



TOWN OF GOLDEN BEACH

One Golden Beach Drive
Golden Beach, FL 33160

**Official Agenda for the March 27, 2012
Regular Town Council Meeting called for 7:00 P.M.**

A. MEETING CALLED TO ORDER

B. ROLL CALL

C. PLEDGE ALLEGIANCE

D. PRESENTATIONS / TOWN PROCLAMATIONS

E. MOTION TO SET THE AGENDA

ADDITIONS/ DELETIONS/ REMOVAL OF ITEMS FROM CONSENT
AGENDA/ AND CHANGES TO AGENDA

F. TOWN BOARD/COMMITTEE REPORTS

Beach Committee
Beautification Committee
Comprehensive Planning Board
Recreation Committee
Security/Public Safety Committee
Youth Leadership Group

G. GOOD AND WELFARE

H. MAYOR'S REPORT

I. COUNCIL COMMENTS

J. TOWN MANAGER REPORT

K. TOWN ATTORNEY REPORT

None

L. ORDINANCES – SECOND READING

None

M. ORDINANCES - FIRST READING

None

N. QUASI JUDICIAL RESOLUTIONS

1. Resolution of the Town Council Approving a Variance Request for the property located at 200 South Island Drive.

A RESOLUTION OF THE TOWN OF GOLDEN BEACH, FLORIDA, AUTHORIZING AND APPROVING A VARIANCE REQUEST FOR THE PROPERTY LOCATED AT 200 SOUTH ISLAND DR., GOLDEN BEACH, FLORIDA 33160. TO ALLOW A BOAT LIFT TO BE INSTALLED AT AN EXISTING BOAT NOTCH WITH A 0' SIDE SETBACK, IN LIEU OF THE REQUIRED 5' SETBACK ESTABLISHED FOR THE D-5 TRIANGLE, AND TO ALLOW THE LIFT STRUCTURE TO BE INSTALLED CLOSER THAN 10' FROM THE SIDE YARD PROPERTY LINE. PROVIDING FOR CONDITIONS; PROVIDING FOR IMPLEMENTATION; AND PROVIDING FOR AN EFFECTIVE DATE.

Exhibit: Agenda Report No. 1
[Resolution No. 2226.12](#)

Sponsor: Town Administration

Recommendation: Motion to Approve Resolution No. 2226.12

O. CONSENT AGENDA

2. Minutes of the February 21, 2012 Regular Town Council Meeting

P. TOWN RESOLUTIONS

3. A Resolution of the Town Council Selecting Eisman & Russo, Inc. for Construction Engineering and Inspection (CEI) Services.

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF GOLDEN BEACH, FLORIDA, SELECTING EISMAN & RUSSO, INC. FOR CONSTRUCTION ENGINEERING AND INSPECTION (CEI) SERVICES FOR THE BRIDGE REPLACEMENTS TO THE STRAND AND NAVONA AVENUES; AUTHORIZING AND APPROVING A PROFESSIONAL SERVICES AGREEMENT BETWEEN THE

TOWN AND EISMAN & RUSSO, INC.; AUTHORIZING THE MAYOR AND TOWN MANAGER TO EXECUTE THE AGREEMENT; PROVIDING FOR IMPLEMENTATION; AND PROVIDING FOR AN EFFECTIVE DATE.

Exhibit: Agenda Report No. 3
[Resolution No. 2227.12](#)

Sponsor: Town Administration

Recommendation: Motion to Approve Resolution No. 2227.12

4. A Resolution of the Town Council Approving a Proposal with Corzo, Castella, Carballo, Thompson, Salman, P.A., for Post-Design Engineering Services for the Bridge Replacement at Navona Avenue.

A RESOLUTION OF THE TOWN OF GOLDEN BEACH, FLORIDA APPROVING A PROPOSAL WITH CORZO, CASTELLA, CARBALLO, THOMPSON, SALMAN, P.A., FOR POST-DESIGN ENGINEERING SERVICES FOR THE BRIDGE REPLACEMENT AT NAVONA AVENUE; WAIVING COMPETITIVE BIDDING; PROVIDING FOR IMPLEMENTATION OF THE PROPOSAL; AND PROVIDING FOR AN EFFECTIVE DATE.

Exhibit: Agenda Report No. 4
[Resolution No. 2228.12](#)

Sponsor: Town Administration

Recommendation: Motion to Approve Resolution No. 2228.12

5. A Resolution of the Town Council Approving a Proposal with Corzo, Castella, Carballo, Thompson, Salman, P.A., for Post-Design Engineering Services for the Bridge Replacement at The Strand Avenue.

A RESOLUTION OF THE TOWN OF GOLDEN BEACH, FLORIDA APPROVING A PROPOSAL WITH CORZO, CASTELLA, CARBALLO, THOMPSON, SALMAN, P.A., FOR POST-DESIGN ENGINEERING SERVICES FOR THE BRIDGE REPLACEMENT AT THE STRAND AVENUE; WAIVING COMPETITIVE BIDDING; PROVIDING FOR IMPLEMENTATION OF THE PROPOSAL; AND PROVIDING FOR AN EFFECTIVE DATE.

Exhibit: Agenda Report No. 5

Resolution No. 2229.12

Sponsor: Town Administration

Recommendation: Motion to Approve Resolution No. 2229.12

6. A Resolution of the Town Council Selecting American Bridge Company for Construction of the Bridge Replacements to The Strand and Navona Avenues.

A RESOLUTION OF THE TOWN OF GOLDEN BEACH, FLORIDA, SELECTING AMERICAN BRIDGE COMPANY FOR CONSTRUCTION OF THE BRIDGE REPLACEMENTS TO THE STRAND AND NAVONA AVENUES; AUTHORIZING AND APPROVING A CONTRACT FOR CONSTRUCTION BETWEEN THE TOWN AND AMERICAN BRIDGE COMPANY; AUTHORIZING THE MAYOR AND TOWN MANAGER TO EXECUTE THE CONTRACT; PROVIDING FOR IMPLEMENTATION; AND PROVIDING FOR AN EFFECTIVE DATE.

Exhibit: Agenda Report No. 6
Resolution No. 2230.12

Sponsor: Town Administration

Recommendation: Motion to Approve Resolution No. 2230.12

7. A Resolution of the Town Council Approving an Agreement between the Town and Iron Sky, Inc.

A RESOLUTION OF THE TOWN OF GOLDEN BEACH, FLORIDA, APPROVING AND AUTHORIZING AN AGREEMENT BETWEEN THE TOWN AND IRON SKY, INC. FOR AN INTEGRATED CCTV SECURITY CAMERA SYSTEM AND WIRELESS DATA NETWORK; AUTHORIZING THE MAYOR AND TOWN MANAGER TO EXECUTE THE AGREEMENT; PROVIDING FOR IMPLEMENTATION; AND PROVIDING FOR AN EFFECTIVE DATE.

Exhibit: Agenda Report No. 7
Resolution No. 2231.12

Sponsor: Town Administration

Recommendation: Motion to Approve Resolution No. 2231.12

8. A Resolution of the Town Council Selecting Design Maintenance, LLC for State Road A1A/Ocean Boulevard Landscape and Irrigation Maintenance Services.

A RESOLUTION OF THE TOWN OF GOLDEN BEACH, FLORIDA, SELECTING DESIGN MAINTENANCE, LLC FOR STATE ROAD A1A/OCEAN BOULEVARD LANDSCAPE AND IRRIGATION MAINTENANCE SERVICES; AUTHORIZING AND APPROVING A PROFESSIONAL SERVICES AGREEMENT BETWEEN THE TOWN AND DESIGN MAINTENANCE, LLC; AUTHORIZING THE MAYOR AND TOWN MANAGER TO EXECUTE THE AGREEMENT; PROVIDING FOR IMPLEMENTATION; AND PROVIDING FOR AN EFFECTIVE DATE.

Exhibit: Agenda Report No. 8
[Resolution No. 2232.12](#)

Sponsor: Town Administration

Recommendation: Motion to Approve Resolution No. 2232.12

9. A Resolution of the Town Council Selecting Design Maintenance, LLC for State Road A1A/Ocean Boulevard Fertilization and Pest Management Services.

A RESOLUTION OF THE TOWN OF GOLDEN BEACH, FLORIDA, SELECTING DESIGN MAINTENANCE, LLC FOR STATE ROAD A1A/OCEAN BOULEVARD FERTILIZATION AND PEST MANAGEMENT SERVICES; AUTHORIZING AND APPROVING A PROFESSIONAL SERVICES AGREEMENT BETWEEN THE TOWN AND DESIGN MAINTENANCE, LLC; AUTHORIZING THE MAYOR AND TOWN MANAGER TO EXECUTE THE AGREEMENT; PROVIDING FOR IMPLEMENTATION; AND PROVIDING FOR AN EFFECTIVE DATE.

Exhibit: Agenda Report No. 9
[Resolution No. 2233.12](#)

Sponsor: Town Administration

Recommendation: Motion to Approve Resolution No. 2233.12

10. A Resolution of the Town Council Selecting Orchidman Landscape Artisans, Corp. for Landscape and Irrigation Maintenance Services.

A RESOLUTION OF THE TOWN OF GOLDEN BEACH, FLORIDA, SELECTING ORCHIDMAN LANDSCAPE ARTISANS, CORP. FOR LANDSCAPE AND IRRIGATION MAINTENANCE SERVICES; AUTHORIZING AND APPROVING A PROFESSIONAL SERVICES AGREEMENT BETWEEN THE TOWN AND ORCHIDMAN LANDSCAPE ARTISANS, CORP.; AUTHORIZING THE MAYOR AND TOWN MANAGER TO EXECUTE THE AGREEMENT; PROVIDING FOR IMPLEMENTATION; AND PROVIDING FOR AN EFFECTIVE DATE.

Exhibit: Agenda Report No. 10
[Resolution No. 2234.12](#)

Sponsor: Town Administration

Recommendation: Motion to Approve Resolution No. 2234.12

11. A Resolution of the Town Council Selecting Orchidman Landscape Artisans, Corp. for Fertilization and Pest Management Services.

A RESOLUTION OF THE TOWN OF GOLDEN BEACH, FLORIDA, SELECTING ORCHIDMAN LANDSCAPE ARTISANS, CORP. FOR FERTILIZATION AND PEST MANAGEMENT SERVICES; AUTHORIZING AND APPROVING A PROFESSIONAL SERVICES AGREEMENT BETWEEN THE TOWN AND ORCHIDMAN LANDSCAPE ARTISANS, CORP.; AUTHORIZING THE MAYOR AND TOWN MANAGER TO EXECUTE THE AGREEMENT; PROVIDING FOR IMPLEMENTATION; AND PROVIDING FOR AN EFFECTIVE DATE.

Exhibit: Agenda Report No. 11
[Resolution No. 2235.12](#)

Sponsor: Town Administration

Recommendation: Motion to Approve Resolution No. 2235.12

12. A Resolution of the Town Council Authorizing the Council Assignments.

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF GOLDEN BEACH, FLORIDA ASSIGNING EACH

COUNCILMEMBER THE DUTY TO INQUIRE INTO THE OPERATION OF A PARTICULAR AREA OF GOVERNMENTAL RESPONSIBILITY; PROVIDING FOR CONFLICT; PROVIDING FOR IMPLEMENTATION; AND PROVIDING AN EFFECTIVE DATE.

Exhibit: Agenda Report No. 12
Resolution No. 2236.12

Sponsor: Town Administration

Recommendation: Motion to Approve Resolution No. 2236.12

R. DISCUSSION & DIRECTION TO TOWN MANAGER

Mayor Glenn Singer:
None Requested

Vice Mayor Amy Isackson-Rojas:
None Requested

Councilmember Judy Lusskin:
None Requested

Councilmember Kenneth Bernstein:
None Requested

Councilmember Bernard Einstein:
*Town's Code of Ordinances, Section 66-69, Item #5
*Town's Code of Ordinances, Section 66-140, Items (a) and (b)

Town Manager Alexander Diaz
None Requested

S. ADJOURNMENT:

DECORUM:

ANY PERSON MAKING IMPERTINENT OR SLANDEROUS REMARKS OR WHO BECOMES BOISTEROUS WHILE ADDRESSING THE COUNCIL SHALL BE BARRED FROM THE COUNCIL CHAMBERS BY THE PRESIDING OFFICER. NO CLAPPING, APPLAUDING, HECKLING OR VERBAL OUTBURSTS IN SUPPORT OR OPPOSITION TO A SPEAKER OR HIS OR HER REMARKS SHALL BE PERMITTED. NO SIGNS OR PLACE CARDS SHALL BE ALLOWED IN THE COUNCIL CHAMBERS. PERSONS EXITING THE COUNCIL CHAMBERS SHALL DO SO QUIETLY.

THE USE OF CELL PHONES IN THE COUNCIL CHAMBERS IS NOT PERMITTED. RINGERS MUST BE SET TO SILENT MODE TO AVOID DISRUPTION OF PROCEEDINGS.

PURSUANT TO FLORIDA STATUTE 286.0105, THE TOWN HEREBY ADVISES THE PUBLIC THAT: IF A PERSON DECIDES TO APPEAL ANY DECISION MADE BY THIS BOARD WITH RESPECT TO ANY MATTER CONSIDERED AT ITS MEETING OR HEARING, HE WILL NEED A RECORD OF THE PROCEEDINGS, AND FOR THAT PURPOSE, AFFECTED PERSONS 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. THIS NOTICE DOES NOT CONSTITUTE

CONSENT BY THE TOWN FOR THE INTRODUCTION OR ADMISSION OF OTHER INADMISSIBLE OR IRRELEVANT EVIDENCE, NOR DOES IT AUTHORIZE CHALLENGES OR APPEALS NOT OTHERWISE ALLOWED BY LAW.

IF YOU NEED ASSISTANCE TO ATTEND THIS MEETING AND PARTICIPATE, PLEASE CALL THE TOWN MANAGER AT 305-932-0744 EXT 224 AT LEAST 24 HOURS PRIOR TO THE MEETING.

RESIDENTS AND MEMBERS OF THE PUBLIC ARE WELCOMED AND INVITED TO ATTEND.



TOWN OF GOLDEN BEACH

One Golden Beach Drive
Golden Beach, FL 33160

MEMORANDUM

Date: March 27, 2012

To: Honorable Mayor Glenn Singer &
Town Council Members

From: Alexander Diaz,
Town Manager

Subject: Resolution No. 2226.12 – Variance Request for 200 South Island Drive,
Golden Beach, FL 33160 (Installation of a Boat Lift at a 0' Lot Line
Setback)

Item Number:

1

Recommendation:

It is recommended that the Town Council allow the applicant the opportunity to seek approval of the variance request presented in Resolution No. 2226.12

Background and History:

The Town Code of Ordinances - Sec. 46-87(b)(1) Proximity of Lot Lines and Section 46-55 (2)(3) Vessels, floating docks, or other structures that are moored or installed at a dock or seawall.

The base of the D5 triangle for all lots is set back five feet inside each of the side property lines, and that vessels, floating docks, or other structures that are moored or installed at a dock or a seawall shall maintain a setback of at least ten (10) feet from the water ward projection of the side property lines, and (3) shall be maintained entirely within the established setback. The applicant is requesting a 0' setback for a boat lift installation into an existing boat notch, where a 5' setback has been established for D-5 Triangle and a 10' setback for other structures that are installed.

The Building Regulation Advisory Board met February 14, 2012, and recommended approval of the variance, the motion failed with a Board vote of 2 - 1 (2 nay, 1 aye) the motion failed for lack of an affirmative vote.

No one in attendance spoke in opposition to this item. One letter of no objection was submitted from Mr. Kassin the property owner of 198 South Island Drive, Golden Beach, FL.

Attachments:

- Resolution
- Building Official Critique
- Notice of Hearing
- Building Regulation Advisory Board Application
- Copy of resident notification listing
- Summary minutes-draft

Financial Impact:

None

TOWN OF GOLDEN BEACH, FLORIDA

RESOLUTION NO. 2226.12

A RESOLUTION OF THE TOWN OF GOLDEN BEACH, FLORIDA, AUTHORIZING AND APPROVING A VARIANCE REQUEST FOR THE PROPERTY LOCATED AT 200 SOUTH ISLAND DR., GOLDEN BEACH, FLORIDA 33160. TO ALLOW A BOAT LIFT TO BE INSTALLED AT AN EXISTING BOAT NOTCH WITH A 0' SIDE SETBACK, IN LIEU OF THE REQUIRED 5' SETBACK ESTABLISHED FOR THE D-5 TRIANGLE, AND TO ALLOW THE LIFT STRUCTURE TO BE INSTALLED CLOSER THAN 10' FROM THE SIDE YARD PROPERTY LINE. PROVIDING FOR CONDITIONS; PROVIDING FOR IMPLEMENTATION; AND PROVIDING FOR AN EFFECTIVE DATE;

WHEREAS, the applicants, Steve and Dalia Berman, (the "Applicants"), filed a Petition for a Variance, from Chapter 46 "Waterways"; Section 46-87 (b) (1) Proximity of Lot Lines and 46-55 (2) (3) Vessels, Floating Docks, and other Structures Moored or installed at a Seawall or Dock, of the Town Code.

1. To allow a Boat Lift to be installed into an existing boat notch at a 0' side setback, whereas a 10' minimum setback from the waterward projection of the side property lines is required and the Boat Lift shall be maintained entirely within the established setback.

2. To allow the boat lift to protrude outside the 5' setback established for the D-5 Triangle, at the property location 200 South Island Dr., Golden Beach, Florida 33160 (Golden Beach Section "D", Portions of Lot 29 & 30, Block J, GB Section D, as recorded in PB 10-10, of the Public Records of Miami-Dade County, (Folio No. 19-1235-004-0680) (the "Property") and;

WHEREAS, the Town's Building Regulation Advisory Board held an advertised public hearing on the Petition for Variance/Exception and recommended disapproval of the variance by the Town Council; and,

WHEREAS, a public hearing of the Town Council was advertised and held, as required by law, and all interested parties were given an opportunity to be heard; and

WHEREAS, the Town Council having considered the evidence presented, finds that the Petition of Variance meets the criteria of the applicable codes and ordinances to the extent the application is granted herein.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF GOLDEN BEACH, FLORIDA, AS FOLLOWS:

Section 1. Recitals Adopted. Each of the above stated recitals are hereby adopted and confirmed.

Section 2. Approval. The Petition for Variance to permit each of the requested variances is hereby granted.

Section 3. Conditions. The Petition for Exception/Variance as granted is subject to the following conditions:

- (1) Applicant shall record a certified copy of this Resolution in the public records of Miami-Dade County; and
- (2) Construction shall be completed substantially in accordance with those certain plans, S-1 through S-4, by John Omslaer, P.E., Dynamic Engineering Solutions, dated 1/5/2012, for the property located at 200 South Island Drive, Golden Beach, FL 33160.

Section 4. Implementation. That the Building and Zoning Director is hereby directed to make the necessary notations upon the maps and records of the Town of Golden Beach Building and Zoning Department and to issue all permits in accordance with the terms and conditions of this Resolution. A copy of this Resolution shall be attached to the building permit application documents.

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

Sponsored by Administration.

The Motion to adopt the foregoing Resolution was offered by _____,
seconded by _____ and on roll call the following vote ensued:

Mayor Glenn Singer	_____
Vice Mayor Amy Isackson-Rojas	_____
Councilmember Judy Lusskin	_____
Councilmember Kenneth Bernstein	_____
Councilmember Bernard Einstein	_____

PASSED AND ADOPTED by the Town Council of the Town of Golden Beach,
Florida, this 27th day of March, 2012

ATTEST:

MAYOR GLENN SINGER

LISSETTE PEREZ
INTERIM TOWN CLERK

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY:

STEPHEN J. HELFMAN
TOWN ATTORNEY

Town of Golden Beach

MEMORANDUM

To: Building Regulation Advisory Board
From: Daniel B. Nieda, R.A. Building Official
Date: February 14, 2012
Re: Variance Petition for 200 South Island Drive

By Email

Background:

The applicant has submitted for review a variance petition in connection with a new boat lift to be installed in an existing boat notch for a single family residence at, 200 South Island Drive, in the Zone 3 Single Family Residential District. The applicant seeks approval of the variance petition to allow relief from required side yard setback requirements stipulated per Section 46-87(b)(1) and Section 46-55 for side property line waterway projections of the Zoning Code.

The applicant seeks to allow the construction of the required D-5 triangle at the zero lot line in lieu of the required 5 foot setback and for structures installed within 10 feet of the side property line. The applicant enjoys the use of the existing non-conforming boat notch and seeks to allow the installation of the boat lift within the boat notch. Such installation with the approval of the variance would allow the boat lift to be inside the D-5 triangle. However, once the boat is elevated it might project beyond the limits of the D-5 triangle. Design Documents consist of drawings S-1 through S-4, prepared by John Omslaer, P.E. dated January 9, 2012. The variance petition needs to be considered on its own merit in accordance with Section 66-41 of the Code of Ordinances as follows:

Proximity of Lot Lines:

Section 66-41 of the Code of Ordinances requires that seven conditions be met to demonstrate an undue hardship. In recommending the granting of a variance the Building Regulation Advisory Board may prescribe appropriate conditions and safeguards in conformity with the Town of Golden Beach's Code. In reviewing the Variance petition the Board shall confirm the findings of the Building Official as follows:

1. Yes, the petition constitutes a variance, since the applicant seeks to reduce the spring point of the D-5 triangle to the zero lot line in lieu of the required 5 foot setback per Section 46-87(b) (1) and allow the boat lift structure to project closer than 10 feet from the side yard property line as required per Section 46-55 of the Zoning Code.
2. No, the land is not peculiar in nature as the site is 16,500 square feet with frontage of 100 feet and depth of 165 feet.
3. Yes, the variance petition stems from the actions of the applicant by requesting the installation of the boat lift within the existing non-conforming boat notch.

4. Yes, the granting of the variance might confer upon the applicant a special privilege that is denied to other lands in the same District by permitting the installation of the boat lift closer to the property line than commonly allowed.
5. Yes, the literal interpretation of the provision of the Zoning Code will not deprive the applicant the rights commonly enjoyed by other compatible residences with boat lifts, where boat lifts may be installed closer to the center of the site.
6. Yes, the variance petition is not the minimum variance that will allow the applicant reasonable use of the land.
7. Yes, the granting of the variance should not be injurious to the area or detrimental to the public welfare as the boat lift installation would be of low adverse environmental impact, and provide protection from waves generated by passing boaters.

Accordingly, the Building Official notes that this variance petition does not seem to rise to the standards required by Section 66-41 of the Code, where existing conditions support a favorable consideration. However, an expansion of use for the existing non-conforming boat notch does not appear detrimental provided that the closest impacted neighbor does not object to the proposed expansion of use.



**TOWN OF GOLDEN BEACH
Notice for Public Hearing Date**

The Town of Golden Beach **Building Advisory Board** and the **Town Council** of the Town of Golden Beach will hold a Public Hearing on the following proposal:

- Variance Request(s)
- Addition/Alteration to Existing Structure
- New Building
- Other

Request for relief from Town Code Section 46-87b(1) Proximity of Lot lines and Section 46-55 Vessels, Floating Docks, and other structures moored or installed at a seawall or dock.

To allow a boat lift to encroach with the setbacks established by the code.

JOB ADDRESS: 200 South Island Dr., Golden Beach, Fl. 33160
OWNER ADDRESS: 1930 Harrison Street, Suite 505, Hollywood, FL. 33020
REQUESTED BY: Steve and Dalia Berman
LEGAL DESCRIPTION: Lots 29 & 30, Blk J, GB Sect D, PB 10-10
FOLIO NO.: 19-1235-004-0680

The **BUILDING REGULATION BOARD** will consider this item:

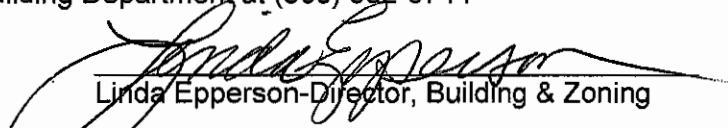
PLACE: GOLDEN BEACH TOWN HALL
 1 GOLDEN BEACH DR., GOLDEN BEACH, FL
DATE: February 14, 2012 at 6:00pm

The **TOWN COUNCIL** will consider this item:

PLACE: GOLDEN BEACH TOWN HALL
 1 GOLDEN BEACH DR., GOLDEN BEACH, FL
DATE: March 27, 2012 at 7:00pm

If you wish to submit written comments for consideration, they should be submitted to the Office of the Golden Beach Town Manager, prior to the scheduled meeting. If you have any questions regarding the proposed action, you may contact the Building Department at (305) 932-0744

DATED: February 3, 2012


 Linda Epperson-Director, Building & Zoning

PURSUANT TO FLA. STATUTE 286.0105, THE TOWN HEREBY ADVISES THE PUBLIC THAT: IF A PERSON DECIDES TO APPEAL ANY DECISION MADE BY THE COUNCIL, BOARD OR COMMITTEE WITH RESPECT TO ANY MATTER CONSIDERED AT ITS MEETING OR HEARING, HE WILL NEED A RECORD OF THE PROCEEDINGS, AND THAT FOR SUCH PURPOSE, AFFECTED PERSONS MAY NEED TO ENSURE THAT A VERBATIM RECORD OF THE PROCEEDING IS MADE, WHICH RECORD INCLUDES THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS TO BE BASED. ANY INDIVIDUAL WHO BELIEVES HE OR SHE HAS A DISABILITY WHICH REQUIRES A REASONABLE ACCOMMODATION IN ORDER TO PARTICIPATE FULLY AND EFFECTIVELY IN A MEETING OF THE BUILDING REGULATION BOARD MUST SO NOTIFY THE TOWN CLERK, AT (305) 932-0744 AT LEAST 24 HOURS PRIOR TO THE DATE OF THE MEETING.

TOWN OF GOLDEN BEACH
APPLICATION FOR
BUILDING REGULATION ADVISORY BOARD HEARING

Application fee: _____

Request hearing in reference to:

New residence/addition: _____ Variance(s): Boatlift in Notch
Exterior alterations: _____ Other Structure: _____
Date application filed: _____ For hearing date: _____

1. Project information:

Project description: This project requests a variance for the installation of a boatlift within the existing boat notch that crosses TGB Zoning Triangle
Legal Description: GOLDEN BEACH SEC D PB 10-10 LOTS 29 & 30 BLK J

Folio #: 19-1235-004-0680

Address of Property: 200 South Island Dr

2. Is a variance(s) required: Yes No How Many? 1
(If yes, please submit variance application form for each request).

Owner's Name: Steve Berman Phone 954-651-0864 Fax _____

Owner's address: 200 South Island Drive City/State Golden Beach, FL Zip 33160

Agent: Kirk Lofgren Phone 305-457-5573 Fax 305-677-3254

Agent's address: 340 Minorca Avenue #5 City/State Coral Gables, FL Zip 33134

Architect: _____ Phone _____ Fax _____

Contractor: Southeast Marine Construction Phone 954-630-2300 Fax _____

3. Describe project and/ or reason for request of hearing: _____
This project requests a variance for the installation of a boatlift within the existing boat notch that crosses into the TGB Zoning Triangle.

4. The following information is submitted for assisting in review:

Building Plans:

Conceptual: _____ Preliminary: _____ Final: _____

Other: _____

5. Estimated cost of work: \$31,350
Estimated market value of: Land \$ _____
Building \$ _____

(Note: If estimated cost of work is 40% of the market value of the building an independent appraisal is required).

TOWN OF GOLDEN BEACH
APPLICATION FOR
BUILDING REGULATION ADVISORY BOARD HEARING

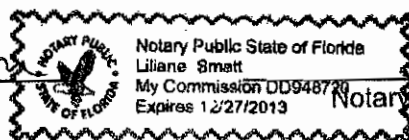
6. Is hearing being requested as a result of a Notice of Violation? No
7. Are there any structures on the property that will be demolished? No
8. Does legal description conform to plat? Yes
9. Owner Certification: I hereby certify that I am the owner of record (*) of the property described in this application and that all information supplied herein is true and correct to the best of my knowledge.

Signature of owner(s): _____

Acknowledged before me this 5th day of Jan, 20012

Type of identification:

Personally known



Smatt
Notary Public

Owner/Power of Attorney Affidavit:

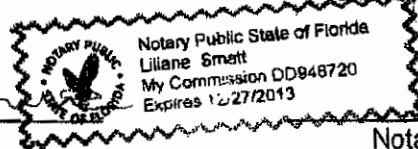
I, being duly sworn, depose and say I am the owner (*) of the property described in this application and that I am aware of the nature and request for: BRAB Variance Hearing relative to my property and I am hereby authorizing Kirk Lofgren to be my legal representative before the Building Regulation Advisory Board and Town Council.

Signature of owner(s)

Acknowledged before me this 5th day of Jan, 20012

Type of identification:

Personally known



Smatt
Notary Public

(*) If owner of record is a corporation then the president with corporate seal, the president and the secretary (without corporate seal), or duly authorized agent for the corporation may execute the application.

TOWN OF GOLDEN BEACH
APPLICATION FOR
BUILDING REGULATION ADVISORY BOARD HEARING

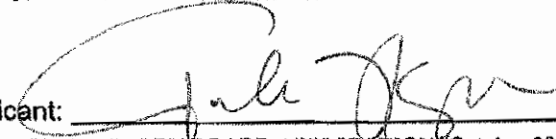
Property Address: 200 South Island Drive, Golden Beach, FL
Legal Description: GOLDEN BEACH SEC D PB 10-10 LOTS 29 & 30 BLK J
Owner's Name: Steve Berman Phone 954-651-0864 Fax _____
Agent's Name: Kirk Lofgren Phone 305-457-5573 Fax 305-677-3254
Board Meeting of: _____

- NOTE: 1. Incomplete applications will not be processed.
2. Applicant and/or architect must be present at meeting.

Application for: BRAB Variance Hearing
Lot size: 16,500 SQ FT
Lot area: _____
Frontage: _____
Construction Zone: _____
Front setback: _____
Side setback: _____
Rear setback: _____
Coastal Construction: Yes No East of coastal const. control line: Yes _____ No
State Road A1A frontage: _____
Swimming pool: _____ Yes _____ No Existing: _____ Proposed: _____
Fence Type: _____ Existing: _____ Proposed: _____
Finished Floor elevation N.G.V.D.: _____
Seawall: _____ Existing: Proposed: _____
Lot Drainage: _____
How will rainwater be disposed of on site? _____

Adjacent use (s): _____
Impervious area: _____
% of impervious area: _____
Existing ground floor livable area square footage: _____
Proposed ground floor livable area square footage: _____
Existing 2nd floor livable area square footage: _____
Proposed 2nd floor livable area square footage: _____
Proposed % of 2nd floor over ground floor: _____
Vaulted area square footage: _____
Vaulted height: _____
Color of main structure: _____
Color of trim: _____
Color & material of roof: _____
Building height (above finished floor elevation): _____
Swale: (Mandatory 10'-0" from edge of payment, 10 ft. wide x 1 ft. deep minimum): _____

Existing trees in Lot: _____ in Swale: _____
Proposed trees in Lot: _____ in Swale: _____
Number & type of shrubs: _____
Garage Type: _____ Existing: _____ Proposed: _____
Driveway width & type: _____

Signature of Applicant:  Date: 1/4/2011

TOWN OF GOLDEN BEACH
BUILDING REGULATION ADVISORY BOARD
APPLICATION FOR
PETITION FOR VARIANCE

Date: _____

Fee: _____

I, Steve Berman hereby petition the Town of Golden Beach for a variance from the terms of the Town of Golden Beach Code of Ordinances affecting property located at: 200 South Island Dr Folio No. 19-1235-004-0680

As specified in the attached "Application for Building Regulation Advisory Board" and related supporting material.

1. The Variance requested is for relief from the provisions of (list section number(s) of the Town of Golden Beach Code of Ordinances): SECTION 46-87 (b)

2. In order to recommend the granting of the variance, it must meet all the following criteria (please provide a response to each item):

a. The Variance is in fact a Variance from a zoning regulation as set forth within the Zoning Chapter of the Town Code. YES

b. Special conditions and circumstances exist which are peculiar to the land or structure involved, and which are not applicable to other lands or structures in the same district. EXISTING BOAT NOTCH ON THE PROPERTY IN SOUTH EASTWEST CORNER

c. The special conditions and circumstances do not result from the actions of the applicant. CORRECT. BOAT NOTCH WAS EXISTING UPON PURCHASE.

d. Granting the Variance requested will not confer on the applicant any special privilege that is denied by the Zoning Chapter of the Town Code to other lands or structures in the same district. CORRECT.

TOWN OF GOLDEN BEACH
BUILDING REGULATION ADVISORY BOARD
PETITION FOR VARIANCE

3. Literal interpretations of the provisions of the Zoning Chapter of the Town Code would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of zoning regulations and would work unnecessary and undue hardship on the applicant. YES. CORRECT.

4. The Variance granted is the minimum Variance that will make possible the reasonable use of the land or structure. CORRECT.

5. The granting of the Variance will be in harmony with the general intent and purpose of the Town Code and the Variance will not be injurious to the area involved or otherwise detrimental to the public welfare. CORRECT. A WAIVER FROM THE NEIGHBOR HAS BEEN OBTAINED. DISCUSSIONS WITH THE NEIGHBOR HAVE BEEN POSITIVE (MR + MRS. KASSIN)

Does the Variance being requested comply with all the above listed criteria?
 Yes No

6. Our code states that submission of a written statement is invited and encouraged. Has the applicant (petitioner) explained the variance to the owners of the nearest adjacent residences and sought their approval in writing? Yes No.
Please attach any written letters of no objection to this petition.

7. Is this request related to new construction? Yes No

8. Is construction in progress? No

9. Is this request as a result of a code violation? No

10. Did this condition exist at the time property was acquired? Yes No

11. Is this request sought as a remedy to a case to be heard, or action taken by the Special Magistrate? No

12. Do you have a building permit? Yes No

Building Permit No. _____ Date issued: _____

TOWN OF GOLDEN BEACH
BUILDING REGULATION ADVISORY BOARD
PETITION FOR VARIANCE
AFFIDAVIT BY OWNER

Affidavit by Owner for Variance Request(s):

Folio No.: 19-1235-004-0680

Address: 200 South Island Dr.

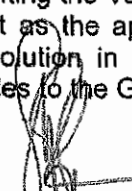
Legal Description: _____

GOLDEN BEACH SEC D PB 10-10 LOTS 29 & 30 BLK J

Being duly sworn, deposes and says: That He/She is the Owner named in the application for Building Advisory Board for the hearing date of _____ relating to Variance requests for construction or other work to be performed on, or in connection with, the premises located as indicated in the application.

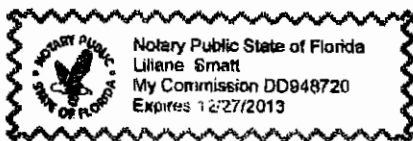
I acknowledge notification by The Town of Golden Beach, that granting of a variance(s) by The Town Council, is conditioned on the following:

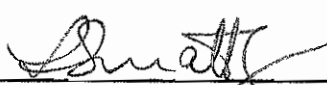
1. That a Building Permit for the contemplated work pursuant to the Variance must be issued within two (2) years from the date of the approval of the Resolution granting such variance request.
2. If a Building Permit is not issued within the two (2) year time limit set then the Resolution granting the Variance approval will be null and void.
3. That as the applicant, and at my own expense, I shall record a certified copy of the Resolution in the public records of Miami-Dade County and return two (2) certified copies to the Golden Beach Town Hall for inclusion into my property records.



Signature of Owner or Legal Representative

Sworn to and subscribed before me this 5th day of Jan. 2012





Notary Public State of Florida at Large

Personally know to me

Produced Identification

January 9, 2012

TOWN OF GOLDEN BEACH
BUILDING REGULATION ADVISORY BOARD
1 Golden Beach Drive
Golden Beach, Florida 33160

RE: TOWN OF GOLDEN BEACH BUILDING REGULATION ADVISORY BOARD LETTER OF INTENT FOR THE BERMAN BOATLIFT INSTALLATION PROJECT AT 200 SOUTH ISLAND DRIVE, IN THE TOWN OF GOLDEN BEACH, MIAMI-DADE COUNTY, FLORIDA (FOLIO NUMBER 19-1235-004-0680)

To the Board:

Mr. Steve Berman is respectfully submitting this Letter of Intent as part of the Building Regulation Advisory Board application process for a variance from Section 46-87 of the Town of Golden Beach Code of Ordinances. The summary that follows outlines the request for the variance, and the specific circumstances that require the issuance of this variance.

PURPOSE OF VARIANCE REQUEST

The purpose of this Letter of Intent is to request a variance from Section 46-87 of the Town of Golden Beach Code of Ordinances that prohibits construction that extends across/into the Town of Golden Beach Zoning Triangle. This application is requesting authorization to install a boatlift within the existing boat notch that crosses into that Town of Golden Beach Zoning Triangle. The existing boat notch was not constructed by Mr. Berman, and already crosses into the Town's Zoning Triangle. The boatlift proposed within the existing, historic notch will assist Mr. Berman in keeping the vessel clear of marine debris, and safe from wake and waves generated by passing boaters that could damage the vessel.

Note also that a Letter of Concurrence of Setback Waiver has been obtained from the adjacent neighbor and is provided in the enclosed package. Mr. Kassin does not object to the boatlift or its location.

See also the attached site plan for additional information on the proposed boatlift location and installation, and construction plan at the property. Given the shallow draft of the proposed vessels, and the low potential for environmental impact, DERM is also, already recommending approval for this configuration.

10-1555
Town of Golden Beach
January 9, 2012
Page 2

CONCLUSIONS

Based on the above findings, and DERM's recommendation for approval, the proposed variance is requested to keep Mr. Berman's vessel safe from damage during heavy wake/wave traffic in the adjacent Intracoastal Waterway, and to extend the life of the vessel by keeping the engines and hull out of the water. As a result, we respectively request your approval of this variance in light of the existing, unique circumstances at this property.

Thank you for your review of this letter of intent and your assistance in processing this application. Should you have any questions or require additional information, please do not hesitate to contact me at (305) 457-5573.

Sincerely,

**KIRK LOFGREN, AGENT
OCEAN CONSULTING, LLC**

LETTER OF CONCURRENCE FOR SETBACK WAIVER

TO: Steve Berman (owner/applicant)
200 S. Island Dr. (address of project)
Golden Beach, FL 33160

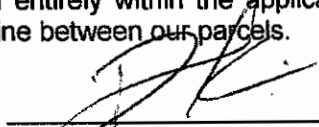
File No.: 19-1235-004-0680

FROM: Ricardo Kassin (adjacent property owner)
198 S. Island Dr. (address)
Golden Beach, FL 33160

Section 18-21.004(3)(d), Florida Administrative Code, provides:

Except as provided herein, all structures, including mooring pilings, breakwaters, jetties and groins, and activities must be set back a minimum of 25 feet inside the applicant's riparian rights lines. Marginal docks, however, must be set back a minimum of 10 feet. Exceptions to the setbacks are: private residential single-family docks or piers associated with a parcel that has a shoreline frontage of less than 65 feet, where portions of such structures are located between riparian lines less than 65 feet apart, or where such structure is shared by two adjacent single-family parcels; utility lines; bulkheads, seawalls, riprap or similar shoreline protection structures located along the shoreline; structures and activities previously authorized by the Board; structures and activities built or occurring prior to any requirement for Board authorization; **when a letter of concurrence is obtained from the affected adjacent upland riparian owner;** or when the Board determines that locating any portion of the structure or activity within the setback area is necessary to avoid or minimize adverse impacts to natural resources.

I hereby state that I am the owner of the adjacent upland riparian property located to the (north / south) east / west) of the facility or activity proposed to be constructed or conducted by Steve Berman (the applicant), as shown in the above referenced file (and on the attached drawing). I understand that the subject project will be located entirely within the applicant's riparian rights area, and I do not object to the proposed structure or activity being located within the area required as a setback distance from the common riparian rights line, as required by Chapter 18-21.004(3)(d), F.A.C. This file shows the structure will be located entirely within the applicant's riparian rights area and within 5' of the common riparian rights line between our parcels.

→ 
(Original signature of adjacent owner)
Ricardo KASSIN
(Printed name of adjacent owner)

Sept. 2, 2011
(Date signed)

This form is not adopted by rule; therefore, any letter of concurrence of similar content may be accepted.

LETTER OF CONCURRENCE FOR SETBACK WAIVER

TO: Steve Berman (owner/applicant)
200 S. Island Dr. (address of project)
Golden Beach, FL 33160

File No.: 19-1235-004-0680

FROM: Ricardo Kassin (adjacent property owner)
198 S. Island Dr. (address)
Golden Beach, FL 33160

Section 18-21.004(3)(d), Florida Administrative Code, provides:

Except as provided herein, all structures, including mooring pilings, breakwaters, jetties and groins, and activities must be set back a minimum of 25 feet inside the applicant's riparian rights lines. Marginal docks, however, must be set back a minimum of 10 feet. Exceptions to the setbacks are: private residential single-family docks or piers associated with a parcel that has a shoreline frontage of less than 65 feet, where portions of such structures are located between riparian lines less than 65 feet apart, or where such structure is shared by two adjacent single-family parcels; utility lines; bulkheads, seawalls, riprap or similar shoreline protection structures located along the shoreline; structures and activities previously authorized by the Board; structures and activities built or occurring prior to any requirement for Board authorization; **when a letter of concurrence is obtained from the affected adjacent upland riparian owner**; or when the Board determines that locating any portion of the structure or activity within the setback area is necessary to avoid or minimize adverse impacts to natural resources.

I hereby state that I am the owner of the adjacent upland riparian property located to the (north / south east / west) of the facility or activity proposed to be constructed or conducted by Steve Berman (the applicant), as shown in the above referenced file (and on the attached drawing). I understand that the subject project will be located entirely within the applicant's riparian rights area, and I do not object to the proposed structure or activity being located within the area required as a setback distance from the common riparian rights line, as required by Chapter 18-21.004(3)(d), F.A.C. This file shows the structure will be located entirely within the applicant's riparian rights area and within 5' of the common riparian rights line between our parcels.

→ [Signature]
(Original signature of adjacent owner)
Ricardo KASSIN
(Printed name of adjacent owner)

Sept. 2, 2011
(Date signed)

This form is not adopted by rule; therefore, any letter of concurrence of similar content may be accepted.

(1/30/03)

Sec. 46-87. Proximity of lot lines.

(a) No part of any dock or any other structure shall be placed nearer than ten feet to a line formed by the projection of the sidelines of the lot.

* (b) No portion of a dock, boat lift, hydrohoist or any other method of elevation, mooring piles, boat davits, dolphin piles or any other structure, and no portion of a boat elevated above the water moored at a dock or seawall, shall protrude into the waterway, unless it is within the triangle formed by connecting the points indicated below, that form a triangle where the waterfront property line is the base of the triangle and the triangle sides extend towards the waterway at a 45 degree angle until the lines intersect on the waterway side of the lot, but never to exceed 25 feet into the waterway from each of the lot property line. Neither elevated boats nor docks shall encroach in any instance within the side setback area. The base of the triangle shall be determined as follows:

(1) When the waterfront is less than 65 feet, the base of the triangle extends to each of the side property lines.

(2) When the waterfront is 65 feet or more, up to and including 80 feet, the base of the triangle is set back five feet inside each of the side property lines.

(3) When the waterfront is greater than 80 feet, the base of the triangle is set back ten feet inside each of the side property lines.

(4) When the lot line is curved, the base shall be measured at the straight line, forming the chord, connecting the two side property lines (or the two side setback lines) at the point where they cross the sea wall. The side setback shall be determined based upon the length of the chord as provided in this subsection, above.

(c) The keel of a raised vessel shall be no higher than the cap of the seawall and never higher than four feet above mean sea level.

(d) No dock, lift, mooring piles or moored boat shall be permitted on vacant lots. Permits for such construction will be issued after a building permit for a single family home has been issued, but the final inspection will be performed at the same time that the single family home final inspection is given.

(e) Legal nonconforming dock structures--If more than 50 percent of the value of the dock structure, lift, dolphin pile or other structure referenced in this section, is spent to repair or renovate such dock structures, then the dock structures must conform with the provisions of this section. The fair market value shall be determined by a State certified real estate appraiser or the Building Official. Dock structures that were not legally permitted when installed shall not be improved unless they conform to this section. If an existing residence that has a dock is demolished, the dock can remain in place with the following provisions:

(1) That a new residence will be constructed and completed within two years from completion of the demolition; and

(2) A Bond in an amount equal to 120 percent of the estimated cost of the dock demolition is filed with the Town's building and zoning department; and

(3) As part of the demolition permit documents, the Owners of Record shall file an affidavit with the Town's building and zoning department, authorizing the Town to use the Bond funds to demolish the dock if a residence is not completed on the lot after the expiration of the two year's time limit.

(Ord. No. 514.06, § 3, 10-17-06)

BOUNDARY SURVEY

Property Address:

200 SOUTH ISLAND DRIVE, GOLDEN BEACH, FLORIDA

LEGAL DESCRIPTION:

Lots 29 and 30, Block J, of "SECTION "D" OF GOLDEN BEACH" according to the plat thereof as recorded in Plat Book 10 at Page 10 of the Public Records of Miami-Dade County, Florida.

SURVEYOR'S NOTES:

- 1) The above captioned Property was surveyed and described based on the above Legal Description: **Provided by Client.**
- 2) This Certification is only for the lands as described. It is not a certification of Title, Zoning, Easements, or Freedom of Encumbrances. **ABSTRACT NOT REVIEWED.**
- 3) There may be additional Restrictions not shown on this survey that may be found in the Public Records of this County, Examination of **ABSTRACT OF TITLE** will have to be made to determine recorded instruments, if any affecting this property.
- 4) **Accuracy:**
The expected use of the land, as classified in the Minimum Technical Standards (81G17-6FAC), is "Residential High Risk". The minimum relative distance accuracy for this type of boundary survey is 1 foot in 10,000 feet. The accuracy obtained by measurement and calculation of a closed geometric figure was found to exceed this requirement.
- 5) Foundations and/or footings that may cross beyond the boundary lines of the parcel herein described are not shown hereon.
- 6) Not valid without the signature and the original raised seal of a Florida Licensed Surveyor and Mapper. Additions or deletions to survey maps or reports by other than the signing party or parties are prohibited without written consent of the signing party or parties.
- 7) Contact the appropriate authority prior to any design work on the herein-described parcel for Building and Zoning information.
- 8) Underground utilities are not depicted hereon, contact the appropriate authority prior to any design work or construction on the property herein described. Surveyor shall be notified as to any deviation from utilities shown hereon.
- 9) The surveyor does not determine fence and/or wall ownership.
- 10) Ownership subjects to **OPINION OF TITLE.**
- 11) Type of Survey: **BOUNDARY SURVEY.**
- 12) North arrow direction and bearings are based on Recorded Plat Book 10 at Page 10 of the Public Records of Dade County, Florida.
- 13) Elevations are based on the National Geodetic Vertical Datum of 1929.
- 14) Bench Mark Used: Nail & disc on bridge crossing Grand Canal. * Elev. = +5.35'
- 15) Flood Zone: **AE Base Flood Elev.: 7.00'** as per Dade County, Florida. FEMA Panel Number: **120642-0153-L-SEPTEMBER 11, 2009**
- 16) This PLAN OF SURVEY has been prepared for the exclusive use of the entities named hereon. The Certificate does not extend to any unnamed party:

- A.) STEVEN & DALIA BERMAN
- B.) JERICO TITLE SERVICES, INC.

SURVEYOR'S CERTIFICATE:

I Hereby Certify to the best of my knowledge and belief that this drawing is a true and correct representation of the **BOUNDARY SURVEY** of the real property described hereon.

I further certify that this survey was prepared in accordance with the applicable provisions of Chapter 81G17-6, Florida Administrative Code.

Field Date: May 10, 2010
Job# RP-10-347



Pablo J. Alfonso P.S.M.
Professional Surveyor & Mapper
State of Florida Reg. No.5880



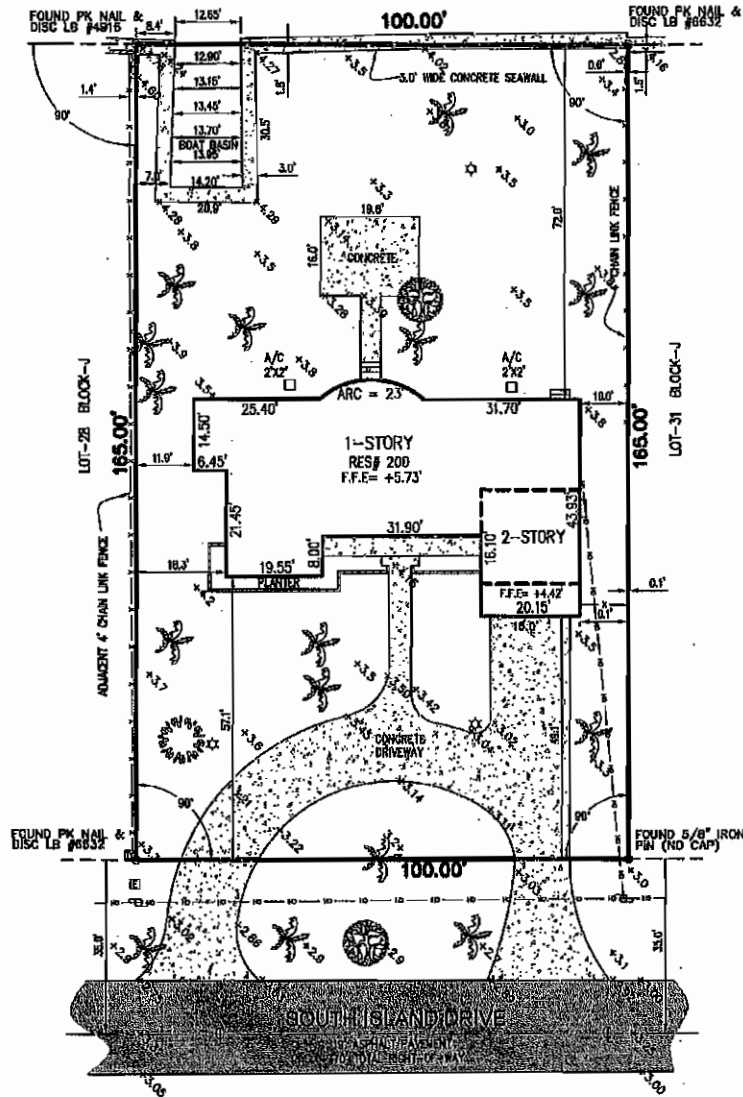
6175 NW 153rd STREET, SUITE 321, MIAMI LAKES, FLORIDA 33014
Phone: 305-822-8082 * Fax: 305-827-9869

BOUNDARY SURVEY

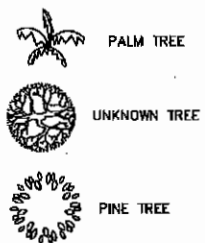
SCALE: 1" = 30'



GOLDEN ISLE WATERWAY



F:\DRAWING\200 SOUTH ISLAND DRIVE.dwg 05/10/2010



LEGEND

- Overhead Wire Line
- //— Wood Fence
- x— Chain Link Fence
- Iron Fence
- M— Monument Line
- C— Centaline
- P— Property Line
- ▨ C.B.S.

- * 1.000 = Existing Elevations
- ☒ = Catch Basin
- ⊙ = Water Meter
- ⊕ = Electric Box
- ⊙ = Sanitary Manhole
- ⊗ = Sprinkler Pump
- ⊙ = Wood Pole
- ⊙ = Conc. Pole
- ☆ = Light Pole
- ⊙ = Fire Hydrant
- ⊙ = Water Valve
- ⊙ = Cable Tv Box
- ⊙ = Electric Meter Box
- Conc. = Concrete
- C.B.S. = Concrete Block & Stucco
- D.F. = Drainage Easement
- D.M.E. = Drainage Maintenance Easement
- F.F.E. = Finish Floor Elevation
- F.I.P. = Found Iron Pipe/Ph
- F.I.R. = Found Iron Rebar
- F.N. = Found Nail
- F.N&D = Found Nail & Disc
- L.M.E. = Lake Maintenance Easement
- (M) = Measured
- (P) = Platted
- (R) = Record
- Res. = Residence
- SP/R = Sat Iron Ph/Rebar
- U.E. = Utility Easement

- A=Arc
- BRC=Bearing
- CH=Chord
- Δ=Delta
- L=Length
- R=Radius
- T=Tangent

ROYAL POINT
LAND SURVEYORS, INC.
PHONE: 305-822-6062 * FAX: 305-827-9669
6175 NW 153rd STREET SUITE 321
MIAMI LAKES FL. 33014

STEVEN & DALIA BERMAN
1930 HARRISON ST., STE 505
HOLLYWOOD, FL. 33020

RICARDO KASSIN
198 SOUTH ISLAND DRIVE
GOLDEN BEACH, FL. 33160

IGOR & ANZHELIKA
ANAPOLSKY
210 SOUTH ISLAND DR.
GOLDEN BEACH, FL. 33160

692 265 ONTARIO LTD.
70 SHIELDS CT.
MARKHAM, ONTARIO L3R 9T5

ALBERTO & ROSSANA
FRANCO
212 SOUTH ISLAND DR.
GOLDEN BEACH, FL. 33160

220 SOUTH ISLAND LLC
220 SOUTH ISLAND DRIVE
GOLDEN BEACH, FL. 33160

LINDA SIMON & RICHARD
SIMON TRS
19707 TURNBERRY WAY, #4
AVENTURA, FL. 33180

JEFFREY & DENISE GELBLUM
110 SOUTH ISLAND DRIVE
GOLDEN BEACH, FL. 33160

MARCOS & SARA LENCOVSKI
294 SOUTH ISLAND DRIVE
GOLDEN BEACH, FL. 33160

LAURNET & NICOLE GROLL
284 SOUTH ISLAND DRIVE
GOLDEN BEACH, FL. 33160

INTRAMARINA PROPERTIES
C/O LOEB BLOCK & PARTNERS
505 PARK AVE., 9TH FLOOR
NEW YORK, NY 10022

EVGENY MELASHCHENKO
194 SOUTH ISLAND DR.
GOLDEN BEACH, FL. 33160



TOWN OF GOLDEN BEACH
1 Golden Beach Drive
Golden Beach, FL. 33160

SUMMARY MINUTES
BUILDING REGULATION ADVISORY BOARD
February 14, 2012 at 6:00pm

- A. CALL MEETING TO ORDER:** 6:00pm
- B. BOARD ATTENDANCE:** Eric Cohen, Jerome Hollo, Fred Chouinard
- C. STAFF ATTENDANCE:** Dan Nieda-Building Official,
Linda Epperson-Building and Zoning Director
- D. APPROVAL OF MINUTES:** January 10, 2012
Motion to table the minutes by Fred Chouinard, Seconded by Eric Cohen
On roll call: Eric Cohen-Aye, Jerome Hollo-Aye, Fred Chouinard-Aye
Motion passed 3 – 0
- E. REQUEST FOR ADDITIONS, DEFERRALS, DELETIONS & WITHDRAWALS**
- F. VARIANCE REQUEST(S):**

1. Steven and Dalia Berman
1930 Harrison Street, Suite 505
Hollywood, FL. 33020

Property Address: 200 South Island Drive, Golden Beach, FL. 33160
Folio No: 19-1235-004-0680
Legal Description: Lots 29 & 30, Block J, GB Section D, PB 10-10

Dan Nieda read his comments into the record
Kirk Lofgren – Ocean Consulting spoke on behalf of the applicant
Steven Berman, applicant spoke on his own behalf.

