

UNCONDITIONAL GUARANTY

June ____, 2014

Thomas Gill
Beverley Gill
945 Palen Avenue
Ocean City, NJ 08226
(Hereinafter collectively referred to as "Guarantor")

City of Ocean City
861 Asbury Avenue
Ocean City, New Jersey 08226
(Hereinafter referred to as "City")

To induce City to enter into that certain Redevelopment Agreement dated June ____, 2014, (the "Redevelopment Agreement") by and between the City and Bayfront Preservation Foundation, LLC, 6825 Tilton Road, Building C, Egg Harbor Township, New Jersey 08234, (the "Redeveloper"), to perform its obligations thereunder and to accept that certain Redeveloper Note and City Mortgage (as such terms are defined in the Redevelopment Agreement) from the Redeveloper, Guarantor hereby absolutely, irrevocably and unconditionally guarantees to City and its successors and assigns the timely payment of the Redeveloper Note and the City Mortgage, and all modifications, extensions and renewals thereof, (collectively, the "Guaranteed Obligations"). The Redevelopment Agreement, the Redeveloper Note, the City Mortgage and any other documents executed by the Redeveloper or acknowledged by Guarantor in connection therewith are referred to herein as the "Redevelopment Documents."

Guarantor further covenants and agrees:

GUARANTOR'S LIABILITY. If the Redeveloper defaults under the Redeveloper Note and City Mortgage, the Guarantor will pay the Guaranteed Obligations to the City. This Guaranty is a continuing and unconditional guaranty of the payment only of the Redeveloper Note and City Mortgage. The parties to this Guaranty are jointly and severally obligated hereunder. This Guaranty does not impose any obligation on City to extend or continue to extend credit or otherwise deal with Redeveloper at any subsequent time. This Guaranty shall continue to be effective or be reinstated, as the case may be, if at any time any payment of the Guaranteed Obligations is rescinded, avoided or for any other reason must be returned by City, and the returned payment shall remain payable as part of the Guaranteed Obligations, all as though such payment had not been made.

Capitalized terms in this section shall have the meanings ascribed to them in the Redevelopment Agreement.

MODIFICATIONS. This Guaranty can only be changed by an agreement in writing signed by both the Guarantor and the City.

WAIVERS AND ACKNOWLEDGMENTS. Intentionally deleted.

FINANCIAL CONDITION. Guarantor warrants, represents and covenants to City that (a) the fair value of Guarantor's assets exceeds its liabilities, Guarantor is meeting its current liabilities as they mature, and Guarantor is and shall remain solvent; (b) there are not now pending any court or administrative proceedings or undischarged judgments against Guarantor, no federal or state tax liens have been filed or threatened against Guarantor, and Guarantor is not in default or claimed default under any agreement.

INTEREST AND APPLICATION OF PAYMENTS. Regardless of any other provision of this Guaranty or other Redevelopment Documents, if for any reason the effective interest on any of the Guaranteed Obligations should exceed the maximum lawful interest, the effective interest shall be deemed reduced to and shall be such maximum lawful interest, and any sums of interest which have been collected in excess of such maximum lawful interest shall be applied as a credit against the unpaid principal balance of the Guaranteed Obligations. Monies received from any source by City for application toward payment of the Guaranteed Obligations shall be applied to such Guaranteed Obligations in any manner or order deemed appropriate by City.

DEFAULT. If any of the following events occur, a default ("Default") under this Guaranty shall exist: (a) failure of timely payment or performance of the Guaranteed Obligations; and/or (b) the dissolution of, termination of existence of, loss of good standing status by, appointment of a receiver for, assignment for the benefit of creditors of, or the commencement of any insolvency or bankruptcy proceeding by or against Guarantor or the holder(s) of the majority ownership interests of Guarantor.

If a Default occurs, the Guaranteed Obligations shall be due immediately and payable without notice and City may exercise any rights and remedies as provided in this Guaranty and other Redevelopment Documents, or as provided at law or equity. Guarantor shall pay interest on the Guaranteed Obligations from such Default at the rate of interest charged on the Redeveloper Note.

ATTORNEYS' FEES AND OTHER COSTS OF COLLECTION. Guarantor shall pay reasonable expenses incurred to enforce or collect any of the Guaranteed Obligations, including, without limitation, attorneys' fees and expenses, whether incurred without the commencement of a suit, in any suit, or in any appellate proceeding.

SUBORDINATION OF OTHER DEBTS. Guarantor agrees to subordinate the obligations now or hereafter owed by Redeveloper to Guarantor ("Subordinated Debt") to any and all obligations of Redeveloper to City now or hereafter existing while this Guaranty is in effect.

MISCELLANEOUS.

Assignment. This Guaranty and other Redevelopment Documents are not assignable.

Organization; Powers. Guarantor is an adult individual and is sui juris.

Jurisdiction; Applicable Law; Conflict Between Documents. This Guaranty shall be governed by and construed under the laws of the State of New Jersey, without regard to its conflict of laws principles.

Severability. If any provision of this Guaranty or of the other Redevelopment Documents shall be prohibited or invalid under applicable law, such provision shall be ineffective but only to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of this Guaranty or other Redevelopment Documents.

Notices. Any notices to Guarantor shall be sufficiently given if in writing and mailed or delivered to Guarantor's address shown above or such other address as Guarantor may specify in writing from time to time. Any notices to City shall be sufficiently given if in writing and mailed or delivered to Guarantor's address shown above, to the attention of the Mayor, or such other address as City may specify in writing from time to time.

Plural; Captions. All references to borrower, guarantor, person, document or other nouns of reference mean both the singular and plural form, as the case may be, and the term "person" shall mean any individual person or entity. The captions are inserted for convenience only and shall not affect the meaning or interpretation of this Guaranty.

Binding Contract. Guarantor by execution of and City by acceptance of this Guaranty agree that each party is bound to all terms and provisions of this Guaranty.

Amendments, Waivers and Remedies. No waivers, amendments or modifications of this Guaranty shall be valid unless in writing and signed by both parties. No waiver by City of any Default shall operate as a waiver of any other Default or the same Default on a future occasion. Neither the failure nor any delay on the part of City in exercising any right, power, or privilege granted pursuant to this Guaranty and other Redevelopment Documents shall operate as a waiver thereof, nor shall a single or partial exercise thereof preclude any other or further exercise or the exercise of any other right, power or privilege. All remedies available to City with respect to this Guaranty and other Redevelopment Documents and remedies available at law or in equity shall be cumulative and may be pursued concurrently or successively.

FINAL AGREEMENT. This Guaranty represents the final agreement between the parties and may not be contradicted by evidence of prior, contemporaneous or subsequent oral agreements of the parties. There are no unwritten oral agreements between the parties.

FINANCIAL AND OTHER INFORMATION. Guarantor shall deliver to City such financial information as provided for in the Redevelopment Agreement. Such information shall be true, complete, and accurate.

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IN WITNESS WHEREOF, Guarantor, on the day and year first written above, has caused this Unconditional Guaranty to be executed.

Thomas Gill

Beverley Gill

DIVISION OF REVENUE Fax:609-984-6708

Nov 23 2005 11:42

P.02

11/22/05 TUE 11:43 FAX 16098480887

Nov 22 2005 11:40

MS NORTHFIELD

002

**BAYFRONT PRESERVATION FOUNDATION, LLC
CERTIFICATE OF FORMATION**

LLC
FILED
NOV 22 2005
STATE TREASURER

The undersigned, in order to form a limited liability company pursuant to the provisions of the New Jersey Limited Liability Company Act, hereby certifies:

FIRST: The name of the limited liability company is Bayfront Preservation Foundation, LLC

SECOND: The address of the limited liability company's initial registered office is 660 New Road, Suite 1A, Northfield, New Jersey 08225 and the name of the registered agent at such address is Jeffrey D. Light, Esquire.

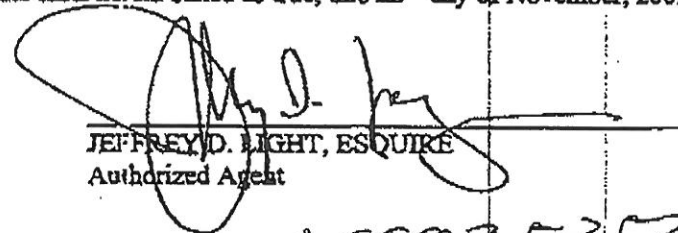
THIRD: The number of initial members constituting the limited liability company is three (3).

FOURTH: The initial operating agreement of the limited liability company shall be adopted by the members, and the power to make, alter and repeal the operating agreement is reserved to the members.

FIFTH: The term of the limited liability company is perpetual.

SIXTH: The effective date of this Certificate of Formation is the date of filing.

IN WITNESS WHEREOF, the undersigned has executed this Certificate of Formation and has certified this as his act and deed and the facts herein stated as true, this 22nd day of November, 2005.


JEFFREY D. LIGHT, ESQUIRE
Authorized Agent

51625441
J3064981

0600253526

**OPERATING AGREEMENT
OF BAYFRONT PRESERVATION FOUNDATION, LLC
EIN NUMBER 20-4039182**

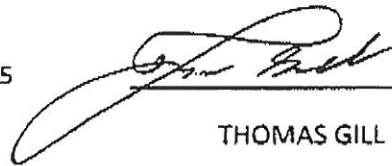
The undersigned, members of the Bayfront Preservation Foundation, LLC, a limited liability company of the State of New Jersey (the "Company"), agree that the Company shall be operated under the following terms and conditions:

1. The Company shall be governed by and operated in accordance with, the provisions of the New Jersey Limited Liability Company Act, N.J.S.A. 42:2B-1 et seq.
2. The members of the Company are Thomas Gill and Beverley Gill
3. The interest of each member in the Company is as follows:

Thomas Gill	66.67%
Beverley Gill	33.33%
To Be Determined	0%

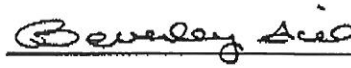
4. Notwithstanding the provisions of the New Jersey Limited Liability Company Act, all matters of concern to the Company will be decided solely by Thomas Gill who is designated Managing Member.
5. The Present purpose of the Company is to develop and manage marine facilities. The Company may engage in such other activities from time to time as the members agree to in accordance with the Operating Agreement for profit.

Effective Date: November 22, 2005



THOMAS GILL

Effective Date: November 22, 2005



BEVERLEY GILL

06-09-14 15:12 FROM- McCrosson & Stanton 6093987838 T-272 P0002/0002 F-141

NOTE

\$2,600,000.00

June ____, 2014
Ocean City, New Jersey

Bayfront Preservation Foundation, LLC, a New Jersey limited liability company, with an address at 6825 Tilton Road, Building C, Egg Harbor Township, New Jersey 08234 (the "Borrower") acknowledges itself indebted to, and for value received hereby promises to pay to the order of, the City of Ocean City (the "City") and its successors and assigns, the principal sum of Two Million Six Nine Hundred Thousand and 00/100 dollars (\$2,600,000.00) or such other principal amount as may be outstanding under each City Note, and to pay interest on the unpaid principal amount hereof from the date of this Note calculated on the same basis as interest is calculated on each City Note. The unpaid principal amount hereof shall be equal to the outstanding principal amount of each outstanding City Note.

This Note is issued to evidence the obligation of the Borrower pursuant to, and shall be governed by and construed in accordance with, the terms and conditions of the Redevelopment Agreement dated June ____, 2014 by and between the City and the Borrower (the "Redevelopment Agreement") and for the repayment of the loan in an amount not to exceed \$2,600,000 (the "Loan") made by the City to the Borrower from the proceeds of the Initial Bond Anticipation Note and the payment of interest thereon, including provision for repayment of the Loan. All capitalized words and terms not defined herein shall have the respective meanings and be construed herein as provided in the Redevelopment Agreement.

All amounts due and payable or to become due and payable under or pursuant to the City Notes, including without limitation, principal, interest, prepayment premiums, late charges and default interest, shall be deemed to be amounts due and payable under this Note, and shall be due and payable hereunder at the same times, and in the same manner, as set forth in the City Notes.

This Note is entitled to all of the benefits and is subject to all of the provisions of the Redevelopment Agreement, which provisions are hereby incorporated herein by reference thereto. Subject to the provisions hereof, the obligations of the Borrower to make or cause the payments required hereunder shall be absolute and unconditional without defense or setoff, except as set forth in the Redevelopment Agreement.

