

MIAMI BEACH

COMMISSION MEMORANDUM

TO: Honorable Mayor and Members of the City Commission

FROM: Rickelle Williams, Interim City Manager *RW*

DATE: June 26, 2024

TITLE: **A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, ACCEPTING THE RECOMMENDATION OF THE FINANCE AND ECONOMIC RESILIENCY COMMITTEE, AT ITS MAY 24, 2024 MEETING, WITH RESPECT TO THE COMPLETION OF THE INDIAN CREEK PEDESTRIAN PATHWAY ALONG/NEAR THE 28TH STREET PEDESTRIAN BRIDGE, AND AUTHORIZING THE ADMINISTRATION TO: (1) WORK WITH THE CITY ATTORNEY TO NEGOTIATE WITH THE OWNER OF THE 2811 OUTLOT PARCEL TO SECURE AN EASEMENT OR OTHER PROPERTY RIGHTS DEEMED ACCEPTABLE BY THE CITY ATTORNEY, GRANTING THE CITY THE RIGHT TO DEVELOP AND MAINTAIN, AT THE CITY'S SOLE COST, A CONNECTING PEDESTRIAN PATHWAY OVER WATER FOR USE BY THE PUBLIC; AND, IN THE EVENT THAT NEGOTIATIONS ARE NOT SUCCESSFUL, (3) STUDY THE POSSIBILITY OF PURSUING AN EMINENT DOMAIN PROCEEDING AGAINST THE 2811 OUTLOT PARCEL, INCLUDING SECURING APPRAISALS AND ANY OTHER INFORMATION DEEMED RELEVANT BY THE CITY ATTORNEY IN CONNECTION WITH PROVIDING THE CITY COMMISSION WITH A RECOMMENDATION AS TO WHETHER OR NOT TO PURSUE AN EMINENT DOMAIN PROCEEDING AGAINST THE 2811 OUTLOT PARCEL, AS A CONDITION PRECEDENT TO THE COMMENCEMENT OF SUCH LEGAL PROCEEDING.**

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, ACCEPTING THE RECOMMENDATION OF THE FINANCE AND ECONOMIC RESILIENCY COMMITTEE, AT ITS MAY 24, 2024 MEETING, AND AUTHORIZING THE ADMINISTRATION TO PRIORITIZE FUNDING DURING THE 2025 BUDGET PROCESS FOR A FEASIBILITY STUDY, ESTIMATED TO COST APPROXIMATELY \$100,000.00, TO DETERMINE THE DESIGN AND CONSTRUCTION COSTS ASSOCIATED WITH A NEW CAPITAL PROJECT TO DEVELOP A WALKWAY OVER WATER FOR THOSE SEGMENTS OF THE INDIAN CREEK PEDESTRIAN PATHWAY WHICH ARE CURRENTLY NOT CONNECTED TO THE CONTINUOUS PATH (UNCONNECTED PATH), SO THAT FUNDING FOR THE DESIGN AND CONSTRUCTION MAY BE DETERMINED FOR THOSE SEGMENTS OF THE UNCONNECTED PATH FOR WHICH THE CITY, ON ITS OWN OR BY SECURING THE REQUISITE CONSENTS OR OTHER PROPERTY RIGHTS, MAY PROCEED TO COMPLETE THE INDIAN CREEK PEDESTRIAN PATHWAY.

RECOMMENDATION

The Administration recommends adopting the Resolution.

BACKGROUND/HISTORY

On September 27, 2016, the City Commission adopted Resolution No. 2016-29584, which authorized the City Manager to accept the transfer to the City, via quit claim deeds of approximately 4,000 linear feet of seawall along Indian Creek Drive from private property owners adjacent to Indian Creek Drive, so that the City and the Florida Department of Transportation (FDOT) may undertake the construction of a 5.7 NAVD elevation seawall barrier wall to improve street drainage and raise the road elevation for Indian Creek Drive between 26th Street and 41st Street.

On February 8, 2017, the Mayor and City Commission adopted Resolution No. 2017-29749, which authorized the City Manager to accept quit claim deeds with an easement agreement, providing the upland property owners the ability to build a dock, or similar structure, in the future, on the water-ward side of the seawalls.

