



**SOUTH BAY
COMMUNITY DEVELOPMENT
DISTRICT**

**HILLSBOROUGH COUNTY
REGULAR BOARD MEETING
JANUARY 13, 2023
1:00 P.M.**

Special District Services, Inc.
The Oaks Center
2501A Burns Road
Palm Beach Gardens, FL 33410

www.sbaycdd.org
561.630.4922 Telephone
877.SDS.4922 Toll Free
561.630.4923 Facsimile

AGENDA
SOUTH BAY COMMUNITY DEVELOPMENT DISTRICT
Sunset Grill & Beach Bar
602 Bahia del Sol Drive
Ruskin, Florida 33570
REGULAR BOARD MEETING
January 13, 2023
1:00 P.M.

- A. Call to Order
- B. Proof of Publication.....Page 1
- C. Establish Quorum
- D. Additions or Deletions to Agenda
- E. Approval of Minutes
 - 1. December 9, 2022 Regular Board Meeting & Public Hearing Minutes.....Page 2
- F. Old Business
 - 1. Discussion Regarding TECO Lights
- G. New Business
 - 1. Lease of Private Sidewalk by HS Suites to the CDD, TG
 - 2. Authorize Engineer and Counsel to Determine CDD Property Ownership, TG
- H. Reports
 - 1. Manager’s Report
 - a. Financial Report.....Page 8
 - 2. Legal Report
 - a. Update to the Memo to South Bay Board of Directors.....Page 14
 - b. Seawall Assessment Memo.....Page 18
 - 3. Engineer’s Report
 - 4. Chairman’s Report
 - 5. POA Report
 - a. Discussion Regarding Proposed Beach Rules.....Page 21
- I. Administrative Matters
- J. Comments by the Public for Matters not on the Agenda
- K. Board Members Comments
- L. Adjourn

**Tampa Bay Times
Published Daily**

STATE OF FLORIDA
COUNTY OF Hillsborough

}SS

Before the undersigned authority personally appeared **Jean Mitotes** who on oath says that he/she is **Legal Advertising Representative** of the **Tampa Bay Times** a daily newspaper printed in St. Petersburg, in Pinellas County, Florida; that the attached copy of advertisement, being a Legal Notice in the matter **RE: South Bay CDD - FY 22/23 Mtg Schedule** was published in said newspaper by print in the issues of: **9/28/22** or by publication on the newspaper's website, if authorized, on

Affiant further says the said **Tampa Bay Times** is a newspaper published in **Hillsborough** County, Florida and that the said newspaper has heretofore been continuously published in said **Hillsborough** County, Florida each day and has been entered as a second class mail matter at the post office in said **Hillsborough** County, Florida for a period of one year next preceding the first publication of the attached copy of advertisement, and affiant further says that he/she neither paid nor promised any person, firm or corporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in the said newspaper.



Signature Affiant

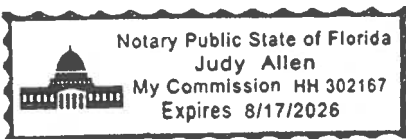
Sworn to and subscribed before me this **09/28/2022**



Signature of Notary Public

Personally known X or produced identification

Type of identification produced _____



**SOUTH BAY COMMUNITY DEVELOPMENT DISTRICT
FISCAL YEAR 2022/2023 REGULAR MEETING
SCHEDULE**

NOTICE IS HEREBY GIVEN that the Board of Supervisors of the South Bay Community Development District (the "District") has revised their Fiscal Year 2022/2023 Regular Meeting Schedule by holding Regular Meetings at the Sunset Grill and Beach Bar located at 602 Bahia del Sol Drive, Ruskin, Florida 33570, at 1:00 p.m. on the following dates:

- October 14, 2022**
- November 11, 2022**
- December 9, 2022**
- January 13, 2023**
- February 10, 2023**
- March 10, 2023**
- April 14, 2023**
- May 12, 2023**
- June 9, 2023**
- July 14, 2023**
- August 11, 2023**
- September 8, 2023**

The purpose of the meetings is to conduct any and all business coming before the Board. Meetings are open to the public and will be conducted in accordance with the provisions of Florida law. Copies of the Agendas for any of the meetings may be obtained from the District's website or by contacting the District Manager at (941) 244-2805 and/or toll free at 1-877-737-4922 prior to the date of the particular meeting.

From time to time one or more Supervisors may participate by telephone; therefore a speaker telephone will be present at the meeting location so that Supervisors may be fully informed of the discussions taking place. Meetings may be continued as found necessary to a time and place specified on the record.

If any person decides to appeal any decision made with respect to any matter considered at these meetings, such person will need a record of the proceedings and such person may need to insure that a verbatim record of the proceedings is made at his or her own expense and which record includes the testimony and evidence on which the appeal is based.

In accordance with the provisions of the Americans with Disabilities Act, any person requiring special accommodations or an interpreter to participate at any of these meetings should contact the District Manager at (941) 244-2805 and/or toll-free at 1-877-737-4922 at least seven (7) days prior to the date of the particular meeting.

Meetings may be cancelled from time to time without advertised notice.

SOUTH BAY COMMUNITY DEVELOPMENT DISTRICT

www.southbaycdd.org

PUBLISH: TAMPA BAY TIMES 09/28/22

0000248257

**SOUTH BAY COMMUNITY DEVELOPMENT DISTRICT
PUBLIC HEARING & REGULAR BOARD MEETING
DECEMBER 9, 2022**

A. CALL TO ORDER

The December 9, 2022, Regular Board Meeting of the South Bay Community Development District (the “District”) was called to order at 1:00 p.m. at the Sunset Grill and Beach Bar located at 602 Bahia del Sol Drive, Ruskin, Florida 33570.

