



**Town of Surfside
Town Commission Meeting
AGENDA**

October 9, 2012

7 p.m.

**Town Hall Commission Chambers - 9293 Harding Ave, 2nd Floor
Surfside, FL 33154**

1. Opening

- A. Call to Order**
- B. Roll Call of Members**
- C. Pledge of Allegiance**
- D. Mayor and Commission Remarks** – Mayor Daniel Dietch
- E. Agenda and Order of Business** Additions, deletions and linkages
- F. Community Notes** – Mayor Daniel Dietch
- G. Employees of the Quarter** – Priscilla Krutules, Randy Stokes, Jose Nodarse, Josvani Iglesias, Julio Emilio, Gaspar Matos and Scott Harrison – Yamileth Slate-McCloud, Human Resources Manager
- H. Police Officer of the Month of July** – Sgt Jay Matelis, Officer Loxley Arch, Officer Bryant Luke – David Allen, Chief of Police
- I. Police Civilian of the Month of July** – Communications Supervisor Susie Sperbeck – David Allen, Chief of Police
- J. Police Officer of the Month of August** – Sgt. Julio Torres – David Allen, Chief of Police
- K. Police Civilian of the Month of August** – Executive Assistance Dina Goldstein – David Allen, Chief of Police

2. Quasi-Judicial Hearings (None)

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

All items on the consent agenda are considered routine or status reports by the Town Commission and will be approved by one motion. Any Commission member may request, during item 1E Agenda and Order of Business, that an item be removed from the Consent Agenda and discussed separately.

Recommended Motion: To approve all consent agenda items as presented below.

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

- ***A. Minutes** - September 10, 2012 – First Budget Hearing **Page 1 - 3**
September 19, 2012 – Regular Commission Meeting **Page 4 - 13**
September 24, 2012 – Second Budget Hearing **Page 14 - 15**
September 24, 2012 – Special Commission Meeting **Page 16 - 17**
- B. Budget to Actual Summary as of July 31, 2012** – Donald Nelson, Finance Director
Page 18 - 19
- ***C. Town Manager’s Report (Points of Light)** – Roger M. Carlton, Town Manager
Page 20 - 70
- ***D. Town Attorney’s Report** – Lynn M. Dannheisser, Town Attorney **Page 71 - 76**
- ***E. Projects Progress Report** – Calvin, Giordano and Associates, Inc. **Page 77 - 79**
- F. Committee Minutes**– Roger M. Carlton, Town Manager (*The most recent approved minutes have been included*)
 - August 6, 2012 – Parks and Recreation Committee Meeting **Page 80 - 81**
 - August 6, 2012 - Tourist Board Meeting **Page 82 - 83**
 - June 28, 2012 Planning and Zoning Board Meeting **Page 84 - 86**

4. Ordinances

(Set for approximately 8:00 p.m.) (Note: Good and Welfare must begin at 8:15)

A. Second Readings (Ordinances and Public Hearing)

- *1. **Amendment to Floodplain Ordinance per FEMA** – Lynn Dannheisser,
Town Attorney **Page 87 – 95** (*Cover memo to be delivered separately*)

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA AMENDING CHAPTER 42 AND SPECIFICALLY SECTION 42-41 “DEFINITIONS”; SECTION 42-76 “PERMIT PROCEDURES”; SECTION 42-77 “DUTIES AND RESPONSIBILITIES OF THE FLOODPLAIN ADMINISTRATOR”; SECTION 42-91 “GENERAL STANDARDS”; SECTION 42-92 “SPECIFIC STANDARDS”; AND SECTION 42-95 COASTAL HIGH HAZARD AREAS (V-ZONES) OF THE TOWN OF SURFSIDE CODE OF ORDINANCES PROVIDING FOR INCLUSION IN THE CODE; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; AND PROVIDING FOR AN EFFECTIVE DATE

2. Spa Ordinance – Sarah Sinatra, Town Planner Page 96 - 100

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA AMENDING CHAPTER 90 ZONING AND MORE SPECIFICALLY SECTION 90-41(d)(7) REGULATED USES INCLUDING SPAS; PROVIDING FOR INCLUSION IN THE CODE; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; AND PROVIDING FOR AN EFFECTIVE DATE.

***3. Amending Chapter 90 – Zoning and Amending Section 90-56.1 Construction Fencing – Lynn Dannheisser, Town Attorney Page 101 - 112**

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA AMENDING CHAPTER 90 “ZONING” AND SPECIFICALLY AMENDING SECTION 90-56.1 “CONSTRUCTION FENCING” OF THE TOWN OF SURFSIDE CODE OF ORDINANCES TO RENUMBER AND SUPPLEMENT WITH SECTION 90.56.1.B AND TO INCLUDE A REQUIREMENT THAT ALL CONSTRUCTION SITES SHALL PROVIDE A CONSTRUCTION FENCE TO SECURE THE SITE–UNTIL THE COMPLETION OF CONSTRUCTION; PROVIDING FOR INCLUSION IN THE CODE; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; AND PROVIDING FOR AN EFFECTIVE DATE.

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

B. First Reading Ordinances

***1. Reduced Rate for Solid Waste Removal – Donald Nelson, Finance Director
Page 113 - 116**

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA AMENDING SECTION 66-35, “SCHEDULE OF FEES” OF THE CODE OF ORDINANCES TO ESTABLISH A NEW RATE FOR SOLID WASTE REMOVAL TO DOWNTOWN BUSINESSES ABOVE STREET LEVEL WITH A 25% FEE REDUCTION WHICH SHALL BE EFFECTIVE OCTOBER 1, 2012; PROVIDING FOR INCLUSION IN THE CODE BY; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; AND PROVIDING FOR AN EFFECTIVE DATE.

***2. Building Frontage Ordinance – Vice Mayor Michael Karukin Page 117 - 124**

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA AMENDING THE TOWN OF SURFSIDE CODE OF ORDINANCES BY AMENDING CHAPTER 90 ZONING; SECTION 90-51 MAXIMUM FRONTAGE OF BUILDINGS; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR SEVERABILITY; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; AND PROVIDING FOR AN EFFECTIVE DATE.

***3. Amendment to Chapter 90 Planning & Zoning to Merge Function of DRB into P&Z Board functions – Lynn Dannheisser, Town Attorney Page 125 - 135**

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA AMENDING CHAPTER 90 “ZONING” BY DISSOLVING THE DESIGN REVIEW BOARD AND CONSOLIDATING THE DESIGN REVIEW FUNCTION INTO THE EXISTING FUNCTIONS OF THE PLANNING AND ZONING BOARDS, CHANGING MEMBERSHIP REQUIREMENTS FOR PLANNING & ZONING BOARD; AND PROVIDING FOR FILLING OF VACANCIES AND SPECIFICALLY AMENDING SECTIONS 90-15 “MEMBERSHIP/QUORUM, MINIMUM QUALIFICATIONS, OFFICERS, TERMS OF OFFICERS, VACANCIES, GENERAL REGULATIONS, RECOMMENDATIONS, EXPENDITURES, INDEBTNESS”; SECTION 90-17 “POWERS AND DUTIES”; SECTION 90-18 “DESIGN REVIEW BOARD”; SECTION 90-19 “SINGLE-FAMILY AND TWO-FAMILY DEVELOPMENT REVIEW PROCESS”; SECTION 90-20 “DEVELOPMENT REVIEW REQUIREMENTS FOR SUBMITTALS OTHER THAN SINGLE-FAMILY AND TWO-FAMILY”; SECTION 90-23 “CONDITIONAL USES”; AND SECTION 90-70 “SIGN PERMITS”; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

5. Resolutions and Proclamations

(Set for approximately 9:15 p.m.) (Note: Depends upon length of Good and Welfare)

A. Interlocal Agreement with Miami Dade County for Public Transportation Services – Roger M. Carlton, Town Manager *(To be delivered separately)*

A RESOLUTION OF THE TOWN COMMISSION FOR THE TOWN OF SURFSIDE, FLORIDA (“TOWN”), AUTHORIZING AND DIRECTING THE TOWN MANAGER AND TOWN CLERK TO ENTER INTO AN AGREEMENT WITH MIAMI-DADE COUNTY TO PROVIDE PUBLIC TRANSPORTATION SERVICES TO THE RESIDENTS OF THE TOWN AND FOR THE TOWN TO PROVIDE ALTERNATIVE SUPPLEMENTAL PUBLIC TRANSIT THROUGHOUT THE TOWN ON A DESIGNATED ROUTE AND SCHEDULE; PROVIDING FOR AN EFFECTIVE DATE

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

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

7. Town Manager and Town Attorney Reports

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

All items on the Consent Agenda are considered routine or status reports by the Town Commission and will be approved by one motion. Any Commission member may request, during item 1E Agenda and Order of Business, that an item be removed from the consent agenda and discussed separately.

8. Unfinished Business and New Business

9. Mayor, Commission and Staff Communications

***A. Committee Appointments – Sandra Novoa, Town Clerk Page 136 - 137**

***B. Calvin Giordano & Associates (CGA) Agreement - Roger M. Carlton, Town Manager Page 138 - 181**

***C. Setting Priorities to Give Direction to the Town Manager and Town Attorney – Roger M. Carlton, Town Manager Page 182 - 185**

D. Commission for Florida Law Enforcement Accreditation – David Allen, Chief of Police Page 186

E. Report on PACE Program – Mayor Daniel Dietch (SET FOR TIME CERTAIN 7:30 P.M.) Page 187 - 190

F. Interpersonal Styles Management and Priority Setting – Mayor Daniel Dietch Page 191

G. Regulating Home Offices – Mayor Daniel Dietch Page 192 - 198

10. Adjournment

Respectfully submitted,



Roger M. Carlton
Town Manager

THIS MEETING IS OPEN TO THE PUBLIC. IN ACCORDANCE WITH THE AMERICANS WITH DISABILITIES ACT OF 1990, ALL PERSONS ARE DISABLED; WHO NEED SPECIAL ACCOMMODATIONS TO PARTICIPATE IN THIS MEETING BECAUSE OF THAT DISABILITY SHOULD CONTACT THE OFFICE OF THE TOWN CLERK AT 305-893-6511 EXT. 226 NO LATER THAN FOUR DAYS PRIOR TO SUCH PROCEEDING. HEARING IMPAIRED PERSONS MAY CONTACT THE TDD LINE AT 305-893-7936.

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

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

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

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



Town of Surfside
FIRST BUDGET HEARING
TOWN HALL COMMISSION CHAMBERS
9293 HARDING AVENUE
MINUTES
SEPTEMBER 10, 2012
5:01 PM

1. Opening

A. Call to Order

Mayor Dietch called the meeting to order at 5:01 P.M.

B. Roll Call of Members

Town Clerk, Sandra Novoa called the roll with the following members present: Mayor Dietch, Vice Mayor Karukin, Commissioner Graubart, Commissioner Olchyk and Commissioner Kligman

C. Pledge of Allegiance

Chief of Police David Allen led the Pledge of Allegiance

2. Discussion Regarding Millage Rate and Budget - Roger M. Carlton, Town Manager

Town Manager Roger M. Carlton presented a PowerPoint presentation regarding the proposed FY 2012/2013 Budget.

3. Millage RatePage

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, MIAMI-DADE COUNTY, FLORIDA, ADOPTING THE TENTATIVE LEVYING OF A MILLAGE RATE AGAINST ALL TAXABLE REAL AND PERSONAL PROPERTY IN THE TOWN OF SURFSIDE, FLORIDA FOR THE FISCAL YEAR 2012-2013; AND REAFFIRMING SEPTEMBER 24, 2012 AS THE DATE OF ADOPTION OF THE FINAL MILLAGE RATE.

Commissioner Olchyk asked questions regarding various expenditures.

Commissioner Graubart asked if \$150,000 from the Parking Fund were transferred to the General Fund. The Town Manager explained that \$71,544 was transferred as a one-time payment to the General Fund and that \$25,000 was an

increased administrative cost payment.

Vice Mayor Karukin made a motion to approve the tentative millage rate. The motion received a second from Commissioner Kligman.

Mayor Dietch opened the public hearing. There being no one requesting to speak regarding the proposed millage rate, the Mayor closed the public hearing.

The motion passed 4-1 with Commissioner Graubart in opposition.

4. Public Comments

Commissioner Graubart stated that due to the unusual election cycle resulting in his resent re-election he did not have a chance to participate in any of the budget workshops. He thanked the Town Commission and specially Commissioner Kligman for contributing to the budget process. He expressed difficulty voting on these items due to his concerns on the budget. He is concerned about the pension fund, the transfers from the Parking Fund to the General Fund, Legal Department's budget and water and sewer fees. He stated that it is his opinion that the Commission was supplied with little information. He also added that he requested an audit from the Town's biggest suppliers Calvin Giordano and Associates without any luck.

Town Manager Roger M. Carlton addressed Commissioner Graubart regarding the pension fund, procurement process, Calvin Giordano and Associates, Legal Department's budget, Water and Sewer fees and the clear commitment that fees will not be increased.

Mayor Dietch advised Commissioner Graubart that he is welcome to bring any items that he wishes to discuss in front of the Town Commission and it will be discussed during a Town Commission meeting.

5. FY 12/13 Adjusted Budget Change Memo

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, APPROVING AND ADOPTING THE FINAL ANNUAL BUDGET AND MAKING APPROPRIATIONS FOR THE FISCAL YEAR 2012-2013; ATTACHING A SUMMARY COPY OF SAID BUDGET MARKED EXHIBIT "A"; PROVIDING FOR AN EFFECTIVE DATE.

Vice Mayor Karukin made a motion to approve the FY 12/13 Budget. The motion received a second from Commissioner Olchyk.

Mayor Dietch opened the public hearing. There being no one requesting to speak regarding the proposed millage rate, the Mayor closed the public hearing.

The motion passed 4-1 with Commissioner Graubart voting in opposition.

6. Public Comments

No public comments

7. Adjournment

There being no further business to come before the Commission, the meeting adjourned at 5:34 p.m.

Accepted this _____ day of _____, 2012

Daniel Dietch, Mayor

Attest:

Sandra Novoa, CMC
Town Clerk



**Town of Surfside
Town Commission Meeting
MINUTES**

September 19, 2012

7 p.m.

Town Hall Commission Chambers - 9293 Harding Ave, 2nd Floor
Surfside, FL 33154

1. Opening

A. Call to Order

Mayor Dietch called the meeting to order at 7:00 P.M.

B. Roll Call of Members

Town Clerk, Sandra Novoa called the roll with the following members present: Mayor Dietch, Vice Mayor Karukin, Commissioner Kligman and Commissioner Graubart. Commissioner Olchyk was not in attendance.

C. Pledge of Allegiance

Chief of Police David Allen led the Pledge of Allegiance

D. Mayor and Commission Remarks – Mayor Daniel Dietch

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

Commissioner Graubart pulled items 11, 16, 38 and 40 from the Points of Light. Item 3D and Item 3E from the Consent Agenda and deferred item his discussion item. Commissioner Kligman pulled items 2, 3 16, 36 and 22 from the Points of Light. Mayor Dietch pulled item 22 from the Points of Light and requested to add a new Point of Light called "Prepaid Postage for Countywide Elections Absentee Ballots". Vice Mayor Karukin requested to link all IT related items which were POL 5, 26 and item 9C.

Commissioner Graubart appointed Armando Castellanos to the Planning and Zoning Board, Randi McBride to the Tourism Board and Jessie Flax to the Parking Structure Advisory Committee. Commissioner Kligman appointed Sam Levine to the IT Committee and Vice Mayor Karukin re-confirmed Alberto Carballo to the IT Committee.

Town Attorney Lynn Dannheisser announced a Special Commission Meeting for September 24, 2012 at 5:45p.m. to bring the FEMA amendments to the Town Commission and have the possibility to be heard on second reading on October 9, 2012.

Town Attorney Lynn Dannheisser also spoke about the Quasi-Judicial Hearing that needs to take place for the Surf Club project. Commissioner Graubart was not sure about his availability to attend the meeting on the days proposed. After discussion,

the Town Commission agreed to meet on Monday, October 15, 2012 at 7:00p.m. in the Commission Chambers. Vice Mayor Karukin made a motion to accept. Commissioner Kligman seconded the motion and all voted in favor subject to Commissioner Graubart's availability.

F. Community Notes – Mayor Daniel Dietch

Mayor Dietch announced the upcoming Town activities and events.

Vice Mayor Karukin announced that September is the World Alzheimer's month and invited all Surfside residents to a social event at the Coral Gables Museum on Thursday, September 27, 2012 from 6:00 – 10:00 p.m.

G. Representative Joseph “Joe” Gibbons, District 105 of the Florida House of Representatives

Representative Joseph “Joe” Gibbons thanked Surfside residents for re-electing him to the Florida House of Representative.

2. Quasi-Judicial Hearings (None)

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

Vice Mayor Karukin made a motion to approve the Consent Agenda less the items that were pulled. The motion received a second from Commissioner Kligman and all voted in favor.

- *A. Minutes -** August 15, 2012 – Regular Commission Meeting
August 23, 2012 – Special Commission Meeting
August 29, 2012 – Special Commission Meeting

B. Budget to Actual Summary as of June 30, 2012 – Roger M. Carlton, Town Manager

***C. Town Manager's Report (Points of Light) – Roger M. Carlton, Town Manager**

Item 2, page 22 – Commissioner Kligman wanted to confirm with the Town Manager that the State Florida Loan was approved in concept but if that will be coming back in front of the Town Commission. Town Manager Roger M. Carlton responded that the Loan resolution was approved four months ago and a report was submitted and adopted by the Town Commission during the August 2012 meeting. He added that when the project is complete there will be a close out memo with all the finance change orders and expenses.

Item 3, page 23 – Commissioner Kligman had previously ask for a report on Short Term Rentals which is part of this agenda and she wanted Code Compliance Director Joe Damian to provide a brief summary of his report. Mayor Dietch requested for this item to be heard as an actual agenda item under the Mayor, Commission and Staff Communication item 9D.

Item 11, page 25 – Commissioner Graubart spoke about the Spaggio Condominium and stated that he felt deceived by them regarding the stack parking. Mayor Dietch explained that the deficiency was in what was approved through building permits and what was actually constructed. Town Manager Roger M. Carlton explained that there are 16 parking spaces in the building that were approved to have stack parking

and unfortunately the location is under a main beam that supports the building and that makes them 16 spaces short of what they should have. The Town Attorney and the Town Manager are working with the building attorney to negotiate a settlement of this problem that requires them to provide those 16 spaces through the Town's off-site parking ordinance. Commissioner Graubart wanted the record to state that he is very upset about this issue. Town Manager Roger M. Carlton stated that his might end up in litigation and it was not wise to discuss any further.

Item 16, page 26 – Commissioner Kligman wanted the Manager to explain the process if any Commissioner wanted to appoint someone to the Parking Structure Advisory Committee. Town Manager Roger M. Carlton stated that this is a completely open Committee like DVAC is and if there are names to please submit them to him.

Commissioner Graubart expressed his concern about the surveys being placed in the Gazette where they won't be signed by anyone. Vice Mayor Karukin stated that surveys are supposed to be anonymous.

Item 22, page 29 – Mayor Dietch reconfirmed that former Vice Mayor Rubin has volunteered to help with this Committee and that in attachment 4 linked to this item there is also recognition for middle school and elementary school students as well.

Item 36, page 33 – Commissioner Kligman had concerns regarding the Town's Health care cost because they have gone up by 15%. Mr. Stan Bershad explained that after negotiating with the health insurance companies the Town was able to reduce it to a 10% increase for the health insurance, no increase on the life insurance and disability insurance and for the dental insurance there is an \$8.00 increase.

Item 38, page 33 – Commissioner Graubart spoke about the pool tot lot and stated that the company that supplied all of the playground equipment went out of business and the Town should contact them and try to purchase any parts available at a discounted price. Town Manager, Roger M. Carlton stated that the Town will contact them; he also added that the Town retained \$22,000 from this company to fix the problem.

Item 40, page 34 – Commissioner Graubart thanked Commissioner Olchyk for negotiating a deal with Calvin Giordano and Associates on the Seawall Project.

Mayor Dietch requested to add a POL regarding the prepaid postage for countywide elections absentee ballots. The Mayor would like for the Town Manager and the Town Attorney to look into this matter and see how Surfside can be included.

***D. Town Attorney's Report – Lynn M. Dannheisser, Town Attorney**

Page 1 – Commissioner Graubart would like a forensic audit to find out how much the FEMA issue has cost the Town and to each town resident. Vice Mayor Karukin stated that a forensic audit can cost around \$75,000. Mayor Dietch spoke against Commissioner Graubart's suggestion. Town Manager Roger M. Carlton reminded the Commissioner that a full report had been made approximately two years ago regarding all types of audits and the related costs. The Town Commission took no action on this item.

Page 6 – Commissioner Graubart asked the Town Attorney if there will be an Executive Session meeting regarding the Bakker case. Town Attorney Lynn Dannheisser stated that the report shows what has happened to date in the case and there is no need for an Executive Session at this time.

***E. Projects Progress Report – Calvin, Giordano and Associates, Inc.**

Item 5, Page 65 – Commissioner Graubart would like the Town Manager to provide the Town Commission with the cost of preparing the emergency Management Comprehensive Plan update. Town Manager Roger M. Carlton will provide a memo to the Town Commission with the information requested.

F. Committee Reports – Roger M. Carlton, Town Manager (*Note: Vice Mayor Karukin has requested that Committee minutes appear on the Consent Agenda. The most recent adopted minutes have been included*)

- June 2012, 2012 - Parks and Recreation Committee Meeting
- May 30, 2012 - Downtown Vision Advisory Committee Meeting
- May 4, 2012 - Tourist Board Meeting
- May 31, 2012 - Planning and Zoning Board

G. Renewal of Community Garden/Surfside Urban Gardeners Agreement – Roger M. Carlton, Town Manager
Approved on Consent

Vice Mayor Karukin made a motion to approve the pulled item. The motion received a second from Commissioner Kligman and all voted in favor.

4. Ordinances

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

A. Second Readings (Ordinances and Public Hearing)

1. **Amended Legislation to Planning & Zoning/Design Review Board Requirements** – Lynn Dannheisser, Town Attorney

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA AMENDING CHAPTER 90-15 “MEMBERSHIP/QUORUM, MINIMUM QUALIFICATIONS, OFFICERS, TERMS OF OFFICERS, VACANCIES, GENERAL REGULATIONS, RECOMMENDATIONS, EXPENDITURES, INDEBTEDNESS”; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

[SECOND READING ORDINANCE WITHDRAWN. SEE ITEM 4B1]

(Set for approximately 8:00 p.m.) (*Note: Good and Welfare must begin at 8:15*)

B. First Reading Ordinances

- *1. **Amendment to Planning and Zoning Ordinance** – Lynn Dannheisser, Town Attorney

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA AMENDING CHAPTER 90 "ZONING" BY AMENDING THE DEVELOPMENT REVIEW PROCESS AND SPECIFICALLY AMENDING ARTICLE I. "IN GENERAL" AND SECTIONS 90-1 "GENERAL RULES OF CONSTRUCTION"; SECTION 90-2 "DEFINITIONS"; SECTION 90-3 ENFORCEMENT, INTERPRETATION, PURPOSE AND CONFLICT; SECTION 90-15 "MEMBERSHIP/QUORUM, MINIMUM QUALIFICATIONS, OFFICERS, TERMS OF OFFICERS, VACANCIES, GENERAL REGULATIONS, RECOMMENDATIONS, EXPENDITURES, INDEBTEDNESS"; SECTION 90-16 "MEETINGS: BOARD YEAR, TIME FRAME; ORDER OF PRESENTATION; LOCATION"; AND SECTION 90-17 "POWERS AND DUTIES"; AND SPECIFICALLY DELETING SECTIONS 90-18 "DESIGN REVIEW BOARD; SECTION 90-19 "SINGLE FAMILY AND TWO FAMILY DEVELOPMENT REVIEW PROCESS"; SECTION 90-20 "DEVELOPMENT REVIEW REQUIREMENTS FOR SUBMITTALS OTHER THAN SINGLE-FAMILY AND TWO-FAMILY"; AND ADDING SPECIFICALLY UNDER ARTICLE II. "ADMINISTRATION AND ENFORCEMENT" DIVISION 1 "TOWN COMMISSION AND SECTION 90-14 "TOWN COMMISSION"; AND SPECIFICALLY ADDING ARTICLE III. "DEVELOPMENT REVIEW PROCEDURES" AND SECTIONS 90-19 "CREATION OF PROCESS"; SECTION 90-20 "PROCEDURES OF GENERAL APPLICABILITY"; SECTION 90-22 "SITE PLAN REVIEW"; SECTION 90-23 "PERMITTED USES"; AND RENUMBERING ALL EXISTING SECTIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

Commissioner Kligman made a motion to move this ordinance to a Special Workshop together with the Planning and Zoning Board Members and to bifurcate the ordinance into two (2) separate ordinances, one dealing with memberships and the other dealing with the remaining updates and amendments. The motion received a second from Commissioner Graubart and all voted in favor.

***2. Amendment to Floodplain Ordinance per FEMA – Lynn Dannheisser,
Town Attorney**

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA AMENDING CHAPTER 42 AND SPECIFICALLY SECTION 42-41 "DEFINITIONS"; SECTION 42-76 "PERMIT PROCEDURES"; SECTION 42-77 "DUTIES AND RESPONSIBILITIES OF THE FLOODPLAIN ADMINISTRATOR"; SECTION 42-91 "GENERAL STANDARDS"; SECTION 42-92 "SPECIFIC STANDARDS"; AND SECTION 42-95 COASTAL HIGH HAZARD AREAS (V-ZONES) OF THE TOWN OF SURFSIDE CODE OF ORDINANCES PROVIDING FOR INCLUSION IN THE CODE; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HERewith; AND PROVIDING FOR AN EFFECTIVE DATE

Item deferred to a Special Commission Meeting scheduled for September 24, 2012 at 5:45 p.m. in the Town Commission Chambers.

***3. Spa Ordinance – Sarah Sinatra, Town Planner**

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA AMENDING CHAPTER 90 ZONING AND MORE SPECIFICALLY SECTION 90-41(d)(7) REGULATED USES INCLUDING SPAS; PROVIDING FOR INCLUSION IN THE CODE; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; AND PROVIDING FOR AN EFFECTIVE DATE.

Town Clerk Sandra Novoa read the title of the ordinance.

Sarah Sinatra, Town Planner presented the item to the Town Commission.

Mayor Dietch made a motion to approve the ordinance. Vice Mayor Karukin seconded the motion.

Commissioner Graubart amended the motion to be sensitive to the parking requirements and the sales of memberships. The amended motion was accepted by the Mayor and Vice Mayor. The motion passed unanimously.

***4. Construction Fence Ordinance – Lynn Dannheisser, Town Attorney**

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA AMENDING CHAPTER 90 “ZONING” AND SPECIFICALLY AMENDING SECTION 90-56.1 “CONSTRUCTION FENCING” OF THE TOWN OF SURFSIDE CODE OF ORDINANCES TO RENUMBER AND SUPPLEMENT WITH SECTION 90.56.1.B AND TO INCLUDE A REQUIREMENT THAT ALL CONSTRUCTION SITES SHALL PROVIDE A CONSTRUCTION FENCE TO SECURE THE SITE-UNTIL THE COMPLETION OF CONSTRUCTION; PROVIDING FOR INCLUSION IN THE CODE; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; AND PROVIDING FOR AN EFFECTIVE DATE.

Town Clerk Sandra Novoa read the title of the ordinance.

Town Manager Roger M. Carlton presented the item.

Commissioner Kligman made a motion to approve. The motion received a second from Commissioner Graubart and all voted in favor.

5. Resolutions and Proclamations

(Set for approximately 8:30 p.m.) (Note: Depends upon length of Good and Welfare)

***A. IPS Parking Meter Field Trial Agreement – Chief of Police David Allen**

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA APPROVING THE AGREEMENT WITH IPS, FOR THE INSTALLATION AND EQUIPMENT OF THIRTY CREDIT CARD ENABLED METER HEADS FOR A TRIAL PERIOD OF NINETY DAYS; AUTHORIZING THE TOWN MANAGER TO IMPLEMENT THE TERMS AND CONDITIONS OF THE AGREEMENT; AUTHORIZING THE TOWN

MAYOR TO EXECUTE THE CONTRACT; AND PROVIDING FOR AN EFFECTIVE DATE.

Vice Mayor Karukin made a motion to approve. The motion received a second from Commissioner Kligman adding that if a decision to acquire the meters after the 90 day trial is to be recommended, the acquisition must be brought back as a new contract with a report. Amendment accepted by the Vice Mayor.

Commissioner Graubart made a friendly amendment to include 30 minutes and 1 hour time limits on the meters on 95th Street from Collins to Abbot Avenue.

The amendment was accepted by Vice Mayor Karukin and Commissioner Kligman and all voted in favor.

***B. Certification of General Municipal Election Results – March 20, 2012 – Sandra Novoa, Town Clerk**

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA CERTIFYING AND DECLARING THE RESULTS OF THE TOWN OF SURFSIDE GENERAL MUNICIPAL ELECTION HELD ON MARCH 20, 2012 FOR THE ELECTION OF MAYOR AND THREE (3) TOWN COMMISSIONERS; AND PROVIDING FOR AN EFFECTIVE DATE.

Commissioner Kligman made a motion to approve. The motion received a second from Vice Mayor Karukin and all voted in favor.

***C. Certification of Special Municipal Election Results – May 1, 2012 – Sandra Novoa, Town Clerk**

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA CERTIFYING AND DECLARING THE RESULTS OF THE TOWN OF SURFSIDE SPECIAL MUNICIPAL ELECTION HELD ON MAY 1, 2012 FOR THE ELECTION OF A TOWN COMMISSIONER; AND PROVIDING FOR AN EFFECTIVE DATE.

Commissioner Kligman made a motion to approve. The motion received a second from Vice Mayor Karukin and all voted in favor.

***D. Certification of Special Municipal Election Results – August 28, 2012 – Sandra Novoa, Town Clerk**

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA CERTIFYING AND DECLARING THE RESULTS OF THE TOWN OF SURFSIDE SPECIAL MUNICIPAL ELECTION HELD ON AUGUST 28, 2012 FOR THE ELECTION OF A TOWN COMMISSIONER; AND PROVIDING FOR AN EFFECTIVE DATE.

Commissioner Kligman made a motion to approve. The motion received a second from Vice Mayor Karukin and all voted in favor.

***E. Charter Review – Lynn Dannheisser, Town Attorney**

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA APPROVING AFTER THE FACT REVISIONS TO THE MASTER BALLOT TO CLARIFY CLERICAL LANGUAGE FOR THE NOVEMBER 6, 2012 ELECTION IN TWO PROPOSED CHARTER AMENDMENTS: THE PREAMBLE AND CITIZENS' BILL OF RIGHTS AND THE MANDATORY CHARTER REVIEW; PROVIDING FOR INCLUSION INTO THE TOWN CHARTER AND CODE; PROVIDING FOR AN EFFECTIVE DATE.

Town Attorney Lynn Dannheisser presented the item and explained that this resolution is an after the fact resolution correcting some grammatical errors from the original resolution.

Vice Mayor Karukin made a motion to approve. The motion received a second from Commissioner Kligman and all voted in favor.

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

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

7. Town Manager and Town Attorney Reports

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

All items on the Consent Agenda are considered routine or status reports by the Town Commission and will be approved by one motion. Any Commission member may request, during item 1E Agenda and Order of Business, that an item be removed from the consent agenda and discussed separately.

8. Unfinished Business and New Business

9. Mayor, Commission and Staff Communications

***A. Turtle Project – Art in Public Places Update – Duncan Tavares, TEDACS Director**

Duncan Tavares, TEDACS Director showed the Town Commission a PowerPoint presentation of the turtles that are already painted and ready to be displayed. Commissioner Kligman and Vice Mayor Karukin asked for clarification of the sponsorship program. Duncan Tavares explained the sponsorship program in detail.

***B. City of Miami Beach Stormwater Master Plan Summary – Sarah Sinatra, Town Planner**

Town Manager Roger M. Carlton spoke regarding the need to coordinate with the City of Miami Beach's proposed 20 year Stormwater Master Plan. The Town Manager will keep the Town Commission aware as the Miami Beach project evolves.

- *C. Town of Surfside Website Update** – Duncan Tavares, TEDACS Director
Duncan Tavares, TEDACS Director presented the Town Commission with the new Town's website. He explained that the Administration will go live during the early October and explained to the Town Commission some of the pages and features of the new website.
Vice Mayor Karukin asked Finance Director Don Nelson about on-line bill pay schedule. Don Nelson stated that they are currently working with Sungard to make this happen as soon as possible.
- *D. Report on Short Term Rental Ordinance Enforcement** – Joe Damian, Code Enforcement Director
Joe Damian presented the item.
Vice Mayor Karukin requested to see the Committee Report that was submitted about two years ago regarding Short Term Rental.
The Town Commission agreed that a workshop to discuss priorities for the Code Compliance Department should be scheduled.
- E. Byron Street Closure (Verbal)** – Roger M. Carlton, Town Manager
Town Manager Roger M. Carlton provided a verbal report on this item. After discussion, the Town Commission determined to review the functionality and outcome of the approved project before expending further funds to completely close the northbound movement from Miami Beach on Byron Avenue.
- *F. Indian Creek Settlement Agreement Discussion** – Roger M. Carlton, Town Manager
Town Manager Roger M. Carlton presented the item to the Town Commission.

Commissioner Graubart made a motion to extend the meeting 10 minutes. The motion received a second from Vice Mayor Karukin and all voted in favor.

Vice Mayor Karukin made a motion to accept the proposed resolution of the payment process and authorized the Town Attorney to finalize an agreement with the Attorney of Indian Creek. The motion received a second from Commissioner Graubart and all voted in favor.
- G. Commissioner "Round Table" Get Together** – Commissioner Joe Graubart
Item deferred by Commissioner Graubart.

10. Adjournment

There being no further business to come before the Commission, the meeting adjourned at 11:02 p.m.

Accepted this ____ day of _____, 2012

Daniel Dietch, Mayor

Attest:

Sandra Novoa, CMC
Town Clerk



Town of Surfside
SECOND BUDGET HEARING
TOWN HALL COMMISSION CHAMBERS
9293 HARDING AVENUE
MINUTES
SEPTEMBER 24, 2012
5:01 PM

1. Opening

A. Call to Order

Mayor Dietch called the meeting to order at 5:03 P.M.

B. Roll Call of Members

Town Clerk, Sandra Novoa called the roll with the following members present: Mayor Dietch, Vice Mayor Karukin, Commissioner Olchyk, Commissioner Kligman and Commissioner Graubart.

C. Pledge of Allegiance

Chief of Police David Allen led the Pledge of Allegiance

2. Discussion Regarding Millage Rate and Budget - Roger M. Carlton, Town Manager
Town Manager Roger M. Carlton presented a PowerPoint presentation regarding the proposed FY 2012/2013 Budget.

3. Millage Rate

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, MIAMI-DADE COUNTY, FLORIDA, ADOPTING THE FINAL LEVYING OF A MILLAGE RATE AGAINST ALL TAXABLE REAL AND PERSONAL PROPERTY IN THE TOWN OF SURFSIDE, FLORIDA FOR THE FISCAL YEAR 2012-2013; AND PROVIDING FOR AN EFFECTIVE DATE.

Commissioner Graubart made a motion for discussion purposes. The motion received a second from Vice Mayor Karukin.

After some discussion, Commissioner Graubart stated that since he was not involved in the process because he was not an elected official during the early meetings, therefore his vote will not be in favor.

Mayor Dietch opened the public hearing. There being no one requesting to speak regarding the final millage rate, the Mayor closed the public hearing.

The motion passed 4-1 with Commissioner Graubart voting in opposition.

4. Public Comment

No public comments.

5. FY 12/13 Adjusted Budget Change Memo

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, APPROVING AND ADOPTING THE FINAL ANNUAL BUDGET AND MAKING APPROPRIATIONS FOR THE FISCAL YEAR 2012-2013; ATTACHING A SUMMARY COPY OF SAID BUDGET MARKED EXHIBIT "A"; PROVIDING FOR AN EFFECTIVE DATE.

Vice Mayor Karukin made a motion to accept. The motion received a second from Commissioner Kligman.

Mayor Dietch opened the public hearing. No one spoke regarding the proposed budget and the Mayor closed the public hearing.

The motion passed 4-1 with Commissioner Graubart voting in opposition.

6. Public Comment

No public comments.

7. Adjournment

There being no further business to come before the Commission, the meeting adjourned at 5:24 p.m.

Accepted this ____ day of _____, 2012

Daniel Dietch, Mayor

Attest:

Sandra Novoa, CMC
Town Clerk



**Town of Surfside
Special Town Commission Meeting
MINUTES**

September 24, 2012

5:45 p.m.

Town Hall Commission Chambers - 9293 Harding Ave, 2nd Floor
Surfside, FL 33154

1. Opening

A. Call to Order

Mayor Dietch called the meeting to order at 5:47 P.M.

B. Roll Call of Members

C. Town Clerk, Sandra Novoa called the roll with the following members present: Mayor Dietch, Vice Mayor Karukin, Commissioner Olchyk, Commissioner Kligman and Commissioner Graubart.

D. Pledge of Allegiance

Mrs. Barbara Cohen led the Pledge of Allegiance

2. Ordinances

A. Amendment to Floodplain Ordinance per FEMA – Lynn Dannheisser, Town Attorney

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA AMENDING CHAPTER 42 AND SPECIFICALLY SECTION 42-41 “DEFINITIONS”; SECTION 42-76 “PERMIT PROCEDURES”; SECTION 42-77 “DUTIES AND RESPONSIBILITIES OF THE FLOODPLAIN ADMINISTRATOR”; SECTION 42-91 “GENERAL STANDARDS”; SECTION 42-92 “SPECIFIC STANDARDS”; AND SECTION 42-95 COASTAL HIGH HAZARD AREAS (V-ZONES) OF THE TOWN OF SURFSIDE CODE OF ORDINANCES PROVIDING FOR INCLUSION IN THE CODE; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HERewith; AND PROVIDING FOR AN EFFECTIVE DATE

Town Attorney Lynn Dannheisser presented the ordinance to the Town Commission. She stated that the changes made in the proposed ordinance were changes requested by FEMA.

Commissioner Olchyk asked Paul Gioia, Building Official why this item had taken so long. Mr. Gioia explained that he had received a letter from FEMA back in 2010

stating that everything was approved. FEMA has come back requesting more information and changes.

Vice Mayor Karukin made a motion to approve the FEMA ordinance. The motion received a second from Commissioner Olchyk and all voted in favor.

3. Resolutions

A. Prepaid Postage for Countywide Elections Absentee Ballots – Mayor Daniel Dietch

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, DIRECTING THE TOWN MANAGER OR TOWN MANAGER DESIGNEE TO PROVIDE PRE-PAID RETURN ENVELOPES FOR ABSENTEE BALLOTS; PROVIDING FOR AN EFFECTIVE DATE.

Town Manager Roger M. Carlton presented the item.

Vice Mayor Karukin made a motion to approve. The motion received a second from Commissioner Graubart and all voted in favor.

4. Adjournment

There being no further business to come before the Commission, the meeting adjourned at 6:19 p.m.

Accepted this ____ day of _____, 2012

Daniel Dietch, Mayor

Attest:

Sandra Novoa, CMC
Town Clerk

TOWN OF SURFSIDE, FLORIDA
MONTHLY BUDGET TO ACTUAL SUMMARY
FISCAL YEAR 2011/2012
As of JULY 31, 2012

83% OF YEAR EXPIRED (BENCHMARK)

Agenda Item #

Page

1 of 2

Agenda Date: October 9, 2012

GOVERNMENTAL FUNDS	ACTUAL	ANNUAL BUDGETED	% BUDGET
GENERAL FUND			
REVENUE	\$9,603,142	\$9,325,305	103%
USE OF ASSIGNED FUND BALANCE		\$188,000	83%
EXPENDITURES	\$7,917,517	\$9,513,305	83%
Net Change in Fund Balance	\$1,685,623		
Fund Bal.-Beg. of FY(audited assigned+unassigned)	\$4,256,315 A		
Fund Balance-JULY 31, 2012	<u>\$5,941,938</u>		
RESORT TAX			
REVENUE	\$146,704	\$134,988	109% B
EXPENDITURES	\$173,958 B-1	\$134,988	129%
Net Change in Fund Balance	(\$27,254)		
Fund Balance-Beg. of Fiscal Year (audited)	\$184,867		
Fund Balance-JULY 31, 2012	<u>\$157,613</u>		
POLICE FORFEITURE/CONFISCATION			
REVENUE	\$47,832	\$34,166	140% C
USE OF RESTRICTED FUND BALANCE		\$45,044	83%
EXPENDITURES	\$19,840	\$79,210	25%
Net Change in Fund Balance	27,992		
Fund Balance-Beg. of Fiscal Year (audited)	\$117,889		
Fund Balance-JULY 31, 2012	<u>\$145,881</u>		
TRANSPORTATION SURTAX			
REVENUE	\$148,640	\$170,535	87% D
USE OF RESTRICTED FUND BALANCE		\$128,579	83%
EXPENDITURES	\$242,447	\$299,114	81%
Net Change in Fund Balance	(93,807)		
Fund Balance-Beg. of Fiscal Year (audited)	\$239,760		
Fund Balance-JULY 31, 2012	<u>\$145,953</u>		
CAPITAL PROJECTS			
REVENUE	\$404	\$400	101%
USE OF ASSIGNED FUND BALANCE		\$274,600	83%
EXPENDITURES	\$201,040	\$275,000	73%
Net Change in Fund Balance	(200,636)		
Fund Balance-Beg. of Fiscal Year (audited assigned)	\$399,754		
Fund Balance-JULY 31, 2012	<u>\$199,118</u>		

NOTES:

A. Includes \$2,000,000 available for hurricane/emergencies, \$188,000 utilization of Maranon property sales proceeds, and \$109,532 of Prepaid Health Insurance. The balance of \$1,958,783 is unassigned fund balance.

B. Timing Difference - Includes the Resort Tax revenues for Oct, Nov, Dec, Jan, Feb, March, April, May & June. The July Resort Taxes are collected starting in August.

B-1. Resort tax expenses include 100% of the payment for the Tales of Surfside Turtles a portion of which will be reimbursed through sponsorships.

