

**TERM SHEET**  
**PUBLIC PRIVATE PARTNERSHIP**  
**City of Pompano Beach – E-16-19**  
**Master Development of City Owned Property**

E2L Real Estate Solutions, LLC ("Developer") has been selected to negotiate with the City of Pompano Beach ("City") for the public/private development of City-owned real property at the location described below ("Oceanside P3" or "Project"), pursuant to City Request for Proposals E-16-19 ("RFP"). The following terms and conditions, in addition to those included in the RFP and Developer's response proposals and presentations, are intended to serve as the basis for the preparation and negotiation of a definitive agreement for the design, construction, financing, lease, operation, and maintenance of the Project that is acceptable to both parties (the "Development Agreement").

1. Property: Developer, in partnership with the City, shall develop approximately 6.280 acres of real property located at 109 N Ocean Blvd, Pompano Beach, FL 33062-5741, Broward County; Property Map and Legal Description as described on EXHIBIT A attached hereto. The Project shall be developed within the approximately 3.243 acres of the Property shown as "Parcel A Parking Lot" on EXHIBIT A-1 attached hereto. Additionally, (a) a component of the approximately 0.377 acres of the Property shown as "Parcel B-1 Fire Station Parking Lot" on EXHIBIT A-1 may also be utilized for the Project, provided that (i) such Parcel B-1 may not include any garbage facilities, and (ii) such use can be justified by Developer as necessary for the Project's success, and (b) a component of the approximately 0.277 acres of the Property shown as "Parcel B-2 Lift Station and Retention Area" on EXHIBIT A-1 may also be utilized for the the Project, if applicable, and subject to any regulatory approvals that may be necessary.
2. Project Development: Developer shall develop the Property as a mixed-use development containing (i) a City-owned and operated parking garage (the "Parking Garage"), including access to and from the Parking Garage; (ii) a City-owned driveway connecting A1A to Riverside Drive; (iii) the City-owned Retail Space, and (iv) multiple Developer-owned and operated lease/sublease hold interest components. Developer and City agree that the order of the components of the Project, including the order of the Parking Garage, hotel, event/conference center and club deck space, if applicable, will be as reflected in the attached EXHIBIT B.
3. Private Development Project Components: Developer will design and construct certain Project components to be owned and operated by Developer, including (1) a 3-star or higher hotel with approximately 200 (which may be increased subject to subsection (a) below), a deck and related deck amenities, such as swimming and wading pools (the pools may penetrate the deck or the roof of the Parking Garage in order to create an area within which water is stored as a part of the swimming pool and wading pool), and outdoor covered eating and drinking facilities, (ii) an event/conference center, and (iii) a club deck, if so desired by Developer (collectively, "Private Development"), which shall meet the following design parameters:
  - a) The number of rooms in the hotel may be increased by Developer to a maximum of 300 rooms, provided that the same complies with the City's Atlantic Overlay District Zoning Code (the "AOD") and the Private Development retains its "slender" shape, as defined by Section 155.3703.D.3 of the AOD.
  - b) Maximum developable square footage allowable by the City and Broward County approved Land Use for the Private Development is 50,000 square feet of retail/commercial uses and a maximum 300 room hotel/event/conference center and deck amenities.
  - c) Maximum height of the hotel and event/conference center construction improvements is 210 feet above the current site elevation, as regulated by the AOD). Any other uses to be

constructed as part of the Private Development is limited to 105 feet (i.e. office building), in accordance with the AOD. The Maximum height for the Parking Garage is 50 feet, in accordance with the AOD;

