

THIS INSTRUMENT PREPARED BY:

Alison Brackins, Esq.
Assistant City Attorney
City of Orlando
400 S. Orange Avenue
Orlando, Florida 32801
(407) 246-2295

STREET RIGHT-OF-WAY ENCROACHMENT
AND
REMOVAL AGREEMENT

THIS AGREEMENT, made and entered into this ____ day of _____, 20____, by and between **CITY OF ORLANDO**, a Florida municipal corporation, (hereinafter referred to as "CITY"), and **BEL AIR ORLANDO NEIGHBORHOOD ASSOCIATION, INC.**, a Florida not-for-profit corporation, whose mailing address is 1306 Bahama Drive, Orlando, Florida 32806, (hereinafter referred to as "ASSOCIATION").

RECITALS:

WHEREAS, the ASSOCIATION desires to install and maintain a monument sign ("Project") within the street rights-of-way of Gore Avenue and Bahama Drive owned and maintained by the CITY (the "CITY'S Rights-of-Way") as shown in **Exhibit "A"**, attached hereto and made a part hereof by reference; and

WHEREAS, the ASSOCIATION desires use of the CITY'S Rights-of-Way as depicted in "**Exhibit A**" and have, therefore, requested that the CITY enter into this Agreement; and

WHEREAS, Section 61.230 of the Orlando City Code requires that the ASSOCIATION enter into a binding agreement providing for the encroachment of the Project into the CITY'S Rights-of-Way and providing for removal of the Project under certain conditions; and

WHEREAS, the Project will continue to be subject to all applicable provisions of the Orlando City Code and any other applicable government regulation.

NOW, THEREFORE, for and in consideration of the mutual covenants herein contained, and other good and valuable consideration, the sufficiency of which is hereby acknowledged by the parties hereto, the parties agree as follows:

1. **Recitals.** The foregoing Recitals are true and correct and incorporated into the substantive body of this Agreement.
2. **Encroachment.** The CITY hereby grants permission for the encroachment of the Project into the CITY'S Rights-of-Way, strictly limited to the area described and shown in **Exhibit "A"**. The ASSOCIATION acknowledges that the CITY'S

7
Rights-of-Way cannot be included in any calculations for setback requirements under City Code or otherwise.

3. Release. The ASSOCIATION hereby releases the CITY, its representatives, employees and elected officials from any and all damages, claims, or liability, with respect to the Project that may arise due to the CITY's operation and maintenance of the CITY'S Right-of-Way.
4. Priority of City's Right-of Way. The Project shall not be operated or maintained in such a manner so as to interfere, in any way, with the CITY'S operation or maintenance of its right-of-way or any public or general utility improvements located thereon. No permanent improvements shall be constructed in the CITY'S Rights-of-Way.
5. Project. In consideration for the CITY'S consent to use and maintenance of the Project within the CITY'S Rights-of-Way, as described herein, the ASSOCIATION agrees, at its sole cost and expense, to install, maintain, repair and operate the Project, consistent with reasonable engineering standards and all applicable laws, codes, and regulations.
6. No Waiver/No Vesting. This Agreement does not constitute a waiver of the CITY'S regulatory authority and the ASSOCIATION remains subject to all applicable laws, rules, codes and regulations. This Agreement does not operate to vest any interest or right whatsoever.
7. Insurance. The ASSOCIATION shall possess and maintain, at all times during construction, operation and maintenance of the Project within the City's Rights-of-Way, general liability insurance in an amount sufficient to protect the CITY from any covered liability, claims, damages, losses or expenses arising from or out of or in any way connected with construction, operation or maintenance of the Project or the swale within the City's Rights of Way. CITY shall be named as an additional insured on the liability policy and CITY may request proof of such insurance at any time.
8. Contingency. This Agreement is contingent upon the Project having been completed consistent with the permits and any applicable laws, rules or regulations.
9. Indemnification. The ASSOCIATION agrees that it shall indemnify, hold harmless and defend the CITY, its representatives, employees and elected and appointed officials from and against all claims, damages, loss and expenses of any sort including reasonable attorney's fees and costs including appeals, arising out of or resulting from any tort, intentional action, negligent act or omission of the ASSOCIATION, their tenants, agents, subcontractors, or anyone for whose act or acts any of them may be liable, for acts or omissions occurring in that portion of the CITY'S Rights-of-Way on, under or through which the Project is installed or resulting from the operation or maintenance of the Project.

attorney's fees incurred by CITY, if CITY is required to take any actions, through litigation or otherwise, to enforce this Agreement.

