



**BAREFOOT BAY  
RECREATION DISTRICT**

Barefoot Bay Recreation District Regular Meeting  
September 10, 2021 at 1:00 PM  
Building D&E

**Agenda**

Please turn off all cell phones

- 1. Thought of the Day**
- 2. Pledge of Allegiance to the Flag**
- 3. Roll Call**
- 4. Presentations and Proclamations**
  - A. 9/11 Proclamation and Milestones
- 5. Approval of Minutes**
  - A. Minutes dated August 24, 2021
- 6. Treasurer's Report**
  - A. Treasurer's Report
- 7. Audience Participation**
- 8. Unfinished Business**
  - A. Discussion of COVID-19 Precautions
  - B. Shopping Center Electrical Upgrades Approval of Agreement
  - C. Steward Medical Group Proposed Ground Lease
- 9. New Business**
  - A. DOR Violation 21-001596 750 Lark Drive (Vehicle Violations .)
  - B. DOR Violation 21-001867 750 Lark Drive (Lawn and Landscape)
  - C. DOR Violation 21-001516 750 Lark Drive (Condition of Property (C) Unauthorized items)
  - D. "Color Our World Cancer Free" Request for Waiver of Guest Passes for Participants to Access Pavilion
  - E. Restroom Trailer by Pickle Ball/Tennis Courts Award of Contract
  - F. Community Center Electrical Repairs Confirmation
  - G. Building A Renovations Project: Change Order #13 Confirmation
  - H. FY22 Employee Pay and Classification Plan

- I. FY23 Budget Preparation Calendar
- J. FY21 Audit Planning Communications Letter
- K. Neighborhood Revitalization Program (NRP) Purchase Confirmation: 333 Papaya Circle
- L. Neighborhood Revitalization Program (NRP) Purchase Confirmation: 401 Raven Drive

**10. Manager's Report**

- A. September 10th Community Manager's Report

**11. Attorney's Report**

**12. Incidental Trustee Remarks**

**13. Adjournment**

If an individual decides to appeal any decision made by the Recreation District with respect to any matter considered at this meeting, a record of the proceedings will be required and the individual will need to ensure that a verbatim transcript of the proceedings is made, which record includes the testimony and evidence upon which the appeal is based (FS 286.0105). Such person must provide a method for recording the proceedings verbatim.

Barefoot Bay Recreation District Regular Meeting



# BAREFOOT BAY RECREATION DISTRICT

Board of Trustees Regular Meeting

August 24, 2021

7PM –Building D&E

## Meeting Called to Order

The Barefoot Bay Recreation District Board of Trustees held a Meeting on August 24, 2021, Building D&E 1225 Barefoot Boulevard, Barefoot Bay, Florida. Mr. Maino called the meeting to order at 7PM.

## Pledge of Allegiance to the Flag

Led by Mr. Amoss

## Roll Call

Present: Mr. Grunow, Mr. Nugent, Mr. Morrissey, Mr. Amoss, Mr. Maino. Also, present, John W. Coffey, ICMA-CM, Community Manager, Stephanie Brown, District Clerk, Charles Henley, Finance Manager and Matt Goetz, Property Services Manager.

Mr. Maino asked Ms. Hagemeyer (owner of 551 Marlin Circle) for the approval to add item 8.A to the agenda and that she has received proper notice. Ms. Hagemeyer responded that she approves.

Mr. Maino requested item 8.A DOR Violation 21-001026 551 Marlin Circle to be added to the agenda.

*Mr. Amoss made a motion to add item 8.A to the agenda. Second by Mr. Morrissey. Motion passed unanimously.*

## Presentations and Proclamations

None.

## Approval of Minutes

*Mr. Grunow made a motion to approve minutes dated August 13, 2021. Second by Mr. Nugent. Motion passed unanimously.*

## Treasurer's Report

*Mr. Morrissey made a motion to approve the Treasurer's Report for August 24, 2021, as read. Second by Mr. Grunow. Motion passed unanimously.*

## Audience Participation

Tom Nelson-1008 Waterway Drive-voiced his concern about no action being taken by the BOT regarding violation 21-001026 551 Marlin Circle at the August 13, 2021, BOT Meeting.

Delores Russo-574 Marlin Circle-stated that she has been around the dog of the homeowners in violation case 21-001026 551 Marlin Circle and has found that the dog is not aggressive, and she hasn't had any negative encounters with the dog in question.



# BAREFOOT BAY RECREATION DISTRICT

## Unfinished Business

### DOR Violation

DOR Violation 21-001026 551 Marlin Circle

Mr. Maino explained the reasoning for bringing violation 21-001026 551 Marlin Circle back before the BOT. Mr. Repperger also read the applicable excerpt from the Policy Manual regarding the violation.

The homeowners (Gina and Eugene Hagemeyer) that received the violation stated that they have been compliant, the ticket issued by Brevard County Sherriff's Office has since been dismissed and they would like the issue to be resolved. They also stated that their dog was proven to be not aggressive.

Fred Firlein-639 Marlin Circle (resident/employee who filed the complaint). Stated that homeowners were fined and violated by Brevard County Sheriff's Office.

Pat Zwerin-552 Marlin Circle-spoke about a previous incident of aggressive behavior involving her dog and the homeowners dog from 551 Marlin Circle.

Mr. Morrissey asked where the incident took place. Homeowner Gina Hagemeyer stated it was on her property, Mr. Fierlein stated that he was across the street from the property. Mr. Grunow stated that he visited the homeowners who were in violation, and found the dog to be not aggressive, but also that their screen did not have a secure latch. Mr. Grunow spoke in favor of dismissing the violation action.

*Mr. Amoss made a motion to refer violation 21-001026 551 Marlin Circle to the General Counsel Repperger for legal action, equitable or other appropriate action with failure to comply. If the BOT brings any such action to enforce the DOR, the charge of such action shall be charged to the Respondents account and shall constitute as a lien. Second by Mr. Nugent. Motion fails 4-1. Mr. Maino was in favor.*

*Mr. Grunow made a motion to dismiss the action of violation 21-001026 551 Marlin Circle in its entirety. Second by Mr. Nugent. Motion passed unanimously.*

### Discussion of COVID-19 Precautions

Mr. Maino had questions about what we could do as a public entity. Mr. Repperger responded that precautions can be implemented for BBRD facilities in regard to health and safety, but BBRD cannot fine residents for failure to comply with a mask mandate. Mr. Nugent spoke in favor of residents being given the option on whether or not to wear masks. Mr. Grunow asked if there has been a spike in COVID-19 cases within Barefoot Bay. Mr. Coffey responded that he was not aware in any rise of COVID-19 cases.

*BOT consensus to not impose any restrictions at this time and revisit at the next BOT meeting.*





# BAREFOOT BAY RECREATION DISTRICT

## **Steward Medical Group Proposed Ground Lease**

Mr. Repperger made a request to the BOT to table this agenda item until the September 10, 2021, BOT Meeting.

*Mr. Nugent made a motion to table agenda item to the September 10, 2021, BOT Meeting. Second by Mr. Amoss. Motion passed unanimously.*

## **Shopping Center Electrical Upgrades Approval of Agreement**

Mr. Repperger made a request to the BOT to table this agenda item until the September 10, 2021, BOT Meeting.

*Mr. Morrissey made a motion to table agenda item to the September 10, 2021, BOT Meeting. Second by Mr. Grunow. Motion passed unanimously.*

## **Case No. 15-000310 05-2017-CA-018583 453 Egret Circle**

Options:

1. Pursue Final Judgment for full amount of fees and costs (approx. \$3,098.50+ fees to pursue the same). Would require expenditure of approximately \$1,750.00 more in legal fees.
2. Pursue Final Judgment for costs only (\$496.00).
3. Dismiss litigation/reflect amounts on owner account (unsecured).

*Mr. Grunow made a motion to dismiss litigation and reflect amounts on owner accounts. Second by Mr. Nugent. Motion passed unanimously.*

## **Case No.: 18-000591 05-2020-CA-052788 1025 Wren Circle**

Options:

1. Pursue Final Judgment for full amount of fees and costs (approx. \$2,455.74 + fees to pursue the same). Would require expenditure of approximately \$1,750.00 more in legal fees.
2. Dismiss litigation/reflect amounts on owner account (unsecured) or waive fees due to owner's personal financial situation.

Mr. Amoss asked if money is still owed would they be suspended. Mr. Henley responded yes if there are any amounts owed, they are automatically suspended. Mr. Repperger stated if fees are waived, they would be in compliance, and there would be no suspension.

*Mr. Grunow made a motion to Dismiss litigation/reflect amounts on owner account (unsecured). Second by Mr. Amoss.*

*Mr. Grunow made an amended motion to dismiss the legal action and waive fees for Case No.: 18-000591 05-2020-CA-052788 1025 Wren Circle. Second by Mr. Amoss. Motion passed unanimously.*



# BAREFOOT BAY RECREATION DISTRICT

## New Business

### **Shopping Center Lease Renewal: Sunshine Rental & Sales**

Staff recommends the BOT approve a five-year lease renewal for Building 1, Suite 7 at the Shopping Center according to the terms of the initial lease and authorize the Chairman to execute the renewal agreement when it becomes available from BBRD General Council Repperger.

*Mr. Morrissey made a motion to approve a five-year lease renewal for Building 1, Suite 7 at the Shopping Center according to the terms of the initial lease and authorize the Chairman to execute the renewal agreement when it becomes available from BBRD General Council Repperger. Second by Mr. Grunow. Motion passed unanimously.*

### **Shopping Center Lease: NAIYA, Inc. d/b/a Barefoot Bay Food Store**

Staff recommends the BOT approve a five-year lease for Building 1, Suite 1 at the Shopping Center according to the agreed upon terms and authorize the Chairman to execute the lease agreement when it becomes available from the BBRD General Council Repperger.

*Mr. Nugent made a motion to approve a five-year lease for Building 1, Suite 1 at the Shopping Center according to the agreed upon terms and authorize the Chairman to execute the lease agreement when it becomes available from the BBRD General Council Repperger. Second by Mr. Grunow. Motion passed unanimously.*

### **Authorization of Certificate to Non-Ad Valorem Assessment Roll for FY2021/22 and Resolution**

Resolution 2021-13 read by Mr. Repperger:

A RESOLUTION OF THE BOARD OF TRUSTEES OF THE BAREFOOT BAY RECREATION DISTRICT; PROVIDING FOR THE PREPARATION, ADOPTION, AND AUTHORIZATION OF CERTIFICATION OF A NON-AD VALOREM ASSESSMENT ROLL; PROVIDING FOR CORRECTIONS OF ERRORS AND OMISSIONS; PROVIDING FOR CONFLICTS; PROVIDING AN EFFECTIVE DATE.

*Mr. Nugent made a motion to approve Resolution 2021-13 as read and authorize Chairman Maino to sign the Certificate to Non-Ad Valorem Assessment Roll for FY2021/22. Second by Mr. Grunow. Motion passed unanimously.*

### **Liability & Workers' Compensation Insurance Award of Contract**

Staff recommends the BOT award liability and workers' compensation insurance coverage to Florida Insurance Alliance for \$147,083.00.

*Mr. Amoss made a motion to award liability and workers' compensation insurance coverage to Florida Insurance Alliance for \$147,083.00. Second by Mr. Morrissey. Motion passed unanimously.*



# BAREFOOT BAY RECREATION DISTRICT

## **Employee Insurance Renewals**

### Health Insurance

Staff recommends the BOT adopt the following plans for FY22 at 85.0% employer-paid premiums and at 40% dependent coverage at an estimated cost of \$370,169:

1. Renewal POS HFHP V5 6105
2. Renewal HFHP HMO 6600/100 (Obamacare affordable plan)

### Dental Insurance

Staff recommends the BOT award contract for dental insurance to Principal at a cost of \$7,7432.56 to BBRD.

### Group Life and AD&D Insurance

Staff recommends the BOT award contract for Group Life and AD&D Insurance to Principal at an annual cost of \$1,195.32.

### Vision Insurance

Staff recommends the BOT award contract for employee paid vision insurance to Principal for the VSP Choice plan at no cost to BBRB.

### Supplemental Short-Term Disability Insurance

Staff recommends the BOT award contract to Principal for supplemental life and accidental death & dismemberment (AD&D) insurance at zero cost to BBRD.

*Mr. Nugent made a motion to accept employee insurance renewals as presented by Mr. Coffey for the total amount of \$378,796.90. Second by Mr. Morrissey. Motion passed unanimously.*

## **Selection of RFP Evaluation Committee Member for Building A Retaining Wall Repairs Project**

Staff recommends the selection of one Trustee to serve as a voting member on the Request for Proposal (RFP) Evaluation Committee for the building A wall repairs project.

Mr. Coffey stated voting members will be Matt Goetz and Chairman Emeritus Klosky, CDO, trustee to be determined. Non-voting members are Community Manager John Coffey and Chairman Maino. RFP will be issued on August 31, 2021, and closes on October 1, 2021.

*Consensus of the BOT to appoint Mr. Grunow to serve as a voting member on the Request for Proposal (RFP) Evaluation Committee for the Building A Retaining Wall Repairs Project.*



# BAREFOOT BAY RECREATION DISTRICT

## **Selection of RFP Evaluation Committee Member for Golf Course Lake Bank Restoration Projects**

Staff recommends the selection of one Trustee to serve as a voting member on the Request for Proposal (RFP) Evaluation Committee for the Golf Course Lake Bank Restoration Projects.

Mr. Coffey stated voting members will be Ernie Cruz and Harvey Smith, trustee to be determined. Non-voting members are Community Manager John Coffey and Chairman Maino. RFP will be issued on August 25, 2021, and closes on September 24, 2021.

*Consensus of the BOT to appoint Mr. Amoss to serve as a voting member on the Request for Proposal (RFP) Evaluation Committee for the Golf Course Lake Bank Restoration Projects. Second by. Motion passed unanimously.*

## **Discussion of Amending Rules for the BOT**

Mr. Amoss gave an overview of proposed amendment regarding breaking a tie during a trustee nomination. Mr. Maino spoke in favor of the proposal, but with some verbiage changes. Mr. Grunow agreed with Mr. Maino and also stated that a resident suggested adding standardized questions to the potential BOT candidates. Mr. Nugent asked if it is within the BOT authority to change or choose the way a candidate is elected to fill a vacancy. Mr. Repperger responded yes; the BOT is in control of how a vacancy is filled.

*BOT Consensus for Mr. Amoss to work with Mr. Repperger to refine the proposal and bring it back to the BOT for consideration.*

## **Manager's Report**

### Resident Relations

#### **ARCC Meeting 08/17/2021**

- 1 old business permit: 1 tabled (permit package is still incomplete)
- 7 consent permits: all approved
- 13 other permits: all approved

#### **Next ARCC Meeting 08/31/2021**

- Will be held in Building D/E at 9am

#### **Violations Committee Meeting 08/27/2021**

- 29 cases are on the agenda

#### **Next Violations Committee Meeting**

- Scheduled for September 10<sup>th</sup> in Bldg. D/E at 10am

### Food & Beverage

- Labor Day, Monday September 6<sup>th</sup>:
  - The 19<sup>th</sup> Hole kitchen will be closed
  - The 19<sup>th</sup> Hole bar will be open from 11am-8pm



# BAREFOOT BAY RECREATION DISTRICT

- The Lounge will be open from noon – 8pm
- Grab n' go boxed lunches and hot dogs will be available at both locations

## Property Services

- Repaired chlorine and acid feeders at Pool #1
- Completed the retrofitting of the new long-term records storage unit (shelving installation next, then items can be transferred from the vault)
- Began cleaning of Building A in anticipation of the assembly room opening for use by the public on September 1st
- Patched walls and touched up paint in Building A assembly room
- Repaired loose ladder at Pool #2
- Disconnected the ice machine (Building A) from its temporary location and prepped for move (later installed in permanent location in the kitchen by Parkit sub-contractor)
- Located and repaired AC leak in the Convenience Store (i.e., not a roof leak as commonly believed)
- Repaired broken chain on the swings at the playground
- Constructed 2 new picnic tables
- Repaired a broken meat slicer at the 19th Hole
- Installed a new fire extinguisher at Building A
- Continued to solicit bids for upcoming projects
- Recruited and began training of the new Custodian Supervisor
- Replaced the AED unit at the tennis courts stolen from BBRD (\$1,200.00 replacement cost)
- Facilitate BBRD wide fire safety inspection (no violations found)

## Golf-Pro Shop

- Irrigation Pumps shaft and rebuild of packing boxes (date of completion will be provided once pumps are inspected by vendor)
  - 2<sup>nd</sup> Pump removed on August 9<sup>th</sup> for the same service as Pump #1 and will be returned when complete
  - Watering schedules on course will be varied to ensure one pump can cycle all areas of course needing water
- Directional signs for Pro Shop: In progress

## General Information

**RV Storage Lot CCTV Repairs** - Staff recently signed a proposal to repair the CCTV systems and upgrade lightning protection.

**Building A Renovations Project Update** – Staff anticipated receiving a change order for the platform installation this week. Preliminary information indicates the platforms will be installed 6-8 weeks after permitting is approved.

**Building A Towers Roof Replacement Project Update** – The new roofs passed final inspection yesterday.

**FY22 R&M/Capital Projects Schedule** – The September project tracker given to the Trustees at the first meeting of the month will contain the budgeted FY22 projects in September's edition.



# BAREFOOT BAY RECREATION DISTRICT

**Community Center Electrical Outage Update** – The outage that has resulted in multiple amenities/marquee sign/memorial garden fountain pump/area lights/lawn bowling irrigation pump house not working has been identified as a failure of one of BBRD's underground electrical supply lines. Compounding the problems are an antiquated meter and ancillary equipment that is not up to code and will need to pass final inspection for the wire replacement. One vendor (Complete Electric) has provided staff with a ballpark price of \$21,000 for the repairs/upgrade work. The vendor has a good history of reasonable prices and quality work in BBRD. Staff recommends the BOT authorize the Community Manager to sign the formal bid when it arrives without seeking a second bid and then placing the issue on the next agenda for public confirmation.

*BOT Consensus to authorize the Community Manager to sign the formal bid up to \$25,000 when it arrives without seeking a second bid and then placing the issue on the next agenda for public confirmation.*

## Attorney's Report

Mr. Repperger stated he would have an update on the beach pilings on the September 10, 2021, BOT meeting and DOR case report by the end of the week.

## Incidental Trustee Remarks

Mr. Grunow asked if Building A would still be opening on Sept 1, 2021. Mr. Coffey responded Building A will be open with the exception of the kitchen.

Mr. Maino reminded residents about the upcoming election and that the qualifying week is this week. He also clarified that the proposal to extend trustee term lengths will not involve additional elections.

## Adjournment

The next meeting will be on September 10, 2021, at 1pm in Building D/E.

Mr. Amoss made a motion to adjourn. Second by Mr. Nugent. Mr. Maino adjourned.

Meeting adjourned at 8:56pm.

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Jeff Grunow, Secretary

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Stephanie Brown, District Clerk

# Barefoot Bay Recreation District

## Treasurer's Report

September 10, 2021

### Cash Balances in General Fund as of 9/1/21

Petty Cash Total Petty Cash: \$ 2,500.00

### Operating Cash in Banks

MB&T Operating Account 452,522.54  
**Total Operating Accounts: 452,522.54**

### Interest Bearing Accounts

MB&T Money Market Account 1,350,681.90  
SBA Reserve Account 699,810.67  
**Total Interest Bearing Accounts: 2,050,492.57**

**Total Cash Balances in General Fund: \$ 2,505,515.11**

### Total Daily Deposits and Assessments Received for 8/18/21 - 9/1/21

Daily Deposits: \$ 79,047.52  
Interest Received: Money Market Account 128.54  
Interest Received: SBA Account 60.40  
Interest Received: Other Interest -  
Assessments Received: -  
**Total Deposits Received: \$ 79,236.46**

### Expenditures for 8/18/21 - 9/1/21

Check Number	Vendor	Description	Check Amount
57601	The Property Squad Inc.	Purchase of 401 Raven Dr - NRP	13,200.00
57629	Home Depot Credit Services	Building and Grounds Supplies	5,299.06
57644	White Bird Law	Legal Fees	10,259.50
57648	Complete Electric Inc.	30% Deposit for Community Center Electrical Repairs	6,288.00
57657	Florida Power & Light Co	Electricity	8,706.32
57667	Special District Services, Inc	Management Fees	13,774.06
57668	TLC Engineering Solutions Inc	19th Hole Walk in Cooler Project	5,985.68
	PayChex	Net Payroll for the pay period ending Aug 15, 2021	55,471.67
	United States Treasury	Payroll Taxes - for the pay period ending Aug 15, 2021	14,776.53
	PayChex	Net Payroll for the pay period ending Aug 29, 2021	56,304.72
<b>Total Expenditures \$5,000 and above:</b>			<b>\$ 190,065.54</b>

**Expenditures under \$5,000: \$ 42,735.49**

**Total Expenditures: \$ 232,801.03**

## Board of Trustees

Date: Friday, September 10, 2021  
Title: **Discussion of COVID-19 Precautions**  
Section & Item: 8.A  
Department: Administration, District Clerk  
Fiscal Impact: N/A  
Contact: John W Coffey, ICMA-CM, Community Manager  
Attachments:  
Reviewed by General Counsel: N/A  
Approved by: John W. Coffey, ICMA-CM, Community Manager



## Requested Action by BOT

### Background and Summary Information

BBRD lifted the last COVID-19 restriction on July 1, 2021. In late July, the CDC issued additional guidance concerning facial coverings. On the August 13, 2021, the BOT decided to assess conditions and discuss possible precautions at each meeting going forward.

Staff requests direction from the BOT regarding this matter.



## Board of Trustees

## Meeting Agenda Memo

Date: Friday, September 10, 2021

Title: **Shopping Center Electrical Upgrades Approval of Agreement**

Section & Item: 8.B

Department: Administration

Fiscal Impact: \$186,015.00 (FY21 Funding of \$101,500.00)

Contact: Cliff Repperger, General Counsel, General Counsel, John W Coffey, ICMA-CM, Community Manager

Attachments:

Reviewed by General Counsel: Yes

Approved by: John W. Coffey, ICMA-CM, Community Manager



### Requested Action by BOT

Approve Chairman Maino's execution of the draft proposed Agreement with Current Electrical Solutions, Inc.

### Background and Summary Information

On June 7, 2021, the BBRD Shopping Center Electrical Upgrade Evaluation Committee recommended the award to Current Electrical Solutions, Inc.

On June 22, 2021, the Board of Trustees approved the award of the contract to Current Electrical Solutions, Inc.

Attorney Repperger to provide a final draft proposed Agreement in advance of the meeting.

## Board of Trustees Meeting Agenda Memo

Date: Friday, September 10, 2021

Title: **Steward Medical Group Proposed Ground Lease**

Section & Item: 8.C

Item:

Department: Administration

Fiscal Impact: Rental Max \$20,000.00 annually Initial

Term/\$25,000.00 annually, each of two (2) Renewal Terms.

Contact: Cliff Repperger, General Counsel, General Counsel, John W Coffey, ICMA-CM, Community Manager

Attachments : Draft Ground Lease Agreement BBRD and Steward Medical Group, Exhibit A Legal Description for Ground Lease with Parcel Sketch, Exhibit B Conceptual Site Plan Steward Medical Group Land Lease, Executed LOI December 3, 2020 Ground Lease Steward Medical Group-BBRD

Reviewed by

General

Counsel: Yes

Approved by: John W. Coffey, ICMA-CM, Community Manager

### Requested Action by BOT

Approve Commercial Ground Lease with Steward Medical Group.

### Background and Summary Information

BOT executed a Letter of Intent with Steward Medical Group on December 4, 2020.

General Counsel investigated and resolved issues regarding designation of Subject Property as a "park parcel" pursuant to prior Resolution 97-1 during Spring of 2021.

Resolution of the issue required the repeal of Resolution 97-1, which was approved August 13, 2021.



**STEWARD MEDICAL GROUP**  
*AND*  
**BAREFOOT BAY RECREATION DISTRICT**  
**COMMERCIAL GROUND LEASE AGREEMENT**

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## **LEASE AGREEMENT**

THIS LEASE AGREEMENT (hereinafter referred to as the "Lease" or "Agreement"), made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2021, by and between BAREFOOT BAY RECREATION DISTRICT, an independent special district of the State of Florida, having its principal office and place of business at 625 Barefoot Blvd., Barefoot Bay, FL 32976 ("BBRD" or "District") and STEWARD MEDICAL GROUP c/o STEWARD HEALTH CARE SYSTEM, LLC, a corporate entity, maintaining its principal office and place of business at 1900 Pearl Street, Suite 2400, Dallas, Texas 75201 ("Tenant").

### **WITNESSETH THAT:**

**WHEREAS**, BBRD has the exclusive right and power to lease certain Property (as herein defined) located in the County of Brevard, State of Florida; and,

**WHEREAS**, BBRD desires to lease to Tenant, and Tenant desires to lease from BBRD, the Property upon the terms and conditions hereinafter set forth.

**NOW, THEREFORE**, in consideration of the promises, covenants, terms and conditions herein set forth, the parties have agreed and do agree as follows:

### **ARTICLE 1** **LEASE AGREEMENT, TERM, RENEWAL, AND RENTAL**

**SECTION 101: PROPERTY.** Subject to the terms and conditions set forth hereinafter, BBRD leases hereby to Tenant and Tenant rents hereby from BBRD, the property described on Exhibit A attached hereto (the "Property"), consisting of approximately .51 acres. Exhibit A consists of both a survey sketch and legal description of the Property. A copy of Tenant's Conceptual Site Plan Aerial Illustration is attached hereto as Exhibit B ("Conceptual Site Plan") and is incorporated herein by reference. The Parties agree that this Agreement shall be amended to incorporate and replace the Conceptual Site Plan in Exhibit B with a copy of the Actual Site Plan ("Actual Site Plan") to be submitted by Tenant to the Board of County Commissions of Brevard County ("Brevard County") once final approval of the Actual Site Plan is approved by Brevard County and any other appropriate regulatory agencies. Tenant, its directors, officers, employees, agents, contractors, suppliers, customers, invitees and guests, shall have the right of ingress to and egress from the Property over adjacent property owned by BBRD, including the use of the publicly dedicated rights-of-way and BBRD controlled vehicular rights-of-way adjacent to the Leased Property if approved by Brevard County, as part of the approval of the Actual Site Plan, subject to such reasonable policies, rules, and regulations as may be established by BBRD with respect to areas controlled by BBRD.

## **SECTION 102. TERM AND RENEWAL**

**Subsection 102.1. Term of Lease.** The Initial Term of this Lease shall be for a period of ten (10) years commencing on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_ (“Commencement Date”) and terminating on the last day of the one hundred twentieth (120<sup>th</sup>) month following the Commencement Date.

**Subsection 102.2. Option to Renew.** BBRD does hereby grant to Tenant the right, privilege and option to renew this Lease for two (2) additional terms of ten (10) years each, from the date of expiration of the Initial Term hereof upon the terms and conditions as herein contained, provided notice in writing to BBRD of Tenant’s intention to exercise said options is given at least one-hundred twenty (120) days prior to the expiration of the term hereof (unless lack of notice is waived by BBRD) and provided that Tenant shall not be in material default under the terms of this Lease beyond any applicable cure period at the time of such notice and provided further that this Lease is then in effect. Whenever reference is made herein to the “term” of this Lease, it shall include the Initial Term described in Section 102.1 above and the renewal terms described in this Subsection 102.2.

## **SECTION 103. USE OF PROPERTY**

**Subsection 103.1. Improvements to the Property.** BBRD acknowledges hereby that Tenant is leasing the Property for the purpose of constructing, maintaining and operating a medical clinic/facility on the Property, and all other facilities necessary for or related to Tenant’s present and future business, and that in order to utilize the Property for this purpose, it will be necessary to construct buildings and other improvements (collectively, “Improvements”) upon the Property and to make alterations and renovations thereto at Tenant’s sole cost and expense. Upon the Commencement Date of this Lease, BBRD will provide authorization for Tenant to act as Applicant on its behalf for any required license, permit, or site plan applications. Tenant shall be solely responsible for all costs related to any such applications. Tenant shall use its best efforts to provide BBRD copies of any and all license, permit, and site plan applications filed with Brevard County or other regulatory agencies at least fourteen (14) days in advance of filing. Tenant’s activities shall in no way interfere with the established use of BBRD adjacent commercial shopping center and/or its related parking. Tenant shall be solely responsible for all costs associated with the extension of any required utility lines necessary to serve the Leased Property and for the construction of any required stormwater maintenance system serving the Leased Property that arises from its Improvement/development of Tenant’s Improvements. BBRD will grant any required temporary easements for development purposes so long as Tenant shall not unreasonably interfere with BBRD business operations during the Improvement/development process. The parties shall reasonably coordinate Improvement/development efforts and business operations during

development of the Leased Property. Tenant shall take the subject property “AS IS” and shall be solely responsible for any required cost(s) and expense(s) arising from any inherent site condition that creates an impediment to Improvements/development. Tenant hereby agrees to indemnify and hold harmless BBRD from any code enforcement or regulatory compliance fines or assessments levied by Brevard County or any other regulatory agency as a result of Tenant’s noncompliance with any approved permit or site plan requirement(s). At the termination of this Lease and any applicable renewal term(s), BBRD shall have the option of accepting the Improvements, including a planned modular building or requiring its removal by Tenant. All Improvements such as parking, utilities, and drainage shall become property of BBRD. Except for removal of the planned modular building, Tenant shall have no obligation to remove site improvements upon termination of the Lease or renewal term(s), if any.

For purposes of this Lease, the term “Construction Period” shall mean the period from the Commencement Date (as defined in Subsection 102.1 above) until the Rent Commencement Date (as defined in Subsection 104.1 below). Tenant shall, upon obtaining any and all necessary government permits and/or approvals, have the right to change, alter, raze or add to any Improvements, or any part thereof, now existing or change, alter, or add to any Improvements, or any part thereof hereafter erected, constructed, or installed on the Property and to remove (other than the planned modular building upon termination if to be retained by BBRD) the personal property (the “Personalty”) installed or placed by Tenant in, on, or about the Improvements on the Property. BBRD acknowledges and agrees that title to all future Improvements and Personality shall not be in BBRD, but is and shall remain in Tenant or any sub-Tenant of Tenant during the term of this Lease. Should BBRD accept ownership of the planned modular building at the expiration of the Lease Agreement, Tenant shall sign any appropriate title to such planned modular building over to BBRD without additional consideration.

**Subsection 103.2. Delivery and Acceptance of the Property.** In the event that Tenant is unable to secure necessary governmental approvals, permits, and licenses for the Improvements and/or Actual Site Plan within fifteen (15) months from the Commencement Date, then this Lease shall be null and void ab initio, and neither party shall have any further obligation to the other hereunder, and payments previously made by Tenant to BBRD shall be retained by BBRD. BBRD shall not be required to expend any money or incur any costs in assisting Tenant in securing approval for Improvements. BBRD does not guarantee the successful or timely issuance of said approvals, grants, permits, or authorizations by any governmental agency.

**Subsection 103.3. Payment and Performance Bond.** Prior to entering into any contract for the construction, improvement or repair of any building or structure, or for any other construction project, on the Property, Tenant shall require its contractor(s) to execute a payment and performance bond (“Bond”) with a surety insurer authorized to do business in the State of Florida as surety. If Tenant acts as general contractor for any



such project, then Tenant shall itself execute the Bond. Upon execution, Tenant shall record the Bond in the Public Records of Brevard County, Florida and deliver a copy of the Bond to BBRD. The Bond shall be conditioned upon the contractor's performance of the construction work in the time and manner prescribed in the contract and promptly making payments to all persons defined in Florida Statute §713.01 who furnish labor, services, or materials for the accomplishment of the work provided for in the contract. The Bond shall not contain any provision that restricts the classes of persons defined in Florida Statute §713.01, or that purports to affect the venue of any proceeding relating to the Bond. The amount of the Bond shall equal the contract price. The Bond must state on its front page: 1) the name, principal business address and phone number of the contractor, the surety, and BBRD as owner of the Property; 2) the contract number if applicable; and, 3) a description of the project sufficient to identify it. The Bond shall in all other respects meet the requirements of Florida Statute §255.05, regardless of whether BBRD is party to the contract or whether the project constitutes a public work. In lieu of the Bond required by this Subsection, a contractor may file with BBRD an alternative form of security in the form of cash, money order, certified check, cashier's check or irrevocable letter of credit in an amount equal to the contract price.

#### **SECTION 104. BASE RENT AND ADJUSTMENTS**

**Subsection 104.1. Base Rent.** Except during the "Rent Abatement Period" and the 3-month extension thereof (if applicable), Annual base rent during the Initial Term shall be twenty thousand dollars (\$20,000.00) annually, payable by Tenant in twelve (12) equal monthly installments each year of the Initial Term. Except as otherwise set forth in this Section, Total base rent during the Initial Term shall be \$200,000.00. BBRD agrees to remit such sales tax to the State of Florida or other legal BBRD as required by law.

Annual base rent during each Renewal Term shall be twenty-five thousand dollars (\$25,000.00) annually, payable by Tenant in twelve (12) equal monthly installments throughout each year of the Extension Term. Total base rent during each Renewal Term shall be \$250,000.00.

Rent under the Lease shall be abated for a period of nine (9) months from the Commencement Date of the Lease (the "Rent Abatement Period"), during which Rent Abatement Period Tenant shall pursue permitting approval and build-out on the Leased Property. In the event a Certificate of Occupancy/Completion has not been issued on or before expiration of the Rent Abatement Period, Tenant shall be entitled to one (1) three (3) month extension of the Rent Abatement Period (for a cumulative total of twelve (12) months for build-out of Improvements). In the event a Certificate of Occupancy/Completion has not been issued following the 3-month extension of the Rent Abatement Period, rental payments shall commence at half base monthly rent effective on the first annual anniversary

of the Commencement Date of the Lease for a period not to exceed three (3) months (“Half Rent Commencement Date”). Unless otherwise agreed to by both parties, upon the earlier of either the issuance of a Certificate of Occupancy/Completion or fifteen (15) months from the Commencement Date of the Lease, full rental payments shall commence (“Rent Commencement Date”).

**Subsection 104.2. Additional Rent for Ad Valorem Taxes.** Tenant shall pay to BBRD as additional monthly rent one twelfth (1/12) of the estimated annual ad valorem tax bill and any non-ad valorem fees and assessments on the Property, plus sales tax. Upon determination of the actual taxes due on the Property, Tenant shall, within thirty (30) days of BBRD’s notice of additional sums due pursuant to the tax bill, pay any such additional sums owed bill to BBRD, and in the event Tenant has overpaid them, Tenant shall receive a credit toward its next monthly tax payment, and continue receiving a credit until the tax credit is used up. For purposes of estimating the tax payments to be paid by Tenant hereunder, BBRD shall use the prior tax year billing, which the parties acknowledge does not include planned improvements or increase in land valuation. Payment of applicable taxes is addressed further in Article 3 to this Lease.

**SECTION 105. DELINQUENT PAYMENTS.** If any rent payment is not received by BBRD within five (5) days after such payment is due, then a delinquent fee of one and one half percent (1.5%) of the actual undisputed past due amount shall be added to the rent payment and shall be paid by Tenant to BBRD. Tenant’s failure to pay any installment of rent within thirty (30) days after the installment is due shall constitute an event of default under the terms of the Lease.

## **ARTICLE 2** **BBRD AND TENANT OBLIGATIONS**

**SECTION 201. COMPLIANCE WITH ALL LAWS.** Tenant agrees that the business to be operated by it on the Property will not be operated in such a manner as to constitute a nuisance (based upon the usage of surrounding land on the Commencement Date) or a hazard and that in connection with the operation of the business, Tenant will substantially observe and comply with all applicable material laws, ordinances, orders and regulations applicable to the business operated by Tenant on the Property. BBRD warrants and represents that on the Commencement Date, the Property is in compliance with all applicable laws, rules, ordinances, orders, and regulations (Laws, including, without limitation, Laws regarding Hazardous Wastes).

**SECTION 202. REPAIRS AND ALTERATIONS.** BBRD shall not be obligated to maintain the Property or the Improvements thereon during the Lease term or any renewal hereof unless required due to the negligence or willful act of BBRD.

Tenant agrees, at its sole cost and expense, to maintain all of the Improvements, including any parking and service areas, in a good state of repair and to keep the Property in a reasonably clean, neat and orderly condition.

**SECTION 203. UTILITIES AND SITE ACCESS.** BBRD will cooperate with the Tenant in allowing the Tenant access to the adjacent shopping center property owned by BBRD for the purpose of the Tenant's preparation of required engineering studies and application process necessary to extend utilities and transportation access to the Leased Property. The capacity and availability of public and private utilities is not guaranteed by BBRD. Further, BBRD cannot guarantee approvals for road entrances, traffic island crossovers, signalization, turning lanes, acceleration lanes, etc. or any other traffic control items required by Brevard County. In the event a critical utility (potable water, sewer, electricity, and/or telecommunications) or adequate transportation access cannot be made available to the Property within fifteen (15) months of the Commencement Date, Tenant may terminate this Lease without prejudice. Unless otherwise stated in the Lease, Tenant is responsible for all costs associated with the extension of utilities, both public and private, to the Property and Improvements necessary to provide transportation access.

Tenant shall have the right to grant any easements, rights of way, and licenses required by any public or quasi-public utility company with respect to the construction, operation and use of the Improvements and Personalty. BBRD shall execute any instruments any such public or quasi-public utility companies may reasonably request or require from BBRD; provided, however, that in each case such easement, right of way or license (i) does not materially impair the value, utility and remaining useful life of the Property, (ii) is reasonably necessary in connection with the construction, operation or use of the Improvements and the Personalty, and (iii) does not cause the Property or any portion thereof to fail to comply with all material requirements of law.

**SECTION 204. UTILITY CHARGES.** Tenant shall be responsible for charges for electricity, water, sewer, solid waste, or any other utility or service consumed in connection with the occupancy of the Property by Tenant.

**SECTION 205. ADDITIONAL TENANT OBLIGATIONS.** Brevard County will determine if the Improvements are of sufficient size to require a transportation concurrency study and/or other traffic access

studies. Tenant is responsible for all studies and costs associated with this requirement, as well as the assessments and improvements required by Brevard County. In addition, Tenant is responsible for all transportation, utility and other impact fees associated with this project levied by Brevard County.

#### **SECTION 206. FAILURE OF TENANT TO COMPLETE CONSTRUCTION.**

A. Tenant shall substantially complete construction of the Improvements on or before fifteen (15) months from the Commencement Date of this Lease unless the delay in construction was caused by elements of Force Majeure in which event this period shall be extended by BBRD for a reasonable length of time to allow Tenant to complete the construction of its Improvements.

B. In the event Tenant fails to complete said Improvements by the date specified herein or the date of any extensions granted by BBRD, then BBRD shall have the right to terminate this Lease without obligation of BBRD to pay Tenant any compensation for work performed and funds expended prior to such termination, provided, however, that BBRD delivers written notice to Tenant at least (90) ninety days in advance of the termination date specified in the notice and giving Tenant the opportunity to cure the development failure within said ninety day period.

**SECTION 207. ADDITIONAL COVENANTS, WARRANTIES AND REPRESENTATIONS OF BBRD.** BBRD warrants and represents that there are (i) no mortgages, liens or encumbrances, (ii) no covenants or restrictions, and (iii) no agreements with third parties, which may prevent or impair BBRD from performing any of its covenants under this Lease.

**SECTION 208. SIGNS.** Tenant shall have the right to erect and maintain such sign or signs on the Property and Improvements as may be permitted by applicable law.