On September 25, 2017, the Mayor and City Commission adopted Resolution No. 2017-29982, memorializing action taken by the City commission on May 17, 2017, which modified Resolutions No. 2016-29584 and 2017-29749, so that the City Manager can accept the transfer to the City via quit claim deed, easement agreement, or cross-easement agreement, and extending the original authorization to include the area between 23rd Street and 26th Streets so that the City and FDOT may extend the construction of the seawall barrier wall from 23rd Street through 41st Street (Project Site).

The City approached property owners of the outlots located along Indian Creek Drive/Lake Pancoast within the Project Site during the design phase of the seawall installation project, requesting that the property owners either provide an easement through their outlot parcel or transfer the property to the City via quit claim deed, permitting the City to install a new seawall at no cost to the property owners and permitting the City to construct a connecting walkway and other public facilities at the outlot properties; providing, however, that in the case of a deed transfer of the outlot parcel to the City, the property owner would retain an easement through the outlot for access and construction a dock in the future, subject to the property owner securing the requisite regulatory approvals.

At its March 13, 2024 meeting, the City Commission approved a dual referral (Item C4 I) to the Finance and Economic Resiliency Committee (FERC) and the Land Use and Sustainability Committee (LUSC) to consider the creation of a new capital project to install an extended seawall cap and/or the acquisition of the parcel directly west of Indian Creek Drive and owned by the property located at 2811 Indian Creek Drive ("2811 Outlot Parcel") to complete the Indian Creek pedestrian pathway. The item was anticipated to be heard at the May 1, 2024, LUSC meeting, but it was not heard. The item was heard at the May 24, 2024, FERC meeting.

The referral references a March 18, 2020 City Commission Resolution (Resolution No. 2020-31210), approving one (1) of two (2) concept plans prepared by landscape architect Craven Thompson & Associates, Inc. ("Craven Thompson"), based on community feedback, to restore landscape removed during the construction of the seawall that extends from 24th Street to 41st Street on the east side of the Indian Creek Canal/Waterway (i.e., on the west side of Indian Creek Drive).

The approved concept plan provided connectivity for pedestrians between three (3) anchor points: (1) 41st Street; (2) the pedestrian bridge at 28th Street; and (3) the south end overlooking Lake

Pancoast. The plan proposed varied layers of landscaping between the anchor points and the connectivity, to buffer the barrier wall, to screen and open some views, and plant large shade trees at the road intersections with Indian Creek Drive ("ICD") to limit traffic related light pollution into the residential neighborhoods.

As part of the Resolution, the Mayor and City Commission directed the Administration to work with Craven Thompson to increase the pathway and landscaping in as many areas as possible. Construction of the Pathway in its current iteration was completed in 2023.

Construction of the pathway in its current iteration ("Pedestrian Pathway") is reflected in the Indian Creek Greenway plan prepared by Craven Thompson, dated September 1, 2023 (Greenway Plan), a copy of which is attached hereto. As highlighted in red in the Greenway Plan, the following areas currently do not permit continuous passage over the Greenway ("Unconnected Pedestrian Pathway") for a number of reasons, to with:

- 28th Street near the pedestrian bridge (the City has not secured property rights to the 2811 Outlot Parcel);
- 31st through 35th Street (the City owns or has property rights to this segment of the Unconnected Pedestrian Pathway; however, there may be a City structure blocking use of the Pedestrian Pathway; the City may need consent to develop the Pedestrian Pathway on water/land from a property owner under its agreement and/or secure governmental approvals; or there is not sufficient space to develop the Pedestrian Pathway; and
- Approximately from 37th Street to 39th Street (the City owns or has property rights to this segment of the Unconnected Pedestrian Pathway; however, the City may need consent to develop the Pedestrian Pathway over water from a property owner and/or secure governmental approvals.

For the segments of the Unconnected Pedestrian Pathways in which the City has a property interest in the land along the Pedestrian Pathway pursuant to an easement or a Quit Claim Deed with a cross easement flowing to the property owner, the City Attorney's Office would have to review the City's property rights, depending upon whether the path would be developed on the land or on water, and determine whether or not a consent would be required from the property owners.