16. Negotiation. The parties to this Agreement acknowledge that all terms of this Agreement were negotiated at arm's length and that this Agreement and all documents executed in connection herewith were prepared and executed without undue influence exerted by any party or on any party. Further, this Agreement was drafted jointly by all parties, and no parties are entitled to the benefit of any rules of construction with respect to the interpretation of any terms, conditions or provisions of this Agreement in favor of or against any person or party who drafted this Agreement.
17. Termination of License and Removal of Encroachment. The CITY retains the right to immediately revoke this license at any time, by notifying the ASSOCIATION in writing at the address listed in the initial paragraph of this Agreement. The ASSOCIATION shall remove the Project, and any and all improvements, from the CITY'S Rights-of-Way, within thirty (30) days of the date of the written notice to the ASSOCIATION. If the ASSOCIATION fails to remove the Project from the CITY'S Rights-of-Way within the above-described timeframe, the CITY may remove same and charge the cost of removal to the ASSOCIATION. Should the ASSOCIATION fail to pay the costs of CITY'S removal of the improvements and attendant encroachments within thirty (30) days of the CITY'S request, the CITY may file a lien against the ASSOCIATION to accrue interest at the statutory rate and enforced as prescribed by law.
18. License. This Agreement constitutes a License and does not rise to the level of a real property interest in the property underlying the CITY'S Rights-of-Way.
19. Effective Date. The effective date of this Agreement is the date of its execution by the last person to execute it.

IN WITNESS WHEREOF, the parties have executed this Agreement on the day and year first written above.

CITY OF ORLANDO

Attest:

Mayor / Mayor Pro Tem

Amy T. Iennaco, City Clerk

APPROVED AS TO FORM AND LEGALITY
for the use and reliance of the
City of Orlando, Florida, only.

_____, 20____.

Assistant City Attorney

SIGNED IN THE PRESENCE OF
TWO WITNESSES:

Kea Chertre
Print Name: _____

Jean Reynolds
Print Name: _____

ASSOCIATION:

**Bel Air Orlando Neighborhood Association,
Inc., a Florida not-for-profit corporation**

By: Catherine Simmons
Print Name: Catherine Simmons
Title: Vice President

STATE OF FLORIDA
COUNTY OF ORANGE

The foregoing instrument was acknowledged before me this 10th day of February 2016 by
Catherine Simmons, as Vice Pres. of Bel Air Orlando Neighborhood Association,
Inc., and who is personally known to me or who has produced _____ as
identification.

