

AGENDA



REGULAR COUNCIL MEETING

Tuesday, September 10, 2024

5:30 p.m.

Indian Creek Village Hall

9080 Bay Drive

Indian Creek, FL 33154

REGULAR COUNCIL MEETING

TUESDAY, SEPTEMBER 10, 2024

5:30 P.M.

AT VILLAGE HALL

9080 BAY DRIVE, INDIAN CREEK, FL 33154

[*****us02web.zoom.us/j/83702477370](https://us02web.zoom.us/j/83702477370)

Meeting ID: 837 0247 7370

1. CALL TO ORDER / ROLL CALL OF MEMBERS

2. PLEDGE OF ALLEGIANCE

3. PUBLIC COMMENTS - *Any person wishing to address the Council should state their name, and address, for the record, prior to making the statement and comply with the Village's rules and regulations for public comments.*

4. CONSENT AGENDA

TAB 1

A. Minutes - Regular Council Meeting – 07/08/2024

5. RESOLUTIONS

TAB 2

A. A RESOLUTION OF THE VILLAGE COUNCIL OF INDIAN CREEK VILLAGE, FLORIDA, **APPROVING AN INTERLOCAL AGREEMENT WITH MIAMI-DADE COUNTY RELATING TO THE PUBLICATION OF LEGAL ADVERTISEMENTS AND PUBLIC NOTICES ON MIAMI-DADE COUNTY'S PUBLICLY ACCESSIBLE WEBSITE**; PROVIDING FOR AUTHORIZATION; PROVIDING FOR IMPLEMENTATION AND AN EFFECTIVE DATE. (Resolution # 2024-861)

B. A RESOLUTION OF THE VILLAGE COUNCIL OF INDIAN CREEK VILLAGE, FLORIDA, **ACCEPTING A GRANT AWARD IN THE AMOUNT OF TWO MILLION DOLLARS (\$2,000,000.00) UNDER THE BISCAYNE BAY WATER QUALITY IMPROVEMENTS GRANT PROGRAM AND AUTHORIZING THE EXECUTION OF AN AGREEMENT WITH THE FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION (FDEP) FOR THE SEPTIC TO SEWER CONVERSION PROJECT**; PROVIDING CERTIFICATIONS; PROVIDING FOR IMPLEMENTATION AND AN EFFECTIVE DATE. (Resolution # 2024-862)

C. A RESOLUTION OF THE VILLAGE COUNCIL OF INDIAN CREEK VILLAGE, FLORIDA, **APPROVING AN AGREEMENT WITH CHC MARINE SERVICES, LLC FOR EMERGENCY REPAIRS TO SEAWALL AND SURROUNDING AREAS**; PROVIDING FOR IMPLEMENTATION AND AN EFFECTIVE DATE. (Resolution # 2024-863)

6. DISCUSSION ITEM

TAB 3

- A. Exemptions to construction work on Weekends and Holidays.

7. MANAGER’S REPORT

TAB 4

- A. Bridge Weight Restriction – Notice to Residents and Contractors - August 28, 2024.

8. ADJOURNMENT

TAB 1

**MINUTES OF
SPECIAL COUNCIL MEETING
Monday, July 08, 2024, at 5:00 P.m.**

1. CALL TO ORDER/ROLL CALL OF MEMBERS

Mayor Klepach opened the meeting at 5:02 p.m. The roll call was conducted as follows:

Mayor, Bernard Klepach	Present
Council Member, Irma Braman	Present
Council Member, Robert Diener	Present
Council Member, Irwin Tauber	Present

VILLAGE STAFF

Village Manager, Guillermo Olmedillo	Present
Village Attorney, Stephen Helfman	Present
Chief of Police, John Bernardo	Present
IT Director, David Fernandez	Present
Village Clerk, Roseann Prado	Present
Finance Director, Beatrice Good	Present
Building Official, Shellie Ransom-Jackson	Present

AUDIENCE PRESENT:

Monica Barnes (FPL)
George A. Spills (FPL)
Brian Adler (Lot # 28)
Lauren Kahn (Lot # 28)
Mark Jacobsen (Lot # 28)
Karl Ross (Ethics Commission)
Theresa Murray (Lot # 25)
John Sumberg (via Zoom-Lot # 28)
Guthrie Scrimgeour (via Zoom)
Eliaz Rodriguez (via Zoom – Auditors)

4. RESIGNATION of Vice-Mayor Javier Holtz

Council Member acknowledged the resignation letter from Javier Holtz.

5. APPOINTMENT OF NEW VICE-MAYOR

Mayor Bernard Klepach appointed Council Member Irwin Tauber as the new Vice-Mayor.
Council Members accepted the appointment 4 – 0.

Javier Holtz received recognition from the Council Members for many years of relevant services to the Village and its residents. His wife, Andria Holtz was present.

6. **VARIANCE HEARING** – Variance # VA024-061701

The following persons were sworn in to speak on the Variance hearing:

Brian Adler – Representative Lot # 28
Laura Kahn – Representative Lot # 28
Mark Jacobson – Landscaper Lot # 28

Public comments regarding Variance from the public:

Frank D’Agostino – Lot # 39

Council Member Diener motioned to defer the discussion of the variance to after hearing from the next door neighbor of lot # 29. No second motion was offered. The motion failed.

Mayor Klepach moved to approve the Variance # VA024-061701 with the recommendations by the Village Manager stated in the Memorandum, including acceptable sound mitigation. Vice-Mayor Tauber seconded. **Motion carried 3 – 0.**

7. **PRESENTATION:**

A. **2023 AUDIT REPORT** – Caballero Fierman Llerena & Garcia, LLP.

Mr. Eliaz Rodriguez spoke on the records to the Village’s Council.

8. **CONSENT AGENDA**

A. Regular Council Meeting – 04/16/2024

Vice-Mayor Tauber moved to approve the consent agenda. Mayor Klepach seconded.

Motion carried 4 – 0.

9. **ORDINANCE – Second Reading**

A. AN ORDINANCE OF THE VILLAGE COUNCIL OF INDIAN CREEK VILLAGE, FLORIDA, GRANTING TO FLORIDA POWER & LIGHT COMPANY, ITS SUCCESSORS AND ASSIGNS, A NON-EXCLUSIVE ELECTRIC FRANCHISE, IMPOSING PROVISIONS AND CONDITIONS RELATING THERETO; PROVIDING FOR MONTHLY PAYMENT OF A FRANCHISE FEE TO THE VILLAGE; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE. (Ordinance # 2024-237)

Public Comments on Ordinance # 237: No comments.

Mayor Klepach moved to approve Ordinance # 237 on second reading. Vice-Mayor Tauber seconded. **Motion carried 4 – 0** as follows:

Mayor Klepach	Yes
Vice-Mayor Tauber	Yes
Council Member Braman	Yes
Council Member Diener	Yes

10. **MANAGER’S REPORT**

A. Update on sewer connection:

- Substantial complete design.
- Surfside – still pending negotiations through 93rd / Byron to Collins Ave.
- If not, will move to alternative ways with neighboring municipalities.

B. Seawall Reinforcement

Mayor Klepach moved to authorize Village Manager to seek biddings for the project. Vice-Mayor Tauber seconded. **Motion carried 4 – 0.**

C. Trees and Canopy of Walkway Path

Vice-Mayor Tauber moved to approve the Village Manager's choice with Brightview. Council Member Braman seconded. **Motion carried 4 – 0.**

11. ADJOURNMENT

Vice-Mayor Tauber moved to adjourn the meeting. Mayor Klepach seconded. The meeting was adjourned at 6:18 p.m.

Submitted by:

Roseann Prado, Village Clerk

Approved at Council Meeting of ... 2024.

TAB 2-A

Resolution # 861

RESOLUTION NO. 2024-861

A RESOLUTION OF THE VILLAGE COUNCIL OF INDIAN CREEK VILLAGE, FLORIDA, APPROVING AN INTERLOCAL AGREEMENT WITH MIAMI-DADE COUNTY RELATING TO THE PUBLICATION OF LEGAL ADVERTISEMENTS AND PUBLIC NOTICES ON MIAMI-DADE COUNTY'S PUBLICLY ACCESSIBLE WEBSITE; PROVIDING FOR AUTHORIZATION; PROVIDING FOR IMPLEMENTATION AND AN EFFECTIVE DATE.

WHEREAS, the Florida Constitution requires all meetings of a county, municipality, school board, or special district at which official acts are to be taken or at which public business is to be discussed or transacted to be open to the public and properly noticed; and

WHEREAS, the Village of Indian Creek (the "Village"), like many other municipalities in Miami-Dade County (the "County"), historically published legal notices in the Daily Business Review when possible because it was more cost effective than other available newspapers of general circulation; and

WHEREAS, as of December 22, 2023, the Daily Business Review ceased producing a print product and no longer meets the qualifications necessary for publication of legal notices under Florida Law; and

WHEREAS, Section 50.0311, Florida Statutes, provides that a governmental agency may use the designated publicly accessible website of the county in which it lies to publish legally required advertisements and public notices if the cost of publishing advertisements and public notices on such website is less than the cost of publishing advertisements and public notices in a newspaper; and

WHEREAS, on April 2, 2024, the County Board of County Commissioners ("BCC") adopted Resolution No. R-281-24, which, among other things, directed the County Mayor's administration to take all necessary steps to provide for publication of municipal

legal advertisements and public notices on a publicly accessible website of the County in accordance with Section 50.0311, Florida Statutes; and

WHEREAS, on July 16, 2024, the County BCC adopted Resolution No. ..., which, among other things, designated "legalads.miamidade.gov" (the "Site") as the County's publicly accessible website, approved the form of interlocal agreement (the "Agreement") attached hereto as Exhibit "A" for the publication of municipal legal advertisements and public notices on the Site, and authorized the County Mayor or County Mayor's designee to execute the Agreement with any governmental agencies within the County relating to the same; and

WHEREAS, the estimated annual cost for the software, maintenance, and support necessary for the publication of municipal legal advertisements and public notices on the Site is \$707 per authorized City employee user, which is less than the cost of advertising in a newspaper of general circulation in the County; and

WHEREAS, the City Commission desires to authorize the City Manager to negotiate and enter into the Agreement with the County in substantially the form attached hereto as Exhibit "A" relating to the publication of municipal legal advertisements and public notices on the Site; and

WHEREAS, the City Commission finds that this Resolution is in the best interest and welfare of the residents of the City.