If an "Event of Default" occurs under the Redevelopment Agreement or the City Mortgage, and the expiration of any applicable cure period, with the default not being cured, the principal of this Note may be declared due and payable in the manner and with the effect provided in the Redevelopment Agreement and the City Mortgage.

All payments of principal, premium, if any, and interest shall be made to the City or its designee at its designated office in such coin or currency of the United States of America as at the time of payment shall be legal tender for the payment of public and private debts.

In case the City shall have proceeded to enforce its rights under this Note or the Redevelopment Agreement and such proceedings shall have been discontinued or abandoned for any reason or shall have been determined adversely to the City, then and in every case the Borrower or the City shall be restored respectively to their respective positions and rights hereunder, and all rights, remedies and powers of the Borrower or the City shall continue as though no such proceedings had been taken.

In case there shall be pending proceedings for the bankruptcy or for the reorganization of the Borrower under the Federal bankruptcy laws or any other applicable law, or in case a receiver or trustee shall have been appointed for the property of the Borrower or in the case of any other similar judicial

proceedings relating to the Borrower, or to the creditors or property of the Borrower, the City shall be entitled and empowered, by intervention in such proceedings or otherwise, to file and provide a claim or claims for the amounts owing and unpaid in respect of this Note and, in case of any judicial proceedings relative to the Borrower, its creditors, or its property, and to collect and receive any moneys or other property payable or deliverable on any such claims, and to distribute the same after the deduction of its charges and expenses; and any receiver, assignee or trustee in bankruptcy or reorganization is hereby authorized to make such payments to the City, as the case may be, and to pay to the City any amount due it for compensation and expenses, including counsel fees incurred by it up to the date of such distribution.

This Note shall be governed by the laws of the State of New Jersey, without regard to its conflict of laws principles.

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SIGNATURE PAGE ONLY FOLLOWS}**

IN WITNESS WHEREOF, the Borrower has caused this Note to be executed as of the date set forth above.

Witness

Bayfront Preservation Foundation, LLC,
a New Jersey limited liability company

By: _____
THOMAS GILL
Managing Member

Record and return to:
Matthew D. Jessup, Esq.
McManimon, Scotland & Baumann, LLC
75 Livingston Avenue
2nd Floor
Roseland, New Jersey 07068

MORTGAGE

This Mortgage is made on June ____, 2014

Between:

Borrower(s): Bayfront Preservation Foundation, LLC, a New Jersey limited liability company, having an address at 6825 Tilton Road, Building C, Egg Harbor Township, New Jersey 08234,

- and -

Lender(s): The City of Ocean City, New Jersey, a body corporate and politic of the State of New Jersey, located at 861 Asbury Avenue, Ocean City, New Jersey.

Mortgage Note. In return for the loan in the principal sum of TWO MILLION SIX HUNDRED THOUSAND and 00/100 Dollars (\$2,600,000.00) advanced and/or to be advanced by Lender to Borrower, with interest thereon at the rate or rates specified in, and represented by, a Note, bearing even date herewith, from Borrower payable to the order of Lender (the "Note") and under the terms and conditions of the Redevelopment Agreement between Borrower and Lender dated June ____, 2014 (the "Redevelopment Agreement"). All sums owed under the Note are due no later than the date set forth in the Note. All terms of the Note are made part of this Mortgage.

Property Mortgaged. To secure the payment of the loan, Borrower hereby mortgages to Lender, Borrower's interest in the land located in the municipality of Ocean City, County of Cape May, State of New Jersey, more particularly described in Schedule A attached hereto and made a part hereof, and includes: (a) the land; (b) all buildings that are now, or will be, located on the land; (c) all fixtures that are now, or will be, attached to the land or building(s); and (d) all other rights that Borrower has, or will have, as owner of the property (the "Property," which term shall refer to any part and any item thereof as well as all thereof).

Assumability. This mortgage is not assumable.

Rights given to Lender. Borrower mortgages the Property to the Lender. This means that Borrower gives to the Lender an immediate security interest in the Property, those rights stated in this Mortgage and also those rights the law gives to lenders who hold mortgages on real property. Subject to the terms and conditions of the Redevelopment Agreement, when Borrower pays all amounts due to the Lender under the Note and this Mortgage, the Lender's rights under this Mortgage will end. The Lender will then cancel this Mortgage and deliver to Borrower the original Note marked "Cancelled".

Promises. Borrower warrants, covenants and agrees with the Lender as follows:

1. **Note and Mortgage.** Borrower will comply with all of the terms of the Note and this Mortgage.
2. **Payments.** Borrower will promptly make all payments to the Lender in accordance with the terms of the Note and the Redevelopment Agreement.
3. **Title Warranty.** Borrower is seized of a fee estate in and to the Property, subject to Permitted Liens (as defined below). Borrower warrants the fee title to the Property.

4. **Liens and Taxes.** Subject to the terms and conditions of the Redevelopment Agreement, Borrower will pay when due all liens, taxes, assessments and other governmental charges made on or with respect to the Property from the date that Borrower takes ownership and possession of the Property. Borrower will not claim any credit against the principal and interest payable under the Note and this Mortgage for any taxes paid on the Property unless Borrower is permitted to do so under applicable law. Notwithstanding anything to the contrary in this Mortgage, "Permitted Liens" shall mean (a) the lien of this Mortgage; (b) the liens of current taxes and assessments payable without interest or penalty; (c) the liens of taxes not yet due and payable; and (d) the interests, liens, charges and encumbrances permitted under the Redevelopment Agreement.

5. **Insurance.** Borrower will maintain all insurance coverage required under the terms and conditions of the Redevelopment Agreement.

6. **Repairs.** Subject to the terms and conditions of the Redevelopment Agreement, Borrower will keep the Property in reasonably good repair and not allow it to waste away, neither damaging nor abandoning it. Borrower will allow the Lender to inspect the Property upon reasonable prior notice in accordance with the terms and conditions of the Redevelopment Agreement.

7. **Certification of Amount Due.** Upon written request of the Lender, Borrower will certify to the Lender in writing: (a) the amount due on the Note and this Mortgage, and (b) whether or not Borrower has any defense to Borrower's obligations under the Note and this Mortgage.

8. **Assignment of Leases, Agreements, Permits and Approvals:** Neither Borrower nor any tenant under any Lease shall have the right or power, as against Lender without its consent, to cancel, abridge or otherwise modify tenancies, subtenancies, leases or subleases now or hereafter in effect in respect of all or any part of the Property or to accept or make, as the case may be, prepayments of installments of Rent to become due thereunder. The Rents are hereby transferred and assigned to Lender, and Lender shall have the right to collect the same to apply the Rents, either in whole or in part, as Lender elects, to the payment of all charges and expenses of the Property or in reduction of any part of the loan or other sums due or to become due under the Note, the Redevelopment Agreement or this Mortgage. Subject to the terms and conditions of the Redevelopment Agreement, this assignment of the Rents is an absolute, unconditional and present assignment by Borrower to Lender of the Rents and not merely the passing of a security interest therein, which grant shall continue in effect until the loan and all other obligations secured by this Mortgage are paid in full. From and after the occurrence of an Event of Default hereunder all Rents collected or received by Borrower shall be accepted and held for Lender in trust and shall not be commingled with the funds and property of Borrower, but shall be promptly paid over to Lender. Lender may apply all Rents or any part thereof so received hereunder, after the payment of all of its expenses including reasonable attorneys' fees and costs, to the loan in such manner as it elects or at its option the entire amount or any part thereof so received may be released to Borrower. As further security for the loan, Borrower unconditionally assigns, transfers and sets over to the Lender, its successors and assigns all of Borrower's rights in and to all permits, consents, approvals, licenses and/or the like now or hereafter existing, required and/or obtained relative to the Property and/or in the performance of the Redevelopment Agreement. Subject to the terms and conditions of the Redevelopment Agreement, this unconditional assignment shall automatically terminate upon the payment by the Borrower of all amounts due to the Lender and the performance by the Borrower of all of the Borrower's obligations pursuant to the Note and Mortgage.

9. **Lawful Use.** The Property will be used in accordance with the Redevelopment Agreement, and in compliance with all applicable laws, ordinances and other requirements of any governmental authority.

10. **Eminent Domain.** If all or a part of the Property is taken by a government entity for public use, Borrower agrees that any compensation be given to the Lender first toward the remaining balance due under the Note. The Lender may use such compensation to repair and restore the Property or to reduce the amount owed on the Note and this Mortgage. This will not delay the due date for any further payment under the Note and this Mortgage. Any remaining balance will be paid to Borrower.

11. **Payments Made for Borrower(s).** If Borrower fails to make any required payments as agreed in this Mortgage, the Lender may do so for Borrower, provided Borrower is first given 15 days prior written notice during which time Borrower shall have the right to cure. The amount of any such payments by the Lender will be

added to the principal, will bear interest at the same rate provided in the Note and will be repaid by the Borrower to the Lender upon demand.

12. Default. The Lender may declare that Borrower is in default under the Note and under this Mortgage, if:

- (a) Borrower fails to make any payment required by the Note and this Mortgage within 30 days after its due date;
- (b) Borrower fails to keep any other promise Borrower makes in this Mortgage;
- (c) the holder of any lien on the Property starts foreclosure proceedings;
- (d) bankruptcy, insolvency or receivership proceedings are started by or against the Borrower;
- (e) Borrower fails to make timely payments of real estate Property taxes or Property insurance within ten (10) days following written demand by Lender; or
- (f) there is an Event of Default as defined in the Redevelopment Agreement.

13. Payments Due Upon Default. If the Lender declares that Borrower is in default, Borrower must immediately pay to the Lender the full amount of all unpaid principal, interest, and other amounts due on the Note and this Mortgage.

14. Lender's Rights Upon Default. If the Lender declares that the Note and this Mortgage are in default, the Lender will have all rights given by law and all rights set forth in this Mortgage if Borrower fails to cure the default within 30 days following Borrower's receipt of written notice of default and demand to cure setting forth what needs to be performed in order to cure. This includes, without limitation, the right to do any one or more of the following:

- (a) have a court appoint a receiver to accept rent for the Property;
- (b) start a court action, known as foreclosure, which will result in a sale of the Property to satisfy Borrower's obligations under the Note and this Mortgage; and
- (c) sue Borrower for any money that Borrower owes to the Lender under the Note or this Mortgage, subject to any requirement under the law to first commence and complete foreclosure proceeding.

15. Collateral Assignment of Common Elements, Roads, Streets and Easements: Borrower collaterally assigns to Lender any rights, if any, presently held or hereafter acquired by Borrower, to use roads, streets and easements, including the rights of ingress and egress to the public roads and all rights necessary to supply the Project with utility services, including, but not limited to, sewer, water, electricity and gas services as approved by those governmental authorities having jurisdiction thereof. This assignment includes the above-mentioned rights presently owned or possessed by Borrower and those acquired in the future.

16. Changes: Borrower and Lender, may agree, from time to time to change the interest rate, due date or the term or terms of this Mortgage or of the obligations secured by this Mortgage, but if and only if such changes are in writing signed by both parties. In that event, such change(s) shall constitute a "modification" as defined in N.J.S.A. 46:9-8.1 et seq., as the same may be amended from time to time, and this Mortgage shall be subject to the priority provision of that law.

17. Secondary Financing: Borrower agrees not to enter into any secondary financing of the loan evidenced by the Note except in accordance with the terms and conditions of the Redevelopment Agreement.

18. Lender's Rights Cumulative: The rights and remedies of Lender hereunder shall be in addition to every other right and remedy now and hereafter provided by law; the rights and remedies of Lender shall be cumulative and not exclusive one of the other; Lender may exercise the same at such times, in such

order, to such extent, and as often as Lender deems advisable, and without regard to whether the exercise of one precedes, concurs with, or succeeds the exercise of another; no delay or omission by Lender in exercising a right or remedy shall exhaust or impair the same, or constitute a waiver of, or acquiescence in, the default; and no waiver of a default by Lender shall extend to or affect any other default or impair any right or remedy with respect thereto.

19. Indulgences; Extension: Lender may allow Borrower any indulgences, forbearances and extensions with respect to the loan, the Property and Borrower's obligations hereunder, may waive compliance with any of the provisions hereof, and may release all or any of the Property from the lien hereof, without affecting the personal liability of any person for the payment of the loan, or the priority of the lien hereof upon the remainder of the Property.

20. Notices: Any notice, request, demand, statement authorization, approval, consent or acceptance made hereunder shall be in writing and shall be sent in accordance with the terms of the Redevelopment Agreement.

