy(ies) must include Employer's Liability with minimum limits of \$1,000,000.00 each accident. No employee, subcontractor or agent of the Contractor shall be allowed to provide Services pursuant to this Agreement who is not covered by Worker's Compensation insurance.

9.1.3. Business Automobile Liability with minimum limits of \$1,000,000 per occurrence, combined single limit for Bodily Injury and Property Damage. Coverage must be afforded on a form no more restrictive than the latest edition of the Business Automobile Liability policy, without restrictive endorsements, as filed by the Insurance Service Office, and must include Owned, Hired, and Non-Owned Vehicles.

9.2. Certificate of Insurance. Certificates of Insurance shall be provided to the Town, reflecting the Town as an Additional Insured (except with respect to Professional Liability Insurance and Worker's Compensation Insurance), no later than ten (10) days after award of this Agreement and prior to the execution of this Agreement by Town and prior to commencing Services. Each certificate shall include no less than (30) thirty-day advance written notice to Town prior to cancellation, termination, or material alteration of said policies or insurance. The Contractor shall be responsible for assuring that the insurance certificates required by this Section remain in full force and effect for the duration of this Agreement, including any extensions or renewals that may be granted by the Town. The Certificates of Insurance shall not only name the types of policy(ies) provided, but also shall refer specifically to this Agreement and shall state that such insurance is as required by this Agreement. The Town reserves the right to inspect and return a certified copy of such policies, upon written request by the Town. If a policy is due to expire prior to the completion of the Services, renewal Certificates of Insurance shall be furnished thirty (30) calendar days prior to the date of their policy expiration. Each policy certificate shall be endorsed with a provision that not less than thirty (30) calendar days' written notice shall be provided to the Town before any policy or coverage is cancelled or restricted. Acceptance of the Certificate(s) is subject to approval of the Town.

9.3. Additional Insured. Except with respect to Worker's Compensation Insurance, the Town is to be specifically included as an Additional Insured for the liability of the Town resulting from Services performed by or on behalf of the Contractor in performance of this Agreement. The Contractor's insurance, including that applicable to the Town as an Additional Insured, shall apply on a primary basis and any other insurance maintained by the Town shall be in excess of and shall not contribute to the Contractor's insurance. The Contractor's insurance shall

contain a severability of interest provision providing that, except with respect to the total limits of liability, the insurance shall apply to each Insured or Additional Insured (for applicable policies) in the same manner as if separate policies had been issued to each.

9.4. Deductibles. All deductibles or self-insured retentions must be declared to and be reasonably approved by the Town. The Contractor shall be responsible for the payment of any deductible or self-insured retentions in the event of any claim.

9.5. The provisions of this section shall survive termination of this Agreement.

10. Nondiscrimination. During the term of this Agreement, Contractor shall not discriminate against any of its employees or applicants for employment because of their race, color, religion, sex, or national origin, and to abide by all Federal and State laws regarding nondiscrimination.

11. Attorneys Fees and Waiver of Jury Trial.

11.1. 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 all appellate levels.

11.2. IN THE EVENT OF ANY LITIGATION ARISING OUT OF THIS AGREEMENT, EACH PARTY HEREBY KNOWINGLY, IRREVOCABLY, VOLUNTARILY AND INTENTIONALLY WAIVES ITS RIGHT TO TRIAL BY JURY.

12. Indemnification.

12.1. Contractor shall indemnify and hold harmless the Town, its officers, agents and employees, from and against any and all demands, claims, losses, suits, liabilities, causes of action, judgment or damages, arising from Contractor's performance or non-performance of any provision of this Agreement, including, but not limited to, liabilities arising from contracts between the Contractor and third parties made pursuant to this Agreement. Contractor shall reimburse the Town for all its expenses including reasonable attorneys' fees and costs incurred in and about the defense of any such claim or investigation and for any judgment or damages arising from Contractor's performance or non-performance of this Agreement.

12.2. Nothing herein is intended to serve as a waiver of sovereign immunity by the Town nor shall anything included herein be construed as consent to be sued by third parties in any matter arising out of this Agreement or any other contract. The Town is subject to section 768.28, Florida Statutes, as may be amended from time to time.

12.3. The provisions of this section shall survive termination of this Agreement.

13. Notices/Authorized Representatives. Any notices required by this Agreement shall be in writing and shall be deemed to have been properly given 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 addresses listed on the signature page of this Agreement or such other address as the party may have designated by proper notice.

14. Governing Law and Venue. This Agreement shall be construed in accordance with and governed by the laws of the State of Florida. Venue for any proceedings arising out of this Agreement shall be proper exclusively in Miami-Dade County, Florida.

15. Entire Agreement/Modification/Amendment.

15.1. This writing contains the entire Agreement of the parties and supersedes any prior oral or written representations. No representations were made or relied upon by either party, other than those that are expressly set forth herein.

15.2. No agent, employee, or other representative of either party is empowered to modify or amend the terms of this Agreement, unless executed with the same formality as this document.

16. Ownership and Access to Records and Audits.

16.1. Contractor acknowledges that all inventions, innovations, improvements, developments, methods, designs, analyses, drawings, reports, compiled information, and all similar or related information (whether patentable or not) which relate to Services to the Town which are conceived, developed or made by Contractor during the term of this Agreement (“Work Product”) belong to the Town. Contractor shall promptly disclose such Work Product to the Town and perform all actions reasonably requested by the Town (whether during or after the term of this Agreement) to establish and confirm such ownership (including, without limitation, assignments, powers of attorney and other instruments).

16.2. Contractor agrees to keep and maintain public records in Contractor’s possession or control in connection with Contractor’s performance under this Agreement. The Town Manager or her designee shall, during the term of this Agreement and for a period of three (3) years from the date of termination of this Agreement, have access to and the right to examine and audit any records of the Contractor involving transactions related to this Agreement. Contractor additionally agrees to comply specifically with the provisions of Section 119.0701, Florida Statutes. Contractor 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 Agreement, and following completion of the Agreement until the records are transferred to the Town.

- 16.3. Upon request from the Town’s custodian of public records, Contractor shall provide the Town with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided by Chapter 119, Florida Statutes, or as otherwise provided by law.
- 16.4. Unless otherwise provided by law, any and all records, including but not limited to reports, surveys, and other data and documents provided or created in connection with this Agreement are and shall remain the property of the Town.
- 16.5. Upon completion of this Agreement or in the event of termination by either party, any and all public records relating to the Agreement in the possession of the Contractor shall be delivered by the Contractor to the Town Manager, at no cost to the Town, within seven (7) days. All such records stored electronically by Contractor shall be delivered to the Town in a format that is compatible with the Town’s information technology systems. Once the public records have been delivered upon completion or termination of this Agreement, the Contractor shall destroy any and all duplicate public records that are exempt or confidential and exempt from public records disclosure requirements.
- 16.6. Any compensation due to Contractor shall be withheld until all records are received as provided herein.
- 16.7. Contractor’s failure or refusal to comply with the provisions of this section shall result in the immediate termination of this Agreement by the Town.
- 16.8. **Notice Pursuant to Section 119.0701(2)(a), Florida Statutes. IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR’S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS.**

Custodian of Records: Sandra McCready, MMC
Mailing address: 9293 Harding Avenue
Surfside, FL 33154
Telephone number: 305-861-4863
Email: smccready@townofsurfsidefl.gov

17. **Nonassignability.** This Agreement shall not be assignable by Contractor unless such assignment is first approved by the Town Manager. The Town is relying upon the apparent qualifications and expertise of the Contractor, and such firm’s familiarity with the Town’s area, circumstances and desires.

18. **Severability.** If any term or provision of this Agreement shall to any extent be held invalid or unenforceable, the remainder of this Agreement shall not be affected

thereby, and each remaining term and provision of this Agreement shall be valid and be enforceable to the fullest extent permitted by law.

- 19. Independent Contractor.** The Contractor and its employees, volunteers and agents shall be and remain an independent contractor and not an agent or employee of the Town with respect to all of the acts and services performed by and under the terms of this Agreement. This Agreement shall not in any way be construed to create a partnership, association or any other kind of joint undertaking, enterprise or venture between the parties.
- 20. Compliance with Laws.** The Contractor shall comply with all applicable laws, ordinances, rules, regulations, and lawful orders of public authorities in carrying out Services under this Agreement, and in particular shall obtain all required permits from all jurisdictional agencies to perform the Services under this Agreement at its own expense.
- 21. Waiver.** The failure of either party to this Agreement to object to or to take affirmative action with respect to any conduct of the other which is in violation of the terms of this Agreement shall not be construed as a waiver of the violation or breach, or of any future violation, breach or wrongful conduct.
- 22. Survival of Provisions.** Any terms or conditions of either this Agreement that require acts beyond the date of the term of the Agreement, shall survive termination of the Agreement, shall remain in full force and effect unless and until the terms or conditions are completed and shall be fully enforceable by either party.
- 23. Prohibition of Contingency Fees.** The Contractor warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the Contractor, to solicit or secure this Agreement, and that it has not paid or agreed to pay any person(s), company, corporation, individual or firm, other than a bona fide employee working solely for the Contractor, any fee, commission, percentage, gift, or any other consideration, contingent upon or resulting from the award or making of this Agreement.
- 24. Public Entity Crimes Affidavit.** Contractor shall comply with Section 287.133, Florida Statutes (Public Entity Crimes Statute), notification of which is hereby incorporated herein by reference, including execution of any required affidavit.
- 25. Counterparts.** 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.
- 26. Conflicts.** In the event of a conflict between the terms of this Agreement and any exhibits or attachments hereto, the terms of this Agreement shall control.
- 27. Boycotts.** The Contractor is not currently engaged in, and will not engage in, a boycott, as defined in Section 3-1.1 of the Town of Surfside Code of Ordinances.

28. E-Verify Affidavit. In accordance with Section 448.095, Florida Statutes, the Town requires all contractors doing business with the Town to register with and use the E-Verify system to verify the work authorization status of all newly hired employees. The Town will not enter into a contract unless each party to the contract registers with and uses the E-Verify system. The contracting entity must provide its proof of enrollment in E-Verify. For instructions on how to provide proof of the contracting entity's participation/enrollment in E-Verify, please visit: <https://www.e-verify.gov/faq/how-do-i-provide-proof-of-my-participation-enrollment-in-e-verify>. By entering into this Agreement, the Contractor acknowledges that it has read Section 448.095, Florida Statutes; will comply with the E-Verify requirements imposed by Section 448.095, Florida Statutes, including but not limited to obtaining E-Verify affidavits from subcontractors; and has executed the required affidavit attached hereto and incorporated herein.

29. Background Checks. Contractor agrees that based upon the Services to be provided, the Agreement is conditioned upon successful completion of current criminal background checks of all staff, including any or all of the following; criminal check, drug screening, credit check, reference check, past employment verification, and proof of education. Contractor shall be responsible for maintaining current background checks on all employees involved in the performance of Services pursuant to this Agreement. Background checks must be performed prior to the performance of any work by the contractor under this Agreement. Written verification of all background checks must be provided to the Town prior to the performance of any work by the contractor under this Agreement. Contractor acknowledges that in the performance of the Services contemplated in this Agreement, Contractor's staff may have contact with children. Accordingly, no employees shall be assigned to work for the Town under this Agreement whose background check reveals behavior which would prohibit such contact. Documentation of required certification and insurance must be provided to the Town prior to commencement of any services by Contractor or staff hired by Contractor.

**[REMAINDER OF PAGE LEFT INTENTIONALLY BLANK.
SIGNATURE PAGE FOLLOWS]**

E-VERIFY AFFIDAVIT

In accordance with Section 448.095, Florida Statutes, the Town requires all contractors doing business with the Town to register with and use the E-Verify system to verify the work authorization status of all newly hired employees. The Town will not enter into a contract unless each party to the contract registers with and uses the E-Verify system.

The contracting entity must provide of its proof of enrollment in E-Verify. For instructions on how to provide proof of the contracting entity’s participation/enrollment in E-Verify, please visit: <https://www.e-verify.gov/faq/how-do-i-provide-proof-of-my-participationenrollment-in-e-verify>

By signing below, the contracting entity acknowledges that it has read Section 448.095, Florida Statutes and will comply with the E-Verify requirements imposed by it, including but not limited to obtaining E-Verify affidavits from subcontractors.

Check here to confirm proof of enrollment in E-Verify has been attached to this Affidavit.

In the presence of:

Signed, sealed and delivered by:

Witness #1 Print Name: _____

Print Name: _____

Witness #2 Print Name: _____

Title: _____

Entity Name: _____

ACKNOWLEDGMENT

State of Florida
County of _____

The foregoing instrument was acknowledged before me by means of physical presence or online notarization, this ____ day of _____, 20__, by _____ (name of person) as _____ (type of authority) for _____ (name of party on behalf of whom instrument is executed).

Notary Public (Print, Stamp, or Type as Commissioned)

- _____
Personally known to me; or
- _____
Produced identification (Type of Identification: _____)
- _____
Did take an oath; or
- _____
Did not take an oath

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed the day and year as first stated above.

TOWN OF SURFSIDE

By: _____
Hector Gomez
Town Manager

Attest:

By: _____
Sandra McCready, MMC
Town Clerk

Approved as to form and legal sufficiency:

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

Addresses for Notice:

Town of Surfside
Attn: Town Manager
9293 Harding Avenue
Surfside, FL 33154
305-861-4863 (telephone)
305-993-5097 (facsimile)
hgomez@townofsurfsidefl.gov (email)

With a copy to:

Weiss Serota Helfman Cole & Bierman, P.L.
Attn: Lillian Arango, Esq.
Town of Surfside Attorney
2800 Ponce de Leon Boulevard, Suite 1200
Coral Gables, FL 33134
larango@wsh-law.com (email)

CONTRACTOR:

PREMIER BOUNCE N SLIDE PARTY
RENTALS, LLC, a Florida Limited
Liability Company

By: _____

Name: _____

Title: _____

Entity:

Addresses for Notice:

_____ (telephone)
_____ (facsimile)
_____ (email)

With a copy to:

_____ (telephone)
_____ (facsimile)
_____ (email)

EXHIBIT “A”
SCOPE OF SERVICES

Contractor shall deliver the Services in accordance with the Agreement with the Town of Surfside (the “Town”) as set forth in further detail below. Collectively, the following obligations shall be considered the “Services” rendered pursuant to the Agreement.

- 1. Event Description:** The Town of Surfside may use Premier Bounce N Slide Party Rentals LLC for Special Events (Family Fun Day, Spring Egg Hunt, 4th of July, Halloween Spooky Spooktacular, and Winter Wonderland) for services to include:
 - a. Catering Services
 - i. Corporate Picnics
 - ii. BBQ Catering
 - iii. Street Fair & Carnival Style Concession Catering
 - b. Entertainment
 - i. Caricature Artists
 - ii. DJ Services
 - iii. Face Painters
 - iv. Clowns
 - v. Petting Zoo & Pony Rides
 - vi. Stilt Walkers & Unicyclist
 - vii. Balloon Artists
 - viii. Lighting and Sound
 - ix. Pipe & Drape
 - x. Dance Floors & Stages
 - xi. Tents, Tables & Chairs
 - c. Inflatables
 - i. Bouncers
 - ii. Wet Slides
 - iii. Dry Slides
 - iv. Obstacle Courses
 - v. Mazes
 - vi. Play Centers
 - d. Games
 - i. Interactive Games
 - ii. Midway Games
 - iii. Classic Lawn Games
 - e. Rides
 - i. Mechanical Attractions
 - ii. Thrill Rides
- 2. Overall Project Management:** Tim Natan
- 3. Approximate Attendance Goal:** Varys depending on Event
- 4. Event Location(s):** Surfside Community Center/96th St. Park or other Town locations as requested by the Town.
- 5. Event Date(s) and Time(s):** Varys depending on Event

EXHIBIT "A"
SCOPE OF SERVICES

- 6. Event Set Up Times:** Premier Bounce N Slide Party Rentals LLC will provide set up times prior to events.
- 7. Event Theme(s):** TBA
- 8. Government Approvals/Special Permit:** Ride Inspections provided by Premier Bounce N Slide Party Rentals LLC.
- 9. Trash Removal and Recycling:** Premier Bounce N Slide Party Rentals LLC will be responsible for removing all trash from rides and equipment supplied by them for each event.
- 10. Staffing:**
 - a. Premier Bounce N Slide Party Rentals LLC**
 - i. Tim Natan
 - ii. Amy Powers
 - b. Town of Surfside, Parks and Recreation Department**
 - i. Tim Milian
 - ii. Adrian Hernandez
 - iii. Carlos Malvarez
- 11. Prohibited Items:** Styrofoam and plastic straws are prohibited to be used or distributed at the Event.
- 12. Town Approval:** The Town has the sole authority to issue a final approval of all programming, scope of services, and fees/costs for each Event. Any approvals will be in writing.



MEMORANDUM

ITEM NO. 31.

To: Honorable Mayor, Vice-Mayor and Members of the Town Commission

From: Hector Gomez, Town Manager

Date: November 14, 2023

Subject: **Sky Elements, LLC 4th of July Drone Show Contract and Expenditure Approval**

Town Administration is seeking Town Commission approval to enter into a three-year agreement with Sky Element for a 4th of July drone light show and to expend up to \$65,000.00 in FY 2024 for said show which was budgeted as part of the 2024 adopted budget.

The Town contracted out its first ever drone show during the 4th of July 2023 festivities. The show displayed numerous iconic Surfside and 4th of July theme photos in the sky for a duration of 10 minutes. The show was quickly followed by a spectacular firework show. Parks and Recreation quickly started the procurement phase for fiscal year 2024. Through the procurement phase we received a total of 3 proposals. Each proposal provides a one-year and a three-year agreement. Please refer to the table below for a breakdown:

Vendor Name	Duration	1 year agreement	3 year agreement
Sky Elements	10 minutes	200 drones: \$80,000	1st year - 200 drones: \$65,000 2nd year - 250 drones: \$65,000 3rd year - 300 drones: \$65,000
Open Sky Productions	10 minutes	200 drones: \$80,000	1st year - 200 drones: \$72,000 2nd year - 250 drones: \$90,000 3rd year - 300 drones: \$108,000

Pixis	10 minutes	200 drones: \$120,000	1st year - 200 drones: \$120,000 2nd year - 250 drones: \$127,500 3rd year - 300 drones: \$153,000
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After thorough research and consideration, staff recommends the selection of Sky Elements for their 3-year proposal (refer to **Exhibit A** - and the *Sky Element Drone Light show agreement* (refer to **Exhibit B**). Sky Elements have and continue to collaborate with neighboring municipalities (Sunny Isles, Bal Harbour & Miami Beach) and come highly recommended. Sky Elements has worked with agencies such as Amazon, Coca Cola, CBS, T-Mobile and many more. In their proposal, they cover all FAA permitting, travel and transport and drone show staffing. Sky element has also worked extensively with our firework provider (Zambelli) in the past and have completed multiple drone and fireworks shows together. With this proposal, Sky Element will be adding 50 drones each year at the same cost. This will result in a much more exciting and detailed show each year.

[Resolution Approving Sky Element for July 4th Drone Show.DOCX](#)

[Exhibit A-Sky Element drone show proposal.pdf](#)

[Exhibit B-Sky Element 3 year agreement.docx](#)

[Exhibit A-Scope of Service to the Agreement-Sky Element drone show proposal.pdf](#)

RESOLUTION NO. 2023-_____

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, APPROVING AN AGREEMENT WITH SKY ELEMENTS, LLC FOR FOURTH OF JULY DRONE LIGHT SHOW SERVICES; AUTHORIZING THE TOWN MANAGER TO NEGOTIATE AND ENTER INTO THE AGREEMENT FOR THE SERVICES; FINDING THAT THE SERVICES ARE EXEMPT FROM COMPETITIVE BIDDING PURSUANT TO SECTION 3-13(7)(C) AND 3-13(17)(D) OF THE TOWN CODE; PROVIDING FOR IMPLEMENTATION; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, on July 4, 2024, the Town of Surfside (“Town”) intends to host a Fourth of July event at the Town Community Center (the “Fourth of July Event”); and

WHEREAS, the Town desires to enhance the Fourth of July Event with a drone light show; and

WHEREAS, the Town sought out quotes for drone light show services (the “Services”) and received three (3) proposals, including one from Sky Elements, LLC (“Contractor”), attached hereto as Exhibit “A,” in the amount of \$65,000 for Fiscal Year 2024; and

WHEREAS, due to Contractor’s experience, credibility and pricing, Town staff recommends that the Town Commission approve and authorize the Town Manager to negotiate and enter into an agreement with Contractor for the Services, in substantially the form attached hereto as Exhibit “B” (the “Agreement”); and

WHEREAS, pursuant to Section 3-13(7)(c) and (d) of the Town Code of Ordinances (the “Code”), artistic and entertainment services benefitting the citizens of Surfside and the general public at any Town sanctioned activity are exempt from the competitive procurement requirements of Chapter 3 of the Town Code; and

WHEREAS, the Town Commission desires to approve and authorize the Town Manager to negotiate and enter into the Agreement, in substantially the form attached hereto as Exhibit “A,” with the Contractor for a three (3) year term, and in an amount not to exceed \$65,000 for the Services for Fiscal Year 2024; and

WHEREAS, pursuant to Section 3-13(7)(c) and (d) of the Town Code, the Town Commission finds that the Services are exempt from the competitive procurement requirements of Chapter 3 of the Town Code as artistic and entertainment services; and

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

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

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

Section 1. Approval and Authorization. The Town Commission hereby approves the Agreement, in substantially the form attached hereto as Exhibit “B,” with the Contractor in an amount not to exceed \$65,000 for the Services for Fiscal Year 2024. The Town Manager is hereby authorized to negotiate and enter into the Agreement with the Contractor, in substantially the form attached hereto as Exhibit “B,” subject to the approval as to form, content, and legal sufficiency by the Town Manager and Town Attorney.

Section 2. Exemption from Competitive Bidding. The Town Commission finds that, pursuant to Section 3-13(7)(c) and (d) of the Town’s Code, the Services are exempt from the competitive procurement requirements as artistic and entertainment

services benefitting the citizens of the Town and the general public at the Fourth of July Event.

Section 3. Implementation. The Town Manager and/or designee are authorized to take any and all action necessary to implement the purposes of this Resolution and the Agreement.

Section 2. Effective Date. This Resolution shall take effect immediately upon its adoption.

PASSED AND ADOPTED on this 14th day of November, 2023.

Motion By: _____

Second By: _____

FINAL VOTE ON ADOPTION:

Commissioner Fred Landsman	_____
Commissioner Marianne Meischeid	_____
Commissioner Nelly Velasquez	_____
Vice Mayor Jeff Rose	_____
Mayor Shlomo Danzinger	_____

Shlomo Danzinger, Mayor

Attest:

Sandra McCready, MMC
Town Clerk

Approved as to Form and Legal Sufficiency:

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



Surfside Drone Show Options

Who Is Sky Elements?

Sky Elements is the leading provider of Drone Light Shows in North and South America.

Our drone shows are more than just lights in the sky and are guaranteed to turn heads for miles. With the ability to completely custom-design every aspect of your show, we can turn your vision into reality and bring attention to your event in a truly unique way.

Let us help you tell your story the way it deserves to be told.



What Our Clients Say

“We surprised our guests with a drone show at our Lord Of The Rings red carpet event, and everyone was blown away!” - Amazon Prime Video

“The Drone Show was the best part of the night! Sky Elements made sure to find the best place to line up the show for the perfect shot” - Wynn Las Vegas

“I’ve never seen anything like it” - Oakland A’s

“The Sky Elements team knows how to put on a show. I can’t wait for the next one!” - FC Dallas



How Long is a Drone Show?

Our Drone Shows can fly for up to
12 minutes!

How Long is Setup?

Our setup process is same-day.
We show up **5 hours** before
showtime to setup, test, and
ensure your show is flawless.

What's in a Drone Show?

You can have up to 12 custom
animations throughout your
show. **Each show is custom
tailored** to fit your needs.

What About Weather?

Our drones are designed to
withstand **30+ MPH wind,**
medium to light rain, and any
level of Earthquake!

Can We Sync Music?

Of Course! What isn't better with
music? Sky Elements helps sync
up music so your audience is
completely captivated!

Ask Sky Elements about **Infinite Drone Shows**



How Many Drones

Do I Need?

Ultimately, it's entirely up to you! More drones means more detail so the more you have, the larger and more recognizable your design will be.

With 300 or more drones we can create scannable QR codes, large scale 3D shapes, and just about any logo!

Still not sure? We can help! We have done this before and can work with you to determine how to maximize your budget and impact.

300
Drones →



200
Drones →



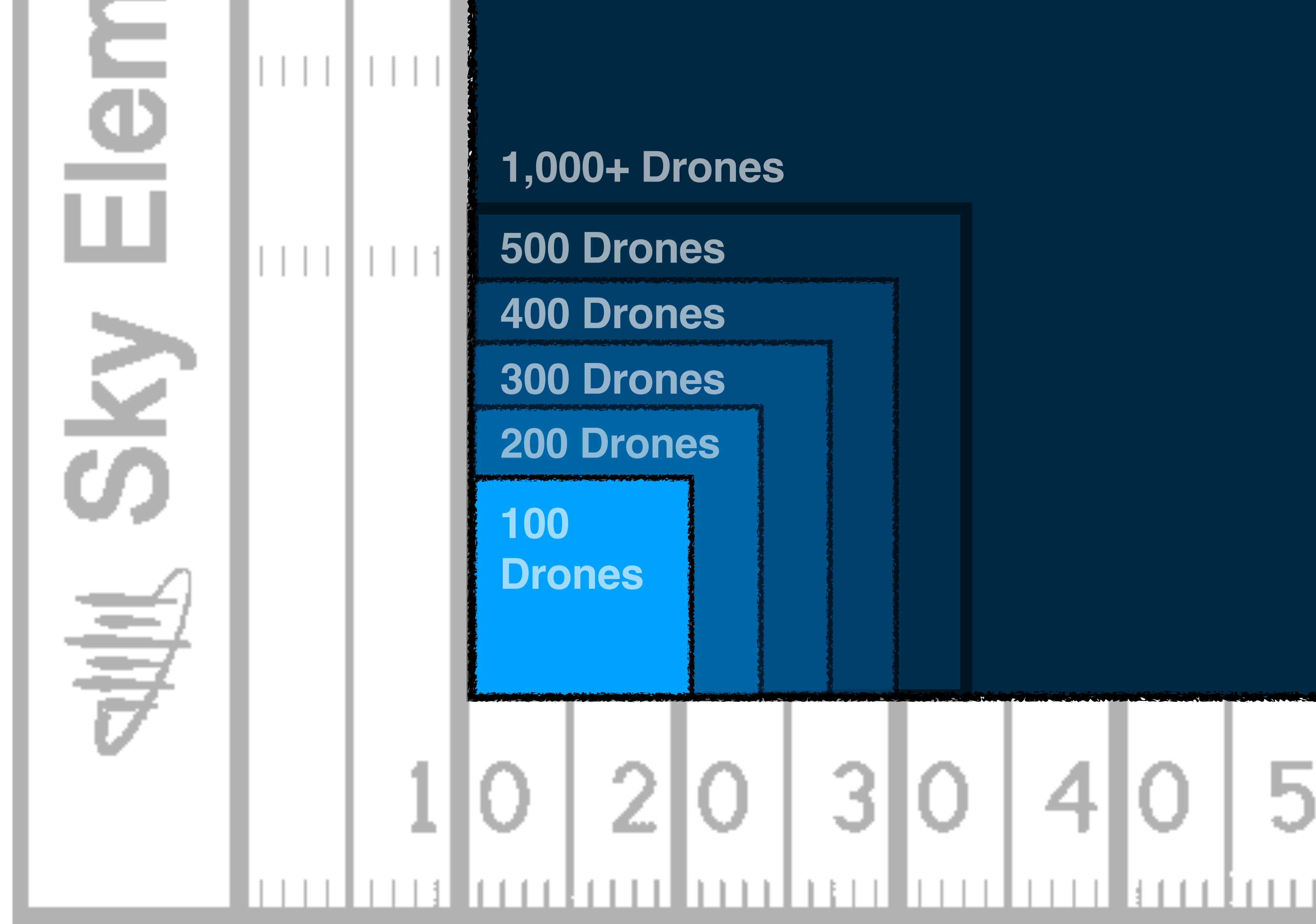
100
Drones →



The Setup

Each drone takes up 1 square meter of space. The more drones we add, the more space we need. For 100 drones we need a 10m x 10m space, roughly 30 x 30 feet.

We arrive about 5 hours prior to the show time. With roughly 5-20 staff depending on the show size. After the show lands our strike time takes about 1 hour.



Drone Show Options

	Good	Better	Best
Option 1	200 Drones	250 Drones	300 Drones
4th Of July Drone Show 1 Year Agreement	\$80,000	\$100,000	\$120,000
Option 2	2024 200 Drones	2025 250 Drones	2026 300 Drones
4th Of July Drone Show 2024, 2025, 2026 Agreement	\$65,000	\$65,000	\$65,000

Included

- Custom Designed Show
- All FAA Permitting
- Travel and Transport
- Drone Show Staffing

Not Included

- Venue Space
- Any Necessary Security



Next Steps



Confirm the Details



Connect with Sky Elements to confirm the amount of drones, and amount of shows necessary for your vision. More drones - higher the resolution!

Complete the contract and initial deposit



Once the amount of drones are confirmed - Schedule a time to speak with our activation team to start contracting, and invoicing. Payment terms are 100% prior to the start of the show.

Start the design process



Connect with our design team to help create the storyboard.

Show Time!



Help finalize details for the show! And watch the night sky tell your story!

Thank you &

We look forward to
working together



[SkyElementsDrones.com](https://www.SkyElementsDrones.com)

**PROFESSSERVICES AGREEMENT
BETWEEN
THE TOWN OF SURFSIDE
AND
SKY ELEMENTS, LLC**

THIS AGREEMENT (this "Agreement") is made effective as of the _____ day of _____, 2023 (the "Effective Date"), by and between the **TOWN OF SURFSIDE**, a Florida municipal corporation, (hereinafter the "Town"), and **SKY ELEMENTS, LLC**, a Texas Limited Liability Company (hereinafter, the "Contractor").

WHEREAS, the Town desires services related to the design and execution of a drone light show for Town's Fourth of July event on July 4, 2024 (the "Services"); and

WHEREAS, the Contractor will perform services on behalf of the Town, all as further set forth in the Proposal dated July 27th, 2023, attached hereto as Exhibit "A" (the "Services"); and

WHEREAS, the Contractor and Town, through mutual negotiation, have agreed upon a fee for the Services; and

WHEREAS, the Town desires to engage the Contractor to perform the Services and provide the deliverables as specified below.

NOW, THEREFORE, in consideration of the mutual covenants and conditions contained herein, the Contractor and the Town agree as follows:

1. Scope of Services.

2. Contractor shall provide the Services set forth in the Proposal attached hereto as Exhibit "A" and incorporated herein by reference (the "Services")
3. Contractor shall furnish all reports, documents, and information obtained pursuant to this Agreement, and recommendations during the term of this Agreement (hereinafter "Deliverables") to the Town.

4. Term/Commencement Date.

5. The term of this Agreement shall be for a term of three (3) years for FY 2024, 2025 and 2026, commencing on the Effective Date through three (3) years thereafter, unless earlier terminated in accordance with Paragraph 8.
6. Contractor agrees that time is of the essence and Contractor shall complete the Services within the term of this Agreement, unless extended by the Town Manager.

7. Compensation and Payment.

3.1. Compensation for Services provided by Contractor shall be in accordance with the Proposal attached hereto as Exhibit "A," in an amount not to exceed \$65,000 in FY 24, FY 25, and FY 26.

3.2. All Services performed shall be invoiced to the Town. Upon receipt of an acceptable and approved invoice, payment(s) shall be made within thirty (30) days for that portion (or those portions) of the service satisfactorily rendered (and referenced in the particular invoice). The Town shall pay the Contractor in accordance with the Florida Prompt Payment Act after approval and acceptance of the Services by the Town Manager.

8. Subcontractors.

8.1. The Contractor shall be responsible for all payments to any subcontractors and/or vendors and shall maintain responsibility for all work related to the Services.

8.2. Contractor may only utilize the services of a particular subcontractor or vendor with the prior written approval of the Town Manager or his designee, which approval may be granted or withheld in the Town Manager or his designee's sole and absolute discretion.

9. Town's Responsibilities.

9.1. Town shall make available any information, maps, plans, existing studies, reports, staff and representatives, and other data pertinent to the Services and in possession of the Town, and provide criteria requested by Contractor to assist Contractor in performing the Services.

9.2. Upon Contractor's request, Town shall reasonably cooperate in arranging access to public information that may be required for Contractor to perform the Services.

10. Contractor's Responsibilities; Representations and Warranties.

10.1. The Contractor shall exercise the same degree of care, skill and diligence in the performance of the Services as is ordinarily provided by a Contractor under similar circumstances. If at any time during the term of this Agreement or within two (2) years from the completion of this Agreement, it is determined that the Contractor's Deliverables or Services are incorrect, not properly rendered, defective, or fail to conform to Town requests, the Contractor shall at Contractor's sole expense, immediately correct its Deliverables or Services.

10.2. The Contractor hereby warrants and represents that at all times during the term of this Agreement it shall maintain in good standing all required licenses, certifications and permits required under Federal, State and local laws applicable to and necessary to perform the Services for Town as an independent contractor of the Town. Contractor further warrants and represents that it has the required

knowledge, expertise, and experience to perform the Services and carry out its obligations under this Agreement in a professional and first class manner.

10.3. The Contractor represents that is an entity validly existing and in good standing under the laws of Florida. The execution, delivery and performance of this Agreement by Contractor have been duly authorized, and this Agreement is binding on Contractor and enforceable against Contractor in accordance with its terms. No consent of any other person or entity to such execution, delivery and performance is required.

11. Conflict of Interest.

11.1. To avoid any conflict of interest or any appearance thereof, Contractor shall not, for the term of this Agreement, provide any consulting services to any private sector entities (developers, corporations, real estate investors, etc.), with any current, or foreseeable, adversarial issues in the Town.

12. Termination.

12.1. The Town Manager, without cause, may terminate this Agreement upon five (5) calendar days written notice to the Contractor, or immediately with cause.

12.2. Upon receipt of the Town's written notice of termination, Contractor shall immediately stop work on the Services unless directed otherwise by the Town Manager.

12.3. In the event of termination by the Town, the Contractor shall be paid for all work accepted by the Town Manager up to the date of termination, provided that the Contractor has first complied with the provisions of Paragraph 8.4.

12.4. The Contractor shall transfer all books, records, reports, working drafts, documents, maps, and data pertaining to the Services and the project to the Town, in a hard copy and electronic format within fourteen (14) days from the date of the written notice of termination or the date of expiration of this Agreement.

13. Insurance.

13.1. Contractor shall secure and maintain throughout the duration of this agreement insurance of such types and in such amounts not less than those specified below as satisfactory to Town, naming the Town as an Additional Insured, underwritten by a firm rated A-X or better by A.M. Best and qualified to do business in the State of Florida. The insurance coverage shall be primary insurance with respect to the Town, its officials, employees, agents, and volunteers naming the Town as additional insured. Any insurance maintained by the Town shall be in excess of the Contractor's insurance and shall not contribute to the Contractor's insurance. The insurance coverages shall include at a minimum the amounts set forth in this section and may be increased by the Town as it deems necessary or prudent.

- 13.1.1. Commercial General Liability coverage with limits of liability of not less than a \$1,000,000 per Occurrence combined single limit for Bodily Injury and Property Damage. This Liability Insurance shall also include Completed Operations and Product Liability coverages and eliminate the exclusion with respect to property under the care, custody and control of Contractor. The General Aggregate Liability limit and the Products/Completed Operations Liability Aggregate limit shall be in the amount of \$2,000,000 each.
- 13.1.2. Workers Compensation and Employer's Liability insurance, to apply for all employees for statutory limits as required by applicable State and Federal laws. The policy(ies) must include Employer's Liability with minimum limits of \$1,000,000.00 each accident. No employee, subcontractor or agent of the Contractor shall be allowed to provide Services pursuant to this Agreement who is not covered by Worker's Compensation insurance.
- 13.1.3. Business Automobile Liability with minimum limits of \$1,000,000 per occurrence, combined single limit for Bodily Injury and Property Damage. Coverage must be afforded on a form no more restrictive than the latest edition of the Business Automobile Liability policy, without restrictive endorsements, as filed by the Insurance Service Office, and must include Owned, Hired, and Non-Owned Vehicles.
- 13.1.4. Professional Liability Insurance in an amount of not less than One Million Dollars (\$1,000,000.00) per occurrence, single limit.
- 13.2. Certificate of Insurance.** Certificates of Insurance shall be provided to the Town, reflecting the Town as an Additional Insured (except with respect to Professional Liability Insurance and Worker's Compensation Insurance), no later than ten (10) days after award of this Agreement and prior to the execution of this Agreement by Town and prior to commencing Services. Each certificate shall include no less than (30) thirty-day advance written notice to Town prior to cancellation, termination, or material alteration of said policies or insurance. The Contractor shall be responsible for assuring that the insurance certificates required by this Section remain in full force and effect for the duration of this Agreement, including any extensions or renewals that may be granted by the Town. The Certificates of Insurance shall not only name the types of policy(ies) provided, but also shall refer specifically to this Agreement and shall state that such insurance is as required by this Agreement. The Town reserves the right to inspect and return a certified copy of such policies, upon written request by the Town. If a policy is due to expire prior to the completion of the Services, renewal Certificates of Insurance shall be furnished thirty (30) calendar days prior to the date of their policy expiration. Each policy certificate shall be endorsed with a provision that not less than thirty (30) calendar days' written notice shall be provided to the Town before any policy or coverage is cancelled or restricted. Acceptance of the Certificate(s) is subject to approval of the Town.

13.3. Additional Insured. Except with respect to Worker's Compensation Insurance, the Town is to be specifically included as an Additional Insured for the liability of the Town resulting from Services performed by or on behalf of the Contractor in performance of this Agreement. The Contractor's insurance, including that applicable to the Town as an Additional Insured, shall apply on a primary basis and any other insurance maintained by the Town shall be in excess of and shall not contribute to the Contractor's insurance. The Contractor's insurance shall contain a severability of interest provision providing that, except with respect to the total limits of liability, the insurance shall apply to each Insured or Additional Insured (for applicable policies) in the same manner as if separate policies had been issued to each.

13.4. Deductibles. All deductibles or self-insured retentions must be declared to and be reasonably approved by the Town. The Contractor shall be responsible for the payment of any deductible or self-insured retentions in the event of any claim.

13.5. The provisions of this section shall survive termination of this Agreement.

14. Nondiscrimination. During the term of this Agreement, Contractor shall not discriminate against any of its employees or applicants for employment because of their race, color, religion, sex, or national origin, and to abide by all Federal and State laws regarding nondiscrimination.

15. Attorneys Fees and Waiver of Jury Trial.

15.1. 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 all appellate levels.

15.2. IN THE EVENT OF ANY LITIGATION ARISING OUT OF THIS AGREEMENT, EACH PARTY HEREBY KNOWINGLY, IRREVOCABLY, VOLUNTARILY AND INTENTIONALLY WAIVES ITS RIGHT TO TRIAL BY JURY.

16. Indemnification.

16.1. Contractor shall indemnify and hold harmless the Town, its officers, agents and employees, from and against any and all demands, claims, losses, suits, liabilities, causes of action, judgment or damages, arising from Contractor's performance or non-performance of any provision of this Agreement, including, but not limited to, liabilities arising from contracts between the Contractor and third parties made pursuant to this Agreement. Contractor shall reimburse the Town for all its expenses including reasonable attorneys' fees and costs incurred in and about the defense of any such claim or investigation and for any judgment or damages arising from Contractor's performance or non-performance of this Agreement.

16.2. Nothing herein is intended to serve as a waiver of sovereign immunity by the Town nor shall anything included herein be construed as consent to be sued by third parties in any matter arising out of this Agreement or any other contract. The Town is subject to section 768.28, Florida Statutes, as may be amended from time to time.

16.3. The provisions of this section shall survive termination of this Agreement.

17. Notices/Authorized Representatives. Any notices required by this Agreement shall be in writing and shall be deemed to have been properly given 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 addresses listed on the signature page of this Agreement or such other address as the party may have designated by proper notice.

18. Governing Law and Venue. This Agreement shall be construed in accordance with and governed by the laws of the State of Florida. Venue for any proceedings arising out of this Agreement shall be proper exclusively in Miami-Dade County, Florida.

19. Entire Agreement/Modification/Amendment.

19.1. This writing contains the entire Agreement of the parties and supersedes any prior oral or written representations. No representations were made or relied upon by either party, other than those that are expressly set forth herein.

19.2. No agent, employee, or other representative of either party is empowered to modify or amend the terms of this Agreement, unless executed with the same formality as this document.

20. Ownership and Access to Records and Audits.

20.1. Contractor acknowledges that all inventions, innovations, improvements, developments, methods, designs, analyses, drawings, reports, compiled information, and all similar or related information (whether patentable or not) which relate to Services to the Town which are conceived, developed or made by Contractor during the term of this Agreement ("Work Product") belong to the Town. Contractor shall promptly disclose such Work Product to the Town and perform all actions reasonably requested by the Town (whether during or after the term of this Agreement) to establish and confirm such ownership (including, without limitation, assignments, powers of attorney and other instruments).

20.2. Contractor agrees to keep and maintain public records in Contractor's possession or control in connection with Contractor's performance under this Agreement. The Town Manager or her designee shall, during the term of this Agreement and for a period of three (3) years from the date of termination of this Agreement, have access to and the right to examine and audit any records of the Contractor involving transactions related to this Agreement. Contractor additionally agrees to comply specifically with the provisions of Section 119.0701,

Florida Statutes. Contractor 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 Agreement, and following completion of the Agreement until the records are transferred to the Town.

- 20.3.** Upon request from the Town's custodian of public records, Contractor shall provide the Town with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided by Chapter 119, Florida Statutes, or as otherwise provided by law.
- 20.4.** Unless otherwise provided by law, any and all records, including but not limited to reports, surveys, and other data and documents provided or created in connection with this Agreement are and shall remain the property of the Town.
- 20.5.** Upon completion of this Agreement or in the event of termination by either party, any and all public records relating to the Agreement in the possession of the Contractor shall be delivered by the Contractor to the Town Manager, at no cost to the Town, within seven (7) days. All such records stored electronically by Contractor shall be delivered to the Town in a format that is compatible with the Town's information technology systems. Once the public records have been delivered upon completion or termination of this Agreement, the Contractor shall destroy any and all duplicate public records that are exempt or confidential and exempt from public records disclosure requirements.
- 20.6.** Any compensation due to Contractor shall be withheld until all records are received as provided herein.
- 20.7.** Contractor's failure or refusal to comply with the provisions of this section shall result in the immediate termination of this Agreement by the Town.
- 20.8.** Notice Pursuant to Section 119.0701(2)(a), Florida Statutes. **IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS.**

Custodian of Records: Sandra McCready, MMC
Mailing address: 9293 Harding Avenue
Surfside, FL 33154
Telephone number: 305-861-4863
Email: smccready@townofsurfsidefl.gov

21. Nonassignability. This Agreement shall not be assignable by Contractor unless such assignment is first approved by the Town Manager. The Town is relying upon the

apparent qualifications and expertise of the Contractor, and such firm's familiarity with the Town's area, circumstances and desires.

- 22. Severability.** If any term or provision of this Agreement shall to any extent be held invalid or unenforceable, the remainder of this Agreement shall not be affected thereby, and each remaining term and provision of this Agreement shall be valid and be enforceable to the fullest extent permitted by law.
- 23. Independent Contractor.** The Contractor and its employees, volunteers and agents shall be and remain an independent contractor and not an agent or employee of the Town with respect to all of the acts and services performed by and under the terms of this Agreement. This Agreement shall not in any way be construed to create a partnership, association or any other kind of joint undertaking, enterprise or venture between the parties.
- 24. Compliance with Laws.** The Contractor shall comply with all applicable laws, ordinances, rules, regulations, and lawful orders of public authorities in carrying out Services under this Agreement, and in particular shall obtain all required permits from all jurisdictional agencies to perform the Services under this Agreement at its own expense.
- 25. Waiver.** The failure of either party to this Agreement to object to or to take affirmative action with respect to any conduct of the other which is in violation of the terms of this Agreement shall not be construed as a waiver of the violation or breach, or of any future violation, breach or wrongful conduct.
- 26. Survival of Provisions.** Any terms or conditions of either this Agreement that require acts beyond the date of the term of the Agreement, shall survive termination of the Agreement, shall remain in full force and effect unless and until the terms or conditions are completed and shall be fully enforceable by either party.
- 27. Prohibition of Contingency Fees.** The Contractor warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the Contractor, to solicit or secure this Agreement, and that it has not paid or agreed to pay any person(s), company, corporation, individual or firm, other than a bona fide employee working solely for the Contractor, any fee, commission, percentage, gift, or any other consideration, contingent upon or resulting from the award or making of this Agreement.
- 28. Public Entity Crimes Affidavit.** Contractor shall comply with Section 287.133, Florida Statutes (Public Entity Crimes Statute), notification of which is hereby incorporated herein by reference, including execution of any required affidavit.
- 29. Counterparts.** 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.

- 30. Conflicts.** In the event of a conflict between the terms of this Agreement and any exhibits or attachments hereto, the terms of this Agreement shall control.
- 31. Boycotts.** The Contractor is not currently engaged in, and will not engage in, a boycott, as defined in Section 3-1.1 of the Town of Surfside Code of Ordinances.
- 32. E-Verify Affidavit.** In accordance with Section 448.095, Florida Statutes, the Town requires all contractors doing business with the Town to register with and use the E-Verify system to verify the work authorization status of all newly hired employees. The Town will not enter into a contract unless each party to the contract registers with and uses the E-Verify system. The contracting entity must provide its proof of enrollment in E-Verify. For instructions on how to provide proof of the contracting entity's participation/enrollment in E-Verify, please visit: <https://www.e-verify.gov/faq/how-do-i-provide-proof-of-my-participation-enrollment-in-e-verify>. By entering into this Agreement, the Contractor acknowledges that it has read Section 448.095, Florida Statutes; will comply with the E-Verify requirements imposed by Section 448.095, Florida Statutes, including but not limited to obtaining E-Verify affidavits from subcontractors; and has executed the required affidavit attached hereto and incorporated herein.
- 33. Background Checks.** Contractor agrees that based upon the Services to be provided, the Agreement is conditioned upon successful completion of current criminal background checks of all staff, including any or all of the following; criminal check, drug screening, credit check, reference check, past employment verification, and proof of education. Contractor shall be responsible for maintaining current background checks on all employees involved in the performance of Services pursuant to this Agreement. Background checks must be performed prior to the performance of any work by the contractor under this Agreement. Written verification of all background checks must be provided to the Town prior to the performance of any work by the contractor under this Agreement. Contractor acknowledges that in the performance of the Services contemplated in this Agreement, Contractor's staff may have contact with children. Accordingly, no employees shall be assigned to work for the Town under this Agreement whose background check reveals behavior which would prohibit such contact. Documentation of required certification and insurance must be provided to the Town prior to commencement of any services by Contractor or staff hired by Contractor.

**[REMAINDER OF PAGE LEFT INTENTIONALLY BLANK.
SIGNATURE PAGE FOLLOWS]**

E-VERIFY AFFIDAVIT

In accordance with Section 448.095, Florida Statutes, the Town requires all contractors doing business with the Town to register with and use the E-Verify system to verify the work authorization status of all newly hired employees. The Town will not enter into a contract unless each party to the contract registers with and uses the E-Verify system.

The contracting entity must provide of its proof of enrollment in E-Verify. For instructions on how to provide proof of the contracting entity’s participation/enrollment in E-Verify, please visit: <https://www.e-verify.gov/faq/how-do-i-provide-proof-of-my-participationenrollment-in-e-verify>

By signing below, the contracting entity acknowledges that it has read Section 448.095, Florida Statutes and will comply with the E-Verify requirements imposed by it, including but not limited to obtaining E-Verify affidavits from subcontractors.

Check here to confirm proof of enrollment in E-Verify has been attached to this Affidavit.

In the presence of:

Signed, sealed and delivered by:

Witness #1 Print Name: _____

Print Name: _____

Witness #2 Print Name: _____

Title: _____

Entity Name: _____

ACKNOWLEDGMENT

State of Florida
County of _____

The foregoing instrument was acknowledged before me by means of physical presence or online notarization, this ____ day of _____, 20__, by _____ (name of person) as _____ (type of authority) for _____ (name of party on behalf of whom instrument is executed).

Notary Public (Print, Stamp, or Type as Commissioned)

- _____
Personally known to me; or
- _____
Produced identification (Type of Identification: _____)
- _____
Did take an oath; or
- _____
Did not take an oath

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed the day and year as first stated above.

TOWN OF SURFSIDE

By: _____
Hector Gomez
Town Manager

Attest:

By: _____
Sandra McCready, MMC
Town Clerk

Approved as to form and legal sufficiency:

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

Addresses for Notice:

Town of Surfside
Attn: Town Manager
9293 Harding Avenue
Surfside, FL 33154
305-861-4863 (telephone)
305-993-5097 (facsimile)
hgomez@townofsurfsidefl.gov (email)

With a copy to:

Weiss Serota Helfman Cole & Bierman, P.L.
Attn: Lillian Arango, Esq.
Town of Surfside Attorney
2800 Ponce de Leon Boulevard, Suite 1200
Coral Gables, FL 33134
larango@wsh-law.com (email)

CONTRACTOR:

SKY ELEMENTS, LLC, a Texas
Limited Liability Company

By: _____

Name: _____

Title: _____

Addresses for Notice:

Sky Elements, LLC
Attention:
7901 4th Street N Suite 300
St. Petersburg, FL 33702

(telephone)

(facsimile)

(email)

With a copy to:

(telephone)
(facsimile)
(email)

EXHIBIT "A"
SCOPE OF SERVICES



Surfside Drone Show Options

Who Is Sky Elements?

Sky Elements is the leading provider of Drone Light Shows in North and South America.

Our drone shows are more than just lights in the sky and are guaranteed to turn heads for miles. With the ability to completely custom-design every aspect of your show, we can turn your vision into reality and bring attention to your event in a truly unique way.

Let us help you tell your story the way it deserves to be told.



What Our Clients Say

“We surprised our guests with a drone show at our Lord Of The Rings red carpet event, and everyone was blown away!” - Amazon Prime Video

“The Drone Show was the best part of the night! Sky Elements made sure to find the best place to line up the show for the perfect shot” - Wynn Las Vegas

“I’ve never seen anything like it” - Oakland A’s

“The Sky Elements team knows how to put on a show. I can’t wait for the next one!” - FC Dallas



How Long is a Drone Show?

Our Drone Shows can fly for up to
12 minutes!

How Long is Setup?

Our setup process is same-day.
We show up **5 hours** before
showtime to setup, test, and
ensure your show is flawless.

What's in a Drone Show?

You can have up to 12 custom
animations throughout your
show. **Each show is custom
tailored** to fit your needs.

What About Weather?

Our drones are designed to
withstand **30+ MPH wind,**
medium to light rain, and any
level of Earthquake!

Can We Sync Music?

Of Course! What isn't better with
music? Sky Elements helps sync
up music so your audience is
completely captivated!

Ask Sky Elements about **Infinite Drone Shows**



How Many Drones

Do I Need?

Ultimately, it's entirely up to you! More drones means more detail so the more you have, the larger and more recognizable your design will be.

With 300 or more drones we can create scannable QR codes, large scale 3D shapes, and just about any logo!

Still not sure? We can help! We have done this before and can work with you to determine how to maximize your budget and impact.

300
Drones →



200
Drones →



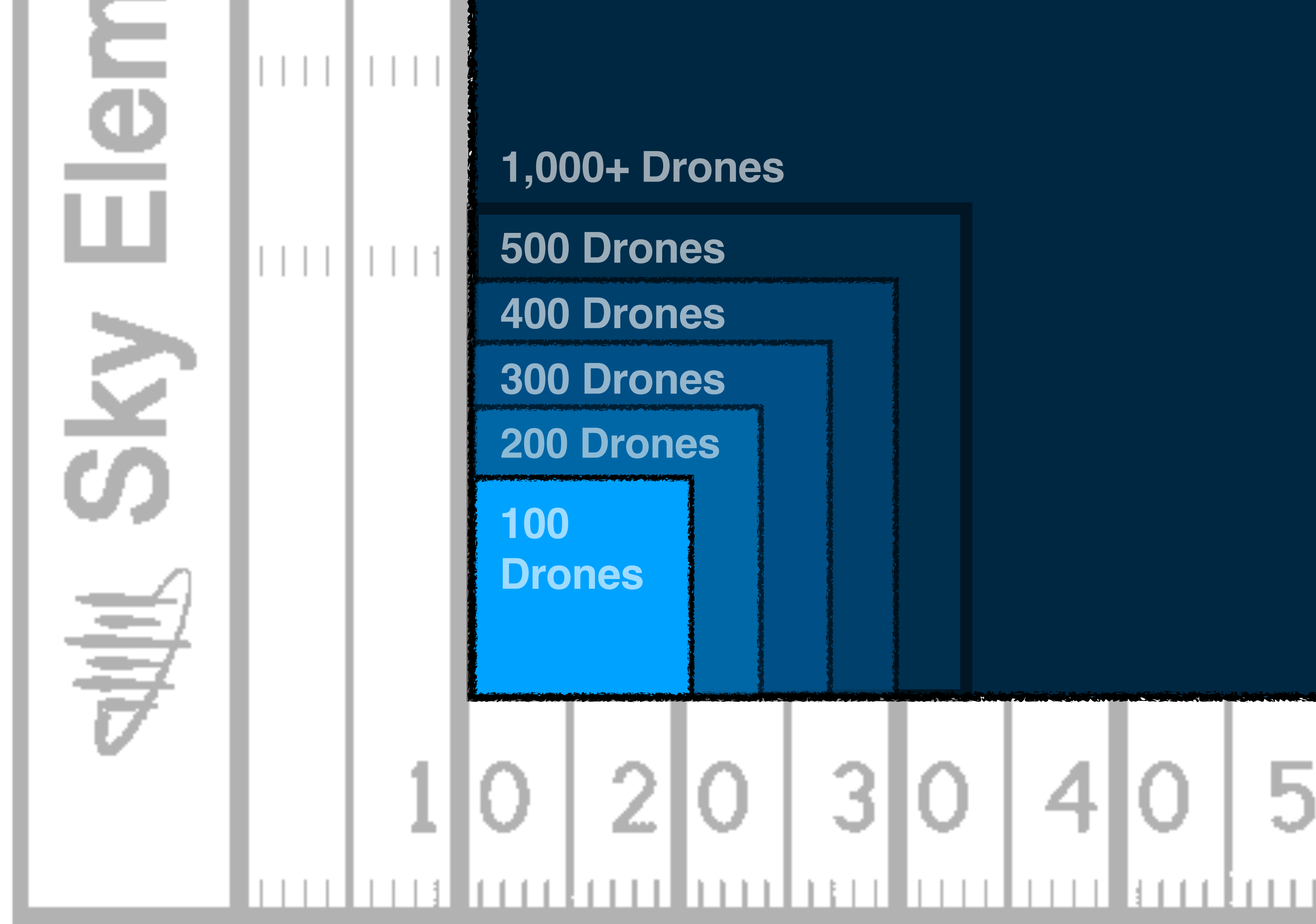
100
Drones →



The Setup

Each drone takes up 1 square meter of space. The more drones we add, the more space we need. For 100 drones we need a 10m x 10m space, roughly 30 x 30 feet.

We arrive about 5 hours prior to the show time. With roughly 5-20 staff depending on the show size. After the show lands our strike time takes about 1 hour.



Drone Show Options

	Good	Better	Best
Option 1	200 Drones	250 Drones	300 Drones
4th Of July Drone Show 1 Year Agreement	\$80,000	\$100,000	\$120,000
Option 2	2024 200 Drones	2025 250 Drones	2026 300 Drones
4th Of July Drone Show 2024, 2025, 2026 Agreement	\$65,000	\$65,000	\$65,000

Included

- Custom Designed Show
- All FAA Permitting
- Travel and Transport
- Drone Show Staffing

Not Included

- Venue Space
- Any Necessary Security



Next Steps

Confirm the Details



Connect with Sky Elements to confirm the amount of drones, and amount of shows necessary for your vision. More drones - higher the resolution!

Complete the contract and initial deposit



Once the amount of drones are confirmed - Schedule a time to speak with our activation team to start contracting, and invoicing. Payment terms are 100% prior to the start of the show.

Start the design process



Connect with our design team to help create the storyboard.

Show Time!



Help finalize details for the show! And watch the night sky tell your story!



Thank you &

We look forward to
working together



[SkyElementsDrones.com](https://www.SkyElementsDrones.com)



MEMORANDUM

ITEM NO. 3J.

To: Honorable Mayor, Vice-Mayor and Members of the Town Commission
From: Hector Gomez, Town Manager
Date: November 14, 2023
Subject: **Community Development Block Grant Urban County Qualification**

Town administration is recommending the Town Commission approve an urban qualification cooperation agreement for the Miami Dade County Community Development Block Grant and home investments partnership program for fiscal year 2024, 2025 and 2026.

CDBG program funds can be used to build community facilities, roads, parks; to repair or rehabilitate housing, to provide new or increased public services to local residents or to fund initiatives that generate or retain new jobs. The projects to be funded through the various programs are classified into four categories:

- Public Facilities and Capital improvements
- Economic Development
- Public Services
- Housing

The Town of Surfside benefits from the Community Development Block Grant and home investments partnership program and the proposed agreement allows the Town to continue to participate for an additional three-year period.

[Resolution - MD County CDBG Program for FY 2024-2026](#)

[Exhibit A - "Town of Surfside Agreement"](#)

1 RESOLUTION NO. 2023-_____

2 A RESOLUTION OF THE TOWN COMMISSION OF THE
3 TOWN OF SURFSIDE, FLORIDA, APPROVING THE
4 TOWN'S ELECTION TO PARTICIPATE AND THE
5 EXECUTION OF THE URBAN QUALIFICATION
6 COOPERATION AGREEMENT FOR THE MIAMI-DADE
7 COUNTY COMMUNITY DEVELOPMENT BLOCK GRANT
8 (CDBG) AND HOME INVESTMENT PARTNERSHIPS
9 PROGRAM FUNDS FOR FISCAL YEARS 2024, 2025, AND
10 2026; AUTHORIZING THE TOWN MANAGER TO
11 EXECUTE THE AGREEMENT; PROVIDING FOR
12 IMPLEMENTATION AND AN EFFECTIVE DATE.

13
14 WHEREAS, the Housing and Community Development Act of 1974 requires that
15 every three (3) years, all urban counties participating in the Community Development
16 Block Grant (CDBG) program, undergo the Department of Housing and Urban
17 Development's (HUD) Urban County Qualification process; and

18 WHEREAS, the process involves counties working with units of general local
19 governments eligible to participate; and

20 WHEREAS, Miami-Dade County (MDC) is currently qualified as an urban county
21 and is scheduled to requalify for the period that begins January 1, 2024, and ends
22 December 31, 2026; and

23 WHEREAS, the Town of Surfside (Town) has the opportunity to join MDC's urban
24 jurisdiction or opt-out; and

25 WHEREAS, the Town desires to opt-in and elects to participate in the MDC CDBG
26 and Home Investment Partnerships Program funds for fiscal years 2024, 2025, and 2026
27 as a participating municipality in MDC's jurisdiction; and

28 WHEREAS, an election to participate requires the execution by the Town of the
29 Urban Qualification Cooperation Agreement for the MDC CDBG and Home Investment

30 Partnership Funds for Fiscal Years 2024, 2025, and 2026 with the MDC (the
31 “Agreement”), in substantially the form attached hereto as Exhibit “A”; and

32 **WHEREAS**, the Town Commission finds that participation in the CDBG programs
33 as a participating municipality in MDC’s jurisdiction and execution of the Agreement, in
34 substantially the form attached hereto as Exhibit “A”, are in the best interests of the Town.

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

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

39 **Section 2. Election to Participate; Authorization.** The Town hereby elects to
40 participate in the CDBG programs as a participating municipality in MDC’s jurisdiction,
41 and the Town Manager is authorized to negotiate and execute the Urban Qualification
42 Cooperation Agreement for the MDC CDBG and Home Investment Partnership Funds for
43 Fiscal Years 2024, 2025, and 2026 with the MDC, in substantially the form attached
44 hereto as Exhibit “A,” subject to the approval by the Town Attorney as to form, content,
45 and legal sufficiency. The Town Manager is further authorized to enter into any
46 subsequent amendments, extensions, renewals, or related documents necessary to
47 implement the Agreement, subject to the approval by the Town Attorney as to form,
48 content, and legal sufficiency.

49 **Section 3. Implementation.** The Town Manager is authorized to take any and
50 all actions necessary to implement the Agreement and the purposes of this Resolution.

51 **Section 4. Effective Date.** This Resolution shall become effective immediately
52 upon adoption.

53 **PASSED AND ADOPTED** on this ____ day of November, 2023.

54 Motion By: _____

55 Second By: _____

56

57 **FINAL VOTE ON ADOPTION:**

58 Commissioner Fred Landsman _____

59 Commissioner Marianne Meisheid _____

60 Commissioner Nelly Velasquez _____

61 Vice Mayor Jeff Rose _____

62 Mayor Shlomo Danzinger _____

63

64

65 _____
Shlomo Danzinger, Mayor

66 Attest:

67

68

69 _____

70 Sandra McCready, MMC

71 Town Clerk

72

73 Approved as to Form and Legal Sufficiency:

74

75 _____

76 Weiss Serota Helfman Cole & Bierman, P.L.

77 Town Attorney

78

79

Resolution Number #__1058-11_____
Awarded Amount \$ _____

**URBAN QUALIFICATION COOPERATION AGREEMENT FOR THE MIAMI-DADE COUNTY
COMMUNITY DEVELOPMENT BLOCK GRANT AND HOME INVESTMENT PARTNERSHIPS
PROGRAM FUNDS FOR FISCAL YEARS 2024, 2025 AND 2026**

**BETWEEN
MIAMI-DADE COUNTY
AND
TOWN OF SURFSIDE**

This Agreement (hereinafter referred to as “Agreement” or “Contract”), by and between Miami-Dade County, a political subdivision of the State of Florida through its Department of Public Housing and Community Development hereinafter referred to as “PHCD” and having its principal offices at 701 N.W. 1st Court, 14th Floor, Miami, Florida 33136, hereinafter referred to as “County”, and TOWN OF SURFSIDE, hereinafter referred to as “City” and having offices at 9293 Harding Avenue, Surfside, Florida, 33154 and telephone number of (305) 259-1234, collectively referred to as the “Parties”, states, conditions and covenants for the participation of City in the Community Development Block Grant, Home Investment Partnerships and Emergency Shelter Grant programs, which are administered by the Department of Housing and Urban Development (“HUD”), as part of the County’s jurisdiction.

WHEREAS, the Home Rule Charter authorizes Miami-Dade County to provide for the uniform health and welfare of the residents throughout the County; and

WHEREAS, the Community Development Block Grant (“CDBG”) Program is authorized by the Housing and Community Development Act of 1974, as amended, with the primary objective of promoting and development of viable urban communities. Program regulations are at 24 CFR Part 570; and

WHEREAS, the Home Investment Partnerships program (“HOME”) is authorized under [Title II of the Cranston-Gonzalez National Affordable Housing Act](#), as amended. Program regulations are at [24 CFR Part 92](#); and

WHEREAS, the Emergency Shelter Grant (“ESG”) program is authorized by the McKinney-Vento Homeless Assistance Act, as amended. Program regulations are at 24 CFR Part 576.

WHEREAS, the CDBG, HOME and ESG programs shall collectively be referred to as the “Federal Funds”; and

WHEREAS, the City desires to participate in the CDBG, HOME and ESG programs as a participating municipality in the County’s jurisdiction; and

WHEREAS, the County is desirous of the City participating in the CDBG, HOME and ESG programs as part of the County’s Entitlement jurisdiction; and

WHEREAS, it is mutually beneficial to each of the Parties hereto for the County to administer and execute the provisions of this Agreement in accordance with the terms and conditions hereinafter provided and subject to local ordinances and state and federal law; and

WHEREAS, the U.S. Department of Housing and Urban Development (HUD) has indicated that the County and City may cooperate as an Urban County Joint Entitlement Recipient in administration of CDBG, HOME and ESG; and

WHEREAS, County and City are required to execute a cooperation agreement, or renew an existing cooperation agreement, for the City's participation in the County's jurisdiction for Federal Funds for each three-year qualification period ("Qualification Period"); and

WHEREAS, the governing bodies of the County and the City have authorized the execution of this Agreement by the Chief Executive Officer of the County and City, respectively; and

WHEREAS, this Agreement shall be accompanied by a legal opinion from the County's counsel that the terms and provisions of this Agreement are fully authorized under State and local law and that the Agreement provides full legal authority for the County; and

WHEREAS, the County intends to further include within the Urban County the City,

NOW, THEREFORE, IT IS AGREED AS FOLLOWS:

1. The City, by executing this Agreement, agrees that:
 - a. City may receive an allocation under the CDBG and HOME Programs through the County's Request for Application Process. If the County does not receive a HOME formula allocation, City cannot form a HOME consortium with other local governments. (Note: this does not preclude the County or the City from applying for State HOME funds if the State allows.); and
 - b. City may not apply for grants from appropriations under the State CDBG Program for the fiscal years City participates in the County's CDBG program; and
 - c. City may receive an allocation under the ESG program only through the County, However, City may apply to the State for ESG funds, if the State allows.
2. This Agreement shall cover the County Qualification Period for Fiscal Years 2024, 2025, and 2026 for which the County is to qualify to receive Federal Funds. This Agreement shall remain in effect until the CDBG (and, where applicable, HOME and ESG) funds and program income received (with respect to activities carried out during the three-year qualification period and any successive qualification periods pursuant to automatic renewal of this Agreement) are expended and the funded activities completed, and the County and the City cannot terminate or withdraw from this Agreement while the Agreement remains in effect.
3. This Agreement may be automatically renewed for successive three-year Qualification periods at the discretion of the County unless the County or the City provides written notice that it elects not to extend City's participation for the new Qualification Period. The City and County agree that a copy of such notice shall be timely sent to the HUD Field Office.
4. By the date specified in the HUD's Urban County Qualification Notice for each Qualification Period, the County will notify the City in writing of its right not to participate. A copy of the County's notification to City shall be sent to the HUD Field Office by the date specified in the Urban County Qualification schedule located in any applicable Urban County Qualification Notice for a Qualification Period.
5. The Parties agree that they will timely execute any amendments to the Agreement necessary to comply with the requirements for cooperation agreements, including those for automatic renewals, set forth in the current Urban County Qualification Notice, attached as Exhibit A, or future urban county qualification notices from HUD for the current or any future Qualification Period. The Parties further agree that any amendment so executed will be timely submitted to HUD as required by the Urban County Qualification CPD Notice 23-02, issued on April 10, 2023 and expiring on April 10, 2024. Failure to comply with the requirements of this section may cause the County to void the automatic renewal for the applicable qualification period.
6. The County and City agree to cooperate to undertake, or assist in undertaking, community renewal and lower-income housing assistance activities.

7. The County and City shall take all actions necessary to assure compliance with the County's certification under section 104(b) of Title I of the Housing and Urban Development Act of 1974, as amended, that the grant will be conducted and administered in conformity with Title VI of the Civil Rights Act of 1964, and the implementing regulations at 24 CFR part 1, and the Fair Housing Act, and the implementing regulations at 24 CFR Part 100, and will affirmatively further fair housing. The County and City shall comply with section 109 of Title I of the Housing and Community Development Act of 1974, and the implementing regulations at 24 CFR part 6, which incorporates Section 504 of the Rehabilitation Act of 1973, and the implementing regulations at 24 CFR part 8, Title II of the Americans with Disabilities Act, and the implementing regulations at 28 CFR part 35, the Age Discrimination Act of 1975, and the implementing regulation at 24 CFR part 146, and Section 3 of the Housing and Urban Development Act of 1968, and other applicable laws. The County and City are obligated to sign the assurances and certifications in HUD-424-B.
8. Under no circumstances shall the Federal Funds be used for activities in, or in support of, any participating municipality, including City, that does not affirmatively further fair housing within its own jurisdiction or that impedes the County's actions to comply with the County's fair housing certification.
9. The City acknowledges that the County has final responsibility and authority for selecting CDBG (and, where applicable, HOME and ESG) activities and submitting the Consolidated Plan to HUD. The City agrees that during the term of this Agreement, the City will fully support the implementation of the County's Consolidated Plan and any amendments.
10. The City affirms that it has adopted and is enforcing:
 - a. A policy prohibiting the use of excessive force by law enforcement agencies within its jurisdiction against any individuals engaged in non-violent civil rights demonstrations; and
 - b. A policy of enforcing applicable State and local laws against physically barring entrance to or exit from a facility or location which is the subject of such non-violent civil rights demonstration within the City.
11. Pursuant to 24 CFR 570.501(b), the City is subject to the same requirements applicable to subrecipients, including the requirement of a written agreement as described in 24 CFR 570.503.
12. The County shall take the final responsibility and assume all the obligation of application for assistance under the provisions of the Housing and Community Development Act of 1974 and subsequent amendments, including the analysis of needs, the setting of objectives, the development of the HUD Consolidated Plan and Action Plans, and any other documents, assurances, or certificates as required by HUD, subject to change in legislation or regulations.
13. Funds for housing and community development activities shall be expended in a manner to reflect the needs of low to moderate-income groups pursuant to the Housing and Community Development Act 1974, as amended.
14. All records of the County or City related to this Agreement and any projects undertaken pursuant thereto shall, upon reasonable notice, be available for inspection by HUD, County and/or City auditors during the normal business hours.
15. This agreement shall be binding upon the Parties hereto and their successors and assigns.
16. The City and the County acknowledge that it may be necessary to dispose of real property that was originally acquired or improved in whole or in part using Federal Funds. The City agrees that it shall notify the County within thirty (30) days regarding any proposed modification or change in the use of real property form that planned at the time of acquisition or improvement, including disposition.

The City acknowledges that federal regulations may require a public hearing or other process prior to modifying, changing the use or disposing of such real property.

17. **Indemnification.** The County shall not assume any liability for the acts, omissions to act or negligence of the City, its agent, servants, or employees; nor shall the City exclude liability for its own acts, omissions to act, or negligence arising out of the City's performance pursuant to this Agreement. The City shall indemnify and hold harmless the County and its officers, employees and agents or instrumentalities from any and all liabilities, losses or damages, agents or of any kind nature arising out of, relating or resulting from performance of this Agreement by the Awardee shall pay all claims and losses in connection therewith and shall investigate and defend all claims, suits or actions of any kind of nature in the name of the County, where applicable, including appellate proceedings, and shall pay all cost, judgments, and attorney's fees which may issue thereon. The City expressly understands and agrees that any insurance protection required by this agreement or otherwise provided by the Awardee shall in no way limit the responsibility to indemnify, keep and save harmless and defend the County or its officers, employees, agents and instrumentalities as herein provided. Nothing herein is indented to serve as a waiver of sovereign immunity by the County nor shall anything herein be construed as consent by the County to be sued by third parties in any matter arising out of this Agreement. The provisions of this section survive the termination or expiration of this Agreement.

18. The County and City agree that neither the County nor the City shall sell, trade, or otherwise transfer all or any such portion of the Federal Funds to another metropolitan city, urban county, unit of general local government, or Indian tribe, or insular area that directly or indirectly receives CDBG funds in exchange for any other funds, credits or non-Federal considerations, but must use such funds for activities eligible under Title I of the Housing and Community Development Act of 1974, as amended.

IN WITNESS THEREOF, the parties hereto have caused this five (5) page contract to be executed by their undersigned officials as duly authorized, this _____ day of _____ 2023.

**AWARDEE:
TOWN OF SURFSIDE**

MIAMI-DADE COUNTY

BY: _____

BY: _____

NAME: _____

NAME: _____

TITLE: Mayor

TITLE: Chief Community Services Officer

DATE: _____

DATE: _____

APPROVED AS TO FORM:

ATTEST:

BY: _____

NAME: Melissa Gallo

Juan Fernandez-Barquin
CLERK OF THE COURT AND COMPTROLLER

TITLE: Assistant County Attorney

BY: _____
DEPUTY CLERK

DATE: _____

Passed, Adopted and approved this _____ day of _____ 2023

ATTEST

BY: _____
(Signature)

TOWN OF SURFSIDE:

Mayor

Type or Print Name
City Clerk

APPROVED AS TO FORM:

BY: _____
City Attorney

AGREEMENT IS NOT VALID UNTIL SIGNED BY ALL PARTIES



MEMORANDUM

ITEM NO. 3K.

To: Honorable Mayor, Vice-Mayor and Members of the Town Commission

From: Hector Gomez, Town Manager

Date: November 14, 2023

Subject: **Approving and Authorizing the Purchase of Four (4) 2023 Police Vehicles and Equipment Budgeted for Fiscal Year 2024**

Town Administration is seeking Town Commission approve to authorize the purchase of the vehicles from Legacy Ford as set forth in the resolution.

The Town of Surfside is seeking to purchase four (4) Ford Explorer Police Interceptor Vehicles under a Georgia Sherriff's Association dealership honoring Florida Sherriff's Association Contract and pricing. Due to a nationwide vehicle shortage and the current closure of all Ford factories due to the United Auto Workers Union strike, it has become increasingly difficult to purchase vehicles at a Florida dealer. In a recent email (Attachment A) on October 17, 2023, a representative from Garber Fleet Sales advised the Surfside Police Department that the Ford Explorer Police Interceptor Vehicles have not been scheduled to be manufactured. We have been able to locate the needed vehicles through a State of Georgia Ford dealership (Legacy Ford of McDonough). Legacy Ford has provided a quote and specifications sheet for four Ford Explorer Police Interceptor vehicles (Exhibit A) consistent with the pricing previously obtained through the FSA23-VEL31.0 (Attachment B).

Note: Legacy Ford is not on the Florida Sheriff's Association Vehicle Purchasing Program for vehicles. We are requesting a waiver from utilizing the Florida Sheriff's Vehicle Purchasing Program due to the fact that the vehicles required are not available.

Breakdown for the cost of the vehicles and equipment is:

Vehicles only - \$206,488 (Exhibit A)

Equipment - \$49,372 (Exhibit B)

6500 Enhanced Mobile Radio - \$7,223.53 (Exhibit C)

The total amount for the four (4) vehicles and equipment is \$263,093.53. The Town Manager is requesting and recommending waiving competitive bidding as the item is an honored price from the Florida Sherriff's Association Bid.

Exhibit A - Legacy Ford - four (4) Police Vehicles

Exhibit B - HG2 Emergency Lighting - Equipment

Exhibit C - One (1) Vehicle radio - Surfside Police Dept. - (1) APX6500 Mobiles_101923

Attachment A - Email Garber Ford

Attachment B - FSA23-VEL31.0

Resolution Approving Purchase of Police Vehicles Lighting And Radio 2023 - Legacy Ford.DOCX



413 Industrial Blvd
McDonough, GA 30253

Cell - 407-274-3967 Office: 770-914-2800

DATE: 10/19/23

BILL TO

Surfside Police Dept

FOR

Florida GPC#15029P - FSA23-VEL31.0

Details

AMOUNT

2023 Ford Police Interceptor Carbonized Grey - QTY: 4 - \$48,422 Options: 3.0L Ecoboost Twin Turbo, Keyless Entry 4 Fobs

\$193,688.00

Ford Extra Care 5 Year 75,000 Qty:4 - \$3,200

\$12,800.00

SUBTOTAL \$206,488.00

TAX RATE 0.00%

OTHER \$0.00

TOTAL \$206,488.00

If you have any questions concerning this invoice, use the following contact information:

Ali Bhojani, 407-274-3967, abhojani@legacyford.com

THANK YOU FOR YOUR BUSINESS!

Approved by: _____

Date: _____

Signature: _____



HG2 Emergency Lighting
 20962 Sheridan St
 Fort Lauderdale, FL 33332 US
 954-639-7212
 ali@hg2lighting.com
 www.hg2lighting.com

Estimate

ADDRESS
Town of Surfside 9293 Harding Ave Surfside, FL 33154 United States

SHIP TO
Town of Surfside 9293 Harding Ave Surfside, FL 33154 United States

ESTIMATE #	DATE
1289	10/19/2023

VEHICLE
 Traffic

VIN#
 2023 Ford PIU

ITEM	DESCRIPTION	QTY	RATE	AMOUNT
Misc	HG2 Blue/Blue Front Visor - HG2FWPIU20-BB	4	1,099.00	4,396.00T
HG22PC62BW	HG2 Blue/Blue 62" Side Runner Kit with Controller - HG22PC62BB	4	699.00	2,796.00T
HG2STB	HG2 4 Corner Strobe LightsWhite - HG2STB	4	600.00	2,400.00T
Misc	Whelen Blue/Blue Grill Lights in Factory Ford Knock Outs - MCRNTB	4	129.00	516.00T
Misc	HG2 Blue/Blue Side Quarter Window Light 3 Light Driver and Passenger side - HG2QTRPNL-BB	4	599.00	2,396.00T
Misc	HG2 6 Head Blue/Blue Grill Light - HG26HLS-BB	4	499.00	1,996.00T
Misc	Activate Factory Wig Wags - WWPIU	4	149.00	596.00T
Misc	HG2 Blue/Blue Rear Visor with Traffic Advisor - HG2RWINTSUV20-BB	4	799.00	3,196.00T
Misc	HG2 Blue/Blue Lower Back Window Lights - HG2DS2BB	4	279.00	1,116.00T
Misc	HG2 Blue/Blue Tag Lights - HG2DS1BB	4	169.00	676.00T
Misc	HG2 Blue/Blue Dash Light - HG2DLBB	4	349.00	1,396.00T
Misc	Taillight Flasher - TLFPIU	4	249.00	996.00T
Misc	Half Prisoner Cage with Window Bar and Door Panel with Plastic Prisoner Seat - JD-475-7163HG2	4	2,732.00	10,928.00T
Misc	Whelen Light and Siren Controller - 295SLSA6	4	525.00	2,100.00T
Misc	HG2 100 Watt Speaker - HG2100WSP	4	199.00	796.00T
Misc	Power Inverter - Samplex 500W	4	169.00	676.00T
Misc	Havis Console with Cup Holder and Arm Rest - HAV-CNPIU-20	4	699.00	2,796.00T
Misc	Havis Laptop Stand - HAV-LTPPIU-20	4	525.00	2,100.00T

ITEM	DESCRIPTION	QTY	RATE	AMOUNT
Misc	Setina Dual Weapon Vault - ST-WV2DWL	4	2,150.00	8,600.00T
Labor	Labor/Installation	4	2,500.00	10,000.00T
Installation-Kit	Installation Kit	4	75.00	300.00T
Discount	Seminole County Sheriff's Office Contract Pricing	4	-2,850.00	-11,400.00T
SUBTOTAL				49,372.00
TAX (0%)				0.00
TOTAL				\$49,372.00

Accepted By

Accepted Date

SURFSIDE POLICE DEPARTMENT

APX 6500 MOBILE RADIOS

OCTOBER 19, 2023



Motorola Solutions, Inc. ("Motorola Solutions") and is submitted with the restriction that it is to be used for evaluation purposes only. To the fullest extent allowed by applicable law, the Information is not to be disclosed publicly or in any manner to anyone other than those required to evaluate the Information without the express written permission of Motorola Solutions.

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SECTION 1

EXECUTIVE SUMMARY

Motorola Solutions, Inc. (Motorola) is pleased to present Surfside Police Department with the following proposal. We thank you for the opportunity to continue working with the Town of Surfside on your communication needs.

This proposal includes APX 6500 Enhanced mobile radios. The rugged and compact design of the evolved APX 6500 mobile radio is designed to maximize the real estate in your vehicle and keep your entire agency safely connected. Now with integrated Wi-Fi, Bluetooth and SmartConnect, the APX 6500 gives you more ways to manage your radio and stay connected. And when your vehicle sustains a high impact, the radio can automatically alert dispatch.

Motorola Solutions values the opportunity to serve the Town of Surfside and the Surfside Police Department by providing world class, mission critical technology solutions. If you have any questions, please contact Josh Trifiletti at 954-736-9056.



SYSTEM DESCRIPTION

2.1 APX 6500 ENHANCED MOBILES

2.1.1 APX 6500 with E5 Control Heads

BEST-IN-CLASS READABILITY

The E5 control head has a bright hi-res display combined with intelligent use of colors to provide all the information you need at-a-glance, day or night.

Flexible Installation

The APX 6500 is ideal for a growing ecosystem of vehicle installations. Its small and lightweight form factor simplifies installation.

Keep Voice and Data Protected

Multiple hardware encryption algorithms secure your voice and data while two-factor authentication ensures only valid radio users can access your system and critical databases.



E5 Control Head

2.2 APX 6500 MOBILE PRICING

2.2.1 6500 Enhanced Mobile Radio

APX6500 Mobiles Radio with E5 Control Head	Qty.
APX6500 Enhanced 7/800 Mobile	1
<i>P25 Trunking Phase 1</i>	-
<i>AES Encryption and ADP</i>	-
<i>OTAR w/ Multikey</i>	-
<i>Keypad Mic GCAI APX</i>	-
<i>Enhancement Level 2.</i>	-
<i>E5 Control Head Remote Mount</i>	-
<i>Essential Warranty – 3 Years</i>	-
<i>Antenna</i>	-
<i>15W Water Resistant Speaker</i>	-
Mobile Installation On-Site	1
	Pricing
MSRP	\$9,553.12
Total Discount	-\$2,329.59
Grand Total	\$7,223.53

Optional Items	Additional Cost
Three Years - Annual Preventative Maintenance for three Mobile Radios	\$222.00

The above pricing is based on the Miami Dade County Contract No. D-10253.

Jose Matelis

From: Todd Brandt <TBrandt@garberautomall.com>
Sent: Tuesday, October 17, 2023 1:36 PM
To: Elinor Joseph
Cc: Antonio Marciante; Jose Matelis
Subject: RE: Surfside PD order 2023

[Some people who received this message don't often get email from tbrandt@garberautomall.com. Learn why this is important at <https://aka.ms/LearnAboutSenderIdentification>]

[NOTICE: This message originated outside of the Town of Surfside -- DO NOT CLICK on links or open attachments unless you are sure the content is safe.]

Elinor,

It was good to speak with you earlier. The Interceptors still have not been scheduled. I was told that we would get every Interceptor on order, either as a 2023 or perhaps rolled over to a 2024 at the same cost, however that was before the strike came into play. As of now, I am not considering any vehicle I have on order that is not already built, to be a sure thing. I am hopeful that the strike gets resolved soon and all the tentative dates will just be move back a little. If not, I am not very hopeful that anything I thought would happen at this point, will happen at all. If you have need to, call me back.

Thank you very much,

Todd Brandt
Garber Fleet Sales
3340 Highway 17
Green Cove Springs, FL 32043
904.509.4747
TBRANDT@GARBERAUTOMALL.COM

-----Original Message-----

From: Elinor Joseph <ejoseph@townofsurfsidefl.gov>
Sent: Monday, October 16, 2023 9:50 AM
To: Todd Brandt <TBrandt@garberautomall.com>
Cc: Antonio Marciante <AMarciante@townofsurfsidefl.gov>; Jose Matelis <jmatelis@townofsurfsidefl.gov>
Subject: Surfside PD order 2023

!

Warning: This email message did not originate from inside the Garber Email System and is from an external sender.

DO NOT CLICK links or attachments or enter user info unless you recognize the sender and are certain the content is safe.

Good morning Todd,

Please email me status of our patrol vehicle order at your earliest convenience.
Let me know if we are guaranteed to get our vehicles this year.
And the estimated time of delivery.

Thank you,
Elinor Joseph

NOTE: Florida Public Records Law provides that most written communications to or from Municipal employees regarding town business are public records, available to the public and media upon request. Therefore, this e-mail message may be subject to public disclosure.

Bid Award

Contract: FSA23-VEL31.0, Pursuit, Administrative, and Other Vehicles

Group: Pursuit Rated & Pursuit Hybrid Vehicles

Item: 197, Ford, Interceptor Utility AWD 3.0L EcoBoost, K8A

Zone	Rank	Vendor	Price	Build File	Options File
Western	Primary	BOZARD FORD	\$48,422.00	Build	Options
	Alternate	Garber Ford Inc	\$48,655.00	Build	Options
Northern	Primary	BOZARD FORD	\$48,422.00	Build	Options
	Alternate	Garber Ford Inc	\$48,453.00	Build	Options
Central	Primary	BOZARD FORD	\$48,422.00	Build	Options
	Alternate	Garber Ford Inc	\$48,554.00	Build	Options
Southern	Primary	BOZARD FORD	\$48,422.00	Build	Options
	Alternate	Garber Ford Inc	\$48,655.00	Build	Options

RESOLUTION NO. 2023-_____

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, APPROVING AND AUTHORIZING THE PURCHASE OF FOUR (4) 2023 FORD POLICE INTERCEPTOR UTILITY VEHICLES TOGETHER WITH EMERGENCY LIGHTING EQUIPMENT AND RADIO EQUIPMENT FOR THE POLICE VEHICLES; WAIVING COMPETITIVE BIDDING FOR THE POLICE VEHICLES PURSUANT TO SECTION 3-12 OF THE TOWN CODE; FINDING THAT THE PURCHASE OF THE EMERGENCY LIGHTING EQUIPMENT AND RADIO EQUIPMENT ARE EXEMPT FROM COMPETITIVE BIDDING PURSUANT TO SECTION 3-13(3) OF THE TOWN CODE; PROVIDING FOR IMPLEMENTATION; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town of Surfside (“Town”) Police Department is in need of four new 2023 Ford Police Interceptor Utility Vehicles (collectively, the “Police Vehicles”) to enhance patrol of the Town for the safety of its residents and visitors and facilitate the provision of day-to-day operations of the Police Department; and

WHEREAS, the Town has historically purchased police vehicles through vehicle purchasing contracts competitively bid the Florida Association of Sheriffs, which most recently competitively awarded Contract No. FSA23-VEL31.0 (“Sheriffs’ Contract”) to various dealers throughout Florida; and

WHEREAS, due to a nationwide vehicle shortage and the current closure of Ford factories due to a union strike, the Police Vehicles are not available for purchase from a Florida dealer under the Sheriffs’ Contract; and

WHEREAS, the Town has been able to locate the Police Vehicles from a State of Georgia dealership, Legacy Ford of McDonough, Inc. (“Legacy Ford”); and

WHEREAS, Legacy Ford has provided the Town with a quote, attached hereto as Exhibit “A,” for the Police Vehicles in the amount of \$206,488.00 (the “Vehicle Purchase”),

consistent with the pricing that would have been afforded through the Sheriffs' Contract; and

WHEREAS, pursuant to Section 3-12 of the Town Code of Ordinances ("Code"), the Town Commission may waive competitive bidding procedures upon the recommendation of the Town Manager that it is in the best interest of the Town to do so in order to obtain goods and services which cannot be acquired through the normal purchasing procedures due to insufficient time, the nature of the goods or services, or other factors; and

WHEREAS, the Town Manager recommends waiving competitive bidding procedures for the Vehicle Purchase as the Police Vehicles are currently needed and it is currently unknown when the Police Vehicles will enter manufacturing due to the strike; and

WHEREAS, the Town Commission desires to waive competitive bidding procedures for the Vehicle Purchase in accordance with the recommendation of the Town Manager and authorize the Vehicle Purchase from Legacy Ford in an amount not to exceed \$206,488.00, consistent with the quote attached hereto as Exhibit "A" and the pricing that would have been afforded under the Sheriffs' Contract; and

WHEREAS, the Town Commission further desires to authorize the purchase and installation of emergency lighting equipment ("Lighting") and radio equipment ("Radio") for the Police Vehicles; and

WHEREAS, the Town Commission finds that the purchase of the Lighting is exempt from competitive bidding under Section 3-13(3) of the Town Code pursuant to a contract awarded by the Seminole County to HG2 Emergency Lighting LLC ("HG2") for

the Lighting through the competitively bid Contract CA No. 2021-02 (“Seminole County Contract”); and

WHEREAS, the Town Commission wishes to authorize the Town Manager to purchase the Lighting for the Police Vehicles at a total cost of \$49,372.00 from HG2, consistent with the quote attached hereto as Exhibit “B” (“Lighting Purchase”); and

WHEREAS, the Town Commission finds that the purchase of the Radio is exempt from competitive bidding under Section 3-13(3) of the Town Code pursuant to the contract awarded by Miami-Dade County to Motorola Solutions, Inc. (“Motorola”) for the Radios through Contract No. D-10253 (the “County Contract”); and

WHEREAS, the Town Commission desires to authorize the Town Manager to purchase one Radio from Motorola at a cost of \$7,223.53, consistent with the quote attached hereto as Exhibit “C” (the “Radio Purchase”); and

WHEREAS, the Town Commission finds that this Resolution is in the best interest and welfare 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-stated recitals are true and correct and are incorporated herein by this reference.

Section 2. Approval and Authorization to Purchase Police Vehicles, Together with Lighting and Radio Equipment. The Town Commission hereby approves and authorizes the Vehicle Purchase from Legacy Ford in the amount of \$206,488.00, consistent with the quote attached hereto as Exhibit “A” and the pricing that would have been afforded under the Sheriffs’ Contract. The Town Commission further approves and

authorizes the Lighting Purchase for the Police Vehicles from HG2 in an amount not to exceed \$49,372.00 in accordance with the quote attached hereto as Exhibit “B” and the Radio Purchase for the Police Vehicles from Motorola in an amount not to exceed \$7,223.53 in accordance with the quote attached hereto as Exhibit C”. The Police Vehicle Purchase, the Lighting Purchase, and the Radio Purchase are for a total collective amount not to exceed \$263,083.53.

Section 3. Waiver of Competitive Bidding. The Town Commission hereby waives the competitive bidding procedures based upon the recommendation of the Town Manager that it is in the best interest of the Town to do so for the Vehicle Purchase pursuant to Section 3-12 of the Town Code.

Section 4. Exemption from Competitive Bidding. The Town Commission hereby finds that the Lighting Purchase utilizing the Seminole County Contract and the Radio Purchase utilizing the County Contract are exempt from competitive bidding pursuant to Section 3-13(3) of the Town Code.

Section 5. Implementation. That the Town Commission hereby authorizes the Town Manager to execute any purchase order or required documentation for the purchases described in this Resolution, subject to approval by the Town Attorney as to form and legality, and to take any action which is reasonably necessary to implement the purpose of this Resolution.

Section 6. Effective Date. This Resolution shall become effective immediately upon its adoption.

PASSED AND ADOPTED this 14th day of November, 2023.

Motion By: _____
Second By: _____

FINAL VOTE ON ADOPTION:

Commissioner Fred Landsman _____
Commissioner Marianne Meisheid _____
Commissioner Nelly Velasquez _____
Vice Mayor Jeffrey Rose _____
Mayor Shlomo Danzinger _____

Shlomo Danzinger, Mayor

ATTEST:

Sandra McCready, MMC
Town Clerk

**APPROVED AS TO FORM AND LEGALITY FOR THE USE
AND BENEFIT OF THE TOWN OF SURFSIDE ONLY:**

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



MEMORANDUM

ITEM NO. 3L.

To: Honorable Mayor, Vice-Mayor and Members of the Town Commission

From: Town Manager Hector Gomez

Date: November 14, 2023

Subject: **Approval to Expend up to \$75,000 for Continued Grant Administration and Project Management Support Services through In Alignment Consulting**

Town Administration is seeking Town Commission approval to expend up to \$75,000 for fiscal year 2024 for In Alignment Consulting services.

The Town entered into a one-year agreement with Consultant, In Alignment Consulting, for grant administration and consulting services, on March 21, 2021. The agreement can be renewed for up to four (4) additional one (1) year terms, not to exceed five (5) years total for the Agreement. Since the Consultant commenced providing grant services to the Town, the Town has been awarded grants from various funding agencies such as FDEM, FDEP, FDOC, and FDOT. Over the past several years, the Town has paid the Consultant on an hourly basis for services rendered. The Consultant's billing overall is just under 2% of the over \$5 million the Consultant has helped bring to the Town through grant writing and related funding requests.

In Alignment Consulting will continue to provide grant consulting services with comprehensive post-award duties to include contract administration support and related project management services as needed. In Alignment provides more hands-on and robust services to assist the Town Administration with its growing grant project portfolio since it currently does not have a Capital Projects Division or Procurement Section. In fact, the Consultant comes onsite to the Town Hall several times a month to provide onsite support as needed.

The services provided by the Consultant to the Town have been of great quality, yielding high results, with a minimal fiscal expenditure. The Consultant has not requested any fee schedule increases for the calendar year. Town administration is seeking Town commission approval to expend up to \$ 75,000 for fiscal year 2024 for In Alignment Consulting services.

[Resolution Approve Second Amendment - In Alignment Consulting - FY 2023 24.DOCX](#)

[Second Amendment to PSA - In Alignment - FY 2023 24.DOCX](#)

RESOLUTION NO. 2023- _____

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, APPROVING A SECOND AMENDMENT TO THE PROFESSIONAL SERVICES AGREEMENT WITH IN ALIGNMENT CONSULTING, LLC FOR GRANT ADMINISTRATION AND CONSULTING SERVICES; AUTHORIZING THE TOWN MANAGER TO EXECUTE THE SECOND AMENDMENT; AUTHORIZING THE EXPENDITURE OF FUNDS FOR FISCAL YEAR 2023/2024; PROVIDING FOR IMPLEMENTATION; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, on March 24, 2021, the Town of Surfside (the “Town”) entered into a Professional Services Agreement (the “Agreement”) with In Alignment Consulting, LLC (the “Consultant”) for grant administration and consulting services (the “Services”), for a one-year term with the option to renew for up to four (4) additional one (1) year terms; and

WHEREAS, on _____, 2023, the Town entered into a First Amendment to the Agreement, providing for a second renewal term and an additional and revised scope of services; and

WHEREAS, the Town desires to renew the Agreement for an additional one (1) year third term, in an amount not to exceed \$75,000 for Fiscal Year 2023/2024; and

WHEREAS, the Town Commission desires to authorize the Town Manager to enter into a Second Amendment to the Agreement (the “Second Amendment”), in substantially the form attached hereto as Exhibit “A,” to provide for renewal of the term and fees in an amount not to exceed \$75,000 for Fiscal Year 2023/2024; and

WHEREAS, the Town Commission finds that the Second Amendment is in the best interest and welfare of the Town and wishes to approve the same in substantially the form attached hereto as Exhibit “A.”

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

Section 1. Recitals. That the above and foregoing recitals are true and correct and are hereby incorporated by reference.

Section 2. Approval; Authorization to Expend Funds. The Second Amendment between the Town and Consultant, in substantially in the form attached hereto as Exhibit "A", is hereby approved. The Town Commission authorizes the Town Manager to execute the Second Amendment, together with such non-substantive changes as may be approved by the Town Manager and Town Attorney for legal sufficiency, and expend funds in an amount not to exceed \$75,000 for Fiscal Year 2023/2024,

Section 3. Implementation. The Town Manager and/or designee are authorized to take any and all action necessary to implement the purposes of this Resolution and the Second Amendment.

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

PASSED AND ADOPTED on this 14th day of November, 2023.

Motion By: _____

Second By: _____

Commissioner Fred Landsman _____
Commissioner Marianne Meisheid _____
Commissioner Nelly Velasquez _____
Vice Mayor Jeffrey Rose _____
Mayor Shlomo Danzinger _____

Shlomo Danzinger, Mayor

ATTEST:

Sandra McCready, 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

SECOND AMENDMENT TO PROFESSIONAL SERVICES AGREEMENT

BETWEEN

TOWN OF SURFSIDE

AND

IN ALIGNMENT CONSULTING, LLC

FOR

THE PROVISION OF GRANTS PRE-AWARD AND POST-AWARD CONSULTING SERVICES FOR THE SCOPE OF SERVICES RELATED TO GRANT FUNDING NEEDS ANALYSIS, RESEARCH, WRITING, AND ADMINISTRATION

THIS SECOND AMENDMENT TO THE AGREEMENT ("Second Amendment") is entered into as of this 1st day April, 2023, by and between the **TOWN OF SURFSIDE, FLORIDA**, a Florida municipal corporation (the "Town"), and **IN ALIGNMENT CONSULTING, LLC**, a Florida limited liability company (the "Consultant").

WHEREAS, on March 24, 2021, the Town entered into a Professional Services Agreement (the "Agreement") with the "Consultant for grant administration and consulting services (the "Services"), for a one-year term with the option to renew for up to four (4) additional one (1) year terms; and

WHEREAS, on _____, 2023, the Town entered into a First Amendment to the Agreement for a second renewal year of the term, and to provide for additional and revised scope of services; and

WHEREAS, the Town wishes to enter into a Second Amendment to the Agreement to renew the term for a third year period, at a cost not to exceed \$75,000 for Fiscal Year 2023/2024, as set forth herein; and

NOW, THEREFORE, for and in consideration of the mutual promises set forth herein, the parties do hereby agree as follows:¹

1. **Recitals Adopted.** The above recitals are true and correct and are incorporated herein by this reference. All initially capitalized terms used but not otherwise defined herein shall have the meaning ascribed thereto in the Agreement.
2. **Term of the Agreement.** The Agreement is renewed for an additional third year term, commencing effective April 1, 2023 through March 31, 2024.
3. **Compensation.** Section 4, "Fee," of the Agreement is hereby amended as follows:

4.1 AMOUNT OF PAYMENT

¹ Coding: ~~Strikethrough words~~ are deletions to the existing words. Underlined words are additions to the existing words.

* * *

Notwithstanding the foregoing, Fees in Fiscal Year 2023/2024 commencing on the Effective Date of this Second Amendment, shall not exceed \$75,000, with each authorization to expend per task or monthly issued by Town Purchasing Order.

4. **Conflict; Amendment Prevails.** In the event of any conflict or ambiguity between the terms and provisions of this Second Amendment and the terms and provisions of the Agreement and First Amendment, the terms and provisions of this Second Amendment shall control.
5. **Agreement Ratified.** Except as otherwise specifically set forth or modified herein, all terms and conditions in the Agreement are hereby ratified and affirmed and shall remain unmodified and in full force and effect in accordance with its terms.

**[REMAINDER OF PAGE LEFT INTENTIONALLY BLANK;
SIGNATURE PAGES FOLLOW]**

IN WITNESS WHEREOF, the parties have executed this Second Amendment as of the date first set forth above.

TOWN:

TOWN OF SURFSIDE, a Florida municipal corporation

By: _____
Hector Gomez, Acting Town Manager

Date Executed: _____

Attest:

Sandra McCready, MMC
Town Clerk

Approved as to Legal Form and
Legal Sufficiency:

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

IN WITNESS WHEREOF, the parties have executed this Second Amendment as of the date first set forth above.

CONSULTANT:

Witnesses:

IN ALIGNMENT CONSULTING LLC, a Florida limited liability company

By: _____

Print Name: _____

Name: _____

Title: _____

Date Executed: _____

Print Name: _____



MEMORANDUM

ITEM NO. 3M.

To: Honorable Mayor, Vice-Mayor and Members of the Town Commission

From: Hector Gomez, Town Manager

Date: November 14, 2023

Subject: **Authorization to Purchase a Takeuchi Track Skid Steer from ALTA Equipment Company through 2023 Florida Sheriff Bid Pricing**

Town administration is seeking Town Commission approval for a purchase of a Takeuchi Track Skid Steer with the purchase being made through ALTA Equipment Company, through the Florida Sheriff's Bid in an amount not to exceed \$80,000.00. The item was approved as part of the 2024 adopted fiscal year budget.

The Public Works Department is a 24 hour and 7 days a week operation which provides town-wide maintenance services and efforts. The efficiency and effectiveness of the Department depends on its equipment being good and functional. With increasing responsibilities on the beach and hardpack areas, the department requires additional equipment to maintain the quality of service expected by residents.

The purchase of the 2023 Takeuchi skid steer will allow for more functionality, especially on the beach and the hardpack. Public Works needs to have the ability to provide continued maintenance and repair to its service area. This new equipment will be utilized throughout Town on many different projects and assist with in-house capacities.

The Takeuchi skid steer will be procured through the Florida Sheriffs Association pricing under Construction Equipment, Loaders, through contract FSA23-EQU21.0: Equipment. The skid steer will be provided through ALTA Equipment Company for a total cost not to exceed \$80,000.00. Refer to **Attachment A - "Equipment Cost and Specifications"** for equipment cost, specifications and proposal. The total cost is \$76,000.00 but the additional \$3,000 will be needed for axillary items such as lights for night-time use.

[Attachment A - Equipment Cost and Specifications](#)

[Resolution Approving Purchase of PW Track Loader from ALT.DOCX](#)



**Quote to the Town of Surfside for a Takeuchi TL12V2-R Compact Track Loader
Pricing from FL Sheriffs Assoc. Bid Line Item #225 Skid Steer Loader
Bid Award Announcement FSA23-EQU21.0**

			LIST PRICE	FSA Bid Selling Price
Standard included in FSA Bid	TL12V2-R	Takeuchi TL12V2-R Compact Track Loader		\$76,000
Standard included in FSA Bid	~	Open Canopy		
Standard included in FSA Bid	~	17.7 Rubber Tracks		
Standard included in FSA Bid	~	Back-up alarm, Top and Rear windows		
Standard included in FSA Bid	~	Automatic fuel bleed system		
Standard included in FSA Bid	~	Pilot operated joystick controls		
Standard included in FSA Bid	~	Universal hydraulic quick attach mounting bracket		
Standard included in FSA Bid	~	Six-way adjustable suspension seat with retractable seatbelt		
Standard included in FSA Bid	~	One and two way auxiliary hydraulics		
Standard included in FSA Bid	~	Electronic engine monitoring system		
Standard included in FSA Bid	~	Electrohydraulic push button controls of auxiliary hydraulic circuit		
Standard included in FSA Bid	~	Proportional slide switch control auxiliary hydraulic circuit		
Standard included in FSA Bid	~	Hydraulic self-leveling bucket		
Standard included in FSA Bid	~	Flat face, pressure releasing Hydraulic Couplers		
Standard included in FSA Bid	~	Standard 14-pin connector with push button control		
Standard included in FSA Bid	~	Dual element air cleaner with standard pre-cleaner		
Standard included in FSA Bid	~	Push button boom float with detent		
Standard included in FSA Bid	BTL1280	80" HD Smooth Dirt Bucket with Bolt On Cutting Edge		
			Total FSA Selling Price for Takeuchi TL12V2-R	\$76,000

Note: FSA Selling Prices for options not shown in Bid is a 5% discount from the manufacturers list price.

Quote Prepared by:

Kevin T. Gray - Alta Construction Equipment Florida Governmental Sales Manager Oct 17, 2023

RESOLUTION NO. 2023- _____

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, APPROVING AND AUTHORIZING THE PURCHASE OF A TAKEUCHI TL12V2-R COMPACT TRACK LOADER AND AUXILIARY ITEMS FROM ALTA CONSTRUCTION EQUIPMENT FLORIDA, LLC; FINDING THAT THE PURCHASE OF THE TRACK LOADER AND AUXILIARY ITEMS ARE EXEMPT FROM COMPETITIVE BIDDING PURSUANT TO SECTION 3-13(7) OF THE TOWN CODE; PROVIDING FOR IMPLEMENTATION; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town of Surfside (“Town”) Public Works Department (the “Department”) is in need of additional equipment to facilitate the provision of maintenance operations Town-wide, including on the beach and hardback areas; and

WHEREAS, Alta Construction Equipment Florida, LLC (the “Vendor”) has provided a quote for the purchase of a Takeuchi TL12V2-R Compact Track Loader (the “Track Loader”) in the amount of \$76,000, attached hereto as Attachment “A” pursuant to the pricing from the Florida Sheriffs Association Contract No. FSA23-EQU21.0 (“Sheriffs’ Contract”), which allows local governments statewide to utilize the Sheriffs’ Contract for their own benefit and pricing; and

WHEREAS, the Town Commission finds that the purchase contemplated by the Town for the Track Loader has already been competitively bid by the Florida Sheriffs Association (“Sheriffs’ Bid”) and is exempt from competitive bidding pursuant to Section 3-13(7)(f) of the Town’s Code (“Code”); and

WHEREAS, the Town Commission seeks to approve the purchase of the Track Loader from the Vendor at a total cost of \$76,000 based on the pricing of the Sheriffs’ Contract pursuant to Section 3-13(7) of the Town’s Code and consistent with the quote

attached hereto as Attachment “A”, and authorize the Town Manager to expend an additional approximate amount of \$3,000 for auxiliary items, for a total amount not to exceed amount of \$80,000; and

WHEREAS, the Town Commission finds this Resolution to be 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 and foregoing recitals are true and correct and are hereby incorporated by reference.

Section 2. Approval and Authorization. The Town Commission hereby approves and authorizes the purchase of the Track Loader from the Vendor in an amount not to exceed \$76,000, based on the pricing of the Sheriffs’ Contract pursuant to Section 3-13(7) of the Town’s Code and consistent with the quote attached hereto as Attachment “A,” and further authorizes the Town Manager to expend an approximate amount of \$3,000 for auxiliary items, for a total amount not to exceed amount of \$80,000.

Section 3. Exemption from Competitive Bidding. The Town Commission hereby finds that the purchase of the Track Loader utilizing the Sheriffs’ Contract is exempt from competitive bidding pursuant to Section 3-13(7) of the Town Code.

Section 4. Implementation. The Town Commission hereby authorizes the Town Manager to execute any purchase order or required documentation for the purchase described in this Resolution, subject to approval by the Town Attorney as to form and legality, and to take any action which is reasonably necessary to implement the purpose of this Resolution.

Section 5. Effective Date. This Resolution will become effective upon adoption.

PASSED AND ADOPTED on this ____ day of November, 2023.

Motion By: _____

Second By: _____

Commissioner Fred Landsman _____
Commissioner Marianne Meisheid _____
Commissioner Nelly Velasquez _____
Vice Mayor Jeffrey Rose _____
Mayor Shlomo Danzinger _____

Shlomo Danzinger, Mayor

ATTEST:

Sandra McCready, 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



MEMORANDUM

ITEM NO. 3N.

To: Honorable Mayor, Vice-Mayor and Members of the Town Commission

From: Hector Gomez, Town Manager

Date: November 14, 2023

Subject: **Approving and Authorizing the Purchase of Nine (9) Motorola Police Radios for the Parking Enforcement Officers**

To approve the purchase of the nine (9) Motorola Police Radios for the Parking Enforcement Officers. The item was budgeted as part of the 2024 adopted fiscal year budget.

The Surfside Police Department is seeking to purchase nine (9) handheld radios from Motorola for \$81,230.00 dollars (Attachment A - Quote from Motorola), to support the operation, maintenance, and modernization of the Surfside Police Department's, Parking Enforcement Department, radio system. The Town of Surfside will be Piggybacking on the Miami-Dade County Contract. The quote includes the radios with battery, extra batteries, radio holsters, radio chargers, Bluetooth microphones and the programming. Phase one of the project was to replace the police department radios and phase two is to replace the parking section. The new model handheld radios will allow for the latest security protocols, address mandated technical standards, and achieve communications standards that enable effective and secure interoperability with local, county and state communications systems. The present handheld radios that are being utilized by the parking enforcement officers are at their end of life and are no longer being manufactured. The manufacturer no longer makes replacement parts for the radios either.

The purchase is being made directly from Motorola and not a third-party distributor.

[Resolution Approving Purchase of Handheld Radios - Motorola - County Contract.DOCX](#)

[Exhibit A - Piggyback Agreement - Motorola Solutions - Handheld Radios for Parking Enforcement - 2023.DOCX](#)

[Exhibit B - \(9\) Motorola Radios - QUOTE](#)

RESOLUTION NO. 2023-_____

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, APPROVING THE PURCHASE OF HANDHELD RADIOS FROM MOTOROLA SOLUTIONS, INC. FOR THE TOWN'S POLICE DEPARTMENT; FINDING THAT THE PURCHASE IS EXEMPT FROM COMPETITIVE BIDDING PURSUANT TO SECTION 3-13(3) OF THE TOWN CODE; PROVIDING FOR AUTHORIZATION; PROVIDING FOR IMPLEMENTATION; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town of Surfside (the "Town") Police Department is in need of secure, interoperable, and reliable radio communications equipment for the Town's Parking Enforcement Officers; and

WHEREAS, pursuant to Resolution No. R-682-22, Miami-Dade County entered into Contract No. D-10253 (the "County Contract") for the purchase of certain equipment from Motorola Solutions, Inc. ("Motorola"), including the purchase of APX NEXT Single Band Model 4.5 Radios (the "Handheld Radios"), and

WHEREAS, Motorola has agreed to extend the pricing, terms, and conditions of the County Contract to the Town for the Handheld Radios; and

WHEREAS, Section 3-13(3) of the Town Code of Ordinances (the "Town Code") provides that purchases made under state general service administration contracts, federal, county or other governmental contracts or competitive bids with other governmental agencies are exempt from the competitive bidding procedures of the Town Code (the "Code"); and

WHEREAS, the Town Commission desires to enter into an agreement with Motorola, in substantially the form attached hereto as Exhibit "A," for the purchase of nine (9) Handheld Radios in the amount of \$81,230.00, consistent with the quote attached hereto as Exhibit "B" and the terms, conditions and pricing of the County Contract; and

WHEREAS, the Town Commission finds that the purchase of the Handheld Radios under the County Contract is exempt from competitive bidding pursuant to Section 3-13(3) of the Code; 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. The above-stated recitals are true and correct and are incorporated herein by this reference.

Section 2. Approval of Agreement for Purchase of Handheld Radios and Services. The Town Commission hereby approves the Agreement with Motorola for the purchase of the Handheld Radios.

Section 3. Authorization to Execute Agreement. The Town Manager is hereby authorized to execute the Agreement, in substantially the form attached hereto as Exhibit "A," with Motorola on behalf of the Town in an amount not to exceed \$81,230.00, consistent with the quote attached hereto as Exhibit "B" and the terms, conditions, and pricing of the County Contract.

Section 4. Exemption from Competitive Bidding. Pursuant to Section 3-13(3) of the Town's Code, the Town Commission finds that the purchase of the Handheld Radios and the Services is exempt from competitive bidding.

Section 5. Implementation. The Town Manager and Town Officials are hereby authorized to take any and all actions which are necessary to implement the purchase of the Handheld Radios and the purposes of this Resolution

Section 6. Effective Date. This Resolution shall become effective immediately

upon adoption.

PASSED AND ADOPTED this 14th day of November, 2023.

Motion By: _____

Second By: _____

FINAL VOTE ON ADOPTION:

Commissioner Fred Landsman _____

Commissioner Marianne Meisheid _____

Commissioner Nelly Velasquez _____

Vice Mayor Jeffrey Rose _____

Mayor Shlomo Danzinger _____

Shlomo Danzinger, Mayor

ATTEST:

Sandra McCready, MMC
Town Clerk

**APPROVED AS TO FORM AND LEGALITY FOR THE USE
AND BENEFIT OF THE TOWN OF SURFSIDE ONLY:**

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

**PROFESSIONAL SERVICES AGREEMENT
BETWEEN
THE TOWN OF SURFSIDE
AND
MOTOROLA SOLUTIONS, INC.**

THIS AGREEMENT (this “Agreement”) is made effective as of the _____ day of _____, 2023 (the “Effective Date”), by and between the **TOWN OF SURFSIDE, FLORIDA**, a Florida municipal corporation, (the “Town”), and **MOTOROLA SOLUTIONS, INC.**, a Delaware for-profit corporation authorized to do business in Florida (hereinafter, the “Contractor”). Collectively, the Town and the Contractor are referred to as the “Parties.”

WHEREAS, the Town is in need of secure, interoperable, and reliable radio communications equipment for the Town’s Parking Enforcement Officers; and

WHEREAS, pursuant to Resolution No. R-682-22, Miami-Dade County entered into Contract No. D-10253 (the “County Contract”) for the purchase of certain radio equipment and related accessories and services from Motorola Solutions, Inc. (“Contractor”); and

WHEREAS, pursuant to the terms, conditions, and rates of the County Contract, the Town desires to purchase nine APX NEXT Single Band Model 4.5 Radios (the “Handheld Radios”) in the amount of 81,230.00; and

WHEREAS, the Parties wish to incorporate the terms and conditions of the County Contract in this Agreement, except as otherwise modified or amended herein; and

WHEREAS, Section 3-13(3) of the Town Code of Ordinances provides that purchases made under state service administration contracts, federal, county or other governmental contracts, competitive bids with other governmental agencies or through cooperative purchasing are exempt from competitive bidding; and

WHEREAS, pursuant to Section 3-13(3) of the Town Code, the Town desires to engage the Contractor to implement the Project and provide the deliverables as specified below.

NOW, THEREFORE, in consideration of the mutual covenants and conditions contained herein, the Town and the Contractor agree as follows:

- 1. Incorporation of Contract.** The terms and conditions of the County Contract are incorporated as though fully set forth herein. Except as otherwise specifically set forth or modified herein, all terms in the County Contract are hereby ratified and affirmed and shall remain unmodified and in full force and effect in accordance with its terms.

2. **Conflicts; Order of Priority.** This document without exhibits is referred to as the "Agreement." In the event of a conflict between the terms of this Agreement and any exhibits or attachments hereto, or any documents incorporated herein by reference, the conflict shall be resolved in the following order of priorities and the more stringent criteria for performance of the Services shall apply:
 - A. First Priority: Agreement;
 - B. Second Priority: E-Verify Affidavit;
 - C. Third Priority: Exhibit A – County Contract.
 - D. Fourth Priority: Exhibit B – Motorola Solutions, Inc. Quote
3. **Defined Terms.** All initial capitalized terms used in this Agreement shall have the same meaning as set forth in the County Contract unless otherwise provided in this Agreement. All references to Miami-Dade County shall be replaced with the Town of Surfside where applicable.
4. **Counterparts.** 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.
5. **Compensation.** Compensation to the Contractor for the purchase of the Handheld Radios shall be in an amount not to exceed \$81,230.00, in accordance with the rates of the County Contract attached hereto as Exhibit "A" and the Motorola Quote attached hereto as Exhibit "B."
6. **Ownership and Access to Records and Audits.**

Notice Pursuant to Section 119.0701(2)(a), Florida Statutes. IF THE CONSULTANT HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONSULTANT'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS.

Custodian of Records:	Sandra McCreedy, MMC
Mailing address:	9293 Harding Avenue
	Surfside, FL 33154
Telephone number:	305-861-4863
Email:	smccreedy@townofsurfsidefl.gov

7. **Notices/Authorized Representatives.** Any notices required by this Agreement shall be in writing and shall be deemed to have been properly given 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 addresses listed on the signature page of this Agreement or such other address as the party may have designated by proper notice.

8. **E-Verify Affidavit.** In accordance with Section 448.095, Florida Statutes, the Town requires all contractors doing business with the Town to register with and use the E- Verify system to verify the work authorization status of all newly hired employees. The Town will not enter into a contract unless each party to the contract registers with and uses the E-Verify system. The contracting entity must provide of its proof of enrollment in E-Verify. For instructions on how to provide proof of the contracting entity's participation/enrollment in E-Verify, please visit: <https://www.e-verify.gov/faq/how-do-i-provide-proof-of-my-participationenrollment-in-e-verify>. By entering into this Agreement, the Contractor acknowledges that it has read Section 448.095, Florida Statutes; will comply with the E-Verify requirements imposed by Section 448.095, Florida Statutes, including but not limited to obtaining E-Verify affidavits from subcontractors; and has executed the required affidavit attached hereto and incorporated herein.

**[Remainder of page intentionally left blank.
Signature pages follow.]**

EXHIBIT "A"

Miami-Dade County
Contract No. D-10253

A copy of the County Contract No. D-10253 is on file with the Town Clerk of Surfside.

EXHIBIT "B"

MOTOROLA SOLUTIONS, INC. QUOTE

E-VERIFY AFFIDAVIT

In accordance with Section 448.095, Florida Statutes, the Town of Surfside requires all contractors doing business with the Town to register with and use the E-Verify system to verify the work authorization status of all newly hired employees. The Town will not enter into a contract unless each party to the contract registers with and uses the E-Verify system.

The contracting entity must provide of its proof of enrollment in E-Verify. For instructions on how to provide proof of the contracting entity’s participation/enrollment in E-Verify, please visit: <https://www.e-verify.gov/faq/how-do-i-provide-proof-of-my-participationenrollment-in-e-verify>

By signing below, the contracting entity acknowledges that it has read Section 448.095, Florida Statutes and will comply with the E-Verify requirements imposed by it, including but not limited to obtaining E-Verify affidavits from subcontractors.

Check here to confirm proof of enrollment in E-Verify has been attached to this Affidavit.

In the presence of:

Signed, sealed and delivered by:

Witness #1 Print Name: _____

Print Name: _____

Witness #2 Print Name: _____

Title: _____

Entity Name: _____

ACKNOWLEDGMENT

State of Florida
County of _____

The foregoing instrument was acknowledged before me by means of physical presence or online notarization, this ____ day of _____, 20__, by _____ (name of person) as _____ (type of authority) for _____ (name of party on behalf of whom instrument is executed).

Notary Public (Print, Stamp, or Type as Commissioned)

- _____
Personally known to me; or
- _____
Produced identification (Type of Identification: _____)
- _____
Did take an oath; or
- _____
Did not take an oath

Billing Address:
SURFSIDE, CITY OF
9293 HARDING AVE
SURFSIDE, FL 33154
US

Shipping Address:
SURFSIDE, CITY OF
9293 HARDING AVE
SURFSIDE, FL 33154
US

Quote Date:10/19/2023
Expiration Date:12/18/2023
Quote Created By:
Denise Contreras
dcontreras@emciwireless.com

End Customer:
SURFSIDE, TOWN OF
Antonio Marciante
Amarciante@townofsurfsidefl.gov
954-945-6039

Contract: 37223 - MIAMI DADE COUNTY,
FL

Line #	Item Number	Description	Qty	Term	List Price	Sale Price	Ext. Sale Price
1	H45TGT9PW8AN	APX NEXT SINGLE BAND MODEL 4.5 PORTABLE*	9		\$10,443.96	\$6,133.56	\$55,202.04
2	SSV01P01406A	SMARTCONNECT PROMO+	9	1 YEAR	\$75.00	\$75.00	\$675.00
3	SSV01P01476A	SMARTLOCATE PROMO+	9	1 YEAR	\$75.00	\$75.00	\$675.00
4	SSV01P01902A	SMARTMAPPING PROMO+	9	1 YEAR	\$75.00	\$75.00	\$675.00
5	SSV01P01685B	ELIGIBLE FOR PROMO - CC AWARE STARTER+	9	1 YEAR	\$0.00	\$0.00	\$0.00
6	LSV01S03447A	APX NEXT DMS ESSENTIAL W ACC DMG	9	2 YEARS	\$300.72	\$300.72	\$2,706.48
7	PSV01S02944A	PROVISIONING SUPPORT*	1		\$0.00	\$0.00	\$0.00
8	SSV01P01407B	SMARTPROGRAMMING PROMO+	9	1 YEAR	\$75.00	\$75.00	\$675.00
9	LSV01P03092A	RADIOCENTRAL PROGRAMMING PROMO	9	1 YEAR	\$32.04	\$32.04	\$288.36
10	NNTN9216A	BATTERY PACK,IMPRES GEN2, LIION,IP68, 4400T	9		\$248.05	\$148.83	\$1,339.47
11	SSV01S01407A	SMARTPROGRAMMING	9	1 YEAR	\$75.00	\$75.00	\$675.00



Any sales transaction following Motorola's quote is based on and subject to the terms and conditions of the valid and executed written contract between Customer and Motorola (the "Underlying Agreement") that authorizes Customer to purchase equipment and/or services or license software (collectively "Products"). If no Underlying Agreement exists between Motorola and Customer, then Motorola's Standard Terms of Use and Motorola's Standard Terms and Conditions of Sales and Supply shall govern the purchase of the Products.
Motorola Solutions, Inc.: 500 West Monroe, United States - 60661 ~ #: 36-1115800

Line #	Item Number	Description	Qty	Term	List Price	Sale Price	Ext. Sale Price
12	SSV01S01406A	SMARTCONNECT	9	1 YEAR	\$75.00	\$75.00	\$675.00
13	SSV01S01476A	SMARTLOCATE	9	1 YEAR	\$75.00	\$75.00	\$675.00
14	SSV01S01907A	SMARTMAPPING	9	1 YEAR	\$75.00	\$75.00	\$675.00
15	NNTN9199A	IMPRES 2 SUC, 3.0A, 120VAC, TYPE A PLUG, NA	9		\$169.56	\$101.74	\$915.66
16	PMMN4158A	WIRELESS BT REMOTE SPEAKER MICROPHONE, WM800 WIRELESS RSM WITH BATTERY	36		\$563.00	\$337.80	\$12,160.80
17	PMNN4846A	BATTERY PACK,BATT LIION UL DIV2 IP68 2150T	36		\$79.00	\$47.40	\$1,706.40
18	PMPN4653A	CHGR DESKTOP DUAL UNIT EXT PS NA	36		\$73.00	\$43.80	\$1,576.80
19	Incentive	Expiration Date: 12/31/2023	1		-\$66.01	-\$66.01	-\$66.01
Subtotal							\$131,888.97
Total Discount Amount							\$50,658.97
Grand Total							\$81,230.00(USD)

Notes:

- Additional information is required for one or more items on the quote for an order.
- + Promotional pricing for 1 year Application Service trial.



Motorola's quote (Quote Number: _____ Dated: _____) is based on and subject to the terms and conditions of the valid and executed written contract between Customer and Motorola (the "Underlying Agreement") that authorizes Customer to purchase equipment and/or services or license software (collectively "Products"). If no Underlying Agreement exists between Motorola and Customer, then the following Motorola's Standard Terms of use and Purchase Terms and Conditions govern the purchase of the Products which is found at <http://www.motorolasolutions.com/msi/omterms>.

The Parties hereby enter into this Agreement as of the Effective Date.

Motorola Solutions, Inc.

Customer

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

- Unless otherwise noted, this quote excludes sales tax or other applicable taxes (such as Goods and Services Tax, sales tax, Value Added Tax and other taxes of a similar nature). Any tax the customer is subject to will be added to invoices.





MEMORANDUM

ITEM NO. 30.

To: Honorable Mayor, Vice-Mayor and Members of the Town Commission

From: Hector Gomez, Town Manager

Date: November 14, 2023

Subject: **Banking Extension Agreement with Truist Bank for Treasury Banking Services**

Town Administration recommends approval of the resolution authorizing execution of the attached agreement with Truist Bank for Town banking services.

The Town currently utilizes Truist Bank, previously Suntrust Bank, to provide various banking services including treasury management, depository services, check, ACH, and wire payments, and payroll services (Attachment B). The Town began its banking services relationship on November 1, 1958. The Town of Surfside, Finance Department, wishes to extend the banking services agreement with Truist Bank, effective November 1, 2023, for twelve (12) month term through November 30, 2024 with four (4) additional one year (1-year) auto renewal until November 30, 2028, under the same terms and conditions. The existing contract was based on the competitive procurement and award by Polk State College (FL) pursuant to RFP 2018-01 and subsequent extension with Polk State College (Attachment A) under the same term and conditions.

The Administration recommends approval of the banking services agreement between the Town of Surfside and Truist Bank, based on the terms, conditions and prices of the Polk State College RFP 2018-01 and subsequent extension with Polk State College (Attachment A), under the same term and conditions.

[Attachment A - Polk State College Contract Extension 2023 Executed](#)

[Attachment B - Suntrust Treasury Management Existing Agreement - 2019](#)

[Resolution Approving Banking Extension Agreement with Truist Bank - Banking Services.DOCX](#)



May 24, 2023

Cindy Baker
Chief Financial Officer
Polk State College
9999 Avenue H NE
Winter Haven, Florida 33881

RE: Banking Extension Agreement between Polk State College ("the College") and Truist Bank ("Truist") effective June 1, 2023.

Dear Ms. Baker:

Thank you for continuing to choose Truist for your deposit and treasury services. We appreciate the opportunity to maintain a meaningful partnership with you over the coming years. Truist Bank (the "Bank") is pleased to offer the College (the "College") an extension to the banking services contract between the College and Truist Bank, effective June 1, 2023, for a twelve(12) month term through May 31, 2024 with four(4) additional one year (1-year) auto renewals until May 31, 2028., under the same terms and conditions.

The pricing detailed in the attached pro forma and glossary includes the service description and unit cost of the services. Your Account Analysis statement will show the actual volumes and associated charges from use of the services, in addition to other charges for services utilized that may have been previously disclosed. Changes to treasury services fees are applied to the entire month in which they are effective. Treasury services fees will be debited as one lump sum the month after transactions occur and will appear on your bank statement as Service Charges – Prior Period. Account Analysis statements are available by mail or electronic delivery methods.

We appreciate the years of shared business . We look forward to our continued relationship, as we strive to provide innovative solutions for the College in this ever changing business and economic landscape.

Brian S. Orth
Senior Vice President, Government Banking

Accepted and agreed to this 9th
day of June, 2023.

By: 
Name: Dr. Angela Garcia Falconetti
Title: President

Attached:
Pricing Proforma
Pricing Proforma Glossary



Treasury Management Terms and Conditions

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General Terms and Conditions for All Services

1. **Introduction.** Throughout these terms and conditions, SunTrust Bank is referred to as “we,” “us,” “our,” or “the bank”. The various treasury management services described in these treasury management terms and conditions are referred to as the “services”. The master agreement (defined below), these treasury management terms and conditions, and the other documents defined below are together referred to as the “agreement”. The entity using our services is referred to as “client”, “customer”, “you” or “your”. Each individual identified in any resolution or other similar document that we accept from you who is authorized to enter into agreements such as the master agreement on your behalf is referred to as your “authorized signer”. Each authorized signer is also authorized to give us instructions related to the services. The agreement is a legally binding contract that can only be changed by the means specified in it. By accepting services from us you agree that you are bound to the terms and conditions of the agreement.