NOW, THEREFORE, BE IT RESOLVED BY THE VILLAGE COUNCIL OF THE VILLAGE OF INDIAN CREEK, FLORIDA, AS FOLLOWS:

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

Section 2. **Authorization.** That the Village Council hereby authorizes the Village Manager to negotiate and execute the Agreement in substantially the form attached hereto as Exhibit "A" and any subsequent amendments, extensions, renewals, or related documents necessary to implement the Agreement, subject to the approval of the City Attorney as to form, content, and legal sufficiency.

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

PASSED and ADOPTED this 10th day of September 2024.

BERNARD KLEPACH, MAYOR

ATTEST:

ROSEANN PRADO, VILLAGE CLERK

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

WEISS SEROTA HELFMAN COLE & BIERMAN, P.L.
VILLAGE ATTORNEY

EXHIBIT 1

Interlocal Access Agreement for Local Government Publication of Legal Advertisements and Public Notices on County Designated Website

This Interlocal Agreement (“Agreement”) is made and entered into by and between Miami-Dade County, Florida (“County”), a political subdivision of the State of Florida, and Indian Creek Village, a municipality, other unit of local government or other political subdivision in the State of Florida (“Local Government”). The parties to this agreement are solely the County and the Local Government (each a “Party,” and collectively the “Parties”).

RECITALS

A. Section 50.011 of the Florida Statutes provides requirements relating to the publication of legal notices, including requirements relating to the types of newspapers and print publications that may be utilized for official legal advertisements and notices placed by local governments; and

B. Section 50.011 also provides that such advertisements and notices may instead be placed on a publicly accessible website, as provided in section 50.0311; and

C. Section 50.0311 in turn provides that “[a] governmental agency may use the publicly accessible website of the county in which it lies to publish legally required advertisements and public notices if the cost of publishing advertisements and public notices on such website is less than the cost of publishing advertisements and public notices in a newspaper”; and

D. Pursuant to section 50.0311, the County has decided to designate a publicly accessible website – **legalads.miamidade.gov** - for the publication of legally required advertisements and public notices, provided the cost of publishing such advertisements and notices on this website is less than the cost of publishing them in print; and

E. Local Government desires to utilize the County’s designated publicly accessible website for the online publication of certain advertisements and notices, in accordance with section 50.0311; and

F. The Parties wish to enter into this Agreement to facilitate the Local Government’s use of the County’s publicly accessible website to publish certain legal advertisements and public notices and to address, among other matters, costs, parameters, and indemnification.

TERMS

Now, therefore, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. Recitals. The foregoing recitals are approved and incorporated herein.

2. Designation of Website. The County has designated **legalads.miamidade.gov** (“Website”) as the publicly accessible website for the publication of legal advertisements and notices by governmental agencies in Miami-Dade County, pursuant to section 50.0311 of the Florida Statutes. At any time, the County may, in its sole discretion, choose to designate a different website for this purpose. If the County does so, it shall provide notice in a manner of its choosing to the Local Government and any such new designation shall be automatically effective upon the date stated in County’s notice. Any such new designation shall not require amendment of this Agreement. Such newly designated website shall be thereafter deemed the “Website” for purposes of this Agreement.

3. Utilization of Website. The Local Government may utilize the Website for its publication of legally required advertisements and public notices in accordance with the requirements of section 50.0311 of the Florida Statutes, if and to the extent it elects to do so. Nothing in this Agreement obligates the Local Government to utilize the Website for publication of any particular advertisement or notice. For any advertisements and notices that the Local Government wishes to publish on the Website, the County shall provide the Local Government with the ability to do so in a manner of the County’s choosing. All postings by the Local Government must include contact information to ensure prompt identification of the responsible party. Separate and apart from its use of the Website, the Local Government shall be solely responsible for the placement of any advertisements or notices that the Local Government is required, or chooses, to publish in a print publication and for any advertisements or notices that the Local Government provides by mail or email pursuant to section 50.0311(6) or any other applicable law, rule, or regulation.

4. Term. The term of this Agreement shall commence upon the date it is fully executed by the Parties (“Effective Date”) and shall continue until terminated by either Party as otherwise provided herein for a period not to exceed five years, with a possible option to renew, as provided herein.

5. Extensions. The County may extend this Agreement for two additional five-year terms (each an “Extension Term”) on the same terms and conditions stated in this Agreement, though costs may change, by sending notice to the Local Government at least 30 days prior to the expiration of the then-current term. It is provided, however, that nothing herein shall be deemed to preclude the Parties from entering into additional agreements in the future relating to the Local Government’s use of the Website.

6. Compliance with Legal Requirements. Each Party shall comply with all applicable federal, state, and local laws, codes, ordinances, rules, and regulations in performing its duties, responsibilities, and obligations pursuant to this Agreement. For the duration of this Agreement, the Local Government shall be solely responsible for verifying and ensuring its eligibility to utilize the Website in accordance with section 50.0311 and for adherence to all applicable requirements, obligations, duties, procedures, and conditions set forth in chapter 50 of the Florida Statutes, including, but not limited to, section 50.0311, and in any other applicable federal, state, or local law, rule, or regulation, as may be amended from time to time (“Legal

Requirements”). The County shall have no responsibility for ensuring that the Local Government, or its use of the Website, complies with such Legal Requirements or any other law, rule, or regulation.

7. County Actions are Ministerial. The Local Government acknowledges that any and all advertisements and notices published on the Website are prepared and published by the Local Government and not the County, and that any and all actions of the County in conjunction with or relating to the designation of the Website for use by the Local Government are, and shall be construed at all times as being, purely ministerial acts.

8. Services Description. The County will provide the Local Government access to publishing its legal advertisements and notices on the Website. The County will supply the software, licensing, maintenance, and prerecorded online video trainings required to provide Local Governments with access to the Website, with a maximum of two users each, to publish legal advertisements and public notices. The Local Government will be responsible for promptly notifying the County when any agents or employees of the Local Government should have their access to the Website revoked. The County will maintain the email distribution list for users that opt-in to receive email or direct mail from the County. However, the Local Government will be responsible for maintaining its own email and first-class mailing lists or distribution as part of Section 50.011 of the Florida Statutes. The County is not responsible for connectivity disruptions or delays caused by circumstances beyond its control.

9. Training. The County will provide prerecorded online video training sessions that can be accessed by the Local Government to assist with its use of the Website. As part of this Agreement, the County may provide updates regarding new capabilities and features, if applicable.

10. Support. The Local Government will have access to the online FAQ page to review answers to commonly asked questions. The County will provide support contact details, which may include a contact group, form, or individual, at the start of the agreement upon onboarding. County support hours are between the hours of 8 a.m. and 5 p.m. Monday through Friday, excluding observed County holidays. The County shall have the sole discretion to determine whether support requests qualify as an emergency, exceed reasonable use or are outside the scope of services. Urgent requests necessitating expedited processing outside of support hours are subject to additional fees, as delineated in the current Communications and Customer Experience Department (CCED) and Information Technology Department (ITD) rate sheets. Support service does not include support for errors caused by third party products or applications for which the County is not responsible.

11. Financial Responsibility. The Local Government shall bear all fees and costs relating to its use of the Website, including, but not limited to, fees and costs associated with any software and licensing, or website maintenance necessitated by Local Government’s use of the Website, and any County administrative staff time required to facilitate Local Government’s use of the Website. In a manner of its choosing, the County, or such entity designated by the County, shall invoice the Local Government for such fees and costs and, upon receipt of such invoice, the Local

Government shall be responsible for the timely payment of all such fees and costs. Additionally, separate and apart from its use of the Website, the Local Government shall be solely responsible for any and all costs associated with the placement of any advertisements or notices that the Local Government is required, or chooses, to publish in a print publication and for any advertisements or notices that the Local Government provides by mail or email pursuant to section 50.0311(6) or any other applicable law, rule, or regulation. If the Local Government fails to pay such fees and costs in a timely manner, the County may terminate the Local Government's access to the Website, and the County shall have no liability to the Local Government for such termination or lack of access due to non-payment.

12. Costs. The annual necessary software, maintenance, and support costs for each Local Government are estimated to be \$707 per Local Government agent or employee user. This figure represents an approximate estimate of the anticipated recurring annual costs, which may vary from year-to-year, and nothing herein shall be deemed to preclude the County from charging the Local Government the actual costs associated with its use of the Website in a given year, as provided in paragraph 11. In addition, such costs may be subject to annual increases at the County's discretion, and the Parties agree that the estimated annual cost figure set forth in this paragraph shall be adjusted and deemed amended herein accordingly.

13. Reimbursable Expenses. The Local Government will not be reimbursed for expenses it bears unless expressly provided for in this Agreement.

14. Sovereign Immunity. Nothing herein is intended to serve as a waiver of sovereign immunity by either Party nor shall anything included herein be construed as consent by either Party to be sued by a third party in any matter arising out of this Agreement.

15. Indemnification. Local Government shall indemnify and hold harmless the County and all of the County's current, past, and future officers, agents, and employees (collectively, "Indemnified Parties") from and against any and all causes of action, demands, claims, losses, liabilities, and expenditures of any kind, including attorneys' fees, court costs, and expenses, including through the conclusion of any appellate proceedings, raised or asserted by any person or entity not a party to this Agreement, and (i) relating to the Local Government's use of the Website or the Local Government's advertisements or notices published on the Website, or (ii) caused or alleged to be caused, in whole or in part, by any breach of this Agreement by the Local Government, or (iii) any intentional, reckless, or negligent act or omission of the Local Government, its officers, employees, or agents, arising from, relating to, or in connection with this Agreement or the Local Government's use of the Website. The Local Government further agrees and acknowledges that, from time to time, issues relating to, for example, technological glitches or failures, hardware or software malfunction, connectivity, and loss of power may arise and that such issues may impact the ability of the Local Government to use the Website to publish advertisements and notices. The Local Government agrees and acknowledges that the County shall not be liable for any such issues, and further agrees to indemnify and hold harmless the Indemnified Parties from and against any and all causes of action, demands, claims, losses, liabilities, and expenditures of any kind, including attorneys' fees, court costs, and expenses,

including through the conclusion of any appellate proceedings, raised or asserted by any person or entity relating to such issues. The obligations of this section shall survive the expiration or earlier termination of this Agreement.

