

Ordinance of the City of Jersey City, N.J.

File No. Ord. 23-080
Agenda No. 3.3 (1st Reading)
Agenda No. 4.5 (2nd Reading and Final Passage)



AN FRANCHISE ORDINANCE GRANTING PERMISSION TO 215 WARREN LLC PURSUANT TO A RESOLUTION OF THE PLANNING BOARD OF THE CITY OF JERSEY CITY UNDER CASE #P21-153, TO LANDSCAPE A PORTION OF THE SIDEWALK UP TO THREE AND A HALF FEET ENCROACHING INTO THE RIGHT-OF-WAY OF SUSSEX STREET FOR THE BENEFIT OF LOT 22 AT BLOCK 14202, LAND NOW OR FORMERLY OF 215 WARREN LLC, PRESENTLY THE LOT ENCROACHES AT LEAST FIVE FEET INTO THE RIGHT-OF- WAY BEYOND THE BOUNDARY LINES OF LOT 22 IN BLOCK 14202 AND INTO THE AFOREMENTIONED RIGHTS -OF -WAY

COUNCIL AS A WHOLE offered and moved adoption of the following ordinance:

Whereas, the City of Jersey City (the “City”) does possess rights-of-way through all public streets, thoroughfares and sidewalks located within the City; and

Whereas, the City is authorized pursuant to N.J.S.A. 40:67-1 et seq. and N.J.S.A. 40A:12-5 to establish, change the grade of, or vacate any public street, highway, lane or alley, or any part thereof at the discretion of the City; and

Whereas, 215 Warren LLC a company of the State of New Jersey, (“Petitioner”) having an address at 215 Warren Street, Jersey City, NJ 07306; and the Petitioner owns the property located at 215 Warren Street also known as Block 14202, Lot 22 in the City of Jersey City, County of Hudson, New Jersey; and

Whereas, the Petitioner has filed a petition with the Municipal Council of the City of Jersey City requesting permission to make improvements into the public right-of-way of Sussex Street, pursuant to a Resolution of the Planning Board of Jersey City, under Case #P21-153, such improvement consisting of landscaping a portion of the sidewalk up to three and a half feet encroaching into the right-of-way of Sussex Street. Presently the lot encroaches at least five feet beyond the boundary lines of Lot 22 in Block 14202 and into the aforementioned right-of-way; and

Whereas, the improvement of landscaping a portion of the sidewalk will aesthetically enhance the Property; and

Whereas, the Petitioner has provided a proposed Franchise Area Plan (attached as Exhibit A), prepared by Clearpoint Services LLC Land Surveyors, by Alan Boettger, P.L.S., NJ License Number 41997, and a Metes and Bounds Description of the area (attached as Exhibit B); and

Whereas, the Petitioner is required to file the Petition for a Franchise Ordinance to place these improvements; and

Whereas, there will remain sufficient area in the right-of-way for pedestrian use, and the proposed private improvements will not impede or have a negative impact on typical pedestrian use; and

Whereas; the Petitioner has filed a petition for relief and represented to the Municipal Council of the City of Jersey City that the passage of this Ordinance is in the best interests and essential to the building, development and general welfare; and

Whereas, after due notice was given in accordance with law, a public hearing was held on the Petition to grant permission to construct private improvements within the public right-of-way for the following purposes:

APPROVED AS TO LEGAL FORM

Business Administrator

Corporation Counsel

An Franchise Ordinance granting permission to 215 Warren LLC pursuant to a resolution of the Planning Board of the City of Jersey City under Case #P21-153, to landscape a portion of the sidewalk up to three and a half feet encroaching into the right-of-way of Sussex Street for the benefit of Lot 22 at Block 14202, Land now or formerly of 215 Warren LLC, presently the lot encroaches at least five feet into the right-of-way beyond the boundary lines of Lot 22 in Block 14202 and into the aforementioned rights -of -way

1. The contemplated improvements include but are not limited to landscaping a portion of the sidewalk encroaching up to three and a half feet into the right-of-way of Sussex Street. Presently the lot encroaches at least five feet into the right-of-way. beyond the boundary lines of Lot 22, Block 14202 and into the right-of-way of Sussex Street; and
2. All costs and maintenance associated with these improvements will be incurred by the Petitioner, and there being no objections thereto; and