C Forfeiture revenue fluctuates widely.

D. Timing Difference - Includes the CITT revenues for Oct, Nov, Dec, Jan, Feb, March, April, May & June. The July CITT revenue is not received until late October 2012.

ENTERPRISE FUNDS	ACTUAL	ANNUAL BUDGETED	% BUDGET	
WATER & SEWER				
REVENUE	\$2,499,686	\$3,045,252	82%	
USE OF NET ASSETS/LOAN PROCEEDS		\$10,342,572	83%	
EXPENDITURES	\$2,251,656	\$13,387,824	17%	E
Change in Net Assets	\$248,030			
Unrestricted Net Assets-Oct 1 (audited)	\$1,674,603			E-2
Restricted Net Assets-Renewal & Replacement	\$1,017,776			E-3
Unrestricted Net Assets-JULY 31, 2012	\$2,940,409			
Capital Project Expenses to date for Water & Sewer	\$9,063,940			
MUNICIPAL PARKING				
REVENUE	\$755,897	\$693,944	109%	
USE OF NET ASSETS		\$1,500,000	83%	
EXPENDITURES	\$490,493	\$2,193,944	22%	E
Change in Net Assets	\$265,404			
Unrestricted Net Assets-Oct 1 (audited)	\$1,385,581			
Unrestricted Net Assets-JULY 31, 2012	\$1,650,985			
Capital Project Expenses to date for Municipal Parking	\$262,243			
SOLID WASTE				
REVENUE	\$1,217,492	\$1,277,684	95%	F
EXPENDITURES	\$984,772	\$1,277,684	77%	
Change in Net Assets	\$232,719			
Unrestricted Net Assets-Oct 1 (audited)	\$207,462			
Unrestricted Net Assets-JULY 31, 2012	\$440,181			
STORMWATER				
REVENUE	\$506,453	\$1,073,452	47%	G
USE OF NET ASSETS/LOAN PROCEEDS		\$1,712,289	83%	
EXPENDITURES	\$343,789	\$2,785,741	12%	
Change in Net Assets	\$162,664			
Unrestricted Net Assets-Oct 1 (audited)	\$188,302			
Unrestricted Net Assets-JULY 31, 2012	\$350,966			
Capital Project Expenses to date for Storm Water	\$1,043,998			

NOTES:(con't)

E. Underage due to Infrastructure/Capital Outlay projects (\$10.4 million for water/sewer, \$2.2 million for stormwater, \$1.6 million for parking)

E-1. This total is only for the operational expense, does not include the Infrastructure Capital Expense for water/sewer/stormwater project.

E-2. Includes rate stabilization of \$651,144 and \$1,023,459 is unrestricted.

E-3. Renewal and replacement has \$1,017,776 available in addition to the \$1,674,603 available in E-2.

F. Timing difference: Billing (and the resulting revenue) for the entire fiscal year pertaining to Residential (non-condominium) customers are recorded in October.

G. Timing Difference - Underage primarily due to a budgeted and committed State Grant (FDEP #SO374) in the amount of \$473,500 that will be received by the end of fiscal year FY 12/13 and total of interfund transfers from Water and Sewer fund of \$112,202 of which \$28,051 for the quarter ending September 30, 2012 is to be transferred.


Donald G. Nelson, Finance Director


Roger M. Carlton, Town Manager



**Town of Surfside
Town Commission Meeting
October 9, 2012**

Town Hall Commission Chambers - 9293 Harding Ave, 2nd Fl
Surfside, FL 33154

**POINTS OF LIGHT
After Action Items**

1. Downtown Vision Project-

Current Status: Due to a summer hiatus, the next Downtown Vision Advisory Committee (DVAC) meeting will occur on Monday, October 29, 2012.

The following is a revised tentative schedule as the Town proceeds with forming a Business Improvement District (BID):

October 2012:

Continued outreach to downtown property owners and business operators to attend the October 29, 2012 meeting to discuss the BID benefits and process, there has been little specific response to the August and September Commissioner Kligman's letters that were mailed, hand delivered and explained to the business owners and tenants (Attachment 1-2).

Draft Ordinance to DVAC

Resolution of the following issues:

- Town Commission and Town Administration authority vis a vis the Board of the BID
- Property owners' equity issues in relation to the manner for calculating the assessment
- Commitment of base level Town services
- BID commitment to a marketing and commercial real estate consultant and formation of databases
- Relationship of the BID to the Downtown Business Association

November / December 2012:

Ordinance to Town Commission for two readings

Spring 2013:

Referendum of Downtown Property Owners regarding BID formation

The Fiscal Year 12/13 Approved Budget includes \$25,000 for a BID formulation expert to facilitate this process. With final adoption of the Fiscal Year 12/13 Approved Budget on September 24, 2012, the selection process for the consultant will now begin.

Town Staff, with unanimous DVAC's support, is recommending a complete review of the Town's Sign Ordinance. Technical support for a comprehensive sign ordinance is also an approved expenditure in the Fiscal Year 12/13 Approved Budget (\$15,000) due to the extensive and involved scope of work and public outreach needed. This work is beyond the basic scope of the Calvin, Giordano and Associates agreement. Staff is investigating the possibility of utilizing other existing sign ordinances to reduce this cost.

The Fiscal Year 12/13 Approved Budget also includes proposed expenditures for the following successful DVAC initiatives:

- The purchase of the additional news racks at \$10,000
- The installation of six additional benches funded at \$11,000, if these items are not sponsored by businesses

These items, along with a Facade Improvement Program (\$25,000), represent the Town's approved budgetary commitment to DVAC initiatives that have been fully vetted and supported by the Committee members.

2. Water, Sewer and Storm Drainage and Collins Avenue Force Main Projects

Current Status: The project began on August 15, 2011 and is approaching 67 percent completion. All permission slips to install the water tie-ins have been received with the exception of a few homes that are not occupied. 900 water services have been replaced, 20,000 linear feet of water pipe have been installed, 16,500 feet of sewer laterals have been repaired or lined, 1200 sewer connections have been replaced or repaired, 21,270 linear feet of water mains have been installed, 19,460 linear feet of sewer mains have been lined and 2700 linear feet of sewer main point repairs have been completed. 6000 linear feet of storm drainage has been installed along with 40 drainage structures, three storm drainage pump stations are currently under construction and 120,000 square yards of asphalt has been placed (first lift) on the various roads throughout Phase 1, Phase 2 and Phase 3. We have also had to repair 70 small and 15 major pipe breaks since the project started to keep the old system operational. The new Collins Avenue shared sewer force main became operational in April 2012. Staff is in the process of reviewing the feasibility of repairing the existing force main which is a decision that must be made in conjunction with Bal Harbour and Miami Beach. A proposed Interlocal Agreement with Bal Harbour will be presented to the Town Commission when the investigation is complete and the long term strategy determined.

The State of Florida Loan at an interest rate of 2.12 percent to partially replace and enhance our current project financing which carries a 4.72 percent rate has been finalized.

3. Tourist/Resort Tax Audit/Certificate of Use/Local Business Tax Receipt/Short Term Rentals Programs

Current Status:

Resort Tax Audit: The FY 12/13 Approved Budget includes funding to complete the initial audits of all the remaining downtown businesses that collect the resort tax. Staff is in the process of negotiating with the selected auditors from the Town Commission approved pool of companies to start the final phase October 15, 2012.

Certificate of Use (CU) /Local Business Tax Receipt (LBTR): The multi-program application was mailed to all businesses the week of August 27, 2012. Town Staff will now begin the process of following up with every business to ensure a timely compliance. To date 40% of the businesses have complied by the October 1 renewal date. Staff will continue to work with the downtown businesses to reach 100%.

Short Term Rentals: The addition of the new Code Compliance Officer position that was approved in the FY 12/13 budget will allow the Code Compliance Division additional resources to expand enforcement efforts Town-wide. As requested by the Town Commission, during the September 19, 2012 meeting, a workshop will be scheduled to address priorities.

4. Bus Shelters: Commissioner Marta Olchyk

Current Status: Staff and Commissioner Olchyk are working closely with Miami Dade County Commissioner Sally Heyman and Miami Dade Transit Authority Director Ysela Llort to ensure that the shelters at a cost of \$42,000 each are installed during October 2012. It is interesting to note that Bal Harbour ordered eight (8) shelters with a \$250,000 Federal appropriation supported by Debbie Wasserman Shultz and Ileana Ros-Lehtinen. Bal Harbour bids ranged from \$269,000 (\$33,600 each) to \$790,000 and they have placed the order after Bal Harbour Commission approval on September 13, 2012 with 90 day delivery. Fausto Gomez is in the process of setting meetings with our Congressional Members to determine if we can receive federal support for additional shelters.

5. Clean Up/Update/Enhance Town Website Content: Vice Mayor Michael Karukin

Current Status: An update on the status of the site was reviewed by the Town Commission at the September 19, 2012 meeting. The new website went live on October 1, 2012. At the request of the Mayor, members of the former Communications Committee will be asked for their input and make recommendations for future enhancements. The position of Web and Special Projects

Coordinator is expected to be filled by the middle of October and will enable the Town to manage and create more dynamic and relevant content. Staff will continue to move forward on other requested features such as Online Bill Payment and improved search features. Finally, it is important to note that the Town's expenditure to date is \$21,000 which is \$4,000 less than the budgeted allocation. The Town Commission will be updated monthly via the POL's and a feature of the website will be highlighted in each monthly Gazette. We will have a new title for this Point of Light next month to better reflect the status of desired improvements.

6. Beach Concessions

Current Status: The lease agreement with the State of Florida and Miami Dade County was presented to the County Recreation and Cultural Affairs Committee on September 10, 2012 and has moved forward to the Board of County Commissioners on October 2, 2012. Now that the lease has been approved, the County will offer the Town of Surfside a proposed Management Agreement for the Town's review. The Town and County will have ten months to review and prepare a Management Agreement for final approval. Town Staff will provide an update at the October 9, 2012 Town Commission meeting.

7. 95th Street End Project

Current Status: Due to the need to complete the street end project contemporaneously with the 9501 building construction which began in mid-May 2012, the Administration has moved forward with the project for one block only, using Bermello Ajamil (from the approved rotation) in the amount of \$67,000. The Town Commission confirmed this on July 17, 2012 and selected the design "look" on August 15, 2012. The thematic design will be usable for all three blocks should the Town Commission determine to expand the project in the future. Staff is now working with Bermello Ajamil to complete the design, value engineer to the best cost/value and prepare the bid package which will be advertised in October, 2012 and brought to the Commission for award during November 2012.

8. Property Assessed Clean Energy (PACE) - program to retrofit existing residential and commercial buildings for energy efficiency: Mayor Daniel Dietch

Current Status: This program allows existing buildings to be retrofitted for energy efficiency with the cost funded from a loan pool authorized by the State of Florida and funded by Barclay's Capital. The low interest loans are repaid from a long term assessment on the property. There are no guarantees provided by the Town of Surfside. A report from the Town Attorney will be provided on the October 9, 2012 Town Commission agenda.

9. FPL/AT&T/Cable Undergrounding Project

Current Status: The Town Commission allocated funds in the Water/Sewer/Storm Drainage project to provide mid-block crossover conduit so that a future undergrounding project would not have to break the pavement. FPL has completed the study of the cost of undergrounding Town-wide and staff is working with the telephone and cable utilities to determine the total cost and funding alternatives. A preliminary Staff report regarding this project should be available in November, 2012. It is interesting that this project ranked as a very high priority on a recent survey conducted by Vice Mayor Michael Karukin.

10. FEMA Flood Insurance Status

Current Status: The FEMA Community Assistance Visit, which is the necessary step to lower rates, was held on March 21 and 22, 2012. Town Attorney Lynn Dannheisser has retained Ernest Abbott of FEMA Law who was the former General Counsel of FEMA in Washington D.C. The response to FEMA questions was timely submitted on August 31, 2012 and a copy has been provided to the Town Commission. The Town Commission will be kept aware of progress on this complex issue.

11. Options to Mitigate Inadequate Number of Parking Spaces at Multi-family Establishments along the Collins Avenue Corridor: Mayor Daniel Dietch

Current Status: The Spaggio Condominium review has been completed and the building has been determined to be 16 usable spaces short from its required number of spaces. This is due to the design of the parking facility which makes certain spaces unusable. Staff is working with the Town Attorney to develop an agreement with the Spaggio condominium board to resolve the situation. The goal is to present the agreement to the Town Commission in the Fall.

12. Dog Park: Mayor Daniel Dietch

Current Status: The Fiscal Year 12/13 Approved Budget contains \$10,000 for the creation of a Dog Park at 93rd Street and Byron Avenue. A Town Hall Community Meeting on the proposed park is set to occur on November 8, 2012 at 6:00pm. All area neighbors surrounding the park will be notified by mail similar to the planning and zoning process – homes within 300 feet of the site will be notified. The meeting will allow Staff to outline the process for building and operating the facility, including rules and regulations. Resident Ann Finley has until November 15, 2012 to incorporate a non-profit to assist with managing the park similar to the Surfside Urban Gardeners and the Community Garden. An agreement with this new non-profit and the Town is earmarked to come before the Town Commission at the December 2012 meeting. As the proposed site is at an existing pump station, set to be

reconstructed as part of the final phase of the Water Sewer Project, an early 2013 opening is anticipated barring any unforeseen circumstances.

13. Turtle Sculptures - Art in Public Places

Current Status: To date four sponsors have committed to the project. As contracted, Prince Media Development is working on securing sponsorships for the remaining sculptures as their number one priority. All eighteen turtles are presently in the final stages of being painted and sealed in anticipation of a late fall/early new year unveiling and placement. The placement of the sculptures is dependent on the Harding Avenue Business District FDOT road and sidewalk repair completion. Once in place this initiative morphs into an eighteen month promotion and sponsorship opportunity lasting through June 2014.

14. FDOT Surfside Repaving

Current Status: There are three repaving projects which will be accomplished by FDOT over the next 18 months. These include (1) Kane Concourse (96th Street) from the Surfside Town limits to Collins Avenue; (2) Collins Avenue from 75th Street in Miami Beach to 97th Street and Harding Avenue from 96th Street to 94th Street and (3) Collins Avenue in Bal Harbour from 97th Street to the Haulover bridge. The Collins Avenue north project is well underway with the second lift of asphalt completed during September, 2012. The striped asphalt crosswalks should be installed during November, 2012. Staff is checking the cost to add a stamped asphalt crosswalk to the 93rd Street/Harding Avenue intersection to complete the pedestrian path from the single family neighborhood to the Community Center.

15. Parking Structure Feasibility Study

Current Status: Rich and Associates have begun work on the study. Surveys and parking counts were implemented during July 2012. A Parking Committee will be established similar to the committee for the Water/Sewer/Storm Drainage Project. The names we have so far include residents Jesse Flax, Ken Arnold and Joe Corderi as well as downtown property owner Shaun Grenald and business operator Sergio Castion. The Town Commission is requested to suggest names for the advisory committee as soon as possible.

The following individuals met with Rich and Associates on July 18 and July 19, 2012 to identify particular issues or concerns with the parking lots:

- Mr. Gianni Fusillo Specchio Café
- Mr. Eli Tourgeman – HSBC Bank

- Mr. Bernie Oberlender – Oberle Opticians
- Ms. Sharlene Packar – Downtown Property Owner
- Mr. Josh Marcus – Josh's Deli
- Ms. Jenny Skordillis – The Greek Place
- Mr. Sergio Castion – Condotti Men's Clothing
- Flanigan's (Assistant Manager)

The Parking Survey for residents and visitors to our downtown has been completed with a total of 41 Business Operator / Manager Surveys, 104 Harding Avenue Business District Employee surveys (some of these may be from business operators/managers) and 190 Visitor / Customer / Resident Surveys. Of the total 335 surveys, 140 were electronic surveys.

The first meeting of the Parking Advisory Committee will be held in late October or early November, 2012.

16. Identity and Wayfinding Signage

Current Status: The low compliant bidder Don Bell Signs, LLC was authorized to begin manufacturing the signs per the June 12, 2012 Town Commission approval. Mock-ups were delivered August 2, 2012 and production has been authorized. The beach dune crossover signs have been installed and the way finding/parking signs are underway. The entrance signs and the TEDAC office sign will be installed in late October/early November to complete the job.

17. Bal Harbour Shops Expansion Status Report

Current Status: Recent press and discussions with Stanley Whitman confirm that Bal Harbour Shops has completed negotiations with the Church by the Sea (Attachment 3). The members of the Church approved the agreement on June 3, 2012.

In a meeting on June 27, 2012 with Gus Pego, FDOT District Engineer, we were disturbed to learn that FDOT's role in reviewing traffic issues related to such large scale projects has been virtually eliminated by the Legislature. This will make our negotiations with the Whitman's more difficult and greatly supports the decision to have a traffic study completed by CGA as a tool to support these negotiations. The study will be completed during October, 2012 and then will be brought to the Town Commission for review. Staff will monitor developments in this project and keep the Town Commission updated with the Points of Light.

18. North Force Main/Building Better Communities Bond Program

Current Status: There is both progress and pushback on this effort to obtain funding for this critically important second path for Surfside, Bal Harbour and Bay Harbor Islands sewage. Miami-Dade County WASD has retained the firm of Hazen and Sawyer to study the situation at the North Dade Regional Plant and the 163rd Street force main. This is recognition that something needs to be done that will resolve the North force main issue which we keep top of their minds. The negative is that the specific project is not listed in the draft settlement agreement with Florida DEP and US EPA. Surfside was represented in a community meeting held by WASD September 27, 2012 and our concern was placed on the record. We will continue to keep the Town Commission aware of events as the project evolves (Attachment 4).

19. Best Western (Chateau) Project

Current Status: The Best Western property sale closed on March 27, 2012 in the amount of \$50 million. The Design Review Group (first step of the review process) met on August 2, 2012. A second DRG meeting was held on September 11, 2012 to complete this stage of the review. The Development Input Committee met in an advertised, noticed and televised meeting on October 1, 2012 to work on the draft of the Development Conditions. The Town Commission will be kept aware as this project evolves.

20. Scholarship Program: Mayor Daniel Dietch

Current Status: The guidelines and application requirements for potential applicants was presented to the Town Commission during the September 19, 2012 meeting. The guidelines have subsequently been revised at the Mayor's request to include a process for Kindergarten and Middle School Recognition Certificates. A committee will be formed to manage the process for Fiscal Year 12/13 for award of the honors at the June 2013 Town Commission meeting. Item completed.

21. Island Community Initiative Automatic License Plate Reader Project (ALPR)

Current Status: The Island Community Initiative ALPR Project is a new crime prevention program involving the Bal Harbour, Bay Harbor Islands, Golden Beach, Sunny Isles Beach, and Surfside Police Departments. The project will monitor all vehicular ingress and egress into the five island Towns with ALPR cameras. Phase 1 of the project will Geo-fence the entrance roads to the five communities. The cameras will be installed in north Golden Beach; Sunny Isles at 192nd Street and Collins Avenue and Sunny Isles Blvd.; the Bay Harbor Islands tollbooths; and at 88th Street and Collins Avenue, Harding

Avenue, and Byron Avenue in Surfside. Phase 2 of the project will allow Towns to add interior ALPR and surveillance cameras to the interior of the Geo-fence such as parks, schools, etc.

Dispatchers and police officers in all of the communities will be alerted automatically at police stations and on laptops in real time to stolen cars, BOLOs, Amber Alerts, and hot lists. The project will also provide inter-agency sharing of investigative intelligence.

A Memorandum of Understanding (MOU) with the participating municipalities is in draft form awaiting the final selection of the vendor. The cost of the project will be shared equally by the five municipalities. The Towns will piggyback on the Sunny Isles contract which is pending and should be awarded in October. A meeting was held on September 13, 2012 to bring the Police Chiefs up to date on the project. A meeting was held on September 27, 2012 with the Chiefs and the three vendors who bid on the Sunny Isles Beach contract.

The four other Towns as well as Surfside have committed to the project. Surfside's cost is \$100,000 to become a participant in the project. Funds will be provided from the Law Enforcement Trust Fund.

22. Sidewalk Ordinance Implementation

Current Status: A survey of the downtown business district sidewalks, completed to the specifications required by FDOT, was returned to the Town for additional requirements. Presently the Town is revising the survey to meet the new additional FDOT requirements. Once FDOT approves the survey it becomes part of the lease agreement between the agency and the Town. It is anticipated that this agreement will be brought before the Town Commission at the November, 2012 meeting for discussion and ratification.

23. Imaging Town Documents

Current Status: This project is on track. A new records storage area has been completed in the landing area between the first and second floors. Town Clerk Sandra Novoa has moved Town records to that room while eliminating many records in accordance with State Law. This will allow the previously renovated room on the first floor to be used for imaging and storing building plans. New procedures have been agreed upon by all individuals involved in the process. All 749 boxes in Iron Mountain storage have been removed thereby ending the need to pay storage costs. The last pallet of boxes transferred from Iron Mountain will be completed in October, 2012. The Building Department records should be completed by the end of December, 2012. On average, the contents of the boxes has been reduced by 85 percent. Many thanks to Sandra Novoa, Paul Gioia and others who are moving this project forward.

24. Street Closing Northbound at 88th Street and Byron Avenue and Right Turn Prohibition at Abbott Avenue Westbound to Northbound

Current Status: After a public meeting and a number of individual discussions, solutions that meet the needs of the neighbors were developed. Miami Dade County originally approved the northbound Byron Avenue street closure and the rescinded its approval based on pressure from Miami Beach. During the August 15, 2012 Town Commission meeting, the Town Attorney was requested to provide a cost estimate for fighting this issue if that became necessary. The matter appeared on the September 19, 2012 agenda for direction to the Town Attorney and the Town Manager and the decision was reached to not move forward with the full closure of Byron Avenue North. Police Chief David Allen has included two ALPR cameras at 88th Street and Byron Avenue to help secure this entry point to Surfside.

25. Surf Club Project

Current Status: After years of discussion, the Board of the Surf Club gave final approval on September 8, 2012 for the sale of the property to Fort Capital. The architect is Kobi Karp. Plans include historically faithful renovation of the original building, new residential on both sides of Collins Avenue, a 275 room very high end condominium hotel, a luxury spa, a high end boutique food store and a parking structure. The Design Review Group met on July 31, 2012. In a second meeting on August 23, 2012, most of the issues were resolved. The Development Impact Committee met on August 30, 2012, in an advertised televised and noticed meeting to complete the Development Conditions. The project went to Planning and Zoning/DRB on September 28, 2012, and received unanimous approval with additional and modified conditions. The Town Commission will review the project on October 15, 2012.

26. Tourism Strategic Plan

Current Status: A selection Committee comprised of three staff members and four residents, including two Tourist Board members, met with seven proposers in individual presentations held on September 21, 2012. One proposer withdrew from the process prior to the meeting. Three of the seven proposers chose to Skype in for their meetings. Each Committee member evaluated and ranked the submissions according to the formula stated in the RFP. The recommendation from this Committee of CJF Marketing International as the most responsive and responsible bidder will be presented to the Tourist Board at its October 2012 meeting. The Board's recommendation and proposed contract between the Town and CJF Marketing International are anticipated to come before the Town Commission during the November 2012 Town Commission meeting for review and approval.

27. Charter Review November Ballot Process

Current Status: The Town Commission determined to place three Charter Amendments on the November 6, 2012 election. During the August 15, 2012 Town Commission agenda the amount of \$10,000 was allocated for the program and the various elements of the program were defined. A meeting with Fausto Gomez, Duncan Tavares and Roger Carlton was held on September 11, 2012 to get the program underway. The October Gazette includes discussion of the three amendments and an article. There will be other informational activities prior to the election.

28. The Shul Project

Current Status: An application in sufficient form to start the Design Review Group process has been received and the first meeting was held on August 22, 2012. Staff will keep the Town Commission aware as this project evolves.

29. Electric Car Charging Station: Mayor Daniel Dietch

Current Status: Mayor Daniel Dietch placed this item in the Points of Light during 2011 with the recommendation that the Town await a competitive selection process underway to select a vendor in Sunny Isles Beach. This never reached closure and the item was removed. We have now learned that Miami Beach and the City of Hollywood have agreements which we could use (Attachment 5). Staff is investigating and will report back to the Town Commission with recommendations before the end of 2012.

30. Second Floor of the Community Center

Current Status: The Surf Club developer agreed to provide \$500,000 to this project as well as other contributions as voluntary proffers. During the Planning and Zoning Hearing meeting on the project held September 25, 2012, the conditions were modified to allow the contributions to be spent in any Parks and Recreation capital project. The Best Western (Chateau) developer has been offered the same opportunity; however, the amount is still being negotiated. With the potential of up to \$1 million donations to the Parks and Recreational Capital budget discussion has begun with the Parks and Recreational Committee to develop a Comprehensive Plan which will be brought to the Town Commission in early 2013.

31. Health/Life/Dental/Disability Insurance

Current Status: Stan Bershad completed the rebid of the employee insurance program with the cost increase for medical of 10 percent as was included in the FY 12/13 Budget. Historically this contract is not finalized until after the October Town Commission meeting. Once the decision to award was made, the Town Commission was informed and the open season was held prior to the end of September, 2012. Then the new agreement will be placed on the November 13, 2012 Town Commission agenda for retroactive approval.

32. Pool Tot Lot (Water Playground) Community Center

Current Status: Funtraptions, the original contractor for the Community Center water playground is no longer in business and not available for any warranty work or repairs. At the completion of the project, a 10% retainer fee was held back by the Town until full satisfaction was met with the water play structure. The retainer (\$22,600) will be utilized to cover the cost of repairs of warranty items that need to be addressed. Reliable Pools, a local qualified contractor experienced in working with Funtraptions equipment has been retained to work on the repairs when the weather turns cooler. The amount of retainage should be sufficient to achieve this goal. A representative from Reliable Pools has been on site at the Community Center (September 18, 2012) and has reviewed the issues with the activity pool. At this time we are waiting on an estimate of cost and a start and completion date for the repairs.

33. Bullying Program: Commissioner Michelle Kligman

Current Status: The Parks and Recreation Department along with Commissioner Kligman is developing an informative community awareness program on bullying. The bullying program idea was introduced by Commissioner Kligman and presented at the August 6, 2012 Parks and Recreation Committee Meeting.

The program will consist of an informative session to include an expert panel in the control of bullying and a showing of the movie *Bully*. This program will also have the support of the Miami Dade County Public Schools and Staff will work with nearby communities. The projected implementation date for this program will be in the late Fall of 2012. Updates will be provided until the program is complete.

34. Seawall Project

Current Status: The seawall project was awarded to Calvin Giordano and Associates with the commitment that the grant application cost would not be paid until a grant in the amount of not less than \$250,000 was made available. The design work is underway. This project has become a Point of Light and the Town Commission will be kept aware of progress to implement these critical repairs.

35. Traffic Study

Current Status: This project will review traffic flows, traffic calming devices and provide a model to simulate future traffic impacts. The study should be complete in mid-October and brought to the Town Commission in November, 2012.

36. Federal Road Designation Removal in Single Family Neighborhood

Current Status: A meeting was held with FDOT District Engineer on September 13, 2012 to discuss the need to down grade the single family streets to the lowest federal classification. The 10 year FDOT update is underway and we have provided necessary information to support the change. (Attachment 6)

37. Legislative Priorities

Current Status: A meeting is scheduled with Fausto Gomez on October 16, 2012 to discuss the priorities. Members of the Town Commission are encouraged to articulate their priorities for inclusion in the list.

38. New Parking Citation Handheld Devices

Current Status: Miami Dade County Parking Violations Bureau staff is providing all new handheld citation devices to Surfside Enforcement officers (Attachment 7). This will allow improved ability to capture scofflaw violators and achieve the additional revenue included in the FY 12/13 Budget.

39. Credit Card Accepting Single Meter Trial

Current Status: During the September 19, 2012 Town Commission meeting, a 90 day experiment to install credit card accepting single meters was approved with IPS Inc.

Commissioner Joe Graubart requested that the meters on 95th from Collins Avenue to Abbott Avenue have shorter time limits. Staff will report on this trial program as it unfolds.

These items have been completed and deleted from the September 2012 Points of Light report

13. Upgrade to Town Hall Elevator

Current Status: The Town Commission approved the upgrade to the Town Hall elevator at the March 13, 2012 Commission meeting. This was one of the projects included in the Town Commission “shovel ready” discussion. The contractor ThyssenKrupp was selected by the Town Commission during the March 13, 2012 meeting. The elevator project was completed prior to the August 14, 2012 Countywide election. Item completed.

19. Bay Harbor Islands Agreement with the Miami Dade County Public Library System

Current Status: The Town Commission voted at their August 15, 2012 meeting not to pursue an interlocal agreement with the Miami Dade Library System due to new State legislation limiting the use of library patron data and the excessive controls necessary to ensure that the County payments were accurate. Thus the Town’s present system for reimbursing residents for their library cards will continue. Item Completed.

23. Renovations to Parking Lots

Current Status: The low bid to renovate the Abbott, 95th Street (Shul), 94th Street, Town Hall (93rd Street) and Town Hall (Collins) lots came in at \$220,000 which is well below the \$450,000 estimated figure. Renovation has been completed on the two Town Hall lots and the 95th Street (Shul) lot for \$95,000 and the cost of landscaping added \$97,000. The remaining three lots will be kept on hold until after the parking structure feasibility study for these three lots is complete. The results of the three initial lot renovations have been quite extraordinary and the new graphics will be installed during 2012. Item completed until parking structure(s) decision is made.

31. FPL Rate Increase: Commissioner Michelle Kligman

Current Status: A conference call with Commissioner Michelle Kligman, Aletha Player of FPL and Town Manager Roger Carlton was held on September 6, 2012. Bottom line is that FPL has decreased its request significantly to the point that the “average” customer will see less than a

\$2.00 monthly increase. The Public Service Commission will make a final decision before the end of 2012. (Attachment 6A and B). Item completed.

32. Aventura Hospital

Current Status: As our community grows increasingly health conscious, the Town of Surfside and Aventura Hospital and Medical Center is providing a forum to become healthier through employee and community lectures. Aventura Hospital and Medical Center will host quarterly lectures and wellness events for both employees and Town residents. Each event will be free of charge to employees and Town residents. Each lecture will be from 6:30pm – 7:30pm in the Community Center presented by an Aventura physician or member of their team. Blood pressure and blood sugar screenings will be available for all community lectures. The events will begin in October and continue through 2013 on a quarterly schedule as follows: October 16, 2012 – Important Information on Women’s Health; January 15, 2013 – Eating Healthy in the New Year; April 16, 2013 - Tips to Fight Depression; July 16, 2013 – What to Know During Hurricane Season; October 15, 2013 - Important Information on Prostate Cancer. To reserve a spot, residents must call 1-888-256-7692. Thanks to Surf Club member and Indian Creek resident Barbara Siegler who brought this program to our attention and Yam Slate McCloud who worked out the details. Item completed.

37. FRPA Agency of the Year Award for Parks and Recreation and Florida League of Cities Spirit Award

Current Status: The Parks and Recreation Department was nominated for the first time for the Florida Recreation and Parks Association Agency Award (FRPA) for 2012. Although Surfside did not win the award this year, it was highly recommended by the organization that we resubmit for the year 2013. The FRPA review board was very impressed with the new Community Center and expressed interest in highlighting the Community Center in the December 2012 year end FRPA Facility Show Case publication. Copies of the FRPA Facility Show case will be available in December 2012 and we will have copies available to the Commission.

The Parks and Recreation Department was submitted for consideration for the Florida League of Cities Spirit Award. Again, Surfside was not chosen however, the FLC review board was impressed with the Community Center and indicated they would like to highlight it in their Facility Show Case Publication due this Fall 2012. Overall this was a positive step forward in informing the professional organizations about the great programming and facilities available in the Town of Surfside.



TOWN OF SURFSIDE

ATTACHMENT 1
LINKED TO POL # 1

9293 HARDING AVENUE
SURFSIDE, FLORIDA 33154
(305) 861-4863 • FAX: (305) 861-1302
WWW.TOWNOFSURFSIDEFL.GOV

August 27, 2012

Dear Surfside Business Property Owner,

First and foremost, it has been a pleasure meeting and collaborating with some of you at the recent Downtown Vision Advisory Committee (DVAC) meetings. For those of you that I have not yet met, I am writing to you because The Town of Surfside, with Commission consent is exploring the creation of a Business Improvement District (BID) for the downtown area. This initiative is being analyzed by the DVAC and has been accepted in principal by many of you during meetings held with the Town regarding conditions for rescinding the Moratorium Ordinance last summer. We are looking to get as much feedback and support for this as possible and I encourage you to become involved.

As you may recall, a BID is a public / private partnership in which property and business owners elect to make a collective contribution to the maintenance, development and promotion of their commercial district, beyond the basic level of service already delivered by the Town. There are several advantages that result from stakeholders in a commercial district aligning themselves to improve the area, including a cleaner, safer and more attractive business district, a steady and reliable funding source for supplemental services and programs, the ability to respond quickly to changing needs of the business community, the potential to increase property values, improve sales, and possibly decrease commercial vacancy rates.

The process for the BID begins with your decision, as property owners, to approve an assessment creating the district. This special assessment district will guarantee a revenue stream for the services and improvements you decide to implement. In essence, this will assist in presenting Surfside's downtown as a unified and viable destination.

The establishment of a BID in other areas around the State of Florida has proven to strengthen the economic vitality of the area and, if approved and implemented here will become an investment in the long-term economic development of Surfside's Business District. I am asking you to join me at our next DVAC meeting on Monday October 29, 2012 to discuss this very important issue. You may also contact Duncan Tavares at (305) 864-0722 to set up a meeting with me or my cell (305) 619-5748 to understand your vision for downtown.

Sincerely,

Michelle Kligman, Psy.D.
Commissioner
Town of Surfside



TOWN OF SURFSIDE

ATTACHMENT 2
LINKED TO POL # 1

9293 HARDING AVENUE
SURFSIDE, FLORIDA 33154
(305) 861-4863 • FAX: (305) 861-1302
WWW.TOWNOFSURFSIDEFL.GOV

September 10, 2012

Dear Surfside Business Operator,

First and foremost, it has been a pleasure meeting and collaborating with some of you at the recent Downtown Vision Advisory Committee (DVAC) meetings. For those of you that I have not yet met, I am writing to you because The Town of Surfside, with Commission consent is exploring the creation of a Business Improvement District (BID) for the downtown area. This initiative is being analyzed by the DVAC and has been accepted in principal by many of your landlords during meetings held with the Town regarding conditions for rescinding the Moratorium Ordinance last summer. We are seeking as much feedback and support for this as possible and I encourage you to become involved.

A BID is a public / private partnership in which property and business owners elect to make a collective contribution to the maintenance, development and promotion of their commercial district, beyond the basic level of service already delivered by the Town. There are several advantages that result from stakeholders in a commercial district aligning themselves to improve the area. These include a cleaner, safer and more attractive business district, a steady and reliable funding source for supplemental services and programs, the ability to respond quickly to changing needs of the business community, a fund to market special events and sales promotion will also help lower your advertising costs, improve sales and decrease commercial vacancy rates.

The process for the BID relies on your commitment, as business owners, to support creating the district. The special assessment district will guarantee a revenue stream for the services and improvements that will ultimately benefit your business. In essence, this will assist in presenting Surfside's downtown as a unified and viable destination.

The establishment of a BID in other areas around the State of Florida has proven to strengthen the economic vitality of the area and if approved and implemented here will become an investment in the long-term economic development of Surfside's Business District. I am asking you to join me at our next DVAC meeting on Monday October 29, 2012 to discuss this very important issue. You may also contact Duncan Tavares at (305) 864-0722 to set up a meeting with me or my cell (305) 619-5748 to understand your vision for downtown.

Sincerely,

Michelle Kligman, Psy.D.
Commissioner
Town of Surfside

HR ROUNDUP

Bal Harbour Shops moving ahead with expansion

BY SHAWN BEVAN

Bal Harbour Shops is ready to move forward with its expansion after signing an agreement with Church by the Sea to acquire the land the church was built on.

The deal gives Bal Harbour Shops the right to acquire the land at 501 96th St. — on which the church has stood for nearly 70 years — making way for the shopping center's 200,000-square-foot expansion.

In exchange, Bal Harbour Shops will build

a 50,000-square-foot, eco-friendly church on land it owns at the intersection of Bal Bay Drive and Park Drive. The village of Bal Harbour refused to approve the expansion until an agreement was made between Bal Harbour Shops and the church.

"My family and I have been in conversations with our neighbors, the Church by the Sea, for the better part of half a century," said operating partner Matthew Whitman Lazenby, a third-generation Whitman family member involved in the business. "We are just de-

lighted to have found a solution that allows the church to advance its mission, while affording us the opportunity to finally move forward with our long-awaited expansion."

Bal Harbour Shops' \$2,555-a-square-foot in sales was first in the world, the retail center said last month, citing a ranking in the International Council of Shopping Center's *Shopping Centers Today*. The figure is nearly seven times the ICSC-estimated \$451-a-square-foot industry average, the publication's September issue noted.



FILE PHOTO

Bal Harbour Shops' Matthew Whitman Lazenby says plans for expansion are ready.



The Best
Service On
Diesel Trucks
In Miami!

8155 W. Flagler St. • 888-864-6511 • MidwayMiami.com

ATTACHMENT 4
LINKED TO POL # 18

Herald

B H3

TUESDAY, SEPTEMBER 18, 2012
FINAL EDITION

MIAMI-DADE COUNTY

Upgrades for water, sewer could exceed \$12B

■ Dade's Water and Sewer Director John Renfrow warned that the repair bill for the water and sewer system could top \$12 billion over 15 years.

BY CHARLES RABIN
crabin@MiamiHerald.com

Repairing, replacing and rebuilding 13,000 miles of aging and brittle water and sewage pipes and the treatment plants they connect to could cost Miami-Dade County more than \$12 billion over the next 15 years.

That staggering amount — a huge jump from the billion-dollar total that had been previously discussed — was relayed to commissioners by county water and sewer director John Renfrow during a brief, lightly-attended committee meeting last week that left some stunned, and the public grabbing for their wallets.

"It's going to take time and it's going to take money," Renfrow told members

ing an 18-minute presentation. "That's the bad news. The good news is the shot in the arm the economy will get."

Calling it "the topper" of all projects, Renfrow said that, when complete, the total cost will surpass the \$7 billion spent to refurbish Miami International Airport and the \$10 billion planned for Everglades restoration.

If the \$12 billion figure is accurate, it would be enough to build about 24 stadiums for the Miami Marlins, or just as many new performing arts centers.

What Renfrow did not explain to commissioners was that the \$12 billion figure is not the number demanded by federal authorities who

Long-term water/sewer bill could top \$12B

• PIPES, FROM 1A

continue to grapple with the county over repairs to the aging system that must be immediately done to meet the Clean Water Act. That number is closer to \$1.4 billion. The \$12 billion is part of a long-range capital improvement plan that includes new sewage and water lines and new state-of-the-art plants for the six sites that now treat water and sewage.

As part of a deal to meet federal requirements, county water officials released a list of \$1.4 billion in fixes the county hopes to start on soon. Among them are \$948 million in fixes to three water-treatment plants in Goulds, North Miami and Virginia Key. There are another \$405 million in projects throughout Dade.

The 15-year capital-improvement project calls for across-the-board fixes to water and sewage lines in neighborhoods throughout Dade. The 266-page plan calls for almost \$5 billion in future bonds, \$209 million in general obligation bonds, and the rest of the money to come from water bills and various grants and revenue sources such as water connection charges and rock-mining fees.

Still, the combination of short-range and long-range plans will be a bitter pill to swallow for Dade taxpayers, who Renfrow said could expect to see their water bills double or triple and their debt rise on bond payments by the billions over the next 15 years. County water bills

are currently among the lowest in the nation, according to Miami-Dade officials.

"They should have started [repairs] 15 years ago," said Sierra Club volunteer and environmental activist Blanca Mesa. "Maybe they should cancel some of the planned projects, like the tunnel or the museums. It sounds like they have an emergency on their hands."

Though the county continues to meet with federal authorities on inking out a plan to repair the brittle piping that snakes its way mile after mile underground, Renfrow said he expects to confront commissioners in the spring with a request to sell \$300 million worth of bonds to get the work started to meet federal standards.

"That's a drop in the bucket," Commissioner Audrey Edmonson said at last week's meeting.

Though the county's proposed budget for the new fiscal year that begins Oct. 1 does not provide for any water-rate increases, it does project a 9-percent rate hike in 2013-14 — followed by an additional 6 percent increase each year over the next three years.

At a preliminary budget hearing earlier this month, Commissioner Lynda Bell questioned whether the county should consider easing residents into the higher rates beginning this year.

"I'd much rather see it gradually than just one big hit," she said.

County Mayor Carlos Gimenez said it will likely take a combination of water-bill

hikes and bonds to cover any agreement with the feds. The county has scheduled three community meetings for next week, and Renfrow said he expects a full plan signed off by the federal government that he can present to commissioners by March.

"We don't have the complete picture yet, but we're getting there," Renfrow said.

The city of Cincinnati, which recovered from a similar problem about a decade ago, spent \$1.5 billion on fixes after negotiations with the federal government. The city also agreed to set up a victim's compensation fund, in which the water and sewer department agreed to pay for injuries caused by the faulty system.

Regulators from the U.S. Environmental Protection Agency, the Department of Justice and the Florida Department of Environmental Protection descended on Miami-Dade in May with a 78-page consent decree, declaring the county had violated sections of the Clean Water Act, along with terms and conditions of its National Pollutant Discharge Elimination Systems permit.

The county's aging sewage system has ruptured more than 65 times over the past two years, spilling over 47 million gallons of untreated human waste into waterways and streets from South Dade to the Broward County line. Those breaks were documented in letters sent to Miami-Dade by environmental regulators over the past two years. The letters also warned that the

county could be on the hook for damages and restoration and penalties as high as \$10,000 a day.

The EPA estimates there are up to a quarter-million line breaks around the country each year, as struggling cities continue to deal with sewage systems that in some cases are 100 years old.

Miami-Dade was last hit with a consent decree in 1996, eventually settling on a \$2 million payment. Back then the problem was a lack of capacity to drain water overflows.

Now, despite spending more than \$2 billion in repairs, the problem is leaky and breaking pipes, as well as aging water treatment plants in need of new technology.

