

**RESOLUTION NO. 2022-084**

**A RESOLUTION OF THE MAYOR AND COMMISSION OF NORTH BAY VILLAGE, FLORIDA, APPROVING THE PAYMENT OF A \$50,000 DEDUCTIBLE TO THE FLORIDA MUNICIPAL INSURANCE TRUST RELATING TO A CLAIM IN THE MATTER OF *TREASURES ON THE BAY II CONDOMINIUM ASSOCIATION, INC. V. NORTH BAY VILLAGE* (MIAMI-DADE COUNTY CIRCUIT COURT CASE NO.: 2021-9290-CA-01); AMENDING THE BUDGET FOR FISCAL YEAR 2021-2022 TO PROVIDE FOR THE DEDUCTIBLE; PROVIDING FOR IMPLEMENTATION; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, on April 19, 2021, Treasures on the Bay II Condominium Association, Inc. (the “Plaintiff”) filed a lawsuit styled *Treasures on the Bay II Condominium Association, Inc. v. North Bay Village* (Miami-Dade County Circuit Court Case No.: 2021-9290-CA-01) seeking damages relating to North Bay Village’s (the “Village”) alleged failure to maintain its sewer system and pump station on Galleon Street (the “Claim”); and

**WHEREAS**, the Village’s insurer, the Florida Municipal Insurance Trust (“FMIT”), reached a mediated settlement with the Plaintiff, whereby the Plaintiff will settle all of its claims that were or could have been brought against the Village, FMIT, and the Florida League of Cities pertaining to the Claim, including all costs and attorney’s fees incurred, and release them of any liability, in exchange for a settlement of \$75,000, which will be paid by the Village’s insurer, all as more fully set forth in the General Release attached hereto as Exhibit “A” (the “Release”); and

**WHEREAS**, pursuant to the Village’s insurance policy with FMIT, the Village is required to pay a \$50,000 deductible (the “Deductible”) for the Claim; and

**WHEREAS**, the Village Commission desires to approve payment of the Deductible to FMIT and approve a corresponding budget amendment for the Deductible; and

**WHEREAS**, on September 29, 2021, the North Bay Village (the “Village”) Commission adopted Resolution No. 2021-54 approving the budget for fiscal year 2021-2022 (the “Budget”); and

**WHEREAS**, pursuant to Section 166.241(5), Florida Statutes, the Village Commission may amend a budget at any time within a fiscal year; and

**WHEREAS**, pursuant to Section 35.21 of the Village Code of Ordinances and Florida Law, the Village Commission desires to amend the Budget to allocate the \$50,000 Deductible, which was previously not in the Budget; and

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

**NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COMMISSION OF NORTH BAY VILLAGE, FLORIDA, AS FOLLOWS:**

**Section 1. Recitals.** That the above recitals are confirmed, adopted, and incorporated herein and made a part hereof by reference.

**Section 2. Approval.** That the Village Commission hereby approves payment of the \$50,000 Deductible to FMIT.

**Section 3. Amending Budget.** That the Village Commission hereby approves an amendment to the budget to allocate the Deductible by authorizing the line item transfers as further provided in Exhibit “B” attached hereto and incorporated herein.

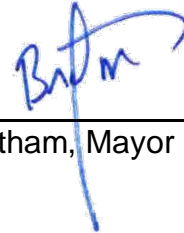
**Section 4. Implementation.** That the Village Manager, Village Clerk, and Village Attorney are hereby authorized to take such further action as may be necessary to implement the purpose and provisions of this Resolution and settlement of the Claim.

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

The foregoing Resolution was offered by Commissioner Chervony who moved its adoption. The motion was seconded by Vice Mayor Wilmoth and upon being put to a vote, the vote was as follows:

Mayor Brent Latham	<u>Yes</u>
Vice Mayor Marvin Wilmoth	<u>Yes</u>
Commissioner Richard Chervony	<u>Yes</u>
Commissioner Rachel Streitfeld	<u>Yes</u>
Commissioner Julianna Strout	<u>Yes</u>

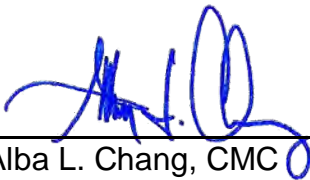
**PASSED AND ADOPTED** on this 11<sup>th</sup> day of October, 2022.