Whereas, the City of Jersey City Zoning Officer and Building Department can approve the construction of these improvements at the Property conditioned upon the Petitioner being granted a franchise ordinance by the City Council of the City of Jersey City; and

Whereas, a franchise ordinance is required to permit the construction of the private improvements within the public right-of-way; and

Whereas, by reason of the character of the development of the area wherein this Property is situated, the said improvements will enhance public purposes, and the aesthetic and character of the property and greatly benefit Jersey City and the surrounding neighborhood; and

Whereas, the public interest will be served by said improvements; which will be of great benefit to the citizens of Jersey City and Hudson County and the rights of the public will not be injuriously or adversely affected by the requested relief;

NOW THEREFORE, BE IT ORDAINED by the Municipal Council of the City of Jersey City that:

Section I: Permission be, and is hereby granted to petitioner 215 Warren LLC its successors and/or assigns, to construct and maintain private improvements to a portion of lands located within the front and side yard along the public right-of-way of Sussex Street,

Jersey City, New Jersey and known as Lot 22, Block 14202 on the current tax map of Jersey City, areas being more particularly described on the Franchise Area Plan, Survey and the meets and bounds descriptions attached hereto as Exhibit A, Exhibit B, respectively.

1. The contemplated improvements will include but not be limited to landscaping a portion of the sidewalk up to three and a half feet into the right-of-way along of Sussex Street which will encroach in the public right of way.
2. The contemplated improvements will be consistent in design as shown in Exhibit A.
3. The contemplated improvements will be constructed consistent with the development plans approved by the Jersey City Zoning Officer and Building Department.

Section II: All the work herein authorized shall be done under the supervision of the proper departments of the City of Jersey City. Further, all the work herein authorized shall comply with any State of New Jersey Uniform Construction Code requirements. The construction plans shall be submitted to the City Engineer for his review and comments prior to the start of construction. After construction there shall remain no damage to the sidewalk or roadway or interference with the free and safe flow of pedestrian traffic. Petitioner, its successors and/or assigns, shall maintain all improvements installed by it for the entire term of this Franchise at no cost to the City.

Section III: This Ordinance shall remain in full force and effect for a period of twenty (20) years. This Ordinance shall take effect upon final passage and publication according to law. In the event that the Municipal Council determines that this Ordinance must be canceled in whole or in part because of a public purpose, the City reserves the right to cancel this Ordinance or any part thereof by giving written notice to the Petitioner one-year prior to the date of cancellation.

Section IV: All costs and expenses incident to the introduction, passage and publication of this Ordinance shall be borne and paid by said Petitioner.

Section V: In accepting the privileges of this Ordinance and the installation, maintenance and use hereby authorized, Petitioner, its successors and/or assigns, hereby agrees to assume, full, complete and undivided responsibility for any and all injury or damage to persons or property by reason of said installation, maintenance and use, and to indemnify and hold the City of Jersey City harmless from all injury or damages to persons or property by reason of such

An Franchise Ordinance granting permission to 215 Warren LLC pursuant to a resolution of the Planning Board of the City of Jersey City under Case #P21-153, to landscape a portion of the sidewalk up to three and a half feet encroaching into the right-of-way of Sussex Street for the benefit of Lot 22 at Block 14202, Land now or formerly of 215 Warren LLC, presently the lot encroaches at least five feet into the right-of-way beyond the boundary lines of Lot 22 in Block 14202 and into the aforementioned rights -of -way

installation, maintenance and use (except such injury or damage which is caused by negligence or misconduct of the City or its officers, employees or agents) for the term of this Ordinance. Petitioner, its successors and assigns, shall maintain in effect, during the term of this franchise, liability insurance naming the City of Jersey City, its officers and employees as additional insured, covering the use and occupancy of the public property subject to this franchise. A certificate of insurance, in the amount of \$2,000,000.00 or in such amount and type as the City of Jersey City's Risk Manager may deem reasonable shall be delivered to the Risk Manager before use or occupancy of the Property subject to this Franchise Ordinance. Insurance limits shall be reviewed annually by the City of Jersey City's Risk Manager to determine if they need to be increased.