16. Termination. Either Party may terminate this Agreement without cause upon at least 90 days' prior written notice to the other Party. This Agreement may also be terminated for cause by the aggrieved Party if the Party in breach has not corrected the breach within 30 days after receipt written or electronic notice of from the aggrieved Party identifying the breach. In addition, if the publication of advertisements and notices on the Website is determined to be illegal by a court of competent jurisdiction, or if the Florida Legislature modifies Florida law to prohibit utilization of the County's designated publicly accessible website for publication of such advertisements and notices, this Agreement will be deemed automatically terminated upon such finding becoming final or such law becoming effective, as applicable.

17. Public Records. The Parties acknowledge and agree that as political subdivisions of the State of Florida, both Parties are subject to Florida's Public Records Law, Chapter 119 of the Florida Statutes. Nevertheless, the County is not the custodian of the Local Government's records and the Local Government acknowledges and agrees that the County does not assume responsibility for handling or responding to any public records requests submitted to the Local Government. Each Local Government shall be responsible for maintaining, in accordance with the requirements of Florida law and retention schedules, all records associated with its own legal advertisements and notices posted on the Website and for fulfilling public records requests relating to such legal advertisements and notices. In the event that any confidential records or materials are exchanged, the Parties shall endeavor to treat the other Party's confidential information as it would treat its own confidential information of a similar nature. In the event that third party records are exchanged, the Parties mutually agree to inform the other Party of any requirements or potential confidential nature of such records. The parties' compliance with, or good faith attempt to comply with, the requirements of Chapter 119 of Florida Statute shall not be considered breach of this Agreement.

18. Notices. Unless expressly provided otherwise in another section of this Agreement, for any notice to a Party to be effective under this Agreement, such notice must be sent via U.S. first-class mail, with a copy sent contemporaneously via email, to the addresses listed below. Such notice shall be effective upon mailing. A Party may at any time provide written notice to the other Party designating a new address for receipt of future notices. Any such notice of a newly designated address shall be kept with, and deemed a part of, this Agreement.

FOR MIAMI-DADE COUNTY:

Miami-Dade County Communications and Customer Experience Department
ATTN: Inson Kim
111 NW 1st Street
Suite 2510
Miami, FL 33128

FOR LOCAL GOVERNMENT:

Indian Creek Village

Attn.: Roseann Prado, Village Clerk

9080 Bay Drive, Indian Creek, FL 33154

19. Prior Agreements. This Agreement represents the final and complete understanding of the Parties regarding the subject matter of this Agreement and supersedes all prior and contemporaneous negotiations and discussions regarding same. All commitments, agreements, and understandings of the Parties concerning the subject matter of this Agreement are contained herein.

20. Assignment. Neither this Agreement nor any term or provision hereof or right hereunder shall be assignable by either Party without the prior written consent of the other Party. It is provided, however, this provision shall not be deemed to prohibit the County, in its sole discretion, from procuring any goods or services relating to the operation, maintenance, or use of the Website by the County or the Local Government.

21. Interpretation. The headings contained in this Agreement are for reference purposes only and shall not in any way affect the meaning or interpretation of this Agreement. All personal pronouns used in this Agreement shall include any other gender, and the singular shall include the plural, and vice versa, unless the context otherwise requires. Terms such as “herein” refer to this Agreement as a whole and not to any particular sentence, paragraph, or section where they appear, unless the context otherwise requires. Whenever reference is made to a section or article of this Agreement, such reference is to the section or article as a whole, including all of the subsections of such section, unless the reference is made to a particular subsection or subparagraph of such section or article.

22. Severability. If any provision of this Agreement is found to be unenforceable, in any respect, by any court of competent jurisdiction, that provision shall be deemed severed from this Agreement and the balance of this Agreement shall remain in full force and effect.

23. Third-Party Beneficiaries. Neither the Local Government nor the County intends to directly or substantially benefit any third party by this Agreement. Therefore, the Parties acknowledge that there are no third-party beneficiaries to this Agreement and that no third party shall be entitled to assert a right or claim against either of them based upon this Agreement or to seek any interpretation or declaratory or injunctive relief pertaining to the Agreement.

24. Law, Jurisdiction, Venue, Waiver of Jury Trial. This Agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. The exclusive venue for any lawsuit arising from, related to, or in connection with this Agreement shall be in the state courts of the Eleventh Judicial Circuit in and for Miami-Dade County, Florida. If any claim arising from, related to, or in connection with this Agreement must be litigated in federal court, the exclusive venue for any such lawsuit shall be in the United States District Court for the

Southern District of Florida. **EACH PARTY EXPRESSLY WAIVES ANY RIGHTS IT MAY HAVE TO A TRIAL BY JURY OF ANY CIVIL LITIGATION RELATED TO THIS PARTICIPATION AGREEMENT.**

25. Amendments. No modification, amendment, or alteration in the terms or conditions contained herein shall be effective unless contained in a written document prepared with the same formality as this Agreement and executed on behalf of the County and the Local Government, respectively, by persons authorized to execute same on their behalf.

26. Representation of Authority. Each person executing this Agreement on behalf of a Party represents and warrants that such person is, on the date the person signs this Agreement, duly authorized by all necessary, such as the Clerk's Office, and appropriate action to execute this Agreement on behalf of such Party and that the person does so with full legal authority.

27. Counterparts and Multiple Originals. This Agreement may be executed in multiple originals, and may be executed in counterparts, whether signed physically or electronically, each of which shall be deemed to be an original, but all of which, taken together, shall constitute one and the same Agreement.

28. Materiality and Waiver or Breach. Each requirement, duty, and obligation set forth herein is understood to be bargained for at arm's-length. Each requirement, duty, and obligation set forth herein is substantial and important to the formation of this Agreement, and each is, therefore, a material term. Any Party's failure to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement. A waiver of any breach of a provision of this Agreement shall not be deemed a waiver of any subsequent breach and shall not be construed to be a modification of the terms of this Agreement.

(Remainder of this page intentionally left blank.)

COUNTY

IN WITNESS WHEREOF, the Parties hereto have made and executed this Agreement: MIAMI-DADE COUNTY through its BOARD OF COUNTY COMMISSIONERS, signing by and through its County Mayor or County Mayor’s Designee, authorized to execute same by Board action on _____, and the Local Government, signing by and through its Clerk’s Office, duly authorized to execute same.

MIAMI-DADE COUNTY, by and through
its County Mayor or County Mayor’s Designee

By: _____

____ day of _____, 20____

INDIAN CREEK VILLAGE

ATTEST:

ROSEANN PRADO, VILLAGE CLERK

By: _____
LOCAL GOVERNMENT MAYOR

BERNARD KLEPACH, MAYOR

Print Name

10th day of September, 2024

Approved as to form
and legal sufficiency:

WEISS SEROTA HELFMAN COLE & BIERMAN, P.L.
VILLAGE ATTORNEY

TAB 2-B

Resolution # 862

RESOLUTION NO. 2024-862

A RESOLUTION OF THE VILLAGE COUNCIL OF INDIAN CREEK VILLAGE, FLORIDA, ACCEPTING A GRANT AWARD IN THE AMOUNT OF TWO MILLION DOLLARS (\$2,000,000.00) UNDER THE BISCAYNE BAY WATER QUALITY IMPROVEMENTS GRANT PROGRAM AND AUTHORIZING THE EXECUTION OF AN AGREEMENT WITH THE FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION (FDEP) FOR THE SEPTIC TO SEWER CONVERSION PROJECT; PROVIDING FOR IMPLEMENTATION; PROVIDING CERTIFICATIONS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Village of Indian Creek (“Village”) is dedicated to maintaining and enhancing its infrastructure to meet modern standards and to preserve the quality of life for its residents, including transitioning from the current septic systems to a more reliable and environmentally friendly centralized sewer system; and

WHEREAS, the continued use of septic tanks poses significant environmental risks, particularly to the water quality of Biscayne Bay, a critical natural resource for the region, due to potential contamination from wastewater runoff, especially in the event of flooding and sea-level rise; and

WHEREAS, in response to these concerns, the Village embarked on a comprehensive infrastructure upgrade initiative, contracting Stantec Consulting Services in 2022 to design the master pump station and force main system, and Calvin, Giordano & Associates (CGA) in 2023 to design the extension of the sewer force main connection to a designated location on the mainland; and

WHEREAS, the septic to sewer conversion project aligns with regional efforts to protect Biscayne Bay and supports the broader goals of Miami-Dade County's climate change adaptation strategies, aiming to reduce the environmental impact and increase community resilience against the effects of sea-level rise and increased storm events; and

WHEREAS, the Biscayne Bay Water Quality Improvements Grant Program, administered by the Florida Department of Environmental Protection (FDEP), provides essential funding for projects that will improve the water quality of Biscayne Bay, including projects focused on transitioning from septic systems to centralized wastewater treatment; and

WHEREAS, the Village submitted a grant application on September 15, 2023, to the FDEP Biscayne Bay Water Quality Improvements Grant Program, seeking funds to facilitate the construction of the extension portion of the sewer force main from Bay Drive on the mainland to the connection point at a designated location; and

WHEREAS, the FDEP has since awarded the Village a grant in the amount of Two Million Dollars (\$2,000,000.00) to support the construction of this critical infrastructure project; and

WHEREAS, for the Village to accept the awarded grant, it must execute Grant Agreement Number C2303 (Attachment A) with the FDEP to secure the funding; and

WHEREAS, the Village Council finds that this Resolution is in the best interest and welfare of the residents of the Village.