2. **Organization of Agreement.** The agreement is made up of the documents described below. If there is any inconsistency on a particular issue among the documents that make up the agreement, the documents will control that issue in the order set forth from top to bottom below.

The documents and their purposes are as follows.

(a) **Treasury Management Terms and Conditions.** These treasury management terms and conditions contain the general terms and conditions applicable to all services and the specific terms and conditions that apply to each individual service. The most recent version of these treasury management terms and conditions is always posted on the following website: www.suntrust.com/treasuryterms. By accepting services from us you are charged with notice of them and, at all times while you are receiving services, you agree that you are bound by the then current content posted on the website, subject to your right to receive notice of changes to it as specified in Section 3 of these general terms and conditions below. If there is ever a conflict between the terms in this general terms and conditions section and those stated in any specific service, the terms in the specific terms and conditions section shall control.

(b) **The Master Agreement.** The master agreement describes the structure of the agreement and sets forth some of the basic contractual provisions relating to use of the services.

(c) **Ancillary Implementation Agreements.** Certain services can pose higher risks to you and to the bank and lead to disputes between you and us. Therefore we may, in our discretion, require that your authorized signers confirm a request to receive such services and the operational details related to such request by executing an Ancillary Implementation Agreement (“AIA”). Examples of AIAs include AIAs relating to funds transfer (“wire”) and Automated Clearing House (“ACH”) services. Any required AIA will be provided at the time we implement a service that requires one. We will not implement the relevant service until the required AIA is executed and returned to us by one of your authorized signers.

(d) **Service Confirmations.** A service confirmation is a document that is sent to your authorized signer(s) during the implementation process. It memorializes instructions you have given us regarding our implementation of a service for you, such as the account(s) linked to that service, the authorized users for that service, and the options you have selected for that service. Not all services you request will result in the transmission of a service confirmation to you at the time the service is implemented, but when a service confirmation is generated it will be sent by e-mail. The facts and details we provide in each service confirmation are deemed accurate as of the time you commence using the applicable service and at all times thereafter unless you notify us of any discrepancies or inaccuracies before you begin using the service. A service confirmation may also be sent when we modify or add a service at your request where your request reflects a change to instructions that were reflected on a prior service confirmation (or on an exhibit to a service schedule, a service profile, or other document previously used to record such instructions).

(e) **Online Services and Software Materials.** Where software is used in connection with a service, we grant you a nonexclusive, nontransferable, limited license or sublicense to use such software solely in connection with and while receiving that service. A separate license agreement (in the form of a “shrink wrap” or “click wrap” agreement with us or a third party vendor) may be required and there may also be a user manual for the software or

certain online services. The software and those other items constitute “software materials”. Any license agreement, online terms, and/or user manual sets forth the terms and conditions relating to use of those online services and software materials as well as important instructions and requirements for their use.

(f) Implementation/Setup Forms. An implementation/setup form is a document used by the bank to capture additional information and instructions you may give us with respect to a particular service, such as the billing account for the service, contact information and information reporting preferences specified by you. These forms are not sent to you to review. However, absent a finding of material error on the part of the bank in creating such forms in the ordinary course of providing the services to you, the content of such forms will be deemed accurate and correct.

(g) Deposit Rules and Regulations. The rules and regulations for deposit accounts that you maintain with us set forth certain general provisions relating to the establishment, maintenance and operation of your deposit accounts. The rules and regulations shall continue to apply to and govern the terms of your deposit accounts.

(h) The Delegation of Authority. Use of a delegation of authority is optional. By using one, your authorized signers give other individuals within your company (“delegates”) certain authority with respect to all the services you receive or some sub-set of those services as specified in the delegation of authority. If a delegation of authority is used, a delegate has the authority conferred by such delegation for such services until that authority is revoked by one of your authorized signers. Such delegated powers include the power to receive and respond to service confirmations, execute AIAs when required, and to otherwise provide us instructions in the same manner as an authorized signer. Such powers are subject to the same conditions as stated herein when the bank interacts with an authorized signer in matters related to AIAs, service confirmations, new services, modifications to existing services or removal of services.

3. Amendments to Agreements. We may add to, change or delete provisions in the master agreement, these general terms and conditions, or terms and conditions for any individual service in our discretion. We will attempt to give an authorized signer at least 30 calendar days’ prior notice of these changes. It is your obligation to maintain up-to-date contact information with us at all times. If you continue to use a service after any modification becomes effective, you are bound by such modification. If a modification is required by applicable law, clearing house rules or funds transfer system rules, or if we believe the change is necessary to preserve the security or integrity of the systems that we use in providing any service, or to protect the bank or you from risk of immediate, significant loss, we may give you (and all customers impacted by that change) notice of the modification promptly after we make it. In such case, you are bound by the modification as of the date you receive notice of it unless you terminate your use of the relevant service(s) within a reasonable period of time after you receive our notice. We may modify the terms of the software materials or the deposit rules and regulations by following the procedures set forth in those documents.

4. New Services. When we implement a new service for you, we may create an AIA or a service confirmation for that new service. As noted in the definition of an AIA, if the service requires an AIA, you may not use that service until you have executed and returned the AIA. However, any service confirmation we send will be deemed accurate and correct as of the time you begin using the service. You do not need to contact us when you receive the service confirmation unless you notice errors in it, in which case you must notify us of such errors before you begin using the service. For any new service, you must also successfully complete any testing or training we may require for that service. If you attempt to use a new service without satisfying one or more of these conditions, we may refuse to provide that service. However, if we do provide it before you have satisfied all required conditions, you agree to be bound by the terms of the agreement relating to that service including the general terms and conditions, the terms and conditions for that new service, and the specifications stated in any service confirmation that you did not dispute prior to your use of the new service.

5. Modifications to Existing Services and Changes to Your Setup. If we agree to change our implementation of a service for you in response to your instructions and those instructions are of the type that were reflected on a prior service confirmation (or on an exhibit to a service schedule, a service profile, or other document previously used to record such instructions) at the time of initial implementation of the service, we may send or otherwise make a new service confirmation reflecting those instructions available to you. If the change impacts information that should be captured on an AIA, we will send a new AIA to your authorized signer, and the change will not take effect until an authorized signer has executed and returned the new AIA to us. You must also successfully complete any required testing or training for the change. We may, in our discretion, accept written instructions we deem acceptable as

sufficient record from an authorized signer to memorialize the request to remove a service or make a change to a service. At our election and in our discretion, we may accept telephonic instructions for changes to a service or removal of service from an authorized signer on a recorded line. However, we may, in our discretion, refuse to accept letters, e-mails or other forms of communications containing requests to change prior instructions or remove services if we deem the information provided in such communications to be insufficient, or we question the source of any such information or the authority of the individual making the request, or for any other reason that we, in good faith, believe will protect you or us from a significant loss.

6. **Electronic Records and Signatures.** You consent to the use of electronic records and signatures with respect to your use of the services. In addition, you agree that, when you receive a service confirmation as an attachment to an e-mail message, (a) you will be deemed to have confirmed that the content of that service confirmation is correct if we do not receive a prompt response informing us of any inaccuracy in the service confirmation, and (b) you will be deemed to have accepted the service in conformity with the implementation details specified in that service confirmation, including any account numbers listed therein and any persons listed therein who are identified as having authority to use the specified services and access the relevant accounts. It is your responsibility to provide us accurate e-mail contact information for your authorized signers and to notify us of any changes to that information so that we can communicate important information to them.

7. **Overdrafts.** We may delay and/or refuse to process an item, transaction or instruction that exceeds the amount of funds in the relevant account or would reduce the balance in the account below any required minimum. If we do decide to process, you must reimburse us for such overdraft and any interest and fees resulting from such overdraft.

8. **Security Procedures.** Our security procedures are designed to verify the authenticity of instructions we receive and to control access to information and services. They are not designed to detect errors in the content of instructions or information transmitted to us. You will be bound by, and we may rely and act upon, all instructions accepted by us in good faith in compliance with the applicable security procedures, whether or not you or one of your authorized users actually gave us those instructions. The security procedures may require, among other things, the use of PINs, user IDs, passwords, test keys, algorithms or other codes, all of which are referred to as "authorization codes." **You are responsible for controlling access to and maintaining the confidentiality of the details related to the security procedures and authorization codes you receive from us (or our suppliers, vendors and agents) and you must promptly report any suspected breach of that confidentiality or compromise of any security procedure or authorization code to us as soon as you become aware of it.** For certain services you must designate someone to act as the "security administrator" for the service. You are also responsible for the actions of your security administrators, authorized users, employees and agents who have been provided an authorization code, and the actions of any other person who obtains access to your authorization codes directly or indirectly from those security administrators, authorized users, employees and agents. **By accepting a service you agree that the security procedures associated with it are commercially reasonable for you. If you believe such procedures are inadequate, you may immediately terminate your use of any service.** You agree to comply with additional security that may be implemented by us for a particular service from time to time. We are authorized to accept instructions that use the security procedures or authorization codes assigned to you and to execute transactions and provide information until you provide written notice to terminate such authorization code or security procedure and we have had a reasonable amount of time to act upon such notice. If you have concerns about any security procedure associated with any service, we invite you and your designated security administrator to discuss that concern with us.

9. **Authorized Signers.** We may act upon any oral or written instruction that we in good faith believe has come from an authorized signer including any instruction sent by telephone call, facsimile, e-mail, text message, instant message, or other electronic method. We may accept such instruction without such authorized signer providing us an authorization code unless the service in question specifically requires that we receive an authorization code. Each authorized signer is deemed to have authority to act alone on your behalf unless the specific service in question requires that more than one person act on your behalf to use the relevant service or issue the relevant instruction under that service using so-called "dual control". **Where any service affords the opportunity for such dual control we encourage all customers to take advantage of such added security.** At our option, we may require written confirmation of all instructions that are given orally or by facsimile.

10. Authorized Persons. If you have executed a Delegation of Authority, the individual or job title listed in any Delegation of Authority we have on file has authority to give us instructions, access information and use services on your behalf as specified therein to the same degree as any authorized signer. In addition, each person who is given access to one of our services at the request of an authorized signer or a delegate, or is given access to it by one of your assigned security administrators is deemed to have authority to act alone on your behalf unless the specific service in question requires that more than one person act on your behalf to use the relevant service or issue the relevant instruction under that service using so-called "dual control". These authorized persons may also be referred to as "authorized representatives", "authorized users", "contacts" or similar terms in these general terms and conditions and/or the terms and conditions for particular services. **Where any service affords the opportunity for such dual control we encourage all customers to take advantage of such added security.** At our option, we may require written confirmation of all instructions that are given orally or by facsimile.

11. Authorization Codes. If you use a service that requires authorization codes, any person who possesses a valid authorization code and uses it to give us instructions or execute transactions will be deemed to have authority to do so and to access information and use services authorized by that code, even if he or she is not otherwise designated an authorized signer, authorized representative, security administrator, authorized user, contact, authorized person, delegate or other similar term by you or by us. We are authorized to accept that code until you notify us to terminate it and we have had a reasonable time to act upon that notice.

12. Instructions from Third Parties. You may also authorize third party processors and other agents to give us instructions, access information and use services on your behalf. We are authorized to follow such instructions until we receive written notice that a person's authority or authorization code has been terminated, and we have had a reasonable time to act upon that notice.

13. Our Online Services and Software Materials.

(a) Use of Online Services. Each Internet address, portal or application through which we make any service available to you by computer or mobile device shall be deemed an "online service". The features of each online service are specified in the documentation for such online service and may vary depending on the underlying service. You agree to provide us with all information we request to enable us to activate your use of any online service. Some of the online services have specific formatting and other technical requirements. You agree to comply with the then current requirements for each online service when using it and to allow us to test and approve your implementation of any online service before you begin using it. Each online service shall also be deemed a "service" under this agreement. If you access any of the services specified herein through SunTrust SunView (our portal for access to multiple services), you must execute an ancillary implementation agreement, which governs SunTrust SunView access, within which you must designate a SunTrust SunView Company Security Administrator (SSCSA).

(b) Restrictions on Use. You may not transfer or assign any of your rights with respect to any online service, any license or any software materials. You may not provide access to any online service or software materials to any third party or use any online service or software materials in any "service bureau", "time-sharing", "outsourcing" or similar arrangement, or use the online services or software materials in any manner that is not expressly permitted by the agreement. Finally, you may not take any action or engage in any conduct that violates our rights or those of our vendors with respect to the online services.

(c) Proprietary Rights. We or our vendors retain all ownership and other rights in the online services and software materials and in any related trade secrets, copyrights and other intellectual property rights. In addition, you acknowledge that the online services and software materials contain confidential information that belongs to us or to our vendors. You will not disclose or otherwise make such information available to any person other than your employees or agents who need to use the online services or software materials in order for you to use the services. You must require your agents to agree to comply with the restrictions on use in the agreement. You and your agents must use the same care to keep the online services and software materials confidential that you would use with respect to your own respective confidential information and the care a reasonable person in similar circumstances would employ. These obligations of confidentiality shall continue after termination of the agreement and your use of the services for as long such information is considered confidential by us or is subject to the protection of applicable law. You agree that we may pursue any remedy available at law or in equity to protect the ownership and intellectual

property rights specified, to preserve confidentiality, and to ensure proper use of the online services where required, including any injunctive relief we deem necessary.

(d) Your Accounts at Other Institutions. Some of our online services can access information about your accounts at other financial institutions. In order to take advantage of this functionality, you must give written instructions to those financial institutions to make information regarding those accounts available to us. We are not responsible for any inaccuracies in any information provided by other financial institution(s) or for any errors or delays in any of our services caused by other financial institutions.

(e) Disclaimer of Warranties. We make no representations or warranties of any kind (i) that the operation of any online service or software materials will be uninterrupted, error free or free from program limitations, (ii) that the online services or software materials are free of defects, (iii) that the online services, the servers that make them available or the software materials are free of viruses, disabling devices or other harmful components, or (iv) that any information or reports that are transmitted over the Internet, a wireless network, or sent by e-mail or other electronic method will remain confidential or remain accurate and unaltered when and as received by you. **To the maximum extent permitted by law, we also disclaim all representations and warranties of any kind, whether express, implied or statutory, in connection with any of the services, software materials or other equipment we may provide to you including implied warranties of merchantability, fitness for a particular purpose, title and non-infringement.**

14. Your Equipment, Communications Capabilities and Software. Several of the services require that you have adequate equipment, communications capabilities and software (collectively, "technology") in order to use the service. You are responsible for providing and maintaining any technology necessary to use a service. It is your responsibility to ensure that the technology remains compatible with our processing environment. We have no responsibility if your technology is defective or does not remain compatible with ours, even if you have told us what technology you intend to use or we have previously approved its use or it was previously compatible.

15. Fraud Detection/Deterrence. Payment system fraud has increased dramatically in recent years due to a number of factors. From time to time, we may recommend certain services to you that are designed to detect and/or deter payment system fraud. While no product or service will be completely effective, we believe that such services will reduce the likelihood that certain types of fraudulent transactions will occur. Therefore, you agree that if you fail to implement any of these services which are recommended to you after you suffer a loss of the kind these products are designed to prevent (or if we have specifically recommended to you in writing that you adopt such products or services even before you have suffered such loss), you will be precluded from asserting any claims against us with respect to any future losses for any unauthorized, altered, counterfeit or other fraudulent transactions that may occur that such service was designed to detect or deter. In addition, we will not be required to re-credit your accounts or otherwise have any liability for such transactions as long as we have otherwise satisfied our duty of care with respect to the other aspects of such event.

16. Fees and Taxes. You will pay us all fees that we disclose to you for any of the services that you use. We may change fees or add new fees for services from time to time and will generally provide you at least 30 days' notice of such change. If you continue to use the service after the change becomes effective, you agree to pay the new fees. In addition, you agree to pay any taxes other than taxes based on our net income relating to services you use. You also agree to pay any out-of-pocket expenses we incur in performing services requested by you, including any communication, access, transmission and data processing charges. We may collect any such fees, taxes, expenses, or debt owed by you or incurred by us on your behalf by debiting your accounts for amounts owed, offsetting such amounts against any earnings credits earned by you on your deposit accounts, or other applicable method allowed by law. We reserve the right to charge interest on any amounts that are not paid within 30 calendar days of the due date. We will apply all debits, earnings credits and payments first to unpaid interest and then to fees, taxes, expenses and debts owed by you (including overdrafts) in the order in which they were incurred. If you fail to pay any amount that you owe us under this agreement, we have the option to immediately cancel or suspend the performance of any further services without prior notice, but no such cancellation shall cancel or suspend your obligation to pay the amount owed.

17. Term, Termination. Unless a shorter period of notice is provided in the terms and conditions for a specific service, the agreement will continue in effect until either you or we give 30 calendar days' prior written notice of

termination to the other party. Any such termination may be for the entire agreement or for a particular service. In addition, we may immediately terminate or suspend any service or terminate the agreement in its entirety and without giving prior notice if (a) you are in material breach of this agreement or of any other agreement between you and the bank or any affiliate of the bank, (b) any representation or warranty you make to us fails to be true and correct in any material respect when made or deemed made, (c) we believe in good faith that there has been a material adverse change in your financial condition, (d) you make a general assignment for the benefit of creditors or become a debtor in any bankruptcy or other insolvency or liquidation proceeding, (e) we determine that changes in applicable laws, regulations, clearing house rules or funds transfer system rules have made it impracticable for us to continue to perform services for you (or other customers) under the agreement generally or with respect to a particular service, (f) we suspect there has been a breach in the confidentiality of a security procedure or authorization code or we suspect an account or service is being used for, or is the target of, fraudulent or illegal activity, or (g) providing the service might cause us to violate applicable law. All provisions relating to your indemnification obligations, your obligations to pay debts owed to us, your obligations concerning confidentiality, and limitations on our liability will continue to apply and survive termination of the service or the agreement. You will also continue to be liable for any obligations that you incurred prior to the termination of the agreement or any service.

18. Our Right to Refuse to Provide Services or to Suspend or Delay Transactions. We may in our good faith discretion refuse to provide one or more services, delay execution of transactions, suspend your access to one or more services or accounts, or, based upon the severity or frequency of the issue presented, terminate your ability to receive any or all services entirely if: (a) an item, transaction or instruction does not comply with the provisions of the agreement relating to that particular service, is not complete, correct, current, or timely or is greater in frequency or number than is permitted for the relevant account or service, is for an amount that is less than the minimum or greater than the maximum amount permitted, relates to an account that has been closed, or exceeds the amount of funds in the relevant account or would reduce the balance of such funds below any required minimum; (b) we believe in good faith that any instruction is not genuine, conflicts with another instruction, or relates to funds or an account over which there is a dispute or a restriction on withdrawal; (c) we believe there has been a breach of a security procedure or loss of an authorization code or we believe that an account or service is being used for, or may be the target of, fraudulent or illegal activity; (d) performing the service might cause us to violate applicable law or be perceived by regulatory and enforcement authorities as facilitating the violation of a law; or (e) performing the service might otherwise expose us to liability or to financial losses related to performing the service either for you specifically or for all customers who receive that service.

19. Your Representations and Warranties. Each time you use a service or execute any transaction available through it, you represent and warrant to us that (a) you are duly organized, validly existing and, where applicable, in good standing under the laws of your state of organization, (b) you have full power and authority to carry on your business and to enter into and perform your obligations under the agreement, (c) you have taken all actions necessary to enter into and perform your obligations under the agreement, (d) all information and other authorizations we have accepted from you are true, accurate and complete in all material respects, (e) you are neither bankrupt nor insolvent nor have you made an assignment for the benefit of creditors or sought the protection of any bankruptcy, insolvency or liquidation proceeding, nor do you have the present intention to do so, (f) you have not commenced any dissolution proceedings and no governmental authority having jurisdiction over you has served a notice of its intent to suspend or revoke your operations, (g) the agreement does not violate any law or regulation applicable to you, or violate any agreement with any other person or entity to which you are a party, and (h) the services are used for a business or commercial purpose. You also make the representations and warranties that are set forth in the terms and conditions for any specific service each time you use that service. You agree to immediately notify us if any representation or warranty you make to us is no longer true or soon will be untrue. Notwithstanding the foregoing, if you are a public company you are not required by the previous sentence to disclose material non-public information to us and no employee of the bank is authorized to ask for such information.

20. Liability and Indemnification. You agree to promptly examine upon receipt each written or electronic confirmation, "alert notice", report, periodic statement, or other notice or document related to any service we provide, or any transaction executed through that service, and to notify us promptly of any error, omission or other discrepancy. In the event you notify us more than thirty (30) days after receipt of any such notice or documentation, you will be barred from asserting any right or making any claim to recover any losses resulting from such discrepancies or errors against us, including loss of interest relating to funds transfers. Nothing in the preceding sentence shall suggest that the bank shall in any way be liable for any losses you may incur prior to the time you notify the bank of any error,

omission or any discrepancy. Rather, the thirty day period of time is simply the timeframe beyond which you will be barred from making any claim. Whether the bank shall bear any liability for your losses during any portion of the thirty day period shall be determined by applicable law — to the extent not altered by other provisions of the agreement where allowed by law --- and the facts of a given situation. You also agree to take reasonable actions to limit any loss or damage to you even if you believe we may have caused that damage, and you agree to promptly give us written proof of any claimed losses or damages and to cooperate with us in investigating any claimed loss or damage. If we and you cannot reach an informal resolution to any claimed loss and you choose to pursue formal legal action against us for such loss, you agree to bring any such claim, action or proceeding against us with respect to such claim or loss within one year of the date the claim or cause of action arose. In that regard, if the error, omission or discrepancy is a repetitive one, all such errors, omissions or discrepancies will be deemed to have been discovered on the date the first such error, omission or discrepancy occurred. The above time bars are shorter than the time you would otherwise have at law to bring an action against us or to dispute errors, but these time frames can substantially reduce the risk and size of any potential loss to us and to you and are a material inducement to us to agree to provide services to you. We agree that you will not be liable to us (other than your obligations for the payment of fees, charges and other amounts previously accrued and currently due under this agreement) with respect to any error, delay or failure to perform caused by: (i) fire, flood, natural disaster, strike, civil unrest, terrorism, failure of computer or communications facilities that you do not control, (ii) the acts or omissions of any third party including any Federal Reserve Bank, clearing house or funds transfer system or (iii) any other circumstance beyond your reasonable control, or with respect to matters you have not specifically assumed responsibility for under the agreement. We also agree that any of your internal policies or procedures are for your sole benefit and that they were not developed specifically for us or for our protection and therefore shall not impose any higher standard of care or duty to us upon you than otherwise would apply in their absence. **Finally, we agree that, to the extent permitted by applicable law, you will not be liable to us for any indirect, incidental, consequential, special, punitive or exemplary losses or damages (including lost profits, loss of data, business interruption or delay, time, savings, property or goodwill), regardless of the form of our claim or legal action even if you knew such losses or damages were possible or likely.**

21. Our Duty of Care. You agree that we are not acting as a fiduciary for you or for your benefit. When we deliver services by automated means, you agree that delivery by such means is commercially reasonable and that we will be deemed to have exercised ordinary care in performing them when such services are operated as designed and we have substantially complied with our standard operating procedures for such services. You also agree that a clerical error or an occasional or unintentional deviation by us from such procedures, alone, will not be deemed to constitute a failure on our part to exercise ordinary care or constitute a breach of the agreement by us. You also agree that we will not be liable to you with respect to any error, delay or failure to perform caused by: (i) fire, flood, natural disaster, strike, civil unrest, terrorism, failure of computer or communications facilities that we do not control, (ii) the acts or omissions of any third party including any Federal Reserve Bank, clearing house or funds transfer system or (iii) any other circumstance beyond our reasonable control, or with respect to matters we have not specifically assumed responsibility for under the agreement. Finally, you also agree that any internal SunTrust policies or procedures are for the sole benefit of SunTrust and that they were not developed specifically for you or for your protection and therefore shall not impose any higher standard of care or duty to you upon us than otherwise would apply in their absence.

22. Limits on Our Liability. You agree that, to the extent permitted by applicable law and unless otherwise stated herein, our liability to you under this agreement will be limited to direct monetary losses or damages you incur as a result of our gross negligence or willful misconduct in providing the services, provided that in no event will such liability to you exceed the fees you have paid us for our services in the preceding 12 month period. Notwithstanding the foregoing or any terms in the agreement to the contrary, if our failure to exercise ordinary care results in an unauthorized Payment Order, or in any delay in executing, improper execution of, or failure to execute a Payment Order, as defined in Article 4A of the Uniform Commercial Code of Georgia (or Article 4A of the state whose law is applicable to this agreement) (the "UCC"), our liability shall be limited to the amount equal to interest losses attributable to such failure and to our obligation to otherwise correctly debit your account for such Payment Order or restore funds to such account from any unauthorized Payment Order or incorrect debit we initiated to the extent required by the UCC and the terms of the agreement. You also agree that, to the extent allowed by law, any amount we may owe you will be reduced to the extent any losses you suffer are the result of any failure or any breach by you of your obligations under the agreement, including any failure by you to mitigate your damages or take the other steps noted above that might help to limit your or our exposure to damages. If we reimburse you for any losses or damages,

you agree to transfer all of your rights relating to the transactions in question to us and to assist us in any efforts or legal actions that we may take to recover those amounts from any third party. Our liability hereunder for interest losses will be calculated by using a rate equal to the daily Federal Funds rate published by the Federal Reserve Bank of New York. **You agree that, to the extent permitted by applicable law, we will not be liable to you for any indirect, incidental, consequential, special, punitive or exemplary losses or damages (including lost profits, loss of data, business interruption or delay, time, savings, property or goodwill), regardless of the form of your claim or legal action even if we knew such losses or damages were possible or likely.**

23. Your Indemnification Obligations. You agree to indemnify and hold us and our affiliates harmless from and against all losses, liabilities, claims, damages, demands, fines (including those imposed by any Federal Reserve Bank, clearing house or funds transfer system), judgments, disputes, costs, charges and expenses including litigation expenses, other costs of investigation or defense, and reasonable attorneys' fees (collectively, "losses") arising out of or relating to this agreement (including losses that may be asserted by you or losses that may be asserted by any third-party) that are caused by (i) your failure to comply with any of the provisions of the agreement, (ii) the failure of any of the representations or warranties you make to be true and correct in all respects, or (iii) our performance of the services in conformity with the requirements of this agreement and any instructions you give us including instructions received using security procedures or authorization codes assigned to you, and instructions or information reflected on any ancillary implementation agreement, service confirmation or implementation form. Your duty to indemnify the bank shall be reduced by the extent to which the bank (or any employee of the bank or any supplier, vendor or subcontractor of the bank) has been negligent or has engaged in willful misconduct but only to the extent such negligence or willful misconduct contributed to any losses.

24. Intentionally Deleted

25. Arbitration. Any Claim (defined below) that you and we cannot settle without resort to formal dispute resolution shall, subject to certain conditions and exceptions for Excluded Claims stated below in this arbitration agreement, be submitted to mandatory arbitration if arbitration is demanded by you or by us. Any arbitration will be decided by an arbitrator or panel of arbitrators and shall, subject to rights of appeal stated below in this arbitration agreement, be binding on you and us. Neither you nor we will have the right to have a court or a jury decide the Claim, engage in information-gathering (discovery) to the same extent as in court, participate in a class action in court or in arbitration, or join or consolidate a Claim with claims of any other person. No arbitrator shall have authority to conduct any arbitration in violation of the foregoing provisions or others stated in this arbitration agreement.

(a) **Claims Subject to Arbitration.** A "Claim" subject to arbitration is any claim, dispute or controversy between you and us (other than an Excluded Claim or Proceeding as set forth below), whether preexisting, present or future, which arises out of or relates to these terms and conditions, the services or any transaction conducted with us in connection with these terms and conditions or the services.

(b) **Special Definition of "We," "Us" and "Our."** Solely for purposes of this arbitration agreement, the terms "we," "us" and "our," in addition to the meanings set forth in these terms and conditions, also refer to SunTrust's employees, officers, directors, parents, controlling persons, subsidiaries, affiliates, successors and assigns. "We," "us" and "our" also apply to third parties if you assert a Claim against such third parties in connection with a Claim you assert against us.

(c) **Excluded Claim or Proceeding.** Notwithstanding the foregoing, "Claim" does not include any dispute or controversy about the validity, enforceability, coverage or scope of this arbitration agreement or any part thereof (including, without limitation, the Class Action Waiver set forth below and/or this sentence); all such disputes or controversies are for a court and not an arbitrator to decide and shall be Excluded Claims. However, any dispute or controversy that concerns the validity or enforceability of this agreement as a whole is for the arbitrator, not a court, to decide and shall not be an Excluded Claim. In addition, the following claims or proceedings shall be considered Excluded Claims and will not be subject to this arbitration agreement: (1) any individual action brought by you or us in small claims court or your state's equivalent court, unless such action is transferred, removed, or appealed to a different court; (2) the exercising of any self-help rights; (3) any individual action in court by one party that is limited to preventing the other party from using a self-help remedy and that does not involve a request for damages or monetary relief of any kind; or (4) any action brought by you or us to ascertain or otherwise preserve intellectual property rights or seek redress for impairment of intellectual property rights such as patent, copyright, trademark or trade secret. The institution and/or maintenance of any such right, action or litigation shall not constitute a waiver of

the right of either of the parties to compel arbitration regarding any other dispute subject to arbitration pursuant to this arbitration agreement. Moreover, this arbitration agreement will not apply to any Claims that are the subject of (a) a class action filed in court that is pending as of the effective date of this arbitration agreement in which you are alleged to be a member of the putative class (however, you and we will continue to be bound by any prior version of this arbitration agreement) or (b) a motion to compel arbitration filed by us against you before the effective date of this arbitration agreement pursuant to a prior version of this arbitration agreement (however, you and we will continue to be bound by any prior version of this arbitration agreement).

(d) Federal Arbitration Act. Notwithstanding any choice of law or other provision in these terms and conditions, the parties agree and acknowledge that these terms and conditions evidence one or more transactions involving interstate commerce and that the Federal Arbitration Act (Title 9 of the United States Code) ("FAA") shall govern its interpretation and enforcement and proceedings pursuant thereto. To the extent state law is applicable under the FAA, the law of the state governing these terms and conditions shall apply.

(e) Class Action Waiver. Notwithstanding any other provision of these terms and conditions, if either you or we elect to arbitrate a Claim, neither you nor we will have the right: (a) to participate in a class action, private attorney general action or other representative action in court or in arbitration, either as a class representative or class member; or (b) to join or consolidate Claims with claims of any other persons. No arbitrator shall have authority to conduct any arbitration in violation of this provision. (Provided, however, that the Class Action Waiver does not apply to any lawsuit or administrative proceeding filed against us by a state or federal government agency even when such agency is seeking relief on behalf of a class of borrowers including you. This means that we will not have the right to compel arbitration of any claim brought by such an agency). The parties to these terms and conditions acknowledge that the Class Action Waiver is material and essential to the arbitration of any disputes between the parties and is nonseverable from this arbitration agreement. If the Class Action Waiver is limited, voided or found unenforceable as to any Claim(s), then the parties' arbitration agreement (except for this sentence) shall be null and void with respect to such Claim(s) (but not as to any other Claim(s) that have been or are later brought), subject to the right to appeal the limitation or invalidation of the Class Action Waiver. The parties acknowledge and agree that under no circumstances will a class action be arbitrated.

(f) Arbitration Procedures. The party requesting arbitration must notify the other party in writing. This notice can be given after the beginning of a lawsuit and can be given in papers filed in the lawsuit. Otherwise, if sent by you, the notice must be sent to SunTrust Bank Legal Department, Attn: General Counsel- Arbitration Election, Mail Code 0643, 303 Peachtree Street, N.E., 36th Floor, Atlanta, Georgia 30308, and our notice must be sent to the most recent address for you in our files. Any arbitration hearing that you attend must take place in a venue reasonably convenient to you. If a party files a lawsuit in court asserting Claim(s) that are subject to arbitration and the other party requests arbitration, it will be the responsibility of the party prosecuting the Claim(s) in court to withdraw the lawsuit and to commence the arbitration proceeding with an arbitration administrator in accordance with this arbitration agreement and the administrator's rules and procedures. The arbitration will be administered by JAMS, 1920 Main Street, Suite 300, Irvine, CA 92614, www.jamsadr.com, 800.352.5267. The rules and forms of JAMS may be obtained by writing to JAMS at the address listed above or visiting their website. If JAMS is unable or unwilling to serve as administrator, the parties may agree upon another administrator or, if they are unable to agree, a court shall determine the administrator. No company may serve as administrator, without the consent of all parties, if it adopts or has in place any formal or informal policy that is inconsistent with and purports to override the terms of this arbitration agreement. The arbitration will proceed in accordance with this arbitration agreement and the administrator's rules and procedures including any expedited procedures but in the event of a conflict, the provisions of this arbitration agreement shall control. A single arbitrator will be appointed by the administrator and, unless you and us agree otherwise, must be a practicing attorney with ten or more years of relevant experience or a retired judge. The arbitrator will not be bound by judicial rules of procedure and evidence that would apply in a court, nor by state or local laws that relate to arbitration provisions or proceedings. The arbitrator will honor and enforce statutes of limitation and claims of privilege recognized under applicable law. In determining liability or awarding damages or other relief, the arbitrator will follow the FAA and applicable substantive law, as such law may be limited or altered by these terms and conditions where and to the extent allowed by law, that would apply if the matter had been brought in court. The arbitrator may award any damages or other relief or remedies permitted by applicable law as such law may be limited or altered by these terms and conditions where and to the extent allowed by law. The arbitrator will have the authority to award attorneys and expert witness fees and costs to the extent permitted by either these terms and conditions, the administrator's rules or applicable law. The arbitrator shall write a brief explanation of the grounds for the decision. A judgment on the award may be entered by any court having jurisdiction.

(g) **Severability and Survival.** If any part of this arbitration agreement, other than the Class Action Waiver, is deemed or found to be unenforceable for any reason, the remainder shall be enforceable. This arbitration agreement shall survive the termination of the services and the termination of any relationship between us, including the termination of these terms and conditions.

(h) **Effect of Arbitration Award.** The arbitrator's award shall be final and binding on all parties, except for any right of appeal provided by the FAA. However, if the amount of the Claim exceeds \$250,000 or involves a request for injunctive or declaratory relief that could foreseeably involve a cost or benefit to either party exceeding \$250,000, any party can, within thirty (30) days after the entry of the award by the arbitrator, appeal the award to a three-arbitrator panel administered by the administrator. The panel shall reconsider anew any aspect of the initial award requested by the appealing party. The decision of the panel shall be by majority vote. Reference in this arbitration agreement to "the arbitrator" shall mean the panel if an appeal of the arbitrator's decision has been taken. The costs of such an appeal will be borne in accordance with the above paragraph titled "Arbitration Procedures." Any final decision of the appeal panel is subject to judicial review only as provided under the FAA.

26. Jury Trial and Class Action Waiver. You and we both expressly and irrevocably agree to waive any and all rights to a trial by jury with respect to any litigation based on, arising out of or relating to the agreement or the services. This provision is a material inducement for us to enter into the agreement with you. You also acknowledge that none of our representatives or agents has represented --- and that none of them are empowered to represent --- that we would not seek to enforce this jury trial waiver in the event of any litigation. Finally you knowingly, voluntarily, intentionally and irrevocably waive any right to pursue or participate in any lawsuit of any nature or any arbitration proceeding against us on a class action basis.

27. Miscellaneous.

(a) **Notices.** Any notices under the agreement may be given by mail, personal delivery, fax, e-mail or other electronic means. We may use any address (including e-mail or other electronic addresses) for you shown in our records that we believe in good faith is valid. Any notice we send you will be effective when sent or we otherwise make the notice available to you through an online service. ***You must send any notices to us to your treasury management services sales officer.*** Any notice you send us is effective when we actually receive it with a reasonable time to act on such notice.

(b) **Severability.** Any provision of the agreement that is invalid or unenforceable in any jurisdiction will, as to such jurisdiction and to the extent of such invalidity or unenforceability, be deemed replaced with a valid and enforceable provision as similar as possible to the one replaced. All of the remaining provisions of the agreement will remain in full force and effect.

(c) **Binding Agreement/Benefit.** The agreement binds and benefits both you and us and our respective legal representatives, successors and assigns. The agreement is not for the benefit of any third party other than certain third-party suppliers or vendors who provide certain services to us. With the exception of those suppliers and vendors, no third party has any right against either you or us under the agreement. Where a supplier or vendor has such rights the terms for the relevant service or the relevant security technology reflect the existence of those expected rights and such supplier or vendor shall be deemed to have the right to enforce such provisions.

(d) **Headings and Certain References.** The headings used in the agreement are for reference purposes only and should not be considered when interpreting the agreement. Whenever the term "including" is used in the agreement, it means "including, without limitation". Whenever the term "days" is used in the agreement, it is a reference to calendar days unless that reference specifies it is either a business day or a banking day.

(e) **Assignment.** You may not assign the agreement or any of your rights or duties under it to any third party without our prior written consent. We may assign the agreement to any of our affiliates or successors in interest. We may also assign it to any other person or entity in connection with a sale of substantially all of the assets associated with the delivery of the impacted services without obtaining your consent. In addition, we may delegate our duties under the agreement to third party vendors and subcontractors without giving you notice of, or obtaining your consent to, such delegation or sub-contracting. We shall be responsible for the performance of such providers to the same extent that we would be liable and responsible if we were providing the service directly. You acknowledge

and agree that any claims under this agreement shall not be filed against a provider and must be filed against the bank.

(f) Applicable Law and Jurisdiction. The agreement is governed by and should be interpreted in accordance with the applicable federal laws and the internal laws of the state (State of Florida) in which your primary account is located. If state and federal law are inconsistent, or if state law is preempted by federal law, federal law governs. Any claims, controversy, dispute or cause of action (whether in contract, tort or otherwise) based upon, arising out of or relating to the agreement and any other document or agreement referenced herein, and the transactions contemplated herein, shall be construed in accordance with and be governed by the applicable state law (without giving effect to the conflict of law principles thereof). You consent to the exclusive jurisdiction and venue of any state or federal court located in such state.

In states where the bank has a branch presence, the parties agree that the transactions underlying this agreement bear a reasonable relation to the state where your account is located because the bank has a branch presence in such state, said transactions are approved and finalized by the bank in such state, the bank is required to perform and does perform a substantial part of its obligations relating to the transactions and services provided in such state, and the parties executed any required documents in such state.

(g) Attorneys Fees. The prevailing party in any proceeding arising out of or relating to the agreement is entitled to recover its attorney's fees and costs, in addition to any other remedy it may be entitled to under applicable law or awarded by any court or arbitrator.

(h) Telephonic Communications. You consent to the recording of telephone conversations of your personnel in connection with the services received under the agreement and assume responsibility for obtaining the consent of, and giving notice to, such personnel. The decision to record any telephone conversation is solely within our discretion and we will not have any liability for failing to do so in any specific instance.

(i) Remedies. The rights, powers, remedies and privileges provided in the agreement are your and our sole and exclusive rights, powers, remedies and privileges with respect to the services and any failure by you or us to perform our respective obligations under the agreement.

(j) No Waiver of Rights. A failure or delay by a party in exercising any right, power or privilege under the agreement will not be presumed to operate as a waiver of that or any other right, power or privilege, and a single or partial exercise of any right, power or privilege will not be presumed to preclude any subsequent or further exercise of that or any other right, power or privilege.

(k) Financial Statements. You agree to provide us with financial statements and other financial information that we may reasonably request from time to time. If you are a public company you are not required by this provision to disclose material non-public information to us and no employee of the bank is authorized to request such information from you.

(l) Authority for Other Entities. If you ask us to include accounts that belong to another entity in our implementation of any service then you represent and warrant to us that there is a legitimate business purpose for such inclusion and the other entity has given you authority to access its accounts and the funds therein through use of any service to the same extent as if you owned those accounts and funds. You also agree that each reference to "you" or "your" in the agreement will be deemed to be a collective reference to you and each other entity whose accounts are included in our implementation of any service for you and that all of the provisions set forth in the agreement will apply to the accounts as if you owned them. You are deemed to be using a service with respect to any such accounts. Each person who is authorized to act on your behalf with respect to a service is also authorized to act on your behalf with respect to such accounts. You and the owner of each included account shall be jointly and severally liable to us for all indemnification, confidentiality and other obligations under the agreement. We may require written confirmation from the other entity proving that it has authorized you to include its accounts in our implementation of any service for you. We may also ask you to sign such confirmation. You agree to notify us immediately if your authority is revoked or changed by that entity.

(m) Representations and Warranties Related to Trust Accounts. You acknowledge that inclusion of any account which is designated as a trust account, escrow account, “for the benefit of” account, or account of similar designation, in your setup for one or more services may result in access to such account – including use of the funds contained therein and access to information related to the beneficiaries of such account – by any authorized user specified by you. You represent and warrant that such inclusion and such access is not prohibited by any agreement by which you may be bound and does not violate any applicable law or any fiduciary or other duty or obligation you may have with respect to the account or the funds contained in it, and you assume all risks associated with such inclusion and access. You shall indemnify and hold us harmless from any claims, judgments, damages, costs, liabilities, interest, losses or expenses, including reasonable attorneys’ fees and court costs and expenses that arise directly or indirectly from or in connection with such access and inclusion, and for any breach of any representations and warranties contained in this paragraph. You further represent and warrant that no account to be included in your setup of services contains funds that are in any way governed by or subject to the Employee Retirement Income Security Act of 1974 (“ERISA”), and you shall indemnify and hold us harmless from liability for any loss of ERISA funds as a result of use of such accounts.

(n) Vendors. Any third party servicer or vendor used by you, including any value added networks (each such entity referred to herein as a “vendor”) you employ in connection with any of the services shall be deemed to be your agent, and you will be liable for (i) such vendor’s failure to comply with any security procedures or operating requirements relating to the services hereunder, (ii) all fees, costs and expenses owed to such vendor for its services, and (iii) any claims, damages, costs and expenses incurred as a result of such vendor’s failure to perform, or delay or error in performing, its services. This paragraph shall survive termination of the agreement.

(o) Special Provisions Related to Government Entities. Any indemnification obligations in this Agreement, including those in the foregoing sections, shall not apply to the Town of Surfside, a government entity. Nothing in this Agreement shall be deemed or treated as a waiver by the Town of Surfside of any immunity to which it is entitled by law, including, but not limited to, the Town of Surfside’s sovereign immunity as set forth in Section 768.28, Florida Statutes. Notwithstanding the foregoing, a government entity shall otherwise remain financially and legally responsible to the bank for all obligations it incurs, including any overdrafts incurred by it or credit exposure incurred by the bank in performing services for such entity and the bank specifically reserves all rights not impacted by any such law or state constitution.

(p) Florida Public Records Law, Chapter 119, Florida Statutes. The parties to this Agreement shall be subject to and comply with Florida’s Public Records Law, Chapter 119, Florida Statutes, to the extent applicable to this Agreement.

Account Reconciliation Service

1. Description of the ARP Service. The Account Reconciliation (“ARP”) service helps you reconcile your accounts by exchanging information with us regarding checks that you have issued against your accounts and checks deposited into your accounts. Details regarding the functionality of the ARP service and formatting and other technical requirements for the service are provided in the ARP reference materials.

2. Operation of the Service. You must tell us which ARP service you desire for each account you include in the service. Except as otherwise provided in these ARP terms and conditions or the then current ARP reference materials, all check, deposit or other information exchanged between you and us in connection with this service must be transmitted electronically in the format we specify. Check, deposit and other information you send must be received by us no later than the cutoff time for such information reflected in the ARP reference materials. You may select a daily, monthly, weekly or bi-weekly statement cycle for each account included in the service. If you fail to designate a statement cutoff on our ARP calendar, the default statement cycle will be monthly with a cutoff at the end of each calendar month.

Accounts Receivable Conversion Service

1. Description of the Accounts Receivable Conversion Service. Accounts Receivable Conversion, ("ARC") service is a service pertaining to a standard National Automated Clearing House Association or "NACHA" entry class that provides clients who use our Scannable Lockbox ("SLB") and ACH origination services with the ability to convert eligible checks deposited through their lockbox service into automated clearing house entries. The ARC service allows eligible checks for the payment of goods and services that are received via the U.S. mail (or equivalent service, such as an overnight delivery service) to be converted to single-entry debits using the ARC entry class code. We will act as your agent --- or for purposes of the NACHA rules as your service provider --- to evaluate lockbox items for conversion to ARC entries. Those not eligible will be processed through lockbox check processing. Each lockbox item selected for conversion will be the source document for the related ARC entry. Details regarding the ARC service functionality and other technical requirements that you must follow when using this service are provided in the then current SLB service reference materials and our ACH origination service reference materials.

2. Function of ARC Service. You may use the ARC service only after you have been set up to use the SLB service and have been qualified and set up to use the ACH origination service. You may use the ARC service with respect to the account(s) and lockbox(es) that are identified on your then current Scannable Lockbox service confirmation. We will act as the originating depository financial institution ("ODFI") with respect to the ARC entries. You will be the "originator". By using the ARC Service, you agree to be bound by and comply with the NACHA Operating Rules and Operating Guidelines.

3. Our Obligations. We, acting as your agent, will originate ARC entries. The amount, routing number, account number, and the check serial number for each ARC entry we create will match the source document received in your lockbox. We are not responsible for errors in source documents. We will retain a reproducible, legible image of the front and back of each source document for two years from the Settlement Date of the ARC entry and we will provide commercially reasonable secure storage of the source document image and all related banking information. The original source document will be destroyed by us after it has been converted to an ARC entry. The source document (or any equivalent document) for the ARC entry will not be presented by us for payment unless the ARC entry is returned by the receiving depository financial institution ("RDFI"). We will provide any necessary file totals to authorize release of your ARC entries in lieu of PAL Totals as described in the ACH origination service terms and conditions.

4. Your Representations and Warranties. You represent, warrant and agree that, prior to our receipt of any source document that will be used to create an ARC entry, you will provide a clear and conspicuous notice to the creator of that source document that receipt of it shall be considered the creator's authorization to debit their account in accordance with the terms of the source document. You agree that the notice you provide will incorporate the Federal Reserve System Regulation E safe harbor language or substantially similar language such as:

"When you provide a check as payment, you authorize us either to use information from your check to make a one-time electronic fund transfer from your account or to process the payment as a check transaction."

You acknowledge that utilization of the ARC service will result in different obligations and liabilities for you and will cause electronic funds transfer laws and regulations to apply rather than laws and regulations that would apply to accounts receivable paid by check.

5. ARC Return Items. Any ARC entry returned for insufficient funds will automatically be represented one additional time. Any ARC entry returned for any other reason will be prepared as a source document or its equivalent and processed as an item through lockbox check processing. If the item is returned, then the item will be sent back to you in your daily remittance package and your account will be debited for the funds.

6. Data Transmission. All required data transmissions between you and us will utilize the appropriate online service made available by us.

7. Termination. The ARC service may be terminated by prior written notice by either you or us or by termination of the SLB service or the ACH origination service, or terminated or suspended pursuant to our rights under the general terms and conditions.

8. ACH Origination Service and Scannable Lockbox Service. These ARC service terms and conditions are expressly made as a part of the terms and conditions of the ACH origination service terms and conditions and SLB service terms and conditions. Terms defined in the terms and conditions for the ACH origination service have the same meanings when used in these ARC service terms and conditions, and terms defined in the terms and conditions for the SLB service have the same meanings when used in these ARC service terms and conditions. If there is any inconsistency on a particular issue between these ARC service terms and conditions and the terms and conditions of the ACH origination service or the SLB service, these ARC service terms and conditions will control.

ACH Fraud Control Service

1. Description of the AFC Service. The ACH Fraud Control ("AFC") service allows you to block the posting of incoming automated clearing house ("ACH") debit and credit entries against your accounts. It also allows you to create exceptions to a general block that will allow only select incoming entries to post.

2. Selection of AFC Service Options. You may select various service options for each account you include in your AFC service setup. Your selection(s) for each account are reflected in your then current AFC service confirmation. The options that you may select are as follows:

(a) Full Debit/Credit Block Option. If you want to block the posting of all incoming ACH debit and/or credit entries to an account, you must select the full debit/credit block option for that account using one of three options. You can block only incoming ACH debit entries; you can block only incoming ACH credit entries; or you can block both incoming ACH debit and credit entries. You must make a separate election for each account you include in your setup for this service.

(b) Standing Order Option. If you would like to generally block all incoming ACH debit entries from posting, but would like to allow incoming ACH debit entries from a known source to post to an account on a repetitive or "standing" basis, you may select standing order option for that account and provide us the required information for the standing entries.

(c) Single Entry Option. If you would like to generally block all incoming ACH debit entries from posting, but would like to allow particular ACH debit entries to post to an account on a one-time or "single entry" basis, then you may select the single entry option for that account and provide us the required information for the single entry entries. Once we have posted an entry to which a single entry authorization applies, that authorization will expire and we will block any future instance of that entry unless you establish a new authorization to allow that future instance.

(d) Online ACH Control (OAC) Service Option. If you would like to generally block all ACH debit entries and/or credit entries from posting, but want to have online access so that you can authorize particular ACH debit and credit entries to post to that account (either on a standing basis or single entry basis) or change any prior authorizations that were included in the setup of your AFC service, and if you want to be able to review each ACH entry received that is initially blocked and make a decision to authorize that entry to post or to return that entry, then you will need to subscribe to our Online ACH Control ("OAC") service option. If you have a full debit/credit block on an account, the full block must be removed in order for you to use Online ACH Control to allow particular ACH debit and credit entries to post to that account.

3. OAC Service Option Functionality.

(a) Accepting or Declining a Rejected Entry.

(i) When an ACH debit or credit entry is received that is a type that you have elected to block, and that is not authorized under any authorization in effect for that account, that entry will initially reject, as a "rejected entry." Each rejected entry will be suspended for a period of time for you to review and decide whether to return that entry to the originator or to allow that entry to post to your account. Rejected entries that have yet to be dispositioned by you remain available to review and decision until the decision deadline specified in the then current OAC service option reference materials. When an ACH debit or credit entry is received for posting and it is one you have not elected to block or one you have specifically authorized, it will post to your account in accordance with our normal

processing procedures. In determining whether an ACH entry is allowed to post under an authorization in effect, we will match the company id and dollar amount of that entry against the company ids and dollar amounts established in your authorizations and we will also determine if posting that entry is within the number of times an entry is permitted to post to your account under the applicable authorization.

(ii) The users you have authorized to use the OAC service will be able to view certain details for a rejected entry and either authorize the entry to post or return the entry to the originator. A rejected entry will remain on the list of rejected entries available for decisioning in the OAC service until the earlier of the decision deadline set forth in the then current OAC service option reference materials or until the start of our processing for the next ACH processing window following a user's acceptance or final rejection of that entry. You can also elect to have us send your users an email to alert when an ACH entry has been rejected. While we are willing to send email alerts as a convenience to you, emails are sometimes not received or read; therefore you remain responsible for accessing the OAC service to review the list of rejected entries.

(iii) To allow a rejected entry to post, one of your users must either submit your decision to accept that rejected entry and allow it to post by using the OAC service, or you must set up an authorization for that entry by the decision deadline. (More than one user will be required if you are using the dual verification feature within the OAC service.) We will return a rejected entry to the originator, if the entry is refused by your authorized user(s), or you do not take the necessary action to authorize the entry before the payment decision deadline. In the event the OAC system is unavailable, we will attempt to provide you with notice of rejected entries and accommodate your written instructions regarding decisioning of such entries, but we may not be able to do so before the decision deadline. This means that when the OAC system is unavailable, an entry that you have not previously authorized, but that you would have otherwise approved through the OAC system, may be rejected. Therefore, you are responsible for having up-to-date and accurate authorizations in effect at all times for all ACH entries you wish to post to your accounts.

(b) **Entry Authorizations.** The users you have authorized may use the OAC service option to create authorizations that allow ACH debit or credit entries to post and to modify or delete any prior authorizations. (More than one user will be required if you are using the dual verification feature). You may set up an authorization as a single entry authorization or a standing order authorization by designating the number of times an ACH entry is permitted to post under that authorization. If you do not designate the number of instances an ACH entry is permitted to post, you are authorizing a standing order authorization which will allow an unlimited number of ACH entries to post to your account. Unless you otherwise specify, each authorization will be set up in the OAC service option with an immediately effective beginning date. If you are using the OAC service, and we elect, in our discretion, to allow you to set up manually an authorization through the standing order or single entry option, those manually created authorizations will also be included in your setup. Each authorization created manually that is already in effect at the time you begin using the OAC service option will also be included in your setup of the OAC service option. Each authorization created manually under the standing order option will be included with an unlimited number of instances, with an immediately effective beginning date, and without an expiration date. Each authorization created manually under the single entry option will be included with an immediately effective beginning date and without an expiration date.

(c) **Dual Verification.** If you use the dual verification feature, you can require that a separate user with sufficient approval authority (as described in the reference materials) approve any maintenance request to create, modify or delete an authorization, and require that a separate user approve any decision to accept or reject a rejected entry. One user with sufficient initiation authority must enter the authorization maintenance request or the decision and another user with sufficient approval authority must approve the authorization maintenance request or decision. Our recommended default setup requires dual verification for any authorization maintenance request or decision for a rejected entry. If you reject this procedure designed to protect you, one user will be able to submit an authorization maintenance request and will be able to return a rejected entry or allow it to post. This will also be the case if you have entitled that user to make authorization maintenance requests and decision entries under a certain dollar threshold. **We recommend that you use dual verification at all times. You are responsible for any ACH entry paid or returned in accordance with any decision or authorization maintenance request submitted without use of dual verification.**

(d) **Alerts.** You may elect to have us send specified users one or more of the types of alerts available in the OAC service, including alerts to notify you when an ACH entry received for posting was rejected; to notify you

when an ACH entry posted because it matched an authorization; to notify you when a decision for a rejected entry or an authorization maintenance request needs to be approved; and to notify you once a decision has been made or modified, or an authorization has been created, deleted or changed. Your security administrator will designate which users are to be sent an alert and which alert(s) each user is to be sent. Alerts will be sent to each user at the email address designated in the OAC setup for that user. You agree that we will not have any liability if one of those designated users does not receive or read any alert we send or if you fail to maintain accurate email address information with us.

(e) **Designation of Security Administrator(s).** If you are already using the OAC service for ACH origination, your security administrator(s) for the OAC service for ACH origination will be considered your security administrator(s) for the OAC service option for AFC. Otherwise, in order to use the OAC service, you must initially designate one person to be your security administrator for the OAC service. You must identify that initial security administrator on an ancillary implementation agreement at the time you implement the OAC service. That initial security administrator and each other user who is granted user administration rights in the OAC service by your initial security administrator will be an "OAC security administrator" for the OAC service. Each OAC security administrator will have all of the rights and responsibilities described in these terms and conditions for the OAC service, the reference materials for the OAC service, and the general terms and conditions. Each OAC security administrator is able to administer the rights and permissions of any user of the OAC service, including themselves, and to grant any of those users, including themselves, access to any functionality available in the OAC service. It is important to note that if you use the OAC service for your setup of the ACH origination service, any OAC security administrator for the OAC service will be a security administrator for the OAC option for ACH origination service as well and can entitle users for both the OAC service for AFC and the OAC service for ACH origination. Any OAC security administrator may terminate the administration entitlements of any other OAC security administrator directly through the OAC service, including those of the initial OAC security administrator you designated. We will deliver the initial authorization codes to your initial OAC security administrator.

(f) **Authorization Codes and Security Procedures.** The security procedures for the OAC service include a requirement that each of your users enter that user's authorization codes to log on to the OAC service. We may require that a user provide additional information or use other additional security procedures so that we can authenticate that user. Your users should not give their authorization codes to any other person or use them anywhere other than within the OAC service. The user's initial authorization codes will be supplied by an OAC security administrator. You are solely responsible for developing appropriate checks and balances to effectively control and monitor the use of OAC service by all users, including use by your OAC security administrators. You agree that these security procedures are commercially reasonable.

4. **SunTrust Entries.** If you use an account setup for the AFC service to settle incoming ACH debit entries for certain transactions with us or with certain of our third party vendors, then you must authorize those entries on a standing order basis. Transactions subject to this requirement may include cash concentration debits, automated loan and lease payments, check order payments, merchant card settlements, collections, and transfers. You are responsible for having up-to-date and accurate authorizations in effect for all ACH entries you wish to post to your accounts, including incoming ACH debit entries for transactions with us or our vendors. If you fail to authorize entries for these transactions on a standing order basis, then such entries may be blocked and you may incur additional fees, interest and charges. Note that in some cases, due to our system configurations, incoming ACH debit entries for certain transactions with us or our vendors may still post to your account, even if you have not authorized those entries on a standing order basis.

5. **Duration and Changing of Options.** We will process incoming ACH debit and/or credit entries in accordance with your AFC service selections specified in a service confirmation and in accordance with any authorizations and instructions given through the OAC service until (a) your use of the AFC service or the agreement is terminated or (b) you provide other instructions that alter your previous selections and we have had a reasonable period to act on them before receiving any entries that new instructions are expected to apply to. In that regard, if you are using the OAC service for an account and you delete all authorizations set up for that account, we will then block all incoming ACH debit and credit entries from posting to that account. Conversely, if you provide an instruction to delete an account from your OAC service, we will remove the account from the AFC service and allow all incoming ACH debit and credit entries to post to that account. If you have a full debit/credit block on an account and would like to permit certain incoming ACH transactions to post to that account, you will need to change your AFC service by adding a

standing order or single entry authorization to your AFC service setup (or you will need to add the OAC service and establish authorizations through it).

ACH Origination Service

1. **Description of the ACH Origination Service.** Our Automated Clearing House (“ACH”) origination service allows you to initiate debit and credit entries through the automated clearing house, a funds transfer system for sending and settling electronic entries among participating financial institutions. Details regarding ACH’s functionality and formatting and other technical requirements that you must follow when using the ACH origination service are provided in the then current version of the ACH origination reference materials.

2. **Functioning of the ACH Origination Service.** Under the ACH origination service, we act as the originating depository financial institution (“ODFI”) with respect to entries that you send us or that are sent to us on your behalf. You will be the “originator” for each of those entries. By requesting this service you agree to comply with and be bound by all NACHA rules. If you fail to comply with the NACHA rules, NACHA may impose fines against you that may be debited directly against the designated account(s) without prior notice. (As a convenience to you certain of those rules and terms defined in the rules are stated below. In the event of any conflict between any rules or definitions which are restated in these ACH origination terms and the actual NACHA rules, the NACHA rules shall apply).

3. **Definitions.** Unless otherwise defined in the general terms and conditions or these ACH origination terms and conditions, terms that are defined in the rules have the meanings given to those terms in the rules. The following terms have the specified meanings for purpose of these ACH origination terms and conditions:

(a) **“ACH operator”** means a Federal Reserve Bank or other entity that provides clearing, delivery and settlement services for entries, as further defined in the rules.

(b) **“Authorized representative”** means each person identified by you in an ancillary implementation agreement who is authorized to give us instructions and to verify the total dollar amount of entries in a file by submitting written control totals (as defined below) to us in a manner acceptable to us, or through use of our phone authorization line (“PAL”) system. You are responsible for maintaining up-to-date email and telephone contact information for your authorized representatives, in order for us to send notices to and contact your authorized representatives as contemplated in these ACH origination service terms and the ACH origination reference materials.

(c) **“Batch”** means entries that have been grouped together and that have the same effective entry date, the same entry class code, and that settle to the same designated account.

(d) **“Business day”** means Monday through Friday, excluding banking holidays.

(e) **“Cut-off deadline”** means the time on a business day by which we must receive an entry in order for it to process on that day. Such deadline is established by us and we may alter it from time to time. The current cut-off deadline can always be found in the ACH Processing Deadlines and Contact Information reference material at www.suntrust.com/ach (password: cash-mgt1).

(f) **“Designated account”** means the account(s) to be used as a settlement source for debit or credit entries and must be identified by you in an ancillary implementation agreement.

(g) **“Effective entry date”** means the date specified by you on which a batch of entries is intended to be settled.

(h) **“Entry”** means a request from you to credit or debit a receiver’s deposit account and includes all data we receive from you regarding that entry.

(i) **“Entry class codes”** means the codes that distinguish the various types of entries.

(j) **“File”** means a group of entries associated with a given transmittal register and related control totals.

(k) **“Final settlement”** means the day an entry is posted to the account of the RDFI with the ACH operator.

- (l) “Instruction” means a direction relating to an entry that we receive from one of your authorized representatives, including canceling an entry.
- (m) “NACHA” means NACHA, the Electronic Payments Association (formerly known as the National Automated Clearing House Association).
- (n) “On-us entry” means an entry intended to credit or debit an account maintained with us.
- (o) “Protected information” means non-public personal information, including financial information, of a natural person used to create, or contained within, an entry and any related addenda record.
- (p) “Receiver” means the person or entity against whose account at an RDFI you intend to initiate a debit or credit entry. You represent and warrant that all entries you initiate via this service are authorized by the receiver.
- (q) “RDFI” means the receiving depository financial institution.
- (r) “Rules” means the NACHA Operating Rules, as further explained and clarified by the NACHA Operating Guidelines, as both are in effect at the relevant time.
- (s) “Third-party sender” means a type of third-party service provider that acts as an intermediary in transmitting entries between an originator and an ODFI, and acts on behalf of an originator or another third-party sender.

4. Transmitting Entries to Us. You may transmit entries and instructions to us so long as you comply with the rules, the general terms and conditions, these ACH origination terms and conditions, the ACH origination reference materials and the security procedures. Any entry you send must be transmitted to us through the online service(s) we have agreed to permit you to use to transmit entries (which include our Online Cash Manager service, Online Treasury Manager service, SunView Treasury Manager service and Online File Transfer service). All entries must comply with the requirements of, and be identified by, the appropriate entry class code and comply with all NACHA record format specifications. We may at any time prohibit you from originating certain types of entries using the ACH origination service. In addition, some of our online services, including Online Cash Manager, may not be used to originate IAT entries or recurring TEL entries. You must retain all data on any file transmitted to us that we would need to reprocess an entry. You must retain that data for at least three business days after midnight of the effective entry date of that entry and you agree to give us that data immediately upon our request. If we allow you to use a third-party service provider who is acceptable to us, then each reference in these ACH origination terms and conditions to “you,” includes your third-party service provider as appropriate.

5. Obligations of a Third-Party Sender. The rules contain special requirements and impose additional obligations on us when we act as your ODFI with respect to entries you send us as a third-party sender. As a result, we must obtain additional agreements and representations from you with respect to such entries. If you send us any entries as a third-party sender, you automatically make the additional agreements and representations specified in the rules, and agree to provide us any information required to comply with the rules within the deadlines established in the rules.

6. Our Processing of Entries. Except as provided later in this section with respect to on-us entries, we will process entries and instructions we receive from you and then transmit those entries as the ODFI to an ACH operator. We will transmit the entries to the ACH operator by its deposit deadline prior to the effective entry date shown in the entries as long as the ACH operator is open for business on that day and we receive the entries (a) prior to our cut-off deadline and (b) with a sufficient number of days (as specified in the ACH origination reference materials) to meet the effective entry date shown in the entries. For entries that we receive after those times, we will use reasonable efforts to transmit such entries by the ACH operator’s next deposit deadline on a business day on which the ACH operator is open for business. If we receive an “on-us” entry from you, we will credit or debit the receiver’s account subject to the same cut-offs and conditions stated above. For an “on-us” entry that we receive after those cut-off times and deadlines, we will use reasonable efforts to credit or debit the receiver’s account on the business day following such effective entry date. If the effective entry date of any entry we receive from you is not a business day, we will process that entry on the business day following the requested effective entry date.

7. **Exposure Limits and Pre-Funding.** We reserve the right to establish and change aggregate and individual dollar limits or “exposure limits” for your entries and files. Such limits are internal limits established to monitor our credit exposure to you, and we may, but are not required to, share such limits with you in our discretion. We may refuse to process entries or files that exceed these exposure limits. We also reserve the right to change the terms upon which we provide ACH origination service to you at any time if we believe your financial condition warrants such a change, including requiring that you pre-fund all ACH credit entries. Pre-funding means that you must have good, collected funds in your settlement account that are not subject to recall or dispute. We will place a hold upon the funds when we receive your file containing ACH credit entries and then withdraw and use the funds to fund those ACH credits.

8. **Suspension and Rejection of Entries.** We may suspend processing of and/or reject an entry, batch or file that (a) does not comply with the rules, the general terms and conditions, these ACH origination terms and conditions, the ACH origination reference materials or the security procedures; or (b) contains an effective entry date more than 14 calendar days after the day we receive it. We may suspend processing of and/or reject an “on-us” entry for any reason that would allow that entry to be returned under the rules. We may also suspend processing of and/or reject an entry, batch, or file if you fail to comply with any of your obligations under these ACH origination terms and conditions, including your obligation to maintain sufficient balances in the designated account(s). We may suspend processing of an entry, batch or file without giving you notice. For example, if the file is suspended because it exceeds your exposure limit, we may, in our discretion, decide to release the file without giving you notice. However, if we reject (rather than simply suspend) a batch or an entire file of entries, we will notify you no later than the business day on which the batch or file would have been transmitted to the ACH operator for processing. If an individual entry is rejected, it will be reported with your returns. If we reject an entry, batch or file, you may be required to resend it.

9. **Termination or Suspension of Service.** In addition to, and without limiting any other rights we have to terminate or suspend your use of the ACH origination service, we may terminate or suspend your use of the ACH origination service immediately and without giving you prior written notice if you have breached the rules; or if any entry you transmit to us, or any of your acts or omissions, might cause us to breach the rules or any representations or warranties we make under the rules; or if we believe termination or suspension is necessary in order for us to comply with the rules.

10. **Cancellation and Amendment of Entries.** We have no obligation to honor or process any request from you to cancel or amend an entry once we have received that entry. However, as an accommodation to you, we will use good faith efforts to attempt to honor your request to cancel (but not to amend) an entry if (a) the request complies with the security procedures and (b) we receive such request at a time and in a manner that gives us a reasonable opportunity to act on it prior to transmitting the entry to the ACH operator or, in the case of an “on-us” entry, prior to crediting or debiting the entry to the receiver’s account. We are not liable if we cannot honor your cancellation request. You agree to reimburse us for any expenses we may incur in attempting to honor your cancellation request. If you request a cancellation, we will use a reversing entry in an effort to honor your request except in limited circumstances where we have the capability to delete the entry, batch or file.

11. **Name and Account Number Inconsistency.** You must ensure the accuracy of your entries and instructions. If an entry describes the receiver inconsistently by name and account number, payment may be made by the RDFI (or, for an on-us entry, by us) on the basis of the account number, even if that number identifies a person other than the named receiver. You are responsible for any loss associated with such inconsistency and your obligation to pay us the amount of the entry is not excused in such circumstances.

12. **Notice of Returned Entries.** We will give you notice by the online service you use or by e-mail, facsimile or mail promptly after we receive a returned entry from the ACH operator, and you will be charged a fee for these notices. The type of notice that you receive will be selected during implementation of the service, or in some cases, the type of notice may be dependent upon your method of ACH origination. If you elect the Representment option, we will retransmit certain types of returned entries in accordance with the NACHA rules. Except in the case of entries retransmitted under the Representment option, we are not obligated to retransmit any returned entry that we originally transmitted in compliance with these ACH origination terms and conditions, and if you want us to retransmit any such entry to the ACH Operator, you must retransmit the entry to us.

13. **Notifications of Change.** We will give you notice by the online service you use, or by e-mail, facsimile or mail of all notifications of change relating to your entries within two business days after we receive them. You are required

to receive notices of change so that you may make changes as required by the rules, and you will be charged a fee for these notices. The type of notice that you receive will be selected during implementation of the service, or in some cases, the type of notice may be dependent upon your method of ACH origination. You agree to make the required change(s) prior to submitting any further entries to the applicable receiver's account. If you fail to correct an entry in response to a notification of change, NACHA may impose fines against you that may be debited directly against the designated account(s) without prior notice.

14. Online ACH Control Service.

(a) General Description. Our Online ACH Control ("OAC") for ACH origination service, the "OAC service option," enables you to (i) submit control totals for each file you transmit to us for origination, (ii) view certain details for files transmitted to us for origination and the current processing status of that file, and (iii) create calendars of dates on which you expect to transmit files to us. Your selection of any or all of the above functions will be designated during implementation of the OAC service. The OAC service option can only be used in connection with ACH origination through certain online services, including Online File Transfer, Online Treasury Manager service (upload method only) and the SunView Treasury Manager service (upload method only). Details regarding the OAC service option functionality and certain requirements that you must follow when using the OAC service option are provided in the then current version of the OAC service reference materials.

(b) OAC Service Option Functions.

(i) Control Totals.

(A) Through the control totals function, you may submit control totals to verify the total dollar amount of all debit entries and, separately, all credit entries included in each file you have transmitted to us. You may also review, modify, or delete those control totals through the OAC service option.

(B) Each user you authorize to use the control totals function will be able to enter, review, modify, or delete control totals for any files submitted under any ACH origination point, or "application," included in your setup for ACH origination service as reflected in our records of your implementation. To enter, review, modify, or delete control totals for a file, your user must know and select the correct application under which that file is submitted.

(C) Once we have completed processing of a file that contains debit entries and credit entries in dollar amounts that aggregate up to the control totals you submitted for that file, you will not be able to change or delete the control totals for that file.

(D) If you are using the control totals function of the OAC service, you can elect to have us send to one or more users one or more file status alerts available for the control total function, including alerts to notify them when we have received a file, when we have successfully processed a file for origination, and when a file has been suspended because of missing control totals. Each user you designate to receive a file status alert will be sent that alert for any file you submit for origination. You agree, however, that we will not have any liability if any of those designated users does not read or react to any file status alert we send or if they do not receive it due to your failure to maintain up-to-date contact information with us.

(ii) File Inquiry.

(A) Through the file inquiry function of the OAC service, for any file you have submitted and that we have started to process, you will be able to review certain details for that file, and batches and entries included in that file. You will also be able to view the current processing status of that file, including whether that file has been successfully processed for origination by us, is being processed but has suspended, has been rejected, or has been deleted. This information for a file will only be available through the file inquiry function of the OAC service for the period of time specified in the then current reference materials.

(B) Each user you have authorized to use the file inquiry function will be able to view all information available in the file inquiry function for any files you have transmitted to us.

(C) Each user you have authorized to use the file inquiry function of the OAC service will also be able to view all information available for any ACH entries you receive which settle to any account which is included as a settlement account specified in the OAC service.

(iii) Calendar Monitoring.

(A) Through the calendar monitoring function of the OAC service you may create and maintain one or more calendars of the dates on which you expect to transmit an ACH file to us. You may establish up to five calendars for each application you included in your setup of the calendar monitoring function.

(B) To set up a new calendar for the calendar monitoring function, you must first request that we set up a blank calendar for an application. As part of that calendar setup, you must provide us with the window(s) of time between our ACH processing windows in which you expect to transmit your files to us and the number of files you expect to transmit under that calendar on a day. Once we have set up one or more blank calendars for an application, you can set the dates you expect to submit a file to us on any of those calendars and view and change the dates on any of those calendars through the calendar monitoring function. Before the end of each year, we will set up each of your calendars as a blank calendar for the applicable application in the following year and use the same windows of time you designated for each calendar as the windows of time in which you anticipate transmitting your files to us and the same number of files you expect to transmit on a day under that calendar. Once a calendar has been set up for an application for the following year, you will need to set each of the dates on which you expect to transmit a file.

(C) Each user you have authorized to use the calendar monitoring function of the OAC service will be able to view and set dates for any calendar established.

(D) If you are using the calendar monitoring function of the OAC service, you can elect to have us send to one or more of your users certain email alerts if files are not submitted to us in accordance with the dates and designated windows of times you have scheduled. If you scheduled a date on a calendar and a file is not transmitted to us by the start of our next ACH processing window following the window of time you designated on that date, we will send an alert email to each user that we did not receive a file. That email alert would be sent after we completed our processing for that ACH processing window. Similarly, if a file is transmitted to us on a date which was not a date scheduled on one of your calendars or in a window of time which was not one of the windows of time you designated for a calendar, we will send an email to each user that a file was submitted on a date or at a time we did not expect. That email alert would be sent after we completed our processing for that ACH processing window. You agree that we will not have any liability if any user to whom we send an alert does not read it or react to it or if you fail to maintain up-to-date contact information for any user who is designated to receive alerts from us.

(E) Even if a file is submitted on a date or during a window of time that was not scheduled, we will continue to process that file in accordance with our normal procedures. If you have more than one calendar set up for a particular application and you have scheduled on more than one calendar the same date to submit a file, we will not be able to determine which file was sent for which calendar. However, if we receive only one of two files scheduled on separate calendars for the same application and on the same date, we will contact you to notify you of the missing file. Additionally, if you have more than one window of time scheduled for a single day on a calendar, we will not be able to determine which file was sent for which window of time. Therefore, you will not be able to tell from any email alert we send, or fact that you did not receive an email alert, whether we received the correct file scheduled for that calendar or that window of time. However, if a calendar is set up and we do not receive a scheduled file, we will contact you.

(c) Setting up Alerts. Your security administrator will designate which users are to be sent any alert available in the OAC service and which alerts each user is to be sent. Alerts will be sent to each user at the email address you designate during implementation of the OAC service.

(d) Designation of Security Administrator(s). If you are already using the OAC service for ACH Fraud Control, your security administrator(s) for the OAC service for ACH Fraud Control will be considered your security administrator(s) for the OAC service option for ACH Origination. Otherwise, you must initially designate at least one person to act as your security administrator for the OAC service. That initial security administrator will be identified on an ancillary implementation agreement at the time you implement the OAC service. That initial security administrator and each other user who is granted user administration rights in the OAC service by that initial security

administrator will be an "OAC security administrator" for the OAC service. Each OAC security administrator will have all of the rights and responsibilities described in any terms and conditions for the OAC service, the reference materials for the OAC service, or the general terms and conditions. Each OAC security administrator will be able to administer the rights and permissions of any user of the OAC service, including themselves, and will be able to grant any of those users, including themselves, access to any functionality available in the OAC service. It is important to note that if you also use the OAC service option for the ACH Fraud Control service, any OAC security administrator will be an OAC security administrator for the ACH Fraud Control service as well and can entitle users for both the OAC service option for the ACH Origination service and the OAC service option for the ACH Fraud Control service. Any OAC security administrator may terminate administration entitlements of any other OAC security administrator directly through the OAC service, including those of the initial OAC security administrator you designated. We will deliver the initial authorization codes for use by your initial OAC security administrator directly to that person.

(e) Authorization Codes and Security Procedures. The security procedures for the OAC service include the requirement that each user enter that user's authorization codes to log on to the OAC service. We may also require that a user provide additional information and we may use other additional security procedures to authenticate that user. Your users should not give their authorization codes to any other person or use them anywhere other than within the OAC service. The user's initial authorization codes to access the OAC service will be supplied by an OAC security administrator. You are solely responsible for developing appropriate checks and balances to effectively control and monitor the use of the OAC service by all your users, including each of your OAC security administrators. You agree that these security procedures are commercially reasonable.

15. Security Procedures. You agree to comply with the following security procedures in using the ACH origination service and agree that these security procedures are commercially reasonable:

(a) System Edit. We will only accept entry files that pass our system edit. That system edit examines various attributes of an entry file, including the settlement account, the credit or debit nature of the entries contained in the file, and the application identification number contained in the file's header or trailer record. We will reject any entry file that does not pass our system edit and will notify an authorized representative of that rejection. You agree that all entry files that pass our system edit will conclusively be deemed to have been authorized by you.

(b) Control Totals. Except for entry files that are transmitted through certain online services, you are required to verify the total dollar amounts for all debit entries and, separately, for all credit entries contained in each entry file by submitting to us the total dollar amount for each, or the "control totals." Except for files transmitted or to be converted into an EDI format, you must submit the verifying control totals through either the control totals function of the OAC service or our phone authorization line ("PAL") system. Your election to use the control totals function of the OAC service will be designated during the implementation of the OAC service. To submit control totals through the OAC service, users authorized to submit them must follow the security procedures outlined for accessing the control totals function of the OAC service. To submit control totals through PAL requires the use of the ACH authorization code that we assign and distribute directly to your authorized representative. If your file is transmitted or to be converted into an EDI format, your authorized representative will be required to provide control totals to our EDI department by a method that is acceptable to that department. If you use a third-party processor acceptable to us that sends your entries to us in a file that also contains entries being initiated on behalf of other clients, then your third-party processor may give us control totals on an aggregate basis for all entries contained in that file.

(c) Online Services. For entry files or instructions that are transmitted to us through one of our online services, you are required to comply with the security procedures for that online service. If you use a third-party processor acceptable to us that sends your entries to us in a file that also contains entries being initiated on behalf of other clients, then your third-party processor will use the authorization codes that we issued to it, rather than ones we issued to you.

(d) Direct Transmissions. For entries transmitted directly through communications software, a logon record with a unique ID and password is required. The ID and password are provided with the establishment of the direct transmission product. If you use a third-party processor that sends your entries to us in a file that also contains entries being initiated on behalf of other clients, then your third-party processor will use the ID and password that we issued to it, rather than ones we issued to you.

(e) Cancellation Requests. Instructions canceling an entry may be delivered by a facsimile or through certain online services. We may verify or authenticate any instructions by calling the individual giving us the instructions or by any other means we believe to be reasonable in the circumstances, but are under no obligation to do so. We will have no liability for acting on instructions we believe in good faith to have been given by an authorized representative.

(f) General. We may verify or authenticate any entry or files by contacting you by telephone or by any other method we believe is reasonable under the circumstances, but we are under no obligation to do so. If we are unable to verify or authenticate an entry or file, we may refuse to process such entry or file. We may change the security procedures by giving you notice of the changes. Any changes will take effect immediately upon your receipt of that notice.

16. Security Requirements. In addition to complying with the security procedures in Section 15 above, you are required to establish, implement, and, as appropriate, update security policies, procedures, and systems related to the initiation, processing, and storage of entries. These policies, procedures and systems must:

- (a) Protect the confidentiality and integrity of Protected Information;
 - (b) Protect against anticipated threats or hazards to the security or integrity of Protected Information;
- and
- (c) Protect against unauthorized use of Protected Information that could result in substantial harm to a natural person.

Such policies, procedures and systems must include controls that comply with applicable regulatory guidelines on access to all systems you use to initiate, process and store entries.

17. Payment for Entries. You must pay us the amount of each credit entry we have originated on your behalf and we will pay you the amount of each debit entry that we have originated on your behalf, all at such times as we may determine. You must also pay us (at such time as we may determine) the amount of each debit entry we have originated on your behalf that is returned by the RDFI. We may, without notice or demand, (a) debit any designated account for amounts that you owe us under these ACH origination terms and conditions and (b) credit any designated account for the amount of (i) originated debit entries and (ii) returned entries previously debited from any designated account. You must at all times maintain sufficient collected funds in the designated account(s) to cover your payment obligations to us. If your obligations to us at any time exceed such funds in the designated account(s), we may refuse to process entries until you deposit sufficient funds and/or we may debit or place a hold on funds in any account you maintain with us. We have the right to net any amount we owe you against obligations you owe to us.

18. Representations for all Entries. You make the following representations to us with respect to every entry you send us: (a) the receiver designated in that entry authorized you to initiate the entry to credit or debit its account in the amount and on the effective entry date of the entry, (b) the receiver's authorization is and will remain effective until the receiver's account is debited or credited, (c) the entry conforms to your obligations under the general terms and conditions, these ACH origination terms and conditions, the rules and the ACH origination reference materials, (d) the entry complies with and does not violate applicable laws and regulations (including those relating to sanctions programs), and (e) you have performed a reasonable examination of your receiver relationships to identify transactions with those receivers which must be originated using the IAT entry class code. You agree to be bound by the rules and acknowledge that payment of an entry by the RDFI to the receiver is provisional until the RDFI receives final settlement for such entry and that, if such settlement is not received, the RDFI will be entitled to a refund from the receiver of the amount credited and, in such case, you will not be deemed to have paid the receiver the amount of the entry.

19. Additional Representations for Specific Entry Types. The rules contain special requirements and impose additional obligations on us when we act as your ODFI with respect to certain entry types. As a result, we must obtain additional agreements and representations from you with respect to those entry types. Those additional agreements and representations are set forth for each entry type below. If you send us any of the entry types described below, you automatically make the additional agreements and representations to us that are set forth for that entry type below. Without limiting the foregoing, in the event there is a conflict between the agreements and representations set

forth below and the agreements and representations required in the rules for the relevant entry type, you will be deemed to make the agreements and representations required in the rules when you send us that entry type, and you will comply with all obligations of the rules relevant to that entry type, even if not restated below.

(a) ARC (Accounts Receivable) Entries. If you send us debit entries using an ARC entry class code (each an "ARC Entry"), you represent and warrant to us and agree that:

(i) The entry is a single-entry debit for conversion of receiver's check or draft for the payment of goods or services;

(ii) A check or draft provided by the receiver to you and received (a) via the U.S. mail (or an equivalent service, such as an overnight delivery service), (b) at a drop box location, or (c) in person for payment of a bill at a manned location, serves as the source document for the receiver's routing number, account number, check serial number and dollar amount for the entry, contains a pre-printed serial number, does not include an Auxiliary On-Us Field in the MICR line, is for an amount of \$25,000 or less, and was completed and signed by the receiver;

(iii) The check or draft used as the source document for the entry is eligible to serve as a source document under the rules and is not one of the following: a third party check or draft, a draft that does not include the signature of the receiver, a check provided by a credit card issuer to access a credit account, a check drawn on a home equity line of credit, a check drawn on an investment company, an obligation of a financial institution, such as a traveler's check or money order, a check drawn on any federal institution, such as the Treasury of the United States or Federal Reserve Bank, a check drawn on a state or local government and not payable through or at a participating depository financial institution, and a check or draft payable in a medium other than United States currency;

(iv) For source documents received via U.S. mail (or an equivalent service, such as an overnight delivery service) or at a drop box location, in advance of receiving the source document for the entry, you gave the receiver a notice that complies with the rules and that clearly and conspicuously stated that receipt of receiver's source document would authorize an ACH debit entry to receiver's account in accordance with the terms of such source document, and for source documents that are provided by the receiver in-person for payment of a bill at a manned location, you provided a copy of such notice at the time of the transaction. In either case, such notice must include the following, or substantially similar, language:

"When you provide a check as payment, you authorize us either to use information from your check to make a one-time electronic fund transfer from your account or to process the payment as a check transaction.";

(v) The source document for the entry has not been altered;

(vi) The source document for the entry is not subject to any defense or claim of any person;

(vii) The source document for the entry is drawn on, payable through, or payable at the RDFI, and the amount of the entry, the routing number, the account number and check serial number are in accordance with the source document for the entry;

(viii) The source document for the entry will not be presented to the RDFI unless the entry has been returned by the RDFI;

(ix) You have not key-entered the routing number, account number, or check serial number from the source document for the entry, other than to correct errors relating to MICR misreads, mis-encoding or processing rejects;

(x) You must —and will— retain a reproducible, legible image, microfilm or copy of the front and back of the source document for two years from the date of the settlement of the entry;

(xi) You will give us a copy of the front and back of the source document within five business days of our request;

(xii) You will establish reasonable document retention/destruction policies and use commercially reasonable methods to securely store all source documents until destruction, and all banking information relating to ARC Entries; and

(xiii) You will comply with the rules for ARC Entries.

(b) **Back Office Conversion (BOC) Entries.** If you send us debit entries using a BOC entry class code (each a "BOC Entry"), you further represent and warrant to us and agree that:

(i) The entry is sent to collect truncated checks for payment of goods or services;

(ii) Prior to the receipt of each source document that is used as the basis for the origination of a BOC entry, you will provide the receiver with notice that includes the following, or substantially similar, language:

"When you provide a check as payment, you authorize us either to use information from your check to make a one-time electronic fund transfer from your account or to process the payment as a check transaction. For inquiries, please call <retailer phone number>."

Such notice will be posted in a prominent and conspicuous location and a copy of such notice, or language that is substantially similar, will be provided to the receiver at the time of the transaction.

(iii) A check or draft provided to you by the receiver at the point of purchase serves as the source document for the receiver's routing number, account number, check serial number and dollar amount for the entry. Such source document for the BOC Entry:

(A) Contains a pre-printed serial number;

(B) Does not contain an Auxiliary On-U's Field in the MICR line;

(C) Is in an amount of \$25,000 or less; and

(D) Was completed and signed by the receiver.

(iv) The checks or drafts used as the source document for a BOC Entry are not:

(A) Checks or sharedrafts that have not been encoded in magnetic ink;

(B) Checks or sharedrafts that contain an Auxiliary On-U's Field in the MICR line;

(C) Checks or sharedrafts in an amount greater than \$25,000;

(D) Third-party checks or sharedrafts;

(E) Remotely created checks, as defined by Regulation CC, or third-party drafts that do not contain the signature of the Receiver;

(F) Checks provided by a credit card issuer for purposes of accessing a credit account or checks drawn on a home equity line of credit;

(G) Checks drawn on an investment company;

(H) Obligations of a financial institution (e.g., traveler's checks, cashier's checks, official checks, money orders, etc.);

(I) Checks drawn on the Treasury of the United States, a Federal Reserve Bank, or a Federal Home Loan Bank;

(J) Checks drawn on a state or local government that are not payable through or at a Participating DFI; or

(K) Checks or sharedrafts payable in a medium other than United States currency.

(v) You will employ commercially reasonable procedures to verify the identity of the receiver;

(vi) You have established and will maintain a working telephone number for receiver inquiries regarding the transaction that will be answered during normal business hours. This telephone number will be displayed on the notice required to be given to the receiver.

(vii) The amount of the entry, the routing number, the account number and check serial number are in accordance with the source document for the entry;

(viii) You used a reading device during the initial processing of the BOC entry to capture (and did not key-enter) the receiver's routing number, account number, and check serial number from the receiver's source document for the entry, and key-entered such information only to correct errors relating to MICR misreads, mis-encoding or processing rejects.

(ix) You will not use the source document for the entry as a check to obtain payment unless the BOC entry is returned by the RDFI.

(x) You will retain a reproducible, legible image, microfilm or copy of the front of the receiver's source document for each BOC entry for two years from the settlement date of the BOC entry.

(xi) Upon our request, you will give us, within five banking days of such request, a copy of the front of the receiver's source document (and such copy will indicate that it is a copy on its face).

(xii) You will employ commercially reasonable methods to securely store:

(A) All source documents until they are destroyed; and

(B) All banking information relating to BOC Entries.

(xiii) You have and will continue to otherwise comply with the rules for BOC entries.

(c) International ACH Transaction (IAT) Entries. If you send us an entry that is an IAT entry, you represent and warrant to us and agree that:

(i) The entry will be identified by, and will comply with the requirements of, the IAT entry class code, including complying with all NACHA record format specifications for the IAT entry class code.

(ii) If you originate an entry using another entry class code and we determine in good faith the entry should have been originated using the IAT entry class code, in addition to any other rights we have, we may suspend the processing of and/or reject that entry (or batch or file containing that entry) and we may also suspend and/or terminate your ACH origination service immediately without prior notice. Similarly, a gateway operator or ACH operator may suspend the processing of and/or reject an entry that it determines should have been originated as an IAT entry and was not.

(iii) You are in compliance with, and the entry complies with, all applicable United States laws and regulations, including sanctions and other programs administered by the U.S. Department of Treasury's Office of Foreign Asset Control, "OFAC," or Financial Crimes Enforcement Network.

(iv) You are in compliance with, and the entry complies with, the laws, regulations, and payment system rules of the receiving country, including any requirement to obtain the receiver's written, oral, or electronic authorization, for the receiver's authorization to be validly signed, for the receiver's authorization to be in proper form to authorize the foreign RDFI to debit the receiver's account, to provide notice of the entry prior to it settling in the receiver's account, to provide notice to the receiver of the receiver's recourse and other provisions relevant to the receiver, and to obtain a separate authorization from the receiver for each debit entry initiated at sporadic times, instead of set intervals.

(v) In addition to any other rights we have, if we suspect that the entry may not comply, or determine that it does not comply, with any applicable laws or regulations, the rules, or any other payment system rules (including those laws and regulations relating to sanctions programs), we may suspend processing of and/or reject the entry and hold funds debited from or to be credited to your account for the entry.

(vi) You will maintain either the original or a copy of any authorization required from the receiver for the entry for the longest period of time we may be required to produce that authorization under any of the rules, the laws and regulations of the U.S., and the laws, regulations, and payment system rules of the receiving country. You will make available for inspection, within a reasonable time, upon our request or the request of the receiver or an authorized representative of the receiver (including the receiving bank) the authorization required from the receiver of the entry.

(vii) If the entry is an outbound IAT entry, you authorize (and authorize us to authorize) the gateway operator to transmit the entry to the foreign gateway operator and to arrange for the settlement of the entry with the foreign gateway operator, for further transmission to, and settlement with, the foreign RDFI for credit or debit of the amount to or from the receiver's account.

(viii) If the entry is an outbound IAT entry and we do not have an agreement for processing IAT entries with the domestic RDFI that serves as the gateway operator for the entry, it may result in either us or the gateway operator suspending the processing of and/or rejecting the entry or the batch or file in which the entry is contained.

(ix) You bear sole responsibility for all losses and other risks relating to foreign exchange conversion with respect to the entry.

(x) In addition to any other indemnity obligations you have under the general terms and conditions or these ACH origination terms and conditions, you will defend, indemnify, protect and hold us, our affiliates, and our respective officers, directors, employees, attorneys, agents, and representatives harmless from and against any and all liabilities, claims, damages, losses, demands, fines, judgments, disputes, costs, charges, and expenses which relate in any way to (i) any IAT entry (or requests or instructions related to an IAT entry) you send us that does not comply with all applicable laws and regulations, the rules, and the payment system rules of the receiving country, or (ii) any breach of any representation, warranty, or agreement you have made related to an IAT entry. Without limiting the foregoing, you agree you are liable for and will reimburse us for all amounts that may be erroneously paid by us or any receiving bank in respect of any entry erroneously credited or debited by us or any receiving bank pursuant to any IAT entry you originated or related instructions you gave and any claim paid by us (including any claim for interest) as a result of a declaration of a receiver or other person alleging that an IAT entry was not originated in accordance with the receiver's authorization, the receiver's authorization was revoked, a required notification was not given in sufficient time before the entry was processed to the account of the receiver, or no valid authorization ever existed between the receiver and you.

(xi) Because of the requirements for processing IAT entries, the processing of an IAT entry may be delayed or suspended. Any such delay or suspension may affect the settlement of and availability of funds for an IAT entry. You will transmit IAT entries to us in files comprised solely of IAT entries, rather than in a file that also contains other entry types. If you include an IAT entry in a file that contains other entry types, the processing of the entire file, not just the IAT entries, may be delayed or suspended, affecting settlement of and availability of funds for any entry in that file. In addition to any other limits on our liability, we will not have any liability for any delay in or suspension of processing or rejection of an IAT entry or file containing an IAT entry, in accordance with our processing requirements for IAT entries or applicable law, or for the actions of any third parties (including any gateway operator or ACH operator) resulting in the delay in or suspension of processing or rejection of an IAT entry.

(xii) A gateway operator may return the entry after the period of time for the return of an IAT entry provided in the rules, and you agree we may settle that return to one of your accounts.

(xiii) Your obligations with respect to any IAT entries under these ACH origination terms and conditions, including any obligations under the payment system rules of the receiving country, shall continue to remain in full force and effect after the termination of your ACH origination services or your ability to generate IAT entries with respect to any entry you originate prior to the effective date of such termination.

(xiv) You have and will continue to comply with the rules for IAT entries.

(d) **POP (Point-of Purchases) Entries.** If you send us debit entries using the POP entry class code (each a "POP entry"), you represent and warrant to us and agree that:

(i) A check or draft provided by the receiver at the point of purchase serves as the source document for receiver's routing number, account number, check serial number and dollar amount for the entry, and that source document contains a preprinted serial number, does not contain an Auxiliary On-U's Field in the MICR line, is for an amount of \$25,000 or less, was completed and signed by the receiver, and has not previously been provided by the receiver for use in any other POP entry;

(ii) Prior to the receipt of each source document that is used as the basis for the origination of a POP entry, you will provide the receiver with notice that includes the following, or substantially similar, language:

"When you provide a check as payment, you authorize us either to use information from your check to make a one-time electronic fund transfer from your account or to process the payment as a check transaction."

Such notice will be posted in a prominent and conspicuous location and a copy of such notice, or language that is substantially similar, will be provided to the receiver at the time of the transaction;

(iii) You have voided the source document and returned it to the receiver at the point of purchase;

(iv) The source document is an eligible item for POP entries under the rules, and you have not used a previously voided item as the source document;

(v) You have obtained the receiver's signed, written authorization for the entry;

(vi) You have not key-entered the routing number, account number or check serial number from the source document;

(vii) You will give us a copy of the receiver's written authorization for the entry within five days after we request it;

(viii) You have given the receiver of the entry a receipt for that entry that contains all of the information required under the rules; and

(ix) You will comply with the rules for POP Entries.

(e) **RCK (Re-presented Check) Entries.** If you send us debit entries using the RCK entry class code (each an "RCK Entry"), you represent and warrant to us and agree that:

(i) The entry is sent to collect a check or draft drawn on a consumer account that has been returned;

(ii) You have good title to and are entitled to enforce the returned item to which the entry relates and can transfer good title to us;

(iii) All signatures on the returned item to which the entry relates are authentic and authorized;

(iv) The returned item to which the entry relates has not been altered and the entry is for no more than the face value of such item;

(v) The returned item to which the entry relates is not subject to any defense or claim in recoupment of any person, including any defense or claim that could be asserted against us;

(vi) You have no knowledge of any insolvency proceeding commenced with respect to the maker, acceptor or drawer of the returned item to which the entry relates;

(vii) The returned item to which the entry relates is drawn on, payable through, or payable at the RDFI, and the amount of the item, the item number, and the account number contained on such item have been accurately reflected in the entry;

(viii) Neither the returned item to which the entry relates nor a copy of such item will be presented to the RDFI, unless the related entry has been returned by the RDFI;

(ix) The information encoded after issue in magnetic ink on the returned item to which the entry relates is correct;

(x) Any restrictive endorsement made by you or your agent on the returned item to which the entry relates is void or ineffective upon initiation of the entry;

(xi) The item is an eligible item as defined in the rules;

(xii) You have given the receiver of the entry a notice that clearly and conspicuously states the terms of the represented check entry policy in advance of receiving the item to which the entry relates;

(xiii) You will maintain a copy of the front and back of the returned item to which the entry relates for seven years from the settlement date of the entry;

(xiv) You will give us either the original returned item to which the entry relates if we request it within 90 days of the settlement date or a copy of the front and back of such item within five business days of our request;

(xv) The entry was transmitted in time for us to transmit the entry to the RDFI's ACH operator by midnight of the second banking day following the banking day of receipt of the presentment notice for the returned item to which the entry relates; and

(xvi) You will comply with the rules for RCK Entries.

(f) **TEL (Telephone-Initiated) Entries.** If you send us debit entries using the TEL entry class code (each a "TEL entry"), you represent and warrant to us and agree that:

(i) You have used commercially reasonable procedures to verify the identity of the receiver of the entry;

(ii) You have used commercially reasonable procedures to verify that the routing number associated with the entry is valid;

(iii) You have obtained oral authorization from the receiver for the entry, and the authorization complies with the rules and contains all of the information required under the rules;

(iv) For an authorization relating to a single entry TEL entry, you will either make an audio recording of the oral authorization, or provide the receiver with written notice confirming the oral authorization prior to the settlement of the entry;

(v) For an authorization relating to recurring TEL entries, you will comply with the requirements of Regulation E for the authorization of preauthorized transfers, including the requirement to send a copy of the authorization to the receiver;

(vi) For a single entry TEL entry, you will retain the original or a microfilm or microfilm equivalent copy of the written notice or the original or a duplicate audio recording of the oral authorization for two years from the date of the authorization, and you will give us a copy of such audio recording or such notice immediately upon our request;

(vii) For recurring TEL entries, you will retain for two years from the termination or revocation of the authorization (a) the original or a duplicate audio recording of the oral authorization, and (b) evidence that a copy of the authorization was provided to the receiver in compliance with Regulation E; and

(viii) You will comply with the rules for TEL Entries.

(g) WEB (Internet-Initiated/Mobile) Entries. If you send us debit entries using the WEB entry class code (each a "WEB entry"), you represent and warrant to us and agree that:

(i) The entry is transmitted pursuant to an authorization that is obtained from the receiver via the Internet or Wireless Network to effect a transfer of funds from a consumer account of the receiver, or pursuant to any authorization permitted by the rules if the receiver's instruction for the initiation of the individual debit entry is designed to be communicated via a Wireless Network;

(ii) You have employed a commercially reasonable fraudulent transaction detection system to screen the entry;

(iii) You have used commercially reasonable procedures to verify the identity of the receiver of the entry;

(iv) You have utilized commercially reasonable procedures to verify that the routing number associated with the entry is valid;

(v) You have used encryption for transmittal of banking information related to any entry or you have established a secure Internet session with the receiver of the entry, in either case utilizing commercially reasonable security technology that complies with applicable regulatory requirements prior to the receiver's key entry and through transmission to the originator of any banking information, including, but not limited to, any entry, the receiver's routing number, account number and PIN number or other identification symbol;

(vi) You will conduct or have conducted annual audits to ensure that the financial information you obtain from receivers is protected by security practices and procedures that include, at a minimum, adequate levels of (A) physical security to protect against theft, tampering, or damage, (B) personnel and access controls to protect against unauthorized access and use, and (C) network security to ensure secure capture, storage, and distribution;

(vii) You will provide us upon request with proof that is satisfactory to us that your annual security audit has been properly conducted;

(viii) You have obtained a properly authenticated authorization from the receiver complying with the rules, and shall give us a copy of that authorization within five days after we request it; and

(ix) You will comply with the rules for WEB Entries.

(h) Return Fee Entries. If you send us a debit entry for a return fee charged to a receiver for a debit entry or other item that was returned for insufficient or uncollected funds (a "Return Fee Entry"), you represent and warrant to us and agree that:

(i) The Return Fee Entry is in relation to the return of either (a) a debit entry to a consumer account of a receiver; (b) an ARC, BOC or POP entry to a non-consumer account of a receiver; or (c) an item that was eligible to be converted to a debit entry, but was not converted to an entry;

(ii) The Return Fee Entry is for the purpose of collecting a return fee that is permitted under the rules for Return Fee Entries, and you have satisfied all requirements with respect to the returned item in order to originate the Return Fee Entry;

(iii) If you have satisfied the requirements for authorization of a Return Fee Entry by providing notice to the receiver at the time that the underlying entry was authorized or the original item was accepted, the notice included the following, or substantially similar, language:

"If your payment is returned unpaid, you authorize us to make a one-time electronic fund transfer from your account to collect a fee of [\$];" or

"If your payment is returned unpaid, you authorize us to make a one-time electronic fund transfer from your account to collect a fee. The fee will be determined [by/as follows]: []";

(iv) You have not and will not impose any other return fee in relation to the underlying entry or item that was returned unpaid; and

(v) You have complied with all rules for Return Fee Entries, including formatting requirements and settlement date requirements, if applicable.

20. Proof of Authorization for Non-Consumer Entries. For CCD, CTX, or inbound IAT entries that you originate to non-consumer accounts, you will provide us with an accurate record evidencing the receiver's authorization or your contact information for inquiries regarding the authorization within five business days of our request.

21. Audit Rights. At any time, upon two days' prior notice, we may perform a remote or onsite audit of your systems, procedures, controls, and records as we deem necessary to determine your compliance with the rules and these ACH origination terms and conditions. You will provide us with reasonable assistance and information to conduct such audit, including reasonable access to operating systems, policies, procedures, records, and other materials.

22. Same Day ACH Option.

(a) Description of the Same Day ACH Option. "Same Day ACH" is an option of the ACH Origination service that allows you to submit ACH credit and/or debit entries for same-day processing. Same Day ACH credit and debit options require separate enrollment. If you have previously enrolled to use the Same Day ACH credit option and wish to use the Same Day ACH debit option, you will be required to also enroll in the Same Day ACH debit option once it is available. Alternatively, you may choose to enroll only in the Same Day ACH credit option or only in the Same Day ACH debit option. The Same Day ACH credit option is currently available. We will begin implementing the Same Day ACH debit option when it is available, which will be no earlier than September 15, 2017. You will not be permitted to submit ACH entries for same-day processing until you affirmatively elect to use this option by completing documentation that we may require. Same Day ACH may not be available to all clients, subject to our discretion. Your election to use the Same Day ACH credit and/or debit option will be reflected in one or more service confirmations. Your election to use the Same Day ACH option will apply to all current accounts that you have designated for ACH Origination as well as any accounts that you designate for ACH Origination in the future, unless you provide us written instructions (in a form acceptable to us) to exclude certain accounts. Details regarding features and requirements (including cut-off deadlines, file specifications, and formatting or other technical requirements) are provided in the reference materials.

(b) Requirements.

(i) In order for an ACH entry to be processed as a Same Day ACH entry, (A) you must have opted in to use the Same Day ACH option for debit or credit, as applicable to the entry you are submitting; (B) the effective entry date must be the same date (or earlier date, also known as a "stale-dated" entry) as the business day that you submit the entry to us; (C) you must submit the entry to us before the cut-off deadline for Same Day ACH processing as specified in the reference materials; and (D) you must meet all requirements for Same Day ACH entries set forth in the rules, this agreement, or the applicable reference materials.

(ii) According to the rules, a Same Day ACH entry must be for an amount of \$25,000 or less, and an IAT entry cannot be a Same Day ACH entry. In the event you submit an ACH entry that is an IAT entry and/or is in an amount of more than \$25,000, such credit entry will not be processed on a same-day basis.

(iii) Same Day ACH entries may only be transmitted through certain online services as specified in the reference materials, and may not be transmitted through all of the online services we offer for ACH Origination services generally.

(iv) Same Day ACH entries should be transmitted in a batch containing only Same Day ACH entries. If you are submitting any entries intended for next-day settlement or settlement on any future date, those entries should be transmitted in a separate batch with the intended effective date.

(v) If you have enrolled in the Same Day ACH credit option but have not enrolled in the Same Day ACH debit option, and you submit a batch that includes Same Day ACH credit entries as well as debit entries, the debits will be processed as next day entries. If you have enrolled in the Same Day ACH debit option but have not enrolled in the Same Day ACH credit option, and you submit a batch that includes Same Day ACH debit entries as well as credit entries, the credits will be processed as next day entries.

(c) Same Day Fee. Same Day ACH entries will be assessed a fee per entry (the "Same Day Fee"), as specified in pricing information provided to you. In the event that an entry that you intend to be processed as a Same Day ACH entry is not processed on a same-day basis as a result of the file suspending due to errors on your part (e.g., control total missing or incorrect, or insufficient funds in your account), you will be charged the Same Day Fee if the entry is processed during any Same Day ACH window, regardless of whether the entry is processed the same day you submitted it to us or not. In the event that an entry you intend to be processed as a Same Day ACH entry cannot be processed on a same-day basis due to delays that are solely caused by us, you will not be assessed the Same Day Fee, but any other applicable fees for ACH Origination will apply. In the event that you have opted in to the Same Day ACH option and you send us an entry intended for next-day processing, but the entry is delayed due to errors on your part and is processed during a Same Day ACH window as a Same Day ACH entry instead, the Same Day Fee will be assessed.

(d) Processing.

(i) If you intend to submit an ACH entry to us for same-day processing but we do not receive the entry before the Same Day ACH cut-off deadline specified in the reference materials, we will use reasonable efforts to transmit such entries by the ACH operator's next deposit deadline on a business day on which the ACH operator is open for business, but the entry may not be processed same-day.

(ii) If you submit a Same Day ACH entry to us according to the requirements set forth herein, we will use commercially reasonable efforts to transmit such entry to the ACH operator by the ACH operator's deadline for same-day processing and settlement. However, certain delays or suspensions (including but not limited to system outages, delays due to fraud, anti-money laundering or other review, etc.) may prevent entries from being processed on a same-day basis, even if you submit such entries to us by the cut-off deadline. Accordingly, you acknowledge and agree that same-day processing is not guaranteed in any instance, and some entries you submit to us that are intended to be Same Day ACH entries may not be processed on the same day, and will instead be processed at the next available deadline. Therefore, you agree that we will have no liability to you due to the fact that such entry was not processed on a same-day basis for any reason, provided that we otherwise process the entry according to these terms and conditions.

(iii) If you have opted in to the Same Day ACH option, any credit entry (if you have enrolled in Same Day ACH credit) and any debit entry (if you have enrolled in Same Day ACH debit) with a same-day or stale-dated effective entry date that is processed by us during a Same Day ACH window (whether or not on the same day you submit the entry to us): (A) will be considered a Same Day ACH entry; and (B) will be assessed the Same Day Fee (except as otherwise provided herein relating to delays solely caused by the bank). You must ensure that accurate effective entry dates are used for all of your ACH entries, as the effective entry date is used to determine whether an entry will be processed on a same-day basis. We will have no liability to you and will not be required to refund the Same Day Fee in the event that an entry that you did not intend for same-day processing, but which contains a same-day (or stale-dated) effective entry date and is processed by us during a Same Day ACH window, is in fact processed on a same-day basis.

(iv) If you have opted in to the Same Day ACH option but wish to submit an entry to be processed on a next-day (or later) basis, you must ensure that the effective entry date for such entry corresponds with the intended settlement date.

(e) Same Day ACH Credit Option - Funding.

(i) Funds for Same Day ACH credit entries must be available in your designated account at the time that we process the entries. If sufficient funds are not available, the entries may be delayed or suspended.

(ii) If you utilize pre-funded ACH Origination, you may elect to also use the Same Day ACH credit option. If you use pre-funding, a hold will be placed on funds in your account at the time that the Same Day ACH credit entries are processed. If funds are not available in the account when the Same Day ACH credit entries are processed, we will continue to check the balance in the account to try to ensure that the Same Day ACH credit entries are processed on the intended settlement date. If funds are not available in time to meet that day's Same Day ACH cut-off deadline, the file will be processed on the next business day, once funds are available in the account. Our standard pre-funding guidelines apply for Same Day ACH credit processing if you elect to also use this option.

(f) Same Day ACH Debit Option – Authorization. When you send a Same Day ACH debit entry, you must ensure that the entry will settle no earlier than the date authorized by the receiver. Regardless of whether you use the Same Day ACH option or not, you may not debit a receiver's account prior to the date that has been authorized.

Cash Concentration Service

1. Description of the CashCon Service. The SunTrust Cash Concentration or "CashCon" service allows you to manage your available balances in accounts at other financial institutions by sending debit entries to those accounts through the automated clearing house, a funds transfer system for sending and settling electronic entries among participating financial institutions. Details regarding CashCon's functionality and certain requirements that you must follow when using the CashCon service are provided in the then current CashCon reference materials.

2. Functioning of the CashCon Service. Under the CashCon Service, we act as the originating depository financial institution ("ODFI") with respect to debit entries that you send us or that are sent to us on your behalf that are directed to your accounts at other financial institutions. Each account you maintain at another financial institution is referred to as a "reporting location account". Debit entries directed to a reporting location account are referred to as "concentration" entries. You will be the "originator" for each of those entries. Your use of the CashCon service is subject to the terms and conditions for the ACH origination service.

3. Implementation of CashCon Setup. We need certain information to implement the CashCon service for you. You agree to give us all of this information in a form that is acceptable to us. The SunTrust account used to settle concentration entries is referred to as the "designated account." A single reporting location account must use only one designated account to settle concentration entries. However, if you have more than one reporting location account, each reporting location account may use a different designated account or a single designated account. The designated accounts are identified in a service confirmation.

4. Origination and Processing of Entries. You must send all concentration entries to us by using one of the following delivery methods: (a) calling our voice response system, (b) calling one of our live operators, (c) logging on to our CashCon web site or (d) accessing our dial-up corporate control service. The telephone numbers and the Internet address are provided in the CashCon reference materials. If we receive your concentration entries after the daily cut-off set forth in the CashCon reference materials we will treat them as received on our next business day. We will format, process and settle to the relevant designated account all concentration entries that we receive from you in accordance with the rules, these CashCon terms and conditions and the terms and conditions for the ACH origination service.

5. Security Procedures. The following security procedures apply to your use of the CashCon service:

(a) Company Number. We will give you an authorization code that the voice response system, our live operators, the web site and the corporate control service may refer to as the company number. The company number is not unique to you and we may give the same company number to multiple clients. The Company Number and password/PIN combination is unique to your company. You must use the company number to send us a concentration entry through any delivery method for any reporting location account that we have included in your setup for the CashCon service.

(b) ID Number, Location Code or Location. We will also give you an authorization code(s) for each reporting location account you specify when you request the CashCon service. The voice response system and our live operators may refer to this code as the "ID number", the web site may refer to it as the "location code" and the

corporate control service may refer to it as the “location”. Each authorization code is limited to initiating concentration entries to a particular reporting location account. You must use the appropriate authorization code to send us a concentration entry through any delivery method for each reporting location account that we have included in your setup for the CashCon service.

(c) Company Password and PINs. For the web site, we will give you (a) a single authorization code that the web site may refer to as a password and (b) an authorization code for each location code that the web site may refer to as a PIN. The password is linked to the company number. As with the company number, the password is not unique to you and we may give the same password to multiple clients. The Company Number and password/PIN combination is unique to your company. Each PIN, however, is uniquely linked to a particular location code. You must use the company number, password and the appropriate location code and PIN to log onto the web site and send us a concentration entry for each reporting location account you specified when you requested the CashCon service.

(d) Division Code and Password. For the corporate control service, we will give you two authorization codes that the corporate control service may refer to as a “division number” and “division password”. These two authorization codes are unique to you, but are not unique to any particular reporting location account. Therefore you must use the company number, division number, division password and the appropriate location to log onto the corporate control service and send us a concentration entry for each reporting location account you specified when you requested the CashCon service.

The authorization codes are not user-specific. This means that all of your authorized users may --- and must --- use the same set of authorization codes to initiate a concentration entry for a particular reporting location account. We will send all of the authorization codes to the person(s) identified by you during the implementation process. Those individuals will be identified in a service confirmation. Each such person will act as your “contact” with respect to the authorization codes we send to him or her and will have all of the rights and responsibilities described in the general terms and conditions.

6. ACH Origination Service. These CashCon terms and conditions are expressly made a part of the terms and conditions for the ACH origination service and are subject to the terms and conditions thereof. Terms that are defined in the terms and conditions for the ACH origination service have the same meanings when used in these CashCon terms and conditions. If there is any inconsistency on a particular issue between these CashCon terms and conditions and the terms and conditions for the ACH origination service, these CashCon terms and conditions will control. You understand and agree, however, that our agreement to provide the CashCon service does not permit you to use any other aspect of the ACH origination service unless we have specifically agreed to include that other ACH origination service in our implementation of your setup for the ACH origination service.

Cash Vault Service

1. Description of the Cash Vault Service. The SunTrust cash vault service is designed to facilitate your cash and deposit needs. Details regarding the cash vault service’s functionality and certain requirements that you must follow when using the cash vault service are provided in the then current cash vault reference materials.

2. Definitions. The following terms have the specified meanings for the purposes of these cash vault terms and conditions:

(a) “Account” means the account(s) identified in implementation forms for your cash vault setups to which deposits will be made and from which cash orders will be funded.

(b) “Armored courier” means the armored courier you select who acts as your agent and uses secure, marked vehicles and armed personnel to transport deposit bags and cash orders.

(c) “Authorized user” means any person that you are deemed to have authorized to place cash orders online up to the order limit, including each person you have designated as an authorized user on the Online Web Order Access Form.

- (d) "Business day" means Monday through Friday, excluding holidays that we observe.
- (e) "Cash orders" means those orders you give us for the delivery of U.S. coins or currency by armored courier.
- (f) "Cash vault(s)" means the cash vault(s) that we have designated as serving your business location(s).
- (g) "Contaminated currency" means any currency which the Federal Reserve Bank classifies as contaminated, including any currency damaged by or exposed to a contaminant hazard (including any chemical, radioactive or biological substances) that may present a health or safety risk, or that cannot be processed under normal operating procedures.
- (h) "Deposits" means the funds that you deliver to the cash vault that are to be processed for deposit by the cash vault provider in accordance with these cash vault terms and conditions.
- (i) "Funds" means U.S. coins, currency, checks and other negotiable items.
- (j) "Mutilated coins" means any coins that have been bent or twisted out of shape, punched, clipped, plugged, fused or defaced but that can be identified as to genuineness and denomination.
- (k) "Mutilated currency" means any currency that has been damaged to the extent that one-half or less of the note remains, or its condition is such that its value is questionable and special examination is required before any exchange is made.
- (l) "Order limit" means the maximum dollar value of cash orders that you have designated that may be requested on any business day for each of your locations.

3. Your Obligations Related to Deposits.

- (a) You must collect and count funds and place them in a sealed, disposable deposit bag(s) or similarly designed tamper-proof bag(s) (each such bag is referred to in these cash vault terms and conditions as a "sealed deposit bag") clearly marked with your name or identification number. Each sealed deposit bag must be prepared in accordance with the requirements set forth in the cash vault reference materials. A deposit ticket listing your name, deposit account number and the amount of funds must be included in each sealed deposit bag.
- (b) You must cause sealed deposit bags to be delivered by the armored courier to the appropriate cash vault for each of your locations. We may reject, impose a special fee on, and/or delay processing of any sealed deposit bag if (i) the deposit ticket does not match the amount contained in the sealed deposit bag, (ii) the sealed deposit bag was not prepared in accordance with the requirements set forth in the cash vault reference materials, (iii) the sealed deposit bag is delivered to the wrong cash vault, (iv) the sealed deposit bag is delivered by anyone other than the armored courier or (v) any sealed deposit bag appears to be unsealed or to have been tampered with.
- (c) In the event that we accept delivery of an unsealed deposit bag or a sealed deposit bag that appears to have been tampered with (each such bag is referred to in these cash vault terms and conditions as an "unsealed deposit bag"), we will give you notice on the day we receive it. Unless you have previously given us instructions on how to process unsealed deposit bags, we will not process or take any action regarding an unsealed deposit bag until you give us an instruction regarding its disposition.

4. Our Obligations for Processing Deposit Bags.

- (a) We will process each sealed deposit bag within 24 hours of delivery to the cash vault. We will open each sealed deposit bag, verify the contents against the deposit ticket and deposit from the bag the funds that qualify for deposit into the relevant account. Your actual deposit is not made until such verification is completed at the cash vault and the deposit is posted to your account. If there is any discrepancy between the total amount reflected by you on the deposit ticket (or discrepancy between the contents of the bag and information that is otherwise reported to or made available to the cash vault operator by any other method prior to the time the contents of any sealed deposit

bag are verified) and the actual amount counted by us or our cash vault provider, our count will be final. Without limiting the generality of the foregoing sentence, in certain situations, based upon data that you (or a third party) have provided to or otherwise made available to the cash vault provider about your cash receipts, you may receive provisional credit for such cash receipts. However, your actual deposit shall not be deemed made, and your actual deposit credit shall not be given, based upon such information. Your actual deposit and deposit credit shall not be given until such cash receipts are actually received by us, or by the cash vault provider, and are counted. You agree that your actual deposit is based solely upon the physical verification and count performed by us or by the cash vault provider and is based upon no other information and that we are not bound by any such other information reported by you or by any cash receipts reporting service and we may reverse or adjust any provisional credit that may have been given based upon such information. If we detect any counterfeit or altered coins or currency in a deposit bag, we will forward the counterfeit or altered items to the Secret Service and charge the relevant account for the difference. A deposit adjustment notice will be sent to you on the day that the discrepancy or counterfeit is discovered.

(b) The relationship of debtor and creditor will not exist between you and us until we or the cash vault provider deposit the funds from any deposit bag to your account.

5. Cash Orders. You acknowledge that each authorized user has authority to place cash orders up to the order limits for delivery to your location. We may place a "hold" on your account for the amount of a cash order as soon as we receive it, and we will charge your account for the cash order when we deliver it to your armored courier. We reserve the right to reduce cash orders to maintain our inventory of coins and currency.

6. Authorization Codes and Security Procedures. If you place cash orders through our voice response unit, we will issue up to three sets of User ID / Password combinations, for you to control and distribute to individuals who you want to have access to the voice response unit. You can contact us to delete or change User ID / Password combinations as needed. If you place cash orders through one of our on-line services or another automated ordering system, we will provide authorization codes for each of your authorized users that you identify on our Online Web Order Access Form. We will deliver the authorization codes directly to each authorized user or to the person(s) you have designated as your "contact" at the electronic address you have designated. The security procedures for cash orders placed through one of these methods may include the requirement that your authorized users use their authorization codes when placing a cash order.

7. Risk of Delivery. You are solely responsible for engaging the armored courier. The armored carrier acts as your agent, not an agent or subcontractor of the bank. You assume any and all risks incidental to or arising out of selection of the armored carrier, the delivery of deposit bags to us and the delivery of cash orders to you. Notwithstanding the foregoing, we can reject any courier we deem unacceptable. We have no responsibility or liability for a deposit bag until we accept possession of it from your armored courier (as evidenced by one of our authorized representatives signing the armored courier's manifest acknowledging receipt of a designated number of deposit bags) or for cash orders after we deliver them to your armored courier. If a deposit is lost in transit, you are responsible for recreating that deposit.

8. Contaminated and Mutilated Coins or Currency.

(a) Contaminated currency must be delivered to us in a separate sealed, tamper-evident disposable deposit bag, clearly labeled as "Contaminated Currency." You must provide documentation stating the type and extent of the contamination, a breakdown by denomination of the currency and a deposit slip for the declared value. The deposit bag and 2 copies of the required documentation must be placed in a second sealed, tamper-evident, disposable deposit bag with stated value recorded on the bag. We will forward the deposit of contaminated currency to the Federal Reserve Bank for processing. Once the Federal Reserve Bank has provided confirmation of value, we will credit your account for the value assigned.

(b) Mutilated coins or currency must be delivered to us in a separate sealed, tamper-evident disposable deposit bag, clearly labeled as "mutilated coins" or "mutilated currency" as appropriate. You must provide documentation stating the estimated value of the mutilated coins or currency, a break down by denomination of the coins or currency, an explanation of how the coins or currency became mutilated, and a deposit slip for the estimated value of the deposit. The deposit bag and 2 copies of the required documentation must be placed in a second sealed, tamper-evident, disposable deposit bag with stated value recorded on the bag. We will forward the deposit of coins to the U.S. Mint and the deposit of mutilated currency to the U.S. Department of the Treasury. Once the U.S. Mint

or the U.S. Department of the Treasury has provided confirmation of the value of the mutilated coins or currency, we will credit your account for the value assigned.

(c) If there is any discrepancy between the value of the contaminated currency or mutilated coins or currency assigned by you and the amount counted by us or by the Federal Reserve Bank, U.S. Department of the Treasury or the U.S. Mint, our count or the count of the Federal Reserve Bank, U.S. Mint or the U.S. Department of the Treasury will be final. We will charge you for any additional fees charged by the Federal Reserve Bank for processing any contaminated currency, by the U.S. Mint for processing any mutilated coins or by the U.S. Department of the Treasury for processing any mutilated currency.

(d) We may refuse to accept any contaminated or mutilated coins or currency unless we have given our prior approval for the delivery of such coins or currency. If any contaminated currency or mutilated coins or currency is included in among deposit bags or comingled in any deposit bag and not contained in a separate marked deposit bag, we may refuse to process all or part of the deposit bag containing such currency, may return the deposit bag or the contaminated currency or mutilated coins or currency contained in the deposit bag or may refuse to give credit for the contaminated currency or mutilated coins or currency, and we will charge the account for the amount of any contaminated currency the Federal Reserve Bank has refused to process for which your account was given provisional credit. We have no liability for the amount of any contaminated currency or mutilated coins or currency included in any deposit bag and not contained in a separate marked deposit bag as required above.

Controlled Disbursement Service

1. Description of the CDA Service. The Controlled Disbursement Account ("CDA") service allows you to improve control over daily cash requirements by allowing you to defer funding of check disbursements until the day they are presented for payment.

2. Operation of the CDA Service.

(a) When you request the CDA service, we will provide you with a set of specifications that checks issued against a disbursement account must meet. These specifications include specific routing number and magnetic ink encoding requirements that must be met in order for the CDA service to operate correctly. Using checks that do not meet these specifications can result in daily out-of-balance situations in a disbursement account. You must give us voided sample checks for each disbursement account so that we may test those checks for compliance with the specifications. Once we complete our testing, we will send you a notice that your sample checks are acceptable or that they fail to meet our specifications. You may not issue checks against a disbursement account until you have received a notice from us that your sample checks are acceptable.

(b) On each banking day, we will make information available to you regarding the total dollar amount of all checks that have been presented for payment against each disbursement account that day by the daily controlled disbursement reporting deadlines that we separately disclose to you from time to time. We will make this information available to you through one of our online services.

(c) You understand that we provide presentment information to you solely to assist you in funding your disbursement accounts. The CDA service does not relieve you of the obligation to fund your disbursement accounts appropriately. As a result, you agree to have sufficient funds on deposit in each disbursement account to pay all checks issued against that account, whether or not we have notified you of the presentment of those checks. If the presentment information is not available by the daily reporting deadline, you should consider using an estimate based on historical information. The disbursement account may be funded by a transfer of available balances from another account with us, a wire transfer of funds from an account at another financial institution, or an approved line of credit from us. Whatever method is used, we must receive that funding by the funding deadline(s) that we separately disclose to you from time to time. In the event a disbursement account is not adequately funded on the date of presentment, we may return items for which there are not sufficient funds.

(d) If any ACH or other electronic debits are presented against a disbursement account, those debits may not be included in the information we provide you regarding daily presentments. In that event, you must adjust your funding of the disbursement account to cover those ACH or other electronic debits.

(e) You agree and understand that the purpose of the CDA service is to improve control over daily cash requirements by allowing you to defer funding of check disbursements until the day they are presented for payment, and it may not be used to delay the collection of funds by any payees or presenter of any check, and it is a material breach of these terms and conditions to use the service to delay payment.

3. Duration and Changing of Options. Once we have included the information provided by you in our implementation of your setup for the CDA service, it remains in effect until (a) your use of the CDA service or the agreement is terminated or (b) you modify your previous selections and we have had a reasonable time to act on those modifications before additional checks are presented for payment.

Controlled Payment Service

1. Description of the CPR Service. The SunTrust Controlled Payment ("CPR") service allows you to give us instructions to return certain checks that you believe may be fraudulent or not validly issued. Details regarding CPR's functionality and formatting and other technical requirements you must follow when using the CPR service are provided in the current CPR reference materials.

2. Operation of the CPR Service.

(a) You must transmit an issue file to us on each day on which you have issued any checks against any account that is included in the CPR service. We must receive that issue file by the issue deadline set forth in the CPR reference materials and it must contain all of the information set forth in the CPR reference materials with respect to each check you issued that day. You may send us a separate issue file for each account, or you may send us an aggregate issue file for all of the accounts that are included in the CPR service. Once we have received your issue file, we will compare the information in that issue file with the information in our systems with respect to checks (A) that have been presented to us through normal check clearing channels for payment against the relevant account, and (B) for which we have provisionally settled but have not yet posted to the relevant account. You authorize us to post, finally pay and charge against the relevant account, each check that matches the information in your issue file. We will notify you of each presented check that is not included in the issue file or that reflects information that does not match the information in the issue file. The checks that are not listed, or for which the information does not match, are referred to as "mismatched checks." You must instruct us to pay or return each mismatched check by the payment decision deadline set forth in the CPR reference materials. Your instructions must contain all of the information with respect to each mismatched check set forth in the CPR reference materials. You may elect one of two ways for us to deal with mismatched items if you fail to give us a pay or return decision by the payment decision deadline. Under the "return default" option, you authorize us to return unpaid each mismatched check unless we receive an instruction from you to pay it before the payment decision deadline. Even if you select a return default option, we may post, finally pay and charge against the relevant account a mismatched check you haven't decided (A) as otherwise provided below, for mismatched checks presented over the counter in one of our branches and (B) mismatched checks that we believe in good faith result solely from encoding errors. Under the "pay default" option, you authorize us to post, finally pay and charge each mismatched check against the relevant account unless we receive an instruction from you to return it before the payment decision deadline. Your election of these options is reflected in a service confirmation. We may give you the option of not providing information in your issue file on one or more check attributes (such as the payee's name) that the CPR service is capable of matching. Of course, not matching all available check attributes increases the risk that a fraudulent check will not be detected as a mismatched check. As a result, if you make the business decision of not providing information in your issue file with respect to all available check attributes, you agree that, in addition to the other limits on our liability provided in these CPR terms and conditions, we will not be liable for paying any check that is fraudulent with respect to the attributes for which you failed to provide us information, as long as we otherwise satisfied our duty of care with respect to the other aspects of the CPR service in processing that check.

(b) As part of the CPR service, when teller access is used we can also make your issue files available to our branches to assist our tellers in cashing checks. This is referred to as "teller access." We provide teller access because fraud involving checks presented to tellers for cashing is a common form of check fraud. Using our teller access service is a good way to defend against that form of fraud. If a check presented for payment over the counter in one of our branches against an account that uses teller access (i) is presented before we have received and processed an issue file for such check or (ii) is a mismatched check, we will attempt to obtain approval for payment

of the mismatched check by calling one of the people you must designate as a "telephone representative" for the relevant account. We will make one attempt to call each telephone representative for the relevant account until we have reached one of them. Each telephone representative is authorized to instruct us to pay or return any mismatched check. If the telephone representative we contact instructs us to pay the check, then you have authorized us to post, finally pay and charge the check against the relevant account. If we are unable to contact a telephone representative, or the telephone representative we contact does not instruct us to pay the mismatched check, then you have authorized us to return the check to the person presenting it to us. Our documentation showing that we contacted or attempted to contact your telephone representatives will be conclusive evidence as to the reason for the action we took. If you do not name at least one telephone representative for each account for which you have elected the CPR service or you fail to keep the telephone representative information reflected in our records up to date, you will be deemed to have "opted out" of the teller access service for that account and you agree that we will not have any liability for either paying or returning any check presented over the counter in one of our branches, whether or not such check bears a forged or unauthorized signature or is counterfeit, altered or otherwise fraudulent or not validly issued, as long as we otherwise process that check in accordance with our standard check cashing procedures.

