

**THIS SECOND AMENDMENT TO AGREEMENT** is made the 25<sup>th</sup> day of July 2012

**BETWEEN**

**The Government of the Cayman Islands** acting herein and represented by Orrett Connor MBE, JP, Cabinet Secretary of the Government Administration Building, Elgin Avenue, Grand Cayman, Cayman Islands ("Government")

AND

**National Roads Authority** of PO Box 10426, 370 North Sound Road, Grand Cayman KY1-1004, Cayman Islands ("NRA")

AND

**Dart Realty (Cayman) Ltd.** of PO Box 30611, Grand Cayman KY1-1203, Cayman Islands ("DRCL" which expression shall include its Affiliates and where the context admits or requires include its assigns and successors in title)

**(each of the above, a "Party" and together, the "Parties")**

**Recitals**

1. DRCL, Government and the NRA have entered into an agreement dated 15 December 2011 and a First Amendment to Agreement dated 28 April 2012 (collectively the "Agreement") in relation to various matters including the Legal Closure of roads, the gazettal of new roads, road works, Construction and matters related thereto in the Cayman Islands.
2. In accordance with the terms of the Agreement, a portion of West Bay Road is to be Legally Closed and vested in DRCL and the Parties wish to clarify the extent to which West Bay Road is to be Legally Closed and details on the vesting of the defined portion thereof in adjacent property owners.
3. An Affiliate has acquired and is the registered proprietor of the leasehold interest in the Soto Land, the freehold interest of which is owned by Government and the Parties wish to provide under the terms of this Second Amendment for the surrender of the leasehold interest in, and the development of enhanced beach facilities on, the Soto Land, by DRCL.
4. The Parties wish to provide under this Second Amendment for the provision, by DRCL, of new public beach lands on Seven Mile Beach.
5. The Parties wish to provide under this Second Amendment for the provision, by DRCL, of pedestrian and bicycle paths through its property west of the ETH in accordance with the terms hereof.
6. The Parties wish to provide under this Second Amendment for the provision, by DRCL, of lands for a new Sunrise Adult Training Centre and lands for educational and community purposes.

7. The Parties wish to further amend and supplement the Agreement as outlined herein.
8. Terms used herein and not otherwise defined shall have the respective meanings ascribed thereto in the Agreement.

**NOW THEREFORE, IN CONSIDERATION** of the covenants set out in the Agreement the Parties further agree as follows:

**West Bay Road and ETH Extension**

1. The West Bay Road & ETH Extension Plan to the Agreement shall be replaced with the West Bay Road and ETH Extension Plan attached hereto and all references to the West Bay Road & ETH Extension Plan in the Agreement or any amendment thereto shall be construed as reference to the plan attached hereto.
2. For the avoidance of doubt, the sections of West Bay Road as shown on the West Bay Road and ETH Extension Plan shall be Legally Closed and vested as follows:
  - 2.1 the section marked with a blue line shall be Legally Closed and vested in the adjacent property owners; and
  - 2.2 the section marked with a yellow line shall be Legally Closed and vested in Government.

**Public Beach Park and New Public Beach**

3. Upon the requirements set out herein at clause 5 (a) through (c) below being fully satisfied, DRCL shall transfer to Government, 100' of beach frontage land from either Parcel 10E/62 or Parcel 10E/53 or Parcel 10E/54, the exact location to be agreed by DRCL and Government, for purposes of a New Public Beach.
4. Unless agreed otherwise, within thirty (30) days of the parties agreeing the location of the New Public Beach, DRCL shall forthwith commence the process of surveying and subdividing the said land. On or before the Legal Closing and vesting of the defined portion of West Bay Road, DRCL shall commence the development of the Public Beach Park and New Public Beach; provided DRCL shall not be under any obligation to complete the said development unless and until the requirements set out herein at clause 5 (a) through (c) below have been fully satisfied.
5. Upon (a) the completion of the Legal Closing and vesting of the defined portion of West Bay Road under the terms of the Agreement, (b) the existing public rights of way registered over the Parcels 11B/61 and 11B/83 at the SMB Hotel being released, extinguished and otherwise removed from the title thereto and (c) legislation being passed as contemplated hereunder providing for the transfer of beach lands in lieu of the requirement for setting aside and dedicating public rights of way to the sea, and in consideration of DRCL transferring beach lands in lieu thereof, DRCL shall:
  - 5.1 cause New Public Beach to be transferred to Government; and

