



North Bay Village

Administrative Offices
1666 Kennedy Causeway, Suite 300 North Bay Village, FL 33141
Tel: (305) 756-7171 Fax: (305) 756-7722 Website: www.nbvillage.com

REVISED
OFFICIAL AGENDA
REGULAR VILLAGE COMMISSION MEETING
VILLAGE HALL
1666 KENNEDY CAUSEWAY, #101
NORTH BAY VILLAGE, FL 33141
TUESDAY, JULY 10, 2018
6:30 P.M.

NOTICE IS HEREWITH GIVEN TO ALL INTERESTED PARTIES THAT IF ANY PERSON SHOULD DECIDE TO APPEAL ANY DECISION MADE AT THE FORTHCOMING MEETING OF THE VILLAGE COMMISSION, SUCH PERSON WILL NEED A RECORD OF THE PROCEEDINGS AND FOR SUCH PURPOSE, HE OR SHE WILL NEED TO ENSURE THAT A VERBATIM RECORD OF THE PROCEEDINGS IS MADE WHICH RECORD INCLUDES THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS TO BE BASED. THIS NOTICE DOES NOT CONSTITUTE CONSENT BY THE VILLAGE FOR THE INTRODUCTION OR ADMISSION OF OTHERWISE INADMISSIBLE EVIDENCE, NOR DOES IT AUTHORIZE CHALLENGES OR APPEALS NOT OTHERWISE ALLOWED BY LAW.

TO REQUEST THIS MATERIAL IN ACCESSIBLE FORMAT, SIGN LANGUAGE INTERPRETERS, INFORMATION ON ACCESS FOR PERSON WITH DISABILITIES, AND/OR ANY ACCOMMODATION TO REVIEW ANY DOCUMENT OR PARTICIPATE IN ANY VILLAGE-SPONSORED PROCEEDING, PLEASE CONTACT (305) 756-7171 FIVE DAYS IN ADVANCE TO INITIATE YOUR REQUEST. TTY USERS MAY ALSO CALL 711 (FLORIDA RELAY SERVICE).

1. CALL TO ORDER

PLEDGE OF ALLEGIANCE

ROLL CALL

2. A. PROCLAMATIONS AND AWARDS

- 1.) NBV SCHOLARSHIP AWARDS
- 2.) POLICE DEPARTMENT COMMENDATION

B. CITIZEN PRESENTATIONS TO THE COMMISSION

C. ADDITIONS AND DELETIONS

3. GOOD & WELFARE

4. VILLAGE COMMISSION'S REPORT

5. GRANT WRITER'S REPORT

6. ADVISORY BOARD REPORTS

A. ADVISORY CHARTER REVIEW BOARD

B. ARTS, CULTURAL & SPECIAL EVENTS BOARD

- C. ANIMAL CONTROL ADVISORY BOARD
- D. BUSINESS DEVELOPMENT ADVISORY BOARD
- E. CITIZENS BUDGET & OVERSIGHT BOARD
- F. COMMUNITY ENHANCEMENT BOARD
- G. PLANNING & ZONING BOARD

7. **VILLAGE ATTORNEY’S REPORT**

8. **VILLAGE MANAGER’S REPORT**

9. **CONSENT AGENDA:** (Matters on the Consent Agenda are self-explanatory and are not expected to require discussion or review. Items will be adopted by one motion. If discussion is desired by any member of the Commission, that item must be removed from the Consent Agenda and will be considered separately.)

- A. A RESOLUTION OF THE COMMISSION OF NORTH BAY VILLAGE, FLORIDA AWARDDING AN RFP CONTRACT FOR RFP NO. 2018-003 FOR DISASTER AND DEBRIS MANAGEMENT SERVICES TO T.F.R. ENTERPRISES, INC.; AUTHORIZING THE VILLAGE MANAGER TO EXECUTE THE RELATED AGREEMENT; AND PROVIDING FOR AN EFFECTIVE DATE. (*INTRODUCED BY VILLAGE MANAGER MARLEN D. MARTELL*)

The proposed Resolution will allow the Village Manager to enter into a contract with the company to provide disaster and debris management services during disaster or emergency events.

- 1.) Commission Action

10. **ORDINANCES FOR FIRST READING AND RESOLUTIONS**

- A. AN ORDINANCE OF THE COMMISSION OF NORTH BAY VILLAGE, FLORIDA, AMENDING CHAPTER 94 OF THE VILLAGE CODE OF ORDINANCES ENTITLED “GARBAGE, TRASH, AND WEEDS” BY CREATING SECTION 94.25, “PROHIBITION ON DISTRIBUTION, SALE OR USE OF PLASTIC STRAWS”; AMENDING SECTION 153.04 “SCHEDULE OF CIVIL PENALTIES”; PROVIDING FOR ENFORCEMENT; CODIFICATION; SEVERABILITY; CONFLICTS; AND AN EFFECTIVE DATE. (*INTRODUCED BY MAYOR CONNIE LEON-KREPS, VICE MAYOR ANDREANA JACKSON, COMMISSIONER JOSE ALVAREZ, COMMISSIONER LAURA CATTABRIGA, AND COMMISSIONER EDDIE LIM*)

The proposed Ordinance seeks to eliminate plastic straws from the Village.