21. Defeasance: Subject to the terms and conditions of the Redevelopment Agreement, when the Note is paid, Lender's right, title and interest in the Property shall terminate; and at the request and expense of Borrower, Lender shall execute and deliver to Borrower an appropriate instrument acknowledging satisfaction of the Note and this Mortgage.

22. Personal Representatives: The provisions hereof shall bind, and inure to the benefit of, Borrower and Lender and their respective personal representatives, successors, and assigns.

23. Governing Law: This Mortgage shall be construed in accordance with the laws of the State of New Jersey, without regard to its conflict of laws principles.

24. Counterparts: This Mortgage may be executed in counterparts, each of which shall be deemed one and the same instrument and all of which, taken together, shall constitute one and the same agreement.

25. Prohibited Persons: Borrower, and Lender by Lender's acceptance of this Mortgage, each represent and warrant to the other that (a) neither such party, nor any indemnitor or guarantor, or any Person who owns any direct equity interest in or controls such party currently is identified on the OFAC List or otherwise qualifies as a Prohibited Person, and such party will implement procedures to ensure that no Person who now or hereafter owns any direct equity interest in such party is a Prohibited Person or controlled by a Prohibited Person, and (b) neither such party nor any indemnitor or guarantor are in violation of any applicable laws relating to anti money laundering or anti-terrorism, including, without limitation, any applicable laws related to transacting business with Prohibited Persons or the requirements of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001, U.S. Public Law 107 56, and the related regulations issued thereunder, including temporary regulations, all as amended from time to time. For purposes hereof: (1) the term "Person" shall mean any individual, corporation, limited liability company, partnership, joint venture, estate, trust, unincorporated association, any federal, state, county or municipal government or any bureau, department or agency thereof and any fiduciary acting in such capacity on behalf of any of the foregoing; (2) the term "Prohibited Person" shall mean any Person identified on the OFAC List or any other Person with whom a U.S. Person may not conduct business or transactions by prohibition of Federal law or Executive Order of the President of the United States or America; (3) the term "OFAC List" shall mean the list of specially designated nationals and blocked persons subject to financial sanctions that is maintained by the U.S. Treasury Department, Office of Foreign Assets Control and accessible through the internet website www.treas.gov/ofac/t11sdn.pdf.

26. Security Agreement: The Property includes real and personal property this Mortgage is a real property mortgage and also a "security agreement" and a "financing statement" within the meaning of the Uniform Commercial Code. By executing and delivering this Mortgage, Borrower grants to Lender, as security for the loan, a security interest in the Property to the full extent that any of the Property may be subject to the Uniform Commercial Code.

This Mortgage constitutes a financing statement filed as a fixture filing in the official records of the county in which the Property is located under the New Jersey Uniform Commercial Code with respect to any Property which now or hereafter may become fixtures and for which purpose, the following information is set forth:

Borrower Information:

Exact full legal name of Borrower:	Bayfront Preservation Foundation, LLC
Address of Borrower:	6825 Tilton Road, Building C Egg Harbor Township, NJ 08226
Type of organization:	Limited Liability Company
Jurisdiction of organization:	New Jersey
Borrower identification number:	0600253526

Secured Party Information:

Secured Party's Name (Lender):	City of Ocean City
Address of Secured Party:	861 Asbury Avenue Ocean City, New Jersey 08226

Property Information:

Description of the types (or items) of property covered by this financing statement:	The Property, as defined herein.
Description of real estate to which collateral is attached or upon which it is located:	Described in Schedule A.

Borrower further acknowledges that, subject to the terms and conditions of the Redevelopment Agreement (a) this Mortgage covers goods which are or are to become fixtures on the Property; (b) Lender may file this Mortgage, or a reproduction thereof, in the real estate records or other appropriate index, as a financing statement for any of the items specified above as part of the Property; (c) any reproduction of this Mortgage or of any other security agreement or financing statement is sufficient as a financing statement; (d) Borrower is the record owner of the Property; and (v) products of collateral are also covered.

Subject to the terms and conditions of the Redevelopment Agreement, Borrower will not remove nor permit the removal of the Collateral or any part thereof without the prior written permission of Lender, provided that obsolete and worn out articles may be removed concurrently with the replacement or renewal thereof with property of at least equal value or usefulness in the operation of the Property.

27. Commercial loan: Borrower hereby stipulates and warrants that the loan secured hereby is a commercial loan, and that all of the proceeds of such loan will be used solely to acquire the Property or carry on a business or commercial enterprise.

Signatures. Borrower agrees to the terms of this Mortgage. If the Borrower is a corporation, its proper corporate officers sign and its corporate seal is affixed.

IN WITNESS WHEREOF, Mortgagor has caused these presents to be executed on the day and year first above written.

Witness

Bayfront Preservation Foundation, LLC,
a New Jersey limited liability company

By: _____
Thomas Gill
Managing Member

STATE OF NEW JERSEY :
: SS
COUNTY OF ATLANTIC :

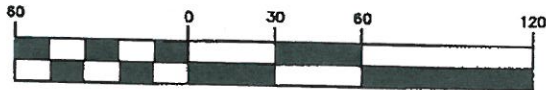
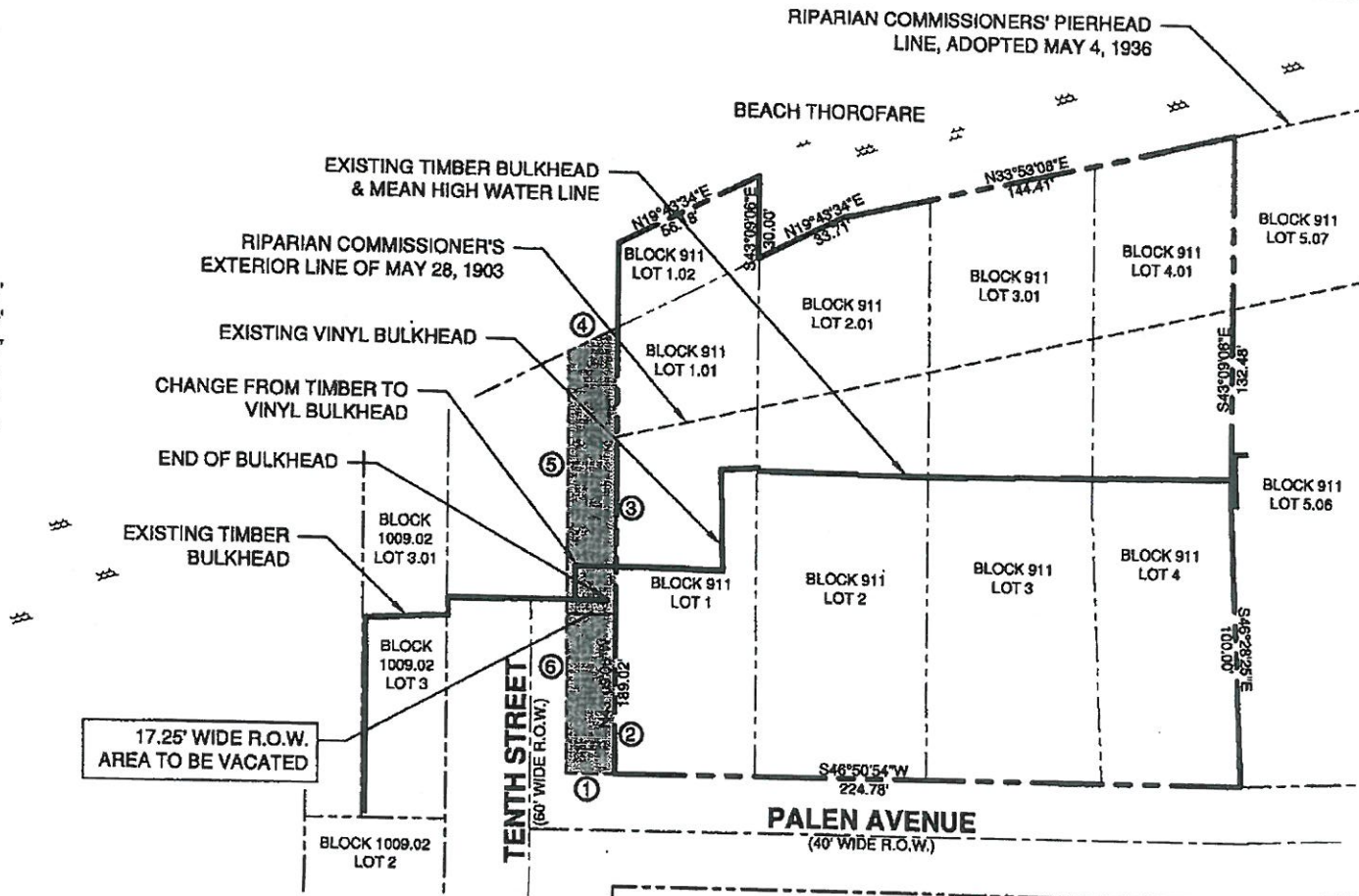
BE IT REMEMBERED, that on June _____, 2014, before me, the subscriber, an officer duly authorized pursuant to N.J.S.A. 46:14-6.1, personally appeared THOMAS GILL, the Managing Member of Bayfront Preservation Foundation, LLC, who, I am satisfied, is the person named in and who executed the within Instrument on behalf of such entity, and thereupon acknowledged that such person signed and delivered the same as the act and the deed of such entity, for the uses and purposes therein expressed.

An Attorney at Law of New Jersey

SCHEDULE A



- ① S46°50'54"W - 17.25'
- ② N43°09'06"W - 62.40'
- ③ N43°09'06"W - 87.79'
- ④ N19°43'34"E - 19.38'
- ⑤ S43°09'06"E - 84.65'
- ⑥ S43°09'06"E - 74.37'



(IN FEET)
1 inch = 60 ft.

VACATION EXHIBIT

REV. 3/13/14

DATE: 1/10/14

PROJECT #: 6623

SCALE: 1" = 60'

SHEET: 1 OF 1

EDA Engineering
Design
Associates, P.A.

Engineers, Environmental Planners, Landscape Architects

CAMBRIDGE PROFESSIONAL OFFICES
5 Cambridge Drive Ocean View New Jersey 08220
(809) 390-0332 Fax (809) 390-9204
CERTIFICATE OF AUTHORIZATION: 24627/2020

VACATION EXHIBIT
BLOCK 911 LOTS 1, 1.01, 1.02, 2, 2.01, 3, 3.01, 4 & 4.01
CITY OF OCEAN CITY
CAPE MAY COUNTY, NEW JERSEY



Corporate Headquarters
7 Pleasant Hill Road
Cranbury, NJ 08512

Tel: 732.390.5858 • Fax: 732.390.9496
www.whitmanco.com

May 12, 2014

Mr. Thomas Gill
Bayfront Preservation Foundation, LLC
6825 Tilton Road; Building C
Egg Harbor Township, NJ 08234

RE: Proposal for Environmental Services
Underground Storage Tank Removal Oversight Services
924 Palen Avenue
Ocean City, Cape May County, New Jersey
Proposal #32851, Revision 1

Dear Tom:

Whitman is pleased to provide Bayfront Preservation Foundation, LLC with the following proposal for professional environmental services to oversee all of the Underground Storage Tank (UST) removal activities. Whitman will investigate the soil and ground water for potential impacts associated with the regulated tank system found at the site.

This proposal is based on our discussions of the project during our meeting of February 28, 2014 and a NJDEP DataMiner file review conducted after our meeting. All work will be done in accordance with the New Jersey Department of Environmental Protection's (NJDEP's) Technical Regulations under the supervision of a Licensed Site Remediation Professional (LSRP) in accordance with Site Remediation Reform Act (SRRA) NJSA 58:10C-1.

As detailed in this proposal, potential changes in Scope are not subject to conditions set forth in the Guaranteed Maximum Price Contract Addendum.

1.0 **BACKGROUND**

Three (3) underground storage tanks (USTs), two (2) with a capacity of 12,000 gallons and one (1) with a capacity of 8,000 gallons, are located on the subject property. All of the subject tanks are multi-compartmental tanks and store various grades of gasoline, diesel and mixed gasoline-oil for 2 cycle engine use. The USTs are registered with the New Jersey Department of Environmental Protection (NJDEP) and are currently non-compliant.

The NJDEP has four (4) tanks listed for this site. Two (2) unleaded gasoline tanks with 6,000 gallons of capacity, one (1) 10,000 gallon diesel tank and one (1) 2,000 gallon unleaded gasoline tank. These four tanks are believed to be the two compartmentalized tanks. The other 8,000 gallon compartmentalized tank is not registered. This tank will require to be registered as part of the closure procedure.

