

RESOLUTION NO. _____

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, APPROVING AND AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE AN AGREEMENT BETWEEN THE CITY OF MIAMI BEACH AND THE VILLAGE OF BAL HARBOUR FOR THE CITY TO CONTINUE TO PROVIDE SEWAGE CONVEYANCE SERVICES; AND AUTHORIZING THE TRANSFER OF TITLE FROM BAL HARBOR TO THE CITY OF A SEWER METER, IN ORDER FOR THE CITY TO PROVIDE A MORE ACCURATE MEASUREMENT OF BAL HARBOUR'S SEWAGE FLOW.

WHEREAS, the City operates a sewage conveyance system (the City System) for the use and benefit of its inhabitants, and has also historically provided sewage conveyance for disposal services to the neighboring towns, known as the Satellite Cities, including the Village of Bal Harbour; and

WHEREAS, at its November 17, 1971 meeting, the City Commission approved Resolution No. 13447, to enter into an agreement with the Village of Bal Harbour, to provide sewage conveyance for disposal services; and

WHEREAS, due to the then proposed connection of the City System to the Virginia Key Treatment facility, the City exercised its right to terminate the agreement at its December 5, 1979 Commission meeting, pursuant to Resolution No. 79-16116; and

WHEREAS, notwithstanding such termination of the agreement, the City and Bal Harbour's intent was not to discontinue the City's provision of the services to Bal Harbour, but rather to continue to provide them on a month to month basis until new terms including, without limitation, new rates under an appropriate rate setting procedure (after the City's costs could be determined for operation under the new system) could be established; and

WHEREAS, this relationship has survived to present day; and

WHEREAS, the City and Bal Harbour now wish to enter into a new agreement ("Agreement") for sewage conveyance for disposal services (hereinafter, the "Services"); particularly insofar as memorializing the method of compensation to be paid by Bal Harbour to the City is concerned; and

WHEREAS, the parties have negotiated the attached Agreement (Exhibit "A"), and the Village of Bal Harbour approved the Agreement on January 17, 2017, pursuant to Bal Harbour Resolution No. 2017-1068; and

WHEREAS, as a part of the Agreement, the Village of Bal Harbor shall grant, bargain, sell, transfer, and deliver to the City one (1) EMCO flow systems, MAGFLO type MAG 5000 flow meter, bearing serial number # N1CO150053, which meter shall assist the City in providing more accurate sewage flow information (Attached as Exhibit "B"); and

WHEREAS, the Administration recommends that the Mayor and City Commission approve and authorize the Mayor and City Clerk to execute the attached agreement and to accept the MAGFLO meter from Bal Harbour.

NOW, THEREFORE, BE IT DULY RESOLVED BY THE MAYOR AND THE CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, that the Mayor and City Commission hereby, approve and authorize the Mayor and City Clerk to execute an Agreement between the City of Miami Beach and the Village of Bal Harbour for the City to continue to provide sewage conveyance services to Bal Harbour, and authorize the transfer of title from Bal Harbor to the City of a meter, in order to provide more accurate measurement of Bal Harbour sewage flow.

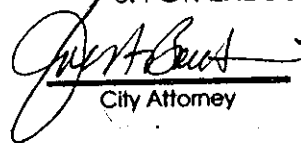
PASSED AND ADOPTED this ____ day of _____, 2017.

ATTEST:

Philip Levine, Mayor

Rafael Granado, City Clerk

APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION



City Attorney

1/28/17

Date

Exhibit A.

AGREEMENT BETWEEN THE CITY OF MIAMI BEACH, FLORIDA AND BAL HARBOUR VILLAGE, FLORIDA, TO PROVIDE SEWAGE CONVEYANCE SERVICES

THIS AGREEMENT is made and entered into this _____ day of _____, 2017 (Effective Date), by and between the City of Miami Beach, Florida ("City"), and the Bal Harbour Village ("Village" or "Bal Harbour").