- 5.2 surrender its leasehold interest in the Soto Land.
6. In completing the development of the Public Beach Park and New Public Beach, DRCL shall:
  - 6.1 Consult with Government with respect to the extent and precise specifications of the Public Beach Park and New Public Beach facilities, provided the costs and expenses to complete such facilities shall not in any event exceed US\$3 million;
  - 6.2 Complete all works in respect of the development of the Public Beach Park and New Public Beach facilities within nine (9) months of:
    - 6.2.1 the Legal Closure and vesting of the said portion of West Bay Road having been completed, in accordance with clause 2 above; and
    - 6.2.2 the passing of legislation referred to at clauses 9.1 and 9.2 hereof.
7. Government and DRCL shall be entitled to appoint a representative to oversee and monitor the development of the Public Beach Park and New Public Beach facilities.
8. DRCL shall not be responsible or otherwise be under any obligation in respect of the ongoing maintenance of the Public Beach Park and New Public Beach facilities which it develops in accordance with the terms hereof, it being agreed that Government shall be solely responsibility for the maintenance of the Public Beach Park and New Public Beach once completed by DRCL.
9. Within two (2) months of the date of this Second Amendment, Government shall ensure that amendments to the Development and Planning Regulations and/or the Development and Planning Law are made which provide for the following:
  - 9.1 in lieu of the requirement under the Development and Planning Regulations for the developer of land in hotel tourism and/or beach resort residential zones to set aside and dedicate to the public a right of way from the public road to the sea, subject to the approval of the Governor-in-Cabinet, the transfer to Government by such developer of land, in the same district and of equivalent value to the land which would otherwise be required to be set aside and dedicated as a right of way, for the purpose of public beach facilities; and
  - 9.2 the cancellation/extinguishment of such existing public rights of way to the sea previously granted in respect of development in hotel tourism and/or beach resort residential zones in consideration of the developer thereof transferring land for the purposes of public beach facilities and beach access.
10. Upon Government's completion of the provisions of clause 9, the transfer of New Public Beach by DRCL to Government shall fully satisfy any requirement under the law, regulations or of the Central Planning Authority to set aside or provide any rights of way from a public road to the sea, or to otherwise provide any public rights of way to the sea:

- 10.1 in respect of any development of the remainder of Parcels 10E/62,10E/53 and/or 10E/54; and
- 10.2 in respect of existing or future development of land between and including the southern boundary of Parcel 11B/70 and the northern boundary of Parcel 10E/10.
11. Upon the passing of the above mentioned legislation, Government shall ensure that the existing public rights of way to the sea required in respect of the SMB Hotel are released, extinguished and otherwise removed as incumbrances on the title to Parcels 11B/61 and 11B/83.
12. The primary use of the Public Beach Park shall not be for the operation of commercial activity. Any ongoing commercial activity shall be limited to those commercial activities strictly ancillary to a public park and beach facility and for public purposes as determined by Government.
13. Government covenants that New Public Beach shall be used exclusively for non-commercial family oriented recreation purposes.

#### **Right of Way**

14. Clause 16 of the Agreement is deleted and replaced with the following:

“Upon the West Bay Road Legal Closure and the vesting of the land formerly comprised therein in accordance with Clause 2 above:

  - 14.1 DRCL and Government shall grant a thirty foot (30’) private vehicular right of way over any part of its land in favour of those property owners immediately adjacent to the Legally Closed portion of West Bay Road who are not Affiliates (and who currently enjoy and would otherwise have a right of way to a public road) as indicated on the West Bay Road and ETH Extension Plan. Such right of way shall provide to any such property owner rights of egress and ingress from their property to a public road; provided DRCL shall have the right to alter the location and alignment thereof from time to time so long as the properties which enjoy the benefit of the right of way shall continue to have the benefit of a thirty foot (30’) right of way from their property to a public road.
  - 14.2 DRCL shall grant a 30 foot private vehicular right of way over the adjacent private Yacht Club road in favour of the proprietor of Parcel 10E/33. Such right of way shall provide the said proprietor with rights of egress and ingress from their property to a public road.
  - 14.3 Any rights of way granted as provided herein shall afford, and shall continue to afford the affected landowners with a reasonable and comparable means of egress and ingress from their property to a public road as they currently enjoy in terms of the quality of the right of way and the amenities that exist along such right of way, including but not limited to road surface, lighting, drainage and the maintenance thereof.”