1.) Commission Action

- B. A RESOLUTION OF THE COMMISSION OF NORTH BAY VILLAGE, FLORIDA, ACCEPTING A PROPOSAL FROM ENVIROWASTE SERVICES GROUP, INC. TO CONDUCT A SANITARY SEWER EVALUATION TESTING; AUTHORIZING THE VILLAGE OFFICIALS TO TAKE ALL NECESSARY STEPS TO IMPLEMENT THE TERMS OF THE PROPOSAL; AND SETTING AN EFFECTIVE DATE. (INTRODUCED BY VILLAGE MANAGER MARLEN D. MARTELL)**

The proposed Resolution will engage the services of the company to evaluate the sewer system to identify and reduce infiltration and overflow into the system.

1.) Commission Action

- C. A RESOLUTION OF THE COMMISSION OF NORTH BAY VILLAGE, FLORIDA, APPROVING THE CONTRACT BETWEEN THE CHILDREN'S TRUST AND THE VILLAGE FOR THE PROVISION OF YOUTH DEVELOPMENT SERVICES (K-5); AUTHORIZING THE VILLAGE MANAGER TO EXECUTE THE CONTRACT; AND PROVIDING FOR AN EFFECTIVE DATE. (INTRODUCED BY VILLAGE MANAGER MARLEN D. MARTELL)**

The proposed Resolution will approve a contract with the Children's Trust to continue the Village's Out-of-School Program at Treasure Island Elementary School with \$169,252 grant funding.

1.) Commission Action

- D. A RESOLUTION OF THE COMMISSION OF NORTH BAY VILLAGE, FLORIDA, APPROVING THE PROPOSAL FROM NELCO TESTING & ENGINEERING SERVICES, INC. FOR PILE INSTALLATION MONITORING SERVICES FOR THE BAYWALK PLAZA SOUTH SIDE RETAINING WALL; AUTHORIZING THE VILLAGE MANAGER TO EXECUTE THE DOCUMENT; AND SETTING AN EFFECTIVE DATE. (INTRODUCED BY VILLAGE MANAGER MARLEN D. MARTELL)**

The proposed Resolution will accept the proposal from Nelco to check the auger cast piles for the retaining wall to ensure the underground structural work is to specifications and code.

1.) Commission Action

- E. A RESOLUTION OF THE COMMISSION OF NORTH BAY VILLAGE, FLORIDA, APPROVING A SETTLEMENT AGREEMENT AND GENERAL RELEASE WITH MARLEN D. MARTELL; AND SETTING AN EFFECTIVE DATE. (INTRODUCED BY VILLAGE ATTORNEY NORMAN C. POWELL)**

The proposed Resolution will approve a settlement agreement with Village Manager Marlen D. Martell and dispose possible claims against the Village.

1.) Commission Action

- F. A RESOLUTION OF THE COMMISSION OF NORTH BAY VILLAGE, FLORIDA, APPOINTING AN INTERIM VILLAGE MANAGER; AND SETTING AN EFFECTIVE DATE. (INTRODUCED BY VILLAGE ATTORNEY NORMAN C. POWELL)**

The proposed Resolution calls for the appointment of an Interim Village Manager.

1.) Commission Action

11. PUBLIC HEARINGS ITEMS INCLUDING ORDINANCES FOR SECOND

READING: Please be advised that if you wish to comment upon any of these \quasi-judicial items, please inform the Mayor when she requests public comments. An opportunity for persons to speak on each item will be made available after the applicant and staffs have made their presentations on each item. All testimony, including public testimony and evidence, will be made under oath or affirmation. Additionally, each person who gives testimony may be subject to cross-examination. If you refuse either to be cross-examined or to be sworn, your testimony will be given its due weight. The general public will not be permitted to cross-examine witnesses, but the public may request the Commission to ask questions of staff or witnesses on their behalf. Persons representing organizations must present evidence of their authority to speak for the organization. Further, details of the quasi-judicial procedures may be obtained from the Village Clerk.