**SECTION 209. EXCLUSIVITY.** Except for that certain lease between BBRD and Shaw Medical Group, LLC with a commencement date of August 1, 2020 (the "Nurse Practitioner Lease"), and as such Nurse Practitioner Lease may be amended or renewed, BBRD agrees that the provision of professional medical services shall at all times during the Initial Term or any Renewal Term be exclusive to Tenant. Except for the Nurse Practitioner Lease, and as such Nurse Practitioner Lease may be amended or renewed, BBRD agrees it shall not enter into a medical office space lease with a medical service provider other than Shaw Medical Group during the Initial Term or any renewal

Term, nor shall BBRD allow any shopping center tenants to assign and/or change use of their respective Leased Property in a manner that competes with Tenant.

### **ARTICLE 3**

#### **TAXES**

**SECTION 301. AD VALOREM TAXES.** Tenant shall pay according to the method hereinabove described all ad valorem taxes levied or assessed against the Property, plus sales tax, by the appropriate governmental authorities as a result of Tenant's occupancy or use of the property pursuant to this Lease, whether the billing is addressed to BBRD or Tenant, together with all taxes levied against any stock of merchandise, furniture, furnishings, equipment and other property located in, on or upon the Property.

Tenant shall have the right to contest the validity or amount of any ad valorem tax imposed against the Property and the Improvements at Tenant's sole cost and expense, however, Tenant's contest of the validity of any tax imposed against the Property and Improvements shall not relieve Tenant of its obligation to pay the monthly tax payments called for in Section 104.2 above. In the event Tenant is successful in its contest of the tax and as a result the tax is changed, then BBRD agrees to adjust the monthly tax payment due to reflect the new tax assessment, and Tenant agrees to pay any sums necessary to bring the monthly payments on deposit with BBRD to an amount sufficient to pay the annual tax bill when it comes due. Upon adjudication (including all appeals) of such contest, Tenant shall pay all court costs, interest, penalties and other expenses related to the appeal.

**SECTION 302. SOLID WASTE FEES.** Tenant shall pay according to the method hereinabove described, all solid waste fees assessed against the Property, plus sales tax, by the appropriate governmental authorities as a result of Tenant's occupancy or use of the Property pursuant to this Lease, whether the billing is addressed to BBRD or Tenant.

**SECTION 303. STORM WATER FEES.** Tenant shall pay according to the method hereinabove described, all storm water fees assessed against the Property, plus sales tax, by the appropriate governmental authorities as a result of Tenant's occupancy or use of the Property pursuant to this Lease, whether the billing is addressed to BBRD or Tenant.

**SECTION 304. EMERGENCY AMBULANCE/EMS FEES.** Tenant shall pay according to the method hereinabove described, all emergency ambulance/EMS fees assessed against the Property, plus sales tax,

by the appropriate governmental authorities as a result of Tenant's occupancy or use of the Property pursuant to this Lease, whether the billing is addressed to BBRD or Tenant.

**SECTION 305. OTHER TAXES AND FEES.** Tenant shall pay as a result of Tenant's occupancy or use of the property pursuant to this Lease, according to the method described above, any and all taxes, fees, or assessments, plus sales tax, that may be levied and not know at this time.

#### **ARTICLE 4** **INSURANCE AND INDEMNITY**

**SECTION 401. LIABILITY INSURANCE.** In addition to such insurances as may be required by law, Tenant shall maintain, without lapse or material chance, for so long as it occupies the Property and Improvements, the following insurance:

(A) Commercial General Liability Insurance, including Contractual Liability, to cover Tenant's Property and Improvements and operations, in an amount not less than \$1,000,000 combined single limit per occurrence for bodily injury and property damage. BBRD must be shown as an additional insured with respect to this coverage. Coverages shall be for each occurrence, with either no aggregate or an annual policy aggregate of no less than twice the amount of coverage required for each occurrence. In the event that Tenant's available coverage falls below the per occurrence amount shown above, Tenant shall secure a new certificate of insurance evidencing the required coverage.

(B) Automobile Liability Insurance covering all owned, non-owned and hired vehicles (including ground or mobile equipment) used by Tenant in connection with its operations under this Agreement in an amount not less than:

(1) \$1,000,000 combined single limit per occurrence for bodily injury and property damage covering all vehicles and ground and mobile equipment used by Tenant in connection with its business operation; and/or

(2) \$1,000,000 combined single limit per occurrence for bodily injury and property damage covering such vehicles being used by Tenant on the Leased Property.

(C) The insurance coverages required shall include those classifications, as listed in standard liability insurance manuals, which most nearly reflect the operations of Tenant under this Agreement. All insurance policies required pursuant to the terms of this Agreement shall be issued in companies approved to do business under the laws of the State of Florida. Such companies must be rated no less than "A" as to management, and no

less than “V” as to strength in accordance with the latest edition of “Best’s Insurance Guide”, published by A.M. Best Company, Inc., or its equivalent, subject to approval of BBRD’s General Counsel.

#### **SECTION 402. PROPERTY INSURANCE:**

(A) Builders Risk and Hazard Insurance: Tenant, at its sole cost and expense, throughout the term of this Agreement, shall keep the Improvements insured on an “All Risk” basis in an amount not less than 100% of the full replacement value of the Improvements against loss or damage (in excess of a reasonable per occurrence deductible amount, which shall be the responsibility of Tenant) by fire, lightning, tornado, hurricane, windstorm, hail, flood, earthquake, explosion, riot, riot attending strike, civil commotion, vandalism and malicious mischief, sprinklers and sprinkler leakage, aircraft, vehicles and smoke, or any other casualty in an amount not less than 100% of the full replacement value of the Improvements to the extent such coverage is commercially available at commercially reasonable rates. The full replacement value of the Improvements shall be established as of the Commencement Date of this Lease and shall be established at intervals of not more than three (3) years thereafter, by any professional property evaluators used by BBRD for establishing replacement values for BBRD property. Any deficiency in the amount of the proceeds from such property insurance resulting from a failure by Tenant to re-establish the full replacement value of the Improvements shall be the sole responsibility of Tenant. In addition, BBRD shall be shown on the policies as a loss payee.

(1) Damage or Destruction and Restoration of the Improvements: In case of damage to or loss of all or a portion of the Improvements, Tenant shall give prompt notice thereof to BBRD; and, Tenant shall promptly commence and complete with due diligence (subject only to delays beyond its reasonable control), the restoration of the damaged or destroyed portion of the Improvements as nearly as reasonably practicable to the value and condition thereof immediately prior to such damage or destruction. In the event of such damage or destruction, the proceeds of all property insurance policies shall be used to restore the facility to make it function for the uses permitted under Article 1. Tenant shall receive reimbursement from the proceeds of all property insurance policies for the Improvements and shall be obligated to provide any additional monies necessary for such restoration.

(B) Business Interruption Insurance: Tenant at its sole cost and expense throughout the term of this Agreement, shall maintain business interruption insurance at a minimum, in an amount sufficient to continue making land rental, and payments of taxes and insurance, during the rebuilding period as a result of damage to the Improvements.

**SECTION 403. INSURANCE CERTIFICATES:** Prior to the commencement of operations hereunder and annually thereafter, Tenant shall furnish or cause to be furnished certificates of insurance to BBRD which certificates shall clearly indicate that:

- (A) Tenant has obtained insurance in the types, amounts and classifications as required for strict compliance with this Article;
- (B) The policy cancellation notification provisions specify at least thirty (30) days advance written notice of cancellation to BBRD;
- (C) BBRD is named as an additional insured with respect to Tenant's commercial general liability policies;
- (D) BBRD is named as a loss payee with respect to Tenant's builder's risk and property insurance policies; and
- (E) On said insurance certificates, liability coverage shall include contractual liability and notification of cancellation.

**SECTION 404. ADDITIONAL INSURANCE:** In addition to the types and levels of coverage provided in this Article, BBRD reserves the right to require Tenant to provide additional types of coverage and/or different or higher levels of coverage from time to time during this Agreement, upon issuance of notice in writing to Tenant, which notice shall automatically amend this Agreement effective 90 days after such notice. If such coverage is not commercially available, reasonable documentation with respect thereto shall be provided by Tenant to BBRD.

**SECTION 405. COMPLIANCE:** Compliance with the requirements of this Article 4 shall not relieve Tenant of its liability under any other portion of this Agreement or any other agreement between BBRD and Tenant.

**SECTION 406. RIGHT TO EXAMINE:** BBRD reserves the right, upon reasonable notice, to examine true copies of applicable portions of policies of insurance (including but not limited to binders, amendments, exclusions, riders and applications) to determine the true extent of coverage. Tenant agrees to permit such inspection at the offices of BBRD.



**SECTION 407. PERSONAL PROPERTY:** Any personal property of Tenant or of others placed on the Property and Improvements shall be at the sole risk of Tenant or the owners thereof, and BBRD shall not be liable for any loss or damage, except to the extent such loss or damage was caused by the negligence or willful misconduct of the BBRD, as limited by Section 768.28, Florida Statutes.

**SECTION 408. INDEMNIFICATION.** Tenant shall indemnify and hold harmless BBRD and its Trustees, officers, employees, agents, attorneys, and instrumentalities from any and all liability, losses or damages, including attorneys' fees and costs of defense, that BBRD or its Trustees, officers, employees, agents, attorneys or instrumentalities may be subject to as a result of claims, demands, suits, causes of action or proceedings of any kind or nature arising out of, relating to or resulting from the performance of this Agreement by Tenant, the Tenant's business activities, and/or the actions of Tenant's employees, agents, servants, partners, principals, contractors, subcontractors, sub-Tenants, or invitees. Tenant shall pay all claims and losses in connection therewith and shall investigate and defend all claims, suits or action of any kind or nature in the name of BBRD, where applicable, including appellate proceedings, and shall pay costs, judgments and attorney's fees which may issue thereon. Tenant expressly understands and agrees that any insurance protection required by this Agreement or otherwise provided by Tenant shall in no way limit the responsibility to indemnify, keep and save harmless and defend BBRD or its Trustees, officers, employees, agents, attorneys, and instrumentalities as herein provided. The obligation of Tenant hereunder shall survive the termination of this Agreement. Such payment on behalf of BBRD shall be in addition to any and all legal remedies available to BBRD and shall not be considered to be BBRD's exclusive remedy. In agreeing to this provision, BBRD does not intend to waive any defense or limit of sovereign immunity to which it may be entitled under Section 768.28, Florida Statutes or otherwise provided.

## **ARTICLE 5**

### **PREVENTION OF USE OF THE PROPERTY**

If, after the effective date of this Lease, Tenant is precluded or prevented from constructing or operating the Improvements on the Property as contemplated by Tenant by reason of any zoning law, zoning ordinance or zoning regulation of any public BBRD having jurisdiction over the Property, and such prohibition shall continue for a period of at least ninety (90) days, then Tenant may terminate this Lease by giving to BBRD not less than thirty (30) days prior written notice of termination.

## **ARTICLE 6**

### **DEFAULT BY TENANT**

As used in this Lease, the term "event of default" shall mean any of the following:

(A) The failure of Tenant to fulfill any duty or obligation imposed on Tenant by this Lease;

(B) The filing by Tenant of a petition or other request for any remedy or relief under the U.S. Bankruptcy Code, the appointment of a receiver over Tenant or Tenant's assets, an assignment by Tenant for the benefit of creditors, or the participation by Tenant in any insolvency proceeding including the filing of an involuntary petition under 11 U.S.C. §303 that is not dismissed within ninety (90) days; without limiting the foregoing, this Subsection would apply to any ancillary proceedings or related relief in any insolvency type proceeding in any jurisdiction in the world;

(C) The taking or the attempted taking of the Tenant's leasehold interest hereunder pursuant to an execution on a judgment or otherwise.

Upon the happening of any event of default under paragraphs "(B)" or "(C)" of this Article 6, or upon Tenant's failure to pay rent when due hereunder, BBRD may, at its option, immediately terminate this Lease and evict Tenant therefrom without prejudice to any other remedy. However, upon the happening of an event of default under "(A)" of this Article 6, except for the failure to pay rent before the exercise of such option, BBRD shall give written notice of such event to Tenant, which shall have thirty (30) days thereafter within which to remedy or correct such default.

#### **ARTICLE 7** **DEFAULT BY BBRD**

If BBRD fails to perform any of its covenants, agreements or other obligations under this Lease, and such failure continues for a period of thirty (30) days after receipt by BBRD of written notice of such failure, or in the event of emergency promptly after written notice, then Tenant shall have the right (but not the obligation) to take such actions, and to expend such monies, after BBRD's approval of the written quote for such expenditures prior to Tenant authorizing the expenditure, as Tenant reasonably deems necessary or appropriate to perform BBRD's covenants, agreements or obligations and BBRD provides written notification it cannot remedy such failure. In such event, Tenant shall be entitled to set-off against base rent otherwise due hereunder all amounts which Tenant expends to perform BBRD's obligations. The foregoing rights of self-help and set-off shall be in addition to, not in lieu of, any rights and remedies which Tenant has at law, in equity or under this Lease.

#### **ARTICLE 8** **REAL ESTATE COMMISSION**

BBRD and Tenant covenant and warrant one each to the other that it has not authorized any person, firm or corporation as a real estate agent or broker to deal on behalf of BBRD with Tenant or Tenant with BBRD, and BBRD and Tenant agree to indemnify and hold each other harmless from any claim for remuneration, commissions or broker's fees arising out of this transaction and Lease.

## **ARTICLE 9**

### **IDENTITY OF INTEREST**

The execution of this Lease or the performance of any act pursuant to the provisions hereof shall not be deemed or construed to have the effect of creating between BBRD and Tenant the relationship of principal and agent or of a partnership or of a joint venture, and the relationship between them shall be and remain only that of BBRD and Tenant.

## **ARTICLE 10**

### **NOTICES AND REPORTS**

Any notice, report, statement, approval, consent, designation, demand or request to be given or any option or election to be exercised by a party under the provision of this Lease shall be effective only when received and when made in writing and delivered (or mailed by registered or certified mail with postage prepaid or by Federal Express to the other party at the following address:

BBRD:	John Coffey, ICMA-CM Community Manager Barefoot Bay Recreation District 625 Barefoot Blvd. Barefoot Bay, Florida 32934
Tenant:	Sanjay K. Shetty, MD Executive Vice President Steward Medical Group c/o Steward Health Care System 1900 N. Pearl Street Suite 2400 Dallas, TX 75201

Provided, however, that either party may designate a different address from time to time by giving to the other party notice in writing of the change. Rental payments to BBRD shall be made by Tenant at BBRD's address provided herein.

**ARTICLE 11**  
**MEMORANDUM OF LEASE**

Either party may file a Memorandum of the Lease with the Property Appraiser's Office or have the Lease recorded by the Clerk of Court at the filing or recording party's sole expense.

**ARTICLE 12**  
**ENTRY OF BBRD**

BBRD may enter the Property during business hours with reasonable advance notice (not less than three (3) business days, except in emergencies constituting an immediate threat to life or property) and subject to Tenant's security rules and regulations:

- (A) To inspect or protect said Property;
- (B) To determine whether Tenant is complying (as required under this Lease) with the applicable laws, orders or regulations of any lawful BBRD having jurisdiction over the Property or any business conducted therein; or
- (C) To exhibit the said Property to any prospective purchaser when Tenant is in default of this Lease or has notified BBRD of intention to terminate this Lease or during the last six (6) months of the Initial Term or any Renewal Term of this Lease.

No authorized entry by BBRD shall constitute an eviction of Tenant or a deprivation of its rights or alter the obligation of BBRD or create any right in BBRD adverse to the interest of Tenant hereunder, provided BBRD shall not unreasonably interfere with Tenant's use and occupancy of the Property or Tenant's business operations.

**ARTICLE 13**  
**LEASE EXPIRATION**

At the expiration of the Lease, all improvements erected on the Property shall become the sole property of BBRD. Any and all trade fixtures, signs, and other personal property placed on the Property by Tenant (other than the planned modular building) shall remain Tenant's sole property, and Tenant shall have the right to remove the same within ten (10) days after expiration of the Lease, provided any damages caused by such removal are repaired by Tenant at the time of removal. In the event Tenant fails to remove its personal property within ten (10) days after expiration of the Lease, said failure to remove shall be deemed to be an abandonment of the property. In the event of such abandonment, BBRD shall have the right to remove and sell or dispose of the personal property without providing Tenant with any notice of removal, sale, or disposal of the personal property, and without any

liability to the Tenant. All monies received from any sale or disposal of the personal property by BBRD shall first be used to reimburse BBRD for any expenses incurred including without limitation attorney's fees and costs of all kind and nature, and the balance remaining after setting off any sums still owed by Tenant to BBRD shall be remitted to the Tenant. BBRD shall have the option of accepting the modular building or requiring its removal by Tenant at the expiration or termination of this Lease. Should BBRD accept ownership of the planned modular building at the expiration of the Lease Agreement, Tenant shall sign any appropriate title to such planned modular building over to BBRD without additional consideration.

#### **ARTICLE 14** **QUIET ENJOYMENT**

Subject to the provisions of this Lease, BBRD covenants that Tenant, on paying the rent and performing the covenants of this Lease on its part to be performed, shall and may peaceably and quietly have, hold, and enjoy the Property for the term of this Lease. BBRD represents that it has the authority to execute this Lease and that it has obtained all necessary governmental authorizations or approvals to execute this Lease and that this Lease constitutes a valid and binding obligation of BBRD, enforceable against BBRD in accordance with its terms.

#### **ARTICLE 15** **BBRD POLICIES**

From time to time, BBRD may adopt and amend Policies with respect to the occupancy and use of the Property. Tenant shall observe and obey such Policies and shall require its officers, agents, employees, subtenants, contractors, and suppliers, to observe and obey the same. BBRD reserves the right to deny access to the Property to any person or entity that fails or refuses to obey and comply with such Policies, or any applicable laws. BBRD's Policies will not be inconsistent with the terms of this Lease, nor with BBRD's governing documents, nor with any Brevard County Ordinance. Tenant shall be furnished a current copy of BBRD's Policy Manual and any amendments thereto within ten (10) days of the Commencement Date of this Lease Agreement.

#### **ARTICLE 16** **NONDISCRIMINATION**

Tenant covenants and agrees, as a covenant running with the land comprising the Property, that it will not discriminate against anyone in any protected class including, but not limited to race, creed, color, national origin, religion, gender, or sexual orientation pursuant to any title of the of the Civil Rights Act of 1964 applicable to BBRD,

and as said regulations may be amended.

## **ARTICLE 17** **WARRANTIES**

BBRD warrants that upon commencement of the Lease term, the Property will be free and clear of all encumbrances except ad valorem taxes for the current calendar year and easements and restrictions of record; that there are no easements and/or restrictions of record or otherwise, which will (i) impair, preclude or adversely affect Tenant's use and development of the Property, as contemplated by this Lease, (ii) interfere with Tenant's rights under this Lease, or (iii) interfere with BBRD's ability to perform its covenants and obligations under this Lease; that BBRD has full power and BBRD to execute this Lease and that it will warrant and defend the leasehold interest created hereby against all parties whomsoever and that Tenant upon observing and complying with the terms, covenants and conditions of this Lease shall enjoy the use and occupancy of the Property during the Lease term and any renewals thereof.

## **ARTICLE 18** **ASSIGNMENT AND SUBLETTING**

Tenant shall not assign this Lease or sublet the Leased Property or any portion thereof, or otherwise transfer any right or interest hereunder, without the prior written consent of BBRD, which consent shall not be unreasonably withheld or delayed. If BBRD consents to the assignment, subletting, or other transfer of any right or interest hereunder by Tenant, such approval shall be limited to the particular instance specified in the consent and Tenant shall not be relieved of any duty, obligation, or liability under the provisions of this Lease. In the event Tenant wishes to assign this Lease to another party, and BBRD consents to the assignment there will be a \$2,500 administrative fee charged to Tenant.

## **ARTICLE 19** **ENVIRONMENTAL REPRESENTATIONS, WARRANTIES, AND INDEMNIFICATION**

### **SECTION 1901. ENVIRONMENTAL REPRESENTATIONS AND WARRANTIES BY TENANT.**

Tenant represents and warrants that it will comply and will be in compliance in all material respects with all

applicable environmental laws, ordinances, orders or decree of all state, federal, municipal, or other governmental body or agency, as it relates to the subject Property.

Tenant further warrants that no hazardous or toxic waste or hazardous substances (as defined in the Comprehensive Environmental Compensation and Liability act of 1980, as amended, the Resources Conservation and Recovery act of 1986, as amended, or any successor or similar law) will be processed, discharged, stored, treated, disposed of or managed by Tenant, its assigns, subtenants, agents or contractors at the Property subject to this Lease other than in accordance with all federal, state and local environmental laws, regulations, codes or ordinances.

**SECTION 1902. ENVIRONMENTAL INDEMNIFICATION BY TENANT.** Tenant hereby agrees to indemnify, defend and hold BBRD harmless from and against any and all claims, lawsuits, losses, liabilities, damages, and expenses (including without limitations cleanup costs and reasonable attorney's fees arising by reason of the aforesaid or an action against Tenant under this indemnity) resulting directly or indirectly from, out of or by reason of (i) any Hazardous Waste being located on the Property which is attributed to Tenant, its officers, directors, employees, agents, assigns, subtenants, guest, invitees, contractors, or subcontractors, or (ii) any breach of Section 1901 or (iii) an Environmental Complaint occurring as a result of occupancy of the Property by Tenant, its subtenants or assigns. "Environmental Complaint" as used in the Lease means any complaint, order, citation or notice from a governmental or private person or entity with regard to any federal, state or local environmental and safety laws, regulations, codes or ordinances.

## **ARTICLE 20** **MORTGAGE INTEREST**

Notwithstanding any provision of this Lease agreement to the contrary, the provisions herein-after set forth shall apply to the holder of record of a first mortgage on Tenant's interest herein:

(A) Tenant shall have the right to mortgage Tenant's interest under this Lease to a federal or state savings and loan association, bank or trust company, insurance company, pension fund or trust or other institutional lender authorized to make leasehold mortgage loans in the State of Florida without obtaining the prior consent of BBRD, subject, however, to the other terms and conditions of this Lease.

(B) If Tenant shall mortgage its leasehold interest and if the holder of the mortgage shall forward to BBRD a copy of the recorded Mortgage together with a written notice setting forth the name and address of the leasehold mortgagee, then, until the time that the leasehold mortgage shall be satisfied or record, the following provisions of this paragraph shall apply.

(C) When giving notice to Tenant with respect to any default under the provisions of this lease, including the failure of Tenant to pay rent, BBRD will also serve a copy of such notice upon the leasehold mortgagee(s), which copy shall be sent by BBRD by Certified Mail, Return Receipt Requested, to such mortgagee(s), which notice must specify the nature of each such default.

(D) The leasehold mortgagee, upon receipt from BBRD of the notice referred to in subparagraph (C) above, shall have, in addition to any period of grace extended to Tenant under the terms and conditions of this Lease, a period of sixty (60) days within which to cure the default or cause the same to be cured, or to commence to cure such default with diligence and continuity; provided, however, that as to any default of Tenant for failure to pay rent, the leasehold mortgagee shall be given written notice of such default by certified mail by BBRD, and the leasehold mortgagee shall have thirty (30) additional days from the date the notice of default was mailed within which to cure such default.

(E) In case Tenant shall default under any of the provisions of this Lease, the leasehold mortgagee shall have the right to cure such default, whether the same consists of the failure to pay rent or the failure to perform any other matter or thing which Tenant is required to do or perform, and BBRD shall accept such performance on the part of the leasehold mortgagee as though the same had been done or performed by Tenant. BBRD further agrees, that in the case of any default by Tenant, so long as no default in respect of the payment of rent shall exist hereunder, that BBRD will take no action to effect a termination of the term of this Lease by the serving of a notice by reason of any such default, without first giving to the leasehold mortgagee a reasonable time, not to exceed sixty (60) days from the mailing of notice by BBRD, except payment of rent which shall be cured by leasehold mortgagee within thirty (30) days of mailing of notice, within which to cure said defaults [(i) to obtain possession of the premises (including possession by receiver) and cure such default in the case of a default which is susceptible of being cured when the leasehold mortgagee has obtained possession; or (ii) to institute foreclosure, or otherwise acquire Tenant's interest under this Lease, with diligence and continuity and, thereafter to commence and diligently proceed to cure such default; provided, however, that the leasehold mortgagee shall not be required to continue such possession or continue such foreclosure proceedings if the default which would have been the reason for serving such a notice shall be cured, and provided further, that nothing herein shall preclude BBRD from exercising any rights or remedies under this Lease with respect to any other default by Tenant during any period of such forbearance.] BBRD agrees to recognize the leasehold mortgagee as Tenant under this Lease for so long as the leasehold mortgagee holds this Lease as a result of a foreclosure of its mortgage or as a result of the assignment of this Lease in lieu of foreclosure, or otherwise, whereupon such leasehold mortgagee shall immediately become and remain liable under this Lease, except as provided below without having to obtain the consent of BBRD to same. In such event, the term "Tenant"



as used in this section, means only the owner or holder of Tenant's interest for the time being so that in the event of a sale, assignment or other disposition of Tenant's interest in this Lease by the leasehold mortgagee, the mortgagee shall be entirely freed and released of all covenants and obligations of Tenant under this Lease.

(F) References in this lease to acquisition of Tenant's interest in this lease by the leasehold mortgagee shall be deemed to refer, where circumstances require, to acquisition of Tenant's interest in this lease by any purchaser at a sale on foreclosure of the leasehold mortgage, and all provisions to the leasehold mortgagee in such instance or instances shall also be applicable to any such purchaser.

(G) Any leasehold mortgage shall be specifically subject and subordinate to BBRD's rights under this lease. The foregoing shall not be deemed or construed to impose or establish upon Tenant's interest in this Lease or upon the lien of any leasehold mortgage the superiority of any lien or encumbrance, including, without limitation, the lien of any fee mortgage, judgment or tax created directly or indirectly by, through or against BBRD or BBRD's interest in this Lease.

(H) In the event of any conflict or inconsistency between the terms of this Article and any other provision of this Lease, the terms of this Article shall control.

(I) Within ten (10) days after written request by Tenant or Tenant's leasehold mortgage, or in the event that upon any sale, assignment or mortgage of Tenant's interest in this Lease by Tenant or Tenant's leasehold mortgagee, an estoppel certificate shall be required from BBRD, BBRD agrees to deliver in recordable form an estoppel certificate to any proposed leasehold mortgagee, purchaser or assignee, or to Tenant certifying (if such be the case): (i) the amount of rental and additional rental due under the Lease, if any, and the date to which rentals have been paid; (ii) that this Lease is in full force and effect; (iii) that BBRD has no knowledge of any default under this Lease or if any default exists, specifying the nature of the default; and (iv) that there are no defenses or offsets which may be asserted by BBRD against Tenant in respect of obligations pursuant to this Lease or if defenses or offsets exist specifying the nature of such offsets or defenses.

(J) BBRD agrees that the leasehold mortgagee need not pay or otherwise satisfy any claim, the lien of which would be extinguished upon the conclusion of foreclosure proceedings brought by the leasehold mortgagee, nor shall leasehold mortgagee be required to cure any default relating to the insolvency, financial condition or bankruptcy of Tenant, nor shall BBRD be entitled to terminate this Lease, accelerate the rent or exercise any other remedy under this Lease for any reason including as a consequence of Tenant's refusal, inability or failure to assume and affirm this Lease as an asset of Tenant's bankruptcy estate so long as, within sixty (60) days following the leasehold mortgagee's acquisition of title to the Property following a foreclosure of the leasehold mortgagee's mortgage on the Property or through a Deed in Lieu of Foreclosure, the leasehold mortgagee commences to cure

defaults required to be cured by it under the language above in this paragraph and thereafter diligently prosecutes the same and any notice of termination theretofore given shall be void and of no force and effect. BBRD further acknowledges and agrees that if, during the course of a bankruptcy proceeding involving Tenant as Debtor, Tenant rejects or otherwise fails to assume and affirm this Lease as an asset of Tenant's bankruptcy estate, this Lease shall not terminate and the leasehold mortgagee may, within sixty (60) days of receipt of written notice from BBRD of such rejection or other failure to assume this Lease and the irreversible release of such leasehold estate from Tenant's bankruptcy estate, assume this Lease by effecting a cure of the defaults required to be cured by the leasehold mortgagee under the language above in this paragraph and thereafter preserve the same. BBRD further agrees that in the event the leasehold mortgagee forecloses its leasehold interest in the property or assigns Tenant's leasehold interest to a third party, BBRD will not terminate the Lease solely on account of any event of default relating to the insolvency, financial condition or bankruptcy of Tenant, including, without limitation, Tenant's refusal, inability or failure to assume and affirm the Lease as an asset of Tenant's bankruptcy estate, in which event, BBRD shall recognize the leasehold mortgagee as Tenant under the Ground Lease. BBRD further agrees that the leasehold mortgagee may, pending foreclosure of its mortgage, take possession of the Property by and through its representative or receiver, as the leasehold mortgagee may elect and, provided it does so in accordance with the terms and provisions of the Lease, administer the Leased Property as if it were Tenant thereunder.

(K) If Tenant, or any trustee of Tenant, shall reject the Lease pursuant to Section 365(h) of the Bankruptcy Code, 11 U.S.C. § 101, et seq (the "Bankruptcy Code"), (i) Tenant shall without further act or deed be deemed to have elected under Section 365(h) (1) of the Bankruptcy Code to remain in possession of the Property for the balance of the term of the Lease, (ii) any exercise or attempted exercise by Tenant of a right to treat the Lease as terminated under Section 365(h)(1) of the Bankruptcy Code shall be void and (iii) neither the Mortgage nor any other aspect of the Loan shall be affected or impaired by rejection of the Lease. (For the purposes of Section 365(h) of the Bankruptcy Code, the term "possession" shall mean the right to possession of the Property granted to Tenant under the Lease notwithstanding that all or part of such Property shall have been subleased.)

(L) If, notwithstanding the provisions of subparagraph (J) above, the leasehold mortgagee reasonably determines that a new lease will be necessary to give legal or practical effect to the unimpaired or unaffected continuation of the leasehold mortgage, BBRD will enter into a new lease ("New Lease") of the Property. In the event of termination of the Lease as a result of Tenant's default, or otherwise, without the prior written consent of leasehold mortgagee, BBRD shall, in addition to providing the notices of default and termination as required by subparagraph (C) above, provide the leasehold mortgagee with written notice that the Lease has been terminated together with a statement of all sums which would at the time be due under the Lease, but for such termination, and

of all other defaults, if any, then known to BBRD. BBRD agrees to enter into a new lease ("New Lease") of the Property with the leasehold mortgagee or its designee for the remainder of the term of the Lease effective, as of the date of termination, at the rent and additional rent, and upon the terms, covenants and conditions (including all options to renew but excluding requirements which are not applicable or which have already been fulfilled) of the Lease, provided:

(i) leasehold mortgagee shall make written request upon BBRD for such New Lease within sixty (60) days after the date leasehold mortgagee receives BBRD's notice of termination of the Ground Lease;

(ii) leasehold mortgagee or its designee shall pay or cause to be paid to BBRD at the time of the execution and delivery of such New Lease, any and all sums which would at the time of execution and delivery thereof be due pursuant to the Lease but for such termination and, in addition thereto, all reasonable expenses, including reasonable attorneys fees, which BBRD shall have incurred by reason of termination and the execution and delivery of the New Lease and which have not otherwise been received by BBRD from Tenant or other parties in interest under Tenant;

(iii) leasehold mortgagee or its designee shall agree to remedy any of Tenant's defaults of which leasehold mortgagee was notified by BBRD's notice of termination and which are reasonably susceptible of being so cured by leasehold mortgagee or its designee;

(iv) any New Lease made pursuant to this subparagraph shall be prior to any mortgage or other lien, charge, or encumbrance on the fee of the Property and Tenant under such New Lease shall have the same right, title and interest in and to the Property and the buildings and improvements thereon as Tenant had under the Lease;

(v) Tenant under any such New Lease shall be liable to perform the obligations imposed on Tenant by such New Lease only during the period such person has ownership of such leasehold estate.

(M) In the event the leasehold mortgagee becomes the legal owner and holder of the leasehold estate under the Lease by foreclosure of its leasehold mortgage, or as a result of an assignment of the Lease in lieu of foreclosure (which assignment is hereby consented to by BBRD), or in the event leasehold mortgagee is granted a New Lease pursuant to subparagraph (L) above, BBRD hereby agrees that upon receipt of a written application for consent to the assignment of Lease from either Tenant or leasehold mortgagee to a new lessee to whom leasehold mortgagee desires to transfer its interest, BBRD will execute a written consent to such assignment provided there is no outstanding default with respect to the payment of rental under the Lease. BBRD further agrees that, upon becoming the owner and holder of the leasehold estate, leasehold mortgagee shall have all rights and privileges of Tenant. Further, BBRD agrees that upon acquisition of the leasehold estate by leasehold mortgagee, or its assigns, any

default which is not reasonably capable of being cured by leasehold mortgagee, or which is personal to leasehold mortgagee, shall not be required to be cured by leasehold mortgagee or its assigns.

(N) In the event that leasehold mortgagee shall acquire the interest of Tenant under the Lease and, in accordance with the foregoing subparagraph, assign such interest to a successor lessee, upon such assignment leasehold mortgagee shall thereupon be relieved of any further liability under the Lease.

(O) This Lease may not be amended without prior written consent of leasehold mortgagee.

(P) BBRD and Tenant shall cooperate in including in this Lease by suitable amendment from time to time any provision which may reasonably be requested by a proposed leasehold mortgagee for the purpose of implementing the mortgagee-protection provisions contained in the Lease and allowing such mortgagee reasonable means to protect or preserve the lien of the leasehold on the occurrence of a default under the terms of this Lease. BBRD and Tenant each agree to execute and deliver (and to acknowledge, if necessary, for recording purposes) any agreement necessary to affect any such amendment; provided, however, that any such amendment shall not in any way affect the term or rent under this Lease, nor otherwise in any material respect adversely affect any rights of BBRD under this Lease.

## **ARTICLE 21** **ATTORNEYS FEES**

If any legal action or other proceeding is commenced to enforce or interpret any provision of this Lease or any documents incidental thereto, the prevailing party shall be entitled to recover its reasonable attorneys' fees and costs incurred in connection with such action or proceeding from the non-prevailing party, including all reasonable attorneys' fees and costs incurred on appeal or in connection with the prevailing party's efforts to collect on any judgment. The phrase "prevailing party" shall include a party who receives substantially the relief desired whether by dismissal, summary judgment, judgment or otherwise. The provisions of this section shall survive the termination of this Lease.

## **ARTICLE 22** **OTHER PROVISIONS**

**SECTION 2201. REASONABLENESS AND GOOD FAITH:** Whenever this Agreement grants BBRD or Tenant the right to take action, exercise discretion, establish rules and regulations, make allocations, or other determinations, or otherwise exercise rights or fulfill obligations, BBRD and Tenant shall act reasonably and in good faith and take no action that might result in the frustration of the reasonable expectations of a sophisticated landlord and sophisticated tenant concerning the benefits to be enjoyed under this Agreement.

**SECTION 2202. FORCE MAJEURE:** Except as provided below, any prevention, delay, or stoppage attributable to strikes, lockouts, labor disputes, acts of God, civil commotion, fire or other casualty, and other causes beyond the reasonable control of the party obligated to perform (collectively, the Force Majeure) will excuse the performance of that party for a period equal to the duration of the prevention, delay or stoppage. If, therefore, this Agreement specifies a time period for performance of an obligation of either party, a delay that a Force Majeure causes will extend the period within which the party must complete its performance. The foregoing provisions of this Section 2202 will not apply to (1) the obligations imposed with regard to rent and other charges Tenant must pay in accordance with the terms of this Agreement and (ii) the obligations imposed upon BBRD to pay any amount becoming due to Tenant under the terms of this Agreement.

**SECTION 2203. HEADINGS:** Any headings preceding the text of any articles, paragraphs or sections of this Agreement shall be solely for convenience of reference and shall not constitute a part of this Agreement, nor shall they affect its meaning, construction, or effect.

**SECTION 2204. BINDING EFFECT:** The terms, conditions and covenants of this Agreement shall inure to the benefit of and be binding upon the parties hereto and their successors and assigns. This provision shall not constitute a waiver of any conditions prohibiting assignment or subletting.

**SECTION 2205. RIGHTS RESERVED:** Rights not specifically granted Tenant by this Agreement are reserved to BBRD.

**SECTION 2206. NO WAIVER:** There shall be no waiver of the right of either party to demand strict performance of any of the provisions, terms and covenants of this Agreement nor shall there be any waiver of any breach, default or non-performance hereof by either party, unless such waiver is explicitly made in writing by the other party. Any previous waiver or course of dealing shall not affect the right of either party to demand strict

performance of the provisions, terms and covenants of this Agreement with respect to any subsequent event or occurrence of any subsequent breach, default or nonperformance hereof by the other party.

**SECTION 2207. SEVERABILITY:** If any provision of this Agreement or the application thereof to either party to this Agreement is held invalid by a court of competent jurisdiction, such invalidity shall not affect other provisions of this Agreement which can be given effect without the invalid provision, and to this end, the provisions of this Agreement are severable.

**SECTION 2208. INTERPRETATION OF AGREEMENT:** This Agreement is the result of negotiation between the parties hereto and has been typed/printed by one party for the convenience of both parties, and the parties covenant that this Agreement shall not be construed in favor of or against any of the parties hereto.

**SECTION 2209. NO AGENCY:** Nothing contained herein shall be deemed or construed by the parties hereto or by any third party as creating the relationship of principal and agent, partners, joint venturers, or any other similar such relationship between the parties hereto. It is understood and agreed that neither the method of computation of rentals, fees and charges, nor any other provisions contained herein, nor any acts of the parties hereto creates a relationship other than the relationship of landlord and tenant.

**SECTION 2210. JURISDICTION AND VENUE.** The parties: (a) agree that this Agreement and all rights and obligations hereunder shall be governed by the laws of the State of Florida; (b) agree that any suit, action or legal proceeding arising out of or relating to this Agreement shall be brought exclusively in a court of competent jurisdiction in Brevard County, Florida; (c) consent to the jurisdiction of a court of competent jurisdiction in Brevard County, Florida and expressly waive removal to a federal court; and (d) waive any objection either party may have to the laying of venue of any such suit, action or proceeding in a court of competent jurisdiction in Brevard County, Florida.

**SECTION 2211. ENTIRETY OF AGREEMENT:** The parties hereto agree that this Agreement sets forth the entire agreement between the parties, and there are no promises or understandings other than those stated herein. None of the provisions, terms and conditions contained in this Agreement may be added to, modified, superseded, or otherwise altered, except as may be specifically authorized herein or by written instrument executed by the parties hereto.

IN WITNESS WHEREOF the parties hereto have set their hands and seals the date and year first above written.

Signed, Sealed and Delivered  
in the presence of:

BAREFOOT BAY RECREATION DISTRICT

\_\_\_\_\_  
Witness

By:

\_\_\_\_\_  
Mike Maino, Chairman  
Barefoot Bay Recreation District Board of Trustees

\_\_\_\_\_  
Witness

Attest:

\_\_\_\_\_  
Jeff Grunow, Secretary  
Barefoot Bay Recreation District Board of Trustees

STATE OF FLORIDA  
COUNTY OF BREVARD

**THE FOREGOING INSTRUMENT** was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2021, by MIKE MAINO, as Chairman of the Board of Trustees for **BAREFOOT BAY RECREATION DISTRICT** who personally appeared before me, [ ] is personally known to me or [ ] has produced \_\_\_\_\_ as identification.