B. PROOF OF PUBLICATION

Proof of publication was presented that indicated Notice of the Regular Board Meeting had been published in the *Tampa Bay Times* on September 28, 2022, as part of the District’s Fiscal Year 2022/2023 Meeting Schedule, as legally required.

C. ESTABLISH A QUORUM

It was determined that the following Supervisors constituted a quorum and was in order for the meeting to commence:

Chairman	Leah Popelka	Present
Vice Chairman	Kelly Evans	Present
Supervisor	Ian Brown	Present via phone
Supervisor	W. Thomas Grimm	Present
Supervisor	Mary Madden	Present

The following staff were in attendance:

District Manager	Michelle Krizen	Special District Services, Inc.
General Counsel	David Smith	GrayRobinson, P.A.
District Engineer	Rick Brylanski	Hole Montes, Inc.

Also present were the following:

- | | |
|---------------------------|------------------|
| John Calves | Karl Anglewicz |
| Bob Goodman | Mary J. Mandrick |
| Dan and Stella Beauchemin | Kevin Morris |
| Bob Johnson | Terrence Murphy |
| John and Theresa Aldrich | Beth Mann |
| Steve Herrera | Allison Ray |
| Misti Payne | Milton Payne |
| Cindy Goodman | Mike Brooks |

D. ADDITIONS OR DELETIONS TO THE AGENDA

There were no additions or deletions to the agenda.

E. APPROVAL OF MINUTES

1. November 11, 2022, Regular Board Meeting

The November 11, 2022, Regular Board Meeting minutes were presented for consideration.

A **motion** was made by Ms. Popelka, seconded by Ms. Evans and passed unanimously approving the minutes of the November 11, 2022, Regular Board Meeting, as presented.

F. OLD BUSINESS

There were no Old Business items to come before the Board.

G. NEW BUSINESS

1. South Bay Sewer Agreement

It was noted that there was no financial obligation of the District in regard to the sewer agreement. This agreement will help with additional development activities.

A **motion** was made by Ms. Popelka, seconded by Ms. Evans and passed unanimously approving the South Bay Sewer Agreement, as presented.

2. Discussion Regarding Three-Way Stop Signs at Bahia Beach Boulevard & Destiny Drive

Mr. Grimm reported complaints from residents about speeding at this location even with the speed bumps. From an engineering standpoint, creating a 3-way stop is an option. Enforcement would be a bigger issue, as people often run stop signs. Mr. Brylanski will get an estimate and bring it to the next meeting for discussion. The POA will also discuss and bring an opinion to the next meeting.

Seawall Assessment Memo

Mr. Brylanski shared maps showing the areas owned by the District, areas of concern and areas in greatest need. District Counsel shared the seawall memo. This memorandum explained who owns the seawall and who is responsible for its maintenance. The District needs to focus on the lands and seawalls owned by the District. Mr. Brylanski reviewed the options and spoke about installing Whalers to reinforce the existing wall, especially in areas that have yielded.

Discussion ensued and members of the public were opposed to spending money to repair it, as it was only a short-term solution. If a Whaler wall was put in place, the District would still need to plan a seawall replacement. District resident John Calves, who happens to be a Marine Contractor with 35 years' experience installing seawalls, explained the issues with trying to repair a wall that was incorrectly installed initially. He suggested replacing the wall in sections as the District can afford.

A **motion** was made by Ms. Evans, seconded by Ms. Madden, allowing the Chairperson to work with District staff to finalize and come up with a bid process with a contractor to facilitate the work in order to remedy the area of the wall that needs immediate repair for a not to exceed amount of \$150,000

After further discussion, a **motion**, was made by Mr. Grimm, seconded by Ms. Madden, amended the not to exceed amount to \$200,000. That **motion** carried on a vote of 4 to 1 with Ms. Evans dissenting.

3. Discussion Regarding Switching Towing Company at Two Parking Lots at Beach

Mr. Grimm noted that the current towing company was not very responsive. The District would need to give Last Call Towing 30-days' notice by registered mail before moving forward with any changes. Target RT Towing will provide free signs and are more reliable than Last Call. The POA Board agrees with this recommendation.

A **motion** was made by Mr. Grimm, seconded by Ms. Popelka and passed unanimously authorizing the POA to sign all the documents necessary in order to change towing companies.

4. Discussion Regarding Miami Curb at South Beach Parking Lot

Mr. Grimm asked why the District did not go further with the new curb. Mr. Brylanski recommended against it due to the cost.

5. Discussion Regarding Removal of Unauthorized Signs

The POA will provide an update on this matter at the next meeting.

The Regular Board Meeting was then recessed and the Public Hearing was opened.

H. PUBLIC HEARING

1. Proof of Publication

Proof of publication was presented that indicated Notice of the Public Hearing had been published in the *Tampa Bay Times* on November 6, 2022, as legally required.

2. Receive Public Comment on Amending Parking and Towing Rules

A summary was of amendments was provided. The current plan is to charge the following:

Monday through Thursday at \$3 per hour with a daily maximum of \$18;

Friday through Sunday at \$5 per hour with a daily maximum of \$25, including holidays;

Board-designated special events within a range of \$10-\$30 flat rate;

Up to 3 hours of free parking may be provided for verified restaurant customers with written evidence of validation.