Request for relief from Town Code Section 46-87b(1) Proximity of Lot lines and Section 46-55 Vessels, Floating Docks, and other structures moored or installed at a seawall or dock.

To allow a boat lift to encroach within the setbacks established by the code.

The Board asked for the boat lift to be moved water ward to the north side of the property, Mr. Lofgren responded that the lift could not be placed in that location due to Johnson's grass being located at the waters' bottom and that DERM would not allow it. The Board asked if they had requested the approval from DERM to move the lift and they responded they did not. There being no further comments the meeting was closed to the public and the following vote ensued.

A motion to recommend approval was made by Fred Chouinard, and Seconded by Eric Cohen
On roll call: Eric Cohen-Nay, Jerome Hollo-Nay, Fred Chouinard-Aye
The motion failed 2 – 1



LOCATION MAP AND LEGAL DESCRIPTION

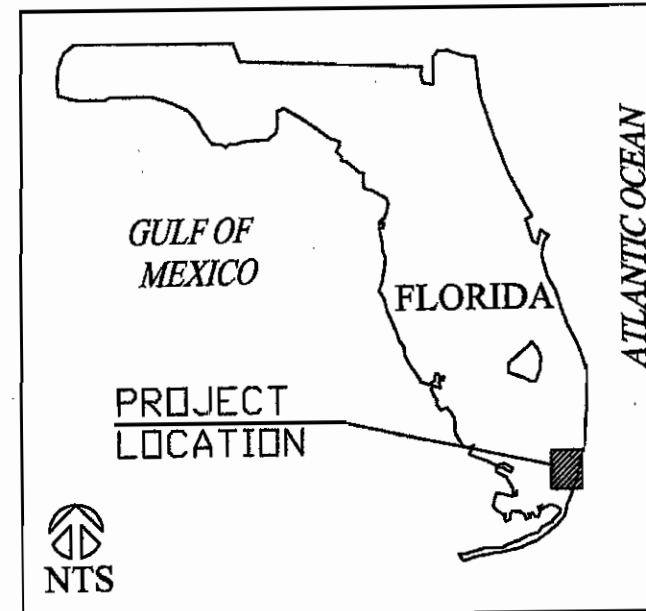


**PROJECT SITE LOCATION:
200 S. ISLAND DRIVE
GOLDEN BEACH, FL 33160**

**LATITUDE: 25 DEG 57'37.73"N
LONGITUDE: 80 DEG 07'23.69"W**

**PROJECT SITE LEGAL DESCRIPTION:
GOLDEN BEACH SEC D PB 10-10
LOTS 29 & 30 BLK J LOT SIZE 100.000
X 165 COC 24258-2127 02 2006 1 OR
27420-1032 0810 01**

**SITE SURVEY CONDUCTED BY
ROYAL POINT SURVEYORS**



- GENERAL NOTES:**
- ELEVATIONS SHOWN REFER TO THE NATIONAL GEODETIC VERTICAL DATUM (NGVD) OF 1929.
 - ALL DIMENSIONS ON PLANS ARE SUBJECT TO VERIFICATION IN THE FIELD. IT IS THE INTENT OF THESE PLANS TO BE IN ACCORDANCE WITH APPLICABLE CODES AND AUTHORITIES HAVING JURISDICTION ANY DISCREPANCIES BETWEEN THESE PLANS AND APPLICABLE CODES SHALL BE IMMEDIATELY BROUGHT TO THE ATTENTION OF ENGINEER BEFORE PROCEEDING WITH WORK.
 - IT IS THE INTENT OF THESE PLANS AND THE RESPONSIBILITY OF THE CONTRACTOR TO COMPLY WITH LOCAL, STATE AND FEDERAL ENVIRONMENTAL PERMITS ISSUED FOR THIS PROJECT IT SHALL BE THE CONTRACTOR'S RESPONSIBILITY TO FAMILIARIZE AND GOVERN HIMSELF BY ALL PROVISIONS OF THESE PERMITS.
 - APPLICABLE BUILDING CODE: FLORIDA BUILDING CODE, 2007 EDITION (AND CURRENT ADDENDUMS).

BOLTS

1. ALL BOLTS SHALL BE HOT-DIPPED GALVANIZED, UNLESS OTHERWISE NOTED.

WOOD

1. PRIMARY WOOD FRAMING MEMBERS SHALL BE NUMBER 2 PRESSURE TREATED SOUTHERN PINE OR BETTER.

2. ALL DIMENSIONS ON PLANS ARE SUBJECT TO VERIFICATION IN THE FIELD.

WOOD PILING

1. WOOD DOCK PILES SHALL BE 12" DIA PILES DRIVEN TO A MINIMUM BEARING CAPACITY OF 10 TONS OR 12" MIN. PENETRATION INTO FIRM MATERIAL BELOW SILT LAYER.

TOWN OF GOLDEN BEACH
BUILDING ADVISORY BOARD
HEARING DATE
FEB 14 2012

DOCK: LL 60 PSF

APPROVED _____
DISAPPROVED _____
VARIANCE REQ: _____

**BERMAN
BOATLIFT
PROJECT**

GOLDEN BEACH, FL 33160

CLIENT:

STEVE BERMAN
200 South Island Drive
Golden Beach, Florida 33160

ENVIRONMENTAL CONSULTANT:

**OCEAN
CONSULTING, LLC**
340 Minorca Avenue, Suite 5
Coral Gables, Florida 33134
Tel: (305) 921-9344
Fax: (305) 677-3254

CONTRACTOR:

**SOUTHEAST MARINE
CONSTRUCTION, INC.**
404 NE 38th Street
Golden Beach, Florida 33160
Tel: (954) 630-2300
Fax: (954) 630-2381

PROJECT ENGINEER:

**DYNAMIC ENGINEERING
SOLUTIONS, INC.**
950 N. Federal Highway, Suite 212
Pompano Beach, FL 33062
Tel: (954) 545-1740
Fax: (954) 545-1721

SEAL / SIGNATURE / DATE

[Signature]
John Omslaer
PE 52733, EB 26829

**CONSTRUCTION
DRAWINGS**

Issue #	Issue Date
①	Jan 5, 2012

PROJECT: 10-1555

**GENERAL NOTES &
LOCATION MAP**

SCALE: AS SHOWN
SHEET NO.

S-1

BERMAN BOATLIFT PROJECT

GOLDEN BEACH, FL 33160

CLIENT:

STEVE BERMAN
200 South Island Drive
Golden Beach, Florida 33160

ENVIRONMENTAL CONSULTANT:

**OCEAN
CONSULTING, LLC**
340 Minorca Avenue, Suite 5
Coral Gables, Florida 33134
Tel: (305) 921-9344
Fax: (305) 677-3254

CONTRACTOR:

**SOUTHEAST MARINE
CONSTRUCTION, INC.**
404 NE 38th Street
Golden Beach, Florida 33160
Tel: (954) 630-2300
Fax: (954) 630-2381

PROJECT ENGINEER:

**DYNAMIC ENGINEERING
SOLUTIONS, INC.**
950 N. Federal Highway, Suite 212
Pompano Beach, FL 33062
Tel: (954) 545-1740
Fax: (954) 545-1721

SEAL / SIGNATURE / DATE

[Signature]
John Omslaer
BE 52733, EB 26829

CONSTRUCTION DRAWINGS

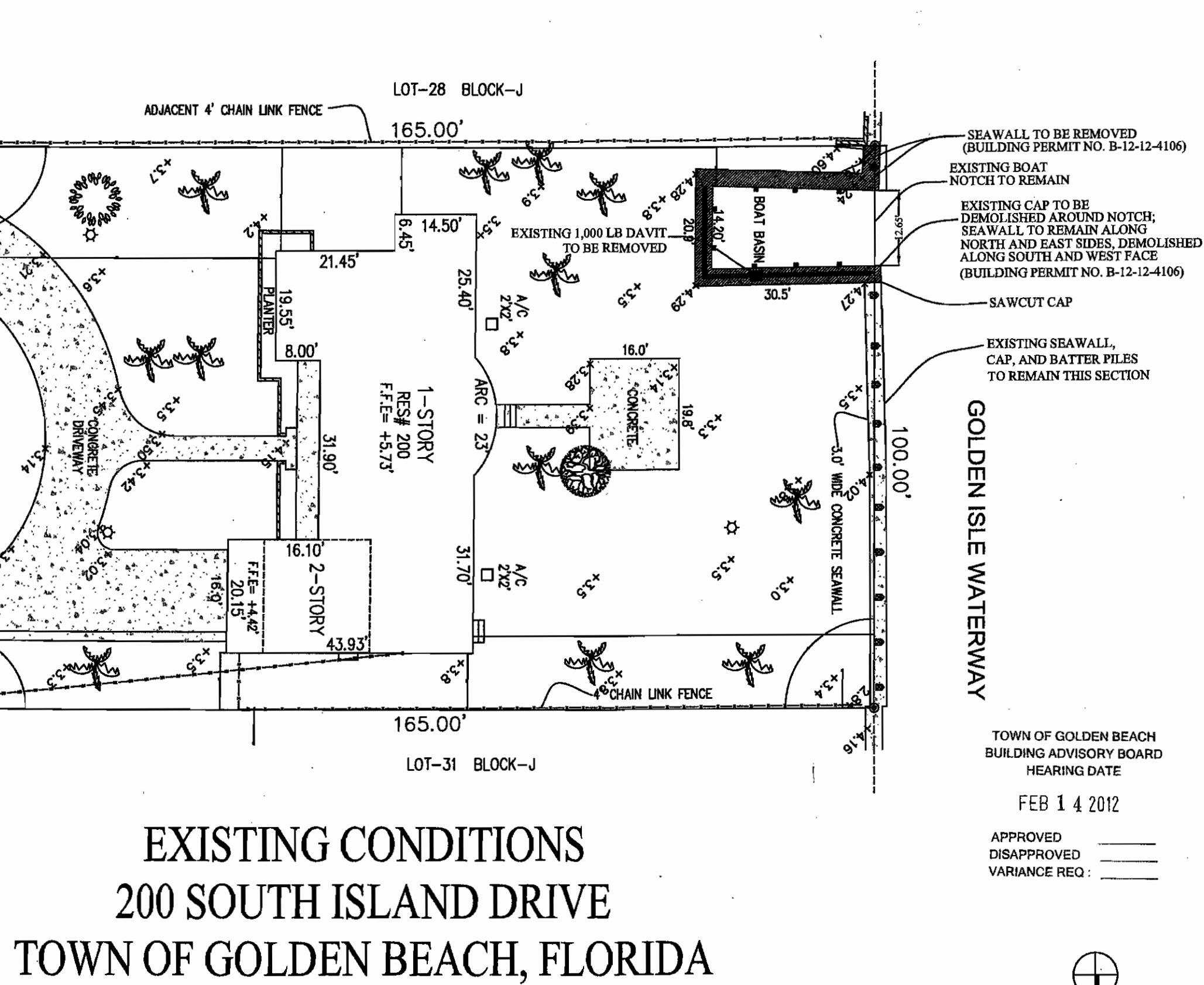
Issue #	Issue Date
①	Jan 5, 2012

PROJECT: 10-1555

EXISTING
CONDITIONS

SCALE: AS SHOWN
SHEET NO.

S-2



EXISTING CONDITIONS
200 SOUTH ISLAND DRIVE
TOWN OF GOLDEN BEACH, FLORIDA

GOLDEN ISLE WATERWAY

TOWN OF GOLDEN BEACH
BUILDING ADVISORY BOARD
HEARING DATE

FEB 14 2012

APPROVED _____
DISAPPROVED _____
VARIANCE REQ: _____



**BERMAN
BOATLIFT
PROJECT**

GOLDEN BEACH, FL 33160

CLIENT:

STEVE BERMAN
200 South Island Drive
Golden Beach, Florida 33160

ENVIRONMENTAL CONSULTANT:

**OCEAN
CONSULTING, LLC**
340 Minorca Avenue, Suite 5
Coral Gables, Florida 33134
Tel: (305) 921-9344
Fax: (305) 677-3254

CONTRACTOR:

**SOUTHEAST MARINE
CONSTRUCTION, INC.**
404 NE 38th Street
Golden Beach, Florida 33160
Tel: (954) 630-2300
Fax: (954) 630-2381

PROJECT ENGINEER:

**DYNAMIC ENGINEERING
SOLUTIONS, INC.**
950 N. Federal Highway, Suite 212
Pompano Beach, FL 33062
Tel: (954) 545-1740
Fax: (954) 545-1721

SEAL / SIGNATURE / DATE

[Signature]
John Omslaer
PE 52733, EB 26829

**CONSTRUCTION
DRAWINGS**

Issue #	Issue Date
①	Jan 8, 2012

TOWN OF GOLDEN BEACH
BUILDING ADVISORY BOARD
HEARING DATE

FEB 14 2012

APPROVED _____
DISAPPROVED _____
VARIANCE REQ: _____

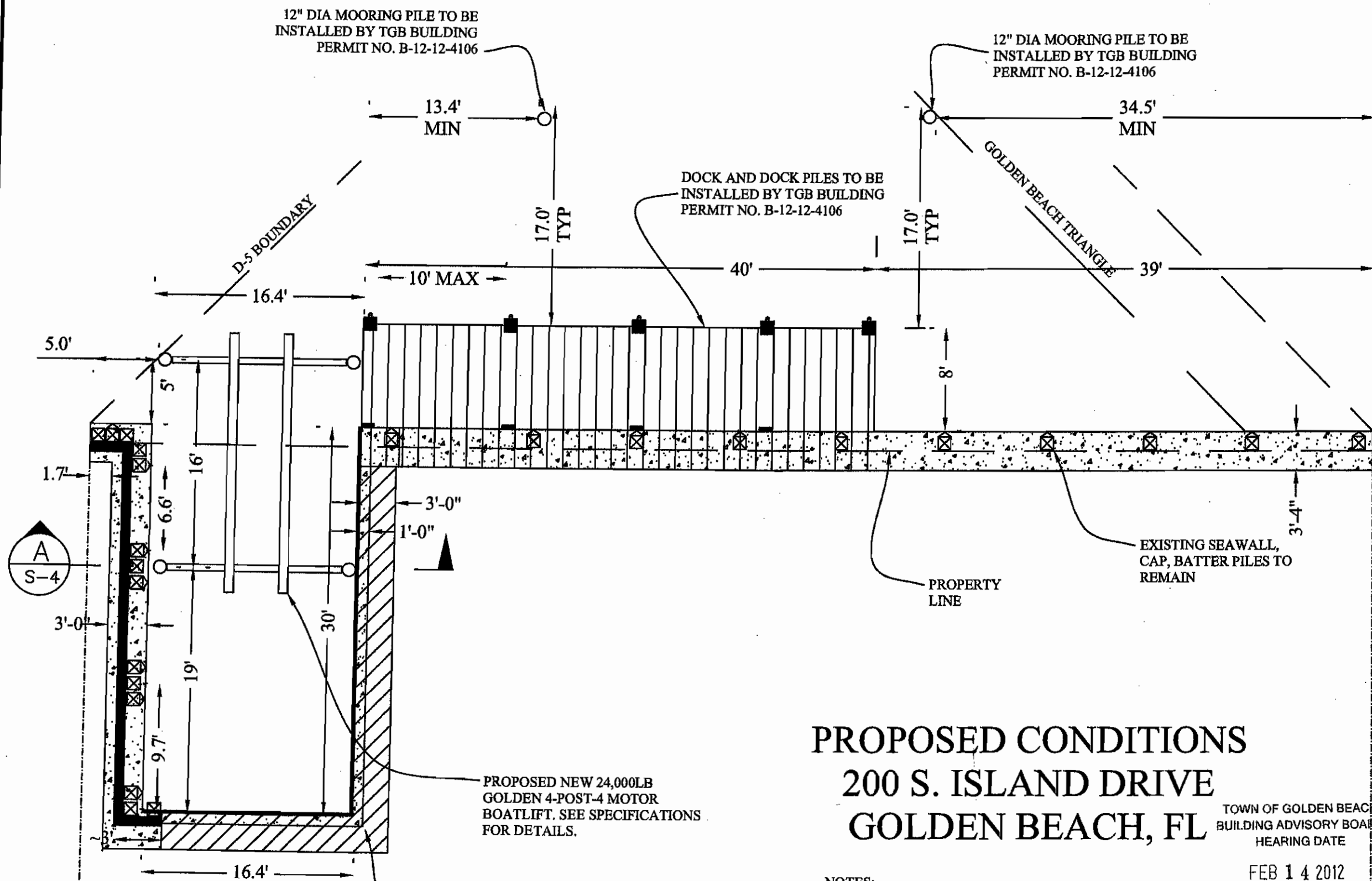


PROJECT: 10-1555

**PROPOSED
CONDITIONS**

SCALE: AS SHOWN
SHEET NO.

S-3



**PROPOSED CONDITIONS
200 S. ISLAND DRIVE
GOLDEN BEACH, FL**

NOTES:

- FOUR (4) TOTAL 12" DIA BOATLIFT PILES.
- TURBIDITY CURTAIN TO BE INSTALLED AROUND IN-WATER BOATLIFT WORK.

**BERMAN
BOATLIFT
PROJECT**

GOLDEN BEACH, FL 33160

CLIENT:
STEVE BERMAN
200 South Island Drive
Golden Beach, Florida 33160

ENVIRONMENTAL CONSULTANT:
**OCEAN
CONSULTING, LLC**
340 Minorca Avenue, Suite 5
Coral Gables, Florida 33134
Tel: (305) 921-9344
Fax: (305) 677-3254

CONTRACTOR:
**SOUTHEAST MARINE
CONSTRUCTION, INC.**
404 NE 38th Street
Golden Beach, Florida 33160
Tel: (954) 630-2300
Fax: (954) 630-2381

PROJECT ENGINEER:
**DYNAMIC ENGINEERING
SOLUTIONS, INC.**
950 N. Federal Highway, Suite 212
Pompano Beach, FL 33062
Tel: (954) 545-1740
Fax: (954) 545-1721

SEAL / SIGNATURE / DATE

[Signature]
John Omslaer
PE 52733, EB 26829

**CONSTRUCTION
DRAWINGS**

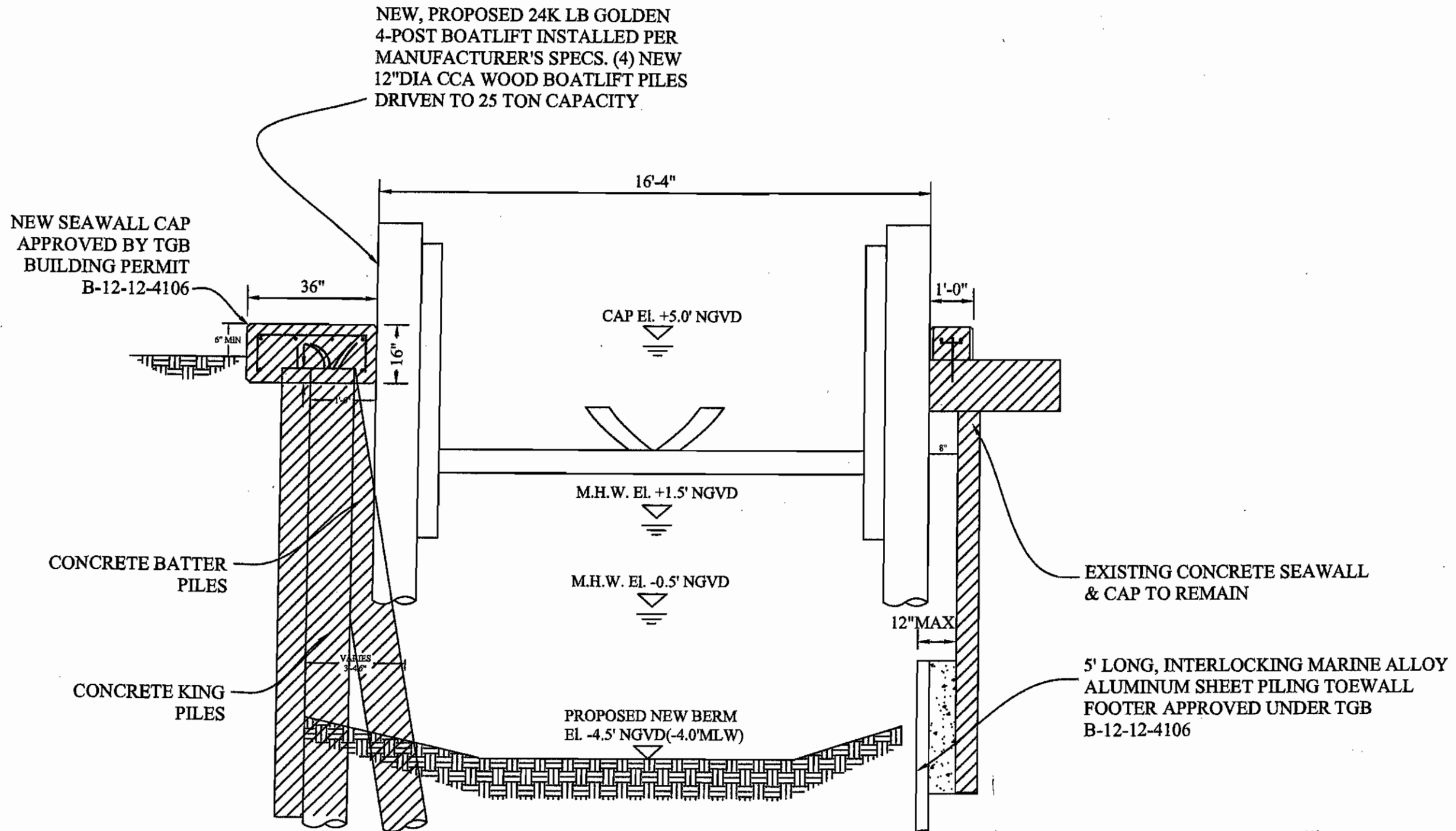
Issue #	Issue Date
①	Jan 8, 2012

PROJECT: 10-1555

**BOATLIFT SECTION
W/ DETAILS**

SCALE : AS SHOWN
SHEET NO.

S-4



TYPICAL BOATLIFT SECTION
Scale: 3/8" = 1'-0"

TOWN OF GOLDEN BEACH
BUILDING ADVISORY BOARD
HEARING DATE
FEB 14 2012

APPROVED _____
DISAPPROVED _____
VARIANCE REQ: _____




TOWN OF GOLDEN BEACH

One Golden Beach Drive
Golden Beach, FL 33160

MEMORANDUM

Date: March 27, 2012

To: Honorable Mayor Glenn Singer &
Town Council Members

From: Lissette Perez,
Interim Town Clerk 

Subject: **Town Council Minutes**

Item Number:

2

Recommendation:

It is recommended that the Town Council adopt the attached minutes of the Town's February 21st, 2012 Regular Town Council Meeting.



TOWN OF GOLDEN BEACH

One Golden Beach Drive
Golden Beach, FL 33160

**Official Minutes for the February 21, 2012
Regular Town Council Meeting called for 7:00 P.M.**

A. MEETING CALLED TO ORDER

Mayor Singer called the meeting to order at 7:04 p.m.

B. ROLL CALL

Councilmember's Present: Mayor Glenn Singer, Vice Mayor Kenneth Bernstein, Councilmember Judy Lusskin, Councilmember Amy Isackson-Rojas, Councilmember Bernard Einstein

Staff Present: Town Manager Alexander Diaz, Interim Town Clerk Lissette Perez, Police Commander George CaDavid, Finance Director Maria D. Camacho, Town Attorney Steve Helfman

C. PLEDGE ALLEGIANCE

Town Manager led the Pledge of Allegiance

D. PRESENTATIONS / TOWN PROCLAMATIONS

Employee of the Year 2011 – George Larkins & Giordano Arostegui

Officer of the Year 2011 - Officer Javier Diaz

Swearing-In of Reserve Officer Robert Knight

E. MOTION TO SET THE AGENDA

ADDITIONS/ DELETIONS/ REMOVAL OF ITEMS FROM CONSENT
AGENDA/ AND CHANGES TO AGENDA

Mayor requested to move item #4 from consent to town resolutions.
Consensus vote 4 Ayes 0 Nays. The motion passes.

Motion to reconsider setting the Agenda because the Mayor had closed out this section before allowing the Administration an opportunity to make any changes.

A motion to reconsider was made by Councilmember Einstein, seconded by Councilmember Luskin.

Consensus vote 4 Ayes 0 Nays. The motion passes.

The Town Manager advised that Item #6, Resolution 2225.12 is not the one that was previously submitted. The official resolution is the one that was distributed that evening and placed on the dais.

Mayor Singer requested a roll call to set the agenda with the requested changes.

On roll call, the following vote ensued:

Mayor Singer	<u>Aye</u>
Vice Mayor Bernstein	<u>Aye</u>
Councilmember Einstein	<u>Aye</u>
Councilmember Luskin	<u>Aye</u>
Councilmember Isackson-Rojas	<u>Aye</u>

F. TOWN BOARD/COMMITTEE REPORTS

Beach Committee – None
Beautification Committee – None
Comprehensive Planning Board – None
Recreation Committee – None
Security/Public Safety Committee – None
Youth Leadership Group – None

G. GOOD AND WELFARE

Joelle Kheel, 407 Golden Beach Drive

Thanked the Town for the lovely Valentine's Day event.

Dr. Beny Rub, 698 North Island Drive

Thanked the Town's police department for helping his son after getting into an accident. He also spoke about the Sunny Isles K-8 Trust Fund and everything it has done to improve the school and the well being of the students. He publicly asked for the Town's involvement in helping public education.

H. MAYOR'S REPORT

Spoke on employee Riley Crews being admitted to the hospital. He is doing much better and on his way home. Also commented on the Valentine's Day party on commended the Recreation Committee and the Town staff for putting on such a lovely event.

I. COUNCIL COMMENTS

Councilman Einstein

Inquired about the asphalt on Golden Beach Drive. The Town Manager advised that he would give full details during his report.

Vice Mayor Bernstein

Spoke on the Valentine's Day party and other events the Town has, and how nice they are. Also mentioned that even though the information was circulated, several people didn't know about the Valentine's Day party until the last minute.

Councilwoman Rojas

None

Councilwoman Lusskin

Asked about the whitefly situation in Town; since they are back she wanted to know what the Town intends to do to get rid of them. She spoke on the cohesiveness of the staff and how well the Town's holiday event at Bongo's Restaurant turned out. Also spoke about the issue with the bicyclists crossing at The Strand, and how that continues to be a dangerous situation in Town. She recommended that maybe a sign be posted for the residents advising them not to pull up so far so that the bicyclists can be seen.

The Town Manager advised that signs will be posted and the hedges have been cut back as far as possible, to create a better line of sight for drivers.

J. TOWN MANAGER REPORT

Town Manager thanked Michael Glidden for putting together the Valentine's Day event and most of the events in Town. He remarked on the heightened activity that is being seen throughout Town, saying that it is due to increased code enforcement.

He welcomed new employee Eric Garcia to the team and said good-bye to Reniel Diaz who will be leaving after this week. Eric will be replacing Reniel handling all of the code enforcement functions, as well as improving communications, marketing and media in Golden Beach.

Streetlighting Project – the Mayor and Town Manager have rejected all of the streetlighting proposals and cancelled the streetlighting project. At the March meeting the new approach to streetlighting in Golden Beach will be brought before the Council in a comprehensive report. The Town met last week with FP&L, and FP&L is very excited to come in to Town and help improve the current lighting situation in Town.

Mayor interjected that the main reason why the Town rejected all of the streetlighting proposals was because the lowest bid was twice the amount of the Town's budget for the streetlights.

Today the selection committee for CEI services met and ranked the CEI firms. The highest ranked firm will meet with the Mayor and Town Manager this week, and attempt to negotiate a fee for CEI services for award at the March meeting.

The Pre-Bid meeting for the bridges replacement project was held last week. 14 firms came. The RFP closes on March 6th.

Tonight the Town will hold a presentation on the CCTV program.

CIP Update – The Town Manager brought Paul Abbott up to discuss the asphalt aspect of the project. The Town Manager explained how some patches are part of the bid process and part of acceptance.

Councilmember Einstein interjected to comment on the patches.

The Town Manager advised that if patchwork is not done, this will eventually create potholes around Town.

Paul Abbott stated that thermal striping will begin tomorrow, and once the striping is down, this will help with the patching.

The Town Manager advised that he met with the AT&T area manager last week, and he committed to aggressively remove their poles in Town by the end of March. The Town is also ahead of schedule as it relates to FP&L.

Councilmember Einstein asked about the brick pavers and the remnants of tar on them.

Paul Abbott responded that that is the Town's biggest issue right now; that there is still asphalt on curbs and gutters and there is asphalt and marking on brick pavers.

The Town Manager also spoke on the fact that the Town wants to require that a new fee/bond be issued when someone comes in with new construction and they have trucks leaking oil. Town still needs to discuss this possibility with the Town's attorneys to find out about the legality of this.

K. TOWN ATTORNEY REPORT

None

L. ORDINANCES – SECOND READING

None

M. ORDINANCES - FIRST READING

None

N. QUASI JUDICIAL RESOLUTIONS

1. Resolution of the Town Council Approving a Variance Request for the property located at 195 Ocean Boulevard to Permit the Legalization of Two Structures built Without Permits

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF GOLDEN BEACH, FLORIDA, AUTHORIZING AND APPROVING A VARIANCE REQUEST FOR THE PROPERTY LOCATED AT 195 OCEAN BLVD., GOLDEN BEACH, FLORIDA 33160 TO PERMIT THE LEGALIZATION OF TWO STRUCTURES BUILT WITHOUT PERMITS WHICH ENCROACH INTO THE NORTH PROPERTY LINE AT A 0' SIDE SETBACK, AND AN ADDITIONAL STRUCTURE BUILT INTO THE SOUTH SIDE PROPERTY WHICH ENCROACHES AT 9'5" SETBACK, WHERE AT 10' SIDE SETBACK IS REQUIRED BY THE TOWN'S CODE; PROVIDING FOR IMPLEMENTATION; PROVIDING FOR AN EFFECTIVE DATE.

Exhibit: Agenda Report No. 1
Resolution No. 2214.12

Sponsor: Town Administration

Recommendation: Motion to Approve Resolution No. 2214.12

Town Attorney swore-in everyone who would speak on the subject.

Mayor advised that at the last Council meeting the Mayor and Town Manager were instructed to come to a resolution with the resident. The reason it is being brought back is to have a discussion with the Council about the proposed resolution with the resident to impose a \$20,000 fine and not forcing the resident to knock down the additions to the residence.

Town Attorney spoke that if the Council wants to reconsider the conditions of the approval, the proper way to bring it back is through a motion of reconsideration.

Mayor Singer made a motion to reconsider.

A motion to reconsider was made by Vice Mayor Bernstein, seconded by Councilmember Luskin.

Consensus vote 5 Ayes 0 Nays

Town Attorney stated that the subject to the passage of a revised resolution, the resident is willing to pay a stipulated fine of \$27,000 to settle the zoning violations that are now outstanding. There will be no further appeals to the settlement of those fines, meaning that a covenant will not be necessary. The only issue to consider is the removal of the structure, where the Town Attorney suggested that Mr. Price come and speak on behalf of the resident at this time.

Town Manager advised that the fine does not satisfy the building permits that are required.

Town Attorney suggested that if the Council decides to issue an amended resolution, it should have a requirement that the property owner apply for the necessary building permits and that the application for the building permit be made within a reasonable period of time.

Vice Mayor Bernstein advised that his biggest concern is that there were extremely extenuating circumstances here and he wants to make sure that this does not set a precedence.

Town Attorney advised that the issue of legal precedent should not be something that the Council should be concerned with.

Mr. Stanley Price, 1415 Brickell Avenue, Miami, FL. He stated that the resident met with the Mayor within the 14 days specified. Mr. Price forwarded a letter agreement to the Town Attorney stating that it is specifically understood that the resident needs to abide by and get all of the necessary permits. Resident agreed to pay the \$20,000 fine, within a prescribed period of time, subject to the resident getting approval. The resident agrees to not make any appeal. Resident believes that the proffer is fair and final. He also commented on the fact that the immediate neighbors do not have an issue with the structures that have been in place since 1999.

Fred Chouinard, 407 Ocean Boulevard stated that the BRAB is wasting their time because the Council is constantly over-ruling the decisions of the board.

Mayor Singer advised that the board is definitely not wasting their time and the Council values and appreciates the boards advisement.

Oded Meltzer, 122 Golden Beach Drive, echoed Fred's remarks. BRAB feels very strongly that the town's code is a bible here and you cannot go around it. All they are trying to do is stick to the book and follow the rules.

Mayor Singer reminded the public that the BRAB had a 3-1 vote on this issue.

Town Attorney spoke from his own experience that the fact that the Council has previously granted variances, multiple variances from the Town's code, does not bind the Town from granting variances in the future. Government will not be bound by the fact that it previously granted variances. Each one is going to be looked upon and the issues ultimately come down to whether or not in that particular instance the variance is justified.

Councilmember Einstein spoke on the issue and his experiences serving on the Council when issues like this have come up in the past.

Councilmember Lusskin stated that this is a quasi-judicial decision and every resident has the opportunity to make an appeal to the Council.

Mayor Singer suggested that the Town enforce the fine and remove the covenant enforcing them to take down the additions from the variance.

Town Manager Diaz interjected advising that the Town is monitoring code enforcement much closer now and training individuals properly in code enforcement so that something like this doesn't happen again.

Mayor Singer stated that it would not happen today with all of the code enforcement the town is engaging in.

Vice Mayor Bernstein spoke on the Council's support of the BRAB, and the time and effort they put forth in their roles, and that he truly believes that these structures weren't built intentionally and once anything was noticed it was immediately attempted to be remedied.

Fred Chouinard that the owner hasn't paid taxes on these structures, and that police officers don't want to be code enforcement officers.

Mayor Singer reiterated his recommendation that the variance be amended to delete the portion where the resident has to demolish the addition to the house.

Town Attorney stated that the Town now has a clean slate because the motion of reconsideration basically vacated the prior action. The vote here would be to grant and approve the variances that have been requested subject to whatever reasonable conditions the Council wants to impose. The Council can grant the variances, accept the proffered covenant and impose a time limitation on the requirement for a permit.

Councilmember Einstein made a motion to accept the proffered agreement, move approval of the variance subject to the condition that a building permit be obtained for the structures in violation within 60 days and acceptance of the proffered agreement as adopted; seconded by Vice Mayor Bernstein.

Town Attorney reiterated for the record, that approval of the variance is subject to the condition that a building permit be obtained within 60 days for each of the structures that are in violation and the Council is accepting the proffered commitment and agreement

to pay a fine of 20,000 in full settlement of the outstanding zoning violations, and that that payment be made within 30 days of this approval.

Mr. Stanley Price also requested that the Town Manager be authorized to sign the agreement on a form acceptable to the Town Attorney. The Council agreed.

On roll call, the following vote ensued:

Mayor Singer	<u>Aye</u>
Vice Mayor Bernstein	<u>Aye</u>
Councilmember Einstein	<u>Aye</u>
Councilmember Lusskin	<u>Aye</u>
Councilmember Isackson-Rojas	<u>Aye</u>

The motion passed.

O. CONSENT AGENDA

2. **Minutes of the January 24, 2012 Special Town Council Meeting**
3. **A Resolution of the Town Council Authorizing the Sale of Two Surplus Police Vehicles from the Town's Vehicle Fleet**

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF GOLDEN BEACH, FLORIDA, AUTHORIZING THE SALE OF FOUR SURPLUS POLICE VEHICLES FROM THE TOWN'S VEHICLE FLEET; PROVIDING FOR IMPLEMENTATION; PROVIDING FOR AN EFFECTIVE DATE.

Exhibit: Agenda Report No. 3
Resolution No. 2222.12

Sponsor: Town Administration

Recommendation: Motion to Approve Resolution No. 2222.12

A motion to approve was made by Mayor Singer seconded by Vice Mayor Bernstein.

Consensus vote was 5 Ayes and 0 Nays. Items O2 – O3 pass.

P. TOWN RESOLUTIONS

4. **A Resolution of the Town Council Authorizing and Approving the Payment of \$5,000.00 to the Sunny Isles Beach Trust Foundation.**

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF GOLDEN BEACH, FLORIDA, AUTHORIZING AND APPROVING THE PAYMENT OF \$5,000.00 TO THE SUNNY

ISLES BEACH TRUST FOUNDATION; PROVIDING FOR IMPLEMENTATION; PROVIDING FOR AN EFFECTIVE DATE.

Exhibit: Agenda Report No. 4
Resolution No. 2223.12

Sponsor: Town Administration

Recommendation: Motion to Approve Resolution No. 2223.12

A motion to approve was made by Councilmember Einstein seconded by Councilmember Lusskin.

On roll call, the following vote ensued:

Mayor Singer	<u>Aye</u>
Vice Mayor Bernstein	<u>Absent</u>
Councilmember Einstein	<u>Aye</u>
Councilmember Lusskin	<u>Aye</u>
Councilmember Isackson-Rojas	<u>Aye</u>

The motion passed.

The Town Manager advised that the Town was making a one-time only initial donation to the trust to establish their endowment. The trust has a board, and one of the conditions that the Town did place is that a Golden Beach resident shall always serve on their board. They give out scholarships and promote higher education in the Town's community. The Town is not placing any strings on the money, the trust members shall set the conditions on how the money is used. The Manager also thanked Councilmember Lusskin and Dr. Beny Rub for their work with the City of Sunny Isles Beach to help establish. The scholarship application is available on the Town's website for eligible students to apply for. Town Manager also reiterated that the Town's \$5,000 contribution has nothing to do with a private residents contribution.

5. A Resolution of the Town Council Authorizing an Approving the Proposal of Iron Sky, Inc. for a CCTV System and Wireless Data Network.

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF GOLDEN BEACH, FLORIDA, AUTHORIZING AND APPROVING THE PROPOSAL OF IRON SKY, INC. FOR AN INTEGRATED CCTV SECURITY CAMERA SYSTEM AND WIRELESS DATA NETWORK; PROVIDING FOR IMPLEMENTATION; AND PROVIDING FOR AN EFFECTIVE DATE.

Exhibit: Agenda Report No. 5

Resolution No. 2224.12

Sponsor: Town Administration

Recommendation: Motion to Approve Resolution No. 2224.12

A motion to approve was made by Councilmember Isackson-Rojas seconded by Councilmember Luskin.

On roll call, the following vote ensued:

Mayor Singer	<u>Aye</u>
Vice Mayor Bernstein	<u>Aye</u>
Councilmember Einstein	<u>Aye</u>
Councilmember Luskin	<u>Aye</u>
Councilmember Isackson-Rojas	<u>Aye</u>

The motion passed.

The Town Manager introduced the team that is working on the closed-circuit television project beginning with Tony Utset who improved the Town's RFP, Scott Friggard co-founder of Iron Sky, Cliff Golden also from Iron Sky, Paul Abbott the Town's Owner's Representative. Interim Town Clerk Lissette Perez, Police Chief Don De Lucca, and former Police Chief Jim Skinner all served on the committee as well.

The Town chose Iron Sky from all of the respondents, and once they were chosen the firm took their proposal and met with the Town to see how they could maximize what they were proposing. Iron Sky worked with the Town on two resubmittals of their original proposal.

The Town is going to pay for this program in its entirety through Law Enforcement dollars. Another item on the agenda will authorize a loan from Northern Trust, and the Town will pay back that loan as it receives forfeited assets, it will not be paid for with tax dollars.

Tony Utset, security consultant, spoke first, advising that when he first received the RFP he noticed that it was dated because technology is constantly changing. He also spoke at length about the process of getting towards a company to award the project to and also about the revision and adjustment of criteria of the RFP.

The Town Manager interjected to thank Tony for assisting the Town with the bid process and advised the Town that Tony is also working on how the Town is going to convert the transponder system and the conversion of the visitor access stand at the guardhouse.

Scott Frigaard spoke on Iron Sky, where the company stems from and the closed-circuit television system they will be offering the town. Iron Sky strictly works with municipal governments.

The Town Manager stated that every single license plate that travels through A1A will have a picture taken of it, and ran through a database to determine if it is wanted or stolen, with 90% accuracy rate. As an added service, if a resident's vehicle is added to the database, any unlawful movement or use of it will be monitored by the Town should a resident be on vacation or away from their vehicle. Members of the Town Council will be given a login to monitor the cameras.

Cameras will be placed in public spaces only. The cameras will have no audio, strictly video. Cameras will not be allowed to film resident's private spaces and homes, they will be preset for public spaces only.

Vice Mayor Bernstein spoke on privacy concerns and being able to zoom in on people's faces, and just requested that the settings be placed further back so as to not be able to zoom in so close on people's faces.

Town Manager stated that this is a passive system; at no point will the Town have someone monitoring the cameras or actively looking at the terminals to see what's going on. If an alert occurs, someone has broken one of the preset parameters, then the officer would have the right to go in and see what's going on.

Mr. Frigaard also advised that Iron Sky tracks every mouse click that every user makes on the system, leaving an audit trail.

Town Manager went over, broadly, all of the locations the cameras will be monitoring throughout Town. He thanked both Iron Sky and Tony for their hard work, and Iron Sky has agreed (as part of this contract price) to provide the Town with the WI-FI at all of the parks without the Town incurring any further costs. A savings of almost \$10,000 that Iron Sky has agreed to absorb the costs of. They also agreed to refurbish the existing cameras and switch the analog to digital for those cameras. Tony Utset and Paul Abbott will be managing this project. FP&L has agreed to allow the Town to use their streetlight circuit to energize these cameras, which is an additional savings to the Town.

Councilmember Einstein asked a number of questions about the company and the interface they use, and their credibility considering that they are a very young company.

Paul Abbott stated that all of Iron Sky's references were checked and not one negative comment was made about them.

6. A Resolution of the Town Council Authorizing the Issuance of a \$500,000 Grant Anticipation Note for the Purpose of Funding Equipment.

A RESOLUTION OF THE TOWN OF GOLDEN BEACH, FLORIDA AUTHORIZING THE ISSUANCE BY THE ISSUER OF NOT EXCEEDING \$500,000 GRANT ANTICIPATION NOTE, SERIES 2012A FOR THE PURPOSE OF FUNDING EQUIPMENT; PLEDGING TO SECURE PAYMENT OF THE PRINCIPAL AND INTEREST ON SUCH NOTE WITH PLEDGED REVENUES; PROVIDING FOR THE RIGHTS OF THE HOLDERS OF SUCH NOTE; FINDING THE NECESSITY FOR A NEGOTIATED SALE OF THE NOTE AND APPROVING THE SALE OF SAID NOTE TO NORTHERN TRUST BANK; APPOINTING A REGISTRAR; PROVIDING FOR OTHER RELATED MATTERS; PROVIDING CERTAIN OTHER AGREEMENTS AND COVENANTS IN CONNECTION WITH THE ISSUANCE OF SUCH NOTE; AND PROVIDING AN EFFECTIVE DATE.

Exhibit: Agenda Report No. 6

Resolution No. 2225.12

Sponsor: Town Administration

Recommendation: Motion to Approve Resolution No. 2225.12

A motion to approve was made by Councilmember Lusskin seconded by Councilmember Isackson-Rojas.

On roll call, the following vote ensued:

Mayor Singer	<u>Aye</u>
Vice Mayor Bernstein	<u>Aye</u>
Councilmember Einstein	<u>Aye</u>
Councilmember Lusskin	<u>Aye</u>
Councilmember Isackson-Rojas	<u>Aye</u>

The motion passed.

Town Manager advised that this resolution authorizes a \$500,000 line of credit that the Town is taking out to purchase the CCTV equipment and the debt service on the line of credit is being guaranteed by the Law Enforcement Trust Fund seizure that the Town is anticipating payment on. The 1 year loan requires that as soon as the Town gets the DEA money, the Town must pay it back. There will be a 2% max interest rate on the loan.

The Council discussed the current prime rate and what that currently is, which is 3.25%.

Town Manager mentioned that the Administration will be bringing the Council a similar loan for \$1.5 million as a line of credit to fund the bridges at the next Council Meeting.

R. DISCUSSION & DIRECTION TO TOWN MANAGER

Mayor Glenn Singer:
None Requested

Vice Mayor Kenneth Bernstein:
None Requested

Councilmember Judy Lusskin:
None Requested

Councilmember Amy Rojas:
None Requested

Councilmember Bernard Einstein:
None Requested

Town Manager Alexander Diaz

*Possible Construction of Unisex Bathrooms at both North and South Parks

Town Manager made a brief presentation on a possible unisex/handicap accessible restroom at each of the parks, inquiring if the Council would be interested in something like that. The proposed bathrooms are designed to be eco-friendly, ultra green, using recycled products for construction, and all on a septic tank. The exact same design and fixture as the one's the Town currently has in Tweddle Park.

Paul Abbott interjected that if the Town bids this out, he is confident it will come back at the \$20,000 proposed number.

Mayor Singer stated that he would like to wait because the Town has so many other projects going on right now.

Town Manager reminded the council members that the March meeting has been moved to the 27th, and inquired if the Council will be available to have a special meeting on either March 6th or March 13th to award CEI Services. Councilmembers stated that March 6th wouldn't be good for them.

Commencing at the adjournment of this meeting Councilmember Amy Isackson-Rojas will assume the designation of Vice Mayor, and Vice Mayor Kenneth Bernstein will assume the designation of Councilmember.

We would like to thank Vice Mayor Bernstein for his year of service.

S. ADJOURNMENT:

A motion to adjourn the Council Meeting was made by Mayor Singer, seconded by Councilmember Lusskin.

Consensus vote 5 Ayes 0 Nays. Motion passed.

The meeting adjourned at 9:36 p.m.

Respectfully submitted,

Lissette Perez

Lissette Perez
Interim Town Clerk



TOWN OF GOLDEN BEACH

One Golden Beach Drive
Golden Beach, FL 33160

MEMORANDUM

Date: March 27, 2012

Item Number:

To: Honorable Mayor Glenn Singer &
Town Council Members

3

From: Alexander Diaz,
Town Manger

Subject: Resolution No. 2227.12 – Authorizing and Approving CEI
Services Contract with Eisman & Russo

Recommendation:

It is recommended that the Town Council adopt the attached Resolution No. 2227.12 as presented.

Background:

RFQ 2012-01 was issued on January 9th, 2012 for Construction, Engineering and Inspection Services related to the Construction of the Towns Center Island and Navona Avenue Bridge(s). On February 9th, 2012 the submittals were opened and 10 firms submitted their qualifications in response to the solicitation.

Following the process adopted by Resolution 2220.12 at your January 24, 2012 meeting I appointed a 3 person selection committee that was tasked with reviewing the submittals and scoring the firms. The Firm of Eisman & Russo, Inc. having received the highest scores by the Committee was asked to meet with the Town to negotiate an agreement (this process is dictated by state law). After a series of negotiations the Town and Eisman & Russo, Inc. reached an agreed to scope of service, staffing hours, staffing for project team, and contract value.

Their qualifications and proposal are attached for you review.

Fiscal Impact:

\$725,603.00 for Construction, Engineering and Inspection Services reimbursed to the Town at 100%.

TOWN OF GOLDEN BEACH, FLORIDA

RESOLUTION NO. 2227.12

A RESOLUTION OF THE TOWN OF GOLDEN BEACH, FLORIDA, SELECTING EISMAN & RUSSO, INC. FOR CONSTRUCTION ENGINEERING AND INSPECTION (CEI) SERVICES FOR THE BRIDGE REPLACEMENTS TO THE STRAND AND NAVONA AVENUES; AUTHORIZING AND APPROVING A PROFESSIONAL SERVICES AGREEMENT BETWEEN THE TOWN AND EISMAN & RUSSO, INC.; AUTHORIZING THE MAYOR AND TOWN MANAGER TO EXECUTE THE AGREEMENT; PROVIDING FOR IMPLEMENTATION; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, the Town of Golden Beach (the “Town”) issued Request for Proposals (RFP) No. 12-01 for Construction Engineering and Inspection (CEI) Services for the Bridge Replacements to the Strand and Navona Avenues; and

WHEREAS, Eisman & Russo, Inc. submitted a Proposal in response to the RFP (the “Proposal”), which was determined to be the best and most advantageous Proposal submitted to the Town; and

WHEREAS, the Town wishes to select Eisman & Russo, Inc. for the CEI Services for the Bridge Replacements and authorize the Town to enter into a Professional Services Agreement with Eisman & Russo, Inc., substantially in the form attached to this Resolution as Exhibit “A” (the “Agreement”); and

WHEREAS, the Town Council has determined that it is in the best interests of the Town to perform the CEI Services for the Bridge Replacements and enter into the Agreement.

**NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE
TOWN OF GOLDEN BEACH, FLORIDA, AS FOLLOWS:**

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

Section 2. Selection of Eisman & Russo, Inc. The Town Council hereby selects Eisman & Russo, Inc. for the CEI Services for the Bridge Replacements.

Section 3. Authorization and Approval of Agreement. The Town Council hereby authorizes and approves the Agreement with Eisman & Russo, Inc., in substantially the form attached hereto as Exhibit "A," and the Mayor and/or Town Manager are authorized to execute the Agreement on behalf of the Town, once approved as to final form and legal sufficiency by the Town Attorney.

Section 4. Implementation. The Mayor and Town Manager are hereby authorized to take all steps reasonably necessary to implement the Agreement and this Resolution.

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

The Motion to adopt the foregoing Resolution was offered by _____,
seconded by _____ and on roll call the following vote ensued:

Mayor Glenn Singer	_____
Vice Mayor Amy Isackson-Rojas	_____
Councilmember Bernard Einstein	_____
Councilmember Judy Lusskin	_____
Councilmember Kenneth Bernstein	_____

PASSED AND ADOPTED by the Town Council of the Town of Golden Beach,
Florida, this 27th day of March, 2012.

ATTEST:

MAYOR GLENN SINGER

LISSETTE PEREZ
INTERIM TOWN CLERK

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY:

STEPHEN J. HELFMAN
TOWN ATTORNEY

EXHIBIT “A”

(Attach Professional Services Agreement between the Town and Eisman & Russo, Inc.)

PROFESSIONAL SERVICES AGREEMENT

between

TOWN OF GOLDEN BEACH, FLORIDA

and

EISMAN & RUSSO, INC.

For

Construction Engineering and Inspection (CEI) Services

Bridge Replacements - The Strand and Navona Avenues

THIS PROFESSIONAL SERVICES AGREEMENT (this "Agreement") is made effective as of _____, 2012 (the "Effective Date") by and between the **TOWN OF GOLDEN BEACH, FLORIDA**, a Florida municipal corporation (hereinafter referred to as the "TOWN"), and **EISMAN & RUSSO, INC.**, a Florida corporation (hereinafter referred to as the "CONSULTANT"), whose address is 1398 S.W. 160th Avenue, Suite 302, Sunrise, Florida 33326.

WHEREAS, pursuant to the Competitive Consultants Negotiation Act, Section 287.055, Florida Statutes ("CCNA"), on January 9, 2012, the TOWN issued Request for Proposals (RFP) No. 12-01, together with Addenda issued to the RFP (Addendum No. 1 issued January 30, 2012, Addendum No. 2 issued January 31, 2012 and Addendum No. 3 issued February 2, 2012) requesting proposals from qualified engineers for Construction, Engineering and Inspection (CEI) services for the Bridge Replacements to The Strand and Navona Avenues (collectively, the "RFP"); and

WHEREAS, the services requested in the RFP require contract administration, inspection services, and materials sampling and testing for the phased demolition and replacement of two (2) bridges located at The Strand and Navona Avenues (the "Services" or the "Project"), as shown on the Plans and Specifications prepared by Corzo Castella Carballo Thompson Salman, P.A. ("C3TS") (the "TOWN'S Project Engineer"); and

WHEREAS, in response to the RFP, the CONSULTANT submitted a Proposal to the TOWN, which Proposal was selected by the TOWN as the best and most advantageous for award of this Agreement (the "Proposal"); and

WHEREAS, the CONSULTANT is willing and able to perform such professional services for the TOWN within the basic terms and conditions set forth in this Agreement for Construction,

Engineering and Inspection (CEI) Services in connection with the Project; and

WHEREAS, the Project is partially funded by federal funds under a Local Agency Program Agreement between the Florida Department of Transportation (FDOT) and the Town and as such is subject to the LAP requirements for Federal Aid Projects; and

WHEREAS, the CONSULTANT has been pre-qualified by FDOT for this Project, including Roadway Construction Engineering Inspection (10.1), Construction Material Inspection (10.3) and Minor Bridge and Miscellaneous Structures CEI (10.4).

NOW THEREFORE, in consideration of the mutual terms, conditions, promises and covenants set forth below, the TOWN and CONSULTANT agree as follows:

SECTION 1. SCOPE AND SERVICES

1.1 **The RFP.** This Agreement includes the terms and conditions of the RFP, which is incorporated herein by reference. The Services as defined in Section 1.2 hereof and to be provided and performed with respect to the Project shall be at all times subject to the requirements of the RFP.

1.2 **Services.** The CONSULTANT shall provide to the TOWN Construction Engineering and Inspection services (the "Services"), which are more specifically set forth in the Scope of Services in Exhibit "A" attached hereto and incorporated herein and are additionally set forth in the RFP.

SECTION 2. COMPENSATION; BILLING AND PAYMENTS TO THE CONSULTANT

2.1 **Compensation.** TOWN shall pay to CONSULTANT for the performance of the Services pursuant to this Agreement, the total lump sum of Seven Hundred Twenty Five Thousand, Six Hundred Three 00/100 Dollars (\$725,603.00). This price shall be full compensation for all labor and costs, including overhead and profit, associated with completion of all the Services in full conformity with the requirements as stated or shown, in the RFP, the Plans and Specifications and this Agreement. This sum shall constitute the Compensation, which shall not be modified except by Change Order issued by the Town or as otherwise specified herein.

2.2 **Invoices.** CONSULTANT shall submit invoices which are identified by the specific Project number on a monthly basis to the TOWN. The invoices shall identify the nature of the Work or Services performed, the phase of the Work or Services, and the estimated percent of Work or Services accomplished in accordance with the Hourly Rates and Rate Table set forth in Exhibit "B" to this Agreement. The statement shall show a summary of fees with accrual of the total and credits for portions previously paid by the TOWN. The TOWN shall pay CONSULTANT within thirty (30) calendar days of approval by the Town Manager of any invoices submitted by CONSULTANT to the TOWN. The TOWN shall make payments to CONSULTANT pursuant to applicable Florida law.

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

2.4 **Suspension of Payment.** In the event that the TOWN becomes credibly informed that any representations of the CONSULTANT, provided pursuant to this Section 2, are wholly or partially inaccurate, or in the event that the CONSULTANT is not in compliance with any term or condition of this Agreement, the TOWN may withhold payment of sums then or in the future otherwise due to the CONSULTANT until the inaccuracy, or other breach of this Agreement, and the cause thereof, is corrected to the TOWN'S reasonable satisfaction.