WHEREAS, the City operates a sewage conveyance system (the City System) for the use and benefits of its inhabitants, and has also historically provided sewage conveyance for disposal services to the neighboring Bal Harbour Village; most recently, pursuant to an agreement entered into between the City and Bal Harbour, dated November 17, 1971, and approved by the City pursuant to Resolution No. 13447 (the "1971 Agreement"); and

WHEREAS, on December 5, 1979, pursuant to Resolution No. 79-16116 (and in anticipation of the connection of the City System to the Virginia Key Treatment facility), the City exercised its right to terminate the 1971 Agreement; notwithstanding such termination, however, the City and the Village of Bal Harbour's intent was not to discontinue the City's provision of the services to the Village, but rather to continue to provide them on a month to month basis until new terms including, without limitation, new rates under an appropriate rate setting procedure (after the City's costs could be determined for operation under the new system) could be established; and

WHEREAS, the City and Bal Harbour now wish to enter into a new agreement for sewage conveyance for disposal services (hereinafter, the Services); particularly insofar as memorializing the new rate of compensation to be paid by Bal Harbour to the City is concerned.

NOW, THEREFORE, in consideration of the mutual covenants and obligations set forth herein, the City and Bal Harbour hereby agree as follows:

1. The City shall continue to provide the Services to Bal Harbour, to the extent capacity is available, by means of an existing transmission main from Bal Harbour to the City-owned meters located in the City owned parking lot at 72nd Street, located in the City of Miami Beach. The Interlocal Contract Between Miami-Dade County and City of Miami Beach, Florida, Providing for Sewage Disposal Service (the "Interlocal Agreement"), dated _____, and adopted by the City pursuant to Resolution No. _____, acknowledges that the sanitary sewage received by the County from the City flows from Bal Harbour, in addition to the towns of Surfside and Bay Harbor Islands. Future

flows (i.e. future capacity) from Bal Harbour under this Agreement shall be determined in accordance with, and subject to, the Interlocal Agreement.

2. Notwithstanding the City's agreement to provide the Services, or any other term or condition of this Agreement, Bal Harbour acknowledges that any obligation that the City has to render such Services to Bal Harbour pursuant to this Agreement shall be limited to, subject and subordinate to, and conditioned upon any agreements, terms, covenants, conditions, and obligations between the City and Miami-Dade County, Florida (the County), whether existing as of the Effective Date or as may exist in the future, pertaining to the County's responsibility to provide sewage disposal service to the City's existing sewer service area (which service area includes and takes into account the flow from Bal Harbour), by means of the existing transmission main from the City to the County's Central District Wastewater Treatment Plant located on Virginia Key (where the combined flow is metered). Bal Harbour further recognizes and acknowledges that the City's standards for the Services provided to Bal Harbour pursuant to this Agreement are also limited to, subject and subordinate to, and conditioned upon any modification(s) as a result of (i) changes to the City's agreement with the County to provide sewage disposal services to the City; and/or (ii) changes to existing or future federal, State, County, and local laws, rules, and regulations.
3. Bal Harbour agrees, and hereby warrants to the City, that it will abide by and be bound by all present and future federal, State, County, and City laws, standards, rules, regulations, permit conditions and other requirements related to sewer service. Bal Harbour acknowledges that the responsibility of the City to provide the Services under this Agreement shall be limited to the flow from Bal Harbour's existing sewer service area(s) (i.e. the flow existing as of the Effective Date of this Agreement).
4. Bal Harbour further agrees and hereby warrants to the City that it shall operate and maintain its sewage collection system (hereinafter referred to as the Bal Harbour System, and which system includes, without limitation, any and all transmission pipe lines, main pipe lines, force mains pumps, pumping stations, meters, and any and all other facilities and equipment appurtenant thereto), and any system extensions thereof, in accordance with the requirements of all applicable federal, State, County, and City laws, rules, regulations, and permit conditions. The operation and maintenance of the Bal Harbour System shall be the sole responsibility and cost of Bal Harbour. The City reserves the right to inspect the Bal Harbour System, as deemed necessary by the City, in its sole discretion and judgment, but at no cost to Bal Harbour, to verify that the Bal Harbour System is being properly maintained and operated in accordance with the above standards and industry standards as outlined in *Wastewater*

Collection Systems Management, WEF Manual of Practice No. FD-7, 2009; and *Recommended Standards for Wastewater Facilities*, Health Education Services (a Division of Health Research, Inc.), 2004. The City shall request permission from Bal Harbour to inspect the Bal Harbour System, which permission shall not be unreasonably withheld, conditioned, or delayed. The City shall request permission from Bal Harbour three (3) business days prior to inspection of the Bal Harbour System and shall allow Bal Harbour's representation at City's inspections. Said inspections shall be made at reasonable times and in such manner so as to least disturb the Bal Harbour Village's normal operations.