3. Transmission of Information. We will transmit information regarding mismatches to you by using certain of our online services. You must transmit your issue files and your pay or return decisions to us by using certain of our online services. Your issue files and pay or return decisions must be in a format we approve. There may be unique situations where the relevant online service is not available. If that occurs then a mutually agreed-upon alternative delivery method and process will be established to provide the relevant information to you and for you to provide your issue files and/or your pay or return decision to us.

4. Limits on Our Liability. You acknowledge that we will rely on information and instructions you give us in providing the CPR service and that we are not required to inspect any attribute of a check (other than those included in the relevant issue file) that is processed through the CPR service. As a result, you agree that, in addition to any other limitations on our liability under the agreement, we will not have any liability for (a) following instructions we receive from any person we believe in good faith to be one of your authorized representatives or telephone representatives or (b) paying or returning any check in accordance with the terms of these CPR terms and conditions, including any check that (i) bears a forged or unauthorized signature, or is counterfeit, or otherwise not validly issued or (ii) is altered or otherwise fraudulent with respect to any attribute that the CPR service is NOT designed to match. Moreover, you acknowledge that the CPR service is not a substitute for our stop payment service. You agree not to report an item as "void" via this service if you have released the item and you agree to pay it if presented as released by you and that in instances where you want to stop payment against an item you have released you will use our stop payment service. Finally, you understand and agree that the purpose of the CPR service is to improve reconciliation of checks and minimize the need for traditional stop payment procedures where possible, and not to delay the collection of funds by any third party.

5. Suspension of Service. You agree that you will be in material breach of these CPR terms and conditions if you repeatedly fail to meet any of the deadlines described in the CPR reference materials or you fail to include an excessive number of checks on your issue file(s) for the CPR service, or the information reported on your issue file is repeatedly not consistent with information on checks that have been presented against the relevant account. In such situations, in addition to any other rights we may have under this the agreement or applicable law, we may immediately suspend or terminate your use of the CPR service.

eClaim Revenue Gateway Service

1. Description of the eClaim Service. The eClaim Revenue Gateway ("eClaim") service facilitates healthcare revenue cycle management by presenting information that allows you to manage your healthcare transaction data. The eClaim service allows you to reconcile your health care claims data with electronic remittance advices and other payment data received from third-party payers and patients. Claims, remittance advices, and payment data are posted to the eClaim Revenue Gateway website in a user friendly (human readable) format for archiving, research, and reporting. Features of the eClaim service are described generally in these terms and conditions. Further details regarding functionality of the eClaim service and information regarding certain formatting, security, and other technical requirements you must follow are provided in the eClaim reference materials. The eClaim service confirmation reflects certain instructions you have given us regarding your setup of the eClaim service, including but not limited to the account(s) linked to the eClaim service, and the service features you have selected. Certain additional information

and instructions you give us regarding your setup of the eClaim service will be recorded in our internal implementation/setup forms. Before you may begin using the eClaim service, you must provide this and all additional information that we require to complete your setup of the eClaim service. You must also specify your security administrator for this service on an ancillary implementation agreement.

2. Claims Reassociation, Reconciliation and Posting. To allow for reassociation of previously submitted claims to the payment data received in or submitted to the eClaim service, you must submit a file containing electronic copies of your health care claims data (relating to claims generated through your practice management system or hospital information system which you have separately submitted to payers for payment) to the eClaim service. You must submit your electronic claims file to us in ANSI 837 format or other format that we approve. The claims will then be posted to the eClaim Revenue Gateway Website for reassociation and reconciliation with payment data received in the eClaim system.

3. Third-Party Payer Enrollment. To receive electronic remittance advices (ERAs) through the eClaim service from a third-party payer participating in that feature of the eClaim network, you must enroll the applicable provider with the participating third-party payer through the eClaim service. A list of third-party payers that participate in the eClaim network is provided in the eClaim reference materials. If you elect to enroll a provider with a participating third-party payer, we will assist you in the enrollment process as described in the eClaim reference materials.

4. Electronic Payment Data Processing. The types of electronic payment data that can be submitted to the eClaim service for claims reassociation, reconciliation, archiving, research, and reporting include the following: (a) ERA files sent to the eClaim service by a participating third-party payer who has been enrolled with the applicable provider as described in Section 3 above; (b) ERA files you have received directly which you then submit to the eClaim service according to instructions provided in the reference materials; and (c) ACH credit entries or other electronic funds transfers (with addenda records relating to claims information) that are received in any account that is included in your setup of the eClaim service. To allow for reassociation with claims, the electronic payment data must contain details of the relevant claim that is being paid or denied, according to any specifications included in the reference materials. Once electronic payment data is received in the eClaim service, the eClaim service will reformat (as needed) the data into ANSI 835 format or other format that we approve, and consolidate the electronic payment data into one or more remittance files (each, a "remittance file") according to the file specifications you have provided to us as set forth in the implementation/setup form(s). The eClaim service will reassociate and reconcile the information in the remittance file(s) to the claims data you have submitted to the eClaim service. We will make the remittance file(s) available to you through a secure, direct file transmission and/or through the eClaim Revenue Gateway Website by the reporting times we have established with you and as set forth in the implementation/setup form(s) and/or the reference materials.

5. Lockbox Payment Data Processing. If you elect to integrate the eClaim service with one or more of your lockboxes, then the eClaim service enables you to electronically receive (a) data from paper explanations of payments (EOPs) and explanations of benefits (EOBs) sent by third-party payers to the lockbox; (b) data regarding check or credit card payments sent by third-party payers to the lockbox; and (c) data regarding patient check or credit card payments made through the lockbox. If you elect to integrate the eClaim service with a lockbox we provide you under our lockbox services, your use of the lockbox in connection with the eClaim service is subject to the terms and conditions for lockbox services as modified by these eClaim terms and conditions. Upon our prior approval, which may be granted or withheld in our sole discretion, we may allow you to integrate the eClaim service with a lockbox provided by another financial institution or company. In such case, that financial institution or company must send or make available a daily electronic image file of the information received in your lockbox (a "lockbox image file") to the eClaim service using a secure transmission method and according to the instructions provided in the reference materials. We will process each paper EOP, EOB, invoice remittance document or "coupon", check, draft, money order and other miscellaneous correspondence that is received in your SunTrust lockbox or, for lockboxes provided by a third-party that we have permitted you to integrate with the eClaim service, that is included in the lockbox image file sent to the eClaim service. For payment data received in the lockbox from third-party payers, we will extract the information necessary to generate an ANSI 835 file, and reformat the information into ANSI 835 format. For payment data received from patients and for miscellaneous correspondence received in the lockbox, we will extract the information according to the specifications you have provided to us as set forth in the implementation/setup form(s) and reformat the information into a type of electronic format we have approved. The lockbox payment data will then be consolidated into one or more remittance files according to the file specifications you have provided to us as set forth in the implementation/setup form(s). The eClaim service will reassociate and reconcile the information in the

remittance file(s) to the claims data you have submitted to the eClaim service. We will make the remittance file(s) available to you through a secure, direct file transmission and/or through the eClaim Revenue Gateway Website by the reporting times we have established with you and as set forth in the implementation/setup form(s) and/or the reference materials.

6. Reporting Options. The eClaim service offers various reporting options through the eClaim Revenue Gateway website, as described in the eClaim reference materials.

7. Data Transmission, Security Administrators, and Authorization Codes.

(a) Data Transmission. To send or receive certain electronic health care data to or from the eClaim service through your practice management system or hospital information system, you must (i) establish a secure, direct file transmission with us, and/or (ii) send or receive data through the eClaim Revenue Gateway Website. Details regarding system compatibility requirements, file transmission options, access requirements, and security procedures that must be followed when sending or receiving electronic health care data to us or from us are provided in the eClaim reference materials. Any file transmitted from you in accordance with such procedures will be deemed to be your authorized file. You agree to comply with the security procedures described in these term and conditions and the reference materials when using the eClaim service. You are solely responsible for establishing security procedures to maintain control over which of your users are authorized to send or receive health care data to or from the eClaim service, and which of your users have access to health care data through the eClaim service or through your practice management system or hospital information system.

(b) Security Administrators. You must designate one or more persons who will act as your initial eClaim security administrator(s). Your initial eClaim security administrator(s) will be identified in an ancillary implementation agreement. Each of the initial eClaim security administrators may also set up one or more additional eClaim security administrators, pursuant to instructions provided in the reference materials, who in turn can establish additional security administrators. Therefore, in addition to the eClaim security administrators that are reflected in the ancillary implementation agreement, the term "eClaim security administrator" includes any other user who is granted administration entitlements by any current eClaim security administrator. In addition to any of the rights and responsibilities of an eClaim security administrator described in these eClaim terms and conditions or any eClaim reference materials, each of your eClaim security administrators will have all of the rights and responsibilities described in the general terms and conditions. Each of your eClaim security administrators has the ability to create authorized users, according to instructions provided in the reference materials, and to establish each user's right to use certain functionality of the eClaim service. In that regard, each of your eClaim security administrators may grant any user authorized to use the eClaim service, including themselves, access to any functionality available in the eClaim Revenue Gateway Website. **Given the ability of a security administrator to grant administrative and user access rights to others, and the potential cascading of administrative and access rights, you must institute appropriate internal controls and procedures to appoint your initial security administrator(s) and to routinely monitor the actions of your security administrator(s) and those individuals to whom your security administrator(s) has given administrative or user access rights.** You may terminate administration entitlements of any eClaim security administrator according to the instructions provided in the reference materials. We will provide security administrator authorization codes directly to the initial security administrator(s) identified in the ancillary implementation agreement.

(c) Authorization Codes. To log onto the eClaim Revenue Gateway Website, each of your users is required to enter that user's authorization codes. No user should give his or her authorization codes to any other person or use them anywhere other than within the eClaim service. The user's initial authorization codes to access the eClaim Revenue Gateway Website will be supplied as described in the eClaim reference materials. You are solely responsible for developing appropriate checks and balances to effectively control and monitor the use of the eClaim service and authorization codes by all users, including but not limited to each of your eClaim security administrators. At our option, we may request, but we shall not be responsible for requiring, that a user provide additional information or use other additional security procedures to authenticate that user.

8. Use of Third-Party Suppliers and Clearinghouse Status. We utilize the services of one or more third-party suppliers in providing the eClaim service. As a result, you agree that unless the context clearly indicates otherwise, each reference to "we," "us" and "our" in any provision will be deemed to include the relevant supplier. In addition, one or more of those third-party suppliers may (a) process or facilitate the processing of health information received

from another entity in a nonstandard format or containing nonstandard data content into standard data elements or a standard transaction or (b) receive a standard transaction from another entity and process or facilitate the processing of health information into nonstandard format or nonstandard data content for the receiving entity. These actions may cause one or more of those third-party suppliers to be classified as a health care clearinghouse for purposes of 45 C.F.R. § 160.103. However, you acknowledge and agree that neither the actions of one or more of those third-party suppliers nor any provision of these eClaim terms and conditions shall cause SunTrust Bank to be treated as a health care clearinghouse within the meaning of 45 C.F.R. § 160.103.

9. Additional Information. The eClaim reference materials referred to herein will be made available to you through an Internet-based microsite for this service or otherwise provided to you. The reference materials may include, among other documents, a user manual for eClaim security administrators and a separate user manual for other users of the eClaim service. We may update the reference materials from time to time. In addition to any other disclaimers or limits on our liability in the agreement, you acknowledge and agree that we have no responsibility for (a) your use of payment data or other information you choose to upload and/or access through the eClaim service to perform any management, tracking and/or reconciliation of claims functions, (b) the accuracy, integrity, legality, reliability, or appropriateness of any data submitted to us by you, a third-party payer, or a third-party lockbox provider that is uploaded to the eClaim service, or (c) the failure of any third-party lockbox provider to send your lockbox image file to the eClaim service according to the instructions and by the deadlines set forth in the reference materials. You also agree that you must comply with all requirements of the Health Insurance Portability and Accountability Act as amended from time to time and all related rules and regulations applicable to you while using the eClaim service.

10. Authority for Other Entities. If you ask us to implement a setup of your eClaim service for another person or entity, then you represent and warrant to us that the other person or entity has given you authority to add that person or entity to your setup of the eClaim service, including without limitation authority to submit or receive health care data and claims information of that person or entity to or from the eClaim service and to access any information and accounts of that person or entity through use of the eClaim service to the same extent as if you owned that information and/or accounts.

Electronic Data Interchange

1. Description of the EDI Service(s). Electronic Data Interchange ("EDI") refers to the electronic exchange of payments, payment-related information and other financial data in formats that meet agreed standards. The EDI services that we offer fall into three categories: payment initiation; payment receipt or "electronic receivables delivery"; and financial reporting services. Each is described below:

(a) Our EDI service allows us to accept an electronic file from you that is used to initiate entries through our ACH origination service and/or create paper checks through our enterprise payment processing service. You will receive a service confirmation for this category of service.

(b) Our EDI reports transmission service allows us to send you a formatted text report or electronic file to report payment and payment-related data from our ACH Origination service, Scannable Lockbox service and/or Wholesale Lockbox service to you in various formats. You will receive a service confirmation for this category of service.

(c) Our EDI financial reporting service allows you to send and receive electronic files to support our account reconciliation, controlled payment and positive payment services (both issue and paid item files), our ACH fraud control service (authorization records) and our account analysis service. You will receive a service confirmation for this category of service.

2. Files we receive from you or send to you must be in a format that we have tested and agreed to and must be sent or received by the deadlines specified for the relevant service that we separately disclosed to you so that we can perform the necessary edits and forward the files for the relevant payment or information purposes. The terms and conditions for each service that is utilized through an EDI file apply.

Enterprise Payment Processing Service

1. Description of the EPP Service. The Enterprise Payment Processing ("EPP") service is a service where, in accordance with instructions and servicing guidelines contained in a service confirmation and/or an ancillary implementation agreement, we will print and disburse checks, create and transmit entries to settle through the Automated Clearing House ("ACH") Network, or initiate wire transfers to pay your designated payees. We utilize a system developed and managed by a vendor in providing the EPP service. As a result, you agree that each reference to "we," "us" and "our" in any provision in the agreement will, with respect to the EPP service, be deemed to include our vendor. Details regarding the functionality of the EPP service, file delivery methodology, security procedures and certain formatting and other technical requirements that you must follow when using the EPP service are provided in the then current EPP reference materials.

2. Processing of Payments.

(a) For each payment entry included in an integrated payables data file ("payment data") you transmit to us, we will print and disburse a check in U.S. dollars (or Canadian dollars if so indicated), create and transmit an ACH credit entry, or initiate wire transfer payments. Each integrated payables data file must follow the formatting, other technical requirements, and file delivery methodology that we have established with you in our implementation of your EPP service, as evidenced by our records, or that we may otherwise designate in the reference materials from time to time. You acknowledge that sending entries for ACH or wire transfer payments from your designated SunTrust account(s) will result in different obligations and liabilities for you and will impose legal and regulatory requirements for electronic funds transfers rather than checks. You will be solely responsible for ensuring each check entry complies with the terms and conditions governing the account on which the check entry is drawn, whether maintained with us or any other financial institution.

(b) Each check printed for a payment entry contained in an integrated payables data file will be printed in accordance with the format specifications for that type of check. We will establish those specifications with you in our implementation of the EPP service, as set forth in the sample check that you have approved (or will approve during implementation). Each check will be drawn on the account designated in the payment entry for that check in your integrated payables data file. You will be solely responsible for ensuring you have sufficient funds in any account on which a check is drawn to fund all checks we print and disburse. We will have no responsibility for verifying whether there are sufficient funds in an account, whether maintained with us or any other financial institution, when we print and disburse your checks. We will supply all standard check stock and other materials, which will be billed through your analysis statement.

(c) We will disburse printed checks either by first-class mail or by courier. If you elect to have printed checks disbursed by first-class mail, we will deliver checks to the United States Postal Service, with appropriate postage paid. Any checks we print that you elect to have delivered to your courier will be available for pickup at the operation center designated by us, with shipping or delivery paid for directly by you. You will be responsible for paying the amount charged by us for postage and courier service in connection with your use of the EPP service, and such charges will be included in your analysis statement. We may increase the amount charged for postage and courier services at any time immediately upon an increase in the cost of postage or courier services.

(d) We conduct the check-printing services specified herein in a secure location accessible only to authorized personnel to whom access is granted in connection with their job responsibilities. Moreover, we will take commercially reasonable steps to (i) prevent unauthorized use of your check stock and signature facsimiles and (ii) preserve the confidentiality of your payment data once in our possession.

(e) If you elect to have the payment for an entry in your integrated payables data file made by ACH, you will be the originator of the ACH entry we create from your integrated payables data file, whether such payment data is transmitted to us through secure file transfer protocol ("FTP") or our Online File Transfer service or to a designated website. In order to elect ACH payments as part of the EPP service, we must have agreed to provide you ACH origination service and you must have signed an ancillary implementation agreement for ACH origination service. Each ACH entry created in accordance with your integrated payables data file will be settled to one of the settlement accounts designated in your ancillary implementation agreement for ACH origination. Except as otherwise provided in these EPP terms and conditions, the terms and conditions for the ACH origination service will govern each entry

which, in accordance with your integrated payables data file, we create, format and transmit to settle through ACH, including without limitation, those relating to exposure limits and delays or suspension of processing.

(f) If you elect to have the payment for an entry in your integrated payables data file made by wire transfer, you will be the sender of the payment order we format from your integrated payables data file, whether such payment order is transmitted to us through secure FTP or our Online File Transfer service or to a designated website. In order to elect wire transfer payments as part of the EPP service, we must have agreed to provide you wire transfer service and you must have signed an ancillary implementation agreement for wire transfer service and other applicable wire transfer services documents. Except as otherwise provided in these EPP terms and conditions, the terms and conditions of the Funds Transfer Agreement will govern each payment order which, in accordance with your integrated payables data file, we format and transmit to settle through standard wire transfer processing systems.

(g) Remittance data included with your integrated payables data file may be printed with the corresponding checks or made available at our designated website or by separate mailing for ACH or wire transfer entries to the payee at the address provided by you in your integrated payables data file. Remittance data may be made available to the payee at our designated website through the online remittance reporting option of the EPP service as defined in the reference materials. If you elect to use the online remittance reporting option, you must provide the payee's contact and identification information to us. You are solely responsible for notifying your payees that the online remittance information will be available and providing your payees access instructions for the designated website as provided for in Section 9, Payee Access.

3. Transmission of Your Integrated Payables Data File. You must transmit your integrated payables data file to us through a designated website or by using secure FTP or our Online File Transfer service in the manner specified in the reference materials. You must transmit your integrated payables data file to us by the cut-off deadline we have established in the EPP reference materials. Your payment data may not be processed or processing may be delayed if you submit your integrated payables data file after the cut-off time. If you wish to make a change to your integrated payables data file (other than adding one or more payment entries), including changes in formatting or technical requirements, adding an account, or changing the settlement account for a payment entry, you must test the changes with us, to our satisfaction, before transmitting a file of payment data containing the changes. Failure to test an integrated payables data file that has been changed prior to submitting the file to us may result in your payment data not processing or the processing being delayed. In the event we experience difficulties receiving or accessing your integrated payables data files, the parties shall cooperate with one another's efforts to access the payment data promptly. We will maintain a copy of all payment data as provided for in the reference materials. Each time you submit an integrated payables data file, we will notify you by email when we receive the file. You must access the designated website and enter your control total or you can elect to transmit a separate control total file, as more specifically described below. Once you have submitted the control totals and confirmed the accuracy of the payment data, you will release your integrated payables data files for processing, unless you elect to use the Straight Through Processing ("STP") option. Under STP, once you submit your payables files and corresponding control total file through secure FTP and the file totals match, we will begin processing your file without requiring that you log on to verify data using the online application. If not using STP processing (as set up with us during your implementation), all integrated payables data files will remain suspended until released by you. You are responsible for payment entries included in data files that are submitted and released for processing, even if the payment entry is a duplicate of another payment entry or otherwise is submitted in error. We are under no obligation to determine if an integrated payables data file or any payment entry in an integrated payables data file is a duplicate of a previously submitted integrated payables data file or payment entry. You agree that our records of integrated payables data files released for processing will be deemed correct and will control in the event of any dispute regarding an integrated payables data file or payment entry in a data file. For files sent to us using secure FTP, you must provide us with all IP addresses from which files will be sent and must agree to update these IP addresses when changes are made, as our system will recognize and process only files transmitted from an IP address that you have recorded with us.

4. Cancellation Instructions. We have no obligation to honor or process any request to cancel the processing of any of your payment data, to amend any payment data, to pull from disbursement a printed check, or cancel any ACH or wire transfer file created, in accordance with your integrated payables data file and instructions reflected in a service confirmation and/or ancillary implementation agreement. As an accommodation to you, however, we will use good faith efforts to attempt to honor your request to cancel the processing of an integrated payables data file or a payment entry in an integrated payables data file or pull a printed check from disbursement, if your request complies with the cancellation security procedures as defined in the reference materials and we receive the request at a time

and in a manner that gives us a reasonable opportunity to act on it prior to printing or disbursing any checks or prior to creating or transmitting any ACH or wire transfer entry. We are not liable if we are unable to honor your request to cancel such processing. You agree to reimburse us for any expenses we may incur in attempting to honor any such requests.

5. Security Procedures. You agree to comply with the following security procedures in using the EPP service and agree that these security procedures are commercially reasonable.

(a) Online Services. For an integrated payables data file that is transmitted to us through the designated website or through secure FTP transmission or our Online File Transfer service, you are required to comply with the security procedure for that transmission process as defined in the appropriate reference materials. During our implementation of your EPP service, you must designate a security administrator for the designated website in an AIA. The security administrator will have full access rights as more fully described in the reference materials. For wire transfer payment orders in an integrated payables data file the personal identification number ("PIN") security procedure in the Funds Transfer Agreement is replaced by these EPP security procedures.

(b) Control Totals. Each time you submit an integrated payables data file, we will notify you by email when we receive the file. You must access our online services, as more specifically described in the EPP reference materials, and verify the number of entries and the aggregate dollar amount of all entries (the "control totals"). If you elect to use the Straight Through Processing option, you will submit a separate file with your control total, rather than keying the control total in using the online channel. If you elect to transmit a Control Total File, as is required with Straight Through Processing, but the control total file you transmit has a total that does not match the total of transactions included on your integrated payables files, you cannot transmit a second Control Total File to us. In order for us to accept the control total at that point, an authorized user must log on to the online solution and enter the control total in accordance with the process defined in the EPP reference materials.

(c) Payee Access. Before a payee can access our online remittance reporting feature or vendor enrollment feature, that payee must register in the designated website, using access instructions provided by you. Once registered, the payee will choose its own user id and password.

(d) Email Alert. Throughout processing within EPP, you will receive several email notifications to inform you of the status of your file. If changes are made to a password for one of your users, that individual will receive an automated email to notify of a password change, and they will be prompted to reset the temporary password and create a permanent password that only they will know. If a password change is made for any Security Administrator for your company, all security administrators for your company will receive an email alert to notify of the password change. This is provided as an additional security control.

(e) Wire Confirmations. You may elect to receive a confirmation of your wire transactions after they have been processed by the Federal Reserve. Confirmations will include the Fed Confirmation number for your reference. For wire instructions provided to us through the EPP channel, you may also elect to receive confirmations through our Online Treasury Manager service or the SunView Treasury Manager service by subscribing to one of those services.

(f) Use of Trusteer Rapport. We strongly recommend you use Trusteer Rapport for additional security when utilizing this online payment service. See reference materials for details of this additional security process.

(g) Authorized Contacts. You will designate individuals that we may contact to resolve processing issues with your integrated payables data files and you authorize us to release information to these individuals regarding your integrated payables data files. These individuals will be identified on a service confirmation.

6. Risk of Delivery. We shall have no responsibility for any checks once delivered to the United States Postal Service or a courier. You assume all risks associated with delays caused by complications arising in the transmission of integrated payables data files and delays in postal service or courier service, except when such delays are caused by our failure to provide the checks by the delivery time or to transmit an ACH entry by the appropriate ACH processing cutoff time, or to transmit a wire transfer entry by the appropriate wire transfer processing cutoff time, provided you submitted the payment data for such payments to us in a timely manner.

7. Limitation of Liability; Indemnity. Notwithstanding anything herein to the contrary, we shall have no liability with respect to a check issued, or ACH entry or wire transfer entry transmitted, in accordance with the services described in these EPP terms and conditions that conforms to the payment data submitted. In addition to any obligation you have to indemnify us under the agreement, you agree to indemnify and hold us harmless from any and all claims, expenses, costs, or liabilities arising out of the issuance of a payment against a payable in dispute or not yet due and payable.

8. Creation of Issue File for Positive Pay, Account Reconciliation, or Controlled Payment Service. You may elect for the printed check information included in your integrated payables data file to be used by us to create a Positive Pay, Account Reconciliation or Controlled Payment issue file on your behalf to be used in connection with one of those services. If you make this election, we must have agreed to provide you the applicable Positive Pay, Account Reconciliation or Controlled Payment service. By making this election, you authorize us to create an issue file on your behalf on each day on which checks are printed against any SunTrust account that is included in your setup for Positive Pay, Account Reconciliation or Controlled Payment service. Each issue file and your use of the Positive Pay, Account Reconciliation or Controlled Payment service is governed by the terms and conditions for each service.

9. Payee Access. Payees have access to several features of EPP service through a designated website.

(a) Online Remittance Reporting Feature. Before a payee can access our online remittance reporting feature, that payee must register in the designated website, in compliance with the security procedures referenced herein. The payee's access and use of the website shall be subject to the terms and conditions posted at the website. Through the website, registered payees may utilize the online remittance reporting feature to view and download documents and information in connection with payments, including remittance data and statements. Documents and information will be available to the payee through the online remittance reporting feature for the number of days provided in the EPP reference materials. Payees will be notified by email when new documents and information are available online. The payee will be deemed to have received any email sent by us to the email address reflected at that time in the payee's registration information in the designated website. We are not responsible for undeliverable or unopened emails. This election is not available for payments to a consumer account.

(b) Vendor Enrollment. Under the vendor enrollment feature, a registered payee may provide notice through the website of its desire to receive payments by ACH rather than by check. This election is for your information and we have no duty to comply with your payee's election to receive payments by ACH. This election is not available for payments to a consumer account, as defined in the NACHA Operating Rules. We will notify you if the payee provides notice through the website of its desire to receive payments by ACH. If you approve such election, you must instruct us to make such payments by ACH by specifying an ACH payment type code in your integrated payables data file.

(c) EPP Vendor Services. You or your payees may elect to obtain additional services directly from our EPP vendor, including, but not limited to, data download capabilities. SunTrust is not a party to providing these additional services and is not responsible for any obligations or liabilities that may arise in the course of our vendor providing such additional services directly to you or your payees.

10. Document Printing. The document printing services provided hereunder will be limited to the printing of invoices and other documents approved by SunTrust and our EPP vendor (collectively, "Documents"). You will submit separate data files for processing the Documents either to SunTrust or directly to our EPP vendor as agreed upon during implementation of the Document printing services. We will provide the Document printing services on each business day, other than days identified as bank holidays. We will use commercially reasonable efforts to ensure that all information on the printed Documents is accurate and in the format requested but are not responsible if we faithfully recreate erroneous information received by us. Details regarding the functionality of the Document printing service, file delivery methodology, review procedures and certain formatting and other technical requirements that you must follow when using the Document printing service are provided in the then current EPP reference materials.

Image Cash Letter Service

1. Description of the ICL Service. The Image Cash Letter (“ICL” service) is intended to allow you to transmit files containing electronic images of batches of checks (and associated information describing each check) along with check total information, (each file an “image cash letter”) in place of forwarding the original checks to us for deposit. Details regarding ICL’s functionality and certain formatting and other technical requirements that you must follow when using the ICL service are provided in the current ICL reference materials. The ICL service is intended for transmission of your electronic images and associated information in a single file, not as separate transmissions. The ICL service may also encompass image quality analysis adjustments, image integrity analysis adjustments, duplicate item or duplicate file adjustments and return item adjustments all as defined in the ICL reference materials. The ICL service may not be used outside the United States or to transmit files from outside the United States without our prior written approval or to transmit an electronic image of a remotely created check (as that term is defined in Regulation CC). These ICL terms and conditions do not otherwise affect any other agreement between you and us relating to the deposit of original checks.

2. Operation of the ICL Service. You may use the ICL service with respect to the account(s) that we have included in our implementation of your ICL service. Those accounts will be reflected on a service confirmation.

(a) Each electronic check image included in an image cash letter is an “item” as defined in Article 4, Section 104(a)(9) of the Uniform Commercial Code as adopted in the state whose laws govern this agreement and a “check” as defined in Section 229.2(k) of the Regulation CC, which must be an exact image of the front and back of the original check with full-field magnetic ink character recognition (MICR) line encoding (absent the amount). You should endorse the original check prior to image capture and you must provide an electronic endorsement record in accordance with the ICL reference materials, which are based on our interpretation of relevant American National Standard Institute (ANSI) standards. Each image cash letter must be formatted, including the batching of images, as provided in the ICL reference materials. To be eligible for processing, an electronic check image must meet the requirements for items eligible for exchange as outlined in the ICL reference materials. At a minimum, the item must be a negotiable item and all characters in all MICR fields present on the document must be readable. This will allow you to capture the information required for the image cash letter. It is not acceptable to pass digit errors (represented by an * within a MICR field) to us on any file forwarded to us. All fields on the MICR line of an electronic check image must be repaired prior to forwarding any files to us. You warrant that any repair of the MICR line fields will be repaired correctly.

(b) You must transmit each image cash letter to us through one of our online services which support the transmission of image cash letters. To submit an image cash letter to us through an online service, you are required to comply with the security procedures for that online service. Any image cash letter transmitted to us in accordance with those security procedures will be deemed an image cash letter of yours, whether or not you actually authorized it. Transmission times, image file receipt times, other applicable deadlines and transmission locations are set forth in the then current ICL reference materials and/or the service confirmation for this service.

(c) Each image (and associated information regarding a check) included in an image cash letter must meet our quality standards for processing an image for deposit as described in the ICL reference materials. Those standards are referred to in these ICL terms and conditions as the “ICL standards.” We may add to or change the ICL standards at any time upon notice to you. Once we receive your image cash letter, as the bank of first deposit, our systems will process each image and associated information included in that image cash letter that are “on-us” items to determine if all images and associated information satisfy the ICL standards for qualified image cash letters. If your imaging process does not produce acceptable images you will be required to use our unqualified ICL service that performs image quality analysis and image integrity analysis on all items in each image cash letter. This may result in requiring an earlier image file receipt time for your unqualified image cash letter. All image cash letters are also subject to duplicate item and duplicate file detection but the responsibility for not submitting duplicates is your responsibility and we assume no responsibility if our process fails to detect any duplicate. If an image and associated information satisfy the ICL standards, the ICL system will accept them. If the ICL system determines an image or associated information does not satisfy the ICL standards, the ICL system may reject the nonconforming image or duplicate item, which shall mean those items are sent back to you for reasons of poor quality, missing images or duplicate items. A summary debit adjustment will be made to your account and a debit advice will be sent to you. Also you may request that the list of rejected images which failed to meet the ICL standards or were found to be

duplicates be transmitted through one of our online services to the designated contact identified in the service confirmation for this service. In addition, any image and associated information included in an image cash letter must satisfy the quality standards of the Federal Reserve Bank or other collecting bank to which we have forwarded an image and associated information for collection, the "collecting bank quality standards." All check images which fail to meet collecting bank quality standards will be sent to you as a return advice with attached image for each item. There are no specific timelines for these types of adjustments, but they are usually completed within 30 business days of deposit. If an image is rejected for failing to meet the ICL standards or the collecting bank quality standards, you must take corrective action to either recapture the image and associated information and submit it in a new image cash letter or submit the original check for deposit. Once you have transmitted an image cash letter to us, you may not cancel it unless we have rejected the file. If more than two percent of the images and associated information included in an image cash letter fail to meet the ICL standards, the entire file may be rejected, which will require you to resubmit that image cash letter.

(d) In using the ICL service, you agree to use the standard American National Standards Institute's file formats as detailed in the reference materials and ICL technical specifications.

All files must be sent to us through one of our secure online file transfer services. You must send a notification to the designated e-mail address as identified in the ICL reference materials, which must include your name, image cash letter file total dollar amount and image cash letter file total item count. At a minimum, Federal Reserve Bank's Image Quality Assurance (IQA) Settings should be adhered to. This includes the parameters of images relative to length, height, corners, document skew, darkness/lightness, noise and image size compression. These image quality standards are provided in the reference materials. Image Quality Adjustment Detail reporting will be facilitated through the use of our Online Courier service if you elect to use that service.

(e) Once we have accepted an image cash letter for deposit, we will use each image and associated information included in that deposit to process it as an electronic item or, at our option; to create a substitute check. If we elect to process an image and associated information as an electronic item, we will process that image for deposit to your account and forward it for presentment to the drawee bank (as defined below) through the electronic item collection channels that we would otherwise use to present an electronic item to the drawee bank. If we use an image and associated information to create a substitute check, we will process that substitute check for deposit to your account and forward it for presentment to the financial institution on which the original check was drawn or through or at which it was payable (that institution is referred to in these ICL terms and conditions as the "drawee bank") through the check collection channels that we would otherwise use to present a check to the drawee bank. In either event, your deposit will be subject to the terms of any agreement we have with other financial institutions relating to the presentation of electronic items. We will make funds for each electronic item or substitute check that we process for deposit to your account available to you under the float schedule assigned to your account based on the business day that we received the file containing a conforming image of that check (Assigned account specific Float Schedules are available upon request).

(f) We must receive your image cash letter by the image file receipt times set forth in the ICL reference materials. In that regard, we are not liable for any delays or errors in transmission of an image cash letter. If the secure online service you use to transmit your image cash letter is not available, you must make your deposits by another method. You may not transmit to us an image cash letter which exceeds 20,000 items per file if you are using the unqualified ICL service, or 40,000 items per file if you are using the qualified ICL service. You may, however, send more than one image cash letter each day prior to your image file receipt time.

(g) You agree to make original checks available to us promptly upon our request. You agree that you will not capture more than one image of (or associated information regarding) any original check and that you will not negotiate, deposit or otherwise transfer any original check to us or to any other person or entity after you have captured an image of (or associated information regarding) it. You also agree that (i) you will not transmit an image of (or associated information regarding) any original check to us more than once (unless that item has been returned to you by us for corrective action), (ii) you will not transmit an image of (or associated information regarding) any original check to us that you previously transmitted to any other person or entity, (iii) you will not transmit an image of (or associated information regarding) any original check to any other person or entity after you have transmitted it to us; (iv) you will not transmit an image of (or associated information regarding) any original check to us if that check has been used as a source document for the initiation of an ACH or other electronic debit; and (v) you will not use any original check as a source document for the initiation of an ACH or other electronic debit after you have

transmitted an image of (or associated information regarding) that check to us. You agree to use commercially reasonable security procedures to safeguard the original checks, images and associated information in your possession.

(h) If there is any discrepancy between check image count and/or the total dollar amount of the deposit reflected by you in an image cash letter and our count of check images and/or the total dollar amount of images included in the image cash letter, our count will control and the image cash letter may be rejected. We will also debit your account and send you a deposit adjustment notice for any image which was rejected by us for failing the ICL standards, was determined to be a duplicate, or rejected for failing the collecting bank quality standards, or returned by any collecting bank for any reason.

(i) We may reject, impose a special fee and/or delay processing of any image cash letter if (i) the image cash letter was not prepared and formatted in accordance with the requirements set forth in the ICL reference materials, (ii) the number of check images in the image cash letter or the total dollar amount of the image cash letter does not match what is included in the Cash Letter Control Record for your image cash letter, or (iii) the number of check images in an image cash letter file transmitted to us exceed the number permitted under these ICL terms and conditions.

(j) Returns will be handled by printing substitute checks and returning them through existing return channels.

3. Your Representations and Warranties. You make all of the representations and warranties to us with respect to each electronic check image and associated information that you transmit to us that you would have made if you had deposited the original check into your account. In addition, you represent and warrant to us with respect to each image and associated information that you transmit to us that (a) the image and associated information (i) accurately represent all of the information on the front and back of the original check at the time the image and associated information were captured and (ii) are otherwise sufficient for us to satisfy our obligations as the truncating and/or reconverting bank and (b) no person or entity will receive a transfer, presentment or return of, or otherwise be charged for, (i) the original check, (ii) an electronic item or substitute check that we create from the image and associated information, or (iii) a paper or electronic representation of the original check or of a substitute check that we create from the image and associated information, such that the person or entity will be asked to make a payment based on a check that it has already paid.

4. Your Indemnification Obligations. In addition to any other obligation you have to indemnify us, you agree to indemnify and hold us, and our affiliates harmless from and against any and all liabilities, claims, damages, losses, demands, fines (including those imposed by any Federal Reserve Bank, clearing house or funds transfer system), judgments, disputes, costs, charges and expenses (including litigation expenses, other costs of investigation or defense and reasonable attorneys' fees) which relate in any way to (a) the receipt by any person or entity of (i) an electronic item, (ii) a substitute check or (iii) a paper or electronic representation of the original check or the substitute check that we create from an electronic check image and associated information that you transmit to us, instead of the original check, or (b) any encoding error on any check included in an image cash letter, or (c) any duplicate item or duplicate file created or authorized by you, or (d) the delayed processing of any returned items by any subsequent bank for any items that were processed as electronic items, or (e) a remotely created check being included in an image cash letter.

Image Cash Letter Service – Financial Institutions

1. Description of the ICL-FI Service. The SunTrust Image Cash Letter service for financial institutions or "ICL-FI" is intended to allow you to transmit to us files of electronic images of batches of checks (and associated information describing each check referred to as "presentment notice") along with check total information, (each such file an "image cash letter,") in place of forwarding the original check deposits to us for deposit. Details regarding ICL-FI's functionality and certain formatting and other technical requirements that you must follow when using the ICL-FI service are provided in the ECCHO Rules, Section XIX and in the then current ICL-FI reference materials. By using this service, you agree to be bound by the Electronic Check Clearing House Organization Operating Rules referred to as "ECCHO Rules" for these electronic image transactions and we will sponsor your membership if you are not currently a member of ECCHO. Unless otherwise agreed upon, you will be charged for the ECCHO sponsorship

fees. Unless otherwise indicated, terms used in these ICL-FI terms and conditions shall have the meanings ascribed to such terms in the ECCHO Rules. The ICL-FI service is intended for transmission of your presentment notice and electronic images in a single file, not as separate transmissions. The ICL-FI service also encompasses image quality analysis adjustments and return items processing sent to you. The ICL-FI service may not be used outside the United States and files may not be submitted from outside the United States without our prior written approval, or to transmit an electronic image of a remotely created check (as that term is defined in Regulation CC). These ICL-FI terms and conditions do not otherwise affect any other agreement between you and us relating to exchanges under the ECCHO Rules or deposit of original checks.

2. Operation of the ICL-FI Service. You may use the ICL-FI Service with respect to the account(s) that we have included in our implementation of your setup for the ICL-FI service. These accounts will be reflected on a service confirmation.

(a) Each electronic check image included in an image cash letter is an "item" under the Uniform Commercial Code, a "check" under Regulation CC and an "item" under ECCHO Rules which must be an exact image of the front and back of the original check with full MICR line information. You must endorse the original check or the electronic check image with the bank of first deposit endorsement in accordance with the ANSI endorsement requirements, ECCHO Rules and ICL-FI reference materials. Each image cash letter must be formatted, including the batching of images, as provided in the ECCHO Rules and the ICL-FI reference materials. To be eligible for processing, an electronic check image must meet the items eligible for exchange requirements as outlined in the ECCHO Rules, Section III (A). The ECCHO Rules require, at a minimum, that the item be a negotiable item, and all characters in all MICR fields present on the document must be readable. This will allow you to capture the information required for the image cash letter. Repair of the MICR line on documents in order to make the items eligible for processing must be done with responsibilities assigned as outlined in ECCHO Rules, Section III(B). It is not acceptable to pass digit errors to us (represented by an * within a MICR field) on any file forwarded to us. All fields on the document must be repaired prior to forwarding any files. Repair of the MICR line fields will be governed by ECCHO Rules.

(b) You must transmit each image cash letter to us through one of our online services which support the transmission of image cash letters. To submit an image cash letter to us through an online service, you are required to comply with the security procedures for that online service. Any image cash letter transmitted to us in accordance with those security procedures will be deemed an image cash letter of yours, whether or not you actually authorized it. Transmission times, Image Ledger Cutoff times, other applicable deadlines and transmission locations are set forth in the then current ICL-FI reference materials and/or the service confirmation for this service.

(c) Each image of (and associated information regarding a check) included in an image cash letter must meet our quality standards for processing an image for deposit as described in the ECCHO Rules and the ICL-FI reference materials. Those standards are referred to in these ICL-FI terms and conditions as the then current ICL-FI standards. We may add to or change the ICL-FI standards at any time upon notice to you. Once we receive your image cash letter, our systems will process each image and associated information included in that image cash letter that are "on-us" items to determine if that image and associated information satisfy the ICL-FI standards. If an image and associated information satisfy the ICL-FI standards, the ICL-FI system will accept them. If the ICL-FI system determines an image or associated information does not satisfy the ICL-FI standards, the ICL-FI system may reject the nonconforming image, which shall mean those items are sent back to you for reasons of poor quality or missing images. Each day we will fax to the contact identified in the service confirmation for this service the list of rejected images which failed to meet the ICL-FI standards and this will be followed by a research and adjustment debit advice. In addition any image and associated information included in an image cash letter must satisfy the quality standards of the Federal Reserve Bank or other collecting bank to which we have forwarded an image and associated information for collection, the "collecting bank standards." All check images which fail to meet Federal Reserve Bank quality standards will be returned as an advice with attached image for each item via U.S. Mail. All check images which fail to meet collecting bank quality standards will result in items coming back to you in Return Item processing. If an image is rejected for failing to meet the ICL-FI standards or the collecting bank standards, you must either recapture the image and associated information and submit it in a new image cash letter or submit the original check for deposit. Once you have transmitted an image cash letter to us, you may not cancel it.

(d) Once we have received an image cash letter for deposit, we will use each image and associated information included in that deposit to create a substitute check or, at our option; process it as an electronic item. If

we use an image and associated information to create a substitute check, we will process that substitute check for deposit to your account and forward it for presentment to the financial institution on which the original check was drawn or at which it was payable (that institution is referred to in these ICL-FI terms and conditions as the "drawee bank") through the check collection channels that we would otherwise use to present a check to the drawee bank. If we elect to process an image and associated information as an electronic item, we will process that image for deposit to your account and forward it for presentment to the paying bank through the electronic item collection channels that we would otherwise use to present an electronic item to the paying bank. In either event, your deposit will be subject to the terms of any agreement we have with other financial institutions relating to the presentation of electronic items. We will make funds for each substitute check or electronic item that we process for deposit to your account available to you under the same schedule that would have applied if you had deposited the original check to your account on the business day that we received the file containing a conforming image of that check.

(e) We must receive your image cash letter by the then-current deadline set forth in the ICL-FI reference materials. In that regard, we are not liable for any delays or errors in transmission of an image cash letter. If the secure online service you use to transmit your image cash letter is not available, you must make your deposits by another method, such as delivery of the original checks to us. You may not transmit to us an image cash letter which exceeds 20,000 items per file if you are using the unqualified ICL service, or 40,000 items per file if you are using the qualified ICL service. You may, however, send more than one image cash letter each day prior to your image file receipt time.

(f) You agree to make original checks available to us promptly upon our request. You agree that you will not capture, nor will you allow any of your customers to capture, more than one image of (or associated information regarding) any original check and that you will not negotiate, deposit or otherwise transfer, or allow any of your customers to negotiate, deposit or transfer, any original check to us or to any other person or entity after you have or that customer has captured an image of (or associated information regarding) it. You also agree that (i) you will not transmit an image of (or associated information regarding) any original check to us more than once, (ii) you will not transmit an image of (or associated information regarding) any original check to us that you or one of your customers has previously transmitted to any other person or entity, (iii) neither you nor any of your customers will transmit an image of (or associated information regarding) any original check to any other person or entity after you have transmitted it to us; (iv) you will not transmit an image of (or associated information regarding) any original check to us if that check has been used as a source document for the initiation of an ACH or other electronic debit; and (v) neither you nor any of your customers will use any original check as a source document for the initiation of an ACH or other electronic debit after you have transmitted an image of (or associated information regarding) that check to us. You agree to use and cause your customers to use commercially reasonable security procedures to safeguard the original checks, images and associated information.

(g) If there is any discrepancy between check image count and/or the total dollar amounts of the deposit reflected by you in an image cash letter and our count of check images and/or the total dollar amount of images included in the image cash letter, our count will control and the image cash letter will be rejected. We will also debit your account and send you a deposit adjustment notice for any image which was rejected by us for failing the ICL-FI standards or rejected for failing the Federal Reserve Bank quality standards or returned by any collecting bank for failing its collecting bank standards.

(h) We may reject, impose a special fee and/or delay processing of any image cash letter if (i) the image cash letter was not prepared and formatted in accordance with the requirements set forth in the ECCHO Rules and ICL-FI reference materials, (ii) the number of checks images or batches of check images in the image cash letter, the dollar amount of a batch of check images in an image cash letter or the total dollar amount of the image cash letter does not match what is included in the presentment notice for that image cash letter, or (iii) the number of check images in all image cash letter files transmitted to us on any banking day, exceed the number permitted under these ICL-FI terms and conditions.

(i) Returns will be handled by printing substitute check documents and returning them through existing paper return channels. As a financial institution you act as the bank of first deposit (BOFD) on all items you deposit with us. This will require you to place a BOFD endorsement on all physical items deposited and/or a 26 record containing the BOFD record on all image cash letter items deposited with us. This endorsement must be in compliance with Regulation CC regarding content and placement, ANSI x9.37 standard, and as provided in ECCHO Rules Section XIX (E).

(j) As the BOFD, you are expected to be the primary point of resolution of all research items. As the BOFD, your organization has total access to the clearing cycle of each item deposited with us. As your clearing agent, we do not have access to all of the returns information and as such we are less able to resolve all research items. You may re-deposit indemnified copies of previously missing items with us at any time through any depository channel.

3. Your Representations and Warranties. You make all of the representations and warranties to us with respect to each electronic check image and associated information that you transmit to us that you would have made if you had deposited the original check into your account. You further agree to the Sending Bank Warranties and Indemnification as provided in ECCHO Rules Section XIX (M).

4. Your Indemnification Obligations. In addition to any other obligation you have to indemnify us, you agree to indemnify and hold us and our affiliates harmless from and against any and all liabilities, claims, damages, losses, demands, fines (including those imposed by any Federal Reserve Bank, clearing house or funds transfer system), judgments, disputes, costs, charges and expenses (including litigation expenses, other costs of investigation or defense and reasonable attorneys' fees) which relate in any way to (a) the receipt by any person or entity of (i) an electronic item, (ii) a substitute check or (iii) a paper or electronic representation of the original check or the substitute check that we create from an electronic check image and associated information that you transmit to us, instead of the original check, or (b) any encoding error on any check included in an image cash letter, or (c) the delayed processing of any returned items by any subsequent bank for any items that were processed as electronic items, or (d) a remotely created check being included in an image cash letter.

Image Delivery Services

1. Description of the Image Delivery Services. The image file transmission feature for Image Delivery Services includes the delivery of imaged items such as paid items, returned items, deposit tickets and deposited items that have final posted to the specified account through one of our online file transfer services. The images of the various items, as well as images or text files of account statements, selected by you are downloaded and transmitted on a variety of time frames. The CD-ROM feature for Image Delivery Services includes the delivery of imaged items such as paid items, returned items, deposit tickets and deposited items with an encrypted CD-ROM delivery process available on a variable basis. The various items selected by you will be imaged, MICR corrected, balanced, and posted before delivery. If any deposited items are out of balance for an account (total of deposited items does not match deposit ticket), then those deposited items will not be included in any of the Image Delivery Services. You may also select certain one-time historical CD-ROM services for any of the imaged items, such as a one month CD-ROM, a twelve month CD-ROM or a seven year archive CD-ROM.

2. Selection of Image Delivery Services. You may select either image file transmission or CD-ROM delivery method for the various items selected by you with respect to the accounts that you have identified to us and that we have agreed to include in your implementation of the Image Delivery Services. You must specify a lead account for all accounts capturing the same types of images using the same delivery method. The lead account is specified in a service confirmation. Details regarding these Image Delivery Services, their functionality and requirements that you must follow when using the Image Delivery Services are provided in the current Image Delivery reference materials.

(a) Through image file transmission, after online delivery you have access to your imaged items along with indexed fields of information that can be downloaded directly into your image archiving systems.

(b) CD-ROM - After delivery by express mail, you have access to your imaged items along with indexed fields of information to facilitate research and to support your need for a long-term archive. CD-ROM images can be retained on the CD-ROM or downloaded onto your computer. The CD-ROM will be encrypted to protect your data during transit. We will assign encryption codes that your security administrator will use to de-encrypt and access the CD-ROM. Before you may use the CD-ROM Image Delivery Service, you must have or obtain a computer and related software materials that will allow you to access the content on the CD-ROM. As part of providing the CD-ROM Image Delivery Service, our vendor will sublicense the software and related materials to you that are required to access your content. The software and related materials are referred to as the "software materials". You must download the software materials and install them on a computer that you will use in connection with the Image Delivery Services.

(c) **Security Procedures.** You are responsible for controlling access to and maintaining the confidentiality of the security procedures, authorization codes and encryption codes. You must promptly report any breach of that confidentiality to us. You are also responsible for the actions of users to whom we provide authorization codes or encryption codes and any other person who has obtained access to your authorization codes or encryption codes from your users. You represent and warrant that you will maintain commercially reasonable security procedures to prevent unauthorized access to or any misuse of the imaged items or misuse of the information contained in the imaged items once you have received image file transmissions or CD-ROMs.

3. **Imaged Items.** You agree that we will have no liability for any missing image or if any image we capture is not legible. Our responsibility for missing or illegible images is to use reasonable efforts to provide a replacement image.

Online Bill Consolidator Service

1. **Description of the OBC Service.** The Online Bill Consolidator ("OBC") service enables you to receive remittance information regarding payments sent to you through the online bill payment service of any third-party online payment processor (each, an "online payment processor") who participates in the OBC service. You may use the OBC service with respect to the accounts and the online payment processors identified in our records, that are included in our implementation of the OBC service. Those accounts and payment processors are reflected on a service confirmation. Details regarding the functionality of the service and requirements that you must follow when using it are provided in the then-current OBC reference materials.

2. Enrolling as a Biller.

(a) You authorize us to establish a "biller profile" using information you provide us during implementation of this service. You must ensure that all information you give us or that you provide directly to a processor to enroll in the service is complete and accurate. If you learn or have reason to believe that any such information may not be complete or accurate, then you must notify us or the processor as soon as reasonably practical and take such operational and other steps as we or the applicable online payment processor reasonably require to correct the information and appropriately adjust any sums remitted in reliance upon such incomplete or inaccurate information.

(b) You represent and warrant to us that you do not owe any outstanding amounts to an online payment processor and that you are not currently using (and, as long as we are providing the OBC service to you, will not use) the services of any other financial institution to enroll in or otherwise obtain access to the online bill payment service of an online payment processor.

(c) You agree to complete, sign and give us or the applicable online payment processor all forms that are necessary to receive payments and remittance information for payments processed through an online payment processor's online bill payment service, including an ACH debit authorization form.

3. Remittance Files; Settlement; Reconciliation; Posting.

(a) Once you have been enrolled as a biller in an online payment processor's online bill payment service and we have completed our implementation of the OBC service, that online payment processor will send us remittance information regarding payments sent to you through that online payment processor's online bill payment service. After we receive that remittance information from an online payment processor, we will reformat it in accordance with the file formatting requirements we have agreed to with you and create a file of such reformatted remittance information (each, a "remittance file"). Unless an earlier deadline for an online payment processor's online bill payment service is provided in the OBC reference materials or any guides, rules or other documentation (collectively, the "online payment processor's documentation") that governs participation in such online payment processor's online bill payment service, we will send each remittance file to you no later than the first banking day after the day we receive the relevant remittance information from an online payment processor. You may designate whether we send remittance files to you as a separate transmission or appended to another product's file. You are responsible for maintaining copies of all remittance files that we send or otherwise make available to you.

(b) Each online payment processor will be responsible for settling all payments sent to you in each remittance file. The applicable online payment processor will do so by sending one or more ACH credit entries to the account we include in our implementation of OBC that has been identified as the settlement account for that online payment processor. Each settlement for a payment credited to a settlement account may be provisional until the online payment processor receives final settlement from the originator of that payment. All payments credited to a settlement account, or otherwise owed to you, for payments sent to you through an online payment processor's online bill payment service are subject to any rights that online payment processor may have to unwind transactions and exercise setoff under that online payment processor's documentation.

(c) You are responsible for reconciling the remittance information in each remittance file to the ACH credits you receive from each online payment processor. If you are unable to reconcile the two, you must notify us of the inconsistencies by the end of our banking day on the day you receive the ACH credit. If you have notified us in the time required, we will use good faith efforts to attempt to resolve any such inconsistencies with the applicable online payment processor.

(d) You are responsible for posting each payment reflected in a remittance file to the correct customer account in your receivables system. Unless an earlier time for posting for an online payment processor's online bill payment service is provided in the OBC reference materials or that online payment processor's documentation, you must electronically post each payment reflected in a remittance file to your receivables system so that such payment is posted to the correct customer account before your posting cut-off time on the calendar day immediately following the date we received the applicable remittance information from an online payment processor, as reflected by the date in the file header information (the "file header date"). If the immediately following calendar day is a holiday or weekend day, you must post the payment on the next business day, and you must also backdate the time the payment is shown to have been posted in your receivables system so that it reflects it was posted before your payment posting cut-off time on the calendar day immediately following the file header date.

4. Returns; Refusals; Reversals.

(a) If you are unable to determine from a remittance file the correct customer account to which a payment should be posted, then (unless a shorter period for an online payment processor's online bill payment service is provided in the OBC reference materials or that online payment processor's documentation) you must complete your research of the payment and post it to the correct customer account within two banking days from the file header date of that remittance file. You may not post the payment to a general ledger suspense account or otherwise hold the payment beyond that period while you continue to research the payment. If you have been unable to determine the correct customer account and post the payment within that period, then (unless a shorter period for an online payment processor's online bill payment service is provided in the OBC reference materials or that online payment processor's documentation) you must request that we return the payment and we must receive that request no later than 5:00 p.m. ET (the "returns deadline") on the second banking day after the file header date of that remittance file and, if required by the applicable online payment processor, you must notify the applicable online payment processor directly by the time specified in such online payment processor's documentation. If a remittance file contains incorrect information, but you are able to post the payment, then (unless a shorter period for an online payment processor's online bill payment service is provided in the OBC reference materials or that online payment processor's documentation) you must give us a notice that describes what was incorrect in the remittance information no later than the returns deadline on the day that is two banking days after the file header date of that remittance file and, if required by the applicable online payment processor, you must notify the applicable online payment processor directly by the time specified in such online payment processor's documentation.

(b) You may not refuse to accept a payment that one of your customers sends you through an online payment processor's online bill payment service unless (i) the customer account data for that payment is incorrect or incomplete or (ii) you have elected not to accept any payments from that customer. If you are not willing to accept any payments from a customer, then (unless a shorter period for an online payment processor's online bill payment service is provided in the OBC reference materials or that online payment processor's documentation) you must request that we return the payment no later than the returns deadline on the day that is two banking days after the file header date of the remittance file containing that payment information.

(c) Some online payment processors offer a "guaranteed payment" option as described in the OBC reference materials. If an online payment processor does not offer such an option or your biller profile does not

(b) Each online payment processor will be responsible for settling all payments sent to you in each remittance file. The applicable online payment processor will do so by sending one or more ACH credit entries to the account we include in our implementation of OBC that has been identified as the settlement account for that online payment processor. Each settlement for a payment credited to a settlement account may be provisional until the online payment processor receives final settlement from the originator of that payment. All payments credited to a settlement account, or otherwise owed to you, for payments sent to you through an online payment processor's online bill payment service are subject to any rights that online payment processor may have to unwind transactions and exercise setoff under that online payment processor's documentation.

(c) You are responsible for reconciling the remittance information in each remittance file to the ACH credits you receive from each online payment processor. If you are unable to reconcile the two, you must notify us of the inconsistencies by the end of our banking day on the day you receive the ACH credit. If you have notified us in the time required, we will use good faith efforts to attempt to resolve any such inconsistencies with the applicable online payment processor.

(d) You are responsible for posting each payment reflected in a remittance file to the correct customer account in your receivables system. Unless an earlier time for posting for an online payment processor's online bill payment service is provided in the OBC reference materials or that online payment processor's documentation, you must electronically post each payment reflected in a remittance file to your receivables system so that such payment is posted to the correct customer account before your posting cut-off time on the calendar day immediately following the date we received the applicable remittance information from an online payment processor, as reflected by the date in the file header information (the "file header date"). If the immediately following calendar day is a holiday or weekend day, you must post the payment on the next business day, and you must also backdate the time the payment is shown to have been posted in your receivables system so that it reflects it was posted before your payment posting cut-off time on the calendar day immediately following the file header date.

4. Returns; Refusals; Reversals.

(a) If you are unable to determine from a remittance file the correct customer account to which a payment should be posted, then (unless a shorter period for an online payment processor's online bill payment service is provided in the OBC reference materials or that online payment processor's documentation) you must complete your research of the payment and post it to the correct customer account within two banking days from the file header date of that remittance file. You may not post the payment to a general ledger suspense account or otherwise hold the payment beyond that period while you continue to research the payment. If you have been unable to determine the correct customer account and post the payment within that period, then (unless a shorter period for an online payment processor's online bill payment service is provided in the OBC reference materials or that online payment processor's documentation) you must request that we return the payment and we must receive that request no later than 5:00 p.m. ET (the "returns deadline") on the second banking day after the file header date of that remittance file and, if required by the applicable online payment processor, you must notify the applicable online payment processor directly by the time specified in such online payment processor's documentation. If a remittance file contains incorrect information, but you are able to post the payment, then (unless a shorter period for an online payment processor's online bill payment service is provided in the OBC reference materials or that online payment processor's documentation) you must give us a notice that describes what was incorrect in the remittance information no later than the returns deadline on the day that is two banking days after the file header date of that remittance file and, if required by the applicable online payment processor, you must notify the applicable online payment processor directly by the time specified in such online payment processor's documentation.

(b) You may not refuse to accept a payment that one of your customers sends you through an online payment processor's online bill payment service unless (i) the customer account data for that payment is incorrect or incomplete or (ii) you have elected not to accept any payments from that customer. If you are not willing to accept any payments from a customer, then (unless a shorter period for an online payment processor's online bill payment service is provided in the OBC reference materials or that online payment processor's documentation) you must request that we return the payment no later than the returns deadline on the day that is two banking days after the file header date of the remittance file containing that payment information.

(c) Some online payment processors offer a "guaranteed payment" option as described in the OBC reference materials. If an online payment processor does not offer such an option or your biller profile does not

require guaranteed payments from an online payment processor that offers such an option, originators can initiate reversals of payments previously made to you through that online payment processor's online bill payment service. The online payment processor will then send an ACH debit entry to your settlement account (or such other account as you may have designated to that online payment processor) for such reversals. We will not have any responsibility for any reversals processed through an online payment processor's online bill payment service or debits by an online payment processor to one of your accounts to reverse a payment. If you want us to attempt to return an erroneous reversal entry, then (unless a shorter period for an online payment processor's online bill payment service is provided in the OBC reference materials or that online payment processor's documentation) you must request that we return the reversal entry no later than the returns deadline on the day that is one banking day after the settlement date of the reversal entry. We will use good faith efforts to attempt to honor your request to return a reversal entry, but will have no liability if we cannot effect the return or if your return request is not honored by the applicable online payment processor. You agree to reimburse us for any expenses we may incur in attempting to honor your return request.

(d) In addition to any other rights we may have to act on instructions we believe in good faith to have been given by a person you have authorized, we may act upon any request or notice we receive pursuant to this Section 4 that we believe in good faith was given by one of your authorized users.

5. Limitation of Liability; Disclaimer; Indemnity. In addition to any other limits on our liability under the agreement and to the extent permitted by applicable law, you agree that we will not have any liability for any acts or omissions of an online payment processor (including, without limitation, (a) any error or delay in processing any payments or remittance information, including any error or delay in initiating any funds transfers to you, (b) any breach of confidentiality of any information, including any of your or your customers' payment, account or personal information, (c) the inaccuracy of any remittance information, or (d) any reversals or other debits initiated against your account). **Neither we nor any online payment processor makes any representations or warranties of any kind with respect to that online payment processor's online bill payment service or the OBC service, including any implied warranties of merchantability or fitness for a particular purpose.** In addition to any other indemnity obligation you have under the agreement and to the extent permitted by applicable law, you agree to indemnify and hold us harmless from and against any claims, liabilities, losses, damages, costs and expenses (including, without limitations, attorneys' fees) arising from or related to (i) any amounts or other obligations we owe an online payment processor that are related in any way to your use of that online payment processor's online bill payment service, (ii) faulty or erroneous information or instructions you give us or an online payment processor, (iii) any of your errors or delays in posting a payment to your accounts receivable system, (iv) any breach of any of your other obligations under these OBC terms and conditions, or (v) any of your acts or omissions which result in a breach by you or us of the terms of any online payment processor's documentation.

6. Online Payment Processor Documentation. Your use of the OBC service is subject to the terms of each online payment processor's documentation. You agree to take all actions we or such processor deem necessary for both you and us to be in compliance with each online payment processor's documentation. You agree that we are not obligated to take any action under these OBC terms and conditions that would cause us to breach the provisions of any online payment processor's documentation. You agree that none of our obligations under any online payment processor's documentation create obligations for us under these OBC terms and conditions unless expressly set forth as our obligations in these OBC terms and conditions.

7. Termination. You or we may terminate your use of the OBC service immediately upon written notice to the other party, provided that any termination by you will not be effective until we have had a reasonable time to act on your notice.

Online Bill Presentment and Payment Service

1. Description of the Online Bill Presentment and Payment Service. The Online Bill Presentment and Payment ("OBPP") service enables you to electronically collect bill payments from your customers (each, a "payer") by initiating ACH debit entries against their deposit accounts or by initiating charges against their credit or debit cards. These ACH debit entries and credit or debit card charges (which are generically referred to in these OBPP terms and conditions as "payments") are initiated in response to payment authorizations payers submit through the Internet or give your authorized users over the telephone. Details regarding OBPP's functionality and requirements that you must follow when using the OBPP service are provided in the then current OBPP reference materials.

2. Functioning of the OBPP Service. Each payment authorization that you or a payer submits through the OBPP service will initiate a payment in accordance with these OBPP terms and conditions. You will be the “originator” and we will act as the originating depository financial institution or “ODFI” for each ACH debit entry initiated. Similarly, you will be the “merchant” for each credit or debit card charge initiated through the OBPP service. However, we do not act as the merchant bank processor or “acquirer” with respect to those credit or debit card charges. Instead, the OBPP service merely routes information for those credit or debit card charges to your third-party merchant bank processor, which will act as the acquirer for those credit or debit card charges. In order to initiate credit or debit card charges through the OBPP service you must have entered into a merchant services agreement with a third-party merchant bank processor acceptable to us.

3. Origination and Processing of Payments.

(a) Payment authorizations may be submitted through the OBPP service by (i) a payer through an Internet website (the “biller website”) or (ii) an authorized user through the biller website based on a verbal authorization a payer gives such user over the telephone. The biller website is provided by us as part of the OBPP service and is the website through which payments are made. You must provide and maintain a secure link to the biller website on your general website and are responsible for ensuring that this link takes a payer to the appropriate area within the biller website. You are also responsible for providing data concerning each payer who uses this link. The link and the linking process, including the manner in which you submit data about each payer to us, must also meet our encryption and security requirements.

(b) Before a payer may submit a payment authorization through the OBPP service, that payer must be registered in the OBPP system. A payer may self-register directly through the biller website or may be registered as a payer through the biller website by an authorized user based on information the payer gives the user over the telephone. In addition, if the Single Sign-On option (defined below) is used, a payer who has registered on your general website will be automatically registered in the OBPP system. The registration process must include a commercially reasonable fraudulent transaction detection system, a commercially reasonable methodology to establish a secure Internet session, and commercially reasonable procedures to verify the identity of the payer. At your option (as reflected in the service confirmation for this service), payers may be allowed to give payment authorizations immediately following the registration process or may be prohibited from giving payment authorizations until you have authorized them to do so.

(c) The biller website will be formatted in accordance with the specifications you give us in connection with our implementation of the OBPP service. You grant us the right and a license to use (i) your name, trademarks, service marks, copyrights and logos and other textual information in connection with the biller website and (ii) your data in connection with the OBPP service, in each case as contemplated by these OBPP terms and conditions. Once a payer has accessed the biller website, that payer may authorize you to initiate a payment against the payer’s deposit account or credit or debit card on the day that the authorization is submitted, each a “current payment,” or to initiate one or more payments on scheduled future dates, each a “scheduled payment.” Before a payer may submit a payment authorization through the biller website, that payer must be presented with and must accept, while online, terms regarding use of the biller website that, among other things, authorize you as biller to initiate one or more payments against that payer’s deposit account or credit or debit card, as applicable, and permit you and us to use the data provided by the payer to process those payments, including consent for that data to be sent outside of the United States. Given the types of potential payments, such terms of use must also comply with (i) the NACHA operating rules and guidelines as they are in effect at the relevant time, or the “ACH rules” and (ii) the operating regulations and other requirements of the entity or association that issues or sponsors the applicable credit or debit card as they are in effect at the relevant time, or the “card rules”. We may provide you sample terms of use to assist you in drafting terms regarding use of the biller website but, subject to the foregoing requirements, the final content of such terms is your responsibility. Through the biller website, a payer may view scheduled payments set up in, and prior payments made through, the OBPP system and may, prior to the deadline for submitting payment authorizations set forth in the then current OBPP reference materials, also delete or modify scheduled payments set up in the OBPP system.

(d) An authorized user may also use the biller website to initiate payments against a payer’s deposit account or credit or debit card based on a verbal authorization that payer gives an authorized user over the telephone, but only if (1) the payer initiated the telephone call or (2) you have an existing business relationship with the payer as more fully described in the then current OBPP reference materials. An authorized user must provide the

information specified in the OBPP reference materials to the payer and obtain the payer's unambiguous verbal authorization prior to initiating a payment through the biller website. After an authorized user has initiated a payment through the biller website, the OBPP system shall be configured by the biller to automatically send the payer an email confirming that verbal authorization. Such email will be sent to the email address established at the payer's registration and reflected in the OBPP system as part of the payer's profile. The payer is responsible for maintaining the accuracy of their profile information. This confirmation notice must comply with the ACH rules or the card rules, as applicable.

(e) Each ACH debit entry initiated through the OBPP service must be originated using a WEB, TEL or CCD entry code. The OBPP system will assign an entry code based on information provided by the payer or an authorized user when initiating the payment. An ACH debit entry to a payer's deposit account initiated through the OBPP service will not be processed and debited against that account until the business day following the "payment date" of the relevant payment authorization. For purposes of submitting payment authorizations for an ACH entry, Sunday will be deemed a "business day" for any payment authorizations submitted after the delivery deadline on Friday and before the delivery deadline on Sunday. In that regard, you may receive two files of ACH payments on Monday (or the next business day if Monday is not a business day) — one for payments authorized before 5 p.m. on Friday and another for payments authorized after 5 p.m. on Friday and before 5 p.m. on Sunday.

(f) A charge to a payer's credit or debit card initiated through the OBPP service will be processed and charged against that card on the payment date of the relevant payment authorization.

(g) For each current payment by either card or ACH, the payment date will be the date that the relevant payment authorization is submitted through the OBPP system. For each scheduled payment, the payment date will be the future date assigned by the payer for that payment. If a payment authorization is submitted through the OBPP service after the deadline set forth in the OBPP reference materials, that payment authorization will not be deemed to have been submitted until the next business day.

(h) The OBPP service will use commercially reasonable procedures to verify that the routing number associated with any ACH debit entry initiated using the OBPP service is valid.

4. Administrative Functions. You may use the biller website to perform certain administrative functions in connection with your use of the OBPP service. These functions may include registering a payer, administering and approving a payer's registration, viewing the status of payments, deleting payments, modifying scheduled payments, receiving certain notices, generating and viewing certain transaction reports, establishing authorized users and the limits on each authorized user's authority, and downloading and uploading certain files of data. Any modification or deletion of a payment must be completed prior to the deadline for submitting payment authorizations set forth in the then current OBPP reference materials. Reports are available to be viewed through the biller website for the number of days set forth in the OBPP reference materials. All files uploaded or downloaded through the biller website will be transmitted to us or to you as specified during implementation of the OBPP service.

5. Representations and Warranties. Except for obligations assumed by us in section 3(h) above related to verification of routing numbers and in section 7(d) below related to secure connections, you agree that: (a) for each ACH debit entry you initiate through the OBPP service, you must comply with all obligations of an originator of --- and you automatically make all representations, warranties and agreements set forth in the ACH rules and the terms and conditions for the ACH origination service related to --- any entries with the same entry code type as used for that ACH debit entry and (b) for each credit or debit card charge you initiate through the OBPP service, you must comply with all obligations of a merchant with respect to --- and you automatically make all representations, warranties and agreements set forth in the card rules related to --- that type of credit or debit card charge. You further represent that any payment or other authorization you or a payer submits through the OBPP system has been authorized by the relevant payer. You also represent and warrant to us that our use of your (i) name, trademarks, service marks, copyrights and logos and other textual information in connection with the biller website and (ii) data in connection with the OBPP service, as contemplated by these OBPP terms and conditions, does not infringe or otherwise violate any intellectual property or other proprietary rights of any third party.

6. Designation of Security Administrators. You must identify at least one person to act as your OBPP security administrator. You will execute an ancillary implementation agreement to do this. Each security administrator will be set up with full user permissions with respect to the biller website, including the right to administer the rights and

permissions of all other users. Each security administrator and other user who has been granted user administration rights with respect to the biller website will be a "security administrator," and will have all of the rights and responsibilities described in the general terms and conditions and these OBPP terms and conditions. In addition to the ability to administer the rights and permissions of your other users, each security administrator may administer his or her own user rights and permissions, including adding rights and permissions. One of your security administrators may also delete another security administrator or modify that security administrator's rights and permissions through the biller website.

7. Security Procedures. The following security procedures apply to your use of the OBPP service:

(a) Your use of the biller website: We will provide each security administrator identified by you with a user ID and password to log on to the biller website. Your authorized users must log on to the biller website using the authorization codes that will be supplied to them by your security administrator. Each authorized user will have the rights and permissions granted to them by your security administrator. You are solely responsible for establishing the security procedures an authorized user must follow to verify the identity of a payer and the authenticity of verbal payment or other authorizations a payer gives an authorized user over the telephone before those payment or other authorizations are submitted through the biller website.

(b) A payer's use of the biller website: Except as otherwise described below for the Single Sign-On option, to access and use the biller website, a payer must log on to the biller website using that payer's user ID and the password, as reflected in the OBPP system. If a payer self-registers in the OBPP system through the biller website, the payer will select the payer's own user ID and password. If an authorized user registers a payer through the biller website, you will designate the payer's user ID and a temporary password. The OBPP system will prompt the payer to change this temporary password upon the initial log in to the biller website and the payer will be required to reset this temporary password before authorizing payments through the biller website.

(c) Password and user ID resets: Except as otherwise described below for the Single Sign-On option, a payer may reset the payer's password through the biller website by providing the user ID and related email address reflected in the OBPP system. An email notification and temporary password will be sent to the payer's email address as reflected in the OBPP system. The OBPP system will prompt the payer to change this temporary password upon the next log in to the biller website and the payer will be required to reset this temporary password before authorizing payments through the biller website. However, only an authorized user that has been given administrator rights may reset a payer's user ID. This can be done at any time through the biller website.

(d) Secure connection: For each session on the biller website, any payment information will be transmitted through the OBPP system via a secure session utilizing a commercially reasonable security technology that provides a level of security that complies with applicable regulatory requirements, employed prior to the key entry of any payment information and through transmission to us. All payer information stored in the OBPP system will be stored in an encrypted format utilizing security technology that meets the requirements in the previous sentence. You and each payer must have equipment and software that supports such encryption technology.

(e) PAL totals. Immediately prior to transmitting the NACHA formatted file to us, the OBPP system will communicate the total dollar amount of the file (referred to as the Phone Authorization Line or "PAL" total) to us through the biller website. We do not require that you separately submit PAL totals through our PAL system to process files of ACH debit entries initiated through the OBPP service.

You agree that these security procedures are commercially reasonable.

8. Protection of Our Vendor. We utilize one or more vendors in providing the OBPP service. As a result, you agree that each reference to "we," "us" and "our" in any provision in the general terms and conditions or these OBPP terms and conditions that limits our liability to you, protects our data, intellectual property or other proprietary rights, gives us and/or our vendors a right or license to use your data, intellectual property or other proprietary rights or imposes an indemnification obligation on you will, with respect to the OBPP service, be deemed to include our vendors and their licensors.

9. ACH Origination Service. These OBPP terms and conditions are expressly made a part of the ACH origination terms and conditions and are subject to the provisions thereof. Terms that are defined in the ACH

origination terms and conditions have the same meanings when used in these OBPP terms and conditions. If there is any inconsistency on a particular issue between these OBPP terms and conditions and the ACH origination terms and conditions, these OBPP terms and conditions will control. You understand and agree, however, that our agreement to provide the OBPP service does not permit you to use any other aspect of the ACH origination service unless we have specifically agreed to include that other service in our implementation of the ACH origination service.

10. Single Sign-On Option. Single Sign-On is an optional feature of the OBPP service that allows payers to access the biller site through your general website's authentication process without entering an additional user ID and password. Your election to use the Single Sign-On feature will be reflected in a service confirmation. Details regarding features of the Single Sign-On option will be provided in the then current OBPP reference materials. Certain additional information and instructions you give us regarding your setup of the Single Sign-On option will be recorded in our internal implementation/setup forms. In order to use Single Sign-On, the authentication procedures and methodology used to establish a secure Internet session employed by your general website must be commercially reasonable and must meet certain requirements set forth in the OBPP reference materials. You must maintain records of the authentication of each payer who logs in to your general website and accesses OBPP through Single Sign-On for a minimum of five (5) years from the date of login. Such records must evidence the authentication and identification of the payer and must include, at a minimum, the payer's user name, system name, session ID, date/time stamp, and payer's IP address. You must provide copies of such records to us, in a format that is satisfactory to us, within five (5) business days of our request. Additionally, you will be required to obtain, install and manage, at your own expense, a valid X.509 certificate issued by a Certificate Authority as further described in the OBPP reference materials. You must comply with all requirements and complete all required testing and all implementation and software development tasks as further described in the OBPP reference materials. If we determine, in our sole discretion, that you do not meet any of the requirements or are not otherwise eligible for Single Sign-On, you will not be permitted to use this feature of the OBPP service. Under the Single Sign-On option, payer registration and authentication, including selection and reset of user IDs and passwords, will be your responsibility and will take place within your general website. If you use Single Sign-On, you are responsible for the actions of any person who accesses the biller site and/or the OBPP system through your general website, including any unauthorized payments initiated by such person. In addition to any other indemnity obligation you have under the agreement and to the extent permitted by applicable law, you agree to indemnify and hold us harmless from and against any claims, liabilities, losses, damages, costs and expenses (including, without limitation, attorneys' fees) arising from or related to any person's access to the biller site and/or the OBPP system through your general website, including but not limited to any losses resulting from the breach or failure of the security features of your general website or your failure to comply with any requirements for Single Sign-On contained in the agreement, including requirements set forth in the OBPP reference materials.

Online Check Deposit Service

1. Description of the OCD Service and Restrictions on Use. The Online Check Deposit ("OCD") service and the Internet-based OCD system allow you to capture an electronic image of an original physical paper check and an image of associated information describing that check including optical character recognition (OCR) remittance coupons and transmit the image of the check to us for deposit to your account. The OCD service also provides access to, and the ability to export and print, deposited check images and remittance coupon images as well as reports regarding your use of the OCD service. Further details regarding OCD's functionality and formatting and other technical requirements that you must follow when using the OCD service are provided in the then current version of the OCD reference materials which, among other things, include a user manual for OCD system administrators and end users of the OCD system. The reference materials are contained in the Internet-based microsite for this service. The OCD service may not be used outside of the United States, U.S. territories, U.S. military bases or U.S. Embassies and files may not be transmitted from outside the United States unless transmitted from a US territory, military base or embassy. The OCD Service may not be used to deposit ineligible items. A list of items that are eligible and ineligible for transmission via the OCD Service is provided in the OCD reference materials.

2. Required Hardware and Software. Before you can use the OCD service, you must have a personal computer capable of Internet access, a scanner, and the related software needed to capture electronic images of checks, associated information and remittance data. The scanner must be a model that we have approved. A list of approved scanners and technical information related to scanner installation can be found in the reference materials. When you acquire a scanner from a third party vendor you agree that all warranty obligations and contracts are to be handled

directly with that vendor and that we do not have any responsibility or liability for the performance of the vendor, the delivery of the scanner or any aspect of the operation, use or maintenance of the scanner. At your request, we may provide your contact information and information related to your desired scanner to a third party vendor. When the vendor receives your information the vendor will contact you directly to facilitate your scanner acquisition. You agree that we are only providing this information to the third party vendor as an accommodation to you to facilitate your potential acquisition of a scanner and that we do not have any responsibility or liability for the performance of the vendor or the delivery of the scanner or any aspect of the operation, use or maintenance of the scanner.

3. Required Security Administrator and Contact. Before you can use the OCD service, you must designate one person who will act as both your primary OCD security administrator and your OCD contact. You will be required to execute an ancillary implementation agreement identifying this person. Details on how you will provide this confirmation will be provided to you during implementation of the OCD service. The primary OCD Security Administrator you select will have the authority, in his or her discretion, to then set up users and one or more additional OCD security administrators directly through the OCD service. These additional security administrators will in turn then have the ability to establish additional OCD security administrators and users. Details on how you establish and terminate security administrator and user rights are addressed in the OCD reference material for security administrators. Given the ability of a security administrator to create additional security administrators, the term "OCD security administrator" therefore includes not only the primary OCD security administrator but any other user who is granted administration entitlements by that OCD security administrator or any other OCD security administrator(s). Security administrator and user access to the OCD Service carries with it the ability to access any accounts and services included in the functionality that is available in the OCD service. **Given the flexibility that is designed into the OCD System to enable this cascading of administrative and user rights for the benefit of customers who require it, as a matter of your internal control policies, you must consider carefully the person you will name as your primary OCD security administrator and you must develop procedures to routinely monitor the actions of all your security administrator(s) and those to whom the primary security administrator has given OCD access either as a user or security administrator.** We will provide information on such activity to any authorized signer who makes a request for it but the bank undertakes no duty to monitor the actions of any security administrator(s) or designated user(s). Each of your OCD security administrators, has all of the rights and responsibilities given to them in the general terms and conditions in addition to the rights and responsibilities contained in these OCD terms and conditions and related reference materials.

4. Deletion of Accounts Associated with the OCD Service. If you want to completely delete an account that is included in your implementation of the OCD service, an authorized signer on the account must contact the bank and make this request. Additional information regarding user entitlements and the process for adding or deleting accounts, locations or authorized users is available in the OCD reference materials for security administrators.

5. Using OCD to Capture and Transmit Check Images and Information. In order to use the OCD service, an authorized user must log on using a user ID and password that we will distribute directly to the authorized user(s). After a user has logged on, the user will be required to provide us a control total for each deposit that he/she intends to transmit. The control total is the total dollar amount of all checks included in a particular deposit. After the user has entered the control total for a deposit into the OCD system, the user may capture images of original physical paper checks and associated information that meets the eligibility and image quality standards set forth in the OCD reference materials and in these OCD terms and conditions. All such standards are referred to as the "OCD standards." As the user captures an image, the OCD system will determine if the image satisfies the OCD standards. If an image satisfies the OCD standards, the OCD system will accept it and information associated with it. If the OCD system determines an image does not satisfy the OCD standards, the OCD system will reject the nonconforming image and ask the user to either a.) rescan the check, b.) manually provide or verify information or, c.) for certain types of limited image quality failures, confirm the user's desire to submit the image or associated information as captured. **Please note that the inclusion of the ability for a user to submit an image as captured in the OCD system in certain limited situations does not relieve you of the representations and warranties you make with respect to each image and associated information you transmit to us.** Once all of the images and associated information for a deposit have been scanned, the OCD system will provide the user a summary of the deposit and ask the user to submit the deposit to us. Once the user has submitted a deposit, it may not be cancelled.

6. Dual Approval Security Feature. The security procedures for the OCD service include the option to use a dual approval security protocol. The dual approval security feature requires that at least two authorized users be involved in the check image capture and approval process in order to submit an OCD file for deposit. One user must

scan the check images and then a second user with approval permissions must release and send the check image file to the bank. Only users with approval permission can submit the file to the bank for processing. **We highly recommend this internal control process for any company large enough to have more than one employee involved in accounts receivable and check collection and deposit processes.**

7. Processing of Images and Information. Once we have received a deposit we will, at our option, use each accepted check image and associated information to process the check image as an electronic item or to create a substitute check. If we use an image and associated information to create a substitute check, we will process that substitute check for deposit to your account and forward it through the check collection channels that we would otherwise have used to present the original paper check to the bank on which the check is drawn. If we elect to process an image and associated information as an electronic item, we will process that image for deposit to your account and forward it for presentment to the bank on which it is drawn through the electronic item collection channels that we would otherwise use to present an electronic item to such bank. In either event, your deposit will be subject to the terms of any agreement we have with other financial institutions relating to the presentation of substitute checks or electronic items

8. Deposit Credit and Alternative Deposit Methods. We must receive your deposit by the daily deadline set forth in the OCD reference materials in order for you to receive credit for that deposit on that business day. Deposits received after the deadline will be considered deposited on the next business day. Deposits submitted on a Saturday, Sunday or holiday will be considered deposited on the next business day following the weekend or holiday. We are not liable for any delays or errors in transmission of the images or associated information. If the OCD service is not available, you must make your deposits by another method, such as an in-person deposit at one of our branches or a deposit by mail. If you must make a deposit by other means due to OCD service being unavailable you should deposit only checks and should retain in your possession the other documents you would normally scan with an OCD deposit.

9. Funds Availability. We will make funds for each substitute check or electronic item that we process for deposit to your account available to you under the same schedule that would have applied if you had deposited the original paper check to your account.

10. Returns and Rejected Images. If we determine an image or associated information is not in a satisfactory form or is a duplicate, we may reject the nonconforming image or duplicate item. This means that the item is not accepted for deposit and it will be sent back to you for reasons of poor quality, missing images or duplicate items. A summary debit adjustment will be made to your account, in situations where you were given credit for the item, and a debit advice will be sent to you. In addition to satisfying our image quality standards, any image and associated information included in a deposit must also satisfy the quality standards of the Federal Reserve Bank or other collecting bank to which we have forwarded an image and associated information for collection, the "collecting bank quality standards." We will send you all check images which fail to meet collecting bank quality standards. There are no specific timelines for these types of adjustments. They are, however, usually completed within thirty business days of deposit. If an image is rejected for failing to meet the OCD standards or the collecting bank quality standards, you must take corrective action to either recapture the image and associated information and submit it in a new OCD file transmission or submit the original check for deposit.

11. Original Checks and Captured Images. You agree to use commercially reasonable security procedures to safeguard the original physical paper checks, images of them and associated information in your possession both before and after you have transmitted images of such items to us. You also agree to make all such items available to us promptly upon our request. You also agree to establish reasonable retention and destruction schedules, policies and procedures for paper checks that are retained by you after they have been scanned and submitted for deposit and to employ methods to stamp or mark the front of such items as having been previously deposited, and to establish general internal control procedures related to physical and logical security related to access, transmission, storage, and disposal of items you have transmitted for deposit.

12. Your Representations and Warranties. You represent, warrant and agree that you will not:

- (a) capture or transmit more than one image of any original check;

- (b) negotiate, deposit, or otherwise transfer any original check to us or to any other person or entity after you have captured an image of it;
- (c) transmit an image of any original check to us that you have previously transmitted or given to any other person or entity;
- (d) transmit an image of any original check to any other person or entity after you have transmitted it to us;
- (e) transmit an image of any original check if that check has been used as a source document for the initiation of an ACH or other electronic debit; or
- (f) use any original check as a source document for the initiation of an ACH or other electronic debit after you have transmitted an image of (or associated information regarding) that check to us.

You also make all of the representations and warranties to us with respect to each check image that you transmit to us that you would have made under the Uniform Commercial Code (UCC) if you had deposited the original physical paper check into your account.

In addition, you represent and warrant to us with respect to each captured check image and associated information you transmit to us that:

the image and associated information (i) accurately represent all of the information on the front and back of the original physical paper check at the time it was received by you and at the time the image and associated information were captured; and (ii) are otherwise sufficient for us to satisfy our obligations as the truncating and reconverting bank; and

no person or entity will receive a transfer, presentment or return of, or otherwise be charged for, (i) the original check, (ii) an electronic item or substitute check other than the one that we create from the image and associated information, or (iii) a paper or electronic representation of the original check or of a substitute check other than the one that we create from the image and associated information, such that the person or entity will be asked to make a payment based on a check that it has already paid.

13. Duty of Cooperation, Document Production, Audit. You agree that you shall make original and imaged documents available to us to facilitate investigations related to unusual transactions or poor image quality transmissions, or to resolve disputes. You further agree that we, at our option, upon prior notice, may perform periodic audits of your processes related to use or proposed use of the OCD service including your IT, security and internal control infrastructure related to your use of the OCD service. You agree that we have the right to mandate specific internal controls at any of your locations that use the OCD service where we deem such actions necessary to protect the security and integrity of the OCD service or where required or expected by bank regulators, and that we may terminate the service if you refuse to implement such controls. You further agree that we have the right, in general, to terminate the OCD service pursuant to the rights of termination stated in the general terms and conditions for all services and to delay or refuse to process transactions, including OCD transactions, for the reasons stated in the general terms and conditions for all services.

14. Your Indemnification Obligations. In addition to any other obligation you have to indemnify us, you agree to defend, indemnify, protect and hold us, our affiliates, our vendors and our respective officers, directors, employees, attorneys, agents, and representatives harmless from and against any and all liabilities, claims, damages, losses, demands, fines (including those imposed by any Federal Reserve Bank, clearing house or funds transfer system), judgments, disputes, costs, charges and expenses (including litigation expenses, other costs of investigation or defense and reasonable attorneys' fees) which relate in any way to (a) the use of the OCD system or OCD service to capture an image of a remotely created check, (b) your use of the OCD system or the OCD service in a manner other than as expressly provided in these OCD terms and conditions or (c) the receipt by any person or entity of (i) an electronic item, (ii) a substitute check or (iii) a paper or electronic representation of the original check or the substitute check that we create from a captured check image and associated information that you transmit to us, instead of the original check.

Online Courier Service

1. Description of the OLC Service. The Online Courier (“OLC”) service is an online information reporting service that is available via web access or dedicated telephone lines. It may also be used to upload positive pay and control pay files when you subscribe to those services. You may use the OLC service with respect to the accounts and services that we have included our implementation of the OLC service. Details regarding OLC’s functionality and formatting and other technical requirements that you must follow when using the OLC service are provided in the then current OLC reference materials.
2. Designation of Security Administrator. In order to use the OLC service, you must designate a person who will act as your OLC security administrator by executing an ancillary implementation agreement.
3. Fees. Fees for the OLC service will be charged to the billing account that is identified in your OLC implementation request. The fees will be billed via Account Analysis.
4. Security Procedures. The security procedures for the OLC service include the requirement that your users log on to the OLC service using the authorization codes that will be supplied by to them by your security administrator.

Online File Transfer Service and Managed File Transfer Service

1. Description of the OFT and MFT Services. The Online File Transfer (“OFT”) service and Managed File Transfer (“MFT”) service are each online web-based data transmission services. MFT is the successor to OFT and all clients will eventually be transitioned from OFT to MFT. The terms related to OFT are being preserved here and in earlier versions of OFT reference materials for historical purposes and for use by any client who has yet to transition to MFT. Details regarding OFT’s functionality and formatting and other technical requirements that you must follow when using the OFT service until transition to MFT are provided in the current OFT reference materials. Details regarding MFT’s functionality and formatting and other technical requirements that you must follow when using the MFT service are provided in the current MFT reference materials.
2. Use of the OFT and MFT Services. You may use the OFT service or MFT service with respect to the accounts and services that are identified in your implementation of each service.
3. Multiple User Authorizations. OFT and MFT user authorizations (login information) are not tied to any particular account or service. As a result, unless you have instructed us to limit the use of authorizations to certain accounts and/or services, you should understand that if multiple sets of OFT or MFT authorizations have been issued, any set of authorizations may be used to transmit files through the OFT service or MFT service for any service or account that we have included in your implementation of the OFT service or MFT service, whether or not the specific authorizations being used were intended to be used with the particular account or service.
4. Designation of Contact. In order to use the OFT service or the MFT service, you must designate at least one person who will act as your OFT or MFT authorized user and point of contact. If you name only one such person, then that person will act as your authorized user and point of contact for all accounts and services included in your implementation of either service. Additional authorized users must be identified in the implementation of your OFT or MFT service. You may also name a person as your backup authorized user and point of contact for either service. If you name only one such person then that person will act as your backup OFT or MFT authorized user and point of contact for all accounts and services included in your setup for the OFT or MFT service. Additional backup authorized users for either service must be identified during your OFT or MFT implementation.
5. Fees. Fees for the OFT service or the MFT service will be charged to the billing account identified in your OFT or MFT implementation request. The fees will be billed via Account Analysis.
6. Security Procedures. The security procedures for the OFT service and the MFT service include the requirement that your authorized user(s) log on to either service using the login information that we supply to your initial authorized user. We will replace the password portion of your login information upon your request. We will do so by calling the telephone number of your authorized user(s) for either service and giving the new password to the person answering the phone at that number. You agree that we may give the new password to anyone we believe

in good faith is your authorized user. The MFT service also permits self-service password administration. Details related to such self-service administration are covered in the MFT reference materials.

Online Treasury Manager Service

1. Description of the Online Treasury Manager Service. The SunTrust Online Treasury Manager (“OTM”) service is an online web-based information reporting and transaction initiation service. Details regarding OTM’s functionality and formatting and other technical requirements that you must follow when using the OTM service are provided in the then current OTM reference materials.

2. Use of the OTM Service. You may use the OTM service with respect to the accounts and services that we have included in our implementation of the OTM service.

3. Security Administrators. In order to use the OTM service, you must identify at least one individual who will act as your OTM security administrator. If you require a dual security administration feature, you must designate two security administrators. If you designate two security administrators, entitlements or system access granted by one OTM security administrator will then need to be approved by the second OTM security administrator. These individuals will be identified in an ancillary implementation agreement. If you identify two security administrators on the ancillary implementation agreement you are requesting dual security administration. You may set up one or more additional OTM security administrators directly through the OTM service by granting administration entitlements to a user. The term “OTM security administrator” also includes any other user set up in the OTM service who is granted administration entitlements by any other OTM security administrator(s). Unless you have selected dual security administration, each of your OTM security administrators will be able to grant any user authorized to use the OTM service, including themselves, access to any accounts and services included in your setup of the OTM service for any functionality or entitlement that is available in the OTM service. In addition, unless you have selected dual security administration, each security administrator may also terminate administration entitlements of any other OTM security administrator or any user directly through the OTM service. If through the OTM service the administration entitlements of an OTM security administrator are terminated you are solely responsible for notifying us of this action so that authorizations in the OTM and in our records are consistent. We may rely on information in our possession and we have no responsibility if the authorizations you have granted directly through the OTM service are not consistent with our records.

4. Fees. Fees for the OTM service will be charged to the account(s) identified in your OTM implementation forms.

5. Security Procedures. The security procedures for the OTM service include the requirement that each user log on to the OTM service using that user’s authorization codes. Your users should not give their authorization codes to any other person or use them anywhere other than within the OTM service. A user’s initial authorization codes will be supplied by one of your OTM security administrators. You are solely responsible for developing appropriate checks and balances to effectively control and monitor the use of the OTM service by all users, including each of your OTM security administrators. We may require that a specific user provide additional information or use other additional security procedures to authenticate that user.

(a) Dual Approval Security Feature. The security procedures for the OTM service include the use of the “dual approval” security feature. The dual approval security feature requires that at least two authorized users be involved in the initiation and release of any wire transfer or ACH transaction through the OTM service. One user with sufficient initiation entitlements must input the transaction information and at least one other user with sufficient approval entitlements must then approve the transaction before it is released and processed.

(b) Secure Browsing Software. The security procedures for the OTM service include the requirement that each user log on to the OTM service from a computer (or other supported device) on which you have installed and have running Rapport, the secure browsing software provided by Trusteer Inc. (an IBM company), or other secure browsing software which we may have approved for use with the OTM service. Trusteer Rapport or such other approved secure browsing software is referred to herein as the “secure browsing software.” We use various means to detect if secure browsing software is installed and running on a computer or supported device. If by using the methods we employ at the relevant time, we are not able to detect that secure browsing software is installed and

running on the computer or supported device from which one of your users is attempting to access the OTM service, your user will not be permitted to log on to the OTM service from that computer or device. If, however, by using those methods we employ at the relevant time, we determine that secure browsing software is installed and running on a computer or supported device, your user will be able log on to the OTM service from that computer or device (as long as that user also complies with the other security procedures applicable to that user accessing the OTM service). Your use of the secure browsing software will be licensed to you by the vendor of the secure browsing software under a separate license agreement, the "software license agreement." You agree that your use of the secure browsing software is subject to, and that you are bound by and will comply with, the terms of that software license agreement. **WE DISCLAIM ALL REPRESENTATIONS AND WARRANTIES OF ANY KIND RELATING TO THE SECURE BROWSING SOFTWARE, INCLUDING ANY REPRESENTATIONS AND WARRANTIES OF PERFORMANCE, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE AND NON-INFRINGEMENT. WE HAVE NO RESPONSIBILITY FOR (i) THE PERFORMANCE OF THE SECURE BROWSING SOFTWARE OR THE VENDOR OF THE SECURE BROWSING SOFTWARE, (ii) COMPATIBILITY OR AVAILABILITY OF THE SECURE BROWSING SOFTWARE, OR (iii) DAMAGES OF ANY KIND CLAIMED UNDER ANY CAUSE OF ACTION ALLEGED TO INVOLVE OR RELATE TO THE SECURE BROWSING SOFTWARE OR THE VENDOR OF THE SECURE BROWSING SOFTWARE.** You are solely responsible for determining if the secure browsing software is compatible with your equipment, communications capabilities, and other software and for ensuring that any installation of the secure browser software is in accordance with your policies. You agree that any vendor of the secure browsing software you are using is authorized to make certain information related to the computer on which it is installed, including but not limited to the IP address, browser information, and operating system information, available to us, and in that event, we will have no obligation to provide any notices to you, including with respect to any of that information made available to us for the purposes of fraud prevention. Your obligations under the general terms and conditions to maintain the confidentiality of any software, software materials or other related documentation will apply to any documents or information related to the secure browsing software you use.

6. Accounts. If any loan or card account types are included in your setup for the OTM service, the term "account" when used in these OTM terms and conditions or the general terms and conditions in reference to the OTM service includes these account types. In such case, you authorize us to release information relating to any loan or card accounts identified in your OTM service confirmation, in accordance with these OTM terms and conditions, including the release of such information to any of your OTM users in accordance with the OTM access you have granted each such OTM user.

7. Protection of Our Vendor. We utilize a vendor in providing the OTM service. As a result, you agree that each reference to "we," "us" and "our" in any provision limiting our liability to you or imposing an indemnification obligation on you will, with respect to the OTM service, be deemed to include our vendor.

8. Multiple Setups of the OTM Service. If you have requested that we implement more than one setup of the OTM service for you, then you will need to designate the OTM security administrator(s) for each setup on an ancillary implementation agreement. For an OTM security administrator or user to be authorized for more than one of your setups of the OTM service, you must authorize that OTM security administrator or other user for each of those setups. Unless you have selected dual security administration, an OTM security administrator authorized for one or more of your setups is authorized to establish the users for each of those setups and grant those users access to the accounts and services included in those setups and any functionality or entitlement that is available in the OTM service. When you have multiple setups there will be a unique company identifier, or "company ID" assigned for each of your setups. To log on to a setup, your OTM security administrator(s) and other users must use their authorization codes for that setup, and the company ID if applicable.

Positive Pay and Reverse Positive Pay Service

1. Description of the PPY and RPPY Services. The Positive Pay ("PPY") and Reverse Positive Pay ("RPPY") services allow you to give us instructions to return certain checks that you believe may be fraudulent or not validly issued. Details regarding the functionality the PPY and RPPY services and formatting and other technical requirements that you must follow when using the PPY or RPPY service are provided in the then current PPY and RPPY reference materials.

2. Selection of Service Options. You may select the PPY or RPPY service for each account as described below. Your selection of an option for an account is reflected in a service confirmation for each service.

(a) Positive Pay or "PPY" Service Option.

(i) Presentment Processing. With the PPY service, you must transmit an issue file to us on each day on which you have issued any checks against any account that is included in your setup for the PPY service. We must receive that issue file by the issue deadline set forth in the PPY reference materials and it must contain all of the information set forth in the PPY reference materials with respect to each check you issued that day. You may send us a separate issue file for each account, or you may send us an aggregate issue file for all of the accounts that are included in your setup for the PPY service. Once we have received your issue file, we will compare the information in that issue file with the information in our systems with respect to checks (A) that have been presented to us through normal check clearing channels for payment against the relevant account and that we have posted to the relevant account, and (B) for which we have provisionally settled. You authorize us to finally pay and charge against the relevant account, each check that matches the information in your issue file. We will notify you of each presented check that is not included in the issue file that we received from you or that reflects information that does not match the information in the issue file we received from you. The checks that are not listed or for which the information does not match are referred to as "mismatched checks." You must instruct us to pay or return each mismatched check by the payment decision deadline set forth in the PPY reference materials. Your instructions must contain all of the information with respect to each mismatched check set forth in the PPY reference materials. You may elect one of two ways for us to deal with mismatched items if you fail to give us a pay or return decision by the payment decision deadline. Under the "return default" option, you authorize us to return unpaid each mismatched check unless we receive an instruction from you to pay it before the payment decision deadline. Even if you select a return default option, we may post, finally pay and charge against the relevant account a mismatched check you haven't decided (A) as otherwise provided below, for mismatched checks presented over the counter in one of our branches and (B) mismatched checks that we believe in good faith result solely from encoding errors. Under the "pay default" option, you authorize us to finally pay each mismatched check and charge it against the relevant account unless we receive an instruction from you to return it before the payment decision deadline. Your election of these options is reflected in your service confirmation for this service. We may give you the option of not providing information in your issue file on one or more check attributes (such as the payee name) that the PPY service is capable of matching. We may also give you the option to not provide information in your issue file for certain items in situations where you deem it necessary to avoid mismatch situations, such as instances where you believe an item has already been legitimately paid. Of course, not matching all available check attributes or not including information for all items increases the risk that a fraudulent check will not be detected as a mismatched check. As a result, if you make the business decision to not provide information in your issue file with respect to all available check attributes (or if you decide not to provide an issue record at all, for example, in instances where you believe an item has already been paid), you agree that, in addition to the other limits on our liability provided by the master agreement, the general terms and conditions, or these PPY terms and conditions, we will not be liable for paying any check that is fraudulent with respect to the attributes for which you failed to provide us information (or for paying an item for which you chose to provide no issue record), so long as we otherwise satisfied our duty of care with respect to the other aspects of the PPY service in processing that check.

(ii) Teller Access Service. As part of the PPY service, we will also make your issue files available to our branches to assist our tellers in cashing checks. This is referred to as "teller access." We provide teller access because fraud involving checks presented to tellers for cashing is a common form of check fraud. Using our teller access service is a good way to defend against that form of fraud. If a check presented for payment over the counter in one of our branches against an account that uses teller access (A) is presented before we have received and processed an issue file for such check or (B) is a mismatched check, we will attempt to obtain approval for payment of the mismatched check by calling one of the people you must designate as a "telephone representative" for the relevant account in the service confirmation for this service. We will make one attempt to call each telephone representative for the relevant account until we have reached one of them. Each telephone representative is authorized to instruct us to pay or return any mismatched check. If the telephone representative we contact instructs us to pay the check, then you have authorized us to finally pay the check and charge it against the relevant account. If we are unable to contact a telephone representative, or the telephone representative we contact does not instruct us to pay the mismatched check, then you have authorized us to return the check unpaid to the person presenting it

to us. Our documentation showing that we contacted or attempted to contact your telephone representatives will be conclusive evidence as to the reason for the action we took.

(b) Reverse Positive Pay or "RPPY" Service Option. With the RPPY service, we will provide you with information on all checks (i) that have been presented to us through normal check clearing channels for payment against the relevant account, (ii) that we have posted to the relevant account, and (iii) for which we have provisionally settled. You must compare that information with your own information on checks that you have issued from the relevant account. If you determine that a check included in the information we provide should be returned, you must notify us by the payment decision deadline set forth in the RPPY reference materials. If we do not receive a notice from you to return a check by the payment decision deadline, you authorize us to finally pay and charge that check against the relevant account. If you select the RPPY service option, then teller access is not available. As a result, you agree that if you select the RPPY service for an account we will not have any liability for paying or returning any check that is presented over the counter in one of our branches, whether or not such check bears a forged or unauthorized signature or is counterfeit, altered or otherwise fraudulent or not validly issued, so long as we otherwise process that check in accordance with our standard check cashing procedures. Similarly, if you select the RPPY service option, we may not provide you information for all check attributes (such as the payee name) that the PPY service is capable of matching. Of course, not matching all available check attributes increases the risk that a fraudulent check will not be detected as a mismatched check. As a result, you agree that, in addition to the other limits on our liability provided in the master agreement, the general terms and conditions, or these RPPY terms and conditions, if you select the RPPY service for an account, then we will not be liable for paying any check that is fraudulent with respect to the attributes for which we do not provide you information, so long as we otherwise satisfied our duty of care with respect to the other aspects of the RPPY service in processing that check.

3. Transmission of Information. We will transmit information regarding mismatches (for the PPY service) and information regarding checks that have posted to your account (for the RPPY service) to you by using certain of our online services. You must transmit your issue files (if you select the PPY service) and your pay or return decisions (for both the PPY and RPPY services) to us by using certain of our online services. Your issue files and pay or return decisions must be in a format we have approved. There may be unique situations where the relevant online service is not available. If that occurs, then a mutually agreed-upon alternative delivery method and process will be used to provide the relevant information to you and for you to provide your issue files and/or your pay or return decisions to us, through the ARP Help Desk.

4. Limits on Our Liability. You acknowledge that we will rely on information and instructions you give us in providing the PPY and RPPY services to you and that we are not required to inspect any attribute of a check (other than those included in the relevant issue file) that is processed through the PPY or RPPY service. As a result, you agree that in addition to any limitations on our liability under the agreement, we will not have any liability for (a) following instructions we receive from any person we believe in good faith is one of your authorized representatives or telephone representatives or (b) paying or returning any check in accordance with these PPY and RPPY terms and conditions, including any check that (i) bears a forged or unauthorized signature or is counterfeit or otherwise not validly issued or (ii) is altered or otherwise fraudulent with respect to an attribute that the PPY or RPPY service is NOT designed to match. Moreover, you acknowledge that the PPY service is not a substitute for our stop payment service and you agree not to report an item as "void" if you have released the item.

5. Suspension of Service. You agree that you will be in material breach of these PPY and RPPY terms and conditions if you repeatedly fail to meet any of the deadlines described in the PPY or RPPY reference materials or if we receive an excessive number of checks not on the issue files you submit for the PPY service or for which the information you supplied is not accurate and not consistent with information on checks that have been legitimately presented against the relevant account and should be paid. In addition to any other rights we may have under this the agreement or applicable law, we may immediately suspend or terminate your use of the PPY or RPPY services under such circumstances.

Pre-Encoded Deposit Service

1. Description of the Service. The pre-encoded deposit ("PED") service allows you to facilitate the processing of your check deposits by encoding certain information in the MICR line of each check prior to making the deposit with us. You may use the PED service with respect to the accounts that are identified in your PED implementation

forms and that we have included in our implementation of the PED service. Details regarding PED's functionality and formatting and other technical requirements that you must follow when using the PED service are provided in the then current PED reference materials.

2. Your Obligations Related to Deposits.

(a) You must encode, endorse and otherwise process all checks in accordance with the requirements set forth in the PED reference materials and place them in a sealed, disposable deposit bag(s) or similarly designed tamper-proof bag(s). Each such bag is referred to in these PED terms and conditions a "sealed deposit". The sealed deposit must be clearly marked with your name or identification number. Before you begin using the PED service, you must designate the type of bag you will use. You may not switch to another type of bag without giving us at least 10 days' prior written notice. Each sealed deposit must be prepared in accordance with the requirements set forth in the PED reference materials. A deposit ticket listing your name, deposit account number and the amount of checks must be included in each sealed deposit.

(b) You must cause sealed deposit remittance envelopes or deposit bags to be delivered to the appropriate deposit location(s) we separately disclose to you from time to time. Delivery may be by mail, by your designated employees, or by a courier. Before you begin using the PED service, you must designate the delivery method you will use. You may not switch to another delivery method without giving us at least 10 days' prior written notice.

(c) We may reject, impose a special fee on and/or delay processing of any deposit remittance if (i) the deposit ticket does not match the amount contained in the deposit envelope or bag, (ii) the deposit remittance was not prepared in accordance with the requirements set forth in the PED reference materials, (iii) the deposit remittance is delivered to the wrong deposit location, (iv) the deposit remittance is delivered by a method other than the one you have designated, or (v) any deposit remittance envelope or bag appears to be unsealed or tampered with.

(d) In the event that we accept delivery of an unsealed deposit envelope or bag or a deposit envelope or bag that appears to have been tampered with (an "unsealed deposit"), we will give you notice on the day we receive it. Unless you have previously given us instructions on how to process unsealed deposits, we will not process or take any action regarding an unsealed deposit until you give us an instruction regarding its disposition.

(e) If you are a financial institution, you act as the bank of first deposit (BOFD) on all items you remit to us for deposit with us. This will require you to place a BOFD endorsement on each physical item deposited with us. This endorsement must be in compliance with Regulation CC regarding content and placement. As the BOFD, you are expected to be the primary agent for resolution of all research items. As the BOFD, your organization has total access to the clearing cycle of each item deposited with us. As your clearing agent, we do not have access to all of the returns information and as such we are less able to resolve all research items. You may re-deposit indemnified copies of previously missing items with us at any time through any depository channel.

3. Risk of Delivery. You are solely responsible for selecting the method that you will use to deliver deposit envelopes and deposit bags to us, including all risks relating to or arising out of that delivery method. While you are responsible for selecting the method that you will use to deliver deposits to us, SunTrust retains the right to refuse acceptance if that delivery method does not meet SunTrust security requirements. We have no responsibility or liability for a deposit envelope or bag until we accept possession of it at the appropriate deposit location. Acceptance is evidenced by the signature of one of our authorized representatives on the courier's manifest or our issuance of a receipt acknowledging receipt of the deposit envelope or bag.

4. Our Obligations in Processing Deposits.

(a) We will process deposit bags or envelopes within 24 hours of delivery to the appropriate deposit location. We will open each sealed deposit, verify the contents against the deposit ticket and deposit the checks to the relevant account. If there is any discrepancy between the total amount reflected by you on the deposit ticket and the amount of the deposit reflected by our count of the contents of the deposit envelope or bag, our count will control. A deposit adjustment notice will be sent to you on the day that the discrepancy is discovered.

(b) The deposit is not deemed made and the relationship of debtor and creditor will not exist between you and us until we post the checks to your account.

5. Cash and Other Property. The PED service is only designed to process checks. As a result, you agree that we have no liability for coins, currency or other property placed in deposit bags. If we discover coins or currency in a deposit bag, we will attempt to process it for deposit to the relevant account and credit that account with the amount of coins or currency reflected by our count which will control in the event of a dispute. We will return any other property we discover in a deposit bag to you.

6. Reconstruction. You agree to maintain an image of, or MICR line information for, each check contained in a deposit to aid in reconstruction of the deposit if it is lost in transit or otherwise. If you fail to do so, we will have no liability if the deposit cannot be reconstructed.

7. Your Indemnity Obligations. In addition to any other obligation you have to indemnify us, you agree to indemnify, and hold us harmless from and against any and all liabilities, claims, damages, losses, demands, fines (including those imposed by any Federal Reserve Bank, clearing house or funds transfer system), judgments, disputes, costs, charges and expenses (including litigation expenses, other costs of investigation or defense and reasonable attorneys' fees) which relate in any way to any encoding error on a pre-encoded check you deposit with us.

Return Items Transmission ("RIT") Service

1. Description of the RIT Service. The Return Items Transmission ("RIT") service allows you to receive a data transmission of information on the checks and other paper items drawn on domestic institutions that you have deposited into an account you maintain with us and that were returned unpaid, each a "returned item." You may use the RIT service with respect to the accounts that are identified in the service confirmation for this service and that we have included in our implementation of the RIT service. Details regarding RIT's functionality and formatting and other technical requirements that you must follow when using the RIT service are provided in the then current RIT reference materials.

2. Operation of the Service.

(a) Each banking day we will transmit or make available a data file transmission of information from each returned item that was deposited into an account included in the RIT service that was returned on the prior banking day. For each such returned item, we will include in the data file the returned item information you have requested to have reported through the RIT and which is available to be reported through SunTrust systems. Your selection of what returned item information to report is captured in our implementation forms. If on any banking day no returned items are presented for any account a data file transmission will not be prepared for that day.

(b) Each RIT service data file transmission will be transmitted through our Online File Transfer, ("OFT") service or through the transmission means we may otherwise make available from time to time and that you select. Your OFT contact for the setup of a transmission must designate an authorized representative responsible for receiving or retrieving your data file transmissions.

3. Security Procedures. To retrieve or have us "push" your data file transmission to you through the OFT service you are required to comply with the security procedure for the OFT service. In that regard, you will retrieve your data file transmission after we implement you on the OFT service by using the unique OFT user ID and password assigned to your company. If you elect for us to "push" your data file transmissions to you through OFT or by establishing a direct transmission, you must provide us the information needed to access your computer system to deliver the files. We will send the URL address and the user ID and password to the person you designate as your OFT contact. You are responsible for controlling access to and maintaining the confidentiality of security procedures and authorization codes and you must promptly report any breach of that confidentiality to us. You are also responsible for the actions of your users to whom we or your contact have provided authorization codes and any other person who has obtained access to your authorization codes through no fault on our part. You represent and warrant that you will maintain commercially reasonable security procedures to prevent unauthorized access to or any misuse of the information contained in the data file once you have receive the data file transmission.

4. Multiple Setups of the RIT Service. If you request that we implement more than one setup for a transmission for the RIT service, a separate company identifier, or "client ID," number will be assigned for each of those setups for the RIT service. A service confirmation for each such client ID will be produced and sent to you.

5. Limitation of Liability Specific to the RIT Service. You acknowledge that information from returned items may be manually keyed into the RIT service data file. You also acknowledge that inherent in the process of manual data entry are mistakes, typographical and other inadvertent errors. We do not warrant that any returned item information reported will be error free, and we shall have no liability or other responsibility for errors in any reported returned item information, unless such errors are caused by our gross negligence or willful misconduct.

Scannable Lockbox Service

1. Description of the SLB Service. The Scannable Lockbox ("SLB") service is designed to facilitate the receipt and processing of your accounts receivable remittances. Details regarding SLB's functionality and formatting and other technical requirements you must follow when using the SLB service are provided in the then current version of the SLB reference materials.

2. Implementation of the SLB Service. Once we have included the account(s) identified in the service confirmation for this service in our implementation of the SLB service, you may request a copy of your initial lockbox operating instructions for a particular lockbox number. We will update those instructions from time to time based on information you give us.

3. Request for Image Services. The Image services enable you to view images of checks and remittance payment information that are received through your lockbox. You can access these images and transaction information through Image Browser, Image CD ROM, Virtual CD, and/or Image Transmission file. Details regarding these services, their functionality and requirements that you must follow when using the Image services are provided in the then current Image reference materials. We will provide each of the following image service(s) you have selected in your service confirmation for this service for each lockbox you specify therein:

(a) Image Browser – provides Internet-based access to your lockbox images and data with flexible viewing parameters and search capability for check and document information using a specific date or several search criteria; enables you to administer user access and privileges; search Web-accessible historical data, exportable transaction information, check and document images that can be emailed directly from this Image service; and use annotation tools that can be used to create notes or highlight information on check or document images that can be saved for future reference. Batch Download, Full Text Search, Remitter Keying capabilities and direct access to the image browser using Lockbox Programmer Interface are also available as additional service selections. You must designate a security administrator in an ancillary implementation agreement (AIA) who is responsible for setting up and maintaining your users' access to the Image Browser service. We will assign a unique user-specific user ID and password to this designated security administrator. This person has all of the rights and responsibilities described in the general terms and conditions. If you implement image archival services as part of your Image Browser service and your Image Browser service is later terminated, upon request from you, we can create a CD ROM of your archived data and mail it to you.

(b) Image CD ROM - after delivery by mail, this service allows you to access to your lockbox images along with index fields of information for long-term archival purposes on CD-ROM. The images can be downloaded onto your computer. You must designate a security administrator responsible for using the software needed to access the CD ROM of your lockbox images. We will capture that person's identity in our implementation forms. The CD ROM will be encrypted to protect your data during transit in the mail. We will provide (by e-mail) a unique PIN number that your security administrator will use to de-encrypt and access the CD ROM.

(c) Virtual CD – Virtual CD is downloaded from image browser. You will have access to your lockbox images along with index fields of information to support your need for a long-term archive. Lockbox images of checks and documents can also be downloaded onto your computer from Virtual CD. You must designate a security administrator on an AIA who is responsible for using the software to access Virtual CD of your lockbox images. Virtual CD will be encrypted to protect your data. We will provide a unique encryption key to your security administrator

through lockbox image browser that is used to de-encrypt and access Virtual CD. The designated person to manage Virtual CD has full access rights of a security administrator.

(d) Image Transmission file – provides customized access to your lockbox images along with index fields of information that can be downloaded directly into your Accounts Receivable systems. Image Transmission files are encrypted and are transmitted using File Transfer Protocol (FTP). You must designate a technical contact responsible for receiving or retrieving your Image Transmission files. You will retrieve your Image Transmission files by accessing an FTP site and by using the unique user ID and password assigned to your company. If you want us to “push” your Image Transmission files to you, you must provide us the information needed to access your computer system to deliver the files. We will send the URL address and the user ID and password to the person you designate as your authorized user.

4. Processing of Deposits. We will establish one or more post office boxes or “lockboxes” in your name as specified in the service confirmation for this service. On each banking day after a lockbox has been established, we will process the checks, drafts and money orders (all of which are referred to as “items”) received in a lockbox in accordance with the instructions in effect at the relevant time and we will communicate deposit totals to you via the Image Browser or mailed deposit advices.

(a) Automated Processing System. We process items through the use of automated systems. You must design your remittance documents (referred to as “coupons”) to include details and identifiers that are required by us to identify and validate items for automated processing. We will test the performance of your coupons and will begin providing the SLB service to you only upon the satisfactory completion of the test.

(b) Items With Coupons. We will automatically deposit items, regardless of payee name, into the relevant account when they are accompanied by coupons that match your assigned PO Box number. We will not inspect these items, including any inspection for payee name, drawer signature, date, or for items and/or accompanying correspondence containing “payment in full” or other similar payment dispute language. We will not be liable for processing or depositing items without inspecting them.

(c) Items Without Coupons. Items that are not accompanied by coupons will be returned to you or processed manually as directed in the instructions. If we process items, we will inspect them as follows. We will automatically deposit items, regardless of payee name, into the relevant account when the items match your assigned PO Box number. If an item contains inconsistent written and numeric amounts, the item will be deposited for the written amount unless your instructions in effect at the relevant time direct otherwise. We will not inspect any item for the drawer’s signature or the date. We will also not inspect any item and/or accompanying correspondence to attempt to locate “payment in full” or other similar payment dispute language. We will not be liable for any loss resulting from processing any such items. As a part of processing an item, we will also enter data regarding certain aspects of an item (such as the drawer’s name and the account invoice number shown on the item) into the data file you will receive. You agree that we will not be liable for errors in entering any of that data. Finally, you agree that we do not fail to exercise ordinary care solely because we may process a particular item in a manner that is inconsistent with this paragraph.

(d) Endorsement. We will endorse items for deposit with our standard lockbox endorsement and deposit them to the relevant account. We will not be liable for any loss relating to our failure to endorse an item properly.

(e) Stop File. You may give us a file of items that you do not want us to process. Your file must be in the format and contain the information that we separately disclose to you from time to time with respect to each such item and we must receive it in a reasonable period of time before the items in question are received in a lockbox. We will use good faith efforts to attempt to stop the processing of items in your file and return them to you, but we will not have any liability if we process any such item.

(f) Forwarding and Returning Items. If you receive an item that should have been delivered to a lockbox, you may forward it to our lockbox department. We will process all such items (whether accompanied by a coupon or not) automatically and without inspecting them. If you have more than one lockbox, you must designate the lockbox through which we should process the item. If you receive an item from us (or are given access to it via any imaging service) and you or we discover that such information was intended for another lockbox customer and was mis-delivered to you or erroneously posted to your image repository, you agree that you will immediately notify us of the

issue and will immediately return all such information to us, and you also agree to refrain from accessing such information in any image archive until we can delete it from such archive. You also agree to take steps to delete such item(s) from any other archive to which you may have downloaded such information and must certify destruction and/or return of all such information to us upon request. Due to the possible implications to the privacy rights of the individuals to whom such information rightfully belongs, it shall be a material breach of the master agreement and these terms and conditions to fail to immediately comply with any aspect of this provision. In addition to any other rights available to us, we may immediately terminate the SLB service and other services you receive due to any breach of this provision.

(g) Cash and Other Property. We will deposit any cash received in a lockbox into the relevant account. Any property other than items, cash and related remittance materials received in a lockbox will be sent to you. You agree that we have no liability for any cash or other property received in a lockbox.

(h) Data Files. On each banking day, we will make a data file regarding the items processed in each lockbox that day available to you through one of our online services. The data file will be in the format and will contain the information described in the then current SLB reference materials and the instructions. We will make this information available on each banking day by the reporting time(s) disclosed in the SLB reference materials and the instructions.

5. Remittance Materials. We will destroy the coupons within five business days after we receive them. We will only return correspondence and other materials ("original remittance materials") received in a lockbox to you if your instructions in effect at the relevant time direct us to return those materials. You agree that we are not liable for loss, theft, or damage to such materials after they leave our possession, if they are mailed to the address indicated in our records or delivered to your agent or a courier. Regardless of whether you pay a courier directly or we pay a courier as an administrative convenience to you and then charge you a fee related to that courier's services through account analysis, the courier shall be considered your agent and we shall have no liability once we deliver any items into the possession of any courier. We will destroy the original remittance materials within five business days after we receive them. Once we destroy the original remittance materials, the images of them that we may capture during their processing will be the only source of information about their contents AND IMAGES WILL EXIST AFTER FIVE DAYS ONLY IF YOU SELECT ONE OF OUR IMAGE SERVICES. You agree that we will have no liability for any missed image or if any image we capture is not legible or your decision not to image items and materials received into your lockbox.

6. Affiliate Deposits. You represent and warrant to us that you have the authority to have each item received in a lockbox endorsed and deposited into your account(s), even if the payee name on an item is not your name as shown in our records. You agree to provide us with satisfactory evidence of that authority upon request.

7. Return Items. Unless otherwise stated in the instructions, we will handle dishonored or returned items in accordance with our rules and regulations for deposit accounts in effect at the relevant time.

8. Termination. If these SLB terms and conditions or the agreement is terminated, we will complete the processing of items we received prior to the termination date. Upon request, we will forward mail for up to 90 days. After that time, we will return mail to the sender.

9. Transfer of Lockbox Materials. If you designate a courier service or other authorized representative (your agent) to pick up copies of items, remittance materials, or any other property, from any lockbox site, you agree that transfer of possession of such materials to your agent constitutes delivery to you, and you assume any and all risks incidental to or arising out of such transfer to your agent. You also agree that regardless of whether you pay a courier directly or we pay a courier and charge you a fee related to that courier's services through account analysis, the courier shall be considered your agent and we shall have no liability once we deliver any items into the possession of that courier. You agree that we have no responsibility for such materials after we mail them (when mailing is requested or required) or after transfer to your agent. We are authorized to provide such materials to such agent until we receive notice of cancellation of that authority and we have had a reasonable period of time to act on that request. At our election, any lockbox materials that are not picked up within forty-eight (48) hours after we process the related items, may, at your expense, be mailed by overnight delivery or other means to the address indicated in our records. The above transfer service is subject to applicable service charges.

10. Processing of Payment Card Transactions. If you request that we do so, and we agree, we will process payment card remittances sent to your lockbox. When you make such a request, you are appointing us as your agent for purposes of processing payment card transactions and submitting those transactions to your merchant processor for authorization, and you agree to provide us with all information and privileges necessary to access your merchant processor's authorization system. You will hold us (and any vendor who processes your lockbox transactions on our behalf) harmless from any and all claims asserted by your merchant processor that arise from an allegation that (i) you do not have the authority to appoint us as your agent, or (ii) you do not have the authority to grant us access to your merchant processor's system. You will be solely responsible for notifying your merchant processor that you have appointed us as your agent, and you will hold us harmless for any failure to do so.

Terms Applicable to Use of Online Decisioning

1. Description and Operation of the Online Decisioning Service. The Online Decisioning service is an optional Scannable and Wholesale Lockbox service that allows you to have Image Browser access to your lockbox exception items and related remittance data. The Online Decisioning service is a decisioning and data entry tool that allows you to make processing decisions for lockbox exception items, and it also allows you to input remittance data online. It requires active daily participation by you to be effective. You will see a charge for this service on your monthly account analysis statement. You will be billed for such service, and must pay for it every month regardless of whether or not you actively use it at any time during that month. Lockbox exception items are items that we did not process based on your lockbox operating instructions. Using the Online Decisioning service, your lockbox exception items will be presented to you, identifying the first reason code that caused the item to reject. You may then use Online Decisioning to have each item forwarded to you, or have each item processed by lockbox for deposit. **If you fail to decision any item by your daily processing deadline, it will be rejected.** Your deadline is set forth in your lockbox operating instructions. Details regarding the Online Decisioning service, its features, and procedures you must follow are provided in the Online Decisioning reference materials. The Online Decisioning Service may not be used or accessed outside of the United States.

2. Request for Online Decisioning Service. We will send you a service confirmation for Online Decisioning specifying the lockbox(s) and account(s) you have asked us to include in your setup for this service. You must notify us immediately if you see any errors or discrepancies in any of the information contained in that service confirmation.

3. Security Procedures. You must designate a security administrator within an ancillary implementation agreement who will be responsible for designating the authorized users who will be able to access Online Decisioning services. You are solely responsible for all decisions submitted by such users through the Online Decisioning service. You agree that we can rely on any decisions and information you input by them in connection with your use of the Online Decisioning service.

SCORE Service

1. Description of the SCORE Service. The SCORE service allows you to exchange SWIFT messages with us through the SWIFT messaging services within SCORE. Details regarding the functionality of the SCORE service and formatting and other technical requirements that you must follow when using the SCORE service are provided in the then current SCORE reference materials.

2. Definitions. The following terms have the specified meanings for purpose of these SCORE terms and conditions:

(a) "Affiliate" means, with respect to you, any person that directly or indirectly controls, is controlled by or is under common control with you.

(b) "Approved affiliate" has the meaning given to it in Section 3(a).

(c) "Authorized SWIFT participant" means a person who is duly bound as a party to a SWIFT agreement allowing access to SCORE and meets all eligibility criteria specified or referred to in that SWIFT agreement or the SWIFT documentation; provided, for the avoidance of doubt, that you will continue to be an authorized SWIFT

participant despite no longer satisfying such eligibility criteria during any period(s) specified in such SWIFT agreement as the period(s) (if any) given to you to migrate to an alternative solution.

(d) "Banking services" means the banking and other services (including treasury management services and funds transfer services) we provide you (or an approved affiliate) in relation to which SWIFT messages are exchanged by way of the SWIFT messaging services within SCORE that are identified in your SCORE Service Confirmation and that we have included in our implementation of the SCORE service.

(e) "Banking services agreement" means, with respect to any banking service, the then current agreement governing your (or an approved affiliate's) use of such banking service. Without limiting the generality of the foregoing, the banking services agreement with respect to any of our treasury management service means this agreement, and our funds transfer agreement.

(f) "Control" means the possession, directly or indirectly, of more than 50% of the equity interests in a person having the ordinary power to vote.

(g) "Funds transfer agreement" means, the then current form of our funds transfer agreement and all schedules thereto.

(h) "Information" means the content of any SWIFT message we send you, acting in your own right and/or on behalf of an approved affiliate, by way of the SWIFT messaging services within SCORE, including any account status or other information.

(i) "Instruction" means the content of any SWIFT message we receive from you, acting in your own right and/or on behalf of an approved affiliate, by way of the SWIFT messaging services within SCORE, including any actual or purported advice, request, instruction or communication.

(j) "Operating account" means a bank account you (or an approved affiliate, as the case may be) maintain(s) with us that is identified in your SCORE Service Confirmation and that we have included in our implementation of the SCORE service.

(k) "Operating account agreement" means, with respect to any operating account, our then current deposit rules and regulations and any mandate or similar document or arrangement governing your (or an approved affiliate's,) ownership and use of such operating account.

(l) "SCORE" means the standardized corporate environment service set up and administered by SWIFT.

(m) "SWIFT" means S.W.I.F.T. SCRL, a Belgian limited liability co-operative society of Avenue Adele 1, B-1310 La Hulpe, Belgium.

