

ENGINEERING CONSULTATION CONTRACT (Proposal #22-0076)

1. **THIS CONTRACT** is between The Second Bayshore Condominium Association, Inc. ("Owner") whose address is 1800 Restful Dr., Bradenton FL 34207-4559 and Recon Response Engineering LLC, Florida Engineering Certificate of Authorization #31955 ("Engineer") whose address is 8155 34th Ave. N., St. Petersburg, FL 33710.

Engineer will perform work on behalf of the owner on property described as follows:

The Second Bayshore Condominium Association, Inc., 1800 Restful Dr., Bradenton FL 34207 (15 buildings, 309 units total)

2. **SCOPE OF WORK:** Engineer will furnish the following:

- Perform a Phase 1 Milestone Inspection of the condominium in accordance with the most recent provisions of Florida Senate Bill 4-D, "Mandatory structural inspections for condominium and cooperative buildings."
- Inspection will be performed using visual, non-destructive means. We will be walking accessible locations in and around the building including the perimeters, all walkways, all unit interiors and all of the balconies which are available for review at the time of our inspection. Weather and airspace restrictions permitting, we will also utilize an Unmanned Aerial Vehicle (UAV) drone as part of the visual inspection.
- Per Senate Bill 4-D, we will inspect the load-bearing walls, primary structural members and structural systems.
 - Engineer shall attest to the life safety and adequacy of the structural components of the building and, to the extent reasonably possible, determine the general structural condition (safety) of the building, including a determination of any necessary maintenance, repair, or replacement of structural components.
 - The purpose of such inspection is not to determine if the condition of an existing building is in compliance with the Florida Building Code or the fire safety code, or inspect for latent or hidden conditions.
- Engineer shall perform a visual examination of habitable and non-habitable areas of the building including the major structural components, and provide a qualitative assessment of the structural conditions.

(Scope of Work continued on following page)

Scope of Work (continued)

- Upon completion of the inspection, Engineer shall submit a sealed copy of the inspection report with a separate summary of the material findings and recommendations in the inspection report to the Owner, and to the building official of the local government which has jurisdiction. The inspection report shall include the following:
 - Indicate the manner and type of inspection forming the basis for the inspection report.
 - Identify any substantial structural deterioration, within a reasonable professional probability based on the scope of the inspection, describe the extent of such deterioration, and identify any recommended repairs for such deterioration.
 - State whether unsafe or dangerous conditions were observed
 - Recommend any remedial or preventive repair for any items that are damaged but are not substantial structural deterioration.
 - Identify and describe any items requiring further inspection.

3. PAYMENT AND TIMELINE: The fee for this inspection and report is **\$30,750.00**. An initial retainer in the amount of 30% or **\$9,225.00** is required prior to scheduling inspection. Remaining 70% of fee to be invoiced following email delivery of report. This remaining fee shall be paid by Owner within fifteen (15) days of invoice delivery.

For Milestone Inspections, inspection availability can be tentatively agreed upon. However, based on the intense demand for these inspection services we do not schedule the inspection until a retainer check has been received. Inspections are scheduled on a first-come, first-served basis in the order in which we receive the retainer check. Based on our current workload, we typically require 2 to 3 weeks following inspection before the report is completed.

4. SECTION RESERVED

5. EXTRA WORK: Should Owner, construction lender, or any public agency or inspector direct any modification of or addition to, the work covered by this Contract, the cost shall be added to the contract price. This includes extra work after the arising as a result of new or additional standards, ordinances, regulations which arise subsequent to the date of this Contract, or unforeseen utility lines, unsuitable materials in the earth, or other conflicts that are not specifically identified in this contract. In the case of all extra work hereunder, Engineer will be paid at a rate of \$185.00 per hour.

Orders for extra work should be made in writing, with the price agreed to in advance. However, if extra work is performed pursuant to verbal direction of Owner, Engineer is entitled to be paid for such extra work, whether or not the extra work order is reduced to writing. Expert Witness/Testimony and Associated Services can be performed for \$300.00 per hour. Document production, shipping costs etc. to be performed at cost plus 15%. Time is billed "portal to portal."

For Milestone inspections, please note that our inspection scope is based on the most current version of the Florida Senate Bill and the best available information as of the date of this proposal. If the text or requirements of the Senate bill are modified and require additional inspections or analysis, we will perform that work on an Additional Services basis for additional cost as outlined above.

6. DELAY. Engineer shall be excused for the delay in completion of the contract by acts of God, acts of the Owner or any person or entity for whom the Owner is responsible or legally bound pertaining to the property (including without limitation agents, employees, residents, tenants, vendors, contractors, subcontractors), inclement weather, labor trouble, acts of public agencies, inspectors, or public utilities, extra work, failure of the Owner to make progress payments promptly, or other contingencies unforeseen by Engineer and beyond the reasonable control of Engineer.

7. RIGHT TO STOP WORK OR TERMINATE CONTRACT. Engineer shall have the right to stop work if payments are not made when due under this Contract, and remain idle until all payments have been received. In the event any payments due hereunder are past due for a period exceeding fourteen (14) days, Engineer may declare a material breach under this Contract and terminate all further performance hereunder. At such time. Engineer shall be entitled to all damages set forth in the Default provisions hereunder or otherwise allowed under Florida law.