- d) Innovative planning and site development techniques shall include public art, green building, distinctive landscaping/green space, and distinctive architectural elements for the Project, all as mutually agreed upon by the parties.
4. Public Development Project Components. The Developer shall design and construct the following Project components, at City's expense, to be financed (through issuance of certificates of participation), owned, and operated by the City (the "Public Development"):
- a) Parking Garage. City intends to fund the costs to construct the Parking Garage on a portion of Property using funds from the sale of certificates of participation. Developer will design and construct the Parking Garage, at City's expense, as part of the overall development of the entire site. During the term of the Air Rights Lease, the Private Development shall have the ability to use the Parking Garage to satisfy its minimum parking requirements per applicable law.
  - b) Parking Office (located within the Parking Garage).
  - c) A driveway connecting A1A to Riverside Drive to serve as a shared driveway to accommodate vehicles, bicycles, and pedestrians.
  - d) Retail Space. The development of approximately 12,000 (may go up to 50,000 square feet if feasible, subject to City approval) square feet of grocer and other commercial uses located in or adjacent to the Parking Garage.
5. Project Infrastructure:
- a) Developer will be responsible for constructing the following Project infrastructure components:
    - (i) Waste Management - For the collection, storage and disposal of the waste (including wet waste for all components of the Project); provided, however that the City will be responsible for reimbursing to Developer an allocation of any such costs relating to the Public Development.
    - (ii) Drainage - For the preparation and approval of a Master Drainage Plan and the construction of the facilities necessary to accommodate the retention of all water run off for the Project; provided, however that the City will be responsible for reimbursing to Developer an allocation of any such costs relating to the Public Development.
  - b) Utilities - The parties will work in good faith to identify the existing utilities serving the Property and allocate responsibility for financing any required upgrades based on ownership and usage, provided, however, that: (i) the City shall be responsible for financing (1) any utility upgrades required to support the Parking Garage, and (2) any "City owned" utility upgrades and any other public utility upgrades necessary for the Private Development to the extent that such utility upgrades are required in connection with the City's upgrade of Riverside Drive, and (ii) the Developer shall be responsible for financing any other utility upgrades required to support the Private Development. Public Utilities such as Power, Data, Gas, etc., which are located along or in public ROW's will be part of the overall Development and the costs thereof shall be treated as a shared expense in proportion to usage.
6. Lease Term: The Air Rights Lease (which includes the shared easement(s) for ingress and egress into the Private Development at the ground level), Retail Space sublease (if Developer elects to enter into the same), and associated irrevocable parking license agreements will each have an initial term of 50 years, beginning on the lease commencement date and ending 50 years

thereafter. Upon the expiration of the initial 50-year term, and subject to applicable law, City and Developer may enter a new 50-year term Air Rights Lease, Retail Space sublease (if Developer elects to enter into the same), and associated irrevocable parking license agreements upon the same terms and conditions, with approval by either party not being unreasonably withheld.

7. Rent. Developer to pay City air rights/space rent equal to a minimum base amount (subject to escalation parameters), plus percentage of gross revenue generated above an agreed upon gross revenue amount by Developer or Developer's tenants.
8. Parking Fees. Developer's tenants shall pay City a daily rate per space and/or a daily "per use" fee per space for certain spaces that are guaranteed and/or otherwise made available to Developer and Developer's tenants and patrons of tenants' businesses.
9. Project Ownership and Financing: Developer is responsible for securing the equity and debt required to fund 100% of the development cost of the Private Development. As a condition precedent to the execution of the Development Agreement, Developer shall obtain and provide the City with satisfactory evidence of its ability to secure financing for the Private Development (including equity or debt term sheets or similar evidence) within a reasonable period of time following the date that drafts of the Development Agreement and Air Rights Lease are in final form to present to Developer's financing sources. All sources of equity and all lenders (with the exception of institutional lenders) shall be subject to the City's reasonable review and approval. Developer may not assign its rights to all or portions of the Project (other than collateral assignments in connection with financing), with the exception of affiliates under the control of Developer and for which Developer maintains an ownership stake of at least 10%, until after the expiration of an agreed stabilization period following completion of construction, as further defined in the Development Agreement.
10. Pre-Development Deadlines: The Development Agreement will contain agreed deadlines for the satisfaction of various conditions precedent to Developer and City executing the Air Rights Lease, including, without limitation:
  - a) Due Diligence Period – The Parties shall agree upon an appropriate due diligence period, which shall include without limitation, the City's obtaining FDOT's approval of the replat for the Project, together with appropriate and reasonable securities from the Developer to guarantee Developer's obligations, and agreed compensation to Developer in the event that City is unable or chooses not to proceed with the Project;
  - b) Commitments for Project Components – Developer shall obtain signed term sheets for the hotel and event/conference center components of Private Development;
  - c) Developer Financing – Developer shall be ready to close on any necessary financing for the Private Development, including any equity contributions, which closing shall occur simultaneously with (i) the execution of Air Rights Lease by City and Developer, and (ii) City's closing on its financing (such that the City's funds are immediately available for construction), whichever occurs later;
  - d) Parking Study and Parking Rents – City needs to finalize, and parties need to mutually agree upon the parking study; City to provide Developer with the Parking Garage revenue/expense proforma and the Lambert economic study, with Developer recognizing that reports will not be final until such time as Developer provides City with final costs for Public Development components; Parties need to mutually agree upon parking rents to Subtenants and any applicable escalator therefor. City shall fund design work for Public Development within a reasonable time period of confirmed GMP for City's bonds to be priced/issued;
  - e) General Conditions – the general conditions for CMAR for Public Development will be mutually agreed upon by the parties;