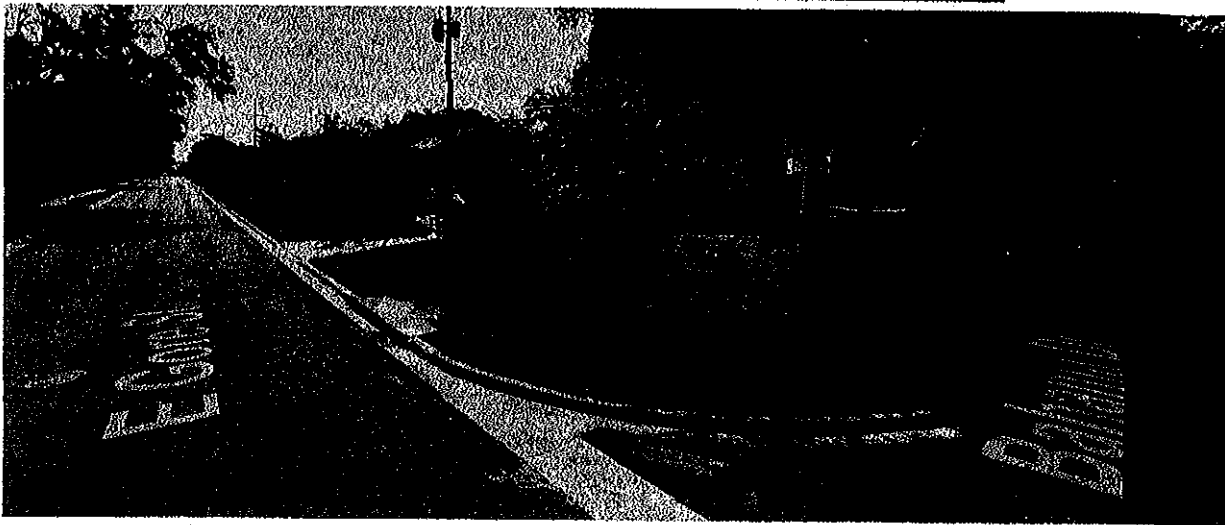
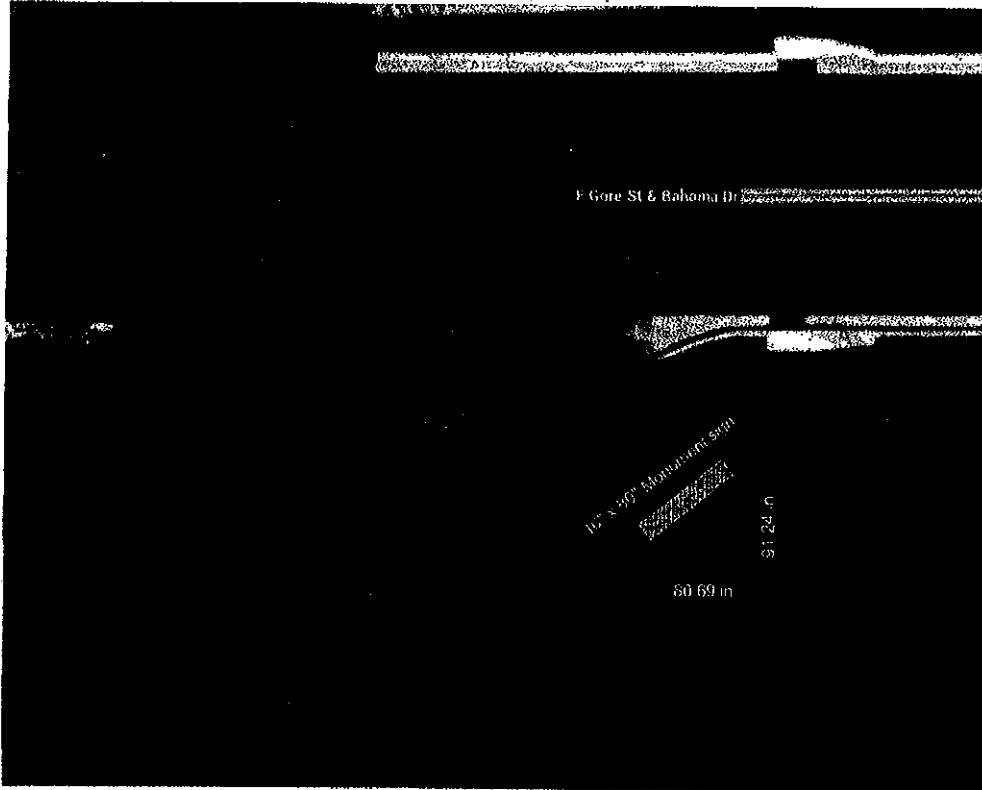
Yvette D. Lockett
NOTARY PUBLIC
My Commission Expires 12-12-16



IMPORTANT! PLEASE READ: OUR PROOF & PRODUCTION POLICY
 At Signs Now, we take pride in precision - but the final examination for accuracy is your responsibility. Before giving approval, please examine the proof(s) carefully for the accuracy of information presented, as well as spelling, punctuation, numbers, graphics, colors, and general layout. Our normal production cycle will begin from the date approval is received. We cannot accept changes or approvals, verbally.