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

2.6 **Retainage.** The Town reserves the right to withhold retainage in the amount of ten percent (10%) of any payment due to the CONSULTANT until the Project is completed. For projects that are divided into several phases, any retainage shall be withheld and released individually for each phase of the Project. Said retainage may be withheld at the sole discretion of the TOWN Manager and as security for the successful performance and completion of the CONSULTANT'S Services under this Agreement.

SECTION 3. TERM/TIME OF PERFORMANCE/DAMAGE

3.1 **Term.** This Agreement shall commence on the Effective Date and shall continue in full force and effect for the duration of sixteen (16) months through _____, 2013, unless otherwise terminated or extended pursuant to the terms of this Agreement (the "Term"). The TOWN, in its sole discretion, may extend the term of this Agreement through written notification to the CONSULTANT from the Town Manager. Such extension shall not exceed sixty (60) days. No further extensions of this Agreement shall be effective unless authorized by the Town Council

3.2 **Commencement.** The CONSULTANT'S services under this Agreement and the time

frames applicable to this Agreement shall commence upon the Effective Date. The CONSULTANT shall not incur any expenses or obligations for payment to third parties prior to the issuance of a notification of commencement (the "Notification of Commencement") for the Project, and the CONSULTANT must receive the Notification of Commencement from the Town Manager prior to beginning the performance of the Services.

3.3 **Contract Time.** From and after the receipt of the Notification of Commencement, the CONSULTANT shall continuously perform the Services to the TOWN, without interruption, for the duration of the Term (the "Contract Time") and in accordance with the time frames set forth in Project Schedule approved by the TOWN. Time is of the essence in the performance of the Services pursuant to this Agreement and all limitations of time set forth in this Agreement are of the essence.

SECTION 4. TERMINATION OF AGREEMENT

4.1 **Termination.** The TOWN has the right to terminate this Agreement for any reason or no reason, upon seven (7) days' written notice to CONSULTANT. Upon termination of this Agreement, and final payment of any outstanding invoices due through the date of receipt of notice of termination, copies of all CONSULTANT's work product, including charts, sketches, studies, drawings, and other documents and data related to the Services performed under this Agreement, whether finished or not, shall be turned over to the TOWN within ten (10) days.

4.2 **Payment after Termination.** Provided that CONSULTANT has performed in accordance with the terms of this Agreement as of the date of termination pursuant to Section 4.1 above, CONSULTANT shall receive all payments due to CONSULTANT for Services rendered and accepted up to the date of termination.

SECTION 5. ADDITIONAL SERVICES AND CHANGES IN SCOPE OF SERVICES

5.1 **Changes Permitted.** Changes in the Services or the Project consisting of additions, deletions, revisions, or any combination thereof, may be ordered by the TOWN by Change Order (as defined below) without invalidating the terms of this Agreement.

5.2 **Change Order Defined.** "Change Order" shall mean a written order to the CONSULTANT executed by the TOWN, issued after execution of this Agreement, authorizing and directing a change in the Services, the Project, the Compensation, or the Contract Time, or any combination thereof. The Compensation and/or the Contract Time may be changed only by Change Order.

5.3 **Effect of Executed Change Order.** The execution of a Change Order by the TOWN and the CONSULTANT shall constitute conclusive evidence of the CONSULTANT's agreement to the ordered changes in the Services or the Project, or an adjustment in the Compensation or the Contract Time, or any combination thereof. The CONSULTANT, by executing the Change Order, waives and forever releases any claim against the TOWN for additional time or compensation for matters relating to or arising out of or resulting from the Services included within or affected by the executed Change Order. Change Order costs shall be determined at a negotiated fee between the

parties or based on the scheduled hourly rates provided herein in Exhibit “B”.

5.4 **Authority to Execute Changes or Requests for Additional Services.** The Town Manager is authorized to negotiate and execute Change Orders, in an amount not to exceed \$25,000.00 per contract. Changes or requests for additional services, which exceed \$25,000.00, shall be approved by the Town Council.

SECTION 6. SURVIVAL OF PROVISIONS

Any terms or conditions of this Agreement that require acts beyond the date of the Term, shall survive termination of this Agreement, and shall remain in full force and effect unless and until the terms or conditions are completed and shall be fully enforceable by either party.

SECTION 7. TOWN'S RESPONSIBILITIES

7.1 The TOWN will assist CONSULTANT by placing at its disposal all available information as may be requested in writing by the CONSULTANT relating to the Project and allow reasonable access to all pertinent information relating to the Services to be performed by CONSULTANT.

7.2 The TOWN shall furnish to CONSULTANT, at the CONSULTANT'S written request, all available maps, plans, existing studies, reports and other data, pertinent to the Services to be provided by CONSULTANT, that are in possession of the TOWN. In addition, the TOWN shall provide recent copies, as available, of topographic and boundary surveys, geotechnical survey and report, and any other information required for the Services to be provided.

7.3 The TOWN shall arrange for access to and make all provisions for CONSULTANT to enter upon public property as required for CONSULTANT to perform the Services.

SECTION 8. CODE OF ETHICS

Intentionally Omitted.

SECTION 9. COMPLIANCE WITH APPLICABLE LAWS; POLICY OF NON-DISCRIMINATION/WAGES

9.1 The CONSULTANT shall comply with applicable federal, state and local laws and ordinances applicable to the Services or Work, including all requirements of FDOT and LAP requirements for Federal Aid Projects or payment for Services or Work. CONSULTANT shall not discriminate on the grounds of race, color, religion, sex, age, marital status, national origin, physical or mental disability in the performance of work under this Agreement. CONSULTANT shall comply with the Disadvantaged Business Enterprise (DBE) goal of 8.4% established for this Project.

9.2 The CONSULTANT shall comply with the wage provisions of Section 287.055, Florida

Statutes. The CONSULTANT shall comply with all State and Federal funding requirements, including specific wage and nondiscrimination provisions.

SECTION 10. OWNERSHIP OF DOCUMENTS/DELIVERABLES

10.1 Any and all drawings and specifications, as instruments of the Services to be preformed (the "Drawings and Specifications"), are and shall become the property of the TOWN whether the Project for which they are made is executed or not. The CONSULTANT shall be permitted to retain copies, including reproducible copies, of the Drawings and Specifications for information and reference in connection with the TOWN'S use and occupancy of the Project.

10.2 The CONSULTANT agrees not to divulge, furnish or make available to any third person, firm or organization, without the TOWN'S prior written consent, or unless incident to the proper performance of the CONSULTANT'S obligations hereunder, or in the course of judicial or legislative proceedings where such information has been properly subpoenaed, or if reasonably necessary for the CONSULTANT to defend itself from any suit or claim, any non-public information concerning the Services to be rendered by the CONSULTANT hereunder, and the CONSULTANT shall require all of its employees, agents, subconsultants and subcontractors to comply with the provisions of this paragraph.

10.3 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 and date approved and/or sealed.

SECTION 11. RECORDS/AUDITS

11.1 The CONSULTANT shall maintain and require any subconsultants to maintain, complete and correct records, books, documents, papers and accounts pertaining to the Project. Such records, books, documents, papers and accounts shall be available at all reasonable times for examination and audit by the Town Manager or any authorized Town representative with reasonable notice and shall be kept for a period of three (3) years after the completion of the Project. 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. Disallowed fees will be paid when incomplete or incorrect entries are remedied to the satisfaction of the TOWN.

11.2 The CONSULTANT shall comply with Florida's Public Records Law, Chapter 119, Florida Statutes, as applicable.

11.3 Refusal of the CONSULTANT to comply with the provisions of Sections 11.1 or 11.2 shall be grounds for immediate termination for cause by the TOWN of this Agreement.

SECTION 12. NO CONTINGENT FEE

The CONSULTANT warrants that he or she has not employed or retained any company or person, other than a bona fide employee working solely for the CONSULTANT to solicit or secure this Agreement and that he or she has not paid or agreed to pay any person, company, corporation, individual, or firm, other than a bona fide employee working solely for the CONSULTANT any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the award or making of this Agreement. For the breach or violation of this provision, the TOWN shall have the right to terminate this Agreement without liability and, at its discretion, to deduct from the contract price, or otherwise recover, the full amount of such fee, commission, percentage, gift, or consideration.

SECTION 13. INDEPENDENT CONSULTANT

The CONSULTANT is an independent CONSULTANT under this Agreement. Personal services provided by the CONSULTANT shall be by employees of the CONSULTANT and subject to supervision by the CONSULTANT, and not as officers, employees, or agents of the TOWN. Personnel policies, tax responsibilities, social security, health insurance, employee benefits, purchasing policies and other similar administrative procedures applicable to services rendered under this Agreement shall be those of the CONSULTANT.

SECTION 14. ASSIGNMENT; AMENDMENTS

14.1 This Agreement shall not be assigned, transferred or otherwise encumbered, under any circumstances, by CONSULTANT, without the prior written consent of the TOWN.

14.2 No modification, amendment or alteration in the terms or conditions of this Agreement shall be effective unless contained in a written document executed with the same formality as this Agreement by both parties.

SECTION 15. INDEMNIFICATION/HOLD HARMLESS

15.1 The CONSULTANT shall indemnify and hold harmless the TOWN, and its officers and employees from liabilities, damages, losses, and costs, including, but not limited to, reasonable attorneys' fees and costs, to the extent caused by the acts, omissions, negligence, recklessness, wrongful conduct, acts, errors or omissions of the CONSULTANT or any subconsultants or other persons employed or utilized by the CONSULTANT in the performance of this Agreement. The CONSULTANT'S obligation under this paragraph shall not be limited in any way by the agreed upon Compensation, or the CONSULTANT'S limit of, or lack of, sufficient insurance protection.

15.2 The indemnification obligation under this clause shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for the CONSULTANT or any subconsultants or other persons employed or utilized by the CONSULTANT in the performance of this Agreement, under worker's compensation acts, disability

benefit acts, or other employee benefit acts.

15.3 The CONSULTANT shall not specify or allow any subconsultant or other persons employed or utilized by the CONSULTANT in the performance of this Agreement to specify a particular design, process or product that infringes upon any patent. The CONSULTANT shall indemnify and hold TOWN and its officers and employees harmless from any loss, cost or expense, including reasonable attorney's fees and costs incurred, on account thereof if the CONSULTANT violates the requirements of this Section 15.

SECTION 16. INSURANCE

The CONSULTANT shall secure and maintain throughout the duration of this Agreement, insurance of such type and in such amounts acceptable to the TOWN and necessary to protect its interest and the interest of the TOWN against hazards or risks of loss as specified below. The underwriter of such insurance shall be qualified to do business in Florida and have agents upon whom service of process may be made in the State of Florida. The insurance coverage shall be primary insurance with respect to the TOWN, its officials, employees, agents and volunteers. Any insurance maintained by the TOWN shall be in excess of the CONSULTANT'S insurance and shall not contribute to the CONSULTANT'S insurance. The insurance coverage shall include a minimum of:

16.1 **Worker's Compensation and Employer's Liability Insurance.** Coverage to apply for all employees for Statutory Limits as required by applicable State and Federal laws. The policy(ies) must include Employer's Liability with minimum limits of \$100,000.00 each accident.

16.2 **Comprehensive Automobile and Vehicle Liability Insurance.** This insurance shall be written in comprehensive form and shall protect the CONSULTANT and the TOWN against claims for injuries to members of the public and/or damages to property of others arising from the CONSULTANT'S use of non-owned and hired motor vehicles or any other equipment and shall cover operation with respect to onsite and offsite operations and insurance coverage shall extend to any motor vehicles or other equipment irrespective of whether the same is owned, non-owned, or hired. The limit of liability shall not be less than \$1,000,000.00 per occurrence, combined single limit for Bodily Injury Liability and Property Damage Liability. Coverage must be afforded on a form no more restrictive than the latest edition of the Business Automobile Liability Policy, without restrictive endorsement, as filed by the Insurance Services Office.

16.3 **Commercial General Liability.** This insurance shall be written in comprehensive form and shall protect the CONSULTANT and the TOWN against claims arising from injuries to members of the public or damage to property of others arising out of any act or omission to act of the CONSULTANT or any of its agents, employees, or subconsultants. The limit of liability shall not be less than \$2,000,000.00 per occurrence, combined single limit for Bodily injury Liability and Property Damage Liability.

(a) Coverage must be afforded on a form no more restrictive than the latest edition of the Commercial General Liability Policy, without restrictive endorsements, as filed by the Insurance

Services Office, and must include: (1) Premises and/or Operations; (2) Independent CONSULTANTs and Products and/or completed Operations; (3) Broad Form Property Damage, Personal Injury and a Contractual Liability Endorsement, including any hold harmless and/or indemnification agreement.

(b) The TOWN is to be specifically included as an "Additional Insured" for the liability of the TOWN resulting from operations performed by or on behalf of CONSULTANT in performance of this Agreement. CONSULTANT'S insurance, including that applicable to the TOWN as an Additional Insured, shall apply on a primary basis and any other insurance maintained by the TOWN shall be in excess of and shall not contribute to CONSULTANT'S insurance. CONSULTANT'S insurance shall contain a severability of interest provision providing that, except with respect to the total limits of liability, the insurance shall apply to each Insured or Additional Insured in the same manner as if separate policies had been issued to each.

16.4 **Professional Liability.** The CONSULTANT shall furnish professional liability errors and omissions insurance coverage in an amount not less than \$2,000,000.00 with a deductible of no more than \$50,000.00 per claim. The CONSULTANT shall be responsible for maintaining this professional liability insurance for a minimum of five (5) years from the date of execution of this Agreement provided such insurance is commercially available. Upon request of the TOWN, the CONSULTANT shall make available for inspection copies of any claims filed or made against the policy during the policy term. The CONSULTANT shall additionally notify the TOWN, in writing, within thirty (30) calendar days of any claims filed or made against this policy in excess of \$100,000.00 during the policy term.

16.5 **Certificate(s) of Insurance.** Upon execution of this Agreement the CONSULTANT shall provide to the Town Manager, the Certificate(s) of Insurance evidencing the required insurance coverage. The Certificate(s) of Insurance shall not only name the types of policy(ies) provided, but also shall refer specifically to this Agreement and shall state that such insurance is as required by this Agreement. The TOWN reserves the right to require the CONSULTANT to provide a certified copy of such policies, upon written request by the TOWN. If a policy is due to expire prior to the completion of the Services, a renewal Certificate(s) of insurance or policies shall be furnished thirty (30) calendar days prior to the date of their policy expiration. Each policy shall be endorsed with a provision that not less than thirty (30) calendar days' written notice shall be provided to the TOWN before any policy or coverage is cancelled, terminated, amended or restricted. Acceptance of the Certificate(s) of Insurance is subject to approval of the Town Manager.

16.6 All deductibles or self-insured retentions must be declared to and be approved by the Town Manager. The CONSULTANT shall be responsible for the payment of any deductible or self-insured retentions in the event of any claim.

SECTION 17. PERSONNEL ASSIGNED TO THE PROJECT; REPRESENTATIVE OF TOWN AND CONSULTANT

17.1 CONSULTANT shall assign only qualified personnel to perform the Services concerning this Project, as approved by the TOWN. At the time of execution of this Agreement, the

following named individuals will perform those supervisory or primary functions indicated:

NAME:

FUNCTION:

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

17.2 **Town Representative.** It is recognized that questions in the day-to-day conduct of this Agreement will arise. The TOWN designates the Town Manager or his or her designee, as the person to whom all communications pertaining to the day-to-day conduct of this Agreement shall be addressed.

17.3 **Consultant Representative.** CONSULTANT shall inform the Town Manager, in writing, of the representative of the CONSULTANT to whom all communications pertaining to the day-to-day conduct of this Agreement shall be addressed. The CONSULTANT'S representative shall be subject to the approval of the Town Manager or his designee.

SECTION 18. COST AND ATTORNEY'S FEES/WAIVER OF JURY TRIAL

18.1 If either the TOWN or CONSULTANT is required to enforce the terms of this Agreement by court proceedings or otherwise, whether or not formal legal action is required, the prevailing party shall be entitled to recover from the other party all costs, expenses, and attorney's fees in any state or federal administrative, circuit court and appellate court proceedings.

18.2 In the event of any litigation arising out of this Agreement, each party hereby knowingly, irrevocably, voluntarily and intentionally waives its right to trial by jury.

SECTION 19. ALL PRIOR AGREEMENTS SUPERSEDED

This Agreement incorporates and includes all prior negotiations, correspondence, conversations, agreements or understandings applicable to the matters contained in this Agreement

and the parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly it is agreed that no deviation from the terms of the Agreement shall be predicated upon any prior representations or agreements whether oral or written.

SECTION 20. CONSULTANT'S RESPONSIBILITIES

20.1 The CONSULTANT warrants that the Services to be performed hereunder shall be performed by the CONSULTANT'S own staff or employees, unless otherwise approved in writing by the TOWN. Said approval shall not be construed as constituting an agreement between the TOWN and said other person or firm. The CONSULTANT'S services shall be performed in a manner consistent with that degree of skill and care ordinarily exercised by practicing design professionals performing similar services in the same locality and under the same or similar circumstances and conditions.

20.2 The CONSULTANT represents that it possesses the requisite skills and shall follow the professional standards of the American institute of Architects and the standard of conduct for engineers in performing all services under this Agreement. The CONSULTANT agrees to use its skill and judgment in furthering the TOWN's interests hereunder and CONSULTANT shall perform its services in accordance with the practice of the pertinent industry and as expeditiously as is consistent with reasonable skill and care. If at any time during the term of this Agreement or the construction of the Project for which the CONSULTANT has provided contract administration, engineering, inspection, architectural, surveying or mapping services, and materials sampling and testing under this Agreement, it is determined that the CONSULTANT's Services or documents are incorrect, defective or fail to conform to the terms of this Agreement, upon written notification from the TOWN, the CONSULTANT shall immediately proceed to correct the work, re-perform the Services which failed to satisfy the foregoing standard of care and shall pay all costs and expenses associated with correcting said incorrect or defective work or Services, including any additional testing, inspections, and construction and reimbursements to the TOWN for any other services and expenses made necessary thereby, save and except any costs which the TOWN would have otherwise paid absent the CONSULTANT's error or omission. The TOWN's and or any governmental agency's approval, acceptance, use of or payment for all or any part of the CONSULTANT's services shall in no way alter the CONSULTANT's obligations or TOWN's rights hereunder.

20.3 CONSULTANT agrees, within fourteen (14) calendar days of receipt of a written request from the TOWN, to promptly remove and replace any personnel employed or retained by the CONSULTANT, any subconsultants or subcontractor or other persons employed or utilized by the CONSULTANT in the performance of this Agreement or any personnel of any such subconsultant or subcontractor or other persons employed or utilized by the CONSULTANT to provide and perform the Services or Work pursuant to the requirements of this Agreement, whom the TOWN shall request in writing to be removed, which request may be made by the TOWN.

20.4 If the CONSULTANT allows any Services or Work to be performed knowing, or when with the exercise of due care the CONSULTANT should have known, it to be contrary to any such

applicable laws, ordinances, rules, regulations or restrictions and fails to give TOWN written notice thereof prior to performance thereof, the CONSULTANT shall bear all costs, liabilities, and expenses arising therefrom, which costs, liabilities and expenses shall not be considered a part of the CONSULTANT'S fees or any other amounts due hereunder.

20.5 The CONSULTANT'S obligations under this Section 20 shall survive termination of this Agreement.

SECTION 21. NOTICES

Whenever either party desires to give notice to the other, it must be given by hand delivery or written notice, sent by certified United States mail, with return receipt requested or a nationally recognized private mail delivery service, addressed to the party for whom it is intended, at the place last specified, and the place for giving of notice in compliance with the provisions of this paragraph. For the present, the parties designate the following as the respective places for giving of notice, to-wit:

FOR TOWN:

Town of Golden Beach
Attn: Alexander Diaz, Town Manager
1 Golden Beach Drive
Golden Beach, FL 33160-2296
Phone: (305) 932-0744
Facsimile: (305) 933-3825

With a copy to:

Stephen J. Helfman, Esq.
Weiss Serota Helfman Pastoriza Cole & Boniske, P.L
Town Attorney
2525 Ponce de Leon Blvd.
Suite 700
Coral Gables, FL 33134
Phone: (305) 854-0800
Facsimile: (305) 854-2323

FOR CONSULTANT:

Eisman & Russo, Inc.
Attention: _____
1398 S.W. 160th Avenue, Suite 302
Sunrise, Florida 33326
Telephone: (954) 384-1500
Facsimile: (954) 384-5661

With a Copy to:

SECTION 22. TRUTH-IN-NEGOTIATION CERTIFICATE

Execution of this Agreement by CONSULTANT shall act as the execution of a truth-in-negotiation certificate stating that wage rates and other factual unit costs supporting the Compensation of this Agreement are accurate, complete, and current at the time of contracting. This Agreement's Compensation and any additions shall be adjusted to exclude any significant sums by which the TOWN determines the Project's Compensation was increased due to inaccurate, incomplete, or noncurrent wage rates and other factual unit costs. All such adjustments shall be made within one (1) year following the end of this Agreement.

SECTION 23. CONSENT TO JURISDICTION

The parties submit to jurisdiction in the State of Florida in any action or proceeding arising out of or relating to this Agreement. Venue of any action to enforce this Agreement shall be proper exclusively in Miami-Dade County, Florida.

SECTION 24. GOVERNING LAW

This Agreement shall be construed in accordance with and governed by the laws of the State of Florida.

SECTION 25. HEADINGS

Headings are for convenience of reference only and shall not be considered in any interpretation of this Agreement.

SECTION 26. EXHIBITS

Each Exhibit referred to in this Agreement forms an essential part of this Agreement. The Exhibits if not physically attached, should be treated as part of this Agreement, and are hereby incorporated by reference.

SECTION 27. NO WAIVER OF BREACH

The failure of a party to insist on strict performance of any provision of this Agreement shall not be construed to constitute a waiver of a breach of any other provision or of a subsequent breach of the same provision.

SECTION 28. 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.

SECTION 29. COUNTERPARTS

This Agreement may be executed in several counterparts, each of which shall be deemed an original and all such counterparts shall constitute one and the same instrument.

[The remainder of this page intentionally left blank]

IN WITNESS WHEREOF, the parties hereby execute this Agreement as of the date set forth below their signatures.

ATTEST:

TOWN OF GOLDEN BEACH, FLORIDA

Town Clerk

By: _____
Alexander Diaz, Town Manager

Date Executed: _____

**APPROVED AS TO FORM AND LEGALITY
FOR THE USE AND RELIANCE OF THE
TOWN OF GOLDEN BEACH, FLORIDA, ONLY:**

Town Attorney

IN WITNESS WHEREOF, the parties hereby execute this Agreement as of the date set forth below their signatures

ATTEST:

CONSULTANT:

EISMAN & RUSSO, INC., a Florida corporation

Secretary

By: _____
Name: _____
Title: _____

Please type name of Secretary

Date Executed: _____

Exhibit "A"

SCOPE OF SERVICES

I. Construction Engineering and Inspection (CEI)

- A. Produce reports, verify quantity calculations and field measure for payment purposes as needed to prevent delays in Contractor operations and to facilitate prompt processing of such information in order for the Town to make timely payment to the Contractor..
- B. Monitor each Contractor and subcontractor's reasonable compliance with specifications and special provisions of the Construction Contract in regard to payment of predetermined wage rates in accordance with FDOT procedures.
- C. Provide a Resident Compliance Specialist for surveillance of the Contractor's compliance with Construction Contract requirements.
- D. Prepare and submit to the Construction Project Manager monthly, a Construction Status Report.
- E. Prepare documentation and records in compliance with the Agreement, Statewide Quality Control (QC) Plan, or Consultant's approved QC Plan and the FDOT's LAP Procedures.
- F. Monitor, inspect and document utility construction for conformance with Utility Agency's Standards and the Utility Agency's Approved Materials List. Facilitate coordination and communication between Utility Agency's representatives, FDOT's staff and Contractors executing the work. Identify potential utility conflicts and assist in the resolution of utility issues including FDOT and Town and Local Government owned facilities.
- G. Analyze problems that arise on a Project and proposals submitted by the Contractor, work to resolve such issues, and process the necessary paperwork.
- H. Verify that the Contractor is conducting inspections, preparing reports and monitoring all storm water pollution prevention measures associated with the Project

II. Materials Verification Testing

- A. Perform sampling and testing of component materials and completed work in accordance with the Construction Contract documents. The minimum sampling frequencies set out in the FDOT's LAP Materials Sampling, Testing and Reporting

specifications shall be met.

III. **Survey**

- A. Per our discussion, construction survey will be done as part of our CEI scope. Any final survey required by other entities is not covered under this agreement.

Exhibit "B"

Hourly Rate and Rate Table

FEE AND BILLING

We will accomplish the services outlined in I through III above for the lump sum fees as detailed below:

1. – CEI (Exhibit A)	\$707,508.00
2. – Material Verification Testing (Exhibit B)	\$18,095.00
3. – Survey (Exhibit C)	\$ 0.00
TOTAL	\$725,603.00

We will provide our services to meet the schedule developed by you for the various elements of the project. Fees are payable with billing monthly, based upon the percentage complete of lump sum elements or for services actually accomplished for hourly rate elements. Billing will be due and payable upon receipt of the invoice.

Eisman & Russo CEI Services rate table

<u>Classification</u>	<u>Hourly Rate</u>
Senior Project Engineer	\$140.00
Project Administrator	\$110.00
Contract Support Specialist	\$ 90.00
Senior Inspector	\$ 90.00
Inspector	\$ 60.00
Resident Compliance Specialist	\$ 50.00

* See Exhibit A for actual rates used to calculate fees for the subject project

**Cost Proposal for CEI Services for the reconstruction of
The Navona and Strand Bridges
Town of Golden Beach, Florida**

Construction Engineering and Inspection Services

	Burden Rate	Hrs / Month	Months	Total Cost
Sr PE	\$ 134.00	12	16	\$ 25,728.00
PA	\$ 102.00	165	16	\$ 269,280.00
SI	\$ 84.00	165	15	\$ 207,900.00
I	\$ 60.00	165	14	\$ 138,600.00
RCS	\$ 50.00	82.5	16	\$ 66,000.00

\$ 707,508.00

Material Testing and Survey

Tierra	\$ 18,095.00
Survey	-

Total Cost: \$ 725,603.00

- No overtime has being considered for this cost proposal
- Survey costs if required = \$5,538.00, not reflected in this cost proposal.



March 16, 2012

Mr. Alexander Diaz
Town Manager
Town of Golden Beach
One Golden Beach Drive
Golden Beach, Florida 33160

Re: Revised - Cost Proposal for CEI Services for the Bridge Replacements of the
Strand Avenue and Navona Avenue Bridges
RFP# 12-01

Dear Mr. Diaz:

EISMAN & RUSSO, INC. (E&R), in association with its subconsultants Tierra South Florida, Inc (Certified DBE) and M.G Vera & Associates, Inc (Certified DBE) is pleased to submit this Cost Proposal to provide Construction Engineering and Inspection (CEI) services for the Bridge Replacements of the Strand Avenue Bridge and Navona Avenue Bridge in the Town of Golden Beach, FL. Incorporated by reference here is the contract between Town of Golden Beach and any and all contractor(s) hired to perform the work that Eisman & Russo, Inc. shall be monitoring. This reference is intended to identify, where contractually obligated, those items that are the primary responsibility of the contractor and are therefore not included in the scope of services for Eisman & Russo, Inc.

As described in the RFP's Scope of Services; our services will require contract administration, inspection, surveying and materials sampling and testing for the phased demolition and replacement of the aforementioned two bridges as shown on the Plans and Specifications referenced in Section 7. *Per our meeting on March 15, 2012, the contractor anticipates completion of this project in 15 months. We have revised our proposal accordingly, with a scope of services for 15 months of construction with 16 months for administrative services, preconstruction services, as well as close out of the project, final estimates to FDOT, and project final acceptance by all parties.*

If you have any questions, as always do not hesitate to contact me,

Sincerely,

J. Scott Gombar

J. Scott Gombar, P.E.
Principal

SCOPE OF SERVICES

I. Construction Engineering and Inspection (CEI)

- A. Produce reports, verify quantity calculations and field measure for payment purposes as needed to prevent delays in Contractor operations and to facilitate prompt processing of such information in order for the Town to make timely payment to the Contractor..
- B. Monitor each Contractor and subcontractor's reasonable compliance with specifications and special provisions of the Construction Contract in regard to payment of predetermined wage rates in accordance with FDOT procedures.
- C. Provide a Resident Compliance Specialist for surveillance of the Contractor's compliance with Construction Contract requirements.
- D. Prepare and submit to the Construction Project Manager monthly, a Construction Status Report.
- E. Prepare documentation and records in compliance with the Agreement, Statewide Quality Control (QC) Plan, or Consultant's approved QC Plan and the FDOT's LAP Procedures.
- F. Monitor, inspect and document utility construction for conformance with Utility Agency's Standards and the Utility Agency's Approved Materials List. Facilitate coordination and communication between Utility Agency's representatives, FDOT's staff and Contractors executing the work. Identify potential utility conflicts and assist in the resolution of utility issues including FDOT and Town and Local Government owned facilities.
- G. Analyze problems that arise on a Project and proposals submitted by the Contractor, work to resolve such issues, and process the necessary paperwork.
- H. Verify that the Contractor is conducting inspections, preparing reports and monitoring all storm water pollution prevention measures associated with the Project

II. Materials Verification Testing

- A. Perform sampling and testing of component materials and completed work in accordance with the Construction Contract documents. The minimum sampling frequencies set out in the FDOT's LAP Materials Sampling, Testing and Reporting

specifications shall be met.

III. Survey

- A. Per our discussion, construction survey will be done as part of our CEI scope. Any final survey required by other entities is not covered under this agreement.

FEE AND BILLING

We will accomplish the services outlined in I through III above for the lump sum fees as detailed below:

1. – CEI (Exhibit A)	\$707,508.00
2. – Material Verification Testing (Exhibit B)	\$18,095.00
3. – Survey (Exhibit C)	\$ 0.00
TOTAL	\$725,603.00

We will provide our services to meet the schedule developed by you for the various elements of the project. Fees are payable with billing monthly, based upon the percentage complete of lump sum elements or for services actually accomplished for hourly rate elements. Billing will be due and payable upon receipt of the invoice.

Eisman & Russo CEI Services rate table

<u>Classification</u>	<u>Hourly Rate</u>
Senior Project Engineer	\$140.00
Project Administrator	\$110.00
Contract Support Specialist	\$ 90.00
Senior Inspector	\$ 90.00
Inspector	\$ 60.00
Resident Compliance Specialist	\$ 50.00

* See Exhibit A for actual rates used to calculate fees for the subject project



TOWN OF GOLDEN BEACH

One Golden Beach Drive
Golden Beach, FL 33160

MEMORANDUM

Date: March 27, 2012

To: Honorable Mayor Glenn Singer &
Town Council Members

From: Alexander Diaz,
Town Manger

Item Number:

4 & 5

Subject: Resolutions No. 2228.12 & 2229.12 – Authorizing C3TS Post
Design Services for the Navona Avenue & Center Island
Bridge Replacements

Recommendation:

It is recommended that the Town Council adopt the attached Resolutions No. 2228.12 and 2229.12 as presented.

Background:

At the December 2, 2008 Special Town Council Meeting the Council approved Resolution 1969.08 which engaged Corzo, Castella, Carballo, Thompson, Salman, P.A. (C3TS) to provide certain engineering and project planning services in connection with the reconstruction of the Center Island and Navona Avenue Bridge(s). Since that time, C3TS has fully designed, attained all necessary permits and assisted the Town with the bidding process for the construction of both the Center Island Bridge and Navona Avenue Bridge.

The items before you today allow for C3TS to remain engaged during the construction process by providing post design services. This is common for the size and scope required of constructing the two bridges. It is inevitable that field conditions may require a re-design, shop drawings need approval and final certification will be required.

This agreement safeguards the Town and provides us with a guaranteed value.

Fiscal Impact:

\$59,500 from the Town's Bridge Fund

TOWN OF GOLDEN BEACH, FLORIDA

RESOLUTION NO. 2228.12

A RESOLUTION OF THE TOWN OF GOLDEN BEACH, FLORIDA APPROVING A PROPOSAL WITH CORZO, CASTELLA, CARBALLO, THOMPSON, SALMAN, P.A., FOR POST-DESIGN ENGINEERING SERVICES FOR THE BRIDGE REPLACEMENT AT NAVONA AVENUE; WAIVING COMPETITIVE BIDDING; PROVIDING FOR IMPLEMENTATION OF THE PROPOSAL; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town previously entered into a Professional Services Agreement with Corzo, Castella, Carballo, Thompson, Salman, P.A. (“Consultant”) to provide certain engineering and project design services in connection with the Bridge Replacement for the Navona Avenue Bridge (the “Project”); and

WHEREAS, the Consultant designed the Project and has prepared plans for the Project; and

WHEREAS, construction of the Project is ready to commence and the Town desires to engage the Consultant to provide additional engineering services to the Town in the form of post-design services and technical support to the Town’s Construction Engineering and Inspection Services (CEI) consultant during the construction phase of the Project; and

WHEREAS, pursuant to Section 2-275 of the Town’s Code of Ordinances, the Town Council finds that it is in the best interest of the Town to waive the bid procedures set forth in the Town Code of Ordinances to protect the health, safety and welfare of the community, and that insufficient time exists to complete the normal bid processes; and

WHEREAS, the Town desires to engage Consultant to provide certain engineering services and technical support to the CEI consultant in connection with the construction phase of the Project; and

WHEREAS, the Town finds that it is in the best interest of the Town to engage the Consultant to provide certain engineering services within the scope of services set forth in the Work Order for Professional Services attached hereto as Exhibit "A" (the "Proposal "); and

WHEREAS, the CONSULTANT is willing and able to perform such engineering services for the Town within the terms and conditions set forth in the Proposal; and

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF GOLDEN BEACH, FLORIDA, AS FOLLOWS:

Section 1. Recitals Adopted. That each of the above stated recitals is hereby adopted, confirmed and incorporated herein.

Section 2. Proposal Approved; Authority for Agreement. That the Proposal, in substantially the form attached hereto, between the Town and Consultant is hereby approved and the Mayor and/or Town Manager are hereby authorized to execute the Proposal on behalf of the Town. The Mayor and/or Town Manager are further authorized to enter into an Agreement with the Consultant, incorporating the terms of the Proposal, once approved as to form and legal sufficiency by the Town Attorney.

Section 3. Competitive Bidding Waived. That for the reasons set forth above, the Town Council hereby waives competitive bidding as set forth in the Town Code of Ordinances

Section 4. Implementation. That the Mayor and Town Manager are hereby authorized to take any and all action necessary to implement this Resolution, the Proposal and the Agreement to be entered into in accordance with the terms, conditions and purposes of this Resolution.

Section 5. Effective Date. That this Resolution shall be effective immediately upon adoption.

Sponsored by Town Administration.

The Motion to adopt the foregoing Resolution was offered by _____,
seconded by _____ and on roll call the following vote ensued:

Mayor Glenn Singer	_____
Vice Mayor Amy Isackson-Rojas	_____
Councilmember Bernard Einstein	_____
Councilmember Judy Lusskin	_____
Councilmember Kenneth Bernstein	_____

PASSED AND ADOPTED by the Town Council of the Town of Golden Beach,
Florida, this 27th day of March, 2012.

MAYOR GLENN SINGER

ATTEST:

LISSETTE PEREZ
INTERIM TOWN CLERK

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY:

STEPHEN J. HELFMAN
TOWN ATTORNEY

EXHIBIT "A"

(Attach Work Order for Professional Services for Navona Avenue)



Engineers
Architects
Planners

EB0005022

AAC002142

WORK ORDER FOR PROFESSIONAL SERVICES

TO: Town of Golden Beach
1 Golden Beach Drive
Golden Beach, Florida 33160
Date: 03/22/12
File: 00734-03

ATTENTION: Mr. Alexander Diaz, Town Manager

PROJECT NAME: Bridge Replacements at Navona Avenue
(Bridges 875702)
Post-Design Services
Town of Golden Beach, Florida

SCOPE OF SERVICES:

The general objective is for C3TS to provide professional engineering services in a technical support role to the Town's CEI consultant during the construction phase of this bridge replacement project. Our services will consist of:

- Attendance to pre-construction meeting.
- Review shop drawings.
- Answer Contractor's Requests for Information, and issue clarifications.

TERMS AND CONDITIONS:

Our fees for the above services shall be a lump sum of \$29,750.

We are ready to begin working on this assignment upon your authorization to proceed. If acceptable to you, we will accept a signed copy of this form as your written authorization to proceed with the assignment.

Thank you.

Corzo Castella Carballo Thompson Salman, P.A.

Ramon Castella, P.E.
Vice-President

RC/er

Town of Golden Beach
Approved by:

Date:

X:\00734-003 Town of Golden Beach Bridges\W. O. Proposals\W. O. Bridge Replace NavonaAve032212.doc

TOWN OF GOLDEN BEACH, FLORIDA

RESOLUTION NO. 2229.12

A RESOLUTION OF THE TOWN OF GOLDEN BEACH, FLORIDA APPROVING A PROPOSAL WITH CORZO, CASTELLA, CARBALLO, THOMPSON, SALMAN, P.A., FOR POST-DESIGN ENGINEERING SERVICES FOR THE BRIDGE REPLACEMENT AT THE STRAND AVENUE; WAIVING COMPETITIVE BIDDING; PROVIDING FOR IMPLEMENTATION OF THE PROPOSAL; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town previously entered into a Professional Services Agreement with Corzo, Castella, Carballo, Thompson, Salman, P.A. (“Consultant”) to provide certain engineering and project design services in connection with the Bridge Replacement for The Strand Avenue Bridge (the “Project”); and

WHEREAS, the Consultant designed the Project and has prepared plans for the Project; and

WHEREAS, construction of the Project is ready to commence and the Town desires to engage the Consultant to provide additional engineering services to the Town in the form of post-design services and technical support to the Town’s Construction Engineering and Inspection Services (CEI) consultant during the construction phase of the Project; and

WHEREAS, pursuant to Section 2-275 of the Town’s Code of Ordinances, the Town Council finds that it is in the best interest of the Town to waive the bid procedures set forth in the Town Code of Ordinances to protect the health, safety and welfare of the community, and that insufficient time exists to complete the normal bid processes; and

WHEREAS, the Town desires to engage Consultant to provide certain engineering services and technical support to the CEI consultant in connection with the construction phase of the Project; and

WHEREAS, the Town finds that it is in the best interest of the Town to engage the Consultant to provide certain engineering services within the scope of services set forth in the Work Order for Professional Services attached hereto as Exhibit "A" (the "Proposal "); and

WHEREAS, the CONSULTANT is willing and able to perform such engineering services for the Town within the terms and conditions set forth in the Proposal; and

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF GOLDEN BEACH, FLORIDA, AS FOLLOWS:

Section 1. Recitals Adopted. That each of the above stated recitals is hereby adopted, confirmed and incorporated herein.

Section 2. Proposal Approved; Authority for Agreement. That the Proposal, in substantially the form attached hereto, between the Town and Consultant is hereby approved and the Mayor and/or Town Manager are hereby authorized to execute the Proposal on behalf of the Town. The Mayor and/or Town Manager are further authorized to enter into an Agreement with the Consultant, incorporating the terms of the Proposal, once approved as to form and legal sufficiency by the Town Attorney.

Section 3. Competitive Bidding Waived. That for the reasons set forth above, the Town Council hereby waives competitive bidding as set forth in the Town Code of Ordinances

Section 4. Implementation. That the Mayor and Town Manager are hereby authorized to take any and all action necessary to implement this Resolution, the Proposal and the Agreement to be entered into in accordance with the terms, conditions and purposes of this Resolution.

Section 5. Effective Date. That this Resolution shall be effective immediately upon adoption.

Sponsored by Town Administration.

The Motion to adopt the foregoing Resolution was offered by _____,
seconded by _____ and on roll call the following vote ensued:

Mayor Glenn Singer	_____
Vice Mayor Amy Isackson-Rojas	_____
Councilmember Bernard Einstein	_____
Councilmember Judy Lusskin	_____
Councilmember Kenneth Bernstein	_____

PASSED AND ADOPTED by the Town Council of the Town of Golden Beach,
Florida, this 27th day of March, 2012.

MAYOR GLENN SINGER

ATTEST:

LISSETTE PEREZ
INTERIM TOWN CLERK

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY:

STEPHEN J. HELFMAN
TOWN ATTORNEY

EXHIBIT "A"

(Attach Work Order for Professional Services for The Strand Avenue)



Engineers
Architects
Planners

EB0005022
AAC002142

WORK ORDER FOR PROFESSIONAL SERVICES

TO: Town of Golden Beach
1 Golden Beach Drive
Golden Beach, Florida 33160
Date: 03/22/12
File: 00734-03

ATTENTION: Mr. Alexander Diaz, Town Manager

PROJECT NAME: Bridge Replacements at The Strand
(Bridges 875701)
Post-Design Services
Town of Golden Beach, Florida

SCOPE OF SERVICES:

The general objective is for C3TS to provide professional engineering services in a technical support role to the Town's CEI consultant during the construction phase of this bridge replacement project. Our services will consist of:

- Attendance to pre-construction meeting.
- Review shop drawings.
- Answer Contractor's Requests for Information, and issue clarifications.

TERMS AND CONDITIONS:

Our fees for the above services shall be a lump sum of \$29,750.

We are ready to begin working on this assignment upon your authorization to proceed. If acceptable to you, we will accept a signed copy of this form as your written authorization to proceed with the assignment.

Thank you.

Corzo Castella Carballo Thompson Salman, P.A.

Ramon Castella, P.E.
Vice-President

RC/er

Town of Golden Beach
Approved by:

Date:

X:\00734-003 Town of Golden Beach Bridges\W. O. Proposals\W. O. Bridge Replace. The Strand\032212.doc



TOWN OF GOLDEN BEACH

One Golden Beach Drive
Golden Beach, FL 33160

MEMORANDUM

Date: March 27, 2012

To: Honorable Mayor Glenn Singer &
Town Council Members

From: Alexander Diaz,
Town Manger

Subject: Resolution No. 2230.12 – **Selecting American Bridge
Company for Construction of the Bridge Replacements**

Item Number:

6

Recommendation:

It is recommended that the Town Council adopt the attached Resolution No. 2230.12 as presented.

Background:

Notice to Bid Invitation No. 2012-02 was issued on January 30th, 2012 for Construction of both the Center Island and Navona Avenue Bridge(s). A mandatory pre-bid meeting was held on February 15, 2012 at which 14 firms were present.

On March 12, 2012 the solicitation period closed and only 2 firms responded to the solicitation, American Bridge Co., whose bid price was \$7,557,430.74, and Southeastern Engineering, Inc. whose bid price was \$8,170,003.05.

After a review of the two proposals, reference checks and a post-bid meeting with the lowest respondent, I have determined that their submittal was most responsive. And, given no reason to disqualify them; I recommend that we award the Contract to American Bridge Company.

Fiscal Impact:

\$7,207,430.74 after a \$350,000 reduction in the contingency value from their original proposal amount of \$7,557,430.74; the Florida Department of Transportation will be reimbursing the Town \$5,165,000 and FEMA will be reimbursing the Town approximately \$550,000. The Town will be responsible for the difference of \$1,492,430.74 which has been previously authorized through the budget process.

TOWN OF GOLDEN BEACH, FLORIDA

RESOLUTION NO. 2230.12

A RESOLUTION OF THE TOWN OF GOLDEN BEACH, FLORIDA, SELECTING AMERICAN BRIDGE COMPANY FOR CONSTRUCTION OF THE BRIDGE REPLACEMENTS TO THE STRAND AND NAVONA AVENUES; AUTHORIZING AND APPROVING A CONTRACT FOR CONSTRUCTION BETWEEN THE TOWN AND AMERICAN BRIDGE COMPANY; AUTHORIZING THE MAYOR AND TOWN MANAGER TO EXECUTE THE CONTRACT; PROVIDING FOR IMPLEMENTATION; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town of Golden Beach (the "Town") issued a Notice to Bid Invitation No. 2012-02 and Project Manual on January 30, 2012 (the "Bid Invitation") for construction of the Bridge Replacements to the Strand and Navona Avenues ("Bridge Replacements"); and

WHEREAS, American Bridge Company ("American Bridge") submitted a bid in response to the Bid Invitation (the "Bid"), which was determined to be the lowest, responsible and responsive bid and the best and most advantageous Bid submitted to the Town; and

WHEREAS, the Town wishes to select American Bridge for the Bridge Replacements and authorize the Town to enter into a Contract for Construction with American Bridge, substantially in the form attached to this Resolution as Exhibit "A" (the "Contract"); and

WHEREAS, the Town Council has determined that it is in the best interests of the Town to perform the Bridge Replacements and enter into the Contract.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF GOLDEN BEACH, FLORIDA, AS FOLLOWS:

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

Section 2. Selection of American Bridge Company. The Town Council hereby selects American Bridge Company for the Bridge Replacements.

Section 3. Authorization and Approval of Contract. The Town Council hereby authorizes and approves the Contract with American Bridge Company in substantially the form attached hereto as Exhibit "A," and the Mayor and/or Town Manager are authorized to execute the Contract on behalf of the Town, once approved as to final form and legal sufficiency by the Town Attorney.

Section 4. Implementation. The Mayor and Town Manager are hereby authorized to take all steps reasonably necessary to implement the Contract and this Resolution.

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

The Motion to adopt the foregoing Resolution was offered by _____, seconded by _____ and on roll call the following vote ensued:

Mayor Glenn Singer	_____
Vice Mayor Amy Isackson-Rojas	_____
Councilmember Bernard Einstein	_____
Councilmember Judy Lusskin	_____
Councilmember Kenneth Bernstein	_____

PASSED AND ADOPTED by the Town Council of the Town of Golden Beach,
Florida, this 27th day of March, 2012.

ATTEST:

MAYOR GLENN SINGER

LISSETTE PEREZ
INTERIM TOWN CLERK

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY:

STEPHEN J. HELFMAN
TOWN ATTORNEY

EXHIBIT “A”

(Attach Contract for Construction between the Town and American Bridge Company)

CONTRACT FOR CONSTRUCTION

TOWN OF GOLDEN BEACH - BRIDGE REPLACEMENTS

THE STRAND AND NAVONA AVENUES

THIS **CONTRACT FOR CONSTRUCTION** ("Contract") is made effective as of _____, 2012 by and between **THE TOWN OF GOLDEN BEACH, FLORIDA**, a municipal corporation of the State of Florida (hereinafter referred to as "Town"), and **AMERICAN BRIDGE COMPANY**, a Delaware corporation authorized to transact business in the State of Florida (hereinafter referred to as "Contractor"), whose address is 5430 West Tyson Avenue, Tampa, Florida 33611.

RECITALS

WHEREAS, the Town issued a Notice to Bid Invitation No. 2012-02 and Project Manual on January 30, 2012, together with revisions and Addendum No. 1 issued March 1, 2012 and Addendum No. 2 issued March 5, 2012 (collectively, hereinafter referred to as the "Bid Documents" or "Contract Documents") for the Project entitled "Town of Golden Beach Bridge Replacements – The Strand and Navona Avenues," as shown, described and detailed in the Project Manual and the Project Plans and Specifications prepared by Corzo Castella Carballo Thompson Salman, P.A. ("C3TS") (the "Town's Project Engineer"); and

WHEREAS, the Project consists of the phased demolition of two (2) 100 foot long existing two-lane bridges, including various bridge attached utilities; the phased construction of two (2) replacement bridges, including seawall bulkheads at the bridge abutments; reconstruction of roadway approaches and impacted utilities, including a Miami-Dade County Water & Sewer Department Force Main, a City of North Miami Beach water main, and the installation of conduits for Florida Power & Light (FPL), AT&T and Atlantic Broadband facilities; and landscaping and lighting improvements on the bridges and their roadway approaches (collectively, the "Project"); and

WHEREAS, the Project is partially federally funded by the Florida Department of Transportation ("FDOT") under a Local Agency Program (LAP) Agreement, and as such is subject to numerous federal contractual requirements included in the Contract Documents and specifically included and made a part of this Contract; and

WHEREAS, there are various issued permits and agency agreements for the Project, which are included in the Contract Documents and specifically included and made a part of this Contract; and

WHEREAS, the Contractor submitted a bid/proposal in response to the Bid Documents, which bid/proposal was accepted by the Town as the lowest, responsible and responsive bidder for the award of this Contract (the "Bid"); and

WHEREAS, the Contractor is willing and able to deliver the deliverables and perform the services and Work for the Project in accordance with the terms and conditions set forth in the Contract Documents, the Bid and this Contract.

NOW THEREFORE, in consideration of the mutual terms, conditions, promises and covenants set forth below, the Town and Contractor, agree as follows:

ARTICLE 1

SCOPE OF WORK

- 1.1 Contractor hereby agrees to furnish all of the labor, materials, equipment, services, work and incidentals necessary to perform all of the Work described in the Contract Documents for the Project, and as described in the Plans and Specifications prepared by the Town's Project Engineer, Project No. 00734-003 (the "Plans and Specifications") (the "Work").

ARTICLE 2

CONTRACT TIME

- 2.1 Contractor shall be instructed to commence the Work by written instructions in the form of a Notice to Proceed issued by the Town Manager. The Notice to Proceed will not be issued until Contractor's submission to Town of all required documents and after execution of this Contract.
- 2.2 Time is of the essence throughout this Contract. The Contractor shall prosecute the Work with faithfulness and diligence and shall achieve Substantial Completion within Five Hundred Sixty (560) calendar days from the date specified in the Notice to Proceed. The Work shall be completed and ready for final payment in accordance with Article 3 within Sixty (60) calendar days from the date certified by Town's Project Engineer as the date of Substantial Completion.
- 2.3 Upon failure of Contractor to substantially complete the Contract within the specified period of time, Contractor shall pay to Town the sum of Two Thousand Dollars (\$2,000.00) for each calendar day after the time specified in Section 2.2 above for Substantial Completion. After Substantial Completion, should Contractor fail to complete the remaining Work within the time specified in Section 2.2 above for completion and readiness for final payment, Contractor shall pay to Town the sum of One Thousand Dollars (\$1,000.00) for each calendar day after the time specified in Section 2.2 for completion and readiness for final payment. These amounts are not penalties but are liquidated damages to the Town for its inability to obtain full beneficial occupancy and use of the Project. Liquidated damages are hereby fixed and agreed upon between the parties, recognizing the impossibility of precisely ascertaining the amount of damages that will be sustained by Town as a

consequence of such delay, and both parties desiring to obviate any question or dispute concerning the amount of said damages and the cost and effect of the failure of Contractor to complete the Contract on time. The above-stated liquidated damages shall apply separately to each phase of the Project for which a time for Substantial and/or Final completion is given.

- 2.4 The Town is authorized to deduct the liquidated damages from monies due to Contractor for the Work under this Contract.

ARTICLE 3

CONTRACT PRICE

- 3.1 Town shall pay to Contractor for the performance of the Contract, the total lump sum of Seven Million, Five Hundred Fifty Seven Thousand, Four Hundred Thirty and 74/100 Dollars (\$7,557,430.74). This price shall be full compensation for all costs, including overhead and profit, associated with completion of all the Work in full conformity with the requirements as stated or shown, or both, in the Contract Documents and Plans and Specifications.
- 3.2 The sum set forth in Paragraph 3.1 shall constitute the Contract Price, which shall not be modified except by any Change Order issued by the Town or as otherwise specified herein.
- 3.3 The Contract Price may be adjusted by the Town pursuant to Article 12 of the General Conditions of the Contract Documents.

ARTICLE 4

CONTRACT DOCUMENTS

- 4.1 The Contractor shall perform the Work in accordance with the Contract Documents and the Plans and Specifications. The Contract Documents which comprise the entire agreement between the Town and the Contractor concerning the Work for the Project consist of this Contract, the Drawings, Plans and Specifications, the Project Manual, the Notice of Bid Invitation and Bid Documents, the Addenda, the General Conditions, the Supplementary Conditions, FHWA-1273 (Required Contract Provisions, Federal Aid Construction Contracts), the Special Conditions, the Specifications for Installation of Miami-Dade County Water & Sewer Department's Two (2) 6-Inch Wastewater Force Mains Agreement Nos. 20559 and 20560, Specifications for Installation of City of North Miami Beach 8-Inch Water Main, the FEMA Environmental Resource Memorandum of Record of Environmental Consideration, the Local Agency Program Agreement dated December 1, 2011 between the Florida Department of Transportation and the Town, the Performance

Bond and Payment Bond, Insurance Certificates, the Notice of Award, the Notice to Proceed, any Change Orders and any other Contract Documents not specifically listed herein which shall be considered incorporated into and made a part of this Contract by this reference and shall govern this Project. Contractor is reminded and hereby recognizes that all Work under this Contract must comply with applicable federal, State and local guidelines, procedures and regulations. Any mandatory clauses which are required by such federal, State and local guidelines, procedures and regulations shall be deemed to be incorporated herein immediately upon Town's written request.

- 4.2 This Contract incorporates and includes all prior negotiations, correspondence, conversations, agreements, or understandings applicable to the matters contained herein and the parties agree that there are no commitments, agreements, or understandings concerning the subject matter of this Contract that are not contained herein. Accordingly, it is agreed that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written.
- 4.3 The Contract Documents shall remain the property of the Town. The Contractor shall have the right to keep one record set of the Contract Documents upon completion of the Project; provided; however, that in no event shall the Contractor use, or permit to be used, any or all of such Contract Documents on other Projects without the Town's prior written authorization.

ARTICLE 5

WAIVER OF JURY TRIAL/ATTORNEYS' FEES AND COSTS

Town and Contractor knowingly, irrevocably, voluntarily and intentionally waive any right either may have to a trial by jury in State and or Federal court proceedings in respect to any action, proceeding, lawsuit or counterclaim based upon this Contract, arising out of, under, or in connection with the Project or the Work, or any course of conduct, course of dealing, statements or actions or inactions of any party. If either the Town or Contractor is required to enforce the terms of this Contract by court proceedings or otherwise, whether or not formal legal action is required, the prevailing party shall be entitled to recover from the other party all costs, expenses, and reasonable attorney's fees in any state or federal administrative, circuit court and appellate court proceedings.

ARTICLE 6

ASSIGNMENT

This Contract or the Work shall not be assigned, transferred or otherwise encumbered, under any circumstances, in whole or in part, by Contractor, without the prior written consent of

the Town, in its sole and absolute discretion. Contractor shall not assign any monies due or to become due to it hereunder, without the previous written consent of the Town Manager.

ARTICLE 7

MISCELLANEOUS

7.1 Insurance Requirements:

Contractor shall provide and maintain in force until all the Work to be performed under this Contract has been completed and accepted by Town (or for such duration as is otherwise specified hereinafter), the insurance coverages set forth in the Contract Documents and of such type and in such amounts necessary to protect its interest and the interest of the Town against hazards or risks of loss as specified in the Contract Documents. The underwriter of such insurance shall be qualified to do business in the State of Florida and have agents upon whom service of process may be made in the State of Florida. The insurance coverage shall be primary insurance with respect to the Town, its officials, employees, agents and volunteers. Any insurance maintained by the Town shall be in excess of the Contractor's insurance and shall not contribute to the Contractor's insurance.