If the Board calculates the road cost to residents and can document that the residents are currently paying their fair share, then the residents would not have to pay to park, as they already pay for roads.

A discussion ensued and all the residents in attendance were in favor of paid parking.

3. Consider Resolution No. 2022-07 – Amending Parking and Towing Rules

Resolution No. 2022-07 was presented, entitled:

RESOLUTION 2022-07

A RESOLUTION OF THE BOARD OF SUPERVISORS OF THE SOUTH BAY COMMUNITY DISTRICT AMENDING SECTION 8.0 OF THE RULES RELATING TO OVERNIGHT PARKING AND PARKING ENFORCEMENT; PROVIDING FINDINGS; ADOPTING PARKING RATES; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.

A **motion** was made by Ms. Madden, seconded by Mr. Brown and passed unanimously adopting Resolution No. 2022-07, as presented.

The Public Hearing was then closed and the Regular Board Meeting was reconvened.

I. REPORTS

1. Manager's Report

Ms. Krizen stated that the next scheduled meeting is on January 13, 2023.

a. Financial Report

The Financial Report was presented. There were no questions from the Board Members.

2. Legal Report

a. Update to Memo to South Bay Board of Directors

Members of the public requested that the legal team look into a seawall claim.

Mr. Smith went over the Memo with the list of updated items that needed to be cleared up before the turnover to the District.

b. Consider Resolution No. 2022-08 – Adopting a Records Retention Policy

Resolution No. 2022-08 was presented, entitled:

RESOLUTION 2022-08

A RESOLUTION OF THE BOARD OF SUPERVISORS OF SOUTH BAY COMMUNITY DEVELOPMENT DISTRICT; ADOPTING A

**RECORDS RETENTION POLICY; PROVIDING FOR FINDINGS,
CONFLICTS, SEVERABILITY, AND AN EFFECTIVE DATE.**

This resolution outlines how records are able to be destroyed.

A motion was made by Ms. Popelka, seconded by Ms. Evans and passed unanimously adopting Resolution No. 2022-08, as presented.

3. Engineer's Report

a. Discussion Regarding Proposed District Sidewalk

A few proposals were presented however, the cost prohibits the District from moving forward at this time. The District is going to ask Jeff Carter for an easement allowing residents to walk on the existing sidewalks instead of on the road or building an additional one.

4. Chairperson's Report

There was no Chairperson's Report at this time.

5. POA Report

It was noted that the pavers had been repaired. Unfortunately, there was damage that was not anticipated, which caused the project to go \$500 over budget and the POA is requesting additional funds. Ms. Popelka reminded the POA that the District pays a substantial amount to the POA and the District has projects coming up that require funding.

A **motion** was made by Ms. Popelka, seconded by Ms. Madden approving the additional \$500 to the POA for the paver project at the entrance. Upon being put to a vote, the **motion** carried 4 to 1 with Mr. Grimm dissenting.

J. ADMINISTRATIVE MATTERS

There were no Administrative Matters to come before the Board.

K. COMMENTS FROM THE PUBLIC FOR ITEMS NOT ON THE AGENDA

A resident asked about installing a flashing signal near the area of Bahia Beach Boulevard where vehicular speeding has been an issue. The POA will discuss this item at the next meeting and will report back to the District Board.

L. BOARD MEMBER COMMENTS

Mr. Grimm requested that the POA create a list to bring to the next meeting. The beach is managed by the POA. The POA should list what items should be allowed at the beach and what should be monitored and enforced. (No drugs, tables, tents....).

M. ADJOURNMENT

There being no further business to come before the Board, a **motion** was made by Ms. Popelka, seconded by Ms. Evans adjourning the Regular Board Meeting at 3:03 p.m. That **motion** passed unanimously.

