

RESOLUTION NO. 2018-2552

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, APPROVING A TEMPORARY EASEMENT AGREEMENT WITH MIAMI-DADE COUNTY FOR BEACH RENOURISHMENT, EROSION CONTROL AND HURRICANE PROTECTION PROJECT; PROVIDING FOR AUTHORIZATION AND IMPLEMENTATION OF THE AGREEMENT; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town of Surfside (“Town”), Miami-Dade County and the Army Corps of Engineers have jointly coordinated to provide renourishment and material in multiple eroded areas of the Town for beach erosion control and hurricane protection (“Joint Project”); and

WHEREAS, in furtherance of the Joint Project, the Army Corps of Engineers and Miami-Dade County require use of certain property owned and/or located in the Town on or along 88th Street and 96th Street for access to and from the beach, and have requested that the Town enter into the Temporary Easement Agreement substantially in the form attached hereto as Exhibit “A” (“Easement Agreement”); and

WHEREAS, the Town Commission finds that the Easement Agreement is in the best interest and welfare of the Town and wishes to approve same in substantially the form attached hereto as Exhibit “A.”

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COMMISSION OF THE TOWN OF SURFSIDE 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. The Easement Agreement between the Town and Miami-Dade County, substantially in the form attached hereto as Exhibit “A,” is hereby approved. The Town Commission authorizes the Town Manager to execute the Easement Agreement on behalf of the Town, together with such non-substantive changes as may be approved by the Town Manager and Town Attorney for legal sufficiency.

Section 3. Implementation. The Town Manager and/or designee are authorized to take any and all action necessary to implement the Easement Agreement and the purposes of this Resolution. .

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

PASSED AND ADOPTED this 13th day of November 2018.

Moved By: Commissioner Karukin

Second By: Vice Mayor Gielchinsky

FINAL VOTE ON ADOPTION

Commissioner Michael Karukin	<u>yes</u>
Commissioner Tina Paul	<u>yes</u>
Commissioner Barry Cohen	<u>yes</u>
Vice Mayor Daniel Gielchinsky	<u>yes</u>
Mayor Daniel Dietch	<u>yes</u>



Daniel Dietch
Mayor

ATTEST:



Sandra Novoa, MMC
Town Clerk

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



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

This instrument prepared by (and after recording return to):

(Reserved for Clerk of Court)

**TEMPORARY EASEMENT
AGREEMENT**

THIS TEMPORARY EASEMENT AGREEMENT (“Agreement”) is made and entered into as of the ____ day of _____, 2018, by and between the TOWN OF SURFSIDE, a municipal corporation of the State of Florida (the “Town”), with an address of 9293 Harding Avenue, Surfside, Florida 33154, and Miami-Dade County (the “County”), a political subdivision of the State of Florida, 111 NW First Street, Miami, Florida 33128.

RECITALS:

- A. The Town, the County and the United States Army Corps of Engineers (the “Corps”) have jointly coordinated to provide beach material in multiple eroded areas of the Town of Surfside (the “Joint Project”). Construction of the Dade County, Florida beach erosion control and hurricane protection project at Dade County, Florida was authorized by Section 203 of the Flood Control Acts of 1968, Public Law 90-483, as modified by Section 69 of the Water Resources Development Act of 1974, Public Law 93-251, and expanded under a separate authorization in Title I, Chapter IV of the Supplemental Appropriations Act of 1985, Public Law 99-88, and by Section 501 of the Water Resources Development Act of 1986, Public Law 99-662; and
- B. The Corps and the County desire to enter into a Project Partnership Agreement to undertake a cycle of periodic nourishment for the Joint Project, at full Federal expense to the extent that appropriations provided in Title IV, Division B of the Bipartisan Budget Act of 2018, Public Law 115-123, enacted February 9, 2018 (hereinafter “BBA 2018”), are available and used for such purpose;
- C. In furtherance of the Joint Project, the Corps requires the use of certain property owned by the Town for access, and has requested that the County enter into this Agreement in connection with same; and
- D. The Town owns certain property described or depicted in Exhibit A (the “Temporary Easement Area” or the “Property”), attached hereto, that could be used for access in order to fulfill the goals of the Joint Project.