\_\_\_\_\_  
Notary Public

Name: \_\_\_\_\_

My Commission Expires: \_\_\_\_\_

TENANT:  
STEWARD MEDICAL GROUP

\_\_\_\_\_  
Witness

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

Printed Name:\_\_\_\_\_

Printed Title:\_\_\_\_\_

\_\_\_\_\_  
Witness

Attest:\_\_\_\_\_

(corporate seal)

STATE OF \_\_\_\_\_  
COUNTY OF \_\_\_\_\_

**THE FOREGOING INSTRUMENT** was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2021, by \_\_\_\_\_, as \_\_\_\_\_ for **STEWARD MEDICAL GROUP c/o STEWARD HEALTH CARE SYSTEM** who personally appeared before me, [ ] is personally known to me or [ ] has produced \_\_\_\_\_ as identification.

\_\_\_\_\_  
Notary Public

Name: \_\_\_\_\_

My Commission Expires: \_\_\_\_\_



**EXHIBIT A**  
**DESCRIPTION OF LEASED PROPERTY**



**EXHIBIT B**  
**TENANT CONCEPTUAL SITE PLAN**

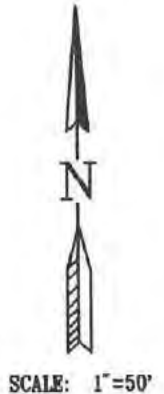


# SKETCH TO ACCOMPANY DESCRIPTION

NOT A BOUNDARY SURVEY

PARK PARCEL #1

ABBREVIATION	DEFINITION
O.R.B.	OFFICIAL RECORDS BOOK
PG(S).	PAGE(S)



SHEET 1 OF 2

PREPARED BY:

**ALLEN**  
Engineering, Inc.

SURVEYORS - ENGINEERS

106 DIXIE LANE (P.O. BOX 321321)  
COCOA BEACH, FLORIDA 32932-1321

TELEPHONE: (407)783-7443 FAX: (407)783-5902

SEE SHEET 2 OF 2 FOR DESCRIPTION,  
SURVEYOR'S CERTIFICATION AND SURVEYOR'S NOTES.

PREPARED AND CERTIFIED FOR:

EXHIBIT A

BAREFOOT BAY RECREATION DISTRICT

1.	
2.	
3.	
DATE: 1-14-97	DRAWN BY: DJG
JOB NO. 970002	SCALE: 1"=50'

# DESCRIPTION

## NOT A BOUNDARY SURVEY

### DESCRIPTION: PARK PARCEL #1

A portion of TRACT "B", BAREFOOT BAY, UNIT TWO, PART ELEVEN according to the plat thereof as recorded in Plat Book 22, Pages 116 through 120 of the Public Records of Brevard County, Florida, being more particularly described as follows:

Commence at the most Westerly corner of said TRACT "B"; thence N36°20'00"E, along the Northwestern line of said TRACT "B", a distance of 175.00 feet, to the most Northerly corner of that portion of said TRACT "B" described in Official Records Book 3550, Pages 397 and 398 of the Public Records of Brevard County, Florida and the POINT OF BEGINNING of the herein described parcel; thence continue, N36°20'00"E, along the Northwestern line of said TRACT "B", a distance of 120.02 feet, to the most Westerly corner of that portion of said TRACT "B" described in Official Records Book 2233, Pages 49 and 50 of the Public Records of Brevard County, Florida; thence S53°40'00"E, along said Southwesterly line, a distance of 187.60 feet; thence S37°10'13"W, a distance of 120.03 feet, to a point on the Northeasterly line of that portion of said TRACT "B" described in Official Records Book 3550, Pages 397 and 398 of the Public Records of Brevard County, Florida; thence N53°40'00"W, along said Northeasterly line, a distance of 185.84 feet, to the POINT OF BEGINNING; Containing 0.51 acres, more or less.

### SURVEYOR'S NOTES:

1. THIS IS NOT A SURVEY.
2. The bearings shown are based on a bearing of N36°20'00"E along the Northwestern line of Tract "B," BAREFOOT BAY, UNIT TWO, PART ELEVEN, according to the plat thereof recorded in Plat Book 14, Pages 116-124 of the Public Records of Brevard County, Florida.
3. • Denotes a change in direction (no corner found or set).

SEE SHEET 1 OF 2 FOR THE SKETCH TO ACCOMPANY THIS DESCRIPTION.

### SHEET 2 OF 2

PREPARED BY:

**ALLEN**  
**Engineering, Inc.**

SURVEYORS - ENGINEERS


106 DIXIE LANE (P.O. BOX 321321)  
COCA BEACH, FLORIDA 32932-1321

TELEPHONE: (407)783-7443 FAX: (407)783-5902

### SURVEYOR'S CERTIFICATION:

I hereby certify that the attached Property Description was prepared under my direction, in accordance with all applicable requirements of the "Minimum Technical Standards," for land surveying in the State of Florida, described in Chapter 61G17-6, Florida Administrative Code, pursuant to Chapter 472.027, Florida Statutes.

ALLEN ENGINEERING, INC.

BY:   
ROBERT M. SALMON  
PROFESSIONAL SURVEYOR &  
MAPPER  
FLORIDA REGISTRATION No. 4262

Not valid without the signature  
and the original raised seal of a  
Florida licensed surveyor and mapper.

PREPARED AND CERTIFIED FOR:

BAREFOOT BAY RECREATION DISTRICT

1.	
2.	
3.	
JOB NO. 970002	DATE: 1-14-97



## Exhibit "B"

### Conceptual Site Plan





Steward Health Care System LLC 1900 N. Pearl Street, Suite 2400 Dallas, Texas 75201  
t 469-341-8800 f 469-341-8999 steward.org

December 3, 2020

Barefoot Bay Recreation District  
c/o Barefoot Bay Board of Trustees  
625 Barefoot Blvd.  
Barefoot Bay, FL 32796

**RE: Ground Lease for New Modular Medical Clinic | Vacant Land, Approximately  
.51 Acres | Tax Parcel ID Number: 30-38-10-JT-B.3**

Honorable Board of Trustees:

The following outlines the basic business terms and conditions upon which Steward Medical Group, (“Lessee”) would be willing to enter in to a long term ground (“Lease”) located at the subject vacant lot as more particularly set forth in this letter of intent (“Letter of Intent”).

**Lessor:** Barefoot Bay  
Recreation District  
625 Barefoot Blvd.  
Barefoot Bay, FL 32796

**Lessee:** Steward Medical Group  
c/o Steward Health Care System,  
LLC 1900 Pearl Street, Suite 2400  
Dallas, Texas 75201  
Attn: Deputy General Counsel, Real Estate

**Leased Premises:** Approximately .51 acre lot with a legal description of Barefoot Bay Unit 2  
Part 11 Part of Tract B as Described in Exhibit A, Official Records Book  
3684, Page 2999 Public Records of Brevard County, FL; Tax Parcel ID  
Number: 30-38-10-JT-B.3.

See attached conceptual aerial illustration, Exhibit “A”.

**Initial Term:** The initial term of the Lease shall be ten (10) years (the “Initial Term”).

**Extension Term(s):** The Lessee shall be entitled to two (2) options to extend the term of the Lease  
for successive terms of ten (10) years each (each such 10-year extension  
period hereafter, an “Extension Term”).

**Base Rent during  
Initial Term:** Except during the Rent Abatement Period and the 3-month extension thereof  
(if applicable), Annual base rent during the Initial Term shall be \$20,000.00,  
payable by Lessee in twelve (12) equal monthly installments each year of the  
Initial Term. Except as otherwise set forth in this Section, Total base rent  
during the Initial Term shall be \$200,000.00.

**Base Rent during****Extension Term(s):**

Annual base rent during each Extension Term shall be \$25,000.00, payable by Lessee in twelve (12) equal monthly installments throughout each year of the Extension Term. Total base rent during each Extension Term shall be \$250,000.00.

**Rent Commencement:**

Rent under the Lease shall be abated for a period of nine (9) months from the effective date of the Lease (the "Rent Abatement Period"), during which Rent Abatement Period Lessee shall pursue permitting approval and build-out on the Leased Premises. In the event a Certificate of Occupancy/Completion has not been issued on or before expiration of the Rent Abatement Period, Lessee shall be entitled to one (1) three (3) month extension of the Rent Abatement Period (for a cumulative total of twelve (12) months for build-out). In the event a Certificate of Occupancy/Completion has not been issued following the 3-month extension of the Rent Abatement Period, rental payments shall commence at half monthly rent effective as of the first anniversary of the effective date of the Lease for a period not to exceed three (3) months. Unless otherwise agreed to by both parties, upon the earlier of either the issuance of a Certificate of Occupancy/Completion or fifteen (15) months from the effective date of the Lease, full rental payments shall commence.

**Operating Expenses:**

Lessee shall be responsible for reimbursing Lessor for Real Estate taxes and insurance on the leased premises. Lessee shall indemnify Lessor for actions related to its business activities conducted on site not caused by Lessor's negligence or actions.

**Utilities:**

Lessee shall be responsible for obtaining and paying for any utilities that Lessee may require, including, without limitation, any internet or telecommunications services.

**Improvements:**

Upon execution of the Lease, Lessor will provide authorization for Lessee to act as Applicant on its behalf for any required permit or site plan approvals. Lessee shall be solely responsible for all costs related thereto. Lessee shall use its best efforts to provide Lessor copies of permit applications filed with Brevard County or related agencies at least fourteen (14) days in advance of filing. Lessee's activities shall in no way interfere with the established use of Lessor's adjacent commercial shopping center and/or its related parking. Lessee shall be solely responsible for all costs associated with the extension of any required utility lines necessary to serve the Leased Premises and for the construction of any required stormwater maintenance system serving the Leased Premises that arises from its development of Lessee's improvements. Lessor will grant any required temporary easements for development purposes so long as Lessee shall not unreasonably interfere with Lessor's business operations during the development process. The parties shall reasonably coordinate development efforts and business operations during development of the Leased Premises. Lessee shall take the subject property "AS IS" and shall be solely responsible for any required cost(s) and expense(s) arising from any inherent site condition that creates an



impediment to development. Lessee shall agree to indemnify BBRD from any code enforcement or regulatory compliance fines or assessments levied by Brevard County or any other regulatory agency as a result of Lessor's non-compliance with any approved permit or site plan requirement(s). At the termination of the ground Lease and any applicable Extension Term(s), Lessor shall have the option of accepting the modular building or requiring its removal by Lessee. All improvements such as parking, utilities, and drainage shall become property of Lessor. Except for removal of the modular building, Lessee shall have no obligation to remove site improvements upon termination of the Lease or Extension Term(s), if any.


**Exclusivity:**

Except for that certain lease between Lessor and Shaw Medical Group, LLC with a commencement date of August 1, 2020 (the "Nurse Practitioner Lease"), Lessor agrees that the provision of professional medical services shall at all times during the Initial Term or any Extension Term be exclusive to Lessee. Except for the Nurse Practitioner Lease, Lessor agrees it shall not enter into a medical office space lease with a medical service provider during the Initial Term or any Extension Term, nor shall Lessor allow any shopping center tenants to assign and/or change use of their respective leased premises in a manner that competes with Lessee.

We look forward to executing this Letter of Intent and to negotiating a mutually agreeable lease with respect to the Leased Premises. Lessor and Lessee each acknowledge that this Letter of Intent is non-binding and is in no way intended to be a complete or definitive statement of all the terms and conditions of the proposed transaction, and that the negotiation and execution of a mutually satisfactory lease agreement shall be required. All terms and conditions outlined are subject to change or withdrawal without notification to either party.

If the terms and conditions set forth are acceptable to you, please acknowledge your assent on behalf of the Lessee with the signature of a duly authorized individual where indicated below, and then kindly return the same to me.

Sincerely,

  
\_\_\_\_\_  
Sanjay K. Shetty, MD  
Executive Vice President

**AGREED TO AND ACCEPTED BY:**

**Barefoot Bay Recreational District**


By:   
Name: Joseph Riosky  
Title: Chairman



Exhibit "A"



## Board of Trustees

## Meeting Agenda Memo

Date: Friday, September 10, 2021  
Title: **DOR Violation 21-001596 750 Lark Drive** (Vehicle Violations .)  
Section & Item: 9.A  
Department: Resident Relations, DOR  
Fiscal Impact: N/A  
Contact: Richard Armington, Resident Relations Manager, John W Coffey, ICMA-CM, Community Manager  
Attachments: 21-001596 750 Lark Drive  
Reviewed by  
General Counsel: N/A  
Approved by: John W. Coffey, ICMA-CM, Community Manager



### Requested Action by BOT

Review violation and referral to General Counsel Repperger.

### Background and Summary Information

Violation Article III, Section 3 (A) (B) (C) (D) (E) Vehicle Violations (Boats/Trailer/RV/Comm. Vehicles, Etc.)

The first violation occurred on 7/20/2021. Nine inspections have been performed by the DOR staff on this property. Six photos have been taken since the first violation. The staff signed an Affidavit of Notices, signed suspension notices and attached three photos. Respondents have been notified by First Class Mail and Certified Mail.

Staff recommends that the BOT refer this violation to the General Counsel Repperger for legal action, equitable or other appropriate action with failure to comply. If the BOT brings any such action to enforce the DOR, the charge for such action shall be charged to the Respondent's account and shall constitute a lien.

**BAREFOOT BAY BOARD OF TRUSTEES  
BREVARD COUNTY, FLORIDA**

**BAREFOOT BAY RECREATION DISTRICT**

Petitioner

Vs

Case no. 21-001596

#0714/ 21-001596

REYNA, MICHAEL JAMES

750 LARK DR

BAREFOOT BAY, FL 32976

Respondent(s),

**STATEMENT OF VIOLATION**

PURSUANT to the Article(s) listed below, of the Barefoot Bay Deed of Restrictions, the undersigned DOR Enforcement Officer hereby gives notice of a violation or violations of the Deed of Restrictions of the Barefoot Bay Recreation District, described herein.

**SECTION(S) OF DEED OF RESTRICTION VIOLATION(S)**

• **ARTICLE III, SECT. 3 (A) (B) (C) (D) (E) Vehicle Violations(Boats/Trailer/RV/Comm. Vehicles, Etc.)**

(A) No commercial vehicle, abandoned and/or inoperable vehicle, recreational vehicle, jet ski, boat, boat trailer, utility trailer, camper, motor home, camping trailer, truck camper, pickup truck with camper top OR any vehicle in excess of 25 feet in overall length as measured from the foremost projection thereof to the rearmost projection thereof, shall be parked on any lot, driveway, carport or common area within Barefoot Bay, except for commercial vehicles parked temporarily at a lot for the purpose of providing repair or other services to the occupant thereof, and (2) those vehicles described in subsection C of this section. (B) All vehicles described in subsection (A) of this section shall be parked in vehicle storage areas provided by the Recreation District or in such other areas outside Barefoot Bay as may be located by the owner. (C) 1. Notwithstanding any of the foregoing sub-paragraphs of this section, a recreation vehicle, boat, personal water craft, utility trailer, or boat mounted on a trailer may be parked in the driveway on a lot for purposes of cleaning, loading, unloading and preventative maintenance between the hours of 7 a.m. and 10 p.m. only. An owner may request that a vehicle be allowed to remain on a lot beyond the time-frame provided herein if extenuating circumstances exist, submitting a request to Recreation District Resident Relations in advance of said occurrence. No vehicle shall remain on a lot beyond the time-frame provide herein without obtaining approval from Recreation District Resident Relations in advance. 2: A commercial vehicle is defined for the purpose of this Document as any passenger and/or non-passenger vehicle designed, used, or maintained primarily for conduct or operation of a commercial business. Only one pick-up truck, passenger van or cargo van used for commercial purposes, which is the sole means of transportation of the occupant of the lot, must be kept in a garage or fully parked under a carport with visual buffering as may be approved by ARCC. A vehicle may not have signage, equipment or materials visible when parked. (D) Motor vehicles parked at or on a Lot shall be parked only on the concrete driveway or concrete parking area serving on such Lot. No vehicle shall be parked on any lawn, grass or landscaped area of a Lot. (E) Kayaks and canoes may be properly stored and secured at the rear of any residence.

**LOCATION/ADDRESS WHERE VIOLATION EXISTS**

Block # 114 Lot # 122  
750 LARK DRIVE  
BAREFOOT BAY, FL 32976

**DESCRIPTION OF VIOLATION(s):** Trailer in driveway, must be removed.

**DATE OF VIOLATION FIRST OBSERVED:** Jul 14, 2021

**DATE OF OWNER/PERSON IN CHARGE GIVEN NOTICE OF VIOLATION:**

via First Class  
via Certified return receipt requested.

**DATE ON/BY WHICH VIOLATION TO BE CORRECTED:** September 06, 2021

Deed of Restrictions Staff

September 02, 2021



750 Lark dr. Trailer in driveway, must be removed.

Mary Barry  
Sep 02, 2021



750 Lark dr. Trailer in driveway, must be removed.

Mary Barry  
Jul 30, 2021



750 Lark dr. Trailer in driveway, must be removed.

Mary Barry  
Jul 26, 2021

**BAREFOOT BAY RECREATION DISTRICT  
BREVARD COUNTY, FLORIDA  
BOARD OF TRUSTEES**

**NOTICE OF HEARING**

The Respondent must correct the alleged violation(s) contained in the enclosed Statement of Violation by the date set forth therein and contact the Deed of Restrictions Enforcement Officer who signed the Statement of Violation to verify such correction. If the Respondent disputes the existence of the violation(s) and wishes a hearing, notice is hereby given that a Hearing will be conducted before the Board of Trustees at **01:00 PM** on **September 10, 2021** at 1225 Barefoot Boulevard, Building D&E, Barefoot Bay, Florida. The purpose of this Hearing will be to determine whether or not the alleged violation(s) exist.

**If the violation(s) described in the Statement of Violation are corrected and then recur, or if the violations are not corrected by the time specified for correction, the case shall be presented to the Board of Trustees. Notice** is hereby given that a **Hearing** will be conducted before the Barefoot Bay Board of Trustees at **01:00 PM** on **September 10, 2021** at **1225 Barefoot Boulevard, Building D&E, Barefoot Bay, Florida.**

The Board of Trustees will receive testimony and evidence at the Hearing and make Findings of Fact as are supported by the testimony and evidence pertaining to matters alleged in the enclosed Statement of Violations. The respondent is entitled to testify and present evidence and witnesses at the Hearing, or may be represented by an attorney. If the property is found to be in violation, all social, family, and golf memberships affiliated with the property will be automatically suspended. The Board of Trustees shall have the authority to bring an action for injunctive or other appropriate legal or equitable relief in a court of competent jurisdiction in Brevard County, Florida to remedy the violation. If the Board of Trustees brings any such legal action, the Board of Trustees shall be entitled to an award of Attorney's fees and court costs incident to bringing such action.

**IF ANY INDIVIDUAL WISHES TO APPEAL ANY DECISION MADE BY THE BOARD OF TRUSTEES WITH RESPECT TO ANY MATTER CONSIDERED AT THIS MEETING, A VERBATIM RECORD OF THE PROCEEDING WILL BE REQUIRED, WHICH RECORD INCLUDES THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS BASED SUCH PERSON MUST PROVIDE A COURT REPORTER, COURT STENOGRAPHER OR OTHER METHOD ACCEPTABLE TO A COURT OF LAW TO PROVIDE FOR SUCH VERBATIM RECORD; THE DISTRICT DOES NOT PROVIDE SUCH RECORD (FS 286.0105).**

**THIS IS A PUBLIC MEETING. ALL INTERESTED PARTIES MAY ATTEND. THE FACILITY WHEREIN THIS PUBLIC MEETING WILL BE HELD IS ACCESSIBLE TO THE PHYSICALLY HANDICAPPED. IN ACCORDANCE WITH AMERICAN DISABILITIES ACT, PERSONS NEEDING ASSISTANCE TO PARTICIPATE IN ANY OF THESE PROCEEDINGS SHOULD CONTACT THE DEED OF RESTRICTIONS ENFORCEMENT OFFICE AT 772-664-3141.**

**September 02, 2021**

Board of Trustees/Deed of Restrictions STAFF

[DOCUMENT]

[DOC\_DESCRIPTION]

**BAREFOOT BAY BOARD OF TRUSTEES  
BREVARD COUNTY, FLORIDA**

**BAREFOOT BAY RECREATION DISTRICT**

Petitioner

Vs

Case no. 21-001596

#0714 / 21-001596  
REYNA, MICHAEL JAMES,  
750 LARK DR  
BAREFOOT BAY, FL 32976  
Respondent(s),

**RE: 750 LARK DRIVE**  
Barefoot Bay, FL 32976

**AFFIDAVIT OF NOTICES**

STATE OF FLORIDA  
COUNTY OF BREVARD

BEFORE ME, the undersigned authority, personally appeared, Deed of Restrictions Enforcement Officer Mary Barry for the Barefoot Bay Recreation District, who after being duly sworn deposes and says:

1. That on or about the \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_, a Statement of Violations and a Notice of Hearing was mailed to the respondent at the above address by **First Class mail**.
2. That on or about the \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_, a Statement of Violations and a Notice of Hearing was mailed to the above respondent by **Certified mail**, return receipt requested, a copy of which is attached hereto.
3. That on or about the \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_, a Statement of Violations and a Notice of Hearing was **Posted** at the above referenced address a copy of which is attached hereto.
4. That on or about the \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_, a Statement of Violations and a Notice of Hearing was emailed to the Mortgage Servicer for above referenced address, a copy of which is attached hereto.

FURTHER AFFIANT SAYETH NOT.

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_.



\_\_\_\_\_  
Mary Barry, DOR Inspector

The Foregoing instrument was acknowledged before me on \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_ by Mary Barry, who is personally known to me and did take an oath.

\_\_\_\_\_  
Notary Public  
State of Florida at Large

## Board of Trustees

## Meeting Agenda Memo

Date: Friday, September 10, 2021  
Title: **DOR Violation 21-001867 750 Lark Drive (Lawn and Landscape)**  
Section & Item: 9.B  
Department: Resident Relations, DOR  
Fiscal Impact: N/A  
Contact: Richard Armington, Resident Relations Manager, John W Coffey, ICMA-CM, Community Manager  
Attachments: 21-001867 750 Lark Drive  
Reviewed by General Counsel: N/A  
Approved by: John W. Coffey, ICMA-CM, Community Manager



### Requested Action by BOT

Review violation and referral to General Counsel Repperger

### Background and Summary Information

Violation Article III, Section 2 (A) (D) Lawn and Landscape

The first violation occurred on 9/2/2021. One inspection and one photo have been done. This violation has not been brought before the Violation Committee. The staff signed an Affidavit of Notice and attached a photo. Respondents have been notified by First Class Mail and Certified Mail.

Staff recommends that the BOT refer this violation to General Counsel Repperger for legal action, equitable or other appropriate action with failure to comply. If the BOT brings any such action to enforce the DOR, the charge for such action shall be charged to the Respondent's account and constitute a lien.



**BAREFOOT BAY BOARD OF TRUSTEES  
BREVARD COUNTY, FLORIDA**

**BAREFOOT BAY RECREATION DISTRICT**

Petitioner

Vs

Case no. 21-001867

#714/ 21-001867

REYNA, MICHAEL JAMES

750 LARK DR

BAREFOOT BAY, FL 32976

Respondent(s),

**STATEMENT OF VIOLATION**

PURSUANT to the Article(s) listed below, of the Barefoot Bay Deed of Restrictions, the undersigned DOR Enforcement Officer hereby gives notice of a violation or violations of the Deed of Restrictions of the Barefoot Bay Recreation District, described herein.

**SECTION(S) OF DEED OF RESTRICTION VIOLATION(S)**

- **ARTICLE III, SECT. 2 (A) (D) Lawn and Landscape Recurring Maintenance Condition of Prop. (A)(D) Lawn & Landscape (Recurring Mtnc.)**

(A) The lawn and landscaped areas (including all trees, shrubs, and other vegetation) of each lot shall not be neglected and shall be regularly pruned and maintained at the expense of the Owner or Resident of such lot. The lawn and landscaped areas shall be maintained free from all underbrush, excessive overgrowth, all rubbish, and weeds and grass in excess of six inches in height.

"Excessive overgrowth" shall mean any vegetation that is not regularly pruned in accordance with common care for such vegetation, or presents an inherent danger in either height, placement or as restricted in ARCC Guidelines. Dead vegetation on any lot is required to be promptly removed.

(D) In the event that any lawn, landscaped areas, driveway, carport or home is not maintained in compliance with the requirements of Section 2, Section 10, or Section 11 of Article III, the Recreation District shall have the right to enter upon the lot and take any action reasonably necessary to cause the home and lot to come into compliance with the requirement of subsections (A), (B), (C) of Section 2, Section 10, or Section 11 of Article III. The expense of such action shall be billed by the Recreation District to the owner, shall be a personal obligation of the owner, and shall be paid by the owner within thirty days after the owner is provided with written notice of such expenses. If payment is not made within the said thirty day period, the expense in question shall become a lien upon the said lot until paid, which lien shall have priority as of the date of recording of a notice thereof in the public records of Brevard county; provided, however, such lien shall not be superior to the lien for county taxes of the lien for the Recreation District's assessments and maintenance fees. The sum so due to the Recreation District may be collected by either an action of law, or the Recreation District shall have the right at its discretion to proceed to foreclose the above -described lien. In the event of such litigation, the Recreation District shall have the right to recover the costs thereof including a reasonable attorney's fee.

**LOCATION/ADDRESS WHERE VIOLATION EXISTS**

Block # 114 Lot # 122

750 LARK DRIVE

BAREFOOT BAY, FL 32976

**DESCRIPTION OF VIOLATION(s):** Lawn and landscape: high grass/weeds

**DATE OF VIOLATION FIRST OBSERVED:** Sep 02, 2021

**DATE OF OWNER/PERSON IN CHARGE GIVEN NOTICE OF VIOLATION:**

September 02, 2021 via First Class

September 02, 2021 via Certified return receipt requested.

**DATE ON/BY WHICH VIOLATION TO BE CORRECTED:** September 06, 2021

Deed of Restrictions Staff

September 02, 2021





750 Lark Dr. Lawn and landscape: high grass/weeds

Mary Barry

Sep 02, 2021

**BAREFOOT BAY RECREATION DISTRICT  
BREVARD COUNTY, FLORIDA  
BOARD OF TRUSTEES**

**NOTICE OF HEARING**

The Respondent must correct the alleged violation(s) contained in the enclosed Statement of Violation by the date set forth therein and contact the Deed of Restrictions Enforcement Officer who signed the Statement of Violation to verify such correction. If the Respondent disputes the existence of the violation(s) and wishes a hearing, notice is hereby given that a Hearing will be conducted before the Board of Trustees at **01:00 PM** on **September 10, 2021** at 1225 Barefoot Boulevard, Building D&E, Barefoot Bay, Florida. The purpose of this Hearing will be to determine whether or not the alleged violation(s) exist.

**If the violation(s) described in the Statement of Violation are corrected and then recur, or if the violations are not corrected by the time specified for correction, the case shall be presented to the Board of Trustees. Notice** is hereby given that a **Hearing** will be conducted before the Barefoot Bay Board of Trustees at **01:00 PM** on **September 10, 2021** at **1225 Barefoot Boulevard, Building D&E, Barefoot Bay, Florida.**

The Board of Trustees will receive testimony and evidence at the Hearing and make Findings of Fact as are supported by the testimony and evidence pertaining to matters alleged in the enclosed Statement of Violations. The respondent is entitled to testify and present evidence and witnesses at the Hearing, or may be represented by an attorney. If the property is found to be in violation, all social, family, and golf memberships affiliated with the property will be automatically suspended. The Board of Trustees shall have the authority to bring an action for injunctive or other appropriate legal or equitable relief in a court of competent jurisdiction in Brevard County, Florida to remedy the violation. If the Board of Trustees brings any such legal action, the Board of Trustees shall be entitled to an award of Attorney's fees and court costs incident to bringing such action.

**IF ANY INDIVIDUAL WISHES TO APPEAL ANY DECISION MADE BY THE BOARD OF TRUSTEES WITH RESPECT TO ANY MATTER CONSIDERED AT THIS MEETING, A VERBATIM RECORD OF THE PROCEEDING WILL BE REQUIRED, WHICH RECORD INCLUDES THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS BASED SUCH PERSON MUST PROVIDE A COURT REPORTER, COURT STENOGRAPHER OR OTHER METHOD ACCEPTABLE TO A COURT OF LAW TO PROVIDE FOR SUCH VERBATIM RECORD; THE DISTRICT DOES NOT PROVIDE SUCH RECORD (FS 286.0105).**

**THIS IS A PUBLIC MEETING. ALL INTERESTED PARTIES MAY ATTEND. THE FACILITY WHEREIN THIS PUBLIC MEETING WILL BE HELD IS ACCESSIBLE TO THE PHYSICALLY HANDICAPPED. IN ACCORDANCE WITH AMERICAN DISABILITIES ACT, PERSONS NEEDING ASSISTANCE TO PARTICIPATE IN ANY OF THESE PROCEEDINGS SHOULD CONTACT THE DEED OF RESTRICTIONS ENFORCEMENT OFFICE AT 772-664-3141.**

**September 02, 2021**

Board of Trustees/Deed of Restrictions STAFF

**BAREFOOT BAY BOARD OF TRUSTEES  
BREVARD COUNTY, FLORIDA**

**BAREFOOT BAY RECREATION DISTRICT**

Petitioner

Vs

Case no. 21-001867

#714 / 21-001867

REYNA, MICHAEL JAMES,

750 LARK DR

BAREFOOT BAY, FL 32976

Respondent(s),

**RE: 750 LARK DRIVE**  
Barefoot Bay, FL 32976

**AFFIDAVIT OF NOTICES**


STATE OF FLORIDA  
COUNTY OF BREVARD

BEFORE ME, the undersigned authority, personally appeared, Deed of Restrictions Enforcement Officer Mary Barry for the Barefoot Bay Recreation District, who after being duly sworn deposes and says:

1. That on or about the \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_, a Statement of Violations and a Notice of Hearing was mailed to the respondent at the above address by **First Class mail**.
2. That on or about the \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_, a Statement of Violations and a Notice of Hearing was mailed to the above respondent by **Certified mail**, return receipt requested, a copy of which is attached hereto.
3. That on or about the \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_, a Statement of Violations and a Notice of Hearing was **Posted** at the above referenced address a copy of which is attached hereto.
4. That on or about the \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_, a Statement of Violations and a Notice of Hearing was emailed to the Mortgage Servicer for above referenced address, a copy of which is attached hereto.

FURTHER AFFIANT SAYETH NOT.

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_.



\_\_\_\_\_  
Mary Barry, DOR Inspector

The Foregoing instrument was acknowledged before me on \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_ by Mary Barry, who is personally known to me and did take an oath.

\_\_\_\_\_  
Notary Public  
State of Florida at Large

## Board of Trustees

## Meeting Agenda Memo

Date: Friday, September 10, 2021  
Title: **DOR Violation 21-001516 750 Lark Drive (Condition of Property (C) Unauthorized items)**  
Section & Item: 9.C  
Department: Resident Relations, DOR  
Fiscal Impact: N/A  
Contact: Richard Armington, Resident Relations Manager  
Attachments: 21-001516 750 Lark Drive  
Reviewed by General Counsel: N/A  
Approved by: John W. Coffey, ICMA-CM, Community Manager



### Requested Action by BOT

Review violation and referral to General Counsel Repperger.

### Background and Summary Information

Violation Article III, Section 2 (C) (D) Condition of Property (C) Unauthorized items

The first violation occurred on 7/19/2021. DOR staff has inspected the property six inspections and 22 photos have been taken since the first violation. The case was found in violation on 8/27/2021 by the Violation Committee. The staff signed an Affidavit of Notices and attached four photos. The respondent has been notified by First Class Mail and Certified Mail.

Staff recommends that the BOT refer this violation to General Counsel Repperger for legal action, equitable or other appropriate action with failure to comply. If the BOT brings any such action to enforce the DOR, the charge for such actions shall be charged to the Respondent's account and shall constitute a lien.

**BAREFOOT BAY BOARD OF TRUSTEES  
BREVARD COUNTY, FLORIDA**

**BAREFOOT BAY RECREATION DISTRICT**

Petitioner

Vs

Case no. 21-001516

#0714/ 21-001516

REYNA, MICHAEL JAMES

750 LARK DR

BAREFOOT BAY, FL 32976

Respondent(s),

**STATEMENT OF VIOLATION**

PURSUANT to the Article(s) listed below, of the Barefoot Bay Deed of Restrictions, the undersigned DOR Enforcement Officer hereby gives notice of a violation or violations of the Deed of Restrictions of the Barefoot Bay Recreation District, described herein.

**SECTION(S) OF DEED OF RESTRICTION VIOLATION(S)**

• **ARTICLE III, SECT. 2 (C) (D) Condition of Prop. (C) Unauthorized items**

(C) The lawn, landscaped areas, driveways and carports on each lot shall be kept free of all items of personal property except for customary outdoor items such as exterior patio or porch furniture, golf carts, vehicles, and barbecue grills. The intent of this requirement is to prohibit the accumulation and/or storage of items such as indoor furniture, automotive parts, cartons, boxes, debris and similar property which causes an unsightly appearance or nuisance if left on or about the exterior of a home.

(D) In the event that any lawn, landscaped areas, driveway, carport or home is not maintained in compliance with the requirements of Section 2, Section 10, or Section 11 of Article III, the Recreation District shall have the right to enter upon the lot and take any action reasonably necessary to cause the home and lot to come into compliance with the requirement of subsections (A), (B), (C) of Section 2, Section 10, or Section 11 of Article III. The expense of such action shall be billed by the Recreation District to the owner, shall be a personal obligation of the owner, and shall be paid by the owner within thirty days after the owner is provided with written notice of such expenses. If payment is not made within the said thirty day period, the expense in question shall become a lien upon the said lot until paid, which lien shall have priority as of the date of recording of a notice thereof in the public records of Brevard county; provided, however, such lien shall not be superior to the lien for county taxes of the lien for the Recreation District's assessments and maintenance fees. The sum so due to the Recreation District may be collected by either an action of law, or the Recreation District shall have the right at its discretion to proceed to foreclose the above -described lien. In the event of such litigation, the Recreation District shall have the right to recover the costs thereof including a reasonable attorney's fee.

**LOCATION/ADDRESS WHERE VIOLATION EXISTS**

Block # 114 Lot # 122

750 LARK DRIVE

BAREFOOT BAY, FL 32976

**DESCRIPTION OF VIOLATION(s):** Unapproved items / Debris

**DATE OF VIOLATION FIRST OBSERVED:** Jul 07, 2021

**DATE OF OWNER/PERSON IN CHARGE GIVEN NOTICE OF VIOLATION:**

August 16, 2021 via First Class

August 16, 2021 via Certified return receipt requested.

**DATE ON/BY WHICH VIOLATION TO BE CORRECTED:** 9/6/2021

Deed of Restrictions Staff

September 02, 2021



750 Lark Dr. Unapproved items / Debris  
Sep 02, 2021



750 Lark Dr. Unapproved items / Debris  
Aug 24, 2021



750 Lark Dr. Unapproved items / Debris  
Aug 17, 2021



750 Lark Dr. Posted note  
Aug 16, 2021

**BAREFOOT BAY RECREATION DISTRICT  
BREVARD COUNTY, FLORIDA  
NOTICE OF HEARING  
OF  
BOARD OF TRUSTEES**

**Notice** is hereby given that a **Hearing** will be conducted before the Barefoot Bay Board of Trustees at **1:00 PM** on **9/10/2021** at **1225 Barefoot Boulevard, Building D&E, Barefoot Bay, Florida.**

The purpose of this **Hearing** will be to consider the Recommended Order of the Violations Committee to the Board of Trustees for your Case.

**The Board shall not conduct a full de novo quasi-judicial hearing on the violation, but shall consider the Finding of Fact and Recommended Order issued by the Violations Committee.** The owner may not present new or additional evidence, but shall be given an opportunity to be heard. If the Board of Trustees concurs with the Violation Committee that a violation has been established, the Board of Trustees shall have the authority to bring an action for injunctive or other appropriate legal or equitable relief in a court of competent jurisdiction in Brevard County, Florida to remedy the violation. If the Board of Trustees brings any such legal action to enforce the Deed of Restrictions and is deemed to be the prevailing party in such action, the Board of Trustees shall be entitled to an award of attorney's fees and court costs incident to bringing such action.

**IF ANY INDIVIDUAL WISHES TO APPEAL ANY DECISION MADE BY THE BOARD OF TRUSTEES WITH RESPECT TO ANY MATTER CONSIDERED AT THIS MEETING, A VERBATIM RECORD OF THE PROCEEDING WILL BE REQUIRED, WHICH RECORD INCLUDES THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS BASED SUCH PERSON MUST PROVIDE A COURT REPORTER, COURT STENOGRAPHER OR OTHER METHOD ACCEPTABLE TO A COURT OF LAW TO PROVIDE FOR SUCH VERBATIM RECORD; THE DISTRICT DOES NOT PROVIDE SUCH RECORD (FS 286.0105).**

**THIS IS A PUBLIC MEETING. ALL INTERESTED PARTIES MAY ATTEND. THE FACILITY WHEREIN THIS PUBLIC MEETING WILL BE HELD IS ACCESSIBLE TO THE PHYSICALLY HANDICAPPED. IN ACCORDANCE WITH AMERICAN DISABILITIES ACT, PERSONS NEEDING ASSISTANCE TO PARTICIPATE IN ANY OF THESE PROCEEDINGS SHOULD CONTACT THE DEED OF RESTRICTIONS ENFORCEMENT OFFICE AT 772-664-3141.**

**September 02, 2021**

Deed of Restrictions STAFF



**BAREFOOT BAY BOARD OF TRUSTEES  
BREVARD COUNTY, FLORIDA**

**BAREFOOT BAY RECREATION DISTRICT**

Petitioner

Vs

Case no. 21-001516

#0714 / 21-001516  
REYNA, MICHAEL JAMES,  
750 LARK DR  
BAREFOOT BAY, FL 32976  
Respondent(s),

**RE: 750 LARK DRIVE**  
Barefoot Bay, FL 32976

**AFFIDAVIT OF NOTICES**

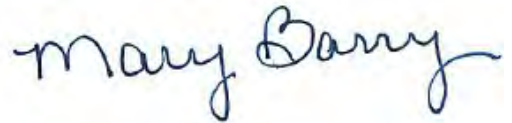
STATE OF FLORIDA  
COUNTY OF BREVARD

BEFORE ME, the undersigned authority, personally appeared, Deed of Restrictions Enforcement Officer Mary Barry for the Barefoot Bay Recreation District, who after being duly sworn deposes and says:

1. That on or about the \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_, a Statement of Violations and a Notice of Hearing was mailed to the respondent at the above address by **First Class mail**.
2. That on or about the \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_, a Statement of Violations and a Notice of Hearing was mailed to the above respondent by **Certified mail**, return receipt requested, a copy of which is attached hereto.
3. That on or about the \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_, a Statement of Violations and a Notice of Hearing was **Posted** at the above referenced address a copy of which is attached hereto.
4. That on or about the \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_, a Statement of Violations and a Notice of Hearing was emailed to the Mortgage Servicer for above referenced address, a copy of which is attached hereto.

FURTHER AFFIANT SAYETH NOT.

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_.



\_\_\_\_\_  
Mary Barry, DOR Inspector

The Foregoing instrument was acknowledged before me on \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_ by Mary Barry, who is personally known to me and did take an oath.