5. Bal Harbour shall not allow or permit construction or installation of any connections of stormwater mains which allow stormwater to enter the Bal Harbour System. Upon notice or discovery of such interconnections, Bal Harbour shall, at its sole cost and expense, immediately effectuate the lawful disconnection of such interconnections to the City's satisfaction and, at a minimum, in accordance with local, State, and federal laws. Bal Harbour hereby agrees to pursue and maintain best efforts, on a regular timely basis, to reduce infiltration and inflow to comply with all local, State, and/or federal ordinances, laws and regulations regarding infiltration and inflow connection or reduction as now in effect or as may be enacted in the future. Bal Harbour agrees that in the event any undue infiltration develops in the Bal Harbour System, it shall make such repairs as may be required by the City in order to remedy such condition.
6. The quantity (i.e. the flow) of sewage handled by the City System for Bal Harbour hereunder shall be measured prior to the entry point to the City System by City owned meters, or any subsequent replacement meters installed by the City, in its sole and reasonable discretion (hereinafter referred to individually as a "Meter" or collectively as the "Meters"). The Meter has been installed in a structure located within the 72nd Street parking lot located within the City of Miami Beach. Bal Harbour Village has completed the installation of a new meter for the purposes of this agreement, located in Bal Harbour at the Pump Station located north of 96th Street between Collins Avenue and Harding Street. The City and Bal Harbour shall have the right and opportunity to inspect the Meters. The City shall notify Bal Harbour three (3) business days prior to inspection of the Meters and shall allow Bal Harbour to attend the City's inspections. Said inspections shall be made at reasonable times and in such manner so as to least disturb the Bal Harbour Village's normal operations.
7. The City shall own, operate and maintain the Meters, at its sole cost and expense. The City shall also, at its sole expense, test the accuracy of each Meter, at a minimum, once every three (3) months, or at such other time intervals as it may deem appropriate. The City shall notify Bal Harbour three (3) business days prior to testing of the Meters and shall allow Bal Harbour's representation at

City's testing. Said tests shall be made at reasonable times and in such manner so as to least disturb the Bal Harbour Village's normal operations. The City shall provide the results of the tests to Bal Harbour no later than thirty (30) days after each meter is tested.

8. The Meters shall indicate flow with an error not to exceed plus or minus five percent (5%) of full scale reading (true accuracy). If found to be in error - i.e. anything exceeding five percent (5%) of true accuracy - the Meters shall be recalibrated by the City. If such error of more than five percent (5%) is discovered, bills for the three (3) periods following the prior Meter accuracy test shall be adjusted to reflect the quantity of over-read or under-read flow. In calculating such billing adjustment, it will be assumed by the parties that the inaccuracy existed for the entire time interval between accuracy tests. The billing adjustment(s) shall be made at the same rate in effect during the time interval.
9. Bal Harbour may request, and the City agrees to perform, additional Meter accuracy tests, upon reasonable notice to City and at a reasonable time acceptable to both parties. Said additional testing shall be completed at reasonable times. If the Meter(s) is (are) found to be in error exceeding five percent (5%) true accuracy, it shall be recalibrated by the City as described in the preceding Paragraph 8, and the entire cost for such testing and recalibration shall be paid for by the City. If the Meter(s) is (are) found performing within five percent (5%) true accuracy, the Meter accuracy test shall be paid by Bal Harbour no later than thirty (30) days from receipt of an invoice from the City.
10. In the event of complete or partial failure of any Meter(s) to register, both parties shall mutually agree to establish consumption based on historic monthly average flows for the most recent wet or dry period as defined by the latest Miami-Dade County rate schedule in effect during the Term of this Agreement. The most recent actual readings for a period of three (3) consecutive months of a wet or dry period will be used to represent that corresponding period until the Meter(s) is (are) repaired. The City shall use reasonable commercial efforts to repair a failed Meter within sixty (60) days of a determination by the City that the Meter has completely or partially failed.
11. The City will be under no obligation at any time to perform any re-pumping of sewage delivered to the City System by Bal Harbour.
12. Bal Harbour agrees to pay to the City an amount, as determined by the City, to cover all costs associated with the sewage flow from the Bal Harbour System, per 1,000 gallons of sewage passing through the City's System; which sum shall be payable monthly. The cost of service shall include direct costs of operation, maintenance, depreciation, debt service, and a one and a half percent (1.5%)