NOW, THEREFORE, BE IT RESOLVED BY THE VILLAGE COUNCIL OF THE VILLAGE OF INDIAN CREEK, FLORIDA, AS FOLLOWS:

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

Section 2. **Authorization.** The Village Council hereby authorizes the Village Manager to execute an agreement with the FDEP for the grant award of Two Million Dollars (\$2,000,000.00) for the construction of the extension portion of the Indian Creek Village Septic to Sewer Conversion Project from Bay Drive to the connection point at a designated location.

Section 3. **Implementation.** The Village Manager is authorized to execute any subsequent agreements or documents with the FDEP to accept funding for the Project, subject to the Village Attorney's approval as to form, content, and legal sufficiency, and to take such further action as may be necessary to implement the purpose and provisions of this Resolution.

Section 4. **Providing Certifications.** The Village Manager shall provide any required certifications necessary to fulfill the obligations under the agreement with FDEP, ensuring compliance with all grant requirements and regulations.

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

PASSED and ADOPTED this 10th day of September 2024.

BERNARD KLEPACH, MAYOR

ATTEST:

ROSEANN PRADO, VILLAGE CLERK

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

WEISS SEROTA HELFMAN COLE & BIERMAN, P.L.
VILLAGE ATTORNEY

TAB 2-C

Resolution # 863



INDIAN CREEK VILLAGE REGULAR COUNCIL MEETING

TO: Mayor, Vice-Mayor, and Honorable Members of the Council of Indian Creek Village
FROM: Guillermo Olmedillo, Village Manager
DATE: September 10, 2024.
TITLE: Village Hall Seawall Emergency Reinforcement

This Memorandum is to seek your approval for the agreement with CHC Marine Services, LLC, to perform emergency repairs necessary to reinforce the seawall and repair the landside area necessary to preserve the integrity of the existing seawall.

BACKGROUND

At the previous Council meeting, I requested authorization to negotiate with Contour Marine or CHC Marine Services the more complex project to reinforce the seawall.

Within the last days, the ground has subsided to the point that there were four new holes and there is a rapid loss of fill that ends up in the Bay.

The attached contract includes the specifications of the work to be performed.

RECOMMENDATION

Given the present speed of soil subsidence and the potential to create a hazard in the area behind Village Hall, I am requesting your approval of the attached contract.

ATTACHMENTS:

- CHC Marine Services Contract.
- Proposed Resolution # 2024-863.

RESOLUTION NO. 2024-863

**A RESOLUTION OF THE VILLAGE COUNCIL OF
INDIAN CREEK VILLAGE, FLORIDA, APPROVING AN
AGREEMENT WITH CHC MARINE SERVICES, LLC FOR
EMERGENCY REPAIRS TO SEAWALL AND
SURROUNDING AREAS; PROVIDING FOR
IMPLEMENTATION AND AN EFFECTIVE DATE.**

WHEREAS, Indian Creek Village (the “Village”) owns the waterfront property located at 9080 Bay Drive, Indian Creek Village, Florida (the “Property”); and

WHEREAS, the Property is developed with a Village Hall, Police Station and all critical administrative facilities for the Village; and

WHEREAS, the Property is protected by a seawall and supporting structures along the rear waterfront; and

WHEREAS, portions of the Property have subsided to a critical stage, placing the seawall and supporting structures at risk of failing and creating a hazardous and unsafe condition; and

WHEREAS, the Village Council has determined that the seawall and surrounding areas are in need of emergency repairs; and

WHEREAS, the Village Council, considering the circumstances, has sought competitive proposals for the necessary emergency repair work; and

WHEREAS, the Village Council wishes to approve and ratify the Emergency Services Agreement (attached hereto as Exhibit “A”) with CHC Marine Services, LLC for the repair services set forth herein (the “Agreement”).

**NOW, THEREFORE, BE IT RESOLVED BY THE VILLAGE COUNCIL OF
THE VILLAGE OF INDIAN CREEK, FLORIDA, AS FOLLOWS:**

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

Section 2. Approval. The Village Council hereby approves and ratifies the Agreement.

Section 3. Implementation. The Village Manager and Village Attorney are hereby directed to take all action necessary and appropriate to implement this Resolution and the Agreement.

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

PASSED and ADOPTED this 10th day of September 2024.

BERNARD KLEPACH, MAYOR

ATTEST:

ROSEANN PRADO, VILLAGE CLERK

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

WEISS SEROTA HELFMAN COLE & BIERMAN, P.L.
VILLAGE ATTORNEY

**EMERGENCY SERVICES AGREEMENT
BETWEEN
INDIAN CREEK VILLAGE
AND
CHC MARINE SERVICES, LLC**

THIS AGREEMENT (this "Agreement") is made effective as of the 30th day of August 2024 (the "Effective Date"), by and between **Indian Creek Village, Florida**, a Florida municipal corporation, (the "Village"), and **CHC Marine Services, LLC**, a Florida limited liability company (the "Consultant").

WHEREAS, the Village desires certain emergency repairs to the seawall and surrounding areas at Village Hall; and

WHEREAS, the Consultant will perform services on behalf of the Village, all as further set forth in the Proposal dated August 9, 2024, attached hereto as Exhibit "A" (the "Services"); and

WHEREAS, the Consultant and Village, through mutual negotiation, have agreed upon a fee for the Services; and

WHEREAS, the Village desires to engage the Consultant to perform the Services and provide the deliverables as specified below.

NOW, THEREFORE, in consideration of the mutual covenants and conditions contained herein, the Consultant and the Village agree as follows:

1. Scope of Services.

1.1. The Consultant shall provide the Services set forth in the Proposal attached hereto as Exhibit "A" and incorporated herein by reference (the "Services").

1.2. The Consultant shall deliver all work described within the Services Agreement during the term of this Agreement (hereinafter "Deliverables") to the Village.

1.3. The Consultant agrees that all the Services and work shall be performed in conformance with all the plans and specifications prepared by Wes Scott, P.E., dated August 23, 2024 and attached hereto as Exhibit "B".

2. Term/Commencement Date.

2.1. The term of this Agreement shall be from the Effective Date through December 31, 2024, thereafter, unless earlier terminated in accordance with Paragraph 8.

2.2. The Consultant agrees that time is of the essence and the Consultant shall complete the Services within the term of this Agreement, unless extended by the Village Manager.

3. Compensation and Payment.

3.1. Compensation for Services provided by the Consultant shall be in accordance with the Proposal attached hereto as Exhibit "A." The Consultant shall be compensated a flat rate, lump sum fee in the amount of three hundred ninety-nine thousand five hundred dollars (\$399,500.00).

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3.2. The Consultant shall deliver monthly invoices to the Village during the Term detailing Services completed and the amount due to Consultant under this Agreement. Fees shall be paid in arrears each month, pursuant to Consultant's invoice, which shall be based upon the percentage of work completed. The Village shall pay the Consultant in accordance with the Florida Prompt Payment Act after approval and acceptance of the Services by the Village Manager. The Village shall retain ten percent (10%) of each invoice to be remitted upon completion of the Services.

4. **Subcontractors.**

4.1. The Consultant shall be responsible for all payments to any subcontractors and shall maintain responsibility for all work related to the Services.

4.2. The Consultant may only utilize the services of a particular subcontractor with the prior written approval of the Village Manager, which approval may be granted or withheld in the Village Manager's reasonable discretion.

5. **Village's Responsibilities.**

5.1. The Village shall make available any maps, plans, existing studies, reports, staff and representatives, and other data pertinent to the Services and in possession of the Village, and provide criteria requested by the Consultant to assist the Consultant in performing the Services.

5.2. Upon the Consultant's request, Village shall reasonably cooperate in arranging access to public information that may be required for the Consultant to perform the Services.

6. **Consultant's Responsibilities; Representations and Warranties.**

6.1. The Consultant shall exercise the same degree of care, skill and diligence in the performance of the Services as is ordinarily provided by a consultant under similar circumstances. If at any time during the term of this Agreement or within two (2) years from the completion of this Agreement, it is determined that the Consultant's Deliverables or Services are incorrect, not properly rendered, defective, or fail to conform to the Village requests, the Consultant shall at the Consultant's sole expense, immediately correct its Deliverables or Services.

6.2. The Consultant hereby warrants and represents that at all times during the term of this Agreement it shall maintain in good standing all required licenses, certifications and permits required under Federal, State and local laws applicable to and necessary to perform the Services for the Village as an independent contractor of the Village. Consultant further warrants and represents that it has the required knowledge, expertise, and experience to perform the Services and carry out its obligations under this Agreement in a professional and first-class manner.

6.3. The Consultant represents that is an entity validly existing and in good standing under the laws of Florida. The execution, delivery and performance of this Agreement by the Consultant have been duly authorized, and this Agreement is binding on Consultant and enforceable against the Consultant in accordance with its terms. No consent of any other person or entity to such execution, delivery and performance is required.

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7. **Conflict of Interest.**

7.1. To avoid any conflict of interest or any appearance thereof, the Consultant shall not, for the term of this Agreement, provide any consulting services to any private sector entities (developers, corporations, real estate investors, etc.), with any current, or foreseeable, adversarial issues in the Village.

8. **Termination.**

8.1. The Village Manager, without cause, may terminate this Agreement upon five (5) calendar days' written notice to the Consultant, or immediately with cause.

8.2. Upon receipt of the Village's written notice of termination, the Consultant shall immediately stop work on the project unless directed otherwise by the Village Manager.

8.3. In the event of termination by the Village, the Consultant shall be paid for all work accepted by the Village Manager up to the date of termination, provided that the Consultant has first complied with the provisions of Paragraph 8.4.

8.4. The Consultant shall transfer all books, records, reports, working drafts, documents, maps, and data and materials pertaining to the Services and the project to the Village, in a hard copy and electronic format within fourteen (14) days from the date of the written notice of termination or the date of expiration of this Agreement.

9. **Insurance.**

9.1. The Consultant shall secure and maintain throughout the duration of this agreement insurance of such types and in such amounts not less than those specified below as satisfactory to Village, naming the Village as an Additional Insured, underwritten by a firm rated A-X or better by A.M. Best and qualified to do business in the State of Florida. The insurance coverage shall be primary insurance with respect to the Village, its officials, employees, agents, and volunteers naming the Village as additional insured. Any insurance maintained by the Village shall be in excess of the Consultant's insurance and shall not contribute to the Consultant's insurance. The insurance coverages shall include at a minimum the amounts set forth in this section and may be increased by the Village as it deems necessary or prudent.