Environmental and Engineering Excellence from Concept to Completion

It has been determined that the two tank fields for the three tanks described are approximately 80 feet from the dispensers. This proposal requires several assumptions. If it is found to be different, the cost may change.

1.1 Assumptions

1. Tanks are, as described above, compartmentalized tanks as follows:
 - a. 12,000g - 6,000 high test unleaded gasoline/6,000 regular grade unleaded gasoline
 - b. 12,000g - 10,000 diesel/2,000 unleaded gasoline
 - c. 8,000g - 3,000 unleaded gasoline/3,000 diesel/2,000 unleaded gasoline w/2 cycle oil
2. Piping runs are 80 feet long.
3. From two separate excavation areas, of the compartmentalized tanks, all of the piping runs are in the same trench.
4. Tanks are partially submerged in ground water.
5. USTs are located under crushed shells, are anchored by concrete dead-men, and are readily accessible.
6. Excavation size of (2) 12,000g USTs 40' x 25' (8' diameter tanks)
7. Excavation size of (1) 8,000g UST 30' x 15' (8' diameter tank)
8. Ground water is found no greater than 4.0' below grade

2.0 SCOPE OF WORK

Under this scope of work, Whitman will perform the following tasks.

A Licensed Site Remediation Professionals (LSRPs) will be retained and placed in charge of the project. Therefore, all work for this project will be conducted under the oversight of a Whitman LSRP. The LSRP will be involved with the decision making processes, will review all documentation prepared in association with the project, and will have final sign off at completion of the project, which includes completion of an Area of Concern (AOC) Remedial Action Outcome (RAO) document for the USTs.

Additionally, under the SRRA, notification to the NJDEP of the assigned LSRP is required, as is completion of the LSRP forms related to the project. NJDEP will receive copies of documents associated with the project and determine if it will conduct an audit. As required by NJDEP, all documentation submitted to the NJDEP will also be provided electronically.

Under this scope of work, Whitman will perform the following tasks:

- Initiation and Retention of an LSRP;
- The LSRP will register the 8,000 gallon UST (unless documentation can be found);
- File Closure Plan with the NJDEP Bureau of Underground Storage Tanks;
- Preparation of Health and Safety Plan and Quality Assurance Project Plan (QAPP);
- Install and operate ground water pretreatment while USTs are removed
- Oversight of UST Removal by Whitman Subcontractor Christopher Construction Co. Inc;
- Site Assessment;
- Transport and Dispose up to 600 tons of impacted soil
- Closure Report and LSRP Review; and
- AOC specific Remedial Action Outcome (RAO) Form and RAO.

2.1 Register 8,000 gallon compartmentalized UST

Submit UST registration to NJDEP for additional tank to NJDEP along with all fees.

2.2 UST System Closure Notification Form

Submit Closure Notification to the NJDEP, county health officials and assist in securing any local permits from the City of Ocean City, including all associated fees. Notification must be given a minimum of fourteen (14) calendar days prior to closure.

2.3 Receptor Evaluation

Whitman has no evidence that soil or ground water impact will be found at this site; therefore, a Receptor Evaluation will not be required. Should a Receptor Evaluation be required, it will be submitted along with any of the required documents within the mandatory time frames for submittal of documentation under SRRA by the LSRP.

2.4 Health and Safety Plan and Quality Assurance Project Plan (QAPP)

A site-specific Health and Safety Plan as required by OSHA regulations will be prepared. A QAPP will be prepared in accordance with the Technical Requirements for Site Remediation.

2.5 Obtain Discharge Permit

Whitman will apply for and pay for a wastewater discharge permit to discharge treated ground water into the Ocean City Utility Authority sanitary sewer. The contractor will install two (2) four inch (4.0") diameter wells to the desired depth (necessary bottom of excavation for



tanks) and pump the ground water to two (2) 22,000 gallon frac tanks. The ground water within the frac tanks will then be pumped, by Whitman, to two (2) 2,000 pound liquid phase carbon units. The carbons units will be installed in series with sample ports between the units and exiting the units to verify the quality of the ground water. The discharge of ground water to the sanitary sewer system will be metered and be paid for based on the volume of ground water discharged. Cost of ground water disposal not included with base price. One carbon fill (two vessels) and disposal is included in the cost.

Electric required to operate all of the pumps is 110 V and 220 V, three phases. Electric is on site or provided by others.

2.6 UST Removal

Following the mandatory waiting period for the closure and the securing of all permits, Whitman will direct and oversee the removal of the UST's by Whitman's qualified contractor Christopher Construction Co. Inc. Removal activities associated with USTs include:

- Install ground water treatment equipment for dewatering the excavation. Two (2) 22,000 gallon frac tanks, (2) 2,000 lb. carbon units, and control panel.
- Oversight of excavation and exposing the tops of the tanks.
- Overseeing the cut drain and removal of the suction, return and fill, and vent lines.
- Oversee the removal of all residual liquid and the cleaning of the USTs. Whitman will verify that all residual liquid will be properly transported and disposed of off-site.
- Oversee the removal of the USTs and associated piping and oversee the transport of removed materials to an approved recycling facility.
- Oversee the backfilling of the open excavation and verify that the supplied material is certified clean fill.
- Breakdown and removal of all onsite ground water treatment equipment.

2.7 Site Assessment

Prior to the USTs being removed, Whitman will perform a site investigation in accordance with NJDEP Technical Guidance Document for Investigation of UST Systems to determine if a release from the UST has impacted soil or ground water above the applicable NJDEP standards. Because the tanks are assumed to be in ground water, Whitman will obtain soil samples from the perimeter of the 40' x 25' excavation at the soil/ground water interface every thirty (30') linear feet around the perimeter of the excavation. Similarly, Whitman will also obtain soil samples from the perimeter of the 30' x 15' excavation at the soil/ground water interface every thirty (30') linear feet around the perimeter of the excavation. Whitman will also obtain soil samples from directly beneath the piping from the tanks to the dispensers from within the trenches

(assumed to be above ground water) every fifteen (15) linear feet. All samples will be obtained insitu prior to the USTs being removed to expedite the transition from UST removal to UST installation. Any impacted soil found will be remediated at the time of UST removal post excavation soil samples obtained to verify that the soil samples are within the NJDEP guidelines.

The soil samples will be analyzed for the respective stored products from the tank systems. When the density of the tank contents is less than 1 g/ml (LNAPL), soil samples will be collected zero to six inches above the high water table with one sample collected for every 30 linear feet of each sidewall, A minimum of one sample per sidewall will be collected. Samples will be biased to locations of elevated field screening readings and/or visual staining;

Two (2) temporary well points will also be used to obtain ground water samples from each of the respective excavations to assess the quality of the ground water associated with each tank system. These temporary well points will be installed a maximum of 10 feet downgradient of each of the respective excavations. Ground water will be analyzed according to the respective stored product from each tank system excavation.

A total of six (6) soil samples will be taken from the side walls of the excavation of the 8,000 gallon tank zero to six inches above the high water table. Six (6) samples will be taken from each trench line, twelve (12) samples total, of the piping from the two separate UST excavations.

All soil samples will be analyzed for volatile organics plus forward library search by EPA method 8260 (VOA+10) along with Tertiary Butyl Alcohol (TBA), and Methyl Tertiary Butyl Ether (MTBE) for gasoline constituents. The soil samples will also be analyzed for Extractable Petroleum Hydrocarbons (EPH) by method 10/08 rev 3. Twenty-five percent (25%) of the EPH samples with results greater than 1,000 ppm must be analyzed for 2-methyl naphthalene and naphthalene. A total of twenty-two (22) soil samples will be analyzed for the tanks and piping as part of the initial site assessment.

Two (2) temporary well points will be installed and sampled as part of the initial site assessment due to the expected ground water within the excavations. Each of the temporary wells will be analyzed for VOA+10, TBA, MTBE, and Base Neutral Semi-Volatile Organics plus forward library search (BN+25). Field and trip blanks will be taken, maintained and analyzed as required.

2.8 Remedial Action /Post UST Removal

After the USTs are removed, Whitman will oversee the removal of approximately 600 tons of historic fill from the property by Christopher Construction Co. Inc. This historic fill layer has been identified throughout the property between 4.0 feet and 9.0 feet below grade (bg). This five foot band will be excavated and removed from the 60' x 40' area between the tank field and the

bulkhead. If this material is classified as non-hazardous ID-27 material, it will be transported and disposed. If this soil is classified as hazardous, disposal additional costs will be incurred based on classification obtained off-site. This classification will take place at the time of the initial insitu site assessment for the tanks and piping. Upon classification as ID-27, the approximately 600 tons of soil will be excavated and loaded by the contractor and transported and disposed under this agreement, by Whitman. Any material to replace the void created by this excavation will be done by Whitman's contractor.

2.9 Closure Report and LSRP Review

Whitman will evaluate all data obtained as part of this tank closure and assessment. If the results from the site investigation outlined in Section 2.6 are below the applicable NJDEP soil and ground water standard, Whitman will detail the results in a UST Closure/Site Investigation (SI) report in accordance with the NJDEP Technical Requirements for Site Remediation for LSRP review and approval and will issue an area specific RAO. However, if the results are above the applicable NJDEP soil and/or ground water standards, additional work will be required.

3.0 COST

The following represents *estimates* of the cost to complete the Scope of Work. If additional costs become necessary to complete the project due to unforeseen circumstances, the client will be advised prior to commencement.

The following conditions as discussed in this proposal are not subject to conditions set forth in the Guaranteed Maximum Price Contract Addendum:

- Additional costs incurred as a result of conditions different than assumptions set forth in section 1.1, such as additional USTs, larger capacity USTs, length of piping runs, increased excavation sizes.
- The cost to dispose of ground water treated during dewatering.
- The cost to dispose of soil in excess of 600 tons.
- The cost for carbon change out (if needed) during dewatering.
- NJDEP fees associated with reporting submission.

<u>Activity</u>	<u>Estimated Cost</u>
1. Register the 8,000 Gallon UST with Fees	\$ 1,600

<u>Activity</u>	<u>Estimated Cost</u>
2. Closure Plan, County and Local Health Department Notifications and Permits, including Permit by Rule for ground water discharge to sanitary sewer system.	2,350
3. Prepare Health and Safety Plan and QAPP	3,960
4. Two (2) 22,000 Gallon Frank Tanks, two (2)* 2,000 pound carbon units in series, discharge to sanitary sewer and metered (30 days). (Pumps require 110 V and 220 V three phase service.)	26,203
5. Labor Installation of Equipment Pumps and Hoses:	
• 8 hrs. – Project Manager @ \$140/hr.	1,120
• 16 hrs. – Environmental Scientist @ \$75/hr.	1,200
6. Labor Dispost of Carbon and Breakdown of Site/Cleaning Tanks/Units	2,256
• 8 hrs – Project Manager @ \$140/hr.	1,120
• 8 hrs Environmental Scientist @ \$75/hr.	600
7. UST Removal (Oversight [2 days])	
• Labor – Hydrogeologist 20 hrs. @ \$90/hr.	1,800
<u>Site Assessment:</u>	
• Labor – 10 hrs. Project Manager @ \$140/hr	\$1,400
• 10 hrs. Environmental Scientist @ \$75/hr.	750
• Equipment Including Geo-Probe	1,540
• LSRP Site Visit 6 hr. @ 190/hr.	<u>1,140</u>
	4,830
<u>Analytical:</u>	
• 22 Soil Samples Volatile Organic @ \$135 ea.	\$2,970
• 22 Soil Samples EPH @ \$185 ea.	4,070
• 4 Ground water Sample B/N +25 @ \$185 ea.	740
• 4 Ground water Samples Volatile Organics @ \$135 ea.	540
• 2 Soil Samples for ID-27 Waste Classification @ \$635 ea.	<u>1,270</u>
	9,590

<u>Activity</u>	<u>Estimated Cost</u>
8. Excavation Oversight and Sampling	
• 40 hrs @ \$75/hr.	3,000
• 10 Soil Samples Volatile Organics \$135 ea.	1,350
• 10 Soil Samples EPH \$185 ea.	1,850
9. Transportation and Disposal of Impacted Soil 600 tons @ \$45/ton	27,000
10. Cost Of Subcontracting for UST Removal Project (Christopher)	87,650
11. Data Evaluation, Preparation of LSRP Forms, LSRP Review/ Inspection, and Closure/SI Report Preparation.	<u>18,800¹</u>
Total Estimated Cost	\$196,279

Notes:

¹ This cost does not include NJDEP fees.