For the segments of the Unconnected Pedestrian Pathway, Craven Thompson created pedestrian starts/stops at certain pinch points where the pathway would otherwise end; there are crosswalks at these pinch points to enable pedestrians who wish to walk along the west side of ICD to cross over to the east side temporarily, until the next crosswalk that can connect them back to the pathway; and this is less than ideal as pedestrians are forced to cross ICD and cross back several times to get from 26th Street to 41st Street.

The Mid Beach Neighborhood Association (MBNA) has requested that the City consider the installation of a walkway over water connecting the pinch points along ICD to allow for a continuous pathway from 26th Street to 41st Street. The installation of a walkway over water would not only provide a practical solution for pedestrians traveling north or south along ICD in Mid Beach but would also allow residents and visitors the ability to experience the City's natural beauty in a more intimate way.

The 2811 Outlot Parcel is the only segment of the Unconnected Pedestrian Walkway in which the City does not have a property interest to develop the Pedestrian Walkway and, in its current design, a pedestrian who crosses the 28th Street pedestrian bridge over Indian Creek must walk north to the crosswalk at 29th Street, then use the sidewalk on the east side of Indian Creek Drive to head south.

As noted in the referral item, sponsoring Commissioner Alex Fernández also wished to discuss the possibility of acquiring the parcel directly west of Indian Creek Drive and owned by the property located at 2811 Indian Creek Drive (the “2811 Outlot Parcel”). To head south bound safely, a pedestrian who crosses the 28th Street pedestrian bridge over Indian Creek must walk north to the crosswalk at 29th Street, then use the sidewalk on the east side of Indian Creek Drive to head south. The City has previously reached out to the property owner of the 2811 Outlot Parcel during the design phase to either obtain a perpetual easement or acquire the 2811 Outlot Parcel, with the property owner retaining the option of building a dock in the future; however, both options were rejected, which required the City to modify the design for the 2811 Outlot Parcel to the one currently in place.

The 2811 Outlot Parcel is part of a property which includes a home, located at 2811 Indian Creek Drive, directly across the 2811 Outlot Parcel, and on the east side of Indian Creek Drive (the “2811 House”) (collectively, the 2811 Outlot Parcel and 2811 House shall be collectively referred to herein as the “2811 Property”). Pursuant to the Zillow website, as of January 24, 2024, the 2811 Property had been listed for 451 days and had a listing price of \$2,499,000.00; a lot size of approximately 4,450 square feet; and a house with approximately 2,553 square feet of living area, containing 6 bedrooms and 5 baths. The Property Appraiser’s Office has the fair market value for the 2811 Property for 2023 as \$1,113,867.00; however, the Property Appraiser’s Office valuation is historically below the fair market values for the properties sold in the community. Additionally, according to Realtor.com webpage, as of June 17, 2024, the 2811 Parcel has been on the market for 503 days and is currently listed for \$2,199,000.

At is May 24, 2024 FERC meeting, Committee members discussed the item at length and made a favorable motion to proceed to the City Commission, directing the Administration to work with the City Attorney to negotiate an access easement at 2811 Indian Creek Drive or begin an eminent domain process, and prioritize during the 2025 budget process, a new capital project installing a walkway over water as part of the Indian Creek pedestrian pathway (funding to be discussed at the July Budget Retreat, and contingent upon City Commission approval).

Although the City has already provided alternate routes for the use of Unconnected Pedestrian Pathway segment near the 28th Street bridge, due to the fact that the public is not able to continue the Indian Creek pedestrian pathway along the 2811 Outlot Parcel, it is reasonable and necessary for the City to consider improving the efficiency and safety of this segment of the Unconnected Pedestrian Pathway.

ANALYSIS

Permitting Requirements:

Section 24-48 of the Miami-Dade County Code requires that a Miami-Dade County Class I Permit be obtained from the Division of Environmental Resources Management (DERM) prior to performing any work in, on, over or upon tidal waters or coastal wetlands of Miami-Dade County or of any of the municipalities located within Miami-Dade County.

A DERM Class I Permit is utilized to manage impacts from construction on coastal wetlands and tidal waters. Through this process, projects are reviewed to identify potential environmental and other impacts. Before the permit is issued, Miami-Dade County may require modification of the project to eliminate avoidable impacts and to minimize other impacts. Compensation (mitigation) is required for unavoidable impacts as part of the permit.