administrative fee. The actual amount shall be calculated and presented in a written report to the City of Miami Beach Commission during its budget approval process, and approved by City Resolution; provided, however, that the City shall make reasonable commercial efforts to transmit the afore stated written report to Bal Harbour at least fourteen (14) calendar days prior to the date of the public meeting at which the written report is presented to the City Commission. The City shall make reasonable commercial efforts to transmit the proposed Resolution to Bal Harbour at least fourteen (14) calendar days prior to the date of the City Commission meeting at which the proposed Resolution is presented to the City Commission. The adopted Resolution shall be transmitted to Bal Harbour as written notice of change of cost of service with an effective date.

13. Billing for services provided in accordance with this Agreement shall be rendered monthly. Invoices will be mailed by the tenth (10th) day of the month following the month for which service has been provided, based on readings of the Meters taken by the City. Amounts billed on such invoices are due when rendered. In the event Bal Harbour disputes a bill, Bal Harbour shall provide the City with written notice of the reasons for non-payment within thirty (30) days of receipt of the bill, and shall escrow such portion of the bill that is disputed in an interest-bearing account. The parties shall promptly meet and use reasonable good faith efforts to resolve the dispute within forty-five (45) days of the City's receipt of Bal Harbour's notice. Except for any portion of a bill disputed, payment not received by the City on or before twenty-five (25) days after the postmark date of the bill shall be considered past due. All past due invoices shall be subject to a late charge, as established by the City (such charge to reimburse the City for costs in processing and otherwise administering late payments). In addition, per annum interest shall accrue on the past due charges including the late charges at the maximum legal rate provided by Florida law for contracts in which no interest rate is specified, for each day, including Saturdays, Sundays and holidays, from the past due date until the date of receipt by the City. For purposes of this paragraph, date of receipt shall be the date of actual receipt by the City if hand delivered or mailed, or date of transfer to the City's bank, if electronic funds transfer is used.
14. Neither party shall be liable to the other for any failure to perform under this Agreement to the extent such performance is prevented by an event of *force majeure*, including, but not limited to, war, riots, natural catastrophe, or any other event beyond the control of the non-performing party and which could not have been avoided or overcome by the exercise of due diligence; provided that the party claiming the excused performance has (i) promptly notified the other party of the occurrence and its estimated duration; (ii) promptly remedied

or mitigated the effect of the occurrence to the extent possible; and (iii) resumed performance as soon as possible.

15. To the extent provided by Florida law, both parties mutually agree to indemnify, defend, and hold harmless each other and their respective officers, agents, contractors, and employees, from any claim, loss, damage, cost, charge, or expense arising out of any acts, action, error, neglect, or omission by such officers, agents, contractors, or employees during the performance of the Agreement, except that neither party, nor its respective officers, agents, contractors, or employees, will be liable under this paragraph for damages arising out of injury or damage to persons or property directly caused by or resulting from the negligence of the other party, or any of its respective officers, agents, contractors, or employees, during the performance of this Agreement.
16. This Agreement shall be governed by the laws of the State of Florida. Any provision hereof found to be unlawful or unenforceable shall be severable and shall not affect the validity of the remaining portions hereof. Any and all suits brought by either party shall be instituted and maintained in any court of competent jurisdiction in Miami-Dade County, Florida. In all such suits, the prevailing party shall be entitled to receive reasonable costs and reasonable attorney's fees. City and Bal Harbour waive any rights either party may have to a trial by jury in any civil litigation related to, or arising out of, this Agreement.
17. All notices required pursuant to the terms hereof may be sent by first class United States Mail, facsimile transmission, hand delivery, or express mail and shall be deemed to have been received by the end of five business days from the proper sending thereof unless proof of prior actual receipt is provided. Bal Harbour shall have a continuing obligation to notify the City of the appropriate persons for notices to be sent pursuant to this Agreement. Unless otherwise notified in writing, notices shall be sent to the following addresses:

- If to the City:

Eric Carpenter, P.E., Director of Public Works
1700 Convention Center Drive, 4th Floor
Miami Beach, FL 33139

- If to Bal Harbour:

John Oldenburg, Director Parks and Public Spaces Department
655 96 Street_____
Bal Harbour, FL 33154_____

18. The term of this Agreement (Term) shall be for an initial term of five (5) years, commencing upon execution by the parties hereto, as referenced by the Effective Date on page 1 hereof. This Agreement shall be automatically renewed for subsequent, consecutive terms of five (5) years each, subject to termination by either party, upon one hundred eighty (180) days written notice to the other.

Notwithstanding the preceding paragraph, should Bal Harbour elect at any time during the Term of this Agreement to transmit all or a portion of its current sewage flow (as of the Effective Date), Bal Harbour shall provide the City with written notice of such intent ninety (90) days prior to January 1st, so that the City have time to adequately evaluate and plan its future capacity demands, in order to transmit same to the County as required under the Interlocal Agreement.

19. The City agrees that if, after the Effective Date of this Agreement, it enters into an agreement for the same or substantially similar scope of services with another local government in Florida which contains terms or conditions pertaining only to fees, charges or costs, that are more favorable than the terms in this Agreement, Bal Harbour may provide the City with written notice explaining how the new agreement is for the same or substantially similar services and how the new agreement contains terms or conditions pertaining only to fees, charges, or costs, that are more favorable than the terms in the Agreement, and requesting to negotiate an amendment to the Agreement (a "New Agreement Notice"). The parties shall act in good faith to negotiate an amendment to the Agreement that addresses, in a manner that is fair and equitable to both parties, the matters raised by Bal Harbour in the New Agreement Notice. If the parties fail to reach agreement upon an amendment within ninety (90) days of the New Agreement Notice, then Bal Harbour may terminate this Agreement without penalty or early termination fee, subject to the terms and conditions herein, by providing thirty (180) days advance written notice to the City, such notice to be given no later than one hundred (100) days from the New Agreement Notice. Upon a termination pursuant to this section, the City shall have no further liability and/or obligation to Bal Harbour.

In the alternative, if Bal Harbour decides not to terminate the Agreement, the Village reserves the right to negotiate a new agreement, per the New Agreement Notice; provided that Bal Harbour shall continue to comply with the terms of this Agreement, including any fees, charges, or costs required under this Agreement. In the event that the Parties are not able to negotiate an amendment to this agreement pursuant to the New Agreement Notice, the Parties shall agree to mediation prior to instituting any legal action pursuant to Paragraph 16 of this Agreement.

20. This Agreement constitutes the complete and final expression of the parties with respect to the subject matter hereof and supersedes all prior agreements, understandings, or negotiations with respect thereto.

IN WITNESS WHEREOF, this Agreement has been duly executed by the parties hereto as of the day and year first above written.

ATTEST:

CITY OF MIAMI BEACH, FLORIDA

Signature: _____

Name: _____

Title: _____

Signature: _____

Name: _____

Title: _____

Date: _____

ATTEST:

VILLAGE OF BAL HARBOUR

Signature: _____

Name: _____

Title: _____

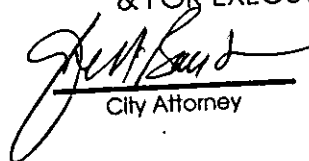
Signature: _____

Name: _____

Title: _____

Date: _____

APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION



City Attorney

1/28/17
Date

BAL HARBOUR

- VILLAGE -

COUNCIL ITEM SUMMARY

Condensed Title:

A RESOLUTION OF THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA; APPROVING AN AGREEMENT WITH THE CITY OF MIAMI BEACH TO PROVIDE SEWAGE CONVEYANCE SERVICES FOR AN INITIAL FIVE YEAR TERM; AUTHORIZING THE VILLAGE MANAGER TO RENEW THE AGREEMENT FOR SUBSEQUENT FIVE YEAR PERIODS AS REQUIRED.

Issue:

Should the Village Council approve the agreement with the City of Miami Beach to provide sewage conveyance services to the Village?