*This cost does not include cost of carbon change out. If required, carbon change out cost will be \$9,980.00
This cost does not include a cost for disposal of ground water

A \$35,000 retainer is required to initiate work and will be applied to the FINAL invoice issued for this proposal.

If the Site Investigation determines that additional remedial steps are required at the site, the remedial investigation strategy and a Scope of Work will be developed for the Remedial Action at the discretion of the LSRP. The cost of the development strategy will be \$2,400.

4.0 FEE STRUCTURE

The fee structure for this work is included in Attachment 1 as part of this proposal and will be a part of the Agreement between Bayfront Preservation Foundation, LLC and Whitman.

5.0 PROPOSAL PERIOD

This proposal is valid for a period of 45 days.

Mr. Thomas Gill
Bayfront Preservation Foundation, LLC
Proposal #32851, Revision 1
May 12, 2014
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6.0 TERMS AND CONDITIONS

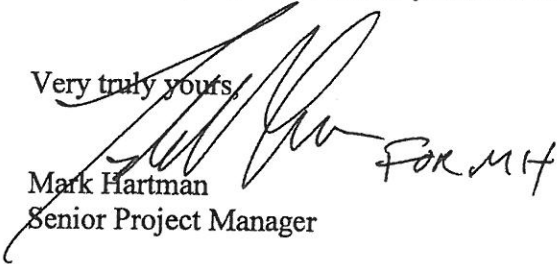
Whitman's Standard Terms and Conditions are included as Attachment 2 as part of this proposal and will be a part of the Agreement between Bayfront Preservation Foundation, LLC and Whitman.

7.0 SUMMARY

This proposal describes the services to be provided by Whitman to Bayfront Preservation Foundation, LLC to assess the environmental condition of the site located in Ocean City, New Jersey. The estimated cost to complete the Scope of Work is \$196,279.

To initiate the Scope of Work, please return a signed copy of this proposal, along with the required retainer check as noted above. Please contact me at (609) 804-9100 if you have any questions regarding this proposal.

Very truly yours,


Mark Hartman
Senior Project Manager

MH/dr
Attachments



Mr. Thomas Gill
Bayfront Preservation Foundation, LLC
Proposal #32851, Revision 1
May 12, 2014
Page 10

Client's or Agent's Signature

Type or Print Name of Client or Agent

Name of Company

Date

Name & Address of Whom to Invoice:

Name

Company

Address



Whitman

Todd Gerber, LSRP

Type or Print Name

President

Title

May 12, 2014

Date

City, State, Zip

Phone Number



ATTACHMENT 1
FEE STRUCTURE
Proposal #32851, Revision 1

1. Professional fees for the services of Whitman's staff are at the following rates:

Principal	\$260.00 per hour
CEO	\$225.00 per hour
President	\$200.00 per hour
Senior Vice President	\$190.00 per hour
LSRP	\$190.00 per hour
Vice President	\$170.00 per hour
Director	\$155.00 per hour
Senior Project/Technical Manager	\$140.00 per hour
Project/Construction/Technical Manager - II	\$125.00 per hour
Project/Construction/Technical Manager - I	\$115.00 per hour
Senior Engineer - II	\$110.00 per hour
Senior Scientist/Hydrogeologist - II	\$105.00 per hour
Senior Engineer - I	\$100.00 per hour
Senior Scientist/Hydrogeologist - I	\$ 95.00 per hour
Project Engineer - II	\$ 95.00 per hour
Project Scientist/Hydrogeologist - II	\$ 90.00 per hour
Project Engineer I	\$ 90.00 per hour
Project Scientist/Hydrogeologist - I	\$ 85.00 per hour
Staff Engineer - II	\$ 85.00 per hour
Staff Scientist/Hydrogeologist - II	\$ 80.00 per hour
Staff Engineer - I	\$ 80.00 per hour
Staff Scientist/Hydrogeologist - I	\$ 75.00 per hour
CAD	\$ 75.00 per hour
Environmental Technician - II	\$ 70.00 per hour
Environmental Technician - I	\$ 65.00 per hour
Administrator	\$ 60.00 per hour
Environmental Laborer/Driver	\$ 55.00 per hour
Word Processor/Administrative Support	\$ 50.00 per hour

These rates also apply to overtime work.

2. Expert testimony for deposition or trial is billed at 1 ½ standard billing rate.
3. Labor billings include miscellaneous direct costs such as telephone calls, faxes, copying and postage. No charges are levied for use of computers, plotters, or CAD systems.
4. Subcontractors' costs, plus 20% service fee.
5. Daily vehicle use will be invoiced at \$90.00 per day.



ATTACHMENT 2

CONTRACT BETWEEN BAYFRONT PRESERVATION FOUNDATION, LLC (CLIENT) AND WHITMAN PROPOSAL #32851, REVISION 1 STANDARD TERMS AND CONDITIONS FOR PROFESSIONAL ENVIRONMENTAL SERVICES

1. **AGREEMENT:** This Agreement shall be between Whitman and the Client identified herein (Client), and shall consist of a Proposal and Standard Terms and Conditions. The Agreement shall become effective upon execution by both Whitman and Client.
2. **CHANGES:** This Agreement may be modified with the mutual consent of both parties. All modifications must be made in writing and must be signed by Client and by Whitman.
3. **TERMINATION:** The obligation to provide services under this Agreement may be terminated by either party upon ten days written notice. In the event of termination, Whitman will be paid for all services rendered and reimbursable expenses incurred to the date of the termination and, in addition, all costs or expenses directly attributable to termination.
4. **DELAYS:** Whitman shall not be responsible to Client or to any other party for damages of any kind including, but not limited to, lost revenues or business, or any consequential or incidental damages due to delays that were not reasonably foreseeable, or due to delays that were foreseeable but not caused solely by Whitman's negligence or willful misconduct. In the case of delays that are foreseeable, Whitman will notify the Client as to the nature and duration of such delay as soon as the possibility of the delay becomes apparent to Whitman.
5. **CLIENT'S RESPONSIBILITIES:** It is Client's responsibility to provide Whitman with all available information pertinent to the project, including previous reports and any other data or information necessary for the accomplishment of the Scope of Work. Client is responsible for providing access to the site and to on-site structures and for providing information on subsurface structures, utilities, chemicals, hazardous wastes and hazardous materials that may affect Whitman's ability or safety in performing the agreed upon services. Client is responsible to provide Whitman with as-built diagrams indicating locations of underground utilities in and around the designated work area. If Whitman secures utility mark-outs, and Client cannot or fails to provide as-built information, Whitman will be held harmless for any and all related utility damages. Whitman shall not be responsible nor liable for defects in work attributable to Whitman's reliance upon or use of information, data, or drawings provided by Client, or by Client's failure to provide information or access.

If requested by Whitman, the Client shall furnish evidence of its financial ability to fulfill its obligations under the Agreement. In the absence of such assurance, Whitman shall have the right to seek payment in advance or to suspend work and/or delay commencement of work until such assurance is received and accepted.

Client, and not Whitman, shall be responsible for reporting any and all discharges, spills, or other releases of hazardous substances, wastes or pollutants in accordance with applicable local, state and/or federal statutes, rules, regulations, codes or ordinances.

6. **WHITMAN'S RESPONSIBILITIES:** Whitman shall perform the Scope of Work provided in this Agreement in an expeditious and professional manner and in accordance with professionally accepted practices and standards of care in the geographic area and at the time in which the Scope of Work is performed. This warranty is in lieu of any and all other warranties, either express or implied. Client recognizes that the limited nature of available data results in some uncertainty with respect to the interpretation of site conditions, despite the use of due professional care.

All Whitman field and technical personnel have received appropriate safety training in hazardous materials and are OSHA certified. Whitman shall be responsible for the management and supervision of subcontractors it retains to perform the Scope of Work under this Agreement. Whitman shall provide notice to Client of any and all known or suspected discharges, spills, or other releases of hazardous substances, wastes, or pollutants, and Client shall be responsible for reporting such discharges to the appropriate regulatory authorities.

Whitman shall perform the Scope of Work as an independent contractor and shall have responsibility for and control over the details and means of performing the Scope of Work. Whitman shall be subject to the directions of Client only with regard to the scope of the services provided and the general results required.

7. **SUBCONTRACTORS:** Whitman shall employ subcontractors as necessary to perform the Scope of Work. The identity and qualifications of all subcontractors shall be made known to Client upon request. Billing for subcontractor services shall be as specified in the Agreement under Fee Structure. Subcontractors used by Whitman have received all specified Hazardous Materials Worker training and annual updates as required under OSHA.

If Client elects to contract directly with any contractor or subcontractor, Client will be solely and completely responsible for all charges and costs incurred for the contractor's or subcontractor's services. Contractors and subcontractors hired directly by Client must have all required OSHA training and certification. Client shall indemnify and hold harmless Whitman from any and all claims, demands, damages, and liability resulting from the activities of any contractor, subcontractor, employee or agent Client engages directly to perform services in connection with the project that is the subject of this Agreement. Whitman reserves the right to refuse to work with any contractor or subcontractor who is not qualified or properly certified for the work for which it has been engaged by Client.



PROPOSAL #32851, REVISION 1

8. **EXISTING HAZARDOUS CONDITIONS:** Whitman shall assume no liability for the existence of any hazardous or toxic material (chemical or waste) or any other type of environmental hazard or pollution associated with Client's property or operation, or for any release or discharge of such material which may occur during the performance of the Scope of Work due to Whitman negligence. It is understood that in performing the Scope of Work Whitman neither creates nor contributes to the creation of hazardous or toxic material (chemical or waste) or any other type of environmental hazard or pollution.
9. **CONSEQUENTIAL DAMAGES:** Neither Whitman nor its subcontractors shall be liable for indirect, incidental or consequential damages, such as loss of product, loss of use of equipment or facility, loss of anticipated profit or revenues, non-operation or increased expense of operation, due to Whitman's or its subcontractors' performance or nonperformance of the Scope of Work.
10. **HOLD HARMLESS:** Client agrees to indemnify, save, and hold harmless Whitman, its officers and employees from any and all claims and damages which are caused solely or in part by Client's, its agents' or employees' acts of negligence, omissions, errors, intentional conduct, fraud or dishonesty, or that are caused by any hazardous or toxic material (chemical or waste) or any other type of environmental hazard or pollution associated with the Client's property operation or that is released or discharged during the performance of the Scope of Work.

Disposal of Hazardous/Non-Hazardous Material & Environmental Indemnification:

As part of its responsibilities, Whitman is required to contact outside contractors and disposal facilities on behalf of the client and arrange for the disposal of all hazardous/non-hazardous and/or toxic material. Whitman will utilize contractors and disposal facilities which have special licensing, insurance and other qualifications to handle, transport, and dispose of client's hazardous materials in compliance with federal, state and local laws. It is understood that in performing the Scope of Work, Whitman neither generates nor contributes to the creation of hazardous or toxic material (chemical or waste) or any other type of environmental hazard or pollution. Client acknowledges that the arrangement for the disposal of Client's hazardous materials by Whitman and/or its outside contractors does not relieve the Client of responsibility for the disposal of the hazardous or toxic material. Whitman shall not be liable for the selection and utilization of outside contractors and disposal facilities provided they have the prerequisite licensing and insurance to handle, transport, and dispose of client's hazardous materials in compliance with federal, state and local laws at the time of contract. Whitman cannot guarantee that a disposal facility will maintain its licensing or that once disposed of at a licensed facility Client's hazardous or toxic material (chemical or waste) will not be released or discharged. In such events, Client's hazardous or toxic material (chemical or waste) may have to be removed to another licensed disposal facility. The costs of such removal, transportation and disposal shall remain the responsibility of the Client.

Client agrees to indemnify, save, and hold harmless Whitman, its officers and employees from any and all claims and damages which are caused solely or in part by the storage, removal, transporting and/or disposal of all hazardous or toxic material (chemical or waste) or any other type of environmental hazard or pollution associated with the Client's operation.