Other permits may be needed before work can begin. The following is a list of other agencies that may have jurisdiction over these Class I projects (their involvement will depend upon the location, nature, type, and size of the project):

- South Florida Water Management District (SFWMD)
- Florida Department of Environmental Protection (FDEP)
- U.S. Army Corps of Engineers (USACOE)

The processing time may vary from project to project due to design, site conditions or project complexity. We anticipate that due to the various agencies involved that permitting will take a minimum of 6 to 12 months. Most short form permits are valid for 2 years from the date of issuance. If additional time is necessary to perform the work, the permit may be extended in 2 or 3-year increments provided the total time period of the extensions granted does not exceed 10 years.

Bridge Design:

An acceptable over water walkway design would need to be established, and the City would need to hire a consultant to design the over water walkway (currently unfunded). The cost of the project will be determined by the size/scope of the project, materials utilized and environmental mitigation costs. Design costs are anticipated to be approximately \$400K, depending on the structural complexity of the design and construction costs would have to be determined based upon the scope of the project. There will also be a recurring cost for maintaining the floating walkway, which is also unfunded.

FISCAL IMPACT STATEMENT

This request is currently unfunded. A funding source will be discussed at the July Budget Retreat. Feasibility costs are estimated to be approximately \$100K; design costs are anticipated to be approximately 400K, depending on the structural complexity of the design; and construction costs will likely exceed \$2M and would need to be determined based upon the scope of the project, plus any associated permitting fees. There will also be a recurring cost for maintaining the over water walkway, which is also unfunded.

CONCLUSION

Following the recommendation of the May 24, 2024 FERC meeting, the City Administration recommends taking the following actions: (1) Negotiate with the owner of the 2811 Outlot Parcel to secure an easement or other property rights deemed acceptable by the City Attorney, granting the City the right to develop and maintain a connecting Pedestrian Pathway over water for use by the public at the City's sole cost; and, in the event that negotiations are not successful, (2) study the possibility of pursuing an eminent domain proceeding against the 2811 Outlot Parcel, including securing appraisals and any other information deemed relevant by the City Attorney in connection with providing the City Commission with a recommendation as to whether or not to pursue an eminent domain proceeding against the 2811 Outlot Parcel, as a condition precedent to the commencement of such legal proceeding.

Once the Administration determines what portions of the Outstanding Pedestrian Pathway segments can be developed by the City in its own right or through securing the requisite consents or other property rights, the City will need to retain the services of a consultant to prepare a feasibility study, which could cost approximately \$100,000.00; and once the feasibility study is completed, the design work could cost approximately \$400,000.00, depending upon the size and scope of the project, once the scope of the project is determined, the construction costs could be determined; and following construction, the City would need to budget the annual costs associated with the maintenance of the walkway over water, with all of the foregoing currently subject to funding appropriation and approval by the City Commission.

Applicable Area

Middle Beach

**Is this a "Residents Right to Know" item,
pursuant to City Code Section 2-17?**

Yes

**Is this item related to a G.O. Bond
Project?**

No

**Was this Agenda Item initially requested by a lobbyist which, as defined in Code Sec. 2-481,
includes a principal engaged in lobbying? No**

If so, specify the name of lobbyist(s) and principal(s):

Department

Public Works

Sponsor(s)

Commissioner Alex Fernandez

Co-sponsor(s)

Commissioner Tanya K. Bhatt

Attachments

Resolution (1)

Resolution (2)