Section VI: This Ordinance shall not become effective unless an acceptance hereof in writing is filed by the Petitioner with City Clerk. In the event that the Petitioner shall not file with the City Clerk its acceptance in writing of the provisions of this Ordinance within 30 days after receiving notice of its passage, this Ordinance shall become void and be no effect.

Section VII: Only with prior written consent and approval by the City Council of the City of Jersey City, which consent and approval shall not be unreasonably withheld, shall Petitioner have the right to assign or otherwise transfer its rights under this Franchise Ordinance.

Section VIII: An easement for the duration of this Ordinance is reserved for this benefit of the City of Jersey City and all public utility companies including any cable television company as defined in the Cable Television Act, P.L. 1972, c. 186 (c. 48:5A-1 et seq.) for the purpose of ingress and egress over and upon the area subject to this Franchise Ordinance in order to maintain, repair or replace existing utility facilities including water lines, sewer lines, gas lines and telephone, electrical and cable television wires and poles which may be located either beneath or above the surface of the area subject to this Franchise Ordinance.

Section IX: For the rights and privileges herein granted, said beneficiaries hereunder, their successors and assigns, shall annually on the 1st day of _____ next succeeding the time when this Ordinance shall become effective and on each first day of _____ thereafter until the termination of this Ordinance.

Section X: A. All ordinance and parts of ordinances inconsistent herewith are hereby repealed.

B. This Ordinance shall be a part of the Jersey City code as though codified and set forth therein. The City Clerk shall have this Ordinance certified and incorporated in the official copies of the Jersey City Code.

C. This Ordinance shall take effect at the time and in the manner as provided by law.

D. The City Clerk and the Corporation Counsel be and they are hereby authorized and directed to change any chapter numbers, articles numbers and section numbers in the event that the codification of this Ordinance reveals that there is a conflict between those numbers and the existing Code, in order to avoid confusion and possible accidental repeals of existing provisions.

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| RECORD OF COUNCIL VOTE ON INTRODUCTION – Aug 16 2023 | | | | | | |
|--|-----|---------|-----|--------------------|-----|-----|
| RIDLEY | AYE | SALEH | AYE | DEGISE | AYE | 9-0 |
| PRINZ-AREY | AYE | SOLOMON | AYE | RIVERA | AYE | |
| BOGGIANO | AYE | GILMORE | AYE | WATTERMAN, PRES | AYE | |


| RECORD OF COUNCIL VOTE TO CLOSE PUBLIC HEARING – Sep 7 2023 | | | | | | |
|---|-----|---------|-----|---------------------|-----|-----|
| RIDLEY | AYE | SALEH | AYE | DEGISE | AYE | 9-0 |
| PRINZ-AREY | AYE | SOLOMON | AYE | RIVERA | AYE | |
| BOGGIANO | AYE | GILMORE | AYE | WATTERMAN, PRES. | AYE | |

| RECORD OF COUNCIL VOTE ON AMENDMENTS, IF ANY – | | | | | | |
|--|--|---------|--|---------------------|--|--|
| RIDLEY | | SALEH | | DEGISE | | |
| PRINZ-AREY | | SOLOMON | | RIVERA | | |
| BOGGIANO | | GILMORE | | WATTERMAN, PRES. | | |


| RECORD OF FINAL COUNCIL VOTE – Sep 7 2023 | | | | | | |
|---|-----|---------|-----|---------------------|-----|-----|
| RIDLEY | AYE | SALEH | AYE | DEGISE | AYE | 9-0 |
| PRINZ-AREY | AYE | SOLOMON | AYE | RIVERA | AYE | |
| BOGGIANO | AYE | GILMORE | AYE | WATTERMAN, PRES. | AYE | |

Adopted on first reading of the Council of Jersey City, N.J. on Aug 16 2023
Adopted on second and final reading after hearing on Sep 7 2023


This is to certify that the foregoing Ordinance was adopted
by the Municipal Council at its meeting on Sep 7 2023



City Clerk



Joyce E. Watterman, President of Council
Approved: Sep 7 2023



Steven M. Fulop, Mayor
Date to Mayor: Sep 8 2023
Approved: Sep 8 2023

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FACT SHEET -

This summary sheet is to be attached to the front of any ordinance that is submitted for Council consideration. Incomplete or vague fact sheets will be returned with the ordinance.