The county's Central District Wastewater Plant on Virginia Key is desperately in need of repair, having failed four times between October and December 2011, when it sent 19 million gallons spilling from the facility.

Just last week the county had to close down sections of Bird Road from Southwest 37th to 57th avenues, well-populated neighborhoods that run from South Miami through Coral Gables. Water & Sewer spokeswoman Jennifer Messmer said the county was forced to build manholes so workers could gain access to faulty pipes under the roadway.

"The Bird Road pipes are in critical condition now," said Renfrow.

Miami Herald staff writer Patricia Mazzei contributed to this report.

AGREEMENT FOR A PHASE I PILOT PROGRAM TO PROVIDE ELECTRIC VEHICLE
CHARGING STATIONS FOR THE CITY'S PARKING FACILITIES, PURSUANT TO CITY
OF MIAMI BEACH REQUEST FOR PROPOSALS NO. 18-10/11

THIS AGREEMENT is entered into on this 11th day of July, 2012 (the "Effective Date"), by and between the City of Miami Beach, Florida, a municipal corporation located at 1700 Convention Center Drive, Miami Beach, Florida, 33139 (hereinafter "Client"), and Car Charging Group, Inc., a Nevada Corporation with offices at 1691 Michigan Avenue, Suite 601, Miami Beach, Florida, 33139 (hereinafter "Provider").

PREAMBLE

WHEREAS, Provider desires to be engaged by Client for the term of this Agreement for a Phase I Pilot Program (also referred to hereinafter as the "Contract") to provide Electric Vehicle Charging Stations pursuant to the RFP (as hereinafter defined), to make available, provide, install, maintain, service and operate an electric car charging station or stations (the "Equipment") wheresoever located within the real property owned by Client with the property address set forth in the attached Exhibit A, which is incorporated by reference herein (the "Property"); and

WHEREAS, the purpose of this Contract is for Provider, as the successful proposer pursuant to City of Miami Beach Request for Proposals No. 18-10/11, to Provide Electric Vehicle Charging Stations for the City's Parking Facilities (the "RFP"), to enable Client to offer a Phase I Pilot Program for electric car charging services on the Property, for the use of Client, its guests, employees, licensees, or invitees; and

WHEREAS, the Equipment shall be installed and maintained by Provider or its approved subcontractors in an area or areas specifically designated for electric car charging by Client at the location(s) within the Property specifically set forth and/or depicted by diagrams on the attached Exhibit B (as same may be updated from time to time throughout the term of this Contract) (hereinafter the "Designated Area" or "Designated Areas"); and

WHEREAS, Client desires to so contract with Provider to provide the Equipment and its related services upon the terms and conditions set forth below.

NOW, THEREFORE, for and in consideration of the covenants, conditions and agreements contained in this Contract, the parties mutually agree and covenant as follows:

1. **Preamble Made Part of Contract.** The preamble described above is made a part of this Contract and expressly incorporated by reference herein.

2. **Term of Contract/Removal of Equipment.**

2.1 **Phase I Pilot Program Term.** The term of this Contract (the "Term") shall be for a period of one (1) year, commencing on the Commencement Date (which shall be defined as the date of acceptance by Client of installation of the Equipment¹), and ending at 11:59 p.m. on the one (1) year anniversary of such Commencement Date.

¹ See Exhibit D for form for acceptance of installation of Equipment for the Pilot Program .

2.2 Client hereby grants Provider the right, upon the termination or earlier expiration of this Contract, to enter upon the Property within thirty (30) days after such termination or expiration, to remove any and all Equipment (which right, title and interest in said Equipment shall at all times during the Term of this Contract be deemed property of Provider), as well as any other ancillary property of Provider relating thereto. Provider shall coordinate removal of Equipment (and any ancillary property) with Client and shall also, in conjunction with such removal, restore the Property to its original (or better) condition prior to the Effective Date of this Contract (as same is set forth in page 1 of the Contract), and shall repair any damage caused from such removal, at its sole cost and expense.

2.3 Thirty (30) Day Convenience Termination. Notwithstanding anything herein to the contrary, Client may cancel this Contract, without cause and without liability to Client, at any time during the Term, upon thirty (30) days written notice to Provider. Upon receipt of Client's notice, Provider shall promptly commence removal of any and all Equipment, as well as any other ancillary property of Provider relating thereto, in accordance with subsection 2.2 hereof.

3. Installation and Maintenance of Equipment and the Surrounding Property.

3.1 It is expressly agreed that, for this Phase I Pilot Program, Client will designate at least four (4) parking spaces, at the Client's discretion, in the Property to Provider exclusively for use for electric car charging. Provider agrees to supply and install, at Provider's sole expense, the Equipment at the Designated Area(s) set forth in Exhibit "B" hereto, after Client's completion of construction of the groundwork and infrastructure necessary for the installation and operation of such Equipment. Provider shall perform all installations and work in such a way as to minimize interference with operation of the Property.

It is expressly agreed that (i) Client shall be solely responsible for any and all costs and expenses associated with the preparation of the Designated Area for the installation of the Equipment including, without limitation, the installation of circuit breakers, wires, and conduits on the Property, and (ii) such preparation shall be subject to the reasonable prior written approval of Provider.

Notwithstanding any provisions to the contrary herein, and subject further to approval by Provider, which approval shall not be unreasonably withheld, Client shall be solely responsible for determining the need (if at all) for installation of additional Equipment on the Property, based on usage and operational load. In the event that Client determines, and Provider agrees, that there is a need for installation of additional Equipment on the Property, Client, in its sole discretion, shall determine the area (or areas) designated for such Equipment (and Exhibit "B" hereto shall be amended accordingly to identify any such additional designated area(s) after Client's completion of construction of the groundwork and infrastructure necessary for the installation and operation of such Equipment at Client's sole cost and expense. In the event additional Equipment is installed on the Property, the parties shall execute an Installation Date Acceptance, establishing the Commencement Date of the Contract for such Equipment.

3.2 Provider further agrees that it shall maintain and replace the Equipment, as necessary, to keep the Equipment in good condition and proper working order. During the Term, Provider, its employees, agents, contracts and vendors may enter upon the Property at any time, subject to providing Client or its designated property manager with reasonable prior written or verbal notice, for purposes of installing, inspecting, servicing, and maintaining the Equipment.

3.3 Provider agrees to make available technical service support personnel to promptly service the Equipment in a commercially reasonable manner. In the event Client knows of, or becomes aware of, any actual or potential claim against the Provider by any person or entity, or any actual or potential malfunction with the Equipment, Client shall notify Provider promptly upon notification of such claim or malfunction; provided, however that Client's failure to notify Provider pursuant to this subsection 3.3 shall not relieve Provider of any obligations herein including, without limitation, its sole obligation to service, maintain, repair, and replace the Equipment, as necessary.

Provider shall ensure the Equipment is clearly marked with the following information for users: (i) Provider's or a designated contact party's information for complaints, notification and service issues; (ii) a statement that Provider is fully responsible for all service issues, including damage or loss to vehicles or improper charging; and (iii) a disclaimer stating Client is not responsible for any service issues or loss connected with use of the Equipment.

3.4 Client agrees, at its own expense and at all times during the Term, to keep the public areas immediately appurtenant to any Designated Area or Areas, reasonably free of debris and rubbish and in good repair and condition; provided, however, that Client will not be required to incur any additional and/or special expenses, nor adopt or initiate any additional standards and/or operating procedures, other than Client's customary maintenance standards for the Property existing as of the Effective Date (and, provided further, that any such standards for "customary maintenance," whether as existing now or as may be developed in the future, shall be determined by Client, in its sole and reasonable discretion). In addition, Client shall provide and maintain, in accordance with the aforestated "customary maintenance" standards, such outdoor lights and lighting as Client deems necessary to illuminate the Designated Area or Areas and Equipment.

3.5 Upon installation of the Equipment, Provider shall have the right to install signage in the Designated Area or Areas and on the Property identifying the Equipment as an "EV Charging Station;" with such signage to be substantially in the form attached hereto as Exhibit E. Notwithstanding Exhibit E, any and all such signage shall be subject to Client's prior written approval, and shall comply with applicable City Code provisions. Provider shall pay all costs and expenses associated with the approvals, creation, installation, maintenance and removal of all signage.

4. Revenue.

4.1 **Revenue Payment.** Provider shall remit to Client fifteen percent (15%) of the annual gross revenue generated by the Equipment, which shall include, but may not be limited to, all revenue generated by electric car charging fees (the "**Revenue Payment**"). The Revenue Payment made to Client under this Section 4 shall be calculated monthly and shall expressly exclude any portion of the gross revenue used to offset any and all electricity charges of Provider related to the Equipment.

The Revenue Payment shall be issued by Provider to Client on or before the fifteenth (15th) day of each subsequent month to the applicable monthly revenue period. Each payment will be accompanied by a written report which will detail the number of transactions and gross revenue received by Provider for the prior month from charging services.

4.2 Session Limits/User Fees.

(a) **Session Limits.** Client agrees that Provider shall be solely responsible for issues relating to session time limits or other charges relating to use of the Equipment by any party.

(b) **User Fees.** As of the Effective Date hereof, Provider charges \$2.49 per hour for use of the Equipment. Provider intends to continue charging this rate until the State of Florida, by bill pending in the Florida House of Representatives (CS/HB 7117(2012)) and Florida Senate (575-03312-12; 20122094c2) by the Committees on Agriculture, Communications, Energy and Public Utilities, allows charging of electricity to the consumer on a per kilowatt hour basis. Provider shall provide Client with written notice of any change in fee structure for use of Equipment under this Section 4.2(b); however, Client may not unreasonably withhold its consent to any such fee change request. This fee arrangement does not cover *Hertz*² based on the fact that a separate fee agreement may be negotiated for bulk service user rates with Provider.

4.3 **Collection of Revenue.** Provider will arrange for and supervise all revenue collection generated by the Equipment.

4.4 **Electricity Charges.** Provider shall be responsible for all electric charges applicable to the Equipment (the "Electricity Charges") and shall reimburse Client for the Electricity Charges based upon Provider's consumption of electricity determined by a report generated by the Equipment indicating the exact amount of kilowatt hours used for its operation at the billable kilowatt rate to Client under its electric bill (the "Electricity Reimbursement").² Provider shall be charged the same cost as would be charged to

² Client shall tender to Provider an electric bill (copy to be attached as **Exhibit C** inclusive of the Designated Areas and Provider shall calculate and provide, in writing, to Client the dollar value of the billable kilowatt rate to Client under its electric bill. Provider shall recalculate the billable rate each fiscal quarter upon receipt of a bill by Client. Client acknowledges that the rate calculation for this Paragraph 4 may not be completed and delivered by Company until after Client has delivered its first electric bill to Provider to determine calculation.

Provider by the utility company if such Electricity Charges were billed directly to Provider. Provider will make the Electricity Reimbursement payment to Client within thirty (30) days following receipt of the monthly electricity invoice, provided, however, that any credit received from a disputed utility company invoice shall appear as a credit to Provider on the next invoice following receipt of such credit by Client.

4.5 Notwithstanding the foregoing, to the extent Provider installs Equipment which includes an internal "revenue grade" smart meter, Client acknowledges that such "smart meter" will directly calculate the Electricity Charges to Provider, and such charges will be billed and paid directly by Provider to the local electricity utility company thereby removing any obligation of Provider to reimburse Client for electricity usage hereunder. Client further acknowledges that Provider may establish its own account and have its own meter installed at the Property through which the utility company shall bill Provider directly for any electricity used in conjunction with the Equipment.

4.6 Payment Remittance. All payments due to Client hereunder shall be sent to the following address:

**City of Miami Beach Parking Department
c/o Finance Manager
1755 Meridian Avenue, Suite 100
Miami Beach, Florida 33139**

5. Equipment Upgrade. Client hereby acknowledges that notwithstanding anything to the contrary herein, at any time during the Term, Provider may, without notice to Client, upgrade any Equipment within the Designated Area or Areas. Provider shall be solely responsible for any costs involved with such upgrade.

6. Relocation. Client hereby acknowledges that notwithstanding anything to the contrary herein, at any time during the Term, Provider may, upon written notice to Client, and subject further to Client's prior written consent, which consent shall not be unreasonably withheld, relocate Equipment within the Property to the extent that a specific location within a Designated Area or Areas is not performing to Provider's specifications. Provider shall be solely responsible for any costs involved in the relocation of any Equipment (including, without limitation, repair and restoration of the former Designated Area(s)).

7. Indemnification.

7.1 For purposes of this Section, the term "Provider" shall include Car Charging Group, Inc., and its officers, employees, contractors, vendors, agents, and/or servants, AND CCGI/CMB, LLC, and its officers, employees, contractors, vendors, agents, and/or servants.

7.2. Provider shall indemnify Client, and its officers, employees, contractors, and, agents (collectively, the "Indemnified Parties"), and hold the Indemnified Parties harmless from and against any and all claims, actions, damages, liabilities, and expenses incurred in connection with loss of life, personal injury, and/or damage to property arising out of this Contract and including, without limitations, the services to be provided by Provider, the Equipment or any part

thereof, (further including, without limitation, the use of the Equipment and/or electric car charging stations by Client, its employees, guests, (licensees or invitees), or otherwise occasioned wholly or in part by any act or omission of Provider, its officers, employees, contractors, vendors, agents, and/or servants.

8. Intentionally Deleted

9. **Licenses/Permits/Taxes/Liens**. Provider agrees that it shall be solely responsible for obtaining any and all necessary licenses and/or permits for the installation and operation of the Equipment, and shall be solely and exclusively responsible for any citations as a result of any default hereunder. Provider shall also be solely responsible for payment of any and all sales, taxes, excises, licensed fees and permit fees of whatever nature arising from its operations and this Contract. Provider shall not permit any mechanic's materialman's or any other lien to become attached to the Property or the Equipment, or any part or parcel thereof by reason of any work or labor performed or materials furnished pursuant to this Contract.

10. **Default**. No party shall commit or allow to continue any breach of this Contract, which shall not have been cured within thirty (30) days after receipt of written notice from the non-breaching party specifying the breach; provided, however that if the breach cannot be cured within thirty (30) days, the breaching party shall not be in default if, within such thirty (30) day period, it shall have commenced to cure said breach and shall continue its efforts with due diligence. Upon the occurrence of a default and a failure to cure within the allotted cure period, the non-breaching party shall have the right, at the option of the non-breaching party, to (i) terminate this Contract, whereupon, neither party shall have any further rights, obligations or liabilities hereunder, except as otherwise expressly provided herein; or (ii) continue this Contract in full force and effect, notwithstanding the occurrence of such default. Except as otherwise provided in this Contract, the rights and remedies granted in this Contract are cumulative and are in addition to any given by any statutes, rule at law or otherwise, and the use of one remedy shall not be taken to exclude or waive the right to use another.

11. Intentionally Deleted

12. **Binding**. This Contract shall be binding upon and shall inure to the benefit of the parties and their respective successors and assigns. Nothing contained in it, whether expressed or implied, is intended to give or shall be construed as giving anyone other than the parties and the named Client and their successors or assigns any rights under this Contract. This Contract shall not be binding or enforceable against Provider unless and until it is countersigned by Provider after receipt of an executed copy from Client.

13. **Governing Law, Jurisdiction, Venue and Waiver of Jury Trial**. This Contract shall be governed by the laws of the State of Florida, without regard to conflict of laws. Any suit involving any dispute or matter arising under this Contract may only be brought in State or Federal Court of Miami-Dade County, Florida which shall have jurisdiction over the subject matter of the dispute or matter. Provider and Client irrevocably waive any objection that they now have or hereafter may have to the laying of venue of any suit, action or proceeding brought in any such court and further irrevocably waive any claim that any such suit, action or proceeding brought in any such court has been brought in an inconvenient forum. EACH OF THE PARTIES TO THIS CONTRACT HEREBY IRREVOCABLY WAIVES ALL RIGHT TO

TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM ARISING OUT OF OR RELATING TO THIS CONTRACT, ANY OTHER CONTRACT OR INSTRUMENT DELIVERED IN CONNECTION HEREWITH OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY.

14. **Ownership of Equipment.** The parties expressly acknowledge that some of the Equipment may have been financed through the ChargePoint® America program or another grant-based program. The parties further expressly acknowledge and understand that, as between Client and Provider and regardless of whether or not such Equipment was sponsored through a grant program or otherwise financed, all right, title and interest in and to the Equipment shall at all times be and remain the property of Provider.

15. **Notices:**

15.1 Any notice required to be given or otherwise given pursuant to this Contract shall be in writing and shall be hand delivered, mailed by certified mail, return receipt requested or sent recognized overnight courier service as follows:

If to PROVIDER:

Car Charging Group, Inc.
1691 Michigan Avenue, Suite #601
Miami Beach, FL 33139
Attn: Michael D. Farkas, CEO

With copies to:

CCGI/CMB, LLC
c/o Car Charging Holdings, LLC
1691 Michigan Avenue, Suite #601
Miami Beach, FL 33139

and

The Bernstein Law Firm
1688 Meridian Avenue, Suite 418
Miami Beach, Florida 33139
E-mail: Michael@Bernstein-Lawfirm.com

If to CLIENT:

City of Miami Beach Parking Department
c/o Parking Director
1755 Meridian Avenue, Suite 200
Miami Beach, Florida 33139

15.2 Notwithstanding the foregoing, Client expressly authorizes Provider to notice its designated Contract Manager, City of Miami Beach Parking Director, with a mailing address of 1755 Meridian Avenue, Suite 200, Miami Beach, Florida 33139,

(hereinafter "Manager") with regard to all matters pertinent to this Contract. Notice to Manager shall be deemed valid and sufficient service upon Client without the necessity for Provider to send separate notice to Client unless so specified in writing by Client. (If this Section 15.2 is not completed by Client, Provider shall notice Client as at the address set forth in Section 15.1 hereunder).

16. **Provider's Insurance Coverages.**

- (a) Provider shall not commence any work and/or services under this Agreement until all insurance required under this Section has been obtained and such insurance has been approved by the City's Risk Manager. Provider shall carry and maintain the following insurance coverages during the Term of this Agreement:
 - (1) Worker's Compensation insurance in compliance with the Worker's Compensation Act of the State of Florida.
 - (2) Employer's liability insurance on all employees for the Premises not covered by the Worker's Compensation Act, for occupational accidents or disease, in limits of not less than \$1,000,000 for any one occurrence, or whatever is necessary to satisfy the requirements of the umbrella liability insurance specified in Subsection (a)(6) below.
 - (3) Comprehensive General Liability insurance on an occurrence form basis with limits of not less than \$1,000,000 per occurrence for bodily injury property damage to include Premises/Operations; Products; Completed Operations and Contractual Liability. Contractual Liability and Contractual Indemnity, with Hold Harmless/Indemnity provision, with a general annual aggregate limit of \$2,000,000.
 - (4) Automobile liability insurance including comprehensive and collision coverage with a limit of not less than \$1,000,000 per occurrence (owned/non-owned/hired automobiles includes).
 - (5) Comprehensive crime insurance including employee theft, premise, transit and depositor's forgery coverage with limits as to any given occurrence of \$1,000,000.
 - (6) Umbrella liability insurance with an annual aggregate limit of not less than \$5,000,000.
- (b) The liability policies affording the coverages described in subsections (a)(3), (a)(4) and (a)(6) above shall be endorsed to cover Client and its employees, agents, directors and officers as additional insureds.

- (c) Provider shall deliver certificates of insurance to Client's Contract Manager and renewal policies shall be obtained, and certificates delivered to the Contract Manager, at least fifteen (15) days prior to expiration. The certificates of insurance shall state that the issuing company shall provide thirty (30) days' prior written notice to the certificate holder should any of the policies be cancelled prior to the expiration date.
- (d) All of Provider's certificates, above, shall contain endorsements providing that written notice shall be given to the City at least thirty (30) days prior to termination, cancellation or reduction in coverage in the policy. The insurance must be furnished by insurance companies authorized to do business in the State of Florida and approved by the City's Risk Manager. Original certificates of insurance for the above coverage must be submitted to the City's Risk Manager. These certificates will be kept on file in the office of the Risk Manager, City Hall, 1700 Convention Center Drive, 3rd Floor, Miami Beach, Florida 33139. The Provider shall also be solely responsible for obtaining, submitting, and maintaining current and in full force, all insurance for its subcontractors.
- (e) All insurance policies must be issued by companies authorized to do business under the laws of the State of Florida. The companies must be rated no less than "B+" as to management and not less than "Class VI" as to strength by the latest edition of Best's Insurance Guide, published by A.M. Best Company, Oldwick, New Jersey, or its equivalent, subject to the approval of the City's Risk Manager.
- (f) Compliance with the insurance requirements in this Section, shall not relieve the Provider of the liabilities and obligations under this Section or under any other portion of this Agreement, and the Client shall have the right to obtain from the Provider specimen copies of the insurance policies in the event that submitted certificates of insurance are inadequate to ascertain compliance with required coverage. The Provider represents and warrants that any insurance protection required by this Agreement or otherwise provided by its contractors and subcontractors shall in no way limit the responsibility to indemnify, keep and save harmless and defend the Client or its officers, employees, contractors, consultants, agents, and instrumentalities as herein provided.

17. **Promotional Assistance.** Client agrees to place a link on any website maintained by it to www.carcharging.com for users to reach Provider and/or learn more information about Provider's electric car chargers. Provider agrees to place a link for the City of Miami Beach on its website to inform users of Client's location. Both Client and Provider agree to make good faith efforts to promote the Pilot Program within the City of Miami Beach under the terms of this Contract.

18. **Attorney's Fees.** In the event of any dispute hereunder, the prevailing party shall be entitled to recover all costs and expenses incurred by it in connection with the enforcement of this Contract, including all attorneys' fees on both trial and appellate levels.

19. **Relationship of the Parties.** Provider acknowledges that it has its own independently established business that is separate and apart from Client's business. Nothing in this Contract shall constitute or be deemed to constitute a partnership or joint venture between the parties hereto or constitute or be deemed to constitute any party the agent or employee of the other party for any purpose whatsoever and neither party shall have authority or power to bind the other or to contract in the name of, or create a liability against, the other in any way or for any purpose.

20. **Force Majeure.** If Provider shall be delayed or hindered in or prevented from the performance of any act required under this Contract by reason of any strike, lockout, labor trouble, inability to procure materials or energy, failure of power, hurricane, restrictive governmental laws or regulations, riot, insurrection, picketing, sit-ins, war or other unavoidable reason of a like nature not attributable to the negligence or fault of Provider, then the performance of such work or action will be excused for the period of the unavoidable delay and the period for the performance of any such work or action will be extended for an equivalent period.

21. **Condemnation.** If any Designated Area or Areas shall be taken for public or quasi-public use by any public or quasi-public authority under the power of eminent domain, then, at the sole option and discretion of Client, (i) Client may provide another Designated Area for the Equipment and (ii) Exhibit B of this Contract shall be amended accordingly to reflect the removal and replacement of such Designated Area.

22. **Estoppel Certificate.** At any time and from time to time, Client agrees upon request in writing from Provider to execute, acknowledge and deliver to Provider a statement in writing certifying that this Contract is unmodified and in full force and effect (or if there have been modifications that the same is in full force and effect as modified) and the dates to which the Revenue Payment has been paid.

23. **Exhibits.** All exhibits attached to this Contract and referred to herein are hereby incorporated by reference as if fully set forth herein. Any exhibit not annexed hereto may be attached subsequent to the Effective Date hereof and which shall thereafter be incorporated by reference herein. Client shall deliver to Provider documents necessary to satisfy Exhibits B and C.

24. **Car Charging Station Data.** Client, by executing this Contract, specifically acknowledges and agrees that Provider owns all right, title and interest in any records, files and/or data (the "Proprietary Data") collected by or produced by the Equipment and same shall be deemed the proprietary and exclusive property of Provider. Provider shall allow Client access to such Proprietary Data during the term of this Contract solely for its own internal purposes, subject to the aforesaid ownership interests of Provider with such access by Client concluded immediately upon termination or expiration of this Contract. Client may not disclose any such Proprietary Data to any person, firm, corporation, association or other third party entity for any reason or purpose whatsoever without the prior written consent of an authorized representative of Provider, *provided however*, that nothing herein shall be interpreted as preventing Client from,

nor shall Client have any liability to Provider and/or to third parties for/from, (i) using reports or other financial data for use in verifying the accuracy of the Revenue Payment made by Provider hereunder; (ii) from disclosing any records, files, and/or data, which may or may not be deemed by Provider to be Proprietary, but which are required to be provided pursuant to the order of a court or administrative body having jurisdiction over the subject matter herein, or which is subject to disclosure, inspection, and/or copying pursuant to Florida Public Records Law including, without limitation, Chapter 119, Florida Statutes, as same may be amended from time to time.

25. **No Third-Party Rights.** The provisions of this Contract are for the exclusive benefit of Provider and Client only, and no other shall have any right or claim against either party or be entitled to enforce any provisions hereunder against any party hereto.

26. **Headings.** The headings in this Contract are used for convenience only and shall not be used to define, limit or describe the scope of this Contract or any of the obligations herein.

27. **Final Agreement.** This Contract constitutes the final understanding and agreement between the parties with respect to the subject matter hereof and supersedes all prior negotiations, understandings and agreements between the parties, whether written or oral. This Contract may be amended, supplemented or changed only by an agreement in writing signed by both of the parties.

28. **Severability.** If any term or provision of this Contract is found by a court of competent jurisdiction to be invalid or unenforceable, then this Contract, including all of the remaining terms and provisions, shall remain in full force and effect as if such invalid or unenforceable term had never been included.

29. **Press Releases/Public Filings.** Client acknowledges that Provider and/or its parent may publish information relating to this Contract in any manner necessary to fulfill any regulatory responsibilities under the Securities Exchange Act of 1934 or other applicable law. Client further agrees that information concerning this Contract may be released as a press release by Provider and/or its parent, but will be released in good faith coordination with Client.

30. **No Advertising.** Provider understands that City of Miami Beach regulations strictly prohibit Provider from advertising on any part of any Equipment, as well as any ancillary property of Provider relating thereto, installed on City property under this Contract, and expressly agrees not to conduct any advertising hereunder unless expressly approved in writing by Client.

31. **Counterparts.** This Contract may be executed in any number of counterparts (including facsimile or scanned versions), each of which shall be an original but all of which together will constitute one instrument, binding upon all parties hereto, and notwithstanding that all of such parties may not have executed the same counterpart.

32. **Authority.** Each party represents and warrants to the other that it has all requisite power and authority to enter into this Agreement.

33. **Assignment, Transfer or Subcontracting.** Provider shall not subcontract, assign, or transfer any work under this Contract without the prior written consent of the City Commission which consent, if given at all, shall be at the Commission's sole and reasonable discretion. Notwithstanding the foregoing, Client expressly agrees that Provider may assign the management and operation of the work and/or services to be performed under this Agreement to a wholly owned subsidiary entity, CCGI / CMB, LLC, who shall be directly authorized to act on behalf of Provider as to all matters relating to this Agreement; provided, however, that the City's agreement to allow CCGI/CMB, LLC to manage and operate such work and/or services to be performed under this Agreement shall not release, relieve, or otherwise excuse Provider with regard to its performance and/or responsibilities as the party in contract with the City under this Agreement. City and Provider expressly acknowledge, agree, and hereby reaffirm that Provider is the **only** party in contract with the City under this Agreement; that the City has no duty, obligation, or liability to CCGI/CMB, LLC under this Agreement; and that CCGI/CMB, LLL is not an intended (or unintended) third party beneficiary to/under this Agreement..

34. **Audit and Inspections.** At any time during normal business hours, and as often as the City Manager may deem necessary during the Term hereof, Provider shall make available to the City Manager, and/or such representatives as he/she may deem to act on his/her behalf, to audit, examine, inspect, and/or copy, any and all records and documents of Provider's related to matters covered by this Contract including, without limitation, all contracts, invoices, payrolls, records of personnel, conditions of employment, financial records, and such other data, records, documents, and/or materials as may relate to matters covered by this Contract (collectively, the Records). Contractor shall maintain any and all such Records throughout the Term, and for a period of three (3) years after expiration of the Contract.

34.1. **Access to Records:**

Provider agrees to allow the City Manager, and/or such authorized representatives as he/she may deem to act on behalf of the City, access during normal business hours to all Records pertaining to this Contract and the performance of Contractor's services, and agrees to provide such assistance as may be necessary to facilitate audit (whether financial or otherwise) and/or inspection by the City Manager or his/her representatives.

34.2. Provider shall bind any of its sub-contractors performing any portion of work and/or services under this Contract to the provisions of Section 34 and subsection 34.1 hereto.

35. **Equal Employment Opportunity.** In connection with the performance of the work and services contemplated under this Contract, the Provider shall not discriminate against any employee or applicant for employment because of race, color, religion, ancestry, sex, age, national origin, place of birth, marital status, sexual orientation, gender identity or disability. The Provider shall take such action as may be necessary to ensure that applicants are employed and that employees are treated during their employment without regard to their race, color, religion, ancestry, sex, age, national origin, place of birth, marital status, sexual orientation, gender identity, or disability.

35.1. Sanctions for Noncompliance with Nondiscrimination Provisions.

In the event of Provider's noncompliance with the nondiscrimination provisions of this Contract, Client shall impose such sanctions as the Client, or the State of Florida, may determine to be appropriate including, without limitation, withholding of payments to the Provider under the Contract until the Provider complies, and/or termination of the Contract. In the event Client terminates the Contract pursuant to this subsection, the rights and obligations of the parties shall be the same as provided in Section 10.

36. Conflict of Interest. Provider agrees to adhere to and be governed by the Miami-Dade County Ethics and Conflict of Interest laws, as same may be amended from time to time, and by the City of Miami Beach Charter and Code, as same may be amended from time to time, in connection with the performance of the Services.

Provider covenants that it presently has no interest and shall not acquire any interest, direct or indirectly, which would conflict in any manner or degree with the performance of the work and services contemplated in this Contract. The Provider further covenants that in the performance of this Contract, no person having any such interest shall knowingly be employed by the Provider.

37. Compliance with All Applicable Laws. Provider, its officials, officers, employees, contractors, and vendors, agents shall comply with all applicable Federal, State and County laws; the Charter, related laws, Code, and ordinances of the City of Miami Beach; the Policies and Procedures; and any and all applicable rules and regulations promulgated by local, State and national boards, bureaus and agencies as they relate to this Contract.

38. Limitation of City's Liability. Client desires to enter into this Agreement only if in so doing Client can place a limit on its liability for any cause of action for money damages due to an alleged breach by Client of this Contract, so that its liability for any such breach never exceeds the total amount of \$10,000. Provider hereby expresses its willingness to enter into this Contract with Provider's recovery from Client for any damage action for breach of contract to be limited to a maximum amount equal to \$10,000.

Accordingly, and notwithstanding any other term or condition of this Contract, Provider hereby agrees that Client shall not be liable to the Provider for damages in an amount in excess \$10,000, for any action or claim for breach of obligations imposed upon Client by this Contract. Nothing contained in this paragraph or elsewhere in this Contract is in any way intended to be a waiver of the limitation placed upon Client's liability, as set forth in Section 768.28, Florida Statutes.

- SIGNATURE PAGE TO FOLLOW -

IN WITNESS WHEREOF, the parties hereto have executed this Exclusive Electric Car Charging Services Contract on the last date written below.

CLIENT:

CITY OF MIAMI BEACH, FLORIDA

PROVIDER:

Car Charging Group, Inc., a Nevada Corporation

By: [Signature]
Name: Michael D. Farkas
Title: Chief Executive Officer
Date: June 12, 2012

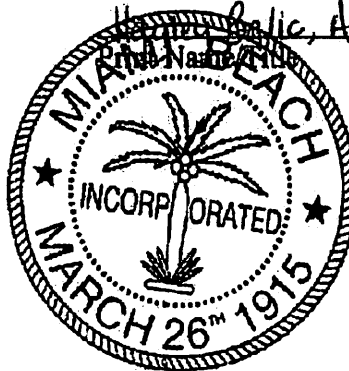
By: _____
Name: _____
Title: _____
Date: _____
FEIN: _____

Attest:

[Signature]
Assistant

Attest:

[Signature]
Matti H. Bower, Mayor
Print Name/Title



[Signature]
Print Name/Title

APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION

[Signature] 6-14-12
City Attorney Date

Agreed to and Acknowledged by
By CCGI/CMB, LLC as to Sections
7 and 33 of the Agreement:
By: Car Charging Holdings, LLC, Manager

By: [Signature]
Name: Michael D. Farkas
Title: CEO
Date: June 12, 2012

Exhibit A

Property Address(es)

13th Street Garage

Address:

1301 Collins Ave

Miami Beach, FL 33139

Legal Description:

3 54 42 34 53 42

OCEAN BEACH ADD NO 2 PB 2-56

LOTS 9 THRU 12 BLK 18

LOT SIZE 200.000X140

Exhibit B

Designated Area(s)

13th Street Garage

3rd level, near the SE corner and the south elevator bank

Exhibit C

Client Electric Bill

Exhibit D

Installation Date Acceptance

For the purposes of determining the Commencement Date of the Contract, pursuant to Paragraph Two (2) thereof, the following date shall be deemed the acceptance of the initial date of installation of the Equipment for the Phase I Pilot Program at the following location(s):

Date of Installation: _____

CLIENT:

CITY OF MIAMI BEACH, FLORIDA

PROVIDER:

Car Charging Group, Inc., a Nevada
corporation

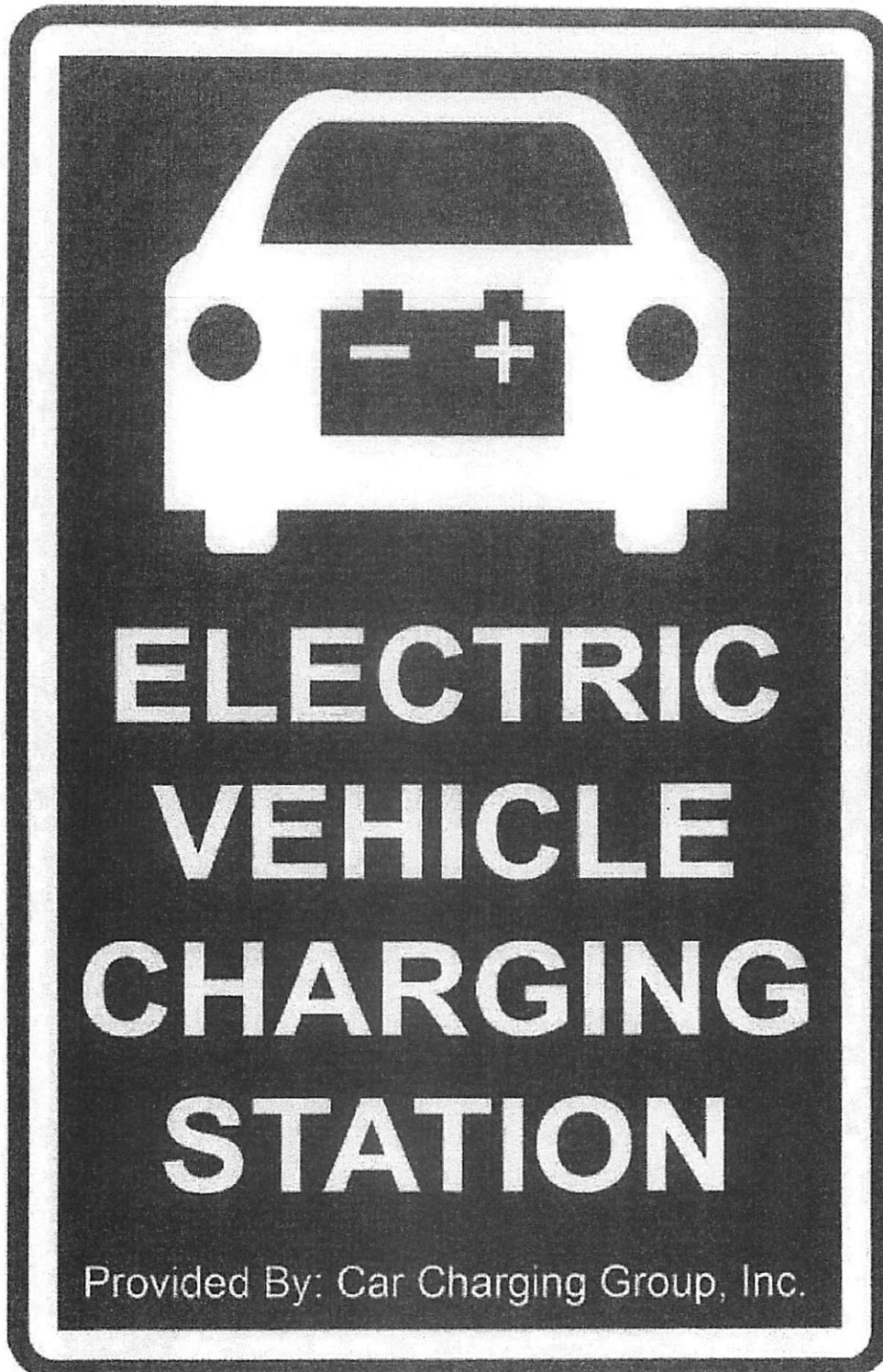
By: _____
Name: Michael D. Farkas
Title: Chief Executive Officer
Date: _____

By: _____
Name: _____
Title: _____

Exhibit E

Signage

Actual Size: 12" x 18"





TOWN OF SURFSIDE

ATTACHMENT 6

LINKED TO POL # 36

9293 HARDING AVENUE
SURFSIDE, FLORIDA 33154
(305) 861-4863 • FAX: (305) 861-1302
WWW.TOWNOFSURFSIDEFL.GOV

September 25, 2012

Gus Pego
Florida Department of Transportation, District 6
1000 NW 111 Ave.
Miami, Fl 33172

Dear Gus:

The Town of Surfside is formally requesting the reclassification of four of the Town's roadways on the federal functional classification map. The Town wishes to change the following roadways from collector roadways to local roadways:

1. Bay Drive from 96th Street to Dickens Avenue
2. Dickens Avenue from Bay Drive to 88th Street
3. 88th Street from Dickens Avenue to Collins Avenue
4. Byron Avenue from 88th Street to the southern Town limits

The existing federal functional classification map is included in Attachment 1. The Town historically has been very cognizant of cut through traffic and speeding on the local neighborhood roadways. Therefore, the Town has implemented several traffic calming devices throughout the Town including speed tables and partial road closures among other methods.

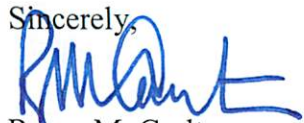
The intersection of Bay Drive at 96th Street is currently configured for a northbound right turn only from Bay Drive to 96th Street. Motorists from 96th Street are currently unable to access Bay Drive. Additionally, a speed table is present on Bay Drive south of 96th Street.

A traffic calming median is currently being constructed at the intersection of 88th Street at Byron Avenue. Access to and from Byron Avenue is limited to right in/right out only from 88th Street. While the traffic calming median is new, the same access restrictions have been in place in the past through other means such as traffic delineators and applicable signing and marking.

The roadways identified in this letter do not provide a preferential traffic route when compared to other local roadways within the Town. This is evidenced by the existing traffic volumes on these roadways. Attachment 2 includes recent traffic volumes collected for an on-going Town wide traffic study. The counts were collected during school session in late August/early September. The traffic counts have been adjusted to reflect the peak season. Attachment 3 includes traffic counts collected in 2008 throughout the Town.

Bay Drive, Dickens Avenue, 88th Street, and Byron Avenue provide low levels of mobility, short trip lengths, and low operating speeds. These roadways generally abut only residential properties and have a posted speed limit of 20 mph. These attributes are more characteristics of local roadways as opposed to collector roadways.