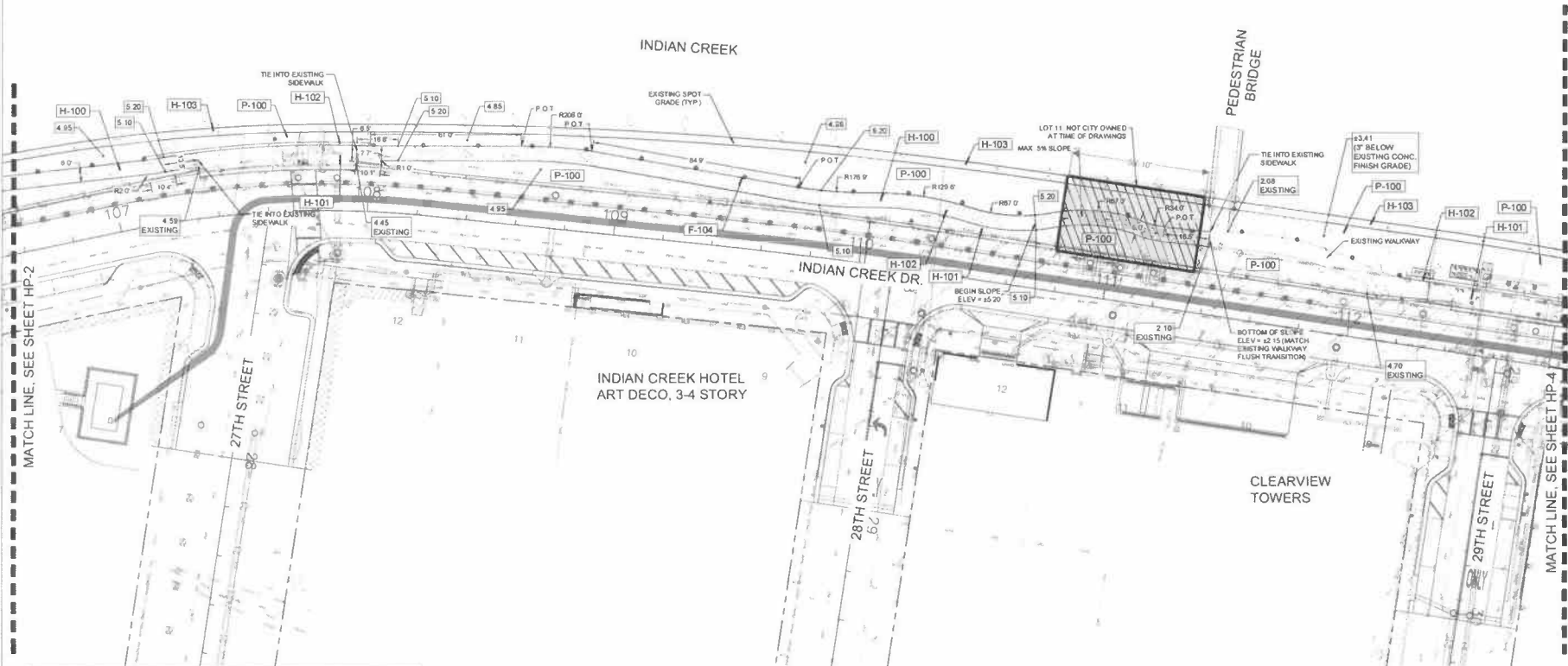
Greenway Plan, September 1, 2023

RW/ETC/JLG

A handwritten signature in black ink, appearing to be 'JLG', is written over the typed name 'RW/ETC/JLG'.

Required Length of Floating dock = Approximately 1400 Linear Feet \$400001 = 5.6 million

ALL PROPOSED AND EXISTING ELEVATIONS ARE SHOWN IN N.A.V.D. 1988 DATUM.



REFERENCE NOTES SCHEDULE			
Site Furnishings			
SYMBOL	DESCRIPTION	QTY	Detail
F-101	Recycling Receptacle	1	14D-2
F-102	Trash Receptacle	2	14D-2
F-103	Round Concrete Bench	10	34D-1
F-104	Ballast Light	126	34D-2
Hardscape			
SYMBOL	DESCRIPTION	QTY	Detail
H-100	Concrete Path	11 918 sf	14D-1
H-101	Concrete Sidewalk	N/A	Existing
H-102	Barrier Wall	N/A	Existing
H-103	See Valt	N/A	See Engineer Plans
H-104	Concrete Pad for Bench & Receptacle	13	42D-1
Planter Area			
SYMBOL	DESCRIPTION	QTY	Detail
P-100	Planter Area	N/A	See Landscape Plan
NOTES:			
1. PATH MUST BE IN CONFORMANCE WITH MOST CURRENT AMERICAN WITH DISABILITIES ACT STANDARDS AND REGULATIONS FOR ACCESSIBLE DESIGN. PATH SHALL NOT EXCEED 2% RAMPING SLOPE OR 2% CROSS-SLOPE AT ANY TIME.			
2. CONTRACTOR MUST FIELD VERIFY EXISTING AND PROPOSED CONDITIONS AND SUBMIT GRADING PLAN/LAYOUT FOR REVIEW AND APPROVAL PRIOR TO ANY MODIFICATIONS OF ANY EXISTING SITE FEATURES, INCLUDING, BUT NOT LIMITED TO, BARRIER WALLS, CONCRETE LANDINGS, RIM ELEVATIONS, CURBS, ETC.			
3. REFER TO SURVEY PLANS FOR SEAWALL PROJECT FOR TOP OF WALL CAP ELEVATIONS			