9.1.1. Commercial General Liability coverage with limits of liability of not less than a \$1,000,000 per occurrence combined single limit for Bodily Injury and Property Damage. This Liability Insurance shall also include Completed Operations and Product Liability coverages and eliminate the exclusion with respect to property under the care, custody and control of Consultant. The General Aggregate Liability limit and the Products/Completed Operations Liability Aggregate limit shall be in the amount of \$2,000,000 each.

9.1.2. Workers Compensation and Employer's Liability insurance, to apply for all employees for statutory limits as required by applicable State and Federal laws. The policy(ies) must include Employer's Liability with minimum limits of \$1,000,000.00 each accident. No employee, subcontractor or agent of the Consultant shall be allowed to provide Services pursuant to this Agreement who is not covered by Worker's Compensation insurance.

9.1.3. Business Automobile Liability with minimum limits of \$1,000,000 per occurrence, combined single limit for Bodily Injury and Property Damage. Coverage must be afforded on a form no more restrictive than the latest edition of the Business Automobile Liability policy, without restrictive

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endorsements, as filed by the Insurance Service Office, and must include Owned, Hired, and Non-Owned Vehicles.

9.1.4. Professional Liability Insurance in an amount of not less than One Million Dollars (\$1,000,000.00) per occurrence, single limit.

9.2. **Certificate of Insurance.** Certificates of Insurance shall be provided to the Village, reflecting the Village as an Additional Insured (except with respect to Professional Liability Insurance and Worker's Compensation Insurance), no later than ten (10) days after award of this Agreement and prior to the execution of this Agreement by Village and prior to commencing Services. Each certificate shall include no less than (30) thirty-day advance written notice to Village prior to cancellation, termination, or material alteration of said policies or insurance. The Consultant shall be responsible for assuring that the insurance certificates required by this Section remain in full force and effect for the duration of this Agreement, including any extensions or renewals that may be granted by the Village. The Certificates of Insurance shall not only name the types of policy(ies) provided, but also shall refer specifically to this Agreement and shall state that such insurance is as required by this Agreement. The Village reserves the right to inspect and return a certified copy of such policies, upon written request by the Village. If a policy is due to expire prior to the completion of the Services, renewal Certificates of Insurance shall be furnished thirty (30) calendar days prior to the date of their policy expiration. Each policy certificate shall be endorsed with a provision that not less than thirty (30) calendar days' written notice shall be provided to the Village before any policy or coverage is cancelled or restricted. Acceptance of the Certificate(s) is subject to approval of the Village.

9.3. **Additional Insured.** Except with respect to Professional Liability Insurance and Worker's Compensation Insurance, the Village is to be specifically included as an Additional Insured for the liability of the Village resulting from Services performed by or on behalf of the Consultant in performance of this Agreement. The Consultant's insurance, including that applicable to the Village as an Additional Insured, shall apply on a primary basis and any other insurance maintained by the Village shall be in excess of and shall not contribute to the Consultant's insurance. The Consultant's insurance shall contain a severability of interest provision providing that, except with respect to the total limits of liability, the insurance shall apply to each Insured or Additional Insured (for applicable policies) in the same manner as if separate policies had been issued to each.

9.4. **Loss Payee.** The Village is to be specifically named as a loss payee under the Consultant's Professional Insurance policy so that the Village will be a third-party beneficiary entitled to receive all money payable under the relevant policy for any claims, damages, or losses in connection with, related to, or arising from the Consultant's Services or performance pursuant to this Agreement.

9.5. **Deductibles.** All deductibles or self-insured retentions must be declared to and be reasonably approved by the Village. The Consultant shall be responsible for the payment of any deductible or self-insured retentions in the event of any claim.

9.6. The provisions of this section shall survive termination of this Agreement.

10. **Nondiscrimination.** During the term of this Agreement, Consultant shall not discriminate against any of its employees or applicants for employment because of their race, color, religion, sex, or national origin, and will abide by all Federal and State laws regarding nondiscrimination.

Page 4 of 8
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11. Attorneys Fees and Waiver of Jury Trial.

11.1. In the event of any litigation arising out of this Agreement, the prevailing party shall be entitled to recover its attorneys' fees and costs, including the fees and expenses of any paralegals, law clerks and legal assistants, and including fees and expenses charged for representation at both the trial and appellate levels.

11.2. IN THE EVENT OF ANY LITIGATION ARISING OUT OF THIS AGREEMENT, EACH PARTY HEREBY KNOWINGLY, IRREVOCABLY, VOLUNTARILY AND INTENTIONALLY WAIVES ITS RIGHT TO TRIAL BY JURY.

12. Indemnification.

12.1. The Consultant shall indemnify and hold harmless the Village, its officers, agents and employees, from and against any and all demands, claims, losses, suits, liabilities, causes of action, judgment or damages, arising from the Consultant's performance or non-performance of any provision of this Agreement, including, but not limited to, liabilities arising from contracts between the Consultant and third parties made pursuant to this Agreement. The Consultant shall reimburse the Village for all its expenses including reasonable attorneys' fees and costs incurred in and about the defense of any such claim or investigation and for any judgment or damages arising from the Consultant's performance or non-performance of this Agreement.

12.2. Nothing herein is intended to serve as a waiver of sovereign immunity by the Village nor shall anything included herein be construed as consent to be sued by third parties in any matter arising out of this Agreement or any other contract. The Village is subject to section 768.28, Florida Statutes, as may be amended from time to time.

12.3. The provisions of this section shall survive termination of this Agreement.

13. Notices/Authorized Representatives. Any notices required by this Agreement shall be in writing and shall be deemed to have been properly given if transmitted by hand-delivery, by registered or certified mail with postage prepaid return receipt requested, or by a private postal service, addressed to the parties (or their successors) at the addresses listed on the signature page of this Agreement or such other address as the party may have designated by proper notice.

14. Governing Law and Venue. This Agreement shall be construed in accordance with and governed by the laws of the State of Florida. Venue for any proceedings arising out of this Agreement shall be proper exclusively in Miami-Dade County, Florida.

15. Entire Agreement/Modification/Amendment.

15.1. This writing contains the entire Agreement of the parties and supersedes any prior oral or written representations. No representations were made or relied upon by either party, other than those that are expressly set forth herein.

15.2. No agent, employee, or other representative of either party is empowered to modify or amend the terms of this Agreement, unless executed with the same formality as this document.

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16. Ownership and Access to Records and Audits.

16.1. The Consultant acknowledges that all inventions, innovations, improvements, developments, methods, designs, analyses, drawings, reports, compiled information, and all similar or related information (whether patentable or not) which relate to Services to the Village which are conceived, developed or made by Consultant during the term of this Agreement ("Work Product") belong to the Village. The Consultant shall promptly disclose such Work Product to the Village and perform all actions reasonably requested by the Village (whether during or after the term of this Agreement) to establish and confirm such ownership (including, without limitation, assignments, powers of attorney and other instruments).

16.2. The Consultant agrees to keep and maintain public records in Consultant's possession or control in connection with Consultant's performance under this Agreement. The Village Manager or her designee shall, during the term of this Agreement and for a period of three (3) years from the date of termination of this Agreement, have access to and the right to examine and audit any records of the Consultant involving transactions related to this Agreement. The Consultant additionally agrees to comply specifically with the provisions of Section 119.0701, Florida Statutes. The Consultant shall ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed, except as authorized by law, for the duration of the Agreement, and following completion of the Agreement until the records are transferred to the Village.

16.3. Upon request from the Village's custodian of public records, the Consultant shall provide the Village with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided by Chapter 119, Florida Statutes, or as otherwise provided by law.

16.4. Unless otherwise provided by law, any and all records, including but not limited to reports, surveys, and other data and documents provided or created in connection with this Agreement are and shall remain the property of the Village.

16.5. Upon completion of this Agreement or in the event of termination by either party, any and all public records relating to the Agreement in the possession of the Consultant shall be delivered by the Consultant to the Village Manager, at no cost to the Village, within seven (7) days. All such records stored electronically by Consultant shall be delivered to the Village in a format that is compatible with the Village's information technology systems. Once the public records have been delivered upon completion or termination of this Agreement, the Consultant shall destroy any and all duplicate public records that are exempt or confidential and exempt from public records disclosure requirements.

16.6. Any compensation due to the Consultant shall be withheld until all records are received as provided herein.

16.7. The Consultant's failure or refusal to comply with the provisions of this section shall result in the immediate termination of this Agreement by the Village.

16.8. Notice Pursuant to Section 119.0701(2)(a), Florida Statutes. IF THE CONSULTANT HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONSULTANT'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS: Roseann Prado,

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a/3/24

CMC, 9080 Bay Drive, Indian Creek Village, FL 33154, 305-865-4121,
rprado@indiancreekvillagefl.gov.

17. **Nonassignability.** This Agreement shall not be assignable by the Consultant unless such assignment is first approved by the Village Manager. The Village is relying upon the apparent qualifications and expertise of the Consultant, and such firm's familiarity with the Village's area, circumstances and desires.
18. **Severability.** If any term or provision of this Agreement shall to any extent be held invalid or unenforceable, the remainder of this Agreement shall not be affected thereby, and each remaining term and provision of this Agreement shall be valid and be enforceable to the fullest extent permitted by law.
19. **Independent Contractor.** The Consultant and its employees, volunteers and agents shall be and remain an independent contractor and not an agent or employee of the Village with respect to all of the acts and services performed by and under the terms of this Agreement. This Agreement shall not in any way be construed to create a partnership, association or any other kind of joint undertaking, enterprise or venture between the parties.
20. **Compliance with Laws.** The Consultant shall comply with all applicable laws, ordinances, rules, regulations, and lawful orders of public authorities in carrying out Services under this Agreement, and in particular shall obtain all required permits from all jurisdictional agencies to perform the Services under this Agreement at its own expense.
21. **Waiver.** The failure of either party to this Agreement to object to or to take affirmative action with respect to any conduct of the other which is in violation of the terms of this Agreement shall not be construed as a waiver of the violation or breach, or of any future violation, breach or wrongful conduct.
22. **Survival of Provisions.** Any terms or conditions of either this Agreement that require acts beyond the date of the term of the Agreement, shall survive termination of the Agreement, shall remain in full force and effect unless and until the terms or conditions are completed and shall be fully enforceable by either party.
23. **Prohibition of Contingency Fees.** The Consultant warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the Consultant, to solicit or secure this Agreement, and that it has not paid or agreed to pay any person(s), company, corporation, individual or firm, other than a bona fide employee working solely for the Consultant, any fee, commission, percentage, gift, or any other consideration, contingent upon or resulting from the award or making of this Agreement.
24. **Public Entity Crimes Affidavit.** The Consultant shall comply with Section 287.133, Florida Statutes (Public Entity Crimes Statute), notification of which is hereby incorporated herein by reference, including execution of any required affidavit.
25. **Counterparts.** This Agreement may be executed in several counterparts, each of which shall be deemed an original and such counterparts shall constitute one and the same instrument.
26. **Conflicts.** In the event of a conflict between the terms of this Agreement and any exhibits or attachments hereto, the terms of this Agreement shall control.