Secretary/Assistant Secretary

Chair/Vice-Chair

South Bay
Community Development District

**Financial Report For
December 2022**

**SOUTH BAY COMMUNITY DEVELOPMENT DISTRICT
MONTHLY FINANCIAL REPORT
DECEMBER 2022**

	Annual Budget 10/1/22- 9/30/23	Actual Dec-22	Year To Date Actual 10/1/22 - 12/31/22	Year To Date Budget 10/1/22 - 12/31/22
REVENUES				
Administrative Assessments (On-Roll)	85,403	41,427	71,948	72,548
Administrative Assessments (Off-Roll)	152,453	0	63,310	68,316
Maintenance Assessments (On-Roll)	143,104	69,386	120,505	120,000
Maintenance Assessments (Off-Roll)	255,503	0	106,104	124,896
Debt Assessments - A1 (On-Roll)	729,255	353,618	614,139	620,000
Debt Assessments - A1 (Off-Roll)	113,701	0	56,851	58,000
Other Revenue	0	1,000	1,000	0
Interest Income	420	0	38	105
TOTAL REVENUES	\$ 1,479,839	\$ 465,431	\$ 1,033,895	\$ 1,063,865
O & M EXPENDITURES				
Supervisor Fees	10,000	1,000	2,400	1,600
Payroll Taxes (Employer)	800	76	183	128
Engineering	15,000	0	4,088	3,750
Engineering - Roadways	0	0	1,410	0
Surveying	1,000	0	0	249
Management	35,208	2,934	8,802	8,802
Legal	70,000	0	13,620	17,499
Legal - Extraordinary/Litigation	45,000	0	210	11,250
Assessment Roll	6,000	0	0	0
Audit Fees	7,250	0	0	0
Arbitrage Rebate Fee	1,950	0	0	0
Travel Per Diam	1,250	75	289	312
Insurance	12,000	0	12,070	12,000
Legal Advertising	5,200	0	1,337	1,299
Miscellaneous	2,500	63	272	624
Postage	750	57	108	186
Office Supplies	1,500	107	182	375
Dues & Subscriptions	175	0	175	175
Website Management	2,000	167	500	501
Trustee Fees	9,000	0	0	0
Continuing Disclosure Fee	5,000	5,000	5,000	5,000
Property Taxes	390	389	389	390
Document Storage	1,200	27	104	300
TOTAL ADMINISTRATIVE EXPENDITURES	\$ 233,173	\$ 9,895	\$ 51,139	\$ 64,440
MAINTENANCE EXPENDITURES				
POA Maintenance	280,000	23,333	70,000	70,003
Seawall Reserve Contribution	50,000	0	3,000	10,000
Miscellaneous Maintenance	10,000	0	0	1,000
Maintenance Reserve Contributor	50,000	0	52,040	40,000
TOTAL MAINTENANCE EXPENDITURES	\$ 390,000	\$ 23,333	\$ 125,040	\$ 121,003
TOTAL EXPENDITURES	\$ 623,173	\$ 33,228	\$ 176,179	\$ 185,443
REVENUES LESS EXPENDITURES	\$ 856,666	\$ 432,203	\$ 857,716	\$ 878,422
Payment To Trustee (A-1 Bond)	799,200)	332,683)	634,524)	626,000)
BALANCE	\$ 57,466	\$ 99,520	\$ 223,192	\$ 252,422
County Appraiser & Tax Collector Fee	19,155)	8,917)	15,484)	17,250)
Discounts for Early Payments	38,311)	18,578)	32,410)	34,503)
EXCESS/(SHORTFALL)	\$ -	\$ 72,025	\$ 175,298	\$ 200,669
Carryover From Prior Year	-	-	-	-
NET EXCESS/(SHORTFALL)	\$ -	\$ 72,025	\$ 175,298	\$ 200,669

Notes

\$464,164 was received for Riverton Sale on 10/26/21.

Fiscal Year 2021/2022 Roadway Maintenance Deducted From Reserve: \$110,977.35 - Reserve Balance As Of 9/30/21 Was \$129,668. Expenditure As Of 9/30/22 = \$240,645.35

Fiscal Year 2022/2023 Maintenance Reserve Contribution Budget = \$50,000. Any Expenditures over \$50,000 will be applied against the Reserve.

Current Fiscal Year 2022/2023 Maintenance Expenditure = \$52,040. \$2,040: Deducted From Reserve (\$52,040 - \$50,000 = \$2,040).

Fiscal Year 2022/2023 Seawall Reserve Contribution Budget = \$50,000. Current Funds Remaining = \$47,000 (\$50,000 - \$3,000 = \$47,000).

Available Funds As Of 9/30/22	\$ 146,163.14
Bank Balance As Of 12/31/22	\$ 1,024,647.53
Accounts Payable As Of 12/31/22	\$ 371,693.37
Accounts Receivable As Of 12/31/22	\$ 5,000.00
Reserve For Seawall Repairs As Of 12/31/22	\$ 32,700.00
Reserve For Maintenance As Of 12/31/22	\$ 301,752.65
Available Funds As Of 12/31/22	\$ 323,501.51

Reserve For Maintenance	Memo
\$464,164.00	Riverton Sale - 10/26/21
-\$36,390.00	FY 20/21 Riverton Legal Fees
-\$8,490.00	FY 21/22 Riverton Legal Fees
-\$4,514.00	20/21 Riverton Legal Advertising
-\$110,977.35	FY 21/22 Roadway Maintenance
-\$2,040.00	FY 22/23 Roadway Maintenance
\$301,752.65	

South Bay Community Development District
Expenditures
November through December 2022

	<u>Date</u>	<u>Num</u>	<u>Name</u>	<u>Memo</u>	<u>Amount</u>
Expenditures					
511.122 · Payroll tax expense					
	11/17/2022	PR 11.11.22		MTG 11.11.22 CK 11.18.22 (Payroll Taxes)	45.90
	12/16/2022	PR 12.09.22		MTG 12.09.22 CK 12.16.22 (Payroll Taxes)	76.50
Total 511.122 · Payroll tax expense					<u>122.40</u>
511.131 · Supervisors Fee					
	11/17/2022	PR 11.11.22		MTG 11.11.22 CK 11.18.22 (Supervisor Fees)	600.00
	12/16/2022	PR 12.09.22		MTG 12.09.22 CK 12.16.22 (Supervisor Fees)	1,000.00
Total 511.131 · Supervisors Fee					<u>1,600.00</u>
511.310 · Engineering					
511.321 · Engineering - Roadways					
	11/30/2022	89778	Hole Montes	For Services Rendered From November 1, 22 to November 30, 22	780.00
Total 511.321 · Engineering - Roadways					<u>780.00</u>
511.310 · Engineering - Other					
	11/30/2022	89777	Hole Montes	For Services Rendered From November 1, 22 to November 30, 22	2,820.00
Total 511.310 · Engineering - Other					<u>2,820.00</u>
Total 511.310 · Engineering					<u>3,600.00</u>
511.311 · Management Fees					
	11/30/2022	2022-1751	Special District Services, Inc.	Management Fee Nov 2022	2,934.00
	12/31/2022	2022-1961	Special District Services, Inc.	Management Fee Dec 2022	2,934.00
Total 511.311 · Management Fees					<u>5,868.00</u>
511.315 · Legal Fees					
	11/30/2022	11114642	Gray Robinson	General Representation-Nov 2022	7,200.00
Total 511.315 · Legal Fees					<u>7,200.00</u>
511.441 · Travel & Per Diam					
	11/30/2022	2022-1751	Special District Services, Inc.	Travel Oct 2022	138.75
	12/31/2022	2022-1961	Special District Services, Inc.	Travel Nov 2022	75.00
Total 511.441 · Travel & Per Diam					<u>213.75</u>
511.480 · Legal Advertisements					
	11/06/2022	0000256012	Tampa Bay Times	Overnight Parking and Parking Enforcement	519.00
Total 511.480 · Legal Advertisements					<u>519.00</u>
511.512 · Miscellaneous					
	11/17/2022	PR 11.11.22		MTG 11.11.22 CK 11.18.22 (Payroll Processing)	51.95
	11/30/2022	2022-1751	Special District Services, Inc.	Conference Calls Oct 2022	52.42
	12/16/2022	PR 12.09.22		MTG 12.09.22 CK 12.16.22 (Payroll Processing)	52.60
	12/31/2022	2022-1961	Special District Services, Inc.	Conference Calls Nov 2022	10.25
Total 511.512 · Miscellaneous					<u>167.22</u>
511.513 · Postage and Delivery					
	11/30/2022	2022-1751	Special District Services, Inc.	FedEx Oct 2022	40.24
	11/30/2022	2022-1751	Special District Services, Inc.	Postage Oct 2022	10.67
	12/31/2022	2022-1961	Special District Services, Inc.	FedEx Nov 2022	56.80