(n) "SWIFT agreement" means any then current agreement we or you have with SWIFT in relation to the use of the SWIFT messaging services within SCORE.

(o) "SWIFT documentation" means the SWIFT terms, conditions, guides and procedures applicable to the SWIFT messaging services, to SCORE or to the sending and receiving of SWIFT messages within SCORE, as incorporated into your SWIFT agreement or that we or SWIFT notifies you of from time to time.

(p) "SWIFT message" means an electronic communication, message or file sent or appearing to have been sent using the SWIFT messaging services.

(q) "SWIFT messaging services" means SWIFT's messaging services which are available within SCORE from time to time.

3. Scope of This Agreement.

(a) With our prior written approval or our acceptance of an Affiliate Agreement, you may act on behalf of an affiliate (each, when approved by us, an "approved affiliate") in your use of the SWIFT messaging services within

SCORE with respect to any operating account of such approved affiliate identified in your SCORE Service Confirmation and that we have included in our implementation of the SCORE service. You acknowledge that our approval of an affiliate may be subject to such affiliate providing an appropriate letter of authority or entering into appropriate contractual arrangements for our benefit.

(b) You, acting in your own right and/or on behalf of an approved affiliate, (i) may electronically transmit SWIFT messages (including SWIFT messages which contain instructions), by way of the SWIFT messaging services within SCORE, to us to be processed as described herein and as defined in your SCORE Service Confirmation and (ii) will receive SWIFT messages (including SWIFT messages which contain information), by way of the SWIFT messaging services within SCORE, from us as defined in your SCORE Service Confirmation.

(c) We (i) will receive SWIFT messages (including SWIFT messages which contain instructions) by way of the SWIFT messaging services within SCORE, from you, acting in your own right and/or on behalf of an approved affiliate, and process them as described herein and as defined in your SCORE Service Confirmation and (ii) may electronically transmit SWIFT messages (including SWIFT messages which contain information), by way of the SWIFT messaging services within SCORE, to you, acting in your own right and/or on behalf of an approved affiliate, as defined in your SCORE Service Confirmation.

(d) These SCORE terms and conditions also constitute valid and binding instructions from you (or an approved affiliate) granting us authority to act.

(e) We and you (acting in your own right and/or on behalf of an approved affiliate) will use the SWIFT messaging services within SCORE to facilitate our provision, and your (or an approved affiliate's) use of the banking services as specified in your SCORE Service Confirmation. However, you acknowledge that provision and use of such banking services are outside the scope of these SCORE terms and conditions and shall be governed by the relevant banking services agreement rather than these SCORE terms and conditions. Notwithstanding the foregoing, if (i) we use the SWIFT messaging services within SCORE to send information to you (acting in your own right and/or on behalf of an approved affiliate) as defined in your SCORE Service Confirmation or (ii) you (acting in your own right and/or on behalf of an approved affiliate) use the SWIFT messaging services within SCORE to send instructions to us as defined in your SCORE Service Confirmation, then (as applicable) (A) each such instruction shall be deemed to be an "Instruction" or a "Payment Order" for all purposes of, and shall be subject to the terms of, the funds transfer agreement; (B) such information shall be deemed to be a "Confirmation" or a "Statement" for all purposes of, and shall be subject to the terms of, the funds transfer agreement; (C) the security procedure for verifying the authenticity of each such instruction for all purposes of the relevant banking services agreement shall be deemed to be the steps that are mandated at the time by the then current SWIFT documentation and the then current SCORE reference materials to establish that you sent the SWIFT message (rather than the security procedures specified in the relevant banking services agreement) and you agree that the steps outlined in the SWIFT documentation and SCORE reference materials constitute a "commercially reasonable security procedure" as that term is used in Article 4A of the Uniform Commercial Code as in effect in the state whose laws govern the relevant banking services agreement; and (D) any such instruction, the authenticity of which is verified in accordance with the steps that are mandated at the time by the then current SWIFT documentation and the then current SCORE reference materials to establish that you sent the SWIFT message shall be deemed to be your (or the relevant approved affiliate's) valid and binding instructions, for all purposes of the relevant banking services.

4. Rights and Obligations Related to the Use of SWIFT Messaging Services within SCORE.

(a) We will provide the electronic communication services described in your SCORE Service Confirmation that we have included in our implementation of the SCORE service, through the use of the SWIFT messaging services within SCORE.

(b) You must be an authorized SWIFT participant at all times these SCORE terms and conditions are in effect.

(c) As an authorized SWIFT participant, you must at all times comply with all requirements relating to SCORE and the SWIFT messaging services, including security requirements and requirements relating to SWIFT messages, arising out of the SWIFT agreement or the SWIFT documentation, in connection with these SCORE terms and conditions. If you, acting in your own right or on behalf of an approved affiliate, send a SWIFT message (including

a SWIFT message that includes an instruction) by way of the SWIFT messaging services within SCORE, to us and such message is not defined in your SCORE Service Confirmation that we have included in our implementation of the SCORE service, we may, at our option (i) reject or otherwise not act on such SWIFT message and any instruction contained in such SWIFT message or (ii) accept and otherwise act on such SWIFT message and any instruction contained in such SWIFT message.

(d) You must (i) at all times comply with our requirements as set out in the current SCORE reference materials, and such reasonable instructions and recommendations as we provide you from time to time in relation to the use of SCORE and the SWIFT messaging services; and (ii) confirm that you have assessed the security arrangements relating to your access to and use of the SWIFT messaging services within SCORE and concluded that they are commercially reasonable and adequate to protect your interests and those of your approved affiliates.

(e) You must immediately notify us if you become aware of or suspect any potential breach or compromise of the security of SCORE or the SWIFT messaging services including any that relate to your or our rights and obligations under these SCORE terms and conditions, such as, any loss or disclosure of (or any person other than a person duly authorized in accordance with the SWIFT documentation and your own procedures seeking to obtain or obtaining) the means to send SWIFT messages or the actual transmission of a SWIFT message, and provide us full details of the suspected breach or compromise.

(f) You must (except to the extent prohibited by any applicable law or regulatory obligation): (i) fully and promptly co-operate with any steps we take to investigate and/or rectify any apparent or suspected breach or compromise of the security of SCORE or the SWIFT messaging services which is reported under Section 4(e) or otherwise comes to your or our attention, including providing such further information regarding the apparent breach as we may request; and (ii) promptly provide us with such information as we reasonably request to assist us in the performance of our obligations under any SWIFT agreement.

5. Reliance on Instructions.

(a) You must ensure that any instruction included in any SWIFT message you send us by way of the SWIFT messaging services within SCORE fully and accurately reflects the advice, request, instruction or communication that you (or an approved affiliate) intended to provide us and is duly authorized.

(b) You irrevocably authorize us (and, if you are acting on behalf of an approved affiliate in using the SWIFT messaging services must ensure that such approved affiliate has irrevocably authorized us): (i) to treat as accurate, authentic and properly authorized, rely upon and implement any instruction in a SWIFT message we receive by way of the SWIFT messaging services within SCORE which you originate or appear to originate (including, in the case of a payment instruction, authorizing us to debit the operating account specified in the instruction); and (ii) to process each such instruction; provided that, subject to Section 5(c), we take such steps as are mandated at the time by the then current SWIFT documentation and the then current SCORE reference materials to establish that you sent such SWIFT message. You acknowledge (and, where relevant, must ensure that such approved affiliate has acknowledged) that (A) such steps constitute a "commercially reasonable security procedure" as that term is used in Article 4A of the Uniform Commercial Code as in effect in the state whose laws govern the relevant banking agreement and (B) we are not obliged to verify such authorization, authenticity or integrity, even in the case of fraud, unless we have actual knowledge of the fraud.

(c) In determining the steps to be taken to establish that you sent a SWIFT Message: (i) no regard shall be given to any steps, or any information provided with the SWIFT message, that goes beyond what is mandated at the time by the then current SWIFT documentation and the then current SCORE reference materials, to identify you as the sender of the SWIFT message; and (ii) we are not required to make any subjective judgment as to the appropriateness of the SWIFT message or any accompanying signature or certificate or otherwise.

(d) Without prejudice to Sections 5(a) and 5(c), we are not obliged to act on an instruction or to treat an instruction as accurate, authentic or authorized, if: (i) the SWIFT message through which that instruction is provided does not meet the requirements of the then current SWIFT documentation or the then current SCORE reference materials or otherwise appears not to have been prepared or sent in accordance with these SCORE terms and conditions; (ii) we consider that the execution of that instruction may place us in breach of any law or regulation; or (iii) we reasonably suspect that the SWIFT message in which that instruction was received may not (A) fully and

accurately reflect an advice, request, instruction or communication that you (or an approved affiliate) intended to give us; or (B) have been given in accordance with your (or an approved affiliate's) authorization procedures. Except to the extent prevented by applicable law or regulation, we will notify you without undue delay if, under this Section 5(d), we do not act on an instruction.

6. **Termination and Suspension.** In addition to any rights of termination and suspension in these treasury management terms and conditions (a) we may terminate any prior approval of any of your affiliates we may have given as contemplated by Section 3(a), at any time on at least 30 days' notice to you or such shorter period as you and we may agree in writing; (b) we may terminate these SCORE terms and conditions by notice to you with immediate effect if (i) either we or you are no longer an authorized SWIFT participant, (ii) SWIFT has ceased to provide, and has not resumed providing, SCORE or the SWIFT messaging services, (iii) SWIFT, in exercise of its rights under a SWIFT agreement, has required us to terminate these terms and conditions, or (iv) we cease providing the banking services; and (c) we may suspend your use of the SWIFT messaging services within SCORE (or any part thereof) for such period or periods as we consider appropriate in our absolute discretion by notice to you: (i) if suspension is necessary for the purposes of either routine or emergency maintenance; (ii) for security or technical reasons, including a suspension of the SWIFT messaging services and/or SCORE by SWIFT; (iii) if use of the SWIFT messaging services within SCORE is impossible or cannot be achieved without unreasonable cost; (iv) if suspension is required by SWIFT or the SWIFT documentation; or (v) if suspension is necessary to avoid or reduce any material damage or disadvantage to us.

Smart Safe Daily Deposit Posting Service

1. **Description of the Smart Safe Daily Deposit Posting Service.** The Smart Safe Daily Deposit Posting ("SSDDP") service is designed to facilitate your cash processing needs by allowing you to include the amount of currency reported electronically by a smart safe that has been accepted into that smart safe in your daily cash vault deposit totals. Your use of the SSDDP service is subject to the terms and conditions for the cash vault service.

2. **Definitions.** The following terms have the specified meanings for the purposes of these SSDDP terms and conditions:

(a) "**Electronic feed**" means an electronic file transmission from a smart safe to the safe provider that services that smart safe. Such feed reports the value of all currency accepted into that smart safe since the last such electronic file transmission from that smart safe to such safe provider.

(b) "**Electronic posting file**" means an electronic file created and transmitted to us by a safe provider, specifying, by safe location, the total amount of currency accepted into all of your smart safes serviced by such safe provider, based on the amounts reported by the electronic feeds of each of those smart safes, since the last such electronic file was created and transmitted to us by that safe provider.

(c) "**Loose currency**" means any currency dropped into the drop slot of a smart safe for safekeeping, rather than being inserted into the note acceptor on the safe for purposes of being accepted, counted and reported by the smart safe. Loose currency dropped into the drop slot is not deemed accepted by the smart safe, will not be counted by or included in an electronic feed from the smart safe, and for purposes of these SSDDP terms and conditions is not considered part of the contents of the safe.

(d) "**Smart safe**" means an intelligent safe (and related software and accessories) that can count, record and electronically report the currency accepted into it and that is compatible with the SSDDP service.

(e) "**Safe location**" means a location where you maintain a smart safe and which we have agreed to include in our implementation of your setup for the SSDDP service as reflected in our records.

(f) "**Safe provider**" means a third-party armored courier or other vendor that provides you a smart safe and with whom we have an agreement regarding your use of that smart safe.

3. **Smart Safe(s).** To use the SSDDP service, you must obtain one or more smart safes. You acknowledge that you will obtain each smart safe directly from a safe provider and, as a result, all warranty obligations and contracts

are to be handled directly with that safe provider. In no event will we be responsible for any aspect of the use or maintenance of any smart safe or the acts or omissions of any safe provider. You must identify the safe location and safe provider for each smart safe and may not change the safe location or safe provider for a smart safe without giving us notice at least 5 business days before such change takes effect.

4. Scheduled Pickups; Physical Delivery. You must have the contents of each smart safe picked up by the relevant safe provider at least once every other week. If a scheduled pick-up falls on a holiday for you or that safe provider, the pick-up must occur on the next day that is a business day for both you and that safe provider. You are responsible for engaging the relevant safe provider as your armored courier to deliver the currency contained in each smart safe to such safe provider's processing site, count and verify the contents of the smart safe, and deliver the currency to us. We have no responsibility or liability for any currency contained in a smart safe until the relevant safe provider delivers the currency to us by physically placing that currency in our inventory held at such safe provider's processing site. Any loose currency must be prepared, placed in a sealed, disposable deposit bag and delivered by your armored courier to the appropriate vault location in accordance with the terms and conditions for the cash vault service.

5. Back-up Reports. Upon our request, you will provide back-up information to verify the amount of currency deposited in each smart safe, including copies of the content reports and your business records.

6. Electronic Posting; Cut-off Time. We will process an electronic posting file and post the total amount of currency reported for you in that electronic posting file to the account(s) you designate in your setup of the SSDDP service, as part of our nightly deposit account processing on the night of our business day that we received such electronic posting file. If we receive an electronic posting file from a safe provider after the cut-off time on our business day or a holiday, that electronic posting file will be deemed to have been received by us on our next business day.

7. Provisional Credits; Adjustments; Discrepancies. You acknowledge and agree that any credits posted to your account(s) based on the amount of currency reported by a safe provider in an electronic posting file are provisional. We may make adjustments to your account(s), without prior notice to you, if the amount of the currency delivered to us by a safe provider is different than the amount reported in an electronic posting file or if we otherwise do not receive all currency for which you have been given a provisional credit. For example, we may make adjustments to your account(s) if an electronic feed over-reports the amount of the currency accepted into a smart safe, if a safe provider misreports in an electronic posting file the amount of currency reported in an electronic feed, or if a smart safe or the currency it contains are lost, stolen or destroyed before that currency is physically placed in our inventory at the relevant safe provider's processing site. In addition to any other rights we may have, if there are insufficient funds in the account(s) to cover any such adjustment, you agree to reimburse us on demand for the remaining amount of such adjustment and you authorize us to set-off the remaining amount of such adjustment against any other accounts you have with us and contents of any smart safe. The contents of each smart safe will be counted and verified by the relevant safe provider prior to being physically placed in our inventory at that safe provider's processing site. We do not have any responsibility or liability for any discrepancy between the amount of currency reported by any smart safe and the amount of currency counted by the relevant safe provider. If there is a discrepancy between the amount of the currency reported by a smart safe and the count of that currency by the relevant safe provider, the safe provider's count will control. Similarly, we do not have any responsibility or liability for any discrepancy between the amount of currency counted by the relevant safe provider and our count of that currency. If there is a discrepancy between a safe provider's count of currency in a smart safe and our count of the currency from that smart safe that is to be placed in our inventory at such safe provider's processing site, our count will be final.

8. Ownership, Pick-up and Shortfalls of Currency. If we have given you provisional credit on the basis of an electronic posting file, then you agree that the currency contained in your smart safe(s) to which that provisional credit relates is our property, and your safe provider (acting as our agent) may pick up that currency at any reasonable time. You will take any actions we reasonably request to assist us in picking up the contents from your smart safe(s). If, notwithstanding your agreement that ownership of currency contained in a smart safe is transferred to us at the time we provisionally credit your account(s) for that currency, it is ever determined that you have any ownership or other rights in that currency, then (a) you grant us a security interest in all your right, title and interest in such currency to secure all of your obligations to us with respect to the SSDDP service and (b) you acknowledge that your safe provider is acting as our agent solely for the purpose of taking possession of such currency. Notwithstanding the foregoing, and except as provided in the next sentence, you will still be liable for the loss of any currency from any

smart safe until the relevant safe provider physically places that currency in our inventory held at such safe provider's processing site. If we, rather than your safe provider, pick up the currency held in a smart safe, then you will not be responsible for the loss of that currency (as reflected in the contents report generated by such smart safe at the time we pick up such currency) once it has been delivered to us or the armored courier we send to collect it. You will not make any demand or bring any claim, action or proceeding of any kind against any of our armored couriers, including any safe provider serving as our armored courier, related to any of those armored couriers picking up the contents of a smart safe or otherwise following our instructions with respect to the contents of a smart safe. If, at any time, there is not enough currency in that smart safe to satisfy both our claim to the amount of currency that is our property and your claim to any additional currency that the smart safe reports has been accepted into it, then the currency that is in such smart safe will be allocated first to satisfy our claim in full before any such currency is allocated to satisfy any part of your claim. This means that you will be responsible for any currency shortfall in such smart safe. For example, if we have given you provisional credit for \$1,000 with respect to the currency that has been accepted into a smart safe as reported in an electronic posting file and the smart safe also reports that it has accepted an additional \$500 for which we have not yet given provisional credit, then the smart safe should contain a total of \$1,500 in currency. If, however, the smart safe contains only \$1,200 at the time we pick up the currency from that smart safe, we would be entitled to the full \$1,000 that is our property before you would be entitled to any currency. You would have a claim to the remaining currency in such smart safe (\$200 in this example) and you would absorb the loss for the entire currency shortfall (\$300 in this example). Moreover, if the smart safe contains only \$900 at the time we pick up the currency from that smart safe, we would be entitled to the full \$900 that is our property and we would also be entitled to an adjustment to your account(s) and exercise any other rights and remedies we have against you to recover the remaining \$100 that is our property. You would not be entitled to any currency in such smart safe in this second example.

9. **Cash Vault Service.** These SSDDP terms and conditions are expressly made a part of the terms and conditions for the cash vault service and are subject to the terms and conditions for the cash vault service. Terms that are defined in the terms and conditions for the cash vault service have the same meanings when used in these SSDDP terms and conditions. If there is any inconsistency on a particular issue between these SSDDP terms and conditions and the terms and conditions for the cash vault service, these SSDDP terms and conditions will control. You understand and agree, however, that our agreement to provide the SSDDP service does not permit you to use any other aspect of the cash vault service unless we have agreed to include that other aspect of the cash vault services in our implementation of your setup for the cash vault service. Your right to use the SSDDP service will terminate immediately upon termination of your right to use the cash vault service.

10. **Termination.** We may terminate the SSDDP service immediately by giving you written notice of that termination. You may terminate your use of the SSDD service by giving us written notice of that termination; provided that any termination by you will not be effective until we have had a reasonable time to act on your notice.

SunView Treasury Manager Service

1. **Description of the SunView Treasury Manager Service.** The SunView Treasury Manager service is an online web-based information reporting and transaction initiation service. Details regarding its functionality and formatting and other technical requirements that you must follow when using it are provided in the then current SunView Treasury Manager reference materials.

2. **Use of the SunView Treasury Manager Service.** You may use the SunView Treasury Manager service with respect to the accounts and services that we have included in our implementation of the service.

3. **Security Administrators.** In order to use the SunView Treasury Manager service, you must identify at least one individual who will act as your security administrator for the service. If you require a dual security administration feature, you must designate two security administrators. If you designate two security administrators, entitlements or system access granted by one security administrator will then need to be approved by the second security administrator for the service. These individuals will be identified in an ancillary implementation agreement. If you identify two security administrators on the ancillary implementation agreement you are requesting dual security administration. You may set up one or more additional security administrators directly through the service by granting administration entitlements to a user. The term "SunView Treasury Manager security administrator" also includes any other user set up in the SunView Treasury Manager service who is granted administration entitlements by any

other SunView Treasury Manager security administrator(s). Unless you have selected dual security administration, each of your security administrators will be able to grant any user authorized to use the service, including themselves, access to any accounts and services included in your setup of the service for any functionality or entitlement that is available in the service. In addition, unless you have selected dual security administration, each security administrator may also terminate administration entitlements of any other security administrator or any user directly through the service. If through the service the administration entitlements of a SunView Treasury Manager security administrator are terminated, you are solely responsible for notifying us of this action so that authorizations in the SunView Treasury Manager service and in our records are consistent. We may rely on information in our possession and we have no responsibility if the authorizations you have granted directly through the SunView Treasury Manager service are not consistent with our records.

4. **Fees.** Fees for the SunView Treasury Manager service will be charged to the account(s) identified in your SunView Treasury Manager implementation forms.

5. **Security Procedures.** The security procedures for the service include the requirement that each user log on to the service using that user's authorization codes. Your users should not give their authorization codes to any other person or use them anywhere other than within the service. A user's initial authorization codes will be supplied by one of your SunView Treasury Manager security administrators. You are solely responsible for developing appropriate checks and balances to effectively control and monitor the use of the service by all users, including each of your security administrators. We may require that a specific user provide additional information or use other additional security procedures to authenticate that user.

(a) **Dual Approval Security Feature.** The security procedures for the service include the use of the "dual approval" security feature. The dual approval security feature requires that at least two authorized users be involved in the initiation and release of any wire transfer or ACH transaction through the service. One user with sufficient initiation entitlements must input the transaction information and at least one other user with sufficient approval entitlements must then approve the transaction before it is released and processed.

(b) **Secure Browsing Software.** The security procedures for the service include the requirement that each user log on to the service from a computer (or other supported device) on which you have installed and have running Rapport, the secure browsing software provided by Trusteer Inc. (an IBM company), or other secure browsing software which we may have approved for use with the service. Trusteer Rapport or such other approved secure browsing software is referred to herein as the "secure browsing software." We use various means to detect if secure browsing software is installed and running on a computer or supported device. If by using the methods we employ at the relevant time, we are not able to detect that secure browsing software is installed and running on the computer or supported device from which one of your users is attempting to access the service, your user will not be permitted to log on to the service from that computer or device. If, however, by using those methods we employ at the relevant time, we determine that secure browsing software is installed and running on a computer or supported device, your user will be able log on to the service from that computer or device (as long as that user also complies with the other security procedures applicable to that user accessing the service). Your use of the secure browsing software will be licensed to you by the vendor of the secure browsing software under a separate license agreement, the "software license agreement." You agree that your use of the secure browsing software is subject to, and that you are bound by and will comply with, the terms of that software license agreement. **WE DISCLAIM ALL REPRESENTATIONS AND WARRANTIES OF ANY KIND RELATING TO THE SECURE BROWSING SOFTWARE, INCLUDING ANY REPRESENTATIONS AND WARRANTIES OF PERFORMANCE, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE AND NON-INFRINGEMENT. WE HAVE NO RESPONSIBILITY FOR (i) THE PERFORMANCE OF THE SECURE BROWSING SOFTWARE OR THE VENDOR OF THE SECURE BROWSING SOFTWARE, (ii) COMPATIBILITY OR AVAILABILITY OF THE SECURE BROWSING SOFTWARE, OR (iii) DAMAGES OF ANY KIND CLAIMED UNDER ANY CAUSE OF ACTION ALLEGED TO INVOLVE OR RELATE TO THE SECURE BROWSING SOFTWARE OR THE VENDOR OF THE SECURE BROWSING SOFTWARE.** You are solely responsible for determining if the secure browsing software is compatible with your equipment, communications capabilities, and other software and for ensuring that any installation of the secure browser software is in accordance with your policies. You agree that any vendor of the secure browsing software you are using is authorized to make certain information related to the computer on which it is installed, including but not limited to the IP address, browser information, and operating system information, available to us, and in that event, we will have no obligation to provide any notices to you, including with respect to any of that information made available to us for the purposes of fraud prevention. Your obligations under the general terms and conditions to maintain the confidentiality of any software,

software materials or other related documentation will apply to any documents or information related to the secure browsing software you use.

6. Accounts. If any loan or card account types are included in your setup for the SunView Treasury Manager service, the term "account" when used in these SunView Treasury Manager terms and conditions or the general terms and conditions in reference to the service includes these account types. In such case, you authorize us to release information relating to any loan or card accounts identified in your SunView Treasury Manager service confirmation, in accordance with these SunView Treasury Manager terms and conditions, including the release of such information to any of your SunView Treasury Manager users in accordance with the SunView Treasury Manager access you have granted each such SunView Treasury Manager user.

7. Protection of Our Vendor. We utilize a vendor in providing the SunView Treasury Manager service. As a result, you agree that each reference to "we," "us" and "our" in any provision limiting our liability to you or imposing an indemnification obligation on you will, with respect to the service, be deemed to include our vendor.

8. Multiple Setups of the Service. If you have requested that we implement more than one setup of the service for you, then you will need to designate the SunView Treasury Manager security administrator(s) for each setup on an ancillary implementation agreement. For a security administrator or user to be authorized for more than one of your setups of the service, you must authorize that security administrator or other user for each of those setups. Unless you have selected dual security administration, a security administrator authorized for one or more of your setups is authorized to establish the users for each of those setups and grant those users access to the accounts and services included in those setups and any functionality or entitlement that is available in the service. When you have multiple setups there will be a unique company identifier, or "company ID" assigned for each of your setups. To log on to a setup, your SunView Treasury Manager security administrator(s) and other users must use their authorization codes for that setup, and the company ID if applicable.

Tax Payment Service

1. Description of the TTAXplus Service. The Electronic Tax Payment ("TTAXplus®") service allows you to initiate federal and state electronic tax payment entries through the automated clearing house ("ACH"), a funds transfer system for sending and settling electronic entries among participating financial institutions. Details regarding functionality and requirements that you must follow when using the service are provided in the then current TTAXplus reference materials.

2. Functioning of the TTAXplus Service. Under the TTAXplus service, we act as the originating depository financial institution ("ODFI") with respect to tax payment entries that you send us or that are sent to us on your behalf for the Federal Tax ID Numbers that you have identified and we have included in our implementation of the TTAXplus service. Those tax payments entries will be settled to the account that is identified during your TTAXplus implementation. You may use the TTAXplus service to send us state tax payment entries with respect to any state tax authority supported by the service after you have complied with our service requirements and the state enrollment process. You will be the "originator" for each of those entries as that term is defined in, --- and your use of the TTAXplus service is subject to and you are bound by --- the then current National Automated Clearing House Association Rules and Operating Guidelines.

3. Your Warranties. You represent and warrant to us that (i) you will complete and return to us IRS Form 8655-Reporting Agent Authorization and (ii) you will comply with all equivalent state tax payment requirements. You agree to immediately notify us if any representation or warranty you make to us is no longer true.

4. Origination and Processing of Entries. You must send all tax payment entries to us by using the procedures set forth in the TTAXplus reference materials. You must fund all tax payments at least two business days prior to the date you establish for us to process and settle your tax payment entries and we have no obligation to process tax payment entries if timely funding has not occurred. One or more failures to provide timely funding may be deemed a material breach of this agreement and we may terminate your use of this service as a result of such breach. If we receive your tax payment entries after the delivery deadline set forth in the TTAXplus reference materials, we will treat them as received on our next business day. We will format, process and settle to the account identified during

your TTAXplus service implementation all tax payment entries that we receive from you in accordance with the ACH Rules, this agreement and the TTAXplus reference materials.

5. Security Procedures. The following security procedures apply to all tax payment entries:

(a) Access Code. We will give you an authorization code that the TTAXplus system may refer to as an access code. You must use the access code (or your Tax Payment Identification Number) to send us a tax payment entry for any Federal Tax ID Number that we have included in your setup for the service.

(b) Password/PIN. We will give you another authorization code that the TTAXplus system may refer to as a password or PIN. Each password/PIN is uniquely linked to a particular Federal Tax ID Number and for each Federal Tax ID Number you must use the appropriate password/PIN for each particular tax payment entry you want to send us.

The authorization codes are not user-specific. This means that all of your authorized users must use the same set of authorization codes to initiate a tax payment entry for a particular Federal Tax ID Number. We will send all of the authorization codes to the person identified as your authorized user in your TTAXplus implementation materials. Your authorized user is then responsible for distributing the authorization codes to your users.

Universal Payment Identification Code Service

1. Description of the UPIC Service. The Universal Payment Identification Code ("UPIC") service generates a unique number assigned to one of your SunTrust demand deposit accounts, which you can then provide to your trading partners who make payments to you through ACH. Your use of the UPIC service allows you to mask your banking relationship and account number to reduce the risk of fraudulent use of your account. Details regarding UPIC's functionality and formatting and other technical requirements that you must follow when using the UPIC service are provided in the then current UPIC reference materials.

2. Roles under the UPIC Service. We will assign a separate UPIC number to each eligible account you identify and that we will then list in the service confirmation for this service. Under the UPIC Service, we act as the receiving depository financial institution ("RDFI") with respect to UPIC entries that are sent to us on your behalf. As a Receiver, you agree to comply with the National Automated Clearing House Association "NACHA" Rules and to comply with any UPIC rules and procedures as adopted by The Clearing House Payments Company L.L.C.

3. Eligible Accounts. The UPIC service may only be used for a demand deposit account or other transaction account of a corporation, partnership, limited liability company, or unincorporated association; the government of the United States or an agency of the United States; a state or local government or an agency of a state or local government; or one or more non-consumer accounts of individuals (such as sole proprietors) when the account is used primarily for business purposes. An account of one or more individuals used primarily for personal or household purposes, i.e., a consumer account, may not be used with the UPIC Service.

4. Use of UPIC Number. The UPIC number is only to be used for incoming electronic ACH credits. You may provide the UPIC number and the related universal routing number to your business trading partners that wish to originate ACH credit entries to you. You represent that you have not and will not authorize any person or entity to originate any debit entries using the assigned UPIC number.

Wholesale Lockbox Service

1. Description of the WLB Service. The Wholesale Lockbox ("WLB") service is designed to facilitate the receipt and processing of your accounts receivable remittances. Details regarding WLB's functionality and formatting and other technical requirements that you must follow when using the WLB service are provided in the then current WLB reference materials.

2. Implementation of the WLB Service. Once we have included the account(s) identified in the service confirmation for this service in our implementation of the WLB service, you may request a copy of your initial lockbox

operating instructions for a particular lockbox number. We will update those instructions from time to time based on information you give us.

3. Request for Image Services. The Image services enable you to view images of checks and remittance payment information that are received through your lockbox. You can access these images and transaction information through Image Browser, Image CD ROM, Virtual CD, and/or Image Transmission file. Details regarding these services, their functionality and requirements that you must follow when using the Image services are provided in the then current Image reference materials. We will provide you one or more of the following image service(s) selected by you and such selections will be reflected in the service confirmation for this service:

(a) Image Browser – Provides internet-based access to view your lockbox images and data with flexible viewing parameters and search capability for check and document information using a specific date or several search criteria; ability to administer users and their access privileges; ability to search web-accessible historical data, exportable transaction information, check and document images that can be emailed directly from this Image service; and provides annotation tools that can be used to create notes or highlight information on check or document images that can be saved for future reference. Batch Download, Full Text Search, Remitter Keying capabilities and direct access to the image browser using Lockbox Programmer Interface are also available as additional service selections. You must designate a security administrator on an AIA responsible for setting up and maintaining access to the Image Browser service by your users. We will assign a unique user-specific user ID and password to this designated security administrator. If you implement image archival services as part of your Image Browser service and your Image Browser service is later terminated, upon request from you, we can create a CD ROM of your archived data and mail it to you.

(b) Image CD ROM - After delivery of CD ROM by mail, you will have access to your lockbox images along with index fields of information to support your need for a long term archive. Lockbox images can also be downloaded onto your computer from CD-ROM. You must designate a security administrator responsible for using the software required to access the CD ROM of your lockbox images. The CD ROM will be encrypted to protect your data. We will provide a unique encryption key to your security administrator through lockbox image browser to use to de-encrypt and access CD ROM. This designated person has security administrator access.

(c) Image Transmission file – Provides customized access to your lockbox images along with index fields of information that can be downloaded directly into your Accounts Receivable systems. Image Transmission files are encrypted and are transmitted using File Transfer Protocol (FTP). You must designate a technical contact responsible for receiving or retrieving your Image Transmission files. You will retrieve your Image Transmission files by accessing a FTP site and by using the unique user ID and password assigned to your company. If you want us to “push” your Image Transmission files to you, you must provide us the information needed to access your computer system to deliver the files. We will send the URL address and the user ID and password to the person you designate as your contact. This designated person has security administrator access.

(d) Virtual CD – Virtual CD is downloaded from image browser. You will have access to your lockbox images along with index fields of information to support your need for a long term archive. Lockbox images can also be downloaded onto your computer from Virtual CD. You must designate a security administrator on an AIA responsible for using the software to access Virtual CD of your lockbox images. Virtual CD will be encrypted to protect your data. We will provide a unique encryption key to your security administrator through lockbox image browser that is used to de-encrypt and access Virtual CD. The designated person to manage Virtual CD has full access rights of a security administrator.

4. Processing of Deposits. We will establish one or more post office boxes or “lockboxes” in your name as specified in the service confirmation for this service. On each banking day after a lockbox has been established, we will process the checks, drafts and money orders (all of which are referred to as “items”) received in a lockbox in accordance with your instructions in effect at the relevant time and send you deposit advices for those items.

(a) Endorsement. We will endorse items for deposit with our standard endorsement and deposit them to the relevant account. We will not be liable for any failure to endorse an item properly.

(b) Forwarding and Return of Items. If you receive an item that should have been delivered to a lockbox, you may forward it to our lockbox department. If you have more than one lockbox, you must designate the lockbox

through which we should process the item. If you receive an item from us (or are given access to it via any imaging service) and you or we discover that such information was intended for another lockbox customer and was misdelivered to you or erroneously posted to your image repository, you agree that you will immediately notify us of the issue and will immediately return all such information to us, and you also agree to refrain from accessing such information in any image archive until we can delete it from such archive. You also agree to take steps to delete such item(s) from any other archive to which you may have downloaded such information and must certify destruction and/or return of all such information to us upon request. Due to the possible implications to the privacy rights of the individuals to whom such information rightfully belongs, it shall be a material breach of the master agreement and these terms and conditions to fail to immediately comply with any aspect of this provision. In addition to any other rights available to us, we may immediately terminate the WLB service and other services you receive due to any breach of this provision.

(c) Inspection of Items. An item containing a payee name that does not reasonably correspond to an acceptable payee list you have given us will be handled in accordance with your instructions in effect at the relevant time. If an item contains inconsistent written and numeric amounts, then: (A) if the item is accompanied by an invoice and one of the amounts is consistent with the invoice amount, the item will be deposited for the amount that matched the invoice when instructed by client instructions; or (B) (1) if the item is accompanied by an invoice and neither of the amounts on the item is consistent with the invoice amount or (2) the item is not accompanied by an invoice, the item will be deposited for the written amount, unless your instructions in effect at the relevant time direct otherwise. We will not inspect an item for the drawer's signature or the date. Unless otherwise agreed in writing and in exchange for the payment of a separate per item fee, we will also not inspect any item and/or accompanying correspondence in an effort to identify "payment in full" or other similar payment dispute language. We will not be liable for any loss resulting from processing any such items, including any items we may inspect in an effort to identify "payment in full" or similar payment dispute language due to multiple ways debtors may attempt to annotate documents to attempt to avoid or extinguish debts owed to you. Any efforts to locate such items shall be on a best efforts basis only. As a part of processing an item, we will also enter data regarding certain aspects of an item (such as the drawer's name and the account invoice number shown on the item) into the data file you will receive. You agree that we will not be liable for errors entering any of that data. Finally, you agree that we do not fail to exercise ordinary care to inspect an item solely because we process it in a manner inconsistent with this paragraph.

(d) Cash and Other Property. We will deposit any cash received in a lockbox into the relevant account. Any property other than items, cash and related remittance materials received in a lockbox will be sent to you. You agree that we have no liability for any cash or other property received in a lockbox.

(e) Remittance Materials. We will only return to you the original remittance materials (such as invoices, payment coupons, correspondence and the like) received in a lockbox if the instructions in effect at the relevant time direct us to return those materials. You agree that we are not liable, for loss, theft, or damage to such materials after they leave our possession, if they are mailed to the address indicated in our records or delivered to your agent or courier. You also agree that regardless of whether you pay a courier directly or we pay a courier and charge you a fee related to that courier's services through account analysis, the courier shall be considered your agent and we shall have no liability once we deliver any items into the possession of that courier. We will destroy the original remittance materials within 10 days after we receive them. Once we destroy the original remittance materials, the images of them that we may capture during their processing will be the only source of information about their contents and will exist beyond 10 days only if you subscribe to one of our image services. You agree that we will have no liability for any missing image or if any image we capture is not legible or if you fail to subscribe to one of our image services.

(f) Affiliate Deposits. If you have not given us an acceptable payee list, you represent and warrant to us that you have the authority to have each item received in a lockbox endorsed and deposited into your account(s), even if the payee name on an item is not your name as shown in our records. In addition, if you have given us an acceptable payee list, you represent and warrant to us that if any name on that list that is a separate legal entity (rather than merely a "d/b/a" or trade name that you use), and you have authority from that entity to have items payable to it endorsed and deposited into your account(s). You agree to provide us with satisfactory evidence of that authority upon request.

(g) Return Items. Unless otherwise stated in the instructions, we will handle dishonored or returned items in accordance with our rules and regulations for deposit accounts in effect at the relevant time.

(h) Termination. If your use of the WLB service or the agreement is terminated, we will complete the processing of items we received prior to the termination date. For a period of 90 days after the termination date, we will forward all lockbox remittances to you or as you may otherwise direct. After that time, all remittances are returned to sender. The lockbox billing account must remain open and active during the mail forwarding period.

5. Transfer of Lockbox Materials. If you designate a courier service or other authorized representative (your agent) to pick up copies of items, remittance materials, or any other property, from any lockbox site, you agree that transfer of possession of such materials to your agent constitutes delivery to you, and you assume any and all risks incidental to or arising out of such transfer to your agent. You agree that we have no responsibility for such materials after we mail them (when mailing is requested or required) or after transfer to your agent. We are authorized to provide such materials to such agent until we receive notice of cancellation of that authority and we have had a reasonable period of time to act on that request. At our election, any lockbox materials that are not picked up within forty-eight (48) hours after we process the related items, may, at your expense, be mailed by overnight delivery or other means to the address indicated in our records. The above transfer service is subject to applicable service charges. You also agree that regardless of whether you pay a courier directly or we pay a courier and charge you a fee related to that courier's services through account analysis, the courier shall be considered your agent and we shall have no liability once we deliver any items into the possession of that courier.

6. Processing of Payment Card Transactions. If you request that we do so, and we agree, we will process payment card remittances sent to your lockbox. When you make such a request you are appointing us as your agent for purposes of processing payment card transactions and submitting those transactions to your merchant processor for authorization, and you agree to provide us with all information and privileges necessary to access your merchant processor's authorization system. You will hold us (and any vendor who processes your lockbox transactions on our behalf) harmless from any and all claims asserted by your merchant processor that arise from an allegation that (i) you do not have the authority to appoint us as your agent, or (ii) you do not have the authority to grant us access to your merchant processor's system. You will be responsible for notifying your merchant processor that you have appointed us as your agent, and you will hold us harmless for any failure to do so.

7. Lockbox Lite. "Lockbox Lite" is a form of WLB service that is limited to a total of 500 items per month in any combination of checks and remittance documents. The monthly fixed fee for this service is available on request. That fee will appear on your account analysis statement as Service Code 18500. If you subscribe to this service and you exceed 500 items in any month each item over 500 will be assessed an overage fee of \$2.50 that will appear on your account analysis statement as Service Code 18501. Each page scanned is considered one item. Any document containing information on the front and back counts as two items. If envelopes are scanned, each envelope counts as one item. If there are any markings on the back of the envelope, the back will be scanned and count as a separate item. If you begin to consistently incur overage fees or wish to utilize other features not included in the Lockbox Lite service, you may transition to our standard WLB service at standard pricing. The WLB Terms and Conditions generally apply to Lockbox Lite, but the following areas of the WLB Terms and Conditions shall be limited in the following manner when using Lockbox Lite. Image Services shall include only check and document imaging, full text searching, and a seven year archival period. CD ROM, Image Transmission File, Batch Download, Remitter Table, and API are not included in Lockbox Lite. Signature and Date Services shall not be available. Remittance Material Services shall only include the mailing of rejected items back to you.

Terms Applicable to Use of Online Decisioning

1. Description and Operation of the Online Decisioning Service. The Online Decisioning service is an optional Scannable and Wholesale Lockbox service that allows you to have Image Browser access to your lockbox exception items and related remittance data. The Online Decisioning service is a decisioning and data entry tool that allows you to make processing decisions for lockbox exception items, and it also allows you to input remittance data online. It requires active daily participation by you to be effective. You will see a charge for this service on your monthly account analysis statement. You will be billed for such service, and must pay for it every month regardless of whether or not you actively use it at any time during that month. Lockbox exception items are items that we did not process based on your lockbox operating instructions. Using the Online Decisioning service, your lockbox exception items will be presented to you, identifying the first reason code that caused the item to reject. You may then use Online Decisioning to have each item forwarded to you, or have each item processed by lockbox for deposit. **If you fail to decision any item by your daily processing deadline, it will be rejected.** Your deadline is set forth in your lockbox operating instructions. Details regarding the Online Decisioning service, its features, and procedures you must follow

are provided in the Online Decisioning reference materials. The Online Decisioning Service may not be used or accessed outside of the United States.

2. Request for Online Decisioning Service. We will send you a service confirmation for Online Decisioning specifying the lockbox(s) and account(s) you have asked us to include in your setup for this service. You must notify us immediately if you see any errors or discrepancies in any of the information contained in that service confirmation.

3. Security Procedures. You must designate a security administrator within an ancillary implementation agreement who will be responsible for designating the authorized users who will be able to access Online Decisioning services. You are solely responsible for all decisions submitted by such users through the Online Decisioning service. You agree that we can rely on any decisions and information you input by them in connection with your use of the Online Decisioning service.

Wire Transfer Service

1. Description of the Wire Transfer Service. The Wire Transfer service is a funds transfer service that is available through certain designated online services for sending and settling payment orders. You may use the Wire Transfer service with respect to the accounts and authorized senders that you have identified in an ancillary implementation agreement ("AIA"). The Wire Transfer service is subject to the SunTrust Funds Transfer Agreement. The SunTrust Funds Transfer Agreement is provided as an addendum to these Terms and Conditions. In the event of any conflict between these Terms and Conditions and the SunTrust Funds Transfer Agreement, the SunTrust Funds Transfer Agreement will control.

2. Designation of Authorized Senders. In order to use the Wire Transfer service, you must designate person(s) as Authorized Senders who will initiate and verify payment orders and provide instructions with respect to any authorized account. These persons will have all of the rights and responsibilities described in the SunTrust Funds Transfer Agreement and will be identified in an AIA.

3. Security Procedures. The security procedures for the Wire Transfer service include the requirement that your Authorized Senders use the PIN codes that we will assign as described in the SunTrust Funds Transfer Agreement. You agree that these security procedures, as defined in the SunTrust Funds Transfer Agreement are commercially reasonable.

Zero Balance Account Service

1. Description of the ZBA Service. The Zero Balance Account ("ZBA") service allows you to manage your cash flow by aggregating debit and credit entries from one or more zero balance or "subsidiary" accounts to a master account on a daily basis.

2. Daily Posting and Funding. You may use the ZBA service with respect to the subsidiary accounts, master accounts any supermaster accounts (if any) reflected in the service confirmation for this service that we have included in our implementation of the ZBA service. At the end of each banking day, we will transfer all debit and credit entries that were posted to a subsidiary account that banking day to the master account for that subsidiary account as identified in the service confirmation for this service, so that each subsidiary account will have a zero ledger balance (or the target ledger balance, if any, indicated for that subsidiary account in the service confirmation for this service) at the end of each banking day. We will do this by posting to the relevant master account a single debit entry equal to the total amount of all checks, drafts, withdrawals and other debits (if any) in each subsidiary account, and a single credit entry equal to the total amount of all deposits, transfers and other credits (if any) in each subsidiary account or, at your option, we will post to the relevant master account a single entry equal to the net debit or credit activity in each subsidiary account. When we post these entries to a master account, we will also post offsetting entries to the relevant subsidiary account. You agree to maintain sufficient available balances at all times in each master account identified in the service confirmation for this service to cover any debit activity (and any target ledger balances) of all subsidiary accounts funded by that master account as well as any debits presented directly against that master account. We are not obligated to pay checks, drafts, withdrawal requests or other debits presented against a master account or a subsidiary account unless there are sufficient funds on deposit in the applicable master account. You

agree that we may fund subsidiary account activity from the applicable master account identified in the service confirmation for this service whether or not the ownership and/or authorized signers of the subsidiary account are the same as those for the master account.

3. **Super Master Accounts.** If you have identified one or more "super master accounts" in the service confirmation for this service, any master account funded by the super master account will be treated as a subsidiary account of that super master account.

4. **Duration and Changing of Options.** Once we have included the information from your service confirmation in our implementation of the ZBA service, we will post the total of all debits and the total of all credits (or, at your option, the net amount of all debits and credits) from each subsidiary account to the relevant master account in accordance with the selections reflected in that service confirmation until (a) your use of the ZBA service or the agreement is terminated or (b) you modify your previous selections and we have had a reasonable time to act on such modification before we receive the relevant debits or credits.

5. **Termination of Service.** We may terminate the ZBA service immediately by giving you notice of the termination. You may terminate the ZBA service by giving us notice of the termination, provided that any termination by you will not be effective until we have had a reasonable time to act on your notice.

Funds Transfer Agreement

This **SunTrust Funds Transfer Agreement**, the terms and conditions of which are set forth below, shall govern all funds transfers between Bank and Client.

1. **Definitions.** The following are defined terms:

Account means the account(s) designated by Client on its Schedule A to this Agreement (as superseded from time to time by Client as provided herein) to be used as the source of payment for Payment Orders.

Authorized Sender means a person designated by Client on its Schedule A to this Agreement (as superseded from time to time by Client as provided herein), authorized to submit and/or verify Payment Orders and Instructions to Bank.

Bank means the SunTrust Bank(s) where the Account is maintained, its/their successors and assigns.

Confirmation means any notice (oral, written, electronic, or otherwise) informing Client of the date and amount of each Transfer to or from an Account.

Client means the individual who or entity which signed Schedule A to this Agreement.

Instructions means the Transfer related directions given by an Authorized Sender to Bank, including amendments or cancellations of Payment Orders.

Payment Order means a request (oral, written, or electronic) from an Authorized Sender directing Bank to initiate a Transfer from an Account.

International Payment Order means a Payment Order in which the beneficiary's bank is located outside of the United States.

PIN means the personal identification number assigned by Bank to each Authorized Sender.

Repetitive Transfers mean Transfers initiated by Payment Orders in which the debit and beneficiary information designated by Client on its Schedule B to this Agreement (as amended from time to time by Client) remains constant, but the date and dollar amount vary.

Standing Order Transfers mean Transfers made as ordered by Client on its Schedule D to this Agreement (as amended from time to time by Client) in which the debit and beneficiary information remain constant, but the date and dollar amount may vary.

Statement means Client's periodic Account statement.

Transfer means a transfer of funds by Fedwire, SWIFT, telex, computer terminal, electronic, or other means, including Repetitive Transfers and Standing Order Transfers, but excluding transfers made through the ACH system, as defined by the operating rules of the National Automated Clearing House Association.

2. **Authorized Sender.**

Authorized Senders may provide Payment Orders and Instructions to Bank with respect to any authorized Account. If Client desires to revoke or modify the authority of any Authorized Sender or add additional Authorized Senders, Client shall execute and deliver to Bank a new Schedule A which shall supersede its prior Schedule A and

revoke all prior authorizations. **In addition to listing new Authorized Senders, any subsequent Schedule A must list all Authorized Senders designated on its prior Schedule A and state whether or not there is any revocation or change of authority for each previously listed Authorized Sender.** Bank shall have no liability for any loss arising from Client's failure to provide information revoking or changing an Authorized Sender's authority in the manner stated above. Any new Schedule A shall not be effective until accepted by Bank and Bank has had a reasonable time to act upon it.

3. Client Signature.

A duplicate or copy of any signed wire schedule delivered to us through facsimile or email attachment shall be as effective and enforceable as an original manually signed agreement. A digital, electronic or photostatic image of any such signed document maintained in the SunTrust record retention system shall be as effective and enforceable as an original manually signed agreement.

Client consents to the use of electronic records and signatures with respect to Client's use of any SunTrust Funds Transfer Schedule.

4. Form of Instructions.

Bank may act upon Payment Orders or Instructions. Any Payment Order or Instruction which does not comply with Bank's procedures or which exceeds the available balance of the funds on deposit in an Account may be canceled from Bank's wire system without notice to Client or liability to Bank.

Special Instructions. Client may elect to authorize Repetitive Transfers on its Schedule B and Standing Order Transfers on its Schedule D to this Agreement. Bank's assignment, if any, of a repetitive code for Repetitive Transfers is not a security procedure and will not be used as such.

Electronic Instructions. If Bank accepts Client's election to initiate Payment Orders and Instructions from Client's electronic access system, Client shall be responsible for the security and confidentiality of Client's system and for the accuracy and completeness of any data received by Bank. Bank will not verify any electronically initiated Transfer.

5. Confirmations and Duty to Report Errors.

The date and amount of each Transfer are described on the applicable Statement. Subject to the charges referenced in Paragraph 12, herein, Bank may also deliver Confirmations to Client at the address, telephone number or other communications system specified by Client. A Client initiating Transfers from its electronic access system may receive on-line Confirmation of each Transfer. Bank will not deliver next day notice of receipt of incoming Transfers. Client shall examine upon receipt, but in no event later than 30 days after receipt, any Statement or Confirmation (whichever first occurs) and notify Bank of errors, if any. Failure to notify Bank of any error within such 30 day time period shall relieve Bank of all liability for the Transfers reflected in such Statement or Confirmation.

6. Amendment or Cancellation of Payment Orders.

Any Instruction canceling or amending a Payment Order is not effective unless Bank has received such Instruction at a time and in a manner affording Bank a reasonable opportunity to act before making the Transfer. If an Authorized Sender requests that Bank attempt to recover transferred funds, Client may be required to deposit funds with Bank or provide other payment assurances that are satisfactory to Bank to cover the cost, expense, charges, and/or attorneys' fees incurred by Bank in its recovery attempt. Bank's attempt to recover funds shall not be an acceptance of responsibility for the completed Transfer. Bank does not guarantee the recovery of all or any part of a Transfer.

7. Deadlines.

Bank shall establish deadlines for the receipt of Payment Orders and Instructions, including cancellations and amendments. Payment Orders and Instructions received after the deadline shall be treated as received on the next business day. Bank may, in its sole discretion, execute Payment Orders received after the deadline on that same business day only as an accommodation to Client.

8. Security Procedures.

Acknowledgment and Amendment. Client acknowledges that the Bank's security procedures are commercially reasonable. Bank reserves the right to change the security procedures from time to time.

PINs. Bank shall assign a PIN to each Authorized Sender which must be used each time an Authorized Sender makes or verifies Transfers or provides Instructions. Client shall be responsible for maintaining the confidentiality of the PINs and shall promptly report any breach of confidentiality to Bank.

Verification. Bank may, in its sole discretion, verify or authenticate any Payment Order or Instruction by contacting Client by telephone or by any other means deemed reasonable by Bank, but Bank is under no obligation to do so. If Bank is unable to verify or authenticate a Payment Order or Instruction, it is within the Bank's sole discretion to either effect or refuse such Payment Order or Instruction. Bank will not verify any Transfer initiated electronically.

9. Recording.

Client consents to Bank recording telephone calls, including, without limitation, Payment Orders and Instructions. Client assumes the responsibility for obtaining the consent of the Authorized Senders for these recordings. The recordings made shall be conclusive confirmation of Payment Orders and Instructions. Client acknowledges that not all calls will be recorded.

10. International Transactions.

International Payment Orders. If Bank receives a U.S. Dollar-denominated International Payment Order, then (except as provided in the next sentence) Client hereby instructs Bank to either:

(a) convert the amount of such International Payment Order into the currency (the "Conversion Currency") of the country in which the beneficiary's bank is located (at Bank's sale rate for the Conversion Currency in effect on the date Bank executes such International Payment Order), execute such International Payment Order by issuing a payment order for the corresponding amount of the Conversion Currency and forward to the beneficiary's bank the relevant currency conversion data; or

(b) execute such International Payment Order by issuing a U.S. Dollar-denominated payment order in the amount of such International Payment Order to an intermediary bank and instruct such intermediary bank to convert the amount of such payment order into the Conversion Currency (at such intermediary bank's sale rate for the Conversion Currency in effect on the date such intermediary bank executes such payment order).

Bank will not convert (or instruct an intermediary bank to convert) a U.S. Dollar-denominated International Payment Order into the Conversion Currency if (1) such International Payment Order specifies an intermediary bank, (2) the amount of such International Payment Order exceeds an amount (the "Conversion Cap") specified by Bank and in effect on the date it executes such International Payment Order, (3) the Conversion Currency is not a currency (an "Eligible Currency") specified by Bank as one into which it will convert U.S. Dollar-denominated International Payment Orders on the date Bank executes such International Payment Order, (4) Client gives an Instruction (a "No-Conversion Instruction") along with such International Payment Order that it is not to be converted into the Conversion Currency or (5) such International Payment Order is subject to an opt out election for automatic currency conversion as reflected on a Schedule H to this Agreement (if any) that is in effect on the date Bank executes such International Payment Order.

Bank's experience is that a very high percentage of U.S. Dollar-denominated International Payment Orders are converted into the Conversion Currency by the beneficiary's bank before being made available to the beneficiary. Bank believes the conversion of U.S. Dollar-denominated International Payment Orders into the Conversion Currency before they are executed by Bank may offer several benefits to Client and/or the beneficiary, including earlier conversion, better exchange rates and expedited availability of funds. However, Client is solely responsible for determining if the conversion of a U.S. Dollar-denominated International Payment Order into the Conversion Currency is consistent with Client's contractual and other obligations to the beneficiary. If such conversion is not consistent with those obligations, Client should give Bank a No-Conversion Instruction along with the International Payment Order. Moreover, if Bank receives a demand from the beneficiary or the beneficiary's bank for reimbursement of sums relating to the conversion of a U.S. Dollar-denominated International Payment Order, Bank will seek an Instruction from Client as to whether Bank should remit those sums to the beneficiary's bank (in which event, they will be charged to the Account).

Information regarding the current Conversion Cap and Eligible Currencies may be obtained by contacting Bank. In that regard, Bank may determine the Eligible Currencies without regard to whether it trades those currencies generally. If Client desires to ensure that Bank executes an International Payment Order in a currency other than U.S. Dollars, then Client should denominate that International Payment Order in the desired currency.

If Bank receives an International Payment Order that is denominated in a currency other than U.S. Dollars, Bank will convert the funds from the Account into the requested currency (at Bank's sale rate for that currency in effect on the date Bank executes such International Payment Order). Any returned funds will be converted by Bank into U.S. Dollars at Bank's then current buy rate for that currency on the day of return. Bank shall not be liable for any resulting exchange losses. If, as a result of the exchange rate, excess funds have been remitted, such funds will be returned to the Account less the exchange costs.

Client hereby instructs Bank that it may (a) obtain payment of its charges for services and expenses in connection with the execution of an International Payment Order by issuing a payment order in an amount equal to the amount of that International Payment Order less the amount of the charges and (b) instruct any subsequent receiving bank to obtain payment of its charges in the same manner.

11. Name and Account Number Inconsistency.

Client shall ensure the accuracy of its Payment Orders and Instructions. If a Payment Order inconsistently describes the beneficiary, beneficiary's bank, or intermediary bank by name and number, payment might be made by the intermediary or beneficiary's bank on the basis of the number even if the number identifies a person or bank other than the named beneficiary or bank. Client shall be responsible for any loss associated with such inconsistency.

12. Liability.

Duty of Reasonable Care. Bank shall exercise good faith and reasonable care in performing the services provided for in this Agreement. Client shall exercise good faith and reasonable care in observing and maintaining security procedures, in communicating Payment Orders and Instructions to Bank and in reviewing Statements and Confirmations for errors.

Limitation of Liability. Bank shall only be liable as provided by applicable law for any error or delay and shall have no liability for not effecting a Transfer if: (a) Bank receives actual notice or has reason to believe that Client has filed or commenced a petition or proceeding for relief under any bankruptcy, insolvency, or similar law; (b) the ownership of the funds to be transferred or the Authorized Sender's authority to do so are in question; (c) Bank suspects a breach of the security procedures; (d) Bank suspects that the Account has been used for illegal or fraudulent purposes; (e) Bank attempts to verify a Payment Order and is unable to do so; (f) Client does not have available funds to effect the Transfer; (g) Bank reasonably believes that a Transfer is prohibited by federal law or regulation, including, but not limited to, those promulgated by the Office of Foreign Assets Control/Department of the Treasury; or (h) otherwise so provided in this Agreement.

Client will hold Bank harmless: (a) if Bank acts in accordance with Payment Orders and Instructions, including, but not limited to, amendments or cancellations; (b) if Bank attempts to recover funds upon the request of an Authorized Sender; (c) for any loss resulting from the unauthorized access to or use of PINs; or (d) for any matters referenced in this Agreement for which Client has responsibility.

Any damages or other compensation due Client resulting from Bank's negligence shall be limited to interest on the funds at issue at the federal funds rate paid by Bank at the close of business on each day the error or delay remains uncorrected; provided, however, if Bank is unable to recover the funds from the transferee who has no claim to all or any portion of the funds erroneously transferred as a result of the Bank's negligence, Bank shall be liable for Client's actual loss, not to exceed the amount of funds which Bank is unable to recover, plus interest at the rate described above. Bank shall not be responsible for any loss, damage, liability, or claim, arising directly or indirectly, from any error, delay, or failure to perform any of its obligations hereunder which is caused by fire, natural disaster, strike, civil unrest, any inoperable communications facilities, or any other circumstance beyond the reasonable control of the Bank. In no event shall Bank be liable to Client for indirect, consequential, special, punitive, or exemplary damages.

13. Fees.

Client shall pay all fees and charges which Bank may, from time to time, impose for the performance of services provided in this Agreement. In addition, Client shall reimburse Bank for all out-of-pocket expenses incurred by Bank in effecting Payment Orders and Instructions, including cancellations, amendments and attempted recoveries.

14. Notices.

Oral notices, Instructions, directions, Confirmations, verifications, or other oral communications with respect to Transfers and this Agreement shall be given, if to Bank, to Client's assigned relationship manager, and, if to Client, to the telephone number provided by Client on its Schedule A to this Agreement. Written notices, Instructions, directions, Confirmations, verifications, or other written communications with respect to Transfers and this Agreement shall be sent, if to Bank, at the Bank's address on the Statement, and if to Client, at the address provided by Client on its Schedule A to this Agreement. Either party may change its telephone number or address by giving written notice to the other party.

15. Applicable Law, Jurisdiction and Account Agreement.

This Agreement is subject to all applicable Federal Reserve Bank operating circulars and any other applicable provisions of Federal law. If Bank uses Fedwire to effect a Transfer, Federal Reserve Board Regulation J, Subpart B shall apply. Except as so provided, this Agreement shall be governed by and interpreted in accordance with the laws of the state in which the Account is located. In the case of an Account for which an application originates online or otherwise in states where Bank does not have a branch presence, such Account shall be deemed to be accepted, opened by Bank and located in the state of Georgia, all deposits to such accounts (regardless of method of deposit) shall be deemed to be accepted in Georgia, and the applicable state law will be Georgia. If state and federal law are inconsistent, or if state law is preempted by federal law, federal law governs. Any claims, controversy, dispute or cause of action (whether in contract, tort or otherwise) based upon, arising out of or relating to this Agreement or any other document or agreement referenced herein, and the transactions contemplated herein, shall be construed in accordance with and be governed by the applicable state law (without giving effect to the conflict of law principles thereof). Client consents to the jurisdiction and venue of any court located in such state. The parties agree that, in the event of a dispute, they will submit same to mediation prior to any legal action. The terms and conditions of any schedule, account agreement, signature card, authority, and the Bank's Rules and Regulations for Deposit Accounts are incorporated herein by reference. If any conflict or inconsistency exists between the terms and conditions of this Agreement and any of the above, this Agreement shall control.

In states where Bank has a branch presence, the parties agree that the transactions underlying this Agreement bear a reasonable relation to the state where the Account is located because Bank has a branch presence there, such transactions are approved and finalized by Bank in such state, Bank is required to perform and does perform a substantial part of its obligations relating to the transactions and services provided in such state, and the parties executed any required documents in such state.

In states where Bank does not have a branch presence, the parties agree that the transactions underlying this Agreement bear a reasonable relation to the state of Georgia because Bank's principal place of business is in Georgia, such transactions are approved and finalized by Bank in Georgia, Bank is required to perform and does perform a substantial part of its obligations relating to the transactions and services provided in Georgia, and any required documents were approved, finalized and are deemed executed by the parties in Georgia.

16. Jury Trial Waiver.

Client and Bank hereby knowingly, voluntarily, intentionally, and irrevocably waive the right either of them may have to a trial by jury in respect to any litigation, whether in contract or tort, at law or in equity, based hereon, or arising out of, under or in connection with this Agreement and any other document or instrument contemplated to be executed in conjunction herewith, or any course of conduct, course of dealing, statements (whether verbal or written) or actions of any party hereto. This provision is a material inducement for Bank entering into this Agreement. Further, Client hereby certifies that no representative or agent of Bank, or Bank's counsel, has represented, expressly or otherwise, that Bank would not, in the event of such litigation, seek to enforce this waiver of right to jury trial provision. No representative or agent of Bank, or Bank's counsel has the authority to waive, condition, or modify this provision.

17. Amendment and Termination.

This Agreement may be amended by Bank from time to time by written notice to Client. Any use of services provided hereunder after Client's receipt of the notice shall constitute acceptance of the terms of the amendment. Either party may terminate this Agreement by giving at least 30 days prior written notice to the other party. Bank may terminate this Agreement immediately, without prior notice to Client, if: (a) the Account(s) has no annual activity or has been closed; (b) Bank suspects a breach of Client's security procedures; (c) Bank receives actual notice or has

reason to believe that Client has filed or commenced a petition or proceeding for relief under any bankruptcy, insolvency, or similar law; or (d) Bank suspects that the Account(s) have been used for illegal or fraudulent purposes.

18. Miscellaneous.

This Agreement shall be binding upon and inure to the benefit of the parties, their legal representatives, successors, and assigns, by merger or otherwise. If any provision of this Agreement shall be declared invalid or unenforceable, said provision shall be ineffective to the extent it is invalid, without in any way affecting the remaining provisions of this Agreement.

Signature. These terms and conditions have been signed and delivered (which you agree may be by facsimile or email attachment) on your behalf by the person whose name is printed in the "Client Name" space below. That person represents and warrants to us that he or she is one of your authorized signers and that you have taken all action required by your organizational documents to authorize him or her to sign and deliver these terms and conditions (and any other documents we may require with respect to the services) on your behalf.

Client Name:

Town of Softside

Authorized Signer:

[Signature]

Print Name:

*Jason Greene
Finance Director*

Print Title:

Town Manager

Date:

12/20/19

12/20/19

** Reso #2019-2654*

SunTrust Bank	
Authorized Signer:	<i>W. Dave Sheldon</i>
Print Name:	<i>W. DAVE SHELDON</i>
Print Title:	<i>SENIOR VICE PRESIDENT</i>
Date:	<i>DECEMBER 19, 2019</i>

1. **Introduction.** Throughout this master agreement, SunTrust Bank is referred to as "we," "us," "our," or "the bank". The various treasury management services described in our treasury management terms and conditions (defined below) are referred to as the "services". This master agreement, the treasury management terms and conditions, and the other documents defined below are together referred to as the "agreement". The entity using our services is referred to as "client", "customer", "you" or "your". Each individual identified in any resolution or other similar document that we accept from you who is authorized to enter into agreements such as this master agreement on your behalf is referred to as your "authorized signer". Each authorized signer is also authorized to give us instructions related to the services.

The authorized signer who signs this agreement represents and warrants that you have legal capacity to execute and perform the agreement and that any actions required by your organizational documents or governance procedures to enter into and perform the agreement have been taken. The agreement is a legally binding contract that can only be changed by the means specified in it. By accepting services from us you agree that you are bound to the terms and conditions of the agreement.

2. **Organization of Agreement.** The agreement is made up of the documents described below. If there is any inconsistency on a particular issue among the documents that make up the agreement, the documents will control that issue in the order set forth from top to bottom below.

The documents and their purposes are:

(a) **The Treasury Management Terms and Conditions.** Our treasury management terms and conditions contains a general terms and conditions section that applies to all services, and a second section that describes the specific terms and conditions that apply to each individual service. The most recent version of our treasury management terms and conditions is always posted on the following website: www.suntrust.com/treasuryterms. By accepting services from us, you are charged with notice of the treasury management terms and conditions and, at all times while you are receiving services, you agree that you are bound by its then current content posted on the website, subject to your right to receive notice of changes to it as specified in Section 3 of this master agreement.

(b) **The Master Agreement.** This master agreement describes the structure of the agreement and sets forth some of the basic contractual provisions relating to use of the services.

(c) **Ancillary Implementation Agreements.** Certain services can pose higher risks to you and to the bank and lead to disputes between you and us. Therefore we may, in our discretion, require that your authorized signers confirm a request to receive such services and the operational details related to such request by executing an Ancillary Implementation Agreement ("AIA"). Examples of AIAs include AIAs relating to funds transfer ("wire") and Automated Clearing House ("ACH") services. Any required AIA will be provided at the time we implement a service that requires one. We will not implement the relevant service until the required AIA is executed and returned to us by one of your authorized signers.

(d) **Service Confirmations.** A service confirmation is a document that is sent to your authorized signer(s) during the implementation process. It memorializes instructions you have given us regarding our implementation of a service for you, such as the account(s) linked to that service, the authorized users for that service, and the options you have selected for that service. Not all

services you request will result in the transmission of a service confirmation to you at the time the service is implemented, but when a service confirmation is generated it will be sent by e-mail. The facts and details we provide in each service confirmation are deemed accurate as of the time you commence using the applicable service and at all times thereafter unless you notify us of any discrepancies or inaccuracies before you begin using the service. A service confirmation may also be sent when we modify or add a service to your request where your request reflects a change to instructions that were reflected on a prior service confirmation (or on an exhibit to a service schedule, a service profile, or other document previously used to record such instructions).

(e) **Online Services and Software Materials.** Where software is used in connection with a service, we grant you a nonexclusive, nontransferable, limited license or sublicense to use such software solely in connection with and while receiving that service. A separate license agreement (in the form of a "shrink wrap" or "click wrap" agreement with us or a third party vendor) may be required and there may also be a user manual for the software or certain online services. The software and those other items constitute "software materials". Any license agreement, online terms, and/or user manual sets forth the terms and conditions relating to use of those online services and software materials as well as important instructions and requirements for their use.

(f) **Implementation/Setup Forms.** An implementation/setup form is a document used by the bank to capture additional information and instructions you may give us with respect to a particular service, such as the billing account for the service, contact information and information reporting preferences specified by you. These forms are not sent to you to review. However, absent a finding of manifest error on the part of the bank in creating such forms in the ordinary course of providing the services to you, the content of such forms will be deemed accurate and correct.

(g) **Deposit Rules and Regulations.** The rules and regulations for deposit accounts that you maintain with us set forth certain general provisions relating to the establishment, maintenance and operation of your deposit accounts. The rules and regulations shall continue to apply to and govern the terms of your deposit accounts.

(h) **The Delegation of Authority.** Use of a delegation of authority is optional. By using one, your authorized signers give other individuals within your company ("delegates") certain authority with respect to all the services you receive or some sub-set of those services as specified in the delegation of authority. If a delegation of authority is used, a delegate has the authority conferred by such delegation for such services until that authority is revoked by one of your authorized signers. Such delegated powers include the power to receive and respond to service confirmations, execute AIAs when required, and to otherwise provide us instructions in the same manner as an authorized signer. Such powers are subject to the same conditions as stated herein when the bank interacts with an authorized signer in matters related to AIAs, service confirmations, new services, modifications to existing services or removal of services.

3. **Amendments to Agreements.** We may add to, change or delete provisions in this master agreement, the general terms and conditions, or terms and conditions for any individual service in our discretion. We will attempt to give an authorized signer at least 30 calendar days' prior notice of these changes. It is your obligation to maintain up-to-date contact information with us at all times. If you continue to use a service after any modification becomes effective, you are bound by such modification. If a modification is required by applicable law, clearing house rules or funds transfer system rules, or if we



TREASURY MANAGEMENT MASTER AGREEMENT

believe the change is necessary to preserve the security or integrity of the systems that we use in providing any service, or to protect the bank or you from risk of immediate, significant loss, we may give you (and all customers impacted by that change) notice of the modification promptly after we make it. In such case, you are bound by the modification as of the date you receive notice of it unless you terminate your use of the relevant service(s) within a reasonable period of time after you receive our notice. We may modify the terms of the software materials or the deposit rules and regulations by following the procedures set forth in those documents.

4. New Services. When we implement a new service for you, we may create an AIA or a service confirmation for that new service. As noted in the definition of an AIA, if the service requires an AIA, you may not use that service until you have executed and returned the AIA. However, any service confirmation we send will be deemed accurate and correct as of the time you begin using the service. You do not need to contact us when you receive the service confirmation unless you notice errors in it, in which case you must notify us of such errors before you begin using the service. For any new service, you must also successfully complete any testing or training we may require for that service. If you attempt to use a new service without satisfying one or more of these conditions, we may refuse to provide that service. However, if we do provide it before you have satisfied all required conditions, you agree to be bound by the terms of the agreement relating to that service including the general terms and conditions, the terms and conditions for that new service, and the specifications stated in any service confirmation that you did not dispute prior to your use of the new service.

5. Modifications to Existing Services and Changes to Your Setup. If we agree to change our implementation of a service for you in response to your instructions and those instructions are of the type that were reflected on a prior service confirmation (or on an exhibit to a service schedule, a service profile, or other document previously used to record such instructions) at the time of initial implementation of the service, we may send or otherwise make a new service confirmation reflecting those instructions available to you. If the change impacts information that should be captured on an AIA, we will send a new AIA to your authorized signer, and the change will not take effect until an authorized signer has executed and returned the new AIA to us. You must also successfully complete any required testing or training for the change. We may, in our discretion, accept written instructions we deem acceptable as sufficient record from an authorized signer to memorialize the request to remove a service or make a change to a service. At our election and in our discretion, we may accept telephonic instructions for changes to a service or removal of service from an authorized signer on a recorded line. However, we may, in our discretion, refuse to accept letters, e-mails or other forms of communications containing requests to change prior instructions or remove services if we deem

the information provided in such communications to be insufficient, or we question the source of any such information or the authority of the individual making the request, or for any other reason that we, in good faith, believe will protect you or us from a significant loss.

6. Electronic Records and Signatures. You consent to the use of electronic records and signatures with respect to your use of the services. In addition, you agree that, when you receive a service confirmation as an attachment to an e-mail message, (a) you will be deemed to have confirmed that the content of that service confirmation is correct if we do not receive a prompt response informing us of any inaccuracy in the service confirmation, and (b) you will be deemed to have accepted the service in conformity with the implementation details specified in that service confirmation, including any account numbers listed therein and any persons listed therein who are identified as having authority to use the specified services and access the relevant accounts. It is your responsibility to provide us accurate e-mail contact information for your authorized signers and to notify us of any changes to that information so that we can communicate important information to them.

7. Signature. This master agreement may be delivered to us by giving the signed original of it to your treasury management contact or sending it by facsimile or e-mail attachment. It may also be transmitted by any electronic signature process we specifically adopt and accept for this purpose. The individual signing this agreement represents and warrants that he or she is, in fact, one of your authorized signers. This master agreement and the comprehensive agreement it describes completely replaces any prior agreements you may have with us with respect to the services or the subject matter referred to herein. However, any previous instructions you have given us while those prior agreements were in effect continue to be effective until replaced or deleted in accordance with the agreement including through a service confirmation, an AIA, or other written instruction provided by you that is acceptable to us.

IN WITNESS WHEREOF, client has executed this master agreement as of the date set forth below.

Client Name: Town of Surfside, FL
Authorized Signer: X [Signature]
Print Name: X Guillermo Olmedillo
Print Title: Town Manager
Date: X 1/6/20

Jib

RESOLUTION NO. 2023- _____

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, APPROVING A BANKING EXTENSION AGREEMENT WITH TRUIST BANK FOR DEPOSITORY AND TREASURY SERVICES; AUTHORIZING THE TOWN MANAGER TO EXECUTE THE EXTENSION AGREEMENT; PROVIDING FOR IMPLEMENTATION; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, The Town of Surfside (“Town) currently utilizes Truist Bank, previously SunTrust Bank, to provide various banking services including treasury management, depository services, check, ACH, wire payments, and payroll services (the “Services”); and

WHEREAS, the Town began its Services relationship on November 1, 1958, and the Town Finance Department wishes to extend the banking services agreement with Truist Bank, effective November 1, 2023, for a twelve (12) month term through November 30, 2024, with four (4) additional one year (1-year) auto renewals until November 30, 2028, under the same terms and conditions; and

WHEREAS, the existing contract was based on the competitive procurement and award by Polk State College (FL) pursuant to RFP 2018-01 and subsequent extension agreement with Polk State College, under the same term and conditions; and

WHEREAS, the Town Administration recommends approval of the Banking Extension Agreement with Truist Bank, attached hereto as Attachment “A”, based on the terms, conditions and prices of the Polk State College RFP 2018-01 and subsequent extension with Polk State College under the same term and conditions; and

WHEREAS, the Town Commission desires to authorize the Town Manager to enter into the Banking Extension Agreement with Truist, in substantially the form attached hereto as Exhibit “A,” to provide for renewal of the Services, and such other documentation as may be necessary to effectuate the Services; and

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

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

Section 1. Recitals. That the above and foregoing recitals are true and correct and are hereby incorporated by reference.

Section 2. Approval; Authorization. The Banking Extension Agreement with Truist Bank, in substantially in the form attached hereto as Attachment “A”, is hereby approved. The Town Commission authorizes the Town Manager to execute the Banking Extension Agreement, substantially in the form attached hereto as Attachment “A”, together with such changes as may be approved by the Town Manager and Town Attorney as to form and legal sufficiency, and such other documentation as may be necessary to effectuate the Services.

Section 3. Implementation. The Town Manager and/or designee are authorized to take any and all action necessary to implement the Services and the purposes of this Resolution.

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

PASSED AND ADOPTED on this 14th day of November, 2023.

Motion By: _____

Second By: _____

Commissioner Fred Landsman _____
Commissioner Marianne Meischeid _____
Commissioner Nelly Velasquez _____
Vice Mayor Jeffrey Rose _____
Mayor Shlomo Danzinger _____

Shlomo Danzinger, Mayor

ATTEST:

Sandra McCready, 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

Maria Roman
Senior Vice President
Treasury Management Consultant – Government Banking

September 18, 2023

Javier Collazo
Finance Director
Town of Surfside
9293 Harding Avenue
Surfside, FL 33154

RE: Banking Extension Agreement between Town of Surfside (“the Town”) and Truist Bank (“Truist”) effective November 1, 2023.

Dear Javier:

Thank you for continuing to choose Truist for your deposit and treasury services. We appreciate the opportunity to maintain a meaningful partnership with you over the coming years. Truist Bank (the "Bank") is pleased to offer the Town of Surfside(the "Town") an extension to the banking services contract between the Town and Truist Bank, effective November 1, 2023, for a twelve(12) month term through November 30, 2024 with four(4) additional one year (1-year) auto renewals until November 30, 2028, under the same terms and conditions. The existing contract was based on the competitive procurement and award by Polk State College (FL) pursuant to RFP 2018-01 and subsequent extension with Polk State College under the same term and conditions. The pricing detailed in the attached pro forma and glossary includes the service description and unit cost of the services. Your Account Analysis statement will show the actual volumes and associated charges from use of the services, in addition to other charges for services utilized that may have been previously disclosed. Changes to treasury services fees are applied to the entire month in which they are effective. Treasury services fees will be debited as one lump sum the month after transactions occur and will appear on your bank statement as Service Charges – Prior Period. Account Analysis statements are available by mail or electronic delivery methods.

We appreciate the years of shared business. We look forward to our continued relationship, as we strive to provide ever changing business and economic landscape.



Maria Román
Senior Vice President

Accepted and agreed to this ____ day of _____, 2023

By: _____
Name: Title:

_____ 1-year _____ 2- year _____ 3-year

Attached: Pricing Proforma Pricing Proforma Glossary

Truist Pro Forma Account Analysis Statement

Pro Forma ID: 267069
 Account Officer: Campbell, Nanci
 Treasury Consultant: Roman, Maria

Effective 11/01/2023
 TOWN OF SURFSIDE
 CONTRACT EXTENSION 2023
 Group Account # *0064

Combined Analyzed Interest Checking - PF

Earnings Credit Summary

Average Ledger Balance	\$10,313,616.87		
Less: Average Float	\$28,133.03		
Average Collected Balance	\$10,285,483.84	Earnings Credit Rate	1.000 %
Average Negative Collected Balance	\$0.00	Earnings Credit Allowance	\$8,735.62
Average Positive Collected Balance	\$10,285,483.84	Less: Balance Based Charges	\$1,909.26
Less 0.00% Related Reserves	\$0.00		
Average Positive Balance Available	\$10,285,483.84	Total Analysis Based Charges	\$0.00
		<i>ADD: Explicit & Billed Separately</i>	\$272.01
		<i>ADD: Independent Account Service Charges</i>	\$0.00
		Total Service Charges for Period	\$272.01

Interest Earnings Summary

Hybrid Solution

Average Positive Available Balance	\$10,285,483.84
Less: Bal Required for Analyzed Services	\$2,247,999.68
Average Positive Net Available Balance	\$8,037,484.16
Hybrid Interest Rate	2.000 %
Hybrid Estimated Interest Earned	\$13,652.71
Total Estimated Interest Earned for Period	\$13,652.71
Net Client Benefit	\$13,380.70

Service Code	Service Description	Volume	Unit Price	Total Price
GENERAL BANKING SERVICES				
21	MONTHLY ACCT MAINTENANCE FEE	4	\$10.000000	\$40.00
100	CREDITS POSTED	69	\$0.900000	\$62.10
128	CHECKS PAID AND OTHER DEBITS	282	\$0.200000	\$56.40
1205	RETURNED DEPOSITED ITEM FEE	1	\$12.000000	\$12.00
			Subtotal:	\$170.50

The pricing detailed in this pro forma does not constitute a contractual offer of any particular service, price, rate or account type for any term. Estimated volumes may be included in this pro forma based on our assumptions or information shared with us. It is for purposes of estimation and discussion only unless accompanied by other agreements or commitments that offer explicit pricing or terms. Your Account Analysis statement will reflect the actual services, volumes and charges for the services utilized. Reviewing your Account Analysis statements with full line-item detail is recommended and those statements are available by mail or electronic delivery methods. Service descriptions and related information may change or be updated by Truist with or without notification. Any impacts to a client's pricing will be communicated in accordance with applicable banking agreements. If you have any questions or concerns about your actual pricing, please contact your Treasury Consultant. For a complete list of account related fees, the Truist Business Deposit Accounts Fee Schedule is available at www.truist.com/business-fee-schedule

Service Code	Service Description	Volume	Unit Price	Total Price
BALANCE RELATED SERVICES				
35	DEP ACCT USAGE RATE (PER \$100)	10,313,616	0.000000	\$0.00
			Subtotal:	\$0.00
VAULT SERVICES				
1400	VAULT MONTHLY MAINTENANCE	2	\$10.000000	\$20.00
1401	CASH VAULT DEPOSITS	76	\$1.100000	\$83.60
1405	VAULT CASH DEPOSITED PER DOLLR	7,321	\$0.001200	\$8.79
1407	VAULT DEPOSIT CORRECTION	3	\$7.500000	\$22.50
1410	VAULT DEPOSIT ITEMS - ON-US	14	\$0.150000	\$2.10
1411	VAULT DEPOSIT ITEMS IN-STATE	151	\$0.150000	\$22.65
1412	VAULT DEP ITEMS - OTHER	123	\$0.150000	\$18.45
1417	VAULT COIN DEPOSIT SUB TO CNT	2	\$5.000000	\$10.00
			Subtotal:	\$188.09
ACH SERVICES				
105	ACH RECEIVED CREDIT	897	\$0.200000	\$179.40
134	ACH RECEIVED DEBIT	208	\$0.200000	\$41.60
540	DT/DLTY ACH MONTHLY MAINT	2	\$45.000000	\$90.00
545	ACH INPUT FILE RECEIVED/TRANS	3	\$17.500000	\$52.50
553	TOTAL ACH ORIGINATED ITEMS [1-5000]	309	\$0.150000	\$46.35
553	TOTAL ACH ORIGINATED ITEMS [5001-25000]	0	\$0.130000	\$0.00
553	TOTAL ACH ORIGINATED ITEMS [25001+]	0	\$0.100000	\$0.00
1052	ACH POSITIVE PAY MONTHLY MAINT	4	\$25.000000	\$100.00
			Subtotal:	\$509.85
POSPAY/REVERSE POS PAY				
165	CHECK BLOCK	2	\$25.000000	\$50.00
4160	PAYEE POSITIVE PAY - MAINT	1	\$75.000000	\$75.00
4161	CPR/PAYEE POSITIVE PAY - ITEMS	249	\$0.080000	\$19.92
			Subtotal:	\$144.92
ONLINE COURIER SERVICES				
3961	OLC DDA STATEMENT	6	\$5.000000	\$30.00
			Subtotal:	\$30.00
TREASURY MANAGER				
3551	TM/OLC MAINTENANCE FEE	1	\$65.000000	\$65.00
3552	TM/OLC PRIOR DAY SERV/MONTH	1	\$25.000000	\$25.00
3553	TM/OLC PRIOR DAY/ACCOUNT	6	\$15.000000	\$90.00
3554	TM/OLC PRIOR DAY/DETAIL ITEM	1,500	\$0.110000	\$165.00
3555	TM/OLC CURRENT DAY SERV/MONTH	1	\$25.000000	\$25.00
3556	TM/OLC CURRENT DAY/ACCOUNT	6	\$20.000000	\$120.00
3557	TM/OLC CURRENT DAY/DETAIL ITEM	1,180	\$0.130000	\$153.40
3560	TM/OLC CAR REPORT	3	\$1.000000	\$3.00

Service Code	Service Description	Volume	Unit Price	Total Price
TREASURY MANAGER				
3564	TM ONLINE STOP PAYMENT	3	\$15.000000	\$45.00
3565	TM ACH MONTHLY MAINTENANCE	1	\$40.000000	\$40.00
3566	TM ACCOUNT TRANSFER	3	\$1.500000	\$4.50
3568	TM WIRE TRANSFER SERVICE/MONTH	1	\$35.000000	\$35.00
Subtotal:				\$770.90
CASH MANAGEMENT SERVICES				
850	ZBA MASTER ACCOUNT MAINTENANCE	1	\$45.000000	\$45.00
851	ZBA SUB ACCOUNT MAINTENANCE	2	\$25.000000	\$50.00
Subtotal:				\$95.00
Total Charges:				\$1,909.26
Total Balance Based Charges:				\$1,909.26

Explicit & Billed Separately *(not included in balance based charge total)*

Service Code	Service Description	Volume	Unit Price	Total Price
373	CHECK FEES - DEPOSITS	1 ^B	CUSTOM	\$272.01
Total for Explicit & Billed Separately:				\$272.01

Additional Potential Fees

The services and pricing listed in this section are features of the products implemented that may be available to you based on the implementation of the services requested in this Pro Forma.

Service Code	Service Description	Unit Price
ACH SERVICES		
528	ACH RETURN FILE SET UP	\$0.000000
529	ACH RETURN FILE MONTHLY MAINT	\$50.000000
532	ACH RETURN NOC-FAX/EMAIL/ONL	\$3.000000
533	ACH RE-PRESENTMENT	\$4.000000
534	ACH ACTIVITY REPORT	\$0.000000
535	ACH UNAUTHORIZED RETURNS	\$0.000000
541	ACH INPUT FILE RECEIVED/VENDOR	\$17.500000
542	DLTY ACH MONTHLY MAINT PREMIUM	\$50.000000
552	ACH TRANSMISSION SET UP	\$200.000000
554	ACH ORIGINATED ADDENDA RECORD [1-5000]	\$0.040000
554	ACH ORIGINATED ADDENDA RECORD [5001-25000]	\$0.030000
554	ACH ORIGINATED ADDENDA RECORD [25001+]	\$0.020000
557	ACH FILE DATA TRANS TO CLIENT	\$12.000000
558	PREFUNDED ACH UNAVAIL BALANCE	\$0.000000
1050	ACH AUTHORIZATION RECORD	\$5.000000

Additional Potential Fees

The services and pricing listed in this section are features of the products implemented that may be available to you based on the implementation of the services requested in this Pro Forma.

Service Code	Service Description	Unit Price
ACH SERVICES		
1051	ACH BLANKET BLOCK MAINTENANCE	\$5.000000
1055	UPIC MONTHLY MAINTENANCE	\$20.000000
1185	IAT ORIG TRANS	\$0.180000
1186	IAT RETURN TRANSACTIONS	\$5.000000
3314	DLTY ACH BATCH	\$12.000000
3315	DLTY ACH ORIG TRANS BUSBANKING	\$1.750000
3316	SAME DAY ACH ORIG TRANSACTION	\$1.000000
3317	DLTY SDA MTHLY MAIN BUSBANKING	\$5.000000
3318	DLTY SDA ORIG TRANS BUSBANKING	\$2.750000
3319	TM ACH FILE UPLOAD	\$25.000000
3320	TM ACH BATCH PROCESSING FEE	\$6.000000
CASH MANAGEMENT SERVICES		
780	FLOOR PLAN EQUITY SWEEP MAINT	\$175.000000
797	SMART SWEEP	\$0.000000
852	ZBA PLUS MASTER ACCOUNT MAINT	\$25.000000
853	ZBA PLUS SUB ACCOUNT MAINT	\$10.000000
854	ZBA PLUS REPORTING	\$6.000000
860	SUB ACCOUNT SERVICE - MASTER	\$100.000000
861	SUB ACCOUNT SERVICE - SUB	\$5.000000
864	ZBA CUSTOM REPORTING	\$0.000000
865	SUB ACCOUNT INDIVIDUAL REPORT	\$12.000000
VAULT SERVICES		
1404	VAULT DEP ENVELOPE PROCESSING	\$1.000000
1408	VAULT SMARTSAFE DEP CREDIT	\$0.001200
1415	VLT COIN DEPOSIT STANDARD BAG	\$2.000000
1416	VLT COIN DEPOSIT NON-STND BAG	\$5.000000
1420	VAULT CHG ORDR STANDARD	\$4.000000
1421	VAULT CHG ORDR NONSTANDARD	\$8.000000
1422	VAULT CHG ORDR LATE	\$35.000000
1425	VAULT CURRENCY ORDERED	\$0.001000
1427	VAULT ROLLED COIN ORDER	\$0.120000
1428	VAULT BOX COIN ORDER	\$4.000000
1429	VAULT ACCELERATED CASH CREDIT	\$0.001200
1433	VLT IFS DTS SUPPORT - DEPOSITS	\$3.500000
1434	VLT IFS DTS SUPPORT - ORDERS	\$2.000000
TREASURY MANAGER		
3550	TM IMPLEMENTATION FEE	\$200.000000
3559	TM/OLC ACH-EDI REPORT	\$1.000000
3561	TM/OLC RETURN ITEM REPORT	\$1.000000
3562	TM/OLC CPR REPORT(S)	\$1.000000
3576	TM REVERSE POS PAY MAINTENANCE	\$40.000000
3577	TM REVERSE POS PAY ITEM	\$0.080000

Additional Potential Fees

The services and pricing listed in this section are features of the products implemented that may be available to you based on the implementation of the services requested in this Pro Forma.

Service Code	Service Description	Unit Price
ONLINE COURIER SERVICES		
3957	OLC IMPLEMENTATION FEE	\$50.000000
3959	OLC CASH POSITION REPORT	\$0.000000
3962	OLC ANALYSIS STATEMENT	\$5.000000
3963	OLC SIG ADV STATEMENT	\$5.000000
3964	OLC BUS SWEEP REPORT SERVICE	\$5.000000
3969	OLC ACH-EDI PRIOR DAY REPORT	\$25.000000
3971	SUNRISE RPT SUMMARY & DETAIL	\$25.000000
3973	OLC ACH RETURNS REPORT	\$3.000000
3974	OLC ACH FRAUD CTRL REJECT RPT	\$3.000000
3975	OLC ICL IMAGE QUALITY ADJ RPT	\$1.000000
3978	OLC ACH-EDI CSV REPORT	\$1.000000
3979	OLC CPR PAID REPORT	\$1.000000
3980	OLC CPR UNPAID REPORT	\$5.000000
3981	OLC ARP REPORT	\$5.000000
3982	OLC POSITIVE PAY FILE UPLOAD	\$15.000000
3986	OLC WIRE TRAN EMAIL ADVICE	\$3.000000
3987	OLC WIRE TRANSFER FAX ADVICE	\$6.000000
3991	ACH TRANS FILE - MAINTENANCE	\$20.000000
3992	ACH TRANSACTION DETAIL FILE	\$5.000000
POSPAY/REVERSE POS PAY		
4110	PD REV POSPAY FILE	\$15.000000
4120	CD REV POSPAY FILE	\$15.000000
4132	CPR/POSPAY/PAYEE D/T BANK/FILE	\$0.000000
4133	CPR/POS PAY/PAYEE-EXCEPTIONS	\$5.000000
4140	POSITIVE PAY - MAINTENANCE	\$55.000000
4141	CONTROL/POSITIVE PAY - ITEMS	\$0.080000
4144	POSITIVE PAY WITH RECON MAINT	\$45.000000
4145	CTRL/POS PAY WITH RECON ITEM	\$0.080000
4164	PAYEE POS PAY W RECON - MAINT	\$65.000000
4165	CPR/PAYEE POS W RECON ITEMS	\$0.040000
4211	CPR/POSPAY/PAYEE D/T CLNT/FILE	\$15.000000
4230	CPR POS PAY - MAINT	\$140.000000
4232	CPR POS PAY W RECON - MAINT	\$130.000000
4240	CPR PAYEE POS PAY - MAINT	\$160.000000
4242	CPR PAYEE POSPAY W RECON-MAINT	\$150.000000



MEMORANDUM

ITEM NO. 3P.

To: Honorable Mayor, Vice-Mayor and Members of the Town Commission
From: Hector Gomez, Town Manager
Date: November 14, 2023
Subject: **Design Review and Zoning Fee Schedule**

Town Administration recommends approval of the Resolution to adopt the fee schedule proposed in **Attachment A - Fee Schedule**.

Currently, the Town Code references a fee schedule for Planning and Zoning services. The current fee schedule is structured for cost recovery efforts, which only covers the cost of consultants to the Town. These fees do not cover any Town staff work that is generally necessary within the Planning and Zoning Department. This schedule is also limited in scope and does not address common Departments requests such as Zoning Verification Letters that lenders typically require of developers.

The proposed fee schedule covers the various services provided by the Planning and Zoning Department as well as outside consulting cost recovery work. It is worth noting that these fees are separate from building fees collected for building department services. Per Florida Statute, building fees can't be collected or applied for local government zoning services and enforcement of local zoning codes.

[Resolution Adopting Planning and Zoning Fee Schedule.DOCX](#)

[Attachment A - Proposed Fee Structure](#)

RESOLUTION NO. 2023-_____

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, ADOPTING A PLANNING AND ZONING FEE SCHEDULE FOR DESIGN REVIEW AND RELATED SERVICES; AUTHORIZING THE TOWN MANAGER TO AMEND THE FEE SCHEDULE; PROVIDING FOR IMPLEMENTATION; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town of Surfside (the “Town”) Planning and Zoning Department (the “Department”) is responsible for guiding and reviewing all new developments and modifications to existing developments to ensure compliance with the Town’s Code of Ordinances (the “Code”); and

WHEREAS, pursuant to Sections 90-11 and 90-13 of the Town Code, the Town Manager or Designee is authorized to charge and collect fees from applicants for consulting or professional services incurred in the review of any application, except by a single-family homeowner in the H30A and H30B districts; and

WHEREAS, Section 90-12 of the Town Code requires that an applicant, at the time of submission of any application or thereafter, establish an escrow account from which withdrawals shall be made to reimburse the Town for the cost of professional review services; and

WHEREAS, the Town desires to establish a fee schedule for the Department’s services, including cost recovery for professional review services; and

WHEREAS, the Department has recommended a fee schedule for design review and related services, including cost recovery deposits, as set forth in the Planning and Zoning Department Fee Schedule attached hereto as Attachment “A” (the “Fee Schedule”); and

WHEREAS, the Town Commission has determined that the Fee Schedule is necessary for the proper conduct of the Town’s business; and

WHEREAS, the Town Commission desires to adopt the Fee Schedule, as may be amended from time to time by the Town Manager or Designee; 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 of Fee Schedule. The Town Commission desires to approve and adopt the Fee Schedule attached hereto as Attachment “A.” The Town Manager is authorized to amend the Fee Schedule from time to time, as deemed appropriate or necessary.

Section 3. Implementation. The Town Manager and/or his designee are directed to take any and all action necessary to implement the Fee Schedule and the purposes of this Resolution.

Section 4. Effective Date. This Resolution shall take effect immediately upon its adoption.

PASSED AND ADOPTED on this ____ day of November, 2023.

Motion By: _____

Second By: _____

FINAL VOTE ON ADOPTION:

Commissioner Fred Landsman _____
Commissioner Marianne Meisheid _____
Commissioner Nelly Velasquez _____
Vice Mayor Jeff Rose _____
Mayor Shlomo Danzinger _____

Shlomo Danzinger, Mayor

Attest:

Sandra McCready, MMC
Town Clerk

Approved as to Form and Legal Sufficiency:

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



**Town of Surfside
Planning and Zoning Department
Fee Schedule**

Categories	Application Fee	Cost Recovery Deposit
Planning and Zoning Board Review		
New SFH	\$3,500.00	-
SFH Addition, Accessory, FY structure	\$200.00	-
Signs/Facade in SD-B40, H40, H30C, H120	\$200.00	-
Variance SFH	\$1,500.00	\$2,500.00
Variance Multi-Family an Commercial	\$3,500.00	\$5,000.00
Site Plan Approval		
H30C	\$5,000.00	\$7,500.00
SD-B40, H40	\$7,500.00	\$10,000.00
H120	\$12,500.00	\$15,000.00
Site Plan Amendment	Same as Site Plan Approval	
General Building Permit		
Zoning Review	\$80.00	-
After-the-fact Zoning Review	\$240.00	-
Landscape Permit SFH/Duplex	\$200.00	-
Landscape Permit Multi-Family/Commercial	\$500.00	\$2,500.00
Plat and Zoning Review		
Waiver of Plat/Unity of Title letter	\$200.00	-
Any application for subdivision	\$2,500.00	\$7,500.00
Zoning Verification Letter	\$500.00	-
Development Approval Compliance (at Permitting)		
New Single-Family Home/Duplex Design Review	\$500.00	-
Everything other than SFH Design Review	\$2,500.00	-
"Dry Run" plans review		
New Single-Family Home/Duplex Design Review	\$500.00	-
Everything other than SFH Design Review	\$2,500.00	-
Regulation Change Review		
Zoning Change	\$5,000.00	\$7,500.00
Comprehensive Plan Change	\$5,000.00	\$7,500.00

Notes:

All cost recovery deposits are subject to Town Code Sec. 90-12

Nov-23



MEMORANDUM

ITEM NO. 3Q.

To: Honorable Mayor, Vice-Mayor and Members of the Town Commission

From: Hector Gomez, Town Manager

Date: November 14, 2023

Subject: **Authorization to Expend towards Curb Installation and Landscape Removal pertaining to Downtown Walkability Project**

Town administration is requesting to expend up to \$88,000 towards Downtown Walkability Project for the installation of concrete curb in existing parking areas and partial removal of some landscaping at various areas. The work will be performed by Town of Surfside Public Works Department in conjunct with material purchase of concrete at market rate with corresponding finishing labor work.

As part of the Downtown Walkability project, the Town Commission made a determination that a total of 16 current parking spaces on the Harding Avenue would be transformed to walkable areas. As part of this project, the first construction implementation phase is to encompass the existing areas with perimeter curb known as F Curb. The F curb will define the additional extents of the project. The curbs need to be installed ahead of schedule in order to coordinate the Town of Surfside Walkability Project with an upcoming FDOT project scheduled to start in the new year. The FDOT project will involve a complete milling and resurfacing of the Harding Avenue corridor and corresponding crosswalk installations.

Marlin Engineering was tasked to create construction drawings and a cost estimate affiliated with the curb work required. Both documents can be found in Attachment A - Downtown Walkability Cost Estimate and Attachment B - Downtown Walkability Curb Construction Drawings. The construction drawing set has been approved by FDOT and the Town is seeking to commence construction. The construction will be performed partially by Town Staff and partially by a concrete vendor that will provide material and finish work for curbs. The work will be finalized prior to January 2024. The funds being requested are based on the Cost Estimate provided in attachment A. The Town is seeking to retain concrete vendor in Attachment C to provide concrete and finish work services.

[Attachment A - Downtown Walkability Cost Estimate.pdf](#)

[Attachment B- Downtown Walkability Curb Construction Drawings.pdf](#)

[Attachment C - Concrete Rates](#)

[Resolution Authorizing Expenditure of Funds - Downtown Walkability Project Curb Install & Landscape Renewal](#)

[Attachment A - Downtown Walkability Cost Estimate.pdf](#)

Opinion of Probable Costs

10/25/2023

DOWNTOWN WALKABILITY SR A1A

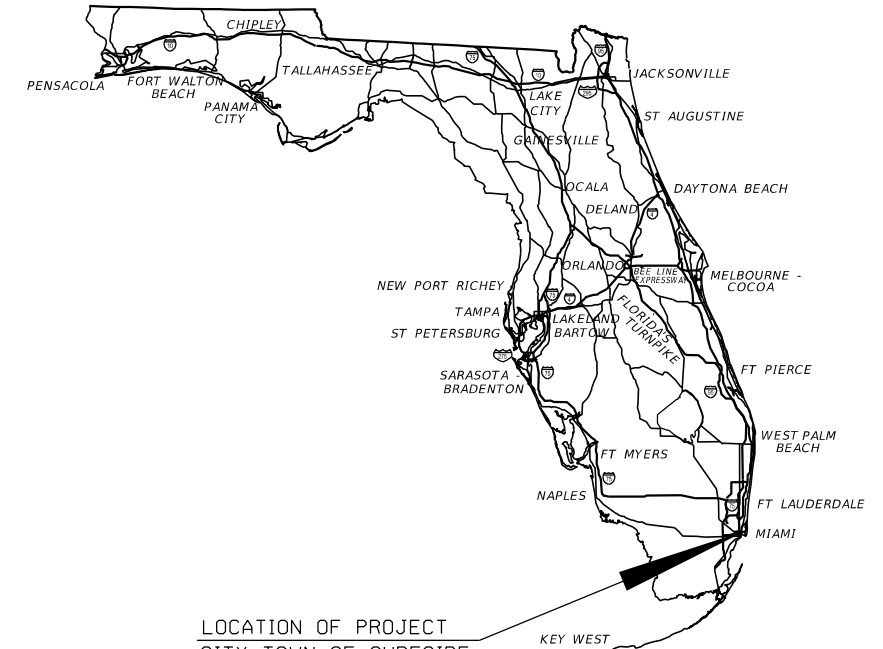
MIAMI-DADE COUNTY

PAY ITEM	PAY ITEM DESCRIPTION	UNIT	QUANTITY	COST	TOTAL
ROADWAY ITEMS					
0110 1 1	CLEARING & GRUBBING	AC	0.07	\$31,754.89	\$2,222.84
0110 4 10	REMOVAL OF EXISTING CONCRETE	SY	102	\$33.05	\$3,362.84
0120 6	EMBANKMENT	CY	148	\$24.93	\$3,697.62
0327 70 6	MILLING EXIST ASPHALT PAVEMENT, (1 1/2" DEPTH)	SY	463	\$5.05	\$2,338.35
0334 1 53	SUPERPAVE ASPHALTIC CONCRETE, T.L.C, SP-9.5 PG76-22, (OVERBUILD)	TN	34	\$236.73	\$8,119.84
0337 7 83	1/2")	TN	38	\$175.48	\$6,703.34
0425-XX	CHANNEL GRATE 14" WIDE*	LF	0	\$576.75	\$0.00
0520 1 10	CONCRETE CURB & GUTTER, TYPE F	LF	792	\$37.89	\$30,013.81
0522 2	CONCRETE SIDEWALK AND DRIVEWAYS, 6" THICK	SY	79	\$83.51	\$6,583.93
0570 1 2	PERFORMANCE TURF, SOD	SY	297	\$3.44	\$1,020.44
0635 2 11	PULL & SPLICE BOX, F&I, 13" x 24" COVER SIZE	EA	6	\$1,409.20	\$8,455.20
0710 16 101	THERMOPLASTIC, STANDARD, WHITE, SOLID, 6"	GM	0.110	\$1,453.40	\$159.87
			Total		\$72,678.07
			10% Contingency		\$7,267.81
			10% for MOT		\$7,267.81
			Construction Grand Total		\$88,000.00 Rounded Up

The aforementioned opinion of probable cost is based on a conceptual plan layout. The costs shown are based on Engineer's assumptions which will vary upon the commencement of the construction documents for this project. The Engineer does not guarantee that the opinion of probable cost gives a true/accurate budgetary reflection of future costs. Since the Engineer has no control over time, labor and material cost furnished by others, or over methods of determining prices, or market conditions, all opinions rendered herein as to cost, represent its best judgment; the Engineer does not guarantee that actual cost will not vary from opinion of probable cost.

TOWN OF SURFSIDE

9293 HARDING AVENUE, SURFSIDE, FL 33154



LOCATION OF PROJECT
CITY TOWN OF SURFSIDE

INDEX OF SHEETS

SHEET No.	SHEET TITLE
CIVIL	
1	KEY SHEET
2	GENERAL NOTES
3-5	ROADWAY PLANS
6-9	GRADING PLANS
10	TEMPORARY TRAFFIC CONTROL PLAN

FDOT STANDARD PLANS SHEETS

102-600	GENERAL INFORMATION FOR TRAFFIC CONTROL THROUGH WORK ZONES
102-613	MULTILANE ROADWAY, LANE CLOSURES
102-615	MULTILANE ROADWAY, INTERSECTION WORK
102-660	SIDEWALK CLOSURE
102-661	BICYCLE FACILITY CLOSURES
110-100	TREE PROTECTION AND PRESERVATION
635-001	PULL AND SPLICE BOXES

DOWNTOWN WALKABILITY SR A1A (HARDING AVENUE) (94TH ST. TO 96TH ST.)

TOWN OF SURFSIDE

MAYOR: SHLOMO DANZINGER
 VICE MAYOR: JEFFREY ROSE
 COMMISSIONERS: FRED LANDSMAN
 MARIANNE MEISCHEID
 NELLY VELASQUEZ
 TOWN MANAGER: HECTOR GOMEZ
 PUBLIC WORKS DIRECTOR: RANDY STOKES

THIS ITEM HAS BEEN DIGITALLY
SIGNED AND SEALED BY

ON THE DATE ADJACENT TO THE SEAL
 PRINTED COPIES OF THIS DOCUMENT ARE
 NOT CONSIDERED SIGNED AND SEALED
 AND THE SIGNATURE MUST BE VERIFIED
 ON ANY ELECTRONIC COPIES.

ROADWAY PLANS
 ENGINEER OF RECORD:

ARMANDO AGUIAR P.E.
 LICENSE NUMBER 84075
 MARLIN ENGINEERING, INC.
 3363 WEST COMMERCIAL BLVD., STE: 115
 FT. LAUDERDALE, FL 33039

PLANS PREPARED BY:

MARLIN
ENGINEERING

3363 WEST COMMERCIAL BLVD., Ste. 115
 FT. LAUDERDALE, FL 33309
 (305) 477-7575 • C.A. No. 6104

FISCAL YEAR	SHEET NO.
23	1

PERMIT SET
MUST BE ON JOB AT ALL TIMES DURING CONSTRUCTION

SAFETY
IS PARAMOUNT FOR ALL CONSTRUCTION ACTIVITIES APPLICABLE JURISDICTIONAL SAFETY REQUIREMENTS MUST BE ADHERED TO ALWAYS

NOTE
INSPECTIONS REQUIRED
24 HOURS PRIOR TO COMMENCING WORK IN PUBLIC RIGHT OF WAY CONTACT APPLICABLE RIGHT OF WAY JURISDICTION FOR INSPECTIONS

NOTE
APPROVAL OF THESE PLANS DOES NOT CONSTITUTE A PERMIT FOR CONSTRUCTION A PERMIT FOR CONSTRUCTION MUST BE OBTAINED FROM JURISDICTIONAL AUTHORITIES

GOVERNING STANDARD PLANS:

Florida Department of Transportation, FY2023-24 Standard Plans for Road and Bridge Construction and applicable Interim Revisions (IRs).

Standard Plans for Road Construction and associated IRs are available at the following website: <http://www.fdot.gov/design/standardplans>

APPLICABLE IRs: IR - -

Standard Plans for Bridge Construction are included in the Structures Plans Component

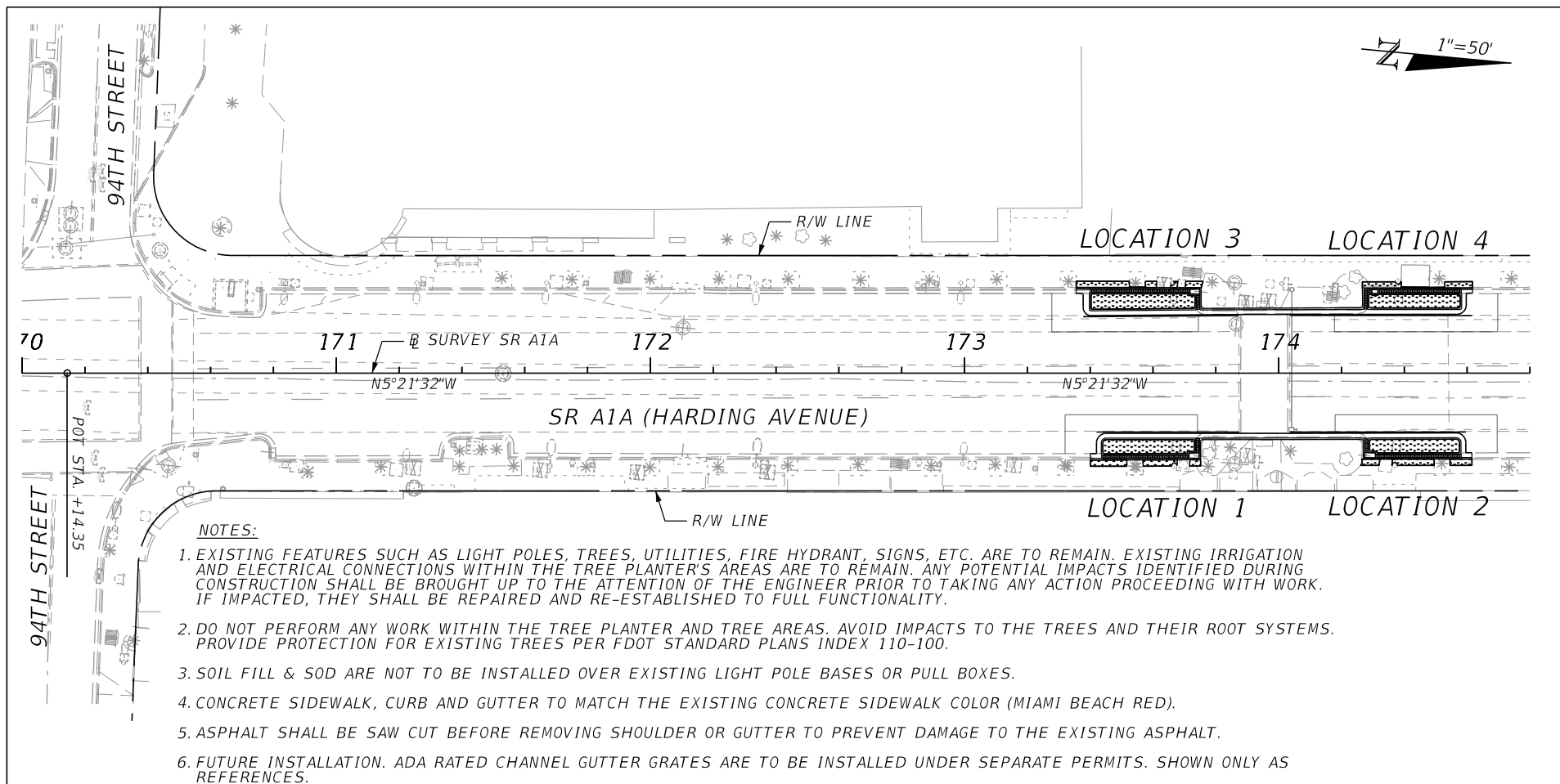
GOVERNING STANDARD SPECIFICATIONS:

Florida Department of Transportation, JULY 2023 Standard Specifications for Road and Bridge Construction at the following website: <http://www.fdot.gov/programmanagement/Implemented/SpecBooks>

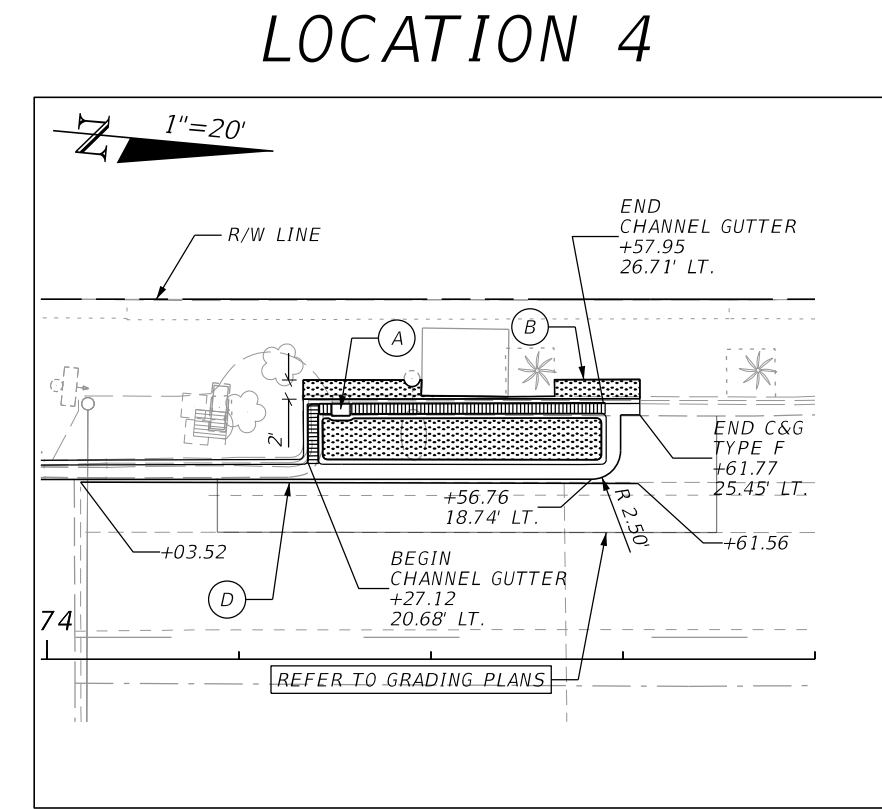
GENERAL NOTES

1. THE INTENTION OF THE PLANS IS TO CONDUCT INTERIM IMPROVEMENTS PRIOR TO FDOT INCOMING IMPROVEMENT RRR PROJECT FPID:443899-1. THE SOD & FILLS WILL SERVE AS A TEMPORARY CONDITION AND WILL BE REVISED WITH THE FINAL PLAN SET TO INCLUDE PERMANENT CONCRETE SIDEWALK AND PARKLETS.
 2. PROJECT IS BASED ON THE FLORIDA STATE PLAN COORDINATE SYSTEM, EAST ZONE OF THE NORTH AMERICAN DATUM OF 1938, 2011 ADJUSTMENT (NAD 83/2011). ELEVATIONS ARE BASED ON NORTH AMERICAN VERTICAL DATUM 1988 (NAVD88)
 3. LOCATIONS, ELEVATIONS, AND DIMENSIONS OF EXISTING FACILITIES AND OTHER FEATURES ARE SHOWN ACCORDING TO THE BEST INFORMATION AVAILABLE AT THE TIME OF FIELD SURVEY. THE CONTRACTOR SHALL CONFIRM THE ELEVATIONS, AND OTHER FEATURES AFFECTING THEIR WORK PRIOR TO CONSTRUCTION, AND NOTIFY THE ENGINEER IMMEDIATELY WHEN CONFLICT BETWEEN DRAWINGS AND ACTUAL CONDITIONS ARE DISCOVERED. THE CONTRACTOR SHALL WORK AS NEEDED TO AVOID CONFLICT WITH EXISTING UTILITIES (NO ADDITIONAL COST SHALL BE PAID FOR THIS WORK). EXISTING UTILITIES SHALL BE MAINTAINED IN SERVICE DURING CONSTRUCTION UNLESS OTHERWISE APPROVED BY THE UTILITY OWNER.
 4. ALL EXISTING PAVEMENT, SIDEWALK, CUT OR DAMAGED BY CONSTRUCTION SHALL BE PROPERLY RESTORED AT THE TOWN'S EXPENSE.
 5. EXISTING FEATURES SUCH AS LIGHT POLES, TREES, UTILITIES, FIRE HYDRANT, SIGNS, ETC. ARE TO REMAIN. EXISTING IRRIGATION AND ELECTRICAL CONNECTIONS WITHIN THE TREE PLANTER'S AREAS ARE TO REMAIN. ANY POTENTIAL IMPACTS IDENTIFIED DURING CONSTRUCTION SHALL BE BROUGHT UP TO THE ATTENTION OF THE ENGINEER PRIOR TO TAKING ANY ACTION PROCEEDING WITH WORK. IF IMPACTED, THEY SHALL BE REPAIRED AND RE-ESTABLISHED TO FULL FUNCTIONALITY.
 6. DO NOT PERFORM ANY WORK WITHIN THE TREE PLANTER AND TREE AREAS. AVOID IMPACTS TO THE TREES AND THEIR ROOT SYSTEMS. PROVIDE PROTECTION FOR EXISTING TREES PER FDOT STANDARD PLANS INDEX 110-100.
 7. SOIL FILL & SOD ARE NOT TO BE INSTALLED OVER EXISTING LIGHT POLE BASES OR PULL BOXES.
 8. CONCRETE SIDEWALK, CURB, AND GUTTER SHOULD MATCH THE EXISTING CONCRETE SIDEWALK COLOR (MIAMI BEACH RED).
 9. ASPHALT SHALL BE SAW CUT BEFORE REMOVING SHOULDER OR GUTTER TO PREVENT DAMAGE TO THE EXISTING ASPHALT.
 10. FINAL RESTORATION SHALL BE COORDINATED WITH THE FDOT REPRESENTATIVE WITHIN (30) DAYS UPON COMPLETION OF THE PERMITTED INSTALLATION.
 11. ALL WORK TO BE PERFORMED BY THE TOWN OF SURFSIDE.
 12. NOTIFY FDOT INSPECTOR 48 HOURS PRIOR TO STARTING WORK. PRIOR TO REQUESTING FINAL INSPECTION FROM FDOT, CLOSE-OUT DOCUMENTATION AND CERTIFICATION OF WORK COMPLETION MUST BE SUBMITTED TO THE DEPARTMENT REPRESENTATIVE VIA EMAIL OR UPLOADED ONTO ONE STOP PERMITTING WEBSITE. PROVIDE FDOT WITH ALL MATERIAL CERTIFICATIONS, TEST RESULTS, SIGNED, SEAL AS-BUILTS FOR APPROVED FIELD CHANGES, AND ANY APPLICABLE DOCUMENTATIONS RELATED TO THE COMPLETED WORK REQUIRED. 2017 UAM 2.11.
- SOIL & EROSION CONTROL NOTES
- BEST MANAGEMENT PRACTICES (BMPs) AND CONTROLS SHALL CONFORM TO FEDERAL, STATE, OR LOCAL REQUIREMENTS OR MANUAL OF PRACTICE, AS APPLICABLE. THE TOWN OF SURFSIDE/CONTRACTOR SHALL IMPLEMENT ADDITIONAL CONTROLS AS DIRECTED BY PERMITTING AGENCY OR OWNER. GENERAL EROSION CONTROL BMPs SHALL BE EMPLOYED TO MINIMIZE SOIL EROSION. WHILE THE VARIOUS TECHNIQUES REQUIRED WILL BE SITE AND PLAN SPECIFIC, THEY SHOULD BE EMPLOYED AS SOON AS POSSIBLE DURING CONSTRUCTION.
1. PREVENT LOSS OF SOIL DURING CONSTRUCTION BY STORMWATER RUNOFF.
 2. THE TOWN OF SURFSIDE/CONTRACTOR SHALL IMPLEMENT BEST MANAGEMENT PRACTICES (BMP) IN ALL CONSTRUCTION ACTIVITIES INCLUDING BUT NOT LIMITED TO THE FOLLOWING:
 - A. FUEL SPILLS AND LEAKS PREVENTION
 - B. VEHICLE AND EQUIPMENT MAINTENANCE AND REPAIR
 - C. PROPER OUTDOOR LOADING/UNLOADING OF MATERIALS
 - D. PREVENT/REDUCE OUTDOOR STORAGE OF RAW MATERIALS, PRODUCTS, AND BY-PRODUCTS
 - E. SOLID WASTE MANAGEMENT
 - F. CONCRETE WASTE MANAGEMENT
 - G. STRUCTURE CONSTRUCTION AND PAINTING
 3. ENSURE APPROPRIATE EROSION CONTROL DEVICES ARE IN PLACE BEFORE ANY CONSTRUCTION BEGINS AND ARE IN PLACE THROUGHOUT THE DURATION OF CONSTRUCTION. ON-SITE & OFF-SITE SOIL STOCKPILE AND BORROW AREAS SHALL BE PROTECTED FROM EROSION AND SEDIMENTATION THROUGH IMPLEMENTATION OF BEST MANAGEMENT PRACTICES.
 4. ALL WASTE MATERIALS SHALL BE COLLECTED AND STORED IN A METAL DUMPSTER WITH A SECURE LID IN ACCORDANCE WITH ALL LOCAL AND STATE LAWS. ALL TRASH AND CONSTRUCTION DEBRIS FROM THE SITE SHALL BE DEPOSITED IN THE DUMPSTER. THE SUPERINTENDENT SHALL COORDINATE WITH THE LOCAL UTILITIES TO HAVE THE DUMPSTER EMPTIED AT LEAST TWICE A WEEK AND THE WASTE TAKEN TO AN APPROPRIATE LANDFILL. NO CONSTRUCTION WASTE MATERIALS SHALL BE BURIED ON SITE.
 5. SANITARY WASTE SHALL BE COLLECTED AND DISPOSED OF IN ACCORDANCE WITH ALL LOCAL AND STATE LAWS. RUBBISH, TRASH, GARBAGE, LITTER, OR OTHER SUCH MATERIALS SHALL BE DEPOSITED INTO SEALED CONTAINERS. MATERIALS SHALL BE PREVENTED FROM LEAVING THE PREMISES THROUGH THE ACTION OF WIND OR STORM WATER DISCHARGE INTO DRAINAGE DITCHES OR WATERS OF THE STATE.
 6. THE TOWN OF SURFSIDE/CONTRACTOR SHALL DENOTE ON PLAN THE TEMPORARY PARKING AND STORAGE AREA WHICH SHALL ALSO BE USED AS THE EQUIPMENT MAINTENANCE AND CLEANING AREA, EMPLOYEE PARKING AREA, AND AREA FOR LOCATION PORTABLE FACILITIES, OFFICE TRAILERS, AND TOILET FACILITIES. HEAVY CONSTRUCTION EQUIPMENT PARKING AND MAINTENANCE AREAS SHALL BE DESIGNED TO PREVENT OIL, GREASE, AND LUBRICANTS FROM ENTERING SITE DRAINAGE FEATURES INCLUDING STORMWATER COLLECTION AND TREATMENT SYSTEMS.
 7. ALL MATERIALS SPILLED, DROPPED, WASHED, OR TRACKED FROM VEHICLES ONTO ROADWAYS OR INTO STORM DRAINS MUST BE REMOVED IMMEDIATELY.
 8. ALL EROSION AND SEDIMENTATION CONTROL MEASURES SHALL BE CHECKED BY A QUALIFIED PERSON AT LEAST ONCE EVERY SEVEN CALENDAR DAYS AND WITHIN 24 HOURS OF THE END OF A 0.5" RAINFALL EVENT, AND CLEANED AND REPAIRED IN ACCORDANCE WITH THE FOLLOWING:
 9. INLET PROTECTION DEVICES AND BARRIERS SHALL BE REPAIRED OR REPLACED IF THEY SHOW SIGNS OF UNDERMINING, OR DETERIORATION.
 10. THE TEMPORARY PARKING AND STORAGE AREA SHALL BE KEPT IN GOOD CONDITION (SUITABLE FOR PARKING AND STORAGE). THIS MAY REQUIRE PERIODIC TOP DRESSING OF THE TEMPORARY PARKING AS CONDITIONS DEMAND.
 11. ALL MAINTENANCE OPERATIONS SHALL BE DONE IN A TIMELY MANNER BUT IN NO CASE LATER THAN SEVEN CALENDAR DAYS FOLLOWING THE INSPECTION.

REVISIONS				 ARMANDO J. AGUIAR P.E. No.: 84075 3363 WEST COMMERCIAL BLVD., Ste. 115 FT. LAUDERDALE, FL 33309 (305) 477-7575 • C.A. No. 6104		CITY TOWN OF SURFSIDE 9293 HARDING AVENUE SURFSIDE, FL 33154 PH: 305-861-4863 FAX: 305-861-1302	Project Manager: A. AGUIAR Design: Checked: Project No.	SR A1A (HARDING AVE) TOWN OF SURFSIDE, FLORIDA GENERAL NOTES	SHEET NO. 2
DATE	DESCRIPTION	DATE	DESCRIPTION						



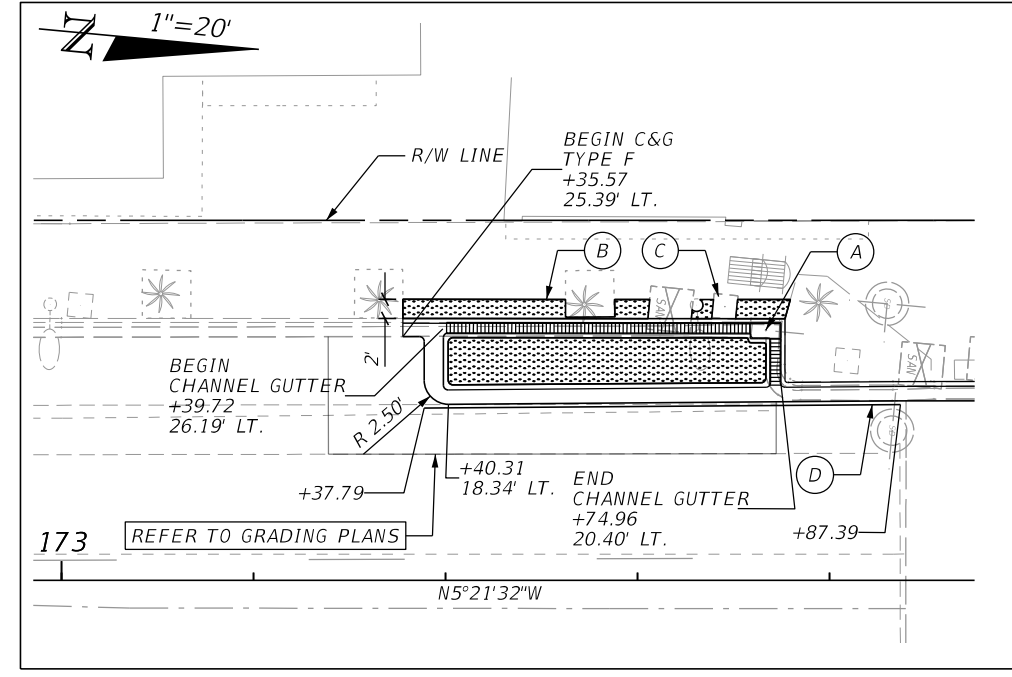
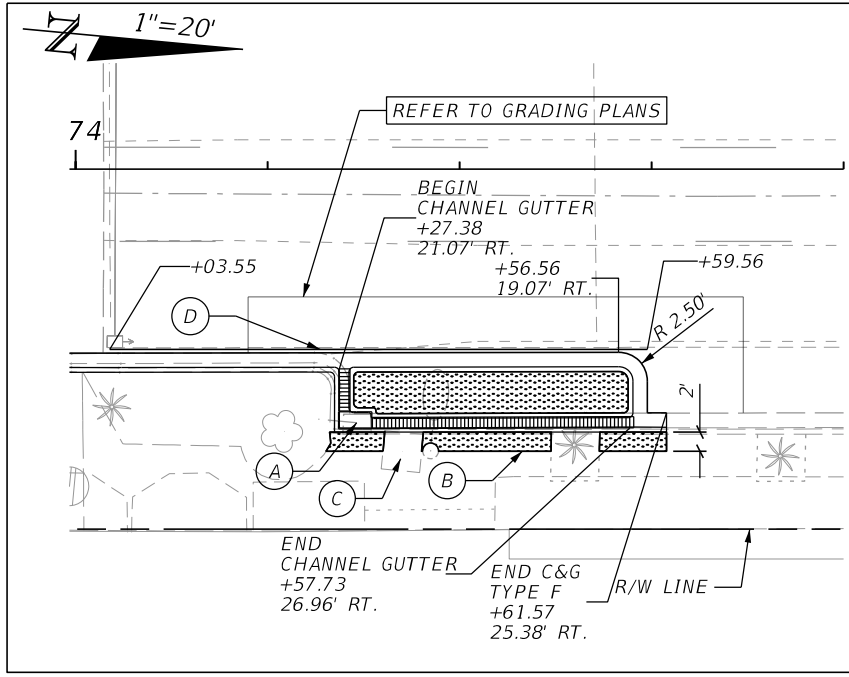
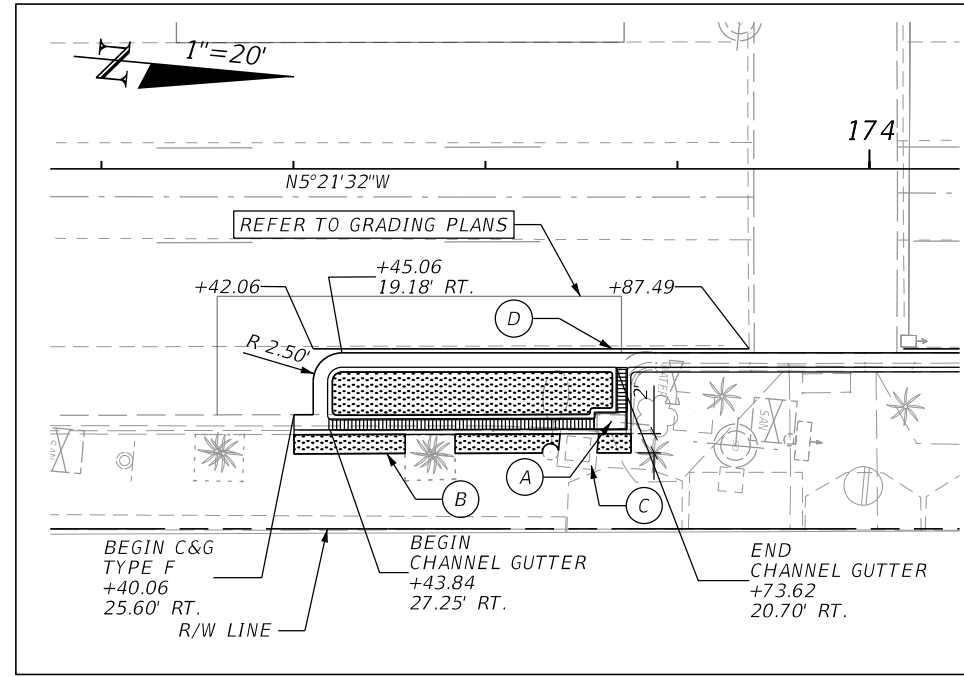
- NOTES:**
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 - ASPHALT SHALL BE SAW CUT BEFORE REMOVING SHOULDER OR GUTTER TO PREVENT DAMAGE TO THE EXISTING ASPHALT.
 - FUTURE INSTALLATION. ADA RATED CHANNEL GUTTER GRATES ARE TO BE INSTALLED UNDER SEPARATE PERMITS. SHOWN ONLY AS REFERENCES.