Project Manager

| | | | |
|--|-----------------|------------|----------------|
| Renee Jackson, Assistant Municipal Clerk | | 2015474842 | renee@jcnj.org |
| Department | Municipal Clerk | | |
| Division | Municipal Clerk | | |

Note: Project Manager must be available by phone during agenda meeting (Wednesday prior to council meeting @ 1:00 p.m.)

| | |
|---------|--|
| Meeting | Regular Meeting of Municipal Council - Aug 16 2023 |
|---------|--|

Purpose

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| An Franchise Ordinance granting permission to 215 Warren LLC pursuant to resolution of Planning Board of the City of Jersey City under Case #P21-153, to landscape a portion of the sidewalk up to three and a half feet encroaching into the right-of-way of Sussex Street for the benefit of Lot 22 at Block 14202, Land now or formerly of 215 Warren LLC, presently the lot encroaches at least five feet into the right-of- way beyond the boundary lines of Lot 22 in Block 14202 and into the aforementioned rights -of -way |
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|--|------------------------------------|
| Cost (Identify all sources and amounts) | Contract term (include all) |
| n/a | |

ATTACHMENTS:

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| Petition - 215 Warren LLC Exhibit A - Franchise Area Plan Map - 215 Warren LLC Exhibit B Metes & Bounds Description- 215 Warren LLC |
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| Approved by Sean Gallagher, City Clerk Ray Reddington, Attorney John Metro, Business Administrator | Status: Approved - Jul 11 2023 Approved - Jul 12 2023 Approved - Aug 09 2023 |
|---|---|

PETITION

TO: THE HONORABLE, THE MAYOR AND MUNICIPAL COUNCIL OF THE CITY OF JERSEY CITY:

Your Petitioner, 215 Warren LLC ("Petitioner") having an office at 215 Warren Street, Jersey City, NJ 07306, respectfully says that:

1. Petitioner is the owner of the property located at 215 Warren Street and known as, Lot 22, Block 14202 on the current tax maps of the City of Jersey City (the "Property") The subject property is a lot that is located within the Paulus Hook Historic District.
2. Petitioner proposes to make the following site improvement within the public right-of-way:
 - A. The contemplated improvement will include but not limited to landscaping a portion of the sidewalk up to three and a half feet encroaching into the public right-of-way of Sussex Street pursuant to Resolution of Planning Board of the City of Jersey City, under Case #P21-153.
 - B. All costs associated with these improvements will be incurred by Petitioner.
3. The contemplated improvements would enhance and benefit the petitioner's property, and the surrounding area and neighborhood.
4. The Petitioner presented the presented the proposed improvements to the Jersey City Zoning Officer and Building Department, which can approve proposed improvements upon the Petitioner being granted a franchise ordinance by the City of Jersey City
5. The contemplated improvements are necessary to construct the proposed development consistent with the development approvals and will greatly benefit the Petitioner's property and the surrounding neighborhood.

WHEREFORE, your Petitioner respectfully petitions for itself, its successors and assigns, for the enactment of a Franchise Ordinance to allow it to make private improvements pursuant to Resolution of Planning Board of the City of Jersey City, under Case #P21-153 within the public right-of-way of Sussex Street, Lot 22, Block 14202, all as more particularly shown on the plan annexed hereto and made a part hereof.