- f) City Financing – City needs to secure necessary financing for Public Development; provided, however, that the City shall not be obligated to close on its financing for the Public Development until such time as it has written commitments from the Developer for the Private Development and related financing; moreover, the City shall not be obligated to construct the Parking Garage until the Air Rights Lease Agreement(s) are signed with a hotel and event/conference center, as a minimum collection of Major Tenants;
- g) Project Approvals – Developer shall obtain all necessary permits and approvals to construct the Public Development and Private Development (and the parties shall agree upon an appropriate allocation of costs and timing of payment from City for the Public Development). Public funding shall be provided at time of design, applications and permit filings to coincide with Private Development;
- h) City’s Proforma and Parking demand study– City has delivered to Developer the City’s parking demand study and proforma of revenue and expenses for the Parking Garage, subject to City’s receipt of final costs for the Public Development from Developer (provided, however that City makes no representation as to the accuracy of the study or proforma, or that the projections included in either will actually be realized);
- i) Air Rights and Retail Space Sublease Rents - Parties need to mutually agree upon the minimum base and percentage rents, based on Gross Revenue, for the various components of the Private Development;
- j) Parking license fees - Parties to mutually agree upon the parking fees to be payable to City for parking guaranteed and/or otherwise made available to Developer and its tenants; and
- k) Project Design and Permitting deadlines which will require Public Development funding and commitments to review and approval times for same.

The Air Rights Lease, Retail Space Sublease (if Developer elects to enter into the same), and Parking License Agreements will be executed after completion of the Pre-Development Deadlines, subject to an agreed outside date.

11. Construction Schedule: The Development Agreement shall also include a detailed Project construction schedule, detailing completion of construction of the Project within 36 months of the execution of the Air Rights Lease, provided that the dates in such schedule may be extended for force majeure or as otherwise mutually agreed upon by the parties acting reasonably.

12. Delivery of Property Reports/Due Diligence: City will provide the following due diligence materials (the “Property Reports”) to Developer (or its designee), no later than 60 days following the execution of this Term Sheet:

- a) A title insurance commitment issued by a nationally recognized title insurance company authorized to do business in the State of Florida (“Title Insurer”) committing to issue to Developer, at Developer’s expense, a leasehold title insurance policy solely for the Private Development in an amount to be determined by Developer, together with legible copies of all documents referenced therein;
- b) ALTA Survey providing for a detailed survey of the Property, at City’s expense;
- c) Ground Penetrating Radar surveys for all utilities and site anomalies on the Property, with Developer reimbursing the City 50% of the cost thereof upon execution of the Air Rights Lease; and
- d) Soil Boring Reports for foundation design, including piles, with Developer reimbursing the City 50% of the cost thereof upon execution of the Air Rights Lease.

City consents to Developer's use of the Property Reports in connection with the development of the Project, but City makes no representations or warranties as to the validity, accuracy, or reliability of the Property Reports, and City will not be liable for any errors or omissions in the

Property Reports, or for any use of the Property Reports by Developer. Developer will have 30 days from the receipt of such reports to complete a review of the Property Reports. Except for the Property Reports, City will not make any additional independent investigation of the condition of the Property. City represents that to the best of its actual knowledge and belief, without independent inquiry, there exists no condition on, about or under the Property which would prevent, delay, or otherwise materially and adversely impact the development of the Project on the Property. If the Property Reports reveal any such condition(s), or if any such condition(s) is otherwise identified by Developer, then the parties shall reasonably cooperate with each other to remove or mitigate the condition(s).

13. Drafting of Development Agreement: Following execution of this Term Sheet, Developer through its legal counsel will prepare and deliver to the City for its review a proposed draft of the Development Agreement and the Air Rights Lease. City through their legal counsel (which is being funded by Developer pursuant to Section V(Q) of the RFP, up to a maximum of \$75,000) will prepare and deliver to Developer for its review proposed drafts of the Retail Space Sublease and Parking License Agreement. The Parties shall utilize reasonable efforts to complete, negotiate, and finalize drafts thereof within six (6) months of the execution of this Term Sheet.
14. Further Negotiations; Negotiation Fees: The parties do not anticipate substantive changes to the foregoing terms; provided, however, that the Project is subject to further good-faith negotiations and agreement between the parties on all of the terms and conditions to be included in the final Development Agreement, which is subject to the review and approval of the City Commission, in its sole discretion. Notwithstanding the foregoing, in the event that the City and Developer agree upon the terms of the Development Agreement, but the City Commission does not award the Development Agreement, the City shall refund to Developer any legal and negotiation fees paid by Developer to the City pursuant to Section V(Q) of the RFP.

[Signature Pages Follow]

**IN WITNESS WHEREOF**, the parties hereto have caused this Term Sheet to be executed the day and year hereinabove written.