Sincerely,



Roger M. Carlton
Town Manager

Cc: Bryan Kelley, CGA
Bill Evans, Public Works Director
Mayor Daniel Dietch

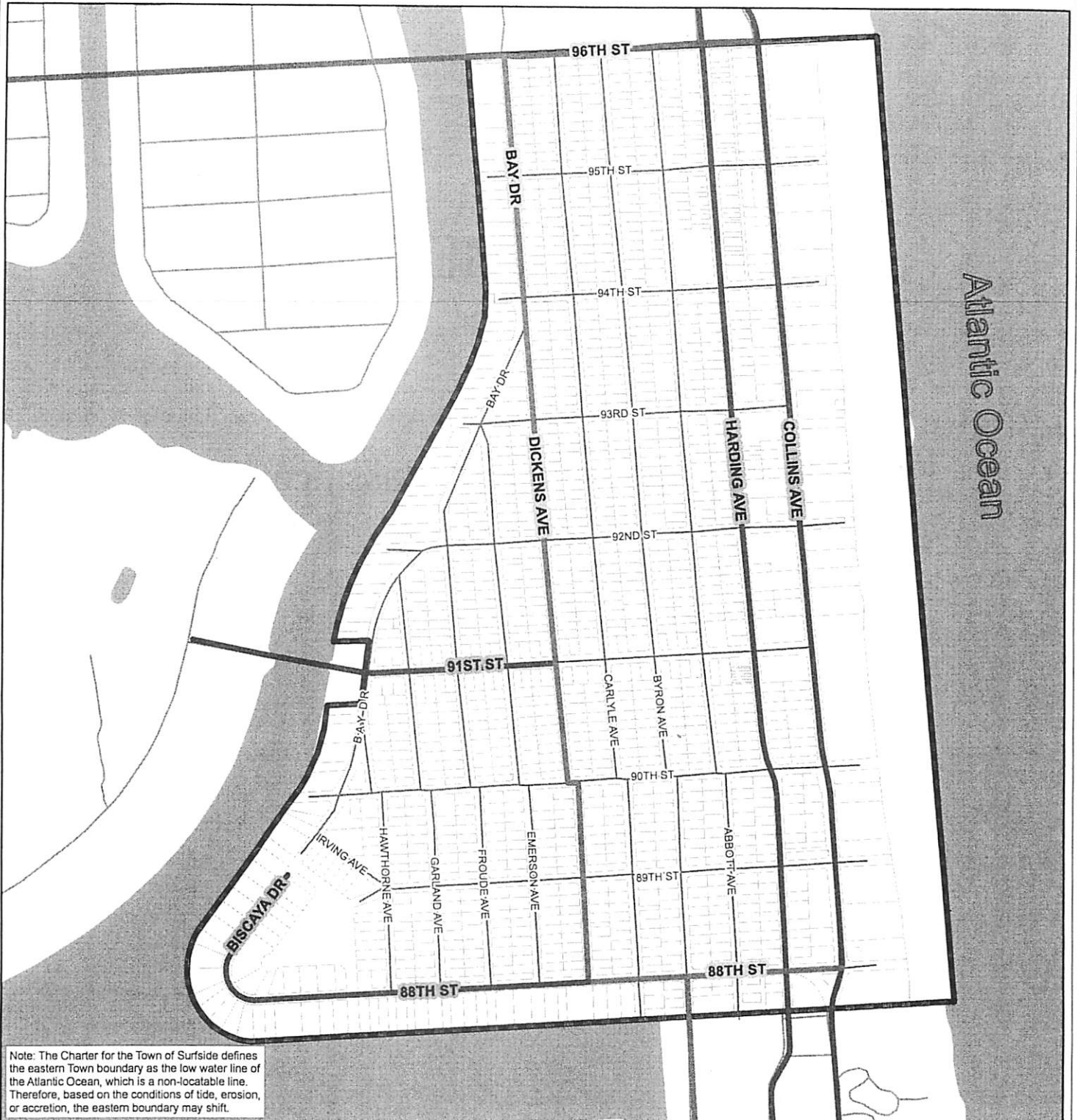
RC/drh

ATTACHMENT 1

Existing Federal Functional Classification Map



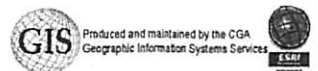
Existing Functional Classification



Legend

- Streets
- Functional Classification
- Urban Principal
- Urban Minor Arterial
- City Boundary

0 250 500 1,000 1,500 Feet



ATTACHMENT 2

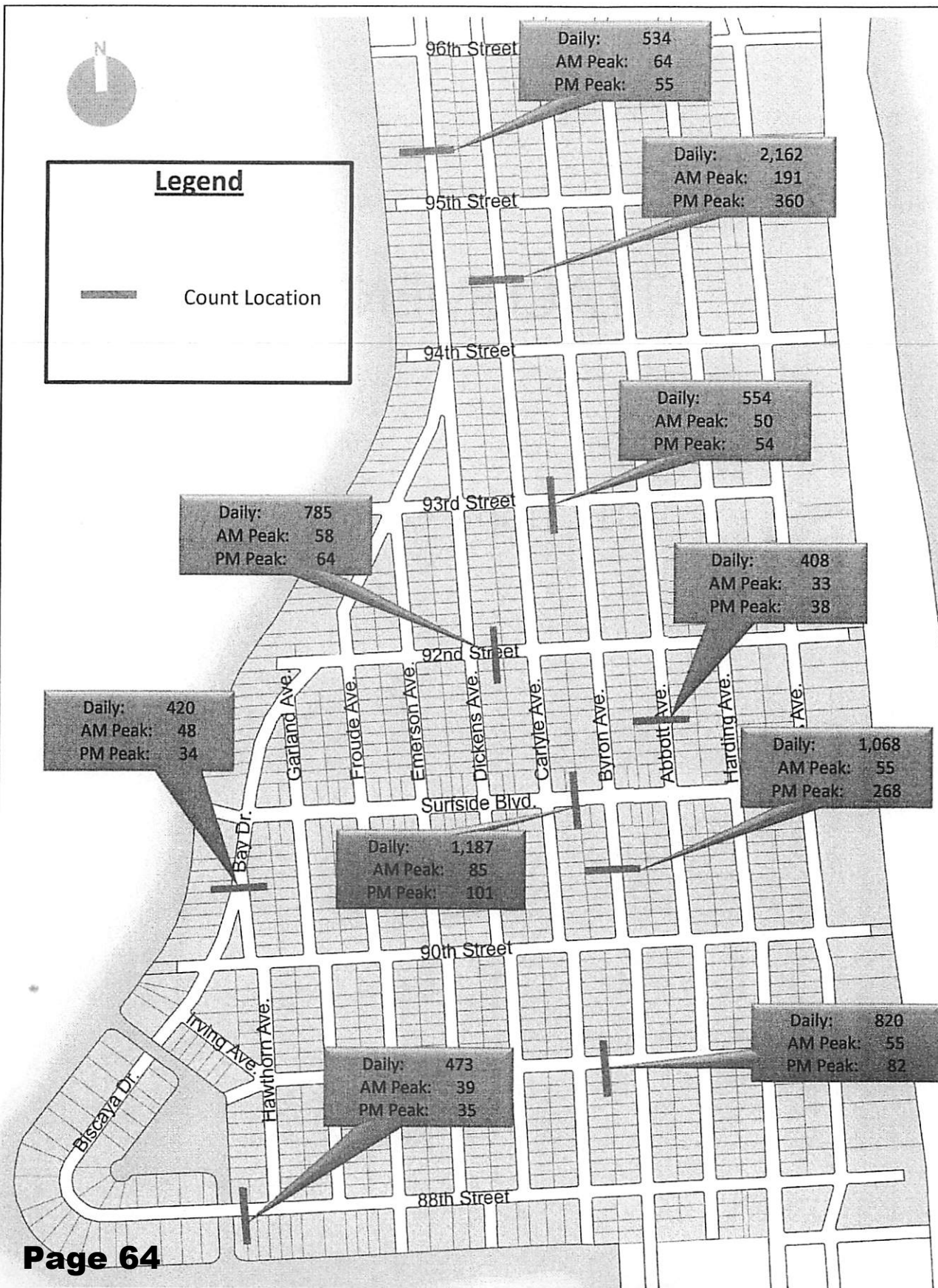
2012 Traffic Counts



Legend



Count Location





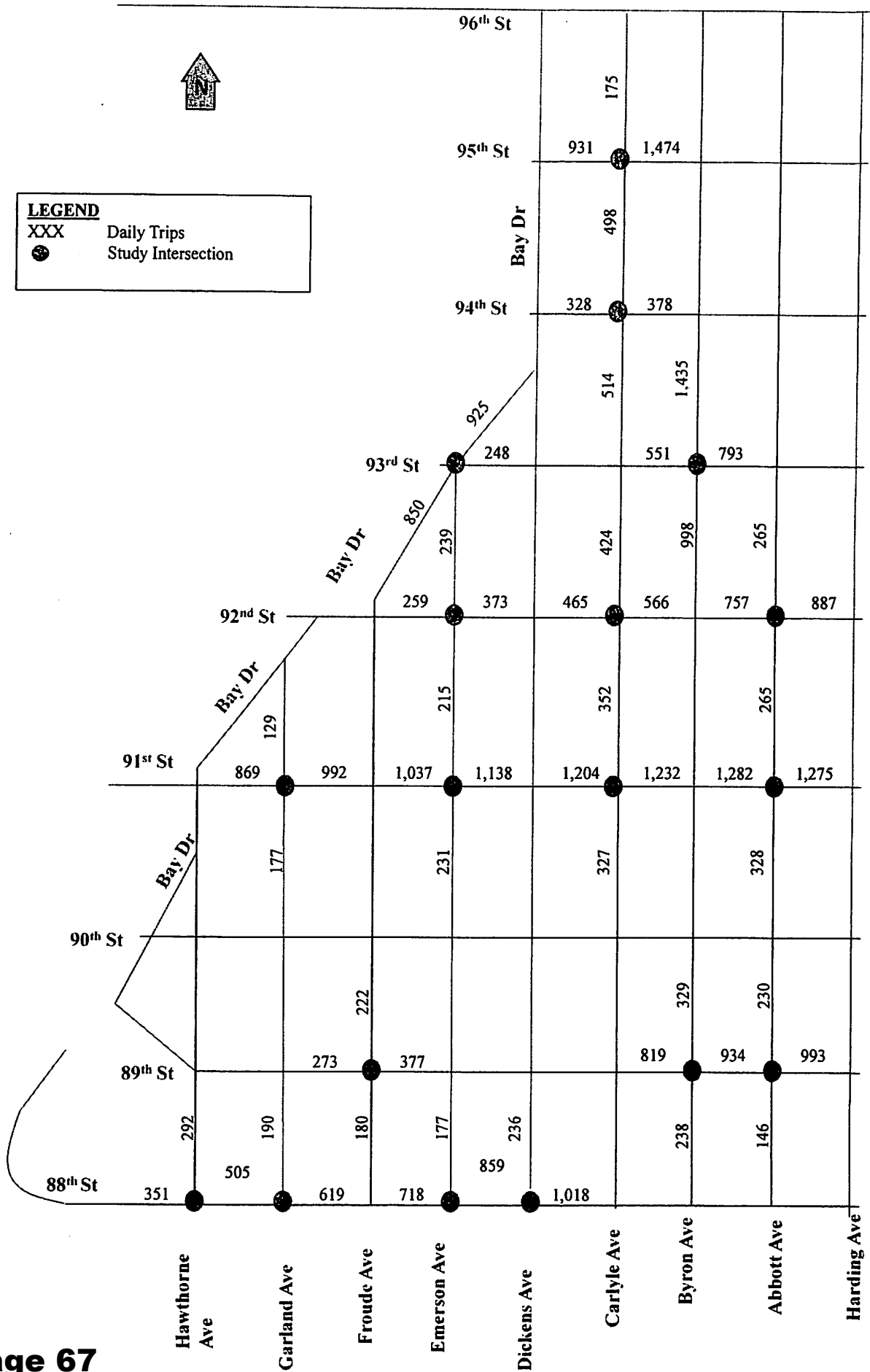
0	44	8	↖	5	3
0	32	6	↗	0	0
↘	↙	↘	↗	2	4
0	0	↘	↗	1	95
0	0	↘	↗	15	
0	0	↘	↗	0	32
				22	

0	0	2	↖	2	3
3	0	13	↗	23	40
↘	↙	↘	↗	0	0
1	2	↘	↗	0	0
39	60	↘	↗	0	0
0	0	↘	↗	0	0

Legend	
XX	AM peak hour
XX	PM peak hour

ATTACHMENT 3

2008 Traffic Counts



Dawn Hunziker

From: Roger Carlton
Sent: Friday, September 21, 2012 9:03 AM
To: Dawn Hunziker
Subject: FW: Update: Parking instruments

Make this a POL.

From: David Allen
Sent: Thursday, September 20, 2012 5:06 PM
To: Roger Carlton
Subject: FW: Update: Parking instruments

fyi

David Allen
Chief of Police
Surfside Police Department
9293 Harding Avenue
Surfside, FL 33154
Email: david.allen@townofsurfsidefl.gov
Web Site: www.townofsurfsidefl.gov
Office: (305) 861-4862 Ext. 208
FAX: (305) 861-8960



From: Estrada, Carlos (COC) [<mailto:CarlosE@miamidade.gov>]
Sent: Thursday, September 20, 2012 4:45 PM
To: Elinor Joseph
Cc: David Allen; Richard Williams; Suarez, John (COC)
Subject: Update: Parking instruments

I would like to advise you that we are going to have to push back the previous milestone dates two weeks due to unforeseen circumstances. Unfortunately, I have been out for one week in bereavement leave due to the unexpected loss of a family member. There has also been a delay in our procurement of the PCs due to the new requirements requested by the vendor. I apologize for this setback, but please know that we have cleared these issues and are back on track.

The new dates are as follows:

October 2012 – complete delivery and basic setup of the new PC.

October 10, 2012 – Upgrade of software and transfer of data to new PC

October 15-17, 2012 – Training of officers

October 18, 2012 – Full deployment of system

Carlos Estrada
Computer Services Manager
Miami-Dade Clerk of Courts
175 N.W. 1st Ave. - 26th Floor
Miami, FL 33128
Email: CARLOSE@MIAMIDADE.GOV

From: Estrada, Carlos (COC)
Sent: Friday, August 24, 2012 12:07 PM
To: 'ejoseph@townofsurfsidefl.gov'
Cc: 'david.allen@townofsurfsidefl.gov'; 'rwilliams@townofsurfsidefl.gov'; Suarez, John (COC)
Subject: FW: Parking instruments

Mr. Joseph,

I am the Computer Services Manager responsible for the Autolssue Parking Handheld System. We are in the process of procuring the equipment and the new computer for the Town of Surfside and another customer. There are several steps involved in upgrading your system, including the transfer of all data, upgrade of software, and the training of your officers. This is something that requires careful planning and testing. We kindly ask for your patience.

As John Suarez stated last week, the handheld equipment is in. The order for the new computer is in the works and we expect delivery within 2 weeks. We will then move on to transferring the data and upgrading the existing software. Once that is done and tested, we will then begin training your officers. The following are the milestones that we are planning:

September 21, 2012 – Complete delivery and basic setup of the new PC.

September 28, 2012 – Upgrade of software and transfer of data to new PC

October 1-3, 2012 – Training of officers

October 4, 2012 – Full deployment of system

Please contact me if you have any questions or concerns.

Carlos Estrada
Computer Services Manager
Miami-Dade Clerk of Courts
175 N.W. 1st Ave. - 26th Floor
Miami, FL 33128
Email: CARLOSE@MIAMIDADE.GOV

From: Suarez, John (COC)
Sent: Friday, August 24, 2012 11:12 AM
To: Estrada, Carlos (COC)
Subject: FW: Parking instruments

fyi

From: Elinor Joseph [<mailto:ejoseph@townofsurfsidefl.gov>]
Sent: Friday, August 24, 2012 11:06 AM
To: Suarez, John (COC)
Cc: David Allen; Richard Williams
Subject: Parking instruments

Good morning John,

Can I get an update on the new handheld parking instruments and the computer?

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.



TOWN OF SURFSIDE
Office of the Town Attorney


MUNICIPAL BUILDING
 9293 HARDING AVENUE
 SURFSIDE, FLORIDA 33154-3009

Lynn M. Dannheisser
 Town Attorney

Telephone: 305 993-1065

MEMORANDUM

TO: Town Commission

FROM: Lynn M. Dannheisser, Town Attorney 

CC: Roger M. Carlton, Town Manager

DATE: October 9, 2012

SUBJECT: Town Attorney Monthly Update for October, 2012

This Town Attorney report includes a summary of the items handled by the Office of Town Attorney from last meeting until this date. The following Ordinances and Resolutions have been prepared (and/or reviewed and researched) or other advice rendered regarding the issues contained in them. In the case where agreements are attached, those contracts have also been drafted and/or reviewed and revised this month:

Ordinances:

Amending Section 66-35 Establishing New Rate for Solid Waste Removal
 Maximum Continuous Frontage
 Construction Fence Ordinance Amendment
 Planning & Zoning Development Review Process continuing amendments
 Hotel Spa Requirements
 FEMA Ordinance Amendment

The Town Attorney has prepared for, attended and/or rendered advice for the following public meetings:

September 19, 2012 - Commission Meeting
 September 24, 2012 - Second Budget Hearing

September 24, 2012 - Special Commission Meeting
September 27, 2012 - Planning & Zoning Meeting

Development Impact Committee:

October 1, 2012 - Chateau DIC Meeting

Planning & Zoning Board – September 27, 2012

Quasi-judicial Hearing on Surf Club Site Plan and Conditional Use Application

9241 Harding Avenue – Sign approval

Hotel Spa Ordinance

Discussion on Ordinance and revisions to the Planning & Zoning Board and Design Review Board

Prepare new Board members for responsibilities on Board

Town Commission, Town Manager and Clerk Issues:

Revisions to FEMA ordinance – strategize with outside counsel and Town Administration

Continuous meetings and revisions to informational pieces relating to public information campaign

re: Charter amendment ballot questions

Campaign finance research

Lobbyist issues and forms, re-work and research issues in ordinance

Settlement Agreement with Indian Creek Village re: Utility Upgrade Project

Begin preparation of draft ordinance for Business Improvement District

Condo-hotel and short-term rental resort tax and other code issues

Update research for PACE program presentation to Commission

Continuing advice, inquiries, and meetings re: Chateau, Shul and Surf Club development issues

Surf Club inquiries relative to historic designation, financing and other general zoning issues

Continuation of Spiaggia Condo parking resolution attempts

Requirements of Legal Notice issues

Dog Park Town Hall Meeting - notice requirements

RFQ/RFP issues re CGA/seawall

Analyze continuing legal issues relating to transition of DRB to P & Z

Street closing issues and FDOT repaving issues

Follow Bal Harbour shops expansion issues

Research process issues re SRF with bond counsel

Review electric car charging projects

FEMA

Because this is a significant issue to the town, I am making this a separate item. At the last special meeting, we had first reading of the FEMA ordinance amendment requested by Dr. Prasad Inmula of the Floodplain Management and Insurance Branch, Mitigation Division, FEMA Region IV. In October, we will enact it. As mentioned by the Manager in September, the Commission should bear in mind, after FEMA reviews our August 30th letter acknowledged by their September 7th response, they could return with other minor amendment requests vis-a-vis the ordinance. In that event, we will bring it back. More important, however, is that our outside Washington counsel, Ernest Abbott has attempted follow-up but Dr. Inmula was traveling until the writing of this report. The Town Manager

and I have offered to fly up to Atlanta for a face-to-face meeting and once Mr. Abbot hears back, he will suggest this. We are mindful of the deadlines associated with this Commission's goal to be invited to formally participate in the CRS Program so our citizens can receive a discount on their flood insurance.

Building Department/Code Enforcement/Planning:

Review statutory requirements for Claim of Lien letter
Research and draft towing ordinance
Draft and revisions to upcoming vacant property ordinance
Research unlicensed contractors and illegal construction activity
Continuing FEMA issues

Human Resources Department:

Review termination notices
Review employment file and research for pending Personnel Appeals Board Hearing

Finance Department:

Prepare for Second Budget Hearing
Review Solid Waste Utility Rate increase ordinance

Parks and Recreation:

Review independent contracts for program instructors
Dog park inquiries

Police Department:

Continuing work and preparation for October trial re: Davis v Surfside and strategy session with outside counsel re: mediation.
IPS Parking Meter Agreement revisions including draft of an amendment
Ongoing review of License Plate Reader vendor information and agreement

Public Works:

Review Miami-Dade Transportation Agreement
On-going utility upgrade

Tourist Bureau:

Review of Bench Sponsorship form
Delinquency penalties – Resort Tax ordinance

Litigation:

Kahalon v Town of Surfside and the Town of Surfside Building Department Case No. 12-10534 CA 08, Circuit Court of the Eleventh Judicial Circuit in and for Miami-Dade County, Florida. The Town Building Official inspected 9372 Bay Drive, determined the property was an “Unsafe Structure” and the occupants must vacate the premises. Plaintiff filed an emergency injunction to stay the proceedings. The Town filed a Motion to Dissolve the injunction. The Court heard arguments, ordered a Special Magistrate to inspect the premises and the Special Master agreed the property was an “Unsafe Structure.” The Motion to Dissolve was granted and the occupants of the property vacated the premises. On August 30, 2012, the Court granted the Town’s Motion for Entitlement to Determine Attorney’s Fees and Costs. The Court entered the Final Judgment Awarding Fees and Costs on September 27, 2012. This case will no longer appear on the report.

John Davis v. Town of Surfside Case No. 07-17286 CA 08, Circuit Court of the Eleventh Judicial Circuit in and for Miami-Dade County, Florida.

Case Summary: This case has been consolidated as to discovery with a previous case filed by a former sergeant in the Town’s police department. The Court denied the Motion to Consolidate both cases for trial. Outside counsel and this office are preparing for trial. This case involves the dismissal of former Town of Surfside Police Sergeant, John Davis, for various improprieties including sexual harassment of former Town officer, Melanie Grove (Davis 2), sexual harassment of current Town Officer Marian Valino, misuse of equipment and falsification of employment application (Davis 1).

Sgt. Davis has sued the Town in two separate lawsuits for not dismissing him within 180 days of the Town’s alleged knowledge of the above indiscretions. He has also alleged the dismissal was without merit. The Town did not dismiss him within the 180 days. However, the Town has asserted that the 180 day time period as set forth in the Police officers Bill of Rights was tolled because both criminal and multijurisdictional investigations were occurring against Davis when The Town was investigating him.

Status: Mediation is scheduled for October 16, 2012. A bench trial is scheduled for October 22, 2012 in front of the Honorable Gisela Cardonne Ely on the issue of whether the Town violated the 180 day rule with regard to the charges related to Melanie Grove (Davis 2). The Town moved to consolidate the cases for trial, as they had been for discovery, but the judge denied the Town’s Motion.

Florida League of City Cases:

We monitor, coordinate witnesses, and assist in strategy and with requests for discovery with League counsel on cases that are covered by the FMIT.

Young Israel of Bal Harbour, Inc. vs. Town of Surfside Civil Action No. 1:10-CV-24392 in the United States District Court for the Southern District of Florida (“Federal Court Matter”) and related matter: Pieter Bakker v. Town of Surfside and Young Israel of Bal Harbour, Inc. Case No. 17783 CA04, Circuit Court of the Eleventh Judicial Circuit in and for Miami-Dade County, Florida (“State Court Matter”) .

Case summary: On December 10, 2010, Young Israel served a complaint alleging the Town Zoning Code imposes a substantial burden on Young Israel in violation of the Religious Land Use and Institutionalized Persons Act of 2000 (“RLUIPA”). This matter is primarily being defended by The Florida League of Cities which has approved counsel to assist in the defense of this case. Mediation was held on January 4, 2012 with a follow-up Executive Session on January 9, 2012. A settlement was negotiated and approved at a Special Commission Meeting held on January 23, 2012. A site plan was filed, and there were two meetings of the DRG beginning February 2, 2012. The Development Impact Committee met on March 1, 2012. The Planning and Zoning Board met on March 29, 2012 to recommend the site plan to the Town Commission. The Town Commission met on April 10, 2012 and approved the site plan. A Stipulation of Settlement and a joint motion to stay the matter for 120 days was filed. The Stay was granted and the Court ordered the parties to file a Stipulation of Dismissal by June 7, 2012.

On May 30, 2012, Pieter Bakker v. Town of Surfside and Young Israel of Bal Harbour, Inc. Case No. 17783 CA04, Circuit Court of the Eleventh Judicial Circuit in and for Miami-Dade County, Florida (“State Court Matter”) was served. In Bakker, the counts against the Town include contract zoning, charter violations, and a request for a writ of certiorari to quash Resolution 12-Z-2078 approving a site plan application to permit Young Israel to build a synagogue on 9580 Abbott Avenue. The League has agreed to provide coverage. On June 19, 2012, the Town filed a Motion for Enlargement of Time to respond to the amended complaint. The items attached to the Town's motion advised the state court of the nature of the existing federal litigation and the request by Young Israel which, if granted by the federal court, would relieve the Town of having to address a second lawsuit. In lieu of the dismissal in the federal case, Young Israel filed a Supplementary Complaint for Injunction and Damages and joined Pieter Bakker as a third party defendant. Young Israel asked the federal court to issue an injunction against the state court proceeding initiated by Pieter Bakker and to permit the implementation of the settlement agreement of the federal lawsuit. Bakker has filed an answer and affirmative defenses and a counterclaim against Young Israel and Surfside in the federal litigation.

Although the Town complied with the Young Israel Settlement Stipulation, approved the Young Israel site plan, and was prepared to secure the final order of dismissal, the issuance of the final order was delayed. In response to the State Court Matter, Young Israel requested that the federal court enter an injunction which prevents Bakker from proceeding in the State Court Matter. In response to Young Israel's effort to impose a federal injunction, Bakker filed a counterclaim in the Federal Court Matter. The Counterclaim sought various remedies against Young Israel and also against the Town. As to the Town, Bakker asserts that the Town violated 42 U.S.C. § 1983 by depriving him of his rights to due process of law. In essence, Bakker claimed that the Town violated its own land use regulations when it accommodated Young Israel, provided certain requested variances, and failed to conduct the appropriate number of public hearings during the site plan approval process. As a remedy, Bakker seeks to invalidate the site plan (as he does in the State Court Matter) and to secure an award of damages, attorneys' fees, and costs. Bakker responded to the injunction claim in the Federal Court Matter which indicated that a temporary injunction should be entered (1) staying the State Court Matter and (2) requiring the parties to litigate all of the issues in federal court.

Status:

On September 27, 2012, in the Federal Court Matter, Judge Martinez entered the Final Order of Dismissal With Prejudice And Order Denying All Pending Motions As Moot. In other words, the court denied Mr. Bakker the right to intervene in this case and ordered the original parties to continue with their settlement. Per the Settlement Stipulation, this dismissal triggers the obligation through the Florida Municipal Insurance Trust to issue a check to Young Israel in the amount of \$40,000.00. The court is retaining jurisdiction in this case to enforce the stipulated settlement should this become necessary.

In the State Court Matter, the Town filed a motion for an extension of time to respond to Bakker's claims and discovery requests. The Town argued that it would be premature for the state court to address the claims filed by Bakker without first giving the federal court (Judge Martinez) a chance to decide whether to issue the temporary injunction requiring that the parties resolve their three-way dispute in the Federal Court Matter. Now that the Federal Matter is closed, and for the time being, the League is providing counsel who will continue to defend the Town in the State Court Matter. Young Israel, however, will take the lead in this matter as they are defending their site plan approval.

Mr. Bakker's attorney has submitted voluminous public records requests in the State Court Matter which was stayed until now. We presume Mr. Bakker will be proceeding with the State Court matter but have not received any formal indication of what the Plaintiff in this matter intends to do next. We continue to work closely with League counsel on all of this and will continue to keep you informed.



TOWN OF SURFSIDE
PROJECTS PROGRESS REPORT
CALVIN, GIORDANO & ASSOCIATES. INC.
October, 2012

1. **Planning and Community Development** – Planning and Community Development – The Chateau Residences (formerly Best Western), the Surf Club and the Shul have all submitted site plan applications for their projects. Staff has reviewed each submittal and has met with the applicants to discuss the review comments. The Surf Club was heard by the Planning and Zoning Board/Design Review Board on September 27, 2012 and was unanimously recommended for approval to the Town Commission. The Chateau has had two Development Review Group (DRG) meetings and all comments provided by staff at the DRG meeting have been addressed. They were heard by the Development Impact Committee (DIC) on October 1, 2012 and are expected to be on the October 25, 2012 Planning and Zoning/Design Review Board agenda. The Shul has had its first DRG meeting on August 22, 2012. This project will need to be resubmitted for a second DRG review and will be scheduled for DIC after staff has determined that the plans meet zoning code compliance.

Planning staff is working closely with the Administration on the parking structure feasibility study and the potential expansion of the Bal Harbour Shops. Planning staff continues to answer approximately 80-90 general zoning calls and responds to over 150 e-mails monthly. Planning staff also reviews approximately 8 building permits monthly for conformance with the zoning code.

2. **Website, Information Technology, TV Broadcasts** – **Website, Information Technology, TV Broadcasts** – IT received quotes for a new laptop and portable printer for the Code Compliance Department and placed the equipment order on August 29, 2012. Per code compliance director, IT is awaiting the vehicle mount in order to deploy the laptop and printer. A laptop was ordered for the HR Department on August 31, 2012 and has been deployed. All emergency laptops have been set up with all necessary software and tested successfully. IT staff researched and provided input to expansion possibilities for programming displayed on Channel 77. IT has purchased a webcam per the Tourist Bureau Director's instruction, in order to host video meetings using Skype. The technology was used for the proposers for the Tourism Master Plan to make presentations remotely. The website

has been transferred to the new provider as of October 1, 2012. The IT staff receives approximately 300 support requests via phone and email each month.

3. **Public Utilities / Engineering** – The Water/Sewer/Storm Drainage Project commenced on August 15, 2011 in the southern sector of the Town (Phase I). The project involves water main/water service replacements, lining or replacement of the gravity sewer mains and sewer lateral replacements, rehabilitation of the sewer pump stations, and improvements to the stormwater collection system including three (3) new storm drainage pump stations. Phase II which is the middle area of Town and includes the most complex storm drainage work is substantially complete, with work on the private water services remaining and soon to be completed. Phase III construction commenced in August, 2012, and focused initially on the successful completion of all major construction activities on the Byron Avenue corridor north of 95th Street, prior to the start of the school year. Phase III is anticipated to be substantially complete early in January, 2013. The public information project website continues to be updated frequently and receives 15 to 30 views monthly.

Both Surfside and the Village of Bal Harbour are currently utilizing the newly installed Collins Avenue force main with no issues. Surfside staff and consultants are now in the process of meeting with Bal Harbour staff and consultants to decide the most cost effective method for the evaluation and / or repair or abandonment of the existing Byron Avenue force main. A report regarding the condition of the existing Byron Avenue force main with recommendations is expected to be provided to the Town Commission this fall.

The Town and staff were successful in negotiating the claim submitted by Ric Man International for the TVing and cleaning of the existing sewer main lines for a not to exceed amount of \$415,000, or approximately \$60,000 lower than \$475,000 price included in the projected project completion cost presented at last month's Commission Meeting. The change order will also put \$45,000 at risk if the completion date is not met.

Partial refinancing of the project has been completed to reduce the interest costs and provide funding for additional utility main replacements, and other costs within the original scope. A comprehensive status report for the project was provided in the August 14, 2012 Commission Agenda package.

Funding Summary –

<u>Funding Status:</u>	<u>Amount</u>	<u>Status</u>	<u>Probability</u>
FDEP Grant	\$873,500	In place	100%
FDEP Grant	\$125,000	In place	100%
FDEP Grant	\$100,000	In place	100%
FDEP State Revolving Fund Loan*	\$9,312,881	In place	100%
BBC Bond	\$859,000	In place	100%

*This loan has the potential of \$2-\$3 Million being forgiven by the State in approximately 3 years.

*Partial reimbursement request #1 was submitted for payment in September 2012.

4. **Neighborhood Improvements** – CGA Staff completed the traffic computer modeling of the Town's roadway system as an element of the Town-wide traffic calming study. The traffic counts to complete the traffic study occurred over the last 4 weeks. The Draft Traffic Study report has been completed and is currently being reviewed by the Town. Once the report is completed, the Town will hold public meetings to discuss and receive resident input. The Town Manager will also utilize this study during his discussions with the Village of Bal Harbour regarding the potential mall expansion, and discussions with Miami-Dade County regarding additional traffic calming devices and street beautification projects.

CGA received the Notice to Proceed and is working on the Seawall Repair/Replacement Design Drawings. The permitting will begin at the 60% design drawing stage. Permitting will occur concurrently with the Florida Inland Navigation District (FIND) funding application.

5. **Emergency Management** - CGA's emergency management staff reviewed the Town's Emergency Operations Plan at a cost of \$551.68. Recommendations for plan updates from lessons learned during Tropical Storm Isaac and best practices were submitted on September 7, 2012. In summary, the Town's Plan meets the basic tenets of the National Incident Management System. The Town will implement employee training and performance standards to verify that NIMS training requirements are met and that new organizational assignments are documented. The Town will evaluate the relocation of the Emergency Operations Center to a more sustainable and resilient operational environment and include the development of an EOC operational procedure, which includes position specific checklists, job aids, and forms. There have been a number of revisions to policies, technologies, and procedures on the County and Town level, particularly related to the recovery and long-term redevelopment environment, and the new VOIP System, which may be highly beneficial to the Town in the aftermath of a large scale disaster.
6. **Downtown Sidewalk Survey** - CGA staff has completed all field work required to obtain laser scan survey information of the business district. The completed Sketch and Description was reviewed by FDOT and returned with comments. CGA has addressed all outstanding comments and returned the revised sketch and description to the Town. This survey and description is an FDOT requirement for the sidewalk café lease.



TOWN OF SURFSIDE

MUNICIPAL BUILDING
9293 HARDING AVENUE
SURFSIDE, FLORIDA 33154-3009

PARKS AND RECREATION ADVISORY COMMITTEE MEETING MINUTES

7:00 pm

Monday August 6, 2012

Community Center
9301 Collins Avenue

Minutes

1. Roll Call of Committee Members

The meeting was called to order at 7:02 pm.

In attendance was; chairperson, Doris Obregon; member, Arnie Notkin; vice-chair, Retta Logan; member, Eliana Salzhauer (arrived at 7:12pm); resident Barbara McLaughlin; Commissioner Kligman; Commissioner Olchyk.

The Committee elected to move agenda item 8, Community Input (as the result of a resident being present) to be discussed after agenda item 1.

2. Approval of minutes from 5/21/12 and 6/18/12

Arnie Notkin made a motion to approve the May and June minutes, Retta Logan seconded the motion. All members present voted in favor.

3. Bullying Awareness

Commissioner Kligman showed a video trailer of the documentary Bully. She asked the Committee to recommend the screening of the movie and the forum.

The Committee and Commissioner Olchyk expressed concern with the cost of showing the movie in a theater.

The Committee discussed options for the Town's involvement.

The Committee agreed to have Tim Milian research the cost/DVD release to determine whether the viewing will be at the Town or a movie theater.

4. PAL and Town Contribution for program operation

Tim Milian explained that prior to his tenure the police department was contributing \$15,000 to the PAL program in return for their programming. The police department withdrew their contribution about four years ago and PAL began operating out of Bay Harbor and Bal Harbour since that time. PAL asked the police department for a \$30,000 contribution and Police Chief Allen declined to participate in the program. Former Vice-Mayor Joseph Graubart has suggested that the contribution come from the Parks and Recreation department.

Eliana Salzhauer inquired about the reasoning behind the Police department's decision to decline participation.

Retta Logan made a motion recommending that the parks and recreation department not fund the PAL program, Doris Obregon seconded the motion. Eliana Salzhauer, Doris

Obregon, and Retta Logan voted in favor (Arnie Notkin abstained from voting because of his previous involvement with the PAL).

5. Community Center ID Renewal Update

Tim Milian explained the history behind the renewal program. He said this helps to keep non-residents (as a result of short-term residency) from utilizing the Community Center.

6. Parks and Recreation Fees Update

Tim Milian said as a result of previous discussions and review of the resident/non-resident fees he would like to recommend keeping the summer camp and senior programming fees the same and raising non-resident fees to fifty percent (50%) over resident fees.

Retta Logan made a motion to support the fifty percent increased charge in non-resident fees, Eliana Salzhauer seconded the motion. All members present voted in favor.

7. Breezeway Dance with DJ

Doris Obregon suggested as a result of the success of the Community Center party that they hold a family dance party in the breezeway. Tim Milian said he has spoken with the Concession operator and said they have also been discussing having a karaoke night. The Committee suggested having the event one time and seeing if it is successful. Tim Milian suggested keeping this as a resident function and keeping it free of charge for residents. They decided that they would have this event in the fall.

8. Community Input

**This was discussed after agenda item 1.*

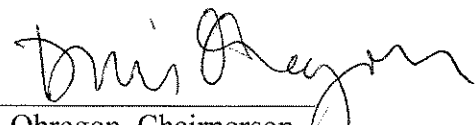
Barbara McLaughlin presented various community activities relating to turtles and the Surfside Turtles, which the Committee can elect to participate in and endorse.

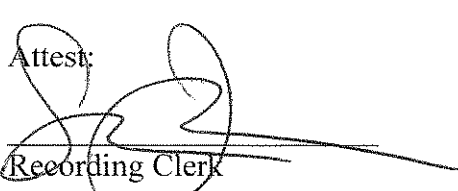
Tim Milian explained that he would pass along the information she presented to Julie Magnani, the PTA president for the local elementary school.

9. Meeting Adjournment

Arnie Notkin made a motion to adjourn, Retta Logan seconded the motion. The meeting was adjourned at 8:18 pm.

Accepted this 20th day of SEPTEMBER, 2012


Doris Obregon, Chairperson

Attest:

Recording Clerk

Tourist Board
Meeting Agenda
August 6, 2012

Date: August 6, 2012

Time: 5:30 pm

Location: Manny Crawford Conference Room, Town Hall

Minutes:

1. Roll Call

The meeting was called to order at 5:30pm.

In attendance was; Eli Tourgeman; Barbara Cohen; Barbara McLaughlin; TEDACS Director Duncan Tavares, Recording Clerk Sarah Johnston; Town Manager Roger Carlton.

2. Review and approval of June 13 and July 2, 2012 Meeting Minutes (emailed)

To be deferred until September 2012.

3. A/R & A/P (emailed)

Duncan Tavares handed out the reports for review.

4. Resort Tax 10 Year History (emailed)

Duncan Tavares reviewed the history, which was previously mailed to the Board members.

5. Surfside Spice Update Discussion

Duncan Tavares explained that there have been complaints about Surfside Spice participants not being consistent with their participation. He expressed frustration with the restaurants not participating because of the negative reflection on the program.

Eli Tourgeman recommended drafting a letter to the restaurants. Roger Carlton recommended in future years they require the restaurants to enter into an agreement and require the restaurants to buy-in to the program.

6. FY 12/13 Events & Promotions Workshop

Eli Tourgeman suggested that for next year they require the restaurants to buy-in to the program and enter into an agreement with the Town.

Duncan Tavares explained the cost this year is different because he combined Surfside Spice and the Culinary Event so the cost for both was about \$25,000. He explained for the previous year the cost of Surfside Spice was approximately \$18,000.

Roger Carlton and Eli Tourgeman discussed some of the challenges with downtown participation in events.

Eli Tourgeman explained that he believes he can obtain cooperation from some of the higher end retail stores to advertise in Ocean Drive magazine.

Roger Carlton asked Barbara Cohen if he could present the 95th street project, showing examples of what the final project would look like. The Board responded favorably.

Roger Carlton showed examples of the proposed Shul expansion and Surf Club rendering, and Best Western project. The Board responded favorably. Roger Carlton explained that there would be an upcoming budget meeting to discuss the possibility of reducing the millage.

7. Upgrading Electrical Feed to Landscaped Area of Community Center

The Board agreed that the electrical feed and lighting at the Community Center needs to be increased.

Barbara Cohen asked Duncan Tavares to look into how much money is remaining in the reserves.

Duncan Tavares gave an update for this upcoming Thursday, the mandatory meeting for the Tourism Strategic Plan RFP.

8. *Next meeting: Wednesday September 5, 2012*

9. Adjournment

The meeting was adjourned at 6:40pm.



**TOWN OF SURFSIDE
PLANNING AND ZONINGBOARD AND DESIGN REVIEW BOARD
MINUTES
JUNE 28, 2012
7:00 PM**

1. CALL TO ORDER

Lindsay Lecour called the meeting to order at 7:05PM.

2. ROLL CALL

Recording Clerk, Sarah Johnston called the roll.

In attendance; Chairperson, Lindsay Lecour; Member, Jared Plitt; Member, Jorge Gutierrez; Member Carli Koshal.

Also in attendance; Town Planner, Richard Cannone; Mayor Daniel Dietch; Town Attorney, Lynn M. Dannheisser; Town Manager Roger M. Carlton; Vice-Mayor Karukin (arrived at 7:56pm); Commissioner Kligman (arrived at 8:03pm).

Not present - Vice-Chairperson, Peter Glynn

3. APPROVAL OF MINUTES: MAY 31, 2012

Jorge Gutierrez made a motion to approve, Jared Plitt seconded the motion. All members present voted in favor.

4. DESIGN REVIEW BOARD:

A. Request of the Tenant of Property located at 9530 Harding Avenue

The applicant is requesting to install a sign in the front of the store.

Richard Cannone introduced this item and explained that staff is recommending approval subject to conditions. He explained that the conditions of approval are removal of the "authorized retailer" from the sign, removal of the banner sign upon installation of the permanent sign, repair and repaint the face of the building-filling in holes and cracks, removing sidewalk and window signage, and removal of the steel tray behind the sign and install the sign directly into the wall.

Jorge Gutierrez made a motion to approve with staff recommendations and caulking of the holes, which are still visible, Jared Plitt seconded the motion. All members present voted in favor.

Mike Mabjish, the representative of the owner spoke to the conditions. He expressed concern with some of the imposed conditions-specifically, the authorized retailer portion of the sign.

5. PLANNING AND ZONING BOARD DISCUSSION:

A. DRB/P&Z Process

[See reports and draft proposed Ordinance]

Town Attorney Lynn M. Dannheisser reviewed the history of this item and presented proposed alternatives.

Carli Koshal stated that she is supportive of streamlining the code and consolidating the boards.

Jared Plitt expressed support of streamlining of the process and expressed some concern with requiring an attorney if that attorney has no land use/development experience. He also indicated that he would be interested in seeing in addition to an architect there should also be a requirement that another professional with related experience be required to sit on the board if the process is streamlined.

Lynn M. Dannheisser asked the board about removing the one-year residency requirement and removal of the licensure requirement. The Board expressed support of removing those requirements and changing the five-year experience requirement to a recommendation in an effort to ensure qualified individuals were available to serve on the Boards.

Lynn M. Dannheisser also mentioned the possibility of collapsing the Design Review Board into the Planning and Zoning Board and combining the functions of both boards. She stated that she would bring a proposed ordinance change for their review in the upcoming months.

Carli Koshal made a motion to approve the elimination of the license and one-year residency requirement for the architect and adding an attorney and interior designer with experience preferred as permitted qualifications, Jared Plitt seconded the motion. All members present voted in favor.

B. Amended Fence Ordinance [Proposed Ordinance attached]

Richard Cannone introduced this item and explained this is as a result of the Boards direction at the previous meeting.

Carli Koshal made a motion, Jared Plitt seconded the motion. All members present voted in favor.

C. Mechanical Lift Ordinance [Proposed Ordinance attached]

Town Manager Roger Carlton introduced this item and explained this is being presented to put some parameters in place for lifts being installed in new buildings. He discussed some problems which have occurred previously and explained this is to avoid future issues. He responded to questions from the Board about how they operate and potential issues.

Jared Plitt asked that the word independent be included relating to the analysis required in the proposed ordinance.

Carli Koshal made a motion to approve with staff recommendations, Jared Plitt seconded the motion. All members present voted to approve.

D. Article I. Section 4. "Height Density Intensity" Proposed Ballot question

[Text amendment and ballot question attached]

Lynn M. Dannheisser introduced this item and explained that this was being discussed for informational purposes as this item impacts the Board and their

decisions. She indicated that the proposed ballot question is designed to maintain the restriction and to clarify so that the Board knows how the height is measured and how floor area ratio is measured.

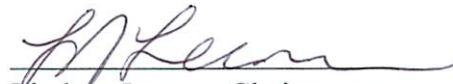
The Board had no additional comments.