\_\_\_\_\_  
Notary Public  
State of Florida at Large

## Board of Trustees

## Meeting Agenda Memo

Date: Friday, September 10, 2021  
Title: **"Color Our World Cancer Free" Request for Waiver of Guest Passes for Participants to Access Pavilion**  
Section & Item: 9.D  
Department: Administration, District Clerk  
Fiscal Impact: N/A  
Contact: John W Coffey, ICMA-CM, Community Manager  
Attachments: Request email  
Reviewed by  
General Counsel: N/A  
Approved by: John W. Coffey, ICMA-CM, Community Manager



### Requested Action by BOT

Waiver of guest pass requirement for Color Our World Cancer Free participants to access the Pavilion behind Building A from 8am to Noon on October 16, 2021 event.

### Background and Summary Information

Color Our World Cancer Free is the annual charity walk benefiting the American Cancer Society. Inaugurated in 2019, money is raised through sponsorships of individuals and teams who walk around the TuTu Trail festooned in colorful attire. The organizing committee wishes to use the Pavilion as a staging and celebration area from 8am till Noon on October 16, 2021. Guest passes are normally required for individuals without homeowner/renter badges seeking to access the area.

To encourage participation by non-residents, the organizing committee requests the BOT waive the guest pass requirement for the duration of the event. Representatives of the committee will be at the October 26<sup>th</sup> BOT meeting to publicly thank the BOT for their support and announce to the community the results of the event.

Staff recommends the BOT waive the guest pass requirement at Pool #1 area for Color Our World Cancer Free participants on October 16, 2021 from 8am to Noon so they can access the Pavilion area.

## John Coffey

---

**From:** John Coffey  
**Sent:** Tuesday, August 24, 2021 3:12 PM  
**To:** Elizabeth Taylor  
**Cc:** Charles Henley  
**Subject:** RE: Color Our World Cancer Free

Lizzann,

Consider everything done. Request for pavilion access will be on September 10<sup>th</sup> BOT agenda. Proclamation will be on October 8<sup>th</sup> meeting and time for your presentation will be on the October 26<sup>th</sup> meeting. I might not be at the October 26<sup>th</sup> meeting (might be taking vacation....still undecided) but if I am not there my right hand man Charles Henley will be there in my place making sure the show runs smoothly....

Thank you for your kind words about Harley. He was my best friend....

Sincerely,

John

PUBLIC RECORDS NOTICE: Barefoot Bay Recreation District (BBRD) is governed by the State of Florida public records law. This means that the information BBRD receives online including your e-mail address might be disclosed to any person making a public records request. If you have any question about the Florida public records law refer to Chapter 119 Florida Statutes. Under Florida law, e-mail addresses are public records. If you do not want your e-mail address released in response to a public-records request, do not send electronic mail to this entity. Instead, contact this office by phone or in writing.

**From:** Elizabeth Taylor <taylor.lizzann@gmail.com>  
**Sent:** Tuesday, August 24, 2021 2:56 PM  
**To:** John Coffey <jcoffey@bbrd.org>  
**Subject:** Color Our World Cancer Free

Good afternoon, John!

As you know, the cancer walk is scheduled for October 16th. I would like to request three items for the BOT agenda. First, I would like to ask that participants be allowed free access to the pavilion area that morning 8am to noon. Although most will probably be bay residents, I anticipate a good many guests. I know BOT permission is required.

Second, would the BOT make a proclamation honoring the cancer fighting effort of that day. .

And, thirdly, I would like to make a public presentation of the final distribution to the American Cancer Society at the last BOT meeting in October which I believe is October 26th. We will have volunteers festooned in their t-shirts to celebrate at each meeting.

Lastly, I was sorry to read that Harley has crossed over the rainbow bridge. I big hole is left in our lives when a part of the family leaves us. We all enjoyed his contributions to the Bay, God bless.

Thanks for all you do in the Bay,  
Lizzann

## Board of Trustees

## Meeting Agenda Memo

Date: Friday, September 10, 2021

Title: **Restroom Trailer by Pickle Ball/Tennis Courts Award of Contract**

Section & Item: 9.E

Department: R&M/Capital Projects

Fiscal Impact: Estimated \$60,950.00 (\$57,970 for trailer and estimated \$2,980 for delivery) (FY21 Budget of \$50,000)

Contact: Matt Goetz, Property Services Manager, John W Coffey, ICMA-CM, Community Manager

Attachments: Portable Restroom Trailers LLC bid, Montondo Trailer bid

Reviewed by

General Counsel: N/A

Approved by: John W. Coffey, ICMA-CM, Community Manager



### Requested Action by BOT

Award of contract for procurement of a restroom trailer at the Pickle Ball/Tennis Courts to replace the current porta-potties.

### Background and Summary Information

The FY21 Approved Budget contains \$50,000.00 for the acquisition and installation of a restroom trailer to replace the porta-potties near the Pickle Ball/Tennis Courts. Staff solicited the following bids for a three-station restroom trailer (one ADA accessible and two regular) and a hydraulic drop wheel system:

\$57,970.00 Portable Restroom Trailer LLC (est. \$2,980.00 delivery fee)  
\$54,995.00 Montondo Trailer LLC (est. \$2,765.00 delivery fee)

During the bid solicitation process staff traveled to North Carolina to inspect the quality of the unit available from Portable Restroom Trailers LLC. Staff was not able to inspect the Montondo Trailer LLC unit as the business is located in Buffalo, NY.

Due to the ease of entry into the non-handicap stations (one low step) and configuration of the trailer, staff believes the Portable Restroom Trailer LLC unit is the best fit for BBRD. The reader should note, staff will need to pour a concrete extension to the sidewalk south of the tennis courts to ensure ADA accessibility and regular pumping of the waste tank will be required as the unit will not be connected to the Brevard County sanitary sewer system.

Lastly, staff plans on minimal movement of the trailer through the year. Such movements will be limited to large gathers (i.e., Barefoot by the Lake Festival) and during approaching tropical events to limit potential damage from wind born debris and/or tree limb breakage.

Lastly, sufficient fund balance is available for the budget overage.

Hence, staff recommends the BOT award contract to Portable Restroom Trailers LLC in the amount of \$57,970.00 plus delivery for a three station (one handicap and two regular) hydraulic drop restroom trailer and instruct staff to prepare a budget amendment from fund balance to cover the overage.

**Barefoot Bay Recreation  
Purchase Quote  
8/31/21**

**ADA Restroom Trailer + 2 Station - Oahu Series -  
HC 17' - Full Heat**



**Available to Order**

**\$57,970.00**

SKU# CHS337511

Financing as low as \$5,899.82 per month for QBO\*

\*Qualified Buyers Only

\*\*Quote good for 10 days; Subject to availability

✖ Small    🚻 2 Toilets    ♿ 1 ADA Toilets    🚽 0 Urinals    👤 Up to 250 Guests

### Essential Upgrade Package

☐ **Includes: Smarter Restroom App, Stereo, & Spare Tire with Mount + \$2,580.00**

### Upgrades

- ☐ **Non-Skid Flooring - Regular + \$2,680.00**
- ☐ **Diamond Plate Rock Guard + \$480.00**
- ☐ **Spare Tire Mounted + \$480.00**
- ☐ **Baby Changing Station + \$875.00**
- ☐ **Stereo - AMP with 2 Speakers & USB/SD Card Player + \$680.00**
- ☐ **Washdown Package + \$1,480.00**
- ☐ **Electric Hand Dryer (3 Suites) + \$2,850.00**
- ☐ **Direct to Sewer - Add Full Flush Toilets - 2 Toilets + \$950.00**
- ☐ **Hands Free Paper Towel Dispenser - 3 Suites + \$540.00**
- ☐ **Stainless Steel Wainscoting + \$2,580.00**
- ☐ **Generator Cage/Mount - Generator not included + \$4,680.00**
- ☐ **Solar Package + \$1,380.00**
- ☐ **Pintle Hitch + \$200.00**
- ☐ **4 Season Upgrade + \$4,980.00**

**Freight-Approximate to zip 32976: \$2,980.00**

**\*Available to Order \*Due to industry-wide fluctuations in raw material costs, units to be ordered may be subject to an additional surcharge.**

**\*6-8 month lead time.**

# Easy-to-Use ADA Restroom Trailers for Municipalities, Schools, and Parks

The ADA Portable Restrooms Trailer +2 Station | Oahu Series is perfect for any venue in which ADA accessibility is a must. This climate-controlled unit features 2 standard unisex restrooms, each with pedal flush toilets, cabinet sink, and shatterproof mirror.

The ADA Portable Restrooms Trailer +2 Station also contains one unisex ADA suite with ADA toilet, sink, shatterproof mirror, and grab rails. The ADA suite features a wide entry door and ADA-compliant ramp and welcomes each guest with a One Button execution system that smoothly and quietly lowers the trailer to the ground. Abundant porch lighting and vinyl flooring to ensure a safe entry/exit to each private suite, no matter what time of day or night.

**Smarter Restrooms App** - An interactive tool allowing portable restroom rentals fleet owners to monitor operational systems for their trailer(s) from any smartphone, tablet, or computer. You can easily maintain systems operations with the ability to monitor waste and fresh water tank levels, power, and interior climate control.

*Photos are used to show a choice of white or grey FRP walls and may not be an actual representation of the unit. Please see the layout for actual representation.*

Financing available with deposit and approved credit.  
Call us today for more information at 1-866-258-6787

## Features/Specifications

**Model Year: Newest Model**

**Stations: 3**

**Standard Toilets: 2**

**ADA Toilets: 1**

**Sinks: 3**

**Laundry: No**

**Fresh Water Tank (Gallons): 105**

**Waste Tank (Gallons): 300**



**Water Heater: Yes**

**Mechanics Room: Yes**

**Box Length: 17'**

**Box Width: 6'**

**A/C Unit Type (BTU): 13.5**

**A/C Unit Count: 1**

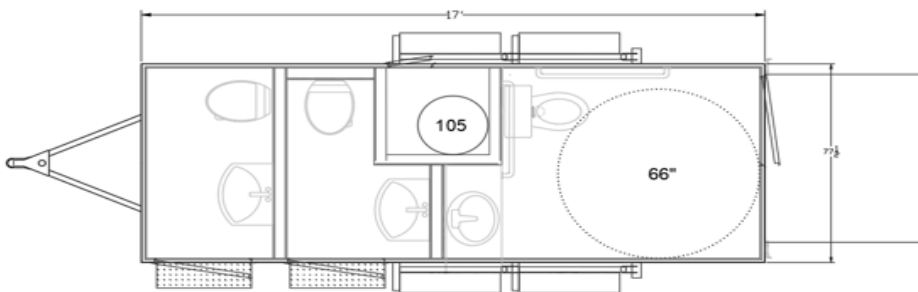
**Water Supply: City Water- Pressurized Water System- Garden Hose**

**Power Supply/Cords: (1-5) 30 Amp Cords**

**Motion Sensor Step Lights: No**

**Warranty Information: This new unit has a 5-year limited trailer manufacturer warranty on the trailer frame and axles and a 2-year limited warranty on the trailer as a whole. Sealant, electrical components, hydraulics, hoses, wall coverings, trim and paint are warranted for 1 year, and 1-3 year warranty on Individual appliances. Registration details are provided by their individual appliance manufacturers and are located in the component binder located in the mechanics room on the backside of the trailer.**

#### Floor Plan



☐ Thank you for the opportunity...

Vanessa Smith  
National Accounts Specialist - ☐ Portable Restroom Trailers, LLC  
Office: (877) 600-TOILETS [8645]  
Direct/Text: (716) 640-4209  
Email: [vanessa@portablerestroomtrailers.com](mailto:vanessa@portablerestroomtrailers.com)  
[www.portablerestroomtrailers.com](http://www.portablerestroomtrailers.com)



## 2021– Handicap Accessible Hydraulic Drop 3 Station Restroom Trailer



Prepared For:  
Matt Goetz

Prepared By:  
Montondo Trailer  
August 30th, 2020  
Daniel Pfohl  
716-308-0829  
[daniel@montondotrailer.com](mailto:daniel@montondotrailer.com)



8/30/2021

Matt,

Thank you very much for the opportunity to work with you and your group to provide a portable Restroom solution. We at Montondo Trailer take tremendous pride in what we do and would welcome you to join our growing list of satisfied clients.

All trailers built by Montondo Trailer are designed for ease of use, cleaning, maintenance, and repairs. Using standard commercial building principles, we have incorporated access to all plumbing and systems. Interior walls are metal framed and insulated (2' x 4' - 16" O.C.) with smooth FRP, PEX supply lines and each seam is sealed to create a moisture resistant barrier. Our waste/greywater tanks are rotationally molded poly, designed for ease of cleaning and longevity. The focus, on all of our builds and designs, is on providing a high quality product made to last, which will protect our clients investments.

As each unit is custom built, we have to opportunity to fine tune and adjust the project should the need arise. We offer a wide variety of designs and configurations and will work with you to provide the best possible solution for each unique application.

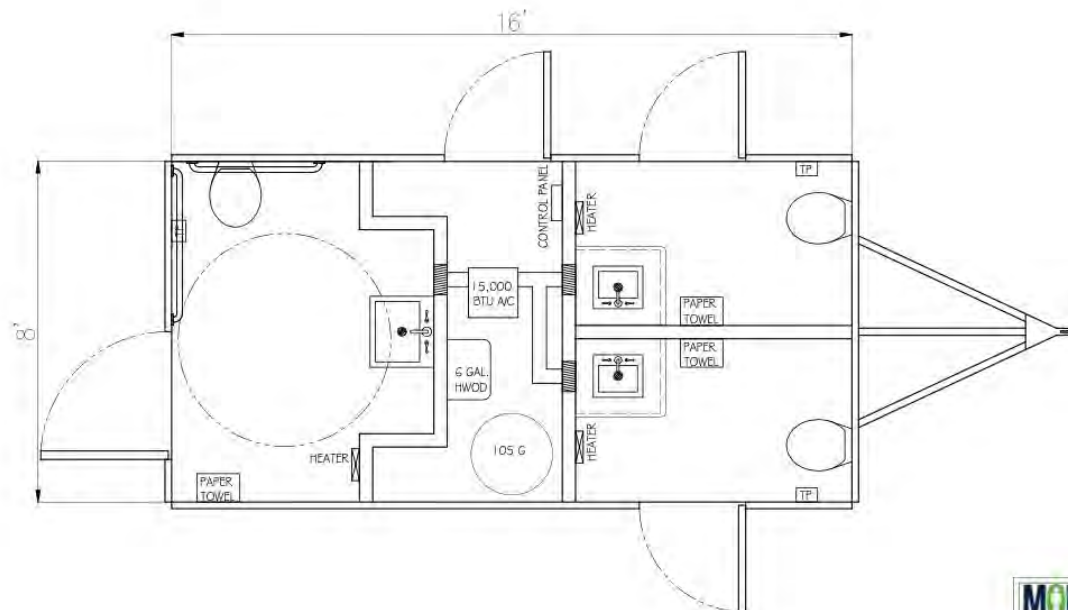
We look forward to working with you and appreciate any and all feedback along the way.

Sincerely,

Daniel Pfohl  
Montondo Trailer, LLC  
Daniel@montondotrailer.com  
www.montondotrailer.com  
1-800-680-2902 office 716-308-0829 Cell



## 16' x 8' - Handicap Accessible Hydraulic Drop 3 Station Restroom Trailer



### Key Features:

- Standard Restrooms Features: Dometic China Bowl Toilet, Shatter Proof Mirror, Sink, Paper Towel and Soap Dispenser, and Bathroom Vent
- Handicap Room: Handicap Sink, Handicap Toilet, Paper Towel and Soap Dispenser, Mirror, Hand Rails and Vent
- 100 Gallon Fresh Water Tank
- 300 Gallon Waste Tank
- Remote Controlled Hydraulic Drop System W/ Aluminum Handicap Ramp
- 15,000 BTU Air Conditioning
- Hot Water Hand Wash
- Commercial Flooring with Wash-down Package and floor drains
- LED Interior and Exterior Lighting



## Purchase Agreement

### 16' x 8' – Handicap Accessible Hydraulic Drop 3 Station Restroom Trailer

---

**\$54,995 Per Unit**

#### **\*\*\*Financing Available\*\*\***

Standard Trailer Features: White Gel Coat Exterior, Marine grade sub floor system, 2 5/16 Ball Hitch, LED entrance lights, Mechanics Room, Electric Runaway Breaks, DOT LED lighting, 3" Banjo Clean out Valve, 3/4 freshwater connection, Exterior power connection (to client spec), Heavy Duty Door Closures, Lockable doors knobs, Diamond Plate Rock Guard front of Trailer

Shipping Terms: To be determined at \$2.25 per mile from Buffalo NY

Initial: \_\_\_\_\_

Standard Terms: 50% payment down to start the order. Balance due 10 business days prior to delivery.

Any Payment by the Customer indicates the Customer agrees to our Terms and Conditions whether its signed or not. Cancellation of order, post deposit, will be subject to a 50% restocking fee based on gross sale price.

Items are the sole property of Montondo Trailer until full payment is made and must be turned over if payment isn't made within 90 days of delivery.

I the undersigned would like to purchase the items above in agreement with Montondo Trailer LLC terms and conditions

Signature: \_\_\_\_\_

Print Name: \_\_\_\_\_

Date: \_\_\_\_\_

Page 2 of 2



## Sample Commercial Builds



### REFERENCES:

Brian Griffin, Union County Sheriffs 704-506-6841

Dan Roy, Roys Barn 406-580-3463

Dr Joseph Wilson 919-698-2149

Alvin Miguez, Salvation Army 682-300-2415

### AFFILIATIONS:

NATM – National Association of trailer manufacturers

PSAI – Portable Sanitation Association International





# Warranty

## MONTONDO TRAILER PARTS AND COMPONENTS WARRANTY

5 yr. on the Trailer frame that covers defects in material and workmanship. That does not include warranties on the following products used to manufacture the trailer. Tires, wheels, axles and jacks. These items are warranted by their Mfg.

MT reserves the right on a final decision on whether (after inspection) it is decided the trailer has been misused.

All warranties voided if it is determined by Montondo Trailer that damage to the unit was caused by transportation of the trailer with waste or water in either of the onboard holding tanks.

Product warranties for installed Restroom components:

- AC limited 2 yr. on all major components.
- Lippert Axle- 1yr- 6yrs based on unit used
- Dometic toilets- 1yr
- Sloan Waterless urinals- 1yr
- Water pumps- 1yr
- See Level tank monitor- 1yr
- Interior or exterior LED – 1yr (unless damaged)
- Custom made cabinets- no warranty (workmanship issues will be handled on a ICB)
- Timed faucets- 1 yr. limited
- Pre-made cabinets- ICB based mfg.
- Wall Heater- Limited 1 yr.
- Stall Partitions: Mfg. guarantees its powder coated steel units, properly maintained, against corrosion or Discoloration for 3 years from the date of receipt by the customer. If materials are found defective during that period or the reasons listed above, the material will be replaced free of charge. No credits or allowances will be issued for any labor or expenses relating to the replacement of components covered under the warranty plan.
- Fresh water vertical storage tank- 3 yr.
- Tires and Wheels & Jacks- TBD based on the tires used and size



## WIRING INSTRUCTIONS:

Evans Bank  
One Grimsby Drive  
Hamburg NY 14075

BANK ABA # 022310121  
Account # 10162410

### ACCOUNT NAME:

Montondo Trailer LLC  
1800 Broadway St. 4C  
Buffalo NY 14212-2001

For incoming USD Foreign wires:  
BANK SWIFT BIC: EVANUS33





# Buy Back Program

## Qualifications:

1. The restroom trailer must be purchased new from Montondo Trailer.
2. The restroom trailer must be owned by the purchaser for one full year from the date of initial purchase.
3. Montondo Trailer must be able to inspect the trailer within two months following the 1st anniversary of purchase.
4. You must contact us in month 12 from the purchase date & alert us that you wish to be eligible for the buyback policy.
5. Upon inspection Montondo Trailer will buyback the restroom trailer from you for up to 80%, of the original purchase price. Owner must be able to provide proof at inspection that the unit is completely functional.
6. Montondo Trailer will make a bid on the restroom trailer within 2 weeks of the inspection. Owner must prove they possess the title along with the owner's manual.
7. Upon agreed terms & payment Montondo Trailer will buy the restroom trailer & take possession.

Thank you,

Montondo Trailer, LLC.

## Board of Trustees

## Meeting Agenda Memo

Date: Friday, September 10, 2021  
Title: **Community Center Electrical Repairs Confirmation**  
Section & Item: 9.F  
Department: R&M/Capital Projects  
Fiscal Impact: \$20,960.00  
Contact: Matt Goetz, Property Services Manager, John W Coffey, ICMA-CM, Community Manager  
Attachments: signed bid  
Reviewed by General Counsel: N/A  
Approved by: John W. Coffey, ICMA-CM, Community Manager



### Requested Action by BOT

Confirmation of the Community Manager's approval of the Complete Electric, Inc. bid for electrical repairs at the Community Center.

### Background and Summary Information

In early August, the electrical service from the panel south of the Tennis Courts failed. An extensive effort to trouble shoot the problem lead to the discovery of a failed buried electrical line. Due to the nature of the problem staff contacted a local vendor to diagnose the problem and proffer a solution. Due to the cost of crossing pavement to the nearest transformer, the most cost-effective solution involves running approximately 450 feet of buried line to the nearest transformer and replacement of the electrical panel and associated hardware. Staff obtained the BOT's consent to bypass soliciting a second quote at the August 24th BOT meeting to speed up the project and restore service to the following areas:

- Pickle Ball Courts lights
- Tennis Courts lights
- Horse Shoe area lights
- Marquee sign
- Memorial garden fountain pump
- Lawn bowling irrigation pump house

On August 26th, the Community Manager signed an official bid from Complete Electric, Inc. in the amount of \$20,960.00 for the work. The vendor started the permitting process the following day.

Sufficient fund balance is available for this project.

Hence, staff recommends the BOT confirm the Community Manager's approval of Complete Electric, Inc.'s bid in the amount of \$20,960.00 for electrical repairs at the Community Center, waiving the second bid requirement, and instructing staff to prepare the necessary budget amendment to fund the cost.

**Complete Electric, Inc.**  
**637 Sebastian Blvd.**  
**Sebastian, Fl. 32958**

Indian River: (772) 388-0533 Brevard: (321) 726-0601 St. Lucie: (772) 344-3444  
Fax: (772) 388-2411  
EC0001911

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[www.completeelectricinc.com](http://www.completeelectricinc.com)

Date: Friday, August 26, 2021  
Name: Barefoot Bay Recreation District  
Attn: Matt  
Address: 7935 US 1, Micco, FL 32976  
Email: mattgoetz@bbrd.org  
Phone: 772-494-9985  
Re: Tennis Court Electrical Service

---

Complete Electric, Inc. Is Pleased To Present You, With Our Proposal Detailed Below:

**Scope of Work:** Replace the underground electrical service that supplies the Tennis Courts since FPL was on site and determined the underground feed has gone bad. This proposal also includes replacing the service and panel as well.

- Obtain permit with Brevard County.
- Obtain a disconnect/reconnect with FPL. Power will be off to the service for at least 24 hours while this work takes place.
- Trench from the existing FPL hand box that is located behind the first residence to the west of the Tennis Courts off Barefoot Blvd, to the Tennis Court service location. This trench will be done using a mini-excavator and will follow the contour of the lake. We will dig by hand near the residence.
- Install new PVC conduit at required depth per FPL guidelines from the hand box to the service location.
- Construct a new service rack using vertical concrete posts and galvanized strut for horizontal support. The existing service rack will be removed. We will need help from Barefoot Bay Maintenance to remove the wood and rest of the structure if possible.
- Install a new 150A rated FPL approved meter can. Install a new 150A 120/240V single phase, Main Breaker 42 circuit outdoor rated N3R Load Center/Panel next to the meter can with all new circuit breakers.
- Install new CU ground rods and CU ground wire along with Low Voltage System ground bridge.
- Pull in new 150A rated AL feeders from the FPL source to the new service location. These feeders will be sized to prevent voltage drop over this long distance.
- Terminate the existing branch circuitry in the new panel. *\*\*There could be a need for additional repairs or components associated with the Tennis Court lighting control. If new timers or lighting contactors are needed, it will be additional. We will attempt to*



re-use what is there for the base proposal. Change Order will be provided if we do need new or additional timers, contactors, etc.

- Coordinate for final inspection upon completion and install engraved ID plate with address and FPL service location listed.

**NOTES & EXCLUSIONS:** We will call for locates prior to trenching. However, locates will only identify utility items such as FPL, AT&T, Cable, county utilities, etc. They cannot identify customer owned items such as irrigation piping, and any customer owned electrical lines, or customer owned low voltage cabling. No fees are included in our proposal for repairs to items that are not identified by central locates prior to digging.

**TOTAL QUOTE: \$20960.00**

**GENERAL NOTES:** Only the items listed above are included in this quote. If further work is requested it will be completed at a separate time and material rate. While it is our goal to snake/install new cables in a finished home/business without opening any drywall, there are situations where this is beyond our control. If such a situation were to occur, it will be discussed with the Owners prior to any openings. Any openings that are approved will be secured to the wall/ceiling upon completion. Any drywall repair, spackle, or paint that is required will be the sole responsibility of the Owners. Trenching (if needed) will be completed in a neat and professional manner. Any pre-existing conduits or cables that have not been properly buried, may become damaged while our crew is trenching. If such a situation were to occur, it will be the sole responsibility of the Owners to have any necessary repairs made.

If The AHJ Requires Additional Devices Or Items Not Indicated On The Plans, Or Not Included In The Specifications They Will Be Added At Additional Cost. Quote Based On Working Hours, 7:00 AM – 3:30 PM.  
Damage Resulting From the Installation Of Our Scope Of Work To Underground Items That Have Not Been Identified By Locates Will Not Be The Sole Responsibility Of The Electrical Contractor.

No Permit fees or FPL fees are included in the above quote. Quote is valid for 30 days. All Work will be performed in accordance to the National Electric Code standards and local ordinances. Please contact us if we can provide you with any additional information.

If work does not commence within 30 days of the date of this proposal, or if work is delayed after the designated start date, Complete Electric, Inc. reserves the right to increase the price to the current material cost at that time.

**Estimator: George Greathouse**

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Payment Schedule: 30% due at signing of quote, balance upon completion. 2.5% fee will be added to all Credit Card payments of \$1000.00 or more.

**PAYMENT LIABILITY**

Customer signature signifies authorization of quoted work and acceptance of payment liability. Payment is due upon completion of work or satisfactory passing of any required inspection. If the invoice is not paid and the Contractor engages an attorney to enforce collection the customer agrees to pay all expenses including court costs and reasonable attorney fees to be fixed by any court in which said attorney is required to appear. The Customer further agrees that he or she may be sued in an Indian River County, Florida Court, the payment for material and labor provided under this contract shall be due and payable in full on the above date and shall be made at our office in

Sebastian, Florida. Interest at the rate of 1.5% per month (18% annually) shall be charged for any amount not paid within the said 20 days. In any litigation arising out of this contract, the prevailing party shall be entitled to recover reasonable attorneys' fees and costs, including appellate proceedings. If judicial proceedings are necessary to enforce the terms of this contract, venue shall be in a State of Florida court of competent jurisdiction in Indian River County, Florida.

  
Customer Signature

  
Date

F: SERVICE QUOTES 2019:

## Board of Trustees

## Meeting Agenda Memo

Date: Friday, September 10, 2021

Title: **Building A Renovations Project: Change Order #13 Confirmation**

Section & Item: 9.G

Department: R&M/Capital Projects

Fiscal Impact: \$34,292.13

Contact: Matt Goetz, Property Services Manager, John W Coffey, ICMA-CM, Community Manager

Attachments: Building A Renovations Project CO 13, Bldg A Renovations Change Order tracker

Reviewed by General Counsel: N/A

Approved by: John W. Coffey, ICMA-CM, Community Manager



### Requested Action by BOT

Confirmation of the Community Manager's approval of Change Order #13 to add a work platform around the kitchen exhaust pipes as required by Brevard County subsequent to approval of the project's building permit.

### Background and Summary Information

Brevard County Building Department approved the Building A Renovations project construction plans in 2020 without work platforms around the hood exhaust pipes on the kitchen roof. On June 6, 2021, A County Building Inspector informed the general contractor that the project would not receive the final inspection approval without adding said platform. On June 27, 2021, BBRD's engineer of record was able to substantiate that Brevard County's last-minute requirement of the platform was based on their unique interpretation of Florida Fire Prevention Code (FFPC). Hence, staff authorized the design and costing of the addition to the original construction plans.

On August 27, 2021, staff received the proposed Change Order #13 for fabrication, delivery and installation of the platform (excluding minor roofing expense to be provided by a third party) in the amount of \$34,292.13. In consultation with BOT Chairman Maino, the Community Manager approved the change order to expedite the completion of the project (estimated time frame is 6-8 weeks after the building permit is approved). The Community Manager then notified the rest of the BOT of his action and that confirmation of his approval (exceeding his spending authority) would be placed on this agenda for transparency purposes.

Sufficient fund balance exists to cover this unexpected expense.

Overall, the work is 99.9% complete and staff anticipates the BOT and residents will be happy with the project once it is completed.

Hence, staff recommends the BOT confirm the Community Manager's approval of Change Order #13 in the amount of \$34,292.13 for installation of a kitchen hood exhaust pipes platform to Parkit Construction, Inc. and instruct staff to prepare the necessary budget amendment to fund the cost.



Job No./Name BBRD Building A Parkit Construction, Inc.		Date Through 27-Aug-21	
FCN No. 13		RFI or RFP No. RCO No.	
Description of Work: Furnish & Install Custom Work Platform around 2 Exhaust Fans per Building Department Requirement & EOR Design. Quote specifically excludes any roof related work required to install platform.			
<b>Subcontractor</b>		<b>Qty</b>	<b>U/M</b>
			<b>Unit Cost</b>
			<b>Total Amount</b>
RDS Industrial Platform	1.00	LS	\$ 28,454.00
Interior Finishes (Repair Potential Damaged Grid/Panels)	1.00	LS	\$ 750.00
<b>Total Subcontractor</b>			<b>\$ 29,204.00</b>
<b>Material</b>		<b>Qty</b>	<b>U/M</b>
			<b>Unit Cost</b>
			<b>Total Amount</b>
	0.00	LS	\$ -
	0.00	LS	\$ -
<b>Total Material</b>			<b>\$ -</b>
<b>Labor</b>		<b>Qty</b>	<b>U/M</b>
			<b>Unit Cost</b>
			<b>Total Amount</b>
	0.00	HRS	\$ -
<b>Total Labor</b>			<b>\$ -</b>
<b>Equipment</b>		<b>Qty</b>	<b>U/M</b>
			<b>Unit Cost</b>
			<b>Total Amount</b>
	0.00	Days	\$ 360.00
	0.00	Days	\$ 96.00
<b>Total Equipment</b>			<b>\$ -</b>
<b>Other</b>		<b>Qty</b>	<b>U/M</b>
			<b>Unit Cost</b>
			<b>Total Amount</b>
1 20 CY Dumpster Rental	1.00	LS	\$ 320.00
Estimated Add, Permitting Cost with County 1% of Cost	1.00	LS	\$ 295.24
<b>Total Other</b>			<b>\$ 615.24</b>
<b>Subtotal #1</b>			<b>\$ 29,819.24</b>
Overhead Markup (Discount from 10 to 5)	5.00%		\$ 1,490.96
Profit Markup	10.00%		\$ 2,981.92
Bond (Not needed due to ODP reductions)	3.00%		\$ -
<b>Total Cost for Change</b>			<b>\$ 34,292.13</b>
Time Requested = To Be Determined			
Steel Cost is exceedingly volatile currently - RDS disclaimers apply to Parkit proposal			
Platform is at least 6 to 8 weeks out after approval and permitting			

*[Signature]*  
27 Aug 21



August 26, 2021

To: Parkit Construction  
From: Jamie Jacobes  
Subject: Barefoot Bay Platform

RDS Industrial, Inc. proposes to furnish the necessary labor, equipment, and materials for the following scope of work:

- Steel Platforms – Fabricate, galvanize, and install steel platform with bar grating, one man gate, and all associated railing. Design is based on engineer drawings. All attachments need to be exposed by others. RDS is not responsible for cutting or resealing roof material. Tie off points must be installed by roofer. RDS will coordinate with roofer at time of install.

Price: \$27,454.00

- Other:

- Equipment – Price: \$1,000.00

**TOTAL: \$28,454.00**

**All pricing includes appropriate tax but not engineering.**

Pricing for material is very volatile and may be adjusted if project is awarded and/or started after 15 days. A material deposit may be required to guarantee pricing and availability of materials.

**Qualifications:**

1. This proposal is based upon approval by a certified engineer of the railing designs AS DRAWN in the provided documents and as noted above. RDS Industrial has no way to know at this point if the designs presented on the drawings are structurally sound and conform to code requirements without conducting these engineering calculations. Should the designs require modification due to engineering deficiencies, pricing will be adjusted accordingly.
2. This proposal does not cover installations on PORCELAIN TILE. PORCELAIN TILE requires substantial additional labor to penetrate and will incur additional charges.
3. All work to be accomplished during a normal forty-hour work week, without the necessity of overtime, shift or weekend work.
4. Testing, Inspection, and associated costs are to be provided by others.
5. All embedded materials are furnish only.
6. Adequate elevation benchmarks and control lines are to be provided by the contractor.
7. Wherever there is a design or material conflict in the contract documents, it is assumed Architectural Details will supersede.
8. Quote assumes reasonable access to job site on a daily basis.
9. Quote assumes all architectural and MEP items will be removed by others such as to allow safe and full access for installation.
10. All necessary coordination related to embeds and drilling of post-tensioned slabs is the responsibility of others, specifically but not limited to slab x-rays.
11. Quote assumes all backing materials will be in place and provided by others.
12. Quote assumes in stock, standard color for powder coating and paint unless otherwise specified. Custom colors will be an additional expense.
13. No work shall begin until a copy of the Notice of Commencement, a fully executed contract and/or a deposit have been received by RDS Industrial, Inc. Estimated project lead times begin upon receipt of said items.
14. Quote is based on regular wages for all RDS Industrial employees. Specialty payroll or Davis-Bacon Wages will require a revision.
15. Quote reflects a cash or check payment discount.



**Exclusions:**

- 1.All Demolition
- 2.Concrete
- 3.Reinforced Steel
- 4.Light gauge framing/dry wall/all finish materials
- 5.Gauge material
- 6.Finish paint
- 7.Touch-up paint
- 8.Caulking/grouting, etc.
- 9.Permanent or temporary Safety Rails
- 10.All permanent Life Safety Items
- 11.Any items not specifically called out in the scope of work.

Jamie Jacobes  
RDS Industrial, Inc.  
321-631-0121 office  
321-917-6906 cell

## Building A Renovations Project Contract Cost History

Date	Change Order #	Description	Change Order Cost	Revised Contract Cost	Approved By
26-May-20	N/A	Original contract		564,435.00	BOT
N/A	N/A	Various direct equipment purchases by BBRD (previous and remaining planned) as allowed by the contract	(191,992.55)	372,442.45	N/A
17-Nov-20	1	Replace structural support under rooftop HVAC systems ( 30 extra days)	22,245.60	394,688.05	Comm. Mgr.
17-Nov-20	2	Replace AC duct and exhaust fan system in eastside air handler room	10,044.89	404,732.94	Comm. Mgr.
17-Nov-20	3	Add Electrical run, step down transformer, lights, and ceil fan outlet to Pavilion (cost to be offset by CVO donation of \$2,555.78)	17,767.50	422,500.44	BOT
17-Nov-20	4	Remove and replace storage area floor to facilitate plumbing changes	1,725.00	424,225.44	Comm. Mgr.
14-Jan-21	5	Removal of unforeseen vent pipe (was abandoned in place year unknown)	747.50	424,972.94	Comm. Mgr.
14-Jan-21	6	Removal of obsolete rooftop HVAC (abandoned in place circa 2007)	977.50	425,950.44	Comm. Mgr.
14-Jan-21	7	Conversion of propane tank usage to connection of existing 1,000 gallon underground tank) (7 extra days)	5,635.00	431,585.44	Comm. Mgr.
14-Jan-21	8	Removal of electrical outlet conflicting with new opening in a wall and installation of new electrical home run	3,450.00	435,035.44	Comm. Mgr.
16-Mar-21	9	Deconfliction of existing duct work for new hood system	1,897.00	436,932.44	BOT
16-Mar-21	10	Additional hand sink	4,046.85	440,979.29	BOT
16-Mar-21	10a	Time extension of 45 days	-	440,979.29	BOT
27-Apr-21	11	Main kitchen entrance ceiling adjustment	1,137.74	442,117.03	BOT
27-Apr-21	12	Increased size of freezer slab	2,519.52	444,636.55	BOT
27-Apr-21	12a	Time extension of 39 days	-	444,636.55	BOT
27-Aug-21	13	Hood exhaust pipes platform	34,292.13	478,928.68	Comm. Mgr.
<b>Total</b>			<b>106,486.23</b>		
Direct purchases per contract				204,667.55	
Plug in equipment outside of contract				44,248.26	
<b>Estimated Project Total</b>				<b>727,844.49</b>	
FY22-26 5yrFM&CIP Budget Estimate				607,000.00	
Overage				120,844.49	19.91%

## Board of Trustees

## Meeting Agenda Memo

Date: Friday, September 10, 2021  
Title: **FY22 Employee Pay and Classification Plan**  
Section & Item: 9.H  
Department: Resident Relations, Customer Service  
Fiscal Impact: \$112,751.00 total (estimated)  
\$84,145.00 for COLA/Merit increases  
\$28,606.00 for minimum wage increases  
Contact: Richard Armington, Resident Relations Manager, John W Coffey, ICMA-CM, Community Manager  
Attachments: Resolution 2021-14, FY22 Pay and Class plan  
Reviewed by  
General Counsel: Yes  
Approved by: John W. Coffey, ICMA-CM, Community Manager



### Requested Action by BOT

Review recommended pay and classification plan and approve Resolution 2021-14.

### Background and Summary Information

Beginning in FY17, BBRD adopted a formal pay and classification plan based on a representative employee pay survey and an internal comparative worth review. In early 2019, staff updated the previous salary survey.

The FY22 employee pay and classification plan will update BBRD's personnel system for compliance with the new Florida minimum wages of \$6.98 for tipped employees and \$10.00 for non-tipped employees starting October 1, 2021. Of note, all tipped classifications will be paid the same while non-tipped classifications 1-5 will be paid the same. The FY22's Pay and Classification Plan needs to be adopted prior to October 1, 2021 due to the voter approved State Constitutional Amendment increasing the minimum wages to \$10.00 an hour for non-tipped and \$6.98 an hour for tipped employees effective October 1, 2021, and an additional \$1.00 an hour each subsequent year until 2026 when the annual increase returns to the CPI.

Staff will be requesting the BOT add funding to the FY23 Budget to pay for a formal pay and classification study to be conducted to guide future BOTs in how to handle pay and benefits related to the compression of the pay plan.

BBRD's FY22 COLA and merit maximums (except if the minimum wage increase is larger) are as follows:

4.0% COLA  
1.0% Merit

No changes are recommended to the pay plan.

The Community Manager recommends the BOT approve resolution #2021-14 thereby adopting the FY22 Employee Pay and Classification Plan effective September 27, 2021 with a maximum of a 5.0% combined COLA and merit increase for all eligible employees\*.

\* Indicates employees who are paid higher than their maximum pay grade for FY22 or receive minimum wage increases greater than 5.0% will not be eligible for either the COLA or merit increase.