Upon execution of this Contract, the Contractor shall provide to the Town Manager, the Certificate(s) of Insurance evidencing the required insurance coverage. The Certificate(s) of Insurance shall not only name the types of policy(ies) provided, but also shall refer specifically to this Contract and shall state that such insurance is as required by this Contract. The Town reserves the right to require the Contractor to provide a certified copy of such policies, upon written request by the Town. If a policy is due to expire prior to the completion of the Work, a renewal Certificate of Insurance or policies shall be furnished thirty (30) calendar days prior to the date of their policy expiration. Each policy shall be endorsed with a provision that not less than thirty (30) calendar days' written notice shall be provided to the Town before any policy or coverage is cancelled or restricted. Acceptance of the Certificate(s) of Insurance is subject to approval of the Town Manager.

7.2 Town's Right To Terminate Contract

7.2.1 If Contractor fails to timely begin the Work, or fails to perform the Work with sufficient workers and equipment or with sufficient materials to insure the prompt progress and completion of the Work, or shall perform the Work unsuitably, or cause it to be rejected as defective and unsuitable, or shall discontinue the prosecution of the Work pursuant to the accepted schedule or if the Contractor shall fail to perform any material term set forth in the Contract Documents or if Contractor shall become insolvent or be declared bankrupt, or commit any act of bankruptcy or insolvency, or shall make an

assignment for the benefit of creditors, or from any other cause whatsoever shall not carry on the Work in an acceptable manner, Town may, upon seven (7) days written Notice of Termination, terminate the services of Contractor, exclude Contractor from the Project site and take the prosecution of the Work out of the hands of Contractor, and use any or all materials on the Project site which have been paid for by the Town, as may be suitable and acceptable and may finish the Work by whatever methods it may deem expedient. In such case Contractor shall not be entitled to receive any further payment until the Project is completed. All damages, costs and charges incurred by Town, together with the costs of completing the Project, shall be deducted from any monies due or which may become due to Contractor. In case the damages and expenses so incurred by Town shall exceed the unpaid balance, then Contractor shall be liable and shall pay to Town the amount of said excess.

7.3 **Contractor to Check Plans, Specifications and Data**

Contractor shall verify all dimensions, quantities and details shown on the Plans and Specifications or other data received from the Town's Project Engineer, and shall notify the Town's Project Engineer in writing of all errors, omissions and discrepancies found therein within three (3) calendar days of discovery and the Town's Project Engineer will promptly review the same. Any Work done after such discovery, but prior to written authorization of the Town's Project Engineer, will be done at the Contractor's sole risk.

7.4 **Contractor's Responsibility for Damages and Accidents**

7.4.1 Contractor shall accept full responsibility for the Work against all loss or damage of any nature sustained until final acceptance by the Town, and shall promptly repair any damage done from any cause.

7.4.2 Contractor shall be responsible for all materials, equipment and supplies pertaining to the Project. In the event any such materials, equipment and supplies are lost, stolen, damaged or destroyed prior to final acceptance by the Town, Contractor shall replace same without cost to the Town.

7.5 **Defective Work/Guarantee:**

7.5.1 Town shall have the authority to reject or disapprove Work which the Town finds to be defective. If required by the Town, Contractor shall promptly either correct all defective Work or remove such defective Work and replace it with nondefective Work. Contractor shall bear all direct, indirect and consequential costs of such removal or corrections including cost of testing laboratories and personnel.

- 7.5.2 Should Contractor fail or refuse to remove or correct any defective Work or to make any necessary repairs in accordance with the requirements of the Contract Documents within the time indicated in writing by the Town's Project Engineer, the Town shall have the authority to cause the defective Work to be removed or corrected, or make such repairs as may be necessary at Contractor's expense. Any expense incurred by the Town in making such removals, corrections or repairs, shall be paid for out of any monies due or which may become due to Contractor. In the event of failure of Contractor to make all necessary repairs promptly and fully, the Town may declare Contractor in default.
- 7.5.3 The Contractor shall unconditionally guarantee all materials and equipment furnished and Work performed for a period of one (1) year from the date of Substantial Completion. If, within one (1) year after the date of Substantial Completion, any of the Work is found to be defective or not in accordance with the Contract Documents, Contractor, after receipt of written notice from Town, shall promptly correct such defective or nonconforming Work within the time specified by the Town without cost to the Town. Nothing contained herein shall be construed to establish a period of limitation with respect to any other obligation which Contractor might have under the Contract Documents, including, but not limited to, any claim regarding latent defects.
- 7.5.4 Failure to reject any defective Work or material shall not in any way prevent later rejection when such defect is discovered.

7.6 **Legal Restrictions and Traffic Provisions:**

Contractor shall conform to and obey all applicable laws, regulations, or ordinances with regard to labor employed, hours of Work and Contractor's general operations. Contractor shall conduct its operations so as not to interfere with or close any thoroughfare or right-of-way, except as provided for and in accordance with the Contract Documents, without the written consent of the Town and the proper authorities.

7.7 **Examination and Retention of Contractor's Records**

- 7.7.1 The Town or any of their duly authorized representatives shall, until three (3) years after final payment under this Contract, have access to and the right to examine any of the Contractor's books, ledgers, documents, papers, or other records involving the Work and transactions related to this Contract for the purpose of making audit, examination, excerpts, and transcriptions.
- 7.7.2 The Contractor agrees to include in first-tier subcontracts under this Contract a clause substantially the same as subparagraph 7.7.1 above. "Subcontract," as used in this clause, excludes purchase orders not exceeding \$10,000.

7.7.3 The right to access and examination of records in subparagraph 7.7.1 shall continue until disposition of any mediation, claims, litigation or appeals.

7.8 **No Damages for Delay**

No claim for damages or any claim, other than for an extension of time shall be made or asserted against the Town by reason of any delays. Contractor shall not be entitled to an increase in the Contract Price or payment or compensation of any kind from Town for direct, indirect, consequential, impact or other costs, expenses or damages, including but not limited to, costs of acceleration or inefficiency, arising because of delay, disruption, interference or hindrance from any cause whatsoever, whether such delay, disruption, interference or hindrance be reasonable or unreasonable, foreseeable or unforeseeable, or avoidable or unavoidable. Contractor shall be entitled only to extensions of the Contract Time as the sole and exclusive remedy for such resulting delay. Notwithstanding the above, and in accordance with the requirements of Article 12 of the General Conditions, the Contractor shall be granted an extension of time and suspension of liquidated damages for any delay beyond the control of the Contractor. Should any delay, disruption, interference or hindrance be caused by the Town, for a continuous period or cumulative period of thirty (30) days without cure, the Contractor may terminate the Contract upon seven days written notice to the Town.

7.9 **Public Entity Crimes Affidavit**

Contractor shall comply with Section 287.133, Florida Statutes, (Public Entity Crimes Statute) notification of which is hereby incorporated herein by reference, including execution of any required affidavit.

7.10 **Indemnification**

Contractor shall indemnify and hold harmless the Town, Town's officers and employees and Town's Project Engineer and its officers and employees, from all liabilities, damages, losses and costs, including, but not limited to, reasonable attorney's fees and costs, to the extent caused by the acts or omissions, negligence, recklessness or intentional wrongful conduct of Contractor and persons employed or utilized by Contractor in the performance of the Work in connection with this Contract.

7.11 **Capitalized Terms**

Capitalized terms shall have their plain meaning as indicated herein or the Contract Documents.

7.12 **Independent Contractor:**

The Contractor is an independent contractor under the Contract. Work or Services provided by the Contractor shall be by employees of the Contractor and subject to supervision by the Contractor, and not as officers, employees, or agents of the Town. Personnel policies, tax responsibilities, social security and health insurance, employee benefits, purchasing policies and other similar administrative procedures, applicable to services or Work rendered under the Contract shall be those of the Contractor.

7.13 **Payment to Sub-Contractors**

Certification of Payment to Subcontractors: The term “subcontractor”, as used herein, includes persons or firms furnishing materials or equipment incorporated into the Work, the Project or stockpiled for which the Town made partial payment and firms working under equipment-rental agreements. The Contractor is required to pay all subcontractors for satisfactory performance of their contracts before the Town will make a further progress (partial) payment. The Contractor shall also return all retainage withheld to the subcontractors within thirty (30) days after the subcontractor’s work is satisfactorily complete, as determined by the Town. Prior to receipt of any progress (partial) payment, the Contractor shall certify that all subcontractors having an interest in the Contract were paid for satisfactory performance of their contracts and that the retainage is returned to subcontractors within thirty (30) days after satisfactory completion of the subcontractor’s work. Contractor shall provide this certification in the form designated by the Town.

The Town will not make any progress payments after the initial partial payment until the Contractor completes the Equal Opportunity monthly report, unless the Contractor demonstrates good cause for not making any required payment and furnishes written notification of any such good cause to both the Town and the affected subcontractors and suppliers.

Within thirty (30) days of the Contractor’s receipt of the final progress payment or any other payments thereafter, except the final payment, the Contractor shall pay all subcontractors and suppliers having an interest in the Contract for all Work completed and materials furnished. The Town will honor an exception to the above when the Contractor demonstrates good cause for not making any required payment and furnishes suppliers within said thirty (30)-day period.

7.14 **DBE Contract Assurance**

The Contractor, sub-recipient, or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this Contract. The Contractor shall carry out applicable requirements of 49 CFE Part 26 in the award and administration of this Contract. Failure by the Contractor to carry out these

requirements is a material breach of this Contract, which may result in the termination of this Contract or such other remedy, as the Town deems appropriate.

7.15 **Survival of Provisions.**

Any terms or conditions of this Contract that require acts beyond the date of the Contract Time, shall survive termination of this Contract, and shall remain in full force and effect unless and until the terms or conditions are completed and shall be fully enforceable by either party.

7.16 **Notices.**

Whenever either party desires to give notice to the other, it must be given by hand delivery or written notice, sent by certified United States mail, with return receipt requested or a nationally recognized private mail delivery service, addressed to the party for whom it is intended, at the place last specified, and the place for giving of notice in compliance with the provisions of this paragraph. For the present, the parties designate the following as the respective places for giving of notice, to-wit:

For Contractor:

American Bridge Company
Attention: Mark Bell, Vice President
5430 West Tyson Avenue
Tampa, Florida 33611
Phone: (813) _____
Facsimile: (813) _____

Email: _____

For Town:

Town of Golden Beach
Attn: Alexander Diaz, Town Manager
1 Golden Beach Drive
Golden Beach, FL 33160-2296
Phone: (305) 932-0744
Facsimile: (305) 933-3825
Email: alexdiaz@goldenbeach.us

With a copy to:

Stephen J. Helfman, Esq.
Weiss Serota Helfman Pastoriza Cole & Boniske, P.L.
Town Attorneys
2525 Ponce de Leon Blvd.

Suite 700
Coral Gables, FL 33134
Phone: (305) 854-0800
Facsimile: (305) 854-2323
Email: shelfman@wsh-law.com

7.17 **Consent To Jurisdiction**

The parties submit to the jurisdiction of any Florida state or federal court in any action or proceeding arising out of relating to this Contract. Venue of any action to enforce this Contract shall be proper exclusively in Miami-Dade County, Florida.

7.18 **Governing Law**

This Contract shall be construed in accordance with and governed by the laws of the State of Florida.

7.19 **Headings**

Headings are for convenience of reference only and shall not be considered in any interpretation of this Contract.

7.20 **No Waiver of Breach**

The failure of a party to insist on strict performance of any provision of this Contract shall not be construed to constitute a waiver of a breach of any other provision or of a subsequent breach of the same provision.

7.21 **Severability**

If any provision of this Contract or the application thereof to any person or situation shall to any extent, be held invalid or unenforceable, the remainder of this Contract, 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.

7.22 **Counterparts**

This Contract may be executed in several counterparts, each of which shall be deemed an original and all such counterparts shall constitute one and the same instrument.

7.23 **Amendments**

No modification, amendment or alteration in the terms or conditions of this Contract shall be effective unless contained in a written document executed with the same formality as this Contract by both parties.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, the parties hereto have made and executed this Contract on the respective dates under each signature: TOWN OF GOLDEN BEACH, FLORIDA, signing by and through its Town Manager authorized to execute same by Council action on the ____ day of _____ 2012, and AMERICAN BRIDGE COMPANY signing by and through _____, duly authorized to execute same.

ATTEST:

TOWN OF GOLDEN BEACH, FLORIDA

Town Clerk

By: _____
Town Manager

Execution Date: _____

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY:

By: _____
TOWN ATTORNEY

CONTRACTOR MUST EXECUTE THIS CONTRACT AS INDICATED BELOW. USE CORPORATION FORMAT, AS APPLICABLE.

CONTRACTOR:

ATTEST:

AMERICAN BRIDGE COMPANY, a Delaware Corporation authorized to transact business in the State of Florida

(Secretary)

(Corporate Seal)

By: _____
(Signature and Title)

(Type Name/Title signed above)

Execution Date: _____



Engineers
Architects
Planners

March 19, 2012

Town of Golden Beach
1 Golden Beach Drive
Golden Beach, FL 33160

**Attention: Alexander Diaz
Town Manager**

**Reference: LAP Bridge Replacements – The Strand & Navona Ave
Town of Golden Beach ITB
FDOT FPN 430408-1
C3TS Project No. 00734-003**

Dear Mr. Diaz:

We have reviewed the two bids submitted for the above referenced project. The bids were responsive and were accompanied by proper bid bonds. We checked references for contractor performance on past and current projects, evaluated their subcontractors, their licenses, registrations and pre-qualifications.

Based on our findings, it is our opinion that the above two contractors are qualified and capable of performing the work. Therefore, we recommend that the project be awarded to the lowest responsible responsive bidder, American Bridge Company, in the amount of \$7,557,430.74.

Sincerely,

Corzo Castella Carballo Thompson Salman, P.A.

Ramon Castella, P.E.
Principal

RC/er

X:\00734-003 Town of Golden Beach Bridges\Correspondence\1L031912RecommLtr.doc



Florida Department of Transportation

RICK SCOTT
GOVERNOR

605 Suwannee Street
Tallahassee, FL 32399-0450

ANANTH PRASAD, P.E.
SECRETARY

March 21, 2012

Mr. Alexander Diaz
Town Manager
Town of Golden Beach ITB
1 Golden Beach Drive
Golden Beach, FL 33160

Project Description: Town Of Golden Beach at Strand Avenue & Navona Ave, Br.# 875701 & 875702, FM No.: 430408-1-5801, FAP No. 00b 002 b, Contract No. AQ182

RE: Evaluation of Bids and Intent to Proceed with Recommendation
Local Agency Program Request for Concurrence

Dear Mr. Diaz,

The Florida Department of Transportation has received your bid tabulation and request for concurrence with respect to the above referenced project. This letter serves as concurrence from the Florida Department of Transportation for the Town of Golden Beach to proceed with a recommendation of award to American Bridge Company.

Should you have any questions, please contact the Project Manager, Peter Medico at his office phone number (305) 640-7568 or cell number 850-207-8667 or by email Peter.Medico@dot.state.fl.us. Thank you for your attention.

Regards,

Vicki Gatani
District LAP Administrator

CC: Peter J. Medico, P.E.

Town of Golden Beach Bridge Replacements - The Strand and Navona Avenue

C3TS Project Number - 00734-03

Bid Comparison

Bidder	Base Bid Navona Bridge	Base Bid Navona Seawall	General Items	Base Bid Strand Bridge	Base Bid Strand Seawall	General Items	Total Bid
American Bridge Co.	\$2,663,637.53	\$304,043.73	\$754,230.20	\$2,676,696.49	\$450,895.50	\$707,927.30	\$7,557,430.75
Bidder	Base Bid Bridge	Base Bid Navona Seawall	General Items	Base Bid Strand Bridge	Base Bid Strand Seawall	General Items	Total Bid
Southeastern Engineering Contractors, Inc.	\$2,750,607.05	\$296,128.10	\$823,948.00	\$3,072,617.10	\$452,836.80	\$773,866.00	\$8,170,003.05



TOWN OF GOLDEN BEACH

One Golden Beach Drive
Golden Beach, FL 33160

MEMORANDUM

Date: March 27, 2012

To: Honorable Mayor Glenn Singer &
Town Council Members

From: Alexander Diaz,
Town Manger

Subject: Resolution No. 2231.12 – Authorizing an Agreement with Iron Sky, Inc. for an Integrated CCTV Security Camera System and Wireless Data Network

Item Number:

7

Recommendation:

It is recommended that the Town Council adopt the attached Resolution No. 2231.12 as presented.

Background:

At your February 21, 2012 Special Town Council Meeting you approved Resolution 2224.12 which selected Iron Sky, Inc. to provide the Town with a Comprehensive Closed Circuit Television Security System, License Plate Recognition System, Ocean Front Security System, Intercostal Security System, Park Security Cameras, and WIFI points of access throughout the Town.

This Item today is final acceptance of the actual contract. The scope and required level of service are defined within the contract document.

Fiscal Impact:

An amount not to exceed \$500,000 from the Law Enforcement Trust Fund; the Town Council has approved the Administration to exercise a line of credit with Northern Trust for this project.

TOWN OF GOLDEN BEACH, FLORIDA

RESOLUTION NO. 2231.12

A RESOLUTION OF THE TOWN OF GOLDEN BEACH, FLORIDA, APPROVING AND AUTHORIZING AN AGREEMENT BETWEEN THE TOWN AND IRON SKY, INC. FOR AN INTEGRATED CCTV SECURITY CAMERA SYSTEM AND WIRELESS DATA NETWORK; AUTHORIZING THE MAYOR AND TOWN MANAGER TO EXECUTE THE AGREEMENT; PROVIDING FOR IMPLEMENTATION; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town of Golden Beach (the "Town") issued Request for Proposals (RFP) No. 2011-11 for an Integrated Closed-Circuit Television (CCTV) Security Camera System and/or a Wireless Data Network ("Security Camera System") for the Town; and

WHEREAS, Iron Sky, Inc. (Iron Sky) submitted a proposal in response to the RFP (the "Proposal") which was determined to be the best and most advantageous Proposal to the Town; and

WHEREAS, the Town selected and approved the Proposal of Iron Sky on February 21, 2012 by previous Resolution No. 2224.12, and authorized the Town Manager to finalize an Agreement with Iron Sky for the Security Camera System pursuant to the terms of the Proposal; and

WHEREAS, the Town wishes to enter into an Agreement with Iron Sky, Inc. substantially in the form attached to this Resolution as Exhibit "A" (the "Agreement"); and

WHEREAS, the Town Council has determined that it is in the best interests of the Town to install the Security Camera System and enter into the Agreement.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF GOLDEN BEACH, FLORIDA, AS FOLLOWS:

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

Section 2. Approval of Agreement; Execution of Agreement. The Town Council hereby approves and authorizes the Agreement with Iron Sky, Inc. in substantially the form attached hereto as Exhibit "A," and the Mayor and/or Town Manager are authorized to execute the Agreement on behalf of the Town once approved as to final form and legal sufficiency by the Town Attorney.

Section 3. Implementation. The Mayor and Town Manager are hereby authorized to take all steps reasonably necessary to implement the Agreement and this Resolution.

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

The Motion to adopt the foregoing Resolution was offered by _____, seconded by _____ and on roll call the following vote ensued:

Mayor Glenn Singer	_____
Vice Mayor Amy Isackson-Rojas	_____
Councilmember Bernard Einstein	_____
Councilmember Judy Lusskin	_____
Councilmember Kenneth Bernstein	_____

PASSED AND ADOPTED by the Town Council of the Town of Golden Beach, Florida, this 27th day of March, 2012.

ATTEST:

MAYOR GLENN SINGER

LISSETTE PEREZ
INTERIM TOWN CLERK

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY:

STEPHEN J. HELFMAN
TOWN ATTORNEY

EXHIBIT “A”

(Attach Agreement between the Town and Iron Sky, Inc.)

PROFESSIONAL SERVICES AGREEMENT

between

TOWN OF GOLDEN BEACH, FLORIDA

and

IRON SKY, INC.

for

**INTEGRATED CLOSED-CIRCUIT TELEVISION (CCTV) SECURITY
CAMERA SYSTEM AND WIRELESS DATA NETWORK**

THIS PROFESSIONAL SERVICES AGREEMENT (this "Agreement") is made effective as of March __, 2012 (the "Effective Date") by and between the **TOWN OF GOLDEN BEACH**, Florida, a Florida municipal corporation (hereinafter referred to as the "TOWN"), and **IRON SKY, INC.**, a Delaware corporation authorized to do business in the State of Florida (hereinafter referred to as the "CONTRACTOR"), whose principal place of business is 1773 Westborough Drive, Katy, Texas 77449.

WHEREAS, the TOWN issued Request for Proposals No. 2011-01 on June 17, 2011, and subsequent revisions and addendums thereto (the "RFP"), requesting proposals from qualified vendors for the purpose of providing deliverables and services for the design, engineering, installation, maintenance and support of an Integrated Closed-Circuit Television (CCTV) Security Camera System and Wireless Data Network within the TOWN (the "Project");

WHEREAS, the CONTRACTOR submitted a Proposal in response to the RFP consisting of: (i) Base Bid (Location Detail) dated July 27, 2011 and last revised on January 24, 2012; (ii) Main Interface Screen (Location Detail) dated July 27, 2011 and last revised on January 24, 2012; and (iii) Proposal dated January 27, 2012, including Base Bid and Add Alternates (collectively, the "Proposal"), which Proposal was selected by the TOWN for the award of this Agreement;

WHEREAS, the CONTRACTOR is willing and able to deliver such deliverables and perform such services for the TOWN in accordance with the terms and conditions set forth in the RFP, the Proposal and this Agreement for the Project;

NOW THEREFORE, in consideration of the mutual terms, conditions, promises and covenants set forth below, the TOWN and CONTRACTOR agree as follows:

SECTION 1. SCOPE AND SERVICES

1.1 **The RFP.** This Agreement includes the terms of the RFP, together with all revisions and addendums thereto, and required specifications for the Project, a copy of which is attached hereto and incorporated herein as Exhibit "A." The Services as defined in Section 1.2 hereof and to be provided and performed with respect to the Project shall be at all times subject to the requirements and specifications of the RFP.

1.2 **Services.** The CONTRACTOR shall provide to the TOWN "turnkey" installation of deliverables and services throughout the TOWN, at locations approved by the Town, for the design, engineering, installation, maintenance and support of an Integrated Closed-Circuit Television Security Camera System and Wireless Data Network and related hardware, including the furnishing and installation of all necessary and required equipment, materials, components, cables, wiring, electrical to service points as provided by the TOWN, and labor necessary to provide a completely operational CCTV security camera system and wireless data network, maintenance of all parts and labor, technical and system maintenance and support services, and software installation and service (collectively, the "Services" or "System") which are more specifically set forth in the Proposal attached hereto and incorporated herein as Exhibit "B" and are additionally set forth as follows:

1.2.1 Design, Engineering and Installation of Hardware and Equipment.

CONTRACTOR shall provide "turnkey" design, engineering and installation throughout the TOWN, at locations approved by the TOWN, of an Integrated Closed-Circuit Television Security Camera System and Wireless Data Network and related hardware, including the furnishing and installation of all necessary and required equipment, materials, components, cameras, server, monitors, workstations, video wall controller, call boxes, cables, wiring, connections, poles, electrical to service points as provided by the TOWN, and labor necessary to provide a completely operational CCTV security camera system and wireless data network. Within fifteen (15) days of the Effective Date of this Agreement, CONTRACTOR shall submit four (4) sets of engineering drawings representing the proposed System installation to the TOWN, for the approval of the TOWN. CONTRACTOR shall provide "As-Built" Drawings prior to final Acceptance of the Project by the TOWN, Testing and Acceptance, System Instruction and Training, Guarantees and Warranties as required by the RFP and in accordance with the Proposal. It shall be the Contractor's sole responsibility to obtain all applicable and required permits and approvals for the installation and maintenance of the System. The criteria for Testing and Acceptance of the System shall be developed by the parties during the design and engineering phase of the System.

1.2.2 Maintenance and Support Services; System Training.

CONTRACTOR shall provide technical maintenance and support services, including maintenance of the System, for one (1) year from Testing and Acceptance of

the System as required in the RFP and as provided in the Proposal, including on-site maintenance and support and remote support services. The CONTRACTOR shall provide initial and on-going System training and instruction to TOWN personnel on the System, at no additional cost to the TOWN. The first year service and maintenance and support services costs are included in the Contract Price, with subsequent maintenance and support services costs not to exceed and to be billed at \$49,874.88 annually.

Service and maintenance of warranty and guarantee items shall not be charged to the TOWN. Non-warranty and non-guarantee items shall be charged at the Contract Price, with installation labor provided at the rate of \$100/hour with a two (2) hour minimum.

1.2.3 Software Installation and Service.

CONTRACTOR shall provide for the installation and servicing of its Video Management Software (VMS) and all software necessary and required for the proper performance of the System, and grants the TOWN all licenses for the Software. The VMS shall integrate all data and create a single interface from which the TOWN can manage all of its safety, security and operational applications. All applicable licensing, upgrade and renewal fees for the VMS software are included in the Contract Price for the duration of the Maintenance and Support Services provided pursuant to Section 1.2.2 of this Agreement.

SECTION 2. BILLING AND PAYMENTS TO THE CONTRACTOR.

2.1 **Invoices.** The TOWN shall pay CONTRACTOR within thirty (30) calendar days of approval by the Town Manager of any invoices submitted by CONTRACTOR to the TOWN. The TOWN shall make payments to CONTRACTOR pursuant to applicable Florida law. Payments shall follow the lump sum fee schedule contained in the Proposal attached as Exhibit "B" and incorporated herein by reference and as additionally set forth as follows:

Total Base Bid or Contract Price (11 Objectives with Alternate No. 1 and WIFI service for all four (4) Park locations within the TOWN)	\$ 498,748.78
Fifty (50%) of the Total Contract Price will be invoiced within ten (10) days of the Notice to Proceed	\$ 249,374.39
Thirty Five (35%) of the Total Contract Price will be invoiced within ten (10) days of delivery and Acceptance of all System Equipment to TOWN (based upon actual Services completed and equipment delivered)	\$ 174,562.07

Fifteen (15%) of the Total Price will be invoiced within ten (10) days of the completion of the Project and Testing and Acceptance by the Town

\$ 74,812.32

* The Contract Price reflects a firm fixed price based on the requirements identified in the RFP and the CONTRACTOR'S Proposal. Contract Price includes Alternate No. 1 from CONTRACTOR'S Proposal and WIFI service to all four (4) Park locations within the TOWN.

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

2.3 **Suspension of Payment.** In the event that the TOWN becomes credibly informed that any representations of the CONTRACTOR, provided pursuant to this Section 2, are wholly or partially inaccurate, or in the event that the CONTRACTOR is not in compliance with any term or condition of this Agreement, the TOWN may withhold payment of sums then or in the future otherwise due to the CONTRACTOR until the inaccuracy, or other breach of this Agreement, and the cause thereof, is corrected to the TOWN's reasonable satisfaction.

2.4 **Final Payment.** Submission of the CONTRACTOR'S invoice for final payment and reimbursement shall constitute the CONTRACTOR'S representation to the TOWN that, upon receipt from the TOWN of the amount invoiced, all obligations of the CONTRACTOR to others, including its consultants, incurred in connection with the Project, shall be paid in full, and that the Systems is complete and operational with all Testing and Acceptance Testing completed. The CONTRACTOR shall deliver to the TOWN all documents requested by the TOWN evidencing payments to any and all consultants, and all final specifications and plans, "As-Built" Drawings," operations and maintenance manuals prior to System Testing and Acceptance, or any other document as dictated by the Services. Acceptance of final payment shall constitute a waiver of any and all claims against the TOWN by the CONTRACTOR. Any increase in the total amount paid pursuant to the Payment Schedule as described in Section 2.1 hereof shall be included in the final payment to the CONTRACTOR.

SECTION 3. TERM/TIME OF PERFORMANCE/DAMAGE.

3.1 **Term.** This Agreement shall commence on the Effective Date and shall continue in full force and effect for a period of two (2) years in connection with the Design, Installation of Hardware and Equipment as set forth in Section 1.2.1, unless otherwise terminated pursuant to the terms of this Agreement (the "Term"). The TOWN, in its sole discretion, may extend the term of this Agreement through written notification to the CONTRACTOR from the Town Manager. Such extension shall not exceed two (2) years. No further extensions of this Agreement shall be effective unless authorized by the Town Council. This Agreement shall include a one (1) year Maintenance and Support Services term commencing upon Testing and Acceptance of the System by the TOWN, plus three (3) additional one (1) year renewal terms, at the option of the TOWN.

3.2 **Commencement.** The CONTRACTOR'S Services under this Agreement and the time frames and Schedule applicable to this Agreement shall commence upon the issuance by the Town Manager of a Notice to Proceed for the Project ("the "Notice to Proceed"). The CONTRACTOR shall not incur any expenses or obligations or incur payment to third parties prior to the issuance of a Notice to Proceed for the Project, and the CONTRACTOR must receive the Notice to Proceed from the Town Manager prior to beginning the performance of the Services.

3.3 **Contract Time.** From and after the receipt of the Notice to Proceed, the CONTRACTOR shall continuously perform the Services described in this Agreement, without interruption or delay, for the duration of the Term (the "Contract Time"). The Design, Engineering and Installation of the System as described in Section 1.2.1 of this Agreement, including Testing and Acceptance of the System and training, shall be completed in accordance with the Project Schedule and milestones included in the Proposal attached hereto as Exhibit "B", but in no event shall exceed 120 calendar days in duration from Notice to Proceed for the Design, Engineering and Installation of the System. The first year Maintenance and Support Services shall commence on the date of Testing and Acceptance of the System by the TOWN, and when the System is fully operational and all System training has been completed. Time is of the essence in the performance of all obligations and Services by CONTRACTOR under this Agreement and all limitations of time set forth in this Agreement are of the essence.

SECTION 4. TERMINATION OF AGREEMENT.

4.1 **Termination.** The TOWN has the right to terminate this Agreement for any reason or no reason, upon seven (7) days' written notice to CONTRACTOR. Upon termination of this Agreement, and final payment of any undisputed outstanding invoices due through the date of notice of termination, copies of all charts, sketches, studies, plans, drawings, and other documents related to the Services performed under this Agreement, whether finished or not, shall be turned over to the TOWN within ten (10) days.

4.2 **Payment after Termination.** Provided that CONTRACTOR has performed in accordance with the terms of this Agreement as of the date of termination

pursuant to Section 4.1 above, CONTRACTOR shall receive all payments due to CONTRACTOR for Services rendered and accepted up to the date of termination.

SECTION 5. ADDITIONAL SERVICES AND CHANGES IN SCOPE OF SERVICES.

5.1 **Changes Permitted.** Changes in the Services or the Project consisting of additions, deletions, revisions, or any combination thereof, may be ordered by the TOWN by Change Order (as defined below) without invalidating the terms of this Agreement.

5.2 **Change Order Defined.** "Change Order" shall mean a written order to the CONTRACTOR executed by the TOWN, issued after execution of this Agreement, authorizing and directing a change in the Services, the Project, the Payment Schedule or the Contract Time, or any combination thereof. The Payment Schedule and/or the Contract Time may be changed only by Change Order.

5.3 **Effect of Executed Change Order.** The execution of a Change Order by the TOWN and the CONTRACTOR shall constitute conclusive evidence of the CONTRACTOR'S agreement to the ordered changes in the Services or the Project, or an adjustment in the Payment Schedule or the Contract Time, or any combination thereof. The CONTRACTOR, by executing the Change Order, waives and forever releases any claim against the TOWN for additional time or compensation for matters relating to or arising out of or resulting from the Services included within or affected by the executed Change Order. Change Order costs shall be determined at a negotiated fee between the parties or based on the scheduled hourly fees provided herein.

5.4 **Authority to Execute Changes or Requests for Additional Services.** The Town Manager is authorized to negotiate and execute Change Orders, in an amount not to exceed \$25,000.00. Changes or Requests for Additional Services, which exceed \$25,000.00, shall be approved by the Town Council.

SECTION 6. WARRANTIES AND GUARANTEES.

All equipment, products, components and parts of the System supplied by the CONTRACTOR or a manufacturer shall be warranted and guaranteed against defects in materials and workmanship for a minimum period of eighteen (18) months. The CONTRACTOR shall warrant and guarantee all work and Services performed pursuant to this Agreement as to the quality of work, compliance with all applicable laws, codes, statutes, ordinances, and industry workmanlike practices and standards for a period of not less than eighteen (18) months from the date of completion and Testing and Acceptance by the TOWN. The eighteen (18) month warranty and guarantee period shall commence upon Testing and Acceptance of the System by the TOWN and beneficial use thereof.

SECTION 7. SURVIVAL OF PROVISIONS.

Any terms or conditions of this Agreement that require acts beyond the date of the Term, shall survive termination of this Agreement, and shall remain in full force and effect unless and until the terms or conditions are completed and shall be fully enforceable by either party.

SECTION 8. TOWN'S RESPONSIBILITIES.

8.1 The TOWN will assist CONTRACTOR by placing at its disposal all available information as may be requested in writing by the CONTRACTOR relating to the Project and allow reasonable access to all pertinent information relating to the Services to be performed by CONTRACTOR.

8.2 The TOWN shall furnish to CONTRACTOR, at the CONTRACTOR'S written request, all available maps, plans, existing studies, reports and other data, pertinent to the Services to be provided by CONTRACTOR, that are in possession of the TOWN.

8.3 The TOWN shall arrange for access to and make all provisions for CONTRACTOR to enter upon public property as required for CONTRACTOR to perform the Services.

8.4 The TOWN shall provide all necessary line voltage electrical service points, to be identified by CONTRACTOR.

SECTION 9. COMPLIANCE WITH LAWS.

The Contractor shall comply with all Federal, State, County and Town Codes, in connection with the Services provided pursuant to this Agreement, including any and all structural, electrical and environmental codes and regulations, including but not limited to, local fire and building codes, and generally acceptable industry workmanlike practices and standards.

SECTION 10. POLICY OF NON-DISCRIMINATION/WAGES.

10.1 The CONTRACTOR and any and all of its agents, employees, subconsultants and subcontractors shall comply with applicable federal, state and local laws and ordinances applicable to the Services and work or payment for work and shall not discriminate on the grounds of race, color, religion, sex, age, marital status, national origin, physical or mental disability in the performance of the Services under this Agreement.

10.2 The CONTRACTOR and any and all of its agents, employees, subconsultants and subcontractors shall comply with the wage provisions of Section 287.055, Florida Statutes. If the Project is subject to federal or state grant funding that

requires specific wage and non-discrimination provisions, the CONTRACTOR shall be required to comply with the same.

SECTION 11. OWNERSHIP OF DOCUMENTS.

11.1 Any and all plans, drawings and specifications, and "As-Built" Drawings, as instruments of the Services to be performed (the "Drawings and Specifications"), are and shall become the property of the TOWN whether the Project for which they are made is executed or not. The CONTRACTOR shall be permitted to retain copies, including reproducible copies, of the Drawings and Specifications for information and reference in connection with the TOWN'S use and occupancy of the Project.

11.2 The CONTRACTOR agrees not to divulge, furnish or make available to any third person, firm or organization, without the TOWN'S prior written consent, or unless incident to the proper performance of the CONTRACTOR'S obligations hereunder, or in the course of judicial or legislative proceedings where such information has been properly subpoenaed, any non-public information concerning the Services to be rendered by the CONTRACTOR hereunder, and the CONTRACTOR shall require all of its employees, agents, subconsultants and subcontractors to comply with the provisions of this paragraph.

11.3 All final plans and documents prepared by the CONTRACTOR shall bear the endorsement and seal of a person under the control and direction of CONTRACTOR duly registered as a Professional Engineer, or as appropriate, in the State of Florida and date approved and/or sealed.

SECTION 12. RECORDS/AUDITS.

12.1 The CONTRACTOR shall maintain and require all subcontractors, subconsultants and suppliers to maintain, complete and correct records, books, documents, papers and accounts pertaining to the Project. Such records, books, documents, papers and accounts shall be available at all reasonable times for examination and audit by the Town Manager or any authorized Town representative with reasonable notice and shall be kept for a period of three (3) years after the completion of the Project. 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. Disallowed fees will be paid when incomplete or incorrect entries are remedied to the satisfaction of the TOWN.

12.2 The CONTRACTOR shall comply with Chapter 119, Florida Statutes, as applicable.

12.3 Refusal of the CONTRACTOR to comply with the provisions of Sections 12.1 or 12.2 shall be grounds for immediate termination for cause by the TOWN of this Agreement.

SECTION 13. NO CONTINGENT FEE.

The CONTRACTOR warrants that he or she has not employed or retained any company or person, other than a bona fide employee or agent working for the CONTRACTOR to solicit or secure this Agreement and that he or she has not paid or agreed to pay any person, company, corporation, individual, or firm, other than a bona fide employee working solely for the CONTRACTOR any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the award or making of this Agreement. For the breach or violation of this provision, the TOWN shall have the right to terminate this Agreement without liability and, at its discretion, to deduct from the Contract Price, or otherwise recover, the full amount of such fee, commission, percentage, gift, or consideration.

SECTION 14. INDEPENDENT CONTRACTOR.

The CONTRACTOR is an independent contractor under this Agreement. Personnel provided by the CONTRACTOR shall be by employees of the CONTRACTOR and subject to supervision by the CONTRACTOR, and not as officers, employees, or agents of the TOWN. Personnel policies, tax responsibilities, social security, health insurance, worker's compensation insurance, employee benefits, purchasing policies and other similar administrative procedures applicable to Services rendered under this Agreement shall be those of the CONTRACTOR.

SECTION 15. ASSIGNMENT; AMENDMENTS.

15.1 This Agreement or the Services shall not be assigned, transferred or otherwise encumbered, under any circumstances, in whole or in part, by CONTRACTOR, without the prior written consent of the TOWN in its sole and absolute discretion.

15.2 No modification, amendment or alteration in the terms or conditions of this Agreement shall be effective unless contained in a written document executed with the same formality as this Agreement by both parties.

SECTION 16. INDEMNIFICATION/HOLD HARMLESS.

16.1 The CONTRACTOR shall indemnify and hold harmless the TOWN, and its officers and employees from liabilities, damages, losses, and costs, including, but not limited to, reasonable attorneys' fees, to the extent caused by the negligence, recklessness, wrongful conduct, acts, errors or omissions of the CONTRACTOR or any subconsultants or other persons employed or utilized by the CONTRACTOR in the performance of the Services and this Agreement. The CONTRACTOR'S obligations under this paragraph shall not be limited in any way by the agreed upon Payment Schedule, or the CONTRACTOR'S limit of, or lack of, sufficient insurance protection.

16.2 The indemnification obligation under this clause shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for the CONTRACTOR or any subconsultants or other persons employed or utilized by the CONTRACTOR in the performance of this Agreement, under worker's compensation acts, disability benefit acts, or other employee benefit acts.

16.3 The CONTRACTOR shall not specify or allow any subcontractor or other persons employed or utilized by the CONTRACTOR in the performance of this Agreement to specify a particular design, process or product that infringes upon any patent. The CONTRACTOR shall indemnify and hold TOWN and its officers and employees harmless from any loss, cost or expense, including reasonable attorney's fees and costs incurred, on account thereof if the CONTRACTOR violates the requirements of this Section 16.

SECTION 17. INSURANCE.

The CONTRACTOR shall secure and maintain throughout the duration of this Agreement, insurance of such type and in such amounts necessary to protect its interest and the interest of the TOWN against hazards or risks of loss as specified below. The underwriter of such insurance shall be qualified to do business in the State of Florida and have agents upon whom service of process may be made in the State of Florida. The insurance coverage shall be primary insurance with respect to the TOWN, its officials, employees, agents and volunteers. Any insurance maintained by the TOWN shall be in excess of the CONTRACTOR'S insurance and shall not contribute to the CONTRACTOR'S insurance. The insurance coverage shall include a minimum of:

17.1 **Worker's Compensation and Employer's Liability Insurance:** Coverage to apply for all employees for Statutory Limits as required by applicable State and Federal laws. The policy(ies) must include Employer's Liability with minimum limits of \$500,000.00 each accident.

17.2 **Comprehensive Automobile and Vehicle Liability Insurance:** This insurance shall be written in comprehensive form and shall protect the CONTRACTOR and the TOWN against claims for injuries to members of the public and/or damages to property of others arising from the CONTRACTOR'S use of non-owned and hired motor vehicles or any other equipment and shall cover operation with respect to onsite and offsite operations and insurance coverage shall extend to any motor vehicles or other equipment irrespective of whether the same is owned, non-owned, or hired. The limit of liability shall not be less than \$1,000,000.00 per occurrence, combined single limit for Bodily Injury Liability and Property Damage Liability. Coverage must be afforded on a form no more restrictive than the latest edition of the Business Automobile Liability Policy, without restrictive endorsement, as filed by the Insurance Services Office.

17.3 **Commercial General Liability.** This insurance shall be written in comprehensive form and shall protect the CONTRACTOR and the TOWN against claims arising from injuries to members of the public or damage to property of others arising out of any act or omission to act of the CONTRACTOR or any of its agents, employees, or

subcontractors. The limit of liability shall not be less than \$2,000,000.00 per occurrence, combined single limit for Bodily Injury Liability and Property Damage Liability.

(a) Coverage must be afforded on a form no more restrictive than the latest edition of the Commercial General Liability Policy, without restrictive endorsements, as filed by the Insurance Services Office, and must include: (1) Premises and/or Operations; (2) Independent contractors and Products and/or completed Operations; (3) Broad Form Property Damage, Personal Injury and a Contractual Liability Endorsement, including any hold harmless and/or indemnification agreement.

(b) The TOWN is to be specifically included as an "Additional Insured" for the liability of the TOWN resulting from operations performed by or on behalf of CONTRACTOR in performance of this Agreement. CONTRACTOR'S insurance, including that applicable to the TOWN as an Additional Insured, shall apply on a primary basis and any other insurance maintained by the TOWN shall be in excess of and shall not contribute to CONTRACTOR'S insurance. CONTRACTOR'S insurance shall contain a severability of interest provision providing that, except with respect to the total limits of liability, the insurance shall apply to each Insured or Additional Insured in the same manner as if separate policies had been issued to each.

17.4 **Professional Liability:** The CONTRACTOR shall furnish professional liability errors and omissions insurance coverage in an amount not less than \$1,000,000.00 with a deductible of no more than \$25,000.00 per claim. The CONTRACTOR shall be responsible for maintaining this professional liability insurance for a minimum of five (5) years from the date of execution of this Agreement provided such insurance is commercially available. Upon request of the TOWN, the CONTRACTOR shall make available for inspection copies of any claims filed or made against the policy during the policy term. The CONTRACTOR shall additionally notify the TOWN, in writing, within thirty (30) calendar days of any claims filed or made against this policy in excess of \$100,000.00 during the policy term.

17.5 **Certificate of Insurance:** Upon execution of this Agreement, the CONTRACTOR shall provide to the Town Manager, the Certificate of Insurance evidencing the required insurance coverage. The Certificate of Insurance shall not only name the types of policy(ies) provided, but also shall refer specifically to this Agreement and shall state that such insurance is as required by this Agreement. The TOWN reserves the right to require the CONTRACTOR to provide a certified copy of such policies, upon written request by the TOWN. If a policy is due to expire prior to the completion of the services, a renewal Certificate of Insurance or policies shall be furnished thirty (30) calendar days prior to the date of their policy expiration. Each policy shall be endorsed with a provision that not less than thirty (30) calendar days' written notice shall be provided to the TOWN before any policy or coverage is cancelled or restricted. Acceptance of the Certificate of Insurance is subject to approval of the Town Manager.

17.6 All deductibles or self-insured retentions must be declared to and be approved by the Town Manager. The CONTRACTOR shall be responsible for the payment of any deductible or self-insured retentions in the event of any claim.

SECTION 18. REPRESENTATIVE OF TOWN AND CONTRACTOR.

18.1 **Town Representative.** It is recognized that questions in the day-to-day conduct of this Agreement will arise. The TOWN designates the Town Manager or his or her designee, as the person to whom all communications pertaining to the day-to-day conduct of this Agreement shall be addressed.

18.2 **Contractor Representative.** CONTRACTOR shall inform the Town Manager, in writing, of the representative of the CONTRACTOR to whom all communications pertaining to the day-to-day conduct of this Agreement shall be addressed.

SECTION 19. COST AND ATTORNEY'S FEES/WAIVER OF JURY TRIAL.

19.1 If either the TOWN or CONTRACTOR is required to enforce the terms of this Agreement by court proceedings or otherwise, whether or not formal legal action is required, the prevailing party shall be entitled to recover from the other party all costs, expenses, and reasonable attorney's fees in any state or federal administrative, circuit court and appellate court proceedings.

19.2 In the event of any litigation arising out of this Agreement, each party hereby knowingly, irrevocably, voluntarily and intentionally waives its right to trial by jury.

SECTION 20. ALL PRIOR AGREEMENTS SUPERSEDED.

This document incorporates and includes all prior negotiations, correspondence, conversations, agreements or understandings applicable to the matters contained in this Agreement and the parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly it is agreed that no deviation from the terms of the Agreement shall be predicated upon any prior representations or agreements whether oral or written.

SECTION 21. CONTRACTOR'S RESPONSIBILITIES.

21.1 CONTRACTOR warrants that the Services to be performed hereunder shall be performed by the CONTRACTOR'S own staff or employees, unless otherwise approved in writing by the TOWN. Said approval shall not be construed as constituting an agreement between the TOWN and said other person or firm. The CONTRACTOR'S services shall be performed in a manner consistent with that degree of skill and care ordinarily exercised by practicing professionals performing similar services in the same locality and under the same or similar circumstances and conditions.

21.2 CONTRACTOR represents that it possesses the requisite skills and shall follow the professional standards and the standard of conduct for consultants or vendors in performing all Services under this Agreement. The CONTRACTOR agrees to use its skill and judgment in furthering the TOWN's interests hereunder and CONTRACTOR shall perform the Services in accordance with the practice of the pertinent industry and as expeditiously as is consistent with reasonable skill and care. If at any time during the term of this Agreement or the Project for which the CONTRACTOR has provided Services under this Agreement, it is determined that the CONTRACTOR'S documents are incorrect, defective or fail to conform to the terms of this Agreement, upon written notification from the TOWN, the CONTRACTOR shall immediately proceed to correct the work, re-perform Services which failed to satisfy the foregoing standard of care and shall pay all costs and expenses associated with correcting said incorrect or defective work, including any additional testing, inspections, and installation and reimbursements to the TOWN for any other services and expenses made necessary thereby, save and except any costs which the TOWN would have otherwise paid absent the CONTRACTOR'S error or omission. The TOWN'S approval, acceptance, use of or payment for all or any part of the CONTRACTOR'S Services shall in no way alter the CONTRACTOR'S obligations or TOWN'S rights hereunder.

21.3 CONTRACTOR agrees, within fourteen (14) calendar days of receipt of a written request from the TOWN, to promptly remove and replace any personnel employed or retained by the CONTRACTOR, any subconsultants or subcontractors or other persons employed or utilized by the CONTRACTOR in the performance of this Agreement or any personnel of any such subcontractor or subcontractors or other persons employed or utilized by the CONTRACTOR to provide and perform the Services or work pursuant to the requirements of this Agreement, whom the TOWN shall request in writing to be removed, which request may be made by the TOWN.

21.4 If CONTRACTOR allows any work to be performed knowing, or when with the exercise of due care the CONTRACTOR should have known, it to be contrary to any such applicable laws, ordinances, rules, regulations or restrictions and fails to give TOWN written notice thereof prior to performance thereof, CONTRACTOR shall bear all costs, liabilities, and expenses arising therefrom, which costs, liabilities and expenses shall not be considered a part of CONTRACTOR'S fees or any other amounts due hereunder.

21.5 CONTRACTOR hereby represents and warrants that it has reviewed all necessary Project documents and that this Agreement and the RFP, when taken together, fully and accurately describe the Services needed to complete the Project in accordance with the requisite standard of care, and that CONTRACTOR is not aware of any additional work, labor or services that will be required to complete the Project.

21.6 CONTRACTOR hereby represents and warrants that all Services shall comply with all applicable federal, state and local laws, ordinances and building codes.

21.7 CONTRACTOR'S obligations under this Section 21 shall survive termination of this Agreement.

SECTION 22. NOTICES.

Whenever either party desires to give notice to the other, it must be given by hand delivery or written notice, sent by certified United States mail, with return receipt requested or a nationally recognized private mail delivery service, addressed to the party for whom it is intended, at the place last specified, and the place for giving of notice in compliance with the provisions of this paragraph. For the present, the parties designate the following as the respective places for giving of notice, to-wit:

FOR CONTRACTOR:

Iron Sky, Inc.
Attention: Scott Frigaard, Vice President
1773 Westborough Drive
Katy, Texas 77449
Phone: (703) 587-1166
Facsimile: (703) 563-7458
Email: sfrigaard@ironsky.com

FOR TOWN:

Town of Golden Beach
Attn: Alexander Diaz, Town Manager
1 Golden Beach Drive
Golden Beach, FL 33160-2296
Phone: (305) 932-0744
Facsimile: (305) 933-3825
Email: alexdiuz@goldenbeach.us

With a copy to:

Stephen J. Helfman, Esq.
Weiss Serota Helfman Pastoriza Cole & Boniske, P.L.
Town Attorneys
2525 Ponce de Leon Blvd.
Suite 700
Coral Gables, FL 33134
Phone: (305) 854-0800
Facsimile: (305) 854-2323
Email: shelfman@wsh-law.com

SECTION 23. CONSENT TO JURISDICTION.

The parties submit to the jurisdiction of any Florida state or federal court in any action or proceeding arising out of relating to this Agreement. Venue of any action to enforce this Agreement shall be proper exclusively in Miami-Dade County, Florida.

SECTION 24. GOVERNING LAW.

This Agreement shall be construed in accordance with and governed by the laws of the State of Florida.

SECTION 25. HEADINGS.

Headings are for convenience of reference only and shall not be considered in any interpretation of this Agreement.

SECTION 26. EXHIBITS.

Each Exhibit referred to in this Agreement forms an essential part of this Agreement. The Exhibits if not physically attached, should be treated as part of this Agreement, and are hereby incorporated by reference.

SECTION 27. NO WAIVER OF BREACH.

The failure of a party to insist on strict performance of any provision of this Agreement shall not be construed to constitute a waiver of a breach of any other provision or of a subsequent breach of the same provision.

SECTION 28. 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.

SECTION 29. COUNTERPARTS.

This Agreement may be executed in several counterparts, each of which shall be deemed an original and all such counterparts shall constitute one and the same instrument.

[Remainder of page intentionally left blank.]

IN WITNESS WHEREOF, the parties hereby execute this Agreement on the date first stated above.

ATTEST:

**TOWN OF GOLDEN BEACH,
FLORIDA**

Town Clerk

By: _____
Alexander Diaz, Town Manager

Date: _____

**APPROVED AS TO FORM AND LEGALITY
FOR THE USE AND RELIANCE OF THE
TOWN OF GOLDEN BEACH, FLORIDA, ONLY:**

Town Attorney

IN WITNESS WHEREOF, the parties hereby execute this Agreement on the date first stated above.

ATTEST:

For John M. Zoeller



Keith Drummond


Secretary *President + CEO*

John M. Zoeller

Please type name of Secretary

CONTRACTOR:

IRON SKY, INC., a Delaware corporation

By: 

Name: Scott Frigaard

Title: Vice President

Date: 3/15/2012



EXHIBIT "A"

(Attach a copy of the RFP and all Addendums thereto)

65

EXHIBIT "B"

(Attach a copy of Iron Sky's Proposal)





IRON SKY®
Better Tools to Fight Crime

Proposed Solution for the:

Town of Golden Beach

RFP No. 2011-01

*Integrated CCTV Security Camera System and/or
Wireless Data Network*

January 27th, 2012

This document and the information within are confidential and intended only for the recipient agency named on the cover page. Distribution is only allowed within the client organization identified on the cover of this document and only to the extent necessary to evaluate the proposal for acceptance. Distribution outside of the identified offices requires the consent of Iron Sky, Inc. Iron Sky, Inc. does not authorize the distribution of this information for competitive purchasing purposes.



Proposal and Scope of Work

PROPOSAL

This proposal builds on the information contained in earlier proposals and as such does not contain equipment specifications sheets, terms and conditions, warranty language, etc. which was submitted in earlier versions. The proposal reflects the most recent revisions requested by the Town.

Pricing per Objective

Iron Sky's pricing for each Objective can be found on the following pages. The proposal is broken into BASE BID and CREDITS.

The Base Bid includes 13 Objectives.

The Credits are offered for the use of Town light or utility poles.