LOCATION 1

LOCATION 2

LOCATION 3



- LEGEND:**
- (A) FUTURE INSTALLATION UNDER SEPARATE PERMIT. INSTALL METAL PLATE FLUSH WITH TOP OF TRENCH CURB & TRENCH GRATE, TO PROVIDE ADA COMPLIANT SURFACE.
 - (B) SAWCUT SIDEWALK & MATCH EXIST. ELEV.
 - (C) EXIST. PULLBOX TO REMAIN, REPLACE IF DAMAGED
 - (D) INSTALL 6" WHITE SOLID PAVEMENT MARKING AND CONNECT TO EXIST. MARKING
- SOD & FILL

REVISIONS			
DATE	DESCRIPTION	DATE	DESCRIPTION

MARLIN
ENGINEERING
ARMANDO J. AGUIAR P.E. No.: 84075
3363 WEST COMMERCIAL BLVD., Ste. 115
FT. LAUDERDALE, FL 33309
(305) 477-7575 • C.A. No. 6104

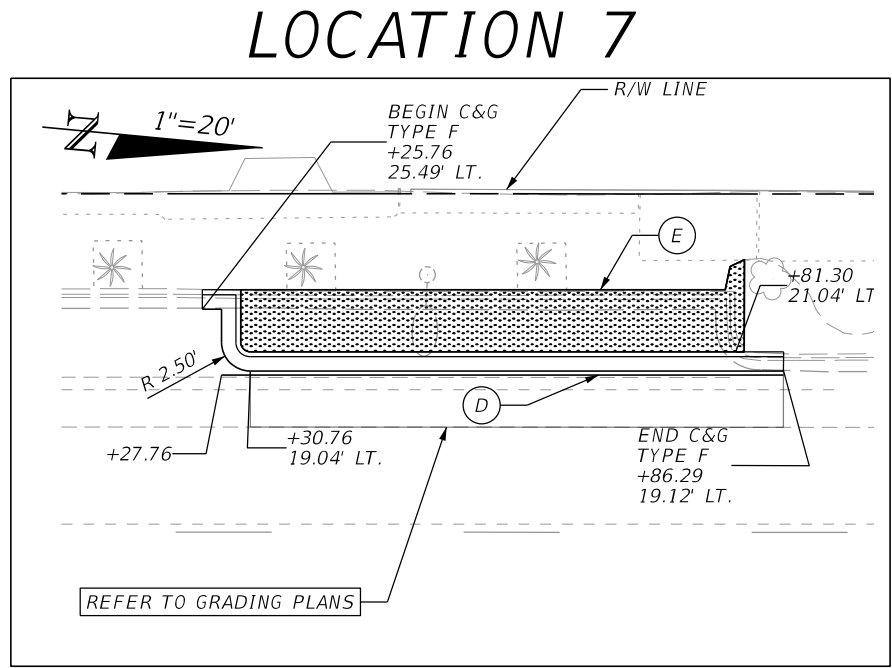
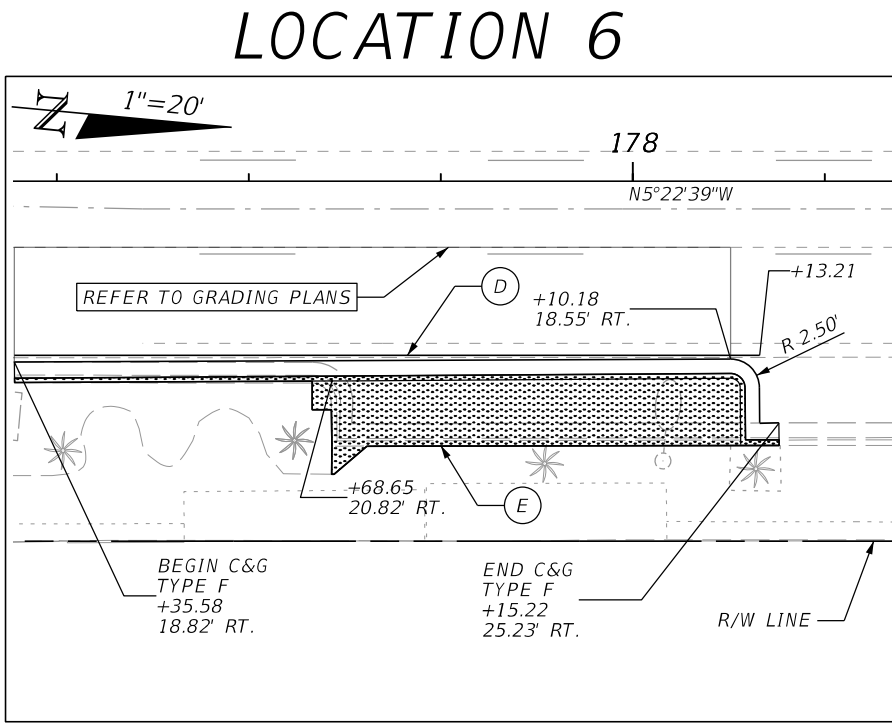
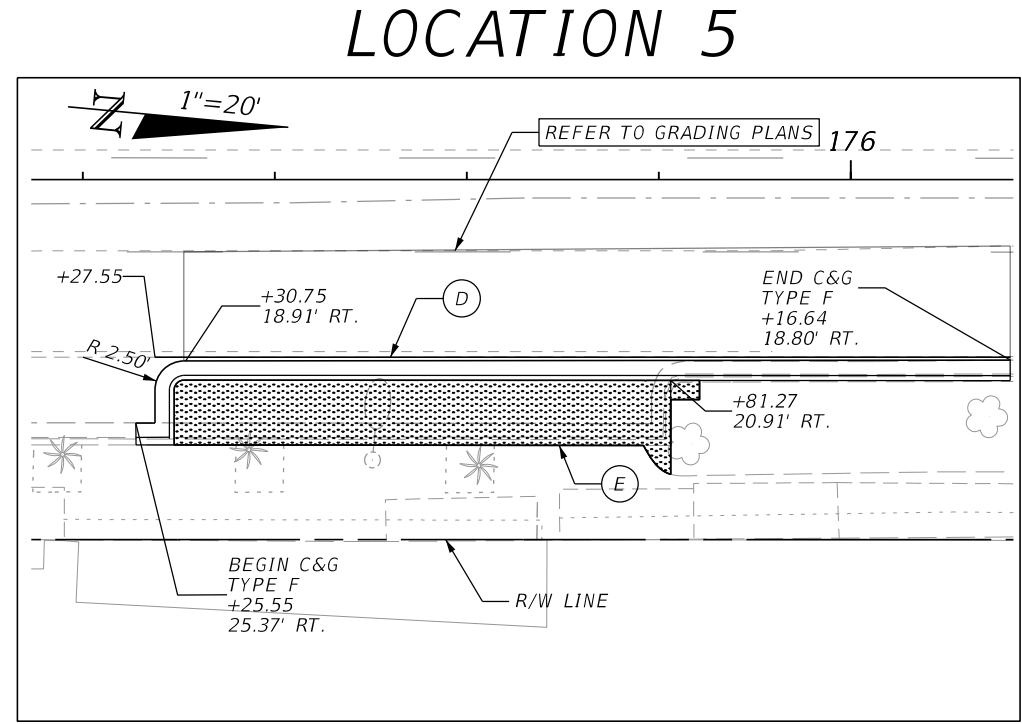
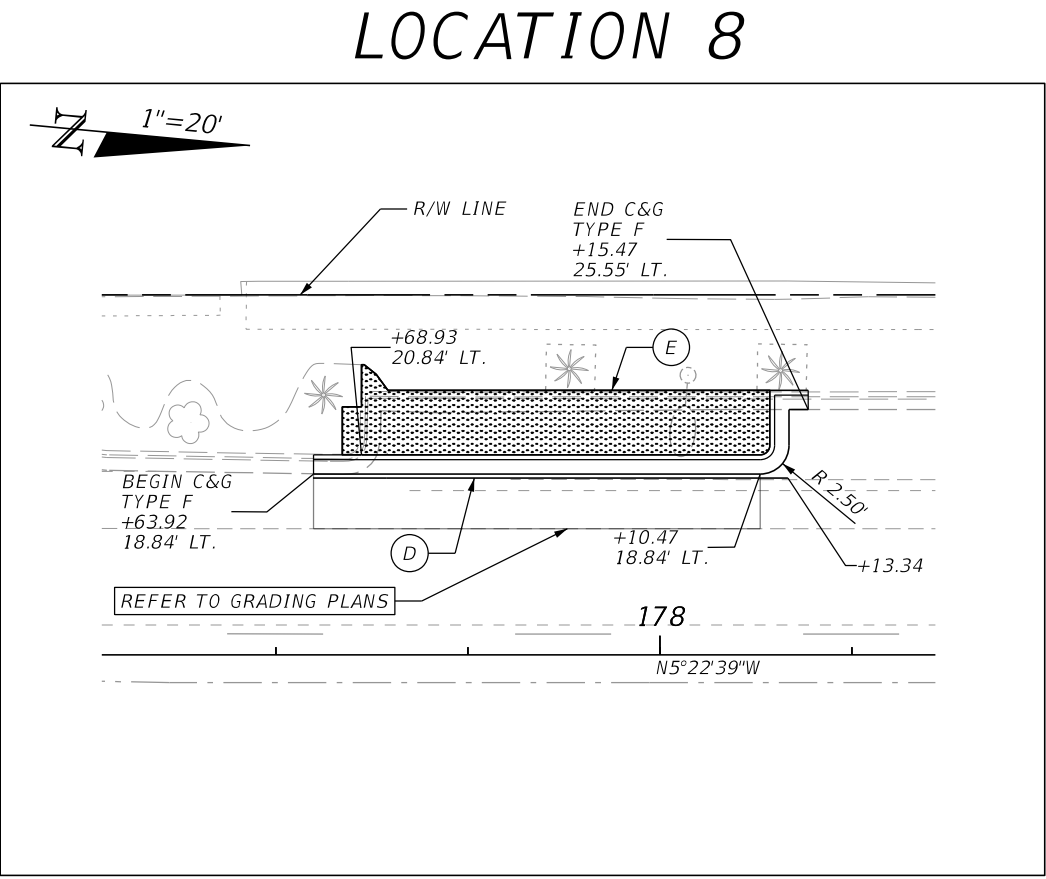
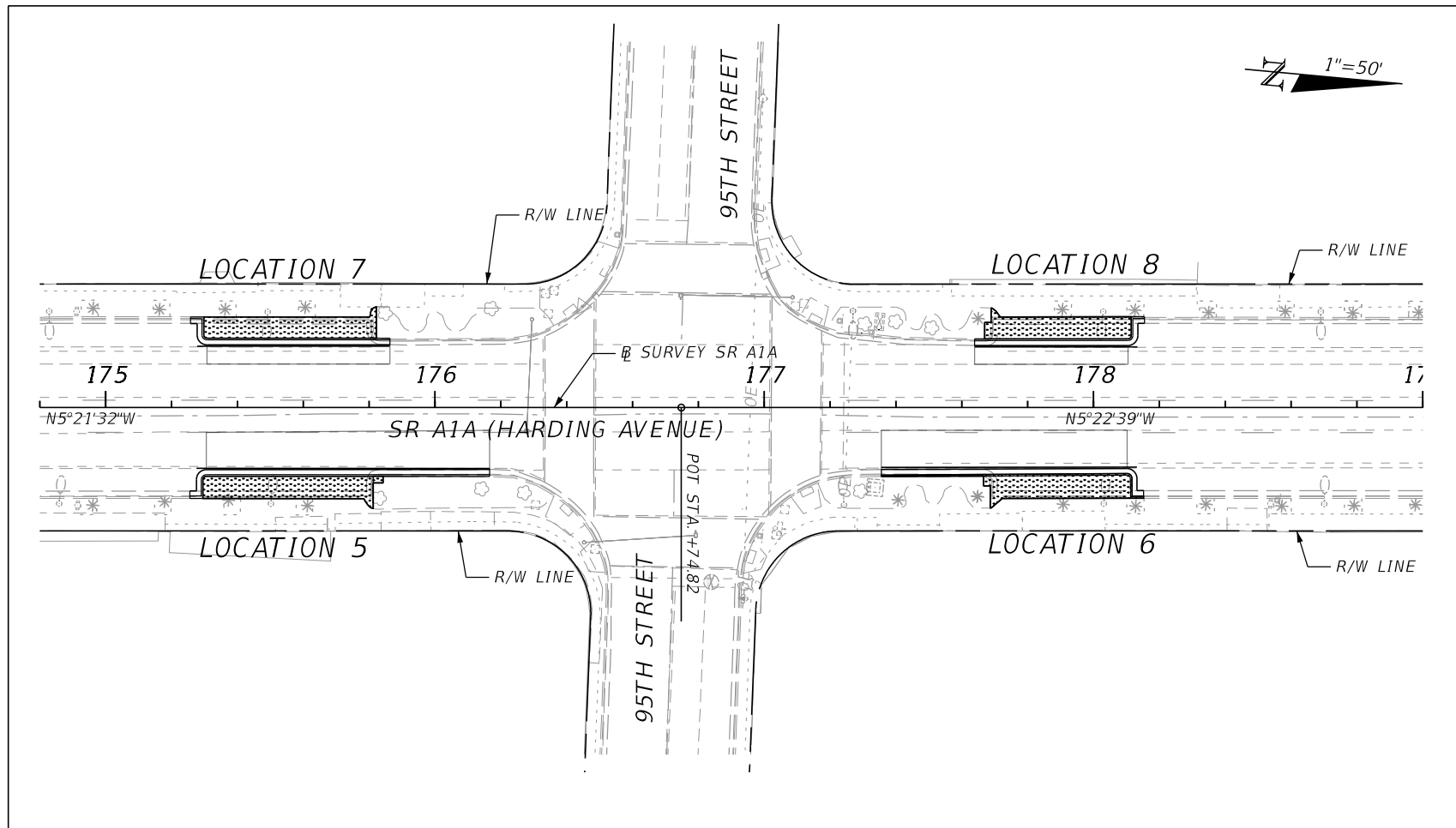
CITY
TOWN OF SURFSIDE
9293 HARDING AVENUE
SURFSIDE,
FL 33154
PH: 305-861-4863
FAX: 305-861-1302

Project Manager: A. AGUIAR
Design:
Checked:
Project No.

SR A1A (HARDING AVE)
TOWN OF SURFSIDE, FLORIDA
ROADWAY PLANS

SHEET NO. 3

THE OFFICIAL RECORD OF THIS SHEET IS THE ELECTRONIC FILE DIGITALLY SIGNED AND SEALED UNDER RULE 61G15-23.004, F.A.C.



- (D) INSTALL 6" WHITE SOLID PAVEMENT MARKING AND CONNECT TO EXIST. MARKINGS
- (E) REMOVE EXIST. CURB & GUTTER AND MATCH EXIST. SWK. ELEV.

LEGEND:
 SOD & FILL

REVISIONS			
DATE	DESCRIPTION	DATE	DESCRIPTION

MARLIN
 ENGINEERING
 ARMANDO J. AGUIAR P.E. No.: 84075
 3363 WEST COMMERCIAL BLVD., Ste. 115
 FT. LAUDERDALE, FL 33309
 (305) 477-7575 • C.A. No. 6104



CITY
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 9293 HARDING AVENUE
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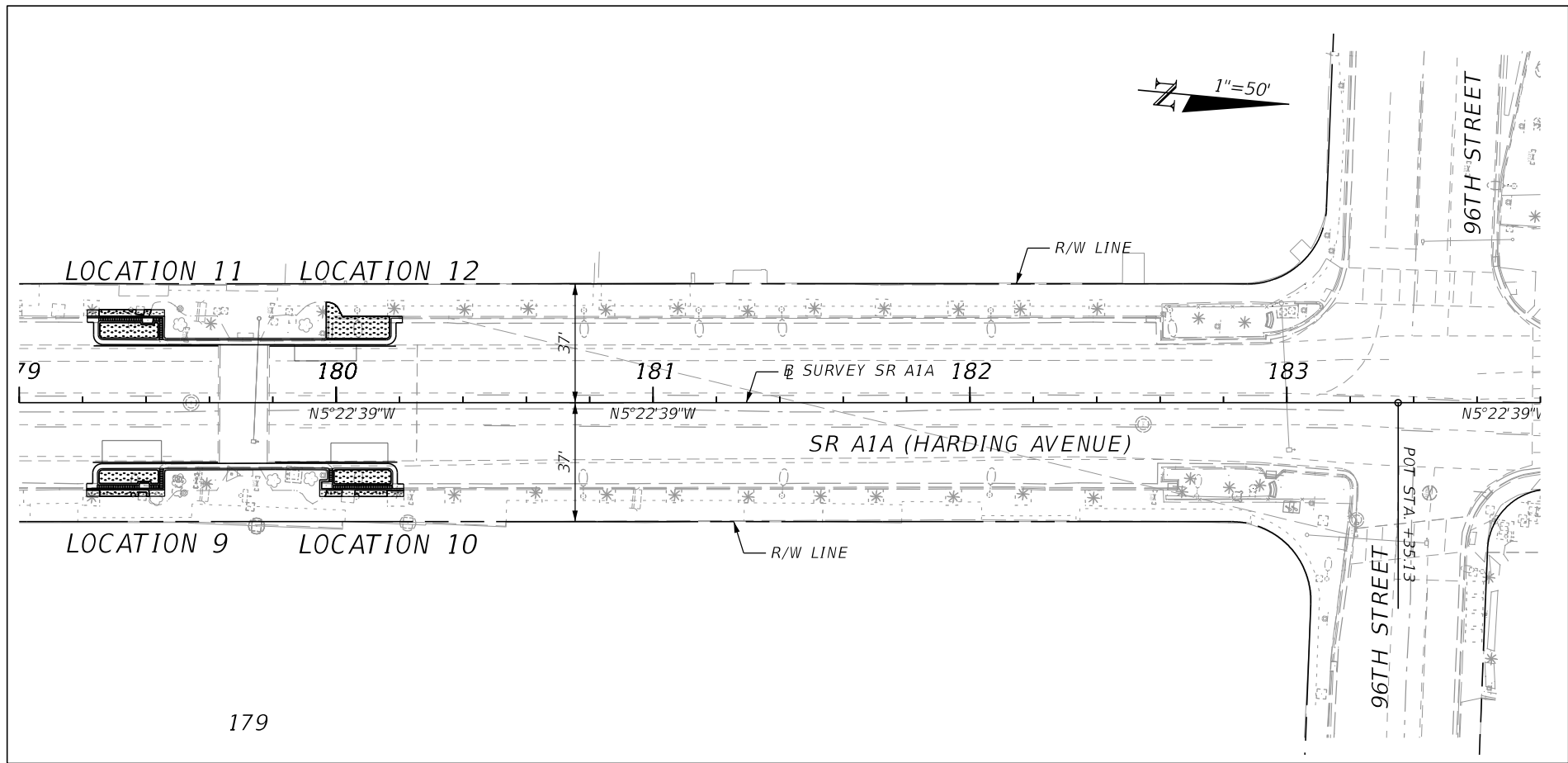
Project Manager: A. AGUIAR
 Design:
 Checked:
 Project No.

SR A1A (HARDING AVE)
 TOWN OF SURFSIDE, FLORIDA

ROADWAY PLANS

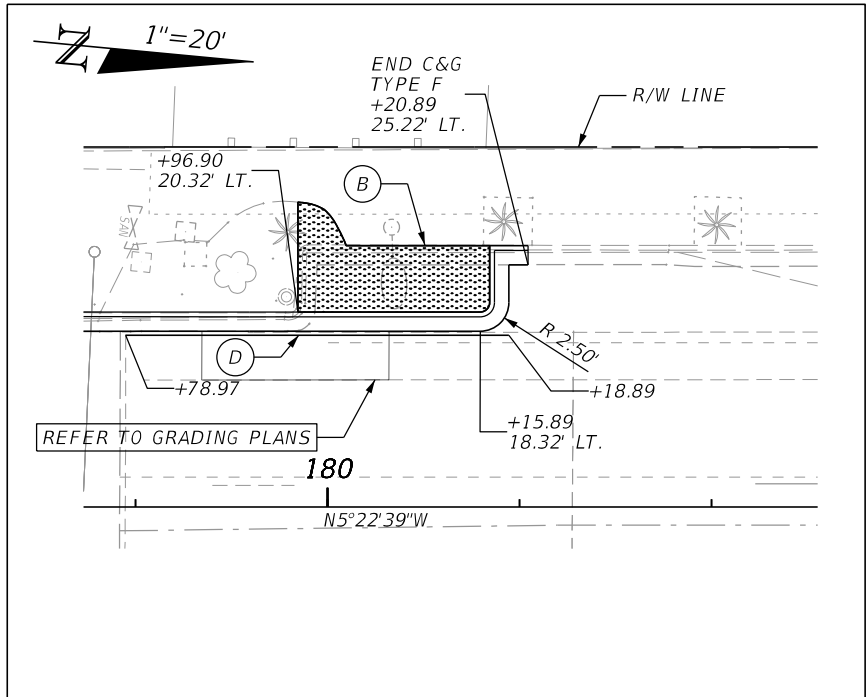
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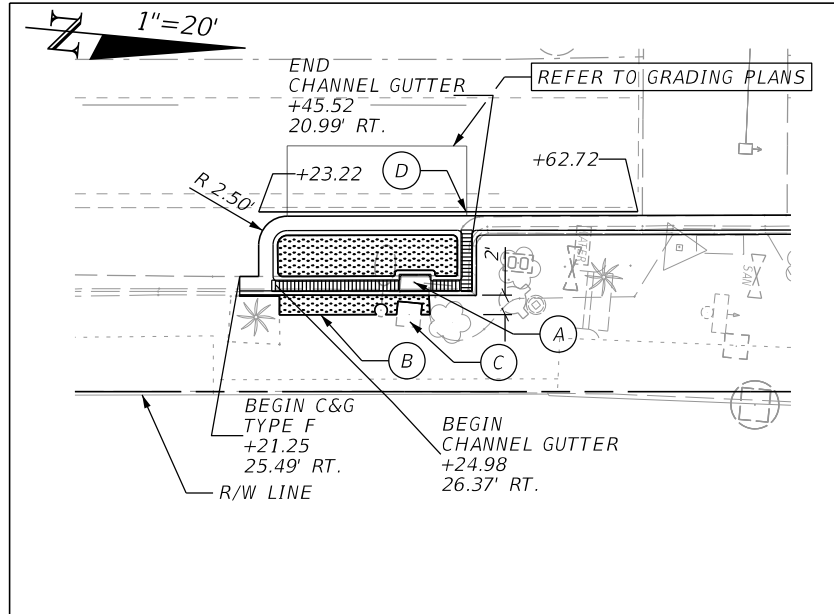


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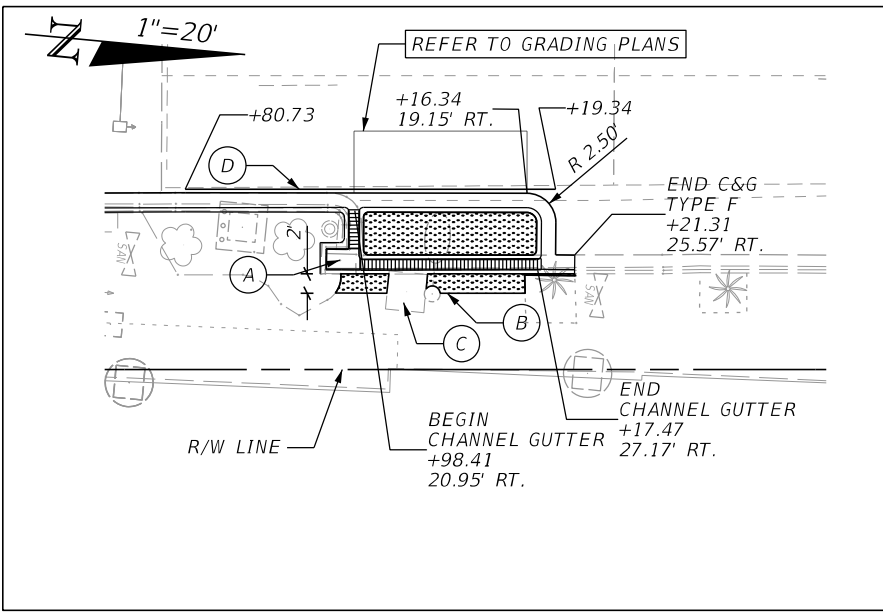
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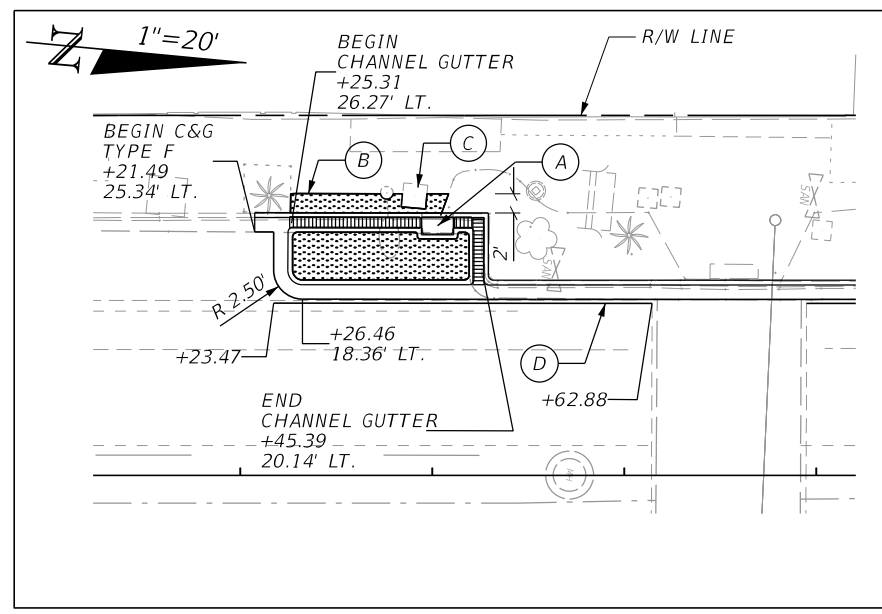
LOCATION 9



LOCATION 10



LOCATION 11



- (A) FUTURE INSTALLATION UNDER SEPARATE PERMIT. INSTALL METAL PLATE FLUSH WITH TOP OF TRENCH CURB & TRENCH GRATE, TO PROVIDE ADA COMPLIANT SURFACE.
 - (B) SAWCUT SIDEWALK & MATCH EXIST. ELEV.
 - (C) EXIST. PULLBOX TO REMAIN, REPLACE IF DAMAGED
 - (D) INSTALL 6" WHITE SOLID PAVEMENT MARKING AND CONNECT TO EXIST. MARKINGS
 - (E) REMOVE EXIST. CURB & GUTTER AND MATCH EXIST. SWK. ELEV.
- LEGEND:
 SOD & FILL

REVISIONS			
DATE	DESCRIPTION	DATE	DESCRIPTION

MARLIN
 ENGINEERING
 ARMANDO J. AGUIAR P.E. No.: 84075
 3363 WEST COMMERCIAL BLVD., Ste. 115
 FT. LAUDERDALE, FL 33309
 (305) 477-7575 • C.A. No. 6104

CITY
 TOWN OF SURFSIDE
 9293 HARDING AVENUE
 SURFSIDE,
 FL 33154
 PH: 305-861-4863
 FAX: 305-861-1302

Project Manager: A. AGUIAR
Design:
Checked:
Project No.:

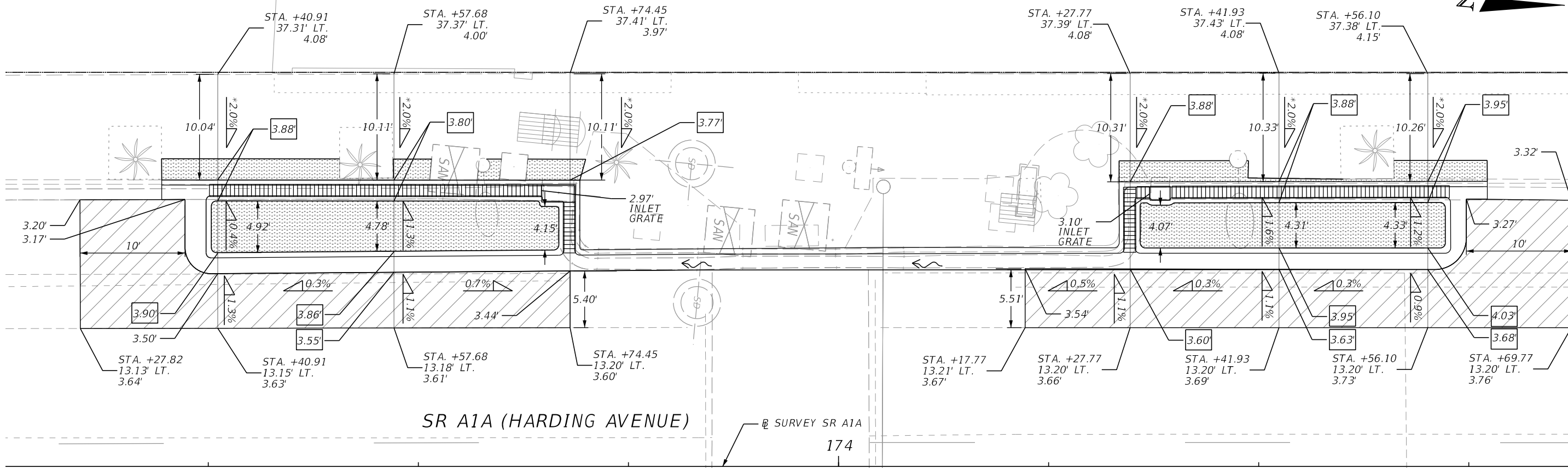
SR A1A (HARDING AVE)
 TOWN OF SURFSIDE, FLORIDA
ROADWAY PLANS

SHEET NO.
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LOCATION 3

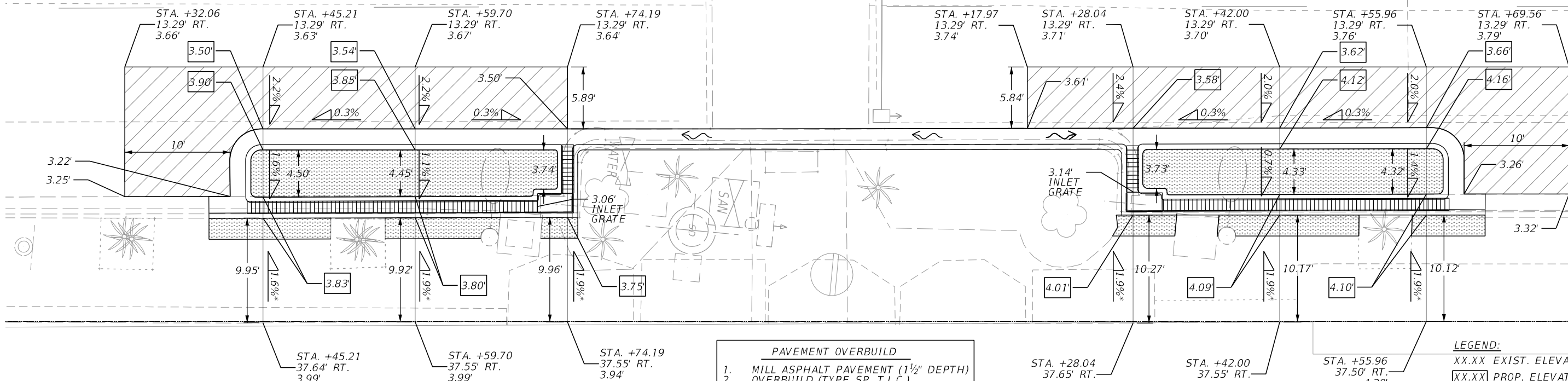
LOCATION 4



SR A1A (HARDING AVENUE)

SURVEY SR A1A
174

N5°21'32"W



LOCATION 1

LOCATION 2

*SLOPE REPRESENTS FINAL SIDEWALK CONFIGURATION. SIDEWALK RECONSTRUCTION IS TO BE COMPLETED UNDER A SEPARATE PERMIT.

- PAVEMENT OVERBUILD**
1. MILL ASPHALT PAVEMENT (1½" DEPTH) OVERBUILD (TYPE SP, T.L.C.)
 2. RESURFACE WITH FRICTION COURSE FC 12.5, T.L.C., PG76-22 (1½")

LEGEND:
 XX.XX EXIST. ELEVATION
 XX.XX PROP. ELEVATION
 OVERBUILD [Hatched Box]
 SOD & FILL [Dotted Box]

REVISIONS			
DATE	DESCRIPTION	DATE	DESCRIPTION

MARLIN
 ENGINEERING
 ARMANDO J. AGUIAR P.E. No.: 84075
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 PH: 305-861-4863
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Project Manager: A. AGUIAR
Design:
Checked:
Project No.:

SR A1A (HARDING AVE)
 TOWN OF SURFSIDE, FLORIDA
GRADING PLANS

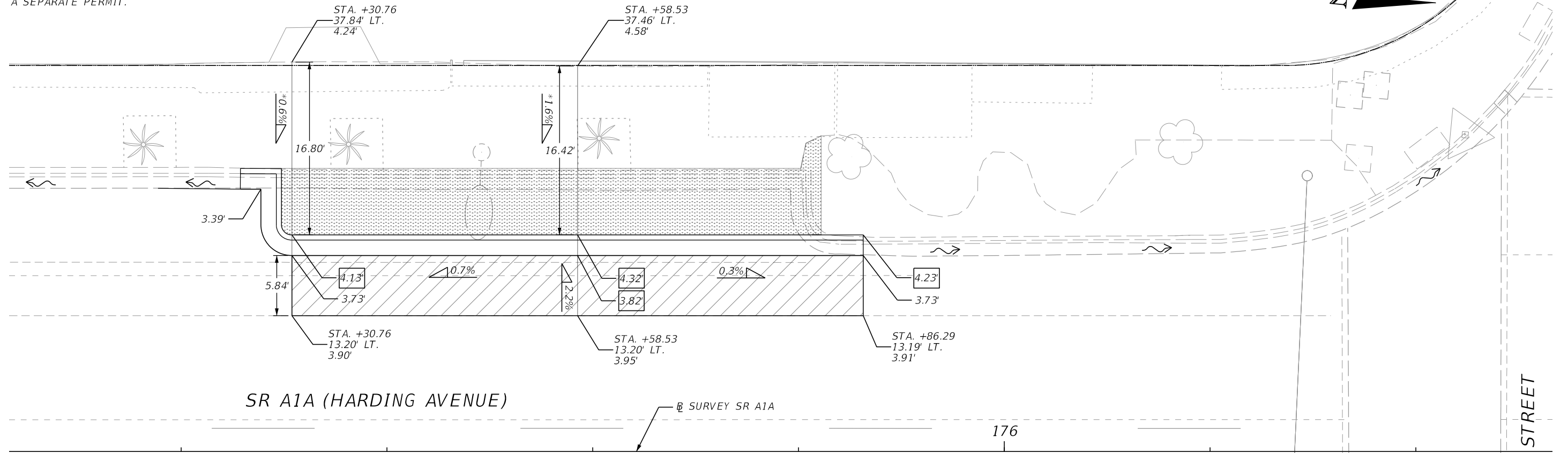
SHEET NO. 6

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*SLOPE REPRESENTS FINAL SIDEWALK CONFIGURATION. SIDEWALK RECONSTRUCTION IS TO BE COMPLETED UNDER A SEPARATE PERMIT.

LOCATION 7

1"=10'

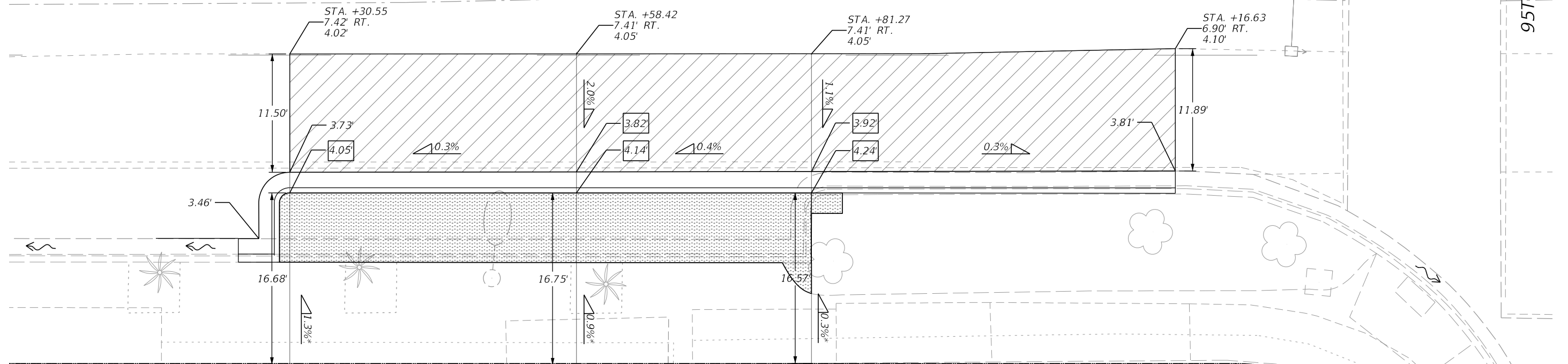


SR A1A (HARDING AVENUE)

SURVEY SR A1A

176

95TH STREET



- PAVEMENT OVERBUILD**
- MILL ASPHALT PAVEMENT (1 1/2" DEPTH)
 - OVERBUILD (TYPE SP, T.L.C.)
 - RESURFACE WITH FRICTION COURSE FC 12.5, T.L.C., PG76-22 (1 1/2")

LEGEND:
 XX.XX EXIST. ELEVATION
 [XX.XX] PROP. ELEVATION
 OVERBUILD [Hatched Box]
 SOD & FILL [Dotted Box]

LOCATION 5

REVISIONS			
DATE	DESCRIPTION	DATE	DESCRIPTION

MARLIN ENGINEERING
 ARMANDO J. AGUIAR P.E. No.: 84075
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CITY
 TOWN OF SURFSIDE
 9293 HARDING AVENUE
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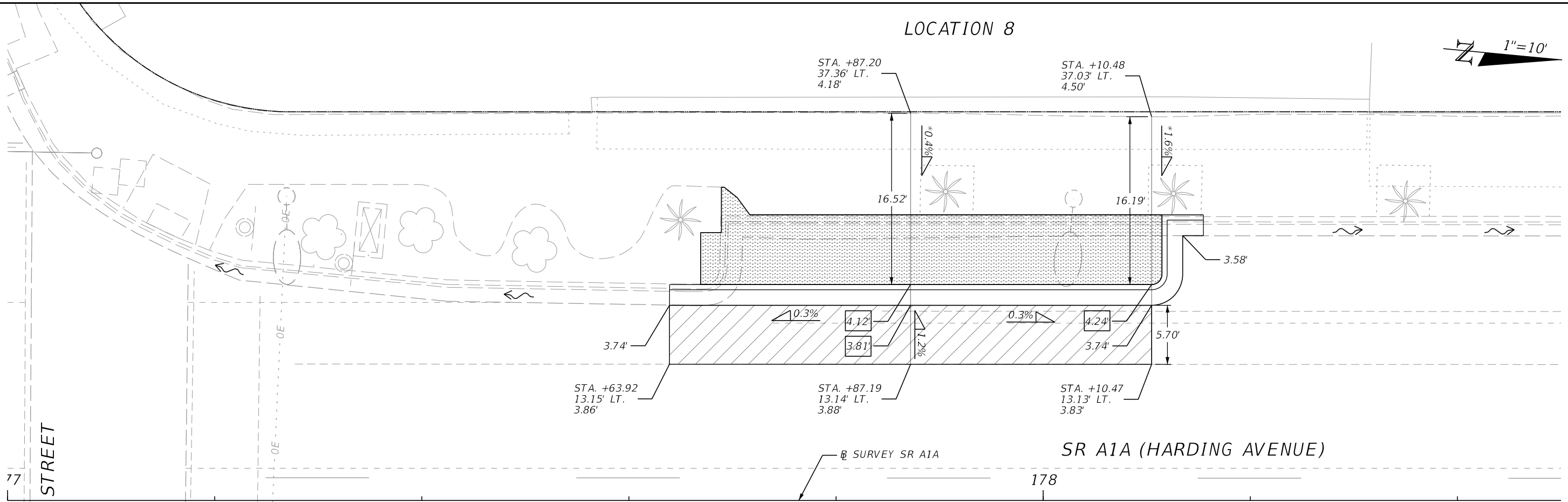
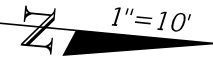
Project Manager: A. AGUIAR
 Design:
 Checked:
 Project No.

SR A1A (HARDING AVE)
 TOWN OF SURFSIDE, FLORIDA
GRADING PLANS

SHEET NO.
 7

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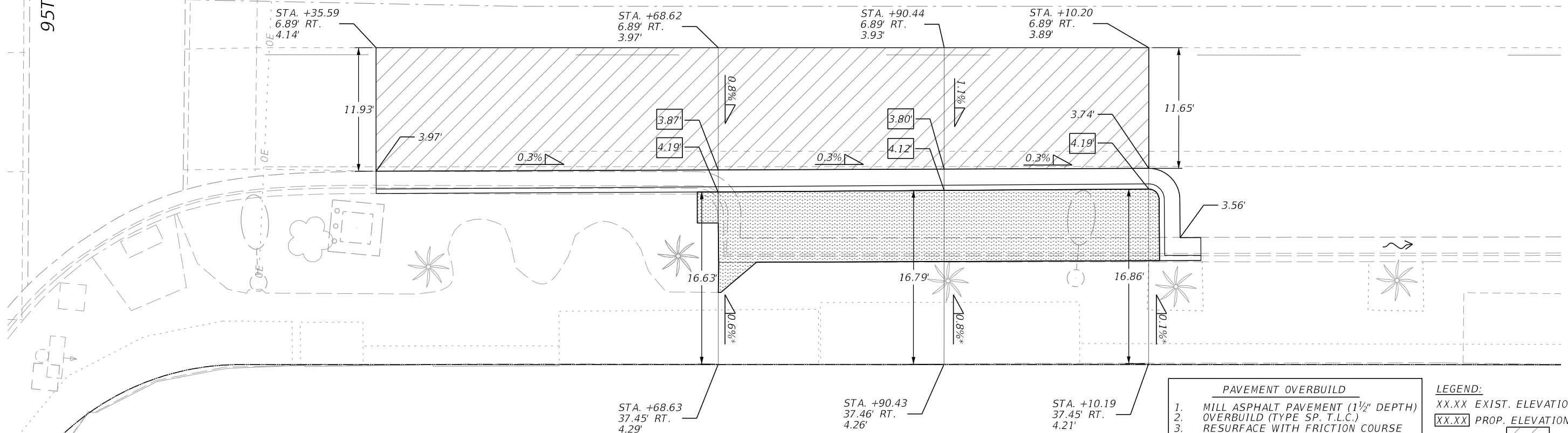
LOCATION 8



95TH STREET

SR A1A (HARDING AVENUE)

LOCATION 6



*SLOPE REPRESENTS FINAL SIDEWALK CONFIGURATION. SIDEWALK RECONSTRUCTION IS TO BE COMPLETED UNDER A SEPARATE PERMIT.

PAVEMENT OVERBUILD

- MILL ASPHALT PAVEMENT (1 1/2" DEPTH)
- OVERBUILD (TYPE SP, T.L.C.)
- RESURFACE WITH FRICTION COURSE FC 12.5, T.L.C., PG76-22 (1 1/2")

LEGEND:

XX.XX EXIST. ELEVATION

XX.XX PROP. ELEVATION

OVERBUILD

SOD & FILL

REVISIONS			
DATE	DESCRIPTION	DATE	DESCRIPTION

MARLIN ENGINEERING

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Project Manager: A. AGUIAR
 Design:
 Checked:
 Project No.

SR A1A (HARDING AVE)
 TOWN OF SURFSIDE, FLORIDA

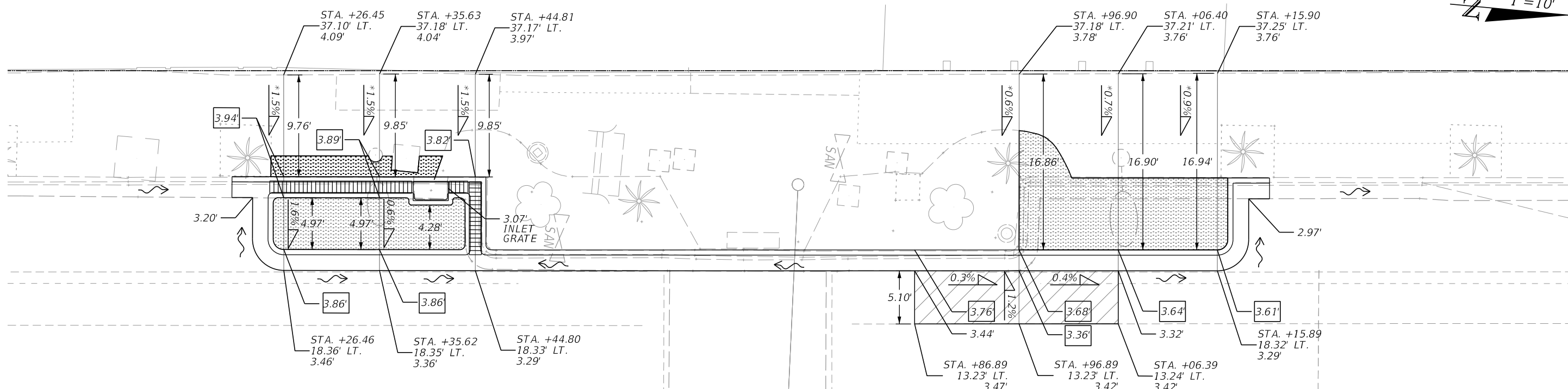
GRADING PLANS

SHEET NO.
 8

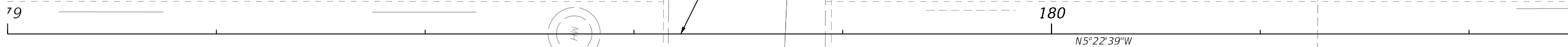
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LOCATION 11

LOCATION 12



SR A1A (HARDING AVENUE)



*SLOPE REPRESENTS FINAL SIDEWALK CONFIGURATION. SIDEWALK RECONSTRUCTION IS TO BE COMPLETED UNDER A SEPARATE PERMIT.

- PAVEMENT OVERBUILD**
1. MILL ASPHALT PAVEMENT (1½" DEPTH) OVERBUILD (TYPE SP, T.L.C.)
 2. RESURFACE WITH FRICTION COURSE FC 12.5, T.L.C., PG76-22 (1½")
 - 3.

- LEGEND:**
- XX.XX EXIST. ELEVATION
 - XX.XX PROP. ELEVATION
 - OVERBUILD
 - SOD & FILL

REVISIONS			
DATE	DESCRIPTION	DATE	DESCRIPTION

MARLIN ENGINEERING
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Project Manager: A. AGUIAR
Design:
Checked:
Project No.:

SR A1A (HARDING AVE)
 TOWN OF SURFSIDE, FLORIDA
GRADING PLANS

SHEET NO.
9

THE OFFICIAL RECORD OF THIS SHEET IS THE ELECTRONIC FILE DIGITALLY SIGNED AND SEALED UNDER RULE 61G15-23.004, F.A.C.

TEMPORARY TRAFFIC CONTROL NOTES

1. TRAFFIC CONTROLS SHALL BE IN ACCORDANCE WITH THE CURRENT EDITION OF THE FDOT STANDARD PLANS FOR ROADWAY CONSTRUCTION (STANDARD PLANS - INDEX 102) AND THE MANUAL ON UNIFORM TRAFFIC CONTROL DEVICES (2009 EDITION) AS MINIMUM CRITERIA.
2. APPROVAL FOR ALL LANE CLOSURE OPERATIONS IS REQUIRED. SUBMIT ROUTINE REQUESTS TO THE DEPARTMENT 14 CALENDAR DAYS IN ADVANCE OF PLANNED LANE CLOSURE OPERATIONS.
3. THE TRAFFIC AND TRAVEL WAYS SHALL NOT BE ALTERED BY THE TOWN OF SURFSIDE/CONTRACTOR TO CREATE A WORK ZONE UNTIL ALL LABOR AND MATERIAL ARE AVAILABLE FOR THE CONSTRUCTION IN THAT AREA.
4. LANE CLOSURES ARE ONLY ALLOWED DURING:
9:00 PM TO 6:00 AM - SUNDAY THRU THURSDAY
NO WORK TO BE PERFORMED FRIDAYS OR SATURDAYS
5. REGULATORY SPEED ESTABLISHED SHALL REMAIN THE SAME AS EXISTING POSTED SPEED: 30 MPH.
6. AS DETERMINED BY THE ENGINEER, THE TOWN OF SURFSIDE/CONTRACTOR SHALL COVER WORK ZONE SIGNS WHEN CONDITIONS NO LONGER WARRANT THEIR USE. COST OF COVERING AND UNCOVERING THE SIGNS SHALL BE INCLUDED IN PAY ITEM 102-1, MAINTENANCE OF TRAFFIC.
7. THE TOWN OF SURFSIDE/CONTRACTOR SHALL BE RESPONSIBLE FOR THE IMMEDIATE REMOVAL OF STORM WATER FROM ROADWAYS UTILIZED FOR MAINTAINING TRAFFIC IN A MANNER APPROVED BY THE ENGINEER. COST FOR REMOVING THE WATER SHALL BE INCLUDED IN PAY ITEM 102-1, MAINTENANCE OF TRAFFIC.
8. THE TOWN OF SURFSIDE/CONTRACTOR SHALL BE RESPONSIBLE FOR REPAIRING OR REPLACING AT HIS OWN EXPENSE ANY ITEMS DAMAGED DUE TO HIS PERSONNEL OR EQUIPMENT INSIDE AND/OR OUTSIDE OF THE CONSTRUCTION AREA.
9. THE TOWN OF SURFSIDE/CONTRACTOR SHALL INSURE THAT ANY OTHER TYPE OF DEBRIS IS CLEANED FROM THE ADJACENT ROADWAY (WHERE APPLICABLE) AT THE END OF EACH DAY. THE TOWN OF SURFSIDE/CONTRACTOR SHALL BE LIABLE FOR ANY PERSONAL OR PROPERTY DAMAGE CAUSED BY ANY TYPE OF DEBRIS LEFT ON ROADWAYS AND/OR PEDESTRIAN WAYS.
10. THE TOWN OF SURFSIDE/CONTRACTOR SHALL AVOID DAMAGING EXISTING IRRIGATION SYSTEMS. IN CASE OF DAMAGE, THE CONTRACTOR SHALL REPLACE IRRIGATION SYSTEMS TO MATCH EXISTING CONDITIONS AND LOCATION AT HIS EXPENSE.
11. THE TOWN OF SURFSIDE/CONTRACTOR SHALL COMPLY WITH THE TOWN OF SURFSIDE NOISE ORDINANCE. ANY EXCEPTIONS SHALL BE SUBMITTED TO THE BUILDING DEPARTMENT FOR APPROVAL IN WRITING.
12. ALL MATERIALS SPILLED, DROPPED, OR TRACKED ON TO PUBLIC RIGHT-OF-WAY OR INTO STORM DRAINS SHALL BE PROMPTLY REMOVED BY THE CONTRACTOR.
13. THE TOWN OF SURFSIDE/CONTRACTOR SHALL ALLOW VEHICULAR AND PEDESTRIAN ACCESS AT ALL TIMES.
14. THE TOWN OF SURFSIDE/CONTRACTOR SHALL PROVIDE TEMPORARY PAVEMENT MARKINGS WITHIN THE SAME DAY THEY WERE REMOVED DUE TO CONSTRUCTION.
15. CHANNELIZING DEVICES SHALL BE USED TO PREVENT PEDESTRIAN FROM ENTERING THE WORKZONE. COST SHALL BE INCLUDED IN PAY ITEM 102-1, MAINTENANCE OF TRAFFIC.

PHASE 1: PARKLET AND CHANNEL CURB CONSTRUCTION SOUTHBOUND (WESTSIDE)

1. PLACE ALL TRAFFIC CONTROL DEVICES AND TEMPORARY SIGNING NECESSARY TO CLOSE THE BIKING LANE, ONE TRAVEL LANE, & PARKING SPACES ALONG A1A. USE STANDARD PLANS 102-600, 102-613, 102-615, AND 102-661.
2. PROVIDE PEDESTRIAN DETOUR IN ACCORDANCE WITH THE FDOT STANDARD PLANS INDEX 102-660.
3. CONSTRUCT ROADSIDE IMPROVEMENTS SOUTHBOUND (WESTSIDE) ALONG A1A.

PHASE 2: PARKLET AND CHANNEL CURB CONSTRUCTION SOUTHBOUND (EASTSIDE)

1. REPEAT PHASE 1 STEPS ON THE SOUTHBOUND (EASTSIDE).
2. COMPLETE WORK.

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REVISIONS				 MARLIN ENGINEERING ARMANDO J. AGUIAR P.E. No.: 84075 3363 WEST COMMERCIAL BLVD., Ste. 115 FT. LAUDERDALE, FL 33309 (305) 477-7575 • C.A. No. 6104		CITY TOWN OF SURFSIDE 9293 HARDING AVENUE SURFSIDE, FL 33154 PH: 305-861-4863 FAX: 305-861-1302	Project Manager: A. AGUIAR Design: Checked: Project No.	SR A1A (HARDING AVE) TOWN OF SURFSIDE, FLORIDA TEMPORARY TRAFFIC CONTROL PLAN	SHEET NO. 10
DATE	DESCRIPTION	DATE	DESCRIPTION						

SHEET	TABLE OF CONTENTS
1	General Notes, TTC Tables
2	Definitions Temporary Traffic Control Devices Overhead Work Railroads Sight Distance Above Ground Hazard
3	Clear Zone Widths For Work Zones Superelevation Length Of Lane Closures Overweight/Oversize Vehicles Lane Widths High-Visibility Safety Apparel Speed Reduction Signing
4	Flagger Control Survey Work Zones Signs
5	Work Zone Sign Supports
6	Commonly Used Warning and Regulatory Signs In Work Zones
7	Manholes/Crosswalks/Joints Truck Mounted Attenuators Signals Channelizing Devices Channelizing Devices Consistency Advanced Warning Arrow Boards
8	Drop-Offs In Work Zones
9	Business Entrance Temporary Asphalt Separator
10	Channelizing Devices Notes Temporary Barrier Notes
11	Pavement Markings

GENERAL NOTES:

1. This Index contains information specific to the Federal and State guidelines and standards for the preparation of traffic control plans and for the execution of traffic control in work zones, for construction and maintenance operations and utility work on highways, roads and streets on the State Highway System. Certain requirements in this Index are based on the high volume nature of State Highways. For highways, roads and streets off the State Highway System, the local agency (City/County) having jurisdiction may adopt requirements based on the minimum requirements provided in the MUTCD.
2. Use this Index in accordance with the Plans and Indexes 102-601 through 102-680. Indexes 102-601 through 102-680 are Department-specific typical applications of commonly encountered situations. Adjust device location or number thereof as recommended by the Worksite Traffic Supervisor and approved by the Engineer. Devices include, but are not limited to, flaggers, portable temporary signals, signs, pavement markings, and channelizing devices. Comply with MUTCD or applicable Department criteria for any changes and document the reason for the change.
3. Except for emergencies, any road closure on State Highway System must comply with Section 335.15, F.S.

**TABLE 1
CHANNELIZING DEVICE SPACING**

Work Zone Speed (mph)	Max. Spacing (feet)			
	Cones or Temporary Tubular Markers		Type I Barricades, Type II Barricades, Vertical Panels, or Drums	
	Taper	Tangent	Taper	Tangent
≤ 45	25	50	25	50
≥ 50	25	50	50	100

**TABLE 2
TAPER LENGTH "L"**

Work Zone Speed (mph)	Min. Length (feet)
≤ 40	$L = \frac{WS^2}{60}$
≥ 45	$L = WS$

Where: W = width of offset in feet
S = speed in mph

**TABLE 3
WORK ZONE SIGN SPACING "X"**

Road Type	Min. Spacing (feet)
Arterials and Collectors with Work Zone Speed ≤ 40 mph	200
Arterials and Collectors with Work Zone Speed ≥ 45 mph	500
Limited Access Roadways *	1,500

* For Limited access roadways with work zone speed ≤ 55 mph, the minimum spacing may be reduced in accordance with the MUTCD and as approved by the Engineer.

**TABLE 4
BUFFER LENGTH "B"**

Work Zone Speed (mph)	Min. Length (feet)
25	155
30	200
35	250
40	305
45	360
50	425
55	495
60	570
65	645
70	730

Note: When Buffer Length "B" cannot be attained due to geometric constraints, use the greatest length possible, but not less than 155 feet.

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DEFINITIONS:

Regulatory Speed (In Work Zones)

The maximum permitted travel speed posted for the work zone is indicated by the regulatory speed limit signs. The work zone speed must be shown or noted in the plans. This speed should be used as the minimum design speed to determine runout lengths, departure rates, flare rates, lengths of need, clear zone widths, taper lengths, crash cushion requirements, marker spacings, superelevation and other similar features.

Advisory Speed

The maximum recommended travel speed through a curve or a hazardous area.

Travel Way

The portion of the roadway for the movement of vehicles. For traffic control through work zones, travel way may include the temporary use of shoulders and any other permanent or temporary surface intended for use as a lane for the movement of vehicular traffic.

- a. **Travel Lane:** The designated widths of roadway pavement marked to carry through traffic and to separate it from opposing traffic or traffic occupying other traffic lanes.
- b. **Auxiliary Lane:** The designated widths of roadway pavement marked to separate speed change, turning, passing and climbing maneuvers from through traffic.

Detour, Lane Shift, and Diversion

A detour is the redirection of traffic onto another roadway to bypass the temporary traffic control zone. A lane shift is the redirection of traffic onto a different section of the permanent pavement. A diversion is the redirection of traffic onto a temporary roadway, usually adjacent to the permanent roadway and within the limits of the right of way.

Aboveground Hazard

An aboveground hazard is any object, material or equipment other than traffic control devices that encroaches upon the travel way or that is located within the clear zone which does not meet the Department's safety criteria, i.e., anything that is greater than 4" in height and is firm and unyielding or doesn't meet breakaway requirements.

TEMPORARY TRAFFIC CONTROL DEVICES:

1. All temporary traffic control devices shall be ON the Department's Approved Products List (APL). Ensure the appropriate APL number is permanently marked on the device in a readily visible location.
2. All temporary traffic control devices shall be removed as soon as practical when they are no longer needed. When work is suspended for short periods of time, temporary traffic control devices that are no longer appropriate shall be removed or covered. Do not store temporary traffic control devices on the shoulder, sidewalk, or other roadway facility not affected by the work when work is suspended.
3. Arrow Boards, Portable Changeable Message Signs, Radar Speed Display Trailer, Portable Regulatory Signs, and any other trailer mounted device shall be delineated with a channelizing device placed at each corner when in use and shall be moved outside the travel way and clear zone or be shielded by a barrier or crash cushion when not in use.

OVERHEAD WORK:

Work is only allowed over a traffic lane when one of the following options is used:

OPTION 1 (OVERHEAD WORK USING A MODIFIED LANE CLOSURE)

Overhead work using a modified lane closure is allowed if all of the following conditions are met:

- a. Work operation is located in a signalized intersection and limited to signals, signs, lighting and utilities.
- b. Work operations are 60 minutes or less.
- c. Speed limit is 45 mph or less.
- d. Aerial lift equipment in the work area has high-intensity, rotating, flashing, oscillating, or strobe lights operating.
- e. Aerial lift equipment is placed directly below the work area to close the lane.
- f. Traffic control devices are placed in advance of the vehicle/equipment closing the lane using a minimum 100 foot taper.
- g. Volume or complexity of the roadway may dictate additional devices, signs, flagmen and/or a traffic control officer.

OPTION 2 (OVERHEAD WORK ABOVE AN OPEN TRAFFIC LANE)

Overhead work above a open traffic lane is allowed if all of the following conditions are met:

- a. Work operation is located on a utility pole, light pole, signal pole, or their appurtenances.
- b. Work operations are 60 minutes or less.
- c. Speed limit is 45 mph or less.
- d. No encroachment by any part of the work activities and equipment within an area bounded by 2 feet outside the edge of travel way and 18 feet high.
- e. Aerial lift equipment in the work area has high-intensity, rotating, flashing, oscillating, or strobe lights operating.
- f. Volume or complexity of the roadway may dictate additional devices, signs, flagmen and/or a traffic control officer.
- g. Adequate precautions are taken to prevent parts, tools, equipment and other objects from falling into open lanes of traffic.
- h. Other Governmental Agencies, Rail facilities, or Codes may require a greater clearance. The greater clearance required prevails as the rule.

OPTION 3 (OVERHEAD WORK ADJACENT TO AN OPEN TRAFFIC LANE)

Overhead work adjacent to an open traffic lane is allowed if all of the following conditions are met:

- a. Work operation is located on a utility pole, light pole, signal pole, or their appurtenances.
- b. Work operations are 1 day or less.
- c. Speed limit is 45 mph or less.
- d. No encroachment by any part of the work activities and equipment within 2 foot from the edge of travel way up to 18' height. Above 18' in height, no encroachment by any part of the work activities and equipment over the open traffic lane (except as allowed in Option 2 for work operations of 60 minutes or less).
- e. Aerial lift equipment in the work area has high-intensity, rotating, flashing, oscillating, or strobe lights operating.
- f. Volume or complexity of the roadway may dictate additional devices, signs, flagmen and/or a traffic control officer.
- g. Adequate precautions are taken to prevent parts, tools, equipment and other objects from falling into open lanes of traffic.
- h. Other Governmental Agencies, Rail facilities, or Codes may require a greater clearance. The greater clearance required prevails as the rule.

OVERHEAD WORK: (Cont.)

OPTION 4 (OVERHEAD WORK MAINTAINING TRAFFIC WITH NO ENCROACHMENT BELOW THE OVERHEAD WORK AREA)

Traffic shall be detoured, shifted, diverted or paced as to not encroach in the area directly below the overhead work operations in accordance with the appropriate index drawing or detailed in the plans. This option applies to, but not limited to, the following construction activities:

- a. Beam, girder, segment, and bent/pier cap placement.
- b. Form and falsework placement and removal.
- c. Concrete placement.
- d. Railing construction located at edge of deck.
- e. Structure demolition.

OPTION 5 (CONDUCTOR/CABLE PULLING ABOVE AN OPEN TRAFFIC LANE)

Overhead cable and/or de-energized conductor installations initial pull to proper tension shall be done in accordance with the appropriate Index or temporary traffic control plan.

Continuous pulling operations of secured cable and/or conductors are allowed over open lane(s) of traffic with no encroachment by any part of the work activities, materials or equipment within the minimal vertical clearance above the travel way. The utility shall take precautions to ensure that pull ropes and conductors/cables at no time fall below the minimum vertical clearance.

On Limited Access facilities, a site specific temporary traffic control plan is required. The temporary traffic control plan shall include:

- a. The temporary traffic control set up for the initial pulling of the pull rope across the roadway.
- b. During pulling operations, advance warning consisting of no less than a Changeable Message Sign upstream of the work area with alternating messages, "Overhead Work Ahead" and "Be Prepared to Stop" followed by a traffic control officer and police vehicle with blue lights flashing during the pulling operation.

RAILROADS:

Railroad crossings affected by a construction project should be evaluated for traffic controls to reduce queuing on the tracks. The evaluation should include as a minimum: traffic volumes, distance from the tracks to the intersections, lane closure or taper locations, signal timing, etc.


SIGHT DISTANCE:

1. Tapers: Transition tapers should be obvious to drivers. If restricted sight distance is a problem (e.g., a sharp vertical or horizontal curve), the taper should begin well in advance of the view obstruction. The beginning of tapers should not be hidden behind curves.
2. Intersections: Traffic control devices at intersections must provide sight distances for the road user to perceive potential conflicts and to traverse the intersection safely. Construction equipment and materials shall not restrict intersection sight distance.

ABOVEGROUND HAZARD:

1. Aboveground hazards (see definitions) are to be considered work areas during working hours and treated with appropriate work zone traffic control procedures. During nonworking hours, all objects, materials and equipment that constitute an aboveground hazard must be stored/placed outside the travel way and clear zone or be shielded by a barrier or crash cushion.
2. For aboveground hazards within a work zone the clear zone required should be based on the regulatory speed posted during construction.

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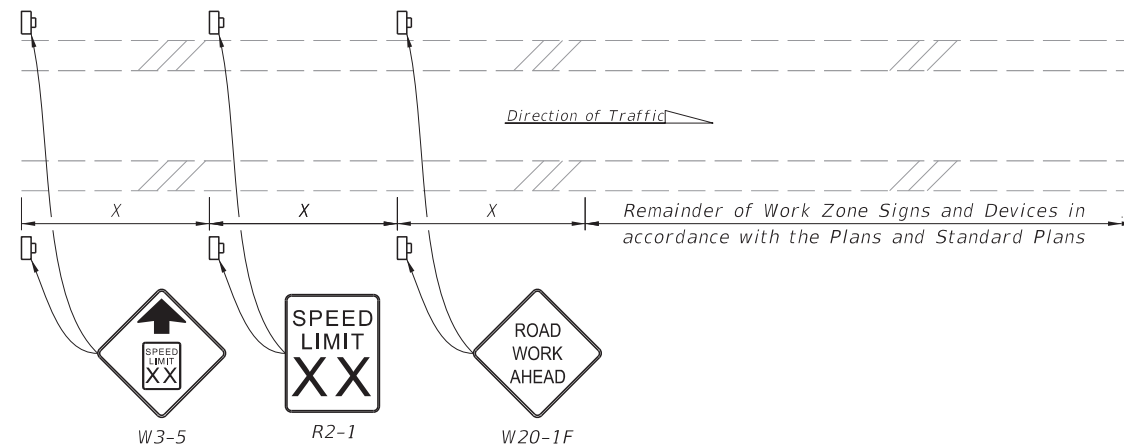
LAST REVISION 11/01/20	REVISION	DESCRIPTION:	 FY 2023-24 STANDARD PLANS	GENERAL INFORMATION FOR TRAFFIC CONTROL THROUGH WORK ZONES	INDEX 102-600	SHEET 2 of 11
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CLEAR ZONE WIDTHS FOR WORK ZONES:

The term 'clear zone' describes the unobstructed relatively flat area, impacted by construction, extending outward from the edge of the traffic lane. The table below gives clear zone widths in work zones for medians and roadside conditions other than for roadside canals; where roadside canals are present, clear zone widths are to conform with the distances to canals as described in the FDOT Design Manual 215.2.

WORK ZONE SPEED (MPH)	TRAVEL LANES & MULTILANE RAMPS (feet)	AUXILIARY LANES & SINGLE LANE RAMPS (feet)
60-70	30	18
55	24	14
45-50	18	10
30-40	14	10
ALL SPEEDS CURB & GUTTER	4' BEHIND FACE OF CURB	4' BEHIND FACE OF CURB

NOTE: For temporary conditions where existing curb has been removed but not reconstructed, curb and gutter values may be used.



NOTES:

1. X = Work Zone Sign Spacing
2. When called for in the Plans, use this detail in accordance with the Plans and Standard Plans. Place the speed reduction signs (W3-5 and R2-1) in advance of the "Road Work Ahead" sign (W20-1F) as shown.
3. Do not use this detail in conjunction with the Motorist Awareness System.
4. For speed reductions greater than 10 MPH, reduce the speed in 10 MPH increments of 'X' distance. Do not reduce the speed below the minimum statutory speed for the class of facility.
5. Place additional "Speed Limit" signs (R2-1) at intervals of no more than one mile for rural conditions and 1,000 feet for urban conditions.
6. For undivided roadways, omit the signs shown in the median.
7. Remove temporary regulatory speed signs as soon as the conditions requiring the reduced speed no longer exist. Once the work zone regulatory speeds are removed, the regulatory speed existing prior to construction will automatically go back into effect.

SPEED REDUCTION SIGNING

SUPERELEVATION:

Horizontal curves constructed in conjunction with work zone traffic control should have the required superelevation applied to the design radii. Under conditions where normal crown controls curvature, the minimum radii that can be applied are listed in the table below.

WORK ZONE POSTED SPEED	MINIMUM RADIUS
MPH	feet
70	4090
65	3130
60	2400
55	1840
50	1390
45	1080
40	820
35	610
30	430
Superelevate When Smaller Radii is Used	

OVERWEIGHT/OVERSIZE VEHICLES:

Restrictions to Lane Widths, Heights or Load Capacity can greatly impact the movement of over dimensioned loads. The Contractor shall notify the Engineer who in turn shall notify the State Permits Office, phone no. (850) 410-5777, at least seven calendar days in advance of implementing a maintenance of traffic plan which will impact the flow of overweight/oversized vehicles. Information provided shall include location, type of restriction (height, width or weight) and restriction time frames. When the roadway is restored to normal service the State Permits Office shall be notified immediately.

LANE WIDTHS:

Lane widths of through roadways should be maintained through work zone travel ways wherever practical. Provide minimum widths for work zone travel lanes as follows: 11' for Interstate with at least one 12' lane provided in each direction, unless formally excepted by the Federal Highway Administration; 11' for all other limited access roadways; and 10' for all other facilities.

HIGH-VISIBILITY SAFETY APPAREL:

All high-visibility safety apparel shall meet the requirements of the International Safety Equipment Association (ISEA) and the American National Standards Institute (ANSI) for "High-Visibility Safety Apparel", and labeled as ANSI/ISEA 107-2004 or newer. The apparel background (outer) material color shall be either fluorescent orange-red or fluorescent yellow-green as defined by the standard. The retroreflective material shall be orange, yellow, white, silver, yellow-green, or a fluorescent version of these colors, and shall be visible at a minimum distance of 1,000 feet. Class 3 apparel may be substituted for Class 2 apparel. Replace apparel that is not visible at 1,000 feet.

WORKERS: All workers within the right-of-way shall wear ANSI/ISEA Class 2 apparel. Workers operating machinery or equipment in which loose clothing could become entangled during operation shall wear fitted high-visibility safety apparel. Workers inside the bucket of a bucket truck are not required to wear high-visibility safety apparel.

UTILITIES: When other industry apparel safety standards require utility workers to wear apparel that is inconsistent with FDOT requirements such as NFPA, OSHA, ANSI, etc., the other standards for apparel may prevail.

FLAGGERS: For daytime activities, Flaggers shall wear ANSI/ISEA Class 2 apparel. For nighttime activities, Flaggers shall wear ANSI/ISEA Class 3 apparel.

LENGTH OF LANE CLOSURES:

For interstates and state highways with a posted speed of 55MPH or greater, lane closures must not exceed 3 miles (includes taper, buffer, and work zone) in any given direction and must not close two consecutive interchanges.

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LAST REVISION 11/01/20	REVISION	DESCRIPTION:		FY 2023-24 STANDARD PLANS	GENERAL INFORMATION FOR TRAFFIC CONTROL THROUGH WORK ZONES	INDEX 102-600	SHEET 3 of 11
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FLAGGER CONTROL:

Regulatory Speed (In Work Zones)

Where flaggers are used, a FLAGGER symbol or legend sign must replace the WORKERS symbol or legend sign.

The flagger must be clearly visible to approaching traffic for a distance sufficient to permit proper response by the motorist to the flagging instructions, and to permit traffic to reduce speed or to stop as required before entering the work site. Flaggers shall be positioned to maintain maximum color contrast between the Flagger's high-visibility safety apparel and equipment and the work area background.

Hand-Signaling Devices

STOP/SLOW paddles are the primary hand-signaling device. The STOP/SLOW paddle shall have an octagonal shape on a rigid handle. If the STOP/SLOW paddle is placed on a rigid staff, the minimum length of the staff, measured from the bottom of the paddle to the end of the staff that rests on the ground, must not be less than 6 ft. STOP/SLOW paddles shall be at least 24 inches wide with letters at least 6 inches high and should be fabricated from light semirigid material. The background of the STOP face shall be red with white letters and border. The background of the SLOW face shall be orange with black letters and border. When used at night-time, the STOP/SLOW paddle shall be retroreflectorized.

Flag use is limited to immediate emergencies, intersections, and when working on the centerline or shared left turn lanes where two (2) flaggers are required and there is opposing traffic in the adjacent lanes. Flags, when used, shall be a minimum of 24 inches square, made of a good grade of red material, and securely fastened to a staff that is approximately 36 inches in length. When used at nighttime, flags shall be retroreflectorized red.

Flashlight, lantern or other lighted signal that will display a red warning light shall be used at night.

Flagger Stations

Flagger stations shall be located far enough in advance of the work area so that approaching road users will have sufficient distance to stop before entering the work area. When used at nighttime, the flagger station shall be illuminated.

SURVEY WORK ZONES:

The SURVEY CREW AHEAD symbol or legend sign shall be the principal Advance Warning Sign used for Traffic Control Through Survey Work Zones and may replace the ROAD WORK AHEAD sign when lane closures occur, at the discretion of the Party Chief.

When Traffic Control Through Work Zones is being used for survey purposes only, the END ROAD WORK sign as called for on certain 102 Series of Indexes should be omitted.

Survey Between Active Traffic Lanes or Shared Left Turn Lanes

The following provisions apply to Main Roadway Traffic Control Work Zones. These provisions must be adjusted by the Party Chief to fit roadway and traffic conditions when the Survey Work Zone includes intersections.

(A) A STAY IN YOUR LANE (MOT-1-06) sign shall be added to the Advance Warning Sign sequence as the second most immediate sign from the work area.

(B) Elevation Surveys-Cones may be used at the discretion of the Party Chief to protect prism holder and flagger(s). Cones, if used, may be placed at up to 50' intervals along the break line throughout the work zone.

SURVEY WORK ZONES: (Cont.)

(C) Horizontal Control-With traffic flow in the same direction, cones shall be used to protect the backsight tripod and/or instrument. Cones shall be placed at the equipment, and up to 50' intervals for at least 200' towards the flow of traffic.

(D) Horizontal Control-With traffic flow in opposite directions, cones shall be used to protect the backsight tripod and/or instrument. Cones shall be placed at the equipment, and up to 50' intervals for at least 200' in both directions towards the flow of traffic.

SIGNS:

SIGN MATERIALS

Mesh signs and non-retroreflective vinyl signs may only be used for daylight operations. Non-retroreflective vinyl signs must meet the requirements of Specifications Section 994.

Retroreflective vinyl signs meeting the requirements of Specification Section 994 may be used for daylight or night operations not to exceed 1 day except as noted in the Indexes.

Rigid or Lightweight sign panels may be used in accordance with the vendor APL drawing for the sign stand to which they are attached.

INTERSECTING ROAD SIGNING

Signing for the control of traffic entering and leaving work zones by way of intersecting crossroads shall be adequate to make drivers aware of work zone conditions. When Work operations exceed 60 minutes, place the ROAD WORK AHEAD sign on the side street entering the work zone.

ADJOINING AND/OR OVERLAPPING WORK ZONE SIGNING

Adjoining work zones may not have sufficient spacing for standard placement of signs and other traffic control devices in their advance warning areas or in some cases other areas within their traffic control zones. Where such restraints or conflicts occur or are likely to occur, one of the following methods will be employed to avoid conflicts and prevent conditions that could lead to misunderstanding on the part of the traveling public as to the intended travel way by the traffic control procedure applied:

(A) For scheduled projects the engineer in responsible charge of project design will resolve anticipated work zone conflicts during the development of the project traffic control plan. This may entail revision of plans on preceding projects and coordination of plans on concurrent projects.

(B) Unanticipated conflicts arising between adjoining in progress highway construction projects will be resolved by the Resident Engineer for projects under his residency, and, by the District Construction Engineer for in progress projects under adjoining residencies.

(C) The District Maintenance Engineer will resolve anticipated and occurring conflicts within scheduled maintenance operations.

(D) The Unit Maintenance Engineer will resolve conflicts that occur within routine maintenance works; between routine maintenance work, unscheduled work and/or permitted work; and, between unit controlled maintenance works and highway construction projects.

SIGNS: (Cont.)

SIGN COVERING AND INTERMITTENT WORK STOPPAGE SIGNING

Existing or temporary traffic control signs that are no longer applicable or are inconsistent with intended travel paths shall be removed or fully covered.

Sign blanks or other available coverings must completely cover the existing sign. Rigid sign coverings shall be the same size as the sign it is covering, and bolted in a manner to prevent movement.

Sign covers are incidental to work operations and are not paid for separately.

SIGNING FOR DETOURS, LANE SHIFTS AND DIVERSIONS

Detours should be signed clearly over their entire length so that motorists can easily determine how to return to the original roadway. The reverse curve (W1-4) warning sign should be used for the advanced warning for a lane shift. A diversion should be signed as a lane shift.

EXTENDED DISTANCE ADVANCE WARNING SIGN

Advance Warning Signs shall be used at extended distance of one-half mile or more when limited sight distance or the nature of the obstruction may require a motorist to bring their vehicle to a stop. Extended distance Advanced Warning Signs may be required on any type roadway, but particularly be considered on multilane divided highways where vehicle speed is generally in the higher range (45 MPH or more).

UTILITY WORK AHEAD SIGN

The UTILITY WORK AHEAD (W21-7) sign may be used as an alternate to the ROAD WORK AHEAD or the ROAD WORK XX FT (W20-1) sign for utility operations on or adjacent to a highway.

LENGTH OF ROAD WORK SIGN

The length of road work sign (G20-1) bearing the legend ROAD WORK NEXT _____ MILES is required for all projects of more than 2 miles in length. The number of miles entered should be rounded up to the nearest mile. The sign shall be located at begin construction points.


GROOVED PAVEMENT AHEAD SIGN

The GROOVED PAVEMENT AHEAD sign is required 500 feet in advance of a milled or grooved surface open to traffic. The W8-15P placard shall be used in conjunction with the GROOVED PAVEMENT AHEAD sign.

END ROAD WORK SIGN

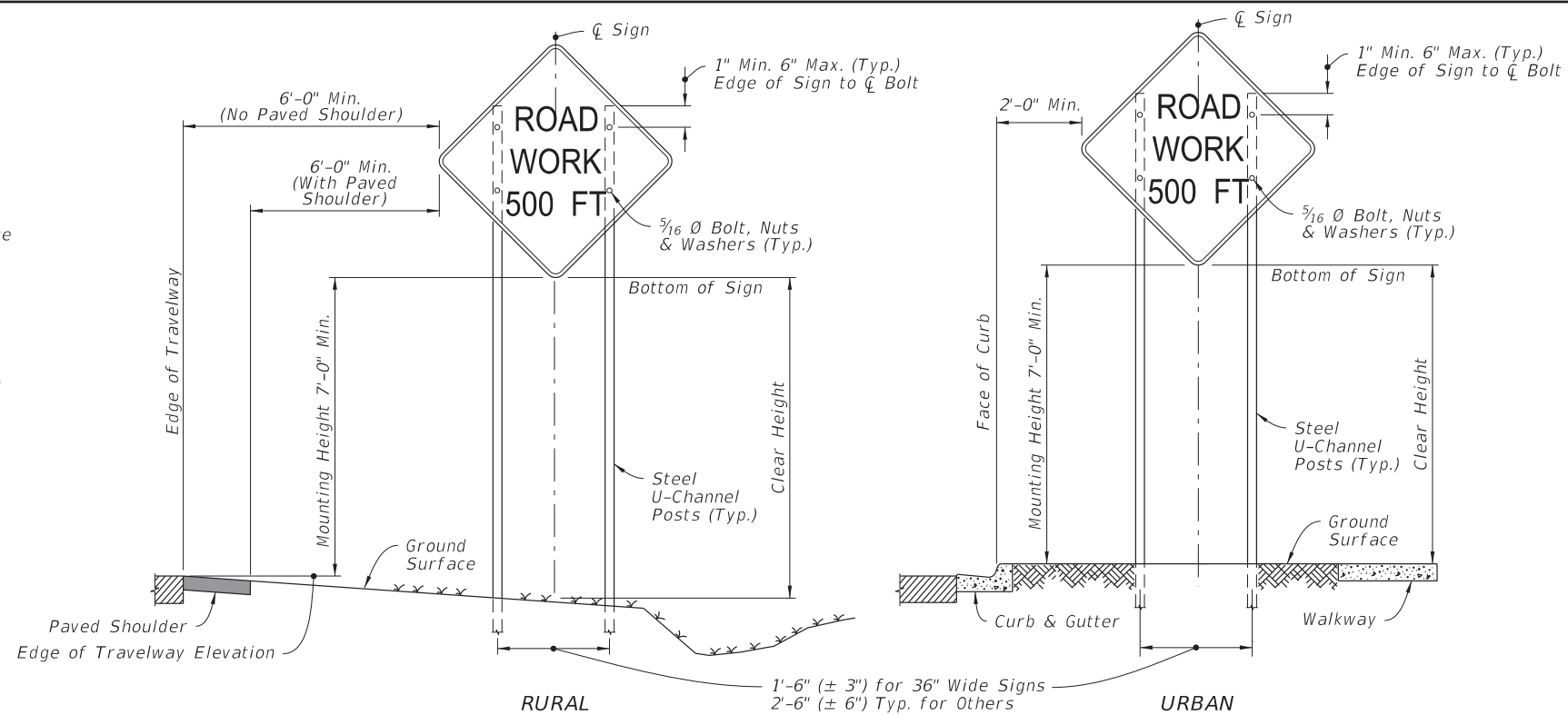
The END ROAD WORK sign (G20-2) should be installed on all projects, but may be omitted where the work operation is less than 1 day. The sign should be placed approximately 500 feet beyond the end of a construction or maintenance project unless other distance is called for in the plans. When other Construction or Maintenance Operations occur within 1 mile this sign should be omitted and signing coordinated in accordance with Index 102-600, ADJOINING AND/OR OVERLAPPING WORK ZONE SIGNING.

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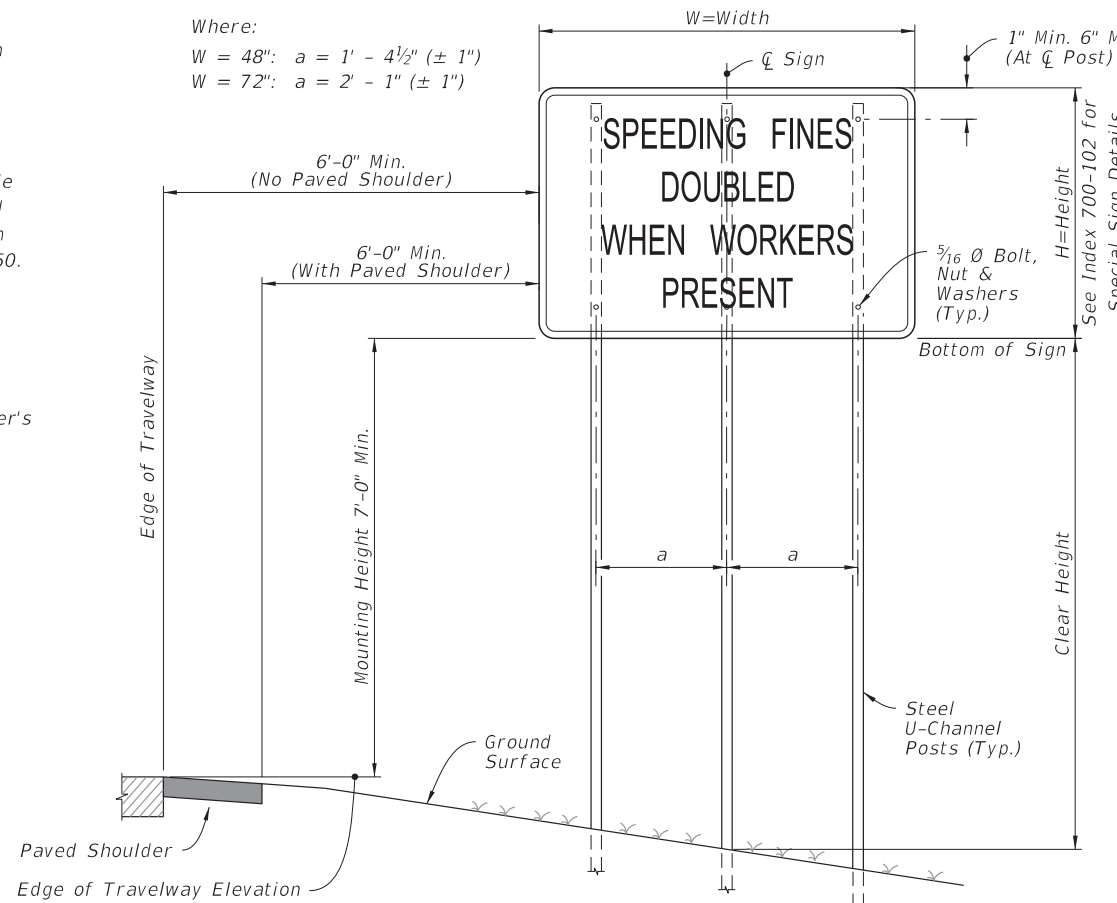
LAST REVISION 11/01/20	REVISION DESCRIPTION:	 FY 2023-24 STANDARD PLANS	GENERAL INFORMATION FOR TRAFFIC CONTROL THROUGH WORK ZONES	INDEX 102-600	SHEET 4 of 11
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NOTES:

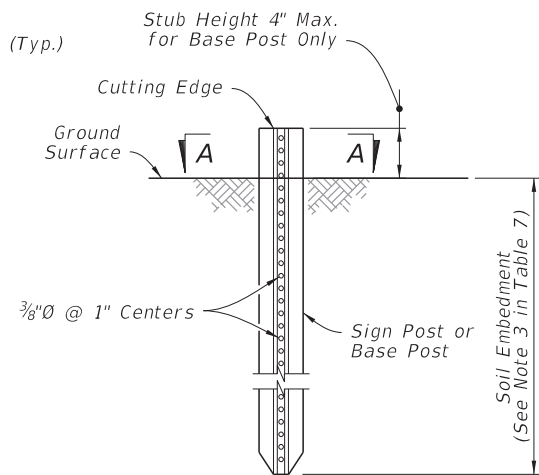
- All signs shall be post mounted when work operations exceed one day except for:
 - Road closure signs mounted in accordance with the vendor drawing for the Type III Barricade shown on the APL.
 - Pedestrian and bicycle advanced warning or pedestrian regulatory signs mounted on sign supports in accordance with the vendor drawing shown on the APL.
 - Median barrier mounted signs per Index 700-013.
 - Bridge mounted signs per Index 700-012.
- Unless shielded with barrier or outside of the Clear Zone, signs mounted on temporary supports or barricades, and barricade/sign combination must be crashworthy in accordance with NCHRP 350 requirements and included on the Approved Products List (APL).
- Use only approved systems listed on the Department's Approved Products List (APL).
- Manufacturers seeking approval of U-Channel and steel square tube sign support assemblies for inclusion on the Approved Products List (APL) must submit a APL application, design calculations (for square tube only), and detailed drawings showing the product meets all the requirements of this Index.
- Provide 3 lb/ft Steel U-Channel Posts with a minimum section modulus of 0.43 in³ for 60 ksi steel, a minimum section modulus of 0.37 in³ for 70 ksi steel, or a minimum section modulus of 0.34 in³ for 80 ksi steel.
- Provide 4 lb/ft Steel U-Channel Posts with a minimum section modulus of 0.56 in³ for 60 ksi steel, or a minimum section modulus of 0.47 in³ for 70 ksi or 80 ksi steel.
- U-channel posts shall conform with ASTM A 499, Grade 60, or ASTM A 576, Grade 1080 (with a minimum yield strength of 60 ksi). Square tube posts shall conform with ASTM A 653, Grade 50, or ASTM A 1011, Grade 50.
- Sign attachment bolts, washers, nuts, and spacers shall conform with ASTM A307 or A 36.
- Install 4 lb/ft Steel U-Channel Posts with approved breakaway splice in accordance with the manufacturer's detail shown on the APL.
- The contractor may install 3 lb/ft Steel U-Channel Posts with approved breakaway splice in accordance with the manufacturer's detail shown on the APL.
- Install all posts plumb.
- The contractor may set posts in preformed holes to the specified depth with suitable backfill tamped securely on all sides, or drive 3 lb/ft sign posts and any size base post in accordance with the manufacturer's detail shown on the APL.



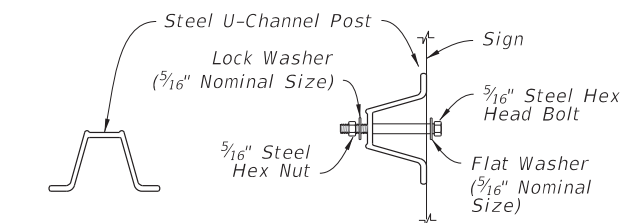
2 POST SIGN SUPPORT MOUNTING DETAILS
(SINGLE POST SIMILAR)



3 POST SIGN SUPPORT MOUNTING DETAILS



FOUNDATION DETAIL



(SCHEMATIC) SECTION A-A (WITHOUT Z-BRACKET)

TABLE 7
POST AND FOUNDATION
TABLE FOR
WORK ZONE SIGNS


SIGN SHAPE	SIGN SIZE (inches)	NUMBER OF STEEL U CHANNEL POSTS
Octagon	30x30	1
Triangle	36x36x36	1
	48x48x48	1
	60x60x60	2
Rectangle (W x H)	24x18	1
	24x30	1
	30x24	1
	36x18	1
	36x24	1
	48x18	1
	48x24	1
	36x48	2
	48x30	2
	48x36	2
	54x36	2
Square	48x60	3
	72x48	3
	30x30	1
Diamond	36x36	2
	48x48	2
Circle	36Ø	2

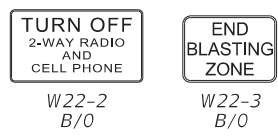
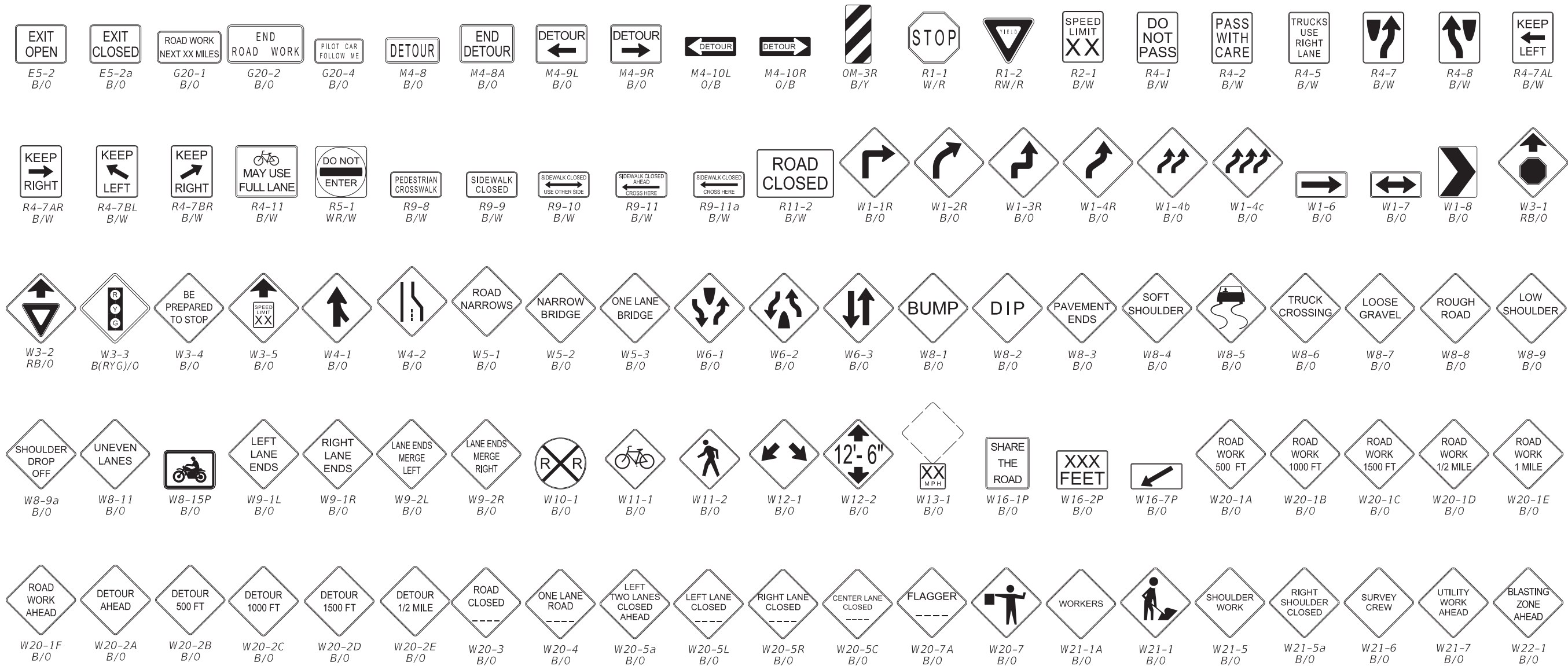
Notes For Table:

- Use 3 lb/ft posts for Clear Height up to 10' and 4 lb/ft posts for Clear Height up to 12'.
- Minimum foundation depth is 4.0' for 3 lb/ft posts and 4.5' for 4 lb/ft posts.
- For both 3 lb/ft and 4 lb/ft base or sign posts installed in rock, a minimum cumulative depth of 2' of rock layer is required.
- The soil plate as shown on the APL vendor drawing is not required for base posts or sign posts installed in existing rock (as defined in Note 3), asphalt roadway, shoulder pavement or soil under sidewalk.
- For diamond warning signs with supplement plaque (up to 5 ft² in area), use 4 lb/ft posts for up to 10 ft Clear Height (measure to the bottom of diamond warning sign).

WORK ZONE SIGN SUPPORTS

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NOTES:

1. The size of diamond shaped Temporary Traffic Control (TTC) warning signs shall be a minimum of 48" X 48".
 2. Fluorescent orange shall be used for all orange colored work zone signs.
 3. The sign shields, symbols and messages contained on this sheet are provided for ready reference to those signs used in the development of the 102 Series of Indexes and are commonly used in the development of traffic control plans. For additional signs and sign detail information refer to the STANDARD HIGHWAY SIGNS MANUAL as specified in the MUTCD. Special signs for traffic control plans will be as approved by the State Traffic Plans Engineer.
- The sign codes shown on this sheet are for the purpose of identifying cell names found in the Traffic Control Cell Library (TCZ.Cel).
- The STANDARD HIGHWAY SIGNS MANUAL should be referenced for the official sign codes for use in the development of traffic control plans.
- See Index 700-102 for MOT sign details.

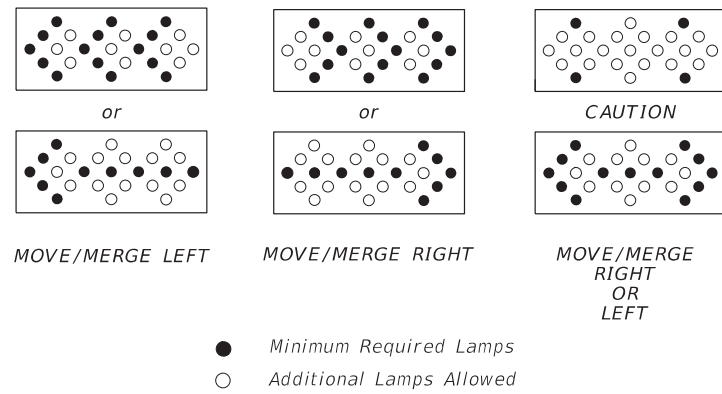
COLOR CODES:

- Legend and/or Symbol Background
- R-Red (Reflectorized)
 - Y-Yellow (Reflectorized)
 - G-Green (Reflectorized)
 - O-Orange (Reflectorized)
 - B-Black (Non-Reflectorized)
 - W-White (Reflectorized)

COMMONLY USED WARNING AND REGULATORY SIGNS IN WORK ZONES

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MODES

NOTES:

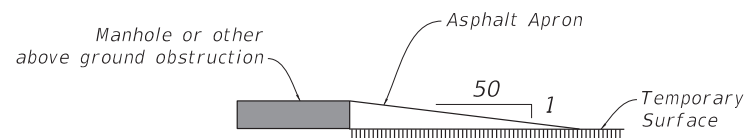
An arrow board in the arrow or chevron mode shall be used only for stationary or moving lane closures on multilane roadways.

For shoulder work, blocking the shoulder, for roadside work near the shoulder, or for temporarily closing one lane on a two-lane, two-way roadway, an arrow board shall be used only in the caution mode.

A single arrow board shall not be used to merge traffic laterally more than one lane. When arrow boards are used to close multiple lanes, a single board shall be used at the merging taper for each closed lane.

When Advance Warning Arrow Boards are used at night, the intensity of the flashers shall be reduced during darkness when lower intensities are desirable.

ADVANCE WARNING ARROW BOARDS



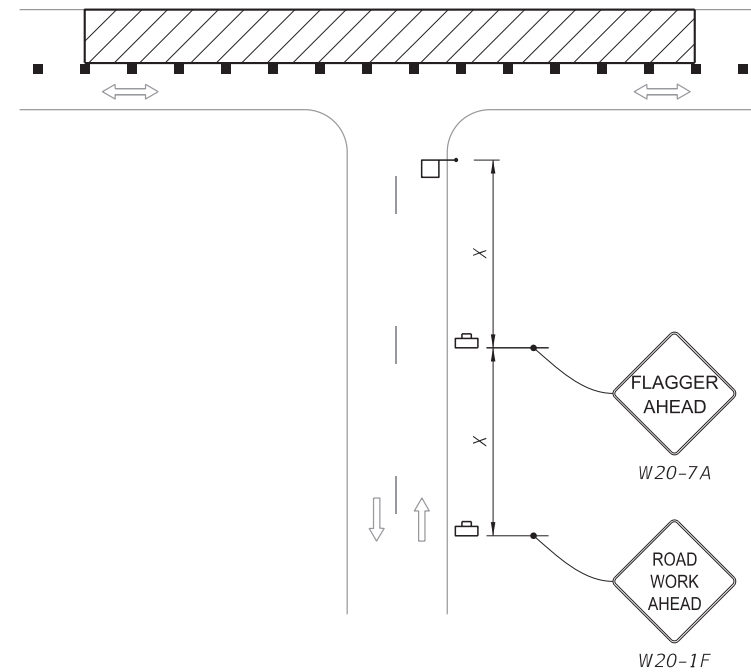
NOTES:

Manholes extending 1" or more above the travel lane and crosswalks having an uneven surface greater than 1/4" shall have a temporary asphalt apron constructed as shown above.

All transverse joints that have a difference in elevation of 1" or more shall have a temporary asphalt apron constructed as shown above.

The apron is to be removed prior to constructing the next lift of asphalt. The cost of the temporary asphalt shall be included in the contract unit price for Maintenance of Traffic, LS.

MANHOLES/CROSSWALKS/JOINTS



NOTE:

Optionally, use "Flagger Ahead" sign with text (W20-7A) instead of "Flagger Ahead" sign with symbol (W20-7).

SIDE ROAD INTERSECTING THE WORK ZONE

SIGNALS:

Existing traffic signal operations that require modification in order to carry out work zone traffic control shall be included in the Plans and be approved by the District Traffic Operations Engineer.

Refer to Specification 102-9 for additional information.

CHANNELIZING DEVICES:

Channelizing devices for work zone traffic control shall be as prescribed in Part VI of the MUTCD, subject to supplemental revisions provided in the contract documents and the 102 Series of Indexes. Lighting Devices must not be used to supplement channelization. Omit tapers and channelizing devices for paved shoulders less than 4' in width.

CHANNELIZING DEVICE CONSISTENCY:

Barricades, vertical panels, cones, tubular markers and drums shall not be intermixed within either the lateral transition or within the tangent alignment.

TRUCK/TRAILER-MOUNTED ATTENUATORS:

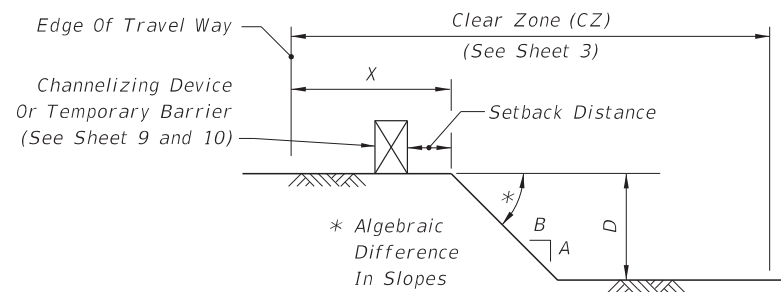
Truck/Trailer-mounted attenuators (TMA) can be used for moving operations and short-term stationary operations. For moving operations, see Index 102-607. For short-term, stationary operations, see Part VI of the MUTCD.

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DROP-OFF CONDITION NOTES

1. These conditions and treatments can be applied only in work areas that fall within a properly signed work zone.
2. When drop-offs occur within the clear zone due to construction or maintenance activities, protection devices are required (See Table 8). A drop-off is defined as a drop in elevation, parallel to the adjacent travel lanes, greater than 3" with slope (A:B) steeper than 1:4. In superelevated sections, the algebraic difference in slopes should not exceed 0.25 (See Drop-off Condition Detail).
3. Drop-offs may be mitigated by placement of slopes with optional base material per Specifications Section 285. Slopes shallower than 1:4 may be required to avoid algebraic difference in slopes greater than 0.25. Include the cost for the placement and removal of the material in Maintenance of Traffic, LS. Use of this treatment in lieu of a temporary barrier is not eligible for CSIP consideration. Conduct daily inspections for deficiencies related to erosion, excessive slopes, rutting or other adverse conditions. Repair any deficiencies immediately.
4. For Setback Distance, refer to the Index or Approved Products List (APL) drawing of the selected barrier.
5. For Conditions 1 and 3 provided in Table 8, any drop-off condition that is created and restored within the same work period will not be subject to use of temporary barriers; however, channelizing devices will be required.
6. When permanent curb heights are $\geq 6"$, no channelizing device will be required. For curb heights $< 6"$, see Table 8.



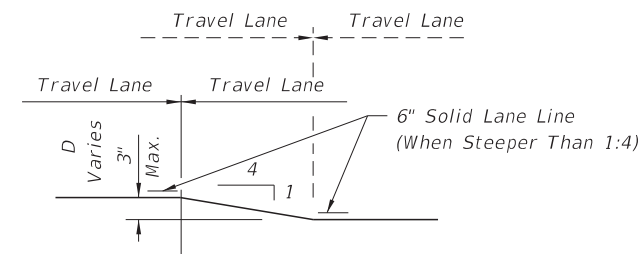
DROP-OFF CONDITION DETAIL

**Table 8
Drop-off Protection Requirements**

Condition	X (ft)	D (in.)	Device Required
1	0-12	> 3	Temporary Barrier
2	> 12-CZ	> 3 to ≤ 5	Channelizing Device
3	0-CZ	> 5	Temporary Barrier
4	Removal of Bridge or Retaining Wall Barrier		Temporary Barrier
5	Removal of portions of Bridge Deck		Temporary Barrier

TRAVEL LANE TREATMENT FOR MILLING OR RESURFACING NOTES

1. This treatment applies to resurfacing or milling operations between adjacent travel lanes.
2. Whenever there is a difference in elevation between adjacent travel lanes, the W8-11 sign with "UNEVEN LANES" is required at intervals of 1/2 mile maximum.
3. If D is 1 1/2" or less, no treatment is required.
4. Treatment allowed only when D is 3" or less.
5. If the slope is steeper than 1:4 (not to be steeper than 1:1), the R4-1 and MOT-1-06 signs shall be used as a supplement to the W8-11; this condition should never exceed 3 miles in length.



TRAVEL LANE TREATMENT FOR MILLING OR RESURFACING DETAIL

PEDESTRIAN WAY DROP-OFF CONDITION NOTES

1. A pedestrian way drop-off is defined as:
 - a. a drop in elevation greater than 10" that is closer than 2' from the edge of the pedestrian way
 - b. a slope steeper than 1:2 that begins closer than 2' from the edge of the pedestrian way when the total drop-off is greater than 60"
2. Protect any drop-off adjacent to a pedestrian way with pedestrian longitudinal channelizing devices, temporary barrier wall, or approved handrail.

DROP-OFFS IN WORK ZONES

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LAST REVISION
11/01/20

REVISION DESCRIPTION:

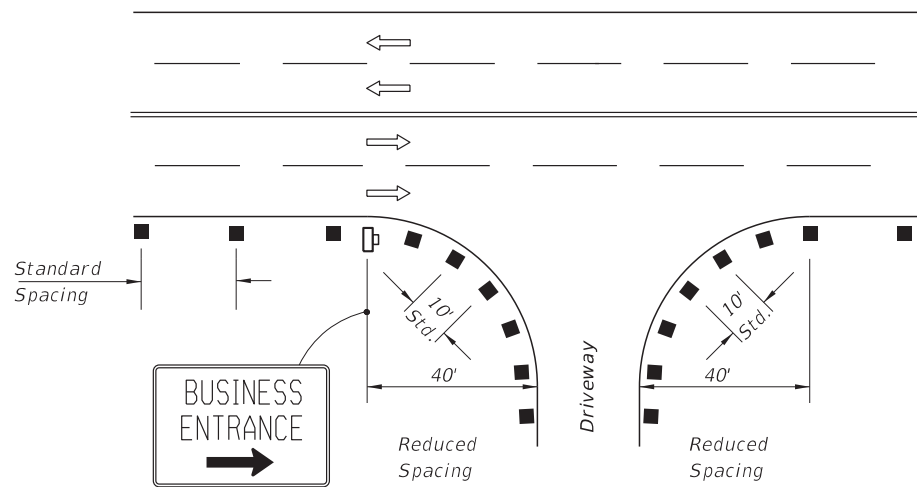


FY 2023-24
STANDARD PLANS

GENERAL INFORMATION FOR TRAFFIC CONTROL THROUGH WORK ZONES

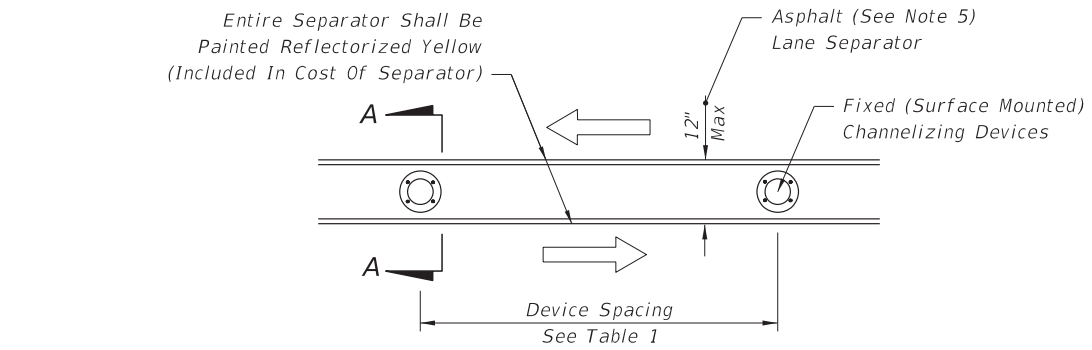
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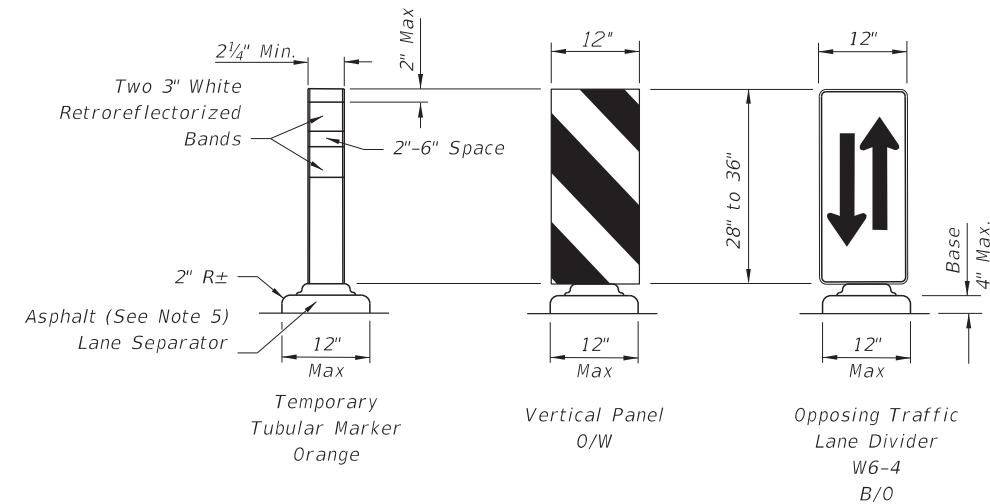


1. For single business entrances, place one 24" x 36" business sign for each driveway entrance affected. Signs shall show specific business names. Logos may be provided by business owners. Standard BUSINESS ENTRANCE sign in Index 700-102 may be used when approved by the Engineer.
2. When several businesses share a common driveway entrance, place one 24" x 36" standard BUSINESS ENTRANCE sign in accordance with Index 700-102 at the common driveway entrance.
3. Channelizing devices shall be placed at a reduced spacing on each side of the driveway entrance, but shall not restrict sight distance for the driveway users.
4. Business entrance signs are intended to guide motorist to business entrances moved/modified or disturbed during construction projects. Business entrance signs are not required where there is minimal disruption to business driveways which is often the case with resurfacing type projects.

PLACEMENT OF BUSINESS ENTRANCE SIGNS AND CHANNELIZING DEVICES AT BUSINESS ENTRANCE



PLAN




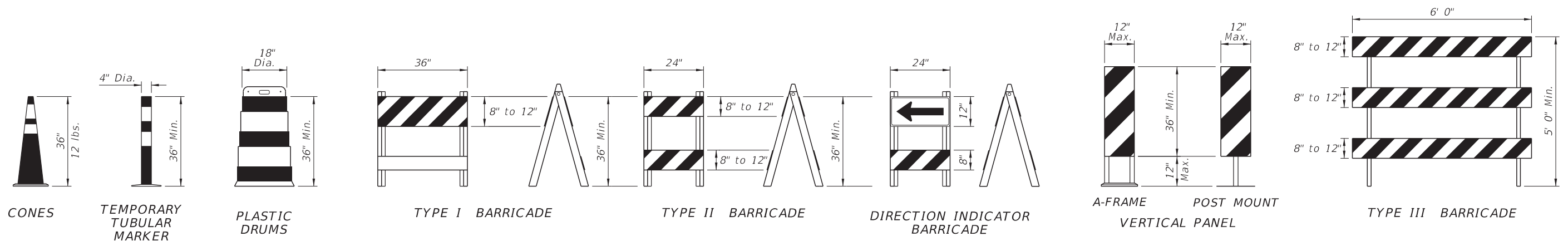
FIXED (SURFACE MOUNTED)
CHANNELIZING DEVICES
SECTION A-A

1. Temporary lane separators shall be supplemented with any of the following approved fixed (surface mounted) channelizing devices: temporary tubular markers, vertical panels, or opposing traffic lane divider panels. Opposing traffic lane divider panels (W6-4) shall only be used as center lane dividers to separate opposing vehicular traffic on a two-lane, two-way operation. Temporary Tubular Markers, Vertical Panels and Opposing Traffic Lane Divider panels shall not be intermixed within the limits where the temporary lane separator is used. The connection between the channelizing device and the temporary lane separator curb shall hold the channelizing device in a vertical position.
2. Reflectorized materials shall have a smooth sealed outer surface which will display the same approximate color day and night. Furnish channelizing devices having retroreflective sheeting meeting the requirements of Section 990.
3. 12" openings for drainage shall be constructed in the asphalt and portable temporary lane separator at a maximum spacing of 25' in areas with grades of 1% or less or 50' in areas with grades over 1% as directed by the Engineer.
4. Tapered ends shall be used at the beginning and end of each run of the temporary lane separator to form a gradual increase in height from the pavement level to the top of the temporary lane separator.
5. The Contractor has the option of using portable temporary lane separators containing fixed channelizing devices in lieu of the temporary asphalt separator and channelizing devices detailed on this sheet. The portable temporary lane separator shall come in portable sections that can be connected to maintain continuous alignment between the separate curb sections. Each temporary lane separator section shall be 36 inches to 48 inches in total length. Portable temporary lane separators shall duplicate the color of the pavement marking. Portable temporary lane separators shall be one of those listed on the Approved Products List.

TEMPORARY LANE SEPARATOR

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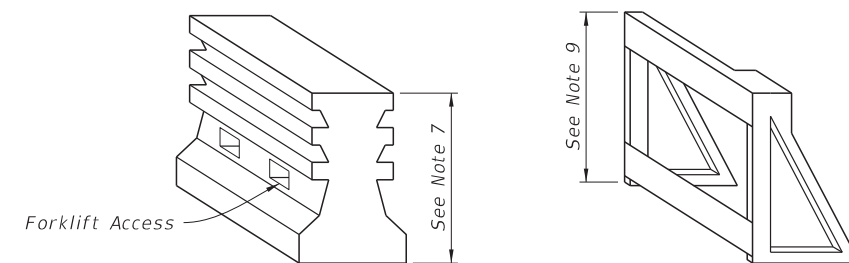
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CHANNELIZING DEVICES

CHANNELIZING DEVICE NOTES:

- The details shown on this sheet are for the following purposes:
 - For ease of identification and
 - To provide information that supplements or supersedes that provided by the MUTCD.
- The Type III Barricade shall have a unit length of 6'-0" only. When barricades of greater lengths are required those lengths shall be in multiples of the 6'-0" unit.
- No sign panel should be mounted on any channelizing device unless the channelizing device/sign combination was found to be crashworthy and the sign panel is mounted in accordance with the vendor drawing for the channelizing device shown on the Approved Products List (APL).
- Ballast shall not be placed on top rails or any striped rails or higher than 13" above the driving surface.
- The direction indicator barricade may be used in tapers and transitions where specific directional guidance to drivers is necessary. If used, direction indicator barricades shall be used in series to direct the driver through the transition and into the intended travel lane.
- The splicing of sheeting is not permitted on channelizing devices or MOT signs.
- For rails less than 3'-0" long, 4" stripes shall be used.
- Cones shall:
 - Be used only in active work zones where workers are present.
 - Be reflectorized as per the MUTCD with Department-approved reflective collars when used at night.
- For pedestrian longitudinal channelizing devices, the device shall have a minimum of 8" continuous detectable edging above the walkway. A gap not exceeding a height of 2" is allowed to facilitate drainage. The top surface of the device shall be a minimum height of 32" and have a 1/8" or less difference in any plane at all connection points between the devices to facilitate hand trailing. The bottom and the top surface of the device shall be in the same vertical plane. If pedestrian drop-off protection is required, the device shall have a footprint or offset of at least 2', otherwise the device must be at least 42" in height above the walkway and be anchored or ballasted to withstand a 200 lb lateral point load at the top of the device.



PEDESTRIAN LONGITUDINAL CHANNELIZING DEVICES

TEMPORARY BARRIER NOTES:

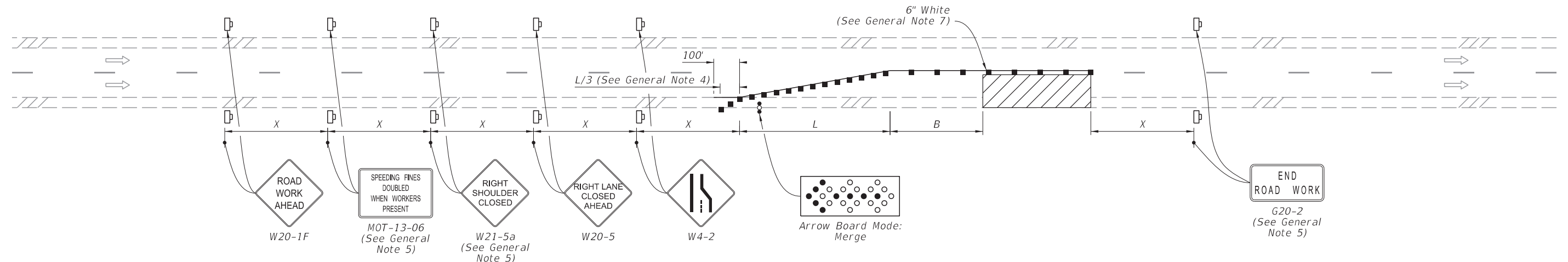
- Where a barrier is specified, any of the types below may be used in accordance with the applicable Index:

Index	Description
102-100	Temporary Barrier
102-120	Low Profile Barrier
536-001	Guardrail

- Trailer Mounted Barriers may be used to provide positive protection for workers within the work areas. APL drawings may be used as a guide to develop project specific Temporary Traffic Control Plans that are signed and sealed by the Contractor's Engineer.

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SINGLE LANE CLOSURE

SYMBOLS:

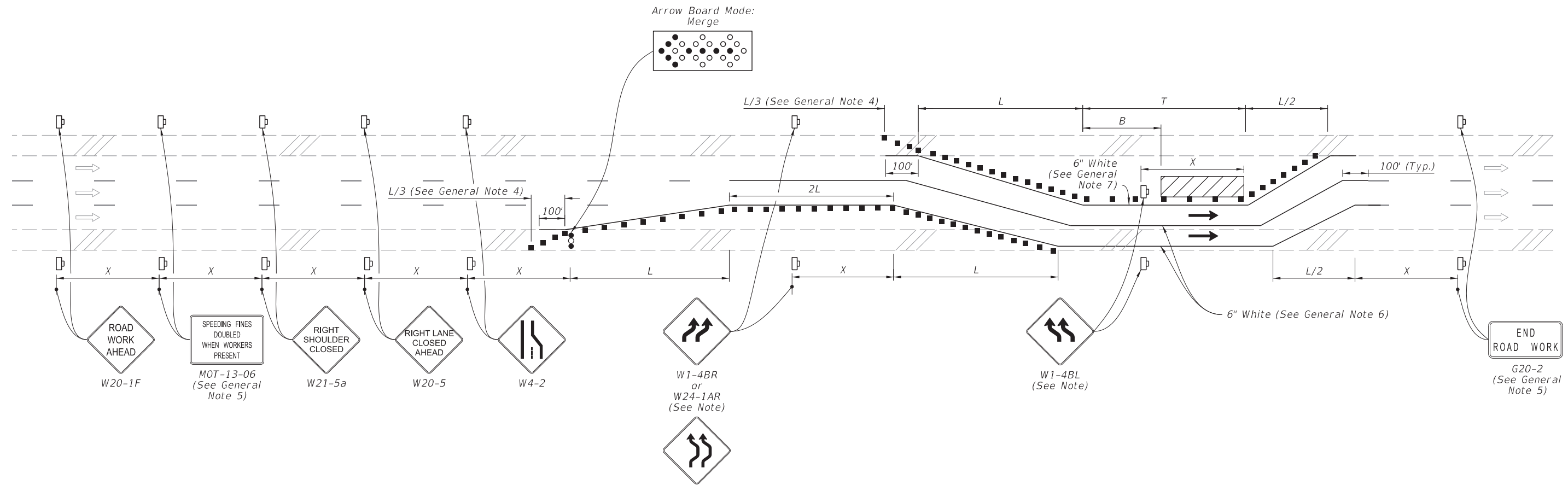
- Work Area
- Channelizing Device (See Index 102-600)
- Work Zone Sign
- Arrow Board
- Lane Identification and Direction of Traffic

GENERAL NOTE:

1. L = Taper Length
B = Buffer Length
X = Work Zone Sign Distance
See Index 102-600 for "L", "B", "X", and channelizing device spacing values.
2. On undivided highways the median signs as shown are to be omitted.
3. On limited access facilities, omit "Right Shoulder Closed" signs (W21-5a) and associated work zone sign spacing distances.
4. If the paved shoulder is less than 4' in width, omit the taper and channelizing devices from the paved shoulder.
5. The "Speeding Fines Doubled When Workers Present" signs (MOT-13-06) and "End Road Work" signs (G20-2) and "Right Shoulder Closed" (W21-5a), along with associated work zone sign distances, may be omitted when the work operation will be in place for 24 hours or less. For Single Lane Closures, arrow boards and buffer (B) may also be omitted when the work operation will be in place for 60 minutes or less and the speed limit is 45 mph or less.
6. Use inverted plan of the illustrations for work on left side of roadways.
7. Temporary pavement markings may be omitted when the work operation is in place for 3 days or less.

2/2/2023 10:34:25 AM

LAST REVISION 11/01/21	REVISION	DESCRIPTION:	 FY 2023-24 STANDARD PLANS	MULTILANE ROADWAY, LANE CLOSURES	INDEX 102-613	SHEET 1 of 5
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LANE CLOSURE WITH LANE SHIFT

NOTE:

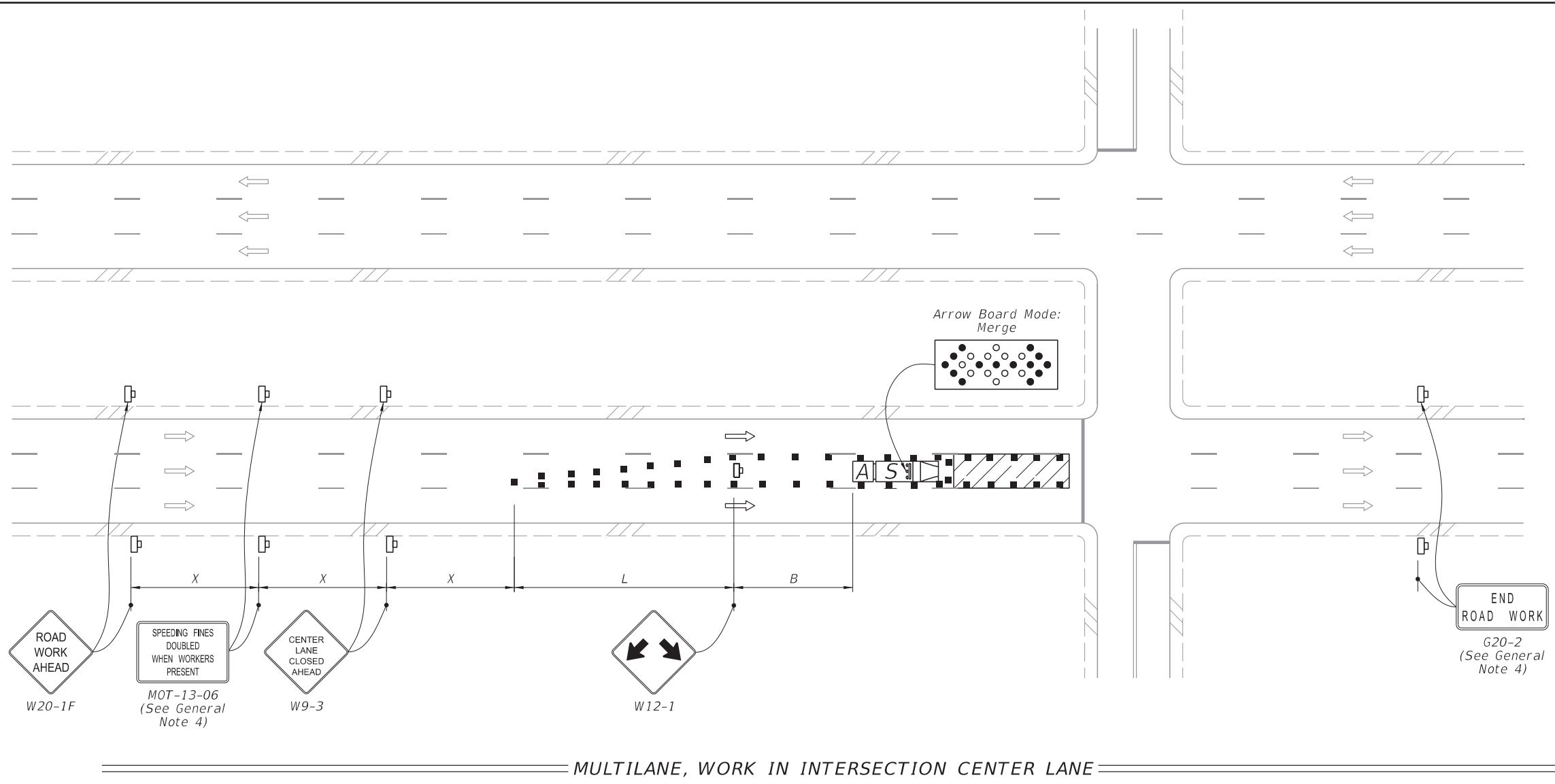
If the tangent distance "T" is less than 600', then use "Double Reverse Curve" signs (W24-1A) instead of the first pair of "Reverse Curve" signs (W1-4B) and omit the second pair of "Reverse Curve" signs.