[Remainder of page intentionally left blank. Signature pages follow.]

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IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed the day and year as first stated above.

INDIAN CREEK VILLAGE

By: _____

Guillermo Olmedillo, Village Manager

9/3/24

CHC MARINE SERVICES, LLC

By: _____

Bobby Brown, President, Managing Member

9/3/24

Addresses for Notice:

Indian Creek Village
Attn: Village Manager
9080 Bay Drive
Indian Creek, FL 33154
305-865-4121 (telephone)
305-865-2502 (facsimile)
golmedillo@indiancreekvillagefl.gov (email)

Addresses for Notice:

Bobby Brown, President, Managing Member
CHC Marine Services, LLC
13131 SW 132nd Street, Suite 102
Miami, Florida 33186
786-250-5851 (telephone)
bbrown@chcmarine.com (email)

With a copy to:

Weiss Serota Helfman Cole & Bierman, P.L.
Attn: Stephen J. Helfman, Esq.
Indian Creek Village Attorney
2800 Ponce de Leon Boulevard, Suite 1200
Coral Gables, FL 33134
shelfman@wsh-law.com (email)

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EXHIBIT "A"
SCOPE OF SERVICES

The Scope of Services are those contained in the Proposal dated August 9, 2024, attached hereto and incorporated herein by reference.

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EXHIBIT "A"

INDIAN CREEK VILLAGE SEAWALL

VILLAGE HALL EMERGENCY SEAWALL STABILIZATION



PROPOSAL DATE: 08/09/24
CONTRACTOR:
CHC MARINE SERVICES

13131 SW 132ND STREET
STE 102
MIAMI FL 33186
(786) 250-5851

WWW.CHCMARINE.COM



REPAIR PROPOSAL

INDIAN CREEK VILLAGE SEAWALL – INDIAN CREEK VILLAGE, FLORIDA

CHC Marine Services is pleased to submit our **REPAIR PROPOSAL** to the Indian Creek Village. The final contract price for the proposed work is subject to scope of work modification.

Proposal based on site inspection 08/09/24. Observed significant material loss behind seawall that posed hazard to residents and property. CHC Marine Services includes preconstruction coordination with owners and structural engineer to develop and implement appropriate emergency repair solution to stabilize seawall.

CHC's Price to Perform the Work:

UNIT PRICING					
CODE	DESCRIPTION	QUANTITY	UNITS	UNIT PRICE	TOTAL
1000	Mobilization and Project Start Up Emergency Mobilization	1	LS	\$25,000.00	\$25,000.00
2000	Temporary Fuel Cell 500 gal for First responder use	1	LS	\$3,500.00	\$3,500.00
3000	Seawall Emergency Repair – 200 LF	200	LF	\$1,500.00	\$300,000.00
4000	Trench Drainage with Jet Filters	200	LF	\$95.00	\$19,000.00
5000	Site Work, Demolition, Backfill, Restoration, Utility Disconnects, Site BMPs	1	LS	\$47,000.00	\$47,000.00
6000	Paver Removal, salvage, prepare sub- base and reinstall.	1	LS	\$5,000.00	\$5,000.00
					\$399,500.00



BASE BID SCOPE OF WORK

1. Mobilization and Project Start Up
 - Permits: State, Federal and Environmental Permits not anticipated. CHC Includes permit application to local municipality, any permit fees incurred to be submitted to owner with receipt for reimbursement. Contractor to notify property management of construction start dates. Utility locates tickets to be completed prior to excavation by contractor.
 - Emergency Mobilization: Due to the urgency of additional material loss, wall destabilization, or impacts to Village operations, CHC Marine Services proposes expedited Mobilization of equipment, personnel, and material required to accomplish the proposed work. Coordinate staging and laydown with owner prior to arrival of equipment.
 - Layout and clearly mark repair areas for confirmation by Owners prior to starting the work.
 - Maintain Village Marine Police access to docked vessels. Coordinate relocation of boats along seawall as required during construction.
2. Temporary Fuel Tank
 - Provide 500 Gallon double wall fuel tank with secondary containment for use by Village Police for police equipment. Tank to include 12-volt pump and 50' of hose.
 - Spill kit, fire extinguisher, and appropriate signage provided at fuel tank location.
3. Repair Seawall Scope
 - Furnish and Install 200 Wall feet x 10' Long Aluminum Sheet Pile. Section to be AWM-3 comprised of 6061 T6 Marine Grade Aluminum. Sheet Pile to be installed landward of existing seawall and modified as required for obstructions and seawall tiebacks. Sheet Pile to be driven approximately 12' below grade or until firm material is encountered.
 - Furnish and install concrete mud seal. Concrete to be 4k PSI minimum with anti-washout, place grout between old wall and aluminum sheet pile to seal gaps at seawall mudline. Utilize grout socks and forms as required to seal wall terminations.
 - Repair existing seawall cracks and gaps with hydrophobic epoxy grout.
4. Trench Drain
 - Install new 2.5" JET filters with removable filter cartridge approximately 6' OC onto existing seawall. Filters to be installed per manufacturer's recommendation approximately 4"-6" above hard growth line.
 - Place #57 stone and geotextile behind seawall. Connect Jet filters with perforated PVC pipe.
5. Site Work
 - Install temporary barriers for traffic control.
 - Remove, store, and reinstall existing light poles as required for seawall construction.
 - Remove, store, and reinstall pavers during construction. Provide the closest match possible for new pavers and blend with existing.
 - Temporarily terminate utilities adjacent to seawall during construction. Drain and relocate fuel tank as required for construction access.
 - Planters to be cleared during construction including coconut palms and shrubs. CHC includes planter repairs and backfill with soil. Planting and irrigation by others.

INCLUSIONS

1. CHC Marine Services (CHC) agrees to furnish all labor, material, equipment, and supervision to perform the scope of work outlined herein.
2. Emergency Mobilization: CHC Marine services includes mobilization and commencement of repairs within one week of approved purchase order.
3. State and local taxes related to CHC's work.
4. Work schedule Monday – Friday 7am to 5pm (as required)
5. Repair/Replace option as called out in scope.
6. MOT and public exclusion of work area.
7. Remove Landscape and hardscape as required to complete the work.
8. Maintain first responder access to marine equipment docked along seawall.
9. Assumed all work proposed to be completed in one mobilization. Additional mobilizations at owner's discretion to be billed per the mobilization line item.
10. Installation of shoreline repairs per agreed upon repair plan and contractor's approved materials/methodology.
11. Insurances as follows:
 - Workman's Compensation and Employers Liability Insurance within the State of Florida's Limits
 - USL&H Coverage, as required.
 - Comprehensive General Liability Coverage: \$2 million combined single limit



EXCLUSIONS & CLARIFICATIONS

1. Field Engineering: to include surveying, vibration monitoring services, settlement monitoring, testing and inspection, as built surveys, certifications, etc.
2. Environmental permits are excluded.
3. Permit fees – Municipal permits can be applied for on owner's behalf, receipts will be submitted for reimbursement.
4. Drilling, punching, hydraulic breakers/hammer not anticipated or included for the quoted scope of work.
5. Daily Work Stoppages. Work must be performed in a continuous operation; no allowance has been provided for non-working days during the work week. CHC reserves the right to stop work and demobilize if work delays occur.
6. Certified Payroll
7. Construction schedule, CHC is not responsible for delays due to weather, including hurricanes, equipment malfunction, or other occurrences not controlled by CHC.
8. Retainage.
9. Handling or removal of contaminated materials
10. Pollution Liability Insurance, Railroad Insurance, Professional Liability Insurance, Builders Risk Insurance, "All Risk" Coverage and Installation Floater.
11. Protection of Existing Structures, Precondition Survey, Progress Photos.
12. Location, protection, removal, or replacement of underground or overhead utilities, obstructions including buildings, trees, utilities, culverts, drainage lines, fiberoptic, electrical, conduit, drainage, stormwater, landscaping lighting, etc., that interfere with the work or site access. The contractor shall be solely responsible for all utility locates, conflicts and damages.
13. Irrigation lines were not observed within the work area. Any irrigation lines or sprinklers within the work area will need to be abandoned or relocated by others. Property management assumes replacement or repairs of any irrigation system components within the work area.
14. Tree replacement excluded.
15. Bonds and Permits; including those for sidewalk and street closures, MOT and traffic diversions, etc.
16. Liquidated Damages
17. Access to work area, owner to provide adequate access to the work area and suitable staging area for equipment/material laydown and deliveries.
18. Turbidity Management plans, Environ- mental Protection Plans and Storm Water Pollution Prevention. Turbidity curtain maintenance, relocation, replace- ment or repairs.
19. Inspection, Removal, Monitoring and Protection of Benthic Resources; specifically excluded is inspection, monitoring, reporting, removal, relocation or replacement of sea grasses, mangrove or coral.
20. Temporary services, to include, shore power, temporary toilets, office trailers, etc.
21. Standby or Delay.
22. All additional items not specifically outlined in the outlined scope of work, inclusions and exclusions.