**“CITY”:**

**CITY OF POMPANO BEACH**

By: \_\_\_\_\_  
REX HARDIN, MAYOR

By: \_\_\_\_\_  
GREGORY P. HARRISON, CITY MANAGER

Attest:

\_\_\_\_\_  
ASCELETA HAMMOND, CITY CLERK

(SEAL)

Approved As To Form:

\_\_\_\_\_  
MARK E. BERMAN, CITY ATTORNEY

**"DEVELOPER"**

E2L Real Estate Solutions, LLC

Witnesses:

Kelley A Hefferin  
KELLEY A HEFFERIN  
(Print or Type Name)

By: Mark Hefferin  
Mark Hefferin, Manager

Antonio Balestrieri  
(Print or Type Name)

STATE OF Florida

COUNTY OF Palm Beach

The foregoing instrument was acknowledged before me, by means of  physical presence or  online notarization, this 19<sup>th</sup> day of May, 2021, by Mark Hefferin as Manager of E2L Real Estate Solutions, LLC, a Florida Limited Liability Company. He is personally known to me or who has produced \_\_\_\_\_ (type of identification) as identification.

NOTARY'S SEAL:



Crystal D. Gibson  
NOTARY PUBLIC, STATE OF FLORIDA

Crystal D. Gibson  
(Name of Acknowledger Typed, Printed or Stamped)

GG 326964  
Commission Number

**EXHIBIT A**  
**Property Legal Description and Map**

FOR: CITY OF POMPANO BEACH

SKETCH AND DESCRIPTION  
 SITE BOUNDARY  
 EXHIBIT "A"

**LEGAL DESCRIPTION:**

PARCEL "A", OCEANSIDE FIRE STATION, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 179, PAGE 178, OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA.

SAID LANDS LYING IN THE CITY OF POMPANO BEACH, BROWARD COUNTY, FLORIDA AND CONTAINING 273,541 SQUARE FEET (6.280 ACRES) MORE OR LESS.

**NOTES:**

BEARINGS SHOWN HEREON ARE BASED ON THE RECORDED PLAT AND ARE REFERENCED TO THE EAST BOUNDARY OF PARCEL "A", OCEANSIDE FIRE STATION, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 179, PAGE 178, OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA, WHICH BEARS SOUTH 09°06'51" WEST.

THIS SKETCH AND DESCRIPTION CONSISTS OF 2 SHEETS AND EACH SHEET SHALL NOT BE CONSIDERED FULL, VALID AND COMPLETE UNLESS ATTACHED TO THE OTHER.

**CERTIFICATE:**

WE HEREBY CERTIFY THAT THIS SKETCH AND DESCRIPTION AND OTHER PERTINENT DATA SHOWN HEREON, OF THE ABOVE DESCRIBED PROPERTY, CONFORMS TO THE STANDARDS OF PRACTICE FOR LAND SURVEYING IN THE STATE OF FLORIDA, AS OUTLINED IN CHAPTER 5J-17, (FLORIDA ADMINISTRATIVE CODE) AS ADOPTED BY DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES, BOARD OF PROFESSIONAL SURVEYORS AND MAPPERS, PURSUANT TO CHAPTER 472.027, FLORIDA STATUTES AND THAT SAID SURVEY IS TRUE AND CORRECT TO THE BEST OF OUR KNOWLEDGE AND BELIEF.

CRAVEN THOMPSON & ASSOCIATES, INC.  
 LICENSED BUSINESS NUMBER #271



Digitally signed by  
 Raymond Young  
 Date: 2020.09.16  
 13:06:38 -04'00'

RAYMOND YOUNG  
 PROFESSIONAL SURVEYOR AND MAPPER NO 5799  
 STATE OF FLORIDA

THIS SKETCH AND DESCRIPTION OR COPIES THEREOF ARE NOT VALID WITHOUT THE SIGNATURE AND ORIGINAL RAISED SEAL OR A UNIQUE ELECTRONIC SIGNATURE OF A FLORIDA LICENSED PROFESSIONAL SURVEYOR AND MAPPER UNDER CHAPTER RULES 5J-17.061 & 5J-17.062 FLORIDA ADMINISTRATIVE CODE.

**LEGEND**

- B.C.R. BROWARD COUNTY RECORDS
- L ARC LENGTH
- O.R.B. OFFICIAL RECORD BOOK
- P.B. PLAT BOOK
- PG. PAGE
- R RADIUS
- Δ CENTRAL ANGLE
- \*\*\*\*\* NON-VEHICULAR ACCESS LINE

R:\SURVEY\2020\20-0056-001-01 OCEANSIDE FIRE STATION\DRAWINGS\20-0056\_S0\_SITE BOUNDARY 5J-17.061 & 5J-17.062 FLORIDA ADMINISTRATIVE CODE.

THIS IS NOT A SKETCH OF SURVEY, but only a graphic depiction of the description shown hereon. There has been no field work, viewing of the subject property, or monuments set in connection with the preparation of the information shown hereon.