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Brent Latham, Mayor

ATTEST:



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Alba L. Chang, CMC  
Village Clerk



APPROVED AS TO FORM AND LEGAL SUFFICIENCY:



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Weiss Serota Helfman Cole & Bierman, PL  
Village Attorney

**GENERAL RELEASE**

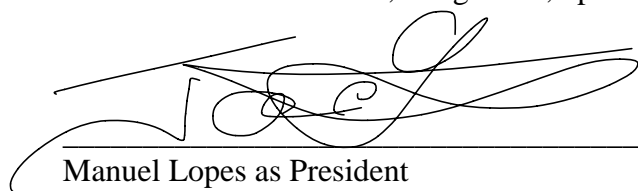
Plaintiff TREASURES ON THE BAY II CONDOMINIUM ASSOCIATION INC., hereinafter referred to as "Plaintiff," for and in consideration of (i) the dismissal with prejudice of the case styled Treasures on the Bay II Condominium Association Inc. v. North Bay Village, pending in the Circuit Court of the Eleventh Judicial Circuit in Miami-Dade County, Florida, Case No. 2021-009290-CA-0, herein referred to as "the Litigation," (ii) the stipulation that each party bears its own attorney's fees and costs in the Litigation, and (iii) the receipt of \$75,000 from or on behalf of Defendant NORTH BAY VILLAGE, with the sufficiency and receipt of all such consideration hereby acknowledged.

HEREBY irrevocably remises, releases, acquits, satisfies, and forever discharges NORTH BAY VILLAGE and the agents, representatives, employees, officers, and insurance carriers (including the Florida League of Cities, Inc., and the Florida Municipal Insurance Trust) of NORTH BAY VILLAGE, herein referred to collectively as the "Village Parties," from all manner of action and actions, causes of action, suits, attorney's fees, costs, compensation, agreements, understandings, contracts, disputes, promises, representations, statements, remedies, damages, demands, and claims whatsoever, irrespective of whether they arise from local, state, or federal law, legislation, statute, ordinance, or constitution, and irrespective of whether they arise in law or in equity (hereafter "CLAIMS") that Plaintiff, including any successor, assign, or affiliated person or entity can, may, or shall have against the Village Parties, including, without limitation, all disputes relating to the Litigation and all disputes relating to loss or damage allegedly sustained on or about November 18, 2018, or November 19, 2018, at or near 7501 E. Treasure Drive, North Bay Village, Miami-Dade County, Florida.

The parties intend this General Release to be expansive in scope and in its protection in favor of the Village Parties so that it eliminates all possible ambiguity. It is to be interpreted in a manner that avoids litigation and ends all disputes with finality.

The parties also acknowledge that no party admits liability, fault, or wrongdoing of any kind in the Litigation. Instead, the parties deny liability, fault, and wrongdoing, and assert that that the settlement reflected hereby merely ends a dispute, relieves the parties from the burdens of litigation, and resolves conflict in a way that is mutually beneficial.

The Plaintiff carefully read this General Release with the assistance of Steven Simon, Esq., and understands its terms, obligations, operation, and effect.



9/20/2022

Manuel Lopes as President  
TREASURES ON THE BAY II  
CONDOMINIUM ASSOCIATION INC.

Date



### Budget Amendment Form

<b>Department</b> Utilities Administration Department	<b>Date</b> 10/11/2022
<b>Fund(s) to be changed: Utility Fund</b>	

GL Account	GL Line Item	Transfer to:	Transfer from:
<a href="#">430.30.533.1200</a>	Regular Salaries	\$ -	\$ 23,477.73
<a href="#">430.30.533.4500</a>	General Insurance	\$ -	\$ 26,522.27
<a href="#">430.30.533.3185</a>	Legal Settlement	\$ 26,522.27	\$ -
<a href="#">430.30.519.3185</a>	Legal Settlement	\$ 23,477.73	\$ -
<b>TOTAL (Columns must be equal)</b>		<b>\$ 50,000.00</b>	<b>\$ 50,000.00</b>

**Description:**

TRANSFER FUNDS WITHIN THE UTILITIES DEPARTMENT TO PAY THE DEDUCTIBLE TO THE FLORIDA MUNICIPAL INSURANCE TRUST RELATING TO A CLAIM IN THE MATTER OF TREASURES ON THE BAY II CONDOMINIUM ASSOCIATION, INC. V. NORTH BAY VILLAGE