### **Road Legal Closures**

15. Clause 27.5 of the Agreement is deleted and replaced with the following:

“As of the date from which the road or portion of road ceases to be a road, by declaration of the Governor advertised in the Cayman Islands Gazette, forthwith (a) in the case of all Legal Road Closures except West Bay Road and Raleigh Quay, add all of the land comprised in such former road to adjacent or proximate land then owned by DRCL and (b) in the case of West Bay Road and Raleigh Quay Closures, add the land comprised in such former road as depicted on the West Bay Road and ETH Extension Plan, as follows:

15.1 the section marked with a blue line shall be added equally to the land owners on either side of such former road;

15.2 the section marked with a yellow line shall be added to land owned by Government.”

### **New Barkers Road**

16. Clauses 83 through 86 of the Agreement are deleted and replaced with the following:

“Upon approval being granted by the Central Planning Authority in respect of an application being made by DRCL to the Central Planning Authority for permission to develop the Barkers DRCL Land, or any part of it, Government and the NRA shall commence all steps required to have the existing public roads in Barkers Legally Closed and/or realigned to facilitate the development of the Barkers DRCL Land in consideration for which DRCL shall accommodate and assist with providing public access to the Barkers National Park.”

### **Sunrise Adult Training Centre**

17. DRCL shall transfer to Government, for nil consideration, three (3) acres of land west of the ETH in the vicinity of Camana Bay as shown on the Sunrise Adult Training Centre Lands Plan or such other location, the exact location to be approved by DRCL and Government, for purposes of a new Sunrise Adult Training Centre.
18. Unless agreed otherwise, within thirty (30) days of the parties agreeing the location of the Sunrise Adult Training Centre Lands, DRCL shall forthwith commence the process of surveying and subdividing the said land and upon a land register being opened in respect of same, vest the parcel of land in Government.
19. DRCL shall ensure that two (2) acres, as agreed by Government, of the parcel are filled to 4' above mean sea level.

### **Pedestrian & Bicycle Paths**

20. DRCL shall provide pedestrian and bicycle paths for use by the public in perpetuity on the Public Beach Park Lands and through those parts of its land west of the ETH outlined for illustrative purposes only in red on the West Bay Road and ETH Extension Plan – Pedestrian & Bicycle Paths;

provided, DRCL shall not at any time be required to register or otherwise record rights of way on title to any of its land in respect of such pedestrian and bicycle paths and DRCL, at its sole discretion, shall have the right, from time to time and at any time to relocate and/or realign, in whole or in part, the pedestrian and bicycle paths located on its land.

**Educational and Community Purposes Lands**

- 21. DRCL shall transfer to Government, for nil consideration, twenty (20) acres of land within the West Bay Properties, as shown on the Educational and Community Purposes Lands Plan, the exact location of which to be approved by DRCL and Government, for educational and community purposes,.
- 22. Unless agreed otherwise, within thirty (30) days of the parties agreeing the location of the twenty (20) acres, DRCL shall forthwith commence the process of surveying and subdividing the said lands and upon land registers being opened in respect of same, vest the parcel of land in Government.

**Investment and Development Incentives Schedule**

- 23. The Investment and Development Incentives Schedule to the Agreement is hereby replaced with the attached Investment and Development Incentives Schedule.