6. REPORT OF PERMITS ISSUED FOR THE MONTH OF MAY2012

7. ADJOURMENT

Carli Koshal made a motion to adjourn, Jared Plitt seconded the motion. All members present voted in favor. The meeting adjourned at 7:56pm.

Accepted this 27th day of September, 2012


Lindsay Lecour, Chairperson

Attest:


Sarah Johnston
Recording Clerk

ORDINANCE NO. 12-_____

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA AMENDING CHAPTER 42 AND SPECIFICALLY SECTION 42-41 "DEFINITIONS"; SECTION 42-76 "PERMIT PROCEDURES"; SECTION 42-77 "DUTIES AND RESPONSIBILITIES OF THE FLOODPLAIN ADMINISTRATOR"; SECTION 42-91 "GENERAL STANDARDS"; SECTION 42-92 "SPECIFIC STANDARDS"; AND SECTION 42-95 COASTAL HIGH HAZARD AREAS (V-ZONES) OF THE TOWN OF SURFSIDE CODE OF ORDINANCES PROVIDING FOR INCLUSION IN THE CODE; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HERewith; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, the Town of Surfside ("Town") proposes to amend its Code of Ordinances to address base flood elevation and address issues and provide clarification relating to the current floor height requirement of all construction; and

WHEREAS, the Commission has attempted to modify regulations to address the specific needs of the this unique community and continues to amend these regulations to address the base flood elevation of new construction that meets or exceeds criteria of substantial improvement as it may best suit the needs of the community; and

WHEREAS, the Planning and Zoning Board, as the local planning agency for the Town, held its hearing on the proposed amendments on September 27, 2012 with due public notice and input; and

WHEREAS, the Town Commission held its first public hearing on September 24, 2012, having complied with the notice requirements required by Florida Statutes; and

WHEREAS, the Town Commission shall have conducted a second duly noticed public hearing on these regulations as required by law on October 9, 2012.

**NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND THE TOWN
COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA:**

Section 1. Recitals. The foregoing “WHEREAS” clauses are ratified and confirmed as being true and correct and are made a specific part of this Ordinance.

Section 2. Code Amendment. The code of the Town of Surfside, Florida is hereby amended as follows:

**Chapter 42 - FLOODS ARTICLE II. - FLOOD DAMAGE PREVENTION
DIVISION 2. DEFINITIONS**

Sec. 42-41 Definitions.

Freeboard means the additional height, usually expressed as a factor of safety in feet, above a flood level for purposes of floodplain management. Freeboard tends to compensate for many unknown factors, such as wave action, ~~bridge openings~~ blockages in bridge and culvert openings and hydrological effect of urbanization of the watershed that could contribute to flood heights greater than the height calculated for a selected frequency flood and floodway conditions.

Hardship as related to variances from this ordinance means the exceptional difficulty associated with the land that would result from a failure to grant the requested variance. The community requires that the variance is exceptional, unusual, and peculiar to the property involved. Mere economic or financial hardship alone is not exceptional. Inconvenience, aesthetic considerations, physical handicaps, personal preferences, or the disapproval of one’s neighbors likewise cannot, as a rule, qualify as an exceptional hardship. All of these problems can be resolved through other means without granting a variance, even if the alternative is more expensive, or requires the property owner to build elsewhere or put the parcel to a different use than originally intended.

DIVISION 4. - ADMINISTRATION

Sec. 42-76. – Development Permit procedures.

Application for a development permit shall be made to the floodplain administrator on forms furnished by him or her prior to any development activities, and may include, but not be limited to, the following plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, earthen fill, storage of materials or equipment, drainage facilities, and the location of the foregoing. Specifically, the following information is required:

(1) *Application stage:*

- a. Elevation in relation to mean sea level of the proposed lowest floor (including basement) of all buildings;
- b. Elevation in relation to mean sea level to which any nonresidential building will be

Ordinance No. _____

floodproofed;

c. Certificate from a registered professional engineer or architect that the nonresidential floodproofed building will meet the flood-proofing criteria in subsection (2) and division 5, subsection 42-92(2) of the Surfside Code of Ordinances;

d. Description of the extent to which any watercourse will be altered or relocated as a result of proposed development; and

e. Elevation in relation to mean sea level of the bottom of the lowest horizontal structural member of the lowest floor and provide a certification from a registered engineer or architect indicating that they have developed and or reviewed the structural designs, specifications and plans of the construction and certified that are in accordance with accepted standards of practice in coastal high hazard areas.

(2) *Construction stage:* Upon placement of the lowest floor, or floodproofing by whatever construction means, or bottom of the lowest horizontal structural member it shall be the duty of the permit holder to submit to the floodplain administrator a certification of the NGVD or NAVD elevation of the lowest floor or flood-proofed elevation, or bottom of the lowest horizontal structural member of the lowest floor as built, in relation to mean sea level. Said certification shall be prepared by or under the direct supervision of a registered land surveyor or professional engineer and certified by same. When floodproofing is utilized for a particular building said certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. Any work undertaken prior to submission of the certification shall be at the permit holders' risk. The floodplain administrator shall review the lowest floor and floodproofing elevation survey data submitted. The permit holder immediately and prior to further progressive work being permitted to proceed shall correct violations detected by such review. Failure to submit the survey or failure to make said corrections required hereby, shall be cause to issue a stop-work order for the project.

Sec. 42-77. - Duties and responsibilities of the floodplain administrator.

Duties of the administrator shall include, but are not be limited to:

(1) Review permits to assure sites are reasonably safe from flooding;

(2) Review all development permits to assure that the permit requirements of this article have been satisfied;

(3) Require copies of additional Federal, State of Florida, or other permits, especially as it relates to F.S. §§ 161.053, 320.8249, 320.8359, 373.036, 380.05, 381.0065, and ch. 553, pt. IV, Florida Statutes be provided and maintained on file with the development permit;

(4) Notify adjacent communities, the Florida Division of Emergency Management State Floodplain Management Office, the South Florida Water Management District, the Federal Emergency Management Agency and other federal and/or State of Florida agencies with statutory or regulatory authority prior to any alteration or relocation of a watercourse;

(5) Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is maintained;

(6) Verify and record the actual elevation (in relation to mean sea level) of the lowest floor (A-zones) or bottom of the lowest horizontal structural member of the lowest floor (V-zones) of all new construction and substantial improvements ~~or substantially improved buildings~~, in accordance with division 5, subsection 42-92(1) and (2) and subsection 42-95(2), respectively;

(7) Verify and record the actual elevation (in relation to mean sea level) to which the new construction and substantial improvements of nonresidential buildings ~~or substantially improved buildings~~ have been floodproofed, in accordance with division 5, subsection 42-92(2);

(8) Review certified plans and specifications for compliance. When floodproofing is utilized for a particular building, certification shall be obtained from a registered engineer or architect

certifying that all areas of the building below the required elevation are watertight with walls substantially impermeable to the passage of water, and use structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy in compliance with division 5, subsection 42-92(2) of this article. In coastal high hazard areas, certification shall be obtained from a registered professional engineer or architect that the building is designed and securely anchored to pilings or columns in order to withstand velocity waters and hurricane wave wash. Additionally in coastal high hazard areas, if the area below the lowest horizontal structural member of the lowest floor is enclosed, it may be done so with open wood lattice and insect screening or with non-supporting breakaway walls that meet the standards of division 5, subsection 42-95(6) of this article;

(9) Interpret the exact location of boundaries of the areas of special flood hazard. When there appears to be a conflict between a mapped boundary and actual field conditions, the floodplain administrator shall make the necessary interpretation. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this article;

(10) When base flood elevation data or floodway data have not been provided in accordance with division 3, section 42-57, the floodplain administrator shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a federal, State of Florida, or any other source, in order to administer the provisions of division 5;

(11) Coordinate all change requests to the FIS, FIRM and FBFM with the requester, State of Florida, and FEMA; and

(12) Where base flood elevation is utilized, obtain and maintain records of lowest floor and floodproofing elevations for new construction and substantial improvements in accordance with division 5, subsections 42-92(1) and (2), respectively.

(13) Notify FEMA within six months when new technical or scientific data becomes available to the community concerning physical changes affecting flooding conditions so that risk premium rates and floodplain management requirements will be based on current data.

Secs. 42-78—42-90. - Reserved.

DIVISION 5. – PROVISIONS FOR FLOOD HAZARD REDUCTION

Sec. 42-91. - General standards.

Sec. 42-92. - Specific standards.

Secs. 42-93, 42-94. - Reserved.

Sec. 42-95. - Coastal high hazard areas (V-zones).

Secs. 42-96—42-110. - Reserved.

Sec. 42-91. - General standards.

In all areas of special flood hazard, all development sites including new construction and substantial improvements shall be reasonably safe from flooding, and meet the following provisions:

(1) New construction and substantial improvements shall be designed or modified and adequately anchored to prevent flotation, collapse and lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;

(2) Manufactured homes shall be anchored to prevent flotation, collapse, and lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This standard shall be in addition to and consistent with applicable State of Florida requirements for resisting wind forces;

- (3) New construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage. See the applicable technical bulletin or bulletins for guidance;
- (4) New construction and substantial improvements shall be constructed by methods and practices that minimize flood damage. See the applicable technical bulletin or bulletins for guidance;
- (5) Electrical, heating, ventilation, plumbing, air conditioning equipment and other service facilities, including duct work, shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;
- (6) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system;
- (7) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into floodwaters;
- (8) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding;
- (9) Any alteration, repair, reconstruction or improvements to a building that is in compliance with the provisions of this ordinance shall meet the requirements of "new construction" as contained in this article;
- (10) Any alteration, repair, reconstruction or improvements to a building that is not in compliance with the provisions of this article, shall be undertaken only if said nonconformity is not furthered, extended, or replaced;
- (11) All applicable additional federal, State of Florida, and local permits shall be obtained and submitted to the floodplain administrator. Copies of such permits shall be maintained on file with the development permit. State of Florida permits may include, but not be limited to the following:
 - a. South Florida Water Management District(s): in accordance with F.S. ch. 373.036, Section (2)(a) - Flood Protection and Floodplain Management.
 - b. Department of community affairs: In accordance with F.S. § 380.05 - Areas of Critical State Concern, and F.S. ch. 553, pt. IV, Florida Building Code.
 - (c) Department of health: In accordance with F.S. § 381.0065 - Onsite Sewage Treatment and Disposal Systems.
 - (d) Department of environmental protection, coastal construction control line: In accordance with F.S. § 161.053 - Coastal Construction and Excavation; and
- (12) Standards for subdivision proposals and other proposed development (including manufactured homes parks or subdivisions):
 - a. All such ~~subdivision~~ proposals shall be consistent with the need to minimize flood damage;
 - b. All such ~~subdivision~~ proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize or eliminate flood damage;
 - c. All such ~~subdivision~~ proposals shall have adequate drainage provided to reduce exposure to flood hazards.

Sec. 42-92. - Specific standards.

In all A-zones where base flood elevation data have been provided (zones AE, AI-30, and AH), as set forth in division 3, section 42-57, the following provisions shall apply in addition to those specified in Sec. 42-91:

- (1) *Residential construction.* All new construction and substantial improvements of any residential building (including manufactured home) shall have the lowest floor, including basement, elevated to no lower than one foot above the base flood elevation. Should solid

foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate automatic equalization of flood hydrostatic forces on both sides of the exterior walls shall be provided in accordance with standards of division 5, subsection 42-92(3).

(2) *Nonresidential construction.* All new construction and substantial improvements of any commercial, industrial, or nonresidential building (including manufactured home) shall have the lowest floor, including basement, elevated to no lower than one foot above the base flood elevation. All buildings located in A-zones may be floodproofed, in lieu of being elevated, provided that all areas of the building components below the base flood elevation plus one foot are watertight with walls substantially impermeable to the passage of water, and use structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied using the FEMA Floodproofing Certificate. Such certification along with the corresponding engineering data, and the operational and maintenance plans shall be provided to the floodplain administrator.

(3) *Elevated buildings.* New construction and substantial improvements of elevated buildings that include fully enclosed areas formed by foundation and other exterior walls below the lowest floor elevation shall be designed to preclude finished living space and designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls.

a. Designs for complying with this requirement must either be certified by a professional engineer or architect or meet the following minimum criteria:

(i) Provide a minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;

(ii) The bottom of all openings shall be no higher than one foot above foundation adjacent interior grade (which must be equal to or higher in elevation than the adjacent exterior grade); and

(iii) Openings may be equipped with screens, louvers, valves, or other coverings or devices provided they provide the required net area of the openings and permit the automatic flow of floodwaters in both directions.

b. Fully enclosed areas below the lowest floor shall solely be used for parking of vehicles, storage, and building access. Access to the enclosed area shall be minimum necessary to allow for parking of vehicles (garage door), limited storage of maintenance equipment used in connection with the premises (standard exterior door), or entry to the living area (stairway or elevator); and

c. The interior portion of such enclosed area shall not be finished or partitioned into separate rooms.

(4) *Standards for manufactured homes and recreational vehicles.*

a. All manufactured homes that are placed, or substantially improved within zones A1-30, AH, and AE, on sites (i) outside of an existing manufactured home park or subdivision, (ii) in a new manufactured home park or subdivision, (iii) in an expansion to an existing manufactured home park or subdivision, or (iv) in an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as the result of a flood, the lowest floor be elevated on a permanent foundation to no lower than one foot above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

(5) Adequate drainage paths around structures shall be provided on slopes to guide water away from structures.

Secs. 42-93, 42-94. - Reserved.

Ordinance No. _____

Sec. 42-95. - Coastal high hazard areas (V-zones).

Located within areas of special flood hazard established in division 3, section 42-57 are coastal high hazard areas, designated as zones V1-30, VE, or V (with BFE). The following provisions shall apply for all development activities:

- (1) Meet the requirements of division 4, section 42-76, and division 5, sections 42-91, and 42-92, (except subsection (7)), 42-93, and 42-94
- (2) All new construction and substantial improvements in zones V1—V30, VE, and V (with BFE) shall be elevated on pilings or columns so that:
 - a. The bottom of the lowest horizontal structural member of the lowest floor (excluding the pilings or columns) is elevated to no lower than one foot above the base flood elevation whether or not the structure contains a basement; and
 - b. The pile or column foundation and structure attached thereto is anchored to resist flotation, collapse, and lateral movement due to the effects of wind and water loads acting simultaneously on all building components. Water loading will be those values associated with the base flood. Wind loading values will be those required by applicable State of Florida or local, if more stringent than those of the State of Florida, building standards.
- (3) A registered professional engineer or architect shall develop or review the structural design, specifications and plans for the construction, and shall certify that the design and methods of construction to be used are in accordance with accepted standards of practice for meeting the provisions of this section.
- (4) Obtain the elevation (in relation to mean sea level) of the bottom of the lowest horizontal structural member of the lowest floor (excluding pilings and columns) of all new construction and substantially improved structures substantial improvements. The floodplain administrator shall maintain a record of all such information.
- (5) All new construction and substantial improvements shall be located landward of the reach of mean high tide.
- (6) Provide that all new construction and substantial improvements have the space below the lowest floor either free of obstruction or constructed with nonsupporting breakaway walls, open wood lattice-work, or insect screening intended to collapse under wind and water loads without causing collapse, displacement, or other structural damage to the elevated portion of the building or supporting foundation system. For the purpose of this section, a breakaway wall shall have a design safe loading resistance of not less than ten and no more than 20 pounds per square foot. Use of breakaway walls which exceed a design safe loading resistance of 20 pounds per square foot (either by design or when so required by local codes) may be permitted only if a registered professional engineer or architect certifies that the designs proposed meet the following conditions:
 - a. Breakaway wall collapse shall result from water load less than that which would occur during the base flood; and
 - b. The elevated portion of the building and supporting foundation system shall not be subject to collapse, displacement, or other structural damage due to the effects of wind and water loads acting simultaneously on all building components (structural and nonstructural). The water loading shall be those values associated with the base flood. The wind loading values shall be those required by applicable Florida or local, if more stringent than those of the State of Florida, building standards.
 - c. Such enclosed space shall be useable solely for parking of vehicles, building access, or storage. Such space shall not be finished, partitioned into multiple rooms, or temperature-controlled.
- (7) Prohibit the use of fill for structural support. No development permit shall be issued for

development involving fill in coastal high hazard areas unless it has been demonstrated through appropriate engineering analyses that the subject fill does not cause any adverse impacts to the structure on site or adjacent structures. Placement of fill that would result in an increase in the base flood elevation or cause adverse impacts by wave ramping and deflection may be permitted, provided that the permit applicant first applies for and receives a conditional FIRM revision, fulfilling the requirements for such revisions as established by FEMA.

(8) Prohibit manmade alteration of sand dunes and mangrove stands that would increase potential flood damage.

(9) Standard for manufactured homes.

a. Prohibit the placement of manufactured homes.

(10) ~~Standard for recreational vehicles. Recreational vehicles placed on sites within zones VE, V1-V30, V (with base flood elevation) on the FIRM either~~

a. Prohibit the placement of recreational vehicles.

(11) For all structures located seaward of the coastal construction control line (CCCL), the bottom of the lowest horizontal structural member of the lowest floor of all new construction and substantial improvements shall be elevated to the flood elevation established by the Florida Department of Environmental Protection or to no lower than one foot above the base flood elevation, whichever is the higher. All non-elevation design requirements Division 5, section 42-95(2) through (11) shall apply.

(12) When fill is proposed, in accordance with the permit issued by the Florida Department of Health, in coastal high hazard area, the development permit shall be issued only upon demonstration by appropriate engineering analyses that the proposed fill will not increase the water surface elevation of the base flood nor cause any adverse impacts to adjacent properties by wave ramping and deflection.

Secs. 42-96—42-110. - Reserved.

Section 3. Severability. If any section, subsection, clause or provision of this Ordinance is declared invalid or unconstitutional by a court of competent jurisdiction, the remainder shall not be affected by such invalidity.

Section 4. Conflict. All sections or parts of sections of the Town of Surfside Code of Ordinances in conflict herewith are intended to be repealed to the extent of such conflict.

Section 5. Inclusion in the Code of Ordinances. 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 6. Effective Date. This Ordinance shall be effective ten (10) days after adoption on second reading.

PASSED and ADOPTED on first reading this _____ day of _____, 2012.

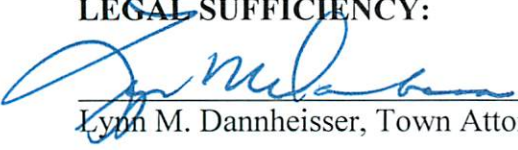
PASSED and ADOPTED on second reading this _____ day of _____, 2012.

Daniel Dietch, Mayor

Attest:

Sandra Novoa
Town Clerk

**APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:**



Lynn M. Dannheisser, Town Attorney

On First Reading Moved by: _____

On Second Reading Seconded by: _____

Vote:

Mayor Dietch	yes _____	no _____
Vice Mayor Karukin	yes _____	no _____
Commissioner Olchyk	yes _____	no _____
Commissioner Kligman	yes _____	no _____
Commissioner Graubart	yes _____	no _____

Ordinance No. _____



Town of Surfside Commission Communication

Agenda Item #: 4A2
Agenda Date: October 09, 2012
Subject: Spa Ordinance
From: Roger M. Carlton, Town Manager
Sarah Sinatra Gould, AICP, Town Planner

Background: The code of ordinances permits hotels to have certain uses, such as restaurants, coffee shops, bars and retail with no restrictions on public use of these facilities. However, there is a restriction on spas. The code states that spas are only permitted for "guests," but the code does not further define "guest." Many hotel facilities permit "guests" who are not staying overnight to utilize the spa facilities.

A site plan application for the Surf Club has been submitted to the Town which brought this concern to light. Staff found that this code provision is vague and therefore should be modified by modifying this prohibition. In an effort to ensure the Town only gets high quality luxury spas, Staff is also recommending that any spas in connection with hotels be limited to Four Star Hotel or Resort Hotel spas.

The Planning and Zoning Board reviewed this ordinance at their September 27, 2012 meeting. They requested non-substantial changes to the ordinance to remove the original language that required a specific rating system from an independent review agency due to difficult enforcement methods. Instead, the modified language indicates the spa is limited to a Four Star Resort or Hotel, which are industry standard ratings.

Recommendation: Staff is recommending that the Town Commission approve the spa ordinance on second reading. If this change is adopted by the Town Commission, Staff will incorporate the above language into any future Development Order resulting from this ordinance so that it becomes a covenant running with the land.

Budget Impact: A resort hotel with a Four Star Spa will contribute to the Town's Tourism Tax. While the spa treatments are not susceptible to the Tourism Tax, the food service and any incremental hotel stay due to the spa are susceptible to the Tax.

Growth Impact: The addition of a Four Star Spa open to the public could inspire the utilization of hotel rooms, however to date only the Surf Club has raised the request.

Staff Impact: N/A



Sarah Sinatra Gould, AICP, Town Planner



Roger M. Carlton, Town Manager

ORDINANCE NO. 12- _____

**AN ORDINANCE OF THE TOWN
COMMISSION OF THE TOWN OF
SURFSIDE, FLORIDA AMENDING
CHAPTER 90 ZONING AND MORE
SPECIFICALLY SECTION 90-41(d)(7)
REGULATED USES; PROVIDING FOR
INCLUSION IN THE CODE; REPEALING
ALL ORDINANCES OR PARTS OF
ORDINANCES IN CONFLICT HEREWITH;
AND PROVIDING FOR AN EFFECTIVE
DATE.**

WHEREAS, the Town of Surfside is desirous of amending the Town Code to provide for the use of a business center, eliminate the use of certain coin operated machines previously allowed by the code and to further provide a detailed definition of the spas permitted whose services would be open to the public and no longer solely to guests; and

WHEREAS, after a duly noticed public hearing on September 19, 2012, the Town Commission recommended approval of the proposed amendments to the Code of Ordinances, subject to review by the Planning & Zoning Board as required by Town Code; and

WHEREAS, the Planning and Zoning Board, as the Local Planning Agency for the Town, after a duly noticed public hearing on September 27, 2012, recommended approval of the proposed amendments subject to a non-substantial language change; held its hearing on the proposed amendments to the Code of Ordinances on September 27, 2012; and

WHEREAS, the Town Commission, after a second duly noticed public hearing on October 9, 2012 finds the proposed changes to the Code necessary and in the best interest of the welfare of the community and voted unanimously for its adoption.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA as follows:

Section 1. Recitals. The foregoing “WHEREAS” clauses are ratified and confirmed as being true and correct and are made a specific part of this Ordinance.

Section 2. Code Amendment. The code of the Town of Surfside, Florida is hereby amended as follows:

Section 90-41(d)(7)

May provide a beauty/personal services, dining room, and coffee shop, bar or cocktail lounge, ~~telegraph office business center~~, tobacco, candy, and newsstand, automobile rentals where rental vehicles are not kept on premises, ready to wear shops, travel agencies, gift and sundry shops, ~~coin-operated machines~~, washing machines, ~~and marble, coin or amusement machines (other than gambling devices)~~, and ~~FiveFour Star Hotel or Resort Spas, as defined by the International Spa Rating System Organization and its successors.~~ ~~diet and providing services solely to guests~~; provided, however, that such facilities may be entered only from the inside of the structure and there shall be no window or evidence of such facilities from outside the hotel or suite hotel ~~or motel.~~ other than a sign as permitted in Section 90-71.2(b).

Section 3. Severability. If any section, subsection, clause or provision of this Ordinance is declared invalid or unconstitutional by a court of competent jurisdiction, the remainder shall not be affected by such invalidity.

Section 4. Conflict. All sections or parts of sections of the Town of Surfside Code of Ordinances in conflict herewith are intended to be repealed to the extent of such conflict.

Section 5. Inclusion in the Code of Ordinances. 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 6. Effective Date. This Ordinance shall be effective ten (10) days after adoption on second reading.

PASSED and ADOPTED on first reading this ____ day of _____, 2012.

PASSED and ADOPTED on second reading this ____ day of _____, 2012.

Daniel Dietch, Mayor

Attest:

Sandra Novoa, CMC
Town Clerk

**APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:**



Lynn M. Dannheisser, Town Attorney

On First Reading Moved by: _____

On Second Reading Seconded by: _____

Vote:

Commissioner Graubart	yes_____	no_____
Commissioner Kligman	yes_____	no_____
Commissioner Olchyk	yes_____	no_____
Vice- Mayor Karukin	yes_____	no_____
Mayor Daniel Dietch	yes_____	no_____



**Town of Surfside
Commission Communication**

Agenda Item #: 4A3

Agenda Date: September 19, 2012

Subject: Amending Chapter 90 - Zoning and Amending Section 90-56.1 Construction Fencing

Background: Existing regulations require construction fences and fences around demolition sites on Collins and Harding Avenues. The existing ordinance was amended recently to allow the Town Manager to make adjustments in the location of the fence and approve the graphics to speed up the process and remove that burden from the Town Commission. A number of properties in other areas of Town have been demolished in whole or in part with the remains being left open to the public creating an unsightly and dangerous condition.

This ordinance remedies the problem by requiring that all construction sites Town-wide require a fence subject to the determination of the Building Official. This means that the Building Official will have discretion to allow a small project such as closing a garage to be done without a fence if that is appropriate. The ordinance puts height limitations on the fences, requires screening and places a time limit on how long the project may go on. The fences must be locked when there is no construction underway. There is an appropriate penalty if the ordinance is not adhered to by the property owner.

Based on the dangerous and unsightly conditions created at a number of sites Town-wide, approval of the ordinance amendment on first reading is recommended.

Roger M. Carlton, Town Manager

ORDINANCE NO. 12-_____

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA AMENDING CHAPTER 90 “ZONING” AND SPECIFICALLY AMENDING SECTION 90-56.1 “CONSTRUCTION FENCING” OF THE TOWN OF SURFSIDE CODE OF ORDINANCES TO RENUMBER AND SUPPLEMENT WITH SECTION 90.56.1.B AND TO INCLUDE A REQUIREMENT THAT ALL CONSTRUCTION SITES SHALL PROVIDE A CONSTRUCTION FENCE TO SECURE THE SITE UNTIL THE COMPLETION OF CONSTRUCTION; PROVIDING FOR INCLUSION IN THE CODE; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town Commission (the “Commission”) by Ordinance 1549, § 2, 3-9-10; and Ordinance 1583 § 2, 1-17-12 adopted regulations on construction fencing, including prohibited fencing, permit requirements, fees, and penalties; and

WHEREAS, the Commission clarifies § 90-56.1. – “Construction Fencing” by including it in § 90-56; and

WHEREAS, the Commission recognizes the danger posed within the confines of the construction fence during construction and non-construction hours and requires that such locations be locked; and

WHEREAS, the Planning and Zoning Board, as the local planning agency for the Town, shall conduct a hearing on the proposed amendment on September 27, 2012 with due public notice and input; and

WHEREAS, the Town Commission shall have conducted a first duly noticed public hearing on these regulations as required by law on September 19, 2012; and

WHEREAS, the Town Commission shall have conducted a duly noticed second

Ordinance No. _____

public hearing on these regulations as required by law on October 9, 2012.

**NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND THE
TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA:**

Section 1. Recitals. The foregoing “WHEREAS” clauses are ratified and confirmed as being true and correct and are made a specific part of this Ordinance.

Section 2. Code Amendment. The code of the Town of Surfside, Florida is hereby amended as follows:

Sec. 90-56. – Fences, Walls, and Hedges.

90-56.1.A. A fence or ornamental wall not more than six (6) feet in height, as measured from grade, may project into or enclose an interior side or rear yard only. Notwithstanding anything to the contrary elsewhere in the code, for purposes of this section, grade is defined as the point of the ground immediately below the location of the fence or wall.

90-56.1.B. Construction Fencing. Temporary construction fences are required by this ordinance unless otherwise determined by the Building Official. A construction fence permit shall be obtained from the Building Department prior to the fence being erected. Each fence constructed or maintained shall be constructed and anchored in accordance with the Florida Building Code.

a) Permit required. A permit application and a current survey of the site.

b) Permitted Fence. Subject to the approval of the Building and Zoning Departments, chain-link fence with canvas (or similar material) are the only type of fence that is permitted.

- i. Chain-link fences with canvas (or similar material backing) are permitted subject to approval of the Building and Zoning Departments. The property owner or agent shall obtain a demolition permit from the building department. The chain-link fence shall be permitted to be utilized as a demolition fence for a period of no longer than two months or until expiration of the demolition permit, whichever occurs first. However, such demolition fence shall not be removed until the installation of a permitted construction fence, as defined in this section.
- ii. The permitted construction fence shall be installed immediately upon removal of the temporary demolition fence. At no time shall the parcel remain without a protective barrier.

Ordinance No. _____

c) . Any person or entity found to be in violation of this subsection shall be subject to a fine of \$500.00 per day.

d) A temporary construction fence (as defined herein) shall be installed on the front, side, and rear property lines.

e) *Permitted height.* All construction fences shall be at least six (6) feet high and no higher than eight (8) feet.

(f) *Locked.* The fence shall be kept locked when the property is unoccupied.

(g) *Prohibited fences.*

(i)The following fences are not permitted, except as otherwise provided in the Code herein below:

1. Chain-link fences, unless,

(a) Chain-link fences with canvas (or similar material) backing or meshing may be permitted to be utilized as a temporary construction fence for a period of no longer than 18 months, provided they are neatly designed and maintained as approved by the building and zoning departments.

2. Barbed-wire fences.

3. Fences made of canvas material.

4. Any fences that fail to meet the requirement of the Florida Building Code.

(h) *Setbacks from property line on Harding Ave and Collins Ave.* A temporary fence installed on the front of the property shall be situated six feet from the property line on Harding Avenue and Collins Avenue, unless specifically waived by the town manager. The setback area between the temporary fence and the property line shall contain a continuous extensively landscaped buffer which must be maintained in good healthy condition by the property owner. No temporary construction permit shall be issued unless a landscape plan is approved by the town for the buffer. failure to maintain the landscaping will result in the town taking action to replace same and lien the property for the costs of landscaping.

(i) *Expiration of permit.* A temporary construction fence permit issued under this chapter shall expire at the completion of construction at which time the temporary fence shall be removed in accordance with the terms of the Florida Building Code.

Ordinance No. _____

(j) Murals and graphics. Graphics and murals on temporary construction fencing are prohibited unless approved by the town manager for aesthetic enhancement of the fence and advertisement of the project to be constructed.

(k) Fees. The town manager or designee may impose fees as he/she may determine appropriate for the use of construction fences for advertisement purposes in accordance with the schedule promulgated by the building official.

(l) Access gates. All temporary construction fences shall contain access gates with a minimum clear opening width of 12 feet. Access gates must be provided at the front and rear of the enclosure. Gates must be kept unlocked during inspection hours.

(m) Temporary construction signs. Construction, erection, and maintenance of temporary construction signs shall be governed by Town of Surfside Sign Code.

(n) Appeals. Any decision made by the town manager or designee regarding graphics, advertisement, and murals on a temporary construction fence may be appealed to the town commission.

(o) Enforcement and penalties. The code compliance division and building departments shall be responsible for the enforcement of the provisions of this section. Any person or entity found to be in violation of this section shall be subject to a \$500.00 fine per day.

90-56.2 A fence or ornamental wall may be placed within the front yard or primary corner yard if granted approval by the Design Review Board.

90-56.3 Fences or ornamental walls placed within a front yard or secondary frontage/corner yard are limited to function as spatial locators and shall not be substantial in appearance and shall adhere to height and opacity limitations as set forth in Table 90-56.4.

90-56.4 Front yard and corner yard fences and ornamental walls—Table.

Lot Frontage	Maximum Height (Feet)	Maximum Opacity (Percent)
--------------	-----------------------	---------------------------

Ordinance No. _____

Less than or equal to 50 ft in width	4 ft	All wall and fence surfaces above two (2) feet measured from grade shall maintain a maximum opacity of fifty (50) percent
Wider than 50 ft and less than 100 ft	4 ft + ½ ft per 10 feet of lot width exceeding 50 feet, maximum 5 ft	
Wider than or equal to 100 ft	4 ft + ½ ft per 10 feet of lot width exceeding 50 feet, maximum 6 ft	
Secondary frontage (Corner only)	Shall adhere to the height and opacity limitations for corresponding lot frontage	

90-56.5 Modification of secondary frontage fence and ornamental wall regulations.

- (1) A fence that has a maximum opacity of 100 percent and a maximum height of five feet, as measured from grade, may project into or enclose up to 50 percent of the rear portion of the primary corner yard provided that the fence shall be placed at least ten feet from the right-of-way line or the fence shall be aligned with the wall plane of the subject home.
- (2) An ornamental wall whose surface above two feet measured from grade maintains a maximum opacity of 50 percent and a maximum height of five feet, may project into or enclose up to 50 percent of the rear portion of the primary corner yard provided that the ornamental wall shall be placed at least ten feet from the right of way line or the ornamental wall shall be aligned with the wall plane of the subject home.

90-56.6 When being installed as a safety feature for a swimming pool in a front or primary corner yard, a fence or ornamental wall shall be permitted at a maximum of four feet in height. The applicant shall demonstrate evidence relative to this hardship.

90-56.7 The height of such fence or ornamental wall shall be measured from grade. A berm or retaining wall shall not be created with the purpose of increasing the grade such that an ornamental wall or fence height exceeds the maximum height permitted by this Code.

90-56.8 In order to prevent water ponding at the base of ornamental walls, the installation of weep holes or other similar drainage features shall be required. The number and spacing shall be determined per lot per review.

Ordinance No. _____

90-56.9 Hedges shall be no more than four feet in height in the front yard and side corner yards and ten feet in height in the rear and interior side yards. Hedges may be higher if granted approval by the design review board, on a case-by-case basis.

90-56.10 Under no circumstances is any fence, wall or hedge to be located on a corner lot in such a way as to conflict with the requirements of section 90-52 (Required clearances) or fire codes, including concealment of fire hydrants.

90-56.11 No fence, wall or hedge may be placed within the public right-of-way except that landscaped islands surrounded by circular driveways on lots no more than 115 feet in width shall be permitted, provided that it is understood by the property owner that the town does not waive its right to demand removal without notice as deemed necessary within the town's discretion and the town shall not be liable for any damages arising from such removal. Property owner shall install or plant such materials at own risk. All improvements, other than groundcovers, as defined in the landscape section, shall be placed on private property.

90-56.12 Fences and walls shall be constructed so that the finished side shall face out or away from the property upon which it is constructed, and all support posts and the unfinished side shall be on the inside facing the property upon which said fence or wall is constructed. All masonry fences or walls shall be constructed so as to have a finished surface, including concrete block walls which shall have a plastered finish on all sides above ground level. In the event that a wood fence is constructed against a significant obstacle on the adjoining property, such as a hedge or another fence, that line of fence against the obstacle may be constructed with posts on the outside of the fence provided that the horizontal rails are at least 50 percent covered by boards on the side facing away from the property on which the fence is constructed.

90-56.13 It shall be a violation under this article for any person to erect or maintain a structure to serve as a fence in manner that endangers the health, safety, and welfare of the public as described in this section and as determined by the town manager or designee.

90-56.14 The following fencing material shall be prohibited:

- (1) Chain-link and other wire fencing, except as permitted herein.
- (2) Loosely attached masonry products, such as concrete block, bricks or other similar products not bonded together by mortar or comparable adhesive.

90-56.15 No grandfathering of chain-link fences shall be permitted in the front yard or in the corner side yard. Grandfathering of chain-link fences shall be permitted in interior side yards or rear yards.

Ordinance No. _____

90-56.16 In all districts, the owner or his agent, shall be responsible for the maintenance, in perpetuity, of all landscaping material in good condition so as to present a healthy, neat and orderly appearance and clear of weeds, refuse and debris. Landscaping material shall be trimmed and maintained so as to meet all site distance requirements. Hedges planted along property lines shall be maintained and neatly trimmed to prevent growth extended across the property lone or otherwise encroaching on an adjacent property. In the event of any discrepancy as to whether healthy, neat and orderly appearance is being maintained shall be determined by the town manager or designee.

90-56.17 Temporary construction fences shall be permitted pursuant to standards provided in section 90-56.1.B

~~Sec. 90-56.1.—Construction fencing.~~

~~(a)~~

~~Temporary construction fencing.~~ No person or entity shall install or construct a temporary construction fence in this town without first obtaining a permit from the town's building department. Each fence constructed or maintained shall be constructed and anchored in accordance with the Florida Building Code.

~~(b)~~

~~Permitted fences:~~

~~(1)~~

~~Except on Harding Avenue and Collins Avenue, the following temporary construction fences are permitted in all the zoning districts:~~

~~a.~~

~~Wrought iron or blackened aluminum.~~

~~b.~~

~~Stucco and stone match main structure.~~

~~c.~~

~~Masonry walls pursuant to subsection 90-56.1~~

~~d.~~

~~Wood pickets.~~

~~e.~~

~~Concrete wall pursuant to subsection 90-56.1~~

~~f.~~

~~Frame plywood panel.~~

~~g.~~

~~Chain-link fences with canvas (or similar material) are permitted if the property owner or agent has obtained a demolition permit from the building department. the chain-link fence shall be permitted to be utilized as a demolition fence for a period of no longer than two months or until expiration of the demolition permit, whichever occurs first. However, such demolition~~

Ordinance No. _____

fence shall not be removed until the installation of a permitted construction fence, as defined in this section. The permitted construction fence shall be installed immediately upon removal of the temporary demolition fence. At no time shall the parcel remain without a protective barrier. Any person or entity found to be in violation of this subsection shall be subject to a fine of \$500.00 per day.

(2)

A temporary construction fence (as defined herein) shall be installed on the front, side, and rear property lines.

(3)

Chain-link fences with canvas (or similar material) backing or meshing may be permitted, provided they are neatly designed and maintained as approved by the building and zoning departments.

(e)

Prohibited fences.

(1)

The following fences are not permitted, except as otherwise provided in Code herein below:

a.

Chain-link fences.

b.

Barbed wire fences.

c.

Fences made of canvas material.

d.

Any fences that fail to meet the requirement of the Florida Building Code.

(2)

Chain-link fences with canvas (or similar material) backing or meshing may be permitted to be utilized as a temporary construction fence for a period of no longer than 18 months, provided they are neatly designed and maintained as approved by the building and zoning departments.

(d)

Maximum and minimum height. A fence is permitted a maximum height of 12 feet and a minimum height of six feet.

(e)

Setbacks. A temporary fence installed on the front of the property shall be situated six feet from the property line on Harding Avenue and Collins Avenue, unless specifically waived by the town manager. The setback area between the temporary fence and the property line shall contain a continuous extensively landscaped buffer which must be maintained in good healthy condition by the property owner. No

Ordinance No. _____

~~temporary construction permit shall be issued unless a landscape plan is approved by the town for the buffer. failure to maintain the landscaping will result in the town taking action to replace same and lien the property for the costs of landscaping.~~

(f)

~~*Expiration of permit.* A temporary construction fence permit issued under this chapter shall expire upon the issuance of a certificate of occupancy. The temporary fence shall remain on the property until the completion of construction, provided that it shall be removed in accordance with the terms of the Florida Building Code.~~

(g)

~~*Murals and graphics.* Graphics and murals on temporary construction fencing are prohibited unless approved by the town manager for aesthetic enhancement of the fence and advertisement of the project to be constructed.~~

(h)

~~*Fees.* The town manager or designee may impose fees as he/she may determine appropriate for the use of construction fences for advertisement purposes in accordance with the schedule promulgated by the building official.~~

(i)

~~*Access gates.* All temporary construction fences shall contain access gates with a minimum clear opening width of 12 feet. Access gates must be provided at the front and rear of the enclosure. Gates must be kept unlocked during inspection hours.~~

(j)

~~*Temporary construction signs.* Construction, erection, and maintenance of temporary construction signs shall be governed by Town of Surfside Sign Code.~~

(k)

~~*Appeals.* Any decision made by the town manager or designee regarding graphics, advertisement, and murals on a temporary construction fence may be appealed to the town commission.~~

(l)

~~*Enforcement and penalties.* The code enforcement and building department shall be responsible for the enforcement of the provisions of this section. Any person or entity found to be in violation of this section shall be subject to a \$500.00 fine per day.~~

~~(Ord. No. 1549, § 2, 3-9-10; Ord. No. 1583, § 2, 1-17-12)~~

Section 3. Severability. If any section, subsection, clause or provision of this Ordinance is declared invalid or unconstitutional by a court of competent jurisdiction, the remainder shall not be affected by such invalidity.

Ordinance No. _____

Section 4. Conflict. All sections or parts of sections of the Town of Surfside Code of Ordinances in conflict herewith are intended to be repealed to the extent of such conflict.

Section 5. Inclusion in the Code of Ordinances. 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 6. Effective Date. This Ordinance shall be effective ten (10) days after adoption on second reading.

PASSED and ADOPTED on first reading this _____ day of _____, 2012.

PASSED and ADOPTED on second reading this _____ day of _____, 2012.

Daniel Dietch, Mayor

Attest:

Sandra Novoa
Town Clerk

**APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:**



Lynn M. Dannheisser, Town Attorney

Ordinance No. _____

On First Reading Moved by:_____

On Second Reading Seconded by:_____

Vote:

Commissioner Joseph Graubart	yes_____	no_____
Commissioner Michelle Kligman	yes_____	no_____
Commissioner Marta Olchyk	yes_____	no_____
Vice Mayor Michael Karukin	yes_____	no_____
Mayor Daniel Dietch	yes_____	no_____

Ordinance No. _____



Town of Surfside Commission Communication

Agenda Item # 4B1

Agenda Date: October 9, 2012

Subject: Reduced Rate for Solid Waste Removal

Analysis: A Summer Study was conducted to review the Solid Waste rate structure charged to downtown business above street level. There are 28 tenants that are currently charged \$229.30 per annum.

Conclusion: On August 23, 2012 at a Special Town Commission meeting, the Commission agreed after discussion and due consideration of the Study to a 25% rate reduction for solid waste removal to downtown businesses above street level. The solid waste annual rate will be reduced from the current rate of \$229.30 to a new rate of \$172.20 and will result in a decrease of \$6,420 in total annual revenue to the Town.

A blue ink signature of Roger M. Carlton, consisting of stylized initials and a surname.

Roger M. Carlton, Town Manager

A blue ink signature of Donald G. Nelson, featuring a stylized first name and a surname.