- A. A RESOLUTION OF THE COMMISSION OF NORTH BAY VILLAGE, FLORIDA, PERMITTING INSTALLATION OF A NEW BOATLIFT ON AN EXISTING DOCK AT 7601 EAST TREASURE DRIVE IN SLIP A-34, WHICH WILL EXTENDBEYOND THE 25 FOOT LENGTH LIMIT; GRANTING A WAIVER PURSUANT TO SECTION 9.12(B) OF THE UNIFIED LAND DEVELOPMENT CODE; PROVIDING FINDINGS, PROVIDING FOR GRANTING THE REQUEST; PROVIDING FOR CONDITIONS; PROVIDING FOR APPEAL;PROVIDING FOR VIOLATIONS; AND PROVIDING FOR AN EFFECTIVE DATE. (INTRODUCED BY VILLAGE MANAGER MARLEN D. MARTELL)**

The proposed Resolution will approve a waiver to install a boatlift beyond the 25 foot required length.

1.) Commission Action

- B. A RESOLUTION OF THE COMMISSION OF NORTH BAY VILLAGE, FLORIDA, PERMITTING INSTALLATION OF A NEW BOATLIFT WITH A BOARDING PLATFORM AND ACCESS PLATFORM ON AN EXISTING DOCK AT 7601 EAST TREASURE DRIVE IN SLIP A-47, WHICH WILL EXTEND BEYOND THE 25 FOOT LENGTH LIMIT; GRANTING A WAIVER PURSUANT TO SECTION 9.12(B) OF THE UNIFIED LAND DEVELOPMENT CODE; PROVIDING FINDINGS, PROVIDING FOR GRANTING THE REQUEST; PROVIDING FOR CONDITIONS; PROVIDING FOR APPEAL; PROVIDING FOR VIOLATIONS; AND PROVIDING FOR AN EFFECTIVE DATE. (INTRODUCED BY VILLAGE MANAGER MARLEN D. MARTELL)**

The proposed Resolution will approve a waiver to install a boatlift beyond the 25 foot required length.

1.) Commission Action

- C. A RESOLUTION OF THE COMMISSION OF NORTH BAY VILLAGE, FLORIDA, PERMITTING INSTALLATION OF A NEW BOATLIFT WITH A BOARDING PLATFORM AND ACCESS PLATFORM ON AN EXISTING DOCK AT 7601 EAST TREASURE DRIVE IN SLIP A-79, WHICH WILL EXTEND BEYOND THE 25 FOOT LENGTH LIMIT; GRANTING A WAIVER PURSUANT TO SECTION 9.12(B) OF THE UNIFIED LAND DEVELOPMENT CODE; PROVIDING FINDINGS, PROVIDING FOR GRANTING THE REQUEST; PROVIDING FOR CONDITIONS; PROVIDING FOR APPEAL; PROVIDING FOR VIOLATIONS; AND PROVIDING FOR AN EFFECTIVE DATE. (INTRODUCED BY VILLAGE MANAGER MARLEN D. MARTELL)**

The proposed Resolution will approve a waiver to install a boatlift beyond the 25 foot required length.

1.) Commission Action

- D. A RESOLUTION OF THE COMMISSION OF NORTH BAY VILLAGE, FLORIDA, APPROVING A REQUEST BY JOSEPH GRECO FOR A VARIANCE PURSUANT TO SECTION 7.4(B) OF THE NORTH BAY VILLAGE CODE OF ORDINANCES TO PERMIT A 5.78 FOOT REAR YARD SETBACK FOR THE CONSTRUCTION OF A SWIMMING POOL AT 7516 BUCCANEER AVENUE; PROVIDING FINDINGS, PROVIDING FOR GRANTING THE REQUEST; PROVIDING FOR CONDITIONS; PROVIDING FOR APPEAL; PROVIDING FOR VIOLATIONS; AND PROVIDING FOR AN EFFECTIVE DATE. (INTRODUCED BY VILLAGE MANAGER MARLEN D. MARTELL)**

The proposed Resolution will approve the construction of a swimming pool to encroach the required 7.5 foot rear yard setback.

1.) Commission Action

- E. AN AMENDMENT TO THE NORTH BAY VILLAGE COMPREHENSIVE PLAN AMENDING THE FUTURE LAND USE ELEMENT, CREATING A TRANSFER OF DENSITY PROGRAM TO ALLOW TRANSFER OF DENSITY FROM VILLAGE OWNED PROPERTIES TO PROPERTIES IN THE MULTI-FAMILY HIGH DENSITY RESIDENTIAL FUTURE LAND USE CATEGORY AND COMMERCIAL FUTURE LAND USE CATEGORY, PROVIDING FOR AN INCREASED MAXIMUM DENSITY ALLOWED FOR PROPERTIES IN THE COMMERCIAL FUTURE LAND USE CATEGORY WITH DIRECT ACCESS TO KENNEDY CAUSEWAY. (INTRODUCED BY VILLAGE MANAGER MARLEN D. MARTELL)**

The proposed Ordinance will allow for the transfer of density from Village owned properties to be purchased for development on the north side of the Kennedy Causeway.