ST

Iron Sky, Inc.
Proposed Solution for the Town of Golden Beach
 January 27th, 2012

BASE BID		
Objective	Scope	Price
OBJECTIVE #1 Intercoastal Waterways CCTV Solution	Three (3) total cameras: -One (1) Axis P5534-E PTZ Camera and IR Illuminator mounted on private property at the north town limit -One (1) Axis P5534-E PTZ Camera and IR Illuminator mounted on new Strand Dock -One (1) Axis P5534-E PTZ Camera and IR Illuminator mounted on non-Town owned property at the south town limit -Wireless radios will be used at the North and South locations to transmit camera images back to the Strand Dock to eliminate the need to run fiber to these locations	\$ 33,089.79
OBJECTIVE #2 LPR / ANPR Solution	Eight (8) LPR cameras: -Two (2) inbound lanes at the north end of Ocean Ave -Two (2) outbound lanes at the north end of Ocean Ave -Two (2) inbound lanes at the south end of Ocean Ave -Two (2) outbound lanes at the north end of Ocean Ave	\$ 82,689.75
OBJECTIVE #3 Beach Front CCTV Solution	Five (5) total cameras: North Beach Entrance -One (1) Axis P1347-E 5-Megapixel Camera and Illuminator to capture the beach entrance -One (1) Axis P5534-E PTZ Camera and Illuminator to view the beach Central Beach -One (1) Axis P5534-E PTZ Camera and four (4) Illuminators for 360-degree coverage to view the beach -Two (2) Wireless radios to transmit camera images to Pavilion eliminating the need to install fiber South Beach Entrance -One (1) Axis P1347-E Megapixel Camera and Illuminator to capture the beach entrance -One (1) Axis P5534-E PTZ Camera and Illuminator to view the beach	\$ 53,029.86
OBJECTIVE #4 Parks CCTV Solution	Six (6) total cameras: -One (1) Axis P5534-E PTZ camera at each of the following Parks: • Massini Park • Singer Park • North Park • South Park -Two (2) Axis P5534-E cameras at Tweddle Park • One (1) replacement camera • One (1) new camera <i>NOTE: ICW Camera at Location #37 will view Terracina Park.</i>	\$ 40,007.16
OBJECTIVE #5 General Town Street Golden Beach Drive CCTV Solution	Three (3) total cameras: -One (1) Axis P5534-E PTZ camera at the intersection of Golden Beach Dr and: • Verona Ave • The Strand • Navona Ave	\$ 23,936.74
OBJECTIVE #6 Integration of existing Town CCTV system	Integration of 24 existing analog cameras at the Beach Pavilion, Strand Gate, Tweddle Park and Police/Town Hall and relocation of existing head-end equipment at Beach Pavilion to new environmentally-controlled enclosure on exterior wall	\$ 38,163.62
OBJECTIVE #7 Fiber / Infrastructure Connections	Fiber and Infrastructure for 30 equipment locations	\$ 45,898.97
OBJECTIVE #8 Headend / Monitoring / Workstation	Complete Turn-Key Video Surveillance Management Software and Storage -One (1) Server to record all cameras for 30 days -Eight (8) Monitors to be installed in the Strand Gatehouse for live monitoring -One (1) Workstation for use by officer in the Strand Gatehouse	\$ 25,259.75

<p>OBJECTIVE #9 Pedestrian Gates</p>	<p>-Eight (8) Axis P1346-E 3-Megapixel cameras and illuminators. One (1) camera/illuminator at each of the following gates: • Verona Ave • Ravena Ave • Palermo Ave • Navona Ave Two (2) cameras/illuminators at each of the following gates: • South Gate (Pedestrian and Vehicle Entries) • North Gate (Pedestrian and Vehicle Entries)</p>	<p>\$ 60,091.88</p>
<p>OBJECTIVE #10 Island/Parkway Cameras</p>	<p>Eight (8) total cameras: -Two (2) Axis P5534-E PTZ cameras on North Island -One (1) Axis P5534-E PTZ camera on North Parkway -Two (2) Axis P5534-E PTZ cameras on Center Island -One (1) Axis P5534-E PTZ camera on South Parkway -Two (2) Axis P5534-E PTZ cameras on South Island</p>	<p>\$ 92,881.28</p>
<p>OBJECTIVE #11 Extended server memory 60-Day Option</p>		<p>\$ 3,700.00</p>
<p>OBJECTIVE #12 Refurbishment Allowance for Existing Cameras</p>	<p>-Replacement of Resident Entry Lane (7) camera which shows blue tint indicative of a failing camera -Reaiming and refocusing of all existing cameras -Cleaning of all domes inside and out</p>	<p><i>No Charge</i></p>
<p>OBJECTIVE #13 Wi-Fi solution for Parks "Only" Option</p>	<p>Five (5) Parks with Wireless Access Points: • North Park • South Park • Beach Pavillion • Tweddle Park • New Strand Dock</p>	<p><i>No Charge</i></p>
<p>Total Base Bid \$ 498,748.78</p>		



Iron Sky, Inc.
Proposed Solution for the Town of Golden Beach
January 27th, 2012

CREDITS		
Objective	Scope	Price
Credit for Use of Town Pole	<i>Iron Sky is currently providing one new pole for every new camera and equipment location. If, prior to placing an order for the new poles with GraphPlex, it is determined that Iron Sky may use existing Town poles instead then Iron Sky will credit the Town \$459.50 for each pole deleted from the order. The determination to use an existing pole must be made prior to the placement</i>	

Prices do not include sales tax. Customer shall be responsible for all associated sales taxes and/or duties. In the event that sales taxes are required for this project, customer shall still be responsible for the associated sales taxes and/or duties.

Iron Sky's Payment Terms are:

50% of the total price will be invoiced upon issuance of the purchase order.
35% of the total price will be invoiced upon delivery of major equipment to client site.
15% of the total price will be invoiced upon completion of project.
All invoices are net 30 days.

SCOPE OF WORK- BASE BID

At the request of the Town of Golden Beach the Base Bid for this project has been broken into the following 13 Objectives. It was Iron Sky's intent to submit pricing for each objective that is independent of other objectives, however, several objectives such as the Fiber Infrastructure and Headend/Monitoring portions of the project are required for all objectives.

Objective #1: Inter-Coastal / Waterways CCTV Solution Three (3) Cameras

System Design Document reference:

- Location #6
- Location #20
- Location #37

List of major equipment for this Objective:

- (3) Axis P5534-E Pan/Tilt/Zoom Cameras
- (6) Axis T90A42 IR Illuminators
- (3) Axis Cross Line Detection Software

Iron Sky will install one (1) Axis P5534-E Pan/Tilt/Zoom cameras at each of the above locations. These cameras are color cameras with day/night capabilities and are not thermal cameras. Two (2) Axis T90A42 IR Illuminators will be installed at each camera location to provide night time illumination of the ICW. Axis Cross Line Detection will be installed on each camera which will alert the dispatcher anytime vessels cross into the TOGB's waterway.

To ensure the TOGB receives the greatest return from its investment the Axis P5534-E Pan/Tilt/Zoom cameras will not be programmed to perform "guard tours" of the fields of view. It has been Iron Sky's experience that when a camera is tasked with monitoring a large field of view using guard tour that inevitably when an incident occurs the camera was not monitoring that area. Instead, Iron Sky follows best industry practices and schedules the camera to stay on the most critical fixed field of view for the duration of the night time hours. If the TOGB feels that it needs guard tour functionality another Pan/Tilt/Zoom camera will be recommended.

Installation Requirements:

Each camera will be installed on a 15' tall, 3" extruded aluminum pole to be provided by Iron Sky and will require constant 120VAC electrical power and fiber optic conduit which will be provided by the Town. The cameras at the north and south town limits will be installed in locations to be determined by the Town based upon negotiations with property owners. This proposal assumes that the poles will be installed on structures such as docks, retaining walls or buildings and does not include and installation which requires installation of the pole in the water.

Objective #2: LPR/NPR Solution

Eight (8) Cameras

System Design Document reference:

- Location #7
- Location #30

List of major equipment for this Objective:

- (8) L-3 Communications ALPR Cameras
- (2) L-3 Communications Roadside PC
- (1) L-3 Communications AlertVu Backoffice Server

Iron Sky will install a total of eight (8) LPR cameras to capture inbound and outbound traffic on the north and south ends of Ocean Blvd. No LPR cameras will be installed at the Strand Gate.

At the north end of Ocean Blvd Iron Sky will install the cameras and equipment in the median behind the TOGB sign to capture the two (2) inbound and (2) outbound lanes.

At the south end of Ocean Blvd Iron Sky will install the cameras and equipment in the median behind the TOGB sign to capture the two (2) inbound and (2) outbound lanes.

Installation Requirements:

The LPR cameras at the north and south ends of Ocean Blvd will be installed in the median on new poles to be provided by Iron Sky. The Town will be responsible for providing one (1) cellular modem and monthly service for each of these two (2) locations.



Objective #3: Beachfront Solution

Five (5) Cameras

System Design Document reference:

- Location #1
- Location #15
- Location #29

List of major equipment for this Objective:

- (3) Axis P5534-E Pan/Tilt/Zoom Cameras
- (2) Axis P1347-E 5-Megapixel Cameras
- (8) Axis T90A42 IR Illuminators

North Beach Entrance

Iron Sky will install one (1) Axis P5534-E Pan/Tilt/Zoom camera and one (1) Axis P1347-E 5-Megapixel camera at the north town limit on the beach. These cameras will be installed on a new pole to be provided by Iron Sky which will be installed as far back from the shoreline as possible to allow the widest possible field of view. Two (2) Axis T90A42 IR Illuminators will also be installed on this pole to enable viewing in low-light/no-light. The Axis P1347-E 5-Megapixel cameras will provide detail of persons entering and exiting the beach and the Axis P5534-E Pan/Tilt/Zoom camera will allow proactive surveillance during the day. Axis Cross Line Detection will be installed on both cameras to alert the dispatch personnel when a person crosses into the TOGB.

Center Beach

Iron Sky will install one (1) Axis P5534-E Pan/Tilt/Zoom camera on a new pole to be installed near the new lifeguard stand. Four (4) Axis T90A42 IR Illuminators will also be installed on this pole to create a 360-degree array enable viewing in low-light/no-light.

South Beach Entrance

Iron Sky will install one (1) Axis P5534-E Pan/Tilt/Zoom camera and one (1) Axis P1347-E 5-Megapixel camera at the south town limit on the beach. These cameras will be installed on a new pole to be provided by Iron Sky which will be installed as far back from the shoreline as possible to allow the widest possible field of view. Two (2) Axis T90A42 IR Illuminators will also be installed on this pole to enable viewing in low-light/no-light. The Axis P1347-E 5-Megapixel cameras will provide detail of persons entering and exiting the beach and the Axis P5534-E Pan/Tilt/Zoom camera will allow proactive surveillance during the day. Axis Cross Line Detection will be installed on both cameras to alert the dispatch personnel when a person crosses into the TOGB.

Installation Requirements:

These cameras will be installed on new wooden utility poles to be provided by Iron Sky.

Objective #4: Parks CCTV Solution

Six (6) New

Part of this Objective will be accomplished under Objective 6: Integration of Existing Town CCTV System.

System Design Document reference:

- Location #4
- Location #5
- Location #13
- Location #23
- Location #31
- Location #32

List of major equipment for this Objective:

- (6) Axis P5534-E Pan/Tilt/Zoom Cameras

Iron Sky will install one (1) Axis P5534-E Pan/Tilt/Zoom Camera at each of the following four (4) parks:

- Massini Park
- Singer Park
- North Park
- South Park

Iron Sky will install one (1) Axis P5534-E Pan/Tilt/Zoom Camera to replace the existing analog PTZ at Tweddle Park which is mounted on the tennis court lighting pole.

Iron Sky will install one (1) Axis P5534-E Pan/Tilt/Zoom Camera on a new pole in the southeast corner of Tweddle Park.

NOTE: No camera will be installed in Terracina Park. The camera installed at location #37 under Objective 1: Intercoastal Waterways CCTV Solution will be able to capture Terracina Park from its proposed location.

Installation Requirements:

These cameras will be installed on new poles to be provided by Iron Sky.

Objective #5: General Town Street CCTV Solution

Three (3) Cameras

System Design Document reference:

- Location #10
- Location #18
- Location #27

List of major equipment for this Objective:

- (3) Axis P5534-E Pan/Tilt/Zoom Cameras

Iron Sky will install one (1) Axis P5534-E Pan/Tilt/Zoom Camera at each of the following three (3) intersections:

- Navona Ave and Golden Beach Drive
- The Strand and Golden Beach Drive
- Verona Ave and Golden Beach Drive

Installation Requirements:

The cameras at the intersections will be installed on new poles to be provided by Iron Sky.



Objective #6: Integration of Existing Town CCTV System Twenty-Four (24) Analog Cameras

System Design Document reference:

- Location #16
- Location #17
- Location #33
- Location #36

List of major equipment for this Objective:

- (4) Axis M7010 Video Encoders

The Strand Gate

Iron Sky will install one (1) Axis M7010 Video Encoder in the equipment rack on the second floor of The Strand Gate building to integrate the nine (9) existing analog cameras at this location.

Beach Pavilion

Iron Sky will move the existing IDF from the janitor's closet to an environmentally-rated and conditioned enclosure mounted on the exterior of the south wall of the men's restroom. Iron Sky will extend the coax cables to this new enclosure and install one (1) Axis M7010 Video Encoder to integrate the five (5) existing analog cameras at this location.

Tweddle Pavilion

Iron Sky will install one (1) Axis M7010 Video Encoder in a new equipment rack inside the concessions area where the current coax cables terminate to integrate three (3) of the existing analog cameras at this location. The fourth analog camera will be replaced under Objective 5: Parks CCTV Solution.

Police Department/Town Hall Building

Iron Sky will install one (1) Axis M7010 Video Encoder in a new equipment rack to be located in a to-be-determined location within the PD Building to integrate the seven (7) existing analog cameras. The existing equipment location is inside a closet with no viable maintenance access. Iron Sky will extend the coax cables to this new enclosure.

Installation Requirements:

No new poles or electrical power are required for this objective. The Town needs to ensure that each of these locations is on the fiber optic network.

Objective #7: Fiber / Infrastructure Connections

Iron Sky will provide and install all fiber optic cabling, connectors and equipment necessary to support the proposed system. Iron Sky will install single-mode fiber optic cable. As stated by the Town, the Town will be responsible for installing fiber optic conduit and 120VAC electrical power to every equipment location. It should be noted that Uninterrupted Power Supplies (UPS) are not being provided under the scope of this proposal.

Iron Sky is not supplying fiber optic splice cases and vaults for any of the fiber optic locations under the scope of the Base Bid. These components will be supplied under the ADD ALTERNATE #3.



Objective #8: Headend / Monitoring / Workstation

System Design Document reference:

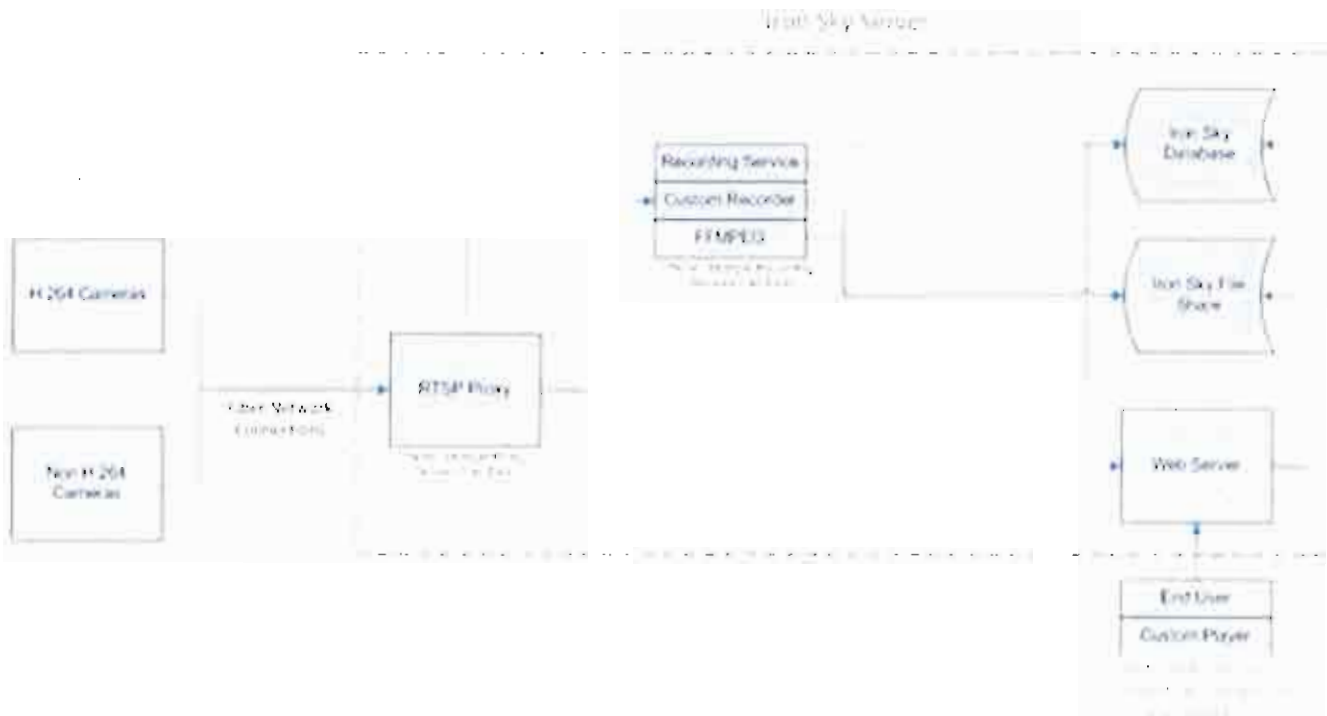
- Location #8

Network

The images will be transported from the camera locations to a server located at The Strand Gate using a dedicated fiber optic network. As stated in earlier communications from the Town the 1" conduit from Town Hall to each equipment location will be installed by the Town. The Town will also install 120VAC power to each equipment location. Iron Sky will provide and install the fiber optic cabling.

Any authorized user will be able to view any live or recorded image, as well as control cameras, from any computer on the LAN/WAN. In response to an incident the Town may also grant immediate remote access to the camera system by 3rd Party Agencies such as County, State or Federal responders.

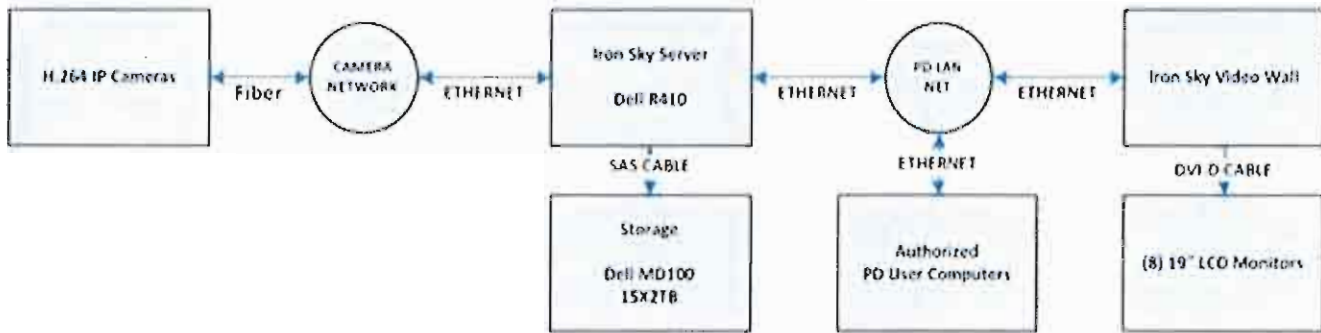
Below is a Block Diagram of the Solution Overview:



Server

Type: Dell PowerEdge R410 server
Processor: 2.26Ghz Quad Core Processor
Memory: 8GB+
HD-SYS: 2 X 250GB RAID 1 or Equivalent
DVD: DVD+/-RW Drive
Software (OS): Windows Server 2008 Standard Software (Database): Windows SQL Server 2008 Standard Software (Other): Adobe Flash Streaming Media Server 3.5
Size: Hard Disk size (2) x 250GB
Archive allocation: Dell PowerVault MD1000 Direct Attached Storage
Total Storage: eight x 2-terabyte HDD (expandable to 15 HDD)
Raid: RAID 1

Below is a Block Diagram of the Server and Storage components:



VMS: Iron Sky Video Management Software

Iron Sky' will install its non-proprietary Video Management Software which is based on Google Maps. Iron Sky is the only VMS manufacturer that licenses the Google Maps API to take advantage of all the functionality that Google Maps is capable of.

Iron Sky's VMS is accessible to any authorized user from any computer on the LAN/WAN simply by logging onto a secure web page. The physical location of the server is irrelevant to a user. They need only log onto the Iron Sky VMS using a standard web browser and begin accessing live and recorded images instantly.

Iron Sky is able to integrate data from several non-Iron Sky sources and display it on its Google Map creating a single interface from which the Town can manage all its safety, security and operational applications from. This enables faster, more intelligent decision making by eliminating data silos and having to be physically present at workstations that manage the other data systems. Iron Sky has fully integrated with the Computer Aided Dispatch (CAD) systems from the largest CAD vendors as well as Automatic Vehicle Location (AVL) systems. Iron Sky is able to display every call that comes into 911 as well as the location and status of every patrol car in the town in real time. Iron Sky has also integrated with In-Car Video systems to stream live images from inside the vehicle to remote users on any computer on the network.

Iron Sky can also integrate data from any other applications as well as non-client-owned cameras (school district, financial institutions, retail, etc) onto its Google Map interface. This enables the Police Department to gain real-time situational awareness of what is happening at any location in order to determine the most appropriate response.

Monitoring Stations

Iron Sky is proposing to adhere to the original Video Wall requirements stated in the RFP. This configuration will enable the cameras to be displayed at all times so that officers can instantly respond to alerts that are triggered by perimeter breaches and control cameras to incidents of interest. Iron Sky believes this will be simplest way for the officers to know what is happening at any camera in the Town.

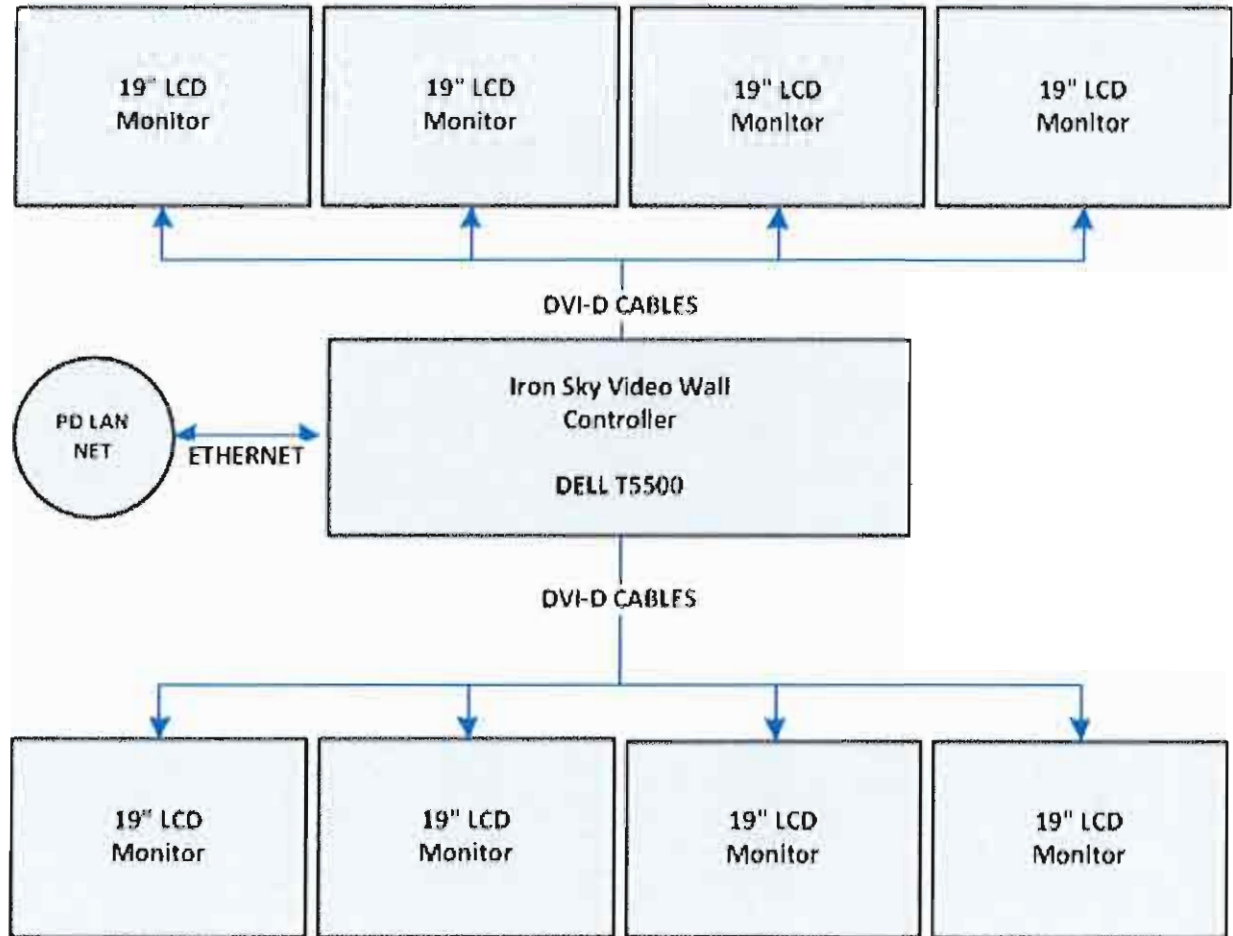
Iron Sky will install eight (8) Acer V193W 19" Wide LCD Monitors in the Police Substation. Iron Sky has used them in the past and has found their image quality superior to other monitors. Iron Sky is proposing to install Peerless SF630-S Flat Wall Mounts. This ultra-slim wall plate keeps the monitor close to the wall to minimize the footprint of the video wall and tilts to adjust for optimum viewing angles.

To control all eight monitors Iron Sky is proposing to install one Dell T5500 workstation. This is not the only workstation that users can view the camera system from since any computer on the network can view Iron Sky's VMS, but this workstation will be dedicated to live monitoring of the camera system at all times. The specifications for this workstation are:

Video Wall Controller

Model: Dell T5500
Processor: (2) 2.4Ghz Six Core Processors
Memory: 12GB+
HD-SYS: 250GB
Software (OS): Microsoft Windows 7 Professional

Below is a block diagram of the Video Wall solution:



Expandability

Iron Sky's VMS is expandable to an unlimited number of cameras, users and other data sources. To add cameras the Town will simply need to purchase additional VMS licenses.

The fiber optic cable infrastructure is expandable to support nearly an unlimited number of cameras in the town and certainly more than the town will ever require.

The head-end equipment Iron Sky is proposing does not have a physical limitation on the number of camera inputs. Because this system is 100% IP-based the only connection to the server will be from the Town's LAN connection at the network switch. The server Iron Sky is proposing is sized to manage approximately 25 cameras. To support additional cameras in the future the Town would need to purchase additional hard disk drives. Hard disk drives are inexpensive and the additional cost, if any, can be calculated when the new cameras are ready to be added.

Default Camera System Configuration

FPS: 20-30fps Live / 20fps Archived

Resolution:

Axis P1346-E 3-Megapixel cameras @ 2048x1536

Axis P1347-E 5-Megapixel cameras @ 2560x1920

Axis P5534-E Pan/Tilt/Zoom cameras @ 1280x720 (HDTV 720p)

Flir F-606 Thermal cameras @ 640x480

Flir F-625 Thermal cameras @ 640x480

Compression: All cameras will transmit and record in H.264

Recording Days (30 Days) This is the default recording configuration and will require 16 terabytes of storage.*

Recording Days (60 Days Optional Pricing) This objective will require an additional 16 terabytes for a total of 32 terabytes of storage and will cost an additional \$3,700.00.

**Iron Sky provides a good-faith estimate of the length of time that camera images will be retained on the server before being automatically purged by the system. This estimate is based on an assumed average file size for the cameras given their fields of view. However, higher levels of activity or larger image file sizes may result in decreased days in archive. Server redundancy, failover capability and backup power have not been designed into this storage system. The City should understand that video is being stored only on the primary storage device and failure of that device's hardware, or loss of power, will degrade the system or cause it to stop operating.*

Objective #9: Pedestrian Gate Solution

Eight (8) Cameras

System Design Document reference:

- Location #2
- Location #3
- Location #9
- Location #12
- Location #22
- Location #26
- Location #34
- Location #35

List of major equipment for this Objective:

- (8) Axis P1346-E 3-Megapixel Cameras
- (8) Axis T90A42 IR Illuminators

Iron Sky will install one (1) Axis P1346-E 3-Megapixel Camera and one (1) Axis T90A42 IR Illuminator at each of the following six (6) pedestrian gates:

- 195th Street
- Verona Ave
- Ravenna Ave
- Palermo Ave
- Navona Ave
- Massini Ave

In addition, Iron Sky will install one (1) Axis P1356-E 3-Megapixel camera at each of the vehicle gates at Massini Ave and 195th St to capture license plates of vehicle exiting the town.

Installation Requirements:

The cameras at all above locations will be installed on new poles to be provided by Iron Sky except for the 195th St Pedestrian Gate location which will be installed on the south gate post.



Objective #10: Island/Parkway Cameras Eight (8) Cameras

System Design Document reference:

- Location #8
- Location #11
- Location #14
- Location #19
- Location #21
- Location #24
- Location #25
- Location #28

List of major equipment for this Objective:

- (8) Axis P5534-E Pan/Tilt/Zoom Cameras

Iron Sky will install one (1) Axis P5534-E Pan/Tilt/Zoom Camera in the cul-de-sacs of each of the parkways and two (2) Axis P5534-E Pan/Tilt/Zoom Cameras in the cul-de-sacs of each of the islands.

Installation Requirements:

These cameras will be installed on new poles to be provided by Iron Sky.

Objective #11: Extended Server Memory

The cost to extend the storage capability for the camera system from 30 days to 60 days is \$3,700.

Objective #12: Existing Camera Refurbishment

Included in this Objective is the replacement of the Resident Entry Lane (7) camera which shows a blue tint indicative of a failing camera. Iron Sky will also reaim, refocus and clean the inside and outside of each camera to ensure they are operating at 100% and delivering the most value to the Town.

Objective #13: Wi-Fi in 5 Parks

Five (5) Wireless Radios

List of major equipment for this Objective:

- (5) Ubiquity Networks Nanostation 2HP Wireless Radio

Iron Sky will install one (1) Ubiquity Nanostation at each of the following Parks:

- North Park
- Beach Pavilion
- South Park
- Tweedle Pavilion
- Strand Park

Installation Requirements:

The radios at North Park, South Park and the new Strand Dock will be installed on the same pole as the cameras. The radios at the Beach Pavilion and Tweedle Pavilion will be installed on the buildings facing the largest congregational area.

SCOPE OF WORK- CREDITS

Credit for Use of Town Pole

Iron Sky is currently providing one new pole for every new camera location. If, prior to placing an order for the new poles with GraphPlex, it is determined that Iron Sky may use existing Town poles instead then Iron Sky will credit the Town \$459.50 for each pole deleted from the order. The determination to use an existing pole must be made prior to the order placed by Iron Sky to GraphPlex, however, in order for the credit to be given. The credit will be reflected on the final invoice.

ASSUMPTIONS

The following assumptions were made in the creation of this proposal. Acceptance of this proposal by the Town of Golden Beach is acceptance of these assumptions and their impact to the project. If any of these assumptions are incorrect the Town of Golden must notify Iron Sky and the appropriate changes will be made in the design, bill of materials and overall pricing.

- Empty 1" conduit will be in place to every equipment location with pull string
- 120VAC electrical power will be provided by Town to pole-mounted, or building-mounted disconnects for all equipment locations
- Fiber lengths were determined by measuring distance on Google Earth
- Iron Sky's proposal does not include fiber inner duct. Proper industry practice says inner duct should be used in 4" conduit.
- Eighteen-foot tall, 3" extruded aluminum poles will be installed at locations where new poles are required.
- The following locations are connected to the Town's fiber plant:
 - Police Department/Town Hall
 - The Strand Gate
 - Beach Pavilion
 - Tweddle Park
- The Town will ensure that each user workstation has sufficient resources (hardware specifications and software programs) to view camera images. This does not include the video wall workstation at The Strand Gate that will be provided by Iron Sky.
- Iron Sky is not changing the aesthetics of any equipment (painting cameras or enclosures, etc)

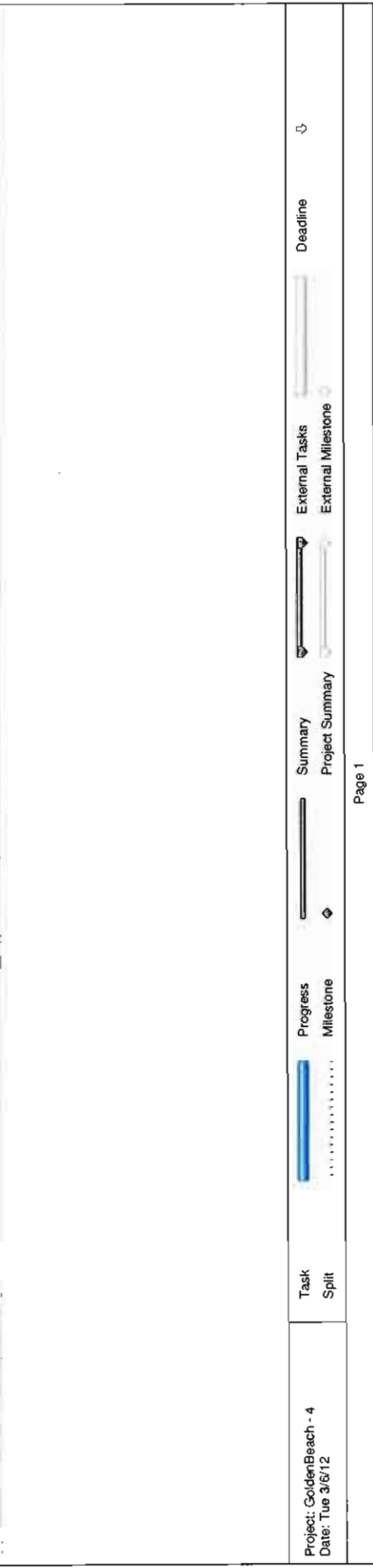
PROJECT INSTALLATION METHODOLOGY

Projected Installation Timeline

The estimated Project Timeline can be found on the following page. The schedule assumes the Town of Golden Beach will issue the purchase order prior to March 15th.

Delays of 2 contiguous days or less in a four-week period are accommodated in daily work scheduling. Delays of more than 2 contiguous days, or of undetermined length will typically cause demobilization of work crews. The cause of the delay is carefully analyzed to determine if the delay can be reduced or eliminated. If the potential exists to reduce or eliminate the delay an action plan is developed with task assignments to restore progress on the project. If it is impossible to determine the length of a delay and there is no know method to reduce or eliminate the delay after 1 week of analysis, the project is put on hold. Completed tasks will be determined and agreed upon based on a schedule of values. Invoicing for work completed, including any demobilization expenses will take place. The project and the cause of the delay will be analyzed based on a mutually agreeable frequency to determine the feasibility of remobilizing the project.

ID	Task Name	Duration	Start	Finish	Resource Names
1	Town of Golden Beach Video Surveillance System	136 days	Thu 3/15/12	Thu 9/20/12	
2	Contract Award	0 days	Thu 3/15/12	Thu 3/15/12	Town of Golden Beach
3	Final System Design	30 days	Thu 3/15/12	Wed 4/25/12	
4	Final Video System Design	20 days	Thu 3/15/12	Wed 4/11/12	Iron Sky
5	Identification & Design of Electrical Services Points	10 days	Thu 4/12/12	Wed 4/25/12	Iron Sky
6	Notice to Proceed for Installation	5 days	Thu 4/26/12	Wed 5/2/12	Town of Golden Beach
7	Customer Provided Pathway	45 days	Thu 5/3/12	Wed 7/4/12	Town of Golden Beach
8	Installation Preparation	50 days	Thu 5/3/12	Wed 7/11/12	Iron Sky
9	Order and Receive Material	30 days	Thu 5/3/12	Wed 6/13/12	Iron Sky
10	Equipment and Staging	20 days	Thu 6/14/12	Wed 7/11/12	Iron Sky
11	Installation	101 days	Thu 5/3/12	Thu 9/20/12	Iron Sky
12	Poles	25 days	Thu 5/3/12	Wed 6/6/12	Iron Sky
13	Fiber	63 days	Mon 5/21/12	Wed 8/15/12	Iron Sky
14	Camera and Enclosures	64 days	Mon 6/4/12	Thu 8/30/12	Iron Sky
55	Existing Camera Intergration	14 days	Mon 7/16/12	Fri 8/3/12	Iron Sky
56	Headend Equipment	5 days	Tue 7/3/12	Mon 7/9/12	Iron Sky
57	Park Wi-Fi	10 days	Mon 7/16/12	Mon 7/30/12	Iron Sky
58	System Configuration	27 days	Wed 8/15/12	Thu 9/20/12	Iron Sky
59	Camera Configuration, Testing Aiming	15 days	Wed 8/15/12	Tue 9/4/12	Iron Sky
60	System Stabilization	7 days	Wed 9/5/12	Thu 9/13/12	Iron Sky
61	User Training	5 days	Fri 9/14/12	Thu 9/20/12	Iron Sky
62	Customer Sign-off	0 days	Thu 9/20/12	Thu 9/20/12	Iron Sky



Testing and Acceptance

The Iron Sky Project Manager and the designated Client Project Manager will develop a set of testing and acceptance criteria to be documented and signed by both parties within two (2) weeks after the Project Kickoff Meeting. These acceptance criteria will be utilized to determine that A) the equipment has been installed according to this Scope of Work and B) that the entire system has been completely installed and is acceptable by the Client. Client agrees that testing and acceptance shall be according to the component manufacturer's OEM specifications. In the event that acceptance criteria cannot be agreed upon between the parties, the project will be suspended and no work will be performed until such issues have been resolved.

Installation Acceptance

Client will take full ownership and responsibility for any equipment immediately as any component has been delivered to client property. Client will provide a designated inspector to inspect, accept, and sign a delivery acceptance document provided by Iron Sky. If the equipment is deemed unacceptable, Iron Sky shall remedy any problem to bring the installation into compliance with the manufacturer's specifications. After delivery, client shall be responsible for the cost of replacing and reinstalling any equipment that may become damaged, vandalized, or stolen. Unless force majeure conditions apply, delivered equipment that is not inspected or accepted by Client within four (4) calendar days after delivery will be deemed to be accepted by Client. Client will bear any additional costs incurred by Iron Sky for the replacement of equipment.

Operational Acceptance

The parties understand that certain components, once installed and connected, can become active and operational for their intended purpose. Such activation may thereby provide client with "beneficial use" of that component. Upon activation of a component of the system and demonstration that such component satisfies the applicable criteria in the acceptance test plan, client agrees to inspect, accept, and sign an operational acceptance document provided by Iron Sky. If the component is deemed unacceptable for a reason other than improper installation or handling by the Client, Iron Sky shall remedy any problem to bring the equipment's operation into compliance with the testing and acceptance criteria. If the component is operational and provides beneficial use for its intended purpose but, for any reason, does not meet certain criteria listed in the acceptance test plan, client and Iron Sky may agree that such component is operational and therefore complete.

Final Acceptance

Final project acceptance will occur when Iron Sky has demonstrated that all equipment and components are installed and operational and the training session has been completed. At this time the client will sign the Customer Acceptance Document and the final invoice will be submitted. Iron Sky is not responsible for issues that arise with the client's installation, client's network, electrical power or other systems that are owned by the client but impact the performance of the camera system.

System Training

Iron Sky will provide an unlimited amount of training at no cost to the client for as long as the client has a service agreement in place. The training includes system operation procedures and maintenance information for all system components. The client will designate three of those users as system administrators to undergo more extensive training.

End-user Training

Iron Sky will work with the City Project Manager to coordinate end-user training sessions based on the number and availability of end users. Training will be conducted in the Primary Command Monitoring Location and will include training on camera operation, video management software usage and video wall control. Iron Sky's VMS is so easy to use that users are typically fully trained in less than 10 minutes. The training session will, however, last as long as is necessary for users to feel completely comfortable with all aspects of Iron Sky's software.

Administrator Training

The City or Police department will designate three of the end-users as system administrators to undergo more extensive training. System administrators are not burdened with the upkeep or administration of Iron Sky's system nor are they required to provide technical support to end-users. That is Iron Sky's responsibility as part of the ongoing service agreement. System administrators are simply end-users or IT personnel that receive more detailed training on Iron Sky's software as well as the overall system architecture. Iron Sky has found that these system administrators tend to aggregate the feature and functionality requests from end users and, since they understand the software's capabilities in more detail, are able to better pass on the information to Iron Sky to develop more robust capabilities.

Ongoing Training

Once all users have been trained it is Iron Sky's goal to provide continuous training. Iron Sky firmly believes that the better trained users are the more effective the total system will be. A key part of the Project Manager's role in the ongoing support of the City of East Point is to provide additional training. The City of East Point can schedule an unlimited number of training sessions at no cost.

ANNUAL SERVICE

The first year service and support costs are included in the price of this proposal. Year 2 service and support will be billed at 15% of the total project price stated in the purchase order.

Service call response time during included warranty period

Iron Sky offers a 1-hour remote technical support response and a next business day onsite response, during normal business hours, from the time an issue has been identified either by Iron Sky's Remote Technical Support staff or by Town users. Iron Sky's onsite technicians will have spare replacement units in their possession of all hardware items installed in the field to ensure fast resolutions. Any issues regarding the Dell server and storage devices will be serviced by Dell's technicians under the 4-hour, 7x24 onsite service plan.

To ensure minimal downtime and impact to your internal resources, we have designed an aggressive and proactive support plan for our clients.

Proactive Monitoring of the Product

Iron Sky's Remote Monitoring software monitors the surveillance system 24 hours a day, seven days a week to proactively identify the following items:

- loss of camera signal ("down camera")
- loss of network connectivity to camera
- loss of connectivity to the server
- operating system failure
- shutdown of Iron Sky software
- hard drive failure

Remote Monitoring does not use a simple "ping" to determine the status of the surveillance system but instead provides much more detail to determine the health of the system. Upon detection of one of the above items an Iron Sky technical support staff member is automatically notified during normal business hours (Monday through Friday 7amCST to 5pmCST). Iron Sky will contact the designated client personnel to determine if any environmental or network issues occurred which may have impacted the Iron Sky solution and then work to resolve the issue.

Timely "Pushed" Updates

The software code running on your servers is kept up-to-date by remote updates from Iron Sky's Technical Support office. This ensures the product you purchased will continue to have the most up-to-date code and patches. Software upgrades are not included.

On-Site Support

Most organizations cannot afford to allocate precious technology personnel and resources to the support of third-party equipment. By using remote access methods, Iron Sky makes every attempt to eliminate the impact to your IT and operational staff. Should an issue occur that requires a physical response to a hardware component Iron Sky will dispatch one of its local technicians to identify, diagnose and resolve the issue in as short a time as possible.

Remote Support Requirements

Iron Sky has very high standards of client service. In order to hit these marks, we request a limited amount of access to the Client's networks via the Internet. We understand that this type of access is a very sensitive area for most organizations, and rightly so. However, we have taken every step possible to manage risk and bring it to the absolute minimal levels possible. Iron Sky will work with IT personnel to determine the best method of supporting this system based on the following requirements:



We request IP access to the Iron Sky system servers secured through your existing VPN connection if available. If a VPN connection is not available we need access to three (3) destination TCP ports of your choosing through your firewall, restricted to access from specific IP ranges. We also request the ability to send email from your new Iron Sky servers to the ironsky.com domain, which are used to alert our support team when problems occur.

This level of access allows Iron Sky to provide the full array of remote monitoring capabilities to ensure that server, software and cameras are functioning in a normal manner. Iron Sky has the ability to monitor all components of the system every 60 seconds to proactively detect the health of each component. If an anomaly is detected, then Iron Sky Technical Support staff can proactively and quickly resolve a majority of these issues during normal business hours (8am-5pm CST, Monday through Friday except Holidays) without the need to gain access to your physical site or staff. This remote monitoring and technical support capability allows the security camera solution to be on-line with minimal downtime.

Iron Sky follows very strict guidelines in using remote access. All remotely accessible servers are protected by strong passwords containing alphanumeric characters and no guessable words or phrases. In addition, the connection uses SSL so that no sensitive information is transmitted in observable "plain text" across the network.

Service call pricing on Warranty and Non-Warranty items/issues

There is no charge for service calls for warranty items.

Non-Warranty service calls will be handled in the following way:

- Hardware will be replaced at the contract price
- Installation labor will be provided at the rate of \$100/hr with a 2-hour minimum.

Town Of Golden Beach Florida



Security Camera System

January 24, 2012



Project

Golden Beach Florida
Security Camera System



Location Detail

Cover Sheet

This document and the information contained therein is strictly confidential. Distribution outside of the project organization is strictly forbidden without the express written consent of Iron Sky, Inc.

Original Release

July 27, 2011

Revision Schedule

Date	Description
11/18/11	Design Revision
11/30/11	Design Revision
01/24/12	Design Revision

Sheet

1 of 3

Created By:

Jay R. Thompson, RCDD/NTS

Checked By:

Jason Haskins



Project

Golden Beach Florida
Security Camera System



Location Detail

Base Bid

This document and the information contained therein is strictly confidential. Distribution outside of the project organization is strictly prohibited without the express written consent of Iron Sky, Inc.

Original Release

July 27, 2011

Revision Schedule	
Date	Description
11/18/11	Design Revision
11/20/11	Design Revision
01/24/12	Design Revision

Sheet

2 of 3

Client By:

Jay R. Thompson, RCDD/NTS

Checked By:

Jason Haslins



Base Bid

JK



Project
 Golden Beach Florida
 Security Camera System



Location Detail
 Main Interface Screen

This document and the information contained therein is strictly confidential. Distribution outside of the project organization is strictly forbidden without the express written consent of Iron Sky, Inc.

<i>Original Release</i>	
Date	July 27, 2011
<i>Revision Schedule</i>	
Date	Description
11/19/11	Design Revision
11/30/11	Design Revision
01/24/12	Design Revision
<i>Sheet</i>	
3 of 3	
<i>Drawn By:</i>	
Jay R. Thompson, RCDD/INTS	
<i>Checked By:</i>	
Jason Haskins	



Iron Sky Main Interface Screen



TOWN OF GOLDEN BEACH

One Golden Beach Drive
Golden Beach, FL 33160

MEMORANDUM

Date: March 27, 2012

To: Honorable Mayor Glenn Singer &
Town Council Members

From: Alexander Diaz,
Town Manger

Item Number:

8 & 9

Subject: Resolutions No. 2232.12 & 2233.12 – Selecting Design Maintenance, LLC for State Road A1A/Ocean Boulevard Landscape, Irrigation, Fertilization, and Pest Management Services

Recommendation:

It is recommended that the Town Council adopt the attached Resolutions No. 2232.12 & 2233.12 as presented.

Background:

The Town engaged the Firm of O'Leary Richards Design Assoc., Inc. to prepare a comprehensive Landscape Maintenance Plan for the exterior (A-1-A and Beach Pavilion) areas of Town (see Technical Specifications attached). The plans provide specifications for the care of our landscaping, testing/maintenance of our irrigation systems, fertilization requirements and proper pesticides.

I am recommending that Design Maintenance, LLC. be awarded the Landscape and Irrigation Maintenance Agreement and the Fertilization and Pesticide Maintenance Contracts for the Exterior of Town. This firm currently provides these services, and the Town has maintained a positive working relationship and has generally been satisfied with their performance.

Fiscal Impact:

\$67,000 for Landscape and Irrigation Maintenance
(FDOT reimburses the Town a portion of this value)

\$16,000 for Fertilization and Pest Management

TOWN OF GOLDEN BEACH, FLORIDA

RESOLUTION NO. 2232.12

A RESOLUTION OF THE TOWN OF GOLDEN BEACH, FLORIDA, SELECTING DESIGN MAINTENANCE, LLC FOR STATE ROAD A1A/OCEAN BOULEVARD LANDSCAPE AND IRRIGATION MAINTENANCE SERVICES; AUTHORIZING AND APPROVING A PROFESSIONAL SERVICES AGREEMENT BETWEEN THE TOWN AND DESIGN MAINTENANCE, LLC; AUTHORIZING THE MAYOR AND TOWN MANAGER TO EXECUTE THE AGREEMENT; PROVIDING FOR IMPLEMENTATION; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, the Town of Golden Beach (the "Town") issued Request for Proposals (RFP) No. 2011-004 for State Road A1A/Ocean Boulevard Landscape and Irrigation Maintenance Services; and

WHEREAS, Design Maintenance, LLC submitted a Proposal in response to the RFP (the "Proposal"), which was determined to be the best and most advantageous Proposal submitted to the Town; and

WHEREAS, the Town wishes to select Design Maintenance, LLC for the State Road A1A/Ocean Boulevard Landscape and Irrigation Maintenance Services and authorize the Town to enter into a Professional Services Agreement with Design Maintenance, LLC, substantially in the form attached to this Resolution as Exhibit "A" (the "Agreement"); and

WHEREAS, the Town Council has determined that it is in the best interests of the Town to perform the State Road A1A/Ocean Boulevard Landscape and Irrigation Maintenance Services and enter into the Agreement.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF GOLDEN BEACH, FLORIDA, AS FOLLOWS:

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

Section 2. Selection of Design Maintenance, LLC. The Town Council hereby selects Design Maintenance, LLC for the State Road A1A/Ocean Boulevard Landscape and Irrigation Maintenance Services.

Section 3. Authorization and Approval of Agreement. The Town Council hereby authorizes and approves the Agreement with Design Maintenance, LLC, in substantially the form attached hereto as Exhibit "A," and the Mayor and/or Town Manager are authorized to execute the Agreement on behalf of the Town, once approved as to final form and legal sufficiency by the Town Attorney.

Section 4. Implementation. The Mayor and Town Manager are hereby authorized to take all steps reasonably necessary to implement the Agreement and this Resolution.

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

The Motion to adopt the foregoing Resolution was offered by _____, seconded by _____ and on roll call the following vote ensued:

Mayor Glenn Singer	_____
Vice Mayor Amy Isackson-Rojas	_____
Councilmember Bernard Einstein	_____
Councilmember Judy Lusskin	_____
Councilmember Kenneth Bernstein	_____

PASSED AND ADOPTED by the Town Council of the Town of Golden Beach,
Florida, this 27th day of March, 2012.

ATTEST:

MAYOR GLENN SINGER

LISSETTE PEREZ
INTERIM TOWN CLERK

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY:

STEPHEN J. HELFMAN
TOWN ATTORNEY

EXHIBIT “A”

(Attach Professional Services Agreement between the Town and Design Maintenance, LLC.)

PROFESSIONAL SERVICES AGREEMENT

between

TOWN OF GOLDEN BEACH, FLORIDA

and

DESIGN MAINTENANCE, LLC

for

**S.R. A1A/OCEAN BOULEVARD LANDSCAPE AND IRRIGATION
MAINTENANCE**

THIS PROFESSIONAL SERVICES AGREEMENT (this “Agreement”) is made effective as of _____, 2012 (the “Effective Date”) by and between the **TOWN OF GOLDEN BEACH, FLORIDA**, a Florida municipal corporation (hereinafter referred to as the “TOWN”), and **DESIGN MAINTENANCE, LLC**, a Florida Limited Liability Company (hereinafter referred to as the “CONSULTANT”), whose principal place of business is 13710 S.W. 145 Court, Miami, Florida 33186.

WHEREAS, the TOWN issued Request for Proposals (RFP) No. 2011-004 on November 18, 2011, together with all Addenda thereto (the “RFP”) requesting proposals from qualified contractors or vendors for the purpose of providing landscape and irrigation maintenance services for State Road A1A/Ocean Boulevard, as defined on the Service Area Map attached to this Agreement and hereinafter defined (the “Services” or “Project”);

WHEREAS, the CONTRACTOR submitted a Proposal in response to the RFP (the “Proposal”), which Proposal was selected by the TOWN for the award of this Agreement;

WHEREAS, the CONTRACTOR is willing and able to perform the Services for the TOWN in accordance with the terms and conditions set forth in the RFP, the Proposal and this Agreement for the Project;

NOW THEREFORE, in consideration of the mutual terms, conditions, promises and covenants set forth below, the TOWN and CONTRACTOR agree as follows:

SECTION 1. SCOPE AND SERVICES

1.1 **The RFP.** This Agreement includes the terms and conditions of the RFP and required Technical Specifications for the Project, which are incorporated herein by reference. The Services as defined in Section 1.2 hereof and to be provided and

performed with respect to the Project shall be at all times subject to the requirements of the RFP and the Technical Specifications.

1.2 **Scope of Services.** Pursuant to its Proposal attached hereto as Exhibit “A”, the CONTRACTOR shall provide to the TOWN landscape and irrigation maintenance services within the public right-of-way of State Road A1A/Ocean Boulevard, as defined on the Service Area Map attached hereto as Exhibit “B”, and at locations shown on the Service Area Map or as determined by the TOWN (the “Service Area”). The Town reserves the right to remove or change specific area locations within the Service Area on a temporary or permanent basis, as deemed appropriate by the Town. The Services and work shall include the furnishing of all labor, materials, tools, equipment, machinery, superintendence and services necessary for landscape and irrigation maintenance services, which shall include: litter; trash and debris removal; mowing; edging; hedge trimming; landscape bed maintenance; selective tree trimming; raking; sweeping; weeding; weed-eating; herbicide applications, including preventive and corrective applications; seasonal color insect control and fertilization; irrigation system maintenance monitoring, replacement, repair and retro-fitting; and seasonal color replacement (the “Services”), which are more specifically set forth in the Technical Specifications of the RFP. The CONTRACTOR shall maintain the Project in accordance with the highest quality landscape maintenance standards consistent with the Technical Specifications set forth in the RFP which shall surpass industry standards. The CONTRACTOR shall further maintain the general condition of State Road A1A/Ocean Boulevard, a FDOT right-of-way, to a superior level using the highest and best maintenance practices in the industry. The CONTRACTOR’S Services shall be subject to inspection and approval by the TOWN and the TOWN’S Landscape Architect, who shall indicate items or services that need to be addressed or corrected and the CONTRACTOR shall address and complete same in a timely manner and provide a status report. The CONTRACTOR shall adhere to the landscape maintenance programs and frequency as provided in the Technical Specifications included in the RFP.

SECTION 2. BILLING AND PAYMENTS TO THE CONSULTANT

2.1 **Payment; Invoices.** The TOWN shall pay the CONTRACTOR an annual lump sum base proposal fee in the amount of \$88,000.00, payable monthly within thirty (30) calendar days of approval by the Town Manager of any invoices submitted by CONTRACTOR to the TOWN. The TOWN shall make payments to CONTRACTOR pursuant to applicable Florida law. Payments shall follow the Schedule of Values and Fee Schedule contained in the Proposal and attached hereto as Exhibit “C.” Payments shall be made for units ordered, placed and accepted by the TOWN in accordance with the Schedule of Values and Fee Schedule attached hereto as Exhibit “C.”

2.2 **Disputed Invoices.** In the event that all or a portion of an invoice submitted to the TOWN for payment to the CONTRACTOR is disputed, or additional backup documentation is required, the TOWN shall notify the CONTRACTOR within fifteen (15) working days of receipt of the invoice of such objection, modification or

additional documentation request. The CONTRACTOR shall provide the TOWN with additional backup documentation within five (5) working days of the date of the TOWN'S notice. The TOWN may request additional information, including but not limited to, all invoices, expense records, accounting records, and payment records of the CONTRACTOR. The TOWN shall, pay to the CONTRACTOR the undisputed portion of the invoice. The parties shall endeavor to resolve the disputed portions in a mutually agreeable fashion.

2.3 **Suspension of Payment.** In the event that the TOWN becomes credibly informed that any representations of the CONSULTANT, provided pursuant to this Section 2, are wholly or partially inaccurate, or in the event that the CONTRACTOR is not in compliance with any terms or conditions of this Agreement, the TOWN may withhold payment of sums then or in the future otherwise due to the CONTRACTOR until the inaccuracy, or other breach of this Agreement, and the cause thereof, is corrected to the TOWN's reasonable satisfaction.

SECTION 3. TERM/TIME OF PERFORMANCE

3.1 **Term.** This Agreement shall commence on the Effective Date and shall continue in full force and effect for an initial period of three (3) years, unless otherwise terminated pursuant to the terms of this Agreement (the "Term"). The TOWN, in its sole discretion, may extend the term of this Agreement through written notification to the CONTRACTOR from the Town Manager, at least sixty (60) days prior to the expiration of the initial term, for two (2) additional one (1) year periods upon the same terms, conditions and pricing as set forth in this Agreement.. In the event that Services are scheduled to terminate either by expiration or by termination by the TOWN, the TOWN, in its sole discretion, may request that the CONTRACTOR continue the Services for a transition period until new Services can be established and operational. This transition period shall not exceed ninety (90) days beyond the expiration date of this Agreement.