## **RESOLUTION 2021-14**

**A RESOLUTION OF THE BAREFOOT BAY RECREATION DISTRICT  
SUPERSEDING AND REPLACING RESOLUTION 2019-17 AND  
ADOPTING AN EMPLOYEE PAY AND CLASSIFICATION PLAN FOR  
FISCAL YEAR 2021-2022; PROVIDING FOR SEVERABILITY; PROVIDING  
FOR CONFLICT WITH OTHER PROVISIONS; AND, PROVIDING FOR AN  
EFFECTIVE DATE.**

**WHEREAS**, the Board of Trustees desires to maintain a competitive pay and classification plan to attract and maintain a qualified workforce; and

**WHEREAS**, the Board of Trustees first adopted a formal pay and classification plan Resolution 2017-18; and

**WHEREAS**, the Board of Trustees adopted Fiscal Year 2021-2022 Operating Budget Resolution 2021-09 which contains funding for employee compensation; and

**WHEREAS**, the Board of Trustees adopted Fiscal Year 2021-2022 Operating Budget Resolution 2021-09 which contains funding a maximum of 5.0% increase per employee to be split between a cost-of-living-increase and a merit-based increase; and

**WHEREAS**, on December 4, 2020, the Board of Trustees adopted Resolution 2020-08 which adopted an Employee Pay and Classification plan for fiscal year 2020-2021; and

**WHEREAS**, the State minimum pay for tipped non-exempt employees is scheduled to increase to \$6.98 per hour on October 1, 2021; and

**WHEREAS**, the State minimum pay for non-tipped non-exempt employees is scheduled to increase to \$10.00 per hour on October 1, 2021; and

**WHEREAS**, the Board of Trustees desires to maintain a pay and classification plan that is gender neutral and based on each employee's ability to perform her/his job and job market conditions; and

**WHEREAS**, the Board of Trustees desires to formally adopt an employee pay and classification plan so residents and employees understand the minimum and maximum pay for each position;

**NOW, THEREFORE BE IT RESOLVED BY THE BOARD OF TRUSTEES OF THE BAREFOOT BAY RECREATION DISTRICT AS FOLLOWS:**

Section 1. The Fiscal Year 2021-2022 Employee Pay and Classification Plan appearing as Exhibit "A" of this Resolution is hereby adopted to serve as the basis of employee compensation of

Barefoot Bay Recreation District. The Employee Pay and Classification Plan appearing as Exhibit "A" of this Resolution shall supersede and replace any previously adopted Employee Pay and Classification Plan and shall apply prospectively beginning September 27, 2021.

Section 2. Severability.

If any portion, clause, phrase, sentence or classification of this Resolution is held or declared to be either unconstitutional, invalid, inapplicable, inoperative or void, then such declaration shall not be construed to affect other portions of the resolution; it is hereby declared to be the expressed opinion of the Trustees of the Barefoot Bay Recreation District that any such unconstitutional, invalid, inapplicable, inoperative or void portion or portions of this Resolution did not induce its passage, and that without the inclusion of any such portion or portions of this Resolution, the Trustees would have enacted the valid constitutional portions thereof.

Section 3. Conflict with other Provisions.

All resolutions or parts of resolutions in conflict herewith are hereby repealed and all resolutions or parts of resolutions not in conflict herewith are hereby continued in full force and effect.

Section 4. Effective Date.

The Fiscal Year 2021-2022 Employee Pay and Classification Plan appearing in Exhibit "A" of this Resolution shall take effect September 27, 2021.

The foregoing resolution was moved for adoption by Trustee \_\_\_\_\_. The motion was seconded by Trustee \_\_\_\_\_ and, upon being put to a vote, that vote was as follows:

Chairman Michael R. Maino  
Trustee Jeff Grunow  
Trustee Jim Nugent  
Trustee Jeff Grunow  
Trustee Bruce Amoss

The Chairman thereupon declared this resolution Done and Adopted this 10th day of September 2021.

**BAREFOOT BAY RECREATION DISTRICT**

By: \_\_\_\_\_  
MICHAEL R. MAINO, Chairman

Attest: \_\_\_\_\_  
JEFF GRUNOW, Secretary

**Approved FY22 Pay and Classification Plan  
(Adopted by the BOT on September 10, 2021)**

<u>Position</u>	<u>Classification</u>	<u>Grade</u>	<u>Min</u>	<u>Mid</u>	<u>Max</u>
Finance Manager	Mgr.	115	35.14	42.17	49.19
	Mgr.	114	34.28	41.14	47.99
	Mgr.	113	33.45	40.13	46.82
	Mgr.	112	32.63	39.16	45.68
	Mgr.	111	31.83	38.20	44.57
Food & Beverage Manager	Mgr.	110	31.06	37.27	43.48
Resident Relations/H.R. Manager	Mgr.	109	30.30	36.36	42.42
	Mgr.	108	29.56	35.47	41.38
Golf Operations Manager	Mgr.	107	28.84	34.61	40.38
	Mgr.	106	28.14	33.76	39.39
	Mgr.	105	27.45	32.94	38.43
District Clerk	Mgr.	104	26.78	32.14	37.49
Property Services Manager	Mgr.	103	26.13	31.35	36.58
Lead Accountant	Exempt	38	22.53	27.04	31.54
	Exempt	37	21.98	26.38	30.77
	Exempt	36	21.44	25.73	30.02
	Exempt	35	20.92	25.10	29.29
Management Analyst	Exempt	34	20.41	24.49	28.57
	Exempt	33	19.91	23.90	27.88
	Exempt	32	19.43	23.31	27.20
	Exempt	31	18.95	22.74	26.53
	Exempt	30	18.49	22.19	25.89
	Exempt	29	18.04	21.65	25.26
	Exempt	28	17.60	21.12	24.64
	Exempt	27	17.17	20.60	24.04
	Exempt	26	16.75	20.10	23.45
	Exempt	25	16.34	19.61	22.88
Kitchen Supervisor	Exempt	24	15.94	19.13	22.32
Accounting Associate III	Non-Exempt	28	17.60	21.12	24.64
Accounting Associate II	Non-Exempt	27	17.17	20.60	24.04
Golf Professional	Non-Exempt	26	16.75	20.10	23.45
Accounting Associate I	Non-Exempt	26	16.75	20.10	23.45
P.S. Crew Leader	Non-Exempt	25	16.34	19.61	22.88
Custodian Supervisor	Non-Exempt	25			
Pool Sup./Office Coordinator	Non-Exempt	25			
H.R. Generalist/Office Coordinator	Non-Exempt	24	15.94	19.13	22.32
Catering Coordinator	Non-Exempt	23	15.56	18.67	21.78
Bldg. Tech III	Non-Exempt	23			
Maintenance/Audio-Visual	Non-Exempt	22	15.18	18.21	21.25
Bldg. Tech II	Non-Exempt	22			
Bldg. Tech/Mechanic	Non-Exempt	22			
	Non-Exempt	21	14.81	17.77	20.73

**Approved FY22 Pay and Classification Plan  
(Adopted by the BOT on September 10, 2021)**

<u>Position</u>	<u>Classification</u>	<u>Grade</u>	<u>Min</u>	<u>Mid</u>	<u>Max</u>
Administrative Assistant	Non-Exempt	20	14.45	17.33	20.22
DOR/ARCC Administrative Assistant	Non-Exempt	20			
DOR/ARCC Inspector	Non-Exempt	19	14.09	16.91	19.73
Calendar/RV Coordinator	Non-Exempt	19			
Lead Cook	Non-Exempt	19			
Lead Pool Tech	Non-Exempt	19			
Landscape/Irrigation Technician	Non-Exempt	18	13.75	16.50	19.25
Community Watch Officer	Non-Exempt	17	13.41	16.10	18.78
Accounting Clerk	Non-Exempt	17			
Bldg. Tech I	Non-Exempt	17			
Customer Service Clerk	Non-Exempt	16	13.09	15.70	18.32
Lead Groundskeeper	Non-Exempt	15	12.77	15.32	17.87
Custodian/AV Tech	Non-Exempt	14	12.46	14.95	17.44
	Non-Exempt	13	12.15	14.58	17.01
Lead Custodian	Non-Exempt	12	11.86	14.23	16.60
Pool Tech	Non-Exempt	12			
	Non-Exempt	11	11.57	13.88	16.19
Administrative Clerk	Non-Exempt	10	11.28	13.54	15.80
Receptionist/Clerk	Non-Exempt	10			
(Golf) Clerk	Non-Exempt	10			
Cook	Non-Exempt	10			
	Non-Exempt	9	11.01	13.21	15.41
	Non-Exempt	8	10.74	12.89	15.04
	Non-Exempt	7	10.48	12.57	14.67
Groundskeeper	Non-Exempt	6	10.22	12.27	14.31
Pool Host	Non-Exempt	6			
Crowd Monitor	Non-Exempt	6			
Player Assistant/Cart Tech	Non-Exempt	6			
	Non-Exempt	5	10.00	12.00	14.00
	Non-Exempt	4	10.00	12.00	14.00
Custodian	Non-Exempt	3	10.00	12.00	14.00
Crowd Monitor/Bar Back	Non-Exempt	3			
	Non-Exempt	2	10.00	12.00	14.00
Dish Washer	Non-Exempt	1	10.00	12.00	14.00
Courtesy Golf Cart Driver	Non-Exempt	1			
F&B Expeditor	Non-Exempt	1			
F&B Host	Non-Exempt	1			
Player Assistant	Non-Exempt	1			
Bar Supervisor	Tipped Non-Exempt	H	6.98	8.38	9.77
	Tipped Non-Exempt	G	6.98	8.38	9.77
	Tipped Non-Exempt	F	6.98	8.38	9.77
	Tipped Non-Exempt	E	6.98	8.38	9.77
	Tipped Non-Exempt	D	6.98	8.38	9.77
Lead Server	Tipped Non-Exempt	C	6.98	8.38	9.77

**Approved FY22 Pay and Classification Plan  
(Adopted by the BOT on September 10, 2021)**

<u>Position</u>	<u>Classification</u>	<u>Grade</u>	<u>Min</u>	<u>Mid</u>	<u>Max</u>
Lead Bartender	Tipped Non-Exempt	C			
	Tipped Non-Exempt	B	6.98	8.38	9.77
Bartender	Tipped Non-Exempt	A	6.98	8.38	9.77
Server	Tipped Non-Exempt	A			



## Board of Trustees

Date: Friday, September 10, 2021  
Title: **FY23 Budget Preparation Calendar**  
Section & Item: 9.I  
Department: Administration, District Clerk  
Fiscal Impact: N/A  
Contact: John W Coffey, ICMA-CM, Community Manager  
Attachments: FY23 Budget prep calendar  
Reviewed by General Counsel: N/A  
Approved by: John W. Coffey, ICMA-CM, Community Manager



### Requested Action by BOT

Review the proposed calendar, selection of dates and times for workshops, and approval of the calendar.

### Background and Summary Information

Starting in 2015, the BOT has formally adopted the upcoming budget preparation calendar for transparency purposes and to encourage greater participation in the process prior to the final BOT meeting (adoption of the assessment rate and budget) when most homeowners proffer their ideas, complaints, and comments. The proposed process for the development, review, and adoption of the FY23 Budget includes the following:

- Solicitation of new R&M/Capital project ideas from the community and individual Trustees during mid-November to early December
- Budget kick-off townhall meeting in mid-January
- Release of the FY23 WDPB (including the 5yrFM&CIP) in early March
- BOT FY23 Budget review workshops in mid-late March and early May
- 5-week window (situated between BOT Budget workshops) allowing time for a possible request to go above CPI for critical needs, emergency contingencies, or unfunded mandates to be considered by the Brevard County Board of County Commissioners

While all dates and times can be changed by the BOT, staff requests the BOT pick from the many possible openings for the various workshops and then adopt the FY23 Budget Preparation Calendar. Said choices include:

#### Townhall Meeting (select one time)

- Tuesday, January 18<sup>th</sup> at 7pm in Bldg. D/E
- Wednesday, January 19<sup>th</sup> at 1pm in Bldg. D/E
- Thursday, Jan. 20<sup>th</sup> at 9am in Bldg. D/E

#### FY23 Budget Review Workshops

(select two dates and times )

- Monday, March 14<sup>th</sup> at 7-9pm in Bldg. D/E
- Wednesday, March 23<sup>rd</sup> at 10am-noon in Bldg. D/E
- Thursday, March 24<sup>th</sup> at 10am-noon in Bldg. D/E
- Thursday, March 24<sup>th</sup> at 7-9pm in Bldg. D/E

(select 2 dates and times )

- Tuesday, May 3<sup>rd</sup> at 10am-noon in Bldg. D/E
- Tuesday, May 3<sup>rd</sup> at 7-9pm in Bldg. D/E
- Thursday, May 5<sup>th</sup> at 10am-noon in Bldg. D/E
- Thursday, May 5<sup>th</sup> at 7-9pm in Bldg. D/E

## FY23 Budget Prep Calendar

Task #	Description	Due Date
1	BOT approves FY23 Budget Prep. Calendar	8-Oct
8	FY23-27 FM&CIP Townhall Meeting	18-Jan
15	Prior fiscal year Financial Statement and FY23 WDPB (including 5yrFM&CIP) submitted to Trustees. Public inspection copies placed in BBRD offices and electronic copy placed on BBRD.org.	7-Mar-22
16	Electronic copy of FY23 WDPB and Homeowner's Version placed on www.bbrd.org	9-Mar-22
17	BOT Budget workshops as established by BOT	Mar-Apr-May
18	Time reserved for possible appeal to BOCC regarding setting assessment rate above CPI	Mar-Apr-May
19	Publish prior fiscal year Financial Statement in generally circulated newspaper within Brevard County	25-29Apr
20	BOT adopts proposed draft (line-item budget) for mail out to property owners of record and set Public Hearing date (must be 21 days after notice is published)	24-May
21	Publish notice of Public Hearing in newspaper of general circulation (must be 21 days prior to hearing). Mail proposed budget (line-items), proposed assessment rate, and prior year financial statements to all property owners of record.	5-Jun
22	Public Hearing, for community input, on proposed budget and proposed assessment. BOT will consider two resolutions: one to adopt the FY23 Budget and one to set the assessment rate	26-Jun
23	BOT certifies the Non-Ad Valorem Assessment Roll to Brevard County Tax Collector	23-Aug
24	Deadline for staff to transmit the certification of the Non-Ad Valorem Assessment Roll to Brevard County Tax Collector	15-Sep
25	FY22 ends	30-Sep
26	FY23 begins	1-Oct

Shaded rows indicate public meetings or workshops

## Board of Trustees Meeting Agenda Memo

Date: Friday, September 10, 2021  
Title: **FY21 Audit Planning Communications Letter**  
Section & Item: 9.J  
Department: Administration, Finance  
Fiscal Impact: None  
Contact: Charles Henley, Finance Manager, John W Coffey, ICMA-CM, Community Manager  
Attachments: Req Com w Gov\_BB RD\_Signed Adobe 8.26.21  
Reviewed by General Counsel: NA  
Approved by: John W. Coffey, ICMA-CM, Community Manager



### Requested Action by BOT

Review and Acknowledge the FY21 Audit Planning Communications

### Background and Summary Information

According to Generally Accepted Government Auditing Standards (GAGAS), our independent auditor, Moore Stephens Lovelace, P.A., is required to communicate certain information with the officials of Barefoot Bay Recreation District during the planning stage of the District's Fiscal Year Ending September 30, 2021 financial statement audit.

Staff has received the Fiscal Year 2021 Audit Planning Communications under the guidelines of GAGAS from our independent auditor, Moore Stephens Lovelace, P.A. We have been directed to present the Audit Planning to the Board of Trustees of Barefoot Bay Recreation District. The Audit Planning outlines the Identification of Financial Statement Elements, Audit Objectives, Auditor Responsibilities, Management Responsibilities, General Audit Procedures, Internal Control Audit Procedures, Compliance Audit Procedures, Accounting and Reporting Issues, and Audit Schedule.

Of note, the Auditors anticipate conducting fieldwork during December and then presenting the Audit findings to the BOT at one of the February 2022 BOT meetings.

Staff recommends the BOT acknowledge receipt of the Audit Planning Communications.



August 26, 2021

Board of Trustees  
Barefoot Bay Recreation District  
Barefoot Bay, Florida

Our professional standards require that we inform you of certain matters related to our audit of Barefoot Bay Recreation District, Florida's (the District) financial statements for the fiscal year ending September 30, 2021. This report is intended to convey those matters to you.

Our audit is designed to express an opinion on the basic financial statements of the District. We have performed an initial assessment of risk areas we consider significant to the risk of material misstatement of the District's financial statements. Based on our assessment, we intend to execute our audit plan using procedures to mitigate those risks.

Communication is an essential part of the audit process. After reviewing our plan, if you have any questions, concerns, or would like us to consider other matters, please contact me at (407) 740-5400 or you can reach me directly on my cell phone at (407) 715-0098.

In addition, we are pleased to provide you with a copy of our most recent Peer Review Report (attached). The public accounting industry has placed significant emphasis on strengthening the peer review process. This emphasis is focused on improving public accounting and auditing standards to protect the public and ensure the reliability of audited financial information. With these more stringent requirements, we are proud to inform you that our 2020 Peer Review Report had no findings. In accordance with Peer Review Standards, the selection of our governmental clients was also included in this review.

We are dedicated to delivering the quality service you expect and deserve. We appreciate the opportunity to serve the District.

Respectfully submitted,

A handwritten signature in blue ink that reads "Joel A. Knopp".

Joel Knopp, CPA  
Engagement Shareholder

*Attachment*

**Barefoot Bay Recreation District, Florida**  
**Audit Planning 2021**  
**Required Communications Under *Government Auditing Standards***

**Audit Schedule and Current Status**

Below is a table of our agreed-upon audit schedule for the 2021 audit:

December 2021	Year-end Fieldwork
January 2022	Review of Financial Statements
February 2022	Presentation to Board of Trustees
March 31, 2022	Submission to State

**Accounting and Reporting Standards Impacting Governmental Audits**

**New Government Accounting Standards Issued**

- ❖ GASB 84 - *Fiduciary Activities*. This standard will become effective for fiscal year end September 30, 2021. This standard establishes criteria for identifying fiduciary activities of state and local governments. The focus of the criteria generally is on (1) whether the government is controlling the assets of the fiduciary activity, and (2) the beneficiaries with whom a fiduciary relationship exists. An activity meeting the criteria should be reported in a fiduciary fund in the basic financial statements. This standard is not expected to impact the District's financial statements.
- ❖ GASB 87 - *Leases*. This standard will become effective for fiscal year end September 30, 2022. This standard changes the accounting and financial reporting for leases by governments by requiring recognition of certain lease assets and liabilities for leases that previously were classified as operating leases. This standard establishes a single model for lease accounting based on the principle that leases are financings of the right to use an underlying asset. Under this standard, a lessee government is required to recognize a lease liability and an intangible right-to-use asset and a lessor government is required to recognize a lease receivable and a deferred inflow of resources. Management is aware of this standard and intends to properly evaluate the impact and ensure that any accounting and reporting impact is properly addressed in the year the standard is required to be implemented.
- ❖ GASB 89 - *Accounting for Interest Cost Incurred before the End of a Construction Period*. This standard will become effective for fiscal year end September 30, 2022. This standard establishes accounting requirements for interest cost incurred before the end of a construction period. This standard also reiterates that in financial statements prepared using the current financial resources measurement focus, interest cost incurred before the end of a construction period should be recognized as an expenditure on a basis consistent with governmental fund accounting principles. This standard is not expected to materially impact the District's financial statements.

**Barefoot Bay Recreation District, Florida**  
**Audit Planning 2021**  
**Required Communications Under *Government Auditing Standards***

**Accounting and Reporting Standards Impacting Governmental Audits (Cont.)**

**New Government Accounting Standards Issued (Cont.)**

- ❖ GASB 90 - *Majority Equity Interests - An Amendment of GASB Statements No. 14 and No. 61*. This standard will become effective for fiscal year end September 30, 2021. This standard will improve the consistency and comparability of reporting a government's majority equity interest in a legally separate organization and to improve the relevance of financial statement information for certain component units. This standard also requires that a component unit in which a government has a 100 percent equity interest account for its assets, deferred outflows of resources, liabilities, and deferred inflows of resources at acquisition value at the date the government acquired a 100 percent equity interest in the component unit. This standard is not expected to impact the District's financial statements.
- ❖ GASB 91 - *Conduit Debt Obligations*. This standard will become effective for fiscal year end September 30, 2023. This standard clarifies the existing definition of a conduit debt obligation, establishes a conduit obligation is not a liability of the issuer, establishes standards for accounting and financial reporting of additional commitments and voluntary commitments and voluntary commitments extended by issuers and arrangements associated with conduit debt obligations, and improving required note disclosures. This standard also addresses arrangements - often characterized as leases - that are associated with debt obligations. This standard is not expected to impact the District's financial statements.
- ❖ GASB 92 - *Omnibus 2020*. This standard will become effective for fiscal year end September 30, 2022. This standard will enhance comparability in accounting and financial reporting and to improve the consistency of authoritative literature by addressing practice issues that have been identified during implementation and application of certain GASB Statements. This Statement addresses a variety of topics and includes specific provisions about the following: (1) The effective date of Statement No. 87, *Leases*, and Implementation Guide No. 2019-3, *Leases*, for interim financial reports; (2) Reporting of intra-entity transfers of assets between a primary government employer and a component unit defined benefit pension plan or defined benefit other postemployment benefit (OPEB) plan; (3) The applicability of Statements No. 73, *Accounting and Financial Reporting for Pensions and Related Assets That Are Not within the Scope of GASB Statement 68*, and *Amendments to Certain Provisions of GASB Statements 67 and 68*, as amended, and No. 74, *Financial Reporting for Postemployment Benefit Plans Other Than Pension Plans*, as amended, to reporting assets accumulated for postemployment benefits; (4) The applicability of certain requirements of Statement No. 84, *Fiduciary Activities*, to postemployment benefit arrangements; (5) Measurement of liabilities (and assets, if any) related to asset retirement obligations (AROs) in a government acquisition; (6) Reporting by public entity risk pools for amounts that are recoverable from reinsurers or excess insurers; (7) Reference to nonrecurring fair value measurements of assets or liabilities in authoritative literature; (8) Terminology used to refer to derivative instruments. This standard is not expected to impact the District's financial statements.

**Barefoot Bay Recreation District, Florida**  
**Audit Planning 2021**  
**Required Communications Under *Government Auditing Standards***

**Accounting and Reporting Standards Impacting Governmental Audits (Cont.)**

**New Government Accounting Standards Issued (Cont.)**

- ❖ GASB 93 - *Replacement of Interbank Offered Rates*. This standard will become effective for fiscal year end June 30, 2022, with the exception of the removal of LIBOR as an appropriate benchmark interest rate which will become effective September 30, 2023. The objective of this Statement is to address accounting and financial reporting implications that result from the replacement of an Interbank Offered Rate (IBOR). This Statement achieves that objective by: (1) Providing exceptions for certain hedging derivative instruments to the hedge accounting termination provisions when an IBOR is replaced as the reference rate of the hedging derivative instrument's variable payment; (2) Clarifying the hedge accounting termination provisions when a hedged item is amended to replace the reference rate; (3) Clarifying that the uncertainty related to the continued availability of IBORs does not, by itself, affect the assessment of whether the occurrence of a hedged expected transaction is probable; (4) Removing LIBOR as an appropriate benchmark interest rate for the qualitative evaluation of the effectiveness of an interest rate swap; (5) Identifying a Secured Overnight Financing Rate and the Effective Federal Funds Rate as appropriate benchmark interest rates for the qualitative evaluation of the effectiveness of an interest rate swap; (6) Clarifying the definition of reference rate, as it is used in Statement 53, as amended. This standard is not expected to impact the District's financial statements.
  
- ❖ GASB 94 - *Public-Private and Public-Public Partnerships and Availability Payment Arrangements*. This standard will become effective for fiscal year end September 30, 2023. The objective of this Statement is to improve financial reporting by addressing issues related to public-private and public-public partnership arrangements (PPPs). This Statement also provides guidance for accounting and financial reporting for availability payment arrangements (APAs). The requirements of this Statement will improve financial reporting by establishing the definitions of PPPs and APAs and providing uniform guidance on accounting and financial reporting for transactions that meet those definitions. This standard is not expected to impact the District's financial statements.



**Barefoot Bay Recreation District, Florida**  
**Audit Planning 2021**  
**Required Communications Under *Government Auditing Standards***

**Accounting and Reporting Standards Impacting Governmental Audits (Cont.)**

**New Government Accounting Standards Issued (Cont.)**

- ❖ GASB 96 - *Subscription-Based Information Technology Arrangements*. This standard will become effective for fiscal year end September 30, 2024. This Statement provides guidance on the accounting and financial reporting for subscription-based information technology arrangements (SBITAs) for government end users (governments). This Statement (1) defines a SBITA; (2) establishes that a SBITA results in a right-to-use subscription asset—an intangible asset—and a corresponding subscription liability; (3) provides the capitalization criteria for outlays other than subscription payments, including implementation costs of a SBITA; and (4) requires note disclosures regarding a SBITA. To the extent relevant, the standards for SBITAs are based on the standards established in Statement No. 87, *Leases*, as amended. This standard is not expected to impact the District's financial statements.
  
- ❖ GASB 97 - *Certain Component Criteria, and Accounting and Financial Reporting for Internal Revenue Code Section 457 Deferred Compensation Plans*. The requirements of this Statement that are related to the accounting and financial reporting for Section 457 plans are effective for fiscal year end September 30, 2023, while all other requirements are effective immediately. The primary objectives of this Statement are to (1) increase consistency and comparability related to the reporting of fiduciary component units in circumstances in which a potential component unit does not have a governing board and the primary government performs the duties that a governing board typically would perform; (2) mitigate costs associated with the reporting of certain defined contribution pension plans, defined contribution OPEB plans, and employee benefit plans other than pension plans or OPEB plans as fiduciary component units in fiduciary fund financial statements; and (3) enhance the relevance, consistency, and comparability of the accounting and financial reporting for Internal Revenue Code (IRC) Section 457 deferred compensation plans (Section 457 plans) that meet the definition of a pension plan and for benefits provided through those plans. This standard is not expected to impact the District's financial statements.

***New Auditing Standards Issued***

There are no new auditing standards issued in the current year that would impact the District's audit.

**Barefoot Bay Recreation District, Florida**  
**Audit Planning 2021**  
**Required Communications Under *Government Auditing Standards***

**Significant Audit and Financial Reporting Issues Identified**

The following is a list of audit areas we consider significant to ensure that we plan our audit to properly address the risk of material misstatement and noncompliance affecting your financial statements. Please review this list. If you have any questions, or believe the list is incomplete, please contact us to ensure that we have properly identified all significant areas.

- Internal control over financial accounting and reporting
- Information Technology (IT)
- Financial statement preparation procedures
- Capital assets accounting, including depreciation, project tracking, capital leases, etc.
- Investment policies and procedures, portfolio management, income allocation, etc.
- Revenue recognition policies and procedures
- Debt, including compliance with applicable covenants
- Net Position classifications
- Payroll processing
- Budgetary compliance and accountability
- Compliance with contracts, laws, regulations, and grant agreements
- Consideration of fraud, waste, and abuse
- Effects of the ongoing COVID-19 pandemic and remote auditing

**Additional Items for Audit Consideration**

- Implementation of GASB 87 in fiscal year 2022

**Identification of Financial Statement Elements**

We will audit the District's basic financial statements for the fiscal year ending September 30, 2021. The basic financial statements include the Statement of Net Position and Governmental Funds Balance Sheets; Statements of Activities and Governmental Funds Revenues, Expenditures and Changes in Fund Balances; and Notes to the Financial Statements.

Accounting standards generally accepted in the United States of America provide for certain required supplementary information (RSI), such as management's discussion and analysis (MD&A), budgetary comparison schedules, and other postemployment benefit schedules, to accompany the basic financial statements. As part of our engagement, we will apply certain limited procedures to the District's RSI, but it will not be audited. These limited procedures will consist principally of inquiries of management regarding the methods of measurement and presentation, which management is responsible for affirming to us in its representation letter. Unless we encounter problems with the presentation of the RSI or with procedures relating to it, we will disclaim an opinion on it.

**Barefoot Bay Recreation District, Florida**  
**Audit Planning 2021**  
**Required Communications Under *Government Auditing Standards***

**Auditor Responsibilities**

As your auditors, we are responsible for:

- Expressing opinions as to whether your basic financial statements are fairly presented, in all material respects, in conformity with U.S. generally accepted accounting principles (GAAP) and to report on the fairness of the additional information referred to under **Identification of Financial Statement Elements** when considered in relation to the basic financial statements taken as a whole.
- Reporting on internal control related to the financial statements and compliance with the provisions of applicable laws, regulations, contracts, agreements, and grants, noncompliance with which could have a material effect on the financial statements in accordance with *Government Auditing Standards*.
- Informing you in our reports on internal control and compliance that the reports are intended for the information and use of the District, management, specific legislative or regulatory bodies; and is not intended to be, and should not be, used by anyone other than these specified parties.
- Informing you in advance of any reasons that would result in us issuing other than unmodified reports on the financial statements.
- Informing you that we may decline to express opinions or to issue a report as a result of this engagement if we are unable to complete the audit or are unable to form, or have not formed, those opinions.
- Conducting our audit in accordance with U.S. generally accepted auditing standards; the standards for financial audits contained in *Government Auditing Standards* issued by the Comptroller General of the United States; Chapter 10.550, *Rules of the Auditor General*; and other procedures we consider necessary to enable us to express such opinions and to render the required reports.
- Communicating to you the planned audit schedule. Page 2 of this report documents the timetable agreed upon with management for the September 30, 2021 audit.
- Communicating audit areas we consider significant to ensure that we plan our audit to properly address the risk of material misstatement to your financial statements. A list of those areas can be found on page 6 of this report.
- Communicating the concept of materiality. The concept of materiality recognizes that some matters, either individually or in the aggregate, are important for the fair presentation of your basic financial statements in conformity with GAAP, while other matters are not important. In performing the audit, based on our professional judgment, we assess matters that, either individually or in the aggregate, could be material to the financial statements. Our consideration of materiality is based on our professional judgment.
- Informing you that at the completion of the audit we will be requesting certain representations from management at the conclusion of the audit.
- Informing you regarding some general audit procedures, as well as procedures related to internal controls and compliance. Discussion of those items follows.

**Barefoot Bay Recreation District, Florida**  
**Audit Planning 2021**  
**Required Communications Under *Government Auditing Standards***

**Audit Procedures - General**

An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements; therefore, our audit will involve judgment about the number of transactions to be examined and the areas to be tested. We will plan and perform the audit to obtain reasonable, rather than absolute, assurance about whether the financial statements are free of material misstatement, whether from (1) errors, (2) fraudulent financial reporting, (3) misappropriation of assets, or (4) violations of laws or governmental regulations that are attributable to the District or to acts by management or employees acting on behalf of the District. Because the determination of abuse is subjective, *Government Auditing Standards* do not expect auditors to provide reasonable assurance of detecting abuse.

Because an audit is designed to provide reasonable but not absolute assurance and because we will not perform a detailed examination of all transactions, there is a risk that material misstatements or noncompliance may exist and not be detected by us. In addition, an audit is not designed to detect immaterial misstatements or violations of laws or governmental regulations that do not have a direct and material effect on the financial statements or major programs. However, we will inform you of any material errors and any fraudulent financial reporting or misappropriation of assets that comes to our attention. We will also inform you of any violations of laws or governmental regulations that comes to our attention, unless clearly inconsequential. Our responsibility as auditors is limited to the period covered by our audit and does not extend to any later periods for which we are not engaged as auditors.

Our procedures will include tests of documentary evidence supporting the transactions recorded in the accounts and may include tests of the physical existence of inventories and direct confirmation of receivables and certain other assets and liabilities by correspondence with selected individuals, creditors, and financial institutions. We will request written representations from attorneys representing the District as part of the engagement, and they may bill the District for responding to these inquiries. At the conclusion of our audit, we will also require certain written representations from management about the financial statements and related matters.

**Barefoot Bay Recreation District, Florida**  
**Audit Planning 2021**  
**Required Communications Under *Government Auditing Standards***

**Audit Procedures - Internal Controls**

Our audit will include obtaining an understanding of the District and its environment, including internal control, sufficient to assess the risks of material misstatement of the financial statements and to design the nature, timing, and extent of further audit procedures. Tests of controls may be performed to test the effectiveness of certain controls that we consider relevant to preventing and detecting errors and fraud that are material to the financial statements and to preventing and detecting misstatements resulting from illegal acts and other noncompliance matters that have a direct and material effect on the financial statements. Our tests, if performed, will be less in scope than would be necessary to render an opinion on internal control and, accordingly, no opinion will be expressed in our report on internal control issued pursuant to *Government Auditing Standards*.

An audit is not designed to provide assurance on internal control or to identify significant deficiencies. However, during the audit, we will communicate to management and those charged with governance internal control related matters that are required to be communicated under professional standards and *Government Auditing Standards*.

**Audit Procedures - Compliance**

As part of obtaining reasonable assurance about whether the financial statements are free of material misstatement, we will perform tests of the District's compliance with applicable laws and regulations and the provisions of contracts and agreements, including grant agreements. However, the objective of those procedures will not be to provide an opinion on overall compliance, and we will not express such an opinion in our report on compliance issued pursuant to *Government Auditing Standards*.

**Barefoot Bay Recreation District, Florida**  
**Audit Planning 2021**  
**Required Communications Under *Government Auditing Standards***

**Governance and Management Responsibilities**

Those charged with governance and management, except where indicated, are jointly responsible for:

- The basic financial statements and all accompanying information, as well as all representations contained therein in conformity with GAAP.
- Making all management decisions and performing all management functions relating to the financial statements and related notes and for accepting full responsibility for such decisions.
- Acknowledging in the management representation letter that it has reviewed and approved the financial statements and related notes prior to their issuance and has accepted responsibility for them.
- Management has designated Charles Henley, Finance Manager, as the responsible party for oversight of its audit.
- Establishing and maintaining internal controls, including monitoring ongoing activities; the selection and application of accounting principles; and the fair presentation in the basic financial statements in conformity with GAAP.
- Making all financial records and related information available to us and for the accuracy and completeness of that information. Adjusting the financial statements to correct material misstatements and for confirming to us in the representation letter that the effects of any uncorrected misstatements aggregated by us during the current engagement and pertaining to the latest period presented are immaterial, both individually and in the aggregate, to the basic financial statements.
- The design and implementation of programs and controls to prevent and detect fraud, and for informing us about all known or suspected fraud affecting the District involving (1) management, (2) employees who have significant roles in internal control, and (3) others where the fraud or illegal acts could have a material effect on the financial statements. This responsibility includes informing us of any allegations of fraud, or suspected fraud, affecting the District received in communications from employees, former employees, grantors, regulators, or others.
- Identifying and ensuring that the District complies with applicable laws, regulations, contracts, agreements, and grants, and for taking timely and appropriate steps to remedy any fraud, illegal acts, violations of contracts or grant agreements, or abuse that we may report.
- Establishing and maintaining a process for tracking the status of audit findings and recommendations.
- Identifying for us previous audits, other engagements, or studies related to the objectives discussed in the Audit Objectives section. This responsibility includes relaying to us corrective actions taken to address significant findings and recommendations resulting from those audits, other engagements, or studies. Management is also responsible for providing its views on our current findings, conclusions, and recommendations, as well as planned corrective actions.

**Barefoot Bay Recreation District, Florida**  
**Audit Planning 2021**  
**Required Communications Under *Government Auditing Standards***

**Auditor General**

The following are compliance areas identified by the Auditor General to test on an annual basis if they are applicable and are determined to have a direct and material effect on the financial statements:

- Determine whether or not corrective actions have been taken to address significant findings and recommendations made in the preceding and second preceding annual financial audit reports.
- Address in the management letter any recommendations to improve financial management, accounting procedures, and internal controls.
- Address violations of provisions of contracts and grant agreements or abuse that has an effect on the financial statements that is less than material but worthy of management's attention.
- Disclose in the management letter, or in the notes to the financial statements, the name or official title and legal authority for the primary government.
- Include a statement in the management letter as to whether or not the District has met one or more of the conditions described in Section 218.503(1), Florida Statutes, and identification of the specific conditions met.
- Apply financial condition assessment procedures in connection with our audit.

The following is a compliance area identified by the Auditor General where a separate opinion on compliance is reported:

- Review compliance with the provisions of Section 218.415, Florida Statutes, regarding the investment of public funds.

## Report on the Firm's System of Quality Control

To the Partners of MSL, P.A.  
and the National Peer Review Committee

We have reviewed the system of quality control for the accounting and auditing practice of MSL, P.A. (the firm) applicable to engagements not subject to PCAOB permanent inspection in effect for the year ended June 30, 2020. Our peer review was conducted in accordance with the Standards for Performing and Reporting on Peer Reviews established by the Peer Review Board of the American Institute of Certified Public Accountants (Standards).

A summary of the nature, objectives, scope, limitations of, and the procedures performed in a System Review as described in the Standards may be found at [www.aicpa.org/prsummary](http://www.aicpa.org/prsummary). The summary also includes an explanation of how engagements identified as not performed or reported in conformity with applicable professional standards, if any, are evaluated by a peer reviewer to determine a peer review rating.

### Firm's Responsibility

The firm is responsible for designing a system of quality control and complying with it to provide the firm with reasonable assurance of performing and reporting in conformity with applicable professional standards in all material respects. The firm is also responsible for evaluating actions to promptly remediate engagements deemed as not performed or reported in conformity with professional standards, when appropriate, and for remediating weaknesses in its system of quality control, if any.

### Peer Reviewer's Responsibility

Our responsibility is to express an opinion on the design of the system of quality control and the firm's compliance therewith based on our review.

### Required Selections and Considerations

Engagements selected for review included engagements performed under *Government Auditing Standards*, including compliance audits under the Single Audit Act; audits of employee benefit plans, and an audit of a broker-dealer.

As part of our peer review, we considered reviews by regulatory entities as communicated to the firm, if applicable, in determining the nature and extent of our procedures.

### Opinion

In our opinion, the system of quality control for the accounting and auditing practice of MSL P.A. applicable to engagements not subject to PCAOB permanent inspection in effect for the year ended June 30, 2020, has been suitably designed and complied with to provide the firm with reasonable assurance of performing and reporting in conformity with applicable professional standards in all material respects. Firms can receive a rating of *pass*, *pass with deficiency(ies)* or *fail*. MSL, P.A. has received a peer review rating of *pass*.



Baton Rouge, Louisiana  
January 7, 2021



## Board of Trustees

## Meeting Agenda Memo

Date: Friday, September 10, 2021  
Title: **Neighborhood Revitalization Program (NRP) Purchase Confirmation: 333 Papaya Circle**  
Section & Item: 9.K  
Department: Resident Relations, DOR  
Fiscal Impact: Sale Price \$20,300.00  
Contact: Richard Armington, Resident Relations Manager, John W Coffey, ICMA-CM, Community Manager  
Attachments: Executed Purchase Approval and Contract  
Reviewed by General Counsel: Yes  
Approved by: John W. Coffey, ICMA-CM, Community Manager



### Requested Action by BOT

Confirmation of 333 Papaya Circle purchase per the Policy Manual's "Purchase or Sale of Properties by BBRD Using Neighborhood Revitalization Program (NRP) Funding" (page 11).

### Background and Summary Information

- The Chairman of the NRP BOT Sub-Committee shall be authorized to approve (as recommended by the Community Manager or designee) the expenditures of NRP funds in excess of \$7,500.00 and not to exceed \$25,000.00 by staff toward the acquisition of a property identified by the Sub-Committee in accordance with NRP rules as established by the BOT.
- The purchase of the property shall be ratified by the Board of Trustees at the next scheduled regular meeting of the Board of Trustees.