Donald G. Nelson, Finance Director

ORDINANCE NO. _____

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA AMENDING SECTION 66-35, "SCHEDULE OF FEES" OF THE CODE OF ORDINANCES TO ESTABLISH A NEW RATE FOR SOLID WASTE REMOVAL TO DOWNTOWN BUSINESSES ABOVE STREET LEVEL WITH A 25% FEE REDUCTION WHICH SHALL BE EFFECTIVE OCTOBER 1, 2012; PROVIDING FOR INCLUSION IN THE CODE BY; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Section 11 of the Town Charter (the "Charter") of the Town of Surfside ("Town") gives the Town Commission (the "Commission") the power to levy, assess and collect fees; and

WHEREAS, on August 23, 2012 at a Special Town Commission Meeting, the Commission agreed after discussion and due consideration of a Summer Study to a 25% rate reduction for solid waste removal to downtown businesses above street level.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA as follows:

Section 1. Recitals. The foregoing "WHEREAS" clauses are ratified and confirmed as being true and correct and are made a specific part of this Ordinance.

Section 2. Code Amendment. The Town Manager or his designee is authorized to establish a 25% rate reduction for solid waste removal to downtown businesses above street level from a current rate of \$229.60 to a new rate of \$172.20 per annum.

Section 3. Severability. If any section, subsection, clause or provision of this Ordinance is declared invalid or unconstitutional by court of competent jurisdiction, the remainder shall not be affected by such invalidity.

Section 4. Conflict. All sections or parts of sections of the Town of Surfside Code of Ordinances in conflict herewith are intended to be repealed to the extent of such conflict.

Section 5. Inclusion in the Code of Ordinances. 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 "Sections" or other appropriate word.

Section 6. Effective Date. This Ordinance shall be effective on passage on Second Reading or as otherwise provided by Florida law.

PASSED and ADOPTED on first reading this ____ day of _____, 2012
PASSED and ADOPTED on second reading this ____ day of _____, 2012

Daniel Dietch, Mayor

Attest:

Town Clerk

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:



Lynn M. Dannheisser, Town Attorney

Ordinance No. _____

On Second Reading Moved by: _____

On Second Reading Seconded by: _____

Vote:

Commissioner Joseph Graubart	yes	no
Commissioner Michelle Kligman	yes	no
Commissioner Marta Olchyk	yes	no
Vice Mayor Michael Karukin	yes	no
Mayor Daniel Dietch	yes	no

Ordinance No. _____



Town of Surfside Commission Communication

Agenda Item #: 4B2

Agenda Date: October 9, 2012

Subject: Building Frontage Ordinance

From: Roger M. Carlton, Town Manager
Sarah Sinatra Gould, AICP, Town Planner

Background: Section 90-51.1 of the Code (Attachment 1) provides for articulation (breaking the visual plane) of wall frontage without specifying limits on the maximum length of a building. This code provision was adopted as part of the zoning code rewrite that was readopted on August 8, 2010 after substantial discussion and public input. The 2008 Code, Section 90-180 (Attachment 2) regulated the maximum frontage of buildings based on the zoning district. The new code was put in place to allow flexibility in design and to encourage more creativity than occurred in the past.

Vice Mayor Karukin has requested that an amendment to building frontage be placed on the October 9, 2012 agenda for first reading (Attachment 3). The language of his request is as follows:

"Section 90-51 regulates the maximum continuous wall frontage of buildings. Currently, the code only requires changes in wall plane. The code makes no mention of a maximum building length or building length limitations. Consequently, in its current form, building length could be unlimited.

For example, if a city block is about 600 feet, minus 30 feet in combined north and south setbacks, our code would permit a building 570 feet long. This amendment proposes a maximum building length of no greater than 270 feet. Perimeter setbacks and the incremental step backs of 1 foot for every 3 feet above 30 feet in height should be retained.

Although my preference is no greater than 150 feet of continuous wall frontage, I do recognize that such a limitation may not be practical considering a 30 year old policy in the comprehensive plan that recognizes the likelihood of continued property aggregation. Therefore a building no longer than the size of what could fit on ½ a city block (e.g., the Best Western site) seems like a reasonable compromise."

Recommendation: Any changes to the code limiting the frontage of the building could result in some buildings becoming non-conforming. Staff is forwarding this item for your consideration without a staff recommendation at this time. If this item moves on to the Planning and Zoning Board for their consideration, Staff will prepare a recommendation at that time. It should be noted that any changes to the code would apply to those applications filed after the adoption of the ordinance. All pending applications will continue to be reviewed under the current code.

Budget Impact: N/A

Growth Impact: N/A

Staff Impact: N/A



Sarah Sinatra Gould, AICP, Town Planner



Roger M. Carlton, Town Manager

Attachment 1

Sec. 90-51. - Maximum frontage of buildings.

90-51.1 Continuous wall frontage shall be articulated as follows:

- (1) H30C: For every 50 feet, a minimum three foot change in wall plane.
- (2) H40: For every seventy-five (75) feet, a minimum six foot change in wall plane.
- (3) H120: For every 100 feet, a minimum six-foot change in wall planes. The change shall be either vertical or horizontal.
- (4) Structured parking garages: see section 90-49.4

(Ord. No. 1558, § 2(Exh. A), 8-10-10; Ord. No. 1572, § 2, 4-12-11)

Attachment 2

Sec. 90-180. Maximum frontage and depth of buildings.

The intent of the maximum frontage and depth of buildings regulations is to preserve the existing and historical scale and character of these zoning districts of moderate to high density lodgings apartments and motels with typical 50-foot and 75-foot frontage in the RD-1, RD-2 and RM-1 districts and beachfront apartments and hotels in the RT-1 district of 100-foot to 150-foot widths, accented with front courtyards, landscaped terraces and through view corridors, and to foster compatible scale relationships with abutting districts, so as to assure adequate light, air and open space within and adjacent to these zoning districts.

(1) In the RD-1 and RD-2 districts, building walls facing a public right-of-way shall not exceed 50 feet in length measured parallel to the public right-of-way. Maximum total building width or depth shall not exceed 100 feet. Adjacent segments of the building wall facing the public right-of-way shall vary in their setback by not less than 25 feet. Spaces (with building walls on three sides) formed by such setbacks or recesses in the building wall shall have a minimum width of 25 feet measured parallel to the public street right-of-way. The open areas created by such setback variations shall be substantially landscaped with over-story and under-story plant material further to reinforce the visual separation of building wall segments and reduce the scale of the overall structure.

(2) In the RM-1 district, building walls facing a public right-of-way shall not exceed 75 feet in length measured parallel to the public right-of-way. Maximum total building width or depth shall not exceed 150 feet. Adjacent segments of the building wall facing the public right-of-way shall vary in their setback by not less than 25 feet. Spaces (with building walls on three sides) formed by such setbacks or recesses in the building wall shall have a minimum width of 35 feet measured parallel to the public right-of-way. The open areas created by such setback variations shall be substantially landscaped with over-story and under-story plant material further to reinforce the visual separation of building wall segments and reduce the scale of the overall structure.

(3) The maximum frontage of any building on Collins Avenue (north to south) located in the RT-1 district shall not exceed 150 feet. No building in the RT-1 district may be erected, constructed or reconstructed with a depth in excess of 200 feet.

(4) All buildings so constructed shall meet all other requirements set forth for the district in which they are located.

(Code 1960, § 18-31; Ord. No. 1418, § 2, 7-10-01)

Attachment 3

Sec. 90-51. - Maximum frontage of buildings.

90-51.1 Continuous wall frontage shall not exceed 270 feet and be articulated as follows:

- (1) H30C: For every 50 feet, a minimum three foot change in wall plane.
- (2) H40: For every seventy-five (75) feet, a minimum six foot change in wall plane.
- (3) H120: For every 100 feet, a minimum six-foot change in wall planes. The change shall be either vertical or horizontal.
- (4) Structured parking garages: see section 90-49.4

(Ord. No. 1558, § 2(Exh. A), 8-10-10; Ord. No. 1572, § 2, 4-12-11)

ORDINANCE NO. 12- _____

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA AMENDING THE TOWN OF SURFSIDE CODE OF ORDINANCES BY AMENDING CHAPTER 90 ZONING; SECTION 90-51 MAXIMUM FRONTAGE OF BUILDINGS; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR SEVERABILITY; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HERewith; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Section 90-51 of the Town of Surfside Code regulates the maximum continuous wall frontage of buildings; and

WHEREAS, the Town Code does not contain a limitation on the maximum building length or building length limitations; and

WHEREAS, the Town Commission has attempted to create regulations to address the specific needs of this unique community and continues to amend these regulations as they may best suit the needs of the community which now includes limiting building length; and

WHEREAS, the Planning and Zoning Board, as the Local Planning Agency for the Town, held its hearing on the proposed amendments to the Code of Ordinances on October 25, 2012; and

WHEREAS, the Town Commission held its first duly noticed public hearing on these regulations on October 9, 2012 and recommended approval of the proposed amendments to the Code of Ordinances, having complied with the notice requirements by the Florida Statutes; and

WHEREAS, the Town Commission has conducted a second duly noticed public hearing on these regulations as required by law on November 13, 2012 and further finds the proposed change to the Code necessary and in the best interest of the community.

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

Section 1. Recitals. The foregoing “WHEREAS” clauses are ratified and confirmed as being true and correct and are made a specific part of this Ordinance.

Section 2. Code Amendment. The code of the Town of Surfside, Florida is hereby amended as follows:

Sec. 90-51. - Maximum frontage of buildings.

90-51.1 Continuous wall frontage shall not exceed 270 feet and be articulated as follows:

- (1) *H30C*: For every 50 feet, a minimum three foot change in wall plane.
- (2) *H40*: For every seventy-five (75) feet, a minimum six foot change in wall plane.
- (3) *H120*: For every 100 feet, a minimum six-foot change in wall planes. The change shall be either vertical or horizontal.
- (4) Structured parking garages: see section 90-49.4

Section 3. Severability. If any section, subsection, clause or provision of this Ordinance is declared invalid or unconstitutional by a court of competent jurisdiction, the remainder shall not be affected by such invalidity.

Section 4. Conflict. All sections or parts of sections of the Town of Surfside Code of Ordinances in conflict herewith are intended to be repealed to the extent of such conflict.

Section 5. Inclusion in the Code of Ordinances. 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 6. Effective Date. This Ordinance shall be effective ten (10) days after adoption on second reading.

PASSED and ADOPTED on first reading this ____ day of _____, 2012.

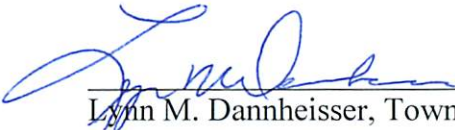
PASSED and ADOPTED on second reading this ____ day of _____, 2012.

Daniel Dietch, Mayor

Attest:

Sandra Novoa, CMC
Town Clerk

**APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:**



Lynn M. Dannheisser, Town Attorney

On First Reading Moved by: _____

On Second Reading Seconded by: _____

Vote:

Commissioner Graubart	yes _____	no _____
Commissioner Kligman	yes _____	no _____
Commissioner Olchyk	yes _____	no _____
Vice- Mayor Karukin	yes _____	no _____
Mayor Daniel Dietch	yes _____	no _____



TOWN OF SURFSIDE
Office of the Town Attorney


MUNICIPAL BUILDING
 9293 HARDING AVENUE
 SURFSIDE, FLORIDA 33154-3009

Lynn M. Dannheisser
 Town Attorney

Telephone: 305 993-1065

MEMORANDUM

TO: Town Commission

FROM: Lynn M. Dannheisser, Town Attorney 

CC: Roger Carlton, Town Manager

DATE: October 9, 2012

SUBJECT: Amendment to Chapter 90 Planning & Zoning to merge function of DRB into P & Z Board functions

In June, a memorandum describing the code requirements for P & Z Board and Design Review Board requirements was distributed. The topic was discussed both at the June, July, and September Commission meetings. A joint meeting of the Town Commission and the Planning & Zoning Board is being scheduled to discuss the development review process amendments. However, the Town Commission indicated they favored the concept of merging the functions of the Design Review Board ("DRB") with the Planning & Zoning Board ("P & Z").

This Ordinance is restricted to the concept of dissolving the DRB and merging its function into the P & Z and changing the membership requirements such that one of the board members in addition to a Florida-licensed architect another must be a Florida-licensed general contractor or certified planner (AICP) or a Florida-licensed landscape architect, or a Registered Interior Designer, or a Florida Licensed attorney.

Also included is a transitional provision that will lapse when the current term of the Board ends. It provides that since the enactment of this Ordinance will occur mid-term, and since the P & Z Board as currently composed contains no architect, any architect serving on the DRB at the time of enactment, shall continue to serve in an ex officio capacity and that the comments of that ex officio member will be considered and accorded equal weight with those who vote.

ORDINANCE NO. 2012-_____

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA AMENDING CHAPTER 90 “ZONING” BY DISSOLVING THE DESIGN REVIEW BOARD AND CONSOLIDATING THE DESIGN REVIEW FUNCTION INTO THE EXISTING FUNCTIONS OF THE PLANNING AND ZONING BOARD, CHANGING MEMBERSHIP REQUIREMENTS FOR PLANNING & ZONING BOARD; AND PROVIDING FOR FILLING OF VACANCIES; INCLUDING A TRANSITIONAL PROVISION; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, by Ordinance 2007-1487, as re-adopted by Ordinance 10-1558, the Town created design review guidelines and a design review board (DRB) to interpret and make recommendations on the application of same to site specific properties; and

WHEREAS, after several years of applying the guidelines which have served the Town well but after having some difficulty locating architects to serve on the DRB, it seems to be in the best interest of the Town to continue to apply the design review guidelines but streamline the process by folding the function of the DRB into the existing functions of the Planning & Zoning Board (P & Z Board); and

WHEREAS, in order to effectuate this legislative intent, it is necessary to amend Chapter 90 of Town Code of Ordinances to remove references to the Design Review Board contained therein and amend the requirements of the P & Z Board; and

WHEREAS, the Town Commission has conducted a first reading on October 9, 2012,
and

WHEREAS, the Planning and Zoning Board, as the local planning agency for the Town,
shall conduct a hearing on the proposed amendment on October 25, 2012 with due public notice
and input; and a second duly noticed public hearing on these regulations as required by law on
November 13, 2012 and further finds that the proposed changes to the Code are necessary and in
the best interests of community.

THE COMMISSION OF THE TOWN OF SURFSIDE HEREBY ORDAINS:

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

Section 2. **Zoning.** Chapter 90 “Zoning” of the Town Code is hereby amended to
read as follows:

**Sec. 90-15. - Membership/quorum, minimum qualifications, officers, terms of officers, vacancies,
general regulations, recommendations, expenditures, indebtedness.**

- 1) *Membership/quorum:* The planning and zoning board membership and quorum requirements
for zoning matters and design review matters are as follows:
 - a. *Zoning matters:* The planning and zoning board, when performing its zoning
functions, shall consist of five members. One of the board members must be a
Florida-licensed architect and at a minimum another, one member, must be or a
Florida-licensed general contractor or certified planner (AICP) or a Florida-licensed
landscape architect, or a Registered Interior Designer, or a Florida Licensed attorney.
Each commissioner shall be entitled to one board appointment, not subject to majority
approval. Three members present at the planning and zoning board meetings shall
constitute a quorum.
 - b. *All board matters:* One town commissioner shall be a liaison, non-voting
representative without a vote at all planning and zoning board meetings.
- 2) *Minimum board member qualifications:* All board members must have been a town resident
for a minimum period of one year, except for the licensed architects, including the Florida-

licensed landscape architect, if applicable, who must have been a town resident for a minimum period of six months. ~~The Florida-licensed architects must have a minimum of five years of practical experience in the field of landscape design.~~ To the extent that no licensed architect ~~(whether for service on the design review board only as more specifically described in section 90-18 hereinbelow)~~ who is also a town resident can be identified and is willing to serve at the time of appointment to either board, then the commission may select a non-resident architect who otherwise fulfills the requirements of this section, provided that appointment shall be ratified by a majority of the board of commissioners. To the extent an architect (resident or non-resident) cannot be located within three (3) months of the vacancy, this requirement may after a majority vote of the Commission become null and void until such time this board member vacates the position before his/her term expires or a full new board is appointed whichever comes first.

- 3) *Officers:* The board shall elect one of its members as chairman and one of its members as vice-chairman, at its first regular meeting in April of each year. In the event of the resignation, removal, or inability of the chairman to serve, the vice-chairman shall succeed to the chairman position for the unexpired term; and the board shall, thereupon, elect one of its members as vice-chairman for the unexpired term. The chairman shall preside at all meetings. In the chairman's absence, the vice-chairman shall preside. The chairman shall submit all board reports and recommendations to the town commission, by and through the chairman, vice-chairman or the town commission liaison member. The town shall provide a secretary for the board and the town clerk shall be custodian of all records, books and journals of the board.
- 4) *Board member term(s):* The term of each board member appointment shall begin on the last Thursday of April of the year in which the board member is appointed and end when a successor board member is appointed or on the last Thursday in April, whichever dates comes first. The term of any board member filling a vacancy created on the board as provided in paragraph (5) shall begin at the time of the board members appointment and end the last Thursday in April or whenever a replacement is appointed.
- 5) *Vacancies:* A vacancy shall exist: (1) on the date that any member ceases to possess the minimum required membership qualifications provided herein; ~~or~~ (2) when a board member has been absent from three consecutive regularly convened board meetings or has been absent from five regularly convened board meetings within a board year, or (3) if the appointing Commissioner resigns or his position otherwise becomes vacant during his/her term. Vacancies on the board shall be filled by appointment for the unexpired term in the same manner as original appointments are made provided however, if the seat shall remain vacant longer than a three (3) month period for any reason, the Town Commission collectively by majority appoint a temporary member until such Commission position is filled in accordance with the Town Charter and Code.
- 6) *Transition Provision:* Inasmuch as the enactment of this Ordinance will occur mid-term, and the P & Z Board as currently composed contains no architect, any architect currently serving on the DRB at the time of enactment, shall continue to serve in an ex officio capacity with the P & Z Board and that the comments of that ex officio member will be considered and accorded equal weight with those who vote. Upon the expiration of the term of the current P & Z Board, this provision shall become null and void.

Sec. 90-16. - Meetings: board year; timeframe; order of presentation; location.

1. *Board year:* The board year shall commence on the last Thursday of April in each year.
2. *Meetings on zoning matters/timeframe:* Regular board meetings for zoning matters shall be held on the last Thursday of each month. The chair may call special meetings and may cancel or continue meetings as may be necessary.
3. ~~*Meetings on design review matters/timeframe:* The board shall meet as needed on design review matters. The chairman may call special meetings and may cancel or continue meetings as may be necessary.~~
4. ~~*Order of presentation for zoning matters and design review matters:* In order to avoid unnecessary project costs and delays, the board shall address and finalize each project zoning matter prior to initiating each project design review, to the extent applicable.~~
5. ~~3. *Location of all board meetings:* All board meetings shall be held in the Town Hall or Community Center.~~

Sec. 90-17. - Powers and duties.

1. *Zoning matters:* The planning and zoning board shall act as an advisory board to the town commission on zoning matters and design review matters. The boards' powers and duties are as follows:
 - a. To perform its responsibilities as the local planning agency pursuant to local and state government comprehensive planning and land development regulations (F.S. Ch. 163);
 - b. To review and make recommendations to the town manager and the town commission regarding the adopting and amendment of the official zoning map; the land development regulations amendments; zoning district boundary changes; and comprehensive plan amendments;
 - c. To review and make recommendations to the town commission, on applications pertaining to site plans (if applicable) zoning changes, special use permits, conditional use variances vested rights and any other zoning applications;
 - d. To conduct such studies and investigations required under the Town Code and/or requested by the town commission and as needed from time to time to sit in a joint session with the Town Commission as requested by the Town Commission; and
 - e. The planning and zoning board shall have such other duties pertaining to zoning matters as prescribed by law, this section and the Town Code.
2. *Design review:* The planning and zoning board shall conduct a design review for all structures to be constructed and renovated within town limits on the terms outlined.
3. *FEMA review:* The planning and zoning board when constituted as a design review board-as set forth in section 90-18 herein below, shall act as the variance and appeals board pursuant Chapter 42, "Floods," Division 6, Variance Procedures, sections 42-111 through 42-117

Sec. 90-18. - Design review board.

~~The planning and zoning board, when performing its design review and FEMA variance and appeals board functions shall be constituted as the design review board and shall have seven members. The seven members shall include the five members appointed by the commission and two additional Florida licensed architects, one of which may be a Florida licensed landscape architect. Both of these architects shall be appointed by a majority of the town commission. Four members present at the planning and zoning board design review meetings shall constitute a quorum and at least one of the four members shall be a licensed~~

~~architect.~~ The design review process is set forth as follows:

(1)

Purpose. This section is intended to promote excellence in architectural and urban design; preservation of the town's historic and architectural and neighborhood character; and desirable urban growth and development. To implement this goal, ~~the design review board is hereby created to review and make advisory recommendations to the planning and zoning board~~ will make recommendations as to whether the design of new developments and/or improvements within the town are consistent with and in conformance with the design guidelines set forth in the Town Code. The design guidelines are attached thereto as Exhibit A [at the end of this chapter] provided that the town commission may amend said guidelines from time to time via resolution. The guidelines as amended, shall govern and be applied as fully set forth herein.

(2)

Design review procedure:

a.

All applications for new developments or improvements that are subject to the town's adopted design guidelines shall be referred to the board for review and consideration.

b.

The board shall review each application whether for development of single-family, multifamily, commercial or other districts for conformity with the town's adopted design guidelines and ~~recommend the application to the planning and zoning board for approval, approval with conditions, or disapproval of the application.~~ approve, approve with conditions, or deny the application. With regard to the design review process, no applicant shall be required to appear before the design review planning and zoning board more than twice per application.

c.

Meetings held by the board for review and recommendations of applications shall be arranged to permit participation by the person or group making the application or request and representatives of such person or group, if desired. Architectural plans and drawings of the building facades, lists of finish materials and other information necessary to provide adequate insight into the proposed development/improvement shall be provided to the board by the person or group making the proposal or request.

(3)

Design review application fees are set forth in the town designated fee schedule.

(4)

All meetings ~~of the design review board~~ shall be publicly noticed.

Sec. 90-19. - Single-family and two-family development review process.

90-19.5 Design guidelines. The town has adopted design guidelines intended to provide direction and suggestions for all development. The purpose of the ~~design-review~~ planning and zoning board is to interpret those guidelines and provide guidance to the applicants as to how the design should be revised to more closely approximate or reflect the town's adopted guidelines. The applicant shall then incorporate those suggestions prior to proceeding to building permit.

90-19.6 Single-family and two-family development shall be reviewed by the ~~design-review~~ planning and zoning board.

90-19.7 The following shall be exempt from ~~design-review~~ planning and zoning board review; however, the design guidelines shall be followed:

- (1) Interior or rear yard fences.
- (2) Interior renovations.
- (3) Awnings.
- (4) Screens.
- (5) Driveways.
- (6) Re-roofs

90-19.8 The following are required for submittal to the planning and zoning board for design review-board:

90-19.9 Effective period of planning and zoning board design review ~~board~~ approval. An approval from the ~~design-review~~ planning and zoning board shall be effective until the development is completed except that if, after 24 months from the date of the approval by the ~~design-review~~ planning and zoning board a building permit for a principal building has not been issued and remains in effect, the approval shall be null and void.

Sec. 90-20. - Development review requirements for submittals other than single-family and two-family.

- (1)
Generally. Review and approval of a site plan by staff reviewing agencies, the ~~design-review-board~~, and the development impact committee, the planning and zoning board, and the town commission is required prior to any development of land in the town.
- (2)
Process. Submit plans (sets to be determined by town staff as appropriately needed), which are distributed to the staff members of the development review group (DRG).

(a) The DRG member shall review the site plan and prepare comments. The comments shall be forwarded to the town manager or designee. The comments shall be addressed by the applicant, if applicable. The town manager or designee shall hold a development review group meeting with appropriate town staff and the applicant to discuss the comments.

(b) After the revisions and upon review of the final site plan by the DRG members, the site plan will be scheduled for the next available town ~~design review board~~ and planning and zoning board meetings. ~~If possible, the planning and zoning board meeting and the design review board meeting should be held on the same date. The materials required under subsection 90-19.8 should not be duplicated for both the planning and zoning board meeting and design review board meeting. They shall be considered one submittal package.~~

(3) Submittal requirements for DRG~~s~~ and the planning and zoning ~~and design review~~ board are provided below.

90-20.2 Exempt development. Notwithstanding any other provision of this chapter, the following activities shall not require site plan approval, however, may require planning and zoning board design review ~~board~~ approval:

- (1) The deposit and contouring of fill on land.
- (2) Construction of a single-family home on an existing single-family lot.
- (3) Construction of a single duplex on an existing single lot.

Sec. 90-23. - Conditional uses.

90-23.2 Standards of review. In addition to the standards set forth in this zoning code for the particular use, all proposed conditional uses shall meet each of the following standards:

- (1) The proposed use shall be consistent with the Comprehensive Plan and the Zoning Code;
- (2) The establishment, maintenance or operation of the proposed use shall not be detrimental to or endanger the public health, safety, or general welfare;
- (3) The proposed use shall be compatible with the community character of the immediate neighborhood. In addition to compatibility there must be congruity between the subject development and neighboring improvements and surroundings including

but not limited to form, spacing, heights, setbacks, materials, color, rhythm and pattern of architectural or aesthetic interest or value as well as with any overlays and other development schemes or legislation.

(4) Adequate provisions shall be included for parking and safe traffic movement, both vehicular and pedestrian, both internal to the use and in the area which will serve the use;

(5) Adequate measures exist including landscaping or other buffering measures or shall be taken to mitigate any adverse effects of noise, light or other potential nuisances; and

(6) The establishment of the conditional use shall not impede the development of surrounding properties for uses permitted in the zoning district; and

(7) Any other condition imposed by the ~~Design-Review~~ Planning and Zoning Board and/or the Development Impact Committee.

Sec. 90-70. - Sign permits.

(c) *Permit review.* Unless otherwise exempt, the ~~design-review~~ planning and zoning board shall review the sign to determine if the proposed sign is in compliance with the design review criteria.

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 Mayor and Town Commission of the Town of Surfside, and it is hereby ordained, that the provisions of this ordinance shall become and be made a part of the Code of the Town of Surfside, 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. 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 in ten (10) days after second reading.

PASSED and ADOPTED on First Reading the ____ day of _____, 2012.


PASSED and ADOPTED on Second Reading this ____ day of _____, 2012.

Daniel Dietch, Mayor

ATTEST:

Sandra Novoa, Town Clerk

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



Lynn M. Dannheisser
Town Attorney

On Final Reading Moved by: _____
On Final Reading Seconded by: _____

VOTE ON ADOPTION:

Commissioner Michelle Kligman	yes	_____	no	_____
Commissioner Marty Olchyk	yes	_____	no	_____
Commissioner Joseph Graubart	yes	_____	no	_____
Vice Mayor Michael Karukin	yes	_____	no	_____

9

Ordinance No. 2012-_____

Mayor Daniel Dietch

yes _____ no _____

Ordinance No. 2012-_____

10

COMMITTEE APPOINTMENTS

PLANNING & ZONING
Peter Glynn (Dietch)
Armando Castellanos (Graubart)
Lindsay Lecour (Karukin)
Jennifer Dray (Kligman)
Carli Koshal (Olchyk)
Daniel Dietch (Liaison)
DESIGN REVIEW BOARD
Peter Glynn (Dietch)
Armando Castellanos (Graubart)
Lindsay Lecour (Karukin)
Jennifer Dray (Kligman)
Carli Koshal (Olchyk)
Vacant
Jorge Gutierrez
PERSONNEL APPEALS BOARD
Brian Dooreck (Dietch)
Vacant (Graubart)
Niza Motola (Karukin)
Vacant (Kligman)
Norma Parron (Olchyk)
Daniel Dietch (Liaison)
PARKS & RECREATION
Elizabeth Salzhauer (Dietch)
Vacant (Graubart)
Retta Logan (Karukin)
Doris Obregon (Kligman)
Arni Notkin (Olchyk)
Marta Olchyk (Liaison)
TOURIST BOARD
Barbara Cohen (Dietch)
Randi McBride (Graubart)
Ricardo Maulin (Karukin)
Eli Tourgeman (Kligman)
Barbara McLaughlin (Olchyk)
Joe Graubart (Liaison)
PENSION BOARD
Julio Torres (PD Elect)
Yamileth Slate-McCloud (Employee Elect)
Roger Carlton (Secretary)
Stan Bershad (Resident) - Appointed by Commission
Michael Feldman (Resident) - Appointed by Commission

POLICE OFFICERS PENSION TRUST
Loxley Arch III (PD Elected)
John Gentile (PD Elected)
Joe Matthews (PD Elected)
Roberto Silvagni (Resident) - Appointed by Commission
Eduardo Yero (Resident) - Appointed by Commission

IT COMMITTEE
Sandra Argow (Dietch)
Vacant (Graubart)
Albert Caballero (Karukin)
Sam Levine (Kligman)
Adam Markow (Olchyk)
Michael Karukin (Liaison)

Revised 10/2012



Commission Communication

Agenda #: 9B

Date: October 9, 2012

Subject: Calvin Giordano & Associates (CGA) Agreement

Background: When I first arrived in Surfside, one of the many issues outstanding was a perception that Calvin Giordano & Associates had not provided quality services to the Town, that their costs were excessive, that a forensic audit was needed and that the difficulties with the Community Center were somehow CGA's fault. This recommendation first seeks to clear the air so that an informed rational decision can be made by the Town Commission and direction given to the Town Manager and Town Attorney on how to move forward.

1. CGA has provided quality services to the Town. The work done on the Water/Sewer/Storm drainage project, the support given to the Administration in completing the Community Center timely and on budget, special studies that have increased our ability to make informed recommendations to the Town Commission, assistance in obtaining more than \$2 million in grants, \$21 million in financing and help in negotiating change orders have all been exemplary. Having said that, the relationship between consultants and a community is only as good as the direction and monitoring given by the Chief Administrative Official. Your Town Manager devotes whatever time is necessary to ensuring that the outcome of our relationship with CGA is the best possible for the Town as I have done with all consultants over a 42 year career.
2. CGA's costs are not excessive and in fact are at the very low end of the scale paid by other units of government. The Water/Sewer/Storm drainage project is the clear example where our fees were approximately 8 percent including construction inspection. Many communities pay nearly double or more this percentage for the same work. The same is true for the special studies the firm does for the Town and all work orders are negotiated to the lowest dollar possible given the nature of the work.
3. A forensic audit is used when there is a strong potential for criminality. This subject was addressed during the November 9, 2010 Town Commission Meeting during which the Town Commission reviewed a detailed memorandum describing the various levels of audits (Attachment 1).

After some discussion, the Town Commission determined that there was no basis for a forensic audit and the expenditure of more than \$50,000 was not warranted.

4. The Community Center history should be a classic case of poor governance. Please remember that CGA did not design the Community Center nor did it have any role in the decision making process regarding the number of floors that led to many delays that this Town Manager inherited and solved with full support from the Town Commission that hired me. Plainly stated, we could not have opened the Community Center on time and within the budget without the extraordinary work of Paul Gioia, Bill Evans, Tim Milian and Chris Giordano who worked tirelessly to make a difficult design from AECOM come to life and who worked seven days a week for months to make a weak contractor with poor subcontractors deliver a building that met or exceeded all contractual requirements. Again, any consultant is as good as the Administration requires them to be and in this case CGA was an integral part of the solution.

Analysis: In this day and age of blogs, guilt by coffee table juries and distortion of the facts for reasons having nothing to do with the issues at hand, it is important to develop a go ahead strategy that works to the best advantage of the Town. Therefore the following strategy is recommended:

1. Maintain our current relationship with CGA for IT support for the Town's operation including the critical functions of the Police Department and broadcasting Channel 77. This agreement cost \$75,049 annually and Jose Feliz has done a very credible job of keeping our complex system up to date and working with very little downtime. He is a member of the Surfside family and is respected and liked by all the people he serves.
2. Maintain our current relationship with CGA for Planning and Community Development Services. The CGA team led by Sarah Sinatra has become a resource for the development of dozens of ordinances, comprehensive plan updates, negotiations with developers leading to millions of dollars of voluntary proffers and buildings that will be an asset to the community. Sarah is backed up by Shelly Eichner who is one of the most respected planners in the State of Florida as well as a group of transportation planners, landscape designers and engineers who collectively support our Design Review Group and Development Impact Committee. The members of the Planning and Zoning/ Design Review Board are comfortable with Sarah's approach and competence. To make a change in this relationship at this time would be very detrimental to shaping and improving the many major developments currently impacting our Town as well as the increasing number of small projects emerging as the economy improves. The basic cost of these services is \$149,135 annually and additional costs for review of major projects are paid by developers.
3. Regarding the engineering, architecture, landscape design and IT services element of the current CGA agreement, there has been one new CGA substantial work order (seawalls) since these services were competitively rebid in 2011. The 2011 staff recommendation and the award to a rotation of nine firms is attached. (Attachment 2 and 3). The 95th Street project was awarded to Bermello Ajamil & Partners, Inc., the Graphics/ Way-finding/ Parking Lot Renovation project was awarded to FTE Inc., the Parking Structure Feasibility Study was in part awarded to C3TS and the website design and hosting was awarded to e-City Services, LLC.

There have not been any other new significant architectural/ engineering/ landscape design/ IT awards made since the new firms were selected.

Should the Town Commission accept this recommendation, a new procurement utilizing the Competitive Consultants Negotiation Act (CCNA) procedures would be implemented. The steps would be as follows:

- a) Prepare a Request for Proposals and bring it to the Town Commission for approval (60 days);
- b) Advertise, hold a pre-proposal conference, receive proposals, rank with a combined staff/citizens committee (75 days); and
- c) Bring a recommendation for the rotation firms with negotiated agreements to the Town Commission for approval using multiple vendors (60 days). This means that we would have new vendors, perhaps including CGA if they choose to compete, by April 2013.

Please remember that the CCNA does not allow proposals to be submitted or ranked using price as a factor. There is no guarantee that the cost will be met or reduced through the recommended process. Once the proposals are ranked, the negotiations begin for price and other contract terms. Often, the proposed contract net of price, is included in the RFP so that the terms are known in advance. The length of the contract is recommended to be three years with two one year renewals. Depending on how many proposals come in, it is further recommended that at least six firms be selected so that two are available in each of the three disciplines.

Conclusion: It is time to move forward with a new process for the provision of architecture/ engineering and landscape design services per the CCNA even though some of the nine (9) new firms selected by the previous Town Commission have received work and they proposed on the expectation that they would be in the queue for up to three years. It is my strong recommendation that the Town continues to utilize the services of CGA for IT and Planning and Community Development. The Town should also reserve the right to have special procurements for major complex projects such as the second floor of the Community Center should that project become a reality.

Recommendation: To compete the engineering, architecture and landscape architecture elements of the Calvin Giordano and Associates agreement per the requirements of the Florida Competitive Consultants Negotiation Act (CCNA) and to maintain the services of CGA for IT Support, Channel 77 and Planning and Community Development.



Roger M. Carlton
Town Manager



Town of Surfside Commission Communication

Agenda Item #**Agenda Date: November 9, 2010****Subject: Audits**

Objective: This item has been placed on the agenda for the November 9, 2010 Commission meeting in order to seek your guidance regarding any audits desired by the Town Commission beyond the Comprehensive Annual Financial Report (CAFR) that we will provide for FY 2009-2010.

Recommendation: Should the Town Commission give direction regarding any additional audits, Staff will obtain a cost estimate prior to seeking final direction.

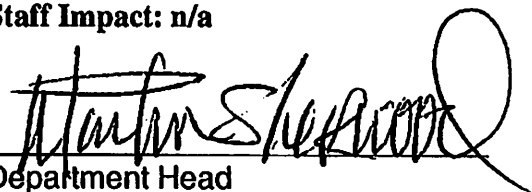
Background: During my early interviews with the Town Commission and over the past six weeks, questions regarding various forms of audits have come up. I asked our external auditor, Michael Futterman, of Marcum Rachlin to prepare a report regarding the types of audits available to local government. That report is attached for the Town Commission's review. (Attachment A)

Analysis: n/a

Budget Impact: To be determined if direction given to the Town Manager to obtain pricing for any additional audits.

Growth Impact: n/a

Staff Impact: n/a


Department Head


Roger M. Carlton, Town Manager

cc: Debra Eastman, Town Clerk
Martin Sherwood, Finance Director
Lynn Dannheisser, Town Attorney
Michael Futterman, Marcum Rachlin

**MARCUM
RACHLIN**
ACCOUNTANTS & ADVISORS

October 8, 2010

Roger Carlton, Town Manager
Town of Surfside, Florida

Re: Description of various Types of Audits

Dear Roger:

Pursuant to our discussion, we have briefly described various types of "audit" engagements.

Financial Statement Audits

A financial statement audit provides reasonable assurance about whether the financial statements of the audited entity present fairly the financial position, results of operations in conformity with accounting principles generally accepted in the United States of America (GAAP).

Since an auditor works within economic limits, the audit opinion, to be economically useful, must be formed in a reasonable time and at reasonable cost. The auditor must decide, exercising professional judgment, whether evidence available within limits of time and cost is sufficient to justify an opinion which is the concept of reasonable assurance. The limits relate to materiality and risk. The concept of materiality is information important enough to change a user's of the financial statements decision. Insignificant information has no effect on decisions, so there is no need to report it. Materiality includes the absolute value and relationship of an amount to other information.

In a financial statement audit, the auditor examines an organization's financial documents and performs testing based on samples to determine if that entity's financial statements conform to accounting GAAP and in the Governmental sector, to ensure that the financial statements conform to GAAP as applied to local governments. Again, the purpose of the audit is to provide reasonable assurance that the financial statements, and assertions provided by the organization's management, are complete and accurate in all material respects in relation to the financial statements taken as a whole. In a financial audit, the audited entity does not or cannot dictate the procedures to be performed; an audited entity can express concerns which will be assessed and addressed, within limitations. If there are very specific concerns, that is when a different type of audit may be necessitated to meet the needs of the concerned parties.



MARCUM GROUP
MEMBER

MarcumRachlin a Division of Marcum LP

One Southeast Third Avenue • Tenth Floor • Miami, Florida 33131 • Phone 305.377.4228 • Fax 305.377.8331

marcumrachlin.com

Roger Carlton, Town Manager
Town of Surfside, Florida
October 8, 2010
Page 2

Auditors must follow Generally Accepted Auditing Standards issued by the American Institute of Certified Public Accountants and in Florida, auditors must also follow Government Auditing Standards. These are the professional standards that govern these types of audits and are what all auditors must follow in performing these types of audits.

The financial statements that are audited are referred to as the basic financial statements and include Management's Discussion & Analysis (MD&A), Government-wide financial statements (financial statements that are similar to what a for-profit entity would prepare), fund level financial statements, notes to the financial statements, required supplementary information and other fund level supplementary information.

Annual financial audits of local governments is required under Florida Statutes.

Financial Audits (Included in the Comprehensive Annual Financial Report (CAFR))

This financial audit is the same as described above for a financial audit, however, the financial statements under this scenario includes the basic financial statements (described above) and is expanded to include a Letter of transmittal (cover letter from the Town's Manager and Finance Director to the citizens and the elected body), and a statistical section which includes various historical statistical data about the entity (financial ratios; fund balances; revenues) dating back 10 years.

Single Audit

A Single Audit encompasses the requirements of a financial audit described above but also includes a compliance audit of federal or state grant programs in accordance with the requirements of federal and/or state regulations and the requirements of the federal and/or state granting agency. Essentially, this is two audits in one; a financial audit and a compliance audit. A Single Audit is only performed when specific thresholds are met in order for the audited entity to be subject to these special audit requirements. Currently, those thresholds are \$500,000 of federal expenditures or state expenditures in a given fiscal year. There are very special and unique reporting requirements when an entity is subject to federal and or stet single audit.

Forensic Audit

A forensic audit is an examination of an organization's economic affairs, resulting in a report designed especially for use in a court of law. Forensic means suitable for use in a court of law.

**MARCUM
RACHLIN**
ACCOUNTANTS & ADVISORS
A division of Marcum LLP

Roger Carlton, Town Manager
Town of Surfside, Florida
October 8, 2010
Page 3

A forensic audit can have several goals, including mapping cash flow/cash transactions or identifying accounting errors. They are used whenever lawyers or law enforcement officials need reliable data on a party's financial status or activities. For Example, if an elected official or employee of an entity is accused of accepting bribes, the FBI or state attorney's office could set up a forensic auditing team.

Forensic auditors utilize an understanding of business information and financial reporting systems, accounting and auditing standards and procedures, evidence gathering and investigative techniques, and litigation processes and procedures to perform their work. They may be involved in recovering proceeds of crime and in relation to confiscation proceedings concerning actual or assumed proceeds of crime or money laundering. While Forensic Auditors usually do not provide opinions, the work performed and reports issued will often provide answers to the how, where, what, why and who.

Another term for a Forensic Audit is a Fraud Audit. Generally, you would not want to perform a Forensic or Fraud audit unless you have specific knowledge and/or reliable information or very strong suspicions that fraud, illegal acts or irregularities has occurred. Forensic or Fraud audits can generally be very expensive as the scope of the work is uncertain; essentially, it is an investigation.

Performance Audits

A performance audit is an objective and systematic examination of evidence for the purpose of proving an independent assessment of the performance of a local government organization, program, activity, or function in order to provide information to improve public accountability and facilitate decision-making by parties with responsibility to oversee or initiate corrective actions.

Performance audits include economy and efficiency and program audits.

Economy and efficiency audits include determining, (1) whether an entity is acquiring, protecting, and using its resources (such as personnel, property, and space) economically and efficiently, (2) the causes of inefficiencies or uneconomical practices, and (3) whether an entity has complied with laws and regulations on matters of economy and efficiency. These types of audits may include whether an entity is following sound procurement practices; is properly protecting and maintaining its resources; is acquiring the appropriate type, quality an amount of resources at an appropriate cost; is using efficient operating procedures; is avoiding idleness or overstaffing; has adequate management control, system for measuring, reporting, and monitoring a program's economy and efficiency.