3.2 **Commencement.** The CONTRACTOR'S Services under this Agreement and the time frames and schedule applicable to this Agreement shall commence upon the Effective Date. The CONTRACTOR shall not incur any expenses or obligations or incur payment to third parties prior to the issuance of a Notice to Proceed (the "Notice to Proceed") for the Project, and the CONTRACTOR must receive the Notice to Proceed from the Town Manager prior to beginning the performance of the Services.

3.3 **Contract Time.** From and after the receipt of the Notice to Proceed, the CONTRACTOR shall continuously perform the Services to the TOWN, without interruption, for the duration of the Term (the "Contract Time"). Time is of the essence in the performance of the Services and all limitations of time set forth in this Agreement are of the essence.

SECTION 4. TERMINATION OF AGREEMENT

4.1 **Termination.** The TOWN has the right to terminate this Agreement for any reason or no reason, upon seven (7) days' written notice to CONTRACTOR. Upon termination of this Agreement, and final payment of any undisputed outstanding invoices due through the date of notice of termination, copies of all records, charts, sketches, studies, plans, drawings, and other documents related to the Services performed under this Agreement, whether finished or not, shall be turned over to the TOWN within ten (10) days.

4.2 **Payment after Termination.** Provided that the CONTRACTOR has performed in accordance with the terms of this Agreement as of the date of termination pursuant to Section 4.1 above, CONTRACTOR shall receive all payments due to CONTRACTOR for Services rendered and accepted up to the date of termination.

SECTION 5. ADDITIONAL SERVICES AND CHANGES IN SCOPE OF SERVICES

5.1 **Changes Permitted.** Changes in the Services or the Project consisting of additions, deletions, revisions, or any combination thereof, may be ordered by the TOWN by Change Order (as defined below) without invalidating the terms of this Agreement.

5.2 **Change Order Defined.** "Change Order" shall mean a written order to the CONTRACTOR executed by the TOWN, issued after execution of this Agreement, authorizing and directing a change in the Services, the Project, Payment or the Contract Time, or any combination thereof. The Payment and/or the Contract Time may be changed only by Change Order.

5.3 **Effect of Executed Change Order.** The execution of a Change Order by the TOWN and the CONTRACTOR shall constitute conclusive evidence of the CONTRACTOR's agreement to the ordered changes in the Services or the Project, or an adjustment in the Payment or the Contract Time, or any combination thereof. The CONTRACTOR, by executing the Change Order, waives and forever releases any claim against the TOWN for additional time or compensation for matters relating to or arising out of or resulting from the Services included within or affected by the executed Change Order. Change Order costs shall be determined at a negotiated fee between the parties or based on the Schedule of Values attached hereto as Exhibit "C."

5.4 **Authority to Execute Changes or Requests for Additional Services.** The Town Manager is authorized to negotiate and execute Change Orders, in an amount not to exceed \$25,000.00 per contract. Changes or Requests for Additional Services, which exceed \$25,000.00, shall be approved by the Town Council.

SECTION 6. SURVIVAL OF PROVISIONS

Any terms or conditions of this Agreement that require acts beyond the date of the Term, shall survive termination of this Agreement, and shall remain in full force and

effect unless and until the terms or conditions are completed and shall be fully enforceable by either party.

SECTION 7. TOWN'S RESPONSIBILITIES

7.1 The TOWN will assist CONTRACTOR by placing at its disposal all available information as may be requested in writing by the CONTRACTOR relating to the Project and allow reasonable access to all pertinent information relating to the Services to be performed by CONTRACTOR.

7.2 The TOWN shall furnish to CONTRACTOR, at the CONTRACTOR'S written request, all available maps, plans, existing studies, reports and other data, pertinent to the Services to be provided by CONTRACTOR, that are in possession of the TOWN.

7.3 The TOWN shall arrange for access to and make all provisions for CONTRACTOR to enter upon public property as required for CONTRACTOR to perform the Services.

SECTION 8. CODE OF ETHICS.

Intentionally Omitted.

SECTION 9. COMPLIANCE WITH LAWS; LICENSES; POLICY OF NON-DISCRIMINATION/WAGES

9.1 The CONTRACTOR and any and all of its agents, employees, subconsultants and subcontractors shall comply with all applicable federal, state, county and local laws, ordinances, rules, regulations and procedural requirements applicable to the performance of the Services and operations pursuant to this Agreement. The CONTRACTOR shall meet or exceed the applicable requirements of the latest version of the codes and specifications promulgated or published by the Florida Department of Transportation (FDOT), the Occupational Safety Health Act (OSHA), the Environmental Protection Agency (EPA), and the Florida Department of Environmental Protection (FDEP). The CONTRACTOR is required to enter upon the TOWN'S property or public right-of-way to perform the Services pursuant to this Agreement and shall obtain all necessary licenses, permits and insurance in connection with such access and right of entry. The CONTRACTOR shall comply with all requirements and the TOWN'S agreements with any other entity or agency which concern the public right-of-way or Service Area upon which the Services are to be provided.

9.2 The CONTRACTOR shall be licensed and certified by all appropriate federal, state, county and local agencies. Prior to the commencement of the Services or work and at all times during the Term of this Agreement, CONTRACTOR shall procure

and maintain, at its sole cost and expense, and provide copies to the TOWN, all required licenses, permits and certifications for the performance of the Services and the operations set forth in this Agreement, including but not limited to, a Miami-Dade County Occupational License, a State of Florida Pest Control License, a Certified Pest Control Operator License, Miami-Dade Irrigation Occupational License, and a Certified Arborist Certification. The CONTRACTOR, at a minimum, shall be a member in good standing of the Florida Nursery, Growers and Landscape Association (FNGLA) and the Tree Care Industry Association (TCIA). Any chemicals and pesticides applied by the CONTRACTOR in the performance of the Services shall be used in strict accordance with federal, state, county, and local laws and regulations. Any use of any chemicals and pesticides shall be reported to the TOWN and shall be applied only by trained and licensed pest control applicators.

9.3 The CONTRACTOR shall not discriminate on the grounds of race, color, religion, sex, age, marital status, national origin, physical or mental disability in the performance of Services or work under this Agreement. The CONTRACTOR shall comply with all equal employment opportunity requirements and any and all applicable requirements established by state and federal law.

9.4 The CONTRACTOR and any and all of its agents, employees, subconsultants and subcontractors shall comply with the wage provisions of Section 287.055, Florida Statutes. If the Project is subject to federal or state grant funding that requires specific wage and non-discrimination provisions, the CONTRACTOR shall be required to comply with the same.

SECTION 10. OWNERSHIP OF DOCUMENTS

10.1 Any and all records, drawings and specifications, as instruments of the Services to be performed (the "Drawings and Specifications"), are and shall become the property of the TOWN whether the Project for which they are made is executed or not. The CONTRACTOR shall be permitted to retain copies, including reproducible copies, of the Drawings and Specifications for information and reference in connection with the TOWN'S use and occupancy of the Project.

10.2 The CONTRACTOR agrees not to divulge, furnish or make available to any third person, firm or organization, without the TOWN'S prior written consent, or unless incident to the proper performance of the CONSULTANT'S obligations hereunder, or in the course of judicial or legislative proceedings where such information has been properly subpoenaed, any non-public information concerning the Services to be rendered by the CONTRACTOR hereunder, and the CONTRACTOR shall require all of its employees, agents, subconsultants and subcontractors to comply with the provisions of this paragraph.

SECTION 11. RECORDS/AUDITS

11.1 The CONTRACTOR shall maintain and require all subcontractors to maintain, complete and correct records, books, documents, papers and accounts

pertaining to the Services. Such records, books, documents, papers and accounts shall be available at all reasonable times for examination and audit by the Town Manager or any authorized TOWN representative with reasonable notice and shall be kept for a period of three (3) years after the completion of the Services. 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. Disallowed fees will be paid when incomplete or incorrect entries are remedied to the satisfaction of the TOWN.

11.2 The CONTRACTOR shall comply with Chapter 119, Florida Statutes, as applicable.

11.3 Refusal of the CONTRACTOR to comply with the provisions of Sections 11.1 or 11.2 shall be grounds for immediate termination for cause by the TOWN of this Agreement.

SECTION 12. NO CONTINGENT FEE

The CONTRACTOR warrants that he or she has not employed or retained any company or person, other than a bona fide employee working solely for the CONTRACTOR to solicit or secure this Agreement and that he or she has not paid or agreed to pay any person, company, corporation, individual, or firm, other than a bona fide employee working solely for the CONTRACTOR any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the award or making of this Agreement. For the breach or violation of this provision, the TOWN shall have the right to terminate this Agreement without liability and, at its discretion, to deduct from the Payment, or otherwise recover, the full amount of such fee, commission, percentage, gift, or consideration.

SECTION 13. INDEPENDENT CONTRACTOR

The CONTRACTOR is an independent contractor under this Agreement. Personnel provided by the CONTRACTOR shall be employees of the CONTRACTOR and subject to supervision by the CONTRACTOR, and not as officers, employees, or agents of the TOWN. Personnel policies, tax responsibilities, social security, health insurance, worker's compensation insurance, employee benefits, purchasing policies and other similar administrative procedures applicable to Services rendered under this Agreement shall be those of the CONTRACTOR.

SECTION 14. ASSIGNMENT; AMENDMENTS

14.1 This Agreement or the Services shall not be assigned, transferred or otherwise encumbered, under any circumstances, in whole or in part, by CONTRACTOR, without the prior written consent of the TOWN, in its sole and absolute discretion.

14.2 No modification, amendment or alteration in the terms or conditions of this Agreement shall be effective unless contained in a written document executed with the same formality as this Agreement by both parties.

SECTION 15. INDEMNIFICATION/HOLD HARMLESS

15.1 The CONTRACTOR shall indemnify and hold harmless the TOWN, and its officers and employees from liabilities, damages, losses, and costs, including, but not limited to, reasonable attorneys' fees, to the extent caused by the acts, omissions, negligence, recklessness, wrongful conduct, acts, errors or omissions of the CONTRACTOR or any subcontractors or other persons employed or utilized by the CONTRACTOR in the performance of this Agreement. The CONTRACTOR'S obligation under this paragraph shall not be limited in any way by the agreed upon Payment, or the CONTRACTOR'S limit of, or lack of, sufficient insurance protection.

15.2 The indemnification obligation under this clause shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for the CONTRACTOR or any subcontractor or other persons employed or utilized by the CONTRACTOR in the performance of this Agreement, under worker's compensation acts, disability benefit acts, or other employee benefit acts.

15.3 The CONTRACTOR shall not specify or allow any subcontractor or other persons employed or utilized by the CONTRACTOR in the performance of this Agreement to specify a particular design, process or product that infringes upon any patent. The CONTRACTOR shall indemnify and hold TOWN and its officers and employees harmless from any loss, cost or expense, including reasonable attorney's fees and costs incurred, on account thereof if the CONTRACTOR violates the requirements of this Section 15.

SECTION 16. INSURANCE

The CONTRACTOR shall secure and maintain throughout the duration of this Agreement, insurance of such type and in such amounts necessary to protect its interest and the interest of the TOWN against hazards or risks of loss as specified below. The underwriter of such insurance shall be qualified to do business in the State of Florida and have agents upon whom service of process may be made in the State of Florida. The insurance coverage shall be primary insurance with respect to the TOWN, its officials, employees, agents and volunteers. Any insurance maintained by the TOWN shall be in excess of the CONTRACTOR'S insurance and shall not contribute to the CONTRACTOR'S insurance. The insurance coverage shall include a minimum of:

16.1 **Worker's Compensation and Employer's Liability Insurance:** Coverage to apply for all employees for Statutory Limits as required by applicable State and Federal laws. The policy(ies) must include Employer's Liability with minimum limits of \$500,000.00 each accident.

16.2 **Comprehensive Automobile and Vehicle Liability Insurance:** This insurance shall be written in comprehensive form and shall protect the CONTRACTOR and the TOWN against claims for injuries to members of the public and/or damages to property of others arising from the CONSULTANT'S use of non-owned and hired motor vehicles or any other equipment and shall cover operation with respect to onsite and offsite operations and insurance coverage shall extend to any motor vehicles or other equipment irrespective of whether the same is owned, non-owned, or hired. The limit of liability shall not be less than \$1,000,000.00 per occurrence, combined single limit for Bodily Injury Liability and Property Damage Liability. Coverage must be afforded on a form no more restrictive than the latest edition of the Business Automobile Liability Policy, without restrictive endorsement, as filed by the Insurance Services Office.

16.3 **Commercial General Liability.** This insurance shall be written in comprehensive form and shall protect the CONTRACTOR and the TOWN against claims arising from injuries to members of the public or damage to property of others arising out of any act or omission to act of the CONTRACTOR or any of its agents, employees, or subcontractors. The limit of liability shall not be less than \$2,000,000.00 per occurrence, combined single limit for Bodily Injury Liability and Property Damage Liability.

(a) Coverage must be afforded on a form no more restrictive than the latest edition of the Commercial General Liability Policy, without restrictive endorsements, as filed by the Insurance Services Office, and must include: (1) Premises and/or Operations; (2) Independent contractors and Products and/or completed Operations; (3) Broad Form Property Damage, Personal Injury and a Contractual Liability Endorsement, including any hold harmless and/or indemnification agreement.

(b) The TOWN is to be specifically included as an "Additional Insured" for the liability of the TOWN resulting from operations performed by or on behalf of CONTRACTOR in performance of this Agreement. CONTRACTOR'S insurance, including that applicable to the TOWN as an Additional Insured, shall apply on a primary basis and any other insurance maintained by the TOWN shall be in excess of and shall not contribute to CONTRACTOR'S insurance. CONTRACTOR'S insurance shall contain a severability of interest provision providing that, except with respect to the total limits of liability, the insurance shall apply to each Insured or Additional Insured in the same manner as if separate policies had been issued to each.

16.4 **Certificate(s) of Insurance:** Upon execution of this Agreement, the CONTRACTOR shall provide to the Town Manager, the Certificate(s) of Insurance evidencing the required insurance coverage. The Certificate(s) of Insurance shall not only name the types of policy(ies) provided, but also shall refer specifically to this Agreement and shall state that such insurance is as required by this Agreement. The TOWN reserves the right to require the CONTRACTOR to provide a certified copy of such policies, upon written request by the TOWN. If a policy is due to expire prior to the completion of the services, a renewal Certificate(s) of Insurance or policies shall be

furnished thirty (30) calendar days prior to the date of their policy expiration. Each policy shall be endorsed with a provision that not less than thirty (30) calendar days' written notice shall be provided to the TOWN before any policy or coverage is cancelled or restricted. Acceptance of the Certificate(s) of Insurance is subject to approval of the Town Manager.

16.5 All deductibles or self-insured retentions must be declared to and be approved by the Town Manager. The CONTRACTOR shall be responsible for the payment of any deductible or self-insured retentions in the event of any claim.

SECTION 17. REPRESENTATIVE OF TOWN AND CONSULTANT

17.1 **TOWN Representative.** It is recognized that questions in the day-to-day conduct of this Agreement will arise. The TOWN designates the Town Manager or his or her designee, as the person to whom all communications pertaining to the day-to-day conduct of this Agreement shall be addressed.

17.2 **CONTRACTOR Representative.** CONTRACTOR shall inform the Town Manager, in writing, of the representative of the CONTRACTOR to whom all communications pertaining to the day-to-day conduct of this Agreement shall be addressed.

SECTION 18. COST AND ATTORNEY'S FEES/WAIVER OF JURY TRIAL

18.1 If either the TOWN or CONTRACTOR is required to enforce the terms of this Agreement by court proceedings or otherwise, whether or not formal legal action is required, the prevailing party shall be entitled to recover from the other party all costs, expenses, and reasonable attorney's fees in any state or federal administrative, circuit court and appellate court proceedings.

18.2 In the event of any litigation arising out of this Agreement, each party hereby knowingly, irrevocably, voluntarily and intentionally waives its right to trial by jury.

SECTION 19. ALL PRIOR AGREEMENTS SUPERSEDED

This document incorporates and includes all prior negotiations, correspondence, conversations, agreements or understandings applicable to the matters contained in this Agreement and the parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly it is agreed that no deviation from the terms of the Agreement shall be predicated upon any prior representations or agreements whether oral or written.

SECTION 20. CONSULTANT'S RESPONSIBILITIES

20.1 CONTRACTOR warrants that the Services to be performed hereunder shall be performed by the CONTRACTOR'S own staff or employees, unless otherwise approved in writing by the TOWN. The TOWN shall approve any and all subcontractors providing Services to the TOWN pursuant to this Agreement. Said approval shall not be construed as constituting an agreement between the TOWN and said other person or firm. The CONTRACTOR'S services shall be performed in a manner consistent with that degree of skill and care ordinarily exercised by practicing professionals performing similar services in the same locality and under the same or similar circumstances and conditions.

20.2 CONTRACTOR represents that it possesses the requisite skills and shall follow the professional standards and the standard of conduct for consultants or vendors in performing all Services under this Agreement. The CONTRACTOR agrees to use its skill and judgment in furthering the TOWN's interests hereunder and CONTRACTOR shall perform its services in accordance with the practice of the pertinent industry and as expeditiously as is consistent with reasonable skill and care. If at any time during the term of this Agreement or the Project for which the CONTRACTOR has provided Services under this Agreement, it is determined that the CONSULTANT's Services or work are incorrect, defective or fail to conform to the terms of this Agreement, upon written notification from the TOWN, the CONTRACTOR shall immediately proceed to correct the work, re-perform Services which failed to satisfy the foregoing standard of care and shall pay all costs and expenses associated with correcting said incorrect or defective work, including any additional inspections, and installation and reimbursements to the TOWN for any other services and expenses made necessary thereby, save and except any costs which the TOWN would have otherwise paid absent the CONSULTANT's error or omission. The TOWN's approval, acceptance, use of or payment for all or any part of the CONTRACTOR's services shall in no way alter the CONTRACTOR's obligations or TOWN's rights hereunder.

20.3 CONTRACTOR agrees, within fourteen (14) calendar days of receipt of a written request from the TOWN, to promptly remove and replace any personnel employed or retained by the CONTRACTOR, any subconsultants or subcontractors or other persons employed or utilized by the CONTRACTOR in the performance of this Agreement or any personnel of any such subconsultant or subcontractor or other persons employed or utilized by the CONTRACTOR to provide and perform the Services or work pursuant to the requirements of this Agreement, whom the TOWN shall request in writing to be removed, which request may be made by the TOWN.

20.4 If CONTRACTOR allows any work to be performed knowing, or when with the exercise of due care the CONTRACTOR should have known, it to be contrary to any such applicable laws, ordinances, rules, regulations or restrictions and fails to give TOWN written notice thereof prior to performance thereof, CONTRACTOR shall bear all costs, liabilities, and expenses arising therefrom, which costs, liabilities and expenses shall not be considered a part of CONSULTANT'S fees or any other amounts due hereunder.

20.5 CONTRACTOR hereby represents and warrants that it has reviewed all necessary Project documents and that this Agreement and the RFP, when taken together, fully and accurately describe the Services needed to complete the Project in accordance with the requisite standard of care, and that CONTRACTOR is not aware of any additional work, labor or services that will be required to complete the Project.

20.6 CONTRACTOR hereby represents and warrants that all Services shall comply with all applicable federal, state and local laws, ordinances and building codes.

20.7 CONTRACTOR'S obligations under this Section 20 shall survive termination of this Agreement.

SECTION 21. NOTICES

Whenever either party desires to give notice to the other, it must be given by hand delivery or written notice, sent by certified United States mail, with return receipt requested or a nationally recognized private mail delivery service, addressed to the party for whom it is intended, at the place last specified, and the place for giving of notice in compliance with the provisions of this paragraph. For the present, the parties designate the following as the respective places for giving of notice, to-wit:

FOR CONTRACTOR:

Design Maintenance, LLC
Attention: David Herrera, Manager
13710 S.W. 145 Court
Miami, Florida 33186
Phone: (305) 251-7171
Facsimile: (____) _____

FOR TOWN:

Town of Golden Beach
Attn: Alexander Diaz, Town Manager
1 Golden Beach Drive
Golden Beach, FL 33160-2296
Phone: (305) 932-0744
Facsimile: (305) 933-3825

With a copy to:

Stephen J. Helfman, Esq.
Weiss Serota Helfman Pastoriza Cole & Boniske, P.L.
Town Attorneys
2525 Ponce de Leon Blvd.
Suite 700

Coral Gables, FL 33134
Phone: (305) 854-0800
Facsimile: (305) 854-2323

SECTION 22. TRUTH-IN-NEGOTIATION CERTIFICATE

Execution of this Agreement by CONTRACTOR shall act as the execution of a truth-in-negotiation certificate stating that wage rates and other factual unit costs supporting the Payment of this Agreement are accurate, complete, and current at the time of contracting. This Agreement's Payment and any additions shall be adjusted to exclude any significant sums by which the TOWN determines the Project's Payment was increased due to inaccurate, incomplete, or noncurrent wage rates and other factual unit costs. All such adjustments shall be made within one (1) year following the end of this Agreement.

SECTION 23. CONSENT TO JURISDICTION

The parties submit to the jurisdiction of any Florida state or federal court in any action or proceeding arising out of relating to this Agreement. Venue of any action to enforce this Agreement shall be proper exclusively in Miami-Dade County, Florida.

SECTION 24. GOVERNING LAW

This Agreement shall be construed in accordance with and governed by the laws of the State of Florida.

SECTION 25. HEADINGS

Headings are for convenience of reference only and shall not be considered in any interpretation of this Agreement.

SECTION 26. EXHIBITS

Each Exhibit referred to in this Agreement forms an essential part of this Agreement. The Exhibits if not physically attached, should be treated as part of this Agreement, and are hereby incorporated by reference.

SECTION 27. NO WAIVER OF BREACH

The failure of a party to insist on strict performance of any provision of this Agreement shall not be construed to constitute a waiver of a breach of any other provision or of a subsequent breach of the same provision.

SECTION 28. 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.

SECTION 29. COUNTERPARTS

This Agreement may be executed in several counterparts, each of which shall be deemed an original and all such counterparts shall constitute one and the same instrument.

[THE REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the parties hereby execute this Agreement on the date set forth below their signature.

ATTEST

**TOWN OF GOLDEN BEACH,
FLORIDA**

Town Clerk

By: _____
Alexander Diaz, Town Manager

Date Executed: _____

**APPROVED AS TO FORM AND LEGALITY
FOR THE USE AND RELIANCE OF THE
TOWN OF GOLDEN BEACH, FLORIDA, ONLY:**

Town Attorney

IN WITNESS WHEREOF, the parties hereby execute this Agreement on the date set forth below their signature.

ATTEST:

Secretary

Please type name of Secretary

CONTRACTOR:

**DESIGN MAINTENANCE, LLC,
a Florida Limited Liability Company**

By: _____

Name: _____

Title: _____

Date Executed: _____

EXHIBIT “A”

(Attach a copy of Design Maintenance LLC’s Proposal)

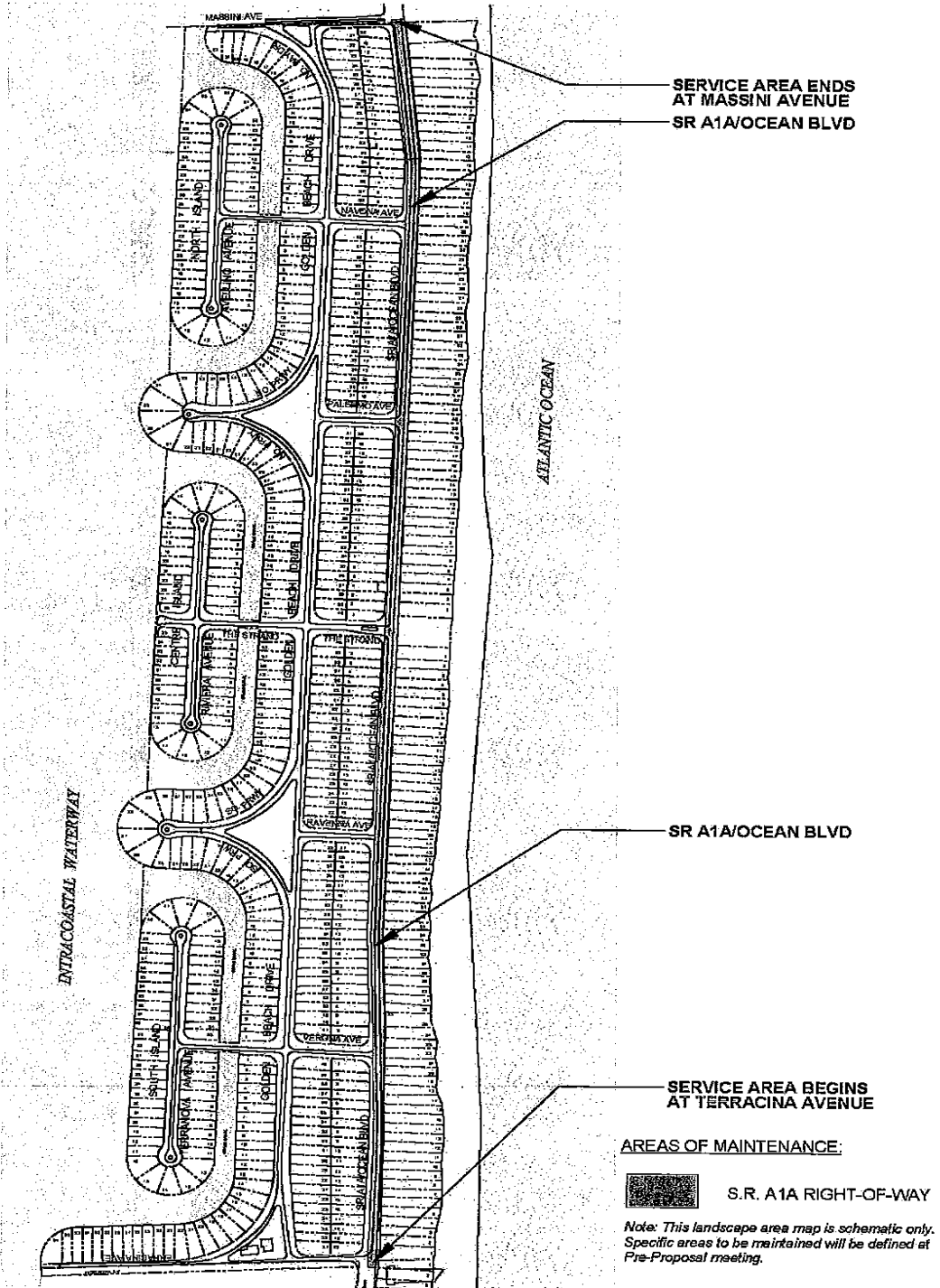
EXHIBIT “B”

LANDSCAPE AND IRRIGATION MAINTENANCE SERVICE AREA

(See Service Area Map next page)

FDOT Medians and Rights-of-Way:

S.R. A1A/Ocean Blvd. within northern and southern limits of Town of Golden Beach within FDOT right-of-way (includes maintenance at entrance wall features in median and on West side at Terracina Ave. and Massini Ave.)



S.R. A1A/Ocean Blvd. Landscape Area Map Town of Golden Beach, Florida

EXHIBIT "C"

SCHEDULE OF VALUES AND FEE SCHEDULE

**TOWN OF GOLDEN BEACH
REQUEST FOR PROPOSALS (RFP)
S.R. AIA LANDSCAPE AND IRRIGATION MAINTENANCE
RFP NO. 2011-004**

**SCHEDULE OF VALUES
LANDSCAPE AND IRRIGATION MAINTENANCE**

NOTE: The quantities shown in the Schedule of Values are an estimate only. They may vary significantly from the actual quantities ordered by the Town. Payments shall be for the units ordered, placed, and accepted by the Town. The Proposer, by signing this Proposal Form and Contract, fully acknowledges that he/she will receive no additional compensation (no overhead/no anticipated profits, etc.) other than the proposal or bid unit price of the items times the number of items authorized, ordered, placed, and accepted by the Town.

ITEM #	Item	Six Month cost for Landscape & Irrigation Maintenance April-Sept.	Six Month cost for Landscape & Irrigation Maintenance Oct.-Mar.	TOTAL COST PER 12 MONTHS
1	S.R. AIA/Ocean Blvd.	\$ 33,500.00	\$ 33,500.00	\$ 67,000.00
2	Plant (3,000) 'New Guinea' Impatiens 4 2Y" Pot, with Atlas 3000 Soil and Fertilizer per specs and remove existing annuals	Per Plant delivered & in place \$ <u>3.00</u> x 3,000 = \$ <u>9,000.00</u> TOTAL		
3	Plant (3,000) Pentas 4 2Y" Pot with Atlas 3000 Soil and Fertilizer per specs and remove existing annuals	Per Plant delivered & in place \$ <u>2.00</u> x 3,000 = \$ <u>6,000.00</u> TOTAL		
4	Plant (3,000) Vinca 'Cora' 4 Y2" Pot with Atlas 3000 Soil and Fertilizer per specs and remove existing annuals	Per Plant delivered & in place \$ <u>2.00</u> x 3,000 \$ <u>6,000.00</u> TOTAL		
BASE	<u>TOTAL BASE PROPOSAL</u> <u>Total of Items 1 through 4 constitute the Base PROPOSAL</u>	\$ <u>88,000.00</u>	BASE PROPOSAL TOTAL	

DEDUCTIVE **Cost savings to Town**
ALTERNATE **if awarded RFP #2011-003**
 (Landscape & Irrigation
 Maintenance)

\$ 16,000.00
DEDUCTIVE ALTERNATE TOTAL

GRAND **TOTAL BASE**
TOTAL **PROPOSAL MINUS**
 DEDUCTIVE
 ALTERNATE

~~\$ 128,000.00~~
~~**GRAND TOTAL**~~

NO

ADDITIONAL SCHEDULE OF VALUES

A.1	One Landscape Superintendent	Per Hour 8:00 a.m.-4:30 p.m., Mon.-Fri. = \$ <u>20.00</u> Per Hour for all other times = \$ <u>30.00</u>
A.2	One Landscape Laborer	Per Hour 8:00 a.m.-4:30 p.m., Mon.-Fri. = \$ <u>12.00</u> Per Hour for all other times = \$ <u>18.00</u>
A.3	One Front-End loader with Backhoe including Operator	Per Hour = \$ <u>85.00</u> Per Day = \$ <u>440.00</u> Per Week = \$ <u>1900.00</u> Per Month = \$ <u>4500.00</u>
A.4	One min. 15,000 GVM Dump Truck with Operator	Per Hour = \$ <u>50.00</u> Per Day = \$ <u>400.00</u> Per Week = \$ <u>1600.00</u> Per Month = \$ <u>3800.00</u>
A.5	Rate for (1) water tank, min. 500 gal. capacity, with pump and hose reel	Per Day = \$ <u>400.00</u> Per Week = \$ <u>1600.00</u> Per Month = \$ <u>3800.00</u>
A.6	Rate for Topsoil (70/30 mix) delivered and installed in place	Per CY = \$ <u>28.00</u>
A.7	One Irrigation Repair Specialist	Per Hour 8:00 a.m.-4:30p.m., Mon.-Fri. = \$ <u>25.00</u> Per Hour for all other times = \$ <u>37.50</u>
A.8	One Irrigation Laborer	Per Hour 8:00 a.m.-4:30p.m., Mon.-Fri. = \$ <u>15.00</u> Per Hour for all other times = \$ <u>22.50</u>

A.9	Rate for One Skid steer Loader (Bobcat) with Operator	Per Hour= \$ 68.00
		Per Day= \$ 352.00
		Per Week = \$ 1520.00
		Per Month = \$ 3600.00
A.10	Plant 3 Gal. Duranta 'Gold Mound' (Gold Mound)	Per Plant in place= \$ 7.75
A.11	Plant 3 Gal. Ficus microcarpa 'Green Island' (Green Island Ficus)	Per Plant in place= \$ 7.75
A.12	Plant 3 Gal. Hamelia nodosa (Dwarf Firebush)	Per Plant in place= \$ 7.75
A.13	Plant 3 Gal. Schefflera arboricola 'Trinette' (Variegated Schefflera)	Per Plant in place= \$ 7.75
A.14	Plant 3 Gal. Plumbago 'Imperial Blue' (Leadwort)	Per Plant in place= \$ 7.75
A.15	Plant 3 Gal. Codiaeum variegatum 'Mammey' (Mammey Croton)	Per Plant in place= \$ 8.00
A.16	Plant 3 Gal. Tripsacum dactyloides (Florida Gamma Grass)	Per Plant in place = \$ 7.75
A.17	Plant Phoenix dactilifera 'Medjool' 24' C.T., Classic Cut, Fla. Fancy	Per Palm in place= \$ 6500.00
A.18	Gold Premium Shredded Mulch, Grade 'A' or better, delivered and installed in place.	Per Bag = \$ 4.00
		Per Cubic Yard = \$ 45.00
		Per 20 Cubic Yard = \$ 800.00
A.19	Atlas 3000 Soil Mix	Per cu. yd. in place = \$ 90.00

Note: The Town reserves the right to secure competitive proposals or bids for any and all items in the Additional Schedule of Values. All replacement plant material shall be FL. No. 1 or better and includes removal of existing plantings, bed preparation, topsoil, staking, mulch, super absorbent polymer, initial hand watering if needed and one year warranty. Seasonal color replacements include removal of existing plantings, bed pre preparation, pre-

emergent herbicide, Atlas 3000 soil mix, initial and mid-term application of Nutricote, and initial hand watering.

CONTRACT EXTENSIONS: Town of Golden Beach hereby requests proposals for a three (3) year contract for supplies and services. In addition, the Town reserves the right to extend the Contract for two additional one (1) year terms, providing both parties agree, and the extension is approved by the Town Manager.

PROPOSER SHALL OFFER FIRM PRICES FOR THE INITIAL THREE (3) YEAR TERM OF THE CONTRACT. PROPOSER TO INDICATE IF IT SHALL EXTEND THE CONTRACT FOR TWO ADDITIONAL ONE (1) YEAR TERMS UPON THE SAME TERMS AND CONDITIONS.

YES X NO _____

David Herrera, Manager
Proposer Name and Title

Design Maintenance, LLC
Company Name

13710 SW 145 Ct, Miami, Fl 33186
Address

(305) 251-7171
Phone

TOWN OF GOLDEN BEACH, FLORIDA

RESOLUTION NO. 2233.12

A RESOLUTION OF THE TOWN OF GOLDEN BEACH, FLORIDA, SELECTING DESIGN MAINTENANCE, LLC FOR STATE ROAD A1A/OCEAN BOULEVARD FERTILIZATION AND PEST MANAGEMENT SERVICES; AUTHORIZING AND APPROVING A PROFESSIONAL SERVICES AGREEMENT BETWEEN THE TOWN AND DESIGN MAINTENANCE, LLC; AUTHORIZING THE MAYOR AND TOWN MANAGER TO EXECUTE THE AGREEMENT; PROVIDING FOR IMPLEMENTATION; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, the Town of Golden Beach (the “Town”) issued Request for Proposals (RFP) No. 2011-0006 for State Road A1A/Ocean Boulevard Fertilization and Pest Management Services; and

WHEREAS, Design Maintenance, LLC submitted a Proposal in response to the RFP (the “Proposal”), which was determined to be the best and most advantageous Proposal submitted to the Town; and

WHEREAS, the Town wishes to select Design Maintenance, LLC for the State Road A1A/Ocean Boulevard Fertilization and Pest Management Services and authorize the Town to enter into a Professional Services Agreement with Design Maintenance, LLC, substantially in the form attached to this Resolution as Exhibit “A” (the “Agreement”); and

WHEREAS, the Town Council has determined that it is in the best interests of the Town to perform the State Road A1A/Ocean Boulevard Fertilization and Pest Management Services and enter into the Agreement.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF GOLDEN BEACH, FLORIDA, AS FOLLOWS:

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

Section 2. Selection of Design Maintenance, LLC. The Town Council hereby selects Design Maintenance, LLC for the State Road A1A/Ocean Boulevard Fertilization and Pest Management Services.

Section 3. Authorization and Approval of Agreement. The Town Council hereby authorizes and approves the Agreement with Design Maintenance, LLC, in substantially the form attached hereto as Exhibit "A," and the Mayor and/or Town Manager are authorized to execute the Agreement on behalf of the Town, once approved as to final form and legal sufficiency by the Town Attorney.

Section 4. Implementation. The Mayor and Town Manager are hereby authorized to take all steps reasonably necessary to implement the Agreement and this Resolution.

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

The Motion to adopt the foregoing Resolution was offered by _____, seconded by _____ and on roll call the following vote ensued:

Mayor Glenn Singer	_____
Vice Mayor Amy Isackson-Rojas	_____
Councilmember Bernard Einstein	_____
Councilmember Judy Lusskin	_____
Councilmember Kenneth Bernstein	_____

PASSED AND ADOPTED by the Town Council of the Town of Golden Beach,
Florida, this 27th day of March, 2012.

ATTEST:

MAYOR GLENN SINGER

LISSETTE PEREZ
INTERIM TOWN CLERK

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY:

STEPHEN J. HELFMAN
TOWN ATTORNEY

EXHIBIT “A”

(Attach Professional Services Agreement between the Town and Design Maintenance, LLC.)

PROFESSIONAL SERVICES AGREEMENT

between

TOWN OF GOLDEN BEACH, FLORIDA

and

DESIGN MAINTENANCE, LLC

for

S.R. A1A/OCEAN BOULEVARD FERTILIZATION AND PEST MANAGEMENT

THIS PROFESSIONAL SERVICES AGREEMENT (this “Agreement”) is made effective as of _____, 2012 (the “Effective Date”) by and between the **TOWN OF GOLDEN BEACH, FLORIDA**, a Florida municipal corporation (hereinafter referred to as the “TOWN”), and **DESIGN MAINTENANCE, LLC**, a Florida Limited Liability Company (hereinafter referred to as the “CONSULTANT”), whose principal place of business is 13710 S.W. 145 Court, Miami, Florida 33186.

WHEREAS, the TOWN issued Request for Proposals (RFP) No. 2011-006 on November 18, 2011 (the “RFP”) requesting proposals from qualified contractors or vendors for the purpose of providing fertilization and pest management services using Integrated Pest Management principles within the right-of-way on State Road A1A/Ocean Boulevard, as defined on the Service Areas Map attached to this Agreement and hereinafter defined (the “Services” or “Project”);

WHEREAS, the CONTRACTOR submitted a Proposal in response to the RFP (the “Proposal”), which Proposal was selected by the TOWN for the award of this Agreement;

WHEREAS, the CONTRACTOR is willing and able to perform the Services for the TOWN in accordance with the terms and conditions set forth in the RFP, the Proposal and this Agreement for the Project;

NOW THEREFORE, in consideration of the mutual terms, conditions, promises and covenants set forth below, the TOWN and CONTRACTOR agree as follows:

SECTION 1. SCOPE AND SERVICES

1.1 **The RFP.** This Agreement includes the terms and conditions of the RFP and required Technical Specifications for the Project, which are incorporated herein by reference. The Services as defined in Section 1.2 hereof and to be provided and performed with respect to the Project shall be at all times subject to the requirements of the RFP and the Technical Specifications.

1.2 **Scope of Services.** Pursuant to its Proposal attached hereto as Exhibit “A”, the CONTRACTOR shall provide to the TOWN fertilization and pest management services using Integrated Pest Management principles within the right-of-way on State Road A1A/Ocean Boulevard, as defined on the Service Area Map attached hereto as Exhibit “B”, and at locations shown on the Service Area Map or as determined by the TOWN (the “Service Area”). The Town reserves the right to remove or change specific area locations within the Service Area on a temporary or permanent basis, as deemed appropriate by the Town. The Services and work shall include the furnishing of all labor, materials, tools, equipment, machinery, superintendence and services necessary for fertilization and pest management, which shall include insect control and herbicide applications, including preventive and corrective applications and fertilization (the “Services”), which are more specifically set forth in the Technical Specifications of the RFP. The CONTRACTOR shall maintain the Project in accordance with the highest quality landscape maintenance standards consistent with the Technical Specifications set forth in the RFP which shall surpass industry standards. The CONTRACTOR’S Services shall be subject to inspection and approval by the TOWN and the TOWN’S Landscape Architect, who shall indicate items or services that need to be addressed or corrected and the CONTRACTOR shall address and complete same in a timely manner and provide a status report. The CONTRACTOR shall adhere to the fertilization programs and frequency as provided in the Technical Specifications included in the RFP.

SECTION 2. BILLING AND PAYMENTS TO THE CONSULTANT

2.1 **Payment; Invoices.** The TOWN shall pay the CONTRACTOR an annual lump sum base proposal fee in the amount of \$16,000.00, payable monthly within thirty (30) calendar days of approval by the Town Manager of any invoices submitted by CONTRACTOR to the TOWN. The TOWN shall make payments to CONTRACTOR pursuant to applicable Florida law. Payments shall follow the Schedule of Values and Fee Schedule contained in the Proposal and attached hereto as Exhibit “C.” Payments shall be made for units ordered, placed and accepted by the TOWN in accordance with the Schedule of Values and Fee Schedule attached hereto as Exhibit “C.”

2.2 **Disputed Invoices.** In the event that all or a portion of an invoice submitted to the TOWN for payment to the CONTRACTOR is disputed, or additional backup documentation is required, the TOWN shall notify the CONTRACTOR within fifteen (15) working days of receipt of the invoice of such objection, modification or additional documentation request. The CONTRACTOR shall provide the TOWN with additional backup documentation within five (5) working days of the date of the TOWN’S notice. The TOWN may request additional information, including but not limited to, all invoices, expense records, accounting records, and payment records of the CONTRACTOR. The TOWN shall, pay to the CONTRACTOR the undisputed portion of the invoice. The parties shall endeavor to resolve the disputed portions in a mutually agreeable fashion.

2.3 **Suspension of Payment.** In the event that the TOWN becomes credibly informed that any representations of the CONSULTANT, provided pursuant to this Section 2, are wholly or partially inaccurate, or in the event that the CONTRACTOR is not in compliance with any terms or conditions of this Agreement, the TOWN may withhold payment of sums then or in the future otherwise due to the CONTRACTOR until the inaccuracy, or other breach of this Agreement, and the cause thereof, is corrected to the TOWN's reasonable satisfaction.

SECTION 3. TERM/TIME OF PERFORMANCE

3.1 **Term.** This Agreement shall commence on the Effective Date and shall continue in full force and effect for an initial period of three (3) years, unless otherwise terminated pursuant to the terms of this Agreement (the "Term"). The TOWN, in its sole discretion, may extend the term of this Agreement through written notification to the CONTRACTOR from the Town Manager, at least sixty (60) days prior to the expiration of the initial term, for two (2) additional one (1) year periods upon the same terms, conditions and pricing as set forth in this Agreement.. In the event that Services are scheduled to terminate either by expiration or by termination by the TOWN, the TOWN, in its sole discretion, may request that the CONTRACTOR continue the Services for a transition period until new Services can be established and operational. This transition period shall not exceed ninety (90) days beyond the expiration date of this Agreement.

3.2 **Commencement.** The CONTRACTOR'S Services under this Agreement and the time frames and Schedule applicable to this Agreement shall commence upon the Effective Date. The CONTRACTOR shall not incur any expenses or obligations or incur payment to third parties prior to the issuance of a Notice to Proceed (the "Notice to Proceed") for the Project, and the CONTRACTOR must receive the Notice to Proceed from the Town Manager prior to beginning the performance of the Services.

3.3 **Contract Time.** From and after the receipt of the Notice to Proceed, the CONTRACTOR shall continuously perform the Services to the TOWN, without interruption, for the duration of the Term (the "Contract Time"). Time is of the essence in the performance of the Services and all limitations of time set forth in this Agreement are of the essence.

SECTION 4. TERMINATION OF AGREEMENT

4.1 **Termination.** The TOWN has the right to terminate this Agreement for any reason or no reason, upon seven (7) days' written notice to CONTRACTOR. Upon termination of this Agreement, and final payment of any undisputed outstanding invoices due through the date of notice of termination, copies of all records, charts, sketches, studies, plans, drawings, and other documents related to the Services performed under this Agreement, whether finished or not, shall be turned over to the TOWN within ten (10) days.

4.2 **Payment after Termination.** Provided that the CONTRACTOR has performed in accordance with the terms of this Agreement as of the date of termination pursuant to Section 4.1 above, CONTRACTOR shall receive all payments due to CONTRACTOR for Services rendered and accepted up to the date of termination.

SECTION 5. ADDITIONAL SERVICES AND CHANGES IN SCOPE OF SERVICES

5.1 **Changes Permitted.** Changes in the Services or the Project consisting of additions, deletions, revisions, or any combination thereof, may be ordered by the TOWN by Change Order (as defined below) without invalidating the terms of this Agreement.

5.2 **Change Order Defined.** “Change Order” shall mean a written order to the CONTRACTOR executed by the TOWN, issued after execution of this Agreement, authorizing and directing a change in the Services, the Project, Payment or the Contract Time, or any combination thereof. The Payment and/or the Contract Time may be changed only by Change Order.

5.3 **Effect of Executed Change Order.** The execution of a Change Order by the TOWN and the CONTRACTOR shall constitute conclusive evidence of the CONTRACTOR's agreement to the ordered changes in the Services or the Project, or an adjustment in the Payment or the Contract Time, or any combination thereof. The CONTRACTOR, by executing the Change Order, waives and forever releases any claim against the TOWN for additional time or compensation for matters relating to or arising out of or resulting from the Services included within or affected by the executed Change Order. Change Order costs shall be determined at a negotiated fee between the parties or based on the Schedule of Values attached hereto as Exhibit “C.”

5.4 **Authority to Execute Changes or Requests for Additional Services.** The Town Manager is authorized to negotiate and execute Change Orders, in an amount not to exceed \$25,000.00 per contract. Changes or Requests for Additional Services, which exceed \$25,000.00, shall be approved by the Town Council.

SECTION 6. SURVIVAL OF PROVISIONS

Any terms or conditions of this Agreement that require acts beyond the date of the Term, shall survive termination of this Agreement, and shall remain in full force and effect unless and until the terms or conditions are completed and shall be fully enforceable by either party.

SECTION 7. TOWN'S RESPONSIBILITIES

7.1 The TOWN will assist CONTRACTOR by placing at its disposal all available information as may be requested in writing by the CONTRACTOR relating to the Project and allow reasonable access to all pertinent information relating to the Services to be performed by CONTRACTOR.

7.2 The TOWN shall furnish to CONTRACTOR, at the CONTRACTOR'S written request, all available maps, plans, existing studies, reports and other data, pertinent to the Services to be provided by CONTRACTOR, that are in possession of the TOWN.

7.3 The TOWN shall arrange for access to and make all provisions for CONTRACTOR to enter upon public property as required for CONTRACTOR to perform the Services.

SECTION 8. CODE OF ETHICS.

Intentionally Omitted.

SECTION 9. COMPLIANCE WITH LAWS; LICENSES; POLICY OF NON-DISCRIMINATION/WAGES

9.1 The CONTRACTOR and any and all of its agents, employees, subconsultants and subcontractors shall comply with all applicable federal, state, county and local laws, ordinances, rules, regulations and procedural requirements applicable to the performance of the Services and operations pursuant to this Agreement. The CONTRACTOR shall meet or exceed the applicable requirements of the latest version of the codes and specifications promulgated or published by the Florida Department of Transportation (FDOT), the Occupational Safety Health Act (OSHA), the Environmental Protection Agency (EPA), and the Florida Department of Environmental Protection (FDEP). The CONTRACTOR is required to enter upon the TOWN'S property or public right-of-way to perform the Services pursuant to this Agreement and shall obtain all necessary licenses, permits and insurance in connection with such access and right of entry. The CONTRACTOR shall comply with all requirements and the TOWN'S agreements with any other entity or agency which concern the public right-of-way or Service Areas upon which the Services are to be provided.

9.2 The CONTRACTOR shall be licensed and certified by all appropriate federal, state, county and local agencies. Prior to the commencement of the Services or work and at all times during the Term of this Agreement, CONTRACTOR shall procure and maintain, at its sole cost and expense, and provide copies to the TOWN, all required licenses, permits and certifications for the performance of the Services and the operations set forth in this Agreement, including but not limited to a Miami-Dade County Occupational License, a State of Florida Pest Control License and a Certified Pest Control Operator License. All chemicals and pesticides applied by the CONTRACTOR in the performance of the Services shall be used in strict accordance with federal, state, county, and local laws and regulations. Any use of chemicals and pesticides shall be reported to the TOWN and shall be applied only by trained and licensed pest control applicators.

9.3 The CONTRACTOR shall not discriminate on the grounds of race, color, religion, sex, age, marital status, national origin, physical or mental disability in the performance of Services or work under this Agreement. The CONTRACTOR shall comply with all equal employment opportunity requirements and any and all applicable requirements established by state and federal law.

9.4 The CONTRACTOR and any and all of its agents, employees, subconsultants and subcontractors shall comply with the wage provisions of Section 287.055, Florida Statutes. If the Project is subject to federal or state grant funding that requires specific wage and non-discrimination provisions, the CONTRACTOR shall be required to comply with the same.

SECTION 10. OWNERSHIP OF DOCUMENTS

10.1 Any and all records, drawings and specifications, as instruments of the Services to be performed (the "Drawings and Specifications"), are and shall become the property of the TOWN whether the Project for which they are made is executed or not. The CONTRACTOR shall be permitted to retain copies, including reproducible copies, of the Drawings and Specifications for information and reference in connection with the TOWN'S use and occupancy of the Project.

10.2 The CONTRACTOR agrees not to divulge, furnish or make available to any third person, firm or organization, without the TOWN'S prior written consent, or unless incident to the proper performance of the CONSULTANT'S obligations hereunder, or in the course of judicial or legislative proceedings where such information has been properly subpoenaed, any non-public information concerning the Services to be rendered by the CONTRACTOR hereunder, and the CONTRACTOR shall require all of its employees, agents, subconsultants and subcontractors to comply with the provisions of this paragraph.

SECTION 11. RECORDS/AUDITS

11.1 The CONTRACTOR shall maintain and require all subcontractors to maintain, complete and correct records, books, documents, papers and accounts pertaining to the Services. Such records, books, documents, papers and accounts shall be available at all reasonable times for examination and audit by the Town Manager or any authorized TOWN representative with reasonable notice and shall be kept for a period of three (3) years after the completion of the Services. 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. Disallowed fees will be paid when incomplete or incorrect entries are remedied to the satisfaction of the TOWN.

11.2 The CONTRACTOR shall comply with Chapter 119, Florida Statutes, as applicable.

11.3 Refusal of the CONTRACTOR to comply with the provisions of Sections 11.1 or 11.2 shall be grounds for immediate termination for cause by the TOWN of this Agreement.

SECTION 12. NO CONTINGENT FEE

The CONTRACTOR warrants that he or she has not employed or retained any company or person, other than a bona fide employee working solely for the CONTRACTOR to solicit or secure this Agreement and that he or she has not paid or agreed to pay any person, company, corporation, individual, or firm, other than a bona fide employee working solely for the CONTRACTOR any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the award or making of this Agreement. For the breach or violation of this provision, the TOWN shall have the right to terminate this Agreement without liability and, at its discretion, to deduct from the Payment, or otherwise recover, the full amount of such fee, commission, percentage, gift, or consideration.

SECTION 13. INDEPENDENT CONTRACTOR

The CONTRACTOR is an independent contractor under this Agreement. Personnel provided by the CONTRACTOR shall be employees of the CONTRACTOR and subject to supervision by the CONTRACTOR, and not as officers, employees, or agents of the TOWN. Personnel policies, tax responsibilities, social security, health insurance, worker's compensation insurance, employee benefits, purchasing policies and other similar administrative procedures applicable to Services rendered under this Agreement shall be those of the CONTRACTOR.

SECTION 14. ASSIGNMENT; AMENDMENTS

14.1 This Agreement or the Services shall not be assigned, transferred or otherwise encumbered, under any circumstances, in whole or in part, by CONTRACTOR, without the prior written consent of the TOWN, in its sole and absolute discretion.

14.2 No modification, amendment or alteration in the terms or conditions of this Agreement shall be effective unless contained in a written document executed with the same formality as this Agreement by both parties.

SECTION 15. INDEMNIFICATION/HOLD HARMLESS

15.1 The CONTRACTOR shall indemnify and hold harmless the TOWN, and its officers and employees from liabilities, damages, losses, and costs, including, but not limited to, reasonable attorneys' fees, to the extent caused by the acts, omissions, negligence, recklessness, wrongful conduct, acts, errors or omissions of the CONTRACTOR or any subcontractors or other persons employed or utilized by the CONTRACTOR in the performance of this Agreement. The CONTRACTOR'S

obligation under this paragraph shall not be limited in any way by the agreed upon Payment, or the CONTRACTOR'S limit of, or lack of, sufficient insurance protection.

15.2 The indemnification obligation under this clause shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for the CONTRACTOR or any subcontractor or other persons employed or utilized by the CONTRACTOR in the performance of this Agreement, under worker's compensation acts, disability benefit acts, or other employee benefit acts.

15.3 The CONTRACTOR shall not specify or allow any subcontractor or other persons employed or utilized by the CONTRACTOR in the performance of this Agreement to specify a particular design, process or product that infringes upon any patent. The CONTRACTOR shall indemnify and hold TOWN and its officers and employees harmless from any loss, cost or expense, including reasonable attorney's fees and costs incurred, on account thereof if the CONTRACTOR violates the requirements of this Section 15.

SECTION 16. INSURANCE

The CONTRACTOR shall secure and maintain throughout the duration of this Agreement, insurance of such type and in such amounts necessary to protect its interest and the interest of the TOWN against hazards or risks of loss as specified below. The underwriter of such insurance shall be qualified to do business in the State of Florida and have agents upon whom service of process may be made in the State of Florida. The insurance coverage shall be primary insurance with respect to the TOWN, its officials, employees, agents and volunteers. Any insurance maintained by the TOWN shall be in excess of the CONTRACTOR'S insurance and shall not contribute to the CONTRACTOR'S insurance. The insurance coverage shall include a minimum of:

16.1 **Worker's Compensation and Employer's Liability Insurance:** Coverage to apply for all employees for Statutory Limits as required by applicable State and Federal laws. The policy(ies) must include Employer's Liability with minimum limits of \$500,000.00 each accident.

16.2 **Comprehensive Automobile and Vehicle Liability Insurance:** This insurance shall be written in comprehensive form and shall protect the CONTRACTOR and the TOWN against claims for injuries to members of the public and/or damages to property of others arising from the CONSULTANT'S use of non-owned and hired motor vehicles or any other equipment and shall cover operation with respect to onsite and offsite operations and insurance coverage shall extend to any motor vehicles or other equipment irrespective of whether the same is owned, non-owned, or hired. The limit of liability shall not be less than \$1,000,000.00 per occurrence, combined single limit for Bodily Injury Liability and Property Damage Liability. Coverage must be afforded on a form no more restrictive than the latest edition of the Business Automobile Liability Policy, without restrictive endorsement, as filed by the Insurance Services Office.

16.3 **Commercial General Liability.** This insurance shall be written in comprehensive form and shall protect the CONTRACTOR and the TOWN against claims arising from injuries to members of the public or damage to property of others arising out of any act or omission to act of the CONTRACTOR or any of its agents, employees, or subcontractors. The limit of liability shall not be less than \$2,000,000.00 per occurrence, combined single limit for Bodily Injury Liability and Property Damage Liability.