11. **LIMITATION OF LIABILITY AND INDEMNIFICATION:** Client agrees to limit Whitman's liability to itself and to all other parties, and to defend, indemnify, and hold harmless Whitman, its employees and subcontractors, from any and all costs, expenses, fees, losses, claims, demands, liabilities, suits, actions, and damages whatsoever, including attorney's fees, arising out of or resulting from Whitman's negligent acts, errors or omissions, such that the total aggregate liability of Whitman to all parties shall not exceed Whitman's applicable professional liability insurance coverage.
12. **INSURANCE COVERAGE:** For the purpose of performing the Scope of Work, Whitman carries the following forms of insurance coverage: Comprehensive General Liability Insurance, Professional Liability Insurance/Pollution Liability, Automobile Liability, and Workmen's Compensation Insurance for all Whitman employees. Subcontractors to Whitman are required to provide their own insurance coverage. Whitman's Insurance Certificate is attached.
13. **OWNERSHIP OF DOCUMENTS:** All drawings, reports, data and other project information developed in the execution of the Scope of Work (the "Documents") shall be the property of the Client upon full payment of Whitman's fees for the services rendered. The Documents, however, are not intended or represented to be suitable for reuse by Client or others on extensions of the Scope of Work or on any other project. Any use or reuse of the Documents without written approval, verification, and adaptation by Whitman for the specific purpose intended will be a Client's sole risk and without liability to Whitman or its subcontractors. Whitman may retain copies of the Documents for record purposes. Whitman will keep laboratory data on file for five years following completion and delivery to Client and reserves the right to discard the data after that time without notice to Client.
14. **PROPRIETARY AND CONFIDENTIAL INFORMATION:** Whitman will use its best efforts to protect proprietary and confidential information developed or provided by Client to Whitman during performance of the Scope of Work including, in its discretion, notice to its employees to prevent unauthorized publication and disclosure.
15. **PROMOTIONAL MATERIALS:** Whitman shall be entitled to use, for promotional purposes, Client's name, a general description of the services performed, and a general description of the project, unless requested by Client not to do so.
16. **PAYMENT OF FEES:** Clients are billed monthly by Whitman. **Payment is due upon receipt of invoice.** Failure to pay promptly will result in a suspension of work until all outstanding balances are paid in full. Whitman reserves the right to pre-bill Client for subcontracted services in order to guarantee prompt payment to subcontractors. Whitman will assess a service charge of 1½% per month on any balance that remains due and owing 30 days following the date of the invoice. ~~In the event that legal action is required by Whitman to effect collection, Client will be responsible for the payment of reasonable expenses and attorneys' fees incurred by Whitman in connection therewith.~~



PROPOSAL #32851, REVISION 1

17. **UNFORESEEN OCCURRENCES:** If, during the performance of services, any unforeseen condition or occurrence is encountered which, in Whitman's judgment, significantly affects or may affect the services, the risk involved in providing the services, or the recommended Scope of Work, Whitman will promptly notify Client. Subsequent to that notification, Whitman may: a.) if practical, in Whitman's sole judgment, complete the original Scope of Work in accordance with the procedures originally intended in the proposal; b.) agree with Client to modify the Scope of Work and the estimate of charges to include study of the previously unforeseen conditions or occurrences, such revision to be in writing and signed by the parties and incorporated herein; or c.) terminate the services effective on the date specified by Whitman in writing.
18. **CLAIMS:** In the event that Client asserts a claim against Whitman at law or otherwise for any alleged error, omission, or negligent or intentional act arising out of the performance of the Scope of Work, that cannot be mutually resolved without resort to litigation, Client agrees to bring such claim to the exclusive jurisdiction of the State and Federal courts of the State of New Jersey. ~~If Client fails to prove such claim, then Client shall pay all costs incurred by Whitman in defending against the claim, including, without limitation, personnel related costs, attorneys' fees, court costs, and other claim-related expenses, including, without limitation, costs, fees, and expenses of experts. Client agrees that for the purposes of this Agreement, it shall be deemed to have failed to prove its claim when the judgment, if any, against Whitman in litigation is for a sum of money less than that sum or value of services offered by Whitman to resolve the matter without litigation.~~
19. **SURVIVAL:** All obligations arising prior to the termination of this Agreement or completion of the activities to be performed hereunder, and all provisions of this Agreement allocating responsibility or liability between Client and Whitman, shall survive completion of the Scope of Work and termination of this Agreement. Whitman's failure to enforce any term, condition, or provision of this Agreement shall not be deemed to be a waiver of its right of enforcement, and Whitman reserves the right to enforce any such term, condition, or provision at any time, subject to paragraph 20 of this Agreement. Without in any way limiting the forgoing, the relationship between Whitman and Client shall terminate upon completion of the Scope of Work.
20. **TIME BAR TO LEGAL ACTION:** All legal actions by either party against the other for breach of this Agreement, or for the failure to perform in accordance with the applicable standard of care, however denominated, shall be barred two (2) years from the time claimant knew or should have known of the claim, but, in any event, no later than ~~four (4)~~ six (6) years from the substantial completion of the Scope of Work.
21. **AGREEMENT:** Signature to this document by both Whitman and Client shall constitute an agreement by the parties to the performance of the Scope of Work for the specified fees, under the Standard Terms and Conditions presented in this document. Facsimile signatures shall be sufficient in lieu of original signatures unless otherwise noted by Client. This Agreement shall be executed, governed, enforced, and interpreted in accordance with the laws of the State of New Jersey.

Supplemental Terms and Conditions for Mold

1. **Parties:** The Parties to these Supplemental Terms and Conditions are Whitman and client of Whitman, also referred to as "Client," collectively, the "Parties." These Supplemental Terms and Conditions are as of the date set out below on the signature lines.
2. **Intent:** It is the intent of the Parties that these Supplemental Terms and Conditions shall control over and govern any other terms and conditions, agreements or purchase orders executed by the Parties. These terms and conditions may not be modified by generic "boilerplate" references in other documents, but may only be modified by specific references hereto.
3. **Additional Terms:** The Parties hereby agree to the following Supplemental Terms and Conditions.
 - A. **Standard of Care/Warranty for Mold:** The Parties agree and understand that the presence of mold and the evolving understanding of risks which may be associated with human exposure to certain type of mold represent an area of medical, scientific and industry knowledge which is only beginning to mature and that this area of knowledge at present is, at best, incomplete. The Parties agree and understand that mold is mobile; it can arise in new places and recur in areas which have been remediated due to water intrusion events and processes beyond the control of Whitman. Accordingly, Whitman is not liable for such new or recurring mold growths. Assessments of water intrusion or accumulation risk by Whitman, if any, are not to be understood as a complete list of potential ways in which water intrusion or accumulation may occur at the Site(s) subject to this Agreement. **NO OTHER WARRANTY, EXPRESS OR IMPLIED, IS MADE OR INTENDED HEREBY AND ANY AND ALL OTHER SUCH WARRANTIES ARE HEREBY FULLY AND COMPLETELY DISCLAIMED BY WHITMAN.**
 - B. **Mold Indemnity:** Client hereby agrees to indemnify, defend and hold harmless Whitman, its joint ventures, affiliates, parent and subsidiary entities and the employees, officers, directors, representatives and agents of Whitman and all of the foregoing from and against any and all claims, suits, causes of actions, liabilities, costs (including but not limited to reasonable attorney's fees) and judgments which are based in whole or in part upon (or which sound in) mold-based liability, except to the extent of the sole negligence of Whitman and the other Indemnitees set out immediately preceding, but subject always to the Limitation of Liability set out elsewhere herein.

Supplemental Terms for Licensed Site Remediation Professionals

1. **Confidentiality Of Information Provided By Client:** Whitman shall not reveal any information provided by the client and obtained in its professional capacity, *except as may be authorized or required by law*, without the prior consent of the client, provided the information is not in the public domain and the client has notified Whitman, in writing, that the information is confidential.
2. **Intent:** It is the intent of the Parties that these Supplemental Terms and Conditions shall control over and govern any other terms and conditions, agreements or purchase orders executed by the Parties including the Standard Terms and Conditions above. These terms and conditions may not be modified by generic "boilerplate" references in other documents, but may only be modified by specific references hereto.



PROPOSAL #32851, REVISION 1

3. **Representation:** A Licensed Site Remediation Professional ("LSRP") is regulated by the State of New Jersey and is obligated to exercise independent professional judgment. The LSRP must comply with all of the requirements and procedures of the Site Remediation Reform Act as well as the regulations and mandates of the New Jersey Site Remediation Professional Licensing Board (the "Board"). In the event Whitman learns of any action or deviations from the remedial action workplan or other report concerning the remediation; or any material fact or data or other information which would result in a report with material differences from any previously submitted report; or any violation of any law, rule or regulation, Whitman is obligated to notify both the client and New Jersey Department of Environmental Protection ("NJDEP"), in writing, of those facts, data, information and circumstances.
4. **Early Termination:** In the event the services of an LSRP are terminated prior to the issuance of a Response Action Outcome Letter, Whitman is obligated to notify the NJDEP within fifteen (15) days after being released from responsibility for remediation. Client is aware that the LSRP will discontinue work if payments are not received by Whitman on a timely basis.
5. **Nature of LSRP Services.** The Client recognizes that services provided by Whitman are for the benefit of the Client in the context of the Client's remediation work and the services provided by Whitman will include judgments based upon available data rather than upon scientific fact. The Client understands that Whitman may be required to make judgments or decisions based upon information provided by the Client or its contractors, and agrees that Whitman may rely on such information in performing services under this Agreement. The LSRP will make recommendations as to actions the LSRP identifies as required based on the LSRP's professional judgment upon and any applicable statutes, regulations and guidance documents. The Client acknowledges that the LSRP's provision of recommendations or issuance of any Response Action Outcome (RAO) does not constitute either: (a) an acceptance of liability for any contamination by Whitman or any LSRP employed by Whitman or (b) any form of guarantee, indemnity or insurance for any legal liability of the Client. Further, the Client acknowledges that when Whitman's services hereunder entail the use of professional judgment, Whitman is not providing any guarantee that other professional reviewing Whitman's work hereunder may not offer different recommendations or reach different conclusions based on that professional's use of his or her judgment. The Client acknowledges that Whitman is not responsible to the Client or any third party for costs resulting from a different recommendation or different conclusion rendered by another party. The Client acknowledges that (a) any determinations, conclusions or opinions rendered by the LSRP will reflect the LSRP's independent professional judgment based upon the studies, investigations, tests, analyses, level of supervision or other services that the LSRP determines to be necessary or appropriate in order to establish a basis for such determinations, conclusions or opinions, (b) the use of professional judgment can vary between professionals and other professionals, state agencies or state licensing boards and their staff may have legitimate differences of opinion regarding various aspects of an environmental site assessment or remediation and (c) the NJDEP, the Board or their respective staffs may require additional assessment and/or remediation services, regardless of whether Whitman's services have been performed competently and in accordance with the standard of care set forth in the NJDEP's Technical Regulations (NJAC 7:26E) and associated guidelines, as in effect at the time of Whitman's original provision of services. The Client agrees to cooperate with the LSRP and the NJDEP, the Board and their respective staffs in obtaining all additional services or information deemed necessary by the LSRP, the Board or the NJDEP. If Whitman and the Client are unable to reach mutual agreement on the terms under which the services or information will be obtained, Whitman may terminate its services upon giving written notice to the Client, and the Client will pay Whitman for all services and expenses through the date of termination in accordance with this Agreement. In addition, the Client recognizes that the NJDEP may at any time audit all or part of the LSRP's services or the assessment or remediation in which the LSRP participated. The Client understands and acknowledges that the performance of such an audit is a review and does not imply that the services were deficient or failed to comply with the NJDEP's Technical Regulations and associated guidelines as in effect at the time Whitman originally provided its services. Whitman shall be entitled to additional compensation for any time spent and to reimbursement for any expenses incurred in responding to any NJDEP or Board audit (in accordance with Whitman's fee schedule then in effect).
6. **Mandatory and Regulatory Timeframes.** NJDEP has established mandatory and regulatory time frames to complete specific requirements of the Site Remediation Reform Act, N.J.S.A. 58:10C-1 et seq. If these time frames are not met fines and potential NJDEP direct oversight could be imposed upon the Client. To the extent expressly provided for in the Scope of Work, Whitman will advise the Client of deadlines and actions necessary to fulfill the requirements of regulatory and mandatory timeframes established by NJDEP. The Client acknowledges that Whitman's provision of such advice will not and does not shift responsibility for compliance with such regulatory and mandatory timeframes to Whitman. Further, if the Client delays in approving and proceeding with the recommendations of Whitman's LSRP in meeting these time frames or the Client delays in payment of services rendered by Whitman which would delay the progress of the project, the Client agrees that Whitman will not be held responsible or liable for any fees, fines, or financial impacts incurred as a result of NJDEP's direct oversight, fines, and fees.
7. **Response Action Outcome:** Upon satisfactory completion of the remediation, the LSRP shall issue a Response Action Outcome, which may be subject to certain conditions and limitations. After the issuance of the Response Action Outcome by the LSRP, the person responsible for conducting the remediation shall be deemed to have received a covenant not to sue from the NJDEP, which may be subject to certain conditions and limitations contained in the Response Action Outcome. The covenant remains effective only for as long as the property continues to meet the condition of the Response Action Outcome. Upon a finding by the NJDEP that the property no longer meets the condition of the Response Action Outcome or that the remedial action is not protective of the public health, safety, or environment or if a presumptive remedy was not implemented as required, the NJDEP may invalidate the Response Action Outcome by the LSRP.