KEY MAP:



DATE: 2023.12.01
SCALE: AS SHOWN
DESIGN BY: SCOTT W. PEAVLER
CHECKED BY: SCOTT W. PEAVLER
APPROVED BY: SCOTT W. PEAVLER

CRIVEN - THOMPSON AND ASSOCIATES, INC.
ENGINEERS - PLANNERS - SURVEYORS
2505 N.W. 10TH AVENUE, SUITE 1000
MIAMI, FL 33136
TEL: (305) 371-1400
FAX: (305) 371-1401
WWW.CRIVEN-THOMPSON.COM
FLORIDA LICENSED PROFESSIONAL ENGINEER, PLANNER & SURVEYOR, No. 120014

INDIAN CREEK GREENWAY
CITY OF MIAMI BEACH
HARDSCAPE PLAN

Scott W. Peavler
Peavler
2023.12.01
18-0043-001-01

811
Know what's below.
Call before you dig.

HP-3
SHEET 3 OF 8

ALL PROPOSED AND EXISTING
ELEVATIONS ARE SHOWN IN
N.A.V.D. 1988 DATUM.

DATE	SCALE	SHEET
10/09/18	AS SHOWN	HP-6
DESIGNED BY	DRAWN BY	CHECKED BY
APPROVED BY		

CRIVEN - THOMPSON AND ASSOCIATES, INC.
ENGINEERS - PLANNERS - SURVEYORS
2501 N.W. 11th St., Suite 100
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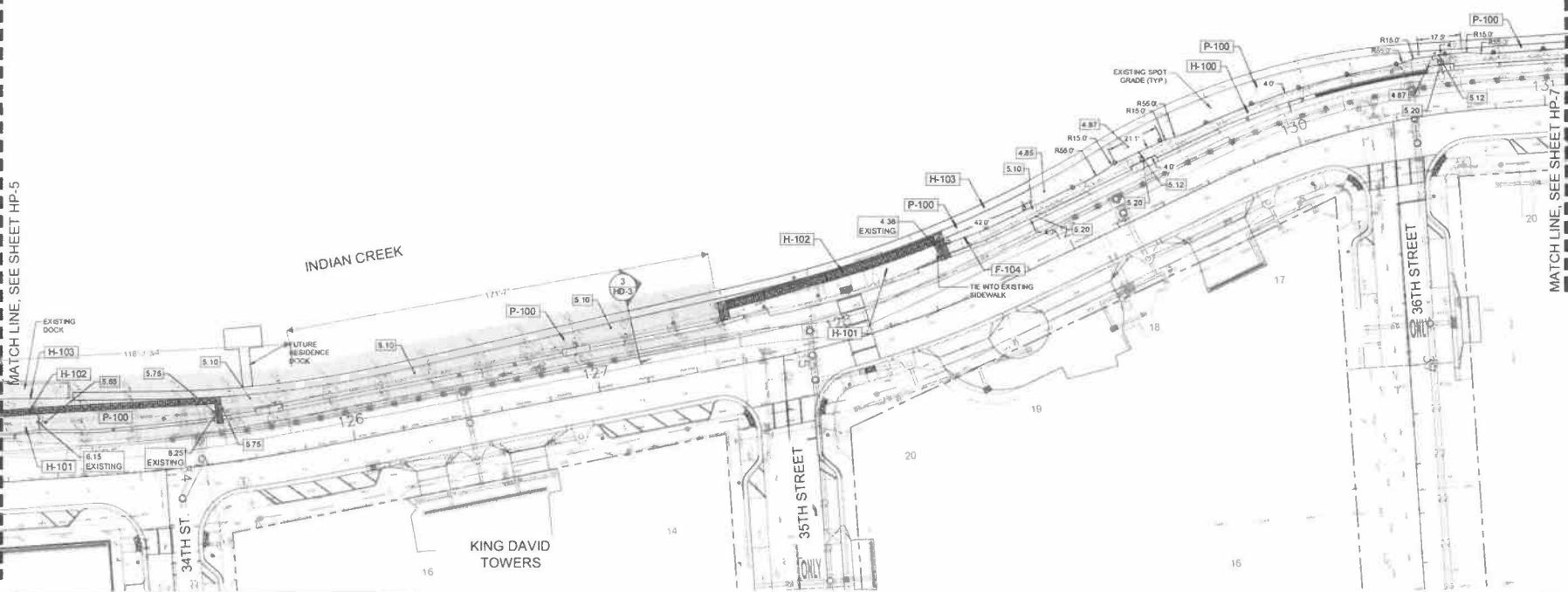
INDIAN CREEK GREENWAY
CITY OF MIAMI BEACH
HARDSCAPE PLAN