1.) Commission Action

12. UNFINISHED BUSINESS

13. NEW BUSINESS

- A. RECONSIDERATION OF RESOLUTION NO. 2018-34 REPEALING RESOLUTION NO. 2013-45 PERTAINING TO EMPLOYEE COMPENSATION DURING EMERGENCIES**

1.) Commission Action

14. APPROVAL OF MINUTES – COMMISSION MEETING

A. REGULAR COMMISSION MEETING – JUNE 12, 2018

1.) Commission Action

15. ADJOURNMENT

Agenda Item 10D

RESOLUTION NO. _____

A RESOLUTION OF THE COMMISSION OF NORTH BAY VILLAGE, FLORIDA APPROVING THE PROPOSAL FROM NELCO TESTING & ENGINEERING SERVICES, INC. FOR PILE INSTALLATION MONITORING SERVICES FOR THE BAYWALK PLAZA SOUTH SIDE RETAINING WALL; AUTHORIZING THE VILLAGE MANAGER TO EXECUTE THE DOCUMENT; AND SETTING AN EFFECTIVE DATE. (INTRODUCED BY VILLAGE MANAGER MARLEN D. MARTELL)

WHEREAS, numerous underground utilities were discovered during construction of the Baywalk Plaza South Side project; and

WHEREAS, the structural engineering plans for the proposed retaining walls were redesigned from large footings to auger cast piles in order to avoid conflicts with the newly discovered underground utilities; and

WHEREAS, Nelco Testing & Engineering Services, Inc. has been retained by the Village to monitor the installation of the auger piles to ensure the underground structural work is to specifications and code.

WHEREAS, the Village Commission finds that approval of the Resolution is in the general welfare and safety of the community.

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

Section 1: **Recitals.** The foregoing whereas clauses are hereby ratified and confirmed as being true and the same are hereby made a specific part of this Resolution.

Section 2: **Approval of Proposal.** The proposal from Nelco Testing & Engineering Services, Inc. for pile installation monitoring services for the Baywalk Plaza south side retaining wall in accordance with the proposal attached hereto as Exhibit 1 is approved.

Section 3: **Authorization of Village Manager.** The Village Manager or his/her designee is authorized to execute the proposal.

Section 4: **Effective Date.** This Resolution shall take effect immediately upon approval.

The foregoing Resolution was offered by _____, who moved for its adoption. This motion was seconded by _____, and upon being put to a vote, the vote was as follows:

Agenda Item 10D

FINAL VOTE AT ADOPTION:

Mayor Connie Leon-Kreps	_____
Vice Mayor Andreana Jackson	_____
Commissioner Jose Alvarez	_____
Commissioner Laura Cattabriga	_____
Commissioner Eddie Lim	_____

PASSED and ADOPTED this 10th day of July 2018.

 Connie Leon-Kreps
 Mayor

ATTEST:

 YVONNE P. HAMILTON, CMC
 Village Clerk

APPROVED AS TO FORM:

 Norman C. Powell, Esq.
 Village Attorney

North Bay Village Resolution: Nelco Testing & Engineering Services, Inc.-Baywalk Plaza Southside Area.



July 9, 2018

Juan Valiente, P.E.
Public Works Director
North Bay Village
1666 Kennedy Causeway
Suite 300
North Bay Village, FL 33141

**RE: *North Bay Village - Baywalk Plaza South Side Only Project
Retaining Wall Pile Installation Monitoring Services***

Dear Mr. Valiente:

As you are aware, the Baywalk Plaza (South Side Only) project includes several retaining walls due to the change of grade between JFK Causeway, East Treasure Drive and Biscayne Bay. The bid set of documents included structural engineering of the proposed retaining walls with large footings.

Due to unforeseen site conditions including numerous existing underground utilities uncovered during the construction process, the structural engineering plans for the proposed retaining walls were redesigned from large footings to auger cast piles in order to avoid conflicts with the newly discovered underground utilities.

Standard practice during installation of auger cast piles recommends that an inspector be present during the installation of the auger cast piles in order to ensure that the piles are being installed as per the revised structural engineering plans and details. For this reason, Nelco Testing & Engineering Services, Inc., has been retained by North Bay Village to provide "Pile Installation Monitoring" services starting on Friday, July 6, 2018.

Please let me know if you need additional information regarding this matter.

Sincerely,

A handwritten signature in blue ink, appearing to read "George E. Puig".