(a) Coverage must be afforded on a form no more restrictive than the latest edition of the Commercial General Liability Policy, without restrictive endorsements, as filed by the Insurance Services Office, and must include: (1) Premises and/or Operations; (2) Independent contractors and Products and/or completed Operations; (3) Broad Form Property Damage, Personal Injury and a Contractual Liability Endorsement, including any hold harmless and/or indemnification agreement.

(b) The TOWN is to be specifically included as an “Additional Insured” for the liability of the TOWN resulting from operations performed by or on behalf of CONTRACTOR in performance of this Agreement. CONTRACTOR’S insurance, including that applicable to the TOWN as an Additional Insured, shall apply on a primary basis and any other insurance maintained by the TOWN shall be in excess of and shall not contribute to CONTRACTOR’S insurance. CONTRACTOR’S insurance shall contain a severability of interest provision providing that, except with respect to the total limits of liability, the insurance shall apply to each Insured or Additional Insured in the same manner as if separate policies had been issued to each.

16.4 **Certificate(s) of Insurance:** Upon execution of this Agreement, the CONTRACTOR shall provide to the Town Manager, the Certificate(s) of Insurance evidencing the required insurance coverage. The Certificate(s) of Insurance shall not only name the types of policy(ies) provided, but also shall refer specifically to this Agreement and shall state that such insurance is as required by this Agreement. The TOWN reserves the right to require the CONTRACTOR to provide a certified copy of such policies, upon written request by the TOWN. If a policy is due to expire prior to the completion of the services, a renewal Certificate(s) of Insurance or policies shall be furnished thirty (30) calendar days prior to the date of their policy expiration. Each policy shall be endorsed with a provision that not less than thirty (30) calendar days’ written notice shall be provided to the TOWN before any policy or coverage is cancelled or restricted. Acceptance of the Certificate(s) of Insurance is subject to approval of the Town Manager.

16.5 All deductibles or self-insured retentions must be declared to and be approved by the Town Manager. The CONTRACTOR shall be responsible for the payment of any deductible or self-insured retentions in the event of any claim.

SECTION 17. REPRESENTATIVE OF TOWN AND CONSULTANT

17.1 **TOWN Representative.** It is recognized that questions in the day-to-day conduct of this Agreement will arise. The TOWN designates the Town Manager or his or her designee, as the person to whom all communications pertaining to the day-to-day conduct of this Agreement shall be addressed.

17.2 **CONTRACTOR Representative.** CONTRACTOR shall inform the Town Manager, in writing, of the representative of the CONTRACTOR to whom all communications pertaining to the day-to-day conduct of this Agreement shall be addressed.

SECTION 18. COST AND ATTORNEY'S FEES/WAIVER OF JURY TRIAL

18.1 If either the TOWN or CONTRACTOR is required to enforce the terms of this Agreement by court proceedings or otherwise, whether or not formal legal action is required, the prevailing party shall be entitled to recover from the other party all costs, expenses, and reasonable attorney's fees in any state or federal administrative, circuit court and appellate court proceedings.

18.2 In the event of any litigation arising out of this Agreement, each party hereby knowingly, irrevocably, voluntarily and intentionally waives its right to trial by jury.

SECTION 19. ALL PRIOR AGREEMENTS SUPERSEDED

This document incorporates and includes all prior negotiations, correspondence, conversations, agreements or understandings applicable to the matters contained in this Agreement and the parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly it is agreed that no deviation from the terms of the Agreement shall be predicated upon any prior representations or agreements whether oral or written.

SECTION 20. CONSULTANT'S RESPONSIBILITIES

20.1 CONTRACTOR warrants that the Services to be performed hereunder shall be performed by the CONTRACTOR'S own staff or employees, unless otherwise approved in writing by the TOWN. The TOWN shall approve any and all subcontractors providing Services to the TOWN pursuant to this Agreement. Said approval shall not be construed as constituting an agreement between the TOWN and said other person or firm. The CONTRACTOR'S services shall be performed in a manner consistent with that degree of skill and care ordinarily exercised by practicing professionals performing similar services in the same locality and under the same or similar circumstances and conditions.

20.2 CONTRACTOR represents that it possesses the requisite skills and shall follow the professional standards and the standard of conduct for consultants or vendors in performing all Services under this Agreement. The CONTRACTOR agrees to use its

skill and judgment in furthering the TOWN's interests hereunder and CONTRACTOR shall perform its services in accordance with the practice of the pertinent industry and as expeditiously as is consistent with reasonable skill and care. If at any time during the term of this Agreement or the Project for which the CONTRACTOR has provided Services under this Agreement, it is determined that the CONSULTANT's Services or work are incorrect, defective or fail to conform to the terms of this Agreement, upon written notification from the TOWN, the CONTRACTOR shall immediately proceed to correct the work, re-perform Services which failed to satisfy the foregoing standard of care and shall pay all costs and expenses associated with correcting said incorrect or defective work, including any additional inspections, and installation and reimbursements to the TOWN for any other services and expenses made necessary thereby, save and except any costs which the TOWN would have otherwise paid absent the CONSULTANT's error or omission. The TOWN's approval, acceptance, use of or payment for all or any part of the CONTRACTOR's services shall in no way alter the CONTRACTOR's obligations or TOWN's rights hereunder.

20.3 CONTRACTOR agrees, within fourteen (14) calendar days of receipt of a written request from the TOWN, to promptly remove and replace any personnel employed or retained by the CONTRACTOR, any subconsultants or subcontractors or other persons employed or utilized by the CONTRACTOR in the performance of this Agreement or any personnel of any such subconsultant or subcontractor or other persons employed or utilized by the CONTRACTOR to provide and perform the Services or work pursuant to the requirements of this Agreement, whom the TOWN shall request in writing to be removed, which request may be made by the TOWN.

20.4 If CONTRACTOR allows any work to be performed knowing, or when with the exercise of due care the CONTRACTOR should have known, it to be contrary to any such applicable laws, ordinances, rules, regulations or restrictions and fails to give TOWN written notice thereof prior to performance thereof, CONTRACTOR shall bear all costs, liabilities, and expenses arising therefrom, which costs, liabilities and expenses shall not be considered a part of CONSULTANT'S fees or any other amounts due hereunder.

20.5 CONTRACTOR hereby represents and warrants that it has reviewed all necessary Project documents and that this Agreement and the RFP, when taken together, fully and accurately describe the Services needed to complete the Project in accordance with the requisite standard of care, and that CONTRACTOR is not aware of any additional work, labor or services that will be required to complete the Project.

20.6 CONTRACTOR hereby represents and warrants that all Services shall comply with all applicable federal, state and local laws, ordinances and building codes.

20.7 CONTRACTOR'S obligations under this Section 20 shall survive termination of this Agreement.

SECTION 21. NOTICES

Whenever either party desires to give notice to the other, it must be given by hand delivery or written notice, sent by certified United States mail, with return receipt requested or a nationally recognized private mail delivery service, addressed to the party for whom it is intended, at the place last specified, and the place for giving of notice in compliance with the provisions of this paragraph. For the present, the parties designate the following as the respective places for giving of notice, to-wit:

FOR CONTRACTOR:

Design Maintenance, LLC
Attention: David Herrera, Manager
13710 S.W. 145 Court
Miami, Florida 33186
Phone: (305) 251-7171
Facsimile: (____) _____

FOR TOWN:

Town of Golden Beach
Attn: Alexander Diaz, Town Manager
1 Golden Beach Drive
Golden Beach, FL 33160-2296
Phone: (305) 932-0744
Facsimile: (305) 933-3825

With a copy to:

Stephen J. Helfman, Esq.
Weiss Serota Helfman Pastoriza Cole & Boniske, P.L.
Town Attorneys
2525 Ponce de Leon Blvd.
Suite 700
Coral Gables, FL 33134
Phone: (305) 854-0800
Facsimile: (305) 854-2323

SECTION 22. TRUTH-IN-NEGOTIATION CERTIFICATE

Execution of this Agreement by CONTRACTOR shall act as the execution of a truth-in-negotiation certificate stating that wage rates and other factual unit costs supporting the Payment of this Agreement are accurate, complete, and current at the time of contracting. This Agreement's Payment and any additions shall be adjusted to exclude any significant sums by which the TOWN determines the Project's Payment was increased due to inaccurate, incomplete, or noncurrent wage rates and other factual unit

costs. All such adjustments shall be made within one (1) year following the end of this Agreement.

SECTION 23. CONSENT TO JURISDICTION

The parties submit to the jurisdiction of any Florida state or federal court in any action or proceeding arising out of relating to this Agreement. Venue of any action to enforce this Agreement shall be proper exclusively in Miami-Dade County, Florida.

SECTION 24. GOVERNING LAW

This Agreement shall be construed in accordance with and governed by the laws of the State of Florida.

SECTION 25. HEADINGS

Headings are for convenience of reference only and shall not be considered in any interpretation of this Agreement.

SECTION 26. EXHIBITS

Each Exhibit referred to in this Agreement forms an essential part of this Agreement. The Exhibits if not physically attached, should be treated as part of this Agreement, and are hereby incorporated by reference.

SECTION 27. NO WAIVER OF BREACH

The failure of a party to insist on strict performance of any provision of this Agreement shall not be construed to constitute a waiver of a breach of any other provision or of a subsequent breach of the same provision.

SECTION 28. 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.

SECTION 29. COUNTERPARTS

This Agreement may be executed in several counterparts, each of which shall be deemed an original and all such counterparts shall constitute one and the same instrument.

IN WITNESS WHEREOF, the parties hereby execute this Agreement on the date set forth below their signature.

ATTEST

**TOWN OF GOLDEN BEACH,
FLORIDA**

Town Clerk

By: _____
Alexander Diaz, Town Manager

Date Executed: _____

**APPROVED AS TO FORM AND LEGALITY
FOR THE USE AND RELIANCE OF THE
TOWN OF GOLDEN BEACH, FLORIDA, ONLY:**

Town Attorney

IN WITNESS WHEREOF, the parties hereby execute this Agreement on the date set forth below their signature.

CONTRACTOR:

**DESIGN MAINTENANCE, LLC,
a Florida Limited Liability Company**

ATTEST:

Secretary

Please type name of Secretary

By: _____

Name: _____

Title: _____

Date Executed: _____

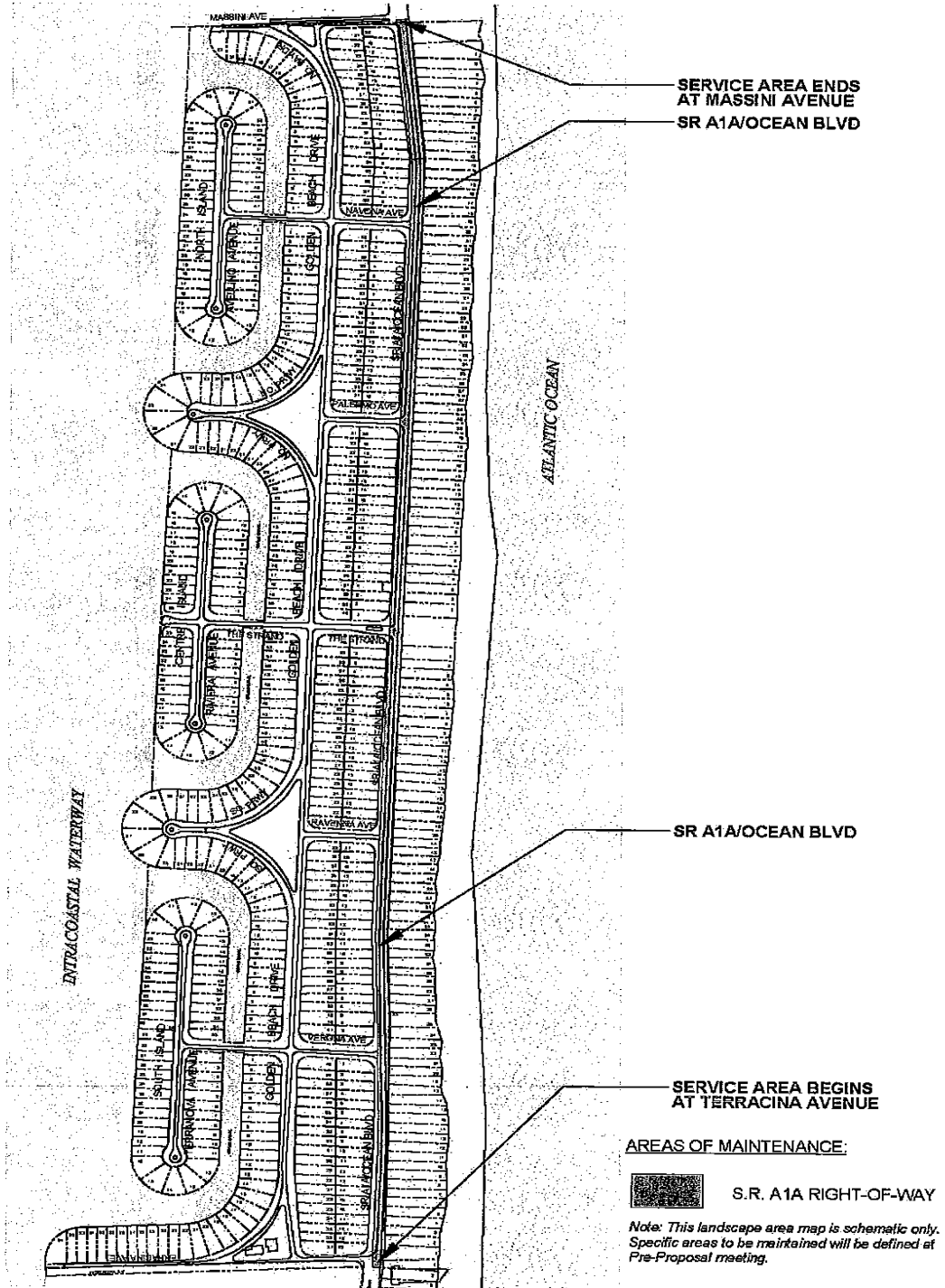
EXHIBIT “A”

(Attach a copy of Design Maintenance LLC’s Proposal)

EXHIBIT "B"

FDOT Medians and Rights-of-Way:

S.R. A1A/Ocean Blvd. within northern and southern limits of Town of Golden Beach within FDOT right-of-way (includes maintenance at entrance wall features in median and on West side at Terracina Ave. and Massini Ave.)



S.R. A1A/Ocean Blvd. Landscape Area Map Town of Golden Beach, Florida

EXHIBIT "C"

SCHEDULE OF VALUES FERTILIZATION AND PEST MANAGEMENT

NOTE: The quantities shown in the Schedule of Values are an estimate only. They may vary significantly from the actual quantities ordered by the Town. Payments shall be for the units ordered, placed, and accepted by the Town. The Proposer, by signing the Proposal Form and Contract, fully acknowledges that he/she will receive no additional compensation (no overhead/no anticipated profits, etc.) other than the Bid unit price of the items times the number of items authorized, ordered, placed, and accepted by the Town.

ITEM #	Item	Per Month Cost	TOTAL COST PER 12 MONTHS
1	Fertilization and Pest Management Complete	\$ 1,333.00	\$ 16,000.00
BASE PROPOSAL	<u>TOTAL BASE PROPOSAL</u>	\$ 16,000.00	

DEDUCTIVE ALTERNATE	Cost savings to Town if awarded RFP #2011-005 (Fertilization and Pest Management)	\$ <u>N/A</u>
		DEDUCTIVE ALTERNATE TOTAL

GRAND TOTAL	TOTAL BASE PROPOSAL MINUS DEDUCTIVE ALTERNATE	\$ <u>16,000.00</u>
		GRAND TOTAL

ADDITIONAL SCHEDULE OF VALUES

A	Date Palm or Coconut Palm OTC Injection	Per Palm Per Injection = \$ 15.00
B	Drench and foliar spray to combat Spiraling Whitefly	Per Application = \$ 1500.00
C	Injections for Date Palms or Coconut Palms to combat Spiraling Whitefly	Per Palm per Injection = \$ 35.00

Note: The Town reserves the right to secure competitive proposals or bids for any and all items in the Additional Schedule of Values.

CONTRACT TERM AND EXTENSIONS: Town of Golden Beach hereby requests proposals and pricing for a **three (3) year contract** for supplies and services. In addition, the Town reserves the right to extend this contract for two additional one (1) year terms, provided both parties agree, and the extension is approved by the Town Manager.

PROPOSER SHALL OFFER FIRM PRICES FOR THE INITIAL THREE (3) YEAR TERM OF THE CONTRACT. PROPOSER TO INDICATE IF IT SHALL EXTEND THE CONTRACT FOR TWO ADDITIONAL ONE (1) YEAR TERMS UPON THE SAME TERMS AND CONDITIONS.

YES X NO

David Herrera, Manager
Proposer Name and Title

Design Maintenance, LLC
Company Name

13710 SW 145 Ct, Miami, Fl 33186
Address

(305) 251-7171
Phone



TOWN OF GOLDEN BEACH

One Golden Beach Drive
Golden Beach, FL 33160

MEMORANDUM

Date: March 27, 2012

To: Honorable Mayor Glenn Singer &
Town Council Members

From: Alexander Diaz,
Town Manger

Item Number:

10 & 11

Subject: Resolutions No. 2234.12 & 2235.12 – Selecting Orchid Man for
for Landscape, Irrigation, Fertilization, and Pest Management
Services Services for all of the Interior of Golden Beach

Recommendation:

It is recommended that the Town Council adopt the attached Resolutions No. 2234.12 & 2235.12 as presented.

Background:

The Town engaged the Firm of O'Leary Richards Design Assoc., Inc. to prepare a comprehensive Landscape Maintenance Plan for all of the interior area of Town (see Technical Specifications attached). The plans, provide specifications for the care of our landscaping, testing/maintenance of our irrigation systems, fertilization requirements and proper pesticides.

I am recommending that Orchid Man be awarded the Landscape and Irrigation Maintenance Agreement and the Fertilization and Pesticide Maintenance Contracts for the Interior of Town.

If approved, in essence we are no longer going to be relying on Public Works for landscape maintenance at the majority of our park and open spaces.

Fiscal Impact:

\$67,825.40 for the Landscape and Irrigation Maintenance
\$16,800 for the Fertilization and Pest Management

TOWN OF GOLDEN BEACH, FLORIDA

RESOLUTION NO. 2234.12

A RESOLUTION OF THE TOWN OF GOLDEN BEACH, FLORIDA, SELECTING ORCHIDMAN LANDSCAPE ARTISANS, CORP. FOR LANDSCAPE AND IRRIGATION MAINTENANCE SERVICES; AUTHORIZING AND APPROVING A PROFESSIONAL SERVICES AGREEMENT BETWEEN THE TOWN AND ORCHIDMAN LANDSCAPE ARTISANS, CORP; AUTHORIZING THE MAYOR AND TOWN MANAGER TO EXECUTE THE AGREEMENT; PROVIDING FOR IMPLEMENTATION; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town of Golden Beach (the “Town”) issued Request for Proposals (RFP) No. 2011-003 for Landscape and Irrigation Maintenance Service for the public areas of the Town; and

WHEREAS, Orchidman Landscape Artisans, Corp. (“Orchidman”) submitted a Proposal in response to the RFP (the “Proposal”), which was determined to be the best and most advantageous Proposal submitted to the Town; and

WHEREAS, the Town wishes to select Orchidman for the Landscape and Irrigation Maintenance Services and authorize the Town to enter into a Professional Services Agreement with Orchidman, substantially in the form attached to this Resolution as Exhibit “A” (the “Agreement”); and

WHEREAS, the Town Council has determined that it is in the best interests of the Town to perform the Landscape and Irrigation Maintenance Services for the public areas of the Town and enter into the Agreement.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF GOLDEN BEACH, FLORIDA, AS FOLLOWS:

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

Section 2. Selection of Orchidman. The Town Council hereby selects Orchidman for the Landscape and Irrigation Maintenance Services.

Section 3. Authorization and Approval of Agreement. The Town Council hereby authorizes and approves the Agreement with Orchidman, in substantially the form attached hereto as Exhibit "A," and the Mayor and/or Town Manager are authorized to execute the Agreement on behalf of the Town, once approved as to final form and legal sufficiency by the Town Attorney.

Section 4. Implementation. The Mayor and Town Manager are hereby authorized to take all steps reasonably necessary to implement the Agreement and this Resolution.

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

The Motion to adopt the foregoing Resolution was offered by _____, seconded by _____ and on roll call the following vote ensued:

Mayor Glenn Singer	_____
Vice Mayor Amy Isackson-Rojas	_____
Councilmember Bernard Einstein	_____
Councilmember Judy Lusskin	_____
Councilmember Kenneth Bernstein	_____

PASSED AND ADOPTED by the Town Council of the Town of Golden Beach,
Florida, this 27th day of March, 2012.

ATTEST:

MAYOR GLENN SINGER

LISSETTE PEREZ
INTERIM TOWN CLERK

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY:

STEPHEN J. HELFMAN
TOWN ATTORNEY

EXHIBIT “A”

(Attach Professional Services Agreement between the Town and Orchidman)

PROFESSIONAL SERVICES AGREEMENT

between

TOWN OF GOLDEN BEACH, FLORIDA

and

ORCHIDMAN LANDSCAPE ARTISANS, CORP.

for

LANDSCAPE AND IRRIGATION MAINTENANCE

THIS PROFESSIONAL SERVICES AGREEMENT (this “Agreement”) is made effective as of _____, 2012 (the “Effective Date”) by and between the **TOWN OF GOLDEN BEACH, FLORIDA**, a Florida municipal corporation (hereinafter referred to as the “TOWN”), and **ORCHIDMAN LANDSCAPE ARTISANS, CORP.**, a Florida corporation (hereinafter referred to as the “CONSULTANT”), whose principal place of business is 13710 S.W. 145 Court, Miami, Florida 33186.

WHEREAS, the TOWN issued Request for Proposals (RFP) No. 2011-003 on November 18, 2011, together with all Addenda thereto (the “RFP”) requesting proposals from qualified contractors or vendors for the purpose of providing landscape and irrigation maintenance services within the Town, as defined on the Service Area Map attached to this Agreement and hereinafter defined (the “Services” or “Project”);

WHEREAS, the CONTRACTOR submitted a Proposal in response to the RFP (the “Proposal”), which Proposal was selected by the TOWN for the award of this Agreement;

WHEREAS, the CONTRACTOR is willing and able to perform the Services for the TOWN in accordance with the terms and conditions set forth in the RFP, the Proposal and this Agreement for the Project;

NOW THEREFORE, in consideration of the mutual terms, conditions, promises and covenants set forth below, the TOWN and CONTRACTOR agree as follows:

SECTION 1. SCOPE AND SERVICES

1.1 **The RFP.** This Agreement includes the terms and conditions of the RFP and required Technical Specifications for the Project, which are incorporated herein by reference. The Services as defined in Section 1.2 hereof and to be provided and performed with respect to the Project shall be at all times subject to the requirements of the RFP and the Technical Specifications.

1.2 **Scope of Services.** Pursuant to its Proposal attached hereto as Exhibit “A”, the CONTRACTOR shall provide to the TOWN landscape and irrigation maintenance services within the public areas of the Town, including public rights-of-way (excluding State Road A1A), parks, facilities, and other select areas, as defined on the Service Area Map attached hereto as Exhibit “B”, and at locations shown on the Service Area Map or as determined by the TOWN (the “Service Area”). The Town reserves the right to remove or change specific area locations within the Service Area on a temporary or permanent basis, as deemed appropriate by the Town. The Services and work shall include the furnishing of all labor, materials, tools, equipment, machinery, superintendence and services necessary for landscape and irrigation maintenance services, which shall include: litter; trash and debris removal; mowing; edging; hedge trimming; landscape bed maintenance; selective tree trimming; raking; sweeping; weeding; weed-eating; herbicide applications, including preventive and corrective applications; seasonal color insect control and fertilization; irrigation system maintenance, monitoring, replacement, repair and retro-fitting; and seasonal color replacement (the “Services”), which are more specifically set forth in the Technical Specifications of the RFP. The CONTRACTOR shall maintain the Project in accordance with the highest quality landscape maintenance standards consistent with the Technical Specifications set forth in the RFP which shall surpass industry standards. The CONTRACTOR’S Services shall be subject to inspection and approval by the TOWN and the TOWN’S Landscape Architect, who shall indicate items or services that need to be addressed or corrected and the CONTRACTOR shall address and complete same in a timely manner and provide a status report. The CONTRACTOR shall adhere to the landscape maintenance programs and frequency as provided in the Technical Specifications included in the RFP.

SECTION 2. BILLING AND PAYMENTS TO THE CONSULTANT

2.1 **Payment; Invoices.** The TOWN shall pay the CONTRACTOR an annual lump sum base proposal fee in the amount of \$67,825.40, payable monthly within thirty (30) calendar days of approval by the Town Manager of any invoices submitted by CONTRACTOR to the TOWN. The TOWN shall make payments to CONTRACTOR pursuant to applicable Florida law. Payments shall follow the Schedule of Values and Fee Schedule contained in the Proposal and attached hereto as Exhibit “C.” Payments shall be made for units ordered, placed and accepted by the TOWN in accordance with the Schedule of Values and Fee Schedule attached hereto as Exhibit “C.”

2.2 **Disputed Invoices.** In the event that all or a portion of an invoice submitted to the TOWN for payment to the CONTRACTOR is disputed, or additional backup documentation is required, the TOWN shall notify the CONTRACTOR within fifteen (15) working days of receipt of the invoice of such objection, modification or additional documentation request. The CONTRACTOR shall provide the TOWN with additional backup documentation within five (5) working days of the date of the TOWN’S notice. The TOWN may request additional information, including but not limited to, all invoices, expense records, accounting records, and payment records of the

CONTRACTOR. The TOWN shall, pay to the CONTRACTOR the undisputed portion of the invoice. The parties shall endeavor to resolve the disputed portions in a mutually agreeable fashion.

2.3 **Suspension of Payment.** In the event that the TOWN becomes credibly informed that any representations of the CONSULTANT, provided pursuant to this Section 2, are wholly or partially inaccurate, or in the event that the CONTRACTOR is not in compliance with any terms or conditions of this Agreement, the TOWN may withhold payment of sums then or in the future otherwise due to the CONTRACTOR until the inaccuracy, or other breach of this Agreement, and the cause thereof, is corrected to the TOWN's reasonable satisfaction.

SECTION 3. TERM/TIME OF PERFORMANCE

3.1 **Term.** This Agreement shall commence on the Effective Date and shall continue in full force and effect for an initial period of three (3) years, unless otherwise terminated pursuant to the terms of this Agreement (the "Term"). The TOWN, in its sole discretion, may extend the term of this Agreement through written notification to the CONTRACTOR from the Town Manager, at least sixty (60) days prior to the expiration of the initial term, for two (2) additional one (1) year periods upon the same terms, conditions and pricing as set forth in this Agreement.. In the event that Services are scheduled to terminate either by expiration or by termination by the TOWN, the TOWN, in its sole discretion, may request that the CONTRACTOR continue the Services for a transition period until new Services can be established and operational. This transition period shall not exceed ninety (90) days beyond the expiration date of this Agreement.

3.2 **Commencement.** The CONTRACTOR'S Services under this Agreement and the time frames and schedule applicable to this Agreement shall commence upon the Effective Date. The CONTRACTOR shall not incur any expenses or obligations or incur payment to third parties prior to the issuance of a Notice to Proceed (the "Notice to Proceed") for the Project, and the CONTRACTOR must receive the Notice to Proceed from the Town Manager prior to beginning the performance of the Services.

3.3 **Contract Time.** From and after the receipt of the Notice to Proceed, the CONTRACTOR shall continuously perform the Services to the TOWN, without interruption, for the duration of the Term (the "Contract Time"). Time is of the essence in the performance of the Services and all limitations of time set forth in this Agreement are of the essence.

SECTION 4. TERMINATION OF AGREEMENT

4.1 **Termination.** The TOWN has the right to terminate this Agreement for any reason or no reason, upon seven (7) days' written notice to CONTRACTOR. Upon termination of this Agreement, and final payment of any undisputed outstanding invoices due through the date of notice of termination, copies of all records, charts, sketches, studies, plans, drawings, and other documents related to the Services performed under

this Agreement, whether finished or not, shall be turned over to the TOWN within ten (10) days.

4.2 **Payment after Termination.** Provided that the CONTRACTOR has performed in accordance with the terms of this Agreement as of the date of termination pursuant to Section 4.1 above, CONTRACTOR shall receive all payments due to CONTRACTOR for Services rendered and accepted up to the date of termination.

SECTION 5. ADDITIONAL SERVICES AND CHANGES IN SCOPE OF SERVICES

5.1 **Changes Permitted.** Changes in the Services or the Project consisting of additions, deletions, revisions, or any combination thereof, may be ordered by the TOWN by Change Order (as defined below) without invalidating the terms of this Agreement.

5.2 **Change Order Defined.** "Change Order" shall mean a written order to the CONTRACTOR executed by the TOWN, issued after execution of this Agreement, authorizing and directing a change in the Services, the Project, Payment or the Contract Time, or any combination thereof. The Payment and/or the Contract Time may be changed only by Change Order.

5.3 **Effect of Executed Change Order.** The execution of a Change Order by the TOWN and the CONTRACTOR shall constitute conclusive evidence of the CONTRACTOR's agreement to the ordered changes in the Services or the Project, or an adjustment in the Payment or the Contract Time, or any combination thereof. The CONTRACTOR, by executing the Change Order, waives and forever releases any claim against the TOWN for additional time or compensation for matters relating to or arising out of or resulting from the Services included within or affected by the executed Change Order. Change Order costs shall be determined at a negotiated fee between the parties or based on the Schedule of Values attached hereto as Exhibit "C."

5.4 **Authority to Execute Changes or Requests for Additional Services.** The Town Manager is authorized to negotiate and execute Change Orders, in an amount not to exceed \$25,000.00 per contract. Changes or Requests for Additional Services, which exceed \$25,000.00, shall be approved by the Town Council.

SECTION 6. SURVIVAL OF PROVISIONS

Any terms or conditions of this Agreement that require acts beyond the date of the Term, shall survive termination of this Agreement, and shall remain in full force and effect unless and until the terms or conditions are completed and shall be fully enforceable by either party.

SECTION 7. TOWN'S RESPONSIBILITIES

7.1 The TOWN will assist CONTRACTOR by placing at its disposal all available information as may be requested in writing by the CONTRACTOR relating to the Project and allow reasonable access to all pertinent information relating to the Services to be performed by CONTRACTOR.

7.2 The TOWN shall furnish to CONTRACTOR, at the CONTRACTOR'S written request, all available maps, plans, existing studies, reports and other data, pertinent to the Services to be provided by CONTRACTOR, that are in possession of the TOWN.

7.3 The TOWN shall arrange for access to and make all provisions for CONTRACTOR to enter upon public property as required for CONTRACTOR to perform the Services.

SECTION 8. CODE OF ETHICS.

Intentionally Omitted.

SECTION 9. COMPLIANCE WITH LAWS; LICENSES; POLICY OF NON-DISCRIMINATION/WAGES

9.1 The CONTRACTOR and any and all of its agents, employees, subconsultants and subcontractors shall comply with all applicable federal, state, county and local laws, ordinances, rules, regulations and procedural requirements applicable to the performance of the Services and operations pursuant to this Agreement. The CONTRACTOR shall meet or exceed the applicable requirements of the latest version of the codes and specifications promulgated or published by the Florida Department of Transportation (FDOT), the Occupational Safety Health Act (OSHA), the Environmental Protection Agency (EPA), and the Florida Department of Environmental Protection (FDEP). The CONTRACTOR is required to enter upon the TOWN'S property and public rights-of-way to perform the Services pursuant to this Agreement and shall obtain all necessary licenses, permits and insurance in connection with such access and right of entry. The CONTRACTOR shall comply with all requirements and the TOWN'S agreements with any other entity or agency which concern the public right-of-way or Service Areas upon which the Services are to be provided.

9.2 The CONTRACTOR shall be licensed and certified by all appropriate federal, state, county and local agencies. Prior to the commencement of the Services or work and at all times during the Term of this Agreement, CONTRACTOR shall procure and maintain, at its sole cost and expense, and provide copies to the TOWN, all required licenses, permits and certifications for the performance of the Services and the operations set forth in this Agreement, including but not limited to, a Miami-Dade County Occupational License, a State of Florida Pest Control License, a Certified Pest Control Operator License, Miami-Dade Irrigation Occupational License, and a Certified Arborist Certification. The CONTRACTOR, at a minimum, shall be a member in good standing

of the Florida Nursery, Growers and Landscape Association (FNGLA) and the Tree Care Industry Association (TCIA). Any chemicals and pesticides applied by the CONTRACTOR in the performance of the Services shall be used in strict accordance with federal, state, county, and local laws and regulations. Any use of any chemicals and pesticides shall be reported to the TOWN and shall be applied only by trained and licensed pest control applicators.

9.3 The CONTRACTOR shall not discriminate on the grounds of race, color, religion, sex, age, marital status, national origin, physical or mental disability in the performance of Services or work under this Agreement. The CONTRACTOR shall comply with all equal employment opportunity requirements and any and all applicable requirements established by state and federal law.

9.4 The CONTRACTOR and any and all of its agents, employees, subconsultants and subcontractors shall comply with the wage provisions of Section 287.055, Florida Statutes. If the Project is subject to federal or state grant funding that requires specific wage and non-discrimination provisions, the CONTRACTOR shall be required to comply with the same.

SECTION 10. OWNERSHIP OF DOCUMENTS

10.1 Any and all records, drawings and specifications, as instruments of the Services to be performed (the "Drawings and Specifications"), are and shall become the property of the TOWN whether the Project for which they are made is executed or not. The CONTRACTOR shall be permitted to retain copies, including reproducible copies, of the Drawings and Specifications for information and reference in connection with the TOWN'S use and occupancy of the Project.

10.2 The CONTRACTOR agrees not to divulge, furnish or make available to any third person, firm or organization, without the TOWN'S prior written consent, or unless incident to the proper performance of the CONSULTANT'S obligations hereunder, or in the course of judicial or legislative proceedings where such information has been properly subpoenaed, any non-public information concerning the Services to be rendered by the CONTRACTOR hereunder, and the CONTRACTOR shall require all of its employees, agents, subconsultants and subcontractors to comply with the provisions of this paragraph.

SECTION 11. RECORDS/AUDITS

11.1 The CONTRACTOR shall maintain and require all subcontractors to maintain, complete and correct records, books, documents, papers and accounts pertaining to the Services. Such records, books, documents, papers and accounts shall be available at all reasonable times for examination and audit by the Town Manager or any authorized TOWN representative with reasonable notice and shall be kept for a period of three (3) years after the completion of the Services. 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.

Disallowed fees will be paid when incomplete or incorrect entries are remedied to the satisfaction of the TOWN.

11.2 The CONTRACTOR shall comply with Chapter 119, Florida Statutes, as applicable.

11.3 Refusal of the CONTRACTOR to comply with the provisions of Sections 11.1 or 11.2 shall be grounds for immediate termination for cause by the TOWN of this Agreement.

SECTION 12. NO CONTINGENT FEE

The CONTRACTOR warrants that he or she has not employed or retained any company or person, other than a bona fide employee working solely for the CONTRACTOR to solicit or secure this Agreement and that he or she has not paid or agreed to pay any person, company, corporation, individual, or firm, other than a bona fide employee working solely for the CONTRACTOR any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the award or making of this Agreement. For the breach or violation of this provision, the TOWN shall have the right to terminate this Agreement without liability and, at its discretion, to deduct from the Payment, or otherwise recover, the full amount of such fee, commission, percentage, gift, or consideration.

SECTION 13. INDEPENDENT CONTRACTOR

The CONTRACTOR is an independent contractor under this Agreement. Personnel provided by the CONTRACTOR shall be employees of the CONTRACTOR and subject to supervision by the CONTRACTOR, and not as officers, employees, or agents of the TOWN. Personnel policies, tax responsibilities, social security, health insurance, worker's compensation insurance, employee benefits, purchasing policies and other similar administrative procedures applicable to Services rendered under this Agreement shall be those of the CONTRACTOR.

SECTION 14. ASSIGNMENT; AMENDMENTS

14.1 This Agreement or the Services shall not be assigned, transferred or otherwise encumbered, under any circumstances, in whole or in part, by CONTRACTOR, without the prior written consent of the TOWN, in its sole and absolute discretion.

14.2 No modification, amendment or alteration in the terms or conditions of this Agreement shall be effective unless contained in a written document executed with the same formality as this Agreement by both parties.

SECTION 15. INDEMNIFICATION/HOLD HARMLESS

15.1 The CONTRACTOR shall indemnify and hold harmless the TOWN, and its officers and employees from liabilities, damages, losses, and costs, including, but not limited to, reasonable attorneys' fees, to the extent caused by the acts, omissions, negligence, recklessness, wrongful conduct, acts, errors or omissions of the CONTRACTOR or any subcontractors or other persons employed or utilized by the CONTRACTOR in the performance of this Agreement. The CONTRACTOR'S obligation under this paragraph shall not be limited in any way by the agreed upon Payment, or the CONTRACTOR'S limit of, or lack of, sufficient insurance protection.

15.2 The indemnification obligation under this clause shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for the CONTRACTOR or any subcontractor or other persons employed or utilized by the CONTRACTOR in the performance of this Agreement, under worker's compensation acts, disability benefit acts, or other employee benefit acts.

15.3 The CONTRACTOR shall not specify or allow any subcontractor or other persons employed or utilized by the CONTRACTOR in the performance of this Agreement to specify a particular design, process or product that infringes upon any patent. The CONTRACTOR shall indemnify and hold TOWN and its officers and employees harmless from any loss, cost or expense, including reasonable attorney's fees and costs incurred, on account thereof if the CONTRACTOR violates the requirements of this Section 15.

SECTION 16. INSURANCE

The CONTRACTOR shall secure and maintain throughout the duration of this Agreement, insurance of such type and in such amounts necessary to protect its interest and the interest of the TOWN against hazards or risks of loss as specified below. The underwriter of such insurance shall be qualified to do business in the State of Florida and have agents upon whom service of process may be made in the State of Florida. The insurance coverage shall be primary insurance with respect to the TOWN, its officials, employees, agents and volunteers. Any insurance maintained by the TOWN shall be in excess of the CONTRACTOR'S insurance and shall not contribute to the CONTRACTOR'S insurance. The insurance coverage shall include a minimum of:

16.1 **Worker's Compensation and Employer's Liability Insurance:** Coverage to apply for all employees for Statutory Limits as required by applicable State and Federal laws. The policy(ies) must include Employer's Liability with minimum limits of \$500,000.00 each accident.

16.2 **Comprehensive Automobile and Vehicle Liability Insurance:** This insurance shall be written in comprehensive form and shall protect the CONTRACTOR and the TOWN against claims for injuries to members of the public and/or damages to property of others arising from the CONSULTANT'S use of non-owned and hired motor

vehicles or any other equipment and shall cover operation with respect to onsite and offsite operations and insurance coverage shall extend to any motor vehicles or other equipment irrespective of whether the same is owned, non-owned, or hired. The limit of liability shall not be less than \$1,000,000.00 per occurrence, combined single limit for Bodily Injury Liability and Property Damage Liability. Coverage must be afforded on a form no more restrictive than the latest edition of the Business Automobile Liability Policy, without restrictive endorsement, as filed by the Insurance Services Office.

16.3 **Commercial General Liability.** This insurance shall be written in comprehensive form and shall protect the CONTRACTOR and the TOWN against claims arising from injuries to members of the public or damage to property of others arising out of any act or omission to act of the CONTRACTOR or any of its agents, employees, or subcontractors. The limit of liability shall not be less than \$2,000,000.00 per occurrence, combined single limit for Bodily Injury Liability and Property Damage Liability.

(a) Coverage must be afforded on a form no more restrictive than the latest edition of the Commercial General Liability Policy, without restrictive endorsements, as filed by the Insurance Services Office, and must include: (1) Premises and/or Operations; (2) Independent contractors and Products and/or completed Operations; (3) Broad Form Property Damage, Personal Injury and a Contractual Liability Endorsement, including any hold harmless and/or indemnification agreement.

(b) The TOWN is to be specifically included as an "Additional Insured" for the liability of the TOWN resulting from operations performed by or on behalf of CONTRACTOR in performance of this Agreement. CONTRACTOR'S insurance, including that applicable to the TOWN as an Additional Insured, shall apply on a primary basis and any other insurance maintained by the TOWN shall be in excess of and shall not contribute to CONTRACTOR'S insurance. CONTRACTOR'S insurance shall contain a severability of interest provision providing that, except with respect to the total limits of liability, the insurance shall apply to each Insured or Additional Insured in the same manner as if separate policies had been issued to each.

16.4 **Certificate(s) of Insurance:** Upon execution of this Agreement, the CONTRACTOR shall provide to the Town Manager, the Certificate(s) of Insurance evidencing the required insurance coverage. The Certificate(s) of Insurance shall not only name the types of policy(ies) provided, but also shall refer specifically to this Agreement and shall state that such insurance is as required by this Agreement. The TOWN reserves the right to require the CONTRACTOR to provide a certified copy of such policies, upon written request by the TOWN. If a policy is due to expire prior to the completion of the services, a renewal Certificate(s) of Insurance or policies shall be furnished thirty (30) calendar days prior to the date of their policy expiration. Each policy shall be endorsed with a provision that not less than thirty (30) calendar days' written notice shall be provided to the TOWN before any policy or coverage is cancelled

or restricted. Acceptance of the Certificate(s) of Insurance is subject to approval of the Town Manager.

16.5 All deductibles or self-insured retentions must be declared to and be approved by the Town Manager. The CONTRACTOR shall be responsible for the payment of any deductible or self-insured retentions in the event of any claim.

SECTION 17. REPRESENTATIVE OF TOWN AND CONSULTANT

17.1 **TOWN Representative.** It is recognized that questions in the day-to-day conduct of this Agreement will arise. The TOWN designates the Town Manager or his or her designee, as the person to whom all communications pertaining to the day-to-day conduct of this Agreement shall be addressed.

17.2 **CONTRACTOR Representative.** CONTRACTOR shall inform the Town Manager, in writing, of the representative of the CONTRACTOR to whom all communications pertaining to the day-to-day conduct of this Agreement shall be addressed.

SECTION 18. COST AND ATTORNEY'S FEES/WAIVER OF JURY TRIAL

18.1 If either the TOWN or CONTRACTOR is required to enforce the terms of this Agreement by court proceedings or otherwise, whether or not formal legal action is required, the prevailing party shall be entitled to recover from the other party all costs, expenses, and reasonable attorney's fees in any state or federal administrative, circuit court and appellate court proceedings.

18.2 In the event of any litigation arising out of this Agreement, each party hereby knowingly, irrevocably, voluntarily and intentionally waives its right to trial by jury.

SECTION 19. ALL PRIOR AGREEMENTS SUPERSEDED

This document incorporates and includes all prior negotiations, correspondence, conversations, agreements or understandings applicable to the matters contained in this Agreement and the parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly it is agreed that no deviation from the terms of the Agreement shall be predicated upon any prior representations or agreements whether oral or written.

SECTION 20. CONSULTANT'S RESPONSIBILITIES

20.1 CONTRACTOR warrants that the Services to be performed hereunder shall be performed by the CONTRACTOR'S own staff or employees, unless otherwise approved in writing by the TOWN. The TOWN shall approve any and all subcontractors providing Services to the TOWN pursuant to this Agreement. Said approval shall not be

construed as constituting an agreement between the TOWN and said other person or firm. The CONTRACTOR'S services shall be performed in a manner consistent with that degree of skill and care ordinarily exercised by practicing professionals performing similar services in the same locality and under the same or similar circumstances and conditions.

20.2 CONTRACTOR represents that it possesses the requisite skills and shall follow the professional standards and the standard of conduct for consultants or vendors in performing all Services under this Agreement. The CONTRACTOR agrees to use its skill and judgment in furthering the TOWN's interests hereunder and CONTRACTOR shall perform its services in accordance with the practice of the pertinent industry and as expeditiously as is consistent with reasonable skill and care. If at any time during the term of this Agreement or the Project for which the CONTRACTOR has provided Services under this Agreement, it is determined that the CONSULTANT's Services or work are incorrect, defective or fail to conform to the terms of this Agreement, upon written notification from the TOWN, the CONTRACTOR shall immediately proceed to correct the work, re-perform Services which failed to satisfy the foregoing standard of care and shall pay all costs and expenses associated with correcting said incorrect or defective work, including any additional inspections, and installation and reimbursements to the TOWN for any other services and expenses made necessary thereby, save and except any costs which the TOWN would have otherwise paid absent the CONSULTANT's error or omission. The TOWN's approval, acceptance, use of or payment for all or any part of the CONTRACTOR's services shall in no way alter the CONTRACTOR's obligations or TOWN's rights hereunder.

20.3 CONTRACTOR agrees, within fourteen (14) calendar days of receipt of a written request from the TOWN, to promptly remove and replace any personnel employed or retained by the CONTRACTOR, any subconsultants or subcontractors or other persons employed or utilized by the CONTRACTOR in the performance of this Agreement or any personnel of any such subconsultant or subcontractor or other persons employed or utilized by the CONTRACTOR to provide and perform the Services or work pursuant to the requirements of this Agreement, whom the TOWN shall request in writing to be removed, which request may be made by the TOWN.

20.4 If CONTRACTOR allows any work to be performed knowing, or when with the exercise of due care the CONTRACTOR should have known, it to be contrary to any such applicable laws, ordinances, rules, regulations or restrictions and fails to give TOWN written notice thereof prior to performance thereof, CONTRACTOR shall bear all costs, liabilities, and expenses arising therefrom, which costs, liabilities and expenses shall not be considered a part of CONSULTANT'S fees or any other amounts due hereunder.

20.5 CONTRACTOR hereby represents and warrants that it has reviewed all necessary Project documents and that this Agreement and the RFP, when taken together, fully and accurately describe the Services needed to complete the Project in accordance

with the requisite standard of care, and that CONTRACTOR is not aware of any additional work, labor or services that will be required to complete the Project.

20.6 CONTRACTOR hereby represents and warrants that all Services shall comply with all applicable federal, state and local laws, ordinances and building codes.

20.7 CONTRACTOR'S obligations under this Section 20 shall survive termination of this Agreement.

SECTION 21. NOTICES

Whenever either party desires to give notice to the other, it must be given by hand delivery or written notice, sent by certified United States mail, with return receipt requested or a nationally recognized private mail delivery service, addressed to the party for whom it is intended, at the place last specified, and the place for giving of notice in compliance with the provisions of this paragraph. For the present, the parties designate the following as the respective places for giving of notice, to-wit:

FOR CONTRACTOR:

Orchidman Landscape Artisans, Corp.
Attention: Jose G. Perez, President
3001 Ponce de Leon Blvd., Suite 200
Coral Gables, Florida 33134
Phone: (305) 448-2225
Facsimile: (____) _____

FOR TOWN:

Town of Golden Beach
Attn: Alexander Diaz, Town Manager
1 Golden Beach Drive
Golden Beach, FL 33160-2296
Phone: (305) 932-0744
Facsimile: (305) 933-3825

With a copy to:

Stephen J. Helfman, Esq.
Weiss Serota Helfman Pastoriza Cole & Boniske, P.L.
Town Attorneys
2525 Ponce de Leon Blvd.
Suite 700
Coral Gables, FL 33134
Phone: (305) 854-0800
Facsimile: (305) 854-2323

SECTION 22. TRUTH-IN-NEGOTIATION CERTIFICATE

Execution of this Agreement by CONTRACTOR shall act as the execution of a truth-in-negotiation certificate stating that wage rates and other factual unit costs supporting the Payment of this Agreement are accurate, complete, and current at the time of contracting. This Agreement's Payment and any additions shall be adjusted to exclude any significant sums by which the TOWN determines the Project's Payment was increased due to inaccurate, incomplete, or noncurrent wage rates and other factual unit costs. All such adjustments shall be made within one (1) year following the end of this Agreement.

SECTION 23. CONSENT TO JURISDICTION

The parties submit to the jurisdiction of any Florida state or federal court in any action or proceeding arising out of relating to this Agreement. Venue of any action to enforce this Agreement shall be proper exclusively in Miami-Dade County, Florida.

SECTION 24. GOVERNING LAW

This Agreement shall be construed in accordance with and governed by the laws of the State of Florida.

SECTION 25. HEADINGS

Headings are for convenience of reference only and shall not be considered in any interpretation of this Agreement.

SECTION 26. EXHIBITS

Each Exhibit referred to in this Agreement forms an essential part of this Agreement. The Exhibits if not physically attached, should be treated as part of this Agreement, and are hereby incorporated by reference.

SECTION 27. NO WAIVER OF BREACH

The failure of a party to insist on strict performance of any provision of this Agreement shall not be construed to constitute a waiver of a breach of any other provision or of a subsequent breach of the same provision.

SECTION 28. 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.

SECTION 29. COUNTERPARTS

This Agreement may be executed in several counterparts, each of which shall be deemed an original and all such counterparts shall constitute one and the same instrument.

[THE REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the parties hereby execute this Agreement on the date set forth below their signature.

ATTEST

**TOWN OF GOLDEN BEACH,
FLORIDA**

Town Clerk

By: _____
Alexander Diaz, Town Manager

Date Executed: _____

**APPROVED AS TO FORM AND LEGALITY
FOR THE USE AND RELIANCE OF THE
TOWN OF GOLDEN BEACH, FLORIDA, ONLY:**

Town Attorney

IN WITNESS WHEREOF, the parties hereby execute this Agreement on the date set forth below their signature.

CONTRACTOR:

**ORCHIDMAN LANDSCAPE
ARTISANS, CORP., a Florida
corporation**

ATTEST:

Secretary

Please type name of Secretary

By: _____

Name: _____

Title: _____

Date Executed: _____

EXHIBIT “A”

(Attach a copy of Orchidman Landscape Artisans, Corp’s Proposal)

EXHIBIT “B”

LANDSCAPE AND IRRIGATION MAINTENANCE SERVICE AREA

(See Service Area Map next page)

Parks, Buildings and Facilities:

Beach Pavilion and dune area

Town Hall

The Strand Gatehouse, Entrance Drive (*Includes median, swales and water features adjacent to S.R. AIA*)

The Strand Boat Dock Park

North Park

South Park

Singer Park

Massini Park

Terracina Park

Twiddle Park (*Includes Irrigation maintenance only. Landscape maintenance to be completed by Town of Golden Beach Public Works Dept.*)

Golden Beach Open Space (*Includes Irrigation maintenance only. Landscape maintenance to be completed by Town of Golden Beach Public Works Dept.*)

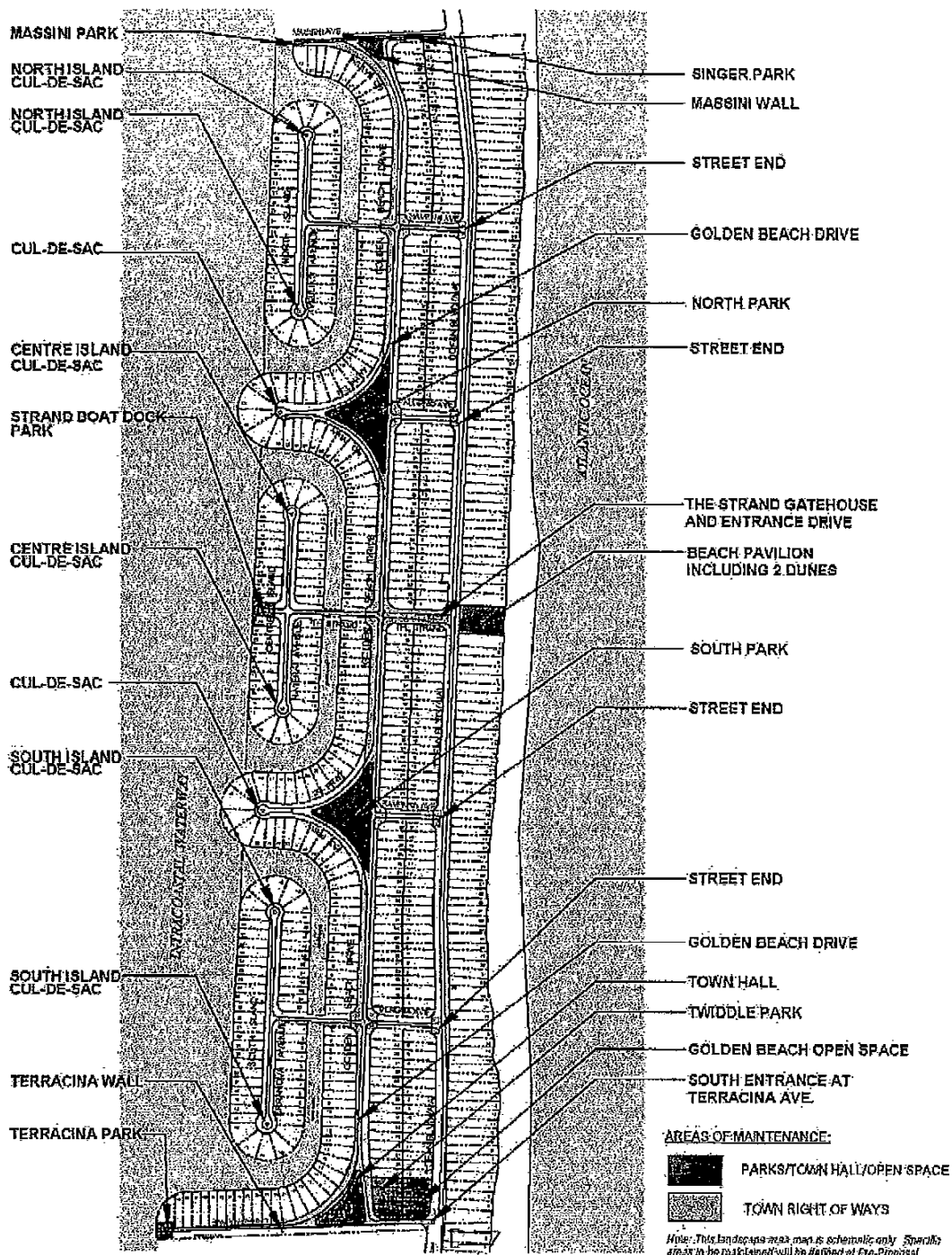
Medians and Rights-of-Way:

Golden Beach Drive (*Includes Irrigation maintenance only. Landscape maintenance to be completed by Town of Golden Beach Public Works Dept.*)

The Strand Entrance Drive

Cul-de-sacs (8 total: 2 on Terranova Ave., South Island; 1 on South Parkway, 2 on Riviera Ave., Centre Island; 1 on North Parkway, 2 on Avellino Ave., North Island)

Street ends (4 total: Verona Ave., Ravenna Ave., Palermo Ave., Navona Ave.)