NOW, THEREFORE, in consideration of the premises, agreements and covenants set forth hereinafter, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree that the foregoing recitals are true and correct and further agree as follows:

- 1. The foregoing recitals are incorporated as if fully set forth herein.
- 2. The Town hereby grants to Miami-Dade County, its successors, and assigns, for the use of the County, its agents, employees, contractors, representatives and licensees, for a 24 month period commencing on the Effective Date, the temporary, non-exclusive easement on, over, and upon the Temporary Easement Area, subject to the terms, conditions, reservations and

restrictions set forth herein, for the purpose of access, as well as all other work necessary or incidental to the construction of the Joint Project, together with the right to trim, cut, fell and remove therefrom all trees, underbrush, obstructions, and any other vegetation, structures, or obstacles, in connection with the Joint Project. The easement use shall be subject to a city/town public works right-of-way permit process from the municipality having jurisdiction.

3. Assignment. The Town acknowledges that any of the rights set forth herein may be assigned, in whole or in part, including but not limited to the County's assignment of this Agreement to the Corps, its agents, contractors, and employees, who shall be performing work and activities on the Property, and the rights and obligations of the parties shall inure to the benefit of and be binding upon their successors and assigns.
2. Enforcement. The parties shall resolve any disputes, controversies, or claims between them arising out of this Agreement in accordance with the "Florida Governmental Conflict Resolution Act," Chapter 164, Florida Statutes, as amended.
3. Nothing herein shall constitute a waiver of Section 768.28 of the Florida Statutes or shall be construed as impacting or modifying the protections set forth therein.
4. Nothing in this Agreement, express or implied, is intended to (i) confer upon any entity or person other than the parties and their successors or assigns any rights or remedies under or by reason of the Agreement as a third party beneficiary or otherwise, except as specifically provided in this Agreement; or (ii) authorize anyone not a party to this Agreement to maintain an action pursuant to or based upon this Agreement.

EXECUTED as of the date and year first above written.

SIGNED, SEALED AND DELIVERED
IN THE PRESENCE OF:

THE TOWN OF SURFSIDE, FLORIDA,
a municipal corporation of the State of Florida

Name: _____

By:
Name: _____

Name: _____

Title: _____

Attest:

By: _____, Town Clerk

Approved as to form and language and for execution:

Town Attorney Date

STATE OF FLORIDA
COUNTY OF MIAMI-DADE

The foregoing instrument was acknowledged before me this ____ day of _____, 2018 by _____, as _____, for the Town of Surfside, Florida, on behalf of the Town.

By: _____
Signature of Notary Public

Printed, typed or stamp

My Commission Expires:

DRAFT

COMPOSITE EXHIBIT A

LOCATION OF TEMPORARY EASEMENT AREA AND MAP

DRAFT

**Exhibit A
Town of Surfside**

Description	Folio Number	Full Legal Description	Ownership	Intended Use	Remarks
Public beach access & road @ 88 Street	14-2235-005-4180	NORMANDY BEACH 2ND AMD PL PB 16-44 BAY DRIVE E OF COLLINS DRIVE & RIP RTS & PORT LYING EAST & ADJACENT WEST OF EROSION LINE PER PB 105-62 LOT SIZE 18492 SQ FT M/L OR 16372-2361 0394 3Town	Town of Surfside	Access	
Public beach access & road @ 96 Street	14-2235-007-2640 under Town of Surfside Ownership; the rest is public ROW	ALTOS DEL MAR NO 6 PB 8-106 LOT MARKED A AT E END OF UNAKA ST & RIP RTS & PORT LYING EAST & ADJACENT WEST OF EROSION LINE PER PB 105-62 LOT SIZE 3125 SQ FT M/L OR 16306-0287 0394 3	Folio 14-2235-007-2640 is under Town of Surfside Ownership; the rest of the ROW at this location is public ROW	Access	Folio 14-2235-007-2640 is only a portion of the public access at this location; the majority of the ROW is public with road maintenance under Village of Bal Harbour)

201994 DATE MICROFILMED
 COURTHOUSE TOWER LOCATION
Christe Charles CAMERA OPERATOR
 DEPUTY CLERK, CIRCUIT COURT

OFF. REC: 16306PT0287

OFF. REC: 16372PT2361

94R246415 1994 MAY 20 10:50

Return to:
 Right of Way Division
 Dade County Public Works Dept.
 111 N.W. 1st Street
 Miami, FL 33128-1970

94R160243 1994 APR 04 14:15

Instrument prepared by:

Jack R. Clark
 Dade County Public Works Dept.
 111 N.W. 1st Street
 Miami, FL 33128-1970

Folio No. 14-2235-005, 4150, 4160, 4170, 4180
 14-2235-006, 2950, 2960, 2970, 2980, 2990,
 14-2235-007, 2630, 2640 3000

COUNTY QUIT CLAIM DEED

THIS DEED, Made this 15 day of MARCH, A.D. 1994, by and between DADE COUNTY, FLORIDA, a political subdivision of the State of Florida, whose address is: Suite 220 Stephen P. Clark Center, 111 N.W. 1st Street, Miami, Florida 33128-1963, party of the first part, and the TOWN OF SURFSIDE, a municipal corporation under the laws of the State of Florida, whose address is Town Hall, 9293 Harding Avenue, Surfside, Florida 33154, party of the second part,

WITNESSETH:

That the said party of the first part, for and in consideration of the sum of One Dollar (\$1.00) and other good and valuable considerations to it in hand paid by the party of the second part, the receipt whereof is hereby acknowledged, has remised, released and quitclaimed, and by these presents does remise, release and quitclaim unto the party of the second part, its successors and assigns forever, the following described land, situate, lying and being in the County of Dade, State of Florida, to wit:

SEE EXHIBIT "A" ATTACHED HERETO

9294

5

1973

DATE FILMED: Jan 20 1999 COURTHOUSE TOWER: Orville Charles
 LOCATION: CAMERA OPERATOR: Orville Charles
 DEPUTY CLERK, CIRCUIT COURT

OFF. REC: 16306P0289
EXHIBIT "A"

OFF. REC: 16372P02363

88th Street, formerly known as Bay Drive, East of Collins Avenue, formerly known as Collins Drive, NORMANDY BEACH 2nd AMENDED PLAT, a Subdivision, Plat Book 16, Page 44, in the County of Dade, State of Florida.

89th Street, formerly known as Lake Avenue, East of Collins Avenue, formerly known as Collins Drive, NORMANDY BEACH 2nd AMENDED PLAT, a Subdivision, Plat Book 16, Page 44, in the County of Dade, State of Florida.

Froude Avenue, formerly known as Seventh Street, South of 88th Street, formerly known as Bay Drive, NORMANDY BEACH 2nd AMENDED PLAT, a Subdivision, Plat Book 16, Page 44 in the County of Dade, State of Florida.

Carlyle Avenue, formerly known as Fourth Street, South of 88th Street, formerly known as Bay Drive, NORMANDY BEACH 2nd AMENDED PLAT, a Subdivision, Plat Book 16, Page 44 in the County of Dade, State of Florida.

Parcel marked "2" at Ocean end of 92nd Street, formerly known as Quamash Street, ALTOS DEL MAR #4, a Subdivision, Plat Book 10, Page 63, in the County of Dade, State of Florida.

Parcel marked "2" at Bay end of 92nd Street, formerly known as Quamash Street, ALTOS DEL MAR #4, a Subdivision, Plat Book 10, Page 63, in the County of Dade, State of Florida.

Lot "A" at foot of 93rd Street, formerly known as Rose Street, facing on Biscayne Bay,

Lot "A" at foot of 93rd Street, formerly known as Rose Street, facing on Atlantic Ocean,

Lot "A" at foot of 92nd Street, formerly known as Quamash Street, facing on Biscayne Bay,

Lot "A" at foot of 92nd Street, formerly known as Quamash Street, facing on Atlantic Ocean,

Lot "A" at foot of 94th Street, formerly known as Smilax Street, facing on Biscayne Bay,

Lot "A" at foot of 94th Street, formerly known as Smilax Street, facing on Atlantic Ocean, all in ALTOS DEL MAR #5, Plat Book 8, Page 92, in the County of Dade, State of Florida.

Lot "A" at East end of 96th Street, formerly known as Unaka Street, ALTOS DEL MAR #6,

Lot "A" at East end of 95th Street, formerly known as Tulip Street, ALTOS DEL MAR #6,

Lot "A" at East end of 94th Street, formerly known as Smilax Street, ALTOS DEL MAR #6, all as recorded in the Public Records of Dade County, Florida, in Plat Book 8, Page 106.

Approved as to correctness

9/10

5-20-96

Jack R. Clark