As part of the LSRP program, the NJDEP has the right to audit all phases of an environmental investigation/remediation. If, following an audit the NJDEP finds that additional work is required, the client does not have the right to seek damages if it is determined that Whitman followed the Site Remediation Reform Act and provided standard and customary services.



PROPOSAL
CHRISTOPHER CONSTRUCTION CO. INC.
25 WELLS AVE
HAMMONTON, NJ 08037
OFFICE (609) 561-1607
FAX (609) 567-8239

PAGE NO. 1 OF 1 PAGE

PROPOSAL SUBMITTED TO: T.D. ASSOCIATES	JOB NAME OCEAN CITY MARINA	DATE 3/27/14
STREET 6825 TILTON ROAD, BLDG C	JOB LOCATION 10TH & PALEN AVE	PHONE
CITY, STATE AND ZIP CODE EGG HARBOR TWP, NJ 08234	OCEAN CITY, NJ	

CHRISTOPHER CONSTRUCTION IS PLEASED TO PROVIDE A QUOTE FOR THE FOLLOWING WORK AT THE ABOVE MENTIONED LOCATION:

REMOVE & DISPOSE OF CONCRETE OVER 2 - 12K AND 1 - 7500K STEEL TANKS

SHEET PILE AROUND PERIMETER OF 2 - 12K TANKS

EXCAVATE TO TANK TOP; REMOVE ALL PIPING & PUMP WATER OUT OF TANKS INTO FRAT TANKS FURNISHED BY ENVIRONMENTAL CO.

CLEAN & GAS-FREE 2 -12K/2 COMPARTMENT TANKS

EXCAVATE DOWN TO TOP OF 7500K TANK, CLEAN & GAS-FREE 3 COMPARTMENTS OF SAME.

EXCAVATE AND DISPOSE OF 2 -12K, 1 -7500K, TANKS

EXCAVATE AND DISPOSE OF 1- 2K, 2 - 1K, & 1 - 500 SLURRY FILLED TANKS.

EXCAVATE AND LOAD UP TO 600 TONS OF SOIL.

BACKFILL EXCAVATIONS TO GRADE WITH EXCEPTIONS OF SHEATHED HOLE.

NOTES & EXCEPTIONS: PERMIT FEES ADDITIONAL
ENVIRONMENTAL WORK BY OTHERS (INCL WATER AND SOIL DISPOSAL)
ADDITIONAL CLEAN FILL OVER 600 TON (INCLUDING EXCAVATING AND LOADING \$24.80 TON)

WE PROPOSE HEREBY TO FURNISH MATERIAL AND LABOR- COMPLETE IN ACCORDANCE WITH ABOVE SPECIFICATIONS, FOR THE SUM OF:
SEVENTY NINE THOUSAND SIX HUNDRED FIFTY

79,650.00

PAYMENT TO BE MADE AS FOLLOWS:

DOLLARS\$()

TO BE DETERMINED

AUTHORIZED SIGNATURE _____

NOTE: WE MAY WITHDRAW THIS PROPOSAL IF NOT ACCEPTED WITHIN 60 DAYS.

ALL WORK GUARANTEED FOR ONE YEAR.

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.

SIGNATURE _____

DATE _____



CERTIFICATE OF LIABILITY INSURANCE

WH86485

DATE (MM/DD/YYYY)
9/25/2013

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Wells Fargo Insurance Services USA, Inc. 7 Giralda Farms, 2nd Floor Madison, NJ 07940 973-437-2300		CONTACT NAME: PHONE (A/C, No, Ext): E-MAIL ADDRESS: FAX (A/C, No):																						
INSURED Tobar, Inc. d/b/a Whitman 7 Pleasant Hill Road Cranbury, NJ 08512		<table border="1"> <tr> <th colspan="2">INSURER(S) AFFORDING COVERAGE</th> <th>NAIC #</th> </tr> <tr> <td>INSURER A:</td> <td>Admiral Insurance Company</td> <td>24856</td> </tr> <tr> <td>INSURER B:</td> <td>Sentinel Insurance Company Ltd.</td> <td>11000</td> </tr> <tr> <td>INSURER C:</td> <td></td> <td></td> </tr> <tr> <td>INSURER D:</td> <td></td> <td></td> </tr> <tr> <td>INSURER E:</td> <td></td> <td></td> </tr> <tr> <td>INSURER F:</td> <td></td> <td></td> </tr> </table>		INSURER(S) AFFORDING COVERAGE		NAIC #	INSURER A:	Admiral Insurance Company	24856	INSURER B:	Sentinel Insurance Company Ltd.	11000	INSURER C:			INSURER D:			INSURER E:			INSURER F:		
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INSURER C:																								
INSURER D:																								
INSURER E:																								
INSURER F:																								

COVERAGES

CERTIFICATE NUMBER: 6620034

REVISION NUMBER: See below

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSUR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> Pollution Liab.-Occur <input checked="" type="checkbox"/> Professional Liab.-Claims Made GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC		ECC-17423-00	09/24/2013	09/24/2014	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 500,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COM/OP AGG \$ 2,000,000 Employee Benefits Liability \$ 1,000,000
B	AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS		13UECUC3569	09/24/2013	09/24/2014	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
A	UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED RETENTION \$		EXS-17424-00	09/24/2013	09/24/2014	EACH OCCURRENCE \$ 5,000,000 AGGREGATE \$ 5,000,000 \$
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N N/A	13WECIP0212	09/24/2013	09/24/2014	<input checked="" type="checkbox"/> WC STATUTORY LIMITS <input type="checkbox"/> OTHER E.L. EACH ACCIDENT \$ 500,000 E.L. DISEASE - EA EMPLOYEE \$ 500,000 E.L. DISEASE - POLICY LIMIT \$ 500,000
A	Contractors Pollution Liability Professional Liability / E&O		ECC-17423-00	09/24/2013	09/24/2014	\$2,000,000 Aggr/\$1,000,000 Ea Occurrence

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)

Evidence of Coverage

CERTIFICATE HOLDER**CANCELLATION**

For Informational Purposes Only

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

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REMEDICATION CONTRACT ADDENDUM

THIS ADDENDUM (the "Addendum") made this _____ day of June, 2014 (the "Effective Date") by and between **Whitman**, a corporation of the State of New Jersey, having its offices at 235 New Orleans Avenue, Egg Harbor City, NJ 08215 ("Whitman"), and **Bayfront Preservation Foundation, LLC**, a limited liability company of the State of New Jersey, having its offices at 6825 Tilton Road, Building C, Egg Harbor Township, New Jersey 08234, and acting in the capacity of a redevelopment entity pursuant to the provisions of the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1 et seq. (the "Redeveloper" and, together with Whitman, the "Parties").

BACKGROUND

WHEREAS, the Redeveloper is the contract purchaser of real property shown on the current tax map of the City of Ocean City, in the County of Cape May, New Jersey (the "City") as Block 911, lots 1, 1.01, 1.02, 2, 2.01, 3, 3.01, 4 & 4.01, and the Vacated Area (as defined in the hereinafter defined Redevelopment Agreement) and located at Palen Avenue and Tenth Street within the City (hereinafter, the "Property"); and

WHEREAS, on March 14, 2013, the City adopted resolution 13-49-179 declaring the Property (except for the Vacated Area) an "area in need of rehabilitation" pursuant to the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1 et seq.; and

WHEREAS, the Redeveloper has agreed to redevelop the Property in accordance with the Redevelopment Plan Palen Avenue and Tenth Street, prepared by Tiffany CuvIELLO, PP, LLC, dated October 18, 2013 (the "Redevelopment Plan") and the Redevelopment Agreement by and between the City and Redeveloper dated June __, 2014 (the "Redevelopment Agreement"); and

WHEREAS, pursuant to the Redevelopment Agreement, the Redeveloper has agreed to execute a remediation contract (the "Remediation Contract") for the Remediation (as defined in the Redevelopment Agreement) of the Property, and has conditionally assigned such Remediation Contract to the City such that, upon the occurrence of an Event of Default (as defined in the Redevelopment Agreement), the City may enforce all rights of the Redeveloper to the Remediation Contract; and

WHEREAS, Whitman has provided to Redeveloper Proposal #32851, inclusive of Attachment 1 and Attachment 2 thereto (attached hereto as Exhibit A, the "Whitman Contract"), providing for the Remediation of the Property in accordance with the Redevelopment Agreement; and

WHEREAS, the Parties agree to amend the Whitman Contract by entering into this Addendum to establish a guaranteed maximum price for all work necessary within defined Scope of Work as outlined in Proposal #32851, Revision 1, to complete the Remediation of the Property in accordance with the Redevelopment Agreement; and

NOW, THEREFORE, in consideration of the promises and mutual representations, covenants and agreements herein contained, the Parties hereto, each binding itself, its successors and assigns, do hereby covenant and agree, each with the other, as follows:

Section 1. The Parties repeat and incorporate herein the paragraphs set forth above under the heading "Background" as if fully set forth at length herein.

Section 2. Whitman shall provide all work and services of every kind necessary for the complete and timely Remediation of the Property, in accordance with the terms of this Addendum, the Whitman Contract, the Redevelopment Agreement, and all applicable administrative orders, laws, approvals, regulations, rules and requirements applicable to the Property (collectively, the "Remediation Project").

Section 3. The Remediation Project shall be subject to the final completion, approval and acceptance of Redeveloper and the City. The words "Final Completion" or "final completion" shall mean the proper completion of the Remediation Project as contemplated and provided for under this Addendum, the Whitman Contract and the Redevelopment Agreement, sufficient for acceptance by the New Jersey Department of Environmental Protection (the "NJDEP"), the Redeveloper and the City. If any items of the Remediation Project shall not have been properly completed, or should any punchlist items remain uncompleted, Final Completion shall not have been achieved.

Section 4. The total guaranteed maximum price for the Remediation Project is \$196,279. (the "Guaranteed Maximum Price"). The amount provided in the Guaranteed Maximum Price is a maximum amount, which shall be payable for the Remediation Project. The Guaranteed Maximum Price shall not be increased for any reason unless specifically provided otherwise in this Addendum.

Section 5. Payment of all fees shall be in accordance with the following reimbursement schedule and requirements:

- a. Whitman shall deliver to Redeveloper monthly invoices for work in connection with the Remediation Project, along with supporting documentation;
- b. Within five (5) days, Redeveloper shall submit the monthly invoices and supporting documentation to the City for review, approval and payment;
- c. Within twenty-five (25) days of receipt by the City of the monthly invoices and supporting documentation, the City shall deliver payment to Whitman.

Work shall not be suspended, and no service charge or late fees shall be assessed, unless Redeveloper fails to timely submit monthly invoices and supporting documentation to the City or fails to timely delivery payment to Whitman, as set forth in this Section 5.

Section 6. (a) Whitman shall not assign, transfer, convey, hypothecate, or otherwise dispose of this Addendum, the Whitman Contract or any subcontract, or its right, title or interest in or to the same of any part thereof, without the prior express consent in writing, of Redeveloper and the City, and Whitman shall not assign, by power of attorney or otherwise, any of the moneys to become due and payable under this Addendum, the Whitman Contract or any subcontract unless by and with the like written consent of Redeveloper and the City. Consent by Redeveloper and the City to an assignment of this Addendum or the Whitman Contract shall not, in any way, release Whitman from

the conditions, covenants and agreements herein undertaken to be done and performed by Whitman, but such duty to perform shall continue as though such assignment had not been made.

(b) Pursuant to the terms and conditions of the Redevelopment Agreement, Redeveloper has conditionally assigned this Addendum and the Whitman Contract to the City. Whitman consents to such assignment and agrees to execute any agreement required by the City with regard to the terms of such assignment.

Section 7. Time is of the essence of this Addendum and the Whitman Contract. Whitman shall perform the Remediation Project in accordance with, and complete the Contract within the overall time period as set forth in the schedule for the Remediation Project, annexed as Exhibit B to this Addendum.