Item Summary/Recommendation:


The City of Miami Beach (the City) operates a sewage conveyance system and has also historically provided sewage conveyance for disposal services to Bal Harbour Village; most recently, pursuant to an agreement entered into between the City and the Village, dated November 17, 1971. The City exercised its right to terminate the agreement on December 5, 1979 and has continued to provide services on a month to month basis until new terms could be established. In the fall of 2014, the Village and the City initiated a series of meetings to negotiate a new agreement. During the negotiations, the Village agreed to install a new Master Sewage Flow Meter to be utilized by the City in their determination of appropriate invoicing for the sewage conveyed through the City. On March 22, 2016, the Bal Harbour Village Council passed Resolution No. 2016-1000, authorizing the installation of the new Master Sewage Flow Meter adjacent to Pump Station No. Two (PS-2). The new meter installation was recently completed by the Village at the PS-2 Facility for the purposes of the pending agreement with the City. Subsequent to the completion of this work, the City of Miami Beach and Bal Harbour Village have completed the ongoing negotiations and now wish to enter into a new agreement for sewage conveyance for disposal services. The term of the new agreement is for an initial term of five (5) years. This Agreement shall be automatically renewed for subsequent, consecutive terms of five (5) years each, subject to termination by either party, upon written notice to the other.

THE ADMINISTRATION RECOMMENDS APPROVAL OF THE RESOLUTION.

Financial Information:

	Amount	Account	Account #
1			

Sign Off:

Chief Financial Officer	Director Parks & Public Spaces	Village Manager
Amber Riviere	John A. Oldenburg	Jorge M. Gonzalez
		



BAL HARBOUR

- VILLAGE -

COUNCIL MEMORANDUM

TO: Honorable Mayor and Village Council

FROM: Jorge M. Gonzalez, Village Manager

DATE: January 17, 2017



SUBJECT: A RESOLUTION OF THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA; APPROVING AN AGREEMENT WITH THE CITY OF MIAMI BEACH TO PROVIDE SEWAGE CONVEYANCE SERVICES FOR AN INITIAL FIVE YEAR TERM; AUTHORIZING THE VILLAGE MANAGER TO RENEW THE AGREEMENT FOR SUBSEQUENT FIVE YEAR PERIODS AS REQUIRED; PROVIDING FOR IMPLEMENTATION; AND PROVIDING FOR AN EFFECTIVE DATE

ADMINISTRATIVE RECOMMENDATION

I am recommending the approval of this Resolution.

BACKGROUND

The City of Miami Beach (the City) operates a sewage conveyance system for the use and benefits of its inhabitants, and has also historically provided sewage conveyance for disposal services to Bal Harbour Village (the Village); most recently, pursuant to an agreement entered into between the City and the Village, dated November 17, 1971, and approved by the City pursuant to Resolution No. 13447.

On December 5, 1979, pursuant to Resolution No. 79-16116 and in anticipation of the connection of the City System to the Virginia Key Treatment facility, the City exercised its right to terminate the 1971 Agreement; notwithstanding such termination, however, the City and the Village's intent was not to discontinue the City's provision of the services to the Village, but rather to continue to provide them on a month to month basis until new terms including, without limitation, new rates under an appropriate rate setting procedure could be established.

ANALYSIS

This month to month relationship has continued for the past thirty seven (37) years to the present day. In the fall of 2014, representatives from the Village and the City initiated a series of meetings to negotiate a new agreement.

The new agreement memorializes the various procedures to be followed by both parties in order for the City to continuously provide the necessary sewage conveyance services to

AGENDA ITEM R7A

the Village and the method used to calculate the rate of compensation to be paid by the Village to the City for this service.

As previously discussed, over the course of the past several years, there has been a number of sewer conveyance billing issues between the Village and the City due to the methodology used by the City to compute the Village's sewage conveyance invoices. The sewage which is collected within the Village is metered at the Bal Harbour Sewer Pumping Station (PS-2), located on Collins Avenue adjacent to the SunTrust Bank. The sewage is then re-pumped to the City where their meter is currently located at the northern boundary of the City at 72 Street. This meter measures the cumulative sewage volume of the Village, the Town of Surfside and the Town of Bay Harbor Islands. The City computes the Village sewage volume by reading the City meter and subtracting the Surfside and Bay Harbor meter readings. The Village has disputed the City invoicing as they have not been consistent with the flows which have been recorded by the existing Village meter located at PS2. During the negotiations, the Village agreed to install a new Master Sewage Flow Meter to be owned and utilized by the City in their determination of appropriate invoicing for the sewage conveyed through the City sewage system with the final delivery to the Miami Dade County Virginia Key Treatment Facility.