Invoice #:
7736

Bel Air Monument Sign - Corner of Gore & Bahama



1811 W. Fairbanks Ave. • Orlando, FL 32808
 407-878-7448 • 407-598-7448 (fax)
 web: www.signsnow.com/collegepark
 email: gm@signsnew.com

- Approved
- Approved w/ Changes
- Please Change and Re-Send

Please review artwork and return
 corrected

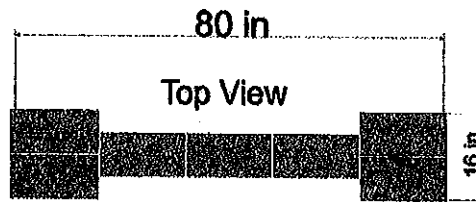
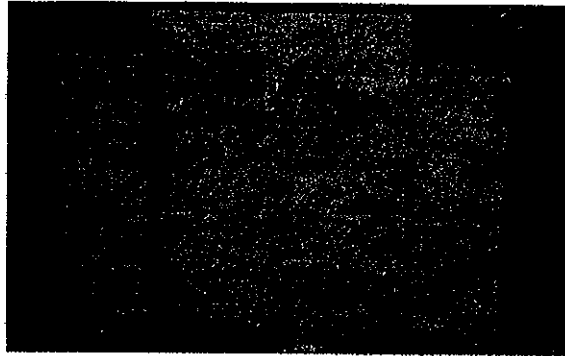
Signature

EXHIBIT
 " A "

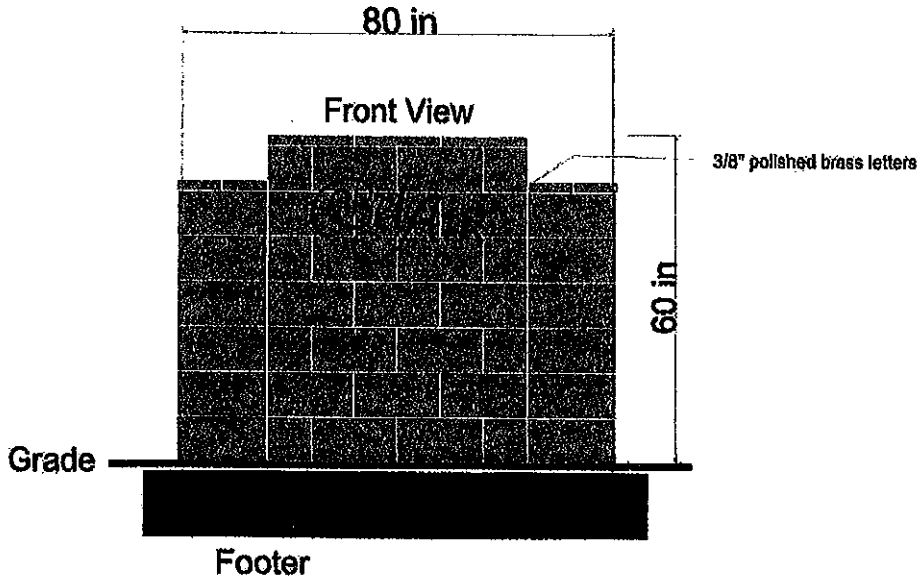
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Bel Air Monument Sign - Corner of Gore & Bahama



Textured Concrete Block Structure



1911 W. Fairbanks Ave. • Orlando, FL 32804
 407-878-7448 • 407-599-7448 (fax)
 www.signsnow.com • info@signsnow.com
 email: gm@signsnow.com

- Approved**
- Approved w/ Changes**
- Please Change and Re-Send**

Please review artwork and return corrections or signed approval

Signature _____

Date _____