South Bay Community Development District
Expenditures
November through December 2022

	<u>Date</u>	<u>Num</u>	<u>Name</u>	<u>Memo</u>	<u>Amount</u>
Total 511.513 · Postage and Delivery					107.71
511.514 · Office Supplies					
	11/30/2022	2022-1751	Special District Services, Inc.	Copier Oct 2022	46.65
	11/30/2022	2022-1751	Special District Services, Inc.	Meeting Books Oct 2022	24.00
	12/31/2022	2022-1961	Special District Services, Inc.	Copier Nov 2022	74.85
	12/31/2022	2022-1961	Special District Services, Inc.	Meeting Books Nov 2022	<u>32.00</u>
Total 511.514 · Office Supplies					177.50
511.734 · Continuing Disclosure Fee					
	12/13/2022	326	Lerner Reporting Services Inc.	Annual Continuing Disclosures FY 22/23	<u>5,000.00</u>
Total 511.734 · Continuing Disclosure Fee					5,000.00
511.748 · Document Storage					
	11/30/2022	2022-1751	Special District Services, Inc.	Document Storage Oct 2022	26.65
	12/31/2022	2022-1961	Special District Services, Inc.	Document Storage Nov 2022	<u>26.66</u>
Total 511.748 · Document Storage					53.31
511.750 · Website Management					
	11/30/2022	2022-1751	Special District Services, Inc.	Website Fee Nov 2022	166.66
	12/31/2022	2022-1961	Special District Services, Inc.	Website Fee Dec 2022	<u>166.66</u>
Total 511.750 · Website Management					333.32
511.800 · Property Taxes					
	12/01/2022	A0315870025	Hillsborough County Tax Collector	Acct#A0315870025	<u>388.85</u>
Total 511.800 · Property Taxes					388.85
511.882 · Common Area Maintenance					
	11/01/2022	2022-11-01	Little Harbor POA (Monthly)	Common Area Maintenance	23,333.33
	12/01/2022	2022-12-01	Little Harbor POA (Monthly)	Common Area Maintenance	<u>23,333.33</u>
Total 511.882 · Common Area Maintenance					46,666.66
512.315 · Legal -Extraordinary/Litigation					
	11/30/2022	11114644	Gray Robinson	Little Harbor Development LP, et al v. South Bay CDD- Nov 2022	<u>210.00</u>
Total 512.315 · Legal -Extraordinary/Litigation					210.00
516.055 · Roadway Maintenance					
	11/04/2022	7839	Pro Way Paving Systems LLC	Speed Bump Sign/Decorative Post One Way Sign/Pedestrian Crossing Sign	13,600.00
	11/18/2022	7859	Pro Way Paving Systems LLC	StripingInstall Non Woven Fabric/ Base	7,800.00
	11/30/2022	7892	Pro Way Paving Systems LLC	ADA Ramp Miami Curb InstallationADA Warning Pads	<u>18,600.00</u>
Total 516.055 · Roadway Maintenance					40,000.00
Total Expenditures					<u>112,227.72</u>