SYMBOLS:

- Work Area
- Channelizing Device (See Index 102-600)
- Work Zone Sign
- Arrow Board
- Lane Identification and Direction of Traffic

2/2/2023 10:34:27 AM

LAST REVISION 11/01/20	REVISION	DESCRIPTION:	 FY 2023-24 STANDARD PLANS	MULTILANE ROADWAY, LANE CLOSURES	INDEX 102-613	SHEET 4 of 5
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NOTES:

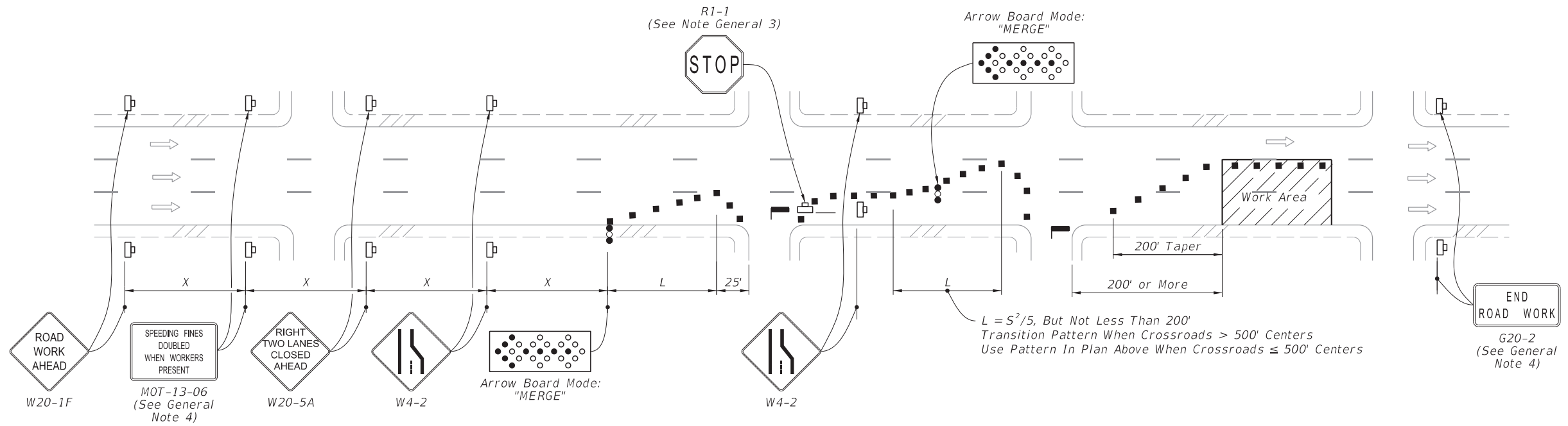
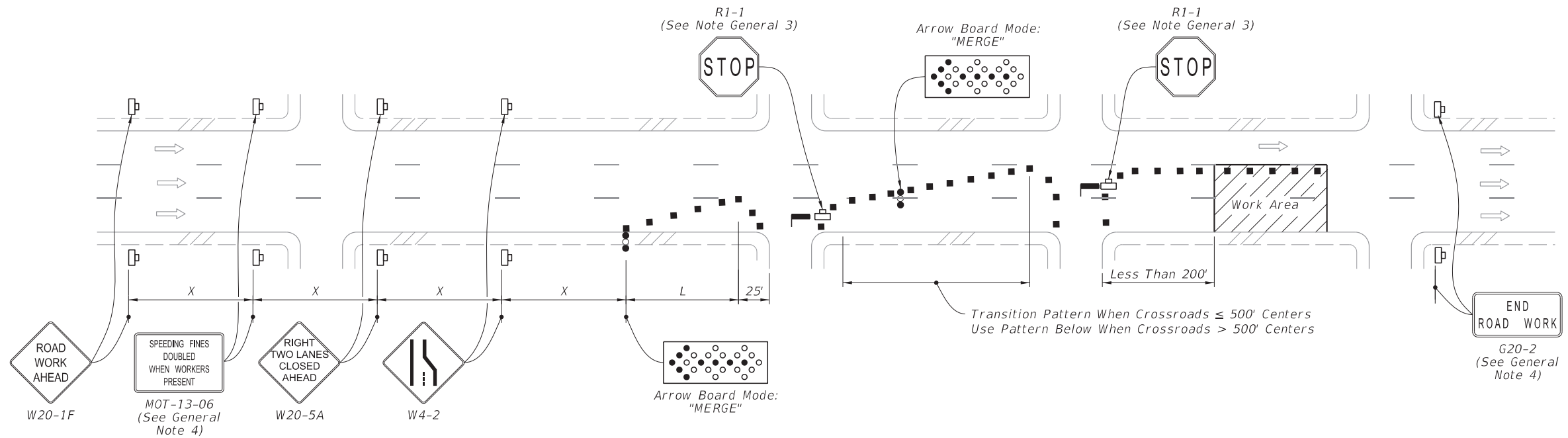
1. Confine work operations to one center travel lane and leave the adjacent travel lanes open to traffic.
2. Ensure that the merging taper only directs vehicular traffic into either the right or left lane.

SYMBOLS:

- Work Area
- Channelizing Device (See Index 102-600)
- Work Zone Sign
- Type III Barricade
- Arrow Board
- Stop Bar
- Shadow (S) Vehicle With Warning Lights And Arrow Board
- Truck/Trailer Mounted Attenuator (TMA)
- Lane Identification and Direction of Traffic

10/7/2022 2:45:57 PM

LAST REVISION 11/01/22	REVISION	DESCRIPTION:	 FY 2023-24 STANDARD PLANS	MULTILANE ROADWAY, INTERSECTION WORK	INDEX 102-615	SHEET 4 of 5
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SYMBOLS:

(See General Note 5)

- Work Area
- Channelizing Device (See Index 102-600)
- Work Zone Sign
- Arrow Board
- Stop Bar
- Lane Identification and Direction of Traffic





10/7/2022 2:45:59 PM

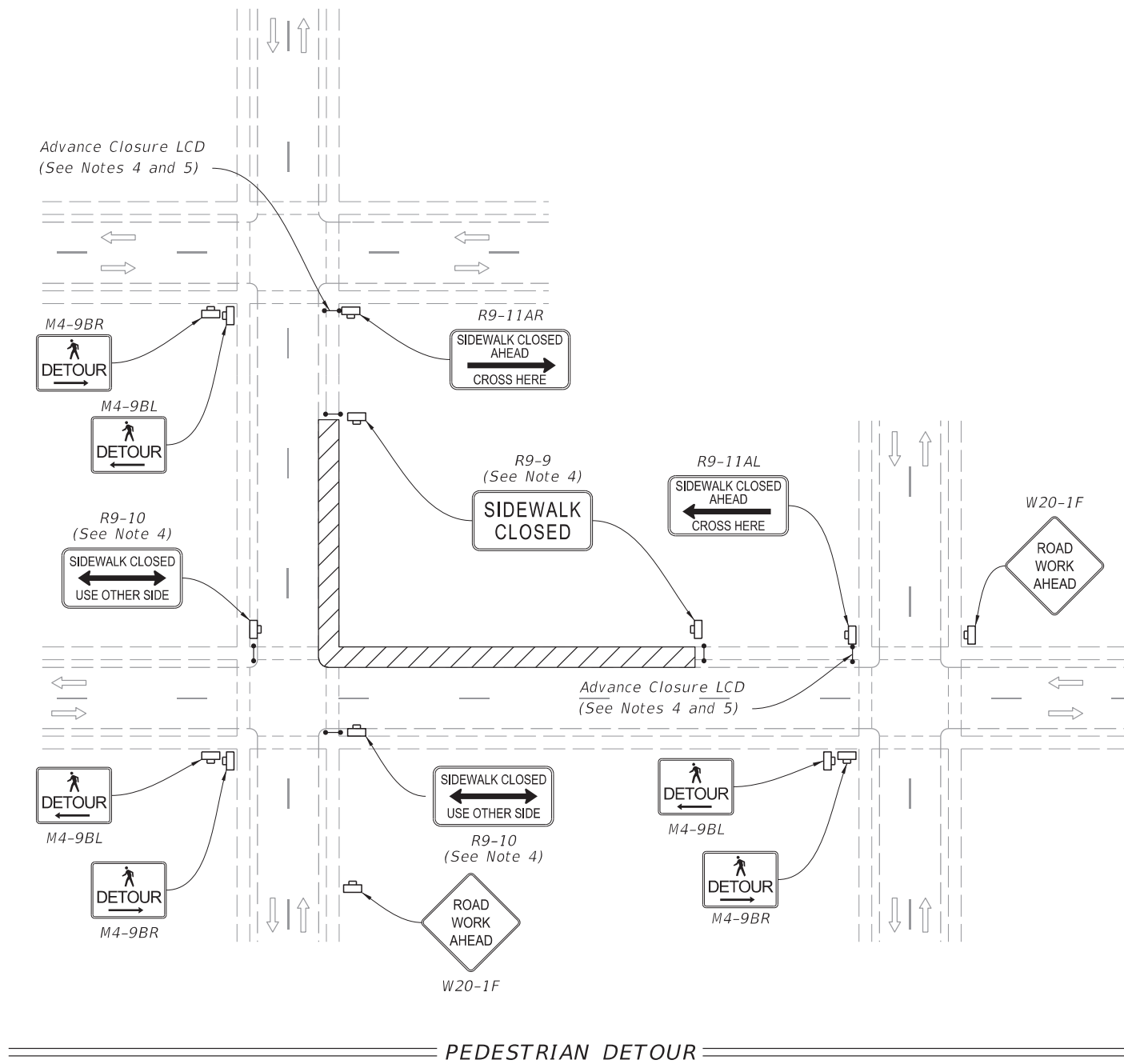
LAST REVISION 11/01/22	REVISION	DESCRIPTION:	 FY 2023-24 STANDARD PLANS	MULTILANE ROADWAY, INTERSECTION WORK	INDEX 102-615	SHEET 5 of 5
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NOTES:


1. Cover or deactivate pedestrian traffic signal display(s) controlling closed crosswalks.
2. Place pedestrian LCDs across the full width of the closed sidewalk.
3. For post mounted signs located near or adjacent to a sidewalk, maintain a minimum 7' clearance from the bottom of the sign panel to the surface of the sidewalk.
4. "Sidewalk Closed" signs (R9-XX) may be mounted on pedestrian LCDs in accordance with the manufacturer's instructions.
5. Omit the Advance Closure LCD if it blocks access to other pedestrian facilities (e.g., transit stops, residences, or business entrances).

SYMBOLS:

-  Work Area
-  Work Zone Sign
-  Pedestrian Longitudinal Channelizing Device (LCD)
-  Lane Identification and Direction of Traffic











10/6/2022 1:28:35 PM

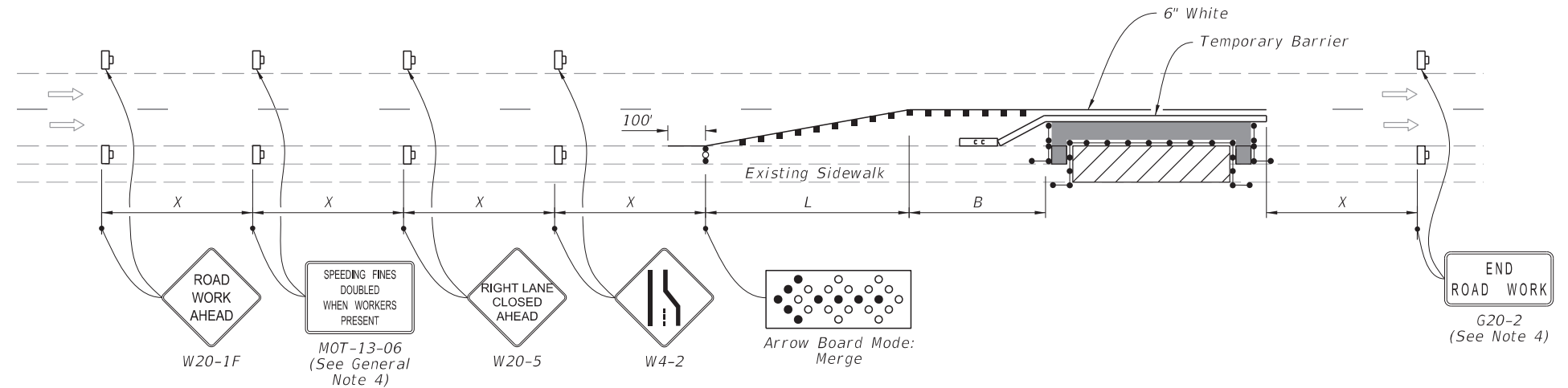
LAST REVISION 11/01/20	DESCRIPTION:	 FY 2023-24 STANDARD PLANS	SIDEWALK CLOSURE	INDEX 102-660	SHEET 1 of 2
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NOTES:

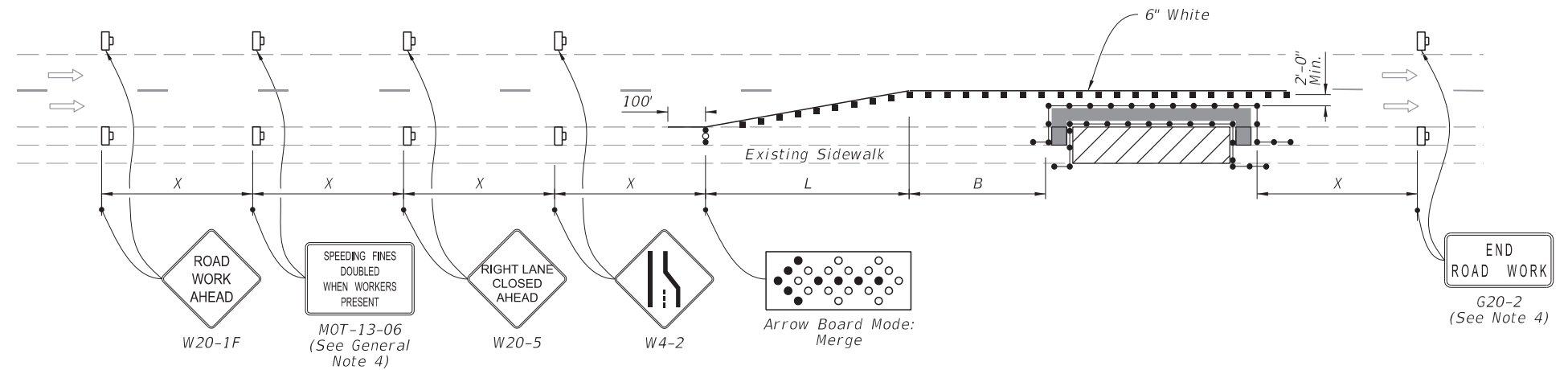
1. L = Taper Length
B = Buffer Length
X = Work Zone Sign Distance
See Index 102-600 for "L", "B", "X", channelizing device spacing values.
2. Provide a 5' wide temporary pedestrian way with a maximum cross-slope of 0.02, except where space restrictions warrant a minimum width of 4'. Provide a 5' x 5' passing space for temporary pedestrian ways less than 5' in width at intervals not to exceed 200'.
3. When temporary pedestrian ways require curb ramps, meet the requirements of Index 522-002. Detectable warnings are not required for curb ramps diverting pedestrian traffic into a closed lane.
4. The "Speeding Fines Doubled When Workers Present" signs (MOT-13-06) and "End Road Work" signs (G20-2), along with associated work zone sign distances, may be omitted when the work operation will be in place for 24 hours or less.
5. Pedestrian Diversion Option 2 may only be used when called for in the Plans or as approved by an Engineer.

SYMBOLS:

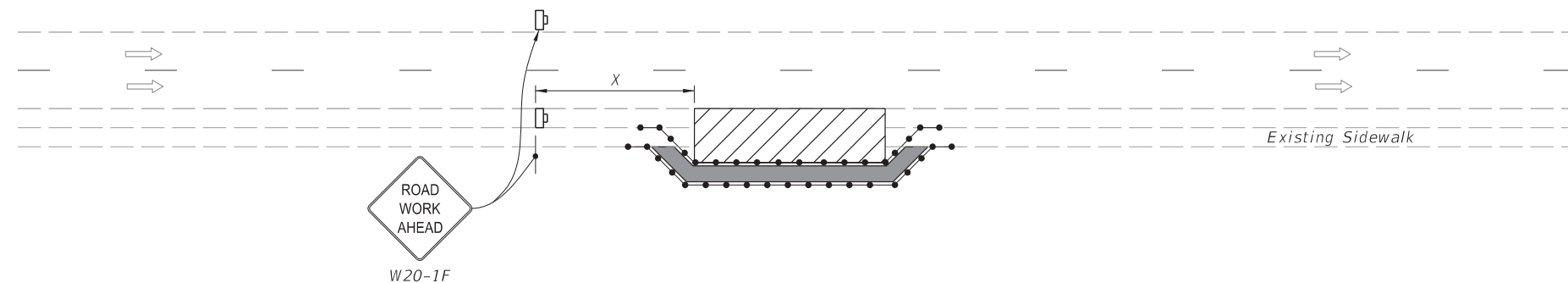
-  Work Area
-  Temporary Pedestrian Way
-  Channelizing Device (See Index 102-600)
-  Pedestrian Longitudinal Channelizing Device (LCD)
-  Work Zone Sign
-  Arrow Board
-  Crash Cushion
-  Lane Identification and Direction of Traffic



PEDESTRIAN DIVERSION - OPTION 1
(Temporary Barrier Shown, Low Profile Barrier Similar)




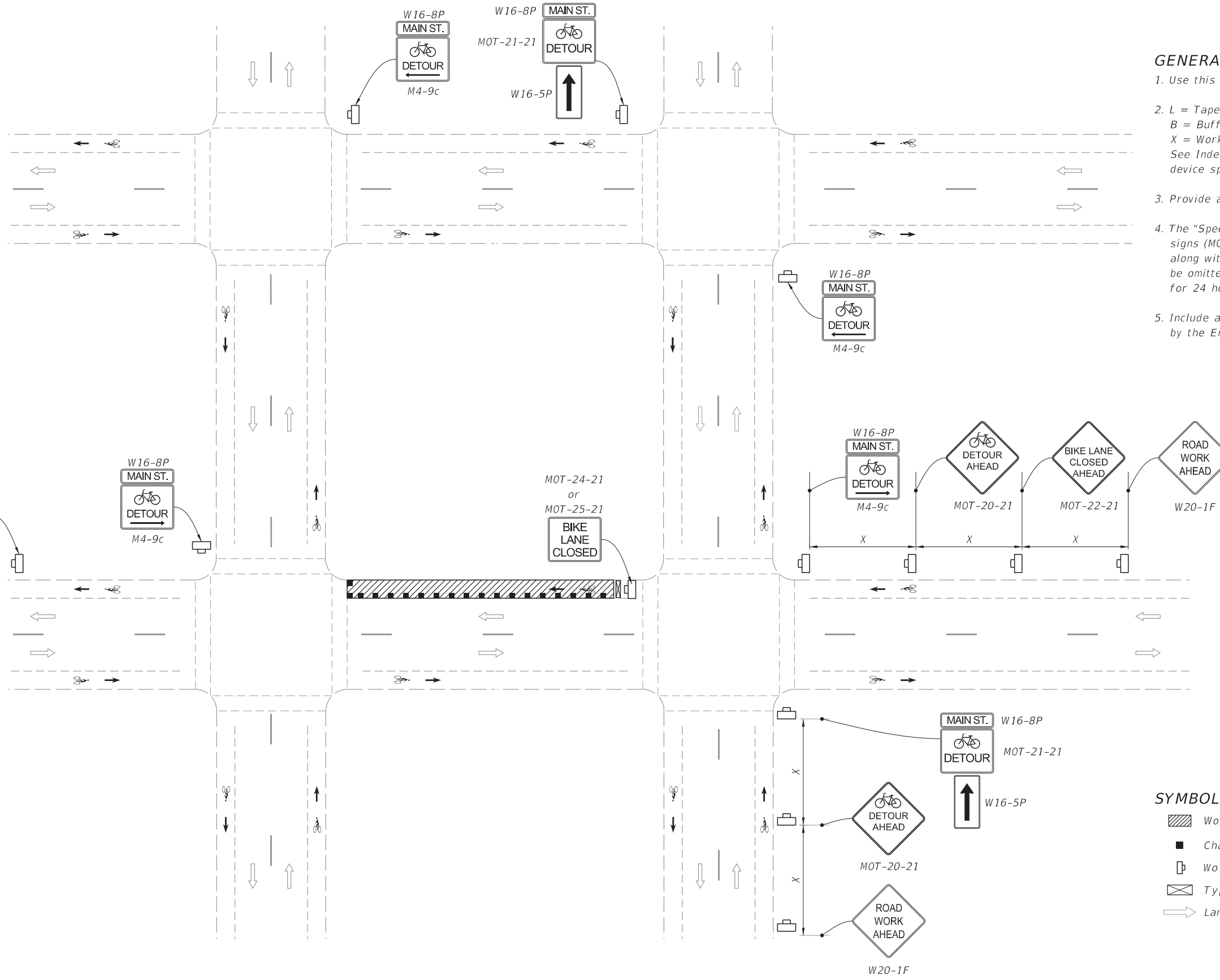
PEDESTRIAN DIVERSION - OPTION 2
(Work Zone Speed 35 mph or Less)



PEDESTRIAN SPECIAL DETOUR

10/19/10 AM
2/21/2023

LAST REVISION 11/01/21	REVISION	DESCRIPTION:	 FY 2023-24 STANDARD PLANS	SIDEWALK CLOSURE	INDEX 102-660	SHEET 2 of 2
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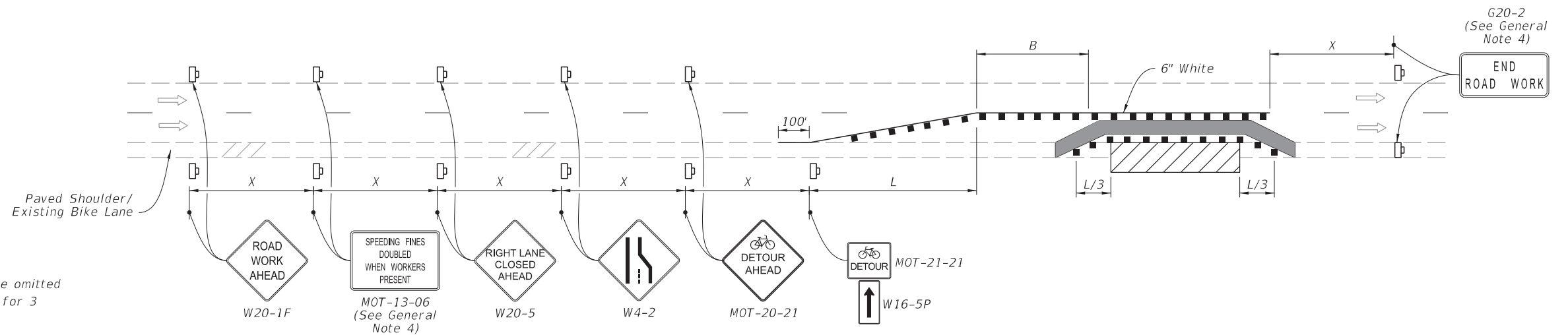
- GENERAL NOTES:**
1. Use this Index only when called for in the Plans.
 2. L = Taper Length
B = Buffer Length
X = Work Zone Sign Distance
See Index 102-600 for "L", "B", "X", channelizing device spacing values.
 3. Provide a minimum 5'-0" wide bicycle path.
 4. The "Speeding Fines Doubled When Workers Present" signs (MOT-13-06) and "End Road Work" signs (G20-2), along with associated work zone sign distances, may be omitted when the work operation will be in place for 24 hours or less.
 5. Include additional signage at intersections as required by the Engineer or shown in the Plans.

- SYMBOLS:**
- Work Area
 - Channelizing Device (See Index 102-600)
 - Work Zone Sign
 - Type III Barricade
 - Lane Identification and Direction of Traffic

BICYCLE DETOUR

10/6/2022 1:29:00 PM

LAST REVISION 11/01/21	REVISION	DESCRIPTION:	 FY 2023-24 STANDARD PLANS	BICYCLE FACILITY CLOSURES	INDEX 102-661	SHEET 1 of 2
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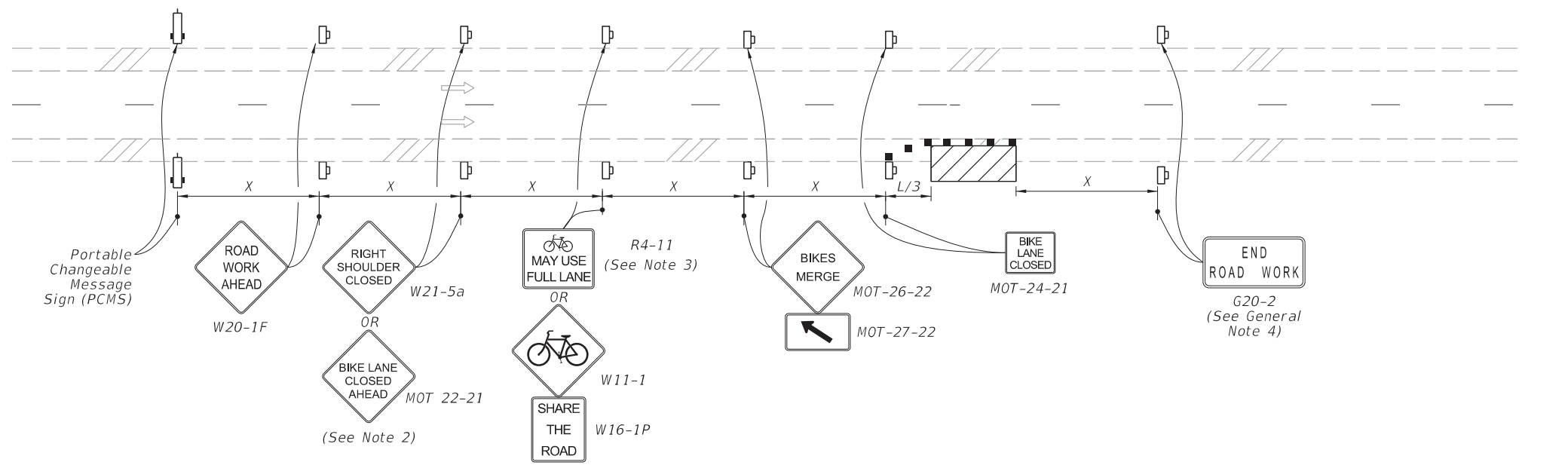
NOTES:

1. Temporary pavement markings may be omitted when the work operation is in place for 3 days or less.
2. If the Closed Bicycle Facility is a marked bicycle lane, use sign MOT 22-21 instead of sign W21-5a.
3. If the travel lane is less than 14' wide, use sign R4-11.

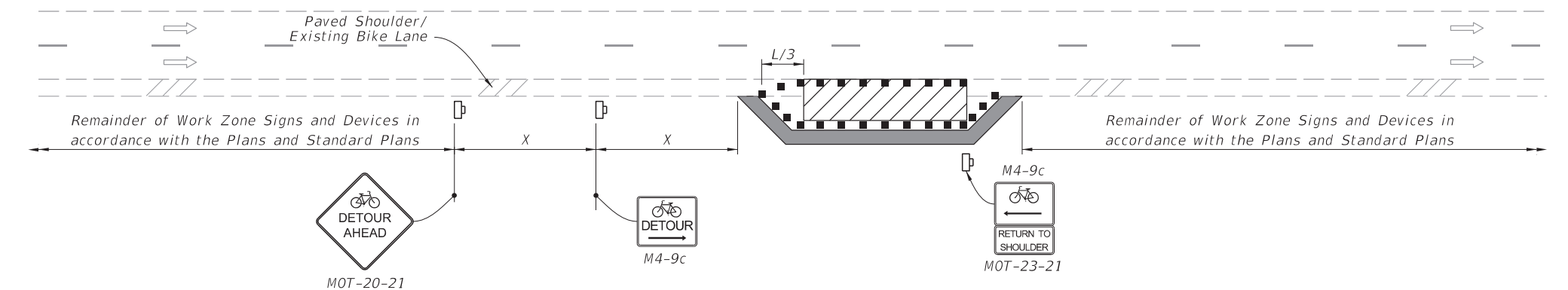
SYMBOLS:

- Work Area
- Temporary Bicycle Way
- Channelizing Device (See Index 102-600)
- Work Zone Sign
- Arrow Board
- Lane Identification and Direction of Traffic
- (1) PCMS=Portable Changeable (Variable) Message Sign

**BICYCLE FACILITY SHIFT
(With Lane Closure)**



**BICYCLE FACILITY SHIFT
(Work Zone Speed of 35 mph or Less)**



TYPICAL PCMS DISPLAY:

Message 1: BIKE FACILITY CLOSED
 Message 2: BICYCLES ON ROAD

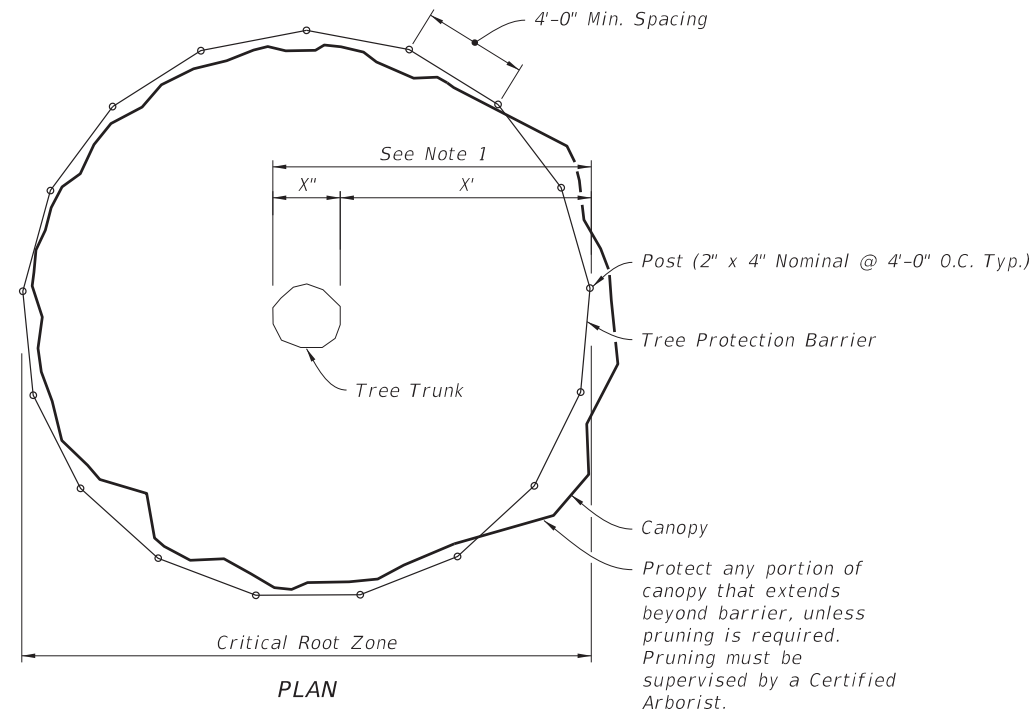
BICYCLE SPECIAL DETOUR

2/21/2023 11:05:19 AM

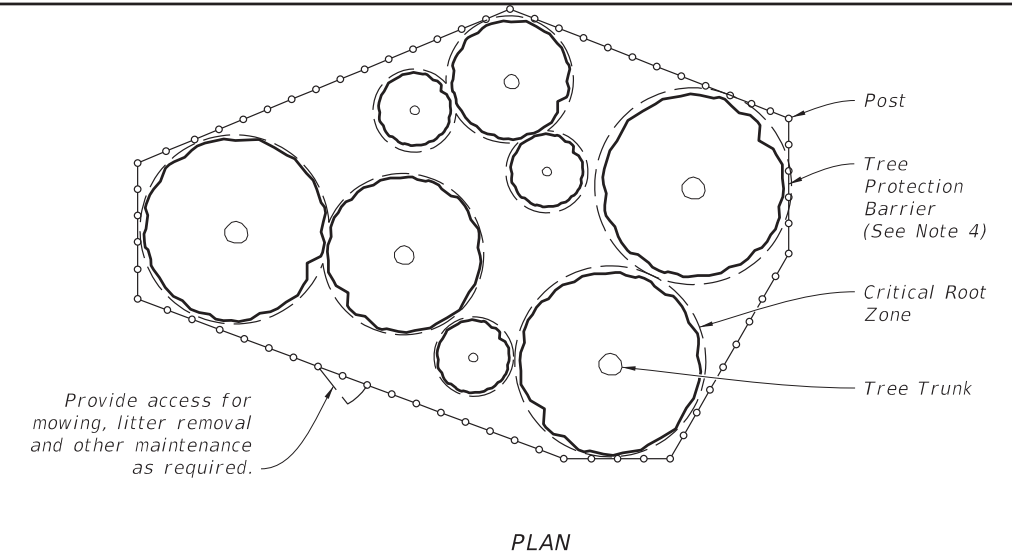
LAST REVISION 11/01/21	DESCRIPTION:	 FY 2023-24 STANDARD PLANS	BICYCLE FACILITY CLOSURES	INDEX 102-661	SHEET 2 of 2
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NOTES:

1. Critical Root Zone: Extends in all directions from trunk of tree to a distance equal to one foot per inch of trunk diameter at breast height.
2. Staging, storage, dumping, washing and operation of equipment is not permitted within the limits of the tree protection barrier, including during barrier installation.
3. Install all tree protection prior to commencement of construction and remove when directed by the Engineer. Maintain protection at all times.
4. For closely spaced groups of trees, place the tree protection barrier around the entire group.
5. Inspect trunk protection and tree quarterly to prevent girdling. Adjust bands to allow tree growth as needed.
6. See plans for any additional requirements or modifications within the tree protection area.
7. Place weather resistant sign every 50' along the barrier, with 6" minimum text height and provide text in English and Spanish. Sign should read "Keep Out Tree Protection Area".
8. Alternate tree protection systems approved by the Engineer may be used in lieu of the tree protection barrier detailed on this Index as long as the critical root zone is protected.
9. The Critical Root Zone may be reduced, in the field, by a certified Arborist or Landscape Architect.

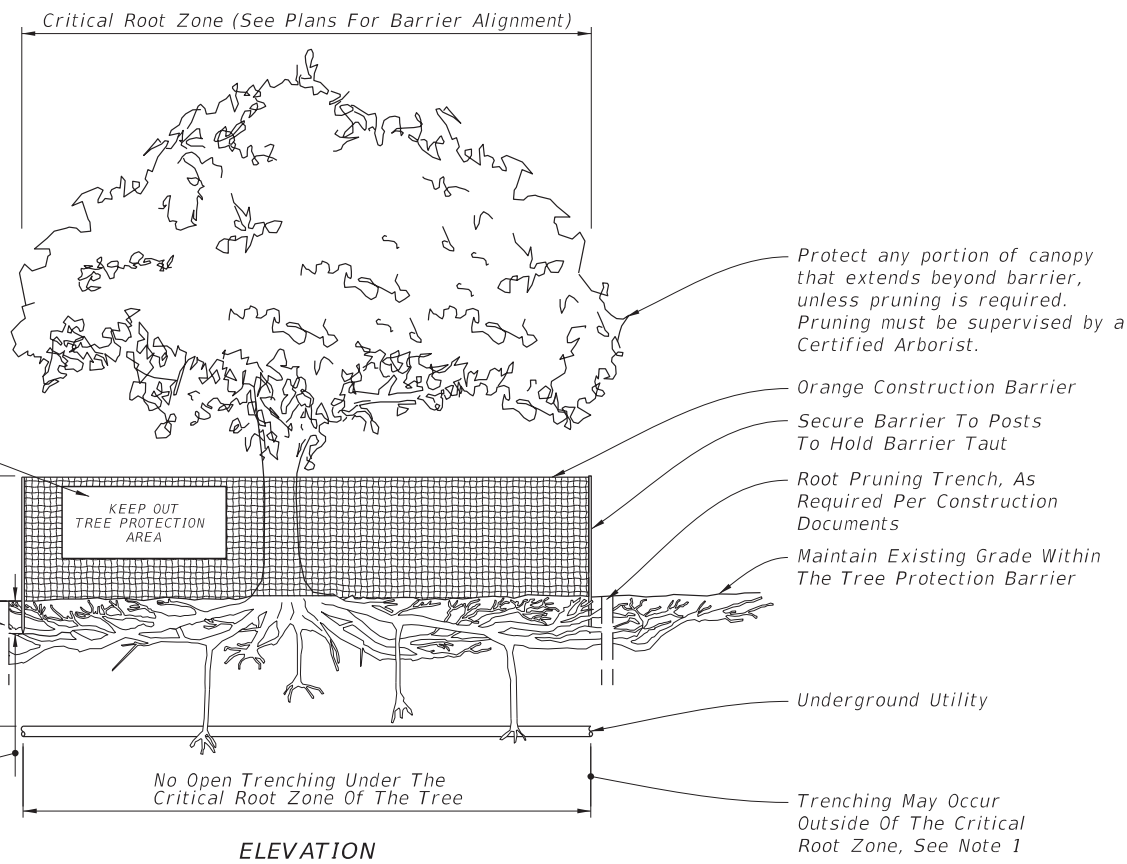


PLAN

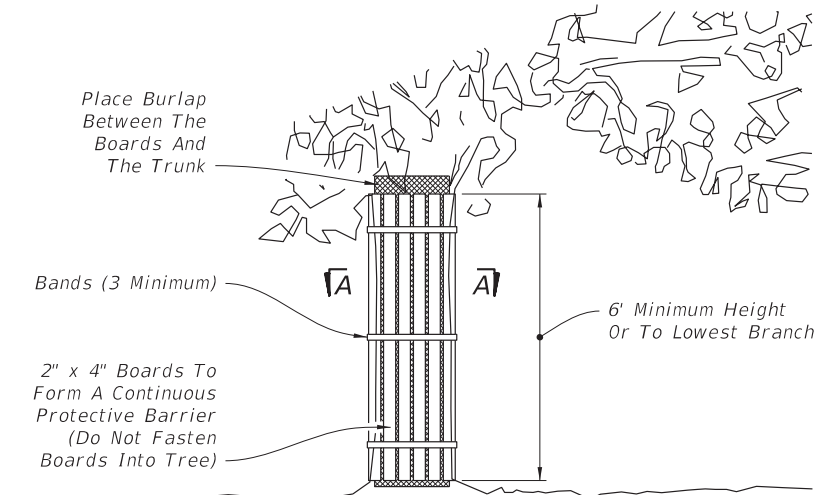


PLAN

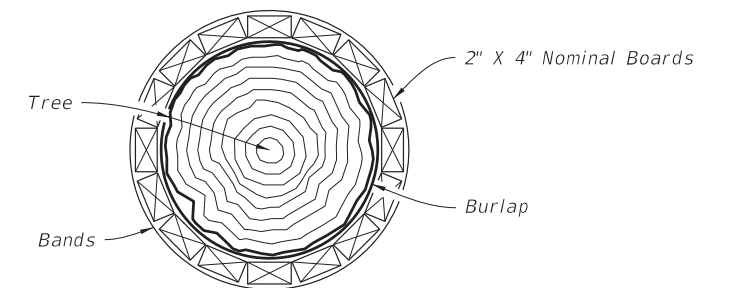
PROTECTION BARRIER FOR TREE GROUPINGS



ELEVATION



ELEVATION



SECTION A-A

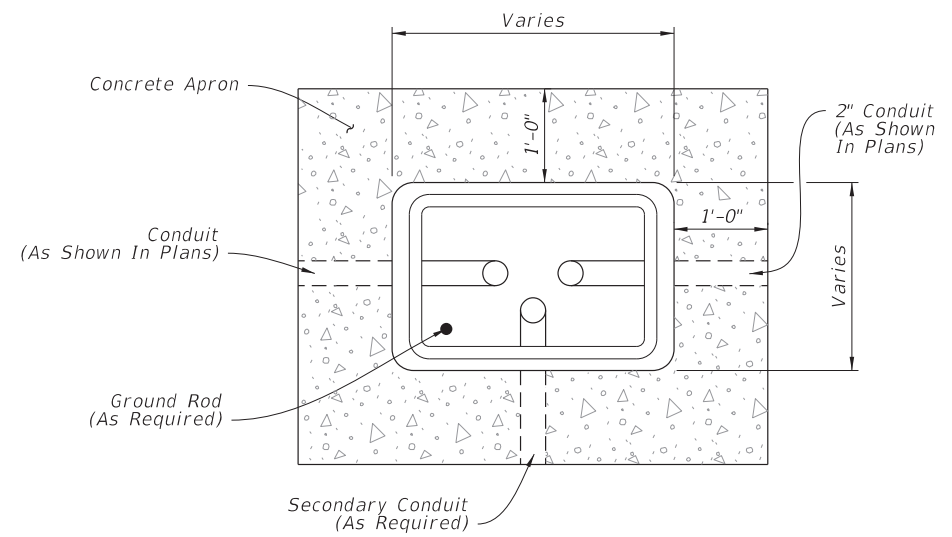
NOTES:

1. Trunk protection may be used when Tree Protection Barrier can not be reasonably erected, when approved by Engineer.
2. See Selective Clearing and Grubbing Plan for location of trunk protection, when applicable.
3. Adjust bands to allow tree growth (inspect quarterly to prevent girdling).

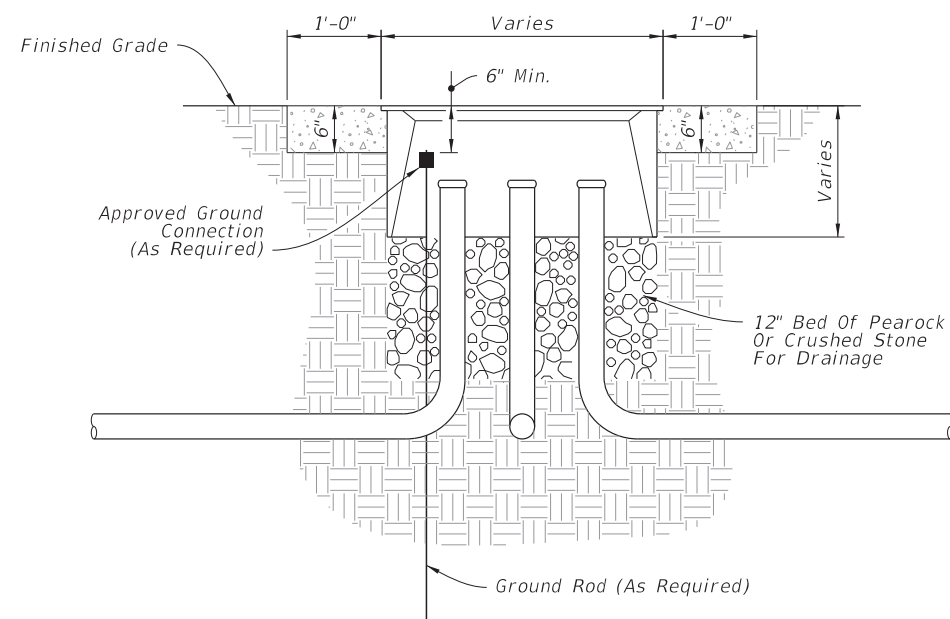
TRUNK PROTECTION

10/6/2022 1:29:54 PM

LAST REVISION 11/01/18	REVISION	DESCRIPTION:		FY 2023-24 STANDARD PLANS	TREE PROTECTION AND PRESERVATION	INDEX 110-100	SHEET 1 of 1
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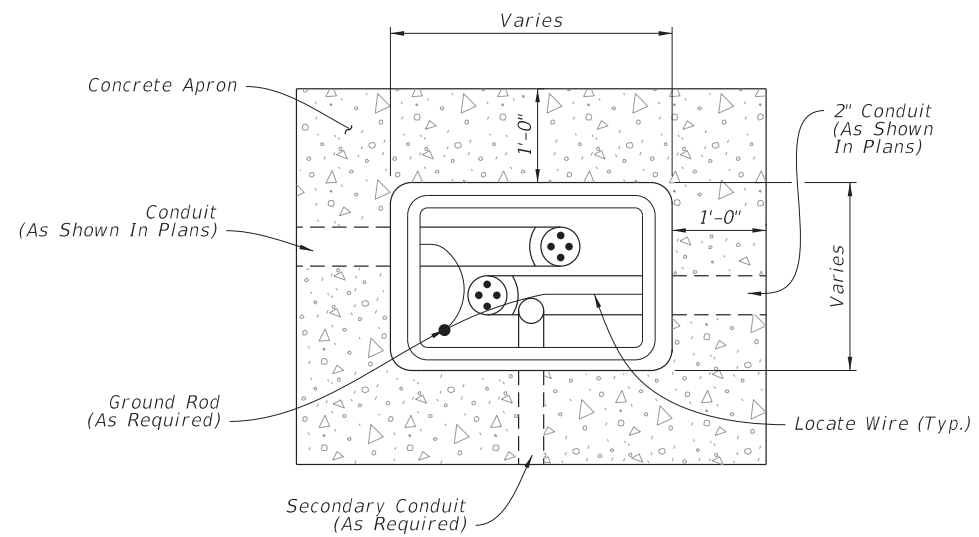


PLAN

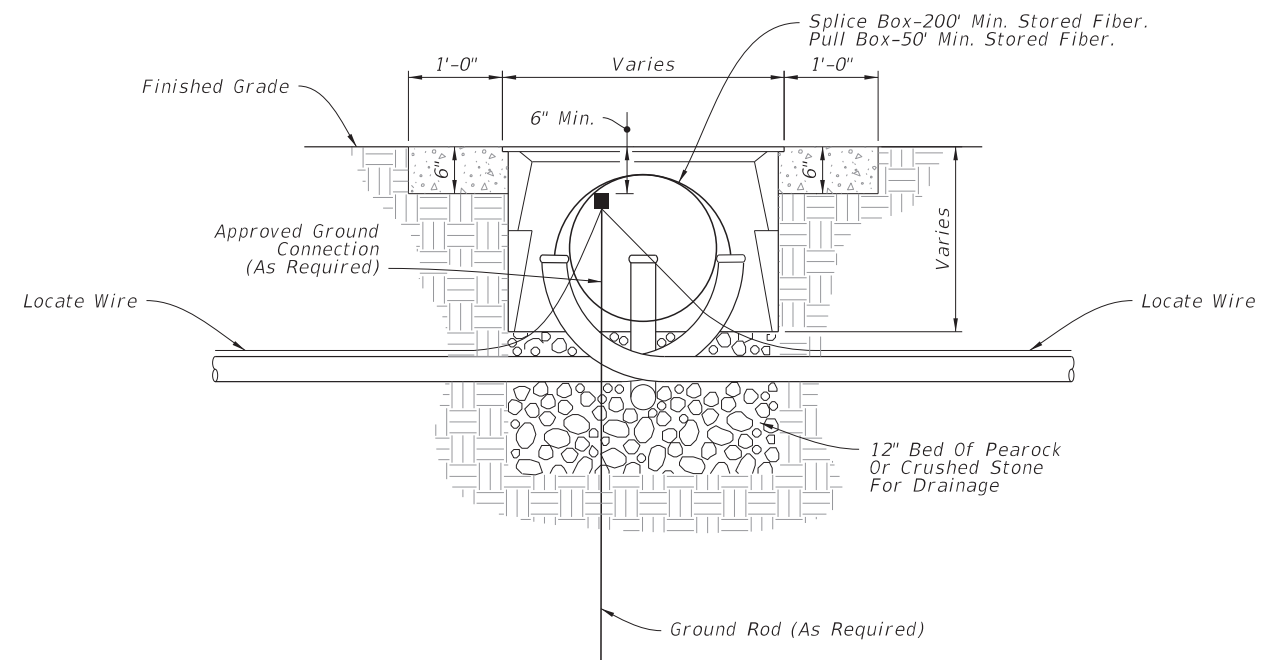


ELEVATION

PULL BOX



PLAN



ELEVATION

FIBER OPTIC BOX

NOTES:

1. Provide fiber optic splice boxes with cable hanger racks designed to support cables and splice enclosures.
2. Install a 1'-0" wide (Min.) concrete apron around all boxes using Class NS concrete. Slope the apron away from the box.
3. Where multiple pull boxes are placed side by side, maintain at least 8" between the pull boxes.
4. Rectangular boxes shown, others similar.

10/6/2022 2:29:26 PM

LAST REVISION 11/01/18

DESCRIPTION:



FY 2023-24
STANDARD PLANS

PULL AND SPLICE BOXES

INDEX
635-001

SHEET
1 of 1



Proposal

Date: 11/1/2023

Downtown walkability project.

Description	Price	Unit.M
Concrete	\$198.00	Yard
F-Curb	\$27.00	Feet

Thank you for your business!

If you have any questions concerning this invoice, use the following contact information:

Contact Oscar Sariol, 305-676-1936, Sariol1321@gmail.com

RESOLUTION NO. 2023-_____

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, APPROVING AND AUTHORIZING THE EXPENDITURE OF FUNDS IN AN AMOUNT NOT TO EXCEED \$88,000.00 FOR THE DOWNTOWN WALKABILITY PROJECT, CURB INSTALLATION AND LANDSCAPE RENEWAL; PROVIDING FOR IMPLEMENTATION; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town of Surfside (the “Town”) administration is requesting to expend up to \$88,000.00 towards the Downtown Walkability Project for the installation of concrete curb in existing parking areas and partial removal of some landscaping at various areas, with work to be performed by Town of Surfside Public Works Department in conjunction with material purchase of concrete at market rate with corresponding finishing labor work (the “Project”); and

WHEREAS, the Town Administration has obtained from Marlin Engineering construction drawings and a cost estimate affiliated with the curb work required, which cost estimate is attached hereto as Attachment A - Downtown Walkability Cost Estimate; and

WHEREAS, the Town Administration is seeking approval and authorization to expend funds in an amount not to exceed \$88,000.00 for the Project; 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. The above-stated recitals are true and correct and are incorporated herein by this reference.

Section 2. Approving and Authorizing Expenditure of Funds. The Town Commission approves and authorizes the expenditure of funds in an amount not to exceed \$88,000.00 for the Project.

Section 3. Implementation. The Town Manager and Town Officials are hereby authorized to take any and all actions which are necessary to implement the Project and the purposes of this Resolution

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

PASSED AND ADOPTED this 14th day of November, 2023.

Motion By: _____
Second By: _____

FINAL VOTE ON ADOPTION:

Commissioner Fred Landsman _____
Commissioner Marianne Meisheid _____
Commissioner Nelly Velasquez _____
Vice Mayor Jeffrey Rose _____
Mayor Shlomo Danzinger _____

Shlomo Danzinger, Mayor

ATTEST:

Sandra McCready, MMC
Town Clerk

**APPROVED AS TO FORM AND LEGALITY FOR THE USE
AND BENEFIT OF THE TOWN OF SURFSIDE ONLY:**

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

Opinion of Probable Costs

10/25/2023

DOWNTOWN WALKABILITY SR A1A

MIAMI-DADE COUNTY

PAY ITEM	PAY ITEM DESCRIPTION	UNIT	QUANTITY	COST	TOTAL
ROADWAY ITEMS					
0110 1 1	CLEARING & GRUBBING	AC	0.07	\$31,754.89	\$2,222.84
0110 4 10	REMOVAL OF EXISTING CONCRETE	SY	102	\$33.05	\$3,362.84
0120 6	EMBANKMENT	CY	148	\$24.93	\$3,697.62
0327 70 6	MILLING EXIST ASPHALT PAVEMENT, (1 1/2" DEPTH)	SY	463	\$5.05	\$2,338.35
0334 1 53	SUPERPAVE ASPHALTIC CONCRETE, T.L.C, SP-9.5 PG76-22, (OVERBUILD)	TN	34	\$236.73	\$8,119.84
0337 7 83	1/2")	TN	38	\$175.48	\$6,703.34
0425-XX	CHANNEL GRATE 14" WIDE*	LF	0	\$576.75	\$0.00
0520 1 10	CONCRETE CURB & GUTTER, TYPE F	LF	792	\$37.89	\$30,013.81
0522 2	CONCRETE SIDEWALK AND DRIVEWAYS, 6" THICK	SY	79	\$83.51	\$6,583.93
0570 1 2	PERFORMANCE TURF, SOD	SY	297	\$3.44	\$1,020.44
0635 2 11	PULL & SPLICE BOX, F&I, 13" x 24" COVER SIZE	EA	6	\$1,409.20	\$8,455.20
0710 16 101	THERMOPLASTIC, STANDARD, WHITE, SOLID, 6"	GM	0.110	\$1,453.40	\$159.87
			Total		\$72,678.07
			10% Contingency		\$7,267.81
			10% for MOT		\$7,267.81
			Construction Grand Total		\$88,000.00 Rounded Up

The aforementioned opinion of probable cost is based on a conceptual plan layout. The costs shown are based on Engineer's assumptions which will vary upon the commencement of the construction documents for this project. The Engineer does not guarantee that the opinion of probable cost gives a true/accurate budgetary reflection of future costs. Since the Engineer has no control over time, labor and material cost furnished by others, or over methods of determining prices, or market conditions, all opinions rendered herein as to cost, represent its best judgment; the Engineer does not guarantee that actual cost will not vary from opinion of probable cost.



MEMORANDUM

ITEM NO. 4A1.

To: Honorable Mayor, Vice-Mayor and Members of the Town Commission
From: Hector Gomez, Town Manager
Date: November 14, 2023
Subject: **Ordinance Amending Citizen Presentation Rules**

Consider the proposed ordinance on second reading. No changes occurred during first reading.

Rule 7.02 of Section 2-206 of the Town Code provides that any citizen may request to be placed on the official agenda of a regular meeting of the town commission and be heard concerning any matter within the scope of the jurisdiction of the town commission outside of Good and Welfare, and only members of the town commission and the town manager may place a citizen on the official agenda.

At a regular meeting of the Town Commission held on September 12, 2023, Vice Mayor Rose presented a discussion item proposing to amend the procedures relating to citizen's presentations and the Town Commission directed the Town Attorney to present an ordinance amending the procedures for citizen's presentations, as further set forth in the ordinance attached hereto.

The proposed ordinance amends Rule 7.02 of Section 2-206 to provide that (i) any citizen may make one citizen's presentation per calendar year, subject to placement on the agenda by any member of the town commission or the town manager, and (ii) additional citizen's presentations by the same citizen within the calendar year shall require sponsorship and approval by three or more members of the town commission at a regular meeting.

The ordinance was amended by the Town Commission at first reading to clarify that additional citizen's presentation by the same citizen within the calendar year shall require "written" sponsorship by three or more members of of the town commission by the agenda deadline to place the citizen on the official agenda. The attached ordinance reflects this change for second reading.

ORDINANCE NO. 2023 - _____

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA AMENDING THE TOWN OF SURFSIDE CODE OF ORDINANCES BY AMENDING SECTION 2-206 “PUBLIC PARTICIPATION” RELATING TO CITIZENS PRESENTATIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

1 **WHEREAS**, Article VIII, Section 2 of the Florida Constitution, and Chapter 166,
2 Florida Statutes, provide municipalities with the authority to exercise any power for
3 municipal purposes, except where prohibited by law, and to adopt ordinances in
4 furtherance of such authority; and

5 **WHEREAS**, the Town Commission of the Town of Surfside (“Town”) finds it
6 periodically necessary to amend its Code of Ordinances (“Code”) in order to update
7 regulations and procedures to maintain consistency with state law and to implement
8 municipal goals and objectives for the general health, safety and welfare of the Town
9 residents and occupants; and

10 **WHEREAS**, Rule 7.02 of Section 2-206 of the Code provides that any citizen may
11 request to be placed on the official agenda of a regular meeting of the town commission
12 and be heard concerning any matter within the scope of the jurisdiction of the town
13 commission outside of Good and Welfare; and

14 **WHEREAS**, only members of the town commission and the town manager may place
15 a citizen on the official agenda; and

16 **WHEREAS**, at a regular meeting of the Town Commission held on September 12,
17 2023, the Town Commission directed the Town Attorney to present an ordinance
18 amending the procedures for citizens presentations to provide that: (i) any citizen may
19 make one citizen's presentation per calendar year, subject to placement on the agenda
20 by any member of the town commission or the town manager, and (ii) additional citizen's
21 presentations by the same citizen within the calendar year shall require sponsorship and
22 approval by three or more members of the town commission at a regular meeting; and

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Section 3. Severability. If any section, sentence, clause or phrase of this Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this Ordinance.

Section 4. Inclusion in the 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 Town of Surfside Code of Ordinances, that the sections of this Ordinance may be renumbered or re-lettered to accomplish such intentions; and the word "Ordinance" may be changed to "Section" or other appropriate word.

Section 5. Conflicts. Any and all ordinances and resolutions or parts of ordinances or resolutions in conflict herewith are hereby repealed.

Section 6. Effective Date. This ordinance shall become effective upon adoption on second reading.

PASSED on first reading on the ____ day of _____, 2023.

PASSED AND ADOPTED on second reading on the ____ day of _____, 2023.

First Reading:

Motion by: _____
Second by: _____

Second Reading:

Motion by: _____
Second by: _____

FINAL VOTE ON ADOPTION

Commissioner Fred Landsman _____
Commissioner Marianne Meisheid _____
Commissioner Nelly Velasquez _____
Vice Mayor Jeff Rose _____
Mayor Shlomo Danzinger _____

Shlomo Danzinger, Mayor

ATTEST:

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Sandra N. McCready, MMC

97 Town Clerk

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APPROVED AS TO FORM AND LEGALITY FOR THE USE

100 **AND BENEFIT OF THE TOWN OF SURFSIDE ONLY:**

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Weiss Serota Helfman Cole & Bierman, P.L.

105 Town Attorney



MEMORANDUM

ITEM NO. 4A2.

To: Honorable Mayor, Vice-Mayor and Members of the Town Commission

From: Hector Gomez, Town Manager

Date: November 14, 2023

Subject: **Amending Sec. 14-28. - Issuance of Building Permits and Amending Sec. 62-1. - Garage Sales to Simplify Town Permitting Requirements for Non-Essential Permits**

Town administration recommends adopting the proposed Code change of Section 14-28 and Section 62-1.

Per Section. 14-28. (b) - Issuance of Building Permits of the Town Code - "No permit shall be required for general maintenance or repairs where such work or repair does not change the occupancy, use, alter the outside appearance of the structure and the value of which does not exceed \$250.00 in labor and material as determined by the building official." Per discussion item during the September 2023 General Commission meeting, in order to create a more resident friendly permit experience, various options were presented in order to achieve the direction. By increasing the threshold from \$250 to \$500, the Town is providing the opportunity for residents to work on property repairs with more convenience. Ultimately, the waiving of the permit would require Building Official approval as the Florida Building Code governs what requires and doesn't require a permit.

Additionally, at the September 12th, 2023, Town Commission meeting, the Town Commission discussed optimizing Non-Critical Permits and associated permit fees such as Garage Sales. Currently the Town code, under Chapter 62 Sec. 62-1 requires a permit from the Town Manager to hold a Garage Sale and requires a fee of \$10.00. In addition, the code only allows one garage sale within a 12-month period.

The Town is seeking to amend its code to allow two Garage Sales within a 12-month period with no permit or permit fee required. Any garage sale after the second would require a permit. Town Administration will have a system implemented for tracking through automated permitting.

During the first reading of this item, the Commission elected to move forward with exempting a building permit for work less than \$500.00 which consisted of general maintenance or repairs where such work or repair does not change the occupancy, use, alter the outside appearance

of the structure. Additionally, the first reading passed as is and requested Town staff to come back with information on roofing work with parameters. Town staff evaluated the information and recommends roofing work that meets the following criteria:

- Work is valued at less than \$500.00.
- Work is of maximum size 50 square feet.
- Work is replacement of less than 20 linear feet of Fascia board.
- Work is pre-authorized by the Building Official

[Ordinance Amending Section 14-28 and 62-1 Relating to Low Value Building Permits and Garage Sales](#)

ORDINANCE NO. 2023 - _____

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA AMENDING THE TOWN OF SURFSIDE CODE OF ORDINANCES BY AMENDING SECTION 14-28, "ISSUANCE OF BUILDING PERMITS," AND SECTION 62-1, "GARAGE SALES," TO SIMPLIFY AND REVISE THE TOWN'S NON-CRITICAL PERMITTING REQUIREMENTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

1 **WHEREAS**, Article VIII, Section 2 of the Florida Constitution, and Chapter 166,
2 Florida Statutes, provide municipalities with the authority to exercise any power for
3 municipal purposes, except where prohibited by law, and to adopt ordinances in
4 furtherance of such authority; and

5 **WHEREAS**, the Town Commission of the Town of Surfside ("Town Commission")
6 finds it periodically necessary to amend its Code of Ordinances ("Code") in order to
7 update regulations and procedures to maintain consistency with state law and to
8 implement municipal goals and objectives for the general health, safety and welfare of
9 the Town residents and occupants; and

10 **WHEREAS**, at a regular meeting of the Town Commission held on September 12,
11 2023, the Town Commission directed the Town Attorney to present an ordinance
12 amending the Town Code to simplify and revise non-critical permitting requirements; and

13 **WHEREAS**, specifically, the Town Commission desires to amend Section 14-28(b)
14 of the Town Code to allow individuals to perform general maintenance or repairs without
15 a permit where such work or repair does not exceed \$500.00 in labor and material; and

16 **WHEREAS**, the Town Commission further desires to amend Section 62-1, "Garage
17 Sales," of the Town Code to allow individuals to hold up to two garage sales on their
18 property without a permit and remove garage sale permit fees; and

19 **WHEREAS**, the Town Commission held its first public hearing on October 10, 2023
20 and, having complied with the notice requirements in the Florida Statutes, recommended
21 approval of the proposed amendments to the Code; and

52 (c) The posting of signs, notices, placards or any other form of written notice or
53 advertising is prohibited on any public property or right-of-way.

54 **Section 4. Severability.** If any section, sentence, clause or phrase of this
55 Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction,
56 then said holding shall in no way affect the validity of the remaining portions of this
57 Ordinance.

58 **Section 5. Inclusion in the Code.** It is the intention of the Town Commission,
59 and it is hereby ordained that the provisions of this Ordinance shall become and made a
60 part of the Town of Surfside Code of Ordinances, that the sections of this Ordinance may
61 be renumbered or re-lettered to accomplish such intentions; and the word "Ordinance" may
62 be changed to "Section" or other appropriate word.

63 **Section 6. Conflicts.** Any and all ordinances and resolutions or parts of
64 ordinances or resolutions in conflict herewith are hereby repealed.

65 **Section 7. Effective Date.** This ordinance shall become effective upon adoption
66 on second reading.
67

68 **PASSED** on first reading on the _____ day of _____, 2023.

69 **PASSED AND ADOPTED** on second reading on the _____ day of _____
70 ____, 2023.

71 **First Reading:**
72 Motion by: _____
73 Second by: _____
74

75
76 **Second Reading:**
77 Motion by: _____
78 Second by: _____
79

80
81 **FINAL VOTE ON ADOPTION**

82
83 Commissioner Fred Landsman _____
84 Commissioner Marianne Meischeid _____
85 Commissioner Nelly Velasquez _____
86 Vice Mayor Jeff Rose _____
87 Mayor Shlomo Danzinger _____
88

89
90 _____
91 Shlomo Danzinger, Mayor

92 **ATTEST:**

93

94

95

96 _____
Sandra N. McCready, MMC

97 Town Clerk

98

99 **APPROVED AS TO FORM AND LEGALITY FOR THE USE**

100 **AND BENEFIT OF THE TOWN OF SURFSIDE ONLY:**

101

102

103

104 _____
Weiss Serota Helfman Cole & Bierman, P.L.

105 Town Attorney

106



MEMORANDUM

ITEM NO. 4A3.

To: Honorable Mayor, Vice-Mayor and Members of the Town Commission

From: Hector Gomez, Town Manager

Date: November 14, 2023

Subject: **Amending Chapter 72 of the Town Code to Address Utilities Lines Undergrounding for Future Communication Improvements**

Town administration is recommending the Town Code be amended to incorporate new definitions in Chapter 72 in order to further differentiate communication lines. Additionally, Town administration is recommending Town Code changes in order to make it requirement for communication provider to underground all future communication lines within the Town boundaries. This item was discussed by the Town Commission during the October 2023 General Town Commission meeting. There are no changes as presented during second reading.

As the Town is moving forward with the Undergrounding Project, Town Administration considers that all new communications should be undergrounded. Currently, Chapter 72 - Telecommunications, Sec.72-31. - Placement or maintenance of a communications facility in public rights-of-way, strongly encourages undergrounding but does not mandate it. In order to create a uniform look throughout the Town, Town Administration considers revising requirements from 'strongly encourages' to 'mandate' undergrounding of all new future communications lines within Town's boundaries.

The change would require amending Chapter 72 - Communications by the following:

- Create a new definition for **communication lines** and **communication facilities**.
- Revise Sec. 72-31. - Placement or Maintenance of a communication facility in public rights-of-way; specifically, Sec. 72-31 (e): "All communications facilities shall be placed or maintained so as not unreasonably to interfere with the use of the public rights-of-way by the public and with the rights and convenience of property owners who adjoin any of the public rights-of-way. **The use of trenchless technology (i.e., directional bore method) for the installation of facilities in the public rights-of-way as well as joint trenching or the co-location of facilities in existing conduit is strongly encouraged and shall be employed wherever feasible.** The town manager may promulgate reasonable rules and regulations concerning the placement or maintenance of a communications facility in public rights-of-way, consistent with this ordinance and other

applicable law."

[Ordinance Business Impact Estimate Template.pdf](#)

[Ordinance Amending Ch. 72 Telecommunications Right-of-Way Ordinance for Undergrounding](#)



TOWN OF SURFSIDE

BUSINESS IMPACT ESTIMATE FORM FOR ORDINANCES

Posted To Webpage: _____

This Business Impact Estimate is given as it relates to the proposed ordinance titled:

Part I.

Summary of the proposed ordinance and statement of public purpose¹:

Part II.

Estimate of the direct economic impact of the proposed ordinance on private, for-profit businesses in the Town of Surfside: *(fill out subsections a-c as applicable, if not applicable write "not applicable")*

- a. Estimate of direct compliance costs that businesses may reasonably incur if the proposed ordinance is enacted:

¹ Address the public purpose to be served by the proposed ordinance, such as serving the public health, safety, morals, and welfare of the Town of Surfside.



TOWN OF SURFSIDE

- b. Identification of any new charges or fee on businesses subject to the proposed ordinance, or for which businesses will be financially responsible; and

- c. An estimate of the Town of Surfside's regulatory costs, including an estimate of revenues from any new charges or fees that will be imposed on businesses to cover such costs.

Part III.

Good faith estimate of the number of businesses likely to be impacted by the ordinance:



TOWN OF SURFSIDE

Part IV. Additional Information (if any):

The Town is currently planning to underground communications service provider. This is a cost incurred by the Town. To preserve the Town's investment, this ordinance is required.

ORDINANCE NO. 2023 - _____

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, AMENDING THE TOWN OF SURFSIDE CODE OF ORDINANCES BY AMENDING CHAPTER 72 “TELECOMMUNICATIONS”, SECTION 72-28 “DEFINITIONS,” SECTION 72-31 “PLACEMENT OR MAINTENANCE OF A COMMUNICATIONS FACILITY IN PUBLIC RIGHTS-OF-WAY”, AND SECTION 72-35 “EXISTING COMMUNICATIONS FACILITIES IN PUBLIC RIGHTS-OF-WAY” TO REQUIRE UNDERGROUNDING OF ALL NEW COMMUNICATIONS LINES WITHIN THE TOWN’S BOUNDARIES; PROVIDING FOR SEVERABILITY; PROVIDING FOR SEVERABILITY; INCLUSION IN THE CODE; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

1 **WHEREAS**, Article VIII, Section 2 of the Florida Constitution, and Chapter 166, Florida
2 Statutes, provide municipalities with the authority to exercise any power for municipal
3 purposes, except where prohibited by law, and to adopt ordinances in furtherance of such
4 authority; and

5 **WHEREAS**, the Town Commission of the Town of Surfside (the “Town”) finds it
6 periodically necessary to amend its Code of Ordinances (“Code”) in order to update
7 regulations and procedures to maintain consistency with state law, to implement municipal
8 goals and objectives, to clarify regulations and address specific issues and needs that may
9 arise; and

10 **WHEREAS**, the Town’s Communications Rights-of-Way Ordinance (the
11 “Communications Ordinance”) codified as Section 72-26 et. seq. regulates the placement
12 or maintenance of communications facilities in the public rights-of-way within the Town
13 consistent with state and federal law; and

14 **WHEREAS**, on November 3, 2020, the Town electorate approved a
15 ballot/referendum question in order to move forward with developing a plan to underground
16 utilities in the Town; and

17 **WHEREAS**, on March 15, 2022, the Town electorate approved a ballot/referendum
18 question to authorize the issuance of General Obligation Bonds for the Town’s utility
19 undergrounding project; and

20 **WHEREAS**, as a coastal community susceptible to wind and storm events, the
21 Town Commission recognizes the importance and safety of undergrounding utilities and
22 the positive aesthetic impacts of such undergrounding; and

23 **WHEREAS**, Section 72-31. – “Placement or maintenance of a communications
24 facility in public rights-of-way” of the Town Code currently provides that the use of
25 trenchless technology (i.e., directional bore method) for the installation of facilities in the
26 public rights-of-way as well as joint trenching or the co-location of facilities in existing
27 conduit is strongly encouraged and shall be employed wherever feasible; and

28 **WHEREAS**, Section 337.401, Florida Statutes, limits certain municipal regulations
29 for small wireless facilities in the rights-of-way but does not limit regulations requiring
30 undergrounding of utilities lines, between, to or from small wireless facilities; and

31 **WHEREAS**, Section 72-35 requires compliance with the Communications
32 Ordinance within 60 days of its effective date; and

33 **WHEREAS**, the Town desires to amend Sections 72-28, 72-31, and 72-35 of the
34 Town Code to (i) define communication lines (i.e, cables, wires, conduits, ducts, and fiber
35 optics), (ii) require the use of underground trenchless technology for the installation of all
36 new communication lines in the public rights-of-way as well as joint trenching or the co-
37 location of such communication lines, and (iii) only require undergrounding of
38 communications lines for new or replaced communications facilities installed after the
39 effective date of this ordinance; and

40 **WHEREAS**, it is the intent of the Town to promote the public health, safety and
41 general welfare by: requiring undergrounding of all new communication lines (i.e, cables,
42 wires, conduits, ducts, and fiber optics); and adopting and administering reasonable rules
43 and regulations not inconsistent with state and federal law; and

44 **WHEREAS**, the Town Commission finds it in the best interest and welfare of the Town
45 to require undergrounding for the installation of all new communications lines; and

46 **WHEREAS**, the Town Commission held its first public hearing on October 10, 2023
47 and _____ the proposed amendments to the Code having complied with the notice
48 requirements in the Florida Statutes; and

49 **WHEREAS**, the Town Commission has conducted a second duly noticed public
50 hearing on these Code amendments as required by law on _____, 2023 and

51 further finds the proposed changes to the Code are necessary and in the best interest of
52 the Town.

53
54 **NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COMMISSION OF THE**
55 **TOWN OF SURFSIDE, FLORIDA¹:**

56
57 **Section 1. Recitals.** The above Recitals are true and correct and are incorporated
58 herein by this reference:

59
60 **Section 2. Town Code Amended.** Section 72-28. – “Definitions,” Section 72-31.
61 – “Placement or maintenance of a communications facility in public rights-of-way,” and
62 Section 72-35. – “Existing communications facilities in public rights-of-way,” are hereby
63 amended as follows:

64 Section 72-28. - Definitions.

65 * * *

66 *Communications facility or facility or system* shall mean any permanent or temporary plant,
67 equipment and property, including but not limited to Communications Lines ~~cables, wires,~~
68 ~~conduits, ducts, fiber optics,~~ poles, antennae, converters, splice boxes, cabinets, hand
69 holes, manholes, vaults, drains, surface location markers, appurtenances, and other
70 equipment or pathway placed or maintained or to be placed or maintained in the public
71 rights-of-way of the town and used or capable of being used to transmit, convey, route,
72 receive, distribute, provide or offer communications services.

73
74 * * *

75 Communications Lines shall mean cables, wires, conduits, ducts, and fiber optics located
76 between, to, and from any wireless facility.

77
78 * * *

79
80 Section 72-31. – Placement or maintenance of a communications facility in public rights-
81 of-way.

82
83 (e) All communications facilities shall be placed or maintained so as not
84 unreasonably to interfere with the use of the public rights-of-way by the public and
85 with the rights and convenience of property owners who adjoin any of the public
86 rights-of-way. The use of underground trenchless technology (i.e., directional bore
87 method) for the installation of ~~facilities~~ new Communications Lines in the public
88 rights-of-way as well as joint trenching or the co-location of facilities in existing
89 conduit ~~is strongly encouraged and shall be employed wherever feasible~~ shall be

¹ Coding: ~~Strikethrough words~~ are deletions to the existing words. Underlined words are additions to the existing words. Changes between first and second reading are indicated with ~~highlighted double strikethrough~~ and double underline.

90 required. The town manager may promulgate reasonable rules and regulations
91 concerning the placement or maintenance of a communications facility in public
92 rights-of-way, consistent with this ordinance and other applicable law.

93 * * *

94
95
96 Section 72-35. - Existing communications facilities in public rights-of-way.

97
98 A communications services provider with an existing communications facility in the public
99 rights-of-way of the town shall have 60 days from the effective date of this ordinance to
100 comply with the terms of this ordinance, including, but not limited to, registration.
101 Notwithstanding the foregoing, as of [INSERT EFFECTIVE DATE OF ORDINANCE], the
102 installation of all new Communications Lines shall be undergrounded to comply with the
103 Town's Comprehensive Plan.

104 * * *

105
106
107 **Section 4. Severability.** If any section, sentence, clause or phrase of this
108 Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction,
109 then said holding shall in no way affect the validity of the remaining portions of this
110 Ordinance.

111 **Section 5. Inclusion in the Code.** It is the intention of the Town Commission, and
112 it is hereby ordained that the provisions of this Ordinance shall become and made a part of
113 the Town of Surfside Code of Ordinances, that the sections of this Ordinance may be
114 renumbered or re-lettered to accomplish such intentions; and the word "Ordinance" may be
115 changed to "Section" or other appropriate word.

116
117 **Section 6. Conflicts.** Any and all ordinances and resolutions or parts of
118 ordinances or resolutions in conflict herewith are hereby repealed.

119
120 **Section 7. Effective Date.** This ordinance shall become effective upon adoption
121 on second reading.

122
123 **PASSED** on first reading on the _____ day of _____, 2023.

124 **PASSED AND ADOPTED** on second reading on the _____ day of _____,
125 2023.

126 **First Reading:**

127 Motion by: _____

128 Second by: _____

129
130
131 **Second Reading:**

132 Motion by: _____

133 Second by: _____

134

135

136 **FINAL VOTE ON ADOPTION**

137

138 Commissioner Fred Landsman _____

139 Commissioner Marianne Meisheid _____

140 Commissioner Nelly Velasquez _____

141 Vice Mayor Jeff Rose _____

142 Mayor Shlomo Danzinger _____

143

144

145

146 _____
Shlomo Danzinger, Mayor

147 **ATTEST:**

148

149

150

151 _____

152 Sandra N. McCready, MMC

153 Town Clerk

154

154 **APPROVED AS TO FORM AND LEGALITY FOR THE USE**

155

156

157

158

159 _____
Weiss Serota Helfman Cole & Bierman, P.L.

160 Town Attorney



MEMORANDUM

ITEM NO. 4A4.

To: Honorable Mayor, Vice-Mayor and Members of the Town Commission

From: Hector Gomez, Town Manager

Date: November 14, 2023

Subject: **Update to Water Shortage Regulations Section of the Town Code to be Consistent with Miami-Dade County and South Florida Water Management District**

Town Administration recommends approval of the proposed ordinance to be consistent with Miami-Dade County Code and in compliance with South Florida Water Management District (SFWMD) based on their letter dated July 20, 2023. Refer to **Attachment A - South Florida Water Management District Letter dated July 20, 2023**.

The South Florida Water Management District (SFWMD) notified the Town of Surfside (**Attachment A - SFWMD Letter dated July 20, 2023**) that in March of 2023 Miami-Dade County has updated their Permanent Landscape Irrigation Restriction, which can be found in Chapter 32, Article I, Sec 32-8.2 of their Code (**Attachment B - Sec. 32.8.2 - Permanent year-round landscape irrigation restrictions**). The County's updates include provisions that comport with Chapter 40E-24, Florida Administrative Code. These newly adopted revisions apply to the entire County. Therefore, relevant Town Code sections need to be updated, specifically Chapter 78 - Utilities, Article VI of the Town Code which regulates Water Shortage.

Attachment C includes the suggested changes discussed during first reading, to provide for written warning on first offense and \$25 fines thereafter for subsequent violations.

The intent and purpose of this article is to protect the water resources of the Town from the harmful effects of overutilization during periods of water shortage and allocate available water supplies by assisting the SFWMD in the implementation of its water shortage plan. In order to be consistent with the County's latest updates, Town Code Chapter 78 - Utilities, Article VI needs to be updates as well.

The Town administration has elected to rely on Miami-Dade's Permanent Landscape Irrigation Restrictions ordinance but provide enforcement locally either with or without adopting a formal resolution. Key revisions include:

- First violation penalty

- Permanent year-round water shortage declaration and landscape irrigation restrictions
- Town Code Enforcement jurisdiction

As part of the first reading discussion during the October 2023 General Town Commission meeting, the second reading modifies the violation schedule to first violation being a written warning and violations after that being \$25.00 per incident.

[Attachment A - SFWMD Letter dated July 20 2023](#)

[Attachment B - Sec. 32.8.2 - Permanent year round landscape irrigation restrictions](#)

[Ordinance Water Use Regulations - 2nd Reading TAv2.DOCX](#)



July 20, 2023

Hector Gomez
Town Manager
Town of Surfside
9293 Harding Ave
Surfside, FL 33154-3009

**Subject: Protecting South Florida's Water Resources
Water Conserving Landscape Irrigation Ordinances**

Dear Manager Gomez:

With South Florida's growing demands for water, it's especially important that we work closely together to properly manage and conserve our precious water resources. Implementing water conservation measures promotes efficient water use and decreases water waste.

Since February 2020, the South Florida Water Management District ("District") has been engaged in an initiative to have all local governments within its jurisdiction, including those in Miami-Dade County, adopt permanent local year-round irrigation ordinances that comport with the District's Year-round Landscape Irrigation Conservation Measures ("Year-Round Irrigation Rule") contained in Chapter 40E-24, Florida Administrative Code ("F.A.C."). The District's Year-Round Irrigation Rule is a year-round measure that restricts the times and number of days landscape irrigation is allowed.

Several municipalities in Miami-Dade County have previously indicated a desire to utilize or want to be consistent with Miami-Dade County's irrigation ordinance. In March of 2023, Miami-Dade County ("County") updated their Permanent Landscape Irrigation Restrictions, which can be found in Chapter 32, Article I, Sec 32-8.2, of their County Code (copy attached). The County's updates include provisions that comport with Chapter 40E-24, F.A.C. These newly adopted revisions apply to the entire county (unincorporated and incorporated areas), contain variance (Alternative Method of Compliance) provisions, and address local enforcement of the County codes. The District's preference is for each local government to adopt their own year-round landscape irrigation ordinance equivalent to or more stringent than the County's.

However, if a municipality prefers to rely on the County's ordinance, not all provisions of the County's ordinance are self-implementing. For instance, the provision regarding enforcement (County Code [Sec 32-8.2(a)]) states:

"...in the unincorporated areas of the County shall be enforced as described in section 32-8.2(e), in the incorporated areas of the County shall be enforced by the municipalities, unless the County is notified by a municipality, in the form of a letter from an authorized representative of the municipality or by a duly adopted resolution, that the municipality desires the County to enforce the restrictions identified in this section within that municipality. Any municipality may establish and enforce its own ordinance provided such ordinance is equivalent to or more stringent than the provisions of this section."

Identifying the responsibilities of each entity involved ensures irrigation restrictions are comprehensively addressed and applied consistently countywide. At this time, the District is seeking to ascertain which of the below options your municipality may elect to utilize regarding the restriction of landscape irrigation year-round within your incorporated boundaries:

- a. Adoption of your own year-round landscape irrigation ordinance equivalent to or more stringent than the County's; or
- b. Rely on Miami-Dade's Permanent Landscape Irrigation Restrictions ordinance and enforcement with **submission of a letter** from an authorized representative to the County requesting the County enforce the ordinance within your jurisdiction; or
- c. Rely on Miami-Dade's Permanent Landscape Irrigation Restrictions ordinance and enforcement with **adoption of a resolution** requesting the County to enforce the ordinance within your jurisdiction; or
- d. Rely on Miami-Dade's Permanent Landscape Irrigation Restrictions ordinance but provide enforcement locally either with or without adopting a formal resolution to do so.

As part of each of these options, water conservation education and outreach are necessary components to ensure irrigation is effectively applied when needed, produces healthy landscape and results in the sustainable use of the water resources. Following Miami-Dade County's irrigation ordinance will: (1) increase water use efficiency; (2) prevent and curtail wasteful irrigation practices; (3) prohibit the operation of irrigation systems in a manner causing water to be wasted; and (4) allow for consistent messaging so that residents understand and comply with all irrigation requirements. The District will assist municipalities in adoption and implementation of mandatory year-round landscape irrigation conservation measures, as well as partner in water conservation education and outreach.

We look forward to working with you and your staff to help put consistent rules and ordinances in place across South Florida so that residents clearly understand and comply with all irrigation requirements. The District requests that you please respond to this letter by August 15th, 2023 with which option above your municipality intends to pursue.

If you have any questions or would like to discuss how we can assist, please contact me at melsner@sfwmd.gov or (561) 682-6156; or Jim Harmon, the District's Water Conservation Supervisor, at jharmon@sfwmd.gov or (561) 682-6777.

Sincerely,



Mark E. Elsner, P.E.
Water Supply Bureau Chief

ME/jh

Attachment: Miami Dade County Code, Chapter 32, Article I, Sec 32-8.2

- c: Patrick Martin, Miami-Dade Water and Sewer Department
Armando Vilaboy, South Florida Water Management District

Sec. 32-8.2. Permanent year-round landscape irrigation restrictions.

- (a) *Intent and purpose.* To protect the water resources of Miami-Dade County, Florida (County) from the harmful effects of overutilization, increase water use efficiency and prevent and curtail wasteful water use practices by providing mandatory year-round landscape irrigation conservation measures and prohibiting the operation of irrigation systems in a manner causing water to be wasted and to be consistent with the South Florida Water Management District's (District Governing Board) mandatory year-round landscape irrigation conservation measures under Chapter 40E-24, Florida Administrative Code, (F.A.C.). This program provides a minimum standard and shall apply to both the incorporated and unincorporated areas of the County, and in the unincorporated areas of the County shall be enforced as described in Section 32-8.2(e), and in the incorporated areas of the County shall be enforced by the municipalities, unless the County is notified by a municipality, in the form of a letter from an authorized representative of the municipality or by a duly adopted resolution, that the municipality desires the County to enforce the restrictions identified in this section within that municipality. Any municipality may establish and enforce its ordinance provided such ordinance is equivalent to or more stringent than the provisions of this section.
- (b) *Definitions.* In constructing the provisions of this section, the following definitions shall apply:
- (1) *Address* shall mean the "house number" (a numeric or alphanumeric designation) that, together with the street name, describes the physical location of a specific property. This includes "rural route" numbers but excludes post office box numbers. If a lot number in a mobile home park or similar community is used by the U.S. Postal Service to determine a delivery location, the lot number shall be the property's address. If a lot number in a mobile home park or similar residential community is not used by the U.S. Postal Service (e.g., the park manager sorts incoming mail delivered to the community's address), then the community's main address shall be the property's address. If a property has no address, it shall be considered "even- numbered."
 - (2) *Athletic play area* shall mean all golf course fairways, tees, roughs and greens and other athletic play surfaces; including, football, baseball, and soccer fields, polo grounds, tennis courts, or lawn bowling fields, and rodeo, equestrian and livestock arenas.
 - (3) *Director* shall mean the Director of the Miami-Dade Water and Sewer Department or its successor agency.
 - (4) *District Governing Board* shall mean the South Florida Water Management District, a government entity; created under Chapter 373, F.S.
 - (5) *Even-numbered address* shall mean an address ending in the numbers 0, 2, 4, 6, 8, or rights-of-way or other locations with no address or the letters A—M.
 - (6) *Existing landscaping* shall mean any landscaping that has been planted and in the ground for more than ninety (90) consecutive days.
 - (7) *Irrigation* shall mean the application of water by means other than natural precipitation.
 - (8) *Irrigation systems* shall mean equipment and devices which deliver water to the landscaping being irrigated including, but not limited to, pumping stations, controls, main and submain pipelines, lateral pipelines, emitters, valves, fittings, and safety devices.
 - (9) *Landscaping* shall mean shrubbery, trees, lawns, sod, grass, ground covers, plants, vines, ornamental gardens, and such other flora, not intended for resale, which are planted and situated in such diverse locations as residential landscapes, recreation areas, cemeteries, public, commercial, and industrial establishments, public medians, and rights-of-way except athletic play areas.

-
- (10) *Landscape Irrigation* shall mean the outside watering of landscaping except athletic play areas as defined herein.
 - (11) *Low-volume Hand Watering* shall mean the watering of landscaping by one person, with one hose, fitted with a self-canceling or automatic shutoff nozzle.
 - (12) *Low-volume Irrigation* shall mean the use of equipment and devices specifically designed to allow the volume of water delivered to be limited to a level consistent with the water requirement of the plant being irrigated and to allow that water to be placed with a high degree of efficiency in the root zone of the plant. The term also includes water used in mist houses and similar establishments for plant propagation. Overhead irrigation and flood irrigation are not included.
 - (13) *Micro-irrigation* shall mean the application of small quantities of water on or below the soil surface as drops or tiny streams of spray through emitters or applicators placed along a water delivery line. Micro-irrigation includes a number of methods or techniques such as bubbler, drip, trickle, mist or microspray, and subsurface irrigation.
 - (14) *New landscaping* shall mean any landscaping that has been planted in the ground for ninety (90) days or less.
 - (15) *Odd-Numbered Address* shall mean an address ending in the numbers 1, 3, 5, 7, 9, or the letters N—Z.
 - (16) *Reclaimed Water* shall mean wastewater that has received at least secondary treatment and basic disinfection and is reused after flowing out of a wastewater treatment facility as defined in Rule 62-40.210, F.A.C.
 - (17) *User* shall mean any person, individual, firm, association, organization, partnership, business trust, corporation, company, agent, employee or other legal entity whether natural or artificial, the United States of America, and the State and all political subdivisions, regions, districts, municipalities, and public agencies thereof, which directly or indirectly takes water from the water resource, including uses from private or public utility systems, individual wells or pumps and uses under water use permits issued pursuant to Chapter 40E-2, F.A.C.
 - (18) *Wasteful and unnecessary* shall mean allowing water to be dispersed without any practical purpose to the water use; for example, excessive landscape irrigation, leaving an unattended hose on a driveway with water flowing, allowing water to be dispersed in a grossly inefficient manner, regardless of the type of water use; for example, allowing landscape irrigation water to unnecessarily fall onto pavement, sidewalks and other impervious surfaces; allowing water flow through a broken or malfunctioning water delivery or landscape irrigation system.
 - (19) *Water resource* shall mean any and all water on or beneath the surface of the ground including, but not limited to, natural or artificial watercourses, water bodies, lakes, ponds, or diffused surface water, and water percolating, standing, or flowing beneath the surface of the ground.
 - (20) *Water shortage* shall mean when the District Governing Board determines via formal declaration that there is the possibility that insufficient water will be available to meet the present and anticipated needs of the users, or when conditions are such as to require a temporary reduction in total use within a particular area to protect water resources from serious harm. A water shortage usually occurs, but is not limited to occurring, due to drought.
 - (21) *Water shortage emergency* shall mean when the District Governing Board determines the provisions listed in Part II of Chapter 40E-21, F.A.C., are not sufficient to protect the public health, safety, or welfare, the health of animals, fish, or aquatic life, a public water supply, or commercial, industrial, agricultural, recreational, or other reasonable- beneficial uses.
- (c) *Application of section.* The provisions of this section shall apply to all users of any water resource within the County, whether from publicly or privately owned water utility systems, private wells, or private connections

with surface water bodies. The provisions of this section shall not apply to athletic play areas, agricultural and nursery operations and irrigation performed using reclaimed water.

(d) *Permanent landscape irrigation restrictions.*

- (i) It shall be the duty of each User to keep informed as to the landscape irrigation conservation measures presented within this section, which affect each particular water use.
- (ii) The following requirements shall apply to all users unless specified otherwise herein:
 - (1) Irrigation of existing landscaping shall comply with the following:
 - (a) It shall be unlawful for any user to irrigate or to cause, let, permit, allow or suffer the irrigation of any residential, commercial, institutional, governmental or industrial landscaping areas between the hours of 10:00 a.m. and 4:00 p.m. daily except as otherwise provided herein.
 - (b) It shall be unlawful for any user to operate or cause, let, permit, allow or suffer the operation of any irrigation system or device in a wasteful and unnecessary manner including, but not limited to, watering paved areas, sidewalks, driveways, and parking lots.
 - (c) An Even-Numbered Address that has an irrigation system that irrigates both even-numbered and odd-numbered addresses within the same zones, including multifamily units and homeowners' associations, and rights-of-way or other locations with no address, as defined in this section shall only conduct necessary landscape irrigation on Thursday and/or Sunday.
 - (d) Odd-Numbered Addresses shall only conduct necessary landscape irrigation on Wednesday and/or Saturday.
 - (2) Users irrigating new landscaping shall comply with the following:
 - (a) Irrigation of new landscaping shall be prohibited between the hours of 10:00 a.m. and 4:00 p.m. daily, except as otherwise provided herein.
 - (b) On the day the new landscaping is installed, the new landscaping may be irrigated once without regard to the normally allowable watering days and times. Irrigation of the soil is allowed twenty-four (24) hours before installation without regard to the normal allowable watering days and times.
 - (c) The new landscaping shall be installed within a reasonable time from the date of purchase.
 - (d) The date of purchase of new landscaping may be demonstrated with a dated receipt or invoice.
 - (e) Irrigation of new landscaping is limited to areas containing the new landscaping only. An entire zone of an irrigation system shall only be utilized for landscape irrigation under this paragraph if the zone in question is for an area that contains at least fifty (50) percent new landscaping. If a zone contains less than fifty (50) percent new landscaping, or if the new landscaping is in an area that will not typically be irrigated by an irrigation system, only the individual new plantings are eligible for additional irrigation under this paragraph. Targeted watering may be accomplished by low-volume hand watering, or any appropriate method which isolates and waters only the new landscaping.
 - (f) New landscaping which has been in place for thirty (30) days or less may be irrigated on Monday, Tuesday, Wednesday, Thursday, Saturday and/or Sunday.
 - (g) New landscaping which has been in place for thirty-one (31) to ninety (90) days may be irrigated on Monday, Wednesday, Thursday and/or Saturday.

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- (3) Any water shortage restrictions or other measures declared pursuant to Chapter 40E-21, F.A.C., or related District Governing Board or Executive Director orders which are more restrictive than a measure contained within this section, shall supersede this section for the duration of the applicable water shortage declaration.
 - (4) Landscape irrigation systems may be operated during restricted days and times for cleaning, maintenance, and repair purposes with an attendant on site in the area being tested. Landscape irrigation systems may routinely be operated for such purposes no more than once per week, and the run time for any one test should not exceed ten (10) minutes per zone.
 - (5) Landscape irrigation for the purpose of watering-in fertilizers, insecticides, pesticides, fungicides and herbicides, where such watering-in is recommended by the manufacturer, or by federal, state or local law, or by the Florida Green Industries Best Management Practices for Protection of Florida Water Resources Manual, shall be allowed under the following conditions:
 - (a) Such watering-in of fertilizers containing nitrogen or phosphorus and application of fertilizers containing nitrogen or phosphorus for turf or landscaping are allowed only from November 1 to May 14 of each year pursuant to Section 18C-4 of the Code of Miami-Dade County, Florida.
 - (b) Such watering-in of fertilizers containing phosphorus and application of fertilizers containing phosphorus for turf or landscaping plants shall be limited to areas where a phosphorus deficiency has been demonstrated in the soil underlying the respective turf and landscaping by a soil analysis test performed by a State of Florida certified laboratory as required pursuant to Section 18C-4(C)(4) of the Code of Miami-Dade County, Florida.
 - (c) Such watering-in shall be limited to one application unless the need for more than one application is stated in the directions for application specified by the manufacturer: and
 - (d) Such watering-in shall be accomplished during normally allowable watering days and times set forth in subsections 32-8.2(d)(ii)(1)(c) and (d)(ii)(1)(d) unless a professional licensed applicator has posted on the date the fertilizer is applied a temporary sign containing the date of application and the date(s) of needed watering-in activity.
 - (6) Any landscaping may be irrigated using low volume irrigation, micro-irrigation, or low-volume hand watering methods including but not limited to the use of rain barrels, cisterns, or other similar rain-harvesting devices without regard to the watering days or times allowed pursuant to this section.
 - (7) Any user who purchases and installs an automatic landscape irrigation system shall properly install, maintain, and use technology that inhibits or interrupts the operation of the system during periods of sufficient moisture as required by Section 373.62, F.S.
- (e) *Enforcement.* In the absence of a declaration of water shortage or water shortage emergency within all or any part of the County by the District's Governing Board or District's Executive Director, compliance with the landscape irrigation restrictions of this section shall be subject to enforcement action. Any violation of the provisions of subsection 32-8.2(d) herein shall be a violation of this section.
- (1) Every law enforcement officer, code inspector as defined in Chapter 8CC, or sheriff, having jurisdiction in the area governed by this section shall, in connection with all other duties imposed by law, diligently enforce the provisions of this section. In addition, the County Mayor may delegate this section's enforcement responsibility to agencies and departments within the County government.
 - (2) Officers and code inspectors may provide violators with no more than one written warning. This section shall also be enforceable in accordance with the provisions of Chapter 8CC. The County may

take any appropriate legal action, including but not limited to emergency prohibitory and mandatory injunctive action to enforce the provisions of this section.

- (f) *Penalties.* Violations of any provision of this section shall be subject to the penalties enumerated in Chapter 8CC. Each day in violation of this section shall constitute a separate offense.
- (g) *Alternate method of compliance.*
- (A) *Policy and intent.* It is the policy of Miami-Dade County to provide an alternate method of compliance to its year-round landscape irrigation restrictions for persons who demonstrate the need for such an alternate method of compliance to obtain reasonable and fair results. The purpose of this subsection is to provide persons with a process for making a request for and obtaining such an alternate method of compliance.
- (B) *Applicability.* Any person who requires an alternate method of compliance in the application of the year-round landscape irrigation restrictions may request such accommodation pursuant to this subsection. A request for an alternate method of compliance shall be made in the manner prescribed in this subsection, which shall be the exclusive administrative remedy.
- (C) *Application for an alternate method of compliance.* An application for an alternate method of compliance shall provide, at a minimum, the following information on a form prescribed by the Director:
- (1) Petitioner's name;
 - (2) Petitioner's address of the property for which a request for an alternate method of compliance is made;
 - (3) Petitioner's telephone number or other contact information if Petitioner does not have a telephone number;
 - (4) South Florida Water Management District permit number and project name (if applicable);
 - (5) Petitioner's representative (if applicable);
 - (6) Water use activity;
 - (7) Description of relief desired;
 - (8) Demonstration that the request qualifies for an alternate method of compliance; and
 - (9) Such other reasonable information or pertinent facts as the Director may require to verify that the requested alternate method of compliance is necessary.
- (D) *Review and approval procedures.* An application for an alternate method of compliance shall be reviewed and decided in accordance with the following procedures:
- (1) *Reviewing authority.* The Director shall, in his or her sole discretion, designate an Alternate Method of Compliance Evaluator (the "AMC Evaluator") to review and decide on all applications for an alternate method of compliance based on the criteria provided below in subsection 32-8.2 (g)(D)(3) of the Code of Miami-Dade County, Florida. Appeals of such decisions shall be permitted only in accordance with the procedures below and shall be decided by the Director, whose decision shall be final, notwithstanding any other provisions of the Code governing appeals of administrative decisions.
 - (2) *Decision.* The AMC Evaluator shall make a written determination within twenty-one (21) days of filing a complete alternate method of compliance application, as determined by the Director, and shall either grant, grant with modifications, or deny the application. The applicant will be notified of the determination by certified mail to the property's physical address.

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- (a) The determination shall be made in accordance with the review criteria set forth below and, when necessary, shall involve consultation with the applicant or, where appropriate, the person or persons acting on behalf of, or for the benefit of, the applicant.
 - (b) The AMC Evaluator may impose any reasonable and necessary conditions of approval, including the condition that the alternate method of compliance shall terminate either on the date indicated in the determination or, if no termination date is indicated in the decision, shall not run with the land and shall terminate when the applicant no longer resides at the subject property, to ensure that the alternate method of compliance does not result in negative or detrimental impacts to the County, its water conservation efforts, or the neighborhood and uses surrounding the applicant's property.
- (3) *Review criteria.* The written decision to grant or deny a request for an alternate method of compliance shall be consistent with Chapter 40E-24, Florida Administrative Code and shall be based on whether the applicant has demonstrated that the restrictions would lead to an unreasonable or unfair result; provided the applicant demonstrates with particularity that compliance with the schedule will result in substantial hardship to the applicant, those served by the applicant, or the affected property. A substantial hardship as identified herein includes, but is not limited to, an economic hardship, a substantial negative impact on health or public safety, or other hardship on the applicant or those served by the applicant. Relief may be granted only upon a demonstration that such hardship exists, is peculiar to the person or the affected property, is not self-imposed, and a demonstration that granting the alternative method of compliance would be consistent with the general intent and purpose of this section.
- (4) If granted, the applicant shall be required to post a notice at each parcel to which the alternate method of compliance applies.
- (5) An alternative method of compliance shall automatically be deemed invalid if it has terminated or if the User or its agent violates the terms of the approved alternative method of compliance.
- (E) *Appeal of determination.* An aggrieved or adversely affected party may appeal the AMC Evaluator's decision to the Director in accordance with the following procedures:
- (1) *Time to appeal.* The applicant may file an appeal within thirty (30) days of the date of the AMC Evaluator's written decision.
 - (2) *Filing the appeal.* Appeals shall be filed with the Department on a form prescribed by the Director. Where the appeal is filed by a party other than the applicant, the Department shall provide the applicant written notice of such appeal, and the applicant may submit a written response within thirty (30) days of the date of such written notice.
 - (3) *Director's decision.* Within sixty (60) days of the date the appeal is filed or the date the applicant submits a written response, whichever is later, the Director shall approve or deny the appeal and may affirm, modify, or reverse the decision under review. The applicant will be notified of the determination via certified mail to the property's physical address.
 - (a) The Director's decision shall be consistent with and based on the above-referenced state laws and the review criteria set forth above, the stated basis for the appeal, and the applicant's response if any.
 - (b) Except as provided in this section, the Director's decision shall be set forth in writing and shall be final, notwithstanding any other provisions of the code governing appeals of administrative decisions.
- (F) *Fees.*

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- (1) There shall be no fee for an application requesting an alternate method of compliance from the AMC Evaluator in accordance with this section.
 - (2) There shall be no fee for an applicant's appeal or other parties appealing the AMC Evaluator's decision in accordance with this section.
 - (3) If the project for which the request is being made includes requests for other approvals or permits, such other application fees shall continue to apply.
- (G) *Exhaustion of remedies.*
- (1) To the extent permitted by federal and state laws, any applicant aggrieved or adversely affected by any decision or determination of an administrative official shall exhaust the administrative remedies prescribed in this section prior to applying to any enforcing agency or court for relief.
 - (2) No party aggrieved or adversely affected by any decision or determination of an administrative official may apply to any court for relief unless such person has first exhausted the remedies provided for in this Section and taken all available steps provided for herein.
- (h) *Declaration of water shortage or water shortage emergency.* Declaration of a water shortage condition and/or water shortage emergency, as declared by the District's Governing Board or District's Executive Director, within all, part, or multiple parts of the County shall supersede this section for the duration of the applicable water shortage declaration in accordance with Section 32-8.1, Water Shortage Emergency Restrictions. A water shortage usually, but not always, occurs due to drought.
- (Ord. No. 91-18, § 3, 2-19-91; Ord. No. 91-78, § 1, 7-9-91; Ord. No. 09-25, § 1, 4-7-09; Ord. No. 23-11, § 2, 2-7-23)

ORDINANCE NO. 2023 - _____

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, AMENDING ARTICLE VI. - “WATER SHORTAGE REGULATIONS” OF CHAPTER 78 - “UTILITIES,” OF THE TOWN’S CODE OF ORDINANCES TO INCORPORATE APPLICABLE MIAMI-DADE COUNTY PERMANENT YEAR-ROUND LANDSCAPE IRRIGATION RESTRICTIONS AND PROVIDE FOR ENFORCEMENT BY THE TOWN; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

1 **WHEREAS**, Article VIII, Section 2 of the Florida Constitution, and Chapter 166,
2 Florida Statutes, provide municipalities with the authority to exercise any power for
3 municipal purposes, except where prohibited by law, and to adopt ordinances in
4 furtherance of such authority; and

5 **WHEREAS**, the Town Commission of the Town of Surfside (“Town”) finds it
6 periodically necessary to amend its Code of Ordinances (“Code”) in order to update
7 regulations and procedures to maintain consistency with state law and to implement
8 municipal goals and objectives for the general health, safety and welfare of the Town
9 residents and occupants; and

10 **WHEREAS**, on July 20, 2023, the South Florida Water Management District
11 (“District”) notified the Town that Miami-Dade County (the “County”) revised Section 32-
12 8.2 of the County Code of Ordinances to strengthen and update permanent year-round
13 landscape irrigation restrictions (the “Irrigation Ordinance”); and

14 **WHEREAS**, the County’s Irrigation Ordinance sets forth the minimum standards for
15 landscape irrigation within the incorporated and unincorporated areas of the County,
16 among other things, and is applicable to the Town; and

17 **WHEREAS**, the Irrigation Ordinance specifically provides that landscape irrigation
18 restrictions “shall apply to both the incorporated and unincorporated areas of the
19 County...and in the incorporated areas of the County shall be enforced by the

20 municipalities, unless the County is notified by a municipality, in the form of a letter from
21 an authorized representative of the municipality or by a duly adopted resolution, that the
22 municipality desires the County to enforce the restrictions identified in th[e] [Irrigation
23 Ordinance] within that municipality”; and

24 **WHEREAS**, as part of the District’s notification on July 20, 2023, the District notified
25 the Town that not all provisions of the County’s Irrigation Ordinance were self-executing,
26 and requested that the Town identify whether it would be (1) formally adopting its own
27 landscape irrigation regulations; (2) relying on the County’s Irrigation Ordinance, but
28 requesting County enforcement by letter from an authorized Town representative; (3)
29 relying on the County’s Irrigation Ordinance, but requesting that County enforcement by
30 adoption of a formal resolution; or (4) relying on the County’s Irrigation Ordinance and
31 providing enforcement through Town police or code enforcement officers; and

32 **WHEREAS**, the Town desires to amend Section Article VI. - “Water Shortage Use
33 Regulations”, of Chapter 78 - “Utilities”, to formally adopt and incorporate the County’s
34 Irrigation Ordinance, as may be amended from time to time, and provide for local
35 enforcement through the Town’s police and/or code enforcement officers, as applicable;
36 and

37 **WHEREAS**, the Town Commission held its first public hearing on October 10, 2023,
38 and, having complied with the notice requirements in the Florida Statutes, recommended
39 approval of the proposed amendments to the Code; and

40 **WHEREAS**, the Town Commission has conducted a second duly noticed public
41 hearing on these Code amendments as required by law on November 14, 2023 and
42 further finds the proposed changes to the Code are necessary and in the best interest of
43 the Town.

44 **NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COMMISSION OF THE**
45 **TOWN OF SURFSIDE, FLORIDA¹:**
46

¹ Coding: ~~Strikethrough words~~ are deletions to the existing words. Underlined words are additions to the existing words. Changes between first and second reading are indicated with ~~highlighted double-strikethrough~~ and double underline.

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

49 **Section 2. Town Code Amended.** Article VI. - "Water Shortage Use
50 Regulations" of Chapter 78 - "Utilities," of the Town's Code of Ordinances is hereby
51 amended as follows:

52 **Chapter 78 - UTILITIES**

53 **ARTICLE VI. - WATER SHORTAGE USE REGULATIONS**

54 **Section 78-100. Intent and purpose.**

55 It is the intent and purpose of this article to protect the water resources of the town
56 from the harmful effects of overutilization, including during periods of water shortage and
57 to allocate available water supplies by assisting the South Florida Water Management
58 District in the implementation of its water shortage plan.

59 * * *

60 **Section 78-102. Application of article.**

61 That the provisions of this article shall apply to all persons using the water
62 resources within the geographical areas of the town, including water resources subject to
63 ~~the a~~ "water shortage" or "water shortage emergency," as determined by the district,
64 whether from public or privately owned water utility systems, private wells or private
65 connections with surface water bodies. This article shall not apply to persons using
66 treated effluent or saltwater.

67 * * *

68 **Section 78-104. ~~Declaration of water shortage; water shortage emergency~~**
69 **Water Use Regulations.**

70 (a) Declaration of Water Shortages. That the declaration of a water shortage or
71 water shortage emergency within all or any part of the town by the governing board or the
72 executive director of the district shall invoke the provisions of this article. Upon such
73 declaration all water use restrictions or other measures adopted by the district applicable
74 to the Town of Surfside, or any portion thereof, shall be subject to enforcement action
75 pursuant to this article. Any violation of the provisions of Chapter 40E-21, Florida
76 Administrative Code, or any order issued pursuant thereto, shall be a violation of this
77 article.

78 (b) Permanent year-round landscape irrigation restrictions. The town hereby
79 incorporates and adopts and shall enforce the requirements set forth in section 32-8.2,
80 "Permanent Year-round Landscape Irrigation Restrictions," of the Miami-Dade County
81 Code of Ordinances, as may be amended from time to time. The provisions of the section

82 shall apply to all users within the town of any water resource within the county, whether
83 from publicly or privately owned water utility systems, private wells, or private connections
84 with surface water bodies.

85 **Section 78-105. Enforcement.**

86 Every police officer or ~~sheriff~~ code enforcement officer having jurisdiction in the
87 area governed by this Article shall, in connection with all other duties imposed by law,
88 diligently enforce the provisions of this article. In addition, the town manager may also
89 delegate enforcement responsibility for this article to agencies and departments of the
90 Town of Surfside government, or cities in the service areas governed by this article, in
91 accordance with state and local law.

92 **Section 78-106. Penalties.**

93 That violation of any provision of this article shall be subject to the following
94 penalties:

First violation	\$250.00 <u>Written Warning</u>
Second and subsequent violations	Fine not to exceed \$500.00 and/or imprisonment in the county jail not to exceed 60 days <u>\$25.00</u>

95 Each day in violation of this article shall constitute a separate offense. In the initial
96 stages of a water shortage or water shortage emergency, law enforcement or code
97 enforcement officials may provide violators with no more than one written warning. The
98 town, ~~in addition to the criminal sanctions contained herein,~~ may take any other
99 appropriate legal action, including but not limited to emergency injunctive action, to
100 enforce the provisions of this article.

101 * * *

102 **Section 3. Severability.** If any section, sentence, clause or phrase of this
103 Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction,
104 then said holding shall in no way affect the validity of the remaining portions of this
105 Ordinance.

106 **Section 4. Inclusion in the Code.** It is the intention of the Town Commission,
107 and it is hereby ordained that the provisions of this Ordinance shall become and made a
108 part of the Town of Surfside Code of Ordinances, that the sections of this Ordinance may
109 be renumbered or re-lettered to accomplish such intentions; and the word "Ordinance" may
110 be changed to "Section" or other appropriate word.

111 **Section 5. Conflicts.** Any and all ordinances and resolutions or parts of
112 ordinances or resolutions in conflict herewith are hereby repealed.

113 **Section 6. Effective Date.** This ordinance shall become effective upon adoption
114 on second reading.
115

116 **PASSED** and **ADOPTED** on first reading this ____ day of _____, 2023.

117
118 **PASSED** and **ADOPTED** on second reading this ____ day of _____, 2023.

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120
121 On Final Reading Moved by: _____

122
123 On Final Reading Second by: _____

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125 **First Reading:**
126 Motion by: _____
127 Second by: _____

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130 **Second Reading:**
131 Motion by: _____
132 Second by: _____

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135 **FINAL VOTE ON ADOPTION**
136 **ATTEST:**

137
138
139 _____
140 Sandra N. McCready, MMC
141 Town Clerk

142
143 **APPROVED AS TO FORM AND LEGALITY FOR THE USE**
144 **AND BENEFIT OF THE TOWN OF SURFSIDE ONLY:**

145
146
147 _____
148 Weiss Serota Helfman Cole & Bierman, P.L.
149 Town Attorney



MEMORANDUM

ITEM NO. 4A5.

To: Honorable Mayor, Vice-Mayor and Members of the Town Commission

From: Hector Gomez, Town Manager

Date: November 14, 2023

Subject: **Creation of New Capital Improvement Projects Chapter within the Town Code**

The Town Administration recommends adoption of the proposed ordinance which creates a new Capital Improvement Projects Chapter within the Town Code. The item is consistent to how it was presented in first reading during the October 2023 General Town Commission meeting.

Background/Analysis:

The Town of Surfside is currently undertaking a series of infrastructure and facilities projects that fall under the category of Capital Improvement Projects (CIP). These projects are presently managed by the Public Works Department, either through consultants contracted via Request for Professional Services or from a pool of engineering firms. However, this approach can lead to inefficiencies and increased costs, particularly as project scopes evolve during the design phase to better align with project needs. To optimize cost management and ensure comprehensive planning across ongoing projects and those anticipated within the next five years, the Town Manager proposes the establishment of a new department.

By creating this new department, the Town aims to consolidate project management efforts under a single Town resource. While recognizing that the Public Works Department has diverse responsibilities but limited resources, the new department would enhance effectiveness in overseeing costs and undertaking holistic planning for the diverse array of projects.

Budget Impact Clarification:

Implementing this new department will result in budgetary implications, which the Town intends to address in Fiscal Year 2024. The primary anticipated expense is related to the recruitment and hiring of a dedicated Capital Improvement Projects Director.

Implementation of New Chapter:

The progression of this department requires amendments to the Town Code, necessitating the adoption of a new Chapter 73. This chapter will outline the department's purpose, the approach to the CIP program, and the methodologies for budgeting associated with this initiative. Drawing insights from comparable municipal codes, the Town has identified key components for incorporation into this new chapter. Specifically, it will encompass provisions for the Town's Capital Improvement Plan, Capital Improvement Budget, as well as general requisites falling within the purview of the Capital Improvement Projects Department's management.

Upon the successful adoption of this new chapter into the Town's Code, the subsequent steps will involve recruiting a capable Capital Improvement Projects Director to oversee the department's activities. With plans to initiate the recruitment process in October of 2023, the Town remains committed to advancing this essential development.

[Ordinance Creating Capital Improvement Projects Department](#)

ORDINANCE NO. 2023 - _____

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, AMENDING THE CODE OF ORDINANCES BY CREATING CHAPTER 73, "CAPITAL IMPROVEMENT PROJECTS DEPARTMENT", PROVIDING FOR A DEFINITION OF TOWN "CAPITAL IMPROVEMENT PROJECT"; PROVIDING FOR FUNCTIONS OF THE DEPARTMENT, PLANNING, BUDGETING AND IMPLEMENTATION; PROVIDING FOR SEVERABILITY, CONFLICTS, CODIFICATION AND AN EFFECTIVE DATE.

1 **WHEREAS**, Section 17 of the Charter provides that the Town of Surfside
2 ("Town") Commission may create new departments by ordinance; and

3 **WHEREAS**, the Town Commission desires to create and include in the Town's
4 Code of Ordinances (the "Code"), as Chapter 73 "Capital Improvement Projects
5 Department" ("Department"), and provide for definitions, the functions of the
6 Department, budgeting and implementation Town capital improvement projects; and

7 **WHEREAS**, it is the intent of the Town to proactively enhance its infrastructure
8 development, and overall community well-being, through effective management and
9 execution of capital improvement projects; and

10 **WHEREAS**, the Town acknowledges the integral role that public capital
11 improvements play in shaping the Town's growth and prosperity, recognizing that these
12 initiatives constitute a significant portion of all public expenditures within the Town's
13 jurisdiction; and

14 **WHEREAS**, the Town aspires to establish a comprehensive and strategic
15 approach to the planning, budgeting, and implementation of various capital
16 improvement projects, with the Department under the oversight of the Town Manager
17 and/or a newly appointed designee or director; and

18 **WHEREAS**, the Town Commission finds that this Ordinance is in the best
19 interest and welfare of the Town.

20 **NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COMMISSION OF THE**
21 **TOWN OF SURFSIDE, FLORIDA AS FOLLOWS¹:**

¹ Coding: ~~Strikethrough words~~ are deletions to the existing words. Underlined words are additions to the existing words. Changes between first and second reading are indicated with highlighted double-strikethrough and double underline.

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

Section 2. Town Code Adopted. Chapter 73 of the Town Code “Capital Improvements Projects Department” is hereby created to read as follows:

CHAPTER 73. CAPITAL IMPROVEMENT PROJECTS DEPARTMENT.

Sec. 73-1. Purpose.

The Town of Surfside recognizes that the progress and direction of community development are intricately linked to public capital improvements. These improvements represent a significant portion of the Town's expenditures, underscoring the need for strategic planning. The Town wishes to provide for the efficient preparation, budgeting, and integration of numerous public capital projects within a comprehensive program.

Sec. 73-2. Creation of a Capital Improvement Projects Department; Functions.

The Capital Improvement Projects Department is hereby established, under the supervision and coordination of the Town Manager and/or director appointed by the Town Manager, to implement and manage capital improvement projects. The functions of the Department shall include, but not be limited to:

- a) Administration and management of capital improvement and infrastructure projects for the Town;
- (b) Identification of capital improvement and infrastructure projects and equipment purchases for the Town;
- (c) Propose and implement capital improvement plan(s);
- (d) Planning and implementation schedule for such projects, including a timetable for construction and completion of projects, under the direction of the Town Manager and/or director;
- (e) Forecasting or planning for future development and growth within the Town, including facilities, utilities, infrastructure and equipment programs for implementation of the plans;
- (f) Solicitation, compilation and evaluation of new projects requests;
- (g) Evaluation of previously approved, unimplemented or incomplete projects;
- (h) Prioritization of projects;
- (i) Assist with the development of financing plans or options for the projects; and
- (j) Monitoring and management of existing projects.

58 **Sec. 73-3. Definitions.**

59 As used in this Chapter 73, the following terms shall have the following meanings:

60 (a) Capital Improvement Project(s). "Capital Improvement Project(s)" means a
61 planned undertaking of the Town that leads to the acquisition, construction, or
62 extension of the useful life of capital assets. Capital assets include things such
63 as land, buildings, parks, streets, utilities, and other items of value from which
64 the community derives benefit. To constitute a capital improvement project, the
65 project must:

- 66 1. Have a useful life of more than ten years.
67 2. Be a one-time outlay, which is non-recurring in nature.
68 3. Add to, enhance the value of, or extend the life of the Town's physical
69 assets.
70 4. Major equipment purchases must be associated with a Capital
71 Improvement Project and must meet the criteria in item 1 above in order to
72 be included as a Capital Improvement Project.

73 Any project which meets the definition of a Capital Improvement Project
74 must be included in the Capital Improvement Plan, regardless of funding
75 source.

76 5. Excluded from the definition of Capital Improvement Projects are:

- 77 i. Town vehicular equipment purchases. Fleet appropriations are to be
78 considered within the operating budget.
79 ii. Expenditures for repair, maintenance, supplies and materials or
80 replacement items which shall be budgeted as operating items.

81 (b) Capital Improvement Plan. The Capital Improvement Plan (CIP) is a
82 comprehensive five-year plan of proposed capital improvement projects,
83 updated annually, intended to identify and balance the capital needs of the
84 community within the fiscal capabilities and limitations of the Town budget.

85 (c) Capital Improvement Plan Budget. Capital Improvement Plan Budget shall be
86 submitted annually with the Town Annual Budget and is the first year of the
87 Capital Improvement Plan.

88 **Sec. 73-4. Capital Improvement Plan and Capital Improvement Plan Budget;**

89 **Contents.**

90 (a) Capital Improvement Plan. The overall Capital Improvement Plan is formulated to
91 reflect Town's capital priorities and needs for the ensuing five-year period. The
92 Capital Improvement Plan shall include a brief summary of each project with
93 sufficient detail to define the basic scope of the project and show the proposed
94 level of funding and the timing thereof for the various stages of each project,
95 including the date of inception of the project. Each project shall include the
96 projected comprehensive budget necessary to complete the project in its entirety,
97 all prior funds appropriated by the Town or otherwise received for or contributed to

98 the project and anticipated funding by source from all anticipated sources on a
99 project-by-project basis. For each project included in the CIP, the funding source
100 and amount of funding for the anticipated post-construction operation costs shall
101 also be included. Years two through five of the plan may be subject to change as
102 emergencies arise or projects are delayed by circumstances beyond the Town's
103 control, including removal of projects from the CIP or delayed from the CIP or the
104 scope or budget of such project substantially changed. The annual focus primarily
105 will be on the fifth year of the plan as new projects are added.

106 (b) *Capital Improvement Plan Budget.* The Capital Improvement Plan Budget is the first
107 year of the Capital Improvement Plan. The Capital Improvement Plan Budget shall
108 be adopted annually as a separate budget or a separate section within the annual
109 budget to be known as the "Capital Improvement Plan Budget" separate and apart
110 from the operating budget of the Town or any other budget required by law.

111 **Sec. 73-5. Preparation and submission of the Capital Improvement Plan Budget.**

112 On or before July 1 of each year, the Capital Improvement Projects Department
113 shall meet with all departments of the Town to develop a proposed Capital
114 Improvements Plan Budget for the succeeding fiscal year. The Town Manager shall
115 submit the proposed Capital Improvements Plan Budget to the Town Commission in
116 conjunction with the submission of the annual budget.

117 **Sec. 73-6. Progress and Closure of Capital Improvement Projects.**

118 Progress of Capital Improvement Projects is to be tracked by the Town Manager's
119 and/or Department Director. The Town Manager may hire a Director to assist in the
120 implementation and oversight of the Department.

121
122 **Section 3. Severability.** If any section, part of section, paragraph, clause,
123 phrase or word of this Ordinance is declared invalid, the remaining provisions of this
124 Ordinance shall not be affected.

125
126 **Section 4. Conflicts.** To the extent that this Ordinance conflicts wholly or
127 partially with any existing provision in the Town Code, the terms of this Ordinance shall
128 prevail.

129
130 **Section 5. Effective Date.** This Ordinance shall be effective immediately
131 upon adoption.

132
133 **PASSED** on first reading this ____ day of _____, 2023.

134
135 **PASSED** and **ADOPTED** on second reading this ____ day of _____, 2023.

136
137 **First Reading:**
138 Motion by: _____
139 Second by: _____
140

141 **Second Reading:**
142 Motion by: _____
143 Second by: _____
144

145 **FINAL VOTE ON ADOPTION**
146 Commissioner Fred Landsman _____
147 Commissioner Marianne Meisheid _____
148 Commissioner Nelly Velasquez _____
149 Vice Mayor Jeffrey Rose _____
150 Mayor Shlomo Danzinger _____
151

152
153
154 _____
155 Shlomo Danzinger, Mayor
156

157 **ATTEST:**
158 _____
159 _____
160 Sandra N. McCready, MMC
161 TOWN CLERK
162

163
164 **APPROVED AS TO FORM AND**
165 **LEGALITY FOR THE USE AND**
166 **BENEFIT OF THE TOWN OF**
167 **SURFSIDE ONLY:**
168
169
170
171 _____
172 Weiss Serota Helfman Cole & Bierman, P.L.
173 Town Attorney



MEMORANDUM

ITEM NO. 4B1.

To: Honorable Mayor, Vice-Mayor and Members of the Town Commission

From: Hector Gomez, Town Manager

Date: November 14, 2023

Subject: **Code Amendment for Outdoor Lighting in the Single-Family Residential Districts**

Town Administration recommends that the Town Commission review this ordinance to modify Section 90-62 Outdoor Lighting of the Town Code to addresses the specific requirements of the single-family districts.

During the September 2023 General Town Commission meeting, the Commission directed Town administration to bring back a first reading Ordinance that amends the code to address outdoor Lighting in the Single-Family Residential District. During the September 2023 General Town Commission meeting there was proposed language as part of the discussion which Town Staff incorporated and expanded on as part of this first reading ordinance. At present there are no regulations in the zoning code that specifically address outdoor lighting in the single-family districts.

The proposed ordinance utilizes lumens and watts as a measurement of light fixture strength to make it simple for homeowners to purchase appropriate lighting. Typical manufacturer specification sheets list light strength in lumens or watts. This is intended to assist a homeowner in choosing lighting elements at the time of purchase that are neighborhood compatible. The ordinance also includes a maximum foot-candle measurement which would be used to measure total light at a given point. It is difficult to determine the point of light emission in a densely populated neighborhood, which is the purpose of dual regulations - the fixture strength and the foot-candle at the property line.

The ordinance also limits the strength of landscape lighting and exempts holiday lights.

[Ordinance Amending Section 90-62 Outdoor Lighting for Single-Family Dwellings.DOCX](#)

ORDINANCE NO. 2023 - _____

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, AMENDING THE TOWN OF SURFSIDE CODE OF ORDINANCES BY AMENDING SECTION 90-62 – “OUTDOOR LIGHTING” TO PROVIDE OUTDOOR LIGHTING REGULATIONS FOR SINGLE-FAMILY RESIDENTIAL DWELLINGS; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

1 **WHEREAS**, Article VIII, Section 2 of the Florida Constitution, and Chapter 166,
2 Florida Statutes, provide municipalities with the authority to exercise any power for
3 municipal purposes, except where prohibited by law, and to adopt ordinances in
4 furtherance of such authority; and

5 **WHEREAS**, the Town Commission of the Town of Surfside (“Town”) finds it
6 periodically necessary to amend its Code of Ordinances and Land Development Code
7 (“Code”) in order to update regulations and procedures to maintain consistency with state
8 law, to implement municipal goals and objectives, to clarify regulations and address
9 specific issues and needs that may arise; and

10 **WHEREAS**, Section 90-62 of the Code provides outdoor lighting regulations for
11 multi-family and non-residential properties; and

12 **WHEREAS**, currently, there are no applicable outdoor lighting regulations for
13 single-family dwellings; and

14 **WHEREAS**, at a regular meeting of the Town Commission held on September 12,
15 2023, the Town Commission directed the Town Attorney to present an ordinance
16 addressing outdoor lighting standards in the single-family residential zone; and

17 **WHEREAS**, the Town Commission held its first public hearing on November 14,
18 2023 and, having complied with the notice requirements in the Florida Statutes,
19 recommended approval of the proposed amendments to the Code; and

20 **WHEREAS**, the Planning and Zoning Board, serving as the local planning agency
21 for the Town, held its hearing on the proposed amendment to the Code on
22 _____, 2023 with due public notice and input, and recommended _____
23 of the proposed amendments to the Code; and

24 **WHEREAS**, the Town Commission has conducted a second duly noticed public
25 hearing on these Code amendments as required by law on _____, 2023
26 and further finds the proposed changes to the Code are necessary and in the best interest
27 of the Town.

28 **NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COMMISSION OF THE**
29 **TOWN OF SURFSIDE, FLORIDA¹:**

30
31 **Section 1. Recitals.** The above Recitals are true and correct and are
32 incorporated herein by this reference:

33 **Section 2. Town Code Amended.** Sections 90-62. – “Outdoor lighting” is
34 hereby amended as follows:

35 Sec. 90-62. – Outdoor lighting.

36 90.62.1 The following are applicable to all single-family and duplex dwellings:

- 37 (a) All lights other than landscape lighting: Electrical Plans indicating the location of
38 the lighting fixtures; type of lights, height of lights and levels of illumination; shade,
39 type and height; and bases, deflectors and beam directions shall be submitted to
40 the Building Department as part of an Electrical permit approval.
41 a. Continuous lighting requires shielding to direct light down
42 i. Max. Lumens: 450 per fixture
43 ii. Min. Spacing: every 20 ft
44 b. Motion Sensor/Intermittent safety lighting. Must be on a 15 min. timer and
45 may only be located attached to the home and illuminating a front yard,
46 secondary frontage or rear yard
47 i. Max. Lumen; 1100 or 75 watt
48 ii. Maximum of two such fixtures per property
49
50
51 (b) Outdoor lighting shall be designed so that any overspill of lighting onto adjacent
52 properties shall not exceed one-half foot-candle (vertical) and one-half foot-candle
53 (horizontal) illumination on adjacent properties.
54
55 (c) Outdoor lighting fixtures above 10 feet shall be shielded or employ shielded
56 fixtures so that light sources are not visible from adjacent properties or rights-of-
57 way.
58

¹ Coding: ~~Strikethrough words~~ are deletions to the existing words. Underlined words are additions to the existing words. Changes between first and second reading are indicated with ~~highlighted double-strikethrough~~ and double underline.