Scott Wade
Peavler
Digitally signed by Scott Wade Peavler
Date: 2018.10.01 15:25:54 -0500
Scott W. Peavler
Florida R.L.A. No. 05066876
September 1, 2023
PROJECT NO.
18-0043-001-01

HP-6
SHEET 6 OF 9

MATCH LINE, SEE SHEET HP-5

MATCH LINE, SEE SHEET HP-7

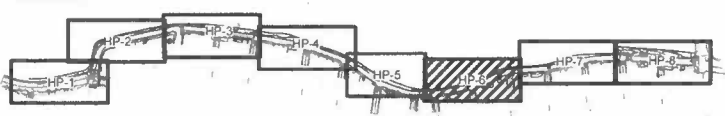


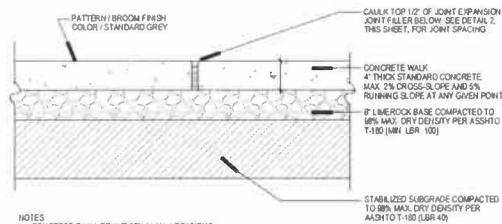
REFERENCE NOTES SCHEDULE

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H-102	Barrier Wall	N/A	Existing
H-103	See Wall	N/A	See Engineer Plans
H-104	Concrete Pad for Bench & Receptacle	13	4HD-1
Planter Area			
SYMBOL	DESCRIPTION	QTY	Detail
P-100	Planter Area	N/A	See Landscape Plan

NOTES:
1. PATH MUST BE IN CONFORMANCE WITH MOST CURRENT AMERICAN WITH DISABILITIES ACT STANDARDS AND REGULATIONS FOR ACCESSIBLE DESIGN. PATH SHALL NOT EXCEED IN RUNNING SLOPE OR 2% CROSS-SLOPE AT ANY TIME.
2. CONTRACTOR MUST FIELD VERIFY EXISTING AND PROPOSED CONDITIONS AND SURFACE GRADING PLAN/LAYOUT FOR REVIEW AND APPROVAL PRIOR TO ANY MODIFICATIONS OF ANY EXISTING SITE FEATURES, INCLUDING, BUT NOT LIMITED TO, BARRIER WALLS, CONCRETE LANDINGS, RIM ELEVATIONS, CURBS, ETC.
3. REFER TO SURVEY PLANS FOR REBAR/L PROJECT FOR TOP OF WALL CAP ELEVATIONS.

KEY MAP:





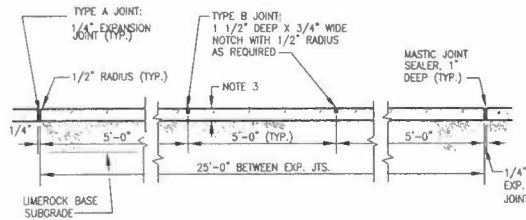
- NOTES
1. CONCRETE SHALL BE 4" THICK IN ALL LOCATIONS.
 2. SUBGRADE BELOW CONCRETE SHALL BE A MIN. L.B.R. 40 COMPACTED TO 98% OF MAX. DENSITY PER A.S.H.T.O. T-180.
 3. CONCRETE STRENGTH SHALL BE MIN. 3000 PSI @ 28 DAYS.
 4. CROSS-SLOPE SHALL BE 2% MAX. AT ANY POINT. SIDEWALK RUNNING SLOPE SHALL BE 5% MAX. AND SHALL MEET THE REQUIREMENTS OF THE "AMERICANS WITH DISABILITIES ACT," LATEST REVISION.
 5. FINISH CONCRETE SHALL MEET OR EXCEED REQUIRED SLIP COEFFICIENT FOR OUTDOOR SURFACES.

1 CONCRETE PATH DETAIL

DETAIL

NTS

SIDEWALK JOINTS	
TYPE	LOCATION
"A"	P.C. P.T. OF CURVES
"B"	5'-0" CENTER TO CENTER ON SIDEWALKS



2 CONCRETE PATH JOINT DETAIL

DETAIL

NTS

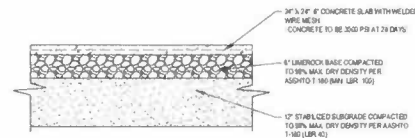
1. MANUFACTURER: WALUSAU TILE, INC.
TROY, OHIO
(613) 334-0018
WWW.WALUSAU TILE.COM
(OR APPROVED EQUAL)
2. MODEL: TT 3528
3. COLOR: A21 (B&P)
4. SIZE: 25" DIA. (ROUND)
5. INSTALLATION: INSTALL ON 2" SQ. CONCRETE PAD IN LOCATIONS SHOWN ON PLANS USING PROVIDED ANCHORING INSERTS
6. QUANTITY: 15
7. CONTRACTOR TO SUBMIT CUT SHEET INCLUDING COLOR SAMPLE FOR REVIEW AND APPROVAL



3 ROUND CONCRETE BENCH

DETAIL

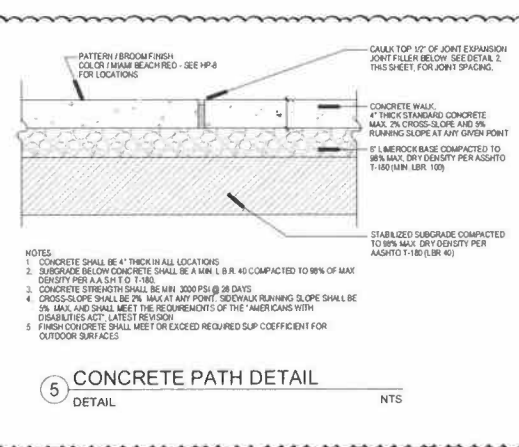
NTS



4 CONCRETE PAD - BENCHES & RECEPTACLES

DETAIL

NTS



- NOTES
1. CONCRETE SHALL BE 4" THICK IN ALL LOCATIONS.
 2. SUBGRADE BELOW CONCRETE SHALL BE A MIN. L.B.R. 40 COMPACTED TO 98% OF MAX. DENSITY PER A.S.H.T.O. T-180.
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5 CONCRETE PATH DETAIL

DETAIL

NTS

DATE	SCALE	SECTION	BY	DATE	SCALE	SECTION	BY

CRIVEN, THOMPSON AND ASSOCIATES, INC.
ENGINEERS • PLANNERS • SURVEYORS
3542 N.W. 135th STREET, FORT LAUDERDALE, FLORIDA 33309
TEL: (954) 786-8400
FAX: (954) 786-8400
CRIVEN, THOMPSON AND ASSOCIATES, INC. (FORMERLY CRIVEN, THOMPSON AND ASSOCIATES, INC.)

INDIAN CREEK GREENWAY
PREPARED FOR
CITY OF MIAMI BEACH
HARDSCAPE DETAILS

Scott Wade Peavler
Digitally signed by Scott Wade Peavler
DN: cn=Scott Wade Peavler, o=City of Miami Beach, ou=City of Miami Beach, email=Scott.Wade@cityofmiami.gov
Date: 2023.12.01 15:24:56 -0500

PROJECT NO:
18-0043-001-01

811
Know what's below.
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HD-1
SHEET 1 OF 2