**Dictionary**

- 24. The definition of *Barkers DRCL Land* in the dictionary to the Agreement shall be amended such that *Barkers DRCL Land* means all property on the Barkers Plan owned by DRCL from time to time.
- 25. The definition of *West Bay Road Legal Closure* in the dictionary to the Agreement shall be amended such that *West Bay Road Legal Closure Period* means the Legal Closure of that portion of West Bay Road identified as being Legally Closed under the West Bay Road & ETH Extension Plan.
- 26. The Dictionary of the Agreement is hereby supplemented by the addition thereto of the following terms:

Educational and Community Purposes Lands Plan	Means the plan annexed hereto outlining for illustrative purposes only the twenty (20) acres of land within the West Bay Properties to be transferred by DRCL to Government for educational and community purposes.
Public Beach Park	Means the beach and ancillary facilities to be

	developed on the Public Beach Park Land by DRCL in accordance with the terms hereof.
Public Beach Park Land	Means the freehold title to the Seven Mile Beach Crown Lands and the Soto Land.
Seven Mile Beach Crown Lands	Means the Crown land comprised in title to Parcels 8 and 37 of Block 11B in the West Bay Beach North Registration Section of Grand Cayman
Soto Land	Means the land owned by an Affiliate on the date hereof comprised in title to Parcels 7/2, 23/1 and 26/1 of Block 11B in the West Bay Beach North Registration Clause of Grand Cayman.
Sunrise Adult Training Centre Lands Plan	Means the plan annexed hereto outlining for illustrative purposes only the three (3) acres of land to be transferred from DRCL to Government for purposes of a new Sunrise Adult Training Centre.

**IN WITNESS** whereof the Parties hereto have executed this Second Amendment to the Agreement as a deed this 25<sup>th</sup> day of July 2012





SIGNED for and on behalf of Dart Realty (Cayman) Ltd. in the presence of:

Dart Realty (Cayman) Ltd.

C. Maltman

Doak

Signature of Witness  
Name: CHRISTINE MALTMAN  
Address: PO BOX 31785, GRAND CAYMAN  
Occupation: NOTARY PUBLIC

Jackie Doak, Director & Chief Operating Officer

SIGNED for and on behalf of The Government of the Cayman Islands in the presence of:

[Signature]

[Signature]

Signature of Witness  
Name: TRISTAN S HYDES  
Address: 155 ELGIN AVE, KY1-9000  
Occupation: DEP CHIEF OFFICER

Orrett Connor MBE, JP, Cabinet Secretary

SIGNED for and on behalf of the National Roads Authority in the presence of:

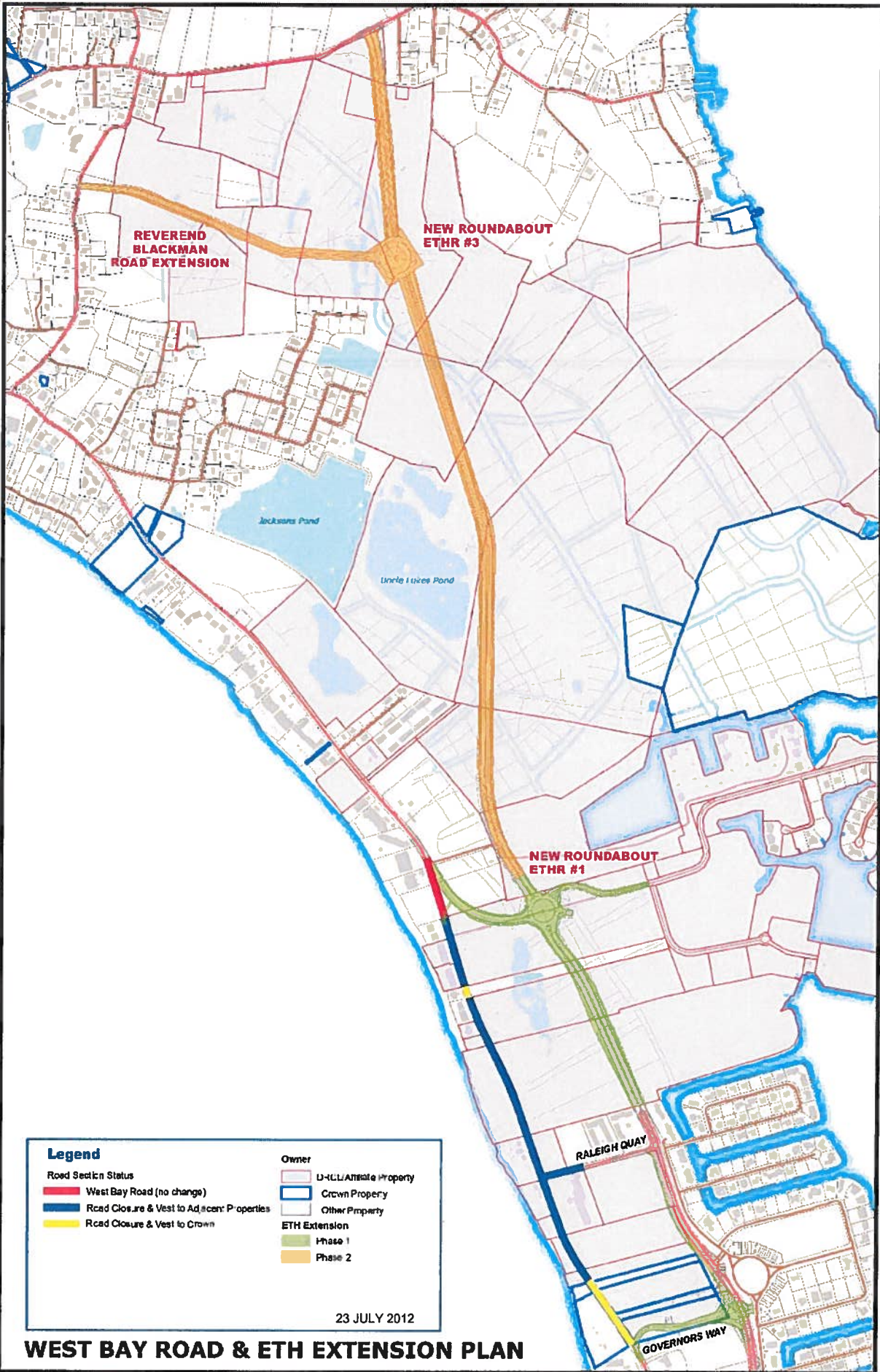
[Signature]