George E. Puig, PLA

Senior Project Manager

Agenda Item 10D



North Bay Village

Administrative Offices

1666 Kennedy Causeway, Suite 300 North Bay Village, FL 33141

Tel: (305) 756-7171 Fax: (305) 756-7722 Website: www.nbvillage.com

MEMORANDUM North Bay Village

DATE: July 10, 2018

TO: Yvonne P. Hamilton, CMC
Village Clerk

FROM: Marlen D. Martell
Village Manager

SUBJECT: Introduction of Resolution

Pursuant to Section 3.08 of the Village Charter, I hereby introduce the following Resolution:

A RESOLUTION OF THE COMMISSION OF NORTH BAY VILLAGE, FLORIDA APPROVING THE PROPOSAL FROM NELCO TESTING & ENGINEERING SERVICES, INC. FOR PILE INSTALLATION MONITORING SERVICES FOR THE BAYWALK PLAZA SOUTH SIDE RETAINING WALL; AUTHORIZING THE VILLAGE MANAGER TO EXECUTE THE DOCUMENT; AND SETTING AN EFFECTIVE DATE.

Accordingly, please place the item on the next available agenda.

MM:yph

Page 463D

Mayor
Connie Leon-Kreps

Vice Mayor
Andreanna Jackson

Commissioner
Jose R. Alvarez

Commissioner
Laura Cattabriga

Commissioner
Eddie Lim

Add On - Agenda Item 10E

RESOLUTION NO.: 2018-

A RESOLUTION OF THE COMMISSION OF NORTH BAY VILLAGE, FLORIDA, APPROVING A SETTLEMENT AGREEMENT AND GENERAL RELEASE WITH MARLEN D. MARTELL; AND SETTING AN EFFECTIVE DATE. (INTRODUCED BY VILLAGE NORMAN C. POWELL)

WHEREAS, Marlen D. Martell (“Martell”) and North Bay Village desire to end the employment relationship between them and, by a Settlement Agreement and General Release, to avoid the uncertainties and burdens of disputes, and instead, desire to settle all actual or possible disputes between them (“Claims”); and

WHEREAS, Martell and the Village desire to compromise all Claims on a global lump-sum basis; and

WHEREAS, Martell is willing to sign a Settlement Agreement and General Release (attached hereto as Exhibit “1”) extinguishing any and all Claims with the Village, together with any costs and/or attorney’s fees, in exchange for the payment of \$127,000.00; and

WHEREAS, the Village Commission desires to approve the \$127,000.00 settlement and to sign the Settlement Agreement and General Release (attached hereto as Exhibit “1”), thereby disposing of all Claims that were or could have been asserted against the Village.

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

Section 1. That the foregoing “WHEREAS” clauses are ratified and confirmed as being true and correct and are made a specific part of this Resolution.

Section 2. That the Village Commission approves the settlement of all Claims that were or could have been asserted by Martell in a lawsuit, inclusive of costs and attorney’s fees, for \$127,000.00, as set forth in the attached Settlement Agreement and General Release (Exhibit “1”).

Section 3. That the appropriate Village officials are authorized to execute all documents deemed necessary by the Village Attorney to implement the intent of the Resolution and to provide for payment as indicated.

Add On - Agenda Item 10E

Section 4. Effective Date. This Resolution shall take effect immediately upon approval.

The motion to adopt the foregoing Resolution was offered by _____, seconded by _____.

FINAL VOTE AT ADOPTION:

Mayor Connie Leon-Kreps	_____
Vice Mayor Andreana Jackson	_____
Commissioner Jose Alvarez	_____
Commissioner Laura Cattabriga	_____
Commissioner Eddie Lim	_____

PASSED AND ADOPTED this 10th day of July 2018.

Connie Leon-Kreps
Mayor

ATTEST:

Yvonne P. Hamilton, CMC
Village Clerk

APPROVED AS TO FORM FOR USE ONLY BY NORTH BAY VILLAGE:

Norman C. Powell, Esq.
Village Attorney

North Bay Village Resolution: Settlement Agreement and General Release

Add On - Agenda Item 10E



North Bay Village

Administrative Offices

1666 Kennedy Causeway, Suite 300 North Bay Village, FL 33141

Tel: (305) 756-7171 Fax: (305) 756-7722 Website: www.nbvillage.com

MEMORANDUM North Bay Village

DATE: July 10, 2018

TO: Yvonne P. Hamilton, CMC
Village Clerk

FROM: Norman C. Powell, Esq.
Village Attorney

SUBJECT: Introduction of Resolution

Pursuant to Section 3.08 of the Village Charter, I hereby introduce the following Resolution:

**A RESOLUTION OF THE COMMISSION OF
NORTH BAY VILLAGE, FLORIDA, APPROVING
A SETTLEMENT AGREEMENT AND GENERAL
RELEASE WITH MARLEN D. MARTELL; AND
SETTING AN EFFECTIVE DATE.**

Accordingly, please place the item on the next available agenda.