Roger Carlton, Town Manager
Town of Surfside, Florida
October 8, 2010
Page 4

Program audits include determining (1) the extent to which the desired results or benefits established by the authorizing or other governing body are being achieved, (2) the effectiveness of the entities programs, activities, or functions, and (3) whether the entity has complied with laws and regulations applicable to that program. These types of audits include assessing the effectiveness of the program and/or individual program components; assessing compliance with laws and regulations applicable to that program; determine the extent to which a program achieves a desired level of program results; assess the adequacy of the management control system for measuring, reporting, and monitoring a program's effectiveness.

Agreed-Upon Procedures Engagement

One last type of engagement that can be performed what is referred to as an Agreed-Upon Procedures engagement (AUP). In this form of engagement, an entity and a consultant mutually agree upon procedures to be performed within a program, function, department, etc. so there is miscommunication as to the nature of what should be performed, the extent of what should be performed, and the timing, culminating with a report on what was done and the resulting findings.

Generally, this is the most popular type of engagement, other than an annual financial audit which is required, or a Forensic or Fraud audit which may be more appropriate when there are suspicions or allegations or evidence of fraud.

I hope you find these explanations informative. If requested, I will be available to attend the Commission meeting on November 9th to explain or discuss these types of audits in further detail or other concerns that you or the Town Commission may have.

Sincerely,



Michael D. Futterman, CPA
Partner

**MARCUM
RACHLIN**
ACCOUNTANTS & TAX ADVISORS
A Division of Marcum LLP

RESOLUTION NO. - ²⁰¹⁶1981

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, SELECTING FOUR (4) ARCHITECTURAL FIRMS TO PERFORM ARCHITECTURAL SERVICES FOR THE TOWN, IN RESPONSE TO RFQ NO.11-01; AUTHORIZING THE TOWN MANAGER OR HIS/HER DESIGNEE TO ENTER INTO A CONTINUING CONSULTANT AGREEMENT THE FORM AND CONTENT OF WHICH SHALL SUBSTANTIALLY CONFORM TO THE AGREEMENT CONTAINED IN EXHIBIT "A" WITH SAID ARCHITECTURAL FIRMS PROVIDED SAID AGREEMENTS ARE APPROVED AS TO FORM AND LEGAL SUFFICIENCY BY THE TOWN ATTORNEY; FURTHER AUTHORIZING THE TOWN MANAGER TO DO ALL THINGS NECESSARY TO EFFECTUATE THIS RESOLUTION; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town of Surfside, Florida issued Request for Qualifications No. 11-01 General Architectural Services for the provision of general architectural services to the Town; and

WHEREAS, the Town received seven (7) responses to said RFQ, which have been reviewed by staff; and

WHEREAS, staff recommends the following short list of Architectural firms to be called upon within the Manager's discretion:

1. Bermello Ajamil and Partners Inc.
2. Silva Architects, LLC
3. Sixto Architect Inc.
4. Wolfberg Alvarez & Partners

WHEREAS, the Town desires to use these firms for the provision of architectural services; and

WHEREAS, the Town wishes to enter into a continuing consulting agreement with the selected architectural firms for the purpose of providing on-call architectural services for various projects that may arise throughout the year; and

WHEREAS, each architectural firm shall submit work authorizations to the Town for any architectural services to be performed, prior to the delivery of such services.

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

Section 1. Firms Selected. The Town Commission hereby selects the following architectural firms to provide architectural services for the Town:

1. Bermello Ajamil and Partners Inc.
2. Silva Architects, LLC
3. Sixto Architect Inc.
4. Wolfberg Alvarez & Partners

Section 2. Authorization of Town Manager. The Town Commission hereby authorizes the Town Manager or his/her designee to enter into a continuing consulting agreement with selected firms, in substantially the same form as the agreement attached as Exhibit "A" provided said agreements are approved as to form and legal sufficiency by the Town Attorney.

Section 3. Further Authorization of Town Manager. The Town Manager is hereby authorized to do all things necessary to effectuate this Resolution.

Section 4. Effective Date. This Resolution will become effective upon adoption.

PASSED AND ADOPTED this 9th day of November, 2010.

Motion by Commissioner Karukin, second by Commissioner Olchyk.

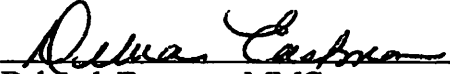
FINAL VOTE ON ADOPTION

Commissioner Michael Karukin
 Commissioner Edward Kopelman
 Commissioner Marta Olchyk
 Vice Mayor Joseph Graubart
 Mayor Daniel Dietch

yes
absent
yes
yes
yes


 Daniel Dietch, Mayor

ATTEST:


Deborah Eastman, MMC
Town Clerk

**APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:**

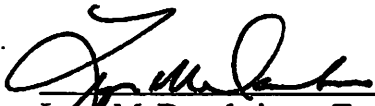

Lynn M. Dannheisser, Town Attorney

EXHIBIT "A"
AGREEMENT
BETWEEN THE TOWN OF SURFSIDE
AND

This AGREEMENT, made and entered into by and between the Town of Surfside, a Florida municipality (hereinafter referred to as the "TOWN") and _____, (hereinafter referred to as the "CONSULTANT").

1. SCOPE OF SERVICES

Pursuant to this Agreement, if Engineering, the Engineering Scope of Services may include, but is not limited to, the following tasks: Survey; Geotechnical; Structural; Environmental; Traffic; Landscape Architecture; Construction Management; Construction Inspection; Construction Testing; Electrical; Hurricane Recovery and Debris Monitoring Services; General Design Work; Preparation of Complete Construction Contract Plans and Special Provisions for the Assigned Projects; Public Involvement; Post Design Services (shop drawing review and responses to Request for Information); and Bid Administration (selection and letting) or other work as may be necessary to accomplish the projects for which services are requested by the TOWN.

Pursuant to this Agreement, if Architectural, the Architectural Scope of Services may include, but not limited to, the following tasks: Design; Reports; Analysis; Graphic Conceptual Drawings; Color Selection and Coordination; Inspection; General Design Work; Preparation of Complete Construction Contract Plans and Special Provisions for the Assigned Projects; Public Involvement; Post Design Services (submittal review and responses to Request for Information); and Landscaping Layout and Design or other work as may be necessary to accomplish the Projects for which services are requested by TOWN.

This Agreement is made for the purpose of establishing the working relationship, terms and conditions between the parties on projects for which the CONSULTANT is requested by TOWN to perform professional services and the CONSULTANT agrees to perform those services for TOWN subject to the terms and conditions contained herein. Each specific project assignment or request for services will be initiated in writing by TOWN to CONSULTANT and will include a description of the project's concept.

Prior to the commencement of any work by the CONSULTANT, the TOWN and the CONSULTANT will agree upon a written scope of services prepared by the CONSULTANT which will include a detailed schedule of the services to be performed, appropriate project schedules, fee amount and payment method. In the performance of the services prescribed herein, it shall be the responsibility of the CONSULTANT to provide all salaries, wages, materials, equipment, sub-consultants and other purchased services, etc., necessary to complete said services. The Town Commission of TOWN shall review the scope of services as agreed upon by TOWN and CONSULTANT and, if approved, shall issue a written notification to the CONSULTANT of such approval ("Notice to Proceed"). Such Notice to Proceed shall constitute authorization for work by the CONSULTANT to begin.

2. CHANGES IN THE WORK

- A. The intent of the Agreement is for the CONSULTANT to provide such basic services, and to include all necessary items for the proper completion of such services for a functional project which, when constructed in accordance with the design, will be able to be used by the TOWN for its intended purpose. The CONSULTANT shall perform, as Basic Services, such incidental work, which may not be specifically referenced, as necessary to complete the Project.
- B. The TOWN and the CONSULTANT may make additions to the scope of work by mutual written agreement only. Any material change in the scope of service and any change in the fee due the CONSULTANT must be approved by the Town Commission. The TOWN may rescind work previously ordered by written instructions to the CONSULTANT. In the event of any such rescission by the TOWN, the CONSULTANT shall be entitled to receive the amount due it for such services rendered hereunder prior to the date of such rescission. The provisions of this Agreement, with appropriate changes in the CONSULTANT'S compensation and project schedule, shall apply to all modifications in work ordered.
- C. In emergency situations, as determined by TOWN, the TOWN reserves the right to issue verbal authorization to the CONSULTANT with the understanding that a cost and scope of services proposal shall be issued immediately thereafter for approval.

3. SUB-CONSULTANTS

All services provided by the Sub-consultants shall be pursuant to appropriate agreements between the CONSULTANT and Sub-consultant which shall contain provisions that preserve and protect the rights of the TOWN and the CONSULTANT under this Agreement, and which impose no responsibilities or liabilities on the TOWN except as herein provided. Any approval of a Sub-consultant by the TOWN shall not in any way shift the responsibility for the quality and acceptability by the TOWN of the services performed by the Sub-consultant from the CONSULTANT to the TOWN. The CONSULTANT shall cause the names of Sub-consultants responsible for significant portions of the services to be inserted on the Plans and Specifications, subject to the approval of the TOWN. The CONSULTANT with the TOWN'S approval, may employ specialty consultants to assist the CONSULTANT performing specialized services.

4. AMENDMENTS

This agreement shall not be amended, changed, modified, transferred or otherwise altered in any particular manner, at any time after the execution hereof, except by the Town Manager or by appropriate resolution of the Town Commission. The TOWN may, from time to time, make amendments or modifications to this Agreement to comply with current needs of the TOWN. All such amendments shall be presented in writing and executed by both parties. The failure or refusal by the CONSULTANT to execute a modification may result in the CONSULTANT'S removal from consideration for future work.

5. PERIOD OF SERVICE

This Agreement is effective on _____, 2010 and shall continue for a period of one (1) years from the effective date, unless terminated earlier in accordance with Section 10 of this agreement. The Agreement may be extended in its original form for a one year

period by a written agreement executed by both parties. The agreement may be extended with amended salary schedule (Exhibit B) or other amendments for a one (1) year period upon approval of the town commission.

6. PAYMENT FOR SERVICE

Payment for services will be subject to the specific terms of each assignment as authorized by a Notice to Proceed, and will be made by the TOWN in accordance with the PROMPT PAYMENT ACT. In the event that all or a portion of an invoice submitted to the TOWN for payment to the CONSULTANT is disputed, or additional backup documentation is required, the TOWN shall notify the CONSULTANT in writing within fifteen (15) calendar days of receipt of the invoice of such objection, modification, or additional documentation request. The CONSULTANT shall provide TOWN with additional backup documentation within five (5) working days of the date of the TOWN's notice. The TOWN, at its sole discretion, may pay to the CONSULTANT the undisputed portion of the invoice. The TOWN's performance and obligation to pay under this Agreement is contingent upon an annual appropriation for its purpose by the Town Commission.

7. BILLING PROCEDURE

In order to expedite payment to the CONSULTANT, invoices shall be submitted to the TOWN each month detailing separately the charges for each assignment as authorized by a Notice to Proceed. In order for both parties herein to close their books and records, the CONSULTANT will clearly state "FINAL INVOICE" on the CONSULTANT's final/last billing to the TOWN. Since this account thereupon will be closed, any additional charges, if not properly included on this final invoice, are waived by the CONSULTANT.

Invoices shall include the following information:

Hourly Rate Basis - If payment is made on the hourly rate basis, the hourly rates will be billed in accordance with the rate schedule provided in Exhibit B. The hourly rate schedule will be subject to review and amendment based on mutual agreement by both parties upon each one-year anniversary thereafter.

1. Time period
2. Current Amount Due
3. Schedule of Reimbursable Expenses
4. Schedule of Labor Charges
5. Billed to Date Amounts

No supporting documents will be provided unless specifically requested by the TOWN.

Lump Sum

1. Time Period
2. Percentage Completion to Date
3. Prior Billings
4. Current Amount Due
5. Billed to Date Amounts

No supporting documents will be provided unless specifically requested by the TOWN.

8. MISCELLANEOUS

Nothing contained in this Agreement shall prevent the TOWN from retaining or employing another firm to provide the service that may be provided by the CONSULTANT under this Agreement for a project or projects. Nothing contained herein guarantees the CONSULTANT any certain amount of work or compensation.

9. AUDIT

The CONSULTANT shall make available to the TOWN of its representative all required financial records associated with the Agreement for a period of three (3) years. Incomplete or incorrect entries in such records, books, documents, papers or accounts will be grounds for disallowance by or reimbursement to the TOWN of any fees or expenses based upon such entries. Refusal of the CONSULTANT to comply with this provision shall be grounds for immediate termination for cause by the TOWN of this Agreement or any Project Agreement.

10. OWNERSHIP OF DOCUMENTS

The parties agree generally that all documentation and work product produced pursuant to this Agreement shall become the exclusive property of the TOWN and shall be provided to the TOWN upon request. Specifically:

1 All finished or unfinished documents, including but not limited to, detailed reports, studies, plans, drawings, surveys, maps, models, photographs, specifications, and all other data prepared for the TOWN or furnished by CONSULTANT pursuant to this or any Project Agreement shall become the property of the TOWN, whether the Project for which they are made is completed or not, and shall be delivered by CONSULTANT to TOWN within ten (10) calendar days after receipt of written notice requesting delivery of said documents. The CONSULTANT shall have the right to keep one record set of the documents upon completion of the Project, however, in no event shall the CONSULTANT use, or permit to be used, any of the documents without the TOWN'S prior written authorization. Any reuse of such documents by the CONSULTANT without the written verification or adaptation by the TOWN for the specific purpose intended will be at the CONSULTANT's sole risk.

2 All subcontracts for the preparation of reports, studies, plans, drawings, specifications, or other data, entered into by the CONSULTANT for a Specific Project shall provide that all such documents and rights obtained by virtue of such contracts shall become the property of the TOWN.

3 All final plans and documents prepared by the CONSULTANT shall bear the endorsement and seal of a person duly registered as a Professional Engineer, Architect, Landscape Architect, Professional Geologist, or Land Surveyor, as appropriate, in the State of Florida.

11. CONFIDENTIALITY

The CONSULTANT shall not, either during the term of this Agreement or any time for a period of ten (10) years subsequent to that date upon which the CONSULTANT shall leave the employment of the TOWN for any reason whatsoever, disclose to any person or entity, other than in the discharge of the duties of the CONSULTANT under this Agreement, any information which the TOWN designates in writing as "confidential." As a violation by the CONSULTANT of the provisions of this section could cause irreparable injury to the TOWN and there is no adequate remedy at law for such violation, the TOWN shall have the right, in addition to any other remedies available to it at law or in equity, to enjoin the CONSULTANT from violating such provisions.

12. 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 legal action or proceeding commenced under or pursuant to this Agreement shall be in Miami-Dade County, Florida.

13. DISPUTE RESOLUTION

It is the intention of the parties that whenever possible, if a dispute or controversy arises hereunder then such dispute or controversy shall be settled by arbitration in accordance with the procedure, rules and regulations of the American Arbitration Association. The decision rendered by the Arbitrator shall be final and binding upon the parties and judgment upon the award rendered by the arbitrator may be entered in any court having jurisdiction. Arbitration shall be held in Miami-Dade County, Florida.

14. ATTORNEY'S FEES

In the event of any litigation arising from or related to the services provided under this Agreement, the prevailing party will be entitled to recovery of all reasonable litigation costs and attorneys' fees and other related expenses including those incurred in any appeal. If neither party prevails on the whole, each party shall be responsible for a portion of the costs of arbitration and their respective attorneys' fees as be determined by the court on confirmation.

15. TERMINATION OF CONTRACT

It is agreed and acknowledged by each of the parties hereto that the execution of this Agreement shall not be construed as a commitment or obligation by the TOWN to contract any services from the CONSULTANT or to continue the employment of the CONSULTANT hereunder.

- A. **TERMINATION – Without Cause** – This Agreement may be terminated by TOWN for any reason or no reason upon thirty (30) calendar days' written notice to CONTRACTOR. In the event of such termination, CONTRACTOR shall be entitled to receive compensation for any work completed pursuant to this Agreement to the satisfaction of TOWN up through the date of termination. Under no circumstances shall TOWN make payment for services that have not been performed.
- B. **TERMINATION – With Cause** – This Agreement may be terminated by either party upon five (5) calendar days' written notice to the other should such other party fail substantially to perform in accordance with its material terms through no fault of the party initiating the termination. In the event CONTRACTOR abandons this Agreement or causes it to be terminated by TOWN, CONTRACTOR shall indemnify TOWN against loss pertaining to this termination, including, but not limited to, reasonable costs incurred in transition to a replacement CONTRACTOR.
- C. **TERMINATION - Insolvency/Transfer of Ownership** - This Agreement may be terminated by the TOWN upon five (5) calendar days' written notice if there is a change of more than 50% of the ownership of the CONTRACTOR. CONTRACTOR shall notify Town Manager at least ten (10) business days before any such change in ownership of CONTRACTOR. The TOWN also reserves the right to terminate the remaining services to be performed in the event the CONSULTANT is placed either in voluntary or involuntary bankruptcy or makes any assignment for the benefit of creditors.

Upon termination, CONTRACTOR shall turn over to TOWN all finished or unfinished work product, documents, data, studies, surveys, sketches, plans and reports in its possession. It shall also reasonably assist the TOWN and any replacement CONTRACTORS in the transition.

16. DEFAULT

An event of default shall mean a breach and failure to substantially perform as set forth in Paragraph 15 B. above of this Agreement by CONSULTANT as determined by the sole discretion of the TOWN. Without limiting the generality of the foregoing and in addition to those instances referred to as a breach, an event of default shall include but not be limited to the following:

- CONSULTANT has not performed services on a timely basis;
- CONSULTANT has refused or failed to supply enough properly-skilled personnel;
- CONSULTANT has failed to make prompt payment to subcontractors or suppliers for any services;
- CONSULTANT has failed to fulfill representations made in this Agreement; or
- CONSULTANT has refused or failed to provide the Services as defined in this Agreement.

In the event of default, CONSULTANT shall be liable for all damages to the TOWN and others resulting from the default, including but not limited to:

- Lost funding
- The difference between the cost associated with procuring services and the amount actually expended by TOWN, including procurement and administrative costs, and

- Consequential damages.

TOWN may take advantage of each and every remedy specifically existing at law or in equity.

17. DELAY IN PERFORMANCE

If the CONSULTANT is delayed in performing any obligation under this Agreement due to a force majeure or inevitable accident or occurrence, the CONSULTANT shall request a time extension from the TOWN within five (5) working days of said force majeure or inevitable accident or occurrence. Any time extension shall be subject to mutual agreement and shall not be cause for any claim by the CONSULTANT for extra compensation unless additional services are required. Force majeure shall mean an act of God, epidemic, fire, explosion, hurricane, flood, or similar occurrence, civil disturbance or similar occurrence, which has had, or reasonable be expected to have a material adverse effect on the rights and obligations under this Agreement, and which, by the exercise of due diligence, such parties shall not have been able to avoid. Such acts or events DO NOT INCLUDE inclement weather (except as noted above) or the acts or omissions of Sub-consultants/sub-contracts, etc.

18. NON-DISCRIMINATION

The CONSULTANT 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 Order 11375 and 12086.

The CONSULTANT 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/familial status, or status with regard to public assistance. The CONSULTANT 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 CONSULTANT 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 CONSULTANT 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.

19. CONFLICT OF INTEREST/CODE OF ETHICS

To avoid any conflicts of interest, or any appearance thereof, CONSULTANT, for the term of this Agreement, agrees that it will not represent any private sector entities (developers, corporations, real estate investors, etc.) in Surfside, Florida, without first

notifying the TOWN of the services to be performed. If after such notification the TOWN reasonable determines that material conflict exists, CONSULTANT will not perform such conflicting work. The conditions and requirements of this paragraph will also apply to any subcontractors utilized by the CONSULTANT in completion of the work tasks under this Agreement. CONSULTANT shall comply with all applicable Conflict of Interest provisions of State of Florida Statutes, Miami-Dade County Code, and Surfside Code. The code of ethics of the involved profession shall also be incorporated in this Agreement by this reference.

20. INSURANCE

The CONSULTANT shall, at its sole cost and expense, maintain Professional Liability and Errors and Omissions Insurance with coverage in such amounts as listed in Exhibit A.

The CONSULTANT has and will maintain insurance, including workmen's compensation, comprehensive general liability, and comprehensive automobile liability and property damage insurance.

The attached Exhibit A identifies the coverage and limits of insurance applicable to this Agreement, and fully incorporated herein by reference. Insurance required of the CONSULTANT shall be primary to, and not contribute with, any insurance or self-insurance maintained by the TOWN. Such insurance shall not diminish CONSULTANT's indemnification and obligations hereunder. The insurance policies shall be issued by companies authorized to do business under the laws of the State of Florida with a minimum A.M. Best's Insurance Guide rating of A-Excellent. **Before any work under this Agreement is performed, and at any time upon request, CONSULTANT 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 except for Professional Liability and Worker's Compensation.** 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 certificates of insurance shall provide that the policies may not be cancelled or altered without thirty (30) days prior notice to the TOWN. CONSULTANT shall also require and ensure that each of its sub-Consultants providing services hereunder (if any) procures and maintains, until the completion of the services, insurance of the types and to the limitations specified herein. **ANY EXCEPTIONS TO THE INSURANCE REQUIREMENTS IN THIS SECTION MUST BE APPROVED IN WRITING BY THE TOWN.**

21. ASSIGNMENTS

This Agreement shall be binding upon and shall inure to the benefit of the TOWN and to any and all of its successors and assigns, whether by merger, consolidation, transfer of substantially all assets or any similar transaction. Notwithstanding the foregoing, this Agreement is personal to the CONSULTANT and it may not, either directly or indirectly, assign its rights or delegate its obligations to TOWN hereunder without first obtaining the TOWN's consent in writing. Any such attempted assignment of delegation shall be deemed of no legal force and effect whatsoever.

22. INDEPENDENT CONTRACTOR

The CONSULTANT is providing the services to be performed hereunder as an independent contractor and nothing in this Agreement shall be construed to constitute any other relationship between the TOWN and the CONSULTANT. The CONSULTANT shall at all times maintain exclusive direction and control over the CONSULTANT'S employees, methods, equipment and facilities used by the CONSULTANT in the performance of its work. The CONSULTANT is responsible for all applicable employment and income taxes related to the performance of its services, and the CONSULTANT agrees to hold harmless the TOWN from any claims for payment of said obligations.

23. NOTICES

Any notices required hereunder shall be in writing and shall be deemed duly given on the date of mailing if deposited in the United States Postal Service, certified mail, return receipt requested, in a properly sealed and postage prepaid envelope, addressed as follows:

If to the TOWN at:

**Roger M. Carlton, Town Manager
Town of Surfside
9293 Harding Avenue
Surfside, Florida 33154**

If to the CONSULTANT at:

Florida

And

**Lynn Dannheisser, Town Attorney
Town of Surfside
9293 Harding Avenue
Surfside, Florida 33154**

24. NON-EXCLUSIVITY

Notwithstanding any provision of the Non-Exclusive Agreement, the TOWN is not precluded from retaining or utilizing any other Architect, Engineer, Design Professional, or other Consultant to perform any incidental Basic Services, Additional Services, or other Professional Services within the contract limits defined in the Agreement. The

CONSULTANT shall have no claim against the TOWN as a result of the TOWN electing to retain or utilize such other Architect, Engineer, Design Professional or other Consultant to perform such incidental services.

25. PERMITS AND APPROVALS

The CONSULTANT shall assist the TOWN in applying for all applicable permits and approvals required by law and/or regulatory authorities for projects for which the CONSULTANTS services are engaged. This assistance includes completing and submitting designs, drawings, dialogue and forms relating to the work included in the scope of services and as necessary for the issuance of the permit or approval.

26. RECORD DOCUMENTS

The CONSULTANT shall prepare and deliver to the TOWN one electronic set and one reproducible drawing set of Record Documents conforming to the marked-up prints, drawings and other data furnished to the CONSULTANT by the contractor upon completion of the work. This set of Record Documents will show the reported location of the project and significant changes made during the construction process.

27. SEVERABILITY AND SURVIVAL

If any one or more of the provisions of this Agreement shall be held to be invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of all remaining provisions shall continue in full force and effect.

28. SHOP DRAWING REVIEW

The CONSULTANT shall review and approve contractor submittals, such as shop drawings, product data, samples and other data, as required by the CONSULTANT, but only for the limited purpose of checking for conformance with the design concept and the information expressed in the contract documents. This review shall not include review of the accuracy or completeness of details, such as quantities, dimensions, weights or gauges, fabrication processes, construction means or methods, coordination of the work with other trades or construction safety precautions, all of which are the sole responsibility of the contractor. The CONSULTANT'S review shall be conducted with reasonable promptness while allowing sufficient time in the CONSULTANT'S judgment to permit adequate review. Review of a specific item shall not indicate that the CONSULTANT has reviewed the entire assembly of which the item is a component. The CONSULTANT shall not be responsible for any deviations from the contract documents not brought to the attention of the CONSULTANT in writing by the contractor. The CONSULTANT shall not be required to review partial submissions or those for which submissions of correlated items have not been received. Provided, however, the CONSULTANT will perform the duties assigned to it in any contract entered into by the TOWN with a contractor, but only to the extent such duties are expressly contained in this Agreement or amendment thereto. The CONSULTANT shall have no authority to vary the requirements of any construction contract or approve any extra

work, change order or request for extra compensation without the written approval of the TOWN.

29. WARRANTIES AND GUARANTEES

The CONSULTANT is responsible for the professional quality, technical accuracy, completeness, performance and coordination of all work required under the Agreement including the work performed by its agents, partners, principals, officers, employees, instrumentalities and Sub-consultants, within the specified time period and specified cost. The CONSULTANT shall perform the work utilizing the skill, knowledge, and judgment ordinarily possessed and used by a proficient consulting Architect/Engineer with respect to the disciplines required for the performance of the work in the State of Florida. The CONSULTANT is responsible for, and represents that the work conforms to the TOWN'S requirements as set forth in the Agreement. The CONSULTANT shall be and remain liable to the TOWN for all damages to the TOWN caused by CONSULTANTS negligent acts or errors or omissions in the performance of the work. In addition to all other rights and remedies, which the TOWN may have, the CONSULTANT shall, at its expense, re-perform the services to correct any deficiencies, which result from the CONSULTANT'S failure to perform in accordance with the above standards. The CONSULTANT shall also be liable for the replacement or repair of any defective materials and equipment and re-performance of any non-conforming construction services resulting from such deficient CONSULTANT services for a period from the commencement of this Agreement until twelve (12) months following final acceptance of the Work and for the period of design liability required by applicable law. The TOWN shall notify the CONSULTANT in writing of any deficiencies and shall approve the method and timing of the corrections. Neither the TOWN'S inspection, review, approval or acceptance of, nor payment for, any of the work required under the Agreement shall be construed to relieve the CONSULTANT or any Sub-consultant of its obligations and responsibilities under the Agreement, nor constitute a waiver of any of the TOWN'S rights under the Agreement or of any cause of action arising out of performance of the Agreement. The CONSULTANT and its Sub-consultants shall be and remain liable to the TOWN in accordance with applicable law for all damages to TOWN caused by any failure of the CONSULTANT or its Sub-consultants to comply with the terms and conditions of the Agreement or by the CONSULTANT's or Sub-consultants' misconduct, unlawful acts, negligent acts, errors, or omissions in the performance of the Agreement. With respect to the performance of work by Sub-consultants, the CONSULTANT shall, in approving and accepting such work, ensure the professional quality, completeness, and coordination of Sub-consultant's work. The CONSULTANT agrees to transfer to the TOWN any manufacturer's warranties or guarantees for component parts of any project completed for TOWN.

30. PERFORMANCE OF WORK

The Consultant shall use its best efforts, skill and judgment in providing its services under this agreement and to perform its services in the best and most expeditious and economical manner. CONSULTANT shall comply with all laws, ordinances and governmental rules, regulations and orders now or at any time during the term of this Agreement which as a matter of law are applicable to or which affect the procedures of the CONSULTANT.

If at any time during the term of any Project Agreement or the construction of the Project for which the CONSULTANT has provided engineering services under a prior Project Agreement, it is

determined that the CONSULTANT's documents are incorrect, defective or fail to conform to the Scope of Services, upon written notification from the TOWN, the CONSULTANT shall immediately proceed to correct the work, re-perform services which fail to satisfy the foregoing standard of care as determined by the TOWN, and shall pay all costs and expenses associated with correcting said incorrect or defective work, including any additional testing, inspections, and construction and reimbursement to the TOWN for any other services and expenses made necessary thereby, save and except any costs and expenses which the TOWN would have otherwise paid absent the CONSULTANT's error or omission. The TOWN's rights and remedies under this section are in addition to, and are cumulative of, any and all other rights and remedies provided by this Agreement, the Project Agreement, by law, equity or otherwise. Any and all drawings, plans, specifications, or other construction or contract documents prepared by the CONSULTANT shall be accurate, coordinated and adequate for construction and shall be in conformity and comply with all applicable law, codes and regulations.

CONSULTANT's obligations under this Paragraph shall survive termination of this or any Project Agreement.

31. TIME IS OF THE ESSENCE

Time is of the essence for all of the CONSULTANT's obligations pursuant to this Agreement.

32. HOLD HARMLESS

To the fullest extent permitted by law, the CONSULTANT shall indemnify and hold harmless the TOWN and its elected officials, officers and employees, from any and all liabilities, any and all claims, including claims for equitable or injunctive relief, damages, losses and costs, including but not limited to reasonable attorneys fees, to the extent caused by the negligence, recklessness, or intentionally wrongful conduct of the CONSULTANT, its employees, agents, officers, subconsultants and other persons employed or utilized by the CONSULTANT in the performance of this agreement. It is the specific intent of the parties hereto that the foregoing indemnification provision comply with Section 725.08, Florida Statutes. It is further the specific intent and agreement of the parties that all the contract documents of any project for which the Consultant provided services be hereby amended to include the foregoing indemnification. The CONSULTANT expressly agrees that it will not claim, and waives any claim, that this article violates Section 725.08 Florida Statutes, or is unenforceable pursuant to Section 725.08, Florida Statutes.

This indemnification obligation shall not be construed to negate, abridge, or otherwise reduce any other right or obligation of indemnity which would otherwise exist as to any party or person described in this Section. This indemnification provision shall include claims made by an employee of the CONSULTANT against the TOWN and the CONSULTANT waives any entitlement to immunity under Section 440.11, Florida Statutes, only as to such indemnification claims by the TOWN against the CONSULTANT. This indemnification provision shall survive the termination of this agreement however terminated.

33. ENTIRE AGREEMENT

This Agreement, along with Exhibits A and B, supersedes any and all prior negotiations and oral agreements heretofore made relating to the subject matter hereof and except for written agreements if any, executed and delivered simultaneously with or subsequent to the date of this Agreement, constitutes the entire agreement of the parties relating to the subject matter hereof. This Agreement may not be altered or amended except by a writing signed by the parties hereto. No waiver of any of the terms or conditions of this Agreement shall be effective unless in writing and executed by the party to be charged therewith. No waiver of any condition or of the breach of any term, covenant, representation, warranty or other provision hereof shall be deemed to be construed as a further or continuing waiver of any such condition or breach or a waiver of any other condition or of any breach of any other term, covenant, representation, warranty or other provision contained in this Agreement.

34. SEVERABILITY

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

35. 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.

IN WITNESS WHEREOF, the parties hereto executed this Agreement on this, the _____ day of _____, 2010.

CONSULTANT

Firm: _____

By: _____
_____, P.E.
Title

ATTEST:

By: _____

Title: _____

TOWN
THE TOWN OF SURFSIDE

By: _____
Title: _____

ATTEST

By: _____
Title: _____

APPROVED AS TO FORM:

Town Attorney

EXHIBIT A

CONSULTANTS INSURANCE REQUIREMENTS

Workers Compensation - Statutory Limit

Employer Liability - \$1,000,000/Accident-Bodily Injury
\$ 500,000/Policy Limit - Disease
\$1,000,000/Employee - Disease

Auto Liability - \$ 500,000/Property Damage CSL
\$ 500,000/Bodily Injury CSL

General Liability - \$1,000,000 per occurrence

Professional Liability - \$1,000,000 Aggregate

EXHIBIT B

DESCRIPTION OF COMPENSATION FOR ENGINEERING SERVICES

I. This Exhibit is attached to and made a part of the Agreement made on____, 2010 between the **Town of Surfside (the TOWN)** and _____, Inc. **(the CONSULTANT)** providing for planning, surveying, engineering design, construction administration and site observation. Compensation for services requested and authorized by the TOWN will be based on the hourly rate schedule provided below:

2010-
1982
RESOLUTION NO.

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA SELECTING SIX (6) ENGINEERING FIRMS TO PERFORM GENERAL ENGINEERING, STRUCTURAL, GEOTECHNICAL, TRAFFIC SERVICES FOR THE TOWN IN RESPONSE TO RFQ NO. 11-02; AUTHORIZING THE TOWN MANAGER OR HIS/HER DESIGNEE TO ENTER INTO A CONTINUING CONSULTANT AGREEMENT WITH SAID ENGINEERS THE FORM AND CONTENT OF WHICH SHALL SUBSTANTIALLY CONFORM TO THE AGREEMENT CONTAINED IN EXHIBIT "A", PROVIDED SAID AGREEMENTS ARE APPROVED AS TO FORM AND LEGAL SUFFICIENCY BY THE TOWN ATTORNEY; FURTHER AUTHORIZING THE TOWN MANAGER TO DO ALL THINGS NECESSARY TO EFFECTUATE THE TERMS OF THIS RESOLUTION; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town of Surfside, Florida issued Request for Qualifications No. 11-02 General Engineering Consultants to perform engineering, structural, geotechnical, traffic services for the Town; and

WHEREAS, the Town has received twelve (12) responses to said RFQ, which have been reviewed by staff; and

WHEREAS, staff recommends the following short list of firms to be called upon within the Manager's discretion:

1. ADA Engineering, Inc.
2. C3TS
3. FTE Inc.
4. Fraga Engineers, LLC
5. TY Lin International
6. Wolfberg Alvarez & Partners

WHEREAS, the Town desires to use these engineering firms for the provision of engineering, structural, geotechnical, traffic services; and

WHEREAS, the Town wishes to enter into a continuing consulting agreement with the selected engineering firms for the purpose of providing on-call engineering services for various projects that may arise throughout the year; and

WHEREAS, each engineering firm shall submit work authorizations to the Town for any engineering services to be performed, prior to the delivery of such services.

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

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

Section 1. Firms Selected. The Town Commission hereby selects the following the engineering firms to perform general engineering services for the Town:

1. ADA Engineering, Inc.
2. C3TS
3. FTE Inc.
4. Fraga Engineers, LLC
5. TY Lin International
6. Wolfberg Alvarez & Partners

Section 2. Authorization of Town Manager. The Town Commission hereby authorizes the Town Manager or his/her designee to enter into continuing consulting agreements with said selected general engineering firms, , in substantially the same form as the agreement attached as Exhibit "A" provided said agreements are approved as to form and legal sufficiency by the Town Attorney.

Section 3. Further Authorization of Town Manager. The Town Manager is hereby authorized to do all things necessary to effectuate this Resolution.

Section 4. Effective Date. This Resolution will become effective upon adoption.


PASSED AND ADOPTED this 9th day of November, 2010.

Motion by Commissioner Karukin second by Commissioner Olchyk.


FINAL VOTE ON ADOPTION

Commissioner Michael Karukin
Commissioner Edward Kopelman
Commissioner Marta Olchyk
Vice Mayor Joseph Graubart
Mayor Daniel Dietch

Yes
Absent
Yes
Yes
Yes


Daniel Dietch, Mayor

ATTEST:


Deborah Eastman, MMC
Town Clerk

**APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:**



Lynn M. Dannheisser, Town Attorney

EXHIBIT "A"
AGREEMENT
BETWEEN THE TOWN OF SURFSIDE
AND

This AGREEMENT, made and entered into by and between the Town of Surfside, a Florida municipality (hereinafter referred to as the "TOWN") and _____, (hereinafter referred to as the "CONSULTANT").

1. SCOPE OF SERVICES

Pursuant to this Agreement, if Engineering, the Engineering Scope of Services may include, but is not limited to, the following tasks: Survey; Geotechnical; Structural; Environmental; Traffic; Landscape Architecture; Construction Management; Construction Inspection; Construction Testing; Electrical; Hurricane Recovery and Debris Monitoring Services; General Design Work; Preparation of Complete Construction Contract Plans and Special Provisions for the Assigned Projects; Public Involvement; Post Design Services (shop drawing review and responses to Request for Information); and Bid Administration (selection and letting) or other work as may be necessary to accomplish the projects for which services are requested by the TOWN.

Pursuant to this Agreement, if Architectural, the Architectural Scope of Services may include, but not limited to, the following tasks: Design; Reports; Analysis; Graphic Conceptual Drawings; Color Selection and Coordination; Inspection; General Design Work; Preparation of Complete Construction Contract Plans and Special Provisions for the Assigned Projects; Public Involvement; Post Design Services (submittal review and responses to Request for Information); and Landscaping Layout and Design or other work as may be necessary to accomplish the Projects for which services are requested by TOWN.

This Agreement is made for the purpose of establishing the working relationship, terms and conditions between the parties on projects for which the CONSULTANT is requested by TOWN to perform professional services and the CONSULTANT agrees to perform those services for TOWN subject to the terms and conditions contained herein. Each specific project assignment or request for services will be initiated in writing by TOWN to CONSULTANT and will include a description of the project's concept.

Prior to the commencement of any work by the CONSULTANT, the TOWN and the CONSULTANT will agree upon a written scope of services prepared by the CONSULTANT which will include a detailed schedule of the services to be performed, appropriate project schedules, fee amount and payment method. In the performance of the services prescribed herein, it shall be the responsibility of the CONSULTANT to provide all salaries, wages, materials, equipment, sub-consultants and other purchased services, etc., necessary to complete said services. The Town Commission of TOWN shall review the scope of services as agreed upon by TOWN and CONSULTANT and, if approved, shall issue a written notification to the CONSULTANT of such approval ("Notice to Proceed"). Such Notice to Proceed shall constitute authorization for work by the CONSULTANT to begin.

2. CHANGES IN THE WORK

- A. The intent of the Agreement is for the CONSULTANT to provide such basic services, and to include all necessary items for the proper completion of such services for a functional project which, when constructed in accordance with the design, will be able to be used by the TOWN for its intended purpose. The CONSULTANT shall perform, as Basic Services, such incidental work, which may not be specifically referenced, as necessary to complete the Project.
- B. The TOWN and the CONSULTANT may make additions to the scope of work by mutual written agreement only. Any material change in the scope of service and any change in the fee due the CONSULTANT must be approved by the Town Commission. The TOWN may rescind work previously ordered by written instructions to the CONSULTANT. In the event of any such rescission by the TOWN, the CONSULTANT shall be entitled to receive the amount due it for such services rendered hereunder prior to the date of such rescission. The provisions of this Agreement, with appropriate changes in the CONSULTANT'S compensation and project schedule, shall apply to all modifications in work ordered.
- C. In emergency situations, as determined by TOWN, the TOWN reserves the right to issue verbal authorization to the CONSULTANT with the understanding that a cost and scope of services proposal shall be issued immediately thereafter for approval.

3. SUB-CONSULTANTS

All services provided by the Sub-consultants shall be pursuant to appropriate agreements between the CONSULTANT and Sub-consultant which shall contain provisions that preserve and protect the rights of the TOWN and the CONSULTANT under this Agreement, and which impose no responsibilities or liabilities on the TOWN except as herein provided. Any approval of a Sub-consultant by the TOWN shall not in any way shift the responsibility for the quality and acceptability by the TOWN of the services performed by the Sub-consultant from the CONSULTANT to the TOWN. The CONSULTANT shall cause the names of Sub-consultants responsible for significant portions of the services to be inserted on the Plans and Specifications, subject to the approval of the TOWN. The CONSULTANT with the TOWN'S approval, may employ specialty consultants to assist the CONSULTANT performing specialized services.

4. AMENDMENTS

This agreement shall not be amended, changed, modified, transferred or otherwise altered in any particular manner, at any time after the execution hereof, except by the Town Manager or by appropriate resolution of the Town Commission. The TOWN may, from time to time, make amendments or modifications to this Agreement to comply with current needs of the TOWN. All such amendments shall be presented in writing and executed by both parties. The failure or refusal by the CONSULTANT to execute a modification may result in the CONSULTANT'S removal from consideration for future work.

5. PERIOD OF SERVICE

This Agreement is effective on _____, 2010 and shall continue for a period

of one (1) years from the effective date, unless terminated earlier in accordance with Section 10 of this agreement. The Agreement may be extended in its original form for a one year period by a written agreement executed by both parties. The agreement may be extended with amended salary schedule (Exhibit B) or other amendments for a one (1) year period upon approval of the town commission.

6. PAYMENT FOR SERVICE

Payment for services will be subject to the specific terms of each assignment as authorized by a Notice to Proceed, and will be made by the TOWN in accordance with the PROMPT PAYMENT ACT. In the event that all or a portion of an invoice submitted to the TOWN for payment to the CONSULTANT is disputed, or additional backup documentation is required, the TOWN shall notify the CONSULTANT in writing within fifteen (15) calendar days of receipt of the invoice of such objection, modification, or additional documentation request. The CONSULTANT shall provide TOWN with additional backup documentation within five (5) working days of the date of the TOWN's notice. The TOWN, at its sole discretion, may pay to the CONSULTANT the undisputed portion of the invoice. The TOWN's performance and obligation to pay under this Agreement is contingent upon an annual appropriation for its purpose by the Town Commission.

7. BILLING PROCEDURE

In order to expedite payment to the CONSULTANT, invoices shall be submitted to the TOWN each month detailing separately the charges for each assignment as authorized by a Notice to Proceed. In order for both parties herein to close their books and records, the CONSULTANT will clearly state "FINAL INVOICE" on the CONSULTANT's final/last billing to the TOWN. Since this account thereupon will be closed, any additional charges, if not properly included on this final invoice, are waived by the CONSULTANT.

Invoices shall include the following information:

Hourly Rate Basis - If payment is made on the hourly rate basis, the hourly rates will be billed in accordance with the rate schedule provided in Exhibit B. The hourly rate schedule will be subject to review and amendment based on mutual agreement by both parties upon each one-year anniversary thereafter.