C. Scott CHAIRMAN

Signature of Witness  
Name: TRISTAN S. HYDES  
Address: 155 ELGIN AVE, KY1-9000  
Occupation: DEP. CHIEF OFFICER

Troy Whittaker, Deputy Chairman





Legend	
<b>Road Section Status</b>	<b>Owner</b>
<span style="color: red;">█</span> West Bay Road (no change)	<span style="border: 1px solid red; display: inline-block; width: 10px; height: 10px;"></span> U-HILL/AMSITE Property
<span style="color: blue;">█</span> Road Closure & Vest to Adjacent Properties	<span style="border: 1px solid blue; display: inline-block; width: 10px; height: 10px;"></span> Crown Property
<span style="color: yellow;">█</span> Road Closure & Vest to Crown	<span style="border: 1px solid black; display: inline-block; width: 10px; height: 10px;"></span> Other Property
	<b>ETH Extension</b>
	<span style="color: green;">█</span> Phase 1
	<span style="color: orange;">█</span> Phase 2

23 JULY 2012

**WEST BAY ROAD & ETH EXTENSION PLAN**

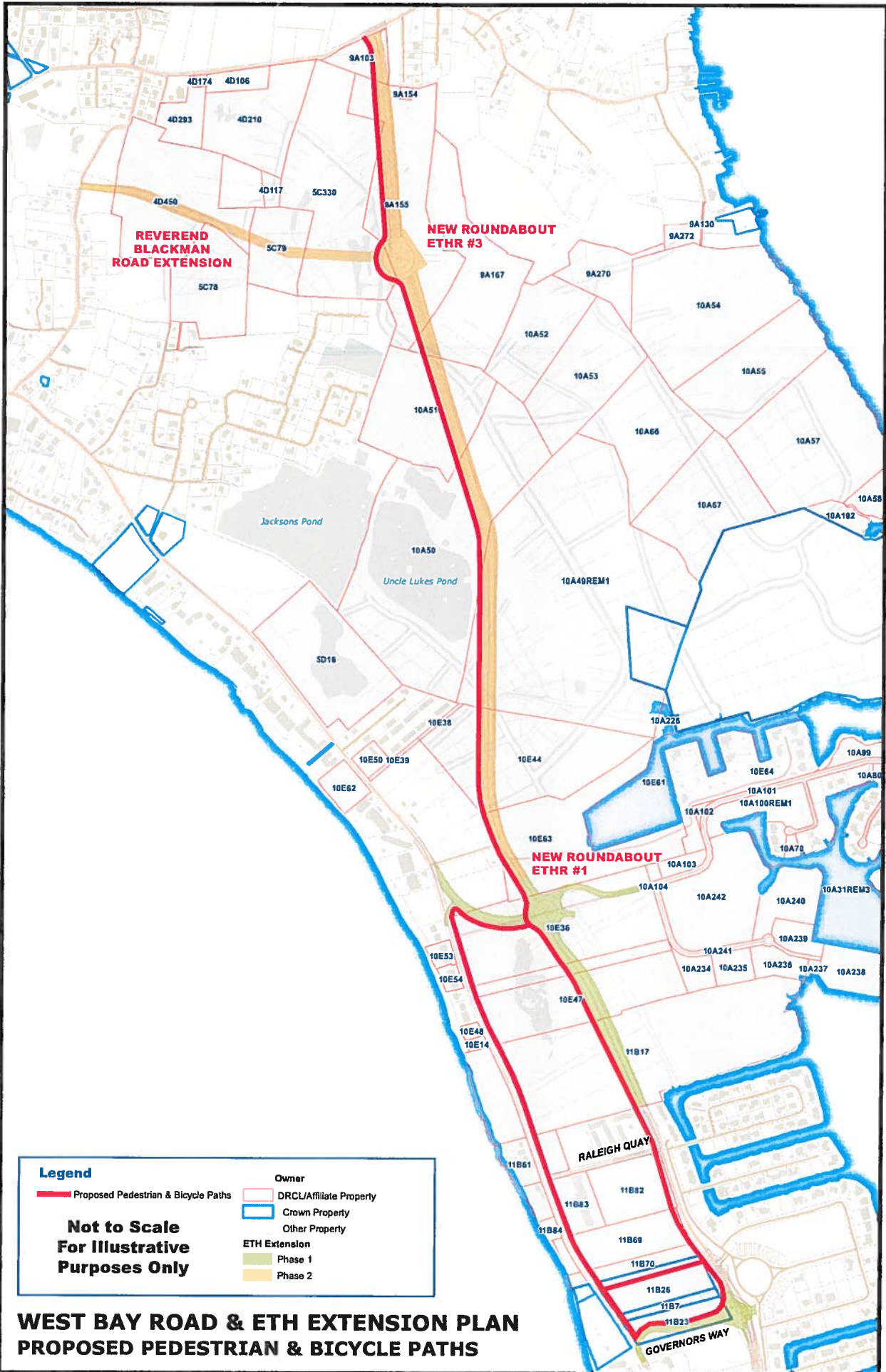




**SUNRISE ADULT TRAINING CENTRE  
LANDS PLAN**

23 JULY 2012





**REVEREND  
BLACKMAN  
ROAD EXTENSION**








**NEW ROUNDABOUT  
ETHR #3**

**NEW ROUNDABOUT  
ETHR #1**

**RALEIGH QUAY**

**GOVERNORS WAY**

**Legend**

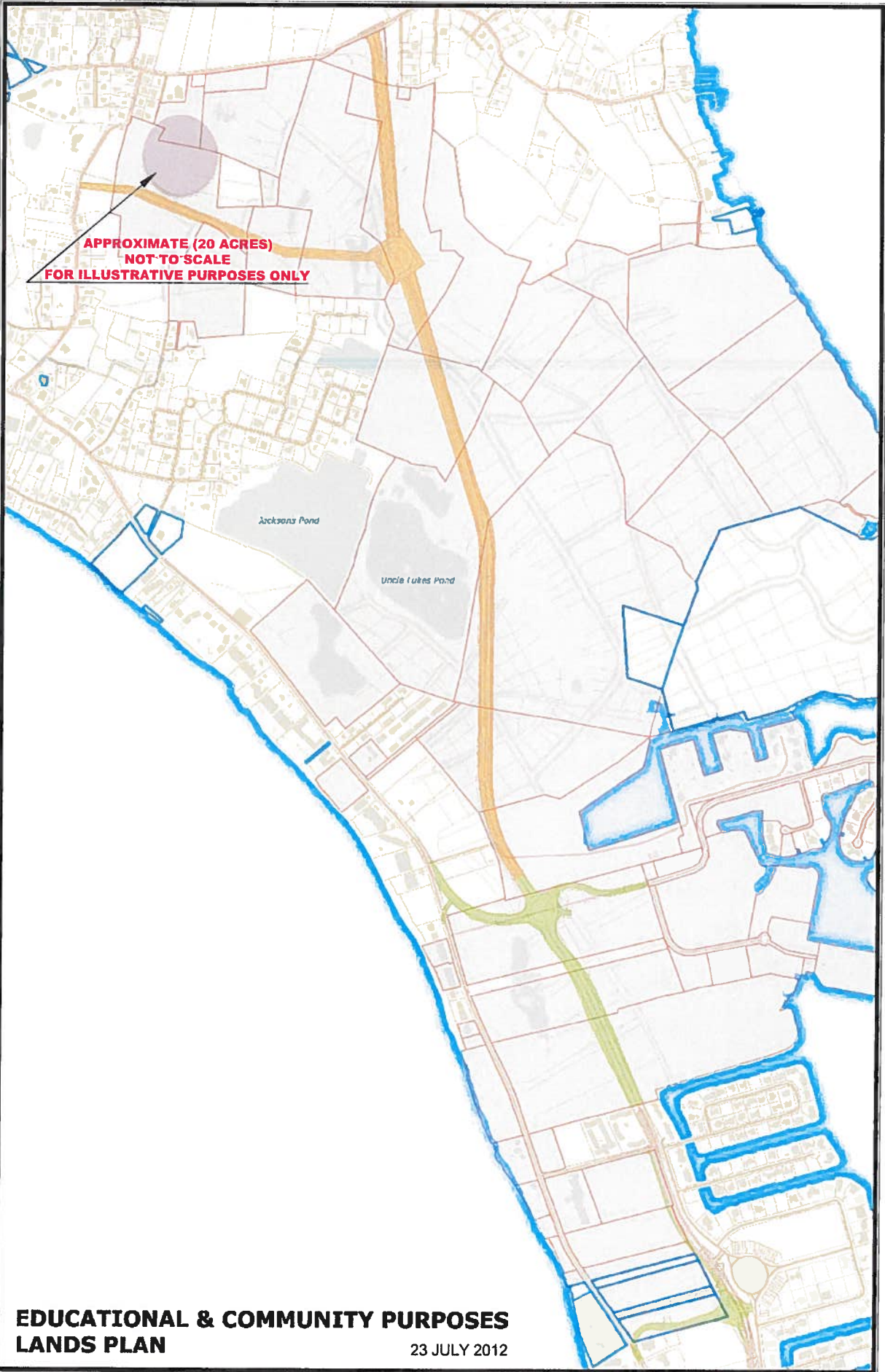
	Proposed Pedestrian & Bicycle Paths		Owner
	Phase 1		DRCL/Affiliate Property
	Phase 2		Crown Property
			Other Property