CONTRACT CONDITIONS

1. CHC shall provide a monthly invoice for work performed during the previous week. Payment for each invoice is due within 15 days after invoice submission.
2. Final Payment is due within 15 days of the completion of CHC's Work.
3. This quotation is based on current labor and material costs and is subject to availability of crew and equipment. It must be accepted in writing within Fifteen (15) days of proposal date, after which time, we reserve the right to modify or withdraw it.
4. All unforeseen and additional work (items not specified on this proposal) will be paid in addition to the quoted proposal price and will be paid on a mutually agreed upon lump sum or time and material basis.
5. Monthly Invoices to be submitted to the engineer for review and compliance with the contract documents. Once approved by engineer of record, application submitted to owner for remittance within 30 days.
6. Payments not received within the terms described above will accrue interest at 1.5% per month.
7. CHC Marine Services reserves the right to:
 - Cease work at the request of Federal or Municipal agencies.
 - Defer or cancel any quotes or accepted orders in the event that CHC becomes delayed or prevented from performing due to shortages or allocations of materials. In the event of a delay or cancellation resulting from shortages or allocations of materials, CHC shall not be liable for any damages incurred as a result of any such delay or cancellation.
 - Cease and desist all work and demobilize off site, at the cost of the owner/general contractor if progress payments are not received within 30 days of the approved invoice.

TERMS & CONDITIONS

WORK: CHC Marine Services ("CHC") agrees to perform the work and furnish such materials, equipment and labor as specified within the scope of its work outlined herein and unless otherwise specified, as is customary. Customer acknowledges that it has supplied to CHC all applicable documents, plans and specifications necessary for CHC's work. To the extent of any conflict between the terms for CHC's work and the terms of Customer's work for the Owner, then the terms most favorable to CHC will prevail. Customer agrees to provide timely notice to CHC of any site conditions which may impact CHC's work.

PAYMENT: Customer agrees to make timely payments to CHC as called for herein. It is understood and agreed that any pay when paid provisions, if applicable to CHC's work, shall be interpreted as establishing a reasonable time for payment and shall not negate CHC's construction lien rights. If payments are not made when due, Customer agrees that CHC may halt its work until satisfactory payment arrangements have been made. CHC reserves the right to charge a service fee of 1 1/2% per month for late payments. In the event of any action taken, with or without suit, to enforce CHC's rights under this agreement, the Customer shall be liable for all costs, including CHC's reasonable attorney's fees. Exclusive venue for any action shall be a court of competent jurisdiction in Miami-Dade County, Florida, except in those instances where the action is one to enforce a lien recorded in a different jurisdiction.

WARRANTY: CHC agrees that its work shall conform with the specifications, plans and other applicable documents timely provided to it but shall be subject to field conditions beyond its control. EXCEPT AS SPECIFICALLY PROVIDED HEREIN, CHC PROVIDES NO OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR USE. CHC WILL NOT BE RESPONSIBLE FOR ANY SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES AND ANY CLAIM AGAINST CHC OR ITS AGENTS, OFFICERS AND EMPLOYEES SHALL BE LIMITED TO THE REPLACEMENT VALUE OF ITS WORK AND ONLY AS TO THE EXTENT SUCH WORK IS FOUND TO BE DEFECTIVE. THIS LIMITATION OF LIABILITY IS EXPRESSLY INTENDED TO APPLY TO ALL TYPES OF CLAIMS, INCLUDING BUT NOT LIMITED TO CLAIMS FOR CHC'S OWN NEGLIGENCE.

TERMINATION: CHC may terminate its work and this agreement at any time the Customer has defaulted or at any time conditions beyond CHC's control, including force majeure events, interfere with or adversely impact CHC's ability to perform. The costs of any materials ordered by CHC pursuant to this agreement and prior to termination shall be paid by Customer, if such orders are unable to be cancelled. Labor performed and materials installed up to termination shall be paid by Customer to CHC plus a sum equal to 20% for CHC's overhead and mobilization costs.

INDEMNIFICATION: If any claim is made for damage or injury including death, Customer agrees to indemnify and hold CHC harmless from and against such claim and all loss, damage, injury and expense (including reasonable attorney's fees and costs) that CHC may sustain when such claim is directly or indirectly based or related to Customer's or its agents' contractors' or employees' grossly negligent, intentional or wrongful acts or omissions. CHC shall be liable to Customer for CHC's sole misconduct, negligent or intentional acts or omissions. Customer acknowledges that a 1.0% reduction of the price for the work was received in exchange for this indemnification and said indemnification on the part of Customer shall not exceed, per occurrence, either the greater of \$1,000,000 or ten (10) times the total billing from CHC to Customer for this work.

DELAYS: Customer shall be responsible for any delay, interference or extra cost with respect to CHC's work which is the result of Customer or any and all third parties; CHC shall be entitled to both an extension of time to complete its work and issuance of a change order noting a prorata increase in the amount due CHC.

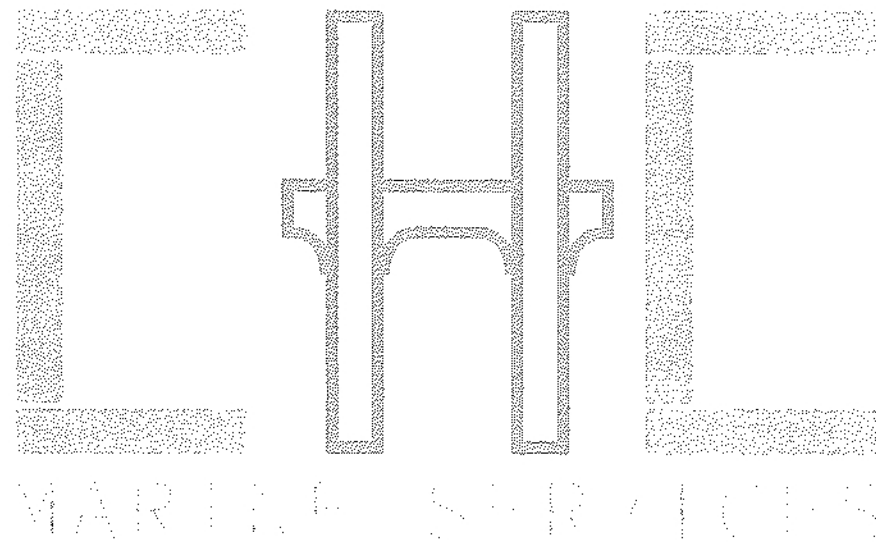
MODIFICATIONS: Any modification or change must be in writing and signed by authorized representatives of both parties.

WAIVER: The failure of CHC to insist upon strict compliance with any of these terms and conditions, or to exercise any options provided for in the work documents, shall not be constructed to be a waiver or relinquishment of CHC's right to thereafter require compliance with these terms and conditions or to therefore exercise such option.

AUTHORITY: It is understood and agreed that the person signing on behalf of Customer has full authority to do so, has read and understood the foregoing terms and conditions, and is authorized to bind the Customer.

We appreciate the opportunity to quote this project. If you should have any questions, please contact the undersigned at your convenience.

Bobby Brown
Construction Manager
CHC Marine Services
Bbrown@CHCMARINE.COM
M (954) 802-2672



ACCEPTANCE OF PROPOSAL - The above prices, specifications and conditions are satisfactory and are hereby accepted. You are authorized to do the work as specified. Payment will be made as outlined above.

Company:

By: _____

Date: _____

Printed Name: _____

Title: _____

CONTRACTOR:
CHC MARINE SERVICES

13131 SW 132ND STREET
STE 102
MIAMI FL 33186
(786) 250-5851

WWW.CHCMARINE.COM

**EXHIBIT “B”
PLANS & SPECIFICATIONS**

EXHIBIT "B"

INDIAN CREEK VILLAGE SEAWALL

VILLAGE HALL EMERGENCY SEAWALL STABILIZATION REPAIR PLAN



CONTRACT #
LHC MARINE SERVICES
1000 W. 32ND STREET
SUITE 102
MAY 15, 2018
1000 W. 32ND STREET

1000 W. 32ND STREET



Observations

INDIAN CREEK VILLAGE SEAWALL – INDIAN CREEK VILLAGE, FLORIDA

Site Information

Work site is 9080 Bay Drive, Indian Creek, Florida. Indian Creek Village Hall and Police Department. The Village Hall seawall is at the rear of the property approximately 200' long and terminates into road bridge structure on the North and adjoining property seawall to the south. The seawall is utilized for the docking and service of local marine law enforcement vessels. The area immediately landside of the seawall is utilized for vehicle and delivery access via paved driveway. Site amenities include vehicle parking and charging, fuel tank and pump, and Village small equipment storage. The area also includes planters and a waterside sitting area. Utilities along the seawall include streetlamps, shore power supply for vessels, and general use outlets.

The ground landside of the seawall shows significant soil subsidence, with damage to paved driveway, shifting light poles, and exposure of seawall components. Repair procedures proposed are to stop the migration of soils through the seawall and improve drainage. The site is to be restored to full functionality as part of the work.

CHC Marine services has submitted the included repair plan for review by Florida Registered P.E. Wes Scott. Wes has extensive local experience with repairs and new construction of shoreline structures and systems. A site visit was performed 08/22/24 with Wes Scott, P.E., Village Manager Guillermo Olmedillo, and Florida Certified General Contractor Bobby Brown to confirm site conditions, access and phasing of repairs, and construction materials/methodologies. The seawall repair work will be regularly monitored by the undersigned Engineer for effectiveness and adherence to the repair plan during construction. Seawall repair progress updates, modifications, and observed conditions are to be provided to Village Management on a weekly basis during all construction activities.



Repair Procedures

1. Temporary Facilities

- Provide 500 Gallon double wall fuel tank with secondary containment for use by Village Police for police equipment. Tank to include 12-volt pump and 50' of hose.
- Spill kit, fire extinguisher, and appropriate signage provided at fuel tank location.
- Maintain access and docking for law enforcement vessels throughout the repair program.