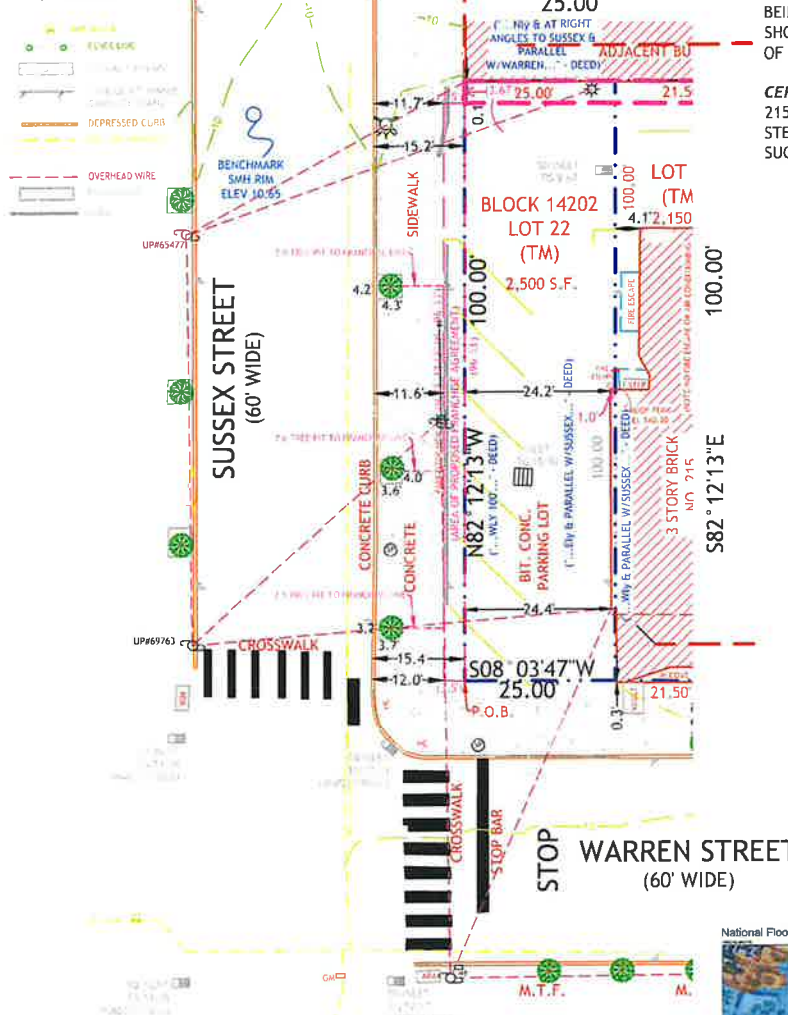
By: 
Eugene P. O'Connell, Esq.
o/b/o 215 Warren LLC
Attorney for the Petitioner

Exhibit A
Franchise Area Plan

- LEGEND:
- DA MARK BOX
 - YARD INLET
 - GAS METER
 - FIRE HYDRANT
 - SGN POST
 - ADA PAD
 - HC PAD
 - LIGHT POLE
 - UTILITY POLE
 - GUY WIRE



A WRITTEN WAIVER AND DIRECTION NOT TO SET CORNER MARKERS HAS BEEN OBTAINED FROM THE ULTIMATE USER PURSUANT TO P.L.2003, C.14 (C45:8-36.3) AND NJAC 13:40-5.1 (D)

LOT 23
(TM)

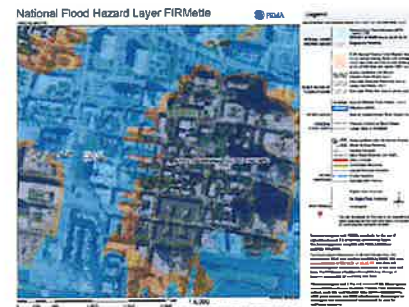
DESCRIPTION:
BEING KNOWN AS LOT 22 IN BLOCK 14202 AS SHOWN ON THE OFFICIAL TAX MAP OF THE CITY OF JERSEY CITY, HUDSON COUNTY, NEW JERSEY.

CERTIFIED TO:
215 WARREN LLC;
STEWART TITLE GUARANTY COMPANY;
SUCCESSFUL ABSTRACT, LLC.

LOT 21
(TM)

NOTES:

1. THIS SURVEY DOES NOT PURPORT TO IDENTIFY, IF ANY, ENCROACHMENTS, WETLANDS, UTILITIES, SERVICE LINES OR STRUCTURES BELOW GROUND; PROPERTY SUBJECT TO DOCUMENTS OF RECORD;
2. NO ATTEMPT WAS MADE TO DETERMINE IF ANY PORTION OF THIS PROPERTY IS CLAIMED BY THE STATE OF N.J. AS TIDELANDS;
3. NO RESPONSIBILITY OR LIABILITY IS ASSUMED BY THE LAND SURVEYOR FOR ANY OTHER PURPOSE INCLUDING, BUT NOT LIMITED TO USE OF SURVEY FOR SURVEY AFFIDAVIT, RESALE OF PROPERTY, OR TO ANY OTHER PERSON NOT LISTED IN THE CERTIFICATION EITHER DIRECTLY OR INDIRECTLY.
4. ONLY COPIES FROM THE ORIGINAL SURVEY MARKED WITH AN ORIGINAL PROFESSIONAL LAND SURVEYORS EMBOSSED SEAL SHALL BE CONSIDERED VALID COPIES;
5. SIGNATURE AND EMBOSSED SEAL SIGNIFY THAT THIS SURVEY WAS PREPARED IN ACCORDANCE WITH THE EXISTING CODE OF PRACTICE ADOPTED BY THE N.J. STATE BOARD OF PROFESSIONAL ENGINEERS AND LAND SURVEYORS;
6. UNAUTHORIZED ALTERATION OR ADDITION TO A SURVEY MAP BEARING A LICENSED PROFESSIONAL LAND SURVEYOR'S SEAL IS ILLEGAL AND PUNISHABLE BY LAW;
7. OFFSETS SHOWN HEREON ARE NOT TO BE USED AS A BASIS FOR ANY CONSTRUCTION OF PERMANENT STRUCTURES I.E. BUILDINGS, SHEDS, FENCES, ETC.;
8. ELEVATIONS ARE BASED ON NAVD88.



FEMA NOTES:

COMMUNITY # 340223
MAP/PANEL # 34017C/0108 D
FIRM INDEX DATE; AUGUST 16, 2006
FLOOD ZONE; UNSHADED X WITH NO BASE FLOOD ELEVATION

| |
|--|
| REV: 5/08/2023 REV. REQUEST AS PER CITY ENGINEER |
| REV: 4/18/2023 ADD MEASUREMENTS TREE PITS TO F.A., SIDEWALK |
| REV: 3/22/2022 TITLE UPDATE |
| REV: 12/23/2022 ADD TIE CURB/FACE OF F.A. |
| ALAN R. BOETTGER |
| Digitally signed by Alan R Boettger Date: 2023 05 09 12:57:18 -0400 |
| PROFESSIONAL LAND SURVEYOR N.J. LICENSE NO. 41997 |

CLEARPOINT SERVICES LLC
Professional Land Surveyors

Headquarters: 440 Sherman Road | Suite 1 | Jackson, NJ 08527
New York Office: 125 Duane Avenue | Suite 201 | Manhattan, NY 10008
Florida Office: 341 Palm Avenue | Suite 202 | Kissimmee, FL 34741
Phone: 732-963-5443
www.clearpointsurvey.com

CERTIFICATE NO. 24GA28115000

| | |
|---|--------------|
| FRANCHISE AGREEMENT EXHIBIT PREPARED FOR | |
| 215 WARREN STREET | |
| -LOT 22 - BLOCK 14202- | |
| SITUATED IN THE | |
| CITY OF JERSEY CITY, | |
| HUDSON COUNTY, NJ | |
| JOB NO. 19-31869-03 | SCALE 1"=20' |
| DATE: 11-24-2022 | SHEET 1 OF 1 |
| PM-AB | |

Exhibit B
Metes and Bounds Description

CLEARPOINT SERVICES LLC

Description of a **Franchise Agreement**, placed for the benefit of property situated in the City of Jersey City, Hudson County, New Jersey, being known as Lot 22 in Block 14202 as shown on the Official Tax Map of the same, and more particularly described as follows;

Beginning at the point of intersection of the westerly line of Warren Street (60' wide), with the northerly line of Sussex Street (60' wide), and from the said beginning point running thence;

- 1) South 08°03'47" West a distance of 3.50' to a point, thence;
- 2) North 82°12'13" West a distance of 96.33', along an area within Sussex Street to a point, thence;
- 3) North 08°03'47" East a distance of 3.50' to a point, thence;
- 4) South 82°12'13" East a distance of 96.33', along the said northerly line of Sussex Street, to the point and place of beginning.

Having an area of 336.98 square feet, or 0.0077 acres.

 11/24/2022

Alan Boettger, PLS
NJ LICENSE No. 41997
November 24, 2022
JOB No. desc 19-31869-03 FA