- 59 (d) An outdoor lighting installation shall not be placed in permanent use until a letter
 60 of compliance from a registered architect or engineer is provided to the town
 61 manager or designee, certifying that the installation has been field-checked and
 62 meets the requirements set forth above.
 63
- 64 (e) The town manager or designee may issue a permit for such proposed outdoor
 65 lighting, if, after review of the plans and after consideration of the design
 66 characteristics of the lighting fixtures and lighting poles and bases, they are found
 67 to be in harmony with the site architecture design, the adjacent area and the
 68 neighborhood, and will be deflected, shaded and focused away from adjacent
 69 properties; and will not be a nuisance to adjacent properties and traffic.
 70
- 71 (f) All of the foregoing installations shall conform to the Florida Building Code.
 72
- 73 (g) All exterior lighting on single-family and duplex properties in H30A, H30B and
 74 H30C zoning districts shall be individual fixtures. Permanent strip lighting is
 75 prohibited outdoors, including on balconies or architectural features.
 76
- 77 (h) Low voltage or solar landscape up-lighting is permitted at a maximum strength of
 78 600 Lumens or 60 watts per fixture provided the fixture is no higher than 3 feet
 79 high from grade.
 80
- 81 (i) Temporary holiday lighting is exempt form permitting requirements

82 90.62.2 The following are applicable to all multi-dwelling and non-residential
 83 properties:

84 * * *

85 **Section 3. Severability.** If any section, sentence, clause or phrase of this
 86 Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction,
 87 then said holding shall in no way affect the validity of the remaining portions of this
 88 Ordinance.

89 **Section 4. Inclusion in the Code.** It is the intention of the Town Commission,
 90 and it is hereby ordained that the provisions of this Ordinance shall become and made a
 91 part of the Town of Surfside Code of Ordinances, that the sections of this Ordinance may
 92 be renumbered or re-lettered to accomplish such intentions; and the word "Ordinance" may
 93 be changed to "Section" or other appropriate word.

94 **Section 5. Conflicts.** Any and all ordinances and resolutions or parts of
 95 ordinances or resolutions in conflict herewith are hereby repealed.

96 **Section 6. Effective Date.** This ordinance shall become effective upon adoption
 97 on second reading.
 98

99 **PASSED** on first reading on the ____ day of _____, 2023.

100 **PASSED AND ADOPTED** on second reading on the ____ day of _____, 2023.

101 **First Reading:**

102 Motion by: _____

103 Second by: _____

104

105

106 **Second Reading:**

107 Motion by: _____

108 Second by: _____

109

110

111 **FINAL VOTE ON ADOPTION**

112

113 Commissioner Fred Landsman _____

114 Commissioner Marianne Meisheid _____

115 Commissioner Nelly Velasquez _____

116 Vice Mayor Jeff Rose _____

117 Mayor Shlomo Danzinger _____

118

119

120

121 _____
Shlomo Danzinger, Mayor

122 **ATTEST:**

123

124

125

126 _____
Sandra N. McCready, MMC

127 Town Clerk

128

129 **APPROVED AS TO FORM AND LEGALITY FOR THE USE**

130 **AND BENEFIT OF THE TOWN OF SURFSIDE ONLY:**

131

132

133

134 _____
Weiss Serota Helfman Cole & Bierman, P.L.

135 Town Attorney



MEMORANDUM

ITEM NO. 5A.

To: Honorable Mayor, Vice-Mayor and Members of the Town Commission

From: Hector Gomez, Town Manager

Date: November 14, 2023

Subject: **PUBLIC HEARING ITEM**
On Demand Transit Services Through FREEBEE Ride Share

Town administration recommends the discontinuation of the current shuttle service providing last mile service and implementing an on-demand transit service through FREEBEE in its place. The recommendation is to commence with one on-demand 6 passenger electric vehicle commencing within the first half of the fiscal year and the addition of a second vehicle commencing the second half of the fiscal year.

The Town of Surfside is seeking to establish a mobile-based, on-demand transportation service. The proposed on-demand transportation service will replace the existing shuttle service, and consists of one (1) six (6) passenger electric vehicle operating in the area designated in the image below during designated hours, and, possibly an additional vehicle of same make and model within the same fiscal year. The proposed on-demand transportation service has an anticipated start date of March, 2024.

We are seeking public input on the proposed on-demand transportation service at a public hearing which will be held at 6:00 pm on Tuesday, November 14, 2023, at Town Hall Commission Chambers, 9293 Harding Avenue, Surfside, FL 33154.

If you have comments or concerns regarding the proposed on-demand transportation service, please contact Irina Mocanu, Chief of Staff, at (305) 993-1052 or imocanu@townofsurfsidefl.gov.

Refer to **Attachment A** - *Public Notice*
Attachment B - *Proof of Advertisement*

Resolution Accepting Public Comments and Providing Comment Period - On-Demand
Transit.DOCX

Attachment A - Public Notice

Attachment B - Proof of Advertisement

RESOLUTION NO. 2023-_____

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, ACCEPTING PUBLIC HEARING COMMENTS RELATING TO THE ESTABLISHMENT OF AN ON-DEMAND TRANSIT SERVICE TO REPLACE THE EXISTING TOWN SHUTTLE SERVICE AND USE OF TRANSPORTATION SURTAX PROCEEDS FOR THE SERVICE; CONFIRMING PUBLIC COMMENT PERIOD; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town of Surfside (the “Town”) currently operates a shuttle service (the “Shuttle”) utilizing its share of Citizens Independent Transportation Trust (“CITT”) surtax proceeds; and

WHEREAS, the Town is considering the replacement of the Shuttle with a locally operated on-demand public transportation service (the “Services”); and

WHEREAS, pursuant to Section 212.055(1)(d), Florida Statutes, transportation surtax proceeds may be used for the Services where a trip is not greater than five miles in distance; and

WHEREAS, Section 29-124 of the Miami-Dade County (“County”) Code of Ordinances further allows eligible municipalities to use their municipal share of CITT surtax proceeds for the provision of the Services; and

WHEREAS, in order to utilize CITT surtax proceeds for the provision of the Services, the Town must execute an interlocal agreement with the County governing the Services after holding a duly noticed public hearing that provides the community an opportunity to voice their opinion concerning the proposed Services; and

WHEREAS, on October 26, 2023, the Town published a public hearing notice (in English and Spanish), in the Miami Herald advising the public that the Town would hold

a public hearing on November 14, 2023, for the purpose of obtaining public comments on the potential establishment of the Services to replace the Shuttle; and

WHEREAS, in order to elicit public comments and provide the public a meaningful opportunity to participate in the decision over the replacement of the Shuttle and use of CITT surtax proceeds for the Services, the Town held a duly noticed public hearing on November 14, 2023; and

WHEREAS, the Town Commission confirms its desire to receive additional public comment and input relating to the establishment of the Services to replace the Shuttle up until the next Town Commission Meeting on December 12, 2023; and

WHEREAS, an interlocal agreement with the County relating to the use of CITT surtax proceeds for the Services shall be considered at the December 12, 2023, Town Commission Meeting; and

WHEREAS, the Town Commission finds that this Resolution is in the best interest and welfare 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-stated recitals are true and correct and are incorporated herein by this reference.

Section 2. Accepting Public Comments. The Town Commission hereby accepts the public comments made prior to and/or at the duly noticed public hearing held at the November 14, 2023, Town Commission Meeting.

Section 3. Confirming Public Comment Period. The Town Commission hereby confirms its desire to receive additional public comment and input relating to the

establishment of the Services to replace the Shuttle. An interlocal agreement with the County for the use of CITT surtax proceeds for the Services shall be considered at the December 12, 2023, Town Commission Meeting.

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

PASSED AND ADOPTED this 14th day of November, 2023.

Motion By: _____
Second By: _____

FINAL VOTE ON ADOPTION:

Commissioner Fred Landsman _____
Commissioner Marianne Meisheid _____
Commissioner Nelly Velasquez _____
Vice Mayor Jeffrey Rose _____
Mayor Shlomo Danzinger _____

Shlomo Danzinger, Mayor

ATTEST:

Sandra McCready, MMC
Town Clerk

**APPROVED AS TO FORM AND LEGALITY FOR THE USE
AND BENEFIT OF THE TOWN OF SURFSIDE ONLY:**

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



TOWN OF SURFSIDE PUBLIC HEARING NOTICE

TOWN OF SURFSIDE ON-DEMAND TRANSPORTATION SERVICE

TUESDAY, NOVEMBER 14, 2023, AT 6:00 P.M.

Town Hall
9293 Harding Avenue, Surfside, FL

The Town of Surfside is seeking to establish a mobile-based, on-demand transportation service. The proposed on-demand transportation service will replace the existing shuttle service, and consists of one (1) six (6) passenger electric vehicle operating in the area designated in the image below during designated hours, and, possibly an additional vehicle of same make and model within the same fiscal year. The proposed on-demand transportation service has an anticipated start date of March, 2024.

We are seeking public input on the proposed on-demand transportation service at a public hearing which will be held at 6:00 pm on Tuesday, November 14, 2023, at Town Hall Commission Chambers, 9293 Harding Avenue, Surfside, FL 33154.

If you have comments or concerns regarding the proposed on-demand transportation service, please contact Irina Mocanu, Chief of Staff, at (305) 993-1052 or imocanu@townofsurfsidefl.gov.



TOWN OF SURFSIDE AVISO DE AUDIENCIA PUBLICA

PUEBLO DE SURFSIDE - BAJO DEMANDA SERVICIO DE TRANSPORTE

MARTES 14 DE NOVIEMBRE DEL 2023 A LAS 6:00 P.M.

Ayuntamiento
9293 Harding Avenue, Surfside, FL 33154

El Municipio de Surfside desea establecer un servicio de transporte público que se utiliza bajo de manda (al-solicitarlo). El servicio de transporte consistirá de un (1) vehículo eléctrico con capacidad de seis (6) pasajeros con operaciones en el area especificada en la imagen a continuación durante las horas designadas con una fecha de inicio anticipada de Marzo 2024 y la posibilidad de agregar otro vehículo del mismo modelo en el mismo año fiscal. Este programa reemplazará el programa de autobus de enlace, conocido como "Shuttle". Estamos buscando la opinion del publico sobre el servicio de transporte propuesto en una audiencia publica que se llevará a cabo en el Ayuntamiento del Municipio de Surfside a las 6:00 pm el Martes, 14 de Noviembre del 2023.

Si tiene comentarios o inquietudes con respecto al servicio de transporte a pedido propuesto, comuniquese con Irina Mocanu, Jefa de Personal al (305) 993-1052 or imocanu@townofsurfsidefl.gov



19 people from China and 3 from Ecuador arrive in Keys migrant landing

By **AP Wire Services**
apwire@ap.com

Nineteen people from China and three from Ecuador arrived in the Florida Keys in what federal officials called a human-smuggling incident. The migrants came ashore in Key Largo shortly before 1 a.m. Monday, according to Monroe County Sheriff's Office call-center logs. The Florida Highway Patrol, which said its troopers helped U.S. Border Patrol

agents catch the arrivals, said the incident happened near mile marker 109.

"That would mean the migrants arrived on County Road 109, also known as C-109, near the island of Naval Road, which runs along a long, narrow peninsula and land north of the business and residential area of Key Largo."

Agents with Homestead Sheriff's Office are investigating the landing and declined to provide details. A law-enforcement source said the peo-

THE FLORIDA HIGHWAY PATROL SAID ITS TROOPERS HELPED U.S. BORDER PATROL AGENTS CATCH THE ARRIVALS NEAR MILE MARKER 109.

ple were dropped off from a boat that has not been found. The highway patrol said its troopers were called to the area "at the request of U.S. Border Patrol to set up a secure perimeter and to assist in the apprehension of the suspects."

There is much a highway number of FHP troopers assigned to the Keys that normal because of an executive order that Gov. Ron DeSantis issued in January in reaction to a surge in maritime migration, mostly from Cuba and Haiti. The order, which has been extended several

times, sent troopers, state fish and wildlife police, Florida Department of Law Enforcement agents and Florida National Guard troops to the island keys.

The influx in police and Guard troops, combined with stepped-up Coast Guard and other federal agency patrols of the Keys, worked to significantly reduce landings from their peak during the Christmas season. But migrant boats and smugglers are still getting through.

On Sunday, Border Patrol agents said they took two coast-guard people who landed in Islamorada in the Keys on a small homemade wooden boat with "La Florida" (The Arrow) painted on the hull.

The Homeland Security investigations is asking agents with information about Monday's landing to call the agency's tip line at 844-347-2473. **Daniel Goodbar**
dg2@flh.com

FROM PAGE 9A **HIALEAH**

approval of four council members, the lawsuit states, then-litigator City Attorney Elin S. Jernstedt-Yuker told Calvo that he could not request that as soon as he added to the agenda of a council meeting "because it was not discussed with the mayor in advance."

A implementing a policy that prohibits council members, including Calvo, from speaking at any department head or city employee without going through the mayor.

According to a memorandum from the mayor's office dated Sept. 1, 2022, "one request of a member of our council to any city department head or administrator for assistance with an event or situation (including one without needed items) requested in writing to the Office of the Mayor."

Calvo's lawsuit asks for a judge to render the mayor's policies invalid and issue a permanent injunction to block them.

most transparency for residents and councilors and other politicians in the future," Calvo said. The mayor, who learned of the lawsuit on Tuesday during a break in a City Council session, told of Navro Hissaid he had "no comment" on the complaint.

"I am not going to play the political game," said Bone, who acts as Hissaid's strong mayor, overseeing the government's day-to-day operations. Hissaid City Attorney Rafael Rivera also declined to comment.

One of Calvo's lawyers, Britton Quinones, told of Navro Hissaid that the mayor, the city attorney and the city clerk are wrongly interpreting the city's code by preventing or limiting the councilman from carrying out investigations, preventing issues on the agenda and meeting with Hissaid's managers.

"Calvo has received information and documents in the past. We don't understand why the policy changes now. The code review public records without paying or hiding confidential information. What we want is to have access to that information," Quinones



Hissaid Mayor Elin S. Jernstedt-Yuker (left) and Councilman Bryan Calvo during a council meeting Tuesday. Bone said he had no comment about Calvo's lawsuit against him. **Tommy Egner** for the Herald

Hissaid Mayor Elin S. Jernstedt-Yuker (left) and Councilman Bryan Calvo during a council meeting Tuesday. Bone said he had no comment about Calvo's lawsuit against him. **Tommy Egner** for the Herald

what were elected in 2021. They have clashed publicly over various issues, including the creation of a redevelopment agency, the budget and increasing water service fees.

In a statement sent Wednesday to all Navro Herald by the mayor's press officer, Gina Romero, she said "the facts speak for themselves, the Mayor will not comment and the will prove that this is a cheap political act."

CITY HALL DRAMA
 The lawsuit is the latest confrontation between Calvo and Bone, both of

involved Hissaid politicians.

This year, former Mayor Carlos Hernandez was sued by relatives of Councilman Jiro Tundidor over a 2019 suit on his neighborhood, Belton Cabana. According to the lawsuit, the raid occurred because Tundidor decided to sue for relief without Hernandez's approval.

Now in Calvo's lawsuit the first time a mayor and councilman have faced off in court over the dissolution of power.

In the 1970s, Mayor Dale G. Bennett sued a group of councilmembers as the Franchises Five. The litigation was not legislation that Bennett believed had improperly curtailed his powers, according to stories published at the time by the Miami Herald.

One of the councilmen, Raul Martinez, who would go on to become Hissaid's mayor, said the councilmembers also sued Calvo's case, but Smith, a special investigator for the city of North Miami, warned after reading the Hissaid code that "Councilman Calvo should be allowed to have the ability to place items in the agenda. The mayor does not have the author-

ity to prohibit it, particularly if the Council finds that it is reasonable and serves a legislative public purpose."

"The suggest otherwise could potentially stop the Council from governing," said Smith, who previously was a Miami Beach city councilman. Tundidor is now the city attorney for the cities of Miami Beach and North Miami Beach.

Regarding Calvo's public records request about the 911 call center, however, Smith believes the code supports the mayor's actions. "It is my legal opinion that the individual Council Members are not authorized to conduct investigations, unless a majority of the legislative body approves such investigations."

Smith said the Miami-Dade Commission on Ethics and Public Trust might be the better venue for Calvo's claim. "It's a civil, faster and less expensive," he said, adding that judges do not like to get involved in protracted litigation.

Tommy Egner for the Herald
te2@flh.com, tommyegner@flh.com

Miami Herald
 SPECIAL PREMIUM EDITION

Treat
 your holiday guests

An end-of-year smorgasbord of recipes and tips for entertaining. Learn how to set a welcoming holiday table, how to perfect your pies, how to roll out sugar cookies, how to be a gracious guest and how to mix a delicious cocktail.

Available inside the Sunday, Oct. 29 edition.

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**TOWN OF SURFSIDE
 PUBLIC HEARING NOTICE**

TOWN OF SURFSIDE OVERSEAS TRANSPORTATION SERVICE
 TUESDAY, NOVEMBER 14, 2023 AT 6:00 P.M.

Town Hall
 8320 Harding Avenue, Surfside, FL

The Town of Surfside is seeking to establish a mobile-based, on-demand transportation service. The proposed on-demand transportation service will replace the existing shuttle service, and consists of a new 15 to 20 passenger electric vehicle operating in the area throughout the image below during designated hours, and providing an additional vehicle of same make and model within the same fiscal year. The proposed on-demand transportation service has an anticipated start date of March, 2024.

We are seeking public input on the proposed on-demand transportation service at a public hearing held on the date and at the location listed below on Tuesday, November 14, 2023, at Town Hall (8320 Harding Avenue, Surfside, FL) 7:00 P.M.

If you have comments or concerns regarding the proposed on-demand transportation service, please contact Mike Mironis, Chief of Staff, at (305) 953-1152 or mikemironis@townofsurfside.com.

**TOWN OF SURFSIDE
 AVISO DE AUDIENCIA PUBLICA**

MIÉRCOLES DE SURFSIDE. SERVICIO DE TRANSPORTE SOBRESELECCIONADO
 MIÉRCOLES 14 DE NOVIEMBRE DEL 2023 A LAS 6:00 P.M.

Apurtoamiento
 8320 Harding Avenue, Surfside, FL 33154

El Municipio de Surfside desea establecer un servicio de transporte público que utilice vehículos eléctricos. El servicio de transporte consistirá de un (1) vehículo eléctrico con capacidad de hasta 15 a 20 pasajeros con un conductor en el área designada en la imagen a lo largo del tiempo durante horas designadas, y proporcionando un vehículo adicional del mismo tipo y modelo dentro del mismo año fiscal. Este programa reemplazará el programa de autobús de transporte existente, conocido como "Shuttle". Este servicio de transporte público tendrá un inicio anticipado de marzo del 2024.

Si tiene comentarios o inquietudes con respecto al servicio de transporte a público propuesto, comuníquese con Mike Mironis, jefe de Personal al (305) 953-1152 o mikemironis@townofsurfside.com.



MEMORANDUM

ITEM NO. 5B.

To: Honorable Mayor, Vice-Mayor and Members of the Town Commission
From: Commissioner Marianne Meisheid
Date: November 14, 2023
Subject: **Resolution in Support of SB 172 in Support of Veteran Housing**

Seeking Town Commission support to submit a resolution in support of SB 172 to be provided to our Town Lobbyist to support in the 2024 Legislative Session.

Under current law, Florida Statute 196.092 - Verification of eligibility for certain disabled veterans and surviving spouses. The Department of Revenue shall establish a procedure by which a person may verify his or her eligibility to receive an exemption or a discount under S. 196.081, s. 196.082, or S.196.091 before the purchase of property. The department shall adopt rules to administer this section.

S.B. 172 addresses this timing issue and allows 100% Disabled Veterans to apply for their exemption after going under contract to purchase a home, and receive approval subject to taking ownership of the home. This adjustment ensures that Florida's Disabled Veterans can fully access the benefits they have already earned at the time that they need them most.

This bill seeks to improve a law that exempts disabled veterans from real estate taxes. Unfortunately, the exemption is given after closing and therefore after the underwriting of the mortgage. To qualify for the mortgage under this scenario, a buyer must show the ability to make monthly payments that include the real estate taxes (taxes that will not be collected). This makes qualifying for the mortgage more difficult, and unnecessary.

[Resolution Urging FL Legislature to Adopt SB 172 Re Verification of Eligibility for Veterans Property Tax Exemption](#)

RESOLUTION NO. 2023-_____

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, URGING THE FLORIDA LEGISLATURE TO ADOPT SB 172, WHICH WOULD REQUIRE THE DEPARTMENT OF REVENUE TO ESTABLISH A PROPERTY TAX EXEMPTION OR DISCOUNT ELIGIBILITY VERIFICATION PROCEDURE FOR CERTAIN DISABLED VETERANS AND SURVIVING SPOUSES BEFORE PURCHASING PROPERTY; PROVIDING FOR TRANSMITTAL; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Florida law currently provides property tax exemptions and discounts for real estate that is owned and used as a homestead by certain permanently and totally disabled veterans, surviving spouses of certain veterans, surviving spouses of first responders who die in the line of duty, and certain disabled veterans confined to wheelchairs under Sections 196.081, 196.082, and 196.091 of the Florida Statutes (collectively, the “Veterans Exemption or Discount”); and

WHEREAS, Senator Tina Polsky and Senator Rosalind Osgood have co-introduced Senate Bill 172 (“SB 172”), which would require the Department of Revenue to establish an eligibility verification procedure by which a person may verify his or her eligibility to receive a Veterans Exemption or Discount *before* such person purchases property; and

WHEREAS, the Town Commission finds that SB 172 would benefit veterans and their surviving spouses by allowing such individuals to verify their eligibility to qualify for a Veterans Exemption or Discount before purchasing property; and

WHEREAS, the Town Commission urges the Florida Legislature to adopt SB 172 in the upcoming Florida Legislative Session commencing on January 9, 2024, and ending on March 8, 2024; and

WHEREAS, the Town Commission finds that this Resolution is in the best interest and welfare 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-stated recitals are true and correct and are incorporated herein by this reference.

Section 2. Urging Resolution. The Town Commission urges the Florida Legislature to adopt SB 172 in the upcoming Florida Legislative Session commencing on January 9, 2024, and ending on March 8, 2024.

Section 3. Transmittal. The Town Commission authorizes the Town Clerk to transmit a copy of the Resolution to Governor Ron DeSantis, Florida Senate President Kathleen Passidomo, the Florida Speaker of the House Paul Renner, the Miami-Dade County Legislative Delegation, the Florida League of Cities, the Miami-Dade County League of Cities, and all municipalities in Miami-Dade County, Florida.

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

PASSED AND ADOPTED this 14th day of November, 2023.

Motion By: _____
Second By: _____

FINAL VOTE ON ADOPTION:
Commissioner Fred Landsman _____
Commissioner Marianne Meisheid _____
Commissioner Nelly Velasquez _____
Vice Mayor Jeffrey Rose _____
Mayor Shlomo Danzinger _____

Shlomo Danzinger, Mayor

ATTEST:

Sandra McCready, MMC
Town Clerk

**APPROVED AS TO FORM AND LEGALITY FOR THE USE
AND BENEFIT OF THE TOWN OF SURFSIDE ONLY:**

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



MEMORANDUM

ITEM NO. 7A.

To: Honorable Mayor, Vice-Mayor and Members of the Town Commission
From: Hector Gomez, Town Manager
Date: November 14, 2023
Subject: **Town Manager's Report**

[2023-11 November Town Manager's Report](#)



TOWN MANAGER'S REPORT

NOVEMBER 14, 2023

I. TOWN DEPARTMENTS

Building Department

A. The main building of the new 96th Street Park has been topped out with the successful pouring of the roof slab on October 24. A topping out ceremony to celebrate the commercial shell completion is being scheduled. Now the interior completion of the building has commenced, starting with installation of the HVAC duct system.

B. Town staff has have made several important updates during the maintenance period of the CSS portal:

- enhanced the system's language for improved clarity
- technology partners at Tyler Technologies have conducted backend updates to ensure that only Surfside addresses are retrieved by the mapping system
- realigned some backend permit categories to enhance the user experience on the front end.

Overall, the maintenance is nearly complete. The system is back online and allows users to submit permit applications. Payment and permit pickup is to occur in person.

C. The Building Department has expedited the replacement of the 5 ton and 30 ton HVAC systems in the Community Center by issuing the permits for both systems to the contractor within 30 minutes of application on a Walk-In-Walk-Out-With-Permit basis. The 5 ton system has already been installed and inspected providing a much more comfortable customer environment in the Community Center Fish Bowl.

D. Building Department permit and inspection numbers as of October 27, 2023, are as follows:

- Building Permits issued – 107
- Inspections performed – 236
- Lien search – 23
- TCOs/COs/CCs issued – 5

Code Compliance Division

A. As of October 30, 2023, the total number of open cases being managed is 195. Of these cases, 97 are actively working towards compliance; five cases are on-hold; 16 cases are in the Special Master hearing queue; six cases are in post-hearing status; 21 code cases have been issued liens and remain unpaid; 50 code cases have service liens and remain unpaid. All properties with unpaid liens are sent reminder letters to contact us to reach a resolution.

B. The Code Compliance staff has conducted an approximate of 287 inspections from August 22, 2023, to October 29, 2023.

C. Due to the Town Commission Chambers upgrade, the Division did not hold any Code Compliance Special Master Hearings the month of October.

D. Collected Civil Penalty Fines – Unresolved cases accrue fines until the code violation is resolved. After the violation is corrected, the property owner is notified to remit the fine amount due, reach a settlement agreement with the Town, or request a Mitigation of Fines Hearing.

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

- FY24: As of October 30, 2023, two cases have paid/settled for a total monetary collection of \$800.00
- FY23: As of September 30, 2023, 100 cases paid/settled for a total monetary collection of \$ \$90,417.61

E. The Code Compliance Division has assisted the Finance Department by conducting 24 Code lien searches from September 22, 2023 to October 30, 2023.

F. The Code Compliance Division continues to assist the Town Clerk's Office with public records requests.

Community Services/Tourism & Public Communications Department

A. November 7 Elections Final Push – Tourism and Communications continued pushing out information and educational materials on the November 7 Special Election ballot questions. The team added a dedicated, standalone eblast in the days leading up to election day as well as a four-page glossy insert in the November edition of the monthly Gazette.

B. Website Redesign – Tourism and Communications is working with the CGA web team to implement the latest round of requested changes to the updated website layout with the goal of launching in November. Currently in a testing environment undergoing modifications.

C. Resident Brochure Now Available – Tourism and Communications launched the Resident Brochure which is available in printed form and on the Town website. The Brochure is a one-stop-shop guide to all things Surfside giving residents an overview of the Town administration as well as Surfside's key facilities and offerings.

D. Community Events Promotion – Tourism and Communications promoted events taking place this month with a special emphasis on the November 6 Community Safety Virtual Roundtable hosted by Mayor Danzinger and the Saturday, November 18 Cram the Cruiser initiative with the Surfside Police Department.

E. Seaside Soiree Series Underway – The Tourist Board continues its fall beach event series, *Seaside Soiree*. The second event is scheduled for Sunday, November 12 and promises to offer something for everyone. The Tourist Board is preparing for its winter events series which include the Third Thursdays block parties, the Classic Car show and more.

F. Holiday Lights, Seasonal Banners – Tourism and Communications coordinated the installation of the palm frond holiday lights in late October. The Tourist Board opted to repeat last year's illumination on the Medjool palm trees along Harding Avenue in the business district which feature interchangeable color lights. Seasonal banners will be added later this month.

Human Resources

Human Resources continues to provide support and assistance to the Town Administration, departments and staff in relation to a variety of items/services to include:

A. Positions Filled – Public Works Coordinator, Refuse Collector and Building Customer Service Representative.

B. Promotional Exam – On October 27, 2023 the Town facilitated a Sergeant of Police examination. A total of five (5) Police Officers registered to participate in the exam process; however, 1 withdrew from the process. The exam was administered by Promotion Consulting Unlimited. The process being held by a third party preserves the integrity of the examination.

C. Employee and Family Appreciation Day – Town staff and their families were in attendance at Sparez Bowling Alley for fun gathering.

D. Risk Management – Submitted claims liability related claims, responded to adjuster questions.

E. Interviews conducted – Customer Service Representative (Building) and Recreation Leader I (PT).

F. Background/Offer/New Hire Orientation – Prepared offer of employment letters for Customer Service Representative - Building, Public Works Coordinator, and Recreation Leader I (PT). Conducted/coordinated background investigations, pre-employment physicals, and psychological evaluations when applicable. Facilitated the employment orientation for new hires, and conducted level 2 background screening (AHCA) of Parks and Recreation new hires and program instructors.

G. Safety and Wellness Initiatives – Provided staff with information regarding the Town's Employee Assistance Program, weekly webinars and classes for mental health support, nutrition, fitness, support groups, community health initiatives and exercise classes.

Finance Department

No Monthly Budget to Actual Summary as of September 30, 2023 will be provided as the Finance Department is in the process of fiscal year end close out and the external audit has begun. Next month a Monthly Budget to Actual Summary as of October 31, 2023 will be provided with estimated unaudited FY 2023 fund balances.

Parks and Recreation Department

A. Facilities/Hours of operation – Parks and Recreation continues to assist in the oversight of construction of 96th Street Park and the design of the new Tennis Recreation Center. P&R is overseeing the following facilities: The Community Center, Tennis Center, the Beach Lifeguard Tower, Hawthorne Tot Lot, and the Dog Park. The Tennis Center continues to operate with court reservations during prime hours. Hours for the pickleball programming have been adjusted and are in place. Hours have been adjusted to maximize tennis and pickleball hours. The pool continues to operate with lap swimming registrations during all hours of operation. Pool hours continue to be adjusted month to month to maximize day light hours. Pool hours are from 7:00 a.m. to 6:00 p.m. for month of November and the Lifeguard Tower from 9:00 a.m. to 5:00 p.m.

B. YMCA After School Programming – The after-school program is now in session and is running smoothly. We currently have 24 kids enrolled in the program. After School is run weekly from 1:50 p.m. to 6:00 p.m. at the Community Center. Additionally, the Kid's Day Off Program continues to run successfully throughout the year.

C. Fall Programing – Registration for Fall II session is scheduled to commence November 6. This Fall session the Department has introduced a couple of new programs/activities such as: Tunes for tots, Guitar lessons for youth, Mommy & Me classes, Self Defense for teens and adults and monthly youth activities/workshops at our Hawthorne Tot Lot and Community Center. We continue to look for ways to enhance the programming to meet the needs of the community.

D. Events – The Annual Halloween Spooktacular took place Friday, October 27, at the 93rd Street block, 6:00 p.m. – 9:00 p.m. The attendance was outstanding, and the community came together to enjoy all the festivities. The haunted maze, a pumpkin patch, rides, music, face painting and more included the events for the night. Approximately 1000 people attended the event.

The Veterans Ceremony is scheduled to take place Saturday, November 11, 2023 at 10:00 a.m. at Veterans Park (8750 Collins Ave). We invite the community to come out and honor all the brave men & women who have served in the armed forces.

E. Senior Trips – Parks & Recreation is excited to begin providing yearly senior programming to include field trips to museums, theater plays, botanic gardens and more! Senior trips & brunches are scheduled to resume in November. Marta Olchyk is now the official P&R Senior Liaison for senior programming. For the month of November, the Parks and Recreation Department will be offering a Senior Trip to the Actor's playhouse to watch "*Sweet Goats and Blueberry Senoritas*" on Wednesday, November 15, 2023. Additionally, the first Senior Brunch Bunch is scheduled to take place Friday, November 17 from 11 :00 a.m. to 1:00 p.m. at the Community Center where seniors will be hosted to an afternoon of Bingo games with giveaways and lunch.

F. Beach Chair Service – Beach Chair Service continues to be very popular with Surfside residents. The hours of operation for the month of October are 9:00 a.m. – 5:00 p.m. Beach Time Max at this time will adjust on day-to-day basis and as needed if more than 2 chairs per family can be provided. The service continues to operate as scheduled. The new chairs are now in operation.

G. Tennis Center Recreation Facility – The Recreation and Fitness Center continues in the design phase. The design concept was presented to the Parks and Recreation Committee during the May 15, P&R Committee meeting. There was also public outreach during this meeting. The design concept was later presented at the Town Commission Meeting on July 11, 2023. The design concept was approved unanimously

to advance to the next phase in the project. At their October Commission meeting, the Town Commission approved supplemental services related to the Tennis Center Project to cover additional architectural and engineering services that resulted from the approval of schematic phase design provided to the Town Commission during the July 2023 General Town Commission meeting.

Planning Department

Development Application Process (2012 – Present) – *Attachment "A"*

Police Department

A. Police Department Statistics (October 1 – October 24, 2023)

- Traffic Citations – 261
- Parking Citations – 586
- Arrests – 2
- Dispatch Events – 1,095
- Incident/Crime Reports – 35

B. Police Events/Community Outreach

- The FBI-Law Enforcement Executive Development Association (FBI-LEEDA) is hosting a Command Leadership Institute in Jupiter, Florida from November 6 to November 10, 2023. Captain Jay Matelis will attend this training.
- The Town of Surfside will present a Community Safety Virtual Roundtable hosted by Mayor Shlomo Danzinger on November 6, 2023 from 6:00 p.m. to 7:00 p.m. via Zoom. Interim Chief Antonio Marciante along with Town Manager Hector Gomez will be featured staff members present to share and answer questions pertaining to safety topics within the Town.
- The Surfside Police Department will host two community blood drives on November 8 and November 26, 2023 from 11:00 a.m. – 4:30 p.m. in the Town Hall municipal parking lot.
- The FLOW (Florida Licensing on Wheels) is November 9, 2023 from 9:30 a.m. to 1:30 p.m. in the Commission Chambers.
- The Parks and Recreation Department is hosting their annual Veterans Day Ceremony on November 11, 2023 at 10:00 a.m. at Veterans Park. Officer Ronald Donoso and Officer Bryant Luke will participate in the ceremony as members of the Honor Guard. Interim Chief Antonio Marciante, Captain Jay Matelis and Acting Captain Marian Cruz will attend the event.
- The Miami-Dade County Association of Chiefs of Police (MDCACP) will host their annual *Feed the Vets* at the Miami Marlins stadium LoanDepot Park on November 14,

2023 from 11:00 a.m. to 3:00 p.m. Interim Chief Antonio Marciante and Captain Jay Matelis will contribute to this significant event.

- The Police Department in conjunction with the Closet of Living Hope will host *Cram the Cruiser* on November 18, 2023 from 8:00 a.m. to 11:00 a.m. in the Town Hall municipal parking lot. The purpose of this humanitarian event is to provide Thanksgiving meals to those in need and much needed clothing for the Miami-Dade Domestic Violence Center Safe Space. The Closet of Living organization will also distribute the donated clothing to Miami-Dade community members in need of support. The items collected will be non-perishable foods and bags of clothing.
- The monthly Coffee with the Cops – November 30, 2023 at 10:00 a.m. at Starbucks.

II. SEE CLICK FIX REPORT

Requests filtered by request category that have been created 10/01/2023 - 10/31/2023

Request Category	Created in period	Closed in period	Average days to close
Beach Issue	1	0	
Code Compliance (Violation)	1	1	1
Drainage/Flooding (PW)	1	0	
Other	2	0	
Police (Safety Concern)	1	1	0
Pothole (PW)	1	0	
Street lights (PW)	1	0	
Beach Patrol	0	0	
Parking Issue	0	0	
Construction Issues	1	1	1

III. TOWN PROJECTS

Projects Detail Sheets – Attachment “B”

Respectfully submitted by:



Hector Gomez, Town Manager

ISS: 10/16/2022

DEVELOPMENT APPLICATION PROCESS (2012 - PRESENT)									
Application Date Location	Project Description	Zoning Process	Density/Intensity		Variances		Building Permit		Status
			Allowed	Approved	Requested	Received	Application No.	Status	
Original Submittal: 7/13/2012 Site plan amendment: 4/16/16 9011 Collins Avenue	Surf Club - restoration of the famous surf club historic structure and for the construction of new improvements	DRG - 7/31/2012, 8/23/12, site plan amendment: 5/16/16, 8/4/16, 3/9/17, 5/11/17 P&Z - Original site plan: 9/27/12, site plan amendments: 8/31/17 TC - Original site plan: 10/15/12, site plan amendment: 10/10/17 Site Plan Ext -	762 units	257 units	None	None	13-727	Issued	Fort Partners has indicated a desire to obtain a final CO and Landscape approval needs to be resolved. A landscape inspection was performed and comments were provided by the Town Planner on November 5, 2021. Once the comments are addressed a final inspection will be required. Awaiting CO
7/20/2012 9450 Collins Ave	The Shul - New multiuse glass atrium and adjoining learning center (3 stories)	DRG - 2/11/13, 3/27/13, 7/9/13 P&Z - 2/27/14 TC - 10/28/14 Site Plan Ext -	3 story expansion of 8,558.9 square feet		None	None	14-509	Issued	Work is well underway as permitted in three phases: Phase I is the new school which is currently substantially complete and operating with a TCO as Phase I. Phase II is the multi-use glass atrium. Phase III is the remodel of the old section of the building.
8/12/2015, 12/23/20, 9/20/23 Site Plan Amendment 9133 Collins Ave. & 9149 Collins Ave	Surf Club II - Redevelopment of property with a multi-family residential project and renovation of existing historic building. Includes site plan, site plan amendment, and revisions to balcony design. Site Plan Amendment submitted 9/20/2023 to remove hotel element and expand restaurant. Historic building moved 100 feet for construction of underground parking from one end back to its original location.	DRG - 9/4/15, 3/9/17, 9/17/17, 2/9/21 P&Z - 12/7/17, 2/11/21, 4/29/21 TC - 2/13/2018, 4/13/21, 6/8/21 Scheduled Site Plan Ext - Site Plan Extension approved by TC on 7/28 TC Meeting. Applicant requested extension of site plan due to FL Declaration of Emergency. Additional Covid extension - New Permit Due Date December 26, 2021 Amendment - expected to P&Z November 30th, 2023	199 units	Reduced to 31 condo units, 26 hotel rooms Site Plan Amendment proposes 23 apartments, 0 hotel rooms and 7 caretaker quarters	None	None	20-536	Permit Issued	Construction of new 12 story condominium is fully underway: Core shell building completed April 2023. Now performing custom interior completions of units and common areas.
Original submittal: 2/11/2016 Revised submittal: 5/31/18 9880, 9372, 9364, 9248, 9340, Improvements, construction of 3-story building 9322, 9316 & 9300 Collins Ave (See Page 2)	9300 Collins Ave - demolition of all existing buildings, construction of 3-story Residential Condominiums	DRG - Original submittal: 3/10/16, 4/27/16 Revised submittal: 6/27/18, 8/28/18, 11/1/18 P&Z - Original approval: 7/18/16, Revised approval: 11/29/18 TC - Original approval: 11/10/16, Approved: 2/26/19 Site Plan Ext - Request submitted to extend approval due to emergency declaration (Hurr. Dorian). Additional COVID and TSE/Elia extensions - Permit Due Date 2/4/24. New Request submitted to extend approval due to emergency declarations Hurricane Ian and Subtropical Storm Nicole) - New Permit Due Date to 5/28/25	250 units	Request is for 205 units	None	None	21-14128C	Foundation-Only Permit ready to issue.	Foundation-Only Permit Application has been abandoned in lieu of ownership change of property. New project design is underway. Must be a mixed use structure.
5/4/2016 8955 Collins Ave	Residential Condominiums	DRG - 6/20/16, 7/27/16 P&Z - 10/27/16, 11/10/16 TC - 11/10/2016 Site Plan Ext -	110 units	16 units	None	None	16-602	Issued	The Town Planner signed off on the Landscape Plan on June 17, 2022. Public Works Department is working to resolve a couple of issues so that the Building Department can issue a permanent CO.
3/14/22 9309 - 9317 Collins Ave	93 Ocean - Demolition of 2 existing 3 story buildings and construction of 12 story condominium building with 27 dwelling units.	DRG - 8/23/22 P&Z - 8/25/22 TC - 11/29/22			None	None		Pending demolition of two existing buildings. Applied for on-site management trailer	
5/19/2017 4/1/22 8995 Collins Ave	Surf House - site plan approval for expansion to existing multi-family building deemed architecturally significant per Sec. 90-33(3) of the Town Code.	DRG - 6/19/17, 8/24/17, 9/28/17, May 2022 P&Z - 2/22/18, 4/26/18, 5/31/18, approved on 10/27/19 TC - 12/10/19 Site Plan Ext - 2 COVID Extensions New Permit Deadline 9/27/23 Site Plan Amendment - P&Z approval May 26, 2022 TC - Approved Site Plan Amendment June 16, 2022	99 units	Resolution # 19-2661 approved by Town Commission on December 10, 2019 for 12 stories, 34 units and 77 parking spaces.	Original application requested 3 Variances. Final application did not include any Variances. Site Plan Amendment - Density Reduction from 34 to 19 Units: Other interior, exterior and construction revisions.	None		Demo permit (retaining NW corner) issued; Temp. Const. Fencing issued; No Building Permit applied for yet. Revising Landscaping Plan and driveway.	Planning and Zoning Board recommended approval of Site Plan Amendment with reduction to 19 units and interior and exterior revisions on May 26, 2022. Town Commission approved Site Plan Amendment on June 16, 2022. Pool and pool deck may remain in historic location with repairs as necessary due to the Architecturally Significant status of the site. September 2023 vertical demolition of structure is complete except 1st story NW corner to be saved by design.
Original Submittal: 1/06/2015 Revised submittals: 8/01/2016, 12/23/2016, 03/09/2018, 10/29/2018 9/25/2020 8851 Harding Avenue (See page 2)	18 multi-family units	DRG - 01/02/15, 08/18/16, 01/23/17, 03/23/18, 11/29/2018 Meeting Pending, 2/25/21 P&Z - 01/31/19 P&Z recommended approval (Requires P&Z Reconsideration) 2/25/21 P&Z Denied Plan TC - Denied by the Commission (requires reconsideration by TC), TC Approval 5/26/21 Site Plan Ext -	33 units	Current request is for 18 units. Town Planner, DRG recommended approval P&Z recommended denial	1 requested: Section 90-82. - Off-street loading requirements (Loading Space Size). Not Required in 2021 Plan request	Not needed in 2021 request		Has not applied for permit; after 5/26/23 the site plan is null and void since no permit has been applied for.	Site Plan Approval 5/26/21: Per Sec. 90-20.3 after 24 months from the date the final site plan is approved a building permit for a principal building has not been issued and remains in effect, the site plan shall be null and void.

DEVELOPMENT APPLICATION PROCESS (2012 - PRESENT), Cont.

Application Date Location	Project Description	Zoning Process	Density/Intensity		Variances		Building Permit		Status
			Allowed	Approved	Requested	Received	Application No.	Status	
7/3/2019 9580 Abbott Ave	Young Israel Variance Request to eliminate landscaping to provide for a handicapped accessible ramp	DRG - N/A P&Z - 8/29/2019 TC - 10/29/19 Site Plan Ext -			1 requested: eliminate landscaping along the north side of the building	None		Complete	Construction of ramp complete
1/7/2020 8926 Collins Avenue	Arte request to have FPL vault encroach into landscape buffer.	DRG - N/A P&Z - 1/30/20 TC - 2/11/20 Site Plan Ext -			Landscape buffer	Approved		Complete	This parcel on the west side of Collins Avenue was also inspected along with the residential component on the east side of Collins Avenue. See discussion on first page spreadsheet.
11/18/2021 9165 Collins Ave (formerly the Hillcrest) now Surfclub Residences North	Site Plan approval to develop an 11 story, 14 unit MF Bldg with 33 parking spaces in the H120 Zoning District on the north side of the Seaway and south side of the Carlisle.	DRG - 1/14/22 - Via Zoom - Approved Proceeding to P & Z P&Z - 1/27/22 - Deferred to 2/24/22 P&Z Mtg P&Z - 2/24/22 - Recommended approval TC - Site Plan Approval received 4/12/22	58 units	Proposing 14 units	None	None		Demolition of Hillcrest is complete. Applied for Foundation-Only Permit.	DRG recommended on January 14, 2022 proceeding to P&Z on January 27, 2022. After discussion, P&Z decided to continue the item to the February 24, 2022. P&Z recommended approval at the February 24, 2022 meeting. TC approved Site Plan on 4-12-22. Foundation-Only permit has been issued and non vibrational Deep Soil Mixing is underway.
4/27/2022 8809 Harding Avenue	Site Plan Application for 8 Townhouse Units	DRG - September 27th 2022 P&Z - September 29, 2022 TC - Set for 11/29/22	33 Units	Proposing 8 units	None. Preliminary review comments were prepared at the request of the Applicant. Actual Site Plan submission for September 29th P & Z.			Applied for permit 1/27/23, under review at present. Unity of Title and ROW Dedication to be finalized. FPL transformer location identified, no variance needed.	Site Plan Application received 4/27/22. Applicant requested preliminary review prior to proceeding to formal Site Plan Review. Resubmission for 9/29/22 P & Z with DRG on 9/27/22. P&Z approved site plans with addition of street trees. Met with Development team on 10/27/22. Town Commission approved at 11/29/22 TC meeting. Application for Building Permit is pending applicant's response to plan review comments by Planning and Plumbing.
10/1/2016, 5/6/21, 9/1/22 9116 Harding Ave (AKA 303 Surfside Blvd.)	303 Surfside - 4 Townhouses (2018) 303 Surfside - 6 Townhouses (2021) and (2022)	DRG - 11/2/16, 2/7/17, 5/18/17, 6/21 TBD P&Z - 6/27/18, 6/21, 10/27/22 TC - 4/14/2018 New approval 2/14/23 Site Plan Ext -	6 units Due to 15% reduction for aggregation	6 units	None	None		Has not applied for permit yet	Submitted plans on 9/1/22 and were reviewed at the P&Z on 12/15/22 with a DRG held on 10/17/22. Concerns with density at the site; pulled from 10/27/22 P&Z agenda. Density issues resolved 11/28/22, 6 units allowed. Approved at 12/15/22 P&Z. Approved by TC on February 14th, 2023.
12/15/22 9100 Collins - Market Hall	Part of Surf Club complex - Office space for hotel staff, office/business center for hotel guests, market hall (café and market), underground parking and roof top tennis court	DRG - 10/17/22 P&Z - 12/15/22 TC - 2/14/2023	68 units	No residential	None	None		Has not applied for permit yet	Approved by P&Z at 12/15/22 meeting. Approved by TC on February 14th, 2023.
8/29/2022 200 96th Street	Surf Harbor, LLC. Proposed 3 story Office Building with at grade parking garage. Application for new construction of a 3-story office bldg. Including parking garage at grade and roof deck (15,790 SF of office space)	DRG - TBD P&Z - TBD TC - TBD On-hold as office is not an allowable use under the Comp Plan. Project would need ability to use the Parking Trust Fund			Will require Zoning Change			No Building Permit application filed to date.	Application, plans and check submitted for 3 story Office Building. Proposed plans require possible Land Use Plan Amendment and rezoning. Site will need access to the Parking Trust Fund to comply with parking requirements. Discussions underway to determine needed activities in order to process application. Lawyers discussed plans with Mayor, Commissioner and Town Staff. Aim to seek Zoning change.
6/12/2023 8777 Collins Avenue	Site Plan Application proposing 52 unit multi-family building	DRG - 8/9/2023 P&Z - 8/31/2023 TC - 9/27/23 Approved with conditions	207 Units	52 Units proposed	None	None		Building Permit not filed.	Application, plans and check submitted on June 12th, 2023. Two design options presented. One attempts to meet current code. The other will need an ordinance change. Only the second plan was presented to P&Z. FEMA Map Change Approval or Preliminary Maps to go into effect prior to Building Permit submittal. Otherwise no underground parking garage allowed on single use building per FEMA. Approved by Town Commission with condition of FDOT approval for Collins Avenue Loading Dock.
Latest Submittal 8/22/2023 8851 Harding Avenue	8 townhome units	DRG - 9/15/2023 P&Z - 9/28/23 TC - November 14th 2023 Site Plan Ext -	33 units	Current request is for 8 units	None	None		No Building Permit application filed to date.	Site requires unity of title prior to permitting.
10/16/2023 9300 Collins Avenue	Site Plan Application proposing 87 unit multi-family rental building, underground garage and synagogue	DRG - TBD P&Z - 11/30/2023 TC - TBD	103 Residential Units	87 Units proposed	None	None			Site Plan application under review ahead of P&Z Board meeting on November 12th, 2023



Downtown Walkability Improvements



Current Project Phase

Design phase
 Limited permitting for uses

Project Contact Information

Department	Planning
Director	Judith Frankel
Engineer of Record	Marlin Engineering, Inc.
Architect of Record	N/A

Funding

<i>Total Study Cost</i>	\$50,000
<i>Design and Implementation strategy cost*</i>	\$120,000

** Approved by Resolution at Dec. 13 Town Commission meeting*

Scope

The 2 blocks of Harding Avenue from 94th Street to 96th Street provide the entrance to the Town for those arriving from the north. It is also the commercial hub for residents and is visited by vehicles, pedestrians and bicyclists. The corridor carries through traffic traveling south along busy A1A. An evaluation of the feasibility of providing wider sidewalks in this section of Harding Avenue to support safety, provide a more walkable experience for shoppers and slow vehicle speeds has been conducted. Marlin Engineering presented findings to the Town Commission in September 2022. The second phase will be designing and procurement for the alternative chosen by the Commission.

Project Timeline

Notice to Proceed
Planning Study
*Design Phase **
*Permitting and Implementation**

Phase Start

January 2022
January 2022
December 2022
March 2023

Phase End

January 2022
September 2022
February 2023
TBD

Project Update

Submitted FDOT permit application for build out of curbs. Scope of work to commence in November 2023.



96th Street Park

Picture



Current Project Phase

Construction phase

Project Contact Information

Department Parks and Recreation

Director Tim Milian

Architect of Record Savino Miller Design
 Project Management 300 Engineering
 General Contractor Lunacon Construction

Funding

Contract Amount \$7,800,000

contracted* September 28, 2022

Budget Approval Date

Commission Authorization to Expend Date November 15, 2022

Scope

The Town has finalized the design of 96th Street Park and is currently finalizing the permits required to commence the construction phase. RFP 2022-05 was advertised with bids received and evaluated.

The project is a full park re-development with a 2-story multi-use structure, an artificial turf field, and play ground area. A kayak launch component has also been incorporated.

Project Timeline

Procurement and Selection
 Permitting
 Construction (est.)
 Commissioning (est.)

Phase Start

August 2022
 March 2022
 January 2023
 January 2024

Phase End

November 2022
 January 2023
 January 2024
 March 2024

Project Update

Construction topping out occurred. All playground equipment area to be installed in November 2023. Kayak launch is being fabricated off-site.

Activity ID	Activity Name	Activity Status	Critical	Original Duration	Actual Duration	Remaining Duration	Start	Finish	Total Float	Duration % Complete	2023				2024					
											Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun
Surfside 96th Street Park_Monthly Update -October2023				371	246	131	28-Feb-23 A	10-Mar-24	-31	64.7%	10-Mar-24, Surfside 96th Street Park									
Milestone				371	246	131	28-Feb-23 A	10-Mar-24	-31	64.7%	10-Mar-24, Milestone									
General Milestones				40	0	40	30-Jan-24	10-Mar-24	-31	0%	10-Mar-24, General Milestones									
BL011050	Testing and Commissioning Start	Not Started	<input type="checkbox"/>	0	0	0	30-Jan-24		9	0%	◆ Testing and Commissioning Start									
BL011060	Apply for CO Inspection	Not Started	<input checked="" type="checkbox"/>	0	0	0	07-Feb-24		-31	0%	◆ Apply for CO Inspection									
BL011062	Inspector on Site	Not Started	<input checked="" type="checkbox"/>	0	0	0	08-Feb-24		-31	0%	◆ Inspector on Site									
BL011070	Substantial Completion	Not Started	<input checked="" type="checkbox"/>	0	0	0		09-Feb-24	-31	0%	◆ Substantial Completion									
BL011080	Project Final Completion	Not Started	<input checked="" type="checkbox"/>	0	0	0		10-Mar-24	-31	0%	◆ Project Final Completion									
Client Milestones				99	0	99	01-Nov-23	08-Feb-24	-29	0%	08-Feb-24, Client Milestones									
BL011026	Landscaping Start	Not Started	<input type="checkbox"/>	0	0	0	09-Dec-23		-14	0%	◆ Landscaping Start									
BL011039	Kayak Launch Start	Not Started	<input type="checkbox"/>	0	0	0	09-Dec-23		-14	0%	◆ Kayak Launch Start									
BL011030	Playground Equipments Installation Start	Not Started	<input type="checkbox"/>	0	0	0	12-Jan-24		-2	0%	◆ Playground Equipments Installation									
BL011040	Kayak Launch Complete	Not Started	<input type="checkbox"/>	0	0	0		06-Feb-24	-28	0%	◆ Kayak Launch Complete									
BL011035	Playground Equipments Installation Complete	Not Started	<input type="checkbox"/>	0	0	0		08-Feb-24	-29	0%	◆ Playground Equipments Installation									
ELEV0013	Elevator Final Completion	Not Started	<input type="checkbox"/>	0	0	0		06-Feb-24	-28	0%	◆ Elevator Final Completion									
BL011025	2-Storey building construction Complete	Not Started	<input type="checkbox"/>	0	0	0		07-Feb-24	-29	0%	◆ 2-Storey building construction Complete									
BL011027	Landscaping Complete	Not Started	<input type="checkbox"/>	0	0	0		01-Feb-24	-23	0%	◆ Landscaping Complete									
CO#31000	Change Order #3 Submitted for Review	Not Started	<input type="checkbox"/>	0	0	0	01-Nov-23		-22	0%	◆ Change Order #3 Submitted for Review									
CO#31010	Change Order #3 Approved by Client	Not Started	<input type="checkbox"/>	0	0	0		15-Nov-23	-22	0%	◆ Change Order #3 Approved by Client									
Work Summary				371	246	131	28-Feb-23 A	10-Mar-24	-31	64.7%	10-Mar-24, Work Summary									
BL14710	Construction Day 1 to Substantial Completion	In Progress	<input type="checkbox"/>	300	246	99	28-Feb-23 A	07-Feb-24	-29	67.01%	[Progress Bar]									
BL14720	Punchlist Duration	Not Started	<input type="checkbox"/>	30	0	30	09-Feb-24	10-Mar-24	-31	0%	[Progress Bar]									
Hydraulic Elevator				214	118	91	06-Jul-23 A	30-Jan-24	-21	57.52%	30-Jan-24, Hydraulic Elevator									
ELEV0010	Elevator Fabrication Time (Long Lead Item)	In Progress	<input type="checkbox"/>	139	118	69	06-Jul-23 A	08-Jan-24	-33	50.43%	[Progress Bar]									
Elevator Milestones				22	0	22	08-Jan-24	30-Jan-24	-21	0%	30-Jan-24, Elevator Milestones									
ELEV0007	Fabrication Complete-Ready for Delivery	Not Started	<input type="checkbox"/>	0	0	0		08-Jan-24	-24	0%	◆ Fabrication Complete-Ready for Delivery									
ELEV0011	Elevator at Site	Not Started	<input type="checkbox"/>	0	0	0		18-Jan-24	-34	0%	◆ Elevator at Site									
ELEV0012	Elevator Installation Complete-Ready for Testing and Commissioning	Not Started	<input type="checkbox"/>	0	0	0		30-Jan-24	-21	0%	◆ Elevator Installation Complete-Ready for Testing and Commissioning									
Pre-Installation				145	84	61	24-Jul-23 A	18-Jan-24	-26	57.95%	18-Jan-24, Pre-Installation									
BL12580	Procurement,Purchase Order and Fabrication of Elevator	In Progress	<input type="checkbox"/>	110	84	53	24-Jul-23 A	08-Jan-24	-26	51.85%	[Progress Bar]									
BL13120	Material Deliveries for Elevator (Long Lead Item)	Not Started	<input type="checkbox"/>	8	0	8	08-Jan-24	18-Jan-24	-26	0%	[Progress Bar]									
Installation				38	0	38	14-Dec-23	30-Jan-24	-17	0%	30-Jan-24, Installation									
BL14330	Shafts Construction	Not Started	<input type="checkbox"/>	25	0	25	14-Dec-23	13-Jan-24	-23	0%	[Progress Bar]									
BL14340	Mechanical Equipment Installation	Not Started	<input type="checkbox"/>	6	0	6	18-Jan-24	25-Jan-24	-26	0%	[Progress Bar]									
BL14350	Elevator Car Installation	Not Started	<input type="checkbox"/>	6	0	6	23-Jan-24	30-Jan-24	-26	0%	[Progress Bar]									
BL14360	Elevator Jambs Installation	Not Started	<input type="checkbox"/>	4	0	4	25-Jan-24	30-Jan-24	-17	0%	[Progress Bar]									
Elevator Room Requirement				34	0	34	01-Dec-23	12-Jan-24	-3	0%	12-Jan-24, Elevator Room Requirement									
ELEV0020	CMU Wall	Not Started	<input type="checkbox"/>	5	0	5	01-Dec-23	07-Dec-23	-3	0%	[Progress Bar]									
ELEV0030	Ceiling Installation	Not Started	<input type="checkbox"/>	4	0	4	07-Dec-23	12-Dec-23	-3	0%	[Progress Bar]									
ELEV0025	MEPF Installation	Not Started	<input type="checkbox"/>	15	0	15	12-Dec-23	30-Dec-23	-3	0%	[Progress Bar]									
ELEV0040	Interior Finish	Not Started	<input type="checkbox"/>	7	0	7	30-Dec-23	09-Jan-24	-3	0%	[Progress Bar]									
ELEV0050	Elevator Equipments Installation	Not Started	<input type="checkbox"/>	3	0	3	09-Jan-24	12-Jan-24	-3	0%	[Progress Bar]									
Statutory Requirements/Permits				35	0	35	01-Nov-23	15-Dec-23	4	0%	15-Dec-23, Statutory Requirements/Permits									
BL15360	Submit and Acquire Kayak Launch Permit	Not Started	<input type="checkbox"/>	22	0	22	01-Nov-23	30-Nov-23	-18	0%	[Progress Bar]									
BL15400	Submit and Acquire Roofing Permit	Not Started	<input type="checkbox"/>	12	0	12	01-Nov-23	15-Nov-23	-11	0%	[Progress Bar]									
BL15420	Submit and Acquire Window and Store front Permit	Not Started	<input type="checkbox"/>	35	0	35	01-Nov-23	15-Dec-23	-4	0%	[Progress Bar]									
BL15430	Submit and Acquire Elevator Permit	Not Started	<input type="checkbox"/>	30	0	30	01-Nov-23	09-Dec-23	9	0%	[Progress Bar]									
BL15450	Submit and Acquire Fire Suppression Permit	Not Started	<input type="checkbox"/>	32	0	32	01-Nov-23	12-Dec-23	-5	0%	[Progress Bar]									
BL15460	Submit and Acquire Doors Permit	Not Started	<input type="checkbox"/>	15	0	15	01-Nov-23	18-Nov-23	-4	0%	[Progress Bar]									
Engineering / Shop Drawings				172	144	24	11-May-23 A	02-Dec-23	-5	86.05%	02-Dec-23, Engineering / Shop Drawings									
Submittals				169	144	21	11-May-23 A	29-Nov-23	-10	87.57%	29-Nov-23, Submittals									
Land Development and Playground				169	144	21	11-May-23 A	29-Nov-23	-10	87.57%	29-Nov-23, Land Development and Playground									

█ Remaining Level of Effort ▬ Remaining Work ▬ Summary
▬ Actual Level of Effort ▬ Critical Remaining Work
█ Actual Work ◆ Milestone

LCG-Surfside96thStreet-Total Float >=10
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Activity ID	Activity Name	Activity Status	Critical	Original Duration	Actual Duration	Remaining Duration	Start	Finish	Total Float	Duration % Complete	2023				2024					
											Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun
BL011100	Submit Shop drawings for Playground Equipment	In Progress	<input type="checkbox"/>	21	144	2	11-May-23 A	02-Nov-23	-3	90.48%										
BL011170	Submit Shop drawings for Rubberized Surface	Not Started	<input type="checkbox"/>	21	0	21	01-Nov-23	29-Nov-23	-10	0%										
BL011230	Submit Shop drawings for Fence & Gate	In Progress	<input type="checkbox"/>	12	33	2	22-Sep-23 A	03-Nov-23	-8	80%										
2-Storey Building Construction				105	121	6	08-Jun-23 A	07-Nov-23	-5	94.29%										
BL011280	Submit Shop drawings for Architectural Concrete	In Progress	<input type="checkbox"/>	12	121	6	08-Jun-23 A	07-Nov-23	-25	50%										
BL011270	Submit Shop drawings for Concrete - Equipment Pads and Curbs	In Progress	<input type="checkbox"/>	12	33	6	22-Sep-23 A	07-Nov-23	-5	50%										
Review and Approval				39	22	24	05-Oct-23 A	02-Dec-23	-5	38.46%										
Land Development and Playground				20	22	20	05-Oct-23 A	29-Nov-23	-8	0%										
BL11700	Client/AE Review and Approval for Pavements and Curbs	In Progress	<input type="checkbox"/>	15	22	2	05-Oct-23 A	02-Nov-23	-7	90%										
BL11770	Client/AE Review and Approval for Fence & Gate	Not Started	<input type="checkbox"/>	18	0	18	03-Nov-23	29-Nov-23	-8	0%										
2-Storey Building Construction				39	17	24	12-Oct-23 A	02-Dec-23	-5	38.46%										
BL11820	Client/AE Review and Approval for Architectural Concrete	Not Started	<input type="checkbox"/>	15	0	15	08-Nov-23	29-Nov-23	-25	0%										
BL11810	Client/AE Review and Approval for Concrete - Equipment Pads and Curbs	Not Started	<input type="checkbox"/>	18	0	18	08-Nov-23	02-Dec-23	-5	0%										
BL11870	Client/AE Review and Approval for Cabinets and Countertops	Not Started	<input type="checkbox"/>	18	0	18	01-Nov-23	22-Nov-23	-16	0%										
BL11890	Client/AE Review and Approval for Metal Frames and Doors	Not Started	<input type="checkbox"/>	12	0	12	01-Nov-23	15-Nov-23	-25	0%										
BL11910	Client/AE Review and Approval for Door Hardware	Not Started	<input type="checkbox"/>	12	0	12	01-Nov-23	15-Nov-23	-15	0%										
BL11930	Client/AE Review and Approval for Glass Railing	Not Started	<input type="checkbox"/>	12	0	12	01-Nov-23	15-Nov-23	-13	0%										
BL11940	Client/AE Review and Approval for Aluminium Louvers	In Progress	<input type="checkbox"/>	12	17	6	12-Oct-23 A	07-Nov-23	-21	50%										
Procurement / Material Deliveries				110	141	61	15-May-23 A	18-Jan-24	-11	44.55%										
Procurement and Purchase Orders				95	141	46	15-May-23 A	29-Dec-23	-15	51.58%										
Land Development and Playground				33	0	33	01-Nov-23	13-Dec-23	-9	0%										
BL12270	Procurement of Materials and Purchase Order for Sewerage Works	Not Started	<input type="checkbox"/>	6	0	6	01-Nov-23	07-Nov-23	-25	0%										
BL12210	Procurement of Materials and Purchase Order for Shrubs and Grass Cover	Not Started	<input type="checkbox"/>	12	0	12	01-Nov-23	15-Nov-23	-3	0%										
BL12220	Procurement of Materials and Purchase Order for SOD, Melch and others	Not Started	<input type="checkbox"/>	12	0	12	01-Nov-23	15-Nov-23	4	0%										
BL12240	Procurement of Materials and Purchase Order for Pavements and Curbs	Not Started	<input type="checkbox"/>	12	0	12	02-Nov-23	17-Nov-23	-7	0%										
BL12230	Procurement of Materials and Purchase Order for Irrigation	Not Started	<input type="checkbox"/>	12	0	12	01-Nov-23	15-Nov-23	3	0%										
BL12300	Procurement of Materials and Purchase Order for Basketball Court	Not Started	<input type="checkbox"/>	12	0	12	01-Nov-23	15-Nov-23	-10	0%										
BL12310	Procurement of Materials and Purchase Order for Fence & Gate	Not Started	<input type="checkbox"/>	12	0	12	29-Nov-23	13-Dec-23	-8	0%										
BL12250	Procurement of Materials and Purchase Order for Rubberized Surface	Not Started	<input type="checkbox"/>	12	0	12	30-Nov-23	13-Dec-23	-10	0%										
2-Storey Building Construction				95	141	46	15-May-23 A	29-Dec-23	-15	51.58%										
BL12620	Procurement of Materials and Purchase Order for Electrical Works	In Progress	<input type="checkbox"/>	45	90	14	17-Jul-23 A	17-Nov-23	-6	68.89%										
BL12530	Procurement of Materials and Purchase Order for Wall Tiling Works	Not Started	<input type="checkbox"/>	12	0	12	01-Nov-23	15-Nov-23	-23	0%										
BL12630	Procurement of Materials and Purchase Order for Fire Alarm Works	Not Started	<input type="checkbox"/>	30	0	30	01-Nov-23	09-Dec-23	-23	0%										
BL12420	Procurement of Materials and Purchase Order for Roof Thermal Moisture Protection Works	Not Started	<input type="checkbox"/>	12	0	12	01-Nov-23	15-Nov-23	-23	0%										
BL12460	Procurement of Materials and Purchase Order for Aluminium Windows and Storefronts	Not Started	<input type="checkbox"/>	32	0	32	01-Nov-23	12-Dec-23	-9	0%										
BL12540	Procurement of Materials and Purchase Order for Interior Painting	Not Started	<input type="checkbox"/>	12	0	12	01-Nov-23	15-Nov-23	-18	0%										
BL12610	Procurement of Materials and Purchase Order for HVAC Works	In Progress	<input type="checkbox"/>	20	17	11	12-Oct-23 A	14-Nov-23	-2	45%										
BL12550	Procurement of Materials and Purchase Order for Exterior Painting	Not Started	<input type="checkbox"/>	12	0	12	01-Nov-23	15-Nov-23	-25	0%										
BL12570	Procurement of Materials and Purchase Order for Toilet Accessories	Not Started	<input type="checkbox"/>	45	0	45	01-Nov-23	28-Dec-23	-15	0%										
BL12360	Procurement of Materials and Purchase Order for Architectural Concrete	Not Started	<input type="checkbox"/>	12	0	12	30-Nov-23	13-Dec-23	-25	0%										
BL12450	Procurement of Materials and Purchase Order for Door Hardware	Not Started	<input type="checkbox"/>	30	0	30	16-Nov-23	23-Dec-23	-15	0%										
BL12480	Procurement of Materials and Purchase Order for Aluminium Louvers	Not Started	<input type="checkbox"/>	40	0	40	08-Nov-23	29-Dec-23	-21	0%										
BL12500	Procurement of Materials and Purchase Order for Drywall Works	Not Started	<input type="checkbox"/>	5	0	5	01-Nov-23	06-Nov-23	-21	0%										
BL12510	Procurement of Materials and Purchase Order for Ceiling Works	Not Started	<input type="checkbox"/>	12	0	12	01-Nov-23	15-Nov-23	0	0%										
BL12520	Procurement of Materials and Purchase Order for Floor Finishes	Not Started	<input checked="" type="checkbox"/>	23	0	23	01-Nov-23	01-Dec-23	-26	0%										
BL12560	Procurement of Materials and Purchase Order for Signages	Not Started	<input type="checkbox"/>	30	0	30	01-Nov-23	09-Dec-23	-1	0%										
BL12600	Procurement of Materials and Purchase Order for Plumbing Works	In Progress	<input type="checkbox"/>	40	141	26	15-May-23 A	05-Dec-23	-19	35%										
BL12430	Procurement of Materials and Purchase Order for Metal Frames and Doors	Not Started	<input type="checkbox"/>	12	0	12	16-Nov-23	02-Dec-23	-25	0%										
BL12370	Procurement of Materials and Purchase Order for Masonry & Veneer Works	Not Started	<input type="checkbox"/>	12	0	12	01-Nov-23	15-Nov-23	-1	0%										
BL12350	Procurement of Materials and Purchase Order for Concrete - Equipment Pads and Curbs	Not Started	<input type="checkbox"/>	12	0	12	04-Dec-23	16-Dec-23	-5	0%										
BL12390	Procurement of Materials and Purchase Order for Embedded Metal Works	Not Started	<input type="checkbox"/>	12	0	12	01-Nov-23	15-Nov-23	-23	0%										

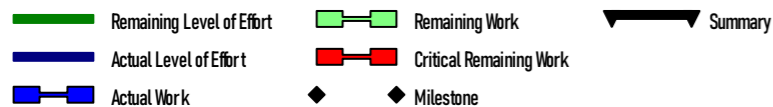
█ Remaining Level of Effort
▬ Remaining Work
▬ Summary
▬ Actual Level of Effort
▬ Critical Remaining Work
█ Actual Work
◆ Milestone

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											Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun
BL13710	Metal Picket Fence and Gates Installation	Not Started	<input type="checkbox"/>	9	0	9	11-Jan-24	22-Jan-24	-19	0%										
Irrigation Works				22	0	22	06-Jan-24	01-Feb-24	-19	0%										
BL13720	Irrigation Line Layout	Not Started	<input type="checkbox"/>	2	0	2	06-Jan-24	09-Jan-24	-24	0%										
BL13730	Waterway and Pipe laying	Not Started	<input type="checkbox"/>	3	0	3	09-Jan-24	12-Jan-24	-24	0%										
BL13740	Sprinkler Heads Installation	Not Started	<input type="checkbox"/>	3	0	3	12-Jan-24	17-Jan-24	-14	0%										
BL13750	Device and Controls Installation	Not Started	<input type="checkbox"/>	6	0	6	23-Jan-24	29-Jan-24	-19	0%										
BL13760	Line Connection to Watersupply and ELVs	Not Started	<input type="checkbox"/>	3	0	3	30-Jan-24	01-Feb-24	-19	0%										
Park Equipments and Site Furnitures Installation				46	0	46	13-Dec-23	08-Feb-24	-24	0%										
BL13770	Benches and Chairs Installation	Not Started	<input type="checkbox"/>	4	0	4	12-Jan-24	18-Jan-24	-24	0%										
BL13780	Tables Installation	Not Started	<input type="checkbox"/>	3	0	3	18-Jan-24	22-Jan-24	-24	0%										
BL13790	Bike Rack Installation	Not Started	<input type="checkbox"/>	4	0	4	22-Jan-24	26-Jan-24	-24	0%										
BL13800	Trash and Recycle Receptacle Installation	Not Started	<input type="checkbox"/>	2	0	2	22-Jan-24	24-Jan-24	-24	0%										
BL13810	Berliners Installation	Not Started	<input type="checkbox"/>	13	0	13	24-Jan-24	08-Feb-24	-24	0%										
BL13830	Fitness and Exercise Equipments Installation	Not Started	<input type="checkbox"/>	6	0	6	13-Dec-23	19-Dec-23	-3	0%										
Community Building				185	105	78	28-Jun-23 A	07-Feb-24	-24	57.84%										
Foundation				3	105	1	28-Jun-23 A	02-Nov-23	-16	60%										
BL13856	Compaction	In Progress	<input type="checkbox"/>	3	105	1	28-Jun-23 A	02-Nov-23	-16	60%										
Structure				17	0	17	02-Nov-23	22-Nov-23	-12	0%										
Shell Structure				17	0	17	02-Nov-23	22-Nov-23	-12	0%										
Ground Level				0	0	0	02-Nov-23	02-Nov-23	-15	0%										
RSBL1620	Remove Shoring for 1st Level	Not Started	<input type="checkbox"/>	0	0	0	02-Nov-23		-15	0%										
2nd Level				0	0	0	20-Nov-23	20-Nov-23	-12	0%										
RSBL1630	Remove Shoring for 2nd Level	Not Started	<input type="checkbox"/>	0	0	0	20-Nov-23		-12	0%										
Roof Level				17	0	17	02-Nov-23	22-Nov-23	-12	0%										
RSBL1470	Stripping roof slab and beams	Not Started	<input type="checkbox"/>	1	0	1	02-Nov-23	03-Nov-23	-16	0%										
RSBL1480	Re-shoring	Not Started	<input type="checkbox"/>	2	0	2	20-Nov-23	22-Nov-23	-12	0%										
Interior Works				71	90	71	17-Jul-23 A	07-Feb-24	-24	0%										
Ground Level				70	90	70	17-Jul-23 A	06-Feb-24	-23	0%										
Substrate				11	0	11	09-Nov-23	22-Nov-23	-21	0%										
BL14020	CMU Wall Installation	Not Started	<input type="checkbox"/>	6	0	6	09-Nov-23	16-Nov-23	-21	0%										
BL14030	Gypsumboard Installation	Not Started	<input type="checkbox"/>	8	0	8	09-Nov-23	18-Nov-23	-21	0%										
BL14025	Drywall Partition Framing Installation	Not Started	<input type="checkbox"/>	7	0	7	09-Nov-23	17-Nov-23	-21	0%										
BL14050	Touching up and Patching	Not Started	<input type="checkbox"/>	3	0	3	20-Nov-23	22-Nov-23	-21	0%										
MEPF Works				50	90	37	17-Jul-23 A	16-Jan-24	-9	25.2%										
HVAC				38	6	33	25-Oct-23 A	10-Jan-24	-13	11.17%										
BL14070	Ducting Works Installation	In Progress	<input type="checkbox"/>	6	6	1	25-Oct-23 A	01-Dec-23	-3	90%										
BL14080	Vents and Devices Installation	Not Started	<input type="checkbox"/>	4	0	4	06-Jan-24	10-Jan-24	-13	0%										
Plumbing and Sanitary				46	90	7	17-Jul-23 A	10-Jan-24	-5	84.78%										
BL14090	Supports and Brackets Installation (Rough-ins)	In Progress	<input type="checkbox"/>	4	90	4	17-Jul-23 A	09-Jan-24	-19	0%										
BL14100	Pipe Installation	In Progress	<input type="checkbox"/>	4	90	3	17-Jul-23 A	05-Jan-24	-19	25%										
BL14110	Final Fix Installation	Not Started	<input type="checkbox"/>	4	0	4	06-Jan-24	10-Jan-24	-5	0%										
Electrical				25	0	25	30-Nov-23	30-Dec-23	-3	0%										
BL14160	Duct and Trays Installation	Not Started	<input type="checkbox"/>	12	0	12	30-Nov-23	14-Dec-23	-3	0%										
BL14170	Cable Laying and Wire Pulling	Not Started	<input type="checkbox"/>	9	0	9	14-Dec-23	26-Dec-23	-3	0%										
BL14210	Outlets, Lighting and other Devices Installation	Not Started	<input type="checkbox"/>	4	0	4	26-Dec-23	30-Dec-23	-3	0%										
Fire Alarm				14	0	14	29-Dec-23	16-Jan-24	-18	0%										
BL14180	Supports and Brackets Installation	Not Started	<input type="checkbox"/>	5	0	5	29-Dec-23	04-Jan-24	-23	0%										
BL14190	Wiring Installation	Not Started	<input type="checkbox"/>	5	0	5	05-Jan-24	10-Jan-24	-18	0%										
BL14200	Smoke detectors and Device controls Installation	Not Started	<input type="checkbox"/>	4	0	4	11-Jan-24	16-Jan-24	-18	0%										
Architectural Finishes				59	0	59	27-Nov-23	06-Feb-24	-23	0%										
Ceiling				5	0	5	03-Jan-24	08-Jan-24	-13	0%										
BL14040	Ceiling Grid Installation	Not Started	<input type="checkbox"/>	3	0	3	05-Jan-24	08-Jan-24	-13	0%										
BL14220	Ceiling Panel Board Installation	Not Started	<input type="checkbox"/>	3	0	3	03-Jan-24	05-Jan-24	-13	0%										

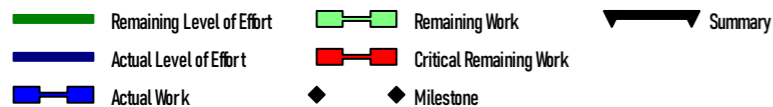


LCG-Surfside96thStreet-Total Float >=10
Surfside 96th Street Park_Monthly Update -October2023

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Activity ID	Activity Name	Activity Status	Critical	Original Duration	Actual Duration	Remaining Duration	Start	Finish	Total Float	Duration % Complete	2023				2024					
											Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun
Wall																				
BL14230	Wall Primer Painting	Not Started	<input type="checkbox"/>	11	0	11	27-Nov-23	08-Dec-23	-21	0%	19-Dec-23, Wall									
BL14240	Wall Final Painting	Not Started	<input type="checkbox"/>	11	0	11	07-Dec-23	19-Dec-23	-21	0%	Wall Primer Painting									
BL14250	Wall Tiles Installation	Not Started	<input type="checkbox"/>	6	0	6	13-Dec-23	19-Dec-23	-23	0%	Wall Final Painting									
Floor																				
BL14260	Floor Surface Preparation	Not Started	<input checked="" type="checkbox"/>	9	0	9	20-Dec-23	30-Dec-23	-26	0%	05-Jan-24, Floor									
BL14270	Floor Tiles Installation	Not Started	<input checked="" type="checkbox"/>	9	0	9	26-Dec-23	05-Jan-24	-26	0%	Floor Surface Preparation									
BL14280	Floor Epoxy Finish	Not Started	<input type="checkbox"/>	6	0	6	26-Dec-23	02-Jan-24	-25	0%	Floor Tiles Installation									
BL14290	Floor Terrazzo Finish	Not Started	<input type="checkbox"/>	6	0	6	26-Dec-23	02-Jan-24	-25	0%	Floor Epoxy Finish									
Doors and Windows																				
BL15240	Aluminium Window Frames Installation	Not Started	<input type="checkbox"/>	8	0	8	16-Dec-23	26-Dec-23	-4	0%	01-Feb-24, Doors and Windows									
BL14300	Door Frame/Jambs Installation	Not Started	<input type="checkbox"/>	12	0	12	18-Dec-23	02-Jan-24	-25	0%	Aluminium Window Frames Installation									
BL15250	Glass Window Installation	Not Started	<input type="checkbox"/>	5	0	5	27-Dec-23	02-Jan-24	4	0%	Door Frame/Jambs Installation									
BL15310	Aluminium Louvers Installation	Not Started	<input type="checkbox"/>	12	0	12	19-Jan-24	01-Feb-24	-21	0%	Glass Window Installation									
BL14310	Door Leaf Installation	Not Started	<input checked="" type="checkbox"/>	3	0	3	04-Jan-24	06-Jan-24	-26	0%	Aluminium Louvers Installation									
BL14320	Ironmongery Works	Not Started	<input type="checkbox"/>	9	0	9	18-Jan-24	27-Jan-24	-15	0%	Door Leaf Installation									
Misc Works																				
Other Specialties																				
BL14410	Wood Veneer Countertop Installation	Not Started	<input type="checkbox"/>	12	0	12	16-Jan-24	29-Jan-24	-16	0%	06-Feb-24, Misc Works									
BL14430	Internal Signages Installation	Not Started	<input type="checkbox"/>	2	0	2	06-Jan-24	08-Jan-24	-1	0%	06-Feb-24, Other Specialties									
BL14440	Toilet Accessories Installation	Not Started	<input type="checkbox"/>	6	0	6	19-Jan-24	25-Jan-24	-15	0%	Wood Veneer Countertop Installation									
BL14380	Aluminium Guard Rail Installation	Not Started	<input checked="" type="checkbox"/>	6	0	6	08-Jan-24	13-Jan-24	-26	0%	Internal Signages Installation									
BL14390	Aluminium Screen Wall and Gate	Not Started	<input type="checkbox"/>	4	0	4	08-Jan-24	11-Jan-24	-25	0%	Toilet Accessories Installation									
BL14400	Sump Pit Cover and Frame Installation	Not Started	<input type="checkbox"/>	1	0	1	11-Jan-24	12-Jan-24	-25	0%	Aluminium Guard Rail Installation									
BL14420	Glass Railing Installation	Not Started	<input checked="" type="checkbox"/>	7	0	7	16-Jan-24	23-Jan-24	-26	0%	Aluminium Screen Wall and Gate									
BL14370	Roof Access Ladder Installation	Not Started	<input type="checkbox"/>	1	0	1	05-Feb-24	06-Feb-24	-25	0%	Sump Pit Cover and Frame Installation									
2nd Level																				
Substrate																				
BL14790	CMU Wall Installation	Not Started	<input type="checkbox"/>	6	0	6	22-Nov-23	02-Dec-23	-12	0%	07-Feb-24, 2nd Level									
BL14800	Gypsumboard Installation	Not Started	<input type="checkbox"/>	11	0	11	22-Nov-23	08-Dec-23	-12	0%	12-Dec-23, Substrate									
BL14795	Drywall Partition Framing Installation	Not Started	<input type="checkbox"/>	12	0	12	22-Nov-23	09-Dec-23	-12	0%	CMU Wall Installation									
BL14820	Touching up and Patching	Not Started	<input type="checkbox"/>	3	0	3	08-Dec-23	12-Dec-23	-12	0%	Gypsumboard Installation									
MEPF Works																				
HVAC																				
BL14830	Supports and Brackets Installation	Not Started	<input type="checkbox"/>	8	0	8	02-Dec-23	12-Dec-23	-5	0%	20-Jan-24, MEPF Works									
BL14840	Ducting Works Installation	Not Started	<input type="checkbox"/>	11	0	11	12-Dec-23	26-Dec-23	-5	0%	16-Jan-24, HVAC									
BL14850	Vents and Devices Installation	Not Started	<input type="checkbox"/>	4	0	4	11-Jan-24	16-Jan-24	-17	0%	Supports and Brackets Installation									
Plumbing and Sanitary																				
BL14860	Supports and Brackets Installation	In Progress	<input type="checkbox"/>	4	4	3	27-Oct-23 A	13-Jan-24	-23	30%	20-Jan-24, Plumbing and Sanitary									
BL14870	Pipe Installation	Not Started	<input type="checkbox"/>	4	0	4	11-Jan-24	17-Jan-24	-23	0%	Pipe Installation									
BL14880	Final Fix Installation	Not Started	<input type="checkbox"/>	3	0	3	17-Jan-24	20-Jan-24	-13	0%	Final Fix Installation									
Fire Suppression																				
BL14910	Fire Extinguishers Installation	Not Started	<input type="checkbox"/>	2	0	2	13-Dec-23	14-Dec-23	6	0%	14-Dec-23, Fire Suppression									
Electrical																				
BL14920	Supports and Brackets Installation (Rough-ins)	In Progress	<input type="checkbox"/>	10	3	7	27-Oct-23 A	08-Dec-23	-6	30%	04-Jan-24, Electrical									
BL14930	Duct and Trays Installation	In Progress	<input type="checkbox"/>	12	3	8	27-Oct-23 A	18-Dec-23	-6	30%	Supports and Brackets Installation (Rough-ins)									
BL14940	Cable Laying and Wire Pulling	Not Started	<input type="checkbox"/>	9	0	9	19-Dec-23	29-Dec-23	-6	0%	Duct and Trays Installation, Duct and Trays									
BL14980	Outlets, Lighting and other Devices Installation	Not Started	<input type="checkbox"/>	4	0	4	30-Dec-23	04-Jan-24	-6	0%	Cable Laying and Wire Pulling									
Fire Alarm																				
BL14950	Supports and Brackets Installation	Not Started	<input type="checkbox"/>	5	0	5	05-Jan-24	10-Jan-24	-23	0%	17-Jan-24, Fire Alarm									
BL14960	Wiring Installation	Not Started	<input type="checkbox"/>	3	0	3	11-Jan-24	13-Jan-24	-19	0%	Supports and Brackets Installation									
BL14970	Smoke detectors and Device controls Installation	Not Started	<input type="checkbox"/>	2	0	2	16-Jan-24	17-Jan-24	-19	0%	Wiring Installation									



LCG-Surfside96thStreet-Total Float >=10
Surfside 96th Street Park_Monthly Update -October2023

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Activity ID	Activity Name	Activity Status	Critical	Original Duration	Actual Duration	Remaining Duration	Start	Finish	Total Float	Duration % Complete	2023				2024					
											Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun
Architectural Finishes											07-Feb-24, Architectural Finishes									
Ceiling											17-Jan-24, Ceiling									
BL14810	Ceiling Grid Installation	Not Started	<input type="checkbox"/>	5	0	5	11-Jan-24	17-Jan-24	-17	0%	Ceiling Grid Installation									
BL14990	Ceiling Panel Board Installation	Not Started	<input type="checkbox"/>	5	0	5	10-Jan-24	16-Jan-24	-17	0%	Ceiling Panel Board Installation									
Wall											27-Dec-23, Wall									
BL15000	Wall Primer Painting	Not Started	<input type="checkbox"/>	11	0	11	12-Dec-23	26-Dec-23	-11	0%	Wall Primer Painting									
BL15020	Wall Tiles Installation	Not Started	<input type="checkbox"/>	8	0	8	12-Dec-23	21-Dec-23	-12	0%	Wall Tiles Installation									
BL15010	Wall Final Painting	Not Started	<input type="checkbox"/>	7	0	7	18-Dec-23	27-Dec-23	-11	0%	Wall Final Painting									
Floor											20-Jan-24, Floor									
BL15030	Floor Surface Preparation	Not Started	<input type="checkbox"/>	8	0	8	02-Jan-24	10-Jan-24	-19	0%	Floor Surface Preparation									
BL15040	Floor Tiles Installation	Not Started	<input type="checkbox"/>	11	0	11	08-Jan-24	20-Jan-24	-11	0%	Floor Tiles Installation									
BL15050	Floor Epoxy Finish	Not Started	<input type="checkbox"/>	7	0	7	08-Jan-24	16-Jan-24	-19	0%	Floor Epoxy Finish									
BL15060	Floor Terrazzo Finish	Not Started	<input type="checkbox"/>	6	0	6	08-Jan-24	13-Jan-24	-18	0%	Floor Terrazzo Finish									
Doors and Windows											26-Jan-24, Doors and Windows									
BL15070	Door Frame/Jambs Installation	Not Started	<input type="checkbox"/>	12	0	12	03-Jan-24	17-Jan-24	-20	0%	Door Frame/Jambs Installation									
BL15220	Aluminium Window Frames Installation	Not Started	<input type="checkbox"/>	8	0	8	03-Jan-24	11-Jan-24	-9	0%	Aluminium Window Frames Installation									
BL15230	Glass Window Installation	Not Started	<input type="checkbox"/>	5	0	5	12-Jan-24	18-Jan-24	-9	0%	Glass Window Installation									
BL15080	Door Leaf Installation	Not Started	<input type="checkbox"/>	4	0	4	18-Jan-24	22-Jan-24	-20	0%	Door Leaf Installation									
BL15090	Ironmongery Works	Not Started	<input type="checkbox"/>	4	0	4	23-Jan-24	26-Jan-24	-16	0%	Ironmongery Works									
Misc Works											07-Feb-24, Misc Works									
Other Specialties											07-Feb-24, Other Specialties									
BL15160	Aluminium Screen Wall and Gate	Not Started	<input type="checkbox"/>	5	0	5	22-Jan-24	27-Jan-24	-23	0%	Aluminium Screen Wall and Gate									
BL15180	Wood Veneer Countertop Installation	Not Started	<input type="checkbox"/>	15	0	15	17-Jan-24	03-Feb-24	-23	0%	Wood Veneer Countertop Installation									
BL15210	Toilet Accessories Installation	Not Started	<input type="checkbox"/>	2	0	2	17-Jan-24	19-Jan-24	-10	0%	Toilet Accessories Installation									
BL15150	Aluminium Guard Rail Installation	Not Started	<input checked="" type="checkbox"/>	7	0	7	24-Jan-24	31-Jan-24	-26	0%	Aluminium Guard Rail Installation									
BL15200	Internal Signages Installation	Not Started	<input type="checkbox"/>	2	0	2	16-Jan-24	17-Jan-24	-8	0%	Internal Signages Installation									
BL15190	Glass Railing Installation	Not Started	<input checked="" type="checkbox"/>	6	0	6	01-Feb-24	07-Feb-24	-26	0%	Glass Railing Installation									
Exterior Works											05-Feb-24, Exterior Works									
BL14460	Stucco Application	Not Started	<input type="checkbox"/>	14	0	14	04-Dec-23	19-Dec-23	-25	0%	Stucco Application									
BL14490	TPO Roof Membrane Application	Not Started	<input type="checkbox"/>	15	0	15	04-Dec-23	20-Dec-23	-23	0%	TPO Roof Membrane Application									
BL14500	Flashing and Sheet Metals Installation	Not Started	<input type="checkbox"/>	12	0	12	16-Dec-23	30-Dec-23	-23	0%	Flashing and Sheet Metals Installation									
BL15290	Architectural Facade (Precast Concrete) Installation	Not Started	<input type="checkbox"/>	5	0	5	20-Dec-23	26-Dec-23	-25	0%	Architectural Facade (Precast Concrete)									
BL14470	Painted Smooth Stucco Finish	Not Started	<input type="checkbox"/>	13	0	13	26-Dec-23	11-Jan-24	-25	0%	Painted Smooth Stucco Finish									
BL14510	Rain Water Collectors and Downspouts Installation	Not Started	<input type="checkbox"/>	18	0	18	02-Jan-24	23-Jan-24	-23	0%	Rain Water Collectors and Downspouts Installation									
BL14480	Resin-Based Paint Coat	Not Started	<input type="checkbox"/>	20	0	20	11-Jan-24	05-Feb-24	-25	0%	Resin-Based Paint Coat									
BL14520	Caulking	Not Started	<input type="checkbox"/>	10	0	10	24-Jan-24	03-Feb-24	-23	0%	Caulking									
BL15300	Equipment Pad Construction	Not Started	<input type="checkbox"/>	6	0	6	11-Jan-24	18-Jan-24	-9	0%	Equipment Pad Construction									
Kayak Launch Docking Station											06-Feb-24, Kayak Launch Docking Station									
BL14530	Area clearing	Not Started	<input type="checkbox"/>	2	0	2	09-Dec-23	11-Dec-23	-25	0%	Area clearing									
BL14540	Timber Piling and Concrete Piling	Not Started	<input type="checkbox"/>	8	0	8	12-Dec-23	20-Dec-23	-25	0%	Timber Piling and Concrete Piling									
BL14550	Wooden Joist Installation	Not Started	<input type="checkbox"/>	6	0	6	21-Dec-23	28-Dec-23	-25	0%	Wooden Joist Installation									
BL14560	Deck Installation	Not Started	<input type="checkbox"/>	3	0	3	29-Dec-23	02-Jan-24	-25	0%	Deck Installation									
BL14570	Wooden Railing Installation	Not Started	<input type="checkbox"/>	2	0	2	03-Jan-24	04-Jan-24	4	0%	Wooden Railing Installation									
BL14580	Gangway Installation	Not Started	<input type="checkbox"/>	12	0	12	03-Jan-24	17-Jan-24	-25	0%	Gangway Installation									
BL14590	Aluminium Gangway with Rub Rail Installation	Not Started	<input type="checkbox"/>	10	0	10	18-Jan-24	29-Jan-24	-25	0%	Aluminium Gangway with Rub Rail Installation									
BL14600	Floating Dock Installation	Not Started	<input type="checkbox"/>	7	0	7	30-Jan-24	06-Feb-24	-25	0%	Floating Dock Installation									
Testing/Commissioning and Punchout											10-Mar-24, Testing/Commissioning and Punchout									
BL14650	Services Connection for Fire Alarm Works	Not Started	<input type="checkbox"/>	15	0	15	12-Jan-24	30-Jan-24	-19	0%	Services Connection for Fire Alarm Works									
BL14620	Services Connection for HVAC Works	Not Started	<input type="checkbox"/>	14	0	14	11-Jan-24	27-Jan-24	-17	0%	Services Connection for HVAC Works									
BL14610	Services Connection for Electrical Works	Not Started	<input type="checkbox"/>	12	0	12	12-Jan-24	26-Jan-24	-16	0%	Services Connection for Electrical Works									
BL14640	Services Connection for Fire Suppression Works	Not Started	<input type="checkbox"/>	12	0	12	15-Dec-23	29-Dec-23	6	0%	Services Connection for Fire Suppression Works									
BL14615	Elevator Testing and Inspection	Not Started	<input type="checkbox"/>	6	0	6	30-Jan-24	06-Feb-24	-26	0%	Elevator Testing and Inspection									

█ Remaining Level of Effort ▬ Remaining Work ▶ Summary
▬ Actual Level of Effort ▬ Critical Remaining Work
█ Actual Work ◆ Milestone

LCG-Surfside96thStreet-Total Float >=10
Surfside 96th Street Park_Monthly Update -October2023

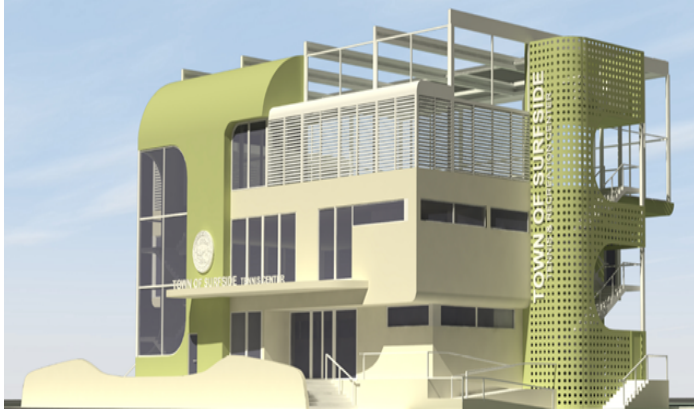
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Tennis and Recreation Center Project

Picture



Current Project Phase

Design and Engineering

Project Contact Information

Department	Parks and Recreation
Director	Tim Milian
Engineer of Record*	The Corradino Group
Architect of Record*	William Lane Architect

Funding

<i>Total Budgeted</i>	\$2,045,000
<i>Budget Approval Date</i>	September 28, 2022
<i>Commission Authorization to Expend Date</i>	November 2022 Commission Meeting

* - Additional funding will be required at a later date.

Scope

Design and build a 2-story Tennis and Recreation Center facility where the current Tennis center is located. The project is to include a roof level pickleball courts, community gymnasium with equipment, office space and flex space for community programming.

Project Timeline

Design Team Procurement
Design and Engineering (est.)
Construction Procurement (est.)
Construction (est.)

Phase Start

September 2022
December 2022
October 2024
March 2026

Phase End

November 2022
December 2023
February 2025
March 2027

Project Update

Design currently in progress.



Town-wide Traffic Study

Picture



Current Project Phase

Planning Phase

Project Contact Information

Department	Public Works
Director	Randy Stokes
Engineer of Record	The Corradino Group
Architect of Record	N/A
Project Management	The Corradino Group

Funding

Total Budgeted	\$204,500
Budget Approval Date	FY22 Budget Amd. No. 7
Commission Authorization to Expend Date	July 12, 2022

Scope

An objective of the Town Commission and Town Administration is to increase traffic calming throughout the Town and increase pedestrian safety. The previous Town-wide traffic study was performed in 2012 and it warranted various safety features to be installed. For example, the majority of the speed control traffic bumps and traffic roundabouts were a result of recommendations from the 2012 traffic study. It is recommended to update the traffic study every ten years in order to capture new conditions as a result of changes in population growth and development. The Corradino Group has previously provided traffic engineering services to the Town and was retained for negotiations in order to provide a scope of services for a Town-wide traffic study.

Project Timeline

	<u>Phase Start</u>	<u>Phase End</u>
Traffic Data Collection	<i>September 2022</i>	<i>November 2022</i>
Traffic Operation Analysis	<i>December 2022</i>	<i>January 2023</i>
Traffic Calming Analysis	<i>December 2022</i>	<i>October 2023</i>
Safety Review	<i>December 2022</i>	<i>October 2023</i>
Traffic Calming Improvement Plan	<i>March 2023</i>	<i>November 2023</i>
Community Outreach Meeting	<i>October 2023</i>	<i>November 2023</i>

Project Update

A public outreach meeting will be held in November of 2023.

MONTHS FROM NTP																
Task	Task Name	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
1	Traffic Data Collection			**												
2	Traffic Data Collection- Supplemental					**										
3	Traffic Operational Analysis														**	
4	Traffic Calming Analysis											**				
5	Safety Review														**	
6	Traffic Calming Improvement Plan															**
7	Community Outreach Meeting														**	
8	Traffic Study Technical Memorandum															**

* Purchase Order was issued on 08/05/2022. NTP month one is September 2022 when the traffic data collection commenced.



91st Street - "Surfside Boulevard" Beautification Project

Picture



Current Project Phase

Schematic Phase

Project Contact Information

Department	Public Works
Director	Randy Stokes
Engineer of Record	Kimley-Horn
Architect of Record	
Project Management	

Funding

Total Budgeted	\$1,050,000
Budget Approval Date	
Commission Authorization to Expend Date	September 28, 2022

Scope

Through various sources, the Town has obtained funds with the intent to beautify the current 991st Street also known as Surfside Boulevard. The project beautification scope of services is to be determined but will follow after major utilities project occur in the area.

Project Timeline

Procuring of Engineering (est.)
Plan and Study
Engineering & Design (est.)
Permitting (est.)
Grant Agreement and Funding

Phase Start

December 2022
February 2023
October 2023
November 2023
December 2022

Phase End

January 2023
October 2023
November 2023
January 2024
February 2024

Project Update

Kimley-Horn design schematics to be presented to Town Commission in February 2024. Refer to attached schedule.

Surfside 91st Ave Beautification									
Task	Oct-23	Nov-23	Dec-23	Jan-24	Feb-24	Mar-24	Apr-24	May-24	Jun-24
Task 2 -Schematic Design Review and Selection									
Task 3 -Presentation to Commission (Pending on Commission Schedule)									
Task 4 - 60% Design Plans (Evening Parking Count to be performed during 60% Design Phase)									
Task 5 -Permitting									
Task 6 - Final Plans and Documents									
Task 7 - Bidding Assistance									



Town-Wide Utilities Undergrounding Project

Picture

TOWN OF SURFSIDE
UNDERGROUNDING OF UTILITIES
PHASE 1 - UTILITY COORDINATION PLANS

CITY PROJECT NO. FY 21-00473
 KCI PROJECT NO. 482021474.00
 DECEMBER 07, 2021

TOWN OFFICIALS	
COMMISSIONER	TRIA PAUL
MANAGER	CHARLES HUBB
ENGINEER	BILLY VEASDADE

LIST OF SHEETS	
COVER SHEET / INDEX	
UTILITY COORDINATION PLANS	
ELECTRICAL AND COMMUNICATIONS PLANS	
STREET LIGHTING PLANS	

LOCATION MAP
NO SCALE

THE INTENT OF THESE DRAWINGS IS TO INDICATE THE PROJECT'S UTILITY COORDINATION PLAN IN CONFORMANCE WITH THE TOWN OF SURFSIDE'S UTILITY COORDINATION PLAN. THESE DRAWINGS ARE NOT TO BE USED FOR CONSTRUCTION. THESE DRAWINGS ARE NOT TO BE USED FOR ANY OTHER PURPOSES. THESE DRAWINGS ARE NOT TO BE USED FOR ANY OTHER PURPOSES. THESE DRAWINGS ARE NOT TO BE USED FOR ANY OTHER PURPOSES. THESE DRAWINGS ARE NOT TO BE USED FOR ANY OTHER PURPOSES.

PREPARED BY:
ENGINEERS | PLANNERS | SCIENTISTS
CONSTRUCTION MANAGERS
 6000 St. Andrews Avenue • Fort Lauderdale, FL 33309
 954.576.1818 • www.kci.com

PUBLIC WORKS DEPARTMENT
 8280 HAVENING AVE.
 SURFSIDE, FL 33556
 Phone: (904) 961-4880

811
 Know what's below.
 Call before you dig.

PRELIMINARY
NOT FOR

Current Project Phase

Engineering and Design Phase

Project Contact Information

Department	Public Works
Director	Randy Stokes
Engineer of Record	Kimley-Horn
Architect of Record	N/A
Project Management	Kimley-Horn

Funding

Total Budgeted*	\$37,178,512
Budget Approval Date**	Varies

Commission Authorization to Expend Date: Various agreements have been approved to date

* - Budget figure is based on Surfside Executive Summary estimate

** - Various agreements have been approved to date.

Scope

The project consists of the undergrounding all current above ground utilities throughout Town. These utilities include electrical mains, feeders, communications and residential drop connections. The project debt issuance was approved through voter referendum during the 2022 General Elections. The Town has executed various agreements with different providers in order to perform the design phase of the project.

Project Timeline

Design Phase
 Procurement (est.)
 Construction Phase I (est.)

Phase Start

May 2022
 February 2025
 August 2025

Phase End

August 2024
 April 2025
 TBD

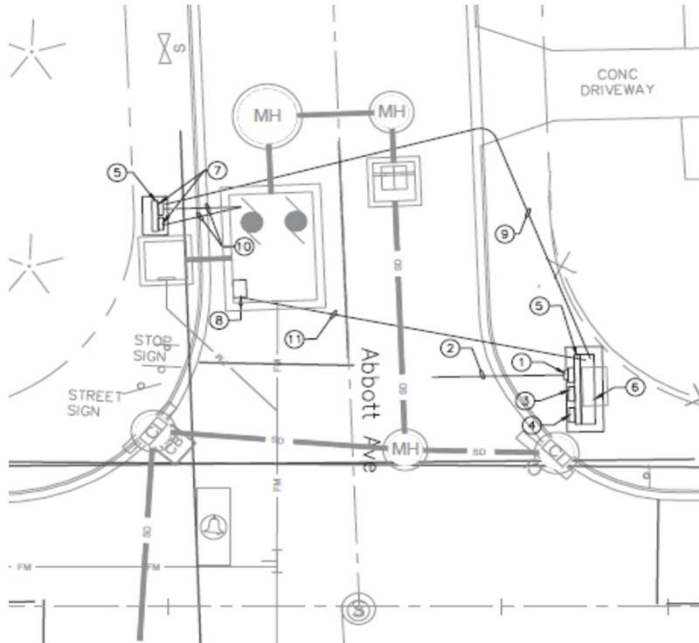
Project Update

Town Commission approved Kimley-Horn's agreements for project management support as well as for design services. A kickoff meeting was held by Town staff to determine next steps. A community round-table will be scheduled for December 2023.



Abbott Avenue Drainage Improvements

Picture



Current Project Phase

Procurement Phase

Project Contact Information

Department	Public Works
Director	Randy Stokes
Engineer of Record	Keith Engineering
Architect of Record	NA
Project Management	NA

Funding

Total Budgeted*	\$3,850,000
Budget Approval Date	September 28, 2022

Commission Authorization to Expend Date	TBD - Administration will seek authorization to expend upon awarding work to contractor
---	---

* - Construction and CEI budget

Scope

The construction will entail the addition of one new pump station with respective force main in order to alleviate flooding on Abbott Avenue from 90th Street to 94th Street.

Project Timeline*

	<u>Phase Start</u>	<u>Phase End</u>
Engineering and Design	August 2032	October 2023
Permitting	Done	Done
Procurement (est.)	November 2023	December 2023
NTP for Construction (est.)	TBD	TBD
Construction (est.) Based on redesign	TBD	TBD

Project Update

On October 31, 2023, a pre-bid conference for ITB2023-05 Town Stormwater improvements Abbott Avenue Pump Stations was held.



Collins Avenue Water Main Design and Permitting

Picture



Current Project Phase

Design Phase

Project Contact Information

Department	Public Works
Director	Randy Stokes
Engineer of Record	Nova Consulting
Architect of Record	N/A
Project Management	Nova Consulting

Funding

Total Budgeted	\$340,206
Budget Approval Date	September 28, 2022
Commission Authorization to Expend Date	August 9, 2022

Scope

The current undersized water main on Collins Avenue is past its use life and requires upsizing with replacement. The Town sought and obtained a grant for design services for the project. The water main currently services all the facilities along the Collins Avenue corridor.

Project Timeline

	Phase Start	Phase End
Design	November 2023	February 2024
Permitting	February 2024	April 2024
Procurement Phase (est.)	TBD	TBD
Constuction (est) - TBD	TBD	TBD

Project Update

Projects is in 60% design phase. Town submitted an appropriation request to the State.



A/C Replacement Units - Community Center

Picture



Current Project Phase

Procurement phase

Project Contact Information

Department	Parks and Recreation
Director	Tim Milian
Contractor	Smart Air

Funding

<i>Total Budgeted</i>	\$140,000
<i>Budget Approval Date</i>	September 28, 2022
<i>Commission Authorization to Expend Date</i>	

Scope

The current AC units at the Community Center has a lifespan of over 10 years. The units are heavily corroded and has extensive wear and tear. The units often breaks down resulting high repair costs. The Town will be procuring new units for the entire community center including the concession stand, lifeguard office, fish bowl, and shark tank. These new units will meet EPA regulations. The cost includes: new Trane condensers with coal coatings, climate changing AHU with SS Drain pan, Coil casing, energy recovery ventilators, new aluminum I-beams to help prevent dirt and debris from corroding the units.

Project Timeline

Procurement
Notice to Proceed and Kick off (est.) Construction/
Replacement (est.)

Phase Start

Aprill 2023
June 2023
August 2023

Phase End

June 2023
June 2023
December 2023

Project Update

50% complete.



Dune Resiliency and Beautification Project

Picture



Current Project Phase

Design Phase

Project Contact Information

Department	Public Works
Director	Randy Stokes
Engineer of Record	Kimley-Horn
Architect of Record	TBD
Project Management	Public Works

Funding

Total Budgeted	\$72,000
Budget Approval Date	September 28, 2022
Commission Authorization to Expend Date	TBD

Scope

The Commission tasked Town administration to promote both dune beautification and resiliency improvements. Town administration is seeking engineering and design services in order to meet the objective in a manner that is Florida Friendly and promotes the natural plant diversity of the dunes.

Project Timeline

	<u>Phase Start</u>	<u>Phase End</u>
Procuring of Engineering Plan and Study (est.)	December 2022	March 2023
Design (est.)	March 2023	October 2023
Permitting (est.)	October 2023	November 2023
Grant Agreement and Grant Funding (est.)	November 2023	January 2024
Construction (est.)	December 2022	February 2024
	March 2024	December 2024

Project Update

Town is pursuing another Florida Department of Environmental Protection FDEP grant to assist with funding. Schematic design being further developed.

Dune Resiliency and Beautification Project Schedule									
Task	Apr-23	May-23	Jun-23	Jul-23	Aug-23	Sep-23	Oct-23	Nov-23	Dec-23
Task 1 - Kickoff Meeting									
Task 2 - Topographic Survey									
Task 3 - Construction Plans									
60% Plan preparation									
Final Plan preparation									
Task 4 - Permit Coordination									
Project Coordination									



93rd Street 200 Block Paver Beautification Project

Current Project Phase

Design Procurement Phase



Project Contact Information

Department	Public Works
Director	Randy Stokes
Engineer of Record	N/A
Architect of Record	N/A

Funding

Total Budgeted	\$400,000
Budget Approval Date	
Commission Authorization to Expend Date	N/A

Scope

93rd Street is the hub for all Town Hall and Community Center events. Town Commission has commissioned staff with enhancing the 93rd Street corridor between Harding Avenue & Collins Avenue with pavers and hardscape improvements.

Project Timeline

	<u>Phase Start</u>	<u>Phase End</u>
<i>Design Procurement</i>	<i>January 2024</i>	<i>January 2024</i>
<i>Design</i>	<i>TBD</i>	<i>TBD</i>
<i>Cosntruction</i>	<i>TBD</i>	<i>TBD</i>

Project Update

Town will seek a CCNA retained firm for continuing service to provide proposal.



Town Hall Improvements (Commission Chambers and Police Department)

Current Project Phase

Procurement Document Composition



Project Contact Information

Department	Public Works/Police Dept
Director	R. Stokes/A. Marciante
Engineer of Record	N/A
Architect of Record	N/A

Funding

Total Budgeted	\$165,000
Budget Approval Date	

Commission Authorization to Expend Date	TBD (Estimated Jan. 2024)
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Scope

The Town of Surfside Commission Chambers located at 9293 Harding Avenue is highly utilized for various Town meetings. The Commission Chambers is in need of an upgrade to include replacing carpeting, chairs, lighting, amongst other items. Remodel, replace flooring and update sections of the Police Department. The Police Department Communications section is more than 15 years old and in need of replacement. The project scope includes: remodel Communications room; convert a portion of the Communications room into Sergeants office space for four work stations (from three) to alleviate overcrowding; remodel existing sergeants office space into a interview room to provide a private setting for officers to use during interviews of both suspects and victims. E police department have private setting to interview victims and suspects; replace the linoleum flooring throughout the police department and the upstairs training room; remodel kitchen area.

Project Timeline

	<u>Phase Start</u>	<u>Phase End</u>
Procurement	TBD	TBD
Contract	TBD	TBD
Construction	TBD	TBD

Project Update

Town Administration is compiling bid documents.



Parking Lot Security Cameras

Current Project Phase

Procurement Phase



Project Contact Information

Department	Finance/IT
Director	J. Collazo/J. Feliz
Engineer of Record	AT&I Security Systems
Architect of Record	N/A

Funding

<i>Total Budgeted</i>	\$80,000
<i>Budget Approval Date</i>	
<i>Commission Authorization to Expend Date</i>	December 2023 projected

Scope

Security updates consisting of surveillance cameras and Cloud services at various parking lots.

Project Timeline

<i>Procurement</i>	<i>December 2023</i>	<i>January 2024</i>
<i>Implementation</i>	<i>TBD</i>	<i>TBD</i>

Phase Start

Phase End

Project Update

Town staff is in process of obtaining quotes.



Town Drainage Improvement and Flood Hazard Mitigation Plan

Picture



Current Project Phase

Completed

Project Contact Information

Department	Public Works
Department Director	Randy Stokes
Engineer of Record	Kimley-Horn
Architect of Record	N/A
Project management	Kimley-Horn

Funding

<i>Total Budgeted</i>	\$255,000
<i>Budget Approval Date</i>	September 23, 2021
<i>Commission Authorization to Expend Date</i>	June 14, 2022
	Commission meeting

Scope

The stormwater master plan, which is partially grant funded, will create a comprehensive Town infrastructure planning document geared towards understanding Town localized flooding issues and provide a project bank of projects for the Town to implement as part of the Capital Improvement Plan.

Project Timeline

Data Collection and Analysis
Stormwater Model
Adaptation Strategy
Master Plan

Phase Start

July 2022
November 2022
March 2023
May 2023

Phase End

November 2022
February 2023
May 2023
November 2023

Project Update

Project complete.



TOWN OF SURFSIDE

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

TO: Mayor and Town Commission

**FROM: Lillian M. Arango and Tony Recio, Town Attorney
Weiss Serota Helfman Cole & Bierman, P.L.**

CC: Hector Gomez, Town Manager

DATE: November 7, 2023

**SUBJECT: Office of the Town Attorney Report for November 14, 2023 Regular
Commission Meeting**

This Firm attended/prepared and/or rendered advice for the following Commission meetings and workshops, public meetings and workshops, and Board and Committee meetings during the past month:

October 10, 2023 – Regular Town Commission Meeting

Members of the firm assisted with the agendas and drafted the resolutions and ordinances where necessary for the above noted 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 contracts, agreements and supporting documents.

Various members of the Firm have and continue to assist the Town in the aftermath of the CTS Collapse, including ongoing causation investigations at the CTS Site and off-site facilities, and interaction with KCE Engineering (Allyn Kilsheimer) and NIST representatives. Efforts also include legal assistance with a CTS memorial site.

Commission Support:

Attorneys of the firm have continued to work with the members of the Town Commission, and Board and Committee members, to provide Ethics guidance and opinions, including Sunshine Law and Public Records, and address concerns and research specific issues and legislative and policy initiatives, and are always available, either in the office or by phone or email. We appreciate your support as we continue our sixth year of service and work in implementing the Mayor and Town Commission's policy directives.

Staff Support:

Members of the Firm continue to assist the Town administration and staff, as well assist boards and committees, with application review, contract and agreement review; preparation of ordinances as directed by the Commission; procurement and purchasing, various solicitations for Town services and providers (RFQs and RFPs) and agreements; IT related agreements; Parks & Recreation Department contracts and services; Tourist Board purchases and agreements; Code enforcement and interpretation, and attendance at Special Master Hearings upon request; beach furniture operator permits and administration; ethics issues and complaints; police funding, matters and agreements, forfeiture, public records and complaints; building permit and enforcement issues; public records and media requests; litigation representation and support, subpoenas, oversight and case management; Town Code interpretation and application; labor, employment and pension matters; assistance with implementation of the AFSCME Florida Council 79 for Town civilian employees; collective bargaining negotiations and agreement with the FOP; Town Manager recruitment process and employment agreement; EEOC complaints; ethics complaints and inquiries; various procurements and service provider contracts for Town Departments and the Tourist Board; Zoning Code clarifications and ordinances; and implementation of utilities undergrounding project.

Key Issues and Action Items:

The workload has been diverse and has included specific issue support to every department. Key issues and action items since the commencement of Fiscal Year 2023/2024 have included:

October 2023:

- Resolution Approving and Accepting a State-Funded Grant Agreement with the Florida Department of Commerce (FDOC) for the Downtown Alleyway Surfside Project.
- Resolution Approving Budget Amendment No. 1 for the Fiscal Year 2024 Budget.
- Resolution Approving a Combined Voluntary Cooperation and Operational Assistance Mutual Aid Agreement with the City Of Sweetwater.
- Resolution Approving an Amendment to the Project Agreement with the Corradino Group, Inc. for Additional Professional Engineering Building Design and Permitting Services for the Tennis Recreation Center Building Improvement Project.

- Resolution Approving a Project Agreement with Kimley-Horn And Associates, Inc. for Utilities Undergrounding Design and Engineering Services Pursuant to the Continuing Services Agreement for Professional Engineering Services.
- Ordinance Adopting Chapter 73, “Capital Improvement Projects,” Providing for a Definition of Town “Capital Improvement Projects”; and Establishing the Method for Planning, Budgeting, and Implementing Such Projects.
- Ordinance Amending Article VI. - “Water Shortage Regulations” of Chapter 78 - “Utilities,” of the Town’s Code of Ordinances to Incorporate Applicable Miami-Dade County Permanent Year-Round Landscape Irrigation Restrictions and Provide for Enforcement by the Town.
- Ordinance Amending Section 2-206 “Public Participation” Relating to Citizens Presentations.
- Ordinance Amending Chapter 72 “Telecommunications”, Section 72-28 “Definitions,” Section 72-31 “Placement or Maintenance of a Communications Facility In Public Rights-of-Way”, and Section 72-35 “Existing Communications Facilities In Public Rights-of-Way” to Require Undergrounding of all New Communications Lines within the Town's Boundaries.

November 2023:

- Resolution Approving Second Amendment to the Concession Agreement with Deco Bike, LLC, and Agreement Providing for Renewal of the Agreement
- Resolution Ratifying the Acceptance of a Florida Department of Environmental Protection Resilient Florida Grant for the Town Comprehensive Vulnerability Assessment and Adaptation Plan Resolution and Agreement with Alves Sports Groups LLC for the Town’s Youth Soccer Program for FY 2023/2024
- Resolution and Agreement with GM Sports Tennis, LLC for the Town’s Youth Tennis Program for FY 2023/2024
- Resolution and Agreement with Premier Bounce N Slide Party Rentals LLC for the Town’s Park and Recreation Special Events for FY 2023/2024
- Resolution and Agreement with Sky Elements, LLC for 4th of July Drone Show Services
- Resolution and Franchise Agreement with TECO People Gas
- Resolution Approving and Authorizing the Purchase of Four (4) 2023 Ford Police Interceptor Utility Vehicles together with Emergency Lighting Equipment and Radio Equipment for the Police Vehicles
- Resolution Approving and Authorizing the Purchase of A Takeuchi TI12V2-R Compact Track Loader and Auxiliary Items from Alta Construction Equipment Florida, LLC
- Resolution Approving and Authorizing the Purchase of Nine (9) Motorola Police Radios for the Police Department
- Resolution Approving a Banking Extension Agreement with Truist Bank for Depository and Treasury Services
- Resolution Adopting a Planning and Zoning Fee Schedule for Design Review and Related Services

- Resolution Approving and Authorizing the Expenditure of Funds for the Downtown Walkability Project, Curb Installation and Landscape Renewal
- Resolution Approving the Town's Election to Participate and the Execution of the Urban Qualification Cooperation Agreement for the Miami-Dade County Community Development Block Grant (CDBG) and Home Investment Partnerships Program Funds for Fiscal Years 2024, 2025, and 2026
- Ordinance Amending Section 90-62 – “Outdoor Lighting” to Provide Outdoor Lighting Regulations for Single-Family Residential Dwellings
- Resolution Accepting Public Hearing Comments Relating to the Establishment of an On-Demand Transit Services to Replace the Existing Town Shuttle Services and Use of Transportation Surtax Proceeds for the Service
- Resolution Urging the Florida Legislature to Adopt SB 172, Related to Establishing a Property Tax Exemption Or Discount Eligibility Verification Procedure For Certain Disabled Veterans And Surviving Spouses Before Purchasing Property
- Resolution [Approving/Denying] Site Plan Application to Permit Development of Property Located at 8851 and 8873 Harding Avenue, Surfside, Florida, for a Multifamily Residential Development Consisting of Eight (8) Dwelling Units and 17 Parking Spaces
- Resolution Selecting Keith & Associates, Inc. for Design of the Surfside Memorial Pursuant to Request for Qualifications (RFQ) No. 2023-02 and Request for Proposals (RFP) No. 2023-04; Authorizing the Town Manager to Negotiate an Agreement for the Services

New or supplemental information is provided for the following litigation/cases::

Solimar Condominium Association, Inc. v. Town of Surfside, Case No. 3D23-1572 in the Third District Court of Appeal. On August 30, 2023, Solimar filed a Notice of Appeal of the Final Judgment Order (from the underlying trial court Case No. 2019-025481-CA-01 in the Circuit Court 11th Judicial Circuit, Miami-Dade County, Florida) in the Third District Court of Appeal. The Town filed a Notice of Appearance on September 20, 2023. The deadline for Solimar to file its Initial Brief has been extended to December 8, 2023 and the Town will file an Answer Brief 30 days thereafter.

Information on other pending litigation matters, including matters handled by the FMIT appointed defense counsel, has or will be provided individually to members of the Town Commission, as needed or requested.

Special Matters:

Continued assessment of the impacts of new case law and legislation from Federal, State and County, challenging local home rule authority and analysis of legislation proposed in the 2023 Florida Legislative Session. Preparation and establishment of the Town's legislative priorities for the 2024 Legislative Session; Matters which we will continue to work on and anticipate in the upcoming months include: monitoring of NIST's investigations as to the cause of the CTS collapse; CTS memorial site/park and 88th Street closure to vehicular traffic; public records requests and ethics complaints, inquiries and opinions; implementation of various policy directives from the Mayor and Town

Commissioners; Design/engineering and construction for the Tennis Recreational Center; Contract for construction and administration of for 96th Street Park construction; implementation and purchase of solar ballards lighting for hardpack (phase II); continued review and monitoring of all Development Orders and approvals; police matters and mutual aid and other agreements; purchases of fitness equipment and implementation of police gym and training facility; various procurements and service or provider agreements for Town improvements, equipment, facilities and programs, including purchase of police vehicles, radios and equipment; Dune Resiliency and Beautification, Collins Avenue Water Main Design and Permitting, Stormwater Masterplan, Transportation Masterplan; Commission Chambers Audio/Visual Upgrades; Tourist Board Programs and Events Vendors; Upgrades to Zoning Code Design Standards; Zoning Code ordinances; Ordinance Regulation Public Rights-of-Way and R/W Encroachment Agreement; continued assistance with implementation of AFSCME Florida Council 79 Union for Town civilian employees; Revised Invitation to Bid and Contract negotiations for the Abbott Avenue Drainage Improvements Project, including grant funding; implementation and funding for Surfside Boulevard improvement; purchase and implementation of Police Computer Aided Dispatch (CAD) software and related services; implementation of undergrounding of utilities project, bond financing, and alley and easement issues; implementation of walkability initiatives and traffic directives; grant funding and implementation of CTS Memorial Site, including assistance with RFQ and RFP for design of CTS Memorial Site; Charter Ballot Questions and Election; updates to telecommunications ordinance; People's Gas System (TECO) Franchise Agreement renewal; updates to the recycling ordinance and accompanying Resolution approving rates and recyclable materials list; MOU with Indian Creek Village for Sewer Facilities; RFQ for CCNA specialized engineering services; Selection of Firm for Surfside Memorial Design Services and negotiation of agreement; RFP for stormwater maintenance services; and On-Demand Transit Services, including an Interlocal Agreement with Miami-Dade County and agreement for such services with Freebee.



**Town of Surfside
Regular Town Commission Meeting
November 14, 2023**

DISCUSSION ITEM MEMORANDUM

Agenda #: 9A.

Date: November 14, 2023

From: Commissioner Meischeid

Subject: Permit Fees for Condominium Recertification and Special Assessments

Suggested Action: – Develop permit fees specific to condominium re-certification and special assessment that are not the same as applied for new construction in order to mitigate the increased cost of condominium re-certification and special assessments.

Budget Impact: – To be determined by Town administration but working with the understanding that the Building Fund Reserves are stable.



**Town of Surfside
Regular Town Commission Meeting
November 14, 2023**

DISCUSSION ITEM MEMORANDUM

Agenda #: 9B.

Date: November 14, 2023

From: Jeffrey Rose, Vice Mayor

Subject: Retaining Walls in H30A and H30B

Suggested Action: – It is recommended to address retaining walls in the Zoning Code as a category of walls separate from the code sections 90-56 - Fences, Walls and Hedges.

Background/Analysis: – It has become typical for many newly constructed homes to raise the grade (ground level) of their rear yards to be more compatible with the required Design Flood Elevation of new homes. Current code does not explicitly state that in this case a retaining wall, built to retain soil and water, is required. A Florida Building Code compliant retaining wall is necessary to reduce run-off to a neighboring property.

Town Commission should discuss the appropriate height, location and design of these walls.

See **Attachment A** for the City of Miami Beach code section addressing retaining walls. Their code treats front yards and side yards that face the street differently than rear yards. Their code also requires that the retaining walls be finished appropriately to not be an eye-sore to the neighbors.

Sec. 142-216. Development regulations.

The development regulations in the RM-2 residential multifamily, medium intensity district are as follows:

- (1) Max. FAR: 2.0.
- (2) Exterior building and lot standards:
 - a. Minimum yard elevation requirements.
 1. The minimum elevation of a required yard shall be no less than five feet NAVD (6.56 feet NGVD), with the exception of driveways, walkways, transition areas, green infrastructure (e.g., vegetated swales, permeable pavement, rain gardens, and rainwater/stormwater capture and infiltration devices), and areas where existing landscaping is to be preserved, which may have a lower elevation. When in conflict with the maximum elevation requirements as outlined in paragraph b. below, the minimum elevation requirements shall still apply.
 2. Exemptions. The minimum yard elevation requirements shall not apply to properties containing individually designated historic structures, or to properties designated as "contributing" within a local historic district, or a National Register Historic District.
 - b. Maximum yard elevation requirements. The maximum elevation of a required yard shall be in accordance with the following, however in no instance shall the elevation of a required yard, exceed the minimum flood elevation, plus freeboard:
 1. Front yard, side yard facing a street and interior side yard. The maximum elevation within a required front yard, side yard facing a street and interior side yard shall not exceed 30 inches above grade, or future adjusted grade, whichever is greater. In this instance, the maximum height of any fence(s) or wall(s) in the required yard, constructed in compliance with section 142-1132(h), "allowable encroachments within required yards", shall be measured from existing grade.
 2. Rear yard. The maximum elevation for a required rear yard, (not including portions located within a required side yard or side yard facing the street), shall be calculated according to the following:
 - (A) Waterfront. The maximum elevation shall not exceed the base flood elevation, plus freeboard.
 - (B) Non-waterfront. The maximum elevation shall not exceed 30 inches above grade, or future adjusted grade, whichever is greater.
 - c. Stormwater retention. In all instances where the existing elevation of a site is modified, a site shall be designed with adequate infrastructure to retain all stormwater on site in accordance with all applicable state and local regulations.
 - d. Retaining wall and yard slope requirements.
 1. Retaining walls shall be finished with stucco, stone, or other high quality materials, in accordance with the applicable design review or appropriateness criteria.
 2. Within the required front yard and side yard facing a street the following shall apply:
 - (A) The first four feet of the property line, the maximum height of retaining walls shall not exceed 30 inches above existing sidewalk elevation, or existing adjacent grade if no sidewalk is present.

- (B) When setback a minimum of four feet from property line, the maximum height of retaining walls shall not exceed 30 inches above adjacent grade.
 - (C) The maximum slope of the required front and side yard facing a street shall not exceed 11 percent (5:1 horizontal/vertical).
- e. Ground floor requirements. When parking or amenity areas are provided at the ground floor level below the first habitable level, the following requirements shall apply:
- 1. A minimum height of 12 feet shall be provided, as measured from base flood elevation plus minimum freeboard to the underside of the first floor slab. The design review board or historic preservation board, as applicable may waive this height requirement by up to two feet, in accordance with the design review or certificate of appropriateness criteria, as applicable.
 - 2. All ceiling and sidewall conduits shall be internalized or designed in such a manner as to be part of the architectural language of the building in accordance with the design review or certificate of appropriateness criteria, as applicable.
 - 3. All parking and driveways shall substantially consist of permeable materials.
 - 4. Active outdoor spaces that promote walkability, social integration, and safety shall be provided at the ground level, in accordance with the design review or certificate of appropriateness criteria, as applicable.
 - 5. At least one stair shall be visible and accessible from the building's main lobby (whether interior or exterior), shall provide access to all upper floors, shall be substantially transparent at the ground level and shall be located before access to elevators from the main building lobby along the principal path of travel from the street. Such stair, if unable to meet minimum life-safety egress requirements, shall be in addition to all required egress stairs.