8. ATTORNEY'S FEES. In the event of a material breach for nonpayment by Owner, Engineer shall be entitled to all reasonable attorney's fees and costs for collection proceedings. In the event of litigation or arbitration arising out of this Contract or the performance thereof, the court or arbitrator will award reasonable attorney's fees and costs to the prevailing party. To the full extent permitted by law, the parties hereby expressly and knowingly waive any right to jury trial they may have for all causes, claims, and issues in any way relating to or directly, indirectly, wholly, or in part, arising from the contract.

9. ASSIGNMENT. Neither party may assign this Contract, or the proceeds thereof, without written consent of the other party.

10. BINDING ON SUCCESSORS. All of the provisions of this contract will be binding on the assignees, successors, parent companies, and subsidiary companies of both parties. If either party is acquired by a corporation through purchase, merger, or consolidation, the provision of this Contract will be binding on the successor or surviving corporation.

11. GOVERNING LAW. This Contract shall be interpreted and governed by the laws of the State of Florida. Venue for any litigation arising hereunder shall be exclusively in Pinellas County, Florida and each party hereto hereby waives any and all rights it may otherwise have to selection of venue.

12. SEVERABILITY. Should any provision or portion of this Agreement be adjudged invalid, illegal, unconscionable or in conflict with any law of the State of Florida, the validity, legality and enforceability of all remaining provisions and portions of this Agreement shall not be affected or impaired thereby.

13. MODIFICATIONS of this contract may require price increase to account for increased engineer liability. Modifications must be signed off on by both parties.

14. ACCESS TO SITE The Engineer shall have access to the site for the activities described in the scope of work. He will take care to minimize damage due to these explorations, however no fees for restoration or repairs have been included in this contract.

15. CONSTRUCTION When construction observation services are provided, please note that Engineer is not in charge of the contractor's work and is not responsible for that work, including construction progress, means and methods, safety procedures, or equipment. Engineer inspections are for the purposes of verifying general conformance with the permitted drawings at the time of our site visit only. They are not part of a Quality Assurance program.

16. LIABILITY LIMITATIONS Engineer shall not be liable for any indirect, special, consequential, or punitive damages (including, but not limited to, anticipated loss of use, loss of profit, economic loss, cost or capital, the claims of third parties, client time) arising out of or pertaining to this Contract or the work performed hereunder. Owner agrees that Engineer's aggregate liability to Owner and any other parties for any and all expenses, losses, claims, injuries, or damages arising out of or pertaining to, directly or indirectly, this Contract or the work performed hereunder, from any cause or causes, shall not exceed the amount of Engineer's fee or, if insurance coverage applies, the maximum coverage amount of such insurance. Such causes include but are not limited to Engineer's errors, omissions, negligence, breach of contract, breach of warranty, or any action or omission giving rise to strict liability.

17. INDEMNIFICATION Owner shall indemnify, hold harmless, and defend Engineer from and against any and all cause or causes for expenses, losses, claims, injuries, or damages arising out of or pertaining to, directly or indirectly, this Contract or the work performed hereunder. Such causes include but are not limited to Engineer's errors, omissions, negligence, breach of contract, breach of warranty, or any action or omission giving rise to strict liability. These obligations shall be monetarily limited to \$1,000,000 per occurrence.

18. INDIVIDUAL LIABILITY No employee or agent of Engineer may be held individually liable for damages resulting from negligence occurring within the course and scope of this Contract.

19. CERTIFICATE OF MERIT Owner shall make no claim for professional negligence, either directly or by way of a cross complaint, against Engineer unless Owner has first provided the Engineer with a written certification executed by an independent consultant currently practicing in the same discipline as Engineer and licensed in the state of Florida. This certification shall 1) contain the name and license number of the certifier 2) specify the acts or omissions that the certifier contends are not in conformance with the standard of care for a consultant performing professional services under similar circumstances and 3) state in detail the basis for the certifier's opinion that such acts or omissions do not conform to the standard of care. This certificate shall be provided to Engineer not less than thirty (30) calendar days prior to the presentation of any claim or the institution of any arbitration or judicial proceeding. This Certificate of Merit clause will take precedence over any existing state law in force at the time of the claim or demand for arbitration.

20. FEDERAL DISASTERS Please note that Engineer serves on the State of Florida's Urban Search and Rescue Task Force. If a federally-declared disaster (such as a major hurricane and other natural or man-made disaster) impacts the Continental United States, Engineer may be called upon to immediately deploy with the search and rescue teams being sent to the disaster site. This does not typically occur more than once a year, if at all, and when it does occur the deployments have lasted one week or less. However, when a deployment does happen it usually occurs with almost no advance warning. Also, during a deployment the project being contemplated in this contract would be completely ignored. Most clients understand and appreciate this aspect of our business. However, if this possibility is unacceptable, then please do not execute this contract.

21. MISCELLANEOUS PROVISIONS: This proposal is valid through September 27, 2022.

AGREED AND
ACCEPTED this

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 day
of

	2022
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Owner's Representative (Please Print)

Signature

Andrew Schrader
As Managing Member, Recon Response Engineering LLC