2. Repair Seawall

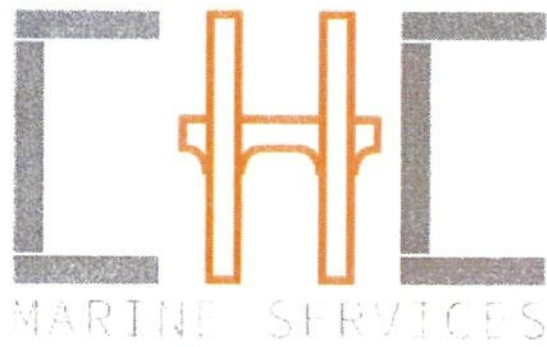
- Furnish and install 200 Wall feet x 10' Long Aluminum Sheet Pile. Section to be AWM-3 comprised of 6061 T6 Marine Grade Aluminum. Sheet Pile to be installed landward of existing seawall and modified as required for obstructions and seawall tiebacks. Sheet Pile to be driven approximately 12' below grade or until firm material is encountered.
- Furnish and install concrete mud seal. Concrete to be 4k PSI minimum with anti-washout, place grout between old wall and aluminum sheet pile to seal gaps at seawall mudline. Utilize grout socks and forms as required to seal wall terminations.
- Repair existing seawall cracks and gaps with hydrophobic epoxy grout.

3. Trench Drain

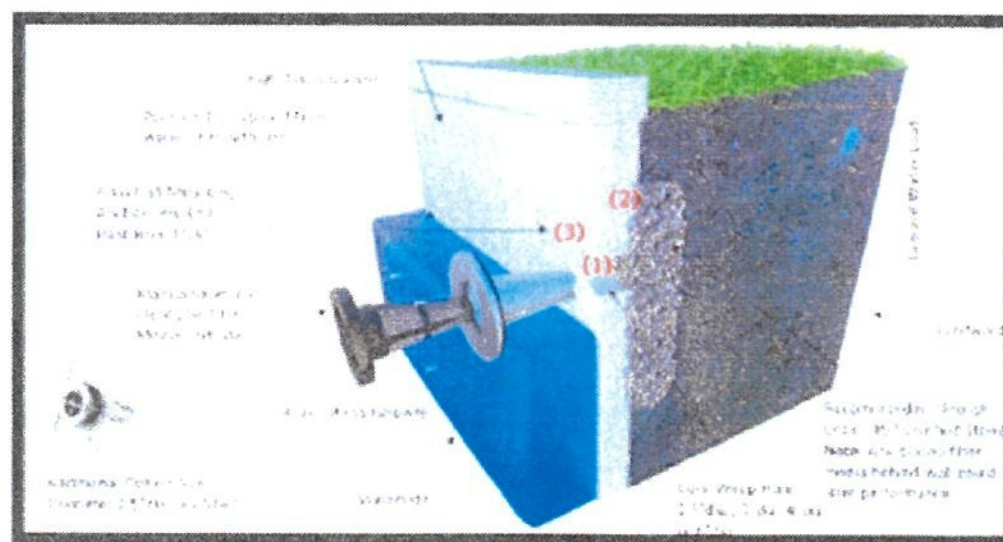
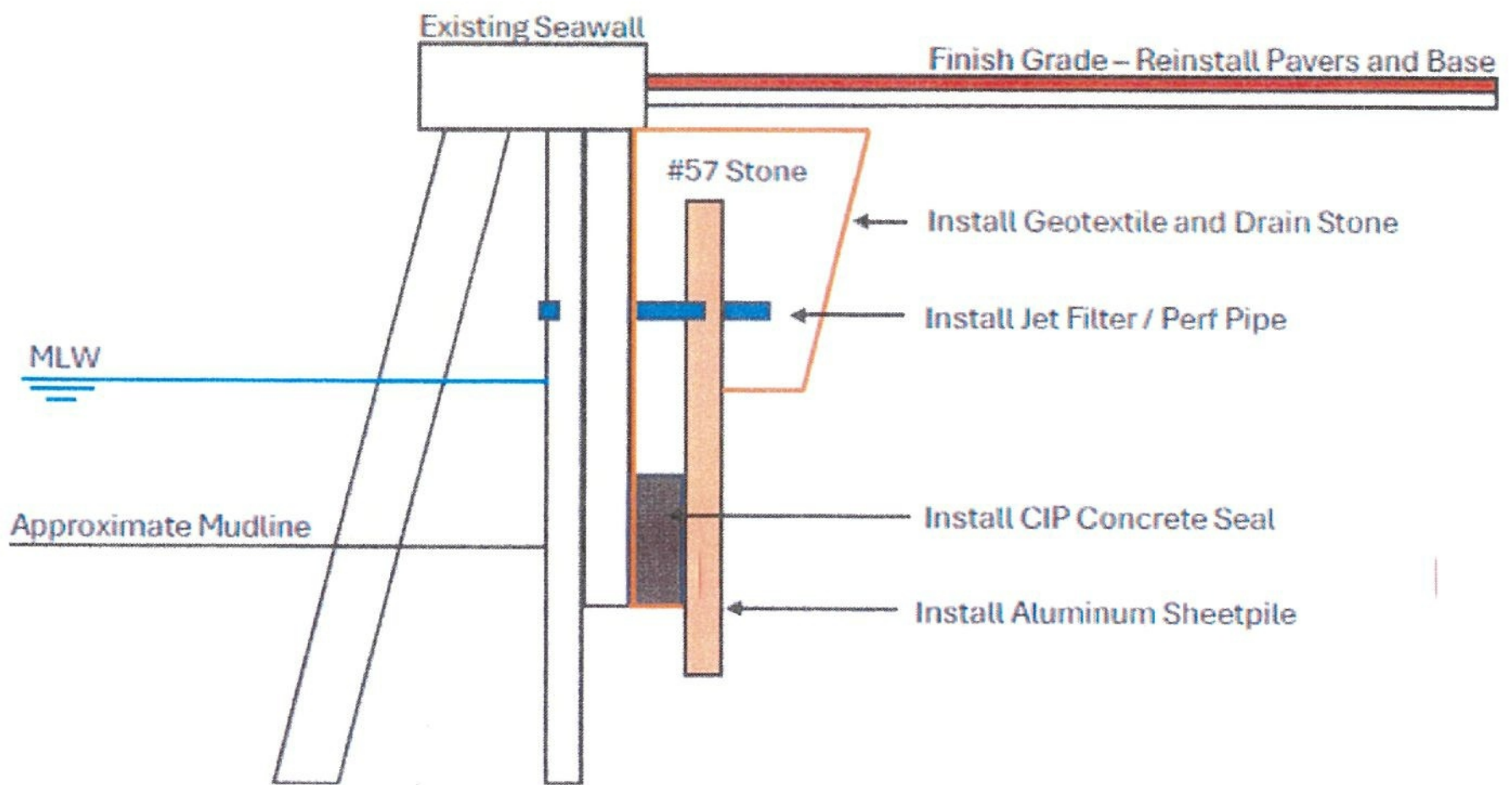
- Install new 2.5" JET filters with removable filter cartridge approximately 6' OC onto existing seawall. Filters to be installed per manufacturer's recommendation approximately 4"-6" above hard growth line.
- Place #57 stone and geotextile behind seawall. Connect Jet filters with perforated PVC pipe.

4. Site Work

- Install temporary barriers for traffic control.
- Remove, store, and reinstall existing light poles as required for seawall construction.
- Remove, store, and reinstall pavers during construction. Provide the closest match possible for new pavers and blend with existing.
- Temporarily terminate utilities adjacent to seawall during construction. Drain and relocate fuel tank as required for construction access.
- Planters to be cleared during construction including coconut palms and shrubs. CHC includes planter repairs and backfill with soil. Planting and irrigation by others.



Typical Repair Section



Jet Filter Typical Installation



E ENGINEERING REVIEW

Review of the proposed repair plan by the undersigned for the purpose of confirming existing site conditions and appropriateness of the proposed repair plan to correct soil subsidence.

REVIEWED: [Signature] Date: 8/23/24

Signature:

[Signature]

Date: 8/23/24

Signature:

Wes Scott PE

Engineer

Print

TAB 3



INDIAN CREEK VILLAGE SPECIAL COUNCIL MEETING

TO: Mayor, Vice-Mayor, and Honorable Members of the Council of Indian Creek Village
FROM: Guillermo Olmedillo, Village Manager
DATE: September 10, 2024.
TITLE: Saturday Construction Activity.

Background

Construction is permitted Monday to Friday, from 8:00 am until 5:00 pm, with a further limitation on noise-generating activities to start at 9:00 am.

Section 14-32, gives the Village Manager the authority to authorize exemptions for work on Saturdays and Sundays “upon written application setting forth good cause, authorize exemptions to this section.”

Issue

The term “good cause” is vague and not defined anywhere in the Village Code, and as a result, owners and contractors for every construction project have requested to work on Saturdays.

Recommendation

Provide a definition for the term “good cause”.

TAB 4



MEMORANDUM

VILLAGE COUNCIL

BERNARD KLEPACH, *Mayor*

IRWIN TAUBER, *Vice Mayor*

ROBERT DIENER

IRMA BRAMAN

DATE:

August 28, 2024

TO:

All Property Owners and Residents

FROM:

Guillermo Olmedillo, Village Manager

RE:

Bridge Weight Restrictions

Background

On November 13, 2012, the Village passed Ordinance No. 206 adopting weight restrictions on vehicles crossing the bridge to the Island. These restrictions were recommended by consulting engineers to protect the structural integrity of the bridge.

Pursuant to that Ordinance, on June 6, 2021, the Village Manager issued an Administrative Order waiving the weight restrictions for a period of 36 months to facilitate the timely completion of several ongoing infrastructure projects. The waiver has expired. In consultation with our bridge engineers, I have decided to reimpose the original weight limitation of 16 tons.

Weight Limits Reimposed

Commencing on Tuesday, September 3, 2024, the Village will be strictly enforcing the 16-ton weight limitation (without exception) on all vehicles entering and leaving the Island. This action is necessary to protect the structural integrity of the bridge and the health, safety and welfare of all residents and guests.

Please immediately notify all your vendors and contractors of the weight limitations. We will also provide notice to all contractors working on the Island.