NCP:yph

Page 463G

Mayor
Connie Leon-Kreps

Vice Mayor
Andreanna Jackson

Commissioner
Jose R. Alvarez

Commissioner
Laura Cattabriga

Commissioner
Eddie Lim

Add On - Agenda Item 10E

SETTLEMENT AGREEMENT AND GENERAL RELEASE

THIS SETTLEMENT AGREEMENT AND GENERAL RELEASE (the "Agreement") is entered into by and between North Bay Village and all its present, past, and future elected and appointed officials, officers, employees, insurers, attorneys, representatives and agents (referred to herein as "EMPLOYER") and MARLEN MARTELL and all her successors, heirs, and assigns (referred to herein as "EMPLOYEE").

WHEREAS, EMPLOYEE is employed by EMPLOYER; and

WHEREAS, EMPLOYEE and EMPLOYER desire to end the employment relationship between them and, by this Agreement, to avoid the uncertainties and burdens of disputes, and, instead, desire to settle all actual or possible disputes between them.

NOW, THEREFORE, EMPLOYEE and EMPLOYER, in consideration of their mutual promises and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and intending to be legally bound, do hereby agree as follows:

1. Representations. EMPLOYEE and EMPLOYER acknowledge that the statements set forth above are true and correct and adopt them as if fully set forth here.

2. Resignation. EMPLOYEE hereby irrevocably resigns her employment with EMPLOYER effective as of the date the Agreement is duly executed by both Parties.

3. Consideration.

A. Payment: Taxes. In consideration of the promises made and obligations undertaken by EMPLOYEE herein, including, but not limited to, the release of all claims by EMPLOYEE against EMPLOYER, EMPLOYER shall pay EMPLOYEE the sum of \$127,000.00, payable by check to "Marlen Martell" to be delivered to EMPLOYEE within ten days after the end of the Revocation Period as defined herein. This payment is made in settlement of potential legal claims for compensatory damages. No taxes, withholdings, or deductions will apply to this payment, which will be reported to the IRS on a Form 1099. EMPLOYEE agrees that she is responsible for any and all taxes that are or may be due on this payment. If it should be determined that taxes should have been withheld from this payment, EMPLOYEE agrees to be responsible for same and all interest and penalties and to indemnify EMPLOYER for any interest or penalties that it may be required to pay. EMPLOYEE agrees that this payment is the sole payment she will receive from the Village; she agrees that this Agreement supersedes any contract or agreement, oral or written, she has or may have had with the Village and voids any entitlement she has, had, or may have had from the Village for payment of severance or accumulated leave.

B. Letter. EMPLOYER agrees that the brief thank-you note from EMPLOYEE that is attached hereto will be read aloud at the meeting of the Village Commission during which this Agreement is considered by the Village Commission, provided this Agreement is approved.

Add On - Agenda Item 10E

C. Insurance. EMPLOYER agrees that EMPLOYEE may remain covered by the Village-provided health insurance on the same terms and with the same coverages and at the same cost to her (if any) as were in effect on June 26, 2018. EMPLOYEE's entitlement to such coverage will expire one year from EMPLOYEE's Separation Date or when she obtains health insurance coverage at any level from another source, whichever is earlier.

D. EMPLOYEE acknowledges that this consideration is ample and adequate and that she would not be entitled to this consideration but for her entry into this Agreement. EMPLOYEE agrees and acknowledges that this consideration is the only consideration or benefit to which she is entitled from EMPLOYER except as otherwise expressly set forth herein or provided for by law, if any.

4. Release and Waiver of Claims. In exchange for the Payment and other provisions of this Agreement, EMPLOYEE irrevocably, knowingly, and voluntarily releases, waives, and forever discharges any and all claims, demands, actions, causes of action, charges, and/or disputes of any kind, whether known or unknown, foreseen or unforeseen, foreseeable or unforeseeable, and any consequences thereof, which she has, had, or may now have against EMPLOYER, whether based in tort, contract, statute, or on any other basis. The disputes released include, but are not limited to, claims under:

- The U.S. Civil Rights Act of 1964, as amended;
- Sections 1981 through 1988 of Title 42 of the U.S. Code;
- Chapter 11A of the Miami-Dade County Code;
- The Constitutions of the United States and of Florida;
- The Employee Retirement Income Security Act of 1974, as amended;
- Any state or federal whistleblower statutes;
- The Internal Revenue Code;
- COBRA;
- GINA;
- USERRA;
- The Americans With Disabilities Act of 1990;
- The Florida Civil Rights Act;
- Chapter 440, Florida Statutes;
- Chapter 448, Florida Statutes;
- Chapter 447, Florida Statutes;
- The U.S. Equal Pay Act;
- The Family and Medical Leave Act;
- The National Labor Relations Act;
- The Age Discrimination in Employment Act;
- Any other federal, state, or local law, regulation, or ordinance, without limitation.