Section 8. (a) Except for the subcontractor Christopher Construction Co. Inc. (attached hereto as Exhibit B), Whitman shall submit, in writing, to Redeveloper, the names and addresses of all subcontractors proposed for the Remediation Project prior to the subcontractor being permitted to enter the Property or to perform any of the Remediation Project. Whitman shall also submit to Redeveloper at such time(s) satisfactory evidence of the required insurance coverage for each proposed subcontractor.

(b) Whitman shall be fully responsible to Redeveloper for the acts and omissions of Whitman's subcontractors (of any tier), materialmen and other persons and organizations performing or furnishing any of the Remediation Project and their direct and indirect employees, to the same extent as Whitman is responsible for its own acts and omissions and those of its agents and employees. Neither this Addendum nor the Whitman Contract shall be construed as creating any contractual relationship between and any subcontractor (of any tier) and Redeveloper or City.

Section 9. (a) Whitman and subcontractors shall comply with all insurance requirements of the Redevelopment Agreement and certify that all insurances are in full force and effect and that the premiums have been paid. The Redeveloper and the City shall be named as "additional named insureds" on any certificate of liability insurance (or other similar document evidencing liability insurance coverage) of Whitman. The Redeveloper and the City shall be provided with such certificate of liability insurance (or other similar document evidencing liability insurance coverage) prior to the issuance of the notice to proceed with the Remediation Project. Such certificate shall be maintained in full force and represent a continuing obligation to include the Redeveloper and City as "additional named insureds" through the completion of the Remediation Project. The certificate shall not be altered or canceled without prior notification to the Redeveloper and City, in writing, fifteen (15) days in advance of any alteration or cancellation. The Guaranteed Maximum Price is inclusive of the premium charged to Whitman for this insurance.

(b) Whitman shall also provide the following insurance policies for work under this Addendum:

Type of Insurance	Limits of Liability	Term of Coverage
1. Commercial General Liability	\$1,000,000 each loss/\$2,000,000 policy aggregate	Annual policy until completion
3. Comprehensive Automobile Liability Insurance	\$1,000,000 each accident	Annual policy until completion
4. Whitman's Pollution Liability	\$1,000,000 each loss/\$2,000,000 policy aggregate	During Remediation
5. Performance Bond	See Section 10 of this Addendum	See Section 10 of this Addendum
6. Workman's Compensation and Employer's Liability Insurance	Statutory	Remediation

(c) The limits specified in Whitman's "Certificate of Liability Insurance" dated September 23, 2014 and attached to the Whitman Contract are the maximum limits required of Whitman.

(d) Whitman shall deliver a copy of each identified insurance policy at the time of execution of this Addendum.

(e) Subcontractors shall be required by Whitman to provide the following insurance:

(i) Worker's Compensation and Employer's Liability Insurance – covering all of the subcontractor's employees directly or indirectly engaged in the performance of this Addendum and the Whitman Contract. This insurance shall comply with the statutory requirements of the State or States involved and shall have an Employer's Liability Insurance limit of not less than \$500,000 for bodily injury by accident, \$500,000 for occupational disease and \$500,000 for occupational disease and \$500,000 aggregate limit.

(ii) Comprehensive General Liability Insurance – with minimum limits of not less than \$1,000,000 aggregate for bodily injury and property damage. The Comprehensive General Liability Insurance shall include the Broad Form Property Damage Liability Endorsement as well as coverage for explosion, collapse and underground (XCU) hazards, products liability coverage, with Blanket Contractual Liability and Completed Operations Coverage.

(iii) Comprehensive Automobile Liability Insurance - covering subcontractor for claims arising from all owned, hired and non-owned vehicles with limits of not less than \$1,000,000 aggregate for bodily injury and property damage.

(iv) Policy Limits – specified above are minimums, and wherever the law requires higher limits, the higher limits shall govern.

(v) Periods of Coverage – All policies required under this Addendum for subcontractors shall remain in full force and effect until Whitman's Maintenance Bond has been released.

(vi) Certificates of the insurance required above must be filed with Redeveloper, in triplicate, before the subcontractor is permitted to start the Remediation Project. The Certificate of Insurance must expressly state the required Blanket Contractual Liability Insurance is in full force and effect.

(f) Whitman shall not allow any Subcontractor to commence work on the Remediation Project until all insurance required has been obtained and the proper Certificates of Insurance have been provided to Redeveloper and the City.

(g) Acceptance of the subcontractor's insurance by Redeveloper shall not relieve or decrease the liability of Whitman hereunder and under the Whitman Contract.

(h) All insurance policies required by this Addendum shall be obtained from insurance companies licensed in the State of New Jersey and rated at least A++ in Best's Insurance Guide, provided, however, that the performance and payment bonds set forth in Section 10 which shall be rated at least A+ in Best's Insurance Guide. All insurance policies required hereunder shall be kept in force until Final Completion.

(i) All insurance policies required by this Addendum shall be nonassessable and shall contain language to the effect that (a) the policies are primary and noncontributing with any insurance that may be carried by the City, (b) the policies cannot be canceled or materially changed except after thirty (30) days written notice by the insurer to the City, and (c) the City shall not be liable for any premiums or assessments.

Section 10. [RESERVED]

Section 11. (a) Should Whitman at any time refuse, fail or neglect to supply a sufficiency of skilled workmen or materials of the proper quality and quantity, or fail in any respect to prosecute the Remediation Project with promptness and diligence, or cause by any act or omission the stoppage or delay of or interference with or damage to the Remediation Project of any other contractor on the Rehabilitation Project, or fail in the performance of any of the terms and provisions of this Addendum or the Whitman Contract, or should Redeveloper determine that Work, or any portion thereof, is not being performed in accordance with the Contract Documents, then in any of such events, each of which shall constitute a default hereunder on Whitman's part, Redeveloper shall have the right, in addition to any other rights and remedies otherwise provided by this Addendum and the Whitman Contract, or by law, after three (3) days written notice to Whitman mailed or delivered to the last

known address of Whitman: (i) to perform and furnish through itself or through others any such labor or materials for the Remediation Project and to deduct the cost thereof from any monies due or to become due to Whitman under this Addendum or the Whitman Contract, and/or (ii) to terminate the employment of Whitman for all or any portion of the Remediation Project, enter upon the site and take possession for the purpose of completing the Remediation Project, of all materials, equipment, tools, appliances and other items thereon, all of which Whitman hereby transfers, assigns and sets over to Redeveloper for and until the completion of such Remediation Project, and to employ any person or persons to complete the Remediation Project and provide all the labor, services, materials, equipment and other items required therefor. In case of such termination of the employment of Whitman, Whitman shall not be entitled to receive any further payment under this Addendum or the Whitman Contract until the Remediation Project shall be wholly completed to the satisfaction of Redeveloper, the City and the NJDEP and shall have been accepted by them, at which time, if the unpaid balance of the amount to be paid under this Addendum or the Whitman Contract shall exceed the cost and expense incurred by Redeveloper in completing the Remediation Project, such excess shall be paid by Redeveloper to Whitman; but if such cost and expense shall exceed such unpaid balance, then Whitman shall immediately upon receipt of notice of the amount thereof pay the difference to Redeveloper. Such cost and expense shall include, the cost of completing the Remediation Project to the satisfaction of Redeveloper, the City and the NJDEP, and of performing and furnishing all labor, services, materials, equipment, and other items required therefor; a reasonable charge for Redeveloper's overhead; and all losses, damages, costs and expenses, including legal fees and disbursements sustained, incurred or suffered by reason of or resulting from Whitman's default.

(b) In addition to the foregoing, if Whitman is adjudged bankrupt or if Whitman makes a general assignment for the benefit of creditors, or if a receiver is appointed on account of his insolvency or if Whitman fails to prosecute the Remediation Project promptly and diligently, refuses or fails (except in cases for which extension of time is provided) to supply or cause to be supplied by subcontractors enough properly skilled workmen or the proper materials, or if Whitman fails to make prompt payment to subcontractors for materials or labor or disregards any laws, ordinances, rules, regulations or orders of any public authority having jurisdiction, or if Whitman submits any falsified document or if a construction lien is filed or not promptly and properly bonded, discharged or insured over by Whitman in a manner satisfactory to Redeveloper, then Redeveloper may, without prejudice to any right or remedy and after giving Whitman three (3) days written notice, during which period Whitman fails to cure the violation, terminate the employment of Whitman and take possession of the Property and of all materials, equipment, tools, construction equipment and machinery thereon owned by Whitman and may finish the Remediation Project by whatever means it deems expedient. In such case, Whitman shall not be entitled to receive any further payment under this Addendum or the Whitman Contract until the Remediation Project shall be wholly completed to the satisfaction of Redeveloper and shall have been accepted by Redeveloper, at which time, if the unpaid balance of the amount to be paid under this Addendum or the Whitman Contract shall exceed the cost and expense incurred by Redeveloper in completing the Remediation Project, such excess shall be paid by Redeveloper to Whitman; but if such cost and expense shall exceed such unpaid balance, then

Whitman shall immediately upon receipt of notice of the amount thereof pay the difference to Redeveloper. Such cost and expense shall include, the cost of completing the Remediation Project to the satisfaction of Redeveloper, and of performing and furnishing all labor, services, materials, equipment, and other items required therefor; a reasonable charge for Redeveloper's overhead; and all losses, damages, costs and expenses, including legal fees and disbursements sustained, incurred or suffered by reason of or resulting from Whitman's default.

(c) Each subcontract or purchase order entered into by Whitman is conditionally assigned to Redeveloper, conditioned upon Whitman being declared to be in default by Redeveloper. Immediately upon a declaration of default by Redeveloper and/or the termination of this Addendum and the Whitman Contract, each and every subcontract and purchase order entered into by Whitman is, at Redeveloper's sole option and election, assigned to Redeveloper and each subcontract and purchase order shall so provide. Redeveloper shall thereafter notify each Subcontractor and supplier if it elects to exercise its rights to accept the assignment of the subcontract or purchase order. The assignment of each and every such subcontract and purchase order shall be effective regardless of any dispute between the parties regarding the propriety or legality of any default or termination.

Section 12. Whitman hereby represents and warrants to, and covenants with the Redeveloper that:

(a) Whitman has received the Redevelopment Plan and Redevelopment Agreement from the Redeveloper;

(b) Whitman has reviewed the Redevelopment Plan and Redevelopment Agreement, and shall be responsible for the supervision and coordination of the Remediation Project, including the construction means, methods, techniques, sequences and procedures utilized, unless the Redevelopment Agreement give other specific instructions;

(c) Whitman is experienced in the Remediation of major projects of this nature, scope, magnitude, and quality;

(d) Whitman has the expertise, personnel, equipment and materials such that it can and shall achieve Final Completion of the Remediation Project within the time provided by this Addendum, subject to Force Majeure Events;

(e) Whitman has visited the Property to become familiar with local conditions that may in any manner affect cost, progress or performance of the Remediation Project and become familiar with Federal, state and local laws, ordinances, rules and regulations that may in any manner affect cost, progress or performance of the Remediation Project; and

(f) Whitman has reviewed any and all information it may deem necessary to determine the proper amount of the Guaranteed Maximum Price for the performance of the Remediation Project within the defined Scope of Work, as outlined in Proposal #32851, Revision 1, in accordance with the time, price and other terms and conditions of this Addendum and the Whitman Contract.

Section 13. The Whitman Contract is hereby amended by the terms hereof. All terms and conditions set forth in the Whitman Contract not amended hereby shall remain in full legal force and effect. In the event of any conflict or inconsistency between the terms and conditions of the Whitman Contract and this Addendum, the terms and conditions of this Addendum shall control.

Section 14. The parties agree that this Addendum may be transmitted and delivered between them by facsimile machine (fax) and/or e-mail pdf. The Parties intend that faxed or e-mailed signatures constitute original signatures and that a faxed or e-mailed agreement containing the signatures of all Parties is binding on all Parties.

Section 15. This Addendum may be signed in any number of counterparts, each of which shall be deemed an original and all of which shall constitute but one and the same instrument with the same effect as if the separate signatures on any one counterpart were upon the same instrument.

WHEREFORE, the parties hereto, intending to be legally bound, have caused this instrument to be executed by their duly authorized officers or members dated the day and year below written.

WITNESSED BY:

WHITMAN COMPANY, INC.

BY: _____

WITNESSED BY:

**BAYFRONT PRESERVATION
FOUNDATION, LLC**

BY: _____

Thomas Gill, Authorized Member