On May 6, 2021, NRP Chairman Maino authorized the purchase of 333 Papaya Circle for \$20,300.00. After closing, staff will obtain an asbestos study of the home and then demolition. Once a clean title is secured, the property will be listed for sale (of which the proceeds will go back into the NRP project line-item for future use to improve the community via the removal of derelict homes and the sale of the vacant property).

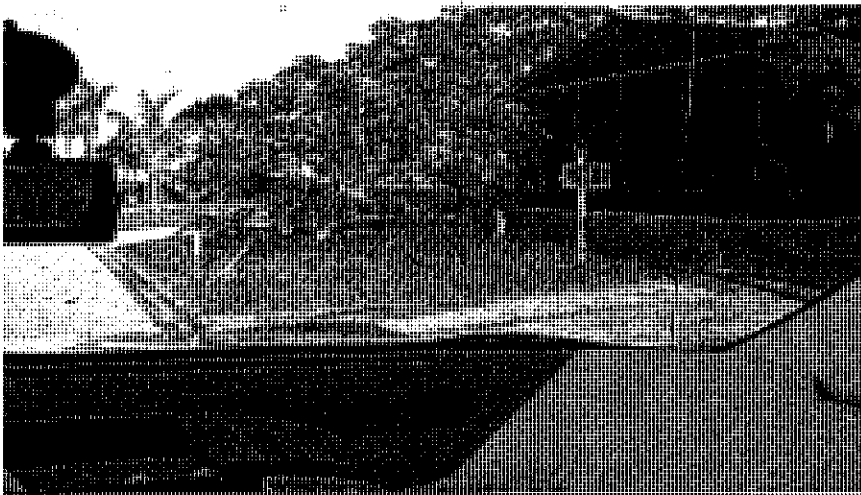
Staff apologies for inadvertently not getting this confirmation on an earlier agenda.

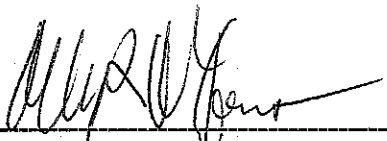
Staff recommends the BOT confirms the purchase of 333 Papaya Circle via the Neighborhood Revitalization Program.



## BAREFOOT BAY RECREATION DISTRICT

Address: 333 Papaya Circle  
Sale Price: \$ 20,300.00  
Paid Due Taxes: \$4,460.63



  
5/6/2021  
Michael Maino-NRP Chairperson

Physical Address  
625 Barefoot Boulevard  
Barefoot Bay, FL 32976-7305

(772) 664-3141-Phone  
(772) 664-7552-Fax  
[www.bbrd.org](http://www.bbrd.org)

Billing Address  
625 Barefoot Boulevard  
Barefoot Bay, FL 32976-7305

**"AS IS" Residential Contract**

**For Sale And Purchase**

THIS FORM HAS BEEN APPROVED BY  
THE FLORIDA REALTORS AND THE FLORIDA BAR

1\* **PARTIES:** Dawn Horvath ("Seller"),  
2\* and Barefoot Bay Recreation District ("Buyer"),

3 agree that Seller shall sell and Buyer shall buy the following described Real Property and Personal Property  
4 (collectively "Property") pursuant to the terms and conditions of this AS IS Residential Contract For Sale And Purchase  
5 and any riders and addenda ("Contract");

6 **1. PROPERTY DESCRIPTION:**

- 7\* (a) Street address, city, zip: 333 Papaya Circle, Barefoot Bay, FL 32976  
8\* (b) Located in: Brevard County, Florida. Property Tax ID #: 30-38-15-01-26-25  
9\* (c) Real Property: The legal description is Lot 25, Block 26, Barefoot Bay Unit 1, according to the plat thereof,  
10 as recorded in Plat Book 22, Page 100.

11  
12 together with all existing improvements and fixtures, including built-in appliances, built-in furnishings and  
13 attached wall-to-wall carpeting and flooring ("Real Property") unless specifically excluded in Paragraph 1(e) or  
14 by other terms of this Contract.

- 15 (d) Personal Property: Unless excluded in Paragraph 1(e) or by other terms of this Contract, the following items  
16 which are owned by Seller and existing on the Property as of the date of the initial offer are included in the  
17 purchase: range(s)/oven(s), refrigerator(s), dishwasher(s), disposal, ceiling fan(s), intercom, light fixture(s),  
18 drapery rods and draperies, blinds, window treatments, smoke detector(s), garage door opener(s), security gate  
19 and other access devices, and storm shutters/panels ("Personal Property").  
20\* Other Personal Property items included in this purchase are: \_\_\_\_\_

21  
22 Personal Property is included in the Purchase Price, has no contributory value, and shall be left for the Buyer.

- 23\* (e) The following items are excluded from the purchase: \_\_\_\_\_  
24

25 **PURCHASE PRICE AND CLOSING**

26\* **2. PURCHASE PRICE** (U.S. currency): .....\$ 20,300.00

- 27\* (a) Initial deposit to be held in escrow in the amount of **(checks subject to COLLECTION)** .....\$ \_\_\_\_\_

28 The initial deposit made payable and delivered to "Escrow Agent" named below  
29\* **(CHECK ONE):** (i) ☐ accompanies offer or (ii) ☐ is to be made within \_\_\_\_\_ (if left  
30 blank, then 3) days after Effective Date. IF NEITHER BOX IS CHECKED, THEN  
31 OPTION (ii) SHALL BE DEEMED SELECTED.

32\* Escrow Agent Information: Name: \_\_\_\_\_

33\* Address: \_\_\_\_\_

34\* Phone: \_\_\_\_\_ E-mail: \_\_\_\_\_ Fax: \_\_\_\_\_

- 35\* (b) Additional deposit to be delivered to Escrow Agent within \_\_\_\_\_ (if left blank, then 10)  
36\* days after Effective Date .....\$ \_\_\_\_\_

37 (All deposits paid or agreed to be paid, are collectively referred to as the "Deposit")

- 38\* (c) Financing: Express as a dollar amount or percentage ("Loan Amount") see Paragraph 8.....\$ \_\_\_\_\_

- 39\* (d) Other: .....\$ \_\_\_\_\_

- 40 (e) Balance to close (not including Buyer's closing costs, prepaids and prorations) by wire  
41\* transfer or other **COLLECTED** funds .....\$ 20,300.00

42 **NOTE: For the definition of "COLLECTION" or "COLLECTED" see STANDARD S.**

43 **3. TIME FOR ACCEPTANCE OF OFFER AND COUNTER-OFFERS; EFFECTIVE DATE:**

- 44 (a) If not signed by Buyer and Seller, and an executed copy delivered to all parties on or before  
45\* May 12, 2021, this offer shall be deemed withdrawn and the Deposit, if any, shall be returned to  
46 Buyer. Unless otherwise stated, time for acceptance of any counter-offers shall be within 2 days after the day  
47 the counter-offer is delivered.

- 48 (b) The effective date of this Contract shall be the date when the last one of the Buyer and Seller has signed or  
49 initialed and delivered this offer or final counter-offer ("Effective Date").

- 50 **4. CLOSING DATE:** Unless modified by other provisions of this Contract, the closing of this transaction shall occur  
51 and the closing documents required to be furnished by each party pursuant to this Contract shall be delivered  
52\* ("Closing") on or before May 30, 2021 ("Closing Date"), at the time established by the Closing Agent.

Buyer's Initials DAH

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Seller's Initials D.H.

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53 **5. EXTENSION OF CLOSING DATE:**

- 54 (a) If Paragraph 8(b) is checked and Closing funds from Buyer's lender(s) are not available on Closing Date due  
55 to Consumer Financial Protection Bureau Closing Disclosure delivery requirements ("CFPB Requirements"),  
56 then Closing Date shall be extended for such period necessary to satisfy CFPB Requirements, provided such  
57 period shall not exceed 10 days.  
58 (b) If an event constituting "Force Majeure" causes services essential for Closing to be unavailable, including the  
59 unavailability of utilities or issuance of hazard, wind, flood or homeowners' insurance, Closing Date shall be  
60 extended as provided in STANDARD G.

61 **6. OCCUPANCY AND POSSESSION:**

- 62 (a) Unless the box in Paragraph 6(b) is checked, Seller shall, at Closing, deliver occupancy and possession of the  
63 Property to Buyer free of tenants, occupants and future tenancies. Also, at Closing, Seller shall have removed  
64 all personal items and trash from the Property and shall deliver all keys, garage door openers, access devices  
65 and codes, as applicable, to Buyer. If occupancy is to be delivered before Closing, Buyer assumes all risks of  
66 loss to the Property from date of occupancy, shall be responsible and liable for maintenance from that date,  
67 and shall be deemed to have accepted the Property in its existing condition as of time of taking occupancy.  
68\* (b) ☐ **CHECK IF PROPERTY IS SUBJECT TO LEASE(S) OR OCCUPANCY AFTER CLOSING.** If Property is  
69 subject to a lease(s) after Closing or is intended to be rented or occupied by third parties beyond Closing, the  
70 facts and terms thereof shall be disclosed in writing by Seller to Buyer and copies of the written lease(s) shall  
71 be delivered to Buyer, all within 5 days after Effective Date. If Buyer determines, in Buyer's sole discretion, that  
72 the lease(s) or terms of occupancy are not acceptable to Buyer, Buyer may terminate this Contract by delivery  
73 of written notice of such election to Seller within 5 days after receipt of the above items from Seller, and Buyer  
74 shall be refunded the Deposit thereby releasing Buyer and Seller from all further obligations under this Contract.  
75 Estoppel Letter(s) and Seller's affidavit shall be provided pursuant to STANDARD D. If Property is intended to  
76 be occupied by Seller after Closing, see Rider U. POST-CLOSING OCCUPANCY BY SELLER.

77\* **7. ASSIGNABILITY: (CHECK ONE):** Buyer ☒ may assign and thereby be released from any further liability under  
78\* this Contract; ☐ may assign but not be released from liability under this Contract; or ☐ may not assign this  
79 Contract.

80 **FINANCING**

81 **8. FINANCING:**

82\* ☒ (a) Buyer will pay cash for the purchase of the Property at Closing. There is no financing contingency to Buyer's  
83 obligation to close. If Buyer obtains a loan for any part of the Purchase Price of the Property, Buyer acknowledges  
84 that any terms and conditions imposed by Buyer's lender(s) or by CFPB Requirements shall not affect or extend  
85 the Buyer's obligation to close or otherwise affect any terms or conditions of this Contract.

86\* ☐ (b) This Contract is contingent upon Buyer obtaining approval of a ☐ conventional ☐ FHA ☐ VA or ☐ other  
87\* \_\_\_\_\_ (describe) loan within \_\_\_\_\_ (if left blank, then 30) days after Effective Date ("Loan Approval  
88\* Period") for **(CHECK ONE):** ☐ fixed, ☐ adjustable, ☐ fixed or adjustable rate in the Loan Amount (See Paragraph  
89\* 2(c)), at an initial interest rate not to exceed \_\_\_\_\_ % (if left blank, then prevailing rate based upon Buyer's  
90\* creditworthiness), and for a term of \_\_\_\_\_ (if left blank, then 30) years ("Financing").

91\* (i) Buyer shall make mortgage loan application for the Financing within \_\_\_\_\_ (if left blank, then 5) days  
92 after Effective Date and use good faith and diligent effort to obtain approval of a loan meeting the Financing terms  
93 ("Loan Approval") and thereafter to close this Contract. Loan Approval which requires a condition related to the sale  
94 by Buyer of other property shall not be deemed Loan Approval for purposes of this subparagraph.

95 Buyer's failure to use diligent effort to obtain Loan Approval during the Loan Approval Period shall be considered a  
96 default under the terms of this Contract. For purposes of this provision, "diligent effort" includes, but is not limited  
97 to, timely furnishing all documents and information and paying of all fees and charges requested by Buyer's  
98 mortgage broker and lender in connection with Buyer's mortgage loan application.

99 (ii) Buyer shall keep Seller and Broker fully informed about the status of Buyer's mortgage loan application,  
100 Loan Approval, and loan processing and authorizes Buyer's mortgage broker, lender, and Closing Agent to disclose  
101 such status and progress, and release preliminary and finally executed closing disclosures and settlement  
102 statements, to Seller and Broker.

103 (iii) Upon Buyer obtaining Loan Approval, Buyer shall promptly deliver written notice of such approval to Seller.

104 (iv) If Buyer is unable to obtain Loan Approval after the exercise of diligent effort, then at any time prior to  
105 expiration of the Loan Approval Period, Buyer may provide written notice to Seller stating that Buyer has been  
106 unable to obtain Loan Approval and has elected to either:

- 107 (1) waive Loan Approval, in which event this Contract will continue as if Loan Approval had been obtained; or  
108 (2) terminate this Contract.

Buyer's Initials                     

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Seller's Initials                     

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(v) If Buyer fails to timely deliver either notice provided in Paragraph 8(b)(iii) or (iv), above, to Seller prior to expiration of the Loan Approval Period, then Loan Approval shall be deemed waived, in which event this Contract will continue as if Loan Approval had been obtained, provided however, Seller may elect to terminate this Contract by delivering written notice to Buyer within 3 days after expiration of the Loan Approval Period.

(vi) If this Contract is timely terminated as provided by Paragraph 8(b)(iv)(2) or (v), above, and Buyer is not in default under the terms of this Contract, Buyer shall be refunded the Deposit thereby releasing Buyer and Seller from all further obligations under this Contract.

(vii) If Loan Approval has been obtained, or deemed to have been obtained, as provided above, and Buyer fails to close this Contract, then the Deposit shall be paid to Seller unless failure to close is due to: (1) Seller's default or inability to satisfy other contingencies of this Contract; (2) Property related conditions of the Loan Approval have not been met (except when such conditions are waived by other provisions of this Contract); or (3) appraisal of the Property obtained by Buyer's lender is insufficient to meet terms of the Loan Approval, in which event(s) the Buyer shall be refunded the Deposit, thereby releasing Buyer and Seller from all further obligations under this Contract.

☐ (c) Assumption of existing mortgage (see rider for terms).

☐ (d) Purchase money note and mortgage to Seller (see riders; addenda; or special clauses for terms).

### CLOSING COSTS, FEES AND CHARGES

#### 9. CLOSING COSTS; TITLE INSURANCE; SURVEY; HOME WARRANTY; SPECIAL ASSESSMENTS:

##### (a) COSTS TO BE PAID BY SELLER:

- Documentary stamp taxes and surtax on deed, if any
- Owner's Policy and Charges (if Paragraph 9(c)(i) is checked)
- Title search charges (if Paragraph 9(c)(iii) is checked)
- Municipal lien search (if Paragraph 9(c)(i) or (iii) is checked)
- HOA/Condominium Association estoppel fees
- Recording and other fees needed to cure title
- Seller's attorneys' fees
- Other: \_\_\_\_\_

If, prior to Closing, Seller is unable to meet the AS IS Maintenance Requirement as required by Paragraph 11 a sum equal to 125% of estimated costs to meet the AS IS Maintenance Requirement shall be escrowed at Closing. If actual costs to meet the AS IS Maintenance Requirement exceed escrowed amount, Seller shall pay such actual costs. Any unused portion of escrowed amount(s) shall be returned to Seller.

##### (b) COSTS TO BE PAID BY BUYER:

- Taxes and recording fees on notes and mortgages
- Recording fees for deed and financing statements
- Owner's Policy and Charges (if Paragraph 9(c)(ii) is checked)
- Survey (and elevation certification, if required)
- Lender's title policy and endorsements
- HOA/Condominium Association application/transfer fees
- Municipal lien search (if Paragraph 9(c)(ii) is checked)
- Other: \_\_\_\_\_
- Loan expenses
- Appraisal fees
- Buyer's Inspections
- Buyer's attorneys' fees
- All property related insurance
- Owner's Policy Premium (if Paragraph 9 (c)(iii) is checked.)

(c) **TITLE EVIDENCE AND INSURANCE:** At least \_\_\_\_\_ (if left blank, then 15, or if Paragraph 8(a) is checked, then 5) days prior to Closing Date ("Title Evidence Deadline"), a title insurance commitment issued by a Florida licensed title insurer, with legible copies of instruments listed as exceptions attached thereto ("Title Commitment") and, after Closing, an owner's policy of title insurance (see STANDARD A for terms) shall be obtained and delivered to Buyer. If Seller has an owner's policy of title insurance covering the Real Property, a copy shall be furnished to Buyer and Closing Agent within 5 days after Effective Date. The owner's title policy premium, title search and closing services (collectively, "Owner's Policy and Charges") shall be paid, as set forth below. The title insurance premium charges for the owner's policy and any lender's policy will be calculated and allocated in accordance with Florida law, but may be reported differently on certain federally mandated closing disclosures and other closing documents. For purposes of this Contract "municipal lien search" means a search of records necessary for the owner's policy of title insurance to be issued without exception for unrecorded liens imposed pursuant to Chapters 159 or 170, F.S., in favor of any governmental body, authority or agency.

##### (CHECK ONE):

☐ (i) Seller shall designate Closing Agent and pay for Owner's Policy and Charges, and Buyer shall pay the premium for Buyer's lender's policy and charges for closing services related to the lender's policy, endorsements and loan closing, which amounts shall be paid by Buyer to Closing Agent or such other provider(s) as Buyer may select; or

☐ (ii) Buyer shall designate Closing Agent and pay for Owner's Policy and Charges and charges for closing services related to Buyer's lender's policy, endorsements and loan closing; or



☐ (iii) **[MIAMI-DADE/BROWARD REGIONAL PROVISION]**: Seller shall furnish a copy of a prior owner's policy of title insurance or other evidence of title and pay fees for: (A) a continuation or update of such title evidence, which is acceptable to Buyer's title insurance underwriter for reissue of coverage; (B) tax search; and (C) municipal lien search. Buyer shall obtain and pay for post-Closing continuation and premium for Buyer's owner's policy, and if applicable, Buyer's lender's policy. Seller shall not be obligated to pay more than \$\_\_\_\_\_ (if left blank, then \$200.00) for abstract continuation or title search ordered or performed by Closing Agent.

(d) **SURVEY**: On or before Title Evidence Deadline, Buyer may, at Buyer's expense, have the Real Property surveyed and certified by a registered Florida surveyor ("Survey"). If Seller has a survey covering the Real Property, a copy shall be furnished to Buyer and Closing Agent within 5 days after Effective Date.

(e) **HOME WARRANTY**: At Closing, ☐ Buyer ☐ Seller ☒ N/A shall pay for a home warranty plan issued by \_\_\_\_\_ at a cost not to exceed \$\_\_\_\_\_. A home warranty plan provides for repair or replacement of many of a home's mechanical systems and major built-in appliances in the event of breakdown due to normal wear and tear during the agreement's warranty period.

(f) **SPECIAL ASSESSMENTS**: At Closing, Seller shall pay: (i) the full amount of liens imposed by a public body ("public body" does not include a Condominium or Homeowner's Association) that are certified, confirmed and ratified before Closing; and (ii) the amount of the public body's most recent estimate or assessment for an improvement which is substantially complete as of Effective Date, but that has not resulted in a lien being imposed on the Property before Closing. Buyer shall pay all other assessments. If special assessments may be paid in installments (**CHECK ONE**):

☐ (a) Seller shall pay installments due prior to Closing and Buyer shall pay installments due after Closing. Installments prepaid or due for the year of Closing shall be prorated.

☐ (b) Seller shall pay the assessment(s) in full prior to or at the time of Closing.

IF NEITHER BOX IS CHECKED, THEN OPTION (a) SHALL BE DEEMED SELECTED.

This Paragraph 9(f) shall not apply to a special benefit tax lien imposed by a community development district (CDD) pursuant to Chapter 190, F.S., which lien shall be prorated pursuant to STANDARD K.

## DISCLOSURES

### 10. DISCLOSURES:

(a) **RADON GAS**: Radon is a naturally occurring radioactive gas that, when it is accumulated in a building in sufficient quantities, may present health risks to persons who are exposed to it over time. Levels of radon that exceed federal and state guidelines have been found in buildings in Florida. Additional information regarding radon and radon testing may be obtained from your county health department.

(b) **PERMITS DISCLOSURE**: Except as may have been disclosed by Seller to Buyer in a written disclosure, Seller does not know of any improvements made to the Property which were made without required permits or made pursuant to permits which have not been properly closed. If Seller identifies permits which have not been properly closed or improvements which were not permitted, then Seller shall promptly deliver to Buyer all plans, written documentation or other information in Seller's possession, knowledge, or control relating to improvements to the Property which are the subject of such open permits or unpermitted improvements.

(c) **MOLD**: Mold is naturally occurring and may cause health risks or damage to property. If Buyer is concerned or desires additional information regarding mold, Buyer should contact an appropriate professional.

(d) **FLOOD ZONE; ELEVATION CERTIFICATION**: Buyer is advised to verify by elevation certificate which flood zone the Property is in, whether flood insurance is required by Buyer's lender, and what restrictions apply to improving the Property and rebuilding in the event of casualty. If Property is in a "Special Flood Hazard Area" or "Coastal Barrier Resources Act" designated area or otherwise protected area identified by the U.S. Fish and Wildlife Service under the Coastal Barrier Resources Act and the lowest floor elevation for the building(s) and/or flood insurance rating purposes is below minimum flood elevation or is ineligible for flood insurance coverage through the National Flood Insurance Program or private flood insurance as defined in 42 U.S.C. §4012a, Buyer may terminate this Contract by delivering written notice to Seller within \_\_\_\_\_ (if left blank, then 20) days after Effective Date, and Buyer shall be refunded the Deposit thereby releasing Buyer and Seller from all further obligations under this Contract, failing which Buyer accepts existing elevation of buildings and flood zone designation of Property. The National Flood Insurance Program may assess additional fees or adjust premiums for pre-Flood Insurance Rate Map (pre-FIRM) non-primary structures (residential structures in which the insured or spouse does not reside for at least 50% of the year) and an elevation certificate may be required for actuarial rating.

(e) **ENERGY BROCHURE**: Buyer acknowledges receipt of Florida Energy-Efficiency Rating Information Brochure required by Section 553.996, F.S.

Buyer's Initials

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Seller's Initials

*D.A.*

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- (f) **LEAD-BASED PAINT:** If Property includes pre-1978 residential housing, a lead-based paint disclosure is mandatory.
- (g) **HOMEOWNERS' ASSOCIATION/COMMUNITY DISCLOSURE: BUYER SHOULD NOT EXECUTE THIS CONTRACT UNTIL BUYER HAS RECEIVED AND READ THE HOMEOWNERS' ASSOCIATION/COMMUNITY DISCLOSURE, IF APPLICABLE.**
- (h) **PROPERTY TAX DISCLOSURE SUMMARY:** BUYER SHOULD NOT RELY ON THE SELLER'S CURRENT PROPERTY TAXES AS THE AMOUNT OF PROPERTY TAXES THAT THE BUYER MAY BE OBLIGATED TO PAY IN THE YEAR SUBSEQUENT TO PURCHASE. A CHANGE OF OWNERSHIP OR PROPERTY IMPROVEMENTS TRIGGERS REASSESSMENTS OF THE PROPERTY THAT COULD RESULT IN HIGHER PROPERTY TAXES. IF YOU HAVE ANY QUESTIONS CONCERNING VALUATION, CONTACT THE COUNTY PROPERTY APPRAISER'S OFFICE FOR INFORMATION.
- (i) **FOREIGN INVESTMENT IN REAL PROPERTY TAX ACT ("FIRPTA"):** Seller shall inform Buyer in writing if Seller is a "foreign person" as defined by the Foreign Investment in Real Property Tax Act ("FIRPTA"). Buyer and Seller shall comply with FIRPTA, which may require Seller to provide additional cash at Closing. If Seller is not a "foreign person", Seller can provide Buyer, at or prior to Closing, a certification of non-foreign status, under penalties of perjury, to inform Buyer and Closing Agent that no withholding is required. See STANDARD V for further information pertaining to FIRPTA. Buyer and Seller are advised to seek legal counsel and tax advice regarding their respective rights, obligations, reporting and withholding requirements pursuant to FIRPTA.
- (j) **SELLER DISCLOSURE:** Seller knows of no facts materially affecting the value of the Real Property which are not readily observable and which have not been disclosed to Buyer. Except as provided for in the preceding sentence, Seller extends and intends no warranty and makes no representation of any type, either express or implied, as to the physical condition or history of the Property. Except as otherwise disclosed in writing Seller has received no written or verbal notice from any governmental entity or agency as to a currently uncorrected building, environmental or safety code violation.

#### PROPERTY MAINTENANCE, CONDITION, INSPECTIONS AND EXAMINATIONS

- 11. PROPERTY MAINTENANCE:** Except for ordinary wear and tear and Casualty Loss, Seller shall maintain the Property, including, but not limited to, lawn, shrubbery, and pool, in the condition existing as of Effective Date ("AS IS Maintenance Requirement").
- 12. PROPERTY INSPECTION; RIGHT TO CANCEL:**
- (a) **PROPERTY INSPECTIONS AND RIGHT TO CANCEL:** Buyer shall have 0 (if left blank, then 15) days after Effective Date ("Inspection Period") within which to have such inspections of the Property performed as Buyer shall desire during the Inspection Period. If Buyer determines, in Buyer's sole discretion, that the Property is not acceptable to Buyer, Buyer may terminate this Contract by delivering written notice of such election to Seller prior to expiration of Inspection Period. If Buyer timely terminates this Contract, the Deposit paid shall be returned to Buyer, thereupon, Buyer and Seller shall be released of all further obligations under this Contract; however, Buyer shall be responsible for prompt payment for such inspections, for repair of damage to, and restoration of, the Property resulting from such inspections, and shall provide Seller with paid receipts for all work done on the Property (the preceding provision shall survive termination of this Contract). Unless Buyer exercises the right to terminate granted herein, Buyer accepts the physical condition of the Property and any violation of governmental, building, environmental, and safety codes, restrictions, or requirements, but subject to Seller's continuing AS IS Maintenance Requirement, and Buyer shall be responsible for any and all repairs and improvements required by Buyer's lender.
- (b) **WALK-THROUGH INSPECTION/RE-INSPECTION:** On the day prior to Closing Date, or on Closing Date prior to time of Closing, as specified by Buyer, Buyer or Buyer's representative may perform a walk-through (and follow-up walk-through, if necessary) inspection of the Property solely to confirm that all items of Personal Property are on the Property and to verify that Seller has maintained the Property as required by the AS IS Maintenance Requirement and has met all other contractual obligations.
- (c) **SELLER ASSISTANCE AND COOPERATION IN CLOSE-OUT OF BUILDING PERMITS:** If Buyer's inspection of the Property identifies open or needed building permits, then Seller shall promptly deliver to Buyer all plans, written documentation or other information in Seller's possession, knowledge, or control relating to improvements to the Property which are the subject of such open or needed Permits, and shall promptly cooperate in good faith with Buyer's efforts to obtain estimates of repairs or other work necessary to resolve such Permit issues. Seller's obligation to cooperate shall include Seller's execution of necessary authorizations,

Buyer's Initials

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consents, or other documents necessary for Buyer to conduct inspections and have estimates of such repairs or work prepared, but in fulfilling such obligation, Seller shall not be required to expend, or become obligated to expend, any money.

- (d) **ASSIGNMENT OF REPAIR AND TREATMENT CONTRACTS AND WARRANTIES:** At Buyer's option and cost, Seller will, at Closing, assign all assignable repair, treatment and maintenance contracts and warranties to Buyer.

#### ESCROW AGENT AND BROKER

**13. ESCROW AGENT:** Any Closing Agent or Escrow Agent (collectively "Agent") receiving the Deposit, other funds and other items is authorized, and agrees by acceptance of them, to deposit them promptly, hold same in escrow within the State of Florida and, subject to **COLLECTION**, disburse them in accordance with terms and conditions of this Contract. Failure of funds to become **COLLECTED** shall not excuse Buyer's performance. When conflicting demands for the Deposit are received, or Agent has a good faith doubt as to entitlement to the Deposit, Agent may take such actions permitted by this Paragraph 13, as Agent deems advisable. If in doubt as to Agent's duties or liabilities under this Contract, Agent may, at Agent's option, continue to hold the subject matter of the escrow until the parties agree to its disbursement or until a final judgment of a court of competent jurisdiction shall determine the rights of the parties, or Agent may deposit same with the clerk of the circuit court having jurisdiction of the dispute. An attorney who represents a party and also acts as Agent may represent such party in such action. Upon notifying all parties concerned of such action, all liability on the part of Agent shall fully terminate, except to the extent of accounting for any items previously delivered out of escrow. If a licensed real estate broker, Agent will comply with provisions of Chapter 475, F.S., as amended and FREC rules to timely resolve escrow disputes through mediation, arbitration, interpleader or an escrow disbursement order.

In any proceeding between Buyer and Seller wherein Agent is made a party because of acting as Agent hereunder, or in any proceeding where Agent interpleads the subject matter of the escrow, Agent shall recover reasonable attorney's fees and costs incurred, to be paid pursuant to court order out of the escrowed funds or equivalent. Agent shall not be liable to any party or person for mis-delivery of any escrowed items, unless such mis-delivery is due to Agent's willful breach of this Contract or Agent's gross negligence. This Paragraph 13 shall survive Closing or termination of this Contract.

**14. PROFESSIONAL ADVICE; BROKER LIABILITY:** Broker advises Buyer and Seller to verify Property condition, square footage, and all other facts and representations made pursuant to this Contract and to consult appropriate professionals for legal, tax, environmental, and other specialized advice concerning matters affecting the Property and the transaction contemplated by this Contract. Broker represents to Buyer that Broker does not reside on the Property and that all representations (oral, written or otherwise) by Broker are based on Seller representations or public records. **BUYER AGREES TO RELY SOLELY ON SELLER, PROFESSIONAL INSPECTORS AND GOVERNMENTAL AGENCIES FOR VERIFICATION OF PROPERTY CONDITION, SQUARE FOOTAGE AND FACTS THAT MATERIALLY AFFECT PROPERTY VALUE AND NOT ON THE REPRESENTATIONS (ORAL, WRITTEN OR OTHERWISE) OF BROKER.** Buyer and Seller (individually, the "Indemnifying Party") each individually indemnifies, holds harmless, and releases Broker and Broker's officers, directors, agents and employees from all liability for loss or damage, including all costs and expenses, and reasonable attorney's fees at all levels, suffered or incurred by Broker and Broker's officers, directors, agents and employees in connection with or arising from claims, demands or causes of action instituted by Buyer or Seller based on: (i) inaccuracy of information provided by the Indemnifying Party or from public records; (ii) Indemnifying Party's misstatement(s) or failure to perform contractual obligations; (iii) Broker's performance, at Indemnifying Party's request, of any task beyond the scope of services regulated by Chapter 475, F.S., as amended, including Broker's referral, recommendation or retention of any vendor for, or on behalf of, Indemnifying Party; (iv) products or services provided by any such vendor for, or on behalf of, Indemnifying Party; and (v) expenses incurred by any such vendor. Buyer and Seller each assumes full responsibility for selecting and compensating their respective vendors and paying their other costs under this Contract whether or not this transaction closes. This Paragraph 14 will not relieve Broker of statutory obligations under Chapter 475, F.S., as amended. For purposes of this Paragraph 14, Broker will be treated as a party to this Contract. This Paragraph 14 shall survive Closing or termination of this Contract.

#### DEFAULT AND DISPUTE RESOLUTION

##### 15. DEFAULT:

- (a) **BUYER DEFAULT:** If Buyer fails, neglects or refuses to perform Buyer's obligations under this Contract, including payment of the Deposit, within the time(s) specified, Seller may elect to recover and retain the Deposit for the account of Seller as agreed upon liquidated damages, consideration for execution of this Contract, and in full settlement of any claims, whereupon Buyer and Seller shall be relieved from all further obligations under

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this Contract, or Seller, at Seller's option, may, pursuant to Paragraph 16, proceed in equity to enforce Seller's rights under this Contract. The portion of the Deposit, if any, paid to Listing Broker upon default by Buyer, shall be split equally between Listing Broker and Cooperating Broker; provided however, Cooperating Broker's share shall not be greater than the commission amount Listing Broker had agreed to pay to Cooperating Broker.

- (b) **SELLER DEFAULT:** If for any reason other than failure of Seller to make Seller's title marketable after reasonable diligent effort, Seller fails, neglects or refuses to perform Seller's obligations under this Contract, Buyer may elect to receive return of Buyer's Deposit without thereby waiving any action for damages resulting from Seller's breach, and, pursuant to Paragraph 16, may seek to recover such damages or seek specific performance.

This Paragraph 15 shall survive Closing or termination of this Contract.

**16. DISPUTE RESOLUTION:** Unresolved controversies, claims and other matters in question between Buyer and Seller arising out of, or relating to, this Contract or its breach, enforcement or interpretation ("Dispute") will be settled as follows:

- (a) Buyer and Seller will have 10 days after the date conflicting demands for the Deposit are made to attempt to resolve such Dispute, failing which, Buyer and Seller shall submit such Dispute to mediation under Paragraph 16(b).
- (b) Buyer and Seller shall attempt to settle Disputes in an amicable manner through mediation pursuant to Florida Rules for Certified and Court-Appointed Mediators and Chapter 44, F.S., as amended (the "Mediation Rules"). The mediator must be certified or must have experience in the real estate industry. Injunctive relief may be sought without first complying with this Paragraph 16(b). Disputes not settled pursuant to this Paragraph 16 may be resolved by instituting action in the appropriate court having jurisdiction of the matter. This Paragraph 16 shall survive Closing or termination of this Contract.

**17. ATTORNEY'S FEES; COSTS:** The parties will split equally any mediation fee incurred in any mediation permitted by this Contract, and each party will pay their own costs, expenses and fees, including attorney's fees, incurred in conducting the mediation. In any litigation permitted by this Contract, the prevailing party shall be entitled to recover from the non-prevailing party costs and fees, including reasonable attorney's fees, incurred in conducting the litigation. This Paragraph 17 shall survive Closing or termination of this Contract.

**STANDARDS FOR REAL ESTATE TRANSACTIONS ("STANDARDS")**

**18. STANDARDS:**

**A. TITLE:**

(i) **TITLE EVIDENCE; RESTRICTIONS; EASEMENTS; LIMITATIONS:** Within the time period provided in Paragraph 9(c), the Title Commitment, with legible copies of instruments listed as exceptions attached thereto, shall be issued and delivered to Buyer. The Title Commitment shall set forth those matters to be discharged by Seller at or before Closing and shall provide that, upon recording of the deed to Buyer, an owner's policy of title insurance in the amount of the Purchase Price, shall be issued to Buyer insuring Buyer's marketable title to the Real Property, subject only to the following matters: (a) comprehensive land use plans, zoning, and other land use restrictions, prohibitions and requirements imposed by governmental authority; (b) restrictions and matters appearing on the Plat or otherwise common to the subdivision; (c) outstanding oil, gas and mineral rights of record without right of entry; (d) unplatted public utility easements of record (located contiguous to real property lines and not more than 10 feet in width as to rear or front lines and 7 1/2 feet in width as to side lines); (e) taxes for year of Closing and subsequent years; and (f) assumed mortgages and purchase money mortgages, if any (if additional items, attach addendum); provided, that, none prevent use of Property for **RESIDENTIAL PURPOSES**. If there exists at Closing any violation of items identified in (b) - (f) above, then the same shall be deemed a title defect. Marketable title shall be determined according to applicable Title Standards adopted by authority of The Florida Bar and in accordance with law.

(ii) **TITLE EXAMINATION:** Buyer shall have 5 days after receipt of Title Commitment to examine it and notify Seller in writing specifying defect(s), if any, that render title unmarketable. If Seller provides Title Commitment and it is delivered to Buyer less than 5 days prior to Closing Date, Buyer may extend Closing for up to 5 days after date of receipt to examine same in accordance with this STANDARD A. Seller shall have 30 days ("Cure Period") after receipt of Buyer's notice to take reasonable diligent efforts to remove defects. If Buyer fails to so notify Seller, Buyer shall be deemed to have accepted title as it then is. If Seller cures defects within Cure Period, Seller will deliver written notice to Buyer (with proof of cure acceptable to Buyer and Buyer's attorney) and the parties will close this Contract on Closing Date (or if Closing Date has passed, within 10 days after Buyer's receipt of Seller's notice). If Seller is unable to cure defects within Cure Period, then Buyer may, within 5 days after expiration of Cure Period,

Buyer's Initials

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Seller's Initials

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## STANDARDS FOR REAL ESTATE TRANSACTIONS ("STANDARDS") CONTINUED

383 deliver written notice to Seller: (a) extending Cure Period for a specified period not to exceed 120 days within which  
384 Seller shall continue to use reasonable diligent effort to remove or cure the defects ("Extended Cure Period"); or  
385 (b) electing to accept title with existing defects and close this Contract on Closing Date (or if Closing Date has  
386 passed, within the earlier of 10 days after end of Extended Cure Period or Buyer's receipt of Seller's notice), or (c)  
387 electing to terminate this Contract and receive a refund of the Deposit, thereby releasing Buyer and Seller from all  
388 further obligations under this Contract. If after reasonable diligent effort, Seller is unable to timely cure defects, and  
389 Buyer does not waive the defects, this Contract shall terminate, and Buyer shall receive a refund of the Deposit,  
390 thereby releasing Buyer and Seller from all further obligations under this Contract.

391 **B. SURVEY:** If Survey discloses encroachments on the Real Property or that improvements located thereon  
392 encroach on setback lines, easements, or lands of others, or violate any restrictions, covenants, or applicable  
393 governmental regulations described in STANDARD A (i)(a), (b) or (d) above, Buyer shall deliver written notice of  
394 such matters, together with a copy of Survey, to Seller within 5 days after Buyer's receipt of Survey, but no later  
395 than Closing. If Buyer timely delivers such notice and Survey to Seller, such matters identified in the notice and  
396 Survey shall constitute a title defect, subject to cure obligations of STANDARD A above. If Seller has delivered a  
397 prior survey, Seller shall, at Buyer's request, execute an affidavit of "no change" to the Real Property since the  
398 preparation of such prior survey, to the extent the affirmations therein are true and correct.

399 **C. INGRESS AND EGRESS:** Seller represents that there is ingress and egress to the Real Property and title to  
400 the Real Property is insurable in accordance with STANDARD A without exception for lack of legal right of access.

401 **D. LEASE INFORMATION:** Seller shall, at least 10 days prior to Closing, furnish to Buyer estoppel letters from  
402 tenant(s)/occupant(s) specifying nature and duration of occupancy, rental rates, advanced rent and security  
403 deposits paid by tenant(s) or occupant(s) ("Estoppel Letter(s)"). If Seller is unable to obtain such Estoppel Letter(s)  
404 the same information shall be furnished by Seller to Buyer within that time period in the form of a Seller's affidavit  
405 and Buyer may thereafter contact tenant(s) or occupant(s) to confirm such information. If Estoppel Letter(s) or  
406 Seller's affidavit, if any, differ materially from Seller's representations and lease(s) provided pursuant to Paragraph  
407 6, or if tenant(s)/occupant(s) fail or refuse to confirm Seller's affidavit, Buyer may deliver written notice to Seller  
408 within 5 days after receipt of such information, but no later than 5 days prior to Closing Date, terminating this  
409 Contract and receive a refund of the Deposit, thereby releasing Buyer and Seller from all further obligations under  
410 this Contract. Seller shall, at Closing, deliver and assign all leases to Buyer who shall assume Seller's obligations  
411 thereunder.