**WEST BAY ROAD & ETH EXTENSION PLAN  
PROPOSED PEDESTRIAN & BICYCLE PATHS**

**Not to Scale  
For Illustrative  
Purposes Only**







**APPROXIMATE (20 ACRES)**  
**NOT TO SCALE**  
**FOR ILLUSTRATIVE PURPOSES ONLY**

Jacksons Pond

Uncle Lutes Pond

**EDUCATIONAL & COMMUNITY PURPOSES  
LANDS PLAN**

23 JULY 2012



## INVESTMENT AND DEVELOPMENT INCENTIVES SCHEDULE

***Bold Text = Defined term outlined in the Dictionary***

### FEES SUBJECT TO NET PRESENT VALUE CALCULATION

Incentive Category	Description
Stamp Duty, Development Fees & Import Duties	<p>1) DRCL and its Affiliates/Assignees may exercise the following incentives until the agreed upon <b>Net Present Value Sum</b> reaches the agreed amount of USD\$24 Million:</p> <ul style="list-style-type: none"> <li>- 100% abatement/waiver of <b>Development Fees</b> which otherwise would be payable in regard to all development at <b>Camana Bay</b> or the <b>West Bay Properties</b> or other property of DRCL or its Affiliates; Development adjacent to the <b>West Bay Road Legal Closure</b> will be predominantly hotel/tourist resort-oriented, along with ancillary projects such as condominiums, associated real estate and other amenities</li> <li>- 100% Abatement/waiver of <b>Import Duties</b>;</li> <li>- 100% Abatement/waiver of <b>DRCL Related Stamp Duty</b>;</li> <li>- 50% abatement/waiver of stamp duty payable at the then applicable rates in respect of all leases in <b>Camana Bay</b> and the <b>West Bay Properties</b>.</li> </ul> <p>2) For the avoidance of doubt: the incentives listed above are the only amounts that shall be included in the calculation of the <b>Net Present Value Sum</b>.</p> <p>The above incentives shall not be construed to prevent DRCL and/or Affiliates and/or its assignees from paying any of the government fees referenced in this section, or any portion of said fees. For the avoidance of doubt, in the event such fees are paid, they shall not be included in the calculation of the <b>Net Present Value Sum</b>.</p>

Rev 22-May-12



## INVESTMENT & DEVELOPMENT INCENTIVES NOT SUBJECT TO NET PRESENT VALUE CALCULATION

Incentive Category	Details	Duration of Incentive
Hotel Tax Rebate	<p>1) Government agrees and hereby grants the following tax rebates:</p> <ul style="list-style-type: none"> <li>- 50% rebate of all taxes levied pursuant to the Tourist Accommodation (Taxation) Law for all hotels developed, redeveloped, renovated or refurbished by DRCL or Affiliate for a period of 10 years after each hotel is opened, reopened, or renovations or refurbishments are completed. During the 30 year period, a single hotel can be refurbished/renovated only once and such refurbishment/renovation must be a minimum of 10% of the fair market value at the time, based on an independent valuation by a qualified appraiser.</li> <li>- 50% rebate of all taxes levied pursuant to the Tourist Accommodation (Taxation) Law during the first ten (10) years following the reopening of the <b>SMB Hotel</b> (provided, for clarity, DRCL shall collect 100% of the said tax and receive a rebate of 50% of the collected tax from Government within 30 days of the tendering of the tax receipts).</li> </ul> <p>2) In respect of the rebates in (1) above, DRCL shall collect 100% of the said tax and receive a rebate of 50% of the collected tax from Government within thirty (30) days of tendering the receipts in respect of such paid tax.</p>	<p>Applicable to hotels developed, redeveloped, renovated or refurbished within 30 years of the date of this Agreement.</p> <p>For the avoidance of doubt, the tax rebate shall be valid for a full 10 years of hotel operations, even if the rebate period commences within years 20-30.</p> <p>In the event a hotel is temporarily closed as a result of <b>Force Majeure</b>, the rebate period shall be extended by the amount of time the hotel was inoperable.</p>
SMB Hotel	Government agrees and hereby grants a 100% reduction of all <b>Development Fees and Import Duties</b> on all materials, goods, supplies, including, without limitation, all fixtures, furniture and equipment imported by DRCL for the refurbishment, repair, expansion or re-development of the <b>SMB Hotel</b>	Applicable until the completion of the reconstruction / redevelopment / refurbishment of the SMB Hotel
Stamp Duty for Caymanian Purchasers and Public Infrastructure	<p>Government agrees and hereby grants the following concessions, waivers/abatements in relation to the following duties, fees, taxes and other Government assessments:</p> <ul style="list-style-type: none"> <li>- stamp duty payable by Caymanian purchasers of residential and commercial property in <b>Camana Bay</b> and the <b>West Bay Properties</b> shall be the lesser of 50% of the then applicable stamp duty rates or 4%; and</li> <li>- 100% reduction of all <b>Development Fees and Import Duties</b> on materials, goods and equipment imported by DRCL, its contractors or sub-contractors in relation to development or construction of <b>Public Infrastructure</b>.</li> </ul>	Applicable for a period of 30 years from the date of this Agreement

Rev 22-May-12