On March 22, 2016, the Bal Harbour Village Council passed Resolution No. 2016-1000, authorizing the installation of the new Master Sewage Flow Meter adjacent to Pump Station No. Two (PS-2). This meter was deemed vital in order to determine with a high level of accuracy, the volume of sewage conveyance transmitted by the Village to and invoiced by the City. The Village budgets in excess of one million (\$1,000,000) dollars annually for this service and even a five (5%) discrepancy is significant. The new meter installation was recently completed by the Village at the PS-2 Facility for the purposes of the pending agreement with the City.

Subsequent to the completion of this work, the Village and the City staff have completed the ongoing negotiations and now wish to enter into a new agreement for sewage conveyance for disposal services. The term of the new agreement is for an initial term of five (5) years. This Agreement shall be automatically renewed for subsequent, consecutive terms of five (5) years each, subject to termination by either party, upon one hundred eighty (180) days written notice to the other.

CONCLUSION

I have reviewed this agreement and determined it to be in the best interest of the Village. Therefore, I recommend approval of this resolution approving the agreement with the City of Miami Beach to provide sewage conveyance services as detailed within the agreement. I also recommend the authorization of the subsequent renewals of this agreement as stipulated within the agreement.

Attachments:

1. Exhibit A-Sewer Conveyance Agreement between Bal Harbour Village and the City of Miami Beach

RESOLUTION NO. 2017-1068

A RESOLUTION OF THE VILLAGE COUNCIL OF BAL HARBOUR VILLAGE, FLORIDA; APPROVING AN AGREEMENT WITH THE CITY OF MIAMI BEACH TO PROVIDE SEWAGE CONVEYANCE SERVICES FOR AN INITIAL FIVE YEAR TERM; AUTHORIZING THE VILLAGE MANAGER TO RENEW THE AGREEMENT FOR SUBSEQUENT FIVE YEAR PERIODS AS REQUIRED; PROVIDING FOR IMPLEMENTATION; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, the City of Miami Beach (the City) historically has provided sewage conveyance for disposal services to Bal Harbour Village (the Village); most recently pursuant to an agreement entered into between the Village and the City, dated November 17, 1971; and approved by the City pursuant to Resolution No. 13447 (The "1971 Agreement");and

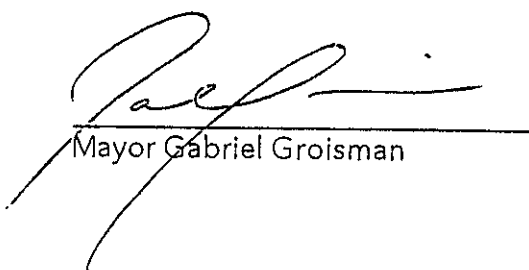
WHEREAS, on December 5, 1979, pursuant to Resolution No. 79-16116 (and in anticipation of the connection of the City System to the Virginia Key Treatment facility), the City exercised its right to terminate the 1971 Agreement; notwithstanding such termination, however, the City and the Village's intent was not to discontinue the City's provision of the services to the Village, but rather to continue to provide them on a month to month basis until new terms including, without limitation, new rates under an appropriate rate setting procedure (after the City's costs could be determined for operation under the new system) could be established; and

WHEREAS, the City and the Village now wish to enter into a new agreement for sewage conveyance for disposal services (hereinafter, the Services); particularly insofar as memorializing the new rate of compensation to be paid by the Village to the City is concerned.

WHEREAS, this Council finds the approval of the agreement between the Village and

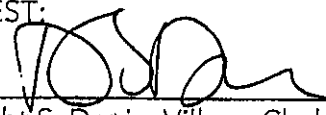
PASSED AND ADOPTED this 17th day of January, 2017.