The undersigned and CRAVEN-THOMPSON & ASSOCIATES, INC. make no representations or guarantees as to the information reflected hereon pertaining to easements, rights-of-way, set back lines, reservations, agreements and other similar matters, and further, this instrument is not intended to reflect or set forth of such matters. Such information should be obtained and confirmed by others through appropriate title verification. Lands shown hereon were not abstracted for right-of-way and/or easements of record.

UPDATES and/or REVISIONS	DATE	BY	CK'D
1. REVISE PER COMMENT	9/16/20	RY	RY

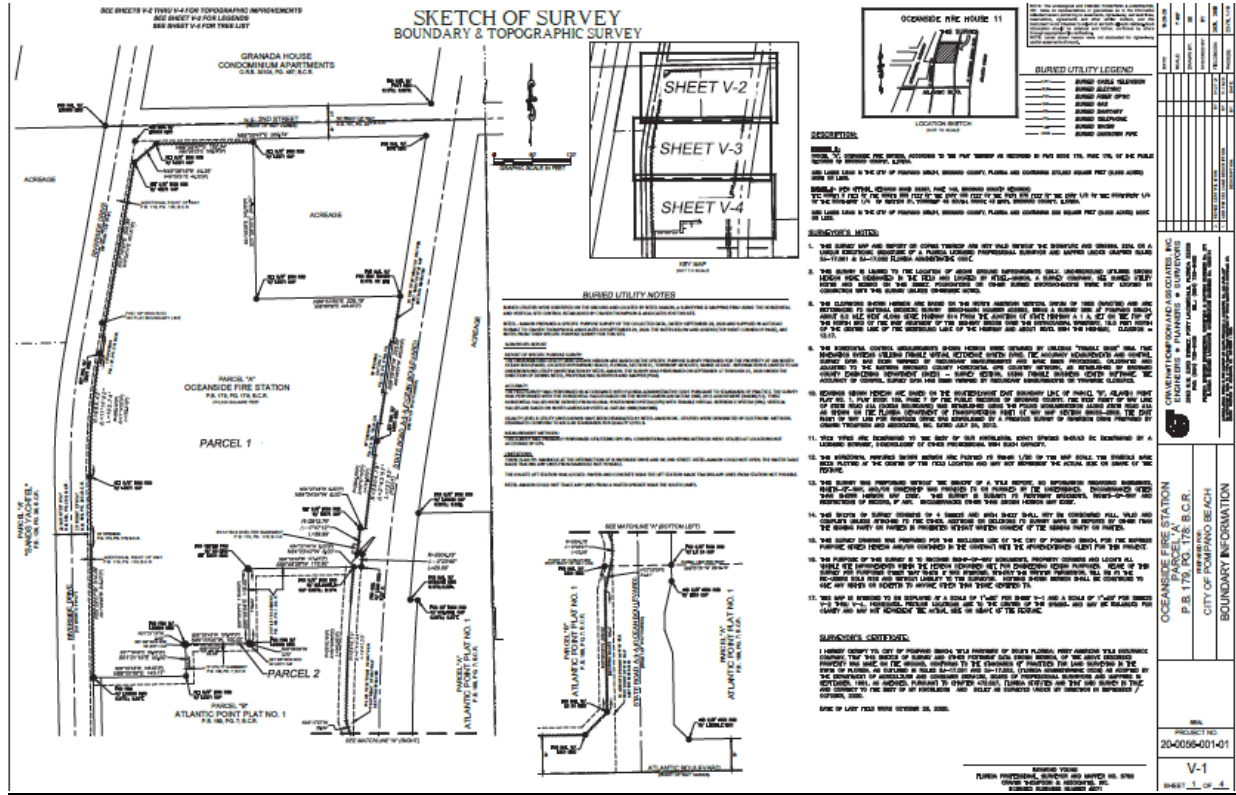
**CRAVEN • THOMPSON & ASSOCIATES, INC.**  
 ENGINEERS • PLANNERS • SURVEYOR'S  
 3563 N.W. 53RD STREET, FORT LAUDERDALE, FLORIDA 33309 FAX: (954) 739-6409 TEL.: (954) 739-6400  
 FLORIDA LICENSED ENGINEERING, SURVEYING & MAPPING BUSINESS No. 371  
 MATERIAL SHOWN HEREON IS THE PROPERTY OF CRAVEN-THOMPSON & ASSOCIATES, INC. AND SHALL NOT BE REPRODUCED IN WHOLE OR IN PART WITHOUT WRITTEN PERMISSION. COPYRIGHT (C) 2020