**South Bay Community Development District
Balance Sheet
As of December 31, 2022**

	<u>Operating Fund</u>	<u>Debt Service Fund 05)</u>	<u>Debt Service Fund 15)</u>	<u>Capital Projects Fund</u>	<u>Gen Fixed Assets Fund</u>	<u>Long Term Debt Fund</u>	<u>TOTAL</u>
ASSETS							
Current Assets							
Checking/Savings							
Seacoast Bank	1,024,647.53	0.00	0.00	0.00	0.00	0.00	1,024,647.53
Total Checking/Savings	1,024,647.53	0.00	0.00	0.00	0.00	0.00	1,024,647.53
Total Current Assets	1,024,647.53	0.00	0.00	0.00	0.00	0.00	1,024,647.53
Other Assets							
Investments - Principal Account 2015-B1)	0.00	0.00	0.04	0.00	0.00	0.00	0.04
Investments - Interest Account A1)	0.00	0.00	0.20	0.00	0.00	0.00	0.20
Investments - Revenue Account 2005)	0.00	8,807.04	0.00	0.00	0.00	0.00	8,807.04
Investments - Prepayment Account B1)	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Investments - Prepayment Account A1)	0.00	0.00	4,877.78	0.00	0.00	0.00	4,877.78
Investments - Reserve Account B2)	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Investments - Interest Account B1)	0.00	0.00	0.20	0.00	0.00	0.00	0.20
Investments - Interest Account B2)	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Investments - Revenue Account 2015-1)	0.00	0.00	422,806.34	0.00	0.00	0.00	422,806.34
Investments - Reserve Account 2015-A1)	0.00	0.00	411,125.63	0.00	0.00	0.00	411,125.63
Investments - Reserve Account 2015-B1)	0.00	0.00	0.57	0.00	0.00	0.00	0.57
Investments - Revenue Account 2015-2)	0.00	0.00	100,359.14	0.00	0.00	0.00	100,359.14
Investments - Reserve Account 2015-A2)	0.00	0.00	476,810.75	0.00	0.00	0.00	476,810.75
Investments - Reserve Account 2015-B2)	0.00	0.00	253,995.40	0.00	0.00	0.00	253,995.40
Investments - Sinking 2015-1)	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Accounts Receivable	5,000.00	0.00	0.00	0.00	0.00	0.00	5,000.00
A/R Non Ad Valorem Receipts	0.00	0.00	332,683.40	0.00	0.00	0.00	332,683.40
A/R B-1 Bond Assessments	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Land	0.00	0.00	0.00	0.00	16,812,056.00	0.00	16,812,056.00
Infrastructure	0.00	0.00	0.00	0.00	28,197,947.00	0.00	28,197,947.00
Accumulated Depreciation	0.00	0.00	0.00	0.00	-6,066,554.00	0.00	-6,066,554.00
Amount Available In DSF (2005)	0.00	0.00	0.00	0.00	0.00	8,807.04	8,807.04
Amount Available In DSF (2015)	0.00	0.00	0.00	0.00	0.00	2,002,659.45	2,002,659.45
Amount To Be Provided	0.00	0.00	0.00	0.00	0.00	21,373,533.51	21,373,533.51
Total Other Assets	5,000.00	8,807.04	2,002,659.45	0.00	38,943,449.00	23,385,000.00	64,344,915.49
TOTAL ASSETS	1,029,647.53	8,807.04	2,002,659.45	0.00	38,943,449.00	23,385,000.00	65,369,563.02

**South Bay Community Development District
Balance Sheet
As of December 31, 2022**

	<u>Operating Fund</u>	<u>Debt Service Fund 05)</u>	<u>Debt Service Fund 15)</u>	<u>Capital Projects Fund</u>	<u>Gen Fixed Assets Fund</u>	<u>Long Term Debt Fund</u>	<u>TOTAL</u>
LIABILITIES & EQUITY							
Liabilities							
Current Liabilities							
Reserve For Seawall Repairs	32,700.00	0.00	0.00	0.00	0.00	0.00	32,700.00
Reserve For Maintenance Previous)	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Reserve For Maintenance	301,752.65	0.00	0.00	0.00	0.00	0.00	301,752.65
Due To Bondholders	0.00	6,755,000.00	0.00	0.00	0.00	0.00	6,755,000.00
Accounts Payable	371,693.37	0.00	0.00	0.00	0.00	0.00	371,693.37
Total Accounts Payable	706,146.02	6,755,000.00	0.00	0.00	0.00	0.00	7,461,146.02
Total Current Liabilities	706,146.02	6,755,000.00	0.00	0.00	0.00	0.00	7,461,146.02
Long Term Liabilities							
Special Assessment Debt 2005)	0.00	0.00	0.00	0.00	0.00	6,755,000.00	6,755,000.00
Special Assessment Debt 2015A-1)	0.00	0.00	0.00	0.00	0.00	7,560,000.00	7,560,000.00
Special Assessment Debt 2015B-1)	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Special Assessment Debt 2015A-2)	0.00	0.00	0.00	0.00	0.00	4,895,000.00	4,895,000.00
Special Assessment Debt 2015B-2)	0.00	0.00	0.00	0.00	0.00	4,175,000.00	4,175,000.00
Total Long Term Liabilities	0.00	0.00	0.00	0.00	0.00	23,385,000.00	23,385,000.00
Total Liabilities	706,146.02	6,755,000.00	0.00	0.00	0.00	23,385,000.00	30,846,146.02
Equity							
Investment In General Fixed Assets	0.00	0.00	0.00	0.00	45,010,003.00	0.00	45,010,003.00
Retained Earnings	146,163.14	-6,746,219.89	1,627,786.47	0.00	-6,066,554.00	0.00	-11,038,824.28
Current Year Depreciation	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Net Income	177,338.37	26.93	374,872.98	0.00	0.00	0.00	552,238.28
Total Equity	323,501.51	-6,746,192.96	2,002,659.45	0.00	38,943,449.00	0.00	34,523,417.00
TOTAL LIABILITIES & EQUITY	1,029,647.53	8,807.04	2,002,659.45	0.00	38,943,449.00	23,385,000.00	65,369,563.02

Notes

For Balance Sheet: 22/23 Reserve Contribution (\$2,040) Expenditures Are Added To Operating Fund Net Income Amount.