The Parties acknowledge that the list above is illustrative and not exhaustive and that the release provision of this Agreement is intended to be construed as broadly as possible to cover any and all claims EMPLOYEE has, had, or may now have against EMPLOYER. EMPLOYEE acknowledges that she may later discover facts in addition to or different from those she now knows or believes to be true with respect to the subject matter of this Agreement. She agrees that such discovery

Add On - Agenda Item 10E

shall not affect this Agreement, that she assumes the risk of such discovery, and that this Agreement shall remain in full force and effect and shall not be subject to rescission by reason of such discovery or difference in facts. EMPLOYEE acknowledges that she is waiving not only her right to recover money or obtain other relief based on the claims released herein, but she is also waiving her rights to recover money or obtain other relief based on any action that might be brought by any other person or entity. EMPLOYEE hereby represents that she has been fully paid all wages to which she is entitled, including, but not limited to overtime payments, if any. The Parties agree and understand that this Agreement does not affect EMPLOYEE's right to file a charge or participate in the investigation of a charge by the EEOC or similar fair employment practices agency and that this Agreement is not intended to and does not interfere with the enforcement authority of such agency. This Agreement is not intended to and does not waive or seek to waive any claim or cause of action as to which waiver is prohibited by applicable law. EMPLOYEE conclusively represents that she has disclosed any and all compensable injuries. EMPLOYEE conclusively represents that she has been paid all wages and compensation of whatever kind and at whatever rate to which she is entitled.

5. No Lawsuits or Claims. EMPLOYEE agrees not to institute or have instituted on her behalf any lawsuit, charge, or claim of any kind against the other based on the claims she is waiving in this Agreement. EMPLOYEE represents that she does not now have pending any lawsuit, charge, or claim of any kind against EMPLOYER. If it is determined that EMPLOYEE does have any pending claim of any kind against EMPLOYER, EMPLOYEE agrees to immediately withdraw or dismiss such claim with prejudice.

6. Older Workers Benefits Protection Act/ADEA.

a. EMPLOYEE agrees and represents that this Agreement is written in understandable language and that she does actually understand this Agreement.

b. This Agreement is intended to and does waive rights under the Age Discrimination in Employment Act, as amended, and the Older Workers Benefits Protection Act.

c. This Agreement does not waive any rights arising after the date the Agreement is executed.

d. The consideration received by EMPLOYEE pursuant to this Agreement is in addition to anything of value to which she already is entitled.

e. EMPLOYEE has been and is hereby advised in writing to consult an attorney prior to executing this Agreement. EMPLOYEE represents that she has, in fact, consulted an attorney to advise her regarding this Agreement.

f. EMPLOYEE has had ample time of at least 21 days in which to consider this Agreement. If she has not used the full 21 days for her consideration, she agrees that she has waived any unused part of that period.

g. EMPLOYEE may revoke this Agreement within seven days of the execution of the Agreement (the "Revocation Period") by her. In order to make an effective revocation,

Add On - Agenda Item 10E

EMPLOYEE must deliver a written notice of revocation to Norman Powell, Esq., Village Attorney, 1666 Kennedy Causeway, North Bay Village, Florida 33141. The notice must be headed "Notice of Revocation" and must make clear and explicit reference to this Agreement and must state, "I HEREBY REVOKE THE SETTLEMENT AGREEMENT." The notice must be actually received at the address of Mr. Powell no later than 5:00 p.m. on the seventh calendar day following the date that EMPLOYEE executes the Agreement. In computing the Revocation Period, the date of signing shall be excluded and the next seven calendar days shall constitute the Revocation Period. However, should the seventh day fall on a Saturday, Sunday, or state or federal holiday, the end of the Revocation Period shall occur at 5:00 p.m. on the next following business day.

7. Effective Date. This Agreement is effective after execution by both Parties and upon expiration of the Revocation Period, provided that an effective revocation has not been made.

8. Disputes. This Agreement shall be governed and construed according to the laws of the State of Florida. The language of the Agreement shall be construed as a whole, according to its plain meaning, and shall not be strictly construed against any party regardless of authorship. **IN THE EVENT THAT ANY PARTY TO THIS AGREEMENT INSTITUTES LEGAL PROCEEDINGS IN A DISPUTE ARISING FROM THIS AGREEMENT, IT IS STIPULATED AND AGREED THAT SUCH CLAIM SHALL BE HEARD BY A JUDGE AND NOT A JURY IN MIAMI-DADE COUNTY, FLORIDA.** EMPLOYEE agrees that venue is proper in Miami-Dade County, Florida, and further agrees that she will not challenge or object to said venue. It is agreed that the prevailing party in such a dispute shall be entitled to all its reasonable attorneys' fees, expenses and costs, including appellate attorney's fees and costs.

9. Counterparts; Signatures By Electronic Transmission. This Agreement may be executed in counterparts, each of which shall be deemed an original and which together shall be deemed one document. Any signature affixed to this Agreement and transmitted by electronic means shall be deemed an original and shall be valid and effective for all purposes.