JOB NO.: 20-0056-001-01	SHEET 1 OF 2 SHEETS
DRAWN BY: RY	F.B. N/A PG. N/A
CHECKED BY: JDR	DATED: 09-15-20



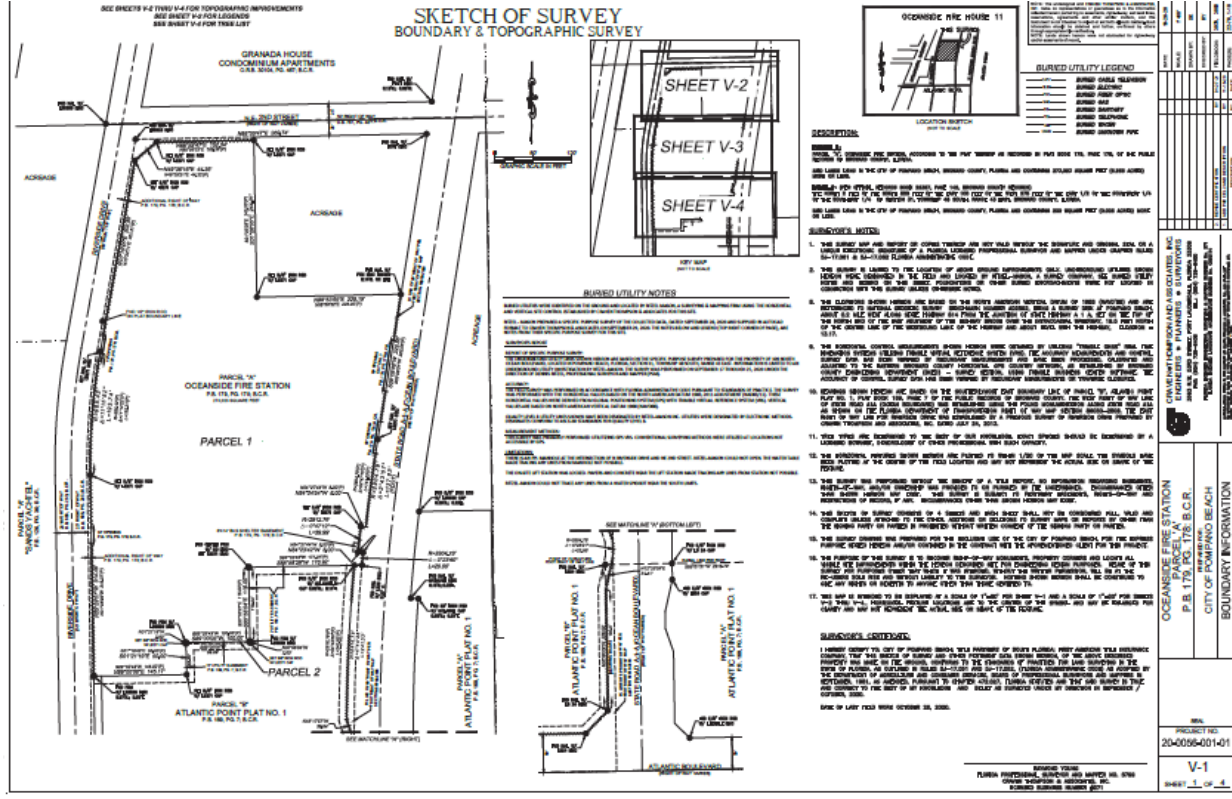
# EXHIBIT A

## Property Legal Description and Map (Cont.)



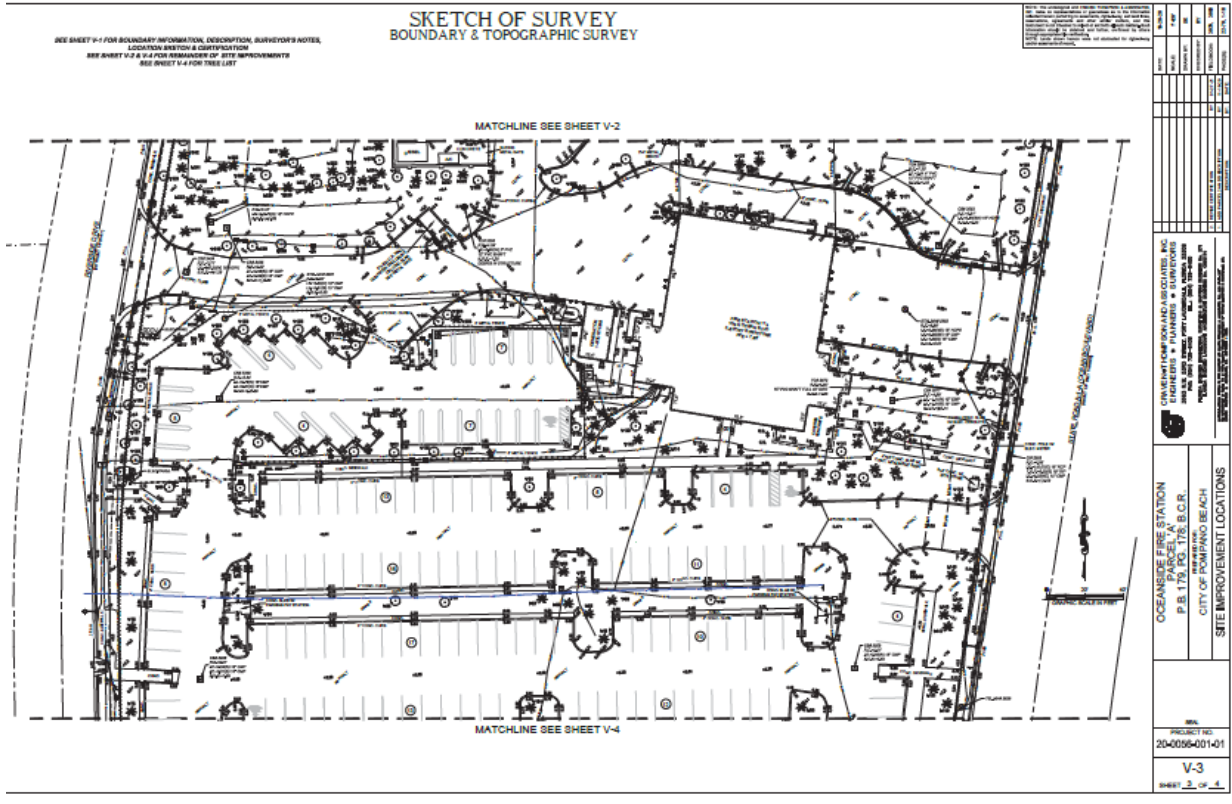