412 **E. LIENS:** Seller shall furnish to Buyer at Closing an affidavit attesting (i) to the absence of any financing  
413 statement, claims of lien or potential lienors known to Seller and (ii) that there have been no improvements or  
414 repairs to the Real Property for 90 days immediately preceding Closing Date. If the Real Property has been  
415 improved or repaired within that time, Seller shall deliver releases or waivers of construction liens executed by all  
416 general contractors, subcontractors, suppliers and materialmen in addition to Seller's lien affidavit setting forth  
417 names of all such general contractors, subcontractors, suppliers and materialmen, further affirming that all charges  
418 for improvements or repairs which could serve as a basis for a construction lien or a claim for damages have been  
419 paid or will be paid at Closing.

420 **F. TIME:** Calendar days shall be used in computing time periods. **Time is of the essence in this Contract.** Other  
421 than time for acceptance and Effective Date as set forth in Paragraph 3, any time periods provided for or dates  
422 specified in this Contract, whether preprinted, handwritten, typewritten or inserted herein, which shall end or occur  
423 on a Saturday, Sunday, or a national legal holiday (see 5 U.S.C. 6103) shall extend to 5:00 p.m. (where the Property  
424 is located) of the next business day.

425 **G. FORCE MAJEURE:** Buyer or Seller shall not be required to perform any obligation under this Contract or be  
426 liable to each other for damages so long as performance or non-performance of the obligation, or the availability of  
427 services, insurance or required approvals essential to Closing, is disrupted, delayed, caused or prevented by Force  
428 Majeure. "Force Majeure" means: hurricanes, floods, extreme weather, earthquakes, fire, or other acts of God,  
429 unusual transportation delays, or wars, insurrections, or acts of terrorism, which, by exercise of reasonable diligent  
430 effort, the non-performing party is unable in whole or in part to prevent or overcome. All time periods, including  
431 Closing Date, will be extended a reasonable time up to 7 days after the Force Majeure no longer prevents  
432 performance under this Contract, provided, however, if such Force Majeure continues to prevent performance under  
433 this Contract more than 30 days beyond Closing Date, then either party may terminate this Contract by delivering  
434 written notice to the other and the Deposit shall be refunded to Buyer, thereby releasing Buyer and Seller from all  
435 further obligations under this Contract.

436 **H. CONVEYANCE:** Seller shall convey marketable title to the Real Property by statutory warranty, trustee's,  
437 personal representative's, or guardian's deed, as appropriate to the status of Seller, subject only to matters  
438 described in STANDARD A and those accepted by Buyer. Personal Property shall, at request of Buyer, be



## STANDARDS FOR REAL ESTATE TRANSACTIONS ("STANDARDS") CONTINUED

transferred by absolute bill of sale with warranty of title, subject only to such matters as may be provided for in this Contract.

### **I. CLOSING LOCATION; DOCUMENTS; AND PROCEDURE:**

(i) **LOCATION:** Closing will be conducted by the attorney or other closing agent ("Closing Agent") designated by the party paying for the owner's policy of title insurance and will take place in the county where the Real Property is located at the office of the Closing Agent, or at such other location agreed to by the parties. If there is no title insurance, Seller will designate Closing Agent. Closing may be conducted by mail, overnight courier, or electronic means.

(ii) **CLOSING DOCUMENTS:** Seller shall at or prior to Closing, execute and deliver, as applicable, deed, bill of sale, certificate(s) of title or other documents necessary to transfer title to the Property, construction lien affidavit(s), owner's possession and no lien affidavit(s), and assignment(s) of leases. Seller shall provide Buyer with paid receipts for all work done on the Property pursuant to this Contract. Buyer shall furnish and pay for, as applicable, the survey, flood elevation certification, and documents required by Buyer's lender.

(iii) **FinCEN GTO NOTICE.** If Closing Agent is required to comply with the U.S. Treasury Department's Financial Crimes Enforcement Network ("FinCEN") Geographic Targeting Orders ("GTOs"), then Buyer shall provide Closing Agent with the information related to Buyer and the transaction contemplated by this Contract that is required to complete IRS Form 8300, and Buyer consents to Closing Agent's collection and report of said information to IRS.

(iv) **PROCEDURE:** The deed shall be recorded upon **COLLECTION** of all closing funds. If the Title Commitment provides insurance against adverse matters pursuant to Section 627.7841, F.S., as amended, the escrow closing procedure required by STANDARD J shall be waived, and Closing Agent shall, **subject to COLLECTION of all closing funds**, disburse at Closing the brokerage fees to Broker and the net sale proceeds to Seller.

**J. ESCROW CLOSING PROCEDURE:** If Title Commitment issued pursuant to Paragraph 9(c) does not provide for insurance against adverse matters as permitted under Section 627.7841, F.S., as amended, the following escrow and closing procedures shall apply: (1) all Closing proceeds shall be held in escrow by the Closing Agent for a period of not more than 10 days after Closing; (2) if Seller's title is rendered unmarketable, through no fault of Buyer, Buyer shall, within the 10 day period, notify Seller in writing of the defect and Seller shall have 30 days from date of receipt of such notification to cure the defect; (3) if Seller fails to timely cure the defect, the Deposit and all Closing funds paid by Buyer shall, within 5 days after written demand by Buyer, be refunded to Buyer and, simultaneously with such repayment, Buyer shall return the Personal Property, vacate the Real Property and re-convey the Property to Seller by special warranty deed and bill of sale; and (4) if Buyer fails to make timely demand for refund of the Deposit, Buyer shall take title as is, waiving all rights against Seller as to any intervening defect except as may be available to Buyer by virtue of warranties contained in the deed or bill of sale.

**K. PRORATIONS; CREDITS:** The following recurring items will be made current (if applicable) and prorated as of the day prior to Closing Date, or date of occupancy if occupancy occurs before Closing Date: real estate taxes (including special benefit tax assessments imposed by a CDD), interest, bonds, association fees, insurance, rents and other expenses of Property. Buyer shall have option of taking over existing policies of insurance, if assumable, in which event premiums shall be prorated. Cash at Closing shall be increased or decreased as may be required by prorations to be made through day prior to Closing. Advance rent and security deposits, if any, will be credited to Buyer. Escrow deposits held by Seller's mortgagee will be paid to Seller. Taxes shall be prorated based on current year's tax. If Closing occurs on a date when current year's millage is not fixed but current year's assessment is available, taxes will be prorated based upon such assessment and prior year's millage. If current year's assessment is not available, then taxes will be prorated on prior year's tax. If there are completed improvements on the Real Property by January 1st of year of Closing, which improvements were not in existence on January 1st of prior year, then taxes shall be prorated based upon prior year's millage and at an equitable assessment to be agreed upon between the parties, failing which, request shall be made to the County Property Appraiser for an informal assessment taking into account available exemptions. In all cases, due allowance shall be made for the maximum allowable discounts and applicable homestead and other exemptions. A tax proration based on an estimate shall, at either party's request, be readjusted upon receipt of current year's tax bill. This STANDARD K shall survive Closing.

**L. ACCESS TO PROPERTY TO CONDUCT APPRAISALS, INSPECTIONS, AND WALK-THROUGH:** Seller shall, upon reasonable notice, provide utilities service and access to Property for appraisals and inspections, including a walk-through (or follow-up walk-through if necessary) prior to Closing.

**M. RISK OF LOSS:** If, after Effective Date, but before Closing, Property is damaged by fire or other casualty ("Casualty Loss") and cost of restoration (which shall include cost of pruning or removing damaged trees) does not exceed 1.5% of Purchase Price, cost of restoration shall be an obligation of Seller and Closing shall proceed pursuant to terms of this Contract. If restoration is not completed as of Closing, a sum equal to 125% of estimated



## STANDARDS FOR REAL ESTATE TRANSACTIONS ("STANDARDS") CONTINUED

cost to complete restoration (not to exceed 1.5% of Purchase Price) will be escrowed at Closing. If actual cost of restoration exceeds escrowed amount, Seller shall pay such actual costs (but, not in excess of 1.5% of Purchase Price). Any unused portion of escrowed amount shall be returned to Seller. If cost of restoration exceeds 1.5% of Purchase Price, Buyer shall elect to either take Property "as is" together with the 1.5%, or receive a refund of the Deposit thereby releasing Buyer and Seller from all further obligations under this Contract. Seller's sole obligation with respect to tree damage by casualty or other natural occurrence shall be cost of pruning or removal.

**N. 1031 EXCHANGE:** If either Seller or Buyer wish to enter into a like-kind exchange (either simultaneously with Closing or deferred) under Section 1031 of the Internal Revenue Code ("Exchange"), the other party shall cooperate in all reasonable respects to effectuate the Exchange, including execution of documents; provided, however, cooperating party shall incur no liability or expense related to the Exchange, and Closing shall not be contingent upon, nor extended or delayed by, such Exchange.

**O. CONTRACT NOT RECORDABLE; PERSONS BOUND; NOTICE; DELIVERY; COPIES; CONTRACT EXECUTION:** Neither this Contract nor any notice of it shall be recorded in any public records. This Contract shall be binding on, and inure to the benefit of, the parties and their respective heirs or successors in interest. Whenever the context permits, singular shall include plural and one gender shall include all. Notice and delivery given by or to the attorney or broker (including such broker's real estate licensee) representing any party shall be as effective as if given by or to that party. All notices must be in writing and may be made by mail, personal delivery or electronic (including "pdf") media. A facsimile or electronic (including "pdf") copy of this Contract and any signatures hereon shall be considered for all purposes as an original. This Contract may be executed by use of electronic signatures, as determined by Florida's Electronic Signature Act and other applicable laws.

**P. INTEGRATION; MODIFICATION:** This Contract contains the full and complete understanding and agreement of Buyer and Seller with respect to the transaction contemplated by this Contract and no prior agreements or representations shall be binding upon Buyer or Seller unless included in this Contract. No modification to or change in this Contract shall be valid or binding upon Buyer or Seller unless in writing and executed by the parties intended to be bound by it.

**Q. WAIVER:** Failure of Buyer or Seller to insist on compliance with, or strict performance of, any provision of this Contract, or to take advantage of any right under this Contract, shall not constitute a waiver of other provisions or rights.

**R. RIDERS; ADDENDA; TYPEWRITTEN OR HANDWRITTEN PROVISIONS:** Riders, addenda, and typewritten or handwritten provisions shall control all printed provisions of this Contract in conflict with them.

**S. COLLECTION or COLLECTED:** "COLLECTION" or "COLLECTED" means any checks tendered or received, including Deposits, have become actually and finally collected and deposited in the account of Escrow Agent or Closing Agent. Closing and disbursement of funds and delivery of closing documents may be delayed by Closing Agent until such amounts have been COLLECTED in Closing Agent's accounts.

**T. RESERVED.**

**U. APPLICABLE LAW AND VENUE:** This Contract shall be construed in accordance with the laws of the State of Florida and venue for resolution of all disputes, whether by mediation, arbitration or litigation, shall lie in the county where the Real Property is located.

**V. FIRPTA TAX WITHHOLDING:** If a seller of U.S. real property is a "foreign person" as defined by FIRPTA, Section 1445 of the Internal Revenue Code ("Code") requires the buyer of the real property to withhold up to 15% of the amount realized by the seller on the transfer and remit the withheld amount to the Internal Revenue Service (IRS) unless an exemption to the required withholding applies or the seller has obtained a Withholding Certificate from the IRS authorizing a reduced amount of withholding.

(i) No withholding is required under Section 1445 of the Code if the Seller is not a "foreign person". Seller can provide proof of non-foreign status to Buyer by delivery of written certification signed under penalties of perjury, stating that Seller is not a foreign person and containing Seller's name, U.S. taxpayer identification number and home address (or office address, in the case of an entity), as provided for in 26 CFR 1.1445-2(b). Otherwise, Buyer shall withhold the applicable percentage of the amount realized by Seller on the transfer and timely remit said funds to the IRS.

(ii) If Seller is a foreign person and has received a Withholding Certificate from the IRS which provides for reduced or eliminated withholding in this transaction and provides same to Buyer by Closing, then Buyer shall withhold the reduced sum required, if any, and timely remit said funds to the IRS.

(iii) If prior to Closing Seller has submitted a completed application to the IRS for a Withholding Certificate and has provided to Buyer the notice required by 26 CFR 1.1445-1(c) (2)(i)(B) but no Withholding Certificate has been received as of Closing, Buyer shall, at Closing, withhold the applicable percentage of the amount realized by Seller on the transfer and, at Buyer's option, either (a) timely remit the withheld funds to the IRS or (b) place the funds in escrow, at Seller's expense, with an escrow agent selected by Buyer and pursuant to terms negotiated by the

Buyer's Initials

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Seller's Initials

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## STANDARDS FOR REAL ESTATE TRANSACTIONS ("STANDARDS") CONTINUED

parties, to be subsequently disbursed in accordance with the Withholding Certificate issued by the IRS or remitted directly to the IRS if the Seller's application is rejected or upon terms set forth in the escrow agreement.

(iv) In the event the net proceeds due Seller are not sufficient to meet the withholding requirement(s) in this transaction, Seller shall deliver to Buyer, at Closing, the additional COLLECTED funds necessary to satisfy the applicable requirement and thereafter Buyer shall timely remit said funds to the IRS or escrow the funds for disbursement in accordance with the final determination of the IRS, as applicable.

(v) Upon remitting funds to the IRS pursuant to this STANDARD, Buyer shall provide Seller copies of IRS Forms 8288 and 8288-A, as filed.

### W. RESERVED

**X. BUYER WAIVER OF CLAIMS:** *To the extent permitted by law, Buyer waives any claims against Seller and against any real estate licensee involved in the negotiation of this Contract for any damage or defects pertaining to the physical condition of the Property that may exist at Closing of this Contract and be subsequently discovered by the Buyer or anyone claiming by, through, under or against the Buyer. This provision does not relieve Seller's obligation to comply with Paragraph 10(j). This Standard X shall survive Closing.*

## ADDENDA AND ADDITIONAL TERMS

**19. ADDENDA:** The following additional terms are included in the attached addenda or riders and incorporated into this Contract (**Check if applicable**):

- |  |   |   |
|--|---|---|
| <input type="checkbox"/> A. Condominium Rider      | <input type="checkbox"/> K. RESERVED                          | <input type="checkbox"/> T. Pre-Closing Occupancy                                 |
| <input type="checkbox"/> B. Homeowners' Assn.      | <input type="checkbox"/> L. RESERVED                          | <input type="checkbox"/> U. Post-Closing Occupancy                                |
| <input type="checkbox"/> C. Seller Financing       | <input type="checkbox"/> M. Defective Drywall                 | <input type="checkbox"/> V. Sale of Buyer's Property                              |
| <input type="checkbox"/> D. Mortgage Assumption    | <input type="checkbox"/> N. Coastal Construction Control Line | <input type="checkbox"/> W. Back-up Contract                                      |
| <input type="checkbox"/> E. FHA/VA Financing       | <input type="checkbox"/> O. Insulation Disclosure             | <input type="checkbox"/> X. Kick-out Clause                                       |
| <input type="checkbox"/> F. Appraisal Contingency  | <input type="checkbox"/> P. Lead Paint Disclosure (Pre-1978)  | <input type="checkbox"/> Y. Seller's Attorney Approval                            |
| <input type="checkbox"/> G. Short Sale             | <input type="checkbox"/> Q. Housing for Older Persons         | <input type="checkbox"/> Z. Buyer's Attorney Approval                             |
| <input type="checkbox"/> H. Homeowners/Flood Ins.  | <input type="checkbox"/> R. Rezoning                          | <input type="checkbox"/> AA. Licensee Property Interest                           |
| <input type="checkbox"/> I. RESERVED               | <input type="checkbox"/> S. Lease Purchase/ Lease Option      | <input type="checkbox"/> BB. Binding Arbitration                                  |
| <input type="checkbox"/> J. Interest-Bearing Acct. |   | <input type="checkbox"/> CC. Miami-Dade County Special Taxing District Disclosure |
|  |   | <input type="checkbox"/> Other: _____   |

### 20. ADDITIONAL TERMS:

Buyer shall pay all costs associated with this transaction.

Seller warrants that no outstanding mortgages or liens (other than for taxes) exist on the subject property.

Seller warrants that Title has not been previously conveyed to any other party.

If Buyer discovers any mortgage against the property, any prior transfer of interest, or any lien other than for outstanding taxes, Buyer may cancel the transaction and return deed to buyer prior to recording and shall have no obligation of payment to Seller.

## COUNTER-OFFER/REJECTION

☐ Seller counters Buyer's offer (to accept the counter-offer, Buyer must sign or initial the counter-offered terms and deliver a copy of the acceptance to Seller).

☐ Seller rejects Buyer's offer.

Buyer's Initials \_\_\_\_\_

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Seller's Initials \_\_\_\_\_

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THIS IS INTENDED TO BE A LEGALLY BINDING CONTRACT. IF NOT FULLY UNDERSTOOD, SEEK THE ADVICE OF AN ATTORNEY PRIOR TO SIGNING.

THIS FORM HAS BEEN APPROVED BY THE FLORIDA REALTORS AND THE FLORIDA BAR.

Approval of this form by the Florida Realtors and The Florida Bar does not constitute an opinion that any of the terms and conditions in this Contract should be accepted by the parties in a particular transaction. Terms and conditions should be negotiated based upon the respective interests, objectives and bargaining positions of all interested persons.

AN ASTERISK (\*) FOLLOWING A LINE NUMBER IN THE MARGIN INDICATES THE LINE CONTAINS A BLANK TO BE COMPLETED.

Barefoot Bay Recreation District

Buyer: [Signature] Date: 5/14/2021

Buyer: \_\_\_\_\_ Date: \_\_\_\_\_

Seller: Dawn Horvath Date: 5/11/2021  
Dawn Horvath

Seller: \_\_\_\_\_ Date: \_\_\_\_\_

Buyer's address for purposes of notice

Seller's address for purposes of notice

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**BROKER:** Listing and Cooperating Brokers, if any, named below (collectively, "Broker"), are the only Brokers entitled to compensation in connection with this Contract. Instruction to Closing Agent: Seller and Buyer direct Closing Agent to disburse at Closing the full amount of the brokerage fees as specified in separate brokerage agreements with the parties and cooperative agreements between the Brokers, except to the extent Broker has retained such fees from the escrowed funds. This Contract shall not modify any MLS or other offer of compensation made by Seller or Listing Broker to Cooperating Brokers.

NA  
Cooperating Sales Associate, if any

NA  
Listing Sales Associate

NA  
Cooperating Broker, if any

NA  
Listing Broker



## Board of Trustees

## Meeting Agenda Memo

Date: Friday, September 10, 2021  
Title: **Neighborhood Revitalization Program (NRP) Purchase Confirmation: 401 Raven Drive**  
Section & Item: 9.L  
Department: Resident Relations, DOR  
Fiscal Impact: Sale Price: \$13,200.00  
Contact: Richard Armington, Resident Relations Manager  
Attachments: Executed Purchase Approval and Contract  
Reviewed by General Counsel: Yes  
Approved by: John W. Coffey, ICMA-CM, Community Manager



### Requested Action by BOT

Confirmation of 401 Raven Drive purchase per the Policy Manual's "Purchase or Sale of Properties by BBRD Using Neighborhood Revitalization Program (NRP) Funding" (page 16).

### Background and Summary Information

- The Chairman of the NRP BOT Sub-Committee shall be authorized to approve (as recommended by the Community Manager or designee) the expenditures of NRP funds in excess of \$15,000.00 and not to exceed \$25,000.00 by staff toward the acquisition of a property identified by the Sub-Committee in accordance with NRP rules as established by the BOT.
- The purchase of the property shall be ratified by the Board of Trustees at the next scheduled regular meeting of the Board of Trustees.

On August 19, 2021, NRP Vice Chair Michael Morrissey as requested by Chairman Maino authorized the purchase of 401 Raven Drive for \$13,200.00. Once a clean title is secured, the property will be listed for sale (of which the proceeds will go back into the NRP project line-item for future use to improve the community via the removal of derelict homes and the sale of the vacant property).

Staff recommends the BOT confirms the purchase of 401 Raven Drive via the Neighborhood Revitalization Program.



# Barefoot Bay Recreation District

An Independent Special  
District of the State of  
Florida established in 1984.

625 Barefoot Boulevard  
Barefoot Bay, Florida  
32976-7305  
Phone 772.664.3141  
Fax 772.664.1928  
[www.bbrd.org](http://www.bbrd.org)

## Board of Trustees

**Michael R. Maino,**  
Chairman

**Bruce Amoss,**  
1st Vice-Chair

**Michael Morrissey,**  
2nd Vice-Chair

**Jim Nugent,**  
Treasurer

**Jeff Grunow,**  
Secretary

## Leadership Team

**John W. Coffey, ICMA-CM,**  
Community Manager

**Stephanie Brown,**  
District Clerk

**Charles Henley,**  
Finance Manager

**Rich Armstrong,**  
Resident Relations/  
Human Resources Manager

**Matt Goetz,**  
Property Services Manager

**Kathy Mendes,**  
Food & Beverage Manager

**Ernie J. Cruz,**  
PGA Certified Professional,  
Golf Operations Manager

**Mackenzie Leiva,**  
Management Analyst

## General Counsel

**Clifford Repperger, Jr.,**  
WhiteBird, PLLC

Address: 401 Raven Drive  
Sale price: \$13,200.00



Michael Morrissey, Vice Chair NRP



**"AS IS" Residential Contract  
For Sale And Purchase**  
THIS FORM HAS BEEN APPROVED BY  
THE FLORIDA REALTORS AND THE FLORIDA BAR

1\* **PARTIES:** The Property Squad, Inc. ("Seller"),  
2\* and Barefoot Bay Recreation District ("Buyer"),  
3 agree that Seller shall sell and Buyer shall buy the following described Real Property and Personal Property  
4 (collectively "Property") pursuant to the terms and conditions of this AS IS Residential Contract For Sale And Purchase  
5 and any riders and addenda ("Contract"):

6 **1. PROPERTY DESCRIPTION:**

7\* (a) Street address, city, zip: 401 Raven Dr., Barefoot Bay, FL 32976  
8\* (b) Located in: Brevard County, Florida. Property Tax ID #: 30-38-10-JT-85.D-3  
9\* (c) Real Property: The legal description is Lot 3, Block 85D, Barefoot Bay, Mobile Home Subdivision, Unit  
10 Two, Part 11, according to the plat thereof, as recorded in Plat Book 22, Page 116, Public Records of  
11 Brevard County, Florida.

12 together with all existing improvements and fixtures, including built-in appliances, built-in furnishings and  
13 attached wall-to-wall carpeting and flooring ("Real Property") unless specifically excluded in Paragraph 1(e) or  
14 by other terms of this Contract.

15 (d) Personal Property: Unless excluded in Paragraph 1(e) or by other terms of this Contract, the following items  
16 which are owned by Seller and existing on the Property as of the date of the initial offer are included in the  
17 purchase: range(s)/oven(s), refrigerator(s), dishwasher(s), disposal, ceiling fan(s), intercom, light fixture(s),  
18 drapery rods and draperies, blinds, window treatments, smoke detector(s), garage door opener(s), security gate  
19 and other access devices, and storm shutters/panels ("Personal Property").

20\* Other Personal Property items included in this purchase are: \_\_\_\_\_

21 Personal Property is included in the Purchase Price, has no contributory value, and shall be left for the Buyer.

22 (e) The following items are excluded from the purchase: \_\_\_\_\_

23\* \_\_\_\_\_

24 \_\_\_\_\_

25 **PURCHASE PRICE AND CLOSING**

26\* **2. PURCHASE PRICE (U.S. currency):** .....\$ 13,200.00

27\* (a) Initial deposit to be held in escrow in the amount of (checks subject to COLLECTION) .....\$ \_\_\_\_\_

28 The initial deposit made payable and delivered to "Escrow Agent" named below  
29\* (CHECK ONE): (i) ☐ accompanies offer or (ii) ☐ is to be made within \_\_\_\_\_ (if left  
30 blank, then 3) days after Effective Date. IF NEITHER BOX IS CHECKED, THEN  
31 OPTION (ii) SHALL BE DEEMED SELECTED.

32\* Escrow Agent Information: Name: \_\_\_\_\_

33\* Address: \_\_\_\_\_

34\* Phone: \_\_\_\_\_ E-mail: \_\_\_\_\_ Fax: \_\_\_\_\_

35\* (b) Additional deposit to be delivered to Escrow Agent within \_\_\_\_\_ (if left blank, then 10)  
36\* days after Effective Date .....\$ \_\_\_\_\_

37 (All deposits paid or agreed to be paid, are collectively referred to as the "Deposit")

38\* (c) Financing: Express as a dollar amount or percentage ("Loan Amount") see Paragraph 8.....\$ \_\_\_\_\_

39\* (d) Other: .....\$ \_\_\_\_\_

40 (e) Balance to close (not including Buyer's closing costs, prepaids and prorations) by wire  
41\* transfer or other COLLECTED funds .....\$ 13,200.00

42 **NOTE: For the definition of "COLLECTION" or "COLLECTED" see STANDARD S.**

43 **3. TIME FOR ACCEPTANCE OF OFFER AND COUNTER-OFFERS; EFFECTIVE DATE:**

44 (a) If not signed by Buyer and Seller, and an executed copy delivered to all parties on or before  
45\* August 31, 2021, this offer shall be deemed withdrawn and the Deposit, if any, shall be returned to  
46 Buyer. Unless otherwise stated, time for acceptance of any counter-offers shall be within 2 days after the day  
47 the counter-offer is delivered.

48 (b) The effective date of this Contract shall be the date when the last one of the Buyer and Seller has signed or  
49 initialed and delivered this offer or final counter-offer ("Effective Date").

50 **4. CLOSING DATE:** Unless modified by other provisions of this Contract, the closing of this transaction shall occur  
51 and the closing documents required to be furnished by each party pursuant to this Contract shall be delivered  
52\* ("Closing") on August 31, 2021 ("Closing Date"), at the time established by the Closing Agent.

5. **EXTENSION OF CLOSING DATE:**

- (a) If Paragraph 8(b) is checked and Closing funds from Buyer's lender(s) are not available on Closing Date due to Consumer Financial Protection Bureau Closing Disclosure delivery requirements ("CFPB Requirements"), then Closing Date shall be extended for such period necessary to satisfy CFPB Requirements, provided such period shall not exceed 10 days.
- (b) If an event constituting "Force Majeure" causes services essential for Closing to be unavailable, including the unavailability of utilities or issuance of hazard, wind, flood or homeowners' insurance, Closing Date shall be extended as provided in STANDARD G.

6. **OCCUPANCY AND POSSESSION:**

- (a) Unless the box in Paragraph 6(b) is checked, Seller shall, at Closing, deliver occupancy and possession of the Property to Buyer free of tenants, occupants and future tenancies. Also, at Closing, Seller shall have removed all personal items and trash from the Property and shall deliver all keys, garage door openers, access devices and codes, as applicable, to Buyer. If occupancy is to be delivered before Closing, Buyer assumes all risks of loss to the Property from date of occupancy, shall be responsible and liable for maintenance from that date, and shall be deemed to have accepted the Property in its existing condition as of time of taking occupancy.
- (b) ☐ **CHECK IF PROPERTY IS SUBJECT TO LEASE(S) OR OCCUPANCY AFTER CLOSING.** If Property is subject to a lease(s) after Closing or is intended to be rented or occupied by third parties beyond Closing, the facts and terms thereof shall be disclosed in writing by Seller to Buyer and copies of the written lease(s) shall be delivered to Buyer, all within 5 days after Effective Date. If Buyer determines, in Buyer's sole discretion, that the lease(s) or terms of occupancy are not acceptable to Buyer, Buyer may terminate this Contract by delivery of written notice of such election to Seller within 5 days after receipt of the above items from Seller, and Buyer shall be refunded the Deposit thereby releasing Buyer and Seller from all further obligations under this Contract. Estoppel Letter(s) and Seller's affidavit shall be provided pursuant to STANDARD D. If Property is intended to be occupied by Seller after Closing, see Rider U. POST-CLOSING OCCUPANCY BY SELLER.

7. **ASSIGNABILITY: (CHECK ONE):** Buyer ☒ may assign and thereby be released from any further liability under this Contract; ☐ may assign but not be released from liability under this Contract; or ☐ may not assign this Contract.

**FINANCING**

8. **FINANCING:**

☒ (a) Buyer will pay cash for the purchase of the Property at Closing. There is no financing contingency to Buyer's obligation to close. If Buyer obtains a loan for any part of the Purchase Price of the Property, Buyer acknowledges that any terms and conditions imposed by Buyer's lender(s) or by CFPB Requirements shall not affect or extend the Buyer's obligation to close or otherwise affect any terms or conditions of this Contract.

☐ (b) This Contract is contingent upon Buyer obtaining approval of a ☐ conventional ☐ FHA ☐ VA or ☐ other \_\_\_\_\_ (describe) loan within \_\_\_\_\_ (if left blank, then 30) days after Effective Date ("Loan Approval Period") for **(CHECK ONE):** ☐ fixed, ☐ adjustable, ☐ fixed or adjustable rate in the Loan Amount (See Paragraph 2(c)), at an initial interest rate not to exceed \_\_\_\_\_ % (if left blank, then prevailing rate based upon Buyer's creditworthiness), and for a term of \_\_\_\_\_ (if left blank, then 30) years ("Financing").

(i) Buyer shall make mortgage loan application for the Financing within \_\_\_\_\_ (if left blank, then 5) days after Effective Date and use good faith and diligent effort to obtain approval of a loan meeting the Financing terms ("Loan Approval") and thereafter to close this Contract. Loan Approval which requires a condition related to the sale by Buyer of other property shall not be deemed Loan Approval for purposes of this subparagraph.

Buyer's failure to use diligent effort to obtain Loan Approval during the Loan Approval Period shall be considered a default under the terms of this Contract. For purposes of this provision, "diligent effort" includes, but is not limited to, timely furnishing all documents and information and paying of all fees and charges requested by Buyer's mortgage broker and lender in connection with Buyer's mortgage loan application.

(ii) Buyer shall keep Seller and Broker fully informed about the status of Buyer's mortgage loan application, Loan Approval, and loan processing and authorizes Buyer's mortgage broker, lender, and Closing Agent to disclose such status and progress, and release preliminary and finally executed closing disclosures and settlement statements, to Seller and Broker.

(iii) Upon Buyer obtaining Loan Approval, Buyer shall promptly deliver written notice of such approval to Seller.

(iv) If Buyer is unable to obtain Loan Approval after the exercise of diligent effort, then at any time prior to expiration of the Loan Approval Period, Buyer may provide written notice to Seller stating that Buyer has been unable to obtain Loan Approval and has elected to either:

- (1) waive Loan Approval, in which event this Contract will continue as if Loan Approval had been obtained; or  
(2) terminate this Contract.

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Seller's Initials

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(v) If Buyer fails to timely deliver either notice provided in Paragraph 8(b)(iii) or (iv), above, to Seller prior to expiration of the Loan Approval Period, then Loan Approval shall be deemed waived, in which event this Contract will continue as if Loan Approval had been obtained, provided however, Seller may elect to terminate this Contract by delivering written notice to Buyer within 3 days after expiration of the Loan Approval Period.

(vi) If this Contract is timely terminated as provided by Paragraph 8(b)(iv)(2) or (v), above, and Buyer is not in default under the terms of this Contract, Buyer shall be refunded the Deposit thereby releasing Buyer and Seller from all further obligations under this Contract.

(vii) If Loan Approval has been obtained, or deemed to have been obtained, as provided above, and Buyer fails to close this Contract, then the Deposit shall be paid to Seller unless failure to close is due to: (1) Seller's default or inability to satisfy other contingencies of this Contract; (2) Property related conditions of the Loan Approval have not been met (except when such conditions are waived by other provisions of this Contract); or (3) appraisal of the Property obtained by Buyer's lender is insufficient to meet terms of the Loan Approval, in which event(s) the Buyer shall be refunded the Deposit, thereby releasing Buyer and Seller from all further obligations under this Contract.

☐ (c) Assumption of existing mortgage (see rider for terms).

☐ (d) Purchase money note and mortgage to Seller (see riders; addenda; or special clauses for terms).

### CLOSING COSTS, FEES AND CHARGES

#### 9. CLOSING COSTS; TITLE INSURANCE; SURVEY; HOME WARRANTY; SPECIAL ASSESSMENTS:

##### (a) COSTS TO BE PAID BY SELLER:

- Documentary stamp taxes and surtax on deed, if any
- Owner's Policy and Charges (if Paragraph 9(c)(i) is checked)
- Title search charges (if Paragraph 9(c)(iii) is checked)
- Municipal lien search (if Paragraph 9(c)(i) or (iii) is checked)
- HOA/Condominium Association estoppel fees
- Recording and other fees needed to cure title
- Seller's attorneys' fees
- Other: \_\_\_\_\_

If, prior to Closing, Seller is unable to meet the AS IS Maintenance Requirement as required by Paragraph 11 a sum equal to 125% of estimated costs to meet the AS IS Maintenance Requirement shall be escrowed at Closing. If actual costs to meet the AS IS Maintenance Requirement exceed escrowed amount, Seller shall pay such actual costs. Any unused portion of escrowed amount(s) shall be returned to Seller.

##### (b) COSTS TO BE PAID BY BUYER:

- Taxes and recording fees on notes and mortgages
- Recording fees for deed and financing statements
- Owner's Policy and Charges (if Paragraph 9(c)(ii) is checked)
- Survey (and elevation certification, if required)
- Lender's title policy and endorsements
- HOA/Condominium Association application/transfer fees
- Municipal lien search (if Paragraph 9(c)(ii) is checked)
- Loan expenses
- Appraisal fees
- Buyer's Inspections
- Buyer's attorneys' fees
- All property related insurance
- Owner's Policy Premium (if Paragraph 9(c)(iii) is checked.)
- Other: \_\_\_\_\_

(c) **TITLE EVIDENCE AND INSURANCE:** At least \_\_\_\_\_ (if left blank, then 15, or if Paragraph 8(a) is checked, then 5) days prior to Closing Date ("Title Evidence Deadline"), a title insurance commitment issued by a Florida licensed title insurer, with legible copies of instruments listed as exceptions attached thereto ("Title Commitment") and, after Closing, an owner's policy of title insurance (see STANDARD A for terms) shall be obtained and delivered to Buyer. If Seller has an owner's policy of title insurance covering the Real Property, a copy shall be furnished to Buyer and Closing Agent within 5 days after Effective Date. The owner's title policy premium, title search and closing services (collectively, "Owner's Policy and Charges") shall be paid, as set forth below. The title insurance premium charges for the owner's policy and any lender's policy will be calculated and allocated in accordance with Florida law, but may be reported differently on certain federally mandated closing disclosures and other closing documents. For purposes of this Contract "municipal lien search" means a search of records necessary for the owner's policy of title insurance to be issued without exception for unrecorded liens imposed pursuant to Chapters 159 or 170, F.S., in favor of any governmental body, authority or agency.

##### (CHECK ONE):

☐ (i) Seller shall designate Closing Agent and pay for Owner's Policy and Charges, and Buyer shall pay the premium for Buyer's lender's policy and charges for closing services related to the lender's policy, endorsements and loan closing, which amounts shall be paid by Buyer to Closing Agent or such other provider(s) as Buyer may select; or

☒ (ii) Buyer shall designate Closing Agent and pay for Owner's Policy and Charges and charges for closing services related to Buyer's lender's policy, endorsements and loan closing; or

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☐ (iii) **[MIAMI-DADE/BROWARD REGIONAL PROVISION]**: Seller shall furnish a copy of a prior owner's policy of title insurance or other evidence of title and pay fees for: (A) a continuation or update of such title evidence, which is acceptable to Buyer's title insurance underwriter for reissue of coverage; (B) tax search; and (C) municipal lien search. Buyer shall obtain and pay for post-Closing continuation and premium for Buyer's owner's policy, and if applicable, Buyer's lender's policy. Seller shall not be obligated to pay more than \$\_\_\_\_\_ (if left blank, then \$200.00) for abstract continuation or title search ordered or performed by Closing Agent.

(d) **SURVEY**: On or before Title Evidence Deadline, Buyer may, at Buyer's expense, have the Real Property surveyed and certified by a registered Florida surveyor ("Survey"). If Seller has a survey covering the Real Property, a copy shall be furnished to Buyer and Closing Agent within 5 days after Effective Date.

(e) **HOME WARRANTY**: At Closing, ☐ Buyer ☐ Seller ☒ N/A shall pay for a home warranty plan issued by \_\_\_\_\_ at a cost not to exceed \$\_\_\_\_\_. A home warranty plan provides for repair or replacement of many of a home's mechanical systems and major built-in appliances in the event of breakdown due to normal wear and tear during the agreement's warranty period.

(f) **SPECIAL ASSESSMENTS**: At Closing, Seller shall pay: (i) the full amount of liens imposed by a public body ("public body" does not include a Condominium or Homeowner's Association) that are certified, confirmed and ratified before Closing; and (ii) the amount of the public body's most recent estimate or assessment for an improvement which is substantially complete as of Effective Date, but that has not resulted in a lien being imposed on the Property before Closing. Buyer shall pay all other assessments. If special assessments may be paid in installments (**CHECK ONE**):

☐ (a) Seller shall pay installments due prior to Closing and Buyer shall pay installments due after Closing. Installments prepaid or due for the year of Closing shall be prorated.

☐ (b) Seller shall pay the assessment(s) in full prior to or at the time of Closing.

IF NEITHER BOX IS CHECKED, THEN OPTION (a) SHALL BE DEEMED SELECTED.

This Paragraph 9(f) shall not apply to a special benefit tax lien imposed by a community development district (CDD) pursuant to Chapter 190, F.S., which lien shall be prorated pursuant to STANDARD K.

## DISCLOSURES

### 10. DISCLOSURES:

(a) **RADON GAS**: Radon is a naturally occurring radioactive gas that, when it is accumulated in a building in sufficient quantities, may present health risks to persons who are exposed to it over time. Levels of radon that exceed federal and state guidelines have been found in buildings in Florida. Additional information regarding radon and radon testing may be obtained from your county health department.

(b) **PERMITS DISCLOSURE**: Except as may have been disclosed by Seller to Buyer in a written disclosure, Seller does not know of any improvements made to the Property which were made without required permits or made pursuant to permits which have not been properly closed. If Seller identifies permits which have not been properly closed or improvements which were not permitted, then Seller shall promptly deliver to Buyer all plans, written documentation or other information in Seller's possession, knowledge, or control relating to improvements to the Property which are the subject of such open permits or unpermitted improvements.

(c) **MOLD**: Mold is naturally occurring and may cause health risks or damage to property. If Buyer is concerned or desires additional information regarding mold, Buyer should contact an appropriate professional.

(d) **FLOOD ZONE; ELEVATION CERTIFICATION**: Buyer is advised to verify by elevation certificate which flood zone the Property is in, whether flood insurance is required by Buyer's lender, and what restrictions apply to improving the Property and rebuilding in the event of casualty. If Property is in a "Special Flood Hazard Area" or "Coastal Barrier Resources Act" designated area or otherwise protected area identified by the U.S. Fish and Wildlife Service under the Coastal Barrier Resources Act and the lowest floor elevation for the building(s) and/or flood insurance rating purposes is below minimum flood elevation or is ineligible for flood insurance coverage through the National Flood Insurance Program or private flood insurance as defined in 42 U.S.C. §4012a, Buyer may terminate this Contract by delivering written notice to Seller within \_\_\_\_\_ (if left blank, then 20) days after Effective Date, and Buyer shall be refunded the Deposit thereby releasing Buyer and Seller from all further obligations under this Contract, failing which Buyer accepts existing elevation of buildings and flood zone designation of Property. The National Flood Insurance Program may assess additional fees or adjust premiums for pre-Flood Insurance Rate Map (pre-FIRM) non-primary structures (residential structures in which the insured or spouse does not reside for at least 50% of the year) and an elevation certificate may be required for actuarial rating.