10. Headings; Singulars And Plurals; Gender. Section headings in this Agreement are for convenience only and have no legal effect. As used in this document, the singular includes the plural and the plural includes the singular. As used in this document, the masculine includes the feminine and vice versa.

11. Acknowledgment. EMPLOYEE has read, understood, and fully considered this Agreement and all its terms. Both Parties acknowledge and agree that this Agreement is the product of mutual negotiation and compromise between the Parties. Having elected to enter into this Agreement, to fulfill the promises set forth herein and to receive thereby the benefits set forth herein, EMPLOYEE freely and knowingly and after full consideration, enters into this Agreement intending to waive, release, and create a final bar to any and all claims she has, had, or may now have against EMPLOYER from the beginning of the world to the Effective Date.

12. Entire Agreement; Modification. This Agreement constitutes the entire agreement between EMPLOYER and EMPLOYEE regarding its subject matter. EMPLOYEE agrees that she has relied on no promises, representations, understandings, or communications of any kind, written or oral, in agreeing to enter this Agreement other than those set forth expressly herein.

Add On - Agenda Item 10E

13. Invalidity. In the event that section 3 or any part thereof is determined by a court of competent jurisdiction to be invalid or unenforceable, the entire agreement shall be deemed null and void ab initio.

This Agreement may be modified only by a writing signed by EMPLOYER and EMPLOYEE or their respective successors, assigns, or authorized representatives.

IN WITNESS WHEREOF, EMPLOYEE and EMPLOYER have executed this Agreement and General Release as set forth below.

EMPLOYEE:

EMPLOYER:

NORTH BAY VILLAGE


for
MARLEN MARTELL *Marlen Martell*
07/05/16
Date

By: _____
CONNIE LEON-KREPS, Mayor

Date

Add On - Agenda Item 10F

RESOLUTION NO. 2018-

A RESOLUTION OF THE COMMISSION OF NORTH BAY VILLAGE, FLORIDA, APPOINTING AN INTERIM VILLAGE MANAGER; AND SETTING AN EFFECTIVE DATE. *(INTRODUCED BY VILLAGE ATTORNEY NORMAN C. POWELL)*

WHEREAS, Village Manager Marlen D. Martell has resigned from the Village, effective July ____, 2018; and

WHEREAS, the Village Commission will be recruiting for a new Village Manager, pursuant to Article IV, Section 4.01 of the Village Charter; and

WHEREAS, the Village Commission desires to appoint an Interim Village Manager to assume the responsibilities of the position until a permanent Village Manager is hired.

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

Section 1. **Recitals.** The foregoing Recitals are ratified and confirmed as being true and correct and are made a specific part of this Resolution.

Section 2. **Appointment.** _____ is hereby appointed as Interim Village Manager effective from July 10, 2018 through the first date of employment of a new Village Manager; or as otherwise directed by the Village Commission.

Section 3. **Appointment Duration.** _____ shall return to the position of _____ upon conclusion of his/her service as Interim Village Manager, when a permanent Village Manager is hired.

Section 4. **Effective Date.** This Resolution shall take effect immediately upon approval.

The motion to adopt the foregoing Resolution was offered by _____, seconded by _____.

Add On - Agenda Item 10F

FINAL VOTE AT ADOPTION:

Mayor Connie Leon-Kreps _____
Vice Mayor Andreana Jackson _____
Commissioner Jose Alvarez _____
Commissioner Laura Cattabriga _____
Commissioner Eddie Lim _____

PASSED AND ADOPTED this _____ day of July 2018.

Connie Leon-Kreps
Mayor

ATTEST:

Yvonne P. Hamilton, CMC
Village Clerk

APPROVED AS TO FORM FOR USE ONLY BY NORTH BAY VILLAGE:

Norman C. Powell, Esq.
Village Attorney

Add On - Agenda Item 10F



North Bay Village

Administrative Offices

1666 Kennedy Causeway, Suite 300 North Bay Village, FL 33141

Tel: (305) 756-7171 Fax: (305) 756-7722 Website: www.nbvillage.com

MEMORANDUM North Bay Village

DATE: July 10, 2018

TO: Yvonne P. Hamilton, CMC
Village Clerk

FROM: Norman C. Powell, Esq.
Village Attorney

SUBJECT: Introduction of Resolution

Pursuant to Section 3.08 of the Village Charter, I hereby introduce the following Resolution:

**A RESOLUTION OF THE COMMISSION OF
NORTH BAY VILLAGE, FLORIDA, APPOINTING
AN INTERIM VILLAGE MANAGER; AND
SETTING AN EFFECTIVE DATE.**

Accordingly, please place the item on the next available agenda.

NCP:yph

Page 4630

Mayor
Connie Leon-Kreps

Vice Mayor
Andreanna Jackson

Commissioner
Jose R. Alvarez

Commissioner
Laura Cattabriga

Commissioner
Eddie Lim