MEMORANDUM

TO: South Bay Board of Directors
FROM: David L. Smith
DATE: October 3, 2022 Client-Matter Number: 40242-2
SUBJECT: Agenda Items - Fiscal Year 2022-2023

Board Members,

This memorandum is for the purpose of summarizing the primary issues that need to be addressed and resolved in the upcoming fiscal year for South Bay CDD prior to turnover of control. (See below.) For your ease of reference, I will consolidate here issues on which you have been briefed, at least in part, via various other memoranda previously.

The point is to resolve these matters while we have a Board, which has the institutional knowledge associated with most of these issues. It is also important to address these issues while we have the District Management, District Counsel and District Engineer with that background knowledge.

These items are identified as follows, with additional information to be provided subsequently so that each can be addressed thoroughly:

I. Harborside Suites Issues

A. Amendment to Settlement Agreement. The original Settlement Agreement with Harborside Suites was dated November 1, 2013. Since then, many of the requirements and conditions have been met or are no longer relevant. In order to provide a clear go-forward basis governing the District's relationship with Harborside Suites, it is important that we revise the Settlement Agreement to reflect the current state of affairs.

B. Harborside Seawall Repairs. Harborside Suites has previously undertaken to repair the seawalls along the eastern and southern edge of its properties contiguous to the Harborside Cove Marina. The question is whether this is part of a District-wide seawall repair obligation or is simply the obligation of Harborside Suites. Both the Settlement Agreement and the Seawall Repair and Assessment Methodology will need to be reviewed in answering this question.

II. Global Title and Survey Issues

A. District Engineer Efforts. The District Engineer has been gathering all available surveys that have been generated in conjunction with transfers and sales of property within the District. It is the goal to consolidate those surveys and get an overall understanding of the exact locations of the various boundaries of the property. It may nonetheless be necessary to incur expense for completion of this survey work. The survey and title work was not done with great care by the Developer and yet those matters have significant ramifications for many of the issues identified in this memorandum and otherwise applicable to the District.

B. Ownership Obligations. Many of the issues discussed herein relate to the actual ownership of the various properties comprising the District and the obligations attendant to that ownership. It is for this reason that the District needs to consider whether it wants to obtain a global title insurance policy to clarify once and for all the exact ownership situation. It could very well be that this title work, if done in conjunction with the above-referenced survey work could be immensely valuable on a go-forward basis. It is, however, not an inexpensive process.

III. Pending Litigation

A. SunTex Marinas. There is existing litigation with the successor-in-interest to Little Harbor Ltd. We need to attempt to resolve this litigation in conjunction with addressing other issues related to the property owned or controlled by SunTex Marinas.

B. SunTex Marinas Access. As per a recent settlement in conjunction with the T-Docks, the District agreed to attempt to assist Little Harbor Ltd. address its access issues. We will need to elaborate exactly what those problems are and what path there may be to their resolution. We do not currently know whether the new owner is fully aware of these issues. Nonetheless, it is in at least their interest to get these matters resolved.

C. Personal Injury Suit on Property Near Pier. There was a claim asserted with regard to a fall by a visitor on the property located near the pier in the Tiki Hut. There is a need to clarify the exact ownership of that property, which has bearing on whose obligation it is to defend and/or pay any associated damages that may become due. As you can see, a lot of these matters are inter-related.

IV. Assessment Methodology Review

A. Changes in Use. We need to evaluate whether the initial development concept has vestigial impact on the Assessment Methodology which should be corrected. That is, there was a resort concept initially. We need to determine whether the allocation of certain expenses was attendant to the resort amenities concept and was included in the Assessment Methodology.

B. Zoning and Land Use Changes. We need to review the various zoning and land use changes associated with the property to determine whether it has altered the potential development on various parcels, thereby possibly altering the allocation of assessments among the parcels.

C. Changes per Settlement Agreements. We need to review each Settlement Agreement and determine whether any of those obligations have been altered by virtue of related subsequent developments.

That then would need to be translated through to any implications it has on the assessment methodology. In all events, it is important that the new Board understand what obligations are still outstanding.

D. Board Action. We need to review the various actions taken by the Board to determine whether they have any impact on the applicable assessment methodology in allocation of assessments, or otherwise impact the District.

E. Seawall Maintenance Decisions. We need to summarize exactly what decisions have been made with regard to seawall maintenance and what that impact has with respect to the allocation of assessments on a go-forward basis, if any.

F. Existing Agreements. There are certain existing agreements that create contractual obligations regarding seawall maintenance and other matters. We need to evaluate those in terms of what impact, if any, they have on a global seawall maintenance approach for governance of the District.

G. Additions, Deletions or Changes to Infrastructure. We need to evaluate whether there have been any changes to the available infrastructure and any associated amenities that create financial obligations that must be assessed against all or portions of the property owners of the District.

V. Seawall Access Easement Agreement

A. Ownership and Methodology Outcomes. Depending upon the ownership determination and the methodology evaluations described above, we will need to determine exactly what the maintenance obligations are for the District and what they are for private property owners.

B. Execution and Recording of Agreement. Once the items identified in paragraph A above are determined, we need to get the Seawall Access Easement Agreement executed and recorded in the public records so this is established on a go-forward basis clearly for all concerned.

VI. Notice and Opportunity to be Heard

A. Sufficient Notice. It is important that all property owners receive notice of these pending decisions so that they may have an opportunity to provide input in that process. This summary is a continuing effort to make sure the notice is provided through the agenda process to all concerned in order to meet this goal.