(e) **ENERGY BROCHURE**: Buyer acknowledges receipt of Florida Energy-Efficiency Rating Information Brochure required by Section 553.996, F.S.

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- (f) **LEAD-BASED PAINT:** If Property includes pre-1978 residential housing, a lead-based paint disclosure is mandatory.
- (g) **HOMEOWNERS' ASSOCIATION/COMMUNITY DISCLOSURE:** BUYER SHOULD NOT EXECUTE THIS CONTRACT UNTIL BUYER HAS RECEIVED AND READ THE HOMEOWNERS' ASSOCIATION/COMMUNITY DISCLOSURE, IF APPLICABLE.
- (h) **PROPERTY TAX DISCLOSURE SUMMARY:** BUYER SHOULD NOT RELY ON THE SELLER'S CURRENT PROPERTY TAXES AS THE AMOUNT OF PROPERTY TAXES THAT THE BUYER MAY BE OBLIGATED TO PAY IN THE YEAR SUBSEQUENT TO PURCHASE. A CHANGE OF OWNERSHIP OR PROPERTY IMPROVEMENTS TRIGGERS REASSESSMENTS OF THE PROPERTY THAT COULD RESULT IN HIGHER PROPERTY TAXES. IF YOU HAVE ANY QUESTIONS CONCERNING VALUATION, CONTACT THE COUNTY PROPERTY APPRAISER'S OFFICE FOR INFORMATION.
- (i) **FOREIGN INVESTMENT IN REAL PROPERTY TAX ACT ("FIRPTA"):** Seller shall inform Buyer in writing if Seller is a "foreign person" as defined by the Foreign Investment in Real Property Tax Act ("FIRPTA"). Buyer and Seller shall comply with FIRPTA, which may require Seller to provide additional cash at Closing. If Seller is not a "foreign person", Seller can provide Buyer, at or prior to Closing, a certification of non-foreign status, under penalties of perjury, to inform Buyer and Closing Agent that no withholding is required. See STANDARD V for further information pertaining to FIRPTA. Buyer and Seller are advised to seek legal counsel and tax advice regarding their respective rights, obligations, reporting and withholding requirements pursuant to FIRPTA.
- (j) **SELLER DISCLOSURE:** Seller knows of no facts materially affecting the value of the Real Property which are not readily observable and which have not been disclosed to Buyer. Except as provided for in the preceding sentence, Seller extends and intends no warranty and makes no representation of any type, either express or implied, as to the physical condition or history of the Property. Except as otherwise disclosed in writing Seller has received no written or verbal notice from any governmental entity or agency as to a currently uncorrected building, environmental or safety code violation.

#### PROPERTY MAINTENANCE, CONDITION, INSPECTIONS AND EXAMINATIONS

11. **PROPERTY MAINTENANCE:** Except for ordinary wear and tear and Casualty Loss, Seller shall maintain the Property, including, but not limited to, lawn, shrubbery, and pool, in the condition existing as of Effective Date ("AS IS Maintenance Requirement").
12. **PROPERTY INSPECTION; RIGHT TO CANCEL:**
- (a) **PROPERTY INSPECTIONS AND RIGHT TO CANCEL:** Buyer shall have 0 (if left blank, then 15) days after Effective Date ("Inspection Period") within which to have such inspections of the Property performed as Buyer shall desire during the Inspection Period. If Buyer determines, in Buyer's sole discretion, that the Property is not acceptable to Buyer, Buyer may terminate this Contract by delivering written notice of such election to Seller prior to expiration of Inspection Period. If Buyer timely terminates this Contract, the Deposit paid shall be returned to Buyer, thereupon, Buyer and Seller shall be released of all further obligations under this Contract; however, Buyer shall be responsible for prompt payment for such inspections, for repair of damage to, and restoration of, the Property resulting from such inspections, and shall provide Seller with paid receipts for all work done on the Property (the preceding provision shall survive termination of this Contract). Unless Buyer exercises the right to terminate granted herein, Buyer accepts the physical condition of the Property and any violation of governmental, building, environmental, and safety codes, restrictions, or requirements, but subject to Seller's continuing AS IS Maintenance Requirement, and Buyer shall be responsible for any and all repairs and improvements required by Buyer's lender.
- (b) **WALK-THROUGH INSPECTION/RE-INSPECTION:** On the day prior to Closing Date, or on Closing Date prior to time of Closing, as specified by Buyer, Buyer or Buyer's representative may perform a walk-through (and follow-up walk-through, if necessary) inspection of the Property solely to confirm that all items of Personal Property are on the Property and to verify that Seller has maintained the Property as required by the AS IS Maintenance Requirement and has met all other contractual obligations.
- (c) **SELLER ASSISTANCE AND COOPERATION IN CLOSE-OUT OF BUILDING PERMITS:** If Buyer's inspection of the Property identifies open or needed building permits, then Seller shall promptly deliver to Buyer all plans, written documentation or other information in Seller's possession, knowledge, or control relating to improvements to the Property which are the subject of such open or needed Permits, and shall promptly cooperate in good faith with Buyer's efforts to obtain estimates of repairs or other work necessary to resolve such Permit issues. Seller's obligation to cooperate shall include Seller's execution of necessary authorizations,

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consents, or other documents necessary for Buyer to conduct inspections and have estimates of such repairs or work prepared, but in fulfilling such obligation, Seller shall not be required to expend, or become obligated to expend, any money.

- (d) **ASSIGNMENT OF REPAIR AND TREATMENT CONTRACTS AND WARRANTIES:** At Buyer's option and cost, Seller will, at Closing, assign all assignable repair, treatment and maintenance contracts and warranties to Buyer.

### ESCROW AGENT AND BROKER

**13. ESCROW AGENT:** Any Closing Agent or Escrow Agent (collectively "Agent") receiving the Deposit, other funds and other items is authorized, and agrees by acceptance of them, to deposit them promptly, hold same in escrow within the State of Florida and, subject to **COLLECTION**, disburse them in accordance with terms and conditions of this Contract. Failure of funds to become **COLLECTED** shall not excuse Buyer's performance. When conflicting demands for the Deposit are received, or Agent has a good faith doubt as to entitlement to the Deposit, Agent may take such actions permitted by this Paragraph 13, as Agent deems advisable. If in doubt as to Agent's duties or liabilities under this Contract, Agent may, at Agent's option, continue to hold the subject matter of the escrow until the parties agree to its disbursement or until a final judgment of a court of competent jurisdiction shall determine the rights of the parties, or Agent may deposit same with the clerk of the circuit court having jurisdiction of the dispute. An attorney who represents a party and also acts as Agent may represent such party in such action. Upon notifying all parties concerned of such action, all liability on the part of Agent shall fully terminate, except to the extent of accounting for any items previously delivered out of escrow. If a licensed real estate broker, Agent will comply with provisions of Chapter 475, F.S., as amended and FREC rules to timely resolve escrow disputes through mediation, arbitration, interpleader or an escrow disbursement order.

In any proceeding between Buyer and Seller wherein Agent is made a party because of acting as Agent hereunder, or in any proceeding where Agent interpleads the subject matter of the escrow, Agent shall recover reasonable attorney's fees and costs incurred, to be paid pursuant to court order out of the escrowed funds or equivalent. Agent shall not be liable to any party or person for mis-delivery of any escrowed items, unless such mis-delivery is due to Agent's willful breach of this Contract or Agent's gross negligence. This Paragraph 13 shall survive Closing or termination of this Contract.

**14. PROFESSIONAL ADVICE; BROKER LIABILITY:** Broker advises Buyer and Seller to verify Property condition, square footage, and all other facts and representations made pursuant to this Contract and to consult appropriate professionals for legal, tax, environmental, and other specialized advice concerning matters affecting the Property and the transaction contemplated by this Contract. Broker represents to Buyer that Broker does not reside on the Property and that all representations (oral, written or otherwise) by Broker are based on Seller representations or public records. **BUYER AGREES TO RELY SOLELY ON SELLER, PROFESSIONAL INSPECTORS AND GOVERNMENTAL AGENCIES FOR VERIFICATION OF PROPERTY CONDITION, SQUARE FOOTAGE AND FACTS THAT MATERIALLY AFFECT PROPERTY VALUE AND NOT ON THE REPRESENTATIONS (ORAL, WRITTEN OR OTHERWISE) OF BROKER.** Buyer and Seller (individually, the "Indemnifying Party") each individually indemnifies, holds harmless, and releases Broker and Broker's officers, directors, agents and employees from all liability for loss or damage, including all costs and expenses, and reasonable attorney's fees at all levels, suffered or incurred by Broker and Broker's officers, directors, agents and employees in connection with or arising from claims, demands or causes of action instituted by Buyer or Seller based on: (i) inaccuracy of information provided by the Indemnifying Party or from public records; (ii) Indemnifying Party's misstatement(s) or failure to perform contractual obligations; (iii) Broker's performance, at Indemnifying Party's request, of any task beyond the scope of services regulated by Chapter 475, F.S., as amended, including Broker's referral, recommendation or retention of any vendor for, or on behalf of, Indemnifying Party; (iv) products or services provided by any such vendor for, or on behalf of, Indemnifying Party; and (v) expenses incurred by any such vendor. Buyer and Seller each assumes full responsibility for selecting and compensating their respective vendors and paying their other costs under this Contract whether or not this transaction closes. This Paragraph 14 will not relieve Broker of statutory obligations under Chapter 475, F.S., as amended. For purposes of this Paragraph 14, Broker will be treated as a party to this Contract. This Paragraph 14 shall survive Closing or termination of this Contract.

### DEFAULT AND DISPUTE RESOLUTION

#### 15. DEFAULT:

- (a) **BUYER DEFAULT:** If Buyer fails, neglects or refuses to perform Buyer's obligations under this Contract, including payment of the Deposit, within the time(s) specified, Seller may elect to recover and retain the Deposit for the account of Seller as agreed upon liquidated damages, consideration for execution of this Contract, and in full settlement of any claims, whereupon Buyer and Seller shall be relieved from all further obligations under

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329 this Contract, or Seller, at Seller's option, may, pursuant to Paragraph 16, proceed in equity to enforce Seller's  
330 rights under this Contract. The portion of the Deposit, if any, paid to Listing Broker upon default by Buyer, shall  
331 be split equally between Listing Broker and Cooperating Broker; provided however, Cooperating Broker's share  
332 shall not be greater than the commission amount Listing Broker had agreed to pay to Cooperating Broker.  
333 (b) **SELLER DEFAULT:** If for any reason other than failure of Seller to make Seller's title marketable after  
334 reasonable diligent effort, Seller fails, neglects or refuses to perform Seller's obligations under this Contract,  
335 Buyer may elect to receive return of Buyer's Deposit without thereby waiving any action for damages resulting  
336 from Seller's breach, and, pursuant to Paragraph 16, may seek to recover such damages or seek specific  
337 performance.

338 This Paragraph 15 shall survive Closing or termination of this Contract.

339 **16. DISPUTE RESOLUTION:** Unresolved controversies, claims and other matters in question between Buyer and  
340 Seller arising out of, or relating to, this Contract or its breach, enforcement or interpretation ("Dispute") will be settled  
341 as follows:

- 342 (a) Buyer and Seller will have 10 days after the date conflicting demands for the Deposit are made to attempt to  
343 resolve such Dispute, failing which, Buyer and Seller shall submit such Dispute to mediation under Paragraph  
344 16(b).  
345 (b) Buyer and Seller shall attempt to settle Disputes in an amicable manner through mediation pursuant to Florida  
346 Rules for Certified and Court-Appointed Mediators and Chapter 44, F.S., as amended (the "Mediation Rules").  
347 The mediator must be certified or must have experience in the real estate industry. Injunctive relief may be  
348 sought without first complying with this Paragraph 16(b). Disputes not settled pursuant to this Paragraph 16  
349 may be resolved by instituting action in the appropriate court having jurisdiction of the matter. This Paragraph  
350 16 shall survive Closing or termination of this Contract.

351 **17. ATTORNEY'S FEES; COSTS:** The parties will split equally any mediation fee incurred in any mediation permitted  
352 by this Contract, and each party will pay their own costs, expenses and fees, including attorney's fees, incurred in  
353 conducting the mediation. In any litigation permitted by this Contract, the prevailing party shall be entitled to recover  
354 from the non-prevailing party costs and fees, including reasonable attorney's fees, incurred in conducting the  
355 litigation. This Paragraph 17 shall survive Closing or termination of this Contract.

#### 356 **STANDARDS FOR REAL ESTATE TRANSACTIONS ("STANDARDS")**

#### 357 **18. STANDARDS:**

##### 358 **A. TITLE:**

359 (i) **TITLE EVIDENCE; RESTRICTIONS; EASEMENTS; LIMITATIONS:** Within the time period provided in  
360 Paragraph 9(c), the Title Commitment, with legible copies of instruments listed as exceptions attached thereto, shall  
361 be issued and delivered to Buyer. The Title Commitment shall set forth those matters to be discharged by Seller at  
362 or before Closing and shall provide that, upon recording of the deed to Buyer, an owner's policy of title insurance  
363 in the amount of the Purchase Price, shall be issued to Buyer insuring Buyer's marketable title to the Real Property,  
364 subject only to the following matters: (a) comprehensive land use plans, zoning, and other land use restrictions,  
365 prohibitions and requirements imposed by governmental authority; (b) restrictions and matters appearing on the  
366 Plat or otherwise common to the subdivision; (c) outstanding oil, gas and mineral rights of record without right of  
367 entry; (d) unplatted public utility easements of record (located contiguous to real property lines and not more than  
368 10 feet in width as to rear or front lines and 7 1/2 feet in width as to side lines); (e) taxes for year of Closing and  
369 addendum; provided, that, none prevent use of Property for **RESIDENTIAL PURPOSES**. If there exists at Closing  
370 any violation of items identified in (b) - (f) above, then the same shall be deemed a title defect. Marketable title shall  
371 be determined according to applicable Title Standards adopted by authority of The Florida Bar and in accordance  
372 with law.

373 (ii) **TITLE EXAMINATION:** Buyer shall have 5 days after receipt of Title Commitment to examine it and notify Seller  
374 in writing specifying defect(s), if any, that render title unmarketable. If Seller provides Title Commitment and it is  
375 delivered to Buyer less than 5 days prior to Closing Date, Buyer may extend Closing for up to 5 days after date of  
376 receipt to examine same in accordance with this STANDARD A. Seller shall have 30 days ("Cure Period") after  
377 receipt of Buyer's notice to take reasonable diligent efforts to remove defects. If Buyer fails to so notify Seller, Buyer  
378 shall be deemed to have accepted title as it then is. If Seller cures defects within Cure Period, Seller will deliver  
379 written notice to Buyer (with proof of cure acceptable to Buyer and Buyer's attorney) and the parties will close this  
380 Contract on Closing Date (or if Closing Date has passed, within 10 days after Buyer's receipt of Seller's notice). If  
381 Seller is unable to cure defects within Cure Period, then Buyer may, within 5 days after expiration of Cure Period,  
382

Buyer's Initials

*[Signature]*

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Seller's Initials

*TPS*

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STANDARDS FOR REAL ESTATE TRANSACTIONS ("STANDARDS") CONTINUED

383 deliver written notice to Seller: (a) extending Cure Period for a specified period not to exceed 120 days within which  
384 Seller shall continue to use reasonable diligent effort to remove or cure the defects ("Extended Cure Period"); or  
385 (b) electing to accept title with existing defects and close this Contract on Closing Date (or if Closing Date has  
386 passed, within the earlier of 10 days after end of Extended Cure Period or Buyer's receipt of Seller's notice), or (c)  
387 electing to terminate this Contract and receive a refund of the Deposit, thereby releasing Buyer and Seller from all  
388 further obligations under this Contract. If after reasonable diligent effort, Seller is unable to timely cure defects, and  
389 Buyer does not waive the defects, this Contract shall terminate, and Buyer shall receive a refund of the Deposit,  
390 thereby releasing Buyer and Seller from all further obligations under this Contract.

391 **B. SURVEY:** If Survey discloses encroachments on the Real Property or that improvements located thereon  
392 encroach on setback lines, easements, or lands of others, or violate any restrictions, covenants, or applicable  
393 governmental regulations described in STANDARD A (i)(a), (b) or (d) above, Buyer shall deliver written notice of  
394 such matters, together with a copy of Survey, to Seller within 5 days after Buyer's receipt of Survey, but no later  
395 than Closing. If Buyer timely delivers such notice and Survey to Seller, such matters identified in the notice and  
396 Survey shall constitute a title defect, subject to cure obligations of STANDARD A above. If Seller has delivered a  
397 prior survey, Seller shall, at Buyer's request, execute an affidavit of "no change" to the Real Property since the  
398 preparation of such prior survey, to the extent the affirmations therein are true and correct.

399 **C. INGRESS AND EGRESS:** Seller represents that there is ingress and egress to the Real Property and title to  
400 the Real Property is insurable in accordance with STANDARD A without exception for lack of legal right of access.

401 **D. LEASE INFORMATION:** Seller shall, at least 10 days prior to Closing, furnish to Buyer estoppel letters from  
402 tenant(s)/occupant(s) specifying nature and duration of occupancy, rental rates, advanced rent and security  
403 deposits paid by tenant(s) or occupant(s) ("Estoppel Letter(s)"). If Seller is unable to obtain such Estoppel Letter(s)  
404 the same information shall be furnished by Seller to Buyer within that time period in the form of a Seller's affidavit  
405 and Buyer may thereafter contact tenant(s) or occupant(s) to confirm such information. If Estoppel Letter(s) or  
406 Seller's affidavit, if any, differ materially from Seller's representations and lease(s) provided pursuant to Paragraph  
407 6, or if tenant(s)/occupant(s) fail or refuse to confirm Seller's affidavit, Buyer may deliver written notice to Seller  
408 within 5 days after receipt of such information, but no later than 5 days prior to Closing Date, terminating this  
409 Contract and receive a refund of the Deposit, thereby releasing Buyer and Seller from all further obligations under  
410 this Contract. Seller shall, at Closing, deliver and assign all leases to Buyer who shall assume Seller's obligations  
411 thereunder.

412 **E. LIENS:** Seller shall furnish to Buyer at Closing an affidavit attesting (i) to the absence of any financing  
413 statement, claims of lien or potential lienors known to Seller and (ii) that there have been no improvements or  
414 repairs to the Real Property for 90 days immediately preceding Closing Date. If the Real Property has been  
415 improved or repaired within that time, Seller shall deliver releases or waivers of construction liens executed by all  
416 general contractors, subcontractors, suppliers and materialmen in addition to Seller's lien affidavit setting forth  
417 names of all such general contractors, subcontractors, suppliers and materialmen, further affirming that all charges  
418 for improvements or repairs which could serve as a basis for a construction lien or a claim for damages have been  
419 paid or will be paid at Closing.

420 **F. TIME:** Calendar days shall be used in computing time periods. **Time is of the essence in this Contract.** Other  
421 than time for acceptance and Effective Date as set forth in Paragraph 3, any time periods provided for or dates  
422 specified in this Contract, whether preprinted, handwritten, typewritten or inserted herein, which shall end or occur  
423 on a Saturday, Sunday, or a national legal holiday (see 5 U.S.C. 6103) shall extend to 5:00 p.m. (where the Property  
424 is located) of the next business day.

425 **G. FORCE MAJEURE:** Buyer or Seller shall not be required to perform any obligation under this Contract or be  
426 liable to each other for damages so long as performance or non-performance of the obligation, or the availability of  
427 services, insurance or required approvals essential to Closing, is disrupted, delayed, caused or prevented by Force  
428 Majeure. "Force Majeure" means: hurricanes, floods, extreme weather, earthquakes, fire, or other acts of God,  
429 unusual transportation delays, or wars, insurrections, or acts of terrorism, which, by exercise of reasonable diligent  
430 effort, the non-performing party is unable in whole or in part to prevent or overcome. All time periods, including  
431 Closing Date, will be extended a reasonable time up to 7 days after the Force Majeure no longer prevents  
432 performance under this Contract, provided, however, if such Force Majeure continues to prevent performance under  
433 this Contract more than 30 days beyond Closing Date, then either party may terminate this Contract by delivering  
434 written notice to the other and the Deposit shall be refunded to Buyer, thereby releasing Buyer and Seller from all  
435 further obligations under this Contract.

436 **H. CONVEYANCE:** Seller shall convey marketable title to the Real Property by statutory warranty, trustee's,  
437 personal representative's, or guardian's deed, as appropriate to the status of Seller, subject only to matters  
438 described in STANDARD A and those accepted by Buyer. Personal Property shall, at request of Buyer, be

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STANDARDS FOR REAL ESTATE TRANSACTIONS ("STANDARDS") CONTINUED

transferred by absolute bill of sale with warranty of title, subject only to such matters as may be provided for in this Contract.

**I. CLOSING LOCATION; DOCUMENTS; AND PROCEDURE:**

(i) **LOCATION:** Closing will be conducted by the attorney or other closing agent ("Closing Agent") designated by the party paying for the owner's policy of title insurance and will take place in the county where the Real Property is located at the office of the Closing Agent, or at such other location agreed to by the parties. If there is no title insurance, Seller will designate Closing Agent. Closing may be conducted by mail, overnight courier, or electronic means.

(ii) **CLOSING DOCUMENTS:** Seller shall at or prior to Closing, execute and deliver, as applicable, deed, bill of sale, certificate(s) of title or other documents necessary to transfer title to the Property, construction lien affidavit(s), owner's possession and no lien affidavit(s), and assignment(s) of leases. Seller shall provide Buyer with paid receipts for all work done on the Property pursuant to this Contract. Buyer shall furnish and pay for, as applicable, the survey, flood elevation certification, and documents required by Buyer's lender.

(iii) **FinCEN GTO NOTICE.** If Closing Agent is required to comply with the U.S. Treasury Department's Financial Crimes Enforcement Network ("FinCEN") Geographic Targeting Orders ("GTOs"), then Buyer shall provide Closing Agent with the information related to Buyer and the transaction contemplated by this Contract that is required to complete IRS Form 8300, and Buyer consents to Closing Agent's collection and report of said information to IRS.

(iv) **PROCEDURE:** The deed shall be recorded upon **COLLECTION** of all closing funds. If the Title Commitment provides insurance against adverse matters pursuant to Section 627.7841, F.S., as amended, the escrow closing procedure required by STANDARD J shall be waived, and Closing Agent shall, **subject to COLLECTION of all closing funds**, disburse at Closing the brokerage fees to Broker and the net sale proceeds to Seller.

**J. ESCROW CLOSING PROCEDURE:** If Title Commitment issued pursuant to Paragraph 9(c) does not provide for insurance against adverse matters as permitted under Section 627.7841, F.S., as amended, the following escrow and closing procedures shall apply: (1) all Closing proceeds shall be held in escrow by the Closing Agent for a period of not more than 10 days after Closing; (2) if Seller's title is rendered unmarketable, through no fault of Buyer, Buyer shall, within the 10 day period, notify Seller in writing of the defect and Seller shall have 30 days from date of receipt of such notification to cure the defect; (3) if Seller fails to timely cure the defect, the Deposit and all Closing funds paid by Buyer shall, within 5 days after written demand by Buyer, be refunded to Buyer and, simultaneously with such repayment, Buyer shall return the Personal Property, vacate the Real Property and convey the Property to Seller by special warranty deed and bill of sale; and (4) if Buyer fails to make timely demand for refund of the Deposit, Buyer shall take title as is, waiving all rights against Seller as to any intervening defect except as may be available to Buyer by virtue of warranties contained in the deed or bill of sale.

**K. PRORATIONS; CREDITS:** The following recurring items will be made current (if applicable) and prorated as of the day prior to Closing Date, or date of occupancy if occupancy occurs before Closing Date: real estate taxes (including special benefit tax assessments imposed by a CDD), interest, bonds, association fees, insurance, rents and other expenses of Property. Buyer shall have option of taking over existing policies of insurance, if assumable, in which event premiums shall be prorated. Cash at Closing shall be increased or decreased as may be required by prorations to be made through day prior to Closing. Advance rent and security deposits, if any, will be credited to Buyer. Escrow deposits held by Seller's mortgagee will be paid to Seller. Taxes shall be prorated based on current year's tax. If Closing occurs on a date when current year's millage is not fixed but current year's assessment is available, taxes will be prorated based upon such assessment and prior year's millage. If current year's assessment is not available, then taxes will be prorated on prior year's tax. If there are completed improvements on the Real Property by January 1st of year of Closing, which improvements were not in existence on January 1st of prior year, then taxes shall be prorated based upon prior year's millage and at an equitable assessment to be agreed upon between the parties, failing which, request shall be made to the County Property Appraiser for an informal assessment taking into account available exemptions. In all cases, due allowance shall be made for the maximum allowable discounts and applicable homestead and other exemptions. A tax proration based on an estimate shall, at either party's request, be readjusted upon receipt of current year's tax bill. This STANDARD K shall survive Closing.

**L. ACCESS TO PROPERTY TO CONDUCT APPRAISALS, INSPECTIONS, AND WALK-THROUGH:** Seller shall, upon reasonable notice, provide utilities service and access to Property for appraisals and inspections, including a walk-through (or follow-up walk-through if necessary) prior to Closing.

**M. RISK OF LOSS:** If, after Effective Date, but before Closing, Property is damaged by fire or other casualty ("Casualty Loss") and cost of restoration (which shall include cost of pruning or removing damaged trees) does not exceed 1.5% of Purchase Price, cost of restoration shall be an obligation of Seller and Closing shall proceed pursuant to terms of this Contract. If restoration is not completed as of Closing, a sum equal to 125% of estimated

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STANDARDS FOR REAL ESTATE TRANSACTIONS ("STANDARDS") CONTINUED

cost to complete restoration (not to exceed 1.5% of Purchase Price) will be escrowed at Closing. If actual cost of restoration exceeds escrowed amount, Seller shall pay such actual costs (but, not in excess of 1.5% of Purchase Price). Any unused portion of escrowed amount shall be returned to Seller. If cost of restoration exceeds 1.5% of Purchase Price, Buyer shall elect to either take Property "as is" together with the 1.5%, or receive a refund of the Deposit thereby releasing Buyer and Seller from all further obligations under this Contract. Seller's sole obligation with respect to tree damage by casualty or other natural occurrence shall be cost of pruning or removal.

**N. 1031 EXCHANGE:** If either Seller or Buyer wish to enter into a like-kind exchange (either simultaneously with Closing or deferred) under Section 1031 of the Internal Revenue Code ("Exchange"), the other party shall cooperate in all reasonable respects to effectuate the Exchange, including execution of documents; provided, however, cooperating party shall incur no liability or expense related to the Exchange, and Closing shall not be contingent upon, nor extended or delayed by, such Exchange.

**O. CONTRACT NOT RECORDABLE; PERSONS BOUND; NOTICE; DELIVERY; COPIES; CONTRACT EXECUTION:** Neither this Contract nor any notice of it shall be recorded in any public records. This Contract shall be binding on, and inure to the benefit of, the parties and their respective heirs or successors in interest. Whenever the context permits, singular shall include plural and one gender shall include all. Notice and delivery given by or to the attorney or broker (including such broker's real estate licensee) representing any party shall be as effective as if given by or to that party. All notices must be in writing and may be made by mail, personal delivery or electronic (including "pdf") media. A facsimile or electronic (including "pdf") copy of this Contract and any signatures hereon shall be considered for all purposes as an original. This Contract may be executed by use of electronic signatures, as determined by Florida's Electronic Signature Act and other applicable laws.

**P. INTEGRATION; MODIFICATION:** This Contract contains the full and complete understanding and agreement of Buyer and Seller with respect to the transaction contemplated by this Contract and no prior agreements or representations shall be binding upon Buyer or Seller unless included in this Contract. No modification to or change in this Contract shall be valid or binding upon Buyer or Seller unless in writing and executed by the parties intended to be bound by it.

**Q. WAIVER:** Failure of Buyer or Seller to insist on compliance with, or strict performance of, any provision of this Contract, or to take advantage of any right under this Contract, shall not constitute a waiver of other provisions or rights.

**R. RIDERS; ADDENDA; TYPEWRITTEN OR HANDWRITTEN PROVISIONS:** Riders, addenda, and typewritten or handwritten provisions shall control all printed provisions of this Contract in conflict with them.

**S. COLLECTION or COLLECTED:** "COLLECTION" or "COLLECTED" means any checks tendered or received, including Deposits, have become actually and finally collected and deposited in the account of Escrow Agent or Closing Agent. Closing and disbursement of funds and delivery of closing documents may be delayed by Closing Agent until such amounts have been COLLECTED in Closing Agent's accounts.

**T. RESERVED.**

**U. APPLICABLE LAW AND VENUE:** This Contract shall be construed in accordance with the laws of the State of Florida and venue for resolution of all disputes, whether by mediation, arbitration or litigation, shall lie in the county where the Real Property is located.

**V. FIRPTA TAX WITHHOLDING:** If a seller of U.S. real property is a "foreign person" as defined by FIRPTA, Section 1445 of the Internal Revenue Code ("Code") requires the buyer of the real property to withhold up to 15% of the amount realized by the seller on the transfer and remit the withheld amount to the Internal Revenue Service (IRS) unless an exemption to the required withholding applies or the seller has obtained a Withholding Certificate from the IRS authorizing a reduced amount of withholding.

(i) No withholding is required under Section 1445 of the Code if the Seller is not a "foreign person". Seller can provide proof of non-foreign status to Buyer by delivery of written certification signed under penalties of perjury, stating that Seller is not a foreign person and containing Seller's name, U.S. taxpayer identification number and home address (or office address, in the case of an entity), as provided for in 26 CFR 1.1445-2(b). Otherwise, Buyer shall withhold the applicable percentage of the amount realized by Seller on the transfer and timely remit said funds to the IRS.

(ii) If Seller is a foreign person and has received a Withholding Certificate from the IRS which provides for reduced or eliminated withholding in this transaction and provides same to Buyer by Closing, then Buyer shall withhold the reduced sum required, if any, and timely remit said funds to the IRS.

(iii) If prior to Closing Seller has submitted a completed application to the IRS for a Withholding Certificate and has provided to Buyer the notice required by 26 CFR 1.1445-1(c) (2)(i)(B) but no Withholding Certificate has been received as of Closing, Buyer shall, at Closing, withhold the applicable percentage of the amount realized by Seller on the transfer and, at Buyer's option, either (a) timely remit the withheld funds to the IRS or (b) place the funds in escrow, at Seller's expense, with an escrow agent selected by Buyer and pursuant to terms negotiated by the

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## STANDARDS FOR REAL ESTATE TRANSACTIONS ("STANDARDS") CONTINUED

parties, to be subsequently disbursed in accordance with the Withholding Certificate issued by the IRS or remitted directly to the IRS if the Seller's application is rejected or upon terms set forth in the escrow agreement.

(iv) In the event the net proceeds due Seller are not sufficient to meet the withholding requirement(s) in this transaction, Seller shall deliver to Buyer, at Closing, the additional COLLECTED funds necessary to satisfy the applicable requirement and thereafter Buyer shall timely remit said funds to the IRS or escrow the funds for disbursement in accordance with the final determination of the IRS, as applicable.

(v) Upon remitting funds to the IRS pursuant to this STANDARD, Buyer shall provide Seller copies of IRS Forms 8288 and 8288-A, as filed.

### W. RESERVED

**X. BUYER WAIVER OF CLAIMS:** *To the extent permitted by law, Buyer waives any claims against Seller and against any real estate licensee involved in the negotiation of this Contract for any damage or defects pertaining to the physical condition of the Property that may exist at Closing of this Contract and be subsequently discovered by the Buyer or anyone claiming by, through, under or against the Buyer. This provision does not relieve Seller's obligation to comply with Paragraph 10(j). This Standard X shall survive Closing.*

## ADDENDA AND ADDITIONAL TERMS

**19. ADDENDA:** The following additional terms are included in the attached addenda or riders and incorporated into this Contract (Check if applicable):

- |  |   |   |
|--|---|---|
| <input type="checkbox"/> A. Condominium Rider      | <input type="checkbox"/> K. RESERVED                          | <input type="checkbox"/> T. Pre-Closing Occupancy                                 |
| <input type="checkbox"/> B. Homeowners' Assn.      | <input type="checkbox"/> L. RESERVED                          | <input type="checkbox"/> U. Post-Closing Occupancy                                |
| <input type="checkbox"/> C. Seller Financing       | <input type="checkbox"/> M. Defective Drywall                 | <input type="checkbox"/> V. Sale of Buyer's Property                              |
| <input type="checkbox"/> D. Mortgage Assumption    | <input type="checkbox"/> N. Coastal Construction Control Line | <input type="checkbox"/> W. Back-up Contract                                      |
| <input type="checkbox"/> E. FHA/VA Financing       | <input type="checkbox"/> O. Insulation Disclosure             | <input type="checkbox"/> X. Kick-out Clause                                       |
| <input type="checkbox"/> F. Appraisal Contingency  | <input type="checkbox"/> P. Lead Paint Disclosure (Pre-1978)  | <input type="checkbox"/> Y. Seller's Attorney Approval                            |
| <input type="checkbox"/> G. Short Sale             | <input type="checkbox"/> Q. Housing for Older Persons         | <input type="checkbox"/> Z. Buyer's Attorney Approval                             |
| <input type="checkbox"/> H. Homeowners/Flood Ins.  | <input type="checkbox"/> R. Rezoning                          | <input type="checkbox"/> AA. Licensee Property Interest                           |
| <input type="checkbox"/> I. RESERVED               | <input type="checkbox"/> S. Lease Purchase/ Lease Option      | <input type="checkbox"/> BB. Binding Arbitration                                  |
| <input type="checkbox"/> J. Interest-Bearing Acct. |   | <input type="checkbox"/> CC. Miami-Dade County Special Taxing District Disclosure |

☐ Other: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

### 20. ADDITIONAL TERMS:

Buyer shall pay all costs associated with this transaction.

Seller warrants that no outstanding mortgages or liens (other than for taxes) exist on the subject property.

Seller warrants that Title has not been previously conveyed to any other party.

If Buyer discovers any mortgage against the property, any prior transfer of interest, or any lien other than for outstanding taxes, Buyer may cancel the transaction and return deed to buyer prior to recording and shall have no obligation of payment to Seller.

## COUNTER-OFFER/REJECTION

- ☐ Seller counters Buyer's offer (to accept the counter-offer, Buyer must sign or initial the counter-offered terms and deliver a copy of the acceptance to Seller).
- ☐ Seller rejects Buyer's offer.

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*[Handwritten Signature]*

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*[Handwritten Signature]*

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THIS IS INTENDED TO BE A LEGALLY BINDING CONTRACT. IF NOT FULLY UNDERSTOOD, SEEK THE ADVICE OF AN ATTORNEY PRIOR TO SIGNING.

THIS FORM HAS BEEN APPROVED BY THE FLORIDA REALTORS AND THE FLORIDA BAR.

Approval of this form by the Florida Realtors and The Florida Bar does not constitute an opinion that any of the terms and conditions in this Contract should be accepted by the parties in a particular transaction. Terms and conditions should be negotiated based upon the respective interests, objectives and bargaining positions of all interested persons.

AN ASTERISK (\*) FOLLOWING A LINE NUMBER IN THE MARGIN INDICATES THE LINE CONTAINS A BLANK TO BE COMPLETED.

Barefoot Bay Recreation District

Buyer:

The Property Squad Inc. / Miriam Shapira  
CEO

Date:

8/13/21

Buyer:

Miriam Shapira

Date:

8/13/2021

Property Squad, Inc.

Seller:

Miriam Shapira, CEO/President

Date:

Seller:

Date:

Buyer's address for purposes of notice

Seller's address for purposes of notice

432 Barefoot Blvd.  
Barefoot Bay, FL 32976

**BROKER:** Listing and Cooperating Brokers, if any, named below (collectively, "Broker"), are the only Brokers entitled to compensation in connection with this Contract. Instruction to Closing Agent: Seller and Buyer direct Closing Agent to disburse at Closing the full amount of the brokerage fees as specified in separate brokerage agreements with the parties and cooperative agreements between the Brokers, except to the extent Broker has retained such fees from the escrowed funds. This Contract shall not modify any MLS or other offer of compensation made by Seller or Listing Broker to Cooperating Brokers.

NA

Cooperating Sales Associate, if any

NA

Listing Sales Associate

NA

Cooperating Broker, if any

NA

Listing Broker

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Miriam Shapira

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## Barefoot Bay Recreation District

625 Barefoot Boulevard, Administration Building  
Barefoot Bay, FL 32976-9233

Phone 772-664-3141  
Fax 772-664-1928

**Memo To:** Board of Trustees

**From:** John W. Coffey, Community Manager, ICMA-CM

**Date:** September 10, 2021

**Subject:** Manager's Report

### Resident Relations

#### **ARCC Meeting 08/31/2021**

- 3 old business permit: 2 extensions approved and 1 tabled again (permit package is still incomplete)
- 8 consent permits: all approved
- 4 other permits: 3 approved and 1 denied

#### **Next ARCC Meeting 09/14/2021**

- Will be held in Building D/E at 9am

#### **Violations Committee Meeting 08/27/2021**

- 6 cases came into compliance prior to the meeting
- 5 cases presented and found in violation

#### **Next Violations Committee Meeting**

- Scheduled for September 10<sup>th</sup> in Bldg. D/E at 10am

#### **August Interesting Facts**

- 27 home sales
- 20 Orientations presented
- 32 Residents in attendance

### Food & Beverage

Great October events. Save the dates!

- Saturday October 2, 2021
  - The German Club and Paradise Planners are holding an **Oktoberfest** in the Pool #1 area starting at noon.
  - An International Polka Band will perform on the Lakeside Stage from 12:30-4:00pm.
  - Paradise Planners will transform the area into a fairy tale German village.
  - Kegs of Warsteiner beer, a favorite of our Barefoot Bay German Club residents, will be flowing as well as brats, German potato salad, hot dogs, big pretzels, and more.

- Tickets nor badges are required for this event.
- October 16, 2021
  - This year's annual walk for cancer is themed "**Color My World Cancer Free**" and is a fundraiser for all cancers.
  - The walk will be held under the oaks by the New Administration Building at 9am. Sign up is going on now in the CVO office.
  - There will be music, a special drink menu, snacks and activities in the Pavilion area after the walk. BBRD Departments have a friendly competition to see who can raise the most funds for the charity. While the District collectively raised over \$5,000 of the \$14,000 raised for the Sea of Pink cause in 2019, the Administration team beat out the other Departments by raising over \$4,000. We'll see which Department can raise the bar this year.

#### Property Services

- Patched wash out at the ABM worksite, larger more extensive repair coming soon
- Replaced 5 interior lights at the Shopping Center
- Replaced some damaged white bollards
- Re installed sound panels, cleaned the building, buffed out the floors prior to re-opening of the assembly room
- Removed old office walls in the new CVO office
- Replaced the pitcher pump at the pier
- Replaced door closure assembly at the Pro Shop
- Cleaned out the gutters at the Pro Shop
- Re surfaced the Boccie ball courts in preparation of the upcoming winter season
- Installed new lights on the palms at US1
- Continued to solicit bids for upcoming projects

#### Golf-Pro Shop

- End of Fiscal Year Inventory
  - Merchandise sales inside the Pro Shop will cease at 12pm on September 30<sup>th</sup> for annual BBRD Inventory management