(Ord. No. 89-2665, § 6-3(B)(1), (2), eff. 10-1-89; Ord. No. 94-2949, eff. 10-15-94; Ord. No. 94-2954, eff. 11-30-94; Ord. No. 98-3107, § 1, 1-21-98; Ord. No. 98-3149, § 1, 11-4-98; Ord. No. 2017-4121, § 4, 7-26-17)



**Town of Surfside
Regular Town Commission Meeting
November 14, 2023**

DISCUSSION ITEM MEMORANDUM

Agenda #: 9C.

Date: November 14, 2023

From: Commissioner Fred Landsman

Subject: Consideration for Town of Surfside donation to Magen David Adom, Israeli's National Services

Suggested Action: – For the Town Commission to make a pledge to support the Israel's national emergency medical system as they are playing a critical role in saving lives.

Background/Analysis: – Over 7000 rockets were launched into Israel. Terrorists infiltrated Israel and began the indiscriminately brutal killing. MDA immediately moved to highest alert and activated *every* vehicle – ambulances, mobile intensive care units, medicycles, mass-casualty vehicles, Unimogs, bullet-proof ambulances and of course our helicopters-- with a fleet with full crews to provide critical pre-hospital treatment and transport with over 3,400 reported injuries and 1,400 people dead. In a very personal matter, MDA medics that were sent to save lives were attacked, killed and some are believed to be kidnapped and being held hostage in Gaza. Our worst nightmares coming true.

This war obviously comes at a tremendous expense and we have an emergency campaign to support what will be a HUGE expenditure of MDA resources.

The city of Golden Beach has donated \$25,000. The cities of Miami Beach and Aventura are both buying ambulances, We really need all the support we can get. There are so many needs. The casualties keep mounting. Please support MDA and the people of Israel.

Budget Impact: – For the Town Commission to discuss and decide.



Application by Not-For-Profit/Charitable Organization for Financial or In-Kind Assistance from The Town of Surfside

Legal Name of Applicant: American Friends of Magen David Adom

Year Established in Florida: 20+

Business Address: Southeast Region Office: 4371 Northlake Blvd., #361 Palm Beach Gardens, FL 33410

Business Phone Number: (561) 835-0510

Contact Name and Phone Number: Jessica Nessim (352) 317-3800

Contact email address: Jnessim@afmda.org

Business Website URL: www.afmda.org

Describe the services you will provide to the Town of Surfside Residents or Businesses with the assistance you will receive from the Town:

While the assistance provided by the Town of Surfside will benefit the residents of Israel, Magen David Adom (Israel's Red Cross), has a deep connection with Surfside. Our medic stood shoulder to shoulder with representatives of Hatzalah South Florida (HSF) in the 2021 Surfside collapse. In 2019, Magen David Adom held a drill in mass casualty response, specifically in the response to a building collapse and the critical treatment needed for victims of such an incident. Many local Surfside HSF medics attended this drill in Israel nearly 5 years ago.

What assistance do you need from the Town:

American Friends of Magen David Adom respectfully requests \$115,000 for the sponsorship of a lifesaving Life Support ambulance for the people of Israel. On average, an ambulance touches the lives of 5,000 patients during its service. Today, the need is greater than ever. Since the start of the war, MDA lost 10 ambulances to rocket and gun fire.

Sadly, at the moment, the need for support for an ambulance is self-evident and we are honored that have chosen Magen David Adom as a recipient of your generosity.

Who will be the person in your organization accountable for the assistance the Town provides your organization:

Jessica Nessim and Adi Ben-Ezra are South Florida’s local representatives to Magen David Adom. We can be reached at Jnessim@afmda.org or Abenezra@afmda.org. Magen David Adom, Israel’s largest volunteer-based EMS services with over 30,000 volunteer medics & EMTs. MDA serves every citizen and resident of Israel, regardless of where they live and who they are – religious affiliation, language, socioeconomic status, or ethnic origin. The composition of MDA’s staff and volunteers mirrors the diverse tapestry of Israeli society, and exemplifying coexistence and inclusivity, it represents a people unified by a shared mission – saving lives.

How will you measure and report to the Town how well the assistance was used by your organization:

In recognition of The Town Surfside’s philanthropic leadership, MDA dedicates and inscribes your name(s) on the side doors of the ambulance as well as hosts an ambulance dedication. Bi-annually, MDA will send you an ambulance report to see the direct impact you are making in Israel. When a baby is born in the ambulance, we will also receive a *Stork Report* celebrating the miracle of bringing life into the world. Additionally, for any future visits to Israel, you will have the opportunity meet the heroic medics behind the wheel of our community ambulance.

If you have provided the intended services to other communities or organizations, please briefly describe them below or attach them to this application:

Magen David Adom are proud partners of Hatzalah South Florida, gifting them a new state-of-the-art CAD System to help their service in Surfside and throughout South Florida. Our proud partners in lifesaving mean that Magen David Adom will always support the incredible work of Hatzalah South Florida and they should be commended for sending a delegation of medics to join our EMS teams in Israel during this time of crisis.

If you are not awarded the assistance you are requesting, what do you think it will mean to the community and the Town:

The residents of Surfside have supported Magen David Adom for decades. Our organization was established in 1930 and has been funded and fueled by supporters of Israel from Surfside and around the world for over 93 years. The residents of Surfside have banded together to stand with Israel through thick and thin. Today when the needs are so dire, we know that the residents of Surfside and the Town of Surfside will come to the aid of Magen David Adom, the Red Cross of Israel, to ensure that our heroic medics have all the tools they need to continue to save lives during this conflict.

Without these ambulances, and without the support of friends like you our medics could not provide their lifesaving services. MDA is woven into the tapestry of Israeli society as a trusted EMS organization – when a medical emergency occurs, Israelis rely on MDA to be there.

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:

N/A

• 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

Commission Approval Date: _____

Commission Approval Amount: _____

Attested by: _____
Sandra Novoa, Town Clerk

*Approved form to be delivered to Finance Department for processing



IRS Department of the Treasury
Internal Revenue Service

P.O. Box 2508
Cincinnati OH 45201

In reply refer to: 0248145604
Mar. 31, 2009 LTR 4168C E0
13-1790719 000000 00 000
00019088
BODC: TE

AMERICAN FRIENDS OF MAGEN DAVID
ADOM
352 7TH AVE STE 400
NEW YORK NY 10001

002799

Employer Identification Number: 13-1790719
Person to Contact: Mr. Cordell
Toll Free Telephone Number: 1-877-829-5500

Dear Taxpayer:

This is in response to your request of Mar. 20, 2009, regarding your tax-exempt status.

Our records indicate that a determination letter was issued in August 1972, that recognized you as exempt from Federal income tax, and discloses that you are currently exempt under section 501(c)(3) of the Internal Revenue Code.

Our records also indicate you are not a private foundation within the meaning of section 509(a) of the Code because you are described in section(s) 509(a)(1) and 170(b)(1)(A)(vi).

Donors may deduct contributions to you as provided in section 170 of the Code. Bequests, legacies, devises, transfers, or gifts to you or for your use are deductible for Federal estate and gift tax purposes if they meet the applicable provisions of sections 2055, 2106, and 2522 of the Code.

If you have any questions, please call us at the telephone number shown in the heading of this letter.

Sincerely yours,

Michele M. Sullivan

Michele M. Sullivan, Oper. Mgr.
Accounts Management Operations I



Consumer's Certificate of Exemption

Issued Pursuant to Chapter 212, Florida Statutes

DR-14
R. 01/18

85-8017859237C-7	07/31/2019	07/31/2024	501(C)(3) ORGANIZATION
Certificate Number	Effective Date	Expiration Date	Exemption Category

This certifies that

AMERICAN FRIENDS OF MAGEN DAVID ADOM
INC
20 W 36TH ST FL 11
NEW YORK NY 10018-9784

is exempt from the payment of Florida sales and use tax on real property rented, transient rental property rented, tangible personal property purchased or rented, or services purchased.



Important Information for Exempt Organizations

DR-14
R. 01/18

1. You must provide all vendors and suppliers with an exemption certificate before making tax-exempt purchases. See Rule 12A-1.038, Florida Administrative Code (F.A.C.).
2. Your *Consumer's Certificate of Exemption* is to be used solely by your organization for your organization's customary nonprofit activities.
3. Purchases made by an individual on behalf of the organization are taxable, even if the individual will be reimbursed by the organization.
4. This exemption applies only to purchases your organization makes. The sale or lease to others of tangible personal property, sleeping accommodations, or other real property is taxable. Your organization must register, and collect and remit sales and use tax on such taxable transactions. Note: Churches are exempt from this requirement except when they are the lessor of real property (Rule 12A-1.070, F.A.C.).
5. It is a criminal offense to fraudulently present this certificate to evade the payment of sales tax. Under no circumstances should this certificate be used for the personal benefit of any individual. Violators will be liable for payment of the sales tax plus a penalty of 200% of the tax, and may be subject to conviction of a third-degree felony. Any violation will require the revocation of this certificate.
6. If you have questions about your exemption certificate, please call Taxpayer Services at 850-488-6800. The mailing address is PO Box 6480, Tallahassee, FL 32314-6480.

Form **990**

Return of Organization Exempt From Income Tax

Under section 501(c), 527, or 4947(a)(1) of the Internal Revenue Code (except private foundations)

2021

Open to Public Inspection

Department of the Treasury
Internal Revenue Service

Do not enter social security numbers on this form as it may be made public.
Go to www.irs.gov/Form990 for instructions and the latest information.

A For the 2021 calendar year, or tax year beginning and ending

B Check if applicable: Address change Name change Initial return Final return/terminated Amended return Application pending	C Name of organization AMERICAN FRIENDS OF MAGEN DAVID ADOM		D Employer identification number 13-1790719	
	Doing business as			
	Number and street (or P.O. box if mail is not delivered to street address)	Room/suite	E Telephone number	
	20 W. 36TH STREET	1100	(212) 757-1627	
City or town, state or province, country, and ZIP or foreign postal code NEW YORK, NY 10018		G Gross receipts \$ 68,546,433.		
F Name and address of principal officer: CATHERINE L. REED SAME AS C ABOVE		H(a) Is this a group return for subordinates? Yes <input checked="" type="checkbox"/> No		
I Tax-exempt status: <input checked="" type="checkbox"/> 501(c)(3) 501(c) () (insert no.) 4947(a)(1) or 527		H(b) Are all subordinates included? Yes No		
J Website: WWW.AFMDA.ORG		If "No," attach a list. See instructions		
K Form of organization: <input checked="" type="checkbox"/> Corporation Trust Association Other		H(c) Group exemption number		
L Year of formation: 1940		M State of legal domicile: NY		

Part I Summary

Activities & Governance	1 Briefly describe the organization's mission or most significant activities: PROVIDES THE STATE OF ISRAEL'S PRE-HOSPITAL EMERGENCY NEEDS, INCLUDING MEDICAL, DISASTER, AND		
	2 Check this box <input type="checkbox"/> if the organization discontinued its operations or disposed of more than 25% of its net assets.		
	3 Number of voting members of the governing body (Part VI, line 1a)	3	20
	4 Number of independent voting members of the governing body (Part VI, line 1b)	4	20
	5 Total number of individuals employed in calendar year 2021 (Part V, line 2a)	5	91
	6 Total number of volunteers (estimate if necessary)	6	125
	7 a Total unrelated business revenue from Part VIII, column (C), line 12	7a	0.
b Net unrelated business taxable income from Form 990-T, Part I, line 11	7b	0.	
Revenue	8 Contributions and grants (Part VIII, line 1h)	Prior Year	Current Year
	9 Program service revenue (Part VIII, line 2g)	47,215,437.	64,961,058.
	10 Investment income (Part VIII, column (A), lines 3, 4, and 7d)	0.	0.
	11 Other revenue (Part VIII, column (A), lines 5, 6d, 8c, 9c, 10c, and 11e)	539,934.	496,294.
	12 Total revenue - add lines 8 through 11 (must equal Part VIII, column (A), line 12)	-51,357.	8,484.
Expenses	13 Grants and similar amounts paid (Part IX, column (A), lines 1-3)	47,704,014.	65,465,836.
	14 Benefits paid to or for members (Part IX, column (A), line 4)	42,607,767.	51,699,089.
	15 Salaries, other compensation, employee benefits (Part IX, column (A), lines 5-10)	0.	0.
	16a Professional fundraising fees (Part IX, column (A), line 11e)	7,140,443.	7,137,564.
	b Total fundraising expenses (Part IX, column (D), line 25)	0.	0.
	17 Other expenses (Part IX, column (A), lines 11a-11d, 11f-24e)	5,128,304.	
	18 Total expenses. Add lines 13-17 (must equal Part IX, column (A), line 25)	6,577,276.	6,069,249.
19 Revenue less expenses. Subtract line 18 from line 12	56,325,486.	64,905,902.	
Net Assets or Fund Balances	20 Total assets (Part X, line 16)	-8,621,472.	559,934.
	21 Total liabilities (Part X, line 26)	Beginning of Current Year	End of Year
	22 Net assets or fund balances. Subtract line 21 from line 20	63,791,324.	67,538,464.
		32,006,697.	34,955,679.
		31,784,627.	32,582,785.

Part II Signature Block

Under penalties of perjury, I declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct, and complete. Declaration of preparer (other than officer) is based on all information of which preparer has any knowledge.

Sign Here	Signature of officer		Date		
	CATHERINE L. REED, CEO Type or print name and title				
Paid Preparer Use Only	Print/Type preparer's name	Preparer's signature	Date	Check if self-employed	PTIN
	MAGDALENA M. CZERNIAWSKI	MAGDALENA M. CZERNIA	08/22/22	<input type="checkbox"/>	P00535099
	Firm's name	Firm's EIN		Phone no.	
	CBIZ MARKS PANETH LLC	87-3707167		212-503-8800	
	Firm's address				
	685 THIRD AVENUE NEW YORK, NY 10017				

May the IRS discuss this return with the preparer shown above? See instructions Yes No

Part III Statement of Program Service Accomplishments

Check if Schedule O contains a response or note to any line in this Part III [X]

1 Briefly describe the organization's mission: AMERICAN FRIENDS OF MAGEN DAVID ADOM IS THE SOLE AUTHORIZED FUNDRAISING AND ADVOCACY ORGANIZATION IN THE UNITED STATES SUPPORTING THE LIFE SAVING EFFORTS OF MAGEN DAVID ADOM (MDA) IN ISRAEL.

2 Did the organization undertake any significant program services during the year which were not listed on the prior Form 990 or 990-EZ? [] Yes [X] No

3 Did the organization cease conducting, or make significant changes in how it conducts, any program services? [] Yes [X] No

4 Describe the organization's program service accomplishments for each of its three largest program services, as measured by expenses.

4a (Code:) (Expenses \$ 56,132,459. including grants of \$ 51,699,089.) (Revenue \$ 91,438.) AMERICAN FRIENDS OF MAGEN DAVID ADOM (AFMDA) IS THE U.S.-BASED FUNDRAISING ARM OF MAGEN DAVID ADOM - ISRAEL'S AMBULANCE, PARAMEDIC, DISASTER-RELIEF, AND BLOOD-BANKING ORGANIZATION, AS WELL AS THE COUNTRY'S AFFILIATE TO THE INTERNATIONAL RED CROSS. WITH MORE THAN 27,000 VOLUNTEER EMTS, PARAMEDICS, AND PHLEBOTOMISTS AND 4,000 FULL-TIME PROFESSIONALS, MAGEN DAVID ADOM IS ISRAEL'S LARGEST NGO, TREATING MORE THAN 600,000 SICK AND INJURED ISRAELIS EVERY YEAR, EVERYONE FROM PEOPLE FELLED BY LIFE'S EVERYDAY OCCURRENCES, SUCH AS HEART ATTACKS AND AUTO ACCIDENTS, TO CIVILIANS CRITICALLY INJURED IN TERRORIST ATTACKS. IN FACT, BECAUSE OF THE NUMBER OF TERRORIST ATTACKS THAT HAVE OCCURRED IN ISRAEL SINCE 2000, MDA HAS EMERGED AS THE MOST EXPERIENCED MULTI-CASUALTY EMERGENCY MEDICAL RESPONSE ORGANIZATION IN

4b (Code:) (Expenses \$ including grants of \$) (Revenue \$)

4c (Code:) (Expenses \$ including grants of \$) (Revenue \$)

4d Other program services (Describe on Schedule O.) (Expenses \$ including grants of \$) (Revenue \$)

4e Total program service expenses 56,132,459.

Part IV Checklist of Required Schedules

Table with 3 columns: Question ID, Yes, No. Rows include questions 1 through 21 regarding organizational requirements and schedules A through I.

Part IV Checklist of Required Schedules (continued)

	Yes	No
22 Did the organization report more than \$5,000 of grants or other assistance to or for domestic individuals on Part IX, column (A), line 2? <i>If "Yes," complete Schedule I, Parts I and III</i>		X
23 Did the organization answer "Yes" to Part VII, Section A, line 3, 4, or 5, about compensation of the organization's current and former officers, directors, trustees, key employees, and highest compensated employees? <i>If "Yes," complete Schedule J</i>	X	
24a Did the organization have a tax-exempt bond issue with an outstanding principal amount of more than \$100,000 as of the last day of the year, that was issued after December 31, 2002? <i>If "Yes," answer lines 24b through 24d and complete Schedule K. If "No," go to line 25a</i>		X
b Did the organization invest any proceeds of tax-exempt bonds beyond a temporary period exception?		
c Did the organization maintain an escrow account other than a refunding escrow at any time during the year to defease any tax-exempt bonds?		
d Did the organization act as an "on behalf of" issuer for bonds outstanding at any time during the year?		
25a Section 501(c)(3), 501(c)(4), and 501(c)(29) organizations. Did the organization engage in an excess benefit transaction with a disqualified person during the year? <i>If "Yes," complete Schedule L, Part I</i>		X
b Is the organization aware that it engaged in an excess benefit transaction with a disqualified person in a prior year, and that the transaction has not been reported on any of the organization's prior Forms 990 or 990-EZ? <i>If "Yes," complete Schedule L, Part I</i>		X
26 Did the organization report any amount on Part X, line 5 or 22, for receivables from or payables to any current or former officer, director, trustee, key employee, creator or founder, substantial contributor, or 35% controlled entity or family member of any of these persons? <i>If "Yes," complete Schedule L, Part II</i>		X
27 Did the organization provide a grant or other assistance to any current or former officer, director, trustee, key employee, creator or founder, substantial contributor or employee thereof, a grant selection committee member, or to a 35% controlled entity (including an employee thereof) or family member of any of these persons? <i>If "Yes," complete Schedule L, Part III</i>		X
28 Was the organization a party to a business transaction with one of the following parties (see the Schedule L, Part IV, instructions for applicable filing thresholds, conditions, and exceptions):		
a A current or former officer, director, trustee, key employee, creator or founder, or substantial contributor? <i>If "Yes," complete Schedule L, Part IV</i>		X
b A family member of any individual described in line 28a? <i>If "Yes," complete Schedule L, Part IV</i>		X
c A 35% controlled entity of one or more individuals and/or organizations described in line 28a or 28b? <i>If "Yes," complete Schedule L, Part IV</i>		X
29 Did the organization receive more than \$25,000 in non-cash contributions? <i>If "Yes," complete Schedule M</i>	X	
30 Did the organization receive contributions of art, historical treasures, or other similar assets, or qualified conservation contributions? <i>If "Yes," complete Schedule M</i>		X
31 Did the organization liquidate, terminate, or dissolve and cease operations? <i>If "Yes," complete Schedule N, Part I</i>		X
32 Did the organization sell, exchange, dispose of, or transfer more than 25% of its net assets? <i>If "Yes," complete Schedule N, Part II</i>		X
33 Did the organization own 100% of an entity disregarded as separate from the organization under Regulations sections 301.7701-2 and 301.7701-3? <i>If "Yes," complete Schedule R, Part I</i>		X
34 Was the organization related to any tax-exempt or taxable entity? <i>If "Yes," complete Schedule R, Part II, III, or IV, and Part V, line 1</i>	X	
35a Did the organization have a controlled entity within the meaning of section 512(b)(13)?	X	
b If "Yes" to line 35a, did the organization receive any payment from or engage in any transaction with a controlled entity within the meaning of section 512(b)(13)? <i>If "Yes," complete Schedule R, Part V, line 2</i>	X	
36 Section 501(c)(3) organizations. Did the organization make any transfers to an exempt non-charitable related organization? <i>If "Yes," complete Schedule R, Part V, line 2</i>		X
37 Did the organization conduct more than 5% of its activities through an entity that is not a related organization and that is treated as a partnership for federal income tax purposes? <i>If "Yes," complete Schedule R, Part VI</i>		X
38 Did the organization complete Schedule O and provide explanations on Schedule O for Part VI, lines 11b and 19?	X	

Note: All Form 990 filers are required to complete Schedule O

Part V Statements Regarding Other IRS Filings and Tax Compliance

Check if Schedule O contains a response or note to any line in this Part V

	Yes	No
1a Enter the number reported in box 3 of Form 1096. Enter -0- if not applicable		
b Enter the number of Forms W-2G included on line 1a. Enter -0- if not applicable		
c Did the organization comply with backup withholding rules for reportable payments to vendors and reportable gaming (gambling) winnings to prize winners?	X	

Part V Statements Regarding Other IRS Filings and Tax Compliance (continued)

Table with columns for question number, question text, and Yes/No response boxes. Includes questions 2a through 17 regarding employee counts, tax returns, unrelated business income, foreign accounts, prohibited transactions, and charitable contributions.

Part VI Governance, Management, and Disclosure. For each "Yes" response to lines 2 through 7b below, and for a "No" response to line 8a, 8b, or 10b below, describe the circumstances, processes, or changes on Schedule O. See instructions.

Check if Schedule O contains a response or note to any line in this Part VI [X]

Section A. Governing Body and Management

Table with 3 columns: Question, Yes, No. Rows include 1a (20), 1b (20), 2, 3, 4, 5, 6, 7a, 7b, 8a, 8b, 9.

Section B. Policies (This Section B requests information about policies not required by the Internal Revenue Code.)

Table with 3 columns: Question, Yes, No. Rows include 10a, 10b, 11a, 11b, 12a, 12b, 12c, 13, 14, 15a, 15b, 16a, 16b.

Section C. Disclosure

- 17 List the states with which a copy of this Form 990 is required to be filed AK, AL, AR, AZ, CA, CO, FL, GA, HI, IL, KS, KY
18 Section 6104 requires an organization to make its Forms 1023 (1024 or 1024-A, if applicable), 990, and 990-T (section 501(c)(3)s only) available for public inspection.
19 Describe on Schedule O whether (and if so, how) the organization made its governing documents, conflict of interest policy, and financial statements available to the public during the tax year.
20 State the name, address, and telephone number of the person who possesses the organization's books and records

Part VII Compensation of Officers, Directors, Trustees, Key Employees, Highest Compensated Employees, and Independent Contractors

Check if Schedule O contains a response or note to any line in this Part VII

Section A. Officers, Directors, Trustees, Key Employees, and Highest Compensated Employees

1a Complete this table for all persons required to be listed. Report compensation for the calendar year ending with or within the organization's tax year.

- List all of the organization's **current** officers, directors, trustees (whether individuals or organizations), regardless of amount of compensation. Enter -0- in columns (D), (E), and (F) if no compensation was paid.
- List all of the organization's **current** key employees, if any. See the instructions for definition of "key employee."
- List the organization's five **current** highest compensated employees (other than an officer, director, trustee, or key employee) who received reportable compensation (box 5 of Form W-2, Form 1099-MISC, and/or box 1 of Form 1099-NEC) of more than \$100,000 from the organization and any related organizations.
- List all of the organization's **former** officers, key employees, and highest compensated employees who received more than \$100,000 of reportable compensation from the organization and any related organizations.
- List all of the organization's **former directors or trustees** that received, in the capacity as a former director or trustee of the organization, more than \$10,000 of reportable compensation from the organization and any related organizations. See the instructions for the order in which to list the persons above.

Check this box if neither the organization nor any related organization compensated any current officer, director, or trustee.

(A) Name and title	(B) Average hours per week (list any hours for related organizations below line)	(C) Position (do not check more than one box, unless person is both an officer and a director/trustee)						(D) Reportable compensation from the organization (W-2/1099-MISC/1099-NEC)	(E) Reportable compensation from related organizations (W-2/1099-MISC/1099-NEC)	(F) Estimated amount of other compensation from the organization and related organizations
		Individual trustee or director	Institutional trustee	Officer	Key employee	Highest compensated employee	Former			
(1) CATHERINE R. REED CHIEF EXECUTIVE OFFICER	35.00			X				359,465.	0.	47,351.
(2) TAMARA H KARU SE. DIR./NATL. DIR. OF STR	35.00				X			320,710.	0.	33,614.
(3) DAVID M. FRANKEL CHIEF EXECUTIVE OFFICER (FORMER)	35.00						X	271,669.	0.	33,002.
(4) CINDY CUTLER DIRECTOR OF STRATEGIC PHIL	35.00				X			210,957.	0.	41,081.
(5) RICHARD ZELIN MIDWEST REGIONAL DIRECTOR	35.00				X			203,808.	0.	20,383.
(6) JANET MORGAN DIRECTOR OF STRATEGIC PHILANTHROPY	35.00				X			210,330.	0.	13,482.
(7) JAY CULANG CHIEF FINANCIAL OFFICER	35.00			X				177,080.	0.	40,822.
(8) ROBERT ROSENTHAL CHIEF MARKETING OFFICER	35.00				X			182,122.	0.	31,900.
(9) LISA MARCHETELLI CHIEF ADMINISTRATIVE OFFICER	35.00				X			180,802.	0.	22,089.
(10) MONIQUE MARTIN NEW ENGLAND AREA DIRECTOR	35.00					X		152,170.	0.	39,401.
(11) LAURIE BANDREMER ASSOCIATE DIRECTOR	35.00					X		151,447.	0.	29,912.
(12) MATHEW SLOAN DIRECTOR OF MARKETING OPER	35.00					X		169,731.	0.	10,336.
(13) HEIDI LEIN DIRECTOR OF MAJOR GIFTS	35.00					X		156,538.	0.	17,569.
(14) JESSICA NESSIM DIRECTOR OF MAJOR GIFTS	35.00					X		141,319.	0.	30,221.
(15) ANN DESHE BOARD MEMBER	1.00	X						0.	0.	0.
(16) ANN LESSER BOARD MEMBER	1.00	X						0.	0.	0.
(17) ANNETTA WELLER EPSTEIN BOARD MEMBER	1.00	X						0.	0.	0.

Part VII Section A. Officers, Directors, Trustees, Key Employees, and Highest Compensated Employees (continued)

(A) Name and title	(B) Average hours per week (list any hours for related organizations below line)	(C) Position (do not check more than one box, unless person is both an officer and a director/trustee)						(D) Reportable compensation from the organization (W-2/1099-MISC/1099-NEC)	(E) Reportable compensation from related organizations (W-2/1099-MISC/1099-NEC)	(F) Estimated amount of other compensation from the organization and related organizations
		Individual trustee or director	Institutional trustee	Officer	Key employee	Highest compensated employee	Former			
(18) BARRY FELDMAN SECRETARY	4.00	X		X				0.	0.	0.
(19) DANIEL DOBIN VICE CHAIR	4.00	X		X				0.	0.	0.
(20) DANIEL SCHWARZWALDER BOARD MEMBER	1.00	X						0.	0.	0.
(21) DONNA FRIED CALCATERRA BOARD MEMBER	1.00	X						0.	0.	0.
(22) FRAEDA KOPMAN BOARD MEMBER	1.00	X						0.	0.	0.
(23) GERSHON W. TRIMPOL VICE CHAIR	4.00	X		X				0.	0.	0.
(24) HERBERT DONNER BOARD MEMBER	1.00	X						0.	0.	0.
(25) JAQUELINE GOLDMAN BOARD MEMBER	1.00	X						0.	0.	0.
(26) KURT SCWARTZ BOARD MEMBER	1.00	X						0.	0.	0.
1b Subtotal								2,888,148.	0.	411,163.
c Total from continuation sheets to Part VII, Section A								0.	0.	0.
d Total (add lines 1b and 1c)								2,888,148.	0.	411,163.

2 Total number of individuals (including but not limited to those listed above) who received more than \$100,000 of reportable compensation from the organization **14**

	Yes	No
3 Did the organization list any former officer, director, trustee, key employee, or highest compensated employee on line 1a? <i>If "Yes," complete Schedule J for such individual</i>	X	
4 For any individual listed on line 1a, is the sum of reportable compensation and other compensation from the organization and related organizations greater than \$150,000? <i>If "Yes," complete Schedule J for such individual</i>	X	
5 Did any person listed on line 1a receive or accrue compensation from any unrelated organization or individual for services rendered to the organization? <i>If "Yes," complete Schedule J for such person</i>		X

Section B. Independent Contractors

1 Complete this table for your five highest compensated independent contractors that received more than \$100,000 of compensation from the organization. Report compensation for the calendar year ending with or within the organization's tax year.

(A) Name and business address	(B) Description of services	(C) Compensation
PROSKAUER ROSE LLP 11 TIMES SQUARE, NEW YORK, NY 10036-8299	LEGAL CONSULTATION	127,735.

2 Total number of independent contractors (including but not limited to those listed above) who received more than \$100,000 of compensation from the organization **1**

SEE PART VII, SECTION A CONTINUATION SHEETS

Part VIII Statement of Revenue

Check if Schedule O contains a response or note to any line in this Part VIII

			(A)	(B)	(C)	(D)	
			Total revenue	Related or exempt function revenue	Unrelated business revenue	Revenue excluded from tax under sections 512 - 514	
Contributions, Gifts, Grants and Other Similar Amounts	1 a Federated campaigns	1a					
	b Membership dues	1b					
	c Fundraising events	1c	23,318.				
	d Related organizations	1d					
	e Government grants (contributions)	1e					
	f All other contributions, gifts, grants, and similar amounts not included above	1f	64,937,740.				
	g Noncash contributions included in lines 1a-1f	1g	\$ 1,358,073.				
	h Total. Add lines 1a-1f			64,961,058.			
Program Service Revenue	2 a	Business Code					
	b						
	c						
	d						
	e						
	f All other program service revenue						
	g Total. Add lines 2a-2f						
Other Revenue	3 Investment income (including dividends, interest, and other similar amounts)		512,159.			512,159.	
	4 Income from investment of tax-exempt bond proceeds						
	5 Royalties						
	6 a Gross rents	6a	(i) Real				
			(ii) Personal				
	b Less: rental expenses	6b					
	c Rental income or (loss)	6c					
	d Net rental income or (loss)						
	7 a Gross amount from sales of assets other than inventory	7a	(i) Securities	2,966,658.			
			(ii) Other				
	b Less: cost or other basis and sales expenses	7b	2,982,523.				
	c Gain or (loss)	7c	-15,865.				
	d Net gain or (loss)			-15,865.		-15,865.	
8 a Gross income from fundraising events (not including \$ 23,318. of contributions reported on line 1c). See Part IV, line 18	8a		15,120.				
b Less: direct expenses	8b	98,074.					
c Net income or (loss) from fundraising events			-82,954.		-82,954.		
9 a Gross income from gaming activities. See Part IV, line 19	9a						
b Less: direct expenses	9b						
c Net income or (loss) from gaming activities							
10 a Gross sales of inventory, less returns and allowances	10a						
b Less: cost of goods sold	10b						
c Net income or (loss) from sales of inventory							
Miscellaneous Revenue	11 a OTHER INCOME	Business Code	91,438.	91,438.			
	b						
	c						
	d All other revenue						
	e Total. Add lines 11a-11d			91,438.			
12 Total revenue. See instructions			65,465,836.	91,438.	0.	413,340.	

Part IX Statement of Functional Expenses

Section 501(c)(3) and 501(c)(4) organizations must complete all columns. All other organizations must complete column (A).

Check if Schedule O contains a response or note to any line in this Part IX

Do not include amounts reported on lines 6b, 7b, 8b, 9b, and 10b of Part VIII.	(A) Total expenses	(B) Program service expenses	(C) Management and general expenses	(D) Fundraising expenses
1 Grants and other assistance to domestic organizations and domestic governments. See Part IV, line 21 ...				
2 Grants and other assistance to domestic individuals. See Part IV, line 22				
3 Grants and other assistance to foreign organizations, foreign governments, and foreign individuals. See Part IV, lines 15 and 16	51,699,089.	51,699,089.		
4 Benefits paid to or for members				
5 Compensation of current officers, directors, trustees, and key employees	2,400,667.	1,031,028.	700,108.	669,531.
6 Compensation not included above to disqualified persons (as defined under section 4958(f)(1)) and persons described in section 4958(c)(3)(B)				
7 Other salaries and wages	3,482,512.	1,274,457.	1,019,175.	1,188,880.
8 Pension plan accruals and contributions (include section 401(k) and 403(b) employer contributions)	77,002.	39,070.	19,003.	18,929.
9 Other employee benefits	738,551.	343,244.	170,039.	225,268.
10 Payroll taxes	438,832.	200,777.	112,131.	125,924.
11 Fees for services (nonemployees):				
a Management				
b Legal	93,466.		93,466.	
c Accounting				
d Lobbying				
e Professional fundraising services. See Part IV, line 17				
f Investment management fees	51,930.		51,930.	
g Other. (If line 11g amount exceeds 10% of line 25, column (A), amount, list line 11g expenses on Sch O.)	538,102.	152,239.	288,673.	97,190.
12 Advertising and promotion	2,697,916.	848,865.	164,795.	1,684,256.
13 Office expenses	1,030,546.	225,697.	297,836.	507,013.
14 Information technology				
15 Royalties				
16 Occupancy	474,457.	95,398.	260,603.	118,456.
17 Travel	118,146.	80,135.	6,357.	31,654.
18 Payments of travel or entertainment expenses for any federal, state, or local public officials ...				
19 Conferences, conventions, and meetings	100,090.	67,888.	5,386.	26,816.
20 Interest	27,549.	6,887.	11,020.	9,642.
21 Payments to affiliates				
22 Depreciation, depletion, and amortization	53,738.		53,738.	
23 Insurance	94,957.	23,739.	47,479.	23,739.
24 Other expenses. Itemize expenses not covered above. (List miscellaneous expenses on line 24e. If line 24e amount exceeds 10% of line 25, column (A), amount, list line 24e expenses on Schedule O.)				
a BAD DEBT EXPENSE	268,637.		268,637.	
b EVENT SPEAKERS	144,624.			144,624.
c EQUIPMENT	105,013.	13,939.	40,192.	50,882.
d EVENTS EXPENSE	103,971.			103,971.
e All other expenses	166,107.	30,007.	34,571.	101,529.
25 Total functional expenses. Add lines 1 through 24e	64,905,902.	56,132,459.	3,645,139.	5,128,304.
26 Joint costs. Complete this line only if the organization reported in column (B) joint costs from a combined educational campaign and fundraising solicitation.				
Check here <input checked="" type="checkbox"/> if following SOP 98-2 (ASC 958-720)				

Part X Balance Sheet

Check if Schedule O contains a response or note to any line in this Part X

		(A) Beginning of year		(B) End of year
Assets	1 Cash - non-interest-bearing	4,057,598.	1	3,825,438.
	2 Savings and temporary cash investments	25,308,574.	2	30,886,777.
	3 Pledges and grants receivable, net	16,114,839.	3	12,338,076.
	4 Accounts receivable, net		4	
	5 Loans and other receivables from any current or former officer, director, trustee, key employee, creator or founder, substantial contributor, or 35% controlled entity or family member of any of these persons		5	
	6 Loans and other receivables from other disqualified persons (as defined under section 4958(f)(1)), and persons described in section 4958(c)(3)(B)		6	
	7 Notes and loans receivable, net		7	
	8 Inventories for sale or use		8	
	9 Prepaid expenses and deferred charges	430,472.	9	684,675.
	10a Land, buildings, and equipment: cost or other basis. Complete Part VI of Schedule D	10a 425,431.		
	b Less: accumulated depreciation	10b 159,975.	316,676.	10c 265,456.
	11 Investments - publicly traded securities	7,055,749.	11	8,844,255.
	12 Investments - other securities. See Part IV, line 11		12	
	13 Investments - program-related. See Part IV, line 11		13	
	14 Intangible assets		14	
	15 Other assets. See Part IV, line 11	10,507,416.	15	10,693,787.
16 Total assets. Add lines 1 through 15 (must equal line 33)	63,791,324.	16	67,538,464.	
Liabilities	17 Accounts payable and accrued expenses	9,025,414.	17	10,840,506.
	18 Grants payable	19,575,605.	18	16,478,771.
	19 Deferred revenue		19	
	20 Tax-exempt bond liabilities		20	295,641.
	21 Escrow or custodial account liability. Complete Part IV of Schedule D		21	
	22 Loans and other payables to any current or former officer, director, trustee, key employee, creator or founder, substantial contributor, or 35% controlled entity or family member of any of these persons		22	
	23 Secured mortgages and notes payable to unrelated third parties	2,300,000.	23	2,300,000.
	24 Unsecured notes and loans payable to unrelated third parties		24	
	25 Other liabilities (including federal income tax, payables to related third parties, and other liabilities not included on lines 17-24). Complete Part X of Schedule D	1,105,678.	25	5,040,761.
	26 Total liabilities. Add lines 17 through 25	32,006,697.	26	34,955,679.
Net Assets or Fund Balances	Organizations that follow FASB ASC 958, check here <input checked="" type="checkbox"/> and complete lines 27, 28, 32, and 33.			
	27 Net assets without donor restrictions	6,513,748.	27	4,055,097.
	28 Net assets with donor restrictions	25,270,879.	28	28,527,688.
	Organizations that do not follow FASB ASC 958, check here <input type="checkbox"/> and complete lines 29 through 33.			
	29 Capital stock or trust principal, or current funds		29	
	30 Paid-in or capital surplus, or land, building, or equipment fund		30	
	31 Retained earnings, endowment, accumulated income, or other funds		31	
	32 Total net assets or fund balances	31,784,627.	32	32,582,785.
33 Total liabilities and net assets/fund balances	63,791,324.	33	67,538,464.	

Part XI Reconciliation of Net Assets

Check if Schedule O contains a response or note to any line in this Part XI

1	Total revenue (must equal Part VIII, column (A), line 12)	1	65,465,836.
2	Total expenses (must equal Part IX, column (A), line 25)	2	64,905,902.
3	Revenue less expenses. Subtract line 2 from line 1	3	559,934.
4	Net assets or fund balances at beginning of year (must equal Part X, line 32, column (A))	4	31,784,627.
5	Net unrealized gains (losses) on investments	5	845,641.
6	Donated services and use of facilities	6	
7	Investment expenses	7	
8	Prior period adjustments	8	-235,245.
9	Other changes in net assets or fund balances (explain on Schedule O)	9	-372,172.
10	Net assets or fund balances at end of year. Combine lines 3 through 9 (must equal Part X, line 32, column (B))	10	32,582,785.

Part XII Financial Statements and Reporting

Check if Schedule O contains a response or note to any line in this Part XII

		Yes	No
1	Accounting method used to prepare the Form 990: <input type="checkbox"/> Cash <input checked="" type="checkbox"/> Accrual <input type="checkbox"/> Other _____ If the organization changed its method of accounting from a prior year or checked "Other," explain on Schedule O.		
2a	Were the organization's financial statements compiled or reviewed by an independent accountant? _____ If "Yes," check a box below to indicate whether the financial statements for the year were compiled or reviewed on a separate basis, consolidated basis, or both: <input type="checkbox"/> Separate basis <input type="checkbox"/> Consolidated basis <input type="checkbox"/> Both consolidated and separate basis		X
b	Were the organization's financial statements audited by an independent accountant? _____ If "Yes," check a box below to indicate whether the financial statements for the year were audited on a separate basis, consolidated basis, or both: <input type="checkbox"/> Separate basis <input checked="" type="checkbox"/> Consolidated basis <input type="checkbox"/> Both consolidated and separate basis	X	
c	If "Yes" to line 2a or 2b, does the organization have a committee that assumes responsibility for oversight of the audit, review, or compilation of its financial statements and selection of an independent accountant? _____ If the organization changed either its oversight process or selection process during the tax year, explain on Schedule O.	X	
3a	As a result of a federal award, was the organization required to undergo an audit or audits as set forth in the Single Audit Act and OMB Circular A-133? _____		X
b	If "Yes," did the organization undergo the required audit or audits? If the organization did not undergo the required audit or audits, explain why on Schedule O and describe any steps taken to undergo such audits _____		

Part II Support Schedule for Organizations Described in Sections 170(b)(1)(A)(iv) and 170(b)(1)(A)(vi)

(Complete only if you checked the box on line 5, 7, or 8 of Part I or if the organization failed to qualify under Part III. If the organization fails to qualify under the tests listed below, please complete Part III.)

Section A. Public Support

Calendar year (or fiscal year beginning in) ►	(a) 2017	(b) 2018	(c) 2019	(d) 2020	(e) 2021	(f) Total
1 Gifts, grants, contributions, and membership fees received. (Do not include any "unusual grants.")	46113049.	46285708.	40437261.	47215437.	64961058.	245012513
2 Tax revenues levied for the organization's benefit and either paid to or expended on its behalf						
3 The value of services or facilities furnished by a governmental unit to the organization without charge						
4 Total. Add lines 1 through 3	46113049.	46285708.	40437261.	47215437.	64961058.	245012513
5 The portion of total contributions by each person (other than a governmental unit or publicly supported organization) included on line 1 that exceeds 2% of the amount shown on line 11, column (f)						34832508.
6 Public support. Subtract line 5 from line 4.						210180005

Section B. Total Support

Calendar year (or fiscal year beginning in) ►	(a) 2017	(b) 2018	(c) 2019	(d) 2020	(e) 2021	(f) Total
7 Amounts from line 4	46113049.	46285708.	40437261.	47215437.	64961058.	245012513
8 Gross income from interest, dividends, payments received on securities loans, rents, royalties, and income from similar sources	558,249.	792,453.	865,404.	547,777.	512,159.	3276042.
9 Net income from unrelated business activities, whether or not the business is regularly carried on						
10 Other income. Do not include gain or loss from the sale of capital assets (Explain in Part VI.)	1556936.	546,775.	661,010.	67,057.	106,558.	2938336.
11 Total support. Add lines 7 through 10						251226891
12 Gross receipts from related activities, etc. (see instructions)					12	
13 First 5 years. If the Form 990 is for the organization's first, second, third, fourth, or fifth tax year as a section 501(c)(3) organization, check this box and stop here						<input type="checkbox"/>

Section C. Computation of Public Support Percentage

14 Public support percentage for 2021 (line 6, column (f), divided by line 11, column (f))	14	83.66 %
15 Public support percentage from 2020 Schedule A, Part II, line 14	15	86.07 %
16a 33 1/3% support test - 2021. If the organization did not check the box on line 13, and line 14 is 33 1/3% or more, check this box and stop here. The organization qualifies as a publicly supported organization		<input checked="" type="checkbox"/>
b 33 1/3% support test - 2020. If the organization did not check a box on line 13 or 16a, and line 15 is 33 1/3% or more, check this box and stop here. The organization qualifies as a publicly supported organization		<input type="checkbox"/>
17a 10% -facts-and-circumstances test - 2021. If the organization did not check a box on line 13, 16a, or 16b, and line 14 is 10% or more, and if the organization meets the facts-and-circumstances test, check this box and stop here. Explain in Part VI how the organization meets the facts-and-circumstances test. The organization qualifies as a publicly supported organization		<input type="checkbox"/>
b 10% -facts-and-circumstances test - 2020. If the organization did not check a box on line 13, 16a, 16b, or 17a, and line 15 is 10% or more, and if the organization meets the facts-and-circumstances test, check this box and stop here. Explain in Part VI how the organization meets the facts-and-circumstances test. The organization qualifies as a publicly supported organization		<input type="checkbox"/>
18 Private foundation. If the organization did not check a box on line 13, 16a, 16b, 17a, or 17b, check this box and see instructions		<input type="checkbox"/>

Part III Support Schedule for Organizations Described in Section 509(a)(2)

(Complete only if you checked the box on line 10 of Part I or if the organization failed to qualify under Part II. If the organization fails to qualify under the tests listed below, please complete Part II.)

Section A. Public Support

Table with 7 columns: (a) 2017, (b) 2018, (c) 2019, (d) 2020, (e) 2021, (f) Total. Rows include: 1 Gifts, grants, contributions, and membership fees received; 2 Gross receipts from admissions; 3 Gross receipts from activities that are not an unrelated trade or business; 4 Tax revenues levied for the organization's benefit; 5 The value of services or facilities furnished by a governmental unit; 6 Total; 7a Amounts included on lines 1, 2, and 3 received from disqualified persons; 7b Amounts included on lines 2 and 3 received from other than disqualified persons; 8 Public support.

Section B. Total Support

Table with 7 columns: (a) 2017, (b) 2018, (c) 2019, (d) 2020, (e) 2021, (f) Total. Rows include: 9 Amounts from line 6; 10a Gross income from interest, dividends, payments received on securities loans, rents, royalties, and income from similar sources; 10b Unrelated business taxable income; 11 Net income from unrelated business activities not included on line 10b; 12 Other income; 13 Total support.

14 First 5 years. If the Form 990 is for the organization's first, second, third, fourth, or fifth tax year as a section 501(c)(3) organization, check this box and stop here

Section C. Computation of Public Support Percentage

Table with 2 columns: Description, Percentage. Row 15: Public support percentage for 2021 (line 8, column (f), divided by line 13, column (f)) 15%. Row 16: Public support percentage from 2020 Schedule A, Part III, line 15 16%.

Section D. Computation of Investment Income Percentage

Table with 2 columns: Description, Percentage. Row 17: Investment income percentage for 2021 (line 10c, column (f), divided by line 13, column (f)) 17%. Row 18: Investment income percentage from 2020 Schedule A, Part III, line 17 18%.

19a 33 1/3% support tests - 2021. If the organization did not check the box on line 14, and line 15 is more than 33 1/3%, and line 17 is not more than 33 1/3%, check this box and stop here. The organization qualifies as a publicly supported organization

b 33 1/3% support tests - 2020. If the organization did not check a box on line 14 or line 19a, and line 16 is more than 33 1/3%, and line 18 is not more than 33 1/3%, check this box and stop here. The organization qualifies as a publicly supported organization

20 Private foundation. If the organization did not check a box on line 14, 19a, or 19b, check this box and see instructions

Part IV Supporting Organizations

(Complete only if you checked a box in line 12 on Part I. If you checked box 12a, Part I, complete Sections A and B. If you checked box 12b, Part I, complete Sections A and C. If you checked box 12c, Part I, complete Sections A, D, and E. If you checked box 12d, Part I, complete Sections A and D, and complete Part V.)

Section A. All Supporting Organizations

	Yes	No
1 Are all of the organization's supported organizations listed by name in the organization's governing documents? <i>If "No," describe in Part VI how the supported organizations are designated. If designated by class or purpose, describe the designation. If historic and continuing relationship, explain.</i>		
2 Did the organization have any supported organization that does not have an IRS determination of status under section 509(a)(1) or (2)? <i>If "Yes," explain in Part VI how the organization determined that the supported organization was described in section 509(a)(1) or (2).</i>		
3a Did the organization have a supported organization described in section 501(c)(4), (5), or (6)? <i>If "Yes," answer lines 3b and 3c below.</i>		
b Did the organization confirm that each supported organization qualified under section 501(c)(4), (5), or (6) and satisfied the public support tests under section 509(a)(2)? <i>If "Yes," describe in Part VI when and how the organization made the determination.</i>		
c Did the organization ensure that all support to such organizations was used exclusively for section 170(c)(2)(B) purposes? <i>If "Yes," explain in Part VI what controls the organization put in place to ensure such use.</i>		
4a Was any supported organization not organized in the United States ("foreign supported organization")? <i>If "Yes," and if you checked box 12a or 12b in Part I, answer lines 4b and 4c below.</i>		
b Did the organization have ultimate control and discretion in deciding whether to make grants to the foreign supported organization? <i>If "Yes," describe in Part VI how the organization had such control and discretion despite being controlled or supervised by or in connection with its supported organizations.</i>		
c Did the organization support any foreign supported organization that does not have an IRS determination under sections 501(c)(3) and 509(a)(1) or (2)? <i>If "Yes," explain in Part VI what controls the organization used to ensure that all support to the foreign supported organization was used exclusively for section 170(c)(2)(B) purposes.</i>		
5a Did the organization add, substitute, or remove any supported organizations during the tax year? <i>If "Yes," answer lines 5b and 5c below (if applicable). Also, provide detail in Part VI, including (i) the names and EIN numbers of the supported organizations added, substituted, or removed; (ii) the reasons for each such action; (iii) the authority under the organization's organizing document authorizing such action; and (iv) how the action was accomplished (such as by amendment to the organizing document).</i>		
b Type I or Type II only. Was any added or substituted supported organization part of a class already designated in the organization's organizing document?		
c Substitutions only. Was the substitution the result of an event beyond the organization's control?		
6 Did the organization provide support (whether in the form of grants or the provision of services or facilities) to anyone other than (i) its supported organizations, (ii) individuals that are part of the charitable class benefited by one or more of its supported organizations, or (iii) other supporting organizations that also support or benefit one or more of the filing organization's supported organizations? <i>If "Yes," provide detail in Part VI.</i>		
7 Did the organization provide a grant, loan, compensation, or other similar payment to a substantial contributor (as defined in section 4958(c)(3)(C)), a family member of a substantial contributor, or a 35% controlled entity with regard to a substantial contributor? <i>If "Yes," complete Part I of Schedule L (Form 990).</i>		
8 Did the organization make a loan to a disqualified person (as defined in section 4958) not described on line 7? <i>If "Yes," complete Part I of Schedule L (Form 990).</i>		
9a Was the organization controlled directly or indirectly at any time during the tax year by one or more disqualified persons, as defined in section 4946 (other than foundation managers and organizations described in section 509(a)(1) or (2))? <i>If "Yes," provide detail in Part VI.</i>		
b Did one or more disqualified persons (as defined on line 9a) hold a controlling interest in any entity in which the supporting organization had an interest? <i>If "Yes," provide detail in Part VI.</i>		
c Did a disqualified person (as defined on line 9a) have an ownership interest in, or derive any personal benefit from, assets in which the supporting organization also had an interest? <i>If "Yes," provide detail in Part VI.</i>		
10a Was the organization subject to the excess business holdings rules of section 4943 because of section 4943(f) (regarding certain Type II supporting organizations, and all Type III non-functionally integrated supporting organizations)? <i>If "Yes," answer line 10b below.</i>		
b Did the organization have any excess business holdings in the tax year? <i>(Use Schedule C, Form 4720, to determine whether the organization had excess business holdings.)</i>		

Part IV Supporting Organizations (continued)

	Yes	No
11 Has the organization accepted a gift or contribution from any of the following persons?		
a A person who directly or indirectly controls, either alone or together with persons described on lines 11b and 11c below, the governing body of a supported organization?		
b A family member of a person described on line 11a above?		
c A 35% controlled entity of a person described on line 11a or 11b above? <i>If "Yes" to line 11a, 11b, or 11c, provide detail in Part VI.</i>		
11a		
11b		
11c		

Section B. Type I Supporting Organizations

	Yes	No
1 Did the governing body, members of the governing body, officers acting in their official capacity, or membership of one or more supported organizations have the power to regularly appoint or elect at least a majority of the organization's officers, directors, or trustees at all times during the tax year? <i>If "No," describe in Part VI how the supported organization(s) effectively operated, supervised, or controlled the organization's activities. If the organization had more than one supported organization, describe how the powers to appoint and/or remove officers, directors, or trustees were allocated among the supported organizations and what conditions or restrictions, if any, applied to such powers during the tax year.</i>		
2 Did the organization operate for the benefit of any supported organization other than the supported organization(s) that operated, supervised, or controlled the supporting organization? <i>If "Yes," explain in Part VI how providing such benefit carried out the purposes of the supported organization(s) that operated, supervised, or controlled the supporting organization.</i>		
1		
2		

Section C. Type II Supporting Organizations

	Yes	No
1 Were a majority of the organization's directors or trustees during the tax year also a majority of the directors or trustees of each of the organization's supported organization(s)? <i>If "No," describe in Part VI how control or management of the supporting organization was vested in the same persons that controlled or managed the supported organization(s).</i>		
1		

Section D. All Type III Supporting Organizations

	Yes	No
1 Did the organization provide to each of its supported organizations, by the last day of the fifth month of the organization's tax year, (i) a written notice describing the type and amount of support provided during the prior tax year, (ii) a copy of the Form 990 that was most recently filed as of the date of notification, and (iii) copies of the organization's governing documents in effect on the date of notification, to the extent not previously provided?		
2 Were any of the organization's officers, directors, or trustees either (i) appointed or elected by the supported organization(s) or (ii) serving on the governing body of a supported organization? <i>If "No," explain in Part VI how the organization maintained a close and continuous working relationship with the supported organization(s).</i>		
3 By reason of the relationship described on line 2, above, did the organization's supported organizations have a significant voice in the organization's investment policies and in directing the use of the organization's income or assets at all times during the tax year? <i>If "Yes," describe in Part VI the role the organization's supported organizations played in this regard.</i>		
1		
2		
3		

Section E. Type III Functionally Integrated Supporting Organizations

1 Check the box next to the method that the organization used to satisfy the Integral Part Test during the year (see instructions).		
a <input type="checkbox"/> The organization satisfied the Activities Test. Complete line 2 below.		
b <input type="checkbox"/> The organization is the parent of each of its supported organizations. Complete line 3 below.		
c <input type="checkbox"/> The organization supported a governmental entity. Describe in Part VI how you supported a governmental entity (see instructions).		
2 Activities Test. Answer lines 2a and 2b below.		
a Did substantially all of the organization's activities during the tax year directly further the exempt purposes of the supported organization(s) to which the organization was responsive? <i>If "Yes," then in Part VI identify those supported organizations and explain how these activities directly furthered their exempt purposes, how the organization was responsive to those supported organizations, and how the organization determined that these activities constituted substantially all of its activities.</i>	Yes	No
b Did the activities described on line 2a, above, constitute activities that, but for the organization's involvement, one or more of the organization's supported organization(s) would have been engaged in? <i>If "Yes," explain in Part VI the reasons for the organization's position that its supported organization(s) would have engaged in these activities but for the organization's involvement.</i>		
3 Parent of Supported Organizations. Answer lines 3a and 3b below.		
a Did the organization have the power to regularly appoint or elect a majority of the officers, directors, or trustees of each of the supported organizations? <i>If "Yes" or "No" provide details in Part VI.</i>		
b Did the organization exercise a substantial degree of direction over the policies, programs, and activities of each of its supported organizations? <i>If "Yes," describe in Part VI the role played by the organization in this regard.</i>		
2a		
2b		
3a		
3b		

Part V Type III Non-Functionally Integrated 509(a)(3) Supporting Organizations

1 Check here if the organization satisfied the Integral Part Test as a qualifying trust on Nov. 20, 1970 (*explain in Part VI*). **See instructions.**
 All other Type III non-functionally integrated supporting organizations must complete Sections A through E.

Section A - Adjusted Net Income		(A) Prior Year	(B) Current Year (optional)
1	Net short-term capital gain	1	
2	Recoveries of prior-year distributions	2	
3	Other gross income (see instructions)	3	
4	Add lines 1 through 3.	4	
5	Depreciation and depletion	5	
6	Portion of operating expenses paid or incurred for production or collection of gross income or for management, conservation, or maintenance of property held for production of income (see instructions)	6	
7	Other expenses (see instructions)	7	
8	Adjusted Net Income (subtract lines 5, 6, and 7 from line 4)	8	

Section B - Minimum Asset Amount		(A) Prior Year	(B) Current Year (optional)
1	Aggregate fair market value of all non-exempt-use assets (see instructions for short tax year or assets held for part of year):		
a	Average monthly value of securities	1a	
b	Average monthly cash balances	1b	
c	Fair market value of other non-exempt-use assets	1c	
d	Total (add lines 1a, 1b, and 1c)	1d	
e	Discount claimed for blockage or other factors (<i>explain in detail in Part VI</i>):		
2	Acquisition indebtedness applicable to non-exempt-use assets	2	
3	Subtract line 2 from line 1d.	3	
4	Cash deemed held for exempt use. Enter 0.015 of line 3 (for greater amount, see instructions).	4	
5	Net value of non-exempt-use assets (subtract line 4 from line 3)	5	
6	Multiply line 5 by 0.035.	6	
7	Recoveries of prior-year distributions	7	
8	Minimum Asset Amount (add line 7 to line 6)	8	

Section C - Distributable Amount			Current Year
1	Adjusted net income for prior year (from Section A, line 8, column A)	1	
2	Enter 0.85 of line 1.	2	
3	Minimum asset amount for prior year (from Section B, line 8, column A)	3	
4	Enter greater of line 2 or line 3.	4	
5	Income tax imposed in prior year	5	
6	Distributable Amount. Subtract line 5 from line 4, unless subject to emergency temporary reduction (see instructions).	6	
7	<input type="checkbox"/> Check here if the current year is the organization's first as a non-functionally integrated Type III supporting organization (see instructions).		

Part V Type III Non-Functionally Integrated 509(a)(3) Supporting Organizations (continued)

Section D - Distributions		Current Year
1	Amounts paid to supported organizations to accomplish exempt purposes	1
2	Amounts paid to perform activity that directly furthers exempt purposes of supported organizations, in excess of income from activity	2
3	Administrative expenses paid to accomplish exempt purposes of supported organizations	3
4	Amounts paid to acquire exempt-use assets	4
5	Qualified set-aside amounts (prior IRS approval required - provide details in Part VI)	5
6	Other distributions (describe in Part VI). See instructions.	6
7	Total annual distributions. Add lines 1 through 6.	7
8	Distributions to attentive supported organizations to which the organization is responsive (provide details in Part VI). See instructions.	8
9	Distributable amount for 2021 from Section C, line 6	9
10	Line 8 amount divided by line 9 amount	10

Section E - Distribution Allocations (see instructions)	(i) Excess Distributions	(ii) Underdistributions Pre-2021	(iii) Distributable Amount for 2021
1	Distributable amount for 2021 from Section C, line 6		
2	Underdistributions, if any, for years prior to 2021 (reasonable cause required - explain in Part VI). See instructions.		
3	Excess distributions carryover, if any, to 2021		
a	From 2016		
b	From 2017		
c	From 2018		
d	From 2019		
e	From 2020		
f	Total of lines 3a through 3e		
g	Applied to underdistributions of prior years		
h	Applied to 2021 distributable amount		
i	Carryover from 2016 not applied (see instructions)		
j	Remainder. Subtract lines 3g, 3h, and 3i from line 3f.		
4	Distributions for 2021 from Section D, line 7: \$		
a	Applied to underdistributions of prior years		
b	Applied to 2021 distributable amount		
c	Remainder. Subtract lines 4a and 4b from line 4.		
5	Remaining underdistributions for years prior to 2021, if any. Subtract lines 3g and 4a from line 2. For result greater than zero, explain in Part VI. See instructions.		
6	Remaining underdistributions for 2021. Subtract lines 3h and 4b from line 1. For result greater than zero, explain in Part VI. See instructions.		
7	Excess distributions carryover to 2022. Add lines 3j and 4c.		
8	Breakdown of line 7:		
a	Excess from 2017		
b	Excess from 2018		
c	Excess from 2019		
d	Excess from 2020		
e	Excess from 2021		

Part VI Supplemental Information. Provide the explanations required by Part II, line 10; Part II, line 17a or 17b; Part III, line 12; Part IV, Section A, lines 1, 2, 3b, 3c, 4b, 4c, 5a, 6, 9a, 9b, 9c, 11a, 11b, and 11c; Part IV, Section B, lines 1 and 2; Part IV, Section C, line 1; Part IV, Section D, lines 2 and 3; Part IV, Section E, lines 1c, 2a, 2b, 3a, and 3b; Part V, line 1; Part V, Section B, line 1e; Part V, Section D, lines 5, 6, and 8; and Part V, Section E, lines 2, 5, and 6. Also complete this part for any additional information. (See instructions.)

SCHEDULE A, PART II, LINE 10, EXPLANATION FOR OTHER INCOME:

FUNDRAISING INCOME

2017 AMOUNT: \$ 1,556,936.

2018 AMOUNT: \$ 546,775.

2019 AMOUNT: \$ 428,365.

2020 AMOUNT: \$ 58,625.

2021 AMOUNT: \$ 15,120.

OTHER INCOME

2019 AMOUNT: \$ 10,645.

2020 AMOUNT: \$ 8,432.

2021 AMOUNT: \$ 91,438.

TAX REIMBURSEMENT

2019 AMOUNT: \$ 222,000.

Schedule B
(Form 990)

Department of the Treasury
Internal Revenue Service

Schedule of Contributors

▶ Attach to Form 990 or Form 990-PF.
▶ Go to www.irs.gov/Form990 for the latest information.

2021

Name of the organization

AMERICAN FRIENDS OF MAGEN DAVID ADOM

Employer identification number

13-1790719

Organization type (check one):

Filers of:

Section:

Form 990 or 990-EZ

501(c)(3) (enter number) organization

4947(a)(1) nonexempt charitable trust **not** treated as a private foundation

527 political organization

Form 990-PF

501(c)(3) exempt private foundation

4947(a)(1) nonexempt charitable trust treated as a private foundation

501(c)(3) taxable private foundation

Check if your organization is covered by the **General Rule** or a **Special Rule**.

Note: Only a section 501(c)(7), (8), or (10) organization can check boxes for both the General Rule and a Special Rule. See instructions.

General Rule

For an organization filing Form 990, 990-EZ, or 990-PF that received, during the year, contributions totaling \$5,000 or more (in money or property) from any one contributor. Complete Parts I and II. See instructions for determining a contributor's total contributions.

Special Rules

For an organization described in section 501(c)(3) filing Form 990 or 990-EZ that met the 33 1/3% support test of the regulations under sections 509(a)(1) and 170(b)(1)(A)(vi), that checked Schedule A (Form 990), Part II, line 13, 16a, or 16b, and that received from any one contributor, during the year, total contributions of the greater of **(1)** \$5,000; or **(2)** 2% of the amount on (i) Form 990, Part VIII, line 1h; or (ii) Form 990-EZ, line 1. Complete Parts I and II.

For an organization described in section 501(c)(7), (8), or (10) filing Form 990 or 990-EZ that received from any one contributor, during the year, total contributions of more than \$1,000 exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals. Complete Parts I (entering "N/A" in column (b) instead of the contributor name and address), II, and III.

For an organization described in section 501(c)(7), (8), or (10) filing Form 990 or 990-EZ that received from any one contributor, during the year, contributions *exclusively* for religious, charitable, etc., purposes, but no such contributions totaled more than \$1,000. If this box is checked, enter here the total contributions that were received during the year for an *exclusively* religious, charitable, etc., purpose. Don't complete any of the parts unless the **General Rule** applies to this organization because it received *nonexclusively* religious, charitable, etc., contributions totaling \$5,000 or more during the year ▶ \$ _____

Caution: An organization that isn't covered by the General Rule and/or the Special Rules doesn't file Schedule B (Form 990), but it **must** answer "No" on Part IV, line 2, of its Form 990; or check the box on line H of its Form 990-EZ or on its Form 990-PF, Part I, line 2, to certify that it doesn't meet the filing requirements of Schedule B (Form 990).

Name of organization AMERICAN FRIENDS OF MAGEN DAVID ADOM	Employer identification number 13-1790719
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Part I Contributors (see instructions). Use duplicate copies of Part I if additional space is needed.

(a) No.	(b) Name, address, and ZIP + 4	(c) Total contributions	(d) Type of contribution
1	_____ _____ _____	\$ <u>1,500,000.</u>	Person <input checked="" type="checkbox"/> Payroll <input type="checkbox"/> Noncash <input type="checkbox"/> (Complete Part II for noncash contributions.)
2	_____ _____ _____	\$ <u>3,000,000.</u>	Person <input checked="" type="checkbox"/> Payroll <input type="checkbox"/> Noncash <input type="checkbox"/> (Complete Part II for noncash contributions.)
3	_____ _____ _____	\$ <u>13,170,713.</u>	Person <input checked="" type="checkbox"/> Payroll <input type="checkbox"/> Noncash <input type="checkbox"/> (Complete Part II for noncash contributions.)
_____ _____ _____	_____ _____ _____	\$ _____	Person <input type="checkbox"/> Payroll <input type="checkbox"/> Noncash <input type="checkbox"/> (Complete Part II for noncash contributions.)
_____ _____ _____	_____ _____ _____	\$ _____	Person <input type="checkbox"/> Payroll <input type="checkbox"/> Noncash <input type="checkbox"/> (Complete Part II for noncash contributions.)
_____ _____ _____	_____ _____ _____	\$ _____	Person <input type="checkbox"/> Payroll <input type="checkbox"/> Noncash <input type="checkbox"/> (Complete Part II for noncash contributions.)

Name of organization AMERICAN FRIENDS OF MAGEN DAVID ADOM	Employer identification number 13-1790719
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Part II Noncash Property (see instructions). Use duplicate copies of Part II if additional space is needed.

(a) No. from Part I	(b) Description of noncash property given	(c) FMV (or estimate) (See instructions.)	(d) Date received
_____	_____ _____ _____	\$ _____	_____
_____	_____ _____ _____	\$ _____	_____
_____	_____ _____ _____	\$ _____	_____
_____	_____ _____ _____	\$ _____	_____
_____	_____ _____ _____	\$ _____	_____
_____	_____ _____ _____	\$ _____	_____
_____	_____ _____ _____	\$ _____	_____

Name of organization AMERICAN FRIENDS OF MAGEN DAVID ADOM	Employer identification number 13-1790719
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Part III Exclusively religious, charitable, etc., contributions to organizations described in section 501(c)(7), (8), or (10) that total more than \$1,000 for the year from any one contributor. Complete columns (a) through (e) and the following line entry. For organizations completing Part III, enter the total of exclusively religious, charitable, etc., contributions of \$1,000 or less for the year. (Enter this info. once.) ▶ \$ _____
Use duplicate copies of Part III if additional space is needed.

(a) No. from Part I	(b) Purpose of gift	(c) Use of gift	(d) Description of how gift is held
(e) Transfer of gift			
Transferee's name, address, and ZIP + 4		Relationship of transferor to transferee	
(e) Transfer of gift			
Transferee's name, address, and ZIP + 4		Relationship of transferor to transferee	
(e) Transfer of gift			
Transferee's name, address, and ZIP + 4		Relationship of transferor to transferee	
(e) Transfer of gift			
Transferee's name, address, and ZIP + 4		Relationship of transferor to transferee	
(e) Transfer of gift			
Transferee's name, address, and ZIP + 4		Relationship of transferor to transferee	

SCHEDULE D
(Form 990)

Department of the Treasury
Internal Revenue Service

Supplemental Financial Statements

▶ Complete if the organization answered "Yes" on Form 990, Part IV, line 6, 7, 8, 9, 10, 11a, 11b, 11c, 11d, 11e, 11f, 12a, or 12b.
▶ Attach to Form 990.

▶ Go to www.irs.gov/Form990 for instructions and the latest information.

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OMB No. 1545-0047

2021

Open to Public Inspection

Name of the organization **AMERICAN FRIENDS OF MAGEN DAVID ADOM** Employer identification number **13-1790719**

Part I Organizations Maintaining Donor Advised Funds or Other Similar Funds or Accounts. Complete if the organization answered "Yes" on Form 990, Part IV, line 6.

	(a) Donor advised funds	(b) Funds and other accounts
1 Total number at end of year		
2 Aggregate value of contributions to (during year)		
3 Aggregate value of grants from (during year)		
4 Aggregate value at end of year		
5 Did the organization inform all donors and donor advisors in writing that the assets held in donor advised funds are the organization's property, subject to the organization's exclusive legal control?	<input type="checkbox"/> Yes <input type="checkbox"/> No	
6 Did the organization inform all grantees, donors, and donor advisors in writing that grant funds can be used only for charitable purposes and not for the benefit of the donor or donor advisor, or for any other purpose conferring impermissible private benefit?	<input type="checkbox"/> Yes <input type="checkbox"/> No	

Part II Conservation Easements. Complete if the organization answered "Yes" on Form 990, Part IV, line 7.

1 Purpose(s) of conservation easements held by the organization (check all that apply).
 Preservation of land for public use (for example, recreation or education) Preservation of a historically important land area
 Protection of natural habitat Preservation of a certified historic structure
 Preservation of open space

2 Complete lines 2a through 2d if the organization held a qualified conservation contribution in the form of a conservation easement on the last day of the tax year.

	Held at the End of the Tax Year
a Total number of conservation easements	2a
b Total acreage restricted by conservation easements	2b
c Number of conservation easements on a certified historic structure included in (a)	2c
d Number of conservation easements included in (c) acquired after 7/25/06, and not on a historic structure listed in the National Register	2d

3 Number of conservation easements modified, transferred, released, extinguished, or terminated by the organization during the tax year ▶ _____

4 Number of states where property subject to conservation easement is located ▶ _____

5 Does the organization have a written policy regarding the periodic monitoring, inspection, handling of violations, and enforcement of the conservation easements it holds?

6 Staff and volunteer hours devoted to monitoring, inspecting, handling of violations, and enforcing conservation easements during the year ▶ _____

7 Amount of expenses incurred in monitoring, inspecting, handling of violations, and enforcing conservation easements during the year ▶ \$ _____

8 Does each conservation easement reported on line 2(d) above satisfy the requirements of section 170(h)(4)(B)(i) and section 170(h)(4)(B)(ii)?

9 In Part XIII, describe how the organization reports conservation easements in its revenue and expense statement and balance sheet, and include, if applicable, the text of the footnote to the organization's financial statements that describes the organization's accounting for conservation easements.

Part III Organizations Maintaining Collections of Art, Historical Treasures, or Other Similar Assets.

Complete if the organization answered "Yes" on Form 990, Part IV, line 8.

1a If the organization elected, as permitted under FASB ASC 958, not to report in its revenue statement and balance sheet works of art, historical treasures, or other similar assets held for public exhibition, education, or research in furtherance of public service, provide in Part XIII the text of the footnote to its financial statements that describes these items.

b If the organization elected, as permitted under FASB ASC 958, to report in its revenue statement and balance sheet works of art, historical treasures, or other similar assets held for public exhibition, education, or research in furtherance of public service, provide the following amounts relating to these items:

(i) Revenue included on Form 990, Part VIII, line 1

(ii) Assets included in Form 990, Part X

2 If the organization received or held works of art, historical treasures, or other similar assets for financial gain, provide the following amounts required to be reported under FASB ASC 958 relating to these items:

a Revenue included on Form 990, Part VIII, line 1

b Assets included in Form 990, Part X

LHA For Paperwork Reduction Act Notice, see the Instructions for Form 990.

Schedule D (Form 990) 2021

Part III Organizations Maintaining Collections of Art, Historical Treasures, or Other Similar Assets (continued)

- 3 Using the organization's acquisition, accession, and other records, check any of the following that make significant use of its collection items (check all that apply):
- a Public exhibition
 - b Scholarly research
 - c Preservation for future generations
 - d Loan or exchange program
 - e Other _____
- 4 Provide a description of the organization's collections and explain how they further the organization's exempt purpose in Part XIII.
- 5 During the year, did the organization solicit or receive donations of art, historical treasures, or other similar assets to be sold to raise funds rather than to be maintained as part of the organization's collection? Yes No

Part IV Escrow and Custodial Arrangements. Complete if the organization answered "Yes" on Form 990, Part IV, line 9, or reported an amount on Form 990, Part X, line 21.

- 1a Is the organization an agent, trustee, custodian or other intermediary for contributions or other assets not included on Form 990, Part X? Yes No
- b If "Yes," explain the arrangement in Part XIII and complete the following table:
- | | Amount |
|---------------------------------|--------|
| c Beginning balance | 1c |
| d Additions during the year | 1d |
| e Distributions during the year | 1e |
| f Ending balance | 1f |
- 2a Did the organization include an amount on Form 990, Part X, line 21, for escrow or custodial account liability? Yes No
- b If "Yes," explain the arrangement in Part XIII. Check here if the explanation has been provided on Part XIII

Part V Endowment Funds. Complete if the organization answered "Yes" on Form 990, Part IV, line 10.

	(a) Current year	(b) Prior year	(c) Two years back	(d) Three years back	(e) Four years back
1a Beginning of year balance	10,583,146.	10,545,835.	9,799,620.	462,120.	462,120.
b Contributions				9,337,500.	
c Net investment earnings, gains, and losses	39,176.	37,311.	746,215.	354,647.	5,547.
d Grants or scholarships					
e Other expenditures for facilities and programs				354,647.	5,547.
f Administrative expenses					
g End of year balance	10,622,322.	10,583,146.	10,545,835.	9,799,620.	462,120.

- 2 Provide the estimated percentage of the current year end balance (line 1g, column (a)) held as:
- a Board designated or quasi-endowment 4.3500 %
 - b Permanent endowment 95.6500 %
 - c Term endowment _____ %
- The percentages on lines 2a, 2b, and 2c should equal 100%.
- 3a Are there endowment funds not in the possession of the organization that are held and administered for the organization by:
- | | Yes | No |
|---|-----|----|
| (i) Unrelated organizations | X | |
| (ii) Related organizations | | X |
| b If "Yes" on line 3a(ii), are the related organizations listed as required on Schedule R? <input type="checkbox"/> | 3b | |
- 4 Describe in Part XIII the intended uses of the organization's endowment funds.

Part VI Land, Buildings, and Equipment.

Complete if the organization answered "Yes" on Form 990, Part IV, line 11a. See Form 990, Part X, line 10.

Description of property	(a) Cost or other basis (investment)	(b) Cost or other basis (other)	(c) Accumulated depreciation	(d) Book value
1a Land				
b Buildings				
c Leasehold improvements		100,935.	27,466.	73,469.
d Equipment		324,496.	132,509.	191,987.
e Other				

Total. Add lines 1a through 1e. (Column (d) must equal Form 990, Part X, column (B), line 10c.) 265,456.

Part VII Investments - Other Securities.

Complete if the organization answered "Yes" on Form 990, Part IV, line 11b. See Form 990, Part X, line 12.

(a) Description of security or category (including name of security)	(b) Book value	(c) Method of valuation: Cost or end-of-year market value
(1) Financial derivatives		
(2) Closely held equity interests		
(3) Other		
(A)		
(B)		
(C)		
(D)		
(E)		
(F)		
(G)		
(H)		
Total. (Col. (b) must equal Form 990, Part X, col. (B) line 12.) ▶		

Part VIII Investments - Program Related.

Complete if the organization answered "Yes" on Form 990, Part IV, line 11c. See Form 990, Part X, line 13.

(a) Description of investment	(b) Book value	(c) Method of valuation: Cost or end-of-year market value
(1)		
(2)		
(3)		
(4)		
(5)		
(6)		
(7)		
(8)		
(9)		
Total. (Col. (b) must equal Form 990, Part X, col. (B) line 13.) ▶		

Part IX Other Assets.

Complete if the organization answered "Yes" on Form 990, Part IV, line 11d. See Form 990, Part X, line 15.

(a) Description	(b) Book value
(1) BENEFICIAL INTEREST IN TRUST	10,160,202.
(2) SECURITY DEPOSITS	11,572.
(3) OTHER ASSETS	12,011.
(4) EXCHANGE ACCOUNT	510,002.
(5)	
(6)	
(7)	
(8)	
(9)	
Total. (Column (b) must equal Form 990, Part X, col. (B) line 15.) ▶	10,693,787.

Part X Other Liabilities.

Complete if the organization answered "Yes" on Form 990, Part IV, line 11e or 11f. See Form 990, Part X, line 25.

1. (a) Description of liability	(b) Book value
(1) Federal income taxes	
(2) PENSION AND POST RETIREMENT COSTS	1,029,821.
(3) DUE TO CGA'S AND CRAT FUNDS	4,010,940.
(4)	
(5)	
(6)	
(7)	
(8)	
(9)	
Total. (Column (b) must equal Form 990, Part X, col. (B) line 25.) ▶	5,040,761.

2. Liability for uncertain tax positions. In Part XIII, provide the text of the footnote to the organization's financial statements that reports the organization's liability for uncertain tax positions under FASB ASC 740. Check here if the text of the footnote has been provided in Part XIII ...

Part XI Reconciliation of Revenue per Audited Financial Statements With Revenue per Return.

Complete if the organization answered "Yes" on Form 990, Part IV, line 12a.

1 Total revenue, gains, and other support per audited financial statements		1	65,859,866.
2 Amounts included on line 1 but not on Form 990, Part VIII, line 12:			
a Net unrealized gains (losses) on investments	2a	845,641.	
b Donated services and use of facilities	2b		
c Recoveries of prior year grants	2c		
d Other (Describe in Part XIII.)	2d	-399,681.	
e Add lines 2a through 2d	2e		445,960.
3 Subtract line 2e from line 1		3	65,413,906.
4 Amounts included on Form 990, Part VIII, line 12, but not on line 1:			
a Investment expenses not included on Form 990, Part VIII, line 7b	4a	51,930.	
b Other (Describe in Part XIII.)	4b		
c Add lines 4a and 4b	4c		51,930.
5 Total revenue. Add lines 3 and 4c. (This must equal Form 990, Part I, line 12.)		5	65,465,836.

Part XII Reconciliation of Expenses per Audited Financial Statements With Expenses per Return.

Complete if the organization answered "Yes" on Form 990, Part IV, line 12a.

1 Total expenses and losses per audited financial statements		1	64,826,463.
2 Amounts included on line 1 but not on Form 990, Part IX, line 25:			
a Donated services and use of facilities	2a		
b Prior year adjustments	2b		
c Other losses	2c		
d Other (Describe in Part XIII.)	2d		
e Add lines 2a through 2d	2e		0.
3 Subtract line 2e from line 1		3	64,826,463.
4 Amounts included on Form 990, Part IX, line 25, but not on line 1:			
a Investment expenses not included on Form 990, Part VIII, line 7b	4a	51,930.	
b Other (Describe in Part XIII.)	4b	27,509.	
c Add lines 4a and 4b	4c		79,439.
5 Total expenses. Add lines 3 and 4c. (This must equal Form 990, Part I, line 18.)		5	64,905,902.

Part XIII Supplemental Information.

Provide the descriptions required for Part II, lines 3, 5, and 9; Part III, lines 1a and 4; Part IV, lines 1b and 2b; Part V, line 4; Part X, line 2; Part XI, lines 2d and 4b; and Part XII, lines 2d and 4b. Also complete this part to provide any additional information.

PART X, LINE 2:

THE ORGANIZATION BELIEVES IT HAS NO MATERIAL UNCERTAIN TAX POSITIONS AS OF DECEMBER 31, 2021 AND 2020 IN ACCORDANCE WITH ACCOUNTING STANDARDS CODIFICATION ("ASC") TOPIC 740, INCOME TAXES, WHICH PROVIDES STANDARDS FOR ESTABLISHING AND CLASSIFYING ANY TAX PROVISIONS FOR UNCERTAIN TAX POSITIONS.

PART XI, LINE 2D - OTHER ADJUSTMENTS:

BENEFICIAL INTEREST IN PREPETUAL ENDOWMENT	39,176.
OTHER COMPONENTS OF NET PERIODIC PENSION CREDIT (COSTS)	75,857.
FOREIGN EXCHANGE VALUATION	67,210.
POSTRETIREMENT CHANGES OTHER THAN NET PERIODIC PENSION	

Part XIII Supplemental Information (continued)

CREDIT 7,878.

INDIRECT FUNDRAISING -27,509.

CGA PAYOUTS -562,293.

TOTAL TO SCHEDULE D, PART XI, LINE 2D -399,681.

PART XII, LINE 4B - OTHER ADJUSTMENTS:

INDIRECT FUNDRAISING 27,509.

**SCHEDULE F
(Form 990)**

Department of the Treasury
Internal Revenue Service

Statement of Activities Outside the United States

▶ Complete if the organization answered "Yes" on Form 990, Part IV, line 14b, 15, or 16.

▶ Attach to Form 990.

▶ Go to www.irs.gov/Form990 for instructions and the latest information.

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OMB No. 1545-0047

2021

Open to Public
Inspection

Name of the organization **AMERICAN FRIENDS OF MAGEN DAVID ADOM** Employer identification number **13-1790719**

Part I General Information on Activities Outside the United States. Complete if the organization answered "Yes" on Form 990, Part IV, line 14b.

1 For grantmakers. Does the organization maintain records to substantiate the amount of its grants and other assistance, the grantees' eligibility for the grants or assistance, and the selection criteria used to award the grants or assistance? Yes No

2 For grantmakers. Describe in Part V the organization's procedures for monitoring the use of its grants and other assistance outside the United States.

3 Activities per Region. (The following Part I, line 3 table can be duplicated if additional space is needed.)

(a) Region	(b) Number of offices in the region	(c) Number of employees, agents, and independent contractors in the region	(d) Activities conducted in the region (by type) (such as, fundraising, program services, investments, grants to recipients located in the region)	(e) If activity listed in (d) is a program service, describe specific type of service(s) in the region	(f) Total expenditures for and investments in the region
MIDDLE EAST	1	4	PROGRAM SERVICES	ENSURES THE PROPER APPLICATION OF FUNDS AUTHORIZED BY BOARD OF DIRECTORS THAT APPROVED	51,699,089.
MIDDLE EAST	0	0	INVESTMENTS		214,819.
3 a Subtotal	1	4			51,913,908.
b Total from continuation sheets to Part I	0	0			0.
c Totals (add lines 3a and 3b)	1	4			51,913,908.

Part IV Foreign Forms

- 1** Was the organization a U.S. transferor of property to a foreign corporation during the tax year? *If "Yes," the organization may be required to file Form 926, Return by a U.S. Transferor of Property to a Foreign Corporation (see Instructions for Form 926)* Yes No
- 2** Did the organization have an interest in a foreign trust during the tax year? *If "Yes," the organization may be required to separately file Form 3520, Annual Return To Report Transactions With Foreign Trusts and Receipt of Certain Foreign Gifts, and/or Form 3520-A, Annual Information Return of Foreign Trust With a U.S. Owner (see Instructions for Forms 3520 and 3520-A; don't file with Form 990)* Yes No
- 3** Did the organization have an ownership interest in a foreign corporation during the tax year? *If "Yes," the organization may be required to file Form 5471, Information Return of U.S. Persons With Respect to Certain Foreign Corporations (see Instructions for Form 5471)* Yes No
- 4** Was the organization a direct or indirect shareholder of a passive foreign investment company or a qualified electing fund during the tax year? *If "Yes," the organization may be required to file Form 8621, Information Return by a Shareholder of a Passive Foreign Investment Company or Qualified Electing Fund (see Instructions for Form 8621)* Yes No
- 5** Did the organization have an ownership interest in a foreign partnership during the tax year? *If "Yes," the organization may be required to file Form 8865, Return of U.S. Persons With Respect to Certain Foreign Partnerships (see Instructions for Form 8865)* Yes No
- 6** Did the organization have any operations in or related to any boycotting countries during the tax year? *If "Yes," the organization may be required to separately file Form 5713, International Boycott Report (see Instructions for Form 5713; don't file with Form 990)* Yes No

Part V Supplemental Information

Provide the information required by Part I, line 2 (monitoring of funds); Part I, line 3, column (f) (accounting method; amounts of investments vs. expenditures per region); Part II, line 1 (accounting method); Part III (accounting method); and Part III, column (c) (estimated number of recipients), as applicable. Also complete this part to provide any additional information. See instructions.

PART I, LINE 3, COLUMN (E):

REGION: MIDDLE EAST

(E) SPECIFIC TYPES OF SERVICES IN REGION: ENSURES THE PROPER APPLICATION OF FUNDS AUTHORIZED BY BOARD OF DIRECTORS THAT APPROVED INVOICES ARE PAID.

Part II Fundraising Events. Complete if the organization answered "Yes" on Form 990, Part IV, line 18, or reported more than \$15,000 of fundraising event contributions and gross income on Form 990-EZ, lines 1 and 6b. List events with gross receipts greater than \$5,000.

		(a) Event #1	(b) Event #2	(c) Other events	(d) Total events (add col. (a) through col. (c))	
		WESTERN REGION		NONE		
		(event type)	(event type)	(total number)		
Revenue	1	Gross receipts	38,438.			38,438.
	2	Less: Contributions	23,318.			23,318.
	3	Gross income (line 1 minus line 2)	15,120.			15,120.
Direct Expenses	4	Cash prizes				
	5	Noncash prizes				
	6	Rent/facility costs	5,000.			5,000.
	7	Food and beverages	91,769.			91,769.
	8	Entertainment				
	9	Other direct expenses	1,305.			1,305.
	10	Direct expense summary. Add lines 4 through 9 in column (d)				
11	Net income summary. Subtract line 10 from line 3, column (d)					-82,954.

Part III Gaming. Complete if the organization answered "Yes" on Form 990, Part IV, line 19, or reported more than \$15,000 on Form 990-EZ, line 6a.

		(a) Bingo	(b) Pull tabs/instant bingo/progressive bingo	(c) Other gaming	(d) Total gaming (add col. (a) through col. (c))	
		1	Gross revenue			
Direct Expenses	2	Cash prizes				
	3	Noncash prizes				
	4	Rent/facility costs				
	5	Other direct expenses				
	6	Volunteer labor	<input type="checkbox"/> Yes _____ % <input type="checkbox"/> No	<input type="checkbox"/> Yes _____ % <input type="checkbox"/> No	<input type="checkbox"/> Yes _____ % <input type="checkbox"/> No	
7	Direct expense summary. Add lines 2 through 5 in column (d)					
8	Net gaming income summary. Subtract line 7 from line 1, column (d)					

9 Enter the state(s) in which the organization conducts gaming activities: _____

a Is the organization licensed to conduct gaming activities in each of these states? Yes No

b If "No," explain: _____

10a Were any of the organization's gaming licenses revoked, suspended, or terminated during the tax year? Yes No

b If "Yes," explain: _____

**SCHEDULE J
(Form 990)**

Department of the Treasury
Internal Revenue Service

Compensation Information

For certain Officers, Directors, Trustees, Key Employees, and Highest Compensated Employees
 ▶ Complete if the organization answered "Yes" on Form 990, Part IV, line 23.
 ▶ Attach to Form 990.
 ▶ Go to www.irs.gov/Form990 for instructions and the latest information.

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OMB No. 1545-0047

2021

Open to Public Inspection

Name of the organization

AMERICAN FRIENDS OF MAGEN DAVID ADOM

Employer identification number

13-1790719

Part I Questions Regarding Compensation

1a Check the appropriate box(es) if the organization provided any of the following to or for a person listed on Form 990, Part VII, Section A, line 1a. Complete Part III to provide any relevant information regarding these items.

- | | |
|--|--|
| <input type="checkbox"/> First-class or charter travel | <input type="checkbox"/> Housing allowance or residence for personal use |
| <input type="checkbox"/> Travel for companions | <input type="checkbox"/> Payments for business use of personal residence |
| <input type="checkbox"/> Tax indemnification and gross-up payments | <input type="checkbox"/> Health or social club dues or initiation fees |
| <input type="checkbox"/> Discretionary spending account | <input type="checkbox"/> Personal services (such as maid, chauffeur, chef) |

b If any of the boxes on line 1a are checked, did the organization follow a written policy regarding payment or reimbursement or provision of all of the expenses described above? If "No," complete Part III to explain

2 Did the organization require substantiation prior to reimbursing or allowing expenses incurred by all directors, trustees, and officers, including the CEO/Executive Director, regarding the items checked on line 1a?

3 Indicate which, if any, of the following the organization used to establish the compensation of the organization's CEO/Executive Director. Check all that apply. Do not check any boxes for methods used by a related organization to establish compensation of the CEO/Executive Director, but explain in Part III.

- | | |
|--|---|
| <input checked="" type="checkbox"/> Compensation committee | <input type="checkbox"/> Written employment contract |
| <input type="checkbox"/> Independent compensation consultant | <input type="checkbox"/> Compensation survey or study |
| <input type="checkbox"/> Form 990 of other organizations | <input checked="" type="checkbox"/> Approval by the board or compensation committee |

4 During the year, did any person listed on Form 990, Part VII, Section A, line 1a, with respect to the filing organization or a related organization:

- a** Receive a severance payment or change-of-control payment?
- b** Participate in or receive payment from a supplemental nonqualified retirement plan?
- c** Participate in or receive payment from an equity-based compensation arrangement?
- If "Yes" to any of lines 4a-c, list the persons and provide the applicable amounts for each item in Part III.

Only section 501(c)(3), 501(c)(4), and 501(c)(29) organizations must complete lines 5-9.

5 For persons listed on Form 990, Part VII, Section A, line 1a, did the organization pay or accrue any compensation contingent on the revenues of:

- a** The organization?
- b** Any related organization?
- If "Yes" on line 5a or 5b, describe in Part III.

6 For persons listed on Form 990, Part VII, Section A, line 1a, did the organization pay or accrue any compensation contingent on the net earnings of:

- a** The organization?
- b** Any related organization?
- If "Yes" on line 6a or 6b, describe in Part III.

7 For persons listed on Form 990, Part VII, Section A, line 1a, did the organization provide any nonfixed payments not described on lines 5 and 6? If "Yes," describe in Part III

8 Were any amounts reported on Form 990, Part VII, paid or accrued pursuant to a contract that was subject to the initial contract exception described in Regulations section 53.4958-4(a)(3)? If "Yes," describe in Part III

9 If "Yes" on line 8, did the organization also follow the rebuttable presumption procedure described in Regulations section 53.4958-6(c)?

	Yes	No
1b		
2		
4a	X	
4b		X
4c		X
5a		X
5b		X
6a		X
6b		X
7		X
8		X
9		

LHA For Paperwork Reduction Act Notice, see the Instructions for Form 990.

Schedule J (Form 990) 2021

Part II Officers, Directors, Trustees, Key Employees, and Highest Compensated Employees. Use duplicate copies if additional space is needed.

For each individual whose compensation must be reported on Schedule J, report compensation from the organization on row (i) and from related organizations, described in the instructions, on row (ii). Do not list any individuals that aren't listed on Form 990, Part VII.

Note: The sum of columns (B)(i)-(iii) for each listed individual must equal the total amount of Form 990, Part VII, Section A, line 1a, applicable column (D) and (E) amounts for that individual.

(A) Name and Title		(B) Breakdown of W-2 and/or 1099-MISC and/or 1099-NEC compensation			(C) Retirement and other deferred compensation	(D) Nontaxable benefits	(E) Total of columns (B)(i)-(D)	(F) Compensation in column (B) reported as deferred on prior Form 990
		(i) Base compensation	(ii) Bonus & incentive compensation	(iii) Other reportable compensation				
(1) CATHERINE R. REED CHIEF EXECUTIVE OFFICER	(i)	355,822.	0.	3,643.	17,400.	29,951.	406,816.	0.
	(ii)	0.	0.	0.	0.	0.	0.	0.
(2) TAMARA H KARU SE. DIR./NATL. DIR. OF STR	(i)	319,440.	0.	1,270.	17,400.	16,214.	354,324.	0.
	(ii)	0.	0.	0.	0.	0.	0.	0.
(3) DAVID M. FRANKEL CHIEF EXECUTIVE OFFICER (FORMER)	(i)	0.	0.	271,669.	0.	33,002.	304,671.	0.
	(ii)	0.	0.	0.	0.	0.	0.	0.
(4) CINDY CUTLER DIRECTOR OF STRATEGIC PHIL	(i)	209,037.	0.	1,920.	13,080.	28,001.	252,038.	0.
	(ii)	0.	0.	0.	0.	0.	0.	0.
(5) RICHARD ZELIN MIDWEST REGIONAL DIRECTOR	(i)	202,361.	0.	1,447.	12,362.	8,021.	224,191.	0.
	(ii)	0.	0.	0.	0.	0.	0.	0.
(6) JANET MORGAN DIRECTOR OF STRATEGIC PHILANTHROPY	(i)	207,320.	0.	3,010.	4,200.	9,282.	223,812.	0.
	(ii)	0.	0.	0.	0.	0.	0.	0.
(7) JAY CULANG CHIEF FINANCIAL OFFICER	(i)	174,569.	0.	2,511.	10,871.	29,951.	217,902.	0.
	(ii)	0.	0.	0.	0.	0.	0.	0.
(8) ROBERT ROSENTHAL CHIEF MARKETING OFFICER	(i)	179,588.	0.	2,534.	10,962.	20,938.	214,022.	0.
	(ii)	0.	0.	0.	0.	0.	0.	0.
(9) LISA MARCHETELLI CHIEF ADMINISTRATIVE OFFICER	(i)	179,944.	0.	858.	10,875.	11,214.	202,891.	0.
	(ii)	0.	0.	0.	0.	0.	0.	0.
(10) MONIQUE MARTIN NEW ENGLAND AREA DIRECTOR	(i)	150,777.	0.	1,393.	9,450.	29,951.	191,571.	0.
	(ii)	0.	0.	0.	0.	0.	0.	0.
(11) LAURIE BANDREMER ASSOCIATE DIRECTOR	(i)	149,388.	0.	2,059.	9,120.	20,792.	181,359.	0.
	(ii)	0.	0.	0.	0.	0.	0.	0.
(12) MATHEW SLOAN DIRECTOR OF MARKETING OPER	(i)	168,925.	0.	806.	10,136.	200.	180,067.	0.
	(ii)	0.	0.	0.	0.	0.	0.	0.
(13) HEIDI LEIN DIRECTOR OF MAJOR GIFTS	(i)	155,145.	0.	1,393.	9,440.	8,129.	174,107.	0.
	(ii)	0.	0.	0.	0.	0.	0.	0.
(14) JESSICA NESSIM DIRECTOR OF MAJOR GIFTS	(i)	141,038.	0.	281.	9,135.	21,086.	171,540.	0.
	(ii)	0.	0.	0.	0.	0.	0.	0.
	(i)							
	(ii)							
	(i)							
	(ii)							

Part III Supplemental Information

Provide the information, explanation, or descriptions required for Part I, lines 1a, 1b, 3, 4a, 4b, 4c, 5a, 5b, 6a, 6b, 7, and 8, and for Part II. Also complete this part for any additional information.

PART I, LINE 4A:

DAVID FRANKEL RECEIVED SEVERANCE PAYMENT IN THE AMOUNT OF \$271,669 AND IT IS REPORTED IN COLUMN (B)(III).

**SCHEDULE M
(Form 990)**

Noncash Contributions

43
OMB No. 1545-0047

2021

Open to Public Inspection

Department of the Treasury
Internal Revenue Service

- ▶ Complete if the organizations answered "Yes" on Form 990, Part IV, lines 29 or 30.
- ▶ Attach to Form 990.
- ▶ Go to www.irs.gov/Form990 for instructions and the latest information.

Name of the organization **AMERICAN FRIENDS OF MAGEN DAVID ADOM** Employer identification number **13-1790719**

Part I Types of Property

	(a) Check if applicable	(b) Number of contributions or items contributed	(c) Noncash contribution amounts reported on Form 990, Part VIII, line 1g	(d) Method of determining noncash contribution amounts
1 Art - Works of art				
2 Art - Historical treasures				
3 Art - Fractional interests				
4 Books and publications				
5 Clothing and household goods				
6 Cars and other vehicles				
7 Boats and planes				
8 Intellectual property				
9 Securities - Publicly traded	X	69	1,358,073.	FMV
10 Securities - Closely held stock				
11 Securities - Partnership, LLC, or trust interests				
12 Securities - Miscellaneous				
13 Qualified conservation contribution - Historic structures				
14 Qualified conservation contribution - Other				
15 Real estate - Residential				
16 Real estate - Commercial				
17 Real estate - Other				
18 Collectibles				
19 Food inventory				
20 Drugs and medical supplies				
21 Taxidermy				
22 Historical artifacts				
23 Scientific specimens				
24 Archeological artifacts				
25 Other ()				
26 Other ()				
27 Other ()				
28 Other ()				

29 Number of Forms 8283 received by the organization during the tax year for contributions for which the organization completed Form 8283, Part V, Donee Acknowledgement **29**

- 30a During the year, did the organization receive by contribution any property reported in Part I, lines 1 through 28, that it must hold for at least three years from the date of the initial contribution, and which isn't required to be used for exempt purposes for the entire holding period? **X**
- b If "Yes," describe the arrangement in Part II.
- 31 Does the organization have a gift acceptance policy that requires the review of any nonstandard contributions? **X**
- 32a Does the organization hire or use third parties or related organizations to solicit, process, or sell noncash contributions? **X**
- b If "Yes," describe in Part II.
- 33 If the organization didn't report an amount in column (c) for a type of property for which column (a) is checked, describe in Part II.

	Yes	No
30a		X
31	X	
32a		X

**SCHEDULE O
(Form 990)**

Department of the Treasury
Internal Revenue Service

Supplemental Information to Form 990 or 990-EZ

Complete to provide information for responses to specific questions on
Form 990 or 990-EZ or to provide any additional information.

▶ Attach to Form 990 or Form 990-EZ.

▶ Go to www.irs.gov/Form990 for the latest information.

45
OMB No. 1545-0047

2021

Open to Public
Inspection

Name of the organization

AMERICAN FRIENDS OF MAGEN DAVID ADOM

Employer identification number

13-1790719

FORM 990, PART I, LINE 1, DESCRIPTION OF ORGANIZATION MISSION:

AMBULANCE AND BLOOD SERVICES. BUILDS OR RENOVATES EMERGENCY MEDICAL STATIONS THROUGHOUT ISRAEL, SUPPORTS THE MDA NATIONAL BLOOD SERVICE CENTER, AND SUPPLIES MDA WITH A WIDE RANGE OF EMERGENCY MEDICAL SUPPLIES AND EQUIPMENT, AMBULANCES, MOBILE INTENSIVE CARE UNITS, AND BLOOD MOBILES.

FORM 990, PART III, LINE 4A, PROGRAM SERVICE ACCOMPLISHMENTS:

THE WORLD. MDA HAS PIONEERED TECHNIQUES AND PROTOCOLS NOW BEING USED WORLDWIDE, INCLUDING IN THE IMMEDIATE AFTERMATH OF THE 2013 BOSTON MARATHON BOMBING. A NUMBER OF AMERICAN EMTS AND HOMELAND SECURITY EXPERTS HAD PREVIOUSLY RECEIVED TRAINING FROM MDA. THE ORGANIZATION ADDITIONALLY COLLECTS, TESTS, AND STORES MORE THAN 97 PERCENT OF THE BLOOD USED IN ISRAEL FOR MEDICAL PROCEDURES, INCLUDING ALL THE BLOOD USED BY THE ISRAEL DEFENSE FORCES.

AMERICAN FRIENDS OF MAGEN DAVID ADOM HAS BEEN THERE ALMOST SINCE MDA'S FOUNDING, SUPPLYING CRITICAL FINANCIAL AND INFRASTRUCTURAL RESOURCES TO ENABLE MDA TO FULFILL ITS MISSION OF SAVING LIVES. EACH YEAR, AFMDA DIRECTLY FUNDS THE PURCHASE OF 100 NEW AMBULANCES FOR ISRAEL, ACCOUNTING FOR WELL OVER HALF THE AMBULANCES IN MDA'S FLEET. AFMDA HAS ALSO DIRECTLY FUNDED THE CONSTRUCTION OF 16 OF MDA'S 124 EMERGENCY MEDICAL STATIONS, INCLUDING ITS FLAGSHIP STATION, THE WILLIAM H. BLOOMBERG MDA EMERGENCY MEDICAL STATION IN JERUSALEM. BY FUNDING CONSTRUCTION OF THESE STATIONS, AFMDA IS ENABLING ISRAELIS TO RECEIVE LIFESAVING MEDICAL HELP EVERYWHERE FROM NAHARIYA IN THE NORTH TO

YOTVATA IN THE SOUTH. IN THE '80S, AFMDA ALSO FUNDED CONSTRUCTION OF

LHA For Paperwork Reduction Act Notice, see the Instructions for Form 990 or 990-EZ.

Schedule O (Form 990) 2021

Name of the organization

AMERICAN FRIENDS OF MAGEN DAVID ADOM

Employer identification number

13-1790719

MAGEN DAVID ADOM'S NATIONAL BLOOD SERVICES CENTER IN RAMAT GAN, JUST OUTSIDE TEL AVIV, AND IS CURRENTLY RAISING FUNDS FOR A NEW FACILITY TO REPLACE IT, ONE THAT'S SIGNIFICANTLY LARGER TO SERVE ISRAEL'S NOW-VASTLY LARGER POPULATION AND ONE THAT'S SECURE FROM ROCKET AND CHEMICAL ATTACK TO ADDRESS THE INCREASINGLY DANGEROUS SECURITY SITUATION WITH WHICH ISRAEL MUST CONTEND.

THROUGH THEIR SUPPORT OF AFMDA, AMERICAN DONORS ARE PLAYING A TANGIBLE AND DRAMATIC ROLE IN SAVING LIVES IN ISRAEL.

FORM 990, PART VI, SECTION B, LINE 11B:

THE RETURN IS PREPARED BY AN INDEPENDENT ACCOUNTANT AND REVIEWED BY THE AUDIT COMMITTEE OF THE BOARD AND THEN SENT TO THE BOARD FOR COMMENTS, IF NONE ARE RECEIVED THE RETURN IS FILED.

FORM 990, PART VI, SECTION B, LINE 12C:

ALL BOARD MEMBERS AND OFFICERS SIGNED OFF ON THE ANNUAL CONFLICT OF INTEREST DISCLOSURE. THEY ARE REVIEWED ANNUALLY BY THE AUDIT COMMITTEE TO IDENTIFY ANY CONFLICTS OF INTEREST THAT NEED TO BE ADDRESSED.

FORM 990, PART VI, SECTION B, LINE 15A:

THE PROCESS FOR DETERMINING COMPENSATION FOR THE CEO WAS DONE BY A COMPENSATION COMMITTEE AND THROUGH A WRITTEN EMPLOYMENT CONTRACT.

FORM 990, PART VI, LINE 17, LIST OF STATES RECEIVING COPY OF FORM 990:

AK,AL,AR,AZ,CA,CO,FL,GA,HI,IL,KS,KY,MA,MD,ME,MI,MN,MS,NC,ND,NH,NJ,NM,NY,OH
OK,OR,PA,RI,SC,TN,UT,VA,WA,WI,WV

FORM 990, PART VI, SECTION C, LINE 19:

Name of the organization AMERICAN FRIENDS OF MAGEN DAVID ADOM	Employer identification number 13-1790719
---	---

THE GOVERNING DOCUMENTS AND FINANCIAL STATEMENTS ARE AVAILABLE UPON REQUEST.

FORM 990, PART XI, LINE 9, CHANGES IN NET ASSETS:

FOREIGN EXCHANGE CONTRACT VALUATION	67,210.
BENEFICIAL INTEREST IN PERPETUAL ENDOWMENT	39,176.
POSTRETIREMENT CHANGES OTHER THAN NET PERIODIC PENSION COST	7,878.
OTHER COMPONENTS OF NET PERIODIC PENSION CREDIT	75,857.
CGA PAYOUTS	-562,293.
TOTAL TO FORM 990, PART XI, LINE 9	-372,172.

FORM 990, PART XI, LINE 2C:

THE PROCESS HAS NOT CHANGED FROM PRIOR YEAR.

**SCHEDULE R
(Form 990)**

Department of the Treasury
Internal Revenue Service

Related Organizations and Unrelated Partnerships

▶ Complete if the organization answered "Yes" on Form 990, Part IV, line 33, 34, 35b, 36, or 37.
▶ Attach to Form 990.

▶ Go to www.irs.gov/Form990 for instructions and the latest information.

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OMB No. 1545-0047

2021

Open to Public Inspection

Name of the organization **AMERICAN FRIENDS OF MAGEN DAVID ADOM** Employer identification number **13-1790719**

Part I Identification of Disregarded Entities. Complete if the organization answered "Yes" on Form 990, Part IV, line 33.

(a) Name, address, and EIN (if applicable) of disregarded entity	(b) Primary activity	(c) Legal domicile (state or foreign country)	(d) Total income	(e) End-of-year assets	(f) Direct controlling entity

Part II Identification of Related Tax-Exempt Organizations. Complete if the organization answered "Yes" on Form 990, Part IV, line 34, because it had one or more related tax-exempt organizations during the tax year.

(a) Name, address, and EIN of related organization	(b) Primary activity	(c) Legal domicile (state or foreign country)	(d) Exempt Code section	(e) Public charity status (if section 501(c)(3))	(f) Direct controlling entity	(g) Section 512(b)(13) controlled entity?	
						Yes	No

Part III Identification of Related Organizations Taxable as a Partnership. Complete if the organization answered "Yes" on Form 990, Part IV, line 34, because it had one or more related organizations treated as a partnership during the tax year.

(a) Name, address, and EIN of related organization	(b) Primary activity	(c) Legal domicile (state or foreign country)	(d) Direct controlling entity	(e) Predominant income (related, unrelated, excluded from tax under sections 512-514)	(f) Share of total income	(g) Share of end-of-year assets	(h) Disproportionate allocations?		(i) Code V-UBI amount in box 20 of Schedule K-1 (Form 1065)	(j) General or managing partner?		(k) Percentage ownership
							Yes	No		Yes	No	

Part IV Identification of Related Organizations Taxable as a Corporation or Trust. Complete if the organization answered "Yes" on Form 990, Part IV, line 34, because it had one or more related organizations treated as a corporation or trust during the tax year.

(a) Name, address, and EIN of related organization	(b) Primary activity	(c) Legal domicile (state or foreign country)	(d) Direct controlling entity	(e) Type of entity (C corp, S corp, or trust)	(f) Share of total income	(g) Share of end-of-year assets	(h) Percentage ownership	(i) Section 512(b)(13) controlled entity?	
								Yes	No
AMERICAN FRIENDS OF MAGEN DAVID ADOM 23 BAR KOCHVAH ST. BNEI BRAK, ISRAEL	TRANSFERS TO MAGEN DAVID ADOM	ISRAEL	AMERICAN FRIENDS OF MAGEN DAVID	TRUST	44,881,710.	235,245.	100%	X	

Part V Transactions With Related Organizations. Complete if the organization answered "Yes" on Form 990, Part IV, line 34, 35b, or 36.

Note: Complete line 1 if any entity is listed in Parts II, III, or IV of this schedule.

1 During the tax year, did the organization engage in any of the following transactions with one or more related organizations listed in Parts II-IV?

		Yes	No
a Receipt of (i) interest, (ii) annuities, (iii) royalties, or (iv) rent from a controlled entity	1a		X
b Gift, grant, or capital contribution to related organization(s)	1b	X	
c Gift, grant, or capital contribution from related organization(s)	1c		X
d Loans or loan guarantees to or for related organization(s)	1d		X
e Loans or loan guarantees by related organization(s)	1e		X
f Dividends from related organization(s)	1f		X
g Sale of assets to related organization(s)	1g		X
h Purchase of assets from related organization(s)	1h		X
i Exchange of assets with related organization(s)	1i		X
j Lease of facilities, equipment, or other assets to related organization(s)	1j		X
k Lease of facilities, equipment, or other assets from related organization(s)	1k		X
l Performance of services or membership or fundraising solicitations for related organization(s)	1l	X	
m Performance of services or membership or fundraising solicitations by related organization(s)	1m		X
n Sharing of facilities, equipment, mailing lists, or other assets with related organization(s)	1n		X
o Sharing of paid employees with related organization(s)	1o	X	
p Reimbursement paid to related organization(s) for expenses	1p	X	
q Reimbursement paid by related organization(s) for expenses	1q		X
r Other transfer of cash or property to related organization(s)	1r		X
s Other transfer of cash or property from related organization(s)	1s		X

2 If the answer to any of the above is "Yes," see the instructions for information on who must complete this line, including covered relationships and transaction thresholds.

(a) Name of related organization	(b) Transaction type (a-s)	(c) Amount involved	(d) Method of determining amount involved
(1) AMERICAN FRIENDS OF MAGEN DAVID ADOM	B	51,699,089.	FMV
(2)			
(3)			
(4)			
(5)			
(6)			

Part VII Supplemental Information

Provide additional information for responses to questions on Schedule R. See instructions.

PART IV, IDENTIFICATION OF RELATED ORGANIZATIONS TAXABLE AS CORP OR TRUST:

NAME OF RELATED ORGANIZATION:

AMERICAN FRIENDS OF MAGEN DAVID ADOM

DIRECT CONTROLLING ENTITY: AMERICAN FRIENDS OF MAGEN DAVID ADOM



Saving lives. It's in our blood.

October 30, 2023

**NATIONAL OFFICERS
& DIRECTORS**

National Chairman
Mark D. Lebow

Chief Executive Officer
Catherine L. Reed

Vice Chairmen
Daniel Dobin
Gershon W. Trimpol

Treasurer
Neil Fox

Secretary
Barry S. Feldman

Audit Chair
Michael Goldman

Directors
Donna Fried Calcaterra
Jenna D. Calcaterra
Ann S. Deshe
Dave Dias
Herbert Donner
Annetta Weller Epstein
Jacqueline Goldman
Albert Kalimian
Fraeda Kopman
Ann Lesser
Ronit A.J. Neuman
Robert Picow
Isaac Pretter
Kurt N. Schwartz
Daniel Schwarzwald
Kent M. Swig

**Chairman of MDA
Executive Board**
Rabbi Avraham Manela

**Director-General
Magen David Adom
in Israel**
Eli Bin

ADVISORY BOARD
Seymour Brief
Martin Cohen
Paula Blaine Cohen

The Town of Surfside
9293 Harding Avenue
Surfside, Florida 33154

Dear Sir/Madame,

Your commitment to the Jewish community is so inspirational – **Yashar Koach!**

On behalf of American Friends of Magen David Adom, I, Adi Ben-Ezra, and Jessica Nessim, humbly ask for your consideration of a lifesaving ambulance to Magen David Adom.

It is our pleasure to serve as Magen David Adom's local representatives in South Florida. We are grateful to you for your consideration of this transformative gift, especially during this time of crisis.

We call on you, heart in hand, to help us ensure that the State of Israel has the tools they need to continue saving lives, now and always.

With sincere gratitude,

Adi Ben-Ezra
Sr. Development Executive

Jessica Nessim
Major Gifts Director



**Town of Surfside
Regular Town Commission Meeting
November 14, 2023**

DISCUSSION ITEM MEMORANDUM

Agenda #: 9D.

Date: November 14, 2023

From: Shlomo Danzinger, Mayor

Subject: Regulation/Prohibitions on Camping on Public and Private Property

Suggested Action: – The City of Miami Beach recently fortified the safety and well-being of its residents and visitors by amending Chapter 70 of the City Code, specifically Article II titled "Public Places," under Section 70-45, which now prohibits camping.

The Town Commission should consider enacting regulations to oversee and restrict specific activities or behaviors in public areas that obstruct access, jeopardize safety, or infringe upon the public's rights to freely utilize these spaces for their intended purposes. This is essential for safeguarding the health, safety, and well-being of both Town residents and visitors.

Background/Analysis: – It has become necessary to regulate or prohibit certain activities or conduct in public places and property. Maintaining a safe, orderly, and sanitary environment in pedestrian and public places, is essential to promote and preserve the health, safety, and welfare of all Surfside residents and visitors.

Sleeping/camping on the beach or public property.

Public property and places, including parks and the beach, are the greatest asset of the Town, and are to be shared and used for the benefit, health, and welfare of all and intended for recreational purposes for residents and visitors. Legislation should be enacted that would prohibit overnight sleeping and/or camping on public places, parks and the beach, and for the preservation of public and natural places in clean and pristine condition. Chapter 86 of the Town Code includes prohibited conduct or activities on the public beach and could be amended to add a prohibition on sleeping and/or camping overnight.

ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING CHAPTER 70 OF THE CITY CODE, ENTITLED "MISCELLANEOUS OFFENSES," BY AMENDING ARTICLE II, ENTITLED "PUBLIC PLACES," BY AMENDING SECTION 70-45, ENTITLED "CAMPING PROHIBITED," BY AMENDING THE CITY'S EXISTING PROHIBITION ON CAMPING TO ENSURE THAT THE PROHIBITION AND ENFORCEMENT MEASURES CONTAINED HEREIN COMPLY WITH CONSTITUTIONAL REQUIREMENTS FOR SUCH ORDINANCES AS SET FORTH BY THE UNITED STATES COURT OF APPEALS FOR THE ELEVENTH CIRCUIT IN *JOEL V. CITY OF ORLANDO*, 232 F.3D 1353 (11TH CIR. 2000); PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

WHEREAS, it is the policy of the City of Miami Beach that public property, including, but not limited to, public sidewalks, streets, alleyways, parks, beaches, beach access areas, walkways, pathways, garages, buildings, promenades, and pedestrian malls should be readily accessible and available for use by residents, visitors and the public at large for their safe enjoyment; and

WHEREAS, the use of public areas by individuals for camping interferes with the rights of residents, visitors and the public to freely use public spaces for the purpose for which they were intended; and

WHEREAS, the prohibition on camping in public places in the City furthers the legitimate governmental interest in protecting the public health and the safety of all persons within the City; and

WHEREAS, the prohibition on camping in public places in the City furthers the legitimate governmental interest in maintaining sanitation in these areas; and

WHEREAS, the prohibition on camping in public places in the City furthers the legitimate governmental interest in protecting the aesthetic nature of these areas; and

WHEREAS, the prohibition on camping in public places in the City furthers other legitimate governmental interests that have been recognized by the state and federal courts; and

WHEREAS, this amendment to the City's existing camping prohibition ensures that the prohibition and enforcement measures contained herein comply with constitutional requirements for such ordinances as set forth by the United States Court of Appeals for the Eleventh Circuit in *Joel v. City of Orlando*, 232 F.3d 1353 (11th Cir. 2000).

NOW, THEREFORE, BE IT DULY ORDAINED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AS FOLLOWS:

SECTION 1. That Section 70-45 of Article II of Chapter 70 of the Miami Beach City Code is hereby amended as follows:

* * *

CHAPTER 70
MISCELLANEOUS OFFENSES
ARTICLE II. PUBLIC PLACES

* * *

Sec. 70-45. Camping prohibited; indicia of camping.

~~(a) Definitions.~~

~~(1) Camping means:~~

- ~~a. Sleeping in a temporary shelter out-of-doors or otherwise being in a temporary shelter out-of-doors; or~~
- ~~b. Cooking over an open flame or fire out-of-doors or utilizing non-city designated cooking facilities outdoor.~~

~~(2) Public place means any public street, sidewalk, alley, or other public right-of-way, pedestrian mall, park, playground, beach, beach access or government-owned areas within the city.~~

~~(b) Prohibited activities. It shall be unlawful for any person to engage in camping on any public place within the city unless specifically authorized for that purpose by the city manager or his designee.~~

~~(c) Evidence of camping. Prior to enforcing a violation of this section, an officer must consider the following:~~

- ~~(1) Simply being asleep in a public place is not sufficient to constitute a violation of this section; and~~
- ~~(2) Camping must be taking place in a public place;~~
- ~~(3) The person who is engaged in camping must be inside or covered with material which provides a temporary cover from the elements, including but not limited to, a tent, sleeping bag, hammock, or blankets, cots, beds, tarpaulins, newspapers, or cardboard; or, the person has built a campfire.~~

~~(d) Enforcement and penalties. Any person who is observed engaged in camping in an unauthorized area shall vacate the public place upon the request of an authorized official or law enforcement officer. The willful refusal to vacate the area shall be punished in accordance with section 1-14 of this Code.~~

~~If a law enforcement officer or other authorized official encounters a person engaged in camping who volunteers that he or she has no home or other permanent shelter, he or she must be given an opportunity to enter a homeless shelter or similar facility, if available. If no such facility is available, an arrest may not be made.~~

(1) For the purposes of this section, "camping" is defined as:

(a) Sleeping or otherwise being in a temporary shelter out-of-doors;

(b) Sleeping out-of-doors; and/or

(c) Cooking over an open flame or fire out-of-doors.

(2) Camping is prohibited on all public property, except as may be specifically authorized by the appropriate governmental authority.

(3) Camping is prohibited on all private property in the City used for residential purposes; provided, however, that camping is permitted on such property with the permission and consent of the property owner.

(4) Indicia of camping. Local court rulings have held that in order to “camp”, the suspect must do more than simply fall asleep on city property. There must be some indication of actual camping. One or more of the following should exist before an arrest under this section is appropriate:

(a) the property must be private or public property, including highway overpasses;

(b) the suspect is inside a tent or sleeping bag, or the suspect is asleep atop and/or covered by materials (i.e. bedroll, cardboard, newspapers), or inside some form of temporary shelter (except that an individual on a public beach during operational hours shall not be charged under this ordinance unless the officer identifies evidence that the beach is being used as a living space rather than for its intended purpose);

(c) the suspect has built a campfire; or

(d) the suspect is asleep and when awakened volunteers that he has no other place to live. If a law enforcement officer or other authorized official encounters a person engaged in camping who volunteers that he or she has no home or other permanent shelter, he or she must be given an opportunity to voluntarily enter a homeless shelter or similar facility within Miami-Dade County, if available to that person, or to accept other available government assistance for which the person is eligible that would result in housing, including, but not limited to, mutually consensual reunification with family or friends in any location, or consensual placement in any other appropriate facility that provides housing within Miami-Dade County. If no homeless shelter or other facility, or government assistance, that would result in immediate housing, is available for which the person is eligible, an arrest may not be made.

(e) Upon arrest, evidence of camping (sleeping bags, bedroll, cardboard, newspapers, etc.), should not be destroyed, but should be seized and placed in Property and Evidence. Other personal property of the Defendant, which is not evidence, should be taken to the appropriate Miami-Dade County jail with the Defendant.

(5) Violation of this section shall be punished in accordance with section 1-14 of this Code.

* * *

SECTION 2. REPEALER.

All ordinances or parts of ordinances in conflict herewith be and the same are hereby repealed.

SECTION 3. SEVERABILITY.

If any section, sentence, clause or phrase of this ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this ordinance.

SECTION 4. CODIFICATION.

It is the intention of the Mayor and City Commission of the City of Miami Beach, and it is hereby ordained that the provisions of this ordinance shall become and be made a part of the Code of the City of Miami Beach, Florida. The sections of this ordinance may be renumbered or re-lettered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or other appropriate word.

SECTION 5. EFFECTIVE DATE.

This Ordinance shall take effect the _____ day of _____, 2023.

ATTEST:

Dan Gelber, Mayor

Rafael E. Granado, City Clerk

Underline denotes additions
~~Strikethrough~~ denotes deletions

(Sponsored by Mayor Dan Gelber, Commissioners Alex J. Fernandez, Steven Meiner, and Kristen Rosen Gonzalez)

APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION



City Attorney

 9-12-23

Date

RESOLUTION NO. 2023 - _____

AN ORDINANCE OF THE MAYOR AND THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, AMENDING THE TOWN OF SURFSIDE CODE OF ORDINANCES CHAPTER 54, "OFFENSES AND MISCELLANEOUS PROVISIONS," ARTICLE III, "OFFENSES INVOLVING PUBLIC PEACE AND ORDER," BY ADDING SECTION _____, ENTITLED "CAMPING PROHIBITED.□; MAKING FINDINGS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, On October 18, 2023, The City of Miami Beach recently adopted ordinance _____, amending Chapter 70 of the Miami Beach City Code, specifically in Article II titled "Public Places" under Section 70-45, concerning the prohibition of camping. These changes were made with the purpose of enhancing the safety and security of both residents and visitors.; and

WHEREAS, it is the policy of the Town of Surfside that public property, including, but not limited to, public sidewalks, streets, alleyways, parks, beaches, beach access areas, walkways, pathways, garages, buildings, promenades, and pedestrian shipping areas should be readily accessible and available for use by residents, visitors and the public at large for their safe enjoyment; and

WHEREAS, the use of public areas by individuals for camping interferes with the rights of residents, visitors and the public to freely use public spaces for the purpose for which they were intended; and

WHEREAS, the prohibition on camping in public places in the Town furthers the legitimate governmental interest in protecting the public health and the safety of all persons within the Town; and

WHEREAS, the prohibition on camping in public places in the Town furthers the legitimate governmental interest in maintaining sanitation in these areas; and

WHEREAS, the prohibition on camping in public places in the Town furthers the legitimate governmental interest in protecting the aesthetic nature of these areas; and

WHEREAS, the prohibition on camping in public places in the Town furthers other legitimate governmental interests that have been recognized by the state and federal courts; and

WHEREAS, this amendment to the Town existing offenses involving public peace and order prohibition ensures that the prohibition and enforcement measures contained herein comply with constitutional requirements for such ordinances as set forth by the United States Court of Appeals for the Eleventh Circuit in *Joel v. City of Orlando*, 232 F.3d 1353 (11th Cir. 2000).

NOW, THEREFORE, BE IT DULY ORDAINED BY THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA:

Section 1. Recitals Adopted. That the above-stated recitals are hereby adopted and confirmed.

Section 2. Town Code Amended. The Code of Ordinances of the Town of Surfside, Florida is hereby amended by adding Section _____, to Chapter 54, “Offenses and Miscellaneous Provisions”, as follows:

Chapter 54 – Offenses and Miscellaneous Provisions

Article III. – Offenses Involving Public Peace and Order

Division 1. – Generally

* * *

Sec.[] . Camping prohibited;

1. For the purposes of this section, “camping” is defined as:
 - a. Sleeping or otherwise being in a temporary shelter out-of-doors;
 - b. Sleeping out-of-doors; and/or
 - c. Cooking over an open flame or fire out-of-doors.
2. Camping is prohibited on all public property, except as may be specifically authorized by the Town Manager.
3. Camping is prohibited on all private property in the Town used for residential purposes; provided, however, that camping is permitted on such property with the permission and consent of the property owner.

4. Indicia of camping. Local court rulings have held that in order to “camp”, the suspect must do more than simply fall asleep on public property. There must be some indication of actual camping. One or more of the following should exist before an arrest under this section is appropriate:
 - a. the property must be private or public property, including public right of ways, pedestrian walkways, and public beaches;
 - b. the suspect is inside a tent or sleeping bag, or the suspect is asleep atop and/or covered by materials (i.e. bedroll, cardboard, newspapers), or inside some form of temporary shelter (except that an individual on a public beach during operational hours shall not be charged under this ordinance unless the officer identifies evidence that the beach is being used as a living space rather than for its intended purpose);
 - c. the suspect has built a campfire; or
 - d. the suspect is asleep and when awakened volunteers that he has no other place to live. If a law enforcement officer or other authorized official encounters a person engaged in camping who volunteers that he or she has no home or other permanent shelter, he or she must be given an opportunity to voluntarily enter a homeless shelter or similar facility within Miami-Dade County, if available to that person, or to accept other available government assistance for which the person is eligible that would result in housing, including, but not limited to, mutually consensual reunification with family or friends in any location, or consensual placement in any other appropriate facility that provides housing within Miami-Dade County. If no homeless shelter or other facility, or government assistance, that would result in immediate housing, is available for which the person is eligible, an arrest may not be made.
 - e. Upon arrest, evidence of camping (sleeping bags, bedroll, cardboard, newspapers, etc.), should not be destroyed, but should be seized and placed in Property and Evidence. Other personal property of the Defendant, which is not evidence, should be taken to the appropriate Miami-Dade County jail with the Defendant.
5. Violations of this section may be enforced as provided in section 1-8 of this Code or as otherwise provided by law. Any law enforcement officer or code enforcement officer of the Town is authorized to enforce this section. As provided in Section 162.22, Florida Statutes, a person violating the provisions of this municipal ordinance, upon conviction, may be sentenced to a pay a fine, not to

exceed \$500, and may be sentenced to a term of imprisonment not to exceed 60 days.

* * *

Section 3. Severability. If any section, sentence, clause or phrase of this Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this Ordinance.

Section 4. Codification. 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 Town of Surfside Code of Ordinances, that the sections of this Ordinance may be renumbered or re-lettered to accomplish such intentions; and the word "Ordinance" may be changed to "Section" or other appropriate word.

Section 5. Conflicts. Any and all ordinances and resolutions or parts of ordinances or resolutions in conflict herewith are hereby repealed.

Section 6. Effective Date. This ordinance shall become effective upon adoption on second reading.

PASSED on first reading this ____ day of _____, 2023.

PASSED and **ADOPTED** on second reading this ____ day of _____, 2023.

Motion by: _____

Second by: _____

FINAL VOTE ON ADOPTION

Commissioner Fred Landsman	_____
Commissioner Marianne Meischeid	_____
Commissioner Nelly Velasquez	_____
Vice Mayor Jeff Rose	_____
Mayor Shlomo Danzinger	_____

Shlomo Danzinger, Mayor

ATTEST:

Sandra N. McCready, MMC
Town Clerk

**APPROVED AS TO FORM AND LEGALITY FOR THE USE
AND BENEFIT OF THE TOWN OF SURFSIDE ONLY:**

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



**Town of Surfside
Regular Town Commission Meeting
November 14, 2023**

DISCUSSION ITEM MEMORANDUM

Agenda #: 9E.

Date: November 14, 2023

From: Commissioner Marianne Meisheid

Subject: Zoning Code Amendment

Suggested Action: – Amend Section 90-48.5(2) in H120 to eliminate ambiguity in the language.

Background/Analysis: –

Over the past few months, the meaning of Section 90-48.5(2) has not been clear. Are properties subject to a 10 percent side setback or a 10 foot side setback in the H120 zone under the INCLINE side setback? We need to fix Section 90-48.5(2) in the H120 zone. The proposed underlined language below should make it clear:

"(2) Inclined side setback. The property owner may provide a minimum interior side setback of ten percent or ten feet, whichever is greater, for the first 30 feet in height, with the width of each required interior side yard increased by one foot for every three feet of building height above 30 feet. For corner properties, a building shall be set back a minimum of 20 feet from a side or secondary street for its entire height."