B. Opportunity to be Heard. Part of the due process requirements for the District is that in addition to providing notice there must be a legitimate and sufficient opportunity for the property owners to provide their input and provide any evidence or argument related to the issues to be determined by the Board. Accordingly, we need to set specific time periods for such participation to occur so that all members have that opportunity and the Board has the benefit of all of the information related to the decision the Board must make.

VII. Turnover of Control

A. Completion of Above Information Gathering. It is in part and parcel in connection with the turnover of control that we complete all of the above-referenced items so that the membership has had an

opportunity to participate and that there is clarity on exactly what will occur on a go-forward basis and what items remain for the new Board to determine.

B. Process. There is a process that must be followed in order to make sure that turnover occurs in a manner consistent with applicable law. Essentially, it is that all relevant parties must have notice and opportunity to be heard before a decision is made. This will be elaborated on as will the other items above.

jsl

MEMORANDUM

TO: Board of Directors
South Bay Community Development District (“**District**”)

FROM: David L. Smith

DATE: November 17, 2022, Client-Matter Number: 40242-2
Final Revision
December 5, 2022

SUBJECT: Seawall Assessment Determination

This provides the information to the Board for making its final determination of seawall maintenance and the related assessment allocation. The primary concept is that the District will provide the appropriate structural improvements (“**Seawall Repairs**”) for sections of seawall owned by the District. This would include any seawalls for which third party owners authorize Seawall Repairs by the District. All other third parties will be left with the obligation of Seawall Repairs they determine appropriate for their respective properties.

I. Varieties of Seawalls to be Repaired/Maintained

Based upon my review of the documentation, surveys and ownership of the various parcels of property, I believe we have the following four different seawall/retaining wall ownership situations. Hereinafter I will use the term Seawall to refer to both a seawall and/or a retaining wall:

1. Seawalls subject to the South Bay CDD Drainage and Retaining Wall Maintenance Easement, dated August 31, 2006 and recorded at Office Records Book 17074, Page 1376 (“**Seawall Maintenance Agreement**”).
2. Seawalls owned by the District including District ownership of significant uplands adjacent to the seawall.
3. Seawalls owned by the District without significant uplands owned by the District adjacent to the seawall.
4. Seawalls and attendant uplands owned by third parties, i.e. not the District.

The balance of this Memorandum discusses the allocation of Assessments for Seawall Repairs.

II. **Distinction Between Maintenance/Repair Obligations and Assessments/Seawall Maintenance Agreement**

There is a conceptual distinction between who is obligated to undertake the Seawall Repairs and who is assessed for those repairs. In some cases they may be the same. In others they may not.

That is, it may be that pursuant to the above-referenced Seawall Maintenance Agreement, the District has the obligation to repair and maintain the seawalls described therein, but a determination must be made whether such repairs are to be reimbursed by special assessments imposed on the contiguous upland property owner or whether it is a common amenity that would be spread over every property owner in the District. The argument for the special assessment of the adjacent property owner is that such owner is the primary beneficiary of the existence and function of the seawall and is consistent with the primary concept mentioned at the outset.

The argument for it being a District-wide common expense is that the basin is a common amenity requiring that the assessment be shared by every property owner in the District. It is unclear, however, how that particular basin would be distinguished from any other waterway within the District. That is, was the Antigua Cove basin for some reason seen as a common amenity whereas all of the other waterways were not? What is the basis for such a distinction?

III. **Seawalls Owned by the District with District Owning Significant Adjacent Uplands**

With respect to a seawall which is owned by the District along with the adjacent uplands, it would seem that would serve a purpose that is common to the District, such as the provision of a roadway, parking area, greenspace or the like on the upland. If in fact the upland provides a common amenity, the assessment would be assessed against all property owners in the District.

IV. **Seawall Owned by District with No Adjacent Upland Ownership**

In a situation where the seawall is owned by the District but the adjacent upland is not owned by the District, it would seem that such Seawall Repairs would be subject to a special assessment allocated to those who own the upland, if not in fact undertaken directly by the upland owner.

V. **Seawalls Owned by Third Parties**

The seawalls and attendant upland that are owned by private property owners, with no specific other contractual obligation for the District to maintain, should be maintained by those property owners at their sole expense. If so, and if the District were to undertake that maintenance and repair obligation by virtue of the failure of the adjacent upland owner to do so, it would be a special assessment against the upland property owners.

VI. **Seawall Access Maintenance and Easement Agreement.**

Attached is a copy of the Seawall Easement and Maintenance Agreement which is intended to provide the District the access to maintain any and all of the seawalls within the District for which it lacks the access to do so. Again, the assessments associated with such repairs so undertaken would be allocated as described in the preceding sections above.

VII. **Notice of Opportunity to Provide Additional Evidence/Argument.**

In order to make a final determination with respect to the Seawall Repairs and the allocation of the assessments therefor, the District is providing this summary to all of the relevant stakeholders in the District in order to make sure they have an opportunity to provide any additional information, analysis or argument for a different treatment of the Seawall Repairs.

The Board will make a determination in fiscal year 2022/2023 at properly noticed, publicly attended Board Meetings. As such, all property owners will have an opportunity to be heard and should take advantage of that opportunity, if in fact they want to be heard on the issue.

jsl

PROPOSED CDD BEACH RULES

No tents or gazebos or tables

No glass containers

No pets

No grilling or fires

No littering

No Loitering

Umbrellas no greater than 7' 6" in height and 9' in diameter

Beach closes 30 minutes after sunset

No lifeguard on duty, swim at your own risk