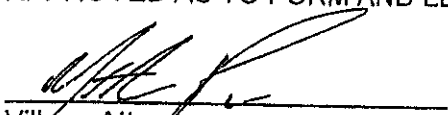
Mayor Gabriel Groisman

ATTEST:



Dwight S. Danie, Village Clerk

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:



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

Reviewed and Approved by Village Attorney Matthew J. Pearl

THIS INSTRUMENT PREPARED BY:

Gail D. Serota, Esq.

Weiss Serota Helfman Cole & Bierman P.L.

2525 Ponce de Leon Blvd., Suite 700

Coral Gables, Florida 33134

Telephone: 305.854.0800

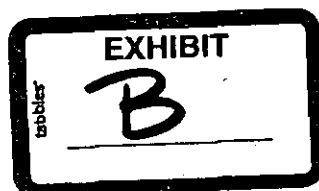
BILL OF SALE

FOR TEN DOLLARS and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the BAL HARBOUR VILLAGE, a Florida municipal corporation ("VILLAGE"), whose mailing address is 655 - 96TH Street, Bal Harbour, Florida 33154, hereby grants, bargains, sells, transfers, and delivers to the City of Miami Beach ("City"), whose mailing address is 1700 Convention Center Drive, Miami Beach, Florida 33139, the following goods, chattel and equipment ("Improvements"):

Village, for itself and its successors and assigns, covenants to and with the City and their successors and assigns, that it is the lawful owner of the Improvements; that the Improvements are free from all encumbrances; that Village has good right to sell and convey the Improvements; and that Village will warrant and defend the sale of the Improvements to the City, and their successors and assigns, against the lawful claims and demands of all persons whomsoever.

Village has executed this Bill of Sale on the date set forth below its signature.

[SIGNATURE BLOCK ON NEXT PAGE]



Witnesses:

Bal Harbour Village, a Florida municipal corporation

Signature: _____

By: _____

Print name: _____

Jorge Gonzalez, Village Manager

Signature: _____

Date: _____

Print name: _____

STATE OF FLORIDA
COUNTY OF MIAMI-DADE

The foregoing instrument was acknowledged before me on _____ by Jorge Gonzalez, as Village Manager of the Village of Bal Harbour, a Florida municipal corporation, on behalf of the corporation. He is personally known to me or has produced _____ as identification.

Notary Public, State of Florida

Print Name: _____

My Commission Expires _____

[SEAL]

THIS INSTRUMENT PREPARED BY:

Gail D. Serota, Esq.

Weiss Serota Helfman Cole & Bierman P.L.

2525 Ponce de Leon Blvd., Suite 700

Coral Gables, Florida 33134

Telephone: 305.854.0800

BILL OF SALE

FOR TEN DOLLARS and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the **BAL HARBOUR VILLAGE**, a Florida municipal corporation ("**VILLAGE**"), whose mailing address is 655 96TH Street, Bal Harbour, Florida 33154, hereby grants, bargains, sells, transfers, and delivers to the City of Miami Beach ("**City**"), whose mailing address is 1700 Convention Center Drive, Miami Beach, Florida 33139, the following goods, chattel and equipment ("**Improvements**"):

- One (1) EMCO flow systems, MAGFLO type MAG 5000 flow meter
serial number # N1CO150053.

Village, for itself and its successors and assigns, covenants to and with the City and their successors and assigns, that it is the lawful owner of the Improvements; that the Improvements are free from all encumbrances; that Village has good right to sell and convey the Improvements; and that Village will warrant and defend the sale of the Improvements to the City, and their successors and assigns, against the lawful claims and demands of all persons whomsoever.

Village has executed this Bill of Sale on the date set forth below its signature.

[SIGNATURE BLOCK ON NEXT PAGE]

Witnesses:

Signature: _____

Print name: _____

Signature: _____

Print name: _____

Bal Harbour Village, a Florida municipal corporation

By: _____

Jorge Gonzalez, Village Manager

Date: _____

APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION


City Attorney

11/28/17
Date

STATE OF FLORIDA
COUNTY OF MIAMI-DADE

The foregoing instrument was acknowledged before me on _____
by Jorge Gonzalez, as Village Manager of the Village of Bal Harbour, a Florida municipal corporation, on behalf of the corporation. He is personally known to me or has produced _____ as identification.

Notary Public, State of Florida

Print Name: _____

My Commission Expires _____

[SEAL]