Right-of-Ways, Parks, Open Space Landscape Area Map
 Town of Golden Beach, Florida

EXHIBIT "C"

SCHEDULE OF VALUES AND FEE SCHEDULE

**SCHEDULE OF VALUES
LANDSCAPE AND IRRIGATION MAINTENANCE**

NOTE: The quantities shown in the Schedule of Values are an estimate only. They may vary significantly from the actual quantities ordered by the Town. Payments shall be for the units ordered, placed, and accepted by the Town. The Proposer, by signing this Proposal Form and Contract, fully acknowledges that he/she will receive no additional compensation (no overhead/no anticipated profits, etc.) other than the proposal or bid unit price of the items times the number of items authorized, ordered, placed, and accepted by the Town.

ITEM #	Item	Six Month cost for Landscape & Irrigation Maintenance April-Sept.	Six Month cost for Landscape & Irrigation Maintenance Oct.-Mar.	TOTAL COST PER 12 MONTHS
1	Golden Beach Dr. <i>(Irrigation Maintenance Only)</i>	\$ 1,600.00	\$ 1,700.00	\$ 3,300.00
2	Beach Pavilion and dune area	\$ 1,900.00	\$ 2,000.00	\$ 3,900.00
3	Town Hall	\$ 2,300.00	\$ 2,300.00	\$ 4,600.00
4	The Strand Gatehouse, Entrance Drive & Strand Boat Dock Park	\$ 2,800.00	\$ 2,800.00	\$ 5,600.00
5	Twiddle Park <i>(Irrigation Maintenance Only)</i>	\$ 240.00	\$ 360.00	\$ 600.00
6	North Park	\$ 6,031.35	\$ 6,031.35	\$ 12,062.70
7	South Park	\$ 6,031.35	\$ 6,031.35	\$ 12,062.70
8	Singer Park	\$ 2,100.00	\$ 2,100.00	\$ 4,200.00
9	Massini Wall and Massini Park	\$ 800.00	\$ 1,000.00	\$ 1,800.00

10	Terracina Wall and Terracina Park	\$ 1800.00	\$ 1800.00	\$ 3600.00
11	Golden Beach Open Space (Irrigation Maintenance Only)	\$ 1000.00	\$ 1000.00	\$ 2,000.00
12	Cul-de-sacs (8 total)	\$ 1400	\$ 1200.00	\$ 2600.00
13	Street ends (4 total)	\$ 1000.00	\$ 1000.00	\$ 2,000.00
14	Plant (1,000) 'Ne Guinea' Impatiens 4 1/2" Pot, with Atlas 3000 Soil and Fertilizer per specs and remove existing annuals	Per Plant delivered & in place \$ <u>73.90</u> x 1,000 = \$ <u>73,900.00</u> TOTAL		
15	Plant (1,000) Pentas 4 1/2" Pot with Atlas 3000 Soil and Fertilizer per specs and remove existing annuals	Per Plant delivered & in place \$ <u>72.80</u> x 1,000 = \$ <u>72,800.00</u> TOTAL		
16	Plant (1,000) Vinca 'Cora' 4 1/2" Pot with Atlas 3000 Soil and Fertilizer per specs and remove existing annuals	Per Plant delivered & in place \$ <u>2.80</u> x 1,000 = \$ <u>72800.00</u> TOTAL		
BASE	TOTAL BASE PROPOSAL Total of Items 1 through 16 constitute the Base PROPOSAL	\$ <u>767,825.40</u> BASE PROPOSAL TOTAL		

DEDUCTIVE ALTERNATE Cost savings to Town if awarded RFP #2011-004 (S.R. A1A Landscape & Irrigation Maintenance)

\$ 76,782.54
DEDUCTIVE ALTERNATE TOTAL

GRAND TOTAL TOTAL BASE PROPOSAL MINUS DEDUCTIVE ALTERNATE

\$ ~~767,825.40~~ ^{JB} 761,042.86
GRAND TOTAL

ADDITIONAL SCHEDULE OF VALUES

A.1	One Landscape Suprintendent	Per Hour 8:00 a.m.-4:30 p.m., Mon.-Fri. = \$ <u>16.00</u> Per Hour for all other times = \$ <u>18.00</u>
A.2	One Landscape Laborer	Per Hour 8:00 a.m.-4:30 p.m., Mon.-Fri. = \$ <u>13.00</u> Per Hour for all other times = \$ <u>15.00</u>
A.3	One Front-End loader with Backhoe including Operator	Per Hour = \$ <u>60.00</u> Per Day = \$ <u>500.00</u> Per Week = \$ <u>1800.00</u> 5400.00 Per Month = \$ <u>39</u>
A.4	One min. 15,000 GVM Dump Truck with Operator	Per Hour = \$ <u>70.00</u> Per Day = \$ <u>600.00</u> Per Week = \$ <u>2400.00</u> Per Month = \$ <u>7200.00</u>
A.5	Rate for (1) water tank, min. 500 gal. capacity, with pump and hose reel	Per Day = \$ <u>60.00</u> 300.00 Per Week = \$ <u>350.00</u> 900.00 Per Month = \$ <u>9</u> 2700.00
A.6	Rate for Topsoil (70/30 mix) delivered and installed in place	Per CY = \$ <u>58.00</u>
A.7	Rate for Lawn Sand delivered and installed in place	Per CY = \$ <u>75.00</u>
A.8	One Irrigation Repair Specialist	Per Hour 8:00 a.m.-4:30p.m., Mon.-Fri. = \$ <u>30.00</u> Per Hour for all other times = \$ <u>35.00</u>
A.9	One Irrigation Laborer	Per Hour 8:00 a.m.-4:30p.m., Mon.-Fri. = \$ <u>20.00</u> Per Hour for all other times = \$ <u>22.00</u>

A.10	Solid St. Augustine 'Floritam' Sod delivered and installed (includes initial watering)	Per Square Foot = \$ <u>.38</u>
A.11	500 Sq. Ft. Palette of St. Augustine "Floritam" sod delivered and installed (includes initial watering)	Per Palette = \$ <u>.35</u>
A.12	Rate for One Skid steer Loader (Bobcat) with Operator	Per Hour = \$ <u>45.00</u> Per Day = \$ <u>350.00</u> Per Week = \$ <u>800.00</u> Per Month = \$ <u>2200</u>
A.13	Plant 3 Gal. Bougainvillea 'Dwarf' (Dwarf Bougainvillea)	Per Plant in place = \$ <u>10.50</u>
A.14	Plant 7 Gal. Clusia guttifera (Small Leaf Clusia)	Per Plant in place = \$ <u>25.00</u>
A.15	Plant 3 Gal. Chrysobalanus icaco 'Red Tip' (Red Tip Cocoplum)	Per Plant in place = \$ <u>8.00</u>
A.16	Plant 3 gal. Conocarpus erectus 'Sericeus' (Silver Buttonwood)	Per Plant in place = \$ <u>10.00</u>
A.17	Plant 3 Gal. Coccoloba uvifera (Seagrape)	Per Plant in place = \$ <u>10.00</u>
A.18	Plant 3 Gal. Dianella tasmanica (Blueberry Flaxlily)	Per Plant in place = \$ <u>10.00</u>
A.19	Plant 3 Gal. Duranta 'Gold Mound' (Gold Mound)	Per Plant in place = \$ <u>8.00</u>
A.20	Plant 3 Gal. Ficus microcarpa 'Green Island' (Green Island Ficus)	Per Plant in place = \$ <u>8.00</u>
A.21	Plant 3 Gal. Ixora 'Nora Grant' (Pink Ixora)	Per Plant in place = \$ <u>9.50</u>
A.22	Plant 3 Gal. Jasminum volubile (Wax Jasmine)	Per Plant in place = \$ <u>8.50</u>
A.23	Plant 3 Gal. Hamelia patens 'Compacta' (Compact Firebush)	Per Plant in place = \$ <u>9.00</u>

A.24	Plant 7 Gal. Serenoa repens (Saw Palmetto)	Per Plant in place= \$ <u>50.00</u>
A.25	Plant 3 Gal. Schefflera arboricola 'Trinette' (Arboricola)	Per Plant in place= \$ <u>8.00</u>
A.26	Plant 3 Gal. Monstera deliciosa (Ceriman)	Per Plant in place= \$ <u>10.00</u>
A.27	Plant 3 Gal. Plumbago 'Imperial Blue' (Leadwort)	Per Plant in place= \$ <u>10.00</u>
A.28	Plant 3 Gal. Codiaeum variegatum 'Mammey' (Mammey Croton)	Per Plant in place= \$ <u>12.00</u>
A.29	Plant 1 Gal., 12" ht. Liriope 'Evergreen Giant' (Giant Lily-turf)	Per Plant in place= \$ <u>6.50</u>
A.30	Plant 3 Gal. Tripsacum dactyloides (Florida Gamma Grass)	Per Plant in place = \$ <u>9.00</u>
A.31	Plant Phoenix sylvestris (Sylvester Date Palm) 12' C.T., Classic Cut, Fla. Fancy	Per Plant in place = \$ <u>3500.00</u>
A.32	Plant Phoenix dactilifera 'Medjool' 18' G.W., Classic Cut, Fla. Fancy	Per Palm in place= \$ <u>4800.00</u>
A.33	Plant Cocos nucifera 'Green Malayan', 12' G.W.	Per Palm in place = \$ <u>345.00</u>
A.34	Plant Roystonea regia (Royal Palm), 18' grey wood	Per Palm in place = \$ <u>685.00</u>
A.35	Gold Premium Shredded Mulch, Grade 'A' or better, delivered and installed in place.	Per Bag = \$ <u>3.50</u> Per Cubic Yard = \$ <u>47.39</u> Per 20 Cubic Yard = \$ <u>947.80</u>
A.36	Bermuda turf aeration (North & South Parks)	Per aeration = \$ <u>600.00</u>
A.37	Atlas 3000 Soil Mix	Per cu. yd. in place = \$ <u>75.00</u>

Note: The Town reserves the right to secure competitive proposals or bids for any and all items in the Additional Schedule of Values. All replacement plant material shall be FL. No. 1 or better and includes removal of existing plantings, bed preparation, topsoil, staking, mulch, super absorbent polymer, initial hand watering if needed and one year warranty. Seasonal color replacements include removal of existing plantings, bed preparation, pre-emergent herbicide, Atlas 3000 soil mix, initial and mid-term application of Nutricote, and initial hand watering.

CONTRACT EXTENSIONS: Town of Golden Beach hereby requests proposals for a three (3) year contract for supplies and services. In addition, the Town reserves the right to extend the Contract for two additional one (1) year terms, providing both parties agree, and the extension is approved by the Town Manager.

PROPOSER SHALL OFFER FIRM PRICES FOR THE INITIAL THREE (3) YEAR TERM OF THE CONTRACT. PROPOSER TO INDICATE IF IT SHALL EXTEND THE CONTRACT FOR TWO ADDITIONAL ONE (1) YEAR TERMS UPON THE SAME TERMS AND CONDITIONS.

YES NO

Jose G. Perez, President
Proposer Name and Title

OrchidMan Landscape Artisans, Corp.
Company Name

3001 Ponce de Leon Blvd Ste 200
Address Coral Gables, FL 33134

305 448-2225
Phone

TOWN OF GOLDEN BEACH, FLORIDA

RESOLUTION NO. 2235.12

A RESOLUTION OF THE TOWN OF GOLDEN BEACH, FLORIDA, SELECTING ORCHIDMAN LANDSCAPE ARTISANS, CORP. FOR FERTILIZATION AND PEST MANAGEMENT SERVICES; AUTHORIZING AND APPROVING A PROFESSIONAL SERVICES AGREEMENT BETWEEN THE TOWN AND ORCHIDMAN LANDSCAPE ARTISANS, CORP.; AUTHORIZING THE MAYOR AND TOWN MANAGER TO EXECUTE THE AGREEMENT; PROVIDING FOR IMPLEMENTATION; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, the Town of Golden Beach (the “Town”) issued Request for Proposals (RFP) No. 2011-0005 for Fertilization and Pest Management Services within the public landscaped areas of the Town; and

WHEREAS, Orchidman Landscape Artisans, Corp. submitted a Proposal in response to the RFP (the “Proposal”), which was determined to be the best and most advantageous Proposal submitted to the Town; and

WHEREAS, the Town wishes to select Orchidman Landscape Artisans, Corp. for the Fertilization and Pest Management Services and authorize the Town to enter into a Professional Services Agreement with Orchidman Landscape Artisans, Corp., substantially in the form attached to this Resolution as Exhibit “A” (the “Agreement”); and

WHEREAS, the Town Council has determined that it is in the best interests of the Town to perform the Fertilization and Pest Management Services and enter into the Agreement.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF GOLDEN BEACH, FLORIDA, AS FOLLOWS:

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

Section 2. Selection of Orchidman Landscape Artisans, Corp. The Town Council hereby selects Orchidman Landscape Artisans, Corp. for the Fertilization and Pest Management Services.

Section 3. Authorization and Approval of Agreement. The Town Council hereby authorizes and approves the Agreement with Orchidman Landscape Artisans, Corp., in substantially the form attached hereto as Exhibit "A," and the Mayor and/or Town Manager are authorized to execute the Agreement on behalf of the Town, once approved as to final form and legal sufficiency by the Town Attorney.

Section 4. Implementation. The Mayor and Town Manager are hereby authorized to take all steps reasonably necessary to implement the Agreement and this Resolution.

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

The Motion to adopt the foregoing Resolution was offered by _____, seconded by _____ and on roll call the following vote ensued:

Mayor Glenn Singer	_____
Vice Mayor Amy Isackson-Rojas	_____
Councilmember Bernard Einstein	_____
Councilmember Judy Lusskin	_____
Councilmember Kenneth Bernstein	_____

PASSED AND ADOPTED by the Town Council of the Town of Golden Beach,
Florida, this 27th day of March, 2012.

ATTEST:

MAYOR GLENN SINGER

LISSETTE PEREZ
INTERIM TOWN CLERK

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY:

STEPHEN J. HELFMAN
TOWN ATTORNEY

EXHIBIT “A”

*(Attach Professional Services Agreement between the Town and
Orchidman Landscape Artisans, Corp.)*

PROFESSIONAL SERVICES AGREEMENT

between

TOWN OF GOLDEN BEACH, FLORIDA

and

ORCHIDMAN LANDSCAPE ARTISANS, CORP.

for

FERTILIZATION AND PEST MANAGEMENT

THIS PROFESSIONAL SERVICES AGREEMENT (this “Agreement”) is made effective as of _____, 2012 (the “Effective Date”) by and between the **TOWN OF GOLDEN BEACH, FLORIDA**, a Florida municipal corporation (hereinafter referred to as the “TOWN”), and **ORCHIDMAN LANDSCAPE ARTISANS, CORP.**, a Florida Corporation (hereinafter referred to as the “CONSULTANT”), whose principal place of business is 3001 Ponce de Leon Boulevard, Suite 200, Coral Gables, Florida 33134.

WHEREAS, the TOWN issued Request for Proposals (RFP) No. 2011-005 on November 18, 2011 (the “RFP”) requesting proposals from qualified contractors or vendors for the purpose of providing fertilization and pest management services using Integrated Pest Management principles within the public landscaped areas of the Town, including public right-of-ways, parks, facilities and other select areas, as defined on the Service Area Map attached to this Agreement and hereinafter defined (the “Services” or “Project”);

WHEREAS, the CONTRACTOR submitted a Proposal in response to the RFP (the “Proposal”), which Proposal was selected by the TOWN for the award of this Agreement;

WHEREAS, the CONTRACTOR is willing and able to perform the Services for the TOWN in accordance with the terms and conditions set forth in the RFP, the Proposal and this Agreement for the Project;

NOW THEREFORE, in consideration of the mutual terms, conditions, promises and covenants set forth below, the TOWN and CONTRACTOR agree as follows:

SECTION 1. SCOPE AND SERVICES

1.1 **The RFP.** This Agreement includes the terms and conditions of the RFP and required Technical Specifications for the Project, which are incorporated herein by reference. The Services as defined in Section 1.2 hereof and to be provided and

performed with respect to the Project shall be at all times subject to the requirements of the RFP and the Technical Specifications.

1.2 **Scope of Services.** Pursuant to its Proposal attached hereto as Exhibit “A”, the CONTRACTOR shall provide to the TOWN fertilization and pest management services using Integrated Pest Management principles within the public landscaped areas of the Town, including public right-of-ways, parks, facilities and other select areas, as defined on the Service Area Map attached hereto as Exhibit “B”, and at locations shown on the Service Area Map or as determined by the TOWN (the “Service Areas”). The Town reserves the right to remove or change specific area locations within the Service Area on a temporary or permanent basis, as deemed appropriate by the Town. The Services and work shall include the furnishing of all labor, materials, tools, equipment, machinery, superintendence and services necessary for fertilization and pest management, which shall include insect control and herbicide applications, including preventive and corrective applications and fertilization (the “Services”), which are more specifically set forth in the Technical Specifications of the RFP. The CONTRACTOR shall maintain the Project in accordance with the highest quality landscape maintenance standards consistent with the Technical Specifications set forth in the RFP which shall surpass industry standards. The CONTRACTOR’S Services shall be subject to inspection and approval by the TOWN and the TOWN’S Landscape Architect, who shall indicate items or services that need to be addressed or corrected and the CONTRACTOR shall address and complete same in a timely manner and provide a status report. The CONTRACTOR shall adhere to the fertilization programs and frequency as provided in the Technical Specifications included in the RFP.

SECTION 2. BILLING AND PAYMENTS TO THE CONSULTANT

2.1 **Payment; Invoices.** The TOWN shall pay the CONTRACTOR an annual lump sum base proposal fee in the amount of \$16,800.00, payable monthly within thirty (30) calendar days of approval by the Town Manager of any invoices submitted by CONTRACTOR to the TOWN. The TOWN shall make payments to CONTRACTOR pursuant to applicable Florida law. Payments shall follow the Schedule of Values and Fee Schedule contained in the Proposal and attached hereto as Exhibit “C.” Payments shall be made for units ordered, placed and accepted by the TOWN in accordance with the Schedule of Values and Fee Schedule attached hereto as Exhibit “C.”

2.2 **Disputed Invoices.** In the event that all or a portion of an invoice submitted to the TOWN for payment to the CONTRACTOR is disputed, or additional backup documentation is required, the TOWN shall notify the CONTRACTOR within fifteen (15) working days of receipt of the invoice of such objection, modification or additional documentation request. The CONTRACTOR shall provide the TOWN with additional backup documentation within five (5) working days of the date of the TOWN’S notice. The TOWN may request additional information, including but not limited to, all invoices, expense records, accounting records, and payment records of the CONTRACTOR. The TOWN shall, pay to the CONTRACTOR the undisputed portion

of the invoice. The parties shall endeavor to resolve the disputed portions in a mutually agreeable fashion.

2.3 **Suspension of Payment.** In the event that the TOWN becomes credibly informed that any representations of the CONSULTANT, provided pursuant to this Section 2, are wholly or partially inaccurate, or in the event that the CONTRACTOR is not in compliance with any terms or conditions of this Agreement, the TOWN may withhold payment of sums then or in the future otherwise due to the CONTRACTOR until the inaccuracy, or other breach of this Agreement, and the cause thereof, is corrected to the TOWN's reasonable satisfaction.

SECTION 3. TERM/TIME OF PERFORMANCE

3.1 **Term.** This Agreement shall commence on the Effective Date and shall continue in full force and effect for an initial period of three (3) years, unless otherwise terminated pursuant to the terms of this Agreement (the "Term"). The TOWN, in its sole discretion, may extend the term of this Agreement through written notification to the CONTRACTOR from the Town Manager, at least sixty (60) days prior to the expiration of the initial term, for two (2) additional one (1) year periods upon the same terms, conditions and pricing as set forth in this Agreement.. In the event that Services are scheduled to terminate either by expiration or by termination by the TOWN, the TOWN, in its sole discretion, may request that the CONTRACTOR continue the Services for a transition period until new Services can be established and operational. This transition period shall not exceed ninety (90) days beyond the expiration date of this Agreement.

3.2 **Commencement.** The CONTRACTOR'S Services under this Agreement and the time frames and Schedule applicable to this Agreement shall commence upon the Effective Date. The CONTRACTOR shall not incur any expenses or obligations or incur payment to third parties prior to the issuance of a Notice to Proceed (the "Notice to Proceed") for the Project, and the CONTRACTOR must receive the Notice to Proceed from the Town Manager prior to beginning the performance of the Services.

3.3 **Contract Time.** From and after the receipt of the Notice to Proceed, the CONTRACTOR shall continuously perform the Services to the TOWN, without interruption, for the duration of the Term (the "Contract Time"). Time is of the essence in the performance of the Services and all limitations of time set forth in this Agreement are of the essence.

SECTION 4. TERMINATION OF AGREEMENT

4.1 **Termination.** The TOWN has the right to terminate this Agreement for any reason or no reason, upon seven (7) days' written notice to CONTRACTOR. Upon termination of this Agreement, and final payment of any undisputed outstanding invoices due through the date of notice of termination, copies of all records, charts, sketches, studies, plans, drawings, and other documents related to the Services performed under

this Agreement, whether finished or not, shall be turned over to the TOWN within ten (10) days.

4.2 **Payment after Termination.** Provided that the CONTRACTOR has performed in accordance with the terms of this Agreement as of the date of termination pursuant to Section 4.1 above, CONTRACTOR shall receive all payments due to CONTRACTOR for Services rendered and accepted up to the date of termination.

SECTION 5. ADDITIONAL SERVICES AND CHANGES IN SCOPE OF SERVICES

5.1 **Changes Permitted.** Changes in the Services or the Project consisting of additions, deletions, revisions, or any combination thereof, may be ordered by the TOWN by Change Order (as defined below) without invalidating the terms of this Agreement.

5.2 **Change Order Defined.** “Change Order” shall mean a written order to the CONTRACTOR executed by the TOWN, issued after execution of this Agreement, authorizing and directing a change in the Services, the Project, Payment or the Contract Time, or any combination thereof. The Payment and/or the Contract Time may be changed only by Change Order.

5.3 **Effect of Executed Change Order.** The execution of a Change Order by the TOWN and the CONTRACTOR shall constitute conclusive evidence of the CONTRACTOR's agreement to the ordered changes in the Services or the Project, or an adjustment in the Payment or the Contract Time, or any combination thereof. The CONTRACTOR, by executing the Change Order, waives and forever releases any claim against the TOWN for additional time or compensation for matters relating to or arising out of or resulting from the Services included within or affected by the executed Change Order. Change Order costs shall be determined at a negotiated fee between the parties or based on the Schedule of Values attached hereto as Exhibit “C.”

5.4 **Authority to Execute Changes or Requests for Additional Services.** The Town Manager is authorized to negotiate and execute Change Orders, in an amount not to exceed \$25,000.00 per contract. Changes or Requests for Additional Services, which exceed \$25,000.00, shall be approved by the Town Council.

SECTION 6. SURVIVAL OF PROVISIONS

Any terms or conditions of this Agreement that require acts beyond the date of the Term, shall survive termination of this Agreement, and shall remain in full force and effect unless and until the terms or conditions are completed and shall be fully enforceable by either party.

SECTION 7. TOWN'S RESPONSIBILITIES

7.1 The TOWN will assist CONTRACTOR by placing at its disposal all available information as may be requested in writing by the CONTRACTOR relating to the Project and allow reasonable access to all pertinent information relating to the Services to be performed by CONTRACTOR.

7.2 The TOWN shall furnish to CONTRACTOR, at the CONTRACTOR'S written request, all available maps, plans, existing studies, reports and other data, pertinent to the Services to be provided by CONTRACTOR, that are in possession of the TOWN.

7.3 The TOWN shall arrange for access to and make all provisions for CONTRACTOR to enter upon public property as required for CONTRACTOR to perform the Services.

SECTION 8. CODE OF ETHICS.

Intentionally Omitted.

SECTION 9. COMPLIANCE WITH LAWS; LICENSES; POLICY OF NON-DISCRIMINATION/WAGES

9.1 The CONTRACTOR and any and all of its agents, employees, subconsultants and subcontractors shall comply with all applicable federal, state, county and local laws, ordinances, rules, regulations and procedural requirements applicable to the performance of the Services and operations pursuant to this Agreement. The CONTRACTOR shall meet or exceed the applicable requirements of the latest version of the codes and specifications promulgated or published by the Florida Department of Transportation (FDOT), the Occupational Safety Health Act (OSHA), the Environmental Protection Agency (EPA), and the Florida Department of Environmental Protection (FDEP). The CONTRACTOR is required to enter upon the TOWN'S property or public right-of-way to perform the Services pursuant to this Agreement and shall obtain all necessary licenses, permits and insurance in connection with such access and right of entry. The CONTRACTOR shall comply with all requirements and the TOWN'S agreements with any other entity or agency which concern the public right-of-way or Service Areas upon which the Services are to be provided.

9.2 The CONTRACTOR shall be licensed and certified by all appropriate federal, state, county and local agencies. Prior to the commencement of the Services or work and at all times during the Term of this Agreement, CONTRACTOR shall procure and maintain, at its sole cost and expense, and provide copies to the TOWN, all required licenses, permits and certifications for the performance of the Services and the operations set forth in this Agreement, including but not limited to a Miami-Dade County Occupational License, a State of Florida Pest Control License and a Certified Pest Control Operator License. All chemicals and pesticides applied by the CONTRACTOR in the performance of the Services shall be used in strict accordance with federal, state,

county, and local laws and regulations. Any use of chemicals and pesticides shall be reported to the TOWN and shall be applied only by trained and licensed pest control applicators.

9.3 The CONTRACTOR shall not discriminate on the grounds of race, color, religion, sex, age, marital status, national origin, physical or mental disability in the performance of Services or work under this Agreement. The CONTRACTOR shall comply with all equal employment opportunity requirements and any and all applicable requirements established by state and federal law.

9.4 The CONTRACTOR and any and all of its agents, employees, subconsultants and subcontractors shall comply with the wage provisions of Section 287.055, Florida Statutes. If the Project is subject to federal or state grant funding that requires specific wage and non-discrimination provisions, the CONTRACTOR shall be required to comply with the same.

SECTION 10. OWNERSHIP OF DOCUMENTS

10.1 Any and all records, drawings and specifications, as instruments of the Services to be performed (the "Drawings and Specifications"), are and shall become the property of the TOWN whether the Project for which they are made is executed or not. The CONTRACTOR shall be permitted to retain copies, including reproducible copies, of the Drawings and Specifications for information and reference in connection with the TOWN'S use and occupancy of the Project.

10.2 The CONTRACTOR agrees not to divulge, furnish or make available to any third person, firm or organization, without the TOWN'S prior written consent, or unless incident to the proper performance of the CONSULTANT'S obligations hereunder, or in the course of judicial or legislative proceedings where such information has been properly subpoenaed, any non-public information concerning the Services to be rendered by the CONTRACTOR hereunder, and the CONTRACTOR shall require all of its employees, agents, subconsultants and subcontractors to comply with the provisions of this paragraph.

SECTION 11. RECORDS/AUDITS

11.1 The CONTRACTOR shall maintain and require all subcontractors to maintain, complete and correct records, books, documents, papers and accounts pertaining to the Services. Such records, books, documents, papers and accounts shall be available at all reasonable times for examination and audit by the Town Manager or any authorized TOWN representative with reasonable notice and shall be kept for a period of three (3) years after the completion of the Services. 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. Disallowed fees will be paid when incomplete or incorrect entries are remedied to the satisfaction of the TOWN.

11.2 The CONTRACTOR shall comply with Chapter 119, Florida Statutes, as applicable.

11.3 Refusal of the CONTRACTOR to comply with the provisions of Sections 11.1 or 11.2 shall be grounds for immediate termination for cause by the TOWN of this Agreement.

SECTION 12. NO CONTINGENT FEE

The CONTRACTOR warrants that he or she has not employed or retained any company or person, other than a bona fide employee working solely for the CONTRACTOR to solicit or secure this Agreement and that he or she has not paid or agreed to pay any person, company, corporation, individual, or firm, other than a bona fide employee working solely for the CONTRACTOR any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the award or making of this Agreement. For the breach or violation of this provision, the TOWN shall have the right to terminate this Agreement without liability and, at its discretion, to deduct from the Payment, or otherwise recover, the full amount of such fee, commission, percentage, gift, or consideration.

SECTION 13. INDEPENDENT CONTRACTOR

The CONTRACTOR is an independent contractor under this Agreement. Personnel provided by the CONTRACTOR shall be employees of the CONTRACTOR and subject to supervision by the CONTRACTOR, and not as officers, employees, or agents of the TOWN. Personnel policies, tax responsibilities, social security, health insurance, worker's compensation insurance, employee benefits, purchasing policies and other similar administrative procedures applicable to Services rendered under this Agreement shall be those of the CONTRACTOR.

SECTION 14. ASSIGNMENT; AMENDMENTS

14.1 This Agreement or the Services shall not be assigned, transferred or otherwise encumbered, under any circumstances, in whole or in part, by CONTRACTOR, without the prior written consent of the TOWN, in its sole and absolute discretion.

14.2 No modification, amendment or alteration in the terms or conditions of this Agreement shall be effective unless contained in a written document executed with the same formality as this Agreement by both parties.

SECTION 15. INDEMNIFICATION/HOLD HARMLESS

15.1 The CONTRACTOR shall indemnify and hold harmless the TOWN, and its officers and employees from liabilities, damages, losses, and costs, including, but not limited to, reasonable attorneys' fees, to the extent caused by the acts, omissions,

negligence, recklessness, wrongful conduct, acts, errors or omissions of the CONTRACTOR or any subcontractors or other persons employed or utilized by the CONTRACTOR in the performance of this Agreement. The CONTRACTOR'S obligation under this paragraph shall not be limited in any way by the agreed upon Payment, or the CONTRACTOR'S limit of, or lack of, sufficient insurance protection.

15.2 The indemnification obligation under this clause shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for the CONTRACTOR or any subcontractor or other persons employed or utilized by the CONTRACTOR in the performance of this Agreement, under worker's compensation acts, disability benefit acts, or other employee benefit acts.

15.3 The CONTRACTOR shall not specify or allow any subcontractor or other persons employed or utilized by the CONTRACTOR in the performance of this Agreement to specify a particular design, process or product that infringes upon any patent. The CONTRACTOR shall indemnify and hold TOWN and its officers and employees harmless from any loss, cost or expense, including reasonable attorney's fees and costs incurred, on account thereof if the CONTRACTOR violates the requirements of this Section 15.

SECTION 16. INSURANCE

The CONTRACTOR shall secure and maintain throughout the duration of this Agreement, insurance of such type and in such amounts necessary to protect its interest and the interest of the TOWN against hazards or risks of loss as specified below. The underwriter of such insurance shall be qualified to do business in the State of Florida and have agents upon whom service of process may be made in the State of Florida. The insurance coverage shall be primary insurance with respect to the TOWN, its officials, employees, agents and volunteers. Any insurance maintained by the TOWN shall be in excess of the CONTRACTOR'S insurance and shall not contribute to the CONTRACTOR'S insurance. The insurance coverage shall include a minimum of:

16.1 **Worker's Compensation and Employer's Liability Insurance:** Coverage to apply for all employees for Statutory Limits as required by applicable State and Federal laws. The policy(ies) must include Employer's Liability with minimum limits of \$500,000.00 each accident.

16.2 **Comprehensive Automobile and Vehicle Liability Insurance:** This insurance shall be written in comprehensive form and shall protect the CONTRACTOR and the TOWN against claims for injuries to members of the public and/or damages to property of others arising from the CONSULTANT'S use of non-owned and hired motor vehicles or any other equipment and shall cover operation with respect to onsite and offsite operations and insurance coverage shall extend to any motor vehicles or other equipment irrespective of whether the same is owned, non-owned, or hired. The limit of liability shall not be less than \$1,000,000.00 per occurrence, combined single limit for Bodily Injury Liability and Property Damage Liability. Coverage must be afforded on a

form no more restrictive than the latest edition of the Business Automobile Liability Policy, without restrictive endorsement, as filed by the Insurance Services Office.

16.3 **Commercial General Liability.** This insurance shall be written in comprehensive form and shall protect the CONTRACTOR and the TOWN against claims arising from injuries to members of the public or damage to property of others arising out of any act or omission to act of the CONTRACTOR or any of its agents, employees, or subcontractors. The limit of liability shall not be less than \$2,000,000.00 per occurrence, combined single limit for Bodily Injury Liability and Property Damage Liability.

(a) Coverage must be afforded on a form no more restrictive than the latest edition of the Commercial General Liability Policy, without restrictive endorsements, as filed by the Insurance Services Office, and must include: (1) Premises and/or Operations; (2) Independent contractors and Products and/or completed Operations; (3) Broad Form Property Damage, Personal Injury and a Contractual Liability Endorsement, including any hold harmless and/or indemnification agreement.

(b) The TOWN is to be specifically included as an "Additional Insured" for the liability of the TOWN resulting from operations performed by or on behalf of CONTRACTOR in performance of this Agreement. CONTRACTOR'S insurance, including that applicable to the TOWN as an Additional Insured, shall apply on a primary basis and any other insurance maintained by the TOWN shall be in excess of and shall not contribute to CONTRACTOR'S insurance. CONTRACTOR'S insurance shall contain a severability of interest provision providing that, except with respect to the total limits of liability, the insurance shall apply to each Insured or Additional Insured in the same manner as if separate policies had been issued to each.

16.4 **Certificate(s) of Insurance:** Upon execution of this Agreement, the CONTRACTOR shall provide to the Town Manager, the Certificate(s) of Insurance evidencing the required insurance coverage. The Certificate(s) of Insurance shall not only name the types of policy(ies) provided, but also shall refer specifically to this Agreement and shall state that such insurance is as required by this Agreement. The TOWN reserves the right to require the CONTRACTOR to provide a certified copy of such policies, upon written request by the TOWN. If a policy is due to expire prior to the completion of the services, a renewal Certificate(s) of Insurance or policies shall be furnished thirty (30) calendar days prior to the date of their policy expiration. Each policy shall be endorsed with a provision that not less than thirty (30) calendar days' written notice shall be provided to the TOWN before any policy or coverage is cancelled or restricted. Acceptance of the Certificate(s) of Insurance is subject to approval of the Town Manager.

16.5 All deductibles or self-insured retentions must be declared to and be approved by the Town Manager. The CONTRACTOR shall be responsible for the payment of any deductible or self-insured retentions in the event of any claim.

SECTION 17. REPRESENTATIVE OF TOWN AND CONSULTANT

17.1 **TOWN Representative.** It is recognized that questions in the day-to-day conduct of this Agreement will arise. The TOWN designates the Town Manager or his or her designee, as the person to whom all communications pertaining to the day-to-day conduct of this Agreement shall be addressed.

17.2 **CONTRACTOR Representative.** CONTRACTOR shall inform the Town Manager, in writing, of the representative of the CONTRACTOR to whom all communications pertaining to the day-to-day conduct of this Agreement shall be addressed.

SECTION 18. COST AND ATTORNEY'S FEES/WAIVER OF JURY TRIAL

18.1 If either the TOWN or CONTRACTOR is required to enforce the terms of this Agreement by court proceedings or otherwise, whether or not formal legal action is required, the prevailing party shall be entitled to recover from the other party all costs, expenses, and reasonable attorney's fees in any state or federal administrative, circuit court and appellate court proceedings.

18.2 In the event of any litigation arising out of this Agreement, each party hereby knowingly, irrevocably, voluntarily and intentionally waives its right to trial by jury.

SECTION 19. ALL PRIOR AGREEMENTS SUPERSEDED

This document incorporates and includes all prior negotiations, correspondence, conversations, agreements or understandings applicable to the matters contained in this Agreement and the parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly it is agreed that no deviation from the terms of the Agreement shall be predicated upon any prior representations or agreements whether oral or written.

SECTION 20. CONSULTANT'S RESPONSIBILITIES

20.1 CONTRACTOR warrants that the Services to be performed hereunder shall be performed by the CONTRACTOR'S own staff or employees, unless otherwise approved in writing by the TOWN. The TOWN shall approve any and all subcontractors providing Services to the TOWN pursuant to this Agreement. Said approval shall not be construed as constituting an agreement between the TOWN and said other person or firm. The CONTRACTOR'S services shall be performed in a manner consistent with that degree of skill and care ordinarily exercised by practicing professionals performing similar services in the same locality and under the same or similar circumstances and conditions.

20.2 CONTRACTOR represents that it possesses the requisite skills and shall follow the professional standards and the standard of conduct for consultants or vendors in performing all Services under this Agreement. The CONTRACTOR agrees to use its skill and judgment in furthering the TOWN's interests hereunder and CONTRACTOR shall perform its services in accordance with the practice of the pertinent industry and as expeditiously as is consistent with reasonable skill and care. If at any time during the term of this Agreement or the Project for which the CONTRACTOR has provided Services under this Agreement, it is determined that the CONSULTANT's Services or work are incorrect, defective or fail to conform to the terms of this Agreement, upon written notification from the TOWN, the CONTRACTOR shall immediately proceed to correct the work, re-perform Services which failed to satisfy the foregoing standard of care and shall pay all costs and expenses associated with correcting said incorrect or defective work, including any additional inspections, and installation and reimbursements to the TOWN for any other services and expenses made necessary thereby, save and except any costs which the TOWN would have otherwise paid absent the CONSULTANT's error or omission. The TOWN's approval, acceptance, use of or payment for all or any part of the CONTRACTOR's services shall in no way alter the CONTRACTOR's obligations or TOWN's rights hereunder.

20.3 CONTRACTOR agrees, within fourteen (14) calendar days of receipt of a written request from the TOWN, to promptly remove and replace any personnel employed or retained by the CONTRACTOR, any subconsultants or subcontractors or other persons employed or utilized by the CONTRACTOR in the performance of this Agreement or any personnel of any such subconsultant or subcontractor or other persons employed or utilized by the CONTRACTOR to provide and perform the Services or work pursuant to the requirements of this Agreement, whom the TOWN shall request in writing to be removed, which request may be made by the TOWN.

20.4 If CONTRACTOR allows any work to be performed knowing, or when with the exercise of due care the CONTRACTOR should have known, it to be contrary to any such applicable laws, ordinances, rules, regulations or restrictions and fails to give TOWN written notice thereof prior to performance thereof, CONTRACTOR shall bear all costs, liabilities, and expenses arising therefrom, which costs, liabilities and expenses shall not be considered a part of CONSULTANT'S fees or any other amounts due hereunder.

20.5 CONTRACTOR hereby represents and warrants that it has reviewed all necessary Project documents and that this Agreement and the RFP, when taken together, fully and accurately describe the Services needed to complete the Project in accordance with the requisite standard of care, and that CONTRACTOR is not aware of any additional work, labor or services that will be required to complete the Project.

20.6 CONTRACTOR hereby represents and warrants that all Services shall comply with all applicable federal, state and local laws, ordinances and building codes.

20.7 CONTRACTOR'S obligations under this Section 20 shall survive termination of this Agreement.

SECTION 21. NOTICES

Whenever either party desires to give notice to the other, it must be given by hand delivery or written notice, sent by certified United States mail, with return receipt requested or a nationally recognized private mail delivery service, addressed to the party for whom it is intended, at the place last specified, and the place for giving of notice in compliance with the provisions of this paragraph. For the present, the parties designate the following as the respective places for giving of notice, to-wit:

FOR CONTRACTOR:

Orchidman Landscape Artisans, Corp.
Attention: Jose G. Perez, President
3001 Ponce de Leon Blvd., Suite 200
Coral Gables, Florida 33134
Phone: (305) 448-2225
Facsimile: (____) _____

FOR TOWN:

Town of Golden Beach
Attn: Alexander Diaz, Town Manager
1 Golden Beach Drive
Golden Beach, FL 33160-2296
Phone: (305) 932-0744
Facsimile: (305) 933-3825

With a copy to:

Stephen J. Helfman, Esq.
Weiss Serota Helfman Pastoriza Cole & Boniske, P.L.
Town Attorneys
2525 Ponce de Leon Blvd.
Suite 700
Coral Gables, Florida 33134
Phone: (305) 854-0800
Facsimile: (305) 854-2323

SECTION 22. TRUTH-IN-NEGOTIATION CERTIFICATE

Execution of this Agreement by CONTRACTOR shall act as the execution of a

truth-in-negotiation certificate stating that wage rates and other factual unit costs supporting the Payment of this Agreement are accurate, complete, and current at the time of contracting. This Agreement's Payment and any additions shall be adjusted to exclude any significant sums by which the TOWN determines the Project's Payment was increased due to inaccurate, incomplete, or noncurrent wage rates and other factual unit costs. All such adjustments shall be made within one (1) year following the end of this Agreement.

SECTION 23. CONSENT TO JURISDICTION

The parties submit to the jurisdiction of any Florida state or federal court in any action or proceeding arising out of relating to this Agreement. Venue of any action to enforce this Agreement shall be proper exclusively in Miami-Dade County, Florida.

SECTION 24. GOVERNING LAW

This Agreement shall be construed in accordance with and governed by the laws of the State of Florida.

SECTION 25. HEADINGS

Headings are for convenience of reference only and shall not be considered in any interpretation of this Agreement.

SECTION 26. EXHIBITS

Each Exhibit referred to in this Agreement forms an essential part of this Agreement. The Exhibits if not physically attached, should be treated as part of this Agreement, and are hereby incorporated by reference.

SECTION 27. NO WAIVER OF BREACH

The failure of a party to insist on strict performance of any provision of this Agreement shall not be construed to constitute a waiver of a breach of any other provision or of a subsequent breach of the same provision.

SECTION 28. 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.

SECTION 29. COUNTERPARTS

This Agreement may be executed in several counterparts, each of which shall be deemed an original and all such counterparts shall constitute one and the same instrument.

[Remainder of page intentionally left blank.]

IN WITNESS WHEREOF, the parties hereby execute this Agreement on the date set forth below their signature.

ATTEST

**TOWN OF GOLDEN BEACH,
FLORIDA**

Town Clerk

By: _____
Alexander Diaz, Town Manager

Date Executed: _____

**APPROVED AS TO FORM AND LEGALITY
FOR THE USE AND RELIANCE OF THE
TOWN OF GOLDEN BEACH, FLORIDA, ONLY:**

Town Attorney

IN WITNESS WHEREOF, the parties hereby execute this Agreement on the date set forth below their signature.

CONTRACTOR:

**ORCHIDMAN LANDSCAPE
ARTISANS, CORP.,
a Florida Corporation**

ATTEST:

Secretary

Please type name of Secretary

By: _____

Name: _____

Title: _____

Date Executed: _____

EXHIBIT “A”

(Attach copy of Orchidman Landscape Artisans, Corp.’s Proposal)

EXHIBIT “B”

FERTILIZATION AND PEST MANAGEMENT SERVICE AREAS

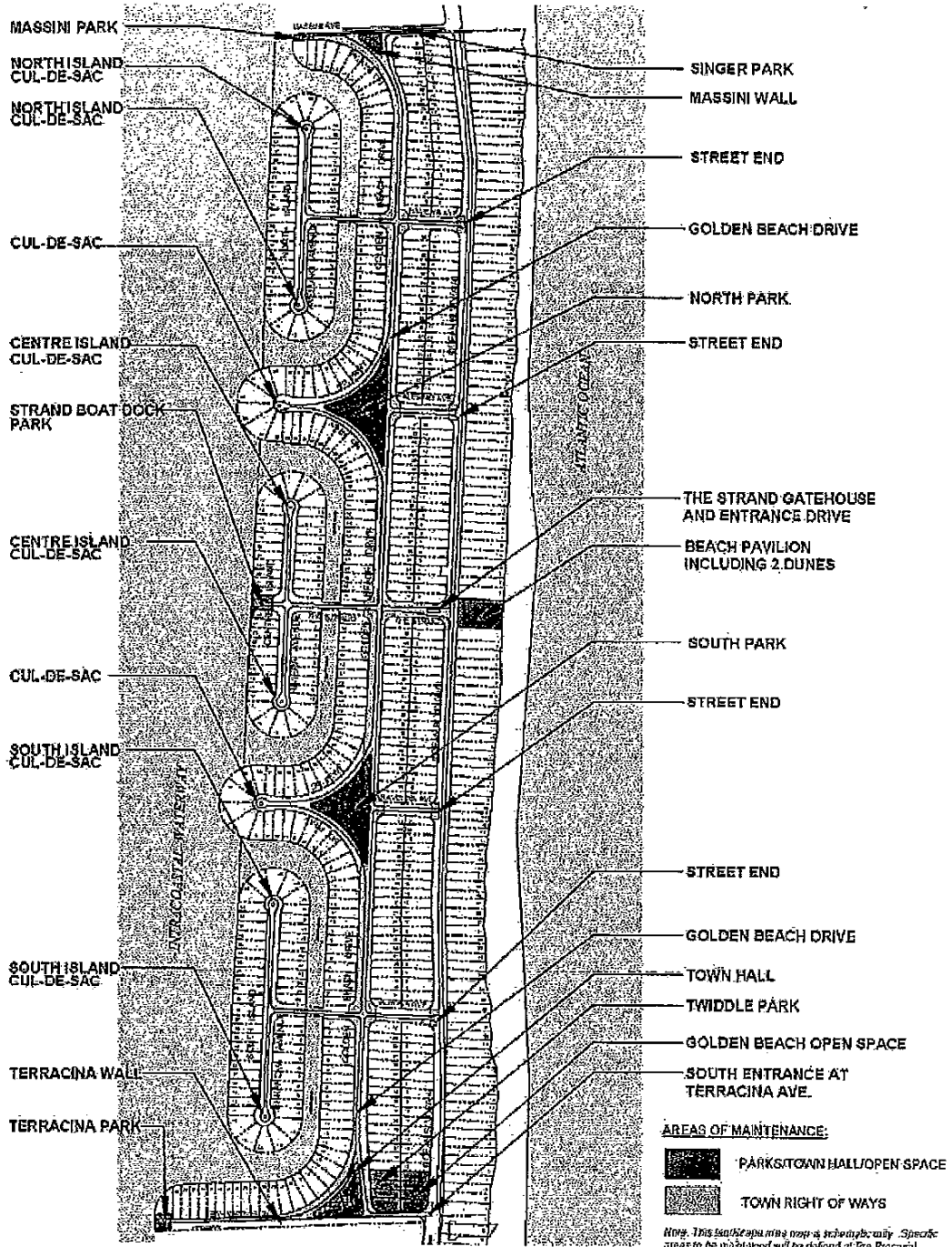
(See Service Area Map next page)

Parks, Buildings and Facilities:

Beach Pavilion and dune area
Town Hall
The Strand Gatehouse, Entrance Drive
The Strand Boat Dock Park
Twiddle Park
North Park
South Park
Singer Park
Massini Park
Terracina Park
Golden Beach Open Space

Medians and Rights-of-Way:

Golden Beach Drive
The Strand Entrance Drive
Cul-de-sacs (8 total: 2 on Terranova Ave., South Island; 1 on South Parkway, 2 on Riviera Ave.,
Centre Island; 1 on North Parkway, 2 on Avellino Ave., North Island)
Street ends (4 total: Verona Ave., Ravenna Ave., Palermo Ave., Navona Ave.)



Right-of-Ways, Parks, Open Space Landscape Area Map
 Town of Golden Beach, Florida

EXHIBIT "C"

SCHEDULE OF VALUES FERTILIZATION AND PEST MANAGEMENT

NOTE: The quantities shown in the Schedule of Values are an estimate only. They may vary significantly from the actual quantities ordered by the Town. Payments shall be for the units ordered, placed, and accepted by the Town. The Proposer, by signing the Proposal Form and Contract, fully acknowledges that he/she will receive no additional compensation (no overhead/no anticipated profits, etc.) other than the Bid unit price of the items times the number of items authorized, ordered, placed, and accepted by the Town.

ITEM #	Item	Per Month Cost	TOTAL COST PER 12 MONTHS
1	Fertilization and Pest Management Complete	\$ 1,400.00	\$ 16,800.00
BASE PROPOSAL	<u>TOTAL BASE PROPOSAL</u>	\$	<i>Sixteen thousand eight hundred ^{00/100}</i>

DEDUCTIVE ALTERNATE	Cost savings to Town if awarded RFP #2011-006 (S.R. A1A Fertilization and Pest Management)	\$ <u>2,520.00</u>
		DEDUCTIVE ALTERNATE TOTAL

GRAND TOTAL	TOTAL BASE PROPOSAL MINUS DEDUCTIVE ALTERNATE	\$ <u>14,280.00</u>
		GRAND TOTAL

ADDITIONAL SCHEDULE OF VALUES

A	Coconut Palm or Date Palm OTC Injection	Per Palm Per Injection = \$ <i>Coconut Palm \$15.00</i> <i>Date Palm \$20.00</i>
B	Drench and foliar spray to combat Ficus Whitefly	Per Application = \$ <i>.50 LF</i>
C	Drench and foliar spray to combat Spiraling Whitefly	Per Application = \$ <i>.50 LF</i> <i>4.00 DBH</i>
D	Injections for trees and palms to combat Spiraling Whitefly	Per Tree or Palm per Injection (48" DBH or less) = \$ <i>4.00 DBH</i> Per Tree or Palm per Injection (49" DBH to 72" DBH) = \$ <i>5.50 DBH</i>

Note: The Town reserves the right to secure competitive proposals or bids for any and all items in the Additional Schedule of Values.

CONTRACT TERM AND EXTENSIONS: Town of Golden Beach hereby requests proposals and pricing for a **three (3) year contract** for supplies and services. In addition, the Town reserves the right to extend this contract for two additional one (1) year terms, provided both parties agree, and the extension is approved by the Town Manager.

PROPOSER SHALL OFFER FIRM PRICES FOR THE INITIAL THREE (3) YEAR TERM OF THE CONTRACT. PROPOSER TO INDICATE IF IT SHALL EXTEND THE CONTRACT FOR TWO ADDITIONAL ONE (1) YEAR TERMS UPON THE SAME TERMS AND CONDITIONS.

YES ✓ NO

Jose G. Perez, President
Proposer Name and Title

Orchidman Landscape Artisans, Corp.
Company Name

3001 Ponce de Leon Blvd, Ste 200
Address Coral Gables, FL 33134

305 449 2225
Phone



TOWN OF GOLDEN BEACH

One Golden Beach Drive
Golden Beach, FL 33160

MEMORANDUM

Date: March 27, 2012

To: Honorable Mayor Glenn Singer &
Town Council Members

From: Alexander Diaz, *Alex B*
Town Manger

Subject: Resolution No. 2236.12 – Assigning Councilmember's The
Duty To Inquire Into The Operation Of A Particular Area Of
Town Operation

Item Number:

12

Recommendation:

It is recommended that the Town Council adopt the attached Resolution No. 2236.12 as presented.

Background:

Section 3.05 of the Town Charter calls for the Town Council to be assign the duty to inquire into the operation of a particular area of governmental responsibility for a period of six months in order for the Councilmember to become informed as to the objectives of the government of the Town.

The current assignments are as follows:

Mayor Singer	<u>Administration</u>
Vice-Mayor Rojas	<u>Public Works</u>
Councilmember Einstein	<u>Finance</u>
Councilmember Lusskin	<u>Police</u>
Councilmember Bernstein	<u>Building & Zoning</u>

At the meeting, you will be asked to assume an area of interest before final adoption of the resolution.

Fiscal Impact:

None

TOWN OF GOLDEN BEACH, FLORIDA

RESOLUTION NO. 2236.12

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF GOLDEN BEACH, FLORIDA ASSIGNING EACH COUNCILMEMBER THE DUTY TO INQUIRE INTO THE OPERATION OF A PARTICULAR AREA OF GOVERNMENTAL RESPONSIBILITY; PROVIDING FOR CONFLICT; PROVIDING FOR IMPLEMENTATION; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, pursuant to Section 3.05 of the Town Charter of the Town of Golden Beach, Florida, the Town Council shall assign each Councilmember the duty to inquire into the operation of a particular area of governmental responsibility for a period of six months in order for the Councilmember to become informed as to the objectives of the government of the Town; and

WHEREAS, the Council finds that the assignments as specified herein are in the best interest of the Town.

NOW THEREFORE BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF GOLDEN BEACH, FLORIDA, AS FOLLOWS:

Section 1. Recitals Adopted. That each of the recitals stated above is hereby adopted and confirmed.

Section 2. Assignments. That in accordance with Section 3.05 of the Town Charter, the following assignments are hereby approved and shall remain in effect for a period of six months:

Mayor Singer	_____
Vice Mayor Isackson-Rojas	_____
Councilmember Einstein	_____
Councilmember Lusskin	_____
Councilmember Bernstein	_____

Section 3. Conflict. That all resolutions or parts of resolutions in conflict with this Resolution are hereby repealed to the extent of such conflict.

Section 4. Implementation. That the Mayor and Town Manager are authorized to take any and all action which is necessary to implement this Resolution.

Section 5. Effective Date. That this Resolution shall take effect immediately upon its adoption.

Sponsored by Town Administration.

The Motion to adopt the foregoing Resolution was offered by _____,
seconded by _____ and on roll call the following vote ensued:

Mayor Glenn Singer	_____
Vice Mayor Amy Isackson-Rojas	_____
Councilmember Bernard Einstein	_____
Councilmember Judy Lusskin	_____
Councilmember Kenneth Bernstein	_____

PASSED AND ADOPTED by the Town Council of the Town of Golden Beach, Florida,
this 27th day of March, 2012.

MAYOR GLENN SINGER

ATTEST:

LISSETTE PEREZ
INTERIM TOWN CLERK

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

STEPHEN HELFMAN
TOWN ATTORNEY

~~materials as were used in the structure prior to the damage but wood must be fire retardant treated. No structural addition constructed of wood exterior walls or columns shall be permitted on existing masonry structures unless a variance is applied for, and granted in extenuating circumstances, permitting the use of wood which has been fire retardant pressure treated in a plant.~~

* * *

ARTICLE III. DISTRICT REGULATIONS.

* * *

Section 66-69. Minimum frontage, building square footage and height of residence.

* * *

(5) The following lots are exempted from this section except as noted in paragraph (1) above:

* * *

b. Any improved lot with less than the full lot size required but at least 7,500 square feet of lot area and 50 feet of lot frontage may be redeveloped provided total impervious area does not exceed 50% of the lot area, minimum front and rear setbacks of 30 feet are provided, minimum side setbacks of 7.5 feet are provided, and building height does not exceed 25 feet. Such construction on undersized lots shall meet all other requirements of these land development regulations not modified in this sub-section.

* * *

connect the structures, with one or both sides entirely open, the width of which does not exceed ten feet, may be erected within such yard space.

* * *

Section 66-140. Setback areas – Generally.

(a) No structure, the height of which shall exceed 36 inches above the crown of the road adjacent to the lot shall be constructed in any Setback, with the exception of mechanical equipment, that can be constructed in such a way that its bottom is located at the required base flood elevation as established by the Flood Insurance Rate Map (FIRM), and any subsequent revised map adopted by the National Flood Insurance Program. A maximum of four (4) distinct pieces of mechanical equipment, including pool pumps and related pool heater equipment, may be installed a minimum of 10 feet from any property line.

(b) All mechanical ~~The equipment installed under the provision of this section~~ shall be appropriately and aesthetically screened and landscaped to minimize poor aesthetic appearance and maximize noise abatement to limit ~~and~~ transmission of sound.

* * *

Section 66-186. Height restrictions.

* * *

(f) All heights stated in this section are measured from the finished ground floor of the site where the fence is to be built. For fences abutting a street, the maximum level of the top of the fence shall be four feet above the finished site elevation without any berming or six feet above the maximum