1. Time period
2. Current Amount Due
3. Schedule of Reimbursable Expenses
4. Schedule of Labor Charges
5. Billed to Date Amounts

No supporting documents will be provided unless specifically requested by the TOWN.

Lump Sum

1. Time Period

2. Percentage Completion to Date
3. Prior Billings
4. Current Amount Due
5. Billed to Date Amounts

No supporting documents will be provided unless specifically requested by the TOWN.

8. MISCELLANEOUS

Nothing contained in this Agreement shall prevent the TOWN from retaining or employing another firm to provide the service that may be provided by the CONSULTANT under this Agreement for a project or projects. Nothing contained herein guarantees the CONSULTANT any certain amount of work or compensation.

9. AUDIT

The CONSULTANT shall make available to the TOWN of its representative all required financial records associated with the Agreement for a period of three (3) years. Incomplete or incorrect entries in such records, books, documents, papers or accounts will be grounds for disallowance by or reimbursement to the TOWN of any fees or expenses based upon such entries.

Refusal of the CONSULTANT to comply with this provision shall be grounds for immediate termination for cause by the TOWN of this Agreement or any Project Agreement.

10. OWNERSHIP OF DOCUMENTS

The parties agree generally that all documentation and work product produced pursuant to this Agreement shall become the exclusive property of the TOWN and shall be provided to the TOWN upon request. Specifically:

- 1 All finished or unfinished documents, including but not limited to, detailed reports, studies, plans, drawings, surveys, maps, models, photographs, specifications, and all other data prepared for the TOWN or furnished by CONSULTANT pursuant to this or any Project Agreement shall become the property of the TOWN, whether the Project for which they are made is completed or not, and shall be delivered by CONSULTANT to TOWN within ten (10) calendar days after receipt of written notice requesting delivery of said documents. The CONSULTANT shall have the right to keep one record set of the documents upon completion of the Project, however, in no event shall the CONSULTANT use, or permit to be used, any of the documents without the TOWN'S prior written authorization. Any reuse of such documents by the CONSULTANT without the written verification or adaptation by the TOWN for the specific purpose intended will be at the CONSULTANT's sole risk.

- 2 All subcontracts for the preparation of reports, studies, plans, drawings, specifications, or other data, entered into by the CONSULTANT for a Specific Project shall provide that all such documents and rights obtained

by virtue of such contracts shall become the property of the TOWN.

3 All final plans and documents prepared by the CONSULTANT shall bear the endorsement and seal of a person duly registered as a Professional Engineer, Architect, Landscape Architect, Professional Geologist, or Land Surveyor, as appropriate, in the State of Florida.

11. CONFIDENTIALITY

The CONSULTANT shall not, either during the term of this Agreement or any time for a period of ten (10) years subsequent to that date upon which the CONSULTANT shall leave the employment of the TOWN for any reason whatsoever, disclose to any person or entity, other than in the discharge of the duties of the CONSULTANT under this Agreement, any information which the TOWN designates in writing as "confidential." As a violation by the CONSULTANT of the provisions of this section could cause irreparable injury to the TOWN and there is no adequate remedy at law for such violation, the TOWN shall have the right, in addition to any other remedies available to it at law or in equity, to enjoin the CONSULTANT from violating such provisions.

12. 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 legal action or proceeding commenced under or pursuant to this Agreement shall be in Miami-Dade County, Florida.

13. DISPUTE RESOLUTION

It is the intention of the parties that whenever possible, if a dispute or controversy arises hereunder then such dispute or controversy shall be settled by arbitration in accordance with the procedure, rules and regulations of the American Arbitration Association. The decision rendered by the Arbitrator shall be final and binding upon the parties and judgment upon the award rendered by the arbitrator may be entered in any court having jurisdiction. Arbitration shall be held in Miami-Dade County, Florida.

14. ATTORNEY'S FEES

In the event of any litigation arising from or related to the services provided under this Agreement, the prevailing party will be entitled to recovery of all reasonable litigation costs and attorneys' fees and other related expenses including those incurred in any appeal. If neither party prevails on the whole, each party shall be responsible for a portion of the costs of arbitration and their respective attorneys' fees as be determined

by the court on confirmation.

15. TERMINATION OF CONTRACT

It is agreed and acknowledged by each of the parties hereto that the execution of this Agreement shall not be construed as a commitment or obligation by the TOWN to contract any services from the CONSULTANT or to continue the employment of the CONSULTANT hereunder.

- A. **TERMINATION – Without Cause** – This Agreement may be terminated by TOWN for any reason or no reason upon thirty (30) calendar days' written notice to CONTRACTOR. In the event of such termination, CONTRACTOR shall be entitled to receive compensation for any work completed pursuant to this Agreement to the satisfaction of TOWN up through the date of termination. Under no circumstances shall TOWN make payment for services that have not been performed.
- B. **TERMINATION – With Cause** – This Agreement may be terminated by either party upon five (5) calendar days' written notice to the other should such other party fail substantially to perform in accordance with its material terms through no fault of the party initiating the termination. In the event CONTRACTOR abandons this Agreement or causes it to be terminated by TOWN, CONTRACTOR shall indemnify TOWN against loss pertaining to this termination, including, but not limited to, reasonable costs incurred in transition to a replacement CONTRACTOR.
- C. **TERMINATION - Insolvency/Transfer of Ownership** - This Agreement may be terminated by the TOWN upon five (5) calendar days' written notice if there is a change of more than 50% of the ownership of the CONTRACTOR. CONTRACTOR shall notify Town Manager at least ten (10) business days before any such change in ownership of CONTRACTOR. The TOWN also reserves the right to terminate the remaining services to be performed in the event the CONSULTANT is placed either in voluntary or involuntary bankruptcy or makes any assignment for the benefit of creditors.

Upon termination, CONTRACTOR shall turn over to TOWN all finished or unfinished work product, documents, data, studies, surveys, sketches, plans and reports in its possession. It shall also reasonably assist the TOWN and any replacement CONTRACTORS in the transition.

16. DEFAULT

An event of default shall mean a breach and failure to substantially perform as set forth in Paragraph 15 B. above of this Agreement by CONSULTANT as determined by the sole discretion of the TOWN. Without limiting the generality of the foregoing and in addition to those instances referred to as a breach, an event of default shall include but not be limited to the following:

- CONSULTANT has not performed services on a timely basis;
- CONSULTANT has refused or failed to supply enough properly-skilled personnel;
- CONSULTANT has failed to make prompt payment to subcontractors or

- suppliers for any services;
- CONSULTANT has failed to fulfill representations made in this Agreement; or
- CONSULTANT has refused or failed to provide the Services as defined in this Agreement.

In the event of default, CONSULTANT shall be liable for all damages to the TOWN and others resulting from the default, including but not limited to:

- Lost funding
- The difference between the cost associated with procuring services and the amount actually expended by TOWN, including procurement and administrative costs, and
- Consequential damages.

TOWN may take advantage of each and every remedy specifically existing at law or in equity.

17. DELAY IN PERFORMANCE

If the CONSULTANT is delayed in performing any obligation under this Agreement due to a force majeure or inevitable accident or occurrence, the CONSULTANT shall request a time extension from the TOWN within five (5) working days of said force majeure or inevitable accident or occurrence. Any time extension shall be subject to mutual agreement and shall not be cause for any claim by the CONSULTANT for extra compensation unless additional services are required. Force majeure shall mean an act of God, epidemic, fire, explosion, hurricane, flood, or similar occurrence, civil disturbance or similar occurrence, which has had, or reasonable be expected to have a material adverse effect on the rights and obligations under this Agreement, and which, by the exercise of due diligence, such parties shall not have been able to avoid. Such acts or events DO NOT INCLUDE inclement weather (except as noted above) or the acts or omissions of Sub-consultants/sub-contracts, etc.

18. NON-DISCRIMINATION

The CONSULTANT agrees to comply with all local and state civil rights ordinances and with Title VI of the Civil Rights Act of 1984 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 Order 11375 and 12086.

The CONSULTANT 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/familial status, or status with regard to public assistance. The CONSULTANT 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 CONSULTANT 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 CONSULTANT 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.

19. CONFLICT OF INTEREST/CODE OF ETHICS

To avoid any conflicts of interest, or any appearance thereof, CONSULTANT, for the term of this Agreement, agrees that it will not represent any private sector entities (developers, corporations, real estate investors, etc.) in Surfside, Florida, without first notifying the TOWN of the services to be performed. If after such notification the TOWN reasonably determines that material conflict exists, CONSULTANT will not perform such conflicting work. The conditions and requirements of this paragraph will also apply to any subcontractors utilized by the CONSULTANT in completion of the work tasks under this Agreement. CONSULTANT shall comply with all applicable Conflict of Interest provisions of State of Florida Statutes, Miami-Dade County Code, and Surfside Code. The code of ethics of the involved profession shall also be incorporated in this Agreement by this reference.

20. INSURANCE

The CONSULTANT shall, at its sole cost and expense, maintain Professional Liability and Errors and Omissions Insurance with coverage in such amounts as listed in Exhibit A.

The CONSULTANT has and will maintain insurance, including workmen's compensation, comprehensive general liability, and comprehensive automobile liability and property damage insurance.

The attached Exhibit A identifies the coverage and limits of insurance applicable to this Agreement, and fully incorporated herein by reference. Insurance required of the CONSULTANT shall be primary to, and not contribute with, any insurance or self-insurance maintained by the TOWN. Such insurance shall not diminish CONSULTANT's indemnification and obligations hereunder. The insurance policies shall be issued by companies authorized to do business under the laws of the State of Florida with a minimum A.M. Best's Insurance Guide rating of A-Excellent. **Before any work under this Agreement is performed, and at any time upon request, CONSULTANT 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 except for Professional Liability and Worker's Compensation.** 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 certificates of insurance shall provide that the policies may not be cancelled or altered without thirty (30) days prior notice to the TOWN. CONSULTANT shall also require and ensure that each of its sub-

Consultants providing services hereunder (if any) procures and maintains, until the completion of the services, insurance of the types and to the limitations specified herein. ANY EXCEPTIONS TO THE INSURANCE REQUIREMENTS IN THIS SECTION MUST BE APPROVED IN WRITING BY THE TOWN.

21. ASSIGNMENTS

This Agreement shall be binding upon and shall inure to the benefit of the TOWN and to any and all of its successors and assigns, whether by merger, consolidation, transfer of substantially all assets or any similar transaction. Notwithstanding the foregoing, this Agreement is personal to the CONSULTANT and it may not, either directly or indirectly, assign its rights or delegate its obligations to TOWN hereunder without first obtaining the TOWNS consent in writing. Any such attempted assignment of delegation shall be deemed of no legal force and effect whatsoever.

22. INDEPENDENT CONTRACTOR

The CONSULTANT is providing the services to be performed hereunder as an independent contractor and nothing in this Agreement shall be construed to constitute any other relationship between the TOWN and the CONSULTANT. The CONSULTANT shall at all times maintain exclusive direction and control over the CONSULTANT'S employees, methods, equipment and facilities used by the CONSULTANT in the performance of its work. The CONSULTANT is responsible for all applicable employment and income taxes related to the performance of its services, and the CONSULTANT agrees to hold harmless the TOWN from any claims for payment of said obligations.

23. NOTICES

Any notices required hereunder shall be in writing and shall be deemed duly given on the date of mailing if deposited in the United States Postal Service, certified mail, return receipt requested, in a properly sealed and postage prepaid envelope, addressed as follows:

If to the TOWN at:

**Roger M. Carlton, Town Manager
Town of Surfside
9293 Harding Avenue
Surfside, Florida 33154**

If to the CONSULTANT at:

_____, Florida _____

And

**Lynn Dannheisser, Town Attorney
Town of Surfside
9293 Harding Avenue
Surfside, Florida 33154**

24. NON-EXCLUSIVITY

Notwithstanding any provision of the Non-Exclusive Agreement, the TOWN is not precluded from retaining or utilizing any other Architect, Engineer, Design Professional, or other Consultant to perform any incidental Basic Services, Additional Services, or other Professional Services within the contract limits defined in the Agreement. The CONSULTANT shall have no claim against the TOWN as a result of the TOWN electing to retain or utilize such other Architect, Engineer, Design Professional or other Consultant to perform such incidental services.

25. PERMITS AND APPROVALS

The CONSULTANT shall assist the TOWN in applying for all applicable permits and approvals required by law and/or regulatory authorities for projects for which the CONSULTANTS services are engaged. This assistance includes completing and submitting designs, drawings, dialogue and forms relating to the work included in the scope of services and as necessary for the issuance of the permit or approval.

26. RECORD DOCUMENTS

The CONSULTANT shall prepare and deliver to the TOWN one electronic set and one reproducible drawing set of Record Documents conforming to the marked-up prints, drawings and other data furnished to the CONSULTANT by the contractor upon completion of the work. This set of Record Documents will show the reported location of the project and significant changes made during the construction process.

27. SEVERABILITY AND SURVIVAL

If any one or more of the provisions of this Agreement shall be held to be invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of all remaining provisions shall continue in full force and effect.

28. SHOP DRAWING REVIEW

The CONSULTANT shall review and approve contractor submittals, such as

shop drawings, product data, samples and other data, as required by the CONSULTANT, but only for the limited purpose of checking for conformance with the design concept and the information expressed in the contract documents. This review shall not include review of the accuracy or completeness of details, such as quantities, dimensions, weights or gauges, fabrication processes, construction means or methods, coordination of the work with other trades or construction safety precautions, all of which are the sole responsibility of the contractor. The CONSULTANT'S review shall be conducted with reasonable promptness while allowing sufficient time in the CONSULTANT'S judgment to permit adequate review. Review of a specific item shall not indicate that the CONSULTANT has reviewed the entire assembly of which the item is a component. The CONSULTANT shall not be responsible for any deviations from the contract documents not brought to the attention of the CONSULTANT in writing by the contractor. The CONSULTANT shall not be required to review partial submissions or those for which submissions of correlated items have not been received. Provided, however, the CONSULTANT will perform the duties assigned to it in any contract entered into by the TOWN with a contractor, but only to the extent such duties are expressly contained in this Agreement or amendment thereto. The CONSULTANT shall have no authority to vary the requirements of any construction contract or approve any extra work, change order or request for extra compensation without the written approval of the TOWN.

29. WARRANTIES AND GUARANTEES

The CONSULTANT is responsible for the professional quality, technical accuracy, completeness, performance and coordination of all work required under the Agreement including the work performed by its agents, partners, principals, officers, employees, instrumentalities and Sub-consultants, within the specified time period and specified cost. The CONSULTANT shall perform the work utilizing the skill, knowledge, and judgment ordinarily possessed and used by a proficient consulting Architect/Engineer with respect to the disciplines required for the performance of the work in the State of Florida. The CONSULTANT is responsible for, and represents that the work conforms to the TOWN'S requirements as set forth in the Agreement. The CONSULTANT shall be and remain liable to the TOWN for all damages to the TOWN caused by CONSULTANTS negligent acts or errors or omissions in the performance of the work. In addition to all other rights and remedies, which the TOWN may have, the CONSULTANT shall, at its expense, re-perform the services to correct any deficiencies, which result from the CONSULTANT'S failure to perform in accordance with the above standards. The CONSULTANT shall also be liable for the replacement or repair of any defective materials and equipment and re-performance of any non-conforming construction services resulting from such deficient CONSULTANT services for a period from the commencement of this Agreement until twelve (12) months following final acceptance of the Work and for the period of design liability required by applicable law. The TOWN shall notify the CONSULTANT in writing of any deficiencies and shall approve the method and timing of the corrections. Neither the TOWN'S inspection, review, approval or acceptance of, nor payment for, any of the work required under the Agreement shall be construed to relieve the CONSULTANT or any Sub-consultant of its obligations and responsibilities under the Agreement, nor constitute a waiver of any of the TOWN'S rights under the Agreement or of any cause of action arising out of performance of the Agreement. The CONSULTANT and its Sub-consultants shall be and remain liable to the TOWN in accordance with applicable law for all damages to

TOWN caused by any failure of the CONSULTANT or its Sub-consultants to comply with the terms and conditions of the Agreement or by the CONSULTANT's or Sub-consultants' misconduct, unlawful acts, negligent acts, errors, or omissions in the performance of the Agreement. With respect to the performance of work by Sub-consultants, the CONSULTANT shall, in approving and accepting such work, ensure the professional quality, completeness, and coordination of Sub-consultant's work. The CONSULTANT agrees to transfer to the TOWN any manufacturer's warranties or guarantees for component parts of any project completed for TOWN.

30. PERFORMANCE OF WORK

The Consultant shall use its best efforts, skill and judgment in providing its services under this agreement and to perform its services in the best and most expeditious and economical manner. CONSULTANT shall comply with all laws, ordinances and governmental rules, regulations and orders now or at any time during the term of this Agreement which as a matter of law are applicable to or which affect the procedures of the CONSULTANT.

If at any time during the term of any Project Agreement or the construction of the Project for which the CONSULTANT has provided engineering services under a prior Project Agreement, it is determined that the CONSULTANT's documents are incorrect, defective or fail to conform to the Scope of Services, upon written notification from the TOWN, the CONSULTANT shall immediately proceed to correct the work, re-perform services which fail to satisfy the foregoing standard of care as determined by the TOWN, and shall pay all costs and expenses associated with correcting said incorrect or defective work, including any additional testing, inspections, and construction and reimbursement to the TOWN for any other services and expenses made necessary thereby, save and except any costs and expenses which the TOWN would have otherwise paid absent the CONSULTANT's error or omission. The TOWN's rights and remedies under this section are in addition to, and are cumulative of, any and all other rights and remedies provided by this Agreement, the Project Agreement, by law, equity or otherwise. Any and all drawings, plans, specifications, or other construction or contract documents prepared by the CONSULTANT shall be accurate, coordinated and adequate for construction and shall be in conformity and comply with all applicable law, codes and regulations.

CONSULTANT's obligations under this Paragraph shall survive termination of this or any Project Agreement.

31. TIME IS OF THE ESSENCE

Time is of the essence for all of the CONSULTANT's obligations pursuant to this Agreement.

32. HOLD HARMLESS

To the fullest extent permitted by law, the CONSULTANT shall indemnify and hold harmless the TOWN and its elected officials, officers and employees, from any and all liabilities, any and all claims, including claims for equitable or injunctive relief, damages, losses and costs, including but not limited to reasonable attorneys fees, to the

extent caused by the negligence, recklessness, or intentionally wrongful conduct of the CONSULTANT, its employees, agents, officers, subconsultants and other persons employed or utilized by the CONSULTANT in the performance of this agreement. It is the specific intent of the parties hereto that the foregoing indemnification provision comply with Section 725.08, Florida Statutes. It is further the specific intent and agreement of the parties that all the contract documents of any project for which the Consultant provided services be hereby amended to include the foregoing indemnification. The CONSULTANT expressly agrees that it will not claim, and waives any claim, that this article violates Section 725.08 Florida Statutes, or is unenforceable pursuant to Section 725.08, Florida Statutes.

This indemnification obligation shall not be construed to negate, abridge, or otherwise reduce any other right or obligation of indemnity which would otherwise exist as to any party or person described in this Section. This indemnification provision shall include claims made by an employee of the CONSULTANT against the TOWN and the CONSULTANT waives any entitlement to immunity under Section 440.11, Florida Statutes, only as to such indemnification claims by the TOWN against the CONSULTANT. This indemnification provision shall survive the termination of this agreement however terminated.

33. ENTIRE AGREEMENT

This Agreement, along with Exhibits A and B, supersedes any and all prior negotiations and oral agreements heretofore made relating to the subject matter hereof and except for written agreements if any, executed and delivered simultaneously with or subsequent to the date of this Agreement, constitutes the entire agreement of the parties relating to the subject matter hereof. This Agreement may not be altered or amended except by a writing signed by the parties hereto. No waiver of any of the terms or conditions of this Agreement shall be effective unless in writing and executed by the party to be charged therewith. No waiver of any condition or of the breach of any term, covenant, representation, warranty or other provision hereof shall be deemed to be construed as a further or continuing waiver of any such condition or breach or a waiver of any other condition or of any breach of any other term, covenant, representation, warranty or other provision contained in this Agreement.

34. SEVERABILITY

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

35. 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.

IN WITNESS WHEREOF, the parties hereto executed this Agreement on this, the _____ day of _____, 2010.

CONSULTANT

Firm: _____.

By: _____

_____, P.E.

Title

ATTEST:

By: _____

Title: _____

TOWN

THE TOWN OF SURFSIDE

By: _____

Title: _____

ATTEST

By: _____

Title: _____

APPROVED AS TO FORM:

Town Attorney

EXHIBIT A

CONSULTANTS INSURANCE REQUIREMENTS

Workers Compensation - Statutory Limit

Employer Liability - \$1,000,000/Accident-Bodily Injury
 \$ 500,000/Policy Limit - Disease
 \$1,000,000/Employee - Disease

Auto Liability - \$ 500,000/Property Damage CSL
 \$ 500,000/Bodily Injury CSL

General Liability - \$1,000,000 per occurrence

Professional Liability - \$1,000,000 Aggregate

EXHIBIT B

DESCRIPTION OF COMPENSATION FOR ENGINEERING SERVICES

I. This Exhibit is attached to and made a part of the Agreement made on _____, 2010 between the **Town of Surfside (the TOWN)** and _____, Inc. (the **CONSULTANT**) providing for planning, surveying, engineering design, construction administration and site observation. Compensation for services requested and authorized by the TOWN will be based on the hourly rate schedule provided below:



Commission Communication

Agenda #: 9C

Date: October 9, 2012

Subject: Setting Priorities to Give Direction to the Town Manager and Town Attorney

Background: The past two years have been extremely active with operational and administrative changes coming rapidly including senior personnel, infrastructure, relationships with other units of government, finances and every aspect of governance of this wonderful Town. Frankly, the appetite for change has been at different levels both from the Town Commission individually and as a body and from the citizens and business people. That ambivalence has caused some tension which needs to be resolved through clear policy direction.

This is not the first effort from your Administration to set priorities. There was an effort to prioritize in a workshop held at the Community Center on April 30, 2012, however, that meeting did not result in the establishment of priorities. In fact, additional priorities were added to an already long list. Further, the Administration has kept the Town Commission and community up to date on the various priorities through the Points of Light. This list of priorities appears monthly and a review of the record would show that we average 40 Points of Light monthly with at least five and sometimes more new Points of Light added monthly... some by the Town Commission and some by the Town Manager. All completed Points of Light, now nearing 100 items, are kept in a data base for review by anyone wishing to review the history.

Analysis: Staff has completed an extensive review of projects, studies and activities that are currently underway. Everything on the list has gotten there based on some collective or individual activity of the Town Commission. Individual requests from the Town Commissioners are made and vetted each month on the Town Commission Agenda. The taxonomy of the priorities reflects:

1. Level One Priorities: There is an urgency to the matter generated by individual or collective direction from the Town Commission.
2. Level Two Priorities: There is a lesser degree of urgency, however, the item is important and must receive attention from staff on a frequent basis.
3. Level Three Priorities: There is no urgency to the matter, however, the community would benefit from the project. Staff will keep the item moving as time allows.

There has been no attempt to prioritize within the three categories. For the Town Commission to reach closure on the three level system and give direction to the Administration to suggest priorities within the three categories would be a great leap forward.

There has also been no attempt to involve the Town's advisory committees or the residents and business people in the priority setting process. That additional assignment should be at the direction of the Town Commission.

Conclusion: There is no pride of authorship in the suggested list of priorities or the manner in which the Level One, Two or Three assignments were made. As you consider the list please remember that staff resources are limited and that the Town of Surfside is blessed with an extraordinary group of employees at all levels to carry out the priorities. These priorities are complex, interrelated and all take time to achieve. On behalf of your entire staff, we look forward to the discussion and please feel free to collectively add, delete, amend and change the suggested priorities.



Roger M. Carlton
Town Manager

LEVEL ONE PRIORITIES

1. Complete the Water/Sewer/Storm/Drainage project
2. Go/No-Go Decision on Undergrounding Power Lines and Related Utilities
3. Go/No-Go Decision on Parking Structures
4. Go/No-Go Decision on Downtown Business Improvement District
5. Go/No-Go Decision on Community Center Second Story and Comprehensive Park Capital Program
6. Upgrade the Website/Content/Options.
7. Complete the Town-wide Signage Program
8. Enhance the Code Enforcement Program
9. Charter Reform Election
10. Reassess the Zoning Code/ Combined Planning and Zoning/ Design Review Board and Town Commission Meeting
11. Protect Town from Bal Harbour Shop Expansion
12. Develop an Effective Beach Management Program in Cooperation with Miami-Dade County and the State of Florida
13. Determine the Appropriate Level of Service and Cost for Solid Waste/Recycling Program
14. Develop a Succession Plan for Town Manager and Key Positions
15. Continue to Elevate the Level of Service and Accountability at Town Hall (platinum-level service for citizen response)
16. Secure County Commitment for the Sewer Force Main North
17. Develop a Tourism and Economic Development Advisory Committee Strategic Plan
18. Restore FEMA Flood Insurance Discount
19. Build General Fund Reserve to \$5 million
20. Build Water /Sewer/Storm Drainage Reserves to Avoid Rate Increases When Possible
21. Continue to Beautify Surfside's Physical Appearance
22. Complete Bus Shelters
23. Sell More Sponsorships for the Turtle Project
24. Update Five Year Financial Plan
25. ALPR (cameras)
26. Complete Imaging of Town Documents
27. Recruit New Building Official
28. Seawall Replacement Program
29. Complete Development Review Process for Chateau, Surf Club and The Shul

LEVEL TWO PRIORITIES

- 30. Complete 95th Street Hardpack to Collins Avenue Project
- 31. Update Town Code to Correct Numerical Errors
- 32. Complete Dog Park Decision Making Process
- 33. Bring up Automated Bill Paying and Record Access Systems
- 34. Complete Sidewalk Ordinance Implementation
- 35. Complete Newsracks and Bus Benches
- 36. Implement Bullying Program
- 37. Repair Kiddie Pool
- 38. Replace Single Meter Heads with Credit Card Accepting Devices
- 39. Change Federal Road Designation Amendments in Single Family Neighborhood

LEVEL THREE PRIORITIES

- 40. Electric Vehicle Charging Program
- 41. PACE Program



Commission for Florida Law Enforcement Accreditation, Inc.

P.O. Box 1489 ~ Tallahassee, FL 32308
(800) 558-0218 ~ (850) 410-7200

September 27, 2012

Chief David Allen
Surfside Police Department
9293 Harding Avenue
Surfside, Florida 33154

Dear Chief Allen:

Congratulations!

We are pleased to inform you the Surfside Police Department has met the required standards to become reaccredited by the Commission for Florida Law Enforcement Accreditation.

Your reaccredited status is official as of this date and will remain in effect for a period of three years. Compliance with any future standards approved by the Commission that may be applicable to your department is part of maintaining your accredited status.

You and your agency are to be commended for your continued diligence, professionalism, and commitment in maintaining this highest recognition among Florida's law enforcement community.

We look forward to working with you and your agency in your continuous pursuit of excellence. On behalf of the Commission, we extend our thanks for your participation and congratulations on a job well done!

Sincerely,

Lori Mizell
Executive Director

Albert A. Arenal
Chairperson



TOWN OF SURFSIDE
Office of the Town Attorney

MUNICIPAL BUILDING
 9293 HARDING AVENUE
 SURFSIDE, FLORIDA 33154-3009


Lynn M. Dannheisser
 Town Attorney

Telephone: 305 993-1065

MEMORANDUM

TO: Town Commission

Cc: Roger Carlton, Town Manager

FROM: Lynn M. Dannheisser, Town Attorney 

DATE: October 1, 2012

SUBJECT: Report on PACE Program

You have indicated your interest in the PACE program and have asked me to research its basis and how it could operate for the Town of Surfside. That research follows.

Background

The Property Assessed Clean Energy ("PACE") improvement program, as set forth in Chapter 163.08 Florida Statutes, is a voluntary, micro-loan program offered by local governments to property owners to enable those owners to finance qualified energy conservation improvements. Both existing residential and commercial properties are eligible for the program. Property owners opt into a special assessment district created by the Town to receive a loan to finance energy improvements or retrofits. The loan is repaid through an annual assessment on the owner's property tax bill.

Currently, Cutler Bay, Coral Gables, Palmetto Bay, Pinecrest and South Miami are members of the South Dade Green Corridor District, aimed at implementing PACE protocol. The Cities have entered into an Interlocal Agreement to provide the financing services to their respective district citizens.

Property Owner and Community Benefits

By adopting a PACE program, the property owners and the community, as a whole, benefit. For the property owner, PACE allows financing for costly improvements, with little or no out-of-pocket upfront costs; and provides for longer-term prepayment through property taxes (as an assessment). The value of the investment stays with the property, regardless of a change in ownership. The property owner experiences immediate savings in energy bills, conceptually used to pay off the assessment. The public benefits from the reduction of greenhouse gas emissions and promoting energy independence. The PACE program has been shown to boost to local construction and the growth of “green jobs,” while supplementing current efforts towards energy conservation in other cities.

To qualify as a PACE energy conversation improvement, the update must be permanently affixed to the property. Appliances that are not permanently attached to the property do not qualify. Additionally, the program costs and cost of a central entity issuing bonds to finance the program are allocated among the participating property owners.

Application Process

The PACE application process depends on the financing structure used by the program. Generally, the process begins by obtaining an energy audit and receiving bids from contractors qualified in projects determined by the audit. Next an application signed by the property owners and the project bid are submitted for the program financing. Once reviewed and approved by the district, a process that includes underwriting the property against well-defined qualification criteria such as the property’s tax records, the property owners sign a consent to lien agreement. The application period ends once the PACE program achieves a predetermined participation level or trigger date. Upon the bonds issuance, the assessment is recorded and the property owner is notified to proceed with the project. The property owner then enters into a private contract with installers and the project is installed after all required building permits are issued. Following installation, the property owner submits documentation including final invoice and evidence of building permits, which is verified for compliance with the program, and the project is funded. Assessment payments by the property owner begin as part of the property tax bill and runs with the land so a sale of the property does not cut off the obligation.

Financing Options/Funding Mechanisms

PACE financing relies on (1) the public issuance of revenue bonds, (2) direct private investment, or (3) direct government financing via general fund, specialized trust funds, grant funding, etc. or some combination of these mechanisms. The goal of the financing plan is to develop a sustainable stand-alone financing program defined by cost neutrality and minimization of risks and exposure as determined by the financing model below.

A. Interim Funding through the Town Pool

This financing option uses municipal funds to provide interim financing. The projects are funded on-demand, and the individual loans are then bundled by the municipality into a bond issue sold in the capital markets.

The ease and flexibility of these financing terms can be adjusted to meet program goals. However, the terms must be engineered to ensure the obligations are attractive to capital markets. This financing can augment investment returns to the municipality if interest rates on the individual loans are higher than the interest rates on conventional municipal investments. Additionally, this option does not require an interim credit or other financing facility from a bank or underwriting due to the use of municipal funds and can be refunded if properly executed. However, investing in PACE subjects the Town to interest rate risks and potential risk that the loan pool may not be attractive enough to sell the bonds.

B. Long-Term, "Pooled Bond" Public Financing

Based on a more traditional bond structure, this financing structure uses either a pre-defined debt obligation value or number of owners that consent to the assessment lien to trigger the debt obligations be aggregated into a revenue bond issuance. Upon the bond issuance, the consent to assessment lien is executed, becoming legally binding. Bond proceeds are passed to a trustee who holds the proceeds until projects are installed and verified.

There is no interest rate risk to the Town, while property owners bear the interest rate risk, as determined directly by the capital market interest rates. This financing option does not permit "on-demand" financing, since a critical mass of property owners will have to sign consent to assessment lien contracts prior to bond issuances. Thus, financing only occurs when the volume thresholds are achieved. Since the program participants are committing to the debt service on the bond prior to the installation of the improvement on their property, property owners are liable should they decide to forgo the installation. The interest on the assessment obligations begins when the bond is issued, not when the project is funded or completed.

C. Interim Funding with Private Capital

This financing option uses private capital to provide the interim financing facilities rather than Town funds. The private firm would purchase the debt obligations of each property in a "micro-bond" according to a Bond Purchase Agreement. The Agreement governs the property owner interest rate which is generally determined by an index. Once financed, the interest rate is fixed for the term of the obligation.

The private firm bears the interest rate and take-out risk, not the Town. This provides committed capital at a pre-determined rate to property owners from day one, allowing property owners to evaluate their debt obligations precisely. Interest on the assessment obligations begins once the project is funded. This provides flexibility to the program, adjusting automatically to meet demand or changes in projects. However, the

implied interest rate may be higher than other options due to the financial partner's bearing the major risks. The financial partner will require input into underwriting standards and program design.

D. Upfront Financial Partner Financing Model

With upfront funding provided by a third party, committed financing is available to property owners immediately. The Town's financial adviser and legal team must collaborate with Ygrene to establish the program and underwriting standards that are mutually acceptable. Once set, the Town enters into a Funding Agreement where the Town is required to procure through a public bid process a Third Party Administrator on the behalf of a District (which must consist of a certain number of cities or communities to make it financially feasible). Under this structure, funds are immediately made available to interested property owners at a pre-defined interest rate negotiated as part of the Funding Agreement. Once the minimum number of properties or total investment is achieved, the financial partner either chooses to retain the liens or executes a securitization. The goal is to provide on-demand financing capability from the initiation of the program allowing for continuous funding over the long-term. This financing approach does not require Town credit support nor provide significant program and interest risks to property owners.

I trust this responds to your inquiry but please do not hesitate to call with any questions you may have. With your permission I have invited a representative from the third party administrator for a number of cities in the south end of Dade County- Cutler Bay, Pinecrest, South Miami known as the Green Corridor PACE District, the Ygrene Energy Fund, LLC. and their counsel to speak to you further about this proposition.



**Town of Surfside
Town Commission Meeting
October 9 2012
7:00 pm**

Town Hall Commission Chambers - 9293 Harding Avenue, 2nd Floor
Surfside, FL 33154

DISCUSSION ITEM MEMORANDUM

Title: Interpersonal Styles Management and Priority Setting

Objective: To develop an action plan to better understand each other so as to improve the working relationships that we share and rely upon and to set priorities for our term.

Consideration: While we serve as individual elected officials, we collectively serve as the Town Commission. In addition, how we interact with each other and engage with our Town Manager and Town Attorney is critical to our success. As such, we are collectively a group.

In 1965, Bruce Tuckman developed a 4-stage model of group development: Forming; Storming; Norming; and Performing. As members of our group, it seems that we are still in the midst of storming. This is natural and to be expected.

Shortly after most of us were elected in 2010, the Commission, Town Manager, and Town Attorney participated in a team building workshop that I found to be incredibly helpful to better understand my colleagues, their experiences, and their expectations. We had discussed at that time continuing the engagement to focus on priorities for our Commission. In an effort to work cooperatively, not competitively, towards our goals, I am again advocating for a facilitated workshop for the Commission, Town Manager, and Town Attorney to revisit our interpersonal styles, work preferences, and to set priorities for our term.



**Town of Surfside
Town Commission Meeting
October 9, 2012
7:00 pm**

Town Hall Commission Chambers - 9293 Harding Avenue, 2nd Floor
Surfside, FL 33154

DISCUSSION ITEM MEMORANDUM

Title: Regulating Home Offices

Objective: To discuss and develop policy direction on the regulation of home offices.

Consideration: In 2007, the Town Commission passed Ordinance No. 07-1470 regulating home offices (see attached). The Ordinance defines the compatibility of a home office with the residential character of the neighborhood and also requires a local business tax receipt for the home office. However, the Ordinance does not define what constitutes a home office nor how such a use is determined.

There seems to be a lack of awareness in the community about the home office requirements. Further, enforcement of the Ordinance appears to be inconsistent, which is to the detriment of the community. Therefore, the purpose of this item is to discuss the current home office program so that clear policy direction can be provided to the Administration in terms of public education, data management, and enforcement.

ORDINANCE NO. 07- 1470

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA CREATING CHAPTER 90 "ZONING", ARTICLE V "SUPPLEMENTARY REGULATIONS", DIVISION 5 "HOME OFFICES", SECTION 90-250 "HOME OFFICES"; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, changes in our economy and the rise of telecommunications technology has led to an explosion of individuals working out of their homes; and

WHEREAS, according to a national survey, as many as 40 million people work at least part time at home, and seven out of ten new businesses are started at home, with about 8,000 new businesses of this nature starting daily throughout the nation, and an indeterminate number in the Town of Surfside; and

WHEREAS, it is impossible to measure the number of families within the community that are working at home unobtrusively and virtually, without detection, providing secondary or primary income with no detrimental impact upon the residential character of the neighborhood; and

WHEREAS, making home offices unlawful under any conditions turns otherwise law-abiding citizens into violators; and

WHEREAS, home offices that are allowed to be visible are more apt to follow the law, which helps local government and local law enforcement; and

WHEREAS, the presence of these home offices has a positive impact upon the family and the community by;

- providing a parent or adult guardian at home,
- safeguarding the community by having neighbors at home during the daytime when empty houses are potential targets for criminal activities,
- providing an untapped pool of volunteers when needed,
- providing additional income options as an important safety net for Americans who have lost their jobs or during times of uncertainty,
- providing additional income options for seniors and the disabled,
- providing for a tax benefit for the portion of the home used as an office,
- reducing commuter traffic and preserving air quality,
- providing opportunities for families as the home is the launching pad for new products and businesses--the engine of the American economy; and

WHEREAS, these regulations are in furtherance of the purpose and intent of planning and zoning which is to enhance the quality of life for all residents, while safeguarding and retaining the residential character of our community.

Ordinance No. 07- 1470

THE COMMISSION OF THE TOWN OF SURFSIDE HEREBY ORDAINS:

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

Section 2. **Home Offices.** Chapter 90 "Zoning", Article V "Supplementary Regulations", Division 5 "Home Offices", Section 90-250 "Home Offices" is hereby created to read as follows:

Division 5. Home Offices.

Sec. 90-250. Home Offices .

(a) Home offices are permitted in residential areas of the Town provided that:

- (1) Users of the home office are residents of the premises;
- (2) The use of the dwelling unit or residence for a home office is clearly incidental and secondary to its use for residential purposes. No outside display, storage or use of the land is permitted;
- (3) There is no change in the outside appearance of the building or premises as a result of the home office;
- (4) No equipment is used or stored on the premises that creates noise, vibration, glare, fumes, odors or electrical interference, detectable to the normal senses outside the dwelling unit. In the case of electrical interference, no equipment or process shall be used which creates visual or audio interference in any radio, television set or other electronic device off the premises or causes fluctuation in line voltage or other similar nuisance;

Ordinance No. 07-1470

- (5) No trash, sewage, solid waste or other waste other than normal household trash and recyclables is generated. No commercial dumpsters or trash service shall be allowed;
- (6) No retail or wholesale sales on the premises shall be permitted except for telephone, mail, delivery service, internet order sales or other similar electronic sales;
- (7) No traffic is generated by such home office in greater volume than would normally be expected in the neighborhood for residential purposes. No customers, clients, business associates, sales persons, invitees, assistants, outside employees, independent representatives, or the like shall visit the dwelling unit or residence for a business purpose;
- (8) A home office shall not be construed to include among other uses, personal services such as the practice of medicine, chiropractic medicine, dentistry, massage, cosmetology, barbershops, beauty parlors, tea rooms, food processing for sale, kennels, animal grooming, radio and television repair, furniture refinishing or building, cabinet making, boat building, marine charter or towing service, auto servicing or rebuilding and repair for others, metal fabrication or cutting employing welding or cutting torches, or any other occupation requiring state mandated inspection of the premises;
- (9) No more than one vehicle related to the home office shall be permitted upon the premises. Such vehicle must be twenty (20) feet or less in overall length and must be parked off any public right-of-way. All exterior storage of cargo, equipment or other materials on such vehicle shall be shielded from view at all times when such vehicle is located on a residential lot;

Ordinance No. 07-1470

- (10) The home office activities shall be compatible with the residential use of the property and surrounding residential units;
 - (11) The home office activities shall not involve any illegal activities;
 - (12) The home office activities shall not result in any increase in demand on Town services as compared to the average typical residence of the same size;
 - (13) No signs, lights, lawn markers, postings, advertising, etc., which are not compatible with the residential appearance and use of the property shall be located on or about the residence or unit.
- (b) The town manager or his or her designee shall determine whether the home office meets the established criteria as set forth in section (a) above. The determination may be appealed to the planning board whose ruling shall be final and may be appealed to the Circuit Court.
- (c) A local business tax receipt must be obtained from the Town for home offices.
- (d) Nothing contained herein shall be deemed to authorize, legalize or otherwise permit a home based business that is otherwise prohibited by a legally enforceable covenant, association document or other instrument or restriction on such use pertaining to a residential unit.

Section 4. Severability. If any section, sentence, clause or phrase of this ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this ordinance.

Section 5. Inclusion in the Code. It is the intention of the Mayor and Town Commission of the Town of Surfside, and it is hereby ordained that the provisions of this ordinance shall become and be made a part of the Code of the Town of Surfside, Florida. The

Ordinance No. 07-1470

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 6. Conflicts. Any and all Ordinances and Resolutions or parts of Ordinances or Resolutions in conflict herewith are hereby repealed.

Section 7. Effective Date. This ordinance shall be effective upon adoption.

PASSED and ADOPTED on First Reading this 16th day of January, 2007.

PASSED and ADOPTED on Second Reading this 13th day of February, 2007.

Charles W. Burkett, Mayor

Attest:

Beatris M. Arguelles, CMC
Town Clerk

Approved As to Form and Legal Sufficiency:

Lynn M. Dannheisser, Town Attorney

Moved by: Weinberg

Second by: Blumstein

Vote:

Mayor Burkett	yes <input checked="" type="checkbox"/>	no <input type="checkbox"/>
Vice Mayor Weinberg	yes <input checked="" type="checkbox"/>	no <input type="checkbox"/>
Commissioner Blumstein	yes <input checked="" type="checkbox"/>	no <input type="checkbox"/>
Commissioner Imberman	yes <input checked="" type="checkbox"/>	no <input type="checkbox"/>
Commissioner Levine	yes <input checked="" type="checkbox"/>	no <input type="checkbox"/>

Ordinance No. 07-1470