# EXHIBIT A

## Property Legal Description and Map (Cont.)

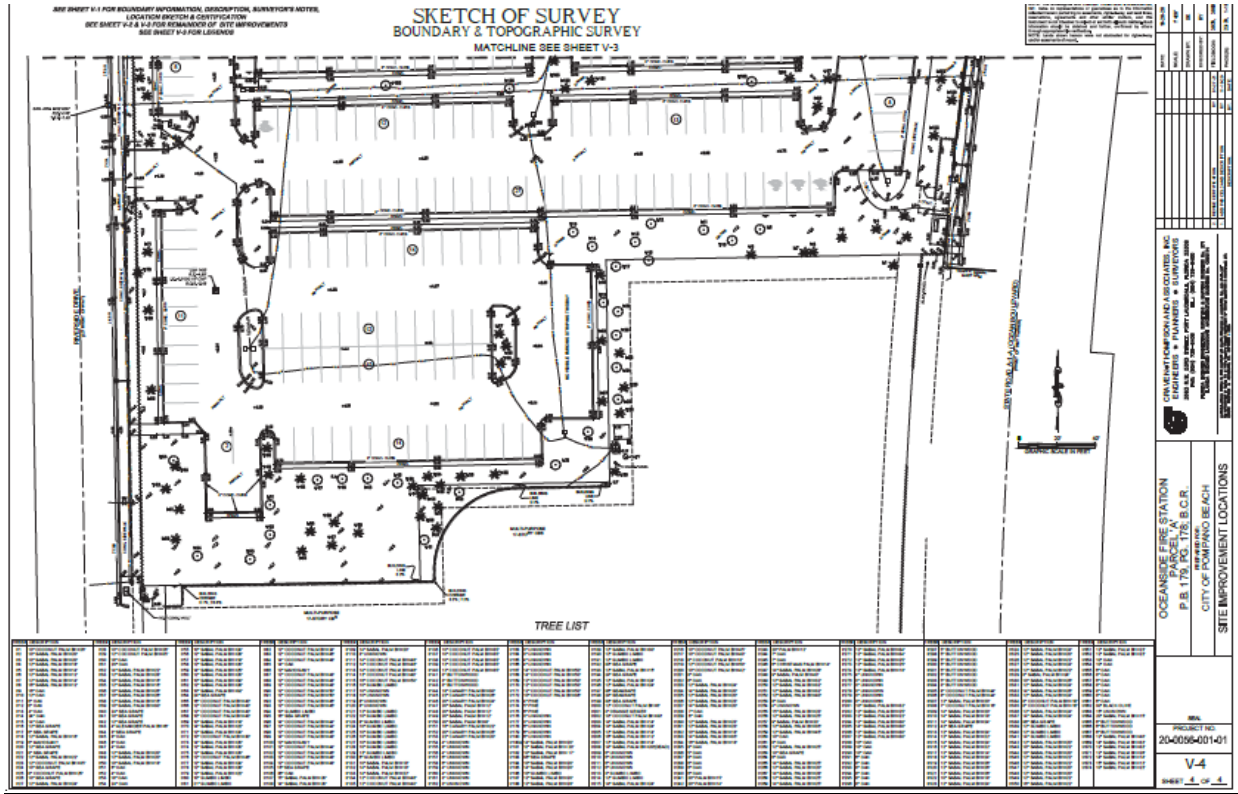




**EXHIBIT A**  
**Property Legal Description and Map (Cont.)**



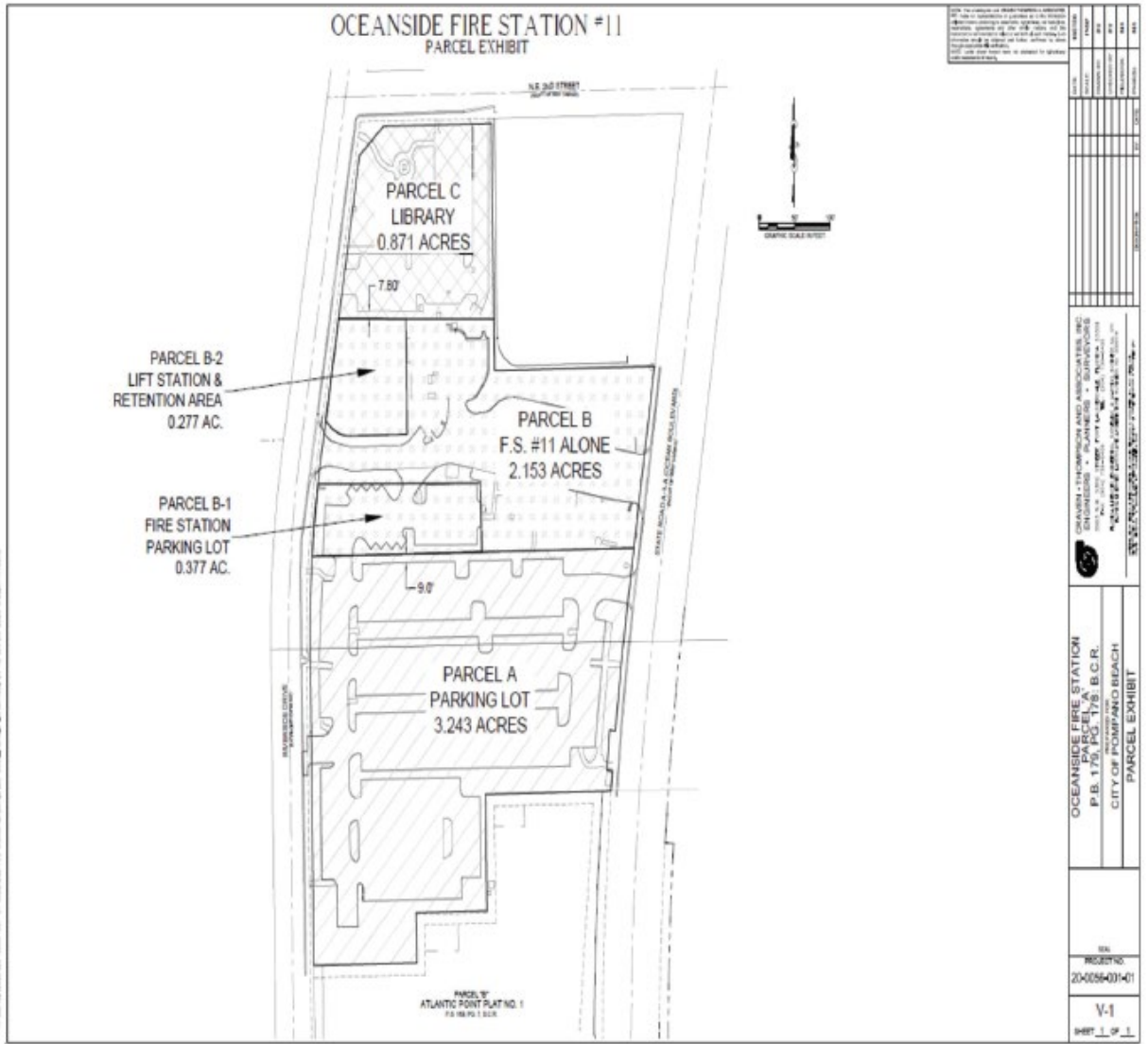
# EXHIBIT A Property Legal Description and Map (Cont.)



# EXHIBIT A-1

## PROJECT BOUNDARIES

**(Depicted as “Parcel A” and may include 0.377 acres of “Parcel B-1”  
and 0.277 acres of “Parcel B-2”)**



# EXHIBIT B

## CONCEPTUAL AIR RIGHTS DIAGRAM

### OCEANSIDE DEVELOPMENT DIAGRAM NORTHERN ELEVATION

